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## PROCEEDINGS AND DEBATES OF THE 93d CONGRESS
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PROCEEDINGS AND DEBATES OF THE 93d CONGRESS, SECOND SESSION

## SENATE—*Monday, January 21, 1974*

The 21st day of January being the day prescribed by Senate Joint Resolution 180 for the meeting of the 2d session of the 93d Congress, the Senate assembled in its Chamber at the Capitol.

The VICE PRESIDENT called the Senate to order at 12 o'clock noon.

### PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

God of our fathers and our God, who has made and preserved us a nation, make us mindful this day that Thy sovereignty transcends all men and nations, that in Thee we live and move and have our being.

At the opening of this legislative term we offer to Thee our souls, minds, and bodies in the service of the Nation. Grant us, therefore, clean hands and pure hearts. For new times grant us new wisdom.

May Thy spirit move upon this land to chasten, redeem, and regenerate us. Lead us beyond all that is transient and temporal to a deeper commitment to that which is transcendent and eternal.

By Thy grace, move this Nation to a new unity of purpose, to great achievements for justice and peace, and to a reawakening of true religion and an elevated patriotism.

Guide by Thy higher wisdom—we beseech Thee—the President, the Vice President, the Members of the Senate and House of Representatives in Congress assembled that they may ever seek to know and to do Thy will.

When the last action is taken and this Congress recedes into history may each Member hear Thee say, "Well done, good and faithful servant" and rest in the peace of those whose minds are stayed on Thee.

We pray in the Redeemer's name. Amen.

### APPROVAL OF BILLS AND JOINT RESOLUTIONS

The President of the United States subsequent to the sine die adjournment of the 1st session of the 93d Congress, notified the Secretary of the Senate that he had approved and signed the following acts and joint resolutions:

On December 19, 1973:

S. 1747. An act to amend the International Travel Act of 1961 to authorize appropriations for fiscal years 1974, 1975, and 1976, and for other purposes.

On December 20, 1973:

S.J. Res. 180. Joint resolution relative to the convening of the 2d session of the 93d Congress.

On December 24, 1973:

S. 1435. An act to reorganize the governmental structure of the District of Columbia, to provide a charter for local government in the District of Columbia subject to acceptance by a majority of the registered qualified electors in the District of Columbia, to delegate certain legislative powers to the local government, to implement certain recommendations of the Commission on the Organization of the Government of the District of Columbia, and for other purposes.

On December 27, 1973:

S. 2267. An act to amend section 303(b) of the Interstate Commerce Act to remove certain restrictions upon the application and scope of the exemption provided therein, and for other purposes.

On December 28, 1973:

S. 513. An act to amend section 232 of the National Housing Act to authorize insured loans to provide fire safety equipment for nursing homes and intermediate care facilities;

S. 1038. An act to amend title 37, United States Code, to authorize travel and transportation allowances to certain members of the uniformed services in connection with leave;

S. 1529. An act to authorize the Secretary of the Interior to enter into agreements with non-Federal agencies for the replacement of the existing American Falls Dam, Minidoka project, Idaho, and for other purposes;

S. 1559. An act to assure opportunities for employment and training to unemployed and underemployed persons;

S. 1776. An act to amend the Federal Water Pollution Control Act, as amended;

S. 1983. An act to provide for the conservation of endangered and threatened species of fish, and wildlife, and plants, and for other purposes;

S. 2166. An act to authorize the disposal of opium from the national stockpile;

S. 2178. An act to name the U.S. courthouse and Federal office building under construction in New Orleans, La., as the "Hale Boggs Federal Building", and for other purposes;

S. 2316. An act to authorize the disposal of copper from the national stockpile and the supplemental stockpile;

S. 2413. An act to authorize the disposal of aluminum from the national stockpile, and for other purposes;

S. 2493. An act to authorize the disposal of molybdenum from the national stockpile, and the supplemental stockpile;

S. 2498. An act to authorize the disposal of zinc from the national stockpile and the supplemental stockpile;

S. 2551. An act to authorize the disposal of molybdenum from the national stockpile, and for other purposes;

S. 2714. An act to amend section 291(b) of the Central Intelligence Agency Retirement Act of 1964 for certain employees, relating to cost-of-living increases, and to increase the pay and allowances of certain officers of the Armed Forces whose pay and allowances are not subject to adjustment to reflect changes in the Consumer Price Index; and

S. 2794. An act to amend chapter 36 of title 38, United States Code, to authorize the Administrator of Veterans' Affairs to continue making educational assistance and subsistence allowance payments to eligible veterans and eligible persons during periods that the educational institutions in which they are enrolled are temporarily closed pursuant to a policy proclaimed by the President or because of emergency conditions.

On December 29, 1973:

S. 14. An act to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, and for other purposes;

S. 1945. An act to amend the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, so as to authorize certain grapefruit marketing orders which provide for an assessment against handlers for the purpose of financing a marketing promotion program to also provide for a credit against such assessment in the case of handlers who expend directly for marketing promotion; and

S. 2491. An act to repeal the provisions of the Agriculture and Consumer Protection Act of 1973 which provide for payments to farmers in the event of crop failures with respect to crops planted in lieu of wheat or feed grains.

On January 2, 1974:

S. 2482. An act to amend the Small Business Act;

S. 2812. An act to amend the Federal Water Pollution Control Act to establish the ratio for allocation of treatment works construction grant funds, to insure that grants may be given for other than operable units, and to clarify the requirements for development of priorities; and

S.J. Res. 182. Joint resolution extending the dates for the transmission of the 1974 Economic Report and the report of the Joint Economic Committee.

### CALL OF THE ROLL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[No. 1 Leg.]

Abourezk
Allen
Baker
Beall
Bellmon
Bennett
Bentsen
Bible
Brock
Brooke
Buckley
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Clark
Cook
Cranston
Curtis
Domenici
Dominick
Eastland
Ervin
Goldwater
Gravel
Griffin
Gurney
Hart
Haskell
Hatfield
Hathaway
Hruska
Huddleston
Hughes
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
McClellan
McClure
McGee
McGovern
Metcalf
Mondale
Montoya
Moss
Muskie

Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Stennis
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Young

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Delaware (Mr. Biden), the Senator from Nevada (Mr. Cannon), the Senator from Missouri (Mr. Eagleton), the Senator rom Arkansas (Mr. Fulbright), the Senator from Indiana (Mr. Hartke), the Senator from South Carolina (Mr. Hollings), the Senator from Minnesota (Mr. Humphrey), the Senator from New Hampshire (Mr. McIntyre), the Senator from Alabama (Mr. Sparkman), the Senator from California (Mr. Tunney), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bartlett), the Senator from Arizona (Mr. Fannin), and the Senator from Wyoming (Mr. Hansen) are absent on official business.

I also announce that the Senator from Vermont (Mr. Aiken), the Senator from New Hampshire (Mr. Cotton), the Senator from Kansas (Mr. Dole), the Senator from Hawaii (Mr. Fong), the Senator from North Carolina (Mr. Helms), the Senator from Maryland (Mr. Mathias), and the Senator from Vermont (Mr. Stafford) are necessarily absent.

I further announce that the Senator from Alaska (Mr. Stevens) is absent to attend the funeral of former Senator Fred A. Seaton.

## SENATOR FROM OHIO—CREDENTIALS—RESIGNATION AND APPOINTMENT

The VICE PRESIDENT. The Chair lays before the Senate the letter of resignation of Senator William B. Saxbe, of Ohio, together with a certificate of appointment of Senator Howard M. Metzenbaum, of Ohio, which the clerk will read:

The assistant legislative clerk read as follows:

U.S. Senate,
*Washington, D.C., December 31, 1973.*

Hon. Gerald R. Ford,
*President of the Senate, U.S. Senate, Senate Office Building, Washington, D.C.*

Dear Mr. President: I herewith tender my resignation as a Member of the United States Senate from Ohio to become effective as of the close of business on Thursday, January 3, 1974.

Sincerely yours,
William B. Saxbe.

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*To the President of the Senate of the United States:*

This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of Ohio, I, John J. Gilligan, the Governor of said State, do hereby appoint Howard M. Metzenbaum a Senator from said State to represent said State in the Senate of the United States until the vacancy therein, caused by the resignation of William B. Saxbe, is filled by election, as provided by law.

In testimony whereof, I have hereunto subscribed my name and caused the Great Seal of Ohio to be affixed, at Columbus, this 3rd day of January, in the Year of Our Lord, One Thousand Nine Hundred and Seventy-four.

John J. Gilligan,
*Governor.*
Ted W. Brown,
*Secretary of State.*

The VICE PRESIDENT. The credentials will be recorded and placed on file.

If there is no objection, the Senator-designate will present himself at the desk and the Chair will administer the oath of office.

Mr. CURTIS. Mr. President, I desire to be heard at this point in the proceedings.

The VICE PRESIDENT. The Chair recognizes the Senator from Nebraska.

Mr. CURTIS. Mr. President, following the anouncement that the Governor of Ohio had designated Mr. Metzenbaum to become one of the U.S. Senators from Ohio, certain matters were called to our attention. One of them appeared in the newspapers. It raises some questions that I believe should be determined at this point. I am not in a position to nor do I pronounce guilt upon any man prior to a hearing.

I can best give to the Senate an account of this situation by reading a letter that I wrote to the Honorable Mike Mansfield, majority leader, U.S. Senate, on January 14, 1974. The letter is as follows:

> Dear Senator Mansfield: This letter relates to the seating of Howard Metzenbaum as a Senator from the State of Ohio.
>
> On December 27, 1973, the Washington Star-News carried an Associated Press article stating:
>
> "Cleveland industrialist Howard Metzenbaum paid $118,102 in taxes the government claims he owed, Dec. 17, two days before he was appointed U.S. Senator from Ohio, U.S. Tax Court records here showed."
>
> I have examined the documents on file in the U.S. Tax Court in reference to this matter. The government alleges that the Internal Revenue Service (IRS) found the following:
>
> "It is determined that the transactions * * *

Mr. President, the gravamen of my complaint is not that somebody owed taxes, that this gentleman owed taxes, that he paid them, or that he exercised his right to litigate. That is all conceded. The point involved is the determination by the Internal Revenue Service that transactions set up in his tax return were not bona fide.

Were they? The only way we can find out is through an investigation and hearing.

Reading on from the letter:

> I do not know Mr. Metzenbaum. Certainly, there is nothing personal in my presentation, neither are there any partisan considerations because everyone understands that the appointment will go to a member of the majority party. I make the presentation because the integrity of the Senate is at stake. Section V, Article I, of the Constitution provides that each house shall be the judge of the qualifications of its own members.
>
> During the time of your leadership, relevant precedents applicable to this situation have been clearly established. I refer specifically to three precedents. The Senator from Connecticut was censured. The so-called Watergate Committee has applied far reaching standards of conduct for the Chief Executive. The third precedent to which I refer were the hearings on the confirmation of our present Vice President.
>
> The Vice President was subjected to one of the most intense investigations ever conducted. Judicial notice was not taken of the fact that the voters of his Congressional District had for a quarter of a century approved his conduct. The Vice President was required to prove his innocence in the most minute detail including his finances and tax matters. In determining the qualifications of the Vice President, the Senate went far beyond the requirements enumerated in the Constitution for someone to be eligible for the Office of the President. A similar procedure should be followed when the Senate is asked to pass on the qualifications of someone seeking to be seated as a member of the Senate. To do otherwise would reflect upon the U.S. Senate.
>
> Mr. Howard Metzenbaum should not be seated as a member of the Senate when the Senate reconvenes on January 21, 1974. He should be asked to stand aside until an appropriate committee makes a thorough and complete investigation of his income tax situation.
>
> If it had developed that our Vice President, two days before his appointment, had settled a tax claim of $118,102, relating to a transaction which the IRS determined was "not bona fide", I believe it is safe to say that the Senate would not have confirmed him.
>
> The purpose of this letter is to specifically request that you, as the Majority Leader, assume the responsibility of seeing to it that Mr. Metzenbaum is not seated as a member of the U.S. Senate and that an appropriate investigation be conducted.
>
> Respectfully yours,
> Carl T. Curtis,
> *U.S. Senator.*

Mr. President, I repeat: The issue here is not whether someone should ever be seated in this body owing taxes or having recently paid taxes or having asserted his right to contest a tax claim. The issue here is a determination by the Internal Revenue Service that the individual had entered into transactions that were not bona fide.

And it goes on to name them—

> Were not bona fide. * * * Accordingly, the claimed rental losses are determined to be unallowable * * *."
>
> Webster's New International Dictionary, Second Edition, defines bona fide as "in or with good faith; without fraud or deceit; genuine; as a bona fide transaction." The determination of the IRS was that the transactions in question were "not bona fide."

Were they? I do not know. I cannot pass on that. All I can say is that the facts warrant an investigation.

First, Mr. President, let me state that my letter was addressed to Mr. Mansfield, majority leader. I think I am quoting him accurately when I state that I have received information from him this morning that he expects to take no action.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. CURTIS. I yield.

Mr. MANSFIELD. The Senator is absolutely correct, because it is not the responsibility of the majority leader or minority leader; it is the responsibility of any Senator who desires to take such action.

Mr. CURTIS. Very well. I am happy to have the record clarified so we know exactly what the position of our very beloved leader is.

Therefore, Mr. President, I make the following unanimous-consent request:

I ask unanimous consent that the oath

of office be administered to Mr. METZENBAUM without prejudice, and that the certificate of appointment be referred to the Committee on Rules and Administration for consideration of all matters pertaining to said appointment, with instructions to report to the Senate not later than March 4, 1974.

The VICE PRESIDENT. Is there objection to the request of the Senator from Nebraska?

Mr. MANSFIELD. I object.

The VICE PRESIDENT. Objection is heard.

Mr. CURTIS. Mr. President, I so move.

Mr. MANSFIELD. Mr. President——

The VICE PRESIDENT. The Chair recognizes the Senator from Montana.

Mr. MANSFIELD. Mr. President, the distinguished Senator from Nebraska——

The VICE PRESIDENT. Will the Senator withhold to let the clerk read the motion?

Mr. MANSFIELD. Yes.

The VICE PRESIDENT. Will the Senator from Nebraska send his motion to the desk, please?

The clerk will read the motion.

The assistant legislative clerk read as follows:

> I move that the oath of office be administered to Mr. Metzenbaum without prejudice, and that the certificate of appointment be referred to the Committee on Rules and Administration for the consideration of all matters pertaining to said appointment, with instructions to report to the Senate not later than March 4, 1974.

Mr. MANSFIELD. Mr. President, first I will express my thanks to the distinguished Senator from Nebraska for reading in full the letter which he wrote to me under date of January 14, 1974.

I notice that in his next-to-the-last paragraph, he states:

> If it had developed that our Vice President, 2 days before his settlement, had settled a tax claim of $118,102 relating to a transaction which the IRS had determined was "not bona fide," I believe it would be safe to say that the Senate would not have confirmed him.

Mr. President, may I say that the case of the tax matter as it relates to the Senator from Ohio (Mr. METZENBAUM) has not as yet been settled, and I emphasize the word "settled." Also, I may say that I was surprised when a Member of this body in which we are all coequal asked me to "assume the responsibility of seeing to it that Mr. METZENBAUM is not seated as a Member of the U.S. Senate."

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. CURTIS. It is true that any Senator can raise the point which I have raised. However, I am sure that my distinguished leader is aware that what is ultimately done is subject to a majority vote of this body, and the distinguished majority leader has the votes.

I felt it was of such importance that he would take action on the matter, and that is why I made the request.

Mr. MANSFIELD. I appreciate what the distinguished Senator from Nebraska has said and his statement that I have the votes. I have not any votes in this Chamber except my own. And as far as the majority leader is concerned, he is not superior, nor is he inferior, to any other Senator in this body of 100 equals.

I think that the distinguished Senator from Nebraska should have had the courtesy to have taken this matter up personally with the Senator from Ohio (Mr. METZENBAUM). He might have gotten facts which would have changed his views.

On January 16, 1974, on his own initiative, the Senator from Ohio (Mr. METZENBAUM) wrote to me a letter which he did not release to the press, and which I want to read for the benefit of the RECORD.

The letter reads as follows:

> JANUARY 16, 1974.
>
> Hon. MIKE MANSFIELD,
> *Majority Leader,*
> *U.S. Senate,*
> *Washington, D.C.*
>
> DEAR SENATOR MANSFIELD: In response to the letter which you received from Senator Curtis questioning my right to be sworn in to the Senate, I would like to provide you with the following information:
>
> In 1967, I made a business investment by purchasing 50% ownership interest in a Louisiana manufacturing facility. In February of 1968, this plant was leased for a long term to a large U.S. corporation.
>
> At an early point, prior to my filing my tax return in connection with this investment, I consulted with outside tax counsel as well as one of the big eight accounting firms relative to the tax treatment to be accorded this matter. The returns were filed in accordance with their advice.
>
> When the Internal Revenue Service conducted its regular annual audit of my returns for 1967 and 1968, interest and depreciation losses on that investment were questioned. IRS differed with me and my tax counsel on the legal interpretation of the Internal Revenue Code relative to the manner of handling the investment. The government position is that the transaction was not in fact a "bona fide" or actual business purchase agreement but was rather a financing arrangement.
>
> The legal dispute was not resolved, and on April 19, 1973, the Internal Revenue Service advised me that it had determined a deficiency amounting to $10,313.00 for 1967 and $108,045.26 for 1968. On July 10, 1973, I filed a petition in the U.S. Tax Court challenging the IRS determination. That case is still pending.
>
> Sometime in mid-November, after I had announced my candidacy for the U.S. Senate, the news media in Ohio reported the pending tax case in a manner to suggest that I had not paid my taxes to the IRS. Because I felt that there was a possible misunderstanding in the public mind with respect to this matter as pertains to a candidate for the U.S. Senate—or a U.S. Senator—I asked my tax counsel to advise me with respect to the possibility of my depositing the entire amount claimed by the government with the IRS, subject to final determination of the case. On the very day that he advised me that it would be possible for me to deposit the amount claimed without losing any of my rights in the tax court case, I forwarded my check in the sum of $118,102.42 to the IRS at Covington, Kentucky, to remain on deposit until such time as the case has been resolved. (Due to a mathematical error, $255.84 should have been deposited at the same time and that amount was forwarded on January 7, 1974.)
>
> It is the view of my tax counsel, as well as my own, that we will prevail in the tax court case. In such event, the entire amount deposited with the IRS will be refunded. Should the tax court ruling be adverse, then I will have deposited with the government the entire amount of its claim and there will be no further funds due it from me.
>
> There is not now, nor has there ever been a question of my willingness or ability to pay all income tax due the Internal Revenue Service. I fully disclosed the transaction on my returns, and the only question at issue with the Internal Revenue Service is a single complex legal issue.
>
> Kindest personal regards,
> HOWARD M. METZENBAUM,
> *U.S. Senator.*

Mr. President, I send to the desk a substitute motion and ask for its consideration.

The VICE PRESIDENT. The clerk will read the substitute motion.

The assistant legislative clerk read as follows:

> I move that the oath of office be administered and that the credentials be referred to the Committee on Rules and Administration with instructions to report back to the Senate not later than February 4, 1974, and that the oath be administered without prejudice.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, the constitutional difference between an appointment made by a Governor to fill a vacancy in the U.S. Senate and the nomination of a person to be Vice President of the United States to fill a vacancy in that office is as wide as the gulf which yawns between Lazarus in Abraham's bosom, and Dives in hell.

The Supreme Court of the United States held in a case where the House denied Adam Clayton Powell the seat in the House of Representatives to which he had been elected for allegedly bad conduct that a Representative is entitled to his seat if he possesses the three qualifications prescribed for membership in the House of Representatives by clause 2 of section 2 of article I, of the Constitution.

That provision reads as follows:

> No Person shall be a Representative who shall not have attained to the Age of twenty-five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

In that case, when Representative Powell was denied his seat by a majority vote of the House of Representatives, the matter was carried into the courts, and the Supreme Court quite correctly held that the only qualifications of a Representative are the three prescribed in clause 2 of section 2 of article I of the Constitution—namely, that he shall have attained the age of 25 years, second, that he shall have been a citizen of the United States for 7 years, and third, that he shall be an inhabitant of the State in which he shall be chosen.

Similar qualifications, varying somewhat in detail, are prescribed for U.S. Senators. They are set forth in clause 3 of section 3 of article I of the Constitution of the United States, which is as follows:

> No person shall be a Senator who shall not have attained to the Age of thiry Years, and been nine Years a Citizen of the United States, and who shall not, when elected be an Inhabitant of that State for which he shall be chosen.

There is no allegation that the appointee designated by the Governor of Ohio has not attained the age of 30 years. There is no allegation that he has not been for 9 years a citizen of the United States. There is no allegation to the effect that he is not an inhabitant of the State of Ohio. These things being true, under the decision of the Supreme Court in the Powell case, the appointee of the Governor of Ohio has an absolute right to take his seat as a Senator of the United States, and he cannot be barred from that seat because of something he may have done, or failed to do, might be displeasing to Members of the Senate. It is clearly otherwise in respect to a person nominated by the President to fill a vacancy in the office of Vice President because under the Constitution, Congress has discretionary power to veto the President's nominee for any reason satisfactory to itself.

Mr. CURTIS. Mr. President, will the distinguished Senator yield?

Mr. ERVIN. Yes.

Mr. CURTIS. Is it true that Adam Clayton Powell was elected to office?

Mr. ERVIN. Yes, but there is no difference between an election and an appointment under the Constitution.

Mr. CURTIS. Is it not true that there is a line of decisions holding that the electorate is sovereign, and when a matter is laid before them and they pass on it and make an election, it has a higher standing so far as being disturbed is concerned than an appointment?

Mr. ERVIN. Not under the Constitution of the United States. The Constitution of the United States and the laws of Ohio say that the Governor of Ohio has the right to appoint to a vacancy in the U.S. Senate any person who meets the three qualifications prescribed by clause 3 of section 3 of article I of the Constitution.

The Governor of Ohio has the same right to fill this vacancy that the voters of Ohio will have to elect someone to fill this unexpired term at the next general election.

Mr. CURTIS. Will the distinguished Senator yield further?

Mr. ERVIN. I yield.

Mr. CURTIS. The distinguished Senator is totally in error. He is totally unacquainted with the precedents. A contest arose in Pennsylvania involving Senator Vare. He was of the requisite age; there was no question as to his residence.

Mr. ERVIN. Yes, but at that time there was no Supreme Court decision to the contrary. The Senator's precedents are outmoded by the decision.

Mr. CURTIS. There was a contest as to Senator Langer of North Dakota. That involved a number of things. It is not true that we are confined——

Mr. ROBERT C. BYRD. Mr. President, may we have order?

Mr. CURTIS. That we are confined to the enumerated——

The VICE PRESIDENT. If the Senator will withhold——

Mr. ERVIN. Mr. President, I yielded to the Senator for a question and not for a speech.

The VICE PRESIDENT. The Chair states to the gallery that those in the gallery are guests of the Senate, and are not to be heard.

Mr. ERVIN. Mr. President, I yielded to the Senator from Nebraska for a question, not for a speech, and while I may be, in the opinion of the Senator from Nebraska, totally ignorant, I do have sufficient information to recall the provisions of the Constitution of the United States and the last decision of the Supreme Court of the United States on this point.

The VICE PRESIDENT. Does the Senator from North Carolina yield to the Senator from Nebraska?

Mr. ERVIN. I yield for a question.

Mr. CURTIS. Is it true that the Senator from Nebraska said that you were totally ignorant?

Mr. ERVIN. Yes, the Senator from Nebraska said I was totally ignorant.

Mr. CURTIS. No, I did not. You are about as accurate on that as you have been for the last few months.

Mr. ERVIN. I thank the Senator. I did not yield for that observation.

Mr. PASTORE. May we have order, Mr. President?

Mr. CURTIS. Mr. President, I seek the floor in my own right.

The VICE PRESIDENT. Does the Senator from North Carolina yield to the Senator from Nebraska?

Mr. ERVIN. I yield to the Senator from Nebraska for a question, not for an observation.

Mr. CURTIS. Mr. President, I seek the floor in my own right.

Mr. ERVIN. I still have the floor.

Mr. CURTIS. All right.

The VICE PRESIDENT. The Senator from North Carolina may proceed.

Mr. ERVIN. Mr. President, the Vare case occurred long before the Supreme Court of the United States had made any decision on this subject, and when the Supreme Court had occasion to make a decision in respect to the qualifications of Members of Congress, it obliterated all previous actions inconsistent with the determination of the Supreme Court that the qualifications for a Member of Congress are prescribed by the Constitution and cannot be altered by a majority vote of either House or by a unanimous vote of either House, because the Constitution controls.

So I say, while maybe the Senator from Nebraska did not say the Senator from North Carolina was totally ignorant in all matters, he said the Senator from North Carolina was totally ignorant in respect to the matter the Senator from North Carolina is now discussing. But I have the Constitution; and the Supreme Court on my side. [Laughter.]

Mr. President, I yield the floor.

The VICE PRESIDENT. The Chair recognizes the Senator from Nebraska.

Mr. CURTIS. Mr. President, although I am not experienced as a television actor, I shall do my very best to make my point so that Senators can understand it.

The facts are that the Senate has the right, under the Constitution, to determine the qualifications of its Members. That the Supreme Court cannot take away. I mentioned the Langer case. It is true he was seated, but the Senate had a right to go into the matter, and they did go into it, for months.

We could cite the case of Smith of Illinois. Objectives were made to seating him. Hearings went on over a long time. He was denied his seat, and one of the issues there was not the age, residence, and so on, that our distinguished friend from North Carolina talks about. The issue there was excessive campaign contributions.

Mr. President, there was another case involving Mr. Vare of Pennsylavnia. Objections were made that the Senate had no jurisdiction. It asserted jurisdiction. Hearings dragged out a long time, and he was denied his seat. One of the principal points in that contest was excessive campaign contributions.

I do not think the Supreme Court has made any ruling that takes away from the Senate the right to pass on the qualifications of its own Members.

I do not believe that the decision in the Adam Clayton Powell case would override the precedents of the Senate with reference to such cases as the Smith and Vare cases.

I want the record straight that I did say—and I apologize—the Senator from North Carolina was misinformed and was wrong on this issue of the law. Mr. President, I at no time said he was ignorant, or totally ignorant, or anything of that sort. I would not do it. He is a learned man. He is articulate. He is persuasive.

The issue before the Senate is this: Should this matter be investigated?

Now, we have the motion that the junior Senator from Nebraska has made on a substitute by the majority leader. I very much appreciate the fact that the majority leader views this matter of such a nature that he was willing to make the substitute motion.

I do point out that if we have an investigation, it should be fair to Mr. Metzenbaum. It should be fair to all parties concerned. The only way it can be fair is to get all the facts.

Now, this is unlike some questions that are raised, in that it would call for determination of facts.

Are transactions bona fide?

We have to look at the transactions. We have to investigate them. We have to look at the surrounding facts and at the representations of the parties.

Therefore, I wonder—and I direct this as a question to our distinguished leader—would the distinguished leader amend his substitute motion to make it a full 30 days?

Mr. MANSFIELD. No. I think that the issue has been drawn. It was not raised on this side. It is not a critical issue so far as the Democrats in the Senate are concerned. The Senator has indicated that he would like the date of February 1 or March 1. I have indicated that I would like, in the form of the substitute, that the date be February 4. I think that is a reasonable compromise because basically the distinguished Senator from Nebraska is getting what he seeks in the matter which is being referred to the Committte on Rules and Administration with a mandate that it report back within a certain time.

Mr. CURTIS. Mr. President, I respect the distinguished leader's position and decision on the matter. I do hope, however, that we can work out something where the time would be a little longer. I say this not for the purpose of having someone's situation in limbo but merely so that if it is going to be investigated, it will be investigated thoroughly.

So again I would hope, although I do not believe we have the votes to override in the situation—but I certainly would not be surprised if the Committee on Rules and Administration had to come back and ask for an extension of time in this situation. It seems to me that the first mandate should be to do a thorough job as rapidly as possible. I have no desire to delay it a long time. I am very grateful that the distinguished majority leader is willing to have this matter considered.

Mr. HASKELL. Mr. President, I want to make a few remarks that may not be particularly germane to the constitutional situation described by the Senator from North Carolina, but I think it is germane since this discussion will be reported in the press.

Prior to coming to the Senate, I spent a good deal of my time practicing law, and specifically law in the income tax field.

I would like the record to show, Mr. President, that the allegation of "not being bona fide" is a word of art. It has absolutely nothing to do with fraud. It is just a question of whether the particular transaction fits under the particular section of the Internal Revenue Code. It is used in civil litigation time and time again. I think the record therefore must show that the allegation that was made in this particular litigation has nothing to do with the person's reputation and should not be used in any way to damage his reputation.

Having had some experience in this field, I thought it proper that the record should show this.

Mr. CHILES. Mr. President, may I ask the Senator, are not the words "not being bona fide" used completely through the tax law? Is it not used, as I recall, where someone gives a gift and that someone were to die within 2 or 3 years from the giving of the gift, and if he does, there is the presumption that the gift was not bona fide? It is used in that regard, is it not?

Mr. HASKELL. Yes. The Senator is correct. For instance, if I should give the Senator a gift and I should retain the use of it for my life of 10 years, say, the Internal Revenue might say it is not a bona fide gift. What they really mean is, it is not a gift.

Mr. CHILES. Under the code, even if they do give you that, and you die within 1 year afterward, there is the presumption that it was not bona fide; is that not correct?

Mr. HASKELL. The Senator is correct.

Mr. CHILES. That is not going to be fraud, is it, because you certainly did not elect to die. [Laughter.]

Mr. HASKELL. The Senator is again correct.

Mr. CHILES. So Webster's definition would not exactly apply; is that not correct?

Mr. HASKELL. It does not apply to the Internal Revenue——

Mr. CHILES. I wonder whether the Senator would enlighten me, as well as the Senate, more about the Tax Court. Are any criminal cases tried in the tax courts of the United States?

Mr. HASKELL. I would not be able, from my recollection now, to answer that but——

Mr. CHILES. Do not criminal cases——

Mr. HASKELL. It could go to the district court. I suppose a fraud penalty could be assessed in the Tax Court.

Mr. CHILES. Is not the Tax Court where the citizen can go to litigate a claim with the Government?

Mr. HASKELL. The Senator is correct. The citizen has the choice of going to the Tax Court or to the Federal district court where he resides, or to the Court of Claims.

Mr. CHILES. I thank the Senator very much.

Mr. CURTIS and Mr. PASTORE addressed the Chair.

The VICE PRESIDENT. The Senator from Nebraska is recognized.

Mr. CURTIS. Mr. President, the point raised by the colloquy in the Chamber just now was anticipated by the junior Senator from Nebraska before he ever wrote the letter to the distinguished majority leader or proceeded with this matter further. I contacted two of the best tax experts that I know of. I did not want to rely on my own judgment. I asked them what was meant when it was alleged that the transactions were not bona fide by such a finding of the Internal Revenue Service.

I got an interesting answer back. They said, "We never heard of it." They said, "Those words are not words of art." So it can only mean what the dictionary says it means.

Mr. President, I shall support the substitute motion of the Senator from Montana (Mr. MANSFIELD) and I commend him for making it. I am sorry that the time is not more, but I shall support it.

Mr. PASTORE addressed the Chair.

The VICE PRESIDENT. The Chair recognizes the Senator from Rhode Island.

Mr. MANSFIELD. Mr. President, will the Senator yield, without losing his right to the floor?

Mr. PASTORE. I yield.

Mr. MANSFIELD. Mr. President, insofar as the substitute motion is concerned, it is not envisioned by the pending motion that the Rules Committee replace the Tax Court in deciding the merits of Senator METZENBAUM's claim before that court, but only whether the issue raised by Senator CURTIS, the distinguished Senator from Nebraska, has any validity in disqualifying Senator METZENBAUM to take his oath under the Constitution.

The VICE PRESIDENT. The Senator from Rhode Island.

Mr. PASTORE. Mr. President, I think we are indulging in a tempest in a teapot. The cases that were cited by the distinguished Senator from Nebraska touched upon criminal offenses. Here we are met with a civil action. Whether or not Senator METZENBAUM is right or wrong, the court will decide. If he is wrong, he will have to pay. But if any element of fraud was involved, it was incumbent upon the Internal Revenue Service to have filed a criminal complaint. It has not done that.

Time and time again, distinguished people have challenged the decisions of the Internal Revenue Service. But where fraud is involved, a criminal action is brought. Here, today, we are arguing to and fro on an element of judgment, which was brought before a civil court, and has nothing to do with the commission of a crime; and we are saying to this distinguished gentleman that we have to investigate it. The investigation should be carried on by the court. If the court decides that he should pay the money, he should pay it. Whether or not he has put the money in escrow is immaterial, because if the court decided that the money was due, he would have to pay it at any rate, and if he did not pay it, they would place a lien on his property.

Mr. President, the Internal Revenue Service had the authority to make a decision. If any fraud were involved the Internal Revenue Service would have brought a criminal action. But here is a man who spelled out the entire transaction on his tax return; and when they audited his tax return, there was a question of an interpretation of the law. The Internal Revenue Service took the position that he should not have made the deduction, that he had to pay it. His contention is, "I was entitled to make the deduction, and for this reason I made the deduction"; and accordingly he brought the matter to the courts.

Mr. President, this is a serious matter. The Governor of a State has appointed a nominee to take his position in the Senate of the United States, and we are being asked to investigate a civil action involving the nominee. I think we are going a little too far afield and, therefore, at the proper time I am going to move that both motions be placed on the table and that we proceed to allow the man to take his oath of office.

Mr. ERVIN. Mr. President, the distinguished Senator from Nebraska said that every House is the judge of the qualifications of its Members. That was precisely the provision of the Constitution which the House of Representatives invoked to deny Representative Adam Clayton Powell his seat. The provision—clause 1, section 5, of article I—reads as follows:

> Each House shall be the judge of the Elections, Returns, and Qualifications of its own Members.

That was the precise point on which the House relied in denying Representative Powell his seat. The Supreme Court said that under that clause of the Constitution, the House has only two powers. One is to determine whether a person was actually elected or appointed and the other is whether he possesses the qualifications prescribed by the Constitution.

I have attempted to read the Federal tax laws. Many people in high places misconstrue them, even when they have the assistance of very learned counsel. My experience in attempting to interpret the tax laws is that if a person can interpret those laws aright and not make any mistake about it, he has the capacity to unscrew the inscrutable. [Laughter.]

**The VICE PRESIDENT.** The Chair reminds the gallery that they are guests of the Senate and that they must be quiet.

**Mr. ERVIN.** In view of the fact that the majority leader has stated that the question involved is to determine whether the appointee of the Governor of Ohio is of the requisite age, has been a citizen of the United States for the requisite period of time, and is a resident of the State of Ohio, and since there is no allegation to the contrary, I move that the motion of the distinguished Senator from Nebraska do lie upon the table.

**Mr. CURTIS.** Mr. President, on that motion, I ask for the yeas and nays.

**The VICE PRESIDENT.** There is a sufficient second. The yeas and nays are ordered.

The clerk will call the roll.

The legislative clerk called the roll.

**Mr. TAFT** (when his name was called). Present.

**Mr. ROBERT C. BYRD.** I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Alabama (Mr. SPARKMAN), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

**Mr. GRIFFIN.** I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Arizona (Mr. FANNIN), and the Senator from Wyoming (Mr. HANSEN) are absent on official business.

I also announce that the Senator from Vermont (Mr. AIKEN), the Senator from New Hampshire (Mr. COTTON), the Senator from Kansas (Mr. DOLE), the Senator from Hawaii (Mr. FONG), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Vermont (Mr. STAFFORD) are necessarily absent.

I further announce that the Senator from Alaska (Mr. STEVENS) is absent to attend the funeral of former Senator Fred A. Seaton.

The yeas and nays resulted—yeas 53, nays 22, as follows:

[No. 2 Leg.]

YEAS—53

Abourezk
Allen
Bentsen
Bible
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Clark
Cook
Cranston
Eastland
Ervin
Gravel
Hart
Haskell
Hatfield
Hathaway
Huddleston
Hughes
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
McClellan
McGee
McGovern
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Stennis
Stevenson
Symington
Talmadge
Weicker

NAYS—22

Baker
Beall
Bellmon
Bennett
Brock
Buckley
Curtis
Domenici
Dominick
Goldwater
Griffin
Gurney
Hruska
McClure
Packwood
Pearson
Roth
Scott, Hugh
Scott, William L.
Thurmond
Tower
Young

ANSWERED "PRESENT"—1

Taft

NOT VOTING—23

Aiken
Bartlett
Bayh
Biden
Cannon
Cotton
Dole
Eagleton
Fannin
Fong
Fulbright
Hansen
Hartke
Helms
Hollings
Humphrey
Mathias
McIntyre
Sparkman
Stafford
Stevens
Tunney
Williams

**The VICE PRESIDENT.** The Chair, before announcing the vote, wishes to state that individuals in the galleries are guests of the Senate, and that there will be no demonstrations.

The vote on the motion to table is 53 yeas and 22 nays. The motion to table is agreed to.

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## ADMINISTRATION OF OATH

**The VICE PRESIDENT.** The Senator-designate will now present himself at the desk, and the Chair will administer the oath.

**Mr. METZENBAUM**, escorted by Mr. TAFT, advanced to the desk, the oath of office prescribed by law was administered to him by the Vice President, and he subscribed to the oath in the official oath book.

[Applause on the floor and in the galleries.]

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## RECESS FOR 3 MINUTES

**Mr. MANSFIELD.** Mr. President, I ask unanimous consent that there be a recess of not to exceed 3 minutes for the purpose of extending our greetings to our newest Member.

There being no objection, at 1:34 p.m. the Senate took a recess until 1:37 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HATHAWAY).

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## NOTIFICATION TO THE PRESIDENT

**Mr. MANSFIELD.** Mr. President, I send to the desk a resolution and ask for its immediate consideration.

**The PRESIDING OFFICER.** The resolution will be stated.

The legislative clerk read the resolution (S. Res. 229) as follows:

*Resolved,* That a committee consisting of two Senators be appointed by the Vice President to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

**The PRESIDING OFFICER.** Is there objection to the immediate consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

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## NOTIFICATION TO THE HOUSE

**Mr. HUGH SCOTT.** Mr. President, I send to the desk a resolution and ask for its immediate consideration.

**The PRESIDING OFFICER.** The resolution will be stated.

The legislative clerk read the resolution (S. Res. 230) as follows:

*Resolved,* That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

**The VICE PRESIDENT.** Is there objection to the immediate consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

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## HOUR OF DAILY MEETING

**Mr. ROBERT C. BYRD.** Mr. President, I send to the desk a resolution and ask for its immediate consideration.

**The PRESIDING OFFICER.** The resolution will be stated.

The legislative clerk read the resolution (S. Res. 231) as follows:

*Resolved,* That the hour of daily meeting of the Senate be 12 noon unless otherwise ordered.

**The PRESIDING OFFICER.** Is there objection to the immediate consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

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## TRANSACTION OF ROUTINE MORNING BUSINESS

**Mr. MANSFIELD.** Mr. President, I ask unanimous consent that there be a period for the conduct of morning business, not to go beyond the hour of 2 o'clock, and that there be a time limitation of 3 minutes attached thereto.

**The PRESIDING OFFICER.** Without objection, it is ordered.

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## ORDER TO CONSIDER S. 2798, PUBLIC WORKS ON RIVERS AND HARBORS

**Mr. MANSFIELD.** Mr. President, I ask unanimous consent that when the morning business is completed, the Senate turn to the consideration of Calendar No. 591, S. 2798, the public works flood control bill; that it be laid before the Senate and made the pending business.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

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## INDEFINITE POSTPONEMENT OF H.R. 8547, TO AMEND THE EXPORT ADMINISTRATION ACT OF 1969

**Mr. MANSFIELD.** Mr. President, I ask unanimous consent that Calendar No. 582, H.R. 8547, be indefinitely postponed.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

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## MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, informed the Senate that a quorum of the House is present and that the House is ready to proceed with business.

The message also announced that the House had agreed that a committee of three Members be appointed by the Speaker on the part of the House to join with a committee on the part of the Senate to notify the President of the United States that a quorum of each House has assembled and Congress is ready to receive any communication that he may be pleased to make.

## PRIVILEGE OF THE FLOOR

Mr. JAVITS. Mr. President, I ask unanimous consent that during the consideration of the water resources bill Kelley Costley, of my staff, may be permitted on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE MEETINGS DURING SESSION OF SENATE TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

## QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## REPORT OF COMMITTEE TO INFORM THE PRESIDENT THAT A QUORUM OF CONGRESS IS ASSEMBLED—STATE OF THE UNION MESSAGE

Mr. MANSFIELD. Mr. President, I report from the committee appointed to join a similar committee from the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and is ready to proceed to business, and that the President has notified us that he proposes to report to the Congress on the State of the Union on Jan. 30, 1974 at 9:30 p.m.

Mr. HUGH SCOTT. Mr. President, I have nothing to add to that except to state that the President has indicated that a number of items will be transmitted to Congress in the near future, many of them having to do with matters pertaining to the energy situation.

## STANDING ORDER FOR RECOGNITION OF MAJORITY AND MINORITY LEADERS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that throughout the remainder of the 2d session of the 93d Congress, the distinguished majority leader and the distinguished minority leader or their respective designees be recognized, in that order, daily for not to exceed 10 minutes each immediately following the approval of or the disposition of the reading of the Journal each day.

The PRESIDING OFFICER. Without objection, it is so ordered.

## QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## THE HISTORY OF THE MAJORITY WHIP'S SUITE

Mr. ROBERT C. BYRD. Mr. President, on December 19, 1973, Mr. James R. Ketchum, Curator, Commission on Art and Antiquities, supplied to me a detailed account of the majority whip's suite in the U.S. Capitol Building. This detailed account constitutes part of the Commission's study of the most historic areas of the Capitol Building.

I ask unanimous consent that the history of rooms S–148, S–149, and S–150, U.S. Capitol Building, be inserted in the RECORD, together with Mr. Ketchum's letter to which I have referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, D.C., December 19, 1973.*

Hon. ROBERT C. BYRD,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR BYRD: As part of the Commission's study of the most historic areas of the United States Capitol Building, we recently compiled a detailed account of the Majority Whip's suite.

I trust that you will find the report of interest, and extend the warmest greetings for a happy holiday season.

Sincerely,
JAMES R. KETCHUM,
*Curator.*

### HISTORY OF ROOMS S–148, S149, AND S150, U.S. CAPITOL BUILDING

Rooms S-148, 149, and 150 are located in the northwest area of the central section of the U.S. Capitol, one of the oldest portions of the building. The central section, situated between the original House and Senate wings, was constructed under the direction of architect Charles Bulfinch, and completed in time for General Lafayette's triumphal tour of the United States in 1824.

Much of the central section was set aside for the rotunda, and considerable space in the upper two floors of the west projection was assigned to the Library of Congress. A special Joint Committee on Distribution of Rooms in the Centre Building of the Capitol, in a report of 1824, divided the remaining rooms on the first three floors between the Senate and House of Representatives, with the central west stairway forming the dividing line. The fourth or attic floor was reserved for the House in total.

The Senate, unlike the House, did not publish its committee room assignments in the Congressional Directories. However, guidebooks published privately by Robert Mills, Commissioner of Public Buildings, for the years, 1834, 1842, 1848, and 1854, show that rooms which today are numbered S–148 and S–150 were committee chambers separated by a hallway.

The desirability of the location is apparent because of the importance of the committees which met in these two rooms. The Mills guides record that for a quarter of a century, S-148 housed the Senate Foreign Relations Committee, while the Naval Affairs Committee met in S-150.

The Foreign Relations Committee has often been described unofficially as the "ranking" Senate committee because it was listed first in a resolution of 1816 which named the earliest standing committees. Its meetingplace, with a panoramic view of northwest Washington, housed many distinguished committee members during this period. Henry Clay served as chairman from 1833–36, and was replaced by James Buchanan, the committee's chairman or ranking member until 1845. Other notable members included Nathaniel Macon, Lewis Cass, Thomas Hart Benton, Daniel Webster, Stephen Douglas, and Edward Everett.

According to George H. Hayne's *The Senate of the United States*, from the viewpoint of Washington society of the day, the most prestigious Senate committee after Foreign Relations was Naval Affairs, which was located across the then existing hall (today S-149), in the northwest corner of the room of the central section (S-150).

During most of the first half of the 19th century, Senate committees were composed of five members, but as the country and consequently the Congress grew, the need for additional space to house larger committees became apparent. Erection of the new North and South wings in the 1850's provided additional committee rooms, as well as larger Senate and House Chambers. The Foreign Relations and Naval Affairs committees vacated their rooms in 1859 and relocated in elaborately decorated quarters on the ground floor of the Senate extension. Foreign Relations move to what is now S–118, while the Naval Affairs Committee met in one of the chambers currently assigned to the Appropriations Committee in the Capitol.

Senate proceedings of March 2, 1859, as reported in the *Congressional Globe*, indicate that with the departure of the Naval Affairs Committee, its former room was assigned to the Court of Claims, whose quarters also included the two adjoining rooms on the west front of the Capitol presently occupied by the Joint Committee on Printing. From its establishment in 1855, the Court of Claims had been holding sessions at the old Willard Hotel.

By 1873, the room formerly occupied by the Foreign Relations Committee also had been assigned to the Court, which continued to meet in the Capitol until 1879, when it was moved to the Justice Department, and subsequently to the old Corcoran Gallery of Art building, presently the Smithsonian Institution's Renwick Gallery.

After 1879, S–148 and S–150 were assigned briefly to various Senate committees. (See listing in appendix.) One of the most unusual assignments was from 1887–97, when S–148 housed the Committee on Revolutionary Claims. Although the war had ended over a century earlier, this committee was maintained and traditionally assigned to the minority party, which used the committee room as a meetingplace.

The Senate Committee on the Census met in S–150 for more than thirty years beginning in 1879. In 1905, what had been a hallway was converted into a room (presently S–149) for the Census Committee Chairman, Senator Chester Long of Kansas. When he left the Senate, the room was assigned to the Census Committee, and since that time has been delegated to the Commitee or Member located in one of the two adjoining rooms.

In 1930, the three rooms became a suite assigned to the powerful Chairman of the Commerce Committee Senator Hiram Johnson of California. Johnson retained the rooms until his death in 1945. They were subsequently occupied by Senator Brian McMahon of Connecticut (1946–52) and Senator Charles Potter of Michigan (1953–58), until 1959 when they were assigned to the Secretary to the Majority. In 1970, this historic suite was assigned to the Majority Whip.

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### History of Room S–148, U.S. Capitol Building, Chronology of Assignments

1824–1859: Senate Committee on Foreign Relations.

1860's–1879: U.S. Court of Claims.

1879: House of Representatives Committee on Civil Service.

1879: Senate Committee on Education.

1884–1885: Senate Committee on Education and Labor.

1886: Capitol Police.

1887–1897: Senate Committee on Revolutionary War Claims.

1898–1905: Senate Committee on Additional Accomodation for the Library of Congress.

1906: Senate Committee on Corporations Organized in the District of Columbia.

1907–1910: Senate Committee on Transportation and Sale of Meat Products.

1910: Senate Committee on Disposition of Useless Papers in the Departments.

1910–1911: Senate Committee on Revolutionary War Claims.

1912–1918: Senate Committee on Corporations Organized in the District of Columbia.

1919–1928: Senator George P. McLean of Connecticut.

1929: Unassigned.

1930–1945: Senator Hiram Johnson of California.

1946–1952: Senator Brian McMahon of Connecticut.

1953–1958: Senator Charles Potter of Michigan.

1959–1969: Secretary to the Majority.

1970: Majority Whip.

The room number designation of S–148 has changed several times:

Circa 1834–1859—49.
Circa 1873—60.
1879–1962—80.
1962—S–148.

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### History of Room S–149, U.S. Capitol Building, Chronology of Assignments

1824: Hallway between rooms S–149 and S–150.

1906–1908: Senator Chester Long of Kansas.

1910–1917: Senate Committee on the Census.

1918–1921: Senate Committee on Cuban Relations.

1921–1923: Senate Committee on Patents.

1924: Senate Committee on Territories.

1924–1929: Senate Committee on Immigration.

1930–1945: Senator Hiram Johnson of California.

1946–1952: Senator Brian McMahon of Connecticut.

1953–1958: Senator Charles Potter of Michigan.

1959–1969: Secretary to the Majority.

1970: Majority Whip.

The room number designation of S–149 has changed twice:

1906–1962—77.
1962—S–149.

### History of Room S–150, U.S. Capitol Building, Chronology of Assignments

1824–1859: Senate Committee on Naval Affairs.

1859–1878: U.S. Court of Claims.

1879–1905: Senate Committee on the Census.

1905–1906: Senate Committee on Pacific Railroads.

1907–1917: Senate Committee on the Census.

1918–1921: Senate Committee on Cuban Relations.

1921–1923: Senate Committee on Patents.

1924: Senate Committee on Territories.

1924–1929: Senate Committee on Immigration.

1930–1945: Senator Hiram Johnson of California.

1946–1952: Senator Brian McMahon of Connecticut.

1953–1958: Senator Charles Potter of Michigan.

1959–1969: Secretary to the Majority.

1970: Majority Whip.

The room designation of S–150 has changed several times:

Circa 1824–1859—48.
Circa 1859–1879—51.
1879–1905—49.
1905–1962—107.
1962—S–150.

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## SENATOR ROBERT C. BYRD "GOES HOME"

**Mr. ROBERT C. BYRD.** Mr. President, on last Thursday, January 17, 1974, I had the privilege and pleasure of an opportunity to address the West Virginia Senate and the West Virginia House of Delegates, having been a member of both those bodies in earlier years. I ask unanimous consent that the address which I gave to both bodies be printed in the RECORD at this point.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

### Address by Robert C. Byrd

Mr. President and Mr. Speaker: Thomas Wolfe once titled a novel "You Can't Go Home Again." I have considerable admiration for Mr. Wolfe as a writer, but I cannot agree with his sentiment. I am proud and honored to come home again to the legislature in which I once served. I look back with affection and gratitude on the days I spent in this body, on the banks of the Kanawha River.

I suppose that the casual observer would conclude that anyone who goes from a State House of Delegates or a State Senate up to a seat in the Congress of the United States has graduated from the minor to the major leagues. But the serious student of American politics knows that such a conclusion is not necessarily true. As long as State governments are charged, under our system, with the multitude of responsibilities they now carry, individual delegates or State senators can be as important to the people of the State as can a Congressman or Senator of the United States. The legislation on which they vote may not be so all-encompassing as that with which we deal in Washington, but it is still vital to the well-being of the people. It is no secret that the art of politics and those of us who practice it are now going through a period in which we are being subjected to some rather harsh criticism. It is said by many that politics and politicians have lost the trust of the American people. It is said that there is no integrity in public officials, and that the principal aims are self-aggrandizement and personal profit. It is said that there is a lack of sincere and conscientious effort toward promoting the best interests of the people we represent.

These things may be true of a small minority of the men and women who are elected by their constituents, but in my experience of more than a quarter-century in the political arena, it is most certainly not true of the large majority of either Republicans or Democrats. As in every profession, there are a few practitioners whose failings reflect badly on their colleagues. Politics is no exception.

I believe that a major task that confronts all of us, whether we serve in Charleston or Washington, is to so conduct ourselves and our affairs, that we make a visible contribution toward the re-establishment of political credibility in the eyes of the American people. The past decade has been one of trial and tribulation for America, and the fabric of our society has been impaired. But the American fabric is a tough fabric, and one that has been seriously threatened many times in the past, without its being rent beyond repair. At this time in our history, I believe that all Americans, whether they live and work in public or in private life, have a great opportunity, as well as a responsibility, to pick up the torn threads of our national life, and to re-weave them into the solid fabric upon which the greatness of this Republic was based. There is, in this nation, a deep and abiding yearning for a return to the principles by which our forefathers lived—the principles of faith in God and country, personal integrity, honesty, industriousness, respect for justice and law, and compassion for the weak and the poor.

All of us who are in public life are, in varying degrees, in the public eye. We are men and women, not saints, and as such, we are subject to human frailties. But, because we have chosen to subject ourselves to public scrutiny, I believe that it behooves us to remember, at all times, public and private, that the privilege of being a public official carries with it inescapable responsibilities. And these responsibilities lie particularly heavy on those of us who serve in the national Congress, and in the legislatures of the States. The laws we formulate and pass affect every man, woman, and child in our constituencies, and it is vital that we do everything we possibly can to pass only good laws.

It is equally vital that there be the maximum co-operation and understanding between the States and the Federal government, for the purpose of helping to restore faith in government and the economic stability of this great Republic.

We have just come through a troubled ten years, starting with the tragedy in Dallas, the Vietnam war, and ending with the revelations of the Watergate. We are plagued by an energy shortage, astronomical food prices, and rising unemployment at home. We are involved, whether we like it or not, in a dangerous quarrel in the Middle East. It is a crisis that we can overcome, as we have overcome crises in the past. This will take determination, hard work, intelligent planning, and probably some sacrifices on the part of the American people. It will also require statesmanship on the part of all of us who have been honored by the public trust placed in us by the electorate. While we must continue to be a good neighbor to other nations, we must realize that our first responsibility is to our own country and to our own people. We must stop trying to police the world and seek to exercise a greater respect for law and justice here at home. We must stop using hard-earned tax dollars to build dams and highways and houses and factories in other lands, while the need for dams and roads and houses and factories grows greater day by day in our own land. We must understand that there is indeed a bottom to the cornucopia of American plenty, and discipline ourselves to more wisely conserve and use the resources that are ours. We must maintain a strong and adequate defense, remembering always that to be strong militarily requires, in a free nation, a strong and healthy economy. Finally, we must stop poor-mouthing America, and we must begin again to look about us and see all that is good in our country.

The road ahead is going to be uphill. The sun will not always shine upon our face, nor the wind always be at our back. But the American people are a resilient and resourceful people. The underpinnings of our constitutional system are as enduring as ever. The foundations of the Republic are sound.

I have not the slightest doubt that the hearts and the spirits of our citizens are still basically strong. You and I, as their leaders as well as their servants, have the duty to do all within our power to rekindle the faith of our people in their leaders and in their government. We have a responsibility to renew the dedication of all toward a national destiny, knowing that if we fail, national greatness will perish because every man will be interested only in himself.

Let those of us who are here today concerned with the dark and despairing problems of our times, be found always doing our duty.

## ORDER FOR ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 o'clock a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ENROLLED BILLS SIGNED

The following enrolled bills were signed today by the Vice President:

S. 1191. An act to provide financial assistance for a demonstration program for the prevention, identification, and treatment of child abuse and neglect, to establish a National Center on Child Abuse and Neglect, and for other purposes; and

H.R. 9256. An act to increase the contribution of the Government to the costs of health benefits for Federal employees, and for other purposes.

## ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today he presented to the President of the United States the enrolled bill (S. 1191) to provide financial assistance for a demonstration program for the prevention, identification, and treatment of child abuse and neglect, to establish a National Center on Child Abuse and Neglect, and for other purposes.

## COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The Vice President laid before the Senate the following letters, which were referred as indicated:

### Report on NASA and Aerospace-Related Industry Employment

A letter from the Administrator of the National Aeronautics and Space Administration transmitting, pursuant to law, a list of present and former NASA employees who have filed reports with NASA pertaining to their NASA and aerospace-related industry employment for the fiscal year ended June 30, 1973 (with an accompanying list). Referred to the Committee on Aeronautical and Space Sciences.

### Report of the Department of Agriculture

A letter from the Deputy Assistant Secretary of Agriculture transmitting, pursuant to law, a report on the status of research facilities funds for the fiscal year 1973 (with accompanying papers). Referred to the Committee on Agriculture and Forestry.

### Proposed Legislation To Amend the National School Lunch Act

A letter from the Assistant Secretary of Agriculture submitting a draft of proposed legislation to provide permanent appropriation authority for the Special Assistance Program of the National School Lunch Act (with accompanying papers). Referred to the Committee on Agriculture and Forestry.

### Report of the Rural Electrification Administration

A letter from the Acting Secretary of Agriculture transmitting, pursuant to law, a report on the activities of the Rural Electrification Administration for the fiscal year 1973 (with an accompanying report). Referred to the Committee on Agriculture and Forestry.

### Report of the National Forest Reservation Commission

A letter from the Secretary of the Army transmitting, pursuant to law, the report of the National Forest Reservation Commission for the fiscal year ended June 30, 1973 (with an accompanying report), which was ordered to be printed as a Senate document and referred to the Committee on Agriculture and Forestry.

### Proposed Legislation by the Department of Agriculture

A letter from the Under Secretary of Agriculture transmitting a draft of proposed legislation relating to unfair practices in the marketing of perishable agricultural commodities (with accompanying papers). Referred to the Committee on Agriculture and Forestry.

### Report of the Secretary of Agriculture

A letter from the Secretary of Agriculture transmitting, pursuant to law, the first annual report of the Secretary of Agriculture (with an accompanying report). Referred to the Committee on Agriculture and Forestry.

### Report of the Department of Defense on the Value of Support Furnished to Foreign Countries

A letter from the Assistant Secretary of Defense transmitting, pursuant to law, a report of the estimated value, by country, of support furnished from military functions appropriations (with an accompanying report). Referred to the Committee on Appropriations.

### Supplemental Estimate of Appropriation for Fees and Expenses of Witnesses

A letter from the Deputy Director of the Office of Management and Budget reporting, pursuant to law, that the appropriation to the Department of Justice for "Fees and Expenses of Witnesses" has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriation. Referred to the Committee on Appropriations.

### Approval of Loan by the Rural Electrification Administration

A letter from the Acting Administrator of the Rural Electrification Administration transmitting, pursuant to law, information relating to the approval of a loan to the United Power Association of Elk River, Minn. (with accompanying papers). Referred to the Committee on Appropriations.

### Supplemental Estimate of Appropriation for the General Services Administration

A letter from the Deputy Director of the Office of Management and Budget reporting, pursuant to law, that the appropriations to the General Services Administration for three accounts for the fiscal year 1974 have been apportioned on a basis which indicates the necessity for supplemental estimates of appropriation. Referred to the Committee on Appropriations.

### Approval of Loan by the Rural Electrification Administration

A letter from the Acting Administrator of the Rural Electrification Administration transmitting pursuant to law, information relating to the approval of a loan to the Central Iowa Power Cooperative of Marion, Iowa (with accompanying papers). Referred to the Committee on Appropriations.

### Final Determination by the Indian Claims Commission in the Case of Pueblo De Zia, et al. v. United States of America

A letter from the Chairman of the Indian Claims Commission transmitting, pursuant to law, its report of its final determination in respect to the claim in the case of Docket No. 137, Pueblo De Zia, Pueblo De Jemez, and Pueblo De Santa Ana v. the United States of America (with accompanying papers). Referred to the Committee on Appropriations.

### Report by the Department of Defense on Reduction of Military Strength

A letter from the Assistant Secretary of Defense transmitting, pursuant to law, a report on the apportionment of the reduction in military strength (with accompanying papers). Referred to the Committee on Armed Services.

### Proposed Construction Project by the Army Reserve

A letter from the Deputy Assistant Secretary of Defense for Installations and Housing notifying the Congress, pursuant to law, of a proposed construction project for the Army Reserve at the U.S. Army Reserve Center, Bell, Calif. Referred to the Committee on Armed Services.

### Proposed Construction Projects by the Air Force Reserve

A letter from the Deputy Assistant Secretary of Defense for Installations and Housing transmitting, pursuant to law, a list of 25 construction projects proposed to be undertaken for the Air Force Reserve (with accompanying papers). Referred to the Committee on Armed Services.

### Proposed Construction Projects by the Air National Guard

A letter from the Deputy Assistant Secretary of Defense for Installations and Housing transmitting, pursuant to law, a list of of 32 construction projects proposed to be undertaken for the Air National Guard (with accompanying papers). Referred to the Committee on Armed Services.

### Report on Property Acquisitions by the Defense Civil Preparedness Agency

A letter from the Director of the Defense Civil Preparedness Agency reporting, pursuant to law, on property acquisitions of emergency supplies and equipment for the quarter ending December 31, 1973. Referred to the Committee on Armed Services.

### Report of the Department of the Air Force Relating to Officers on Flying Status

A letter from the Under Secretary of the Air Force transmitting, pursuant to law, a report showing certain data by grade and age of all officers on flying status above the grade of major (with an accompanying report). Referred to the Committee on Armed Services.

### Report of the Department of Defense

A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, a report showing the names of persons who have filed reports for fiscal year 1973 as required by section 210(b) of Public Law 91–121 (with an accompanying report). Referred to the Committee on Armed Services.

### Report on Export Administration

A letter from the Secretary of Commerce transmitting, pursuant to law, a report on Export Administration covering the third quarter of 1973 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

### Report of the Export-Import Bank

The letter from the Chairman of the Export-Import Bank of the United States transmitting, pursuant to law, a report on the actions taken by the Export-Import Bank of the United States during the quarter ended September 30, 1973 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

### Report on Department of Defense Procurement

A letter from the Assistant Secretary of Defense for Installations and Logistics transmitting, pursuant to law, a report of Department of Defense procurement from small and other business firms for July 1973–August 1973 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

### Annual Report of the Board of Governors of the Federal Reserve System

A letter from a member of the Board of Governors of the Federal Reserve System transmitting, pursuant to law, the annual report of the Board of Governors on Truth in Lending for the year 1973 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

### Report of the Export-Import Bank

A letter from the Chairman of the Export-Import Bank of the United States reporting, pursuant to law, on the loan, guarantee, and insurance transactions supported by Eximbank to certain foreign countries prior to December 1, 1973, and not heretofore reported. Referred to the Committee on Banking, Housing and Urban Affairs.

### Report of the General Services Administration

A letter from the Administrator of the General Services Administration transmitting, pursuant to law, a report on borrowing authority for the period ending June 30, 1973 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

### Effects of Wage and Price Controls

A letter from the Vice President of the National Association of Manufacturers transmitting a survey to determine the effects of price and wage controls on the nation's manufacturing output, capital outlays, business practices, corporate earnings, employment, and shortages of all types of materials (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

### Report of the Comptroller of the Currency

A letter from the Comptroller of the Currency transmitting, pursuant to law, the annual Report of the Comptroller of the Currency for the year 19.2 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

### Proposed Legislation by the Department of State

A letter from the Assistant Secretary of State for Congressional Relations transmitting a draft of proposed legislation to amend the Northwest Atlantic Fisheries Act of 1950, as amended, and for other purposes (with accompanying papers). Referred to the Committee on Commerce.

### Report of the Secretary of Transportation

A letter from the Secretary of Transportation reporting, pursuant to law, on the number of officers above the grade of lieutenant commander, or equivalent, entitled to receive incentive pay for flight duty. Referred to the Committee on Commerce.

### Report of the Secretary of Transportation

A letter from the Secretary of Transportation transmitting, pursuant to law, a report on activities relating to title II of the Ports and Waterways Safety Act of 1972 (with an accompanying report). Referred to the Committee on Commerce.

### Report of the Secretary of Commerce

A letter from the Secretary of Commerce transmitting, pursuant to law, a report of the National Marine Fisheries Service for the calendar year 1972 (with an accompanying report). Referred to the Committee on Commerce.

### Report of the National Railroad Passenger Corporation

A letter from the Vice President of the National Railroad Passenger Corporation transmitting, pursuant to law, a report on the Corporation's activities for the month of November 1973 (with an accompanying report). Referred to the Committee on Commerce.

### Proposed Legislation by the Secretary of Transportation

A letter from the Secretary of Transportation transmitting a draft of proposed legislation to authorize the Secretary to phase-in motor vehicle safety standards by specified percentages over a period of time, and for other purposes (with accompanying papers). Referred to the Committee on Commerce.

### Report of the Board of Visitors to the Coast Guard Academy

A letter from the Chairman of the Coast Guard Subcommittee of the Merchant Marine and Fisheries Committee of the House of Representatives transmitting the report of the Board of Visitors to the Coast Guard Academy for the year 1973 (with an accompanying report). Referred to the Committee on Commerce.

### Report of the Federal Power Commission

A letter from the Chairman of the Federal Power Commission transmitting, pursuant to law, a report on the permits and licenses for hydroelectric projects issued by the Federal Power Commission during the fiscal year ended June 30, 1973 (with an accompanying report). Referred to the Committee on Commerce.

### Report of the National Railroad Passenger Corporation

A letter from the Vice President of the National Railroad Passenger Corporation transmitting, pursuant to law, a report on the activities of the Corporation for the month of September 1973 (with an accompanying report). Referred to the Committee on Commerce.

### Annual Report of the Interstate Commerce Commission

A letter from the Chairman of the Interstate Commerce Commission transmitting, pursuant to law, the annual report of the Commission for the fiscal year 1973 (with an accompanying report). Referred to the Committee on Commerce.

### Report of the Interstate Commerce Commission

A letter from the Chairman of the Interstate Commerce Commission transmitting, pursuant to law, copies of final valuations of properties of common carriers subject to the Interstate Commerce Act (with accompanying reports). Referred to the Committee on Commerce.

### Report of the District of Columbia Bail Agency

A letter from the Director of the District of Columbia Bail Agency transmitting, pursuant to law, a report on the activities of the Agency for the period June 1, 1972, through May 31, 1973 (with an accompanying report). Referred to the Committee on the District of Columbia.

### Proposed Legislation of the Government of the District of Columbia

A letter from the Mayor-Commissioner of the District of Columbia transmitting a draft of proposed legislation to amend certain laws relating to the District of Columbia public schools (with accompanying papers). Referred to the Committee on the District of Columbia.

### Proposed Legislation by the Government of the District of Columbia

A letter from the Mayor-Commissioner of the District of Columbia transmitting a draft of proposed legislation to revise the procedural and administrative provisions of District of Columbia taxing laws, and for other purposes (with accompanying papers). Referred to the Committee on the District of Columbia.

### Annual Report of the District of Columbia Council

A letter from the Chairman of the City Council of the District of Columbia transmitting, pursuant to law, the annual report of the Council for the fiscal year ending June 30, 1973 (with an accompanying report). Referred to the Committee on the District of Columbia.

### Report of the Chesapeake & Potomac Telephone Co.

A letter from the vice president of the Chesapeake and Potomac Telephone Co. transmitting, pursuant to law, a report of the company for the year 1973 (with an accompanying report). Referred to the Committee on the District of Columbia.

### Report on the Work Incentive Program

A letter from the Secretary of Health, Education, and Welfare and the Secretary of Labor transmitting, pursuant to law, a report by the Departments of Labor and Health, Education, and Welfare on the Work Incentive Program (with an accompanying report). Referred to the Committee on Finance.

### Report of the Secretary of the Treasury

A letter from the Secretary of the Treasury transmitting, pursuant to law, a report on the receipts, expenditures, and balances of the United States Government for the fiscal year ended June 30, 1973 (with an accompanying report). Referred to the Committee on Finance.

### Inventory of Nonpurchased Foreign Currencies

A letter from the Assistant Secretary of the Treasury transmitting, pursuant to law, a report on the inventory of nonpurchased foreign currencies as of June 30, 1973 (with an accompanying report). Referred to the Committee on Foreign Relations.

### International Agreements Other Than Treaties

A letter from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, copies of international agreements other than treaties entered into by the United States during the past 60 days (with accompanying papers). Referred to the Committee on Foreign Relations.

### Report of the U.S. Information Agency

A letter from the Director of the U.S. Information Agency transmitting, pursuant to law, the semiannual report of the U.S. Information Agency (with an accompanying report). Referred to the Committee on Foreign Relations.

### Proposed Legislation by the General Services Administration

A letter from the Administrator of the General Services Administration transmitting a draft of proposed legislation to extend and clarify the authority of the General Services Administration with respect to the protection of buildings and areas owned or occupied by the United States and under the charge and control of the Administrator of General Services, and for other purposes (with accompanying papers). Referred to the Committee on Government Operations.

### Report by the Department of Transportation on the Disposal of Foreign Excess Property

A letter from the Secretary of Transportation, in reporting, pursuant to law, on foreign excess property disposed of during the fiscal year 1973. Referred to the Committee on Government Operations.

### Report by the Atomic Energy Commission on Disposal of Foreign Property

A letter from the General Manager of the Atomic Energy Commission reporting, pursuant to law, on the disposal of foreign excess property during the fiscal year 1973. Referred to the Committee on Government Operations.

### Reports of the General Accounting Office

A letter from the Comptroller General of the United States transmitting, pursuant to law, a list of reports of the General Accounting Office for the month of November 1973 (with accompanying papers). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States transmitting, pursuant to law, a list of reports of the General Accounting Office for the month of December 1973 (with accompanying papers). Referred to the Committee on Government Operations.

### Reports of the Comptroller General

Four letters from the Comptroller General of the United States transmitting pursuant to law, four reports entitled "Difficulties in Immobilizing Major Narcotics Traffickers"; "Protection of the President at Key Biscayne and San Clemente (with information on protection of past Presidents)"; "Audit of the United States Capitol Historical Society for the Year Ended January 31, 1973"; and "Audit of Federal Crop Insurance Corporation for Fiscal Year 1973" (with accompanying reports). Referred to the Committee on Government Operations.

### Proposed Legislation by the Comptroller General of the United States

A letter from the Comptroller General of the United States transmitting drafts of proposed legislation entitled the General Accounting Office Act of 1973 and the Accounting and Auditing Act of 1973 (with accompanying papers). Referred to the Committee on Government Operations.

### Annual Report of the Comptroller General of the United States

A letter from the Comptroller General of the United States transmitting, pursuant to law, the annual report on the activities of the General Accounting Office during the fiscal year ended June 30, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

### Proposed Concession Contract at Mount Vernon

A letter from the Acting Assistant Secretary of the Interior transmitting, pursuant to law, a copy of a proposed concession contract under which Almours Securities, Inc., will be authorized to continue to provide and operate visitor facilities and services for the public visiting Mount Vernon (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

### Proposed Concession Contract Within Yosemite National Park

A letter from the Acting Assistant Secretary of the Interior transmitting, pursuant to law, a copy of a proposed concession contract under which the Yosemite Medical Group will provide medical, surgical, hospital, and related facilities and services for the public at the Lewis Memorial Hospital within Yosemite National Park (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

### Proposed Legislation by the Department of the Interior

A letter from the Secretary of the Interior transmitting a draft of proposed legislation to provide for the addition of certain lands in the State of Alaska to the National Park, National Wildlife Refuge, National Forest, and the Wild and Scenic Rivers Systems, and for other purposes (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

### Proposed Projects Tentatively Selected for Funding

A letter from the Assistant Secretary of the Interior transmitting, pursuant to law, descriptions of 10 projects tentatively selected for funding through certain arrangements with educational institutions (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

### Report on the Operation of the Colorado River Basin

A letter from the Acting Deputy Assistant Secretary of the Interior transmitting, pursuant to law, the third annual report on the operation of the Colorado River Basin and projected operations (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

### Report on Matters Contained in the Helium Act

A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a report on matters contained in the Helium Act for fiscal year 1973 (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

### Final Report of the National Parks Centennial Commission

A letter from the Chairman of the National Parks Centennial Commission transmitting, pursuant to law, the Commission's final report of its activities (with an accompanying report). Referred to the Committee on the Judiciary.

### Report of the Foundation of the Federal Bar Association

A letter from the Secretary of the Foundation of the Federal Bar Association transmitting, pursuant to law, its annual report for the fiscal year ending September 30, 1973 (with an accompanying report). Referred to the Committee on the Judiciary.

### Report of the Future Farmers of America

A letter from the chairman of the board of directors of the Future Farmers of America transmitting, pursuant to law, a report on the audit of the accounts of the Future Farmers of America for the fiscal year ended June 30, 1973 (with an accompanying report). Referred to the Committee on the Judiciary.

### Proposed Legislation by the Attorney General

A letter from the Acting Attorney General transmitting a draft of proposed legislation to clarify the authority of the Attorney General of the United States to exclude and deport aliens for fraudulent entry (with accompanying papers). Referred to the Committee on the Judiciary.

### Orders of the Immigration and Naturalization Service

A letter from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, copies of orders entered in the cases of certain aliens who have been found admissible to the United States (with accompanying papers). Referred to the Committee on the Judiciary.

### Reports of the Immigration and Naturalization Service

A letter from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, reports concerning visal petitions which the Service has approved (with accompanying papers). Referred to the Committee on the Judiciary.

### Orders of the Immigration and Naturalization Service

A letter from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, copies of orders entered in the cases of certain aliens (with accompanying papers). Referred to the Committee on the Judiciary.

### Report on the Problem of Lead-Based Paint Poisoning

A letter from the Secretary of Housing and Urban Development transmitting, pursuant to law, a report on the demonstration and research program on the problem of lead-based paint poisoning (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

### Report on Scientific and Professional Positions in the Department of Commerce

A letter from the Director of Personnel of the Department of Commerce transmitting, pursuant to law, a report of scientific and professional positions which are established in the Department of Commerce (with an accompanying report). Referred to the Committee on Post Office and Civil Service.

### Report of the Secretary of the Treasury

A letter from the Secretary of the Treasury transmitting, pursuant to law, a report on the experience of Federal agencies under the new program for self-insuring fidelity losses of Federal personnel for the fiscal year ended June 30, 1973 (with an accompanying report). Referred to the Committee on Post Office and Civil Service.

### REPORT OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

A letter from the Director of the Administrative Office of the United States Courts transmitting, pursuant to law, the annual report of the Administrative Office of the U.S. Courts for the fiscal year 1973 (with an accompanying report). Referred to the Committee on Post Office and Civil Service.

### REPORT OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY

A letter from the Director of the U.S. Arms Control and Disarmanent Agency transmitting, pursuant to law, its annual report of the calendar year 1973 (with an accompanying report). Referred to the Committee on Post Office and Civil Service.

### REPORT ON COST OF LIVING COUNCIL POSITIONS IN CERTAIN GRADES

A letter from the Deputy Associate Director for Operations of the Economic Stabilization Program Cost of Living Council transmitting, pursuant to law, a report on Cost of Living Council positions in grades GS-16, GS-17, and GS-18 (with accompanying papers). Referred to the Committee on Post Office and Civil Service.

### PROPOSED LEGISLATION BY THE SECRETARY OF TRANSPORTATION

A letter from the Secretary of Transportation transmitting a draft of proposed legislation to amend the Bridge Act of 1906, to provide for civil penalties in certain circumstances, and for other purposes (with accompanying papers). Referred to the Committee on Public Works.

### REPORT ON THE TOLL BRIDGE AT CHESTER, ILL.

A letter from the Secretary of Transportation transmitting, pursuant to law, a report on the toll bridge at Chester, Ill. (with accompanying papers). Referred to the Committee on Public Works.

### REPORT OF THE ECONOMIC DEVELOPMENT ADMINISTRATION

A letter from the Assistant Secretary of Commerce announcing that the annual report of the Economic Development Administration for the fiscal year 1973 will be delivered by the end of January. Referred to the Committee on Public Works.

### REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Research and Demonstration Programs to Achieve Water Quality Goals: What the Federal Government Needs To Do" (with an accompanying report). Referred to the Committee on Public Works.

### NATIONAL WATER QUALITY INVENTORY REPORT

A letter from the Administrator of the U.S. Environmental Protection Agency transmitting, pursuant to law, the 1973 National Water Quality Inventory Report (with an accompanying report). Referred to the Committee on Public Works.

### REPORT ON WATER POLLUTION CONTROL MANPOWER DEVELOPMENT AND TRAINING ACTIVITIES

A letter from the Administrator of the U.S. Environmental Protection Agency transmitting, pursuant to law, a report on Water Pollution Control Manpower Development and Training Activities (with an accompanying report). Referred to the Committee on Public Works.

### REPORT ON THE ECONOMICS OF CLEAN WATER

A letter from the Administrator of the U.S. Environmental Protection Agency transmitting, pursuant to law, the sixth in a series of reports on the economics of clean water (with an accompanying report). Referred to the Committee on Public Works.

### RENEWAL OF LEASEHOLD INTEREST IN PROPERTY IN FALLS CHURCH, VA.

A letter from the Administrator of General Services transmitting, pursuant to law, a copy of a prospectus which proposes renewal of the leasehold interest in certain property in Falls Church, Va., presently occupied by the Department of Defense (with accompanying papers). Referred to the Committee on Public Works.

### PROPOSED CONSTRUCTION OF NEW BORDER PATROL FACILITIES AT MARFA, TEX.

A letter from the Administrator of General Services transmitting, pursuant to law, a copy of a prospectus proposing construction of new Border Patrol sector headquarters facilities at Marfa, Tex. (with accompanying papers). Referred to the Committee on Public Works.

### PROPOSED POST OFFICE, COURTHOUSE, AND FEDERAL OFFICE BUILDING AT ELKINS, W. VA.

A letter from the Administrator of General Services transmitting, pursuant to law, an amendment to the approved prospectus for a post office, courthouse and Federal office building at Elkins, W. Va. (with accompanying papers). Referred to the Committee on Public Works.

### ALTERATIONS TO THE COURTHOUSE AND CUSTOMHOUSE IN ST. LOUIS, MO.

A letter from the Acting Administrator of General Services transmitting, pursuant to law, a prospectus which revises the previously approved prospectus for alterations to the Courthouse and Customhouse in St. Louis, Mo. (with accompanying papers). Referred to the Committee on Public Works.

### FINAL REPORT OF THE COMMISSION ON HIGHWAY BEAUTIFICATION

A letter from the Chairman of the Commission on Highway Beautification transmitting, pursuant to law, the final report of the Commission (with an accompanying report). Referred to the Committee on Public Works.

### ANNUAL REPORT OF THE TENNESSEE VALLEY AUTHORITY

A letter from the Board of Directors of the Tennessee Valley Authority transmitting, pursuant to law, its annual report during the fiscal year ending Jun 30, 1973 (with an accompanying report). Referred to the Committee on Public Works.

### REPORT ON THE FEDERAL VOTING ASSISTANCE PROGRAM

A letter from the Secretary of Defense transmitting, pursuant to law, a report on the Federal Voting Assistance Program conducted by the Department of Defense (with an accompanying report). Referred to the Committee on Rules and Administration.

### PROPOSED LEGISLATION BY THE VETERANS' ADMINISTRATION

A letter from the Administrator of Veterans' Affairs transmitting a draft of proposed legislation to authorize the Administrator of Veterans' Affairs to continue to make educational assistance payments to veterans and dependents where educational institutions are closed by reason of the energy crisis or for other emergency reasons (with accompanying papers). Referred to the Committee on Veterans' Affairs.

## PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the VICE PRESIDENT:

A joint resolution of the Legislature of the State of Indiana. Referred to the Committee on the Judiciary:

"SENATE ENROLLED JOINT RESOLUTION NO. 8

"A joint resolution directing the United States Congress to call a constitutional convention for the purpose of proposing an amendment to the Constitution of the United States relative to the protection of the right to live

"Whereas, the Declaration of Independence of the United States of America affirms that the right to life is an inalienable right given to all people by their Creator; and

"Whereas, the Federal Constitution and those of the several states, as well as the laws and courts of both the Federal and State Governments have traditionally affirmed and reaffirmed this basic right up to the present time; and

"Whereas, this basic tradition has been broken and was called into question by the unprecedented decision of the United States Supreme Court on January 22, 1973, in Roe v. Wade and Doe v. Bolton which sanctioned the abortion of an unborn child during the first three (3) months of pregnancy upon the decision of the mother and her physician alone, and up to the moment of birth under certain circumstances; and

"Whereas, this erosion of the most basic principle, the right to life, on which this country was founded, portends untold conflicts in our society and endangers the very existence of our nation and the Judeo-Christian culture which supports it; and

"Whereas, the Legislature of this state believes it to be for the best interest of the people of the United States that an amendment to the Constitution of the United States be adopted to protect the right to live; Therefore,

*"Be it resolved by the General Assembly of the State of Indiana:*

"Section 1. That the Congress of the United States be, and hereby is requested to call a constitutional convention for the purpose of proposing the following amendment to the Constitution of the United States:

"Sec. 1. That each state shall have the right to determine whether to eliminate or regulate abortion.

"Sec. 2. Neither the United States nor any State shall deprive any human being of life on account of age, illness or incapacity.

"Sec. 3. Congress and the several States shall have power to enforce this article by appropriate legislation.

"Section 2. If Congress shall have proposed an amendment to the Constitution of the United States identical with that contained within this resolution prior to June 1, 1975, this application for a convention shall no longer be of any force or effect.

"Section 3. The Secretary of the Senate is directed to transmit immediately copies of this resolution to the Secretary of the Senate of the United States and the Clerk of the House of Representatives of the United States and to each member of Congress from this state."

Two resolutions of the Twelfth Guam Legislature. Referred to the Committee on Interior and Insular Affairs:

"RESOLUTION NO. 95

*"Be it resolved by the legislature of the Territory of Guam:*

"Whereas, the territory of Guam has been in the forefront of the movement to extend more and more political privileges to the younger citizens of the community, Guam having given the right to eighteen (18) year olds to vote in local elections in 1954, when only one or two other jurisdictions permitted such youngsters to vote, but now with the passage of the recent extension of the Federal Voting Rights Act, Congress itself has adopted this youth program by extending voting rights in all Federal elections to those eighteen (18) years of age and older; and

"Whereas, in addition to voting rights, the territory of Guam permits those eighteen (18) years and older to patronize bars and consume alcoholic beverages, and has lowered the jurisdictional age for Juvenile Court to seventeen (17) and under, all of which means that for most purposes when one reaches the age of eighteen (18) one is considered a responsible adult, as is further evidenced by the large number of young men of Guam who enter the Armed Forces at that age, many of the disproportionately high Vietnam casualties from Guam being under the age of twenty-one (21); and

"Whereas, it is therefore the consensus of the Legislature that in consequence with this movement to afford more and more responsibility to the younger members of our society, young men and women should be permitted to serve as members of the territory's legislative body at an age younger than twenty-five (25), the current limitation set out in Section 16 of the Organic Act of Guam, since logic dictates that if they can vote at eighteen (18) and be drafted at eighteen (18), they ought to be able to serve in the Legislature; now therefore be it

"Resolved, that the Twelfth Guam Legislature does hereby on behalf of the people of Guam respectfully petition and memorialize the Congress of the United States to amend Section 16 of the Organic Act of Guam to remove the age limit for membership in the Guam Legislature; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the President of the United States of America, to the President of the Senate, to the Speaker of the House of Representatives, to the Secretary of the Interior, to the Chairman, Senate Committee on Interior and Insular Affairs, to the Chairman, House Committee on Interior and Insular Affairs, to Guam's Delegate to Congress and to the Governor of Guam."

"RESOLUTION No. 143

*"Be it resolved by the legislature of the Territory of Guam:*

"Whereas, the Guam Environmental Protection Agency is responsible to protect the fine environment of Guam and to maintain the high quality of land, water, and air; and

"Whereas, the Agency is authorized 'to formulate standards of water purity and classification of water according to the most beneficial uses of such water, in formulating such standards and classifications consideration shall be given to the economics of waste treatment and prevention' ": and

"Whereas, the standards of water quality for the waters of the territory of Guam contain an implementation plan duly adopted by the local government and approved by the Federal government; and

"Whereas, the implementation plan did take into account all the factors such as desired water quality, available resources, and the severity of present pollution and the possibility of future pollution; and

"Whereas, the U.S. Congress enacted a new sweeping legislation, the Federal Water Pollution Control Act Amendments of 1972; and

"Whereas, the Guam Environmental Protection Agency feels that P.L. 92–500 is an excellent piece of legislation enacted so as to protect our waters; and

"Whereas, Title III, Section 301 (b) (1) (B) requires secondary treatment, irrespective of the place of discharge, whether it is in a stream, river, bay or through a deep ocean outfall; and

"Whereas, it is our finding that a deep ocean outfall, properly designed, suitably located, following an alternative treatment process, with a savings in resources, could discharge waste to the advantage of the environment without any detrimental effect in the water quality; and

"Whereas, the Marianas Trench adjacent to Guam is the deepest point in the Pacific Ocean and due to the prevailing currents there would be no detrimental effect on a deep ocean outfall; and

"Whereas, at the present time there are insufficient collection facilities on the southern end of the island, and it is the feeling of the members of the Twelfth Guam Legislature that this present situation presents a greater threat to the health, safety and wellbeing of the people of the territory of Guam that such savings could be used to remedy this situation; now therefore be it

"Resolved, that the Twelfth Guam Legislature respectfully requests and memorializes the U.S. Congress, especially the Senate Subcommittee on Air and Water Pollution Control, to authorize the Federal Environmental Protection Agency Administrator to modify the requirement with respect to treatment works discharging through deep ocean outfalls upon application and satisfactory proof; and be it further

"Resolved, that the Administrator of the Guam Environmental Protection Agency coordinate his activities in this effort with other Pacific states; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the President of the Senate, to the Speaker of the House of Representatives, to the Administrator, Guam Environmental Protection Agency, to the Federal Environmental Protection Agency, to Guam's Delegate to Congress, and to the Governor of Guam."

A summons of the United States District Court for the Middle District, Jacksonville, Florida, in Civil Action File No. 73–901–CIV–J–T (with accompanying papers). Referred to the Committee on the Judiciary.

A summons of the United States District Court for the District of Columbia, Washington, D.C., in Case No. S.P. 910–73 (with accompanying papers). Referred to the Committee on the Judiciary.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BEALL:

S. 2861. A bill to authorize the Administrator of the Federal Energy Office to obtain certain information with respect to current supplies of crude oil and petroleum products. Referred to the Committee on Interior and Insular Affairs.

S. 2862. A bill to authorize the Secretary of the Interior to acquire certain property in the State of Maryland for an international center park, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. BUCKLEY (for himself, Mr. WILLIAM L. SCOTT, and Mr. EASTLAND):

S. 2863. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 in order to provide that certain seatbelt standards shall not be required under such act. Referred to the Committee on Commerce.

By Mr. TALMADGE:

S. 2864. A bill for the relief of Christos Kalogeropoulos. Referred to the Committee on the Judiciary.

By Mr. BENNETT:

S. 2865. A bill for the relief of Edith Gibb. Referred to the Committee on the Judiciary.

By Mr. PROXMIRE:

S. 2866. A bill for the relief of Yesther Maria Bravo. Referred to the Committee on the Judiciary.

By Mr. CHURCH:

S. 2867. A bill to amend the Rail Passenger Service Act of 1970 in order to expand the basic rail passenger transportation system to provide service to certain States. Referred to the Committee on Commerce.

By Mr. CHURCH (for himself, Mr. CHILES, Mr. CLARK, and Mr. WILLIAMS):

S. 2868. A bill to provide for tax counseling to the elderly in the preparation of their Federal income tax returns. Referred to the Committee on Finance.

By Mr. RIBICOFF (for himself and Mr. WEICKER):

S. 2869. A bill to amend section 322 of title 23 of the United States Code, relating to demonstration projects for rail crossings, in order to authorize certain public rail crossings. Referred to the Committee on Commerce.

By Mr. INOUYE:

S. 2870. A bill for the relief of Benjamin N. Mascarenas. Referred to the Committee on the Judiciary.

By Mr. McGOVERN (for himself, Mr. KENNEDY, Mr. ABOUREZK, Mr. BURDICK, Mr. CASE, Mr. CLARK, Mr. HART, Mr. HUMPHREY, Mr. MONDALE, Mr. MANSFIELD, Mr. METCALF, and Mr. SCHWEIKER):

S. 2871. A bill to amend the Food Stamp Act of 1964, as amended, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. FULBRIGHT (by request):

S. 2872. A bill to amend the Department of State Appropriations Authorization Act of 1973. Referred to the Committee on Foreign Relations.

S. 2873. A bill to amend the Foreign Service Buildings Act, 1926, to authorize additional appropriations. Referred to the Committee on Foreign Relations.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BEALL:

S. 2861. A bill to authorize the Administrator of the Federal Energy Office to obtain certain information with respect to current supplies of crude oil and petroleum products. Referred to the Committee on Interior and Insular Affairs.

Mr. BEALL. Mr. President, I today introduce legislation designed to require this Nation's oil producers, refiners, distributors, and pipeline entities to report to the Federal Government on a regular and continuing basis their total aggregate inventory of crude oil and petroleum products which they hold, own, or control. At a time when serious questions are being raised by our citizens concerning the extent of our energy shortage, I consider this legislation of urgent importance; and I hope the Senate will give my proposal swift and favorable consideration.

I spent a great deal of time during the recess traveling around Maryland, attempting to gage what is on my constitutents' minds. Overwhelming, the issue that Marylanders are most concerned about is energy. Although this was no surprise, I was concerned to find a growing "credibility gap" regarding the energy crisis. Our citizens are questioning the extent of the shortage, and even if there is a shortage of oil. At a time when confidence in governmental measures to meet the shortage is of critical importance, particularly as it relates to the success or failure of the conservation measures which have been implemented, I believe the Congress must immediately take steps to measure where this Nation actually stands as regards its energy resources.

I am convinced we need a reliable and objective instrumentality to compile relevant information and data on our energy supply situation, and we need to give it the authority to obtain this information whenever it becomes necessary. In spite of the fact that the Federal Government has been attempting to meet the challenges posed by the energy crisis for many months, it has not had the standby power to demand official statistics from individual companies. Instead, it has been forced to rely on statistics furnished by the industry which, although not necessarily wrong, have given rise to this lack of credibility that many of our people feel today.

My legislation seeks to determine exactly the position of this Nation with respect to our petroleum resources, and establishes a continuing framework to monitor our oil supply. This proposal would direct the Administrator of the Federal Energy Office to issue regulations requiring oil producers, refiners, distributors, and pipeline entities to make available such information necessary to obtain the total aggregate amount of crude oil and other petroleum products held, owned, or controlled by these companies.

Within 20 days of enactment of this measure, the Administrator of the Federal Energy Office would promulgate regulations requiring oil interests to make available inventory information as to the total petroleum on hand as of the 25th day following enactment of this legislation. On or before 45 days after enactment, the Administrator shall report to Congress his findings. Additionally, he must also develop regulations for determining in a regular and continuing basis the total inventory of supplies held by such interests. Any person who willfully fails to comply with these requirements or willfully submits false or misleading information shall upon conviction be imprisoned for not more than 3 months or be fined not more than $10,000, or both.

Mr. President, this legislation must be only a first step to return credibility to our efforts to meet the energy shortage. I also believe that we must enact an "excess profits" tax on oil companies during this session of Congress, so that a few major corporations will not make "windfall" profits at the expense of most Americans. It is intolerable that the major oil interests make record profits at a time when the average American is reaching deep into his pocket to meet the rising costs of fuel, and it is time the Congress took action to eliminate the possibility for any such issues.

Mr. President, I ask unanimous consent that three articles from the Wall Street Journal and the Christian Science Monitor on this matter be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

## Credibility Shortage: Public's Doubts That the Oil Crisis Is Real Makes Life Harder for U.S. Energy Office

(By Burt Schorr and James C. Tanner)

Washington.—A lot of skeptical Americans, it seems, just can't believe that the much-talked-of oil shortage is real.

There is Ralph Nader, who contends "the world is literally drowning in oil." He feels that apparent shortages in the U.S. and related price increases are nothing less than "unarmed robbery by oil companies in collusion with governmental support."

There is Keith Sebelius, a conservative Republican Representative from Kansas who says he knows for a fact that "one major oil company is delaying delivery of truckloads of fuel in our areas as much as a week to take advantage of higher prices."

And there is the employe of Thomas W. Ferry Inc., a local heating-oil dealer here, who assures a customer that there is plenty of fuel oil around. All that shortage talk, he confides, is "just something the big oil companies are putting out to run up the price."

That men as dissimilar as Ralph Nader and Keith Sebelius can agree on the energy crisis is news in itself. But, more important, it illustrates a fundamental problem for federal energy-policymakers and oil-company executives: A sizable segment of the public, notwithstanding the Arab embargo, suspects the government and the industry of perpetrating a gigantic oil-shortage hoax. As a result, the policymakers fear that public support for voluntary energy conservation could erode away. And oilmen worry that Congress will be moved to take measures against their companies.

### RIGHT PLACE, RIGHT TIME

To charges that the oil shortage is a phony, the companies respond that it is all too real. In answer to charges that they are manipulating the supply situation to fatten profits, they concede that profits are fattening but insist that that is due to good fortune, not manipulation. "We are in the right place at the right time," asserts Robert A. Belfer, president of Belco Petroleum Corp. of New York.

In the middle in the controversy are some nationally known energy experts and economists. They think the shortage is real enough, but they also think the petroleum companies may be manipulating it.

"If the energy crisis were a war, oil companies wouldn't be considered war makers, but war profiteers," says S. David Freeman, director of the Energy Policy Project sponsored by the Ford Foundation. The Arabs really did cut the oil back; we did build too few refineries; and you really do have to wait in line for gasoline. But prices have skyrocketed and to the average consumer it looks like a fix."

He adds that the government lacks solid information on the cost of producing oil and that the companies may be exploiting this ignorance to get higher prices than they really need.

Underlying such suspicions, asserts the economist Walter Heller, is the "national scandal" of Washington's total reliance until very recently on unaudited data supplied by peroleum companies about their operations. "The data flow seems as subject to question as the oil flow," says Mr. Heller, who is serving on a committee of outside experts recently formed to advise the Federal Energy Office on the validity of its fuel supply and demand estimates. However, "in fairness to the oil industry, that isn't to say the data are inaccurate, but to question whether they are accurate," he adds.

### OIL AND WATERGATE

Surprised by the dimensions of an oil credibility gap they hadn't really foreseen, energy chief William Simon and his colleagues are hoping to bridge it by getting much more complete and detailed information from petroleum companies.

A Simon-directed government task force recently began a special audit or refiners' price schedules and their petroleum-product inventories. Under development by Mr. Simon's energy office is a mandatory reporting system that will cover not only refiners but terminal operators and pipeline companies as well. The agency plans to ask Congress for authority to go still further—by forcing each company to give the government its estimate of its crude-oil reserves, both domestic and foreign. Such estimates now are closely held competitive secrets.

Asserts the energy chief: "We are forging a new role for the U.S. government in relation to the U.S. energy industry in general and the petroleum industry in particular."

Yet Mr. Simon is clearly worried about the possibility that the public's suspicions could collapse fuel-conservation achievements, such as the recent reduction in gasoline consumption to 18% below projected demand.

Convincing the public that the shortage is real has become "one of my more difficult problems," Mr. Simon frets. Furthermore, he says, the backwash of the Watergate scandal has brought government credibility to a "low ebb," making his task all the more difficult.

### TANKS FULL OF HEATING OIL

A particular credibility problem at the moment: Storage tanks are brimming with home-heating oil in Middle Atlantic and New England states at the same time that Washington is calling for thermostat reductions. One energy administrator fears that "people will say, 'See, the oil companies contrived the shortage and so did President Nixon to get Watergate off the front pages.'" Yet officials say the ample supply actually reflects fuel conservation measures, a milder-than-anticipated winter so far, and refiners' emphasis on heating-oil output.

For petroleum-company executives, public skepticism may be even harder to quell. It is obvious that their companies are benefitting mightily from the shortage. Long-sought government approvals of various industry requests have been dropping into their hands like ripe plums—permission for increased offshore drilling, clearance for the Alaska pipeline and a go-ahead for oil-shale leasing. Most important, prices for their products are sharply higher.

So high, in fact, that Mr. Heller, the economist, a liberal Democrat, recently estimated that domestic revenues of petrolum companies may surge by an astounding $20 billion this year. On Wall Street, a more conservative analyst reckons that 1973 profits of 30 major oil companies, 26 of them with headquarters in the U.S. were up 40% to 50% from a year earlier, but probably will slip in 1974 despite the price increases.

Most industry executives like Clifton C. Garvin, Jr., president of Exxon Corp., argue that it is about time petroleum-company return on invested capital stopped lagging behind that of other industries. But Mr. Garvin acknowledges that selling this view to the public and Congress isn't easy these days.

One prime reason this view is hard to sell is the controversy over what the government and the public have—or haven't—been allowed to learn about petroleum-company operations.

### WANTED: DEPOSIT SLIPS

Assessing the oil and gas data now available, Sen. Gaylord Nelson likens the government to a bank customer whose bank provides "a monthly statement on his checking account without the canceled checks and deposit slips." To get those "checks and deposit slips," the Wisconsin Democrat is urging creation of a "national energy information system" housed in the Commerce Department. All major companies in the energy field would be required to pump in detailed state-by-state information—much of it to be made available to the public—on their reserves, production, distribution, prices and profits. Coal, uranium and hydroelectric power would be included, as well as oil and gas.

In all likelihood, Congress won't go that far. Yet it seems obvious that the industry will be ordered to report more than it does now—a position that irritates oil executives, who contend their industry already tells

Washington as much as, or more than, other industries and that more information has always been available. "If the government isn't happy with the figures we give them, they should ask," complains the chairman of Mobile Oil Corp., Rawleigh Warner Jr.

Chagrined by charges that they are hoarding and hiding fuel, several of the bigger companies, including Mobile and Exxon, have begun releasing their own figures on stocks on hand. So far, these unprecedented disclosures have been in line with national totals reported weekly by the industry-sponsored American Petroleum Institute; they show generally comfortable levels of heating oil but worrisome levels of gasoline and declining inventories of crude as the Arabs embargo takes its toll.

### HEARINGS STARTING

Mobil and Exxon, along with five other major U.S. companies, will have further opportunity to demonstrate their new openness at oil-shortage hearings that a Senate Government Operations subcommittee will begin Monday. For starters, the panel has asked each company to fill out a 10-page questionnaire intended to reveal, among other things, how their levels of stocks have related to the general supply-demand situation historically, as compared with now; and to what extent refined products brought in from Caribbean refineries were produced from Arab oil.

Actually, the government has been getting some confidential petroleum-industry data (which the Nixon administration recently made available to certain congressional committees) for nearly 60 years. The Bureau of Mines currently uses this information, supplied by 350 petroleum and natural-gas companies, in preparing its monthly and annual reports on domestic-crude production and on the output of some 25 refinery products.

As Mr. Simon's analysts have learned, though, results of the bureau surveys are available far too late to guide week-by-week fuel-policy decisions, partly because companies aren't always prompt in returning their forms. (Just coming out next week, for example, are the bureau's preliminary petroleum figures for last October.) Instead, the energy office relies on statistical bulletins put out by the American Petroleum Institute. These are based on a smaller sampling of companies than the bureau's figures are, but have the advantage of appearing weekly.

While the institute's bulletins are more up to date, they provide little more than raw estimates—and thus are precarious bases for conclusions, as a New York economic consultant, Alan Greenspan, learned some weeks back.

Using the latest report by the Institute, Mr. Greenspan advised a luncheon of economic consultants that domestic producers apparently were holding their crude oil back from the market as a form of blackmail for still higher prices. Indeed, the institute had estimated domestic oil production as slightly under 9.1 million barrels a day, down from slightly more than 9.2 million barrels daily a week earlier.

What really happened, according to John Hodges, the institute's director of statistics, is that the institute's analysts saw their calculations drifting apart from the trend indicated by the last monthly Bureau of Mines report. So they cranked in a "correction factor" that led to the lower number and Mr. Greenspan's interpretation.

Aside from such jiggering and the lack of past government audits, it is obvious that the U.S. petroleum data book is missing a lot of key pages. Among the gaps:

Refiners tell the Bureau of Mines what stocks are in their "custody," but they may also control sizable quantities of additional crude or refined products that wouldn't be reported because they are stored at independent terminals.

The government has almost no inkling of fuel supplies in "secondary storage," a term that covers almost every tank in the petroleum distribution system other than the refiner's. Energy officials suspect that some industrial users and middlemen in this category have built up big hoards, but creation of the mandatory reporting system including them is still some six weeks away.

### Energy's Hour of Decision

Congress will be returning to Washington next week keenly aware that the political reaction to the energy crisis is just beginning to set in. Demand is building for government action on such issues as disclosure of oil-industry facts and guaranteed supplies for oil-short regions.

The oil companies themselves are not the sole target of the public's mood. The public may not approve of the companies' refusal to give out facts to state energy agencies and other enquiring groups. But ultimately the public holds its elected government officials responsible for any failure to govern the situation.

Voters are starting to feel the pinch of their higher fuel bills. They are annoyed by the paradox of filled-to-capacity oil storage tanks and tanker-clogged ports, set against long lines and short hours at gas stations and appeals to conserve fuel. They hear from respected economists like Walter Heller that oil fuel prices will double in 1974. And they hear from Massachusetts Congressman Michael Harrington that this means a $500 hike in household living costs because of oil, gasoline and electricity price boosts.

Voters want to know what's going on. If they are going to be assessed $500, in effect, as their share of the bill for getting the country through the energy crisis, they want to be assured that their government representatives are making sure the investment is necessary.

It isn't difficult for most voters to grasp that the oil industry needs profits so it can invest in new capacity. But how much profit will do? For the first nine months of last year, the oil industry averaged a 47 percent hike in earnings over 1972. Earnings for the period were $6.4 billion. The industry's cash take in 1974 is expected to leap to $13 billion.

Sen. Henry Jackson, the key congressman in energy matters, is reportedly ready to run hard with the ball that the public demand for accountability on oil gives him. One possibility is legislation calling for the federal chartering of oil companies, as banks are chartered. This would fall short of anything like nationalization, which would be pointless. But it would provide a framework for ending the present uncertainty over oil supplies and oil company intentions. Short of chartering, it is possible that Senator Jackson will push for disclosure requirements that cover research outlays and capital spending plans. An excess profits tax, and an end to the depletion allowance for foreign exploration, also seem likely.

Of course, Senator Jackson is a Democrat and a presidential hopeful. But the practical politics of the energy situation are not partisan. Even Secretary of Labor Peter Brennan within the Nixon administration is reacting to the political facts by preparing the way for higher wage demands in 1974 despite a possible recession the first half of the year. The oil factor is now expected to deprive 600,000 workers of their jobs, putting unemployment over 6 percent for the year. Inflation has been pegged another 2 or 3 percent higher—at 7½ percent for 1974.

Business also is growing impatient with Washington and wary of its oil-industry brethren. Non-oil corporate profits for 1974 are now expected to shrink by 8 to 10 percent—though petroleum industry gains are likely to offset the decline for industry as a whole. Aside from a profits dip, the uncertainty of the fuel situation, the difficulty of planning, is vexing to business.

The downzag of the stock market last week, analysts say, reflects an impression of a lack of control in Washington.

One of the best things the administration has had going for it in recent days has been the energetic performance of energy chief William Simon. Mr. Simon has been accessible and refreshingly open-minded. His appeal for ending the two-tier oil-price system, which is driving independent oil dealers out of business because they have to rely on more costly foreign oil, is a just cause. But his performance has been more one of ideas floated than deeds accomplished.

The net impression remains that the situation is being allowed pretty much to run its course, and that no one except perhaps the oil companies really knows what's going on. The public will want a more convincing and permanent system for monitoring the oil industry than the "audit" proposed by Mr. Simon or the "questionnaire" proposed by Senator Jackson.

Going into next fall's elections will likely be three issues: Watergate, the economy (recession plus inflation), and the handling of the energy crisis. For the energy issue this is the hour of political decision.

## Success Story: Oil Companies' Profits for 1973 Are So Good They Are Embarrassing

(By James C. Tanner)

Exxon Corp., which has never before called a press conference to announce its earnings, has called one for Wednesday morning to release its 1973 results. It is known that Exxon, the world's biggest oil company, made more money than ever last year. So is the press conference to give the company a chance to brag about it?

Well, not exactly. J. K. Jamieson, Exxon's chairman, isn't planning just to announce the figures Wednesday He intends to explain them. Exxon, as well as other oil companies, has a sneaking suspicion that big oil-company profits during the energy crisis aren't going to be considered commendable by Americans who have lowered their thermostats and waited for hours at gasoline stations to get their cars' tanks filled.

Exxon isn't saying before Wednesday just how high its profits went in 1973. But analysts predict that they surged more than 40%, to around $10 a share (which is about equal to the cost of a barrel of some domestic crude oil these days).

Several other giants of the oil industry also will be reporting their 1973 profits this week. Their earnings, like Exxon's, are record-shattering. Such prosperity is cheering news for their stockholders; for the companies, it's an embarrassment of riches.

### HOSTILITY IN CONGRESS

The start of the reporting period for the oil companies coincides with today's reconvening of a Congress considered increasingly hostile toward the oil industry. Congress is sure to focus on what critics call "windfall" profits of the oil companies.

It is against this backdrop that the bigger oil companies, including the so-called internationals, will be reporting 1973 profit gains averaging somewhere around 45%, according to some calculations. Exxon's profits for last year, for example, may have totaled as much as $2.3 billion, compared with $1.53 billion in 1972.

Here is how two oil-industry analysts, Sterling McKittrick Jr. and Stanley Wojkowski of the New York stock brokerage firm of Ingalls & Snyder, see profits for 16 of the top oil companies, in earnings per share. The 1973 figures are estimated:

| | 1972 | 1973 | Percentage increase |
|---|---|---|---|
| Exxon | $6.83 | $10.00 | 46.4 |
| Gulf | 2.15 | 4.00 | 86.0 |
| Mobil | 5.65 | 7.50 | 32.7 |
| Standard of California | 3.22 | 4.50 | 39.8 |
| Texaco | 3.27 | 4.25 | 30.0 |
| Atlantic Richfield | 3.40 | 4.50 | 32.4 |
| Cities Service | 3.84 | 4.80 | 25.0 |
| Continental | 3.38 | 4.50 | 33.1 |
| Getty | 3.98 | 5.85 | 47.0 |
| Marathon | 2.67 | 3.90 | 46.1 |
| Phillips | 1.98 | 2.55 | 28.8 |
| Shell | 3.86 | 5.25 | 36.0 |
| Standard (Indiana) | 5.37 | 6.90 | 28.5 |
| Standard (Ohio) | 1.63 | 2.25 | 38.0 |
| Sun | 3.02 | 4.15 | 37.4 |
| Union | 2.98 | 4.25 | 42.6 |

In addition to estimating large gains in the profits of the companies, analysts McKittrick and Wojkowski have suggested to the top executives of all 16 concerns that they should be doing a better job of explaining their profit performance so as to avoid restrictions on those profits. Mr. Wojkowski says several of the companies are responding to the plea.

The bigger companies in particular are making a special effort to explain the paradox of sharply climbing earnings during a time of petroleum shortages. Some, like Exxon, will be calling press conferences to discuss profits. Others, like Shell Oil Co., are beginning massive advertising campaigns focused on oil profits. Others, like Standard Oil Co. (Indiana), are making their executives available for television and other public appearances—to talk about profits.

### ORIGIN OF THE SPECIES

Some companies will be stressing the origin of their earnings. One point the internationals will be emphasizing within the next few days is that most of their big profit gains are coming from outside the U.S.

Most of the internationals sell more oil abroad than in the U.S., and foreign governments, more dependent on imported oil than the U.S. is, have been more receptive to price increases by the companies. "What we are going to have to do is tell Congress and the public what portion of our earnings comes from outside the U.S.," says Rawleigh Warner Jr., chairman of Mobil Oil Corp.

Mobil also will stress the sizable earnings accounted for by its chemical operations, Mr. Warner says. And the company will note that it had "a very substantial one-time profit (in 1973) that the U.S. dollar devaluation brought," he says. That gain resulted from Mobil's holdings of currencies such as the German mark through its foreign subsidiaries. "With the strengthening of the U.S. dollar, we clearly aren't going to have that benefit again in 1974," Mr. Warner says.

Many of the oilmen also are going to be raising this question with the public and with Congress: Why do they have to apologize for their profits? They will say that their 1973 profits weren't all that much despite appearances. Those enormous percentage gains, they will say, resulted in part because they had a depressed year in 1972.

(Indeed, 1972 wasn't a good year for some of the oil companies. The per-share profits of Gulf, Atlantic, Richfield, Getty and Marathon were down substantially. Texaco's were down slightly. But profits of the other oil companies in the list of 16 were up in 1972, though the rise for three of them—Exxon, Cities Service and Ohio Standard—was slight.)

Much is going to be made of rate of return. Phillips Petroleum Co. will report that even though its 1973 profits were up substantially, its return on total assets was only about 7%. Generally, the internationals will be quoting a range of 12% to 14% for their 1973 rates of return, which they will contend is about average for most industries.

"The facts are that oil-company earnings, measured by return on invested capital, have lagged behind all manufacturing industries for most of the last decade," says C. Howard Hardesty Jr., executive vice president of Continental Oil Co.

The oil industry is capital-intensive; it must generate vast sums of money for its energy search. And oilmen say they can't generate those sums unless they not only make good profits but also earn a rate of return sufficient to attract outside investment capital as well.

The companies are planning record capital expenditures this year, which will take large chunks of their higher 1973 profits. Texaco Inc. has set its 1974 capital budget at $1.8 billion, up from $1.6 billion in 1973. Atlantic Richfield Co. has doubled its capital budget in 1974, to $1.1 billion. Most of the 1974 outlays will be used to find and produce additional oil supplies in the U.S., Atlantic Richfield reports.

The oil companies also are spending enormous amounts this year to drill more wells off-shore and to develop alternative sources of energy. Mobil, for example, notes that in December it spent $271 million, or $40 million more than it earned in the entire third quarter, just for the right to drill on offshore tracts in the eastern Gulf of Mexico. Indiana Standard and Gulf Oil Corp. have just been named the winners of the first tract to be leased by the federal government for oil-shale development. For that honor, the companies jointly will give the federal government $210 million.

### SKEPTICISM MAY LAST

None of this is likely to fully satisfy skeptical consumers who are feeling the bite of rising fuel costs and the inconveniences of shortages. Costs of petroleum products such as gasoline and home-heating oil have climbed 50% in recent weeks—and haven't yet fully reflected the tripling of domestic crude-oil prices and the quadrupling of foreign petroleum prices.

Nor are the explanations likely to soften the charges of Washington's legion of oil-industry critics, including the consumer advocate Ralph Nader, Rep. Les Aspin, Democrat of Wisconsin, and Sen. Henry M. Jackson, Democrat of Washington. The critics are accusing the oil companies of making a killing on profits from the energy crunch while everyone else is being asked to tighten his belt.

The oil companies obviously are profiting from the large increases in fuel prices that they have been able to push through in the U.S. as well as abroad, largely because of petroleum shortages. But oilmen claim that many of their critics are using justifiable oil profits as an excuse to try to destroy the industry. "Our present energy crisis," says Continental Oil's Mr. Hardesty, "is being seized upon by some extremist elements in our society as the vehicle to move aggressively toward nationalization" of the oil industry.

If they aren't hit with a punitive tax by Congress or other legislation to control "excessive" profits, the oil companies surely will continue to show substantial earnings gains in 1974, at least in the U.S. But it could be a different story for those with operations abroad.

"Because of the swift pace of events and announcements in the world-wide petroleum industry, virtually all beyond the control of the companies, estimates of oil company earnings for 1974 represent a moving target and are more highly suspect than for any previous year," says analysts McKittrick and Wojkowski at Ingalls & Snyder. They foresee only a moderate increase in oil profits in 1974 and predict that earnings of several of the internationals, like Exxon, will be "flat."

By Mr. BEALL:

S. 2862. A bill to authorize the Secretary of the Interior to acquire certain property in the State of Maryland for an international center park, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. BEALL. Mr. President, I am today introducing legislation authorizing the National Park Service to purchase for inclusion in our national park system a 25-acre tract of land located near Anne Arundel County, Md., for use as an international center park. This measure will enable the Jaycees International Brotherhood Foundation, under the auspices of the National Park Service and a newly established Advisory Commission, to continue to promote the free exchange of ideas and cultures between U.S. citizens and those internationals who reside in or visit the Nation's Capital, and I urge its speedy consideration.

Mr. President, in the nearly 200 years of our Nation's existence, Washington's official international community has grown to a size of approximately 15,000 families and 120 embassies, as well as other numerous international organizations and agencies. This Nation has a responsibility to our guests to provide adequate support, including recreational activities.

However, in spite of a lack of adequate family facilities, particularly those that are of an outdoor summer nature, nothing was done in this area until 1972, when the International Jaycee Chapter of the District of Columbia Jaycees moved in February of that year to authorize a study to determine the cultural, recreational, and educational needs of the diplomatic committee, and to ascertain what specific steps the Jaycees could take toward meeting those needs. On the basis of that study and encouraged by nearly a third of the missions and many key American groups and Government agencies, the committee endorsed the proposal of the center which would fulfill the needs expressed by these international guests. Thus, on April 19, 1972, the International Jaycee Chapter passed a resolution authorizing the formation of a Jaycee International Brotherhood Foundation which was to purchase and develop such a center.

The tract of land included in this legislation is located approximately 1 hour from Washington, D.C., and is a 26-acre peninsula jutting out into the Chesapeake Bay. Adequate facilities are already present to provide recreational enjoyment, not only to the international community, but to the U.S. citizens as well.

This legislation, which has been introduced in the House of Representatives by my Maryland colleagues, Congresswoman HOLT and Congressman HOGAN, would authorize the National Park Service to acquire the property and administer it as an international center where people from foreign nations can participate with citizens of this country in varied recreational programs. There shall be established an International Center Park Advisory Commission, composed of eight members, whose responsibility will be, along with the Secretary of the Interior, to establish general standards and criteria for activities which will be conducted in the center.

Mr. President, I commend the Jaycees for their positive efforts on behalf of international cooperation, and particularly salute their dedication to a project which is clearly needed and in which benefits would accrue both to our international relations and to our Nation's residents.

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By Mr. BUCKLEY (for himself, Mr. WILLIAM L. SCOTT, and Mr. EASTLAND):

S. 2863. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 in order to provide that certain seatbelt standards shall not be required under such act. Referred to the Committee on Commerce.

### IGNITION INTERLOCK BILL

Mr. BUCKLEY. Mr. President, during the 3 years I have been a U.S. Senator, I have received hundreds of thousands of letters from constituents in New York State and from people all across the country. It would be impossible to list their varied and complex concerns under any one label, but it seems to me that no matter how many different individual problems I have learned of through these letters, there is an underlying theme to almost all of them: Citizens of New York and throughout the other 49 States are virtually in a state of war against the excesses, the follies, and the dangers of Federal Government's increasing—and frightening—big brother-like intervention in their lives. The American citizen is exasperated to the point of outrage with the documented failures of the philosophy of "Washington knows best".

I want to emphasize that I chose the term "citizen" deliberately. I dislike the condescending term "average American" and "silent majority" does not get to the heart of the matter. I find that Americans are proud to see themselves as citizens, as free and responsible members of the body politic. The American citizen does not see himself as "the little guy" or "the forgotten American" of political folklore. He may be ignored but thank God he cares enough about his country to make his voice heard so that he will not be forgotten. The main trouble of our political system is that many in Washington have tried to ignore or forget the wishes of the American citizen.

The dictionary defines "citizen" as:

> A member of a state or nation . . . owing allegiance to its government and entitled to its protection.

The American citizen I speak of does have allegiance to the Government of the United States and a deep abiding love of this country. But more and more, he sees the Federal Government becoming what John Courtney Murray once described as the worst kind of government: one that is everywhere intrusive and evermore impotent.

The recent report of the Senate Subcommittee on Intergovernmental Relations entitled "Confidence and Concern: Citizens View American Government" demonstrates beyond any doubt that the American citizen is now beyond the point of debating whether or not big government is worth the cost in loss of freedom and privacy. The report states:

> There is little doubt that the actions of the federal government are regarded as making the greatest impact on people's lives.

Anger over high taxes is not, surprisingly, the most deeply felt concern. The report further goes on to state:

> The public underscores its belief in shared governmental responsibilities with an overwhelming endorsement of two policy propositions:
>
> (1) State and local governments should be strengthened; and
>
> (2) The federal government should have power taken away from it.
>
> Public support (61%) for reinforcing the structure and authority of local government almost precisely matches the percentage (59%) by which it advocates strengthening state government. In contrast, only 32% of the public feel the federal government needs added power, while 42% recommend diminishing its clout.

Mr. President, I want to state today, at the beginning of this new legislative session that it is time that the complaints of the American citizen are not only listened to but acted upon in the Congress. We have to not only pay lip service to but actually put into practice the virtue of economy in government. And we have to work to get the grasping hand of big-brother government out of the lives of American citizens.

As my first contribution to this task this year, I introduce today legislation amending section 103(a) of the National Traffic and Motor Vehicle Safety Act of 1966 to direct the Secretary of Transportation to prescribe regulations—within 60 days of the date of enactment of this legislation—which would make optional the inclusion of any starter interlock system associated with seatbelts or upper torso restraints on any motor vehicle. I know of no single intervention by Government into the lives of its citizens that is more universally resented than the current requirement for 1974 model cars that dictates that we shall not start our engines until we strap ourselves in. This resentment is typified by the following excerpt from a recent column by Carl Rowan:

> But the tendency to push governmental coercion too far is perfectly illustrated in the 1974 models. Government has forced car makers to rig cars so that they cannot be started until the belt-harness is fastened while the motorist's weight is on the seat.
>
> If government wants to make rules that prevent me from killing other people with my car, wonderful! But government has no business telling me that I can't bust my own head against the windshield, if I want to be that stupid.
>
> Imagine the nuisance effect and the lost man-hours that these '74 models bring to parking lot attendants!

The National Traffic and Motor Vehicle Safety Act of 1966 authorized the establishment of Federal safety standards for motor vehicles and their component parts. Federal motor vehicle safety standard No. 208 currently requires motor vehicle manufacturers to provide a seatbelt interlock system in cars manufactured after August 15, 1973—a device that prevents the engine from being started until both the driver's and front passenger's seatbelts and shoulder belts are fastened.

It is currently a violation of Federal law for car dealers to deactivate the system and State laws are being planned to prevent others from tampering with it.

There are three basic reasons for opposing the mandatory requirement for seatbelt-ignition interlock systems: first, infringement of the individual's rights; second, safety; and third, cost.

It is wrong for the Federal Government to require an individual to conform with an arbitrary standard of conduct that is unrelated to the public safety. It may well be that any driver who fails to put on a safety harness is an idiot. But freedom implies the freedom to be an idiot so long as one does not endanger others. The interlock requirement is not only an arrogant invasion of privacy, it is a blatant example of bureaucratic idiocy. Even a cursory examination of the current standards shows them to be manifestly unreasonable. Let me give you two examples:

Any item more than 47.3 pounds must be buckled up. I can see a generation of American shoppers learning how to buckle up the family groceries or limiting his purchases to 47.1 pounds.

If the sequence of "sit down, fasten seatbelts, start car" is broken—for example, at gas stations or when strapping a child in his seat first before driver enters—it is necessary for all belts to be released and rebuckled before the car can be started. I have personally been told of a case where a handicapped person who is an experienced driver cannot buy a 1974 model car because of his inability to strap himself in.

Then, of course, there is the matter of safety:

A person under 4 feet 7 inches cannot safely use the torso belt, a point that mothers across the country are now discovering. There is the distinct possibility of being entrapped in a car which is on fire, immersed in water, and so forth, because of seatbelt malfunction.

The current system adds greatly to the complexity of auto electrical systems and would become increasingly susceptible to malfunction as cars age.

I am told engineers estimate at least a 3-percent failure rate in 1974. Using a production figure of 10 million cars produced in 1974, this means that some 300,000 carowners will be subjected to ignition malfunction this year alone, not to mention the resultant cost of repair.

Finally, consumers are required to pay around $50 per car for this device whether they want it or not.

Mr. President, this kind of naked, Federal coercion is the wrong approach to auto safety. Unlike the prohibiting of driving under the influence of intoxicating beverages, the implementation of the interlock system has no effect on the lives of those in cars not using the system.

The American citizen deserves and demands the right to live his own life free of the constraints of the Federal Mrs. Grundys whose lust to interfere in the private lives of others knows no bounds. I think it will be a salutary and highly symbolic gesture if we can tell the American citizen we are in favor of lifting all such constraints by taking from his shoulders the very real constraint of the interlock system. I, for one, believe that the American citizens love their own lives and the lives of others enough to take good care of them voluntarily without Big Brother tinkering with auto ignition systems.

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By Mr. CHURCH:

S. 2867. A bill to amend the Rail Passenger Service Act of 1970 in order to expand the basic rail passenger transportation system to provide service to certain States. Referred to the Committee on Commerce.

### EXTENSION OF AMTRAK

Mr. CHURCH. Mr. President, over 3 years ago Congress decided that it was necessary for the Government to step in and halt the decline in railroad passenger service in this Nation. The preamble to the Rail Passenger Service Act of 1970, which established what has come to be known as Amtrak, summed up the situation in these words:

> The Congress finds that modern, efficient, intercity railroad passenger service is a necessary part of a balanced transportation system; that the public convenience and necessity require the continuance and improvement of such service.

That statement of philosophy represented a decision on the part of Congress to break with tradition and create a quasi-governmental organization to absorb and operate the Nation's railroad passenger service. While we had an eye toward a future goal of self-sustaining service, we knew at that time that we were making a commitment—of both money and philosophy—to the preservation of a system which, while having deteriorated measurably, was still a necessary part of this Nation's overall transportation scheme.

Accordingly, Congress asked the Secretary of Transportation to examine previous passenger service in the United States to furnish an overview of existing service, and to suggest a "basic system" which should be retained to insure a national rail passenger service. In its preliminary report, the Department of Transportation recommended a national system which included the major population areas of every region of the continental United States, as would be expected of the congressionally mandated "basic system." Then, to the complete surprise of a number of us, the DOT's final report for a different basic system was announced. The source of our surprise stemmed from the fact that—in a change from the preliminary report—six States, including Idaho, with populations totaling nearly 3½ million people, were left with virtually no rail passenger service.

I felt at that time, and I still feel, that such a decision was a serious disservice to the people of Idaho, and the other areas left without service. The fact that the decision was made by executive "fiat" made it even more unacceptable.

For that reason, I have withheld my support for Amtrak's funding requests. I have felt—from the beginning—that a national system, paid for by funds from all of the taxpayers, should be a truly national service and should serve all of the major regions of the continental United States.

Mr. President, we now have the benefit of retrospection in this area. We also have the urgency of a fuel shortage which could, in turn, easily lead to a transportation crisis. Therefore, I think it is time that we again look at our original intent with regard to rail passenger service, and reevaluate the present system.

The Arab embargo has finally forced us, as a nation, to take a long look at our fuel consumption habits. This, in turn, requires that we examine carefully our transportation system and its relationship to the economy. We already know that railroad passenger service is the most fuel-efficient of all forms of passenger transportation. Second, the public appears to be anxious to return to the rails. In its March 1973 report to Congress on the Passenger Service Act, Amtrak was able to point to several indicators of public willingness to accept—and welcome—rail passenger service. Many of us have long maintained that poor service was the major detriment in the decline of ridership experienced in the late 1960's. Early indications, based upon Amtrak's ridership figures, tend to support this conclusion. Given comfortable, convenient service, there will always be ample support for passenger trains.

Add to that the large numbers of people who, because of fuel shortages and lower speed limits, are ready to make greater use of public transportation, and it is clear that the time to accomplish our original intent—the establishment of a truly national system of rail passenger service—has arrived.

With the confusion that has risen from the effects of the current fuel shortages, and given the fact that ours is an economy based upon travel and mobility, there is no need for me to detail our need for an efficient, balanced transportation system, which is accessible to all of our citizens.

Idaho, for example, is a large, sparsely populated State. One of our main sources of income is tourism and recreation. With the uncertainty in people's minds about the ability to buy fuel, with limited supplies, and lowered speed limits, the need for a major mass surface transportation system is greater than ever.

Mr. President, as I said earlier—the people of Idaho and several other States have been done a disservice. Now is the time to correct that disservice.

The amendment I send to the desk today is designed to guarantee every contiguous State in the Union substantial rail passenger service.

In my judgment, the Department of Transportation has simply failed to carry out the intent of the law. I think Congress should have spelled out the definition of "basic system" in the beginning. Unfortunately, it did not. This measure would do just that, and would provide for the restoration of substantial service to at least six States.

I send the amendment to the desk for appropriate reference. I would welcome the support of all Senators in this endeavor. Not only those from States which now suffer from the deficiencies of the present system, but also from those which recognize the importance to our economy in upgrading our passenger train service.

Mr. President, now is the time to provide this service. For the sparsely populated, as well as the densely populated States. Idahoans want their trains back. I believe that holds true for several million other train-deprived Americans. I urge favorable consideration of the measure and ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2867

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That Title II of the Rail Passenger Service Act of 1970 is amended by inserting at the end thereof a new section as follows:
>
> "SEC. 203. Extensions of Basic System After Initial Designation.
>
> "The Secretary shall, within sixty days after the effective date of this section, designate an extension of the basic system to provide adequate intercity rail passenger service to the major population area of each of the contiguous forty-eight States which did not have any large population area provided with intercity rail passenger service by the basic system designated pursuant to section 201. Extensions pursuant to this section shall be part of the basic system for all purposes of this Act and the designation of such extensions shall not be reviewable in any court."

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By Mr. CHURCH (for himself, Mr. CHILES, Mr. CLARK, and Mr. WILLIAMS):

S. 2868. A bill to provide for tax counseling to the elderly in the preparation of their Federal income tax returns. Referred to the Committee on Finance.

### OLDER AMERICANS TAX COUNSELING ASSISTANCE ACT

Mr. CHURCH. Mr. President, on behalf of myself and the Senator from Florida (Mr. CHILES), the Senator from Iowa (Mr. CLARK), and the Senator from New Jersey (Mr. WILLIAMS), I introduce for appropriate reference the Older Americans Tax Counseling Assistance Act.

Preparation of a tax return is a complicated task for most persons. But it is frequently much more difficult for the elderly.

Upon reaching 65 the aged taxpayer is oftentimes confronted with an entirely new set of rules, usually far more complex than the tax provisions during his preretirement years. He may find it necessary, for example, to complete the retirement income credit schedule, determine the taxable portion of his annuity, or compute the taxable gain on the sale of his personal residence.

Quite frequently, these provisions can pose formidable challenges, even for experienced tax experts. But for the untrained—and ofttimes unsuspecting—elderly taxpayer, these complex tax relief measures can prove to be mind boggling.

Perhaps the most troubled individual is the aged widow, who typically has low or moderate income and very little experience in tax matters. For her, the tax law is usually a jumble of gobbledygook with numerous potential pitfalls.

However, with appropriate counseling many of these obstacles can be overcome for the elderly taxpayer. Ample evidence of this is provided by the extraordinarily successful tax-aide for the elderly program, administered by the Institute of Lifetime Learning of the National Retired Teachers Association-American Association of Retired Persons.

Under this program, local NRTA and AARP chapters throughout the Nation select coordinators to plan, organize, and supervise the operation of the tax-aide program. The local coordinator also selects counselors who undergo an intensive training course under the direction of the Internal Revenue Service.

These volunteers provide valuable counseling services for aged persons concerning some of the more complex provisions in the Internal Revenue Code, such as computation of the retirement income credit, medical expense deduction, and other tax relief measures.

These individuals—and I want to stress this point—do not engage in tax preparation. Their functions are basically to—

Counsel other elderly taxpayers about sections in the tax law;

Assist them, when necessary, in making a computation; and

Advise them about common deductions, credits, and exemptions which many aged persons may overlook or simply not know about their existence.

Last year the Internal Revenue Service trained 2,500 elderly counselors as part of the IRS volunteer income tax assistance program. And these individuals provided helpful assistance and guidance for more than 100,000 aged taxpayers throughout the Nation.

This is a major reason why I introduce my bill today—the Older Americans Tax Counseling Assistance Act—to build upon the effective work of the tax-aide for the elderly component of the VITA program. We do not need any more proof that this program has been a success. What is needed now is a genuine national commitment to improve and expand these efforts. And that is precisely what our bill is designed to do.

Briefly stated, this proposal would permit the Internal Revenue Service to strengthen the tax counseling program for older Americans by expanding the training and technical assistance available for volunteer tax consultants—most of whom would be elderly persons. The bill would also permit the volunteers to be reimbursed for their actual out-of-pocket expenses incurred in training or providing assistance under the program.

Additionally, our proposal would authorize the Internal Revenue Service to conduct a retirement income credit alert to help assure that all persons eligible for this provision take advantage of this tax relief measure. The need for this alert, it seems to me, is particularly compelling. Leading organizations in the field of aging have estimated that perhaps one-half of all elderly persons eligible to use the retirement income credit do not claim the credit on their tax return.

Over the years the Internal Revenue Service has repeatedly said that it wants no taxpayer to pay more taxes than are legally due. In fact, the Supreme Court stated in Gregory against Helvering:

> The legal right of a taxpayer to decrease the amount of what otherwise would be his taxes, or altogether avoid them, by means which the law permits, cannot be doubted.

Yet, many older Americans overpay their taxes each year. Some pay more than legally required, because they are ignorant about the existence of helpful deductions. Others are completely overwhelmed by the intricacies and nuances in the tax law.

However, competent tax counseling can be an important safeguard against income tax overpayments by the elderly. Moreover, there is strong evidence to suggest that aged volunteers are better equipped to assist elderly taxpayers, because they have firsthand familiarity with many of their problems. This point was made very forcefully by Mr. C. Ira Funston, who was a leading organizer of the tax-aide program. He said:

> The difficult problem of obtaining volunteers was made relatively easy by making it a project staffed by older persons.
>
> There is a great reservoir of experience and talent among retirees. They not only have ability but time. They not only have time but the desire to use it in good causes.
>
> They understand the problems of older people and are able to obtain their confidence.
>
> The experiment has worked well. It has been a boon not only to those who get help but to those who give it.

Low income in retirement is, of course, the most serious problem confronting the elderly today. But there is a surprisingly large number—nearly 9 million persons 65 and above—who had sufficient incomes in taxable year 1971 to file a tax return. This is the latest date that complete information is available.

Many of these individuals need tax counseling service and advice in order that they can prepare their own returns. Quite clearly, they should not be penalized, because our tax law is so complex that it would tax the wisdom of Solomon.

For these reasons, I urge prompt and favorable action on my Older Americans Tax Counseling Assistance Act.

Mr. President, I also ask unanimous consent that the text of this bill be printed at this point in the RECORD, as well as a pamphlet describing the tax-aide program.

There being no objection, the bill and pamphlet were ordered to be printed in the RECORD, as follows:

S. 2868

*Be it enacted by the Senate and the House ofRepresentatives of the United States of America in Congress assembled,* That (a) this Act may be cited as the "Older Americans Tax Counseling Assistance Act".

(b) For purposes of this Act, the term—

(1) "Secretary" means the Secretary of the Treasury or his delegate;

(2) "elderly individual" means an individual who has attained the age of 60 years as of the close of his taxable year;

(3) "Federal income tax return" means any return required under chapter 61 of the Internal Revenue Code of 1954 with respect to the tax imposed on an individual under chapter 1 of such Code.

SEC. 2. (a) The Secretary, through the Internal Revenue Service, is authorized to enter into agreements with private or public non-profit agencies or organizations for the purpose of providing training and technical assistance to prepare volunteers to provide tax counseling assistance for elderly individuals in the preparation of their Federal income tax returns. The program shall utilize the services of volunteers with preference given in the selection of such volunteers to individuals who have retired from participation in the work force as full-time employees.

(b) The Secretary is authorized—

(1) to establish the qualifications an individual must have in order to serve as a volunteer under the program authorized by this Act and to prescribe the terms and conditions of service as a volunteer, including training, hours of work, and other terms and conditions of service as a volunteer;

(2) to provide for the training of such volunteers and for the certification of volunteers who qualify to provide tax counseling assistance to elderly individuals;

(3) to provide reimbursement to volunteers for transportation, meals, and other expenses incurred by them in training or providing tax counseling assistance under that program, and such other support and assistance as he determines to be appropriate in carrying out the provisions of this Act;

(4) to provide for the use of services, personnel, and facilities of Federal executive agencies and of State and local public agencies with their consent, with or without reimbursement therefor; and

(5) to prescribe such rules and regulations as he deems necessary to carry out the provisions of this Act.

SEC. 3. Service as a volunteer in any program carried out under this Act shall not be considered service as an employee of the United States. Volunteers under such a program shall not be considered Federal employees and shall not be subject to the provisions of law relating to Federal employment, except that the provisions of section 1905 of title 18, United States Code, shall apply to volunteers as if they were employees of the United States.

SEC. 4. The Secretary shall, from time to time, undertake to direct the attention of elderly individuals to those provisions of the Internal Revenue Code of 1954 which are particularly important to taxpayers who are elderly individuals, such as the provisions of section 37 (relating to credit against tax for retirement income) and section 121 (relating to gain from the sale or exchange of his residence by an individual who has attained age 65).

SEC. 5. There are authorized to be appropriated to the Secretary for the purpose of carrying out the provisions of this Act $——— for the fiscal year ending June 30, 1974, and $——— for the fiscal year ending June 30, 1975.

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TAX-AIDE: A FREE, NATIONWIDE TAX COUNSELING SERVICE OF THE INSTITUTE OF LIFETIME LEARNING

Tax-paying is a tedious and frustrating experience for everyone, but the older taxpayer may confront unusually difficult problems after retirement.

New tax forms, and supplements are often required. Retirement income credit, pension income, Social Security exemptions, Medicare expenses, sale of property, stock dividends and other tax problems may be confusing.

To deal with these special problems the older taxpayer has several alternatives: He may visit a commercial tax consultant or his local Internal Revenue Service office—or he may now take advantage of the free Tax-Aide counseling service sponsored by the Institute of Lifetime Learning, a continuing education program of the National Retired Teachers Association and the American Association of Retired Persons.

### NRTA-AARP TAX-AIDE SERVICE

The Institute began the Tax-Aide service of voluntary counseling for retired taxpayers in 1968 in cooperation with the U.S. Internal Revenue Service. During the 1972–73 tax season the service provided 2,500 counselors who assisted more than 100,000 taxpayers in 625 cities.

Administered by the Institute's Washington, D.C. headquarters, the Tax-Aide service provides older volunteers throughout the country who have been trained by the IRS to deal specifically with retirement tax problems. While counselors are not tax preparers who fill out an individual's return, they meet individually with Tax-Aide participants to advise them of special tax considerations for which they are eligible and to counsel them of such tax ramifications as:

Tax filing regulations, new tax forms.

Social Security, pensions, annuities, stocks, bonds, savings, inheritances.

Sale of residence, capital gains.

Medicare and medical and drug expenses.

Deductions for dentures, eyeglasses, hearing aids, orthopedic shoes, braces.

Retirement income credit.

The NRTA-AARP Tax-Aide service is open to all older retired persons as a public service of the Associations.

### STARTING TAX-AIDE LOCALLY

To establish a Tax-Aide counseling program, groups must meet several basic requirements to insure success of the project:

Select an Association member to be the Tax-Aide Coordinator for a designated group or area.

Recruit volunteer counselors.

Arrange training for the counselors in cooperation with the nearest IRS District Office at a location satisfactory to both the local group and the IRS training officers.

Locate convenient and suitable rent-free quarters for the counseling service.

Organize and coordinate a thorough publicity program to inform the local community about the Association's free Tax-Aide counseling service.

The National Tax-Aide office in Washington, D.C. provides program information, training assistance and liaison with the Internal Revenue Service as requested by the local coordinator. All Tax-Aide coordinators receive from the national office a Public Relations Guide and a supply of Income Tax Information Sheets for counselees to complete before their appointment with a Tax-Aide counselor.

Although detailed operational procedures are sent to each Tax-Aide coordinator as general guidelines for program implementation, the national Tax-Aide office encourages flexibility in planning programs to meet the needs of individual communities.

### THE TAX-AIDE COORDINATOR

Key to the success of the NRTA-AARP Tax-Aide service is the local coordinator. He plans, organizes and supervises the operation of the local Tax-Aide program. He serves as liaison between the National Tax-Aide Coordinator, the nearest IRS office, chapter and unit officers and the volunteer counselors. As a special Association volunteer, he also informs state directors and all NRTA-AARP regional officials about the activities and progress of his Tax-Aide unit.

In planning a program the Coordinator:

Enlists the help of local chapter and unit presidents in recruiting volunteer counselors—either Association members or qualified non-members.

Determines the number of counselors necessary for operation of the program, and decides if assistant coordinators are needed.

Arranges any co-sponsorship with other senior citizen and community organizations, if needed, and advises NRTA–AARP State Directors, regional officers and the National Tax-Aide Coordinator in the Washington, D.C. Institute of co-sponsorship plans.

Establishes with the nearest Internal Revenue Service office the time and date of the volunteer training sessions, and notifies the National Coordinators so that he may confirm all training with the Chief of Taxpayer Training, U.S. Internal Revenue Service in Washington, D.C. Secures convenient and centrally located training and counseling quarters for the Tax-Aide program. Rent free space is usually available in churches, schools and community colleges, senior centers, banks, office buildings, shopping centers, YMCA's and YWCA's, resident homes for the elderly, libraries, civic and community buildings, and federal, state and municipal buildings. Counseling in private homes is discouraged and coordinators are requested to advise the volunteer counselor of established counseling locations.

While supervising a program the Coordinator:

Arranges local publicity through chapters and units, other community organizations and radio, TV and newspapers so that retired persons are aware that the Tax-Aide service is available.

Coordinates the appointment schedule of the volunteer counselors to provide maximum service when counselors are available.

Selects, if needed, a Coordinating Committee from the local RTA and AARP groups or other sponsoring groups to assist with planning and supervisory responsibilities, and selects a volunteer Appointment Secretary to handle counseling schedules.

To follow-through the Coordinator:

Prepares any necessary correspondence and letters of appreciation at the conclusion of the program.

Submit a final evaluation of the local program to the National Coordinator at the conclusion of the tax season.

### THE VOLUNTEER COUNSELOR

Working most directly with the older person desiring tax assistance is the volunteer Tax-Aide Counselor. He is not necessarily an Association member but he has had Tax-Aide training provided by the professional training staff of the U.S. Internal Revenue Service. He must have interest in and aptitude for volunteer tax work. He must be able to communicate effectively and accurately with the persons he is serving and conduct all counseling in the strictest confidence.

The Counselor's first responsibility is to attend an IRS training session which acquaints him with the main requirements of the retirees' tax returns. Next, the counselor works out with the Tax Coordinator and the other counselors in his group a work schedule of when he will be available for counseling interviews or answering questions over the telephone (if one is available locally to the Tax-Aide program).

Most counselors volunteer several hours a week to Tax-Aide during the tax season, but a minimum of two hours per week should be committed to the program.

During an appointment, the counselor has an advisory and counseling role—he does not complete tax forms for an individual nor agree to forward them to the Internal Revenue Office. In ordinary cases, he explains to the individual how to fill out the form, what forms are required, information that should be included on the form, and deductions available to him. In more complex cases, the counselor performs a needed service by referring the Tax-Aide participant to the IRS or to other professional tax counsel. Counselors who have the time, interest and competence to do so may, in addition to the federal return, assist retirees with their State tax returns. Many states are cooperating with local coordinators to provide special state tax training for Tax-Aide counselors in conjunction with their IRS training.

### IRS TRAINING SESSION

Tax-Aide training sessions are conducted by IRS officials using resource material prepared especially for counselors assisting the retired elderly. Classes are usually limited to 15–20 persons, but additional sessions will be scheduled when necessary to train all volunteer counselors.

Each qualified volunteer counselor should normally complete a minimum of 10 hours of training over a period of 2–3 days. Previously trained and experienced Tax-Aide counselors, however may require only a shorter refresher course when this can be arranged with the nearest IRS office.

Experience has shown that the most effective training schedule runs from about 9–12 a.m. and 1–3 or 4 p.m. with adequate breaks during the morning and afternoon.

Tax-Aide volunteer Instructors complete the same course the IRS gives its training officers. These volunteers are available to teach courses in areas where IRS personnel are unavailable. If a Coordinator is in need of an Association Instructor, he should contact the National Coordinator in Washington.

Liaison for matters of policy and operations of the Tax-Aide program within the framework of the IRS VITA Program is coordinated by the Chief of Training at IRS and the National Coordinator of Tax-Aide. Tax-Aide coordinators, counselors, and all other Association volunteers and staff are requested to channel all questions of policy regarding Tax-Aide through the National Coordinator's Office.

### STATE TAX TRAINING

Any group planning training with its State tax system, in addition to the IRS training, is asked to notify the National Coordinator of these plans as soon as possible through the local Tax-Aide Coordinator.

IRS Taxpayer Education Offices in all of the following IRS District Training Offices are familiar with the NRTA–AARP Tax-Aide Program and will assist coordinators with training plans and schedules. When contacting an IRS office by mail or telephone, ask for the person in charge of Taxpayer Education or the VITA program.

Mr. CHILES. Mr. President I am pleased to join today with Senator CHURCH in introducing the Older Americans Tax Counseling Assistance Act.

Senate hearings several years ago found that many older Americans overpay their taxes each year—some because they simply do not know about the existence of helpful, legal deductions they qualify for—and others who are confused by the complexity of the tax law. And it is little wonder. Filling out an income tax return is not an easy job for anyone. And the aged taxpayer often has an even harder time preparing his return, because he faces new rules, even more complex than those he faced in his younger years.

Because I am aware of the difficulties many of our senior citizens are facing in the preparation of their income tax returns I was delighted to learn of the outstanding work being done by the Institute of Lifetime Learning of the National Retired Teachers Association–American Association of Retired Persons. VITA, the volunteer income tax assistance program came to the assistance of more than 100,000 aged taxpayers throughout the Nation last year. Staffed by older persons, who are better able to understand the problems of older taxpayers, this experiment has proven extraordinarily successful. And I believe that in itself is a strong argument in favor of expanding it through the legislation Senator CHURCH and I are offering.

This is a program that is needed, has been tried, and works well. Our proposal would authorize the Secretary of the Treasury through the Internal Revenue Service to enter into agreements with organizations to provide training and technical assistance in the preparation of volunteers to provide tax counseling assistance for elderly individuals in the preparation of their Federal income tax returns. The program utilizes the services of volunteers with preference given in the selection of volunteers to individuals who have retired from participation in the work force as fulltime employees. The Secretary is authorized through our bill to establish the qualifications an individual must have in order to serve as a volunteer, to provide for his training and certification, to provide reimbursement to volunteers for transportation, meals, and other out-of-pocket expenses, and the use of services, personnel, and facilities of Federal executive agencies.

The volunteers in this program do not prepare the income tax returns. Their assistance is limited to counseling other elderly taxpayers about sections of the tax law that confuse them; assisting them in making computations, and advising them about credits, exemptions, and deductions they may not be aware of.

Volunteer counselors aid aged persons in dealing with some of the more complex provisions in the Internal Revenue Code—completing retirement income credit schedules, determining the taxable portion of annuities, computing taxable gains on the sale of personal residence, working with medical expense deductions, et cetera, are some of the areas in which assistance is needed. Our senior citizens clearly ought not to be penalized because of the complexity of our tax laws and this legislation would permit the IRS to strengthen a program that has already proven itself of significant value for older Americans.

I urge my colleagues to join with me in supporting the Older Americans Tax Assistance Act.

By Mr. RIBICOFF (for himself and Mr. WEICKER):

S. 2869. A bill to amend section 322 of title 23 of the United States Code, relating to demonstration projects for rail crossings, in order to authorize certain public rail crossings. Referred to the Committee on Commerce.

### HIGH-SPEED RAILROAD CROSSINGS

Mr. RIBICOFF. Mr. President, the Federal-Aid Highway Act of 1970 authorized a demonstration project for the elimination of all public crossings along the high-speed rail line between Boston and Washington, D.C. The purpose of this provision is to allow future trains to travel at very high speeds without the danger of striking vehicles or pedestrians crossing the track.

There are, however, a few areas where this requirement need not apply. When the trains run through New London, Conn., they must, because of the extreme curvature of the track, slow down to 25 to 30 miles per hour. As a result of this situation, officials of the city of New London and I agreed that several of the at-grade rail crossings in the city should not have to be eliminated, provided proper protective devices were created.

The Federal Highway Administration agreed with us, but reported that they did not have the necessary legislative authority to exempt New London. The legislation Senator WEICKER and I introduce today will give them that authority.

I hope that this bill, which has the support of the Department of Transportation, will be quickly approved by Congress.

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By Mr. McGOVERN (for himself, Mr. KENNEDY, Mr. ABOUREZK, Mr. BURDICK, Mr. CASE, Mr. CLARK, Mr. HART, Mr. HUMPHREY, Mr. MONDALE, Mr. MANSFIELD, Mr. METCALF, and Mr. SCHWEIKER):

S. 2871. A bill to amend the Food Stamp Act of 1964, as amended, and for other purposes. Referred to the Committee on Agriculture and Forestry.

### FOOD STAMP PROGRAM

Mr. McGOVERN. Mr. President, today I would like to introduce the food program technical amendments bill which is composed of technical amendments intended to facilitate the implementation of the nationwide food stamp program mandated by the Congress in the Agriculture and Consumer Protection Act of 1973. This mandate and the concomitant phasing out of the family commodity distribution program, except, perhaps, for isolated areas, was, I believe, a positive step nutritionally, socially, and fiscally. It is now incumbent upon the Congress, however, to insure that this action which came about rather precipitously in the agriculture conference committee last year is not counterproductive. We cannot allow our action of last year to prejudice our country's effort to insure nutritional adequacy for each person, and hamper the farm economy next year.

It is with these ends in mind, that I today introduce the food program technical amendment, which would, specifically:

First. Extend the authority of USDA to purchase commodities above parity. Currently this authority will expire July 1 of this year, the date that the food stamp program is scheduled to start operating nationwide. This authority is needed to insure that the phasing out of the commodity program will not prejudice the other programs that rely on USDA commodities, including, but not limited to, the school lunch program, institutions, supplemental feeding to women and children, and domestic disaster relief—no additional budgetary cost.

Second. Adapt the food stamp program to the Indian reservations. Under the current legislation, the Secretary of Agriculture has the authority to implement a food stamp program at the request of any State, in every political subdivision in the State. Since there is considerable legal authority holding that reservations are not a subdivision of the State, the authority is granted to USDA to enter into agreements directly with the various tribal governments for the administration of the food stamp program. In addition, it should be mentioned that many of the States involved are not anxious to administer the program for the reservations since they do not have the power to tax on the reservation, nor do they have the power to enforce their criminal jurisdiction. The Federal Government would pay 100 percent of the administrative costs attributabe to the reservations—minimal cost.

Third. Provide Federal reimbursement to the States up to 62½ percent of the cost of all administrative expenses. Currently the Federal Government reimburses the States 62½ percent of the cost of isolated administrative functions only, which averages out at 25 percent of the total cost of the program. This would extend the Federal reimbursement to all the administrative expenses. The purpose of the amendment is to encourage the States to administer the programs more efficiently, both to certify eligible recipients and to enable stricter investigation of applicants to prevent cheating. This amendment is especially important in view of congressional action last year phasing out the surplus family food program in favor of a nationwide food stamp program, thus eliminating the operation of dual programs. This action, although nutritionally sound, creates a greater financial burden on the States, and discourages more detailed administration of the program—cost: $35 million.

I ask unanimous consent that the food program technical amendments bill be printed in the RECORD at this time.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### S. 2871

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this act may be cited as the Food Program Technical Amendments.

SEC. 1. Notwithstanding any other provision of law, the Secretary of Agriculture shall (1) use funds available under provisions of section 32 of Public Law 74–320, as amended, (7 U.S.C. 612c) to purchase, without regard to the provisions of existing law governing the expenditure of public funds, agricultural commodities and their products to maintain the traditional level of assistance for food assistance programs as are authorized by law, including but not limited to school lunch, institutions, supplemental feeding, and disaster relief, and (2) if the stocks of the Commodity Credit Corporation are not available, use the funds of the Corporation to purchase agricultural commodities and the products thereof under section 416 of the Agricultural Act of 1949 to meet such requirements.

SEC. 2. Section 3 of the Food Stamp Act of 1964, as amended, is amended, by adding at the end thereof new subsections as follows:

"(o) The term 'Tribal government' shall refer to any group of native Americans so recognized by the Department of the interior."

"(p) The term 'Indian reservation' shall refer to any area so recognized by the Department of the Interior."

Sec. 3. Section 4 of the Food Stamp Act of 1964, as amended, is amended by: (1) redesignating subsection (b) and (c) as subsections (c) and (d) and (2) inserting a new subsection (b) as follows:

"(b) Notwithstanding any other provision of law, the Secretary is authorized to formulate and administer a food stamp program at the request of any Tribal government under which eligible households shall be provided with an opportunity to participate in the food stamp program under the provisions of this Act, in which case the Tribal government shall be considered a State for purposes of this Act. Any Tribal government requesting a food stamp program may enter into an agreement with a State to have the State administer such a program, or may delegate the administration to the Secretary of the Interior, in which case such State or Secretary shall be considered a State agency for purposes of this Act. The Secretary may issue regulations as he deems necessary or appropriate for the effective and efficient administration of the food stamp program on any Indian reservation requesting such a program."

Sec. 4. Section 15 of the Food Stamp Act of 1964, as amended, is amended to read as follows:

"(a) Each State shall be responsible for financing, from funds available to the State, or political subdivision thereof the costs of carrying out the administrative responsibilities assigned to it under the provisions of this Act.

"(b) The Secretary is authorized to pay to each State agency an amount equal to 62.5 per centum of all such administrative costs including, but not limited to, certification of households; the acceptance, storage, and protection of coupons after their delivery to receiving points within the States; the issuance of such coupons to eligible households; outreach and fair hearing requirements of Sec. 10 of this Act; and the control and accounting of coupons; *provided that,* the Secretary is authorized to pay to a Tribal government or its agent, under Sec. 4(b), an amount equal to 100 per centum of such administrative costs for that portion attributable to the administration of the food stamp program on any Indian reservation."

Sec. 5. Section 17 of the Food Stamp Act, as amended, is amended by inserting after the words "State of Alaska", the following: "or any Indian reservation".

Sec. 6. The following new section is added at the end of the Food Stamp Act:

"Sec. 18(a) In the case of any experimental, pilot, or demonstration project which the Secretary specifically determines is likely to promote raising the levels of nutritional adequacy among low-income households and alleviate hunger and malnutrition, the Secretary may waive compliance with any of the requirements of this Act, or regulations promulgated thereunder, to the extent and for the period he finds necessary to carry out such a project.

"(b) The Secretary is authorized to use funds appropriated for this Act to implement any project he establishes pursuant to subsection (a)."

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By Mr. FULBRIGHT (by request):

S. 2872. A bill to amend the Department of State Appropriations Authorization Act of 1973. Referred to the Committee on Foreign Relations.

Mr. FULBRIGHT. Mr. President, by request, I introduce for appropriate reference a bill to amend the Department of State Appropriations Authorization Act of 1973.

The bill has been requested by the Department of State and I am introducing it in order that there may be a specific bill to which members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the Record at this point, together with the letter from the Assistant Secretary of State to the President pro tempore of the Senate dated December 6, 1973, and the detailed analysis of the proposed legislation.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

### S. 2872

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Department of State Appropriations Authorization Act of 1973 (87 Stat. 451) be amended as follows:

### AUTHORIZATION OF APPROPRIATIONS

Sec. 2. Section 2(a)(1) thereof, providing authorization of appropriations for the "Administration of Foreign Affairs", is hereby amended by deleting the amount of $282,565,000, and substituting therefor the amount of $288,968,000.

Sec. 3. Section 2(a)(2) thereof, providing authorization of appropriations for "International Organizations and Conferences", is hereby amended by deleting the amount of $211,279,000 and substituting therefor the amount of $212,777,000.

Sec. 4. Section 2(a)(3) thereof, providing authorization of appropriations for "International Commissions", is hereby amended by deleting the amount of $15,568,000 and substituting therefor the amount of $12,528,000.

Sec. 5. Section 2(a)(4) thereof, providing authorization of appropriations for "Educational Exchange", is hereby amended by deleting the amount of $59,800,000 and substituting therefor the amount of $57,170,000.

Sec. 6. Section 2(b)(1) thereof, providing authorization of appropriations for ". . . increases in salary, pay, retirement or other employee benefits authorized by law", is hereby amended by deleting the amount of $9,328,000 and substituting therefor the amount of $16,711,000.

Sec. 7. Section 2(b)(2) thereof, providing authorization of appropriations for ". . . additional overseas costs resulting from the devaluation of the dollar . . .", is hereby amended by deleting the amount of $12,307,000 and substituting therefor the amount of $9,905,000.

Sec. 8. Section 2(c) thereof, providing authorization of appropriations for ". . . protection of personnel and facilities from threats or acts of terrorism", is hereby amended by deleting the amount $40,000,000 and substituting therefor the amount of $20,000,000.

### BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

Sec. 9. Section 9 thereof is amended by inserting "(a)" immediately after "Sec. 9" and by adding the following new paragraphs "(b)" and "(c)" at the end thereof:

"(b) Section 5315 of title 5, United States Code, is amended by adding a new subparagraph (99) at the end thereof to read as follows:

'(99) Assistant Secretary for Oceans and International Environmental and Scientific Affairs, Department of State.'"

"(c)" Section 5316 of Title 5, United States Code, is amended by deleting 'Director of International Scientific Affairs, Department of State', in subparagraph (109) thereof."

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Department of State,
*Washington, D.C.*

The Honorable James O. Eastland,
*President pro tempore,*
*U.S. Senate.*

Dear Mr. President: There is transmitted herewith a proposed amendment to existing legislation that authorizes appropriations for the Department of State to carry out authorities, functions, duties and responsibilities in the conduct of foreign affairs of the United States during the Fiscal Year 1974.

The amendment provides for increases in the amount for (a) authorization of appropriations for "Administration of Foreign Affairs" which relates to the operation of United States diplomatic and consular posts abroad and of supporting elements of the Department of State in the United States; (b) authorization of appropriations for "International Organizations and Conferences" including contributions to meet obligations pursuant to treaties, conventions or specific acts of Congress; and (c) salaries, pay, retirement or other benefits authorized by law.

The amendment also provides for a decrease in the amounts for authorization of appropriations for "International Commissions", "Educational Exchange", dollar devaluation, and a decrease in the amount for measures to combat terrorism. As you can see from the enclosed detailed analysis, the net effect of these changes is to decrease the total amount for authorization of appropriations by $12.7 million.

Also included are proposed amendments to 5 U.S.C. 5315 and 5316 to reflect the establishment, by section 9 of Public Law 93–126, of the Bureau of Oceans and International Environmental and Scientific Affairs to be headed by an Assistant Secretary. Public Law 93–126 did not amend title 5 of the United States Code to place the new Assistant Secretary position in level IV of the Executive Salary Schedule, the level at which all other Assistant Secretary positions in the Department are now placed, nor did it delete from level V of the Executive Salary Schedule the Director of International Scientific Affairs, the head of the existing bureau. The functions of the existing bureau of International Scientific and Technological Affairs would be included within the new bureau when it is established. The proposed amendments to Title 5 are included for these purposes.

The Department has been informed by the Office of Management and Budget that there is no objection to the presentation of the proposed amendment to existing legislation to the Congress and that its enactment would be in accord with the program of the President.

Respectfully,

Marshall Wright,
*Assistant Secretary for Congressional Relations.*

Enclosure: Detailed Analysis of the Proposed Amendment.

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### Detailed Analysis of the Proposed Amendment to the Department of State's Authorization of Appropriations Act, 1973

The President's initiatives in foreign relations have opened vital opportunities for furthering mutually advantageous economic, scientific and cultural relations among nations. This authorization for $15.3 million is imperative in order to meet the needs for increased representation abroad and to support our operations in Washington and overseas. These objectives are directly related to the opportunities now before us in foreign affairs. At the same time, however, we are proposing to decrease amounts authorized for measures to combat terrorism, International Commissions, Educational Exchange and dollar devaluation by $20.0, $3.0, $2.6, and $2.4 million respectively. These amounts are not needed because the Appropriation Act does not provide for the full amount of the appropriation authorization. The net effect of the proposed change, therefor, is an actual decrease in the authorization, since the decreases ($28.0 million) offset the increases ($15.3 million) by $12.7 million. Each item is described below.

ADMINISTRATION OF FOREIGN AFFAIRS

Included in our total request is $1.7 million to open an Embassy in East Berlin in conjunction with the establishment of diplomatic relations with the German Democratic Republic. It is our plan to open this Embassy in East Berlin in early 1974. Most of our major NATO partners have already moved to establish diplomatic missions in the German Democratic Republic.

We are also requesting $164 thousand for commercial office space in Moscow. On June 22, 1973 an agreement was signed by the Secretary of the Treasury and the Soviet Minister of Foreign Trade which is designed to expand and improve facilities for Commercial purposes in both Moscow and Washington. Accordingly, the Embassy's Commercial Office will move to a new building recently made available by the Russians which will allow both the Department of State and the Department of Commerce to provide more integrated and effective services to American businessmen seeking assistance.

Also, $178 thousand is requested for additional apartments in Moscow to facilitate housing of the projected Embassy American Staff resulting from the rapidly improving and expanding relations with the USSR. The Soviets have now expedited the availability of a new apartment building which previously was not to be available until FY 1975.

We are also proposing $1.4 million for the establishment of Ambassadorial representation in the Lower Persian Gulf States, and for expanded commercial representation in Saudi Arabia. The political implications of the growing world demand for oil and the increased strategic importance of the Gulf speak for themselves. The concept of a nonresident Ambassador in Kuwait responsible for four mini-Embassies with minimum personnel was adequate when first developed four years ago, but now clearly falls short of meeting our needs in this crucial area of the world.

Included also is $445 thousand for increased personnel support for Viet-Nam. In the past, the Department has relied very heavily on other agencies and temporary duty personnel to perform political and economic reporting, protection of American citizens and post-cease fire reporting. The sharp reductions in other agency personnel in Viet-Nam and the inability of other posts to sustain long periods of loss of personnel on temporary duty assignments make it essential to assign a limited number of additional personnel in order that the operations at the four newly-established Consulates General can be normalized and performed on a regular basis.

We are requesting $670 thousand for a Diplomatic Mission in Ulaanbaatar, capital of Mongolia. On March 14, 1973, the President authorized the Secretary of State to contact representatives of the Mongolian People's Republic at the United Nations with a view toward establishing diplomatic relations. Negotiations are being conducted, and we are confident they will lead to recognition and the reciprocal exchange of diplomatic missions in the near future. A mission in Ulaanbaatar will encourage and coordinate educational, cultural and scientific exchanges, thus exposing the Mongolians to American views and ideas. We believe, moreover, that the Mongolians will welcome access to U.S. technology in areas which will help their economic development, such as in mining and veterinary services.

The amount of $407 thousand is also requested to open a Consulate in Port Moresby, Papua-New Guinea. New Guinea has taken decisive steps toward internal self government, with independence coming no later than 1975. Initially, the Consulate will be subordinate to our Embassy in Canberra, but will be elevated to Embassy status when full independence is established.

The amount of $2.091 million is also requested to provide for other unforeseen items as follows: post allowance costs ($669 thousand) due to dollar devaluation omitted from FY 1974 budget amendment, Law of the Sea Office ($430 thousand), Mid-East Crisis overtime costs ($200 thousand), and price increases ($792 thousand), consisting of passport printing ($280 thousand), change in rental practices in Lagos ($150 thousand), Bureau of Employees' Compensation payment ($119 thousand), military hospitalization rates ($130 thousand), and telephone costs ($113 thousand).

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

Authorization for supplemental funds of $800 thousand is also needed to meet the costs of continued United States participation in the Conference on Security and Cooperation in Europe. The Conference is not expected to be concluded until the Summer of 1974.

Also, the amount of $900 thousand is requested for the United States participation in the Middle East Peace Conference which is designed to bring a permanent peace to this crucial area of the world. The conference will include a broad range of subjects of vital interest to the United States such as oil and refugee affairs.

CIVILIAN PAY ACT

In addition, authorization for supplemental funds of $7,383,000 is needed so the Department may fund the additional costs resulting from the Civilian Pay Act, Executive Order 11739, signed by the President on October 3, 1973. An increase of this magnitude cannot be absorbed within our FY 1974 availability.

BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

Also included are proposed amendments to 5 U.S.C. 5315 and 5316 to reflect the establishment, by section 9 of Public Law 93–126, of the Bureau of Oceans and International Environmental and Scientific Affairs to be headed by an Assistant Secretary. Public Law 93–126 did not amend Title 5 of the United States Code to place the new Assistant Secretary position in level IV of the Executive Salary Schedule, the level at which all other Assistant Secretary positions in the Department are now placed, nor did it delete from level V of the Executive Salary Schedule the Director of International Scientific Affairs, the head of the existing bureau. The functions of the existing bureau of International Scientific and Technological Affairs would be included within the new bureau when it is established. The proposed amendments to Title 5 are included for these purposes.

A summary of the attached authorization request is outlined below.

| Item | Amount | American | Local | Total |
|---|---|---|---|---|
| Administration of foreign affairs: | | | | |
| East Berlin | $1,665,000 | 12 | 13 | 25 |
| Moscow commercial | 164,000 | | | |
| Moscow apartments | 178,000 | | | |
| Lower gulf | 1,380,000 | 13 | 9 | 22 |
| Vietnam | 445,000 | 22 | | 22 |
| Ulaanbaatar | 670,000 | 7 | 10 | 17 |
| Port Moresby | $407,000 | 7 | 7 | 14 |
| Increased post allowance | 669,000 | | | |
| Price increases | 792,000 | | | |
| Passport printing | 280,000 | | | |
| Change in local rental, Lagos | 150,000 | | | |
| Military hospitalization | 130,000 | | | |
| Bureau of Employees' Compensation | 119,000 | | | |
| Centrex telephones | 113,000 | | | |
| Law of the Sea Unit | 430,000 | | | |
| Middle East Crisis, overtime | 200,000 | | | |
| Less excess authorization | −597,000 | | | |
| Subtotal | +6,403,000 | 61 | 39 | 100 |
| International organizations and conferences: | | | | |
| Conference on Security and Cooperation in Europe | 800,000 | | | |
| Middle East Peace Conference | 900,000 | | | |
| Less excess authorization | −202,000 | | | |
| Subtotal | +1,498,000 | | | |
| International commissions: | | | | |
| Less excess authorization (subtotal) | −3,040,000 | | | |
| Educational exchange: | | | | |
| Less excess authorization (subtotal) | −2,630,000 | | | |
| Civilian pay acts: | | | | |
| Pay raise costs | 16,711,000 | | | |
| Less excess authorization | −9,328,000 | | | |
| Subtotal | +7,383,000 | | | |
| Dollar devaluation: | | | | |
| Less excess authorization (subtotal) | −2,402,000 | | | |
| Measures to combat terrorism: | | | | |
| Less excess authorization (subtotal) | −20,000,000 | | | |
| Grand total | −12,788,000 | 61 | 39 | 100 |

By Mr. FULBRIGHT (by request):

S. 2873. A bill to amend the Foreign Service Buildings Act, 1926, to authorize additional appropriations. Referred to the Committee on Foreign Relations.

Mr. FULBRIGHT. Mr. President, by request, I introduce for appropriate reference a bill to amend the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292–301) to provide supplemental authorization for appropriations for the buildings program to cover the costs of dollar devaluation in fiscal years 1974 and 1975.

The bill has been requested by the Department of State and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the Assistant Secretary of State to the President pro tempore of the Senate dated December 6, 1973.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

### S. 2873

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

That subsection (g) of Section 4 of the Foreign Service Buildings Act, 1926 (22 U.S.C. 295), is amended—

(1) at subparagraph (1)(A), by striking out "$590,000" and inserting in lieu thereof the figure "$631,000";

(2) at subparagraph (1)(C), by striking out "$160,000" and inserting in lieu thereof the figure "$204,000";

(3) at subparagraph (1)(E), by striking out "$2,218,000" and inserting in lieu thereof the figure "$2,287,000";

(4) at paragraph (2) of subsection (g), by striking out "$45,800,000" and "$21,700,000" and inserting in lieu thereof the figures "$48,532,000" and "$23,066,000".

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Department of State,
*Washington, D.C., December 6, 1973.*

The Honorable James O. Eastland,
*President pro tempore,*
*U.S. Senate.*

Dear Mr. President: The Department of State encloses and recommends for your consideration proposed legislation to amend the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292–301) to provide supplemental authorization for appropriations for the Buildings Program to cover the costs of dollar devaluation in fiscal years 1974 and 1975.

Public Law 93–47 of June 22, 1973, provided the Buildings Program with the following authority for appropriations:

| *Fiscal Year* | *Capital funds* | *Operating funds* |
|---|---|---|
| 1974 | $4,511,000 | $21,700,000 |
| 1975 | 9,300,000 | 24,100,000 |

At the time of the hearings on P.L. 93–47, the effect of the dollar devaluation was not known and the Department was invited to request additional authority when the impact on this Program was known. These estimates have been made and the Department now requests increased authorization in capital funds of $154,000 for fiscal year 1974, and, in operating funds, the amounts of $1,366,000 for fiscal year 1974 and $1,366,000 for fiscal year 1975.

The Department of State has been informed by the Office of Management and Budget that there is no objection to this proposal from the standpoint of the Administration's program.

A letter similar in content is being sent to the Speaker of the House of Representatives.

Sincerely yours,
Marshall Wright,
*Assistant Secretary for Congressional Relations.*

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## ADDITIONAL COSPONSORS OF BILLS

### S. 335

At the request of Mr. Church, and by unanimous consent, the Senator from Minnesota (Mr. Mondale) and the Senator from Utah (Mr. Moss) were added as cosponsors of S. 335, to promote development and expansion of community schools throughout the United States.

### S. 2577

At the request of Mr. McGovern, the Senator from South Dakota (Mr. Abourezk), the Senator from North Dakota (Mr. Burdick), the Senator from Alaska (Mr. Gravel), the Senator from Michigan (Mr. Hart), the Senator from South Carolina (Mr. Hollings), the Senator from Minnesota (Mr. Humphrey), the Senator from Massachusetts (Mr. Kennedy), the Senator from Washington (Mr. Magnuson), the Senator from New Hampshire (Mr. McIntyre), the Senator from Minnesota (Mr. Mondale), the Senator from Illinois (Mr. Percy), and the Senator from West Virginia (Mr. Randolph), were added as cosponsors of S. 2577, the National Food Bank Act.

### S. 2782

At the request of Mr. Nelson, the Senator from Maine (Mr. Muskie), the Senator from Nevada (Mr. Cannon), the Senator from Massachusetts (Mr. Kennedy), the Senator from Iowa (Mr. Clark), the Senator from Georgia (Mr. Nunn), the Senator from Minnesota (Mr. Mondale), the Senator from Maine (Mr. Hathaway), the Senator from Utah (Mr. Moss), the Senator from Illinois (Mr. Stevenson), the Senator from Wisconsin (Mr. Proxmire), the Senator from Nevada (Mr. Bible), the Senator from South Dakota (Mr. McGovern), and the Senator from Rhode Island (Mr. Pell) were added as cosponsors of S. 2782, to establish a National Energy Information System, to authorize the Department of the Interior to undertake an inventory of U.S. energy resources on public lands and elsewhere, and for other purposes.

### S. 2786

At the request of Mr. Percy, the Senator from Maryland (Mr. Beall) was added as a cosponsor of S. 2786, to amend chapter 34 of title 38, United States Code, to increase from 36 to 48 months the maximum period of educational assistance to which an eligible veteran may become entitled under such chapter, and to extend from 8 to 15 years the period within which an eligible veteran must complete his program of education under such chapter after his discharge from military service.

### S. 2840

At the request of Mr. Inouye, the Senator from Alaska (Mr. Stevens) was added as a cosponsor of S. 2840, to authorize the Secretary of Commerce to conduct a study of foreign direct and portfolio investments in the United States.

### S. 2845

At the request of Mr. Robert C. Byrd (for Mr. Nelson), the Senator from Pennsylvania (Mr. Schweiker) and the Senator from South Dakota (Mr. McGovern) were added as cosponsors of S. 2845, a bill to amend the Federal Food, Drug, and Cosmetic Act to establish a code system for the identification of prescription drugs, and for other purposes.

### S. 2849

At the request of Mr. Inouye, the Senator from Louisiana (Mr. Johnston) was added as a cosponsor of S. 2847, to amend the Social Security Act to extend coverage to certain persons who have innocently entered into a legally defective marriage to an insured individual and have lived with such individual as his husband or wife for at least 10 years.

## SENATE CONCURRENT RESOLUTION 63—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO UNACCOUNTED FOR PERSONNEL

(Referred to the Committee on Foreign Relations.)

Mr. PERCY. Mr. President, it is now a year since the Government of the Democratic Republic of North Vietnam made a solemn commitment to return all captured military personnel and foreign civilians. At that time Hanoi also agreed to provide information about the missing in action, to help determine the location and to take care of the graves of the dead, and to facilitate the exhumation and repatriation of remains.

This commitment, part of the Agreement on Ending the War and Restoring Peace in Vietnam, was signed in Paris on January 27, 1973. Subsequently, on June 13, 1973, the North Vietnamese subscribed to a joint communique signed that day, also in Paris, which reiterated the commitment.

However, North Vietnam—after allowing the repatriation of a large number of American prisoners of war—has failed to live up to its obligations in regard to additional prisoners who may or may not be alive. North Vietnam likewise has resisted, rather than abetted, efforts to account for Americans missing in action and has done nothing to facilitate the exhumation and repatriation of remains.

Similarly, the Provisional Revolutionary Government of Vietnam and the Lao Patriotic Front have failed to cooperate on these matters which are of great concern and consequence for Americans; and it has not been possible to obtain information on Americans and international journalists missing in Cambodia.

I think the time has come for renewed efforts to be made by the Government of the United States, through diplomatic and other international channels, to persuade the Hanoi government, the Provisional Revolutionary Government and the Lao Patriotic Front to comply with their obligations in regard to captured personnel, the missing in action and the dead; to obtain information regarding personnel missing in Cambodia; and to seek necessary cooperation for search teams to inspect crash sites and other locations where personnel may have been lost.

Toward this end, I am introducing today a concurrent resolution, the text of which follows:

### S. Con. Res. 63

Whereas, the Agreement on Ending the War and Restoring Peace in Vietnam, signed in Paris on January 27, 1973, and the Joint Communique of the parties signatory to such agreement, signed in Paris on June 13, 1973, provide that such parties shall—

(1) repatriate all captured military and civilian personnel,

(2) assist each other in obtaining information regarding missing personnel and the location of the burial sites of deceased personnel,

(3) facilitate the exhumation and repatriation of the remains of deceased personnel,

(4) take such other steps as may be necessary to determine the fate of personnel still considered to be missing in action; and

Whereas, the Government of the Democratic Republic of Vietnam and the Provisional Revolutionary Government of Vietnam have failed to comply with the obligations and objectives of the agreement and joint communique; and

Whereas, the Lao Patriotic Front has failed to supply information regarding captured and missing personnel or the burial sites of personnel killed in action, as provided in the Laos agreement of February 21, 1973, and the Protocol of September 14, 1973; and

Whereas, it has not been possible to obtain information from the various Cambodian authorities opposed to the Government of the Khmer Republic concerning Americans and international journalists missing in that country:

*Resolved by the Senate (the House of Representatives concurring)*, That it is the sense of the Congress that new efforts should be made by the Government of the United States through appropriate diplomatic and international channels to persuade the Government of the Democratic Republic of Vietnam, the Provisional Revolutionary Government of Vietnam, and the Lao Patriotic Front to comply with their obligations with respect to personnel captured or killed during the Vietnam conflict and with respect to personnel still in a missing status; that every effort should be made to obtain the cooperation of the various Cambodian authorities in providing information with respect to personnel missing in Cambodia; and that further efforts should be made to obtain necessary cooperation for search teams to inspect crash sites and other locations where personnel may have been lost.

Sec. 2. Upon agreement to this resolution by both Houses of the Congress, the Secretary of the Senate shall transmit a copy of such resolution to the President of the United States.

### WATER RESOURCES DEVELOPMENT AND RIVER BASIN MONETARY AUTHORIZATIONS ACT OF 1973—AMENDMENT

#### AMENDMENT NO. 934

(Ordered to be printed and to lie on the table.)

#### ACCESS ROAD FUNDS FOR MELVERN AND POMONA AND TUTTLE CREEK WATER PROJECTS

Mr. PEARSON. Mr. President, this amendment, which Senator Dole is also sponsoring, would restore the authorization for the construction of three Federal lakes located in Kansas. Two of these lakes, Pomona and Melvern, are located in Osage County. The third project, the Tuttle Creek Reservoir, is located in Pottawatomie County.

With regard to the Pomona and Melvern projects, Osage County has already obligated itself the sum of approximately $1 million to provide for the construction of bridges which are necessary for the farm-to-market roads. Because the county officials were unable to secure funds from the State for improvement of these roads, Senator Dole and I introduced legislation in 1973, providing $500,000 for their improvement. This proposal, together with authorization for a similar project at the Turtle Creek Reservoir, was included in S. 606 which passed the Senate last February.

Mr. President, I was extremely gratified that the proposal was accepted by the committee during consideration of S. 606. At that time, I said on the floor that its acceptance represented somewhat of a hallmark and breakthrough in recognizing the very serious problem in the construction of some Federal reservoirs and lakes throughout the country. It is a matter of great importance to many communities which find themselves unable to provide for adequate roads. We have, I think, authorized the construction of these lakes without giving due consideration to proper access roads. The sum of $500,000 for each of these projects is small in comparison to State and national needs, but I feel that it is a significant step forward in this vital Federal program.

At this point Mr. President, I would like to commend the language of the committee report which acknowledges the devoloping problems of providing safe and adequate highway access to Federal lakes and recreational areas. I also commend the committee's commitment to comprehensive hearings in this area, and I am hopeful that these hearings will continue to document the need which we discuss here today.

However, in view of the fact that these proposals received prior Senate approval, and in view of the fact that the House version contains similar authorization, I believe that ample documentation exists to underline the very real need for limited funding in this area. Accordingly, I ask that the Senate approve my amendment.

#### AMENDMENT NO. 935

(Ordered to be printed, and to lie on the table.)

Mr. MATHIAS (for himself and Mr. Beall) submitted an amendment, intended to be proposed by them, jointly, to the bill (S. 2798) authorizing the conconstruction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

#### AMENDMENT NO. 936

(Ordered to be printed, and to lie on the table.)

Mr. BUCKLEY (for himself and Mr. Proxmire) submitted an amendment, intended to be proposed by them, jointly, to Senate bill 2798, supra.

### AMENDMENT OF THE EXPORT ADMINISTRATION ACT OF 1969—AMENDMENT

#### AMENDMENT NO. 937

(Ordered to be printed and to lie on the table.)

Mr. BUCKLEY (for himself, Mr. Thurmond, Mr. Dominick, Mr. William L. Scott, Mr. Helms, Mr. Hatfield, and Mr. Goldwater) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 8547) to amend the Export Administration Act of 1969, to protect the domestic economy from the excessive drain of scarce materials and commodities and to reduce the serious inflationary impact of abnormal foreign demand.

### NOTICE OF HEARINGS RELATING TO ZOOS AND AQUARIUMS

Mr. PELL. Mr. President, I announce to the Senate the scheduling of public hearings on legislation aimed at improving our Nation's zoos and aquariums—specifically S. 2774—introduced by Senator Hatfield.

The Subcommittee on the Smithsonian Institution of the Committee on Rules and Administration will hold hearings on this legislation on January 23 in room 301 of the Russell Senate Office Building, beginning at 10 a.m. on that day.

### NOTICE OF HEARINGS BY SUBCOMMITTEE ON INDIAN AFFAIRS

Mr. JACKSON. Mr. President, I wish to announce to the Senate, the Indian people and the general public that the Subcommittee on Indian Affairs has scheduled a hearing on January 25, 1974, on the following measures:

S. 481—Rocky Boy's Mineral Interest.

S. 634—Kootenai Land Transfer.

S. 1102—Keweenaw Bay Indian Community Submarginal Lands.

S. 1222—Paiute-Shoshone Land Transfer.

S. 1411 and 1412—Sisseton-Wahpeton Land Transfer and Management.

S. 2105—Spokane Land Bill.

These measures relate primarily to land and mineral interests of several specific tribal groups; their enactment is considered important to the social and economic advancement of the affected tribal groups.

Administration and private witnesses have been invited to testify on the several measures. The hearings will commence at 10 a.m. in room 3110, Dirksen Senate Office Building, and will be open to the public.

### NOTICE OF HEARINGS ON FOREIGN INVESTMENT

Mr. STEVENSON. Mr. President, on November 16, 1973, I announced the start of a long-range study of foreign investment in the United States by the International Finance Subcommittee of Banking, Housing and Urban Affairs Committee. The first in a series of hearings on that subject will begin on Wednesday, January 23, 1974 at 10 a.m. in the Banking Committee hearing room, room 5302, Dirksen Senate Office Building. Further hearings will be held on February 21 and 22, 1974. Subsequent hearing dates will be announced later. All interested persons should contact Stanley J. Marcuss, counsel to the subcommittee at 225-8813.

## ADDITIONAL STATEMENTS

### "ZIM" IS AN INSTITUTION

Mr. PROXMIRE. Mr. President, Wisconsin's secretary of state recently announced that he would not seek reelection this year. When he leaves office next January it will mean that for the first time—other than for a brief period—in a half century there will be no Zimmerman holding State office in Wisconsin.

The impending retirement of Secretary of State Robert C. Zimmerman truly will end an era. But, it is too early to talk of "Zim" in such a way, for he is as vibrant a politician one will find.

He is one of the greatest votegetters

in State history, consistently outpolling the candidates for Governor in either party. He is one of the great handshakers in politics, making the rounds of fairs every year, knowing the importance of the nonelection year. He is one of the great walkers in the State, walking to work nearly every day. He has the common touch, knowing that politicians are servants not masters.

It is really unfortunate for Democrats that he has not been one of us all these years. But he certainly is a democrat—with a small d—for he has been and remains a man of the people.

Mr. President, Eugene Harrington, Madison bureau chief of the Milwaukee Journal, captured Bob Zimmerman perfectly in a recent dispatch from the State capitol. I ask unanimous consent that his piece be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Milwaukee Journal, Jan. 6, 1974]

### "ZIM"—ECCENTRIC, LOVABLE AND AN INSTITUTION

(By Eugene C. Harrington)

MADISON, WIS.—The news came in typical fashion: A personally typed piece of stationery beginning, "I am not a candidate for reelection."

The terse announcement was typical because it was not the product of slick, sophisticated public relations techniques. And was not stated amid cameras and tape recorders.

It also was typical because it was signed "Zim," a signature so familiar that recipients do not have to glance at the top of the page to see that it comes from Robert C. Zimmerman, Wisconsin secretary of state for so many years.

#### WILL SERVE TILL 1975

Zimmerman's announcement although not unexpected by some persons close to him, sent shock waves through the Capitol. Some had said Miss Forward probably would topple from her position atop the Capitol dome before the personable politician retired from office.

Zimmerman, who was 64 Saturday, will serve out the remainder of his present term until Jan. 6, 1975. It will be the end of his first, and only, four year term. He also served seven previous two year terms.

Thus will retire a man who gained several. million votes from Wisconsin residents over the years and was as closely identified with the office as the bearded Smith brothers have been with cough drops. He is a man who, more than anything, has a love of Wisconsin and its people.

If there is such a thing as an institution in Wisconsin politics, it is Zimmerman. And, like other names in state history, it has family connotations. His father, Fred, served both as secretary of state and governer.

#### A MAN OF VIGOR

Perhaps no better indication of the political potency of Robert Zimmerman is that a political unknown ran fairly well against him in 1970, largely because his name is Robert A. Zimmerman.

Like any other institution, Zimmerman has many prominent characteristics.

A gregarious, extroverted man, the lanky Zimmerman enters a room like a sudden summer storm. His stride is long and loping, and he greets acquaintances with a booming, friendly voice.

As relaxed and unpretentious as a pair of socks, Zimmerman answers telephone calls himself, a procedure that sometimes disarms callers expecting to hear a receptionist or secretary.

#### EGOS PUNCTURED

Quick to puncture inflated egos, Zimmerman is irritated at receptionists and secretaries who inquire, "Who shall I say is calling?" before connecting him with the person he is calling. Such an inquiry usually brings a caustic, "What difference does it make who's calling?"

That same attitude is expressed toward officeholders who assume airs and pretensions. Few things irritate Zimmerman more than elected officials who demand special treatment, tapping into the public treasury in so doing.

His office is spartan, with furniture that looks to be of Chester Arthur vintage. Not one to go to the Legislature for funds, Zimmerman and others on his staff several years ago replaced aging chairs in his office with rejects from the State Senate parlor, then being replaced.

He sits at a desk almost as large as a pool table, which is cluttered with photographs of friends and scale models of Wisconsin dairy cows. His creaky swivel chair usually is tilted back to allow room for his shoe heels to rest on the desk's scarred edge or upright as he hunches over an equally ancient typewriter, hunting and pecking to place his thoughts on paper.

#### AVID READER

Zimmerman's interests are varied. He is an avid reader, one of the most faithful patrons of Madison Public Libraries. The secretary of state strolling along Capitol Square with books under his arm is a familiar sight. When not reading books, he peruses magazines and newspapers.

Zimmerman also is a devotee of the big band era, often whistling or singing the song of those days. He enjoys confounding visitors with questions about the music and personalities of that period.

He also projects his booming voice into "The Soldier's Chorus" from Faust, the "Grande March" from Aida, or a wide selection of Protestant hymns. And he sometimes breaks into a side show barker's pitch, selling a gold plated potato peeler.

Perhaps no other characteristic, however, is as widely noted as his penchant for walking. He has walked all the way, or at least part of the way to the Capitol from his West Side residences for as long as Madisonians can remember.

An evangelistic supporter of walking, Zimmerman rarely misses a Sunday hike through the University of Wisconsin arboretum.

He does ride buses, however, and is on friendly terms with many bus drivers and passengers. That also is true of people he encounters regularly on his walks.

"Hiyah, Zim. Wave as you go by," recently proclaimed a sign at a Monroe St. pet shop.

Zimmerman's passion for golf is matched only by his inability to play it well. A golfing magazine rarely is far away and his golf friends could fill the gallery at Augusta each spring.

#### PUTTING ON CARPET

He may be one of the few secretaries of state in the country to practice putting on the carpet in his office, occasionally winning a few nickels in putting contests with visitors.

And each time Zimmerman has taken the oath of office in solemn inaugural ceremonies, a golf ball nestled in his coat pocket as a good luck charm.

He also regularly attends Badger football and basketball games.

He is a fan of railroad travel and circuses, using his office as a bulletin board for both. The posters must compete with the omnipresent displays of Wisconsin dairy products.

But it is politics, of course, where Republican Zimmerman is at home. He logs thousands of miles each year campaigning, primarily at county fairs where he can mingle with the voters. Newspaper, radio and television political campaigning for Zimmerman would be as rare as a heat wave in January.

He exudes friendliness and his campaigning is eternal.

#### ODD NUMBERED YEARS

He always debunked statements that he did not have to campaign because everyone knew him.

Elections are won in odd numbered years, he would say, not the even numbered years in which they are held.

Zimmerman has established rapport with both political parties and those who hold office under their banners. At public gatherings, he is the first on his feet to lead applause for a governor, whether he be Republican or Democratic. (He also can be heard to start the Star Spangled Banner half a bar before everyone else.)

His numerous talks to school children touring the Capitol (usually accompanied by a quiz about their elected representatives); his fondness for milk and peanut butter; his joshing of Capitol guards, waitresses, other politicians and newspapers reporters (for whom he maintains a desk, reference materials, a telephone and coffee), are all well known characteristics of the secretary of state.

Zimmerman floods the mails. A constant flow of congratulatory or consoling letters come from his office, all above the signature that looks like the top line of an eye test chart.

Zimmerman, born in Milwaukee, came to Madison as a child. He is married to the former Dorothy Piller of Brooklyn, Wis., whom Zimmerman considers a more astute student of politics than he. They have no children.

Zimmerman has been burdened in recent years because of her health problems. He has not complained of it, but is saddened by it. But those feelings also are matched by his pride in how his wife has responded to the problems.

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## BRIG. GEN. ROSS HOYT, USAF RETIRED

Mr. GOLDWATER. Mr. President, during an early period of World War II, it was my pleasure to have served at Luke Air Force Base with then Col. Ross Hoyt. Col. Ross Hoyt is now retired as a brigadier general, but that is not the important thing that comes to my mind when I think of this distinguished airman.

Forty-five years ago this month, two Army Air Corps Douglas C–1 aircraft converted into primitive tankers kept a Fokker C–2, the *Question Mark*, airborne for more than 6 days to set a world endurance record flying night and day air-to-air refueling mission. This remarkable accomplishment has been all but forgotten what with the history of aviation passing as rapidly as it has.

General Hoyt, retired, has written an article in this month's issue of the Air Force magazine recalling the experiences of this very interesting and pivotal important achievement in early air-to-air refueling.

I ask unanimous consent that his article be printed in the RECORD and I would hope that the Air Force will pay proper recognition to the men who flew those missions by giving proper recognition by decoration.

There being no objection the article

was ordered to be printed in the Record, as follows:

### Reflections of an Early Refueler

(Note.—Forty-five years ago this month, two Army Air Corps Douglas C–1 aircraft, converted into primitive tankers, kept a Fokker C–2, the *Question Mark,* airborne for more than six days to set a world endurance record. Flying night and day air-to-air refueling missions, some under extreme weather conditions and without instruments or radio aids, the "refuelers" pioneered a technique that has made the USAF a global deterrent force. Here, the full story of this remarkable achievement is told for the first time by the only surviving pilot of the tankers.

(By Brig. Gen. Ross G. Hoyt, USAF (Ret.))

The years 1923 and 1929 were marked by events that established a great milestone in the history of the United States Air Force: air-to-air refueling.

In 1923, a DH–4 airplane piloted by Lts. Lowell Smith and John Richter was kept aloft for more than thirty-seven hours, in the vicinity of Rockwell Field, Calif., by a second DH–4 refueling airplane crewed by Lts. Virgil Hine and Frank Seifert.

Six years later, two Douglas C–1s equipped as aerial refuelers kept a Fokker C–2 airplane airborne for 150 hours, forty minutes, and fifteen seconds over California—a world record. The record was of passing importance. Few could then foresee the lasting significance of the flight.

I was the pilot of one of the DC–1 refuelers. I am one of two survivors of that "Ancient Order of Refuelers." The other is Brig. Gen. Joseph G. Hopkins, a member of the crew of the second DC–1. He is retired and living in California.

#### PLANS AND PREPARATIONS

Planning for the 1929 flight had begun the previous year. I was then on duty in the War Plans Section of the Office of the Chief of the Air Corps. Late in the year, I received orders from the Chief of the Air Corps to participate in an air-to-air refueling endurance flight as pilot of a refueling airplane.

The Middletown Air Depot, Middletown, Pa., prepared two airplanes for the flight. A Fokker M–2 trimotor monoplane was fitted with additional fuel tanks and other special equipment as the airplane to be refueled. A Douglas C–1 was equipped with two 150-gallon fuel tanks, in addition to the standard tankage, and with a fifty-foot length of metal-lined hose with a lead weight attached to the lower end to be let down through a trap door in the bottom of the fuselage for refueling in flight.

The Douglas C–1 was a biplane of tubular construction, fabric covered, powered by a 400-hp Liberty engine, water-cooled, of World War I vintage. The C–1 had an unusually high angle of attack when taxiing, with the result that it was slow to gain flying speed on takeoff. However, it was considered an efficient "workhorse."

In early December 1928, the two airplanes were ready. I was flown to Middletown, together with a crew for the Fokker C–2, to take delivery of the airplanes.

The next few days were devoted to practice flights in the vicinity of Bolling Field, D.C., to test equipment, night and day, and demonstrate the feasibility of air-to-air refueling to Secretary of War Dwight F. Davis, Assistant Secretary of War for Aviation F. Trubee Davison, and Maj. Gen. James E. Fechet, Chief of the Air Corps. The project was approved, and both airplanes prepared to depart for Rockwell Field at San Diego. California had been decided on as the most favorable location for the endurance flight during the winter months.

The Fokker C–2, now christened *Question Mark,* and the Douglas C–1, designated Refueling Airplane No. 1 (RP #1), took off from Bolling Field, on December 18, for Rockwell Field via the southern route. Abroad the Fokker for the westward series of "hops" were Maj. Carl Spaatz, Commanding Officer of the project; Capt. Ira Eaker; Sgt. R. W. Hooe, mechanic; and Han's Adamson, Secretary Davison's secretary and public-relations representative for the endurance flight.

The crew of RP #1 consisted of myself as pilot; 2d Lt. Elwood "Pete" Quesada, copilot; and Pvt. Harold Rockenbaugh, mechanic. Lieutenants Quesada and Harry Halverson joined the crew of the *Question Mark* on arrival at Rockwell Field.

The flight was routine until we reached Shreveport, La., on December 20. There it was found that the field was too soft, due to the heavy rains, for the *Question Mark* to take off with a full load of fuel. Love Field, Dallas, Tex., also reported heavy rain, but was in better condition. It was decided that RP # 1 would leave Shreveport for Dallas in advance to fill its tanks in preparation for refueling the *Question Mark* over Dallas en route to Midland, Tex.

At the appointed time, I taxied RP # 1 to the southeast corner of Love Field, turned, and headed into a northwest wind. The engine was "revved up" for final test before takeoff. With full throttle, the C–1 just shuddered and sat there with its nose in the air. The wheels had settled slightly into the sod. Finally, with full power and Pete Quesada and Rockenbaugh pushing, we started rolling. Pete and Rockenbaugh scrambled aboard through the trap door in the bottom of the fuselage. Speed gradually increased, and about halfway down the field the tail came up. We lifted off, barely clearing the high-tension lines at the end of the field, climbed up, delivered 250 gallons of fuel, and continued on to Midland. I remember commenting that "this crate will fly with a load it won't taxi with."

The remainder of the flight from Midland to Rockwell Field was completed without incident. We arrived after dark on December 22. The Fokker arrived the next day.

#### COMMUNICATING WITHOUT RADIOS

Beginning the day after Christmas and continuing until December 31, RP No. 1 made ten flights at Rockwell Field to test equipment, practice day and night refueling, and familiarize the pilot and crew of RP No. 2 with midair refueling.

During the preparatory period, 1st Lt. Auby C. Strickland and 2d Lt. Irwin A. Woodring, stationed at Rockwell Field, were assigned as my crew to handle the refueling hose and supply lines for delivering fuel, food, oil, batteries, mail, and other supplies necessary for life aboard the *Question Mark.*

RP No. 2, another Douglas C–1 airplane, was equipped the same as RP No. 1, at the Rockwell Air Depot. It was piloted by 1st Lt. Odas Moon, with Lts. Joseph G. Hopkins and Andrew F. Salter, also stationed at Rockwell Field, as his crew.

There was no electronic communication equipment in any of the airplanes. We had to improvise means of communication between airplanes, ground to air, air to ground, and between the pilot of the refueling airplane and his crew in the refueling compartment.

During daylight, communication between airplanes consisted of hand signals and messages written on a blackboard aboard the *Question Mark.* Flashlight signals and written messages, let down and pulled up on the end of the hose or supply line, were used at night.

Grand-to-air communication was accomplished by ground panels, messages sent up via the refueling airplane, and messages written on the fuselage of an airplane, which would fly alongside the *Question Mark.*

Air-to-ground messages were conveyed by Very pistol, messages dropped in Signal Corps message bags, and those brought back by the refueling airplane after contact.

The pilot and crew of the refueling airplane communicated by means of a small manila line fastened to the pilot's arm and running back to the refueling compartment. A code consisting of combinations of jerks on the line indicated the making and breaking of contact and desired variations in speed. It proved to be one of the most rapid means of communication used during the flight. Members of the refueling crew could come forward through a passageway between the refueling tanks to the pilot's cockpit for consultation, if necessary.

On December 31, 1928, all three airplanes and crews were ready. The *Question Mark* and RP No. 2 left Rockwell Field for Metropolitan Airport at Los Angeles for the start of the refueling endurance flight on New Year's Day, 1929. I remained at Rockwell Field with RP No. 1 for refueling and resupplying contacts at the southern end of the course laid out from Metropolitan Airport to Rockwell Field and return.

#### GOING FOR A RECORD

The *Question Mark* lifted off from Metropolitan Airport with a light fuel load at 7:27 a.m., January 1, 1929. Five men were board: Maj. Carl Spaatz, Capt. Ira Eaker, Lts. Harry Halverson and Elwood Quesada, and SSgt. R. W. Hooe. The first refueling was performed at 8:15 a.m., by RP No. 2.

My crew and I were kept extremely busy with RP #1, making all of the next nine contacts of January 1 and 2 in the vicinity of Rockwell Field, including two night refuelings.

The next three contacts of January 3 were made by RP #2 near Metropolitan Airport, Los Angeles, the last at 9:00 a.m. Apparently RP #2 did not offload much fuel. Two hours later, the Fokker arrived over Rockwell Field, running very low on gasoline.

An entry in the log of the *Question Mark* made by Major Spaatz on January 3 states: "Arrived Rockwell Field at 11:00 a.m. at 4,000 feet. Field covered with clouds. In urgent need of gas. Just a few gallons left. Went beneath the clouds. Crossed Rockwell Field at 300 feet altitude. Saw C–1 take off. Climbed back through clouds."

I took RP #1 up through the clouds and made two contacts. On the first contact we offloaded 150 gallons of fuel. On the second, we transferred a storage battery.

Major Spaatz also entered in the log: "Rockwell Field showed keen judgment in picking us up promptly and getting fuel to us just as we were about to use up our last few gallons."

Fortunately, RP #1 was fully serviced and its crew on alert so that we could take off immediately, climb up to the *Question Mark,* and replenish its rapidly dwindling fuel supply. The prompt action no doubt saved the midair refueling endurance flight from an untimely end before the world record had been broken.

Night refueling placed a heavy burden on the pilot and crew of the refueling airplane, both from a physical and piloting standpoint. There were frequent interruptions of rest during the night. We always took off with heavy loads and often had to fly and land in fog and dust during the hours of darkness, without instruments or blind-landing equipment. We shared an intense feeling of responsibility for the success of the undertaking.

All of these factors made the night operations especially fatiguing for the refueling crews. However, the greater number of refuelings provided by night contacts cut down on the Fokker's load. This, in turn, reduced the power needed to maintain altitude, thus prolonging the life of the plane's engines. After all, the object of the flight, in addition to confirming the practicality of midair refueling, was to keep the *Question Mark's* engines healthy as long as possible in order to break the air-to-air refueling record.

### ZERO-ZERO LANDING

On the other hand, it was easier both for the pilot of the refueler and the *Question Mark* to make and maintain refueling contact in the smoother night air. I found it easier to maintain constant airspeed when nosing down and throttling back to overcome the "ballooning" effect on RP #1, caused by its loss of weight during refueling and the settling of the Fokker as its load increased. That reduced the chance of prematurely breaking contact.

Our operations at Rockwell Field were not conducive to longevity! Once we had to take off in the dark into fog at the ocean end of the field, climb through the fog to the *Question Mark* cruising in the clear, deliver a load of fuel on course to Los Angeles, and return to find Rockwell Field completely obscured by a thick layer of fog. This posed a landing problem. (The Air Corps did not incorporate instrument flying and landing into its training program until long after 1929.)

Fortunately, the Douglas C-1 was a very stable airplane. With proper setting of control tabs on rudder, ailerons, and flippers; adjustment of the horizontal stabilizer and throttle for minimum speed in the landing glide; and the use of the lights of San Diego and the floodlights at Rockwell Field glowing dully up through the fog as reference points, it was possible to glide down into the soup, "hands off." After what seemed an interminable wait, the wheels touched. The control column was pulled slowly back, and we settled to an "eggshell" landing. The fog was so dense that a truck had to come out and lead us to the flight line. After that particular flight, my crew and I christened RP #1 *Asterisk!*

Great tribute must be paid to the men back in the refueling compartment—Strickland and Woodring with me; Hopkins and Salter with Moon. They had to do a great deal of hard manual labor in letting down and pulling up the heavy, cumbersome hose.

On landing from refueling flights, Strickland and Woodring would be exhausted and drenched with perspiration. No doubt Hopkins and Salter had the same experience. In the cramped quarters of the refueling compartment, they had to remove their parachutes. This increased the hazards in case of collision or fire, which would have occurred during any one of the refueling contacts.

### NEW AREA, NEW PROBLEMS

On January 3, the weather was forecast to deteriorate still more along the coast. It was decided to move refueling operations eastward over the coastal mountain ranges to the Imperial Valley.

The *Question Mark* made the flight to Imperial Valley with a light fuel load because of doubt as to its ability to clear the mountains and in order to put minimum strain on its engines. The plan called for RP #1 to refuel the *Question Mark* on arrival over Imperial Valley.

As RP #1 proceeded to Imperial Valley, its engine already showed signs of fatigue. The flying time accumulated at Bolling Field prior to departure, the transcontinental flight, the test and familiarization flights at Rockwell, and the time accumulated since the start of the refueling endurance flight all had taken their toll.

I approached the mountains with doubt whether the heavily loaded RP #1 could make it over the mountains. However, as we drew nearer, the updraft caused by westerly winds striking the upslope provided enough boost to lift us over. After getting across the first ridge, we lost altitude with the downdraft on the eastern slope. The process was repeated at succeeding ridges until we were over the Imperial Valley, where refueling took place as planned.

Had the wind turned easterly, reversing the up and down drafts, or had the engine RP #1 faltered, the endurance flight would probably have ended abruptly. It is doubtful, with no electronic communication equipment, that RP #2 at Los Angeles, nearly three hours away, could have been brought into the picture in time to save the situation. And there were only two refueling airplanes.

Ground and flying conditions in the Imperial Valley were highly unfavorable for our refueling operations. The airport was covered with a layer of fine dust that was blown about by RP #1 while taxiing, taking off, or landing. In the calm existing on the ground at night, the dust remained suspended over the landing area for a considerable time. This made landing conditions even more difficult than at Rockwell Field, since the lighting facilities in the valley were inadequate. I used the same tactics for night landings as those employed in the fog at Rockwell Field.

Although it was clam at night on the ground, the wind aloft was high and, due to the disturbing effect of the mountains, there were strong vertical currents. While refueling the two airplanes would alternately lose and gain 500 to 1,500 feet.

All five contacts with the *Question Mark* over the Imperial Valley were made by RP #1—two during darkness and three in daylight. It was during the night of January 3–4 that the world record for midair refueling endurance was broken.

### VICTORY, AND NEAR TRAGEDY

After the record had been broken, we continued refueling over the Imperial Valley. We landed after a refueling contact at 9:35., January 4, and filled all tanks before departure for Metropolitan Airport, Los Angeles, where operations were to continue until the end.

I took off from Imperial Valley at 11:00 a.m., January 4, and joined the *Question Mark* en route to Los Angeles, prepared to refuel if necessary. Upon arrival over Los Angeles at 2:35 p.m., we refueled the *Question Mark* and continued to do so through eleven more contacts in the vicinity of Metropolitan Airport—six during hours of darkness and five in daylight.

During the midnight refueling of January 5–6, while based at Metropolitan Airport, we had a near brush with Gray Cliff mountain range. I took RP #1 up with a load of fuel and flew alongside the *Question Mark*. We made contact, and refueling started. I had a clear view from the cockpit of the C-1 throughout the forward 180 degrees. It became obvious to me that, if we maintained our course very long, collision with Gray Cliff was inevitable.

The close formation flying required for refueling demanded the complete attention of Captain Eaker, who piloted the Fokker during all refuelings. According to the Report of the Flight of the Question Mark, he kept his eyes glued on the refueling plane's landing gear above him during contact. Knowing this, but to avoid breaking contact prematurely, I maintained course awaiting the break signals: one when the main fuel valve was closed to prevent gasoline spewing over Major Spaatz, who handled the hose on the Fokker; another when the hose swung free.

Suddenly, the individual crags and boulders of Gray Cliff became faintly discernible in the dim, night light. No signals had been received from my crew! I made an abrupt, climbing turn away from the mountain as the only way of warning that we were proceeding into danger.

Needless to say, it was with a great sense of relief that, some time later, Question Mark's running lights were sighted.

Again I flew alongside for further refueling, but received a flashlight signal that no more fuel was required at that time.

During the last two days and nights of the operation, RP #1 developed engine trouble in the form of leaking water jackets and oil lines, which grew progressively worse. Upon landing from refueling flights, I would find my boots soaked with water and oil that had come back through openings in the firewall. By filling the radiator and replenishing the oil before each flight, RP #1 continued refueling operations day and night until the last contact, risking forced landing, possibly at night, in order to avoid leaving the Question Mark with only one refueling airplane. The Question Mark, not informed of the situation, was also having worries with faltering engines.

The last refueling contact was made by RP #1 at 1:50 p.m., on January 7, 1929. Shortly thereafter, the Question Mark landed with the new world endurance record, made possible by midair refueling.

The two refueling airplanes had made a total of forty-three takeoffs and landings, night and day. My crew and I in RP #1 had made twenty-seven refueling and resupplying contacts, ten during the hours of darkness in the face of adverse weather conditions at Rockwell Field and in the Imperial Valley. RP #2 made sixteen contacts with the Question Mark in the vicinity of Metropolitan Airport, two during the hours of darkness.

### RETURN TO THE FUTURE

On January 20, 1929, after engine changes at Rockwell Field, the Question Mark and RP #1 began the return flight to Washington, where we landed at Bolling Field on January 26, 1929, to be greeted by the Secretary of War, Assistant Secretary of War for Aviation, and the Chief of the Air Corps.

The crew members of the *Question Mark* were awarded the Distinguished Flying Cross by the War Department. The pilots and crew of the refueling airplanes received letters of commendation from the Chief of the Air Corps.

When considering the early refueling flights, where the success of the operation was so dependent on the refuelers who delivered the requisites for keeping the refueled airplane in flight, the refueled and the refueler should be treated as a unit.

Those pioneering flights of both airplanes—refueled and refueler—hold a special and secure position in the advancement of the capabilities of the United States Air Force. They are special with respect to both place and time. They are not only historical; their value to national security lives today and will continue to live.

Thirty-five years after the event, I received the following letter from the Air Force Chief of Staff, Gen. Curtis E. LeMay:

Dear General Hoyt:

On the 35th Anniversary of the flight of the *Question Mark*, I send best wishes both personally and on behalf of the United States Air Force.

Although few recognized the long-range impact in 1929, it was certainly the first glimmer of light leading to the development of the KC–135 and today's sophisticated refueling techniques.

You have left to the Air Force a heritage of which you may well be proud.

Sincerely,

Curtis E. LeMay,
*Chief of Staff.*

It was not until after World War II, which included the first large-scale air war in history, that inflight refueling came into its own. The reason for the delay is not of importance.

However, it is important that through the development of the KC–135 tanker and the advent of propellerless jet aircraft which made aerial refueling easier, especially for fighter aircraft, midair refueling over the vast landmasses and ocean areas of the world has made the Air Force a truly global deterrent force.

We knew in 1929 that we had established the great potential of air-to-air refueling for increased capabilities of the Air Force. We could not foresee that the seeds planted in 1923 and 1929 would grow like the mustard seed of the Gospel parable: ". . . the smallest of seeds, which a man took and cast into his own garden; and it grew and became a large tree and the birds of the air dwelt in its branches."

## PRESCRIPTION FOR CRISIS: PLEASE DON'T SKIM THE CREAM

Mr. TALMADGE. Mr. President, in the January issue of the School Food Service Journal, the publication of the American School Food Service Association, Executive Director John Perryman had a thoughtful column which I felt it worthwhile to share with the Senate.

This excellent column speaks for itself, and therefore I ask unanimous consent that it be printed in the Record.

There being no objection, the column was ordered to be printed in the Record, as follows:

### Don't Skim the Cream

(By John Perryman)

The calendar tells me it is November 10 with Thanksgiving just around the corner and I should be indoors watching a football game. The sun tells me it is 70° outdoors and a magnificent autumn day. The *Journal* schedule tells me you will be reading this column in January, as a new year unfolds before us.

Thanksgiving, Christmas, the commencing of 1974: what mingled emotions these landmark dates evoke in our minds this year! The Holy Days War in Israel snuffed out the lives of 1800 young men in a matter of days. A bearded Arab monarch has decreed we shall be cold this winter, and a German immigrant statesman is trying to patch the world together again.

A nation with the creativity and imagination to whirl men a quarter million miles into the sky, give live television coverage of them washing their faces, then bring them—and their soapy water—back again doesn't have enough energy to drive its magnificent automobiles more than 50 miles an hour, if at all.

We are a nation faced with a crisis of lawlessness, yet we have no chief law enforcement officer. One is under indictment, accused of crimes of his own commission. Another has resigned in protest against orders from the President of the United States. The Vice President has resigned under a cloud of serious offenses. And the President himself fights for his political life against the nation's dark suspicions.

Pathetically, we hear many people say, "Politicians are all dirty anyway. It doesn't make any difference to me." Sequestered among my pines—with midsummer stillness in the air, a warm and comforting sun, and shrubs and trees playing a symphony of green and brown—I am almost tempted to believe such statements. But let's not kid ourselves. The crisis across the land is far too reaching for anyone to escape. It touches our work. It touches our families. It touches everything we do.

But what are the pressures and disillusionments, the shortages and shortcomings doing to us as individuals? Do we look upon wrongdoing by others as our license to steal, or do we take our own integrity even more seriously? The core of America and her future rests upon that answer.

We are told that we shall soon return to gasoline rationing and dim-outs, reminiscent of World War II. I know little of U.S. civilian life during that war (although I could tell you quite a bit about army life in Europe). However, I have heard parents discuss their wartime experiences. My mother said that more than any other privation, she missed having cream in her coffee.

Bear in mind my dad owned and operated a sizable dairy farm. We sold whole milk to the creamery. As a matter of fact, we did not even own a milk separator. For household use we would bring milk in from the cooling barn in buckets and pour into earthenware crocks. From there it would stand overnight in my grandmother's musty, dirt walled basement or our new fangled icebox. By the next morning the guernsey cream would be a quarter of an inch thick on top of the crock, and we would skim it into cream pitchers for table use.

That strict food rationing laws applied to food producers along with everyone else was never questioned by my father. His farm's full production was proudly contributed to the national effort, and he took back only his share. Even the tiny speck of cream my mother longed to have in her morning coffee was not subtracted.

Our nation faces serious shortages of things we consider just as dear as my mother considered her cream. If we follow a bad example—if we skim the cream for ourselves and give America and her children what is left—we're in trouble. If we make every effort to do what is right, the country will survive.

What will happen to our beloved nation in 1974? The answer to that depends upon you and me all put together more than it does on the President or Congress or anyone else.

Please don't skim the cream.

## INDOCHINA

Mr. BUCKLEY. Mr. President, it is now a year since the Paris accords were signed ending our participation in the Vietnam war. We have seen the withdrawal from Indochina of the remainder of our troops and the heartrending drama of the return of our prisoners of war. We have also seen the continuing, brutal refusal of the Communists to honor their commitment to help in the accounting for each American listed as missing in action. What we have not seen, in the intervening months, is an adequate expression of this country's appreciation for the enormous sacrifice that so many young Americans and their families have been called upon to make in the Vietnam conflict. We have heard too little of the high-minded courage that they have displayed in the discharge of their duties.

Mr. President, it was recently my privilege to hear a moving tribute to the men who served their country so faithfully in the Indochina conflict, service that was made all the more difficult because of the brutality of the enemy and the dissension at home. The tribute was delivered by Mrs. Daniel J. Keating, the widow of a young marine who gave his life in Vietnam. The occasion was a dinner sponsored by the Rockland County, N.Y., Conservative Party, the proceeds of which are being used to build a monument in honor of all who had served in Vietnam. I ask unanimous consent that excerpts from Mrs. Keating's address be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

### Address by Mrs. Daniel Keating

In the rice paddies and jungles of Vietnam, thousands of American heroes laid down their rifles and their lives and met their God. These men are no less great than those who gave their lives in the American Revolutionary War, the Two World Wars, or the Korean War, and I am proud to have known one of them. My husband used to assure me that the streets of heaven are guarded by the United States Marine, so though he's been laid to rest in our beautiful Arlington Cemetery, I know he is still standing duty somewhere . . .

I feel our Vietnam casualties should be honored not because they had only one life to give but because they fought and sacrificed for all the right reasons. In no other war was the ugliness and cruelty brought so directly and vividly into our living rooms . . . and if anti-war protesters were dismayed by what they saw, imagine the anguish of a mother and father watching the screen knowing that their only son was there fulfilling his duty . . .

The real cruelty of the Vietnam War lay in the press coverage afforded to those who proclaimed allegiance to some lofty philosophy far above the well being of our own American soldiers. Instead of press coverage of U.S. fighting men helping frightened So. Vietnamese children to safety, we were sickened to watch dissension in front of the White House as protesters read off the names of our war dead. Names they weren't fit to utter in some twisted attempt to have the public believe that the valiant war dead in some way gave their blessings to such betrayal.

To the men who were taken prisoner by an enemy which did not heed the Geneva Agreement, what can we say when we face them . . . they leave us in such awe. Day in and day out they survived on rice and cabbage soup dreaming of their return to America and they heroically survived the longest imprisonment of any previous war.

Their families waiting here, living in the frustration of not knowing whether their man could survive until the end of the war . . . not knowing the whereabouts of their loved one or his condition . . . for these families we should strike a medal for they rank among the greatest Americans showing all the strength and courage of our early pioneers. Their anguish surpassed that of the widow in that they coped with sorrow and catastrophe daily while a widow faced it but once. The POWs' and their families' great day came and we hope that it was the happiest of their lives. They deserved all their Christmases rolled into one and all America wept with them in joy when their return became reality.

Now what of those of whom no fate is yet known. Their families are still living in the dark nightmare, afraid to hope, afraid to abandon hope. We cannot turn our backs on them. All they want to know is the fate of their loved one. Surely our representatives in the Congress must be continually pressured by all of us not to relinquish attempts at acquiring this information.

And we must not forget those hundreds of disabled young men who must carry the burden of their sacrifice with them for the rest of their lives. Because of improved medical attention, so many more wounded survived with disabilities in this war, as in previous wars where their lives might have been lost. We must show these young men that we are not through thanking them. It was not easy for them to go and face dangers in a far off and unpopular war and it is harder still for many of them to wage that continuing battle of life from a wheel chair.

When Estelle DiRoberts told me of your plans here in Rockland County to build a monument to our Vietnam Servicemen, I thought of how wonderful, necessary and needed it is. And how commendable of you people for feeling that this is a vital tribute you must leave for your children and for future generations. . . .

You will show our young people who the true heroes are, ensure that they are commended for their valor, and provoke our students into re-analyzing the facts. . . .

What our young people will learn from you is that war though repulsive is sometimes a necessary evil and that the men who must participate in war, do so in this country, because they believe that every man in the world has the "Right to Life, Liberty, and the Pursuit of Happiness" . . . and because they believe there is some special privilege in laying down one's life to ensure freedom for every human being."

## CONSERVATION OF HISTORIC WORKS OF ART

Mr. PELL. Mr. President, I would like to bring to the attention of my colleagues an editorial in this month's Smithsonian magazine. Written by Dr. S. Dillon Ripley, Secretary of the Smithsonian Institution, the editorial emphasizes the growing need for conservation of historic works of art. Hearings in this important subject area were held under my chairmanship last summer, as Dr. Ripley kindly points out.

He explains the particular dangers caused by automobile exhaust and other modern pollutants on carved outdoor works of art, and the possibility of finding—with a coordinated program of relatively low cost—a cure to this "stone disease" which threatens to erode not only our own cherished monuments but those throughout the world.

Dr. Ripley offers a solution to this problem which I believe merits our attention, and I ask unanimous consent that the text of this excellent and thought-provoking editorial be placed in the RECORD at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### THE VIEW FROM THE CASTLE

WHILE WE ARE TRYING TO SAVE OUR PHYSICAL ENVIRONMENT WE MUST RECOGNIZE THAT OUR CULTURAL HERITAGE IS EQUALLY IMPERILED

"The past is an interest without a constituency; it has no effective lobby." So writes Karl Meyer in his recent book *The Plundered Past* (reviewed in December Smithsonian), adding that "the past is menaced by the very civilization that has evolved from it."

Last July, Senator Claiborne Pell of Rhode Island thoughtfully convoked two days of hearings in the U.S. Senate during which particular attention was paid to the need for improved museum conservation programs. This was only the second time that such hearings had been held on a subject of which most people are crushingly unaware.

How many people know that stone sculptures in Europe are being eroded by smog before their eyes; that the lead that holds the priceless medieval stained glass in great cathedral windows is buckling helplessly; that six percent of Venice's estimated 10,000 masterpieces in marble, five percent of its frescoes, three percent of its paintings on canvas and two percent of its paintings on wood are being lost year year? If that rate is accurate, by 1990 there will be no great marbles left in Venice except for those in museums. And Venice is not alone. Professor Seymour Z. Lewin of New York University has warned that the carved outdoor art of the world "is melting away like an ice-cream cone in the summer sun." Yet for only $1 million—Dr. Lewin's figure—we might perfect a cure for the stone disease caused by automobile exhaust and the emissions of our homes and factories.

The world travel industry anually takes in some $25 billion, not counting air fare, from people going around the world to look at—what? Tumbled heaps of decay? And yet to bring about a change would be almost painless. A small tax on art sales for the benefit of UNESCO or its affiliate, the International Council of Museums, or to help support the World Heritage Fund, would do the trick. Even a subvention of a half-million dollars from the United Nations itself might be enough to start the ball rolling. One million dollars is less than big museums and wealthy collectors have recently been willing to spend on a single object. What is the value of one splashy acquisition compared with research for posterity?

An increasing number of major sites and monuments around the world, from Venice itself to Angkor Wat to Mohenjo-Daro in Pakistan, are crumbling away before the eyes of those who do not know what is happening. The World Bank has expressed an interest in shoring up economies in the Third World by helping to develop those nations' tourism. Their decaying archaeological monuments are in many cases their only assets when it comes to attracting tourists and attempting to achieve a more favorable balance of payments.

In June 1972 I attended in Stockholm the first U.N. Conference on the Human Environment. It was chiefly concerned with the deterioration of our physical environment. Meyer hopes, in his book—as I do—that a similar international conference under the same auspices may be called to discuss the deterioration of our cultural environment. The two are part and parcel of the same thing—the one will be lost with the other.

## ANNIVERSARY OF UKRAINIAN INDEPENDENCE

Mr. PERCY. Mr. President, this week marks the 56th anniversary of Ukrainian independence. It is an important time for Ukrainian Americans who hold fast to the hope that one day the Ukraine will once again be free.

On this occasion I salute the people of the Ukraine for their indomitable spirit under adverse conditions. I also salute all the dedicated Ukrainian Americans who have enriched American life by their energy and talents. They have a right to be proud of their important cultural, economic, and political contributions to America.

## THE SMALL WOOD LOT OWNER CAN FORESTALL NATIONAL CRISIS

Mr. TALMADGE. Mr. President, we become so accustomed to reading about shortages of raw materials in this country that they have become common rather than the unusual.

One of the most severe of these shortages is that of paper and other wood products.

More than half of our Nation's timber resources have heretofore been wasted because the small wood lot owners, who own more than half of our Nation's potential timber reserves, have not been encouraged to manage their resources to provide the timber which America needs so desperately.

Last year, as part of our major farm legislation, the Congress adopted a significant forestry incentives measure which should do much to bring the small wood lot into the economic main stream of commercial forestry.

As the January issue of American Forests magazine says, the small land owner is "A Man Whose Time Has Come."

Mr. President, I ask unanimous consent that an important article from the magazine on the new role of the private forest owner be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### A MAN WHOSE TIME HAS COME

(By Scot Butler)

Who are the Four Million? They are doctors, dentists and business men and others in cities and farmers in rural areas who own 296 million acres of forest land in the nation (59 percent of the total in tracts of less than 5,000 acres. Many of these tracts are poorly managed for any use whatsoever but the need for them is increasing. Strong efforts are being made to help them. Their time has finally come. Moreover, owning a forest appeals to young people.

If you are an owner of private woodlands, your time has finally arrived.

Despite the preponderance of attention usually devoted to public and industrial forests, the small forest owner is now in the spotlight.

His reactions will be crucial in determining the fate of our nation's forests during the next few decades. Whether or not small private forests live up to their star billing depends entirely on *you*, the owner of private woodlands.

#### WHO ARE THEY?

There are approximately four million owners of private, nonindustrial forests in tracts of less than 5,000 acres. Such forests occupy 296 million acres, constituting 59 percent of the commercial forest land in the United States.

Very few generalizations can be made about these owners. Some are farmers, many are not. A sizable proportion are absentee owners who hold forest land for any number of reasons: recreation, speculation, timber production, wildlife management, interest in environmental concerns, and many more known only to the owner himself. Very importantly though, only a small fraction of these owners (ten percent at most) currently practice any form of forest management on their lands, and an even smaller number (two or three percent) are involved in organized programs to encourage management. Perhaps the only justifiable generalization which can be made is that small forest owners are essential to the future of forestry.

### WHY ARE THEY IMPORTANT?

But why are small forests so important? And why do they present a problem? The answers to these questions form an interlocking network of conditions which might be described as the plight of private woodlands. First of all, small private woodlands are simply substandard. The quality of timber and the vitality of the trees in these forests are generally inferior to that of comparable public and industrial forests. This situation has arisen because private forests have been the victims of both abuse and neglect.

If only for their own sake, trees need the attention and care provided by forest management practices.

Compounding the situation, moreover, is the increasing demand placed on forests and forest use. More timber production is required by the economy, more recreational space is demanded by the populace, and the ecological aspects of forests, such as wildlife habitat improvement or small watershed protection, are constantly expending. As these demands mount, the public and industrial forest lands upon which we have been relying are overwhelmed. The nation is turning to private woodlands, but the private woodlands are not ready. They are producing wood and wood products at only half their capacity (even without improvements their production should be higher), and the opportunities they provide for multiple uses, such as recreation, could be more than doubled. Both economically and ecologically, these forest lands are substandard; to meet rising demand and to insure that their forests remain healthy and productive, woodland owners must begin to practice forest management.

### SMALL WOODLANDS—THEIR CONDITION

Nonindustrial private forests are in poor shape. More than 25 million acres of forest land are non-stocked and should be planted or seeded. Approximately 50 million acres are so poorly stocked that partial reforestation or clearing and conversion to better species is needed. At least 120 million acres need timber stand improvement. These conditions have appeared because owners have not fully understood the need for management, and even were they to do so, management has often proven impracticable or impossible.

In the past, and even occasionally today, a woodland owner might cut his timber with no thought for the future. Consequently, the need for planting and reforestation has become massive. In reaction to scarred and barren forest land, many owners today refuse to "touch" their woodlands, even for management purposes. This concern for the forest is both genuine and commendable, but it is nonetheless misplaced. Such forests become overgrown and clogged, and sooner or later nature comes in to clear them up, through fire, weather, decay, overpopulation of animals, or some other elemental force. Not only does such a condition prevent the use of the forest now, but it destroys the forest's potential usefulness through repeated death and rebirth. An untended forest is neither healthy nor helpful, and while a forest in its natural state is fine in a relatively simple civilization, it would not be left alone for long in the modern world. Even untouched land is likely to end up as a site for development or industry.

The very fact that a managed forest is useful may save it from eventual destruction.

### WHY AREN'T SMALL WOODLANDS MANAGED?

What then, has prevented more owners from turning to forest management? This was the question tackled by a group of experts in forestry, resource conservation, and related fields known as *Trees For People* (TFP). These researchers found that many owners simply had no information about the possibilities of forest management. Complicating this information gap was a communication barrier, aggravated by the fact that many owners misunderstood the nature of forest management or mistrusted foresters and conservationists. Many owners simply were not interested in doing anything to their forest property. And, of those owners who had information, interest, and initiative, nearly all mentioned economic obstacles. Not only were there no economic gains to be made through forest management, there were actually many economic disincentives.

*Trees For People,* in conjunction with several other programs interested in helping with the small forest problem, sought solutions at federal, state, and local levels. Yet in doing so, they recognized that landowners hold widely disparate views concerning their woodlands. This was reflected in the primary purpose of the *Trees For People* campaign. "Above all, the objective of utmost importance is that of assisting the landowner, through forest management, in achieving whatever use he has in mind for his property." To solve the timber supply problem, forest management is urgently and ultimately needed; yet in no way would timber management be allowed to destroy any other values a landowner might place on his forest land. Rather, the private owner of a small woodland will have *far more control* over the uses of his land if he will accept the fact that forest management is a multiple-use tool.

### THE OUTLOOK IS BRIGHTER

As a result of the efforts of *Trees For People* and groups like it, the outlook for you, the owner of private nonindustrial forest land is brighter today than ever before; but you must begin to act now. Substantial legislation has been enacted by Congress. New funding has been approved for fire protection, reforestation, the Cooperative Forest Management Program, research into control of insects and diseases, and urban environment improvement. Most recently, the Forest Incentives provision was enacted as part of the Farm Bill, providing federal cost-sharing, administered through state forestry agencies, for owners who wish to initiate forest management practices on their lands. With these measures passed, the private forest owner has both the incentive and the opportunity to practice management.

Moreover, the market situation is improving due to an impending shortage of wood. Forest industries will be searching more intensively for new supply, and they will turn to the private owner. Thus, two of the biggest problems, cost and marketing, are being alleviated. But *Trees For People* became aware that there were many other problems facing small, private, nonindustrial forests. Studies were undertaken in several major problem categories: Attitudes, Availability and Application of Technical Knowledge, Risk, Small Scale Diseconomies, Labor and Equipment, Lack of Capital Investment, and Taxation. To encourage continued work in these areas, Trees for People published a report and a full set of recommendations. They are as follows:

### TWELVE RECOMMENDATIONS

1. Coordinate information about all public forestry programs at the community (county) level, so that a landowner seeking assistance need only make a single contact. This service should include referrals to consultants, contractors, loggers, wood buyers, and related private suppliers.

2. Provide forest owners with services they cannot provide for themselves; i.e., adequate protection against damage by fire, insects, or diseases; more technical information; further research in management, silviculture, and utilization; increased development of markets; and maintenance of a favorable public climate for forestry.

3. Share the cost of capital investments in long-term activities that are in the public interest, such as planting trees, applying intensive multiple-use management practices, enhancing wildlife habitat and outdoor recreation potential, and maintaining esthetic values for public enjoyment.

4. Continue and intensify present educational programs by public agencies, forest industries, and conservation associations.

5. Devise new tax laws that recognize the long-term potential of forests and their contributions to the environment while maintaining current federal provisions applying to timber uses.

6. Encourage owners of small forests to work together and assemble larger units for economical and professional management of their properties.

7. Develop reliable sources of labor and equipment.

8. Arrange sources of long-term, low-interest loans for purposes of approved improvement programs.

9. Encourage forest owners to develop multi-purpose plans of management, including recreation, wildlife habitat, range rehabilitation, watershed protection, and enhancement of the environment, as well as timber production.

10. Classify forest lands for intensive management so that incentives may be applied to the most productive sites first. Productivity need not be defined only in terms of timber. Rather, if the management plan presented by the owner reveals a high potential for watershed development, recreational enhancement, or the encouragement of wildlife, the site's productivity should be assigned the same classification as a comparable timber production site.

11. Authorize adequate emergency funds for prompt control of potentially disastrous outbreaks of fire, insects, and diseases.

12. Encourage a leasing program on an economically sound basis that will assure intensive management of small forests and at the same time provide their owners with annual sources of income.

In view of these specific recommendations, perhaps the most important conclusion at which *Trees For People* arrived was that the private owner must act to undertake forest management, and that the time for action is *now*. All the help that can be given him will be forthcoming, but it is the owner himself who must take the initiative.

### WHAT TO DO

If you are an owner who wishes to find out more about the specifics of forest management, or if you wish to initiate forest management on your land and are interested in drawing up a management plan or applying for federal assistance, you should contact the nearest state forestry agency—State Forester. Extension Forester, or Service Forester (in some cases these are listed as District or Area Foresters). In addition, if you are interested in forest management programs, or if you desire advice about technical questions you should contact one of the above agencies, or, where they are available, consulting foresters. In general, all these agencies are in close contact with each other, as well as with Conservation Districts, suppliers and consultants. They should be able to refer any inquiry which they cannot answer to the appropriate place. If you would like a copy of the *Trees For People* report, "The Challenge of Private Woodlands," it is available for two dollars a copy from The Ameriican Forestry Association, 1319 18th St NW, Washington, D.C. 20036. [*These will be distributed on a first come, first served basis as our supply is limited.*]

Above all, please take some action now!

## MARK TRICE RETIRES

Mr. HUGH SCOTT. Mr. President, for the first time since 1950, the Republican Members of the Senate begin a session of Congress without the guiding hand of our secretary, Mark Trice.

On December 30, Mark retired from Government service after more than 53 years.

Mark came to the Senate as a page in 1916 and, except for about 3 years in the late twenties and early thirties, has served the Senate. He became secretary to the minority in 1950 and with the exception of 2 years when he was Secretary of the Senate, he has functioned in that capacity.

We Republicans shall miss him. His wise counsel and guidance and his devotion to his duties have been outstanding.

Mark Trice more than deserves the years ahead in retirement to spend with his charming wife, Margaret, and his family. We shall miss him. We wish him well, and we hope that he will still be available from time to time to offer his sage advice to us Republican Senators.

## THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, this week the Senate will take up consideration of the Genocide Convention—a treaty first submitted to this body by the late President Truman in 1949. That was nearly a quarter century ago. Throughout the intervening years, five American Presidents have exhorted the Senate to give its consent. In fact, a full generation has been born and grown to manhood and still we have failed to act.

As I have said on innumerable occasions on the floor of the Senate, ratification of the Genocide Convention is a matter of the utmost importance for our country. I firmly believe that now the Senate has the best chance to achieve ratification since the treaty was first submitted. We must not miss this chance. To do so would be a tragic failure to fulfill our moral obligations in the field of human rights.

Secure in our own dedication to the concepts of human rights, the United States took the lead in drafting the United Nations Declaration on Human Rights which provides that "all human beings are born free and in equal dignity and rights." The universal declaration states that everyone "has a right to life, liberty, and security of person."

It was envisioned that this declaration would set forth broad guidelines for the international community—guidelines which are totally consistent with American ideals I might add—and this document would be followed by a series of human rights treaties to give these ideals the force of international law. The genocide was the first such treaty.

Mr. President, the history of mankind is marred by tragic accounts of man's inhumanity to his fellow man through violation of fundamental human rights—rights which we in this country take for granted. The programs against 6 million Jews in Nazi Germany were perhaps the most infamous example of attempts at systematic genocide. Determined that genocide should be dealt with forcefully, the United Nations declared in December 1946 that it was to be treated as an international crime.

The U.N. Genocide Convention translated the intent of this resolution into a formal treaty and it was passed by the General Assembly in 1948 by a vote of 55–0. The role of the United States was crucial in drafting the treaty and in securing unanimous support for the treaty.

Since that time over 75 nations around the globe have ratified this treaty—including all of our major allies. The fact that the United States has not ratified this convention has puzzled our allies and delighted our enemies. It has been a diplomatic embarrassment for our representatives abroad who are at a loss to explain our reluctance to act.

As I see it, there are three things to be gained from ratification. First, it will reaffirm our basic commitment to human rights. Second, it should serve to awaken interest in ratification among third world nations. And third, it would further the development of international law in this vital field.

Mr. President, recently there has been quite a bit of discussion regarding the connection between human rights and improved relations between nations. I firmly believe that if we are ever to achieve our long-term goal of world peace, we must promote human rights on a global scale.

The United States must put itself on record as being against this monstrous crime. We must dedicate ourselves to its prevention and punishment and reassert our moral leadership in the field of human rights. To do anything less would be to betray the noble aspirations set forth so well in our own Declaration of Independence.

## NUCLEAR POWER IN ILLINOIS

Mr. PERCY. Mr. President, in relation to the Nation's demonstrated need for alternative energy sources, I would like to call the attention of the Senate to Illinois' use of nuclear power to produce electricity and the extent to which it has been implemented. Illinois is now the Nation's No. 1 State in producing electricity from nuclear powerplants.

Due to the State's present reliance on nuclear generators, it is less probable that Illinois will be forced to suffer any reductions in electrical power during the current fuel shortages. Illinois' favorable electrical energy situation is the result of the effort and foresight of Messrs. J. Ward Harris and Tom Ayres, respectively the former and present chairmen of the board of the Commonwealth Edison Co. I commend these industrial leaders for their initiative in this vital area. Evidence indicates that the company anticipated the current oil shortage by at least one decade by constructing safe and effective nuclear powerplants throughout the State.

Less than 10 percent of Illinois' powerplants are dependent on oil or natural gas for firing. The majority are fired by either uranium or coal, two relatively abundant resources.

Nuclear generators currently supply the State with one-third of its electricity. When compared with the national level, where nuclear power accounts for only 5 percent of electrical energy, the Illinois figure is overwhelming. By 1980, the Commonwealth Edison Co., expects to meet one-half of the State's energy needs with nuclear power.

While I am very much aware of the facts surrounding nuclear power which make it a continually controversial and volatile issue, it seems clear that our Nation's future electrical energy needs will have to be met in large part by nuclear generators. On the basis of the positive actions taken in this regard by the Commonwealth Edison Co., I submit that the know-how exists for the further development of safe and effective nuclear power. Efforts must become focused on educating the public on the need for the construction of nuclear powerplants and on assuring the absolute safety of these plants. A goal of conciliation must be set in meeting the controversy head on. I believe we should proceed with negotiations and accommodations of all sides so that the very essential research and development of safe and effective nuclear powerplants can be pursued.

Mr. President, I ask unanimous consent to insert in the RECORD an article, "Nuclear Power Makes Illinois Rich in Electricity" by Ronald Kotulak, which appeared in the Chicago Tribune on December 16, 1973, and which outlines the status of nuclear power generating plants in Illinois.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### NUCLEAR POWER MAKES ILLINOIS RICH IN ELECTRICITY

(By Ronald Kotulak)

Illinois is in the enviable position of being the state least likely to suffer cutbacks in electricity as a result of the energy crisis.

While officials of Commonwealth Edison Co., which supplies electricity to about 80 per cent of the state's population, aren't publicly crowing, they are inwardly glowing that the company's foresight has made Illinois probably the nation's most electricity-rich state.

There will be no electrical power cutbacks in Illinois such as the 10 per cent reduction ordered for Los Angeles starting Friday, and similar drastic reductions predicted for the East Coast as oil supplies used for generating stations continue to dwindle, according to Edison officials.

In fact, Commonwealth Edison has been asked by the federal government to see if it can't help the eastern seaboard by sending it electricity.

"We think we are in pretty good shape and that the home owners in Illinois will not feel any electricity pinch," said Byron Lee Jr., Edison vice president.

There are two reasons for the state's ample supply of electricity. First, in the early 1960s Edison made a major commitment to nuclear energy as the energy of the future. Illinois is now the country's No. 1 state for producing electricity from nuclear-powered generating stations. Second, all but 10 per cent of the company's stations are either nuclear or coal fired, thereby reducing dependence on scarce oil or natural gas.

President Nixon has called for a speedup in the construction of new nuclear generating plants to ease the looming energy crunch.

But Illinois already is way ahead. While nuclear power accounts for only 5 per cent of the nation's electricity, Edison is generating almost one-third of its electricity from nuclear plants. By 1980, one half of the company's electricity will come from nuclear stations.

The company has six nuclear generators in operation. The next closest states are New York with four and Pennsylvania, North Carolina, and Wisconsin with three each.

Including two big nuclear units planned by the Illinois Power Co., Illinois has a total of 15 nuclear units in operation, being built, or planned, the largest number of any state.

Illinois' leading position in nuclear energy is part of its atomic heritage. It was here, at the University of Chicago in 1942, that a team of scientists headed by Enrico Fermi opened the atomic age with man's first controlled nuclear reaction.

And it was here at Morris, Ill., in 1960, that the world's first privately owned nuclear station, Dresden I, showed the world that nuclear plants could be operated safely and economically.

Thruout the country there are 39 nuclear plants in operation, 59 being built, and 90 planned, according to the Atomic Energy Commission. An AEC spokesman said the commission is attempting to reduce the time it takes between planning and operation of a nuclear station from 12 to 15 years to 6 to 10 years.

Edison's operating plants include three units at Dresden, two units at Quad-Cities near Moline, and one unit at Zion. The units under construction include one unit at Zion, which is scheduled to start up in a few weeks, and two units near Ottawa in La Salle County. The planned stations include two units at Byron, near Rockford, and two units at Braidwood, near Joliet.

The two planned units of the Illinois Power Co. are scheduled to be located near Clinton in DeWitt County.

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## PROTECTION AGAINST OVERPAYMENT OF INCOME TAXES

Mr. CHURCH. Mr. President, an estimated 78 million Federal income tax returns will be filed during 1974.

Practically all Americans will be affected in one way or another.

Recent hearings conducted by the Senate Committee on Aging have provided disturbing evidence that large numbers of older Americans overpay their taxes for a variety of reasons.

Some witnesses have estimated that perhaps one-half of all elderly individuals may pay more taxes than legally required.

In far too many cases, these persons are totally unaware of helpful deductions which can save them precious dollars.

Others are completely baffled by the complexity of the voluminous Internal Revenue Code—undoubtedly one of the most complicated statutes ever enacted. Without the benefit of effective counsel, this can be a nightmarish experience for the untrained or unsuspecting.

The net impact is that many low- and moderate-income Americans overpay their taxes—while the very powerful oftentimes pay little or no taxes at all. In 1971, for example, 72 returns with adjusted gross incomes of $200,000 or more escaped Federal income tax altogether. And, 1,286 returns with adjusted gross incomes of at least $50,000 paid no tax whatsoever.

This favoritism for a privileged few must come to an end immediately. The aged, disabled, and other persons with moderate means have been shouldering a disproportionate share of the tax burden for far too long.

As chairman of the Senate Committee on Aging, I have been especially concerned about income tax overpayments by the elderly and others.

To help provide protection against this serious problem, the committee has prepared a helpful checklist of deductions which can save aged taxpayers hundreds or perhaps even thousands of dollars.

This listing, I want to stress, is not intended to be an exhaustive summary of all available deductions for every conceivable circumstance. But it can provide a helpful checklist for persons who itemize their allowable expenses. It can also provide guidance to determine whether it would be to the advantage of the taxpayer to itemize his deductions or take the standard deduction or low-income allowance. Additionally, this summary can be useful for all age groups because most tax provisions apply with equal force to the young as well as the old.

The committee has also prepared a brief description of additional tax relief provisions for older Americans.

Mr. President, I ask unanimous consent that the Committee on Aging's checklist of allowable deductions for schedule A and the summary of other tax relief provisions for older Americans be inserted at this point in the Record.

There being no objection, the list was ordered to be printed in the Record, as follows:

### CHECKLIST OF ITEMIZED DEDUCTIONS FOR SCHEDULE A (FORM 1040)

#### MEDICAL AND DENTAL EXPENSES

Medical and dental expenses are deductible to the extent that they exceed 3% of a taxpayer's adjusted gross income (line 15, Form 1040).

#### INSURANCE PREMIUMS

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3% limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3% rule.

#### DRUGS AND MEDICINES

Included in medical expenses (subject to 3% rule) but only to extent exceeding 1% of adjusted gross income (line 15, Form 1040).

#### OTHER MEDICAL EXPENSES

Other allowable medical and dental expense (subject to 3% limitation):

Abdominal supports.
Ambulance hire.
Anesthetist.
Arch supports.
Artificial limbs and teeth.
Back supports.
Braces.
Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. Taxpayer should have an independent appraisal made to reflect clearly the increase in value.
Cardiographs.
Chiropodist.
Chiropractor.
Christian science practitioner, authorized.
Convalescent home (for medical treatment only).
Crutches.
Dental services (e.g., cleaning teeth, X-rays, filling teeth).
Dentures.
Dermatologist.
Eyeglasses.
Gynecologist.
Hearing aids and batteries.
Hospital expenses.
Insulin treatment.
Invalid chair.
Lab tests.
Lip reading lessons (designed to overcome a handicap).
Neurologist.
Nursing services (for medical care).
Ophthalmologist.
Optician.
Optometrist.
Oral surgery.
Osteopath, licensed.
Pediatrician.
Physical examinations.
Physician.
Physiotherapist.
Podiatrist.
Psychiatrist.
Psychoanalyst.
Psychologist.
Psychotherapy.
Radium Therapy.
Sacroiliac belt.
Seeing-eye dog and maintenance.
Splints.
Supplementary Medical Insurance (Part B) under Medicare.
Surgeon.
Transportation expenses for medical purposes (6c per mile plus parking and tolls or actual fares for taxi, buses, etc.).
Vaccines.
Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health).
Wheelchairs.
Whirlpool baths for medical purposes.
X-rays.

#### TAXES

Real estate.
State and local gasoline.
General sales.
State and local income.
Personal property.

If sales tax tables are used in arriving at your deduction, you may add to the amount shown in the tax tables only the sales tax paid on the purchase of 5 classes of items: automobiles, airplanes, boats, mobile homes and materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income (e.g., Social Security or Railroad Retirement Annuities).

#### CONTRIBUTIONS

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 15, Form 1040). However, contributions to certain private nonprofit foundations, veterans organizations, or fraternal societies are limited to 20 percent of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals, or (3) Federal, state or local governmental units (tuition for children attending parochial schools is not deductible). Fair market value of property (e.g. clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 6c per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g., scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g. postage, stationary, phone calls) while rendering services for charitable organizations.

Care of unrelated student in taxpayer's home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

INTEREST

Home mortgage.

Auto loan.

Installment purchases (television, washer, dryer, etc.)

Bank credit card—can deduct the finance charge as interest if no part is for service charges or loan fees, credit investigation reports. If classified as service charge, may still deduct 6 percent of the average monthly balance (average monthly balance equals the total of the unpaid balance for all 12 months, divided by 12) limited to the portion of the total fee or service charge allocable to the year.

Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money. Not deductible if points represent charges for services rendered by the lending institution (e.g. VA loan points are service charges and are not deductible as interest). Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized).

Penalty for prepayment of a mortgage—deductible as interest.

Revolving charge accounts—may deduct the "finance charge" if the charges are based on your unpaid balance and computed monthly.

CASUALTY OR THEFT LOSSES

Casualty (e.g. tornado, flood, storm, fire, or auto accident provided not caused by a willful act or willful negligence) or theft losses to nonbusinesses property—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. You may use Form 4684 for computing your personal casualty loss.

CHILD AND DISABLED DEPENDENT CARE EXPENSES

The deduction for child dependent care expenses for employment related purposes has been expanded substantially. Now a taxpayer who maintains a household may claim a deduction for employment-related expenses incurred in obtaining care for a (1) dependent who is under 15, (2) physically or mentally disabled dependent, or (3) disabled spouse. The maximum allowable deduction is $400 a month ($4,800 a year). As a general rule, employment-related expenses are deductible only if incurred for services for a qualifying individual in the taxpayer's household. However, an exception exists for child care expenses (as distinguished from a disabled dependent or a disabled spouse). In this case, expenses outside the household (e.g., day care expenditures) are deductible, but the maximum deduction is $200 per month for one child, $300 per month for 2 children, and $400 per month for 3 or more children.

When a taxpayer's adjusted gross income (line 15, Form 1040) exceeds $18,000, his deduction is reduced by $1 for each $2 of income above this amount. For further information about child and dependent care deductions, see Publication 503, Child Care and Disabled Dependent Care, available free at Internal Revenue offices.

MISCELLANEOUS

Alimony and separate maintenance (periodic payments).

Appraisal fees for casualty loss or to determine the fair market value of charitable contributions.

Campaign contributions (up to $100 for joint returns and $50 for single persons).

Union dues.

Cost of preparation of income tax return.

Cost of tools for employee (depreciated over the useful life of the tools).

Dues for Chamber of Commerce (if as a business expense).

Rental cost of a safe-deposit box for income producing property.

Fees paid to investment counselors.

Subscriptions to business publications.

Telephone and postage in connection with investments.

Uniforms required for employment and not generally wearable off the job.

Maintenance of uniforms required for employment.

Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).

Business entertainment expenses.

Business gift expenses not exceeding $25 per recipient.

Employment agency fees for securing employment.

Cost of a periodic physical examination if required by employer.

Cost of installation and maintenance of a telephone required by the taxpayer's employment (deduction based on business use).

Cost of bond if required for employment.

Expenses of an office in your home if employment requires it.

Payments made by a teacher to a substitute.

Educational expenses required by your employer to maintain your position or for maintaining or sharpening your skills for your employment.

*Political Campaign Contributions:* Taxpayers may now claim either a deduction (line 33, Schedule A, Form 1040) or a credit (line 52, Form 1040), for campaign contributions to an individual who is a candidate for nomination or election to any Federal, State or local office in any primary, general or special election. The deduction or credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a national political party, (3) state committee of a national political party, or (4) local committee of a national political party. The maximum deduction is $50 ($100 for couples filing jointly). The amount of the tax credit is one-half of the political contribution, with a $12.50 ceiling ($25 for couples filing jointly).

*Presidential Election Campaign Fund:* Additionally, taxpayers may voluntarily earmark $1 of their taxes ($2 on joint returns), to help defray the costs of the 1976 presidential election campaign. If you failed to earmark $1 of your 1972 taxes ($2 on joint returns) to help defray the cost of the 1976 presidential election campaign, you may do so in the space provided above the signature line on your 1973 tax return.

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contacting your local IRS office.

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OTHER TAX RELIEF MEASURES FOR OLDER AMERICANS

| Filing status: | *Required to file a tax return if gross income is at least* |
|---|---|
| Single (under age 65) | $2,050 |
| Single (age 65 or older) | 2,800 |
| Married couple (both spouses under 65) filing jointly | 2,800 |
| Married couple (1 spouse 65 or older) filing jointly | $3,550 |
| Married couple (both spouses 65 or older) filing jointly | 4,300 |
| Married filing separately | 750 |

*Additional Personal Exemption for Age:* In addition to the regular $750 exemption allowed a taxpayer, a husband and wife who are 65 or older on the last day of the taxable year are each entitled to an additional exemption of $750 because of age. You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1974, you will be entitled to the additional $750 personal exemption because of age for your 1973 Federal income tax return.

*Multiple Support Agreement:* In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met: (1) Support, (2) Gross Income, (3) Member of Household or Relationship, (4) Citizenship, and (5) Separate Return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support. However, it still may be possible for one of the individuals to be entitled to a $750 dependency deduction if the following requirements are met for multiple support:

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10 percent of the mutual dependent's support, *but only one of them,* may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

*Sale of Personal Residence by Elderly Taxpayers:* A taxpayer may elect to exclude from gross income part, or, under certain circumstances, all of the gain from the sale of his personal residence, provided:

1. He was 65 or older before the date of the sale, and

2. He owned and occupied the property as his personal residence for a period totaling at least five years within the eight-year period ending on the date of the sale.

Taxpayers meeting these two requirements may elect to exclude the entire gain from gross income if the adjusted sales price of their residence is $20,000 or less. (This election can only be made once during a taxpayer's lifetime.) If the adjusted sales price exceeds $20,000, an election may be made to exclude part of the gain based on a ratio of $20,000 over the adjusted sales price of the residence. Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded by an elderly taxpayer when he sells his home.

Additionally, a taxpayer may elect to defer reporting the gain on the sale of his personal residence if within one year before or one year after the sale he buys and occupies another residence, the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence or (2) you were on active duty in the U.S. Armed Forces. Publication 523 (Tax Information on Selling Your Home) may also be helpful.

*Retirement Income Credit:* To qualify the retirement income credit, you must (a) be a U.S. citizen or resident, (b) have received earned income in excess of $600 in each of any 10 calendar years before 1973, and (c) have certain types of qualifying "retirement income". Five types of income—pensions, annuities, interest, and dividends included on line 15, Form 1040, and gross rents from Schedule E, Part II, column (b)—qualify for the retirement income credit.

The credit is 15 percent of the lesser of:

1. A taxpayer's qualifying retirement income, or

2. $1,524 ($2,286 for a joint return where both taxpayers are 65 or older) minus the total of nontaxable pensions (such as Social Security benefits or Railroad Retirement annuities) and earned income (depending upon the taxpayer's age and the amount of any earnings he may have).

If the taxpayer is under 62, he must reduce the $1,524 figure by the amount of earned income in excess of $900. For persons at least 62 years old but less than 72, this amount is reduced by one-half of the earned income in excess of $1,200 up to $1,700, plus the total amount over $1,700. Persons 72 and over are not subject to the earned income limitation.

Schedule R is used for taxpayers who claim the retirement income credit.

The Internal Revenue Service will also compute the retirement income credit for a taxpayer if he has requested that IRS compute his tax and he answers the questions for Columns A and B and completes lines 2 and 5 on Schedule R—relating to the amount of his Social Security benefits, Railroad Retirement annuities, earned income, and qualifying retirement income (pensions, annuities, interest, dividends, and rents). The taxpayer should also write "RIC" on line 17, Form 1040.

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## SENATOR GOLDWATER ON "MEET THE PRESS"

Mr. HUGH SCOTT. Mr. President, our colleague, the distinguished Senator from Arizona (Mr. Goldwater) made some interesting observations on a recent "Meet the Press" show. I believe Members will find his candid and enlightening responses very informative. I ask unanimous consent that the "Meet the Press" transcript be printed in the Record.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

### "Meet the Press"—Interview, January 13, 1974

Guest: Senator Barry Goldwater (R. Ariz.)

Moderator: Edwin Newman NBC News.

Panel: M. Stanton Evans, Indianapolis News; Hugh Sidey, Time Magazine; Paul Duke, NBC News, and Lawrence E. Spivak.

Mr. Newman. Our guest today on MEET THE PRESS is Senator Barry Goldwater of Arizona. Senator Goldwater was the Republican presidential candidate in 1964 and he is now serving his third term in the Senate.

We will have the first questions from Lawrence E. Spivak, regular member of the Meet the Press.

Mr. Spivak. Senator Goldwater, two months ago you issued a formal statement in which you said that President Nixon's credibility has reached an all-time low from which he may not be able to recover. What is your appraisal of the President's situation today?

Senator Goldwater. I think he has started a recovery. It is not easy to tell how high that recovery has gone, but I think he is better off now than he was when I made that remark.

Mr. Spivak. Now, the story in the Washington Post the other day quotes a White House press secretary as saying that the President now feels he has laid to rest all the Watergate charges against him. Now, you had something to do with what is now known as "Operation Candor." Do you agree that the President has now answered the major charges that have been made against him?

Senator Goldwater. I think we have to remember that the Watergate Committee that has done the investigating, Archibald Cox, during his brief tour, and others connected, have made no formal charges against the President. The questions that have arisen in the minds of the American people have come from repetition on the daily television recital of the hearings and the constant and understandable exposure in the press.

I can't recall any direct charge of a Watergate nature made towards the President. I think frankly the American people now have more or less forgotten Watergate and are more worried about other things and understandably so.

Mr. Spivak. Now, despite all that a recent Roper poll indicated 79 per cent of the American people or at least 79 per cent of those polled said that one or more of the most serious charges on Watergate against the President were justified. Now, do you think it is possible for the President to rule effectively when such a large percentage of the American people believe that?

Senator Goldwater. I think that was a poll paid for by the American Civil Liberties Union if I am not mistaken and they are one of the groups who are after the President, whether there had been a Watergate or not, so I have to take rather a dismal view of the poll. I think the President can rule. I remember when Harry Truman sunk to about the same level of public opinion and credibility and today I think he is probably the best President we have had in this century. So I don't just take the fact that he has been down in the polls to mean that he can't lead. I think he can lead and I think he is leading.

Mr. Spivak. Senator, I think you will admit though, whether or not you agree with some of the polls, that the American people are unhappy and are confused about this Watergate situation.

Senator Goldwater. There is no question.

Mr. Spivak. They certainly seem to have lost confidence in the President and yet are not ready for impeachment. You have advised the President on the problems that he has faced. What advice would you give the American people?

Senator Goldwater. Well, the advice that I gave them—of course it is not up to me to give the American people advice, they usually advise me. I just suggested that we cool it, that we get off this man's back and let's see what the Ervin Committee comes up with in the way of formal charges, and I know they are having a very difficult time ironing this thing all out and sorting it out. We have much greater problems in this country and in this world than Watergate and I think the American people are taking that attitude: Let's get these other things solved, and unless there is something more unusual about the President and Watergate than has come out, let's get off his back. Either impeach him or not. I like what George Aiken said in that respect.

(Announcements.)

Mr. Sidey. Senator, if you really had your "druthers" would you like to see the President resign rather quietly and Mr. Ford take over as President?

Senator Goldwater. No, I really wouldn't. For a reason. Sometimes we get so engrossed in domestic matters in this country that we forget the biggest job of the President is foreign policy and in my travels in other parts of the world very recently I find the world to have a very high opinion of President Nixon and Mr. Kissinger. I think they sense in the United States the ability now—something we haven't shown at least during my experience—an ability to get peace in the Middle East; to begin to get the super powers together.

Now, if the President were to resign at this particular moment, I think it would cause an unusual upheaval in American politics.

I can't believe, for example, that the Democratic party would sit idly by and allow Vice President Ford to become President. I think they might start an effort for a constitutional amendment whereby they would call for a special election and if anything like this came about where we didn't have an orderly transition at this time in the world's history, I think it could raise havoc with the whole world.

Mr. Sidey. Senator, you have mentioned that you go around this country a great deal. How do you respond to questions from mothers, from teachers who are very concerned about having the example of this administration, whether or not the President is directly responsible, but the example to continue before particularly young people, as certainly an administration that has in many ways been corrupt, has certainly defied many of the Americans ideals in various ways. How do you respond to that question?

Senator Goldwater. Well, it is not easy to respond to. Frankly, it is not put to me a great deal. I get it more in the form of letters from young people and questions in those letters.

The thing that disturbs me about this, and I know it is not in direct answer to your question, is that all of this rubs off on all of us. It is not just something's wrong in the White House; it is something's wrong with politicians and this is going to rub off on the whole American political system, and I am worried about this because if the American people develop an apathy because of Watergate, because of the gasoline shortage, because of any crisis that we are now in that they want to try and blame on a party or a President, then we may find the people staying home from the polls and if this happens we will in effect be ruled by—when I say "minority," I don't mean ethnic groups or anything like that; I mean groups who are only interested in their own well-being and we are pretty close to that right now.

I am more worried about that than I am about trying to explain what might look to some people as something wrong.

I don't like to go back to other presidential experiences but we could—I don't like to use the wrongs of other people to try to correct the wrongs of today. So I just try to reason the best I can, that all of us are not inclined the way they might think we are.

Mr. Evans. Senator, you said you thought the American people justifiably were more concerned about other things at this point than the Watergate and I would presume from your subsequent remarks that you would include in that list the energy crisis.

One thing that has puzzled me—and I would like your response on—is the fact that so far as I can determine much of this energy crisis has been produced by excessive governmental regulation of various sources of energy being closed off and yet the response here in Washington seems to be: Let's have more regulation.

Now, is anybody pushing or advocating as a solution to this crisis that we start deregulating some of these stultified sources of energy?

Senator Goldwater. Well a number of us have tried to do this on the floor of the Senate during the lengthy debate on a number of energy bills. But we have met with no success. One I can cite is natural gas. We in the Southwest depend on natural gas, but if we have to live with the unworkable rules that have been put upon the natural gas industry and the development of new sources, we are in trouble. I am glad you brought this subject up because during the nearly two months of arguing on energy, during which time we have passed nine laws and considered 32 other bills, only one has put one more gallon of gasoline in the American people's gas tanks and that has been Elk Hills field that has already been developed. Or we might consider the Alaskan pipeline, but I think that was a foregone conclusion. We have done nothing to encourage a man, for example, or a company to go drill a new hole in the ground. We have discouraged for nearly 40 years enterprising ambitious Americans from going out and looking for new gas and oil. I am no expert on the subject but I believe we have enough fuel under the ground in this country to satisfy the needs of this country at least for the years it will take for us to develop new energy sources. So far on the Hill we have been playing politics with it. We haven't dealt with the problem, we have been adding more regulations, more agencies, more obstacles for the American entrepreneur to overcome. But this is typical, I might say.

Mr. EVANS. Would you advocate as a possible solution the abolition of wage and price controls?

Senator GOLDWATER. Oh, yes. I don't believe they are ever going to work. They never have worked in the history of economics. That would be one approach. I would advocate, for example, a very, very lenient depreciation allowance for a man or a company that wants to go drill a hole in the ground. That is what the American people want. They want to drive up and say "Fill her up." They don't want to be told "You can't drive on Saturday you can only have ten gallons." They want that tank full and they want to pay for it and go where they want to.

Mr. EVANS. And they should be able to do it at the market price.

Senator GOLDWATER. They should be able to do it at the market price and the market price doesn't have to go over the moon. The way we have been going down there on the Hill you could fill the tanks up with the gas we have been using and run them for a long, long time.

Mr. DUKE. Senator Goldwater, are you now satisfied by the President's explanations about Watergate?

Senator GOLDWATER. That is hard to answer because as I said earlier, I haven't heard any direct charges against the President. Now if somebody makes the charge that he personally organized the so-called plumbers, or he personally authorized the exploit into the Watergate, then I would have to give you another answer, but I know nothing that he has to answer. The things he answered didn't come out of the Watergate. For example making a buck on real estate in Florida and California, I don't see any connection with that and Watergate. Daniel Ellsberg, in having to break in his psychiatrist. There is no relationship to the Watergate. So it is hard for me to answer that question. If I can answer it in my own way, I don't think he is guilty of anything connected with the Watergate, and I will hold that feeling until there is more proof than I have seen.

Mr. DUKE. Senator, a constant theme seems to be running through your remarks here today and elsewhere that you believe the country must now have strong leadership to deal with the problems of the world and domestic problems.

But, in the light of everything that has happened, in the light of the polls which show a widespread mistrust of the President, do you think Mr. Nixon can possibly provide that leadership?

Senator GOLDWATER. I think he can and I think he is.

Again I am getting back to the major field of foreign policy. I think he is doing a job that no American really questions.

In the domestic fields it is becoming more and more almost impossible for a President to offer the kind of leadership that say a Franklin Roosevelt, or a Harry Truman could, because we keep forgetting that the Congress no longer has any power over the so-called domestic problems. When we create a bureau, we kiss goodbye to Congress' power. So does the President kiss goodbye to the power of the White House. The real power in this government to get something done rests with these innumerable bureaus with the power that they have that is greater than the Congress or the President. So I don't think you are going to find any President, whether he be Nixon, or whoever might be the next Republican to come along, I don't know, that we will be able to get this government back in line until we get a Congress with enough courage to say to the bureaus, "Look, fellows, you have gone too far and so have we. We are going to start cutting you down until your power is no greater than ours, or is not as great as ours."

Mr. DUKE. Senator, you say you would like to see all of this over with, that you would like to see the President impeached or that Congress and his critics get off his back, but isn't this going to go on for a long time now because we are going to have the court trials, the special prosecutor will continue his investigation, and the impeachment process itself will go on for a considerable period?

In the light of this, do you think we might reach a period, because of the point that you just mentioned a moment ago about the need for leadership where the President should be removed for the good of the country?

Senator GOLDWATER. I will say what I have said before on that question. I think if that time ever comes that the President himself would be the first one to recognize that his remaining in office would be a detriment to the future of America and he himself would step down.

Mr. SPIVAK. Senator, the Christian Science Monitor quoted you as saying in the interview that was published on the 17th of December—and again I quote—"I don't think the American people worry about morals as long as they sense there is a leader in the White House."

Now, what do you mean by that? Do you really think the American people are not concerned about the moral position of the President?

Senator GOLDWATER. Well, I hate to plug any books on your program but there has been a book written by Hope Rydings Miller, something about the scandals in the presidency, and after I read her manuscript I said I would add only one paragraph. After having gone through everything from George Washington to the present days, that it is rather obvious that the American people don't worry about the morals of their leaders as long as they are leading. And I think I could make a pretty good defense of that, but I don't want to get personal on this program.

Mr. SPIVAK. Now, while we are on that, I would like to quote something else you said and that is that there is not a man in the Senate who couldn't be gotten on charges similar to those leveled against former Vice President Agnew if somebody wanted to make out a case about their campaign donations.

Now, did you say that?

Senator GOLDWATER. Yes, I said that and I mean it.

Mr. SPIVAK. Would you tell us what you meant by that?

Senator GOLDWATER. There is not one of us who has run for office who hasn't been given money. We have to have money to run.

Now, usually this money is gathered by a committee headed by a friend who is chairman, but inevitably there comes that time or times when a man will say, "Well, if I am going to give him money, I want to hand it over myself."

So let's say some friend, or supposed friend, or man I don't even know, comes in my office and hands me a check or hands me some money. And then later on, in an effort to get me someone who knew that that man was in my office and gave me that money, to get that man—say the Internal Revenue got something on him—not bad, but enough so that it could worry the man, and he was told, "Look, if you will do this, we will do that." So he is willing to make a statement that "Yes, I gave Goldwater a thousand dollars and I got a favor out of him."

This is what I was referring to and every one of us in public life, or every one that I know, has had experiences that could be turned in, not necesarily to the resulting Agnew experience, but to the experience that he was going through at that particular time.

Mr. SIDNEY. Senator, over these last few months have you ever been approached by other prominent Republicans to join a group to go and ask the President to resign?

Senator GOLDWATER. No.

Mr. SIDNEY. Have you ever thought of that yourself personally?

Senator GOLDWATER. No, and I don't think I would because I don't think it is the prerogative of one man to put himself above 46 or 47 million Americans who voted for Mr. Nixon, or the 23 or 24 per cent of the American people who still believed that he should be the President.

I can't imagine myself ever assuming that I had enough power or prestige to do such a thing and I think the President would throw me out of the office if I ever did it.

Mr. EVANS. Senator, last fall you made a very strong speech before the Wings Club in New York concerning the deterioration of our air defenses primarily and the corresponding build-up of the Soviet arsenal and, given your concern on this issue, on defense generally, about which you have spoken many times over the years, do you think the policy of this administration to encourage the export to the Soviets of various kinds of advanced technology—to take a specific example, the Kama River truck deal in which we are building a billion dollar truck factory for the Soviet Union with obvious military applications—do you believe this is a wise policy?

Senator GOLDWATER. I do. Although it is not easy to explain.

While I look upon the Soviet as our No. 1 potential enemy in the world, and I am certain they are ahead of us now in every field of military except experience, I'd still rather talk than fight and if we can, by exploiting their economic weaknesses, help them if we at the same time can impress their people with the fact that we want to help, not fight, we might come to the day when we could look hopefully for a detente. I don't think we are even close to it now.

Mr. EVANS. Are we exploiting their weaknesses or showing them up?

Senator GOLDWATER. Well, I think we are doing a little of both. I was in Iran just a few weeks ago, went through one of the most modern steel rolling mills I have ever been in. We have nothing in this country like it. It was built by the Soviets. I would rather have had the United States build that but the Soviets are there and they are all over the world doing these things.

Now, if we can help, if we can avoid a direct confrontation by selling them things—I don't advocate giving them things or selling them wheat or anything else below cost—if we can avoid conflict, or prolong the period of discussion, then I would be in favor of doing that.

Mr. NEWMAN. About two minutes left.

Mr. DUKE. Senator Goldwater, you have emerged in the past year something of a political folk hero with many of your old enemies praising your candor and outspokenness and some people referring to you as the new conscience of the Senate.

Does this make you feel as if you were a man whose time may have come too soon?

Senator GOLDWATER. No, I just think my friends are kind of hard-up.

Mr. DUKE. Would you like to run for President again?

Senator GOLDWATER. No, sir. I have had that honor and I think one time around that track's enough.

Mr. SPIVAK. Senator, during the past few months at least there has been a great deal of pessimism about the future of this country. Now, I don't know from what you have said whether you are pessimistic or optimistic, but I would like to know.

Senator GOLDWATER. Well, I am the most optimistic guy in the world about America. I think if the Congress would get off the backs of America and let America go, let the enterprise system work, encourage young people, not try to bribe them, I think if we would find schools teaching Americanism and extolling patriotism and teaching the Constitution, if we would find families willing to devote time with their kids, there is nothing that can stop this country.

Lord, we are not in any way near the hardship we were when my grandfather got on a horse—

Mr. SPIVAK. You are not suggesting we ought to get rid of Congress altogether, are you?

Senator GOLDWATER. There are times when I wish they would go home and stay a long, long time. I think they ought to take a vacation every month and go home and find out what it is that is cooking, to tell you the truth.

No, I think this country can go on forever if we are not interrupted by the political whimsies of 500 people.

Mr. NEWMAN. Thank you, gentlemen. Our time is up.

Thank you, Senator Goldwater, for being with us today on MEET THE PRESS.

## S. 1539, THE EDUCATION AMENDMENTS OF 1974

Mr. PELL. Mr. President, during the past few weeks I have received a large number of letters and telephone calls from members of the elementary and secondary education community reflecting their concern about the possible expiration of the provision of the General Education Provisions Act popularly known as the Tydings amendment. That provision allows State educational agencies to carry over unexpended education funds into the fiscal year succeeding that in which such funds were appropriated. This authority will, under existing law, expire at the end of fiscal year 1974.

Originally enacted in 1968, this provision has proved of invaluable help to State education officials in allowing them to spend their Federal funds wisely, without the usual requirement that appropriations—often not made until late in the fiscal year—be spent quickly or revert to the Treasury. This year the need for carryover authority is even more crucial, as the administration has only recently released $466 million in illegally impounded education funds. To insist that these funds be spent before June 30 is to encourage their waste.

The Subcommittee on Education, which I chair, is aware of these substantial concerns and is attempting to be responsive to them. S. 1539, the Education Amendments of 1974, was ordered reported from the subcommittee to the full Committee on Labor and Public Welfare on December 19. It is my hope that it will receive speedy full committee consideration and floor action within the next month and a half. The bill, as currently drafted, not only extends the applicability of the current provision for 5 years, but also allows an extra year of carryover authority for any funds which were made available to the recipient as a result of a judicial proceeding. This would allow carryover of both the impounded fiscal year 1973 funds just released by the administration and the just enacted fiscal year 1974 appropriations for education through fiscal year 1975. This would ease the difficulties which State and local school officials now face as decisions must be made for the coming school year.

I would like to assure my colleagues that I will do everything in my power to expedite consideration of this important legislation as a part of the larger extension of basic Federal authorities in the field of elementary and secondary education.

## OIL COMPANY PROFITS

Mr. PERCY. Mr. President, the after-tax profits of the oil companies have increased dramatically over the past 12 months and are now at record levels. During the third quarter of 1973, Exxon, the world's largest oil company, increased its profits by 80 percent, while Royal Dutch Shell, the world's largest non-American company posted a spectacular 273-percent increase for the same period. Standard Oil of Indiana increased its profits by 37 percent; Gulf, 91 percent; Mobil, 64 percent; Getty, 71 percent; and Cities Service, 61 percent.

A Chase Manhattan Bank study, dealing with a group of 30 oil companies representing more than 75 percent of the entire petroleum industry throughout the non-Communist world, paints a similar picture for the industry as a whole. According to this report the combined net earnings for these oil companies for the third quarter of 1973 increased by 80 percent over the level of the third quarter of 1972. Profits surged an average of 59 percent for the 11 months of 1973 over the 1972 figures.

But the present situation is much too complicated to be characterized as a simple case of corporate cupidity. In 1972, the net income of the petroleum production and refining industry as a percentage of net worth was 10.8 percent, as opposed to a 12.1-percent rate for manufacturing industries as a whole. From 1963 to 1972 the net income of the petroleum industry as a percentage of net worth averaged 11.6 percent as compared to 12.3 percent for all manufacturing companies. The oil industries return of equity for the first 9 months of 1973 has increased to 13.2 percent due to the wave of price increases. Media reports indicate that industry spokesmen and some independent economists feel that the huge profit increases of the past few quarters actually represents the recovery from depressed profit levels rather than long-term real profit trends.

It should be noted that the petroleum industry will be required to secure a huge amount of investment capital for expansion during the coming year. The Chase Manhattan Bank has estimated that even before the Arab oil cutbacks that between now and 1985 the industry will need approximately $1 trillion for investment and current operating expenses to meet the world's rising energy needs. The study indicates that $600 billion will be necessary for new investment and $400 billion needed for operating expenses. By comparison in 1971 the industry's total investment over the years in fixed assets was calculated at $223 billion.

If the increased profits generated by the oil companies in recent months are seen at least partially as a "turn-around from the depressed levels of the first half of 1971 and most of 1972," then the profit prospect for 1974 cannot be so easily explained. Estimates have been made over the past few weeks by various economists indicating that 1974 oil company profits may increase by up to $24 billion over the 1973 level. This profit surge is projected to take place at the same time the profits in industry unrelated to oil are expected to decline about 8 to 10 percent from 1973 levels.

Thus we are faced with a situation where most of the major integrated oil companies will reap enormous windfall profits over the next few years due to price increases only partly justified by increased costs and by their capital investment requirements. Changes in the Federal tax laws applicable to the oil industry are clearly necessary so as to encourage investment in the domestic exploration, production, and refining facets of the industry. We must examine various alternatives, such as decreasing the amount of the oil depletion allowance, removing deductions for intangible drilling costs, ending the writeoff now permitted for foreign taxes and royalties against the U.S. tax bills, and an excess profits tax. These tax law amendments would also be designed to prevent the oil companies from earning astronomical short-run profits due to the current shortages and to assure the American public that its sacrifices have not been undertaken merely to add to already overflowing corporate coffers.

Even some of the major oil companies are coming to recognize that a major overhaul of the Federal tax laws relating to the oil industry is needed. A Shell Oil Corp. advertisement in the January 18, 1974, edition of the New York Times stated that—

> We believe that the oil industry must and will accept the fact that for the next few years some form of control on domestic crude oil production profits may be in the general interest as prices rise toward current world levels.

This is a hopeful sign, but greater flexibility in this regard will be required in the future.

Mr. President, I hope that we will conduct our discussions and debates about the energy crisis and related problems in this second session of the 93d Congress in a spirit of openness. The mood of recrimination and the desire for punitive actions against the major oil companies was not hard to detect among my constituents. I trust that we will all show a willingness to see both sides of the issues presented as well as a desire to act with dispatch once the facts are known.

In my efforts to learn the facts about the petroleum product shortages we now face, I have been studying a package by materials prepared by the Congressional Research Service. I have found it most helpful and without objection I ask that it be printed here for the behalf of my colleagues. The articles included are "History and Evolution of the Oil Industry," by Richard G. Howard; "Industrial Organization Theory and the Oil Industry," by Douglas N. Jones; "Some Considerations of Alternative Market Structures for the Domestic Oil and Gas Industry," by Douglas N. Jones; "Summary of Provisions of the Internal Revenue Code Affecting Energy Resources, Production and Consumption," by Jane Gravelle; and "The Gasoline Shortage—Rationing Versus a Higher Tax," by Valerie Amerkhail.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

## HISTORY AND EVOLUTION OF THE OIL INDUSTRY

### I. THE BEGINNING

The oil industry can best be viewed against a brief review of the history of oil in the United States. So far as records of the oil industry tell, the first company formed in the U.S. devoted to petroleum was the Pennsylvania Rock Oil Co. which produced its first gusher in 1861. As far back as 1865 John D. Rockefeller started to refine oil in Cleveland. Two years later, the firm of Rockefeller, Andrews & Flagler was formed. It took over a group of refineries around Cleveland, which was then the center of the industry. In 1870 the partnership had grown to the point that it was decided to form a corporation, which gave birth to the Standard Oil Company of Ohio.

The period from 1865 to 1878 marked the beginning and gradual rise to supremacy of the Standard Oil combination. By 1878 this group held enough of general business and physical facilities to warrant the statement that it controlled 80–90% of the country's oil industry.[1] Standard Oil's success was due largely to their rapid expansion into the field of transportation. Between 1869 and 1879 Standard had bought out almost every transport facility in the oil regions of the country. Together with the United Pipe Line Company they controlled a majority of the pipe line facilities in the United States. This position was further enhanced through agreements with the New York Central Railroad which gave Standard control of all terminal oil handling facilities in New York City. Furthermore, the company owned or leased almost all of the oil tank cars on the Erie, New York Central, and Pennsylvania railroads.

In 1881 concentration in the industry was further bolstered by the Standard Oil Trust, an agreement to place all of the stock of Standard's various companies in the hands of trustees. In the formation of the Trust thirty-nine companies signed agreements and subsequently they were merged into twenty. Growth and prosperity marked every turn of the Trust until 1892 when the State of Ohio filed an ouster suit against the original Standard of Ohio. As a result of this litigation the Trust was dissolved and the dissolution was followed by the distribution on a pro rata basis of the stocks of subsidiary companies owned to holders of the trust certificates. Control rested in the same hands as before, however, as the largest holders of trust certificates naturally received the greatest amounts of stock in the pro rata distribution. In 1899, the Standard Oil Company of New Jersey was formed, and this was later to become the holding company for all the separate units which the Standard Oil Trust, its predecessor, had been forced to yield up.

Horizontal integration in refining and vertical integration into the areas of transportation, marketing, and crude production brought the Standard Oil group's holdings to a total of 67 companies in 1907. The companies owned or controlled included 9 refining companies, 5 lubricating oil and compounding companies, 3 producing companies, 12 pipe line companies, 6 marketing companies, 16 natural gas companies, and 15 foreign companies.[2] This list only relates to the principal activities of the companies; a substantial number of them were integrated concerns operating at more than one level of the industry.

The year 1911 marked an important turning point in the development of the oil industry. Prior to this time the entire industry was dominated by the Standard Oil group. In 1911 the group was broken up into 34 independent companies, out of which ultimately came a number of new and powerful competitors. Also, in the period before 1911, the chief product of the industry was kerosene, of which one-third to one-half was sold in foreign markets. In the period after 1911 the principal product was gasoline, a product much more important to the domestic market than the foreign.

Dissolution of the Standard group in 1911 left former members of the combination with varying and unequal degrees of vertical integration and size. In fact, among the former subsidiaries, Standard of California was the only completely integrated company after dissolution, whereas Atlantic Refining, Indiana Standard, and Standard of Ohio were left with marketing and refining facilities, but no transportation or production capabilities. The parent company, Standard of New Jersey, also found its facilities lacking after the split, with only a small remaining pipeline capacity, and crude oil production that was insufficient to meet its refineries' needs.[3] Under these conditions there was a strong tendency for the separate companies to continue trade relations as they had been prior to 1911. However, with new crude discoveries and increasing demand, the former family of companies began to expand and integrate themselves which ultimately resulted in greater competition within the industry. By 1919 an industry structure had emerged including companies such as Gulf, Shell, Phillips, Sun and Cities Service, all competing fiercely with Standard of New Jersey and the other Standard companies for greater shares of the business.

From 1920 to 1950 the oil industry continued to grow and integrate with new companies coming and going as economic conditions allowed. During this period all sectors of the industry grew; producing, refining, transportation, and marketing, with integration moving vertically and horizontally. By 1950 integrated companies owned or leased about 68% of the industry's refineries, 90% of the product pipelines, 48% of the tankers, and 52% of the retail service stations.[4] The reasons why vertical integration has swept through the industry also help to explain the rapid growth which took place during this period.

### II. REASONS FOR INTEGRATION

About 20 large integrated companies dominate the oil industry today. They have achieved and held this paramount position due to a number of general and transitory conditions that have occurred since their inception. The general conditions which have favored the growth and development of integrated companies include the behavior of profits among the various sectors of the industry, the economic characteristics of the physical facilities needed to engage in the business, and the nature of the management decision making process.

Evidence exists to suggest that profits fluctuate at the various levels of the oil industry both over time and in direction. As a result, vertical integration provides a means for a firm to stabilize its overall earnings. Profit levels in the refining sector have been highly unstable, and integration both backward and forward has provided a vehicle for stability over the years. Fluctuations in profits have been caused by several factors including: uneven flows of capital into the various segments of the industry; the fact that prices of crude oil and finished products respond differently to changing market conditions; some aspects of the business are riskier than others (such as drilling and exploration); and supply-demand relationships are often uneven for various periods of time. Since little can be done to avoid these problems, and profit stability is highly desirable to the firm, we can assume that the oil companies will continue to integrate as long as such benefits accrue and they are not prevented from doing so.

The economic characteristics of the physical facilities needed to produce oil are also significant in producing favorable conditions for vertical integration. Many of the physical assets needed involve large capital outlays, are extremely vulnerable to reductions in output, and are often dependent on supporting investments in other phases of the business for their competitive effectiveness. Because of these characteristics investments in the oil industry have often been associated with high risks. Vertical integration has helped to reduce this specter.

The average size of refineries has steadily increased over time driving capital requirements higher and higher. It is not uncommon today to expect an efficient refinery to cost in excess of $200 million. Since a refinery can be used only for the purpose of processing crude oil it becomes necessary to insure that adequate transportation facilities and crude supplies are readily available. If these conditions are not met, the return on refinery investment may fall to a point where capital will flow away from refining into more profitable investments. [For example, the Transco Companies recently announced (November 26, 1973) that they have postponed their plans to participate in a $635 million refining complex to be built in Virginia and North Carolina. They withdrew their support due to the unavailability of long term contracts for crude oil.] Vertical integration has been a means of protecting refiners in these areas where they are most vulnerable to changes in supply and competition. The same conditions exist in other segments of the industry such as pipelines and marketing. The return on pipeline investment depends largely on the users located at both ends of the facility. If crude supplies diminish or refinery demand drops pipeline operators suffer from reduced operating capacity. Significant risks in pipeline investment can therefore be modified by ownership or control of facilities served by the line. Marketing outlets also suffer during periods of tight supply as witnessed by the current fuel shortages. Independent marketers not associated with integrated companies have been the first to close down due to shortages while most branded dealers have survived. Backward integration has served here to protect the marketing interests of the majors by insuring that their facilities will be first to receive scarce supplies.

A third factor that has made vertical integration favorable to the oil industry involves the nature of management in plan-

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ning and control. Since the success or failure of investments in any one segment of the industry often depends heavily on corollary investments in other phases, it is highly desirable to have knowledge of these interrelationships so that projects can be correlated with one another in respect to size, time, and place. In an integrated company management can plan capital investments on a coordiated basis and in such a manner that funds invested in one sector of the business will complement those made at other levels. Coordination of logistical needs can also be improved in an integrated firm since management is more aware of the overall demand-supply situation.

Several transitory conditions have also existed during the development of the oil industry to provide further incentives for vertical integration.

In the period from about 1911 to 1920 two conditions existed that made vertical integration highly desirable. The first was the rapid development of the automobile industry which brought with it an ever increasing demand for gasoline. The emergence of the automobile made it necessary to find new methods of distribution. Many refiners therefore integrated forward into marketing operations to provide outlets for their products.

The second condition that prompted vertical integration during this period was World War I. Shortages of all petroleum products during the war forced refiners to integrate (backward) into crude oil production to assure adequate supplies for their refining facilities and marketing operation. Further integration into the transportation segment was a natural means for these companies to become self-sufficient and to insure that all sectors would be supplied on a timely basis.

The period from 1920 to 1935 brought forth additional transitory conditions favorable to vertical integration. Great amounts of crude supplies discovered during this time resulted in new competition among producers which enticed many to integrate forward into refining, transportation, and marketing to secure product outlets, and as a means of survival among established integrated firms. The forward integration of producers, in turn, convinced refiners and marketing firms to undertake various forms of integration to protect their outlets from being taken over by newcomers to the field. Also, the general intense competitive mood of the times moved many companies to attempt integration as a means of cutting costs and improving efficiency.

The large crude oil supplies brought under control by the enactment of conservation laws in the 1930's made it less desirable than before for crude producers to integrate forward. However, since several of the laws removed opportunities that refiners previously had to buy crude at low prices in periods of oversupply (but no protection against high prices when shortages prevailed) they made backward integration by refiners quite desirable.

The period from World War II to 1950 also brought conditions favorable to vertical integration. The enactment of the excess profits tax prompted Standard of Ohio to embark on a major crude producing project in 1942 that was followed by other companies fearing they would be left behind. The tax provisions for expensing intangible drilling costs were such that a company could expand its producing operations on a favorable basis when it was exposed to high tax rates. Also, inflationary pressures suggested to many firms that funds invested in producing properties would act as a hedge against a long run depreciation in the value of the dollar.

Severe shortages of petroleum products after the war made it desirable for both refiners and marketers to integrate backwards as a means of securing and protecting their sources of supply. The development of new heating oil markets also created opportunities for refiners to move into the marketing end of this rapidly growing field.

All of these conditions have contributed to the structure of the oil industry today. While many firms operate at all levels of the industry, the field is still dominated by 18 to 20 large vertically integrated companies. Concentration within the industry can best be expanded by looking at the various segments individually.

### III. CONCENTRATION WITHIN THE INDUSTRY

Concentration in crude oil production has increased markedly over the past two decades. A 1952 study of domestic crude production showed that the largest 20 companies accounted for 48% of U.S. crude production. The top 4 and 8 companies produced 19.2% and 32.8% of the total respectively.[5] By 1960 these figures had increased to the point where the top 4, 8 and 20 companies produced 26, 43 and 62% respectively. In 1969 concentration was even greater with the top 4, 8 and 20 firms producing 31, 51, and 70 percent of the average daily barrels of domestic crude.[6] In 1952 the smaller companies were still an important part of the production sector of the industry. Today with the 20 majors supplying 70% of domestic production, the small producers wield considerably less power than ever before. While the smaller companies appear to have lost ground domestically, they have never been a significant factor in control of foreign sources. Until recently the 8 largest U.S. firms together with several foreign companies have enjoyed almost complete control over Middle-Eastern crude supplies.

Another measure of concentration within the production sector is the amount of domestic proven reserves owned by firms in the industry. Estimates published in a recent FTC study indicate that in 1970 the top 4, 8, and 20 firms had approximately 37, 64, and 94 percent respectively of domestic crude proven reserves.[7] With the top 20 firms holding 94% of domestic reserves it is clear that concentration in the production segment is even greater than the crude production data given above would indicate.

The refining sector is also heavily dominated by the 20 major companies, although the increase over 1950 figures has not been as great as in production. In 1950 the top 20 firms controlled about 80% of the crude domestic refining capacity, up from approximately 53% in 1920.[8] By 1970 crude capacity of the largest 20 had reached 86%, while the top 4 and 8 firms accounted for 33 and 58% respectively.[9]

Transportation has also been an extremely important part of the oil industry. Near total domination of oil transport facilities by the Standard Oil trust in the period from 1869–79 was one of the most significant factors that enabled the Standard companies to grow and hold their paramount positions today. Ownership of ocean going tank ships, railroad tanker cars, and crude and product pipelines has made it possible for the majors to move their products and crude supplies much more economically than if they were carried by commercial shippers. With shipping costs recently skyrocketing the majors have a decided edge over their smaller competitors that must depend on outside transport facilities.

The major companies currently own or lease about 40% of the oil tankers in the non-communist world, which amounts to nearly half the tonnage.[10] Of the 175,000 miles of interstate U.S. pipelines that are regulated by the Interstate Commerce Commission the major companies own or have interests in 121,000 miles, or 69%.[11] Pipelines are normally the most economical form of bulk land transportation in the oil industry. Approximately 75% of the crude oil and 27% of refined products are carried via pipelines.[12]

Marketing is probably the most competitive segment of the oil industry. One of the major reasons for this is that entry into the market is relatively easy, and can be accomplished with a much lower capital investment than in any other area.

There are approximately 218,000 retail gasoline stations in the U.S. today, down from a high of nearly 223,000 in 1969. The ratio of branded stations to independent is about 3 to 1, although the recent energy crisis has probably changed this ratio somewhat due to a number of independents having gone out of business. The latest data available from the Society of Independent Gasoline Marketers of America (SIGMA) indicates that between January 1 and October 5, 1973, 1,495 independent stations have permanently closed their doors with another 1,673 stations temporarily closed. Additionally they report that 10,759 outlets have curtailed their hours of operation and during this period 12,235 jobs have been lost or curtailed. These figures are based on 35% of independent marketers that comprise the membership of SIGMA, and therefore may understate the nationwide situation for independent firms. While the physical number of independent retailers may be decreasing, their overall share of gasoline sales has risen over the last two decades. In the early 1950's independents accounted for about 10% of gasoline sales. In 1970 their market share had increased to about 21% (top 20 held 79%).[13] Although the independents have made progress, they are the first to suffer in times of shortages.

While most of the previous data indicates increasing domination by the top 20 firms in all phases of the industry, it should be stressed that, in comparison with other U.S. industries, the concentration is not extremely high. For example, in each of the following industries the largest 8 firms produced more than 60% of the value of shipments accounted for in 1963: tobacco, greeting cards, soap, explosives, computers, tires, steel, electronic semiconductors, automobiles, steam engines & turbines, and various others.[14] Concentration within the various sectors of the oil industry is not abnormally high when compared with the above industries. However, the fact that the top 8 companies are integrated and hold dominant position in all phases of the industry lends weight to their power at any one level. Acting together the 8 major firms undoubtedly wield tremendous influence over the entire industry.

Overall, the structure of the U.S. Oil industry is not much different today than it was in 1950. The current energy crisis does, however, raise questions about the future prospects of the major firms. While no one suggests that any of the majors will face bankruptcy, it is expected that scarce crude supplies will translate into lower profits, and hence discourage expansion at a time when it is most needed.

### IV. OIL INTERESTS IN OTHER FORMS OF ENERGY

It is obvious that no company will be willing to expand downstream operations when they are unsure of their future supplies of crude oil. As crude supplies diminish, the majors will undoubtedly shift their resources to exploration activities and alternate sources of energy. A reduction in marketing operations is already apparent among the majors who have recently sold off a number of their retail marketing outlets.

Many of the major companies are already involved in the research and production of other types of fuel. For many years the oil industry has also been a major producer of natural gas which is often found in conjunction with oil. Many of the majors are heavily involved in projects to extract oil from shale

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Footnotes at end of article.

rock and the liquification and gasification of coal. Several of the majors also hold interests in coal production and the fabrication of nuclear fuels. A recent study of the subsidiaries of 23 major oil companies revealed the following interests in coal and uranium.[15]

Exxon—has coal interests through Monterey Coal Co., a subsidiary of Carter Oil Co., which is owned by Exxon. (No production figures available.)

Continental Oil Co.—owns Consolidation Coal Co. which produced 58.5 millions tons of coal in 1972.

Gulf Oil—owns Pittsburgh & Midway Coal Mining Co. which produced approximately 7.5 million tons in 1972. (Figures given as 21,000 tons a day.)

Occidental—owns Island Creek Coal Co. which produced 22.6 million tons in 1972.

Standard Oil of Ohio—owns Old Ben Coal Corp. and subsidiaries which produced 11.2 millions tons in 1972.

Ashland Oil Co.—has a 45% interest in Arch Mineral Corp. and a 30% interest in Southwestern Illinois Coal Corp. which produced 4.4 and 1.4 million tons respectively in 1972.

Total interests (excluding Exxon) amount to 105.6 million tons produced in 1972. Standard & Poor's Industry Surveys indicate that the total U.S. production of coal in 1972 was about 600 million tons. Therefore, the combined interests of the oil companies named above would be about 18%.

Lack of quantitative data makes it impossible to estimate the market shares held by oil companies in the fields of nuclear fuels and uranium mining. We have listed below available information concerning the interests of oil companies in this area.

Atlantic Richfield owns ARCO Nuclear Co., which produces uranium and plutonium bearing fuels.

Standard Oil of California is currently involved in several joint ventures exploring for uranium in the U.S. and Australia.

Continental Oil holds a 51% interest with Nuclear Inc. in a project for the construction and operation of uranium mines and milling facilities in Texas. The project has an estimated annual output of 1,500,000 pounds of U-308.

Standard Oil of Ohio has a 50% interest in uranium deposits in New Mexico and is currently exploring for new sources on several adjacent properties. The company has plans to construct facilities to mine and mill 1000 tons of ore per day. The plant is expected to be completed in about 3 years.

Gulf Oil has a 57% interest in Gulf United Nuclear Fuels Corp., which owns uranium interests in New Mexico, Wyoming, Utah, Colorado, Montana, and Canada. The company engages in mining, processing, fuel fabrication, sales and research, and has interests in a 3000 ton a day processing mill. Also, the Gulf Energy & Environmental Systems Co. produces nuclear fuels, nuclear reactors, and conducts research in this field.

Exxon owns uranium mines in Converse County, Wyoming, and a processing mill handling 2000 tons of ore per day. Jersey Nuclear Co., a division of Jersey Enterprises (owned by Exxon), fabricates and sells nuclear fuels.

### V. INDUSTRY PERFORMANCE

An analysis of oil industry profits by major divisions (production, refining, transportation, and marketing) is not possible because the major integrated companies report income only on the basis of overall operations. However, data are available to make a comparison of industry profits over time, and the performance of the major companies in relation to the industry.

Table I gives data for 30 oil companies as reported by the Chase Manhattan Bank's annual analysis for a group of petroleum companies. The data indicate that although both revenues and profits have increased in each subsequent year, profit margins and return on net worth have fluctuated. The profit margin in 1972, 6.5%, is the lowest ever for this group of 30 companies, down from 6.9% in 1971. This low margin is directly attributable to rising costs for day to day operations, interest expenses, and taxes. Direct taxes paid in 1972 amounted to $15.4 billion, 20% higher than in 1971. Income taxes were $10.3 billion, a rise of 22.5% over 1971. These 30 companies paid out $1.8 billion in interest expense in 1972, 11% more than in the previous year. Overall costs rose by 8.2% from 1971 to $74.4 billion, a figure which represented 70% of the groups total revenue.[16]

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TABLE I.—SELECTED FINANCIAL DATA FOR 30 OIL COMPANIES

[Dollars in millions]

| Year | Revenues | Net income after tax | Percent profit margin | Percent return on net worth |
|---|---|---|---|---|
| 1952 | 19, 458 | 2, 020 | 10. 4 | 13. 4 |
| 1957 | 31, 162 | 3, 100 | 10. 0 | 12. 4 |
| 1962 | 37, 473 | 3, 344 | 8. 9 | 10. 0 |
| 1967 | 55, 921 | 5, 402 | 9. 7 | 11. 9 |
| 1972 | 106, 278 | 6, 860 | 6. 5 | 9. 6 |

Source: Chase Manhattan Bank: Financial analysis of a group of petroleum companies, 1953, 1958, 1963, 1968, 1973.

Return on net worth also dropped in 1972 to 9.6% from 10.7% a year earlier. The decline in return on net worth was the fourth in the last five years, an unfavorable trend which has made the industry more dependent on borrowed capital. In three out of the last five years. The oil industry has experienced a return on investment less than that for all manufacturing. The decline has resulted mainly from falling earnings outside the United States. Rate of return on foreign operations plunged from 12.5% in 1971 to 9.9% in 1972.[17] Such low rates of return are inadequate relative to the group's enormous capital needs, and a continuation of low returns could ultimately lead to reduced capital needs, and a continuation of low returns could ultimately lead to reduced capital expenditures and further energy shortages.

The first nine months of 1973 has seen earnings soar for the oil industry, with revenues up 22% and profits up 47% over the same period of 1972.[18] Earnings have risen because the industry has been operating at peak capacities since the beginning of the year. Profit margins in each of the first three quarters of 1973 have exceeded 1972's figures, and the latest 12 months return on net worth (as of 9/30/73) has jumped to 13.2%.[19] Better earnings this year should enable the oil industry to increase its capital spending programs for refining capacity, exploration, and research and development. However, recent estimates indicate that between 1970 and 1985 the world wide oil industry will need $1 trillion for investment and operating expenses to meet rising energy needs.[20] The industry traditionally has had to generate about 80% of its own new investment capital because of the high risks involved in oil operations. It is estimated that in order to meet its investment needs the industry's profit margin will have to rise to nearly 16%, an expansion which seems highly unlikely. Before the current Middle East crisis it was thought that the industry would have to borrow 40% of its expected capital needs. Now, with dwindling profits possible in the coming year the oil companies may have to go into debt even more heavily than expected. Altogether, the oil industry has been quite profitable for many years, with recent fluctuations over the past five years being more the exception than the rule. The eight largest companies have contributed a great deal to the industry's overall prosperity.

Table II lists data for 8 major oil companies for the same 20 years period covered in Table I. In the years 1952 and 1967 five of the eight majors had profit margins above the composite for 30 companies shown in Table I. In 1957 and 1972 four were above and four were below, while 1962 showed 5 below and only 3 above. Return on net worth has been better, with 5 or more companies above the average in each year except 1952 and 1967 when 4 were above and 4 were below. In the first three quarters of 1973 only two of the eight companies turned profit margins lower than their 1972 figures, and all but one enjoyed increasing returns on net worth. Overall, the eight majors have generally fared better than the industry as a whole, a trend which is not uncommon for the leaders in any industry.

One question that remains is whether the oil industry (and especially the 8 leaders) has been more profitable than other American industries. Table III indicates that over the last five years the oil industry has not received particularly high returns on investment when compared to other industries, or the average for all manufacturing. Also, while 1973 oil profits have been quite high, percentage increases for the third quarter 1973 over 1972 were exceeded by several other industries including steel (up 101%), metals and mining (up 82%), and paper (up 74%). Table IV shows that when compared to the leaders (of similar asset size) in other fields (in 1972), the top five oil companies produced only average returns on net worth.

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TABLE II.—SELECTED FINANCIAL DATA FOR 8 MAJOR OIL COMPANIES

[In millions of dollars]

| | Revenues | Net income after tax | Percent profit margin | Percent return on net worth |
|---|---|---|---|---|
| Exxon: | | | | |
| 1952 | 4, 050. 8 | 520. 0 | 12. 8 | 16. 6 |
| 1957 | 7, 830. 3 | 805. 2 | 10. 3 | 14. 0 |
| 1962 | 9, 536. 9 | 840. 9 | 8. 8 | 11. 1 |
| 1967 | 13, 266. 0 | 1, 232. 3 | 9. 3 | 13. 0 |
| 1972 | 20, 309. 8 | 1, 531. 8 | 7. 5 | 12. 5 |
| Mobil: | | | | |
| 1952 | 1, 560. 6 | 171. 1 | 11. 0 | 11. 3 |
| 1957 | 2, 976. 1 | 220. 4 | 7. 4 | 9. 3 |
| 1962 | 3, 933. 3 | 242. 3 | 6. 2 | 8. 2 |
| 1967 | 5, 771. 8 | 385. 4 | 6. 7 | 10. 0 |
| 1972 | 9, 166. 3 | 574. 2 | 6. 3 | 11. 2 |
| Texaco: | | | | |
| 1952 | 1, 510. 1 | 181. 2 | 12. 0 | 13. 7 |
| 1957 | 2, 344. 2 | 332. 3 | 14. 2 | 16. 2 |
| 1962 | 3, 272. 1 | 481. 7 | 14. 7 | 14. 8 |
| 1967 | 5, 121. 4 | 754. 4 | 14. 7 | 15. 3 |
| 1972 | 8, 692. 9 | 889. 0 | 10. 2 | 12. 4 |
| Gulf: | | | | |
| 1952 | 1, 528. 8 | 141. 8 | 9. 3 | 13. 0 |
| 1957 | 2, 730. 1 | 354. 3 | 13. 0 | 16. 2 |
| 1962 | 2, 836. 3 | 340. 1 | 12. 0 | 10. 6 |
| 1967 | 4, 202. 1 | 578. 3 | 13. 8 | 13. 1 |
| 1972 | 6, 243. 0 | 197. 0 | 3. 2 | 3. 6 |
| Shell: | | | | |
| 1952 | 1, 142. 6 | 90. 9 | 8. 0 | 15. 2 |
| 1957 | 1, 764. 6 | 135. 1 | 7. 7 | 13. 8 |
| 1962 | 1, 960. 7 | 157. 7 | 8. 0 | 11. 2 |
| 1967 | 3, 073. 2 | 284. 8 | 9. 3 | 13. 8 |
| 1972 | 4, 075. 9 | 260. 5 | 6. 4 | 8. 9 |
| Standard of Indiana: | | | | |
| 1952 | 1, 592. 1 | 119. 9 | 7. 5 | 8. 8 |
| 1957 | 2, 010. 1 | 151. 5 | 7. 5 | 7. 5 |
| 1962 | 2, 147. 8 | 162. 4 | 7. 6 | 6. 6 |
| 1967 | 2, 918. 1 | 282. 3 | 9. 7 | 9. 5 |
| 1972 | 4, 503. 4 | 374. 7 | 8. 3 | 9. 9 |
| Arco: | | | | |
| 1952 | 602. 8 | 40. 5 | 6. 7 | 10. 7 |
| 1957 | 565. 9 | 25. 3 | 4. 5 | 7. 4 |
| 1962 | 580. 7 | 46. 3 | 8. 0 | 7. 7 |
| 1967 | 1, 276. 8 | 130. 0 | 10. 2 | 10. 2 |
| 1972 | 3, 320. 7 | 195. 6 | 5. 9 | 6. 6 |
| Socal: | | | | |
| 1952 | 1, 015. 3 | 174. 9 | 17. 1 | 15. 0 |
| 1957 | 1, 650. 8 | 288. 2 | 17. 5 | 15. 5 |
| 1962 | 2, 150. 9 | 313. 8 | 14. 6 | 11. 6 |
| 1967 | 3, 297. 8 | 421. 7 | 12. 8 | 10. 8 |
| 1972 | 5, 829. 5 | 547. 1 | 9. 4 | 10. 5 |

Source: Moody's industrial manuals and annual Fortune 500 listings.

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Footnotes at end of article.

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TABLE III.—PERCENT RETURN ON NET WORTH FOR SELECTED U.S. INDUSTRIES

| Industry | 1972 | 1971 | 1970 | 1969 | 1968 |
|---|---|---|---|---|---|
| Soft drinks | 22.4 | 23.1 | 22.7 | 22.5 | 22.7 |
| Soap, cosmetics | 20.4 | 19.3 | 18.7 | 18.6 | 18.9 |
| Drugs and medicines | 19.7 | 19.0 | 18.8 | 17.0 | 19.8 |
| Autos and trucks | 17.2 | 15.0 | 5.8 | 13.8 | 16.6 |
| Instruments, photo goods | 16.8 | 15.4 | 15.8 | 18.7 | 19.2 |
| Tobacco products | 16.2 | 16.6 | 16.4 | 14.6 | 14.6 |
| Hardware and tools | 15.9 | 12.5 | 12.5 | 16.5 | 16.7 |
| Household appliances | 15.4 | 12.1 | 11.9 | 13.5 | 14.0 |
| Brewing | 14.7 | 15.8 | 16.0 | 13.2 | 13.2 |
| Lumber and wood | 13.9 | 11.2 | 10.2 | 15.2 | 14.1 |
| Furniture | 11.6 | 11.9 | 8.4 | 12.4 | 11.3 |
| Chemical products | 11.3 | 9.7 | 9.7 | 11.4 | 11.7 |
| Petroleum production and refining | 10.8 | 11.2 | 11.0 | 11.9 | 13.1 |
| Cement | 8.8 | 7.6 | 6.1 | 7.1 | 7.5 |
| Aerospace | 8.8 | 6.3 | 6.7 | 11.4 | 13.9 |
| Textile products | 7.8 | 6.6 | 6.4 | 8.8 | 9.8 |
| Meatpacking | 7.1 | 7.7 | 6.6 | 9.4 | 8.3 |
| Iron and steel | 6.2 | 4.6 | 4.6 | 7.4 | 8.5 |
| Total, manufacturing | 12.1 | 10.8 | 10.1 | 12.4 | 13.3 |

Source: First National City Bank: Net income of leading corporations 1968–72.

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TABLE IV.—RETURN ON NET WORTH FOR SELECTED COMPANIES ARRANGED BY ASSET SIZE, 1972

| Asset size | Percent return on net worth |
|---|---|
| $15,000,000,000 and above: | |
| Exxon | 12.5 |
| A.T. & T | 9.0 |
| Bank America | 13.2 |
| General Motors | 18.5 |
| Average | 13.3 |
| $10,000,000,000 to $15,000,000,000: | |
| Aetna Life and Casualty | 10.9 |
| International Telephone & Telegraph | 13.4 |
| Ford | 14.6 |
| Texaco | 12.4 |
| IBM | 16.9 |
| Average | 13.6 |
| $5,000,000,000 to $10,000,000,000: | |
| Gulf | 3.6 |
| Sears Roebuck | 13.8 |
| Mobil | 11.2 |
| United States Steel | 4.4 |
| GE | 17.2 |
| Standard Oil (California) | 10.5 |
| Average | 10.1 |

Source: Standard & Poor's corporation records and the Fortune 500 listings from Fortune magazine.

### IV. SUMMARY

In summary it is apparent that the structure of the oil industry is little different today than it was in 1950. The top 20 companies, and in particular the largest 8, have dominated the industry through their immense size and their diversity, which has grown by vertical integration and expansion into world wide markets. Together the major companies' economic power has served to squeeze independents at all levels of the industry.

Until recently the petroleum industry has enjoyed prosperity, with earnings that have generally been above average in relation to other U.S. manufacturers. The eight largest oil companies have enjoyed profit levels generally above the overall industry, which is normal and expected in any field. The first three quarters of 1973 have been exceptionally good for oil companies, although the current Middle East crisis casts a cloud over next year's prospects.

Recently Oil Industry profits have not been exceptionally high when compared to others in the United States, and earnings of the five largest firms are only average in relation to companies of comparable asset size. Today the oil industry is thriving, but estimates of future needs and sources of capital make the picture somewhat unclear. Diversification into the production of alternative energy sources and renewed efforts to make downstream operations more profitable will surely be important to the future viability of this industry.

### FOOTNOTES

[1] The growth of Integrated Oil Companies by John G. McLean and Robert Wm. Haigh. Copyright 1954, page 62.

[2] Ibid. No. 1, page 10.

[3] The American Petroleum Industry, 1899–1959. The Age of Energy by Harold F. Williamson et al. Copyright, 1963, page 12.

[4] Ibid. No. 1, page 36.

[5] The Structure of American Industry edited by Walter Adams. Copyright 1954, page 238.

[6] Investigation of the Petroleum Industry Committee Print prepared by the FTC for the Permanent Subcommittee on Investigations of the Committee on Government Operations. U.S. Senate, July 12, 1973, page 13.

[7] Ibid. No. 6, page 14.

[8] Ibid. No. 5, page 242.

[9] Ibid. No. 6, page 18.

[10] The Washington Post, November 19, 1973, "Oil Majors Squeezed at Both Ends" by Ronald Konen and David B. Ottoway. Page A10.

[11] Transport Statistics In the United States for the Year Ended December 31, 1971. Part 6, Pipelines, Interstate Commerce Commission. Washington, D.C. 1971, page 4–5.

[12] Ibid. No. 6, page 23.

[13] Ibid. No. 6, page 22.

[14] Studies in Industrial Concentration by the Conference Board, 1958–72. Copyright 1973. Appendix A, pages 42–96.

[15] Information taken from Standard and Poor's Corporation Records, 1973.

[16] 1972 Financial Analysis of a Group of Petroleum Companies: The Chase Manhattan Bank, August, 1973, page 11–13.

[17] Ibid. No. 16, page 15.

[18] Business Week magazine, November 10, 1973, "Survey of Corporate Performance: Third Quarter 1973", page 127.

[19] Ibid. No. 18.

[20] Ibid. No. 10.

[21] Ibid. No. 18, page 111.

## INDUSTRIAL ORGANIZATION THEORY AND THE OIL INDUSTRY

### I. STRUCTURE-CONDUCT-PERFORMANCE

Most of economic market theory assumes a premise-conclusion relationship between the structure of an industry and its conduct. Market structure is important because (the theory goes) structure determines the behavior of firms in an industry, and that behavior in turn determines the industry's performance.[1] Further the causal relationship between these three relatively distinct features is thought to be a sequential one. Hence an industry with a high degree of concentration (structure) would be expected to have a high probability of collusion on, say, output (conduct), resulting in higher prices and reduced supplies (performance).

The structural features of an industry under this system of analysis are generally described by three terms—"concentration", "product differentiation," and "barriers to entry." These terms refer, respectively, to the number and size distribution of the firms in the industry, buyer preferences for the products, and obstacles to new firms that might want to enter the industry occupied by established firms.

Measured against the test of competitiveness the significance of these features can be deduced as follows.[2] A small number of firms with a relatively large share of the market tend not to make independent decisions with respect to price and output but rather develop "oligopolistic interdependence." This phenomenon of explicit collusion or implicit understandings results from the recognition that the profits of each is dependent on the decisions of each of the others.

Briefly put, the idea is that if a firm in an oligopolistic industry (like the oil industry) with a given market share lowers its price, all others must follow it down under pain of losing their market shares. Now nobody has gained any volume (assuming an inelastic demand), and everybody is now getting fewer receipts and reduced profits. On the other hand no single firm dares raise its price unless other firms will follow, for fear of losing its entire market share. If all do follow the lead upward everybody will then have greater receipts and increased profits, though the same share of the market. The end result is that members of an oligopolistic industry are able, over time, to move prices to about the same high level that a single-firm monopolist would.

The second structural feature, product differentiation, involves real or imagined differences in a commodity as perceived by the buyer which allows a premium above the price for truly comparable products. When the differences are artificial and created by advertising the result is higher concentration and less competitive vigor. Certain stages in the oil industry (nearer the production end) can be described as an undifferentiated oligopoly, while other stages (nearer the marketing end) are best described as a differentiated oligopoly.

The third element, entry barriers, involves the ability to "over price" and thus experience supernormal profits through holding back the entry of newcomers into an industry, attracted there by the "prospect" of high profits. Erecting entry barriers can take many forms, but includes patent restrictions, withholding of facilities needed in some part of the production and distribution process, amount and availability of new finance capital, collusive agreements of various sorts with suppliers, intermediate buyers, and others.

As a system of regulating industrial organization (or even as antitrust enforcement) the "structural approach" has much to commend it. Its desirable features are seen to be relative efficiency, minimization of government interference in the management of business, enhancement of personal liberties, an emphasis on injury to consumers in terms of prices and supplies rather than on injury to competitors. It also measures up well against the tests of certainty and realism in antitrust enforcement, and offers at least two options for government. One is the traditional remedy of "trust-busting" aimed at a direct elimination of the pricing power inherent in the extremes of industry concentration. The other alternative offered by the structuralist method is focusing on the barriers to entry into an industry with an eye toward lowering them. The beauty of this last is that attacking the barriers surrounding particular industries is more feasible politically as a regulatory technique, and once the barriers have been pulled down the erosion of the oligopolists' dominance takes place "naturally" through the market's own impersonal discipline.

It seems fair to say that the era of almost total preoccupation with the "conduct approach" is rapidly giving way to one that will be dominated by the "structural approach."

Not everyone, of course, in the orthodoxy of industrial organization theory supports this apparent shift. Opponents argue that knowing the structural characteristics of a market is not enough to predict the behavior and conduct of particular firms. They cite evidence to demonstrate that a wide variety of behavioral patterns may be consistent with a given market structure. Moreover even proponents of the structural approach recognize that there may be as well a "reverse flow"—that particular kinds of conduct reflect back on market structure,

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Footnotes at end of article.

i.e. causation may run the other way, from conduct to structure. Mergers and predatory practices, for example, could severely and quickly alter the structure of an industry from reasonably competitive to oligopolistic.

Perhaps the most contemporary illustrations of the two approaches—structuralist versus behaviorialist—are the report of the White House Task Force on Antitrust Policy (the Neal Report) and the report of the Task Force on Productivity and Competition (the Stigler Report), respectively.

### *A. Vertical integration*

Vertical integration like diversification, can be a term used merely to describe the internal structure of a single business plant—its operations as a process. In this context it says nothing about power or the abuse of power and is neutral with respect to the firm's external relations.

Used in its more common sense, however, the term vertical integration describes a state which refers to activities of a company in two or more industries linking successive stages in the production and distribution of a particular product.[3] The degree of vertical integration refers to the number of stages which have become integrated under the ownership or control of a single enterprise. If the firm is primarily engaged in an earlier stage of production, then its market share of an industry at a later stage can be called an example of "forward vertical integration". It is from this same reasoning that the terms "downstream" and "upstream" expansion derive. The forms that vertical integration may take are several, varying from direct ownership by one enterprise of companies in successive stages to different kinds of contractual or other controlling devices short of outright ownership. It is widely agreed that the oil industry is a prime example of strong, vertical integration.

The effect of vertical integration on market behavior has long been a matter of interest to economists of both theoretical and public policy bent. Basically the argument centers in the effect of vertical concentration on costs, market position, and profits. The problem comes when a single firm or a group of associated businesses holds disproportionate power in its dealings with customers, competitors, or suppliers and wields it to the detriment of others and the benefit of themselves. The economic power of the vertically integrated firm (especially in an oligopolistic industry) in the most adverse case presents opportunities for unfair price discrimination, extension of monopoly power, preferential access to supplies and markets, and the squeezing of independent companies in the same or related fields.

Writing of these consequences Walter Adams states:

"Vertical power consists of market control in successive stages of production and distribution. It enables a firm or a group of firms to squeeze their non-integrated competitors, through a foreclosure of access to the market, denial of essential raw materials, or manipulation of relative prices so as to effect a simple or double squeeze. . . . It is rooted in the fact that giant companies perform the dual role of supplying raw materials to non-integrated independents, and then competing with these independents in the sale of final products. This dual role gives the integrated giants a leverage that can be exercised with deadly effectiveness."[4]

The incentive for the firm to integrate vertically is ultimately the enhancing of profits. Economists generally agree that this comes about in the following ways.[5]

1. Production costs may be cut through combining two operations under one management.

2. technological economies of scale may be allowed.

3. captive buyers may be developed, thus avoiding promotional expenses and selling costs.

4. owning several successive stages of production may permit achieving a monopoly position at one stage.

5. discriminatory pricing may be possible.

The public policy problems that surround the issue of vertical integration are not easy to resolve. Corwin D. Edwards wrote of the balance to be struck by public authority operating in this field,

It must find means to check accretions of power that end in monopoly. It must explore quasi-monopolistic relationships to determine how far intervention is desirable. It may act either by curbing objectionable behavior or by breaking up vertical integrations that lend themselves to abuse or by both methods. But it must provide satisfactory ways of limiting the private exercise of power without destroying the basic freedom of business to experiment with various types of vertical business structures.[6]

### *B. Concentration and scale*

Most economists would say that the only long term justification for high concentration in industries is scale economies.[7] This would be the case where the technology or organization of a particular industry requires that individual firms operating there must have a large share of the total market in order to realize low unit costs and thus be able to sell profitably at a low price. To insist on deconcentration in such an industry would result in higher costs and higher consumer prices—a course which is nonsensical both economically and socially.

If it turns out, on the other hand, that the holding of large shares of an industry's total output in the hands of a few firms does not allow these efficiencies to be realized and passed on to consumers then it can be argued that there is no justification for permitting such an industry structure to exist. Unlike earlier times there now exists a substantial body of data on this matter and modern methodology allows a good bit more to be gathered and analyzed.

One approach of use here is the "minimum optimum scale" concept which attempts to measure some of the structural elements in specific industries by using a "smallest efficient" size (minimum cost) firm standard. This is the smallest size at which a single plant can be built and still realize the lowest possible per-unit costs. An early landmark study using this approach found concentration in the refining sector of the petroleum industry to be 5 times as large as it needed to be in terms of achieving all economies of scale.[8]

A later study employing a simpler technique which assumes that the "average" plant size actually found in an industry is a fair measure of "minimum efficient" size generally confirmed this finding (4.58 times as large).[9]

### *C. Loose and tight oligopolies*

There has grown up in the literature of industrial organization the notion of "loose" and "tight" oligopolies as useful measures to apply to particular industries.[10] Loose oligopolies involve lower levels of concentration than tight oligopolies, and may lie somewhere around the point where the 8 largest firms have 30% to 45% of total sales in a market with the largest of these having individual shares of perhaps 5% to 8%. In general a tight oligopoly would be a market in which the 4 largest firms control 50% or more of total sales and in which the 8 largest control 70% or more. Table 1 applies these standards to the oil industry in its production, refining, and marketing elements.

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TABLE 1.—OLIGOPOLY STANDARD OF PERCENT OF MARKET SALES APPLIED TO 3 ELEMENTS OF THE OIL INDUSTRY, 1970 DATA

| | Measure | | | |
|---|---|---|---|---|
| | Loose | | Tight | |
| Stage | Actual (percent) | Standard | Actual (percent) | Standard |
| Crude production | 51 | 8 have 30 to 45 percent | | 8 have 70 percent plus. |
| | 10 | Largest have 5 to 8 percent shares | 31 | 4 have 50 percent plus. |
| Refining capacity | 58 | 8 have 30 to 45 percent | | 8 have 70 percent plus. |
| | 9 | Largest have 5 to 8 percent shares | 33 | 4 have 50 percent plus. |
| Gasoline marketing | 55 | 8 have 30 to 45 percent | | 8 have 70 percent plus. |
| | 8 | Largest have 5 to 8 percent shares | 31 | 4 have 50 percent plus. |

Source: Measures drawn from "The New Antitrust: A 'Structural Approach,'" by Charles E. Mueller, Antitrust Law and Economics Review, Winter 1967, pp. 116–117; oil industry data from Preliminary Federal Trade Commission Staff Report on Its Investigation of the Petroleum Industry, Committee Print, Committee on Interior and Insular Affairs, U.S. Senate, Serial No. 93–15 (92–50), GPO, Washington, D.C.

From this it can be seen that the oil industry (under this particular measure) fits on the "tight" side of a "loose" oligopoly. In all cases the actual market shares of the "top 8" firms exceed the upper range of the loose standard by a substantial margin but fall well short of the lower range of the tight standard. Also in crude production and refining the largest firms exceed the loose standard in the size of their individual shares, but in all three stages fall substantially below the tight standard of 50% of the total market.

One further point is worth noting: the same 8 firms make up the top 8 in each category of this vertically integrated industry—production, refining, and marketing.

## II. SOME RELATED CONCEPTS

In addition to the above discussion of structure, conduct, and performance, vertical integration, and concentration there are several related concepts found in the field of

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Footnotes at end of article.

industrial organization that should be part of any background paper considering the oil industry. Three of these are the notions of workable competition, countervailing power, and administered prices.

### *A. Workable competition*

The emergence of the "oligopoly problem" as treated in economic literature prompted great concern over the policy implications of the doctrines propounded. A landmark article by J. M. Clark in 1940 introduced the concept of "workable competition."

In summary acknowledging that real world industrial markets don't follow very closely classical economic descriptions, the workable competition thesis holds that even these imperfectly competitive markets may in the long run work out to approximate the results of the competitive norm.[11] The forces that were seen to allow this happy outcome are the following facts of corporate life: (1) markets with only a few producers of differentiated products operating under conditions of considerable uncertainty; (2) firms with negatively sloped demand curves permitting pricing somewhat in excess of average cost; and (3) the real threat of product substitution as a force of potential competition.

### *B. Countervailing power*

In setting out this theory J. K. Galbraith saw a self-generating offset to structural monopoly in bilateral markets. The idea is that monopoly power on one side of a market tends to beget monopoly power on the other side and hence a neutralizing effect approaching some semblance of competition results. The cases enumerated by Galbraith excepted petroleum products but included the case of oil companies as purchasers of drilling and refining equipment.

The phenomenon articulated by Galbraith while not rare is clearly not a universal occurrence and even where it does occur should not be seen as the same thing as perfect competition. Moreover, where countervailing power situations do evolve there is a tendency to move subsequently toward vertical integration and cooperative behavior.

Perhaps more an observation than a theory, the idea of "administered prices" in economic literature is attributable to an early student of industrial organization and behavior, Gardiner Means.[12] The argument runs that the American economy since the first quarter of this century was in fact composed of two distinct parts, one reasonably competitive and the other sufficiently noncompetitive that prices could be administered rather than letting them shift with the shifting forces of supply and demand. Profit margins can be set, mark ups decided upon, and target rates of return established without "normal" regard for price/cost or classical demand/supply relationships. The degree of freedom in this regard depends on the degree of monopoly power held by the firm (or group) and its willingness to exercise it.

From the point of view of the economy as a whole the fact of administered prices is generally regarded as a major cause of "stagflation" in times of economic retrenchment and inflation in the upswing of the cycle. From the point of view of the consumer it results in a substantial loss in economic welfare.

FOOTNOTES

[1] Charles E. Mueller, "Lawyer's Guide to the Economic Literature on Competition and Monopoly", *Antitrust Law and Economics Review*, V. 5, Summer, 1972, p. 91.

[2] *Ibid.*, p. 92. Also Charles E. Mueller, "The New Antitrust: A "Structural" Approach," *Antitrust Law and Economics Review*, V. 1 and 2, Winter, 1967, p. 110.

[3] John M. Blair, *Economic Concentration: Structure, Behavior and Public Policy* (Harcourt, Brace), p. 25–26.

[4] *Ibid*, cited on p. 26.

[5] Staff of the Bureau of Economics, Federal Trade Commission, *Economic Papers, 1966–1969*, Vertical Integration and Public Policy Toward Vertical Mergers—the Economic Basis for Vertical Integration," GPO, 1969.

[6] Corwin D. Edwards, "Vertical Integration and the Monopoly Problems," *Industrial Organization and Public Policy*, a book of selected readings edited by Werner Sichel (Houghton Mifflin), p. 174.

[7] Roger Sherman and Robert Tollison, "Public Policy Toward Oligopoly: Dissolution and State Economies," *Antitrust Law and Economics Review*, V. 4, Summer, 1971, p.

[8] *Ibid.*

[9] *Ibid.*

[10] Mueller, *op. cit.*, "The New Antitrust: A "Structural" Approach, *Antitrust Law and Economics Review*, V. 1 and 2, Winter, 1967, p. 110.

[11] Robert L. Knox, "Welfare Competition and Public Policy," *Antitrust Law and Economics Review*, V. 1, Spring 1968, p. 43.

[12] Mueller, *op. cit.*, "Lawyer's Guide . . .", pp. 89–90.

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## SOME CONSIDERATIONS OF ALTERNATIVE MARKET STRUCTURES FOR THE DOMESTIC OIL AND GAS INDUSTRY

(By Douglas N. Jones)

This memorandum treats briefly some of the literature, statements, and proposals relative to alternative market structures for the domestic oil and gas industry. It also sets out some of the considerations surrounding these approaches designed to make the energy industries more congenial to the public interest in their operation and some of the directions hearings held for this purpose might usefully pursue.

Starting with the "extreme" end of the spectrum a literature on the specific subject of nationalizing the oil and gas industry in the U.S. case is virtually non-existent. A bibliographic computer search covering the last three years turned up nothing; review of earlier years was only slightly more fruitful.

Harvey O'Connor in *The Empire of Oil* (N.Y. Monthly Review Press, 1955) mentions that the first resolution passed by the founding convention of the Oil Workers International Union in 1913 called for the nationalization of the petroleum industry (along with other essential industries). In more recent years Benjamin C. Marsh, "the people's lobbyist," advocated the social ownership of natural resources including importantly those in the energy field (Public Affairs Press, 1953, *Lobbyist For the People*).

The Secretary of the Navy on December 17, 1920 in speaking to the American Society of Naval Engineers made a plea for the nationalization of oil for the future protection of American (defense) interests. In the same year a California senator, James Duvall Phelan, proposed a government oil company in a bill he introduced in Congress which would have put the Federal government actively in the oil business (64th Congress, 1st Session, Senate Report No. 319 to accompany H.R. 406, "Exploration For and Disposition of Oil, Gas, Etc.").

In the same general field three other sets of hearings are worth mentioning: S. 2027, "The Federal Petroleum Act", a bill to regulate commerce in petroleum, 74th Congress, 1st Session (1935); S. Res. 36, "Investigation of Petroleum Resources" in relation to the national welfare, 79th Congress, 1st Session (1945); and H.R. 7216, "To Establish the War Petroleum Corporation and To Define Its Functions" as a corporate body to provide reserves, production, refining, transportation and supplies of petroleum for any area of the United States, 77th Congress, 2nd Session (1942).

From this slim literature it seemed best to set out for you briefly the general use of public ownership in the U.S., its occasion, direction, and extent; some alternative approaches involving government participation, but something less than full ownership of an industry or enterprise; and the performance tests against which such substantial changes as here envisioned in market arrangements corporate structure might be measured. This will be presented with an eye toward what all this might say for the instant case of the domestic oil and gas industry. It is, then, an idea memo rather than an exhaustive treatment of this large issue.

### I. THE GOVERNMENT ENTERPRISE SECTOR

### *A. The general case*

For over a century governments have monopolized certain industries, operating them as businesses, in both the service and product sectors (though more in the former). Likey candidates have tended to be the fields of transport, power, and communication, water supplies, and housing. The move toward nationalization was most rapid during the 1930's and 1940's in the relatively advanced economies: in more recent times the pace and interest has probably slowed down as some disillusionment in the performance of government enterprise has set in.

The *occasion* for public ownership has varied widely from country-to-country and from case-to-case within certain countries. In Great Britain the nationalization program flowed largely from the wartime experiences and was argued on grounds of productive efficiency and public responsibility. In France the post-war nationalization program was more ideologically based and was directed at economic reconstruction, transferring economic power to the workers, and punishing wartime collaborators. In Italy industries were made public more by default as an aftermath to the depression of the 1930's. In India it was a question of a quick route to economic development. In the United States it has most often been a case of "sick industries" or activities which the private sector was unwilling or unable to undertake.

The *scope* of public enterprise worldwide is not confined to service sectors. Shipbuilding is the province of the governments of France, Italy, the Netherlands, and Argentina; Great Britain, France, and Italy operate coal mines; Turkey is in the business of mining copper, chrome, manganese, as well as coal; tin is produced by Bolivia and oil by Mexico; France and West Germany manufacture automobiles; India produces iron and steel, machine tools, locomotives and railway cars, fertilizers and insecticides; and of course the South American and Middle East countries own their oil resources and governmentally control and participate in their exploitation.

### *B. The U.S. case*

In the U.S. as elsewhere government participation in business has steadily grown. Its motive and extent has, of course, differed from industry to industry. In some cases it has monopolized the field (e.g. postal service, until recently); in others it has competed (e.g. banking and insurance). In some it has both owned and operated productive facilities (e.g. electric light and power); in other cases it has provided facilities for others to operate (e.g. synthetic rubber and atomic energy); and occasionally assumed operation of privately owned facilities (e.g. the railroads in WWI and the steel industry and coal mines for a time after WWII.

A good bit of governmental enterprise in the case of the U.S. is at the local level. By the mid-1960's 58 cities had publicly owned transit systems, and in only two of the ten largest cities is ownership wholly private. Among cities of 5000 or more population, electricity is being sold by over 500, being generated and distributed by 300, and bought and distributed by about 240. The state of

Nebraska serves its citizens exclusively by publicly owned electrical utilities.

The Federal government itself is involved in certain manufacturing enterprises where the output is a product and not a service. It builds ships, produces paint, rope, munitions, mail bags, and owns and operates the biggest printing plant on earth—the Government Printing Office.

The causes of government enterprise in the U.S. are several and varied. They have come about through:

(1) essentiality to the national defense.

(2) pulling the country out of the Great Depression.

(3) lack of profit-making prospects, but a clearly felt need.

(4) high risks and costs unacceptable to private financing.

(5) breakdowns of operations under private management.

(6) public concern over conserving the nation's resources.

(7) abuses under private operation.

(8) social welfare considerations.

In textbooks on the subject of public policies toward business the point is often made that the expansion of public enterprise has more often been hampered by the legislatures than by the courts. The requirements that public expenditures be for "public purposes" and for "promoting the general welfare" are about all the courts have been concerned with. They have not historically obstructed public enterprise by requiring excessive compensation in the case of takeovers.

As examples in this century the Supreme Court of the United States in 1917 allowed the city of Portland, Maine to create a municipal fuel yard; allowed the state of North Dakota in 1920 to socialize banking, grain storing, and milling; allowed Lincoln, Nebraska in 1927 to initiate a wholesale and retail gasoline business; and allowed the federal government in 1936 to generate, transport, and distribute hydroelectric power.

### II. SOME ALTERNATIVE APPROACHES

Focusing more specifically on the oil and gas industry and possible basic changes to its structure at least four general approaches came to mind as alternatives to the present arrangement of "unbridled free enterprise" that might be considered. These are:

(1) continued private ownership and operation but with substantially increased governmental controls and regulations.

(2) applying the public utility concept to the industry where ownership would remain private, but earnings, price levels, investment and quality of service would be governmentally regulated.

(3) creating a public/private partnership where the federal government owns 51 percent of the enterprise and the private sector owns the remainder.

(4) outright and full public ownership and operation—either industry-wide or in "yardstick" fashion.

The first alternative is undoubtedly the most likely of happening. It is increasingly clear that neither an Administration nor a Congress can execute or make public policy for the energy sector "in the blind." Information on virtually all aspects of the oil and gas industry must be made available from some reliable sources for public decision-making. Many feel the laissez-faire approach to the industry where relative government abstinence was the *quid pro quo* for ensuring a reliable energy supply stems no longer appropriate. The oil and gas industry is too important a matter to be left to corporations alone.

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A fresh twist might be, however, to require some public members on the boards of directors of each of these corporations, assuming the legal obstacles could be overcome. This at least would allow a crucial element of the public interest to be satisfied in dealing with this industry—access to corporate information not available under present institutional arrangements. And there are occasions when the Congress has an opportunity to advance such an idea as in the case, I believe, of the Penn Central and Lockheed public bail-outs. Here the seating of public members might have been the *quid pro quo* for direct public assistance to the corporations.

How well the public utility concept could be fitted over the oil and gas industry is not very clear but is surely worth considering. It would seem that its best fit might be in the refining stage which is quite analogous to the operation of the grain elevators that were the original occasion for the birth of the public utility concept. Recall that in the 1877 landmark case of Munn *vs* Illinois the Supreme Court said of the elevators along the Chicago water front that they stood "in the very gateway of commerce, and take toll from all who pass." A good description of both grain elevators and oil refineries.

In deciding to allow the regulation of charges made by the owners of these grain elevators and warehouses the Court said:

"Property does become clothed with a public interest when used in a manner to make it of public consequence, and affects the community at large. When, therefore, one devotes his property to a use in which the public has an interest, he, in effect, grants to the public an interest in that use, and must submit to be controlled by the public for the common good. . . ."

Thereafter there was a category of American business which was "affected with a public interest."

While traditionally the public utility concept was applied to service industries and not product industries, the implications of the famous Nebbia Case (Nebbia *vs.* New York) in 1934 are important to recall. In this case the Supreme Court said that whether or not the milk business was a public utility it was affected with the public interest and government, through the legislative process, could fix prices in the industry without contravening the Fourteenth Amendment. Many saw this as the death of the public utility concept but it can as well be viewed as allowing for its wide expansion into the product industries.

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Here of course some semblance of the public utility concept already can be found. Oil pipelines may be required (as in the Alaska case) to be common carriers accepting traffic from all who have it to offer and at published tariff schedules. Portions of the marine transport industry have long been under the public utility umbrella.

To the extent that oil and LNG tankers are privately owned by the oil companies themselves or contracted for in charter arrangements (and this is the typical case) the transport component of the oil industry escapes any such regulation. This segment thus becomes a candidate for making an incision into the vertical integration companies, opportunities abound for intra-corporate accounting manipulations that allow expenses or revenues to be shunted from one enterprise to another to maximize this or that financial goal.

The establishment of joint public/private enterprises as partially government capitalized corporations is another alternative. Examples abound in other western countries—Great Britain and Canada to name two.

In the case of British Petroleum the British government has a controlling interest with 51 percent of the stock. While it leaves the management and operation of the company largely to the private side the British government is obviously able to look in on its behavior and performance and ensure that public interest goals are being met. In the Canadian case Pan Arctic is a minerals exploration company with the Canadian government holding the majority interest.

At another governmental level the Quebec government in 1969 created a mining exploration company (SOQUEM) which three years later was engaged in joint ventures with some twenty private firms. Japanese mineral and trading companies have let it be know that they favor the establishment of a state (of Alaska) mineral exploration and development company which could be a partner in joint ventures for purpose of risk-sharing and the reduction of political uncertainty in doing business in Alaska. These, then, could serve as additional models for consideration in the oil and gas industry.

Finally there is the alternative of the full publicly owned government enterprise—probably the most difficult to attain in the U.S. legal, cultural, and institutional context.

A distinction should be made here between initiating a public corporation and taking over an existing private one. Some enterprises, like the Post Office and atomic energy, have been public from the beginning in our case. Others once in private hands have been socialized, urban transit systems, for example. Still others, once public, have been made private, the long distance telecommunications system serving Alaska, for example. The point is that change of ownership involves difficulties of its own and, except in the case of "sick industries", is probably harder to achieve than the initiation of a new public enterprise.

The federal government is of course a major owner of mineral resources (as are some of the states). In the energy field the existence of four Naval Petroleum Reserves should be recalled, with the largest one situated adjacent to the massive North Slope fields which have been discovered in Arctic Alaska. In this connection it is worth noting that the U.S. Navy presently is drilling a second gas well in Petroleum Reserve #4 in order to continue to supply the nearby city of Barrow, Alaska on a commercial basis. In 1972 a bill was introduced in the Senate to provide public funds to construct a federally owned oil pipeline transiting Alaska from North to South on grounds of national security needs and impending energy deficits.

In considering public ownership as an alternative market arrangement it is important to remember that one doesn't necessarily have to "go all the way" in socializing an entire industry in order to achieve a public interest outcome. There is a good bit of evidence that the "yardstick method" of public regulation is quite effective. This is the case where government owns (or controls) an enterprise, say a power generating plant or a transport system, as only one member in a larger industry. Efficient and business-like operation of that company can have a healthy effect on the whole industry in terms of prices, service, and profits consistent with the public interest. Barring collusion, one could at least picture a similar result if government were to have enterprises in the oil and gas industry. And note that the yardstick theory of regulation applies whether government was to become a partial or full owner of individual enterprises.

### III. SOME TESTS FOR PERFORMANCE

Whatever form an inquiry into the market structure and performance of the domestic oil and gas industry might take, any evaluation of alternative arrangements should include the traditional elements that concern economists. These are some of the economic tests against which any substantial alteration in the structure of the industry might be measured. They are the familiar ones of ease of entry and exit, reasonableness of earnings and profitability, levels of prices, quality and reliability of service, efficiency in resource allocation (consumption) and degree of innovation and technological advance.

These tests and concepts are now capable of enough precision to be translated into specific and agreed upon standards for purposes of assessing the implications of proposed changes in this important sector. And through all this it is important to bear in mind that what should be at issue are the *results* of market structure and not a preoccupation with degree of competitiveness under one or another arrangement.

### IV. A WORD ON DISSOLUTION AND DIVESTITURE

The term divorcement, dissolution and divestiture as used by industrial organization economists does not, of course, mean the physical "busting up" of the oligopolists' physical facilities nor an "appropriation" of them with or without compensation. What it does mean is a legal rearrangement of ownership papers by which the enterprise is divided into several separate units, often with the stockholders of the original firm now owning stock in several smaller companies rather than a single large one.

If some variation of the scale economies approach is used in regulating the size and structure of industries the policy problem is in part to decide on the maximum allowable size of a firm (presumably some multiple of the minimum efficient size) in a particular industry. Their government could give the enterprise a period of time, say five years, to "voluntarily" split themselves up into separate units by a corporate "spin-off" to current stockholders or some other acceptable financial procedure. But the task is not easy.

In this connection it is perhaps instructive to recall four famous cases of divestment and how those scenarios played out. These are the COMSAT case where now all but AT&T has sold their stock interests on the open market (and AT&T has announced its intention to do so); the Ford Foundation's sale of Ford Motor stock by public offering; the du Pont-General Motors case which allowed a "pass through" of 63 million shares of GM stock to du Pont stockholders as a dividend over a ten-year period; and the El Paso case which sets up assets in a corporation to be sold through shares, not at public offering, but by negotiated sales. The famous Standard Oil of New Jersey and Alcoa dissolutions at an earlier date could also be cited as examples of spinning off whole companies to stockholders.

Recall that there is no express provision for divestiture relief in the Sherman Act, though the courts have long allowed this remedy under Section 4. The Clayton Act, however, contains specific statutory authority for divestiture under Sections 7 and 11 allowing the Federal Trade Commission (or the Antitrust Division) to order it. By 1955 after 60 years of Sherman Act history divorcement, divestment, or dissolution has been ordered by the courts in only 24 litigated cases.

Until recently the usual course of events has been for the Supreme Court to order divestiture and let the District Court work out the implementing plan. This separation of the substantive finding from the operational remedy has been widely criticized in the literature from the public policy point of view. And even when the courts have given some thought to the implications of relief at the time of finding, the actual playing out of the consequences of divestiture have often been far from what was intended. Practical problems abound.

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Finding a buyer for, say $8 or $10 billion in assets is no small task. Occasionally this problem has induced the government to agree to a sale that itself constitutes a horizontal or vertical merger (Continental Can and Crown Zellerbach divestitures might be two cases in point). A court or Commission order (or legislation) can of course designate certain purchasers to whom the sale of a divested company cannot be made. At other times (Leslie Salt case) a consent order has provided that the offending company would be relieved of the requirement of divestiture if, after a good faith effort to sell, the sale could not be made within five years.

In 1911 the Supreme Court acknowledged the practical necessary of a—proper regard for the vast interests of private property which may have become vested in many persons as a result of the acquisition . . . of stock . . . or . . . interests in the . . . combination without any guilty knowledge or intent in any way to become actors or participants in the wrongs . . . (American Tobacco Case).

The parties include, in addition to shareholders of various tenure, employees of both the "old" and the "new" entities, actual and potential creditors, and third parties having contractual and other relations with the combined enterprise. At times the Court has said that these hardships should not get in the way of a severe finding like divestiture, but generally tribunals have been rather sensitive to property rights and values.

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## Summary of Provisions of the Internal Revenue Code Affecting Energy Resources, Production, and Consumption

(By Jane Gravelle)

This report provides summaries of the provisions of the Internal Revenue Code which directly affect energy resources, production and consumption. These provisions exist in the form of special provisions in the income tax law and excise taxes on fuels. The report is limited in scope to major Federal provisions and thus excludes any State and local taxes affecting energy and the numerous minor provisions of the Federal income tax law which relate to energy. In addition, the summary is limited to provisions affecting the production and direct consumption of energy fuels and does not cover the tax provisions relating to regulated utilities (such as special depreciation accounting requirements).

### I. INCOME TAX PROVISIONS

Certain provisions of the Federal income tax law have been defined as providing subsidies to natural resources, including those for the production of energy fuels (oil, gas, coal and uranium). Other tax provisions, while not identified as subsidies have been alleged by some experts to provide special tax treatment for the oil and gas industry, because of the interaction of these provisions with certain aspects of the industry. The foreign tax credit is an example.

In addition to these special provisions, there are numerous general subsidies which are not directly related to energy resources. Perhaps the major general subsidies in terms of revenue foregone and impact on corporate production are the investment tax credit and accelerated depreciation. While these general provisions are not covered in this report, the energy industry would share in the benefits of these tax subsidies.

#### *Identified natural resource subsidies: subsidies affecting energy fuel production*

Three provisions, specifically applying to the energy industry by encouraging energy fuel production have been identified as subsidies by the Joint Economic Committee.[1] The provisions are included in the joint estimates of tax expenditures published by the Joint Committee on Internal Revenue Taxation and the Department of the Treasury.[2] These provisions are: (1) percentage depletion, (2) expensing of mineral exploration and development costs, and (3) capital gains treatment of coal royalties.

#### 1. Percentage depletion

Allowances for the depletion or using up of mineral deposits are made in the form of deductions from gross income by owners of oil and gas wells and of mines (including coal and uranium). These deductions enable the owner to deduct his investment in the well or mine from his income over a period of years for the purposes of the income taxes, just as other business are allowed deductions for depreciation. The deduction for depletion is authorized under Section 611 of the Internal Revenue Code and must be the larger of cost depletion (Section 612) or percentage depletion (Sections 613–614). While cost depletion is quite similar to depreciation, percentage depletion is a special method which is unrelated to actual investment but is based on gross income.

Cost depletion is based on the cost of the property subject to certain adjustments. In a more technical sense it is based on the "adjusted basis" of the property which would be used to determine the gain on the sale or other disposition of the property. Depletion is generally used to recover the costs of acquiring the property (leases, geological costs, sales price of land). The cost of tangible equipment such as drilling rigs may be separately depreciated under methods allowable for depreciation or it may be written off at the same rate as items are written off under cost depletion. Certain expenses may be written off currently (See 2 below). The cost is reduced each year by any depletion deductions taken. Cost depletion is computed by multiplying the adjusted basis of the property by the ratio of the units of the product produced and sold during the year to the estimated total units that will be produced over the remaining life of the property. For example, in the case of an oil well, if the adjusted basis is $50,000, 500,000 barrels are expected to be produced over the remaining life and 50,000 are produced and sold during the year, the cost depletion would be: 50,000/500,000 times $50,000 equals $5,000.

For the next year, the $5,000 cost depletion will reduce the cost basis to $45,000 and the prior year's production of 50,000 barrels will reduce estimated production to 450,000 barrels. Assuming production of 50,000 barrels in the second year the cost depletion will be: 50,000/450,000 times $45,000 equals $5,000.

When the adjusted basis reaches zero, cost depletion ceases. In addition, at any time the property becomes abandoned, the entire cost may be written off.

Percentage depletion is not related to the cost of a property but is taken as a percentage of gross income from the property. The rates prescribed in Section 613(b) are 22% for oil, gas, uranium, and 10% for coal. Gross income is defined in Section 613(c) and means in the case of oil and gas the price at the wellhead. In the case of uranium, coal and shale certain treatment processes may be applied before sale for purposes of gross income and the ore may be transported up to 50 miles (or further if the Secretary of the Treasury determines it is necessary) from the place of extraction to treatment facilities. In the case of coal, cleaning, breaking, sizing, dust allaying, treating to prevent freezing and loading for shipment are allowed as treatment processes. In the case of uranium, crushing, grinding, beneficiation by concentration, cyanization, leaching, crystallization, precipitation (but not electrolytic deposition, roasting, thermal or electric smelting, or refining) are allowed. In the case of oil shale, extraction, crushing, loading into retort and retorting are allowed but not hydrogenation, refining or any process subsequent to retorting.

The deduction may not exceed (under Section 613(a)) 50% of taxable income computed before the allowance for depletion, i.e. after all deductions except depletion. For example, if gross income from a property is $100,000, the depletion deduction in the case of oil would be $22,000. However, if taxable income before depletion (gross income minus any other deductions) is only $40,000, then only $20,000 of the depletion deduction may

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Footnotes at end of article.

be taken. Because of this limitation the determination of what constitutes a property is important. The general rule is that each separate interest in each mineral deposit in each separate tract or parcel of land is a separate property. However, certain aggregations are allowed. In the case of oil and gas, all operating interests within a single tract may be treated together or separately. This rule is liberalized in the case of operating interests subject to a unitization or pooling arrangement. In the case of other minerals, the taxpayer may elect to aggregate one or more operating interests if the interests are in the same operating unit. However, no interest in a particular mine may be excluded from an aggregation if other interests in the mine are included.

Each taxpayer with a direct economic interest may take percentage depletion on his share of the gross income. Thus, the operator deducts royalty payments based on production before he computes his depletion allowance and the royalty holder takes depletion on his share. The same rules apply when computing the 50% limitation; i.e., the operator must exclude royalty payments from gross income.

Percentage depletion is available for both foreign and domestic production. Depreciation of tangible equipment and expensing of intangible drilling and mineral development costs, but not mineral exploration costs (described in Section 2) may be taken in addition to percentage depletion.

Percentage depletion usually results in a faster recovery of costs than cost depletion does, also the cost may be recovered many times over since percentage depletion is not limited to original cost.[3]

The excess of percentage depletion is one of the preference items subject to the minimum tax (Sections 56–58). The minimum tax is levied on several types of preference income at the rate of 10%. The taxpayer is allowed to exempt $30,000 of preference income and in addition he is allowed a deduction for regular taxes paid. The regular tax can be carried over for seven years. For example, if a taxpayer had a percentage depletion deduction of $100,000 and regular tax of $50,000, he would pay an additional $2,000 tax (100,000 minus 80,000 times 10%).

### 2. Expensing of Exploration and Development Costs

The income tax law allows certain expenses of developing mines and wells to be deducted currently rather than capitalized and deducted over the life of the property. The advantage of deducting expenses currently rather than capitalizing them is that current deduction results in deferral of taxes. In addition, in some cases costs which would be recovered through depletion are allowed in addition to percentage depletion. The provisions for oil and gas are quite different from those for the hard minerals.

a. Oil and gas: expensing of intangible drilling costs.

Certain expenses incurred in bringing a well into production, such as labor, materials, supplies and repairs, and considered intangible drilling costs. (Tangible expenses are those such as tanks and pipes). Although such intangible dilling costs are of a capital nature (expenses for an asset which will produce income over a number of years), Section 263(c) allows the taxpayer the option of deducting them currently (in the year the costs are incurred) rather than deducting a portion of the costs over each year of useful life. Regulations are prescribed under Section 612. If the election is not made these expenses are capitalized and either recovered through depletion, or, if they are related to depreciable assets, through depreciation. If they are currently deducted, they reduce the basis for cost depletion to the extent they would have been recovered through depletion; but they do not reduce percentage depletion except to the extent they reduce net income from purposes of the 50% limitation. If they are capitalized and percentage depletion is taken they are reflected in the percentage depletion deduction.

b. Hard minerals: expensing of exploration and development costs.

Mining exploration and development costs may be deducted currently (Section 616–617). Mining exploration costs are those for the purpose of ascertaining the existence, location, extent or quality of a deposit paid or incurred before the development stage (such as core drillings and testing of samples). These expenses are limited in the case of foreign exploration: total foreign exploration costs cannot be expensed after the taxpayer has total deduction, foreign and domestic, of $400,000. Development expenses are those incurred during the development stage of the mine and include expenses such as constructing a shaft and tunnel and in some cases drilling and testing to obtain additional information for planning operations. There are no limits on the current deductibility of these expenses.

Deduction of mining development costs are in addition to percentage depletion. Exploration expenditures subsequently reduce percentage depletion deductions. Also, there is a recapture provision for both types of expenditure if the property is sold (i.e., the deduction is treated as ordinary income.)

### 3. Capital Gains Treatment of Coal Royalties

Section 631 allows coal royalties to be treated as long term capital gains in cases where the taxpayer held the deposit for at least six months prior to leasing it in exchange for royalties from production. Long term capital gains are taxed at a lower rate than ordinary income. In addition, they have the option of being taxed an overall rate of 25% on the first $50,000 of capital gains. Corporations are taxed at the rate of 30% on capital gains.

### *Provisions alleged to result in special treatment of the oil and gas industry*

Two provisions of the income tax law have been alleged to result in special treatment of the oil and gas industry because of the nature of the industry and its operation: expensing of dry holes and the foreign tax credit.

### Expensing of Dry Holes

Operators in the oil and gas industry are allowed to write off the expenses of dry holes in the year the loss occurs, although they may also elect to capitalize these costs (regulations are under Section 612). This treatment is not unsual from a regular accounting standpoint nor is it different from treatment is not unusual from a regular ac- law, where losses are generally allowed to be written off. The dry hole produces no income to suggest that it should be capitalized.

However, it may be argued that such treatment provides a special subsidy for the oil and gas industry because of the nature of the industry. In oil and gas production, the success rate with wildcat exploratory holes is about one in nine; i.e. to find one producing well it is, on the average, necessary to drill about nine holes. Other exploratory wells and development wells are also dry, although there is a higher ratio of success. Presumably, the producing wells provide on the average sufficient income to recover the costs of drilling all the wells. Thus, in a sense, dry holes may be considered part of the capital cost of the producing well. If for example, it takes nine holes to produce one producing well and the eight dry holes are written off as losses, the effect is to write off almost 90% of these capital costs in the first year.

There are many objections to this line of argument, including the existence of varying success rates by different operators and by the types of holes drilled (i.e. wildcat, exploratory, development.)

### Foreign Tax Credit

A second provision which is alleged to provide special benefits for the oil and gas industry is the foreign tax credit (Section 901–906). The foreign tax credit is available to all taxpayers and allows taxpayers to credit foreign income and similar taxes against their U.S. tax liability, thus reducing the U.S. tax liability dollar for dollar. The purpose of this provision is to prevent double taxation of income. The foreign tax credit is limited to the amount of tax paid on income earned in foreign countries and cannot be used to offset tax on U.S. income. Taxpayers may choose between two methods for determining the extent of the credit: the per-country limitation limits the credit for taxes paid to each country to the same proportion of total Federal incomes taxes that income received from that country bears to total income; the overall limitation limits the credit for taxes paid to all foreign countries to the same proportion of Federal income tax that all foreign income bears to total income. Allowance of the overall limitation permits the taxpayer to use excess foreign tax credits from a high tax country to offset Federal income tax on income from a low tax country.

The foreign tax credit is particularly used by the major oil companies who account for almost one half of the credits claimed by corporations. One reason for this large proportion of credit is probably the greater tendency of oil companies to operate abroad in branch rather than subsidiary form in order to be eligible for percentage depletion on foreign operations. Operating in subsidiary form generally allows the deferral of taxes on foreign income unless that income is returned to the U.S. company, so the foreign tax credit would not be applicable.

Because of the existence of percentage depletion, foreign oil operations are generally taxed at a lower U.S. tax rate, and may therefore generate excess foreign tax credits to offset U.S. tax on non-mineral income. Thus, in 1969 a provision was added to disallow the use of excess foreign tax credits arising from the excess of percentage over cost depletion to reduce U.S taxes on foreign non-mineral income (Section 901(e)). Such credits could reduce taxes on foreign mineral income which was defined to include production, refining, transportation and marketing.

However, the major method by which the foreign tax credits have been alleged to provide special benefits for the oil industry is the crediting of royalty payments in the guise of income taxes. In the foreign oil-producing countries, the rights to land are generally held by the government rather than private individuals and, therefore, royalties (which are considered deductible expenses) are paid to these governments. However, if these royalties are paid in the form of income taxes then they may be credited against income tax, rather than deducted from income, reducing taxes dollar for dollar rather than 48 cents for each dollar. In addition, if they were considered royalties, percentage depletion could not be taken on the government's share of production income; if they are considered income taxes, the oil companies may take percentage depletion on all production. It has been argued that the large income taxes paid by American companies to the petroleum exporting countries are actually royalties and that treating them as income taxes results in preferential treatment of oil production in foreign countries.

### II. EXCISE TAX PROVISIONS

Excise taxes are imposed at varying rates on a number of fuels. Credits are allowed

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to the consumer against income tax in some cases where fuel was not used in a certain manner.

*A. Manufacturer's excise taxes*

Gasoline—4 cents a gallon (a credit is allowed if used on a farm for farming purposes or if used for non-highway purposes other than non-commercial aviation; a 2 cent per gallon credit is allowed for use in local mass transit) Section 4081–4084.

Lubricating oil—6 cents per gallon (a credit is allowed if not used in a highway vehicle) Section 4091–4094.

*B. Retailers excise taxes*

Gasoline used in non-commercial aviation—3 cents per gallon (Section 4041(c) (1)).

Fuels other than gasoline used in non-commercial aviation—6 cents per gallon—Section 4041(c)(2).

Diesel fuel used in highway motor vehicles—4 cents per gallon (a credit is allowed if used on a farm for farming purposes or if used in local mass transit)—Section 4041 (a).

Special motor fuels (benzene, benzol, naphtha, etc.)—4 cents per gallon (if used in a non-highway motor vehicle or motor boat the tax is 2 cents per gallon)—Section 4041(b).

Although these taxes are imposed on the manufacturer or retailer they are generally stated in the price to the consumer. Certain types of sales are exempt such as those to State and local governments, tax-exempt educational organizations, sales for export and sales for resale.

FOOTNOTES

[1] U.S. Congress. Joint Economic Committee. The economics of Federal subsidy programs. January 11, 1972.

[2] U.S. Congress. House. Committee on Ways and Means. Estimates of Federal tax expenditures. Prepared by the staffs of the Treasury Department and the Joint Committee on Internal Revenue Taxation. June 1, 1973.

[3] Professor J. Reid Hambrick estimated in testimony before the Ways and Means Committee (Panel Discussions on Tax Reform, Part 9, Natural Resources, Feb. 26, 1973, p. 1369) that percentage depletion deductions are 16 times original cost.

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## THE GASOLINE SHORTAGE—RATIONING VERSUS A HIGHER TAX

(By Valerie Amerkhail)

The basic questions involved in the debate between proponents of a higher gasoline tax and proponents of rationing are those involved in most economic debates, which system would be more equitable, and which would be more nearly consistent with the goal of economic stability. In addition, on a longer-run view, one question is which will be more effective in bringing about the fundamental reordering of resource use, which it is now becoming increasingly evident that we must have.

### HISTORICAL PERSPECTIVE ON RATIONING

World War II gasoline rationing was undertaken for the dual purpose of easing severe shortages on the east coast caused by enemy disruption of oil tanker traffic, and conserving rubber stocks by cutting down unnecessary tire use.

The system used consisted of: (1) a basic ration allotted to all applicants who were owners or users of registered passenger cars or motorcycles; (2) supplemental rations for those whose "occuptaional mileage" was greater than that assumed under the basic ration, awarded by local boards on the basis of the importance of their occupation to the war effort or the public welfare, or their participation in car pools and the feasibility of other means of transportation; and (3) several other ration categories for non-highway users, such as farmers, for service vehicles, and commercial fleets.

All rations were given in the form of booklets containing coupons authorizing purchase of so many "units" of gasoline. The supplemental, service and fleet rations were granted in terms of required mileage, on the assumption that a passenger car would get 15 miles per gallon, but in fact, the actual gallonage value of each coupon was announced by the Office of Price Administration after determination of available supply, and could be changed at any time.

Gasoline rationing was one of the most controversial of all wartime programs. When it was begun, and even more when it was extended from the east coast to the entire nation, there was widespread skepticism about even the need for it. Throughout the course of the program complaints about every aspect were so intense as to lead to comments that the American people seemed to feel that unlimited use of their automobiles was more important than food on their tables.

This kind of controversy is probably inevitable because of the nature of demand for gasoline—the fact that some people's livelihood is completely dependent on an adequate supply, while many others buy gasoline almost exclusively for recreational purposes. This makes the relatively simple rationing system which would be appropriate for such items as foodstuffs, for which real need is relatively close to the average for each individual, not only inequitable, but also harmful to the smooth working of the economy. The complicated system of World War II was designed to get around this problem by assuring that the burden of conservation would fall first and hardest on pleasure driving. While necessary, the use of a system which requires so many individual judgments inevitably leads to a situation in which many people receive more or less than their fair share, and many more feel themselves to have been treated unfairly.

### ARGUMENTS AGAINST USING A SIMILAR SYSTEM TODAY

The public relations problem, which was bad enough during WWII, would be exaggerated today by: 1) the lack of a national purpose comparable to "winning the war"; 2) the current political climate; 3) the condition of public transportation systems which have been steadily declining since WWII; and 4) our present life style which involves much greater dependence on private automobiles than previously.

In addition, the whole assumption that occupationally related driving is more essential to the economy may now be suspect, since a large part of the economy is now dependent on the direct or indirect use of the automobile for recreational purposes.

Since at the present time every delay increases the seriousness of the problem, it is very relevant that any rationing program would take too long to set up and get functioning even after the basic decision was made.

The effectiveness of rationing in fairly apportioning available supplies would be severely limited by illegal activities, which even in the more favorable climate of the war were estimated to have drained off more than 2.5 million gallons daily.

Rationing might turn out to have a stronger effect on official statistics than on actual living costs, since the program would involve large administrative and enforcement costs, and also because the black market which would probably develop would increase actual expenditures.

While the extreme shortages expected this winter may be traced to the sudden embargo of Arabian oil, the problem of energy scarcity began before the latest Middle East war, and will continue after it ends. Thus, while this winter's shortages require short-term crisis-management solutions, ultimate solutions will have to improve the efficiency of energy use.

A coupon rationing system is often advocated because it can be used to channel supplies into the areas considered more socially or economically desirable. On the other hand, such actions are very noticeable, and in an atmosphere where many people feel themselves to be getting less than their due, are apt to be very controversial.

### ARGUMENTS IN FAVOR OF USING RATIONING TODAY

A coupon system along the lines of the one employed during World War II would make it possible to assure continued supplies to those performing essential services and those willing to aid conservation by forming car pools and other gas saving measures. This argument gains force from daily newspaper stories indicating that in the absence of some government enforced system of allocation the first to suffer will be those people and institutions that lack the money and economic power to assure themselves sufficient supplies in scarcity situations, which is to say lower-income users, local bus lines and even some essential institutions such as schools.

Rationing is the only way to apportion a supply which falls short of demand without allowing the price to rise. If one of our highest priorities is halting inflation this will be a very strong argument in favor of rationing.

It was said that one of the advantages of rationing gasoline in WWII was that it was an easy system to get out of when it was no longer needed. To the extent that the extreme situation of this winter is expected to improve, due to improvement in the Middle East situation and long-term programs to improve supply and encourage more efficient use, this could be a great advantage, since history has shown that taxes and special welfare type programs, once instituted, are very hard to get rid of.

### A MODIFIED FORM OF RATIONING

A form of rationing now widely suggested is one in which ration coupons would be marketable, so that those who did not need their whole allocation could sell it, the assumption being that this would eliminate the evils of the black market by legalizing it.

The effectiveness of this would seem to depend on the level at which the regular rations were set. If the basic ration were set high enough to produce a generous supply of coupons for sale it is hard to see how any large reduction in consumption could be achieved, though there would presumably be some net redistribution of income from rich to poor. If, on the other hand, the basic ration were set low enough to produce a real saving in consumption, the supply of extra coupons would be limited and the price accordingly high, thereby reintroducing, at least for heavy users, all the inequities of distribution, and the price inflation which the rationing system is supposed to alleviate.

### INCREASING THE FEDERAL EXCISE TAX ON GASOLINE

Any judgment of the usefulness of an increase in the gasoline tax obviously depends on the estimate used for the price elasticity of demand for gasoline.

Last June, in a column for the Wall Street Journal, Walter Heller quoted an as yet unpublished Data Resources, Inc. study as finding the short-run price elasticity[1] of gasoline to be –0.4 and the long-run elasticity –0.7. Applying these findings he estimated that a 5 cent a gallon tax increase (from the present Federal tax of 4 cents a gallon) would result in a saving of gasoline about equal to this year's growth in gasoline consumption (7%).

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[1] Elasticity is an economic concept that measures the responsiveness of the quantity demanded (or supplied) to some change, in this case, of prices. A price-elastic demand is one in which a small change in price induces a relatively large change in demand. The study indicates that gasoline demand is highly inelastic in the short run, and relatively inelastic even in the long run.

In testimony before the Subcommittee on International Finance of the Joint Economic Committee on November 8 of this year, Hendrik Houthakker mentioned that according to his calculation a 7½ cent tax imposed on July 1, 1973 would have resulted in a 1975 consumption no higher than 1973.

A Washington Post story of November 20 refers to an unreleased Treasury Department study which is expected to predict a short-run (less than a year) drop in demand of 5% and a long-run drop of 7% for every 10 cent increase in price.

The first two estimates were based on annual data, while the third, which comes from a study now being done for the Council on Environmental Quality is based on quarterly data. Thus, even though the last is a very preliminary estimate, it is probably better able to assess the short-term response of demand.

It should be noted that since we have no historical experience with sudden, sharp increases in the price of gasoline, all estimates are necessarily based on small price changes and will be even less reliable when applied to the major changes which are now being discussed.

The question of demand elasticity can be examined more productively if gasoline is thought of as two commodities—"gasoline for livelihood" and "gasoline for pleasure". In the absence of empirical studies it would seem reasonable to assume that, especially in the short-run, demand for the former will be rather inelastic at all income levels, while demand for the latter will be quite elastic at lower income levels, but will display increasing inelasticity as incomes rise. A coupon rationing system attempts both to assure equitable distribution at all levels, and to weight consumption toward the "livelihood" part. The "white market" system now being advocated would essentially maintain the WWII system for "livelihood" demand, while using something closer to the classical marketplace to regulate demand for "gasoline for pleasure".

A large increase in the gasoline tax could have much the same effect provided that the additional revenues it generated were used to offset the burden on the poor. The easiest way to do this might be to follow Walter Heller's suggestion of exempting poverty level wages from the social security payroll tax. Other possibilities might involve a food stamp type program for gasoline, and attempting to make urban mass transit more attractive and available, including reducing or eliminating fares. At the same time it would be possible to get around the high income inelasticity of demand for gasoline by using taxes and outright legislative action to discourage the production of "gas-guzzlers."

### ADVANTAGES OF THE GASOLINE TAX

The strongest argument in favor of a gasoline tax is its impersonality. Admittedly it is regressive, but in a world where the appearance of fairness is at least as important as actual fairness there is a great advantage in any charge which falls automatically on any purchaser in proportion to the amount he purchases, and thus avoids all the individual decisions and administrative messinesses of rationing systems.

Virtually all advocates of a tax increase assume that something will be done to aid those who would experience genuine hardship because of it. The argument is that it is less costly and less cumbersome to fit special solutions to special problems, rather than to put the whole nation through an administrative nightmare in hopes of sparing the few who would be hurt by alternatives.

In addition, since there already is a Federal gasoline tax, the lag from approval to application could be cut to a minimum.

### DISADVANTAGES OF THE GASOLINE TAX

The strongest argument against an increase in the gasoline tax is that it would place a heavy burden on the economy at the very time when the threat of a recession is increasing and there is acute concern about how deep the recession may prove to be. The importance of this argument depends, of course, on the use the government would make of the additional revenues.

There is no doubt that an increase in the gasoline tax would be reflected in the cost of living statistics. Walter Heller's estimate was that a 5-cent increase would add 0.37% to the index.

Another argument against the tax is that, in the absence of firm estimates of demand elasticity at the relevant prices, the tax level which would equate demand and supply is not known and would be chosen without any assurance of its being anywhere near the desired level.

## HISTORY OF FARM LABOR DISPUTE BETWEEN THE UNITED FARM WORKERS OF AMERICA AND THE TEAMSTERS

**Mr. KENNEDY.** Mr. President, in a recent report to AFL–CIO affiliates, AFL–CIO President George Meany summarized the history of the farm labor dispute between the United Farm Workers of America and the Teamsters.

I ask unanimous consent that this document, which provides a detailed background to the current issues involving the Nation's farmworkers, be printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

### Statement on Current Status of the Farm Labor Dispute

In light of the continuing dispute between the growers and the United Farm Workers of America, AFL–CIO, over contract conditions for farm workers and the continuing dispute over the Teamsters raid of UFWA and the sweetheart contracts signed between the Teamsters and the growers, it appears useful to set forth the facts and history of these matters and bring the events up to date.

On November 15 the press reported a meeting held between the Teamsters and growers after which Teamsters' President Frank Fitzsimmons announced that the Teamsters intended to "honor" the contracts they signed with the grape growers and several wine companies during the past eight months. In a press conference on November 21, Fitzsimmons elaborated on this theme and denied there had been any agreement with the AFL–CIO to bring an end to the Teamsters raiding of the Farm Workers Union.

The story of Teamsters raids against the Farm Workers Union goes back a number of years. The Teamsters first raided the Farm Workers in 1970 and almost overnight signed 170 contracts covering workers in the lettuce fields. The first lettuce boycott grew out of that raid.

Finally, in March 1971, the Teamsters agreed not to seek to represent farm field hands and agreed to resolve its disputes with the Farm Workers Union through discussions and, if necessary, through arbitration. That agreement was to remain in effect until March 31, 1973. In fact, the discussions and negotiations which took place between UFWA and the Teamsters never resolved anything and the Teamsters maintained all of their lettuce contracts in force.

In December 1972, Fitzsimmons went to Los Angeles to address the annual convention of the American Farm Bureau Federation, the employer group. "We in organized labor," the Teamsters' president said, "welcome an alliance with farmers—whether they be of the family farm variety or the agribusiness variety—when that alliance works for mutual benefit of the farm worker and his employer."

In that same month the California Supreme Court held that the Teamsters did not represent the workers in the lettuce fields when the 1970 lettuce contracts were signed.

The Court held that the growers and the Teamsters had a collusive relationship. The Court therefore dissolved the injunctions against the United Farm Workers' picketing of the lettuce fields.

On April 15, 1973, the United Farm Workers contracts with the grape growers in the Coachella Valley expired, and the UFWA was attempting to negotiate renewal agreements. These contracts had been in effect for three years and covered all UFWA members employed by the Coachella Valley grape growers.

Within hours of the expiration of the UFWA contracts on April 15, 1973, the growers announced they had just negotiated and signed contracts with the Teamsters. With that announcement, it became clear that Teamsters representatives intended to try to destroy the UFWA. No amount of explaining after that date could wipe out the fact that the workers covered under these contracts were UFWA members, that they had been represented by UFWA for three years up to April 15, 1973, that the UFWA still had the sympathy and support of the workers, and that the actions of the Teamsters constituted an unconscionable raid.

While it is true that the Teamsters contracts provided for wage increases and other benefits for the workers, the agreements also provided for a return to the "contractor" system of employment which deprived the farm workers of any semblance of dignity or any opportunity to establish and maintain decent working conditions through the direct employment relationship.

As soon as the Teamster contracts in Coachella were revealed, the United Farm Workers struck and began picketing. Picketing was maintained in Coachella Valley and in San Joaquin Valley as the harvest moved north. Whenever pickets appeared, Teamster strong-arm squads appeared and violence flared as they attempted to break the Farm Workers strike.

At the AFL–CIO Executive Council meeting in May 1973, the Council heard a report on this situation from UFWA President Cesar Chavez and voted to raise $1.6 million through an assesment to help the UFWA carry on its strike against the grape growers and to win back the contracts which had been taken over by the Teamsters. Additionally, the Council suggested an effort be made to discuss this situation with the Teamsters, on the basis of trade union morality, to see if they would withdraw and cease their interference in the efforts of the UFWA to legitimately represent farm workers.

At the press conference following the Council session, AFL–CIO President George Meany was asked about the Council's action and said:

"The Council voted in the next three months to give Mr. Chavez $1.6 million to try to help him conduct an effective strike against the most vicious, strike-breaking, union-busting efforts that I have seen in my lifetime on the part of the Teamsters. And we're going to do that for the next three months and we're going to do anything that is necessary to keep that union alive. And in keeping that union alive, we're trying to keep the farm workers alive. It isn't the union, it's the actual farm workers.

"What the Teamsters have done through these new contracts that they've signed, is to bring back the so-called 'labor contractor'. Now the labor contractor is the fellow that contracts for the labor, meets these people early in the morning, puts them into a carry-all truck and delivers them to the employer. It's a throw-back to the padrone system that we eliminated—or thought we eliminated—in this country 75 years ago. It means that these people are actual slaves to the labor contractor. The Chavez contracts, which expired in April, had eliminated the labor contractor and substituted a hiring hall. That is all out the window under the Teamsters' 'sweetheart' contract with these growers. So we're going to fight, not for Chavez, not for his union really, but for the workers in the field."

After the Executive Council meeting, contact was made with the Teamsters and a meeting was held on May 29 in Washington. Present for the AFL-CIO were: President Meany, Secretary-Treasurer Lane Kirkland, Vice Presidents Paul Hall and Joseph Keenan, Executive Assistant to the President Thomas Donahue and General Counsel J. Albert Woll. Present for the Teamsters were: Fitzsimmons, Secretary-Treasurer Murray "Dusty" Miller, Vice President and Western Conference Director Einar Mohn, Western Conference representative Peter Andrade, and Assistant to the President Weldon Mathis.

A general discussion of the issues was held, and the meeting lasted about three hours. The Teamster representatives, including Fitzsimmons, said that the growers wanted assurances the United Farm Workers would "behave responsibly" and not violate any agreements they might sign with the growers. Without such assurance the Teamsters said they could not discuss with the growers the possible rescission of the Teamster contracts and their replacement with UFWA contracts.

During the month of June, several discussions were held—by telephone and in meetings—between representatives of the AFL-CIO, the UFWA and the Teamsters.

On July 10, the E & J Gallo Winery, which had a contract with the United Farm Workers for eight years, signed a contract with the Teamsters. The UFW had gone on strike over terms of a new contract. While that strike was in progress, the Teamsters signed their contract with Gallo and announced the workers had voted 150 to 1 for the Teamsters. At the time, all but 27 Gallo workers were on the UFW picket lines.

Shortly thereafter the Franzia Wine Company refused to renegotiate its UFW contract and signed a Teamster contract. UFW struck Franzia and was enjoined.

In late July, the AFL-CIO representatives met with Chavez and UFWA Vice President Delores Huerta. At that time, the UFWA representatives stated their willingness to negotiate with the growers and to have the federation "settle all disputes thereafter arising". A letter, signed by Chavez, to this effect was delivered to President Meany for transmittal to the Teamsters, and, if useful, through them to the growers.

The text of that letter follows:

July 31, 1973.

Mr. George Meany,
*President, AFL–CIO,*
*Oak Brook Hyatt House,*
*Chicago, Ill.*

Dear Sir and Brother: In appreciation of the strong support the United Farm Workers National Union has consistently received from the AFL–CIO and believing that it will greatly assist the United Farm Workers National Union in negotiating a collective bargaining agreement with the Growers, it is requested that in the event it is successful in reaching such an agreement with the Growers that the Federation settle all disputes thereafter arising thereunder by the process of final and binding arbitration conducted by an Arbitrator or Arbitrators selected by the AFL–CIO.

If such request is granted, the United Farm Workers National Union will seek to incorporate such an arbitration clause in any contract reached with the Growers and the United Farm Workers National Union pledges itself to adhere to such clause in good faith.

Sincerely and fraternally,
Cesar Chavez,
*Director.*

On returning to Washington after the Executive Council meeting, a meeting was held August 3 with the Teamster representatives. Present for the AFL–CIO were Meany, Kirkland, Keenan, Donahue and Woll. Present for the Teamsters were Fitzsimmons, Mohn and Walter Shea, assistant to Fitzsimmons.

President Meany presented the letter signed by Chavez, and noted it should take care of the roadblocks to settlement which the Teamsters had raised at the first meeting. Mohn suggested it might now be possible to arrange a "cease-fire" and to conduct negotiations directly with Chavez in California. It was agreed the Teamsters would not sign any further farm agreements while these negotiations were being conducted.

These direct negotiations were first held in Burlingame, California, on August 9 and 10. Woll and Keenan represented the AFL–CIO in these negotiations. Cesar Chavez and UFWA Counsel Jerry Cohen represented the UFWA. Teamster representatives were Mohn, Western Conference Organizing Director, William Grami, Andrade and Al Brundage, Western Conference attorney.

During the first day of negotiations, a number of issues were raised and discussed. The parties agreed to reconvene the next morning. At that meeting, the Teamsters announced that a Teamster representative named Smith had signed 29 contracts with Delano Valley grape growers the night before. The Teamsters representatives said Smith was not authorized to sign these agreements; that it was a breach of the word which had been given to the AFL–CIO, and that the contracts would be disavowed and rescinded. Because of the signing of these agreements and the confusion which this action created, negotiations were broken off, with the hope that they might be renewed later.

Teamsters' President Fitzsimmons also repudiated these contracts on August 10, "as they were negotiated by a Teamster representative with no authority to do so." However, within a few days, some ambiguity arose on this point. The growers stated the agreements really were not rescinded but rather set aside for 30 days to see what developed.

As a result, President Meany called Fitzsimmons on August 20 and urged a meeting to clarify the situation. Meany immediately went to the Teamsters' building and met with Fitzsimmons in his office. Fitzsimmons agreed to write individual letters to the 29 Delano growers with whom Smith had signed agreements advising them that the Teamsters "disclaim and repudiate such purported agreement as being unauthorized" and adding that the Teamsters would not organize their workers. This letter, dated August 20, was sent by Fitzsimmons to the 29 growers:

Dear Sir: We have been informed that your company claims to be a party in a collective bargaining agreement with the International Brotherhood of Teamsters, or one of its affiliates, covering your grape operation in and around Delano, California.

This letter will serve as notice to you that no person has or had been authorized to enter into any such agreement with you on behalf of the International Brotherhood of Teamsters or any of its affiliates, and we, therefore, disclaim and repudiate such purported agreement as being unauthorized. The International Brotherhood of Teamsters and its affiliates have no interest in organizing your employees in the vineyards in and around Delano, California.

Sincerely yours,
Frank E. Fitzsimmons,
*General President.*

The UFWA strikes and picketing continued through the four months from April 15 to August 17. UFWA members were subjected to harassment by the Teamster "guards," local police, growers and court injunctions. In that period there were 3,538 arrests of UFWA members and supporters—the vast majority for violation of 65 injunctions issued by local courts prohibiting picketing, use of bull-horns, unlawful assembly and a variety of legitimate picketing activities.

Kern and Tulare County deputies brutally beat pickets and failed or refused to disarm strike breakers or growers in the vineyards. A number of pickets were wounded by gunfire, hundreds were injured by rocks, clubs, brass knuckles, lead pipes, bats, chains, tire irons and belts. Two members of the UFWA were killed.

Three days of negotiations between representatives of the AFL–CIO, the Teamsters and the United Farm Workers, were then held in Washington on September 25, 26 and 27. AFL–CIO representatives in those negotiations were: Vice Presidents Hall and Keenan, Donahue and Woll. Teamsters representatives were: Mohn, Mathis and Andrade. UFWA representatives involved in the talks were Cesar Chavez, Richard Chavez and Cohen.

At the end of those three days of meetings an agreement was reached by the negotiators and was to be announced the following day by Fitzsimmons and Meany. It was a full and complete agreement and not subject to further negotiations. It is obvious that negotiators of the level indicated were operating with the full authority of their respective organizations.

At the conclusion of these negotiations, the AFL–CIO released an agreed-upon statement to the press:

"Following three days of negotiations the parties have made progress toward a resolution of the issues.

"The AFL–CIO and Teamsters negotiators will report back to their principals and we expect an announcement Friday."

The following day, Friday, September 28, Fitzsimmons advised President Meany that he wanted the Teamsters lawyers to look over the language of the agreement. They agreed that President Meany would advise the press that the Teamsters, the AFL–CIO and the UFWA had reached "an agreement in principle subject to an examination by legal counsel."

Attorneys for the Teamsters, the AFL–CIO and the UFWA met on October 2, in the office of the Teamsters Secretary-Treasurer Miller and reviewed the agreement which had been reached. They agreed to report back to their principals.

The only substantial question that was ever raised by the Teamster attorney was whether or not the AFL–CIO would agree to indemnify the Teamsters for any financial loss they might suffer as a result of law suits brought by growers.

Inasmuch as the "contracts" were never authorized by the workers involved and were agreed to surreptitiously, the AFL–CIO stated the demand was unreasonable.

The AFL–CIO attorney pointed out that this question had been raised by Teamster negotiators in the course of the September negotiations and had been rejected out-of-hand by the AFL–CIO representatives. Raising it anew was an attempt to reopen the substantive issues of the negotiations. It had been previously rejected by the AFL–CIO representatives on the ground that they could not be asked to protect the Teamsters from the consequences of their own illegal acts. The Teamsters did not represent the workers when the "contracts" were signed. The "contracts" were invalid and not enforceable under California law, and therefore, there was neither a legal nor moral obligation arising from these "contracts".

At this time Fitzsimmons was out of the city for several days and the AFL–CIO waited for his final reply. None ever came.

Finally, after making an inquiry, the AFL–CIO was informed that Fitzsimmons intended to "take it up with his Board" when it met in late October. There was no announcement by the Teamsters following the Board meeting.

Finally, after their November 15 meeting with the growers, Fitzsimmons announced that the Teamsters intended to "honor" the contracts they had signed, including even the Delano contracts which had been specifically repudiated as "unauthorized" and as a breach of the clear agreement between the AFL–CIO and the Teamsters.

In a statement issued November 16, President Meany said:

"Obviously, I cannot know why IBT President Fitzsimmons has now chosen to renege on that agreement and he will have to explain that. It appears the Teamsters have decided that their interest lies in maintaining the alliance they have created with these employers, rather than in maintaining their integrity as trade unionists.

"For our part, we intend to continue to suppport the United Farm Workers of America as the legitimate representative of the interest of all farm workers."

The Special Committee appointed by the AFL–CIO Executive Council to assist UFWA will meet shortly to examine this situation further. The members of the Committee are: AFL–CIO Vice Presidents James Housewright, Lee Minton and Paul Hall and Mort Brandenburg, President of the Distillery Workers and Patrick E. Gorman, Secretary-Treasurer of the Amalgamated Meat Cutters and Butcher Workmen of North America.

This Committee will advise the executive officers of the AFL–CIO who have been authorized by the Executive Council to take whatever actions are appropriate to assist the United Farm Workers, including consideration of a boycott.

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## TOY SAFETY: A GIANT STEP FORWARD

Mr. PERCY. Mr. President, on numerous occasions I have indicated my dismay and outrage at the incredible callousness with which some toy manufacturers produce, advertise, and sell their wares, seemingly oblivious to the safety of children as consumers.

The production and marketing of toys is big business in the United States. Retail sales approach $4 billion per year. The U.S. Consumer Product Safety Commission reports that more than 150,000 different kinds of toys are sold.

Sadly, many of these purchases end in tragedy. Each year approximately 700,000 children suffer serious injury, burns, maiming, disfigurement, and death from toys, or weapons masquerading as toys. What makes these injuries and deaths doubly tragic is that most of them were foreseeable. Many could have been prevented.

One of the most encouraging signs of enlightened corporate concern was shown during this past Christmas by an areawide food and general merchandise retailer, Giant Food, Inc. Under the positive leadership of Giant's consumer adviser, Esther Peterson—whose name has become a synonym for responsible consumer concern—and with encouragement and support at the top from Joseph Danzansky, company president, Giant undertook a comprehensive toy safety program designed to assist parents and children in their toy purchases.

The company assembled an advisory group of consumers, professionals, manufacturers, and government representatives, under the able and inspired guidance of Chairman Arnold B. Elkind, former head of the National Commission on Product Safety. Combining its testing facilities with the committee recommendations, Giant removed a number of potentially dangerous toys from its shelves, even where Federal safety standards had been met. In addition, the chain published an instructive, easily readable 32-page "Consumers' Guide to Toys," and initiated a comprehensive program including:

Age labeling;

Alerting consumers to toys where parental guidance—PS—is advised;

Monitoring toy safety based on consumer and committee suggestions:

Informative advertising relating to safety; and

Working hand in hand with manufacturers and consumer groups in a year-round program to improve toy safety.

Albert Camus once wrote:

> Perhaps we cannot prevent this from being a world in which children are tortured, but we can reduce the number of tortured children.

If we fail to implement the statutes that are now on the books, and if we fail to encourage companies to take initiatives as Giant Foods has done, we will have abdicated our moral responsibility as responsible citizens. Indeed, if we fail to make the most minimal of efforts to insure the safety of our children, we will at best be guilty of ignoring the torture that we know now exists. At worst, we will be condemned as accessories before the fact.

Mr. President, because I feel strongly that initiatives aimed at assuring the health and safety of consumers should be emulated, I ask unanimous consent to append to my remarks at this point excerpts from Giant's "Consumers' Guide to Toys," together with statements from Esther Peterson and President Danzansky explaining the motivation behind, and need for this kind of continuing program.

I also request that two excellent articles on the subject of toy safety—"Cracking Down on Unsafe Toys"—Chicago Today, December 4, 1973—by Sue Roll, and "Toy Safety Hazards: Real or 'Exaggerated'?"—Washington Post, November 18, 1973—by Nancy L. Ross—also be printed. Both articles provide a perspective which should be a reminder to all responsible businesses not to toy around with safety.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### STATEMENT BY JOSEPH B. DANZANSKY, PRESIDENT, GIANT FOOD INC.

Out of all the opportunities that Esther Peterson has given us to practice what she preaches, none gives us more pleasure than the chance to bring a greater measure of safety to accompany the joys of childhood.

The National Bureau for Consumer Affairs has said, "In selecting products for sale to the public, retailers act as 'consumers' buying agents' and they have the responsiiblity to obtain only safe products." We agree with this statement. Surely nothing gives us greater pain than the thought that we might be causing injury to a young child. We are pleased that Giant's new toy safety program will bring greater peace of mind and a happier holiday season to thousands of our neighbors.

The successful development of this program is a result of our continuing faith in the goodwill and reasonableness of all our fellow citizens. We believe that it is possible to be an advocate of a viewpoint without being an adversary. To develop this program, therefore, we asked all the conflicting but interested groups to sit down together to resolve some of the many knotty problems that stood in the way of the achievement of our goals.

For months, representatives of consumer groups, child specialists, manufacturers, and government representatives labored over this problem, and today we see the beneficial results of such communication between business and the public.

In closing, I want to say that it is possible for a business to serve its community while minding the store. We have found that a responsiveness to the needs of our community is enlightened selfishness—that, indeed, consumerism is good business. We are gratified that during the past months, many companies have adopted positive programs to meet the legitimate needs of consumers. We are confident that this is the wave of the future. That can only be good for consumers, for business, and for our country.

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### STATEMENT BY ESTHER PETERSON, CONSUMER ADVISER

Our children—and our grandchildren—are our greatest natural resource. But, more than that, they are objects of our love. So we want to exercise judgment and care in selecting the toys we buy for them.

As part of Giant's "Consumers' Bill of Rights," we promised to work on ways "to eliminate unsafe toys, appliances, and other products from the marketplace." To help meet our commitment, we adopted the same formula used in developing other consumer programs at Giant. We invited consumers, professionals, manufacturers, and government representatives to form a committee to advise us on the right thing to do. The program we are presenting today is the result of the committee's first recommendations on toys. At a later date, we hope the committee will assist us with advice on other products for children.

We developed this program because we felt that retailers had a responsibility to provide consumers with information on toy safety. We can *never* prevent all childhood accidents, but we can help to reduce them. We hope Giant's toy program and the "Consumers' Guide to Toys" will help consumers choose toys that are safe and suited to the age and abilities of the child.

It is a beginning step and I think it is a significant one.

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### CONSUMER GUIDE TO TOYS

WE ARE COMMITTED TO THE CONSUMERS'

Right to safety;
Right to be informed;
Right to be heard;
Right to choose;

Right to redress; and

Right to service.

### SOME INFORMATION TO HELP YOU IN CHOOSING TOYS FOR CHILDREN

Our children—and our grandchildren—are our greatest natural resource. But, more than that, they are objects of our love. So we want to exercise judgment and care in selecting the toys we buy for them.

As part of Giant's "Consumers' Bill of Rights," we promised to work on ways "to eliminate unsafe toys, appliances, and other products from the marketplace." Toward this goal, Giant has organized and obtained the assistance of a splendid Ad Hoc Advisory Committee On Toys. This booklet is the first result of that committee's work with Giant. It deals just with toys. At a later date, we hope the committee will assist us with advice on other products for children.

We hope this guide will enable you to choose toys that are not only safe but also suitable for the age of the intended recipient. You have a right to the information in this guide and Giant is glad to make it available to you.

ESTHER PETERSON,
*Consumer Adviser to the President of Giant Food.*

Giant recognizes its obligation as a retailer to offer you toys that are safe and suited to the age and abilities of the child. With the help of an expert advisory committee, Giant has developed a program to meet that obligation.

### WHAT STANDARDS ARE USED

The federal government has set mandatory safety standards for many toys and from time to time proposes additional standards. The Toy Manufacturers of America (TMA) has also proposed safety standards for the toy industry.

Giant's toy merchandise comes only from manufacturers able to furnish Giant with a statement that their toys meet all existing mandatory federal regulations for safety.

### CHECKING THE SAFETY OF TOYS

Giant constantly exercises discretion in behalf of the safety of the consumer. In its quality assurance laboratory, Giant uses both federal and TMA standards for safety when spot checking toys and testing samples of toys new to the market. In particular, Giant tests any toy not age labeled by the manufacturer.

Besides sample toy testing and suggested age labeling, Giant's toy program includes cautionary signs near products requiring parental guidance and adult supervision; continuous monitoring of toys based on consumer experience and comments, and advisory committee suggestions; and working with manufacturers to improve toy safety.

### SUGGESTED AGE LABELING

Age is relevant and not necessarily indicative of maturity or physical coordination. But to help consumers choose toys considered suitable for children of varying ages, toys sold in Giant stores carry labels indicating age groups for which the toys are intended. These age labels are usually determined by the manufacturer based on considerations of safety, appeal, interest and suitability for a particular stage of child development.

This year, a few infants' toys and other toys which are being discontinued either by the manufacturer or by Giant, may not carry age labels. For the infant toys without age labels, store signs will suggest appropriate age. Toys such as stuffed plush animals, soft body and walking dolls, coloring books, crayons, and playing cards—where age is not necessarily the determining factor—will bear no age group labels and are not listed in the Guide.

Packaged toys displayed on peg boards are not listed in the Guide but are clearly age labeled.

### ADVERTISING

Giant's advertising of toys will be honest, informative, and without exaggeration. Pictorial representation of package contents will be accurate. Whenever possible, Giant's advertising will include suitable age group for the toy and will note if parental guidance (PG) is recommended.

### PRECAUTIONARY INFORMATION

Wherever warranted, and particularly in store areas featuring certain crafts for children, cautionary signs with the PG (parental guidance) symbol will be posted to alert consumers to the need for adult supervision or other precautions.

### ELECTRICALLY POWERED TOYS

Recognizing the hazards associated with electrically-powered toys, Giant has eliminated a number of toys that plug into house current. Those remaining electrical toys (e.g. Argo popcorn maker, Argo cotton candy maker, Gilbert pottery kickwheel, Gilbert pottery craft, and Skillcraft rock tumbler) and games are sold with the recommendation of parental guidance. Other items—for example, phonographs—that are frequently purchased for use by young children are carried in the appliance department. Items such as wood burning sets or electric trains used by older children are carried in the hobby department.

### YOUR SATISFACTION IS IMPORTANT

Giant's return policy—satisfaction guaranteed or your money back—applies to toys and other products for children sold in Giant stores.

### CONSUMER COMMENTS

This Guide is intended to provide you with information to help you buy safe and suitable toys at Giant. Is it helpful? We'd like to hear from you. Send your comments to:

Esther Peterson, Consumer Advisor, Giant Food Inc., Box 1804, Washington, D.C. 20013.

If you have a question, comment or complaint concerning any toy product, please let us know. We will get in touch with the manufacturer and Consumer Product Safety Commission; but in addition, it would be useful for *you*, also, to send a copy of your letter to the manufacturer and any of the following:

Toys: Consumer Product Safety Commission, Washington, D.C. 20207.

Toy Manufacturers of America: 200 Fifth Avenue, New York, N.Y. 10010 (212–675–1141).

(For advertising complaints or questions): Federal Trade Commission, Attention: Secretary, Washington, D.C. 20580 (962–5025).

In Washington: Consumer Retail Credit Division, 614 H St. N.W., Room 306, Washington, D.C. 20001 (629–2618).

In Virginia: Virginia Department of Agriculture, Office of Consumer Affairs, P.O. Box 1163, Richmond, Va. 23209 (804–770–2042).

In Maryland: Consumer Protection Division, Office of Attorney General, South Calvert St., Baltimore Md. 21202 (301–383–3700).

In Prince Georges County, Md.: Consumer Protection Commission, Prince Georges Court House, Upper Marlboro, Md. 20870 (627–3000, ext. 561, 562).

In Montgomery County, Md.: Montgomery Office of Consumer Affairs, 24 S. Perry St., Rockville, Md. 20850 (340–1010).

Or call: Consumer Product Safety Commission Hotline, 800–638–2666 (Toll free number for 3 months or longer after November 1, 1973).

For Marylanders outside the metropolitan Washington area, the number to call is: 301–492–2937.

### SOME POINTERS FOR THE CONSUMER

Arnold B. Elkind, chairman of Giant's ad hoc advisory committee on toys, says, "Giant's Consumers' Guide to Toys is just a beginning. Selecting toys requres good judgment rather than a generous impulse."

The following suggestions will help in the development of good judgment:

If a toy must be assembled after purchase, follow directions exactly. Consider the child's age, interests, capabilities and attention span to determine if the toy would be appropriate. Remember that playing is learning and that many toys provide educational experiences.

The recommended age range label is put on the toy by the manufacturer or by Giant as a guide to the customer. For a less mature child, the toy could be dangerous or frustrating; for a more mature child, the toy could be boring. The PG (parental guidance) notation indicates that little brothers and sisters should be protected from complicated toys and crafts that could endanger them and that the older child should be taught to put such sets out of the reach of younger children.

Because many crafts for children require close parental supervision either as indicated by the manufacturer's caution label or by Giant's Consumer Toy Guide, adults should read labels carefully to exercise proper supervision. If such labels—where needed—are not affixed by the manufacturer, Giant will post signs where the product is sold to alert consumers to the need for parental guidance.

Toys should be inspected periodically and repaired if necessary. If they become hazardous from hard or extended usage—or exposure to weather—they should be discarded.

The Consumer Product Safety Commission and other experts offer the following advice about toys for young children. Make sure that a toy for a toddler or infant:

Is not so small that it can be swallowed;

Has no detachable small parts that can lodge in windpipe, ears or nostrils;

Is unlikely to break easily into small pieces or to leave jagged edges;

Has no sharp edges (particularly metal) or points;

Has no exposed straight pins, sharp wires, nails;

Is not made of glass or brittle plastic;

Is labeled "non-toxic" (avoid painted toys for infants who put playthings in the mouth);

Has no parts that can pinch fingers or toes, or catch hair;

Has no cords or strings longer than 12 inches for crib toys.

### THE TOY GUIDE FORMAT

Toy Guide information is organized as to: type of toy; recommended age groups; alphabetical listing of manufacturers.

All toys in the Guide are sold in Giant Department Stores. Items offered in Junior Department Stores carry the symbol JD beside the toy listing; items offered in Catalog Showcases carry the symbol CS. Toys sold by Giant at these stores or by catalog are listed under one of the following chronologically-listed age classifications:

Infant toys, page 8;
Preschool toys, page 8;
Games, page 15;
Action toys, page 19;
Housekeeping toys, page 23;
Crafts, page 24;
Dolls, page 26, and
Playfurniture & nonmetal wheel goods, page 29.

Toys are also listed alphabetically by manufacturer within each classification. Party goods intended for use by children are not listed in the Guide. However, Giant is testing these goods and will remove from its shelves those products which do not meet Giant specifications. Giant's advisory committee feels that party goods present special problems. Until firm guidelines are developed by the committee to cover these products, Giant recommends adult supervision.

### GUIDE NOTATIONS

Because Christmas and other special holidays create greater demand for toys during certain seasons, some toys listed in the Guide may not be available all the time. But toys that are available throughout the year are marked with an asterisk (*).

A PG (parental guidance) notation in the Guide indicates adult supervision is advised.

Although Giant strives to insure that all toys marked with an asterisk are available at all times, situations such as unforeseen delivery problems or unexpected heavy sale of merchandise may make some toys temporarily unavailable.

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[From the Chicago Today, Dec. 4, 1973]

## CRACKING DOWN ON UNSAFE TOYS

(By Sue Roll)

Determined young women, armed with clipboards and endless persistence, are scrutinizing toy counters. But they're not taking inventory.

These women, along with students and senior citizen volunteers, are consumer deputies checking stores for any of the 1,500 toys banned from sale by the Consumer Product Safety Commission.

"It's a tedious job, but it gets easier as you go along," said Carol Einhorn, consumer deputy from the National Council of Jewish Women covering Arlington Heights. "You get to know the banned products list by heart. We've had great cooperation from the stores, and, happily, so far we've only found a couple of questionable toys."

Under 1970's Child Protection and Toy Safety Act, the commission can ban the sale of unsafe soys. Toy safety in Chicago is doubly enforced with last year's passage of a city toy safety act.

In Chicago, volunteer consumer deputies and investigators from the city's Office of Consumer Sales, Weights and Measures, the Product Safety Commission, Illinois Department of Public Health, and various other groups are checking stores for unsafe toys.

But the monitoring is a formidable task. More than 1,200 United States toy manufacturers produce 150,000 different toys and introduce 5,000 new ones each year. Thousands more are imported.

Last year, surveys of stores in Chicago, Minneapolis, Seattle, Atlanta, San Francisco, and Philadelphia by the Food and Drug Administration indicated that about 55 per cent of the stores carried unsafe toys.

But Al Limberg, assistant director for the Chicago commission office, said:

"We're not finding as many unsafe toys as we found the last two years. Retailers, manufacturers, and wholesalers are aware of the problem and as businessmen, they are reasonable people. It is in their vested interest to comply with the law—they know they can be prosecuted if they don't."

He said improvement was expected this year because toy safety laws have been in effect for two seasons, more manufacturers and retailers are taking their own safety steps, and shelves are being checked before the Christmas rush.

"There has been a big improvement over the last two years," said Terry Hocin, chief consumer service supervisor for Chicago. "The federal program really became effective last year. And with the added local emphasis of the city's ordinance, I think there is more awareness of toy safety here than in most other cities."

Only 2 of 12 stores checked so far this year by commission deputies were selling banned toys. In 550 investigations conducted last year by the city, 20,000 toys were ordered off the shelves.

Enforcement of the city ordinance has been handled on a complaint basis this year, pending settlement of a suit filed against the city by the Toy Manufacturers Association concerning the city toy ordinance, Hocin said.

He said since the city has agreed to clarify its ordinance, to bring it more in line with federal guidelines, that the suit should be dropped next month. However, the department investigators began full-scale examinations last weeek, he said.

Hocin said distinguishing the packaging of banned toys from their modified versions is a problem: The labeling can be the same altho the toy now complies with the law, or the labeling may change while the hazard remains.

Another problem comes from the flow of new toys each year. Toys judged safe by the commission have passed a rigorous set of tests, but the commission has no authority for pretesting new toys before they are placed on the market.

However, the commission does screen new toys at the annual toy fairs, Limberg said. In support of the toy safety provisions, the toy manufacturers, with the guidance of the Bureau of Standards, drew up a set of voluntary safety standards for the association. Some manufacturers test their own toys, and others send them to the commission and city consumer office for screening and approval.

Both city and commission officials say the response of most toy manufacturers and retailers has been good.

"We are making a maximum effort to comply," said a spokesman for one of the largest Chicago-area toy dealers. "But each time a new [banned products] list comes out, here we go again. We have to move at the expense of almost everything else to make sure we don't stock those toys. We want our customers to feel our store is safe and clean."

The commission says banned toys will more likely be found in small toy outlets where buyers may be less familiar with the list and where unsold toys are usually kept for two or three years.

If the deputies find banned toys, they ask the retailer to remove them from the shelves. Most retailers cooperate, Limberg said. Deputies also are instructed to report any questionable toys that are not on the banned list. The commission will do preliminary tests and, if necessary, send the toys to its national laboratories for complete evaluation.

"It's the manufacturer's responsibility to comply before putting the product on the market," Limberg said. "He knows what tests the toy must pass to be judged safe."

But while authorities are working to make this year's Christmas toys safe ones, the process is not infallible. "If a toy passes the tests, it is relatively safe, but safety is not an absolute," Limberg said. "What is safe for a 12-year-old is not necessarily safe for a 5-year-old."

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[From the Washington Post, Nov. 18, 1973]

## TOY-SAFETY HAZARDS: REAL OR EXAGGERATED?

(By Nancy L. Ross)

Thirteen-month-old Nanette picked up a peg from the board and put it in her mouth. It lodged in her left bronchial tube, causing an infection, according to the doctor who pronounced her dead two days later.

Sam, 3, trying his new tricycle, turned sharply to the left, fell over and suffered a fractured right elbow. An investigator found that the tricycle tipped over easily.

As Paul, 11, tried to start his model airplane, the fuel line touched the hot cylinder housing and burst into flames. Paul was treated for second-degree leg burns.

The names are fictitious but the accidents are real, taken from the files of the National Electronic Injury Surveillance System (NEISS). Based on computer projections from injury records filed by 119 hospitals across the country in the last fiscal year, emergency room treatment was required in 143,000 toy-related accidents and 372,000 bicycle-related injuries.

Emergency room treatment accounts for only part of medical assistance—other cases are treated in physicians' offices or homes.

According to the government's NEISS program, roller skates were shown to be the single most dangerous toy, accounting for 36 per cent of the injuries reported. Tricycles were second, followed by toy cars, trucks, airplanes and boats. Gasoline-powered toys caused the severest injuries.

More boys than girls were hurt last year, with cuts to the head and neck as a result of falls being the most common injury.

Edward M. Swartz, a Boston trial attorney and author of "Toys That Don't Care," says that from his 15-year experience with product injury cases there are "as many, if not more" toy-related accidents now. He recently obtained a $1.4-million settlement against a toy manufacturer on behalf of two children seriously burned when their polyester comforter caught fire. Swartz says the same type of fiber "burns like napalm," and is still being used in play sleeping bags.

Still pending is a $5 million suit against a major toy manufacturer in western New York State. The cap of one of its wooden figures lodged in the windpipe of a small child who suffered permanent brain damage from lack of oxygen. The toy met existing safety requirements. The company's president, Henry Coords of Fisher-Price, at the time of the accident headed the safety committee of the Toy Manufacturers of America, a trade association representing producers of 85 per cent of the dollar volume of toys sold in the United States. He declined to discuss the case.

Now president of TMA, Coords believes the unsafe toy issue has been "much exaggerated and blown out of proportion." TMA's general counsel, Aaron Locker, points out that half of the actual injuries reported by NEISS involved balls or ride-on toys—bicycles, roller skates, etc.—which present an inherent danger in the course of normal play. He also notes the few examples of injuries caused by electrical toys, previously thought to be very dangerous. The most dangerous toy—roller skates—placed 42d on the list of 369 hazardous household products, and the median toy ranked 230th.

The commission figures it a different way however. If the 39 categories of toys are taken as one, toys rank sixth on the list of most hazardous household objects. Bicycles, incidentally, rank number one.

All these figures notwithstanding, it cannot yet be stated with certitude whether there are really as many—or more—injuries as originally predicted, or whether the number has decreased with the increased emphasis put on safety in the past two or three years. So a multi-pronged toy safety campaign—incorporating consumer education, industrial redesign and governmental enforcement—continues.

Not all toy-related injuries can be blamed on unsafe toys. In many cases they result from carelessness on the part of the child or on the part of the parent in selecting the wrong toy for the child's age or not exercising adequate supervision. TMA estimates only 15 per cent of toy-related accidents are caused by faulty toys.

To increase public awareness, an independent governmental agency, the Consumer Product Safety Commission (CPSC), which has charge of toys, has produced radio and television public service announcements in English and Spanish, a color film entitled "Can You Pass the Toy Safety Test?", leaflets, an information hot line and a complete list of 1,500 banned toys.

Swartz believes the emphasis on the banned toys is giving the public a false sense of security by implying that the government has removed all the dangerous toys and that anything left on the shelf must be safe. This is untrue for several reasons.

First, each year there are about 150,000 toys for sale, 5,000 of them new models.

Since pre-marketing clearance is not required, some new ones may have undetected hazards. Moreover, it is often hard to distinguish between new, redesigned and old models.

For example, the outside temperature of electrical toys, like ovens and irons, shipped after Sept. 3, 1973 must by law not exceed about 200 degrees. Older models still on sale with temperatures ranging from 300 to 600 degrees can cause painful burns. The new models may have the same appearance, so one must check for cautionary labeling to assure that a model is new.

Second, because certain toys are "banned" does not necessarily mean they cannot be sold under prescribed conditions. For example, lawn darts have been declared hazardous. But instead of being prohibited outright, it is now illegal to sell them in toy shops. They can still be purchased in athletic equipment stores. The danger to children remains.

Third, some banned toys may escape notice by merchants and customers and be sold inadvertently. The CPSC plans to make 300 inspections of retail stores between now and Christmas to search for banned toys. In addition, the commission is recruiting 1,000 volunteer citizen inspectors in 14 cities across the country.

Local consumer groups also have been active. In the Washington metropolitan area, the Virginia Citizens Consumer Council sponsored a day-long session on toy safety last month at Springfield Mall. A slide show, "Toy Safety—Ignorance Is Not Bliss" was shown and toy buying guidelines distributed free. Committees inspected toys in the stores and displayed examples of ones they found hazardous.

TMA's Aaron Locker believes "enormous progress" has been made by industry in the past year in furthering toy safety. TMA has safety film for distribution, but most of its actions, he says, are "deeds, not words." Recently, the industry commissioned an engineering study from Arthur D. Little company that has now been presented to the National Bureau of Standards for its approval as a voluntary toy standard.

Malcolm W. Jensen, former director of the Product Safety Bureau and now a member of the board of the Ideal Toy Corporation, feels that manufacturers, importers and marketers are now aware that consumers, as well as government, care about toy safety.

Progress on the governmental level was slowed this year by the transfer in May of responsibility for toys from the Product Safety Bureau, part of the Food and Drug Administration, to the independent Consumer Product Safety Commission. Still in the shake-down phase, the new authority has not yet shown itself to be as aggressive as its predecessor.

Since CPSC took over, it has banned 141 toys (the Product Safety Bureau banned about 250 earlier this year) and issued only one final standard (electrical and thermal toys) plus several testing protocols. Only one manufacturer is currently under criminal prosecution for making or selling unsafe toys (he risks up to one year in jail and up to a $50,000 fine if convicted).

Safety standards for toy chests, glass objects, vacuum bottles, cribs, tricyles and bicycles are expected to be completed next year, some of them in time to make safer Christmas presents in 1974.

Also in 1974 the CPSC hopes to flex enough muscle to put through a mandatory generic manufacturing standard of its own that would affect all toys, not just selected categories as in the current piecemeal approach. Industry would prefer, if any standard is to be made mandatory, that its own (now) voluntary, laxer standard be selected.

Will toys ever be made completely safe? Unfortunately no, say industry and government alike. There will always be flukes, cheap novelties that can maim horribly. And, so long as there is public apathy, ignorance and carelessness, there will continue to be accidents like these:

Stephanie, 21 months, fell down while she was tootling a plastic flute. It shattered, cutting her mouth in many places. One piece lodged in her palate and had to be removed by a surgeon.

Mrs. F. tripped on a roller skate in a dark hallway and fell against a space heater, sustaining first and second degree burns on her left arm.

A widowed grandmother was babysitting for her 2½-year-old grandchild. While they played, the child shot her in the eye with a rubber dart gun. The victim was treated for an eye hemorrhage.

## RECOMMENDATIONS FOR REDRESS OF CONSUMER GRIEVANCES

Mr. PERCY. Mr. President, as I, and other members of this body have continually pointed out, the American consumer must be afforded protection from faulty and falsely-advertised goods and services.

Unscrupulous and/or negligent businessmen are a very small minority. But, when the health, safety, and economic welfare of the citizens of this Nation are deceptively preyed upon, a great injustice is perpetrated both on the consumer and on the reputation of American business.

Our system of free enterprise can achieve prosperity only if trust between buyer and seller is at its foundation. To insure that trust, efficient and expeditious methods to redress the legitimate grievances of consumers are needed.

In this connection, the National Institute for Consumer Justice has made some extremely worthy recommendations in the receently published report, "Redress of Consumer Grievances."

A few of those that make particularly good sense to me, include:

That arbitration be considered as a means of settling consumer disputes that cannot be resolved by private negotiation or mediation;

That all States adopt a uniform arbitration act;

That a small claims court be made available and easily accessible to every consumer in order to provide simple, speedy, and inexpensive justice;

That, in addition to being a consumer's court, the small claims court be made a part of the regular court system and have the same subject matter and personal jurisdiction as a regular civil court in the State where it is located;

That small claims courts have the power to order repairs, to repeal a sale or contract, or to take other actions to resolve disputes;

That the monetary ceiling in the court's jurisdiction be high enough so that most cases, which could not be economically carried to the regular civil court, could be heard;

That a small claims court should have evening and Saturday hours;

That neighborhood small claims courts be established, particularly in urban areas;

That fees be low and that the court have the power to do away with fees;

That Better Business Bureaus require their members to establish effective internal grievance procedures;

That the handling of consumer complaints be swift, personalized, courteous and effectively managed by the private sector. This should include complaint followup and appropriate involvement by senior management; and

That the money-back policy be fully explored by companies not now offering it. It should be adopted wherever feasible as a means to summariy settle disputes with consumers.

These measures would go far toward the resolution of legitimate consumer grievances. Their implementation would help to curtail the current downward trend of confidence in American business.

But even they are not enough.

With consumerism, as in medicine, preventative action is the most efficacious remedy. The consumer must have a permanent voice and presence within the structure of our Government to protect the consumer to the greatest extent possible.

To this end, legislation to create a Consumer Protection Agency is presently before the Government Operations Committees of both Houses. Sponsored in the Senate by Senators RIBICOFF, JAVITS and myself, the CPA would represent the interests of the consumer in deliberations before Government agencies and the courts. Its role would be to compile information, present relevant facts, supply testimony, rebut contrary evidence, submit briefs, conduct research and investigations—in short, to be concerned.

An active CPA, combined with implementation of the measures NICJ has suggested, would eliminate a great number of consumer problems in this country. It is my fervent hope that the Congress, the courts, the appropriate agencies of Government, and the private sector will all do their part in realizing this end.

## TOM SCOTT

Mr. BIBLE. Mr. President, it is with both honor and regret that I join my colleagues in paying tribute and farewell to Tom Scott. This man of great ability, who has played such an influential role in congressional appropriations for the past 30 years, is retiring. He richly deserves the rewards of retirement, but we shall all miss him—not just on the Senate Appropriations Committee but in the Senate and the House of Representatives, on both sides of the partisan aisles. His services, for that matter, will be missed all across the Federal Government and throughout this Nation to which he dedicated some 40 years of his life.

I shall not attempt to repeat the highlights of Tom Scott's fine career, which were so ably summarized by the chairman of the Senate Appropriations Committee (Mr. McCLELLAN). Suffice it to say, Tom served with great distinction first with the Federal Bureau of Investigation before joining what was then a small Appropriations Committee staff in 1943. He was an old hand in the Senate when I was first elected to this body in 1954 and, like others on the committee, I relied heavily on his experience, judgment, and honesty. None of us has ever regreted that trust.

While we relied on Tom for his professional excellence, we regarded him first as a close friend. For Tom, as a human being, is one of the finest persons it has been my privilege to know during my 20 years in the Senate.

Tom's career in the Senate spanned a period of unprecedented national growth that was accompanied by increasingly complex responsibilities in the appropriations process. The staff of three principal clerks, who handled appropriations bills when Tom joined the committee, has increased 10 times over, and the processing of appropriation bills is now a year-round, unending task. Tom took this growth and its challenges in stride. We are fortunate that a man of his capability was available, a man who grew in stature as his duties expanded.

It is perhaps sufficient tribute in itself to note that Tom served under seven different chairmen and a total of 89 different committee members and earned the trust and respect of them all. The committee's resolution giving official recognition to the invaluable services of Tom Scott has my enthusiastic endorsement.

To Tom I extend my own personal best wishes for continued success and achievement. May he and his wife, Mary, enjoy the many years of happiness that are so richly deserved.

## POSSIBLE NEW MEDICARE HELP FOR MASTECTOMIES

Mr. PERCY. Mr. President, I recently became aware that medicare does not provide coverage for breast prostheses for women who have undergone mastectomies. Until now, the Social Security Administration has considered such prostheses as cosmetic devices and has not, therefore, provided payment for their cost.

A volunteer group in Illinois known as Reach for Recovery has brought to my attention, however, that breast prostheses do not fundamentally serve a cosmetic function, but rather perform the medical and physical functions of providing for weight distribution and balance; the physical comfort required for mastectomees to resume normal activity; protection to the site of surgery; and vital psychological restoration.

I discussed this problem with the Senate Finance Committee staff, who in turn contacted the Social Security Administration. I wish to commend the staff for its fine work, for through its efforts, I have received assurances from the Social Security Administration that current medicare policy will be reconsidered. Consequently, I anticipate some modification in the administrative decisions concerning breast prostheses for mastectomees.

I bring this possible change in medicare policy to the attention of my colleagues so that they may share this information with their own constituents who may also express concern about medicare coverage of breast prostheses for mastectomees. As soon as a final decision on the pertinent medicare regulations is made by the Social Security Administration, I will be pleased to notify my colleagues.

## VOTER REGISTRATION

Mr. McGEE. Mr. President, while the Voter Registration Act (S. 352) which the Senate passed last May 9 has not yet been enacted into law, it is interesting to note that an increasing number of States and local jurisdictions are turning to simplified voter registration via the U.S. mail to insure that qualified citizens have ready access to the polls on election day. This is a welcome trend indeed, and one I hope will be noted in the other body as it nears consideration of the Voter Registration Act.

Very recently, election officials in Montgomery County, Md., unveiled their plans for a new system of registration by mail—a plan authorized by the Maryland Legislature. Under this system, local election boards and public libraries will make registration forms available. All the qualified would-be voter needs to do is obtain the form, fill it out, and mail it to the election board. Formerly, the Montgomery County voter had to appear before two registrars, each of whom was required to record the necessary information. The election board, of course, still obtains the information pertinent to each voter and still retains the power to register voters. What has been eliminated by this plan, or will be, is the discouragement to vote which was visited on citizens who encountered long lines at the registration table.

Mr. President, I ask unanimous consent that an article on Montgomery County's new voter registration system, which appeared in the Washington Star-News for January 8, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### VOTER REGISTRATION BY MAIL

Montgomery County election officials have unveiled plans for a new system of voter registration that will permit qualified residents to register by mail to vote.

The new program, slated to go into effect also in Prince Georges, Harford and Howard counties and Baltimore City, will make "voter registration as easy and convenient as mailing a letter," the Montgomery County elections board president, Felix M. Putterman, said.

Under the old system, Maryland law required qualified residents 18 years or older to appear before two registrars, each of whom was requred to record the necessary voter information on a registration card. However, some elections officials felt this method tended to discourage last-minute registration before elections. If often led to long lines of registration tables.

Under the new system, qualified voters will be able to obtain application forms from the elections board or local library, fill them out at home and mail them to the elections board.

## CYNICISM AMONG THE YOUNG

Mr. PERCY. Mr. President, during the last hectic weeks of the 1st session of the 93d Congress, an unprecedented amount of mail poured into my office, as it did into the offices of all my colleagues in the Senate. In some ways, that mail was no different from the mail that I have received in the past. Most letters addressed themselves to the issues of the day, some containing recommendations, some stating opinions, others merely asking for help.

But in reading my mail during the last few months, I have found that an increasing number of my correspondents despair for America's future. In their view, the events of the fall—the revelations of crime high within the administration, the criminal indictment of Cabinet officers, the resignation and conviction on criminal charges of the Vice President of the United States—seem to stand as omens of America's fall from grace. They see a nation beleagured by the problems of fuel shortages, inflation, unemployment, political corruption, crime in the streets—and it does not seem to them to warrant the boastful old title of "The Greatest Nation in the World."

Nothing brought home to me this message of frustration and despair more forcefully than a batch of letters I received last month from a class of high school students in Batavia, Ill.

The class, a senior group studying American problems, wrote to ask me what was being done about the problem of organized crime. Evidently, they wrote only after repeated urging from their instructor, feeling that any letters they sent would go unread and that any opinions they expressed would go unheard. The class was demoralized by the events of the fall, especially by the Agnew resignation, and most took a dismayingly cynical attitude about every aspect of American political and governmental institutions.

The point is made eloquently by the instructor, Mr. Schwob, in the cover letter he sent me with the students' letters. He wrote:

> Having been a teacher of seniors for quite some time, I've noticed many attitude changes through the years. The attitude of this group and my junior group has alarmed me, however. If you read through these letters, as I hoped and promised you would, you will notice an air of cynicism. It is becoming an extremely pronounced attitude throughout all of the Batavia's young people.

Although the letters themselves address the problem of organized crime, they also reflect a much deeper, much more profound problem that plagues America today. They are the letters of young Americans on the verge of becoming voting citizens who have lost their faith in their leaders, their institutions, and in the ideals of their country.

Mr. President, I ask unanimous consent that five of the letters that I received from the Batavia High School seniors, which illustrate this point, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEAR MR. PERCY: Our American Problems class is studying organized crime and I would like to know how you stand on that issue. Have you got any solutions? What can we, as citizens, do about it?

If you are going to send me back a mimeographed letter, don't bother. You are supposed to be working for the people, and I want to know your views on organized crime. How can we stop it?

Sincerely,

DALAS BROWN.

HONORABLE SIR: I am a senior at Batavia High School and will be eligible to vote in less than one year. Since crime is a very extensive problem in our country I would like to know what is being done to stop it. The slums in the large cities are where most of crime takes place. Is anything being done there to stop it? It seems that people are not safe to walk down the street at night without worrying about being mugged or raped. Do you have any solutions as to how to stop this fear and get rid of crime? Is anything being done to stop organized crime? It seems that they get richer and richer and the average middle-class man gets poorer and poorer because we pay our taxes and they don't.

An answer to these questions would be appreciated. Thank you.

Sincerely,

JANE OLSON.

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BATAVIA, ILL.

Hon. CHARLES PERCY:

What the hell is going on? Here I am, one of the voters who put you in office to protect my rights, and what happens, nothing. Crime is running rampant through our streets and to my knowledge I see or hear of nothing being done to stop organized crime. As far as I am concerned the efforts being put forth are practically nil. You probably won't see the letter, or any like it anyway, so how can you tell if your public is concerned? I would definitely like to see some action on this and a reply of what is going on in Congress right now to stop this threat. Thank you for your time.

Sincerely,

BOB CASTNER.

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NOVEMBER 14, 1973.

DEAR MR. PERCY: We are studying organized crime in our American Problems class. We, as students, would like to know your views on this issue. Also, what is being done to prevent this disease from spreading.

Our teacher says that you're going to read and consider our letters. I, and my friends, feel that you can't be bothered and that you're going to throw these all away.

What can we do to help stop organized crime? We really do care about it but we really don't know what we can do.

Sincerely yours,

SANDY GLADD.

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DEAR MR. PERCY: I really doubt that you will ever read this but here I go anyways. We have been discussing the problem of organized crime in America and what we can do about it. We came up with a few ideas but we couldn't find any solid ways of getting rid of it. Any suggestions that you can give us will be appreciated.

Yours truly,

BILL PECRON.

Mr. PERCY. Mr. President, how are we to combat such cynicism? It is not enough just to answer these letters, to tell the students what is being done about crime, and let the matter go at that. Mr. President, it is up to all of us—in the Senate, in the House, and in the other branches of Government—to reinspire in all Americans, especially the young, a belief that the United States is a just country, that our people are a fair people, and that our Government is still rooted in the Constitution, the rule of law, and the principle of individual and corporate integrity.

This cannot be done through words alone. In this case, the old cliche is true: Actions will speak louder than words.

The 93d Congress in its 2d session must take up the troubles that face the United States today—energy, the economy, crime, campaign reform, congressional budget reform, consumer protection, national health insurance, care for the elderly, to name but a few of the most important. We must find solutions to these problems—workable solutions that will demonstrate to the American people that their Government can do the job they expect it to do and do it right.

Let the letters from the Batavia High School students serve as a constant reminder of what is at stake in the new session we begin this week. The very future of our participatory democracy depends on the active involvement of all citizens in the governmental process. The extent to which our citizens continue to participate will depend in large measure upon our performance here in Washington in the year ahead. It is a fact all of us should bear in mind.

## SALUTE TO JOE BELARDI

Mr. CRANSTON. Mr. President, on the 24th of next month the San Francisco trade union council will sponsor a dinner to honor my friend Joe Belardi, one of the leading trade unionists in California.

The proceeds of the dinner will go to establish a Joe Belardi-Histadrut scholarship for the children of Israeli trade unionists.

It has been my pleasure to know Joe Belardi for many years. He has been active in the trade union movement since the 1930's when he was an active participant in the San Francisco hotel strike of 1937. He was first elected to union office in 1939 when he became business agent for cooks, local 44. Since that time he has devoted his life to labor.

In recognition of his outstanding leadership in the trade union movement, Joe recently was appointed an international vice president of the Hotel and Restaurant Employees International Union. Joe also works as executive secretary of the San Francisco local joint executive board of culinary workers and as president of the San Francisco labor council.

Joe Belardi is one of the men who have made San Francisco a great city. It is fitting that he will be honored with a testimonial dinner on February 24, and with a scholarship in his name for the children of Israel Histadrut.

## HIGH STANDARDS

Mr. BROCK. Mr. President, events in the past several years have made us all painfully aware that legislation cannot be effective in producing high ethical standards. The need for more honesty and integrity is apparent, not only in Government, but throughout the Nation as a whole.

Kickbacks to company executives and public officials for influencing contracts are shaking the public's confidence in their Government and free enterprise system. Shoplifters and employee theft rings are robbing consumers of their hard-earned dollars at the marketplace. As a result, the American people are becoming cynical and mistrustful of even the most honest of their fellow men.

We must work to restore our faith in each other, in our institutions and national goals. Disillusionment is draining our resources at a time when we desperately need to work together. In a full-page advertisement in the December 14, Wall Street Journal, American Viewpoint, Inc., set as its aim, "to make honesty a working principle, rather than a moral issue apart from our daily lives." This vital endeavor by a nonprofit organization served largely by volunteers deserves our praise and encouragement.

American Viewpoint, working with established organizations, seeks to reverse the trend that has made dishonesty fashionable, to study conduct codes and means of enforcing them, and to assist authors and educators in developing new methods of teaching ethics in our schools. Such an effort has long been needed, and I would ask unanimous consent that this plea for support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From a full-page advertisement in the Wall Street Journal, Dec. 14, 1973]

WANTED: BUSINESS LEADERS WITH THE COURAGE AND FAITH TO SUPPORT A MOVEMENT TO MAKE AMERICA MORE HONEST

You will be accused of being a starry-eyed idealist, held in contempt by the fast-buck operators, suspected of ulterior motives, and discouraged every day by the headlines.

But if we care about our economic and political freedoms, somebody's got to start working for better ethics in America. And start now, before public awareness recedes into public apathy.

A Chicago meat packer handles $15 million worth of meat a month and can't show a profit because of an employee theft ring.

In New Orleans an architect tells reporters that public officials consider a 10 percent kickback the normal 'finders fee' for public work.

In New York a bright little outfit makes a young fortune cranking out theses for graduate students in search of advanced degrees.

A hot insurance company collapses after inventing thousands of fictitious policy holders.

In every American city the busy little boosters are clipping department stores for billions upon billions in shop-lifted suits and coats and fancy leather goods and Patek Phillipe watches.

In Maryland the system of payoffs is so pervasive that it breeds high officials who can see nothing wrong with receiving regular payments from contractors.

Disk jockeys are rewarded by record companies with cash, women and hard drugs.

Kickbacks to purchasing agents are becoming inventive in the extreme. Free goods, paid vacations, unsecured loans, scholarships for the kids and country club dues are just a few of the goodies a purchasing agent may now receive for buying from the right supplier. Along, of course, with time-honored cash.

In Washington the rings on the waters of Watergate grow wider, ever wider.

And it seems to be everywhere. The cheating. The dishonesty. The lack of ethics.

And all the while the American people become less trusting, more cynical.

And all the while the common faith in each other, in our institutions and goals, weakens and weakens.

And the glue holding the American republic together in freedom and mutual respect is more and more eaten away.

Maybe it's too late. Maybe there are already too many people who simply don't care about having a bundle of freedoms. Maybe faith in one another is a thing of the past.

But we don't think so. And we propose to help bring back honesty, ethics, and self-respect.

Because when we can't believe in each other, in our institutions, we'll have to find something else to believe in. Like authority. And blind force.

Maybe nobody cares. But we don't think so.

### WHO ARE WE? AMERICAN VIEWPOINT, INC.

In 1922, as the American Viewpoint Society, we began our commitment to maintain the American ideals and principles of citizenship.

Our first step was the publication of a series of textbooks for junior high schools, including: "We and Our History" and "We and Our Constitution" by the great Harvard Professor of American History, Albert Bushnell Hart; "We and our Government" by Jeremiah Jenks, Professor of Education, and Rufus Smith, Dean of the School of Education, both of New York University; "The Spirit of America" by Angelo Patri, known as the beloved School Master of New York. These books were a landmark in the teaching materials of the time.

In the 1920's we pioneered in the publication of health and safety education books. During World War II American Viewpoint produced a series of morale booklets, including "We Prayed" by Captain Eddie Rickenbacker, "Bataan and Corregidor" by General Douglas MacArthur, and "Can We Have Peace?" by Walter Lippmann.

In the 1950's American Viewpoint instituted a successful college lecture series and engaged in research and writing in the field of juvenile delinquency. In recent years, in spite of an almost total lack of funds, we have kept at the task of trying to get more elementary schools to teach ethical and moral values.

We are non-profit, non-political, non-sectarian, tax-exempt. Simply concerned. Profoundly convinced that something precious exists in this nation. Something too precious to dissipate or to give up with scarcely a whimper.

So the time has come for American Viewpoint to be reborn. To restaff. To exchange the tradition of 42nd Street in Manhattan for the vitality of University Square in Chapel Hill.

We have a new President, who will serve full time at no salary. And a new challenge to meet.

Our paid staff will be small, with help from volunteers in the university community.

Our method will be to serve as a catalytic aegnt, working through established groups in education, advising media, labor, business and government.

That's why our first objective is to let the entire American business community know our goals, and how we hope to achieve them.

### WHAT WE WANT TO DO

If ever there was an opportunity to reverse the drift toward sleazy ethics and pervasive dishonesty, the time is now.

A lack of faith is steadily sapping the resources of our entire nation.

People are fed up, disillusioned by the liars. Sick of the exploiters.

People want faith instead of anxiety. Faith in their employers, faith in their unions, their schools, their government. Faith in each other.

They are ready to believe in ethics and honesty. But to improve our system, we must improve ourselves. That's the challenge. Now we must meet it.

### IT WON'T BE EASY

*Our society has changed. What worked before doesn't work so well any more.*

*In our interdependent, super-technological society, the need for honesty is critical. The tolerance for individual irresponsibility becomes narrower.*

*The ethic for one person to an acre is different from the ethic for one thousand to an acre. We must recognize the inadequacies of the past to survive in the future.*

### A THREE-PART PROGRAM

American Viewpoint has a simple idea about ethics. We think most people agree on what's right or wrong. Otherwise we would have no order.

We believe the heart of ethics is the Golden Rule. It illustrates the concept of cooperation and sharing common to all major religions.

That's about the extent of our doctrine. We won't get involved in the maelstrom of philosophical, linguistic or situational ethics. We won't set up any system, scientific, or otherwise, to validate any moral code, to determine what's right or wrong.

Our simple aim is to make honesty a working social principle, rather than a moral issue apart from our daily lives.

*1. Debunking dishonesty through mass media*

Shoplifters steal $12 billion worth of merchandise a year from the nation's stores, raising prices drastically for all. That's bad news. White collar crooks are getting away with more than some companies make, costing jobs, contributing to inflation. That's bad news.

Crooks in politics raise our taxes painfully. That's bad news. Workers who dog it deliver products that don't work. That's bad news.

Businesses that cut corners for plusher profits short change the public and make them cynical. That's bad news.

And all of this bad news, converted into a continuing program of material for newspapers, magazines, TV and radio can work powerfully to debunk dishonesty, to make it unfashionable. To turn the guy who puts something over into a bum, not a hero.

Because nobody admires the person who hurts them when they understand what he's really up to.

*2. A new relevancy for ethics education*

Certainly most of us have always told our children to be ethical and honest. Obviously many didn't listen.

We need to make ethics more than a lecture. More than high-sounding words on a printed page. We need to recognize that the hustler is often the folk hero in today's culture. Then find ways to puncture him in the classroom.

We want our education to make a case for ethics and honesty in the real world of today. Not the fantasy world of yesterday.

American Viewpoint will assist authors and publishers in developing teaching aids that reflect a new relevancy to the real world the student faces.

We'll provide incentives to stimulate creation of new and more workable methods of teaching ethics at all levels of education—from kindergarten to graduate school.

And lest our ethics become dogmatic, we will encourage a continuous re-examination of our values in high school, college and graduate school seminars.

How to cope with the increasingly difficult social problems of our society should not be left only to the random qualifications of parents. Or the random interest of teachers.

*3. Taking codes of ethics out of the frame on the wall*

American Viewpoint plans to study codes of ethics to find out how well they work. To find ways to make them work better.

We want to encourage all professional and trade associations, corporations, and labor unions, to develop their own codes of ethics. Codes that spell out the honest person's right to be honest without suffering for not condoning the cheats.

If such a code already exists, we'll suggest means to enforce it. It's not doing anybody any good just hanging on the wall.

We think the legal and medical professions, for example, should make it clear that shady practitioners are almost certain to get into trouble.

We think that labor unions are most successful when they make it clear that an honest day's work won't get a man in trouble. Because the surest way to prosperity is through productivity.

We think that Rotary, Kiwanis, Lions and other great service clubs that have pioneered in establishing ethical standards should re-energize their codes of ethics. And thus reinforce their prestige in the community.

The ethic of "going along" plagues our corporate and government bureaucracies. And now is the time to start changing the duress of team play for personal gain into cooperation for total corporate and social goals.

### IDEALISTIC? YES, BUT PRACTICAL TOO

What if political chicanery were cut in half. Shoplifting by thoughtless kids were cut by a third. Loafing on the job were cut by a third.

How much could be saved if we increased national honesty just 25 percent? Would we save $25 billion a year? $100 billion?

Sure, it's idealistic to want to make people more honest, but it's also very practical. And very hard.

But what can we look forward to if we don't try?

9nd then there's the Golden Rule. It's a little tarnished. But if we can persuade a person to care about others, he'll find he's treated more fairly in return. When you come right down to it, it's selfish to be honest.

### WE NEED YOUR HELP—WE ADMIT IT

American Viewpoint has studied ethics and honesty for 50 years. We think we have a very realistic grip on the subject.

We think we can make things change for the better. With your help.

Whose help?

We are not going to ask the "average" American for funds. There are many worthy organizations that he is already supporting. We want our financial support to come from the business community, corporate foundations, labor unions and other organizations. While our program to extend economic and political freedom by promoting better ethics should directly benefit every citizen, the greatest benefits will accrue to those in America who have obligations to many and responsibilities for much.

The leaders of American Viewpoint are businessmen, by and large. We feel at home with the challenge to show a good return on investment. But we also realize that today, intangibles are as pragmatic as tangibles. Which is why the maxim "idealism is long-range realism" currently rings so true.

Since we will be working through established organizations, American Viewpoint can be effective with a fairly modest budget. Most of the funds required will be used for "seed" money to stimulate the broader programs outlined above.

We are planning our budget over a three-year period, 1974 through 1976. We estimate that our minimum effective requirements for this strategic three-year period should be at least $750,000, allowing $350,000 for the first full year and $200,000 for each of the next two years. From the $350,000 first-year budget, we would allocate $200,000 for the cost of production and distribution of creative materials for a mass media campaign. Any substantial special project may be funded separately. To all contributors, members, directors and any other itnerested parties, we shall make available detailed quarterly financial and activity statements.

Needless to say, any funds we receive will have to be accepted with no limiting conditions, save one. That we do the best job we can.

So we do want your help—not casual help. Not just a bill and a good-bye. If you are interested we ask you to write us. Right away, of course. Then well be in touch as you direct us; and provide any additional information you may request. Please contact: Ivan Hill, President, American Viewpoint, Inc., University Square, Chapel Hill, North Carolina 27514.

Robert E. O'Connor, Chairman.

Dr. Herbert C. Mayer, Honorary Chairman.

Max Chopnick, Chairman of Executive Committee.

## HEALTH CARE IN AMERICA

Mr. RIBICOFF. Mr. President, on January 17, 1974, our distinguished colleague from Maine, Senator Muskie, delivered the keynote address to the Northeastern Pennsylvania Regional Governor's Health Conference and Hearings in Wilkes-Barre, Pa.

Senator Muskie's speech includes a broad and careful analysis of the problems—and some possible solutions—in our development of health resources, health delivery systems, and equitable health care financing.

Senator Muskie's speech serves as a thoughtful background for the important debate on health issues which we expect this year. I commend it to my colleagues and ask unanimous consent that it be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

### Keynote Address by Senator Edmund S. Muskie

January 17, 1974.

The core of our concern about health care has been well expressed by Governor Shapp: "To insure that every Pennsylvanian"—and, I might add, every American—"has access to high quality, comprehensive health care at a reasonable cost, regardless of geographic location or socioeconomic status."

We have a long way to go to achieve that goal. Our system is a success in many respects:

The dedicated men and women of the health professions have made great strides in the techniques of preventing and treating illness, injury, and disability.

Those who support and work with our health care system—those in research, health insurance, and government—have similarly labored to bring good health care to all Americans. Many Americans, as a result, receive excellent health care, at a cost they can afford to pay.

But too many Americans do not share that privilege, and the deficiencies of health care delivery and financing in America are grave enough that the system as a whole must be judged a national failure.

#### II

Let us take a look at it:

On the average, each American each year is disabled from some cause for about 15 days, and loses over five work days—and one out of ten spends time in a hospital.

Modern American living has created modern American health epidemics—like heart disease, which now is our number one killer, accounting for 750,000 deaths each year.

Increased awareness of our environment has brought with it awareness of environmental health hazards.

Inattention to health conditions in our places of work has led to the national disgrace of black lung, brown lung, grey lung.

And despite our rich resources, the traditional index of comparative national health—infant mortality—shows the U.S. lagging behind 14 other nations.

We have failed to provide adequate health manpower to serve our needs. Increasingly we have relied on graduates of foreign medical schools, who now make up almost 20 per cent of all physicians in America.

Although we may have made progress toward closing the manpower gap, we are still short some 50,000 physicians. And other health personnel are in short supply: overwork and understaffing divert scarce nurses from lifesaving tasks, and inadequate numbers of emergency personnel literally may mean the difference between life and death in some areas.

More critical than the absolute supply of health personnel is their "maldistribution": Some rich communities have more doctors than they can reasonably use, while other areas—central cities and rural communities—are drastically "underserviced."

In an increasing number of counties in the country—140 in 1972—there is no physician actively performing patient care. For the over one half million residents of these counties, a visit to the doctor—for a routine examination or for an emergency—requires a trip of perhaps hours to the next county.

Our programs to build health facilities have too often missed the real target. We have succeeded in building hospital beds to theoretically serve every American. But the fact is that they do not. Hospitals are overconcentrated in wealthy areas, with many communities shortchanged.

There is disproportionate construction of high cost facilities to service the patients of high-priced specialists, and too little support for serving community health needs through adequate outpatient and emergency care.

And when health care services are available in theory, they may not be available to the patient in fact. In many metropolitan areas, for instance, there may be no counterpart to the friendly care and advice of a competent local general practitioner, backed up by a well-equipped local hospital. Instead, comprehensive health care requires a dizzying array of specialists, clinics, financial bureaucracies and social service agencies—each in a different location, each with their own forms to fill out, each able to deal with only a part of a patient's health needs. For some Americans this fragmentation of the health care delivery system makes it too inefficient and complicated to receive complete care. Indeed, the patient in effect must diagnose his or her own illness, before calling the physician. The result is spotty care, or no care at all—when all the elements are potentially within reach.

And as dramatic as any other national failure is the scandal of the cost of health care in America. As a symptom of health cost inflation, our annual national health expenditures between 1950 and 1971 increased by $55 billion—but half of this increase went to pay rising costs, beyond the cost of providing for more services, and more patients.

These increasing health costs have created dramatic human tragedy. The pain of seeing a loved one paralyzed, or living out a terminal disease, compounded by the prospect of financial ruin and long life debt as hospital and medical bills mount to the tens of thousands of dollars.

Or escalating health costs can force a choice between health and other necessities. One elderly woman, testifying before the Senate aging committee's subcommittee on health of the elderly, which I chair, told how she budgeted her annual income of $2,295.80: after rent of $1,104 per year, and telephone, medicare, transportation, washing, insurance, and $15 per week for food—she had a total of $20.54 for all her needs for the entire year: social expenses, dry cleaning, clothes, furniture, houshold items, shoes—and also for drugs and the doctor's fee—and today—the increased cost of heating her home.

Her very human comment. "I am not a statistic. I am a senior citizen, and I want the same good health care that everybody else would like to have."

Another senior citizen, on social security told the aging committee a similar story in more concise, graphic terms. "My medicine runs about $50 a month," he wrote. "I am afraid I will either stop eating or taking medicine prescribed for me. I can't make ends meet now. I am not living, just existing. . . . As they say, it is hell to be poor."

These stories tell us that our health system is a failure. With our resources, it is fundamentally wrong for good health care to be assured to the affluent, but denied to less fortunate Americans.

The advances of medical science, the pleasant new hospital, the well-planned regional health delivery system, and the actuarially sound financing system are failures if sound, reasonably priced health care is still beyond the reach of the isolated rural resident, the elderly and poor without direction, the middle income family facing the financial reality of serious health problems, and the American without funds to buy the services of America's health care system.

#### III

Much of the challenge of solving our health care problems must be met at the local, regional, and State levels.

But the basic causes of national health care failures transcend local and State boundaries. A national commitment—at the Federal level—is required.

Much of what we have done at the Federal level has been useful and has achieved important successes. But there have been gaps in those efforts—and disappointments.

#### IV

1. For example, our health research effort has always focused on "hard" medical science. We have been inattentive, however, to less glamorous but equally pressing research needs, such as the relationship of the environment and our health, and the value of public health education.

2. Our programs to develop health manpower have been disappointing. We have enacted legislation to expand medical schools and to subsidize medical students themselves—most of whom, soon after graduation, enter the highest paying profession in America, with an average per capita income over $40,000. One of our purposes in providing a subsidy was to encourage young doctors to locate in medically-underserved areas. The program has not served that purpose.

3. We have made little progress in promoting the development of medical paraprofessionals. One promising concept, at work in my home State of Maine, is the use of medics—Vietnam-trained medical professionals—to provide patient care.

Another is the utilization of nurses as physicians' assistants and mid-wives. But some physicians are jealous of their exclusive prerogative to administer even the most simple patient care, and some nurses fear the increased responsibility of an expanded role. Increased reliance on the non-physician professional is necessary to utilize doctors' skills efficiently. The physician, the nurse, and the public must begin to accept new concepts and a wider range of skills in the uses of medical manpower—and those concepts must receive Federal support which has so far been inadequate.

#### V

We need to reform our health delivery system. Not long ago, most Americans assumed that the "delivery system" had something to do with obstetrics. Now we are familiar with the charges that the way doctors and hospitals are paid is outmoded, and that they are inefficient. And we fear that our health care system will become as impersonalized as a mail order catalogue.

No one has proposed doing away with the family doctor—in fact, the general practitioner is in short supply, and as a newly recognized specialty is receiving new emphasis.

But it is also a fact that the traditional system of the doctor practicing alone—specialists as well as GP's—has failed to provide adequate health care to millions of "under-serviced" Americans. It has made health care uncoordinated and fragmented. And it is costly in manpower and money.

What we do need is an alternative to solo practice—such as the Health Maintenance Organization, or HMO. HMO's consist, simply, of a group of doctors, with their assistants, who provide patients—or "members"—all basic health services in return for a periodic enrollment fee. Because any single visit to the doctor does not involve a large fee, and because HMO physicians have an incentive to keep members healthy to keep costs down, HMO members generally receive better preventive health car, and require less hospitalization, and less surgery, than the general population. And to the patient shuttled from one specialist to another under our current system, or unable to find comprehensive health care at all, an HMO can provide more personalized care.

Congress endorsed the HMO concept last month by enacting a program to give Federal financial help to approximately 100 new HMO's over the next five years.

This legislation will create a nucleus—on which I hope we can expand—of health delivery organizations which can serve some of our population with great success, and provide a competitive alternative to encourage other health providers to give increased attention to cost savings, preventive health, and comprehensive services.

Other selective improvements in health delivery are also needed. I have introduced legislation, for instance, to make available additional home health care for the elderly. My bill would allow home health agencies to be reimbursed by medicare when their elderly patients can not care for themselves, but do not require constant skilled care. It would double the number of days of home health benefits available under medicare. It would correct the current situation where home health coverage is so limited that some patients are given the "medicare cure"—a few expensive but unnecessary days in the hospital, merely to qualify for additional benefits.

HMOs, and home health care, are two examples of how our health delivery system could be improved. Essential to both is the concept of expanding the alternatives available to the consumer, encouraging in the health delivery system the same diversity and innovation that exists in the rest of our economy.

But improving mechanisms for delivering health care won't provide enough help unless we improve our programs for paying the bills.

To do so on a scale which will—in Governor Shapp's words—provide access, for every American, to high quality comprehensive, reasonably priced health care, will require that we establish goals beyond those we have been discussing.

### VI

One goal should be to increase Federal responsibility for the health costs of the elderly, the poor, and low-income Americans, who are denied good health because they cannot pay its price; and of the catastrophic victim, whose tragedy may mean financial ruin and debt.

The cost of medical care is particularly a burden on the elderly, who now pay out-of-pocket health costs higher than before medicare was enacted. Inflation in health costs has also meant inflation in medicare: Eight years ago, the initial hospitalization deductible the elderly paid before medicare took over was $40; by last year, it had increased to $72. Last month, I proposed legislation to prevent still another increase in the deductible and coinsurance. My proposal was adopted by the Senate, but did not receive final approval by Congress.

As a consequence, medicare deductibles and coinsurance increased on January first by 17 percent.

The elderly on fixed income, already burdened by inflation, are hard hit by escalating medicare costs, and the high price of items like drugs not covered by medicare. Medicare now protects the elderly from health care costs about as well as a leaky umbrella. I am hopeful that in the coming session of Congress we can adopt measures—like the medicare deductible freeze provision I have proposed—to patch some of those leaks.

The coverage of government health insurance for the poor—medicaid—also must be expanded. Medicaid eligibility, and benefits, vary inequitably from state to state. To allow the "working poor"—who now have minimal private health insurance—access to health care, Federal responsibility and standards for the program must be strengthened.

Also among our goals must be a program to provide effective catastrophic health insurance—security for all Americans from the threat of multi-thousand-dollar costs of serious illness or disability.

### VII

But our goals must go beyond simply increasing the amount of health care costs for these individuals assumed by the government.

We must alleviate the burden of health care costs for the majority of Americans—by providing them with an equitable health financing system, and by putting a lid on uncontrolled cost increases.

Attaining this goal will require wholesale reform: a national health insurance system which not only includes full health coverage for all Americans, but at the same time forces those who provide health care to be fully accountable for the cost and quality of the care they provide.

### VIII

The American health care system is an addict. It has an ever increasing appetite for money. And as we satisfy that appetitie by paying for rising health costs without forcing basic reform, we run the risk that health care costs will bleed dry the financial resources of the majority of Americans.

Our experience with medicare and medicaid demonstrates that federally guaranteed reimbursement of health costs not only allows more Americans to receive more health care, but also artificially raises the price of health. As more people seek health care, doctors and hospitals raise their fees.

There is no effective mechanism—through the free market, or through the financing system itself—to check health cost increases. Since price increases are paid by insurance, and not by the patient directly, there is no immediate decrease in demand. And so price increases become fixed at higher and higher levels.

Resulting inflation not only threatens the federal treasury with spiraling costs, but also aggravates the burden of health costs for the majority of Americans, since private health insurance pays only part of their bills.

Expanding insurance also encourages doctors and hospitals to provide the most expensive (and profitable) kinds of care, instead of the comprehensive, low cost preventive services most effective in protecting good health.

We have made some progress toward instituting cost controls under medicare and medicaid. And by establishing regional professional standards review organizations of physicians, we hope to improve the quality of care financed by these programs. But only by establishing cost and quality accountability for our health care system—through national health insurance—can we bring costs under control for the majority of Americans.

### IX

Cost accountability under national health insurance should include advance budgeting—so doctors and hospitals will plan how to provide the most health care for the money available. It should encourage HMOs and other less expensive forms of care for all communities. It should include incentives to coordinate health delivery, encouraging hospitals and nursing homes to combine their services, giving more options to the public and to physicians.

And a basic element of national health insurance should be coverage of all Americans, for all health care. Removing the price tag from health, while improving the quality of care, through national health insurance, must remain our central goal.

### X

The more limited reforms we consider in Congress this year should be evaluated against that the central goal.

We should continue to improve Federal support for research in the traditional medical sciences, and expand our effort into new areas of inquiry like environmental health.

We must give more encouragement to improving health manpower, where it is most needed.

We should continue to support health care delivery innovations, like HMOs.

And we should place a high priority on expanding financing coverage of health costs—for the poor, the low income, the elderly, and the catastrophic victim.

Progress will depend upon public awareness and public support. I hope that as we debate health legislation, we will hear from all of you about your concern for comprehensive reform.

We have created great health resources in our nation: dedicated professionals, concernized citizens, and committed political leaders. But we must aim high to attain our goal of assured, accessible, high quality health care—for all Americans.

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## ROBERT J. WAGER

Mr. JAVITS. Mr. President, on behalf of myself and Senator PERCY, the ranking minority member of the Government Operations Committee, I wish to note that Robert J. Wager, the able staff director and general counsel of Government Operations Subcommittee on Reorganization, Research, and International Organizations, last week left his position to accept another challenging job in Washington.

We and the other members of the subcommittee, of which I am ranking minority member, will miss his talent, insight, and commitment to the important responsibilities of the subcommittee. He has contributed greatly to the success of its work and to that of the Senate as a whole.

Since 1970 when Mr. Wager assumed his present responsibilities, the subcommittee has engaged in a wide ranging number of legislative initiatives. Among others, these have included efforts in the areas of consumer protection, drug abuse law enforcement, the creation of the Environmental Protection Agency, and most recently the Federal Energy Emergency Administration bill passed by the Senate, and the Energy Research and Development Administration proposal.

Prior to becoming our chief counsel, Mr. Wager had served in the Department of Justice, at the National Labor Relations Board and as a legislative assistant to Representative James C. Corman of California. He joined the subcommittee staff in 1966 and subsequently had an important impact upon every major executive reorganization proposal submitted to the Congress by both Presidents Johnson and Nixon.

Mr. Wager has made a substantial contribution to the Nation during his 7 years of public service to our subcommittee. During that time he has served both the minority and the majority with great distinction on a bipartisan basis. Senator Percy and I will miss his blend of competence and dedication and we wish him well in his new career.

## PRESIDENT HAROLD B. LEE

Mr. MOSS. Mr. President, on December 26, 1973, a distinguished American, a beloved Utahan, the 11th president and a spiritual leader of the Church of Jesus Christ of Latter-day Saints—Morman—died. The death of President Harold B. Lee was entirely unexpected and was a stunning shock to all who knew him. To the 3 million Mormons who referred to President Lee as prophet, seer, and revelator, his death meant a time of reflection on the tremendous impact of this unusual man at the highest levels of responsibility. President Lee will be remembered as a noted church leader, educator, businessman, civil leader, and public official.

His influence was far-reaching. As a general authority of the Latter-day Saints Church for 32 years. President Lee was responsible for many of the present programs of the church. These programs include the giant welfare program of the church, training programs for bishropics, the home teaching program, the family home evening program, and the teacher development program.

President Lee, during the relatively brief period of 18 months while he was president, instituted significant changes in church administration. Among these changes were reorganization of the youth programs with special emphasis placed on the widely held priesthood, creation of a broad program for unmarried adult members, restructuring of general auxiliary boards, and creation of internal and external communications committees.

In an editorial, the Deseret News states that—

> President Lee to his worldwide responsibilities as president, has brought the wisdom and spiritual strength developed in a lifetime of service in the church, including more than 30 years as a member of the Council of the Twelve.

The Salt Lake Tribune, in an editorial, calls attention to the true record of President Lee, as stated in his own words. "The only true record that ever will be made of my service in my new calling," said President Lee upon being sustained as prophet of the Mormon Church, "will be the record that I have written in the hearts and lives of those with whom I have served and labored within and without the church." That record is one that can certainly be emulated.

Mr. President, because of the greatness of this man, I ask for unanimous consent that two editorials regarding President Harold B. Lee be printed in the Record. One is from the Deseret News of December 27, 1973. The second is from the Salt Lake Tribune of December 28, 1973.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

### Dedicated Service Marked Life of President Harold B. Lee

When President Harold B. Lee, who died Wednesday evening, was sustained as a prophet in the Church of Jesus Christ of Latter-day Saints, he offered the 142nd semiannual conference a humble formula for assessing his accomplishments.

"The only true record that ever will be made of my service in my new calling," he said, "will be the record that I have written in the hearts and lives of those with whom I have served and labored within and without the church."

As the praise of those who knew him well so convincingly attests, what President Lee called his "true record" was an enviable one. But it was not the complete record of his long and eminently useful life.

President Lee, as other LDS leaders before him, came out of the real, everyday world of people. As teacher, city commissioner, businessman and churchman he built a distinguished record of accomplishment.

His ability to organize new ventures, to reorganize existing programs was widely respected both in the church and in the community at large. Under his guidance a variety of LDS home studies, women's and youth organizations, publications and sports programs were meshed for greater efficiency and service. And he was credited with shaping the church's widely known welfare program under which members contribute time to aid the poor. During the depression he headed a work program which aided thousands.

But his efforts, and their considerable influence on the community, were not restricted to religious activities even after he left public life in 1937 to become managing director of the welfare program. His work with youth, for instance, was recognized by such national organizations as the Boy Scouts of America. And, commenting on his untimely death, leaders of other faiths stressed President's Lee's "community leadership" and his "warm response to those with other religious beliefs."

In view of the unusual ability demonstrated before becoming the LDS Church's 11th president in July, 1972, the brief time he was permitted to serve in that capacity is doubly regrettable.

### Not Despair, But Triumph

If ever a man made an endursing impact in a comparatively short span of time at the pinnacle of responsibility, it was President Harold B. Lee.

In contrast to the marked longevity of most of his predecessors, President Lee was a comparatively young and vigorous 74 when he died Wednesday evening after only 18 months as Prophet, Seer, and Revelator of The Church of Jesus Christ of Latter-day Saints.

But the sorrow and profound sense of loss occasioned by President Lee's death are softened by the knowledge that his passing represents a mission completed.

Those who worked in close association with President Lee are warmed by many personal memories of his love and kindness not only as the spiritual leader of more than three million people throughout the world but also as a devoted husband and father, friend and neighbor.

Who can forget the way his life-long concern for strengthening the family unit was expressed in his insistence on being with his own family on Christmas day despite fatigue and other appointments—or that the last words he uttered before retiring for his last night's sleep involved loving advice for his family's future well-being?

Who can forget the humble but powerfully moving way he bore his testimony, in his own ward chapel as well as before large congregations, to the living reality of good and evil and to the truth and efficacy of the gospel? He understood the full meaning of his calling, accepted it, and publicly acknowledged it.

Who can forget the firmness and resolve with which he pioneered a prolific variety of innovations whose impact in improving church organization and programs will continue to make themselves felt in the lives of individual church members for ages to come?

To these and other fond memories we add the comfort of the certain knowledge that the men whom the Saviour calls to lead the church—in days to come as in the past—are those who combine great spirituality with great ability to work with and through people.

So it is an outstanding measure with President Harold B. Lee. Though his tenure on earth as Prophet, Seer, and Revelator is measured only in a few months, the impact he made in terms of innovations in church programs and administration must be measured in terms of eternity.

Long before he became President of the church, Elder Harold B. Lee's greatness of mind and character was manifested in pioneering the unique church welfare program. As one of his colleagues has written, "While government relief programs are under constant attack, the church program continues to win the plaudits of men the world over. Taxpayers have been saved millions of dollars because of the welfare burdens assumed by the church. Profitable employment has been found for thousands of men and women . . . whose dignity and self-respect have been preserved."

Likewise before becoming president, he was a key figure in spearheading the correlation work which has had such a profound impact on the church during the past decade or so.

To his world-wide responsibilities as president, he brought the wisdom and spiritual strength developed in a lifetime of service in the church, including more than 30 years as a member of the Council of the Twelve.

That wisdom and spiritual strength were clearly reflected in his direction by which the youth program of the church have been brought under the priesthood. As a result, more leadership responsibility has been placed on the youth of the church with emphasis on service rather than mere entertainment.

The same wisdom and spiritual strength were also abundantly evident as President Lee conducted church conferences in Europe and Mexico that both emphasized and furthered the global scope of the LDS Church.

Under his direction, too, the church's social services, health, and welfare operations were merged into a single operation.

In this and other reorganizations, he moved firmly and surely to make sure the church was equipped with the flexible and streamlined administration needed to respond to the amazing growth that is constantly reflected in added buildings, added members, an added faithfulness.

Within the LDS Church it is often remarked that the church is provided with the kind of leadership that's particularly suited to meeting the challenges of a given era. In Harold B. Lee, the church was provided with a president who combined the imagination of the bold innovator with the firmness of a loving but demanding father.

In emphasizing his qualities as an administrator, we should not overlook his work in ministering to the spiritual needs of many church members on an individual basis. Out of the sorrows of his own life, he so often brought to others a depth of understanding and helpful assurance that were particularly solacing. As he comforted so many others during a time of grief, so do our sympathy and love go out to his lovely wife and his family at this time of sadness in their lives.

But any words written or spoken of President Harold B. Lee should end not on despair but on triumph. His entire life was a triumph of spirituality and faithfulness. During the last days of that outstanding life he spoke repeatedly of this nation's enduring ability to triumph over the adversities besetting all of us now. Certainly his life is a testimony to the ultimate triumph of the gospel he served.

As we join with church members everywhere in expressing gratitude that President Lee lived and worked among us, the Deseret News pledges to keep his message of confidence in America and in the gospel vibrantly alive.

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## S. 2495, TECHNOLOGY RESOURCES SURVEY AND APPLICATIONS ACT

Mr. MOSS. Mr. President, at this date we should be well on our way toward achieving independence from foreign energy sources. Steps could have been taken at least as early as 1968, when we had everything we needed to avoid the energy crisis; except a means of matching available scientific resources, national priorities and domestic problems.

Instead of applying the men and women with great scientific and engineering talent that were available, to the development of new energy sources and new energy conservation techniques, we laid them off. In some cases we even encouraged them to take jobs in non-technical fields. The fact that eventually we were going to have an energy problem was understood by many in 1968, but no action was taken.

A means of matching available technical resources with national priorities and domestic problems on a continuing systematic basis still does not exist.

To resolve this problem, my colleague, Senator MAGNUSON, introduced S. 2495, the Technology Resources Survey and Applications Act, for himself, Senator TUNNEY, and me. This bill has been referred jointly to the Aeronautical and Space Sciences Committee and to the Commerce Committee. Hearings are being planned.

An article in the January issue of Astronautics and Aeronautics, "Engineering Manpower—A Washington Concern," discusses the importance of S. 2495. I ask unanimous consent to insert this article in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### ENGINEERING MANPOWER—A WASHINGTON CONCERN

(By Marcia Smith)

Recent recommendations by the National Academy of Engineering and S-2495, a "Technology Resources Survey and Applications Act," could go a long way toward shaping a sane national engineering-manpower policy.

Ever since the massive cutbacks in the space program, engineers, and especially aerospace engineers, have been having a hard time getting jobs. The latest figures from the Department of Labor (DOL) put total engineering employment at 1,102,000 and total engineering unemployment at 1.9% of this figure (22,000).[1] But these figures do not reflect engineering *underemployment*. In 1971 the Engineers Joint Council estimated that "the inclusion of engineers employed part time in engineering but seeking full-time work as well as those employed in non-engineering work [underemployment] would add another 1.7 percentage points [19,771] to the official 3 percent [unemployment] figure."[2]

Few data describe employment in specialties such as aerospoce; but a 1972 DOL report gave the statistics in the table opposite.[3]

Two recent studies, along with numerous articles in engineering publications, address themselves to engineering manpower: *Engineering and Scientific Manpower: Recommendations for the 70's*, by the National Academy of Engineering (NAE), and *Science Indicators 1972*, the Fifth Annual Report of the National Science Board (NSB). The NAE report gives recommendations on developing valid data for forecasting the demands for engineers, national plans for utilizing scientists and engineers, and several topics—as will be summarized here in a moment.

The NSB study gives background on the course of many areas of science and technology during the past decade, including manpower, but concludes that ". . . It was not possible to devise reliable indices of the future demand for and supply of [science and engineering] personnel . . . Improvements in both data . . . and methodology . . . are required for more reliable forecasts of the supply-demand situation"[4]

NSB reports, though, that "unemployment rates for scientists and engineers . . . declined to early 1970 levels by late 1972." To some this decrease in unemployment for engineers (from 3% in 1971 to 1.9% in 1972) suggests a coming shortage of engineers.

John D. Kemper, Dean of the College of Engineering of the Univ. of California at Davis, states that by 1975 there will be a shortage of BSs in engineering—only 32,000 graduates but a projected 48,000 demand.[5] Conversely, Milt Alpern, of Alpern and Soifer Consulting Engineers, says "college people are shouting engineer shortage in order to fill half-empty college classrooms [and] the industrial leaders are shouting engineer shortage to ensure . . . an employer's buyer's market in [the] future. . . ."[6] Alpern adds this: "We must recognize that the only way to ensure the development of a stable, strong . . . engineering profession . . . is to keep the supply of engineers equal to or less than the demand."

The questions of engineering unemployment yet potential engineering shortages involve skill obsolescence. "The rate of technological change has been so fast that serious gaps have been created in the armament of skill and knowledge that engineers and scientists bring to bear on their jobs."[4]

In response to these problems and the recent debate over them, NAE made the following recommendations:

1. Develop a systematic and timely accounting of the effective use of engineers, scientists, and related personnel.
2. Develop further concepts, techniques, and analytical methods for gauging the manpower consequences of both public-private-sector programs.
3. Develop models that may help anticipate the effect of actions in the manpower field.
4. Regularly take into account the direct and indirect manpower effects of government policies and programs as part of the annual budget cycles of cabinet departments and major agencies.
5. Make special mention of the importance of this kind of review both at the executive and legislative levels.
6. In all these deliberations, involve the engineering and scientific community.
7. Responsibility for implementing Government manpower policies be assigned to a central point, such as the Executive Office of the President.
8. The Government, in consultation with industry and professional society groups, move a plan for research, development, and exploration from the perspective of long-range national goals.
9. Improve the programs of industry, educational institutions, and Government for enabling engineers and scientists to re-enter formal education and training.
10. Professional societies take the lead in analyzing termination and unemployment benefits and vesting practices . . . and investigate alternatives and coordinate development of improved unemployment insurance benefits.

Besides these suggestions by NAE, Senator Warren G. Magnuson (D-Wash.) recently introduced a "Technology Resources Survey and Application Act" (S-2495) that seeks to establish, among other things, a National Technology Resources Council. Among its duties this Council would "develop a comprehensive program to identify in advance scientific and technological resources, including manpower, which are available for the resolution of critical domestic problems but which are not being fully utilized for such problems."[7]

If S-2495 becomes law, it could help institutionalize some of the Academy's recommendations, and so go a long way toward providing a sane national engineering-manpower policy.

OFFICIAL MANPOWER PICTURE

| | | EJC survey, June–July 1971 | |
|---|---|---|---|
| Field of engineering | Employed engineers | Percent unemployed | Percent share of engineering unemployed |
| Total | 1,100,000 | 3.0 | 100 |
| Aerospace (aeronautical | 60,000 | 5.3 | 12 |
| Electrical and electronics | 235,000 | 3.7 | 20 |
| Mechanical | 220,000 | 2.8 | 9 |
| Chemical | 50,000 | 1.9 | 2 |
| Civil | 185,000 | 1.2 | 4 |
| All others | 350,000 | | 53 |

Source: "Employment of engineers, U.S. total," Occupational Outlook Quarterly, spring 1972, EJC survey results: Science Resources Studies Highlights, National Science Foundation, Sept. 23, 1971.

FOOTNOTES

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[1] Stenson, John, Department of Labor, by phone conversation Sept. 7, 1973.

[2] National Academy of Engineering, *Engineering and Scientific Manpower: Recommendations for the 70's*, (Washington, D.C.: National Academy of Engineering, 1973), p. 9.

[3] Naughton, Kathleen, "Characteristics of Jobless Engineers," *Monthly Labor Review*, Oct. 1972, p. 17.

[4] National Science Board, *Science Indicators 1972*, (Washington, D.C.: U.S. Government Printing Office, 1973), p. 48.

[5] Kemper, John D., "Future Outlook for Engineers: Shortage or Surplus?," *Professional Engineer*, June 1973, p. 50.

[6] Alpern, Milt, "'Engineer Shortage:' A Myth That's As Bad As A Guile," *Professional Engineer*, June 1973, p. 47.

[7] S-2495, Section 4 re Title IV, Section 402 (b) 2 of National Aeronautics and Space Act.

## SHILOH BAPTIST CHURCH CENTENNIAL

Mr. ROBERT C. BYRD. At the request of the senior Senator from Indiana (Mr. Hartke) I ask unanimous consent that a statement and some material be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The statement and material follows:

### Shiloh Baptist Church Centennial

Mr. Hartke. Mr. President, I am proud and honored to have this opportunity to call to the attention of my colleagues in the Senate, a most historic event for the Shiloh Baptist Church, Ordrick's Corner, McLean, Virginia. Shiloh Baptist Church commemorated its first century of Christian involvement in October of last year. The Pastor of this great Church is a member of the Veteran's Affairs Committee which I chair. His name is Reverend Ronald Winters, originally from Indianapolis, and I am proud to say that Ron has been associated with me for over 12 years. At this time I commend this young man and the Shiloh Baptist Church in commemorating their 100th Anniversary of service to God and this nation.

I add a short history of Shiloh Baptist Church which was printed in the Centennial Journal commemorating this event:

### HISTORY OF SHILOH BAPTIST CHURCH

The record of the past, full with the blessings of the Lord.—Deuteronomy 33:23.

For thou are a holy people unto the Lord thy God, and the Lord hath chosen thee to be a peculiar people unto Himself, above all the nations that are upon the earth.—Isaiah 43:1.

As many as are led by the Spirit of God, they are the sons of God.—Romans 8:14.

In this Centennial Booklet commemorating the 100th Anniversary of Shiloh Baptist Church, it is rewarding to reserve a space in which a brief history can be given. We shall give the major developments of our church during the past ten decades. The facts concerning the embryonic stages of the church are taken from the records as recorded by Brother Richard Jackson, who served as Church Clerk for many years.

According to the records, the Shiloh Baptist Church was organized in 1873 with seven members under the leadership of Rev. Cyrus Carter. (Rev. Carter, who was Haitian born, had already organized First Baptist Church, Lincolnville, Va., now known as Chesterbrook.) Services were held in the Odricks Public School. The name Odrick was derived from the Odrick family who took great interest in the church and community.

The first deacons were Brothers Willis Gaskins, Henry Brooks and Edward Thompson. The church membership increased rapidly under the fiery influence of its pastor and deacons. The members became interested in purchasing a lot to build a church. A committee of three which included Brothers Henry Brooks, Titus Milner and Edmond Thompson was appointed to purchase a quarter of an acre of land from Mr. Charles Eglin to erect an edifice.

The spirit of the Lord was visible among the members and the church prospered spiritually and financially. On September 25, 1887, the cornerstone was laid by Rev. Cyrus Carter who was assisted by Rev. Jenkins of Alexandria, Va. The church was immediately enclosed by Mr. Christopher Walters at a cost of two thousand dollars. The families who took an active part in erecting the building were the Turners, Milners, Brooks, Waynes, Days, Thompsons, Carters and Kellys. The windows in this church ever remind us of our founders: Rev. Carter passed away two months before the church was dedicated.

The dedicatory services were held October 11, 1891 and were conducted by the Rev. Robert Woodson from Oak Grove, Va. Rev. W. H. Scott of Boston, Massachusetts, was called. He served only a short time and Rev. J. I. Loving was called to serve. Under his leadership the church was spiritually led and the membership increased. After eleven years of service, Rev. Loving resigned to accept a call to Enon Baptist Church, Washington, D.C.

On February 1, 1905, the church extended a call to Rev. Lewis of Charlestown, West Virginia. Due to ill health, Rev. Lewis served only one year.

In September, 1907 the Rev. William Jones was called. Under his leadership the church prospered and all of the members held him in high esteem. Rev. Jones resigned in 1914. Rev. Jerry Fields of Friendship Baptist Church, Washington, D.C., was elected February 15, 1915. He served two years and ten months. He passed away February 16, 1918.

The next pastor called was Rev. W. T. Downs on November 23, 1919. Under his leadership the members worked hard and much work was done on the building.

April 1926 opened a new era in the history of Shiloh Baptist Church. The late Rev. Oliver Hall was called on April 15, 1926, and only three days later the church was destroyed by fire. Rev. Hall took leadership on May 1, 1926, again in the Odricks Public School. It was there the pastor and members manifested a strong interest in raising funds to rebuild some of this present structure. Two years later on the third Sunday in August 1928 the cornerstone was laid under the auspices of the Grand United Order of Odd Fellows. The services were conducted by Brother A. T. Shirley of Oak Grove, Va., who was assisted by Rev. Sheridan Carter.

When Rev. Hall was called to this church, he had strong faith in God and having that faith he led us prayerfully and successfully for twenty-three years and six months. During the leadership of Rev. Hall, our church grew spiritually and financially. Not only were many souls brought to Christ, but many of our present organizations were formed. Some of these organizations were the Usher Board, Senior Choir, Willing Workers Club, Never Idle Club, the Pastors Aid Club, Young Peoples Club, the Missionary Society, the Faithful Few Club, and there was an increased interest in the Sunday School.

These clubs were responsible for such contributions to the church as the central heating plant, plumbing, carpet, bell, cross, communion service, gas stove and the beautiful shrubbery and flowers on the grounds. It was during his tenure that we obtained our present cemetery.

We feel that the Missionary Society is a wonderful asset to the church. They have done a wonderful work in cheering the sick and helping the needy both at home and abroad.

We resolved that Rev. Hall's life had not been in vain; that the high principles which activated him shall forever have an uplifting influence upon us; that the good which he did may endure forever. At the passing of Rev. Hall, Rev. Carter Taylor served us faithfully for one year.

On Friday, October 29, 1950, the Rev. Roger V. Bush was elected as our pastor. He took charge on November 12, 1950, at which time plans were in the making for an addition to the edifice. Rev. Bush had a great interest in the building program and as a result he suggested the Captain-Lieutenant Drive which has remained an annual success. This suggestion has created a wonderful spirit of giving, not only at home but to foreign missions. It was during this period that a window was dedicated to Rev. Hall. Rev. Bush showed enthusiasm, wisdom and vision to speak the word of God to the people in the name of Jesus Christ.

We are thankful to God that on Sunday, November 10, 1963, we burned our mortgage.

During the twenty-one and one half years that Rev. Bush served, many accomplishments were realized, such as organizing the Young Men's Chorus, Bible Class and a Junior Choir. A Benevolent Fund has been set up in the memory of the late Brother William H. Carter. The donors were Sis. Annabelle Robinson, Sis. Edna Woolridge and Sis. Bertha Johnson. The Constitution and By-Laws were revised, a new organ installed, a tractor and ground equipment purchased and a garage to store this equipment has been built. From funds raised by Sis. Esther Honesty to help our high school graduates in continuing their education, the Esther Honesty Scholarship Fund has been set up. The Rev. Dalvin Brent, a son of the church, has been licensed to preach.

As a young and capable minister in Northern Virginia, Rev. Bush served in many capacities including religious and civic organizations. We were very proud when he was elected Moderator of the Northern Virginia Baptist Association. The passing of Rev. Bush in April 1972 ended a long and historic period in the Shiloh Baptist Church. Rev. Dalvin Brent, son of our church, served us spiritually and faithfully until a minister was elected.

The election of the Rev. Ronald Winters and the ordination of Rev. Dalvin Brent in December of 1972 marked the beginning of a very significant and important period in the life of the church. The impressive installation service, followed by a lovely reception for Rev. Winters on March 25, 1973 were ceremonies long to be remembered by the congregation and friends. The dignified manner in which the church conducted the selection, election and installation of the new minister drew admiration and praise from everyone.

From this brief history of the Shiloh Baptist Church, from its earliest beginnings in 1873 to the present, we hope to set high goals with regard to Christian education, participation in community and civic affairs, and spiritual growth.

Many important eras in the life of the church are yet to come. Certainly a very challenging period is approaching for Rev. Winters. It is evident that his strong faith in God assures him that the church in every effort will lead him on to ultimate victory.

Wherever the church may be in the future, it will carry with it its glorious tradition and present long range objectives that will bring the whole world to Christian living.

## NIGERIA

Mr. BROOKE. Mr. President, on several occasions I have called the Senate's attention to the promising developments in Nigeria and the firm, wise leadership of the head of its government—Gen. Yakubu Gowon. A recent article in Time magazine summarizes both the problems and prospects of Nigeria and I recommend it to my colleagues.

I call specific attention to the commitment by General Gowon to hold elections by 1976 in order to return Nigeria to civilian rule. He has also stated his intent to retire from public life at that time. However, as the Time article points out:

> In a nation desperately short of political leadershp, such a prospect does not strike many observers as likely.

Should Nigeria need General Gowon's leadership as Nigeria's first civilian President in more than a decade, I have no doubt that he will be equal to the task.

Mr. President, I ask unanimous consent that the Time article entitled "Nigeria: Winning Peace and Prosperity" be printed in the Record.

There being no objection, the article

was ordered to be printed in the Record, as follows:

### Nigeria—Winning Peace and Prosperity

At the end of the Nigerian civil war four years ago this week, the Ibo people of rebellious Biafra feared that defeat would bring genocidal vengeance from the victorious Nigerian army. Instead, the Ibos are prospering as citizens of a federated Nigeria. The credit goes in large part to the young head of state, Major General Yakubu Gowon, who decreed a policy of "no victor and no vanquished" after the savage civil war that took at least 1,000,000 lives.

"Jack" Gowon, 39, turned his 250,000-man army into a well-disciplined reconstruction corps and put it to work helping the Ibos bounce back. To set an example, he hired Ibos who had fought for Biafra and made them his personal pilots and bodyguards. He gave Ibos federal jobs and saw to it that they got their fair share of senior positions, including posts as army officers. "He won the peace," says a British diplomat in Lagos, "by not acting as if he had won the war."

Long the best-educated and most industrious of Nigeria's tribes, the Ibos have used their resources to rebuild their war-torn region instead of carrying on a vendetta. When the war ended, the defeated Biafran leader, Colonel Odumegwu Ojukwu,* bitterly boasted that the Ibos would rebel again. He turned out to be wrong. Ibos these days rarely speak of Biafra or of secession. "We tried and lost," says an Ibo businessman in Ibadan. "That finishes it. From now on, we are all Nigerians."

Though the Ibos no longer dominate Nigerian commerce or the civil service as they did before the war, they are reconciled to the new order. Gowon is determined that neither they nor any other tribal group shall ever again attain such a preponderant role. "That is the road back to regional rivary and despair," he says. "We must be proud of our origins, but work for true nationhood as Nigerians all together."

That is no easy prescription for Africa's most populous nation. Its nearly 70 million people are divided into three major ethnic groups—the Yorubas, Hausas and Ibos—and some 250 tribal offshoots. To reduce the power of the dominant tribes, Gowon, who belongs to the small Anga tribe, split Nigeria's four federal regions into twelve states. He allows them to handle their internal affairs but intervenes discreetly to make sure all tribes are consulted on local government decisions. Although Gowan rose to power as strongman of an army coup eight years ago, he believes that "you must bring all factions into the process, consult them, advise them, prod them, but above all, make them part of things. It is the only way to build a true nation."

### OIL DISCOVERIES

Along with peace, Nigeria is also gaining a bit of prosperity. Oil was discovered in the Niger River delta in 1966, and production has reached 2,200,000 bbl. per day, roughly 25% as much as Saudi Arabia was producing before its cutbacks. Gowon has followed the example of the world's major oil exporting nations and announced a 77% increase in the posted price of Nigerian crude, making it $14.69 per bbl. The new price is expected to earn Nigeria some $7 billion this year. In addition, the government currently is mulling over offers, mostly from American firms, to exploit the 2 billion cu. ft. of natural gas that now are flared daily as waste.

With a per capita annual income estimated at $125, Nigeria needs all the oil and gas revenues it can get. But Gowon has no intention of rushing the oil bonanza. To husband reserves, he is limiting production increases to the 1% per month maximum he decided was prudent long before the energy crunch. Moreover, the oil revenues give Gowon a strong hand in keeping the twelve states in line. By doling out profits to all, he keeps a firm grip on the purse strings and the pattern of economic growth.

That growth could get out of hand. The overcrowded capital of Lagos (pop. 1,500,000) is expanding its population at a rate of 20% a year—so fast, in fact, that the city is now considered almost ungovernable. Its open sewers and traffic jams are among the worst in the world. The chaos is so frustrating that Gowon recently threatened to move the federal capital to Kachia in central Nigeria.

In the context of Black Africa today, Gowon is a rarity. His personal honesty is unquestioned, and his prestige as an African spokesman is high among neighboring countries. Patient, soft-spoken and modest, he does not drink, smoke or swear, and lives quietly in a converted army barracks near Lagos with his wife and two children.

He has been criticized for moving too slowly, for failing to galvanize his people into any sustained effort at economic development, and for tolerating a certain amount of influence peddling among his subordinates. It is also true that he has not made much headway against the endemic corruption that pervades every aspect of Nigerian life. Yet, given the fanatical tribal hatreds and the incrusted corruption he faces, Gowon has proved to be an effective and sympathetic leader. To his critics, he promises that he will hold elections and return the country to civilian rule in 1976. Then, he insists, he will retire to private life in his barracks.

In a nation desperately short of political leadership, such a prospect does not strike many observers as likely. In fact, there already is a groundswell, particularly among the young, for Gowon to shed his uniform and stay on after 1976 as Nigeria's first civilian President in more than a decade.

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## U.S. MARINE CENTER IS AN EXCELLENT EXAMPLE OF BLIND VENDING PROGRAM

**Mr. RANDOLPH.** Mr. President, the Subcommittee on the Handicapped, of which I am chairman, has concluded hearings on S. 2581, the Randolph-Sheppard Act Amendments of 1973. On the basis of a General Accounting Office report, I have expressed my disappointment with the performance of the armed services in the promotion and establishment of blind vending facilities on military installations.

As a result of a Navy Times article on this issue, I received a letter from Col. William Weise at the Marine Corps Supply Center in Albany, Ga. Colonel Weise assured me of the interest of his installation in the blind vendor program.

Further investigation demonstrated that Colonel Weise and the Marine Corps Supply Center have more than a passing interest. Colonel Weise has arranged with the Georgia Department of Human Resources to install no fewer than three blind vendor operations—two snack bars and a cafeteria—at the supply center. These are in full operation and are very successful. The officers and personnel at the center are so pleased with the operation that Colonel Weise is working to open two more blind vendor facilities.

This proves, Mr. President, that where there is the will and the interest, the program for the blind will expand and flourish.

I ask unanimous consent that an exchange of correspondence on this matter be printed in the Record.

There being no objection, the correspondence was ordered to be printed in the Record, as follows:

U.S. Marine Corps,
*Albany, Ga., December 21, 1973.*

Hon. Jennings Randolph,
*Senate Office Building,*
*Washington, D.C.*

Dear Senator Randolph: I noted in a recent issue of Navy Times (21 November 1973) that you are displeased with the progress being made in providing opportunities for the visually handicapped.

I thought you might like to read about one Marine Corps activity, our Supply Center at Albany, Georgia, which has recently made great progress in using visually handicapped people. Attached is a copy of our Center paper, The Emblem, which gives a quick rundown on progress to date.

We also plan to open another cafeteria operated by blind persons in January 1974, and hopefully, another snack bar in the near future. All these are being done under the auspices of the Act which you sponsored 37 years ago.

Very respectfully and sincerely,
William Weise,
*Colonel, U.S. Marine Corps.*

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[From the Albany, Ga., Emblem, Nov. 21, 1973]

### Centerites React Favorably to "Blind Man" Concession Operations

In a concerted effort to provide gainful employment to blind persons, the Supply Center has recently opened two snack bars and one cafeteria which are owned and operated by blind persons. Another "blind man" cafeteria with full food services is planned for December.

These blind operations, the first of which opened September 17, have been enthusiastically received by Marines and civilian employees here. A frequent comment made about their operations by many Centerites is that, "We're getting better service than ever before."

The Center's Commanding General, Brigadier General F. W. Vaught, has indicated that he would like to see even more "blind man" operations; and the Center in cooperation with the Georgia Cooperative for the Blind and Department of Human Resources is exploring other areas where the blind could be purposely employed.

The direct result of opening these operations is that three visually handicapped have moved from the welfare rolls to the taxpayer ranks. And four more are expected to earn their own way when the Center's large cafeteria becomes a "blind man" operation next month.

The blind persons currently employed at the Supply Center are Ida Mitchell who runs the Repair Division Cafeteria; Bob Pharis, operator of the snack bar in the Bldg. 3500 and Sandra Fuller, who works the Maintenance Branch snack bar.

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Col. William Weise,
*U.S. Marine Corps,*
*Marine Corps Supply Center,*
*Albany, Ga.*

Dear Colonel Weise: I very much appreciated your recent letter and newspaper article describing the fine efforts expended at the Marine Corps Supply Center to actively promote the establishment of blind vending facilities there.

It is my understanding that you, personally, sought out the Georgia state blind licensing agency and asked that blind vendors be placed in three locations at the Supply Center. Agency representatives further informed my office that you and the administrative personnel at the Center have been totally cooperative and have, in fact, "bent over backwards," in their terms, to be helpful.

As chief sponsor of the Randolph-Sheppard Act, and as Chairman of the Subcommittee on the Handicapped, I applaud your outstanding efforts on behalf of the blind. The attitudes of the heads of Federal installations have a great deal to do with the success of the Federal blind vendor program. If every military and other Federal installation were blessed with the leadership of persons such as you, there would be no need for concern about the future of the Randolph-Sheppard Program.

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*Now in exile in the Ivory Coast.

With best wishes for continued success, I am

Truly,

Jennings Randolph,
*Chairman, Subcommittee on the Handicapped.*

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U.S. Marine Corps,
*Washington, D.C., January 17, 1974.*

Hon. Jennings Randolph,
*Chairman, Subcommittee on the Handicapped, U.S. Senate, Committee on Labor and Public Welfare, Washington, D.C.*

Dear Senator Randolph: Many, many thanks for your recent letter on Colonel William Weise and his commendable efforts in behalf of the blind at Albany, Georgia. Your comments are cause for justifiable satisfaction for both Colonel Weise and for the entire Corps. We take pride in our motto, "The Marine Corps Builds Men," and we choose to believe this means not only those actively serving with us but also those with whom we come in contact. We consider it an honor to be able to help the physically handicapped in any way possible and we shall continue to expand our contributions to such praiseworthy programs as yours.

Most sincerely,

E. E. Anderson,
*General, U.S. Marine Corps.*

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January 9, 1974.

Gen. Earl E. Anderson,
*Assistant Commandant, U.S. Marine Corps, Washington, D.C.*

Dear Andy: I thought you would be interested in having a copy of a letter I sent to Colonel Weise at the Marine Corps Supply Center in Albany, Georgia.

As the original sponsor of the Federal blind vending stand Act, and as Chairman of the Senate Subcommittee on the Handicapped, I recently expressed my disappointment that such a limited role had been assumed by the Department of Defense in this program.

Colonel Weise can be justly proud of his accomplishments at the Supply Center. To my knowledge, the blind vending facilities there are the only ones under Marine Corps jurisdiction—Colonel Weise has instituted three, and is planning two more. And, he says, morale at the Center has never been better. The blind vendors have taken over some Exchange facilities, and the Center personnel say the service is excellent.

Hopefully, Colonel Weise's "experiment" can be emulated not only at other Marine Corps installations, but at military facilities of other service branches across the country.

With best personal regards, I am

Truly,

Jennings Randolph.

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Georgia Department of
Human Resources,
*January 11, 1974.*

Mr. Robert Humphries,
*Special Council, Committee on Labor and Labor and Public Welfare, U.S. Senate, Dirksen Office Building, Washington, D.C.*

Dear Mr. Humphries: In following up on our telephone conversation concerning the Marine Corps Supply Center, Albany, Georgia, I contacted our representative in that area about the information you requested.

Currently we are operating two snack bars and one cafeteria at the base. The locations and number of military and civilian personnel they serve are as follows:

1. Maintenance, Building 5500, serves approximately 200 people. The stand employs one blind person.

2. Repair Division Cafeteria, Building 2200, serves approximately 640 people. This stand employs one blind person and two sighted helpers.

3. Main Administration Building, Building 3500, serves approximately 450 people. The stand employs one blind person.

We plan to open one more location at the main base cafeteria.

Our office was approached five months ago by Colonel William Weise, Director, Personnel and Administrative Division, Marine Corps Supply Center, for the purpose of establishing vending stands at the Marine Corps facility. He stated that the intention of the command was that we assume total responsibility for the snack bars and cafeterias that were then operated by the post exchange.

All of our blind operators at the base are receiving good incomes and are happy with their operation. They all state how nice everyone is to them and that they have had nothing but splendid cooperation from everyone connected with the operation.

Colonel Weise has advised us that our blind operators have contributed immeasurably to the morale of the total military and civilian community, first by providing longer hours of operation at the location, next by opening these facilities to *all* civilian and military personnel and also enlarging the number of items sold and by their example in showing to the base community what handicapped people can do if given the opportunity.

In closing I would like to say that we received splendid cooperation from everyone on the base, and they all seemed to go out of their way to help with the installation of these vending stands.

If I can be of further assistance, please do not hesitate to call on me.

Sincerely yours,

James G. Camp,
*Supervisor of Business Enterprises.*

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## THE COMPETITIVE MARKET SYSTEM

Mr. JAVITS. Mr. President, periodically our country is benefited in the public service by talented Americans of exceptional vision. C. Jackson Grayson, former Price Commission Chairman, is one of those Americans.

Chairman Grayson has written a very provocative article in the most recent issue of the Harvard Business Review. Judging from Chairman Grayson's background, his demonstrated intellect and his obvious sincerity, the article is one which should be read by all interested in the future of our economic system.

Chairman Grayson warns us that this system is shifting from a free market economy to one that is centrally directed and under public control. This change, he asserts, is not so much the result of revolutionaries and radicals as it is of Congressmen and even business and labor leaders themselves. We seem to have talked ourselves into a mentality under which Government is expected to protect business from competition, rather than foster it, Chairman Grayson implies; he sums up this attitude with the phrase that many businessmen "prefer regulation to the problems freedom poses."

If this is the case—and Chairman Grayson makes a strong case—then we should be seriously concerned. Competition and free enterprise are actually sophisticated devices for setting prices, allocating resources and labor, and "regulating" a nonsocialist economy. As Chairman Grayson points out, it is virtually impossible to devise any controls system which is free of distortions and inequities; and the free market system is the best system of "controls" we have under normal conditions.

Chairman Grayson lists 10 ways we can make our private competitive system function better, and how we can make what public control there is better quality control. I commend his article to the Senate's attention and ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Harvard Business Review, November–December 1973]

### Let's Get Back to the Competitive Market System

(By C. Jackson Grayson, Jr.)

(Note.—For years, some economists and historians have been predicting the eventual collapse of capitalism in the United States, and the emergence of a perfectly planned government-regulated economy. We have already reached the stage where private enterprise has surrendered much of its freedoms to public authority. And, with the aid of inflation and price controls, we are quickly approaching the point where it will be too difficult either to give up the controls or to manage the economy that has been created. This is a problem not only for businessmen and labor leaders but also for each individual who is concerned to preserve a way of life that is worth caring about.

Mr. Grayson writes about his beliefs in the private enterprise system, having observed our economy from a unique point of view. He served as Head of the Price Commission in Phase II of President Nixon's Economic Stabilization Program, and is now Dean of the School of Business Administration of Southern Methodist University in Dallas, Texas.)

For almost 15 months during Phase II of the Economic Stabilization Program, I served as the chairman of the Price Commission. Exercising control over most of the nation's price system, I saw this complex, capitalist economy from a most unusual observation post.

From this experience, and from what has happened since, I am personally convinced that our economic system is steadily shifting from a private enterprise, free-market economy to one that is centrally directed and under public control.

Price and wage controls such as we have experienced in Phases I through IV have helped to extend the degree of public control and to accelerate the rate of change. At some point—and I predict that, at the present rate, this point may be reached in about 15 to 20 years—the essential characteristics of a competitive, private enterprise system (nonregulated prices, profit motive, risk taking, collective bargaining) will no longer make up the economic engine that drives our system.

I am not saying that there is and will continue to be public regulation of the private enterprise system. Since 1930, we have had that—a mixed public-private system. But, in the 1970's, the pendulum of the mix has been swinging further, and faster, toward central control.

Call it what you will—managed capitalism, socialism, a planned economy, a post-industrial state—the end result will be the virtual elimination of the free-market system as we now know it. There will be no signposts or traffic lights. We will simply shift over to another kind of system.

The resulting system will probably not have widespread public ownership of production and distribution; but it will have public control. General Motors will not die; but neither will it remain a capitalistically motivated and directed enterprise. Rather, it will operate as an organization designed to implement *public* economic, political, and social policy.

Impetus for this trend has not come from a group of revolutionists, and only partly from leftists, liberals, youth, intellectuals, and socialists. Instead, it has come from the public at large, from the Congress, and, perhaps most surprisingly, from the actions of many labor and business leaders.

I feel that this current threat to our free, competitive economy should seriously concern us, not only because I strongly believe in that system, but also because of the effect its loss would have on the social character of the United States.

In this article I attempt to identify what the current shifts away from freedom are and why they are a cause for alarm, and to suggest courses of action that businessmen, labor leaders, and legislators could take to help reverse the clear and present trend.

### WARNING SIGNS

The trends I see can be summarized as follows:

Business and labor are too often seeking to reduce rather than to encourage competition in their markets.

Continuing price and wage controls are leading the public to believe that central planning and control are superior, mandatory, and desirable.

Americans, in distrusting the market system, are demanding more economic benefits from the federal government and are seeking ways to insulate themselves from the impact of economic change.

In addition, international economic interdependencies are complicating our privately controlled market system. As recent balance-of-payments and exchange-rate problems demonstrate, closed economies are a thing of the past. Inflation can be exported and imported, increasing the call for more centrally coordinated economic policies between and inside nations.

### BUSINESS SEEKS PROTECTION

Consciously and unconsciously, businessmen themselves are adding to the probability of greater centralization of economic control by seeking ways to reduce market competition—the very keystone on which the capitalist system rests.

Normally, competition is curtailed either by private monopoly power or by government protection. It is still unclear whether large corporations have sufficient power to control markets, reduce competition, and "administer" prices. Our internal studies at the Price Commission did not provide any evidence that prices were being administered by corporations. But, clearly, we did not have sufficient time to make a full study of this issue.

We did have time, however, to observe innumerable instances in which business turned to government to seek forms of assistance which, in effect, would reduce competition—for example, asking for imposition of subsidies and tariffs, occupational licensing, fair trade laws, and import quotas.

Excerpts from letters written to me at the Price Commission by businessmen serve as illustrations:

"I do not advocate any program of isolation, but I do think it is good business for us to protect our national economic situation in the face of stiff and competitive foreign trade." (A steel company)

"We need government protection because we can't compete against the big companies." (A consumer goods company)

"If you break our fair trade laws, the market will be chaotic." (A cosmetics company)

"We can't survive if you let cheap products in from foreign countries." (A shoe manufacturer)

"We must have minimum milk prices if we are to have an orderly market." (A dairy products company)

"If we allow liquor prices to fluctuate freely, competition will be ruinous and the Mafia might move in." (An alcoholic beverages company)

Another way some businesses are hampering the free-market system is by not using the age-old competitive tool of reducing prices as a way to increase their sales.

Again, to quote from my 1972 mail:

"In all my years in business, I have never reduced prices to hurt a competitor." (A retail food supplier)

"Why did I raise my prices? My competitor did. I always go up when he does." (A chemical company)

Of course, this attitude is not shared by all businessmen. After the Price Commission authorized a cost-justified price increase, one businessman told me, "You gave us a price increase. I wish the market would."

My point, however, is that far too few companies are exploring market flexibility by reducing prices. And yet, when we ordered some companies to reduce prices because they had violated regulations, several reported that they experienced increased volume and a higher total profit.

But the reluctance to reduce prices is also understandable. Several heavy-industry companies reported that they feared competing too aggressively on price because they would capture a larger market share, drive out smaller companies, and be subject to Justice Department or competitor antitrust suits. Efficient stevedoring companies argued they would drive out smaller businesses if they held prices down. And after the Russian wheat sale drove flour prices up, small bakeries urged us to force large bakeries to raise their bread prices.

The threat of continuing price controls has compounded the price-reduction problem. Many companies report hesitancy to reduce prices for fear of being caught with a low "base price" in future freezes and phases. This was clearly demonstrated in Phase III, when freeze "talk" actually accelerated price increases.

Finally, I was surprised to find that the majority of businessmen with whom I talked wanted Phase II controls continued. The most commonly stated reason was fear of union power. The argument was that the balance of power has swung so far toward the unions that businessmen feel they can no longer negotiate successfully. Accordingly, they choose price controls over wage disputes; they prefer regulation to the problems freedom poses.

### SO DOES LABOR

In the model of the free market, it is axiomatic that competitive behavior is required not only of business but also of labor. There must be competition in wages as well as in prices. More and more, however, it's not turning out that way.

Like big business, big labor tries to use government or private power to protect itself against such natural effects of competition as layoffs, dislocations, wage reductions, and advancement by competition.

Whether labor has too much power was not an issue we studied at the Price Commission during the control period. But many instances in which noncompetitive labor practices were driving costs up were reported to us as justifications for price increases—featherbedding in railroads and docks, restrictive work rules in construction and shipping, and rules barring more efficient methods in construction and printing.

An October 1971 staff report of the Bureau of Domestic Commerce estimates such extra costs in construction at $1 billion to $3 billion annually, in railroads at $700 million to $1.2 billion, in printing at $400 million to $600 million, in supermarkets at $250 million to $400 million, and in trucking at $275 million to $400 million.

These restrictive, noncompetitive work practices are usually defended by labor on humanitarian grounds. Without judging the merit of that position, I can definitely say that these practices drive costs up and usually result in higher unit labor costs, higher domestic prices, and reduced competitive abilities abroad.

Just as business often does not see price reductions as necessary and competitive, so labor does not see wage levels as connected to successful or unsuccessful competition in the free-market system. Nor does labor see the natural relationship between productivity and the wages that a company can afford to pay. Companies report mounting pressure from labor for increased compensation, regardless of the productivity of individual workers or of the nation as a whole. Labor's typical demands include increased minimum wage levels, "catch-up" wage increases, fixed productivity rates, tandem wage agreements, and annual pay increments.

For example, in late 1971, workers in the coal industry, which has had productivity decreases in recent years, received nearly a 14% wage increase settlement. The Price Commission, in one of its most important decisions, ruled that this practice would lead to further cost-push inflation and despite the 14% wage settlement, allowed the coal industry to submit only a 5.5% wage cost as justification for price increases. This practice was then followed for all companies throughout Phase II.

As a result of this "5.5 rule," two things happened. Some companies suffered reduced profits. But other companies bargained harder at the table because they knew they could not "pass on" more than 5.5%. In fact, some companies reported privately that they were pleased with the rule because it gave them a bargaining weapon greatly needed to withstand labor's pressures.

There is little question that if labor settlements, on the average, rise faster than overall productivity, the result will be inflation, unemployment, or both. Our 5.5% limitation was an attempt to crack into the wage-productivity imbalance by forcing price increases to reflect no more than the long-term national productivity gain of 3%, plus a 2.5% inflation goal. The 5.5% was a national procrustean bed that served a crunching purpose in the short run.

We've also heard arguments by labor that economic justice demands wages be increased—a growing egalitarian ethic that wages be based on need rather than on competitive reality.

But those who argue this line sometimes end up taking contradictory positions, as was illustrated during the debate over the minimum wage. At the same time that many labor leaders and members of Congress were loudly protesting price increases in Phase II, they were also fighting equally hard for increased minimum wage levels and extended coverage. Without entering into the merits of the economic justice argument, the commission computed that the various proposed bills on the minimum wage before Congress in 1972 would have increased the Consumer Price Index anywhere from 0.3% to 0.8%. Since no productivity gains would have ensued, the increased costs would have either come out of profits or been passed on in prices.

In summary, I can only point out to labor and to business that any time they seek, through private market power or government help, to reduce the effects of competition, they invite the danger of permanent central control over the economic system. Without competition, public controls may become, not an option, but a necessity.

### WAGE-PRICE CONTROLS DISTORT

True, wage-price controls help attack inflation in the short run by (a) reducing inflationary expectations, (b) intruding on discretionary market power of business and labor, and (c) influencing the timing of price and wage decisions.

But, by their very design, such controls interfere with the market system and hasten its move toward a permanent central one. I can spot seven ways this occurs:

First, wage-price controls lead to distortions in the economic system, which can be minimized only in the short run. The longer controls are in, the harder it is to discern real from artificial signals. No matter how cleverly any group designs a control system, distortions and inequities will begin to appear. It happened in European control programs; it was beginning to happen in Phase II.

For instance, lumber controls were beginning to lead to artificial middlemen, black markets, and sawmill shutdowns. Companies trapped with low base-period profit margins were beginning to consider selling out to those with higher base periods, sending their capital overseas, or reducing their efforts. Instances of false job upgrading—which were actually "raises" in disguise—were reported on a scattered but increasing basis. To keep away from profit-margin controls, companies were considering dropping products where costs, and thus prices, had increased. And shortages of certain products (e.g., molasses and fertilizer) were appearing because artifically suppressed domestic prices had allowed higher world prices to pull domestic supplies abroad.

Exceptions and special regulations can handle some of these distortions, but the task grows more difficult as each correction breeds the need for another.

Second, during controls, the public forgets that not all wage-price increases are inflationary. In a changing, competitive economy, wage and price increases occur because of real consumer demand shifts and supply shortages. The resulting wage and price increases signal to business, "Make more"; or to labor, "Move here"; or to the public, "Use less."

Controls interfere with the signaling mechanism. A good example of how an artificially suppressed price-signal leads to eventual shortages is natural gas. Similar examples can be found in labor where suppressed wages do not attract labor to areas in which there are shortages of skills or of workers.

But with wage-price controls in place, the public believes that all increases are inflationary—almost antisocial—and the clamor is for no, or very small, increases.

The sense of the statement, "You can eliminate the middleman, but not his function," applies equally to our economic system. We live in a world of scarce resources, and, as much as some would like to repeal the laws of supply and demand, it can't be done. Some system must allocate resources, we hope to the most efficient use for society: If wage-price controls, other government regulatory rules, or business-labor monopolies prohibit the price system from performing its natural function, then another rationing system (central planning and control) must be used. You can eliminate the price system, but not its function.

Third, during a control period, the public forgets what profits are all about. Even before wage-price control, the public believed profits were "too high," even though they have actually declined in the past few years, from 6.2% of GNP in 1966 to 3.6% in 1970, and increasing only to 4.3% in 1972. And, with profit increases raised to the top of the news during the recovery of 1972 and early 1973, the negative public sentiment against profits increased. Why? The control system itself heightened the public's negative attitude toward profits at a time when capital regeneration, the fuel of the capitalist engine, was already alarmingly low.

Fourth, wage-price controls provide a convenient stone for those having economic or political axes to grind, particularly those interested in promoting a centralized economic system. For example, in 1972, Ralph Nader argued that auotmobile companies should not be allowed to raise their prices to reflect style changes. Others argued that price increases should not be given to companies that employ insufficient numbers of minorities or pollute. Nor should wage increases go to uncooperative unions.

Fifth, wage-price controls can easily become a security blanket against the cold winds of freemarket uncertainties. They tell people what the limits are; they help employers fight unions, and union leaders to placate demands for "more" from their rank and file. The controlled tend to become dependent on the controllers and want regulations continued in preference to the competition of a dynamic market. At the same time, the controllers themselves can become so enamored with their risk that they also don't want to let go. The public begins to fear what will happen when controls are ended, and seeks continuance. Witness the recent fears of moving from Phase II to Phase III, and the public (and Congressional) pressure for the freeze to replace Phase III. Even Wall Street seems terrified at the thought of returning to supply and demand in the market. All of this proves that it is much easier to get into controls than to get out.

Sixth, under controls, business and labor leaders begin to pay more attention to the regulatory body than to the dynamics of the marketplace. They inevitably come to the same conclusion, summed up by one executive: "We know that all of our sophisticated analysis and planning can be wiped out in the blink of a Washington controller's eye."

Seventh, and most dangerous, wage-price controls misguide the public. They draw attention away from the fundamental factors that affect inflation-fiscal and monetary policies, tax rates, import-export policies, productivity, competitive restrictions, and so on. The danger is that attention will become permanently focused on the symptom-treating control mechanism rather than on the underlying problems.

### THE PUBLIC VOICE

The public is also adding to the probability of more central control of our economic system. I can cite several basic attitudes at work to explain this phenomenon:

Increasing loss of faith in the ability of both business and labor leaders to operate our economic system.

Increasing expectation of greater economic benefits.

Intensified search for stability and egalitarianism.

In recent years poll after poll has quantified the growth of these trends in public opinion. For instance, over the last seven years, Louis Harris and Associates has been asking the public about its degree of confidence in the leadership of our institutions, and has made these discoveries:

Corporate executives share with bankers and educators the largest loss in public respect, declining from 55% in 1966 to 27% in 1973.

Confidence in labor leaders shrank from 22% to 15% in the same time period.[1]

And a 1971 Opinion Research Corporation study revealed that 62% of the public favored governmental controls over prices, 60% of all stockholders believed competition could not be counted on to keep prices "fair," and fully one third of the public believed that Washington should set ceilings on profits.[2]

In general, my personal mail and my experience in numerous interviews with newspaper editorial boards and others confirmed that the public feels there should be more, not less, control of business and labor. And Congress reflects this mood in asking for more controls, tighter regulations, and more public agencies. Time and again, when I was testifying before congressional committees, I was told that we had to have more controls because the private enterprise system "didn't work." Such a sentiment does not make me optimistic about continued public support for our free enterprise economy.

Nevertheless, the growth in the public's disenchantment with the private enterprise system has been matched by an increase in the public's demands on that system. The public wants, for instance, higher pay for teachers, policemen, and women; a clean environment; better schools and medical care—and all without increases in prices or taxes.

At various Price Commission public hearings and in meetings with public groups and congressmen, I heard demands for increased pollution controls but, at the same time, for lower transportation prices, increased health benefits but lower hospital costs, increased mine safety but lower coal prices, decreased insecticide usage but lower food prices, protected forests but lower lumber prices, and so on. The demands are outrunning what we, as a society, can afford.

We cannot have it all ways without increased productivity. And, more and more, the public is not willing to wait for the market to provide remedies but is seeking centralized solutions to obtain the desired benefits now.

Finally, the move toward a central system is being aided by the public's desire to make people the same, both in ability and in susceptibility to economic change. The market system is conceived on the concepts of competition, monetary reward, excellence, and change. The current attitude stresses stability, cooperation, egalitarianism, and income equality enforced by a central authority.

"Can we be equal and excellent too?" queries John Gardner in the subtitle to his book Excellence—a question which he discusses extensively but does not answer.[3] Everyone might like both, but the competitive system is built on the notion that those individuals and institutions outperforming others are not and should not be rewarded equally. But now, more people are seeking and getting protection, through tax reform, income redistribution plans, promotion by seniority, and so on, against "differences" generated by the operation of the competitive system.

And society's insistent cry for economic stability poses two dilemmas for our capitalistic system.

First, if the business cycle can be sufficiently dampened by government policies to avoid the unpleasant by-products, we might also run the risk of removing some of the essential features of capitalism, principally the ability of the capitalist system to adapt to changing circumstances and to encourage risk taking. That is, if we remove the valleys, do we not also remove the "mountains of incentive" for risk and change?

Second, the goal of "maximum employment" has been interpreted to mean low unemployment and the arguments have centered on definitions of "low" (3%, 4%, 5%) and "unemployment." But stimulating demand to achieve low unemployment risks inflation. And moderating demand to reduce inflation risks high unemployment.

This unemployment-inflation trade-off is

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Footnotes at end of article.

becoming more difficult to manage centrally. If low unemployment is government's primary goal, as it has been in recent years, inflationary pressures are created and fixed incomes become vulnerable. In turn, there are more cries for wage-price controls and greater planning.

Central economic planning holds a great deal of logical appeal for many economists, intellectuals, and businessmen. They conclude that, if businesses plan, governments should—or that somebody should be in charge of the economy.

While their arguments are appealing, to date no one in any society has been able to come up with a central planning model that is more efficient and effective than the seemingly uncoordinated actions of the marketplace. I do not believe it is possible to construct one. In the Price Commission, almost every time we tried to adjust our economic system to correct one problem, two or three more were created, and the more we felt the temptation to "control."

In the end, I believe that any extended control system would disrupt the free-market system. At worst, the market would break down, at best, it would be highly ineffective and subject to bottlenecks, quotas, and black markets. The trade-offs in our extremely large and highly interdependent economy are too complex to be done efficiently on a centralized basis. And then there is the question of who would supply the value judgments for the operations of such a system. Why not return to the one planning system we have that works—the price system.

### POINT OF NO RETURN?

What does this all add up to? Where are we headed? Is our private enterprise system actually doomed?

There are many who have said yes. Karl Marx predicted that capitalism would destroy itself; Joseph A. Schumpeter flatly stated that capitalism cannot survive; [4] and Robert L. Heilbroner concluded: "The change [away from capitalism] may require several decades, perhaps even generations, before becoming crystal clear. But I suggest that the direction of change is already established beyond peradventure of doubt." [5] Even 'Adam Smith' observed in Supermoney that "the consensus is moving away from the market as decision maker and from the business society." [6]

Clearly, the factors I have cited are carrying us further and further away from the market system and toward a central economic one. I cannot prove we have gone or will go "too far," but I can point to figures substantiating the trend: our national income accounts show a shift in governmentally directed expenditures from 15% in 1930 to about 40% today. And the federal proportion has risen from 5% to 26% in the same period.

I am not saying, however, that the private enterprise system is doomed, nor that continuance of the trend toward central control is inevitable and irreversible. Nor do I feel that government has no role in the economic allocation system. It clearly does and should. I believe, rather, that we are very near the point where further centralization will change our present system into one that can no longer perform its function efficiently.

I view this trend with alarm because I favor retaining the very powerful features of the market system. I hold this position, not out of blind faith in an ideology, but for these reasons:

*Demonstrated economic superiority*.—The economic record clearly reads that the U.S. free-market, private enterprise system has produced the highest standard of living in history and has demonstrated a remarkable ability to adapt to changing conditions.

*Political freedom*.—The principles of democracy and personal freedom are most compatible with a decentralized market system.

*Personal experience*.—I have witnessed the difficulties of trying to allocate resources by centrally directed price controls. These difficulties have convinced me that it is impossible to improve on the system in which billions of daily market decisions by the public determine our resource allocations.

Before some brand me a chauvinistic throwback to Social Darwinism, let me quickly add these points.

I am aware that our present system has competitive imperfections on both the price and the wage sides. It has never been, and never will be, as theoretically competitive as Adam Smith's description. Government vigilance and action are required to prevent the natural monopolistic tendencies of the system.

I am also aware that there are social problems and inequities in our present system which need correction, and that the central government should play a role in this task.

The difference between the centralists and myself is that I do not think the best solution is always to increase the size of the central system. Rather, it is in a better functioning of our private competitive system and a better quality, not quantity, of public control. The question remains: How can this be accomplished?

### BACKING UP

It is obvious from the foregoing that I strongly believe the trends toward a centralized, or goverment-controlled, economy should be halted. I believe the survival of almost our total economy is at stake.

Businessmen, labor leaders, government legislators, and administrators have the power to slow or alter the trends I've cited. By doing so, we may be falsely labeled rightwingers or reactionaries, but we should not be daunted. If a goodly number of us do not try to stop the present trends, we may, even within this decade, end up with an economy we cannot manage.

Recommendations on how to halt the present trends are discussed below. I do have one comment that applies to all of them. I do not believe, as some free-enterprisers do, that any of the suggestions I make should do away with the social achievements of the past 40 years. I believe that much, if not most, of the social legislation passed by the U.S. Congress protects the unprotected and provides social equity in economic terms that are consonant with the spirit of our political life and the protection of the individual by law. I deeply believe in equity.

I do not believe, however, in inequity. It is the inequities, rigidities, bureaucratic stiflings, and actual absurdities that we must attack. But again it is a question of how.

#### *Selective deregulation*

Obviously, not all regulation in the public interest should cease—for example, in the areas of safety, product quality, pollution, and health. But many economists can make a good list of those regulations that are interfering excessively with the competitive model, such as subsidies, quotas, tariffs, and competition-limiting labor and business practices referred to earlier in the article.

#### *Monopolistic vigilance*

Both business and labor have innate tendencies to seek monopolistic positions, and therefore they must be restrained. The same message also goes for professions (e.g., medicine and law) and trades (e.g., accounting and investment) that build up anticompetitive practices in the name of "professionalism."

The Sherman, the Robinson-Patman, and the Clayton acts, all designed to bring about these goals, were written many years ago. Each needs continued enforcement and should be examined for revisions and oversights in its application.

#### *Three-branch overhauls*

Just as physical systems need periodic checks and overhauls, so do our social institutions. Government is no exception. Many of our procedures and institutions at the local, state, and federal level were designed for an agrarian society with slow communications and an isolated domestic economy.

At a minimum, I suggest a regularized public review, say, every three years, of the organizational and administrative procedures of government.

#### *Political involvement*

We live not just in an economy but in a political economy. Our economic system does not operate according to the classical laws of supply and demand but through the interaction of power and politics with economics. If business and labor leaders wish to steer the system in the direction they believe best, they cannot simply deplore, fume, curse, and hire a Washington lawyer or lobbyist. They must get directly involved by holding public office, personally visiting regulatory bodies and Congress, participating in citizens' affairs groups, and allocating time for employees to participate in local, state, and national politics.

#### *Public advocacy*

Related to the need for political involvement is the need for public advocacy of all views about our economic system. Those supporting increases in government's role are currently more vocal than are the advocates of the private enterprise system. The reason, I suspect, is that advocacy of private enterprise is often ridiculed as mossback in viewpoint, anti-intellectual, socially insensitive, and on the side of vested interests and "fat cats."

Nevertheless, those believing in the private enterprise system must speak out, not bombastically but intelligently. Every avenue should be utilized—speeches, articles, participation in local affairs, appearances at schools, employer-employee discussions, and so forth.

#### *Economic education*

If people are to make intelligent choices, about the nature of our economic system, they must understand more economics. My experience at the commission has convinced me that economic understanding in this nation is low, much lower than it should be for people to make wise choices.

Education to promote understanding should begin with our young people and extend through adult life, emphasizing not a partisan view but a clear presentation of various economic fundamentals and systems.

#### *Better economic tools*

The economic policy tools of taxation, budget, and monetary supply, by which government manages the overall economy, are very crude and require overhauling. The economic models are weak, the implementation process rigid, and the needed data often not available. For instance, decisions were made in Phase II with a frightening paucity of economic information. At the very least, this situation could be corrected by funding the many excellent economic organizations to enable them to come forward with recommendations for the Congress and the President.

#### *Business schools*

Business schools should turn out students who understand both the strengths and the weaknesses of the private enterprise system, as well as its responsibilities to society. Too often, technicians are being graduated who are narrow professionals and blind ideologists.

One particular recommendation is that more schools encourage entrepreneurs. The entrepreneur is the lifeblood—the innovator, creator, pusher—of the private enterprise system; without him, the system will tend to become change-resistant and bureaucratic.

#### *Department of Economic Affairs*

Part of President Nixon's proposed departmental reorganization program is the creation of a new Department of Economic Affairs.

In the Price Commission, we saw numerous instances in which the dispersal of economic policy matters in various parts of government inhibited the formulation of an integrated and consistent program.

I support the proposed new department, which would gather together under one head the economic branches of various departments and agencies, e.g., Transportation, Commerce, Labor, the Small Business Administration, and others.

### *Productivity*

A strong, increasing productivity is one of the best preventives against inflation and one of the strongest assets of a private enterprise system. Therefore, business and labor must work together to shore up our lagging productivity, particularly as we shift to a more service-oriented, and hence lower-productivity, economy. Government can also help in this area through policies that stimulate capital investment and R&D.

In addition to the National Commission on Productivity in Washington, there should be a private sector productivity institute, like those in Japan, Germany, and Israel, which would be a clearinghouse of information and source of help and education.

### A DIFFERENT KIND OF ROAD

My recommendations advocate continuation of a private enterprise, free-market system with these essential features:

The price system;
Private ownership;
Collective bargaining;
The profit motive; and
Freedom of entry.

Capitalism is more than a system of economic voting by buying a can of peas. It is also a system of values and attitudes, a way of life that permits individual motivation, excitement, personal freedom, variety, and excellence. I do not see these attributes flourishing in centrally planned and controlled systems.

Yet I am not denying a role to central government. Government can help to ease transitions caused by change through stimulating or contracting the economy and informing the public of the cost and benefits of various alternatives, e.g., pollution control versus higher prices, caribou protection versus energy supply, unemployment versus inflation. Government also has the extremely important function of setting and monitoring the rules of the economic game through antitrust laws, product quality standards, pollution controls, and so on. These restrictions are set principally to keep competition alive and to protect the general public.

The key issue is at what point do such activities and restrictions on the private enterprise system inhibit it to the point of rendering it effectively inoperative?

The tug between laissez-faire and state regulation has been going on for centuries. They are contradictory, but both are valid approaches and applicable under appropriate conditions. Yet neither is of universal application for all purposes.

We seem to advance by overaccentuation of one principle at a time, like a sailing vessel that is first on one tack and then on another, but is making to windward on both. It is important, therefore, not to hold too long on the same tack, not to believe too strongly that either principle is absolute and universal.

For the real danger is that people will strive for the triumph of a particular philosophy and will refuse to consider the limits of proper application of their particular point of view. In the heat of debate, the advocate often asserts extreme opinions and demands action more drastic than he would call for if he reflected more calmly.

I submit that what we must do is seek the balance between these opposing principles, realizing that it is almost as impossible to frame a comprehensive and universally applicable economic system as it is a political one. In making our Constitution subject to amendment, our forefathers showed they were aware that the best solution will not be found in one principle but in a set of ideas determined by experiment and observation of practical results. And it is extremely likely that the chosen path will not be the same forever, but will shift from time to time.

Phase IV could be a return trip to the relatively free-market system and, I hope, a reversal of the trend I have observed. It could be an opportunity for labor and business to demonstrate that the private sector can manage the market and fight inflation without further government intervention. If not—then I don't think that either labor, business, or the public will like the controls that will be imposed on our freedoms in the future. And we will have helped to build our own cages.

This is not a pessimistic view, for, as Schumpeter stated, a report that a ship is sinking is not defeatist. It is only defeatist if the crew sits and drinks. They can also rush to man the pumps.

In every sense it's up to each of us.

FOOTNOTES

[1] Louis Harris, "The Public Credibility of American Business," *The Conference Board Record*, March 1973, p. 33.

[2] Thomas W. Benham, "Trends in Public Attitudes Toward Business and the Free Enterprise System," *White House Conference on the Industrial World Ahead* (Washington, Government Printing Office, February 1973).

[3] New York, Harper & Row, 1961.

[4] *Capitalism, Socialism and Democracy*, 3rd edition (New York, Harper & Row, 1962), p. 61.

[5] *Between Capitalism and Socialism* (New York, Vintage Books, 1970), p. 31.

[6] New York, Random House, 1972, p. 266.

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## A NATIONAL FOOD POLICY

**Mr. MONDALE.** Mr. President, an excellent article, entitled "Needed: A National Food Policy," appeared in today's edition of the New York Times. Written by Tony Dechant, president of the National Farmers Union, this article points out the perilous scarcity of food in the United States and the disastrous policies of the administration which have placed us on the brink of a national food shortage.

As Mr. Dechant warns,

> A short grain crop anywhere on earth—or a natural disaster anywhere on earth—or a military crisis anywhere on earth—would catch America short of one of its most valuable resources.

How did the world's leading agricultural producer come to find itself in the midst of a food crisis? N.F.U.'s President Dechant explains that the administration set out to destroy two longstanding and indispensable tools of an adequate farm program. According to Dechant,

> It wrecked the "ever normal granary" machinery for building and managing reserves of basic farm commodities, by forcing commodity-loan rates far below the level of viable returns to producers, and by "dumping" the last remaining Commodity Credit Corporation-owned stocks onto the market in a ruthless effort to break farm prices.

Thus the administration destroyed the Federal Government's reserve of storable commodities, a reserve that has through the years enabled us to stabilize food supplies and costs at levels which are both reasonable and acceptable.

Next, during the 1972 election year the administration set about to withhold record amounts of land from production, and Secretary of Agriculture Earl Butz freely boasted of being able to spend money like a drunken sailor.

The disastous world grain crop of 1972 and the resulting upsurge in demand for American farm products greatly reduced stocks of food available to meet the needs of American consumers. Continuing heavy demand now threatens to wipe out by summer the small margin of carryover stocks that still exist.

The potential for new and even more dramatic increases in the price of food illustrates the pressing need for a national food policy. Such a policy would be designed to insure adequate supplies of food at prices that are stable and reasonable for both the consumer and the farmer. A primary tool in helping to carry out our food policy would be a national consumer and marketing reserve along the lines proposed by Senator Humphrey and myself in S. 2005.

Our proposal would provide for a reserve of 600 million bushels of wheat, 150 million bushels of soybeans and 40 million tons of feed grains to be purchased at a time when supplies are ample and to be used in time of shortages. The bill is formulated in such a way as to avoid the price depressing effect and the increased storage costs of past reserve programs; and it would benefit America's farmers, consumers, and taxpayers.

Mr. President, as evidence of the need for a realistic national food policy, coupled with a reserve program, I ask unanimous consent that today's article by Tony Dechant be printed in full in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Needed: A National Food Policy

(By Tony Dechant)

Our country desperately needs a national food policy. The United States today is dangerously short of food. What is worse, we are dangerously short even of farmers. We are dangerously short of farming capacity—of machinery and breeding stock and production supplies. We are dangerously short, above all, of morale among our farm people. All this portends that our danger will grow worse unless we correct its cause.

In just a few short years, the regime of President Nixon and Secretary of Agriculture Butz has wrecked our national farm programs, built with bipartisan support and leadership during the past forty years. This has brought the nation, and farmers and consumers together, to the food crisis.

The first major blow was enactment of the 1970 Farm Act after a bitter fight in Congress. This legislation was engineered by the White House with ruthless use of the veto threat. It empowered the Administration to further erode farm prices and to complete the wrecking of two indispensable features of an adequate farm program:

It wrecked the "ever-normal-granary" machinery for building and managing reserves of basic farm commodities, by forcing commodity-loan rates far below the level of viable returns to producers, and by "dumping" the last remaining Commodity Credit Corporation-owned stocks onto the market in a ruthless effort to break farm prices.

It wrecked the Government's capability to manage supplies of storable commodities so as to keep reserves at reasonable levels at costs that would be reasonable and acceptable.

The next step was the recruitment by President Nixon of Earl L. Butz, a long-time agribusiness politician, as Secretary of Agriculture.

Mr. Butz set out with flamboyant vigor to exploit the programs of the Department of Agriculture to further the Nixon election campaign.

It is fair to wonder what a long-time enemy of farm programs, as Mr. Butz has been, would find to do during an election year that would be helpful to the Administration's cause among farmers who overwhelmingly believe in farm programs. But Earl Butz showed that he is not a man to be swayed by principle when he has a political motive to satisfy.

In the 1972 election year, Mr. Butz spent more money than any Secretary of Agriculture in history to pay farmers to idle the biggest acreage of land ever kept out of production under Government programs.

The extent of today's food shortage is being understated and covered up by the Department of Agriculture.

The department continues in public to uphold its estimate of 250 million bushels as the total amount of wheat that will be left over at the end of this marketing year next July 1. This would be the smallest reserve since the world food emergency at the end of World War II. But then America's and the world's populations were far smaller.

A careful search and review of the Government's own reports on wheat production, wheat stocks, domestic consumption estimates, shipments already made overseas, and reports of overseas sales shows that the total wheat supply in the United States will be down to the vanishing point by the end of this marketing year. Indeed, these detailed reports show that the entire United States supply of three of the five major types of wheat have already been oversold, and this includes our main bread-wheat type.

The total carry-over that is indicated by these Government figures is around fifty million bushels. This would be by far the smallest ever recorded in the United States. It is less than the practical minimum, beyond the point at which the trade and processors' "pipelines" can really be cleaned out.

A short grain crop anywhere on earth—or a natural disaster anywhere on earth—or an international military crisis anywhere on earth—would catch America short of one of its most valuable resources. A world grain crop like that of 1972 would doom millions to starvation.

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## CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, if there be no further morning business, I ask that morning business be closed.

The PRESIDING OFFICER. Is there further morning business? If not morning business is concluded.

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## WATER RESOURCES DEVELOPMENT AND RIVER BASIN MONETARY AUTHORIZATIONS ACT OF 1973

The PRESIDING OFFICER (Mr. HATHAWAY). Under the previous order, the Senate will now proceed to the consideration of S. 2798, authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 2798) authorizing the construction, repair and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I ask unanimous consent that during consideration of and voting on S. 2798 the following staff members of the Committee on Public Works be granted the privilege of the floor:

M. Barry Meyer, John W. Yago, Philip T. Cummings, Wesley F. Hayden, Ann Garrabrant, Leon G. Billings, Bailey Guard, Hal Brayman, Rick Herod, Steven Swain, and Ann Brown.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I offer for the Senate's consideration S. 2798, the Water Resources Development and River Basin Monetary Authorizations Acts of 1973.

As that designation suggests, the bill addresses itself to two distinct purposes and objectives. On one hand, in title I, it provides for new project starts and modifications and for policy changes which are of the type usually incorporated in what has been known in the past as omnibus rivers and harbors legislation. Title II has been added in this instance to provide additional authorizations for work in 16 of the 29 river basins for which development plans were approved under the Flood Control Acts of 1936 and 1938 and amendments thereto.

Under usual procedure, the two elements in S. 2798 would have been handled as separate bills in alternate years.

In this instance, however, it was necessary to combine them into one measure because of the White House veto of the Flood Control Act of 1972 after adjournment of Congress which precluded passage of any water resources legislation for that year.

Without the combination which S. 2798 provides, the consequent lack of funding would have seriously curtailed essential elements of the Nation's civil works program or even halted some aspects of it at the very time when we are desperately trying to develop new energy sources including additional hydroelectric power.

In drafting the legislation which is now being presented, the Public Works Committee brought together features of S. 606, the Flood Control Act of 1973 adopted by the Senate last February 1, of H.R. 10203 as enacted by the House of Representatives on October 16, and of certain proposals offered in the Senate subsequent to its action on S. 606.

Total cost of the bill as reported is approximately $1.28 billion, of which about $780 million is attributable to the river basin authorizations in title II and about $508 million is authorized for projects and provisions outlined in title I.

I emphasize that the latter figure represents the estimated 5-year costs of major programs provided under that title and that it is, at the same time, substantially less than the $593 million proposed for similar purposes under the 1972 bill. The latter measure would if approved, have been the most modest omnibus bill of its type since 1948.

At this point, I also stress another feature of the bill—that is the amount of attention its various provisions received during the preparation process.

First of all, there were 6 days of hearings in Washington on new elements of S. 2798 during April, May and June of last year to supplement information developed during 12 hearing days in 1972 on items which subsequently became a part of S. 606 and have now been incorporated in this bill. In addition, the Water Resources Subcommittee conducted hearings in Indiana in May 1973, and in Louisiana in September, to determine whether certain proposals involving those States should be included in this legislation.

The bill which eventually evolved was also the product of detailed examination in numerous conferences with both majority and minority staff, frequent and indepth consultation with Corps of Engineers experts on technical points, and full discussion in half a dozen executive sessions of the subcommittee before the bill was adopted there.

It is appropriate to note that each of the nine subcommittee members participated at some point in one or more of those executive sessions and that eight of them took part in the meeting at which the bill was approved for full committee review.

Each of them contributed in an important and significant way to the form and substance of the legislation, and I want to express my personal appreciation to them now for their support and very vital help in this task.

Great credit is also due the extremely able and distinguished chairman of the Public Works Committee and our esteemed colleague, JENNINGS RANDOLPH, for the role he played in bringing this legislation into being.

His wise counsel, suggestions and expert knowledge on critical issues and policies with which we were dealing were of invaluable assistance throughout the preparation and review process and, as always, he gave that help unstintingly. He thereby made the task of a first-year subcommittee chairman easier and more rewarding, and I am indebted to him for it.

The measure we have reported represents the best efforts of many who contributed to it, and I consider it a sound, realistic, and workable bill. It meets both the civil works program needs of the present and the requirement for new and imaginative approaches to some of the problems of the future which must be solved to insure maximum public benefit from utilization of our priceless resources.

A substantial number of the provisions in title I of the bill relate to major policy or procedural changes designed to improve the economy, effectiveness, and efficiency of the Corps of Engineers civil works program and to make it more responsive to public interests and requirements in today's society.

It is to them that I will address myself first in describing the legislation.

### TWO-STAGE AUTHORIZATION

The first, and perhaps most significant, of those changes is a provision which would allow for two-stage authorization of new projects as an alternative to the practice of single-stage approval previously followed.

Under the new plan, a project would be authorized only through what is known as the phase I design memorandum stage of advance engineering and design—A.E. & D. The fully designed project, with any modifications, would be brought back to the Congress, together with the completed environmental impact statement, and authorization of the construction phase could then be considered.

The proposal is substantially in line with a practice initiated by the Corps of Engineers some 18 months ago, except that reports on the A.E. & D. phase would be submitted to the Congress for consideration of further authorization rather than being prepared and handled as an internal matter within the corps.

The new procedure will be primarily utilized for consideration of major projects costing many millions of dollars and to be developed over a long period of years.

It would not be intended to replace the section 201 procedure under which projects with a total Federal cost of less than $10 million can be authorized under simple resolution by the Committees on Public Works of the Senate and the House of Representatives, and it would not preclude single-stage authorization where such a course appeared appropriate due to the relatively modest cost of the project or special circumstances pertaining to it.

### DEAUTHORIZATION

Section 66 of the bill provides for annual preparation and presentation to the Congress by the Secretary of the Army of a list of water resources projects which are at least 8 years old, for which no construction funds have been appropriated during that 8-year period, and which the Secretary feels should no longer be authorized.

Once submitted to the Congress, the list would be reviewed by the Committees on Public Works of both the Senate and House. Projects which the committees agreed should be deauthorized would be incorporated in a resolution adopted by both committees to complete the deauthorization process. Any other projects on the Secretary's list on which such action has not been taken would remain authorized.

The committee feels that the deauthorization language in this bill provides the additional congressional control needed while not detracting from the objective of the concept as a means of clearing out deadwood from the Corps of Engineer backlog and enabling the list of authorized projects to be more realistic and meaningful.

Corps records show there are now 218 projects which are at least 8 years old and on which there has been no construction as of this date.

### PRINCIPLES AND STANDARDS

A third major provision—section 65—is addressed to the proposal by the Water Resources Council for imposing a higher interest-discount rate in computing project benefit-cost ratios.

The Council proposal, accepted by the President, would establish a discount rate based on the Federal Government's average cost of borrowing in the prior year. This would mean a 6⅞ percent rate now, with a possible increase or decrease of one-half of 1 percent each year.

H.R. 10203, a similar bill passed by the House, would bar any change in the discount rate which had prevailed before the October 25, 1973, effective date of the new principles and standards, except by act of Congress and would provide for use of the pre-1968 discount rate for projects authorized prior to 1969 which have assurances as to non-Federal payment of project costs.

In considering this issue, the committee concluded that the House position posed a high veto risk and that, in addition, it was perhaps more rigid than was in keeping with the realities of the situation. We therefore wrote into S. 2798 a provision which would allow application of the interest-discount rate determined under the Water Resources Council formula for all future projects. That provision would, however, bar application of the new formula to projects previously authorized or to be authorized under the legislation now being presented for consideration and debate.

### NONSTRUCTURAL MEASURES

Among the most innovative of the provisions in this bill is that directing the corps or other Federal agencies to give full consideration to the feasibility of nonstructural alternatives in the design and planning of flood control or flood protection projects.

The committee feels that that provision would encourage wiser use of flood-prone land, the preservation of open space, and protection of the environment in many cases in a way superior to flood control structural methods.

The bill also provides for such nonstructural development in three specific cases—Charles River, Mass., Prairie du Chien, Wis., and Chatfield Dam, Colo.

### SHORELINE AND STREAMBANK EROSION

Aside from a continuing concern with the problem of flood control, the legislation also addresses itself to the complex problems of shoreline and streambank erosion.

Section 11 authorizes establishment of a shoreline erosion control demonstration program to include pilot projects at selected points for development and testing of low-cost means of preventing or controlling erosion. The section would specify no less than two projects each on the Atlantic, Pacific and Gulf Coasts, and the Great Lakes area, at two sites on the coast of Alaska, and at designated sites on the Delaware Bay. An authorization of $8 million would finance the program for 5 years.

Section 12 establishes a program of evaluation and demonstration projects for streambank erosion control.

The 5-year authorization would be $25 million for projects at multiple sites on the Ohio River, the Missouri River in North Dakota below Garrison Dam, the Missouri River between Fort Randall Dam, South Dakota, and Sioux City, Iowa, and the hill and delta areas of the Yazoo River Basin.

### OTHER PROVISIONS

Among other general provisions in title I of the bill which warrant at least some mention are those which would:

Establish a policy on Federal replacement of roads in water resources project areas which would permit upgrading of the construction specifications above the replacement standard if required by the State, but providing for State payment of any additional costs which result from such upgrading (section 79).

Authorize a program of general assistance to States in planning for development, utilization and conservation of water and related resources, with $2 million authorized to fund it (section 72).

Allow the Corps of Engineers to accept non-Federal cash contributions in annual installments during construction of water resources projects rather than requiring an advance lump-sum payment. This would apply generally only to projects on which construction had not been started, in the absence of a specific request from a non-Federal body with reference to a project already under construction (section 70).

Permit the corps, after consultation with officials of the Environmental Protection Agency, to participate in the cost of constructing regional sewage treatment facilities to handle waste from corps recreation areas where such procedure is deemed more suitable and economical to the Government than construction of its own facilities for the purpose (section 71).

### PROJECT AUTHORIZATIONS

There are 18 new project starts authorized under the A.E. & D. concept in section 1 of this bill, with that procedure permitting a first-phase examination of the entire group with an initial commitment of only $11.7 million, contrasted to a total of nearly $519 million which would have been needed for full authorization.

The A.E. & D. concept also would apply to two other major projects which would be initiated under the bill.

They are the Lower Rio Grande flood control project in Texas—section 2—and the Sixes Bridge and Verona Dam projects in Maryland and Virginia—section 3—which, in combination, would be designed to provide an adequate municipal water supply source in the Potomac River Basin.

The initial outlay for the Texas development would be $600,000 against a total estimated cost of $21 million, and the cost of the A.E. & D. phase for Sixes and Verona developments would be about $1.4 million against a total cost of about $70 million.

Six other projects are scheduled for initiation under the bill, with full funding authorized because of realtively low cost or because of special considerations involved.

The latter list includes the Four Mile Run flood control project in Arlandria which was initially approved as a section 201 project but which had to be refigured and given new authorization because of a significant cost escalation.

Most of the other project provisions in title I involved modification of existing authorizations to meet expanded needs or to provide for mitigation of damages resulting from prior Federal activities.

### RIVER BASIN AUTHORIZATIONS

As I noted at the outset of my remarks, this legislation is somewhat unusual in that it deals with two distinct purposes and objectives which are normally handled in separate bills in alternate years.

Let me comment briefly now on the second of those objectives—river basin authorizations.

Title II of S. 2798 proposes allotment of an additional $780 million to finance further project developments in 16 of the 29 river basins for which general plans were authorized under the Flood Control Acts of 1936 and 1938 as subsequently amended.

The amount authorized under this section of the bill is the figure needed to keep work on schedule through calendar 1975 and is substantially in line with that which the administration had requested when it submitted its own bill (S. 603) to the Senate earlier this year.

In summary, the list of basins and allotted amounts proposed includes:

[In millions]

| | |
|---|---|
| Alabama-Coosa River | $31 |
| Arkansas River | 14 |
| Brazos River | 19 |
| Central and southern Florida | 15 |
| Columbia River | 94 |
| Mississippi River and tributaries | 211 |
| Missouri River | 72 |
| North Branch, Susquehanna River | 64 |
| Ohio River | 120 |
| Ouachita River | 4 |
| Red River Waterway Project | 9 |
| San Joaquin River | 83 |
| South Platte River | 15 |
| Upper Mississippi River | 4 |
| White River | 9 |

That list accounts for $764 million, with another $16 million earmarked for the second phase of a bank erosion control project in the Sacramento River Basin.

A detailed statement of the specific need for each of the basin allotments was submitted by the Corps of Engineers in committee hearings last spring. I will not attempt to duplicate that testimony here, but I will be glad to respond to specific questions which any Member may have about one or more of them.

### SUMMARY COMMENTS

Having discussed in some detail the major provisions of S. 2798, I think it is appropriate at this stage to touch on the question of what was left out of the bill, and why.

First of all, the committee found it necessary in preparing the bill to defer for future consideration a number of proposals which came to its attention too late to allow full examination on their merits.

It also voted to set aside for later discussion and disposition a number of items which were subjected to challenge as representing deviation from national policy in favor of specific local interest.

While recognizing the vital importance of the issues involved, the committee likewise concurred with the objection of the Corps of Engineers and the Office of Management and Budget to specific proposals for dealing with Great Lakes shoreline erosion problems. It was the conclusion of the committee after examination of the proposals that the public interest would best be served by adoption and implementation of the shoreline demonstration program otherwise proposed in the legislation.

These decisions in no way foreclose the opportunity for further examination of any, or all, of the omitted proposals.

The committee plans new hearings as early as possible in this session in order to give those items, and others which may be offered, the attention they warrant.

With adoption of the new A.E. & D. two-stage authorization concept, it is probable that an omnibus bill will be necessary annually, starting with this year. Thus, proposals left out of S. 2798 need not be long deferred if they stand the test of feasibility and public necessity.

I recognize that S. 2798 is not going to satisfy everybody.

I feel very strongly, however, as the committee does, that it is an effective, well-balanced bill which also takes into account the fiscal realities.

As it stands, the $508 million price tag for title I is $85 million under the figure of last year's flood control bill, and that measure, had it not been vetoed, would have been the most modest omnibus bill since 1948.

I know I speak for all of you when I voice the fervent hope that this legislation can become law, since many vitally needed projects have already been too long delayed.

I feel strongly that seeking to change the character or scope of this bill by floor amendment would be prejudicial to its chances for final passage and to that degree a self-defeating exercise.

I am convinced that it would best serve the purposes of all concerned if this legislation is adopted as reported by the Public Works Committee, with any differences then resolved in conference with the House rather than in floor debate here.

It is in that spirit that I will oppose amendments which have been, or may subsequently be, proposed to S. 2798.

Mr. ERVIN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. GRAVEL. I yield.

Mr. ERVIN. Mr. President, I ask unanimous consent that during the debate on an amendment I shall offer to this bill on behalf of my colleague Senator HELMS and myself, a member of my staff, William E. Percy, be allowed the privilege of the floor to assist me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAM L. SCOTT. Mr. President, I voted to report the Water Resources Development Act of 1973 to the Senate although I do have reservations about some portions of it. Before commenting, however, I wish to express a particular word of commendation for the work of the distinguished chairman of the subcommittee, the Senator from Alaska (Mr. GRAVEL). He spent long hours on this bill in an effort to obtain a fair and equitable measure to bring before us today. The distinguished Senator from New York (Mr. BUCKLEY) also made a careful study of the bill and was helpful to all members of the committee.

I wish to comment briefly on several important provisions of the bill. The Senator from Alaska (Mr. GRAVEL), of course, has discussed it in some detail, and I only intend to touch very briefly on a few of the provisions.

First, the committee bill establishes a new procedure limiting approvals of most new projects to the funding of advanced engineering and design work. This procedure will increase the burden of work on the committee and the Senate. I understand this is the desire of the other body, and perhaps we should adopt it for a trial period.

Many Corps of Engineers projects changed substantially between the original report considered in past omnibus bills and final construction plans. By limiting the scope in the initial approval to work on engineering and design, the Congress and the public may obtain a far better understanding of the costs and benefits of each project when we are subsequently asked to approve construction plans.

Another section of the bill with great significance concerns creation of a procedure to deauthorize old, unwanted projects. Deauthorization can often be important in order to remove the potential threat to local landowners and residents of the Government taking their land. Deauthorization means the area residents will once again control its development options.

The committee, in considering this provision, accepted by suggestion that we require the public works committees of the two bodies to act affirmatively, by resolution, to deauthorize projects, rather than to acquiesce through inaction to a reauthorization proposal by the executive.

Another change concerns a directive in section 68 that the corps study all nonstructural, as well as structural, options in planning flood control projects. Despite my concern over the Federal Government purchasing flood plains to prevent construction, it may generally well be desirable to consider alternative flood control methods. My thought is that State and local governments can prevent construction in flood plains under the police power and planning and zoning laws. If local and State governments would prohibit building in flood plains under their police power, there would be no need for Federal purchase or acquisition under the power of eminent domain.

Another section of importance—section 67—would allow the engineers to reformulate projects which had allocated up to 25 percent of its storage capacity for water-quality storage, negating the need that these many projects be returned to the Congress for reauthorization. When the water quality percentage exceeds 25 percent, the project would, however, have to come back to the Congress for approval.

Sections 11 and 12 of the bill establish new, 5-year demonstration programs to find better, low-cost methods for alleviating shoreline and streambank erosion. Both sections represent sound initiatives to problems plaguing many areas of our Nation.

Many other provisions of the bill meet the legitimate needs and requests of local interests, within the framework of existing law and precedents. Among the bill's provisions incorporating recommendations of the Corps of Engineers, four involve important proposals affecting my own State of Virginia. All of these projects were developed from recommendations by the Corps of Engineers. I support each of them.

Two are incorporated within section 1 of the bill: $954,000 for engineering and design work on an erosion control project at Virginia Beach, Va., and $665,000 for engineering and design of a flood control project at Buena Vista, Va., on the Maury River.

Section 3 of the bill authorizes $1,400,000 for engineering and design on two Potomac River dams: one at Verona, Va.; the other in Maryland. Another aspect of this section is the authorization for $6,000,000 to investigate the use of the Potomac River estuary as a water supply source for the Washington metropolitan area. This involves the construction and operation of a pilot plant. Further, the section would require the corps to contract with the National Academy of Sciences for a review and report on the corps' estuary study. Its application is limited to the use of the estuary question.

The Office of Management and Budget has expressed reservations about the fact that the Federal Government would pay the full cost of the water supply pilot plant to treat Potomac estuary water. Normally, water supply is entirely a local responsibility.

It should be noted, of course, that the water from this pilot plant is not intended to be used in the metropolitan water system. It is purely a test plant—a test that would be useful to communities throughout the Nation. Therefore a 100 percent Federal contribution may be justified.

Section 49 authorizes recommended modifications in the project previously authorized along Four-Mile Run in Arlandria, Va. In addition to assuring equitable local cost sharing, this section authorizes $29,981,000 for construction of this project.

In addition, section 6 of the bill directs the corps to cooperate with the National Park Service in an effort, when feasible, to restore Dyke Marsh along the Potomac River. For example, the corps might furnish suitable fill material when dredging clean spoil out of the Potomac.

Such an expression of general support for this bill, as indicated earlier, does not lessen my concern over a number of aspects of the bill, particularly the bill's heavy cost-burden—exceeding $1 billion—imposed upon the American taxpayers. There were many opportunities in committee to trim fat from the bill. Unfortunately most amendments were not accepted.

During consideration of the bill in subcommittee and full committee, I offered some amendments and a greater number were offered by the Senator from New York (Mr. BUCKLEY). His amendments, if all had been adopted, would have reduced the bill's cost by as much as 15 percent. I believe that Senator BUCKLEY's move to delete new provisions that either lacked Senate hearings, as well as those of a "special relief" character, had merit and should have been accepted by the committee.

It is my hope that committee hearings early next year will give us a better picture on how to proceed in handling such special relief provisions, seeking to establish broad policies rather than ad hoc answers for individual projects.

Mr. President, I believe this is generally a good bill and do not propose to reoffer any amendments rejected in committee. But I may support some of those offered by the distinguished Senator from New York (Mr. BUCKLEY), a member of the committee, and by other Senators.

Mr. HUGH SCOTT. Mr. President, S. 2798, the water resources bill, contains three projects of direct benefit to the Commonwealth of Pennsylvania. Each one has been thoroughly reviewed by the Committee on Public Works and the appropriate Federal agencies. I commend the chairmen and ranking Republican members of the subcommittee and the full committee for their comprehensive analysis of these projects.

First, in the Delaware River Basin's Schuylkill County, the committee has approved a project for local flood protection on Wabash Creek, Borough of Tamaqua. The creek has a limited capacity and is under a constant threat of flooding. Until this threat is removed, a plan for renewal of the business district cannot be implemented. This plan would have a positive environmental impact since it includes the removal of blighted areas and the creation of new parks and playground facilities. The estimated cost of this project is $2.355 million.

Second, in Erie County, the committee has reauthorized the beach erosion control project for Presque Isle Peninsula in Erie for a 5-year period at a funding level of $3.5 million. This beautiful spot at Pennsylvania's northwest corner has been subjected to several brutal storms coming off Lake Erie. This has occurred, unfortunately, after the initial Federal authorization had expired.

Senator SCHWEIKER has played a particularly important role in reviving this project and he deserves great credit for it.

Third, in Forest County, the committee has approved a procedure under which Federal funds can be spent to aid in constructing a sewage disposal plant at Tionesta. This is absolutely essential since the Corps of Engineers supervises a recreation area there, and the local community cannot shoulder the financing necessary to increase the sewage treatment capability.

I recommended this amendment to the committee following consultation with Representative AL JOHNSON. He played a vital role in developing this proposal. We are delighted that the committee adopted our amendment.

Mr. BURDICK. Mr. President, today the Senate is considering S. 2798, the Water Resources Development Act of 1973. The measure includes several proposals that are of great importance to the people of my own State, North Dakota.

Section 12 of the legislation requires the Army Corps of Engineers to undertake the stabilization of severely eroded banks along the Missouri River below the Garrison Dam.

Presently there are at least 19 individual areas along this 80-mile stretch of river that are in need of attention. Because the Army Corps of Engineers wanted further studies on erosion control practices, however, nothing has been done. Essentially the bill calls for a $25 million streambank erosion control and demonstration project on 4 specified rivers throughout the country. One of these is the Missouri River in North Dakota.

The U.S. Government already has significant equity near the areas to be protected. Several miles of interstate highway, two waste treatment plants, a golf course and a zoo, all recipients of Federal funds, are endangered by the sluicing action of this river. Of course, there is considerable farmland lost each year, too. But as serious as the immediate situation is, the potential for loss may be astronomical if bank erosion is not checked.

Section 12 was wisely developed by the committee in response to the accelerating erosion danger not only in North Dakota but along many of our Nation's rivers and streams, the serious portion of which result in an estimated annual loss of $90 million.

Another portion of this bill amends the authority of the Secretary of the Army to construct small flood control projects by increasing the annual expenditure limitations to $50 million and the individual project limitations to $2 million. In my own State, the Chief of the Corps of Engineers approved construction of flood protection measures around the city of Pembina. This construction, to cost $1,419,000, was designed to protect a city that had been frequently flooded. As many of you may be aware, the present allocation for small flood control projects is $25 million while individual projects can qualify for only $1 million. Understandably, the residents of Pembina, and there are only 741 of them, have been unable to raise the amount in excess of the statutory limit.

I think that it is clear that the Federal contribution to small flood control projects is due for an increase. The last time this was done was in 1962 and I do not have to tell anyone here today what was happened to construction costs since then.

Also worthy of mention here is section 80, which extends the authority of the Secretary of the Army to allow for the undertaking of small projects for snagging and clearing to facilitate flood control. The bill increases the annual expenditure limit as well as the individual project limit.

A fourth section of this bill, which I cosponsored along with the Honorable Senator MILTON R. YOUNG, would permit the North Dakota Army Corps of Engineers to return land in Mountrail County to the county park commission to be used as a recreation site. Since the citizens of that area have already improved adjacent facilities, at their own expense, there is no doubt in my mind about the continued judicious development of this site.

Major policy and procedural changes are included in a number of the bill's other provisions. These are designed to bring about more economy, efficiency, and effectiveness in programs, while enabling the Corps of Engineers to improve its responsiveness to public concerns and interests.

In closing, I would like to extend my special thanks to the distinguished and honorable Senator JENNINGS RANDOLPH for his persevering endeavors in achieving this comprehensive and commendable piece of legislation along with the other venerable members of the Public Works Committee. I would also like to thank the most distinguished Senator MIKE GRAVEL, chairman of the Subcommittee on Water Resources, for his kind consideration. The efforts of these men and their staffs are worthy of special note since they have exercised foresight and prudence in their approaches to the increasingly complex water resource management problems that face us today.

Mr. JAVITS. Mr. President, I would like to take this opportunity to commend the Senate Public Works Committee on its actions regarding S. 2798, the Water Resources Development Act, and to comment briefly on the sections of this legislation which affect New York State.

The Rockaway Beach project is a longstanding and urgently needed project. It was originally authorized in the 1965 Omnibus Rivers and Harbors Act as a multiple-purpose hurricane protection and beach erosion project. In 1971 the corps completed the preliminary project design and submitted it to the State and city to solicit comments and obtain local cooperation. The city indicated dissatisfaction with the consideration of the water quality aspect of Jamaica Bay in the plans which were submitted and requested additional studies. In January 1972 the city and State indicated that they would not provide the necessary local cooperation for the project until the Jamaica Bay water quality question had been resolved. A work program for this study was developed by the corps in April 1973 which included a completion date for the additional requested studies by May 1975. The Rockaway Beach area of New York City has suffered such extreme erosion in the past few years that a 14-block area of the city-owned beach is now unusable. By the time the ongoing studies for the hurricane protection aspect of this project are completed the continuing erosion may well have eliminated even more extensive stretches of beaches and have caused serious and irreparable damage to the seawall, roadbeds, sewer systems, and the boardwalk itself. For this reason, I have strongly urged the Public Works Committees and the Corps of Engineers to phase the two aspects of the project—that is, the beach erosion and hurricane-flood protection—and to proceed immediately with the beach erosion aspect. The corps, in responding to my request and that of the city and State of New York, indicated that it would be feasible to phase the two aspects and merely required a change in the authorization to permit them to go ahead.

Therefore, on June 29, 1973, I cosponsored with Senator BUCKLEY and 29 members of the New York congressional delegation a bill (S. 2118) to provide for a modification in the authorization to permit the corps to commence work on the project, independently of the hurricane-flood protection project. Mr. President, the need for this change in authorization is in human terms as well as in terms of an urgent need to protect the immediate environs from threatening seas; and I am most gratified that the Public Works Committee has seen fit to include the concept of my bill, S. 2118, as section 38 in the pending Water Resources Act. The change in authorization is clearly supported by the recent action of the Appropriations Committees in providing $60,000 in the supplemental appropriations bill, H.R. 11576, to initiate the beach erosion portion of the Rockaway Beach project.

A second longstanding project of great concern to New York State is the New York Harbor Drift Removal project. I have been involved in efforts to get this project off the ground since 1963, when the Public Works Committee requested the Corps of Engineers to conduct a study of the advisability of undertaking a project to eliminate sources of drift and debris in the New York Harbor, and Congress authorized the corps to conduct a study of the problems and solutions.

In January 1969, the corps made public its findings. The cleanup program would cost approximately $28.8 million—$16 million from Federal and $12.8 million from State and local sources. After the initiation of the New York-New Jersey Harbor Drift Removal program, however, other ports throughout the Nation requested studies concerning their own harbor cleanup problems. The presentation of the New York-New Jersey Harbor Drift Removal program report to the Congress was held up while the Corps made a nationwide harbor cleanup study.

On November 15, 1970, OMB recommended against a nationwide harbor cleanup program, but recommended that individual projects be authorized as merited. Regrettably the timing of OMB's recommendations precluded a full presentation of the New York-New Jersey cleanup proposal to the Senate Public Works Committee. The House committee, however, considered the corps' recommendations for cleaning up the harbor and included the authorization for the program in its version of the 1970 omnibus rivers and harbors bill.

Therefore, on December 9, 1970, I, along with Senators Goodell, WILLIAMS and CASE, offered an amendment to the Omnibus Rivers and Harbors Act of 1970 to authorize the cleanup of New York-New Jersey Harbor and provided that construction shall not be initiated until approved by the President. The act as passed included this authorization. Subsequently, $80,000 was appropriated for preconstruction planning for this project. This sum, however, was placed in budgetary reserve by the Office of Management and Budget.

I have worked continuously to have this money released from OMB to permit the corps to begin work on the project.

It is estimated by the Corps of Engineers that the damage from harbor debris to private and public shipowners is $5 million each year. In addition, floating debris jams the tide gates in New York City permitting the intrusion of salt water into the sewage system at high tide and causing raw sewage to be washed out of the sewers into harbor waters when the tide goes out. This harbor cleanup project is a vital step in insuring the health and safety of those people living and working in the harbor area, in restoring the water quality of the harbor, and in protecting the harbor's prominent position in the shipping world.

The continuing and increasing seriousness of this problem prompted members of the New York delegation to have included in the House Water Resources Act, section 91, a provision authorizing a drift and debris removal project for New York Harbor, and including an authorization not to exceed $14 million to carry out the project. This authorization was not, however, included in the Senate version of the Water Resources Act. In an effort to secure approval of this much-needed and highly desirable project, I intend to urge the Members of the House-Senate Conference Committee to sustain the House position authorizing this project.

I was pleased to note the Senate committee's action in inserting section 60 in S. 2798, a declaration of nonnavigability on a portion of the Hudson River to provide for the New York City Convention and Exhibition Center. This action is required to remove any cloud on title resulting from navigation servitude of the United States which makes it difficult to obtain mortgage insurance and financing. As with any other Corps of Engineers permit, the declaration of nonnavigability is dependent on the preparation of an environmental impact statement.

The Sandridge Dam-Ellicott Creek project is another project in which I have had a longstanding interest. The project was authorized in 1970 to provide for flood protection, water resource needs, and water-based recreation. This authorization included, at my request, a requirement that all possible alternative methods be investigated by the corps prior to commencement of the project, and the final report of the Buffalo district engineer proposed a diversion channel as the best alternative. This diversion channel responds to the flood control needs but not the water resource and water-based needs which the dam would provide. As noted in the committee report on S. 2798, this new plan must still undergo the usual administrative review and be submitted to Congress for authorization.

In the meantime, the flood situation in the area is critical, especially in view of the construction in the area of a new campus for the State University of New York. In order to address this critical flooding potential I was pleased to note that section 37 of S. 2798 modified the Sandridge Dam-Ellicot Creek project to authorize the Secretary of the Army to undertake remedial minor channelization measures to alleviate flooding in the reach between Stahl Road and Niagara Falls Boulevard. These measures must be compatible with the authorized project and any alternatives currently under study, thus insuring that the work will be useful no matter which alternative method of flood protection is finally adopted.

The demonstration program to extend the St. Lawrence Seaway shipping season has proven so successful and of such importance to the economy of the Great Lakes Region, that I was indeed pleased to see that the committee included an authorization to extend the study to December 1976 and to increase the monetary limit to $9,500,000. This study becomes particularly important in light of the current energy crisis—and it is hoped that the study on the extension of this shipping season will indicate the extent to which an extended season will conserve energy sources used in shipping as well as providing better utilization of transportation of fuel oil.

Finally, I was pleased to note the committee's action in authorizing a wastewater management study in the Buffalo River Basin; a survey of water utilization and control of Great South Bay; and providing a declaration of nonnavigability for a project in New York City, the Manhattan Landing project.

With regard to the committee's action on shoreline erosion problems, I would like to say that I have worked for many years to help solve the serious problems of the Great Lakes resulting from erosion, and have introduced or cosponsored several bills dealing with the need for more research and better dissemination of information on the causes of erosion, prompted provision of interim measures to save the most critically eroding shorelines by giving the Corps of Engineers full authority to combat emergency erosion problems, and permitting the provision of immediate assistance to erosion-stricken communities and individuals. While I regret that these legislative efforts—as embodied in S. 1161, 1265, 1266 and 1268—were not included in S. 2798, I am hopeful that the provisions dealing with various aspects of the shoreline erosion problem which are embodied in the Water Resources Development Act will be at least a first important step toward finding realistic, practical and much-needed solutions to this serious problem.

Finally, I would like to commend the committee for including in this legislation certain items of a general policy nature which indicate an innovative and forward-looking approach to deal with our Nation's water resource management problems. Specifically, these items include a provision for a two-stage authorization of new projects in which a project would be authorized only through a first-phase design memorandum stage of advance engineering and design. The fully designed project, with any modifications, would be brought back to Congress, together with the completed environmental impact statement, for further consideration. This provision would clearly be a step toward making our civil works program more responsive to public concerns and interests and insure continuing congressional involvement in these major projects. Second, S. 2798 provides for an annual review by the Congress of any water resources projects which are at least 8 years old, for which no construction funds have been appropriated. Another innovative policy proposed in this legislation is the directive that the corps or other Federal agencies give full consideration to the feasibility of nonstructural alternatives in the design and planning of flood control or flood protection projects. Certainly this policy will encourage wiser use of flood-prone land, the preservation of open space and the protection of environmental values. Finally, the general program of assistance to States in the planning for development utilization and conservation of water and related resources is certainly warranted. I was very pleased to note that this program was based on a successful effort between the State of New York and the Federal Government, authorized in 1965.

Mr. President, I appreciate this opportunity to comment on these provisions of the Water Resources Development Act and again commend the committee for its thoughtful and expeditious handling of these important matters.

## WATER RESOURCES BILL MEETS NEEDS OF AMERICAN PEOPLE

Mr. RANDOLPH. Mr. President, more than a century and a half ago, the Federal Government initiated a program of systematic improvement of our internal waterways by clearing obstructions in a section of the lower Mississippi River for navigation purposes.

This marked the beginning of what is today a widespread and highly sophisticated program of water resource management. It is, therefore, perhaps fitting that the Senate consider water resources legislation as we begin a new session of Congress.

Mr. President, this legislation authorizes activities costing approximately $1.28 billion. This is a substantial amount of money, this legislation incorporates programs that normally would be considered in two separate bills. We find ourselves in this position because of the exercise of a Presidential veto over the rivers and harbors and flood control legislation which was passed in October 1972. That measure was vetoed after Congress adjourned, and therefore we had no opportunity to override the President's unwarranted rejection of this important legislation.

Consequently, the bill now before us addresses questions relating to rivers and harbors and flood control, as well as river basin monetary authorizations. It is much more comprehensive than similar measures we have considered in the past.

The primary justification offered for the veto of the 1972 act was the cost of the legislation. I continue to believe this reason to be without merit. The previous measure was the least expensive bill of its kind in 25 years. It is important to emphasize that the rivers and harbors and flood control portion of the legislation before us is estimated to cost $508 million. This authorization is $85 million less than that contained in the vetoed 1972 measure.

The rest of the authorizations, approximately $780 million, are for the continuing operation and development of 17 of our great river basins.

Mr. President, this bill authorizes work on many important water resource projects that are needed. If it did no more than initiate these projects, it would be significant legislation. Substantial policy and procedural changes that will influence water resource development for years to come, however, are included.

This multifaceted legislation is the product of many months of work by the committee, in particular by our Subcommittee on Water Resources under the able chairmanship of the Senator from Alaska (Mr. **GRAVEL**). The subcommittee conducted extensive hearings and reviewed in detail the issues before it. Questions to be resolved were complex and could not be approached lightly. The manner in which they were resolved, I believe, is a tribute to the reasoning and judgment of the members and the awareness of the members of the importance of this legislation.

Senator **GRAVEL** has explained in detail the bill's provisions and how they relate to water resource developments.

The establishment of a two-stage authorization procedure will facilitate the understanding of the congressional committees of projects before it for approval. The opportunity to again review project proposals in greater detail will strengthen congressional control of these activities. Under normal circumstances, the Congress will be able to examine the final plans for multimillion-dollar projects before giving final approval.

The bill also provides a mechanism for regular deauthorization of projects that are no longer deemed necessary or which, for other reasons, have not been executed.

The difficult question of interest rates is dealt with in a manner which I believe is equitable. For several years the executive branch and the Congress have held different viewpoints about which interest rates should be utilized in determining the feasibility of water resource projects. The provisions with respect to interest rates are a compromise of the two divergent opinions. It is, however, a compromise in the best sense and one which is consistent with our new approaches to implementation of water resource programs.

I call attention to provisions of this bill which give formal recognition to the desirability in some instances of nonstructural resolution of water resource problems. We now recognize, for instance, that construction of a dam may not be needed to prevent damage from flooding. A more feasible approach could be to acquire land and restrict development in the area in which flooding is a danger. The measure includes authorization for a project of this type in the Boston area in lieu of large flood control structures.

A major concern of the committee is the extreme erosion along many of our Nation's streambanks. We have had brought to our attention numerous instances in which streambank erosion has accelerated, resulting in extensive property damage and sometimes threatening whole communities. In some instances there is reason to believe that this erosion has resulted from upstream water resource projects and thereby increasing the obligation of the Federal Government to take corrective action.

I have personally inspected the damage that is resulting from the rapid eroding of banks along the Ohio River and elsewhere in our State. In the development of the 1972 bill, we considered a number of proposals relative to streambank erosion. During the past year we have had an opportunity to further investigate this problem and to refine our approach to its remedies. Section 12 authorizes a 5-year demonstration program to develop and evaluate techniques for controlling streambank erosion. An authorization of $25 million is provided to implement demonstration projects on various types of streams throughout the United States. To assure that a variety of erosion problems are considered, the bill specifically directs that projects be carried out on the Ohio River in the States of Indiana, Kentucky, Ohio, and West Virginia; on the Yazoo River in Mississippi and sections of the Missouri River in North Dakota, South Dakota, and Iowa. These areas provide a variety of geographical and environmental conditions for the thorough study of streambank erosion.

Mr. President, this legislation includes four projects in the State of West Virginia which are of vital importance. Each of these projects has been subjected to extensive study, and each is fully justified.

A serious water supply problem would be alleviated by the development of the project authorized for the Pocatalico River Basin in West Virginia. This is an area in which the population is growing and in which the water supply is inadequate. The project includes two multipurpose dams, which also will be utilized for flood prevention, and extensive conservation land treatment. Authorization for the project is $3,568,900.

Section 23 addresses two serious problems on the Big Sandy River which forms the boundary between West Virginia and Kentucky. It authorizes the Corps of Engineers to provide necessary repairs to a dam which was originally a Federal project but which was turned over to local interests in 1956 for use as a water supply facility. This work is essential to strengthen the dam and prevent its collapse.

The second part of this section authorizes local flood protection projects in the Tug Fork Valley of the Big Sandy River. Over the years, communities of Williamson and Matewan, W. Va. This bill extends the authorization to the whole Tug Fork Valley. Such protection is urgently required to avoid further hardship and losses in an area which is subject to chronic flooding.

Another project in southern West Virginia is the clearing of the channel in the lower Guyandotte River. The bill authorizes $2 million for this work.

The Guyandotte River also suffers from persistent flooding, particularly in that section below where the R. D. Bailey Lake is under construction. The river and its tributaries have become silt-laden and clogged with debris. The clearing operations in this basin will provide substantial relief of flooding upon the completion of the R. D. Bailey Dam.

In the past 2 weeks heavy rains have caused flooding in several sections of southern West Virginia. Millions of dollars' worth of damage resulted, much of it in the narrow valleys drained by the Guyandotte River. In Logan County, alone, the Red Cross estimated that 631 dwellings were lost.

This experience, fresh in our minds, further strengthens the justification for clearing the Guyandotte River and thereby improving its capacity to carry water under both normal and flood conditions.

The final West Virginia project relates to the Stonewall Jackson Lake. Section 54 is primarily technical in nature in that it authorizes modifications in the agreement with the State of West Virginia concerning the local contributions to this project. The section clarifies the authority of the Secretary of the Army to enter into an agreement with the State making the State performance of its commitments contingent upon the appropriation of funds by the State legislature.

Mr. President, the chairman of our Water Resources Subcommitee, Senator GRAVEL, has provided strong and positive leadership in the developing of this legislation. The ranking minority member of the subcommittee, Senator SCOTT of Virginia, likewise was diligent in his attention to this legislation. All members of the subcommittee participated in the hearings. Senators BENTSEN, BURDICK, CLARK, BIDEN, BUCKLEY, STAFFORD and MCCLURE all made important contributions during the subcommittee executive sessions on this bill. This bill and its far-reaching provisions were given further consideration by the full Committee on Public Works at which time we also benefited from the experience and understanding of Senators MUSKIE, MONTOYA, BAKER and DOMENICI.

Mr. President, our Nation continues to rely heavily on its water resources. Without their continued orderly development, the strength of our country could be seriously undermined. In the century and a half since the Government began water resource development, we have made real progress in harnessing our water resources so they could be utilized for the greatest benefit of all Americans. This bill continues this development and modifies procedures so that we may effectively address contemporary water resource requirements.

Mr. President, this legislation deserves the support of Members of the Senate. I urge its passage.

### LITTLE CALUMET RIVER

Mr. PERCY. Mr. President, I would like the Senate to know of my interest in one section of the Water Resources Development Act as passed by the House which would authorize the cleaning of the Little Calumet River.

In Thornton Township, the largest township in the State of Illinois, there is a little-known body of water, the Little Calumet River. While it is not one of our "great" rivers, it is vitally important to large numbers of Illinois residents. These local residents used to be able to depend on the Little Calumet River for recreation. That is no longer the case. The river is dying. The pollution is encroaching on all its forms of life. Unless something is done immediately, the Little Calumet will join a growing number of rivers that have become little more than flowing sewers. Since the river began to be polluted, it has never been systematically cleaned. Pollutants have been allowed to build up until the river has now become stagnant in parts.

For the river to be returned to its once desirable condition, it is imperative that the accumulation of debris—by this I refer not only to fallen trees and roots but to such manmade objects as abandoned refrigerators, sofas, cars, and shopping carts—be removed to allow fish and wildlife to return to the Little Calumet. Local citizens must contend not only with the eyesore the Little Calumet presents, but also with the stench that results from the pollution of the river.

The Council on Environmental Quality offered an approach to finding solutions for problem rivers like the Little Calumet back in 1970. It recommended that efforts be made to use one river basin as a demonstration project. The Little Calumet River would be an ideal site for a demonstration project of what much community interest combined with a small amount of Federal aid can do to save an aspect of our environment. Within 35 miles the river flows through 2 States, 5 counties, over 40 municipalities and affects or is affected by more than 2 million people. The river does not exist in a vacuum; its ecological health is tied to the health of Lake Michigan and the surrounding area. It flows through part of the Indiana Dunes National Lakeshore, several thousand acres of dunes and marshlands, the only national park in an urban area.

The Operation Little Calumet River Commission, formed by Gov. Richard B. Ogilvie in 1969, has made significant strides in removing pollution and returning the river to its natural state. This is in large extent due to the ambitious pollution prevention and channel cleanup programs undertaken by the commission and also the outstanding support afforded the commission by the local citizenry. Several successful debris removal campaigns have removed a significant amount of the unnatural debris from the river.

The local residents have worked long and hard to alleviate the pollution of the Little Calumet River. The most successful debris removal project consisted of 550 area citizens. They were able to remove in 1 day, 150 tons of debris from the 12-mile channel in Illinois. On that spring day the commission called for a cleanup day to get the citizens of the communities involved to pitch in and change their river from an eyesore to a clean, free flowing waterway. Local governments, clubs, and civic groups were organized in an effort to show community support and interest. Food and drinks were donated by food manufacturers and merchants. Local governments pitched in to supply heavy equipment and trucks needed to remove the debris. The Chicago Metropolitan Sanitary District and the Army Corps of Engineers were there to lend support and keep things running smoothly.

Through the concerted efforts of the local citizenry they have essentially achieved the limited results which can be accomplished on the local level. Any further major improvements will only be forthcoming from funding efforts on a Federal level.

I would like to quote from the response Congressman HANRAHAN, of Illinois, received from the Army Corps of Engineers when asked for its opinions on this project:

> Projects of this type are not subject to economic analysis in the traditional sense because the primary benefits from such projects, aesthetic or environmental improvements, cannot be expressed in tangible monetary terms. Cleaning up the deteriorated urban environment of the United States is certainly a worthy National goal. The environmental improvements in this case would alleviate health and safety hazards and contribute to improving the general well-being of many people in the Chicago area. The Corps of Engineers considers this to be a desirable project.

As you can see, the support for this project is very great. As a final word I would like to read to you one of the many letters I have received from the schoolchildren in the area.

> Dear Senator CHARLES PERCY:
>
> Even though I don't live near the Little Calumet I have gone on a boat trip, and have had smelled the pollution in that river, it is very dirty and is a disgrace to the public, and I would not like to see the day when my children and other children who will have to see the day when they will have to ask us what it was like so if that bill is not passed someday the way the river is today might be clean, and it will be a good recreation area for me and all people; I hope I have made this clear.

This is a young future citizen petitioning his government representation in the best tradition of our Republic. The question is, "Are we going to adequately respond?"

Mr. BAKER. Mr. President, I wish to state my strong support for the general approach of S. 2798, the Water Resources Development Act. While there are some amendments that I may support in an effort to improve specific aspects of the bill, I am confident that the bill's general approach and scope is sound. I do not intend to discuss the bill in detail, as my able colleagues have capably presented this information to the Senate.

I would, however, like to discuss in detail two provisions of great importance to the people of Tennessee. Both provisions appear in section 5 of S. 2798.

The first one concerns the acquisition of fish and wildlife mitigation lands for the West Tennessee Tributaries project.

This project, Mr. President, has been tied up in the courts for several years. A key issue has been the acquisition of suitable mitigation lands to offset project-induced losses of wildlife habitat.

The Army Corps of Engineers developed a plan for the acquisition and development of 14,400 acres for mitigation. This plan, incidentally, was included in the House-passed bill.

But subsequent to House passage, it became clear that a different mitigation plan—the one that had been suggested by Governor Dunn of Tennessee—might prove to be a more realistic one. Further, this plan answers environmental issues raised in connection with the project and may thus expedite completion of the vital flood control feature of this project.

The plan in the reported bill involves some 32,000 acres of land, compared to 14,400 acres in the corps plan. Yet the cost for the two plans is estimated to be approximately the same—$6,600,000. This is not magic. Rather, the Governor's plan involves far less "development" of acquired lands, leaving a greater portion of the authorized sums for land acquisition.

There have been a number of meetings of interested groups in working out details of this section. While I have not personally attended those meetings, they have involved representatives of the Governor, the Corps of Engineers, the local sponsors of the project, the plaintiffs in the lawsuit, and various elected officials. The language now in the bill is language that they have unanimously agreed to support.

Once this language becomes law, I have been assured that the plaintiffs intend to withdraw their suit. This should allow work on the project, including the new mitigation feature, to go forward expeditiously.

I would like to express my own sense of gratitude to the many persons who have worked so diligently in search of a compromise mitigation plan. Their dedication is commendable. It is a dedication to the welfare of the people of Tennessee, and to the proper and effective development of a portion of our national water resources.

I want to pay particular tribute to Congressman ED JONES, without whose patient efforts this compromise could never have taken place.

Mr. President, another provision of particular interest to me is section 5(c) which would authorize the establishment of the Big South Fork National River and Recreation Area in the States of Kentucky and Tennessee. This project was passed by the Senate as a part of their Flood Control Act of 1972 and incorporated into the conference bill, but was vetoed by President Nixon after adjournment of the 92d Congress. The Senate again passed the measure as part of the Flood Control Act of 1973 (S. 606) in March of last year.

This project, which was developed by former Senator John Sherman Cooper, Senators MARLOW COOK and BILL BROCK, and myself, is the result of studies which began more than 30 years ago and is an alternative to a proposed Corps of Engineers dam on the Big South Fork River at Devil's Jump. The dam project was approved five times in the Senate but each time opposition from various sources combined to prevent passage in the House of Representatives.

In 1968, as a result of controversy which had arisen over the desirability of constructing a hydroelectric dam on this river, Senator Cooper sponsored an amendment to the Flood Control Act to require an interagency study by the Chief of Engineers, the Secretary of Agriculture, and the Secretary of the Interior of alternative recreation and development concepts for the Big South Fork area. The interagency report, setting forth six alternatives for the Big South Fork, was submitted to Congress on February 12, 1970.

Due to the frustration of efforts to realize the dam proposal and in response to the desperate poverty existing in the region—McCreary County, Ky., is among the poorest counties in the entire Nation—it was determined by proponents of the dam to support an alternative mode of development to accomplish the dual goals of preservation of the unique geologic and biologic features of the river gorge and stimulation of local economies. A comparison of the various alternatives showed the national recreation area concept to be the most viable plan for the preservation of the gorge, orderly development of recreational values of the area, and for long-term economic development and employment for this economically depressed area in Appalachia. Since introduction of S. 3349 in 1972, a bill to establish the Big South Fork National River and Recreation Area and the basis for this provision, support for this approach has grown from both environmentalists and residents of the area.

The project area consists of a maximum of 125,000 acres, most of which is in wilderness state without road access, and approximately 13,000 acres of this total is presently in public ownership and will be transferred without cost. Residents within the boundary of the project area are given the right to retain their property for their lifetime or for a term of 25 years.

Mr. President, the total cost of the project is $32,850,000. However, it should be noted that the alternative project for a hydroelectric dam at Devil's Jump is estimated to cost approximately $205 million.

Because of the extensive involvement of the Corps of Engineers in the Big South Fork area both during development of the Devil's Jump project and in the construction and management of Wolf Creek Dam—Lake Cumberland—in Kentucky, the sponsors of the project chose the corps to construct the recreation area project. Through an accommodation with the Senate Interior Committee, administration of the facility will devolve to the National Park Service at such time that the project is operable and substantially complete.

Mr. President, I believe this provision as now conceived offers the best hope for making the best use of the area's recreation potential and natural beauty, while at the same time affording one of the most impoverished areas in the United States an opportunity for economic development.

### THE TUG FORK VALLEY PROJECT

Mr. RANDOLPH. Mr. President, I wish to ask the manager of the bill, the distinguished chairman of our Subcommittee on Water Resources, for a clarification of the committee's intent with respect to the Tug Fork Valley flood protection project. As the Senator recalls, section 224 of the Flood Control Act of 1970 (Public Law 91–611) authorized comprehensive flood protection for the towns of Williamson and Matewan, two West Virginia communities in the Tug Fork Valley, at a total cost not to exceed $10 million. This authorization was contingent upon the approval of the Appalachian Regional Commission and the President. The Commission has approved the project. Yet today the inhabitants of the Tug Fork Valley continue in their desperate need for flood protection, but the project authorized in 1970 has not yet received Presidential approval through clearance by the Office of Management and Budget. I ask the chairman of the subcommittee, Does subsection (b) of section 23 of the bill before us, which authorizes comprehensive flood protection for all the communities in the Tug Fork Valley, eliminate the requirement in the 1970 act for any further approval by the executive branch?

Mr. GRAVEL. I thank the distinguished chairman of our Committee on Public Works for his question. He has been very diligent in following this legislation during its consideration by the Subcommittee on Water Resources and in moving it expeditiously through the full committee to the Senate. I am glad to clarify this point as to the intention of the committee which, of course, was discussed in executive sessions on the legislation.

Section 23(b) of S. 2798 extends comprehensive flood protection to the entire Tug Fork Valley in addition to the communities of Williamson and Matewan for which protection was authorized under the 1970 act. The expanded project for the balance of the valley is authorized through the Phase I design memorandum stage of advanced engineering and design. The Senator from West Virginia (Mr. Randolph) is correct in stating that one of the committee's primary intentions in this section was to remove the requirement for approval by the President before funds are appropriated to carry out the needed flood protection work in the Tug Fork Valley.

Mr. RANDOLPH. I thank the Senator for his response. I know he has given this project careful attention as he has every other provision in this major water resource legislation.

Mr. STENNIS. Mr. President, I wish to commend the distinguished chairman of the Senate Public Works Committee and the able members of the committee on the Omnibus Water Resources Authorization bill brought before the Senate today.

I believe there is in the United States at the present time, as a result of the energy crisis, a better realization of the need for systematic long-range development of natural resources to provide for the future needs of the Nation. It is a pleasure to be able to draw attention to the fact that in the field of water resources, Congress has long recognized the need for such planning and development, and has provided for it in authorization bills, such as the one that is before us, and in annual appropriation for Public Works.

These public works water resources projects have returned tremendous national and regional benefits and they will continue to do so for many, many years, throughout the lives of these projects. This is an extremely effective investment of public funds. An example of recent date is of course the great flood of last spring in the Lower Mississippi Valley, where the existing flood control system, which cost $1.7 billion to build, prevented $7.4 billion in damages in this one flood alone. I hate to think how much worse the situation would be in the petroleum and petrochemical industry if those levees had not held out the flood. I might add that the river is again very high this year, and it is quite possible that another flood will make us doubly grateful for the protection provided.

I know of no one who has contributed more toward the success of water resources programs over the years than the distinguished Senator from West Virginia, Senator Randolph. He has been a leader in this field for many years, as chairman of the Public Works Committee. I had occasion this year to communicate with the Senator several times with respect to projects in my State of Mississippi which were to receive consideration for authorization in this bill, and I presented statements on behalf of the projects. I wish to thank the chairman, and the senior minority member of the committee, the distinguished Senator from Tennessee, Senator Baker, and also the chairman of the Water Resources Subcommittee, the distinguished Senator from Alaska, Senator Gravel, for the careful attention given to the six projects in my State.

Two of these projects are multiple purpose reservoir projects: Edinburg Dam in the Pearl River Basin and Bowie Dam in the Pascagoula River Basin.

Edinburg Dam and Reservoir will provide badly needed flood control benefits and water quality benefits, and recreation benefits as well. The reservoir will store 130,000 acre feet, or about 42 billion gallons of water at the normal conservation pool. There are 262,000 acres in the flood plain downstream, which are subject to flooding in varying degree. The project has a benefit to cost ratio of 2.1 to 1, or will return $2.10 in benefits for each dollar of investment.

Bowie Dam and Reservoir, on Bowie Creek in the Pascagoula River Basin will provide flood control, municipal and industrial water supply, and recreation. At full conservation pool it will store 80,000 acre feet, or about 26 billion gallons of water. Some 111,000 acres downstream can be damaged by floods in varying degree. The benefit-to-cost ratio for this project is also 2.1 to 1.

Tremendous increases are occurring in the tonnage which moves in and out of our Mississippi River ports on barges and shallow draft ocean-going vessels. As a result our port capacities and facilities at Greenville, Vicksburg, and Natchez are rapidly becoming overtaxed. Leveed areas for industrial expansion are badly needed at these ports. I am glad to say that this bill authorizes projects for all three of these ports. The improvement at Greenville Harbor will provide a new inner harbor channel into presently undeveloped lands, with a benefit-to-cost ratio of 3.4 to 1.

The leveed area planned adjacent to the Vicksburg harbor area will protect 10,000 acres and 350 homes, with a benefit-to-cost ratio of 1.9 to 1.

Just south of the Natchez harbor, construction of 12.4 miles of levee will provide a protected area for industrial expansion, with annual benefits of $862,000, and a benefit-to-cost ratio of 1.2 to 1.

The bill also authorizes a much needed means of halting bank caving in parts of the Yazoo River Basin, by means of a 5-year pilot project which will test various alternative means of stabilizing the banks.

I am extremely pleased that these six very worthy water resources projects are being authorized in my State. They are much needed, and they will provide benefits for generations to come.

Mr. ALLEN. Mr. President, I rise to speak in support of S. 2798, the Water Resources Development and River Basin Monetary Authorization Acts. I commend the Senate Public Works Committee, and the Subcommittee on Water Resources, for their long hours of deliberation and study which produced this legislation.

Projects which this bill authorizes, if they are funded and constructed, will help protect future generations from the nightmare of flooding and provide them with adequate supplies of water for home and industrial use. Certain other projects in the bill will serve to strengthen our national transportation system through improvements of navigable rivers and waterways. This system takes on special meaning during the current fuel supply shortage for two reasons.

First, low-cost water transportation has an important role in the movement of coal, petroleum, and refined fuels to and from refineries, distributors, industries, and electric power generating facilities. Roughly 60 percent of all inland waterborne cargoes are energy resources of this type.

Secondly, several recent studies have shown that water carriers either equal or surpass railroads—which are often thought of as the most efficient transportation mode—in fuel economy. That is, barge tows and inland vessels have been shown, on the average, to deliver more units of service per gallon of fuel consumed than any other mode. In short, water transportation excels in fuel consumption efficiency.

Other projects authorized by this legislation will afford new outdoor recreation opportunities. Some projects will serve to provide environmental enhancement by protecting fish and wildlife and promoting better land use planning along our riverbanks. Still other projects are designated as pilot studies to aid in controlling destructive streambank erosion.

Many of the projects serve several of these purposes at once. Economic opportunities, the public health, and safety—indeed the overall quality of life in many diverse areas of the country—will be enhanced if we authorize these projects and then follow through with adequate funding to bring them to full implementation.

This is a tedious, and often frustrating process, but it is well worth the trouble. I am pleased that the people of my State long ago recognized the merits of this kind of endeavor, and have already sampled the beneficial effects of wise management of Alabama's abundant water resources. But, they will not be content to stop now in midstream.

The pending legislation increases to $275 million the authorization for work on the Coosa-Alabama River system, a unique multiple-purpose flood control, navigation and power project in which Federal, State, and private interests are working hand in hand to harness the valuable waters of the Coosa and Alabama Rivers and, in the process, to improve the entire regional economy.

Some $253 million in Federal funds have already been appropriated for the Coosa-Alabama River project, so the fiscal goal set in this year's bill is not far from attainment.

Navigation along the Alabama River has already been completed from the bustling port at Mobile upstream to Selma and Montgomery. At the same time, the Alabama Power Co., with a $200 million investment, has developed the hydroelectric power potential above Montgomery on the Coosa River, which is formed near Rome, Ga., by the convergence of two smaller rivers. The Coosa joins the Tallapoosa River near Montgomery to form the Alabama River, which flows on to Mobile Bay on the gulf coast.

The Alabama Power Co., in carrying out an agreement with the Federal Government, constructed its hydropower dams and reservoirs in such a way that navigation locks can be economically added by the Federal Government, making water transportation possible all the way from Mobile to Gadsden, Ala., which is the center of an area of steel and other heavy industrial activity, and to Rome, Ga.

Thus, navigation on the Coosa River is the only major facet of this well-planned, multiple purpose water resources project which is not yet completed or well underway. This is a joint Federal-State-private effort for which the people of Alabama expressed their approval through passage in 1969 of a $10 million bond referendum as the source of non-Federal funds required for completion of the river program.

Authorization of the navigation project on the upper portion of the Coosa-Alabama system is not included in the legislation before us. The project, in fact, was authorized in 1945. But I mention this background because we in Alabama are confident that navigation on the Coosa River would add a valuable link to the Nation's inland transportation system, and we plan to push for completion of this work as a part of the Nation's water resources development priorities.

I also mention it because the Coosa-Alabama is one of several long-range, multiple purpose water resources projects already authorized by Congress which could be placed in serious jeopardy by the new, and in my view unrealistic, project evaluation guidelines recently adopted by the U.S. Water Resources Council.

Through these guidelines, the executive branch has assumed for itself the arbitrary power to overturn or, in effect, veto previous acts of Congress. This would be accomplished by applying the new guidelines retroactively. Thus, many previously authorized projects would no longer be considered justified. These new and highly theoretical concepts were adopted by the Water Resources Council in late 1973.

The guidelines seem to have been adopted, I might add, with a total disregard for the views of Congress—the elected representatives of the people—as to what constitutes sound and just criteria for public investment in water resources management programs.

One section of the bill before us today, S. 2798, deals with this usurpation of power by the executive branch. This section concerns the interest/discount rate which is to be used in evaluating and formulating proposed water resources projects. On October 30, 1973, the Water Resources Council put into effect a new procedure for determining the interest/discount rate and established a rate of 6⅞ percent for this fiscal year. The council said the new rate could be applied on a selective basis to projects previously authorized by Congress but still unfunded and unstarted. S. 2798 would bar application of the new interest/discount rate to previously authorized projects, including those authorized in whole or in part in this legislation. I approve of this prohibition, but I do not believe it goes far enough.

S. 2798 would allow the water resources council to use the new discount rate for all future river and harbor projects. The new rate—developed entirely within the executive branch without any opportunity for public hearings or comment—is loosely based on the cost of Government borrowing, both long term and short term. But water resource development programs are typically long term, with life spans of 50 years or more. The new interest/discount rate is to be changed annually but not more or less than one-half percent, so that it is entirely possible that the rate on July 1, 1974 will become 7⅜ percent. Such a rate jeopardizes practically every major inland navigation and large flood control project in the planning stages. Multiple purpose river basin programs would surely become a relic of history.

I do not know how many, if any, of these river and harbor projects should be reevaluated. But why should we close the door now on long term, region-building water resource programs without even considering them on an individual or regional basis? If the executive branch is allowed to apply the new interest/discount rate, the Congress may no longer have the opportunity to consider any significant river and harbor programs. Only localized, short term projects can survive the stiff criteria. The new interest/discount rate, which incidentally was spearheaded by the Office of Management and Budget, forecloses the future congressional consideration of broad-scale, far-sighted water resources programs of the type which have helped to make America great.

To head off this eventuality, I believe the Congress should face head on the question of the validity of the new interest/discount rate as applied to any water resources management program—past, present or future. I would also like to see Congress delve more deeply into the broad questions of national water resources objectives and appropriate standards for evaluating individual projects. Otherwise, we risk the continued demise of needed, worthwhile water programs at the hands of the Office of Management and Budget, which seems to always have its way at the Water Resources Council as well as with other executive agencies. Congress must take a stand before it is too late.

In the companion bill to S. 2798, the other body has already taken the first step in asserting congressional control over the establishment of water resources criteria. H.R. 10203 prohibits the Water Resources Council from applying the new interest/discount rate either to projects already authorized or to those to be authorized in the future. Instead, the Council is directed to continue utilizing the interest/discount rate formula promulgated in December 1968. Under this formula, the rate was fixed at 5⅝ percent for the current fiscal year. This rate, however, was junked when the new interest/discount rate procedure was implemented last October.

In acting to "freeze" the discount rate formula promulgated in 1968, the other body said it was doing so in order to permit a congressional reexamination of the interest/discount rate issue. I think such an undertaking is certainly timely and in order.

If the Senate passes the legislation before us as currently worded, a conference will be necessary to resolve the differences. In such a case, I would strongly urge the Senate conferees to give careful consideration to the House language dealing with the discount rate problem. Perhaps a combination of the House and Senate provisions concerning the interest/discount rate issue should be considered.

In fact, the whole theory behind the discount rate deserves much scrutiny, because it is based on the assumption that public investments must somehow be compared to investment potential in the private sector and that publicly funded projects should be judged on the basis of this comparison. I have steadfastly opposed what I have considered wasteful Government expenditures, but I reject the argument that public investments should be held to the same tests as private investment opportunities.

If that were the sole standard, Congress could indeed forget about funding medical or educational programs, or housing programs. We could drop our efforts to aid veterans or farmers or small businessmen and simply invest the Nation's tax revenues on the stock market or in real estate or in whatever venture promises the highest return at the moment—perhaps oil, in today's world. But surely every Member of this body would reject this absurd suggestion for reasons which hardly need to be stated. The purpose of public investment is not to compete with private capital for monetary return, but rather to supplement the contribution that private economic activity makes to the well-being of our people. The purpose of public investment is to do that which needs doing but which the private sector is unable to accomplish because of lack of the necessary capital, shorter term investment goals, or for other reasons.

The fact that a private corporation did not move into the Tennessee River Valley region in the 1930's with the intention of restoring the land and water and developing the area's natural resources to their optimum potential does not mean that Congress' decision to do so was unsound. It simply means that the resources of the Federal Government had to be marshaled for that particular undertaking.

The wisdom of that decision—the soundness of the public investment—has been proven beyond the wildest expectations of any who advocated creation of the Tennessee Valley Authority.

Nearly 40,000 waterfront industrial jobs have been created in the region. More than a billion dollars worth of flood losses have been averted. Flood protection benefits alone have paid nearly five times over for the cost of building the system of dams and navigation structures on the Tennessee River. Agricultural research conducted by TVA has improved the productivity of farming throughout the Nation. New recreation opportunities have opened up, and private investment in the billions of dollars has followed the Federal investment into the region.

What was once considered about the poorest region of the Nation is no longer so. The massive exodus of poor and uneducated people out of the region, swelling the problems of our major cities, has not only been halted—it has been reversed.

Yet, it is doubtful that such a worthwhile long-range program, if proposed today, would be considered feasible and justified by the restrictive new planning standards of the Water Resources Council.

Careful planning, especially in the important area of management of this Nation's natural resources, is, of course, vitally important. But when planning becomes a substitute for action, or when the planning process becomes a tool for preventing action—and that is the real effect, if not the actual intent, of these new standards—then I say it is time to call the planners to task.

As many of you know, the narrow views implicit in the Water Resources Council's new guidelines are not an altogether new phenomenon. Constraints which the Office of Management and Budget, and its predecessor, the Bureau of the Budget, have attempted to place on Federal water resources expenditures date back through more than one administration, and these actions have been a source of frustration for many of us.

A presidential appointed study group after spending 5 years and $5 million has added to these frustrations by issuing a report recommending the virtual curtailment of Federal involvement in water resources projects. So, the new project guidelines are just the latest in a long series of efforts by the executive branch to impede the Federal water resources program.

Meanwhile, water resources management on the Federal level has come to a virtual standstill as everyone awaits the resolution of these controversies. Many fine regional and national water resources organizations have brought this situation to public attention.

The National Waterways Conference, Inc., put the problem in perspective last fall when its president, Mr. William J. Hull, urged Congress to set the project evaluation guidelines and to develop comprehensive new national water resources policy relating water resources programs to, as Mr. Hull said, "all relevant issues of public policy—such as conservation, supply and transportation of energy and other materials, balance of payments, national defense, regional rehabilitation, population balance, environmental enhancement, health and safety as well as the traditional national efficiency objectives."

When Congress created the Water Resources Council in 1965, the intent was not to set up a new Federal agency to dictate water resources policy. Rather, it was to establish a mechanism for implementing policies established by Congress and coordinating these policies with the States and regions. Of course, it was envisioned that the council—through its research and experience—would recommend policy changes from time to time. But, it was not envisioned that the Council would be so dominated by the Office of Management and Budget or that its recommendations would become Federal policy almost automatically without Congress' even being consulted in policy matters.

Yet, the new project evaluation standards do reflect a flagrant attempt to change—rather than carry out and analyze—policies enunciated by Congress. For example, Congress declared with passage of the Flood Control Act of 1970 that it intended for investments in water resources programs to serve four objectives: National economic efficiency, environmental enhancement, regional development, and the well-being of the people. Not only have all four of these objectives never been fully integrated into the project planning process, but the new principles and standards promulgated by the water resources council expressly rule out two of the four objectives. Benefits relating to regional development and social well-being may not be considered in the benefit-cost calculations which determine whether a proposed project is to be judged economically feasible, according to the new rules.

Further, the new standards state that a proposal which has an actual deficit in the economic efficiency account may go forward if that deficit is the result of costs attributable to the environmental enhancement objective.

So, we have a situation in which a project that shows financial deficit may go forward because it saves or protects a species of endangered birds or other wildlife. But at the same time, another project—for example, a flood control project designed to save human lives and improve the public health and safety—might be eliminated from consideration because no value is assigned to the well-being of people in analyzing the benefits and costs of the project.

The Water Resources Council has said, in effect, that any advantages which accrue to people as a result of water resources projects must be viewed as incidental and valueless by-products of projects whose only functions worthy of analysis are the goals of economic efficiency and environmental enhancement.

So, I think you can see the impasse we have reached—a point at which Congress must reassert its responsibility for setting water resources policy and determining, on a common sense basis, the criteria for public investment in these projects.

This does not mean we should write a blank check to cover every project that is ever proposed. Nor does it mean that we must not demand accountability for the funds which are expended on public works.

S. 2798 addresses these considerations in an admirable fashion, in my opinion. It establishes a two-phase authorization process, separating the preliminary design and construction phases so that final approval of a project will be based on much more complete information than we have had in the past. Under this new system, decisions may be reversed, when the facts merit such action, before large sums are irreversibly committed.

Environmental factors, the importance of which I do not overlook in the least, will be brought to bear in the decision-making process at an earlier stage. These factors can be analyzed more rationally, and many of the emotional controversies we have experienced in the past can be avoided. Costly and divisive lawsuits can be averted.

Finally, the backlog of authorized but as yet unconstructed projects is dealt with in this bill. This backlog, of course, has been cited as the justification for the Water Resources Council's new regulation directing the executive branch to "selectively" apply the higher discount rate and other new project standards to previously authorized projects.

This bill establishes a much more orderly and open procedure for de-authorizing certain projects which have been authorized for 8 or more years but not yet funded. Most important, the Congress, which first saw fit to authorize these projects, will have the final say—through the public works committees—as to which, if any, of these projects should be declared obsolete and removed from the authorization category.

S. 2798 places a new emphasis on prudent land use management and construction codes in flood prone areas both by authorizing three new "nonstructural" flood protection projects, and by requiring greater emphasis on these techniques in future flood protection proposals.

I do not believe that we can abandon engineering solutions to flood problems or set aside every piece of land which happens to lie in a flood plain as a park or wildlife refuge, but I do believe these techniques have merit in certain instances and that effective land use planning should be a part of every flood protection project—structural or nonstructural. The entire Congress expressed this sentiment when it passed, and the President signed, a new National Flood Insurance Act requiring much stricter attention to land use and construction codes in flood prone areas.

Mr. BROOKE. Mr. President, I was quite pleased to return to the Senate this morning and find that the leadership had decided to act immediately upon the Water Resources Development and River Basin Monetary Authorization Act of 1973, S. 2798. While many of the projects included in this measure may be of a controversial nature, there is one project which has been 8 years in the making, which has the unanimous backing of Federal, State and local officials and departments, and which is surprisingly inexpensive for the benefits which will be accrued.

I speak of the Charles River Watershed project in Massachusetts. The project officially began June 24, 1965, when the Congress authorized the corps to conduct a detailed study of the water resources of the Charles River Watershed. Since then the corps, aided by an energetic Citizens Advisory Committee, has spent 8 years carefully preparing and documenting the recommendations for a policy which is now embodied in S. 2798 before us.

The Charles River is a slow-winding river meandering some 79 miles in its journey to the sea. The watershed, at its lowest point, is densely developed, as it is here that the river separates the cities of Boston and Cambridge. This density coupled with the problem of the Boston Harbor tides rising higher than the river has led to severe flooding problems.

In 1910 the Charles River Dam was constructed to check the harbor's tidal flow into the Charles, thereby creating what we locally refer to as the basin. After a heavy rain or snowstorm it is but a matter of hours before the flood peak flows collect in this basin. The result is flooding which is both rapid and difficult to deal with.

Yet upstream there exists exactly the opposite situation. Here a unique system of wetlands serves to control and contain our harsh New England rain and snowstorms. And it is so efficient that peak floodflows do not reach the basin until 4 to 5 days after the storm.

The corps' study concluded that man simply could not improve upon nature's work for controlling floods in this area. Said the corps:

> The logic of the scheme is compelling. Nature has already provided the least-cost solution to the future flooding in the form of extensive wetlands which moderate extreme highs and lows in stream flow. Rather than attempt to improve on this natural protection mechanism, it is both prudent and economical to leave the hydrolic regime established over the millennia undisturbed. In the opinion of the study team, construction can add nothing.

There are approximately 20,000 acres of wetlands in the watershed. The corps recommends that the Federal Government purchase 8,422 of them. Among their criteria was the stipulation that these wetlands were threatened by the relentless urban sprawl that affects so many areas of our country. At present these wetlands are disappearing at a rate of 1 percent a year.

The Public Works Committee followed the corps' recommendations to the letter. The bill before us today authorizes nearly $7.5 million for the purchase of 17 natural valley storage areas which together comprise the 8,422 acres. This, to my way of thinking is a bargain. For not only do we preserve and protect these critical areas for flood control, but we are also insuring open space for a steadily expanding metropolitan area. And, as if these benefits were not enough, many of these marshes will become excellent fish and wildlife sanctuaries.

Mr. President, few Federal projects can boast such broad benefits at such a low cost. The Corps of Engineers deserves our praise for this excellent piece of work.

All of us in the Commonwealth are indebted to them for their innovation in coming to grips with the terribly serious problem of flood control in the watershed area. The fact that their report was endorsed by the State, by the Departments of Interior, Agriculture, and Transportation, and by the Environmental Protection Agency, not to mention the Sierra Club, the Massachusetts Audubon Society, Citizens Advisory Committee and the Charles River Watershed Association speaks for itself. This project, 8 years in the making, unanimously approved by all involved, is now becoming a reality. Both the Commonwealth and the Nation will be better for it.

Mr. BUCKLEY. I thank the Senator for his kind remarks and observations on my effort to cut back some excessive expenditures within the bill, and most particularly to try to restore what I believe would be a more orderly way of approaching legislation in this field.

Mr. President, I send an amendment to the desk and ask unanimous consent that this amendment not be subject to division.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. BUCKLEY. Mr. President, I yield without losing my right to the floor.

Mr. GRAVEL. I thank the Senator.

Mr. President, I would like to make some technical amendments, and ask that they be read.

The PRESIDING OFFICER. That would not be in order at this time without unanimous consent.

Mr. GRAVEL. Mr. President, I ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the technical amendments.

The assistant legislative clerk proceeded to read the amendments.

Mr. GRAVEL. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

> On page 14 in line 12 delete "(b)" and insert "(c)."
>
> On page 19 in line 21 before the "(C)" insert "(5)."
>
> On page 26 in line 4 before the period, in line 15 after the comma, in line 18 after the word "Engineers," and on page 27 in line 25 after "Engineers," insert "or the Secretary of the Interior, at such time as jurisdiction over the national river and recreation area has been transferred to him pursuant to paragraph (2) of this subsection".

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments were agreed to en bloc.

Mr. GRAVEL. I thank my colleague.

The PRESIDING OFFICER. The Senator will now proceed to the amendment of the Senator from New York, which the clerk will state.

The assistant legislative clerk read the amendment, as follows:

> Strike out section 4: on page 9, beginning on line 17, all through line 11 on page 10.
>
> Strike out section 14: on page 40, beginning on line 7, all through line 20.
>
> Strike out section 15: on page 40, beginning on line 21, all through line 24 on page 41.
>
> Strike out section 21: on page 45, beginning on line 23, all through line 7 on page 46.
>
> Strike out section 23: on page 46 beginning on line 16, all through line 18 on page 47.
>
> Strike out section 29: on page 50, beginning on line 7, all through line 3 on page 51.
>
> Strike out section 43: on page 57, beginning on line 7, all through line 18.
>
> Strike out section 46: on page 58, beginning on line 12, all through line 17.
>
> Strike out section 50: on page 62, beginning on line 24, all through line 7 on page 63.
>
> Strike out section 52: on page 63 beginning on line 18, all through line 5 on page 65.
>
> Renumber remaining sections accordingly.

Mr. BUCKLEY. Mr. President, while my amendments are necessarily unprinted, I believe that its purpose and scope are known to my colleagues.

Last week I circulated a description of this amendment to each of my colleagues together with my rationale for including each of these sections within this amendment.

The scope of the amendment is very simple. It would delete 10 sections from S. 2798. They are sections 4, 14, 15, 21, 23, 29, 43, 46, 50, and 52. Together, these sections have an identifiable cost of approximately $35,800,000, plus unknown additional costs that could result from Sections 4, 23, 29, and 50. It seems particularly inappropriate to me to authorize such expenditures when the deficit in the Federal budget during the initial 5 months of fiscal 1974 has reached $8.4 billion.

While the specific cost of these sections has importance, that is not the primary thrust of this amendment. My principal concern is that each of these 10 sections falls clearly outside the normal practice in current law and procedures covering the work of the U.S. Army Corps of Engineers. Section 15 and 50, as well as language similar to a portion of section 23 appeared in similar legislation (S. 4018) as it was reported by the Committee on Public Works in 1972.

The conference report version of S. 4018 that was vetoed in 1972 and subsequently passed as S. 606 last year contained language similar to sections 14, 15, 43, 46, and 50 plus a variation in part of what is now section 23.

It may be argued that because these sections have been approved in the past, they are now sacrosanct. I disagree. I believe it is our duty to study all proposals with care, and to reexamine past actions when necessary. It is my belief that the 10 sections my amendment would delete bestow on the affected communities or projects benefits that are above and beyond those available to other equally deserving localities under existing Federal policy, as determined by the Congress. As such they are discriminatory. And, frankly, I do not believe they can be reasonably defended, particularly now that so many demands have been placed on the Federal Treasury. Because of their "special interest" character, these 10 sections are open to the charge of political favoritism—of constituting "pork."

During the markup session held by the Subcommittee on Water Resources, and again in full committee, I moved to strike more than 40 similar projects from this bill, projects that carried an aggregate cost of more than $109 million, approximately 10 percent of the bill's identifiable cost. I moved to strike these items because they provided a localized benefit without reference to national policy. I do not believe that ad hoc legislation, outside the administrative procedures available to solve a problem, is wise legislation.

As Members of the U.S. Senate, we pride ourselves on seeking reasoned decisions through a rational process. Instead, we confront ad hoc decisions in many sections of this bill.

In questioning those items in committee and 10 sections through this amendment, it is not my purpose to moralize or impugn the motives of the very fine sponsors of the various projects. Rather, it is my purpose to initiate a reexamination of some ancient practices that, while accepted by custom, have a discriminatory effect.

Any time a given community is provided more favorable treatment than another community, any time we waive the normal rules and procedures for no better reason than that one of our colleagues has stated that the project is important to him, any time we act from other than a national perspective in the implementation of national policy, we necessarily favor a few at the expense of the many.

Perhaps I am tilting at windmills in suggesting that we abandon some ancient legislative customs. I like to think not. I do not believe reevaluation based on national policy is impossible to attain, or even unreasonable. Surely, the support in committee for striking nine special-interest sections indicates a willingness to reexamine specific projects in the light of established policies governing the Federal funding of local projects.

The subcommittee, I should note, also voted to consolidate about 10 separate sections concerned with streambank-erosion-control. That consolidation produced a savings, over 5 years, of $61,000,000, compared with costs in the earlier version.

Two of the sections deleted involved projects located in New York State. These two provisions were struck from the bill not because they were found to be inconsistent with Federal policy, although that was my reason for raising an objection, but because a Senator in whose State the projects were located had asked that they be deleted. I suggest that this was the wrong reason. As I have pointed out, the identity or position of the sponsor of any provision ought not to determine whether a particular item is included or excluded in this legislation.

Many of my colleagues, and observers of this body, may believe that I am being naive in attempting to stimulate such a reexamination. Many believe that the interests of institutional comity far outweigh the theoretical benefits to be derived from adhering to an evenhanded policy when it comes to dispensing Federal funds for projects of local importance.

I disagree. I believe the time is ripe to reconsider past practices, however sanctified by custom, and to think through their implications. The American public is not buying "politics as usual" these days. Nor should we.

We are deep within a traumatic period in our national history. It is a period in which public respect for government appears to have reached a low ebb. As a result of the introspection and criticism of the past months, all kinds of political habits are being reexamined, with significant reforms being instituted. We are moving toward dramatic changes in the structure of campaign financing. We are insisting on a "Caesar's wife" standard for the executive and for State and local governments.

The Congress cannot exempt itself from similar scrutiny. If we hope to regain some measure of public confidence, we must reexamine our own folkways to see if, in fact, they meet the standards that the public expects of us and that we demand of others.

I fully recognize, Mr. President, that many in this body will strongly disagree with my view on the need to renounce our past practice of including special interest items in legislation of the kind now under consideration. I fully respect their sincerity in maintaining that the test of propriety is not whether a project fits within the framework of Federal policy as defined by the Congress, but whether it will fill some identifiable community need. This view is held by many in this body whom I greatly respect; but with equal respect, I must maintain that view not only to be wrong, but to be damaging. It is wrong because it results in legislation that is bound to be haphazard and highly discriminatory in its effect. It is damaging because the public inevitably sees in such legislation a substitution of politics for policy in determining the distribution of Federal funds.

The time has come for the Senate not only to abandon its ad hoc approach to projects of this kind, but for it to become more sensitive to how bills of the sort we now have under consideration will appear to the public. It is not a matter of trivial importance that the American people are increasingly cynical in their view of the legislative as well as the executive branch of their Government. I therefore urge adoption of my amendment not only because the items challenged by it ought to be stricken for the specific reasons that I have stated, but because its adoption will demonstrate that the Senate is willing and able to reexamine its own past practices.

Before discussing the covered sections by my amendment in some detail, I want to state that I do not question the need for, or the merit of, any of the projects in question. There is no doubt that each of them would greatly benefit the affected community. In that sense, each is a "good" project. But these 10 sections stand outside the policy affecting all Americans; they provide ad hoc solutions for a few special interests. If there is a legitimate claim involved in any or all of these sections, it is my view that the solution should be reached through generic legislation, not what in effect is a private bill for a single community.

Before discussing these 10 sections in some detail, I would like to express once again my great appreciation for the consideration of the able chairman of the full committee, Mr. RANDOLPH, and the chairman of the subcommittee, Mr. GRAVEL. The meetings on this bill were conducted in a most fair and evenhanded manner. While we may disagree on what should constitute the basis for an omnibus bill, I greatly appreciate their fairness in handling this issue.

The 10 projects I am about to describe, Mr. President, do not constitute all the ones to which I objected without success during the markup session. I have limited my list to them because they lie so clearly outside the scope of established policies and procedures. I did not want the debate to be muddied by the inclusion of others which, while I believe them to belay in the "special interest" argument, can nevertheless be stretched—if one pulls and shoves hard enough—to fit one pigeon hole or another.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. WILLIAM L. SCOTT. Mr. President, I have a very brief question to ask the Senator before he goes into detail with regard to individual projects.

As I understand it, these are but a few of the projects that the distinguished Senator from New York questioned in committee. This amendment does not pertain to all of those sections?

Mr. BUCKLEY. Mr. President, I was about to say that although there were a number of additional projects in the bill that I challenged in committee, I have decided for the sake of clarity of the basic issues to eliminate all those that one could conceivably stretch our current policy to cover.

Mr. WILLIAM L. SCOTT. Mr. President, could the Senator say whether projects which the Office of Management and Budget has not approved are included in the motion to strike?

Mr. BUCKLEY. None of these project modifications has been approved by the Office of Management and Budget.

Mr. WILLIAM L. SCOTT. None of these have been approved by the Office of Management and Budget?

Mr. BUCKLEY. They have not been approved. However, I would hasten to say that I would not allow the Office of Management and Budget to impose their judgment on the Congress.

Mr. WILLIAM L. SCOTT. Mr. President, I do not suggest that. However, I believe that is part of the input in the overall consideration of the matters coming before the committee and before the Senate and the House. Have hearings been had on these projects that the distinguished Senator now moves to strike?

Mr. BUCKLEY. Senate hearings have been held on several of the items, but by no means on the majority.

Mr. WILLIAM L. SCOTT. Mr. President, I would say that I supported the efforts of the distinguished Senator from New York in his amendment before the committee. And I shall continue to support him fully.

Mr. BUCKLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? [Putting the question.] There is not a sufficient second.

The yeas and nays were not ordered.

Mr. JAVITS. Mr. President, would the Senator yield for a question?

Mr. BUCKLEY. I yield.

Mr. JAVITS. Mr. President, so that we may understand the amendment clearly, I understand some of it is retroactive to projects already authorized and one way or another in process. Could the Senator explain that?

Mr. BUCKLEY. Mr. President, first, I again ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BUCKLEY. Mr. President, in reply to the question asked by my distinguished senior colleague, it is correct that some of the affected sections modify ongoing projects. But deleting these modifications would not interrupt any of these projects.

Mr. JAVITS. Does the Senator feel that it would or would not be fair to deal with future policy, and that where communities have participated in or have depended on projects, they should be allowed to stand and to continue rather than to be included in the ambit of the Senator's amendment?

Mr. BUCKLEY. Mr. President, I believe that in these instances we are not going to interrupt any approved project. I do believe that suggestions by local interests that a project is desirable do not necessarily mean the proposal is within national policy. However, as to legal obligations——

Mr. JAVITS. I am not talking about legal obligations. However, where there are projects included, and one especially in my State which relates to the correction of a very bad situation in the habor of New York and deals with harbor drift, I would certainly hope that the reach of the Senator's proposal would not extend to that kind of project. However, I understand the Senator's feeling, and I think that an explanation is important so that we may understand the matter.

Mr. BUCKLEY. Mr. President, I appreciate the Senator's concern over that project. I share that concern. I would be happy, as a mater of fact, to join with the Senator in offering generic legislation for the handling of drift in our harbor.

Mr. JAVITS. Mr. President, I hope that will not be necessary, because the project will stay in.

Mr. BUCKLEY. Mr. President, my amendment, incidentally, does not affect that project.

Mr. JAVITS. I understand. I thank the Senator from New York.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that Max Parrish, of my staff be given the privilge of the floor during the consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, as I explained to the distinguished junior Senator from Virginia, the list of projects contained within my amendment is not a comprehensive list. Rather, they are those which seem to me so uncontrovertibly outside of the scope of national policy.

The first section that would be stricken is section 4, the Corpus Christi, Tex., ship channel project.

This section directs the corps to begin phase I advance engineering and design on a 72-foot-deep, 9½-mile-long channel from the Gulf of Mexico into the harbor at Corpus Christi, Tex. This section authorizes a go-ahead on engineering without adequate study on the feasibility of such a concept. The section also authorizes the corps to accept local funds to carry out this engineering, and provides a reimbursement for local interests. All this will take place 3 years before the corps is scheduled to complete a 45-foot-channel project at Corpus Christi.

It seems to me that we are being asked to buy the painting before the artist is born. Normally the Congress directs the corps through committee resolution to survey the navigational needs in a particular area. Such a survey was authorized for Corpus Christi in October 1972. Under regular procedure, the corps then makes a general economic evaluation, an environmental impact analysis, holds hearings on local reaction, and receives the thoughts of other Federal agencies on how possible alternatives might conflict with other laws or responsibilities.

Then, after this plan moves through the administrative process, it is sent to the Congress for study and possible authorization. The Congress, of course, may approve it, reject it, or modify it. Assuming congressional approval, the corps then initiates its phase I advanced engineering and design work, which involves development of further details on site and design.

Section 4 begins the second step before we have any inkling of what the alternatives and environmental problems might be. To me, this stacks the deck in favor of a "We've come this far, we might as well build it" attitude.

I should also point out that our deepest navigation channnels now are in the 50-foot range. The corps studied the dredging of a 72-foot-deep channel at Philadelphia and it found that a 10-mile stretch through bedrock would cost about $1 billion.

Yet in section 4 of this bill, we seem to prejudge the economics of a channel to handle tankers up to 300,000 deadweight tons at Corpus Christi, as well as the location of such a facility before the Congress sets any policy on superports.

Because this section runs directly counter to normal and logical procedures in the evaluation of water resources projects, I believe we should reject this section.

Mr. BENTSEN. Mr. President, will the Senator from New York yield at that point?

Mr. BUCKLEY. I will yield to my distinguished colleague, but I would like to say at the same time that I would rather discuss the specifics of each of these projects at the end of the list, if that meets with the Senator's satisfaction.

Mr. BENTSEN. Is the Senator from New York saying he would prefer to continue, and then yield on specifics at the end of the period of time? Having received consent, the Senator is referring to a project for the State of Texas in which the Senator from Texas has a very deep interest.

Mr. BUCKLEY. I am afraid I cannot quite hear the Senator.

Mr. GRAVEL. Mr. President, will the Senator from New York yield for a suggestion?

Mr. BUCKLEY. Gladly.

Mr. GRAVEL. It might be worthwhile, in handling this matter—I offer this only as a suggestion with respect to procedure—to handle the specifics as Senators who are prepared to discuss the points are here. This is not necessary; in fact, I think it would be preferable to continue the listing before discussing individual matters. But I think it might be an accommodation to Members so that they can attend to other matters, and I thought my colleague might find it more judicious to present it that way.

Mr. BUCKLEY. I would be glad, Mr. President, to accede to the suggestion of the chairman of the subcommittee, although frankly I have enjoyed having so many Senators present.

I yield to the Senator from Texas.

Mr. BENTSEN. Mr. President, in the particular situation we are talking about, the authorization is to let private money be spent by the local interests. That has been done many times in the past, for construction purposes. This authorization is merely a step in that same direction.

Perhaps what the Senator from New York is objecting to is an understanding that the funding could be repaid before Congress, by the particular provision, says it can be repaid.

This section does not mandate the repayment of the funding. It would have to go through the appropriation process. All the local interests are trying to do is expedite the matter.

Mr. President, we have a crisis in this country insofar as energy is concerned, so we want to expedite a study in this situation to see to if we could not have a ship channel deepened so that we can bring in bigger tankers and move the necessary oil to take care of States like New York; to see that they have an energy supply.

That is the crux of the situation: A question of expediting. In this instance, private funds are available to do the study. In no way does it mean they will have to spend the money later. These people can go without reimbursement if Congress so determines, but it is a question of saving a great deal of time in making a feasibility study to see if it should be done.

That is what we are asking for, and I thought we had resolved it in committee.

Mr. BUCKLEY. Mr. President, I fully appreciate the concern of the Senator from Texas. I share his concern on the energy crisis. But I would say, first, we are now well along in the development of a policy on superports, and this would be a superport.

We need to move forward on all cylinders, and not only with respect to the problems of Corpus Christi, but throughout this country.

Second, there has been no hearing on this particular proposal.

Third, we have in effect an implied promise in the way that the section is now written to the people who advance the funds that they will be reimbursed, or at least we will have enormous pressure to reimburse.

Fourth, we would authorize the Corps of Engineers to proceed with engineering before we really know what it is we want to do. This is outside of normal procedures and established policy. What is more important, it is not rational planning.

Mr. BENTSEN. Would the Senator be willing at a later time to authorize this appropriation, and move forward with this?

Mr. BUCKLEY. I am hoping that we would have the basic information that would enable us to know what is required before we plunge forward. And when we have those studies and appropriate recommendations, the Public Works Committee can determine whether or not to authorize the next step.

Mr. BENTSEN. The Senator from New York is well aware of how long it some times takes to go through all the processes of Government, including appropriations.

All we are trying to do in this situation is save some money, and then, if Congress in its wisdom decides it does not want to reimburse these parties, it has a perfect right to deny them.

There were extensive hearings on this matter by the Corps of Engineers in the area, and it has great support by the people in the Corpus Christi area.

Mr. BUCKLEY. My understanding is that none have been held by the Public Works Committee.

Mr. BENTSEN. We are not talking about any appropriations by the Public Works Committee or the Appropriations Committee, either. All we are talking about is authorization for private money to be spent for a study. A study of the dire need for this public project to be pushed, because we have an energy problem to meet in this country. I assume if the study shows it not to be feasible, the local interests will not get any reimbursement for it.

Mr. BUCKLEY. Mr. President, I deeply respect the Senator's sense of urgency, but I think it is clear, as I assume it will be clear on the remainder of my 10 projects, that we have a fundamental difference of opinion as to the need of making an exception in the case of this particular legislation.

I certainly believe that in the area of energy we have a need in Congress and the executive to cut this red tape so that we can achieve our energy objective without stripping it of the necessary protection.

Mr. BENTSEN. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the committee report, to fully show the urgency of another project in Texas.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

### Subsidence Problem in the Baytown, Tex., Area

Senator Lloyd Bentsen brought to the attention of the Committee the problem of general land subsidence which is occurring on the east side of the upper reaches of Galveston Bay, in the area known as the Brownwood addition of Baytown, Texas. The area is a distant suburb of Houston, Texas.

In this case the land subsidence is caused by pumping water from the ground in sufficient quantities to permanently lower the water table. In the last 25 years the water table has dropped more than 200 feet, resulting in land subsidence of up to 7 feet. The affected area can be described as a 65 mile diameter saucer, with one edge east of Baytown and the other edge at Katy, Texas, 35 miles west of Houston. Subsidence is the greatest at the center of the saucer and diminishes toward the edges. This subsidence is not reversible; there is apparently no way to recover the lost elevation.

The subsidence is causing a tragic loss of homes in the Brownwood addition. The area is one of many beautiful homes and is the chosen retirement area of many people. Preliminary studies have revealed that 541 residences are affected in the Brownwood addition with the number of people affected reaching 2000. The Committee recognizes that the recurrent flooding is resulting in adverse economic and social conditions beyond the capability of the local interests to cope with either on a physical or economic level.

The Corps of Engineers is currently making a study of the problem to determine the best possible solution. While it is recognized that the Corps study must be completed before the Committee can properly act, the Committee directs the Corps of Engineers to proceed with all possible haste in the completion of the study. The Committee would expect, in view of the urgency of the situation, that the Environmental Protection Agency would cooperate with the Corps of Engineers in reducing the coordination time between the two agencies from the normal 90 day period to a 30 day period in this case. The Committee expects that the Corps of Engineers will reduce the amount of time allowed for State and local agency comment. The Committee expects to consider appropriate action, including authorizing emergency action or through a broader project authorization, upon receiving the Corps of Engineers recommendations early in the next session of the Congress.

Mr. BUCKLEY. My next section, Mr. President, involves section 14, for a water system project in Conway, Ark.

This section would direct the corps to spend $7,500,000 on a new municipal water supply system for the community of Conway, Ark.

Following construction of the nearby segment of the McClellan-Kerr Arkansas River navigation project, local residents noted a decline in the quality of the city's drinking water, despite corps mitigation efforts. Asked to investigate, the corps conceded a change in the taste of the city's water, and said it could correct the problem, without legislation, by constructing a new pumping facility at a cost of $1,000,000.

The citizens of Conway argued that they wanted an entirely new system, including a new reservoir to be built outside the flood plain. The cost of this more elaborate answer to the city's complaint is $7,500,000, and that is the basis for section 14.

Because of the fact that we have had no hearings at which to weigh the arguments on this issue, and because the problem apparently can be reasonably solved for $1,000,000 without legislation, I believe that this section confers a special benefit for one community, necessarily penalizing others. Therefore, I believe the section should be removed from the bill.

Section 15 concerns a bridge at Norfork, Ark. During World War II, the Federal Government constructed the Norfork Dam and Reservoir, paying the State of Arkansas $1,342,000 as compensation to reroute a highway inundated by the reservoir.

According to testimony, the State three decades ago filed stipulations with a Federal district court that $1,342,000 was adequate payment to construct an alternate highway.

A bridge or alternate route over the dam was never built. This section would direct the corps to construct a "free highway bridge built to modern standards" over the reservoir to serve traffic now handled by ferries. Once the new bridge is completed, Arkansas would reimburse the Federal Government the $1,342,000 it received in 1943, plus interest at the cost of Federal borrowing from 1943 to enactment of this bill.

The Corps of Engineers estimates that the new bridge will cost $17,200,000, and that the corps will recapture $3,232,000 in principal and interest from the State of Arkansas. Thus, the net cost to the American taxpayers for this bridge will be about $14,000,000.

Because this abrogates an agreement that I assume was made in good faith on behalf of the American taxpayers, I believe it is a section that confers a special interest and should accordingly be stricken from the bill.

## EXECUTIVE SESSION—EXECUTIVE P, 93D CONGRESS, 1ST SESSION, THE CUSTOMS CONVENTION ON THE INTERNATIONAL TRANSIT OF GOODS

The PRESIDING OFFICER (Mr. McCLURE). Under the previous order entered during the last session, the hour of 3 p.m. having arrived, the Senate will now go into executive session and proceed to vote on Executive P, 93d Congress, 1st session, on the Customs Convention on the International Transit of Goods. The clerk will state the resolution of ratification.

The legislative clerk read as follows:

*Resolved (Two-thirds of the Senators present concurring therein)*, That the Senate advise and consent to the ratification of the Customs Convention on the International Transit of Goods (ITI Convention) Opened for Signature at Vienna June 7, 1971.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the resolution of ratification?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from California (Mr. TUNNEY), are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Arizona (Mr. FANNIN), and the Senator from Wyoming (Mr. HANSEN), are absent on official business.

I also announce that the Senator from Vermont (Mr. AIKEN), the Senator from New Hampshire (Mr. COTTON), the Senator from Kansas (Mr. DOLE), the Senator from North Carolina (Mr. HELMS), and the Senator from Vermont (Mr. STAFFORD), are necessarily absent.

I further announce that the Senator from Alaska (Mr. STEVENS) is absent to attend the funeral of former Senator Fred A. Seaton.

The yeas and nays resulted—yeas 82, nays 0, as follows:

[No. 3 Ex.]

YEAS—82

Abourezk
Allen
Baker
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Clark
Cook
Cranston
Curtis
Domenici
Dominick
Eastland
Ervin
Fong
Fulbright
Goldwater
Gravel
Griffin
Gurney
Hart
Haskell
Hatfield
Hathaway
Hruska
Huddleston
Hughes
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott,
  William L.
Stennis
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—18

Aiken
Bartlett
Bayh
Cannon
Cotton
Dole
Eagleton
Fannin
Hansen
Hartke
Helms
Hollings
Humphrey
McIntyre
Sparkman
Stafford
Stevens
Tunney

The PRESIDING OFFICER. On this vote the yeas are 82 and the nays are 0. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

## LEGISLATIVE SESSION

Mr. GRAVEL. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## WATER RESOURCES DEVELOPMENT AND RIVER BASIN MONETARY AUTHORIZATIONS ACT OF 1973

The Senate resumed the consideration of the bill (S. 2798) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

The PRESIDING OFFICER. The question is on the amendment of the Senator from New York.

Mr. MAGNUSON. Mr. President, will the Senator yield to me?

Mr. GRAVEL. I yield.

Mr. MAGNUSON. Mr. President, I wish to express my thanks and the thanks of my colleague, Senator JACKSON, for the inclusion in the bill of the Ediz Hook project. I could say a great deal about it. I did testify before the committee, as did others. The committee report on the Ediz Hook project covers the matter so well that I ask unanimous consent that the excerpt on it from the committee report, beginning on page 73, be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

### EDIZ HOOK, PORT ANGELES, WASH.

*Location.*—Ediz Hook and the City of Port Angeles, Washington are located on the south shore of the Strait of Juan de Fuca, about 100 miles northwest of Seattle, Washington. The Hook is a low, bare sand and gravel spit extending about 3½ miles into the Strait of Juan de Fuca which connects Puget Sound with the Pacific Ocean. The spit provides natural breakwater protection for Port Angeles Harbor, the only deep draft harbor on the north shore of the Olympic Peninsula. A major air-sea rescue station operated by the United States Coast Guard is located at the outer end of the spit and a major commercial development is located at the landward end of the spit.

*Authority.*—Committee on Public Works of the United States House of Representatives resolution adopted October 8, 1968, and Committee on Public Works of the United States Senate resolution adopted September 13, 1968.

*Existing Projects.*—An existing navigation project provides for (1) a small-boat mooring basin 15 feet deep, with breakwater protection for the basin and entrance channel, which was completed in 1959; and (2) removal of a shoal area to 30 feet near the ITT Rayonier, Incorporated, dock, which has been classified as "inactive." In addition to Federal improvements, local interests have invested about $5,400,000 in commercial terminal and transfer facilities and moorage facilities for small craft. Also, approximately $900,000 has been expended since 1930 by local interests and the United States Coast Guard for construction of erosion control protective works along the Strait side of Ediz Hook. There are no authorized Federal projects for beach erosion in the vicinity of the proposed project.

*Needs.*—The City of Port Angeles, supported by local governing bodies and interested individuals and industries, desires a long-range plan of erosion control for the preservation of the spit and harbor. It is believed that a major cause of erosion at Ediz Hook is the decrease in feeder material resulting from construction of dams on the Elwha River and pipeline protective works along the base of the sea cliffs. In addition, the concentration of wave energy along the neck of the spit, near its base, contributes to an offshore movement of littoral material with a corresponding reduction in alongshore movement. Although studies indicate that about 75 percent of the material moving from the west is being lost, Ediz Hook continues to grow in an easterly direction. The shore to the west of the spit has been progressively eroded by the easterly migration of beach material, resulting in the general lowering of the beach profile and the concentration of deep water wave energy directly against the spit. If this process is permitted to continue, Ediz Hook is in danger of being breached permanently. Loss of access to the United States Coast Guard Base would render it useless and Port Angeles Harbor would be destroyed if the protection afforded by the spit is lost.

*Recommended Plan of Improvement.*—The plan of improvement consists of 10,000 lineal feet of new rock revetment and periodic beach nourishment. Top elevation would be 18 feet above mean lower low water for 7,500 feet beginning at the western end of the revetment works and 16 feet above mean lower low water for the remaining portion. An initial fill of gravel and cobbles would be placed along the seaward toe of the revetment works. The remaining portions of the shore line within the recommended project limits would be monitored periodically to determine if additional protective works are required. Prior to project construction, as part of preconstruction planning and design, a beach-feed prototype test program will be conducted to evaluate material movement rate and determine optimum locations to stockpile artificial nourishment material.

*Estimated cost (March 1971 price level)*

| | |
|---|---|
| Federal | $4,553,000 |
| Non-Federal [1] | 337,000 |
| Total | 4,890,000 |

[1] Final cost sharing will be based on actual conditions of ownership and use at time of construction.

PROJECT ECONOMICS (INTEREST RATE OF 5½ PERCENT

| | Federal | Non-Federal [1] | Total |
|---|---|---|---|
| Annual charges: | | | |
| Interest and amortization | $268,900 | $19,900 | $288,800 |
| Maintenance and operation (nourish) | 68,400 | 5,100 | 73,500 |
| Maintenance and operation (rock revet) | 59,500 | 7,300 | 66,800 |
| Total | 396,800 | 32,300 | 425,100 |

[1] Final cost sharing will be based on actual conditions of ownership and use at time of construction.

*Annual benefits*

| | |
|---|---|
| Navigation | $6,757,000 |
| Beach erosion | 516,000 |
| Total | 7,273,000 |

*Benefit-Cost Ratio.*—17.0.

*Local Cooperation.*—The construction, maintenance and operation costs of the proposed project will be shared between the Federal Government and local interests in accordance with policy established by law. The Federal Government would assume responsibility for the costs of improvements allocated for general navigation. The percentages for cost sharing for shore restoration and protection would be based on actual conditions of ownership and use at the time of construction. However, prior to construction, non-Federal interests must agree to:

a. Provide without cost to the United States all necessary lands, easements, and rights-of-way required for project construction and subject beach nourishment;

b. Hold and save the United States free from claims for damages that may result from construction or maintenance of the project;

c. Contribute in cash the required share of the first costs of the beach protection work to be paid in a lump sum prior to start of construction, or in installments prior to start of pertinent work items in accordance with construction schedules as required by the Chief of Engineers, the final apportionment of the first cost to be made after actual costs and values have been determined and to be based on existing conditions of public use and ownership at the time of construction;

d. Contribute in cash the required share of the costs during the life of the project for; maintenance and repair of the revetment works; and periodic beach nourishment, as may be required to serve the intended purpose, subject to Federal participation in the cost of periodic nourishment for an initial period of 10 years;

e. Assure continued public ownership of the shore upon which the amount of Federal participation is based and its administration for public use during the economic life of the project; and

f. Provide and maintain the public access, parking, and appurtenant facilities for recreation necessary for realization of project benefits.

Mr. MAGNUSON. Mr. President, Senator JACKSON and I strongly oppose Senator BUCKLEY'S amendment for it would strike from the bill two provisions of great importance to two communities in our State. Specifically, the amendment would strike section 50 dealing with the Wynoochee Lake and Dam at Aberdeen and section 52 which authorizes the corps to assist North Bonneville, Wash., to relocate in preparation for construction of the second powerhouse at Bonneville Dam.

In this case, also, I wish to express the thanks of Senator JACKSON and myself to the committee for its affirmative action. Because the committee report on these two projects covers them so well, I ask unanimous consent that the relevant portions of pages 107 and 108 of the report be printed in the RECORD. I also ask that the portion of page 108 discussing section 51 of the bill also be inserted in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

### SECTION 50

This section authorizes the Secretary of the Army, acting through the Chief of Engineers, to amend the contract between the city of Aberdeen, Washington, and the United States for use of storage space in the Wynoochee River, Washington, for municipal and industrial water supply.

The city of Aberdeen entered into a contract for municipal and industrial water supply at Wynoochee Dam and Lake under the provisions of the Water Supply Act of 1958, as amended. Their total obligation is about $17,000,000, repayable in fifty annual payments of some $410,000. The first payment is due. The city entered into the contract on the basis of projected needs of local industry. However, these needs have not materialized because of adverse economic and employment conditions in the area, and the city has no customers for the water.

The amended contract shall provide that the initial and subsequent payments, including interest, for the present demand water supply storage may be deferred for a period up to ten years. Payments are thus deferred until the city finds customers for the water or until the ten-year-period is up, whichever is sooner.

### SECTION 51

This section modifies the project for Wynoochee Dam and Lake to provide that the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to transfer to the State of Washington an amount estimated at $664,000 for construction of fish hatchery facilities for mitigation of project-caused losses of natural spawning areas for trout.

When the Wynoochee Dam and Lake project was planned and constructed, fish passage facilities were included to preserve the run of anadromous trout in the Wynoochee River. These facilities proved ineffective, and it has been determined that the most feasible means of maintaining the trout fishery in the river is by hatchery and stocking of fish. Under the terms of the section, the State of Washington will operate and maintain hatchery facilities, and the United States will contribute a sum of money representing the costs associated with the mitigation of losses caused by the project.

### SECTION 52

This section authorizes the Chief of Engineers to relocate the town of North Bonneville, including cooperating in the planning of the new town with other Federal agencies and appropriate non-Federal agencies; to acquire lands necessary for the new town and to convey title to said lands to individuals, business or other entities; to construct a central sewage collection and treatment facility and other necessary municipal facilities in connection with the construction of the Bonneville Lock and Dam, Oregon and Washington (Second Powerhouse).

The town of North Bonneville, is located on the Washington shore of the Columbia River at the north abutment of the existing Bonneville Dam spillway. The Second Powerhouse will be constructed on the Washington shore just upstream of the end of the existing spillway dam. Construction of the Second Powerhouse in this area along with the required railroad and highway relocations will require the taking of nearly all of the town of North Bonneville. Population of the town is approximately 470 persons with 188 residential units and 47 businesses. Public facilities include the town hall, elementary school, contract post office, and city park. The town has a public water system supplied with wells. Sewage disposal is by individual septic tanks.

The section is designed to ensure that the relocation will be accomplished in a fair and equitable manner, and that no windfalls or unjust enrichment will occur. Individuals and entities will receive the compensation which would be due them for the taking of their property under the usual procedures, less that fair market value of the lot they receive in the new town. If a more or less valuable lot is desired in the new town, this can be accomplished during the planning process.

The non-Federal interests must furnish commitments that all lots in the townsite will be either occupied when available, will be replacements for open space and vacant lots in the existing town, or will be purchased by non-Federal interests. This will ensure that lots reserved for future expansion and in excess of those in the existing town will not be provided at Federal expense. The same applies to the utilities. Those furnished at Federal expense will have the same capacity and be able to serve the same number of users, as those in the existing town.

Mr. GRAVEL. Mr. President, I believe that prior to the vote, the Senator from New York had the floor; so I yield the floor to my colleague.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. BUCKLEY. I thank the Senator from Alaska.

Mr. President, I shall direct later remarks to the projects mentioned by the Senator from Washington.

### SECTION 21—IOWA FISH HATCHERY

The next section my amendment would delete is section 21, which involves the payment of $700,000 for construction of a fish hatchery in Iowa.

This section authorizes a Federal payment of $700,000 toward construction of a fish hatchery at Rathbun Lake in Iowa. That sum, approximately 23 percent of the cost of construction, would serve, according to the bill, to compensate Iowa for fisheries losses resulting from construction of Rathbun and three other corps lakes; Saylorville, Coralville, and Red Rock Dams.

The only trouble with that argument is that we have no evidence of which I am aware from the corps that shows any fisheries losses. While this section may be a most worthy one, I believe that it should be deleted as another example of an ad hoc resolution of a grievance outside the parameters of policy.

Section 23 concerns dam repair and flood control project on the Big Sandy River. This section has two provisions that, however meritorious, appear to run counter to normal policy.

First, subsection (a) would authorize a Federal expenditure of $330,000 to repair dam No. 3 on the Big Sandy River in West Virginia and Kentucky.

Dam No. 3 was built in 1897 as part of a navigation project. After the navigation use was discontinued, the dam was transferred in 1960 by an act of Congress (70 Stat. 1062) to local ownership for water supply.

Because non-Federal facilities are normally not repaired at Federal expense, and because local water supply costs are non-Federal costs, I believe this section should be deleted.

The other subsection in section 23 involves flood protection for the Tug Fork Valley. A tributary of the Big Sandy, the Tug Fork, runs for about 100 miles from the vicinity of Gary, W. Va., to confluence with the Levisa Fork near Louise. Some 33 communities dot the valley which divides West Virginia and Kentucky.

A House-initiated section of the 1970 omnibus bill as section 224—Public Law 91-611—authorized a $10 million improvement to existing Federal levees at two Tug Fork communities—Williamson and Matewan, W. Va.—subject to Presidential approval.

That approval has never been granted, apparently because the project has an unfavorable cost-benefit ratio—about 80 cents in benefits for every $1 in cost, at 5⅜ percent interest. Described another way, the proposal, now estimated at $12,500,000, would protect about 80 acres of land in the two communities at a cost of about $150,000 per acre.

The language of section 23 apparently removes the requirement for the President's concurrence for Williamson and Matewan work, and it authorizes $1,290,000 for the phase I advanced engineering and design work on "comprehensive flood protection" for "all communities in the Tug Fork Valley." While there are no firm estimates on the cost for such work, it is safe to assume that the ultimate cost may run to several times the amount esitmated to protect Williamson and Matewan.

I recognize the Tug Fork topography is severe, and that necessary development of the narrow flood plain has created danger. While I am most sympathetic, I do not believe it is wise to approve a project on which no Senate testimony has been given on any full project report, and which appears uneconomic in every calculation, thus violating the 1938 Flood Control Act that requires the benefits to exceed the costs on corps projects.

Section 29 involves the payments schedule on a project at Lake Pontchartrain, La. Several years ago, local interests in Louisiana agreed to help construct at Lake Pontchartrain, just outside New Orleans. Since construction began in 1967, local interests have made several contributions of land and other items toward the construction, now underway.

But voters a year ago rejected a bond issue to raise cash toward about $65,000,000 needed eventually to pay the full local share on the $296,000,000 project. The result: Work on the project may soon have to be slowed.

Section 29 would relieve local sponsors of making any cash contributions concurrent with project work. The section would allow those sponsors to pay their cash share in yearly installments of about $2,500,000, beginning in 1977. And while the sponsors would pay interest on the delayed funds, the interest would be at a subsidized rate of approximately 3½ percent.

Every local sponsor of a Corps project would like to have such a payment plan. But only this project gets it, and without the benefit of Senate hearings. Since this project runs counter to the agreement between local and Federal officials and because it will surely induce voters elsewhere to reject any responsibility in meeting local cost-sharing agreements, I believe this section should be deleted.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. JOHNSTON. Is the Senator aware that the Lake Pontchartrain project does not call for additional Federal dollars, but is simply and purely a device to allow local communities in time to pay the ever-increasng local share of that project?

Mr. BUCKLEY. I am aware that the amendment stretches out the payment period. It could be that we should establish a national policy which would allow a reassessment to all communities. My whole question on this bill and on this project is that it singles out a single community when there may be many communities throughout the country with like problems. Therefore, we are acting in a discriminatory manner, benefiting one project.

I would point out that this stretchout bears an interest rate of 3.5 percent. Therefore, any stretchout will in fact, cost the Federal Government money, since the Federal Government has to pay more than 3.5 percent to get money.

Mr. JOHNSTON. I thank the Senator.

### SECTION 43—PRESQUE ISLE, PA.—EXTENDED MAINTENANCE

Mr. BUCKLEY. This section would renew for at least 5 additional years an expired Federal commitment to share in the cost of periodic beach replenishment at the Presque Isle Peninsula in Pennsylvania. The Federal cost is estimated at $3,500,000.

When the project was approved in 1960, the agreement called for Federal participation for 10 years. That period expired in 1971, and local interests were scheduled to assume this full responsibility.

Because the 5-year extension runs counter to the previous agreement between local and Federal interests, this section confers a special benefit and should be deleted from the bill.

### SECTION 46—LAKE TEXOMA, TEX. AND OKLA.—ROAD

This section directs the corps to construct $3 million in perimeter roads at Lake Texoma to augment recreational opportunities at this very popular corps project.

Lake Texoma, which lies on the Red River north of Dallas, was built before passage of Public Law 89-72. That law set the principle for 50-50 Federal-local cost sharing on recreational development.

Current policy under Public Law 89-72 calls for 50-50 cost sharing on any new recreational development at older corps lakes. The issue here is not the wisdom of that policy. The issue is whether or not this section gives to the Lake Texoma project benefits unavailable to other projects under regular policy.

### SECTION 50—ABERDEEN, WASH., WATER-SUPPLY PAYMENTS

As part of a newly built reservoir project on the Wynoochee River in Washington, the city of Aberdeen, Wash., contracted to purchase water for municipal and industrial use from the dam. The city agreed to repay the water-supply share of the dam's costs—78 percent—in 50 annual installments. Unfortunately, Aberdeen has not found customers for this water. So now the city wants relief from its contract responsibilities, asking a deferral on its payments of up to 10 years.

I am sympathetic with the plight of Aberdeen. It was realization of start-up problems, such as those faced by Aberdeen, that encouraged the Congress to grant all communities a break by making the first 10 annual water-supply payments free of interest charges.

Most communities would like to postpone their contract obligations with the corps. Indeed, I am confident that many could make a hardship case to justify such a postponement. By granting Aberdeen's request, we are saying, in effect, that its problems are more significant than those of other communities. I think we ought to treat all communities alike. If problems such as those facing Aberdeen merit relief, then we should do it on a national basis, not as aid to a single community.

### SECTION 52—NORTH BONNEVILLE, WASH.—RELOCATION

This section directs the corps to relocate the entire town of North Bonneville, Wash., probably to a site about 2 miles distant. Four-fifths of the town is being taken for the construction of a second powerhouse for the Bonneville Lock and Dam of the Columbia River. Under standard procedures, the affected residents and businessmen would receive broad assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. This section bypasses that procedure, directing the complete relocation of the town at Federal expense. This section, incidentally, would cost about twice the estimated benefits under the standard procedures.

I shall not argue the competence of the corps in city planning and community development, or such tangential issues as whether or not the inclusion of a new federally funded municipal sewage system represents a betterment. This relocation idea may be a most commendable one, preserving the community's social fabric. Current policy may be far too restrictive in assisting small communities.

But we do not know. This idea has not been the subject of Senate hearings. If the case of North Bonneville demonstrates the inadequacy of present relocation law, then we should amend that act, not create a special benefit for one community. For that reason, I urge that this section be dropped.

Mr. President, this is the sum total of the 10 projects that would be stricken by my amendment. I believe they clearly lie outside the scope of existing policy. I believe it would be in the interest of sound legislation to strike these sections. I believe it would also boost the morale of the American public to see this body rescrutinize old practices, seeking to increase its legislative effectiveness.

Mr. GRAVEL. Mr. President, under the last project, any Member can step forward and talk in terms of individual policy and individual influences to protect pet areas and pet projects within his State. I think that is a correct statement. If anything, it does not go far enough. All of us come here to represent our States. We do not act with anonymity. I think we are all normal individuals. We have our individual backgrounds that persuade us to certain views.

I think that when we legislate, we legislate with all of that in mind, and I think when we receive counsel from colleagues within this body, we receive counsel with all of that in mind. So I think it is very important that we know the sponsors of legislation. I think it is very important that we hold hearings on the specificity of the legislation so we can make independent judgment.

That is just what has been done with this particular bill. It is these people that have come in with bills, with amendments, who have pressed for amendments. Some of them have failed. Some of them have succeeded. The bill before us is a conglomerate of many individual proposals.

Let us just take the last item. That is the North Bonneville, relocation of a community, which my colleague finds, in essence, is a special interest, in that it is something particularly germane to one particular area and to two Senators involved. He objects to this as not a part of national policy. I disagree. I think it is a part of national policy. I think it is very good national policy the way we have this section written.

We have a law on the books which governs individual relocation. Those particular communities which are not covered are covered with this specific section in the bill before us. We are talking about a certain number of individuals who would be serviced individually under existing law. So I see no great departure from present law.

Not only that, but in another section of this bill we are doing exactly the same thing. My colleague from New York is not being consistent when he singles out one project, as opposed to a project in Nebraska where we are doing exactly the same thing. We are doing exactly the same thing within the confines of existing public policy.

I only cite that as one example. There are numerous examples throughout the items being objected to by my colleague which reinforce the basic fact that this is good public policy, a policy that we choose to exercise. If one individual chooses not to exercise it because he considers it not public policy, that is for him to do, but that does not mean, if we have a majority of the votes, it is not good public policy.

I could go into the Norfork project which, on the surface, appears, and can be characterized as bad policy. But when one looks more deeply into the facts, one realizes that here was one small community that has been euchred by circumstances. If it had not been for the happenstance of events during the Second World War, this community would have enjoyed the same benefits in this regard. It would have been different had the project been built and people were saying, "We want the project rebuilt." But that was not the case. They were offered compensation at a point in time when it was not adequate. It was disjointed in reference to the plans made for that community. They were told they would get piers; they would be built by the corps. Lo and behold, the Federal Government stopped the corps from building the piers. They were in a situation later, when the entire area was inundated, in which they were faced with tremendous costs, and as happens with other communities when faced with situations that are beyond their abilities, it floundered for some time.

We expect to do for this community what is done for other communities in the United States. Is that singling out one special interest? I think not. I think it is good public policy, as it should be developed by the Congress.

I shall not take the time of this body. I understand that colleagues want to join with me in the position that I take here, and I would like to yield at this time to the Senator from Arkansas (Mr. McClellan), who might want to add his comments on these two particular projects.

Mr. McCLELLAN. I thank the Senator.

Mr. President, I must confess that I am surprised that this amendment would include these two projects from Arkansas. I express that surprise because twice heretofore these projects were before the Senate, and twice they were not challenged. The Senate has approved these projects and incorporated them in the public works authorization bills. The first bill, in 1972, was vetoed by the President, not by reason of these particular projects, but because the President had an overall objection to the bill, possibly because of the total amount of funds that it authorized.

Both projects were again included last year in the public works bill passed by the Senate. Both projects were in that bill. They were not questioned or contested on the floor of the Senate. So twice the Senate has approved them. That bill, as I recall, was not acted on in the House and died there. In the first bill, in which they were included, the projects had the approval of the House as well as of the Senate.

I had not anticipated, in view of the strong record made in behalf of these projects, and of the compelling evidence, as I viewed and evaluated it, that there would be any question as to the obligation of the Federal Government to compensate the State of Arkansas for the bridge and also to restore to the city of Conway, Ark., facilities which were adversely affected by the building of the Arkansas River navigation project. No one disputes that Federal actions created the problems that the city of Conway now faces. No one disputes that the water system of Conway, Ark., was tremendously impaired.

The quality of the water available for municipal purposes was impaired. The plant was operating most satisfactorily and was providing services to that community of some 10,700 persons. But one of the locks and dams essential to that construction caused water to backup into the creek from which the city of Conway receives its water supply, thus impairing the source and quality of water for this city. Now there must be action to insure once again a potable source of water for the city of Conway.

Certainly that is not the obligation of the local community, which had been providing adequately for its own needs. Federal actions changed the situation so that it is now necessary for the Federal Government to make the city whole again. Otherwise, it will be necessary for the people of the community to bond or tax themselves in order to pay the amount necessary to restore what the Federal Government destroyed.

The equity of it, Mr. President, is so compelling that there is no necessity whatsoever to argue that point further.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. McCLELLAN. Mr. President, I am happy to yield to my colleague.

Mr. FULBRIGHT. Mr. President, I join my colleague in what he has stated. We have had hearings on these matters. We both testified with respect to the projects particularly the Norfolk Bridge project.

I do not understand how any argument can be raised against them at this point. As my colleague has noted, they have both been approved by the Senate on two previous occasions. No question has been raised about them whatsoever. Therefore, I am taken by surprise that an effort would be made to delete them today. Although they are not very large they are extremely important to the people in these areas of my State.

I urge the Senate not to approve of the deletion of these projects.

Mr. McCLELLAN. Mr. President, in section 14 of the bill, Federal funds are authorized for modification of the intake mechanism from which the city of Conway, Ark. obtains its municipal water supply. This section is made necessary, as I have noted, as a result of Federal actions in the construction of the Arkansas River navigation project. In order to open the Arkansas River to navigation, the Corps of Engineers constructed a series of dams on the river to raise the water level and thereby deepen the navigable channel available to commercial shipping. The waters of the Arkansas River behind one of these dams has backed up into Cadron Creek to the intake for the municipal water system of Conway, Ark., a city of some 16,700 population.

As the report of the Committee on

Public Works notes, the backflow of high chloride-content waters from the Arkansas River to the intake of Conway's water system has contributed to an objectionable odor and taste especially apparent during the summer.

Another contributing factor to the decrease in the quality of Conway's water supply is also due to Federal actions involved in the construction of the Arkansas River navigation project. Cadron Creek carries nutrient rich runoff from the adjoining agricultural lands in its watershed. Before the heightened level of water in the Arkansas River these materials were regular flushed from the creek. The backflow of the river has now impeded the flushing and cleaning of the waters of the creek and this has adversely affected the quality of Conway's water supply.

Mr. President, the Federal funds supplied in this bill to restore the normal quality of the municipal water supply of Conway merely provides equitable treatment for the citizens of this community. It does no more than restore that city to its condition prior to the Federal actions to which I have already referred. By those actions the Federal Government incurred the legitimate obligation to set right the problems it has created. I can see nothing in this undertaking which should make it susceptible to charges of "political favoritism" or pork-barreling as the Senator from New York has maintained in his "Dear Colleague" letter of January 16, 1974.

Mr. President, the Arkansas project authorized in section 15 of the pending bill would also be removed by the amendment of the Senator from New York.

In the Senator's letter which I have previously referred to in my statement, he provides this explanation of this project:

> Section 15 directs the Federal Government to construct a bridge that the government previously had paid local interests to build.

Mr. President, that is very, very much in error. And that has been so determined by the court that passed on an issue relevant to this project.

The Eighth Circuit Court of Appeals, in making a determination of which party was obligated to pay for the operation of a ferry after the inundation of the bridge, determined that the State of Arkansas was entitled to this compensation from the Federal Government as part of the damages resulting from construction of Norfork Dam.

Mr. President, in the course of that decision the court acknowledged that the State of Arkansas had not been paid for this bridge.

I ask unanimous consent to have printed at this point in the RECORD the decision in the case of the United States against the State of Arkansas, Circuit Court of Appeals, Eighth Circuit, December 26, 1947.

There being no objection, the decision was ordered to be printed in the RECORD, as follows:

### UNITED STATES AGAINST STATE OF ARKANSAS ET AL., NO. 13493, CIRCUIT COURT OF APPEALS, EIGHTH CIRCUIT, DECEMBER 26, 1947

Before Gardner, Thomas and Johnsen, Circuit Judges.

Thomas, Circuit Judge.

This is an appeal by the United States from a judgment fixing the amount of "just compensation" in a condemnation proceeding. The jurisdiction of the court arises under the General Condemnation Act of August 1, 1888, 40 U.S.C.A. § 257. Authority to acquire the lands involved is granted in the Flood Control Acts of June 22, 1936, c. 688, 49 Stat. 1570, and June 28, 1938, c. 795, 52 Stat. 1215, 1218, 33 U.S.C.A. § 701a et seq.

The government project contemplated the construction of a flood-control and hydroelectric dam in the Norfork river in Arkansas. This proceeding was commenced May 29, 1943, to acquire portions of U.S. Highway No. 62 and Arkansas State Highway No. 101, both of which were a part of the Arkansas State Highway System. One of these highways ran in a general north-south direction and the other in a general east-west direction. They converged near the two of Henderson at which point they crossed the Norfork river over a concrete bridge. The engineers in charge of the work and the state highway officials recognized that when the reservoir above the dam was filled sections of both highways and the bridge at Henderson would be submerged. Although the dam had not been completed, the gates were closed on June 17, 1943, and the sections of the highways involved in this proceeding and the Henderson bridge were submerged on September 15, 1943, and could not thereafter be used by the public.

At the commencement of the proceeding the government filed its Declaration of Taking and deposited in the registry of the court as estimated compensation of the state for the highways which would be inundated the sum of $1,422,000. This sum was arrived at on the theory that permanent substitute highways could be built at a cost of $1,342,000 by using the dam as a bridge instead of constructing a new bridge, and that a ferry could be constructed for $80,000, and operated and maintained as a temporary expedient while the dam was under construction. The dam was completed so that it could be used as a bridge on November 4, 1944, about 14 months after the roads had been flooded. In the meantime the state had constructed and operated a free ferry at a cost of more than $80,000.

The case was submitted upon a stipulation of facts. The parties stipulated that $1,342,000 represented the cost of constructing new substitute highways by using the dam as a bridge over the river, and that judgment should be entered for that amount. The parties could not agree upon the right of the state to compensation for the construction and operation of the ferry as a temporary substitute highway during the period of 14 months between the flooding of the old bridge and the highways on September 15, 1943, and the completion of the dam on November 4, 1944. The only question in the case is whether the cost of constructing and operating the ferry is a proper element of just compensation to the state for which the government is liable.

The government contends that the payment of the cost of the permanent substitute highway, $1,342,000, fully discharged its obligation and that the cost of the temporary ferry is not compensable.

We think the government's view of the case does not take into account the fact that the bridge was a part of the substitute highway, the cost of which was not included in the sum paid. The government undertook to furnish and construct the bridge by agreeing that the dam should be so used. This fact must be considered, also, in connection with the continuing obligation of the state to furnish and maintain its highways for the use of the public. The temporary ferry was made necessary by the fact that the government elected to close the gates of the dam and to inundate the old bridge before the dam was completed so that it could be used as a substitute bridge.

[1] The proper measure of damages for the taking of public highways and streets in condemnation proceedings is well settled. The fundamental principle is that the public authority charged with furnishing and maintaining the public way, whether it be a highway, a street, or a bridge, must be awarded the "actual money loss which will be occasioned by the condemnation * * *" This amount is usually the cost of furnishing and constructing substitute roads. United States v. Des Moines County, 8 Cir., 148 F. 2d 448, 449, 160 A.L.R. 953, certiorari denied, 326 U.S. 743, 66 S. Ct. 56, 90 L.Ed. 444; United States v. Wheeler Township, 8 Cir., 66 F. 2d 977, 984, 985; Jefferson County, Tenn., v. Tennessee Valley Authority, 6 Cir., 146 F. 2d 564, 566, certiorari denied, 324 U.S. 871, 65 S. Ct. 1016, 89 L.Ed. 1425; Mayor and City Council of Baltimore v. United States, 4 Cir., 147 F. 2d 786, 790; Town of Bedford v. United States, 1 Cir., 23 F. 2d 453, 56 A.L.R. 360; Brown v. United States, 263 U.S. 78, 83, 84, 44 S. Ct. 92, 68 L.Ed. 171.

[2] The government argues that the cost of the temporary ferry is similar to the expenses of removal and relocation of private buildings from lands taken in condemnation proceedings because such costs are not a part of the value of the thing taken, citing United States v. Petty Motor Co., 327 U.S. 372, 66 S. Ct. 596, 90 L. Ed. 729. The present case is distinguishable from such cases in that the temporary ferry was a necessary step in furnishing a substitute bridge for the use of the public while the dam was under construction. See Brown v. United States, supra. The cost of the temporary ferry was justly a part of the cost of a substitute highway; is was a part of the actual money loss occasioned by condemnation.

Judgment affirmed.

Mr. McCLELLAN. Mr. President, in the course of holding that the Government was liable for the cost of operating the ferry, the court said:

> We think the Government's view of the case does not take into account the fact that the bridge was a part of the substitute highway, the cost of which was not included in the sum paid.

This decision noted that the State of Arkansas has never been paid for the bridge that was inundated by the building of the Norfork Dam. There is history in back of it.

In 1934, the State of Arkansas had built a new concrete bridge across the Norfork River. However, the first proposal for a dam which would affect this bridge was for flood control purposes. And it had been ascertained that in building this dam the new bridge would only be inundated for 50 out of every 7,300 days. That was the first understanding.

Later on, after that, Mr. President, it was determined during World War II that aluminum was in such short supply that there had to be more aluminum produced. Arkansas is an aluminum-producing State. They needed more power for the production of aluminum and, because of the war emergency, it was decided at that time to increase the height of Norfork Dam so as to provide hydroelectric power in connection with the project. That was done. When they increased the height of the dam it became inevitable that Norfork Bridge would be in inundated. It was agreed at first that the Federal Government would build the piers and have them ready so that a new bridge could be built later.

The new height of the dam did completely inundate this bridge, and it is there now. The bridge is under 50 feet of water. However, at that time it developed that structural steel was in short supply, and the War Production Board, I believe it was, that made allocation of scarce material, concluded that steel could not be made available for the construction of that bridge. Therefore, they were unable to get it. They, therefore, proceeded to close the dam and inundated the bridge. Later the State of Arkansas and the Federal Government did make a settlement for a portion of the damages suffered by the State of Arkansas.

When the bridge was taken, several roads were taken and small bridges there were inundated also. The Federal Government first agreed to pay $1,342,000 for damage to the roads and later $80,000 for operating the ferry. The partial settlement was made on that basis. However, Mr. President, the bridge has never been paid for until this day. And as a result of the taking and of the construction as it was done, the State of Arkansas has provided a ferry service there all of these years at a total cost now in excess of $4 million.

The ferry service is not adequate. North Arkansas is developing rather rapidly in this area. People who live on the one side of this lake and who work on the other side have to cross that water on the ferry to go to and from work. These persons number in the hundreds. The traveling public and the tourists who come to North Arkansas have to cross on that ferry. The ferry serves two roads. There is not just one ferry being operated. There are two ferries that have had to be operated, because two main roads are involved, one a Federal highway and the other a State highway.

This bridge is vital to the people in this area of my State. The Federal Government should make good its obligation to these people.

As I have noted in 1934 the State of Arkansas constructed a bridge that connected U.S. Highway 62 to State Highway 101. This is the bridge that we are talking about, Mr. President.

In 1943, during the Second World War, the Federal Government built the Norfork Dam. As a result of that construction, that bridge was destroyed.

To compensate for the loss resulting from construction of the dam, the State of Arkansas was offered $1,342,000 from the Federal Government on a take-it or leave-it basis. The State accepted the offer, though the compensation was grossly insufficient. In fact, Mr. President, and I emphasize, this particular bridge was not included in the settlement. The State had to accept the offer, though the compensation was grossly insufficient.

In the case I referred to earlier the Eighth Circuit Court of Appeals noted that the construction of a new bridge was not even included in the sum paid, which was instead to compensate the State for the parmanent substitute highways made necessary by the reservoir behind the Norfork Dam.

Mr. President, I ask unanimous consent that the fiscal history of the Norfork Bridge controversy, which appears at pages 35 to 37 in a 1971 publication of the Arkansas State Highway Department appear in the RECORD at this point.

There being no objection, the item was ordered to be printed in the RECORD, as follows:

### A PROPOSAL BY THE ARKANSAS STATE HIGHWAY COMMISSION FOR BRIDGING NORFORK LAKE ON U.S. ROUTE NO. 62 AND STATE HIGHWAY NO. 101

In October 1939, as the United States by reason of the economic stimulation of the European war began to pull out of the Great Depression, the Corps of Engineers appraised the costs of an "as is" relocation of the State Highways to be inundated by the Norfork Dam *flood control* project. The new bridge across Norfork River, built five years earlier would serve the U.S. No. 62 traffic 7250 out of every 7300 days, if, as under the 1940 plans, the Norfork Project were a flood control project. The Corps estimated the costs at $1,300,000 and offered to operate a standby ferry during the typical fifty days when flood protection required the bridge to be inundated. The Highway Commission regarded this as reasonable and approved it.

In October 1941, the Congress added hydroelectric power to the Norfork Project. This required permanent inundation of the new U.S. No. 62 bridge in a much deeper pool. The Corps then urged relocating U.S. No. 62 down S.H. No 5 from Mountain Home to Salesville thence across the Dam and on easterly to a junction with S.H. No. 9 at Union then north to Salem. The State Highway Commission and the local people were unalterably opposed to this proposal and called unequivocally for the eventual provision of a bridge at Henderson with the piers to be constructed before the pool filled, agreeing to interim ferry service while the War lasted. This was agreed to in August 1942, by the Corps.

Regardless of the U.S. No. 62 relocation question, the Corps wanted the Commission to put a roadway cut through the east bluff at the Dam before the construction of the east abutment began. The Commission was indifferent to the Corps' urging, possibly fearing that might weaken its position on the Henderson Bridge. Inevitably, both parties dragged their heels and the piers were not constructed in 1942.

There is little clarity from this point on. Very early in 1943, the Corps' District Engineer, not a patient man, terminated negotiation and resorted to eminent domain proceedings on the State Highways involved. The local people, both Arkansas and Missouri, appealed to the Corps and the Commission, held a mass meeting, and sought aid of the Arkansas Congressional delegation. The War Production Board eased restrictions on reinforcing steel then, after the Corps' eminent domain decisions denied approval for the bridge piers. The Corps backed this up by announcing it was now too late to build the bridge piers, the pool would be filling.

The Commission, deprived of all other options, accepted the $1,340,000 but asked for an additional $82,000 to cover the cost of the ferry and two years of operation, a total $1,422,000. The U.S. District Court disbursed $1,300,000 to the Commission in September 1943 and the $122,000 balance in January 1944. Oddly enough, the Corps estimated cost of relocation remained constant between 1939 and 1943, although first made to cover the relocations involved in the flood control pool only which excluded the existing North Fork River Bridge on U.S. No. 62.

The 1943 fears of the Highway Director that the "interim" ferry would be there "for all time" have seen twenty-eight years of realization. The disheartening cost of this operation [since 1943] . . . now exceeds $4-million [at an average annual rate in excess of $250,000]. Bridge costs by comparison are interesting in the overall historic context: the 1934 bridge cost $125,000; in 1942 the Corps estimated the new bridge to cost $860,000; the Commission estimated $1.1 million in 1943 and $3.0-million in 1954; then an independent consultant in 1969 estimated two bridges to serve both routes would cost $11.3-million, reflecting the spiraling costs of inflation and the augmented needs of the area.

These are immediately apparent direct costs but, like the consequences of inexperience and ignorance of socio-economic impact and the in-depth quantification of cost/benefit relationships, there is a quarter-of-a-century of hidden costs for the social and economic development which has been retarded by the lack of the bridge for the U.S. No. 62 route corridor at Henderson.

Mr. McCLELLAN. I also ask unanimous consent, Mr. President, to have printed in the RECORD at this point the testimony of Mr. Ward Goodman, director of the Arkansas Highway Department, whose testimony relating to the Norfork Bridge was given before the Subcommittee on Flood Control—Rivers and Harbors on September 15, 1972.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

### STATEMENT OF WARD GOODMAN, DIRECTOR, ARKANSAS HIGHWAY DEPARTMENT

Mr. GOODMAN. Mr. Chairman, members of the committee, I consider this an exceptional privilege to appear before you as a member of this delegation and speak in behalf of the proposed bridge across the Norfork Reservoir on U.S. Highway 62 and State Highway 101.

As provided in S. 2881, it is my intention to provide additional information and some personal knowledge of the history and the crisis which has developed, and show the unquestioned justice and equity of Federal funding for this project.

The Norfork Dam on the North Fork of the White River was conceived as a result of the Mississippi River Act of 1928 and the Flood Control Act of 1936.

During these depression years, Arkansas struggled and built a graceful concrete multiple-arch bridge to carry highway traffic over the river. This structure remains today, 100 feet below the surface of Lake Norfork. The original bridge and approaches cost $156,000, a sizable sum for 1934.

In the beginning, it was planned that the facility be for flood control and only under extreme conditions, about 50 days in 20 years, would U.S. Highway No. 62 be inundated in the vicinity of Henderson, and on these occasions ferry service or a detour road would be provided.

Between 1936 and 1939, the Corps of Engineers estimated cost compensation for severed highways and bridges to be covered by the flood control pool at $1,300,000. Did not include this bridge.

The State highway department disagreed with that estimate and the cost was established at $1,422,000.

Construction of the flood control dam was initiated in the spring of 1941. On October 20 of that year, the corps advised the State highway commission that the Congress had authorized the addition of hydroelectric power generation for the Norfork project.

This, of course, involved an increase in the normal pool elevation and within a few months the corps requested that the matter of maintaining traffic on Highway No. U.S. 62 be deferred for later consideration.

By this time, we were moving into the World War II period and in conference at Little Rock on August 8, 1942, with representatives of the Corps of Engineers and Public Roads Administration, now FHWA, the Arkansas State Highway Commission agreed to construct a replacement bridge under the replacement-in-kind provisions of the law at Henderson, with the piers to be constructed within the next 12 months before the pool began to fill and the superstructure to be built when materials became available after the war.

An estimate by the State highway department in early 1943 showed that this could be accomplished for $1,128,352.50. A request was made to the War Production Board for sufficient steel to construct piers in the pool area so a bridge could be built economically after the war had terminated, but that request was denied.

Also in 1943, based upon estimates of their own, the Corps stated that it would cost less to reroute highways around the lake than to build a bridge, and that the bridge was out of the question.

These estimates were based on the criteria of that time and gave no consideration to items of socioeconomic concern, such as indirection of travel, additional travel costs, delay of time, and economic impact and development of the area.

The Highway Commission was, and still is, committed to provide the best possible service to the citizens of the area.

The Highway Commission, under threat of this or nothing at all, had to accept $1,422,000 payment for damages sustained by the Norfork Dam in late February of 1943.

Water gates were closed at the dam in June. The bridge over the Norfork River on U.S. 62, and other sections of U.S. Highway 62 and State Highway 101 were inundated in September of 1943, and continuous ferry service necessitated.

It is quite clear that under the demands of World War II, several arbitrary decisions concerning this project were made at the expense of our local citizens, the highway user, and the Highway Commission, who have yet to be fully compensated for these demands.

After the war, the Highway Department prepared additional estimates for correcting the problem. The monetary compensation to the State, which was a prewar determination, was only about half enough to finance a proposed relocation, since prices had doubled for construction work and because of the development that had occurred in the vicinity of the ferry landings and along Highway Nos. U.S. 62 and S.H. 101.

Indeed, the escrow amount was too little to construct a bridge or relocate routes after the critical material ban was lifted and ferry services have continued on U.S. Highway 62 and State Highway 101 to this date.

Because the lake is a major traffic generator, the Highway Department has been forced into an increase maintenance budget in order to provide the same level of service that existed some 25-30 years ago. Commercial development and work trips have increased considerably along both routes in the vicinity of the lake.

The feasibility of a toll bridge has been investigated. It was determined that in order for the project to become feasible, a minimum of $1 per passenger vehicle trip would be required.

Since over 75 percent of these trips were determined to be generated locally, it was decide not to place an additional burden on the residents of the Henderson area.

By 1954, the Department's estimate for constructing a bridge at Henderson was $3 million, and in 1968, $11,300,000. This has continually increased due to construction and inflation costs, until our latest estimate is $14,407,000 for 1973.

Referring to our graph, gentlemen, you will notice that our situation can easily be depicted in this reverse funnel effect. The blue line represents the cumulative ferry operating costs. The orange line represents the increased construction and inflationary costs for the bridge.

Your special attention is invited to the amount of compensation as related to the total cost now involved.

A recent cost analysis conducted by our planning personnel indicated that there is a benefit/cost ratio of 1.2 for justification of a bridge in lieu of the existing ferry operation.

This study was conducted on the basis of our latest cost estimate and clearly shows that there will be sufficient road-user benefits to justify the needed expenditure.

When comparing a circuitous route that would cross over the Norfork Lake Dam, we found that the travel time between the common termini to be virtually the same.

However, the road-user would operate his vehicle over an additional 15 miles of highways that would be constructed with a lesser design standard.

The development of this circuitous route would virtually strand all the commercial and recreational development as has been established in the central lake area.

The Arkansas Highway Department is morally obligated to provide service to this area. Therefore, even if this loop route was constructed, as initially supported by the Corps of Engineers, the continuation of ferry service would be essential, and the demand for bridges over Lake Norfork would continue to grow.

North-central Arkansas is attempting to establish a sound economic base supported by retirement villages and recreational activities.

Federal funding legislation to provide for the construction of the Lake Norfork Bridges will accent this area as the northern gateway to the Blanchard Springs Caverns and will provide continuous highway service in the east-west direction. We solicit your endorsement of our proposal.

In order to permanently document the financial plight of the Norfork Bridge situation, I request that the blue pages titled, "Chronological Review of Fiscal Events Relating to Construction of the Norfork Dam and Reservoir," contained in the request, be included as part of my testimony. (See p. 1408.)

Mr. Chairman, I would like to call your attention to the map of the vicinity. (See p. 1306)

This indicates the problem we have in large detail. We have emphasized Highway 62, because it is the main artery.

We also have Highway 101.

That is 101 coming north to south. It is unbelievable a road of that type without any service bridges.

Senator Jordan. May I ask you a question, are there two ferries, one one way, and then one the other?

Mr. Goodman. That is the point, when we speak of ferry, we are talking about a complex of ferries that connect up to highways.

We have a ferry that goes from 101, which is not as long as the one to 62.

We are talking about two ferries, two highways. Highway 101 had to be completely relocated.

Senator Jordan. That has to be done?

Mr. Goodman. That has been done with some of the money. That was some of the work we did.

Senator Jordan. Is 62, a dual highway?

Mr. Goodman. Yes, sir.

I estimate the cost of the bridge to cross the lake that would serve both highways to be in the range of $14 million.

At the end of that same period, we will have spent a total of $4 million in operating the ferry, so we have spent, had we had the opportunity to build a new bridge, we would have spent $18 million on a facility we should have had many years ago at much less cost.

Senator Jordan. Is 62 an interstate highway?

Mr. Goodman. No, sir. It is a U.S. numbered highway, the only east-west highway that traverses our States in the northern corridor.

Mr. Chairman, I have a report, titled "Chronological Review of Fiscal Events Relating to Construction of Norfolk Dam and Reservoir," and I would like it be made a part of the record.

Senator Jordan. Without objection, so ordered.

Senator McClellan. Mr. Chairman, I think perhaps we should emphasize this $4 million that we spent operating the ferry.

It all could have gone toward construction of the bridge.

We have been bearing that burden all of these years, the State has as part of the contribution in this situation.

Mr. Goodman. And as the Senator pointed out, the expenditure of money on the ferries is not a satisfactory solution.

The expenditure of the money, we are not giving service that the people can tolerate any longer.

Senator Jordan. Well, all of the material that you have will be considered by the committee.

Thank you very much.

Before you go, let me ask you, how far is it if you go around, if you did not build the bridge?

Mr. Goodman. At least 15 miles, and that does not take into consideration Highway 101 which has been ignored completely.

Senator Jordan. How high is the dam at Lake Norfolk?

Mr. Goodman. I beg your pardon?

Senator Jordan. How high is the dam that creates this lake?

Mr. Goodman. 222 feet above stream.

Senator Jordan. It is quite a big lake?

Mr. Goodman. Yes.

Senator McClellan. It has about 500 miles of shoreline, as I recall, 510 miles.

Mr. Goodman. Mr. Chairman, we agreed to the creation of this lake because in the heat of the war, we were told in no uncertain terms, take it or leave it, even though the people of Arkansas said they did not like it.

In time of war you do a lot of things that in peacetime you might question.

We did not want to be in a position of holding up the war effort or anything like that, so we have tried to manage our own business ever since.

Traffic increase was obvious to us that we could not tolerate ferry service forever.

In order to alleviate this, we had a study, trying to get justification for total service.

We found out that the cost was a $1 toll in those days which the people in Arkansas did not think it was fair upon the commuters to cross that lake who live on one side and work on the other side, therefore, we had not proceeded with the toll bridge.

As a matter of fact, under these conditions, it would not be feasible.

That is all I have, Mr. Chairman.

Senator Jordan. Thank you very much. I can assure you we will give you full consideration.

Mr. Goodman. I would like, with your permission, to file a series of documents for the record.

Senator Jordan. I am glad to have those.

Senator McClellan. Mr. Chairman, we do appreciate that.

Senator Jordan. Without objection, so ordered.

Mr. McCLELLAN. Since that time, Mr. Goodman has passed away, but his testimony is convincing. It is clear, distinct, and understandable. He said, among other things:

By this time—

Referring to 1941—

By this time, we were moving into the World War II period and in conference at Little Rock on August 8, 1942, with representatives of the Corps of Engineers and Public Roads Administration, now FHWA, the Arkansas State Highway Commission agreed to construct a replacement bridge under the replacement-in-kind provisions of the law at Henderson, with the piers to be constructed within the next 12 months before the pool began to fill and the superstructure to be built when materials became available after the war.

Mr. President, I shall not read further from the statement, but it clearly shows that from the beginning to the end there never was a settlement with respect to this bridge. The hope has always been that the bridge would ultimately be built.

It is clear that the State of Arkansas was inadequately compensated for the loss it endured. Perhaps it is only one of a multitude of inequities which can be attributed to the hectic days of World War II. I think it is only fair that the Federal Government should be required to replace this bridge, whose loss has severely hampered the economic growth and development of the area.

Mr. President, this vital transportation link is sorely needed. Its replacement is essential to the growth of this area, and even more vital to its capacity to serve the number of visitors from outside the State who are increasing yearly.

The new bridge will benefit not only the people of Arkansas, but facilitate the travel of many thousands of American tourists who, each year, come to this scenic section of the Ozark Mountains for their recreation and pleasure.

The day will surely come when this part of the country will be one of our most popular national recreation centers. Included in its attractions are Bull Shoals, Norfork and Beaver Lakes, the Buffalo National River, and the Blanchard Springs Caverns, which are now open to the public.

Mr. President, one of the basic tenets of our legal system is that when one party's actions harm another, that party should be required to restore the other to his original condition. That principle, Mr. President, is what is involved here in the two Arkansas projects found in sections 14 and 15 of S. 2798.

Through direct actions taken by the Federal Government, the State of Arkansas has been harmed. The pending bill would restore it to its original condition.

Mr. President, I have explained here in great detail the reasons why the Federal Government is obligated to provide funds for the two Arkansas projects in this bill. They do not go outside of established policy. They are in keeping not only with national policy and national tradition, but they are also in keeping with the Constitution of the United States. When the Federal Government incurs obligations, it should discharge them.

For these reasons, I urge my colleagues to reject the amendment of the Senator from New York.

One other thing, Mr. President: Arkansas wants to be more than fair. Arkansas is agreeing, and under the terms of section 15 of the pending bill Arkansas is agreeing, to refund the whole $1,342,000 that it received, plus interest compounded since 1943, and let that go toward the payment for this bridge.

We do not want something for nothing. We want the bridge. We had a bridge. It was destroyed. We have not been paid for it. Simple equity and justice demand, even at this late date, after we have operated a ferry at a cost of $4 million over these years, that the Federal Government now meet its obligation and construct this bridge.

I yield to my colleague from Arkansas.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that my prepared statement before the Subcommittee on Flood Control on September 15, 1972, which carries many of the facts about the Norfolk project that my senior colleague has presented, be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR J. W. FULBRIGHT BEFORE THE SUBCOMMITTEE OF FLOOD CONTROL—RIVERS AND HARBORS OF SENATE PUBLIC WORKS COMMITTEE ON S. 2881, SEPTEMBER 15, 1972

Mr. Chairman, I appreciate this opportunity to appear before you this morning to present four distinguished Arkansans, who are here to testify in behalf of S. 2881, a bill which Senator McClellan and I introduced last November to provide long overdue and equitable relief to the people of the North Central Area of our State by establishing a permanent fixed crossing in lieu of the ferry service presently used to cross the Norfork Reservoir at Henderson, Arkansas.

This legislation would modify the comprehensive plan for flood control in the White River Basin as authorized by the Flood Control Act of 1938. It would provide for the construction, maintenance, and operation by the Corps of Engineers of a free highway bridge to replace the multiple arch bridge built in 1934 to span the North Fork River on U.S. Highway 62. This later structure was permanently inundated in 1943 as a result of the addition of the hydroelectric power function to the Norfork flood control project.

The cost of constructing the new bridge, estimated at approximately $14,000,000, would be borne by the United States, except that the State of Arkansas would be required to pay as its share of such cost the sum of $1,342,000, plus interest for the period from 1943 to the date of enactment of this legislation.

This sum represents the amount which was paid by the United States to the state in condemnation proceedings which took place in 1943 following the failure of the Corps of Engineers to implement an agreement made in 1942 between them and state officials to replace the bridge.

While the failure to carry out the agreement can certainly be attributed in part to the war effort then in progress, the history of the various negotiations for replacement of the Henderson Bridge clearly demonstrates that the monies awarded and the ferry service substituted were insufficient to ever compensate the people of Arkansas for the loss of the use of that structure.

The ferry service, originally contemplated as an interim measure, has now been in existence for some twenty-nine years at a cost to the State which exceeds $4,000,000. It is totally inadequate to meet the present traffic demands on the U.S. 62-State Highway 101 corridors which are increasing yearly due to the thousands of tourists who visit this area every year. Moreover, it represents a hazard in any situation in which these highways are used for emergency purposes. About four years ago, one death was attributed to the delay occasioned by the ferry crossing of a local resident en route to a hospital for emergency treatment.

Senator McClellan and I have offered this legislation because we feel it is past time to act to correct this expensive, inconvenient, and inequitable situation, and to alleviate the stifling effect on the economic growth of North Central Arkansas which the failure to replace the Henderson Bridge occasioned. A number of studies have shown that construction of this bridge is essential to the orderly development of this region. This is particularly true in view of the development in recent years of the recreational and tourist attractions at Bull Shoals, Norfork and Beaver Lakes, the Buffalo National River, Blanchard Springs Caverns, which will soon be opened in the Ozark National Forest, and the Folk Cultural Center at Mountain View.

Representatives of the Corps of Engineers have testified before your Committee in opposition to this bill on the grounds that the State of Arkansas has "already received the compensation it was legally due." They further stated that they were "unaware of any equitable circumstances which would justify the granting of the extraordinary relief contemplated by the bill."

The testimony you will hear this morning from Arkansas' distinguished governor, Dale Bumpers; from our leading State Highway officials, Mr. Ward Goodman and Mr. John Harsh; and from State Representative Vada Sheid, who represents the concerned area, will, I know, persuade you that the people of Arkansas have never and cannot be adequately compensated for the loss of the Henderson Bridge until the ferry service is replaced by a new bridge.

In direct contrast to the statement of the Corps of Engineers, which to my mind distorts the historical implications of the situation, their testimony will put into perspective the unique combination of circumstances which justifies equitable relief in this case. After hearing these distinguished representatives, I'm sure that you will agree that fairness requires that the Federal Government, through the Corps of Engineers, replace this bridge.

I hope that this Committee will act expeditiously on this legislation which will serve to remove an undue burden from the people of Arkansas.

Mr. FULBRIGHT. I only wish to add, by way of emphasis, that my senior colleague and I introduced a bill, back in 1971 on this matter. The bill was the subject of extensive hearings and was passed overwhelmingly by this body as part of the omnibus rivers and harbors bill that was vetoed by the President.

It seems to me that any reasonable person would agree that it is simple justice to replace, the bridge which was destroyed under the circumstances described in my statement and related again by my colleague today in his remarks. I do not know what motivated the efforts to strike this and the Conway project, and thus delete projects which have been approved, as my distinguished colleague has stated, by the proper committees and on a different occasion by the Senate itself. So again I urge the Senate to reject the amendment.

Mr. GRAVEL. Mr. President, I yield to the Senator from Pennsylvania, who will talk about an emergency problem at Presque Isle.

Mr. SCHWEIKER. Mr. President, I rise in opposition to the amendment of the Senator from New York. The amendment of the Senator from New York would delete from the bill projects which he feels are of benefit only to the community in which the project is based and which has not had adequate congressional consideration. Included in his amendment, and incorrectly so, is section 43, which authorizes the continuation of the Presque Isle Beach erosion project.

Presque Isle and its beaches are not only considered a statewide resource in Pennsylvania, but truly are a national resource as well. About 4 million people enjoy the area annually, a great many of these are from other States, including New York, Ohio, Indiana, and West Virginia.

In fact, if we were to check a radius within 100 miles of the Presque Isle beaches, we would find that the population centers serving those people actually are greater in the States outside Pennsylvania than they are inside Pennsylvania, especially in the Jamestown-Buffalo area of New York State, as well as the Cleveland-Youngstown, Ohio, area. So I think this should not be construed as a local project that benefits only the local residents, when in fact the people come from all across the Great Lakes area.

For many years, attempts have been made to control erosion at these beaches. Such attempts, however, have been ineffective and temporary in nature. Winter storms have taken a heavy toll.

It is essential that steps be taken to provide protection for the peninsula.

Last year I had an opportunity to again tour the Presque Isle area to see first-hand the unfortunate damage done to this valuable area during the severe storms of the last 2 years. My tour impressed upon me more than ever before the necessity of taking positive action to repair the damage done and to prevent future similar devastation. Federal participation in the Presque Isle Beach erosion control project was originally authorized by the 1960 River and Harbor Act—Public Law 86-645—for a period of 10 years. The authority existed from 1961 to May 1971, when it expired.

Since then the legislative authorizations to continue the project have been approved by both chambers of the Congress on several occasions.

In September 1972, the Senate adopted a provision similar to section 43 to protect Presque Isle as part of the conference report on S. 4018, the Flood Control Act of 1972, which was vetoed by the President. In this 93d Congress language identical to section 43 of S. 2798 has already been passed by both the House in H.R. 10203, and the Senate in S. 606.

This Congress has had the opportunity to thoroughly study the merits of the project and has approved it in separate bills. Presque Isle is simply too valuable to the Nation to permit continued erosion and storm damage to take place. Presque Isle is a national resource, and within easy access to people in three States. Because of its location and other unique circumstances, this is one of only a few areas of Lake Erie where people can swim and fish without being concerned about pollution.

Presque Isle is visited by millions of people each year.

We must not let this valuable natural resource of benefit to literally millions of people be eroded and destroyed beyond repair. This project has previously been studied by both the House and Senate Public Works Committees and has been approved by the full House and Senate. Each year that goes by without the implementation of adequate protection for Presque Isle brings us closer to losing permanently one of the Nation's irreplacable natural resources and I urge my colleagues to vote to retain this important project in the bill. This is a conservation project of the first magnitude that serves millions of people across State lines. It is a natural resource available to all who wish to use it.

Mr. JOHNSTON. Mr. President, let me refer to the Lake Pontchartrain hurricane flood protection project, the local share of which was originally projected to be $23 million, but is now up to $88 million, of which $65 million must be, under present law, a lump sum payment.

Literally hundreds of thousands of lives are involved, with the safety of hundreds of thousands of people hinging on the Lake Pontchartrain project. Without this project, if a hurricane were to hit at the proper angle, or from the proper direction, the entire area of New Orleans—with St. Tammany Parish and other parishes, the most heavily populated area of Louisiana—could be liable not only to severe flood but to heavy loss of life as well.

With a view to coping with this problem, with the project 20 percent complete, where the local governments did not have the ability to respond immediately to a $65 million bill, this provision was put in.

Mr. President, this provision does not cost the Federal Government one dime. All it does is to allow the local communities who are going to pay their share of the costs to stretch out their payments over a period of 25 years—and with interest, Mr. President. That is the only thing it does.

But this provision is of critical importance to the project itself, because if the local areas had to put up the $88 million, and right away, we would have no project. There is no more important project, in my judgment, in the entire United States, than the Lake Pontchartrain hurricane-flood protection project. Without it, as I say, hundreds of thousands of people are liable not only to severe flood damage, but to severe loss of life as well.

I submit that to delete this provision from the bill would effectively kill the Lake Pontchartrain project and would do a severe disservice to the people of my State and to the Nation as a whole.

Mr. LONG. Mr. President, I agree with the statement just made by my distinguished colleague from Louisiana, and I join him in sponsoring the bill. As he has so well stated, we are not asking for anything. All we are asking is for more time to put up the contribution of the States to the amount that greatly exceeds what the State was led to believe it would cost.

The Senator is correct that if by holding up this project a hurricane should hit—as Hurricane Betsy did—the entire New Orleans area could be inundated by floods. This type of thing would be a great test in addition to the experience we had with Hurricane Betsy, which this Nation should make every effort to prevent.

So I very much hope that the amendment will not be agreed to and that the judgment of the committee, which I believe was unanimous on this subject, will be adhered to.

Mr. GRAVEL. Mr. President, I believe the case for New Orleans has been very well made by my colleagues. I believe that we have made our case and we are prepared to vote down the amendment.

Mr. BUCKLEY. Mr. President, the statements made by the Senators from Alaska, Arkansas, and Louisiana, have been quite eloquent. Each one of these projects is undoubtedly a good project that will help the people in the affected communities. But I would also confess that I have not been persuaded from the eloquent and able arguments that these projects, nevertheless, fall within the scope of national policy, established by Congress.

I shall not try to rebut each and every argument because it is clear what is at stake. In the case of Conway, Arkansas, it is not a question whether the Federal Government has the responsibility to restore the quality of the water to the condition that existed before the Federal Government undertook this work. I agree that it does. The question is rather, whether one should have the solution advocated by the Corps of Engineers or that advocated by the town of Conway. The difference in the cost to the Federal taxpayers is $6,500,000.

I should like to quote from a letter from Major General Koisch, Corps of Engineers, to the Honorable WILBUR MILLS, dated March 9, 1972:

> The cited effect upon the quality of water at the intake of the Conway municipal system could be most completely eliminated by restoring the prior flushing capability for use when needed. This would involve the construction of a 150,000 g.p.m. pumping plant near the weir to be operated whenever the quality of the stream water becomes objectionable. The initial cost of such pumping plant is currently estimated at $912,000, and the capitalized cost of plant operation and maintenance is currently estimated at $212,000.

In other words, we are faced with a statement from the Corps of Engineers that it can handle the problem at a cost of approximately $1 million, and payable out of funds that do not need to be in a bill such as this.

I believe that correct legislative procedure ought, at a minimum, to involve the holding of hearings, so that we could determine whether or not the corps proposal would in fact solve Conway's very real problem.

In the matter involving the Norfork bridge, I should like to read from page 1265 of the Senate hearing record. This is summarizing the litigation that took place 30 years ago between the United States and the State of Arkansas.

> On November 1, 1944, the United States of America filed a motion requesting the Court to enter judgment that no compensation was due the State of Arkansas or the Highway Department for the taking of the lands. Although this motion was overruled on September 15, 1945, it is apparent that it caused great consternation in the Highway Department. Within three months after the overruling of the motion stipulations were entered into and filed with the Court. The stipulations basically provided that the Highway Department was entitled to $1,342,000.00 for the substitute highways taking into consideration the use of the dam as a roadway and that the Court would determine whether or not the Highway Department was entitled to compensation for providing temporary

ferry service and if so that the Highway Department was entitled to the sum of $80,000.00.

From that statement, part of a brief filed by the State, it appears to be clear that this matter was litigated, that a sum was agreed upon that would make the State whole, and that that sum was in fact paid to the State of Arkansas.

Under the circumstances, it appears to me that what concerns us here is not making restitution, but reopening a lawsuit.

In the case of Presque Isle, referred to by the Senator from Pennsylvania, I agree that this is a very valuable recreational area. I agree that it is one that is of tremendous value to people over a very wide range. Nevertheless, there was an agreement between the Federal Government and the State itself providing for 10 years of Federal funding.

What we are seeing, in other words, in this bill is renegotiations on an ad hoc basis, outside the practices established and applicable across the country.

With respect to the Senator from Louisiana, he complains, that inflation has caused the original estimates for the project to go way out of sight. If this is in fact a basis for legislative relief, then let us pass a law that allows every community in this country to renegotiate on an equivalent project to offset the cost of inflation.

Second, I point out, as he pointed out, that one of the reasons why the community finds itself in such dire straits is that the voters voted down a bond issue which would have provided the necessary funds to meet the obligations undertaken by the community. If this were to set a precedent for Federal relief, then it seems to me that no bond issue anywhere in this country would ever be voted, because Uncle Sam would later step in and pick up the tab.

Mr. President, I shall not go beyond this. We have had a chance to exchange our views on this matter, and I am prepared to have the amendment come to a vote.

### BUCKLEY PROJECT DELETION AMENDMENT

Mr. BAKER. Mr. President, I applaud the efforts of the junior Senator from New York to improve the quality of the Flood Control Act of 1974. I feel that his contribution on this legislation, as on many of the other measures which have come before the Public Works Committee, has improved the bill and enhanced committee consideration both of the projects authorized and the policies upon which those authorizations are based.

The issues raised by the present amendment of the Senator from New York go to the very heart of the water resources program, for even though he seeks only to delete several specific projects from this bill, the debate upon the measure now on the floor and upon similar measures in the Public Works Committee's executive sessions clearly indicates that there is great concern over the policies which form the basis for legislative authorization of water resources projects. In many regards these policies are outmoded or ambiguous at best. And without clear guidelines political pressures to respond in specific cases to special interests are difficult to confront.

However, we have now been since 1970 without omnibus authorization for the Corps of Engineers water resources program. Many of the projects contained in S. 2798 have been delayed for over two years in the legislative process. We are faced with the dilemma of either further delaying these many important projects or seeking to determine on an ad hoc project by project basis which projects do not meet these ambiguous standards or offend some subjective standard extrapolated from inadequate past policies.

I do not feel that it might be wise to pursue either course and thus with great regret I must oppose the amendment of the Senator from New York.

In so stating, however, I pledge to the Senator that I will do everything in my power to commit the Senate Public Works Committee to an immediate and thorough review of the policies upon which water resources project authorizations are based. There is a great need to develop specific guidelines for both the administrative and legislative process by which these projects are authorized—including requirements for cost-benefit analysis and administrative review.

We have begun this effort with the modification of the capitalization rate by which future benefits for the benefit/cost ratios of water resources projects are measured. And we can derive assistance in the task from the efforts of the National Water Commission which recently released its report "Water Policies for the Future." I am sure that we can evolve a clear and sound policy upon which water resources authorizations can be based prior to action upon future flood control legislation.

### BUCKLEY AMENDMENTS SHOULD BE DEFEATED

Mr. RANDOLPH. Mr. President, I have genuine respect for the Senator from New York (Mr. BUCKLEY), as a man of integrity and as a knowledgeable member of the Committee on Public Works. He has made many valuable contributions to our work during as a member of the committee.

I support his right to challenge the inclusion of a water resource project in legislation developed in our committee or during its consideration in the Senate. That is why we have rollcall votes in this body and why they are not always unanimous.

I do not argue with Senator BUCKLEY's action in moving to delete certain sections from this bill, but I take issue with his reasons.

Mr. President, this issue is one which was discussed extensively in both the Subcommittee on Water Resources and in the full Committee on Public Works. During these meetings, Senator BUCKLEY proposed the removal of several projects from the bill, including those located in his own State. There were occasions when the subcommittee or the committee agree with him, and projects were removed, including some in the State of New York.

Senator BUCKLEY contends that some water resource projects have not been properly justified. He believes that they are included in the bill because of the political influence of congressional sponsors. In short, he believes them to be "pork," and has used that descriptive term.

I have for years objected to describing public works activities as "pork" or "pork barrel." These are scare terms that invoke images of political conniving to secure the construction of projects that are otherwise not merited.

If political pressures were the source of public works projects in the past, it is certainly not true today and has not been during my tenure in the Senate. There exist today complex and highly sophisticated procedures for determining the need for projects. The desirablity of water resource projects is widespread—a point conceded by my friend from New York. It is essential, therefore, that each proposal be evaluated on its merits with respect to feasibility and the availability of necessary funding.

The civil works activities of the Corps of Engineers do not consist of a series of isolated projects. We have in this country a widespread and interrelated program of water resource develop. Each project must fit into the pattern.

Senator BUCKLEY knows this procedure as do all members of this body. He objects, however, that some projects have not met certain tests or do not conform to national policy.

Mr. President, I suggest that national policy is to provide protection from floods, water supplies and other benefits from water resource projects where they are needed—regardless of their standing on some mathematical scale.

The rigid adherence to bureaucratic formulas, which the Senator from New York apparently prefers, is part of the reason why government in general is in such disrepute today. We are accused of insensitivity to the needs of people, being interested instead in the mechanics of government.

I do not believe, of course, that government should wildly agree to every proposal made to it. We are the elected representatives, and I believe our mandates from the voters carry with them reliance on our judgment.

There are occasions when we must authorize a public projects that we know to be for the best interests of our people, projects that we as individuals and as a committee have investigated carefully and have been convinced of their worth.

In my opening remarks on this bill, I commented on the nationwide nature of our water resources development program. Many projects—large and small—have been completed over the years and are returning our investments in them many times over.

We have only to look at the severe flooding in the Mississippi River valley last spring and summer to understand the essential nature of this program. The latest estimates by the Corps of Engineers place damage from that flooding at over $1 billion. That is a huge figure, but it is substantially less than the $14.1 billion in damages that were prevented by the projects already completed.

I also referred to recent flooding in my home State. It was not confined alone to West Virginia, but was widespread throughout that section of the United States. I have received reports showing $34.6 million damage inflicted by the flooding in that region—one-third of what would have occurred without existing protection facilities.

Mr. President, I agree that we must give careful scrutiny to all proposals for water resource projects. This is done regularly by the Congress and the executive agencies concerned.

The Senator from New York raises objections to proposed projects. I wish he would confine his questions to the individual projects rather than to cast doubt on the water resource program.

Mr. ROBERT C. BYRD. Mr. President, I oppose the amendment of the Senator from New York (Mr. BUCKLEY) which would strike section 23 and several other important sections from S. 2798, the Water Resources Development Act of 1973. Section 23 authorizes flood control work for the entire area of the Tug Fork Valley in West Virginia.

I am very familiar with section 23, since I have been working to obtain this sorely needed flood control program for this tragically flood-prone area of West Virginia for a major portion of my congressional career. I think it should have been accomplished years ago.

Earlier this year, on January 11, 1974, the Tug Fork Valley was again inundated with severe and disastrous flooding, which resulted in destruction to many homes and businesses; forced the evacuation of many families to higher ground; and resulted in a shutdown of inundated coal-mines and related industries. The Office of the District Engineer in Huntington was contacted this morning, and I was informed that the damages this year will probably exceed $2 million. This area of West Virginia has been consistently plagued with severe floods. In 1957, it suffered $3,097,000 in damages; in 1963, it was hit by flooding which caused $3,059,000 in damages; and in 1967, the area suffered $1,699,400 in damages. This area suffers annual damages of approximately $600,000.

The flooding in the Tug Fork Valley definitely has not merely a local but a heavy national impact in that this area contains approximately 10 percent of the Nation's bituminous coal reserves. Each time this traumatic flooding occurs, it forces a shutdown of the coal mines and the related industries, which in turn causes unemployment, since 40 percent of the workers in this area are employed in the mining industry, or in the railroad industry which exists in Tug Fork Valley only to haul out the mined coal.

Since economic diversification is virtually impossible, the entire Tug Fork area suffers from a chronically depressed economic condition because of the frequency of the flooding. In addition, the total drain in human vitality and the acuteness of human misery are not quantifiable in dollars and cents.

Two years ago, I offered an amendment adding $150,000 to H.R. 17034, the fiscal year 1972 supplemental appropriations bill, to enable the Corps of Engineers to immediately begin developing a comprehensive flood control program for the Tug Fork Valley. My amendment was adopted, but the House conferees insisted that these funds be contingent upon enactment of authorization. Because the President vetoed the authorization bill last year, those funds were never expended. I did, however, contact the former Secretary of the Army, Mr. Kenneth Belieu, to request that these funds be held in reserve pending enactment of new authorization, and he acceded to that request. Therefore, those funds could be made available immediately if this bill becomes law.

The facts in this case overwhelmingly support the need and the justification for providing this desperately needed flood control work for the Tug Fork Valley, and I want to do everything possible to see that it is accomplished. Therefore, Mr. President, I oppose the Buckley amendment, and I urge its defeat.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Alabama (Mr. SPARKMAN), the Senator from California (Mr. TUNNEY), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Arizona (Mr. FANNIN), and the Senator from Wyoming (Mr. HANSEN) are absent on official business.

I also announce that the Senator from Vermont (Mr. AIKEN), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from North Carolina (Mr. HELMS), and the Senator from Vermont (Mr. STAFFORD) are necessarily absent.

I further announce that the Senator from Alaska (Mr. STEVENS) is absent to attend the funeral of former Senator Fred A. Seaton.

The result was announced—yeas 9, nays 71, as follows:

[No. 4 Leg.]

YEAS—9

Brock
Buckley
Byrd, Harry F., Jr.
Domenici
Goldwater
Nelson
Proxmire
Roth
Scott, William L.

NAYS—71

Abourezk
Allen
Baker
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Case
Chiles
Church
Clark
Cook
Cranston
Dominick
Eastland
Ervin
Fong
Fulbright
Gravel
Griffin
Gurney
Hart
Haskell
Hatfield
Hathaway
Hruska
Huddleston
Hughes
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stennis
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NOT VOTING—20

Aiken
Bartlett
Bayh
Cannon
Cotton
Curtis
Dole
Eagleton
Fannin
Hansen
Hartke
Helms
Hollings
Humphrey
McIntyre
Muskie
Sparkman
Stafford
Stevens
Tunney

So Mr. BUCKLEY's amendment was rejected.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the amendments were defeated.

Mr. GRAVEL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ERVIN. Mr. President, on behalf of myself and my distinguished colleague (Mr. HELMS), I call up my amendment No. 896 and ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. ERVIN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, I ask unanimous consent that the amendment be printed in full at this point in the RECORD for the information of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Amendment No. 896 is as follows:

SEC. . The Secretary of the Army, acting through the Chief of Engineers, is authorized to make a detailed study and report of such plans as he may deem feasible and appropriate for the use of the New River from the headwaters of its South and North Forks to the town of Fries, Virginia. Such study and report shall include the recreational, conservation, and preservation uses of such area. The Secretary, acting through the Chief of Engineers, shall consult with the Bureau of Outdoor Recreation, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency. Notwithstanding any other provision of law, no Federal agency or entity shall license or otherwise give permission under any Act of the Congress to the construction of any dam or reservoir on or directly affecting the New River from the headwaters of its South and North Forks to the town of Fries, Virginia, until two years after the report authorized by this section has been submitted to the Congress.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be 1 hour on the pending amendment, the time to be equally divided between the manager of the bill and the sponsor of the amendment, the distinguished Senator from North Carolina, and the time to begin running at 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

### THE BLUE RIDGE PROJECT

Mr. HARRY F. BYRD, JR. subsequently said: Mr. President, I have no desire to get into a controversy with the two distinguished and able Senators from North Carolina. I do feel, however, that there are certain facts in regard to the amendment offered by the Senators from North Carolina that should be made available to the Senate.

The project which the pending amendment would deal with it the so-called Blue Ridge project. The Blue Ridge project is a hydroelectric pumping and storage project. The project is to be located on the New River in Virignia with reservoirs extending into North Carolina. Two-thirds of the land involved is in Virginia and the remaining one-third is in North Carolina. The proposed project goes back to 1962. At that time the preliminary permit application was filed with the Federal Power Commission. The Federal Power Commission has not yet rendered its opinion as to whether a license would be granted.

The "Dear Colleague" letter which was placed on the desk of each Senator signed by the distinguished Senator from North Carolina (Mr. Ervin) states:

> The Federal Power Commission will most probably issue a license for the project in the immediate future.

The purpose of the amendment offered by the Senators from North Carolina today would be to make it impossible for the Federal Power Commission to approve this project if it concludes it wishes to do so. It seems to me that this is a matter that should be handled and the decision made by the Federal Power Commission.

There is nothing in the bill dealing with the Blue Ridge project; there are no Federal funds involved. It is a private power company project. The power company desires to build this hydroelectric plant and its pumping stations will be in Virginia. They desire to build that plant because they need, they claim, more energy resources, and the Federal Power Commission must rule on that.

I do not feel it is wise for the Senate to come along and say that we will not permit the people to have more power facilities and more energy resources, even though a private company wants to make available to the public additional resources.

I point out that both Senators from North Carolina took this question to the Committee on Public Works and the subcommittee of the Committee on Public Works. The subcommittee of the Committee on Public Works voted against this proposal and the full committee, I am informed, voted unanimously in opposition to the proposal offered by the Senator from North Carolina.

I state again that the bill which is now before the Senate does not deal with the Blue Ridge project, but the amendment offered by the Senator from North Carolina, if adopted, would have the Senate go on record as opposing this project and make it impossible to go through with it until an engineers study has been made.

It is a private proposition. There are no Federal funds involved. I emphasize again that the pumping stations will be in Virginia. It is basically, a Virginia project. Two-thirds of the land involved will be in Virginia. There is a spillover into North Carolina and one-third of the land will be in that State.

I have no desire to get into a controversy with my two close friends and neighbors from the neighboring State of North Carolina, but I think it is important that the Senate have the background on this project. I state again that there are no Federal funds involved. It seems to me that if the amendment offered by the Senator from North Carolina is agreed to, we would be completely going against not only the unanimous vote of the Commission on Public Works but also we would be taking away from the Federal Power Commission the right to make this decision as to whether we need additional hydroelectric facilities in Virginia which, in turn, would supply many of the neighboring States.

I urge Members of the Senate to look carefully at the amendment which will be pending and voted on tomorrow.

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## ORDER OF BUSINESS

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. Do I understand the pending bill will be put aside temporarily until tomorrow?

The PRESIDING OFFICER. The Chair has no knowledge of such an agreement.

Mr. ROBERT C. BYRD. Mr. President, there has been no agreement to that; the agreement was to the effect that the pending amendment which has been laid before the Senate by Mr. Ervin would have 1 hour on it, to begin running tomorrow morning at the hour of 11 o'clock.

Mr. JACKSON. Mr. President, I ask if it would not be in order, it being a privileged matter, to call up the conference report on S. 2589, the energy emergency bill. I shall make a brief statement, then I understand the distinguished Senator from Louisiana will make a statement, and then the matter would go over until tomorrow or until after the public works bill has been acted on.

The PRESIDING OFFICER. A conference report is a privileged matter.

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## ORDER FOR ADJOURNMENT TO 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if the distinguished Senator will yield, I shall put this in the form of a unanimous consent request:

I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized on tomorrow, under the standing order, there be a period for the transaction of routine morning business, not to extend beyond the hour of 11 o'clock a.m., with statements limited therein to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## ORDER FOR RESUMPTION OF CONSIDERATION OF ENERGY EMERGENCY CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the disposition of the pending bill, the Senate resume consideration of the conference report which will be called up by the distinguished Senator from Washington (Mr. Jackson).

Does that meet the Senator's approval?

Mr. JACKSON. Mr. President, I ask unanimous consent that the conference report may be in order at this time and that the Senator from Washington be recognized briefly, and then the senior Senator from Louisiana be recognized, and that the matter of the conference report then come up after the disposition of the public works bill, whenever that is.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me briefly?

Mr. JACKSON. I yield.

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## ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, if it meets with the approval of the distinguished manager of the conference report and the distinguished manager of the bill, I ask unanimous consent that further action on the pending bill be delayed until tomorrow, beginning at 11 o'clock a.m. I think it would be safe to say that there will be no additional rollcall votes today. I assume the distinguished Senator from Washington does not expect a rollcall vote on the conference report today.

Mr. JACKSON. The Senator is correct, and I do not expect one on tomorrow. Based on hearsay information circulating in the Senate, there may be some discussion on the report.

Mr. CASE. Mr. President, the Senator does not mean on this bill?

Mr. JACKSON. No; only on the conference report on the energy bill.

Mr. ROBERT C. BYRD. Mr. President, there will be no further rollcall votes today.

The Senate will meet at 10:30 a.m. tomorrow. At 11 a.m. the Senate will resume consideration of the Public Works bill. The pending question at that time will be on the consideration of the amendment by Mr. Ervin, on which there is a 1-hour limitation, to be equally divided between the distinguished manager of the bill and the distinguished Senator from North Carolina. There will be a vote on the Ervin amendment at about 12 noon tomorrow, and the Senate will then continue to consider the Public Works bill. Votes are expected on amendments and also on final passage.

Upon the disposition of the Public Works bill, the Senate will resume consideration of the conference report.

## NATIONAL ENERGY EMERGENCY ACT OF 1973—CONFERENCE REPORT

Mr. JACKSON. Mr. President, I submit a report of the committee of conference on S. 2589, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes, having met, after full and free conference, have agreed to recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The text of the conference report is printed in the Senate proceedings of the CONGRESSIONAL RECORD of Dec. 21, 1973, at pp. 43132–43159.)

Mr. JACKSON. Mr. President, when the first session of Congress adjourned 1 month ago on December 21, 1973, one major item of legislative business was left unfinished.

After weeks of intensive effort by both bodies of Congress on S. 2589, the Energy Emergency Act, the Senate was prevented from voting on the conference report before adjournment.

The White House, working with the oil industry, was able to prevent a vote on this measure because they opposed provisions of the bill which would (first, eliminate windfall profits for oil corporations in this time of soaring prices, and second, require disclosure of reserves, production and processing data, to assure greater corporate responsiveness and accountability.

The administration also objected strenuously to a third provision in the emergency bill which allowed congressional oversight and veto powers over energy conservation measures proposed by the executive branch. Such a function is absolutely essential, however, in order to assure responsiveness to constituent needs, and to preclude any unreasonable demands on the American people.

Mr. President, this measure is urgently needed now to provide the administration with interim authorization for measures which they would like to implement but cannot enforce. This measure is needed to provide a statutory basis for the conservation measures which must be implemented if the Nation is to live within its energy means.

Under present authority, the administration cannot impose rationing, cannot enforce compliance with energy conservation measures, cannot require disclosure of industry data vital to energy policy formulation, cannot alter Federal tax policy to eliminate unfair tax preferences for energy producers. Yet, the executive branch has expressed a need for each of these powers.

While the administration is currently urging voluntary energy conservation measures, it has no authority to enforce such measures. For example, throughout the past month the administration's estimate of the probability of rationing has been plus or minus 50 percent. Without enactment of the pending legislation, no rationing contingency plan could be implemented—no matter how urgent the need.

Similarly, the greatest impediment to the effective management of current fuel shortages by the Federal Energy Office and other Government agencies is a paucity of reliable and timely information on the nature, impact and severity of those shortages. More significantly, the superb spirit of cooperation demonstrated by the people of this Nation in complying with voluntary energy conservation programs is dependent on public trust and confidence in the information given them by their elected leaders.

Both Mr. Simon and the President have publicly acknowledged the necessity for provision by the oil industry of a "full and constant accounting of inventories—production—costs, and reserves." Yet, the Federal Energy Office does not have sufficient authority to require full disclosure on the part of energy corporations. The Energy Emergency Act contains the authority necessary to permit the administration to obtain the information required to develop and implement those programs needed to meet the challenge of the energy shortage. Of equal importance is the requirement that data on the Nation's energy reserves and production be published in the Federal Register for the information of the public.

Furthermore, as the President noted in his radio address to the Nation on Saturday, we should—

> Prevent the big oil companies and other major energy producers from making an unconscionable profit out of this crisis. Too many Americans have sacrificed too much to allow that to happen.

I strongly support the President in that view, as I am sure do all of my colleagues. The conference report represents a first step toward that end.

Mr. President, I would not suggest that this conference report is flawless. Our own bill in the Senate was not; neither was that of the House. However, in my view, the Nation has never before been confronted by a peacetime crisis of the current magnitude. We are faced with problems which reach far beyond simple questions of personal inconveniences due to lowered thermostats or waits at the gas pump. For example, recent energy price increases will likely have a drastic effect on the economy as a whole, on industry, and on the life styles of the people of this country. Similarly, worldwide petroleum shortages and sharply rising prices will affect this country's foreign trade, balance of payments, and relations with both traditional allies and potential adversaries.

We could choose to be hesitant, to await the passage of needed legislation until we have answers to a near-endless list of questions arising from the current crisis. The preferable alternative, however, is resolute action by the adoption of the conference report now before us. Further legislation will be called for in any event to perfect the principles of this bill, and at the appropriate time, I will support those proposals for change which are shown to be warranted.

I would suggest to my colleagues that the Energy Emergency Act is a worthwhile product of the democratic political process, the essence of which is compromise. It represents the best efforts of the Senate and House to act in the interests of the country as a whole in the light of the best information available at this time. I have no doubt that one or more of its provisions will, of necessity, be expanded or deleted or significantly modified by the Congress in the months to come in the light of additional experience, new information, and simple trial and error. However, we must act now to provide the executive branch with the means to take needed actions in the country's interest. For that reason, I urge my colleagues to vote in favor of the conference report.

Mr. RANDOLPH. Mr. President, will the Senator yield?

**Mr. JACKSON. I yield.**

Mr. RANDOLPH. Mr. President, the chairman of the conference committee is a very knowledgeable Senator on this matter. Those of us who served on the conference committee recognize that certainly the resolution of many differences of opinion are contained in the conference report. Naturally, there is not 100 percent personal acceptance of every compromise by each conferee. There seldom is.

The able chairman of the committee indicated just now exactly what would be done in the form of legislation. But he is not adamant on that. Is that correct?

Mr. JACKSON. The Senator is correct.

Mr. RANDOLPH. Mr. President, I have felt that there is flexibility, and that there is an umbrella under which we can work. Certainly, the Congress is desirous of reflecting responsibility to our constituents in this matter. I make this suggestion, which I think is very important:

I was a Member of the House of Representatives during the first 100 days of the first administration of President Franklin D. Roosevelt. I am the only Member of this body who served in the House during that period. I think it will be remembered that what we did under the impact of a depression in those first 100 days constitutes the response of Congress to a commitment that the people expect us to discharge. Excessive hurry-ing and unreasonableness with respect to any subject is not to be desired. But I feel that, within the next 30 days Congress—the Senate and the House—should place upon the desk of the President an energy emergency measure that will be responsive to the needs of the American people and will permit us to meet in part, at least, the challenge of combating a crisis which, in my opinion, is very real. We must act in a well-reasoned manner and as expeditiously as would be consistent with reaching sound solutions.

Yet, we must realize that the Congress is clearly faced with a difficult and complex problem as it examines the various interpretations of windfall or excessive profits. But, as we begin the second session, it is essential that we come to grips with this issue based on the most accurate knowledge of the facts that we can attain.

This Senator, the able chairman of the Finance Committee (Mr. Long), and all Members of this body desire equity in the development of an excess profits tax. The differences mostly arise over where equity starts and stops. We all recognize the importance of generating sufficient capital to assure the necessary new energy supplies to meet our country's future energy requirements. There is no question but that this will require huge investments if industry is to produce and market the necessary energy supplies within the next few years.

Therefore, I am convinced that any excess profits should be dedicated to the development of new energy sources. These moneys can and must be utilized for oil and gas exploration and for research and development programs. Moreover, as I stressed during the conference on the Energy Emergency Act, the Congress also must give careful consideration to the validity of an excess profits tax to be levied not alone on energy companies but across the board on all industries.

I thank the Senator from Washington for yielding to me.

Mr. JACKSON. Mr. President, I shall respond briefly. I wish, first of all, to express my gratitude to the able Senator from West Virginia (Mr. Randolph) for his invaluable participation in the long-drawn-out conference with the House. Also in the Chamber is the able senior Senator from Nevada (Mr. Bible), who likewise played a yeoman role in connection with the time that went into that effort. I think those Senators would agree that we did everything we could to bring about a rational agreement between the House and the Senate.

I point out, further, that in the closing days of the session, in December, we modified the bill, sent it to the House, and the House overwhelmingly rejected it. It was the conference report minus the so-called renegotiation authority. I want to make that point, so that Senators will understand that we have tried an alternate course, and the House has rejected it.

I believe we now have a responsibility to vote the conference report up or down; and I would hope that the Senate will take such action without delay. This is an emergency. This report provides the authority that is needed, and I believe the time to act is now.

Mr. LONG. Mr. President, during the adjournment I sent a newsletter to the State of Louisiana. It pretty well spells out my view about the energy crisis. I should like to read one paragraph from it.

> We should not allow energy companies to take unfair advantage of the current crisis to make excessive or "windfall" profits. Whether this should be prohibited by excess-profits taxes or by a stiff requirement that any such profits be reinvested in energy production, or a combination of both, is a subject being carefully studied by the Senate Finance Committee, of which I am chairman. A tax on windfall profits can be drafted in such a way so we will get more energy. It should not be done in a manner that denies us more fuel.

In my judgment, this bill, containing the so-called windfall tax, was hastily drafted. It meets the requirements of hysteria and public misunderstanding and would provide the country with less energy, rather than more. I do not think we ought to make appeals to public misunderstanding. We should pass a measure that will help to get more energy for the Nation and to achieve distributions that will be sound.

Let me show how completely idiotic one aspect of the bill is. It proposes to require 100-percent renegotiation and payback of any profit that a producer makes which exceeds a certain limit. Let me read this:

> The greater of—
>
> (A) the average profit obtained by sellers of energy products during the calendar years 1967 through 1971—

Which was a depressed period, by the way—

> Or (B) the average profit obtained by the particular seller or energy products during such calendar years.

If I read that correctly, let me tell the Senate how it would affect a particular case I have in mind. Suppose a producer in Louisiana has one oil well, and now he has it within his power to drill a second one. If the first oil well is producing 100 barrels a day, and he drills a second one, a good well producing 100 barrels a day, he may well have to give back every nickel he makes off the second well.

In my judgment, Mr. President, no responsible legislator should vote for a provision which might require a man to give up every single penny he makes by doubling his production. One would think a man should not only be permitted but should be specifically encouraged to produce more energy for the benefit of the Nation and make a profit out of doing it.

It has been proposed by the President of the United States that a properly conceived windfall tax should contain a plow-back proposal, so that if a man makes twice as much money and spends the additional amount in drilling and finding more energy, or in building refineries or pipe lines to get it to the market, he would be permitted to pay the same tax that he paid previously if he invested all of the new earnings in producing more energy.

We already have various price control laws, and the President has all the power he needs to control the price of oil and gas at the well or at the pump. There is no need of any laws in that respect; they can control it at whatever price they think it should be.

If a man, selling at the price the law permits him to sell, provides more energy, there ought to be some incentive somewhere for him to do that, and where is it? It is certainly not contained in the Staggers proposal. That proposal, contained in the conference report, would in many cases destroy all incentive to provide more energy.

Mr. President, that is absolutely ridiculous, in my judgment. Furthermore, it cannot be administered, I think, under any fair standards. The only argument for it that I know of is that this is such a bad law that Congress will be forced to change it. It is argued by some that Congress will have an opportunity to vote for some other excess profits or windfall profits tax, because it will of necessity have to repeal this one.

This is such a bad proposal that this legislative baby has already been abandoned by its own papa. The chairman of the House committee, Mr. Staggers, after he saw that the Senate would not accept this proposal, at some hour after midnight the day we adjourned, proceeded to offer a new version of an excess profits tax.

That second proposal would have permitted the Attorney General to decide how much money everybody should make, and any amount over the amount that the Attorney General decided would be taken away from the taxpayer on a 100 percent basis. This new proposal equally as unworkable as the one now in the conference report and the fact that one like that would be offered was an admission that the present one is not any good that the chairman of the House committee showed he was flexible and was willing to consider a new substitute, provided it was his own, for what everybody now agrees should not become law. Even though it is his own baby, he has abandoned it, notwithstanding that we are told that it is this or nothing.

Mr. President, I am not persuaded this should be treated as an all-or-nothing-at-all situation. I think there is enough judgment, commonsense, and reason in the Senate to draw a good law, no matter how arbitrary the House of Representatives may be.

I think we should reason together, and explain that we do want to pass an excess profits tax law. I shall vote for one, provided it is one that will get us more energy rather than less. Chairman Mills of the Ways and Means Committee tells me today that he is announcing hearings in the House Ways and Means Committee starting about 10 days from now, just as soon as they can dispose of the pension legislation which we passed and sent to them last year, and that they will propose what they think a proper windfall profits tax law should be.

As far as this Senator is concerned, I am perfectly willing to conduct hearings simultaneously with those of the

Ways and Means Committee. Just as fast as a witness testifies there, if we want that witness, he can testify here. I do not think it would be appropriate to try to move ahead of the House committee, but I do think we ought to at least give this monstrosity, this silly thing, the advantage of intensive hearings. As it now stands, this proposal has not had the light of a single day's hearings, on either House or Senate side.

So I am starting, tomorrow, a hearing to receive testimony from people who have administered the Nation's tax laws, Democrats, and Republicans, to ask them what problems they see in this measure, if we passed this sort of legislative proposal.

I would hope, Mr. President, that the Senate would give us at least 2 days to inform the Senate on the foolishness that we will commit if we pass this measure as it stands at this time, because I think if the Senate allows us 2 days to present that information, it will be persuaded to allow us about 10 more days to present additional information, and if it allows us time to know what we are doing, I do not think the Senate will make that sort of an irresponsible mistake.

Mr. BENTSEN. Mr. President, will the distinguished Senator from Louisiana yield?

Mr. LONG. I yield.

Mr. BENTSEN. I think what we are all trying to achieve by this legislation is an equitable sharing of the burdens in this country. I do not think any of us wants to see any company or individual make windfall profits off the troubles of this Nation. In bringing this about, we ought to try to pass good legislation.

Is this really an emergency piece of legislation, if they say it does not go into effect for a year? It does not go into effect for a full year. The reason, they say that is because they are convinced, too, that it is not good legislation, and they want to give the appropriate committees time to pass on legislation that will achieve the objectives. The appropriate committees in both the Senate and the House have now stated they are ready to conduct these hearings, and they will be expeditious hearings.

Does it make any sense to pass bad legislation to try to bring about good legislation? We are going to bring that about anyway, because there is a sharing of views here, and we understand we should not have windfall profits off the troubles of this Nation and that we ought to share these burdens equitably. But in bringing this to pass, we want to encourage self-sufficiency in energy in this country. And we want to phrase this tax law as to really encourage, yes, even force these companies to drill in this country, to bring in more oil, to help hold down the price of oil, to build the refineries that should have been built and are necessary in this country in order to have the fuel oil and gasoline we need, and hope we are going to be able to avoid rationing.

I believe we can increase productivity if we pass this tax legislation appropriately. I know that any man who stands up from an oil producing State, be it Texas, Louisiana, or to a lesser degree West Virginia, is immediately suspect. They say he is going to speak for the oil industry.

The oil industry is an important industry in my State. It provides hundreds of thousands of jobs, and that concerns me. You bet it does. I want to see it a healthy and viable industry, and it had better be if we are going to be self-sufficient in this country on our energy supplies.

But let me remind Senators that I was a Senator from an oil-producing State who voted for Senator EAGLETON's amendment for mandatory allocations, to see that there was an equitable distribution of energy supplies in this country. I stood on this floor before the Christmas recess and said we ought to change the leasing agreements offshore. The leasing agreements offshore in this country today provide for 16⅔ percent of the revenues from production going to the U.S. Treasury. I said that is not enough, that we ought to change it to the same kind of agreement these companies have given to 11 other countries in the world, so that when they recover their costs 65 percent of the production goes to the host country and 35 percent of it goes to the company.

I have met a lot of opposition over that, but I think if they can do it for foreign countries, they can offer the same kind of deal to our taxpayers in drilling on public lands for private profit.

What I want to see is equity, and that is what I am striving for in this piece of legislation.

Again, Mr. President, what emergency is there to it if they say it does not go into effect for a year? Why can we not, then, have the time, by orderly procedure in public hearings, so that everyone can be heard, and find out the ultimate effect of this legislation and discover the kind of legislation that will work toward self-sufficiency in energy supplies?

I thank the Senator very much.

Mr. LONG. Mr. President, I thank the Senator from Texas.

Permit me to say that if we are to meet the energy crisis that exists in this Nation both now and for the future, there is going to have to be a huge increase in investments to produce more energy. I have not seen anyone's estimate of that, except the Chase Manhattan Bank's, as they know something about oil, gas, and coal. They should be qualified to speak on the subject, because they loan large amounts of money for those enterprises and they know what it takes for someone to succeeed in that kind of business. They tell me that between now and 1985 we are going to be needing about $500 billion in investments in oil, gas, coal, shale, and atomic power. Most of that will have to be in oil and gas because that is the one the easiset to get at at this moment, based on the present state of the technology. This huge investment will have to be done over a period of the next 12 years if we are going to be able to provide this Nation with its requirements.

Figure it out for yourself, Mr. President. That means that we will need about $40 billion in investments a year in this type of thing.

They further say that it would not be fair to ask a lender to lend all of the $500 billion, but that we should be able to take about half the money out of profits in order to provide that type of effort. That would mean that companies would have to take about $20 billion out of profits to plow back in to match the $20 billion that the banks and lending institutions would be lending for this purpose.

If the energy companies cannot earn $20 billion a year, then the lending institutions think it would be bad business to lend the additional $20 billion a year to match it.

Where is that money going to come from? It will have to come from profits.

But, here we have a law that would not let you make the profits. So this is a law whose impact works directly against solving the energy crisis. This is so because it would not permit private enterprise to earn enough money to pay for its share of the wells and the refineries and the pipelines and the mines that must be developed. It would not permit private industry to earn enough money to pay for the profit share of the investment. It would, therefore, be a bad loan for any banker to lend you the money to try to do the other half on.

What it would mean is that the money would not be available. So, what would the alternative be?

A few—not a majority but a few—would like to nationalize the industry and try to find the money by taxing the eyeballs off the American people to find the money to drill for the oil, to drill for the gas, to mine for the coal to build the atomic plants—or whatever it takes otherwise.

That is a poor way to proceed, in my judgment, to place such a completely irresponsible and unfair tax—such a completely unreasonable tax—on the industry so that the industry could not do what is expected of it, or by rigging the tax laws so that the industry cannot possibly do its job properly. Then the argument would be put forward that we should nationalize the industry because, it is said, it has failed to do the job.

It would be foolish for anyone to do business like that, unless he believes we should socialize everything in this country, or he does not believe in the free enterprise system. I am sure that not a single Senator believes that we should abandon the free enterprise system over this issue.

Mr. President, I ask unanimous consent to have printed in the RECORD a press release which I issued on January 18, 1974, announcing hearings, beginning tomorrow morning, to explore the workability of the tax proposal in the bill before us, the so-called Renegotiated Excess Profits Tax Provisions.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

### CHAIRMAN RUSSELL B. LONG ANNOUNCES HEARING ON PROPOSED WINDFALL PROFITS TAX PROVISION

Honorable Russell B. Long (D., La.), Chairman of the Senate Finance Committee today announced that hearings on a proposed windfall profits tax provision will be held on Tuesday and Wednesday, January 22 and 23, 1974, in Room 2221, Dirksen Senate Office Building, at 10:00 A.M. The hearing will focus on the provisions of the proposed windfall profits tax set forth below.

The Chairman stated the purpose of this hearing is to assist the Committee in analyzing the feasibility of administering and interpreting the provisions of this proposed tax and to learn whether there are any serious problems of taxpayer compliance under such a proposal.

Particular attention will be devoted to an evaluation of the definition of windfall profits contained in this proposal, which is essentially the same as the definition of windfall profits in S. 2589.

The witnesses who will appear before the Committee have been requested to address themselves to the following points.

1. What problems do you anticipate would arise in the administration of such a "windfall" profits tax, including areas such as development of regulations, rulings, and litigation?

2. Based on enactment of such a tax, what kind of advice would you give energy corporations with respect to the planning of their operations, including proposed capital investments for the purpose of expanding their energy reserves and supplies?

### PROPOSED WINDFALL PROFITS TAX

(a) *Imposition of Tax.*—In addition to other taxes imposed by this subtitle, there is hereby imposed a "windfall profits" tax on the taxable income of every energy corporation for each taxable year ending after December 31, 1973. In computing such tax a credit shall be allowed for the taxes imposed on such corporations under section 11 with respect to the income subject to the addition to tax imposed herein.

(b) *Definition of Income Subject to Windfall Profits Tax.*—The addition to tax imposed under subsection (a) shall be equal to 85 percent of the amount by which the profits of any energy corporation for the taxable year derived from the sale of any energy products are determined by the Secretary or his delegate to be in excess of the lesser of—

(1) a reasonable profit with respect to the particular seller as determined by the Secretary or his delegate upon consideration of—

(A) the reasonableness of its costs and profits with particular regard to volume of production;

(B) the net worth, with particular regard to the amount and source of capital employed;

(C) the extent of risk assumed;

(D) the efficiency and productivity, particularly with regard to cost reduction techniques and economics of operation; and

(E) other factors the consideration of which the public interest and fair and equitable dealing may require which may be established and published by the Secretary or his delegate; or

(2) the greater of—

(A) the average profit obtained by sellers of energy products during the calendar years 1967 through 1971; or

(B) the average profit obtained by the particular seller of energy products during such calendar years.

(c) Except as provided in subsection (b), for the purposes of this section, the term "windfall profits" means profit in excess of the average profit obtained by all sellers for such products during the calendar years 1967 through 1971.

A number of witnesses who have been involved in the administration of the tax laws in connection with their positions as high Treasury officials have been invited to appear and comment on this issue. The following witnesses have indicated, on short notice, they will appear *Tuesday, January 22, 1974.*

Mortimer Caplan, former Commissioner of Internal Revenue Service.

Charles W. Davis, former Chief Counsel of Internal Revenue Service.

John E. Nolan, former Assistant Secretary of the Treasury.

Johnnie Walters, former Commissioner of Internal Revenue Service.

Randolph Thrower, former Commissioner of Internal Revenue Service.

Edwin Cohen, former Undersecretary to be read by Joel Barlow.

Jerome Kurtz, former Tax Legislation Counsel.

*Wednesday, January 23, 1974:*

Honorable William E. Simon, Deputy Secretary of Treasury and Administrator, Federal Energy Office.

Sheldon S. Cohen, former Chief Counsel and former Commissioner, Internal Revenue Service.

Crane Hauser, former Chief Counsel, Internal Revenue Service.

Mitchell Rogovin, former Chief Counsel, Internal Revenue Service.

K. Martin Worthy, former Chief Counsel, Internal Revenue Service.

The Chairman stated: "If, after further consideration, the Senate in its wisdom decides to accord the Committee adequate time, prior to acting on the Conference Report on S. 2589, the Committee will hold broad hearings which will be open to all witnesses desiring to testify on the subject of the windfall profits tax proposal set forth above and on other windfall profits proposals." The Chairman further stated that the witnesses invited to testify at this time were selected solely on the basis of their prior experience in holding high positions in the Treasury Department with responsibility for administration of the tax laws under various Administrations, both Democratic and Republican.

Mr. GRAVEL. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I yield.

Mr. GRAVEL. Mr. President, I should like to reinforce one of the comments made about the Chase Manhattan Bank. In fact, it was testimony that your subcommittee, Mr. Chairman, heard during hearings in October, a full 30 to 40 days before this monstrosity was hatched. The hearings were to obtain information on how we should handle the problem of excess profits.

As a result of the hearings, the week before we adjourned, the last session, I put in a bill that had a section in it to deal with, in what I thought was a more reasonable fashion, the problem of excess profits. The dilemma is easily faced. We must avoid what usually happens in this type of panic legislation. We must not go in the wrong direction.

The American people can understand that it will take money to solve the problem, that there is no magic to it, that it will not happen automatically. We will not get more oil or any other kind of energy without more money.

As recommended by Winger, the oil companies—if they are to meet their responsibilities in meeting capital requirements, as was just laid out by my colleague from Louisiana—will have to enjoy a minimum of 18 percent profitability.

I find unconscionable that newspapers and organizations inveigh against the oil companies for getting excess profits. There is no question that the oil companies are no better and no worse than any other part of American industry. Most of the oil companies have not seen reasonable profits in the past 15 years. The average profits on oil over the past 15 years have been one point below manufacturing—they have been one point below many of the public newspapers that now inveigh against them for unconscionable profits.

What we need is a device to permit the oil companies to make a decent profit so that they can do the job they are supposed to be doing. If unreasonable profits are being made, we can easily put on a ceiling across the top and say that above that top figure, any amount made must be put back into production, and not tax them at a confiscatory rate. That would be a more reasonable way to do the job of bringing oil energy into this country, as opposed to the approach we see developing. As my colleague has pointed out, we will be designing failure this way. And once the failure is observed, they will point to them and say, "Aha, see? They failed. Therefore we must nationalize them."

Mr. LONG. To point out further how ridiculous this thing is, in Alaska we made one of the largest finds of oil that we know of anywhere in the free world. We are talking about the North Slope of Alaska, of course. Everybody agrees that the big hope of solving our energy crisis is to be able to bring that oil down here through a pipeline. However, it took us 5 years to pass a bill. Despite the best efforts and the great perseverance of the Senators from Alaska and others we finally got the bill through to bring the oil down from Alaska to a seaport from which it could be shipped to the mainland of the United States.

However, in view of the fact that the oil cannot be marketed at this time, practically none of that Alaskan oil is showing any profit. Assuming that the companies who have leases up in Alaka are showing a profit, I construe this bill to say that unless they can find a way to lose money, every nickel they make will have to be given back. So, why should anyone want to drill a well in Alaska if he is, in fact, going to have to give away his product for no profit whatsoever?

I am aware of the situation in Louisiana where there is a wealthy family which owns a lot of private land. There is a huge amount of oil underneath that land. A great many wells could be drilled there and it could be expected that those wells would produce a great deal of oil.

But the way I read this proposed statute, every dollar they made would have to be given back. They would be giving away their return for nothing. So why should they not do what people are expected to do in a free enterprise economy? Simply sit there and wait until this so-called law expires and when the law expires to proceed to drill their wells. Would they not be idiots not to do that?

All the oil down there belongs to that wealthy family, and to the heirs who went before them, so why should they not just sit there and produce only what they are producing now and forego the opportunity to drill for more oil or produce more until this law expires?

Do not think that laws cannot be that stupid. We have had demonstration of things that are just that stupid under existing laws.

I read an article about a situation in Houston in which a producer who is also a seller of drill pipe was sitting there with enough pipe to drill 300 wells. The Nation desperately needs the production from all 300 wells. We have people who want to drill the 300 wells. But you could not get one link of that pipe. The owners announced that they were not going to sell another link of pipe until next year. Why? Because under the price control laws, they are limited to a certain profit, and they had already made all the profit they would be permitted to make for last year, 1973. They told everybody—and proceeded to carry it out—that they were not going to sell any more pipe until 1974. So the 300 wells simply were not drilled.

That is a duplication of the economic idiocy that caused the producers of poultry last year to drown all the little chicks, because the producers were not going to be permitted to charge enough for the chickens in order to pay for their feed. So they simply destroyed all the chicks.

We have seen too much of that type of foolishness in the past, and we have seen how difficult it is to repeal some of those bad laws or to amend them.

We should prevent the passage of laws that will make the energy crisis worse. I am persuaded as of now—and until somebody convinces me otherwise, I will remain of this opinion—that if we pass this bill as it stands, it is a bill to make it impossible to find the capital to drill the wells to solve the energy crisis.

Until that time, we will be struggling around with choosing between unsatisfactory answers, between rationing and making people line up for six blocks at the filling stations. In either event, it would be an unsatisfactory answer.

In the hope that by bringing out the the facts the Senate will be fully enlightened on this subject, I will try to provide the Senate with enough information it should have to see that the proposal before us is not workable, is not properly drafted, will not achieve its objective, and is self-defeating, if what we want to do is to provide the Nation with more energy.

If one wants to nationalize the entire industry and wants the public go without energy or to have a great deal less, then one might be justified in voting for this conference report. Under the circumstances, I think the Senate would be well advised to take enough time to learn what this proposal is, what it would do, how it would work, and how it would not work.

The Senator from Texas made the point that we are told that this law would not go into effect until January 1975. Mr. President, what that proposal says is that it would go into effect in 1975, retroactive to January 1974. It is as though one said that the law goes into effect now, as of January 1974, because that is what the law is, unless you can find the votes to change it.

Mr. President, at a future point, when, hopefully, more Senators will be present to hear it, I will discuss what I believe to be the unwise features of this measure. Meanwhile, I hope very much that the members of the committee will be present tomorrow, and that anyone else who is interested will be present, to inform himself on this measure, in the hope that the Senate can legislate wisely.

Mr. GRAVEL. I ask the Senator whether, in the course of the hearings tomorrow, he might pose the very simple excess profits tax provision introduced at the last hearing, and solicit opinion from these experts, not only as to the ridiculousness of the present proposal, but also as to the possible acceptability of the other, to demonstrate to the Senate that the Committee on Finance has been pursuing this problem and is prepared to make recommendations to the body as soon as the House has acted, as is proper in this kind of legislation.

Mr. LONG. I suggest that the Senator ask about that. I hope he will be present tomorrow. I know that he will be present if he can be. The Senator had scheduled hearings on this subject already—that is, on the energy problem—and I invite him to ask the witnesses about this matter.

In my judgment, we have this energy crisis because Congress was not wise. The Executive has not been all that wise, either. But Congress had it within its power to prevent this energy crisis. All we had to do was to provide the energy companies with enough incentive so that they would find it more profitable to produce the energy here than somewhere else, and we would have had all the energy we need. But it was not the wisdom of Congress that we ought to do business that way. Thus we saw Congress vote for laws that made it more profitable to produce the oil in the Near East, in Libya, Algeria, even Venezuela, than here, with the result that the domestic industry has been permitted to deteriorate, while foreign countries have been developed with American money.

Even now, a great number of people in industry find it more profitable to invest their money in the North Sea, drilling for oil, than in the United States. When we make it more profitable to drill for and produce fuel here than over there, we will be on our way to solving the problem.

It is unfortunate that the acts of this Congress and of previous Congresses have been such that it has been more profitable to produce the oil abroad than here. So when the foreign countries organize and get together and say, "You are going to have to pay a fantastic price for the oil or you don't get it," that is how it has to be.

Much as I would wish the House Commerce Committee luck, I do not think they have the power to regulate these foreign countries. If they think they have the power, they will find that there is a good Russian fleet in the Indian Ocean that will change their mind.

We will have to rely upon our own industry, and in order to do that, we will have to have the capacity to produce energy. As long as we pass laws that make it more difficult to build an industry in this country to provide our own requirements of fuel, we are going to be at the mercy of the oil countries. That is one of the lessons we learned last year.

Mr. GRAVEL. I placed in the RECORD last December statements made by the Senator from Louisiana, who said the same thing 10 and 15 years ago.

As the Senator realizes, it was not the decision of this Congress to make policy that way—whether it was incentives abroad or by controlling gas—which skewed our entire energy picture.

We have heard a great deal about the conspiracy of the oil companies to create scarcity, to jack up the price. I know of only one group that is categorically holding off the market known quantities of oil so that we could see a depression of price as a result of increased supply, and that group happens to be the Congress of the United States. I can cite no better example than Petroleum Reserve No. 4, where there exists 33 to 100 billion barrels of oil. Yet, we see policy formulated on this floor that puts out a trickle of 7 million, which is a bubble so far as costs in exploration on the North Slope are concerned. Still, even beyond that, we leave it in the hands of the Navy, for some sacrosanct reason, and they sit on a whole pile of oil, which we know exists, which could be drilled, which could be exploited, and which could be placed in the national supply. Then we would have no shortfalls at all today. Yet, they hang onto this oil, under the guise of national defense. We just had a crisis. We were embargoed, and what happened? National defense was served.

The military took all the oil they needed right off the top of the national inventory and left the American people with the remainder. That is as it should be, but it points out the idiocy of holding in reserve crude oil that we know exists, and when the crisis occurs, going to the general supply rather than the special reserve.

So who is the culprit? I say it is Congress and the Navy. I hope the American people will wake up and realize that the oil is there and it is their oil; all they have to do is drill for it. I am talking about hiring the private companies to do it for us. I hope we can bring some intelligence to this matter.

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## J. MARK TRICE: A LEGEND IN HIS TIME

Mr. GRIFFIN. Mr. President, as Senators may have noticed, the Senate is different in an important respect today as compared to the Senate we left on the last day of the last session. Something is missing—and that something is the quiet presence on the floor of Mark Trice in his customary place as secretary of the minority.

As of the close of business on December 30, 1973, Mark Trice retired after establishing a most remarkable record of service to the Senate and to a legion of Senators over the years. When he cleaned out his desk and went home that day, he had served the Senate for 53 years and 4 months. Few men have served any institution of any government so long—and none more ably and with such complete devotion as Mark Trice has served this Senate.

Mark came to the Senate as a page in 1916 at the age of 14. Subsequently, he became secretary to the Senate sergeant-at-arms and later, as political fortunes dictated, secretary to the minority, secretary to the majority, and then for a period which was all too brief from a Republican point of view, as secretary of the Senate.

In his earlier years, Mark studied law and was admitted to the District of Columbia Bar. But except for a 3-year period, from 1929 to 1932, when he was in private practice, the Senate has occupied his time and attention year in and year out.

We have become so accustomed to having Mark with us that it is difficult to think of the Senate without him. During his service, we could always count on him being here, giving Senators of both parties the benefit of his vast knowledge of the Senate and its mysterious ways—and doing so with the utmost thoughtfulness and courtesy.

Mark's departure was in keeping with that personal dignity which has marked his long service. On the day after Christmas he came to his office in the Capitol and dictated a letter to the distinguished Senator from New Hampshire (Mr. Cotton), chairman of the Republican conference, announcing his retirement. The letter was a brief but eloquent statement of Mark's feelings with regard to the Senate.

It said:

> I hereby submit my resignation as Secretary for the Minority, effective at the close of business December 30, 1973.
>
> After 53 years of service from Page to Secretary of the Senate including other offices held during the intervening years, I have decided that after so many years of enjoyable and delightful relationships to say "good bye."
>
> To each member of our Republican conference I wish health and happiness, continued friendship and political achievement.

Mark telephoned the substance of his letter to Senator Cotton at his home in New Hampshire. Ever thoughtful and mindful that we was an elected official of the Senate, he also dictated a similar letter to Vice President Gerald Ford in his capacity as President of the Senate.

Mark carries into retirement many rich memories of the Senate and his work over a span of more than half a century. I hope he will do some writing in his new-found leisure and share with posterity some of his recollections and experiences during a most interesting and turbulent period in American history.

Mr. President, I take this opportunity to extend to Mark and Mrs. Trice best wishes for many long and rewarding years in retirement.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### ORDER FOR RECOGNITION OF SENATOR PACKWOOD TOMORROW

Mr. ROBERT. C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, the distinguished Senator from Oregon (Mr. Packwood) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

### ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. After which there then be a period for the transaction of routine morning business, not to extend beyond the hour of 11 o'clock a.m., with statements limited therein to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

### MESSAGE FROM THE HOUSE ON THE DEATH OF REPRESENTATIVE TEAGUE of CALIFORNIA

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, communicated to the Senate the intelligence of the death of Hon. Charles M. Teague, late a Representative from the State of California, and transmitted the resolution of the House thereon, which reads as follows:

> *Resolved,* That the House has heard with profound sorrow of the death of the Honorable Charles M. Teague, a Representative from the State of California.
>
> *Resolved,* That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.
>
> *Resolved,* That as a further mark of respect the House do now adjourn.

### DEATH OF REPRESENTATIVE CHARLES M. TEAGUE OF CALIFORNIA

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senators from California (Mr. Cranston and Mr. Tunney), I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution.

The legislative clerk read the resolution (S. Res. 232) as follows:

> *Resolved,* That the Senate has heard with profound sorrow the announcement of the death of Honorable Charles M. Teague, late a Representative from the State of California.
>
> Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.
>
> Resolved, That when the Senate adjourns today, it adjourn as a further mark of respect to the memory of the deceased Representative.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and unanimously agreed to.

### PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at the hour of 10:30 a.m. After the two leaders or their designees have been recognized under the standing order, the distinguished Senator from Oregon (Mr. Packwood) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business, not to extend beyond the hour of 11 o'clock a.m., with the usual 3-minute limitation on statements therein.

At 11 o'clock a.m. the Senate will resume consideration of S. 2798, a bill authorizing the construction, repair, and preservation of certain public works. The question at that time will be on the adoption of the Ervin amendment No. 896 to the bill S. 2798. There is a 1-hour limitation for debate on the Ervin amendment, and the yeas and nays thereon have already been ordered. Hence, a yea-and-nay vote will occur at about the hour of 12 noon, unless time should be yielded back, in which case the vote will occur earlier.

On the disposition of the Ervin amendment, the Senate will continue its consideration of S. 2798 and amendments thereto. Yea and nay votes may occur on amendments and on final passage.

Upon the disposition of S. 2798, the Senate will resume consideration of the conference report on the national energy emergency bill, S. 2589. Yea and nay votes may occur.

### ADJOURNMENT TO 10:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, as a further mark of respect to the memory of the late Charles M. Teague, a Representative from the State of California, and pursuant to the previous order I now move that the Senate stand in adjournment until the hour of 10:30 a.m. tomorrow.

The motion was agreed to; and at 5:40 p.m. the Senate adjourned until tomorrow, Tuesday, January 22, 1974, at 10:30 a.m.

# HOUSE OF REPRESENTATIVES—*Monday, January 21, 1974*

This being the day fixed by Public Law 93-196, 93d Congress, enacted pursuant to the 20th amendment of the Constitution, for the meeting of the 2d session of the 93d Congress, the Members of the House of Representatives of the 93d Congress met in their Hall, and at 12 o'clock noon were called to order by the Speaker, the Honorable CARL ALBERT, a Representative from the State of Oklahoma.

The Chaplain, Rev. Edward G. Latch, D.D., L.H.D., offered the following prayer:

*Be strong and of good courage; be not afraid, neither be thou dismayed: for the Lord thy God is with Thee whithersoever thou goest.*—Joshua 1: 9.

And I said to the Man who stood at the gate of the year:
"Give me a light that I may tread safely into the unknown!"

And he replied:
"Go out into the darkness and put thine hand into the hand of God.
That shall be to thee better than light and safer than a known way."

Eternal God, our Father, whose still, small voice calls us to turn away from the worries of a wayward world and to come to Thee in all humility and reverence, help us, we pray Thee, to enter this new year putting our hands into Thine that we may be led into Thy pure paths of righteousness, truth, and good will.

Undergirded by Thy spirit, may our President, our Speaker, and our Representatives face the duties of this year with clear minds, clean hearts, courageous spirits, and without any pettiness, or prejudice, or pretense. May they render their best service to the best country in all the world.

Bless Thou our Nation, from north to south, from east to west. May we the people be united in purpose and sturdy in spirit as we live through these critical days and may our faith in Thee keep us steady and give us strength as we seek the good of all Thy children.

We mourn the passing of our beloved colleague, CHARLES M. TEAGUE. For his integrity of mind, his sincerity of heart, his devotion to his State and his country, we thank Thee. Comfort thou his family with Thy sustaining spirit and strengthen them for the days that lie ahead.

We pray in the spirit of Him who taught His disciples to pray:

*Our Father, who art in heaven, hallowed be Thy name. Thy kingdom come. Thy will be done on earth as it is in heaven. Give us this day our daily bread. And forgive us our trespasses, as we forgive those who trespass against us. And lead us not into temptation, but deliver us from evil. For Thine is the kingdom, and the power, and the glory forever.* Amen.

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## CALL OF THE HOUSE

The **SPEAKER**. The Clerk will call the roll to ascertain the presence of a quorum.

The Clerk called the roll, and the following Members answered to their names:

[Roll No. 1]

Abdnor
Abzug
Adams
Addabbo
Anderson, Ill.
Archer
Armstrong
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Bauman
Beard
Bennett
Bergland
Bevill
Biaggi
Biester
Blatnik
Boggs
Boland
Bowen
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Carey, N.Y.
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Dingell
Donohue
Downing
Drinan
Duncan
du Pont
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flowers
Flynt
Foley
Ford
Forsythe
Fountain
Frenzel
Frey
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Grasso
Gray
Green, Pa.
Griffiths
Gross
Grover
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
King
Kluczynski
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Kuykendall
Kyros
Landgrebe
Landrum
Latta
Leggett
Lehman
Lent
Litton
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
McSpadden
Madden
Madigan
Mahon
Mann
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Matsunaga
Mayne
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Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Miller
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Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Patten
Perkins
Pettis
Peyser
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rarick
Rees
Regula
Reuss
Rhodes
Riegle
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Runnels
Ruppe
Ruth
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stokes
Stuckey
Studds
Symington
Symms
Talcott
Taylor, N.C.
Teague
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vanik
Veysey
Vigorito
Waggonner
Wampler
Ware
White
Whitehurst
Whitten
Widnall
Williams
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
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The SPEAKER. On this rollcall 362 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

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## ANNOUNCEMENT BY THE SPEAKER AS TO CORRECT USE OF THE ELECTRONIC VOTING SYSTEM

The **SPEAKER**. A thorough analysis of the use of the electronic voting system during the 1st session of the 93d Congress has been completed.

This analysis indicates that fewer than 20 percent of the Members consistently use their vote cards to verify that their votes were recorded. It also indicates that a number of Members have on occasion inserted their cards without specifying a vote preference.

In order to assure the proper recording of votes, the Members are reminded that they should closely observe the vote stations while using them and that they should verify their votes before leaving the Chamber.

The following procedures should be followed when using the vote card:

1. Select a vote station that has the blue "Open" light illuminated.

2. Insert the vote card; the blue "Open" light will momentarily be extinguished as the computer system identifies the vote card. Wait for the blue "Open" light to illuminate again.

3. Firmly press the "Yea," "Nay," or "Pres" button to record your vote preference.

4. Wait for the button you depressed to illuminate. Green for yea; red for nay; amber for present.

5. After removing the vote card from the vote station, verify that the vote has been recorded by reinserting the card, preferably in a different "Open" vote station. The button corresponding to your last vote preference will be illuminated to indicate that your vote has been recorded by the computer system. You can double check your vote by observing the light illuminated next to your name on the display above the Press Gallery.

If any of the vote station lights fail to work as indicated in the above procedure, you should repeat steps 1 through

5 at a different vote station. The employees who are in charge of the electronic system have assured the Chair that votes will be properly recorded if the above steps are followed.

If difficulties persist in recording your vote after following this procedure, notify the tally clerk. He will record your vote and have the technicians look into the problem.

## COMMITTEE TO NOTIFY THE PRESIDENT

Mr. O'NEILL. Mr. Speaker, I offer a privileged resolution (H. Res. 763) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 763

*Resolved,* That a committee of three Members be appointed by the Speaker on the part of the House of Representatives to join with a committee on the part of the Senate to notify the President of the United States that a quorum of each House has assembled and Congress is ready to receive any communication that he may be pleased to make.

The resolution was agreed to.

A motion to consider was laid on the table.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to join a committee on the part of the Senate to notify the President of the United States that a quorum of each House has been assembled, and that the Congress is ready to receive any communication that he may be pleased to make, the gentleman from Massachusetts (Mr. O'Neill), the gentleman from California (Mr. McFall), and the gentleman from Arizona (Mr. Rhodes).

## NOTIFICATION TO SENATE

Mr. MAHON. Mr. Speaker, I offer a privileged resolution (H. Res. 764) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 764

*Resolved,* That the Clerk of the House inform the Senate that a quorum of the House is present and that the House is ready to proceed with business.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## DAILY HOUR OF MEETING

Mr. MADDEN. Mr. Speaker, I offer a privileged resolution (H. Res. 765) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 765

*Resolved,* That until otherwise ordered, the daily hour of meeting of the House of Representatives shall be at 12 o'clock meridian.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

Washington, D.C.,
*December 26, 1973.*

The Honorable the Speaker,
*House of Representatives.*

Dear Sir: On this date, I was served the attached Subpoena Duces Tecum in the case of United States of America v. Bertram L. Podell et al., 73 Cr. 675 (RLC) dated December 19, 1973, and commanding the Clerk of the House of Representatives or duly authorized representative to appear as a witness and produce certain documents filed by Congressman Bertram L. Podell and the committees supporting his candidacy at 10:00 o'clock in the forenoon on January 14, 1974 in Courtroom 506 in the U.S. Courthouse, Foley Square in the Borough of Manhattan. The documents are records under the control of the House of Representatives.

Since the House stands adjourned under H. Con. Res. 412 of December 22, 1973, and since H. Res. 12 of January 3, 1973, specifically precludes the Clerk from releasing such matter, I have this date so advised the Judge hearing the case. The subpoena is herewith attached for such action as the House in its wisdom may see fit to take.

Sincerely yours,
W. Pat Jennings,
*Clerk, House of Representatives.*

[U.S. District Court, Southern District of New York]

Subpoena Duces Tecum

Greeting:
To: W. Pat Jennings, Clerk, U.S. House of Representatives or Duly Authorized Representative.

We command you that all and singular business and excuses being laid aside you and each of you appear and attend before the Judge of the District Court of the United States for the Southern District of New York, at a District Court to be held in Courtroom No. 506 in the United States Courthouse, Foley Square, in the Borough of Manhattan, City of New York, in and for the said Southern District of New York, on the 14th day of January, 1974, at 10:00 o'clock in the forenoon, to testify and give evidence in a certain cause now pending undetermined in the said District Court of the United States for the Southern District of New York, between the United States of America, Plaintiff, and Bertram L. Podell, et al., 73 Cr. 675 (RLC), Defendants, on the part of the United States, and not depart the Court without leave thereof or of the District Attorney, and that you bring with you and produce at the time and place aforesaid the following:

All and any records filed with the House of Representatives by Bertram L. Podell as a candidate and all committees supporting his candidacy, under the Corrupt Practices Act of 1925 and the Federal Election Campaign Act of 1971, for the years 1968 to the present, including but not limited to all records relating to campaign financing, contributions and expenditures, and all other deeds, evidence, and writings which you have in your custody or power concerning the premises. And failure to attend and produce said documents, you will be deemed guilty of a contempt of Court, and liable to pay all loss and damages sustained thereby to the party aggrieved, and forfeit Two Hundred and Fifty Dollars in addition thereto and to other penalties of the Law.

Dated: New York, N.Y., December 19, 1973.

Paul J. Curran,
*U.S. Attorney for the Southern District of New York.*

Raymond F. Burghardt,
*Clerk, U.S. District Court, Southern District of New York.*

Robert L. Carter,
*U.S. District Judge, Southern District of New York.*

Note.—Report at Room 450. In order to secure your witness fees and mileage, it is necessary that you retain this Subpoena and present the same at the United States Attorney's Office, Room 450, upon each day on which you attend Court as a witness.

Joseph Jaffe,
*Assistant U.S. Attorney.*

Room 445-E, United States Court—Foley Square, New York, NY 10007 Tel.: (212) 264-6068.

## APPOINTMENT OF MEMBERS OF COMMITTEE TO ATTEND THE FUNERAL OF THE LATE HONORABLE CHARLES M. TEAGUE

The SPEAKER. Pursuant to the provisions of title 2, United States Code, section 124, and the order of the House of December 21, 1973, empowering him to appoint commissions, boards, and committees authorized by law or by the House, did on January 2, 1974, appoint the following Members of the House of Representatives as a committee to attend the funeral of the late Honorable Charles M. Teague of California: Mr. Holifield, Mr. Rhodes, Mr. McFall, Mr. Arends, Mr. Gubser, Mr. Hosmer, Mr. Mailliard, Mr. Moss, Mr. Bob Wilson, Mr. Sisk, Mr. Johnson of California, Mr. Bell, Mr. Corman, Mr. Edwards of California, Mr. Hanna, Mr. Hawkins, Mr. Leggett, Mr. Roybal, Mr. Talcott, Mr. Van Deerlin, Mr. Charles H. Wilson of California, Mr. Del Clawson, Mr. Burton, Mr. Rees, Mr. Waldie, Mr. Mathias, Mr. Pettis, Mr. Wiggins, Mr. McCloskey, Mr. Anderson of California, Mr. Goldwater, Mr. Rousselot, Mr. Danielson, Mr. Dellums, Mr. Veysey, Mr. Brown of California, Mr. Burgener, Mrs. Burke of California, Mr. Hinshaw, Mr. Ketchum, Mr. Moorhead of California, Mr. Ryan, Mr. Stark, Mr. Goodling, and Mr. Mayne.

## ANNOUNCED RETIREMENT OF THE HONORABLE H. R. GROSS

(Mr. SMITH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. SMITH of Iowa. Mr. Speaker, as a little boy I can remember on many a cold winter night settling into a chair and slipping on the radio headphones and hearing emanating from the 500,000-watt voice of WHO in Des Moines the clear and deep voice of H. R. Gross with the news.

As a newscaster, he became a legend. He moved from reporting the news to making the news when he moved to the Congress and I do not need to tell any of the Members that as a Congressman he also has become a legend here.

Of course I consider it one of the great privileges of my life to have served here for 16 years with him in this Congress. But now he has announced that he is going to retire, that he is going to spend more time with his devoted wife Hazel and with their children and grandchildren. It will never be the same here without H. R. but we all must agree that he has earned and deserves, if that is his desire, the right to a respite.

I am sure that I speak for all Iowans and all Members when I wish "H. R." and Hazel the very best in the years to come, and we from Iowa are especially pleased to hear that they intend to spend at least part of that time in the State of Iowa.

## PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO FILE CERTAIN REPORTS

Mr. DINGELL. Mr. Speaker, I have a series of unanimous consent requests. I ask unanimous consent that the Committee on Merchant Marine and Fisheries have until midnight tonight to file reports on the following legislation:

H.R. 11295, to extend the anadromous fish conservation program;

H.R. 11541, legislation relating to rights-of-way across the wildlife refuges right-of-way;

H.R. 11537, game management on public lands; and

H.R. 11809, legislation to establish straight baselines for measuring fisheries zone; this is for purposes of measuring the 12-mile contiguous fisheries zone.

The SPEAKER. Is there objection to the requests of the gentleman from Michigan?

There was no objection.

## DAYLIGHT SAVING TIME

(Mr. FLYNT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FLYNT. Mr. Speaker, today I have joined my colleague, Mr. LANDRUM, and others, in introducing legislation to repeal the Daylight Saving Time Act of 1973. I was one of the 88 Members who opposed H.R. 11324 when it was considered on the floor of the House on November 27, 1973. I opposed it then, and I seek to repeal it now for a variety of reasons, but primarily because of the dangerous conditions which have resulted in predawn hours on heavily traveled streets, roads, and highways when schoolchildren are required to await schoolbuses for nearly 2 hours before daylight.

I recognize that the bill which the House passed last November was described as either necessary or desirable to conserve energy. While I cannot speak for other parts of the country, I can speak for that part of the country in which I reside and which I represent, and in my opinion, this legislation has not saved 1 kilowatt of electricity or a dime's worth of energy fuels. It is quite possible that this legislation has resulted in increased consumption of both.

Literally hundreds of mothers of young children have expressed to me their concern about the unsafe conditions created when "double" daylight saving time became effective on January 6, 1974. I use the term "double daylight saving time" because in western Georgia that is exactly what it is, because prior to World War II we were on central standard time.

I hope that other Members of the House will join us in introducing legislation to repeal the Daylight Saving Time Act of 1973. I urge the Committee on Interstate and Foreign Commerce to reassess the effects of year-round daylight saving time, and in the interest of creating a safer environment for our children, to report promptly legislation to repeal this hastily approved and unwise measure.

## SUDDEN INFANT DEATH SYNDROME ACT

(Mr. ADAMS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ADAMS. Mr. Speaker, I hope we will pass H.R. 11386, the Sudden Infant Death Syndrome Act, today because it is long overdue. Over 10,000 infants per year die of this disease each year and these statistics are often misleading because families do not know what has happened and often believe they are at fault so they do not accurately report the death.

I have been aware of this for some period of time because of the efforts of Mrs. Mary Dove of Seattle. Mary has worked long and hard to bring this disease to the attention of the public and to provide funds for research. We unanimously passed this bill from the Interstate and Foreign Commerce Committee this morning. As a member of that committee I have supported the prompt passage of this bill even though I would have added additional funds to the bill. We have been assured that additional funds for research will be made available in addition to the public information funds provided in this bill.

A similar bill has passed the Senate earlier this year and we have every hope that this bill will become law very soon.

## REPORT OF COMMITTEE TO NOTIFY THE PRESIDENT

Mr. O'NEILL. Mr. Speaker, your committee on the part of the House to join a like committee on the part of the Senate to notify the President of the United States that a quorum of each House has been assembled and is ready to receive any communication that he may be pleased to make has performed that duty.

The President asked us to report that he will be pleased to deliver his message on the state of the Union on January 30, 1974, at 9 p.m.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to state that there are no bills on the Consent Calendar.

The Consent Calendar will not be called.

## JOINT SESSION OF THE TWO HOUSES, WEDNESDAY, JANUARY 30, 1974

Mr. O'NEILL. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 413) and ask for its immediate consideration.

The Cleak read the concurrent resolution, as follows:

H. CON. RES. 413

*Resolved,* That the two Houses of Congress assemble in the Hall of the House of Representatives on Wednesday, January 30, 1974, at 9:00 o'clock p.m., for the purpose of receiving such communications as the President of the United States shall be pleased to make to them.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

## AMENDING PUBLIC HEALTH SERVICE ACT RESPECTING SUDDEN INFANT DEATH SYNDROME

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11386) to amend the Public Health Service Act to provide Federal assistance for information and education programs respecting sudden infant death syndrome and for projects respecting its cause, as amended.

The Clerk read as follows:

H.R. 11386

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Sudden Infant Death Syndrome Act of 1974".

SEC. 2. Part B of title III of the Public Health Service Act is amended by inserting after section 318 the following new section:

"SUDDEN INFANT DEATH SYNDROME COUNSELING, INFORMATION, EDUCATION, AND STATISTICAL PROGRAMS

"SEC. 319. (a) The Secretary shall carry out a program to develop public information and professional educational information materials relating to sudden infant death syndrome and to disseminate such information and materials to persons providing health care, public safety officials, and to the public generally.

"(b) (1) The Secretary may make grants to public and nonprofit private entities, and enter into contracts with public and private entities, for projects which include both—

"(A) the collection, analysis, and furnishing of information (derived from post mortem examinations and other means) relating to the causes of sudden infant death syndrome; and

"(B) the provision of information and counseling to families affected by sudden infant death syndrome.

No grant may be made or contract entered into under this subsection for an amount in excess of $50,000.

"(2) No grant may be made or contract entered into under this subsection unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(3) Payments under such grants may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

"(4) Contracts under this subsection may be entered into without regard to sections 3648 through 3709 of the Revised Statutes (31 U.S.C. 529; 44 U.S.C. 5).

"(5) For the purpose of making payments pursuant to grants and contracts under this subsection, there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1974, $2,000,000 for the fiscal year ending June 30, 1975, and $2,000,000 for the fiscal year ending June 30, 1976.

"(c) The Secretary shall submit, within two years following the date of the enactment of this section, a comprehensive report to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives respecting the administration of this section and the results obtained from the programs authorized by it."

The SPEAKER. Is a second demanded?

Mr. CARTER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. STAGGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 11386, the Sudden Infant Death Syndrome Act of 1973. This legislation, much like S. 1745 already passed by the Senate, provides new authority for Federal assistance for information and education services respecting sudden infant death syndrome and projects respecting its cause.

This mysterious killer, known as SIDS or crib death, claims the lives of over 10,000 American babies each year. We do not know what causes it, what can be done to prevent it, or even how to predict it. There is an aspect to SIDS which we do understand, and that is the tremendous toll it takes on parents whose children die of it.

In hearings before our committee we were repeatedly advised of the scarcity of public information and professional knowledge on the aspect of SIDS we do understand. Because of this lack of information, many families affected by SIDS are not aware that they have lost a child to an unpreventable and unpredictable condition and instead blame themselves. Often they are handled by professionals who unfortunately share their ignorance about SIDS and treat the loss in a way which compounds the needless guilt already felt by the grieving parents. In some instances this has gone as far as having parents thrown in jail for the death of their child.

When we attempted to find out the extent of Federal response to SIDS, the No. 1 killer of infants between 1 month and 1 year of age in this country, we found far less than is called for.

To remedy this, H.R. 11386 has been introduced. It directs the Secretary of Health, Education, and Welfare to conduct a program to develop public information and professional educational materials concerning SIDS and to disseminate these to the general public, health care professionals, and public safety officials. The bill also provides the Secretary of Health, Education, and Welfare new authority to make grants and contracts to projects which collect and furnish data from post-mortem examinations of infants dying of SIDS and which provide information and counseling to families affected by this syndrome.

The requirement for gathering of information by these projects is aimed at providing fuller information about the extent of SIDS and at providing information to our researchers working to find the cause of these deaths.

The total authorization for these grants and contracts, no one of which will exceed $50,000, would be $6 million. This is $2 million each year for fiscal years 1974, 1975 and 1976.

After 2 years, the Secretary of Health, Education, and Welfare will be required to report to the Interstate and Foreign Commerce Committee on the results produced by the programs supported under this legislation.

In calling on you to support this bill, I say that we can no longer ignore the pain, horror, and guilt experienced by parents who have tried to wake their healthy and happy child only to find it dead.

Many of us can understand this as parents, and all of us can understand this as human beings. Therefore, I urge you all to vote for the adoption of this legislation.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I was very pleased to see that the first piece of legislation the House took up in the second session of Congress is the bill on sudden infant death syndrome. The chairman and all the members of the committee who worked on this legislation are to be congratulated.

Several years ago the Nation was appalled by a nationwide network broadcast presentation of a film which portrayed the death of a child due to starvation, but which in fact, after I investigated the matter turned out to be untrue. The cause of the death was unknown.

I could never get any network time to attempt to redress this wrong and the unfavorable publicity it gave my town of San Antonio, even though the story was fallacious.

I talked to the parents of this child who were able to feed it, and to the hospital authorities who deplored the distortion of the facts but had no way in which to correct them.

Ever since that time I have had a strong interest in sudden infant death syndrome, and have sponsored SIDS legislation in this Congress.

I am sure that everyone agrees that this was urgently needed legislation. When "crib death" is the No. 1 killer of infants from the age of 1 month to a year, such a priority cannot be overlooked. It is appalling to realize that even though SIDS has been in existence since the beginning of recorded time, it has never been recognized as a disease, and hence a cause of death. It is for this reason that I was so glad to join my colleagues who spoke in favor of this bill which provides for the dissemination of information to the public concerning this serious disease and also allows for more extensive autopsies to be performed on the infant victim of SIDS.

The disease is virtually unknown to many people and obscure to those who are educated enough in the field of medicine to know that this "thing" does exist. This legislation helps solve this problem by establishing programs which will get the information to the public that SIDS is in fact a disease which can cause death, without warning. It is inconceivable the feelings of guilt which can be caused in parents whose child dies while sleeping, with no apparent reason. Just imagine the mother who puts her healthy baby to bed, only to wake up for the 2 o'clock feeding to find it dead, not having cried out in the night, nor struggled at all. Imagine the guilt that that mother must feel, thinking for the rest of her life, that if only she had done more, she may have saved its life—especially upon learning the cruel truth—that the coroner attributes death to being "sudden with no notable cause."

Even the public authorities and doctors are dreadfully misinformed. Often times some parents are subjected to "inquests" and "foul play" questions concerning the death of the infant. The bill will end all of this misunderstanding and confusion by making information available to them.

Yet this is not enough. Just because we know SIDS exists we must not just acknowledge its existence and forget about it. Through research we can learn more each day about SIDS, just as we have with cancer. This bill provides funds for extensive autopsies to be performed on infants who are struck by SIDS. Grants will be made to both public and private, nonprofit organizations to collect and analyze the information gathered from the post mortem examinations. In this way, gradually we can learn more and more about the cause of death inflicted by SIDS.

Municipalities must no longer be permitted to make excuses—by saying that autopsies cannot be performed on every victim, because of no funds. We must no longer make excuses for SIDS. Instead we must act now to prevent any more children from being inflicted.

Yet perhaps even more importantly, on a human note, the bill provides for the counseling of those families who are unfortunate enough to have a baby stricken with SIDS. Families must not be left to grieve with an underlying feeling of guilt and lonliness.

As a father, I was personally struck with the urgency of this legislation, which will ease the minds of thousands of parents who have suffered from the tragedy of having a child die of "crib death." SIDS is a serious problem which needs the attention of Congress. I am pleased that this bill has been passed and hope that we will begin to see the results of our efforts.

Mr. STAGGERS. I thank the gentleman from Texas, and now yield to a member of the committee, the distinguished gentleman from Washington (Mr. ADAMS) such time as he may consume.

Mr. ADAMS. Mr. Speaker, I want to congratulate the chairman of the committee and the chairman of the subcommittee for bringing this matter before the House. It is an extremely important piece of legislation.

Mrs. Dorr and many other ladies in our area started a campaign on this many years ago, because people did not know what was happening in this regard.

I urge all Members to support the bill.

Mr. STAGGERS. I thank the gentleman very much for his contribution.

Mr. CARTER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Speaker, I do not know fully the merits or the demerits of the several bills that have been brought to the floor of the House today from the Committee on Interstate and Foreign Commerce, but I was shocked to find out last week that there were no reports available on these bills, no Ramseyer rule, and no other information that would provide guidance with respect to the language changes in the bills—and there are many in at least two of the bills to follow this one. This is a shocking situation on the first day of the second session of the 93d Congress that we would be compelled to consider these bills regardless, I say again, of their merits or demerit, without the reports to accompany them, without the information we ought to have to intelligently legislate. And I point out to my colleagues on the floor of the House that these bills involve an expenditure of many, many millions of dollars—at least $500 million.

I should like to have known what the departmental reports were, particularly the Bureau of the Budget, and the justification for the spending in these several bills that are called up with no opportunity for amendment, and with a semigag rule—in other words, 20 minutes of debate on each side.

Mr. Speaker, I hope that this sort of a performance will not again be repeated.

Mr. STAGGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise briefly to state to the gentleman from Iowa that I can sympathize with the views of the gentleman. I wish to describe to the gentleman from Iowa the extraordinary circumstances under which these bills are brought to the floor. When the Congress adjourned, they said—that is, the leadership—that they did not have any legislation to consider at this time, and they wondered if there was any legislation that could come out of our Committee after long hearings, bills on which hearings had already been completed. We had long hearings on these bills, and the hearings had been completed, and they were extensive hearings, and all of the bills had come out unanimously from the subcommittee, which is one of the finest subcommittees in the House. That is the reason they were brought forth. Also when they were brought before the full committee they all came out unanimously with the exception of one of the bills, which had one vote against it.

So I would say to the gentleman that I am sure he understands the extraordinary circumstances under which these bills are being considered.

I would also add that we do have reports here on the table, and if any Member would like to do so they can look at them, peruse them, and we will be glad to answer any questions on any of the bills. We believe these bills are very meritorious, and that they ought to be handled now.

Mr. GROSS. Mr. Speaker, would the gentleman yield?

Mr. STAGGERS. I will be happy to yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, on page 2 of H.R. 11386, the bill presently before the House, lines 16 through 19, the language reads:

> (B) the provision of information and counseling to families affected by sudden infant death syndrome.
>
> No grant may be made or contract entered into under this subsection for an amount in excess of $50,000.

What precisely does this mean? Does it mean that $50,000 may be awarded to the family?

Mr. STAGGERS. It means that the program which provides counseling cannot be given any more than $50,000. This also would cover counseling not only to those who have lost a child, but perhaps those who might lose a child, so that they would have the necessary information.

There have been cases of children who have been affected by this syndrome where the parents have been disturbed during the night, and have rushed to the nursery and found the child on the point of death, but through understanding and counseling, knowing something about the situation, they have given that child mouth-to-mouth resusitation and revived the child, and that child is living today, whereas if they had not known something about it, or in some way been alerted, that child would not be living.

This is all part of the program that the money will go to.

Mr. GROSS. But it does not provide indemnification to a family for a loss of this kind?

Mr. STAGGERS. No, sir; not a bit.

Mr. GROSS. I thank the gentleman.

Mr. CARTER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Indiana (Mr. HUDNUT).

Mr. HUDNUT. Mr. Speaker, some 10,000 infants die each year from a cause unknown. This tragic mystery has been labeled the "sudden infant death syndrome" or "crib death." We are all too familiar with accounts of grieved and bewildered parents unfairly blamed for the death of their innocent babies by themselves and others. Ignorance and injustice are inseparable partners in the propagation of human misery. By fighting the ignorance regarding SIDS we can alleviate the injustice done to thousands of guilt-ridden but innocent people.

The Sudden Infant Death Syndrome Act of 1973 provides for public and professional education concerning SIDS. The Secretary of Health, Education, and Welfare is authorized to make grants for the collection and analysis of information concerning SIDS and for the counseling of families affected by this tragic killer. Thus, the purpose of this legislation is twofold: to provide for research into the cause and cure of SIDS and to help alleviate the crushing psychological burdens imposed by this misunderstood tragedy. It is meritorious legislation and I hope it will be passed by a near unanimous vote.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill. I think it is very much needed. I regret the haste in which it was brought to the floor of the House, however. I have not been so much influenced by what I have heard over the radio or television or read in the newspapers about this disease as by what I have seen. I have seen youngsters in the hospital who died, and the diagnosis was sudden infant death syndrome.

I feel that this is a good bill and that the money will be wisely spent. It is not as much as has been spent on many bills which involve few patients. Three out of every 1,000 children who died under 1 year of age die of sudden infant death syndrome, so I feel that this legislation is needed, and it is good legislation.

Mr. Speaker, I would remind the House, however, that all of the legislation of this nature should be based on morbidity, mortality, and economic impact. This is the only way that we can put the money where the diseases which cause the most difficulty are. So many times, because of the political impact of certain diseases, we authorize more money than is needed for those particular diseases, so I suggest, Mr. Speaker, that in future legislation we authorize sums according to the mortality, morbidity, and economic impact.

In this case the money which would be authorized should be greater than we are authorizing here today.

Mr. Speaker, I support this legislation.

I yield back the remainder of my time.

Mr. STAGGERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Ms. ABZUG).

Ms. ABZUG. Mr. Speaker, I support this legislation. Sudden infant death syndrome is the single largest killer of infants between the age of 1 month and 1 year. Remarkable as it may seem SIDS takes the lives of 1 out of every 350 infants in America. In fact, because of the large number of infants whose lives are lost to this mysterious disease it ranks statistically as the No. 2 killer, behind accidents, of all children under the age of 15.

This mysterious disease, without known cause or cure, strikes and kills healthy, normal babies. It strikes without warning and respects no social or economic barriers. It kills rich and poor, Jew and Gentile, black and white infants with no apparent discrimination.

Yet I note sadly that the measure we are considering today does not go nearly far enough. I would hope that when we pass this legislation and it goes to conference committee, the final bill would more nearly resemble the version passed by the other body. This measure does not include mandatory research funds but does provide money for the collection of data and parent counseling. I am pleased that the latter section is in this legislation but I wish there was a specific reference to research.

At the current time, the Department of Health, Education, and Welfare, according to their own testimony, is spending only $600,000 on research. It should also be noted that according to Dr. Paul Bataldern, Acting Director of the Bureau of Community Health Services:

> There are no funds currently available for new projects pertaining to Suddent Infant Death Syndrome, but legislation is being discussed by the Congress. Whether or not funds will become available in the future is not ascertainable at this time.

I hope that we will have an opportunity to show our approval for a stronger measure when this bill comes back from conference. I thank the chairman.

Mr. STAGGERS. I thank the gentlewoman for her contribution.

Mr. Speaker, I yield now such time as he may consume to the chairman of the subcommittee, the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. I thank the chairman for yielding.

Mr. Speaker, I rise in support of H.R. 11386, the Sudden Infant Death Syndrome Act of 1974. This is a modest yet important bill which attempts to deal with a tragic killer which is only beginning to be recognized, even by health professionals, as a disease.

Sudden infant death syndrome kills approximately 10,000 American babies every year. Excluding the first week of life, it is the greatest killer of infancy, and second only to accidents as the greatest killer of children from age 1 week to 15 years. Its cause remains unknown; it cannot be predicted nor prevented. Ignorance about SIDS leads many parents to falsely believe that they are responsible for their child's death from suffocation, pneumonia, or neglect, and in some cases, ignorance on the part of public officials has led to criminal charges of child abuse or neglect.

The committee determined that there is a real need for information about sudden infant death syndrome, both for the general public and for health professionals. There also is, of course, need for research, but this legislative authority already exists. This bill would direct the Secretary of Health, Education, and Welfare to carry out a program to develop informational materials and to disseminate the information. It would also authorize $2 million a year for 3 years for grants and contracts to collect and analyze information relating to the causes of SIDS through post mortem examinations and otherwise, and to provide information and counseling to families affected by SIDS. These are in the subcommittee's judgment two projects—collection of information on causes of SIDS and providing existing information to families—that need legislative direction.

Finally, Mr. Speaker, I wish to commend Dr. Abraham Bergman of Seattle, Wash., for his untiring efforts on behalf of this legislation and on behalf of families who have suffered a loss from SIDS. No one in this country has done more to combat sudden infant death syndrome than Abe Bergman and he can be proud that much of his effort is embodied in this bill.

I urge adoption of this bill.

Mr. HARRINGTON. Mr. Speaker, today marks the beginning of the 2d session of the 93d Congress, a Congress which in my opinion will have more influence on America's future than any previous Congress in recent memory. the year 1974 will be a trying and difficult year, a year in which the Congress and we, as responsible Members, will have to assert ourselves and address the fundamental problems we face as a Nation. We must act in a responsible manner; we must pledge to work in the best interests of the people; and we must do all in our power to reunify the American people behind a common theme of protecting the common interest.

Today, I rise in support of H.R. 11386, the Sudden Infant Death Syndrome Act of 1973, but I do so with reservations expressly because I do not feel that this piece of legislation does enough to combat an illness which is the Nation's top killer of infants who live past the first week.

With all the emphasis that our society puts on medical care and child health, it is painful to see that the major cause of infant deaths has been virtually ignored by both the general public, and even more appallingly by Congress. Every 53 minutes a killer sneaks through the bars of a crib and leaves with a life. These babies do not choke or suffocate, or die because of parental neglect. Their death was not a freak accident, but rather a mysterious disease.

Scientists know little about SIDS. It is estimated that the disease kills about 3 out of every 1,000 babies, and it occurs more frequently in males than females; in nonwhite babies than white babies; in families of lower socio-economic status; in premature infants; and in babies who have had recent infections. No one knows why, and death can be neither predicted nor prevented.

The parents of those stricken victims are stunned and usually have no idea of what happened. These parents are left in psychological torment, feeling that they, in some way, caused what was in no way their fault. In a recent survey, 14 percent of the affected parents never learn why their infants die; 50 percent feel that they were not given an adequate explanation; and about 33 percent of the parents were told one cause of death and later saw another cause written on the infant's death certificate.

H.R. 11386, as reported out of the Interstate and Foreign Commerce Committee is, it seems to me, a diluted version of the Senate bill 1745, which was introduced by Senator MONDALE. I feel that H.R. 11386 in principle is excellent, but in content, it is far from what the people we represent deserve.

H.R. 11386 provides for the collection, analysis, and furnishing of information relating to the causes of the sudden infant death syndrome. Second, it provides information and counseling to the families who are affected by SIDS. To carry out these two provisions, the bill authorizes $2 million each year for the next 3 years. On September 25, I introduced H.R. 10490, a bill modeled after Senator MONDALE's bill, S. 1745. This bill provides for the establishment of centers devoted to the research of the syndrome; for the collection, analysis, and dissemination of information on the disease; for counseling services to families of the stricken infants; and for short-term training and other professional services for the prevention of syndrome deaths. The Senate bill authorized $24 million for the next 3 years: $7 million for 1974, $8 million for 1975, and $9 million for 1976. H.R. 11386 only authorizes $6 million, a sum which is far from what proper research will cost.

The country is in a sad state of affairs when Congress must pinch pennies in the face of a possible Presidential veto. We cannot afford to do proper research to help discover what is killing 1 out of every 350 babies, but we can afford to remodel the President's plane for $32,000 and to build a $12,000 driveway and parking lot for the former Vice President at his Bethesda home. Why should we have to put such a price on human life?

Before now, the Department of Health, Education, and Welfare has handled the problem, but we have found ourselves looking at unfulfilled promises of action and all we have seen is reservation.

The Massachusetts Legislature passed a bill this past year to help the families affected by SIDS by having the State pay for autopsies. We at the national level now must act. We need a bill, not only to authorize funds for counseling families and to gather information, but also a bill to guarantee that in the near future we may solve the mystery that is taking the lives of over 10,000 babies a year. We need an all-out effort exclusively to find out what exactly is behind SIDS and then cure it. To settle for a bill which authorizes money for counseling is like trying to primarily help people with food poisoning without combating the food that is poisoning them. Many feel that the sudden infant death syndrome is not that serious, but if we were to tell them that a "black plague" were to kill 10,000 infants tomorrow, I am sure that their ideas would be different. We need action, not partial action, but total action, and we need it now.

We cannot put a price tag on human life. I call for the full support of the House in this quest. I urge my colleagues to support H.R. 11389 and to also support the bill when it comes from conference.

Mr. GUDE. Mr. Speaker, this afternoon as we consider health-related legislation, I think it is important that we give some thought to the condition of our major health facility, the National Institutes of Health.

I certainly support the Sudden Infant Death Syndrom Act and the alcohol amendments. I agree with the sentiments in Congress which give impetus to pieces of legislation dealing with specific health problems. It is important, however, that after the legislation is passed we make certain that the scientists, researchers, and administrators get the support they need to do high quality work.

The National Cancer Institute at NIH, for example, has been given the responsibility to undertake cancer research. In addition to this, important work is being done on heart and lung disease, nervous disorders, arthritis and many other medical problems.

The reputation of NIH has always been one of excellence and leadership in the biomedical research area. We in Congress have traditionally supported NIH's efforts and have contributed to the Institutes' record of achievements.

In recent years questions have been raised about the funding and staffing of NIH and the contracting out of research projects. As part of the overall effort to trim the budget, cuts have been made in NIH's research budget and the staffing has been greatly reduced.

The Directors of NIH have done an excellent jog of cutting some fat from their operations but we have reached the point where there is no more fat to cut. If NIH continues to receive a low priority in the Department of Health, Education and Welfare, we will be witness to the tragic degradation of a research center that has always been able to attract the best scientists and has participated in some of the major medical research breakthroughs.

Just several months ago, for example, scientists at NIH's National Institute of Allergy and Infectious Diseases were able to observe and photograph, by means of immune electron microscopy, the virus that causes infectious hepatitus.

I fear that if NIH continues to suffer arbitrary budget cuts and shortsighted management under Health, Education, and Welfare, such breakthroughs will not be forthcoming in the future. The pay ceiling on civil service pay already greatly retards the recruitment of top flight research directors. Only the fine reputation of NIH can now be used to bring in the people the Institutes need.

Therefore, Mr. Speaker, as we add to a growing list of health legislation, I urge that we give careful consideration to a congressional insistence on more support for NIH and its programs. We must realize that we cannot legislate the cure to disease. We must follow up our legislation with support for the research and we must inject ourselves into the budget process in the executive branch to insure that our decisions are being carried out.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS) that the House suspend the rules and pass the bill H.R. 11386, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 1745) to provide financial assistance for research activities for the study of sudden death syndrome, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1745

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Sudden Infant Death Syndrome Act of 1973".

### STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to provide financial assistance to identify the causes and preventive measures needed to eliminate sudden infant death syndrome, to provide information and counseling services to families affected by sudden infant death syndrome and to personnel engaged in research for the prevention of sudden infant deaths.

### AUTHORIZATION OF APPROPRIATIONS

SEC. 3. Section 441 of the Public Health Service Act (42 U.S.C. 201) is amended by inserting the subsection designation "(a)" immediately before the first sentence and by adding at the end thereof the following new subsection:

"(b)(1) The Secretary, through the National Institute of Child Health and Human Development, shall carry out research programs specifically relating to sudden infant death syndrome.

"(2) There are authorized to be appropriated to carry out the purposes of this subsection $7,000,000 for the fiscal year ending June 30, 1974, $8,000,000 for the fiscal year ending June 30, 1975, and $9,000,000 for the fiscal year ending June 30, 1976.".

### AMENDMENT TO TITLE XI OF THE PUBLIC HEALTH SERVICE ACT

SEC. 4. (a) The title of title XI is amended by adding thereto the words "AND PERINATAL BIOLOGY AND INFANT MORTALITY".

(b) Title XI of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART C—SUDDEN INFANT DEATH SYNDROME

"SUDDEN INFANT DEATH SYNDROME COUNSELING, INFORMATION, EDUCATIONAL, AND STATISTICAL PROGRAMS

"SEC. 1121. (a)(1) The Secretary through the Assistant Secretary for Health and Scientific Affairs may make grants to public and nonprofit private entities, for the establishment of regional centers for sudden infant death syndrome counseling, information, educational, and statistical programs.

"(2) The Secretary through the Assistant Secretary for Health and Scientific Affairs shall carry out a program to develop public information and professional educational materials relating to sudden infant death syndrome and to disseminate such information and materials to persons providing health care, public safety officials, and to the public generally. The Secretary may carry out such program through grants to public and nonprofit private entities or contracts with public and private entities and individuals.

"(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $3,000,000 for the fiscal year ending June 30, 1974, $4,000,000 for the fiscal year ending June 30, 1975, and $5,000,000 for the fiscal year ending June 30, 1976.

"APPLICATION; ADMINISTRATION OF GRANT AND CONTRACT PROGRAMS

"SEC. 1122. A grant under this part may be made under application to the Secretary at such time, in such manner, containing and accompanied by such information, as the Secretary deems necessary. Each applicant shall—

"(1) provide that the program and activities for which assistance under this part is sought will be administered by or under supervision of the applicant;

"(2) provide for appropriate community representation (with special consideration given to groups previously involved with sudden infant death syndrome) and the development and operation of any program funded by a grant under this part;

"(3) set forth such fiscal controls and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

"(4) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

"REPORTS

"SEC. 1123. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress within one year after the date of enactment of this Act and annually thereafter a comprehensive report on the administration of this Act with regard to sudden infant death syndrome.

"(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary.".

### HEALTH SURVEY AND STUDIES

SEC. 5. Section 305(b) of the Public Health Service Act is amended by inserting immediately before the period at the end thereof the following: "specifically including statistics relating to sudden infant death syndrome".

### MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves to strike out all after the enacting clause of S. 1745 and insert in lieu thereof the provisions of H.R. 11386, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 11386) was laid on the table.

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## AMENDING COMPREHENSIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION ACT OF 1970 AND OTHER RELATED ACTS

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11387) to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and other related acts to concentrate the resources of the Nation against the problem of alcohol abuse and alcoholism; to coordinate the National Institute of Mental Health, the National Institute on Alcoholism and Alcohol Abuse, and the National Institute on Drug Abuse; and for other purposes, as amended.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this* Act may be cited as the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974."

## TITLE I—FEDERAL ASSISTANCE FOR STATE AND LOCAL ALCOHOLISM AND ALCOHOL ABUSE PROGRAMS

### PART A—GRANTS TO STATES

SEC. 101. The heading for part A of title III of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended by striking out "FORMULA GRANTS" and inserting in lieu thereof "GRANTS TO STATES".

SEC. 102. (a) Section 301 of such Act is amended by inserting immeditaely after "for each of the next two fiscal years" the following: ", $60,000,000 for the fiscal year ending June 30, 1975, and $60,000,000 for the fiscal year ending June 30, 1976,".

(b) The section heading for such section is amended to read as follows:

"AUTHORIZATION FOR FORMULA GRANTS"

SEC. 103. Section 302 of such Act is amended by adding at the end thereof the following new subsection:

"(d) On the request of any State, the Secretary is authorized to arrange for the assignment of officers and employees of the Department or provide equipment or supplies in lieu of a portion of the allotment to such State. The allotment may be reduced by the fair market value of any equipment or supplies furnished to such State and by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of an officer or employee to the State. The amount by which such payments are so reduced shall be available for payment of such costs (including the costs of such equipment and supplies) by the Secretary, but shall for purposes of determining the allotment under section 302(a), be deemed to have been paid to the State."

SEC. 104. Section 303(a) of such Act is amended—

(1) by striking out in paragraph (3) "or groups," immediately after "nongovernmental organizations" and inserting in lieu thereof ", of groups to be served with attention to assuring representation of minority and poverty groups";

(2) by striking out "and" at the end of paragraph (9);

(3) by redesignating paragraph (10) as paragraph (11); and

(4) by adding after paragraph (9) the following new paragraph:

"(10) set forth, in accordance with criteria to be set by the Secretary, standards (including enforcement procedures and penalties) for (A) construction and licensing of public and private treatment facilities, and (B) for other community services or resources available to assist individuals to meet problems resulting from alcohol abuse; and".

SEC. 105. Part A of title III of such Act is amended by adding at the end thereof the following new section:

"SPECIAL GRANTS

"SEC. 304. (a) To assist States which have adopted the basic provisions of the Uniform Alcoholism and Intoxication Treatment Act to utilize fully the protections of that Act in their efforts to approach alcohol abuse and alcoholism from a community care standpoint, the Secretary, acting through the Institute, may, during the period beginning July 1, 1973, and ending June 30, 1976, make grants to such States (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) for the implementation of the Uniform Alcoholism and Intoxication Treatment Act. A grant under this section to any State may only be made for that State's costs (as determined in accordance with regulations prescribed by the Secretary) in implementing such Act for a period which does not exceed one year from the first day of the first month for which the grant is made. No State may receive more than three grants under this section.

"(b) No grant may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such matter, and contain such information as the Secretary shall by regulation prescribe. The Secretary may not approve an application of a State under this section unless he determines the following:

"(1) Under the laws of that State and of each of its political subdivisions no individual may be subject to criminal prosecution solely on the basis of his consumption of alcoholic beverages.

"(2) The laws of the State respecting acceptance of individuals into alcoholism and intoxication treatment programs are in accordance with the following standards of acceptance of individuals for such treatment (contained in section 10 of the Uniform Alcoholism and Intoxication Treatment Act):

"(A) A patient shall, if possible, be treated on a voluntary rather than an involuntary basis.

"(B) A patient shall be initially assigned or transferred to outpatient or intermediate treatment, unless he is found to require inpatient treatment.

"(C) A person shall not be denied treatment solely because he has withdrawn from treatment against medical advice on a prior occasion or because he has relapsed after earlier treatment.

"(D) An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

"(E) Provision shall be made for a continuum of coordinated treatment services so that a person who leaves a facility or a form of treatment will have available and utilize other appropriate treatment.

"(3) The laws of the State respecting involuntary commitment of alcoholics are not inconsistent with section 14 of such Uniform Act.

"(4) The application of the State contains such assurances as the Secretary may require to carry out the purposes of this section.

"(c) The amount of any grant under this section to any State for any fiscal year may not exceed the sum of $100,000 and an amount equal to 10 per centum of the allotment of such State for such fiscal year under section 302 of this Act. Payments under grants under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

"(d) For the purpose of making payments under grants under this section, there are authorized to be appropriated $13,000,000 for the fiscal year ending June 30, 1974, and for each of the next two fiscal years."

### PART B—PROJECT GRANTS AND CONTRACTS

SEC. 111. Section 311 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended to read as follows:

"GRANTS AND CONTRACTS FOR THE PREVENTION AND TREATMENT OF ALCOHOL ABUSE AND ALCOHOLISM

"SEC. 311. (a) The Secretary, acting through the Institute, may make grants to public and nonprofit private entities and may enter into contracts with public and private entities and with individuals—

"(1) to conduct demonstration, service, and evaluation projects,

"(2) to provide education and training,

"(3) to provide porgrams and services in cooperation with schools, courts, penal institutions, and other public agencies, and

"(4) to provide counseling and education activities on an individual or community basis,

for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics.

"(b) Projects and programs for which grants and contracts are made under this section shall (1) whenever possible, be community based, seek to insure care of good quality in general community care facilities and under health insurance plans, and be integrated with, and provide for the active participation of, a wide range of public and nongovernmental agencies, organizations, institutions, and individuals; and (2) where appropriate utilize existing community resources (including community mental health centers).

"(c) (1) In administering this section, the Secretary shall require coordination of all applications for projects and programs in a State.

"(2) Each applicant from within a State, upon filing its application with the Secretary for a grant or contract under this section, shall submit a copy of its application for review by the State agency designated under section 303 of this Act, if such agency exists. Such State agency shall be given not more than thirty days from the date of receipt of the application to submit to the Secretary, in writing, an evaluation of the project or programs set forth in the application. Such evaluation shall include comments on the relationship of the project to other projects and programs pending and approved and to the State comprehensive plan for treatment and prevention of alcohol abuse and alcoholism under section 303. The State shall furnish the applicant a copy of any such evaluation.

"(3) Approval of any application for a grant or contract by the Secretary, including the earmarking of financial assistance for a program or project, may be granted only if the application substantially meets a set of criteria established by the Secretary that—

"(A) provides that the projects and programs for which assistance under this section is sought will be substantially administered by or under the supervision of the applicant;

"(B) provides for such methods of administration as are necessary for the proper and efficient operation of such programs and projects;

"(C) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant; and

"(D) provides reasonable assurance that Federal funds made available under this section for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the projects and programs described in this section, and will in no event supplant such State, local, and other non-Federal funds.

"(d) To make payments under grants and contracts under this section, there are authorized to be appropriated $60,000,000 for the fiscal year ending June 30, 1975, and $75,000,000 for the fiscal year ending June 30, 1976."

### PART C—ADMISSION TO HOSPITALS; CONFIDENTIALITY OF RECORDS

SEC. 121. Section 321 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended to read as follows:

"ADMISSION OF ALCOHOL ABUSERS AND ALCOHOLICS TO PRIVATE AND PUBLIC HOSPITALS

"SEC. 321. (a) Alcohol abusers and alcoholics who are suffering from emergency medical conditions shall not be refused admission or treatment, solely because of their alcohol abuse or alcohol dependence, by any private or public general hospital which receives support in any form from any program supported in whole or in part by funds appropriated to any Federal department or agency.

"(b) The Secretary is authorized to make regulations for the enforcement of the policy of subsection (a). Such regulations shall include procedures for determining (after opportunity for a hearing if requested) if a violation of subsection (a) has occurred, notification of failure to comply with such subsection, and opportunity for a violator to comply with such subsection. If the Secretary determines that a hospital has violated subsection (a) and such violation continues after an opportunity has been afforded for compliance, the Secretary may suspend or revoke, after opportunity for a hearing, all or part of any support of any kind received by such hospital from any program administered by the Secretary. The Secretary may consult with the officials responsible for the administration of any other Federal program from which such hospital receives support of any kind, with respect to the suspension or revocation of such other Federal support for such hospital."

SEC. 122. Section 333 of such Act is amended to read as follows:

"CONFIDENTIALITY OF RECORDS

"SEC. 333. (a) Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any program or activity relating to alcoholism or alcohol abuse education, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall be confidential and may be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

"(b) (1) If the patient, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives his written consent, the content of such record may be disclosed—

"(A) to medical personnel for the purpose of diagnosis or treatment of the patient, and

"(B) to governmental personnel for the purpose of obtaining benefits to which the patient is entitled.

"(2) Whether or not the patient, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives his written consent, the content of such record may be disclosed as follows:

"(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

"(B) To qualified personnel for the purpose of conducting scientific research, management or financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner.

"(C) In the case of a patient whose diagnosis and treatment is being conducted as a condition of his release from confinement pending trial or as a condition of probation or parole, or while he is in confinement, reports of such diagnosis or treatment may be made to the court, probation or parole officers, or other appropriate officials.

"(D) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

"(c) Except as authorized by a court order granted under subsection (b) (2) (D) of this section, no record referred to in subsection (a) may be used to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient.

"(d) The prohibitions of this section continue to apply to records concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

"(e) The Secretary shall prescribe regulations to carry out the purposes of this section. These regulations may contain such definitions, and may provide for such safeguards, procedures, and exceptions, as in the judgment of the Secretary are necessary or proper to effectuate the purposes of this section, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

"(f) Except as authorized under subsection (b) of this section, any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense."

## TITLE II—ADMINISTRATION AND COORDINATION OF THE NATIONAL INSTITUTE OF MENTAL HEALTH, THE NATIONAL INSTITUTE ON ALCOHOLISM AND ALCOHOL ABUSE, AND THE NATIONAL INSTITUTE ON DRUG ABUSE

### ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

SEC. 201. (a) The Secretary of Health, Education, and Welfare shall establish, in the Department of Health, Education, and Welfare, the Alcohol, Drug Abuse, and Mental Health Administration, (hereinafter in this section referred to as the "Administration"). The Administration shall be headed by an Administrator appointed by the Secretary. The Administrator, with the approval of the Secretary, may appoint a Deputy Administrator and may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the activities to be carried out through the Administration.

(b) The Secretary, acting through the Administration, shall supervise the functions of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse to assure that (1) the programs carried out through each such Institute receive appropriate and equitable support, and (2) there is cooperation among the Institutes in the implementation of such programs.

(c) The Secretary of Health, Education, and Welfare shall establish a National Panel on Alcohol, Drug Abuse, and Mental Health (hereinafter in this subsection referred to as the "panel") to advise, consult with, and make recommendations to, the Secretary concerning the activities to be carried out through the Administration. The panel shall consist of three members appointed by the Secretary as follows: One member shall be appointed from the public members of the National Advisory Mental Health Council established under section 217(c) of the Public Health Service Act, one member shall be appointed from the public members of the National Advisory Council on Alcohol Abuse and Alcoholism established under subsection (d) of such section, and one member shall be appointed from the public members of the National Advisory Council on Drug Abuse established under subsection (e) (1) of such section.

### NATIONAL INSTITUTE OF MENTAL HEALTH

SEC. 202. Section 200 of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 is amended to read as follows:

"SHORT TITLE; NATIONAL INSTITUTE OF MENTAL HEALTH

"SEC. 200. (a) This title may be cited as the 'Community Mental Health Centers Act'.

"(b) There shall be a National Institute of Mental Health to administer the programs and authorities of the Secretary with respect to mental health functions. The Secretary acting through the Institute, shall, in carrying out the purposes of this Act and sections 301 and 303 of the Public Health Service Act with respect to mental illness, develop and conduct comprehensive health, education, training, research, and planning programs for the prevention and treatment of mental illness and for the rehabilitation of the mentally ill. The Secretary shall carry out, as necessary, through the Institute the administrative and financial management, policy development and planning, evaluation, and public information functions which are required for the implementation of such programs and authorities.

"(c) (1) The Institute shall be under the direction of a Director who shall be appointed by the Secretary.

"(2) The Director, with the approval of the Secretary, may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the programs and authorities to be carried out through the Institute.

"(d) The programs to be carried out through the Institute shall be administered so as to encourage the broadest possible participation of professionals and paraprofessionals in the fields of medicine, science, the social sciences, and other related disciplines."

### NATIONAL INSTITUTE ON ALCOHOLISM AND ALCOHOL ABUSE

SEC. 203. (a) Section 101 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended to read as follows:

"ESTABLISHMENT OF THE INSTITUTE

"SEC. 101. (a) There is established the National Institute on Alcohol Abuse and Alcoholism (hereafter in this Act referred to as the 'Institute') to administer the programs and authorities assigned to the Secretary of Health, Education, and Welfare (hereafter in this Act referred to as the 'Secretary') by this Act and part C of the Community Mental Health Centers Act. The Secretary, acting through the Institute, shall, in carrying out the purposes of section 301 of the Public Health Service Act with respect to alcohol abuse and alcoholism, develop and conduct comprehensive health, education, training, research, and planning programs for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics. The Secretary shall carry out, as necessary, through the Institute the administrative and financial management, policy development and planning, evaluation, and public information functions which are required for the implementation of such programs and authorities.

"(b) (1) The Institute shall be under the direction of a Director who shall be appointed by the Secretary.

"(2) The Director, with the approval of the Secretary, may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the programs to be carried out through the Institute.

"(c) The programs to be carried out through the Institute shall be administered so as to encourage the broadest possible participation of professionals and paraprofessionals in the fields of medicine, science, the social sciences, and other related disciplines."

(b) (1) Section 102(2) of such Act is amended by inserting "and every three years thereafter" after "Act".

(2) (A) Section 102 of such Act is amended by striking out "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu

thereof "; and", and by adding after paragraph (4) the following new paragraph:

"(5) submit to Congress on or before the end of each calendar year a report on the extent to which other Federal programs and departments are supporting and dealing with the problems of alcohol abuse and alcoholism."

(B) The first report to be submitted by the Secretary of Health, Education, and Welfare under section 105(5) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 shall be submitted not later than December 31, 1974.

### NATIONAL INSTITUTE ON DRUG ABUSE

SEC. 204. Subsections (a) and (b) of section 501 of the Drug Abuse Office and Treatment Act of 1972 is amended to read as follows:

"(a) There is established the National Institute on Drug Abuse (hereinafter in this section referred to as the 'Institute') to administer the programs and authorities of the Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the 'Secretary') with respect to drug abuse prevention functions. The Secretary, acting through the Institute, shall, in carrying out the purposes of section 301 of the Public Health Service Act with respect to drug abuse, develop and conduct comprehensive health, education, training, research, and planning programs for the prevention and treatment of drug abuse and for the rehabilitation of drug abusers. The Secretary shall carry out, as necessary, through the Institute the administrative and financial management, policy development and planning, evaluation, and public information functions which are required for the implementation of such programs and authorities.

"(b)(1) The Institute shall be under the direction of a Director who shall be appointed by the Secretary.

"(2) The Director, with the approval of the Secretary, may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the programs and authorities to be carried out through the Institute."

### INTERAGENCY COMMITTEE ON FEDERAL ACTIVITIES FOR ALCOHOLISM AND ALCOHOL ABUSE

SEC. 205. (a) The Secretary shall establish an Interagency Committee on Federal Activities for Alcoholism and Alcohol Abuse. The Committee shall evaluate the adequacy and technical soundness of all Federal programs and activities which relate to alcoholism and alcohol abuse and provide for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities.

(b) The Secretary or his designee shall serve as Chairman of the Committee, the membership of which shall include (1) appropriate scientific, medical, or technical representation from the Department of Transportation, the Department of Justice, the Department of Defense, the Veterans' Administration, and such other Federal agencies and offices (including appropriate agencies and offices of the Department of Health, Education, and Welfare), as the Secretary determines administer programs directly affecting alcoholism and alcohol abuse, and (2) five individuals from the general public appointed by the President from individuals who by virtue of their training or experience are particularly qualified to participate in the performance of the Committee's functions. The Committee shall meet at the call of the Chairman, but not less often than four times a year.

(c) Each appointed member of the Committee shall be appointed for a term of four years, except that—

(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(2) of the members first appointed, two shall be appointed for a term of four years, two shall be appointed for a term of three years, and one shall be appointed for a term of one year, as designated by the President at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office.

(d) Appointed members of the Committee shall receive for each day they are engaged in the performance of the functions of the Committee compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(e) The Secretary shall make available to the Committee such staff, information, and other assistance as it may require to carry out its activities effectively.

### TITLE III—TECHNICAL AND CONFORMING AMENDMENTS

SEC. 301. Section 5108(c) of title 5, United States Code, is amended by striking out "and" at the end of paragraph (10), by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(12) the Secretary of Health, Education, and Welfare, subject to the standards and procedures prescribed by this chapter, may place a total of eleven positions in the National Institute on Alcohol Abuse and Alcoholism in GS–16, 17, and 18."

SEC. 302. Section 247 of the Community Mental Health Centers Act (42 U.S.C. 2688j-2) is repealed.

SEC. 303. (a) Subsection (a) of section 408 of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1175(a)) is amended by striking "authorized or assisted under any provision of this Act or any Act amended by this Act" and inserting in lieu thereof "conducted, regulated, or directly or indirectly assisted by any department or agency of the United States".

(b) Subsection (b)(2) of such section is amended (1) by striking "If the patient" and inserting in lieu thereof "Whether or not the patient", (2) by striking "does not give" and inserting in lieu thereof "gives", (3) by redesignating subparagraph (C) as (D), and (4) by inserting the following immediately after subparagraph (B):

"(C) In the case of a patient whose diagnosis and treatment is being conducted as a condition of his release from confinement pending trial or as a condition of probation or parole, or while he is in confinement, reports of such diagnosis or treatment may be made to the court, probation or parole officers, or other appropriate officials."

(c) Section 408(c) of such Act is amended by striking out "(C)" and inserting in lieu thereof "(D)".

(d) Such section is further amended by redesignating subsection (e) as subsection (f), and by inserting the following new subsection immediately after subsection (d):

"(e) The Director of the Special Action Office for Drug Abuse Prevention shall prescribe regulations to carry out the purposes of this section. These regulations may contain such definitions, and may provide for such safeguards, procedures, and exceptions, as in the judgment of the Director are necessary or proper to effectuate the purposes of this section, to prevent circumvention or evasion thereof, or to facilitate compliance therewith."

(e) Section 408(f) of such Act is amended by striking "discloses the contents of any record referred to in subsection (a)" and inserting in lieu thereof "violates any provision of this section or any regulation issued pursuant to this section".

(f) Effective on the date specified in section 104 of the Drug Abuse Office and Treatment Act of 1972, the first sentence of section 408(e) of that Act is amended by striking "Director of the Special Action Office for Drug Abuse Prevention" and inserting in lieu thereof "Secretary of Health, Education, and Welfare", and the second sentence of such section is amended by striking "Director" and inserting "Secretary" in lieu thereof. Any regulation issued prior to that date by the Director of the Special Action Office for Drug Abuse Prevention with respect to such section (whether before or after the enactment of this Act) shall remain in effect until revoked or amended by the Director or the Secretary, as the case may be.

The SPEAKER. Is a second demanded?

Mr. CARTER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. STAGGERS. Mr. Speaker, I rise in support of H.R. 11387, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act Amendments of 1974. These amendments are aimed focusing the resources of the Nation on the problem of alcohol abuse and alcoholism. Specifically, the amendments would extend through fiscal 1976, Federal support for State formula grants and project grants and contracts, create new authority for special grants to States adopting the Uniform Alcoholism and Intoxication Treatment Act, establish an Alcohol, Drug Abuse and Mental Health Administration in HEW to insure proper administration and coordination of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, and establish an Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism to evaluate all Federal programs relating to alcohol abuse and alcoholism. The bill would prohibit discrimination against people suffering from alcohol abuse and alcoholism when they seek admission for the treatment of emergency medical conditions at hospitals receiving Federal funds. It would also strengthen the protection of the confidentiality of records of those involved in alcohol abuse and alcoholism education, treatment, rehabilitation or research programs receiving Federal assistance.

The legislation authorizes $294 million in fiscal years 1975 and 1976 for these purposes.

In our hearings on this matter, the committee was again reminded that alcohol is the most abused drug in the country, there being about 9 million alcohol abusers and alcoholics. Alcohol abuse and alcoholism play a role in half of our highway fatalities, with an even higher proportion among young people. Alcohol abuse and alcoholism drain our economy of almost $15 billion each year.

Fortunately, we have recognized this problem and begun to do something about it. A number of innovative and effective programs have been developed by the National Alcohol Institute to combat alcoholism. The Uniform Alcoholism and Intoxication Treatment Act has been adopted by a large number of States. Progress is being made in fighting this treatable disease, but our efforts are now in jeopardy.

Without these amendments funds for State plans established to implement the National Strategy To Combat Alcohol Abuse and Alcoholism will run out. This bill will extend for 2 years Federal assistance to States in formula grants and project grants and contracts, and remove the obstacle which has kept a number of States from adopting the Uniform Act. It will do this by providing a special grant to States which adopt or have adopted the act or comparable legislation, containing its key provisions, allowing them to initiate the programs it calls for.

To insure that the work already being done on the national level continues in the most effective and efficient way possible, this legislation establishes a new Administration on Alcohol and Drug Abuse in HEW and establishes an Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism to evaluate and coordinate all Federal activities aimed at this problem.

As mentioned, the bill will help guarantee proper treatment of those suffering from alcohol abuse and alcoholism by barring discrimination against them in admission to hospitals, when they seek emergency medical care, and to protect the confidentiality of their records in prevention, treatment, rehabilitation, and research.

Essentially, the legislation is directed at continuing and improving Federal and State efforts to combat the problem of alcohol abuse and alcoholism. We have already recognized how serious this problem is. We did that when we passed the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. Now it is time for us to make the necessary amendments to that act to allow the progress, which has already been made, to continue and grow. I therefore urge you all to join me in supporting this bill and voting for its adoption.

Mr. CARTER. Mr. Speaker, I yield such time as he may consume to the ranking minority member from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Speaker, I take this time to attempt to get some questions answered as it relates to this problem of alcoholism.

I think we all recognize that it is a serious problem across the Nation. I read some statistics that we lose about 55,000 people a year on the highways; that over half of these are attributed in one way or another to the use of alcohol.

I know there is a conflict in medical authorities and others across the country as to whether or not alcoholism itself is a disease or a weakness. There is a conflict of authority. I, personally, not being a medically trained person cannot come to a conclusion; but it is my opinion that it is a weakness, rather than a disease, because we can explain our weaknesses as diseases and be excused. A disease is acquired involuntarily, but alcohol is self-administered, voluntarily, unless you want to assume some people have no volition.

The thing I would like to know specifically as it relates to this legislation, and I would direct my question specifically to the chairman of the subcommittee, Mr. ROGERS of Florida:

This program has been in effect, as I understand, at least 2 years. I was wondering whether there has been any appreciable decrease in alcohol-related deaths or injuries.

Mr. ROGERS. Mr. Speaker, if the gentleman will yield, I might say, I think it is premature for us to know or make a definitive judgment, because the alcohol program really has been going for just 2 years. The program was rather restricted at first, as the gentleman may know and may recall, because of withholding of funds; so there has not been sufficient time to measure its impact.

Mr. DEVINE. Have there been any clues or indications moving in the direction of solving this problem?

Mr. ROGERS. Yes; I think we are beginning to lay the foundation for successful treatment programs now. These programs can make considerable inroads.

Mr. DEVINE. During this period, would there be any suggestion that there is a decrease in the number of problem drinkers as a result of this work?

Mr. ROGERS. Yes, I think this is true, because some of the work of the Alcohol Institute is directed toward trying to get drunken drivers into treatment programs and prevention programs. However, there really has not been time yet to evaluate this aspect.

I would say this in response to the gentleman, that in 1967 the American Medical Association, the American Hospital Association, and the American Psychiatric Association, all have classified alcoholism as a disease.

Also, this position has been upheld in the courts as far as even the U.S. Supreme Court, so it has pretty much been decided that this is the approach. By getting people into treatment and prevention programs, we can prevent, hopefully, the disease affecting 9 million persons in this country.

Mr. DEVINE. Mr. Speaker, I believe that during the past 2 years we have spent something in excess of $100 million in this study, and yet we are not able to get anything specific as to any progress.

Mr. ROGERS. Mr. Speaker, I would say that we have not spent $100 million in a research and evaluation program as such. Most of the money is spent to set up treatment programs. Once alcoholics are identified, this legislation provides assistance so they can get into treatment programs to receive assistance. It is possible, just as in the drug programs, where we are having some success. As the gentleman knows, alcoholism is treated largely as another form of drugs. It is the most abused drug in the Nation, and its treatment is really based on many of the same types of approaches that we are finding work with other drugs.

Mr. DEVINE. That is drugs in the broadest sense.

Mr. ROGERS. Yes.

Mr. DEVINE. Mr. Speaker, the legislation asks for $60 million in fiscal year 1974, and another $60 million in fiscal year 1975. Is this going to be for administration and organization, or is this going to attack the problem itself?

Mr. ROGERS. Mr. Speaker, this will be a multifaceted program. It will help support training of experts who will know how to deal with the problem. It will help set up programs to encourage treatment programs in local areas.

Therefore, I think the gentleman will find it a very effective program. Dr. Chafez, who is now head of the Alcohol Institute, is very excited about what can be accomplished. He is most enthusiastic that he can bring some results to this Congress. However, I do think that we are going to have to give them a little period of time to evaluate their activities.

Mr. DEVINE. Mr. Speaker, would the gentleman care to guesstimate a point at which time he can report back to the House with some specific, definitive progress having been made?

Mr. ROGERS. Mr. Speaker, I would hope that in another 2 years when this bill expires. We can have interim reports in the meantime, but certainly we would hope that there will be concrete figures from certain programs reported on to the Congress.

Mr. DEVINE. Two more years?

Mr. ROGERS. Yes, I would hope it would be a couple of years. Of course, we would demand concrete information during the next hearings.

Mr. DEVINE. Mr. Speaker, let me direct a question to the distinguished ranking minority member of the committee, the gentleman from Kentucky (Mr. CARTER).

Recognizing that the gentleman is an eminent physician, and addressing ourselves specifically to the issue which has been raised, does the gentleman as a physician consider alcoholism a disease or something else; and if so, would he enlarge upon that?

Mr. CARTER. Mr. Speaker, if the gentleman will yield, I thank the distinguished gentleman from Ohio for his compliment. There is some doubt which has been registered in some areas as to the state of competence.

However, I feel that alcoholism is a disease. I feel that we must do something about it. I have had some experience as a general practitioner with the treatment of alcoholism. If a doctor sees a patient with delirium tremens—and I have seen many—he finds it a very intriguing disease.

Some alcoholics will, after they have taken their first drink, if they are engaged in trade such as a carpenter, will sell every tool they have to obtain more alcohol.

Mr. Speaker, I feel that this is good legislation. We should make every effort to do something about it. However, I feel that the effort should be pointed towards practitioners who deal with alcoholics and not to a group of social service people, particularly, but people who really deal with patients.

Mr. DEVINE. Mr. Speaker, I will ask the gentleman if there is any unanimity of expression or feeling among the medical profession or the American Medical Association on this issue of alcoholism.

Mr. CARTER. It is accepted, I understand, as a disease.

Mr. DEVINE. There are no minority views on it?

Mr. CARTER. Yes, sir, there are always minority views on almost anything.

Mr. DEVINE. Mr. Speaker, I will ask the gentleman to state for the record whether the overwhelming number of practicing physicians would conclude that alcoholism as such is a disease.

Mr. CARTER. Mr. Speaker, that is my opinion.

Mr. DEVINE. Mr. Speaker, I thank the gentleman.

Mr. STAGGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I rise in support of H.R. 11387, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1974.

By 1967 alcoholism was recognized as a disease by the World Health Organization, the American Medical Association, the American Hospital Association, and the American Psychiatric Association. Two U.S. courts of appeals and the Supreme Court have also affirmed that alcoholism is a disease.

Several reports prepared for the Congress, have emphasized the enormity of the problem facing the Nation in dealing with the consequences of alcoholism. HEW, in its first special report to the Congress on alcohol and health, reported that alcohol is the most abused drug in the United States. The second report of the Marihuana Commission affirmed that alcohol users far outnumber those of all other drugs. The President, in reviewing the activities of the National Institute on Alcohol Abuse and Alcoholism for fiscal year 1972, noted that "the problems fostered in our society by alcohol abuse are indeed enormous and much remains to be done in dealing effectively with them."

Mr. Speaker, the President's conclusion that the problems fostered by alcohol abuse are enormous is a sound one. Among the 95 million drinkers in the United States, about 9 million are alcohol abusers or alcoholics. Alcoholism plays a major role in half of our highway fatalities, particularly in those accidents involving young people. Alcohol abuse and alcoholism drain our economy of an estimated $15 billion annually—$10 billion in lost work time, $2 billion in health and public welfare costs, and $3 billion in property damage. And despite the recognition of medical groups and the courts that alcoholism is a disease, one-third of all arrests in this country are for public intoxication.

We in the Congress responded in 1970 by passage of the original Comprehensive Alcohol Abuse and Alcoholism Prevention, Teatment, and Rehabilitation Act, creating the National Institute on Alcohol Abuse and Alcoholism and authorizing over a 3-year period, formula grants to the States and contracts and project grants for the prevention and treatment of alcohol abuse and alcoholism, and for the rehabilitation of the victims of this disease. The authorizations were extended last year for 1 additional year. This bill provides for a new 2-year extension and makes substantial improvements in existing law. Specifically, the bill does the following:

First. Extends through fiscal year 1976 the State formula grant program originally authorized by the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. The fiscal year 1973 authorizations was $80 million. H.R. 11387 extends this authorization for 2 more years at an annual authorization level of $60 million.

Second. Extends the project grant and contract authority of the act of 1970 for an additional 2 years, through fiscal year 1976. The fiscal year 1973 project grant and contract authority of $50 million is extended for 2 more years at an authorization level of $60 million for the fiscal year ending June 30, 1975, and $75 million for the fiscal year ending June 30, 1976.

Third. Establishes a special grant of up to $100,000 plus 10 percent of an equal amount to a State's formula grant allotment for States which have adopted the provisions of Uniform Alcoholism and Intoxication Treatment Act, which requires that alcoholism and intoxication be a health and social service care responsibility. The Uniform Act does not excuse criminal actions and does not affect laws against operating vehicles or machinery while intoxicated, or laws regulating the sale or possession of alcoholic beverages.

Fourth. Prohibits discrimination in admission or treatment policies concerning emergency medical conditions of any person solely because of his alcohol abuse or alcoholism by public or private general hospitals receiving funds from any Federal agency sources.

Fifth. Amends the confidentiality of records provision of the 1970 act to prevent the disclosure of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any program or activity relating to alcoholism or alcohol abuse education, treatment, rehabilitation, or research which is conducted, regulated or directly or indirectly assisted by any Department or Agency of the United States except as expressly authorized under this legislation. Disclosure is permitted under certain conditions whether or not the patient gives his written consent. A penalty provision would apply to any person who violates the confidentiality of records.

Sixth. Places alcoholism project grant and contract authority under the Comprehensive Alcohol Abuse and Alcohol Prevention, Treatment, and Rehabilitation Act and eliminates duplication by deleting section 247 of the Community Mental Health Centers Act.

Seventh. Establishes the Alcohol, Drug Abuse and Mental Health Administration—ADAMA—coordinate and supervise in the Department of Health, Education, and Welfare, to the programs carried out through the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse and assure that they receive appropriate and equitable support, and that there is cooperation among the Institutes in the implementation of such programs. The legislation establishes a three-man National Panel on Alcohol, Drug Abuse, and Mental Health comprised of one public member from each of the advisory councils serving the respective Institutes. The panel will advise, consult with and make recommendations to the Secretary concerning the activities to be carried out through the administration. The bill establishes the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse as separate Institutes with ADAMA to administer the programs and authorities assigned to the Secretary of the Department of Health, Education, and Welfare in each of these areas.

Eighth. Establishes an Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism to evaluate the adequacy and technical soundness of all Federal programs and activities which relate to alcohol abuse and alcoholism, and to provide for the communications and exchange of information necessary to maintain coordination and effectiveness of such programs and activities.

Our committee concluded that it is crucial to continue and improve the Federal effort to overcome this massive national problem. The effort stimulated by the original legislation must be carried forward. I urge the passage of this bill.

Mr. HICKS. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Washington.

Mr. HICKS. Mr. Speaker, the gentleman has made a couple of statements that alcohol is a drug, the same as all the other drugs that we are worrying about today, and I am wondering why we are separating these institutes under the National Institutes of Health and why a National Institute on Alcoholism and Drug Abuse—an administration or an institute—would not be the proper way to handle it.

Mr. ROGERS. Well, I think if the gentleman will allow me to explain, what we really are doing is bringing them together in one institute, but with three separate institutes under the one institute. We have the National Institute of Mental Health, the National Institute on Alcoholism and Alcohol Abuse, and the National Institute on Drug Abuse, but they are under one overall institute.

I believe that is what the gentleman would perhaps want to develop.

Mr. HICKS. Mr. Speaker, the thing that gives me a little concern is the fact that I understood the gentleman to say that alcohol is the worst abused drug, but when we start to show our concern with the amount of money we spend on it, it does not seem to be the worst abused drug. We come in and we put considerably more dollars into the other drug areas; am I not correct?

Mr. ROGERS. Well, we have in the past, just recently, because of the heroin epidemic that was sweeping the Nation, that is true. However, this is an effort now to remedy that to some extent by putting more funds into the area of alcoholism.

Mr. HICKS. I certainly compliment the gentleman for that direction, and I know of the outstanding work he has done in this field. I hope it continues.

Mr. ROGERS. Mr. Speaker, I thank the gentleman for his support.

Mr. STAGGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to make this statement: The question was asked by the gentleman from Ohio (Mr. DEVINE) about alcoholism being a disease. It has been classified by the American Medical Association as a disease, and I think we must take their recommendation on that.

Mr. Speaker, I urge the passage of this bill.

Mr. CARTER. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York (Mr. HASTINGS).

Mr. HASTINGS. Mr. Speaker, I appreciate the gentleman's yielding time to me.

I rise in strong support of this legislation brought out by the subcommittee under the able direction of the gentleman from Florida (Mr. ROGERS) who has spent a great deal of time studying the problems of alcoholism since we passed the original Alcohol Abuse Act in 1970.

Mr. Speaker, I think the House should understand that alcohol, of course, is classed as a drug. We have now over 9 million alcoholics, confirmed countable alcoholics, in the country.

At a time when we seem to be making some progress in the area of hard narcotic drugs, we find younger Americans now turning more and more to alcohol. If there has ever been a time when we should try to anticipate the problems that are present in this area, it is now, with the passage of this legislation.

I think it is particularly important that we continue the special grants which go to the States so that the States themselves will adopt the Uniform Alcoholism and Intoxication Treatment Act; because the States, in the end, will have to implement it.

The second most important consideration, as the gentleman from Florida (Mr. ROGERS) has mentioned, is that we now bring in under one head the National Institute of Mental Health, the National Institute on Alcoholism and Alcohol Abuse, and the National Institute on Drug Abuse.

Mr. CARTER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Indiana (Mr. HUDNUT).

Mr. HUDNUT. Mr. Speaker, it has taken us too long to realize that alcohol abuse is a serious psychological and physical health problem and not merely a somewhat humorous minor vice. H.R. 11387 takes an enlightened approach to the programs designed to deal with the problems of alcohol abuse and alcoholism. Under this bill, the Secretary of HEW may make special grants to States that adopt the Uniform Alcoholism and Intoxication Treatment Act.

Unfortunately, in the past, individuals have been prosecuted on the sole basis of their consumption of alcohol. Now any State desiring these special grants must adopt a policy of treating alcoholism as a disease rather than a crime. In addition, diverse institutes and efforts are combined under the new Addiction and Mental Health Administration to insure a coordinated approach to the various aspects of the problem. And properly there is an emphasis on community-based projects and public education.

Our new understanding of the nature of alcoholism and alcohol abuse requires the kind of new attitude inherent in the provisions of this bill, and I hope it will be adopted by the House.

Mr. CARTER. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Speaker, I do not know of anyone who ever took an individual by the neck and forced booze down his throat, and compelled that individual to become an alcoholic.

Here is another bill voted out of the Committee on Interstate and Foreign Commerce only this morning—only this morning—with no report to accompany and explain it.

I was astounded to be informed only a few minutes ago that this bill authorizes the expenditure of $294 million over the next 3 years. That is a lot of money.

Moreover, Mr. Speaker, on page 5 of the bill I note this language:

The Secretary may not approve an application of a State under this section unless he determines the following:

First, under the laws of that State and of each of its political subdivisions no individual may be subject to criminal prosecution solely on the basis of his consumption of alcoholic beverages.

In other words, if the provision is in a State law, then that State will get none of the funds authorized to be appropriated under this bill. That is an invasion of and discrimination against the rights of the States and the citizens thereof who pay Federal taxes for this program.

I also note at the top of page 6 that provision shall be made for a "continuum" of "coordinated treatment services" and so on and so forth. What is the difference between "continuum" and "continuance?" Can anybody tell me what the difference is and what the meaning of this unique word may be?

I yield to the gentleman if he can tell me.

Mr. STAGGERS. I do not know what the definition is as Webster gives it, but "continuance" means something continued until there is a break. The word the gentleman just states means there can be a break and an experience with a break in between. That is almost similar to the word "continue."

Mr. GROSS. I am glad to know it is similar to something.

When the gentleman from Ohio (Mr. DEVINE) asked the gentleman from Florida (Mr. ROGERS) what had been the impact of money already spent for the purpose of wet-nursing alcoholics he got no facts, figures or statistics or anything else that I was able to hear.

I do not know what is expected to be obtained by the expenditure of $294 million.

If this bill were subject to amendment—and, of course, it is not—I would certainly have offered an amendment to the bill to provide that there be a label with a skull and crossbones plastered on every bottle of booze sold in this country whether it be scotch, bourbon, gin, vodka, rye, you name it—a skull and crossbones—to say that the contents may be hazardous or injurious to your health, just as does the label on a package of cigarettes.

For some reason no one wants to go that far in warning that the product of liquor may be an alcoholic. Let us do nothing to shut off the booze from the alcoholic. Just go to the Federal Treasury for far more money. With the administration coming up soon with a budget to spend $300 billion in the coming fiscal year, just add another $294 million expenditure for the purpose of treating alcoholics.

I am against it.

Mr. CARTER. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. MCCLORY).

Mr. McCLORY. Mr. Speaker, I thank the gentleman for yielding to me.

I rise in support of this legislation.

Mr. Speaker, I rise in support of the Comprehensive Alcohol Act Amendments (H.R. 11387). This legislation that we are seeking to amend has been prepared in response to our Nation's changing attitudes toward the growing problem of alcoholism and alcohol abuse. Although several world health organizations recognized alcoholism as a disease as early as 1950, it was not until the late 1960's that elements in our society began to understand that the problem of alcoholism was not just one of a criminal nature.

With the recognition that alcoholism is more than just an individual's problem, Congress during 1970 deemed it necessary and appropriate to act on a national front. It is now time to renew this national effort through significant amendments and modifications.

Mr. Speaker, title I of H.R. 11387 provides for a 2-year extension of the program of formula grants to the States to assist them in developing more effective and comprehensive means for meeting the problems of alcoholism. Certainly, it should be possible to grant additional funds to the States at a time when the Department of Health, Education, and Welfare has declared alcohol to be the most abused drug in our society. It is estimated that 10 per cent of our Nation's work force suffers from alcohol-related problems resulting in a $15 billion-a-year loss in our GNP.

Title II of this bill establishes and consolidates within the Department of Health, Education, and Welfare a single administration to supervise and coordinate the now fragmented groups that are presently dealing with alcoholism. We need this type of organization to assist the States and supervise the Federal campaign against growing abuse. With more than an estimated 9 million Americans who manifest symptoms of alcohol abuse and alcoholism, the effort we are attempting to amend today cannot continue to be divided and fragmented.

Mr. Speaker, a most successful program to combat alcoholism has been established in my 13th Congressional District—in Lake County, Ill. The Lake County Council on Alcoholism, with which I am pleased to be affiliated as a member of the advisory board, has developed a most meaningful program of assistance to those plagued with alcoholism in the area which the council serves.

Mr. Speaker, in supporting this legislation, I am of the opinion that the Lake County Council will continue to benefit from this Federal program—and will expand its activities in Lake County, Ill., for the benefit of the many citizens and families where alcoholism has created a most serious problem.

Mr. Speaker, it is my hope that the measure which we are considering today will be passed overwhelmingly, and that adequate funds to carry out this program will be appropriated at the Federal level to be supplemented by State and local funds, which can finance the necessary programs for combating alcoholism in my congressional district and elsewhere throughout the Nation.

Mr. CARTER. Mr. Speaker, I support this legislation. The fact that 26,000 people are killed each year by cars driven by alcoholics means that we must act in this area. It may require, in addition to this, an advertising campaign just as the distinguished gentleman from Iowa (Mr. GROSS) has mentioned, but we must do something to reform the alcoholics in our Nation.

Too much alcoholic beverage is being consumed. Too many people are alcoholics. Too many people are destroying their own homes by overuse of alcohol. So I strongly support this program. I feel that it will be effective.

Mr. Speaker, I now yield such time as he may consume to the distinguished gentleman from Iowa (Mr. MAYNE).

Mr. MAYNE. Mr. Speaker, I thank the gentleman for yielding to me at this time. I rise in support of H.R. 11387, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments.

Our Federal agencies have had increasing success in closing off our boundaries with Mexico against the traffic in marihuana, and Federal, State, and local efforts against illegal drug traffic and drug abuse have made significant achievements. However, more and more young Americans have turned to the drug alcohol. The Department of Health, Education, and Welfare now deems alcohol as the most abused drug in our society.

Some 9 million Americans, 7 percent of the adult population, manifest symptoms of alcohol abuse and alcoholism. These Americans who have this chronic behavior disorder, manifested by undue preoccupation with alcohol to the detriment of physical and mental health, come from all socioeconomic backgrounds. Their alcoholism indirectly affects the lives of some 3 million people. The frequency of alcohol abuse is higher among the disadvantaged, but only 5 percent of all Americans experiencing serious alcohol-related problems fit the stereotype of the homeless skid-row or Bowery derelict.

Ten percent of the Nation's workforce suffer from serious alcohol-related problems and each year our economy is drained of some $15 billion through lost work time, health and welfare programs for alcoholics and their families, property damage and other overhead costs. Over half of the people involved annually in fatal auto accidents—28,000—have an excessive amount of alcohol in their bloodstreams. One third of all suicides—5,700—and one half of all homicides—5,700—are related to abuse consumption of alcohol. Alcoholism has been diagnosed as the cause of death for an estimated 11,000 people yearly—cirrhosis of the liver, and so forth—and it shortens life expectancy by 10 to 12 years.

The National Commission on Marihuana and Drug Abuse has found alcohol dependence to be without question the most serious drug problem in this country today. In a recent survey, the Commission found only 0.6 percent of the youths surveyed and 1.3 percent of the adults surveyed reported having used heroin within the week, 6.4 percent of the youths and 2.1 percent of the adults reported using glue and other inhalants, 4.8 percent of the youths and 4.6 percent of the adults reported using LSD and other hallucinogens, 14 percent of the youths and 16 percent of the adults reported using marihuana, 17 percent of the youths and 38 percent of the adults reported using tobacco or cigarettes, but some 24 percent of the youths and 53 percent of the adults reported using alcoholic beverages. About 10 percent of the Nation's drinkers can be described as alcoholics—of these, 25 percent or more are women, and 5 percent are persons aged through 19.

The National Commission on Marihuana and Drug Abuse reports that the proportion of high school students who drink has nearly doubled in the past 4 years—from 39 percent in 1969 to 74 percent in 1972. Arrests of girls aged 18 and in the past decade, and arrests of boys the same age have jumped by 250 percent in the same period, according to Dr. Morris E. Chafetz, Director of HEW's National Institute on Alcohol Abuse and Alcoholism. Until recently, it has been commonly thought that 5 to 10 years of heavy drinking were needed to become an alcoholic—but during the 1960's, researchers learned that extremely heavy abuse of alcohol could produce a drinking problem for some in just 2 or 3 years. In addition, authorities have found that from 5 to 10 percent of the Nation's alcoholics suffer a mysterious reaction to their first drink, inducing an uncontrollable physical need for alcohol—making them alcoholics from the very beginning.

Only 10 percent of the Nation's 9 million alcoholics receive treatment. Aside from the reluctance of alcoholics to seek treatment, the reason is that society has been slow to recognize alcoholism to be an illness. Until 1966, Federal legislation relating specifically to the treatment and prevention of alcoholism was nonexistent and intoxication was treated as a criminal offense in all local and State jurisdictions throughout the country. By 1967, all major medical organizations recognized alcoholism as a disease, and a major campaign was launched to reform the legal status of alcoholism, recognizing that alcoholism is an illness, that alcoholic persons drink involuntarily, and that punitive incarceration was no longer a suitable or appropriate response.

In August, 1971, the National Conference of Commissioners on Uniform State Laws adopted the Uniform Alcoholism and Intoxication Treatment Act, UAITA. This act provides that a person apprehended solely for intoxication may not be charged with committing a criminal offense but must be taken to a health facility and be examined and appropriately treated by a licensed medical official. The act stressed the importance of voluntary commitment to a center for rehabilitative purposes by the alcoholic, yet provides for limited commitment to such an institution by the court, in conjunction with responsible medical personnel. A continuum of supportive services were to be made available for outpatient care in community-based public treatment centers. Several States, among them Washington, D.C., Maryland, Florida, Kansas, North Dakota, California, Hawaii, Washington, Oregon, New York, Pennsylvania, Minnesota, Massachusetts and Colorado have adopted the Uniform Alcoholism and Intoxication Treatment Act and many more will be considering this legislation in their State legislative assemblies this year.

Many courts, professional organizations, and commissions have recommended approaching intoxication and alcoholism from the health standpoint. Among these have been the American Bar Assocation, the American Medical Association, the American Hospital Association, the American Psychiatric Association, the Department of Defense, the Department of Health, Education, and Welfare including its National Institute on Alcohol Abuse and Alcoholism, the National Council on Alcoholism, the World Health Organization, and other leading organizations. The leadership of the U.S. Junior Chamber of Commerce has designated alcohol abuse and alcoholism prevention as a Jaycee national emphasis program, and its 325,000 young men in 6,400 chapters are energetically pressing for recognition of alcoholism as a health or medical problem requiring treatment and for enactment of State Uniform Alcoholism and Intoxication Treatment Acts.

H.R. 11387 provides in title I a new form of limited assistance available to States which have implemented laws consistent with the basic provisions of the Uniform Alcoholism and Intoxication Treatment Act, thereby helping States meet costs incurred during the implementation of this reform legislation. Hopefully this special incentive program will encourage even more States to enact the Uniform Act and provide needed treatment for those afflicted with alcoholism.

Last April, Mr. Harry R. Gittins, director of the Iowa alcoholism program of the Iowa State Office for Planning and Programing, estimated Iowa alcoholism costs annually at some $11.4 million. His estimates were as follows:

*Iowa alcoholism cost estimates* (*annual*)

| | |
|---|---|
| Mental Health Institutes (4) 1972: | |
| 1,200 patients, 32,000 days | $1,128,000 |
| Commitment costs | 90,000 |
| Harrison Treatment Center (1971) | 475,000 |
| Polk County-Des Moines Commission (1971) | 74,000 |
| Oakdale Treatment Center: | |
| Training grant (1972) | 100,000 |
| Treatment (1972 estimate) | 75,000 |
| Office for Planning and Programing (Federal grants 1972) | 396,464 |
| Community service centers (17) (1972): | |
| State commission allocation | 500,000 |
| County billings (under sec. 1238) | 1,166,543 |
| County general funds (estimate) | 652,628 |
| Cities (from liquor profit rebates) | 92,550 |
| Fees | 117,900 |
| Other | 119,000 |
| Federal staffing grants | 410,933 |
| Federal poverty programs | 114,000 |
| Federal Indian programs | 65,000 |
| Social security title IVa | 40,000 |
| Alcohol safety action project (ASAP, FY 1973) | 800,000 |
| Correctional institutions (600 commitments—37% alcohol related) | Unknown costs |
| Grand total | 6,417,018 |
| Estimate of costs for private institutions, hospitals, missions, etc. (including insurance coverage) | 5,000,000 |

All Iowans can well be proud of the fine part played by many Iowa State, county, and local officials and agencies and by Iowa voluntary agencies and individuals in the progress Iowa has made toward treatment of alcoholics. It is difficult to pick out an example from the many ongoing and successful programs at Sioux City, Fort Dodge, Cherokee, and elsewhere in my Sixth Congressional District of northwest Iowa. However, I believe all Iowans engaged in this field would agree that the program of the Northwest Iowa Alcohol and Drug Treatment Unit at Spencer, Iowa, has been especially outstanding. Its director, Jeff Voskans, was something of a pioneer in the treatment of alcoholism as a health problem or disease. Under his progressive and imaginative directorship and with the full support of the city of Spencer and surrounding northwest Iowa communities, the programs of the northwest Iowa alcohol and drug treatment unit have received national recognition, as noted by William Cole in his article "Are We Overlooking Our No. 1 Drug Problem?" in the June 1973 issue of Parents magazine. The Department of Health, Education, and Welfare's National Institute on Alcohol Abuse and Alcoholism considers the Spencer unit as a model for other units to emulate, and has often called upon Jeff Voskans as a consultant to advise upon the formation of similar units elsewhere in the United States.

At my request, Mr. Voskans was invited to testify upon H.R. 10019, the bill upon which the present legislation is based, in hearings before the House Interstate and Foreign Commerce Committee's Subcommittee on Public Health and Environment. Mr. Voskans' schedule prevented his personally appearing at those hearings, but he sent a telegram to Subcommittee Chairman ROGERS, heartily endorsing the bill's provisions extending the provisions of Public Law 91-616 and stating:

> State Formula Grants and Project Grants provisions are essential to maintain a significant program begun just two years ago. Without this Federal support, community based programs, such as ours, throughout the nation will suffer.

The bill now before the House will assure continued Federal assistance to programs such as the northwest Iowa alcoholism treatment unit for another 2 years. It will enable Jeff Voskans and his colleagues to carry on the fine programs described in his 1972 report, which I include to be inserted at this point in my remarks:

NORTHWEST IOWA ALCOHOL AND DRUG TREATMENT UNIT'S ANNUAL REPORT TO THE BOARD OF DIRECTORS, COUNTY, AND MUNICIPAL GOVERNMENTS IN NORTHWEST IOWA

During the year of 1972 Northwest Iowa Alcohol and Drug Treatment Unit processed 598 clients. Out of this total group, 256 male and 56 female alcoholic clients, 251 spouses, and 28 individuals underwent Court Education Class for liquor control violations. Clients came from the following counties: 43 from Buena Vista, 178 from Clay, 74 from Dickinson, 90 from Emmet, 65 from O'Brien, 20 from Osceola, and 78 from Palo Alto; plus 17 other individuals came from other catchment areas or out of state seeking treatment at Northwest Iowa Alcohol and Drug Treatment Unit.

Out of this group 71 individuals underwent in-patient care at Spencer's Municipal Hospital, Estherville's Holy Family Hospital, Dickinson County Hospital, Osceola County Hospital, Hartley Community Hospital, and Buena Vista County Hospital. On out-patient basis, this clientele group had 1,790 therapeutic hours as an individual or family counseling. ADTU Staff also counseled 251 spouses. Medical Director provided 236 physical examinations. In addition to the 236 physical exams, each individual also received a total lab work consisting of necessary analysis needed for the treatment of alcoholism. Total expenditure for inpatient care, that was provided for the individuals in all above mentioned hospitals, cost Northwest Iowa ADTU $9,508.34. Our clinical Psychiatrist provided 227 diagnostic evaluations. 713 individuals participated in our Group Therapy during the year of 1972. Our clinical Pastoral counseling was provided for 154 individuals. ADTU Staff appeared 56 times in Court on various legal matters.

ADTU Staff conducted 92 case conferences with the Medical Staff of the Unit and also Community Agencies in regards to the client's needs and responsibilities to the respect of treatment, assistance, and other necessary processes to provide a comprehensive care and rehabilitation. Northwest Iowa ADTU Staff also conducted 52 Court Education classes with 156 participants in attendance. ADTU Staff was involved in 206 luncheons and other meetings. ADTU Staff provided 105 educational speaking engagements or programs with a total attendance of 7,838 individuals in the audience. The ADTU Staff conducted its Third Annual Summer School at Buena Vista College in Storm Lake, Iowa with 50 students participating in a one week workshop. During the year of 1972 ADTU distributed 2,935 educational pamphlets; plus, handed out 3,122 telephone information. In addition to active clientele load, 156 potential clients have been contacted through out-reach activities.

Total expenditure for Northwest Iowa Alcohol and Drug Treatment Unit for the year of 1972 was $128,485.47. Thus meaning that 598 individuals who sought treatment at the ADTU, cost the tax-payer $213.35 per individual. This cost incorporates in-patient care, out-patient care, psychiatric care, medical care, group sessions, individual counseling, follow-up, and outreach activities. Considering the recovery rate, based on the tables provided by Stanford Research Institute, where Northwest Iowa Alcohol and Drug Treatment Unit accounts was the lowest recovery rate for 90 day period of 64 percent and the highest one of 79 percent. Averaging out from last follow-up, Northwest Iowa Alcohol and Drug Treatment Unit has derived at 66 percent of individuals who underwent treatment at ADTU are maintaining sobriety and are in the process of recovery. Deducting from the total 34 percent of unmotivated clients, the cost to the tax-payer would be $306.00 per client. ADTU Staff feels that this is the cheapest rehabilitation one could buy today in the United States and that the tax-payer has benefitted greatly from this program. If these individuals would have undergone any kind of in-patient care in any institution in the United States, the cost to a tax-payer would have been at least $418,000; plus lack of follow-up would constitute an undetermined result of recovery. In this figure, also, has to be incorporated a very significant fact that hospitalizations and in-patient care constitute a total of 310 hospital days where individuals were undergoing detoxification and minimal sum of money spent for this effort of $9,508 is a remarkable achievement and superior to any program known today in the continental United States.

### DRUG TREATMENT

Northwest Iowa Drug Treatment Unit phase, or specialized service in this facility, was funded by Iowa Drug Abuse Authority with $5,194 in 1972. Northwest Iowa Drug Treatment Unit Staff did process 56 individuals; providing psychiatric evaluations, inpatient and out-patient medical care, individual counseling, family orientation, and group therapy. In group therapy 156 individuals were in attendance during the year of 1972. In addition to this service, the Help Line also manned by volunteers and a paid ADTU Staff as a back-up, has been functioning throughout the year at the business hours 7 days a week and 365 days a year. Considering the minimal, financial input in this program, Drug Treatment Unit's function has more than justified its expenditure and ADTU Staff feels that this is the smallest investment up-to-date that has been put into a program for providing a necessary care, treatment, and rehabilitation for the individuals who are undergoing experimentation with drugs and drug abuse here in Northwest Iowa.

Mr. Speaker, the community treatment centers and other treatment centers in Iowa are already doing an outstanding job, but the further Federal assistance authorized by H.R. 11387 will make them even more effective in dealing with the No. 1 drug problem, alcoholism and alcohol abuse. I urge my colleagues to support passage of this needed legislation.

Mr. BIAGGI. Mr. Speaker, I rise in support of the bill H.R. 11387, the Comprehensive Alcohol Abuse, Prevention, Treatment and Rehabilitation Act of 1973. Passage of this legislation is imperative if we are to make the necessary commitment to rid this Nation of alcoholism, clearly our No. 1 drug problem.

Alcoholism continues to grow at an alarming and dangerous rate. It is a complex and tragic disease whose effects are felt not only by the victim, but by their families and loved ones as well. It strikes the rich as well as the poor with equal severity, and studies have indicated that alcoholism has been rearing its ugly head most especially at the youth of this Nation.

For far too long there has been a deplorable lack of strong Federal leadership in the field of alcoholism control. H.R. 11387 seeks to fill this leadership void, by approaching the problem from several important angles.

The bill will extend the powers of the States to deal with alcoholism by extending until 1976 their all important formula and project grant authority which was provided under the terms of Public Law 91-616.

Yet, to many, the most important aspect of this legislation is its determination to consolidate the bulky and cumbersome Federal machinery which presently administers programs dealing with alcoholism control. This will be accomplished with the formation of an Alcohol, Drug Abuse, and Mental Health Administration in HEW. This agency will seek to provide direction and leadership for those agencies and programs presently ongoing dealing with finding solutions to alcoholism.

I have long been an advocate of better Federal programs to deal with alcoholism. I recently had an amendment passed to the Drug Abuse Education Act Extension which will direct improved Federal efforts aimed at exposing through education the problem of alcoholism, as well as treatment and rehabilitation programs aimed especially at our youth.

Far too many people in our society are willing to dismiss the problem of alcoholism, partly due to any overall ignorance as to what alcoholism is, and what can be done to cure it. At long last the Congress is about to provide the leadership needed to better educate the American public about this dreaded disease. We cannot afford to wait any longer before we act. I urge the immediate and overwhelming passage of this important piece of legislation.

Mr. MATSUNAGA. Mr. Speaker, I am pleased to express my support for H.R. 11387, which will extend and improve existing law to help deal with the most serious drug problem in America today—alcohol abuse and alcoholism.

According to our best available estimates, problem drinkers and alcoholics number about 9 million. About half of our highway deaths involve alcohol in some way. The cost to our society measured in terms of lost work time, health and welfare programs for alcoholics and their families, property damage and other associated costs, totals about $15 billion each year.

Therefore, Mr. Speaker, the modest sums that would be authorized by H.R. 11387 are more than a good investment; they are an essential investment.

Only about 10 percent of the country's 9 million problem drinkers and alcoholics are now receiving treatment of any kind. This stems at least in part from our reluctance to recognize the fact that alcoholism is a disease rather than evidence of a character defect.

Full participation in the programs authorized in H.R. 11387 by the States is conditioned on enactment by the individual States of laws like the Uniform Alcoholism and Intoxication Treatment Act. That model law provides that those charged only with intoxication not be processed as criminals, but rather be taken to treatment and rehabilitation facilities where supportive services are available. Since the adoption of the model law in 1971, a number of States have enacted the Uniform Act, including, I am happy to say, my own State of Hawaii.

Enactment of H.R. 11387 will provide the means to make significant strides in the control of this illness, which plagues so many Americans. I urge the House to suspend the rules and pass this much needed and overdue legislation.

Mr. CARTER. Mr. Speaker, I have no further requests for time.

Mr. STAGGERS. Mr. Speaker, I urge a vote in favor of this bill.

I have no further requests for time.

The SPEAKER pro tempore (Mr. McFall). The question is on the motion offered by the gentleman from West Virginia (Mr. Staggers), that the House suspend the rules and pass the bill H.R. 11387, as amended.

The question was taken.

Mr. CLANCY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present. The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 338, nays 22, not voting 70, as follows:

[Roll No. 2]

YEAS—338

Abdnor
Abzug
Adams
Addabbo
Anderson, Ill.
Andrews, N.C.
Annunzio
Armstrong
Aspin
Badillo
Bafalis
Baker
Barrett
Bauman
Bennett
Bergland
Bevill
Biaggi
Biester
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Corman
Cotter
Coughlin
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Denholm
Dennis
Dent
Derwinski
Dickinson
Dingell
Donohue
Downing
Drinan
Duncan
du Pont
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Foley
Ford
Forsythe
Fountain
Frenzel
Frey
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Pa.
Griffiths
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanrahan
Hansen, Idaho
Harrington
Harvey
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
Kluczynski
Koch
Kuykendall
Kyros
Landrum
Latta
Lehman
Lent
Litton
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Mahon
Mann
Martin, N.C.
Mathias, Calif.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Mills
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Patten
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rees
Reuss
Rhodes
Riegle
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Ruth
St Germain
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Seiberling
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stark
Steed
Steelman
Steiger, Wis.
Stuckey
Studds
Symington
Talcott
Taylor, N.C.
Teague
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vanik
Veysey
Vigorito
Waggonner
Wampler
Ware
White
Whitehurst
Whitten
Widnall
Williams
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wright
Wyatt
Wydler
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—22

Archer
Beard
Clancy
Crane
Devine
Flynt
Gross
Grover
King
Landgrebe
McEwen
Martin, Nebr.
Miller
Powell, Ohio
Rarick
Roncallo, N.Y.
Scherle
Sebelius
Shuster
Steiger, Ariz.
Symms
Wylie

NOT VOTING—70

Alexander
Anderson, Calif.
Andrews, N. Dak.
Arends
Ashbrook
Ashley
Bell
Bingham
Blackburn
Blatnik
Camp
Carey, N.Y.
Carney, Ohio
Chisholm
Clay
Conyers
Daniels, Dominick V.
Dellums
Diggs
Dorn
Dulski
Eckhardt
Evins, Tenn.
Fraser
Frelinghuysen
Froehlich
Green, Oreg.
Hanley
Hanna
Hansen, Wash.
Harsha
Ichord
Jarman
Jones, Okla.
Jones, Tenn.
Leggett
Long, La.
Madigan
Mailliard
Mallary
Maraziti
Mathis, Ga.
Passman
Patman
Pepper
Rangel
Regula
Reid
Rinaldo
Rooney, N.Y.
Roy
Ryan
Sandman
Stanton, James V.
Steele
Stephens
Stokes
Stratton
Stubblefield
Sullivan
Taylor, Mo.
Vander Jagt
Waldie
Walsh
Whalen
Wiggins
Wilson, Bob
Wolff
Wyman
Young, S.C.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The Clerk announced the following pairs:

Mrs. Sullivan with Mr. Arends.

Mr. Rooney of New York with Mr. Jarman.

Mr. Reid with Mr. Young of South Carolina.

Mr. Blatnik with Mr. Mailliard.

Mr. Carney of Ohio with Mr. Wyman.

Mrs. Chisholm with Mr. Roy.

Mr. Dorn with Mr. Bob Wilson.

Mr. Dulski with Mr. Madigan.

Mr. Bingham with Mr. Rinaldo.

Mr. Ashley with Mr. Andrews of North Dakota.

Mr. Hanley with Mr. Wiggins.

Mrs. Green of Oregon with Mr. Frelinghuysen.

Mr. Long of Louisiana with Mr. Regula.

Mr. Mathis of Georgia with Mr. Ashbrook.

Mr. Rangel with Mr. Waldie.

Mr. Stokes with Mr. Ryan.

Mr. Carey of New York with Mr. Conyers.

Mr. Dellums with Mr. Eckhardt.

Mr. Leggett with Mr. Diggs.

Mr. Stubblefield with Mr. Blackburn.

Mr. Wolff with Mr. Clay.

Mr. Alexander with Mr. Camp.

Mr. Anderson of California with Mr. Mallary.

Mr. Dominick V. Daniels with Mr. Harsha.

Mr. Evins of Tennessee with Mr. Maraziti.

Mr. Fraser with Mr. Bell.

Mr. Hanna with Mr. Sandman.

Mr. Jones of Tennessee with Mr. Froehlich.

Mr. Pepper with Mr. Taylor of Missouri.

Mr. Ichord with Mr. Vander Jagt.

Mrs. Hansen of Washington with Mr. Walsh.

Mr. Stratton with Mr. Whalen.

Mr. Jones of Oklahoma with Mr. Passman.

Mr. Steele with Mr. Patman.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill S. 1125, to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act and other related acts to concentrate the resources of the Nation against the problem of alcohol abuse and alcoholism, a similar bill to H.R. 11387.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. GROSS. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from West Virginia if it is proposed to concur in the Senate bill once it is substituted.

Mr. STAGGERS. No, sir, it is not. The bill has slightly different terms from the House bill, and I would hope to correct the differences in conference.

Mr. GROSS. The gentleman then is proposing to go to conference?

Mr. STAGGERS. That is correct.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the Senate bill, as follows:

### S. 1125

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1973".

### TITLE I—FINDINGS AND DECLARATION OF POLICY

Sec. 101. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4551), is amended by adding after section 1 the following new section:

"FINDINGS AND DECLARATION OF POLICY

"Sec. 2. (a) The Congress finds that—

"(1) alcohol is one of the most dangerous drugs and the drug most frequently abused in the United States, as stated in the final report of the National Commission on Marihuana and Drug Abuse and in the 'Federal Strategy for Drug Abuse and Drug Traffic Prevention';

"(2) of the Nation's estimated ninety-five million drinkers, at least nine million, or 7 per centum of the adult population, are alcohol abusers and alcoholics;

"(3) problem drinking costs the national economy at least $15,000,000,000 annually in lost working time, medical and public assistance expenditures, and police and court costs;

"(4) alcohol abuse is found with increasing frequency among persons who are multiple drug abusers and among former heroin users who are being treated in methadone maintenance programs;

"(5) alcoholism is being discovered among growing numbers of adolescents, and alcohol abuse is reported to be rising among the Nation's youth;

"(6) alcoholism is an illness requiring treatment and rehabilitation through the assistance of a broad range of community health and social services, and with the cooperation of law enforcement agencies; and

"(7) the Federal policy established by the Congress in the Comprehensive Alcohol Abuse and Alcoholism, Prevention, Treatment, and Rehabilitation Act of 1970 must be carried forward, not only through assistance to the States, but through direct Federal assistance to community-based programs meeting the urgent needs of special populations and developing methods for diverting problem drinkers from criminal justice systems into prevention and treatment programs.

"(b)(1) The Congress declares that it is the policy of the United States and the purpose of this Act to approach alcohol abuse and alcoholism from a comprehensive community care standpoint.

"(2) The Congress further declares that, in addition to the funds provided under this Act, other Federal legislation providing for Federal or federally assisted research, prevention, treatment, or rehabilitation programs in the fields of health and social services should be appropriately utilized to help eradicate alcohol abuse and alcoholism as a major problem."

### TITLE II—COORDINATION AND PERSONNEL

Sec. 201. Section 101(a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended to read as follows:

"Sec. 101. (a) There is established in the Department of Health, Education, and Welfare the National Institute on Alcohol Abuse and Alcoholism (hereafter in this Act referred to as the 'Institute') to administer the programs and authorities assigned to the Secretary of Health, Education, and Welfare (hereafter in this Act referred to as the 'Secretary') by this Act and part C of the Community Mental Health Centers Act. The Secretary, acting through the Institute, shall—

"(1) in carrying out the purposes of section 301 of the Public Health Service Act with respect to alcohol abuse and alcoholism, develop and conduct comprehensive health, education, training, research, and planning programs for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics; and

"(2) in carrying out the purposes of all other Federal health, welfare, rehabilitation, highway safety, law enforcement, and economic opportunity legislation coordinate efforts to deal with alcohol abuse and alcoholism."

Sec. 202. Section 101 of such Act is further amended by adding at the end thereof the following new subsections:

"(c)(1) The Director may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the programs and authorities under this Act.

"(2) The Director may appoint a Deputy Director, four Associate Directors, an Executive Office, and our Division Directors."

Sec. 203. (a) Section 102(2) of such Act is amended by inserting "and every three years thereafter" after "Act".

(b) Section 102 of such Act is amended by striking the word "and" at the end of paragraph (3) and by striking the period at the end of paragraph (4) and inserting in lieu thereof "; and" and by adding at the end thereof the following:

"(5) submit to Congress on or before the end of each calendar year, beginning during fiscal year 1974, a report on the extent to which other Federal programs and departments are supporting and dealing with the problems of alcohol abuse and alcoholism."

### TITLE III—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

#### Part A—Grants to States

Sec. 301. Title III, part A, formula grants of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act is amended—

(1) by striking out "Formula Grants" after "Part A—" and inserting in lieu thereof "Grants to States"; and

(2) by striking out immediately thereunder "authorization" and inserting in lieu thereof "Formula Grants".

Sec. 302. Section 301 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act is amended by inserting immediately after "for each of the next two fiscal years" the following: "ending June 30, 1974, $80,000,000 for the fiscal year ending June 30, 1975, and $80,000,000 for the fiscal year ending June 30, 1976.

Sec. 303. Section 302 of such Act is amended by adding at the end thereof the following new subsection:

"(d) On the request of any State, the Secretary is authorized to arrange for the assignment of officers and employees of the Department or provide equipment or supplies in lieu of a portion of the allotment to such State. The allotment may be reduced by the fair market value of any equipment or supplies furnished to such State and by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of an officer or employee to the State. The amount by which such payments are so reduced shall be available for payment of such costs (including the costs of such equipment and supplies) by the Secretary, but shall for purposes of determining the allotment under section 302(a), be deemed to have been paid to the State."

Sec. 304. Section 303(a) of such Act is amended—

(1) by striking out in subparagraph (3) the words "or groups," immediately after the words "nongovernmental organizations" and inserting in lieu thereof the words ", of groups to be served with attention to assuring representation of minority and poverty groups,";

(2) by striking out "and" at the end of subparagraph (9);

(3) by redesignating "(10)" as "(11)"; and

(4) by adding after subparagraph (9) the following new subparagraph (10):

"(10) set forth, in accordance with the criteria and not less than the minimum standards to be set by the Secretary, standards for construction and licensing of public and private treatment facilities, as well as standards for other community services or resources available to assist individuals to meet problems resulting from alcohol abuse. The establishment of such standards and licensing procedures must include enforcement procedures and penalties; and".

Sec. 305. Part A of such Act is amended by adding at the end thereof the following new section:

### "SPECIAL GRANTS

"Sec. 304. (a) The Secretary, for each fiscal year, acting through the Institute, is authorized during the period beginning July 1, 1973, and ending June 30, 1976, to make grants to States (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) for the implementation of the Uniform Alcoholism and Intoxication Treatment Act. The purpose is to help States who have adopted the basic provisions of such Uniform Act to utilize fully the protections of this legal framework in their efforts to approach alcohol abuse and alcoholism from a community care standpoint.

"(b) These grants may be made on application to States whose statutes include at minimum:

"(1) A declaration of policy or the enactment of a statute representing that it is the policy of the State that alcoholics and intoxicated persons may not be subjected to criminal prosecution because of their consumption of alcoholic beverages, but rather should be afforded a continuum of treatment in order that they may lead normal lives as productive members of society. The intent of this declaration and provision must be to preclude the handling of drunkenness under any of a wide variety of petty criminal offense statutes, such as loitering, vagrancy, disturbing the peace, and so forth, and to provide therefore that drunkenness will be handled under the civil provisions and not under the criminal law.

"(2) Specific repeal of all revelant portions of the criminal statutes under which drunkenness is the gravamen of the offense, except that nothing in this repeal affects any law, ordinance, resolution, or rule against drunken driving, driving under the influence of alcohol, or other similar offense involving the operation of a vehicle, aircraft, boat, machinery, or other equipment, or regarding the sale, purchase, dispensing, possessing, or use of alcoholic beverages at stated times and places or by a particular class of persons.

"(3) Incorporation of the standards of acceptance for treatment contained in section 10 of such Uniform Act as follows:

"(A) if possible a patient shall be treated on a voluntary rather than an involuntary basis;

"(B) a patient shall be initially assigned or transferred to outpatient or intermediate treatment, unless he is found to require inpatient treatment;

"(C) a person shall not be denied treatment solely because he has withdrawn from treatment against medical advice on a prior occasion or because he has relapsed after earlier treatment;

"(D) an individualized treatment plan shall be prepared and maintained on a current basis for each patient; and

"(E) provision shall be made for a continuum of coordinated treatment services, so that a person who leaves a facility or a form of treatment will have available and utilize other appropriate treatment.

"(4) Specific restrictions on the use of involuntary commitment to at least the standard contained in section 14 of the Uniform Act; and

"(5) Such additional assurances as the Secretary may find necessary to carry out the purposes of this part.

"(c) Organization of the State program must be in accordance with section 303(a) of this Act and shall not require the specific organizational structure contained in such Uniform Act.

"(d) For each fiscal year that a State applies and qualifies under the provisions of this section, a grant may be made available based on a sum of $100,000 plus an amount equal to 10 per centum of said State's formula allotment.

"(e) There are authorized to be appropriated for the fiscal year ending June 30, 1974, and for each of the next two fiscal years such sums as may be necessary to carry out the provisions of this section."

### PART B—PROJECT GRANTS AND CONTRACTS

### GRANTS AND CONTRACTS FOR THE PREVENTION AND TREATMENT OF ALCOHOL ABUSE AND ALCOHOLISM

Sec. 311. Section 311 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act is amended to read as follows:

"Sec. 311. (a) The Secretary, acting through the National Institute on Alcohol Abuse and Alcoholism, may make grants to public and private nonprofit agencies, organizations, and institutions and may enter into contracts with public and private agencies, organizations, and institutions, and individuals—

"(1) to conduct demonstration, service, and evaluation projects,

"(2) to provide education and training,

"(3) to provide programs and services in cooperation with schools, courts, penal institutions, and other public agencies, and

"(4) to provide counseling and education activities on an individual or community basis,

for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics.

"(b) Projects for which grants and contracts are made under this section shall, whenever possible, be community based, seek to insure care of good quality in general community care facilities and under health insurance plans, and be integrated with, and provide for the active participation of, a wide range of public and nongovernmental agencies, organizations, institutions, and individuals.

"(c) (1) In administering the provisions of this section, the Secretary shall require coordination of all applications for programs in a State.

"(2) Each applicant from within a State, upon filing its application with the Secretary for a grant or contract under this section, shall submit a copy of its application for review by the State agency designated under section 303 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, if such agency exists. Such State agency shall be given not more than thirty days from the date of receipt of the application to submit to the Secretary, in writing, an evaluation of the project set forth in the application. Such evaluation shall include comments on the relationship of the project to other projects pending the approved and to the State comprehensive plan for treatment and prevention of alcohol abuse and alcoholism under such section 303. The State shall furnish the applicant a copy of any such evaluation.

"(3) Approval of any application for a grant or contract by the Secretary, including the earmarking of financial assistance for a program or project, may be granted only if the application substantially meets a set of criteria established by the Secretary that—

"(A) provide that the activities and services for which assistance under this section is sought will be substantially administered by or under the supervision of the applicant;

"(B) provide for such methods of administration as are necessary for the proper and efficient operation of such programs or projects;

"(C) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant; and

"(D) provide reasonable assurance that Federal funds made available under this section for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this section, and will in no event supplant such State, local, and other non-Federal funds.

"(d) To carry out the purposes of this section, there are authorized to be appropriated $90,000,000 for the fiscal year ending June 30, 1974, $100,000,000 for the fiscal year ending June 30, 1975, and $110,000,000 for the fiscal year ending June 30, 1976."

### PART C—ADMISSION TO HOSPITALS

### ADMISSION OF ALCOHOL ABUSERS AND ALCOHOLICS TO PRIVATE AND PUBLIC HOSPITALS

Sec. 321. Section 321 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act is amended to read as follows:

"Sec. 321. (a) Alcohol abusers and alcoholics who are suffering from medical conditions shall not be discriminated against in admission or treatment, solely because of their alcohol abuse or alcoholism, by any private or public general hospital which receives support in any form from any programs supported in whole or in part by funds appropriated to any Federal department or agency.

"(b) The Secretary is authorized to make regulations for the enforcement of the policy of subsection (a). Such regulations shall include procedures for determining (after opportunity for a hearing if requested) if a violation of subsection (a) has occurred, notification of failure to comply with such subsection, and opportunity for a violator to comply with such subsection. If the Secretary determines that a hospital has violated subsection (a) and such violation continues after an opportunity has been afforded for compliance, the Secretary is authorized to suspend or revoke, after opportunity for a hearing, all or part of any support of any kind received by such hospital from any program administered by the Secretary. The Secretary may consult with the officials responsible for the administration of any other Federal program from which such hospital receives support of any kind, with respect to the suspension of revocation of Federal support for such hospital."

## TITLE IV—TECHNICAL AND CONFORMING AMENDMENTS

SEC. 401. Section 5108(c) of title 5, United States Code is amended by adding at the end thereof the following new paragraph:

"(12) the Director of the National Institute on Alcohol Abuse and Alcoholism subject to the standards and procedures prescribed by that chapter may place a total of eleven positions in the National Institute on Alcohol Abuse and Alcoholism."

SEC. 402. Section 247 of the Community Mental Health Centers Act (42 U.S.C. 2681) is repealed.

### AMENDMENT OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STAGGERS: Strike out all after the enacting clause of S. 1125 and insert in lieu thereof the provision of H.R. 11387, as passed.

The amendment was agreed to.

The Senate bill was offered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and other related acts to concentrate the resources of the Nation against the problem of alcohol abuse and alcoholism; to coordinate the National Institute of Mental Health, the National Institute on Alcoholism and Alcohol Abuse, and the National Institute on Drug Abuse; and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 11387) was laid on the table.

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## AMENDING THE PUBLIC HEALTH SERVICE ACT

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10957) to consolidate and revise the laws relating to public health, as amended.

The Clerk read as follows:

### H.R. 10957

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. (a) This Act may be cited as the "Public Health Service Act Amendments of 1974".

(b) Unless the context otherwise requires, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

(c) Repeals of sections or other divisions of the Public Health Service Act which are made by this Act are repeals of such sections or other divisions as in effect on the day before the date of the enactment of this Act.

SEC. 2. (a) Title I is amended as follows:

(1) Section 1 is repealed, and the following is inserted in lieu thereof:

"PART A—SHORT TITLE AND FINDINGS

"SHORT TITLE

"SECTION 1. This Act may be cited as the 'Public Health Service Act'.

"FINDINGS

"SEC. 2. The Congress finds that—

"(1) fulfillment of our national purpose depends on promoting and assuring the highest level of health attainable for every person in an environment which contributes positively to healthful individual and family living;

"(2) Federal financial assistance must be directed to support the marshaling of all health resources to assure comprehensive health services of high quality for every person; and

"(3) attainment of this purpose depends on effective cooperation and partnership involving all levels of government; official, voluntary, and professional health organizations; and individual providers and consumers of health services."

(2) The following heading is inserted immediately above the section heading for section 2:

"PART B—GENERAL PROVISIONS".

(3) Section 2 is redesignated as section 11 and is amended—

(A) by striking out "section 361(d)" in paragraph (f) and inserting in lieu thereof "section 268(d)";

(B) by striking out "section 3228(f) of the Internal Revenue Code" in paragraph (j) and inserting in lieu thereof "section 102 of the Controlled Substances Act";

(C) by striking out the semicolon at the end of paragraphs (a) through (n) and inserting in lieu thereof a period and by striking out "; and" at the end of paragraph (o) and inserting in lieu thereof a period; and

(D) by redesignating paragraphs (a) through (q) as paragraphs (1) through (17), respectively.

(d) (A) The following sections of the Public Health Service Act are inserted in the following order after section 11 (as so redesignated): Sections 501, 512, 509, 513, 217, 310A, and 310B. Such sections are redesignated as sections 12, 13, 14, 15, 16, 17, and 18, respectively.

(B) Section 12 (as so redesignated) is amended—

(i) by striking out "of its functions" each place it occurs and inserting in lieu thereof "of the Secretary's functions under this Act", and

(ii) by striking out "if recommended by the Surgeon General" in the second sentence of subsection (a). (C) Section 14 (as so redesignated) is amended—

(i) by striking out "Surgeon General" each place it occurs and inserting in lieu thereof "Secretary",

(ii) by striking out "Service" each place it occurs and inserting in lieu thereof "Department",

(iii) by striking out "Institute" and inserting in lieu thereof "Institutes", and

(iv) by inserting "(a)" immediately before "Appropriations" and by inserting at the end thereof section 507, as amended by subsection (b) (2) of this section.

(D) Section 15 (as so redesignated) is amended by striking out "the Mental Retardation Facilities Construction Act, the Community Mental Health Centers Act,".

(E) Section 16 (as so redesignated) is amended—

(i) by striking out "Surgeon General" each place it occurs, other than in the first sentence of subsection (a) and the last sentence of subsection (c), and inserting in lieu thereof "Secretary",

(ii) by striking out "appointed without regard to the civil service laws by the Surgeon General with the approval of the Secretary of Health, Education, and "appointed by the Secretary of Health, Education, and Welfare without regard to the provisions of title 5, United States Code, governing appointments in the competitive service,",

(iii) by striking out "Service" in subsection (c) and inserting in lieu thereof "Secretary",

(iv) by amending the last sentence of subsection (c) to read as follows: "The Council may also make recommendations to the Secretary for the acceptance, in accordance with section 12, of conditional gifts made for work in the field of mental health; and the Secretary may accept any such gift only after consultation with the Council.", and

(v) by inserting at the end thereof the following new subsections:

"(f) (1) The Secretary may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, from time to time, appoint such advisory councils or committees (in addition to those authorzed to be established under provisions of this Act or other laws) for such periods of time as he deems desirable for the purpose of advising him in connection with any of his functions.

"(2) Upon appointment of any such council or committee, the Secretary may transfer such of the functions of the National Advisory Health Council relating to grants for research or training projects or programs in the areas or fields with which such council or committee is concerned as he determines to be appropriate.

"(g) Members (other than ex officio members) of the National Advisory Health Council and members of other national advisory or review councils or committees established under this Act (including members of the Technical Electronic Product Radiation Safety Standards Committee and the Board of Regents of the National Library of Medicine) or appointed under subsection (c) of this section shall be entitled to receive for each day (including traveltime) in which they are attending conferences or meetings of their respective councils or committees or otherwise serving at the request of the Secretary, compensation at rates to be fixed by the Secretary, but at rates not exceeding the daily equivalent of the rate specified at the time of such service for grade GS–18 of the General Schedule; and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5 of the United States Code for persons in the Government service employed intermittently."

(F) Section 18 (as so redesignated) is amended by striking out "a report of the activities carried on under the provisions of title IX of this Act and sections 304, 305, 314(a), 314(b), 314(c), 314(d), and 314(e) of this title" and inserting in lieu thereof "a report of the functions of the Service under this Act (including a detailed statement of receipts and disbursements) and of the activities carried on under the provisions of titles III and V of this Act".

(b) (1) Sections 222, 508, and 511 and subsection (c) of section 208 are repealed.

(2) Section 507 is amended (I) by striking out the section heading, (II) by striking out "Sec. 507." and inserting in lieu thereof "(b)", and (III) by striking out "Public Health Service" and inserting in lieu thereof "Secretary".

(c) The heading for title I is amended to read as follows:

"TITLE I—GENERAL PROVISIONS

Sec. 3. (a) Title II is amended as follows:

(1) The heading for the title is amended by striking out "ADMINISTRATION" and inserting in lieu thereof "PUBLIC HEALTH SERVICE AND FEDERAL HEALTH PROGRAMS".

(2) The following is inserted immediately above the section heading for section 201:

"PART A—ADMINISTRATION"

(3) Section 201 is amended to read as follows:

"ADMINISTRATION AND ORGANIZATION OF PUBLIC HEALTH SERVICE

"Sec. 201. (a) The Public Health Service in the Department shall be administered by the Secretary.

"(b) In addition to the commissioned Regular and Reserve Corps, the Service shall consist of such units of the Department as the Secretary may from time to time designate."

(4) Section 202 is repealed.

(5) (A) Section 203 is amended by striking out "Sec. 203. There shall be in the Service a commissioned Regular Corps and, for the purpose of securing a reserve for duty in the Service in time of national emergency, a Reserve Corps. All commissioned officers" and inserting in lieu thereof the following:

"Sec. 203. (a) There shall be in the Service a commissioned Regular Corps and, for the purpose of securing a reserve for duty in the Service in time of national emergency, a Reserve Corps. The Regular and Reserve Corps shall be administered by the Surgeon General under the supervision and direction of the Secretary. The Surgeon General shall be appointed from the Regular Corps of the Service by the President, by and with the advice and consent of the Senate. The Surgeon General, during the period of his appointment as such, shall be the same grade as the Surgeon General of the Army. The individual holding the office of Surgeon General shall, upon the termination of his appointment, revert to the grade and number in the Regular Corps that he would have occupied had he not served as Surgeon General.

"(b) All commissioned officers".

(B) Sections 203, 207(f), and 207(g) are each amended by striking out "Classification Act of 1923, as amended" and inserting in lieu thereof "provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates".

(6) Sections 204 and 205 are repealed.

(7) The first sentence of section 206(a) and the proviso in the second sentence are repealed.

(8) Section 207(a)(3) is amended by striking out "211" and inserting in lieu thereof "210".

(9) Section 208(g) is amended (A) by striking out ": *Provided*, That the" and inserting in lieu thereof ", except that the", (B) by striking out "grade 16 of the General Schedule of the Classification Act of 1949, as amended" and inserting in lieu thereof "grade GS–16 of the General Schedule", and (C) by striking out "grade 18 of the General Schedule of such Act" and inserting in lieu thereof "grade GS–18 of the General Schedule".

(10) Sections 218 and 219 are inserted after section 208.

(11) Section 210(m) is amended by striking out "the Act of December 11, 1926, as amended (5 U.S.C. 21a)" and inserting in lieu thereof "section 3332 of title 5, United States Code".

(12) Section 220 is inserted after section 210 and is amended (A) by striking out the section heading, (B) by striking out "Sec. 220." and inserting in lieu thereof "(n)", and (C) by striking out "the effective date of this section" and inserting in lieu thereof "May 1, 1956,".

(13) Section 221 is inserted after section 212 and is amended (A) by striking out "Sec. 221. (a)" and inserting in lieu thereof "(e)", (B) by striking out "(b)" and inserting in lieu thereof "(f)", and (C) by striking out "subsection (a)" and inserting in lieu thereof "subsection (e)".

(14) Sections 207, 208, 209, 210, 211(d), 211(f), 212, 214, and 218 are each amended by striking out "Surgeon General" each place it occurs and inserting in lieu thereof "Secretary".

(15) The following sections of the Public Health Service Act are inserted in the following order before section 224: 506, 510, and 505.

(16) Section 215 is inserted after section 224.

(b) (1) Section 207(a)(3) is amended by striking out "section 211(d)" and inserting in lieu thereof "section 210(d)".

(2) Section 208 is amended—

(A) by striking out "section 210(g)(3), section 211 or section 221(a)" and inserting in lieu thereof "section 209(g)(3), 210, or 211(e)" in subsection (b),

(B) by striking out "section 207(f)" in subsection (f) and inserting in lieu thereof "section 204(f)", and

(C) by redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), respectively.

(3) Section 209 is amended (A) by striking out "207" each place it occurs and inserting in lieu thereof "204", (B) by striking out "206" each place it occurs and inserting in lieu thereof "203", and (C) by striking out ", and while any officer is temporarily assigned to a position pursuant to section 205(c),".

(4) Section 210(l) is amended by striking out "209" each place it occurs and inserting in lieu thereof "208".

(5) Section 211 is amended (A) by striking out "the Civil Service Retirement Act" in subsection (a)(4) and inserting in lieu thereof "chapter 83 of title V of the United States Code", and (B) by striking out "section 210 (g)(3)" in subsection (e) and inserting in lieu thereof "section 209(g)(3)".

(6) Section 212(d) is amended by striking out "(except the Serviceman's Indemnity Act of 1951)".

(7) Section 214 is amended by striking out "section 212" and inserting in lieu thereof "section 211".

(c) Sections 203, 206, 207, and 208 are redesignated as sections 202, 203, 204, and 205, respectively; sections 218 and 219 are redesignated as sections 206 and 207, respectively; sections 209, 210, 211, 212, 214, and 216 are redesignated as sections 208, 209, 210, 211, 212, and 213, respectively; sections 506, 510, and 505 are redesignated as sections 214, 215, and 216 respectively; and sections 224 and 215 are redesignated as sections 217 and 218, respectively.

Sec. 4. Title II is further amended as follows:

(1) Immediately following section 218 (as so redesignated) there is inserted a new part B which shall be entitled "PART B—FEDERAL HEALTH PROGRAMS".

(2) The new part B shall consist of six subparts which shall, respectively, have the following headings:

"SUBPART 1—PUBLIC HEALTH SERVICE MEDICAL CARE FACILITIES; MEDICAL CARE

"SUBPART 2—NATIONAL LIBRARY OF MEDICINE

"SUBPART 3—ASSISTANCE TO MEDICAL LIBRARIES

"SUBPART 4—COMMUNICABLE DISEASES AND QUARANTINE

"SUBPART 5—NARCOTIC ADDICTS AND OTHER DRUG ABUSERS

"SUBPART 6—PERSONS WITH HANSEN'S DISEASE"

(3) (A) Subpart 1 of the new part B shall consist of the following sections of the Public Health Service Act which are transferred to and inserted in the subpart in the following order: Section 321, 322, 323, 324, 325, 326, 327, 328, 502, 503, 504, and 223. Such sections are redesignated as sections 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, and 232, respectively.

(B) Subsection (c) of section 311 is inserted as a new subsection (c) of section 228 (as so redesignated).

(C) Section 221 (as so redesignated) is amended (i) by striking out "Control" and inserting in lieu thereof "control", (ii) by striking out "Provide" each place it occurs and inserting in lieu thereof "provide", and (iii) by redesignating paragraphs (a), (b), (c), (d), and (e) as paragraphs (1), (2), (3), (4), and (5), respectively.

(D) Section 223 (as so redesignated) is amended by striking out "the Act of May 13, 1930, as amended (U.S.C. 1940 edition, title 18, secs. 751, 752)" and inserting in lieu thereof "section 4005 of title 18, United States Code".

(E) Section 224(a) (as so redesignated) is amended by striking out "the United States Employees' Compensation Act and extensions thereof" and inserting in lieu thereof "chapter 81 of title 5 of the United States Code".

(F) Section 224(a)(4) (as so redesignated) is amended by striking out ", as amended (U.S.C., 1940 edition, title 33, chapter 18)," and inserting in lieu thereof "(33 U.S.C. chapter 18)".

(G) Subsection (c) of section 226 (as so redesignated) is redesignated as subsection (b).

(H) Section 227 (as so redesignated) is amended (i) by striking out "this part" and inserting in lieu thereof "this subpart", and (ii) by striking out ", as amended (U.S.C., 1940 edition, title 31, sec. 686)," and inserting in lieu thereof "(31 U.S.C. 686)".

(I) (1) Sections 221, 222, and 224(a) (as so redesignated) are amended by striking out "Surgeon General" each place it occurs and inserting in lieu thereof "Secretary."

(ii) Section 225 (as so redesignated) is amended by striking out "Surgeon General" the first time it occurs and inserting in lieu thereof "Secretary" and by striking out "the Surgeon General with the approval of".

(iii) Section 223 (as so redesignated) is amended by striking out "Service" and inserting in lieu thereof "Secretary".

(iv) Section 226(a) (as so redesignated) is amended by striking out "Service" in the matter following paragraph (3) and inserting in lieu thereof "Secretary", and section 226(b) (as so redesignated) is amended by striking out "Service" the first time it occurs and inserting in lieu thereof "Secretary".

(v) Section 227 (as so redesignated) is amended by striking out "Service" the first time it occurs and inserting in lieu thereof "Secretary" and by striking out "for the Service".

(4)(A) Subpart 2 of the new part B shall consist of sections 381 through 388 of the Public Health Service Act which are transferred to that subpart and redesignated as sections 241 through 248, respectively.

(B) Section 241 (as so redesignated) is amended by striking out "this part" and inserting in lieu thereof "this" subpart".

(C) Section 242 (as so redesignated) is amended by striking out "section 383" in subsection (c) and inserting in lieu thereof "section 243".

(D) Section 243 (as so redesignated) is amended (i) by striking out "this part" in subsection (a) and inserting in lieu thereof "this subpart", and (ii) by striking out "as authorized by law (5 U.S.C. 73b–2)" and inserting in lieu thereof "as authorized by section 5703(b) of title 5, United States Code,".

(E) Section 244 (as so redesignated) is amended by striking out "section 501" and inserting in lieu thereof "section 12".

(F) Sections 245 and 246 (as so redesignated) are each amended by striking out "this part" and inserting in lieu thereof "this subpart", and such section 245 is amended by striking out "383" and inserting in lieu thereof "243".

(G) Section 247 (as so redesignated) is amended (i) by striking out "Bureau of the Budget" each place it occurs and inserting in lieu thereof "Office of Management and Budget", and (ii) by striking out "this part" each place it occurs and inserting in lieu thereof "this subpart".

(H) Section 248 (as so redesignated) is amended by striking out "section 398" each place it occurs and inserting in lieu thereof "section 259".

(5)(A) Subpart 3 of the new part B shall consist of sections 390 through 399b of the Public Health Service Act which are transferred to that subpart and redesignated as sections 251 through 262, respectively.

(B) Sections 251, 252, 258, 260, 261, and 262 (as so redesignated) are each amended by striking out "this part" each place it occurs and inserting in lieu thereof "this subpart".

(C) Sections 252 and 253 (as so redesignated) are each amended by striking out "383" each place it occurs and inserting in lieu thereof "243".

(D) Section 253 (as so redesignated) is amended by striking out "part I" and inserting in lieu thereof "subpart 2".

(E) Sections 254, 255, 256, 257, 258, and 259 (as so redesignated) are each amended by striking out "390" each place it occurs and inserting in lieu thereof "251".

(6)(A) The following is inserted at the beginning of subpart 4 of the new part B.

### "FEDERAL-STATE COOPERATION

"SEC. 265. The Secretary is authorized to accept from State and local authorities any assistance in the enforcement of quarantine regulations made pursuant to this Act which such authorities may be able and willing to provide. The Secretary shall also assist States and their political subdivisions in the prevention and suppression of communicable diseases, shall cooperate with and aid State and local authorities in the enforcement of their quarantine and other health regulations, and shall advise the several States on matters relating to the preservation and improvement of the public health."

(B) Immediately following section 265 (inserted by subparagraph (A)) the following sections of the Public Health Service Act are inserted in the following order: Sections 317 and 318 and 361 through 369. Such sections are redesignated as sections 266 through 276, respectively.

(C) Section 266 (as so redesignated) is amended by striking out "318" each place it occurs and inserting in lieu thereof "267", and section 267 (as so redesignated) is amended by striking out "317" each place it occurs and inserting in lieu thereof "266".

(D) Section 268 (as so redesignated) is amended (i) by striking out "Surgeon General, with the approval of the Secretary" and inserting in lieu thereof "Secretary, and (ii) by striking "Suregon General" in the second sentence of subsection (a) and in subsection (b) and inserting in lieu thereof "Secretary".

(E) Section 269 (as so redesignated) is amended by striking out "Surgeon General" each place it occurs and inserting in lieu thereof "Secretary".

(F) Section 270 (as so redesignated) is amended (i) by striking out "361" and inserting in lieu thereof "268", and (ii) by striking out "Surgeon General" and inserting in lieu thereof "Secretary".

(G) Section 271 (as so redesignated) is amended (i) by striking out ", as amended (U.S.C. 1940 edition, title 50, secs. 191–194), the Surgeon General" and inserting in lieu thereof (50 U.S.C. 191, 192, 194), the Secretary", (ii) by striking out "Surgeon General" in subsections (b) and (c) and inserting in lieu thereof "Secretary", (iii) by striking out "Surgeon General with the approval of the Secretary of Health, Education, and Welfare" in subsection (d)(1) and inserting in lieu thereof "Secretary", (iv) by striking out ": *Provided, That*" in such subsection and inserting in lieu thereof ", except that", and (v) by redesignating clauses (1) and (2) of such subsection as clauses (A) and (B), respectively.

(H) Section 272, 273, and 274 (as so redesignated) are each amended by striking out "Surgeon General" each place it occurs and inserting in lieu thereof "Secretary".

(I) Section 274 (as so redesignated) is amended by striking out "sections 364, 365, and 366" and inserting in lieu thereof "sections 271, 272, and 273".

(J) Section 276 (as so redesignated) is amended (i) by striking out "sections 361, 362, or 363" and inserting in lieu thereof "section 268, 269, or 270", (ii) by striking out "section 366" each place it occurs and inserting in lieu thereof "section 273", (iii) by striking out "section 364" in subsection (b) and inserting in lieu thereof "section 271", and (iv) by striking out "With the approval of the Secretary, the Surgeon General" in subsection (c) and inserting in lieu thereof "The Secretary".

(7)(A) Subpart 5 of the new part B shall consist of sections 341 through 347 of the Public Health Service Act which are transferred to that subpart and are redesignated as sections 281 through 287, respectively.

(B) Section 281 (as so redesignated) is amended (i) by striking out "Surgeon General" each place it occurs and inserting in lieu thereof "Secretary", (ii) by striking out "the Narcotic Rehabilitation Act of 1966" the first time it occurs and inserting in lieu thereof "title III of the Narcotic Addict Rehabilitation Act of 1966, chapter 314 of title 18, United States Code, and chapter 175 of title 28, United States Code", (iii) by striking out "the Narcotic Addict Rehabilitation Act of 1966" the second time it occurs and inserting in lieu thereof "such chapter 175", and (iv) by striking out "Commissioners of the District of Columbia or their" and inserting in lieu thereof "Commissioner of the District of Columbia or his".

(C) Section 282 (as so redesignated) is amended (i) by striking out "the Surgeon General" in the first, second, and last sentences and inserting in lieu thereof "the Secretary", (ii) by striking out "Surgeon General" in the third sentence and inserting in lieu thereof "Secretary of Health, Education, and Welfare", and (iii) by striking out "Secretary" in the fourth sentence and inserting in lieu thereof "Secretary of Health, Education, and Welfare".

(D) Section 283 (as so redesignated) is amended (i) by striking out "Surgeon General" each place it occurs and inserting in lieu thereof "Secretary", and (ii) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(E) Sections 284, 285, and 286 (as so redesignated) are each amended by striking out "Surgeon General" and inserting in lieu thereof "Secretary".

(F) Section 285 (as so redesignated) is amended (i) by striking out "section 321" and inserting in lieu thereof "section 221", (ii) by striking out "the Act of June 24, 1953 (Public Law 76, Eighty-third Congress)," in subsection (a) and inserting in lieu thereof "the Hospital Treatment for Drug Addicts Act for the District of Columbia (D.C. Code, 24–601—24–611)", and (iii) by striking out "the Act of June 24, 1953 (Public Law 76, Eighty-third Congress)" in subsection (b) and inserting in lieu thereof "the Hospital Treatment for Drug Addicts Act for the District of Columbia".

(8)(A) Subpart 6 of the new part B shall consist of sections 331 and 332 of the Public Health Service Act which are transferred to that subpart and redesignated as sections 291 and 292, respectively.

(B) Section 291 (as so redesignated) is amended (i) by striking out "Surgeon General" each place it occurs and by inserting in lieu thereof "Secretary", (ii) by striking out "section 332 or 361" and inserting in lieu thereof "section 268 or 292", (iii) by striking out "leprosy" each place it occurs and inserting in lieu thereof "Hansen's disease", (iv) by striking out "leper patients" and inserting in lieu thereof "persons with Hansen's disease", and (v) by striking out "LEPERS" in the section heading and inserting in lieu thereof "PERSONS WITH HANSEN'S DISEASE".

(C) Section 292 (as so redesignated) is amended (i) by striking out "Surgeon General" and inserting in lieu thereof "Secretary", and (ii) by striking out "leprosy" and inserting in lieu thereof "Hansen's disease".

SEC. 5. (a)(1) Part E of the Controlled Substances Act is amended by adding at the end thereof the following new section:

### "STUDIES RESPECTING MEDICAL AND SCIENTIFIC REQUIREMENTS FOR NARCOTICS

"SEC. 517. The Secretary shall conduct such studies and investigations as may be necessary to determine the quantities of crude opium, coca leaves, and their salts, derivatives, and preparations, and other drugs subject to control under this title and the Controlled Substances Import and Export Act, together with reserves thereof, as may be necessary to supply the normal and emergency medical and scientific requirements of the United States. The results of such studies and investigations shall be reported not later than the 1st day of April of each year to the Attorney General, to be used at his discretion in determining manufacturing quotas or importation requirements under this title and the Controlled Substances Import and Export Act."

(2) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 516 the following new item:

"Sec. 517. Studies respecting medical and scientific requirements for narcotics.".

(b) Part D of title VII of the Public Health Service Act (as amended by section 9 of this title) is amended by inserting at the end thereof the following new section:

### "FEDERAL-STATE COOPERATION

"Sec. 747. For the purpose of encouraging States to provide adequate facilities and methods for the care and treatment of its narcotic addicts, the Secretary shall cooperate with States for purposes of aiding them to serve their narcotic drug problems and shall give authorized representatives of the States the benefit of his experience in the care, treatment, and rehabilitation of narcotic addicts."

(c) (1) Sections 307, 314(f), and 372 are repealed.

(2) The headings for parts A through E and parts G through J of title III are repealed.

(d) (1) Title III shall consist of the following sections in the following order: Sections 304, 305, 312a, 313, 308, 312, and 315.

(2) Section 304 is amended (A) by striking out "304" and inserting in lieu thereof "301", (B) by striking out "for the mentally retarded, as defined in the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963" in subsection (a) (1) and inserting in lieu thereof "for persons with developmental disabilities, as defined in title VI", (C) by striking out "605" in subsection (a) (2) and inserting in lieu thereof "509", (D) by striking out subsection (b), and (E) by striking out subsection (c) and inserting in lieu thereof the following:

"(b) There are authorized to be appropriated for payment of grants and contracts under subsection (a) $94,000,000 for the fiscal year ending June 30, 1973."

(3) Section 305 is amended (A) by striking out "305" and inserting in lieu thereof "302", and (B) by striking out "Surgeon General" each place it occurs and inserting in lieu thereof "Secretary".

(4) Section 312a is amended (A) by striking out 312a and inserting in lieu thereof "303", and (B) by inserting above such section the following heading: "BIRTH AND DEATH CERTIFICATES".

(5) Section 313 is amended by striking out "313" and inserting in lieu thereof "304".

(6) Section 308 is amended to read as follows:

### "INTERNATIONAL COOPERATION

"Sec. 305. (a) For the purpose of advancing the status of the health sciences in the United States (and thereby the health of the American people), the Secretary may participate with other countries in cooperative endeavors in biomedical health research and the health services research and statistical activities authorized by this title.

"(b) In connection with the cooperative endeavors authorized by subsection (a), the Secretary may—

"(1) make such use of resources offered by participating foreign countries as he may find necessary and appropriate;

"(2) establish and maintain fellowships in participating foreign countries and establish and maintain fellowships in the United States for citizens of such countries;

"(3) make grants to public institutions or agencies and to nonprofit private institutions or agencies in the United States and in participating foreign countries for the purpose of establishing and maintaining the fellowships authorized by paragraph (2);

"(4) make grants or loans of equipment and materials, for use by public or nonprofit private institutions or agencies, or by individuals, in participating foreign countries;

"(5) participate and otherwise cooperate in any international meetings, conferences, or other activities concerned with health research, health services research, or health statistics;

"(6) facilitate the interchange between the United States and participating foreign countries, and among participating foreign countries, of research scientists and experts who are engaged in experiments and programs of health research, health services research, and health statistics activities, and in carrying out such purpose may pay per diem compensation, subsistence, and travel for such scientists and experts when away from their places of residence at rates not to exceed those provided in section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently; and

"(7) procure, in accordance with section 3109 of title 5, United States Code, the temporary or intermittent services of experts or consultants.

The Secretary may not, in the exercise of his authority under this section, provide financial assistance for the construction of any facility in any foreign country."

(7) Section 312 is amended by striking out "312" and inserting in lieu thereof "306".

(8) Section 315 is amended (A) by striking out "315" and inserting in lieu thereof "307", and (B) by striking out "engaged in work related to the functions of the Service" and inserting in lieu thereof "concerned with health services".

Sec. 6. (a) Title IV is amended by inserting before part A the following:

### "PART A—GENERAL RESEARCH AUTHORITY

### "GENERAL RESEARCH AUTHORITY

"Sec. 400. (a) The Secretray shall conduct, shall encourage, cooperate with, and render assistance to appropriate public entities, scientific institutions, and scientists in the conduct of, and shall promote the coordination of, research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of man. In carrying out this section the Secretary is authorized to do the following:

"(1) Collect and make available, through publications and other appropriate means, information as to, the practical application of, such research and other activities.

"(2) Make available research facilities of the Department to appropriate public authorities and to health officials and scientists engaged in special study.

"(3) Establish and maintain research fellowships with such stipends and allowances (including traveling and subsistence expenses and dependency allowances) as he may deem necessary to procure the assistance of the most brilliant and promising research fellows from the United States and abroad.

"(4) Make grants (A) to universities, hospitals, laboratories, and other public or private institutions, and to individuals, for such research or research training projects as are recommended by the National Advisory Health Council (except that projects respecting cancer must be recommended by the National Cancer Advisory Board, mental health projects must be recommended by the National Advisory Mental Health Council, projects respecting heart and lung diseases must be recommended by the National Heart and Lung Advisory Council, alcohol abuse and alcoholism projects must be recommended by the National Advisory Council on Alcohol Abuse and Alcoholism, and projects respecting dental diseases and conditions must be recommended by the National Advisory Dental Research Council), and (B) upon recommendation of the National Advisory Health Council, to public or nonprofit universities, hospitals, laboratories, and other institutions for the general support of their research and research training programs. Such uniform percentage, not to exceed 15 per centum, as the Secretary may determine, of the amounts provided for grants for research or research training projects for any fiscal year through the appropriations for the National Institutes of Health may be transferred from such appropriations to a separate account to be available for such research and research training program grants for such fiscal year.

"(5) Make grants to State or local agencies, laboratories, and other public or nonprofit agencies and institutions, and to individuals, for investigations, experiments, demonstrations, studies, and research projects with respect to the development of improved methods of diagnosing mental illness, and of care, treatment, and rehabilitation of the mentally ill, including grants to State agencies responsible for administration of State institutions for care, or care and treatment, of mentally ill persons for developing and establishing improved methods of operations and administration of such institutions.

"(6) Secure, from time to time and for such periods as he deems advisable, the assistance and advice of experts, scholars, and consultants from the United States or abroad.

"(7) For purposes of study, admit and treat at institutions, hospitals, and stations of the Service persons not otherwise eligible for such treatment.

"(8) Make available, to health officials, scientists, and appropriate public and other nonprofit institutions and organizations, technical advice and assistance on the application of statistical methods to experiments, studies, and surveys in health and medical fields.

"(9) Enter into contracts during the fiscal year ending June 30, 1966, and each of the eight succeeding fiscal years, including contracts for research in accordance with and subject to the provisions of law applicable to contracts entered into by the military departments under title 10, United States Code, sections 2353 and 2354, except that determination, approval, and certification required thereby shall be by the Secretary of Health, Education, and Welfare.

"(10) Upon the recommendation of the National Advisory Health Council (or of the National Cancer Advisory Board in the case of activities respecting cancer, of the National Advisory Mental Health Council in the case of activities respecting mental health, of the National Heart and Lung Advisory Council in the case of activities respecting heart and lung diseases, the National Advisory Council on Alcohol Abuse and Alcoholism in the case of activities respecting alcohol abuse and alcoholism, or of the National Advisory Dental Research Council in the case of activities respecting dental diseases and conditions) take such additional action as he deems necessary or appropriate to carry out the purposes of this section.

For the purpose of advancing the status of the health sciences in the United States (and thereby the health of the American people), the Secretary may participate with other countries in cooperative endeavors in the research activities authorized by this subsection; and in connection with such endeavors, the Secretary shall have the same authorities as is provided by section 305(b) for cooperative endeavors under section 305(a).

"(b) The Secretary may authorize persons engaged in research on the use and effect of drugs to protect the privacy of individuals who are the subject of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals. Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals."

(b) Sections 402(a), 403(a), 412, 419A(a), 422, 423(a), 431(b), 433(a), 444, and 453 are each amended by striking out "section 301" and inserting in lieu thereof "section 400".

(c) Sections 403(b), 404(d), 418(a)(5), 423(b), and 424(d) are each amended by striking out "section 501" and inserting in lieu thereof "section 12".

(d) Section 417(d)(3) is amended by striking out "section 217" and inserting in lieu thereof "section 17".

(e) Section 431(b) is amended by striking out "leprosy" and inserting in lieu thereof "Hansen's disease".

(f) Parts A through G are redesignated as parts B through H, respectively.

(d)(1) Title I of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is transferred to title IV of the Public Health Service Act and inserted after part II (as so redesignated).

(2) The heading for such title I is amended by striking out "Title I" and inserting in lieu thereof "Part I".

(3) Sections 101 and 102 of such title I are redesignated as sections 461 and 462, respectively.

(4) Section 461 (as so redesignated) is amended—

(A) by striking out "this Act" the first time it occurs and inserting in lieu thereof "this part".

(B) by striking out "of Health, Education, and Welfare (hereinafter in this Act referred to as the 'Secretary')",

(C) by striking out "this Act and part C of the Community Mental Health Centers Act" and inserting in lieu thereof "part C of title VII", and

(D) by striking out "section 301 of the Public Health Service Act" and inserting in lieu thereof "section 400".

(5) Section 462 (as so redesignated) is amended (A) by striking out "this Act and part C of the Community Mental Health Centers Act" in paragraph (1) and inserting in lieu thereof "this part and part C of title VII", and (B) by striking out "on or before the expiration of the one-year period beginning on the date of enactment of this Act" in paragraph (2) and inserting in lieu thereof "annually".

SEC. 7. (a) The heading for title V is amended to read as follows:

"TITLE V—HEALTH SYSTEMS PLANNING AND DEVELOPMENT"

(b) The provisions of law listed in column II of the following table are transferred to title V of the Public Health Service Act and are placed in such title in accordance with the table:

| Column I<br>Title V of the Public Health Service Act | Column II<br>Source of text: |
|---|---|
| PART A—COMPREHENSIVE HEALTH PLANNING | |
| Sec. 501. Comprehensive State health planning. | Subsections (a), (b), and (g) of section 314 of the Public Health Service Act and subsection (b) of section 311 of such Act. |
| Sec. 502. National Advisory Council on Comprehensive Health Planning Programs. | Section 316 of such Act. |
| PART B—ASSISTANCE FOR CONSTRUCTION AND MODERNIZATION OF HOSPITALS AND OTHER MEDICAL FACILITIES | |
| Subpart 1—Grants and Loans for Construction and Modernization of Hospitals and Other Medical Facilities | |
| Sec. 505 Authorization of Appropriations for construction and moderization grants. | Section 601 of such Act. |
| Sec. 506. State allotments. | Section 602 of such Act. |
| Sec. 507. General regulations. | Section 603 of such Act. |
| Sec. 508. State plans. | Section 604 of such Act. |
| Sec. 509. Approval of projects for construction or modernization. | Section 605 of such Act. |
| Sec. 510. Payments for construction or modernization. | Section 606 of such Act. |
| Sec. 511. Withholding of payments. | Section 607 of such Act. |
| Sec. 512. Judicial review. | Section 608 of such Act. |
| Sec. 513. Recovery. | Section 609 of such Act. |
| Sec. 514. Loans for construction or modernization of hospitals and other medical facilities. | Section 610 of such Act. |
| Subpart 2—Loan Guarantees and Loans for Modernization and Construction of Hospitals and Other Medical Facilities | |
| Sec. 521. Authorization of loan guarantees and loans. | Section 621 of such Act. |
| Sec. 522. Allocation among the States. | Section 622 of such Act. |
| Sec. 523. Applications and conditions. | Section 623 of such Act. |
| Sec. 524. Payment of interest on guaranteed loan. | Section 624 of such Act. |
| Sec. 525. Limitation on amount of loans guaranteed or directly made. | Section 625 of such Act. |
| Sec. 526. Loan guarantee and loan fund. | Section 626 of such Act. |
| Sec. 527. Provisions applicable to loans to public facilities. | Section 627 of such Act. |
| Subpart 3—Construction or Modernization of Emergency Rooms | |
| Sec. 531. Authorization. | Section 631 of such Act. |
| Sec. 532. Eligibility for grants. | Section 632 of such Act. |
| Sec. 533. Payments. | Section 633 of such Act. |
| Subpart 4—General | |
| eSc. 541. Federal hospital council and advisory committees. | Section 641 of such Act. |
| Sec. 542. Conference of State agencies. | Section 642 of such Act. |
| Sec. 543. State control of operations. | Section 643 of such Act. |
| Sec. 541. Federal hospitalcouncil and advisory committees. | Section 643A of such Act. |
| Sec. 545. Definitions. | Section 645 of such Act. |
| Sec. 546. Financial statements. | Section 646 of such Act. |
| PART C—EDUCATION, RESEARCH, TRAINING, AND DEMONSTRATIONS IN THE FIELDS OF HEART DISEASES, CANCER, STROKE, KIDNEY DISEASE, AND OTHER RELATED DISEASES | |
| Sec. 551. Purposes. | Section 900 of such Act. |
| Sec. 552. Authorizations of appropriations. | Section 901 of such Act. |
| Sec. 553. Definitions. | Section 902 of such Act. |
| Sec. 554. Grants for planning. | Section 903 of such Act. |
| Sec. 555. Grants for establishment and operation of regional medical programs. | Section 904 of such Act. |
| Sec. 556. National Advisory Council on Regional Medical Programs. | Section 905 of such Act. |
| Sec. 557. Regulations. | Section 906 of such Act. |
| Sec. 558. Information on special treatment and training centers. | Section 907 of such Act. |
| Sec. 559. Report. | Section 908 of such Act. |
| Sec. 560. Records and audit. | Section 909 of such Act. |
| Sec. 561. Multiprogram services. | Section 910(a) of such Act. |

(c) Section 561 (as designated by subsection (b)) is amended by striking out "(a)".

(d) Subsections (b) and (c) of section 910 are repealed.

(e) References in the sections listed in column II of the table in subsection (b) to sections and other divisions of the Public Health Service Act shall be considered as references to such sections or other divisions as redesignated and included in such Act by that subsection.

SEC. 8. (a) The heading for title VI is amended to read as follows:

"TITLE VI—HEALTH SERVICES PROGRAMS: GENERAL"

(b) The provisions of law listed in column II of the following table are transferred to title VI of the Public Health Service Act are placed in such title in accordance with the table:

| Column 1 | Column II |
|---|---|
| Title VI of the Public Health Service Act | Source of text |
| PART A—HEALTH SERVICES DEVELOPMENT | |
| Sec. 601. Project grants for health services development. | Section 314(e) of the Public Health Service Act. |
| Sec. 602. Grants for comprehensive public health services. | Section 314(d) of such Act. |
| PART B—DEVELOPMENTAL DISABILITY | |
| Subpart 1—Construction, Demonstration and Training Grants for University-Affiliated Facilities for Persons with Developmental Disabilities | |
| Sec. 605. Authorization of appropriations. | Section 121 of the Developmental Disabilities Services and Facilities Construction Act. |
| Sec. 606. Demonstration and training grants. | Section 122 of such Act. |
| Sec. 607. Applications. | Section 123 of such Act. |
| Sec. 608. Amount of Grants; payments. | Section 124 of such Act. |
| Sec. 609. Recovery. | Section 125 of such Act. |
| Sec. 610. Nonduplication of grants | Section 126 of such Act. |
| Sec. 611. Maintenance of effort. | Section 127 of such Act. |
| Subpart 2—Grants for Planning, Provision of Services, and Construction and Operation of Facilities for Persons with Developmental Disabilities. | |
| Sec. 612. Declaration of purpose. | Section 130 of such Act. |
| Sec. 613. Authorization of appropriations. | Section 131 of such Act. |
| Sec. 614. State allotments. | Section 132 of such Act. |
| Sec. 615. National Advisory Council on Services and Facilities for the Developmentally Disabled. | Section 133 of such Act. |
| Sec. 616. State plans. | Section 134 of such Act. |
| Sec. 617. Approval of projects for construction. | Section 135 of such Act. |
| Sec. 618. Withholding of payments for construction. | Section 136 of such Act. |
| Sec. 619. Payments to the States for planning, administration, and services. | Section 137 of such Act. |
| Sec. 620. Withholding of payments for planning, administration, and services. | Section 138 of such Act. |
| Sec. 621. Regulations. | Section 139 of such Act. |
| Sec. 622. Nonduplication. | Section 140 of such Act. |
| PART C—MIGRANT HEALTH | |
| Sec. 635. Health services for domestic agricultural migrants. | Section 310 of the Public Health Service Act. |
| PART D—POPULATION RESEARCH AND VOLUNTARY FAMILY PLANNING PROGRAMS | |
| Sec. 641. Project grants and contracts for family planning services. | Section 1001 of such Act. |
| Sec. 642. Formula grants to States for family planning services. | Section 1002 of such Act. |
| Sec. 643. Training grants and contracts. | Section 1003 of such Act. |
| Sec. 644. Research grants and contracts. | Section 1004 of such Act. |
| Sec. 645. Informational and educational materials. | Section 1005 of such Act. |
| Sec. 646. Regulations and payments. | Section 1006 of such Act. |
| Sec. 647. Voluntary participation. | Section 1007 of such Act. |
| Sec. 648. Prohibition of assistance for abortions. | Section 1008 of such Act. |
| PART E—GENETIC BLOOD DISORDERS | |
| Subpart 1—Sickle Cell Anemia Programs | |
| Sec. 651. Sickle cell anemia screening and counseling programs and information and education programs. | Section 1101 of such Act. |
| Sec. 652. Project grants and contracts. | Section 1102 of such Act. |
| Sec. 653. Voluntary participation. | Section 1103 of such Act. |
| Sec. 654. Applications; administraton of grant and contract programs. | Section 1104 of such Act. |
| Sec. 655. Public Health Service facilities. | Section 1105 of such Act. |
| Sec. 656. Reports. | Section 1106 of such Act. |
| Subpart 2—Cooley's Anemia Programs | |
| Sec. 661. Cooley's anemia screening, treatment, and counseling, research, and information and education programs. | Section 1111 of such Act. |
| Sec. 662. Voluntary participation. | Section 1112 of such Act. |
| Sec. 663. Applications; administration of grant and contract programs. | Section 1113 of such Act. |
| Sec. 664. Public Health Service facilities. | Section 1114 of such Act. |
| Sec. 665. Reports. | Section 1115 of such Act. |
| PART F—NATIONAL HEALTH SERVICE CORPS | |
| Sec. 671. Assignment of medical and other health personnel to critical need areas. | Section 329 of such Act. |

(c) Section 671 (as so redesignated) is amended by inserting at the end of subsection (a) the following: "The Secretary shall use his best efforts to provide, to each county certified by him to be without the services of a physician physically residing within such county, at least one physician in the Public Health Service, except for counties so sparsely populated as not to require such a physician."

(d) Title VI of the Public Health Service Act (as added by subsection (b)) is amended by inserting after subpart 2 of part B the following:

"SUBPART 3—GENERAL PROVISIONS

"DEFINITIONS

"SEC. 625. For purposes of this part:

"(1) The term 'State' includes Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the District of Columbia.

"(2) The term 'facility for persons with developmental disabilities' means a facility, or a specified portion of a facility, designed primarily for the delivery of one or more services to persons with one or more developmental disabilities.

"(3) The terms 'nonprofit facility for persons with developmental disabilities' and 'nonprofit private institution of higher learning' means, respectively, a facility for persons with developmental disabilities and an institution of higher learning which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and the term 'nonprofit private agency or organization' means an agency or organization which is such a corporation or association or which is owned and operated by one or more of such corporations or associations.

"(4) The term 'construction' includes construction of new buildings, acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical transportation facilities); including architect's fees, but excluding the cost of off-site improvements and the cost of the acquisition of land.

"(5) The term 'cost of construction' means the amount found by the Secretary to be necessary for the construction of a project.

"(6) The term 'title', when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than fifty years undisturbed use and possession for the purposes of construction and operation of the project.

"(7) (A) Except as otherwise provided, the term 'Federal share' with respect to any project means the portion of the cost of construction of such project to be paid by the Federal Government under subpart 2.

"(B) The Federal share with respect to any project in the State shall be the amount determined by the appropriate State agency designated in the State plan, but, except as provided in subparagraph (C), the Federal share for any project under subpart 2 may not exceed 66⅔ per centum of the costs of construction of such project. Prior to the approval of the first such project in the State during any fiscal year, such State agency shall give the Secretary written notification of the maximum Federal share established pursuant to this paragraph for such projects in such State to be approved by the Secretary during such fiscal year and the method for determining the actual Federal share to be paid with respect to such projects; and such maximum Federal share and such method of determination for such projects in such State approved during such fiscal year shall not be changed after the approval of the first such project in the State during such fiscal year.

"(C) In the case of any facility or center which provides or will, upon completion of the project for which application has been made under subpart 2, provide services for persons in an area designated by the Secretary as an urban or rural poverty area, the maximum Federal share determined under subparagraph (A) may not exceed 90 per centum of the costs of construction of the project.

"(2) The term 'developmental disability' means a disability attributable to mental retardation, cerebral palsy, epilepsy, or another neurological condition of an individual found by the Secretary to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, which disability originates before such individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to such individual.

"(9) The term 'services for persons with developmental disabilities' means specialized services or special adaptations of generic services directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with such a disability, and such term includes diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, training, education, sheltered employment, recreation, counseling of the individual with such disability and of his family, protective and other social and socio-legal services, information and referral services, follow-along services, and transportation services necessary to assure delivery of services to persons with developmental disabilities.

"PAYMENTS FOR CONSTRUCTION

"SEC. 626. (a) Upon certification to the Secretary by the State agency, designated as provided in section 616, based upon inspection by it, that work has been performed upon a project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment is due to the applicant, such installment shall be paid to the State, from the applicable allotment of such State, except that (1) if the State is not authorized by law to make payments to the applicant, the payment shall be made directly to the applicant, (2) if the Secretary, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred requiring action pursuant to section 618, payment may, after he has given the State agency so designated notice of opportunity for hearing pursuant to such section, be withheld, in whole or in part, pending corrective action or action based on such hearing, and (3) the total of payments under this subsection with respect to such project may not exceed an amount equal to the Federal share of the cost of construction of such project.

"(b) In case an amendment to an approved application is approved as provided in section 617 or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the applicable allotment of the State for the fiscal year in which such amendment or revision is approved.

"JUDICIAL REVIEW

"SEC. 627. If the Secretary refuses to approve any application for a project submitted under section 617, the State agency through which such application was submitted, or if any State is dissatisfied with his action under section 616(c) or 618, such State, may appeal to the United States court of appeals for the circuit in which such State is located, by filing a petition with such court within 60 days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the courts shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside to his order. The findings of the Secretary as to facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 or title 28, United States Code. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

"RECOVERY

"SEC. 628. If any facility or center with respect to which funds have been paid under section 626 shall, at any time within twenty years after the completion of construction—

"(1) be sold or transferred to any person, agency, or organization (A) which is not qualified to file an application under section 617, or (B) which is not approved as a transferee by the State agency designated pursuant to section 616 or its successor; or

"(2) cease to be a public or other nonprofit facility for the mentally retarded or persons with other developmental disabilities, unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to continue such facility as a public or other nonprofit facility for the mentally retarded or persons with other developmental disabilities,

the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility which has ceased to be a public or other nonprofit facility for the mentally retarded or persons with other developmental disabilities, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of such facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction of such project or projects. Such right of recovery shall not constitute a lien upon such facility prior to judgment.

"STATE CONTROL OF OPERATIONS

"SEC. 629. Except as otherwise specifically provided, nothing in this part shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility for the mentally retarded or persons with other developmental disabilities with respect to which any funds have been or may be expended under this part.

"RECORDS AND AUDIT

"SEC. 630. (a) Each recipient of assistance under this part shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Secretary and the Comptroller General of the United States or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the assistance received under this part.

"NONDUPLICATION

"SEC. 631. In determining the amount of any grant under this part for the costs of any project there shall be excluded from such costs an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to such project, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

"DETERMINATION OF POVERTY AREA

"SEC. 632. For purposes of any determination by the Secretary under this part as to whether any urban or rural area is a poverty area, any such area which would not otherwise be determined to be a poverty area shall, nevertheless, be deemed to be a poverty area if—

"(1) such area contains one or more subareas which are characterized as subareas of poverty;

"(2) the population of such subarea or

subareas constitutes a significant portion of the population of such rural or urban area; and

"(3) the project, facility, or activity, in connection with which such determination is made, does, or (when completed or put into residents of such subarea or subareas."

(e) References in the provisions of law listed in column II of the table in subsection (b) to sections and other divisions of the Public Health Services Act and the Developmental Disabilities Services and Facilities Construction Act shall be considered as references to such sections or other divisions as redesignated and included in the Public Health Service Act by that subsection.

SEC. 9. (a) The heading for title VII is amended to read as follows:

"TITLE VII—HEALTH SERVICES PROGRAM: MENTAL HEALTH"

(b) The provisions of law listed in column II of the following table are transferred to title VII of the Public Health Service Act and are placed in such title in accordance with the table:

| Column I | Column II |
|---|---|
| Title VII of the Public Health Service Act | Source of text: |
| PART A—GRANTS FOR CONSTRUCTION OF COMMUNITY MENTAL HEALTH CENTERS | |
| Sec. 701. Authorization of appropriations. | Section 201 of the Community Mental Health Centers Act. |
| Sec. 702. Allotments to States. | Section 202 of such Act. |
| Sec. 703. Regulations. | Section 203 of such Act. |
| Sec. 704. State plans. | Section 204 of such Act. |
| Sec. 705. Approval of projects. | Section 205 of such Act. |
| Sec. 706. Withholding of payments. | Section 206 of such Act. |
| Sec. 707. Nonduplication of grants. | Section 207 of such Act. |
| PART B—GRANTS FOR INITIAL COST OF PROFESSIONAL AND TECHNICAL PERSONNEL OF COMMUNITY MENTAL HEALTH CENTERS | |
| Sec. 711. Authorization, duration, and amount of grants. | Section 220 of such Act. |
| Sec. 712. Applications and conditions for approval. | Section 221 of such Act. |
| Sec. 713. Payments. | Section 222 of such Act. |
| Sec. 714. Regulations. | Section 223 of such Act. |
| Sec. 715. Authorization of appropriations. | Section 224 of such Act. |
| PART C—ALCOHOLISM | |
| Sec. 721. Declaration of findings and purposes. | Section 240 of such Act. |
| Sec. 722. Construction grants. | Section 241 of such Act. |
| Sec. 723. Staffing grants. | Section 242 of such Act. |
| Sec. 724. Specialized facilities. | Section 243 of such Act. |
| Sec. 725. Projects eligible under regulation program. | Section 244 of such Act. |
| Sec. 726. Payments. | Section 245 of such Act. |
| Sec. 727. Direct grants for special projects. | Section 246 of such Act. |
| Sec. 728. Grants and contracts for the prevention of alcohol abuse and alcoholism. | Section 247 of such Act. |
| Sec. 729. Alcohol abuse and alcoholism among Federal civilian employees. | Section 201 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. |
| Sec. 730. Authorization for formula grants. | Section 301 of such Act. |
| Sec. 731. State allotment for formula grants. | Section 302 of such Act. |
| Sec. 732. State plan requirements for formula grants. | Section 303 of such Act. |
| Sec. 733. Records and audits. | Section 502 of such Act. |
| Sec. 734. Payments. | Section 503 of such Act. |
| Sec. 735. Admission of alcohol abusers and alcoholics to hospitals. | Section 321 of such Act. |
| Sec. 736. Confidentiality of records. | Section 333 of such Act. |
| PART D—NARCOTIC ADDICTION, DRUG ABUSE, AND DRUG DEPENDENCE PREVENTION AND REHABILITATION | |
| Sec. 741. Construction and staffing grants. | Section 251 of the Community Mental Health Centers Act. |
| Sec. 742. Direct grants for special projects. | Section 252 of such Act. |
| Sec. 743. Drug abuse education. | Section 253 of such Act. |
| Sec. 744. Projects eligible under regular program. | Section 254 of such Act. |
| Sec. 745. Payment. | Section 255 of such Act. |
| Sec. 746. Special projects for narcotic addicts and drug dependent persons. | Section 256 of such Act. |
| PART E—MENTAL HEALTH OF CHILDREN | |
| Sec. 751. Grants for treatment facilities. | Section 271 of such Act. |
| Sec. 752. Training and evaluation. | Section 272 of such Act. |
| PART F—GENERAL PROVISIONS | |
| Sec. 761. Authorization of appropriations for parts C and D. | Section 261 of such Act. |
| Sec. 762. Protection of personal rights of persons with alcohol and drug abuse problems. | Section 263 of such Act. |
| Sec. 763. Grants for consultation services. | Section 264 of such Act. |
| Sec. 764. Approval by National Advisory Mental Health Council. | Section 266 of such Act. |

(c)(1) Section 265 of the Community Mental Health Centers Act is repealed.

(2) Part F of title VII of the Public Health Service Act (as added by subsection (b)) is amended by adding after section 764 the following:

"DEFINITIONS

"SEC. 765. For purposes of this title:

"(1) The term 'community mental health center' means a facility providing services for the prevention or diagnosis of mental illness, or care and treatment of mentally ill patients, or rehabilitation of such persons, which services are provided principally for persons residing in a particular community or communities in or near which the facility is situated.

"(2) The term 'nonprofit community mental health center' means a community mental health center which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and the term 'nonprofit private agency or organization' means an agency or organization which is such a corporation or association or which is owned and operated by one or more of such corporations or associations.

"(3) The term 'technical personnel' includes accountants, financial counselors, medical transcribers, allied health professions personnel, dietary and culinary personnel, and any other personnel whose background and education would indicate that they are to perform technical functions in the operation of centers or facilities for which assistance is provided under this title; but such term does not include minor clerical personnel or maintenance or housekeeping personnel.

"(4) The terms 'State', 'construction', 'cost of construction' and 'title' shall have the same meanings as are prescribed for those terms by section 625.

"(5)(A) The term 'Federal share' with respect to any project means the portion of the cost of construction of such project to be paid by the Federal Government.

"(B) The Federal share with respect to any project in the State shall be the amount determined by the appropriate State agency designated in the State plan, but, except as provided in subparagraph (C), the Federal share for any project under part A may not exceed 66⅔ per centum of the costs of construction of such project or the State's Federal percentage, whichever is the lower. Prior to the approval of the first such project in the State during any fiscal year, such State agency shall give the Secretary written notification of the maximum Federal share established pursuant to this paragraph for such projects in such State to be approved by the Secretary during such fiscal year and the method for determining the actual Federal share to be paid with respect to such projects; and such maximum Federal share and such method of determination for such projects in such State approved during such fiscal year shall not be changed after the approval of the first such project in the State during such fiscal year.

"(C) In the case of any facility or center which provides or will, upon completion of the project for which application has been made under part A, provide services for persons in an area designated by the Secretary as an urban or rural poverty area, the maximum Federal share determined under subparagraph (B) may not exceed 90 per centum of the costs of construction of the project.

"(6)(A) The Federal percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such States bears to the per capita income of the United States, except that the Federal percentage for Puerto Rico, Guam, American Samoa, and the Virgin Islands shall be 66⅔ per centum.

"(B) The Federal percentages shall be promulgated by the Secretary between July 1 and September 30 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning July 1 next succeeding such promulgation. As used in this subparagraph and subparagraph (A) the term 'United States' means the fifty States and the District of Columbia.

"PAYMENTS FOR CONSTRUCTION

"SEC. 766. (a) Upon certification to the Secretary by the State agency, designated as provided in section 705, based upon inspection by it that work has been performed upon a project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment is due to the applicant, such installment shall be paid to the State, from the applicable allotment of such State, except that (1) if the State is not authorized by law to make payments to the applicant, the payment shall be made directly to the applicant, (2) if the Secretary, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred requiring action pursuant to section 706, payment may, after he has given the State agency so designated notice of opportunity for hearing pursuant to such section, be withheld, in whole or in part, pending corrective action or action based on such hearing, and (3) the total of payments under this subsection with respect to such project may not exceed an amount equal to the Federal share of the cost of construction of such project.

"(b) In case an amendment to an approved application is approved as provided in section 705 or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the applicable allotment of the State for the fiscal year in which such amendment or revision is approved.

"(c)(1) At the request of any State, a portion of any allotment or allotments of such State under part A for any fiscal year shall be available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Secretary for the proper and efficient administration of the State plan approved under such part; except that not more than 5 per centum of the total of the allotments of such State for any fiscal year, or $50,000, whichever is less, shall be available for such purpose. Amounts made available to any State under this paragraph from its allotment or allotments under part A for any fiscal year shall be available only for such expenditures (referred to in the preceding sentence) during such fiscal year or the following fiscal year. Payments of amounts due under this paragraph may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

"(2) Any amount paid under paragraph (1) to any State for any fiscal year shall be paid on condition that there shall be expended from State sources for such year for administration of the State plan approved under part A not less than the total amount expended for such purposes from such sources during the fiscal year ending June 30, 1968.

"JUDICIAL REVIEW

"SEC. 767. If the Secretary refuses to approve any application for a project submitted under section 705, the State agency through which such application was submitted, or if any State is dissatisfied with his action under section 704(b) or 706, such State, may appeal to the United States court of appeals for the circuit in which such State is located, by filing a petition with such court within 60 days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

"RECOVERY

"SEC. 768. If any facility or center with respect to which funds have been paid under section 766 shall, at any time within twenty years after the completion of construction—

"(1) be sold or transferred to any person, agency, or organization (A) which is not qualified to file an application under section 705, or (B) which is not approved as a transferee by the State agency designated pursuant to section 704 or its successor; or

"(2) cease to be a public or other nonprofit community mental health center, unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to continue such center as a community mental health center,

the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a center which has ceased to be a public or other nonprofit community mental health center, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the center is situated) of so much of such center as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction of such project or projects. Such right of recovery shall not constitute a lien upon such center prior to judgment.

"STATE CONTROL OF OPERATIONS

"SEC. 769. Except as otherwise specifically provided, nothing in this title shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility for the mentally retarded or persons with other developmental disabilities or community mental health center with respect to which any funds have been or may be expended under this title.

"RECORDS AND AUDIT

"SEC. 780. (a) Each recipient of assistance under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the assistance received under this title.

"NONDUPLICATION

"SEC. 781. In determining the amount of any grant under this title for the costs of any project there shall be excluded from such costs an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to such project, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

"DETERMINATION OF POVERTY AREA

"SEC. 782. For purposes of any determination by the Secretary under this title as to whether any urban or rural area is a poverty area, any such area which would not otherwise be determined to be a poverty area shall, nevertheless, be deemed to be a poverty area if—

"(1) such area contains one or more subareas which are characterized as subareas of poverty;

"(2) the population of such subarea or subareas constitutes a significant portion of the population of such rural or urban area; and

"(3) the project, facility, or activity, in connection with which such determination is made, does, or (when completed or put into operation) will, serve the needs of the residents of such subarea or subareas."

(d) References in the provisions of law listed in column II of the table in subsection (b) to sections and other divisions of the Community Mental Health Centers Act, shall be considered as references to such sections or other divisions as redesignated and included in the Public Health Service Act by that subsection.

SEC. 10. (a) The heading for title VIII is amended to read as follows:

"TITLE VIII—HEALTH MANPOWER PROGRAMS: INSTITUTIONAL ASSISTANCE"

(b) The provisions of law listed in column II of the following table are transferred to title VIII of the Public Health Service Act and are placed in such title in accordance with the table:

| Column I | Column II |
|---|---|
| Title VIII of the Public Health Service Act | Source of text |
| PART A—PUBLIC HEALTH TRAINING | |
| Sec 801. Project grants for graduate training in public health. | Section 309 of the Public Health Service Act. |
| PART B—HEALTH PLANNING TRAINING | |
| Sec. 804. Project grants for training, studies, and demonstrations for health planning. | Section 314(c) of such Act. |
| PART C—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES | |
| Sec. 807. Declaration of policy. | Section 701 of such Act. |
| Sec. 808. Definitions. | Section 702 of such Act. |
| Sec. 809. National Advisory Council on Health Research Facilities. | Section 703 of such Act. |
| Sec. 810. Authorization of appropriations. | Section 704 of such Act. |
| Sec. 811. Approval of applications. | Section 705 of such Act. |
| Sec. 812. Amount of grant; payments. | Section 706 of such Act. |
| Sec. 813. Recapture of payments. | Section 707 of such Act. |
| Sec. 814. Noninterference with administration of institutions. | Section 708 of such Act. |
| Sec. 815. Regulations. | Section 709 of such Act. |
| Sec. 816. Reports. | Section 710 of such Act. |
| Sec. 817. Technical assistance. | Section 711 of such Act. |
| PART D—ASSISTANCE FOR CONSTRUCTION OF TEACHING FACILITIES FOR MEDICAL, DENTAL, AND OTHER HEALTH PERSONNEL | |
| Sec. 820. Authorization of appropriations. | Section 720 of such Act. |
| Sec. 821. Approval of applications. | Section 721 of such Act. |
| Sec. 822. Amount of grants; payments. | Section 722 of such Act. |
| Sec. 823. Recapture of payments. | Section 723 of such Act. |
| Sec. 824. Definitions. | Section 724 of such Act. |
| Sec. 825. National Advisory Council on Health Professions Education. | Section 725 of such Act. |
| Sec. 826. Noninterference with administration. | Section 726 of such Act. |
| Sec. 827. Regulations. | Section 727 of such Act. |
| Sec. 828. Technical assistance. | Section 728 of such Act. |
| Sec. 829. Loan guarantees and interest subsidies. | Section 729 of such Act. |
| PART E—ASSISTANCE TO IMPROVE THE QUALITY OF HEALTH PROFESSIONS SCHOOLS | |
| Sec. 832. Capitation grants. | Section 770 of such Act. |
| Sec. 833. Start-up assistance. | Section 771 of such Act. |
| Sec. 834. Special project grants and contracts. | Section 772 of such Act. |
| Sec. 835. Grants to assist health professions schools which are in financial distress. | Section 773 of such Act. |
| Sec. 836. Health manpower education initiative awards. | Section 774 of such Act. |
| Sec. 837. Applications for capitation, startup, special project, and financial distress. | Section 775 of such Act. |
| PART F—NURSE TRAINING | |
| Sec. 840. Authorization of appropriations for construction grants. | Section 801 of such Act. |
| Sec. 841. Approval of applications for construction grants. | Section 802 of such Act. |
| Sec. 842. Amount of construction grant; payments. | Section 803 of such Act. |
| Sec. 843. Recapture of payments. | Section 804 of such Act. |
| Sec. 844. Special project grants and contracts; financial distress grants. | Section 805 of such Act. |
| Sec. 845. Capitation grants. | Section 806 of such Act. |
| Sec. 846. Applications for special project, financial distress, capitation, and start-up grants. | Section 807 of such Act. |
| Sec. 847. Authorization of appropriations. | Section 808 of such Act. |
| Sec. 848. Traineeships. | Section 821 of such Act. |
| Sec. 849. Loan guarantees and interest subsidies. | Section 809 of such Act. |
| Sec. 850. Start-up grants for new nurse training programs. | Section 810 of such Act. |
| Sec. 851. Grants and contracts to encourage full utilization of educational talent for the nursing profession. | Section 868 of such Act. |
| Sec. 852. National Advisory Council on Nurse Training; review committee. | Section 841 of such Act. |
| Sec. 853. Noninterference with administration of institutions. | Section 842 of such Act. |
| Sec. 854. Definitions. | Section 843 of such Act. |
| PART G—TRAINING IN THE ALLIED HEALTH PROFESSIONS | |
| Sec. 857. Grants for construction of teaching facilities for allied health professions personnel. | Section 791 of such Act. |
| Sec. 858. Grants to improve the quality of training for allied health professions. | Section 792 of such Act. |
| Sec. 859. Traineeships for advanced training of allied health professions personnel. | Section 793 of such Act. |
| Sec. 860. Grants and contracts to encourage full utilization of educational talent for allied health professions. | Section 794A of such Act. |
| Sec. 861. Work-study programs. | Section 794C of such Act. |
| Sec. 862. Definitions. | Section 795 of such Act. |
| Sec. 863. Records and audits. | Section 796 of such Act. |
| Sec. 864. Study. | Section 798 of such Act. |
| PART H—ADDITIONAL GRANTS FOR TRAINING PROGRAMS | |
| Sec. 868. Grants for training, traineeships, and fellowships in family medicine. | Section 767 of such Act. |
| Sec. 869. Grants for support of postgraduate training programs for physicians and dentists. | Section 768 of such Act. |
| Sec. 870. Grants for training traineeships, and fellowships for health professions teaching personnel. | Section 769 of such Act. |
| Sec. 871. Grants for computer technology health care demonstration programs. | Section 769A of such Act. |
| Sec. 872. General provisions. | Section 769B of such Act. |

(c) References in the provisions of law listed in column II of the table in subsection (b) to sections and other divisions of the Public Health Service Act shall be considered as references to such sections or other divisions as redesignated and included in the Public Health Service Act by that subsection.

(d) Title VIII of the Public Health Service Act (as amended by subsection (b)) is amended by adding after part H the following new part:

"Part I—General Provisions

"advance funding

"Sec. 881. Any appropriation Act which appropriates funds for any fiscal year for grants, contracts, or other payments under this title may also appropriate for the next fiscal year the funds that are authorized to be appropriated for such payments for such next fiscal year; but no funds may be made available therefrom for obligation for such payments before the fiscal year for which such funds are authorized to be appropriated.

"discrimination of basis of sex prohibited

"Sec. 882. The Secretary may not make a grant, loan guarantee, or interest subsidy payment under this title to, or for the benefit of, any school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or public health, any school of nursing, or any training center for allied health personnel unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the school or training center will not discriminate on the basis of sex in the admission of individuals to its training programs. The Secretary may not enter into a contract under this title with any such school or training center unless the school or training center furnishes assurances satisfactory to the Secretary that it will not discriminate on the basis of sex in the admission of individuals to its training programs."

(e) Sections 799, 799A, 844, and 845 are repealed.

Sec. 11. (a) The heading for title IX is amended to read as follows:

"TITLE IX—HEALTH MANPOWER PROGRAMS: STUDENT ASSISTANCE"

(b) The provisions of law listed in column II of the following table are transferred to title IX of the Public Health Service Act and are placed in such title in accordance with the following table:

| Column I<br>Title IX of the Public Health Service Act | Column II<br>Source of text |
|---|---|
| Part A—National Health Service Corps Scholarship Program | |
| Sec. 901. Scholarship training program. | Section 225 of the Public Health Service Act. |
| Part B—Public Health Traineeships | |
| Sec. 904. Traineeships for professional public health personnel. | Section 306 of such Act. |
| Part C—Loans for Students at Schools of Medicine, Osteopathy, Dentistry, Pharmacy, Podiatry, Optometry, and Veterinary Medicine | |
| Subpart 1—Loans to Students Studying in the United States | |
| Sec. 907. Loan agreements. | Section 740 of such Act. |
| Sec. 908. Loan provisions. | Section 741 of such Act. |
| Sec. 909. Authorization of appropriations. | Section 742 of such Act. |
| Sec. 910. Distribution of assets from loan funds. | Section 743 of such Act. |
| Sec. 911. Loans to schools; revolving fund. | Section 744 of such Act. |
| Sec. 912. Administrative provisions. | Section 745 of such Act. |
| Sec. 913. Transfer of funds to scholarships. | Section 746 of such Act. |
| Subpart 2—Loans to Students Studying Abroad | |
| Sec. 915. Student loans. | Section 747 of such Act. |
| Part D—Scholarships for Students at Schools of Medicine, Osteopathy, Dentistry, Pharmacy, Podiatry, Optometry, and Veterinary Medicine | |
| Subpart 1—Scholarships for Students Studying in the United States | |
| Sec. 921. Scholarship grants for study in the United States. | Section 780 of such Act. |
| Sec. 922. Transfer to student loan funds. | Section 781 of such Act. |
| Subpart 2—Scholarships for Students Studying Abroad | |
| Sec. 925. Scholarship grants for study abroad. | Section 785 of such Act. |
| Subpart 3—Physician Shortage Area Scholarship Program | |
| Sec. 928. Scholarship grants. | Section 784 of such Act. |
| Sec. 929. Administration; contractual arrangements. | Section 785 of such Act. |
| Sec. 930. Authorization of appropriations. | Section 786 of such Act. |
| Part E—Loans for Nursing Students | |
| Sec. 935. Loan agreements. | Section 822 of such Act. |
| Sec. 936. Loan provisions. | Section 823 of such Act. |
| Sec. 937. Authorization of appropriations for loans. | Section 824 of such Act. |
| Sec. 938. Allotments and payments of Federal capital contributions. | Section 825 of such Act. |
| Sec. 939. Distribution of assets from loan funds. | Section 826 of such Act. |
| Sec. 940. Loans to schools. | Section 827 of such Act. |
| Sec. 941. Administrative provisions. | Section 828 of such Act. |
| Sec. 942. Transfers to scholarship program. | Section 829 of such Act. |
| Sec. 943. Loan forgiveness. | Section 830 of such Act. |
| Part F—Scholarships for Nursing Students | |
| Sec. 951. Scholarship grants. | Section 860 of such Act. |
| Sec. 952. Transfers to student loan program. | Section 861 of such Act. |
| Sec. 953. Definition of academic year. | Section 869 of such Act. |
| Part G—Scholarships and Loans for Students of the Allied Health Professions | |
| Sec. 961. Scholarship grants. | Section 794B of such Act. |
| Sec. 962. Student loans. | Section 794D of such Act. |

(c) References in the provisions of law listed in column II of the table in subsection (b) to sections and other divisions of the Public Health Service Act shall be considered as references to such sections or other divisions as redesignated and included in the Public Health Service Act by that subsection.

(d) Title IX of the Public Health Service Act (as amended by subsection (b)) is amended by adding after part G the following new part:

"Part H—General Provisions

"advance funding

"Sec. 971. Any appropriation Act which appropriates funds for any fiscal year for grants, contracts, or other payments under this title may also appropriate for the next fiscal year the funds that are authorized to be appropriated for such payments for such next fiscal year; but no funds may be made available therefrom for obligation for such payments before the fiscal year for which such funds are authorized to be appropriated.

"discrimination on basis of sex prohibited

"Sec. 972. The Secretary may not make a grant or loan under this title to, or for the benefit of, any school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or public health, any school of nursing, or any training center for allied health personnel unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the school or training center will not discriminate on the basis of sex in the admission of individuals to its training programs."

Sec. 12. (a) The headng of title X is amended to read as follows:

"TITLE X—HEALTH REGULATORY PROGRAMS"

(b) The provisions of law listed in column II of the following table are transferred to title X of the Public Health Service Act and are listed in such title in accordance with such table:

| Column I<br>Title X of the Public Health Service Act | Column II<br>Source of text |
|---|---|
| PART A—REGULATION OF BIOLOGICAL PRODUCTS AND CLINICAL LABORATORIES | |
| Sec. 1001. Regulation of biological products. | Section 351 of the Public Health Service Act. |
| Sec. 1002. Preparation of biological products. | Section 352 of such Act. |
| Sec. 1003. Licensing of clinical laboratories. | Section 353 of such Act. |
| PART B—ELECTRONIC PRODUCT RADIATION CONTROL | |
| Sec. 1011. Declaration of purpose. | Section 354 of such Act. |
| Sec. 1012. Definitions. | Section 355 of such Act. |
| Sec. 1013. Electronic product radiation control program. | Section 356 of such Act. |
| Sec. 1014. Studies by the Secretary. | Section 357 of such Act. |
| Sec. 1015. Performance standards for electronic products. | Section 358 of such Act. |
| Sec. 1016. Notification of defects in, and repair or replacement of, electronic products. | Section 359 of such Act. |
| Sec. 1017. Imports. | Section 360 of such Act. |
| Sec. 1018. Inspection and reports. | Section 360A of such Act. |
| Sec. 1019. Prohibited acts. | Section 360B of such Act. |
| Sec. 1020. Enforcement. | Section 360C of such Act. |
| Sec. 1021. Annual report. | Section 360D of such Act. |
| Sec. 1022. Federal-State cooperation. | Section 360E of such Act. |
| Sec. 1023. Effect of State standards. | Section 360F of such Act. |

(c) References in the provisions of law listed in column II of the table in subsection (b) to sections and other divisions of the Public Health Service Act shall be considered as references to such sections or other divisions as redesignated and included in the Public Health Service Act by that subsection.

SEC. 13. Title XII of the Act of July 1, 1944 (Public Law 78-410) (relating to temporary and emergency provisions and amendments and repeals) is repealed.

SEC. 14. The Secretary of Health, Education, and Welfare shall, as soon as practicable but in any event not later than ninety days after the date of enactment of this Act, submit to the Committee on Interstate and Foreign Commerce of the House of Representatives a draft of technical and conforming changes in the Public Health Service Act and other Federal laws which are necessary to reflect in such Act and other Federal laws the changes made to the Public Health Service Act and other Federal laws by this Act.

SEC. 15. (a) An advisory committee established by or pursuant to section 16 of the Public Health Service Act (as amended by this Act) or any other provision of that Act (as so amended) shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after the date of the enactment of this Act.

(b) The Secretary of Health, Education, and Welfare shall report, within one year after the date of the enactment of this Act, to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives (1) the purpose and use of each advisory committee established by or pursuant to the Public Health Service Act, and (2) his recommendations respecting the termination of each such advisory committee.

SEC. 16. The Secretary of Health, Education, and Welfare shall report, within one year of the date of the enactment of this Act, to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives (1) the identity of each report required to be made by the Secretary under the Public Health Service Act to the Congress (or any committee thereof), (2) each provision of such Act which requires such a report, (3) the purpose of each such report, and (4) the due date for each such report. The report of the Secretary under this section may include such recommendations as he considers appropriate for termination or consolidation of any such reporting requirements.

The SPEAKER pro tempore. Is a second demanded?

Mr. CARTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. STAGGERS. Mr. Speaker, I rise in support of H.R. 10957, the Public Health Service Act Amendments of 1974, a bill to consolidate and revise the laws relating to public health.

In opening, I would like to point out that the bill for the most part is merely a restatement of the laws relating to the Public Health Service. It proposes to bring together in a compact and orderly arrangement, substantially all existing law on the subject except obsolete provisions, to repeal obsolete sections of the law, and to resolve certain ambiguities in the existing law.

Since 1944, the Public Health Service Act has grown from 5 to 13 titles through 57 separate sets of amendments. A variety of freestanding laws have also been enacted which properly belong within the PHS Act. In the Public Health Service Act itself some provisions have become archaic or been superseded without being repealed. Some titles have become overly long and crowded. Provisions which should be together are separated while others which have nothing to do with one another stand side by side.

The reported bill proposes to correct these problems. It will do this primarily by rearranging and redesignating existing provisions without changing their substance and secondarily by repealing a few obsolete provisions and revising several dated or conflicting provisions.

The rearrangement and consolidation of the act is being presented in this bill at this time because over half of the act's provisions expire at the end of this fiscal year. Instead of having to consider 14 or 15 substantive revisions of expiring authorities, the rearrangement and consolidation will make it possible to make future substantive revision through only 5 or 6 proposals.

This bill represents a very sound and logical step to take at this time. It will assure us the future opportunity to consider intelligently substantive revisions when the existing authorities under the PHS Act expire.

Further, because it creates no new legislative authority and contains no new authorizations of appropriations, enactment of this bill will create no new or additional costs for the Federal Government.

Clearly, such a rational and simplifying measure as this can aid us all in future consideration of the substance of the Public Health Service Act and therefore I call on all of you to join me in voting for adoption of this legislation.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I am happy to yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, here we have another bill, a 70-page bill, with no accompanying report to guide us as to the changes in existing law that are proposed.

Although there are no funds authorized under the terms of the bill, I note it stipulated that the Federal share for any project under subpart 2 may not exceed 66⅔ percent.

Is this a change in the law, or is this a restatement of the law?

Mr. STAGGERS. Mr. Speaker, it is a restatement of the law. There are very few changes in it really. It is just rearranging the existing laws in order to make them more orderly so we can work with them a little bit better in the future.

Mr. GROSS. Mr. Speaker, if the gentleman will yield further, on page 47, section 632 of the bill is entitled "Determination of Poverty Area." Does that represent the determination of what constitutes a poverty area? Does that represent the old law, or is there a change in that?

Mr. STAGGERS. This is the old law, and this program is under that law.

Mr. GROSS. Mr. Speaker, I thank the gentleman.

Mr. CARTER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York (Mr. HASTINGS).

Mr. HASTINGS. Mr. Speaker, I thank the gentleman for yielding time to me.

I think if one would look at this bill, H.R. 10957, carefully, and try to explain it as well as it could be explained, the explanation is that, No. 1, it provides for no authorizations over current levels, and, No. 2, the administration's position on the bill is neutral.

Therefore, Mr. Speaker, I strongly urge the Members to support this bill.

Mr. CARTER. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New York (Mr. RONCALLO).

Mr. RONCALLO of New York. Mr. Speaker, I thank the gentleman for yielding. I am an ardent supporter of the public health programs. In fact, I was a cosponsor of the health programs extension of 1973, now Public Law 93-45, which passed the House last May 31. The purpose of that bill was to fund existing health programs for fiscal year 1974 while the Congress had a chance to review the entire mix of existing authority, keep the best of the lot, revise those that could be made more effective, and eliminate those that could not. I am deeply distressed that this bill has come up under suspension. The text of this long and very technical bill was only circulated to Members' offices late last week during the recess. There is no written report. It is nearly impossible to tell from a reading of the bill all that it would attempt to accomplish. In fact, the bill was just reported out of the full Commerce Committee a few minutes ago.

Is this what the committee had in mind last May? Is this a chance for the Congress—not just the committee, but all the Members—to work its will and revise our health laws? I think not, Mr. Speaker. I know this is certainly not what I expected when I cosponsored the 1-year extension.

There appear to be many good things in the present bill. There are also some sections which I would prefer to see amended. This is impossible under suspension of the rules. The truth is that nobody except the members of the subcommittee really knows what we are being asked to pass. The honorable thing would be for the bill to be withdrawn at this time and a written report prepared. After we have a chance to study the report, the bill could be brought to the floor for full and informed debate under the rules of the House, stand on its own two feet for amendment, and passed. If amendments which I have in mind to reflect previous overwhelming votes of this body prevail at that time, the gentleman from New York might well be a strong supporter on final passage.

Let me express a few of the concerns that occurred to me when I read the text. I realize that I am not informed of all the ramifications, but that is the whole problem here; is it not?

Among other things, this bill would substitute new language for section 308 of the Public Health Service Act. Renumbered as section 305, this section seeks to advance the status of the health sciences in the United States through international cooperation—a lofty purpose, indeed. Fellowships and grants in biomedical research and other activities are authorized both here and abroad. The text, however, by no means makes it clear whose ethical standards will be applied. For example, in some foreign countries researchers are conducting invasive surgical experiments on living human fetuses not for their own benefit. The House has twice soundly rejected such research as unethical. The bill would appear to permit it. It would appear that the bill might also permit the dollars of our taxpayers to be used to fund abortions overseas. This is a nice back door way around the Helms amendment to our foreign aid legislation.

On the same day in May that the House passed the health programs extension, it also passed H.R. 7724, the Biomedical Research Act. The other body has since requested a conference, but so far the committee has not been willing to name conferees on the part of the House. Now we have section 6 of the present bill which also provides authority for biomedical research grants and contracts and even permits the transfer of funds from NIH appropriations to a separate fund for this purpose without the constraints imposed by H.R. 7724.

The same section 6 of this bill also protects the identity of persons serving as subjects of drug research; again a lofty purpose, if we are talking about users and addicts. But the bill would not even allow "identifying characteristics" of nonuser subjects. I believe that the public has a right to know if and when children, born or unborn, and mental patients, for example, are being used for experimentation.

Mr. Speaker, the important thing is not my concern for particular sections of the bill. We just have not had the time or information to reach a knowledgeable opinion as to its merits. I urge the House to vote against this bill today. There is plenty of time for careful consideration under the regular rules of the House. We have until July 1 to take action and we have the right to know what we are being asked to pass.

Mr. ROGERS. Will the gentleman yield?

Mr. RONCALLO of New York. I am happy to yield to the gentleman from Florida, if he can help clear up some of my concerns about the wisdom of pushing this bill through under suspension of the rules.

Mr. ROGERS. I think perhaps I can help the gentleman if he had a misimpression about this bill. This does not go to the problem the gentleman was speaking about with regard to extension. All this current bill does is simply revise the public health law. It does not change it but simply recodifies it and restructures it.

Mr. RONCALLO of New York. It does not change any of the standards under which HEW operates? It makes no substantive changes in existing authority?

Mr. ROGERS. It does not change anything. All it does is where we had 13 divisions of the law we are now bringing them down to 10 and simply consolidating. I think the gentleman will be pleased to know that this does not do any of the things he has indicated he is concerned about.

Mr. RONCALLO of New York. Well, Mr. Speaker, I am happy to hear that. If I understand the gentleman correctly, this bill gives no authority to HEW that it does not already have. Since the gentleman is the chairman of the Subcommittee on Public Health and the Environment and knows this subject and the provisions of this bill far better than I do, I accept his explanation and will not further oppose the bill from the well or demand a rollcall vote. But would it not have been far better, Mr. Speaker, if the Members could have come to this conclusion themselves after studying a committee report?

Mr. HASTINGS. Will the gentleman yield?

Mr. RONCALLO of New York. I am delighted to yield to my good friend and distinguished colleague from New York.

Mr. HASTINGS. I would like to say to the gentleman that he can be assured that he, as prime sponsor of the Health Act, not only will have the opportunity to express himself on the subject of substantive changes, but those substantive changes will come along. This legislation is only to accommodate the substantive changes that will be offered at a later date. I can well assure him that there are none here, but they will be offered at a later date for your consideration.

Mr. RONCALLO of New York. I thank the gentleman, appreciate his assurances, and eagerly await the opportunity for this body to act on substantive changes in the Public Health Service Act under the rules of the House before the end of the current fiscal year.

Mr. CARTER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Indiana (Mr. HUDNUT).

Mr. HUDNUT. Mr. Speaker, I rise in support of H.R. 10957.

I appreciate the comments that have been made about the way this legislation has been brought to the floor, but I feel it has been given serious consideration both in the subcommittee and the full committee. Therefore I urge its support, because I feel it very significantly restructures the Public Health Service in those areas where a lack of clarity in legislation has impaired the effect of the efficient operation of the health services.

Mr. Speaker, the importance and desirability of maintaining the highest level of national health is unquestioned. As a result of the complexity of our varied efforts in response to this goal, a periodic consolidation and revision of Public Health Service law is necessary. H.R. 10957 is designed for this purpose. It emphasizes the coordination and combination of health resources on all levels of government. It provides for a broad range of health-related research. It recognizes that certain quantities of controlled drugs are necessary in routine medical and scientific work, and directs a study leading to a more rational disbursement of these drugs.

Most importantly, this bill restructures the Public Health Service in those areas where lack of clarity in legislation has impaired the effective, efficient operation of health services. The administrative reorganization in H.R. 10957 hopefully will translate into better quality health service for our Nation.

This is a somewhat complicated bill and some of us feel it might have been better to bring it up under the regular procedures rather than under suspension of the rules. However, we have given it serious consideration in committee and I feel it does provide for improvements in the efficiency of the Public Health Service Act. Therefore, I give it my support.

Mr. STAGGERS. Mr. Speaker, I yield such time as he may use to the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I rise in support of H.R. 10957, the Public Health Service Act Amendments of 1974. This bill is the first in a series of bills which would revise the various health laws. As you may recall, when the House considered the simple extension of 12 expiring health laws last June, our Subcommittee on Public Health and Environment promised to make substantial revisions in those laws where necessary before the end of fiscal year 1974. We found it necessary, first, to revise the entire Public Health Service Act in order that it become properly organized and eliminate obsolete or duplicative provisions. That is just what this bill will do.

The bill would reorganize the act into 10 new titles as follows: General Provisions, Public Health Service and Federal Health Programs, General Powers and Duties of Public Health Service, National Research Institutes, Health Systems Planning and Development, Health Services Programs: General, Health Services Programs: Mental Health, Health Manpower Programs: Institutional Assistance, Health Manpower Programs: Student Assistance, and Health Regulatory Programs. These titles have been organized so that each of the sections in the individual titles all are on the same subject. For example, all the manpower training authorities—previously scattered throughout the act—are placed in a new title.

It is intended that in reviewing these authorities as they expire, we will write them so that all authorities within each title ultimately will expire at the same time. Using manpower training again as an example, we hope not only to combine all of these authorities into one title but also to give manpower training authorities a common expiration date. By thus forcing a review of all similar authorities at the same time, we can insure that overlap and duplication will be eliminated.

Mr. Speaker, despite its length, H.R. 10957 is a very simple and straightforward piece of legislation. There is no new money in this bill and nc substantive revisions are made. This legislation represents the first action by the Congress in the past 30 years to reorganize the provisions of the Public Health Service Act. The product will be a much more concise and more understandable act.

I urge passage of this bill.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS) that the House suspend the rules and pass the bill, H.R. 10957, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

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## AMENDING PUBLIC HEALTH SERVICE ACT TO REVISE PROGRAMS OF HEALTH SERVICES RESEARCH AND EXTEND PROGRAM OF ASSISTANCE FOR MEDICAL LIBRARIES

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11385) to amend the Public Health Service Act to revise the programs of health services research and to extend the program of assistance for medical libraries, as amended.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. (a) This Act may be cited as the "Health Services Research, Health Statistics, and Medical Libraries Act of 1974".

(b) Unless the context otherwise requires, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

## TITLE I—HEALTH SERVICES RESEARCH AND EVALUATION; HEALTH STATISTICS

SEC. 101. This title may be cited as the "Health Services Research and Evaluation and Health Statistics Act of 1973".

SEC. 102. Part A of title III (as amended by title III of this Act) is amended by inserting after the part heading the following:

### "GENERAL AUTHORITY

"SEC. 301. (a) (1) The Secretary shall—

"(A) undertake through the National Center for Health Services Research and Health Statistics and such other units of the Department as he may select, and

"(B) support health statistical activities and health services research, evaluation, and demonstrations.

"(2) In carrying out paragraph (1), the Secretary shall give appropriate emphasis to research and statistical activities respecting—

"(A) the determinants of an individual's health,

"(B) the impact of the environment on individual health and on health care,

"(C) the accessibility, acceptability, organization, distribution, utilization, quality, and financing of systems for the delivery of health care, including systems for the delivery of preventive, personal, and mental health care; and

"(D) individual and community knowledge of individual health and the systems for the delivery of health care.

"(b) To implement subsection (a), the Secretary may, in addition to any other authority which under other provisions of this Act or any other law may be used by him to implement such subsection, do the following:

"(1) Utilize personnel and equipment, facilities, and other physical resources of the Department, permit appropriate (as determined by the Secretary) entities and individuals to utilize the physical resources of the Department, provide technical assistance and advice, make grants to public and nonprofit private entities and individuals, and enter into contracts with public and private entities and individuals, for health services research, evaluation, and demonstrations and for health statistical activities.

"(2) Admit and treat at hospitals and other facilities of the Service persons not otherwise eligible for admission and treatment at such facilities.

"(3) Secure, from time to time and for such periods as the Secretary deems advisable, the assistance and advice of experts and consultants from the United States or abroad.

"(4) Acquire, construct, improve, repair, operate, and maintain laboratory, research, and other necessary facilities and equipment, and such other real or personal property (including patents) as the Secretary deems necessary; and acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise, through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia.

"(c) The Secretary shall coordinate all health services research, evaluation, demonstrations, and health statistical activities undertaken and supported through units of the Department. To the maximum extent feasible, such coordination shall be carried out through the National Center for Health Services Research and Health Statistics.

### "NATIONAL CENTER FOR HEALTH SERVICES RESEARCH AND HEALTH STATISTICS

"SEC. 302. (a) There is established in the Department the National Center for Health Services Research and Health Statistics (hereinafter in this section referred to as the 'Center') which shall be under the direction of a Director who shall be appointed by the Secretary and supervised by the Assistant Secretary for Health (or such other officer of the Department as may be designated by the Secretary as the principal adviser to him for health programs).

"(b) In carrying out section 301(a), the Secretary, acting through the Center, may—

"(1) undertake and support research, evaluation, and demonstration projects (which may include and shall be appropriately coordinated with experiments and demonstration activities authorized by the Social Security Act and the Social Security Amendments of 1967) respecting—

"(A) the accessibility, acceptability, organization, distribution, utilization, quality, and financing of health services and systems;

"(B) the supply and distribution, education and training, quality, utilization, organization, and costs of health manpower; and

"(C) the design, construction, utilization, organization, and cost of facilities and equipment; and

"(2) (A) collect statistics on—

"(i) the extent and nature of illness and disability of the population of the United States (or of any groupings of the people included in the population), including life expectancy, the incidence of various acute and chronic illnesses, and infant and maternal morbidity and mortality,

"(iii) the impact of such illness and disability on the economy of the United States and on other aspects of the well-being of its population (or of such groupings),

"(iii) environmental, social, and other health hazards,

"(iv) determinants of health,

"(v) health resources, including physicians, dentists, nurses, and other health professionals by specialty and type of practice and the supply of services by hospitals, extended care facilities, home health agencies, and other health institutions,

"(vi) utilization of health care, including utilization of (I) ambulatory health services by specialties and types of practice of the health professionals providing such services, and (II) services of hospitals, extended care facilities, home health agencies, and other institutions,

"(vii) health care costs and financing, including the trends in health care prices and costs, the sources of payments for health care services, and Federal, State, and local governmental expenditures for health care services, and

"(viii) family formation, growth, and dissolution; and

"(B) undertake and support (by grant or contract) research, demonstrations, and evaluations respecting new or improved methods for obtaining current data on the matters referred to in subparagraph (A).

"(c) The authority of the Secretary under section 301 (b) shall be available to him with respect to the undertaking and support of projects under subsections (b)(1), (d), and (e) of this section.

"(d) The Secretary shall afford appropriate consideration to requests of—

"(1) State, regional, and local health planning and health agencies,

"(2) public and private entities and individuals engaged in the delivery of health care, and

"(3) other persons concerned with health services, to have the Center or other units of the Department undertake research, evaluations, and demonstrations respecting specific aspects of the matters referred to in subsection (b)(1).

"(e)(1) The Secretary shall, by grants or contracts, or both, assist public or private nonprofit entities in meeting the costs of planning and establishing new centers, and operating existing and new centers, for multidisciplinary health services research, evaluations, and demonstrations respecting the matters referred to in subscetion (b)(1). To the extent practicable, the Secretary shall approve, in accordance with the requirements of this subsection and section 306, a number of applications for grants and contracts under this subsection which will result in at least six of such centers being operational in each fiscal year.

"(2)(A) No grant or contract may be made under this subsection for planning and establishing a center unless the Secretary determines that when it is operational it will meet the requirements listed in subparagraph (B) and no payment shall be made under a grant or contract for operation of a center unless the center meets such requirements.

"(B) The requirements referred to in subparagraph (A) are as follows:

"(i) There shall be a full-time director of the center who possesses a demonstrated capacity for sustained productivity and leadership in health services research, demonstrations, and evaluations, and there shall be such additional full-time professional staff as may be appropriate.

"(ii) The staff of the center shall represent all relevant dsciplines.

"(i) The center shall (I) be located within an established academic or research institution with departments and resources appropriate to the programs of the center, and (II) have working relationships with health service delivery systems where experiments in health services may be initiated and evaluated.

"(iv) The center shall select problems in health services for research, demonstration, and evaluation on the basis of (I) their regional or national importance, (II) the unique potential for definitive research on the problem, and (III) opportunities for local application of the research findings.

"(v) Such additional requirements as the Secretary may by regulation prescribe.

"(f)(1) The Secretary shall (A) assist State and local health agencies, and Federal agencies involved in matters relating to health, in the design and implementation of a cooperative system for producing comparable and uniform health information and statistics at the Federal, State, and local levels; (B) coordinate the activities of such Federal agencies respecting the design and implementation of such cooperative system; (C) undertake and support (by grant or contract) research, development, demonstrations, and evaluations respecting such cooperative system; and (D) review statistical activities of the Department to assure that they are consistent with such cooperative system.

"(2) There shall be an annual collection of data from the records of births, death, marriages, and divorces in registration areas. The data shall be obtained only from and restricted to such registration records of such States and municipalities as the Secretary, in his discretion, determines possess records affording satisfactory data in necessary detail and form. Each State or registration area shall be paid by the Secretary its reasonable costs (as determined by the Secretary) for transcribing (at the request of the Secretary and by whatever method authorized by him) its records for such data.

"(3) To secure uniformity in the registration and collection of mortality, morbidity, and other health data, the Secretary shall prepare and distribute suitable and necessary forms for the collection and compilation of such data which shall be published as a part of the health reports published by the Secretary.

"(4) To insure comparability and reliability of health statistics, the Secretary shall, through the Center, provide adequate technical assistance to assist State and local jurisdictions in the development of model laws dealing with issues of confidentiality and comparability of data.

"(5) In carrying out health statistical activities under this part, the Secretary shall consult with, and seek the advice of the United States National Commission on Vital and Health Statistics.

"(g) To assist in carrying out subsections (b)(2) and (f) of this section, the Secretary shall cooperate and consult with the Departments of Commerce and Labor and any other interested Federal departments or agencies and with State and local health departments and agencies. For such purpose he shall utilize insofar as possible and the services or facilities of any agency of the Federal Government and, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), of any appropriate State or other public agency, and may, without regard to such section, utilize the service or facilities of any private agency, organization, group, or individual, in accordance with written agreements betweeen the head of such agency, organization, or group and the Secretary or between such individual and the Secretary. Payment, if any, for such survices or facilities shall be made in such amounts as may be provided in such agreement.

### "INTERNATIONAL COOPERATION

"SEC. 303. (a) For the purpose of advancing the status of the health sciences in the United States (and thereby the health of the American people), the Secretary may participate with other countries in cooperative endeavors in biomedical research and the health services research and statistical activities authorized by this part.

"(b) In connection with the cooperative endeavors authorized by subsection (a), the Secretary may—

"(1) make such use of resources offered by participating foreign countries as he may find necessary and appropriate;

"(2) establish and maintain fellowships in participating foreign countries and establish and maintain fellowships in the United States for citizens of such countries;

"(3) make grants to public institutions or agencies and to nonprofit private institutions or agencies in the United States and in participating foreign countries for the purpose of establishing and maintaining the fellowships authorized by paragraph (2);

"(4) make grants or loans of equipment and materials, for use by public or nonprofit private institutions or agencies, or by individuals, in participating foreign countries;

"(5) participate and otherwise cooperate in any international meetings, conferences, or other activities concerned with biomedical research, health services research, or health statistics;

"(6) facilitate the interchange between the United States and participating foreign countries, and among participating foreign countries, of research scientists and experts who are engaged in experiments and programs of biomedical research, health services research, and health statistical activities, and in carrying out such purpose may pay per diem compensation, subsistence, and travel for such scientists and experts when away from their places of residence at rates not to exceed those provided in section 5703 (b) of title 5, United States Code, for persons in the Government service employed intermittently; and

"(7) procure, in accordance with section 3109 of title 5, United States Code, the temporary or intermittent services of experts or consultants.

The Secretary may not, in the exercise of his authority under this section, provide financial assistance for the construction of any facility in any foreign country.

### "HEALTH CONFERENCES

"SEC. 304. A conference of the health authorities of the several States shall be called annually by the Secretary. Whenever in his opinion the interests of the public health would be promoted by a conference, the Secretary may invite as many of such health authorities and officials of other State or local public or private agencies, institutions, or organizations to confer as he deems necessary or proper. Upon the application of health authorities of five or more States it shall be the duty of the Secretary to call a conference of all State health authorities joining in the request. Each State represented at any conference shall be entitled to a single vote. Whenever at any such conference matters relating to mental health are to be discussed, the mental health authorities of the respective States shall be invited to attend.

### "HEALTH EDUCATION AND INFORMATION

"SEC. 305. From time to time the Secretary shall issue information related to public health, in the form of publications or otherwise, for the use of the public, and shall publish weekly reports of health conditions in the United States and other countries and other pertinent health information for the use of persons and institutions concerned with health services.

### "GENERAL PROVISIONS

"SEC. 306. (a)(1) Not later than September 1 of each year, the Secretary shall make a report to Congress respecting (A) the administration of this part during the preceding fiscal year, and (B) the current state and progress of health services research and health statistics.

"(2) The Secretary, acting through the National Center for Health Services Research and Health Statistics, shall assemble and submit to the President and the Congress not later than September 1 of each year the following reports:

"(A) A report on health care costs and financing. Such report shall include a description and analysis of the statistics collected under section 302(b)(2)(A)(vii).

"(B) A report on health resources. Such report shall include a description and analysis, by geographic area, of the statistics collected under section 302(b)(2)(A)(v).

"(C) A report on the utilization of health resources. Such report shall include a description and analysis, by age, sex, income, and geographic area, of the statistics collected under section 302(b)(2)(A)(vi).

"(D) A report on the health of the Nation's people. Such report shall include a description and analysis, by age, sex, income, and geographic area, of the statistics collected under section 302(b)(2)(A)(i).

"(3) The Office of Management and Budget may review any report required by paragraph (1) or (2) of this subsection before its submission to Congress, but the Office may not revise any such report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comments respecting any such report.

"(b)(1) No grant or contract may be made under this part unless an application has been submitted to the Secretary in such form and manner, and containing such information, as the Secretary may by regulation prescribe.

"(2) Each application submitted for a grant or contract under section 301 or 302, in an amount exceeding $25,000 and for a health services research, evaluation, or demonstration project, shall be submitted by the Secretary for review for scientific merit to a panel of experts appointed by him from persons who are not officers or employees of the United States and who possess qualifications relevant to the project for which the application was made. A panel to which an application is submitted under this paragraph shall report its findings and recommendations respecting the application to the Secretary in such form and manner as the Secretary shall by regulation prescribe.

"(3) If an application is submitted under this part for a grant or contract for a project for which a grant or contract may be made or entered into under another provision of this Act, such application may not be approved under this part and funds appropriated under this part may not be obligated for such grant or contract. The applicant who submitted such application shall be notified of the other provision (or provisions) of this Act under which such application may be submitted.

"(c) The aggregate number of grants and contracts made or entered into under sections 301 and 302 for any fiscal year respecting a particular means of delivery of health services or another particular aspect of health services may not exceed twenty; and the aggregate amount of funds obligated under grants and contracts under such sections for any fiscal year respecting a particular means of delivery of health services or another particular aspect of health services may not exceed $5,000,000.

"(d) No information obtained in the course of activities undertaken or supported under this part may be used for any purpose other than the purpose for which it was supplied unless authorized under regulations of the Secretary; and no such information may be published if the particular establishment or person supplying it is identifiable unless such establishment or person has consented (as determined under regulations of the Secretary) to its publication.

"(e) (1) Payments of any grants or under any contracts under this part may be made in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary deems necessary to carry out the purposes of this part.

"(2) The amounts otherwise payable to any person under a grant or contract made under this part shall be reduced by—

"(A) amounts equal to the fair market value of any equipment or supplies furnished to such person by the Secretary for the purpose of carrying out the project with respect to which such grant or contract is made, and

"(B) amounts equal to the pay, allowances, traveling expenses, and related personnel expenses attributable to the performance of services by an officer or employee of the Government in connection with such project, if such officer or employee was assigned or detailed by the Secretary to perform such services,

but only if such person requested the Secretary to furnish such equipment or supplies, or such services, as the case may be.

"(f) Contracts may be entered into under this part without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(g) (1) The Secretary shall (A) publish, make available and disseminate, promptly in understandable form and on as broad a basis as practicable, the results of health services research, demonstrations, and evaluations undertaken and supported under this part; and (B) make available to the public data developed in such research, demonstrations, and evaluations. The Secretary may not restrict the publication and dissemination of data from, and results of, projects undertaken by centers supported under section 302(e).

"(2) The Secretary shall (A) take such action as may be necessary to assure that statistics developed under this part are of high quality, timely, comprehensive as well as specific, standardized, and adequately analyzed and indexed, and (B) publish, make available, and disseminate such statistics on as wide a basis as is practicable.

"(h) (1) Except where the Secretary determines that unusual circumstances make a larger percentage necessary in order to effectuate the purposes of this part, a grant or contract under this part with respect to any project for construction of a facility or for acquisition of equipment may not provide for payment of more than 50 per centum of so much of the cost of the facility or equipment as the Secretary determines is reasonably attributable to research, evaluation, or demonstration purposes.

"(2) Laborers and mechanics employed by contractors and subcontractors in the construction of such a facility shall be paid wages at rates not less than those prevailing on similar work in the locality, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a–5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to any labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. Appendix) and section 2 of the June 13, 1934 (40 U.S.C. 276c).

"(3) Such grants and contracts shall be subject to such additional requirements as the Secretary may by regulation prescribe.

"(i) (1) For health services research, evaluation, and demonstration activities undertaken or supported under this part, there are authorized to be appropriated $60,500,000 for the fiscal year ending June 30, 1974, and $65,200,000 for the fiscal year ending June 30, 1975. Of the funds appropriated under this paragraph for any fiscal year, not less than 25 per centum of such funds shall be made available only for health services research, evaluation, and demonstration activities directly undertaken by the Department under this part.

"(2) For health statistical activities undertaken or supported under this part, there are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1974, and $30,000,000 for the fiscal year ending June 30, 1975."

## TITLE II—REVISION AND EXTENSION OF MEDICAL LIBRARY ASSISTANCE PROGRAMS

SEC. 201. (a) Section 390 is amended by adding after subsection (b) the following new subsection:

"(c) For the purpose of grants and contracts under sections 393, 394, 395, 396, and 397, there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1974, $17,500,000 for the fiscal year ending June 30, 1975, and $20,000,00 for the fiscal year ending June 30, 1976."

(b) The section heading for such section is amended to read as follows:

"DECLARATION OF POLICY, STATEMENT OF PURPOSE, AND AUTHORIZATIONS OF APPROPRIATIONS"

SEC. 202. (a) Subsection (b) of section 390 is amended by striking out clause (1) and by redesignating clauses (2) through (7) as clauses (1) through (6), respectively.

(b) Section 391 is amended—

(1) by inserting "and" at the end of clause (2),

(2) by striking out clause (3), and

(3) by redesignating clause (4) as clause (3).

(c) Section 392(b) is amended to read as follows:

"(b) The Board shall advise and assist the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this part."

(d) Section 393 is repealed.

(e) Section 397(b) is amended—

(1) by inserting "and" at the end of clause (4),

(2) by striking out "; and" at the end of clause (5) and inserting in lieu thereof a period, and

(3) by striking out clause (6).

(f) The first sentence of section 397(d) is repealed.

SEC. 203. (a) The first sentence of section 394(a) is repealed; and the second sentence of such section is amended by striking out "Sums made available under this section shall be utilized by the Secretary in making" and inserting in lieu thereof "To carry out the purposes of section 390(b) (1), the Secretary shall make".

(b) (1) The first and second sentences of section 395(a) are repealed; and the third sentence of such section is amended by striking out "Sums made available under this subsection shall be utilized by the Secretary to" and inserting in lieu thereof "To carry out the purposes of section 390(b) (2), the Secretary shall".

(2) The first and second sentences of section 395(b) are repealed; and the third sentence of such section is amended (A) by striking out "Sums made available under this subsection shall be utilized by the Secretary in making" and inserting in lieu thereof "To carry out the purposes of section 390(b) (3), the Secretary shall make", and (B) by striking out "entering into contracts" and inserting in lieu thereof "enter into contracts".

(c) (1) The first sentence of section 396 (b) is amended by striking out "Sums made available under this section shall be utilized by the Secretary for making" and inserting in lieu thereof "To carry out the purposes of section 390(b) (4), the Secretary shall make".

(2) Clauses (A), (B), (C), and (D) of section 396(b) are redesignated as clauses (1), (2), (3), and (4), respectively.

(3) Subsection (a) of section 396 is repealed and subsections (b) and (c) of such section are redesignated as subsections (a) and (b), respectively.

(d) (1) The first sentence of section 397(a) is repealed; and the second sentence of such section is amended by striking out "Sums made available under this section shall be utilized by the Secretary, with the advice of the Board, to make" and inserting in lieu thereof "To carry out the purposes of section 390(b) (5), the Secretary, with the advice of the Board, shall make".

(2) The section heading for section 397 is amended by inserting "AND CONTRACTS" after "GRANTS".

(e) The first and second sentences of section 398(a) are repealed; and the third sentence of such section is amended by striking out "Sums made available under this section shall be utilized by the Secretary, with the advice of the Board, in making grants to, and entering into appropriate contracts" and inserting in lieu thereof "To carry out the purposes of section 390(b) (6), the Secretary, with the advice of the Board, shall make grants to, and enter into appropriate contracts".

SEC. 204. Section 399b is repealed; and sections 394 through 399a are redesignated as sections 393 through 399, respectively.

SEC. 205. The amendments made by this title shall apply with respect to appropriations under part J of the Public Health Service Act for fiscal years beginning after June 30, 1973.

## TITLE III—CONFORMING AND TECHNICAL AMENDMENTS

SEC. 301. The sections or other provisions of the Public Health Service Act which are amended or repealed by this title are the sections or other provisions of that Act which were in effect on the day before the date of the enactment of this Act.

SEC. 302. (a) Sections 301 and 303 are repealed.

(b) Title IV is amended by inserting before part A the following new part:

"PART A—GENERAL RESEARCH AUTHORITY

"GENERAL BIOMEDICAL RESEARCH AUTHORITY

"SEC. 400. (a) The Secretary shall conduct shall encourage, cooperate with, and render assistance to appropriate public entities, scientific institutions, and scientists in the conduct of, and shall promote the coordination of, biomedical research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of man. In carrying out this section the Secretary is authorized to do the following:

"(1) Collect and make available, through publications and other appropriate means, information as to, and the practical application of, such research and other activities.

"(2) Make available research facilities of the Department to appropriate public authorities and to health officials and scientists engaged in special study.

"(3) Establish and maintain research fellowships with such stipends and allowances (including traveling and subsistence expenses and dependency allowances) as he may deem necessary to procure the assistance of the most brilliant and promising research fellows from the United States and abroad.

"(4) Make grants (A) to universities, hospitals, laboratories, and other public or private institutions, and to individuals, for such research or research training projects as are recommended by the National Advisory Health Council (except that projects respecting cancer must be recommended by the National Cancer Advisory Board, mental health projects must be recommended by the National Advisory Mental Health Council, projects respecting heart and lung diseases must be recommended by the National Heart and Lung Advisory Council, alcohol abuse and alcoholism projects must be recommended by the National Advisory Council on Alcohol Abuse and Alcoholism, and projects respecting dental diseases and conditions must be recommended by the National Advisory Dental Research Council), and (B) upon recommendation of the National Advisory Health Council, to public or nonprofit universities, hospitals, laboratories, and other institutions for the general support of their research and research training programs. Such uniform percentage, not to exceed 15 per centum, as the Secretary may determine, of the amounts provided for grants for research or research training projects for any fiscal year through the appropriations for the National Institutes of Health may be transferred from such appropriations to a separate account to be available for such research and research training program grants for such fiscal year.

"(5) Make grants to State or local agencies, laboratories, and other public or nonprofit agencies and institutions, and to individuals, for investigations, experiments, demonstrations, studies, and research projects with respect to the development of improved methods of diagnosing mental illness, and of care, treatment, and rehabilitation of the mentally ill, including grants to State agencies responsible for administration of State institutions for care, or care and treatment, of mentally ill persons for developing and establishing improved methods of operations and administration of such institutions.

"(6) Secure, from time to time and for such periods as he deems advisable, the assistance and advice of experts, scholars, and consultants from the United States or abroad.

"(7) For purposes of study, admit and treat at institutions, hospitals, and stations of the Service persons not otherwise eligible for such treatment.

"(8) Make available, to health officials, scientists, and appropriate public and other nonprofit institutions and organizations, technical advice and assistance on the application of statistical methods to experiments, studies, and surveys in health and medical fields.

"(9) Enter into contracts during the fiscal year ending June 30, 1966, and each of the eight succeeding fiscal years, including contracts for research in accordance with and subject to the provisions of law applicable to contracts entered into by the military departments under title 10, United States Code, sections 2353 and 2354, except that determination, approval, and certification required thereby shall be by the Secretary of Health, Education, and Welfare.

"(10) Upon the recommendation of the National Advisory Health Council (or of the National Cancer Advisory Board in the case of activities respecting cancer, of the National Advisory Mental Health Council in the case of activities respecting mental health, of the National Heart and Lung Advisory Council in the case of activities respecting heart and lung diseases, the National Advisory Council on Alcohol Abuse and Alcoholism in the case of activities respecting alcohol abuse and alcoholism, or of the National Advisory Dental Research Council in the case of activities respecting dental diseases and conditions) take such additional action as he deems necessary or appropriate to carry out the purposes of this section.

For the purpose of advancing the status of the medical sciences in the United States (and thereby the health of the American people), the Secretary may participate with other countries in cooperative endeavors in the research activities authorized by this subsection; and in connection with such endeavors, the Secretary shall have the same authorities as is provided by section 303(b) for cooperative endeavors under section 303(a).

"(b) The Secretary may authorize persons engaged in research on the use and effect of drugs to protect the privacy of individuals who are the subject of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals. Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals."

(c) Sections 402(a), 403(a), 412, 419(a), 422, 423(a), 431(b), 433(a), 444, and 453 are each amended by striking out "section 301" wherever it appears and inserting in lieu thereof "section 400".

(d) Parts A through G are redesignated as parts B through H, respectively.

SEC. 303. (a) Section 302 is repealed.

(b) Part E of the Controlled Substances Act is amended by adding at the end thereof the following new section:

"STUDIES RESPECTING MEDICAL AND SCIENTIFIC REQUIREMENTS FOR NARCOTICS

"SEC. 517. The Secretary shall conduct such studies and investigations as may be necessary to determine the quantities of crude opium, coca leaves, and their salts, derivatives, and preparations, and other drugs subject to control under this title and the Controlled Substances Import and Export Act, together with reserves thereof, as may be necessary to supply the normal and emergency medical and scientific requirements of the United States. The results of such studies and investigations shall be reported not later than the 1st day of April of each year to the Attorney General, to be used at his discretion in determining manufacturing quotas or importation requirements under this title and the Controlled Substances Import and Export Act."

(2) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 516 the following new item:

"Sec. 517. Studies respecting medical and scientific requirements for narcotics."

(c) Part D of the Community Health Centers Act is amended by adding after section 256 the following new section:

"FEDERAL-STATE COOPERATION

"SEC. 257. For the purpose of encouraging States to provide adequate facilities and methods for the care and treatment of its narcotics addicts, the Secretary shall cooperate with States for purposes of aiding them to serve their narcotic drug problems and shall give authorized representatives of the States the benefit of his experience in the care, treatment, and rehabilitation of narcotic addicts."

"SEC. 304. (a) Sections 304, 305, 307, 308, 312, 312a, 313, and 315 are repealed.

(b)(1) Section 306 is amended (A) by striking out "Surgeon General" each place it appears and inserting in lieu thereof "Secretary", (B) by striking out "309" each place it occurs in subsection (d) and inserting in lieu thereof "313", and (C) by striking out subsection (e) and redesignating subsection (f) as subsection (e).

(2) Section 306 as amended by paragraph (1) is transferred to part B of title III, is redesignated section 312, and is inserted after section 311.

(c)(1) Section 309 is amended (A) by striking out "Surgeon General" each place it occures and inserting in lieu thereof "Secretary", and (B) by striking out "306(d)" and inserting in lieu thereof "312(d)".

(2) Section 309, as amended by paragraph (1), is transferred to part B of title III, is redesignated section 313, and is inserted immediately before section 314.

(d) Section 310 is transferred to part B of title III, is redesignated section 319, and is inserted after section 318.

(e)(1) Section 310A is amended by striking out "304" and inserting in lieu thereof "302".

(2) Section 310A, as amended by paragraph (1), is transferred to title II, is redesignated section 226, and is inserted after section 225.

(f)(1) Section 310B is amended by striking out "304, 305,".

(2) Section 310B, as amended by paragraph (1) is transferred to title II, is redesignated section 27, and is inserted after section 226 (inserted by subsection (d)(2) of this section).

SEC. 305. The heading for part A is amended to read as follows:

"PART A—HEALTH SERVICES RESEARCH AND EVALUATION AND HEALTH STATISTICS".

The SPEAKER pro tempore. Is a second demanded?

Mr. CARTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, I rise in support of H.R. 11385, a bill to amend the PHS Act to revise the programs of health services research and to extend the program of assistance for medical libraries.

In the course of hearings on these expiring provisions of the PHS Act, the committee gathered information which showed that health services have grown to be this country's third largest industry, employing about 4 million people. National expenditures for health care are now greater than those for education. We spend close to $2 billion on biomedical research. But we spend very little on health services research, research to find out how well that biomedical knowledge is being used by our health services for treatment, control, and elimination of disease; very little to find out whether the $90 billion we spent on health services in 1973 was used in the most efficient and effective possible way.

The growing feeling that money spent on health services is not always used most effectively makes clear the need for an increased commitment to health service research aimed at improving the use of our health care dollars.

With a strong commitment backing it, health care research will assist in answering fundamental questions about national health insurance, quality of care, effective use of personnel and technological resources.

Health Services Research has already helped point the way to better health care by establishing that newborn babies and their mothers can leave the hospital in less than half the time they used to stay after delivery by establishing that participation in a prepaid group practice may reduce prematurity and mortality of infants during birth; and by demonstrating that fatality rates for certain diseases is lower in teaching than in nonteaching hospitals.

This legislation also addresses itself to the Nation's need for accurate and comprehensive statistics about its health. Without such information we can never know what benefits we have obtained from the billions of dollars we spend on health nor what directions we must take in the future to improve the health of the Nation. Responsibility for gathering, analyzing, and distribution of this vital information rests with the National Center for Health Statistics. The center has achieved a worldwide reputation as an objective and competent reporter of the health status of the American people. It has also been criticized on a number of grounds, in reviewing its work the committee found that most of the center's deficiencies arise from inadequate financial and staffing support because of its many successes and because lack of support has been largely reponsible for its failings, the committee felt that the revised authority provided in this bill was greatly needed.

As its third major provision, the legistion extends funding authority for medical libraries assistance programs. The effectiveness of these programs in the important function of disseminating medical knowledge justifies continuing support for this worthwhile investment.

Together, support for the programs authorized under this bill will total $233.2 million over the next 3 fiscal years. It will only be through thoughtful research on our health services industry, careful gathering and analysis of information about the state of the Nation's health, and through dissemination of information and knowledge about health and health care that we will be able to direct our efforts to improve the health and well-being of the American people wisely and effectively.

This bill will make these necessary steps possible and I urge you to join me in voting for its adoption.

Mr. CARTER. Mr. Speaker, I rise in support of this bill. I think it is very necessary.

Mr. Speaker, I yield to the gentleman from Indiana (Mr. HUDNUT) such time as he may consume.

Mr. HUDNUT. Mr. Speaker, as a member of the Public Health and Environment Subcommittee, I join in the support for necessary health services, research, evaluation, statistics, and for medical libraries. This act combines centers for research and statistics in establishing the National Center for Health Services Research and Health Statistics. Under the supervision of the Assistant Secretary for Health, the national center, along with at least six regional centers, will foster the development of sound health programs and the effective use of allocated funds. Two more characteristics of this bill should be noted. One is the ample provision for the dissemination of the results of the research and evaluation funded by this bill. The rapid advances in medicine and science have too often left public and professional knowledge far behind. Second is the directive that the United States should participate in international programs of biomedical and health services research activities and that national health conferences should be held to foster cooperation on the Federal, State, and local level.

We cannot continue to fund health service programs without making provision for the study of their application and consequences, and for ongoing research.

Mr. CARTER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Speaker, I take this time to ask the distinguished gentleman from West Virginia what the cost of this bill may be.

Mr. STAGGERS. $233.2 million, I believe, is authorized over a 3-year period.

Mr. GROSS. Did the gentleman say $251 million for the next 3 years?

Mr. STAGGERS. $233 million.

Mr. GROSS. I have a figure of $281 million for the next 3 years.

Mr. STAGGERS. I have in my statement $233 million. I may have computed it incorrectly.

Mr. GROSS. Let me ask the gentleman, Does the director of the Bureau of the Budget approve of this? Is it budgeted?

Mr. STAGGERS. I will answer "yes" to the distinguished gentleman from Iowa. It is budgeted, and the figures were slightly different from others in the budget.

Mr. GROSS. Are the figures lower in the budget or higher?

Mr. STAGGERS. I believe they are just slightly higher. They are budgeted.

Mr. GROSS. I thank the gentleman, and I yield back the balance of my time.

Mr. STAGGERS. Mr. Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. SATTERFIELD).

Mr. SATTERFIELD. Mr. Speaker, I rise for the purpose of asking a question or two of the chairman of the subcommittee, the gentleman from Florida (Mr. ROGERS). The first question I would like to direct to him is whether or not it is a fact that this legislation creates a national center which brings together for the first time the function of research and the function of gathering, filing, and the dissemination of statistics in the department?

Mr. ROGERS. The gentleman is correct. This is in the legislation.

Mr. SATTERFIELD. And for that purpose this legislation authorizes a total of $180 million, Is that correct?

Mr. ROGERS. Yes.

Mr. SATTERFIELD. I should like to call the gentleman's attention to Public Law 93–222 which we passed in the closing days of the last session, dealing with the establishment of health maintenance organizations, and specifically to that section which directs the Secretary, through the Assistant Secretary for Health, to research and evaluate programs respecting the effectiveness, administration, and enforcement of quality assurance programs, and ask whether or not that function will also be exercised by this center?

Mr. ROGERS. I might say that the authority there is given to the Secretary so that the Secretary perhaps would use this agency somewhat on that, but I am sure he would not want to use this agency exclusively.

Mr. SATTERFIELD. It, nevertheless, could be at the descretion of the Secretary of Health, Education, and Welfare?

Mr. ROGERS. The gentleman is correct.

Mr. SATTERFIELD. I thank the chairman.

Mr. Speaker, I have grave reservations about combining these two functions, both from an administrative standpoint and from a functional standpoint, because I realize that we may create here a device which affords an opportunity to delve into health care delivery, to propose programs relating to that delivery and perhaps ultimately to develop legislation. By combining the functions of research and statistics, each of which could be made to support the other, as well as functions of research in the area of quality assurance, quality controls, in the delivery of health services we may well be delivering to this new center more potential power than we should.

I am not opposed to research for the purpose of providing enlightenment, but I do feel we are providing an opportunity here to bureaucrats in HEW to make decisions which really should be made by Congress and to develop and recommend legislation on the basis of those decisions. I feel that if this measure becomes law then it will be our duty to make certain that this center with this combined power functions properly. Clearly, we should police its activities very carefully.

Mr. STAGGERS. Mr. Speaker, I would briefly like to say as to my understanding of the bill that this does provide for research, but before they can do anything with that research that must come back to the Congress.

Mr. Speaker, I yield to the gentleman from Florida (Mr. ROGERS), the chairman of the subcommittee, such time as he may consume.

Mr. ROGERS. Mr. Speaker, I rise in support of H.R. 11385, the Health Services Research, Health Statistics, and

Medical Libraries Act of 1974. This is the first in the series of revisions of legislation that expires on June 30, 1974. This bill extends three little-known but important authorities within the Public Health Service Act—health research and evaluation, health statistics, and medical libraries.

Mr. Speaker, the principal modification this legislation makes in these three authorities is that it mandates that the existing HEW units which conduct health services research and which gather health statistics be combined into a new National Center for Health Services Research and Statistics. The committee determined that it is necessary to combine these two functions in order to obtain statistics which are responsive to the needs of health services researchers as well as the generally close relationship between health services research and statistic gathering activities. The authorities are modest and we believe will approximate the budget request for fiscal year 1975.

With respect to medical libraries, the only change of substance is the elimination of moneys for the construction of medical libraries which was not funded last year. The committee has adopted almost all of the requests of HEW with respect to medical libraries.

Mr. Speaker, I urge adoption of this bill.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this legislation. At the present time the NIH gathers statistics from each State concerning different diseases, such as the number of cases of measles or influenza or venereal disease, and all those statistics gathered from the States are published each year. This legislation today would provide that research in cancer, for instance, be joined with statistics to show the effects of chemotherapy or X-ray therapy on certain diseases. It is highly important that our people at NIH know the effects of various agents used in treating cancer and other diseases.

Therefore, Mr. Speaker, in my opinion this particular portion of the bill is necessary. It will be extremely helpful in the future in determining what direction our research should take and will aid us in guiding it. Therefore, I support the bill.

Mr. Speaker, I have no further request for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS) that the House suspend the rules and pass the bill H.R. 11385, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the four bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

## PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE REPORTS ON H.R. 10957, H.R. 11385, H.R. 11386, AND H.R. 11387

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce have until midnight tonight to file reports on H.R. 10957, H.R. 11385, H.R. 11386, and H.R. 11387.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

## PERMISSION FOR COMMITTEE ON BANKING AND CURRENCY TO FILE CERTAIN REPORTS

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the Committee on Banking and Currency may have until midnight tonight to file certain reports on H.R. 11221.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## PROPOSING REPEAL OF EMERGENCY DAYLIGHT SAVING TIME ENERGY CONSERVATION ACT OF 1973

(Mr. LANDRUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LANDRUM. Mr. Speaker, today I have introduced a bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973.

I am pleased, of course, to say that I did not vote for the bill and to say, moreover, that I have never supported changing our Standard Time to Daylight Saving Time.

The principal reason I did not support the Emergency Daylight Saving Time Energy Conservation Act was because it was obvious that it would not conserve energy, and it was equally obvious to me that it would be damaging to certain elements of our society, particularly the young school children.

On several occasions since the schools reopened following the Christmas holidays, I have had occasion to be on the highway at 6:30 and 7 o'clock in the morning and witnessed young children of 6 to 16 years of age standing on the highway in pitch-black darkness, rain, cold, waiting for the schoolbus. I have also had the opportunity to listen to the complaints of parents, especially working mothers who found it necessary to leave their children at school long before the school hour opened or leave them at home with no one attending until the schoolbus came.

I expected to find my constituents disturbed about the affairs of our Government, and they were. But I was shocked to find that taking first place was this ridiculous change to daylight saving time in mid winter.

In the Atlanta Journal of Friday, January 11, Dick West writes on this subject and really makes all of us appear foolish. And in the Washington Star-News on Friday, January 18, we find the leaders of our Nation's major educational organizations expressing dissatisfaction as well is disgust with this change. I include these two articles with my remarks:

### SCHOOLS PROTEST TIME SHIFT

(By John Mathews)

Leaders of the nation's major educational organizations have expressed concern to federal energy officials that national use of daylight time is endangering school children who must walk or ride buses or bicycles to schools in early-morning darkness.

Following a meeting yesterday with the groups, John Sawhill, deputy administrator of the Federal Energy Office, defended the time change, which was recommended by President Nixon and approved by Congress and came into effect Jan. 6.

Sawhill conceded daylight time does not bring any saving in school operations, but said that overall it is an energy saver, since it spreads electricity use over the day and cuts down on peak loads in evening hours.

At a press briefing with Sawhill, U.S. Commissioner of Education John Ottina said his office is compiling accident statistics to determine whether any increase in student bus, bicycle and pedestrian accidents has resulted from the time change. So far, he said, he knows of no deaths attributed to the time change.

Earlier yesterday at a national energy conference of school board members, another FEO official expressed a negative view of daylight time.

Robert Hemphill, a deputy for policy planning, said daylight time "is not a winner" as an energy saver and is primarily of "symbolic value."

Daylight time was characterized as a "gimmick" that is "pretty close to the Mickey Mouse category" by another speaker at the school board energy conference, S. David Freeman, a former energy official in the White House Office of Science and Technology who now heads the Ford Foundation's energy policy project.

School board members at their conference and the educational leaders during their one-hour meeting with Sawhill expressed satisfaction that schools had been given top priority for gasoline and fuel oil consumption. They expressed concern, however, that large price increases will disrupt school budgets.

### "CATCH 22" TIME NOW IN EFFECT

(By Dick West)

WASHINGTON.—It wasn't until the return of Daylight Saving Time this week that many Americans became aware of "Catch 22" in changing the clock to conserve energy.

They discovered that when you gain an extra hour of daylight in the afternoon, you lose an extra hour of daylight in the morning.

A local bus driver summed it up nicely. "I don't see any difference in having lights on in the morning or at night," he said.

Dairy farmers and parents of children who had to walk to school in the dark were particularly critical of the time switch.

If you are among the inconvenienced, please have patience. All new government programs have a few bugs in them at first.

Even now, you may be sure, some of the best brains in the country are working on the problem. I am confident that they will soon have it licked.

One of the time experts the government might do well to consult is Sam Crepuscule, a professional night watcher.

Note that I have identified Crepuscule as a night watcher, not a night watchman. The latter is merely a watchman who works the night shift. Crepuscule, on the other hand, watches the night itself.

Years of nocturnal watching have made him perhaps the world's foremost authority on nighttime.

Crepuscule believes the problems that have arisen with the midwinter adoption of Daylight Saving Time came about in part because the government relied on the advice of daytime experts in setting up the new arrangement.

The solution, he told me, may lie in a dual time system.

"We already have divided the day into two time zones—a.m. and p.m.," he said. "But there is no good reason why they have to be on the same schedule.

"The p.m. zone could be an hour ahead of the a.m. zone, as the Eastern time zone is an hour ahead of Central time.

"In other words, instead of observing Daylight Saving Time the clock around, we would have Morning Standard Time and Evening Daylight Time.

"The effect would be to delay the twilight's last gleaming by an hour while holding the dawn's early light in the same time slot."

I said, "That should make everybody happy. But how would it work?"

"By using two clocks," Crepuscle explained. "The p.m. clock would have 11 hours and the a.m. clock 13."

I said, "Wouldn't wearing two watches be rather cumbersome?"

"Maybe so," he replied, "but it sure beats milking by candlelight."

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## EXPLANATION AS TO VOTE

(Mr. DANIELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIELSON. Mr. Speaker, it was necessary for me to leave the floor at about 4 p.m., on Thursday, December 20, 1973. As a consequence, I missed a number of recorded votes, and I now state, for the record, how I would have voted had I been present.

THURSDAY, DECEMBER 20, 1973

Rollcall No. 714. Adoption of the conference report on S. 1983 to provide for the conservation, protection, restoration, and propagation of threatened and endangered species of fish, wildlife, and plants. Passed 355 to 4. I would have voted "yea."

Rollcall No. 715. Adoption of House Resolution 754, agreeing to Senate amendments Nos. 1 and 2, and agreeing to Senate amendment No. 3 with an amendment, to H.R. 6186, regarding taxability of dividends received by a corporation from insurance companies, banks, and other savings institutions. Passed 319 to 26. I would have voted "yea."

Rollcall No. 716. Adoption of the conference report on H.R. 9142, to restore, support, and maintain modern, efficient rail service in the northeast region of the United States. Passed 284 to 59. I would have voted "yea."

Rollcall No. 717. Adoption of the conference report on H.R. 11576, making supplemental appropriations for the fiscal year ending June 30, 1974. Passed 329 to 10. I would have voted "yea."

FRIDAY, DECEMBER 21, 1973

Rollcall No. 719. Agreement to the Senate amendment to H.R. 11333, to provide a 7-percent increase in social security benefits beginning with March 1974, and an additional 4-percent increase beginning with June 1974, and to provide increase in supplemental security income benefits. Passed 301 to 13. I would have voted "aye."

Rollcall No. 720. Ordering a second on a motion to suspend the rules and pass House Resolution 759, providing for agreeing to the Senate amendment to the Wild and Scenic Rivers Act and to provide for the levels of contingency plans for petroleum consumption—which included a "windfall profits" provision. Passed 148 to 113. I would have voted "yea."

Rollcall No. 721. Motion to suspend the rules and agree to House Resolution 759—which included "windfall profits" provision. Failed 169 to 95. I would have voted "yea."

Rollcall No. 722. Adoption of House Resolution 760, providing for agreeing to the Senate amendment with an amendment—the text of H.R. 12129, not including "windfall profits" provision. Failed 22 to 240. I would have voted "no."

Rollcall No. 723. Adoption of House Resolution 761, providing for agreeing to the Senate amendment to the amendment of the House to S. 921, to amend the Wild and Scienic Rivers Act and to provide for the levels of contingency plans for petroleum consumption—not including "windfall profits" provision. Failed 35 to 228. I would have voted "nay."

Rollcall No. 724. Adoption of House Concurrent Resolution 411, providing for the sine die adjournment of the first session of the 93d Congress. Failed 74 to 171. I would have voted "yea."

Rollcall No. 725. Motion to adjourn. Failed 39 to 160. I would have voted "yea."

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## INTRODUCTION OF THE BILL TO PREVENT PENSION DECREASES FOR VETERANS AND WIDOWS OF VETERANS

(Mr. ROGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGERS. Mr. Speaker, today I am introducing legislation designed to prevent a reduction in veterans pension benefits for veterans and widows of veterans as a result of the 11-percent social security benefit increases scheduled to take effect in 1974. Under existing law, veterans pensions would be reduced as a result of the 1974 social security increases on January 1, 1975. Although Congress passed legislation last year which granted veterans a 10-percent pension increase for 1974 (Public Law 93-177), those veterans who also receive social security will lose most of this increase as a result of the 11-percent social security increases which Congress also passed last year. In other words, recipients of pensions will receive both their 10-percent pension increases and their 11-percent social security increases in 1974; however, their 1975 veterans' benefits will be decreased 1 year later to the extent of their social security increases.

As result of this "see-saw effect" built in the law, the Government is taking away with one hand most of what it had given with the other hand.

I have been advised by the Veterans' Administration that as a result of the 20-percent social security increases effective in October 1972, pensions for 1,264,000 retired veterans and widows of veterans were decreased to offset this 20-percent increase in 1973 by an average of $11.63 per month or $139.56 per year. In addition, 20,000 pensions were eliminated altogether.

The Veterans' Administration has informed me that they estimate that as a result of the 11-percent social security increases for 1974, another 1,331,800 veterans and widows will receive decreased pensions commencing January 1, 1975, an average decrease of $7.28 per month or $87.32 per year. In addition, another 15,700 veterans and widows of veterans will be stricken from the rolls altogether commencing January 1, 1975.

Although these decreases may seem insignificant to our working citizens, they have a disastrous effect on the lifestyle of our retired citizens who must live on fixed sustenance level incomes without adequate economic adjustments to keep pace with spiraling increases in their cost-of-living expenses.

This afternoon I am introducing legislation to amend title 38 of the United States Code to protect recipients of veterans pensions from having the amount of such pensions reduced. The bill would exclude social security increases from the determination of a recipient's income level which is used to calculate his veterans pension payment rate.

It has been estimated by the Veterans' Administration that such legislation would have a first-year cost of $88 million. This is a small price to pay to assure our retired veterans and the widows of our deceased veterans that they will be able to maintain a quality of life which keeps pace with the burdens of our inflated economy. We owe this to those who have dedicated their lives in the defense of our Nation.

It is a gross deception for our Government to say that it is raising benefit levels for veterans assistance to meet the rises in costs of living by granting benefits under one law and taking most of them away by another. Therefore, I urge the Congress and the House Committee on Veterans' Affairs to carefully consider this legislation during the 2d session of the 93d Congress.

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## HELP FOR THE TOURIST INDUSTRY

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, I have addressed the House in the past on the importance of tourism and outdoor recreation to the overall economic well-being of the country. As the National Tourism Resources Review Commission has said:

> Tourism is a vast economic and social phenomenon that has largely been ignored by Americans, even though most participate in it and an impressive number benefit from it.

One job out of every 20 in the United States is directly dependent upon this industry and there are few areas of the country that have not benefited to a substantial degree from the economic impact of tourism. In many parts of the United States it is as vital to the local economy as auto manufacturing to Detroit or Government to the District of Columbia.

Today I am introducing a bill which would help this vital industry withstand the economic pressures of the energy crunch. The bill would authorize the Small Business Administration to make loans to businesses which are suffering economic hardship as a result of Federal energy policies but stand a reasonable chance of recovering and paying off the loan. The first payment on these loans could be deferred by SBA for a period of up to 2 years.

Already, the disruptions in our Nation's transportation as a result of the energy problem have created hardships for many businesses in the tourism field. During the holiday recess I visited some of these businesses in northern Wisconsin. There is less of a problem in obtaining gasoline than I had expected. But, public fear of travel because of the administration's request for Sunday gas station closings is having a negative effect. Summer bookings are down substantially at some motels and resorts and winter business is off in many areas.

Other major recreation areas across the country appear to be less fortunate. The availability of retail gasoline has become a major problem and business is off drastically. If further Government regulation on gasoline sales and production is imposed the situation will undoubtedly become even worse. Without a major governmental effort to counter the effects, many small businesses could be forced into bankruptcy.

This is not only an unfair price for the individual small businessman to pay, it is bad for everybody. His employees lose their jobs. His creditors lose their money and the community loses a taxpayer. The impact of a large number of such bankruptcies on the Nation's economy would be devastating.

Fortunately, that is not a reality which this country will have to face up to if effective action is taken by the Federal Government now. There is every reason that the tourism and recreation industries should survive the energy crisis and again prosper, even if reduced energy levels become a permanent part of American life.

Almost no one uses less energy than a family spending a week fishing, skiing, or engaged in most other forms of outdoor recreation. One study has shown that the average American household uses about 23 kilowatt hours of electricity and 6 therms of natural gas a day. The average family on an outing in a recreation vehicle uses only about 5 kilowatts of electric power and less than 1 therm of natural gas—80 percent less than if they had stayed home. I am certain that similar figures would apply to families who spend their vacations in lodges or resorts.

Outdoor recreation is, however, the victim of the inefficient use of energy by our transportation system. Eighty-six percent of the travel in this country has been by private automobile while only 4 percent has been by trains and buses combined. There will be dramatic changes in these figures in coming years as more and more Americans begin to rely on our improving public transportation which, with increased use, should become more economical as well as more convenient. Private automobiles will at the same time become increasingly more efficient in their use of gasoline. But until uncertainty over the supply of gasoline is resolved, and until better public transportation and more efficient private transportation become reality, there is bound to be some short term reduction in the amount of vacation traveling of this country.

It is an obligation of the Federal Government to make certain that these transportation problems do not do irreparable harm to one of the Nation's largest industries; that thousands of businesses do not go under and that hundreds of thousands of men and women do not lose their jobs.

Loans for such economic readjustment are thoroughly consistent with actions which the Congress has taken in the past. When Federal military installations have been closed such loans have been made available for small businesses to either reorient their business toward the needs of the civilian economy or move to a more suitable location. When natural disasters such as floods, hurricanes, and tornadoes have destroyed businesses and brought local economic chaos, Congress has authorized loans to disaster area businesses to rebuild. This is a situation which demands the same kind of effort and I hope Congress will move expeditiously in authorizing such a program.

## WINDPOWER

(Mr. RONCALIO of Wyoming asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. RONCALIO of Wyoming. Mr. Speaker, occasionally come outstanding suggestions for improvement in our energy research and development, and following is a letter from Mr. Stephen C. Tarver of Gillette, Wyo., which sets forth what I think should be suggestions of importance. I hope readers in the Federal establishment, particularly those working in energy research, will have occasion to find it worth their time:

GILLETTE, WYO.,
*December 27, 1973.*

Hon. TENO RONCALIO,
*Cheyenne, Wyo.,*

DEAR CONGRESSMAN RONCALIO: In our search for new sources of energy to meet our present shortage, it seems to me that we are overlooking one of the most promising possibilities. It is clean, abundant and inexhaustible. I'm referring to windpower.

Using the wind as a source of power is by no means a crackpot idea as most people obviously think it is, judging from the apparent lack of interest in trying to develop it.

Until about 30 years ago, windpower was used on a majority of farms and ranches to pump water, and generate electricity for those who had electricity. If it had not been for the money loaned, practically interest-free, by the Federal Government through the Rural Electrification Administration to build electric transmission lines, windpower would probably still be an important source of energy on the American farm and ranch.

There are still many windmills in use where electricity is not available and some even where it is. The windmill has always been, and still is, generally considered to be superior to the gasoline motor for pumping water for livestock.

The people of Denmark, who have not been blessed with so much oil as the U.S., have been experimenting with windpower. They have built a wind-powered generator which has been successfully operating since 1957, producing electricity at the rate of some 200 kilowatts or nearly 300 horse power.

A search for information on efforts made to develop the use of windpower in this country will show that there has been almost none for the past 30 years, until recently. Recently Fairchild Industries has funded a project at Princeton to develop a more efficient windwheel to use on windpowered generators. Also, a number of utility companies have recently contracted for $132,000 with the University of Oregon to try to find a way to use the strong coastal winds to produce electricity.

For many years Congress has given the oil industry a large tax incentive in the form of the so-called depletion allowance to encourage that industry to find oil reserves. Why not offer a similar tax incentive to manufacturers who produce and sell wind-powered equipment, in the form of a production tax credit? (This is actually what the oil depletion allowance is.) This would be a strong incentive for industry to find new and practical ways to utilize wind power which is pollution-free, abundant and inexhaustible.

Sincerely yours,

STEPHEN C. TARVER.

## JANUARY 18 WAS ARBOR DAY IN FLORIDA

(Mr. SIKES asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SIKES. Mr. Speaker, Arbor Day is an important occasion to America and one which is recognized nationwide. Planting, growing, and appreciating trees is what Arbor Day is all about, and volumes have been written on the value, use, and beauty of trees.

While Arbor Day is recognized nationwide, the dates for the observances of Arbor Day are left with the respective States. In 1945, Florida's legislature designated the third Friday in January as Arbor Day in our State. Consequently, on January 18 Florida officially observed Arbor Day as a time to remember people and trees are a happy combination.

The value of trees to mankind is evidenced in the homes and food provided by trees to man, animals, and birds. They reduce soil erosion, provide us with fruits and nuts. Medicines come from trees as do paper, chemicals, paint, and lumber. In fact, more than 5,000 products are directly or indirectly produced by trees.

The forests provide us with game and recreation. Camping, hiking, bird watching, and ecological studies would be meaningless without trees. But in spite of all the benefits, most people take trees for granted, seldom thinking that we depend upon trees and other green and growing plants for the very air we breathe.

Trees are one of the few renewable natural resources available to man. While coal and oil and iron eventually will disappear from the world, trees will always be with us so long as mankind continues to reforest and harvest with care.

It is fitting that Florida should observe Arbor Day in January, the first State to mark the observance every year. Few places in our Nation are so blessed with varieties of stately trees as is Florida. While the rest of the Nation suffers the ravages of chill winters, Florida's trees bask in the warm sun as a reminder to the rest of the Nation that it too, soon will be enjoying the beauty of green and growing trees.

Lovers of the outdoors and of trees salute Florida in the observance of Arbor Day and I join in this salute.

## SUDDEN INFANT DEATH BILL

(Mr. LONG of Maryland asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. LONG of Maryland. Mr. Speaker, several months ago the new baby of one of my nieces was found dead one morning in his crib. This sudden infant death syndrome was defined by the Second International Conference on Causes of Sudden Infant Death as "the death of an ostensibly healthy infant or young child which remains unexplained after post-mortem examination." But few lay people realize that SIDS is a definable disease.

In fiscal year 1974 the National Institute for Child Health and Human Development plans to spend only $35,000 for public information and educational programs, and that is on this disease which kills over 10,000 babies a year. The bill before the House today under a suspension of the rules authorizes $6 million over the next 3 years to let the public know more about this disease because the parents of such children are often plagued with guilt and they are often accused of smothering or neglecting the child. This ignorance results in less exact statistics because frequently police inquiries suggest parental abuse or neglect in the SIDS child, resulting in an alteration of the data. Increased public knowledge will go a long way toward our learning more about this disease.

I am very happy to support this bill particularly because sudden infant death syndrome is the leading cause of infant death after the first month of life. If we were spending proportionate amounts on cancer and SIDS in terms of infant deaths per year, our expenditures would rise by $14.5 million over the $4 million we are now spending for SIDS research. I feel the bill is a modest investment. I hope very much the House will support this bill when it comes up later this afternoon.

For the RECORD, I include here the eloquent testimony offered by Mr. and Mrs. Saul Goldberg, founders of the Guild for Infant Survival:

### DR. GOLDBERG'S INTRODUCTORY REMARKS

The list of witnesses mentioned I would be accompanied by Dr. Russell Fisher, Chief Medical Examiner of Maryland. Dr. Fisher was unable to attend, and I would like to introduce to you Dr. William Enos, who is Medical Examiner of Northern Virginia, a forensic pathologist, and he does autopies on SIDS as Dr. Lewman described. He may have some comments to make at the end of my testimony.

The second comment I would like to make is I would like to compliment you and the committee on the questions you asked of government officials because they are the same questions that we have asked in the Guild for Infant Survival for ten years now and we really haven't gotten the respectable answers and decent answers we think we should have and you should have. So we compliment you on your questioning and hope that will lead to an improvement in the situation.

The third comment I would like to make, that Dr. Lewman was perhaps unaware of, is that the State of Maryland operates in the same way that the State of Oregon does. The Guild for Infant Survival was founded in Maryland. Dr. Fisher is a member of the executive board of the AMA and the National Association of Medical Examiners, and we handle our crib death cases in the same human feeling, professional way. Letters are sent out, information is returned to the families, and we have no problems with incriminating evidence or questioning by police. It is done very inexpensively and professionally, and we think it is an excellent system. So I would endorse what Dr. Lewman said about a statewide medical examiner system.

Mr. ROGERS. Would you let us have a letter to that effect setting out how it works?

Mr. GOLDBERG. Yes, sir, I will give a full description.

Mr. ROGERS. So we can also send that to the Governors and the Council of County Governments.

Mr. GOLDBERG. I would also dispute some of the circumstances described by the government on crib deaths in our experience. Dr. Simmons, I believe, mentioned historically the child is premature, from a lower socio-economic class, from a crowded neighborhood, usually dies in the winter season, and is male rather than female in most instances. I believe these generalizations are harmful to the infant who dies who is full term, who is from a wealthy or middle class family, who lived in a comfortable neighborhood, well taken care of, dies in the summer, and is a female.

Many of the people that we have contacted feel that generalizations of these facts leave them out in the cold, and when the public reads these generalizations they feel they are not a crib death case. And I believe there is a person in the room who lost an 18 month old baby. And I also want you to know that the statistics from the Medical Examiner's office in Maryland, for the last four years show that the spring and fall months have had more crib death cases than the winter months.

So we are asking for more investigation into this. I think it is easy to draw generalities, not as easy to draw specific cases. And this only adds to the confusion and ignorance of sudden infant death itself.

I also think you should know that the Medical Examiners since they do autopsy these babies, seems to me a natural place to put research dollars. And I would like the committee to know that Dr. Fisher is one and Dr. Enos is another who have applied more than one time and have been refused on various grounds several times. And we believe these research centers in the Medical Examiner's headquarters exist. They are doing hit and miss spare time research supported by funds from parent groups like the Guild for Infant Survival, and 50 groups have been able to support $50,000 worth of research in at least five different areas, none of which were publicly funded by the government. So there are research activities going on outside the government because these doctors are dedicated and interested in solving the problem, as we are here today.

Mr. ROGERS. Excuse me. Dr. Enos, did you submit one of the applications that were turned down this year?

Dr. ENOS. No, last year, I believe it was.

Mr. ROGERS. Last year?

Dr. ENOS. Yes.

Mr. ROGERS. Would you let us have a copy of that?

Dr. ENOS. I would.

Mr. ROGERS. If you have it.

Dr. ENOS. I don't have it here.

Mr. ROGERS. No, I understand. If you could let the committee have it.

Dr. ENOS. I can make some comments afterward.

Mr. ROGERS. Certainly.

Mr. GOLDBERG. I would like to ask if Dr. Fisher may submit his to you also.

Mr. ROGERS. Yes, we would like to have it.

## NOTRE DAME: THE NATION'S NO. 1

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, there has been a lot of bad news during the year just ended, but in South Bend, Ind., in the district I have the honor to represent, we have had, as 1973 closed and as 1974 began, some good news.

For, Mr. Speaker, life is, in at least one important respect, back to normal. The University of Notre Dame football team, after its magnificent 24 to 23 victory over the University of Alabama in the Sugar Bowl in New Orleans on New Year's Eve, is the national champion again.

Mr. Speaker, I take this time first to extend my condolences to my colleague and friend, the gentleman from Alabama, Congressman WALTER FLOWERS, who represents the Tuscaloosa district here in the House.

I want further to extend my warmest congratulations to America's greatest football coach, Ara Parseghian, to his coaching staff, and to the entire Notre Dame football team.

But, Mr. Speaker, not only is Notre Dame No. 1 in the Nation in football.

Last Saturday, January 19, I was privileged to be among those present to watch the University of Notre Dame basketball team, under the outstanding coaching of Digger Phelps, break the 3-year, 88-game winning streak of the University of California at Los Angeles, led by the great coach, John Wooden, whom I remember well from his days as head basketball coach at my own high school, South Bend Central. Indeed, I once played a game, albeit a JV game, under his direction.

The score last Saturday, in one of the most stunning upsets in college basketball history, was 71 to 70, and I here note that the last time that the UCLA basketball team had lost a game was also to Notre Dame.

So to Digger Phelps, his coaching staff, and the entire Notre Dame basketball team, I also extend my warmest congratulations.

And, Mr. Speaker, I must also take a moment to pay tribute to the accomplishment of another Notre Dame team this past week, for Notre Dame's hockey team defeated, by a score of 6 to 1, last Friday, Michigan Tech, the No. 1 ranked team in the college hockey league.

Mr. Speaker, as we today begin the second session of the 93d Congress, we all recognize that the Nation has troubles, two in particular: energy and Nixon.

But, Mr. Speaker, not everything is wrong with America today. God's in His heaven, something's right with the world.

Notre Dame is No. 1 again.

## REPEAL OF DAYLIGHT SAVING TIME LAW

(Mr. DAVIS of Georgia asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. DAVIS of Georgia. Mr. Speaker, I join today with my colleagues the Honorable PHIL LANDRUM, JOHN FLYNT, RAY THORNTON, and others in introducing legislation designed to repeal the daylight saving measure which was signed into law in December and which became effective January 6, 1974.

I should like, at this point in the RECORD, to insert a copy of a newsletter which I wrote during the January recess and which discusses the effect of daylight saving time upon my district:

### CONGRESSMAN JOHN DAVIS REPORTS FROM WASHINGTON

Although I voted against the change from Eastern Standard Time to Daylight Savings Time when the matter came up in December, only 79 of my colleagues joined me in my position with the result that the bill passed, and the nation now finds itself on Daylight Savings Time in the winter months for the first time since World War II. Since I have been in the District during the present adjournment, I have encountered a great hue and cry against this system—particularly as it affects children who must ride buses to school. I think, at this time, a few comments are in order on the nature of our method of time-keeping and its effect on the people of the Seventh District. Until the year 1943, in Georgia, the legal time was known as "sun time," and noon was established by that moment when the sun was directly overhead at a particular place. This system, which had been observed for hundreds of years, resulted in the fact that each city operated under a different time. Years ago each big railroad station would have several clocks on the wall. For example, one clock would show the time in Atlanta, another the time in Chattanooga, another the time in Birmingham, and so on.

Before the turn of the century, the railroads had adopted a system which set up standard time zones. Twelve o'clock noon was established as that moment when the sun was directly overhead at the zero meridian of longitude at Greenwich, England. As the earth rotated, the time would then become 12 o'clock on successive hours each 15 degrees westward around the earth so that noon would occur five hours after Greenwich noon on the 75th meridian (which runs through Philadelphia) and 6 hours later on the 90th meridian (which runs through Memphis).

The 85th meridian runs fairly close to the center of the Seventh District, from the Tennessee line south through a point just east of Rome and Rockmart, and for practical purposes I will use it to discuss the effect of Standard Time and Daylight Time on Seventh District citizens. Points east of the 85th meridian should subtract 4 minutes of time per degree of longitude and points west should add 4 minutes.

Back when the Seventh District was on Central Time, the sun would be directly overhead at 11:40 a.m. by the clock. When we changed to Eastern Time the sun would be directly overhead at 12:40 p.m. by the clock. Now that we are on Eastern Daylight Savings Time, the sun is directly overhead at 1:40 p.m.

This brings me to the point, as respects the people of Northwest Georgia, that the time change has caused our daily routine to reach over into predawn darkness. Try as I might, I have been unable to find any reason to think that the arrangement under which we are now operating conserves energy in any way. The fact that it makes life much harder for school children is certain beyond dispute. Buildings have to be heated during the coldest part of the day and lights must be turned on for the first part of the working day in both schools and industry. My opinion when we voted in Congress was that it would be a bad thing for the Seventh District. After seeing Eastern Daylight Time in operation for a few days, I find that my fears were indeed well-founded.

The common sense of conserving energy, it appears to me, would be to allow most of the working day to fall during the hours of daylight. This means that we ought to adjust our clocks in such a way that the sun would be directly overhead as near to 12:00 noon as is practical. To me it makes no sense whatever to have in operation a system that causes the noon hour by the clock to arrive an hour and 40 minutes before the sun is overhead. I hope a way can be found to get us nearer in line with the facts of nature.

## THE WORK OF WOMEN—PAID AND UNPAID

(Ms. ABZUG asked and was given permission to address the House for 1 minute, to revise and extend her remarks, and include extraneous matter.)

Ms. ABZUG. Mr. Speaker, this past Saturday it was my pleasure to keynote a conference on marriage and divorce sponsored by the New York State chapter of the National Organization for Women. At this conference, attended by over 1,000 people, all participants spoke eloquently of the problems facing women who find themselves going through the process, often a long, painful, and expensive process, of divorce.

As one of the keynoters I particularly addressed myself to the problem of working women—working women without pay. That is a good definition of those women who have been described slightingly as "only a housewife." Yet, according to a study done by the Chase Manhattan Bank a woman with no job outside the home performs 12 different jobs a week for 99.6 hours. The estimates of how much this labor is worth vary but Chase estimates it to be over $8,200 per year. Even the woman with an outside job, an economic necessity for many, works at least an additional 34 hours a week on unpaid housework.

It is high time that the work of women be given dignity and their personal investment in marriage and family legal recognition.

It is a disgrace that under our present Social Security System, a woman who has spent most of her life working in the home has protection, such as it is, only as her husband's dependent. If her husband is not covered under social security, neither is she. If the marriage is terminated before 20 years she is not eligible for social security nor does she receive any credits for the years she has put in as a housewife.

I have introduced a Householders Benefit Act (H.R. 3217) which amends the Social Security Act to provide that—

> An individual who resides with and maintains a household for another person or persons (while such person or any of such persons is employed or self-employed) shall be considered as performing covered services in maintaining such household and shall be credited accordingly for benefit purposes.

The bill also provides that—

> is deemed to have been paid for householder service . . . with respect to any month shall
> "The amount of wages which an individual
> be in an amount equal to the national average monthly wage for employment in service occupations in such month.

I believe that is a fair and modest proposal. What happens to it depends on whether women fight for it and get together to demand that the House Ways and Means Committee schedule hearings on the bill and bring the concept of equal rights into the Social Security System.

I have introduced another bill (H.R. 3218) which will extend social security equity to divorced women. The bill reduces from 20 to 5 years the length of time a divorced woman's marriage to an insured individual must have lasted in order for her to qualify for a wife's or widow's benefits.

I hope the Ways and Means Committee will consider these measures as quickly as possible.

## SUDDEN INFANT DEATH SYNDROME ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, I would like to add my support to H.R. 11386, the Sudden Infant Death Syndrome Act. A few years ago not very many people even knew about sudden infant death. My own concern and awareness of this serious health problem grew out of my participation as a member of the House Republican Task Force on Health. This committee, chaired by my distinguished colleague, Dr. TIM LEE CARTER, begain its initial investigations of sudden infant death syndrome about 2 years ago. I became aware not only of the gravity and impact of SIDS itself, but also aware of several crucial needs which were integrally involved in the sudden death issue. The first was a pressing need for information to be made available to the public concerning sudden infant death; the second was the vital need to provide supportive services to the parents and families of those stricken. Overall was the need for us to unite our resources and energies into a national commitment against this disease.

Such a national commitment, I believe, can be achieved by passage of legislation such as H.R. 11386. The main thrust of this bill is to encourage the Department of Health, Education, and Welfare to develop a more extensive program for counseling, information, and education services regarding sudden infant death syndrome.

Briefly stated, H.R. 11386 would authorize a program of grants and contracts for education and services to SIDS through four major activities and approaches:

First. The development of public information and professional educational materials relating to SIDS;

Second. The dissemination of such materials and information to health care personnel, public safety officials, and the general public;

Third. The collection, analysis, and furnishing of information relating to the causes of SIDS; and

Fourth. The provision of information and counseling to SIDS families. The bill authorizes $2 million to be appropriated for each of the next 3 fiscal years to carry out the provisions of the act. No single grant or contract is to be in excess of $50,000.

I am particularly pleased to note a high priority in H.R. 11386 of educating the public about sudden infant death syndrome. A meaningful information program must make current and relevant material available to all medical, emergency service, law enforcement, and medico-legal personnel involved with sudden infant death cases. Literature must be published and distributed for use in educating parents, future parents, nurses, social workers, medical examiners, and coroners as to the nature of SIDS and to the needs of the people tragically affected by it. In addition, statistical data must be compiled and analyzed in order to provide a more reliable and realistic picture on the number of sudden infant death cases each year.

Most of all, we must not forget the families of SIDS victims. Education and counseling services must be well established to help them understand the facts about the disease. This is the only way we can dispel their unnecessary feelings of guilt and anxiety. Although to date there is no way of preventing the infant deaths, social counseling can help alleviate and often prevent many of the emotional and psychological problems which affect the families of SIDS victims. Without immediate understanding, the feeling of guilt and deep grief can become permanent, overwhelming, and destructive to the family unit.

H.R. 11386 acknowledges and speaks to these needs. By providing Federal assitance for information and education programs concerning SIDS, and projects concerning the causes of SIDS, H.R. 11386 establishes the means we need to launch a successful campaign against sudden infant death. I urge my fellow Congressmen to stand behind this important legislation and to join together in an effective national commitment against sudden infant death syndrome.

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## SELECT COMMITTEE ON ENERGY CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

Mr. FINDLEY. Mr. Speaker, my constituents are more profoundly concerned about energy than any other issue, and I feel the House must act promptly to clear up the facts and determine what measures are needed. The best way to handle this complex responsibility is by means of a special select committee.

The alternative is a proliferation of hearings by an assortment of independent House committees. They inevitably will be uncoordinated, duplicative, confusing, and incomplete—and they will leave the Congress and the public uncertain of what to believe and what to do next.

Already in prospect are several separate House hearings and unless a prestigious special committee is appointed, the proliferation will continue.

The energy crisis touches the interests of every standing committee and yet none has the authority or resources to deal with its ramifications. If each committee goes ahead with its own separate inquiry, the Congress and the public will have great difficulty following developments. Persons with important testimony to offer will be pulled a dozen ways at once and required to waste time answering the same questions time after time.

What is needed is a special committee, consisting of a small, carefully selected group of Members who will devote the necessary time to complete thorough hearings within 90 days at the most, so the findings and recommendations can be considered by the standing committees of the House before summer.

Discussions with my constituents during the current recess have convinced me they are deeply disturbed by the oil crisis. Many Americans simply do not believe there is a real fuel shortage. They are suspicious of the major oil companies. They cannot comprehend why the situation got so bad so fast—why service stations now low on supplies, just a few short months ago were giving glassware and mugs to drum up business. They are also cynical about the role of the Government in energy management.

This crisis in confidence equals the energy crisis itself. Both can best be resolved through a well-organized, coordinated series of hearings by a select committee which will enable all interests to present their story in a respected public forum. Today I am introducing a resolution to establish such a forum.

Text of resolution follows:

*Resolved*, That there is hereby created a Select Committee on the Energy Crisis, to be composed of seven Members of the House of Representatives to be appointed by the Speaker, one of whom he shall designate from the majority party as chairman, and one of whom he shall designate from the minority party as vice chairman. No more than four Members shall be from the same party. Any vacancy occurring in the membership of the committee shall be filled in the same manner in which the original appointment was made.

The committee is authorized and directed to conduct a full and complete investigation and study of the character of the energy crisis, including the following specific areas:

(1) the extent of existing petroleum supplies and reserves within or without the United States and under the control of firms doing business within the United States;

(2) the extent of overlapping control among the management of international petroleum companies, the degree of oligopoly within the petroleum industry, and the existence of administered prices and artificially controlled production levels;

(3) the reason for decline in domestic production and refining of petroleum products within the United States;

(4) the effect of changes in the tax laws of the United States on available petroleum supplies;

(5) the effectiveness of the Federal Energy Agency, the Cost of Living Council, and other government agencies in monitoring the petroleum shortage and assuring adequate supplies at reasonable prices;

(6) the implications of the energy shortage for domestic and international economic and social stability;

(7) the short and long-term profits earned, taxes paid, and capital investments of the petroleum industry compared with other major industries; and

(8) such other facets of the energy crisis as the committee may decide to study.

For the purpose of carrying out this resolution the committee, or any subcommittee thereof authorized by the committee to hold hearings, is authorized to sit and act during the present Congress at such times and places within the United States, including any Commonwealth or possession thereof, whether the House is in session, has recessed, or has adjourned, to hold such hearings, and to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary; except that neither the committee nor any subcommittee thereof may sit while the House is meeting unless special leave to sit shall have been obtained from the House. Subpoenas may be issued under the signature of the chairman of the committee or any member of the committee designated by him, and may be served by any person designated by such chairman or member.

The committee shall report to the House by April 1974, or as soon thereafter as practicable during the present Congress the results of its investigation and study, together with such recommendations as it deems advisable. The committee shall issue such interim reports and recommendations as it deems desirable. Any such report which is made when the House is not in session shall be filed with the Clerk of the House.

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## THE FEDERAL PAPERWORK BURDEN RELIEF ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. CRONIN) is recognized for 5 minutes.

Mr. CRONIN. Mr. Speaker, more and more small businesses are being burdened by voluminous and redundant paperwork demands by the Federal Government. Unlike large corporations, small businesses have limited resources and make a proportionally greater expenditure of time and money on Federal paperwork. This adversely affects the ability of small businessmen to compete effectively in the marketplace.

While the worth of this reporting relationship cannot be questioned, the nature and extent can.

I am today cosponsoring "The Federal Paperwork Burden Relief Act," calling for the Comptroller General of the United States to conduct a study of the burden of reporting requirements of Federal regulatory programs on independent business establishments. This, I believe, is a first real step in providing relief to the small businessman.

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## THE YATRON "FEDERAL PAPERWORK BURDEN RELIEF ACT"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. YATRON) is recognized for 10 minutes.

Mr. YATRON. Mr. Speaker, the American small businessman has fallen victim to the burgeoning Federal bureaucracy. He is being smothered under an avalanche of paperwork, which is time-consuming and expensive. The businessman is searching for a way to cut through this bureaucratic red tape, which costs him and the Federal Government many billions of dollars annually. Having been a small businessman prior to being elected to the Congress in 1968, I know that participation in private enterprise can be rewarding. I know also, however, that it entails a great deal of hard work. The last thing a small businessman needs is an onerous paperwork load. What can be done to lessen the Federal paperwork burden imposed on millions of small businessmen?

Legislation which I have authored and am today introducing seeks to effectively lessen that burden. The Federal Paperwork Burden Relief Act is direct and simple. It directs the General Accounting Office to study the nature and extent of the Federal reporting requirements. The GAO is to make its findings known to the Congress, in the form of recommendations for those administrative actions and legislative enactments deemed appropriate and necessary. The legislative branch will then be armed with these recommendations and can begin to cut away the red tape.

I am pleased that so many of my House colleagues are joining me in this needed effort. My very distinguished colleague in the other body, Senator HENRY JACKSON, has shown his interest and support for the paperwork bill by introducing the measure in the Senate. The Senator is a ranking member of the Government Operations Committee, which will consider the bill. Thus, his support has greatly enhanced the prospects for passage and lends credence to the need for such an effort.

The response received in behalf of the legislation is overwhelming. Inasmuch as commentary on the bill has only very recently been sought, many additional endorsements are expected to be received during the coming weeks. Preliminary reactions are extremely encouraging. From the National Federation of Independent Business, which has indicated its intention to work actively with me in seeking passage, comes this comment:

> The approach of the Yatron bill is sound. It should dispel some of the misunderstanding which caused this issue and its enactment will provide for the Congress the accurate information it needs to legislate in this area.

The American Farm Bureau Federation says of the paperwork bill:

> Certainly farmers in recent years understand as well as anybody the additional paperwork that is required as a result of various programs in the federal government. We would certainly be enthusiastic about your bill and its attempt to obtain relief from some of this federal paperwork.

According to the American Pharmaceutical Association,

> It was generally agreed that your proposal is long overdue . . . The Board formally voted to indorse your bill.

And, from the American Medical Association comes the news that a formal endorsement will soon be received at any time, for surely physicians are also encumbered by the heavy Federal paperwork burden.

From Pennsylvania chambers of commerce and other national organizations have come similar remarks. I feel that the importance of the legislation is reflected in the fact that it will affect virtually every segment of the Nation's business sector, as well as many individuals who are self-employed such as attorneys and others.

I am convinced that enactment of the Federal Paperwork Burden Relief Act is a distinct possibility, judging from the response received, both in and out of Congress. I, therefore, look forward to passage in this 93d Congress, so that the small businessmen throughout the country may know that they can look forward to a lessening of their paperwork burden.

A very excellent statement on the problem has been made by Mr. Frederick L. Williford, Government Affairs Director of the National Federation of Independent Business. Mr. Williford's comments are noteworthy. I include them to be printed in the RECORD and I heartily commend them to the attention of my colleagues in the Congress.

In addition to sponsoring the paperwork bill, I am also introducing a resolution calling for the establishment of a "National Small Business Month." It seeks to promote a permanent national observance, with appropriate ceremonies and activities to highlight the opportunities that we enjoy under our free enterprise system of Government.

Mr. Speaker, I call not only my distinguished colleagues in this great body, but upon small and independent businessmen throughout the United States, to put their full support behind the Federal Paperwork Burden Relief Act. Our efforts in their behalf will enable them to more effectively and successfully take part and compete in the free and open marketplace. They represent the core and cornerstone of our system of private enterprise, which fosters and makes possible successful human enterprise.

The remarks of Frederick L. Williford follow:

STATEMENT OF FREDERICK L. WILLIFORD—DIRECTOR OF GOVERNMENT AFFAIRS, NATIONAL FEDERATION OF INDEPENDENT BUSINESS.

Before: Subcommittee on Government Regulation, Senate Select Small Business Committee.

Subject: Small business paperwork burden.

DECEMBER 13, 1973.

Mr. Chairman, distinguished members of the Committee, I am Frederick L. Williford, Director of Government Affairs, National Federation of Independent Business.

The National Federation of Independent Business is the largest single member business organization in the United States. Our membership, which numbers 367,000 small and independent businesses, covers the entire spectrum of the U.S. economy. The majority of our members are proporietorships and partnerships. Over 85% of our members employ fewer than 20 workers and over 55% have a gross annual sales income under $200,000.

The Federation appreciates this opportunity to present the composite viewpoint of small and independent business on the impact and the problem experienced with the Economic Census of Business conducted by the Bureau of the Census. The problems of small business resulting from this five-year economic census must be viewed in the context of the pyramiding paperwork burden being placed on small and independent businessmen. While the small business community recognizes the government's need for reliable data upon which to base policy and planning decisions, these Governmental reporting requirements of each government agency must be considered in light of the total reporting burden of all government agencies, both federal and state.

While we are discussing the Economic Census in particular this morning, it must be emphasized that the census reports are in addition to the IRS, FTC, Social Security, Occupational Safety and Health, state and local reporting requirements. In short, it must be recognized that the Economic Census reports are only part of an increasingly serious small business paperwork crisis.

### COST OF PAPERWORK

The focal point of the paperwork burden is, of course, cost. It should be noted however, that the cost to small business of complying with federal, state and local reporting requirements has several facets, a few of which I would like to discuss this morning.

The most obvious is the direct cost to small business of complying with the regulations. The distinguished Chairman of this Committee, Senator McIntyre, noted in 1972, that it cost the small business community $18 billion to handle the estimated ten billion sheets of paper required in federal reports. The costs are continuing to increase. In New Hampshire for example, it cost $325 in 1961 for a business to file IRS reports only. To file IRS reports in 1971, it cost $860 per firm. This is an increase in ten years of over 160%.

In light of the fact that the average small businessman, for various reasons, does not benefit in any substantial degree from the data developed by the Economic Census, there is virtually no benefit received for the time and effort spent in completing the forms. The direct cost of completing the forms and researching the data is a net loss to the small businessman in most cases.

### NONPRODUCTIVE WORK

Time is money to all businessmen, however, time is particularly critical to the small businessman because of his active involvement in the day-to-day operations of the business. Time required to research accounting and statistical records and to fill out government forms is non-productive work. Such time must be taken from income producing activities. In an NFIB survey, it was determined that in 24% of small businesses, the owner filled out the federal forms himself. In only 6% of the cases did an independent accountant do the work. In the remaining 70% of the cases, the owner and his staff were involved. Therefore, in 94% of the small businesses surveyed, the owner and his staff must take considerable time from productive endeavors to file federal reports, the data from which is utilized by small business only to a minor degree.

One of the reasons why so many man hours must be spent by small businessmen in collecting data neecssary to complete the Economic Census forms is that they do not have the advantage of computer-based accounting systems enjoyed by larger firms. The average small business accounting system is not sophisticated and is not so designed to develop the information required on the Economic Census forms. To develop accurate information or to make educated estimates requires an unreasonable amount of research time. The cost of this research time is a net loss to the average small businessman.

Because the small businessman cannot afford to enjoy the economies of scale developed by larger companies through their use of sophisticated computer-based accounting systems and expensive accounting machines, it costs the small businessman relatively more to develop the information required on the Census of Business forms. He has fewer sales dollars over which to spread the cost of developing this data. Therefore, as a result the small businessman is placed in a poorer competitive position in relation to his larger competitors.

### FILING DATE UNREALISTIC

The filing date of March 15th for the Economic Census reports is unrealistic and unreasonable. Many small businesses have not closed their books for the previous fiscal year and hence must try to complete these census reports from incomplete data. The due date of March 15th works an unreasonable hardship on many small businesses.

We recommend that the concept followed by the Internal Revenue Service be adopted by the Census Department. IRS requires that tax forms be submitted within 90 days following the close of a company's accounting year. Applying this same reporting concept to the Economic Census reports, we submit that the census reports be due 120 days after the close of the accounting year. Therefore, those companies on a calendar accounting year which close their books December 31st and would file their census forms on May 1st. However, those who did not close their books until June 30th would not be required to file their census reports until October 30th. In this way, the Census Bureau would receive more accurate data and the delay in receiving the information would not be critical when one considers that the data covers the preceding five years.

### DUPLICATION OF DATA

The data requested in Economic Census reports duplicates many of the other forms the businessman is required to file. This duplication of effort is an unwarranted and unnecessary cost-increasing requirement. Even though the data requested may be required in a slightly different form, such data is often available from other government agencies. The current practice of separate government agencies isolating themselves from the data already collected by other government agencies, must come to a halt. A government-wide integrated system of data collection must be developed. The Economic Census reports should be a part of this integrated data collection system.

Reports are now criticized as being too lengthy, too detailed, too complex, too confusing and requiring highly-qualified people to fill them out. Rocco J. Antonelli, past President of the National Association of Public Accountants, made the observation that some form or report is due every fifteen days. Therefore, for a small businessman to be in compliance with the law, he must be continually filling out government forms, many of which duplicate.

### RECOMMENDATIONS

In summary, Mr. Chairman, we would like to make the following recommendations for the improvement of the Economic Census of Business and other government data collection activities.

1) All government agencies, including the Bureau of Census, should be required to develop and operate an integrated, systematic approach to business data collection. A procedure and method should be developed for the exchange of information collected by all data-collecting agencies, thereby reducing duplication of effort on the part of government agencies and businessmen.

2) The data collection forms and instructions be simplified in light of the relatively unsophisticated accounting systems of small businessmen. The economic data requested should be easily obtainable from simple accounting systems without the time-consuming research now required.

3) An exemption for small business be made from the mandatory requirement of submitting Economic Census information. Such an exemption would recognize the limited staffs of small business firms and that the cost of compiling the Economic Census data is unfairly burdensome on these small businesses.

4) If a small business exemption is not granted, the Bureau of Census be instructed to develop and implement a sampling methodology and to conduct a sampling program of small business rather than a complete census.

5) Consideration should be given to establishing the due date for the Economic Census report at a date sufficiently far after the close of the accounting year of individual companies to permit greater ease of filing and to develop more accurate data.

6) New legislation should be introduced and passed which would require the integration of governmental collection. The Federal Reports Act of 1942 is not now doing the job that Congress intended.

7) The Office of Management and Budget should be required to develop a program which includes specific steps to be taken to reduce the paperwork burden for small business. Such a program should be part of OMB's in-going responsibility to administer the Federal Reports Act.

Mr. Chairman, we feel obliged to note that some of the recommendations above were made as long ago as 1968. Some were emphasized in this Committee's hearings in 1972. However, the Congress and the federal bureaucracy have taken little heed of the plight of the small businessman who is being inundated with federal, state and local mandatory reporting requirements. Government is obviously not being sufficiently responsive to the needs of the small business community in this area. President Nixon pledged to make government more responsive to the people. We submit that in keeping with this pledge, the Congress and federal bureaucracy must become more responsive to the needs of the small business community.

Mr. Chairman, members of the Committee, on behalf of the Federation and our 367,000 members, we thank you for this opportunity to present the views of small and independent business on this critical paperwork burden issue.

## PROPOSING AN AMENDMENT TO PUBLIC LAW 874

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas, (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, when the Postal Reorganization Act came into being in 1970, one of the provisions provided that Federal buildings using more than 55 percent or more of their space for postal operations would be turned over to the U.S. Postal Service. On the surface this transition sounds logical, but what we discovered later was that these buildings turned over to the Postal Service and now considered postal buildings could no longer be considered Federal buildings for impacted aid purposes according to Public Law 874, even though they housed other Federal agenices.

Congress remedied this situation, however, by adding an amendment to a manpower bill that would extend the life of these buildings as Federal buildings for impacted aid purposes for 2 years. These 2 years are not up, and I was recently contacted by one of the superintendents from my district who advised me that the Federal building, the one in which my office is housed in San Antonio, is no longer considered a Federal building for impacted aid purposes. His school district alone has 300 category B students whose parents work in that building who, as the law now stands, cannot be counted as category B for fiscal 1974. This means that the school district stands to lose approximately $60,000.

My office, in talking with the Office of Education, has learned that there are 130 buildings across the country that will no longer be considered Federal buildings because of the provision in the Postal Reorganization Act and the lapse of the extension amendment. I am sure that many of my colleagues will find that their school districts will be receiving less funds because of this expiration.

Today I am proposing an amendment to Public Law 874 that would allow those buildings where 55 percent or more of the space is used for postal business to still be considered as Federal buildings for impacted aid, and my amendment would make this permanent within the law.

School districts across the Nation are suffering because they do not know what to expect in the way of Federal funds, and I have been decrying our erratic and cruel way of financing the established and needed ongoing programs to provide education. Now we find that many school districts will be hit with yet another serious budgetary problem.

I do not feel that Congress means to treat the education of our young people in this manner, but as I said on the House floor during the recent debate on the Labor-HEW appropriations conference report, the great promise of Federal aid, visualized in the landmark legislation of the last 12 years, has turned into bitter wormwood and a gutted "House of Education." Hopefully, my bill will be passed, and will bring some continuity in at least one small area. I hope that my colleagues will support me in this effort.

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## ENERGY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. CLARK) is recognized for 5 minutes.

Mr. CLARK. Mr. Speaker, what this Nation needs is energy, not rhetoric. I can speak here on the House floor and it will not add any units of energy but if we do not start here on the House floor nothing will happen.

This Nation was originally built by people who faced cold, darkness, and snow but responded with action. They chopped trees and built both homes and fires. They did not keep warm by wringing their hands. There will be darkness at noon in this Nation only if we choose to wear blinders.

Up to now much of the concentration of attention has been on personal discomforts associated with the energy shortage—and that is natural enough in an area where discomfort will be great. But the economic ramifications of the energy shortage are just beginning to be felt and, in the long run, they will have far more impact.

The fact is that we cannot afford higher levels of unemployment, greater welfare costs, and lower standards of education which will surely result from the energy crisis if we fail now to act in a positive manner.

It was once said that everyone talks about the weather but no one does anything about it. It could equally be said that everyone is talking about the energy crisis but no one is doing anything about it. I have a specific proposal to do something about it—and Mr. Speaker, if we do it now and for the remainder of this session of Congress things will start to happen.

If we have to bend the twig of ecology in order to keep the tree of life growing, so be it. Unemployed people sitting in cold, dark rooms are hardly preferable to employed people wearing sweaters. To keep them on the job means providing them with energy—not rhetoric—nuclear, coal, residual oil, oil from the seas, refineries—wherever and whenever we can get energy with a minimum impact on our surroundings.

And that, Mr. Speaker, brings me to my specific proposal.

The present unstable balance of power between environmental enforcement agencies—including organized and ad hoc pressure groups—and business and industry could, and most probably will, lead to a national economic debacle unless steps are taken soon by Congress and State legislatures to bring this imbalance into proper focus.

A fundamental reason for the unstable balance is the difficulty that the majority of U.S. industries face today in defending themselves against the growing and increasingly accepted power of government agencies and organized pressure groups to delay and inhibit industry's growth, and in some cases, their very survival.

It would, therefore, seem only equitable that Federal and State environmental implementation agencies—and nongovernmental pressure groups—should be required to prepare an "economic and sociological impact statement." This statement should include the estimated time and cost to rectify the alleged environmental infringement and the cost in lost wages and/or community benefits should the industry be forced to shut down or the project abandoned.

Industry is only asking for a fair shake in requesting that both sides play by the same rules. The present-day emotionalism regarding the environment might moderate to a great extent when the accusor is forced to do an in-depth study of the total environment by effectively weighing the ecological impact against the economic and sociological impacts before raising his voice in objection.

To paraphrase John E. Kinney, world-renowned environmental consultant, in a talk before the Center for International Studies at Bled, Yugoslavia, this past June—

> When in the achievement of an environmental goal more money is required than a city or company has, it ignores the services the people of a city must do without or the jobs that will be lost with the closure of part or all of a company. It ignores the tax base change in the area when company operations are curtailed. In short, it ignores the environment.

The State of Illinois has already taken affirmative steps in this direction wherein the Illinois Environmental Protection Act amended July 1, 1972, regarding air, water, and noise pollution clearly states under title VIII—Enforcement, that—

In making its orders and determinations, the board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

First, the character and degree of injury to, or interference with the protection of the health, general welfare, and physical property of the people;

Second, the social and economic value of the pollution source;

Third, the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved; and

Fourth, the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges, or deposits resulting from such pollution source.

And so, Mr. Speaker, I propose that the House Appropriations Committee and the House itself insist from here on that any legislation relating to the environment have attached to it not only an environmental impact statement but an economic impact statement as well.

In conclusion, Mr. Speaker, if, indeed, we do have a genuine energy crisis and shortage a good deal of it is caused by those who are more concerned with keeping birds and fish alive than by those who are concerned with keeping people working and fed. There is a case, perhaps, to be made by both, but the time has long since passed to bring them into a reasonable balance.

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## HEARINGS ON OIL AND GAS DEVELOPMENT ON OUTER CONTINENTAL SHELF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EILBERG) is recognized for 5 minutes.

Mr. EILBERG. Mr. Speaker, I wish to announce that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary has scheduled several days of public hearings to review the administration of the Outer Continental Shelf Lands Act of 1953 by the Department of the Interior.

In addition, these hearings will be concerned with announced plans to rapidly accelerate oil and gas leasing on the Outer Continental Shelf in the near future.

The first series of hearings will be held on January 24, 30, and 31. The hearing on Thursday, January 24, will be in room 2141, Rayburn House Office Building, and will commence at 10:30 a.m. Testimony will be received from Hon. Rogers C. B. Morton, Secretary of the Interior. The following week testimony will be received from representatives of the oil industry, consumer and environmentalist groups, and other interested parties.

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## U.S. CANAL ZONE: ITS TERRITORIAL INTEGRITY MUST BE PRESERVED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 15 minutes.

Mr. FLOOD. Mr. Speaker, on various occasions when addressing this House of Congress, I have stressed the fact that in the current struggle for world power the Caribbean is our fourth front. In the Soviet drive for conquest of this strategic area, the Panama Canal has long been its prime objective. The Communist takeover of Cuba, where our naval base at Guantanamo is located, was in furtherance of Soviet aims, for that important island controls the Atlantic approaches to the canal. The gravity of the present global situation was dramatically emphasized by the overthrow on September 11, 1973, by the armed forces of Chile of that country's Marxist regime. This overthrow was the subject of an important colloquy in the House in the CONGRESSIONAL RECORD of September 26, which is commended for reading by all seeking knowledge on the canal situation.

Unfortunately, the mass news media of the United States has failed to report objectively and comprehensively on more recent developments to the south of us. Such failure was illustrated in the December 29, 1973, issue of the Washington

Post, the only morning paper in the Nation's Capital, when it carried a mere seven-line item of 28 words announcing that the President will soon propose legislation to the Congress to authorize the transfer to Panama of two military bases in the U.S. Canal Zone and the sale of Panamanian lottery tickets in the zone territory.

Though this minute account was probably the most significant news story in that issue of the Washington Post, it was tucked away as an addenda in the "Around the World" column on page B8. Notwithstanding its obscure position, I was fortunate enough to spot it and able to obtain additional information from two Panama newspapers, which is revealing.

Briefly stated the facts as gleaned from the latter are as follows:

That Ambassador Ellsworth Bunker, Chief U.S. Negotiator, left Panama on December 2 after a 6-day visit in connection with current treaty negotiations he now directs;

That while on the Isthmus he discussed "fundamental aspects" of the negotiations and "collective matters" with Panamanian Foreign Minister Juan Tack and, after return to Washington, was temporarily diverted from the Panama task to head the U.S. delegation for the current Arab-Israeli negotiations in Geneva.

That on December 28, 1973, Deputy Press Secretary Gerald P. Warren of the White House announced at a briefing for newsmen that the President will propose legislation recommended by Bunker to authorize the transfer of "old" France Field, at the Atlantic end of the Canal Zone to Panama and that nearby "new" France Field will eventually be turned over subject to the right to use the latter in an emergency;

That the legislation to be requested will include provisions authorizing Panama to operate its national lottery in the Canal Zone, a practice that under U.S. laws has been banned there for over 50 years; and

That according to Foreign Minister Tack, all indications are that these moves are "strictly unilateral measures" to be taken by the United States to point the way to a "new attitude" toward Panama.

Why, Mr. Speaker, if there are to be any further negotiations at all, surrender major points in advance? Could there be anything more stupid, or does this indicate a determination on the part of the executive to adhere to its purblind course regardless of the costs or consequences? Who in our Government is behind such supine weakness in protecting our just and indispensable treaty rights?

For the purpose of emphasis I wish to repeat that in the above proposals there are two major points: First, disposal of U.S. territory and property; and second, authorizing a lottery to be conducted by Panama in the U.S. Canal Zone, counter to U.S. law, all in the name of modernizing the treaty relationships between Panama and the United States.

While it may be true that the two airfields are not now in active use, with the world on the verge of global warfare in which the Panama Canal is a focal objective of Red power, we cannot tell when they will be needed, or for what purpose, and needed in a hurry. Such preposterous piecemeal giveaways must be prevented, for unless they are, the surrenders will stimulate renewed demands and we shall lose the entire zone and canal.

Although these territorial transfers are proposed to enable Panama to extend its present free zone now in Colon, this does not offer the best solution for the problem of enlarging that Panamanian enterprise. As stated in my address in the Congress on December 12, the way to help Panama in regard to such enlargement is to assist it in the planning and relocation of the Free Zone to Panamanian territory east of the Canal Zone, where there is ample space for future expansion, and connecting the relocated free zone with the existing Cristobal docks by means of a road or railroad.

As to the second point, the giving to Panama the right to conduct its lottery in the U.S. Canal Zone may seem innocuous but it is not. Such action would be tantamount to granting Panama authority to exercise one attribute of sovereignty in U.S. territory and this should not be permitted for it would inevitably lead to other demands for additional attributes.

Mr. Speaker, because of my long association with the canal situation, I believe that I know the feeling of the people of the United States. When the House of Representatives expressed itself some years ago in regard to the question of the formal display of the Panama flag in the U.S. Canal Zone, it opposed such display by a vote of 382 to 12 (CONGRESSIONAL RECORD, February 2, 1960. After the March 15, 1973, national telecast on the "Advocate" program as to whether the United States should surrender the Canal Zone to Panama in which my distinguished colleague from Illinois (Mr. CRANE) and I were participants on the negative side, the vote of more than 12,000 citizens from all parts of the Nation who wrote in was 86 percent against the surrender. Moreover, my correspondence overwhelmingly supports continued undiluted U.S. control. In view of all the facts, if the present administration wishes another confrontation with the Congress I know of no better way for bringing it about than by attempting to surrender the U.S.-owned Canal Zone.

In order that the Congress and the Nation may know what is transpiring as to the proposed dismemberment of the Canal's protective frame known as the Canal Zone with resultant breaching of the integrity of the Panama Canal and how the mass news media cannot be depended upon to report objectively in regard to this vital matter, I quote three newsstories starting with the 28 word item in the Washington Post and the resolution of the 1973 National Convention of the American Legion on the canal question:

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[From the Washington Post, Dec. 29, 1973]

### Addenda

President Nixon will ask Congress to authorize the transfer of two military bases to the Republic of Panama and the sale of lottery tickets in the Canal Zone.

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[From the Panama American, Dec. 31, 1973]

### United States Moves Toward Modernization of Ties With Republic of Panama

Foreign Minister Juan Antonio Tack interprets initiative by the United States to introduce legislation for return of France Field to Panamanian jurisdiction and to authorize sales of Panama National Lottery tickets as measures "strictly unilateral measures which the U.S. government has decided to start taking to point the way to a new attitude toward Panama."

Tack made reference to an announcement from the San Clemente, Calif., White House that Nixon will propose legislation to provide that Panama immediately assume title and jurisdiction to Old France Field, and adjacent New France Field, former military air bases in the Colon province, on the Atlantic Side of the Isthmus; with a proviso that American military planes be authorized to use the bases in case of emergency.

Tack's statement was as follows:

"According to the statement made public by President Nixon, he intends to propose to the United States Congress certain legislation for the purpose of starting to modernize relations between Panama and the United States over the portion of Panamanian territory known as the Canal Zone, as a complement to the negotiations between the two countries on a new interoceanic canal treaty, which is undoubtedly the fundamental thing for Panama in our standing struggle for the abrogation of the 1903 Treaty,

"As stated in that declaration, the legislative proposals were recommended to President Nixon by Ambassador Ellsworth Bunker, who told me he would do so during the meetings he held with me in Panama in the latter part of November.

"All indications are that these are strictly unilateral measures which the Government of the United States of America has decided to start taking to point the way to a new attitude towards Panama in the subsequent development of the interoceanic canal treaty negotiations, which should continue on the basis of the deepest respect to the dignity of the Republic of Panama."

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[From the Panama Star and Herald, Dec. 29, 1973]

### France Field Area Reverting to RP—Nixon Acting on Proposal by E. Bunker

President Richard Nixon will propose legislation to Congress turning over to Panama the Old France Field and New France Field areas on the Atlantic side of the Canal Zone and permitting the sale of Panama National Lottery tickets in the Zone.

The disclosure was made by White House Deputy Press Secretary Gerald P. Warren at a briefing for newsmen Friday, according to the U.S. Information Service (USIS).

Warren said the legislation, which will be proposed when the Congress reconvenes, was recommended by U.S. Ambassador Ellsworth Bunker, the chief U.S. negotiator in the Panama Canal treaty talks with Panama. Bunker was here in early December and had high-level discussions with Brig. Gen. Omar Torrijos, the Chief of Government, and Foreign Minister Juan A. Tack.

The France Field area has long been sought by Panama as part of its program for expanding the Colon Free Zone, whose thriving business has been threatened by lack of space. The France Field area lies opposite the Free Zone.

The USIS report on Warren's briefing said the proposed legislation also "would permit Panama to operate a national lottery within the Canal Zone." Panama sources said this referred to the sale of National Lottery tickets in the Zone. Under U.S. laws enforced in the Canal Zone, lottery sales have been banned there since the National Lottery began operations more than fifty years ago.

Bunker left Panama Dec. 2 after a six-day visit during which he and Foreign Minister Tack discussed what they termed "fundamental aspects" of the treaty negotiations as well as "collateral matters."

In Washington Bunker said he will return to Panama to continue negotiations for a new Panama Canal treaty within the next ten days. He said he expects to go to Panama on either January 6 or 7. He was asked about his plans Thursday night at a State Department reception in honor of Secretary Henry A. Kissinger.

Bunker had planned to return to Panama this month. But shortly after his arrival in Washington, he was selected as chief U.S. delegate to the Middle East peace conference in Geneva. At that time, U.S. officials stressed that this new assignment would not remove him from the negotiations with Panama.

The USIS report on the news briefing by White House Deputy Press Secretary Warren is as follows:

"President Nixon will propose legislation to Congress when it reconvenes 'to begin modernizing the relationship between the U.S. and Panama with respect to the Canal Zone.'

"Warren said the legislation was recommended by Ambassador Ellsworth Bunker and is being proposed after consultation with the Secretaries of State and Defense and members of Congress. He added that the legislation is 'not a direct part' of the treaty negotiations between the two countries on the Canal Zone.

"The spokesman said the legislation would permit transfer of title and jurisdiction of a World War Two airfield—'Old France Field'—to Panama. The facility is no longer needed for the area's defense, he said. A second airfield 'New France Field' would eventually be turned over to Panama also, he said, but the U.S. would retain the right to use it as a military base if required in an emergency. The two fields are near the Atlantic Side of the Canal.

"Warren said the legislation also would permit Panama to operate a national lottery within the Canal Zone. He said the President's proposals would benefit the economic development of the region and would 'serve the practical interests' of both the U.S. and Panama. The proposals are part of the U.S. effort to modernize its activities within the Canal Zone, he said."

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### Fifty-Fifth Annual National Convention of the American Legion, Honolulu, Hawaii, August 21–23, 1973—Resolution No. 25

Committee: Foreign Relations.
Subject: The Panama Canal.

Whereas, Under the 1903 Treaty with Panama, the United States obtained the grant in perpetuity of the use, occupation and control of the Canal Zone territory with all sovereign rights, power and authority to the entire exclusion of the exercise by Panama of any such sovereign rights, power, or authority as well as the ownership of all privately held land and property in the Zone by purchase from individual owners; and

Whereas, The United States has an overriding national security interest in maintaining undiluted control over the Canal Zone and Panama Canal and solemn obligations under its treaties with Great Britain and Colombia for the efficient operation of the Canal; and

Whereas, The United States Government is currently engaged in negotiations with the Government of Panama to grant greater rights to Panama both in the Canal Zone and with respect to the Canal itself without authorization of the Congress, which will diminish, if not absolutely abrogate, the present U.S. treaty-based sovereignty and ownership of the Zone; and

Whereas, These negotiations are being utilized by the U.S. Government in an effort to get Panama to grant an option for the construction of a "sea-level" canal eventually to replace the present canal, and by the Panamanian government in an attempt to gain sovereign control and jurisdiction over the Canal Zone and effective control over the operation of the Canal itself; and

Whereas, Similar concessional negotiations by the U.S. in 1967 resulted in three draft treaties that were frustrated by the will of the Congress of the United States because they would have gravely weakened U.S. control over the Canal and the Canal Zone; and

Whereas, The American people have consistently opposed further concessions to any Panamanian government that would further weaken U.S. control over either the Canal Zone or Canal; and

Whereas, Many scientists have demonstrated the probability that the removal of natural ecological barriers between the Pacific and Atlantic oceans entailed in the opening of a sea-level canal could lead to ecological hazards which the advocates of the sea level canal have ignored in their plans; and

Whereas, The American Legion believes that treaties are solemn obligations binding on the parties and has consistently opposed the abrogation, modification, or weakening of the Treaty of 1903; now, therefore, be it

Resolved, By The American Legion in National Convention assembled in Honolulu, Hawaii, August 21, 22, 23, 1973, that the Legion reiterates its uncompromising opposition to any new treaties or executive agreements with Panama that would in any way reduce our indispensable sovereign control over the U. S. owned Canal Zone or Canal; and be it further

Resolved, That The American Legion oppose the construction of a new sea-level canal, as advocated by the Atlantic-Pacific Study Commission as needlessly expensive, diplomatically hazardous, ecologically dangerous, and subject to the control of foreign governments; and be it finally

Resolved, That The American Legion reiterates its strong support for resuming the modernization of the present Panama Canal as provided in the current Third Locks-Terminal Lake plan legislation introduced and supported by so many members of Congress.

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## TIME FOR THE FACTS—LET'S END THE ENERGY CRISIS INFORMATION EMBARGO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. Randall), is recognized for 5 minutes.

Mr. RANDALL. Mr. Speaker, at present the most disturbing aspects of the problem we call the energy crisis is the growing public skepticism as to whether there is in fact a real shortage of fuel. Unless there is some way for people to be given the facts and to know the truth, this skepticism could completely undermine the administration's efforts to deal with our energy difficulties.

Like most members I have just returned from 3½ weeks spent in our congressional district. In spite of snow and ice on the roads accompanied by near zero temperatures I managed to visit 13 of the 16 counties of our congressional district.

Everywhere I went I met with the same disbelief that there is a real shortage of gasoline, diesel, propane, or other essential fuels. In my opinion sounding survey, I was careful to attempt to gage the depth of this feeling of doubt or disbelief about the reality of these shortages Again and again, repeated over and over, was the belief that there was something phony rather than real about the so-called energy crisis.

My own belief is that our country today is suffering from a complete lack of firm and accurate statistics concerning the oil industry. We all agree that we are suffering from the Arab oil embargo. To paraphrase that situation, I have recently become convinced that we are also suffering from an energy information embargo. Statistics on oil and gas reserves, production, supplies, and the storage in stockpiles are as, one of my constituents put it, as slippery as a greased pig at a country fair. When you think you have your hands on some believable figures, you suddenly find they are inaccurate. What is at the beginning represented to be firm, hard figures are later said to be only estimates. Then those estimates vary from day to day and from spokesman to spokesman of the different oil companies.

As I see it the first order of business as we attempt to grapple with a solution to the energy crisis is to provide a better system for collecting energy data. This data collecting authority should be provided the new Federal Energy Office.

Mr. Speaker, today I have introduced a measure entitled "The Energy Information Act of 1974." It provides that the Administrator of the Federal Energy Office will not only be clothed with authority but is directed to collect energy information from all persons engaged in any phase of energy production or distribution. Under my bill, the Administrator can require data and projections of energy production and consumption as to source, time, and methodology of development. He is empowered to require or enforce responses to his request for energy information. The Administrator can verify the accuracy of the information under authority given him to conduct physical inspections at energy facilities, places of production, and including business premises of energy producers or distributors. Under my bill the Administrator can conduct an inventory of the stocks of fuel in storage and may make samples of such stocks. He can inspect and copy records of any persons or firms engaged in any phase of energy supply.

Of course any system for collecting data, to be effective, must have some teeth. Accordingly, I have provided in my bill for the Administrator to have authority to issue subpenas for the attendance and testimony of witnesses and the production of papers and other documents, and to administer oaths.

If there is a neglect or refusal to obey a subpena served upon any person, the Administrator may request the Attorney General to seek the aid of the U.S. district court to compel such person to appear to give testimony and produce documents before the Administrator.

It is deplorable that the only statistics now available are furnished the Federal agencies from the 31 oil-or-gas-producing States, and in addition some figures from the oil companies, if and when it is convenient for them. There is a complete lack of standardized procedure, for data collection and compilation.

The best way to describe the present deplorable situation is to say that the Federal Energy Office and its administrator, Mr. Simon, are trying to formulate a national energy policy in the dark. Put differently, Mr. Simon is groping about all the while hoping and praying that some of the information he has is accurate or correct, but knowing full well that most of the figures he has in his hands are not reliable. In the national interest, the Federal Energy Office cannot continue to operate in the dark.

For that reason, it is my hope that the appropriate committee to which my bill is referred will hold expeditious hearings on this measure and any other bills which have been introduced with the same objective.

Public confidence is essential if any program to meet the energy crisis is going to work. After my survey of 13 of our 16 counties that I am privileged to represent in west central Missouri I have concluded that instead of confidence in the efforts of the Federal Energy Office there is widespread skepticism that there is a real energy crunch. If something is not done quickly, the present energy information embargo could turn out to be more damaging to our country than the Arab oil embargo.

## WGN ROSE PARADE FLOAT WINS TROPHY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Annunzio) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I rise to announce to my colleagues that WGN Continental Broadcasting Co., located in the 11th Congressional District of Illinois which I am proud to represent, has won the President's Trophy for its float entry in the 85th annual Tournament of Roses parade held New Year's Day in Pasadena, Calif.

This is a special honor for WGN, and all of Chicago, because it is only WGN's second year of participation in this national pageant. Last year WGN's float won third place in the "Business Firms" category.

I congratulate the outstanding and dedicated president of WGN, Ward L. Quaal, for this latest in a brilliant series of achievements, as well as all WGN employees throughout the Nation. The residents of Chicago and Illinois are proud of their success and their contributions to our community and our Nation.

Mr. Speaker, I include at this point in the Congressional Record a press release issued by WGN Continental Broadcasting Co. describing WGN's prize-winning float. The release follows:

### WGN Continental Broadcasting Co. Wins the Coveted President's Trophy in the 85th Annual Tournament of Roses Parade New Year's Day

The WGN Continental Broadcasting Company won the coveted President's Trophy in the 85th Annual Tournament of Roses Parade held New Year's Day in Pasadena, California.

The President's Trophy goes to the entry which made the most effective use of roses in float decoration.

A record number of more than 30,000 yellow roses were used to carry out the "Happiness is . . . a Golden Anniversary" theme of WGN Continental's float entry. The theme was chosen by WGN President Ward L. Quaal as a kick-off for the year-long 50th anniversary of the company.

"We are simply elated over winning the President's Trophy because this was only the second year we have entered a float in the parade," Quaal said.

Sixty floats competed for 14 major trophies in this year's parade using fresh flowers to carry out the theme "Happiness is . . .," based on the phrase made famous by the "Peanuts" syndicated comic strip. Its creator, Charles M. Schulz, was the Grand Marshal.

The WGN Continental Broadcasting Company's entry in this year's parade was the only Chicago entry and also the first and only entry from the more than 6,700 radio and television stations in the nation.

Last year, WGN entered the parade for the first time and won third place in the "Business Firms" category.

Lawrence Welk, the Maestro of Champagne Music, and Miss Amanda Jones, Evanston, Miss U.S.A. of the Miss Universe Beauty Contest, rode on the float which depicted a classic pergola setting with five animated couples in formal dress, waltzing on a terrace to taped music of Welk's orchestra.

More than 40,000 Vanda orchids from Hawaii formed the lacy colonnade and eight varieties of yellow roses—another parade record—were used for the elegant chandelier over the bandstand, as well as cluster groupings around the outdoor garden. A five-tiered, live fountain graced the front section and a huge, twisted tree formed the rear.

The size of the WGN float was the maximum allowed—16 feet high, 18 feet wide, and 50 feet long—with the front and rear sections cantilevered above the ground.

The intricate animation of the float was one of its highlights. The waltzing couples revolved and rotated around the terrace in an irregular pattern as the animated musicians "played" their instruments to the taped music of the Welk orchestra. The fountain emited thousands of tiny bubbles . . . a Welk trademark.

In addition to the yellow roses and Vanda orchards, more than 50 other varieties of flowers were used in a harmony of pastel colors. Among these are 10,000 pink roses, 6,000 white roses, and 1,000 Cattleya orchids. A grand total of flowers used approached 100,000.

The float was designed by Robert Stebbins, manager of Arts & Facilities for WGN Continental Group Stations, and was built by the firm of C. E. Bent and Son, Inc., of Sierra Madre, California, one of the foremost float builders in the country.

## BIASED BUCKEYE BOASTS BOWL BLITZ

(Mr. REGULA asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. REGULA. Mr. Speaker, today I rise to congratulate the Ohio State University Buckeye football team on their 1974 Rose Bowl victory.

When the Big 10 athletic directors selected Ohio State to represent the conference at the New Year's Day contest in Pasadena, my able, but misguided, sportsfan colleague from Michigan, the Honorable Marvin L. Esch placed in the Record his vehement exception to the choice of the Ohio State Buckeyes over the University of Michigan Wolverines. As a staunch Buckeye booster, I decided to hold my comment until the Ohio State selection was vindicated by an inevitable Rose Bowl victory. The score, Ohio State University—42, University of Southern California—21, is a conclusive answer to the critics.

I hope my gold and very "blue" Michigan colleague will join me in cheering hurrah for the victorious Ohio scarlet and gray.

## THE HONORABLE DANIEL F. RING

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, during the recess Daniel F. Ring, one of the leading Democratic political leaders in St. Claire County, Ill., died.

One of the finest gentlemen to ever grace the political arena, Dan Ring held the title honorable because of his personal conduct in and out of office. In a day when public cynicism about politics and public officials is increasing, Dan Ring has been the epitome of what is good and what can be accomplished in politics. I considered it a privilege to run on the same ticket with Dan Ring.

As a county office holder and as a Democratic Party leader, Dan Ring demonstrated and exercised the skill and wisdom that earned him the reputation as being among the best political practitioners in the State of Illinois. Dan Ring practiced what he preached. You always knew where you stood with him. A man of his word, a man of principles, and a man of conviction. Dan Ring will be sorely missed by his many friends and acquaintances.

At this point in the Record, I include the article from the January 7 edition of the Belleville-News Democrat on Dan Ring:

### Dan Ring, County Clerk, Dies, 58

County Clerk Daniel Francis Ring, a St. Clair County Democratic leader with nearly

24 consecutive years of service in county elective offices, died at 2:25 p.m. Sunday at St. Elizabeth Hospital, Belleville. Death was due to chronic leukemia and complications.

Ring, 58, who resided at 503 S. Jackson St., had announced in November that he was not seeking election to any office this year.

He said at the time he was retiring from politics for a personal reason and not because of a factional struggle among the county Democrats. Mr. Ring was a member of the "regular" Democrats and a loyalist of former East St. Louis Mayor Alvin G. Fields.

In his first public office Mr. Ring served two 4-year terms as clerk of the probate court from 1950 through 1958.

He was sheriff from 1958 to 1962 and then served as county treasurer from 1962 to 1966. In those years a sheriff or treasurer could not succeed himself in office.

Mr. Ring was elected in 1966 as county clerk for four years and reelected in 1970 for another term.

Chief Deputy County Clerk Alvin P. Schneider will be in charge of the office until the County Board meets, probably later in the week following the funeral, to name a successor to serve out Mr. Ring's term that expires Dec. 2.

As a former East St. Louis and Belleville precinct committeeman, Mr. Ring held the distinction of being the only person to head all three major Democratic committees in St. Clair County.

He was elected chairman of the Democratic County Central Committee in 1970 after previously serving as the East St. Louis city chairman and then as the Belleville city chairman. He retired as a Belleville precinct committeeman in 1972 which automatically retired him as county chairman. He was already in failing health at that time.

Mr. Ring, a native of East St. Louis, was a Marine Corps veteran of World War II and a former divisional chief for the East St. Louis office of the Veterans Administration.

Surviving are his widow, the former Ruth Riemann; a daughter, Mrs. Dan Clawson, Stoney Brook, N.Y.; a brother, William Ring, Belleville, chief deputy in the Recorder of Deeds office; a sister, Mrs. Frank Birkman, Alameda, Calif.; and his mother, Mrs. Margaret Ring Seiling, nee Hallihan, Belleville, who is a patient at St. Elizabeth Hospital.

The funeral will be held at 9:30 a.m. Wednesday from the Brichler Funeral Home to Blessed Sacrament Church for services at 10 a.m. Burial will be in Mount Carmel Cemetery. Friends may call at the funeral home after 3 p.m. Tuesday. Memorials may be made to the Leukemia Fund.

## FERN RAUCH—MR. LABOR

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, during the adjournment period the Metro-East Journal on December 30, carried a feature article on my good friend Fern Rauch of Belleville, Ill., who might easily be called Mr. Labor in the State of Illinois.

As the article indicates, Fern Rauch has served in every conceivable role in the labor community, from union member to director of the Illinois Department of Labor. In whatever capacity he has served Fern Rauch has had the respect and gratitude of everyone who has known or worked with him.

At this point in the Record I include the article on this remarkable man:

### Fern Rauch—Mr. Labor

(By Bob Mathes)

"Labor organizational drives have slowed in recent years. But the organizational trend is still alive and will continue, although more slowly than in the last two decades," says Fern R. Rauch of Belleville.

"Management continues to have its various associations, so labor will continue to have its unions. But I believe the future will bring improved relationships between them," Rauch adds.

Most persons who were involved in negotiations of a major labor contract in Metro-East the past two decades will remember Rauch well. It took three telegrams from the governor to get Rauch to accept the appointment to the Illinois Department of Labor in 1949. Once he accepted, reluctantly, he remained until his retirement at 74 in 1969.

During his tenure as assistant director, director, and technical adviser, arbitrator and mediator, he was personally involved in some 700 cases, including some of the thorniest ones in Metro-East and Southern and central Illinois.

Rauch has recuperated from gall bladder surgery five months ago, and he remains alert and active at age 79. He recently moved from East St. Louis, where he had lived 55 years, to 300 Gettysburg Dr., Belleville.

"I still do a little fishing. I still am active in the Rotary Club and Masonic organizations. But I have slowed down somewhat from the days when I served on 16 committees at the same time," Rauch said.

Fern Robert Rauch was born on a farm near Carbondale. The family moved to East St. Louis soon after his graduation from high school at Carbondale.

"My mother always had said she was going to name her first child Fern regardless of whether it was a boy or girl," Rauch said.

Rauch worked several years at Swift & Co. at National Stock Yards and at the old American Steel Foundry at East St. Louis before entering the Ranken Trade School in St. Louis to study electricity. After graduation, he joined Electrical Workers Union Local 309. He has a 50-year gold membership card from the local now.

Rauch obtained a broad background in labor-management relations as an officer in the East St. Louis Central Trades & Labor from 1925 until 1949 and as a vice president of the Illinois State Federation of Labor. He resigned from both upon appointment as assistant director of the Illinois Department of Labor in 1949.

He remained with the labor department under several governors, Democratic and Republican, although changes in administrations usually bring changes in the high state posts.

Staying out of politics required a special effort by Rauch in 1949. Without his knowledge, some friends had circulated petitions for him for the East St. Louis City Commissioner election, and filed them.

"I took myself out of the race by withdrawing before the deadline. I had no desire whatever for a political career," said Rauch, who describes himself as an independent who probably has voted for more Democratic candidates than Republican.

Rauch's appointment to the labor department was by Gov. Adlai Stevenson II, who sent three telegrams before Rauch finally went to the governor's office to discuss the appointment. Rauch finally went when the third telegram arrived only because friends bought him a ticket and put him on the train.

Stevenson told Rauch he needed a stabilizer for the department "and you are the stabilizer."

"I told the governor I was not interested, but he just laughed and said he would see me at the swearing-in ceremony. And he did," Rauch recalled.

Rauch remained assistant director until his promotion to director in 1952. He resigned in 1953 to clear the way for Republican Gov. William G. Stratton to name Roy F. Cummins director. He had just returned home when he received a telephone call asking him to return as technical adviser, mediator and arbitartor. He did, and in 1963 was named assistant director by Gov. Otto Kerner, holding the post until retirement.

The most memorable labor case handled by Rauch in recent years was the 86-day strike against Illinois Consolidated Telephone Co. throughout central Illinois.

A strike by 300 Electrical Workers union members late in 1966 had virtually shut down telehpone service in 100 communities. Operations of hospitals, fire departments and police departments were hampered, and some businesses were almost forced to fold.

Rauch took over the leadership of the talks early in February 1967, and a settlement was reached in a week. Rauch received plaudits from newspapers and officials of some of the communities affected by the strike.

Rauch and his wife, the former Elizabeth Becht of East St. Louis, observed their 57th wedding anniversary in June. They have a son Robert, of Springfield, and a daughter, Mrs. Kenneth (Fern Elizabeth) Littlefield of Loisel Hills.

"There have been changes in the labor-management relations field over the years. I believe the most important has been the trend toward the election of more reasonable and responsible persons to high offices by labor," Rauch said.

"Reasonable people can sit down and talk things over and understand each others' problems. When people can do that, they are well on the way toward resolving their problems."

## JOSEPH W. ADAM, VETERAN REPORTER, RETIRES

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, newspaper reporting is a demanding vocation, and one who successfully devotes a lifetime to it demonstrates not only intellectual strength but physical durability as well. Joseph W. Adam, who recently retired from full-time work on the Belleville, Ill., News-Democrat, has served the community for nearly a half century as reporter and city news editor of the paper. On this occasion I would like to take note of Joe's long record of quality reporting on the wide-ranging events of the past several decades. I insert an article on Joe's retirement, reprinted from the News-Democrat, in the Record at this point:

### News-Democrat Employe Retires

Joseph W. Adam is retiring after more than 47 years at the News-Democrat. But the veteran newsman, who for years has been a familiar figure to city and county office workers, will continue to be associated with this newspaper on a part-time basis.

Adam, who reached age 65 last summer, joined the News-Democrat newsroom staff on February 9, 1926 and on October 1, 1928 was named city news editor. In the intervening years he "covered" virtually every possible type of news story, including murder trials, executions and presidential appearances.

In his part-time capacity, Adam will maintain the early-morning "beat" of law enforcement agencies. Within the next few weeks he will acquaint other newsstaff members with routine assignments at county and city offices.

A life-long resident of Belleville, Adam is a former member of the Belleville Township High School board of education. He currently is a director of the Citizens Savings and is a member of the Belleville Elks Lodge and Knights of Columbus.

Adam resides at 9 Coral Drive, Belleville, with his wife, the former Aurelia Laeuffert and their daughter, Marilou who is a medical technician-supervisor at St. Elizabeth Hospital. He has a sister, Marie Adam of Belleville who is secretary to Bauer Bros. Construction.

## THE LATE HONORABLE CHARLES M. TEAGUE

(Mr. HOSMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOSMER. Mr. Speaker, it is my sad duty to announce the passing of Charles M. Teague, late a Representative in Congress from California's 13th District and our beloved companion in these Chambers for the last 19 years.

Charles Teague was a man, indeed, loved by all of us, but more than that, admired for his capabilities, respected for his honesty, and reputed for his intelligence and his ability to legislate in a manner that has well served his Nation, that has well served his district and brought honor to all of us.

At a later date to be specified, I have asked our colleague from California (Mr. Gubser), who was perhaps as close to anyone in this House to Charles, or Charlie, or Chuck, as variously we knew him, to seek a special order, at which time all Members will have the opportunity to eulogize our late comrade and colleague.

Meanwhile, Mr. Speaker, I think it would be appropriate to ask unanimous consent to insert in the Record at this point an item from the Washington Post of January 2, 1974, which published the news of our colleague's death on the date preceding, January 1, and which recounts for the moment a few of the highlights of his activities and the tributes which were paid him by the President of the United States and others.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The article from the Washington Post follows:

[From the Washington Post, Jan. 2, 1974]

### Representative Charles M. Teague Dies

(By Jean R. Hailey)

Rep. Charles M. Teague (R–Calf.), a member of Congress since 1954, died yesterday in Santa Paula at 64.

Aides said he suffered a heart attack while staying at the home of his son, Alan, who is mayor of Santa Paula.

The congressman, who was the ranking Republican on the House Agricultural Committee and the senior Republican member of the Veterans Affairs Committee, had gone home for the holidays.

Santa Paula, where he was born and reared, is in the 13th District, which he represented in Congress.

The unexpected death of the quiet but highly respected congressman brought immediate statements from top-ranking Republicans.

President Nixon said:

"The death of Charles Teague represents a significant loss to the United States Congress, to his home state of California and to the nation he served so long and so well. He will be remembered most especially for his interest in American agriculture and for his many years of devoted service on the House Agriculture Committee. Mrs. Nixon and I were deeply saddened to hear of his passing and we extend our sincere sympathy to his family."

Vice President Gerald R. Ford said: "I am very much saddened by the death of my dear friend and former colleague, Charles Teague. American argiculture owes a great deal to him for his dedication to the best interests of the American farmer. His district, state and the nation have lost an outstanding legislator."

"Congressman Teague typified the best in American politics today," said Rep. Robert H. Michael of Illinois. "He was a dedicated hard-working legislator whose prime interest was in what is best for the country. As ranking Republican member of the House Agriculture Committee, he also was the leading advocate of American agriculture in Congress. He will be sorely missed." Michel is chairman of the Republican Congressional Committee.

Rep. Teague has served on the Agricultural Committee for most of his tenure in Congress. While he was not noted for introducing major legislation, his efforts to maintain free as opposed to subsidized agriculture were considered very effective.

He also took a strong stand on aiding conservation and environmental programs and for a number of years was the ranking member of the Agricultural Committee's Conservation and Credit Subcommittee.

He was one of those responsible for bringing about an Interior Department ban on new oil drilling platforms in the Santa Barbara Channel in 1971. There had been heavily damaging oil gushing from a drilling platform there several years earlier.

Rep. Teague was a natural choice to serve on the Agricultural Committee. His family was among the founders of the Sunkist cooperative in California, and his father was a pioneer in that state's farm credit program.

Rep. Teague went to Stanford University, where he received his bachelor's degree in 1931 and his law degree three years later.

His practice of law was interrupted during World War II, when he served as a major in the Army Air Corps. He resumed the practice after the war and became involved in community affairs, serving as president of the Ventura County Community Chest, the Ventura Rotary Club and the Ojai Valley School Board of Trustees.

He was president of the Ventura County Republican Assembly when he decided to run for Congress in 1954. He was re-elected to the nine succeeding Congresses and had planned to run again this year.

Rep. Teague had a gentle sense of humor. He once noted that there seemed to be a conflict in the labels applied to him in letters from some of his constituents.

"When the conservatives consider me a liberal and the liberals figure me for a conservative, I must be in trouble," he lamented.

On another occasion, he disowned one of his own bills on the floor of the House. A great pet lover, he had introduced a bill to eliminate tariffs on the importation of wild animals.

He was so proud of the bill that he had asked that it be referred to as the Teague Bill. But by the time it got through the Senate, it had come out as a bill to limit beef imports from Australia and New Zealand. The changes brought this speech from Rep. Teague:

"I was proud to have been the father of such a clean, beautiful little fellow . . . He was prepared to do great things for boa constrictors and gorillas and their owners.

"But, in the course of events, my little baby was sent to the Senate pediatric hospital . . . All that remained of him was the identification number on his poor little wrist.

"Mr. Speaker, I must disclaim fatherhood of (H.R.) 1839 as he is before us today. I am willing to contribute to his support, but he is not mine—my blood no longer flows in his veins.

"I repeat, Mr. Speaker, 'This child ain't mine.' "

Rep. Teague also found humor in another situation. For some time, he and Rep. Olin E. Teague (D-Texas) shared seats on the Veterans Affairs Committee.

The resulting confusion from pronouncements frequently credited to the wrong Teague were usually followed by retractions, which in turn were followed by a good laugh.

There was no confusion in the work both did toward helping veterans.

Among other things, Rep. Charles Teague had worked hard to improve housing rights for veterans.

Rep. Teague's first wife, Marjorie, died in 1970. He remarried that year but was separated from his second wife, Courtney, at the time of his death.

In addition to his son, Rep. Teague also is survived by two daughters, Norma Potter, of Washington, and Judith Kenyon, of Santa Rosa, Calif., and eight grandchildren.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Rinaldo (at the request of Mr. Rhodes), for today and the balance of the week, on account of convalescence from surgery for removal of gall stones.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Young of Florida) and to revise and extend their remarks and include extraneous matter:)

Mr. Railsback, for 5 minutes, today.

Mr. Findley, for 5 minutes, today.

Mr. Cronin, for 5 minutes, today.

(The following Members (at the request of Miss Jordan) to revise and extend their remarks and include extraneous material:)

Mr. Yatron, for 10 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Drinan, for 20 minutes, today.

Mr. Clark, for 5 minutes, today.

Mr. Eilberg, for 5 minutes, today.

Mr. Flood, for 15 minutes, today.

Mr. Culver, for 5 minutes, today.

Mr. Randall, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Drinan, for 20 minutes, January 22, 1974.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Gude to extend his remarks prior to the final vote on H.R. 11386.

(The following Members (at the request of Mr. Young of Florida), and to include extraneous matter:)

Mr. Rhodes in five instances.

Mr. Peyser in five instances.

Mr. Biester.

Mr. Hunt.

Mr. Nelsen.

Mr. Railsback in three instances.

Mr. Shuster.

Mr. Miller in five instances.

Mr. Baker.

Mr. Young of Florida in five instances.

Mr. Frenzel in three instances.

Mr. Lent in three instances.

Mr. Shoup in three instances.

Mr. Michel in five instances.

Mr. Gude in five instances.

Mr. Zwach.

Mr. Findley in two instances.

Mr. Armstrong.

Mr. Buchanan in two instances.

Mr. Young of Alaska.

Mr. Cronin.

Mr. Gilman.

Mr. Derwinski in three instances.

Mr. Burke of Florida.

(The following Members (at the request of Miss Jordan) and to include extraneous material:)

Mr. Fraser in five instances.

Mr. Brown of California in 10 instances.

Mr. Long of Maryland in 10 instances.

Mr. Gonzalez in 5 instances.

Mr. Rarick in four instances.

Mr. Charles H. Wilson of California in 10 instances.

Mr. Aspin in 10 instances.

Mr. Mollohan.

Mr. Annunzio in six instances.

Mr. Alexander in 10 instances.

Mr. Evins of Tennessee in six instances.

Mr. de la Garza in 10 instances.

Mr. Young of Georgia in six instances.

Mr. Drinan in 10 instances.

Ms. Schroeder in 10 instances.

Mr. Wright.

Mrs. Burke of California in 10 instances.

Mr. Dellums in 10 instances.

Mr. Vanik in three instances.

Mr. Dingell in three instances.

Mr. Leggett.

Mr. Wolff in three instances.

Mr. Koch in two instances.

Mr. Karth in two instances.

Mr. Nix.

Mrs. Grasso in 10 instances.

Mr. Byron in 10 instances.

Mr. Hungate.

Mr. Culver in six instances.

Mr. Mezvinsky.

Mr. Sarbanes in five instances.

Mr. Teague in six instances.

Mr. Rogers in five instances.

Ms. Abzug.

Mr. Brooks.

## THE LATE HONORABLE CHARLES M. TEAGUE

Mr. HOSMER. Mr. Speaker, I offer a resolution.

The Clerk read the resolution as follows:

H.R. Res. 773

*Resolved,* That the House has heard with profound sorrow of the death of the Honorable Charles M. Teague, a Representative from the State of California.

*Resolved,* That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

*Resolved,* That as a further mark of respect the House do now adjourn.

The resolutions were agreed to.

## ADJOURNMENT

Accordingly (at 2 o'clock and 41 minutes p.m.) the House adjourned until tomorrow, Tuesday, January 22, 1974, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1662. A letter from the President of the United States, transmitting notice of his intent to exercise his authority to order certain defense articles from the stocks of the Department of Defense for military assistance to Cambodia, pursuant to section 652 of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

1663. A letter from the Secretary of Agriculture, transmitting the first annual report on progress in attaining goals established for rural development in the areas of employment, income, population, housing, and quality of community services and facilities, pursuant to section 603(b) of the Rural Development Act of 1972; to the Committee on Agriculture.

1664. A letter from the Acting Secretary of Agriculture, transmitting a report on the activities of the Rural Electrification Administration during fiscal year 1973, pursuant to 49 Stat. 1366; to the Committee on Agriculture.

1665. A letter from the Under Secretary of Agriculture, transmitting a draft of proposed legislation to amend section 2(5) of the Perishable Agricultural Commodities Act, 1930, relating to unfair practices in the marketing of perishable agricultural commodities; to the Committee on Agriculture.

1666. A letter from the Assistant Secretary of Agriculture, transmitting the sixth annual report on operations under the Food Stamp Act of 1964, pursuant to Public Law 90–552; to the Committee on Agriculture.

1667. A letter from the Deputy Assistant Secretary of Agriculture, transmitting a report of grants to States to provide additional facilities for research at the State agricultural experimental stations, for fiscal year 1973, pursuant to section 10 of Public Law 88–74 (77 Stat. 92); to the Committee on Agriculture.

1668. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation to the Department of Justice for "Fees and expenses of witnesses", for fiscal year 1974, has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriation, pursuant to 31 U.S.C. 665; to the Committee on Appropriations.

1669. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a report on receipts and disbursements from the sale of surplus military supplies, equipment, and material, and lumber or timber products, covering the first quarter of fiscal year 1974, pursuant to section 712 of Public Law 92–570; to the Committee on Appropriations.

1670. A letter from the Assistant Secretary of Defense (Manpower and Reserve Affairs), transmitting an interim report on the allocation of the reduction in authorized strength among the uniformed services, pursuant to section 301(b) of Public Law 93–155; to the Committee on Armed Services.

1671. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of a construction project proposed to be undertaken for the Army Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

1672. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken for the Air Force Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

1673. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken for the Air National Guard, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

1674. A letter from the Deputy Assistant Secretary of Defense (Military Personnel Policy), transmitting a report on former military and civilian officials and Department of Defense employees who have filed reports relating to employment by defense subcontractors, pursuant to 50 U.S.C. 1436(d) (section 410(d), Public Law 91–121); to the Committee on Armed Services.

1675. A letter from the Under Secretary of the Air Force, transmitting a report of the number of officers above the grade of major entitled to receive incentive pay for flight duty, and the average monthly flight pay during the period November 1, 1972 to October 31, 1973, pursuant to 37 U.S.C. 301(g); to the Committee on Armed Services.

1676. A letter from the Secretary of Transportation, transmitting a report of the number of officers above the grade of lieutenant commander entitled to receive incentive pay for flight duty, and the average monthly incentive pay during the period from July 1 to December 31, 1973, pursuant to 37 U.S.C. 301 (g); to the Committee on Armed Services.

1677. A letter from the Director, Defense Civil Preparedness Agency, transmitting a report for the quarter ended December 31, 1973, on property acquisitions of emergency supplies and equipment, pursuant to section 210(b) of the Federal Civil Defense Act of 1950, as amended, and Executive Order 10952; to the Committee on Armed Services.

1678. A letter from the Secretary of Commerce, transmitting a report on export administration for the third quarter of fiscal year 1973, pursuant to the Export Administration Act of 1969, as amended; to the Committee on Banking and Currency.

1679. A letter from the Secretary of Housing and Urban Development, transmitting a report on the demonstration and research program on the problem of lead-based paint poisoning, pursuant to section 301 of Public Law 91–695; to the Committee on Banking and Currency.

1680. A letter from the Board of Governors of the Federal Reserve System, transmitting the Fifth Annual Report of the Board on Truth in Lending for the year 1973, pursuant to 15 U.S.C. 1613; to the Committee on Banking and Currency.

1681. A letter from the Commissioner of the District of Columbia, transmitting a draft of proposed legislation to amend certain laws relating to the District of Columbia public schools; to the Committee on the District of Columbia.

1682. A letter from the Chairman, District of Columbia City Council, transmitting the fifth annual report of the Council, covering fiscal year 1973, pursuant to section 402

(10) of Reorganization Plan No. 3 of 1967; to the Committee on the District of Columbia.

1683. A letter from the Vice President and General Manager, Chesapeake and Potomac Telephone Co., transmitting a report of receipts and expenditures for the year 1973, pursuant to 33 Stat. 375; to the Committee on the District of Columbia.

1684. A letter from the Assistant Secretary of Agriculture, transmitting a draft of proposed legislation to amend the National School Lunch Act, as amended, for the purpose of authorizing permanent appropriations; to the Committee on Education and Labor.

1685. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to encourage and assist States and localities to develop, demonstrate, and evaluate means of improving the utilization and effectiveness of human services through integrated planning, management, and delivery of those services in order to achieve the objectives of personal independence and individual and family economic self-sufficiency; to the Committee on Education and Labor.

1686. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a copy of the Presidential determination providing for the sale of defense articles and services to the Commonwealth of the Bahamas for the security of the United States, pursuant to section 3(a)(1) of the Foreign Military Sales Act, as amended; to the Committee on Foreign Affairs.

1687. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a copy of Presidential Determination No. 74–11, authorizing the provision of certain sophisticated weapons to one country in fiscal year 1974, pursuant to section 504(a) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

1688. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a copy of the Presidential determination to provide military assistance to Cambodia from stocks of the Department of Defense in the security interest of the United States, pursuant to section 506(a) of the Foreign Assistance Act of 1961, as amended; to the Committee of Foreign Affairs.

1689. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to amend the Northwest Atlantic Fisheries Act of 1950, as amended, and for other purposes; to the Committee on Foreign Affairs.

1690. A letter from the Administrator, Agency for International Development, Department of State, transmitting a report that no revision to the Social Progress Trust Fund Agreement is necessary and a report on the manner that SPTF resources will be utilized, pursuant to section 36(e) of Public Law 93–189; to the Committee on Foreign Affairs.

1691. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting a report for the quarter ended September 30, 1973, on the programing and obligation of contingency funds, pursuant to section 451(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

1692. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements other than treaties entered into by the United States, pursuant to Public Law 92–403; to the Committee on Foreign Affairs.

1693. A letter from the First Vice President, Export-Import Bank of the United States, transmitting a report on loan, guarantee, and insurance transactions to Yugoslavia, Romania, the Union of Soviet Socialist Republics, and Poland prior to December 1, 1973, and not heretofore reported, pursuant to section 2(b)(2) of the Export-Import Bank Act of 1945, as amended; to the Committee on Foreign Affairs.

1694. A letter from the First Vice President, Export-Import Bank of the United States, transmitting a report on loan, guarantee, and insurance transactions to Yugoslavia, Romania, the Union of Soviet Socialist Republics, and Poland during December 1973, pursuant to section 2(b)(2) of the Export-Import Bank Act of 1945, as amended; to the Committee on Foreign Affairs.

1695. A letter from the Secretary of the Treasury, transmitting the combined statement of receipts, expenditures, and balances of the U.S. Government for the fiscal year ended June 30, 1973, pursuant to 31 U.S.C. 1029 and 31 U.S.C. 66b; to the Committee on Government Operations.

1696. A letter from the Assistant Secretary of Agriculture for Administration, transmitting a report on the Department's disposal of foreign excess property during fiscal year 1973, pursuant to section 404(d) of the Federal Property and Administrative Services Act of 1949 (Public Law 81–152), as amended; to the Committee on Government Operations.

1697. A letter from the Secretary of Transportation, transmitting a report on the Department's disposal of foreign excess property during fiscal year 1973, pursuant to section 404(d) of Public Law 81–152; to the Committee on Government Operations.

1698. A letter from the Deputy General Manager, U.S. Atomic Energy Commission, transmitting a report on the Commission's disposal of foreign excess property during fiscal year 1973, pursuant to 40 U.S.C. 514; to the Committee on Government Operations.

1699. A letter from the Secretary of Defense, transmitting the ninth annual report on the Federal voting assistance program conducted by the Department of Defense under the authority of the Federal Voting Assistance Act of 1955; to the Committee on House Administration.

1700. A letter from the Clerk, House of Representatives, transmitting a list of reports which it is the duty of any officer or department to make to Congress, pursuant to rule III, clause 2, of the Rules of the House of Representatives (H. Doc. No. 93–199); to the Committee on House Administration and ordered to be printed.

1701. A letter from the Sergeant at Arms, House of Representatives, transmitting his annual report of funds drawn by him, the application and disbursement of the sums, and balances remaining in his hands, pursuant to 2 U.S.C. 84; to the Committee on House Administration.

1702. A letter from the Assistant Secretary of the Interior, transmitting descriptions of 10 projects tentatively selected for funding through grants, contracts, and matching or other arrangements with educational institutions, private foundations or other institutions, and with private firms, as authorized by section 200(a) of the Water Resources Research Act of 1964; to the Committee on Interior and Insular Affairs.

1703. A letter from the Assistant Secretary of the Interior, transmitting a copy of a proposed contract for the provision of medical, surgical, hospital, and related facilities for the public at the Lewis Memorial Hospital in Yosemite National Park, Calif., for a term ending December 31, 1977, pursuant to 67 Stat. 271 and 70 Stat. 543; to the Committee on Interior and Insular Affairs.

1704. A letter from the Assistant Secretary of the Interior, transmitting a report on the status of the revenues from and the cost of constructing, operating, and maintaining each lower basin unit of the Central Arizona project for fiscal year 1973, pursuant to 43 U.S.C. 1544; to the Committee on Interior and Insular Affairs.

1705. A letter from the Acting Assistant Secretary of the Interior, transmitting a copy of a proposed concession contract for the continued operation of visitor facilities and services for the public at Mount Vernon on the George Washington Memorial Parkway for a term ending December 31, 1993, pursuant to 67 Stat. 271 and 70 Stat 543; to the Committee on Interior and Insular Affairs.

1706. A letter from the Deputy Assistant Secretary of the Interior, transmitting the report on the Government's helium program for fiscal year ending 1973, pursuant to section 16 of Public Law 86–777; to the Committee on Interior and Insular Affairs.

1707. A letter from the Acting Deputy Assistant Secretary of the Interior, transmitting the third annual report on the operation of the Colorado River, describing the actual operation for water year 1973, and a projected plan of operation for water year 1974 for the reservoirs in the Colorado River Basin constructed under the authority of the Colorado River Storage Project Act and the Boulder Canyon Project Act, pursuant to 43 U.S.C. 1552(b); to the Committee on Interior and Insular Affairs.

1708. A letter from the Director of Congressional Relations, U.S. Atomic Energy Commission, transmitting a report recommending an integrated energy research and development program for the Nation; to the Committee on Interior and Insular Affairs.

1709. A letter from the Chairman, Indian Claims Commission, transmitting a draft of proposed legislation to authorize appropriations for the Indian Claims Commission for fiscal year 1975; to the Committee on Interior and Insular Affairs.

1710. A letter from the Chairman, Indian Claims Commission, transmitting the final determination of the Commission in Docket No. 137, *Pueblo de Zia, Pueblo de Jemez and Pueblo de Santa Ana*, plaintiffs, v. *the United States of America*, defendants, pursuant to 25 U.S.C. 70t; to the Committe on Interior and Insular Affairs.

1711. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize the Secretary to phase in motor vehicle safety standards by specified percentages over a period of time, and for other purposes; to the Committee on Interstate and Foreign Commerce.

1712. A letter from the Executive Director, Federal Communications Commission, transmitting the report on backlog of pending applications and hearing cases in the Commission as of November 30, 1973, pursuant to section 5(e) of the Communications Act, as amended; to the Committee on Interstate and Foreign Commerce.

1713. A letter from the Chairman, Federal Power Commission, transmitting the report on permits and licenses issued for hydroelectric projects, together with financial statements and names and compensation of employees of the Commission, for fiscal year 1973, pursuant to section 4(d) of the Federal Power Act; to the Committee on Interstate and Foreign Commerce.

1714. A letter from the Chairman, Interstate Commerce Commission, transmitting the 87th annual report of the Commission for the 1973 fiscal year, pursuant to section 21 of the Interstate Commerce Act; to the Committee on Interstate and Foreign Commerce.

1715. A letter from the Chairman, Interstate Commerce Commission, transmitting the report of the final valuations of properties of common carriers, pursuant to section 19a of the Interstate Commerce Act; to the Committee on Interstate and Foreign Commerce.

1716. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting the report of revenues and expenses for the month of September 1973, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

1717. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting a report for the month of November 1973, on the average number of passengers on board per day and the ontime performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act, as amended; to the Committee on Interstate and Foreign Commerce.

1718. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens found admissible to the United States, pursuant to section 212(a)(28)(I)(ii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(28)(I)(ii)(b)); to the Committee on the Judiciary.

1719. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, together with a list of the persons involved, pursuant to section 212(d)(6) of the act (8 U.S.C. 1182(d)(6)); to the Committee on the Judiciary.

1720. A letter from the Secretary, the Foundation of the Federal Bar Association, transmitting the audit report of the Foundation for the fiscal year ended September 30, 1973, pursuant to section 14 of Public Law 83-662; to the Committee on the Judiciary.

1721. A letter from the chairman, board of directors, Future Farmers of America, transmitting the audit of the accounts of the Future Farmers of America for the fiscal year ended June 30, 1973, pursuant to sections 2 and 3 of Public Law 88-504; to the Committee on the Judiciary.

1722. A letter from the Executive Director, the Military Chaplains Association of the U.S.A. transmitting the audit of the Association for the year 1972; to the Committee on the Judiciary.

1723. A letter from the Executive Director, Reserve Officers Association of the United States, transmitting the audit of the Association for the year ended March 31, 1973, pursuant to section 16 of Public Law 81-595; to the Committee on the Judiciary.

1724. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a copy of Presidential Determination No. 74-8, concerning the transfer of funds to the Fishermen's Protective Fund, pursuant to section 5(b) of the Fishermen's Protective Act of 1967, as amended; to the Committee on Merchant Marine and Fisheries.

1725. A letter from the Secretary of Commerce, transmitting the annual report of the National Marine Fisheries Service for calendar year 1972, pursuant to 16 U.S.C. 742h; to the Committee on Merchant Marine and Fisheries.

1726. A letter from the Secretary of Transportation, transmitting a report on the activities of the Coast Guard during 1973 regulating vessels carrying certain cargoes in bulk, pursuant to section 203 of the Ports and Waterways Safety Act of 1972; to the Committee on Merchant Marine and Fisheries.

1727. A letter from the Chairman, Citizens' Advisory Committee on Environmental Quality, transmitting the annual report of the Committee for 1973; to the Committee on Merchant Marine and Fisheries.

1728. A letter from the Secretary of the Treasury, transmitting a report on the experience of Federal agencies under the new program for self-insuring fidelity losses of Federal personnel for fiscal year 1973, pursuant to 31 U.S.C. 1203; to the Committee on Post Office and Civil Service.

1729. A letter from the Acting Assistant Secretary of Agriculture for Administration, transmitting the annual report on positions established in the Department of Agriculture, pursuant to 5 U.S.C. 3104; to the Committee on Post Office and Civil Service.

1730. A letter from the Director of Personnel, Department of Commerce, transmitting a report on scientific and professional positions established in the Department of Commerce during 1973, pursuant to 5 U.S.C. 3104(c); to the Committee on Post Office and Civil Service.

1731. A letter from the Director, U.S. Arms Control and Disarmament Agency, transmitting a report on scientific and professional positions established in the Agency during calendar year 1973, pursuant to 5 U.S.C. 3104(c); to the Committee on Post Office and Civil Service.

1732. A letter from the Librarian of Congress, transmitting a report on scientific and professional positions established in the Library of Congress during calendar year 1973, pursuant to 5 U.S.C. 3104(c); to the Committee on Post Office and Civil Service.

1733. A letter from the Deputy Associate Director for Operations, Cost of Living Council, transmitting a report on Cost of Living Council positions in grades GS-16, 17, and 18 during calendar year 1973, pursuant to 5 U.S.C. 5114(a); to the Committee on Post Office and Civil Service.

1734. A letter from the Director, Administrative Office of the U.S. Courts, transmitting the annual report on the duties of the four GS-17 positions allocated to that agency, pursuant to 5 U.S.C. 5114(c); to the Committee on Post Office and Civil Service.

1735. A letter from the Secretary of the Army transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on Manatee and Braden Rivers, Fla., authorized by section 205 of the Flood Control Act approved May 17, 1950; to the Committee on Public Works.

1736. A letter from the Acting Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on San Francisco Creek Basin, Calif., authorized by section 4 of the Flood Control Act of August 18, 1941; to the Committee on Public Works.

1737. A letter from the Assistant Secretary of Commerce for Economic Development, transmitting notice of a delay in completion of the annual report of the Economic Development Administration for fiscal year 1973; to the Committee on Public Works.

1738. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the act of August 18, 1894, the act of March 3, 1899, the Bridge Act of 1906 and the General Bridge Act of 1946, to provide for civil penalties in certain circumstances, and for other purposes; to the Committee on Public Works.

1739. A letter from the Administrator of General Services, transmitting a prospectus amending the approved prospectus for a post office, courthouse and Federal office building at Elkins, W. Va., pursuant to section 7(a) of the Public Buildings Act of 1959; to the Committee on Public Works.

1740. A letter from the Administrator of General Services, transmitting a prospectus proposing construction of new Border Patrol Sector Headquarters facilities at Marfa, Tex., pursuant to the Public Buildings Act of 1959, as amended; to the Committee on Public Works.

1741. A letter from the Acting Administrator of General Services, transmitting a prospectus revising the previously approved prospectus for alterations to the courthouse and customhouse at 1114 Market Street, St. Louis, Mo., pursuant to the Public Buildings Act of 1959, as amended; to the Committee on Public Works.

1742. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting a report on water pollution control manpower development and training activities, pursuant to section 104(g)(4) of the Federal Water Pollution Control Act; to the Committee on Public Works.

1743. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting notice of a delay in the completion of the national water quality inventory report required by section 305(a) of Public Law 92-500; to the Committee on Public Works.

1744. A letter from the Administrator, Environmental Protection Agency, transmitting the sixth in a series of reports on the economics of clean water, pursuant to section 516(b) of the Federal Water Pollution Control Act; to the Committee on Public Works.

1745. A letter from the Board of Directors, Tennessee Valley Authority, transmitting the annual report of the agency for fiscal year 1973; to the Committee on Public Works.

1746. A letter from the Chairman, Commission on Highway Beautification, transmitting the final report of the Commission, pursuant to Public Law 89-285; to the Committee on Public Works.

1747. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a list of the present and former NASA employees who have filed reports with NASA pertaining to their NASA and aerospace-related industry employment for fiscal year 1973, pursuant to section 7 of Public Law 91-303; to the Committee on Science and Astronautics.

1748. A letter from the Secretary of Labor and the Secretary of Health, Education, and Welfare, transmitting the fourth annual report on the work incentive program, pursuant to section 440 of the Social Security Act; to the Committee on Ways and Means.

1749. A letter from the Chairman, the Renegotiation Board, transmitting the annual report of the Board for fiscal year 1973, pursuant to section 114 of the Renegotiation Act of 1951, as amended; to the Committee on Ways and Means.

### Received From the Comptroller General

1750. A letter from the Comptroller General of the United States, transmitting the annual report of the General Accounting Office for fiscal year 1973, pursuant to section 312(a) of the Budget and Accounting Act of 1921; to the Committee on Government Operations.

1751. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during December 1973, pursuant to 31 U.S.C. 1174; to the Committee on Government Operations.

1752. A letter from the Comptroller General of the United States, transmitting a report on difficulties encountered in immobilizing major narcotics traffickers; to the Committee on Government Operations.

1753. A letter from the Comptroller General of the United States, transmitting a report on the audit of the Federal Crop Insurance Corporation, Department of Agriculture, for fiscal year 1973, pursuant to 31 U.S.C. 841 and 7 U.S.C. 1513 (H. Doc. No. 93-200); to the Committee on Government Operations and ordered to be printed.

1754. A letter from the Comptroller General of the United States, transmitting a report on the audit of the U.S. Capitol Historical Society for the year ended January 31, 1973, pursuant to 40 U.S.C. 193m–1; to the Committee on House Administration.

1755. A letter from the Comptroller General of the United States, transmitting a report on Federal water pollution research and demonstration programs, pursuant to section 5 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 note); to the Committee on Public Works.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Submitted December 28, 1973*]

Mr. HOLIFIELD: Committee on Government Operations. H.R. 11793. A bill to reorganize and consolidate certain functions of the Federal Government in a new Federal Energy Administration in order to promote more efficient management of such functions; with amendment (Rept. No. 93–748). Referred to the Committee of the Whole House on the State of the Union.

[*Submitted January 21, 1974*]

Mr. PATMAN. Committee on Banking and Currency. H.R. 11354. A bill to provide for increased participation by the United States in the International Development Association (Rept. No. 93–749). Referred to the Committee of the Whole House on the State of the Union.

Mr. PATMAN: Committee on Banking and Currency. H.R. 11666. A bill to provide for U.S. participation in increases in the ordinary capital and special funds resources of the Asian Development Bank (Rept. No. 93–750). Referred to the Committee of the Whole House on the State of the Union.

Mr. PATMAN: Committee on Banking and Currency. H.R. 11221. A bill to provide full deposit insurance for public units and to increase deposit insurance from $20,000 to $50,000; with amendment (Rept. No. 93–751). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 11295. A bill to amend the Anadromous Fish Conservation Act in order to extend the authorization for appropriations to carry out such act, and for other purposes (Rept. No. 93–752). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 11537. A bill to extend and expand the authority for carrying out conservation and rehabilitation programs on military reservations, and to authorize the implementation of such programs on certain public lands; with amendment (Rept. No. 93–753). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 11541. A bill to amend the National Wildlife Refuge System Administration Act of 1966 in order to strengthen the standards under which the Secretary of the Interior may permit certain uses to be made of areas within the System and to require payment of the fair market value of rights-of-way or other interests granted in such areas in connection with such uses; with amendment (Rept. No. 93–754). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 11809. A bill to amend the act entitled "An act to establish a contiguous fishery zone beyond the territorial sea of the United States", approved October 14, 1966, to require that the method of straight baselines shall be employed for the purposes of determining the boundaries of such fishery zone, and for other purposes; with amendment (Rept. No. 93–755). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 10957. A bill to consolidate and revise the laws relating to public health; with amendment (Rept. No. 93–756). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 11385. A bill to amend the Public Health Service Act to revise the programs of health services research and to extend the program of assistance for medical libraries; with amendment (Rept. No. 93–757). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 11386. A bill to amend the Public Health Service Act to provide Federal assistance for information and education programs respecting sudden infant death syndrome and for projects respecting its cause; with amendment (Rept. No. 93–758). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 11387. A bill to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and other related acts to concentrate the resources of the Nation against the problem of alcohol abuse and alcoholism; to coordinate the National Institute of Mental Health, the National Institute on Alcoholism and Alcohol Abuse, and the National Institute on Drug Abuse; and for other purposes; with amendment (Rept. No. 93–759). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROTZMAN:

H.R. 12151. A bill to amend the Internal Revenue Code of 1954 to provide a carryback and carryover of certain foreign taxes on mineral income; to the Committee on Ways and Means.

By Mr. BYRON:

H.R. 12152. A bill to establish the Monocacy National Battlefield Park; to the Committee on Interior and Insular Affairs.

By Mr. CLANCY:

H.R. 12153. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mrs. COLLINS of Illinois:

H.R. 12154. A bill to amend title XVIII of the Social Security Act to include breast prosthesis among the items and services for which payment may be made under the supplementary medical insurance program; to the Committee on Ways and Means.

By Mr. CULVER:

H.R. 12155. A bill to promote public health and welfare by expanding and improving the family planning services and population research activities of the Federal Government, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DELLUMS:

H.R. 12156. A bill to prohibit the renewal of U.S. military involvement in Indochina, to encourage compliance with the peace agreement concluded for Indochina, and to prohibit the U.S. funding of police or prison systems in certain foreign countries; to the Committee on Foreign Affairs.

H.R. 12157. A bill to establish a National Election Finance Commission, to provide for the public financing of Federal election campaigns, to provide television broadcast time for candidates for the Office of President, and for other purposes; to the Committee on House Administration.

By Mr. du PONT:

H.R. 12158. A bill to establish a National Energy Information System, to authorize the Department of the Interior to undertake an inventory of U.S. energy resources on public lands and elsewhere, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. FRASER:

H.R. 12159. A bill to amend the Small Business Act to provide for loans to small business concerns affected by the energy shortage; to the Committee on Banking and Currency.

H.R. 12160. A bill to amend the Emergency Petroleum Allocation Act of 1973 to eliminate the exemption of the first sale of crude oil of certain leases from price controls, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 12161. A bill to amend the natural Gas Act to secure adequate and reliable supplies of natural gas and oil at the lowest reasonable cost to the consumer, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GONZALEZ (for himself, Mrs. Grasso, Mrs. Hansen of Washington, Mr. Kazen, Mr. Matsunaga, Mr. Melcher, Mr. Murphy of New York, Mr. Patman, Mr. Robinson of Virginia, Mr. Roy, Mr. Steed, and Mr. Thornton):

H.R. 12162. A bill to provide certain U.S. Postal Service property will continue as Federal property for purposes of Public Law 874, 81st Congress; to the Committee on Education and Labor.

By Mr. HARRINGTON (for himself and Mr. Moakley):

H.R. 12163. A bill to amend the Internal Revenue Code of 1954 to allow individuals an additional income tax exemption for each dependent under the age of 19 who is disabled; to the Committee on Ways and Means.

By Mr. HOGAN:

H.R. 12164. A bill to amend title 5, United States Code, to provide for reemployment of former employees receiving civil service disability retirement annuities found to be recovered from their disabilities or substantially restored to their former earning capacities; to the Committee on Post Office and Civil Service.

By Mr. JOHNSON of California (for himself, Mr. Hosmer, Mr. Roncalio of Wyoming, Mr. Runnels, Mr. Lujan, Mr. Udall, Mr. Don H. Clausen, Mr. Ketchum, Mr. Towell of Nevada, Mr. Owens, Mrs. Burke of California, and Mr. Steiger of Arizona):

H.R. 12165. A bill to authorize the construction, operation, and maintenance of certain works in the Colorado River Basin to control the salinity of water delivered to users in the United States and Mexico; to the Committee on Interior and Insular Affairs.

By Mr. LANDRUM (for himself, Mr. Flynt, Mr. Davis of Georgia, Mr. Thornton, and Mr. Ginn):

H.R. 12166. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. LEGGETT:

H.R. 12167. A bill to provide financial assistance for research activities for the study of acupuncture; to the committee on Interstate and Foreign Commerce.

By Mr. MELCHER:

H.R. 12168. A bill to amend the Food Stamp Act of 1964, as amended, and other purposes; to the Committee on Agriculture.

By Mr. MINISH:

H.R. 12169. A bill to amend titles II and XVIII of the Social Security Act to include qualified drugs, requiring a physician's prescription or certification and approved by a formulary committee, among the items and services covered under the hospital insurance program; to the Committee on Ways and Means.

By Mrs. MINK (for herself, Mr. Ashley, Mr. Badillo, Mr. Brown of California, Mrs. Burke of California, Mr. Edwards of California, Mr. Eilberg, Mr. Harrington, Mr. Helstoski, Mr. Moakley, Mr. Vigorito and Mr. Charles Wilson of Texas):

H.R. 12170. A bill to amend the Mineral Lands Leasing Act to provide for a more efficient and equitable method for the exploration for and development of oil shale resources on Federal lands, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. OBEY:

H.R. 12171. A bill to amend the Small Business Act to provide loans to small businesses suffering substantial economic injury as the result of national energy policies to assist them in making payments on mortgages; to the Committee on Banking and Currency.

By Mr. O'BRIEN:

H.R. 12172. A bill to amend the State and Local Fiscal Assistance Act of 1972 to provide for allocations of general revenue sharing funds to certain special purpose units of local government; to the Committee on Ways and Means.

H.R. 12173. A bill to amend the Internal Revenue Code of 1954 to raise the limitations on contributions by self-employed individuals to certain retirement plans; to the Committee on Ways and Means.

By Mr. RANDALL:

H.R. 12174. A bill: Energy Information Act of 1974; to the Committee on Interstate and Foreign Commerce.

By Mr. ROGERS:

H.R. 12175. A bill to amend title 38 of the United States Code to provide that veterans' pension and compensation will not be reduced as a result of certain increases in monthly social security benefits; to the Committee on Veterans' Affairs.

By Mr. SHOUP:

H.R. 12176. A bill to provide for the collection and assimilation of information on the Energy Resources of the United States; to the Committee on Interstate and Foreign Commerce.

H.R. 12177. A bill to provide for the issuance of a commemorative postage stamp in recognition of Foster Family Care; to the Committee on Post Office and Civil Service.

By Mr. STRATTON:

H.R. 12178. A bill to amend the Social Security Act to prohibit public utilities from shutting off the supply of heat, light, or power to private residences without adequate prior notification to and investigation by the appropriate State welfare agencies; to the Committee on Ways and Means.

By Mr. WRIGHT:

H.R. 12179. A bill to amend the Public Health Service Act to provide for programs for the diagnosis and treatment of hemophilia; to the Committee on Interstate and Foreign Commerce.

H.R. 12180. A bill to enhance the public health and safety by reducing the human and material losses resulting from fires through better fire prevention and control, and for other purposes; to the Committee on Science and Astronautics.

By Mr. YATRON:

H.R. 12181. A bill to direct the Comptroller General of the United States to conduct a study of the burden of reporting requirements of Federal regulatory programs on independent business establishments, and for other purposes; to the Committee on Government Operations.

By Mr. YATRON (for himself, Mr. Rodino, Mrs. Grasso, Mr. Eilberg, Mr. Cleveland, Mr. Rogers, Mr. Harrington, Mr. Long of Maryland, Mr. Dickinson, Mr. Winn, Mr. Derwinski, Mr. Wright, Mrs. Green of Oregon, Mr. Riegle, Mrs. Heckler of Massachusetts, Mr. Huber, Mr. Burke of Florida, Mr. Ware, Mr. Cronin, Mr. Shuster, Mr. Bevill, Mr. Duncan, Mr. Lehman, Mr. Roncallo of New York, and Mr. Dan Daniel):

H.R. 12182. A bill to direct the Comptroller General of the United States to conduct a study of the burden of reporting requirements of Federal regulatory programs on independent business establishments, and for other purposes; to the Committee on Government Operations.

By Mr. YATRON (for himself, Mr. Davis of Georgia, Mr. Mathis of Georgia, Mr. Froehlich, Mr. Abdnor, Mr. Brown of California, Mr. Whitehurst, Mr. Rooney of Pennsylvania, Mr. Kemp, Mr. Litton, Mr. Baker, Mr. Gunter, Mr. Mollohan, Mr. Powell of Ohio, Mr. Stokes, Mr. Hungate, Mr. Hudnut, Mr. Denholm, Mr. Young of Illinois, Mr. Edwards of Alabama, Mr. McEwen, Mr. Buchanan, Mr. Michel, Mr. Young of Alaska, and Mr. Thone):

H.R. 12183. A bill to direct the Comptroller General of the United States to conduct a study of the burden of reporting requirements of Federal regulatory programs on independent business establishments, and for other purposes; to the Committee on Government Operations.

By Mr. YATRON (for himself, Mr. Mazzoli, Mrs. Holt, Mr. Owens, Mr. Roe, Mr. Collins of Texas, Mr. Miller, Mr. Bowen, Mr. Shoup, Mr. Jones of Oklahoma, Mr. Hillis, Mr. Towell of Nevada):

H.R. 12184. A bill to direct the Comptroller General of the United States to conduct a study of the burden of reporting requirements of Federal regulatory programs on independent business establishments, and for other purposes; to the Committee on Government Operations.

By Mr. YATRON:

H.J. Res. 871. Joint resolution to authorize the President to issue a proclamation designating the month of May of each year as National Small Business Month; to the Committee on the Judiciary.

By Mr. CRONIN:

H. Res. 766. Resolution relative to Irish national self-determination; to the Committee on Foreign Affairs.

By Mr. FINDLEY:

H. Res. 767. Resolution creating a select committee to investigate and study the character of the energy crisis; to the Committee on Rules.

By Mr. KLUCZYNSKI:

H. Res. 768. Resolution to provide funds for experience incurred by the Select Committee on the House Restaurant; to the Committee on House Administration.

By Mr. LEGGETT:

H. Res. 769. Resolution impeaching Richard M. Nixon, President of the United States, for high crimes and misdemeanors; to the Committee on the Judiciary.

By Mr. LENT:

H. Res. 770. Resolution creating a select committee to conduct an investigation and study of the role of the oil and gas industry in contributing to the current energy crisis; to the Committee on Rules.

By Mr. O'BRIEN:

H. Res. 771. Resolution expressing the sense of Congress with respect to certain patents which, if utilized, could increase energy savings; to the Committee on the Judiciary.

By Mr. THOMSON of Wisconsin:

H. Res. 772. Resolution to direct the Interstate and Foreign Commerce Committee of the House of Representatives to conduct an investigation of the causes and conditions of the current petroleum shortage; to the Committee on Rules.

## MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

330. By the SPEAKER: Memorial of the General Assembly of the State of New Jersey, relative to the boycott of petroleum supplies to the United States; to the Committee on Foreign Affairs.

331. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to nationalization of the crude oil and petroleum industries; to the Committee on Interstate and Foreign Commerce.

332. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to unemployment; to the Committee on Public Works.

333. Also, memorial of the Legislature of the Territory of Guam, relative to modifying the requirement with respect to treatment works discharging through deep ocean outfalls; to the Committee on Public Works.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DELLUMS:

H.R. 12185. A bill for the relief of Mrs. Dorothy S. Eaton; to the Committee on the Judiciary.

By Mrs. HOLT:

H.R. 12186. A bill for the relief of Robert M. Johnston; to the Committee on the Judiciary.

By Mr. POWELL of Ohio:

H.R. 12187. A bill for the relief of Fred Mushroom Canneries Co.; to the Committee on the Judiciary.

## PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

378. By the SPEAKER: Petition of the Oklahoma Community Action Agency Directors Association, Oklahoma City, Okla., relative to the continuation of Community Action agencies; to the Committee on Education and Labor.

379. Also, Petition of the North Atlantic Assembly, Brussels, Belgium, transmitting the texts of the recommendations, resolutions, and orders adopted at the 19th Annual Session of the Assembly, held at Ankara in October 1973; to the Committee on Foreign Affairs.

380. Also, Petition of the Women's Association for the Defense of Four Freedoms for Ukraine, Inc., New York, N.Y., relative to the persecution of Ukrainians by the U.S.S.R.; to the Committee on Foreign Affairs.

381. Also, Petition of the San Diego County Federation of Republican Women's Clubs, San Diego, Calif., relative to preoccupation with Watergate; to the Committee on Rules.

382. Also, petition of Earl D. Miller, Bethesda, Md., relative to the reporting requirements for nonprofit organizations imposed by the Tax Reform Act of 1969; to the Committee on Ways and Means.

383. Also, Petition of Port Republic Taxpayers Association, Port Republic, N.J., relative to the Federal tax on gasoline; to the Committee on Ways and Means.

384. Also, Petition of the Society of Independent Professional Earth Scientists, Houston, Tex., relative to the removal of price controls on petroleum products; to the Committee on Ways and Means.

# EXTENSIONS OF REMARKS

## THE 150TH ANNIVERSARY OF THE BIRTH OF STONEWALL JACKSON

### HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

*Monday, January 21, 1974*

Mr. RANDOLPH. Mr. President, today is the 150th anniversary of the birth of one of America's most illustrious sons—Gen. Thomas Jonathan Jackson. On January 21, 1824, Thomas Jackson—later known to his troops and to the world as "Stonewall"—was born in the western region of Virginia in what is now the city of Clarksburg, W. Va.

We are aware of Jackson's accomplishments during the Civil War. Indeed, accounts of his brilliant battlefield tactics and slashing strategies are required reading for every student of military history.

I comment briefly on certain aspects of "Stonewall" Jackson's character. It has been a matter of concern to me that too often we have stressed the methodical and rigid nature of this outstanding West Virginian. We have heard the story of Jackson sitting the entire night in the superintendent's waiting room at VMI because the superintendent forgot their appointment and left by another door. Also, there have been printed and reprinted articles on what many persons have termed his "religious fanaticism." Lest this idea of the so-called inflexibility of the Jackson character go uncorrected, I submit several excerpts from his own writing and that of historians.

In his letters from Mexico, shortly after his graduation from West Point, Jackson noted:

> The morning hours I occupy in studies and business, and generally taking a walk after dinner, and sometimes a ride on the Paseo. * * * The book I am now studying is Lord Chesterfield's letters to his son translated into Spanish; so that whilst I am obtaining his thoughts, I am also acquiring a knowledge of the Spanish tongue. * * * Subsequent to this I shall study Shakespeare's work.

Can this be the comment of a person with limited interests?

After the birth of his daughter, Jackson wrote to his wife:

> Don't you regard it as the most precious little treasure in the world? Do not spoil it, and don't let anybody tease it. Don't permit it to have a bad temper. * * * Give her many kisses for her father.

At a later date, he wrote:

> I am glad to hear that she enjoys outdoors, and grows, and coos, and laughs. How I would love her sweet ways. That her little hands have lost their resemblance to mine is not regretted by me.

Certainly, these words are revealing and dispel the idea of his complete rigidity and stern nature.

Mr. President, in the civic-minded city of Clarksburg, where an impressive equestrian statue of Jackson is located on the plaza of the Harrison County Courthouse, across the street from the Stonewall Jackson Hotel, the anniversary of the birth of Jackson continues to be commemorated by historical and service organizations.

On this 150th anniversary, I am indebted to S. J. Birshtein, chairman of the Stonewall Jackson Historical Committee of the Clarksburg Chamber of Commerce, for providing us with some additional historical insights about this great man.

This brilliant officer during the War Between the States acquired the sobriquet or nickname of "Stonewall" with the stubborn defense of his 1st Brigade in the First Battle of Manassas—Bull Run—on July 21, 1861.

Gen. Barnard E. Bee in rallying his men exclaimed,

> See, there stands Jackson like a stone wall.

A near rout for the Confederate forces was turned into an overwhelming victory. Throughout the Confederacy and the world he became "Stonewall" Jackson.

General Jackson was one of the ablest of the Confederate officers, and was probably the greatest corps commander on either side during the war.

One of the best tributes to Stonewall Jackson was sent in a telegram by the great general of World War II, Douglas MacArthur, at the unveiling of the bronze bust of Jackson in the Hall of Fame at New York University on May 19, 1957:

> Perhaps the most prized message I ever received came from the famous historian Douglas Southall Freeman, who wrote me at the close of my campaigns in the Southwest Pacific area of World War II, "The mantle of Robert E. Lee and Stonewall Jackson has now fallen on your shoulders."

Mr. Birshtein has said that the Clarksburg Public Library has an original letter by Jackson on exhibit, together with a miniature replica of the Polaris submarine, the *Stonewall Jackson*, and other diversified mementos dealing with General Jackson.

Also on display is an excellent sketch by Bruce Haymond of Jackson's birthplace now occupied by a mercantile store.

A large oil painting by David Van Pelt is also on exhibit in the library. This painting of Jackson is by Edwin F. Draughman and is a fine copy of the famous original by John A. Elder in the Corcoran Gallery of Art in Washington, D.C.

A ladderback rocker which belonged to Jackson's mother can also be seen in the library.

The original letter by Jackson was presented to the library by the late D. H. Hill Arnold, an eminent attorney in my hometown of Elkins, grandnephew of Stonewall.

The letter, postmarked West Point, is addressed to Jackson's sister, Mrs. L. "Laura" A. Arnold of Beverly, Randolph County.

Stonewall wrote his sister of his preparations for the annual examination at West Point and reported that his health was "very good at the present." He requested that his sister inform him as to the subscription rates of "the Democratic paper published in Clarksburg."

It is testimony to the measure of the man, Stonewall Jackson, that both the sovereign States of Virginia and West Virginia claim him as a son. West Virginians, indeed, take justifiable pride in the landmarks that illustrate a part of his life. In Clarksburg, a bronze plaque marks the location of his birthplace.

He lived as a boy and young man in what is now Lewis County, in the Mountain State. Stonewall Jackson was 18 years old when he became a constable of Lewis County. Following the death of his parents, who died in poverty, Stonewall was reared by his uncle for 12 years before entering West Point in 1842.

Jackson was a born fighter. In his youth he fought poverty. He fought for an education at West Point. There he struggled against prejudice and disadvantage. Jackson learned what he set out to learn by sheer effort. He was a man with a soul of fire. Action was his life.

Stonewall Jackson died May 10, 1863, at the age of 39. His short but successful life ended sadly as a result of wounds inflicted by his own troops through an unexplicable mistake during the Battle of Chancellorsville. West Virginia was admitted to the Union as the 35th State on June 30, 1863, only 6 weeks after the dying hero, perhaps recalling his boyhood days on the West Fork River, uttered these final words:

> Let us cross over the river and rest under the shade of the trees.

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## PROVIDING A STAY-AT-HOME FOR THE PRESIDENT

### HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. ALEXANDER. Mr. Speaker, much has been written lately about the President and his travels to and from the White House, Camp David, San Clemente, and Key Biscayne. Several articles criticizing Government expenditures on these pieces of property have appeared. I wish to share with my colleagues at this time the suggestions of Mrs. Josephine Patten, a constituent of mine. Mrs. Patten, recognizing that a public figure has private needs as well as public obligations, proposes that the United States furnish private residences for the President and Vice President and maintain the White House for State occasions and visiting dignitaries.

I submit her letter to you at this point for your consideration.

> DEAR CONGRESSMAN ALEXANDER: In the light of all the uproar over the present administration and of the President's homes and his traveling by commercial flight, etc., I think

it's time to give consideration to a measure to ease the situation.

In the first place, we provide a home and a retreat for the President. It seems logical that he should abide there and to this end, I would like to have it against the law to expand federal monies on the private properties of any office holder. I don't think the President needs four or five tax-supported homes.

At the same time, I am sure that life in the White House is not all peaches and cream, either. So I propose this: that the White House be maintained for state occasions and for housing visiting dignitaries and for the President's office, but that a new and totally private mansion be built for the President's occupancy. That this be the President's home and not open to the public. And that another one be built for the Vice-President. That these be tastefully furnished and decorated and maintained according to a budget for that purpose and to the taste of the occupant (within reasonable bounds, of course). And that that be it! Those will be their homes for the duration of office and they'll have to live there or be without all the extras they feel they want to be surrounded with—including security. (As it is now, the V.P. has no home and the President lives in a museum.)

You can build quite an imposing house for a million dollars, Congressman. And who ever said the American people want Nixon's San Clemente home when he's done with it? It's a whole continent away from Washington. The next President won't be from San Clemente—that seems evident enough. I'm sick of Florida and Texas and California and Pennsylvania "White Houses"—that's a bunch of baloney.

So let's build some homes for our two top executives and let them stay in them. Keep the White House for historical purposes and state occasions—as the house of the people. Which it really is.

Sincerely yours,

(Mrs.) Josephine Patten.

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## LABOR'S ROLE IN POLITICS

## HON. LAMAR BAKER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. BAKER. Mr. Speaker, any meaningful study of campaign financing and the reforms which need to be made in the public interest cannot be complete without a thorough investigation of labor's role in politics and how it raises its money and distributes it to candidates and what it does to influence elections.

On January 2, the Washington Star-News editorialized on the need for Congress to make a close examination of the role of unions in campaigns. All of the points in this editorial are well taken. I commend it to the attention of my colleagues, most of whom were out of this area and probably missed seeing the editorial when it appeared in the Star-News.

Under leave to extend my remarks, I ask that the editorial, "Labor's Role in Politics" appear in the appendix of the Record. The editorial follows:

Labor's Role in Politics

It would seem that after Watergate the drift ought to be toward curbing excesses by special interests in political campaigns. But organized labor intends, instead, to throw its weight around more than ever in the 1974 congressional races.

AFL-CIO President George Meany has sent out the word that he wants a "veto-proof" Congress, which means he wants at least a couple dozen Republican House members knocked off, along with half a dozen or so Republican senators, so that Congress will be even more heavily Democratic than it already is. Meany's minions are scurrying to carry out his orders. As reported in the news section of this paper the other day, the words "dazzling" and "overwhelming" are being used to describe the amounts of money and manpower the labor movement expects to put into the campaigns.

During the Watergate investigation, much has been made of illegal corporate contributions and of suitcases full of cash floating around in the 1972 campaign of President Nixon, but not much has been heard about the enormous amounts of money and services put into presidential and congressional campaigns by labor unions.

The AFL-CIO's political arm, the Committee on Political Education, annually raises millions of dollars of "hard money" from its members to distribute to favored candidates. So do other independent unions. But this is peanuts compared to the value of goods and services contributed by members at the direction of union officials at the national, state and local levels.

We don't believe that union leaders, any more than officers of big business, ought to have an undue influence over candidates and campaigns. George Meany's personal politics, with his shifting loves and hates, don't exactly qualify him as one who should be dictating the makeup of Congress. What's good for Meany, in the political sense, is not necessarily good for the working man, or the country.

With Watergate and all its excesses fresh in its mind, the Congress might well make a close examination of the role of unions in campaigns when it gets down to work in 1974 on a further tightening of election laws.

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## NEW STATE DEPARTMENT COUNSELOR

## HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. GUDE. Mr. Speaker, early this month, Helmut Sonnefeldt of Chevy Chase, Md., was sworn in as State Department Counselor. Confirmation of his appointment followed thorough hearings and investigation of his 23 years of Federal Government service, which were so extensive that he was said to be "the most investigated person in town."

More significant than his survival of this proceeding was the fact that Mr. Sonnenfeldt was sought simultaneously for top positions in both the Department of State and the Treasury Department by Secretary Kissinger and Secretary Schultz.

In becoming Counselor at the State Department he brings great talent and experience as a highly regarded political analyst in the State Department's Office of Research and Analysis, a specialist in disarmament affairs, and as Director for Soviet and Eastern European research for the State Department. His earlier career included U.S. Army service in the Pacific and European theaters as a member of the counterintelligence corps. He received his B.A. and M.A. in political science from Johns Hopkins University. He has also served as lecturer on Soviet Affairs on the faculty of Johns Hopkins School of Advanced International Studies.

At his swearing in, Mr. Sonnenfeldt was praised by Secretary Kissinger for his—

> Invaluable contributions to East-West relations, SALT and discussions on mutual force reductions—and his contributions to the whole philosophy of foreign policy.

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## TRIP TO ISRAEL

## HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. PEYSER. Mr. Speaker, Mr. Ernest Goldblum of Harrison, N.Y., has been a longtime supporter of the State of Israel, and a crusader for the rights of the more than 3 million oppressed Jews in the Soviet Union. He recently made an important factfinding trip to Israel and I thought my colleagues in the House might like to see a copy of a letter which he sent to me briefly summarizing his findings:

Westchester Conference on Soviet Jewry,
*Harrison, N.Y., January 16, 1974.*

Dear Congressman Peter Peyser: I just returned a few days ago from Israel where I was able to make the most comprehensive study regarding absorption of the Jews coming from the Soviet Union. The task, which is a most gigantic one in numbers, when compared to an immigration of 82,000 people since 1969, which would be in equivalent of over six million people in the United States, or a half million in the state of New York alone.

The immigrants are given a quick screening upon arrival to determine where they could fit most efficiently regarding trade and education, as well as religious desires plus any family attachment they may have here. For example, a carpenter who would be able to obtain employment as one, would probably be settled and housing provided near his job; a schooling would then be provided for his children, and he probably would be taught the language and customs during the evening.

A person with a degree or sophisticated qualifications where the language is absolutely essential, would be placed in an absorption center, where he and all members of his family would be taught the language and customs at an excelerated pace. These absorption centers either provide meals in a central dining room, or have kitchen facilities in the individual apartments.

The Jewish Agency is indeed performing an incredible job to provide the needs, and are continuing the task to make Israel a home for those fortunate Jews, who are able to come from the Soviet Union.

The publicity generated by the fact that some very very few Soviet Jews wish to return, seems grossly exaggerated, and should be in no way related to the opportunities afforded by the agencies in Israel. In percentage, the amount is less that ¼ of a percent, and their reasons seem to be in no way related to facts, as given by the publicity widely distributed by some of the news media in the United States.

A co-worker returned from an extended trip to Europe, studying the same as I did and found a few families from Rome who had found it very hard to adjust to the life in Israel and are attempting to settle elsewhere but are still grateful for the assistance offered to them.

In Israel I was contacted by a man from Vilnius (Soviet Lithuania). To his deep regret and sorrow his son and his wife were not permitted to leave, even though all of his closest relatives were living in Israel. He asked me for help, among other things, to try to speak to his son in the Soviet Union. I was able to accomplish this reaching him by phone. His son rejoiced upon hearing my voice and renewed his hope that people are still concerned about his fate and are trying to help him. He ended his conversation with me with "Shalom" and thank you.

Yours respectfully,

E. GOLDBLUM,
*Chairman Westchester Conference on Soviet Jewry.*

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## THE RETIREMENT OF A PILLAR OF THE HOUSE

## HON. ROBERT N. C. NIX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. NIX. Mr. Speaker, I have had the plivilege of serving with the Honorable H. R. GROSS, Member of Congress from Iowa for 15 years.

We have served together on subcommittees where I was the chairman and he was the ranking Republican member.

I hope that he does not get angry with me for pointing out that he was the most cooperative and responsible Member of Congress I have ever served with.

His integrity, his desire to accomplish something every day he has been in the Congress were among the greatest assets of any committee we have served on together.

Mr. GROSS has on many occasions walked an extra mile to make a quorum for a subcommittee executive session so that we could vote on legislation that he may not have supported. I can bear personal witness to this side of his career in Congress as a subcommittee chairman.

The Members of the House are of course aware of his daily activity on the floor.

I wish that I had the mathematical skill to compute the number of hours of preparation that supported the number of hours of skilled debate by Mr. GROSS in the House.

I wish that I had the skill to compute with any accuracy the amount of money saved the taxpayers, because all of the rest of us in committee had to look forward to the searching cross-examination of the gentleman from Iowa when we brought legislation to the floor.

It is with pleasure that I note, that Congressman GROSS has become somewhat of a hero to some members of the liberal press at the end of his long career, because of his courage, his industry, and his influence compelled attention, and his sincerity compelled admiration. Such a turn of events is even more noteworthy, since Mr. GROSS never wasted a second seeking adulation in 26 years.

It is difficult to find words to describe the value to the House of a colleague who in all of his days and nights since 1949 has devoted his waking hours to the House of Representatives. The media cannot capture the essence of such service since its headlines are devoted to fashionable causes.

There may be one way of judging the career of H. R. GROSS and that is in the high regard he is held by the membership of the House of Representatives in this Congress and all of the Congresses of the fifties and sixties and into all the seventies, because his example will live on with us after his retirement.

In summation let me say, that his career proves how valuable to his country one Member of Congress can be.

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## GROSS BUREAUCRATIC INVASION

## HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. DERWINSKI. Mr. Speaker, the grassroots leaders of Illinois, and especially the small businessmen, are justifibly irritated at the constant work load that is imposed on them by bureaucratic regulations. This subject is very effectively editorialized in the Sunday, January 6 issue of the South Suburban Opinion a publication servicing Cook County, Ill.

The editorial follows:

GROSS BUREAUCRATIC INVASION

Government bureaucracy is liked by no one—except those who have found careers in its murky depths. Yet few appreciate the full cost of the federal bureaucracy, nor the extent of its influence and control over nearly every field of human endeavor. The expense of filling out forms for a bewildering array of governmental administrative agencies has become a major cost to business, as well as to consumers. The accompanying regulatory control is frequently in basic conflict with the principles of the competitive business system.

A typical example of this is a proposal to require annual "Line of Business" reports to be submitted to the Federal Trade Commission. Such reports would be required from companies covering each line of business in which they were engaged and eliciting information of the most detailed sort on sales, costs and profits. In the case of many retailers selling a great variety of merchandise, the separate reports required could conceivably run into the thousands. The Federal Trade Commission alleges that buyers could use the data on sales, costs, profits and assets to form judgments concerning the appropriateness of price/cost margins and profit rates. This is not likely. It is further claimed that sales promotion activities and expenditures should be related to sales to see if the proportion is too high and may deter competition. Likewise, the program's proponents suggest that research and development expenditures, like sales promotion, may be excessive and anticompetitive.

The question is, who is to determine whether sales promotion expenditures are too high and in relation to what? Similarly, who is to judge whether research and development costs are excessive? There is but one answer—a government bureaucrat who will presume to possess greater wisdom concerning competition in the marketplace than people who have spent their lives working in that marketplace. As one critic of this advance of government bureaucracy into the lives of private citizens observes, "This proposal is so totally at odds with the accepted concept of the American free enterprise economy and its business system with the accepted concept of the American free enterprise economy and its business system that it is compelling reason to totally reject the proposed Line of Business reports."

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## STAMP COMMEMORATING FOSTER FAMILY CARE

## HON. DICK SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. SHOUP. Mr. Speaker, today, I am introducing a bill which provides for the issuance of a commemorative stamp to honor "Foster Family Care."

I do not know how many of my distinguished colleagues have had any experiences relating to foster children, but I have fond memories as a young father of stopping by a foster family home to pick up the foster kids so that they would have a ride to school with my kids. An arrangement such as this may seem minor, but is indicative of the self-help nature of the foster family care program. The people who are a part of the foster care program are highly motivated, self-giving individuals with a sincere desire to help provide those children in need of temporary care, a happy and healthy family environment in which to live.

There is an average of 350,000 children living in 150,000 foster families during any given year. These children are unable to remain in their natural family settings, because their parents cannot properly care for them. A high percentage of these children have some type of physical or mental illness. But there is also a large group of families which suffer symptoms of alcoholism, drug addiction, and other family disorganizations which lead to child neglect.

The foster family care program is basically a State and county responsibility. There are no Federal agencies as such which subsidize the program, but there are some moneys available from titles IV(A)—Aid to Families With Dependent Children, and IV(B)—Child Welfare Services, of the Elementary and Secondary Education Act. The Children's Bureau in the Social and Rehabilitation Services of DHEW is the Federal information source for foster care programs.

It is with deep respect and gratitude that I offer this bill for the issuance of a stamp commemorating foster family care, to give national recognition to all the worthy and dedicated foster parents who are so deserving of this acclaim.

Mr. Speaker, I respectfully request permission to have printed at this point in the RECORD a copy of the "Bill of

Rights for Foster Children," which the National Action for Foster Children Committee drew up and ratified at their annual meeting held in Philadelphia's Congress Hall, April 28, 1973. These 10 articles express the deep concerns of the committee that every foster child has the same rights inherent to all children.

The bills follow:

H.R. 12177

A bill to provide for the issuance of a commemorative postage stamp in recognition of Foster Family Care

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the United States Postal Service is authorized and directed to issue a special postage stamp in recognition of Foster Family Care. Such stamp shall be of such denomination and design, and shall be issued for such period, as the United States Postal Service shall determine.

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BILL OF RIGHTS FOR FOSTER CHILDREN

Ratified in Congress Hall, Philadelphia, Saturday, the Twenty-eighth of April, Nineteen hundred and seventy three.

Even more than for other children, society has a responsibility along with parents for the well-being of foster children. Citizens are responsible for acting to insure their welfare.

Every foster child is endowed with the rights inherently belonging to all children. In addition, because of the temporary or permanent separation from and loss of parents and other family members, the foster child requires special safeguards, resources, and care.

Every foster child has the inherent right:

Article the first—to be cherished by a family of his own, either his family helped by readily available services and supports to assume his care, or an adoptive family or by a plan, a continuing foster family.

Article the second—to be nurtured by foster parents who have been selected to meet his individual needs and who are provided services and supports, including specialized education, so that they can grow in their ability to enable the child to reach his potential.

Article the third—to receive sensitive, continuing help in understanding and accepting the reasons for his own family's inability to take care of him, and in developing confidence in his own self-worth.

Article the fourth—to receive continuing loving care and respect as a unique human being . . . a child growing in trust in himself and others.

Article the fifth—to grow up in freedom and dignity in a neighborhood of people who accept him with understanding, respect and friendship.

Article the sixth—to receive help in overcoming deprivation or whatever distortion in his emotional, physical, intellectual, social and spiritual growth may have resulted from his early experiences.

Article the seventh—to receive education, training, and career guidance to prepare him for a useful and satisfying life.

Article the eighth—to receive preparation for citizenship and parenthood through interaction with foster parents and other adults who are consistent role models.

Article the ninth—to be represented by an attorney at law in administrative or judicial proceedings with access to fair hearings and court review of decisions; so that his best interests are safeguarded.

Article the tenth—to receive a high quality of child welfare services, including involvement of the natural parents and his own in major decisions that affect his life.

Attest:

BRUCE H. MALLOTT,
*Chairman, National Action for Foster Children Committee.*
MRS. JAMES M. COX,
*Member, National Action for Foster Children Committee.*
FREDERICK GREEN, M.D.
*Associate Chief, Children's Bureau.*

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## AIRCRAFT AND AIRPORT NOISE

## Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mrs. BURKE of California. Mr. Speaker, I would like to submit to the RECORD a copy of a statement that Senator JOHN TUNNEY of California recently gave to the Environmental Law Institute of the American Bar Association.

This statement, given on the first anniversary of the Noise Control Act of 1972, addresses the issue of preemption under various sections of the above law. I believe it is especially important to recognize, as Senator TUNNEY makes clear, that the Supreme Court has held in a recent decision that the Noise Control Act does in fact preempt State and local governments with regard to the regulation of aircraft and airport noise.

The effect of the decision in Burbank against Lockheed Air Terminal, which struck down a local ordinance imposing a curfew on Burbank Airport, is to leave something of a regulatory vacuum as far as noise control is concerned. While the Court has left the regulation of aircraft and airport noise chiefly in the hands of the Federal Aviation Authority, the FAA has been slow to move in this area. Under the terms of the Noise Control Act, the FAA is required to consider noise control recommendations submitted by the Environmental Protection Agency. But the recommendations have not been forthcoming, nor has any deadline been set for either their submission by EPA or their ultimate consideration by FAA.

EPA has recently completed a 9-month study of aircraft and airport noise and has indicated that it intends to make strong recommendations. Without any deadline, however, EPA has also indicated that it may not be able to submit all its proposals for up to a year.

Earlier this summer, Representative JOHN MOSS of California and I, together with a number of cosponsors, introduced legislation—H.R. 9707—which would establish a deadline for EPA to submit its recommendations. We are now working to expand the scope of the amendment to set a deadline for final action by the FAA as well.

It is of critical importance that EPA and FAA finally act on the very serious problem of aircraft and airport noise. With the Burbank decision upholding the doctrine of preemption in this area, the citizens of this country will be left without any kind of substantive relief until the above agencies do act or, more realistically, until the above agencies are required to act.

Noise pollution in general and airport noise in particular are threatening problems in metropolitan areas. As the recent EPA study reported, approximately 10 million Americans are now affected by aircraft and airport noise and that "in spite of the introduction of quieter new aircraft, the number of people affected will continue to be of major proportions until the mid-1980's unless aggressive action is taken."

We have studied this problem for years, and the time has come to finally grant relief to our citizens. We must, at the very least, avoid unnecessary bureaucratic delay. On behalf of our beleaguered urban residents, we can afford no less.

Mr. Speaker, I respectfully ask that Senator TUNNEY's statement be reprinted forthwith:

NOISE CONTROL ACT OF 1972 ON FEDERAL, STATE AND LOCAL LEVELS

Good Morning. I am pleased to address this environmental conference on what is approximately the first anniversary of the Noise Control Act of 1972.

As most of you know, it took about two years to get the legislation through the Congress. The House passed a weak bill in February of 1972, and shortly thereafter I introduced in the Senate, with Senator Muskie, what we hoped was a far stronger piece of legislation. For the next seven months, intense negotiation and lobbying went on, and, finally, in the last days of the 92nd Congress, a very tough bill passed the Senate and a very adequate compromise was agreed upon with the House.

In my brief remarks today, I want to address the issue of pre-emption under various sections of the legislation. As this audience is well aware, the pre-emption provisions are a crucial determinant of the scope of regulatory and enforcement authority available to cities, states and the federal government. The pre-emption provisions in the Noise Control Act differ for each of the three basic parts of the regulatory approach.

First, for new products.

The legislation provides that, within two years of enactment, after the publication by the Environmental Protection Agency of the effects on the health and welfare of differing quantities and qualities of noise, and after opportunity for public participation, EPA must publish noise regulations for major noise sources. Once these regulations are prescribed (not just proposed), cities and states are pre-empted from setting any but identical standards with respect to the products involved. This means that a state or city might enact a law which sets an identical noise emission level, but provides stricter penalties for violation. The section goes on to state that states and cities are free to regulate levels of environmental noise even if those regulations result in restricting the operation or use of a product for which federal standards have been set. Permissible regulatory techniques include restrictions on licensing, use, operation or movement of products.

For example, according to the Senate report, states and localities can set speed or load limits or prohibit use in given areas or during given hours. They can set quantitative limits on environmental noise in an area and enforce those limits against any source in the area. They can restrict noise at the boundary of a construction site or regulate noise as a nuisance.

In California, for example, six different types of laws aimed at reducing vehicular noise, which are in force at this time, are not inconsistent with the pre-emption provisions of the Noise Control Act. These include on-the-road vehicle noise limits similar to speed limits (vehicle code sections 23130 and 23130.5), a prohibition against the sale of new motor vehicles exceeding stated noise limit (vehicle code section 27160), muffler requirements (vehicle code sections 27150 and 27151), requirements for certification of motor vehicle exhaust systems based on noise (vehicle code section 27150.1 and 25150.7), certification of tires based on noise (vehicle code section 27502 through 27503) and an extensive registration and noise control system for off-highway vehicles (vehicle code sections 38000 through 38300).

The only one of these laws which may be interfered with once the new product standards set by the EPA become effective is vehicle code section 27160 prohibiting the sale of new motor vehicles exceeding stated motor noise limits. If EPA's noise limit for new motor vehicles is different from the stated noise limits in the California law, then the noise limit in the California law will be invalid. If the EPA limit is identical to the California limit, then California law will not be invalid.

The second basic part of the regulatory approach in the legislation concerns aircraft and airport noise.

Under section 7, EPA is to make a nine-month study of the adequacy of existing efforts to control aircraft noise, implications of identifying and achieving levels of cumulative noise exposure, and additional measure avaliable to aircraft operators and local governments in order to control noise. Based on the study, EPA must submit proposed regulations to the FAA which are necessary to protect the public health and welfare. The FAA must publish these recommendations, and, after opportunity for public comment, it must accept or modify them. Review of the FAA's action is available to EPA and the public.

There are no pre-emption sections whatsoever in the parts of the legislation concerning aircraft and airport noise. The intent here, as expressly stated in the Senate and House reports, was that "no provision of the bill is intended to alter, in any way, the relationship between the authority of the federal government and that of state and local governments that existed with respect to matters covered by section 611 of the Federal Aviation Act prior to the enactment of the bill."

We thought our statement of intent was clear; we intended *not* to address the issue of pre-emption. Nonetheless, in briefs before the Supreme Court on a case then pending, one side argued that by not including a pre-emption clause we intended not to pre-empt, and the other side argued that we intended to re-emphasize the fact that the federal government had preempted, in all respects, the regulation of aircraft in flight. The case was *City of Burbank v. Lockheed Air Terminal*, and the basic issue was whether the imposition of a curfew on Burbank Airport by the City of Burbank (which was not the airport proprietor) was a proper exercise of that City's police power and was not pre-empted by federal regulations of aircraft and airport noise. In a 5 to 4 decision issued last May, the Supreme Court held that, indeed, we *did* intend to pre-empt and cited sections of floor debate on the bill. (*City of Burbank v. Lockheed Air Terminal*, 411 US 624 (1973).)

The *Burbank* result is disappointing because it has created a regulatory vacuum. States like California which have strong legislation concerning aircraft and airport noise now find their laws enjoined by the courts. City and airport authorities fear substantial liability by virtue of damage suits filed by residents around noisy airports (for example, the Los Angeles International Airport) but claim they have no regulatory means to reduce their liability and to help solve the problem.

The federal government could act, but hasn't. Until the pressure generated upon it by virtue of the passage of the Noise Control Act, the FAA had regulations to reduce noise of only 2% of the current commercial fleet. Since October of last year, some new proposals have been made. For example, the FAA promulgated a rule to ban overflights of supersonic aircraft at supersonic speeds but not to lower noise levels from such aircraft when they fly subsonically. The FAA has also indicated that it favors regulating fleet noise levels, but it proposes to exclude from such regulation aircraft engaged in "foreign and overseas commerce" which means that the majority of noisy 707's and DC–8's will not be covered. Just last week, the FAA indicated that new aircraft of old types (E.G., 707's) should meet its part 36 noise levels, but this proposal still fails to cover the majority of commercial aircraft now flying.

I am convinced that the FAA will not take sufficient action until it is forced to. The Noise Control Act provides a mechanism to force the FAA to act, once EPA makes its recommendations. EPA has now completed its nine-month study of the problem and has indicated that it intends to make strong recommendations. Unfortunately, the legislation does not set a deadline for making these recommendations, and EPA now wants to delay doing so until next year. I am hopeful that pressure from the Congress and the public will speed up the process, or that an amendment to the legislation to set a deadline will pass the Congress.

The *third* basic part of the legislation concerns interstate carriers.

Here, the legislation provides virtually total pre-emption for standards covering both new and old products. Standards are to be promulgated by EPA within nine months of the enactment of the law, after consultation with the Department of Transportation, and must reflect the best available technology, taking into account the cost of compliance. EPA has proposed standards for motor carriers, but standards for railroads have been delayed. In contrast to the aircraft area where the industry has lobbied against more regulation, here, pressure to enact regulations comes from the various industries to be regulated which fear extraordinary costs and burdens from being forced to accept a multiplicity of state and local regulations. In the case of railroads, however, it is argued that we do not yet have technology sufficient to do the job needed. I would emphasize that a prime purpose of the legislation was to push technology, and that pressure must be kept on EPA to meet its statutory obligations.

A discussion of pre-emption under the legislation would not be complete without mentioning section 5(a)(2), which requires that, within one year of enactment, EPA is to complete a report on the levels of environmental noise requisite to protect the public health and welfare with an adequate margin of safety. This is a key document because, under the legislation, states and cities are left absolutely free to regulate levels of environmental noise. The document, then, can serve as an important tool to aid states in cities in formulating legislation.

It was the intent of the Congress that this document specify maximum levels of noise exposure, and not just approximate levels. A range of only a few decibels can mean as much as a 100 percent increase or decrease in the amount of noise. The concept of "protecting the public health and welfare with an adequate margin of safety" implies that every sector of the population which could reasonably be exposed to such noise levels, even medically susceptible individuals, should be protected. Consideration of economics and technological feasibility should not figure in the establishment of these maximum levels but should be factors which the state and local governments should consider in determining when and in what areas these protective levels should be attained.

On October 2, 1973, in order to clarify confusion about the intent of section 5(a)(2) which arose at an oversight hearing held by the Senate Commerce and Public Works Committees a week earlier, I sent a letter to David D. Dominick, then EPA's Assistant Administrator for Hazardous Control. In that letter, I stated the Committees' understanding of the legislative intent and it is my understanding that the letter arrived in the knick of time to prevent an effort at some levels in the agency to gut the "levels" document. That document was due last week—on October 27th. It has been delayed, but the draft I have seen does comply with the legislative intent.

In conclusion, we seem to be well on the way to coordinating federal, state and local noise regulations. The basic problem at this point is the regulatory vacuum concerning aircraft and airport noise. The ever-present threat of liability should keep sufficient heat on the FAA to force stronger regulations in the near future. Should existing legislation prove inadequate, I am prepared to introduce additional legislation. States like California will pursue their remedies in court and may succeed in enforcing their own laws, at least until such time as federal regulation is adequate.

Just as noise is a subtle pollutant (in the sense that it is invisible and its effects often do not become apparent until some time after the cause has dissipated), so the regulation of noise is also subtle. The attempt was made in the Noise Control Act to provide a mix of remedies at federal, state and local levels. That attempt will only succeed if efforts are made at each of these levels to pass strong and effective legislation and to enforce that legislation. I will continue to do what I can at the federal level, and I ask each of you—in your private and public capacities—to help.

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## PERSONAL FINANCIAL DISCLOSURE

## HON. EDWARD G. BIESTER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. BIESTER. Mr. Speaker, at this time I enter into the RECORD a statement of the assets and liabilities of my wife and I as of December 31, 1973:

| | |
|---|---|
| Assets (as of December 31, 1973): | |
| Savings account | $331.18 |
| Cash on hand in checking accounts | 200.00 |
| Personal notes due us | 23,151.83 |
| 1971 Camaro, 1969 Ford, and 1965 Mustang | 3,075.00 |
| Real Estate: | |
| House in Furlong | 50,000.00 |
| House in Washington | 78,000.00 |
| Stocks and Bonds: | |
| 6 shares, Xerox | 736.50 |
| 12 shares, ATT | 601.50 |
| Bucks Republican Headquarters, Inc. bond | 1,000.00 |
| Household goods and miscellaneous personal property | 12,000.00 |
| U.S. Civil Service Retirement Fund | 20,835.00 |
| Total assets | 194,631.10 |
| Liabilities (as of December 31, 1973): | |
| Mortgages and loans secured on real property: | |
| House in Furlong | 19,661.46 |
| House in Washington | 41,385.99 |
| Installment loan on car | 271.64 |
| Personal notes and loans | 7,262.96 |
| Total liabilities | 68,582.05 |

During 1972, in addition to my congressional income, I received $75 in honoraria, $1,891 in installment payments on interest-bearing notes—the principal of which is capital gain—and dividend income amounting to less that $100. I expect 1973 figures to be substantially similar.

I am pleased to join with my other colleagues who also have disclosed statements of their personal finances. As a cosponsor of financial disclosure legislation, it is my hope that the House and Senate will enact such a measure during the current session.

## LEGISLATIVE STATUS REPORT: JANUARY 1974

## HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. DELLUMS. Mr. Speaker, periodically, I enter into the RECORD a status report on legislation I have sponsored. Following is such a report covering all legislation I sponsored during the first session of the 93d Congress:

LEGISLATIVE STATUS REPORT, JANUARY 1974

### AGRICULTURE

H.R. 5683. (Denholm): Funds REA Emergency Loan Program (Enacted as PL 93-32).

H.R. 3077 (Dellums): Limits procurement of lettuce by the Department of Defense.

### ARTS AND HUMANITIES

H.R. 8770 (Nedzi): Establish Folklife Center in Library of Congress.

### ASIAN-AMERICAN AFFAIRS

H.R. 3086 (Dellums): Japanese-American Friendship Act.

### BUDGET

H.R. 8897 (Rangel): Make full appropriations for OEO.

### CHILD WELFARE

H.R. 3081 (Dellums): Comprehensive Child Care Services.

H.R. 2573 (Dellums): Requires child-care facilities in low rent housing projects.

H.R. 6379 (Schroeder): Establish National Center on Child Development and Abuse Prevention within HEW (Passed both Houses; now in conference).

H.R. 8270 (Daniels): Youth Camp Safety Act.

### CIVIL LIBERTIES

H.R. 2572 (Dellums): Defines the authority of armed forces to gather intelligence.

H.R. 2577 (Dellums): Government must notify individuals of records kept by government agencies.

H.R. 2578 (Dellums): Limits the sale of mailing lists by federal agencies.

H.R. 2579 (Dellums): Amends the Hatch Act.

H.R. 2581 (Dellums): Lowers juror age from 21 to 18 in federal courts.

H.R. 2582 (Dellums): Gun control.

H.R. 2584 (Dellums): Newsmen privilege (Similar bill, H.R. 5928 to be reported in lieu).

H.R. 3100 (Dellums) Amnesty.

H.R. 3520 (Waldie) Protects confidential sources of news media—Similar bill H.R. 5928 to be reported in lieu.

H.R. 4209 (Diggs) Safeguards Americans abroad from discrimination.

H.R. 5592 (Drinan) Abolishes capital punishment.

H.R. 7796 (Dellums) Better Voting Act (postcard registration passed Senate, pending in House).

H.R. 9480 (Kastenmeier): Voting rights for former convicts.

H.R. 10182 (Stark): Protection of financial information.

H.R. 11275 (Goldwater): Code of Fair Information Practices Act.

H.J. Res. 217 (Dellums) Lowers age requirement for membership in Congress.

H.J. Res. 242 (Brown) Gives Members of Congress the right to sue for impoundment of funds.

H.J. Res. 2[illegible] (Delugo) Allow citizens of Guam and Virgin Islands to vote for President and Vice-President.

H. Res. 556 (Dellums) Constitutional amendment giving Congress power to change election laws.

### COMMERCE

H.R. 8288 (Stark) Allow co-ops to receive SBA assistance.

### CONGRESSIONAL REFORM

H.R. 3385 (Dellums) All Congressional and agency meetings open to public.

### CONSUMER AFFAIRS

H.R. 2412 (Rosenthal): Establishes Office of Consumer Affairs.

H.R. 2580 (Dellums): Requires licensing of food manufacturers and processors.

H.R. 3093 (Dellums): Consumers class action rights.

H.R. 3096 (Dellums): Bans war toys.

H.R. 4879 (Udall): Full disclosure on land sales (Included in Senate bill now pending in House).

H.R. 8436 (O'Hara): Prohibit weaker State meat inspection standards (Subcommittee on Livestock and Grains completed hearings).

H.R. 11460 (Brown of Cal.): Banks and Savings & Loans pay interest on escrow accounts.

### DISASTER ASSISTANCE

H.R. 6316 (Danielson): Create Federal Disaster Insurance Corporation.

H.R. 7547 (Dellums): Eucalyptus tree fire danger assistance. (Reported by Agriculture Committee; Rules defeated on House floor.)

H.R. 7926 (Stark): Disaster Relief Act Assistance for Seventh District.

### DISTRICT OF COLUMBIA

H.R. 2574 (Dellums): Statehood for D.C.

H.R. 5598 (Fauntroy): Rent control for the District of Columbia. (Signed into law as PL 93-157.)

H.R. 9470 (Dellums): Autonomous elected Board of Education for the District of Columbia. (Hearings started by subcommittee on Education.)

H.R. 9682 (Diggs): Home Rule for the District of Columbia. (Signed into law as P.L. 93-198.)

H.R. 11108 (Diggs): Extend D.C. Medical and Dental Manpower Act of 1970.

H.R. 11238 (Gude): Subsidized adoption program for D.C. (Signed into law as P.L. 93-241.)

### DRUGS

H.R. 3103 (Dellums): Prohibits the mailing of unsolicited sample drug products.

H.R. 3382 (Dellums): Regulates interstate sale and trafficking of hypodermic needles.

H.R. 7051 (Dellums): Prohibits aid to foreign countries who produce drugs.

H.R. 10732 (Owens): Amends F.D.A. vitamin labeling regulations. (Commerce Committee hearings underway.)

### EDUCATION

H.R. 3082 (Dellums): Grants to Deganwidah-Quetzalcotal University.

H.R. 3085 (Dellums): Encourages States to increase proportion of expenditures to public education.

H.R. 3378 (Dellums): Provides instructional services for homebound children.

H.J. Res. 810 (Dellums): National Education Policy. (Adopted as part of Elementary and Secondary Education Act of 1974).

H.J. Res. 851 (Badillo): Authorize President to proclaim week of May 13, 1974 as Bilingual Education Week.

### EMPLOYMENT

H.R. 1490 (Eckhardt): Amends Longshoremen's and Harbor Workers' Compensation Act.

H.R. 2585 (Dellums): Unemployment insurance for agricultural workers.

H.R. 2586 (Dellums): Extends unemployment insurance for agricultural workers.

H.R. 3083 (Dellums): Day laborer's rights.

H.R. 3110 (Dellums): Assigns unused lab space to unemployed scientists.

H.R. 3112 (Dellums): Pension Rights.

H.R. 3986 (Hawkins): Public Service employment programs.

H.R. 5401 (Corman): Unemployment insurance for agricultural workers.

H.R. 5706 (Hawkins): Aid for OIC programs.

H.R. 6161 (McFall): Establishes price wage board and guidelines.

H.R. 7224 (Harrington): Federal Security of Employment Benefits.

H.R. 7225 (Harrington): Improve extended unemployment and compensation program.

H.R. 7964 (Mink): Equalize compensation of overseas teachers.

H.R. 8372 (Heinz): Reallocation of vocational rehabilitation funds.

H.R. 8420 (Harrington): Public Service Employment Act.

H.R. 9699 (Abzug): Flexible Hours Employment Act.

H.R. 10970 (Dellums): Eliminate employment discrimination because of type of military discharge.

H.J. Res. 243 (Harrington): Increases House of Representatives intern programs.

### ENERGY

H.R. 5234 (Kastenmeier): Prevents coal companies from owning all energy sources.

H.R. 8068 (Aspin): Continued gas sales to independent retailers.

H.R. 8802 (Burton): Percentage of oil imports must be carried on U.S. ships.

H.R. 9095 (Owens): Recycling of waste products.

H.R. 9364 (Fraser): Amend Interstate Commerce Act to prevent oil companies from owning pipelines.

H.R. 10299 (Ashley): Improving motor vehicle fuel economy.

H.R. 10542 (Dingell): Assuring adequate fuel supplies.

H.R. 11496 (Aspin): Directs President to halt exports of fuel oils.

### ENVIRONMENT

H.R. 2677 (Hechler): Strip Mining Act. (Similar H.R. 3 to be reported in lieu).

H.R. 3076 (Dellums): Safe Pesticide Act.

H.R. 3092 (Dellums): Smogless Vehicles Development Act.

H.R. 3095 (Dellums): Emissions Control Act.

H.R. 3097 (Dellums): Amends National Emission Standards Act to require most stringent standards.

H.R. 3101 (Dellums): Regulates dumping in oceans and other waters.

H.R. 3102 (Dellums): Provides for environmental action suits.

H.R. 3104 (Dellums): Increases penalties under 1899 Refuse Act.

H.R. 3105 (Dellums): Amends Refuse Act of 1899 relating to issuance of certain permits.

H.R. 3106 (Dellums): Provides for assistance in enforcing clean air and water standards.

H.R. 3107 (Dellums): Synthetic Detergent Study.

H.R. 3388 (Dellums): Establishes Desert Pupfish National Monument.

H.R. 5325 (Dellums): Establishes a National Environmental Trust Fund.

H.R. 8530 (Udall): Alaskan Petroleum Transportation Act. (Weaker P.L. 93-153 signed into law.)

H.R. 8889 (Koch): Spaying and neutering clinics.

H.R. 9583 (Patman): Fire Prevention and Control Act.

H.R. 9866 (Bafalis): Deauthorization of cross Florida Barge Canal.

H.J. Res. 763 (Matsunaga): Set aside of EPA water pollution regulations.

### FOOD STAMPS

H.R. 2571 (Dellums): Allows food stamps to be used for purchase of imported meats.

### FOREIGN AFFAIRS

H.R. 179 (Dellums): Halt bombing and withdraw from Vietnam.

H.R. 3911 (Mills): Prohibits most-favored nation treatment for denial of right to emigrate. (Included in trade bill now pending in Senate.)

H.R. 4987 (Roybal). Increases immigration.

H.R. 5741 (Roybal): Increases immigration from western hemisphere.

H.R. 8005 (Fraser): Re-institution of Rhodesian chrome ore boycott sanctions. (Reported by subcommittee on International Organizations and Movements).

H.R. 8177 (Harrington): Cut off war funds in Cambodia and Laos.

H.R. 8573 (Rangel): Herbicide Export Control Act.

H.R. 8574 (Rangel): Prohibit exports of herbicide to Portugal and S. Africa.

H.R. 8965 (Steiger): Citizenship and adoption for S. Vietnamese children.

H.R. 9214 (Kastenmeier): Accountability and liability for government officials involved in national security policy.

H.R. 10588 (Matsunaga): Creates Department of Peace.

H. Res. 441 (Harrington): Test Ban Treaty Negotiations.

H. Res. 493 (Gude): Prohibition of weather modification in war.

H. Res. 522 (Diggs): Fair employment in South Africa.

H. Res. 523 (Fraser): Diplomatic relations between U.S. and Sweden. (Approved by subcommittee on Europe).

H. Res. 616 (O'Neill): Phantom Jet sales to Israel.

H.J. Res. 268 (Diggs): Fair employment in South African enterprises.

H.J. Res. 516 (Bingham): To end the war in Indochina. (Subcommittee of Asian and Pacific Affairs conducting hearings).

### GOVERNMENT OPERATIONS

H.R. 2576 (Dellums): Amends Age Discrimination Act to include state employees.

H.R. 3296 (Pickle): Impoundment limits (similar bill, H.R. 8480, passed by House.)

H.R. 3379 (Dellums): Expands the Advisory Committee on Intergovernment Relations to include school board officials.

H.R. 5398 (Conyers): Prevent dismantling of OEO.

H.R. 5587 (Conyers): Prevent dismantling of OEO.

H.R. 5626 (Reid): Eliminates restrictions on social service regulations.

H.R. 5722 (Melcher): Consent needed for OMB Director. (Vetoed by President. Revised version S. 37 now in conference).

H.R. 6223 (Dellums): Bureaucratic Accountability Act.

H.R. 6261 (Mink): Amends Freedom of Information Act.

H.R. 7266 (Mitchell): Put protective police under GSA.

H.R. 7696 (Dellums): Federal Employee benefits retirement amendments. (Reported by subcommittee on Postal Facilities and Mail).

H.R. 7697 (Dellums): Postal Reorganization Act Amendments.

H.R. 7698 (Dellums): Postal Service Labor relations amendment.

H.R. 12004 (Moorhead): Amendments on classification of government documents.

H. Res. 148 (Dellums): Abolishes Committee on Internal Security.

H.J. Res. 432 (Reid): Social Service program regulations.

### HEALTH

H.R. 6041 (Hastings): Health Programs Extension (signed) into laws as PL 93-45).

H.R. 6622 (Waldie): Extension of Migrant Health Act.

H.R. 8539 (Murphy): Continuation of Public Health Service Hospitals.

H.R. 9363 (Burke of Calif.) Expand the definition of "Development Disability" to include autism.

### HOLIDAYS

H.R. 2265 (Conyers): Designates Martin Luther King's birthday as legal holiday.

### HOUSING

H.R. 3080 (Dellums): Authorizes loans to pay mortgages of persons temporarily unemployed.

H.R. 10902 (Stephens): Rural Housing Act.

### IMPEACHMENT

H. Res. 465 (Stark): Study by House Committee of Watergate.

H. Res. 650 (Abzug): Impeachment.

H.J. Res. 784 (Culver): Appoint special prosecutor for floor vote. (Similar H.R. 11401 to be reported in lieu).

### LEGAL SERVICES/COURT REFORMS

H.R. 3099 (Dellums): Provides compensation for victims of violent crimes.

H.R. 4263 (Meeds): Establishes the National Legal Services Corporation (weaker bill enacted as PL 93-95).

H.R. 8349 (Roybal): Provide bi-lingual court proceedings.

### MILITARY AFFAIRS

H.R. 3111 (Dellums): Increases servicemen's group life insurance coverage.

H.R. 3224 (Benitez): Terminates weapons range activities near Culebra. (Defense Department registered official objection).

H.R. 3386 (Dellums): Provides veterans with up to nine months of educational assistance and refresher courses. (Subcommittee hearings held).

H.R. 4751 (Danielson): Social Security benefit increases disregard for purposes of determining eligibility for veterans benefits.

H.R. 7695 (Dellums): Establishes Assistant Secretary of Defense for Equal Opportunity.

H.R. 7794 (Dellums): Bans bounties paid civilian police forces.

H.R. 8490 (Koch): Changes in military discharge information released to public.

H.R. 8491 (Koch): Independent Review Boards for discharges.

H.R. 8492 (Koch): Increased veterans educational benefits.

H.R. 8494 (Koch): Additional educational benefits for Vietnam vets.

H.R. 8496 (Koch): Establishes Vietnam era veterans task force.

H.R. 8687 (Leggett): Special pay incentives for physicians, dentists, veterinarians and optometrists.

H.R. 8719 (Dellums): Overseas troop reduction limitation.

H.R. 8960 (Robison): Establish within Peace Corps Vietnam Assistance Volunteers program.

H.R. 10011 (Owens): Controls transportation of nerve gas.

H.R. 10882 (Abzug): Psychiatric help for Vietnam veterans.

H.R. 11267 (Du Pont: No sex discrimination in Military Academy appointments.

H.R. 12144 (Stokes): Limitations on information on discharge certificates.

H. Res. 220 (Kyros): Troop reduction in western Europe. (Hearings being conducted by Subcommittee on Europe.)

H. Res. 528 (Owens): Detoxification of nerve gas by DOD.

H. Res. 712 (Owens): Review of national policy regarding chemical warfare.

H. Con. Res. 253 (Dellums): Overseas troop reduction limitation.

H.J. Res. 267 (Dellums): Clarifies presidential powers relating to the use of nuclear weapons in declared or undeclared wars. (Weaker H.J. Res. 542 vetoed by President and overridden by House; now law as PL 93-148.)

### MOTOR VEHICLES

H.R. 3091 (Dellums): Bans the use of internal combustion engines in motor vehicles after Jan. 1, 1975.

H.R. 3094 (Dellums): Speed Controls in cars.

H.R. 3108 (Dellums): Color coded traffic signs and signals.

### NATIVE AMERICANS

H.R. 3090 (Dellums): Enforces Treaty of Guadalupe-Hidalgo.

H. Con. Res. 115 (Meeds): American and Alaskan Native Act.

### PENAL REFORM

H.R. 2583 (Dellums): Omnibus Penal Reform Act.

H.R. 5202 (Badillo): Provides rules for treatment of prisoners in federal prisons.

H.R. 6852 (Dellums): Prohibits psychosurgery in federal facilities.

### POPULATION POLICY

H.R. 3381 (Dellums): Expands family planning services and population research.

H.R. 6021 (Dellums): Extension of Family Planning Act.

H.R. 8114 (Brown): Establish National Institute of Population Sciences.

### PUBLIC LANDS

H.R. 3087 (Dellums): 160 acre limit enactment.

H.R. 7458 (Dellums): Channel Islands National Park.

H.R. 3088 (Dellums): Open Beach Act.

H.R. 3089 (Dellums): Mineral King: enlarges Sequoia National Park.

H.R. 4012 (Leggett): Snow Mountain Wilderness Bill.

H.R. 4568 (Waldie): San Joaquin Wilderness and Sierra and Inyo National Forests.

H.R. 5288 (Mathias): Establishes California Desert National Conservation Area.

H.R. 9764 (Pettis): Protection of California desert areas.

H.J. Res. 204 (Dingell): Establishes Tule Elk Wildlife Refuge.

### SENIOR CITIZENS

H.R. 3084 (Dellums): Establishes older worker community service program.

H.R. 3098 (Dellums): Free of reduced rail transportation to handicapped or 65 and over.

H.R. 3377 (Dellums): Strengthens Older Americans Act (Enacted as P.L. 93-17).

H.R. 3388 (Dellums): Widow, Widower benefits bill.

H.R. 7052 (Dellums): Tax credit for senior citizen homeowners and renters.

H.R. 8595 (Lehman): Experimental program of elderly home care.

H.R. 11122 (Pepper): Nutrition programs for the elderly.

### SOCIAL SECURITY

H.R. 3116 (Dellums): Include qualified drugs under Hospital Insurance Program.

H.R. 3117 (Dellums): Individuals may qualify regardless of quarters when earned.

H.R. 3118 (Dellums): Liberalizes eligibility for blind persons.

H.R. 5258 (Stokes): Disability insurance benefits.

H.R. 8546 (Abzug): Minimum annual incomes.

H.R. 10236 (Rosenthal): Increase Social Security benefits enacted by public law. (Enacted into law as P.L. 93-233).

H.R. 10584 (DeLugo): Social Security increases for Guam and the Virgin Islands.

H.R. 11169 (Corman): Give states wide range for social service funds.

H.R. 11276 (Goldwater): Limit use of Social Security number and information.

H.R. 11471 (Grasso): Limit Medicare inpatient hospital deductible costs.

#### SPORTS

H.R. 2575 (Dellums): Athletic Safety Act.

H.R. 7083 (Badillo): Roberto Clemente Memorial Foundation.

H.R. 7795 (Dellums): Athletic Care Act. (Education and Labor Committee adopted amendment to Elementary and Secondary Education Act calling for one year study of athletic injury problem).

H. Res. 487 (Anderson of Calif.): Honoring Hank Aaron.

#### TAXES

H.R. 1041 (Corman): Tax equity.

H.R. 3113 (Dellums): Expenses for care of certain dependents.

H.R. 3114 (Dellums): Excise tax on fuels containing sulphur.

H.R. 3115 (Dellums): Increases personal exemptions after 1974.

H.R. 3120 (Dellums): Extends to unmarried persons tax benefits of splitting income.

H.R. 3387 (Dellums): Residents of Philippines can be claimed as tax-deductible dependents.

H.R. 6030 (Fraser): Puts $1 campaign tax check-off on front page of tax form.

H.R. 7053 (Dellums): World Peace Tax Fund.

#### TRANSPORTATION

H.R. 3078 (Dellums): Urban mass transit fund.

H.R. 3079 (Dellums): Oakland-Chinatown project.

H.R. 8570 (Moss): Defining inclusive tour air charters.

H.R. 10155 (Burke of Cal.): High speed West coast ground transportation.

#### URBAN AFFAIRS

H.R. 3109 (Dellums): Construction of bicycle lanes.

H.R. 3985 (Hawkins): Year round recreational program for youth.

H.R. 4820 (McFall): Extends Public Works Act authorization for one year (similar bill H.R. 2246 enacted as PL 93-46.)

#### WOMEN'S RIGHTS

H.R. 3374 (Dellums): Prohibits discrimination by sex or marital status for extension of credit (Enacted by Senate; House action pending.)

H.R. 3375 (Dellums): Prohibits discrimination by sex or marital status for any dealings with any federally insured banks.

H.R. 3376 (Dellums): Prohibits discrimination by sex or marital status regarding federally related mortgage transactions.

H.R. 3383 (Dellums): Prohibits discrimination on the basis of sex.

H.R. 3384 (Dellums): The Ms. prefix bill.

H.R. 9776 (Abzug): Postage stamp honoring Jeannette Rankin.

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## TO MY FATHER

## Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mrs. BURKE of California. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

### TO MY FATHER

#### WHO IS MY FATHER?

The man who wanted to slay the cow that flipped his six-year old; the early morning riser, who helped when the newspapers were too heavy.

The Counsellor, Companion, Friend, and most of all, "Father," who tenderly guided the hand of the boy; protected his youth, encouraged his growth, and loved his development.

Who watched with admiration, the transition of the boy to the man.

Ever available, ever giving of that love, strength, gentle chastisement, and unending support.

Criticism with care, love with forgiveness, and an unfaltering trust that binds father to son, and man to man, forever.

The "Man" who gave when there was nothing to give; the "Anchor" when seas were rough; the "Believer" when he stood alone; the "Generator" when the spirits were low.

The "Man" who became the "Father," who gave to the son, the love, strength, guidance, and inner tranquility that maketh the son . . . "The Man."

Dr. CHRISTOPHER C. DOTSON, Jr.

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## ADVISORY NEIGHBORHOOD COUNCILS UNDER THE HOME RULE ACT FOR WASHINGTON, D.C.

## HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. FRASER. Mr. Speaker, in another year when the newly elected City Council for Washington, D.C., has taken office, another feature of the home rule law will start coming into prominence. The City Council will start dividing the city into neighborhood areas and providing for elections in each area for Advisory Neighborhood Councils.

This feature, provided in section 738 of the Home Rule Act, will help the Council and other city officials get from each neighborhood a grassroots input into decisions of the city government.

A thoughtful leader of neighborhood affairs in Washington, D.C., Mr. Gregory New, first vice president of the District of Columbia Federation of Civic Associations, Inc., has some challenging suggestions for the new City Council when it comes to implement this part of the law. Mr. New suggests that besides identifying boundaries for each neighborhood, the Council should use neighborhood boundaries to redraw precinct, ward, and service area lines.

The great interest in this grassroots democracy portion of the home rule law is heartening. Full operation of neighborhood councils is still 2 or more years away, but it is not too early for active discussion of their role and the best ways to implement this part of the Home Rule Act.

The material follows:

### OUTLINE ON ADVISORY NEIGHBORHOOD COUNCILS

(By Gregory New)

The DC Self-Government and Government Reorganization Act authorizes the establishment of a system of Advisory Neighborhood Councils, provided a majority of the registered qualified voters in the District vote for such Councils May 7.

Section 738 of the Act provides:

1. The elected District Council shall divide Washington into neighborhood council areas.

2. Advisory Neighborhood Councils shall be established in such areas upon petition signed by 5% of the registered voters in the respective areas.

3. Neighborhood elections shall be conducted by the Board of Elections, shall coincide with Board of Education elections, and shall be nonpartisan.

4. Neighborhood Council members shall be elected from single member districts.

5. Each council must be given timely notice of all requested or proposed zoning changes, variances, public improvements, licenses or permits of significance to neighborhood planning and development within its area.

6. Each established neighborhood council shall be funded according to a minimum formula amounting to about 50 cents per year for each resident.

7. Neighborhood Councils may receive additional financing as voted by the District Council, and such other public and private funds as may be offered to them.

It is critical, however, to draw Neighborhood Council Areas that mean something to the communities concerned. This will not be easy, because of overlapping concepts of neighborhoods.

The Act provides that the District Council "shall consider natural geographic boundaries, election districts, and divisions of the District made for the purposes of administration of services." However, wards and precincts are rather arbitrary in the way they cut across neighborhoods. The present Service Areas have boundaries somewhat distorted out of respect to the Model Cities Neighborhood, which is purely the creation of just one program.

In as much as the language of the Act in this respect is not mandatory, perhaps it would be more in keeping with the spirit of the Act to reverse the consideration. First define the natural neighborhoods, then build the election districts and service areas around them. Under such a plan:

A. The City Council should draw neighborhood council areas first, sorting out neighborhood loyalties with the best advice available from present neighborhood groups.

B. The Council should then direct the Board of Elections to draw a new system of precincts uniform in population, which will respect the neighborhood boundaries.

C. In as much as Neighborhood Councils shall have single member constituencies, the City Council should then determine in each area how precincts shall relate to the councilmanic districts. In the smaller neighborhoods the precincts might be further divided into two or more councilmanic districts. In medium sized neighborhoods they may correspond to the councilmanic districts, while in the large neighborhoods the precincts could be combined into larger councilmanic districts. In any case, neighborhood council voting should be in the regular precinct polling places, and the relation between precinct and councilmanic district must be easy to bear in mind.

D. After the Board of Elections completes its new precinct map, it should then redraw the ward boundaries, to respect the various neighborhood council areas as far as is consistant with equal representation.

E. Once neighborhood council areas are established, the City Council should retailor the service Area system to fit the neighborhoods. In some sections of the city the council areas may correspond closely to existing service areas, in other sections a group of two or more may come very close to constituting a present service area. However, it is quite possible that some neighborhood council areas recommended by the citizens will show no respect to present service areas. In each case the service area boundaries should be changed so that no neighborhood served by a single official advisory council shall be divided between service areas.

Two additional thoughts come to mind:

F. Once the structure of precincts, neighborhood councilmanic districts, neighborhood council areas, and service areas is completed, consideration should be given to crowning the edifice with a permanent citywide advisory organization along the lines of the present DC Bicentennial Assembly. Experience suggests that such a group has a constructive role to play which does not undercut the legislative function proper to the fulltime City Council.

G. Everything possible should be done to strengthen the identification of Neighborhood Councils with the respective neighborhoods. A role of some sort should be found for long established groups in the area: civic associations, PTA's, ministerial councils, community action organizations, youth, senior citizens, business organizations, etc. Once everybody has been brought together, every effort must be made to discourage federal agencies from coming in with funding to create rival structures aiming to reach all the people.

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## SCHOOL SYSTEM DRAWS UP ITS OWN ENERGY-SAVING PLAN

## HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. ALEXANDER. Mr. Speaker, in remarks last session I shared with my colleagues the plans of the Mountain View School System to establish their own energy saving program. Their plans have been drawn up and are the culmination of efforts by the student body, the faculty, and the administration of the school.

These efforts represent a realization that the solution to the energy crisis lies in the hands of all individuals. If each American is willing to voluntarily share some of the sacrifices required, then no one segment of our society will be forced to suffer undue hardships because of a lack of fuel.

At this point in the Record I wish to insert a copy of the report compiled by the Student Council of the Mountain View Public School concerning the energy crisis. I think it can serve as a model and incentive to all schools, businesses, and families.

The report follows:

### ENERGY CRISIS

(Report by the student council of the Mountain View Public School concerning the energy crisis)

We, as a Student Council, realize the necessity of preparing for the up coming crisis concerning the nation's energy shortage. Please realize that we are not in a position to name the causes of the energy shortage. It is simply that we must adjust our way of life, and our methods of energy consumption, regardless of the reasons for the cut back. We are faced with one simple fact; there will not be enough energy supply to meet the demands of this nation, unless there is a cut back in consumption. We have been asked by our State Officials to help in public education in the conservation of energy.

We believe the following proposals and guidelines will not only conserve energy, but will result in a substantial savings financially.

*Major areas of proposals*

I. Encourage more walking and bicycling, and less use of the automobile.

II. Encourage conservation of the energy in the homes and businesses.

III. Encourage conservation of energy at school.

IV. Prepare to meet the difficult months and problems of January and February especially if daylight savings time comes into effect.

#### AREA I. WALKING AND BICYCLING

A. Formation of a Bicycle Club including safety programs with officers and sponsors. Guidlines are listed below.

*Elementary*

1. The youngest student who should be able to ride a bicycle to school is a 4th grader.
2. Each grade elects officers for that grade.
3. Give safety films for the younger students. Give membership cards to each one.
4. Put up safety posters in classroom.

*High School*

1. Elect officers for Bicycle Club; President, Vice-President, etc.
2. Cut speed limit to a minimum during time of children transportation.
3. Give an award for the student who rides his or her bicycle the most number of times.
4. Purchase 2 bicycle racks: 1 for high school and 1 for elementary, each rack containing 20 slats.
5. The buses will not transport students who live in town. (This will save gas on buses and promote our Bicycle Club).

*Advantages*

1. Saves Gas.
2. Good physical exercise.
3. Saves money on bus stops.
4. Reduce crowding on buses.

*Disadvantages*

1. No sidewalks.
2. Weather.
3. Traffic hazards.
4. Theft.
5. No parking area.
6. Psychological effect.
7. Maintenance.
8. Hard to carry books.

B. This could be done only if the City Council adopt maximum speed limits that would be rigidly enforced during the times of school transit. (One hour in the morning and afternoon).

C. In order for this to be administered fairly, the school campus would need to be closed to student automobiles, except ones who could obtain permission from an appointed council of students and faculty advisors.

D. The Council recommends that school buses not stop within one mile of the school campus.

#### AREA II. CONSERVATION OF ENERGY AT HOME

Presently, our Council is working with the community leaders in compiling a list of suggestions on how to save energy at home. With the completion of this list, it will be made available to all the parents of our students, to all club presidents in the community, and to the newspapers. (See attached sheet)

#### AREA III. CONSERVATION OF ENERGY AT SCHOOL

A. Energy Conservation in the building.

1. Place plastic sheets on all the windows to prevent heat loss.
2. Keep the thermostat lowered to 65°.
3. Keep the doors closed to all the rooms as much as possible.
4. Check out the heating vents in all the rooms. Make sure they are working correctly.
5. Turn the lights out on sunny days and shades should be raised to face the sun.
6. Make sure no obstructions (books, coats, etc.) are over or in vents and stoves.
7. Windows should be kept closed.
8. Check into short-order lines in the lunchroom. (Cold plate type service)
9. No more unscheduled activities in the gymnasium or lunch room after school hours unless approved by the School Board.
10. Place springs on the elementary bathroom doors to keep the heat in.
11. Encourage teachers to not use lights on their Christmas Trees except during very short periods of time.

B. Gasoline conservation in automobiles.

1. The student Council recommends that faculty members:

a. Form car pools.

b. Spouses come in one automobile.

c. Ride the school bus.

d. Walk.

This is a recommendation. We realize there will be exceptions.

C. The Student Council recommends that school buses:

1. Stop only at ¼ mile intervals, and not within 1 mile of the campus.
2. Be made available to classes and clubs for trips, *if* the organization can buy the gasoline at a station.
3. Be used as little as possible by the athletic department, with no additional athletic events being scheduled this year.

D. The Student Council recommends that all school personnel furnish gasoline when ever possible when using a school vehicle.

E. It will be among the Student Council's objectives to discourage parents from bringing their children to school in automobiles.

#### AREA IV. DIFFICULT MONTHS

Daylight savings time will mean if we begin classes 8:30 most of our bus students will be waiting on the bus long before daylight. We need to consider a different schedule.

The following is the Student Council proposal:

January & February schedule—42 days.
Period I 9:30–10:15.
II 10:20–11:05.
III 11:15–12:00.
IV 12:05–12:50.
Lunch 12:50–1:35.
V 1:40–2:25.
VI 2:30–3:15.

#### ADVANTAGES

1. Shortens school day 45 minutes. Saves nearly 4 hours of energy per week.
2. Helps bus students in early morning.
3. Still gives a reasonable dismissal time.
4. Lengthens lunch hour for High School.
5. All class lengths are legals, except lab classes.
6. Will make building less difficult to heat in early morning hours.

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## ANTIETAM BATTLEFIELD PROTECTORS, INC.

## HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. BYRON. Mr. Speaker, recently a private organization was founded to provide protection for historic Antietam National Battlefield near Sharpsburg, Md. This important organization, Antietam Battlefield Protectors, Inc., was founded by a group of local citizens interested in preserving Antietam and its environs for posterity. The area has recently been threatened by development on the fringes of the existing National Battlefield Park.

The concept of Antietam Battlefield Protectors is simple and effective. People and organizations throughout the United States interested in preserving Antietam can donate to this charitable, nonprofit corporation, which will purchase land or easements from willing sellers. The goal is to raise $10 to $12 million so that land can be purchased at prices competitive with the profits to be made from commercial development. Purchased land will be turned over to the National Park Service. Each donor will receive a certificate and his name will be inscribed in a book to be maintained at Antietam. For every $2 donated, 1 square foot of land will be designated for an individual or organization.

Many national historic and environmental groups have joined Antietam Battlefield Protectors as honorary directors. There is an established need for protecting our proud heritage, and the incorporation of Antietam Battlefield Protectors is a great step in the direction of enhancing and preserving Antietam. I commend the ladies and gentlemen who have undertaken this task, and I know that Antietam Battlefield Protectors will be successful in this important endeavor.

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## REPORT TO COLORADO'S FIFTH DISTRICT

## HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. ARMSTRONG. Mr. Speaker, the following is the text of my January 1974 newsletter to residents of the Fifth Congressional District of Colorado:

WASHINGTON REPORT FROM YOUR CONGRESSMAN, WILLIAM L. ARMSTRONG, COLORADO'S FIFTH CONGRESSIONAL DISTRICT

JANUARY, 1974.

DEAR FRIENDS: Basic reform of Congress, the Executive branch, campaign practices, welfare and taxation must not be delayed any longer. Halfway measures will not be enough to restore the public's shaky faith in government.

Recently, I introduced legislation to outlaw many specific campaign abuses including political spying, sabotage, wiretapping, electronic surveillance and misuse of campaign funds. I will soon introduce bills to prevent improper use of tax returns; amend the Constitution to prevent unrelated legislative proposals from being hooked together; streamline congressional committee structure; improve scheduling; and provide for bi-partisan staffing.

I will continue to work for legislation to require a balanced budget and to prohibit backdoor spending and tax increases, and pay raises for congressmen and other public officials without a vote of Congress.

These reforms are important. But a fundamental change in attitudes of elected officials and the public is crucial.

Lately I've begun to hear from a lot of people who are fed up with the smugness and evasion that have been common in government recently . . . and fence-straddling, something-for-everybody, promise-anything-to-get-re-elected political tactics.

More and more people realize government can't solve all the nation's problems; some of the toughest can and should be the primary responsibility of the private sector and voluntary organizations; often government intervention makes things worse instead of better.

My mail and phone calls show a groundswell of popular support for basic government reform. Hopefully this will be a major trend of public opinion in 1974.

### SOMETHING TO THINK ABOUT

"History does not long entrust the care of freedom to the weak or timid . . . We must be willing, individually, and as a Nation, to accept whatever sacrifices may be required of us. A people that values its privileges above its principles soon loses both." Dwight D. Eisenhower.

### CONGRESS ADJOURNS WITHOUT PASSING ENERGY BILL

By scheduling a 30-day recess, instead of staying in session to work on much needed legislation to cope with the energy crisis, Congress has made a horrible mistake.

This nation urgently needs *legislative* leadership to deal with immediate and long-range effects of the shortage of natural gas, gasoline, heating oil and other fuels.

For Congress to react to such an obvious priority by taking a month off for the holidays without enacting legislation is shockingly short-sighted . . . particularly with the peak winter heating season just starting and shortages threatened throughout the country.

I am not suggesting that we should have passed any of the three versions of the so-called Energy Emergency Act which were considered, and defeated, by the House on the last night of the session. This "Act" was an indecisive, vague, buck-passing bill that had more shortcomings than good features. It deserved to be rejected.

But when that happened, House-Senate leadership should have moved to delete the controversial sections of the bill (particularly rationing and taxation sections) so other portions of the bill could be approved without delay.

Allowing utilities now using oil and natural gas to switch back to coal and suspending emission standards when *absolutely necessary* on a *temporary* basis makes sense to me as did other similar provisions of the bill. These measures could have rapidly eased the energy shortage without undue hardship and without permanently lowering environmental standards.

As Congress continues to postpone action, and the energy shortage worsens, there is real danger the country will be stampeded into panicky solutions at a later time. If that happens, environmental progress of recent years could be seriously jeopardized.

And gasoline rationing may become inevitable.

I dread the prospect. Although some people think it sounds pretty good in theory, rationing is really only a way to allocate the hardship; it does nothing to reduce demand or increase supply; a huge (and costly!) bureaucracy will be required to administer rationing programs; rationing will cause economic dislocations, loss of jobs and black markets; rationing is inherently unfair.

As far as I am concerned, rationing is the last restort. Other solutions to the energy shortage are far more satisfactory.

### THE KIND OF ENERGY LEGISLATION WE NEED

In addition to the temporary measures mentioned above, I will continue to press for permanent solutions based on increasing energy production, curtailing demand, encouraging energy conservation and protecting the environment. Specifically I recommend:

(1) a new National Energy Policy; (2) accelerated development of off-shore oil; (3) increased production of natural gas; (4) tax incentives for energy production and conservation; (5) research for new energy sources and environmental protection; (6) deep water ports; (7) conservation of electric energy and peak demand reduction; (8) leadership for voluntary efforts; (9) free market pricing; (10) reorganization of Congress to gear up for energy legislation. (Believe it or not, at least 94 different committees and subcommittees have jurisdiction over energy matters. Is it any wonder there's so much delay and confusion?) I'll be happy to send you details of my energy legislation and recommendations. Please drop me a note if you'd like me to do so.

ANNUAL CONSUMPTION OF ENERGY IN THE UNITED STATES

(1950–71 Actual); (1972–85 Projected)

[The numbers indicate percentage of each use]

| | Residential | Automobiles | Public transportation | Commercial | Industry | Energy conversion loss—production of electricity |
|---|---|---|---|---|---|---|
| 1950 | 13.0 | 10.2 | 16.0 | 11.6 | 39.0 | 10.2 |
| 1955 | 12.9 | 12.0 | 13.4 | 11.5 | 38.7 | 11.5 |
| 1960 | 13.8 | 12.9 | 11.9 | 12.3 | 36.4 | 12.7 |
| 1965 | 13.8 | 13.4 | 10.7 | 12.3 | 36.5 | 14.2 |
| 1970 | 13.4 | 13.9 | 10.5 | 11.9 | 33.7 | 16.6 |
| 1975 | 12.6 | 13.8 | 10.0 | 12.5 | 32.2 | 18.9 |
| 1980 | 12.4 | 14.1 | 9.8 | 12.4 | 30.7 | 20.6 |
| 1985 | 11.9 | 13.8 | 9.6 | 11.9 | 30.1 | 22.7 |

Reproduced through courtesy of Citizens Committee on Environmental Quality.

### POLL RESULTS

Over 17,000 ballots have been returned in the Fifth Congressional District public opinion survey which I circulated last month. Since 50–60% of these represent the opinions of two persons, it looks like over 25,000 have taken part in this massive sampling.

As you can imagine, tabulating the returns is a huge job. Volunteers in Aurora and Colorado Springs have already counted about one-third of the total and hope to be finished within two weeks. As promised, we will send the final results to all who have requested a copy.

But from returns already processed, several main themes have emerged: An overwhelming majority think wage-price controls are failing; by almost 15 to 1 respondents say federal spending should be cut to control inflation and avoid higher taxes; direct election of the President is favored by 7 to 1; and by a slim margin (a ratio of 8 to 7) respondents say they are not fully satisfied with progress being made in cleaning up the environment.

I am gratified so many residents of the District took part in this survey. I plan to conduct a similar poll again in 1974.

### JANUARY–FEBRUARY PLANS

Unless we are summoned back into session to act on energy legislation, Congress will be in recess until January 21st. So I will spend most of the month at home, visiting with friends in Aurora and Colorado Springs.

In February I plan to host some "town hall" style meetings in Burlington, Castle Rock and some other communities. Please let me know if you have any thoughts about how, when and where meetings of this type should be held.

### FOR 1974 AND BEYOND

1973 has been a turbulent and troubled year for our country. I would certainly be the last to minimize problems or to discount the tough decisions and sacrifices ahead. It would be wrong to do so.

But it's also tragically wrong to overemphasize our national shortcomings. Recently we've been so preoccupied with what's wrong with America that we're forgetting all the things that are right.

America is still the greatest nation in the world . . . in economic, industrial and military power . . . and more important, in moral purpose, character, self-discipline, intellect and optimism . . . and in freedom and institutions of self-government.

We have a great heritage to be thankful for. We can look forward to the future with pride and confidence.

Happy New Year!

Sincerely,

WILLIAM L. ARMSTRONG.

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## THE TECHNOLOGY OF PEACE

## HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. BROWN of California. Mr. Speaker, during the recent congressional recess I had the opportunity to read an article entitled "The Technology of Peace" by Morgan Harris, which appeared in the Friends "Quaker" Journal for October 15, 1973. The message of this article is that peace can be achieved only if we work for it as diligently as we work to achieve victory in war—in the words of the article:

> The technology of keeping peace is just as intricate and highly developed as the technology of making war.

The essential element of the "technology" of peace is to be found in the structure of a federal union of states, the pattern pioneered so successfully by our own United States. Mr. Harris suggests that such a union could grow from the Atlantic Union proposal which is currently before the Congress.

Believing that many other Members of the Congress would be as interested in this very excellent article as I was, I am submitting it for printing in the Extension of Remarks section of the RECORD. The article follows:

### THE TECHNOLOGY OF PEACE

(By Morgan Harris)

While waiting at a bus stop near the corner of a park, a man noticed another man searching in the grass nearby. "Did you lose something?" he inquired.

"I dropped a ring."

"I'll help you look for it 'till my bus comes." And after a few moments, "Do you know where you dropped it?"

"Over there."

"Then why are you looking for it here?"

"The light's better here."

Searching for peace within the present nation-state system is looking where the light is better.

The light seems to show that evil men, hidden away in government somewhere, make war. But if one looks at the men who work in the Pentagon and those who made the decisions to carry on the bombing in Vietnam, one finds that they live in the state of Virginia and would not dream of bombing their neighbors in the state of Maryland. The difference in their acts arises out of the difference in the relationship of Virginia and Maryland in contrast to the relationship of the U.S. and Vietnam: it does not arise out of their character.

The cause of the sufferings endured in the Vietnams of the world is not that bad men make war, but that good men don't understand peace.

The light seems to show that war can be ended by tearing down the war system through confrontations, petitions, withholding income tax payments, peace demonstrations, writing congressmen, mass meetings, burning draft cards—war resistance. But if one looks at the history of war/peace, one finds there has been resistance to nearly every war, but to the warmakers it has been like a mosquito—an irritating nuisance which does not stop them from doing their job.

These answers are too easy. Peace does not come that way.

The light seems to show that when a war is ended, we then have peace. This fallacy is deeply embedded in our culture. The American Heritage Dictionary, for instance, defines peace as "the absence of war." This is about as helpful as defining light as "the absence of darkness", or defining knowledge as "the absence of ignorance."

Peace is not merely the absence of war; peace is a continuing process of settling peaceably those disputes which otherwise would develop into conflicts, strife, violence, fighting and death. Peace is settling disputes by ballots instead of bullets.

It is a complex process, one that requires constitutions, courts, campaigns and the complicated apparatus to make it all work. In fact, the technology of keeping peace is just as intricate and highly developed as the technology of making war, but most people don't recognize it.

By applying this technology people have eliminated war from progressively larger areas of the earth down through the centuries. One of the earliest legends we have—the story of Cain and Abel—portrays a time in human history when, if a man felt he had been wronged by his brother, the only way he could be avenged would be to make a club and beat his brother's head in. No one knows how many centuries it was before this unsatisfactory method of achieving justice was replaced by individuals joining together in a tribe and selecting a chief to whom disputes were referred for settlement.

After that, members of the tribe did not kill each other, but tribes still fought. By the time the Europeans landed in America, however, some of the tribes on this continent were banded together in federations, and there was no longer war among those tribes.

As tribes settled down into cities, there were long ages during which cities fought each other. Babylon, Jericho, Troy—the legends of cities at war are still with us, but the practice is so long abandoned as to be forgotten. Peace among cities is so solidly embedded in our culture that anyone who seriously proposed that Chicago go to war with Toledo, or San Diego with Phoenix, would be looked on as a lunatic.

There is no mystery about how war has been eliminated—among individuals, among tribes, among cities, among states, provinces and nations. War has been eliminated by joining together to form a larger government. England and Wales fought for centuries. Three hundred years ago they joined together, by common agreement, to form Great Britain, and they have not had a war since. The cantons of Switzerland fought five wars in 300 years—wars in which every canton participated at one time or another. In 1847–48 they formed a federation, and they have not fought again—nor do they expect to.

The historical development is clear. The world now has areas in which millions of human beings live at peace with each other. Our own nation has fifty proud, independent, sovereign states organized into a federal union in which 200 million people live with absolutely no fear that their states are going to make war on each other.

The lesson is plain: war can be eliminated. We can have peace in any area—any size area—even the whole world. A federal union can be created by the citizens of any nations who want to get together, and it will result in peace among those citizens—those nations.

#### ONE WAR IN 200 YEARS

"But", the skeptic may say, "What about the Civil War? Our federal union failed to assure peace there. Therefore, it is not true to say that federations can guarantee peace."

This is a fair challenge; we need to face it. There are a number of federal unions in the world: Austalia, Brazil, Canada, Switzerland, the United States and others. Among all the nation-states in all of them put together there has been only one war in 200 years—a record that compares favorably with the hundreds of wars that have been fought during these two centuries among the states and nations outside of federal unions.

But there is more to the answer than that. We have to recognize that a federation, to succeed, must have the undergirding of common values. In his outstanding book, *The City of Man,* W. Warren Wagar summarizes the findings on this subject of Karl W. Deutsch and six historians, citing, "First, the peoples amalgamating must share major ethical goals and values relevant to policy-making; this does not necessarily mean identical religions or common values in all respects, but simply harmony in all areas where common policies must be hammered out."

To have a successful world federation, mankind must also have world community-common unity. This means shared human values and cultural values. It means respect for and maintenance of civil liberties.

#### WHY FEDERATIONS SUCCEED

The founders of our nation understood that a federation requires enough democracy that the citizens of each member state (or nation) elect their own rulers and representatives. In Article IV, Section 4. of the Constitution, they wrote: The United States shall guarantee to every state in this union a republican form of government . . ."

Although they do not explain the reason for this, it is important that we understand it as we work for a federation to guarantee peace, establish justice, promote general welfare, and secure the blessings of liberty to mankind. The reason is this: The strength of a federation arises from the fact that it derives its authority from individuals—its own citizens, who are also citizens of its member groups (states or nations).

When a member of the United States Congress acts in a way that is offensive to the governor of his state, that governor cannot recall him. The congressman is accountable only to his own constituents.

The result is that the congressman from any state—say Ohio—do not think and vote as a bloc, representing the interests of Ohio against those of other states. They vote as individuals. The Democratic congressmen from Ohio will unite with Democratic congressmen from Florida and Oregon, in opposition to Republican congressmen from Ohio, Florida and Oregon. The ties in such a situation are across state lines.

#### AND LEAGUES FAIL

In an organization where the people do not elect the delegates—such as the United Nations—the delegates do not represent the people, they represent the nation and the government which appointed them, and which will recall them if they displease the government. Thus the United Nations is a league, a nation-vs.-nation organization, and the lines of the division within it are the same as those that divide the nations in the world outside.

There have been many leagues down through the ages, and enough federal unions during the past 200 years that we can study them historically. We find that no league has ever succeeded. By contrast, the success of federal unions establishes this form as the most practical way to organize nations for their mutual benefit.

#### BY SEPARATING THE INNOCENT FROM THE GUILTY

To be united—to be cohesive—a federal union must derive its authority from the people, its own citizens, and not be dependent on the states or nations comprising it. It is equally true that, to maintain peace, it must exert its power only on individuals.

For instance, when President Nixon established economic controls in August, 1972, the governor of Texas announced publicly that Texas would not go along. What would have happened if the President had ordered the Pentagon to attack Texas? All the Texans would have been driven in self-defense to fight back, to fight alongside and in support of their governor (even those who may not have wanted to support him.) Innocent people would have been wounded and killed. It would have been the maximum of stupidity.

What did President Nixon do? Instead of turning to the Pentagon, he turned to the Attorney General of the United States who informed the governor of Texas that if he refused to obey the federal government he would be taken into court and tried.

This is how peace is maintained—by dealing with individuals—in courts of law where the innocent are separated from the guilty, and only the guilty punished.

The currently popular term, "world law" is ambiguous on this point. Do the people using it mean law bearing on individuals, or are they deceiving themselves that they can enforce law on groups—on states or nations? When they use the term "enforceable world law" it sometimes appears they are thinking of coercing nations. But just as in the case of Texas, efforts to enforce any law bearing on nations will lead directly to war. Any misunderstanding about this will be fatal—not to us, perhaps, but to all the young men and others who will die in unnecessary wars if we don't get our thinking on straight.

The founders of our nation dealt with the proposal to coerce a state by arms, analyzed it and discussed it thoroughly, and rejected it unanimously—because it will not work.

### THE MADDEST PROJECT EVER DEVISED

James Madison wrote: "A voluntary observance of the federal law by all the members could never be hoped for. A compulsive one . . . involved equal calamities to the innocent and the guilty, the necessity of a military force both obnoxious and dangerous, and in general a scene resembling more a civil war than the administration of a regular government.

"Hence was embraced the alternative of a government which, instead of operating on the States, should operate without their intervention on the individuals comprising them."

Alexander Hamilton said: "It has been observed, to coerce States is one of the maddest projects ever devised. . . The thing is a dream, it is impossible."

Oliver Ellsworth said: "This Constitution does not attempt to coerce sovereign bodies. . . No coercion is applicable to such bodies but that of armed force. If we should attempt to execute the laws of the Union by sending an armed force against a delinquent State, it would involve the good and bad, the innocent and guilty, in the same calamity.

"But this legal coercion singles out the guilty individual, and punishes him for breaking the laws of the Union. All men will see the reasonableness of this; they will acquiesce, and say, 'Let the guilty suffer'."

Let us hope the advocates of "enforceable world law" will study the deliberations of the founders of our nation, and get their thinking straight about this bedrock principle lest they lead others astray into this "maddest" of projects.

As evidence that they are thinking straight, and to show clearly that they mean law bearing on individuals, they might well stop using the ambiguous term "enforceable world law" and substitute the term "individual world law."

### WE CAN MAKE A START

To make the United Nations into an institution capable of maintaining peace in the world, it would have to be changed so it lived up to its name. Its member nations would have to be united—it would have to become a union, a federal union. This would mean (1) its delegates would be elected by and represent the people, and (2) its laws would apply to individuals. Then the opening words of its charter, "We the people . . ." would be true and honest words.

Yet present world conditions are such that it is probably unrealistic to expect this. The world community—the common values needed to support a world federation—does not exist.

What then? We need to work at developing world brotherhood, of course. But must we wait until there is enough community to *sustain* a world federation before we can start it? Fortunately not. We need only enough shared values to be willing to make a start together. Once it is created, the existence of the federation will do more than anything else to develop the sense of community needed to keep it going—to make it succeed. Nothing will promote sharing and acceptance of each other and the development of a sense of brotherhood so much as living together in a federal union.

### PEACE BASED ON JUSTICE REQUIRES COMMON VALUES

I think this is the important point about the Civil War. At the time the federal union was formed there was not enough common acceptance of the value of every person; the belief that no human being should be a slave. The process of living together in a federation was not sufficient to surmount this difference in cultural and human values. The difference was so great that after seventy years it flared into a war. Now that over a century more has passed, the common values shared by our people are sufficient that no one I ever heard of even dreams of the possibility of any of these states ever fighting the others again.

The difference in values among communist nations, outright dictatorships and democracies may be equally great in the world today. If so, it would not be possible to form a successful federal union for the entire world.

### A MODEST SUCCESS IS BETTER THAN A MAMMOTH FAILURE

In this situation, some feel that world government is a grandiose impossibility at this time. They ask, why insist on all or nothing? Let's make a modest start with what we have—create a model federal union which can grow into a world organization gradually as one nation after another joins, just as our own federal union grew from its original thirteen to its present fifty. These practical thinkers propose to form a federation of those nations whose people share such values as democratic process, maintenance of civil liberties, and individual freedom.

Their proposal is incorporated in the Atlantic Union Resolution in Congress which authorizes representatives from these nations to meet and discuss how far they can advantageously apply the principles of federal union. If and when this program results in a proposed constitution for us to ratify, the people of the United States and other western nations will have the opportunity to decide whether they are ready to continue the historical process of enlarging the area of peace within a federal union larger than we have previously known. It will be open to others, and by a natural process of growth, in time it will become the universal brotherhood of which men have dreamed.

In the Kellogg-Briand Pact, the leading nations of the world renounced ". . . recourse to war for the solution of international controversies . . ." This function—that war performs, however miserably—is a necessary function. If war is to be eliminated, it must be replaced with some other procedure "for the solution of international controversies."

A reliable system of settling disputes peaceably is a prerequisite to the elimination of war. To have peace, humankind must replace the entire war system with a peace system.

A federation is such a reliable system—perhaps the only practical one available to us. How can we get it? We have already noted one way: start with those who already share sufficient common values.

At the same time we need to build up common values—develop understanding and sharing with the rest of the world. The widespread concern with such matters as ecology and the environment, overpopulation, poverty, hunger, food supplies and peace demonstrate that the concerns people throughout the world have in common are far more important than the petty differences that divide them.

Also, we need to study the organization of peace. We need to know everything worth knowing about how to organize the world (or any part of the world) for peace. This probably means improving our knowledge of U.S. history by reading The Federalist Papers, which are 200 years old but just as up-to-date as the Bible. There are other books—not as old, but setting forth principles that do not change with the years—that anyone who wants to be effective in working for a practical peace system should be familiar with.

Clarence Streit's *Union Now* is the book that gave me my first insight into the possibilities of peace in this war ridden world. Emery Reeves' *Anatomy of Peace* is "the pure milk of the word." Mortimer Adler said it simply and conclusively in *How to Think About War and Peace*. E. B. White assembled a delightful collection of his essays from the Talk of the Town section of the *New Yorker*, under the title: *Wild Flag*. Finally, Amitoi Etzioni, *The Hard Way to Peace*, 1962; F. W. Schuman, *The Commonwealth of Man*, 1952; W. Warren Wagar, *The City of Man*, 1963, and *Building the City of Man*, 1971. Superb Books!

### THE GREATEST ENEMY

Anyone who reads these books will know how peace can be achieved and maintained. He will know there is hope. He will realize that it is simply a matter of education—not confrontation, not sacrifice, not martyrdom, not war resistance, not tearing down the war machine, not condemning the "warmongers"—just simple understanding.

The reason we have war is that good persons do not understand peace. Because of this lack of understanding people who sincerely want to make a useful contribution to a peaceful world are distracted from effective action, and encouraged to participate in irrelevant, dead-end programs. Their time, energy and enthusiasm, which is so desperately needed in the task of building a peace system, is poured into the bottomless pit of war resistance and lost. Truly, "the second best is the greatest enemy of the best."

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## SENATOR HUBERT HUMPHREY

### HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. BROOKS. Mr. Speaker, Bill White, a kind and gracious man, wrote a tribute to Senator Hubert H. Humphrey, which is truly and genuinely deserved.

Senator Humphrey is a man who loves his family, his country and its people, and our Democratic Party.

The text of the article from the Houston Chronicle of Tuesday, January 15, 1974, follows:

### Humphrey Is Embodiment of Democratic Party

(By William S. White)

If a political party can be said to have a distinct personality—as it can—then somewhere within its ranks there is likely to be found one man who most truly embodies that personality on his own.

In this sense it is Sen. Hubert Horatio Humphrey who is Mr. Democrat. For his own human qualities are the predominant human qualities of his party collectively, to a degree not remotely matched by any other living Democrat.

Like his party, Humphrey is eternally optimistic, everlastingly outgoing, convivial and somewhat slaphappily disorganized and ready and eager to embrace the whole world. And he is subject to all the amiable frailties that all these traits imply.

Three times he has had a go at the presidency. And once—in 1968—he came so very close to it as to recall Wellington saying of Waterloo that it was a damn near-run thing.

If Hubert Humphrey had ever become the nation's innkeeper no one would ever have been turned away (although it is also true that the bookkeeper at the inn might have found it necessary to dip his pen into far more red ink than he would have cared to see).

The first time, in 1960, Humphrey never had much chance against John F. Kennedy for the Democratic nomination. The second time, Richard Nixon came in on top in the election by the narrowest of margins. The third try was, of course, in 1972, against George McGovern.

Ol' Hubert—a Senate cloakroom name that the Southerners first pinned on him in a kind of wry affection too strong to be swept aside by their disapproval of his liberalism—came a great deal closer than was generally recognized.

It was one of those "if" things. If a California poll that turned out to have been grossly inflated toward McGovern had not been so tremendously in error, Humphrey, and not McGovern, might well have carried the California primary.

If so, HHH likely would have been nominated at the Miami Beach convention. But that poll in California killed Humphrey. Contributors fled; campaign workers were thrown into disarray and defeatism long before primary election day. After all, McGovern looked to be a certain winner.

Characteristically, Humphrey bounced up from the floor after Miami Beach for the third time, grinning hugely on the outside and, as the old song went, inside dancing with tears in his eyes. A determined believer in the perfectibility of man—a bravely hopeful but most dubious credo shared by his party corporately—he stoutly campaigned for McGovern.

Inside the Senate, which he had first entered as almost a pariah back in the old days when his views on such as civil rights were almost universally regarded as dangerously far advanced, everybody welcomed back Ol' Hubert. Beyond the slightest doubt he would have won hands down over McGovern in any ballot among his Senate colleagues.

But 1972 put a period to Hubert Humphrey's presidential dreams. In that aspiration three strikes are out as surely as they are in any baseball game. So he simply went back to being the best senator he could, wisecracking his way along but perfectly determined upon any project to which he set his hand.

Forgiving, as again is his party for the most part, he carried no grudge. In his mind he was everybody's friend and in consequence nearly everybody was and is his friend.

He has, for example, been notably generous to Richard Nixon in his time of troubles, even going to the point of saying publicly: "Look here, I'm no saint, myself."

So it is that during his current illness the "get well" messages that have poured in are genuinely and widely meant.

## SUPERCROOKS, OLD AND NEW

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## HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. MICHEL. Mr. Speaker, while back in my district during the recess, I noticed an editorial appearing in the January 13, 1974, edition of the Peoria Journal Star, entitled "Supercrooks, Old and New."

The editorial contrasts the handling of the Watergate affair and the reaction to that incident with events taking place in earlier administrations and points out the different methods of handling them as well as the difference in reaction.

I think the message of the editorial will be of interest to my colleagues and insert it in the RECORD, as follows:

### SUPERCROOKS, OLD AND NEW

When big news breaks we usually react directly.

It helps to examine other cases and see what really is normal as a guide to what a reasonable reaction is.

After a solid year of the "Watergate burglary" it came as something of a shock to me to re-read the details of the famous Brinks robbery, the largest in U.S. history, which took place not that long ago in Boston.

The team of thieves, 11 in all, prowled the Brinks headquarters for six months, night after night, studying every detail of the place, going through the records and the mail in the executive offices, and on four successive Saturday nights removing doorknobs with inset locks, taking them to a locksmith to have keys made, and then returning them to the doors! All this part of the preparation and planning for the eventual robbery.

When their perusal of records revealed the security company involved was the Brinks alarm system and related systems, they proceeded on more than one occasion to enter at night the headquarters and peruse their records in detail.

They checked one record at a time, carefully replacing it just as it had been.

Finally, all 11 of them entered the Brinks building (moving freely with their keys to all the doors) and held a rehearsal for the robbery itself in the dark of night!

They were very fussy about all kinds of seemingly remote risks, yet had no hesitation about these endless entries into two of the most sensitive and specialized security headquarters in the land!

This "normal" calculation among burglary specialists of long experience and spectacular success makes us realize that among the amazing assortment of incredible abnormalities of the whole Watergate affair, the original burglary attempt was very odd in its miserable failure resulting in the capture of the crew.

In the same book where I read of the Brinks crime, a second curiosity appears in the light of current events.

When Billy Sol Estes' $22,000,000-dollar swindle began to unravel as a result of a legal action in Texas, he was, of course, identified as a big Democratic campaign giver and a close associate of a number of officials.

President John F. Kennedy called in his attorney general, brother Bobby, and advised him that if anything went sour it would be far better if the administration stepped in first to clean up the mess.

Attorney General Kennedy went to Secretary of Agriculture Orville Freeman, former governer of Minnesota, and told him that if anybody in the administration was involved, they had better find it out quick and beat other investigators to the punch.

Freeman made inquiries of his top deputies—who were directly involved—and returned to assure John F. and Robert Kennedy that they were "clean."

So, the White House and the Attorney General gave the matter no further attention.

Incredible? Not when we see what happened in the Watergate case, where the President also says he sat on his hands for months because he was assured by his attorney general and special assistant, as well, that they were "clean."

And not when we remember that confronted with charges that his high state department deputy, Alger Hiss, was actually a Russian spy, Harry S. Truman, responded that the charge was obviously a political "red herring" and conducted no "in-house" investigation.

What is remarkable is that in neither of those cases did anyone charge that higher-ups had to know or that their inaction was proof of complicity or incompetence. Nobody demanded that the President, personally, "tell the whole story" and "clear it up."

There was no drive to force testimony by promises of immunity to Mr. Hiss or Mr. Estes, or the official involved, in exchange for their charges against the White House.

There was no massive attack on executive privilege, no search of internal documents, and no abandonment of lawyer-client privilege, and, finally, no demand that the White House turn over its records and appear before Senate committees and otherwise prove its non-involvement.

History is amazing in its similarities in the reaction of top politicians to the threat of scandal—and equally amazing as to the differences in how that reaction is treated.

C. L. DANCEY.

(NOTE.—Details of these and other major criminal activities are in a new book by the Playboy Press called "The Super Crooks," Edited by Roger M. Williams.)

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## 1974: A YEAR OF ACTION AND DECISION

## HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. EVINS of Tennessee. Mr. Speaker, Mr. John Seigenthaler, publisher of the Tennessean in Nashville, Tenn., in a most perceptive article traces and analyzes the crucial events of 1973 and projects his perspective for 1974.

This is an excellent summary of some of the important highlights of 1973 and explains some of the anticipated events and proceedings of the new year as Congress reconvenes.

Because of the interest of my colleagues and the American people in these current issues and important matters, I place the article by Mr. Seigenthaler in the RECORD herewith.

The article follows:

### THE YEAR 1974 LIKELY TO SEE LAST ACT IN NIXON'S PRESIDENTIAL TRAGEDY

(By John Seigenthaler)

It's been a long time for the nation from that mid-May morning when Sam Ervin's oversized gavel crashed open the Senate Watergate hearings to this late-December day when everybody discusses presidential impeachment.

For a country shaken time and again by a government scandal known superficially as "Watergate" it has been a long, long time indeed.

And for Richard Milhous Nixon, 37th President, it has been the longest seven months of his life.

The President has been hurt personally and politically by the scandal; even by his efforts to respond to charges against his administration.

At year's end he had launched Operation Candor—a campaign to help his badly mangled public image. But even the answers the President offered raised fresh questions about his credibility.

"I'm not a crook," he blurted out on Nov. 17 when he met with newspaper managing editors at their Disney World convention in Florida.

It was a sad thing for a President to have to say. It was a denial he obviously felt he had to make.

These seven months have aged the President. Always youngish in appearance, suddenly he looks the 61 years old he will be in just ten days. At times in recent weeks he has seemed haggard, harried, harassed.

"He looks much older," commented a Tennessee newsman who saw Nixon in Memphis last month and who had covered the presidential campaign just a year before.

It was in Memphis that the President promised Republican governors there would be no more major "bombshells" in the Watergate Scandal.

Within 48 hours another bombshell hit: an inexplicable 18-minute "gap" existed in one of the controversial tape recordings he had turned over to Federal Judge John J. Sirica.

But, said the White House, that was no "bombshell"—it was merely a gap in a tape.

It was a bombshell to Gov. Winfield Dunn, who had hosted the presidential appearance before the GOP governors and who has supported the president consistently. Nixon, it turned out, had known about the tape gap when he had spoken in Memphis.

"I disagree that this is not a very important revelation," said Governor Dunn, clearly disappointed.

Other old associates of the President were expressing disappointment in him.

Dr. Billy Graham, the long-time Nixon intimate who has conducted White House prayer services, criticized the President in an interview with the evangelical magazine "Christianity Today."

"Some of his judgments have been wrong and I just don't agree with them," Graham said.

He later told AP Reporter George Cornell that he had personally found that "when you have made a mistake it's far better to admit it."

The President had isolated himself, Graham said, as Watergate had become "a symbol of political corruption and evil."

He expressed "surprise" that the President had given only $295 to charity out of his gross income of $280,000 in 1972. And he felt that a bad example had been set by allowing the federal government to pay for various improvements on Nixon's real estate.

"It seems to me that some of these expenses ought to have been personal," the minister said. He said some nice things about the President in his "Christianity Today" interview. He still had confidence in the President's integrity. But he had expressed his confidence in Nixon before. He told Cornell that he knew his negative comments about his old friend would make news and, as usual, Billy Graham was right.

The beleaguered President was stung by other criticisms from other supporters.

James J. Kilpatrick, the conservative syndicated columnist, urged impeachment action.

"The time has come, much as a longtime admirer regrets to say it, to proceed with the impeachment and trial of Richard Nixon," wrote, Kilpatrick. "Nothing else will clear the poisonous air."

Colorado Republican Senator Peter Dominick, a constant Nixon man, said: "No more deals and no more technical arguments about evidence. Nothing short of complete disclosure will restore the confidence of the American people."

Another intimate chum of the President, Sen. Barry Goldwater, whose daily conversation is an "operation candor" had his own uniquely unconventional idea about how to let the public have the "truth, the whole truth and nothing but the truth."

Goldwater suggested that the President pay a surprise visit one morning on the Senate Watergate committee. "I think the only way he has out now would be to show up some morning at the Ervin Committee and say, 'Here I am, Sam. What do you want to know?' "

Newspapers across the nation which traditionally had supported the President—Nixon received editorial endorsements from 84% of the country's newspapers in 1972—now were digging him. The President found himself critically satirized by some of the best-known editorial cartoonists—the majority of whom had always been friendly to him.

Once an administration official makes news as being involved in Watergate his most personal actions become newsworthy.

An example: Charles Colson, the former Nixon aide who during the 1972 campaign was correctly quoted as saying of the President: "I would walk over my grandmother to get that man elected."

Colson, the author of the so-called "enemy lists" is under a grand jury investigation himself. He is remembered as the witness who never appeared before the Watergate committee. At one point, before the committee ended its first phase of hearings, Colson was demanding to appear. When the committee delayed his appearance and he became the subject of a grand jury inquiry, Colson sent word to the Ervin committee that if called he would take the Fifth Amendment.

Two weeks ago Colson was back in the news. At a White House prayer ceremony he announced that he had "found Christ." His testimonial was a firm, public declaration of religious faith. He had been praying a good deal since leaving the White House, said the adviser who helped arrange Jimmy Hoffa's release from federal prison.

He knew there would be skeptics in the press who would scoff at his sudden "conversion."

"I'll pray for them," he said.

There is no doubt, as 1974 ends, that the people and the politicians are tired of hearing and reading and thinking about Watergate.

But the scandal cannot evaporate now.

The year 1973 was the Senate hearings phase of the investigation.

The year 1974 will be the year of House impeachment action.

The clamor and noise of the Senate hearings had faded when, on November 15 Senator Ervin's gavel fell on the final session of the year.

The committee had just heard a parade of witnesses from big business come in and confess that their companies had given illegally hundreds of thousands of dollars to the Nixon campaign—under pressure.

While the sworn admissions of white collar crime were shocking, the public was worn out on Watergate and the revelations made little impact. Companies are not allowed, under federal law, to make direct contributions to federal election campaigns.

It must have been a humiliating experience for the several giants of the business world to come forward and confess that they had authorized illegal political payments.

Orin Atkins, chairman of the board of Ashland Oil, Inc., admitted his company made an illegal donation of $100,000 to the Nixon campaign, Atkins said the contact with his company came from Maurice Stans, former Commerce Secretary who headed up the fund raising effort to put $60 million behind the Nixon reelection race.

"I felt more or less obligated," Atkins said. "We wanted to assure ourselves a forum—a calling card to get us in the door to make our point of view heard in the executive branch."

It was a $100,000 calling card!

Claude C. Wild, chief Washington lobbyist for Gulf Oil, said he was contacted by both Stans and former attorney general John Mitchell.

"I certainly considered it pressure when two cabinet officers asked me for funds," said Wild. "It's different than someone collecting for the Boy Scouts . . . I thought I got a message."

And the President's campaign got another $100,000.

George Spater, former board chairman of American Airlines, said he felt pressure when he was contacted by Herbert Kalmbach, the personal attorney for Nixon. Kalmbach, incidentally is also the lawyer for United Air Lines.

"Since he was the President's personal counsel and also counsel to American's largest competitor I decided an affirmative response was necessary," said Spater.

American Airlines contributed $75,000.

Since the giving was against the law the corporations had devised complicated schemes to hide the donations.

In American Airlines' case the funds were covered by counterfeit invoices routed through Lebanon. Ashland Oil used a subsidiary in far-off Gabon to screen the gift. In both instances the money was "laundered" through Swiss banks before it went into the Nixon campaign.

Goodyear Tire and Rubber Co., which along with Braniff Airways kicked in $40,000 each, went so far at one point as to give the Senate Committee a list of phony names of donors. When confronted by the facts of the corporate gift, however, Goodyear admitted the truth.

The most devious plot to give money was propounded by officials of American Ship Building Co., which gave eight of its executives bonuses to cover up a $100,000 corporate payment to the Nixon campaign. When a federal grand jury, at the urging of then Watergate prosecutor Archibald Cox started nosing around in the area of corporate giving two of American Ship Building's "bonus boys" were subpoenaed. Matthew Clark, director of purchasing for the company, and Robert Bartlome, corporate secretary, testified before the Senate committee that they were urged by George M. Steinbrenner III, chairman of the board of the ship building firm, to lie to the FBI about their "bonuses." They did lie to the FBI, they said. But when they were called before a grand jury they decided to tell the truth.

"All I could see was me standing behind bars," said Clark. His boss, Steinbrenner, was upset, said Bartlome. According to the company secretary, the board chairman "laid his head on his desk . . . and mentioned something about jumping off a bridge." Steinbrenner told the Senators that if called before the committee he would plead the Fifth Amendment.

And so, on November 27, Senator Ervin and his vice chairman, Sen. Howard Baker of Tennessee, jointly announced that the committee would take an indefinite recess.

There had been 265 hours of testimony from 61 witnesses during the 53 days of hearings by the committee. An estimated 25 million daily televiewers had watched the hearings during the height of the early sessions. A total of 30,000 spectators had crammed the Senate caucus room from May until November to watch the senators work on the witnesses.

The record of the hearings covered more than 10,000 pages—more than 2 million words. The whole affair had cost the taxpayers $1 million and the committee was asking for another $500,000 to finish up its work next year.

On the other side of the struggle, White House legal fees for providing a defense of the President have been estimated, to date, to have cost the taxpayers about $500,000—according to U.S. News & World Report.

Already the Watergate Committee—with the authorization of the full Senate—has moved to try to get a long list of tape recordings from the White House. This effort will, no doubt, result in another court battle. And the Senate Committee may have further hearings next year as it looks into such matters as a $100,000 donation made to the campaign of the President by the recluse multimillionaire Howard Hughes—which money was given to presidential pal, C. G. (Bebe) Rebozo. According to Rebozo, a Florida banker, he kept the $100,000 in a safe deposit box for three years, then gave it back to a Hughes representative.

When the Senate Committee held a closed session with the public excluded last month a Hughes agent, Chester Davis, suddenly opened a briefcase and dumped stacks of $100 bills on to a table in front of the goggle-eyed senators.

"Here is the god damned money," said Davis.

"Do with it what you will."

Senator Ervin had the money's serial numbers taken and gave it back to Davis after the committee staff counted it. For some unexplained reason it totaled $100 more than $100,000.

Sam Ervin himself had an announcement as his committee quit work for the year; he will not run for re-election next year but will return instead to his beloved North Carolina hills in retirement.

The 77-year-old senator, a former judge in his native state, has been considered the senate's leading expert on the Constitution, the Bible, and Shakespeare (he quotes all three from memory and at will). His dancing eyebrows and pithy sayings captured the national imagination during the peak TV showings of the hearings. The nation may not miss his committee's hearings much next year. But Ervin will be missed.

From the time that the Watergate burglary became public knowledge the word that has described the mentality that created it was "stupid."

But the stupidity has not been all on one side.

Stupid—and unethical as well—were the actions of William Dobrovir, a lawyer for Ralph Nader, who brought a suit to acquire access to a White House tape. When the White House finally gave up the tape—a recording relating to charges that President Nixon acted favorably to the milk industry in return for a campaign contribution pledges from industry officials—Dobrovir made his own copy which he took home and played for guests at a cocktail party.

There was little on the tape of interest, apparently. But that did not excuse Dobrovir's conduct. He told his guests that he had "the hottest piece of news in town" in his jacket pocket. He played it for them while they munched chopped liver and salami and drank cocktails.

Called into court Dobrovir apologized to the judge and said: "I made a foolish mistake." And he was right.

Now the attention span of the public will shift from the Senate to the House. There a greying, veteran Democratic congressman from New Jersey, Rep. Peter J. Rodino, chairman of the House Judiciary Committee, will take over the business of considering impeachment.

Rodino, is a quiet-spoken Italian-American whose re-election next year may be endangered because of a heavy influx of black voters who number approximately half of his constituency.

Last week Rodino employed John Doar, a Republican lawyer who worked under Robert Kennedy as a civil rights prosecutor in the Justice Department, to head up the staff of the committee to work on impeachment.

Doar, a native of Wisconsin who has lived in New York since leaving the Justice Department, is a careful legal tactician.

He became widely known in the South during the days lawsuits were brought to desegregate schools, lunch counters and public accommodations. He started in the Department of Justice in the Eisenhower administration and worked in the late 1950's on voter rights for blacks in Haywood and Fayette counties of Tennessee. Later, in the administration of President Johnson, he headed the civil rights division of the Justice Department.

Rodino, whose committee has been sharply divided along partisan party lines as it has considered impeachment issues, was seeking a Republican lawyer. Doar met that requirement. And Doar's pro-civil rights record won't do chairman Rodino any damage in his home district when the congressman faces re-election next year.

A personal note on Doar: In 1961 he and I traveled together to Southern cities on Justice Department business. Sometimes, in those days, it was necessary to move fast, from one city to another, living out of a suitcase. One day in Montgomery, Ala., I failed to move fast enough in the midst of a race riot and was knocked unconscious. I was wearing a shirt borrowed from John Doar. I still have it. Laundering failed to remove the blood stains.

What now will be the impeachment procedure?

Congressman Rodino's committee will conduct its own investigation of a variety of charges against the President. The committee will have to consider whether the President has committed "high crimes and misdemeanors"—which is the language of the U.S. Constitution as the document discusses impeachable offenses.

What is a "high crime?"

Professor Raoul Berger, of Harvard Law School, considered the nation's leading authority on the impeachment process, has concluded that the founding fathers, in writing the Constitution, saw a "high crime" as a crime against public or government policy.

According to Berger's theory, if a public official took some action which violated his trust as an officer of government that action, which would not have involved a criminal law violation, would have been a "higher" crime than an ordinary felony.

Berger has pointed out that the founding fathers, in preparing the impeachment provision in the Constitution, spoke specifically of "maladministration" by a public official as a "high crime."

On these pages a few weeks ago Professor Paul Sanders of the Vanderbilt Law school quoted James Madison as saying the "wanton removal" of a "meritorious" government worker would be maladministration and would liable a President to impeachment.

If this is to be considered by the House Judiciary Committee then the removal of Archibald Cox might be considered an impeachable offense.

The last time an impeachment resolution was written in Congress it called for an investigation of Supreme Court Justice William O. Douglas, who had taken honorariums for speech-making and whose several marriages to younger women have upset some legislators.

At that time Gerald Ford, the new Vice President, declared as a member of the House of Representatives that an impeachable offense was "any damn thing the Congress wants to make it."

A number of Senators and Congressmen, however, have indicated they view "high crimes" as the actual commission of a felony—a breaking of a criminal statute.

However Rodino's committee views the question, if his body, after hearings, reports a bill of impeachment to the full House of Representatives, then it will include a list of "high crimes and misdemeanors." At this point the full House will be called upon to vote, item by item, on the charges in this list.

If a simple majority of the House votes for that bill then the President is impeached—which simply means "indicted"—and the bill of charges upon which he is impeached is then sent to the U. S. Senate. There a public trial would be held with Chief Justice Warren Burger presiding and all the 100 Senators acting as jurors. Vice President Gerald Ford, who normally presides over the Senate, would step aside.

The Senate would hear the arguments brought by the House and then listen to the defense offered by lawyers for the President. If two-thirds of the Senators—that would be 67 of the body of 100, if all members were present—voted to convict the President on any one charge, he would thereby be removed from office.

The only time in history an effort has been made to remove a President came in 1867 when the House impeached—or indicted—President Andrew Johnson, but the Senate failed by one vote to find him guilty. He remained in office.

The matters which the Rodino committee will surely consider will include:

Whether the President made a conscientious effort to find out whether any of his appointees in government, or in his campaign, violated the law regarding Watergate.

Whether he made a conscientious effort to discover whether any of his appointees in government covered up the crimes of Watergate.

Whether the President himself participated in the coverup.

Whether there was any negligence or intentional wrongdoing in the handling of the controversial tapes during the time they were under subpoena but in the custody of the White House.

Judge Sirica, himself, is yet to be heard on the question of what he thinks about the White House efforts to explain how some tapes are missing—or never existed—and how an 18-minute gap occurred in a tape which was transcribed by the President's veteran and faithful secretary, Rose Mary Woods.

Whether there is any wrongdoing in the President's directing the federal government to improve his vacation homes.

Whether there is any wrongdoing in the President's failure to pay certain taxes on the increase in property values of his homes as a result of federally financed improvements and as a result of his negotiations with friends such as Rebozo and industrialist Robert Abplanap to gain ownership of property.

Whether there was any wrongdoing in the President's using his vice presidential papers as a $500,000 tax deduction which cut his income taxes to almost nothing in 1971 and 1972.

Obviously, the Rodino committee will labor long and struggle hard as it deals with these and other questions. It should be at least three months before any report should be expected from the committee to the full House.

As Rodino's committee moves steadily forward the Watergate Special Prosecutor, Leon Jaworski, and his staff, were pursuing further investigations aimed at bringing indictments against those who committed Watergate crimes.

Jaworski, picked by the President to succeed Archibald Cox, has kept on most of the Cox staff of lawyers and is allowing them to pursue their lines of inquiry without interference.

White House aides voiced some disgruntlement with Jaworski for keeping intact the Cox staff of investigators. But Jaworski, a Texas lawyer who was once president of the American Bar Association, was proceeding in a fashion that gave confidence to his young team of attorneys. He won from the new Nixon Attorney General, William B. Saxbe, the former Ohio Senator, a pledge of absolute independence. Saxbe's predecessor attorney general, Elliott Richardson, had given that same pledge to Cox before the President fired him. Jaworski pledged that additional indictments will be forthcoming and trials will go forward as rapidly as possible. He estimated two years of work ahead for his staff.

Congressman Rodino was charged with "foot dragging" in launching his probe into impeachment questions. There is not much doubt that he discussed his timing and pace with House Speaker Carl Albert, the Oklahoma Democrat who was in line to succeed Nixon while the vice presidency was vacant.

Albert and other Democratic leaders, including Rodino, did not want any action taken against the President as long as the Vice President's position was vacant. That would make it appear that the Democrats were interested in moving against the chief executive in order to have their party—and Albert—assume the White House.

And so, after Spiro Agnew resigned as Vice President and admitted not paying income taxes in violation of federal laws, the Democrats moved first on the business of putting Nixon's choice, former Congressman Gerald Ford, into the vice presidency before proceeding with impeachment issues.

Ford, a Michigan conservative, has always been a loyal GOP party member. He is considered steady, stable, reliable, hard working and plain spoken.

President Johnson once accused him of being "dumb"—but in appearing before committees of the Senate and House Ford showed himself to be an astute politician, an aware public official and a dedicated public servant.

He is well-liked in Congress. His choice was a popular one. Last week national poll taker Louis Harris found that in a trial-heat against leading Democratic presidential contenders Ford did extremely well.

Harris reported that his public opinion survey showed that if the election were tomorrow Vice President Ford could defeat either Sen. Edward M. Kennedy of Massachusetts or Sen. Henry M. Jackson of Washington.

Before he was appointed Ford said he would not run to succeed President Nixon. Political observers who know Ford as a man who rarely reverses himself on an issue, expect that he will have to change his mind on this one.

And so the President of the United States has endured his longest and most trying year. In almost every way 1973 was a tragic drama for Richard Nixon. He suffered.

The same pollsters who now say his Vice President would beat either leading Democrat in 1976 are the same opinion samplers who have found that 47% of the people believed that Nixon acted in the Watergate investigation as if he were "above the law" while 42% said he was acting within his rights. The same pollsters found that 56% of the people felt the President violated his promise to "get to the bottom" of Watergate, 50% thought he was involved in financial wrongdoing and 68% believed at the end of the year that the President knew about the Watergate coverup.

What will 1974 mean for the President?

He is a tough and tenacious political fighter. As he himself has announced, he is not a man to quit or to turn and run. He knows he is the chief executive of a nation that is confronted by a major energy shortage and a dangerously tight economy.

He has strengths. His record in foreign affairs continues, under the direction of Secretary of State Henry Kissinger, to bring him prestige. His relationships with major Communist powers continue to keep tensions down. His efforts to cool tempers in the Arab-Israeli world have, at least temporarily, succeeded. And he can be expected to allow his new, popular Vice President to move in on many domestic areas to help raise his standing on issues at home.

But the President's credibility is low—as Billy Graham and his other friends recognize. His ability to govern has been weakened—as many Republican congressional leaders have conceded. His administration has been ravaged by scandal. And in the coming year—as in the last—he will be the most investigated man in America. As 1973 closed the political survival of Richard Nixon is an open question.

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## RESOLUTION OF THE UNITED NATIONS ASSOCIATION OF NEW YORK, N.Y.

### HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. KOCH. Mr. Speaker, I should like to place in the RECORD the resolution of the United Nations Association of New York, N.Y., passed January 8, 1974. I commend the organization for its forthrightness in condemning Arab blackmail, terrorism, and hijacking.

UNA-NY BOARD ADOPTS RESOLUTION CONCERNING OIL WEAPON

The following resolution was adopted unanimously by the UNA-NY Board of Directors at a meeting held on January 8, 1974:

Concerned by the openly announced purpose of certain Arab states to use "the oil weapon" as a means of attempting coercion of American foreign policy in the Middle East;

Recalling the 1970 Resolution of the General Assembly concerning friendly relations and cooperation among states, in which it was declared that "No state may use or encourage the use of economic; political or any other type of measure to coerce another state in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from its advantages of any kind";

Deeply disturbed by the continued use or support of terrorism, hijacking, and extra-legal guerrilla forces, on the part of some Arab states;

The United Nations Association of New York, N.Y., through its board of directors, reaffirms its resolutions of October 9, 1973, and further resolves:

1. We condemn totally, as an unwarranted attempt to coerce the foreign policy of another country, the imposition of an oil boycott against the United States and other nations, by the Arab States. We urge that the government of the United States, through our delegation at the United Nations and in all other appropriate ways, reaffirm our belief that oil blackmail is a threat to the peace and security of the world.

We must also recognize that this threat is particularly dangerous to the developing nations of the Third World.

2. We remind the American people that in a similar situation nearly two centuries ago, our ancestors responded through their Ambassador with the declaration, "We have millions for defense, but not one cent for tribute." We warn our fellow citizens against propaganda efforts to set group against group in the present fuel shortage and urge them not to allow these actions regarding oil to in any way influence their judgment regarding other aspects of foreign policy.

3. We urge the committee of the Assembly now dealing with hijacking and terrorism to accelerate its work, and to promptly submit to the nations agreements which will outlaw such crimes, by making them punishable in every state, by requiring the extradition of guilty persons, and by such other means as may be appropriate.

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## GLASSBORO STATE COLLEGE—50 YEARS OF SERVICE

### HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. HUNT. Mr. Speaker, over the years it has been my pleasure, as a private citizen, a New Jersey State Senator, and a Member of Congress, to have had a close and intimate relationship with one of the outstanding institutions in my State, Glassboro State College. Most of you probably recognize the name as being the site of a famous summit meeting several years ago between the late President Lyndon B. Johnson and Soviet Premier Aleksei Kosygin. Although this brought worldwide attention to "our" college, its niche in history will be carved through its outstanding service to the students, faculty, citizens, and the State of New Jersey.

The college is now celebrating its first 50 years. On this occasion, it is my pleasure to introduce for the RECORD, a resolution adopted by the Glassboro State College board of trustees in recognition of service to the State of New Jersey:

RESOLUTION

Whereas, the Legislature of the State of New Jersey and the citizens of Glassboro have had foresight and concern over the education of their youth and so established and supported for a half a century Glassboro State College which has been devoted primarily to the preparation of teachers; and

Whereas, to this laudable objective, the Administration and Faculty have successfully dedicated themselves for fifty years; and

Whereas, the Board of Higher Education of New Jersey has further broadened the original concept of the founders of Glassboro State College so that it now educates youth and adults in the liberal arts, the fine and performing arts and in administrative sciences; and

Whereas, there has been typically a close interrelationship of fifty years duration between faculty, administration, students and the community to pursue successfully the goals of the founders by improving our society; and

Whereas, the Students, Administration, and Faculty do hereby memorialize the founders, salute the citizens and rededicate themselves so that their wit and wisdom may further enhance the liberating arts and thereby press toward the goal of a well educated citizenry; Therefore be it

Resolved, that the successes of a half century of Glassboro State College's efforts be noted with appreciation to those who have gone before and are departed as well as to those who currently strive with humility and eagerness to further the accomplishments of Glassboro State College; and Further be it

Resolved, that this recognition of a half century of Glassboro State College's dedication and accomplishment be spread upon the minutes of the Board of Trustees, the Student Government, and Faculty Senate and that due notice of such accomplishment of the past and dedication to the present and future of Glassboro State College be forwarded to the Board of Higher Education, the Legislature, the Governor of the State of New Jersey and the Congress of the United States of America.

## BENEFITS OF LEGAL ABORTION

### HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Ms. ABZUG. Mr. Speaker, on this first anniversary of the Supreme Court's historic decisions legalizing abortion, I would like to share with my colleagues a very impressive statement made by 50 physicians. In brief, they find that fewer women are dying during pregnancy and childbirth and fewer infants are dying in the first year or the first month of life; there is a decline in hospital admissions for botched abortions, and the complication rate is falling as physicians gain greater experience and women seek abortion earlier in pregnancy; further, for the first time in New York City, out-of-wedlock births have declined.

I would like to insert in the RECORD the full text of the pamphlet released by the National Association for Repeal of Abortion Laws, entitled "Fifty Physicians Evaluate Legal Abortion in New York":

### THE PUBLIC HEALTH BENEFITS OF LEGAL ABORTION IN NEW YORK

(A statement by 50 physicians)

No measure of the health of nations and cities is more widely accepted than the health of mothers and newborn babies. As physicians practicing under New York State's 1970 abortion law, we have talked with and treated many women, and are convinced elective abortion has joined family planning and prenatal care as an effective public health weapon against maternal and infant mortality.

Elective abortion is now available to those women with the greatest risk of dying in childbirth or whose infants are most likely to die soon after birth. These women include the very young and the unmarried, unprepared for the responsibilities of motherhood; women who have had many previous births and pregnancies; women nearing the end of their fertile period; women with a history of viral infections, drug addiction, or hereditary factors which can damage the fetus; and women with medical handicaps that make a term pregnancy a serious risk.

While the law compels no one to have an abortion, these high-risk women have indeed made use of the medical service now available to them. The following data* reflect the improving picture of infant and maternal mortality since the abortion law became effective on July 1, 1970.

#### FEWER WOMEN ARE DYING DURING PREGNANCY AND CHILDBIRTH

In 1971, the first full year in which elective abortion was available, New York City's maternal mortality rate dipped to an historic low:

1969—5.3 per 10,000.
1970—4.6 per 10,000.
1971—2.9 per 10,000.

Abortion alone does not account for the dramatic decline in maternal mortality; increased access to family planning is an important factor. However, the sharp drop in the first full year of the abortion program is probably not coincidental.

Maternal mortality rates have always included abortion-associated deaths, under criminal as well as legal circumstances. In 1964, when the overall maternal mortality rate was as high as 6.7, there were 2.8 abortion deaths for every 10,000 live births. In 1971, this figure was only 0.9, a two-thirds drop. Fewer women today are dying as a result of criminal abortions.

#### DECLINE IN HOSPITAL ADMISSIONS FOR "BOTCHED" ABORTIONS

The decline in criminal abortions and dangerous attempts at self-abortion is confirmed by experience in ten large New York City public hospitals which have collected continuous data on women requiring care after an incomplete abortion begun outside. These data show that incompetently performed abortions ("botched") and spontaneous abortions (miscarriages) averaged 480 per month in the first six months under the new law. They dropped sharply to only 199 per month a year later. Since the number of spontaneous abortions tends to remain fairly steady, the decline reflects a true drop-off in criminal or self-induced abortions.

#### FEWER INFANTS ARE DYING IN THE FIRST YEAR OF LIFE

In New York City, the infant mortality rate reached an historic low in 1971:

1969—24.4 per 1,000 live births.
1970—21.6 per 1,000 live births.
1971—20.7 per 1,000 live births.

Infant mortality (deaths during the first year) reflects environmental as well as congenital risk factors, including poor care often given the unwanted child. Access to abortions is by no means the principal cause of the decline, but there is no doubt that it has contributed.

#### FEWER INFANTS ARE DYING IN THE FIRST MONTH OF LIFE

Neonatal mortality (deaths that occur within the first 28 days of an infant's life) is a most significant indicator of the birth of high-risk infants, since most infant mortality occurs in this period. In 1971, the decline in neonatal mortality surpassed the drop in overall infant mortality:

1969—18.1 per 1,000 live births.
1970—16.2 per 1,000 live births.
1971—14.9 per 1,000 live births.

An important corollary was a 16.4 percent decline in the number of low-birth-weight infants between 1970 and 1971 (as compared to an 11.0 percent decline in the number of "normal"-weight babies). This is highly significant, since infants of low birth weight (under 2,500 grams, or about 5½ pounds) are at greatest peril during the first month of life and account for the greatest proportion of infant deaths.

#### OUT-OF-WEDLOCK BIRTHS HAVE DECLINED FOR THE FIRST TIME IN NEW YORK CITY

This drop of 12.1 percent was the first since 1954, when the Department of Health first began to collect data on these births:

1970—31,903.
1971—28,036.

Unwanted births present the greatest hardship to unmarried women, many of whom are very young and less likely to seek the prenatal and postnatal care so essential for the well-being of their infants. Indeed, a New York City Department of Health study in 1961 found that the infant mortality rate for illegitimate children was 48.2 per 1,000 live births, more than twice as high as that for infants born to married women in the same year. Thus it is extremely desirable to reduce out-of-wedlock births from a public health standpoint.

#### THE INCREASING SAFETY OF ABORTION

The complication rate in New York City has, from the start, compared favorably with rates in other countries where abortion is legal, and has steadily declined. The complication rate per 1,000 is as follows:

*Overall, early abortions, and late abortions*

July 1970–June 1971: 8.5, 4.6, and 26.8.
July 1971–May 1972: 6.9, 3.1, and 26.6.

This decline in the number of reported complications developed as physicians gained greater experience with abortion techniques and as women, educated to the availability of safe medical abortion, sought it early in pregnancy when the risk of complication is minimal. A study of 5,000 consecutive late abortions in one hospital reveals that the complication rate in late abortions can be reduced an additional 50 percent when performed by trained, experienced physicians, with 24-hour supervision by obstetrically-trained house physicians.

The trend toward early abortions is reflected in these data:

July–December 1970—71.7%.
July–December 1971—78.7%.

The rate of deaths associated with legal abortions performed in New York City during the period July 1970 through May 1971, including a generous estimate of out-of-town patients dying elsewhere, was 7 per 100,000 for all legal abortions and 1 per 100,000 for abortions in the first trimester. The overall rate was less than half the rate of deaths resulting from complications of pregnancy and childbirth, according to estimates made by Christopher Tietze, M.D., Associate Director of the Bio-Medical Division of The Population Council and the world's foremost authority on abortion statistics. The death rate from abortion during the first trimester was less than one-sixth that of deaths resulting from pregnancy and childbirth.

Not measurable in statistical terms is relief from the psychological, social, and economic distress of an unwanted pregnancy. Most gratifying to us in our private practices has been the beneficial results of legal abortion on patients who were unwilling, unable, or unready to become mothers.

As physicians with a profound concern for infant and maternal mortality, we believe that elective abortion has greatly relieved a major public health problem by increasing options available to prevent an unwanted birth or one that would constitute a risk to the health of mother or child. We view abortion as a back-up medical technique when contraception has failed or been absent. It is an option that women *should* have available to them.

The record of legal abortion in New York is an impressive endorsement of the soundness and humaneness of the 1970 abortion law.

This statement is endorsed by the following New York State obstetrician-gynecologists:

Karlis Adamsons, M.D., Ph. D., Professor of

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*All figures are from the New York City Department of Health. Over two-thirds of New York State abortions were performed in the City.

Obstetrics & Gynecology, The Mt. Sinai School of Medicine, New York City.

John G. Allen, M.D., Planned Parenthood of Corning.

Hussein Amin, M.D., Bronx-Lebanon Hospital Center, Bronx.

Stewart Bauman, M.D., Syracuse.

John Boyce, M.D., Director of Obstetrics & Gynecology, Kings County Hospital, Brooklyn.

Judith T. Brook, M.D., Dr. Martin Luther King, Jr., Health Center, Bronx.

Wolf Catz, M.D., Director of Obstetrics & Gynecology, Adelphi Hospital, Brooklyn.

Sheldon H. Cherry, M.D., Assistant Clinical Professor of Obstetrics & Gynecology, The Mt. Sinai School of Medicine, New York City.

C. Alan B. Clemetson, M.D., Director of Obstetrics & Gynecology, Methodist Hospital of Brooklyn.

Elizabeth B. Connell, M.D., New York City.

Wilbur M. Dixon, M.D., Medical Director, Broome County Planned Parenthood.

Gerard E. Evans, M.D., Director of Obstetrics & Gynecology, Caledonian Hospital, New York City.

Henry Freedman, M.D., Long Island College Hospital, Brooklyn.

Mary Anna Friederich, M.D., Associate Professor of Obstetrics-Gynecology & Psychiatry, University of Rochester School of Medicine & Dentistry.

Wilton G. Fritz, M.D., Director of Obstetrics & Gynecology, Community Hospital of Brooklyn.

William H. Godsick, M.D., Forest Hills.

Edward J. Grandt, M.D., Medical Director, Planned Parenthood of Chemung-Corning, Inc.

John G. Hamilton, M.D., Rochester.

Richard Hausknecht, M.D., Assistant Professor of Obstetrics & Gynecology, The Mt. Sinai School of Medicine, New York City.

Norman Herzig, M.D., Director of Obstetrics & Gynecology, Morrisania Hospital, Bronx.

Irwin H. Kaiser, M.D., Professor of Gynecology & Obstetrics, Albert Einstein College of Medicine, Bronx.

Thomas Kerenyi, M.D., Assistant Professor of Obstetrics & Gynecology, The Mt. Sinai School of Medicine, New York City.

George J. Kleiner, M.D., Associate Professor of Obstetrics & Gynecology, Albert Einstein College of Medicine, Bronx.

Schuyler G. Kohl, M.D., Professor of Obstetrics & Gynecology, Downstate Medical Center, State University of New York, Brooklyn.

R. Paul Kradel, M.D., Rochester.

Hans Lehfeldt, M.D., Clinical Professor of Obstetrics & Gynecology, New York University School of Medicine, New York City.

Jack Lippes, M.D., Associate Professor of Obstetrics & Gynecology, State University of New York, Buffalo.

Nathan Mandelman, M.D., Assistant Attending Obstetrician-Gynecologist, The Mt. Sinai Hospital, New York City.

Malcolm Merrill, M.D., Attending Obstetrician-Gynecologist, F.F. Thompson Hospital, Ontario County.

James H. Nelson, Jr., M.D., Professor & Chairman, Department of Obstetrics & Gynecology, Downstate Medical Center, State University of New York, Brooklyn.

Bernard Nathanson, M.D., Assistant Professor of Clinical Obstetrics & Gynecology, Cornell University Medical College, New York City.

Robert D. Patchell, M.D., Acting Director of Obstetrics & Gynecology, Harlem Hospital Center, New York City.

A. Jefferson Penfield, M.D., Medical Director, Planned Parenthood of Syracuse.

Robert S. Phillips, M.D., Syracuse.

William Pomerance, M.D., Professor of Obstetrics & Gynecology, Downstate Medical Center, State University of New York, Brooklyn.

Anna T. Rand, M.D., Assistant Professor of Obstetrics & Gynecology, Albert Einstein College of Medicine, Bronx.

Martin B. Raskin, M.D., Chief of Obstetrics & Gynecology, Interboro General Hospital Brooklyn.

Seymour L. Romney, M.D., Albert Einstein College of Medicine, Bronx.

Albert Rothman, M.D., Clinical Professor of Obstetrics & Gynecology Upstate Medical Center, State University of New York, Syracuse.

Joseph J. Rovinsky, M.D., Chief Obstetrician, City Hospital Center at Elmhurst.

Jerome H. Rudolph, M.D., Associate Professor of Obstetrics & Gynecology, University of Rochester.

Azmain Qureshi Sadruddin, M.D., Dr. Martin Luther King, Jr., Health Center, Bronx.

Morton A. Schiffer, M.D., Director of Obstetrics & Gynecology, Jewish Hospital and Medical Center, Brooklyn.

Harold Schulman, M.D., Professor of Obstetrics & Gynecology, Albert Einstein College of Medicine, Bronx.

David H. Sherman, M.D., Assistant Attending Obstetrician-Gynecologist, The Mt. Siani Hospital, New York City.

Frederick Silverman, M.D., New York City.

King R. Snyder, M.D., Arnot Ogden Memorial Hospital, Elmira.

Samuel Soichet, M.D., New York Hospital, New York City.

Kenneth T. Steadman, M.D., Geneva.

Francis L. Stevens, M.D., Director of Obstetrics & Gynecology, Unity Hospital, Brooklyn.

Donald P. Swartz, M.D., Director of Obstetrics & Gynecology, Harlem Hospital Center, New York City.

Christopher Tietze, M.D., New York City.

Harold M. M. Tovell, M.D., Director of Obstetrics & Gynecology, St. Luke's Hospital Center, New York City.

Alois Vasicka, M.D., Chief of Obstetrics & Gynecology, Coney Island Hospital, Brooklyn.

William D. Walden, M.D., Clinical Assistant Professor of Obstetrics & Gynecology, Cornell University Medical College, New York City.

Arthur Weinberg, M.D., Director of Obstetrics & Gynecology, Peninsula General Hospital, Far Rockaway.

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## JOSE BERNAL

### Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mrs. BURKE of California. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

STATEMENT BY THE HONORABLE YVONNE BRAITHWAITE BURKE, MEMBER, CONGRESS OF THE UNITED STATES, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C.

Whereas, Jose Bernal of Lomita has demonstrated his great love of democracy by his activities as Vice-President of the Cuban Refugee Committee in Los Angeles, and;

Whereas, Jose Bernal, former minority leader of the Cuban Parliament, who left Cuba in 1960 has helped hundreds of Cubans living in Southern California through his work, and;

Whereas, Jose Bernal remains firmly dedicated to the principles of freedom and liberty, and to the return of these principles to Cuba,

Therefore, be it known this 29th day of December 1973 that we are in recognition of the outstanding nature of Mr. Bernal's work and his continued efforts on behalf of Cuban refugees in this country, and it is further directed that this commendation be entered in the CONGRESSIONAL RECORD.

YVONNE BRAITHWAITE BURKE,  
*Member of Congress,*  
*37th District, California.*

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## THE ENERGY CRISIS

### HON. DICK SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. SHOUP. Mr. Speaker, the energy crisis continues to dominate the news and is a matter of urgent concern for all Americans. The suddenness with which this problem came upon us has resulted already in passage of the Emergency Petroleum Allocation Act of 1973 and further action on a more comprehensive energy act.

Along with a number of my colleagues, I have become gravely concerned about the paucity of reliable information on energy uses and energy resources. Almost daily the news media carry stories about conflicts in information about where the oil is and how much is really available. The January 8, 1974, edition of the Oil Daily had a headline, "Simon Seeks Better Oil Statistics." The Governor of Maryland has been quoted in the Washington Post as saying that substantially more oil is coming into the United States than is being acknowledged by energy officials. Christopher T. Rand, who is knowledgeable about the Mideast, wrote in the New York of January 3, 1974, that—

> The people are in ignorance of the industry's real figures (except those for the prices they pay). They still know absolutely nothing about the true magnitude of America's immense oil and gas reserves . . .

These are representative examples of the information gap that is becoming a dangerous chasm with many people on one side fully believing that the energy crisis a hoax by profit-mad oil companies, and the Congress on the other trying to legislate solutions to a problem that many say is a myth.

It is patently obvious that the country is desperately in need of credible, substantive, and usable information on energy. Accordingly I have introduced a bill which creates a Special Office of Energy Information which is commissioned to prepare a comprehensive inventory of our energy resources. In anticipation of the reluctance of some companies to divulge information which is sensitive, provision is made for the protection of such confidential data.

As with any initial proposal the one I offer is undoubtedly imperfect, but it is a beginning and if we are to intelligently approach our energy problems this bill or something akin to it, is a vital prelude.

H.R. 12176

A bill to provide for the collection and assimilation of information on the energy resources of the United States

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this

Act may be cited as the "Energy Inventory Act of 1974".

SEC. 2. (a) FINDINGS. —The Congress hereby finds and declares that:

(1) Available information relating to the various types of energy resources and the quantities of each type is often contradictory and incomplete.

(2) Legislation relating to the utilization and conservation of energy resources must be based upon the most reliable and accurate information possible.

(3) Energy resources are of varied types and are present in a multitude of forms and stages of development.

(4) Information about energy resources is presently diffused throughout the Federal government and different industrial complexes often with conflicting and diverging interests.

(5) Competing industries possess information relating to energy resources and this information is frequently of a sensitive and confidential nature and relates to the competitive aspects of many businesses; further, it is in the interests of the free enterprise system to protect such information as fully as reasonbly possible.

(b) PURPOSE.—The Congress hereby declares its purposes to be:

(1) To create an energy resource information center where data relating to all forms and types of energy resources can be collected.

(2) To establish a special office in the legislative branch of the Federal government which will serve as the energy resources information center.

(3) To provide the energy information office with sufficient legal authority to collect and disseminate information as provided in this Act.

(4) To provide adequate safeguards for protection of confidential information.

SEC. 3. (a) ESTABLISHMENT.—There is established, on the date of enactment of this Act, a new office in the office of the Comptroller General of the United States to be known as the "Office of Energy Information." This office shall function continuously pursuant to the provisions of this Act until discontinued by an appropriate Act of Congress.

(b) Director.—The Office of Energy Information shall be administered by a Director to be appointed by the President by and with the advice and consent of the Senate. He shall be compensated at a rate to be set by the President, but at a rate not in excess of the maximum rate for GS–18 of the General Schedule set forth in section 5332 of title 5, United States Code. The Director shall administer and be responsible for the discharge of the functions and duties of the Office of Energy Information. The Director may act through representatives and agents.

SEC. 4. (a) DUTIES.—It shall be the duty of the Director of the Office of Energy Informatin to prepare and submit to Congress and the President an inventory of the energy resources of the United States. Said inventory shall include, but not be limited to, a comprehensive listing of energy resources, energy supplies, energy processing facilities, energy storage facilities, energy consumption, energy production, energy transmission and transportation system and said inventory shall include appropriate analyses and summaries. The Director shall file a preliminary inventory with the Congress and the President within 90 days of enactment, and he shall submit updated reports every sixty days thereafter.

SEC. 5. ACCESS TO INFORMATION. (a) The Director of the Energy Information Office and his designated representatives shall have authority to acquire whatever data is deemed necessary by the Director for the preparation of the Inventory. (b) All agencies and departments of the Federal Government are directed to cooperate fully with requests for information by the Energy Information Office. (c) The Director of the Energy Information Office and his designated representatives shall be empowered to acquire information through the issuance of subpoena. Subpoenas shall be issued under the signature of the Director of the Energy Information Office and may be served by any duly designated individual. In case of contumacy or refusal to obey a subpoena by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such district court shall, upon petition, have jurisdiction to issue to such person an order requiring him to comply forthwith. Failure to obey an order is punishable by such court as a contempt of court. (d) Nothing in this Act shall authorize the withholding of information from any duly authorized committee of the Congress.

SEC. 6. CONFIDENTIAL INFORMATION. (a) Upon being served with a demand for information by the Director of the Energy Information Office, any person may, at the time he submits the information demanded, file a petition with the Director requesting that the information supplied be treated as confidential. (b) Petitions requesting a confidential classification must contain specific identification of the information concerned, and must state particularly why such designation is requested. All petitions must be signed and verified by the person submitting it. (c) The Director shall be the sole determiner of whether or not such petition shall be allowed or disallowed. In either event, the Director shall within 10 days of the date the petition is submitted, serve upon the person signing the petition a written notice of the Director's decision. (d) Information shall be classified and handled as confidential upon a determination by the Director that its publication would do substantive harm to the business operations or competitive position of its proprietor. (e) Information which is designated confidential by the Director shall not be subject to discovery under the Federal Rules of Civil Procedure, nor shall it be available under any provision of the Freedom of Information Act. (f) Information which is designated confidential by the Director shall not be divulged or published in its raw form. This provision; however, shall not preclude the use of such classified information in the summaries or in the inventory required by Sec. 4 of the Act, but such confidential data shall be incorporated with other data in such a manner as to remove beyond reasonable expectation the possibility of *per se* identification of the information so classified.

SEC. 7. AUTHORIZATION. There is hereby authorized to be appropriated such sums as are necessary for the implementation of the provisions of this Act.

SEC. 8. The administrator of General Services shall furnish the Office of Energy Information with such offices, equipment, services, and supplies as he is authorized to furnish to any other agency or instrumentality of the United States.

SEC. 9. If any provision of this Act or the application thereof to any person or Circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

## IS THE ENERGY CRISIS REAL?

### HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. LENT. Mr. Speaker, during the recent recess, I had the opportunity to meet with many constituents. A question which seems to be uppermost in the minds of most of the residents of my district is, "How real is the energy crisis?"

If we are to expect the American people to be willing to sacrifice, we must take every possible step to determine such sacrifice is necessary. Accordingly, I am today introducing legislation which would establish a nine member Select House Comimttee to investigate and monitor the Nation's energy shortage.

My motive in introducing this legislation s not the expectaton of adding more oil to supplies which currently exist, but rather to determine with some degree of accuracy just how much petroleum is and will become available. There has been a mounting feeling in recent weeks that the shortage has been contrived by the oil companies in order to force exhorbitant increases in the price of gasoline and home heating oil, and I think we need to know beyond any doubt that this "crunch" has not been trumped up.

I hope the investigation I am proposing—or even the promise of close congressional scrutiny—will help clear the air, and produce some hard, reliable figures on which we can project the dimension of the shortage we have to look forward to.

## ALTOONA C OF C DENOUNCES BICKERING, URGES SUPPORT OF PRESIDENT

### HON. E. G. SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. SHUSTER. Mr. Speaker, the Ninth Congressional District of Pennsylvania could aptly be titled "Little America." I believe the attitudes of the people in my district are representative of the attitudes across America.

This was reaffirmed, recently, when the results of the latest poll conducted by the National Federation of Independent Business were released. The districtwide results varied significantly from that of the entire State of Pennsylvania. But it came as no surprise to me that the results paralleled almost exactly the nationwide figures.

This is important when you take a closer look at how our people feel. And a good gauge of how they feel can be found in a resolution passed by the Altoona Area Chamber of Commerce calling for an end to our "—senseless political bickering," and a "—spirit of Americanism," in which we all join in support of America and back the President.

The Altoona Chamber feels, as I believe most Americans do, that for the good of the country, the confusion of Watergate must be put behind us, and we must look ahead with enthusiasm and the spirit which characterizes our Nation to solving our problems so that we may once again raise our heads high to the world.

Mr. Speaker, I believe that the resolution passed by the Altoona Area Chamber of Commerce is so significant, and so reflective of the attitudes of our Nation, that I insert that resolution in the RECORD at this time.

The resolution follows:

RESOLUTION

Be it resolved, that the Board of Directors of the Altoona Area Chamber of Commerce calls upon the Congress to cease its harassment of the President of the United States and the consequent disruption of the government of this country, and the distraction which prevents the government from attending to the critical affairs which now demand its attention,

Be it further resolved that this Board of Directors is of the opinion that nothing in the Watergate affair, and nothing so far revealed about the President of the United States warrants this unprecedented effort to hound him into resigning, or otherwise to seek to destroy him as chief of state, the office to which he was elected.

Be it further resolved, that this Board of Directors sees no benefit to this nation, nor aid to the welfare and well being of the people of this nation in this continued and unceasing assault on the presidency; an assault that prevents the normal operation and function of government on urgent affairs which now threaten the welfare of this nation,

Therefore be it resolved that this Board of Directors urges the Congress, for mutual protection and welfare of the people of this nation, to change direction and to turn full attention to the grave problems of the energy crisis, inflation, the advancement of the economy, our trade and other relations with foreign nations especially with Soviet Russia and the Communist bloc, and our national defense,

We suggest, in all sincerity, and in a spirit of Americanism, and with no political prejudice that all join in support of America, and back the President, show unity, and recover the great national strength we are losing in our senseless political bickering.

Copies of this resolution shall be sent to the President, our members of Congress, the Chamber of Commerce of the United States, the Pennsylvania Chamber of Commerce and other civic and business organizations. Adopted this 13th day of December nineteen hundred and seventy-three in Altoona, Pennsylvania.

## THE LATE HONORABLE JOHN P. SAYLOR

## HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. YOUNG of Alaska. Mr. Speaker, as the second session of the 93d Congress reconvenes today, I pause in humble gratitude to remember my late friend and colleague, John P. Saylor.

As a freshman Congressman, John Saylor meant much to me and all Alaskans. He was very instrumental in the legislation to grant statehood for Alaska. During the first session of the 93d Congress, he worked tirelessly on the trans-Alaska pipeline legislation, having served both as the ranking minority member of the Committee on Interior and Insular Affairs and as a member of the Alaskan Pipeline Conference Committee.

In addition, John's leadership in the field of conservation was recognized by most Americans. He was a sponsor of the Wilderness Act to save woods, water, and wildlife. He also backed legislation to establish the Office of Coal Research to find more uses for coal, and was a major supporter of the Coal Mine Health and Safety Act of 1969. He received many awards for his endeavors relating to conservation.

Mr. Speaker, we will miss John Saylor. But we will go forward with our work here in these great Halls, ever thankful for having had the opportunity of knowing this fine man.

## GOOD NEWS FOR BOTH AIR FORCE AND TAXPAYER: NEW GD FIGHTER ON SCHEDULE AND UNDER BUDGET

## HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. WRIGHT. Mr. Speaker, the January edition of Air Force magazine contains some cheering news for the Nation's taxpayers as well as for the U.S. Air Force.

In a day when it often seems that every new weapons system we try to develop is plagued by overruns in both time and money, there is a new lightweight fighter competition. It is an exciting new concept in this country's efforts to maintain air superiority, and it makes me especially proud because it was conceived and built in Fort Worth by the designers, engineers, and production workers it is my privilege to represent in Congress.

The YF-16 is the subject of a comprehensive article by Edgar Ulsamer, senior editor of Air Force magazine, in the latest issue of that publication. Here are the highlights of that article:

### YF-16 ON TIME, ON TRACK, ON BUDGET

(By Edgar Ulsamer)

Early in January of this year, a C-5 Galaxy will deliver to USAF's Flight Test Center at Edwards AFB, Calif., a prototype aircraft that—together with its competitor—is likely to sire a new breed of fighter planes that are small, light, agile, and—perhaps most important—much more economical to own and operate than any fighter in existence today.

The test aircraft is General Dynamics' YF-16. It is scheduled to start a one-year flight-test and evaluation program on or about January 18, 1974. The YF-16 competes with Northrop's YF-17 in the Air Force's Lightweight Fighter Prototype Program (*see October '73 issue, p. 64*). Each company is building and testing two aircraft under Air Force contract.

The YF-16's vital statistics are impressive. With a mission weight (combat ready after a 500-mile flight) of about 17,500 pounds, the single-engine Mach 2 fighter claims a combat radius about three times that of the F-4, is to accelerate roughly twice as fast, and should permit turn rates about twice as good. The YF-16's average unit cost, based on a hypothetical production run of 300 aircraft coming off the line at a rate of between eight to ten a month, is to be no higher than $3 million, in FY '72 dollars.

Program Director Lyman C. Josephs, a vice president of General Dynamics' Convair Aerospace Division, told AIR FORCE Magazine that "on the basis of our experience so far, we believe that we can meet the cost guidelines of the Air Force." This price is predicated on equipment similar to that of the prototypes, consisting in the main of the airframe, engine, head-up display, gun and gunsight, and a simple ranging device. The aircraft's cost could go up by as much as $400,000, however, if ordered with all-weather avionics.

Col. William E. Thurman, Deputy for Prototypes, Aeronautical Systems Division, AFSC, told this reporter that for this program, the Air Force selected two contractors whose designs explore different technologies. "In the case of the General Dynamics airplane, we are exploring a single-engine design with a single vertical stabilizer and blended wing body to provide high lift as well as a fly-by-wire flight-control system. Both designs test what could be called the weak link in aircraft growth potential, the physiological limitations of man to withstand his G-forces."

In the case of the YF-16, the pilot's seat is tilted back to a thirty-degree angle, instead of the usual twelve to thirteen degrees. According to Air Force studies, this position, which is similar to that provided by a tilted-back chair, shortens the "fluid column" between the brain and the legs and, as a result, boosts the G-force tolerance of the average person by between one and 1½ Gs. There are indications, as yet not verified, that a reclining, raised-heel-line position also improves the pilot's tracking capability, according to Mr. Josephs. Pilot reaction, to date, has been good, both to the YF-16's unconventional seating arrangement and to the side-stick controller, which permits more precise control inputs during combat maneuvers.

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### HIGH THRUST/WEIGHT RATIOS

The YF-16's thrust-to-weight ratio, according to Colonel Thurman, is about 1:1.3, or similar to that of the F-15. This quality, combined with a wing loading of about sixty pounds per square foot at combat weight, provides the aircraft with "an excellent cruise capability at altitude." General Dynamics spokesmen say that the effective wing loading is considerably less at high angles of attack because of the aircraft's body lift, induced in part by the strakes extending forward from the wing roots. Wind-tunnel tests performed by NASA, Mr. Josephs said, have shown that the aircraft can sustain an angle of attack of thirty-six degrees, claimed to be among the highest ever achieved.

A key element of the YF-16's good thrust-to-weight characteristics is its highly efficient engine, the F100, developed by the Air Force and Pratt & Whitney for the F-15. This engine is a turbofan that produces about 25,000 pounds of thrust with full afterburner. The Air Force left the choice between the F100 and the General Electric YJ101 turbo jet engine up to the contractors, but thrust output of these powerplants dictated automatically that the former be used in a single and the latter in a twin-engine configuration. Northrop opted for the GE engine. Mr. Josephs cited the following reasons for choosing a single turbofan engine for the YF-16.

By going to a single engine, General Dynamics believes, it can build a smaller, lighter, and less expensive aircraft.

Militating against the single-engine configuration is the widely held notion that aircraft of this type experience higher attrition rates than multiengine designs. "We think that this is a very emotional subject and, therefore, have painstakingly analyzed all available Air Force and Navy data. We found no evidence of significant differences between singles and twins overall. There is indication of a slight increase in attrition rates in peacetime so far as engine-related accidents are concerned, but the scatter is so great from one aircraft to the next that it is hard to make a case either way. In addition, the maintenance and operating costs of a single are less than for a twin and, therefore, make up for any slight margin so far as peacetime attrition is concerned," according to Mr. Josephs.

There is evidence that air forces of some allied countries prefer twin-engine designs, but General Dynamics marketing experts believe that the cost advantages of a single-engine design and knowledge of the strong support the F100 is receiving in all R&D and maintenance areas might compensate, at least in part, for these antipathies.

So far as the basic engine design is concerned, General Dynamics aerodynamicists believe that a turbofan's cycle (efficiency at various speeds and conditions) suits the mission of the Lightweight Fighter more than a turbojet. The company's experts believe that a single-purpose aircraft could "benefit from a turbojet engine because it offers some advantages with full afterburner. But if range combined with combat performance and mission flexibility are the driving consideration, the shoe is on the other foot."

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### FLY-BY-WIRE AND CCV

A pivotal innovation of the YF-16 is the use of a fly-by-wire flight-control system, which replaces the conventional mechanical linkage from the cockpit to the actuators of the control surfaces with redundant electronic channels. This in turn has permitted the use of CCV (Control Configured Vehicles) technology, a promising new design technique. CCV designs are aerodynamically less stable under certain conditions, but make up for this by "active" flight controls

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Both the Air Force and General Dynamics are confident that there are no undue risks associated with fly-by-wire designs because they are "well within the state of the art."

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The Air Force's Flight Dynamics Laboratory has already requested one of the two YF-16 prototypes, upon completion of the flight-test program, for continued research in the fly-by-wire and CCV area. The prospects for these technologies, in the view of General Dynamics, the Air Force, and NASA, are very bright because they make possible the design of smaller and lighter aircraft with higher performance.

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Combat performance of the YF-16, in Mr. Josephs' view, will be "excellent. In a dogfight, we believe, we will be able to handle anything that exists today or is on the drawing board."

### ON COST AND ON TIME

From the Air Force's point of view, one of the most welcome aspects of the Lightweight Fighter Program is the fact, pointed out by Mr. Josephs, that, "at the moment, we are considerably under budget and on schedule. Unless we run into serious trouble during flight testing, we think we will be able to complete the program within the cost ceilings of our contract. The aircraft's empty weight is 400 pounds higher than what we proposed, but the reason for that is that, in the interest of economy, we picked off-the-shelf components, such as the F-111's servos. If we go into production, we would use optimized subsystems rather than components designed for a much larger and heavier aircraft."

General Dynamics shares a key conviction with its competitor, Northrop: Whichever aircraft is chosen by the Air Force as the winner of the flight-test program, and thereby categorized a candidate for eventual series production, "has a real solid chance for overseas sales. Our research indicates that that market may be as high as 2,000 aircraft.

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The results of the Lightweight Fighter Program to date, in Colonel Thurman's view, are highly encouraging. "In addition to having developed two very promising aircraft—and we hope that both will meet all the design goals completely—we have acquired a wealth of important design information for a fraction of the cost normally incurred. Also, we have learned or relearned some crucial lessions.

"First, competition is vital. There simply is no other contractual or management incentive that is as effective as competition. Secondly, this program has demonstrated the importance of visibility, the need to bring problems out into the open the minute they occur. Both sides, the Air Force and the contractors, have been scrupulously honest, in a fiscal as well as a technical sense. And third, it is vital that prototypes lead requirements. The results are cost savings and better products."

In this era of shrinking budgets and mounting requirements, the latter two characteristics would seem to be paramount.

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## IT IS YOUR PRIVACY AND LIBERTY

### HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. ZWACH. Mr. Speaker, as we open the 2d session of the 93d Congress I think it is well for all of us to ask ourselves in what direction are we leading our country toward liberty, or away from it.

One of my favorite newspaper columnists, Margery Burns, from the Minnesota rural Sixth Congressional District, recently wrote on this matter.

I insert her column in the RECORD so that all of our Members may ponder her words. The column follows:

#### It's Your Privacy and Liberty

"Liberty has never come from government. The history of liberty is the history of limitations of government power, not the increase of it." Woodrow Wilson wrote that years ago.

"It is in the natural course of events that liberty recedes and government grows." That was written by Thomas Jefferson.

"Experience should teach us to be most on guard to protect liberty when the Government's purposes are beneficient. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding." Justice Brandies made that observation.

So what are we going to do about the way our government takes over more and more of our liberty and privacy?

It is true that as our government has grown bigger and bigger, we have less and less to say as individuals. Do you care if you lose your privacy and your liberty?

Since 1940, our government has grown at a terrific rate. The Federal Government's gross annual revenue rose by 2,780%—from $7 billion to $202.5 billion.

The total Federal expenditures went up by 2,140%—from $10.1 billion to $226.2 billion.

The Federal debt outstanding rose by 830% from 43 billion to $477 billion.

Federal expenditures per capita rose by 1,450%—from $77 to $1,195.

Federal employment alone has grown to 2,865,303 people.

And . . . Congress passed 13,579 public laws. All of this since 1940!

Out of all this huge growth of government power through hundreds and hundreds of agencies which have their own rules and regulations, has come data banks, wiretapping, electronic surveillance, eavesdropping, credit histories, medical histories, income tax information, information systems, regulatory report filing, disclosure statements, data exchanges.

And all this information about you can be passed from government agencies to private sectors and back again to government agencies. The terrible part of this invasion of privacy is the chance that an error can be made about you which will be carried all along the line. And even with correct information about you, your right to privacy is gone. Should you have to put down your "number" on every paper you sign?

This "right to privacy" gone back to 1765 when the English jurist, Lord Camden wrote: "It is not the breaking of his doors, and the rummaging of his drawers, that constitutes the essence of the offense; but it is the invasion of his indefeasible right of personal security, personal liberty."

In the middle of the 19th century, Judge Cooley used the term "the right to be let alone."

Are you concerned about your right to privacy and liberty? Or do you believe that the government should do everything for you and to you? Where do you draw the line? Do you care if your phone is tapped? Or if you are listed in a national data bank? Or if government agencies and private companies can look up your records without your permission?

How much liberty and privacy do you want?

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## THE ARKANSAS RIVER: ITS COLORFUL HISTORY, DEVELOPMENT PLANS, AND NEEDS

### HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. ALEXANDER. Mr. Speaker, most rivers in this country are rich in tradition and history. The Arkansas River is no exception. I would like to share the comments of Col. Donald G. Weinert, district engineer, Little Rock, Ark., District Corps of Engineers, with my colleagues on the history, development plans, and future needs of the Arkansas River:

#### Remarks by Col. Donald G. Weinert

I appreciate your invitation and the opportunity to trade stories about the Arkansas River. It's really more in that category, not really a speech. I did dig out some little known facts that I find fascinating that you might want to jot down if you talk to people about the history of the river. Then I have an update on information on the present status of the river presented at previous appearances before the Commission; and finally, something on the future of the river as we now see it. I see our good friends in the Coast Guard are here to complement and supplement what I have to say. We do work as hand in glove when it comes to the operation of this river.

One of the first things I found out is that the history of this area of the United States goes back even farther than the bi-centennial of this country. Of course, in 1770 we were talking about French traders and Indians, but still this was quite an active area centered even then on the river. The Arkansas River was quite a different animal in 1770 than it is today, but nonetheless an important part of life in this region of the country.

I don't know if you realize it or not, but when the United States acquired this territory in the Louisiana Purchase of 1803, we paid 11.25 million dollars for that territory which encompasses the central third of the United States and is really the heart land of our country, or a good portion of it. Do you know what it cost to build Lock and Dam No. 4? Just the one lock and dam—20 million dollars minimum, and we have some that went higher than that. When you stop and think about it, the Louisiana Purchase was a pretty good land deal. When we finally attempted to control this river so we could maximize its utility, just one of the 17 locks and dams cost about two times as much as the whole Louisiana Purchase Territory.

Of course this river artery was very important in the early 1800's, and when the steamboat became the big thing, you could go up the rivers almost as easily as down. The steamboat started up the Arkansas early. In fact, and this is another little known fact in history, the Steamboat Comet nosed its way into Arkansas Post in 1820. In 1822 there's a record in the old archives of the Steamboat Eagle on its way up the Arkansas past the village of Little Rock on its way to an Indian Mission in what is now Dardanelle Lake; but it never made it. It ran into some high water and the Corps of Engineers didn't get the channel open in time.

1832 was the first time this river was really acknowledged in a Rivers and Harbors Act. Did you know that in 1832 Congress passed a bill that authorized clearing and snagging on the Arkansas River? They had a Lieutenant as District Engineer at that time who was hampered in his work by no funds. They had the same problems then that we have today, interestingly enough. The first big study that was done in this area was authorized in 1855 by Congress. Congress authorized a study of the Mississippi River and its tributaries. The Corps was supposed to look at the Mississippi River and its tributaries and decide what to do to it so that it could be used to the maximum benefit of the Nation, both for navigation and flood control. The big emphasis at that time was flood control, although navigation was important. How much money do you think they authorized for a study of the Mississippi Basin, the entire Mississippi River and all its tributaries, which includes, of course, the Arkansas? Fifty thousand dollars. Of course, 50,000 dollars today will hardly even do a flood plain study for a city. As you can imagine, all they discovered with that 50,000 dollars was that it was an impossible job. There did not seem any way in the world to harness this animal.

The next big regeneration of interest came after the "27" flood. Of course, many of you in this area are aware that a great deal of local interest began to consolidate in organizations like the Arkansas Basin Association. Some of you were pioneers in those early efforts at generating action on the Arkansas. The "27" flood didn't produce a lot of legislation, interestingly enough. It took the "37" flood to really kick the legislation loose, and following the "37" flood we had some of the most comprehensive river development legislation in the history of this country. In fact, if you look carefully at the authorized projects in the Little Rock District, some of which are still authorized but not constructed even today, that authorization dates to 1938. 1938 was a landmark year as far as Congressional authorization for action; action that was primarily motivated then by a need for flood control.

It wasn't until 1946 that Congress authorized the McClellan-Kerr Arkansas River Navigation System project. Even then the idea of a big navigation system for commercial navigation was really secondary to most people. The real emphasis then was to harness the river to prevent recurrence of the floods of 1927, 1937, or subsequently of 1943 and 1945. It didn't take long in the initial studies in the late 40s for the idea of commercial navigation to really take hold. Some recognized that there was something here that was really worth pushing; and through their influence and with their encouragement, the Corps began to focus more and more on the utilization of this river as a navigation link as part of our inland waterway system. As you all know, it took many years and a lot of dedicated effort, partly from people in this room, and I like to think some competent engineering on the part of the Corps of Engineers, for the dream to be realized. Construction of the largest water resource development project ever undertaken by the Corps finally got underway in 1957. In "69" we opened the culmination of a long history—a river system which is quote "controlled." However, like with any wild beast, control is relative. You may think you've got it controlled but every now and again she proves we don't have her entirely in harness. This last spring was a good example of her proving that.

This river that we opened in 1969 doesn't look at all like that the Comet saw when it nosed its way up in 1820. For one thing, it's not in the same location. If you ever need proof as to the wandering ways of the Arkansas River, get up sometimes and fly over this valley and you will see remarkable patchwork evidence, historical evidence that goes back over hundreds of years, even thousands of years, to show where the Arkansas River has been in the past. Of course, that presented one of the major challenges for controlling it and making it usable. You cannot let it wander if you're going to navigate on it. You really can't let it wander if you're going to go ahead and develop the land adjacent to it and if you're going to control flooding. So the biggest challenge was to get it in a given channel and keep it there. She has been wandering for so many thousands of years, she doesn't like to do that—just stay in one channel. But, overall, I believe we now have the river fairly well regulated.

We are just finishing 5 years of operation. I don't know if you all realize that or not. About 5 years of operation on the river since it was opened in 1969. There is still some recreational development and some bank stabilization work to do and some other things to do regarding navigation operations, but the basic structural control of the river has been complete for about 5 years. I have a summary for you, a few facts and figures as to what it is today—5 years after the project was essentially complete.

In the flood control area, this year alone in the Arkansas portion of the basin about 12 million dollars worth of damages were prevented. That is with the upstream dams in Oklahoma and with the levees and the channel improvement works. The average flood control benefits that were used to justify this project (and it was justified on a cost vs. benefit basis) were 7 million dollars. Benefits this one year alone were nearly two times the average annual benefits. Historical performance in these 5 years shows that the system has produced more annual flood control benefits than we had planned for. Remember, back in the history of this river and of the Mississippi, the flood control problem was the real basic emphasis for the initial interest in legislation. It has done pretty well in what it was designed to do in flood control. We'll not eliminate floods because nobody can predict the amount of rain, but we can certainly control floods, and the project has proven that.

Incidentally, there is one flooding paradox I've talked with the Commission about before. I will mention it again since there are some who may not have been in on those earlier conversations. Colonel Maynard can testify that there wasn't much water when he was here as District Engineer and was building this system. As a matter of fact, the 60's were pretty dry. About the time they closed the river and finished the bulk of the work in '69, they began to get some rains. Ever since then, every year, including this year which was somewhat of a record event, we've had a lot of water. The water has been backed up on low bank areas where apparently it frequently was in earlier years. Many people's memories may have forgotten that. Many people equated the closing of the river, or the closing of the last lock and dam with the recent high water. From 1969 on, the water has been a lot higher than it was in 1968, 1967, 1966, 1965, and on back, but it is because of rainfall, not the project. It's quite an interesting thing to talk to a farmer who has been farming a piece of land say for 15 years, and tells me honestly that he couldn't remember a time when the water was at that point on his land prior to closing the last dam. I said when did you first start planting, and he said 1961. It is an interesting paradox and it is hard to convince him that the rain, not the project, caused the flooding.

Next, let me talk about recreation. Tom, it sounded like you were giving my flood plain management speech when you started off with the history of our country and our rivers. You brought out something very important—balanced use of this resource. Of course, it was envisioned in the authorization for this project that there would be recreation. I am mentioning this now and I would like particularly the Waterways Commission to focus on what I am saying because I am going to come back to it at the end because there are some challenges here, I think, for the Commission. Recreation is not going away. It is going to be one of the major uses of the river—in terms of numbers of people and numbers of dollars. You say, how could it begin to compete with commercial navigation as a revenue producer or income producer? There were a little over five million readily identifiable recreation users that visited the river last year, when only about half of the total number of parks that we are going to put in had been completed. Five million visitors, and we didn't count them all.

Have you seen the boats on the river this year? I know Jim and his people that have been out trying to operate the tows up and down the river have seen them. It wasn't nearly as bad as I thought it was going to be this year. Maybe the gas shortage, money problems, or other things did keep a few people off the river, but you watch what is going to happen the next few years with the number of recreational boats on the river. We know how many we locked through on a given summer weekend at Murray, and you wouldn't believe it. The same thing at David D. Terry and at No. 13 in the Fort Smith area. Recreation boating, water contact sports, which I agree with Tom, won't be long in coming. Swimming in the Arkansas River and water skiing are already here. Let's be honest about it. You go out on any summer day, and what do you see on the Arkansas River? People swimming and water skiing. It scares me to death and again I'm going to get back to this at the end because it is a challenge to the Waterways Commission. Some guy in one of these jet-powered recreation boats coming out to play on the wake of one of the barges carrying coal down the river or oil up hits that wake and flips and disintegrates. They don't understand that you cannot turn a tow off and stop it dead still. Somebody has to take into consideration what is happening and it has got to be the recreation boat. It cannot be this 1200 horsepower towboat with its 7 or 8 barges or whatever it is pushing because he cannot stop on a dime. We have a transportation problem and again the Waterways Commission has a role to play here.

We now have 36 parks completed on this river and I am talking about just in Arkansas; and 23 are under construction. That means when we are all finished, we will have 59. There are 8 more authorized for future development on a cost sharing basis. Boyd Point is one of these and I think the people of Pine Bluff are aware of this. A total could be as high as 67 parks, Corps of Engineers operated. Actually, not 67 because those 8 would have to be operated by the local entity that cost shared. Many of these are good sized parks, and many of them will be larger than they are now. Some of them are fairly small in the initial stage of development, but ultimately with money and with cost sharing contributions will be a lot larger. We anticipate the visitation to these parks alone in 5 years could easily exceed 7 or 8 million people, just in the Corps operated parks. This is based on our experience and we have experience around our lakes where we have parks of comparable size with comparable facilities. I think the visitation around Table Rock with 21 parks is about 6 million people. We will have 59, ultimately 67 parks along the Arkansas River in Arkansas. It doesn't take much imagination to think what the visitation could be. Just think how much closer these parks are to the major population centers. This recreation is good for the people—the public good, and it is part of the balanced development of the river, something we all need to be thinking about.

I will talk for a minute about power because it does raise its head. There are two power facilities on the river in Arkansas and many more up river in Oklahoma. Dardanelle and Ozark, not big plants, but producers, because they are running-of-the-river and they produce a lot of electricity. Dardanelle has four units of 31,000 KW each and the Ozark unit will have five units of 20,000 KW each. These plants should not interfere with or bother navigation. There is a common misconception that the power people mess up navigation. They do only to the extent they cannot help us get over shoals when the bottom has moved up above project depth. But, when we are at project depth as designed below flat pool, it does not make any difference whether they are generating or not; there will be at least 9 feet below flat pool. So, we are not dependent upon the power people to pass water through Ozark or Dardanelle. When we are in a stage where we have receded from a high flow and we have a lot of shoals, it is helpful for them to give us water through Ozark and Dardanelle. The truth is then they can help us get across an area that is only 5, 6, or 7 feet deep. We have done pretty well this last spring. The first weekend was bad, but we have done better recently on that. Power complements navigation to that extent. It is nice to have it there to help bump over shoals when we need it. Of course, we can also do that ourselves by opening gates at dams where there is no power being generated, but we frequently depend on power releases to put the water in the river to use for that purpose.

Now, I will talk about navigation at present. I have some figures for you that might be of interest. You all know and have seen the chart that I have put up many times that shows the growth of navigation since the river was opened for that purpose. it is about a 45-degree angle and since we are starting low and moving up, it is a big percentage increase each year for the first few years—about 30 percent—and sounds great. It is great; the important thing is that it has been a steady increase. So far this year we have had a bad first 6 months, but I have some interesting news about the last few months. July, including internal tonnage, exceeded July last year. The August total tonnage did not. Internal traffic; rock, sand, and gravel was down in comparison with August last year. Therefore, the total was not as great. But the inbound-outbound traffic, the items leaving the system and entering the system, the kind of traffic that ultimately we are going to have to depend on for growth in this area as the real bread and butter traffic, was the highest single month's total since the river has been open. September inbound-outbound exceeded that by another 30,000 tons. September is now the highest inbound-outbound month on record. September this year is 24 percent above September a year ago. And now, even considering the first part of the year when things were really tough, we are 4 percent above the first 9 months last year in this inbound-outbound total. The internal traffic, the rock, sand, and gravel, is still down. The biggest increase has been in the petroleum and soybeans. The others are about holding their own, but there is a big drop off in coal. The important part of this statistic is that it shows a remarkable and hoped for increase in commercial use of the river. When you look at last year, November and December, again as those of you on the river remember, were bad months. The total tonnage in November and December of last year was way, way down. If we have reasonable weather in October, November, and December this year and I would not have believed I could have predicted this 3 months ago, I think that our total tonnage this year is going to come close to our total tonnage last year. We might even maintain that 45-degree growth curve.

We have learned a great deal about navigation. I am not going to belabor what happens after a major rise, but I do want you to know we have documented things a lot better as to where our problem areas are and we are going to run an analysis using our computer when we are all finished to find out where the greatest payoff is as far as dredging. I have every area that has shoaled; how long it was, how long it took to dredge it, how many groundings there were that we know about. With the cooperation of the industry, I have now been able to correlate shoal areas where we had to dredge and groundings. We learned something that surprised everyone in my office. That is, some of the areas that had the worst shoaling, where we were doing the most dredging, were not the areas that had the biggest problem with groundings. The area that had the biggest problem with groundings is where the channel apparently had characteristics about it that lent itself to difficulty for the people operating on the river. We now are beginning to identify where the real problems are as far as we are concerned on channel maintenance, and we are going to confirm this with the industry when we are finished. This channel maintenance tabulation is helpful in another way; it confirmed what I think I told you a long time ago. From the time the water dropped out on the 6th of July and we started to have a rash of groundings, it was the 15th of August or about 40 days until the last large number of groundings occurred. There were some scattered ones up until 4 September, but these were very isolated incidents. The one on the 4th of September happened to be a barge that was well over draft as far as the river capacity so it wasn't too surprising.

Something else came out of the study that I think is encouraging to me and I think the people on this river deserve something of a pat on the back because they have contributed to making it possible. Whatever has happened since I last talked to the Waterways Commission, and whatever efforts you in the Commission and the industry have made, they certainly paid off. Even though there are still channel obstructions, and there are in quite a few places, we have had a remarkable lack of any instances of any kind of serious grounding problems since the 4th of September, and actually since the middle of August when the last big problem occurred. This is in spite of the fact that we have had four dredges working all this time, and they are still out there, still working, and we still have channel obstructions. The second remarkable thing is that we have had almost no accidents. Last year one of the first things that I got exposed to when I got here was the problem with the dredges not moving, not getting out of the way, and the towboats having trouble with them, colliding with them. Not just the towboats, but recreation boats too. I want you to know there have been almost no such instances, and, Paul, I think the Waterways Commission should take note of this. The industry certainly deserves a pat on the back, also I think the recreation boaters and the dredges do too to some extent. It is so different than before that I really think it deserves commendation and a pat on the back because however it has come about, it is a very commendable record.

We have more bank stabilization to do as I told you, and we are studying now where to put it. We have little odds and ends to do as far as channel maintenance. Whatever we are doing, we will coordinate it with the Commission and with the industry and try to do a good job of it.

Now some other aspects of navigation have to do with river induced development. Again, Tom talked a little bit about this. You all know about the Cerro plant; Wally certainly does, and what that is going to mean. I can give you a dozen similar examples in the State of Arkansas. Your figures, Tom, were from 1960 to 1970. I am no expert in this area, and I have only been here a little over a year, but I can tell you in one year's time what I have seen in terms of people who have either committed themselves or who are about to commit themselves to come into this area. I think you are going to find the growth percentages in the 70's are going to far outstep what you quoted to us in the 60's. It seems to me that we are almost on the verge of a stampede in some areas in terms of people wanting to come in and take advantage of the river and the opportunities it offers, and this presents some real problems. Did you know that we have already permitted 38 ports along the Arkansas River in the State of Arkansas? They call them all ports, but only a few like Little Rock, Pine Bluff, Fort Smith, and Dardanelle I guess you would say are true ports. But, by our definition there are 38 ports and 10 major marinas already permitted, and we have also issued permits for 77 other miscellaneous structures, utility outfalls, and other kinds of items in the river. Now what I am telling you is there are many things going into that river and along that river and it is something that is a joint concern. Tom says in the final analysis of Governor Bumpers, it has to be the local interests, the local governmental agencies, the local planning entities that must decide what should be done and hold their own people to the line. The State can't really dictate this. I certainly agree that it takes this local interest, this local action. That local interest also has to have long range vision and what I would call wide angle lenses on their eyes, because I think it is going to be all of our concern as to how many ports go in along the Arkansas River. I think it is going to be just as pertinent to the people of Pine Bluff as to how many ports there are between Fort Smith and the mouth, as it is to the people of Fort Smith and the people of Little Rock. There has got to be some balance here. How many ports should we have—100, 150, 200, 38? I think the Waterways Commission needs to think about this and I would solicit and urge their consideration of this. It ties to the Governor's desire that the people come to grips with the problems of land use management and development along the river, because that is what you are really talking about when you are making a decision about a port, or a barge loading facility. So, when someone comes to me individually and says all I'd like to do is dig a little place back in here wide enough for two barges that we can off load, that's just one isolated little request at mile such and such (and I get a lot of those isolated little requests). What do you think that means? Barges are unloading there for some reason, something is coming off of them, something is happening in that area, and it's like that pebble in the water again—the ripples go and go and go. We all need to work together, local entities, local port authorities, local municipalities, the Waterways Commission, the State with its overall guidance, and we with our ultimate authority to say "Yes" or "No" as to whether or not the port goes in there or doesn't go in. We have to decide as to how we want this thing to develop, remembering that we don't want wall-to-wall ports or smokestacks. We do have at least those 59 parks and perhaps a few others, plus the Hollow Bend Wildlife Refuge and a lot of other places, where people can still go and recreate and enjoy themselves; it is a multiple use facility. This river induced development needs to be controlled now, not 10 years from now.

Now the future from my perspective, and again I am no expert in the area of industrial development of commercial development or recreation. I know a little bit about them because we deal with them, and I do have some gut feelings from what I see. If I were going to pick a place that has an unlimited future in this country, it is right here in the heartland of the Arkansas River Basin with that river pointing up into Oklahoma. It has potential uses that have not been conceived yet. You do not disrupt existing transportation patterns overnight.

You do not suddenly stop using established rail or highway transportation patterns just because somebody has built a 1.2 billion dollar water system that goes to Catoosa. But ultimately, those patterns will change; maybe not in the first 5 or 10 years. You know in our studies for this river, they projected at the time the study was done, and it went back to 1954, that this area could support commercial river traffic up to 13 mililon tons a year. That was based on then existing economic conditions as reasonably projected. The truth is, last year by 1972 we were already over 6 million tons, and this year it may be over that if we get decent weather the next 3 months. My point is that no one looking at it now would begin to predict that the 13 million tons is the upper limit. In fact we now see that we are going to pass that probably very soon. Now what the upper limit is the State or somebody will have to recompute because it will be based on the now existing economic conditions. The future as we now see it, and things like the energy crisis all enter into this picture. It is a different picture than it was 15 or 20 years ago. Again, the untouched development potential in this part of the country offers one of the last oasis to industry in the United States, one of the last places they can come. Even now, they find it a hard enough time getting enough employees because the job market here is getting tight. The boom is being felt here too, but the potential is here. I think you will see that potential realized in the future.

We need some improvements as I told you at first along the river. We need to get better fleeting area facilities outside the major ports. Right now, we have only identified two or three, but I would anticipate within the next 5 years we may develop others that need to have fleeting areas. We need mooring facilities upstream on all the locks and dams, and eventually downstream on all the locks and dams. We need them upstream above all the movable bridges. We are working in that direction in our programming. Let me enter one note of caution there. You all are aware of the national crisis as regards to inflation and the tremendous desire to hold down Federal spending. None of us should be naive enough to think that those pressures do not exist in all Federal agencies and do not affect all of our programs. Our program is there, but I think it is going to be tough to get the money that we would like for the next few years. It is not just us, I think the Coast Guard will agree they are feeling the same kind of pressures; any Federal agency would agree that they are facing the same kind of difficulties. We know that we need more bank stabilization; we need some safe harbors, particularly in Dardanelle and Ozark; we need to solve the mooring problem at intervening points in the pools; and we need to find out how that is going to be done. We are all working toward all of these. We need to make sure that all the dikes that are half submerged or all submerged are marked in some way. We need to figure out a more permanent way of marking the navigation channel at higher flows. The Coast Guard and I have been talking about that. We will find a solution. These things will make it even better and easier to navigate.

What does this mean? This means that the pressures for use and development are going to get greater and greater. There are going to be more recreational boats each year, more potential interference with commercial traffic. I can envision the day when we will have to schedule lockages for recreational boats, and the day may not be too far away, in order to make sure we do not interfere with commercial traffic. We are going to need help to make sure the river is developed the way the local people want it and the way the State wants it. We are there as the tool, the servant, to do it. We are looking to the local interests, the Waterways Commission, and the State for guidance as to how you want it. We are a Federal agency operating and maintaining a system.

We are going to need your help on the safety issue. We ned to learn how to control recreation boating, put some teeth in laws perhaps. There are going to be conflicts, but they have to be faced. We are going to need your help in identifying where the ports should go and how many there should be. I am talking now specifically to the Waterways Commission; I am asking for help. Throughout this, I say "we"—I am really saying the Corps and the Coast Guard, because we have to work together to solve all of these problems, the channel markings, the port locations. They all influence both the Coast Guard and us. I am asking for your help and offering our absolute cooperation. When we get through, the sky is the limit. There is, as I see it, great potential for development along this river. The kind of development that years from now, Tom and all of us would like to look back on and say, "We are proud of it, we did it the way we really wanted to do it. It did not run us, we ran it."

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## ANDREW M. LEWIS, JR.

## HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. BYRON. Mr. Speaker, January 10, the State of Maryland lost one of its most distinguished sons with the passing of Andrew M. Lewis, Jr., president of the Maryland-District of Columbia AFL–CIO.

Andy Lewis first entered the labor movement as an official with Local 180 of the United Glass and Ceramics Workers of North America, which he joined while employed at PPG Industries in his native Cumberland, Md. He was elected president of that local and later secretary-treasurer of the Maryland-District of Columbia AFL–CIO. Last August he was elected president of that organization.

Andy will be missed not only by those who knew him and worked with him in the labor movement but also by his many friends in Cumberland. He was a trustee of Allegany Community College, a member of the Governor's Advisory Commission on Unemployment Security, and a board member of the Allegany County United Fund. Andy Lewis' family and friends, I am sure, are proud of his many achievements in Cumberland and the State.

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## CONGRESSMAN WOLFF'S NEWSLETTER

## HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. WOLFF. Mr. Speaker, I distribute a newsletter to my constituents in a continuing effort to keep them up to date on my activities in Washington as their representative and to get the benefit of their thinking on major issues. At this point in the RECORD, I would like to share my most recent newsletter with my colleagues for their information:

NEWSLETTER

Dear Friend and Constituent,

Today, there is often little opportunity for the average citizen to have a voice in the decision-making process of our government, but you may be assured that your concerns and views on current issues are of paramount importance to me as your Representative in Washington.

In recent months you received two separate opinion surveys in my newsletter—surveys I undertook in the sincere hope they would serve as a direct line of two-way communication with you to provide me with a knowledge of your sentiments. The replies I have received indicate this purpose has been well met and again I thank those of you who participated.

This newsletter focuses on the results of these surveys and a summary of my views and current actions in the Congress relevant to each question and answer. There were 3245 responses to the first survey, a 2.3 percent return which is considered average by direct mail standards.

(Q.) What do you consider to be the three most serious problems affecting your community today?

(A.) 1. Crime and drugs, 40.9%; 2. Inflation and cost of living expenses (food, medical, etc.), 37.2%; 3. Property taxes, 9.7%; other, 12.2%.

This survey (taken before the energy crisis peaked) indicated that the spread of violent crime and drug abuse and the plight of innocent victims of crime remain the number one concern in both our suburban and urban communities today. I am convinced, more than ever, that the only way we will stem this growing incidence of crime is to attack the root of the evil by beefing up our law enforcement training and manpower programs, eradicating the drug menace at its source, providing greater employment and housing opportunities and by strengthening our penal system through court reform and rehabilitation services. However, our citizens must be protected while we strive to effect changes needed to erase the social ills that spawn crime.

Legislation I co-authored to provide tax deductions to cover costs of installing crime prevention devices in homes and businesses and to afford tax relief for theft losses and related medical expenses is to be included by the House Ways and Means Committee in the new tax reform measures to come before Congress this session.

As Chairman of the House Subcommittee on International Narcotics Control, I am gratified to report that my amendment to impose trade sanctions against foreign nations that do not cooperate in our efforts to halt the narcotics traffic has been included in the 1973 Trade Reform Act and that my proposal to mandate strict control over the manufacture and distribution of acetic anhydrite, the essential ingredient in the production of heroin, has been adopted by Interpol, the international police organization. I intend to vigorously pursue this frontal attack on the illegal traffic of drugs to our shores for I believe that if we are to curb "crime in the streets", we must first contain the wave of drug addition that is responsible for more than 70 percent of the lawlessness in our communities today.

Our courts also must share a greater responsibility by imposing more meaningful prison sentences on convicted criminals—not merely periods of time subject to early parole, as so often is the case. In reality, the procedure of early parole acts as an inducement for the criminal-minded to pursue illegal acts upon his release. Prison terms should be consistent with the crime and provide as well for increased rehabilitation efforts.

(Q) Do you favor federal controls over the sale of weapons?

(A) Handguns: yes, 88%; no, 9%; no opinion, 3%. Shotguns and rifles: yes 76%; no 19%; no opinion, 5%. Dangerous knives: yes, 84%; no, 10%; no opinion, 6%.

I believe, too, that we must curtail the easy availability of firearms and other weapons. As you are aware, Congress has passed a number of measures to curb the mail order traffic in long guns and pistols but they are only half-steps that do not meet the problem head-on. I am hopeful that stronger measures will be enacted soon to deal with the registration and licensing of all firearms and ammunition. In addition, I recently introduced legislation to prohibit the mail order sale of switchblade and other dangerous knives to minors, a follow-up move to my bill calling for a ban on the manufacture and distribution of these murderous weapons which, in no way can be categorized as hunting or fishing tools—they have no other purpose than to threaten or kill.

(Q.) What new federal legislation would you like Congress to enact?

(A.) Stronger anti-crime and narcotics laws, greater gun control, strict penalties for convicted criminals and court revision, 39.1%; tax reforms to include the elimination of farm subsidies, oil depletion allowances and tax "loopholes", 15.6%; increased Social Security benefits for the aging, 13.1%; curbs on inflation with price, wage and rent controls, 12.7%; other (national health insurance plan, federal laws to control political campaign contributions, public financing of campaigns, curbs on Presidential powers, aid to education, mass transit, pension and welfare reform), 19.5%.

In the area of long overdue tax reform, I support measures to plug "loopholes" and assure that every person pays fair and equitable federal taxes. I am sponsoring efforts to effect tax relief measures for the overburdened wage earner, homeowner, tenant and the elderly. In brief, I believe the Congress should enact legislation to include:

Tax deductions for commuters who use mass transit to travel to work;

Federal income tax deductions for persons who rent their principal residence, for homeowners who make domicile heating improvements (insulation) and install anti-crime devices;

Tax exemptions on the first $5,000 of annual retirement income, tax credits for the cost of higher education and non-public school tuition, and the removal of income tax inequities for single persons and for married persons, both of whom must work.

I continue also to oppose the program of farm subsidies, the system that pays our farmers not to produce food while we continue to export vast quantities of foodstuffs, particularly feed grains, abroad and there are shortages of these commodities here at home. I am most hopeful that my bill to embargo these shipments will receive prompt congressional action, for these continuing exports will only result in a further drain on our nation's resources.

I have also introduced legislation to embargo the exports of American oil and oil products until such time as the energy shortage is alleviated in this country. It seems incredible to me that we continue to deplete our resources as we face shortage and possible rationing.

A subsequent question was asked in a special newsletter you received in November to ascertain your opinion of impeachment proceedings. This questionnaire resulted in a total 21,424 replies, a 15.5% return—an outpouring that clearly demonstrates deep citizen interest in this serious matter.

(Q) Do you favor impeachment of the President of the United States?

(A) Yes, 48.8% (43.8% for impeachment, 5% for resignation); no, 50.2%; no opinion, 1%.

I undertook this second survey, not only to gain your views but, more important, to specifically provide you with a vehicle to express your opinions to the House Judiciary Committee, now in the process of holding hearings on whether or not there is justification for the full House to consider impeachment proceedings. I believe your opinions should be voiced.

I believe it is vitally important in our democracy to have all voices heard and for government representatives to provide opportunities for citizens to express their opinions and to offer suggestions for resolving problems.

There were some who took exception to my even conducting this survey since they felt it was placing the President on trial and pre-judging him.

Very simply, the impeachment process means that initially, an investigation and airing of the facts is undertaken by the House of Representatives to determine if sufficient prima-facie evidence exists to call for a trial by the United States Senate. Guilt or innocence is not determined in the House of Representatives.

Personally, I believe, as do many of my colleagues, that the Judiciary Committee should proceed with its hearings as rapidly as possible to determine if further action by the House or Senate is warranted.

### TIME CHANGE

Ask Your Congressman, the non-partisan, public service radio show moderated each week by Congressman Wolff, may now be heard in the tri-state area every Sunday afternoon at 5:30 PM over WOR. The program features Congressional and civic leaders discussing issues of local and national concern.

Sincerely,

LESTER L. WOLFF.

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## RHODESIAN CHROME HYPOCRISY

## HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. BURKE of Florida. Mr. Speaker, with all the talk about measures to solve the energy crisis, and terrorists' hijackings very little has been printed about the debate in the Senate on Rhodesian chrome. There is always a new crisis waiting around the corner, and in my opinion, the Senate action in restoring the ban on the importation of Rhodesian chrome ore will precipitate added economic chaos in the United States.

Our own natural resources—metal ores, crude oil, et cetera—are depleted, and we rely more and more on foreign supplies to our industries. The present fuel shortage due to the Arab boycott and our inadequate domestic supplies is evidence of this. Yet even as we are slowing down, and turning out lights, and lowering thermostats to survive this cutback, the U.S. Senate acts to boycott the major free world source of chrome. It just does not make good commonsense.

Ostensibly the United States is merely conforming to the United Nations boycott against Rhodesia which was instituted in 1967 to force the white Rhodesian Government to allow more participation by the 95-percent black population. I have absolutely no objection to urging Rhodesia to alter its governmental policies but why should our economy suffer further damage to do this?

Social progress follows economic progress. Poverty ridden countries have too much trouble surviving to devote much time to social reform. The United States is going to feel a lot more realistic and less idealistic if the predicted 17-percent shortage of fuel materializes next year.

Besides why are we getting so picky about whom we deal with? I am sure all Americans remember the notorious wheat deal we made with the Russians last year. We bent over backward to sell them wheat to the detriment of our own citizens. We would have to go some to find a government more repressive than the Soviet Union.

If the House also passes the restoration of the ban on importation of Rhodesian chrome the United States will once more be bending over backwards on a "do-gooder" errand which will help no one and hurt the U.S. citizen.

Economic sanctions are not particularly successful diplomatic weapons. The U.N. sanctions against Rhodesia can probably be regarded as a failure. They were in effect for 5½ years with our support and did not achieve their objective. In fact, Sir Alec Douglas-Home, the British Foreign Secretary, told Parliament on June 13, 1972 that:

> Exports from Rhodesia have recovered to 97% of what they were before sanctions were imposed.

When we subsequently removed the ban on importing chrome all that happened was that the Russians lost business. The Soviet Union was the source of nearly 60 percent of U.S. chrome imports in 1969 and 1970.

If the ban on importation of Rhodesian chrome is restored we will have to switch our business from Rhodesia to Russia since the only other major suppliers—Turkey and South Africa—are already being utilized. Either government is bad, but, in my opinion, dealing with the Russians is just as morally bad as dealing with the Rhodesians.

There are those who feel we should honor our obligations to obey the U.N. sanctions against Rhodesia to set an example for the world as a law abiding Nation. This is ridiculous. Only industrial nations need chrome and most of the members of the U.N. cannot be considered industrial nations. They give up nothing, but they point an accusing finger at us and we relinquish our sovereignty and behave against our best interest to assuage them. One does not have to be a genius to see that if we keep doing things against our economic interests that we are not long going to be a rich and powerful Nation. Without wealth and power how long can we be persuasive morally?"

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## THE COUNCIL OF IRELAND: REGRESSION OF PROGRESS TOWARD A NEW IRELAND

## HON. PAUL W. CRONIN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. CRONIN. Mr. Speaker, there has been much controversy on the subject of the new Council of Ireland as a basis for the future reunification of Ireland, already rejected by Unionists extremists who threaten to fight England to remain British and by Irish Republican followers of the ideals of Patrick Pearse and the Easter 1916 Rising, it is also coming into serious question in the middle ground. Nor has the debate been confined to the other side of the Atlantic; it excites debate in the United States as well. The Council of Ireland is not really new, it was created in theory by the British Government of half-a-century ago but never seriously implemented until the present. It was a part of the treaty which created the Irish Free State and the temporary partition of Ireland. Since that time, partition has acquired the attributes of permanence and the Council of Ireland seemed to have been forgotten until last year.

If nothing had changed in Dublin during the intervening 50 years, then its implementation this year would only be the long-overdue observance of an old treaty. But all is not the same in the Ireland of the 1970's as it was in the 1920's.

The Dublin government is no longer a self-governing dominion within the British Empire recognizing the King or Queen of England as Head of State. In 1936, the Dublin government disestablished the Irish Free State and, under the leadership of Eamonn deValera, established the Eire constitution. Dr. Douglas Hyde, a Protestant nationalist, was its first president. In 1949, the Dublin government, led by Sean MacBride, established what is known as the Republic of Ireland. For over two decades, the Dublin government has been operating in the form of a Republic whose Head of State is an elected Irish president—presently Erskine Childers, a Protestant who formerly represented a constituency in County Monaghan, a part of Ulster which is not under direct British rule—which enjoys diplomatic relations with the United States, which is a full sovereign member of the United Nations organization, and which constitutionally claims sovereignty over all of Ireland.

Things are indeed different today. What would have been a progressive step for the Irish Free State of the 1920's appears to be regression for a Republic of Ireland. Acceptance of these new Sunningdale agreements over 60 years after the House of Lords rejected Home Rule for Ireland would be somewhat analogous to President of the United States Andrew Jackson ignoring the Revolution and the Declaration of Independence of the Fourth of July 1776 and reentering the British Empire on terms which might have been acceptable to the First Continental Congress in 1774.

The Sunningdale agreement errs, perhaps fatally, by seeking to legitimize the artificial gerrymander of six of Ulster's nine counties; by denying the sovereignty of the Republic of Ireland Government over all of Ireland; by failing to give the long-sought declaration of intent by the British Government to respect the will of the people of Ireland. I fear that, however well-intentioned they might be, the participants in the Sunningdale conference may have sown the seeds of continuing and future conflict in unhappy Ireland because their gaze was fixed upon the past and not the future. I fear that they have not laid the basis for a just and lasting peace in a new Ireland any more than did those who signed the tragic Treaty of December 6, 1921, or the Boundary Agreement of December 3, 1925.

A prominent 25-year member of the Irish House of Representatives—the Dáil Éireann—Mr. Neil Blaney, T. D. of County Donegal—another part of Ulster not under direct English rule—has warned that the coming of the British Army or the Royal Ulster Constabulary "even one inch into" the Republic's "territory with or without the consent of the Government—or the Council of Ireland, is a complete breach and a sell-out of the sovereignty of this country." There can be no compromise on this, he added.

The picture, however dismal, is not totally dark. A ray of light has broken through the clouds. It is possible for Ireland to be at peace, united, sovereign and free, and still accommodate the Protestant-Unionist minority's integrity and interests. I submit for your consideration the outline of an Irish federal system as articulated by New York State Senator John E. Flynn of Yonkers, on pages 8 and 10 of the September-October 1973 issue—volume XL, No. 5—of The National Hibernian Digest. Senator Flynn is a member of the Ancient Order of Hibernians, long active in Irish affairs. The title of his article is "Toward a New Ireland."

The article follows:

### TOWARD A NEW IRELAND

(By Senator John E. Flynn)

Most of the attention of the world is focused upon the present "troubles" in those Six of divided Ulster's Nine Counties known as "Northern Ireland." While this is the immediate concern of all right thinking men, the present troubles are but the symptoms of the disease, not its cause.

One of the root causes of Ireland's problems lies in its present governmental structure. Six Counties in the North-East of Ulster, the historic Northern province are occupied by a foreign power, and administered in the interest of that foreign power. The remaining Twenty-Six Counties enjoy a measure of freedom and are directly ruled and administered by a centrally organized government in Dublin, and are known as "the Republic of Ireland."

While the present constitution of the Twenty-Six County state is very good, in fact excellent, for its type, that is for a centralized government; it has a great intrinsic weakness in that it is an Irish adaptation of the governmental form set up by foreigners to rule Ireland in the interest of another country. The native Irish genius had previously created a decentralized form of government, under which Ireland was run by and for the Irish people.

The Gaelic system of law and political organization was based upon the principle of subsidiarity; that is that anything which could be accomplished in the private sector was left to the private sector and things in the public sector were treated at the lowest echelon possible. Government was, in other words, decentralized. Presiding over Ireland was a High King (Árd Ri), who led the nation in national affairs, presided over the triennial Árd Pheis, whose office was elective, but who did not directly govern the people in their domestic affairs. In addition to the province of Meath (An Midhe), which was the High King's official bailiwick (a similar idea to our District of Columbia wherein is located the Seat of Government of the United States), where the four provinces of Ulster (Ulaidh), Leinster (Laighin), Munster (Mumhain) and Connacht (Connachta) which were somewhat analogous to our own States save that in Ireland sovereignty was always the attribute of the nation as a whole, never divided among its subsidiary parts. This was a functioning system then long before the first Saxon ever set foot on Britain.

The decentralization of the Irish system made conquest by foreign invaders a most difficult proposition, for even if the foreigners were able to capture the High King in his capitol (e.g. Tara), that is all that they would have, and the rest of the country could continue to function. The Normans invaded England in 1066 and conquered it in short order. The Norman invasion of Ireland began in 1169, over eight centuries ago, yet did not achieve even the outward appearance of political success until early in the seventeenth century nearly half a millennium later. Even this success has not been permanent as each succeeding generation of Irishmen has asserted their right to national freedom, often in arms and blood, right down to the present day.

We in the United States are doubly fortunate: First, and most obviously, that we have achieved our freedom and independence from England, as we declare on the 4th of July 1776; and, second, that the founding fathers of this great American republic understood and employed such principles as subsidiarity, separation and division of powers, and limited government. Ireland, of course, is not America, nor do we suggest that a new Ireland, united and free, adopt a carbon copy of the Constitution of the United States. But there are those sound, proven principles which underlie both the American constitutional tradition and the ancient Gaelic political system which are worthy of consideration in the building of a new Ireland, an Ireland not for foreign imperialists but for the Irish.

We are, therefore, most favorably impressed by the Provisional Republican plan for provincial assemblies and regional and local government to deal with matters at the level at which they will be both most clearly understood and most efficiently handled. This must be, of course, under the sovereignty of an all-Ireland, 32-county, united Irish Republic combined with constitutional guarantees of individual human rights and liberties in the form of an Irish "Bill of Rights" or Charter of Rights. Thus far, this is the most effective and progressive plan for the decentralization of government and the protection of local and minority rights, liberties, and interests in a free and united Ireland in accordance with the principle of subsidiarity.

We can only hope that the good work of such men as Daithi ÓConail and Ruari Ó. Brádaigh of Sinn Fein in setting up regional governments in Ireland—Dáil Uladh (Ulster, the North), Dáil Connacht (Connacht, the West), Dáil Laighean (Leinster, the East), and Dáil na Mumhan (Munster, the South)—will bear fruit and help restore peace and the ancient prosperity of Ireland. Ulster is, of course, the special test case. The establishment of Dáil Uladh would be the first step towards the creation of this new governmental structure for the whole island. By thus creating a Provincial Parliament for the nine counties of Ulster within a new united Ireland, the partition system would be disestablished and the problem of the border removed. Dáil Uladh would be representative of Catholic and Protestant, Orange and Green, left and right. It would be an Ulster parliament for the Ulster people. The presently Unionist-oriented people of Ulster would have a working majority within the province and would therefore have considerable control over their own affairs (They would also have constitutional guarantee of civil and human rights. which guarantee is visibly absent under English rule.) That power would be the surest guarantee of their civil and religious liberties within a new Ireland (Éire Nua).

A Federal Parliament, a new Dáil Eireann, representative both of the people and the provinces (as the Congress of the United States is representative both of the people and the states) would control all enumerated powers and functions essential to the good of the whole nation. An independent judiciary as the guardian of the Constitution and the common law would be essential. Ireland would, at long last, be able to function for the Irish people, in a true, Gaelic, republican-democratic tradition.

The Irish nation, like other nations, has the right of national self-determination. The only solution to the Irish question is a free and independent, united Ireland. Like the Jews, who say "never again", the Irish have painfully reached the conclusion that their lives, their property, their livelihood, their liberties, their language, and their culture can never be safe under alien rule. Therefore, in accordance with the proclamation of 1916, and for reasons more compelling even than those enumerated in the American Declaration of Independence in 1776, they are committing an act of self-defense, to establish in fact that Irish Republic proclaimed by Patrick Pearse on Easter Monday, 1916, ratified by the Irish electorate in the general election of 1918, and established DE JURE by the First Dáil Éirean in 1919. What the IRA is fighting for is the restoration of a united, independent, Irish Ireland; not free merely, but Gaelic as well, not Gaelic merely, but free as well.

Let us all pray and work earnestly for the end to violence which is the unhappy symptom and the peaceful establishment of the cure, a new Ireland, of, by and for the Irish.

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## SHAKOPEE COUNCIL OPPOSES GASOLINE TAXES

### HON. ANCHER NELSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. NELSEN. Mr. Speaker, during the recess of the Congress, my office here in Washington received a resolution from the Common Council of Shakopee, Minn., in my congressional district regarding the possibility of legislation being enacted which would allow gasoline taxes to increase as a rationing device. I ask that the council's resolution follow my remarks. The Shakopee Council is strongly opposed to an increase in the gasoline tax levy as a rationing device. To this point in the energy crisis we have gotten by merely with allowing the price mechanism to play its role in rationing supply by diminishing demand. Hopefully, the administration will not have to take the step of asking for increased fuel taxes as a rationing device and will be able to explore, as the Shakopee Council suggests, other methods of allocation. The resolution follows:

RESOLUTION NO. 729

A resolution opposing the enactment of laws imposing additional gasoline taxes as a measure to control the gasoline supply

Whereas, There is presently both federal and state legislation under consideration for proposing to Congress and the Minnosota Legislature respectively, the enactment of additional gasoline taxes as a measure to control the gasoline supply at all levels; and

Whereas, This method of controlling the gasoline supply discriminates against the middle and low income citizens;

Therefore, be it resolved by the common council of the City of Shakopee, That, it goes on record herewith opposing the enactment of laws that would impose or tend to impose additional gasoline taxes for the purpose of controlling the gasoline supply at all levels, either by the Congress or by the Minnesota Legislature, or both, and urges that a study of other means of controlling the gasoline supply for the duration of the crisis be explored.

Be it further resolved, That copies of this Resolution be immediately forwarded by the City Recorder-Administrator to U.S. Senators Walter F. Mondale and Hubert H. Humphrey, and Congressman Ancher Nelsen; and to State Senators James F. Lord, Earl W. Renneke and Clarence Purfeerst and State Representatives Richard J. Menke, Robert E. Vanasek and Carl M. Johnson.

Passed in Adj. Reg. session of the Common Council of the City of Shakopee held this 18th day of December, 1973.

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## IMPEACHMENT AND THE MIDDLE-OF-THE-ROAD

### HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. DELLUMS. Mr. Speaker, I would like to call a disturbing and challenging article from the Los Angeles Times by Mr. Charles Mee to the attention of my colleagues. Along with the poll results reported by Evans and Novak in today's Post, it raises the unpleasant possibility that the corruption of Watergate has spread much further than the National Government.

Mr. Mee reports that the nonpolitical elite who should be providing leadership are afraid to act on their convictions. They are afraid of the Government and they are afraid of the people. On a wider level, they are repeating the well-known Watergate syndrome: smile bravely, deny everything, and hope that things do not get out of hand.

Even more discouraging, Evans and Novak disclose poll results showing that the whole Nation may be succumbing to the pattern. These results show a fear of removing Mr. Nixon based on complete despair of even the possibilities of the system.

I believe that we much-maligned "politicians" should realize we have a stake in the matter. Mr. Nixon is bringing us all down with him. More than anybody else in the country, we will have to live with the failure to vindicate the honor and standards of our political system. I believe a sense of the meaning of our shared profession should be stronger than the partisan issues that separate us.

The articles follow:

[From the Los Angeles Times, Jan. 2, 1974]

#### ONLY LEFT, RIGHT HAVE SPOKEN UP ON IMPEACHMENT: WHY THE SILENCE FROM MIDDLE-OF-THE-ROADERS?

(By Charles I. Mee, Jr.)

A director of one of the world's largest business corporations is afraid of retaliation. A former general—with heretofore undisputed courage—is afraid that the Internal Revenue Service will harass him. A former American ambassador is afraid that his passport will be revoked. A distinguished American poet, with tenure on a university faculty, is afraid that government funds will be cut off for one of his programs.

All these people favor the impeachment of President Nixon but will not take a public stand—because they are afraid. In my capacity as chairman of the National Committee on the Presidency, which is a group of citizens in the political center which favors impeachment. I have corresponded or talked by phone with these and several hundred other middle-of-the-roaders. My small private "poll" has shown a larger percentage of people in favor of impeachment than the Gallup or Harris polls indicate.

My inquiries have found many people willing to step forward to take a public position for impeachment—people such as Alfred Knopf, Brig. Gen. Samuel B. Griffith II and Orville H. Schell Jr., president of the New York City Bar Assn. Indeed, Schell called his own press conference to announce his views. But the more stunning, and dismal, finding of my little poll is that fear has eaten into the established, non-elective leadership of our country.

Some leaders are afraid of personal reprisal. Others are afraid of the dire consequences if an impeachment effort should fail. Still others fear the unpredictable behavior of a threatened and cornered President. But, whatever the form it takes, or whatever may be the object to which it attaches itself, the stark fact is that fear—the fear of free citizens to behave freely—has become far more pervasive than I had realized.

Most of those to whom I have spoken believe that sufficient *prima facie* evidence is now before the public to justify—and, in the view of many, to require—impeachment. And those pro-impeachment respondents perceive the enormous stakes involved.

Wall Street brokers, bankers, lawyers, former justices and politicians have told me, over and over again, that the President has practiced assault and battery upon the very foundations of the law of the land; that to allow this Administration to wield irresponsible power with impunity will lead in the end to another form of government; that to fail to halt and reverse the precedents set by this Administration invites future Presidents, if not this one, to practice naked tyranny; that we must, in short, use our Constitution—or face the threat of losing it. It is considerations of this magnitude that are smothered by fear.

Fear does not, of course—not yet—intimidate those many anonymous men and women whose responses to Gallup and Harris pollsters indicate an ever-growing popular desire to bring the President to trial before the Senate and force all the evidence into the open. Nor has fear inhibited the American Civil Liberties Union or George Meany from campaigns for impeachment.

It is strange, however, to become aware of the uneasy silence that grips so many nationally known figures of the center to whom we would otherwise be looking for leadership.

Whether, depending upon our biases, we applaud or deplore the existence of an "establishment" within a democracy, an establishment does indeed exist in the United States—though it generally prefers to be called an "elite."

In any case, whatever it may be called, one man who stands at the very center of that group, and from whom a great many people of like mind, particularly on the East Coast, take their cue, has warned privately, "This is no time to let loose the wolves."

By "the wolves," he means the people, the mob.

It is apparent that one fear running through the old establishment is its perennial distrust of ordinary people. The man who's afraid of the wolves can read the Gallup and Harris polls as well as anyone else—but he sees in them not a heartening reaction from the grass roots but the threat of a popular uprising. More than anything else, it may be this fear that has paralyzed so much of the "elite."

History shows that elites must earn their favored positions, and continue to deserve them if they are to retain power. In the broadest historical terms, we may be seeing the first symptoms of the collapse of the traditional elite in our country. It is collapsing in slow motion, locked in fear and foreboding, suffering from that fatal disease the British classical scholar Gilbert Murray called "a failure of nerve."

History judges not only politicians and their actions; history also judges the people who, by their action or inaction, by their vociferousness or their silence, sustain those politicians in office.

Some years hence, long after Watergate had faded from memory, long after our bicentennial anniversary has passed in disquietude and anguish, history will judge our generation very harshly—first its elite, and second, unless a brighter and more capable group arises to assume that role, the people in general.

The traditional liberal-left groups in our country have joined against the President. Indeed, many of them favored the President's impeachment the day after he took office. Some would be rid of him, whether he is guilty of any wrongdoing or not. Some made up their minds long ago: They are, in my view, lamentably prejudiced. And on the right there are many who will hear no evil of the President. for he can do no wrong.

And so legions on the left and the right have responded once again to the call to battle, this time on one of the gravest issues the country has ever faced—an issue that finally involves the very form of government under which we and our children shall live.

Yet, at this time—momentous in terms of history—the nation needs calm, moderate. mature counselors who fly to no easy solutions, who have the ability to face hard, tortuously hard problems and press them to conclusion, who can be counted on to act with integrity, decency common sense and above all, with courage.

More than anything, the people of the center must now step forward to insist that the fundamental law of the land prevail, that basic right will not be lost by contemptuous encroachments, that leaders shall be accountable to the people, that integrity and honor shall be restored to the White House and that we shall no longer, as a people, be shamed by our President.

The committed liberals have been heard from and so has the old hard core on the right. Now it is time for those of us in between, whose main commitment is to constitutional government, to demand an accounting.

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[From the Washington Post, Jan. 27, 1974]

### SCANDAL? THEY LIKE IMPEACHMENT EVEN LESS

(By Rowland Evans and Robert Novak)

NEWARK, OHIO.—No sooner had the latest Watergate bombshell exploded in Washington than weathervane voters here reached this paradoxical conclusion: of course the White House deliberately erased the 18-minute tape segment, but Richard M. Nixon still should complete his term as President.

This attitude permeated our interviews, conducted with the help of Oliver Quayle's polling organization, in Precinct "D" of Ward 3, a barometer of state and national election results. An overwhelming majority of these voters regard Mr. Nixon as a liar, a tax chiseler and a poor President. Yet, they oppose even the start of impeachment proceedings, much less removal from office.

Underlying this seeming contradiction is pervasive, deepening skepticism that any successor to Mr. Nixon would improve things much. Consequently, nothing short of proven criminal conduct is likely to inflame public opinion in favor of the President's removal.

The barometer precinct, selected for us by election analyst Richard Scammon, consists largely of blue-collar workers who supported Mr. Nixon in 1972. But among the 70 residents interviewed the day after technical experts reported the apparently deliberate erasure of the 18-minute segment of conversation between Mr. Nixon and H. R. Haldeman, four out of five feel that the White House deliberately destroyed evidence.

This comports generally with answers to a questionnaire prepared for us by Quayle researcher Jonathan Lovell. The President gets a job approval from these 70 voters of only 27 per cent. The vast majority believe Mr. Nixon did not pay his fair share of taxes, has lied about Watergate and has suffered seriously in capacity to govern because of Watergate.

Most shocking, only 7 of the 70 voters believe Mr. Nixon first learned of the Watergate burglary when he said he did. But 34 believe he knew about it before it was planned—a charge nobody has ever made.

These harsh views are held by a 39-year-old government worker who voted for Mr. Nixon but now says: "I think he's dishonest. He's just a crook in every way." Another 1972 Nixon voter, a young steel worker, feels Mr. Nixon has done poorly because "there's too much scandal. He should have been able to clear himself when it first came to light."

Nevertheless, these two voters vigorously oppose retirement or impeachment, reflecting a consensus here. Those interviewed oppose retirement by a ratio of 2 to 1; by 35 to 27 with 8 undecided, they oppose even the start of impeachment proceedings.

A registered nurse an erstwhile Nixon voter who now opposes the President, opposes his removal because "I'm sure he wouldn't try to pull anything else now that everybody's got their eyes on him."

Moreover, these voters express overriding fear of impeachment. By 4 to 1, they believe impeachment—no matter how justified—would weaken the country. A middle-aged factory worker who voted for Sen. George McGovern in 1972 believes Mr. Nixon should finish his term "from the standpoint of the good of the country in the eyes of the world."

Finally, there is a cynical belief that removal of Mr. Nixon would be an act of futility. "Nobody is likely to do a better job anyway," says one McGovern voter, so Mr. Nixon might as well finish.

This cynicism also runs deep in reaction to the energy crisis. Nearly half do not think the crisis is serious, over a third confess they are doing little to conserve energy, and a 3 to 1 majority agrees the oil companies cooked up the crisis to increase profits. Mr. Nixon gets some blame, but the oil companies get much more.

The general climate of cynicism is typified by the 29-year-old wife of a factory worker who believes nothing that Mr. Nixon has said about the 18-minute buzz, suspecting instead he is personally responsible. But, she says, "nobody can do a good job these days" and Mr. Nixon, therefore, should finish his term. Politics is such a dirty business, she and her husband have decided, they will not vote in 1976 or in any future elections.

Futility, cynicism and skepticism are the barriers, then, that may protect Mr. Nixon against future revelations which, by nearly 4 to 1, these voters suspect lie undiscovered. If their present mood holds, however, even new disclosures will not make the impeachment case against the President.

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## NORMAN O. HOUSTON, SR.

### Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mrs. BURKE of California. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

CONGRESS OF THE UNITED STATES, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C.

Whereas, The Los Angeles NAACP Legal Defense and Educational Fund, Inc. is honoring Norman O. Houston, Sr., chairman of the board of Golden State Mutual Life Insurance Company and distinguished civic leader, for more than 50 years of service to the community, and;

Whereas, Norman Houston has built the largest Black Life Insurance Company in the Nation, but has still found time to devote his energies and skill to his city and his State as a member of the Muncipal Auditorium Commission and formerly to the State Athletic Commission, and;

Whereas, Norman Houston, a native Californian, is a life member of the NACCP, a vice-president and director of the National Conference of Christians and Jews, and a director of the Children's Home Society, the Recreation Youth Services Planning Council, the Crippled Children's Society, the American Cancer Society, the YMCA, 28th Street Branch; the International Student Center, and many others, therefore, be it

Known this 5th day of December 1973, that we are in recognition of Norman Houston's dedication and devotion to his fellow men and his remarkable record of public service and business ability and that this resolution be entered into the Congressional Record.

YVONNE BRATHWAITE BURKE,
*Member of Congress, 37th District, California.*

## PASS THE WATERGATE SOUP, PLEASE

### HON. DICK SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. SHOUP. Mr. Speaker, although it would seem that every possible angle of the watergate has been explored and that the search for historical parallels has been exhaustive, I recently saw one further presentation of a situation which seems to be "on all fours" with the present crisis. The following appeared in the American Bar Association Journal of December 1973:

PASS THE WATERGATE SOUP, PLEASE

The Watergate tapes case seems to rocket along from one constitutional crisis to another. Just as everyone was bracing for a Supreme Court argument and decision, President Nixon snatched the case away. How will the issue be settled?

Reader W. M. Stapleton of Kansas City, Missouri, apparently a literary buff, writes that he has given careful attention to the many learned arguments on the executive privilege issue but has yet to see any reference to a similar controversy over the recipe for workhouse soup recounted by Charles Dickens in *Sketches by Boz*, published in 1836.

The incident Dickens writes of occurred during political jockeying for election to the office of parish beadle. Captain Purday, one of the candidates and a member of the parish visiting committee, "brought forward certain distinct and specific charges relative to the management of the workhouse," whose overseer also aspired to be beadle. As Dickens tells it:

"The captain boldly expressed his total want of confidence in the existing authorities, and moved for "a copy of the recipe by which the paupers' soup was prepared, together with any documents relating thereto." This the overseer steadily resisted; he fortified himself by precedent, appealed to the established usage, and declined to produce the papers, on the ground of the injury that would be done to the public service, if documents of a strictly private nature, passing between the master of the workhouse and the cook, were to be thus dragged to light on the motion of any individual member of the vestry. The motion was lost by a majority of two; and then the captain, who never allows himself to be defeated, moved for a committee of inquiry into the whole subject. The affair grew serious; the question was discussed at meeting after meeting, and vestry after vestry; speeches were made, attacks repudiated, personal defiances exchanged, explanations received, and the greatest excitement prevailed, until at last, just as the question was going to be finally decided, the vestry found that somehow or other, they had become entangled in a point of form, from which it was impossible to escape with propriety. So, the motion was dropped, and everybody looked extremely important, and seemed quite satisfied with the meritorious nature of the whole proceeding."

We are pleased to pass this precedent on to learned counsel for use in whatever manner they desire. Mr. Stapleton adds that he believes the soup recipe incident to be particularly instructive on the executive privilege issue, as the "denouement of the Watergate tapes controversy may, I suspect, be similar to the ultimate disposition of the soup affair."

## FUEL SHORTAGE: A TEST OF INGENUITY OF THE AMERICAN PEOPLE

### HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. ALEXANDER. Mr. Speaker, the fuel shortage in which we now find this Nation and the threat of gas rationing have forced the American people to stop and more closely examine and value the energy which they consume every day. In order for this shortage to be alleviated, it will take the cooperation of all the American people.

My daily mail reveals a readiness of my constituents to bear their share of the sacrifices which they will be called upon to make. Many offer their own suggestions as to the best solutions to this problem. I have previously shared such information with you. Today I include for the consideration of my colleagues several other letters demonstrating the ingenuity of the American people:

FIRST CHRISTIAN CHURCH,
*Newport, Ark., December 1, 1973.*

Hon. BILL ALEXANDER,
*Representative of Arkansas, U.S. House of Representatives, Washington, D.C.*

DEAR MR. ALEXANDER: Surely because of all the expert help they have in the administration, somebody has thought of this. So what I say is probably to no avail. Yet, I like my novel idea and so pass it on to you, my U.S. Representative, so you may pass it on if you see fit.

As regards gas rationing, why coupons? Coupons create the black market. Why not credit cards? Each individual's number would be his Social Security number. The so-called credit cards would be the same size as regular auto gas credit cards and thus would fit in the little hand machines almost every gas station already has. Each card would have a rating that would be added to the number. For instance, my Social Security number is 450–60–0861. Let's say my rating would be "A," whatever that would mean. Thus, my number would be A–450–60–0861. The amount of gas each rating got could fluctuate through the years.

The forms (each gas station would have) could be computerized forms. If I "overspent" my ration I would be fined—and possibly fined heavily, according to law, with repeats suggesting a sentence. The gas station owner would not cheat because his copy of the form he filled out would indicate the amount he sold me, and I would have my carbon copy of it. He could replace his gas when he turned over the form. He couldn't say he sold me more, through some blackmail deal with me, because that would indicate I bought more—and I wouldn't or couldn't allow that. (Forms, like checks, on which the figures were marked over would be voided and thus no good to replace that amount of gasoline.)

The gas station owner would turn over his forms to an office at the courthouse, or branch thereof, and receive a notarized paper authorizing the dealer to sell him X gallons of gasoline. And so on up the line.

To me it's a set-up—and ready-made. The credit-card machines are there. The courthouses are there. The Social Security numbers are there. The computers are there. People would take care of their credit cards because they have been doing it for years. Loss could be dealt with in much the same way that credit-card loss is today. A duplicate could be issued indicating "Duplicate 1" or "Duplicate 2," etc. The lost card could be tracked down and the word put out that it was lost or stolen. Replacement due to loss could warrant a reprimand at least, with the possibility that gas purchased by an unauthorized person would be credited against the loser.

I can see combinations of my idea of credit cards and the old idea of coupons. I can see various combinations of ideas. But I don't think gas rationing need be a nightmare. Nor do we need to price gas clear out of the poor man's market. Everyone can do his part—and minus the menace of a black market or rich versus poor.

Well, just thought this was worth telling someone about.

Sincerely,

NORMAN PROSE, *Minister.*

LITTLE ROCK, ARK.,
*December 3, 1973.*

Congressman BILL ALEXANDER,
*Washington, D.C.*

DEAR SIR: Several ways to conserve fuel have been recommended but there are several important ways we can save fuels that have been overlooked. We are in an emergency, then why not apply emergency regulations at this critical period?

Why not require all shippers of heavy equipment, including new cars and trucks, to use the railroads? These are usually flat bed trucks and return to base empty, using fuel both ways—why?

Press reports indicate the railroads are in financial trouble and Congress is concerned with having to subsidize them (With taxpayers money). This type of freight can easily be handled by the rails and help them financially—keeping their present labor force and adding to their force by virtue of increased tonnage and income.

Also, require truck lines to make their longer trips with full loads each way. This may delay next morning service at times. Shippers should co-operate—a delay of two or three days is not critical with the kind of goods they have but fuel is critical. This does not include perishables.

Permit all children to go to the schools nearest their homes. This would save millions of gallons of fuel now consumed by busing children miles from their homes. This is a time of emergency, then why not apply emergency requirements to saving fuel?

The Postal Department is preparing to increase the rates, so why not economize on their operations? Why deliver mail on Saturday? I have asked many people if Saturday delivery is important to them and not one has said that it was, and if it was, Special Delivery could be used on Saturday as it is now used on Sunday. Many business and professional offices are closed on Saturday and some have P.O. Boxes where they could get their mail. This would save much fuel and also labor costs. Present employment could be reduced as employees retire or leave the service by their own choice.

I am not a railroad man, neither do I own stock in any railroad nor do I have children in school. This is the first letter I have ever written to any Government officials or newspapers. I am with-holding my name for obvious reasons as I do not want to be beseiged with calls and letters.

JUST A CONCERNED CITIZEN.

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POCAHONTAS, ARK.,
*January 2, 1974.*

DEAR MR. ALEXANDER: I am writing you on the concern of Energy Crisis mainly. Also on the Cache River Project which you are backing. I'm behind you in the way you think about dredging Cache River to drain the land for use in production of crops and food for our country. It seems to me that some people don't want the best things to be done to help our country. They are afraid it's going to hurt this or that.

I also saw you on the news cast a while back where you were making some comments on F.H.A. I really think it was about right that houses were not constructed the way they should be. Also that some of the officials were asleep and the poor people and working class are getting the jolt of their life out of it.

PETROLEUM ENERGY CRISIS COMMENT

With common horse sense, because I only have an eighth grade education.

I saw on the news tonight where they are reducing speed limit to 55 m.p.h. It is fine to do this if necessary, but it's a shame that we have paid such high taxes to build good interstate highways and have to drive slow. Also they are cutting back flights on airlines and factory production on account of fuel shortage. This means that we are going to have a lot of American people laid off their jobs. Now no jobs. This means our government and States have to pay unemployment compensation. So the pot just keeps boiling, and what next!

My theory of a Solution:

(1) I think that the government should see if it can't get carburetor companies to build carburetors to get twice the mileage on cars and put them on the market for people to buy, if they wish, to put on their vehicles and get rid of pollution control systems, because they make cars burn more fuel. I have talked to friends that have late model cars and trucks that are only getting 8 to 10 miles per gallon. Mine are not that bad, but it could be better.

(2) I think that car manufacturers should build all new cars and pickup trucks to get better mileage.

If a car or truck using a gallon of gas goes 8 miles now, was perfected to get 16 miles per gallon by changing carburetors and taking off pollution control systems adds up to this:

(1) 50% more fuel for America.

(2) 50% less pollution, because you are only burning 1 gallon of gas instead of 2 gallons going the same distance.

(3) Gives the American people more for their money.

(4) Better mileage means more fuel to keep America rolling. Which means keeping American companies producing, such as Carburetor factories, car manufacturers, and all other industries. If we can keep America producing, we can keep American people out of unemployment compensation lines and keep American taxes from rising.

Also they talk on the news about electricity shortage.

I believe we have enough rivers in the U.S. to produce all the electricity we could ever use by building power plants along the rivers and turning generators by enormous water wheels.

I think that some of the American people are trying to get some fat pocket books or it seems that way. And it sure isn't helping the little pocket books. A fat pocket book won't do the one that has it any good, if he wakes up some morning and nothing to buy because of fuel shortage and no production from our farms and factories. So I think it's time that our officials that are asleep in Federal Government and State Government should wake up and start thinking straight and help those that are thinking. Also the same for personnel over our refineries, factories and farms. I know that these people are far more intelligent than I am (So for God's Sake) May they help America and all the American people.

Mr. Alexander, I appreciate you taking time to read this and if you can use it any way use it if it makes sense to you. You are on the Ball in my books. Keep up the good work. God Bless you and your family.

Let's keep America Rolling, And Ole Glory Waving and may it always be free for Americans and their children.

Sincerely yours,

LOREN ANIS.

P.S.—Write me a card or letter if you can.

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## DUTIES AND HAZARDS OF THE FEDERAL FIREFIGHTER

## HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. ASPIN. Mr. Speaker, recently, a constituent of mine, Mr. Jerry Ellis, brought to my attention an article on the Federal firefighter. Mr. Ellis is himself a civilan Federal firefighter and is, of course, well aware of the dangers inherent in his job. I am inserting the following article to inform my colleagues of the duties and hazards of the Federal firefighter:

### THREE LINE-OF-DUTY DEATHS PROVE INHERENT DANGERS OF FEDERAL FIRE FIGHTERS' JOB

Federal fire fighters—what are they? You can't tell me that a Federal fire fighter's job is as dangerous as city fire fighters! Federal fire fighters work in a controlled atmosphere; therefore, what's all this worry about special legislation for this small group of Federal employees?

Tell that to the families of three Federal fire fighters who died violent deaths in the line of duty in recent weeks. Brian Lindsey and Stanley Hertel, both members of Local F-23, Naval Station, San Diego, were killed in the line of duty on October 23 when a JP-4 tank trailer exploded. Stephen Shifler died while fighting a fire in the hold of a Navy barge at San Clemente Island, Calif. Both accidents are now under investigation.

Yet, whenever you try to improve the working conditions of Federal fire fighters, you get the same old "ho-hum," "why bother" attitude from management. But we do not intend to forego our responsibilities.

The IAFF knows fire on a government base is just as *HOT* as a fire in any city. Our critics say we work in a controlled environment. Little does this matter, even if it were true, when most federal fire departments are undermanned to a level that borders on taking "calculated" out of the phrase "calculated risk" and substituting the word "suicide". Some say it is "controlled" because there is some degree of enforcement for correcting fire inspection hazards. But what does this matter when vast numbers of government installations have buildings and other structures that are pre-World War II, wood-framed fire traps. Other buildings house Research and Development projects that could make all conventional fire fighter techniques ineffective. This is not to mention the fact that Federal fire fighters are required to physically stand by at all hazardous operations, such as fueling or defueling missiles, tankers, aircraft and the like; standing by while various exotic and unstable fuels and oxidizers are tested, and other hazardous operations.

The point is that Federal fire fighters perform the hazardous standbys so often that the average government manager considers these standbys routine. Well, this International knows this is a mistake of the most horrendous proportion, as tragically proven twice in California. We know that the Federal fire fighter "puts it on the line" every day, even though he may not physically fight a fire that day.

It is our hope this article will stir action by Congress on legislation already before it that will deal with some of the Federal fire fighters' conditions. We especially call attention to HR-9281 which will improve the retirement method so these faithful and dedicated employees can enjoy some of the fruits of their labors, and HR-8028 and S-1953 which will reduce the archaic 72 hour workweek for Federal fire fighters to 56 hours per week. Finally, we call for the speedy passage of S-1769 which will give this nation a National Fire Prevention and Control Act which will deal properly with the fire-related problems of every fire fighter and citizen in America.

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## JUST FOR THE RECORD

## HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. HUNGATE. Mr. Speaker, much controversy has arisen over President Nixon's tax writeoff on his official papers, and his assertion that the late President Lyndon Johnson gave him the idea. I think my colleagues will be interested in this editorial from the Houston Post, regarding President Johnson's papers:

### JUST FOR THE RECORD

In view of President Nixon's reference to the late President Lyndon Johnson as having given him the idea for taking a tax write-off on official papers, it is interesting to notice President Johnson's own record. LBJ is thought to have taken a tax deduction for $200,000 out of a total of 31 million papers. They dealt with his life up to the time he entered the Senate.

Ralph Newman, chairman of the Chicago Public Library, who has worked for every president since Herbert Hoover, appraised the LBJ papers, as he later did the Nixon papers. He set a value of $20 million to $40 million on the LBJ papers.

But President Johnson bequeathed all the papers of his Senate years, his vice presidency and his presidency to the LBJ Library without asking any tax advantage for his estate.

## TWO EDITORIALS

## HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. DERWINSKI. Mr. Speaker, there were several editorials and columns that were published during our break in the congressional session that I believe are of special interest.

For anyone who wonders about the objectivity missing in our press, especially from individual columists. I insert without any further comments on my part, two columns that appeared in the Chicago Tribune's Monday, December 24, Perspective page by the Trib's own Bob Wiedrich and nationally syndicated columnist, Nicholas von Hoffman. These two columnists coincidently discuss the same subject. I will leave it up to the reader as to which treated it more objectivity. The editorials follow:

[From the Chicago Tribune, Dec. 24, 1973]

### Let President Get Away From Office

(By Bob Wiedrich)

This is one taxpayer who thinks Richard M. Nixon is entitled to spend the holidays with his family in Florida or any place else he wants to go—the energy crisis notwithstanding.

The man needs a rest.

Lord knows, the job is demanding enough without being denied the simple pleasure of getting away for a while from the prisoner status the Presidency has imposed on each of its occupants since George Washington had the job.

Like it or not, the President is a special case. The pressures of his post are great, the strain incalculable. And even if some of the tensions result from the Watergate bumblings of his own staff, Nixon is still the chief executive of this nation, responsible for running its affairs.

So if we don't want an exhausted basket case making domestic and international decisions affecting all our lives in a time of incredible stress, then the critics of Nixon's personal travel plans should get off his back and recognize the unique demands of the Presidency on a human being.

In the first place, let's be honest with ourselves.

Darned few average Joe citizens are likely to observe in the next few days the voluntary 10-gallon-a-week gasoline ration plan suggested last week by energy chief William E. Simon.

Most made their vacation plans some time ago and probably will go bipping off across the fields and thru the woods to grandmother's house—or catch hell from the family for not doing so.

Therefore, why not give the President a break, too?

Granted, as the country's leader, he should set an example. He has been doing so. He's reduced the number of weekend trips to Camp David, Md. He's slowed down his jet to conserve fuel.

But a couple of weeks ago, when he thought it would be a good idea to symbolically take the train to Key Biscayne, Nixon caught all kinds of published and broadcast hell. And the other night, when he drove over to daughter Julie Eisenhower's home in nearby Bethesda, Mr., for dinner, a reporter started inquiring how much gas the Presidential motorcade burned going those few miles.

In his own words, the President feels he is damned if he does and damned if he doesn't.

The thought of coupling onto a regular Florida-bound train the few cars required to haul the White House party down South was aimed at demonstrating Nixon is willing to make sacrifices to save energy, just as he has asked the American people to do.

However, again because of the unique circumstances of his job, Nixon was thwarted. The President, you see, can't just flop into a coach seat or Pullman berth like the average plain Joe. He needs extra cars for the Secret Service and the multitude of aides and electronic communications equipment essential to running the nation wherever he goes. He can't be out of touch.

Thus, the additional railroad facilities would have overloaded the already jammed Amtrak holiday train. A special Presidential train would have been required. The idea bombed out and Nixon was accused of grandstanding.

Realistically, the President of the United States can't fly via commercial airliner for the very same reasons. He can't hop into the family Volkswagen to visit his daughter.

But, at the same time, Nixon should not be forced to become a prisoner of the White House, paying a penalty unique only to his office, just because of the fear of criticism.

He lives, eats, breathes, sleeps, and labors there like a dog in the pursuit of his duties. He is our President. He is entitled to a respite, whether you agree with him politically or not. He is also entitled to a family life and some peace of mind.

Personally, we hope he boards a panel or train or pogo stick and goes to Florida for the holidays. We only wish the President a Merry Christmas and a much happier New Year.

### Living It Up in an Imperial Style

(By Nicholas von Hoffman)

WASHINGTON.—All comparisons of Richard Nixon with other Presidents are invidious, but people insist on making them. It is pointed out that while Thomas Jefferson went $20,000 in debt occupying the office that Nixon now honors, Nixon has spent his time in the White House becoming a millionaire. Others remark that while George Washington never told a lie, Nixon never told the truth.

A more immediately instructive comparison might be drawn, however, between our Presidential tax loopholer's manner of living off the public purse and Ralph Nader, a man who a small minority of us would like to see in Nixon's job. The exchange would be like putting a tourniquet on the United States Treasury.

Fortune Magazine [see "The Imperial Life Style of the U.S. President," by Dan Cordtz, in the October issue] says that the White House staff under Nixon probably has tripled since the Johnson years. The adverb "probably" must be used since the actual White House budget is a more closely kept secret than the details of such national security items as the milk deal.

If it came from an antiadministration source I wouldn't believe it, but Fortune says, "One aide walks beside the President to tell him in advance whether to turn left or right at a corner or warn of the number of steps in a staircase. The ranks of such courtiers have increased at an unprecedented rate during the Nixon administration."

The magazine has counted 75 maids, butlers, cooks, and caretakers attending Nixon in addition to five Boeing 707s [up two from Johnson], 16 specially soundproofed helicopters, and a fleet of 11 Lockheed Jetstars needed to transport him and the rest of the czar's entourage around.

"Ladybird Johnson rode the Eastern Airlines shuttle on shopping trips to New York," Fortune informs us, "but the Nixon family, including his daughters and sons-in-law, habitually travel by government plane."

Compare this to Nader, who lives in an $80-a-month furnished room and has no servants, no cars, and no airplane. His gross annual living expenses are about $5,000 a year, or roughly what it costs the public to support Nixon for a morning—a morning, no doubt, devoted to working out some new, perfectly legal, sleazy deal.

Nader operates out of a small pedestrian office. Nixon has no fewer than nine different offices, including one set up at his friend Robert Abplanalp's house, and two each at San Clemente and Camp David. Why a man needs two private offices in the same place has yet to be explained by Gen. Alexander Haig & Haig, the President's personal conjurer of malevolent spirits.

Speaking of Camp David, Fortune, which has grown accustomed to the luxurious life of the world's most powerful executives, reports in tones almost shocked that "since Nixon became President, several of the lodges [at Camp David] have been rebuilt and others redecorated. A heated free-form swimming pool has been installed to go with the existing bowling alley, archery and skeet ranges, pool table, tennis courts, pitch-and-putt golf green and nature trails."

All of this is government-owned and maintained at public expense, and you would like to think it would be enough, but he has to have four houses, counting San Clemente, which even Fortune says was bought thru a "sweetheart loan."

No wonder he has no time to run the country. Just getting to and using all those facilities must be an all-consuming operation. Nader, on the other hand, puts in an 18- to 20-hour day, or a 126-hour working week, which means if we elected him President he'd be too busy to collect houses. Anyway, he's too stingy.

Thomas Whiteside, in a New Yorker magazine profile says, "To save stamps and stationery Nader states in his ads that the money sent in by contributors won't be acknowleded." If only Nixon had confined himself to written thank-yous with his illegal oil contributors.

Moving about with a manila folder and nobody to tell him when to turn right or left, Nader is given at least partial credit for a list of legislation that goes far beyond automobiles, among which are the Natural Gas Pipeline Safety Act, the Radiation Control Act, the Wholesome Meat Act, the Wholesome Poultry Products Act, the Occupational Safety and Health Act, and on and on, and all down without the service of a single butler. Nader has probably saved more lives than Nixon-Kissinger have rubbed out.

It is crazy. People say that America is too old and too crooked to take an honest President, but a Nader inauguration would be a gas. Can't you see him, after getting himself inaugurated, going over to the rooming house and packing his other suit in his beat-up bag, and then walking over to the White House and telling the guard at the gate that Nixon's fanfare blowers can go home because he's just signed the lease?

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## A TRIBUTE TO GENERAL "STONEWALL" JACKSON ON THE ANNIVERSARY OF HIS 150TH BIRTHDAY

## HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. MOLLOHAN. Mr. Speaker, it is seldom the privilege of the people of a State to revel in the glory of their ancestors. But today, January 21, the citizens of West Virginia, along with the rest of the Nation, will pay homage to an illustrious and great American. It was on this day in 1824 that Thomas Jonathan Jackson entered this world. It is only fitting that all Americans be aware of the dedication and greatness which characterize the distinguished Confederate general, Stonewall Jackson. It matters not that he wore blue or grey, but that he fought bravely and gallantly for that in which he believed.

Born and reared in Clarksburg, W. Va., Thomas Jackson grew up in a society which was based on friends, hard work, and a faith in God. Instilled with the pride and determination which characterized the people of the Upper Monongahela country, he was undaunted by early hardships. Raised in near poverty, his mother and father died during his early childhood. In school, he worked diligently to compensate for a late beginning. He impressed his superiors and soon received a recommendation to West Point. Graduating 17th in his class, the able Jackson soon found himself in the Mexican War. His qualities of genius and his boundless enthusiasm were proven and distinguished several times and he became a major only 18 months after graduation.

His career as a professor at the Virginia Military Institute was cut short when the Nation found itself tragically at war from within, and Jackson was to prove a hero who could not fail. His distinguished and noble career is marked by some of the greatest military accomplishments ever known. At the Battle of Bull Run, Brig. Gen. Barnard E. Bee was justly impressed with Jackson's wall-like stance against the enemy in the face of great odds and spoke of Jackson as a "stone wall." This sobriquet was to stay with Jackson the rest of his life. Many critics consider Jackson's tactics in the famous valley campaign of 1862 the most remarkable display of strategy based on accurate reasoning and judgment in all of American military history.

Confederate military leader Gen. Robert E. Lee considered Jackson to be his most trusted, able, and indispensible leader. Aggressive and bold, he was also blessed with a calm demeanor which gave him a perspective into sound tactical planning and execution. As a result, almost every critic places him among the top six greatest military generals the world has ever known.

Yet, it would not do this great man justice to simply exalt him on his military exploits. For it is Stonewall Jackson, the person, of whom all Americans can be justly proud. The simplicity which enriched his domestic and religious life is a guide for people everywhere. A deacon and Sunday school teacher, Jackson was an extremely devout person. A faith in God permeated his every action. While a great general, he personally detested the cruelties of war. Yet, he knew what he must do and he held an unrelenting faith throughout the war that greatness would soon come to this country.

Whether teaching pupils in a classroom, planning military strategy at night in his tent, or leading his men in battle over the war-stained valleys of the South, his faith in God accompanied him. His men revered him and were affected with an almost religious fervor when he was among them. After many weary and sleepless days and nights, his troops could be rejuvenated by a simple gesture of his arm and they would shout in jubilation and trudge forward. His favorite topic of conversation was theology, and he juxtaposed his own maxims on life into saying with religious connotation. His belief that "you may be whatever you resolve to be" was more than just a way of life for him. It was life itself.

One can easily understand the love and admiration Jackson's soldiers held for him. The affectionately referred to him as "Old Jack." While many generals and leaders have remained aloof and distant from their men, Jackson felt himself to be one of them. He was often seen mingling among his men, perched atop his horse "Little Sorrell," donned in a stained dingy tunic. His infantry was widely know for its remarkable speed and efficiency, which is a great tribute to Stonewall Jackson. Soon his troops were called "foot cavalry" and became renowned world-wide for their determination. The General instilled in them a love and desire to fight for what was dear to them. Regardless of the cause, the fact that Jackson was able to lead and guide his with such knowledge and determination marks him a true leader of men.

Jackson's close friends knew him to be sincere and kind. He held truth and honesty in the highest esteem and would not associate with those who lacked such virtues. A sensible and pleasant companion, he was always kind to those in need. His words were few and simple but also clear, direct, and all encompassing. He listened respectfully and patiently to others. Though he was modest, once a judgment was made his reliance on it became absolute. His soldiers knew that beneath his general's uniform and official exterior there lay a heart burdened with compassion and concern for their welfare and safety.

A union of soldier and saint, General Jackson—Stonewall, Professor Jackson, or Old Jack—was loved and admired by friend and foe. He won his nickname at Manassas and immortality in the Shenandoah Valley. He met his tragic fate in the blur of night when he was inadvertently felled by a Confederate rifle.

He died on May 10 of 1863, but not before trying desperately to regain health to once again lead his men into the dawn of battle. Before he died, he murmured with all the assuredness of the position he held: "Let us pass over the river and rest under the shade of the tree." And thus he has passed over the river and into the hearts and admiration of people throughout the world.

He was sorely missed by his commanding officer, General Lee, who said of Jackson: "Such an executive officer the sun never shone on."

Thus it can be readily seen why West Virginians are justly proud of their native son on the anniversary of his 150th birthday.

## A TRIBUTE TO JOHN BRODIE

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## HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. DELLUMS. Mr. Speaker, last month, after 17 years as quarterback with the San Francisco 49ers football team, John Brodie retired.

Now, John Brodie has begun another career, dedicating himself to helping others through Narconom programs which guide persons in drug, alcohol and criminal rehabilitation.

I have long admired John Brodie. We graduated together from Oakland Tech High School, and I have followed his gridiron exploits—first at Stanford where he won All-American plaudits and then with the 49ers, the first professional football team in northern California.

But just as John Brodie will long be remembered by fans as one of the finest and most graceful athletes in any sport, I today pay tribute to John Brodie, the humanitarian.

I wish John all the best in this new challenge, and I would only hope that his efforts to help humanity will serve as an example for all of us.

At this point, I would like to insert into the RECORD an article by Bob Oates of the Los Angeles Times concerning John Brodie:

### JOHN BRODIE: PASSER TO PREACHER

(By Bob Oates)

The John Brodie career is winding down. It has been a big one—long, distinguished, historic. No other football player ever spent 17 consecutive seasons with the team that drafted him. And in another month it will all be over. Brodie has announced his retirement as of the end of this season.

At 38 he is about to move from the pocket to the pulpit. The veteran San Francisco quarterback has determined to spend next year in graduate work in Scientology—and the degree at the end of that road is D.D. (doctor of divinity).

Brodie has no desire to preach to the world. He just wants to help. The action arm of the Church of Scientology is Narconom; and these and football are now Brodie's three interests.

Narconom is a non-profit agency specializing in drug, alcohol and criminal rehabilitation. Individual pastoral counseling is the means of approach. And according to Brodie, the focus is on the individual confusions and problems that lead to abuses in the use of stimulants.

"I know I could play several more years of football," says the 49er star, whose fast release as a passer has protected him from the physical beatings that have shortened the careers of most quarterbacks. "But everybody's life is a matter of priorities, and for the next year or so, starting right after the season, mine are Scientology and Narconom. I want the advanced training I need to be effective in this field. In 1974 I won't have time for football, but I will after that. I would like to keep a football connection indefinitely along with these other two things."

The National Football League is financing his 1974 scholarship at the school of Scientology—in a manner of speaking. Upon retirement from the 49ers Brodie will begin collecting on the financial settlement he made in 1968 when the NFL dissuaded him from jumping to an AFL team.

This has been estimated at nearly $1 million. In addition, it has been estimated that Brodie's San Francisco salary all these years has aggregated about another million.

If he is the first $2 million player in football history, confirmation is lacking. He and the club deny it. The 49ers want to pay him more. They want him back next year, although they are reconciled to his decision.

Brodie's departure ends the 49ers' greatest era. He led them to their only three divisional titles in 1970–71–72 before giving way to younger quarterbacks this season in a move the club frankly labels "experimental" based on the prospect of a future without Brodie.

His San Francisco records may never be equaled. One of the most accurate passers football has developed, the former Stanford quarterback has completed 55% of 4,000-plus NFL passes for more than 30,000 yards and 200 touchdowns.

He has done it with a flair identifying him as perhaps the league's most graceful athlete. Brodie is easy-going, unassertive, but affable if you know him. If you don't you couldn't pick him out of the convention crowd in a hotel lobby. He has a slightly receding hairline but with longer hair he could be a 20-year-old golf pro—a career he once considered. He has played in the U.S. Open.

"For me," he says, "golf is out for a while. I'll have less time for it next year than I've had playing football. I don't like anything to interfere with what I give first priority."

*Is there any chance for a change of priorities: one more season as a quarterback?*

"I think everybody who knows me well knows there isn't," says Brodie, who will be playing in the Coliseum Sunday for the last time. "I wouldn't have announced my retirement if I hadn't meant it. I'm very much looking forward to my year of advanced courses in Scientology."

*What led to your interest in this particular subject?*

"It began several years ago when my arm was bothering me and I couldn't throw the football. In Scientology, the starting point is often medical consultation—with treatment by MDs—and the medication helped me for a while. But the body builds up a tolerance for medication and my arm didn't stay well. I moved on to the routine of spiritual consultation and my arm got better in a hurry and stayed that way. If it could do that for my arm, I began to realize what it could do for the rest of me."

*As a practical matter, what do you plan to be doing in the Narconom program?*

"I'd like to work with all ages in the schools and other places—person efficiency classes, things like that."

*Doing what?*

"Well, broadly speaking, the object of Scientology is to help an individual regain the abilities he hasn't been using. It concentrates on source things—the confusions and problems that interfere with life as you'd like to live it. Narconom is similar with respect to drug abuse. It attacks the confusions that make a guy want to leave reality. He wouldn't want to leave if he didn't have these problems. Narconom doesn't get into technologies. The idea is to help the guy clear up the confusions that keep him from enjoying reality."

*What other NFL players have indicated an interest in the Scientology drug program?*

"There are several who have been in contact with it, but I think they should speak for themselves."

*Does football have a drug problem?*

"Same answer. I don't think it's my business to discuss things like that. My interest is what I am personally going to do."

*And on that subject, you think you can combine careers in Scientology and football?*

"Yes, football has given me everything I have in a material way. I love it. I'm a football addict."

*After your playing career is over, what aspect of the game do you want to get into?*

"You know what the options are. I'm not excluding anything. I couldn't coach next year, but that's the only exclusion."

*Is it a different game than it was when you started 17 years ago?*

*From your point of view, does pro football seem to be a game with several well-defined eras?*

"Not really. It's different than it was in the 1950s but it's not a lot more complicated. The defenses, of course, are more effective. They do more things now, but you would expect that. They're not really more complicated. The big difference—the real difference—is in the players. They're a hell of a lot better than they were in the 50s."

*So how do you keep up with them now?*

"I'm better now, too. I had to improve to survive."

*Apparently you disagree with those who say the NFL has become a defensive league.*

"This has always been a game of defense. Look who's won the championships over the years. I haven't been aware of a defensive trend—but I'm sure aware there are better players now. I don't mean they've improved gradually like everything else in the world. They are almost a new breed of player."

*What accounts for this?*

"I'm sure it's related first of all to the pay structure. Sure, it's a game and it's fun and all that, but the income is so good you want to stay in football and keep making money year after year. So you take care of yourself the year round. This makes you last longer, and with more experience every season you get pretty good. This is a league with a lot of 10-year men now. When I came in, there weren't many. That's the kind of difference I've noticed in my time in football."

*In your time, who is the best quarterback you've seen?*

"I don't like to make judgments of that kind. I've been around five or six standout quarterbacks: Bart Starr, Y.A. Tittle, Sonny Jurgenson, Joe Namath, Roman Gabriel, when he had those two or three super years in Los Angeles; Fran Tarkenton has to be considered; so does John Hadl."

*What do you look for in a great quarterback?*

"Consistency over a period of time. The question is, who played the longest? The only other question is, how do they play for him? A great quarterback is one who makes his group work, makes them go. The only thing that counts is effectiveness."

*Is there one best style for a quarterback?*

"The great ones have all had their own style. If you're a young quarterback, I'd say that unless you develop a personal style, you may never be a great quarterback."

*Of the teams you've seen or played on in the last 17 years, do you have one you'd take against any other?*

"My most memorable year was 1965—and the 49ers that year were the best team I've seen. The backs were John David Crow and Ken Willard. John David is the best back I've played with. The receivers were Bernie Casey, Dave Parks and Monte Stickles. As a group there has been none better. Casey had a ton of talent. John Thomas, one of our guards that year, is the best I've seen. In fact, all five members of the offensive line that year played in the Pro Bowl."

*As I recall, 1965 wasn't a good year in San Francisco. That was five years before your first title.*

"We were barely over .500 in 1965, 7–6–1 I think. We scored 28 points or more in three different games that year and lost all three."

*Who was the coach?*

"Jack Christiansen, but I'm not casting aspersions on anybody. It happens that way in football sometimes."

*The Brodie era has roughly spanned the era of John Unitas, who is also retiring this year—along with Dick Butkus, maybe, and several others. It's a coincidence that so many should be departing at this time. What do you remember from your first year?*

"I also came in with some good names. In 1957, in fact, I was drafted ahead of Jim Brown—but after Jon Arnett. The class of 1957 might have been the best rookie class the NFL has had."

*Who else came up with you that year?*

"Del Shofner, Tommy McDonald, Jack Pardee, Abe Woodson. There were five quarterbacks: Paul Hornung, Len Dawson, Sonny Jurgenson, Milt Plum and myself. Jim Parker, considered the all-time guard. Don Shingin, Jerry Tubbs, Terry Barr, Don Boessler, Billy Ray Barnes, Clarence Peaks—and quite a few others."

*Do you think you'll outlast Jurgenson?*

"It depends. If he retires this month, yes."

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## AGRICULTURE, RESEARCH, AND SHORTAGE OF FUNDS AND FOOD

### HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. LEGGETT. Mr. Speaker, in a recent editorial in Science, a periodical published by the American Association for the Advancement of Science, Emanual Epstein, professor of plant nutrition at the University of California at Davis, sounds a warning we all should heed. He cautions that American agriculture is in the grips of a drought threatening its very roots, which, if left unchecked, could stunt our agricultural growth for years to come and seriously threaten our ability to maintain prosperity at home and to meet mankind's ever growing needs for food and fibre.

Professor Epstein is not referring to a calamity of mother nature, but of human nature—to an evaporation of interest in agricultural advancement which is drying up funds in all fields of agricultural research.

Mr. Speaker, while the United States may be known first and foremost as an industrial country, we are, as well, the greatest agricultural nation the world has ever seen. We produce greater quantities of more kinds of crops at less cost than any other country ever. Our unparalleled agricultural productivity has been the main stem of our health and happiness at home as well as a life sustaining branch for literally hundreds of millions of people world-wide. This has not been the haphazard product of weed-like growth but rather the harvest of systematic and sustained research in all aspects of agriculture.

The energy fiasco should have taught us the high cost we pay when we neglect research out of complacency. Though we may have had reason 5 years or so ago to believe the green revolution would soon be won, the last 2 years should have made clear to us all that this particular millennium is still not near at hand.

Shortages and spiraling prices at home, malnourishment and famine abroad abide despite the real advances that have been made. The future no longer holds the happy prospect of a world of plenty. We now know that today's tools and technology cannot do the job. This knowledge leads to the compelling conclusion, as Professor Epstein points out, that only by continuing to nourish the deep roots of agricultural research can we maintain a pace of growth adequate to the demands of the future.

Congress has a vital role to play in seeing that we sow well enough today to reap an adequate harvest tomorrow. I commend Professor Epstein's editorial to all of my colleagues.

The article follows:

### AGRICULTURE, RESEARCH, AND SHORTAGES OF FUNDS AND FOOD

Agricultural research in this country is being starved at the very time that rising prices and tight supplies of food both at home and abroad demand that it be given major support as one of the nation's top tasks.

America's ability to produce an abundance of food represents this country's greatest potential for doing good in the world and for making its influence felt in the world. During World War II, America greatly contributed to the breadbasket of our allies, and after that war American food helped to sustain the populations and rebuild the economies of a score of countries, those of wartime friends and foes alike. That crisis over, American agricultural know-how, machines, seeds, and fertilizers energized and modernized agricultural economies in many parts of the world and lifted regions previously fettered by ineffectual traditional methods to unheard-of levels of performance in farming and food production. At home, America's agriculture has provided for our citizens ample food of a staggering variety, for a far smaller percentage of the average take-home pay than is the rule almost anywhere in the world.

Agricultural research of a scope and variety unparalleled anywhere, any time, has been the wellspring from which this bounty has flowed. That research, begun in an empirical fashion in the early days of the Republic, grew later into a broad, sophisticated enterprise extending from the field to the laboratory, from the packing shed to the pilot plant, from the feedlot to the experimental kitchen. Such was the success of this research and the agriculture to which it gave rise that "food surpluses" became an issue for politicians appealing to a predominantly urban population complacently accustomed to supermarket shelves well stocked with food at reasonable prices.

The euphoria of rising agricultural production, worldwide, and of cheap food at home is over. Drought on four continents and other factors have curtailed food supplies and raised the specter of starvation. Massive shipments of wheat and other foods have done away with the safeguard of full granaries in the United States. The Department of Agriculture has discontinued its monthly list of plentiful foods because there aren't enough items to qualify, with supplies tight and prices high and climbing.

This is not the place for an analysis of the many factors that have conspired to bring this situation about. But one thing is certain: if the attrition now afflicting agricultural research in this country is not reversed, the prospect of improvement of the current situation will recede ever farther into the future. Throughout the country, budgets for agricultural research, especially research aimed at production, are stationary or shrinking. Funds earmarked for production research are cut at a time of much concern for urban and ghetto problems, as if getting enough cheap food were not important to the people who live there. Positions at land grant colleges and agricultural experiment stations which used to be staffed the year around are being cut to 9 months, as though, like students, crops and livestock took summer vacations. Grant support, always hard to come by for agricultural research, is getting even more scarce.

Food, in adequate quantity and at moderate cost, is the most keenly felt need of the people everywhere. We, as a nation, must resolve to put first things first. Food is first. We must reemphasize and revitalize agricultural research. No single other investment can do more to earn for this country goodwill abroad, and at home, to restore to Americans their traditional confidence in having a reliable supply of ample, cheap food.

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## PROPOSED REORGANIZATION OF THE HOUSE

## HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. DINGELL. Mr. Speaker, shortly before the House adjourned last month, the Select Committee on Committees produced a draft report and resolution resulting from its consideration of various proposals for reform of procedures of the House. I have read this report carefully, and have concluded that it creates a number of problems which appear to have been given little or no consideration by the select committee. The evils which this proposal would visit upon the House appear to more than outweigh the advantages which it seems to promise.

These problems must be examined carefully before the House is rushed prematurely into action which will later turn out to have been ill-advised. Accordingly, I ask that there be reprinted in the RECORD a letter which I have written to the chairman of the select committee which outlines a few of the objections to the proposal which seem to be most appropriate to the concerns of the Members in general. I believe that an objective analysis of these proposals will indicate that they should be rejected by this body, promptly, so that we can return to consideration of the more important matters which confront us this year.

The letter follows:

HON. RICHARD BOLLING,
*Chairman, Select Committee on Committees, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: The recent draft report and resolution proposed by your Committee appears to create a number of problems which appear either not to have been considered at all, or only superficially. I believe that these must be discussed openly and at length before final recommendations are made by your Committee and action is scheduled by the House.

My principal objections are to two aspects of these proposals: one, the elimination of several existing Committees of the House, and two, the decision to limit members to only one major Committee.

There may indeed be reasons for disbanding one or more of the standing Committees of the House—but if those reasons exist, they were never stated by your Committee. I believe that there are significant arguments in favor of retaining some or all of these, and that the pros and cons of your decision should have been clearly stated. As the report stands, it appears that an arbitrary decision has been reached on this point. It is certainly true that some of the Committees which you propose to disband have been considered as "minor" in the past—it is just as true that you also propose to retain some of these "minor" Committees. Never is the basis stated for retaining or disbanding any Committee.

As a practical matter, the Committee on Merchant Marine and Fisheries, which you propose to shut down, has been responsible for a large number of bills in the past several years. Testimony before your Committee showed that the number of that Committee's bills which passed the House in the last Congress exceeded the number produced by all but two Committees of the House during the same period, and that many of these bills had major policy implications. In the last three Congresses, my own Subcommittee has produced at least three: the National Environmental Policy Act, the Marine Protection, Research and Sanctuaries Act, and the Endangered Species Act. In terms of conservation and environmental legislation, this Committee has major responsibilities, and I believe that the record will show that we have acted effectively and responsibly.

The same objection can be made to the failure of the Committee to explain its reasons for concluding that no Member should be permitted to serve on more than one of the 15 primary Committees proposed in your reorganization plan. This appears to be one of the basic premises upon which your entire proposal is founded, and yet no discussion of the merits or disadvantages of the concept is provided in the Report. The only hint of justification is found in a brief discussion of the need to "greatly reduce" the problem of Committee meeting conflicts.

It is undeniable that conflicts exist, and that this can be and often is inconvenient to busy Members. At the same time, as we all know, it is possible to perform adequately and responsibly in the face of these conflicts.

If a means can be found to reduce these conflicts without creating other and more serious problems, then such means should be explored and examined. The draft Report makes no attempt to do this.

Certainly there are substantial arguments against the "one Member, one Committee" proposal. Principal among these is the fact—not the theory, but the *fact*—that in so doing, you minimize and perhaps even destroy the ability of members on other Committees which have conflicting or overlapping jurisdictions to play any role in the shaping of legislation before it has been reported to the House. This in turn means a large increase in substantial amendments, controversy and fights on the Floor of the House.

At the same time, this concept condemns those members who may not agree with legislation under consideration to a lack of information about the merits of those bills. Further, and in the same step, you make it far easier for special interest groups to concentrate their energies upon Committee members, and thus to hamper or neutralize opposition to measures which they favor. Lobbies will be enabled to engage in their activities in the comfortable and certain knowledge that theirs will be the only voices which will be heard.

The House has been productive and creative in bringing forward new legislation, where this has been possible, as a direct by-product of the wholesome diversity of expertise, jurisdiction and skills to be found in Members, Committees and Committee staffs who have been enriched by the breadth and sweep of Committee responsibilities. Another highly beneficial result of this has been the useful competition between Committees and their memberships to serve the public in new and innovative ways with respect to legislation and legislative oversight. Diversity of Committee memberships and assignments has added significantly to the breadth of view and experience of members. Time after time, this has added significant additional capability to the House as a whole.

It is perhaps an unfortunate fact of life that it may not be possible for a member to serve legitimate needs of his constituents and of his nation through service in only one Committee. A ready example of the cost of this concept might be the example of our late and beloved colleague Tom Pelly. Serving conscientiously as a member of both the Merchant Marine and Fisheries Commitee and the Science and Astronautics Committee, he represented his constituents extremely well in both regards. Had he been forced to choose between the two Committees, I believe that the Committee which he was forced to leave would have been seriously penalized. Certainly as ranking minority member of our Committee, he played a major role in shaping fisheries and conservation legislation, and I am told that he was also a highly valued member of the Committee on Science and Astronautics as well.

To deny such members the opportunity to participate in the activities of both Committees, to the extent that they may be willing to accept such burdens, is to deny their abilities both to the Congress and to the nation.

If this has to be done—if the merits of this proposition so outweigh the obvious disadvantages—then so be it. But the Committee will be derelict in its obligations to the House if, as it has done here, it attempts to sell the proposition with no discussion of the points for and against it.

Nor does the proposed report deal with the inevitable costs of taking up this proposal at this time. The Congress is now the focal point, in a way unmatched in the past century, of a struggle between the executive and legislative branches of government, in which it is attempting to regain its position as an equal and not a subordinate. It faces a very real prospect of months of bitter and perhaps partisan struggle concerning the possible impeachment of the President. And all of this is taking place in an election year, with its pressures of finishing our legislative schedule in a timely and responsible fashion.

None of these defects would be an absolute barrier to the full consideration of the need for legislative reorganization, if that need is clearly shown, and if it is demonstrated that the proposed plan has been carefully and dispassionately considered. Reading the proposed report of the Committee, however, I can only conclude that many of the premises upon which it is based appear to have been arbitrarily selected, for reasons which were never stated. While I agree that the House must improve its internal procedures, I do not find anywhere in the documents furnished to the membership a justification for the total revision and perversion of the Committee system which appear to be its principal focus.

As a brief for your proposal, I find your draft report to be inconclusive, obscure and wholly unpersuasive. I am, in fact, persuaded that the kindest thing that we can do is to vote it down quickly, and to resume consideration of the needs and mechanics of Congressional reform at another time, and by another Committee.

Sincerely,

JOHN D. DINGELL,
*Member of Congress.*

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## EXPANDING SHORTAGES

## HON. CLARENCE E. MILLER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. MILLER. Mr. Speaker, the American people have been made more aware in recent months of the possible hardships we may encounter when a vital resource is in short supply.

Unfortunately, our diminishing supply of mineral resources is not limited to petroleum. There is a long list of minerals that are currently in short supply or will become scarce in the near future, including aluminum, chromium, asbestos, copper, iron, lead, manganese, nickel, phosphorus, potassium, and zinc. At the present time the demand of the United States for such minerals is fast outstripping supply. The pinch will grow worse in the immediate future as other developed nations increase their demands on world resources.

A partial answer to this dilemma lies in the amendment I am introducing to the Foreign Aid Act of 1973. This amendment grants the President authority to exchange, when he determines it to be in the national interest, the assistance furnished under the bill for strategic materials and fossil fuels which are either in short supply or which cannot be produced in this country to meet our requirements.

I would like to bring to the attention of my colleagues a recent column by Ray Cromley that appeared in the January 9 issue of the Washington Star-News and details the coming crisis in materials shortages:

[From the Washington Star-News, Jan. 9, 1974]

### EXPANDING SHORTAGES

(By Ray Cromley)

This reporter has come across some appalling findings in studies made for the Nixon administration on future materials shortages, of which fuel is but one.

If you think you're facing burdensome scarcities now, wait another 26 years. By that time, if the men who have calculated trends in basic commodities haven't gone astray, there will be heavy shortages across the board—for fuel, iron ore, copper, aluminum, zinc, sulfur, food and a host of other materials too numerous to mention.

The cause in each case is simple and unavoidable. The world is getting richer. Industry is growing on every continent. Agricultural production is up, despite occasional lapses. Men and women in Europe, Asia, Latin America, Africa and Oceana want to live better. Wages are moving up. Consumer spending is increasing. All this means a demand for more steel, aluminum, copper, zinc, sulfur, fluorspar, meat, cheese, milk and a host of other materials and commodities.

Leaving the United States out of the picture, world demand for most strategic materials will be from three to four or five times what it is now. And all this before your 10-year-old child reaches his 37th birthday.

Russia will be an important factor in the scarcities 26 years hence. Its demand for aluminum, already sizable, will multiply by five. Its requirements for the other major materials mentioned will increase to three to four times what they are now. Though these percentage increases are not large in comparison with the expected worldwide increase in demand, Russia starts from such a large base the effect on world supply will be considerable.

In the same measure, Japan's needs and those of Western Europe will cut heavily into supplies. Japan's expected demand for aluminum 26 years from now is expected to be 10 times what it is today. That island country is expected to use three to five times as much of other major raw materials.

Percentage-wise, Western Europe's needs for the major materials studied here will rise a mere 200 percent or so. But in tonnages, the growth in European consumption will be large.

China is expected to increase its requirements for iron ore and steel, copper, aluminum, zinc and sulfur four to fivefold.

The resulting competition will reduce the U.S. share of copper from around 29 percent today to roughly 22 percent 26 years from now, of aluminum from 40 percent to 33, of zinc from 27 percent to 21, of liquid fuels from 35 percent to 25, of iron ore from 21 percent to 13. Of course, in most cases these will be smaller shares of a larger pie. But that advantage will be offset by a U.S. demand growing by leaps and bounds—a demand which will, 26 years from now if these estimates are correct, be two to three to four times as great for these essential materials. Our need for aluminum, for example, is expected to more than quadruple. Our consumption of energy will likely roughly triple. Our use of iron ore and steel will double.

As a result, competition for these goods will increase costs, perhaps disastrously, just as competition for scarce supplies is today driving the price of petroleum to unbelievable levels.

These forecasts take into account intensified efforts to find and exploit available resources of raw materials. They also assume we will mine deposits not now economical. However these efforts will not solve the overall shortages.

New approaches must be found. One partial solution: discovering materials in plentiful supply which can be used as substitutes. Another partial answer: new approaches which do away in part for the need for one scarce material or another. In some cases, more efficient use of a commodity can result in huge savings.

Such changes of course have been taking place for some time. Aluminum is frequently substituted for copper. Nuclear energy has been gradually adding to the power supply, reducing by that much the potential demand for petroleum and low-sulfur coal. Man-made fibers have substituted for silk in hosiery. Synethetics have substituted for wool and cotton in much of our clothing. Manufactured rubber has replaced the natural in many uses.

These efforts will have to be multiplied if we are not to retrench far more than most of us desire.

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## ALBANY PARK'S IMPROVEMENT AND BEAUTIFICATION PROGRAM

## HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. ANNUNZIO. Mr. Speaker, I rise to call the attention of my colleagues to an imaginative program of community involvement for the improvement and beautification of Albany Park, an integral part of Northwest Side of Chicago and of the 11th Congressional District I am proud to represent.

The program's innovative founder and resourceful director, Roy S. Vergo, is vice president of the National Bank of Albany Park, Northeast chairman of the American Cancer Society, student adviser on urban and social problems at Northeastern Illinois University, and longtime activist and dedicated leader in various community projects.

Roy Vergo realized that to reverse the exodus to the suburbs, local business leaders, political leaders, and civic organizations had to join together and create a sense of community pride and civic awareness. Alderman Anthony C. Laurino and Milton Bronstein joined the project enthusiastically and now are part of the day-to-day program. Roy Vergo emphasized that the community's bank, the National Bank of Albany Park, was not going to redline the area, and received the backing of the president, Mr. Irwin Goodman, and the board of directors to offer an interest rate discount on rehabilitation loans to local residents.

These leaders pointed out that Albany Park already has access to expressways and mass transit, several excellent colleges, active and enthusiastic community organizations, and a new rapid transit terminal under construction.

Through newspaper advertisements, radio announcements in the languages of the area's four major ethnic groups, and newsletters, the residents of Albany Park are being encouraged to join together, reverse blight and deterioration in the area, and put the "park" back into Albany Park.

The bank has already spearheaded the new rapid transit project and Roy Vergo is taking successful action on four priority distress properties. Private citizens and local governments are working on curb, street, and alley repairs and property owners are putting in new sidewalks. In addition to loan financing the bank is supplementing these invaluable human resources with advice on contracts, contractors, and general rehabilitation.

Results are beginning to show, renewing the faith of residents in the future of their community. The strong backing for this program by the National Bank of Albany Park has led to expressions of interest by other companies in the area, such as Commonwealth Edison, to join in rehabilitation efforts. A home improvement show is being cosponsored by the bank to exhibit every imaginable type of home remodeling, and 5,000 free admission tickets have been printed for distribution in the Albany Park area.

I congratulate the board of directors of the National Bank of Albany Park, the bank's president, Irwin Goodman, and vice president, Roy Vergo, for their spirit of service and the inspirational leadership they have shown. Albany Park will, indeed, remain a good place to live and work because of these farsighted and compassionate efforts.

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## WHERE DO WE GO FROM HERE?

## HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. TEAGUE. Mr. Speaker, a recent article in the Washington Star News by Mr. R. Stephen Scott, science writer and president of the Federal Editors Association, describes well the significance of our national space program and its relationship to our daily lives. As three astronauts orbit above our heads and continue to set records of endurance, performance and contributions, it is well to remember that the opportunity to utilize space to the ever increasing advantage of our Nation can be achieved with a relatively modest investment. Mr. Scott's article follows:

[From the Washington Star-News, Dec. 30, 1973]

### WHERE DO WE GO FROM HERE?

(By R. Stephen Scott)

If, 50 years ago, someone had seriously predicted that before 1970 men would journey to the moon or live below the sea, skeptics would have accused him of reading too much science fiction. If that same person had had the courage to add that millions of people would watch such strange events in the comfort of their homes, saner minds would have suggested he take an ice bath.

Today, much of Jules Verne's science fiction has become fact. Science and technology have opened the frontiers of space and the ocean. While a lack of financial funding prohibits probes into these frontiers on the scale of the Man On the Moon and Man Into the Sea programs of the 1960s, the search for knowledge about these frontiers still goes on. A Pioneer spacecraft files by Jupiter and marine scientists perform ecological research in the ocean environment.

No one man has done more to open the underwater world than Jacques Cousteau. In 1942 he joined with engineer, Emile Gagnan, to develop the acqualung. In Cousteau's own words, his device "allowed divers to have enough time to explore the world of silence." Since then, Cousteau has taken millions of people on tours into his "silent world" via a series of televised adventures. Now, Cousteau and diver-journalist, Philippe Diole, have decided to re-create the "Undersea World" series in print. "Three Adventures," the sixth in an eventual 26 volume set, describes Cousteau's investigation of the Galapagos archipelago, Lake Titacaca, and the "Blue Holes" of the Bahamas.

A search for ruins of a legendary Incan civilization and giant mute frogs are featured in the Lake Titicaca story. In the account of the "Blue Holes"—enormous rings of coral that encircle lakes of blue water in the open sea—Cousteau's divers search for legendary monsters, only to discover a geologic Gothic cloister. Both chronicles offer informative and exciting glimpses of the mysteries of the undersea world told in a diary-lecture style, but neither compares to the Galapagos story.

The Galapagos, located just below the Equator about 600 miles west of South America, was Charles Darwin's "laboratory of evolution". It was in 1838 that Darwin, a 26 year old naturalist, aboard the research ship, HMS Beagle, first visited the island chain. Later he wrote, "The facts concerning the species of this archipelago are at the basis of all my opinions."

Two species of wildlife were important to Darwin in confirming his theories. The dragon-like marine iguana and the finch—a species which, from island to island, shows a diversity in form or in beak development corresponding to differences in their habits and their nourishment. Over the centuries, these differences had resulted in the appearance of varieties of finches best adapted to survive in the conditions dominant on different islands of archipelago. This, for Darwin, confirmed his ideas on evolution.

The complexity of the fauna of the Galapagos results from its special location. This chain of volcanic islands is at the confluence of the warm currents from the North and the cold current from the southeast—the Humboldt Current. This mixture of waters has produced a strong mixture of tropical and polar species. There are penguins and albatrosses, sea lions and seals, as well as iguanas, turtle, and even warm-water snakes. And, while this temperature mix often creates a dense and dangerous fog, it also produces an abundance of plankton in the waters of the archipelago. This means a plentiful habitat for marine life.

Armed with cameras, technological knowhow and the equipment of Calypso, as well as with a team of expert divers, Cousteau was able to investigate the Galapagos with means Darwin never imagined. Thus, in "Three Adventures," the reader can learn of phenomena which Darwin once observed and "experience the thrill he must have felt in his own time."

Cousteau does not have a market on scientific thrills. In the 1960's science and technology combined to examine phenomena such as pulsars, quasars, and blackholes, that a decade earlier were not mentioned in scientific journals. From above the earth's atmosphere, solar winds and stellar X-rays were measured. And, man took his first step on the moon. It was a decade of a hundred Galileos.

Since then, space exploration has taken an earth-oriented perspective as typified by NASA's Earth Resources Technology Satellite (ERTS) program. However, the information generated in those 10 years is still expanding man's knowledge of the celestial environment. Even as the Pioneer spacecraft approaches Jupiter, and the comet, Kohoutek, speeds closer to Earth, the volume of space science information multiplies.

UFOs add spice, but even without them, the space beyond earth is filled with fascination. In his latest "Pictorial Guide to the Planets," science teacher-writer, Joseph Jackson, provides an up-to-date (1972) source of information about the fascinations of the ever-expanding universe.

The title of Jackson's "Guide" is somewhat misleading, for while the book is amply illustrated with close-up photographs of the moon, Mars, comets—"the giant dirty snowballs"—and other solar phenomena, it also presents an easy-to-read, yet authorative, description of them. Of particular interest, perhaps because of its curiosity appeal, is Jackson's discussion of the possibility of life on other planets.

Mercury and Venus are too hot to support life, but the Mariner probes of Mars have not ruled out the possibilities of life there. According to Jackson, "The data from Mariner 9 already reported do increase the probability that life may have started and developed on the planet at some time in the past, perhaps when conditions were more favorable. The odds for the existence of life on Mars in the past, if not at present as well, seem higher than the odds against it."

The chances for life on the outer planets are slim. It is more probable on larger satellites such as Saturn's Titan, or Jupiter's Ganymede, although the extreme cold and probable lack of atmosphere militate against any forms of living things similar to those on earth. However, it is near certainty that life is not unique to Earth. There are at least 100,000 stars in the Milky Way Galaxy that could have planets with an environment capable of supporting living things.

Jackson reports that "a respectable number" of scientists believe that messages are coming from other worlds. "Should signals of this kind be detected, the significance of such a discovery would be inestimable." Earth scientists have in fact placed a message aboard the Pioneer spacecraft should any intelligence spot it.

Cornell's Carl Sagan once observed, "Today the exploration of the Earth's surface has been completed. For the joys of discovery and the lure of the frontier, we must look to the oceans and the skies." While professor Sagan's hyperbole may irritate many in the scientific community, the motivation for it can be found on the pages of Cousteau's "Three Adventures" and Jackson's "Pictorial Guide to the Planets."

## NEW MANEUVERING REENTRY VEHICLE

## HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. ASPIN. Mr. Speaker, the Navy is planning to develop and eventually deploy a revolutionary, new maneuvering reentry vehicle—MaRV—missile on the Trident submarine according to an unclassified portion of a Pentagon document which I publicly released this past weekend.

The Navy's plan, Mr. Speaker, is either foolish or dangerous or both. MaRV is an escalation of the arms race beyond the so-called MIRV missiles.

A MaRV warhead can independently maneuver after release from a missile while a MIRV warhead simply falls from the sky without independent terminal guidance after its release from the ICBM missiles.

Traditionally there have been two justifications for building a MaRV missile—either as protection from ABM defenses or to improve the accuracy of our warheads. If the Navy is planning this missile to protect against ABM, it is frankly a foolish idea. On the other hand, if it is to improve missile accuracy, it is a dangerous move that may lead the Russians to conclude that the United States is trying to develop some form of first strike capability. In any case, it will be a multibillion addition to our already mammoth defense budget.

As my colleagues know, the SALT I treaty limits both the United States and the Soviet Union to two ABM sites.

There is no real justification for developing a MaRV to protect against ABM since the defense missiles have been limited by the SALT accords. In short, MaRV would be a multibillion dollar project to counter a nonexistent threat.

Supporting this view, at least indirectly, is an Air Force statement written in response to a question from the Senate Armed Services Committee in May 1973. The Air Force said that "a maneuvering reentry vehicle would be very inefficient against an undefended target."

If the MaRV plan for the Trident missile is not a defense against the ABM, it is probably designed to improve missile accuracy. As some of my colleagues may know, in recent weeks, Defense Secretary James Schlesinger has publicly indicated interest in improved accuracy in our missiles. His statements appear to be evidence confirming the view that the Navy wants an advanced reentry vehicle to improve accuracy.

Improving accuracy ordinarily sounds like an excellent concept, but under present circumstances, improvement would be a serious mistake. Missile accuracy is already excellent and any improved accuracy would be the difference of a few hundred feet—not miles—at the cost of billions of dollars. When there is a nuclear explosion, there is little difference if you are at ground zero or a few hundred feet from ground zero.

It appears that the probable design of the advanced MaRV is to destroy hardened Russian missile silos—a move that could destabilize our entire deterrent strategy. The Russians may respond to this in such a way that it could kick off a whole new round in the arms race. In short, MaRV is a multibillion dollar program that would not enhance overall strategic efficiency but could be perceived by the Soviet Union as an effort to develop some form of first-strike capability.

Dr. Schlesinger has repeatedly denied that the United States is interested in developing a first-strike force. The Russians, like the United States, have existing submarine ballistic missiles which would be invulnerable to the MaRV, but to the Russians who may not know the state of ASW—antisubmarine warfare—capabilities, developing a MaRV to kill silos may look like an effort to achieve first-strike force.

It is possible that the Pentagon sees development of the MaRV on the Trident submarine as a bargaining chip in the upcoming SALT talks. But other programs have been justified as bargaining chips and too many chips may have the opposite effect on the negotiations.

Of course, the new MaRV on Trident could be a simple political deal between the Joint Chiefs and Dr. Schlesinger. It is no secret that the Joint Chiefs are always looking for new and better toys and, of course, this new program could be a boost to defense contractors who are always hungry for more business.

Frankly, Mr. Speaker, I am disappointed that Congress was not consulted before this decision was made. MaRV should be a No. 1 strategic issue in this year's defense debate in Congress. Both the House and Senate should fully debate the strategic implications of this move.

I have asked today, Defense Secretary Schlesinger to fully disclose the Pentagon's plans to Congress. I am interested in learning precisely what kind of MaRV was also planned for other strategic forces such as the Minuteman missile.

According to the unclassified paragraph sent on January 14, 1974, by Deputy Secretary William P. Clements, Jr.—

> The restructured Trident program approved recently . . . includes advanced development effort for a maneuvering re-entry vehicle (MaRV). The budget for Trident was increased by $221.9 million due for the most part to the add-on of advanced development for MaRV. . . .

Mr. Speaker, MaRV should be fully debated and considered by this House before it is approved. It is a potential escalation of the arms race we and future generations can ill afford.

## H. M. "JOHNNY" JONES

## HON. JOHN C. CULVER

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. CULVER. Mr. Speaker, at the start of this new year a landmark event occurred in Iowa journalism, the sale of the Monticello Express to three of its most dedicated employees and the retirement after 20 years of its editor-publisher, H. M. "Johnny" Jones. The Monticello Express has long been a byword of lively, penetrating, and responsible community journalism in eastern Iowa. But its example and influence have spread across Iowa and the Nation as a whole. It is recognized in its content, makeup, and in its technical innovations as a leader and yardstick for other weeklies and dailies.

These multiple accomplishments owe much to the vision, enterprise, and human qualities of Johnny Jones. The offices of the Express have been a mecca for other editors, publishers, and reporters who wish to find the secrets of its extraordinary success and the reasons for its countless awards in all aspects of newspaper activity. For Monticello, Johhny Jones and his wife Evelyn have been continuous sources of new inspiration and community service. All Iowans are grateful that his "retirement" represents only a change of direction, since he will remain professionally active in several fields, especially as president of Publishers Idea Exchange. But I am sure that his 20 years with the Express will always remain as the most luminous pages in his career which may be equalled but not excelled in the many years which lie ahead for Johnny Jones.

Mr. Speaker I ask unanimous consent to have printed in the RECORD Mr. Jones' farewell editorial as well as a lead article describing the sale of the paper, its new publishers, and the role which Johnny Jones has played in its development since 1954. The articles follow:

### AN EDITOR'S FOND FAREWELL . . .

As all things have a beginning . . . so all things must have an ending.

Nearly 20 years ago, a red-haired editor wrote his first editorial in the Monticello Express.

Now . . . with hair nearly white . . . he must write his last.

Today's front page announces the sale of the Express to three fine young staff members, in whom we have unlimited trust and confidence.

Perhaps you've noticed that for many of

those years the Express has proudly carried on its flag the sentence, "One of America's Greatest Weeklies."

Some of you may have considered it just another empty claim. This editor put it there because we believed it belonged there, fair and square.

You see, throughout those 20 years, we attempted to bring you the very finest newspaper that a wild Irish editor and a talented and dedicated staff could hammer together. We tried our level best to print all the news, accurately and impartially, without fear or favor. And, we thought we called a spade a spade.

We wanted nothing but the very best for our community and for all the people we served. So, all of us tried to give most generously of our hearts and minds, our time and effort, and from our pocketbooks.

In short, we wanted the Express to be everything a great newspaper should be . . . and we wanted to help our area be every bit as great as we thought it ought to be.

Whether this editor succeeded or failed, only you know.

If we failed, the fault is this editor's alone.

If we succeeded, even partially, it was because of the wonderful people listed below. We owe you all a debt of such magnitude it will take a lifetime to pay.

Our family for understanding that they must live much of the time without a father who often had three meetings during the day plus two more at night.

Our friends. Without your help, advice and encouragement there were times when we might not have been able to face the dawn.

Our critics. You kept our head from getting too large for our hat, and enabled us to see things much clearer.

Our advertisers. Without your loyal support every editorial might have been our last. And, you enabled those who had loaned us money to sleep a little better.

Our readers. Your friendship and encouragement inspired us all . . . like the time not one of you complained when our first offset issues were so terrible.

Our staff, the greatest in the nation. You did all the excellent work for which we got the credit, and you covered up most of our silly mistakes.

Bob Goodyear, Betty Wagner and Ken Moats. No finer young leaders exist in Iowa. The fact that you have been in complete charge of the Express these past two years should serve as proof to all that, with your talent, youth and vigor, this newspaper will climb to fresh, new heights.

Fate . . . which permits us to continue to make our home near Monticello, the city we love beyond all others, among the people we love and respect.

But more than all of these, we're thankful to you, yes you, for letting us have the privilege of devoting 96,126 working hours of our life to the publication of your Express.

We said "your" Express. You see, it never really belonged to us. For 109 years it's been your Express. You just loaned it to us for a little while.

—H. M. J.

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## EXPRESS SOLD TO THREE LONG-TIME EMPLOYEES

The sale of the Monticello Express, effective Jan. 1, 1974, is announced today by H. M. "Johny" Jones, its publisher since Nov. 1, 1954.

Purchasing the 109-year-old newspaper is a new corporation, The Monticello Express, Inc., formed by three long-time employees, each a department head with the publication. The new copublishers are:

Robert Goodyear, production superintendent since 1965. He will serve as president of the new corporation.

Ken Moats, advertising manager since 1964, will be vice president.

Betty Wagner, news editor from 1961 to 1969 and editor since 1969, is secretary-treasurer.

The three co-publishers said that no changes are planned in either personnel or in the operation of the Express.

### THROUGH RANKS

Goodyear's rise within the ranks of the Express staff has been highly unusual. He joined the newspaper as a part-time production worker as a high school junior in 1954, rose to head his department in ten years, and now becomes co-owner.

He has been responsible for the entire production of the Express, and in charge of its rapidly expanding commercial printing department which now does considerable publication work, and serves color printing customers over three states.

Bob is a graduate of the University of Iowa's newspaper production laboratory, and he and his wife Janice live in Langworthy with their two daughters and a son.

### VARIED BACKGROUND

Moats attended Naval Journalists school and spent four years in the service working with news media.

Deciding on a career in the business side, he spent 18 months as advertising manager of the Winner, S.D., Advocate, then a year as an advertising assistant on the Webster City Daily Freeman-Journal. He joined the Express as advertising manager in 1964.

Under his direction the Express staff has won many awards for advertising excellence, both state and national.

He and his wife Marilyn have two sons and three daughters, and live at 128 N. Maple. He is past president of the Greater Monticello Committee.

### MANY HONORS

Betty Wagner graduated from Central Missouri State College, after winning a long list of honors, and working for Missouri newspapers as a reporter. She joined the Express as a reporter and photographer in 1960, became news editor in 1961 and editor in 1969.

In complete charge of news, she has received many personal honors as a journalist and played a vital role in the scores of awards won by the Express for reporting, photography, editorials and newspapers excellence.

She is past president of Iowa Federation of Business & Professional Women's Clubs, Inc. and of the Monticello club, and has been active in local and area community affairs.

### EXPRESS HISTORY

The Express was born July 10, 1865, upstairs in the building south across the street from the new Monticello State bank building. It's first editor was O. D. Crane.

It saw a succession of editors until Dec. 3, 1883, when it was to be published for 71 years by the Doxsee family. Three generations of Doxsees were at the helm of the newspaper until it was sold in 1954 to a corporation headed by Jones.

The Express rose to state-wide prominence during the reign of the late J. W. Doxsee (editor from 1883 to 1915) and the late Charles Doxsee (editor from 1915 to 1948).

It was published in several locations but from 1901 to 1954 was housed on the second floor of the formed Lovell building, although the newspaper press was located on the ground floor behind the larger building.

### CHANGES BEGAN

The first change came with the moving of the plant to its present location, the former William G. Schoon building since purchased by Jones.

The second change came when the Express was converted from a community newspaper to an area newspaper. New rural correspondents were added, along with area news and photos.

In February 1958, after a year of intensive study, the Express was converted to an entirely new method of printing . . . from hot-metal-letterpress to cold-type photo-offset. Every piece of letterpress equipment was removed and replaced with offset equipment without missing a publication date or even being late.

The Express was one of the first newspapers in the entire nation to make the complete change-over.

From 1954 to date the paid circulation of the Express has nearly doubled, and it grew from the smallest newspaper in Jones county to the largest. Its volume of sales is nearly four times the 1954 figure.

### MUCH PIONEERING

The next pioneering step taken by the Express was to assist sister publications in developing the state's first central printing plant at Independence, with the purchase of Iowa's first high-speed web-offset press in 1962.

The most recent change came in 1970 when the Express became the first community newspaper in Iowa to switch to computer setting of all its type, now rapidly being adopted by other papers.

Other innovations made by the Express was the departmentalizing of its news, grouping all sports, farm and women's news together within departments for easy reading.

Also changing from the hard-to-read broadsheet page size to a compact tabloid format, as well as improvements in type faces, page make-up and design . . . all widely copied within the newspaper field.

### RECORD HONORS

During the past 20 years the Express and its staff members have won 132 national and state awards for newspaper excellence. So far as is known, no other American newspaper, either weekly or daily, has won as many.

The plaques and certificates cover every spectrum of the newspaper field, and for many years adorned the walls of the Express office. With extensive remodeling of the building this past summer most of the awards have been placed in a scrap book, with only a few left on display.

Perhaps most pleasing to its staff is the fact that, in recent years, each improvement made by the Express has been widely copied by newspapers across the nation. During its conversion to offset more than 300 newspaper publishers from as far away as Pennsylvania and Texas made special trips to Monticello to see what the Express was doing.

### RETIRING PUBLISHER

Jones began his newspaper career at the age of ten, carrying an early morning paper route for the old Burlington Hawkeye. In high school he became a "jack-of-all-trades" on his hometown weekly newspaper, later working for a small daily as wire editor, then assistant advertising manager.

After nearly a year with the Des Moines Register & Tribune advertising department, he joined the Waverly Newspapers as advertising manager until World War II began.

He spent four years in service, two years in Europe as an officer with an infantry division. He participated in the invasion of France, the Battle of the Bulge and five major battles.

In 1946 he joined the Independence Bulletin-Journal as business manager, and in 1950 with partner Reeves Hall and two other associates bought the competing Independence Conservative.

### BUYS EXPRESS

In 1954 with Hall he bought the Monticello Express.

In 1969 he purchased Publishers Idea Exchange, an advertising idea magazine distributed throughout the U.S., Canada and Mexico, and in 1970 sold his interest in the Independence Newspapers to partner Hall.

In 1973, with other associates, he again purchased the Independence Newspapers and central printing plant, along with the competing Wapsi Reminder.

Although he never earned a college degree, in 1953 he was elected to Alpha Delta Sigma, professional advertising fraternity, and in 1962 to Sigma Delta Chi, professional journalistic fraternity.

He is a member of the board of directors of the Iowa Press association, past president of the Greater Monticello committee, past president of the Monticello Rotary club, and is on the board of directors of the Monticello Development Corp.

Jones serves on the GMC's roads committee, the doctor procurement committee, the AFS committee, and for many years has been active in nearly every community betterment movement.

He is a member of the American Legion, the VFW, and the Disabled Veterans of America.

He and his wife Evelyn, who has also been active in community affairs, are the parents of four children:

The oldest, Mike, is an ex-Marine now studying at Kirkwood college and living in Cedar Rapids. Marsha Ann (Mrs. Paul Ponder) lives here. Kim is a student at Luther college, and Beth is in eighth grade.

Jones is president of the Monticello Publishing Co., president of Publishers Idea Exchange, Inc., vice president of the Manchester Publishing Co., and vice president of Pinicon Publishing Co. at Independence.

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## D.C. HOME RULE—CITY COUNCIL, MAYOR, JUDICIARY

### HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. FRASER. Mr. Speaker, an excellent summary of the new D.C. home rule law just passed by Congress and signed by the President on December 24, 1973, has been prepared by Prof. Jason I. Newman and Mr. Jerry McGowan. Professor Newman is director of the D.C. Project on Community Legal Assistance of Georgetown University Law Center.

I have unanimous consent to enter the first portion of this summary dealing with the city council, the Mayor, and the judiciary in the CONGRESSIONAL RECORD.

The summary follows:

I. CITY COUNCIL

*A. Structure*

(1) *Number.* 13 members elected on a Partisan basis—Chairman and 4 members elected at large. For the first election, not more than 2 (excluding the chairman) shall be nominated by the same political party. Thereafter, because of the staggered terms, a political party may nominate only 1 at-large candidate (excluding the chairman) so that there could only be at any one time a maximum of 3 at-large councilmen (including chairman) from any one party.

(2) *Term.* 4 years with one-half of the council to be elected every two years.

(3) *Qualifications*—

(a) qualified elector.

(b) resident of ward running from.

(c) resident and domiciliary of the District for at least 1 year prior to the election.

(d) holds no other public office, but can be privately employed.

(4) *Compensation*—

(a) *Council Members.* G.S. 12 last step is the initial salary ($22,705). The Council after a 2-year period can increase or decrease their compensation.

(b) *Chairman.* The chairman receives an additional $10,000/year but he may not engage in any other employment whether as an employee or self-employed individual.

*B. Powers*

(1) Has authority over the entire D.C. Code subject to the limitations listed below.

(2) Retains its existing authority.

(3) Has authority to reorganize the D. C. government structure.

(4) Has authority to investigate any matter relating to the District. The Council in this regard can issue a subpoena.

*C. Limitations*

(1) *Congressional Reservation of Power*—The Council may not:

(a) tax any federal or state property,

(b) lend the public credit for any private undertaking,

(c) enact any act relating to the organization and jurisdiction of the D.C. courts (Title 11, D.C. Code),

(d) tax the personal income of any nonresident of the District,

(e) change building height limitations in the District,

(f) enact any act with respect to the Commission on Mental Health,

(g) enact any act relating to the U.S. Courts, the U.S. Attorney or the U.S. Marshall in the District of Columbia,

(h) change the D.C. criminal laws until January 1, 1977 (Titles 22, 23, 24 D.C. Code).

(i) legislate on any matter not exclusively applicable to the District.

*D. Legislative procedure*

(1) Council passes, Mayor has 10 days to either approve or veto; ⅔ of the Council present and voting may override Mayor's veto unless the President within 30 days sustains the Mayor's veto.

(2) Council transmits all but emergency acts to the Congress for a 30-day layover. If Congress does not adopt a concurrent resolution disapproving of such act, it goes into effect at the end of that 30-day period.

(3) An emergency act passed by ⅔ of the entire Council can take effect immediately but it can remain in effect no longer than 90 days.

(4) A majority of the Council constitutes a quorum for the transaction of Council business.

*E. Chairman*

(1) The chairman is the presiding officer of the Council.

(2) When the office of Mayor is vacant, the chairman shall act in his place.

(3) While he is acting Mayor, he cannot exercise any of his power as Chairman or member of the Council.

II. MAYOR

*A. Structure*

(1) *Election.* Partisan.

(2) *Qualification.*—

(a) qualified elector.

(b) resident and domiciliary of the District for 1 year prior to election.

(c) holds no other public office.

(d) nor be engaged in any employment whether as an employee or as a self-employed individual.

(3) *Term.* 4 years.

(4) *Compensation.*—

(a) Executive level III ($40,000) plus an official allowance.

(b) Changeable by Council—but any change would take effect at the beginning of the next term of the Mayor.

(5) *Vacancy.* Special election with Council Chairman acting as Mayor until such special election.

*B. Powers and duties*

(1) The Executive power of the District shall be vested in the Mayor who is the Chief Executive Officer of the District.

(2) All functions that the Mayor now has he retains unless it is inconsistent with this act.

(3) The Mayor shall designate the officer or officers of the executive department who shall during disability or absence of the Mayor and Council, execute and perform the duties of the Mayor.

(4) The Mayor shall administer the personnel system.

(5) The Mayor may delegate his functions to any officer or employee of the executive branch.

(6) The Mayor shall appoint a city administrator who shall serve at the pleasure of the Mayor. The city administrator shall be paid at a rate established by the Mayor, not to exceed executive level IV. (just a little less than the Mayor).

(7) The Mayor may reorganize the offices, agencies, etc., of the executive branch by submitting to Council a detailed plan of such reorganization. Such a plan shall be valid only if the Council does not adopt within 60 days a resolution disapproving such reorganization.

(8) The Mayor shall have charge of the administration of the financial affairs of the District and in that regard he shall assess property and collect taxes.

(9) The Mayor becomes the central planning agency for the District.

*Personnel*—The Council within 5 years must establish a merit personnel system which can be independent of the Federal Civil Service and can include Collective Bargaining.

III. JUDICIARY

(Relates only to the Superior Court and the D.C. Court of Appeals).

*A. Appointment of judges*

The President nominates with the advice and consent of the Senate all judges of the D.C. Courts. The President must choose a judge, for each vacancy, from a list of 3 persons recommended to him by the D.C. Judicial Nomination Commission.

*B. D.C. Judicial Nomination Commission*

The commission shall consist of 7 members, serving for terms of 6 years, selected as follows:

(a) One member appointed by the President.

(b) Two members appointed by the Board of Governors of the unified D.C. Bar.

(c) Two members appointed by the Mayor, one of whom shall not be a lawyer.

(d) One member appointed by the Council, and shall be a person other than a lawyer.

(e) One member shall be appointed by the Chief Judge of the U.S. District Court for the District of Columbia, and such member shall be an active or retired Federal judge serving in the District.

*C. Qualifications for judges*

(1) U.S. citizen.

(2) An active member of unified D.C. bar and has been engaged in the active practice of law in D.C. for the 5 years prior to his nomination or for such 5 years been on the faculty of a law school in the District or has been employed as a lawyer by the U.S. or D.C. government.

(3) Resided in D.C. for at least 90 days prior to the nomination and shall remain a resident while judge.

(4) Recommended to the President for such nomination and appointment by the D.C. Judicial Nomination Commission.

(5) Has not been a member of the Tenure Commission or D.C. Judicial Nomination Commission for at least 2 years prior to nomination.

*D. Term*

15 years subject to mandatory retirement at age 70.

*E. Chief Judge*

He is chosen from among the judges of the court in regular active service by the D.C. Judicial Nomination Commission. He serves as chief judge for a term of 4 years and is eligible for reappointment.

*F. Reappointment*

(1) There is established a D.C. Commission on Judicial Disabilities and Tenure (hereinafter the Tenure Commission) consisting of 7 members selected in the same manner as the D.C. Judicial Nomination Commission. No member can serve on both boards at the same time.

(2) At least 3 months prior to the expiration of his term, a judge may file with the Tenure Commission a declaration of candidacy for reappointment. The Tenure Commission will then evaluate the judge's performance as being either exceptionally well qualified, well qualified, qualified, or unqualified. If he is found to be either exceptionally well qualified or well qualified, he will be automatically reappointed for another term. If he is found to be qualified, the President may or may not appoint him for another term. If he is found to be unqualified, he may not be nominated for another term.

*G. Removal, Suspension and Involuntary Retirement*

(1) The Tenure Commission can initiate proceedings to have a judge removed from office if he has been convicted of a felony.

(2) The Tenure Commission can initiate to have a judge removed after a determination by the Tenure Commission of:

(a) willful and persistent failure to perform judicial duties.

(b) willful misconduct in office.

(c) any other conduct which is prejudicial to the administration of justice or which brings the judicial office into disrepute.

(3) A judge may be involuntarily retired from office if:

(a) The Tenure Commission determines that a judge suffers from a mental or physical disability which is likely to seriously interfere with the proper performances of his judicial duties.

(b) And the order of involuntary retirement is affirmed on appeal by the D.C. Court of Appeals or if the time within which an appeal may be taken from the order has expired.

(4) A judge shall be suspended without salary upon the initiation of any of the proceedings in paragraphs 1 or 2. The suspension shall continue until a termination of all appeals. If the judge is reinstated, he shall recover his salary and all rights and privileges of his office.

(5) Upon the filing of an order of involuntary retirement, a judge shall be suspended with such retirement salary as he is entitled to. The suspension shall continue until a termination of all appeals. If he is reinstated, he shall recover his salary and all rights and privileges of his office.

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## NUCLEAR ENERGY: RISKS MAY FAR OUTWEIGH POTENTIAL BENEFITS

### HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. DELLUMS. Mr. Speaker, one immediate reaction to the current petroleum shortage has been rising demands for large-scale new investment for nuclear power sources.

Yet, despite the clamor, there are significant factors we must consider before giving in to such pressures. Dangers to all life forms could result from a safety accident; much of the technology is either unproven or extremely costly; the question of waste material disposal remains unanswered; there are major perils from sabotage or homemade bombs; effects of natural disasters often are not considered.

Over the past months, the Los Angeles Times has carried an important series of articles analyzing both the potential gains and dangers associated with nuclear energy. I applaud the Times for this valuable perspective, and I urge my colleagues to read them.

Today, I would like to insert into the RECORD an article from the December 17, 1973, Los Angeles Times by Lee Dye entitled "Nuclear Energy: Great Hopes, Great Problems."

The article follows:

### NUCLEAR ENERGY: GREAT HOPES, GREAT PROBLEMS

(By Lee Dye)

The nuclear industry may well have the best safety record of any major industry in the history of the United States.

It has been subjected to examination and scrutiny on a level that is without parallel.

Some of the most brilliant minds in the world are working to see that the industry does not destroy us while trying to save us.

The tools of its trade are equipped with automatic and redundant safety features that make such things as automotive airbags seem terribly crude.

Yet in spite of all of that, the industry is haunted by critics who refuse to go away. It seems at times that some people never will be satisfied.

Why?

Perhaps UC San Diego's Nobel Prize-winning physicist Dr. Hannes Alfven pinpointed the reason when he observed that the nuclear industry relies on a level of perfection in which "no acts of God can be permitted."

In short, although the nuclear industry has the capacity for doing great things for mankind, it also has the capacity for unleashing catastrophies of such magnitude that all other problems seem pale by comparison.

Some of the problems have been the subject of much shouting and yelling in the past. But others are just now being discussed in whispers.

And as if all this were not enough, the beleaguered industry has problems of its own. Its power plants have not proved reliable, and today, at the height of the energy crisis when the industry had expected to move into prime time, many of its plants are shut down or operating on a limited level.

Southern California has only one nuclear power plant, and it has been closed for six weeks and will be closed until sometime after the first of the year.

New England has five nuclear power plants—only one of which is operating now at full capacity. One has been inoperable for 10 of the past 12 months.

The most pressing questions today, however, strike directly at the issue of public safety rather than plant reliability.

Adding punch to the issue are the conclusions of some of the top nuclear physicists in the world, experts within the Atomic Energy Commission (AEC) itself, a prestigious international scientific organization, and U.S. governmental agencies. Briefly, the questions center on:

Reactor safety. The most important safety feature in any nuclear power plant is the emergency core cooling system, but no full-scale test ever has been conducted to see if the system will work.

Breeders. Because of the shortage of uranium, this country already has committed itself to the fast breeder reactor, which makes more fuel than it uses. However, the breeder is an unproven technology, and many experts contend that breeders will be many times more hazardous than the present generation of reactors.

Sabotage. This subject is so disturbing that it never has been discussed fully and openly. But there is mounting concern over nuclear facilities as targets for terrorists.

Homemade bombs. As nuclear facilities proliferate, the opportunities increase for diversion of bomb-grade nuclear materials that would permit terrorists to build their own atomic bombs. In addition, such countries as Cuba probably will soon have nuclear weapons, possibly built with materials diverted from the peaceful use of the atom.

Radioactive waste. Although the nation is moving fully into the nuclear age, no method has been developed for disposing of deadly radioactive waste products that must be isolated from man's environment for thousands of years.

Acts of God. Although, as Alfven observed, they are not permitted, acts of God could wipe out in a single stroke all of the safety features built into nuclear facilities. The San Fernando earthquake occurred along an "unknown" fault, and had it been much closer to a nuclear power plant the results could have been catastrophic.

As a top AEC executive observed in a Carmel conference in September, 1971:

"When an earthquake occurs near a nuclear power plant, every feature of the plant will be affected to some degree by the earthquake. Complex multiple failures may occur. If the nuclear power plant is not adequately designed and constructed to withstand the earthquake effects, the potential exists for the concurrent loss of fuel integrity and loss of function of the redundant systems and barriers which prevent radioactivity release."

In view of that, it is a little difficult for the critics to understand why the government is just now getting around to conducting extensive seismic surveys of the area immediately offshore from a major new nuclear power complex that is more than half completed near San Luis Obispo.

But so much for earthquakes. What about the built-in safety systems? Will they work, God permitting?

The most controversial part of any reactor today is the emergency core cooling system. This system would deliver borated water to the reactor core in the event that the primary cooling water was lost. The emergency coolant would keep the reactor from overheating to the point of melting, which could result in the release of radioactivity.

The critics say it won't—or at least may not—work.

The AEC and the nuclear industry insist that it will, and some have even pointed to the recent problems at Southern California's San Onofre power plant as proof that the emergency system works.

Mechanical problems there last October resulted in minor damage to the emergency cooling system, but the system did pump borated water to the reactor in response to automatic warning devices.

The water did not enter the reactor core because there really was no emergency—the core was still full of the primary coolant.

Officials with Southern California Edison Co., which owns 80% of San Onofre, have contended that the incident demonstrated the reliability of the equipment.

But the debate over the emergency core cooling system has had nothing to do with whether the pumps would work. In fact, just about everybody has assumed that the pumps would work.

Dr. Henry Kendall, professor of physics at

Massachusetts Institute of Technology, contends that if the primary cooling water were lost (through extensive pipe ruptures, for instance) pressures in the reactor core would build up so fast that the emergency coiling water would not be able to enter.

As a result, the reactor would melt. Some critics contend that the heat and pressures would be so great that the reinforced concrete dome over the reactor would be damaged, permitting the release of massive, deadly radiation.

Who is right?

That question could be answered by simply denying the primary coolant to an operating reactor.

If the AEC is right, the reactor would shut itself down automatically and the emergency cooling system would do its thing.

But if the AEC is wrong . . .

A special reactor could be built to test the system underground in the nuclear weapons testing area of Nevada, for instance. A complete, full-scale test could then be conducted safely.

Recently such a plan was suggested to the aide of one of the members of the Atomic Energy Commission.

"It could be done," he said, "but it would be terribly expensive to wipe out all of that equipment."

He was reminded that the system is supposed to save the equipment, not wipe it out.

If everything worked according to plan, the plant could be used to generate electricity, and nothing would have been lost while much would have been gained.

At this stage, however, the AEC has not seen fit to plan such a test.

In the long run, the questions of sabotage and diversion of bomb-grade nuclear materials may be of even greater significance than plant safety.

During an interview in his Washington office, L. Manning Muntzing, director of regulation for the AEC, conceded that a band of highly trained, sophisticated terrorists could conceivably take over a nuclear power plant near a major city and destroy it in such a way as to kill thousands—perhaps even millions—of people.

In order to be successful, the terrorists would have to know a great deal about nuclear power plants, but as time passes and nuclear reactors proliferate around the world that knowledge will become more common.

Some of the world's leading scientists expressed grave concern over this problem during the Pugwash Conference held in Finland last September.

The conference, with head offices in London, brings together about 100 scientists each year, many of whom are nuclear physicists who have been instrumental in the advancement of the nuclear age. UCSD's Alfven is president of the conference.

In a report issued following the 23rd Pugwash Conference on Science and World Affairs, the scientists warned:

"The question of sabotage of nuclear reactors, waste shipments, or reprocessing plants generates especially grave concerns because this possibility renders all the theoretical failure probabilities meaningless.

"This may be an additional reason to place reactors and reprocessing plants deep underground, if research confirms any real accident-containment advantages for this approach.

"Other measures against sabotage discussed by the (conference) included very careful guarding of the installations themselves, perhaps facilitated by clustering the various facilities at one location."

"Unfortunately, it is difficult to believe that even these measures can be 100% effective."

The question of theft of bomb-grade material also brought expressions of grave concern from the delegates. The Pugwash report stated:

"The problem of theft of nuclear material by internal groups or individuals intent on sabotage, terrorism or blackmail was agreed to be a very serious one."

The report points out that the breeder reactors will produce far greater amounts of dangerous byproducts than the present generation of reactors, but it concludes:

"The problem cannot be avoided simply by abandoning the breeder reactor, because, as noted above, all other reactor types also involve the use of materials available for weapons manufacture.

"It is difficult to see how the theft of such material can be made impossible in a world characterized by human failings, but measures to make such theft more difficult should be carefully studied and the best ones implemented as soon as possible."

In an effort to deal with this problem, the AEC recently tightened security requirements for nuclear facilities. However, a report to Congress by the comptroller general of the United States, dated Nov. 7, 1973, contains some rather startling observations.

The report (Improvements Needed in the Program for the Protection of Special Nuclear Material) noted that "persons with the requisite technical expertise and the necessary resources can make a crude nuclear weapon from 17 kilograms (37½ pounds) of uranium or 6 kilograms of plutonium." You could almost carry that much in your pocket.

To aid in preparing their report, GAO investigators visited three of the 600 organizations authorized to possess what the AEC calls "special nuclear material." The investigators "noted several conditions at two of the three plants which significantly limited the plant's) capability for preventing, detecting, and effectively responding to a possible diversion or diversion attempt."

Examples included fences that had holes large enough for people to get through. In some cases the holes were in areas where the guard could not see them.

Inspectors also found nuclear material stored in "a prefabricated steel structure which could be breached easily."

They also found ineffective guard patrols, ineffective alarm systems, a lack of automatic detection devices, and a lack of an action plan in the event of theft of material.

As the report notes, the opportunities for diversion will multiply as more and more nuclear plants and related facilities are built around the country. That obviously means more and more hazardous material will move along the streets and highways from one facility to the next.

Another GAO report, dated July 31, 1973 (Opportunity for AEC to Improve Its Procedures for Making Sure That Containers Used for Transporting Radioactive Materials Are Safe), notes:

"Annual shipments of the more hazardous types of radioactive materials in the United States are expected to increase nearly eighteenfold between 1972 and 1985—from 1,800 to 32,100 tons.

Debate broke out last year in Oregon when local citizens discovered that highly radioactive materials had been shipped through their state in unmarked trucks, and local officials were not even notified.

Local people figured they had a right to know about such things, but federal officials were concerned over the fact that informing the natives would also mean that potential hijackers would be alerted to the shipment.

So what do you do? Do you paint "radioactive" across the truck so the citizens know of the danger? Or do you disguise the shipment so that the hijackers won't know?

As it stands now, the government has decided that it is more important to keep the hijackers in the dark, but at least it tells local authorities about the shipments.

Some of these problems could be minimized by clustering nuclear power plants and related facilities together, far from population centers. Large areas of land could be set aside, thus permitting greater security for the entire operation.

Many executives within the AEC favor such "nuclear parks," but there is little evidence so far that the nation is moving in that direction. Nuclear power plant sites are still being approved across the country, and existing facilities are still being permitted to expand.

So it appears that the course for the future will follow about the same path as in the past There will be more and more nuclear facilities in widely scattered areas of the country.

In addition, facilities will multiply not only in number, but in complexity as well—and quite possibly in hazards.

Earlier this year the AEC awarded contracts to Westinghouse for the nation's full-scale demonstration breeder reactor.

During extensive interviews with AEC executives in Washington, it became clear that the AEC believes the breeder is essential to the nuclear industry in order to guarantee an adequate supply of fuel. It also became clear that the country is already committed to the breeder, come what may.

The breeder is not merely another evolution in the nuclear cycle. It is a new breed of cat, and many pro-nuclear scientists are deeply concerned about the safety of the breeder.

The breeder will operate at such high temperatures that it will not be possible to cool it with water. As a result, liquid sodium will be used. Writing in the Bulletin of the Atomic Scientists, physicist Amory B. Lovins noted that a single breeder will contain roughly a ton of plutonium 239—a radiological poison so toxic that if properly reduced and dispersed, a ton of it would far more than suffice to give lung cancer to everyone on earth."

In describing breeder operations, Lovins said "The sodium, which is violently reactive with air or water, is to emerge (from the reactor core) intensely radioactive and heated to about 1,000 degrees F."

If such a system can even be made to work, can there be a guarantee that it will not deteriorate faster than it can be maintained?

Perhaps time will tell.

Meanwhile, the nation will continue stockpiling deadly radioactive waste products for which it has no permanent repository.

The issue was summarized in the Pugwash Conference report:

"The as yet unsolved problem of radioactive waste management, and the possibly unsolvable problems of catastrophic releases of radioactivity or diversion of bomb-grade material, combine to create grave misgivings in the (conference) about the vast increase in the use of nuclear power that has been widely forecast."

Maybe that's why the questions won't go away.

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## WHAT IS THE PRICE OF DR. KISSINGER'S "PERSONAL DIPLOMACY?"

### HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. RARICK. Mr. Speaker, Dr. Kissinger continues to receive praise and congratulations for his heroic efforts in separating the belligerent forces in the Middle East. Some consideration must be given to the cost the American people must bear as the price for achieving peace through "personal diplomacy." Every American must understand that each success of Dr. Kissinger bears a price tag, the real cost of which has not as yet been divulged.

During the time of the Middle East negotiations and agreement, numerous accounts, some by administration spokesmen and others before Congress, suggests the price the American people have paid and will have to pay for Dr. Kissinger's triumph:

Foreign trade bill.

Soviet wheat deal.

Tax free status for the OAU.

Grant of $2.2 billion to Israel.

Kissinger's trip to Panama to negotiate Canal surrender treaty.

Senate repeal of Byrd amendment granting Soviet monopoly on chrome.

U.S. helicopter sales to Red China.

Renewed SALT talks on disarmament.

Negotiations with Castro Cuba.

Genocide Treaty consideration early in 1974.

The timing and the urgency with which each of these measures has been pushed can only suggest that they were part of the consideration of either showing our Government's seriousness or buying peace. The full disclosure is yet to come, if it is ever made to the American people.

I ask that related newsclippings follow:

[From the Washington Farmletter, Jan. 18, 1974]

### Brunthaver Leaving

Assistant Secretary of Agriculture Carroll Brunthaver has resigned, effective Jan. 31. He will go to the Brookings Institution and spend around six months on a study of an international grain reserve along the lines proposed by Secretary of State Henry Kissinger. Brunthaver, 41, has spent 5 years at USDA. He helped shape the current commodity programs, and has been a major target for critics of the Russian wheat sale.

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[From the Washington Star-News, Jan. 17, 1974]

(By Jeremiah O'Leary)

Secretary of State Henry A. Kissinger is planning a short visit to Panama early next month to show U.S. interest in diplomatic efforts to settle the Canal Zone question once and for all, according to informed sources.

Now on a peacemaking mission to the Middle East, Kissinger already is booked to meet with the Latin American foreign ministers in Mexico City Feb. 20 through 22. The trip to Panama comes as a surprise because it is described by informed sources as a one-country journey and because Kissinger is known to be planning a more extensive swing through Latin America in the spring.

The decision to go to Panama, according to insiders, emphasizes the new U.S. concern with reaching early agreement with the Panamanians on the future of the canal, the U.S.-controlled zone and the military bases agreement. There is also interest in possible future expansion of the canal facilities by addition of a third set of locks or excavation of a sea-level waterway.

It is believed that Kissinger will meet in Panama City with Demetrios Lakas, the figurehead president, Foreign Minister Juan Tack and Brig. Gen. Omar Torrijos, commander of the para-military Guardia Nacional and Panama's strongman.

Reports from Washington and Panama indicate Tack and Ellsworth Bunker, the roving U.S. ambassador who is in charge of canal treaty negotiations, now have agreed on a set of eight principles for accelerating the talks.

Kissinger's personal presence in Panama will tend to reinforce the idea that Panama and the United States have haggled long enough over the canal issues. Negotiations have been going on since 1967.

The United States has long recognized that Panama should and will recover control of the 10-mile-wide Canal Zone and eventually will be given control of the canal itself.

The White House, meanwhile, announced yesterday that a Kissinger aide in the Nation Security Council, William Jordan, will be nominated to be ambassador to Panama. Jordan, a former newspaperman, has been the NSC's resident expert on Latin America and liaison between the State Department's bureau of inter-American affairs and the White House. He succeeds Ambassador Robert Sayre.

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[From the Montgomery (Ala.) Advertiser]

### Cubans Say Now They Will Talk

Mexico City.—Cuba is willing to begin talks with the United States on re-establishing diplomatic relations as soon as Washington lifts its 12-year-old economic blockade against Fidel Castro's island regime, a Cuban diplomat said b. 15.

"We are not in a holy war with the United States," said Dr. Fernando Lopez Muino, "but we will never undertake negotiations while the blockade is in effect."

He indicated that the U.S. Navy base at Guantanamo was not an issue.

Lopez Muino, Cuba's recently appointed ambassador to Mexico, met in his suburban embassy with a small group of Mexican and foreign newsmen invited by Cuban officials.

The ambassador has been in Mexico for six months.

He specifically stated that the U.S.-controlled naval base at Guantanamo Bay was no longer an obstacle to any negotiations, "Guantanamo isn't important to us now," Lopez Muino stated.

Previously, the Cubans had declared that departure of the U.S. Navy from Guantanamo was a condition of getting Cuba to sit down at a negotiating table.

The ambassador's meeting with newsmen was the first such gathering since he arrived here. It occurred a little more than a month before Secretary of State Henry A. Kissinger is to meet in Mexico City with Latin American foreign ministers to discuss current and future relations between Washington and those countries.

"I guess you could speculate that the ambassador's meeting has something to do with the Kissinger visit," a Cuban source said.

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[From the Washington Star-News Jan. 15, 1974]

### China Negotiates for American Copters

(By George Sherman)

China is negotiating for large American helicopters which might be used in military patrols along her northern borders with the Soviet Union.

Informed sources say the U.S. government has taken the initial step of allowing United Aircraft Corp. to give Peking "sales information" on the Sikorsky medium-heavy helicopter—the S61N.

A spokesman for United confirmed that preliminary conversations with China for a fleet of helicopters are under way both in Peking and at the company headquarters in East Hartford, Conn.

At the same time, according to diplomatic sources, United is further along in talks with Romania for co-production in Romania of 50 of these helicopters valued at $100 million. That deal, which would need government-backed financing from the Export-Import Bank, is now being discussed in Bucharest, after an informal meeting between President Nicolae Ceaucescu and United officials in Connecticut during Ceaucescu's visit to the United States in December.

Romania, the most independent of Soviet allies in East Europe, has repeatedly refused to take sides with Moscow against Peking. Officials note that a helicopter deal with either Peking or Bucharest would be the first time the United States has allowed heavy-duty helicopters to be sold outside the Western allied world.

A sale to China, say U.S. officials, is bound to increase suspicions in Moscow that the United States is taking sides in the Sino-Soviet dispute. Therefore, they suggest, any completition of the current "preliminary discussions" between United and China will involve a policy decision by President Nixon.

The S61N, a twin-turbine engine all-weather helicopter with amphibious capabilities, can carry 26 to 30 passengers. A version of it is used by President Nixon to travel between the White House and Camp David.

United Aircraft officials say that both China and Romania would be sold the commercial version of the S61N. It would not contain such military features as bullet-proof gas tanks, "hard points" for attaching machine guns, missiles and bombs, or have the more powerful engines used by the American military.

For this reason, licensing for the export would go through the Commerce Department rather than the State Department, which operates the restrictive Munitions Controls List Under the Mutual Securities Act of 1954, all military sales to Communist countries are embargoed, unless the President specifically authorizes them.

But Pentagon officials acknowledge that a distinction between civilian and military uses is virtually impossible to make for helicopters. Nothing would prevent China, they say, from using the S61N to ferry its patrols between border outposts on the long Soviet border.

Reportedly Peking representatives suggested that might be one possible use. These representatives apparently first suggested to United that the company cooperate in setting up an asesmbly plant for the helicopter in Sian, in north central China.

But company officials say that China has been told such a deal is out of the question because the United States does not want to allow such advanced technology into China.

The most that would be possible, would be delivery of a limited number of helicopters with spare parts from the United States.

In the case of Romania however—whose relations with the United States have steadily grown more cordial over the past five years—just such a coproduction offer has been made by the company with U.S. government blessing.

According to informed diplomats, Romania has stressed the civilian uses of the helicopter such as for transportation in desolate, rural areas. Currently Romania relies on Soviet helicopters and a limited number of French helicopters.

China had its first contact with United Aircraft through its maintenance teams that traveled to Connecticut to learn about the Pratt-Whitney engine produced by the company for the Boeing 707 jet airliner. China has purchased 10 of the 707s, and the first was delivered last month.

# SENATE—*Tuesday, January 22, 1974*

The Senate met at 10:30 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

### PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, unto whom all hearts are open, all desires known, and from whom no secrets are hid, set us free from all that obstructs doing Thy will. Grant to us who labor here the wisdom and grace to serve Thee with our whole heart and mind and soul and strength that we fail neither our generation nor Thee. Walk with us and work through us Thy holy will for this Nation.

We pray in His name who taught us to serve rather than be served. Amen.

## THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, January 21, 1974, may be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## ATTENDANCE OF SENATORS

Hon. GEORGE D. AIKEN, a Senator from the State of Vermont, Hon. NORRIS COTTON, a Senator from the State of New Hampshire, Hon. BOB DOLE, a Senator from the State of Kansas, Hon. THOMAS F. EAGLETON, a Senator from the State of Missouri, Hon. ERNEST F. HOLLINGS, a Senator from the State of South Carolina, Hon. ROBERT T. STAFFORD, a Senator from the State of Vermont, and Hon. TED STEVENS, a Senator from the State of Alaska, attended the session of the Senate today.

## COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## TEAPOT DOME AND SENATOR THOMAS J. WALSH, OF MONTANA

Mr. MANSFIELD. Mr. President, in last Sunday's Washington Star-News, under date of January 20, 1974, is an article by Mr. Stephen W. Stathis and Mr. Lee Roderick entitled "Fearless Tom Walsh—One-Man Terror in That Earlier Scandal."

Tom Walsh, in my opinion, was one of the truly great Senators in the entire history of this Republic. I feel honored that in the line of succession, I occupy the seat once held by Tom Walsh, of Montana. I am delighted that this outstanding American's memory has been revived and his accomplishments enumerated once again.

I ask unanimous consent that the article referred to be incorporated at an appropriate point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star-News, Jan. 20, 1974]

### FEARLESS TOM WALSH—ONE-MAN TERROR IN THAT EARLIER SCANDAL

(By Stephen W. Stathis and Lee Roderick)

Ironically, in the great scandals of American political history what is maintained in the public memory is the catchy title awarded to them by the press and the names of those whose lives became enmeshed in their web. People rarely remember those who labored long to expose the accused.

Among the various scandals, Teapot Dome is unique in that its exposure was largely the work of one man. While we remember Albert B. Fall, Edward L. Doheny and Harry F. Sinclair, who remembers that almost single-handedly the late Senator Thomas J. Walsh unearthed the basic facts of the oil lease scandal that came to symbolize much of the corruption in the Harding administration?

Acting virtually alone for the first year and a half of the oil lease investigation, which began in April 1922, Walsh, like a bloodhound, early caught the scent of corruption and pursued it through briar patch after briar patch until he had his quarry treed. Only then did an apathetic press and public and a reluctant Congress acknowledge that something indeed was rotten out there on the Wyoming prairie at an oil field called Teapot Dome.

Prior to the investigation, Walsh was practically unknown outside his adopted Montana, or in the Senate, where he had an enviable reputation as one of that body's keenest legal minds, and an unenviable reputation as one of its driest.

"No cynical jest, no paradox, no fling at any of the ridiculous contradictions of life, ever passes his lips," wrote a contemporary observer of Walsh. "He demonstrates to us all over again that a solemn Irishman is God's most solemn creation."

Walsh's iron-willed independence and incorruptible character were fashioned early in life. A son of Irish parents who immigrated to America and settled in Wisconsin in 1850—nine years before Thomas J. was born—the future senator had a heritage and a history of swimming against the tide long before he went to Washington.

His father, Felix, was reared a Roman Catholic among the Protestant Orangemen of Northern Ireland. When the elder Walsh arrived in Wisconsin he passed up two nearby Irish settlements to establish himself at the village of Two Rivers, Manitowoc County, which was predominantly German. The Irish family which included Felix's future wife, Bridget Comer, followed suit.

Although devout Catholics, the Walshes sent their children, including Tom, to the public school rather than the local parochial school. The youth was graduated at 16 and immediately became a rural school teacher. From here his ambition prodded him into long hours and intense study. At 21 he achieved—by passing a state examination—a permanent teaching certificate.

#### SELF-MADE LAWYER

Armed with his certificate of proficiency, Tom Walsh became a high school principal. For the next three years, whatever leisure hours his teaching duties afforded were devoted to the study of law. Then, in 1883 and without having set foot in a college or university, he entered law school at the University of Wisconsin where he was immediately enrolled in the senior year of preparation for the bar—an unusual achievement even then.

Admitted to the bar the next year, Walsh and his brother, Henry, formed a partnership and, following the custom of the day, headed west. They alighted in the town of Redfield, now in South Dakota, and hung their shingle.

Six years later, in 1890, Tom Walsh again moved west, this time to the capital of Helena, Montana, from where he was to launch his political career. He took with him a reputation as a very able lawyer, a wife, and a baby daughter, all acquired in South Dakota.

Montana was a fertile field for an ambitious young attorney willing to school himself in the intricacies of mining law, which was far from a settled system of jurisprudence. The stakes were high: Mining was the state's principal industry and litigation between the small miners and the giant copper companies flourished.

Walsh characteristically submerged himself in an effort to tie together loose threads of the developing law, made himself its master, and, over the next two decades, gained prominence in the legal world for his learning and ability as a mining lawyer as well as an expert on the Constitution.

In at least one instance, an opposing counsel, after listening to Walsh cite case after case from memory to bolster his arguments, complained to the judge that he obviously didn't have a chance against "an encyclopedia of law like that."

Walsh was first and foremost his own man. When the largest corporation in Montana, the Anaconda Copper Co., offered him the position of company attorney at a liberal salary, Walsh turned it down, saying he could not try a case if justice lay on the other side. The decision was to have important political consequences.

Although Walsh at times had represented Anaconda as well as other large copper interests, he came to be known as the champion of the small and struggling miners. The reputation was gained, however, at the cost of incurring the enmity of Anaconda, whose support was generally deemed vital to any serious political aspirant in Montana.

Walsh's first try at elective office came in 1906 when, with popular Republican Theodore Roosevelt occupying the White House, he was easily defeated for the House of Representatives.

#### "ROBBED" OF VICTORY

Four years later Walsh was the Democratic candidate for the U.S. Senate. Despite the opposition of powerful financial interests, his vigorous campaign was successful and the Democratic Party gained control of the Montana legislature by a narrow margin.

Although it was not then bound by law, under ordinary circumstances the legislature would have met and declared Walsh the winner. However, 12 delegates, ignoring the will of the voters, refused to assemble for the balloting. A deadlock ensued and the Senate seat finally went to a man who hadn't even been a candidate.

"I am not greatly troubled . . . but I am no hypocrite," Walsh wrote following the outcome. "I feel that I have been robbed of this honor when I honestly and laboriously earned it and there was no just cause for withholding it. . . ."

The bitter experience remained with Walsh always and served to strengthen his commitment to justice after he was elected to the Senate two years later, in 1912. This time, in an unprecedented action and perhaps in recompense for 1910, Walsh received every vote cast in both houses.

The junior senator proved as unbending in Washington as he had been in Montana.

"The implacability of Walsh stands him in relief among his fellows," wrote one contemporary. "Senators, as a rule, are amiable chaps, full-bodied, easygoing, sparing of effort, tender of amenities, tolerant of their adversaries. Through this comfortable aggregation Walsh stalks, grandly serious; always in earnest. There is something suggestive of . . . the Inquisition about him; a consciousness of rectitude, unblemished by any concern with the feelings of those on the rack."

His first decade in the Senate was distinguished. He personally led the confirmation fight for Justice Louis D. Brandeis's appointment to the Supreme Court in 1916. He flayed the cruelties and injustices of Attorney General A. Mitchell Palmer and the Department of Justice in the so-called "red scares" at the close of World War I.

He helped draft the constitutional amendments which provided for woman's suffrage and prohibition. Largely through his efforts the abominable working conditions in the steel industry became a national concern, he was one of the first senators to insist on federal regulation of excessive stock exchange speculation.

"Thus in the Senate, among his fellow senators," one writer aptly noted: "Mr. Walsh rightfully gained the reputation of being one of the Senate's deepest minds; and thus for the occupants of the press gallery, who could not put disquisitions on the Constitution into their news stories, Mr. Walsh remained a total loss."

### LIKE TRAILING MOSSES

During more than a decade of service in the Senate, the biggest stir Walsh had created in the press gallery was on the day he clipped his fierce walrus mustache, which one reporter said had previously "descended from the ends of his upper lip to the sides of his chin, like trailing mosses on a sad swamp pine."

This incorruptible son of Irish parents seemed singularly destined to go largely unnoticed by history. However, fate juxtaposed his path with that of a brewing scandal which would soon become part of our American folklore. His exhaustive investigation of the Teapot Dome scandal magnified the very traits that had kept Walsh out of the public eye and propelled him to national esteem.

Teapot Dome, located 50 miles north of Casper, Wyoming, was one of three oil fields reserved by previous presidents for possible emergency use of the Navy. During the early months of the Harding administration, however, Interior Secretary Albert B. Fall of New Mexico had the jurisdiction over the reserves transferred from the Navy to his own department, and proceeded to secretly award private leases at Teapot Dome and Elk Hills, California.

Harry F. Sinclair's Mammouth Oil Co. got the Wyoming lease, with Elk Hills going to multimillionaire oil operator Edward L. Doheny, a friend of Fall's dating back to when they prospected the West together. Ironically, Doheny, a quiet little man, also had had a lifelong friendship with Walsh.

Walsh became involved in the oil lease investigation reluctantly, semi-officially, and only after prodding by fellow Democratic senators. His role in the probe began by virtue of membership on the Senate Committee on Public Lands and Surveys which conducted the investigation.

The committee's GOP chairman and majority members obviously were not anxious to embarrass their own administration, and the leadership role quickly passed to Walsh by default.

In its resolution ordering the investigation, the Senate also directed Fall to forward all documents and other information relevant to the probe. His response was to send the committee a tremendous pile of papers.

If one listens carefully, he can almost hear Fall chuckling as he dictates the letter of transmittal: "My casual estimate of the number of pages being forwarded you is that the aggregate will be between 10 and 15,000 pages . . . these documents number approximately 2,300. I think that upon examination you will agree with me that every possible paper, or scrap of paper, that could refer to any of the matters . . . (has) been obtained and (is) included. . . ."

Skeptics have argued that Fall's mountainous barrage was intended to swamp the committee and, in fact, the panel's official probe was postponed a year and a half while the papers were being examined.

Whether or not the mass of documents—mostly technical in nature—was intended to dissuade members of the committee, it had that precise effect. With one exception: Walsh. The Montanan had at last met a legal challenge worthy of his skills. Grimly determined, he began mining the papers, sifting them carefully for 16 months during which he found few gems but did succeed in making himself an expert on leasing policy.

### NATIONAL SECURITY

Secretary Fall maintained that oil seepage at Teapot Dome and Elk Hills as well as overriding considerations of "national security" justified both the exploitation of the reserves and the secrecy. Walsh, however, became convinced that beneath the questions of propriety lay graft. It was a position to which he clung tenaciously long after most others had lost interest in the case.

Before the committee finally had begun its hearings in October 1923, Fall resigned from the Cabinet to go to work for Sinclair.

Following his last Cabinet meeting, Fall remarked to reporters, "I have tried to impress upon my friends and associates that my leaving Washington is not a case of saying 'goodbye,' but 'until we meet again.'"

His words proved prophetic when the former Interior head appeared on October 24 as a leadoff witness in the investigation.

The probe appeared headed nowhere from the outset and most members of Congress, like the press and public at large, showed little interest in the proceedings. Walsh, however, remained a thorn in the sides of witnesses, who included a flood of naval officers, geological experts and, finally, Doheny and Sinclair.

The Montanan's persistence was not without cost. He was labeled a character assassin and scandalmonger. His phones were tapped, his past life investigated, his mail opened, his life threatened. Walsh's daughter, while strolling his infant granddaughter, was stopped by a stranger who threatened harm if she didn't persuade her father to drop the investigation.

Meanwhile, it became known that Fall had recently and mysteriously come into wealth, and had made major improvements on his heavily mortgaged ranch in New Mexico.

It was also discovered that Sinclair had visited Fall's ranch at about the same time and had sent him several head of fine Holstein cattle and two prize hogs.

(The livestock later provided the basis for the only levity of the investigation—however short-lived—when Archibald Roosevelt, son of the late President and a vice president of a subsidiary firm owned by Sinclair, voluntarily took the stand to testify. Roosevelt stated he had overheard Sinclair's private secretary, Gustav Wahlberg, say that his boss had "advanced" $68,000 to the foreman of Fall's ranch. Walsh placed Wahlberg on the stand where he insisted incredulously that what Roosevelt had actually overheard was that phrase "six to eight cows," not "sixty-eight thous'.")

Fall, back at his ranch, was ordered to reappear before the committee to explain the source of his new-found gain. Although he returned to Washington, he secluded himself in a hotel, pleading ill health, and instead sent the committee a letter claiming he had been loaned $100,000 by Edward McLean, playboy owner of the Washington Post.

McLean, vacationing in Palm Beach, corroborated Fall's assertion, but refused to travel to the capital to testify under oath. Whereupon Walsh went to Florida to take McLean's testimony. "I was dumbfounded when McLean . . . frankly admitted that he never did loan the money to Fall . . . ," Walsh wrote later. McLean claimed his involvement was the result of "going down the line for a friend."

Perhaps Walsh's sternest test came when his old friend Doheny rushed to Washington and volunteered to the committee that the $100,000 "loan" to Fall, which was delivered in cash in a black bag, had actually come from him.

### FALL'S DOWNFALL

He proceeded relentlessly to question Doheny as well as later witnesses who disclosed that Harry Sinclair had been even more generous to Fall, lining his bank account with $304,000, including $233,000 in Liberty Bonds that Sinclair said was payment for one-third interest in Fall's ranch.

Shortly thereafter under the terms of a Walsh-sponsored resolution, two special prosecutors, subject to the advice and consent of the Senate, were appointed by President Coolidge to conduct the legal phase of the investigation. Subsequently in 1927 the courts vacated the contracts made by Fall with Sinclair and Doheny.

In 1930, however, after a series of trials and appeals, the case ended illogically: Fall was convicted of accepting a bribe from Doheny, but both Doheny and Sinclair were acquitted of offering bribes. A year later, Fall became the first cabinet officer to be imprisoned for a felony committed while in office.

Although Teapot Dome made Senator Walsh a national hero, he failed to harvest political fruit from his fame.

His candidacy for the Democratic presidential nomination in 1928 was short-lived and prompted from him a rare public display of pique. In withdrawing from the race, Walsh, an outspoken supporter of prohibition, said he regretted nothing except the fact that there was a "multitude who put booze above every other question, national and international."

During the 1928 campaign, one reporter probably came close to the mark when he wrote about Walsh: "If he ever reached the White House, he would be as aggressive as Roosevelt, as judicial as Taft, as self-sufficient as Wilson, and as isolated as Coolidge—and as stubborn as all of them put together."

When Franklin D. Roosevelt was elected President in 1932, he unhesitatingly chose Walsh as his attorney general. Accepting reluctantly, Walsh said, "From the point of glory, the Cabinet is possibly the greatest, but from point of service there is nothing higher than a seat in the Senate except the presidential chair itself."

Walsh's nomination to the Cabinet was greeted with praise by newspapers of all major parties. Praise turned to mourning, however, when Senator Walsh, at 73, died suddenly on the eve of the inauguration.

His death spurred a flood of eulogies. One of them, in The Nation magazine, summarized particularly well the meaning of Walsh's life to the current national situation:

"In these days when the tendency is widespread to cite 'the times,' 'conditions,' 'changing standards,' in extenuation of the weaknesses and betrayals both of public servants and of men in high positions of private trust, the record of Thomas J. Walsh offers a shining example of what a public servant in a democracy may be, and what, single-handed, he may achieve."

## FIRST ANNIVERSARY OF DEATH OF PRESIDENT LYNDON B. JOHNSON

Mr. MANSFIELD. Mr. President, today marks the first anniversary of the death of our late President Lyndon B. Johnson. I had the honor to serve with President Johnson in the House and in the Senate and to work closely with him while he was the President of the United States.

Lyndon Johnson was a man of action and vitality. He wanted things done, and he got them done. While we had some differences, I think history will record that, of all the Presidents of the United States, Lyndon Johnson did as much for his Nation than any combination of Presidents that one can think of; particularly concerning the welfare, health and well-being of her citizens.

He has left behind him shining monuments in the area of civil rights and in the area of education from the elementary through the college grades. He did much in the field of health, and every aspect of the domestic scene was covered and covered completely by this man, who was so tireless, who was so devoted, and who loved his country so much. His deep concern was especially manifested in those areas that had suffered long neglect. For the first time in our history, for example, Lyndon Johnson sought directly to enhance opportunities for the poor and the deprived. The "war on poverty" was a monumental task in both its scope and ambition. The war against crime was similarly given enormous impetous with Lyndon Johnson's Omnibus Crime Control and Safe Streets Act.

It is with regret that I note this first anniversary of the death of a friend and a President, a man who contributed so much to his State and to the Nation, and a man who will be remembered for many decades to come because of the many fine things he did for the American people. The legacy he has left behind in his outstanding achievements will never be forgotten. It was produced with enormous quantities of personal energy and foresight and with a great love for America, for her people, and her institutions.

## ORDER OF BUSINESS

The PRESIDENT pro tempore. Does the Senator from Michigan desire recognition?

Mr. GRIFFIN. No, Mr. President.

## ORDER FOR RECOGNITION OF SENATOR PACKWOOD VACATED

The PRESIDENT pro tempore. Under the previous order, the Senator from Oregon (Mr. Packwood) is recognized for not to exceed 15 minutes.

Mr. GRIFFIN. Mr. President, on behalf of the Senator from Oregon, I ask that this order be vacated.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will not be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m., with statements therein limited to 3 minutes.

Mr. MANSFIELD. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## ORDER FOR ADJOURNMENT TO 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 a.m. tomorrow.

The PRESIDING OFFICER (Mr. Metzenbaum). Without objection, it is so ordered.

## QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## THE DEATH OF LEWIS L. STRAUSS

Mr. HARRY F. BYRD, JR. Mr. President, the United States and Virginia lost one of its outstanding citizens yesterday in the death of Lewis L. Strauss at his home in Brandy Station, Va.

Admiral Strauss, in my judgment, was one of the most dedicated Americans. He served his Nation with deep patriotism and with great ability. He was a close and devoted friend, and one for whom I had great affection and great admiration.

I do not think that I have ever met a more unselfish person than Lewis Strauss. He not only served his country in public office as Chairman of the Atomic Energy Commission, but he also served his fellow citizens in many philanthropic capacities.

Admiral Strauss will be greatly missed. I feel that the country owes him a great debt for the many years that he devoted to the welfare and advancement of our Nation.

## EFFECTS OF ENERGY CRISIS ON THE AMERICAN PEOPLE

Mr. HUGHES. Mr. President, recent reports on the substantial energy savings achieved on a voluntary basis by the American people have been most heartening. At the same time, however, hundreds of Iowans have written me of their concern for knowing the truth about these current shortages: whether the crisis is real or manufactured; whether the shortages we are suffering not only in Iowa, but throughout the Nation are the result of kinks in the distribution system or the result of monopolistic practices by the big oil companies. These are fundamental questions which Americans are asking and to which they have a right to expect answers.

Recently, I received a letter from Mr. Donald C. Kramer, of Des Moines, Iowa. His letter expresses so well the sense of frustration which more and more Americans are feeling in the wake of weeks of uncertainty and indecision about the energy crisis—what caused it and what is being done about it.

Mr. President, I ask unanimous consent that the text of the letter from Mr. Kramer be printed in the Record following my remarks so that my colleagues may get some sense of the depth and extent of the feelings of millions of Americans about the energy crisis.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HUGHES. Mr. President, Mr. Kramer's letter symbolizes so well the extreme frustrations of the personal family life of this one family that I thought my colleagues should share in what I thought was a well-thought-out and well-written expression of the total frustration of one American family in my home State.

Exhibit 1

Des Moines, Iowa,
*January 6, 1974.*

U.S. Senator Harold Hughes,
*U.S. Senate Office Building,*
*Washington, D.C.*

Dear Sir: As a tax paying resident of the state of Iowa I have tried very hard not to have too many complaints, but after most of my 43 yrs. as a resident of this state I have come to the point I feel I can no longer hold back anymore.

I have been married since 1952 and have a family of 4 children 19, 17, 13, and 5. It takes my wife and myself holding fulltime jobs plus a small dog boarding kennel business, and myself doing the work on the house, car, kennel, and every other odd job to keep things in a halfway tolerable living condition. Now because some fat oil executive decides that his stockholders aren't making enough profits, my kennel business, which I have been trying to build up for over the last 7½ yrs. stands to go down the drain, because of the so called energy crisis. As I depend on traveling people boarding their dogs, and I also heat with oil in the winter months. But with gas prices going out of site and a so called shortage and other price rises everytime you turn around I stand to loose one of my sources of income, and from the looks of things it won't be very long till it happens.

Its about time some of these highway robbers who like to kick the unfortunate little guy when he's down had better start realizing that it's the $10–$15,000 a year man who help keep Big Business Big. But it seems he's always the one who gets the worse of it anytime somebody feels they aren't making enough profit. Nothing ever seems to be said about excess profits, outrageous price raises in food, clothing, or just plain basic needs. No, the working man or the Union are always blamed for it. Well if it weren't for either, this country would be in a hell of a lot worse shape than its in. It would no longer be the United States of America. We would not only have an "Energy Czar," but the name of the country could also be changed to USSA, "The Union of Sociolistic States of America." As I see it its about time the voice of the little people is heard not just a select fat few who don't know what the hell it is to work 7 days a week and have to scrimp and scrape to feed, cloth, and educate a family.

Every day you hear somebody talking about surcharge on excess use of natural gas, electricity, and gasoline. It appears that the $10–$15,000 a year people are not carrying enough of the load yet, with exise taxes on tires, telephones, and jewelry, now Big Brother wants more blood from the little guy. I say its time we turn the leaches on the leaches for some of their own blood, if that's what they have in their veins. Take tires for example. They have had excise tax on them ever since World War II. Why? If I recall correctly it was to discourage the use of rubber for civilian usage so that the military had enough. This I can understand and can go along with. What I don't understand and can't go along with is why after 30 years we still have this tax? From what I have heard and the only answer the so called experts can give is that if not this tax, something else would have to be taxed. Fine. I'd like to make a few suggestions. (1) Tax the HELL out of these businesses who set on their profits for years and create situations like we have now. I'm specifically talking about oil companies who have sat for 3 yrs. and not built anymore refineries and have cut back on production so prices could be raised so only the elite are able to afford it. (2) Get rid of the tax dodges and loopholes that allow people who make millions to pay only a couple of hundred dollars tax on it while the poor little guy who doesn't make enough to be able to take advantage of these loopholes is the one who carries not only his share but Mr. Bigs also. (3) The same should apply to the automakers who have created these "Gross Gas Guzzling Tanks." (4) Make our so called Non-Profit Universities, Colleges, and Churches, that are multi-million dollar tax exempt corporations pay their share of the taxes on the properties they own other than the Campus or church buildings themselves. They are suppose to be non-profit organizations. The government and community support these institutions with tax dollars and tax free services. Owning outside property for extra income in my eyes does not constitute a function of a non-profit organization and the property shoud not be tax exempt.

Now to get down to the reason I have taken the time to sit down and write. The so called fuel shortage. I can't quite swallow it. If there is one then how come the damn Air National Guard is still flying? They fly F100's, which were retrieved from the scrapyard in Arizona, are unable to fly safely without falling apart, and have more mishaps than any other type of aircraft landing or taking off at the Des Moines Municipal airport. If its for security reasons I quite frankly feel more secure with a ball bat and a handful of rocks. That's just about what it would be like trying to defend any attack by sending them up. If they need the training so damn bad why aren't they mobilized and trained in modern aircraft instead of wasting time, money and especially fuel on these antiquated, limping, junkpiles?

For years the auto industry has built and brainwashed the public into buying these "Gas Hogs". The oil companies haven't done too bad of a job either. As I can remember back when I was still in High School a person in the town that I lived in developed a carburetor for a 1948 Buick that would give him 35mpg. on that particular car. It was never marketed, as a major oil company bought up the carburetor the plans and details. The person was given a substantial amount of money and was made to sign papers stating he would never again design, manufacture, or tell anyone who from or how much he has received in payment. These companies still haven't come up with a car that can get over 17mpg., and apparently don't want to. Of coarse if they did Mr. Nexxon, Mr. Exxon, Mr. Phillips, and Mr. Standard might have to take a few more years to make three millions instead of instant millions like they are. Well let it be known as of this date myself as a working individual in the $10–$15,000 a year class I intend to fight in any way I can. I don't intend to stand still for all this crap. I have been working for quite a few years and I still don't have my first million so I guess I'll start being crooked and start on my second, maybe it will be faster and easier. It appears anymore the crookeder you are the faster you make it and the more lenient the penalty if caught, so it appears that's the way to go.

To further add insult to injury and add to the so called shortage I am told by some educated expert that by slowing down to 55 mph. I can save gas. Bull. I got rid of my "Detroit Hog" several months ago for a car that would get me my money's worth on a gallon of gas and get me from here to there and just as fast, and as comfortably. Now some educated idiot takes a "Detroit Millionaire Maker" and says drive 50 it improves your mileage from 9 to 11. Fine. Now let me tell this Boob and his slide rule that there is getting to be a bigger percentage of smaller vehicles on the roads, and they get 3 times the mileage at 70 mph., because that's what they are designed to do. Now it seems somebody else has finally realized that these little cars are beating the system so up go the gas prices again. At 70 mph. my car and others just like it get about 26 mpg. and around 20 mpg. or less at 50 mph. I can substantiate these facts as I keep track of every gallon of gas I have used for many years. Now if this is conservation of fuel, then elephants can fly and the moon is made of green cheese. It seems Detroit's best effort so far has been 17 mpg. on a car about the same size as mine and the only way they can get them on the streets is by giving them away on the "Boob Tube" every day. But still you hear the Hustlers saying, "Be American, Buy American". Bull.

Now Mr. Simon says 35 gallons of gas per month. According to Mr. Simon we are supposed to stay home another day a week. Well if this be the case, I hope Mr. Simon can find a way with my schedule so that I won't feel unpatriotic. I am going to give Mr. Simon my work schedule and my wife's, maybe some educated idiot with his slide rule can do better than I. I work Wed 5PM–1AM, Thurs. and Fri. 2:40 to 10:40PM, Sat. 5:30-PM–1:30AM, Sun. 5PM–1AM. Now this schedule is subject to change any time my company takes it in its mind to do so, so that they don't have to pay overtime, of these hours by the way include holidays. My wife works Monday thru Friday 8AM to 4:30PM. I live 5 miles from my job and my wife 3 miles. We live approximately 1 mile from the bus stop. Bus service ends at 6PM on weekdays and NO Sunday service whatsoever. Now what does Mr. Simon have to say about that? If Mr. Simon will walk to the bus in 0 degree or below weather down a 4 lane highway with 45mph traffic and no sidewalks, good for him. I value my life.

In the last 19 years I have had very few Sat. or Sun. off. It has been 12 years since I have taken a vacation that the family and I have gone any place. It has been months since I have had either the time or money to go to see my mother or my wifes relation who live just 100 miles from Des Moines. This year would have been the first year since 1961 that we would have been able to go on vacation but because Mr Oil Company decides to get richer, it probably will be another 12 years or more before I get to take a real vacation, not just take a couple of weeks off to stay home and work some more. It makes me DAMN MAD. Firstly I think of a game every pre-schooler has played as far back as I can remember everytime I read or hear the phrase "Simon Says". Is this what our government thinks of the people? That we are a bunch of pre-Schoolers who don't have the intelligence to think for ourselves that we have to have Simon to say I can do and I can't do? I think it was summed up quite well in just a few words in the Marshalltown Times-Republican "In a communist country, everything is either forbidden or compulsory."

The biggest share of the law makers don't know what the hell it is to live in Midwest weather, and its doubtful most of them would for very long. But there are people who are unfortunate enough to not be able to go to Florida or California or Arizona for the winter and do have to stay home and WORK for a living. I think its about time some politicians wake up to the fact that just because the Federal Government stops working on Holidays and takes long weekends and recesses, that the rest of the people can't do the same thing. This is a working country, where people DO work 24 hours a day, 7 days a week, 365 days a year, to make Mr Fat Cat fatter so King Richard and King Big Business don't loose face and prestige in the eyes of the rest of the world where we play Big Brother, all at the expense of the working peoples sweat and sacrifice. Then everytime a crisis exists labor is asked to do more for King and Country.

Maybe better yet their offices should be moved to Des Moines, Iowa for the months of November, December, January and February so they can find out what 68 degrees feels like when the thermometer gets down to −10°. Like an article in the newspaper said the other day, "Yesterday was when a child came indoors to get warm." Maybe a few of the smirky smiles would bend the other way. What the hell does somebody sitting in 75 and 80° Florida or California know about Iowa or Minnesota, or the Dakota winters? Not too much other than what some so called expert tells them. It seems funny to me that now that everybody has moved out away from their jobs and Big Business has gobbled-up all the little neighborhood stores, bus and train service has shut down to practically nothing, all of a sudden there is a crisis. This country and Big Business have asked for it. They weren't happy to let the little guy make a living. Somebody was afraid of a little competition and the Greedy Monster reared its ugly head. All the Doctors, lawyers, and Professionals were not happy with their $40–$50,000 a year jobs in the city they had to go out and buy up a lot of little farms and these people had to move to the cities adding to the city peoples problems. They've got enough of their own. What in the world do they know about farming?

The most of them don't know the difference between a Bull or a heifer. They think milk comes from a bottle delivered by a truck and pork chops come from a package in a meat case in a store. Maybe these problems don't exist in Washington, D.C., so maybe somebody should tell the King and his court that a country does exist West of the Potomac and East of the Rockies. Its not a vast wasteland where Indians still go on the warpath every morning and we go out before breakfast and hunt one just to get a little exercise and keep the population down. It provides its share and then some for Big Brother and it is still part of the USA whether he wants to admit it or not.

One other thing I resent very strongly is these oil companies branching off into other unrelated businesses such as Exxon bragging on TV about their going into the mining of Uranium to help the so called energy crisis, and God only knows what other unrelated industries they have branched off into. What in the world are they trying to do, get a monopoly on the energy market like Northwestern Bell has on Communications business, and IBM on Computers and associated Electronics field? Then the FCC has the gall to complain about newspapers owning radio and TV stations by calling it a monopoly on advertising and news. Well I'll make this observation, you at least have a choice when it comes to newspapers and radio and TV, you can either turn it off, change stations or wrap the garbage in it. But when it comes to fuel and electricity you don't have too many options, you either use it, starve, freeze, or both. I would like to make a strong suggestion that the government take a long hard look at Big Business for a change and stop trying to squeeze out the little guy like it has in the past. Maybe it would be a good thing for this country to do as Japan does and throw out all its patent rights and the fittest survive in the industrial world. Maybe that way you could buy a decent product that would outlast the payments before it is worn out.

Lastly, I have a small child 5 years old, last winter he spent 10 days in the hospital due to ear infection and a cold developing into pneumonia. The hospital tried for 4 days to find an antibiotic, that he wasn't allergic to. With the result that only 2 of the many available did any good or he wasn't allergic to. Now because some pompous ass and his money hungry stockholders who don't have enough in their Swiss bank accounts, decide to gouge the public some more I can look forward to another winter of ear problems. Well be it known and forewarned that if anything happens to him, somebody is going to pay and pay dearly. As God is my witness if it takes me the rest of my life and my last breath on this earth somebody will pay. If money means more to people any more than human life, then God help us all.

In my personal opinion I think its about time someone started showing some leadership instead of dragging the country and the people down farther than it is now. If this country wants peace so bad and we are going to be independent by 1980 as Mr. Nixon preaches, how come we *are not* a neutral country like some others? Instead of preaching peace all over the world like a hippocrit with a hand of friendship extended while the other one is holding a A-bomb behind his back. As the fellow says, "Don't make much sense do it?" Instead of always being first to stick our noses into somebody else problems, why not devote a little more effort into solving some of our own that exist here and now in this country?

If after reading this letter you think I am bitter, you had better believe it. I am just a small voice, but I am sure their are many many more just as bitter as myself. The only difference is that I feel bad that my name was not on the "White House Enemies" list, well maybe this will be at least get me on the bottom of the list.

In closing I would like to lay forward a challenge to any Politician or czar or anybody in government to come and live in my house for one month and find out what it is like to live on $10– $15,000 a year. The rules are simple. 1. No $200 suits. 2. No chauffeured Cadillacs or Continentals. 3. He or she eats the same spaghetti and hamburger my family eats. 4. It has to be in the month of January or February so he gets the same benefits of the weather as all other midwesterners do. 5. He or she keeps the same working hours and other benefits I am so privileged to have as a working man, for the good of King and country.

Sincerely,

DONALD C. KRAMER.

## LEWIS L. STRAUSS

Mr. GRIFFIN. Mr. President, I wish to associate myself with the remarks made by the distinguished Senator from Virginia concerning the death of a very fine American, Lewis Strauss.

It is most appropriate, I suggest, that note be taken in this body of his passing because it was in this body where, perhaps, the greatest disappointment of his life came to Lewis Strauss. I refer to the rejection by the Senate of his nomination as Secretary of Commerce in the Eisenhower administration.

Although I did not serve in the Senate then, I studied the circumstances surrounding that incident at the time when Mr. Fortas was nominated to be Chief Justice of the U.S. Supreme Court.

The action of the Senate with respect to Lewis Strauss was most unfortunate, in my view, because, as nearly as I could determine, Mr. Strauss was rejected not because of a lack of qualifications, not because of any problems concerning impropriety or anything of that kind, but primarily because there were many in this body who did not agree with his philosophy.

That was a sad episode in the life of Mr. Strauss, and I suggest that it was an unfortunate episode in the history of the Senate.

Along with the distinguished Senator from Virginia, I regarded Mr. Strauss as a most able, most capable and dedicated public servant, who contributed a great deal to this Nation. I join the Senator from Virginia in extending condolences to those he leaves behind.

The PRESIDING OFFICER. Is there further morning business?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR THE PRINTING OF EULOGIES TO THE LATE SENATOR ALLEN ELLENDER AS A SENATE DOCUMENT

Mr. ROBERT C. BYRD. Mr. President, the period for the delivery of eulogies for Senator Allen Ellender, through some inadvertent oversight, was never closed, and the authorization for the printing of those eulogies was never granted. I ask unanimous consent that the period for the delivery of eulogies for our late colleague, Senator Ellender of Louisiana, be closed, and that the eulogies be printed in a bound volume as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

## THE AMERICAN ROLE IN MIDDLE EAST NEGOTIATIONS

Mr. ROBERT C. BYRD. Mr. President, the agreement between Egypt and Israel to realine their military forces along the Suez Canal and the Sinai is a significant development in the quest for a permanent peace in the Middle East.

Though this agreement is only the first step down what may be long road of negotiation, it marks the first time that Egypt and Israel have been able to reach an agreement on anything other than a cease-fire. Though Egypt is only one of the Arab nations involved in the troubled Middle East situation, Premier Sadat's willingness to negotiate with the Israel Government is a hopeful sign that the other Arab countries will follow suit. Already, President Hafez al-Assad of Syria has made proposals for beginning troop separation talks with Israel.

Secretary of State Kissinger has described the Syrian President's overtures to Israel as "very constructive," on both the troop disengagement talks and on a final peace settlement. For the first time since the 6-day war, it appears that there are reasons for genuine optimism that the Middle East impasse will be broken, and that the governments of the countries concerned may be replacing emotional intransigence by constructive pragmatism.

If subsequent negotiations proceed as smoothly as have the initial stages, an appreciable share of the credit must go to the efforts that have been made by the Government of the United States in bringing the opposing interests together. The President, Secretary of State Kissinger and his staff, are to be commended for their untiring dedication toward helping bring about a solution of a problem that has international as well as local implications.

If and when a permanent peace settlement is arrived at in the Middle East—and with that settlement there is removed one of the most dangerous threats to peace in the world—President Nixon, Secretary Kissinger, and American diplomacy in general will have reason to be proud of the parts they have played.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BEALL:

S. 2874. A bill to extend the volunteer fire companies and volunteer ambulance and rescue companies the rates of postage on second class and third class bulk mailings applicable to certain nonprofit organizations. Referred to the Committee on Post Office and Civil Service.

By Mr. HATHAWAY:

S. 2875. A bill to amend the State and Local Fiscal Assistance Act of 1972 to exempt any unit of local government which receives not more than $5,000 for the entitlement period from the requirement that reports of use of funds be published in a newspaper. Referred to the Committee on Finance.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BEALL:

S. 2874. A bill to extend the volunteer fire companies and volunteer ambulance and rescue companies the rates of postage on second class and third class bulk mailings applicable to certain nonprofit organizations. Referred to the Committee on Post Office and Civil Service.

Mr. BEALL. Mr. President, I am pleased to introduce legislation today which would extend to volunteer fire companies and volunteer ambulance and rescue companies the rates of postage on second-class and third-class bulk mailings applicable to certain nonprofit organizations. This measure, which was also offered by me during the 92d Congress, would substantially ease the heavy financial burdens now facing volunteer organizations throughout the country, and I urge the Senate to give this bill its swift and favorable consideration.

I, like all of my colleagues in this body, greatly admire the dedicated and unselfish service rendered the communities of the Nation by volunteer firemen and volunteer ambulance and rescue personnel. Certainly Congress must do all it can to assist them in the performance of this valuable service.

The Senate has already taken a significant step to help volunteer fire companies with the passage on November 2, 1973 of S. 1769, the Federal Fire Prevention and Control Act, which I was proud to cosponsor. The legislation will establish a coordinated program for fire prevention and control, under the administration of a new Assistant Secretary of Commerce for Fire Prevention and Control, which will reinforce and support the efforts of volunteer organizations and of State and local governments. I strongly hope that the House of Representatives will give this much-needed legislation its quick attention.

One of the greatest problems facing volunteer fire, rescue and ambulance companies is financing. Regularly, these organizations must solicit, largely by mail, the funds which are so necessary to maintain quality service. However, too much of the money which is acquired in this manner is immediately swallowed up by postal charges. As a result, more and more money which could go to the purchase of urgently needed equipment is drained away by excessively high mailing costs.

I believe Congress must rectify this situation. Volunteer fire personnel, who daily risk their lives for others, deserve our full support. This bill will signify to them, and to the millons of Americans who are served by volunteer companies, that the Federal Government stands ready to help these organizations to reduce their costs, and thus provide better fire protection. I urge its passage.

By Mr. HATHAWAY:

S. 2875. A bill to amend the State and Local Fiscal Assistance Act of 1972 to exempt any unit of local government which receives not more than $5,000 for the entitlement period from the requirement that reports of use of funds be published in a newspaper. Referred to the Committee on Finance.

Mr. HATHAWAY. Mr. President, this is a bill to remedy a problem which is besetting many of the smaller towns of Maine that are eligible for revenue sharing, and which, I am sure, is also a problem for such towns in other States.

Section 121 of the State and Local Fiscal Assistance Act of 1972 requires a local unit of government which is receiving funds to publish in a local newspaper both a report indicating its intentions for the use of such funds, and a later report indicating how those funds actually were used. This section of the act was conceived of as a protection for the public, but for many of the smaller towns, the amount of funds received is so small, and the cost of publication so great, that the latter consumes a fair portion of the former, and the public loses out.

The bill I am introducing today would simply exempt towns which receive less than $5,000 from the requirement of publishing their reports in the newspapers and enable them, instead, to publish these reports by posting them in the local post offices. This would relieve them of the burden of unduly heavy publication costs, while preserving the intent of the original statute, that of protecting the public against a possible misuse of the allocated funds.

## ADDITIONAL COSPONSORS OF BILLS

### S. 1326

At the request of Mr. Williams, the Senator from Colorado (Mr. Haskell) was added as a cosponsor of S. 1326, the Hemophilia Act of 1973.

### S. 2599

At the request of Mr. Hatfield, the Senator from Oklahoma (Mr. Bellmon) was added as a cosponsor of S. 2599, to repeal the Economic Stabilization Act of 1970.

### S. 2657

At the request of Mr. Moss, the Senator from New Mexico (Mr. Domenici) was added as a cosponsor of S. 2657, to provide scholarships for the dependent children of public safety officers who are victims of homicide while performing their official duties, and for other purposes.

### S. 2782

At the request of Mr. Nelson, the Senator from Minnesota (Mr. Humphrey) was added as a cosponsor of S. 2782, to establish a national energy information system, to authorize the Department of the Interior to undertake an inventory of U.S. energy resources on public lands and elsewhere, and for other purposes.

### S. 2801

At the request of Mr. Proxmire, and by unanimous consent, the Senator from Georgia (Mr. Talmadge) was added as a cosponsor of S. 2801, to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes.

### S. 2871

At the request of Mr. McGovern, the Senator from Washington (Mr. Jackson), and the Senator from Massachusetts (Mr. Brooke) were added as cosponsors of S. 2871, to amend the Food Stamp Act of 1964, as amended, and for other purposes.

## ANNOUNCEMENT OF HEARING ON AMERICANS MISSING IN ACTION

Mr. FULBRIGHT. Mr. President, I wish to announce that the Committee on Foreign Relations will hold a public hearing on Monday, January 28, at 10 a.m. in room 4221 of the Dirksen Senate Office Building in order to review the status of efforts to account for Americans missing in action in Southeast Asia.

Almost 1 year ago, on January 27, 1973, the United States and other participants in the Southeast Asia conflict signed the "Agreement on Ending the War and Restoring the Peace in Vietnam." Within 2 months of the signing of the Paris accords some 600 American prisoners of war were returned. Today, however, another 1,300 American military and civilian personnel remain unaccounted for, some 60 servicemen are still carried on Department of Defense rolls as prisoners of war, and none of the remains of those who died in captivity has been returned.

The committee has invited the Secretary of State to testify at this hearing in order to obtain his views on the past and prospective efforts of our Government to resolve the problem of the missing in action. Members of the National League of Families of American Prisoners and Missing in Southeast Asia are being invited to present the views of the families of the missing servicemen.

The committee is keenly aware of the agonizing consequences of the continuing uncertainty surrounding the fate of the Americans missing in Southeast Asia. It is hoped that this hearing will call national attention to this problem and provide fresh insights regarding the possibilities for its resolution.

## ANNOUNCEMENT OF HEARINGS ON THE ENERGY CRISIS

Mr. MUSKIE. Mr. President, on Monday, January 28, 1974, the Subcommittee on Intergovernmental Relations, Committee on Government Operations, will continue hearings on the impact of the energy crisis on the States and localities.

The hearing will be held in room 3302, Dirksen Senate Office Building, beginning at 9:30 a.m. Any person wishing additional information or to submit a statement for the Record should contact Mrs. L. T. Dennis, chief clerk of the subcommittee, 225-4718.

## ADDITIONAL STATEMENTS

### CRACKDOWN ON WELFARE FRAUD

Mr. BUCKLEY. Mr. President, the American welfare system has grown like Topsy in recent years. The resulting inequities have outraged many Americans who are more than willing to see some of their tax money go to help the truly needy but cannot see why we tolerate massive fraud at their expense.

It is therefore most encouraging to see many States and localities cracking down on welfare fraud. In doing so they are acting in the interests of the taxpayer, the program they administer and those truly in need.

I would like to call the attention of my colleagues to a recent crackdown in New York City as reported recently on the news media. Overpayments and outright fraud were discovered in more than 600 cases during the largest crackdown in city history.

New York officials deserve congratulations for this effort and have through their diligence contributed to the stabilization of a system that while perhaps necessary can be extremely costly and is subject to terrible abuse.

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## U.S. NEWS & WORLD REPORT EDITORIAL IS BUILT MAINLY ON SPEECH BY SENATOR ROBERT C. BYRD

Mr. RANDOLPH. Mr. President, the U.S. News & World Report issue of January 7, 1974, contains an editorial by Editor Howard Flieger, entitled "Resolution, 1974." At the outset, Editor Flieger noted that "This is the turn-over-a-new-leaf season, daybreak of a new year," and he commented that "A worthwhile resolution for the new year would be to get more concerned about the state of the Nation; you're part of the action, not part of the audience."

Then, the U.S. News & World Report editor referred to a speech by our distinguished West Virginia Senator ROBERT C. BYRD, the industrious and effective assistant majority leader of this body. The remainder of the editorial is built around our able colleague's thought-provoking speech which was made to the National Association of Food Chains in Washington last October 17.

"That speech," the editor wrote, "wasn't about politics and it wasn't about food prices, which were dominating the news then. So the text was tucked away and gradually covered by other papers that seemed more urgent. Now—a period when we all resolve to do better—is an appropriate time to reread the Senator's speech and think about what he said. He said plenty."

At this point, Mr. President, I request unanimous consent to have printed in the RECORD the editorial quotes from Senator BYRD's speech, and the editor's summation.

There being no objection, the portion of the editorial quoting from Senator ROBERT C. BYRD's October 17, 1973 speech to the National Association of Food Chains in Washington, D.C., and the editor's summation are ordered to be printed in the RECORD, as follows:

### RESOLUTION, 1974

(By Howard Flieger)

"One of the most prevalent and frightening attitudes in America today is that of being complacent, apathetic and noncommittal—the absence of deep convictions on anything. . . .

"We can condemn—and we do—the intellectual shortcomings of television and newspapers; we can decry—as we should—those who abuse the protection of the Fifth Amendment; we can deplore—as we do—the vicious and senseless criminality that pervades our social structure.

"But how often do we hear our leading citizens, in all walks of life, stand up in public and declare themselves unequivocally on matters of real principle and consequence?

"Ethics cannot thrive in a neutral mind, and the most dangerous enemies to our way of life are not only those who loudly threaten to overthrow the system; equally dangerous to our freedoms are those who say they don't much care, one way or the other."

The Senator wasn't speaking just of public affairs. He found faults in most of us. To single out just two of his examples:

So long as regular dividends keep coming in, too many stockholders don't care what a corporation's management is, how it does business, or with whom.

So long as pay raises come along, the workweek gets shorter and an extra holiday is declared now and then, too many union members don't want to be bothered if somebody discovers that the leaders occasionally dip into the till.

The findings of a recent Harris poll, commissioned by a Senate subcommittee, disagree with the Senator's charge of public apathy. But Louis Harris, the poll director, testified that the results show a great disquiet in America. In his words: "The public has not lost faith, but it has lost confidence." People feel they have been cut off.

The late Dr. Albert Schweitzer once defined "ethics" in these words:

"In a general sense, ethics is the name we give to our concern for good behavior. We feel an obligation to consider not only our own personal well-being but also that of others and of human society as a whole."

Which is to say: Anybody's misdeed is everybody's business.

To Senator Byrd, strength of character and dedication to principle are the foundations on which this nation was built. It would be sound wisdom—if not, in fact, urgent necessity—to re-examine those foundations right now and shore them up before it is too late.

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## FORTHRIGHT ANSWERS FROM A KEY OIL EXECUTIVE: JOHN SWEARINGEN

Mr. PERCY. Mr. President, the Congress and much of the world are seeking answers to some difficult questions about the fuel oil crisis and how it can be resolved. Some forthright answers to those questions have been provided this week by one of the most respected executives in the oil industry, John E. Swearingen, board chairman of Standard Oil of Indiana. Mr. Swearingen's remarks appear in a two-part interview in the Chicago Tribune. The interview was conducted by the Tribune's environmental editor, Casey Bukro.

Mr. President, I ask unanimous consent that these two articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

### "WE HAVEN'T SCRATCHED SURFACE": SPEED UP OFFSHORE OIL SEARCH, SWEARINGEN URGES

(By Casey Bukro)

#### QUESTION AND ANSWER

(The oil industry believes it is maligned and misunderstood in the controversy over the oil shortage. This is the first part of an exclusive interview with John Swearingen, chairman of the board of Standard Oil Co. of Indiana.)

A lot of oil and natural gas is still waiting to be discovered off the coast of the United States, the broad-shouldered man who heads Standard Oil Co. of Indiana said.

John E. Swearingen leans back in his chair in his carpeted Chicago office on the 19th floor of the new Standard Oil Building overlooking Lake Michigan. He speaks with a trace of his native South Carolina drawl in a leisurely way that suggests confidence and command.

"We have not begun to scratch the surface in exploring for oil and gas off the coast of the United States," Swearingen said with a sleepy expression on his face. He sits in front of a modernistic painting that suggests a cross section of the earth with oil dripping and oozing in the underground realms.

"That is the first thing our country should do—accelerate the exploration effort around the coasts of the United States. By this I mean the Gulf Coast, Florida, California, Alaska, and the East Coast as well.

"We might be lucky. We might find some large supplies that could be brought to market in four or five years."

At age 54, Swearingen looks every inch like an oil man. He also thinks and acts like one. With sales last year of $5.2 billion and assets of $6.1 billion, Standard of Indiana is the sixth largest oil company and the 15th largest industrial company in the United States.

Swearingen is chairman of the board of Indiana Standards. Much of what he says echoes what other oilmen say and think about the oil shortage. They often blame consumers and the federal government for the shortage, while avoiding giving details of their business. They are openly contemptuous of the judgment of anyone not in the oil industry.

In an exclusive interview with The Tribune, Swearingen's answers show how an oil man typically responds to questions about the oil shortage:

Question. Let me ask the question the man on the street is asking. Did the major oil companies cause the fuel shortage?

Answer. No. The answer is no.

Question. President Nixon has said all of us must share responsibility for the energy crisis and the fuel shortage. What part of the responsibility does the oil industry share? What did this company do or not do that contributed to the oil shortage?

Answer. Our business is producing, transporting, refining, and selling oil. We've done our level best to supply our customers with everything they want and need. The demand by customers is increasing year by year, and it has now turned into a situation where the supplies are inadequate to meet demand of customers. We're continuing major efforts to enlarge the supplies we have, but it is not wholly under our control.

Question. Your answer indicates you have no direct responsibility for the shortage; that it is demand that caused the shortage.

Answer. I didn't say that.

Question. Then what is the oil industry's share of the responsibility for the oil shortage?

Answer. The oil industry's share is that we don't have enough to satisfy every requirement that every customer thinks he wants.

Question. Not every industry in the United States is short of the product it sells, but yours is. What explains that?

Answer. There is inadequate supply to meet demand. [In a lengthy reply, Swearingen named the life span of oil wells, failure of the federal government to lease offshore areas for drilling, and environmental protection regulations as factors that caused the United States to turn to foreign countries for part of its oil supplies.]

Question. Frank Ikard, president of the American Petroleum Institute, has said one of the reasons for the shortage is that * * * enough oil refineries in the last 10 years.

Answer. I wouldn't agree with that statement.

Question. Figures supplied by Standard of Indiana, your company, show that demand for petroleum products in the United States outpaced refinery capacity back in 1965.

Answer. May I see them?

Question. Certainly.

Answer. Since the 1950s, cheap crude oil and very cheap refined products were available from the Middle East, North Africa, Nigeria, Venezuela, Indonesia, and the rest. Talking today or 10 years in the past, there was no reason to expand refinery capacity in this country when [foreign] products could be obtained to satisfy the market more cheaply than from sources built in this country.

Question. That raises the question of the U.S. Oil Import Quota system, which was imposed in 1957 at the request of the oil industry to keep cheap foreign crude oil and oil products out of the country. [It was lifted early in 1973.]

Answer. Who alleges this? Here's one of our problems. All kinds of allegations are made without any support in fact or knowledge of the subject. This is one of the troubles our industry has with the public and the press.

Question. Your own top economist, Theodore [Ted] Eck, chief economist of Standard of Indians, said it was the import quota system that kept crude oil out of this country and restricted refinery building in this country.

Answer. The President of the United States found that for national security reasons, it was inappropriate to have the United States become dependent on foreign sources of oil to an unreasonable degree and quota limits were set on the amount of crude oil and amount of refined products that could be brought into the United States.

* * * program had not been established, there is very little doubt that exploration for new sources of oil and gas in the United States would have been greatly diminished, much more than actually took place in fact.

Question. Will higher prices for petroleum products in the United States result in more oil for the American public? Some economists argue that the supply of oil is relatively fixed, and higher prices will only encourage marginal and high-cost wells that will increase supplies only slightly.

Answer. Those economists, if they are true economists and know what they are talking about, are absolutely wrong.

Question. Then your answer is that higher prices will result in more oil?

Answer. Substantial additional quantities of oil and gas.

Question. How high do you expect petroleum product prices to go in 1974?

Answer. I would expect to see the price of gasoline in this country go up by a factor of 10 to 15 cents a gallon at the retail pump. The same range of increases would also apply to heating oil, diesel fuel, and jet fuel. When I say that, I also make the assumption that there are going to be no further tax increases by the federal government, state government, and local taxing authorities.

Question. Are oil companies making excess profits?

Answer. No.

Question. Then you believe profits being made by the oil industry are justified?

Answer. I didn't say that. You asked me if they were excess profits and I said no. The job to supply the oil and gas to the citizens of the United States is going to take enormous sums of money.

Question. Chase Manhattan Bank sets the figure at $1 trillion worldwide.

Answer. I think that is the right order of magnitude.

Question. Members of Congress are talking about imposing an excess profits tax on the oil industry so they must think there is justification for it.

Answer. There are a lot of people in this country who feel that making any kind of profit is something that is, if not illegal, certainly immoral. Let me point out one thing. Last year, our company made $375 million, which to the man on the street is a lot of money. But that $375 million from everything we do represents a profit of something less than three cents a gallon on every gallon of product we produce and sell.

Question. Then how do you explain the large profit increases announced by the American oil industry in 1973?

Answer. You've got to ask compared with what. The profits of the industry for the first nine months of 1973 were higher than they were in the first nine months of 1972.

Question. By how much?

Answer. The figures showed an increase on the average for about 30 or 40 of the largest companies of about 35 to 40 per cent. I think you'll find that many of the individual companies in the first part of 1973 were only just getting back to the level of earnings they attained in 1969. From 1970, 1971, and 1972, many of the major companies in the industry were in a declining trend in earnings. When you look at the measure of return on capital, I think you will find most of the industry has a relatively modest return on capital.

(NOTE.—Business Week reported that third quarter profits in 1973 for the U.S. oil industry were up 63 per cent, making it one of the leaders in 1973 profitmakers.)

## Swearingen Interview: Overseas Tax Loopholes Not Causing Fuel Crisis: Oil Chief

(By Casey Bukro)

### Question and Answer

(The oil industry believes it is maligned and misunderstood in the controversy over the oil shortage. This is the second of two parts of an exclusive interview with John Swearingen, chairman of the board of Standard Oil Co. of Indiana.)

Did tax loopholes allowing major oil companies to prosper overseas cause the fuel shortage in the United States?

Some critics of United States oil policies say yes, that the major oil companies spent their exploration and development money in Europe and the Middle East in the 1960s while the American taxpayer footed a big part of the bill.

John E. Swearingen takes a dim view of that argument.

The giant oil industry needs more tax and price advantages if it is expected to attack the energy crisis, according to the chairman of the board of Standard Oil Co. of Indiana.

Oil and gas is still waiting to be found off the coast of the United States, he says. Higher prices for the petroleum products will give the industry the capital it needs to drill more wells and find more oil and natural gas.

Higher prices, which Swearingen said will mean an extra 10 to 15 cents a gallon for most fuels in 1974, will result in more fuel, he says.

Following are questions and answers from an exclusive interview with Swearingen:

Question. One of the arguments heard today is that American oil industries went overseas in the mid-1960s to develop foreign oil production and refineries at the expense of U.S. development because of tax havens and tax advantages overseas. In that way, the American public subsidized the oil industry overseas.

Answers. The American taxpayers have not subsidized American oil companies in going abroad any more or any less than they subsidized automobile companies or computer manufacturers that have gone abroad.

Question. Figures from Standard of Indiana show that 80 per cent of the oil you produce and refine overseas stays in overseas markets. Some people believe that if American oil companies tried selling some of * * * country, we would be better off.

Answer. I'll answer by asking you what you think the Italian government would do if we decided we were going to take the entire output or a substantial part of our output of our refinery in Italy out of the Italian market and moved it to the United States.

Question. Some people believe that the refinery was built with the aid of United States tax incentives and, therefore, the American public would be entitled to that oil.

Answer. That is an erroneous statement of fact. The United States has tax treaties with most countries around the world which give credit against taxes payable in the United States for taxes paid in a foreign country; so there is no double taxation of profits by more than one government. As a consequence of taxes paid there, there are no taxes payable on those profits in the United States, or a very low rate of taxes paid in the United States.

Question. Some people see that as a tax advantage which encourages going overseas at the sacrifice of domestic oil production in the United States.

Answer. The charge has been made, but I do not believe it will stand up under examination.

Question. You say higher prices are needed by the major American oil companies to encourage oil and gas exploration and development. The Oil and Gas Journal has reported that independent wildcatters account for 75 per cent of the new oil finds in the United States, while the majors confine most of their drilling to development wells in known oil fields.

Answer. That is an oft-repeated shibboleth that is no longer true. It has not been true for a great many years.

Question. What do you say to the criticism of Prof. Alfred E. Kahn, professor of economics at Cornell University, who says that the more money you give to the oil industry, the more it wastes thru marginal ventures? He said the oil industry makes costs rise to price, rather than the other way around.

Answer. Mr. Kahn is obviously not an oil man.

Question. What is the markup on petroleum products? How much does it cost you to lift crude oil from the ground, say, in Iran? How do you decide the cost of petroleum products?

Answer. To produce this oil and lift it out of the ground and get it to shore is a relatively inexpensive figure. It is nothing like the figure of 10 cents a barrel. That is often bandied about as the cost of oil in the Middle East.

Question. You are not telling me the markup.

Answer. I'm not going to. I'm not going to disclose to you a set of Iranian oil that is only part of and a very small part of the overall cost of producing oil in Iran.

Question. Then give me a companywide average on the cost of getting oil out of the ground.

Answer. I don't know that I have a companywide average figure I can give you.

Question. People are interested in what figure we start with in determining the price of gasoline or heating oil. I have figures from the federal government showing the cost of lifting oil from the ground in Arab countries to be 3 to 5 cents a barrel.

Answer. I don't think the figures are that low. The figures on lifting oil from the largest oil field in Kuwait and Saudi Arabia are something on the order of 10 cents a barrel.

This figure is not typical of lifting oil in the United States nor does it recognize all of the overhead and other costs of being successful in the business.

Question. It has been alleged that when the Arabs raised their prices, the American oil companies that share in Arab oil field production also profited by that price hike. Is that right?

Answer. There may have been some temporary benefit. The price and tax regime established in the middle of the year in 1973 perhaps gave a higher margin of profit for several months. But I believe the regime established for the first of January, 1974, is going to reduce those margins and take them back to figures more like the historic level.

Question. How can you justify asking for higher prices for petroleum products in the United States when you already have made higher profits overseas thru the hike in crude oil prices in the Arab countries?

Answer. You must recognize that we have refineries in the United States that are short of crude oil. We are unable to get any more crude oil in the United States. If we are going to supply these refineries and customer demand, we are going to have to buy the oil from outside the United States.

Question. Are the price hikes we are seeing in Arab countries tied in any way to increases in operating costs? (Standard of Indiana has producing oil fields in the Persian Gulf and refineries abroad.)

Answer. In the Arab countries?

Question. In the Arab countries.

Answer. No.

Question. It is strictly arbitrary?

Answer. (Swearingen nods head in affirmation.)

Question. What needs to be done over the next 10 years to make us self-sufficient in energy and perhaps make it possible for the oil industry to operate effectively?

Answer. The government must establish a policy of what they want to do. We can't drill a well off the coast of the United States without getting a permit. We can't explore in Alaska without getting a permit from the federal government. We've got to establish national policies and priorities and then see to it we have a price and tax regime that enables private industry to get about the business. We do not need the government to whip the industry into doing this. Nor do I believe the government must do the job itself because private industry can't or won't do it.

Question. I sense from your answer that the federal government is a barrier to doing what the oil industry wants done.

Answer. That is a broad and loaded question.

Question. Do you agree with the viewpoint that all the easy oil has been found in the United States?

Answer. I don't know that all the easy oil has been found. There are many areas, particularly offshore United States and the State of Alaska, that have never been touched by a drill. And there is no way of knowing if there is oil or gas there until you go out and drill a well to see.

Question. Do you agree that the era of cheap oil is over?

Answer. I think the Arabs are going to see to that.

Question. What do you say to charges that a world petroleum cartel exists to stifle competition and keep oil prices up?

Answer. I've heard it many times. If there is such a thing in existence, which there isn't, but if there were, it would be reflected in extravagant rates of profits because a cartel did exist. I don't believe you'll find in the records of any of the big companies any kind of margin of profit like this.

If it were all that profitable, I presume there would be a heck of a lot of people trying to get into the business, but I don't see anybody trying to knock the door down.

Question. Do you believe the U.S. oil industry is open to prosecution on antitrust charges because of its involvement in competing energy sources?

Answer. Here again you've phrased a loaded question. These charges have been leveled many, many times. I don't think they've ever been proved and I don't believe in this fishing expedition [by the Federal Trade Commission in restraint of trade practices by the major oil companies]. They will find nothing different from what they found on previous occasions. The industry is not a cartel and not a conspiracy.

Question. Is there anything you want the American public to know about the oil industry?

Answer. There is an underlying current I've seen time and time again of distrust of big companies and big operations and there seems to be a design to try to pull them down or cut them up into mincemeat. But I ask you, Who is going to build a billion dollar shale plant? It has to be someone who can raise a billion dollars.

There are some jobs in this country, offshore drilling is another one, that take organization and big resources and a high level of technological expertise to do the job.

It is automatically assured that we are liars and connivers instead of trying to be decent citizens like newspaper people and senators are.

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## A SAFEGUARD AGAINST OVERPAYMENT OF INCOME TAXES BY THE ELDERLY

Mr. CHILES. Mr. President, the Senate Committee on Aging is concerned with the whole gamut of problems and challenges facing aged and aging Americans: Income, health, housing, transportation, and now the energy crisis.

But one of the most crucial concerns—and certainly one of the most timely—is the impact of taxation upon the elderly.

As a member of the Committee on Aging, I consider this subject to be at the top of my priorities for older Americans.

Low income in retirement is, of course, the most serious problem confronting the aged. However, a substantial number of older Americans still have a sufficient amount of income to file a Federal income tax return.

For taxable year 1971—the latest date that complete information is available—nearly 9 million persons 65 or older filed tax returns.

Unfortunately many of these individuals may overpay their taxes, primarily because they are uninformed about tax relief measures which can result in significant savings for them.

A hearing conducted by the Senate Committee on Aging on "Income Tax Overpayments by the Older Americans" made this point abundantly clear. Some witnesses at that hearing estimated that perhaps one-half of all elderly may be paying more income taxes than the law requires.

To help protect aged persons from needlessly overpaying their income taxes, the committee each year publishes a checklist of possible deductions for individuals who itemize their expenditures—such as medical expenses, interest, charitable contributions, taxes, and others—on schedule A.

This summary, it seems to me, can be extraordinarily helpful for taxpayers who will prepare their Federal income tax returns during the next few weeks.

For these reasons, Mr. President, I ask unanimous consent that the Committee on Aging's checklist of allowable deductions for schedule A be printed in the Record.

There being no objection, the list was ordered to be printed in the Record, as follows:

### Checklist of Itemized Deductions for Schedule A—Form 1040

#### MEDICAL AND DENTAL EXPENSES

Medical and dental expenses are deductible to the extent that they exceed 3% of a taxpayer's adjusted gross income (line 15, Form 1040).

#### INSURANCE PREMIUMS

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3% limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3% rule.

#### DRUGS AND MEDICINES

Included in medical expenses (subject to 3% rule) but only to extent exceeding 1% of adjusted gross income (line 15, Form 1040).

#### OTHER MEDICAL EXPENSES

Other allowable medical and dental expense (subject to 3% limitation):

Abdominal supports, Ambulance hire, Anesthetist, Arch supports, Artificial limbs and teeth, Back Supports, and Braces.

Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditures exceeds the increase in value to your home because of the capital expenditure. Taxpayers should have an independent appraisal made to reflect clearly the increase in value.

Cardiographs, Chiropodist, Chiropractor, Christian Science practitioner, authorized Convalescent home (for medical treatment only), Crutches, Dental services (e.g., cleaning teeth, X-rays, filling teeth), Dentures, Dermatologist, Eyeglasses, Gynecologist, Hearing aids and batteries, Hospital expenses, and Insulin treatment.

Invalid chair, Lab tests, Lip reading lessons (designed to overcome a handicap), Neurologist, Nursing services (for medical care), Ophthalmologist, Optician, Optometrist, Oral surgery, Osteopath, licensed Pediatrician, and Physical examinations.

Physician, Physiotherapist, Podiatrist, Psychiatrist, Psychoanalyst, Psychologist, Psychotherapy, Radium Therapy, Sacroiliac belt, Seeing-eye dog and maintenance, and Splints.

Supplementary Medical Insurance (Part B) under Medicare.

Surgeon.

Transportation expenses for medical purposes (6c per mile plus parking and tolls or actual fares for taxi, buses, etc.).

Vaccines.

Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health).

Wheelchairs, Whirlpool baths for medical purposes, and X-rays.

#### TAXES

Real estate, State and local gasoline, General sales, State and local income, and Personal property.

If sales tax tables are used in arriving at your deduction, you may add to the amount shown in the tax tables only the sales tax paid on the purchase of 5 classes of items: automobiles, airplanes, boats, mobile homes and materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income (e.g., Social Security or Railroad Retirement Annuities).

#### CONTRIBUTIONS

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 15, Form 1040). However, contributions to certain private nonprofit foundations, veterans organizations, or fraternal societies are limited to 20 percent of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals, or (3) Federal, state or local governmental units (tuition for children attending parochial schools is not deductible). Fair market value of property (e.g. clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 6c per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g., scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g. postage, stationery, phone calls) while rendering services for charitable organizations.

Care of unrelated student in taxpayer's home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

### INTEREST

Home mortgage.

Auto loan.

Installment purchases (television, washer, dryer, etc.).

Bank credit card—can deduct the finance charge as interest if no part is for service charges or loan fees, credit investigation reports. If classified as service charge, may still deduct 6 percent of the average monthly balance (average monthly balance equals the total of the unpaid balances for all 12 months, divided by 12) limited to the portion of the total fee or service charge allocable to the year.

Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money. Not deductible if points represent charges for services rendered by the lending institution (e.g. VA loan points are service charges and are not deductible as interest). Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized).

Penalty for prepayment of a mortgage—deductible as interest.

Revolving charge accounts—may deduct the "finance charge" if the charges are based on your unpaid balance and computed monthly.

### CASUALTY OR THEFT LOSSES

Casualty (e.g. tornado, flood, storm, fire, or auto accident provided not caused by a willful act or willful negligence) or theft losses to nonbusiness property—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. You may use Form 4684 for computing your personal casualty loss.

### CHILD AND DISABLED DEPENDENT CARE EXPENSES

The deduction for child dependent care expenses for employment related purposes has been expanded substantially. Now a taxpayer who maintains a household may claim a deduction for employment-related expenses incurred in obtaining care for a (1) dependent who is under 15, (2) physically or mentally disabled dependent, or (3) disabled spouse. The maximum allowable deduction is $400 a month ($4,800 a year). As a general rule, employment-related expenses are deductible only if incurred for services for a qualifying individual in the taxpayer's household. However, an exception exists for child care expenses (as distinguished from a disabled dependent or a disabled spouse). In this case, expenses outside the household (e.g., day care expenditures) are deductible, but the maximum deduction is $200 per month for one child, $300 per month for 2 children, and $400 per month for 3 or more children.

When a taxpayer's adjusted gross income (line 15, Form 1040) exceeds $18,000, his deduction is reduced by $1 for each $2 of income above this amount. For further information about child and dependent care deductions, see Publication 503, Child Care and Disabled Dependent Care, available free at Internal Revenue offices.

### MISCELLANEOUS

Alimony and separate maintenance (periodic payments).

Appraisal fees for casualty loss or to determine the fair market value of charitable contributions.

Campaign contributions (up to $100 for joint returns and $50 for single persons).

Union dues.

Cost of preparation of income tax return.

Cost of tools for employee (depreciated over the useful life of the tools).

Dues for Chamber of Commerce (if as a business expense).

Rental cost of a safe-deposit box for income producing property.

Fees paid to investment counselors.

Subscriptions to business publications.

Telephone and postage in connection with investments.

Uniforms required for employment and not generally wearable off the job.

Maintenance of uniforms required for employment.

Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).

Business entertainment expenses.

Business gift expenses not exceeding $25 per recipient.

Employment agency fees for securing employment.

Cost of a periodic physical examination if required by employer.

Cost of installation and maintenance of a telephone required by the taxpayer's employment (deduction based on business use).

Cost of bond if required for employment.

Expenses of an office in your home if employment requires it.

Payments made by a teacher to a substitute.

Educational expenses required by your employer to maintain your position or for maintaining or sharpening your skills for your employment.

Political Campaign Contributions: Taxpayers may now claim either a deduction (line 33, Schedule A, Form 1040) or a credit (line 52, Form 1040), for campaign contributions to an individual who is a candidate for nomination or election to any Federal, State or local office in any primary, general or special election. The deduction or credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a national political party, (3) state committee of a national political party, or (4) local committee of a national political party. The maximum deduction is $50 ($100 for couples filing jointly). The amount of the tax credit is one-half of the political contribution, with a $12.50 ceiling ($25 for couples filing jointly).

Presidential Election Campaign Fund: Additionally, taxpayers may voluntarily earmark $1 of their taxes ($2 on joint returns), to help defray the costs of the 1976 presidential election campaign. If you fail to earmark $1 of your 1972 taxes ($2 on joint returns) to help defray the cost of the 1976 presidential election campaign, you may do so in the space provided above the signature line on your 1973 tax return.

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contacting your local IRS office.

## Other Tax Relief Measures for Older Americans

Filing status: Required to file a tax return if gross income is at least:

| | |
|---|---|
| Single (under age 65) | $2,050 |
| Single (age 65 or older) | 2,800 |
| Married couple (both spouses under 65) filing jointly | 2,800 |
| Married couple (1 spouse 65 or older) filing jointly | 3,550 |
| Married couple (both spouses 65 or older) filing jointly | 4,300 |
| Married filing separately | 750 |

Additional Personal Exemption for Age: In addition to the regular $750 exemption allowed a taxpayer, a husband and wife who are 65 or older on the last day of the taxable year are each entitled to an additional exemption of $750 because of age. You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1974, you will be entitled to the additional $750 personal exemption because of age for your 1973 Federal income tax return.

Multiple Support Agreement: In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met: (1) Support, (2) Gross Income, (3) Member of Household or Relationship, (4) Citizenship, and (5) Separate Return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support.

However, it still may be possible for one of the individuals to be entitled to a $750 dependency deduction if the following requirements are met for multiple support:

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10 percent of the mutual dependent's support, but only one of them, may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

Sale of Personal Residence by Elderly Taxpayers: A taxpayer may elect to exclude from gross income part, or, under certain circumstances, all of the gain from the sale of his personal residence, provided:

1. He was 65 or older before the date of the sale, and

2. He owned and occupied the property as his personal residence for a period totaling at least five years within the eight-year period ending on the date of the sale.

Taxpayers meeting these two requirements may elect to exclude the entire gain from gross income if the adjusted sales price of their residence is $20,000 or less. (This election can only be made once during a taxpayer's lifetime.) If the adjusted sales price exceeds $20,000, an election may be made to exclude part of the gain based on a ratio of $20,000 over the adjusted sales price of the residence. Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded by an elderly taxpayer when he sells his home.

Additionally, a taxpayer may elect to defer reporting the gain on the sale of his personal residence if within one year before or one year after the sale he buys and occupies another residence, the cost of which equals or exceeds the adjusted sales prices of the old residence. Additional time is allowed if (1) you construct the new residence or (2) you were on active duty in the U.S. Armed Forces. Publication 523 (Tax Information on Selling Your Home) may also be helpful.

Retirement Income Credit: To qualify for the retirement income credit, you must (a) be a U.S. citizen or resident, (b) have received earned income in excess of $600 in each of any 10 calendar years before 1973, and (c) have certain types of qualifying "retirement income." Five types of income—pensions, annuities, interest, and dividends included on line 15, Form 1040, and gross rents from Schedule E, Part II, column (b)—qualify for the retirement income credit.

The credit is 15 percent of the lesser of:

1. A taxpayer's qualifying retirement income, or

2. $1,524 ($2,286 for a joint return where both taxpayers are 65 or older) minus the

total of nontaxable pensions (such as Social Security benefits or Railroad Retirement annuities) and earned income (depending upon the taxpayer's age and the amount of any earnings he may have).

If the taxpayer is under 62, he must reduce the $1,524 figure by the amount of earned income in excess of $900. For persons at least 62 years old but less than 72, this amount is reduced by one-half of the earned income in excess of $1,200 up to $1,700, plus the total amount over $1,700. Persons 72 and over are not subject to the earned income limitation.

Schedule R is used for taxpayers who claim the retirement income credit.

The Internal Revenue Service will also compute the retirement income credit for a taxpayer if he has requested that IRS compute his tax and he answers the questions for Columns A and B and completes lines 2 and 5 on Schedule R—relating to the amount of his Social Security benefits, Railroad Retirement annuities, earned income, and qualifying retirement income (pensions, annuities, interest, dividends, and rents). The taxpayers should also write "RIC" on line 17, Form 1040.

## COMMONSENSE ON EDUCATION

Mr. BUCKLEY. Mr. President, with the possible exception of politics, no subject matter is the victim of more nonsensical theorizing than education. It is, therefore, a rare and happy event when someone who is well versed in both politics and education has uncommonly commonsense views about the role of the Federal Government in education. In the "Annual Education Review" of the New York Times, January 16, 1974, Representative EDITH GREEN, of Oregon, has written the most succinct, well-documented, well-reasoned critique of Federal follies in the field of education I have ever had the pleasure of reading. Representative GREEN's eloquence speaks for itself so without further ado, I ask unanimous consent that the full text of Representative GREEN's article be printed in the RECORD:

There being no objection the article was ordered to be printed in the RECORD, as follows:

### BACKER OF FEDERAL AID ASKS, "WHAT WENT WRONG?"

(By Edith Green)

As a long-time supporter of Federal financial aid for education, I have come to realize with much pain that many billions of Federal tax dollars have not brought the significant improvement we anticipated. There are even signs that we may be losing ground.

What has gone wrong? I believe that several unanticipated problems must be understood before we can take positive steps toward achieving the goals we have set for ourselves.

First, it seems that whenever a new problem arises, well-meaning people immediately suggest that the Federal Government should provide a solution. If the state or local school district has turned down a proposal because there are other items of higher priority, surely in the inexhaustible Federal budget money can be found. Since there is no end to the number and variety of problems in education, there has been no end to the Federal programs that have developed over the years.

The structure constantly grows and usually at the hands of people whose motive is to help.

In hearings last year, Dr. Sidney P. Marland Jr., former Commissioner of Education and Assistant Secretary for Education in the Department of Health, Education, and Welfare until his resignation last September, said:

"O. E. sprang very swiftly from a relatively small office in 1965 to an office with some $5-billion in its responsibilities and some 104 different laws and programs to administer in a relatively short period of time. . . . The whole substance of proliferation of programs in the Office of Education has reached the point where it is causing almost impossible management to keep the lines of communication, the avoidance of duplication, the infinite volumes of paper work surrounding categorical programs."

A peculiar feature of all this is that programs never seem to phase out, even after the problem has been solved or after the program has shown very disappointing results. It is almost impossible to reverse an initiative. It is also next to impossible to change formulas for allocation of funds because the decision of each Congressman is too often based on the very pragmatic question: "Will my Congressional district (or state) gain or lose?"

So, in 1974, we are still using 1960 census figures despite evidence that some districts have thousands of new students and other districts are being paid for students who departed years ago.

Second, Federal education programs suffer from a terrible lack of coherence. To begin with, several Congressmen have several different proposals for solving any particular problem. By the time the appropriate subcommittee has agreed on a draft bill, the process of political compromise may have done away with the internal unity of the new program before it is even started.

The full committee then does its work on the bill, followed by the House as a whole—a process that has a complete analog on the Senate side (usually uncoordinated with the House). A Senate-House conference then alters the bill yet further, with the result that the program lacks integral wholeness.

It may really please no one; the original author may reject it entirely; the academic community may "buy" it not because they like it, but because it promises more dollars. Ineffective responses to real needs only compound distrust in Government.

Many Congressional committees and agencies start programs unilaterally. It is always with the intent of "doing good." This results in more overlapping and duplication of effort. If the Federal Government's objective is to meet a short-range goal, the goal may well be achieved in this way. Multiagency programs, planned unilaterally, do not, however, promote long-range over-all planning. Categorical programs preclude an integrated approach to the provision of services.

#### BEYOND TEXTBOOK DESCRIPTION

The third problem is one that goes beyond textbook description. We have been taught in school that Congress legislates the people's will and the executive branch carries out the Congressional will. This is often far from the truth. The executive branch has grown to immense proportions and has developed its own set of plans and programs. Sometimes the plans for the executive branch and Congress coincide. But time and time again, we have found the Office of Education planning, announcing and implementing programs never contemplated in the Congressional legislation.

Often it seems that the Office of Education considers the year's appropriations to be a giant pool from which their people can transfer funds or draw, as they wish, for whatever programs they have decided to carry out. The Renewal Site program of 1972 is but one example.

Elliot L. Richardson, then Secretary of Health, Education and Welfare, testified that the $363-million would be addressed to "reform and innovation." One of the Federal deputies in the Office of Education said, "After the needs assessment, the training program will be used to install new curriculum and to retrain staff to meet the cultural and knowledge revolution that is upon us."

One irate Congressman demanded of Secretary Richardson:

"Who told you that you can use E.P.D.A. to go out across the United States and make a needs assessment to determine what the most important needs of the schools of the country are? Who told you you had the authority to install a new curriculum?"

These and other discretionary funds are often used to do an "end run" around Congress. The impoundment of other funds for the programs is also used to thwart the will of Congress.

Fourth, if the execution is bad, even the best program is doomed. When he was the Senate majority leader, the late Lyndon B. Johnson said, "Legislation should not be examined in the light of benefits it will convey if properly administered, but by wrongs it would cause if improperly administered."

A Federal agency consists of an upper echelon of political appointees whose life spans in office are very short and a vast underlay of permanent Civil Service bureaucrats. The top people rarely get a chance to get a real grasp on the agency before moving on. As a result, the lower level bureaucracy runs the show.

In practice, this means that regulations and guidelines are issued, laws are "interpreted," contracts are let and grants are made, by third-rank and fourth-rank officials who are remote from the college or the local school district and immune from constituency complaints. In fact, Civil Service manages to protect all who come within its purview from any serious restraint on their freedom except in rare cases of extreme malfeasance.

In addition to problems arising from the inherent isolation of centralized bureaucracy, there are the usual problems of corruption and inefficiency. Corruption wears many faces. Outright thievery or collusion is relatively rare. Far more prevalent are such practices as bypassing regulations, ignoring uncomfortable restrictions, bestowing benefits on friends or colleagues and all the known forms of logrolling.

Frequently, when officials leave Government service, they are rewarded with positions in the private sectors where they have had the most contacts—and they often receive Government contracts or grants (called "graduation presents" in the corridors of the Department of Health, Education and Welfare) to help them along. Repeated agency promises to tighten up management practices have produced little if any change.

#### THE ADMINISTRATIVE MONSTER

Finally, each new program spawns at least one new administrative unit within the Government. This involves new office space, new staff of many ranks, new organization charts, new regulations. Administrative growth is a galloping cancer. Many listed as new state or city employes are there solely because of Federal funds or Federal requirements.

Out of the $5.6-billion for 1973, the Office of Education had more than $89 million in "discretionary funds." These funds amount to more than twice the total appropriations the agency had for all of its programs in 1960. This is spent in contracts and grants, research and evaluation.

Two years ago, my office did a study of O.E. contracts and grants. What we found was appalling. The General Accounting Office said the department was in absolute chaos. No one knew to whom the grants were given, for what purpose, or what were the results. More than 90 per cent of all contracts and grants from 1967 to 1972 were awarded on a noncompetitive basis.

Last year, Dr. Marland testified that there were more than 50,000 contracts and grants that required some degree of monitoring. An official of the Contracts and Grants Division estimated that 9,000 contracts and grants in the O.E. headquarters and 4,000 in regional offices had not been closed out. The closing of some has been delayed for as long as eight years.

Besides the 13,000 closeouts now outstanding, another 6,000 award files will probably never be closed out because they were in storage but cannot be located.

Who knows, then, whether the Federal dollars have been spent wisely? What are the results of the research? What kind of an evaluation was ever made? What dissemination was ever made of information gained?

Now the National Institute of Education has been established where research is to be centered. One of Oregon's leading educators says:

"Instead of finding out what's working in various states, they have to discover it all over again. There appears to be an intention to replow previously studied areas. There appears to be an intention to go for 'splashy' projects [like the NASA satellite program for Appalachia] as opposed to focusing on the 'here and now' problems of students, classroom teachers and school administrators."

It seems to me that the time has come for an "agonizing reappraisal." We can no longer afford another new program for each new problem, or another new agency for each old agency that has lost its vitality. We cannot tolerate more centralization and Federal control. We cannot afford to enlarge, or even to continue with, a huge administrative apparatus that operates out of public view and beyond public control.

The enormous Federal influence has not yet really entrenched itself, either structurally or philosophically, in the American experience. It is by no means too late to cut discretionary funds to a justifiable and manageable amount, and to do away with the myriad categorical programs. To the extent that financial assistance is required for education programs, such assistance can be supplied through outright block grants with minimum restrictions on how or for what they are spent, once a basic over-all need has been established. *Decentralization* and *general aid* are key concepts in the rehabilitation of our educational system; they and they alone permit each locality to determine its own priorities, plans and objectives—to focus on its own particular educational problems.

### A LESSON ABOUT LABELS

My experience with Federal education programs over the years has taught me a profound lesson about political labels. Time was when it was easy to identify a "liberal" and a "conservative:" The liberal supported increased Federal aid to education, and the conservative opposed it. But then matters got more complicated.

The liberals became those who supported assistance to certain programs, such as environmental studies or consumer education or the twentieth program for child development, but opposed assistance to the "wrong" programs, such as R.O.T.C. or block grants or funds for Federally forced busing to achieve a certain ratio, depending solely on pigmentation of skin. Conservatives became those who favored local control in certain areas, such as school districts in the South, but opposed local control in the community schools of New York.

We have come to the point where the old labels are as meaningless as the old simple formulas for political cures. If we could quit arguing about "liberal" or "conservative" and find out which programs work, children would be the beneficiaries. We have matured greatly in the past years, since Sputnik jarred our awareness. From a purely pragmatic standpoint, we should be eager to end unsuccessful programs and rid ourselves of the waste they engender. The essential lesson we have learned is that the financial resources of the Federal Government *are* necessary to our educational system, but the preservation of local control over priorities, plans and objectives is *equally* necessary. To the extent that this recognition becomes part of the national consciousness and is translated into action, we will be able to save our schools from mutilation and maintain their role as the preservers of a free, independent and enlightened citizenry.

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## CONFIDENCE IN GOVERNMENT

**Mr. MUSKIE.** Mr. President, early last month the Subcommittee on Intergovernmental Relations published the results of a public opinion survey conducted for it by Louis Harris & Associates on the state of citizen regard for and involvement in government at all levels. The study, which showed a disquieting public isolation from Government and a strong desire for greater citizen participation in public affairs, has provoked a great deal of comment in the press and substantial interest from citizens, scholars, and Members of Congress.

Two commentaries made last month deserve wider circulation. One was the column by James J. Kilpatrick in which he called the survey "must reading" and observed, in relation to its findings:

> Some entirely new forms of education, have to be developed. Public officials tend to communication, and public relations may communicate through the media, by mail, by individual conversations, by giving speeches, even by going to funerals. Plainly this isn't enough. If three quarters of the people feel they don't know what's going on in state government, someone in state government—and some of us in the media—are doing an inadequate job.

In a lengthy television discussion of some of the survey's findings, the noted anthropologist Dr. Margaret Mead said that Americans' loss of confidence reflects "distrust based on a desire for trust." Dr. Mead speaks of a world in "extreme transition," of "a failure to change when change was due" and of an America which has not yet recognized its new needs. Her comments are extremely provocative and worth our consideration. I ask unanimous consent that Mr. Kilpatrick's column and a transcript of Dr. Mead's talk with Martin Agronsky be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Star-News,
Dec. 14, 1973]

### CRUSHING VERDICT ON WATERGATE

(By James J. Kilpatrick)

Several months ago, a Senate subcommittee retained Louis Harris Associates to make a massive study addressed to this question: How do the American people perceive their government? Last week the answers were in: The people perceive their government poorly.

Their disenchantment extends not only to government, but to other institutions also. By a substantial margin, the people believe the whole "quality of life" in America has decreased in the past 10 years. Their sense of alienation gets worse, not better.

For any person interested in public affairs, this Harris survey has to rank as must reading. It is not pleasant reading. Those who have responsibilities in government, in education, and in the media will read this report in dismay. At the White House, they will read it in shock.

The study provides a crushing verdict on the damage done by Watergate. Asked to express an opinion on 22 American institutions, the people ranked the White House dead last: Only 18 percent of the respondents voiced a "great deal of confidence" in the President. Their disenchantment reached to the federal government generally: More than half the people—57 percent—said they have less confidence in federal agencies today than they had five years ago.

The Harris pollsters have been measuring these attitudes for some years. Their findings must be accepted as reasonably accurate reflections of opinions that are widely held. Seven years ago, only 26 percent of the respondents agreed with the test statement that "people running the country don't really care what happens to you." Today that figure has soared to 55 percent. Seven years ago fewer than half the people (45 percent) accepted the cynical observation that "The rich get richer and the poor get poorer." Now that belief is voiced by 76 percent. Compared to 1966, three times as many Americans now feel "left out of things going on around you."

Among the most distressing aspects of the survey is the disclosure that millions of adult Americans know little about the people and the institutions that make up our government. While nine out of 10 respondents could name their state governor, only 59 percent could name one of their U.S. Senators and only 39 percent could name both. Astoundingly, only 62 percent knew that Congress is composed of the Senate and the House. One fifth of them—one fifth!—had the foggy notion that Congress includes the U.S. Supreme Court as well.

What emerges from this disturbing survey, among other things, is the urgent need for better communications between government agencies and the people they serve. Only 40 percent of the people feel reasonably up to date on what is going on in federal and local government; only 27 percent feel well informed on state government. Perhaps as a consequence, they regard government at every level with increasing mistrust.

Public officials themselves, who also were sampled by the Harris survey in a companion study, are convinced that they are doing a steadily better job. They know, as best they can know these things, that the quality of public servants in state and local government is better than it was some years ago. They are mystified that the people do not perceive the improvements around them.

How can confidence be restored? Some entirely new forms of education, communication, and public relations may have to be developed. Public officials tend to communicate through the media, by mail, by individual conversations, by giving speeches, even by going to funerals. Plainly this isn't enough. If three quarters of the people feel they don't know what's going on in state government, someone in state government—and some of us in the media—are doing an inadequate job.

I offer no easy answers. The loss of confidence is so deep, and so pervasive, that only a sustained and dedicated effort will reverse the trend. Such an effort will have to be made across the board—in business and industry, in the media, in the churches, in our institutions of higher learning, in organized labor, in every significant part of society.

Such an effort, properly mounted, would not fail. As the Harris survey makes clear, the people still have hope; overwhelmingly they believe that government "can" solve the problems that afflict us. The disenchantment is not irreversible. But hope is a tender flower, needing constant care, and this hope has gone untended far too long.

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### Transcript of Televised Interview of Dr. Margaret Mead by Mr. Martin Agronsky, on "Evening Edition," of the Eastern Educational Network, Broadcast by WETA–TV, Channel 26, Washington, D.C., December 13, 1973.

Mr. Agronsky. Good Evening. A recent Lou Harris Poll says that Americans have lost confidence not only in their government leaders but in the fields of medicine, education and organized religion. Our government is racked with scandals and the country faces an energy crisis, rising unemployment and inflation. It's hard these days to do anything viewing our times through a glass darkly. But is everything really that bad?

Well, tonight our evening edition is a discussion of the state of society with a distinguished anthropologist, Dr. Margaret Mead. Dr. Mead has studied seven primitive societies and written over eighteen books and she is currently possessor of the formidable title of Curator Emeritus of Ethnology of the American Museum of Natural History and eminently qualified to provide some perspective on where we are and where we're going. . . . Dr. Mead, we've had such a steady diet of politics and problems, I'm delighted to welcome an anthropologist to see if we can get a different kind of perspective on where we are and where we're going. I'd like to begin with that wonderful stick you came to the studios with that I found very intriguing and I think the audience would like to hear about it. Can you tell me about it?

Dr. Mead. Well, the only thing anthropological about this stick is that when I didn't like American canes I was willing to go and get one somewhere else.

Agronsky. Where did it come from?

Mead. I bought it in London. It was made for big farmers. English type farmers, you know. Who stand around and watch other people work.

Agronsky. And what do you call it?

Mead. It's called a thumbstick. You just put your thumb in it. I use it as a "V" though to hang 60 pounds on when I have to stand somewhere.

Agronsky. I thought it might have come from Ireland, say St. Patrick may have used it to get snakes or something.

Mead. Probably he did.

Agronsky. Probably did. Dr. Mead, what do you make of a society according to one Harris Poll which places garbage collectors at the highest point in public esteem as related to lawyers, doctors, Senators, Members of the House, Presidents?

Mead. Well, that garbage collector point was created by the poll not by the American public, and I think its very important to realize that. It was a trick, nothing but a trick. After we've said that we have to consider what has happened to this society, how totally corrupt it was becoming from top to bottom? And one of the things we don't know, but it's possible, is that the only way to get rid of this degree of corruption was to have it come out at the top. That is one way in which you may get rid of it.

Agronsky. Don't you feel that the polls have demonstrated, if you want to accept the polls, that Americans are losing faith in just about everything?

Mead. I think Americans have been living a life that was exceedingly selfish, devoted to their own private enjoyment, independent of what was happening to the rest of the world, and I think that the amount of corruption in this country has been dreadful. You have supermarkets that would rather have two million dollars worth of stuff stolen than have three more people work to help somebody find something. You have an insurance business that never bothered to study thefts, just pay them off and then if you had too many things stolen they took your insurance away from you. At every point in this country, we've had people who would rather spend money than care about human beings and were pretty careless about the way they were spending it.

Agronsky. Then you feel that public corruption, if you like, as we have now seen it demonstrated, political corruption, is a mirror in which we can see the face of our society?

Mead. Well, I think that in the last twenty years this country has been specializing in a way of life that at every point it did not beget any kind of confidence in anyone. And then we've found embezzlers come out of the church, embezzlers come out of medicine. Think of a country where you have to pass a law that permits a doctor to treat a sick person, because he is so likely to have a malpractice suit against him if he does—brought by the legal profession that is there to protect justice. Now, that is a sample of where we'd be.

Agronsky. What do you think has happened to our society to bring all this about aside from these points that you make of the selfishness of a—sort of pervasive lack of morality—if you like, an unwillingness to do anything with vision that is constructive? What is it? What's happened to us?

Mead. I think—you know—first we had a terribly dull era after the war, and countries do after a war; they put forth a great deal of effort, industry put forth tremendous efforts to end the war. To hear them talk now it would take them 10 years to turn around, when in the war they would have turned around in 3 months. We were tired, and people went back to their own private affairs, and we had no sense of urgency or danger and everybody got married and got a station wagon and moved to the suburbs if they could, and those were the Eisenhower years.

Then when Kennedy was elected, there was a lift, and people began to feel maybe we were going to do something at last. And then of course when he was assassinated, that downed the hopes of the young people very much. Because they had an idea that Kennedy was about 20; and then, of course, came the Vietnam War, a war we should never have fought and a war that couldn't possibly put the country back up. And to have a war that you're not back of, that people don't believe is right is the worst thing you can do to a country.

And then came the increasing corruption and the increasing change and then with the President's second term, we were more or less faced with the possibility of everything we've built up since the New Deal being torn down.

Agronsky. How do you see that?

Mead. Well, look what has happened to the country. Housing, any new housing was dead. The President was impounding funds that Congress voted to clear up water pollution for instance. After all the years where we've had an Administration that proposed and Congress cut the funds you know and got pennywise or over-political, we had a Congress that had been elected specifically to deal with some of these issues and at the time of the election we made Congress more liberal, hopefully more responsible to the country, and then the President was just disregarding everything they wanted and he reversed it. They proposed things, and he said, "I won't."

Agronsky. Yes, but you can't exactly take the blame off the shoulders of the Congress. For example, in the last nine bills of this Congress that were vetoed, they only passed one of the nine over the President's veto and that was the War Powers Act.

Mead. I'm not taking any blame off the Congress. All I'm saying was that when you say what's happened that we've got a situation which was a reversal of what we were used to and we got presidential policies that apparently were going to go headlong, disregarding anything anybody wanted. You know, I'm not saying what Congress wanted was fine, I'm just saying they were used to having a little bit of power and it has all been taken away from them.

Agrosky. Dr. Mead, I'm appealing to you for a little illumination, many of us are puzzled about what went wrong. Where did that worm get into the apple of our society?

What happened? I want to try to induce you to carry us outside the sort of contemporary events and give us a little perspective, historic perspective. Do you think one is available?—A moral perspective. Do you think that matters?

Mead. I don't think that the world has ever faced the present situation. We have faced over and over again societies that haven't the will to save themselves, that weren't able to read the signs of times that didn't see what they were doing and fell.

Agronsky. But what happens, why does it happen in a society? You know one studies Gibbon's classic, "The Decline and Fall of the Roman Empire"; one can see the decadence set in, one can see the selfishness, if you like, the absolute disregard for the masses of the people. The aristocracy that took advantage of everything that was there. But we don't see that kind of an analogy in this society do we?

Mead. I don't think the analogy to Rome is worth much except plumbing. We are both preoccupied with plumbing, but Rome was an Empire with barbarians all around . . . but if you leave that out we have a situation that the world's never had before, and I wouldn't say decadence so much as obsolescence. . . . This country is totally obsolescent at the moment. It was one of the first countries to develop a democratic form of government. Seems the agrarian era doesn't suit us now. First country to have public education throughout, look at our schools; first country to develop mass production and look at us, we can't even produce a car to new specifications. This was one of the first countries with a great railroad system, we've let it go to pieces. We had great cities in this country, we've let them rot.

Agronsky. These are observations, I want reasons.

Mead. Now wait a minute—Obsolescence always occurs to the people who start things first. Look at British industry and look what state it was in the 20's. That was the first country to industrialize and it got stuck. Getting stuck in one's previous inventions is one of the commonest things that countries do.

Agronsky. The inventor of the industrial society that today its Prime Minister had to come to the House of Commons and say that they've got to go on a three-day work week, predict that it would cause enormous unemployment. What's happened there? What's wrong with our society?

Mead. Obsolescence again. A failure to change when change was due. Germany was bombed to bits and had to start over. They're getting along much better and so . . .

They've got problems of inflation—we knocked the Japanese out. They have enormous problems of inflation. We can produce but we can't control it, any of us.

None of them have yet discovered that we are living in one world from the standpoint of energy, from everything that we are connected with. We're in a period of extreme transition, and one of the things we are suffering from is the fact that we haven't recognized it yet. But another thing that we are suffering from is that we are obsolescent. We let ourselves build a society entirely on the motor car, and it depends on oil, and now we are stuck. We let our railroads go to pieces; we let our public transport go to pieces; and we've wrecked our cities.

Agronsky. Well, but there's a defect, I think, in that argument, in that, quite right, we built our civilization on oil; we have too many automobiles; we've used too much oil, all that is true, but at the same time, had we chosen to use our vision, our industrial vision, had we chosen to use our brains in a scientific capacity all those substitutes for oil were always available and there were energy substitutes always available, there was a lack of vision really, I mean. Granted we made a mistake in the beginning, it's all correctable, don't you think?

Mead. It is correctable. What we need now is some vision. The hope is we never worked in this country. We never work without a crisis, and most countries don't really pull themselves together nationally without a grave danger. Mostly they pull themselves together for war.

Agronsky. Is that a defect of our system?

Mead. No, I thing that is a fact about countries, about nation-states, that only when something they care about is deeply in danger, that when you feel you are attacked, have they been willing, have people been willing to give up their private lives for the public good.

Agronsky. Have we arrived at that point yet?

Mead. Well, we've arrived, but we don't know it yet. You see we are working on the silly little Christmas tree lights and remarks about "Just cut down your Sunday driving, and don't visit your mother-in-law so often"—we haven't faced the fact that we are in a worldwide situation where life has to be transformed. You know, you talk about the unemployment we're facing—if we get to work and build decent railroads again, freight cars, decent cars, we could transform our society. We wouldn't have to put all of those people out of work. At present we're dealing with nothing but cheap policies, we're saying we won't ration. Nobody wants the political onus of rationing. So what are we going to get?

The oil states put severance taxes on their oil wells and tax the rest of the country. We can't meet this unless we meet it first as a national crisis and then a recognition that this notion that we are going to be independent of the Arabs. . . . We ought to be independent of the kind of society we've built, independent enough so we could build another one.

Agronsky. So what you are really asking is for a fundamental change in our philosophy. You ask for fundamental change in our values, you ask for a fundamental change in our whole concept of what we want out of life. Is it possible?

Mead. No, I don't think so. I think the reason is that when you get a poll of the American people they still have their fundamental values when they're pushed to the wall. The rest of the time, they aren't noticing. And they still do believe there ought to be leadership.

They still believe that they ought to be able to trust the medical profession. They still believe these things. What they are registering is distrust based on a desire for trust.

Agronsky. You've always been deeply concerned about youth—what's happened to youth in our society? You know youth is not merely young people, like youth on campuses. Those who are supposedly in training now to take over the leadership when the older generation steps aside are not very visible today. They don't seem to be involved. Some people say they're apathetic; some people say they don't care; some people say that they have different values; some people say that they've changed their minds about whether they can do anything about government. They don't want to try anymore; they don't want to go into the streets. What's happened to youth? What do you see?

Mead. Well, I think what happened was that when we had these big explosions, these were the oldest members of the new generation and they arrived on the campus and looked at what a mess we were making of the world. And they said "Goodness, we have to do something about this, this minute, and there's nobody but us." So we had all this instant solution—confrontations. Now the oldest members of the post-war generation are 27. They are out in society. They are the people that started the public law firms and the public advocacy firms. They are the people who tried to revive the whole medical profession. They are the people who are working out in the free clinics. They are in every high school in this country. So that youngsters coming on the campus today don't feel they have to do it now. There are people out ahead of them, and they also have discovered that it didn't do much good. It did some good—shook the colleges up a bit, but the real job is out in the world and you can only do it if you've learned something.

Agronsky. Well, then you see in the attitude of youth, a positive and a constructive hope for the future if I understand you correctly.

Mead. Yes I do. If they have some leadership. But you see I think one of the things that depressed them enormously, was to realize that no matter what they did or said or thought, the President of the United States had said he was not going to be influenced. And he didn't care what they thought. Under the Johnson Administration when they were doing most of their highest amount of demonstrating, they found that people did care what they thought. So that kind of behavior just wasn't getting them anywhere and so they're taking a more long-term view. But their goals are the same and their ideas are the same, they are not apathetic.

Agronsky. Do you think they are better than the generations that preceded them?

Mead. Well I think they're every bit as good and they are going to be a lot better trained because they are going to have time to learn something.

Agronsky. Do you think they are more aware?

Mead. They have more radical ideas and they understand . . .

Agronsky. How do you define radical ideas?

Mead. Well, radical ideas in the sense they indeed think that our society needs transforming, absolutely transforming.

Agronsky. How will they go about it?

Mead. Well, they are there now with an 18-year-old vote for anyone who can take national leadership and talk about what this energy crisis really is and what we've got to do and will have the courage to say this is a time of transition, its a time when we are going to learn how to live differently from the way we've been living now.

Agronsky. Don't you think that might cut through every spectrum, the whole spectrum of our society, and every segment of society?

Mead. Yes, but you see, at present you have vast amounts of people who don't vote, who don't participate, people who are in despair, people who are disgusted, and it isn't until we get some national leadership on this whole thing that you are going to cut through that.

Agronsky. Well, how do we get it?

Mead. Well, we get it by demanding it. We get it by your discussing it on this program. The way we get things in the United States is by talking enough, getting the issues clear enough so the people begin to demand all over the country that something be done.

Agronsky. Dr. Mead, do you think that we've arrived at a point where people are so aware that the next time we have an opportunity, a crack at national leadership that we will have first class people?

Mead. The first class people haven't emerged in this crisis yet.

Agronsky. That's what I want to know. Where are they?

Mead. Well, you know, we've got two hundred million people. Now I can't believe that we haven't got, among that 200 million, people who will be capable of leading us. It's nonsense to think that we haven't got them. But we've had a sort of society where nobody wanted that role. And where there was very slight opportunity really. We were dragging through a war that nobody wanted; we were dragging through slow inflation. I think there wasn't anybody who really said completely what could be done. Now we are in the same situation we were in when FDR took over in the Depression.

Agronsky. Do you see our new Vice President as a potential leader?

Mead. I don't think that we have any indication yet.

Agronsky. What do you think is going to happen in the election?

Mead. I don't know what is going to happen in the election. Because what's going to happen in the election is not the real issue right now. The election is quite a way off. The energy crisis is far greater, and it is going to hit us in all sorts of ways long before the election.

Agronsky. What our leadership has already demonstrated, they weren't able to anticipate the crisis. What reasons do you have to believe that they would be able to overcome the crisis?

Mead. Well, I haven't the slightest hope that our present leadership is going to do this.

Agronsky. Well, we have our present leadership—we have a democracy.

Mead. We have plenty of chance for people to emerge who can interpret this.

Agronsky. Where are they, Dr. Mead?

Mead. They haven't emerged. I mean where was FDR when Hoover was having his fling at not saving the country? The leaders come when they get deserved. Now the real question is when the American people are going to deserve a leader.

Agronsky. Do we deserve a leader?

Mead. I think so. Every country gets the leadership it deserves. You know when we have a chance to vote.

Agronsky. You demonstrate a rather low opinion of the country.

Mead. I think the country has been in a very low state. Terribly low state. The utterly unmindful—they've been warned—everybody was warned that this crisis was going to come. They did nothing. They kept driving around in their big cars, one person per car. We watched our cities rot, we watched corruption run through every aspect of the country, and we did nothing.

Agronsky. Well, if you feel all this has happened, I wonder where do you get your optimism, your hope that it will be changed?

Mead. Because of what this country has been able to do before. I mean look at the end of World War II—just before World War II—this country was still in a pretty low state. Half pulled out of the Depression; youth was supposed to be absolutely ruined. You ought to read the things we said about youth then. They would never fight again; they would never do anything for anyone; they had no conscience; they wouldn't sacrifice; nobody would do anything. And then came the war, and we pulled ourselves together.

We did things in three months that we now think would take thirty years to do and I don't think this country pulls itself together unless the whole country faces a common emergency.

Agronsky. Do you think that the country now has—one speaks of the country, how do you speak of a country?—Do you think that there is a consensus in the country today that things have gotten so bad that they are no longer tolerable, that they will do something about it?

MEAD. Well, I don't think they would have done a thing without the energy crisis. But, this brings it home to every single person, every household in this country and we either are going to set everybody against everybody else and pilots will have a strike and wreck the airlines. This is the only thing they can think up to do. The truckers block the highways. One State is against another. Now at present we have not sensed that this is a national emergency.

AGRONSKY. How would you evaluate the collective intelligence of the American people? You know, I have in mind that extremely cynical and sardonic observation that H. L. Mencken once made—"Nobody ever lost a nickel underestimating the intelligence of the American public."

AGRONSKY. How do you feel about that? Are we different?

MEAD. We're one of the most intelligent publics in the world, we're one of the best educated. If you compare the American voter in 1940 with the American voter now, he's had far more education. We've got the media where we never had them before. People are 100 times better informed than they were in 1940, and I think the American public, the American people, have everything they ever had. Now this is the real question . . .

AGRONSKY. I can only think of the old gag, you know. If everything is so good and they understand so well, why is everything so bad?

MEAD. Well, because we never act except in a crisis, and we haven't had a crisis, we've just had creeping corruptions, and creeping inflation and creeping trouble and rotted our cities, and each person has been trying to do what they thought was best for their families.

AGRONSKY. So, if you were to view the world or at least our society and our knowledge and our concept of what's wrong on a graph, you see it go up and down like that. We just never go like that. We've got to be down before we go up.

MEAD. Well, so far. Now this is a new situation. It isn't the war. It isn't a depression. It isn't a physical disaster, which is what we might have had, you know. We might have had an inversion and killed a million people before we woke up. Instead, we've had an oil shortage to wake people up which I think is much better. It doesn't kill people, and its going to wake them up.

AGRONSKY. You end as an optimist, Dr. Mead.

MEAD. Yes.

AGRONSKY. Thank you very much for a very interesting insight into the problems of our times. Good night for Evening Edition.

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## SUPREME COURT ABORTION DECISION AND FREEDOM OF CONSCIENCE

Mr. PACKWOOD. Mr. President, today marks 1 year since the Supreme Court issued its decision in two cases which made the legal option of abortion possible across the United States. The debate on the ethical and moral issues regarding abortion have continued unceasingly, and to some this has been a sign that the decisions were ill advised and should be reversed.

I submit that the continuing debate is evidence, rather, of the wisdom of the Supreme Court action, for we have here an issue highly complex and emotional, and one on which there is no consensus among the theologians, ethicists, and others who deal with values in our society. With the Supreme Court decision, that State has taken a neutral stand on the theological questions, while acting to protect the health and welfare of its citizens, their right to privacy, and the right of physicians to make medical decisions according to their best judgments.

Many of those who ask that all abortions be banned by law or constitutional amendment are deeply religious and moral people. They are moved to act out of their concern for life. We have been quite aware of their voices this past year, and will hear them speaking with special vigor during this week.

We sometimes tend to forget that there are also millions of deeply religious and moral people sincerely concerned with the preciousness of life, who just as fervently hold an entirely different view of how best to deal with the issue of abortion. Such voices are not proabortion, even as I am not proabortion. They simply feel that the decision should rightly be dictated by individual conscience, not the State.

The legal prohibition of abortion except to save the life of the mother has been tried in our country, as elsewhere. These laws did not stop abortion, but they were the cause of maimed and dead women, of families devastated, of suffering children, of broken laws and broken lives. I would ask those who seek to turn back to a system which tries to enforce the bearing of children by means of criminal penalties, I would ask them to remember these tragic events, and to ask themselves if that is truly the way to uphold sanctity of life?

In facing these questions, the general conference of the United Methodist Church in 1972 expressed its conclusions in these words:

> Our belief in the sanctity of unborn human life makes us reluctant to approve abortion. But we are equally bound to respect the sacredness of the life and well-being of the mother, for whom devastating damage may result from an unacceptable pregnancy.
>
> In continuity with past Christian teaching, we recognize tragic conflicts of life with life that may justify abortion. . . . We support removal of abortion from the criminal code, placing it instead under laws relating to other procedures of medical practice. A decision concerning abortion should be made after thorough and thoughtful consideration by the parties involved, with medical and pastoral counsel.

Other groups similarly deciding that the question of abortion belongs not in criminal law, but with individual conscience, to be decided by a woman and her doctor, include:

### THE LIST OF GROUPS

#### RELIGIOUS

Unitarian Universalist Association, 1968.
American Baptist Convention, 1968.
American Jewish Congress, 1968.
Unitarian Universalist Women's Federation, 1968.
National Council of Jewish Women, 1969.
American Friends Service Committee, 1969.
Connecticut Council of Churches, 1969 & 1972.
Church Women United, 1970.
United Methodist Church, 1970.
Lutheran Church in America, 1970.
Moravian Church in America, Northern Province, 1970.
United Presbyterian Church in the USA, 1970.
Episcopal Church Women, 1970.
Capital Area Council of Churches, 1970.
Federation of Protestant Welfare Agencies, Inc., 1970.
National Women's League of the United Synagogue of America, 1970.
United Church of Christ, 1971.
Connecticut Conference of the United Church of Christ, 1971.
West Virginia Council of Churches, 1971.
Council of Churches of the Mohawk Valley Area, Inc., 1971.
United Church of Canada, General Council, 1972.
Church Women United of Connecticut, 1972.
Catholics for a Free Choice, 1973.
Pennsylvania Council of Churches, 1973.

#### MEDICAL

Medical Committee for Human Rights, 1967.
American Public Health Association, 1968.
American Medical Women's Association, 1969.
American Psychiatric Association, 1969.
New York Academy of Medicine, 1969.
Group for the Advancement of Psychiatry, 1969.
American Protestant Hospital Assoc., 1970.
American Psychoanalytic Association, 1970.
American Medical Association, 1970.
National Council of Obstetrics-Gynecology, 1970.
Student American Medical Association, 1970.
American College of Obstetricians and Gynecologists, 1970.
California Medical Association, 1970.
American College of Nurse-Midwives, 1971.
Michigan Nurses Association, 1971.
National Medical Association, 1971.
American Association of Maternal and Child Health, 1973.
Physicians Forum, 1973.

#### OTHER

American Civil Liberties Union, 1968.
Citizens Advisory Council on Status of Women, 1968.
Planned Parenthood Association, 1968.
Planned Parenthood-World Population, 1969.
American Ethical Union, 1969.
American Humanist Association, 1969.
National Council of Women of the United States, 1969.
American Psychological Association, 1969.
YWCA 1970.
American Society of Mammalogists, 1970.
The Izaak Walton League of America, 1970.
Chicago Child Care Society, 1970.
National Organization for Women, 1970.
President's Task Force on the Mentally Handicapped, 1970.
Urban League, 1970.
White House Conference on Children and Youth, 1970.
American Association of University Women, 1971.
American Home Economics Association, 1971.
National Association of Social Workers, 1971.
National Council on Family Relations, 1971.
National Welfare Rights Organization, 1971.
Community Service Society, 1972.
American Bar Association, 1972.

A number of these leading religious organizations, and others which similarly have concluded that helping women and their families through these difficult situations can best be done when abortion is not dealt with by criminal law, have formed a religious coalition on abortion rights. Members include the board of church and society and the women's division of the Board of Global Ministries of the United Methodist Church; Division of Social Ministries of the American Baptist Churches; B'nai B'rith Women; the Washington office of the Church of the Brethren; Catholics for a Free Choice; Union of American Hebrew Congregations; Unitarian-Universalist Association; National Council of Jewish Women; Board of Homeland Ministries of the United Church of Christ; Council for Christian Social Action of the United Church of Christ; Church and Society Unit of the United Presbyterian Church, U.S.A.; Women's Program Unit, United Presbyterian Church, U.S.A.; National Federation of Temple Sisterhoods; and the Unitarian-Universalists Women's Federation.

The express purpose of the coalition is to encourage and coordinate support for safeguarding the legal option of abortion, to insure the right of individuals to make decisions concerning abortion in accordance with their consciences, and to oppose efforts to deny this right of conscience through constitutional amendment, or restrictive Federal or State legislation.

I believe one paragraph of the rationale which explains the formation of this group gives voice to the basic reason for welcoming the Supreme Court decisions:

> It is vital to build public awareness of the principle that in a pluralistic society the State should not embody in law one particular religious or moral viewpoint on which widely differing views are held by substantial sections of the religious community. All those concerned with religious liberty can join in opposing any attempt by constitutional amendment or legislation to take us back to the era of criminal abortion which legally denied to all, but in practice particularly denied to the poor, the right and responsibility to make their own decisions.

I believe today is a time to express quiet thankfulness that freedom of conscience is still safeguarded in our pluralistic society. An alternative once available only to the well-to-do and those with power in society is now equally a possible choice for all. In the present situation, no one is compelled to have an abortion, or perform one, or participate in any way. Each parent, teacher, and religious body is free to teach their own values on this matter as vigorously as they desire.

Clearly, Mr. President, we would all welcome a time in which abortion is a thing of the past, truly a medical rarity. With adequate family planning information and servies for all who want, but do not currently have access to them, we could virtually eliminate the need for abortions. I had fervently hoped that following the Supreme Court's decision, opponents of legalized abortion would begin to work with us to make family planning services available to all, so that abortions might one day not be necessary. Unfortunately, however we find today some opponents of legalized abortion are choosing to pursue other courses—designed to override the Supreme Court and impose new restrictive regulations on Federal programs—rather than the far more constructive approach of helping to prevent unwanted pregnancies.

In addition to our ability—our virtual mandate—to provide adequate family planning services and effective contraception to all who want them I must add that perhaps our most important responsibility is to make possible a true social and economic equality to all women and to all minorities in society.

Meanwhile, the abortion decisions of the Supreme Court last January have given clear and renewed evidence that freedom of conscience is alive and well—in practice as well as in theory—in our highly varied society, and for that, Mr. President, we should all today give heartfelt thanks.

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## ALEXANDER SOLZHENITSYN

Mr. JACKSON. Mr. President, the publication of Alexander Solzhenitsyn's "Gulag Archipelago, 1918–56," has attracted as much international attention as any cultural event in recent memory. The book is a milestone in 20th century Russian culture, for it will compel all those who become familiar with it—whether in the Soviet Union or the West—to understand the Soviet present in terms of the Soviet past.

Solzhenitsyn himself has pointed out that the recounting of Soviet history can serve only to improve international relations over the long run:

> The one who speaks about crimes committed does not harm peace and good relations between peoples and nations. The one who committed them does that.

Moreover, said Solzhenitsyn addressing the Soviet Government:

> If we openly admit our terror-filled past and severely condemn it—not just in empty words—then that will only strengthen trust in our country throughout the whole world.

As the Soviet campaign of intimidation and vilification directed against Solzhenitsyn continues to mount, we should remember that the worldwide support he and other Soviet humanitarians like Andrei Sakharov have received is, in Solzhenitsyn's phrase, "priceless." "We are still safe and alive, only thanks to it," he says.

Mr. President, during the recent congressional recess, there was considerable editorial and interpretive comment on the issues raised by Solzhenitsyn's latest work. I ask unanimous consent that some of that comment be printed in the RECORD. I also ask unanimous consent that the three-part New York Times digest of excerpts from "The Gulag Archipelago, 1918–56," and the text of Solzhenitsyn's statement of January 18 be printed in the RECORD.

There being no objection, the digest of excerpts was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 31, 1973]

### MR. SOLZHENITSYN'S BOOK

"For many Soviet dissidents," the British scholar Peter Reddaway wrote a couple of years ago, "the career of Alexander Solzhenitsyn has come to symbolize the resistance of uncompromising moral integrity to the forces of reaction." He has come to be a person of great political importance in his own country, and that fact will doubtless control what happens next. In the publication of his book "The Gulag Archipelago," he has made another move in his desperate struggle for the conscience of the Russian people. He takes the view that a people unaware of its own history is like a psychiatric patient who has undergone a lobotomy operation in which the surgeons destroyed some of the central connections of the brain. The result is a mind more cheerful, less troubled, and a great deal less capable of knowing itself and managing itself.

Readers in the West need to understand that they are not the author's audience. Nor is it his primary purpose to influence relations between the Soviet government and ours. Publication in the West is necessary because it ensures the survival of the book and, equally desirable, it becomes an event which is reported by the news broadcasts that an incalculable number of Russians hear. They will learn that Mr. Solzhenitsyn is still at work and is now telling the terrible story of internal oppression and terror in the four decades following the Revolution. The author cannot put the book into the hands of many of his countrymen, but he can tell them that it exists and convey, in this roundabout fashion, some idea of its substance.

The manuscript has already acquired a sinister history. It was completed some years ago, but Mr. Solzhenitsyn withheld it from publication to protect the people named in it. Unlike his earlier books, this one contained no element of fiction. Last August the Soviet police arrested a woman who had a hidden copy and subjected her to a prolonged and brutal interrogation. At length, as anyone must, she told the inquisition what it wanted to know. Released, she hanged herself. The author decided that, with one copy already in the hands of the government, it was far better to let it appear throughout the world. Americans who pick up the book may wish to reflect upon the price already paid for it.

Various literary and political movements of dissidence seemed to be spreading in the Soviet Union during the early 1960s. But they have now entered a new glacial age. Most of the known dissidents are confined either in prisons or mental hospitals. Those still at liberty seem to be the very few who have three characteristics in common: They are outstanding in their professional fields. They are widely known and admired within the Soviet Union. And they are even more widely respected in the rest of the world. Beside Mr. Solzhenitsyn there are the physicist Andrei Sakharov, the cellist Mstislav Rostropovich, and not many more. The Soviet government obviously has the power to suppress even these figures. There are after all, no Chinese Solzhenitsyns. Unlike the Chinese, the Russians have a certain qualified concern for public opinion. But a book as specific as "The Gulag Archipelago," and as disruptive to official ideology, must be profoundly threatening to the kind of men who now run the Soviet Union.

Their countermove will indicate to the rest of the world how the balance now stands in Moscow between the people who worry about internal security and those who worry about foreign reactions. For Americans, in a time of detente, the book itself and the circumstances surrounding its appearance are a salutary reminder of the realities of Soviet life. If detente means only learning to live peacefully with the vast political differences between our two countries, then it is useful But no one can afford to believe that those differences are diminishing.

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[From the Christian Science Monitor, Dec. 31, 1973]

### SOLZHENITSYN'S LATEST DARING . . .

So great is the risk that Soviet dissidents like writer Alexander Solzhenitsyn take in openly analyzing Soviet Government actions that their supporters abroad half wish they would take refuge in another country. Like the crowd below, we are anxious for the men on the high wire between their safe stations.

So the West does not yet know what to say of Mr. Solzhenitsyn's latest daring act—publication in Paris last week of "The Gulag Archipelago, 1918–1956," a study of the Soviet prison system and secret police from Lenin until Khrushchev's anti-Stalin speeches.

On one level the book presents in documentary form, but with the Nobel novelist's powerful literary and moral voice, an indictment of the Soviet penal and police system he had already treated in his novels. It is believed he finished the work of a quarter-million words in 1968 when his novel "The Cancer Ward" was published. But "The Gulag Archipelago" is made up of dates and names and first-hand accounts of persons who suffered under Soviet spying and repression, and in this it constitutes a more particularized offense to Soviet authorities.

There is speculation over why Solzhenitsyn had the work published at this time. The work had been secreted by him in the hands of fellow Soviet citizens, one of whom, a woman, reportedly was forced by torture to reveal where her portion of the text was hidden. By his permitting publishing of the work, the Soviet secret police may perhaps now be drawn off the trail of its sequesterers. Also, by having it published before the first of the year, Mr. Solzhenitsyn may be seeking to beat out new Soviet copyright policy which would enable Soviet officials to prosecute citizens who publish abroad without government consent.

Whatever his reasons, Mr. Solzhenitsyn has apparently set aside his earlier intent of keeping the book secret until more time had elapsed and fewer persons would have been exposed to official scrutiny and action.

One thesis of "The Gulag Archipelago" is that clandestine police action, assassination, mass campaigns of terror and imprisonment were part of the Soviet system and not simply the projection of Stalin's methods and phobias.

What publication of "The Gulag Archipelago" will mean in personal risk of Mr. Solzhenitsyn or his wife and two young sons is not known. Surely they have the support of the entire free world. It is not in reaction against the Soviet system itself that this support is based. There need be no official Soviet hypersensitivity in this case. Indeed, reprisals against Mr. Solzhenitsyn would have a deadening effect on relations abroad which publication of the book itself would not cause.

It is the enormous moral force of Mr. Solzhenitsyn's literary output that the West and many of his fellow Soviet citizens are moved by. How much better for the Soviet authorities to endure Solzhenitsyn and keep alive Russia's image as the land of Tolstoi and Dostoevski, a society of men of deep searching and conscience, than to confront him further and prolong the Soviet reputation for secretiveness and repression.

### DETENTE

Solzhenitsyn's latest indictment of the Soviet state police state comes at a time when the Conference on Security and Cooperation in Europe is bogged down over the issue of freer movement of people and ideas between East and West.

It was the Soviets who pushed for this conference in the first place for the purpose of endorsing the existing situation in Europe. Their intention was that the conference would merely approve a set of general guidelines on European security. Quite rightly and properly the West Europeans insisted that the agenda deal with the question of freer contacts between all the European peoples.

Ever since the committee stage of the conference began in Geneva in September, the Soviets have stalled on this humanitarian issue. Some Western diplomats now doubt whether there is any prospect of reaching an agreement on it under present circumstances.

The Soviets are dominated by the fear that a freer flow of information would open the doors of their closed society to subversion from the West.

Solzhenitsyn has had the courage to expose some of the worst aspects of that society The possible repercussions of his disclosures on the Geneva talks are difficult to estimate. But there is nothing so far to indicate that the Soviets are likely to give any ground at Geneva. They may be tempted to dig in their heels more stubbornly than ever.

### AND TORTURE

Solzhenitsyn's account of the use of torture in Soviet prison camps is devastating enough. Incredible though it may seem, torture of political prisoners is actually on the increase in the world today, according to Amnesty International, the private human rights organization, which has just held a conference on the subject of torture in Paris.

A report submitted to the conference named 70 countries where torture is practiced.

Amnesty admits the difficulties of obtaining conclusive evidence. But it rightly believes that exposure is the best means of mobilizing world opinion to bring moral pressure to bear on countries resorting to such outrageous violations of human dignity.

Solzhenitsyn's telling indictment adds a weight of documented evidence to the dreadful record in Amnesty's hands.

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[From The New York Times, Jan. 1, 1974]

### Darkness at Noon

"Gulag Archipelago," Aleksandr Solzhenitsyn's new history of Soviet police terror and the sub-human prison camp network, is less important for what it says than for what it leaves unsaid. This horrifyingly detailed account of repression in the Soviet Union from 1918 to 1956 takes on its real importance from the suggestion that the police system it describes continues to this day. The infamous network of slave labor camps remains in operation, even if the numbers imprisoned have been vastly reduced since the amnesties granted by the Khrushchev regime.

Although necessarily published abroad, "The Gulag Archipelago, 1918–1956," is primarily intended for a Soviet audience, the "200 million" whom the author vowed to reach while he was still himself a prisoner, long before his novels on the same subject brought him the Nobel Prize. Mr. Solzhenitsyn is surely achieving this objective.

With jamming of most foreign transmitters halted, many millions of Russians by now undoubtedly have heard summary accounts of the new book on Western radio broadcasts. Excerpts and the full manuscript itself probably will circulate underground in the years to come, as do other banned books. One day, Mr. Solzhenitsyn clearly hopes, his account will play a role in bringing the Soviet people to rise up and end the decades of oppression which they have so far accepted with such docility.

That day is unlikely to come soon, as Mr. Solzhenitsyn's own report indicates, for the Soviet secret police is the central vital element—even more perhaps than the Communist party machine—in holding the whole Soviet system together. The network of camps, prisons, communications facilities, transportation systems and spying organizations, Mr. Solzhenitsyn reports, "honeycombs" the length and breadth of the Soviet Union. No Soviet citizen, it appears, is ever more than a short distance from some link of this pervasive apparatus of control that permeates all governmental, party and social organizations. The survival of this infrastructure makes it less significant that the actual prison camp population has fallen from an estimated twelve million in Stalin's day to perhaps one million today.

Much of what Mr. Solzhenitsyn reports has long been known in the West. But this is the first time that an authoritative Soviet voice of stature has spoken from Moscow itself to inform the Soviet people in detail of their tragedy and to call for punishment of its perpetrators.

Mr Solzhenitsyn's courageous challenge to the overwhelming power of the police state is a political act without real precedent in the fifty-six years since the Bolshevik Revolution.

The Soviet regime can arrest, imprison, even execute Mr. Solzhenitsyn. But it can no longer suppress his words. It would be far wiser to ease the repression that has increased at home, parallel with détente abroad, in the past year or two, and to permit greater, rather than less, freedom for Soviet dissidents and other thinking citizens.

In the long run, détente may favor such a trend. Meanwhile, the danger of nuclear war makes it a necessity that, as Chancellor Brandt recently said, the West would have to pursue détente even with Stalin, were he alive today. But the pursuit of détente must not blind the world outside the Soviet Union to the continuing grip of totalitarianism on Soviet society.

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### Commentary by Howard K. Smith, ABC Evening News, January 3, 1974

It is only in myths that a lone individual can fight and subdue huge powers. In reality the individual is nearly helpless, can get things done only by submerging himself in some mass action.

The helplessness of the individual acting alone is true in free societies. It is a thousand times true in regimented Communist societies.

It is all the more astonishing that in the most brutal, tightly controlled tyranny ever, myth is today becoming reality.

One terribly lonely man, Alexander Solzhenitsyn is shaking Soviet tyranny to its roots with his pen and incredible courage.

Despite total surveillance and control, the Soviets were not able to stop him writing, and now so far have not dared punish him for publishing, the most damaging expose ever of the system of torture in Russian society.

The ideology that system is designed to perpetuate is basically one of aggression. However distinguished by temporary maneuvers of detente, it is the one main cause of tensions and threat of war in the world.

Solzhenitsyn's fight is thus for peace and for all of us.

It follows that we who can should mobilize every pressure, short of physical action, to protect and sustain him.

It is a privilege to live at the same time as Solzhenitsyn. We must not let him down.

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[From the New York Times, Dec. 29, 1973]

### Solzhenitsyn on Soviet Penal System

(By Aleksandr I. Solzhenitsyn)

*This I dedicate*
*To all those who did not live*
*to tell of it.*
*And may they please forgive me*
*for not having seen it all*
*nor all remembered;*
*for not having divined all of it.*

For years I have with reluctant heart withheld from publication this already completed book. My obligation to those who are still alive outweighed my obligation to those who are dead. But now that State Security has seized the book anyway I have no alternative but to publish it immediately.

In this book there are no fictional persons, nor fictional events. People and places are named with their own names. If they have been identified by initials instead of names this is out of personal considerations. If they are not named at all then this is because human memory has failed to preserve their names.

But it all took place just as it is here described.

In 1949 some friends and I came upon a news item in the magazine Priroda [Nature] of the Academy of Sciences. It reported in tiny letters that in the course of excavations on the Kolyma River a subterranean ice lens, actually a frozen ancient stream, had been discovered—and in it were found frozen specimens of prehistoric fauna some tens of thousands of years old. Whether fish or lizard these were preserved in so fresh a state that those present immediately broke open the ice and devoured them with pleasure on the spot.

As for us, we understood instantly. We could picture the entire scene down to the smallest detail: how those present broke the ice with tense haste; how, flouting the lofty interests of ichthyology and elbowing each other to be first, they tore off pieces of the prehistoric flesh and dragged it over to the bonfire to thaw it and bolt it down.

We understood instantly because we ourselves were the same kind of people as those *present* at this event. We, too, were from that powerful tribe of "Zeks" [prison camp inmates], unique on the face of the earth, the only kind of people who could devour prehistoric lizard *with pleasure*.

The Kolyma was the greatest and most famous island, the ferocious extremity of that surprising country of *Gulag* [the Soviet labor camp system], which though in terms of geography scattered out as an archipelago, was in terms of psychology fused into a continent—an almost invisible, almost imperceptible country inhabited by the Zek people.

This archipelago cut across and speckled the country within which it was located like a checkerboard. It carved out enclaves in cities, hovered over streets—and yet there were many who did not even guess at its presence and only those who had been there knew the whole truth.

### NOT HISTORY OF ARCHIPELAGO

I would not be so bold as to try to write the history of the archipelago. I have never had the chance to read the documents. And will, in fact, someone someday ever have the chance to read them? Those who do not wish to *recall* have already had enough time—and there will be more—to destroy all the documents to the very last one.

My own 11 years spent there I have absorbed into myself not as something shameful and not as a nightmare to be cursed; I have almost come to love that deformed world. And now, by a happy turn of events, I have been entrusted with many recent stories and letters.

This book could never have been created by one single person alone. It contains, in addition to what I myself was able to take away from the archipelago—on the skin of my back and in my mind's eye—the material in stories, memoirs, and letters of 227 other human beings.

But the time has not yet come when I dare name them.

The old Solovetsky Islands prisoner Dmitri Petrovich Vitkovsky was to have been the book's editor. But his half a lifetime spent *there*—indeed his own camp memoirs are entitled "Half a Lifetime"—resulted in untimely paralysis. It was only in a state in which he was deprived of the gift of speech that he was able to read at least several chapters and see for himself that everything *would* be told.

If freedom does not come to my country for a long time in the future then the very reading and handing from person to person of this book will be very dangerous—so that I am bound to salute future readers as well—on behalf of *those others* who have perished.

How is it that people get to this clandestine archipelago?

Those who, like you and I, dear reader, go there to die, can get there solely and obligatorily via arrest.

The universe has as many different centers as there are in it living beings. Each of us is a center of creation, and the universe is shattered when they hiss at you: "*You are under arrest.*"

Arrest is the sharp nighttime ring or the rude knock at the door. It is the insolent entrance of unwiped jackboots of the brassy security operations men. It is the frightened and beaten-down civilian witness behind their backs.

The traditional arrest is also what happens afterward when the poor victim has been taken away. It is the breaking, tearing and tossing from off the walls, the hurling of things onto the floor from wardrobes and desks, the shaking, dumping out, and tearing apart of things.

During the arrest of Inoshin, a locomotive engineer, there stood in his room a coffin containing the body of his child who had just died. The "law officers" threw the child's body out of the coffin and searched it. They shake sick people out of their sickbeds and they unwind bandages to search beneath them.

When in 1937 they wiped out Dr. Kazakov's institute, the "commission" broke up the vessels containing the lysates developed by him, even though patients who had been healed and others in the middle of the healing process begged them to preserve the miraculous medicines. (According to the official version the lysates were supposed to be poisons in which case why should they not have been preserved as material evidence?)

From our greatest expert on Tibet, Vostrikov, they seized valuable ancient Tibetan manuscripts; and it took his pupils 30 years to tear them out of the hands of the K.G.B.! When the Orientalist Nevsky was arrested they seized Tangut manuscripts—and 25 years later the deceased victim was awarded post-humously a Lenin Prize for deciphering them. From Krager they took his archive of the Yenisei Ostvaks and put a veto on the alphabet and vocabulary he had developed for this people—and a small nationality was left without any written language.

### 'SOMETHING WAS NEVER THERE'

In any intellectual way of speaking it would take a long time to describe all this, but there's a folk saying about search that covers the subject: *They are looking for something that was never put there.*

For those left behind there is the long tail of a wrecked and devastated life. And the attempt to deliver food parcels. But the answer comes from the windows in barking voices: "There is no one here by that name!" "We never heard of him!" Yes, and just to get to that window in the worst days in Leningrad took five days of standing in line. Maybe only after half a year or a year does the arrested person respond at all, or else they toss out: "Deprived of the right to correspond." That means—once and for all: "Deprived of the right to correspond" indicates, almost without fail, "Has been shot."

Arrests are various in their form. Irma Mendel, a Hungarian woman, obtained through the Comintern in 1926 two front row tickets to the Bolshoi Theater. The prosecutor Klegal was courting her and they spent the performance together very affectionately. After this he took her—straight to the Lubyanka.

If on a flowering June day in 1927 on Kuznetsky Most the full-faced red-headed beauty Anna Skrypnikova, who had just bought herself some navy blue cloth for a suit, climbed into a hansom cab with a young man about town, well, it wasn't a lover's rendezvous at all as the cabman understood. It was an arrest.

Do not think that if, for example, you are an employe of the American Embassy by the name of A. D. [Alexander Dolgun] you cannot be arrested in broad daylight on Gorky Street right by the Central Telegraph Office. Your unfamiliar friend calls to you right across the crowd: "Saaasha!" He simply shouts at you: "Hey fellow! Long time no see! Come on over here, let's step out of the way." And at that moment a Pobeda sedan comes up to the edge of the sidewalk. Several days later Tass will make a wrathful declaration in all papers that competent circles of the Soviet Government allegedly have no information on the disappearance of A. D. What's so unusual about that?

### ANYONE CAN ARREST YOU

You are arrested by a religious pilgrim who has stayed "for the sake of Christ" with you overnight. You are arrested by a meterman who has come to read your electric meter. You are arrested by a bicyclist who has run into you on the street, by a railway conductor, a taxi driver, a savings bank employe, a cinema theater administrator. Any one of them can arrest you, and you notice the concealed maroon-colored identification only when it is too late.

In 1937 a woman came to the reception room of the Novocherkassk N.K.V.D. to ask what she should do with the unfed nursing child of her arrested neighbor. They told her: "Sit down, we'll find out." She sat there for two hours; then they took her and tossed her into a cell.

The listing that follows, in which waves of millions of arrested persons are given equal attention with ordinary streamlets consisting of handfuls of people, is quite incomplete, quite sparse and miserly, limited by my own capabilities of penetrating into the past.

In his essay entitled "How to Organize the Competition," published on Jan. 7 and 10, 1918, V. I. Lenin proclaimed the common, united purpose of a "*purge* of the Russian earth of all harmful insects."

Within the term of *insects* he included not only all class enemies, but also "workers, malingering at their work," for example, typesetters at the Petrograd party printing plants. The railroads were a particularly important place for there were many insects hidden beneath railway uniforms, and they had to be "jerked out" and some of them "slapped down." And telegraph operators—for some reason, these, in their mass, were inveterate insects.

### CLASSIFICATION OF EXECUTIONS

In thinking about the period from 1918 to 1920 we are in difficulties: should we classify among the waves of prisoners all those done in before they even got to the cells? And in what classification should those be put whom the Committees of the Poor took off behind the wing of the village soviet or in the rear of a courtyard, and finished off there?

Besides the repression of the famous rebellions (Yaroslav, Murom, Rybinsk, Arzamas) we know of certain events only by their name—for instance the Kolpino executions of June, 1918. What is it? Who was it? And where should it be classified?

There is also no little difficulty in deciding whether one should classify among the waves of prisoners those tens of thousands of *hostages,* those people not accused of anything at all personally, those peaceful inhabitants not even listed by name and taken off to destruction only for the sake of terror.

But we can make a note that by the spring of 1918 there had already begun a long-lasting, many-year-long, incessant torrent [of arrest] of "socialist traitors." All these parties—the Social Revolutionaries, the Mensheviks, the Anarchists, the Popular Socialists—had for decades only pretended to be revolutionaries; they had only worn socialism for a mask, and for this they had gone to hard labor.

"We learn of individual arrested groups from the protests of the writer Maxim Gorky. On Sept. 15, 1919, Lenin advised Gorky "not to spend his energy whimpering over rotten intellectuals."

Most of the removals of people from villages in Tambov Province took place in June, 1921. Throughout the province concentration camps were set up for the families of peasants who took part in the revolts. Open fields were enclosed with barbed wire and for three weeks they held there every family of a suspected rebel. If in three weeks the man of the family did not come in order to buy his family's way out with his own head, they sent the family to exile.

In the spring of 1922 the Extraordinary Commission for Struggle with Counterrevolution and Speculation, the Cheka, just renamed the G.P.U., decided to intervene in church affairs. For this reason the Patriarch Tikhon was arrested and two resounding trials were held with subsequent executions, in Moscow, of the dissemination of the Patriarch's appeal, and in Petrograd, of the Metropolitan Veniamin.

As Tanya Khodekevich wrote:

*You can pray freely*
*But just so only God can hear.*

And for these verses she received a sentence of 10 years.

Among the wives and daughters of nobility and officers were some women of outstanding personal qualities and attractive appearance. Some offered their services to the Cheka-G.P.U. as informers. Here one can name the last Princess Vyazemskaya, a prominent post revolutionary informer—her son on the Solovetsky Islands was also an informer. Konkordiya Nikolayevna Iosse was a woman, evidently, of brilliant qualities; her husband was an officer who was shot in her presence, and she herself was exiled to the Solovetsky Islands, but she managed to beg her way out and to set up near the Lubyanka a salon that the bosses of this establishment loved to visit. She was arrested again in 1937 with her Yagoda customers.

### GRANDIOSE TRIAL PREPARED

Following the trial of the Promparty (the so-called Industrial party) a grandiose trial of the Working Peasants' Party (T.K.P.) was being prepared in 1931. The interrogation apparatus of the G.P.U. was working faultlessly: thousands of defendants had confessed in totality their participation in the criminal plans of the "T.K.P." No fewer than 200,000 "members" had been promised by the G.P.U. All of a sudden Stalin one lovely night *changed his mind*. All the persons who had "confessed" were told they could *renounce* their confessions. (In 1941 the T.K.P. "resurfaced" when the tortured scientist Nikolai Ivanovich Vavilov was accused of having secretly been its head.)

And then—slowly, it is true, but surely—the turn came for members of the ruling party to spend time in prison!

From 1927 to 1928 there was the issue of the "worker's opposition," in other words the Trotskyites. They numbered, for the time, in the hundreds, and soon there would be thousands.

At the end of 1929 began the famous *gold rush*.

Who was arrested in the "gold" wave? All those who at one time or another time, 15 years before, had had a private "business," had been involved in retail trade, had earned wages at a craft, and *could have*, according to the G.P.U.'s deductions, hoarded gold. All were arrested. It even got to such a state of confusion that men and women were imprisoned in the same cells and went to the toilet in each others' presence. They had one universal method: to feed the prisoners only salty food and not to give water. Whoever coughed up gold got water! One gold piece for a cup of fresh water! But it was a mistake to give up too easily. They would refuse to believe that you had coughed it *all* up. But you'd be wrong to wait too long, you'd end up by kicking the bucket.

### "AN ETHNIC CATASTROPHE"

So it was that the waves foamed and rolled—but across all of them there billowed and gushed in 1929–1930 the multimillion wave of "dispossed kulaks." It was immeasurably large and it went straight to the transit prisons and points, onto prisoner transports, into the Gulag country. There was nothing to be compared with it in all Russian history. It was a forced resettlement of a whole people, an ethnic catastrophe.

In this wave from the start they uprooted only whole nests, only whole families; and they even sought jealously to prevent any of the children—14, 10, even 6 years old—from getting away. This was the *first* such experiment, in any case, in modern history. It was subsequently repeated by Hitler with the Jews, and again by Stalin with nationalities that were disloyal to him or suspected by him.

Then the Kirov wave from Leningrad began. It is estimated that one quarter of Leningrad was purged—cleaned out—in 1934–35. Let this estimate be disproven by those who have the exact statistics and who are willing to publish them.

During the last years of Stalin's life a wave of *Jews* began to be noticeable. From 1950 on they were hauled in little by little as *cosmopolitans*. And it was for this that the *doctors'* plot was cooked up. It would seem that Stalin intended to arrange a great massacre of the Jews.

According to Moscow rumors, Stalin's plan was this: at the beginning of March, 1953, the "doctor-murderers" were to be hung on Red Square. The aroused patriots, naturally led by instructors, were to rush off into an anti-Jewish program. And at this point—and here Stalin's character can be divined, don't you agree?—the Government would intervene generously to save the Jews from the wrath of the people, and on that very same night remove them from Moscow to the Far East and Siberia, where barracks were already prepared for them.

However, this became the first plan of his life to fail. God told him to depart from his rib cage.

Paradoxically the entire activity of the police organs was based on solely one section out of 140 sections of the nongeneral division of the Criminal Code of 1926, Section 58.

Point Thirteen, seemingly long out of date, was service in the Czarist secret police—the "okhrana."

There are psychological reasons for suspecting Stalin of having been liable to trial under this point of Section 58. By no means all the documents referring to this type of service survived February, 1917, and became matters of public knowledge. V. F. Dzhunkovsky, a former inspector of the Police Department, who died on the Kolyma, declared that the hurried burning of police archives in the first days of the February Revolution was a cooperative effort on the part of certain interested persons.

One of Stalin's favorite themes was to ascribe to every arrested Bolshevik, and, in general, to every arrested revolutionary, service in the Czarist okhrana.

Was this merely his intolerant suspiciousness? Or was it an intuition, by analogy?

What scholar of the laws, what criminal historian is going to cite for us verified statistics of the 1937–38 executions? Where is that *special archives* into which we might be able to penetrate in order to read off the figures? There is none. There is none and there never will be. Therefore we dare to repeat merely those figures from rumors quite fresh at the time, in 1939–1940.

The Yezhov men said that during those two years of 1937 and 1938 *half a million* "political prisoners" had been shot throughout the Soviet Union, and in addition 480,000 *blatnye*, habitual thieves. What's so fantastic about that? it is even an understatement! (According to other rumors 1.7 million people were shot by Jan. 1, 1939.)

How many there actually were in the archipelago one cannot know for certain. It is quite believable to think that at any one time there were not more than 12 million (as some departed beneath the sod, the "machine" kept bringing in replacements). And not more than half of them were politicals.

Six million? Well, that is the equivalent of a small country, Sweden or Greece.

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[From the New York Times, Dec. 30, 1973]

## SOLZHENITSYN ON PURGE TRIALS OF THE 1930'S,

## PART 2

(By Aleksandr I. Solzhenitsyn)

It is not for me to tell the reader but for the reader to tell me just what there was to the notorious "riddle of the Moscow trials of the thirties."

After all, they brought into open trial not the 2,000 dragged into involvement in it, nor even 200 to 300, but only eight persons. It is not so hard to direct a chorus of just eight persons.

So where is the riddle then? How they were worked over? Very simply: do you want to live? (And even those who do not care about themselves, care for their children or grandchildren.) Do you understand that it takes no effort at all to have you shot, without your ever leaving the courtyards of the G.P.U.? But both for you and for us it is useful to have you act out a certain drama. The condition is that you have to carry all our conditions out to the very last! The trial must go on for the good of socialist society.

That is how the public trials were manufactured. Stalin's searching mind once and for all attained its ideal.

People have written about a Tibetan potion that deprives a man of his will, and of the use of hypnosis. Such explanations must not by any means be rejected: if there were such means in the hands of the N.K.V.D. it is clear that *there were no moral rules* to prevent resort to them. Why not weaken or muddle the will. And it is a known fact that in the twenties important hypnotists left off theatrical performances and went into the service of the G.P.U. It is reliably known that in the thirties a school of hypnotists existed in the N.K.V.D. The wife of Kamenev received an appointment with her husband before the trial itself and found him retarded in reactions, not himself. (And she managed to communicate this to others before being arrested herself.)

The party leaders on trial in 1936 to 1938 had had in their revolutionary past short, easy imprisonments, short periods in exile, and they had never even had a whiff of hard labor. Bukharin had many petty arrests on his record, but they amounted to nothing.

Yagoda was an obviously criminal type. This millionaire and murderer simply could not imagine that his superior murderer up on high would not stand up for him, protect him, at the last moment. Just as if Stalin were sitting right there in the hall, Yagoda self-confidently and insistently begged him directly for mercy: "I appeal to you! For you I built two great canals!"

And one who was present recounts that just at that moment through a window on the second floor of the hall, seemingly behind a muslin curtain, in the shadows flared a match and, while it lasted, the outlines of a pipe could be seen.

That person who out of the distance of time seems from among all the disgraced and executed leaders to have been the highest and brightest mind of them all—to whom, evidently, Arthur Koestler dedicated his talented study ("Darkness at Noon")—was N. I. Bukharin. Stalin saw through him too, and Stalin held him in a long death grip and even played with him like a cat with a mouse.

Bukharin did not like Kamenev and Zinoviev, and when they were tried the first time, after the murder of Kirov, had said to those close to him: "Well what? They were such people that maybe there was something to it."

At the December [1937] Plenum of the Central Committee they brought in Pyatakov with teeth knocked out and not a bit like himself. Behind his back stood mute Chekists (Yagoda men, and Yagoda, after all was being tested out and prepared for a role too).

Pyatakov delivered the most repulsive sort of evidence against Bukharin and Rykov. Ordzhonikidze put his hand up to his ears (he was hard of hearing): "Say here, are you giving all this testimony *voluntarily*?" (Note that down! Ordzhonikidze will get a bullet of his own!) "Absolutely voluntarily," and Pyatakov swayed on his feet. And in the intermission Rykov said to Bukharin: "Tomsky had will power. He understood back in August and he ended his own life. And you and I, like fools, have gone on living."

### "AND BUKHARIN BELIEVED HIM"

Unshaven, thin and wan, already a prisoner in his appearance, Bukharin dragged himself along to the plenum. "Just what were you thinking of?" dear Koba asked him cordially. "Come on now. No one is going to expel you from the party!"

And Bukharin believed him, and revived. But during the course of the plenum Kaganovich and Molotov, impudent fellows they were indeed, paid no attention to Stalin's opinion! Both called Bukharin a fascist hireling and demanded he be shot. (See what a wealth of information we are being deprived of because we are protecting Molotov's noble old age.)

How many wars Russia has been involved in! And were there many traitors in all those wars? Was it ever observed that treason had become deeply rooted in the hearts of Russian soldiers? And then, under the most just social structure in the world, came the most just war of all—and out of nowhere appeared millions of traitors, from among the most simple, ordinary, lowly elements of the population.

How was this to be understood and explained?

Capitalist England fought at our side against Hitler; Marx had eloquently described the poverty and suffering of the working class in this same England. And why was it that *among them* in this war there was only one single traitor to be found, the businessman, "Lord Haw Haw?" And millions in our country?

Indeed, it is awful to be caught with a mouth wide open, but maybe the heart of the matter is the structure of the state?

The only army in the world *which forbids its soldiers to surrender as prisoners* is the Red Army. Only our soldiers, renounced by Motherland and degraded to nothing in the eyes of enemies and allies, had to push their way to the swine swill being given out in the backyards of the Third Reich. Only our soldiers had the door shut tight to keep them from returning to their homes, though their young souls tried hard not to believe this.

*Escape* and return to the Motherland—past the guard ring around the camp, through half of Germany, then through Poland or the Balkans—this led straight to Smersh and prison. They asked: how was it that you escaped when others could not? This smells bad! Come on, you rat, what *assignment* did they give you? Such was the case with Mikhail Burnatsev, Pavel Bondarenko, and many, many others.

Now and then recruiters came—Russians, usually recent Communist political commissars. White Guards didn't accept this type of employment. These recruiters scheduled a meeting in the camp, condemned the Soviet regime, and appealed to prisoners to enlist in spy schools or in Vlasov units.

### HALF-BAKED SPIES

And those of our lads who enlisted to become half-baked spies saw this as the least difficult means of getting out of P.O.W. camp. Almost to a man, they calculated that as soon as the Germans sent them across to the Soviet side, they would turn themselves in to the authorities, turn in their equipment and instructions, and join the benign command in laughing at the stupid Germans. They would then put on their Red Army uniforms and boldly return to fight in their units.

But spy mania was one of the fundamental traits of Stalin's insanity. All the Chinese who lived in the Soviet Far East got spy convictions—Section 58–6. They were taken to the northern camps where they perished. The same fate awaited the Chinese participants in the Soviet Civil War—if they had failed to clear out in good time. Several hundred thousand Koreans were exiled to Kazakhstan, all being likewise suspected spies. And the Latvian riflemen—the most reliable bayonets of the first years of the revolution—were accused of espionage when they were all to a man arrested in 1937.

The only ones who did not expect any mercy and did not expect an amnesty—were the Vlasov men.

Long before our unexpected encounter on prison board bunks I had known of them and had been in a state of perplexity about them.

First there had been leaflets, wet through and dried out many times and lost in the high grass of the frontline strip uncut now for the third year, near Orel.

In the many leaflets there was a photo of General Vlasov and his biography was set forth. Among the corps of newly made generals, many of whom were utterly stupid and inexperienced, Vlasov was one of the most talented. He made his way out of the enormous Kiev circlement and in December, 1941, near Moscow he commanded the 20th Army, which began the successful Soviet counteroffensive for defense of the captial.

He became Deputy Commander of the Volkhov Front (under Meretskov), and received command of the Second Shock Army, at the head of which he began on Jan. 7, 1942, an attempt to break through the Leningrad blockade.

### NO REINFORCEMENTS OR SUPPLIES

By February, 1942, he was 75 kilometers deep in the German lines! And from this moment on, even for it, the reckless Stalinist Supreme Command could not find reinforcements in either men or ammunition.

From April on the entire swampy area through which the Second Army had advanced melted into mud, and there were no supply roads, and there was no help from the air. The army turned out to be *deprived of food* and at the same time Vlasov *was refused permission to retreat*.

And so it was that Vlasov's Second Shock Army perished.

Now that, of course, was treason to the Motherland! That, of course, was a cruel, egoistic betrayal! But it belonged to Stalin.

After his army had been wiped out Vlasov wandered about the woods and swamps and surrendered as a war prisoner on July 6 in the area of Siverskaya. He was taken to the German staff near Lötzen in East Prussia where several captive generals and a brigade political commissar, G. P. Zilenkov, formerly a successful party official, secretary of one of the Moscow district party committees, were being held. They had already declared their disagreement with the policy of the Stalinist government. But they had no real leader among them. Vlasov became this figure.

In the general disaster (of 1945) Vlasov gathered up his two and a half divisions below Prague at the end of April. S.S. General Steiner was preparing to destroy the Czech capital, so as not to surrender it intact. Vlasov ordered his divisions to the aid of the Czech rebels. All of the hurt, bitterness and anger accumulated against the Germans in the breasts of Russians kept in slavery these cruel and vain three years was released in the attack on the Germans. They were shoved out of Prague from an unexpected direction.

Did all Czechs subsequently realize *which* Russians had saved their city? Our own history is likewise distorted, claiming that Prague was saved by Soviet armies, though they could not have got there in time.

### RETREAT TOWARD AMERICANS

The Vlasov army began to retreat toward Bavaria in the direction of the Americans. But the Americans greeted them with an armed wall and forced them to surrender into Soviet hands, as provided for by the Yalta Conference. That same May in Austria Churchill perpetuated "the same sort of act of a loyal ally." Out of our accustomed modesty we did not publicize it. He turned over to the Soviet command the Cossack corps consisting of 90,000 people.

In their own countries Roosevelt and Churchill are honored as examples of statesmanlike wisdom. To us, in Russian prison discussions, their systematic shortsightedness and stupidity stood out as astonishingly obvious. How could they, in their descent from 1941 to 1945, fail to secure any guarantees whatsoever of the independence of Eastern Europe? How could they, for the laughable toy of a four-zone Berlin, their own future Achilles' heel, give away broad regions of Saxony and Thuringia? And what military or political sense was there in the surrender by them, to death at Stalin's hands, of several hundred of thousands of armed Soviet citizens determined not to surrender?

The term "Vlasov man" in our country has the same sense as the word "sewage." No one dares to utter two or three sentences with the term "Vlasov man" as a subject.

But that is not the way history is written. Right now, a quarter of a century later, when the majority of them have perished in camps, and when those who have survived are living out their lives in the extreme north, I would like, by means of these pages, to issue a reminder that in all of world history this was a totally unheard-of phenomenon: that several hundred thousand young men aged from 20 to 30 took up arms against their own Fatherland in alliance with its most evil enemy.

It is a rare zek who has not been at three to five transit prisons and camps and many remember a dozen or so, and the *sons of Gulag* can count up to 50 of them without the least difficulty. However, they all get mixed up together in memory because they are so like one another.

Of course, one transit prison is not the equal of another. But which is better and which is worse is something that can't be settled in an argument.

Let us listen to such a discussion for a time:

"Yes, and even if the Ivanovo transit prison is not one of the more famous, my friends, just make inquiries of anyone imprisoned there in the winter of 1937–38. The prison was *unheated*—and on the upper bunks the prisoners lay there undressed. And they knocked out all the window panes so as not to suffocate. In cell 21 instead of the 20 men the cell was supposed to contain there were *323!* Beneath the board bunks was water, and there were boards laid in the water and people lay on these boards. It was right there the frost poured in from the broken windows.

"They distributed rations not to individuals but to units of 10. If anyone of the 10 died the rest shoved his corpse beneath the bunks and kept it there, even when it had begun to smell. They got the corpse's ration.

"Irkutsk, too, was no special transit prison, but in 1938 the doctors did not even dare to look into the cells but would only walk down the corridor while the turnkey shouted through the door: 'Anyone unconscious, come out.'

"If you are talking about the Vladivostok transit prison then in February, 1937, there were no more than 40,000 there.

"People were stuck there for several months at a time. The bedbugs infested the board bunks like locusts. One half a mug of water a day: there wasn't any more; there was no one to haul it. There was one whole section of Koreans and all of them died from dysentery, every last one. From our own section every morning they took out 100 corpses.

"There were 1,500 ill there. And all the orderlies were blatari, thieves. They used to pull out gold teeth from the corpses. And not only from corpses."

During years when prisoners' case files did not have on them an indication of their destination the transit prisons turned into slave markets. The most desired guests at the transit prisons were the *buyers*.

Conscientious merchants demanded that the *merchandise* be displayed for them to see alive and bare-skinned. And that was just what they used to say—without smiling—*merchandise*. "Well, what *merchandise* have you brought?" asked a buyer at the Butyrka station, observing and inspecting the female appurtenances of a 17-year-old, Ira Kalina.

Sukhanovka was the most terrible prison the M.G.B. had. They used it to terrify prisoners; and interrogators hissed out its name ominously. Those who had been there weren't subject to further interrogations: they were either insane and talking only disconnected nonsense, or else they were dead.

They stunned the newly arrived prisoner there with a standing punishment cell—so narrow that if the prisoner was no longer able to stand he had to hang there on his propped-up knees.

To be absolutely precise they were 156 cm. by 209 cm. How has that become known? This is a triumph of engineering calculation and of a strong heart, not broken by Sukhanovka. This was calculated by A.D. [Alexander Dolgun.]. He did not permit them to drive him insane or to despair.

On the bottom of the prison bowl he read 10/22 and guessed "10" was the diameter of the bottom and "22" the diameter of the outside edge. From a towel he pulled a thread, made himself a tape measure and measured everything with it. Then he began to invent how to sleep *standing up*, propping himself with his knees against the small chair so that the guard thought his eyes were open.

From Alexandrov, the former head of the Arts Section of V.O.K.S.—the All-Union Society for Cultural Relations with Foreign Countries—who has a broken spinal column that tilts to one side, and who cannot control his tear ducts so as to stop crying, one can learn how Abakumov himself could *beat* —in 1948.

Yes, yes, Minister of State Security Abakumov himself did not by any means shun menial labor. He was not against taking a rubber truncheon in his hands sometimes. And his deputy Ryumin was all the more willing. He did this at Sukhanovka in the "generals" interrogation office.

### CARPET FOR PRISONERS

The office had paneling of imitation walnut, silk portieres and a great Persian rug on the floor. So as not to spoil this beauty, there was rolled out on top of the carpet for a prisoner being beaten a dirty runner all spattered with blood. When Ryumin was doing the beating he was assisted not by some ordinary guard but by a colonel.

"And so," said Ryumin politely, stroking his rubber truncheon, which was an inch and a half thick, "you have survived trial by sleeplessness with honor." (A.D. by cleverness had managed to last for a month without sleep by sleeping while standing up.) "So now we will try the club. Prisoners don't last more than two or three sessions of this. Let down your trousers and lie down on the runner."

The colonel sat down on the prisoner's back. A.D. was going to *count* the blows. He didn't know yet what a blow with a rubber truncheon is on the sciatic nerve. The effect is not in the place where the blow is delivered—it blows up inside the head. After the first blow the victim was insane from pain and broke his nails on the carpet. Ryumin beat away. (After the beating the prisoner could not walk and, of course, he was not carried. They just dragged him along the floor. The remnants of his buttocks soon swelled up to the point that he could not button his britches, and yet there were practically no scars. He was hit by a violent case of diarrhea, and, sitting there on the latrine barrel in solitary D, laughed. He went through a second and third session, and his skin burst, and Ryumin went wild, and started to beat him in the stomach and broke through the intestinal wall, in the form of an enormous hernia where his intestines protruded. And the prisoner was taken off to the Butyrka hospital with a case of peritonitis, and for time being the attempts to compel him to commit a foul deed were broken off.)

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[From the New York Times, Dec. 31, 1973]

## SOLZHENITSYN ON HIS OWN IMPRISONMENT

(By Aleksandr I. Solzhenitsyn)

What would things have been like if every security operations man when he set out at night to make arrests was uncertain whether he would return alive and would have to say his goodbys to his own family?

Or if during mass arrests—as for example in Leningrad, when they arrested a quarter of the entire city—people had not just sat there growing pale at every banging of the downstairs door and at every step on the staircase but had boldly set up in their entrances ambushes consisting of several persons with axes, hammers and pokers or with whatever else was at hand?

The police organs would very quickly have suffered from a shortage of officers and transport, and notwithstanding all of Stalin's thirst, the cursed machine would have ground to a halt!

If . . . if . . .

We lacked enough love of freedom. And even more—a consciousness of the real situation. We spent ourselves in one unrestrained outburst in 1917, and then we made haste to be submissive. We submitted with *pleasure!*

I myself had the chance to *shout out* many times.

On the 11th day after my arrest three Smersh intelligence parasites, burdened down more by four suitcases full of war booty than by me (on me they had come to rely in the course of the long trip) brought me to the Byelorussian Station in Moscow.

### PRISONER HELPS HIS GUARDS

Not one of the three knew the city, and it was up to me to pick the shortest route to the prison. I had to conduct them personally to the Lubyanka, where they had never been before—and which I, in fact, confused with the Ministry of Foreign Affairs building across the street from it.

I had been a day in counter-intelligence prison in army headquarters and three days in counter-intelligence prison at the front command where my cellmates had already educated me in the deceits practiced by interrogators, their threats and beatings; in the fact that once a person had been arrested he was never released; and in the inevitability of a "tenner," in other words a 10-year sentence.

So why did I keep my silence? Why did I not undertake to enlighten the deceived crowd during my last minute out in the open?

Every man always has at hand a dozen glib little reasons why he is right, why he does not sacrifice himself.

Some still have hopes of a favorable outcome of their case and are afraid to ruin their chances for it by an outcry.

As for me, I am silent for one more reason: because these Muscovites who have thronged the steps of the escalators are nonetheless too few for me, *too few!* Here my cry will be heard by 200 or twice 200, and what about the 200 million? In a vague and unclear way I have the vision that some day I will cry out to the 200 million.

I had, probably, the easiest kind of arrest one can imagine. In a pallid European February it took me from our narrow salient on the Baltic Sea where, depending on one's point of view, either we had surrounded the Germans or they had surrounded us—and it deprived me only of my familiar artillery battery and of the scenes of the last three months of the war.

The brigade commander called me to his headquarters, asked for my pistol, and I turned it over without suspecting any evil inventions. Suddenly from a tense, immobile suite of staff officers in the corner two counter-intelligence men stepped forward, crossed the room in several leaps, and with four hands simultaneously grabbed at the star on my cap, my shoulder boards, my officer's belt, my map case, and shouted theatrically:

"You are under arrest!"

Burning and prickling from head to toes, all I could find to exclaim was:

"Me? What for?"

Even though there is no answer to this question, surprisingly I received one. This is worth recalling, because it is so unlike our general custom. Hardly had the Smersh men completed their process of "disemboweling" me and taken from me, along with my map case, my written political thoughts, and—driven by the rattling of the window panes under German shellfire—begun to push me as quickly as possible to the exit, than I heard myself firmly addressed—yes. Across this mute gap created by the falling word "arrested," across this boundary line words of the brigade commander.

"Solzhenitsyn. Come back here."

With a sharp turn I broke from the hands of the Smersh men and stepped back to the brigade commander. I knew him very well.

"You have . . ." he asked weightily, "a friend on the First Ukrainian Front?"

"It's forbidden! You have no right!" the captain and the major of counterintelligence shouted. But I had already understood: I knew I had been arrested for my correspondence with my school friend, and understood from what direction to expect danger.

Zakhar Georgiyevich Travkin could have stopped right there! But no! Continuing his attempt to wipe his slate clean to stand erect in the face of his own conscience he rose from behind his desk—though he had never before stood in front of me—and he reached across the boundary line and gave me his hand—though he would never have reached out his hand to me had I remained a free man. He said fearlessly and precisely:

"I wish you happiness, captain!"

Not only was I no longer a captain, but I was an exposed enemy of the people (for among us every person from the moment of arrest is totally exposed).

So he had wished happiness—to an enemy?

### GIRLS OF VARIOUS NATIONS

That night the Smersh officers gave up the last hope of being able to make out where we were on the map—in fact, they never had been able to read maps anyway. So they turned it over politely and asked me to tell the driver how to proceed to counter-intelligence at army headquarters. I, therefore, led them and myself to that prison, and in gratitude they immediately put me not in just a simple cell but in a punishment cell.

It was the length of one human body and there was width enough for three to lie packed in tightly. A fourth person was too much. As it happened I was the fourth, pushed in after midnight. We lay on the crushed straw floor. They slept and I burned.

By morning they awoke, yawned, grunted, pulled up their legs, moved off into various corners and our acquaintance began.

"What did they bring you here for?"

"I haven't the least idea. Do the snakes tell you?"

However, my cellmates—tankmen in soft helmets—didn't hide anything. Theirs were three honest, straightforward soldiers' hearts. All three had been officers.

Their shoulder boards had been viciously torn off, and in some places the cotton stuck out.

Their tank unit had unfortunately arrived for repairs in the village where Smersh counter-intelligence headquarters of the 48th Army was located. Still sweating from battle they had gotten drunk. On the outskirts of the village they broke into a bath where, as they had noticed, two husky wenches had gone to bathe. The girls, half dressed, managed to get away. But it turned out that one was the property of the Chief of Army Counter-Intelligence, no less.

Yes! For three weeks the war had been going on within Germany, and all of us knew very well: if the girls were German they could be raped and then shot and this was almost a battle distinction; if they were Polish girls or our own Russian girls they could at any rate have been chased naked around the garden and slapped on the behind—an amusement, no more. But because this one was the "military campaign wife" of the Chief of Counter-Intelligence, some deep-in-the-rear sergeant viciously tore off from three front-line officers the shoulder boards awarded them by the front command.

Now, new impressions burned into our minds.

"Out for toilet time! Hands behind your backs!" shouted a master sergeant "hardhead."

Around the peasant courtyard had been strung a circle of machine gunners guarding the path, which went around the barn.

Behind the barn was a small square area in which the snow had been trampled down and not yet melted. It was soiled with human feces, so thickly and chaotically spread that it was difficult to find a place to put down one's two legs and squat. However, we scattered ourselves and did squat down. Two machine gunners grimly set up their machine pistols opposite our lowly positions and the master sergeant before a minute had passed shouted brusquely:

"Well, speed it up! Here with us they do it quickly!"

### SMERSH COUNTER-INTELLIGENCE

Not far from me squatted one of the tankmen, a native of Rostov, a tall grim senior lieutenant. His face was blackened by a thin film of metallic dust or smoke, but a big red scar stretching across his cheek stood out.

"What do you mean *here with us?*" he asked.

"In Smersh counter-intelligence!" proudly shot back the master sergeant (The counter-intelligence men used to love that tastelessly thrown-together word Smersh, manufactured from the initial syllables of "death to spies." They felt it served to frighten.

"And *with us* we do it slowly," thoughtfully replied the senior lieutenant. His helmet was pulled back, uncovering the still untrimmed hair on his head. His oaken battle-hardened rear end was lifted toward the pleasant coolish breeze.

"What do you mean—*with us?*" the master sergeant barked at him more loudly than he needed to.

"In the Red Army," the senior lieutenant replied quietly from his heels, measuring with his look the "hardhead" hefty master sergeant.

Such were my first gulps of prison air.

Looking back on my interrogation from my long subsequent imprisonment I had no reason to be proud of it. I might, of course, have borne myself more firmly; and in all probability I could have maneuvered more skillfully. The only reason these recollections do not torment me with remorse is that, thanks be to God, I avoided getting anyone else arrested. But I came close to it.

Although we were front-line officers Nikolai V. and I, who were involved in the same case, got ourselves into prison with a childish piece of stupidity. He and I corresponded during the war, between two sectors of the front; and though we knew well that there was wartime censorship of letters nonetheless we indulged in nearly outright expression of our political outrage and in derogatory remarks directed at the Wisest of the Wise whom we labelled with the transparently obvious coded nickname, taken from underworld jargon, of the *Big Shot*—in place of Father.

The contents of our letters was sufficient to give quite adequate material, in accordance with the concepts of those times, for sentencing us both. Therefore my interrogator did not have to invent something for me. And he merely tried to cast his noose on all of those to whom I have ever written or who have ever written to me.

My interrogator employed no other means with me than sleeplessness, falsehoods and threats—completely legal methods.

Before becoming an officer I had spent half a year as an oppressed soldier. And it might have seemed that it would have penetrated through my thick hide what it meant to be always ready to obey people who perhaps were not worthy of you, and to do it with a hungry stomach to boot. And so I ought to have mastered the bitterness of service as a soldier of the rank and file and remember how my hide froze on me and how it was flayed from my body. And did I? Not at all. They pinned for consolation two little stars on my shoulder boards, and then a third, and then a fourth. And I forgot every bit of all that!

But had I at least kept my student's love for freedom? But, you see, we had never ever had any such thing. We had instead a love for military organization, a love for marches.

Then the officers' insignia were fastened on our tabs.

I addressed fathers and grandfathers with the intimate personal pronoun—while they addressed me, of course—with the formal pronoun. I sent them out under shellfire to repair several wires just so my superiors should not reproach me. I ate my officers' butter with pastry, without giving a thought as to why I had a right to it, and why the rank and file soldiers did not.

I ascribed to myself unselfish dedication. And yet meanwhile I was a fully prepared executioner. And if I had gotten into an N.K.V.D. school under Yezhov maybe I would have matured just in time for Beria.

So if any reader expects this book to be a political exposé he better slam its covers shut right now.

During prison walks I tried to get into the same pair with Suzi. We talked together in the cell, but we liked to try to speak about the main things here. We did not come together quickly. It took some time. But he had already managed to tell me much. From my childhood on I knew out of somewhere that my life purpose was the history of the Russian Revolution and that nothing else concerned me. For comprehension of the revolution I had long since required nothing except Marxism. Everything else that came up I cut off from myself and turned away from. But here fate brought me together with Suzi. He had had a completely different field of inspiration. Now he was telling me, with fascination, about everything that was his. About Estonia and democracy. Even though I had never expected to become interested previously in Estonia, or bourgeois democracy, nonetheless I kept listening and listening to his loving stories of 20 free years of that unsensational work-loving small people consisting of big men with their slow, fundamental ways. I listened to the principles of the Estonian Constitution which had been taken from the best of European experience, and how their one-house parliament consisting of 100 members had worked. And it was not clear why, but I began to like it all and all of it began to be stored away in my experience.

### SONS TAKEN BY ARMIES

We struck at Estonia in 1940, and again in 1941, and again in 1944. Some of their sons were taken by the Russian Army, and others by the German Army, and still others ran off into the woods. And elderly Tallinn intellectuals discussed how they might manage to break out of that vicious circle, break away somehow and live for themselves by themselves.

Neither Churchill nor Roosevelt cared in the least about them; but "Uncle Joe" had his plans for them all right. As soon as the Soviet armies entered Tallinn, all of these dreamers were seized during the very first nights in their Tallinn apartments. And 15 of them were imprisoned in the Moscow Lubyanka in various cells, one in each, and were being charged under Section 58-2 with a criminal desire for national self-determination.

It was all like a dream. In February, 1963, politely accompanied by a colonel who was also a Communist party organizer, I entered the room with the round colonnade in which, they say, the plenary sessions of the Supreme Court of the U.S.S.R. meet, with an enormous horseshoe-like table, and inside it another round table and seven antique chairs. Seventy officials of the Military Collegium heard me out. I said to them: "What a remarkable day this is! Although I was sentenced first to camp, then to eternal exile, I never saw face to face a single judge. And now I see all of you assembled here together". (And they, for the first time, saw a living zek with eyes which they had rubbed open.)

But it turned out that it had not been they! Yes. Now they said that it was not they. They assured me that *those* were no longer here. Some had retired on honorable pensions. A few had been removed. (Ulrikh, the most outstanding executioner of all, had been removed, it turned out, back in Stalin's time, in 1950 for, believe it or not, leniency.)

Some of them—there were few of these—had even been tried under Khrushchev, and *these* had threatened from the bench: "Today you are trying us and tomorrow we will try you, watch out!" But like all the beginnings of Khrushchev this movement too, which had been at first very energetic, was soon forgotten by him and dropped and never got so far as to become an irreversible change, which means that things were left where they had been before.

They vied with each other in telling me things and I kept looking about myself and being astonished. They were people! Really people! They were smiling! They were explaining how they wished only good.

Well, and if things turn about in such a way that once again it is up to them to try me? Right there in that hall—and they were showing me the main hall.

Well, so they will try me.

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[From the New York Times, Jan. 19, 1974]

### The Text of Solzhenitsyn's Statement

Moscow, January 18.—Following is the text of a statement issued today by Aleksandr I. Solzhenitsyn, as translated by The New York Times:

The full ferocity of the press campaign conceals the main point from the Soviet reader: What is this book about? What is the strange word "Gulag" in its title? Pravda lies: The author "looks with the eyes of those who hanged revolutionary workers and peasants." No! With the eyes of those whom the N.K.V.D. shot and tortured. Pravda asserts that in our country there has been "uncompromising criticism" of the period up to 1956. Well then, let them show their uncompromising criticism. I have given them a wealth of factual material.

Even today—even today—this path is not closed. And what a purification it would be for the country!

In publishing "The Archipelago," I certainly did not expect that they would repudiate their own previous weak admissions. The line chosen by our propaganda organs is one of animal fear of exposures. It shows how tenaciously they cling here to the bloody past and want to drag it along with them, sealed up, into the future so as not to pronounce a word of moral condemnation, let alone pronounce sentence upon any of the hangmen, inquisitors or informers. It is characteristic that as soon as Deutsche Welle announced that it would read "The Archipelago" for a half hour each day they frantically rushed to jam it: Not one word of this book must penetrate into our country.

As if this will be for long! I am sure that the time will soon come when this book will be widely and even freely read in our country. And there will be people with long memories and curiosity who will set out to inquire: What did the Soviet press say when this book appeared? And who signed the articles? And in the flood of dirty abuse they will not find the real names of those responsible, but only cowardly anonymity and pseudonyms.

### CITE THE EXACT PAGES!

That is why they lie so easily and freely, alleging that in my book, "the Hitlerites were benign and kind to the enslaved peoples," and "penal battalions won the battle of Stalingrad." It is all lies, Pravda comrades. Please cite the exact pages! (You will see that they won't cite them.) Or Tass: "In his autobiography, Solzhenitsyn himself admits to hating the Soviet system and the Soviet people." My autobiography, published in the 1970 Nobel Prize handbook, is accessible to the whole world. Check how insolently the Telegraph Agency of the Soviet Union lies. But what can one say, if it had the shamelessness to spit in the closed eyes of all those murdered by maintaining that what was written about their agony and death was written only for money. As Kirill Andreyev said. And is his father living? Or was he shot, too.

But there, too, Tass blundered. The sale price of the book in all languages will be as low as possible, so that it may be read as widely as possible. The price will cover only the costs of translation, printing and paper. And if any royalties are left over, they will go toward honoring the memory of those who fell and aiding the families of political prisoners in the Soviet Union. I ask the publishers to contribute their earnings as well for the same purpose.

And here is Literaturnaya Gazeta's lie: that in my book "the Soviet people are the devil incarnate" and that the essence of the Russian soul "is that a Russian is prepared to sell his mother and father for a loaf of bread." Cite the pages, liars! Why was this written? To enrage my uninformed compatriots against me. Solzhenitsyn "equates Soviet people with the fascist murderers." Just a little juggling of the facts: Yes, I equate the Cheka-G.P.U.N.K.V.D. murderers with the Fascist murderers. But Literaturnaya Gazeta hauls in "all Soviet people" here in order more conveniently to hide our hangmen among them.

### PILLAGING IS CHARGED

But what pages do they cite? From what book? For Literaturnaya Gazeta has been caught pillaging and stripping a corpse—it is quoting a confiscated copy, parts four and five of "Archipelago," which have not been published anywhere yet. It was at the State Security Committee that the suspicious Litterateur copied his notes! When the fourth part appears, you will read this passage: "I have realized the falsehood of all the revolutions in history" (at the end of Chapter 1), and this appraisal is not of Russian man, but of the Soviet power in Chapter 4, with the section titles: "Constant Terror," "Secrecy and Distrust," "Decay of the Spirit," "Falsehood as a Form of Existence."

And still they dare charge that world reactionaries chose the publication date of "Archipelago," to disrupt détente. It was our State Security, which is the chief reactionary force in the world today, that chose the date, chose it by its eagerness to seize the manuscript. If it cherishes international détente, why then did it spend five August days squeezing this manuscript from a poor woman, dragging it out of her? In this act of seizure I saw the hand of God. It meant the time had come. As Macbeth was foretold, Birnham Wood shall come . . .

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## THE 56TH ANNIVERSARY OF UKRAINIAN INDEPENDENCE

**Mr. GRIFFIN.** Mr. President, this day affords us an opportunity to reflect for a moment on freedom and what it means to people everywhere.

It is the 56th anniversary of the proclamation of Ukrainian independence—an independence which, tragically, lasted only 3 years. However, the spirit which produced the short-lived Ukrainian National Republic has survived the long passage of time.

It lives on in the hearts and minds of Ukrainians and their descendants, many of whom, I am proud to say, are residents of my home State of Michigan. They have held tenaciously to their aspirations for human rights, for independence and freedom for justice in their homeland.

This was reflected in a letter I received recently from Teodor Kwasnycky, chairman of the Flint branch of Ukrainian Congress Committee of America.

After reviewing the subjugation of the Ukrainian people in the aftermath of World War I, Mr. Kwasnycky wrote that the Soviet Government has "subordinated all aspects of Ukrainian life to the rigid control of Moscow."

The letter added:

> For the past several years the Kremlin has engaged in a series of arrests, trials and convictions of hundreds of young Ukrainian intellectuals,—poets, writers, literary critics, playwrights, professors, students and others —charging them with anti-Soviet propaganda and agitation. . . .
>
> The fact is that today the Ukraine, with its 48 million people, is more than ever a colony of Communist Russia.

Yet, as the letter indicates, the Ukrainians persevere in their faith and devotion to the ideals of democracy. In that, on this anniversary occasion, there is a lesson for all of us.

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## THE ENERGY EMERGENCY ACT

**Mr. McGEE.** Mr. President, I rise in support of the conference report on S. 2589, the Energy Emergency Act. I am confident that all of my colleagues are aware of the necessity for this timely legislation. We must take every possible action to insure that the essential fuel needs of this Nation are met.

The purposes of this act, as set forth in section 101(b), are "to call for proposals for energy emergency rationing and conservation measures" and to authorize specific temporary emergency actions necessary to meet the fuel needs of the United States. I am pleased to note that this must be accomplished "in a manner, which to the fullest extent practicable—maintains vital services necessary to health, safety, and public welfare." I would point out that there are few vital services which touch our constituents as frequently or as regularly as that provided by the U.S. Postal Service—the collection and delivery of some 90 billion pieces of mail each year. This is a vital service necessary to the public welfare, for which we should and, in fact, must provide all necessary fuel supplies.

We addressed a similar subject several weeks ago. During the floor debate on the conference report on the Emergency Petroleum Allocation Act of 1973, I believe you remarked that it was the intention of the committee that the movement of the U.S. mail be included within the vital public service category of that legislation and that the U.S. Postal Service and its contractors should be provided all necessary fuel supplies to carry out their task.

Mr. Chairman, as I understand section 101(b) and its relationship to section 104 entitled "End-Use Rationing" and section 105 entitled "Energy Conservation Plans," any regulations promulgated pursuant to the aforementioned sections, which codify the purposes of this act, must provide to the fullest extent practicable for the maintenance of vital services necessary to health, safety, and the public welfare.

Therefore, in light of our action on the Emergency Petroleum Allocation Act of 1973 and the statements made during the consideration of the conference report on the Senate floor, which specifically included the U.S. mail within the vital public service area, am I correct in assuming that the committee intends that the term "vital services" in section 101(b) of the Energy Emergency Act includes the collection, transportation, and delivery of mail by the U.S. Postal Service, its lessors, contractors, and carriers?

**Mr. JACKSON.** The distinguished Senator from Wyoming and chairman of the Senate Post Office and Civil Service Committee is absolutely correct. The term "vital services" in section 101(b) of the Energy Emergency Act does include the collection, transportation, and delivery of mail by the U.S. Postal Service, its lessors, contractors, and carriers.

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## UKRAINIAN INDEPENDENCE DAY

**Mr. BUCKLEY.** Mr. President, the recent writings of Alexander Solzhenitsyn have brought into sharp focus the inhumanity of Soviet Communist rulers against the Russian people. What the Communists have done to their own people is matched and even surpassed in horror and ferocity by what they have done to captive peoples. Ukrainians have enormously suffered from Soviet domination and terror. On January 22, 1974, the 56th anniversary of Ukrainian independence, all those who love feedom should commemorate Ukrainians who have been among the chief victims of the brutal repression that has been the historic hallmark of Soviet imperialism.

In the words of one American of Ukrainian ancestry:

> The whole history of Soviet Russian-dominated Ukraine is a ghastly record in inhumanity, outright persecution and genocide, Russification and violation of human rights.

As we know, this persecution has not lessened but merely changed its form in recent years. In place of mass deportations and planned starvation of millions in the thirties, the Communists have adopted new tactics. Poets, writers, professors, students—anyone who can give voice to the yearning for Ukrainian freedom—are currently victims of arrests, trials, and convictions for the alleged crime of "anti-Soviet propaganda and agitation."

I call upon all Members of the Congress and all Americans to pay tribute on January 22 to all Ukrainian people as they continue their struggle to regain the human rights so proudly proclaimed 56 years ago. Ukraine must not be forgotten. In the words of Ukraine's great poet and patriot, Taras Shevchenko:

> Our souls shall never perish, freedom knows no dying.

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## REVISING THE FEDERAL CRIMINAL CODE

Mr. MUSKIE. Mr. President, among the many pieces of legislation this administration considers worthy of priority attention in the 93d Congress, none is more complex and more demanding of careful scrutiny than the 336-page bill it offered as a comprehensive revision of the Federal Criminal Code. S. 1400, the administration bill, and S. 1, the 538-page companion measure offered by the distinguished senior Senator from Arkansas (Mr. McCLELLAN), both present us with scores of important questions about the ways in which our criminal laws are to be codified.

One of those issues is raised and discussed at length in an excellent article published 2 days ago by the Washington Post. The authors, Richard R. Korn and Gregory B. Craig, have discovered that two provisions proposed in S. 1400 would, if adopted, go a long way to immunize Government officials from punishment for criminal behavior they believed to be officially sanctioned. As the article says:

> The breadth of the sections is astounding. If an official simply convinces a jury that he "reasonably believed" he was acting legally, his crime would be excused. If he or anyone else "reasonably relies" on an "administrative grant of permission"—even if it turns out to have given permission for crimes—they could be forgiven for breaking the law. And if the private agent of an official obeys orders which he, too, "reasonably believes" to be legal, a criminal case against him could be thrown out.

It takes little sophistication—in a time when national security is too frequently and improperly offered as an excuse for official misconduct—to see the danger of enacting such sweeping provisions into law. But it takes great care—now being exercised in Senator McCLELLAN's Subcommittee on Criminal Laws and Procedures—to insure that these and other highly questionable proposals do not slip past an inattentive, preoccupied Congress.

The authors of the article are to be commended for calling our attention to one of the issues involved in the proposed full recodification of the criminal code. I urge my colleagues to read their thorough and careful research and to keep it in mind when the full measure is presented to us for debate and decision. I ask unanimous consent that the text of the article, "Making It All Perfectly Legal," from the Washington Post of January 20, 1974, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### MAKE IT ALL PERFECTLY LEGAL

(By Richard R. Korn and Gregory B. Craig)

On March 23, 1973, Judge John J. Sirica read a letter from James W. McCord in open court, and the White House cover-up of Watergate began to unravel. Four days later, on March 27, the Nixon administration introduced in the Senate a bill to revise the U.S. criminal laws.

Relatively few took notice of the legislation, which was numbered S. 1400, and fewer still saw any connection between the two events. But there was indeed a connection: Buried in the bill's 340 pages were two brief sections that might do no less than protect public officials and their private agents from being convicted of federal crimes, whether future Watergates or other varieties.

They are truly remarkable, the two passages, descendants of the notorious I-was-just-following-orders and I-was-just-doing-my-duty defenses of Nuremberg, containing language that would make those excuses acceptable defenses for officials facing federal charges. What is also remarkable is that these provisions were not the brainchild of prophetic "plumbers" thinking ahead of ways to stay out of prison, but of well-intentioned academics, lawyers and other members of the outside legal community. Nonetheless, the administration did not object to adopting the outsiders' proposals, though Justice Department lawyers who worked on the bill also say they didn't *mean* the two sections that way. Almost nobody, it seems meant them that way, and yet there they are.

Section 521, titled "Public Duty," declares: "It is a defense to a prosecution under any federal statute that the defendant reasonably believed that the conduct charged was required or authorized by law to carry out his duty as a public servant, or as a person acting at the direction of a public servant. . . ."

Section 532, titled "Official Misstatement of Law," declares:

"It is an affirmative defense to a prosecution under any federal statute that the defendant's conduct in fact conformed with an official statement of law, afterward determined to be invalid or erroneous, which is contained in . . . an administrative grant of permission to the defendant . . . if the defendant acted in reasonable reliance on such statement . . . and with a good faith belief that his conduct did not constitute an offense."

#### A LAW AND ORDER CLASSIC

The breadth of the sections is astonishing. If an official simply convinces a jury that he "reasonably believed" he was acting legally, his crime would be excused. If he or anyone else "reasonably relies" on an "administrative grant of permission"—even if it turns out to have given permission for crimes—they could be forgiven for breaking the law. And if the private agent of an official obeys orders which he, too, "reasonably believes" to be legal, a criminal case against him could be thrown out.

These must be viewed as the crowning provisions of a bill which is, in many ways, the quintessence of the law-and-order backlash of the 1960s, a period piece of the Mitchell-Agnew era. Democratic Sen. John L. McClellan of Arkansas has introduced his own criminal code reform legislation, which is also predictably tough, but even it cannot match the administration version in seeking more power for the state. Senate Judiciary subcommittee hearings on the measures have been only sporadic so far, with Watergate, ironically enough, a chief cause for the delay. The scandal has not let one attorney general stick around long enough to allow much Justice Department testimony on the bills.

The Nixon bill co-sponsored but not endorsed in every detail by McClellan and Sen. Roman L. Hruska (R-Neb.) attempts to take advantage of everything that confused and frightened Americans in the 1960s—permissiveness, pornography, Dr. Spock, the Chicago conspiracy, Daniel Ellsberg, Abby Hoffman, the Weathermen, pot, LSD, the SDS and more.

#### TRIVIAL OR ABSURD

For those who worry that mollycoddling judges are shackling law officers, S. 1400 would make it easier to wiretap and entrap suspects. For those who complain that lawbreakers are punished too leniently, the bill would set up a presumption against parole and probation and reimpose a mandatory death penalty for certain offenses. For those who fear that too many criminals get off altogether, it would roll back the insanity defense in a way which would, as Prof. Louis B. Schwartz of the University of Pennsylvania Law School puts it, "return the law to a primitive state which it abandoned over a century ago, ignore the moral aspect of guilt, and fly in the face of virtual unanimity painfully achieved in the past decade."

Nor does the bill stop there. For those who would repeal the First Amendment in the name of national security, S. 1400 would repudiate the "clear and present danger" doctrine, declaring it illegal to incite others "to engage in conduct which then *or at any future time* would *facilitate* the overthrow or destruction by force of the government." Or, for those concerned about state secrets, the measure would make it a felony for any federal employee to disclose classified information to "unauthorized recipients," no matter how trivial the information or how absurd the classification.

But where S. 1400 truly matches the civil libertarians' worst nightmares is in the two sections allowing public officials to excuse crimes by citing their "public duty" or orders from superiors.

Consider, for example, the criminal charges against former White House aides John D. Ehrlichman and Egil Krogh, charges stemming from the burglary of Daniel Ellsberg's psychiatrist's office. Before Krogh pleaded guilty, both he and Ehrlichman asked that their cases be dismissed, arguing that they were acting as "officers of the United States." Ehrlichman's lawyer carried the point further, stating: "The President . . . specifically directed Ehrlichman to make known to Krogh, (David) Young and Charles Colson that (the investigation of Ellsberg) was impressed with a national security characteristic."

Ehrlichman's attorney based his argument on the old principle that there can be no crime without a guilty mind, a *mens rea*. He stated: "The essence of the crime of conspiracy is . . . evil intent. The association of persons with honest intent is not a conspiracy, and the association of Ehrlichman with the others on a presidential assignment cannot be transformed into a criminal conspiracy."

Then consider Adolf Eichmann contending in an Israeli courtroom that he was not guilty of the mass slaughter of Jews because he did not have the requisite evil or criminal intent, that he had merely obeyed superior orders. Or consider the words of Lt. Calley, testifying Feb. 22, 1971, at his court-martial for the Maylai massacre.

"Well, I was ordered to go in there and destroy the enemy. That was my job that day. That was the mission I was given . . . I felt then and I still do that I acted as I was directed and I carried out the orders that I was given, and I do not feel wrong in doing so, sir."

### THE SAME PRINCIPLE

This is by no means to suggest that mass murder or massacre are at all comparable to ordering a burglary. Nor is it to suggest that the administration bill would excuse all acts by public officials. An official, after all, would have to persuade a jury that he "reasonably believed" his action was legal. It is difficult to conceive of a presidential assistant succeeding in that, for example, in a murder case, though in the national security area it is not implausible that some juries would suspend all ordinary standards for judging an official's conduct.

But the point is that the same basic principle lies behind the Ehrlichman and Eichmann-Calley defenses—and that the Nixon bill would in part adopt that principle into federal law. Nuremberg surely taught us that a man cannot hide from the law by claiming he is more a machine than a man. Free will and individual choice and personal responsibility are at the heart of our criminal justice system. It would be inconceivable for us to hide them under a cloak of "public duty" or an "administrative grant of permission."

### WHAT MIGHT HAVE BEEN

Imagine what might have happened if S. 1400 had already been law when Ehrlichman and Krogh were contemplating a burglary. Ehrlichman need only seek an "administrative grant of permission" from, say a Justice Department confidante, and Krogh need only plan to persuade a jury that he "reasonably believed" the law not only authorized but required him to order the burglary.

Krogh's lawyers could submit a memorandum from the President describing the national security implications of the break-in. Ehrlichman could testify that he told Krogh national security made it all perfectly legal. And Ehrlichman's lawyers could introduce his "administrative grant of permission." Harry Truman's buck would be passed so rapidly from one person to another that, in the end, no criminal would have committed the crime, only public servants doing their duty.

In fact, Edgar Brown, a Justice Department attorney who helped write S. 1400, says that while "we certainly did not intend to provide greater protection for unlawful activity by government officials, you are right—if I were Bud Krogh and this provision were on the books, I would certainly use it in my defense." Brown also acknowledges that the "public duty" section probably would have served as an effective defense for the Cubans arrested in the Watergate complex; they could credibly have claimed ignorance of U.S. law and shown "reasonable reliance" on the words of high government officials.

But "taking this provision out of context and looking at it without reference to its history and purpose makes it look much broader than it was ever intended to be," he remarks.

The history and purpose of S. 1400's "Nuremberg" sections are strange and tangled. The provisions have passed through the hands of numerous lawyers, academics and legislators for at least 20 years. For example, one source of perhaps the choicest language was an American Bar Association committee. It was the ABA's Committee on Reform of Federal Criminal law, chaired by Prof. Livingston Hall of the Harvard Law School, which specifically recommended that the "reasonably believed" standard be included for public officials.

"We concluded," says Prof. Hall, "that the exact scope of public duty is so difficult to define that, in matters of criminal liability, the public servant should be given greater freedom of action and the benefit of the doubt. The law is so complex as to the duties and obligations of an official that, after considerable discussion and debate, we concluded that if an individual 'reasonably believed' his duty required certain action, that individual should not be subjected to criminal punishment."

Hall's ABA committee made its recommendation in November, 1972, and it certainly could not have anticipated its application to Watergate. But Prof. Hall says he still does not consider the section improper. "'Reasonably believed' is not a subjective standard," he claims. "It is totally objective and it is one easily applied by the jury. It is a simple matter of determining intent. Juries do that every day.

"You've gotten hold of a philosophical dilemma at least 2,000 years old. Governments have to go on. If criminal law is looking over the shoulder of every public official every time that individual could conceivably be guilty of criminal conduct, the government would be paralyzed. . . . If we are to arrange our laws to take account of a time when Herr Hitler comes to power, then we are in a sorry state indeed. I have not seen any good has been accomplished by putting anybody associated with the Watergate in jail, except to make them talk."

### A PRIVILEGE OF IGNORANCE?

Is "reasonably believed" a "totally objective" standard? Has no good been accomplished by putting Watergate criminals in jail other than to make them talk? Should public servants "be given greater freedom of action" than the rest of us "in matters of criminal liability?" These positions are, to put it mildly, highly debatable.

Most codes of justice, of course, recognize instances where the hapless or the helpless should not suffer the usual penalties for their crimes. These include acts involving insanity, coercion or duress, self-defense and certain mistakes of fact. But "ignorance of the law"—the other side of the "reasonably believed" coin—is not generally accepted as a justification for crime.

One reason for this, as Justice Oliver Wendell Holmes put it, is that "to admit the excuse at all would be to encourage ignorance." Another is that a reasonable person rarely need rely on someone else's authority to tell him an act is wrong. He has a closer authority at hand: his own conscience.

"No sane defendant has come forward to plead ignorance that the law forbids killing a human being or taking another's property or burning another's house," the legal scholar Jerome Hall has remarked. "In such cases, which include the common law felonies and the more serious misdemeanors, instead of asserting that knowledge of law is presumed, it would be much more significant to assert that knowledge of law (equally, ignorance or mistake of law) is wholly irrelevant."

And the codes certainly do not give those who *administer* the law the special privilege of claiming ignorance when they break it. If anything, logic suggests that public officials should be held to a higher standard in understanding and obeying the law, not the lower one suggested by Prof. Hall.

### A 20-YEAR HISTORY

Yet it is not Prof. Hall's ABA committee that invented the two S. 1400 sections. Their origins are more intricate than that. They began in a far narrower provision of the Model Penal Code, a legal blueprint published by the American Law Institute in 1953. They then reappeared 18 years later in the 1971 report of the National Commission on Reform of Criminal Laws, a congressionally created panel headed by former California Gov. Edmund G. Brown—only by then the language had been significantly altered. As the Brown Commission commented:

"By virtue of the general requirements of only a reasonable belief . . . the scope of justified or excused action by a public servant is broader here than in the model Penal Code."

The Brown Commission had begun its work in 1966, at the height of the counterculture and Vietnam, and it, too, obviously could not have foreseen Watergate, Milton Stein, who wrote the commission comment as its special counsel, notes that the commission sections were concerned chiefly with the problems of the police and other law enforcement officials. He also contends that "a jury would expect the public servant to know more, so a 'reasonable belief that a criminal action was not criminal is less likely in the case of a public servant." But he adds: "The problem you describe was not anticipated, but it is there."

The Justice Department of John Mitchell then used the Brown Commission report as a model for writing many parts of S. 1400. Continuity from the Brown Commission to the Nixon-Mitchell Justice Department was provided in the person of John W. Dean III, who had been associate director of the Brown Commission and became the direct beneficiary of Mitchell's patronage in the administration. It was nearly two years after the Brown Commission report that the ABA specifically recommended including "reasonably believed" in the "public duty" section and that the Justice Department went along.

### WHY DO IT AT ALL?

The fundamental question to be asked about the "Nuremburg" provisions—as well as other parts of the bill—is not whether they should be changed, but whether they are needed at all and, if so, whether they should be considered in one massive measure.

The purpose of the bill is to "reform, revise and codify" the U.S. Criminal Code, an impenetrable legal museum in which most ancient monuments are crusted over with layers of precedent. This is certainly a worthy goal. But it has a deceptively mild ring about it. The fact is that in many areas, the bill would in effect create controversial new laws, each of which would normally trigger extensive congressional debate.

Neither the "Nuremburg" provisions nor anything like them, for example, are currently in the criminal code. The sections are based, rather, on scattered court rulings, in line with the intention to codify case law.

But some of the case law, as applied to public servants, has been turned on its head. One source of the "public duty" section, for instance, is an old case involving a prohibition officer who fired two shots at a car he suspected of containing liquor. The court held that the facts at hand would not have persuaded a reasonably prudent man that the car did contain booze and that the agent was not acting within the scope of his duty. Thus a ruling that protected the citizen is now helping to support a proposed general law that would also give greater license to officials.

Much of the "public duty" defense, moreover, comes out of a military context. The typical case is that of a soldier on guard duty killing an escaping prisoner. The courts have held that such killing is excusable, unless a man of ordinary sense would know that the authority or order under which he acted was clearly illegal. Any order that is not patently illegal should be obeyed, the courts have said, and that order will protect the soldier from criminal liability.

But a "public servant," acting freely, cannot be equated with a soldier acting under the compulsion of strict military discipline. An official can use discretion; a soldier must obey commands. An official can refuse; a soldier could end up in the stockade if he did. An official can resign; a soldier cannot.

As the judge in one of the military cases stated: "To ensure efficiency, any army must be, to a certain extent, a despotism. Each officer, from the general to the corporal, is invested with an arbitrary power over those beneath him, and the soldier who enlists in the army waives, in some particulars, his rights as a civilian, surrenders his personal liberty during the period of his enlistment, and consents to come and go at the will of his superior officers."

The "Official Misstatement of Law" section would also turn the case law topsy-turvy as far as public officials are concerned. This provision stems largely from Supreme Court rulings which cleared citizens who relied on official assurances that their acts were legal. Thus, witnesses before the Ohio Un-American Activities Commission in 1954 refused to answer questions after the commission told them of their right not to incriminate themselves. They were later convicted of violating an Ohio statute by refusing to answer, but the high court reversed the conviction.

This section clearly serves an important purpose in protecting citizens. The problem arises when the "administrative grant of permission" is given by one public official to another.

### THE LIMITS OF CODIFICATION

Even if both these sections can serve worthwhile purposes in certain circumstances, should Congress adopt them for all circumstances? They were in the Model Penal Code in narrower form, but that was a theoretical document meant to be as comprehensive as possible. As for their appearance in the Brown Commission study, former special counsel Stein remarks, "The reason we needed a provision in the first place was because of our intent to be complete." But that does not mean they should be written into sweeping national law for the next half century or longer. As one of Frederick the Great's chief codifiers wrote:

"I first thought that it would be possible to reduce laws to simple geometric demonstrations so that whoever could read and tie two ideas together would be capable of pronouncing on them. I almost immediately convinced myself that this was an absurd idea."

Congress should similarly recognize that there are limits to codification. Judge Jerome Frank has written: "Codification . . . cannot create a body of rules which will exclude judicial innovation and thereby guarantee complete predictability . . . The idea of regulating, by anticipation, all possible legal relationships is to be abandoned."

If Congress does not kill these sections outright, it should at the very least consider them separately, along with other turn-back-the-clock provisions written in by the Mitchell Justice Department.

It would not be merely "codifying," for example, if it adopts the obscenity section, which would outlaw all material containing "unnecessary" or "inappropriate" close-ups of a human genital. Nor would it be merely "revising" the law by restoring, as the bill would, the "guilt by association" provision of the Smith Act, which the Supreme Court found unconstitutional. The measure would make it a crime just to "join" or be "an active member" of a group which plans to incite conduct that would "facilitate" the overthrow of the government—"then or at any future time."

And if insanity is no longer to be recognized as a disease by the law; if capital punishment is to be re-established; if leaking classified information is to be punished as a felony,—these cannot be considered little sections of a giant bill. They must receive, one by one, the complete, open and individual debate they demand.

(Justice Robert Jackson in his opening statement at the Nuremberg trials: "One who has committed criminal acts may not take refuge in superior orders nor in the doctrine that his crimes were acts of state. These twin principles, working together, have heretofore resulted in immunity for practically everyone concerned in the really great crimes against peace and mankind.")

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## UKRAINIAN INDEPENDENCE DAY

**Mr. YOUNG.** Mr. President, today, January 22, is the 55th anniversary of the independence of the Ukraine and the 55th anniversary of the Act of Union which united all Ukrainian lands into one independent and sovereign state. On this important occasion it is a pleasure and privilege to join with others in observing these two significant events.

Dr. Anthony Zukowski, a physician from Steele, N Dak., and the national vice president of the Ukrainian Congress Committee of America and president of the State branch of the North Dakota UCCA, has written a letter to me in which he very ably outlines the unfortunate treatment to which Ukrainians have been subjected by Soviet Russia for more than half a century.

I share the deep concern of Dr. Zukowsky and the people he represents. Ukrainians have been loyal to the United States of America and our form of government without question. This is especially gratifying and encouraging at a time when many people are expressing dissatisfaction for our form of government.

Mr. President, I ask unanimous consent that Dr. Zukowsky's letter and accompanying historical background be printed in the Record.

There being no objection, the letter and material were ordered to be printed in the Record, as follows:

Ukrainian Congress Committee of America, Inc.,
*Steele, N. Dak., January 10, 1974.*

Hon. Milton R. Young,
*U.S. Senator from North Dakota,*
*U.S. Senate Building,*
*Washington, D.C.*

Dear Senator Young: January 22, 1974 will mark the 56th Anniversary of proclamation of Ukraine's Independence, and the 55th Anniversary of the Act of Union, both of which took place in Kiev on January 22, 1918 and 1919, respectively. By these acts a Ukrainian independent state was officially established on all ethnographical Ukrainian territories.

After several years of continuous invasion and fighting, Ukraine, alone and unaided, succumbed to the numerically superior forces of Communist Russia. The whole history of Soviet Russian-dominated Ukraine is a ghastly record in inhumanity, outright persecution and genocide, Russification and violation of human rights.

For the past several years the Kremlin has engaged in a series of arrests, trials and convictions of Ukranians, intellectuals—poets, writers, literary critics, playwrights, professors, students and others—charging them with anti-Soviet propaganda and agitation. Yet, in the United Nations Ukraine is a full-fledged member, and the Kremlin makes much of this fact in its massive propaganda drives throughout the world. The fact is that today Ukraine is a land of inhuman persecution and economic exploitation. Only outside of Ukraine can Ukrainians and their descendants throughout the world speak of freedom and independence.

Many a Westerner may be lulled into a sense of false security by the spurious detente; but there is no detente in the relentless persecution of the Ukrainian people by Communist Russia.

Therefore, we kindly request you to make an appropriate statement on the floor of the Senate in support of the Ukrainian people in their undaunted struggle for human rights and freedom, which are the basic tenets of our modern civilized Society.

Sincerely yours,
Dr. Anthony Zukowsky,
*President, UCCA, State Branch of North Dakota, National Vice President of UCCA.*

### Historical Background

January 22nd will be the 56th anniversary since the Proclamation of Independence of the Ukrainian National Republic and the anniversary of the Act of Union, whereby all Ukrainian territory was united into one independent and sovereign state of Ukraine. The Independence of Ukraine was proclaimed in Kiev, the capital of Ukraine on January 22, 1918 and the Act of Union took place a year later.

The Ukrainian National Republic was recognized by foreign governments including Soviet Russia. Shortly after this recognition Russia began a large scale invasion of Ukraine. For 3½ years the Ukrainian people waged a gallant struggle in defense of their country but it was subdued to a puppet regime of the Soviet Socialistic Republic.

The freedom loving people of Ukraine have not accepted the Soviet-Russian domination and have since been fighting to regain their independence by all means accessible to them. During the World War II the Ukrainian people organized a powerful underground resistance movement known as the Ukrainian Partisan Army (UPA) which fought not only against the Soviets but the Nazi regime as well.

The Brezhnev and Kosygin leadership is bent on keeping the Soviet-Russian Empire intact by persecution of Ukrainian intellectuals, professors, poets, writers, scientists and commentators. The international press has been providing a vast amount of documentation on the suppression of the Ukrainian culture.

Briefly, the Kremlin rule in Ukraine can be described as follows: Exploitation of Ukraine's economic resources for the benefit of Moscow and its imperialistic ventures in Asia, Middle-East, Africa, and Latin America. Genocide and systematic deportation of Ukrainians to central Asia. Arrest and trials of Ukrainian patriots including Ukrainian Communists defending freedom of their country.

Persecutions of all religions in Ukraine and enforced Russification aiming at the cultural and linguistic genocide of the Ukrainian people.

All the available evidence of the western observers shows that the ever-increasing tempo of repression has failed to intimidate the Ukrainian people; therefore, the Russian leadership in Kremlin took brutal measures against liberal movement in Czechoslovakia. Since Kremlin leaders were convinced the liberal ideas of Czechoslovakia would help Ukrainian liberals and other captive Nations.

Both the U.S. Congress and the President of the United States have expressed their concern over captive non-Russian nations in the USSR by enacting the "Captive Nations Week Resolution" in July 1959.

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## AGRICULTURE

Mr. HRUSKA. Mr. President, agriculture is this Nation's No. 1 business. Certainly, those of us from the so-called farm States have long known this fact. But, I think all Americans have come to recognize just how important the farmer is to our way of life. When the farmer's business suffers, America's business suffers. Likewise, when the farmer's business prospers, America's business prospers.

We are the best-fed Nation in the world. When one considers the demand for our agricultural products on the world market, it is safe to say that agriculture is one of our most successful businesses.

The year 1973 was a most puzzling year for the American farmer. The crops were good; farm income was the best it has ever been. The farmer in 1973 began to share the prosperity that had long since come to many other phases of American society.

It was also a year of frustration for the farmer. The freeze on beef prices imposed last summer was a mistake. The economy today still suffers from the dislocations in the cattle market that resulted from the freeze. Late in the year the fuel crisis began to wreak havoc in the farm industry. We still are not certain what effects the shortages will have on farm economy.

Mr. President, last week my colleague, Senator Carl T. Curtis, spoke before the National Association of Wheat Growers at their meeting in Omaha, Nebr. Senator Curtis is one of the ranking members of the Senate Agriculture Committee. He has long been a student of the needs and problems of American agriculture. His speech should be required reading by the Members of this body.

Mr. President, I ask unanimous consent that the text of Senator Curtis' speech be printed in full in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

### Speech of Senator Carl T. Curtis Before the National Association of Wheat Growers at Omaha, January 16, 1974

Mr. Chairman, Ladies and Gentlemen:

It is both an opportunity and a privilege to talk to wheat growers of our country. You are a very important sector of American agriculture.

American agriculture is the most successful business operation in the history of the world. Its gains in productive capacity surpass all other endeavors. At the time of the founding of our country one farmer could produce enough food and fiber for himself and three other people. At the turn of the twentieth century one farmer in America could produce enough food and fiber for himself and six other people. At the time of World War I an American farmer could produce enough for himself and seven others. Today one American farmer produces enough for himself and fifty others.

American agriculture has the greatest impact upon our economy, from the standpoint of producing jobs and enterprise, than any other segment of our economy. I could make a long speech about that. Because of the efficiency resulting from knowledge, hard work, risk-taking, capital investment, and research American agriculture is the bright spot in America's foreign exchange and trade balances

I just returned from representing our government at the Food and Agriculture Organization which met in Rome, Italy. I went there for one reason and one reason alone. I am interested in the prosperity of American agriculture. Right now the better agriculture prices that we enjoy are linked in no small measure to our foreign exports. I want that to continue. I announced to the American delegation when I arrived in Rome that I expected to view every question that came up on the basis of what is best for the men and women of my state to produce the food that feeds the world.

I realize that our whole economic system is complex. I am fully aware that there are many factors that are necessary to a prosperous agriculture. At the same time, we must regard as important the fact that there are no government-owned stocks of surplus agricultural products hanging over our American economy. Huge government-owned surpluses form a cloud that depresses the prices of all agricultural products. The pressures always come from the non-farm areas of our country, and even from some segments of agriculture, for the release of those stocks for the purpose of depressing prices. And I regret to say that it happens regardless of which political party is in power in Washington.

One of the things that the American Delegation had to resist in Rome was those efforts which would force the United States to resume such a stockpiling role for the whole world. There are even business interests in our own country who favor a stockpiling program to guarantee to them the purchase of farm products at lower prices. That's not the private enterprise way. Let those business interests go into the marketplace and buy for their own stockpiling. This will perk up the market at the time it is starting to lag.

But let me say in passing, the farm prices are not too high. We have lived too many decades in a situation where agriculture was out of step with all other segments of our economy. We have lived during a time when agriculture has been behind all non-agriculture activities in income.

Oh yes, we have some problems and some mistakes have been made. Some very serious mistakes were made in 1973. The price ceiling placed upon beef was not helpful to consumers and it was unfair to producers and it caused dislocations that are creating an economic loss to this very day. The embargo against the exportation of soybeans created doubt in the minds of foreign purchasers and some of them may turn for their long-range supplies to other parts of the world.

It has been my privilege to work with Secretary Butz very closely throughout the months he has served as Secretary of Agriculture. He is an outstanding secretary. He stands today as the farmers foremost champion. There may be features of proposals that Secretary Butz offers with which you or I might disagree but the fact remains he is a fighter for the farmers of America. Whenever businessmen or union leaders or consumer groups, through misinformation, make an attack upon American agriculture, Secretary Butz stands up and defends the American farmers and defends their right to an adequate price and to a profit and sets the record straight.

Recently a small portion of the leadership of the American Bakers Association attempted to frighten the American consumers by saying that bread would go to a cost of $1.00 a loaf. They did this in a plea for wheat export controls. Of course, such a statement is outrageous, but in addition, it is very misleading.

I hold in my hand a clipping from one of our daily papers and clear across the top of the page are these words, 'Butz Blasts Bakers For Threatening $1.00 Bread." The Secretary then proceeded to set the record straight.

He pointed out that the average pound-and-a-half loaf now costs 47 cents which is about 13.7 cents more than five years ago and contains just over 7 cents worth of wheat at present prices. Secretary Butz informed the bakers that wheat prices would have to go to $33 a bushel or six times higher than the present price for us to ever have dollar bread. The clincher of the Secretary's statement was that if the bakers believed what they had charged, they could become millionaires by trading in their wheat futures market.

In my opinion, gasoline, heating oil, diesel fuel and other petroleum products are in short supply. Many months ago before there was any allocation program in operation whatever, my office was devoting a good many man hours every day in assisting farmers, businessmen, householders, dealers and others with their problems arising out of the fact that they could not get certain petroleum products. Some communities were entirely out at times and many a farmer called me in desperation because his irrigation pumps were stopped or about to stop.

There are many factors involved in the shortage. We drive a good many more cars than we used to. Many of these cars have a poorer performance from the standpoint of gasoline mileage. There has been a big movement away from coal in the heating of homes, offices, and other buildings. They have turned to natural gas, propane gas and fuel oil for heating.

Our needs for petroleum are more complex than they were in World War II. Our whole transportation system has changed. Practically all of the nation's transportation now depends on petroleum. It is not only cars, trucks and airplanes but railroad companies who owned vast coal fields have abandoned coal and changed to diesel fuel.

Many industries which used coal have converted to petroleum. This has been brought on in part by the action of some extreme environmentalists. A good example is our electrical generation facilities. Some years ago they were all using coal. Now they are big users of oil. We must keep in mind the rapid growth of our population. The increase in population, the new housing and other factors have caused a great per capita increase in electrical energy use.

Agriculture operates on petroleum. It may be said that the tractor replaced the horse a long time ago, but that is only part of the story. Vast amounts of petroleum are used for pump irrigation and hauling the livestock and grain to market and for grain drying. The use of fertilizer has expanded beyond words. For the most part, fertilizer is petroleum. This is also true of pesticides that farmers need.

There is a whole new ball game in the petroleum industry. The number of products is endless. I cite such things as plastic bags used as food containers in most every household, as well as by the manufacturers and retailers of food.

Our petroleum problems are not caused solely by increased use. We have not moved forward as we should with the exploration and discovery of additional petroleum resources. At the very time that we were approaching the crisis in reference to petroleum the government lessened the incentives for the exploration and discovery of oil and gas. The depreciation allowance was reduced and price controls were placed on natural gas at the wellhead. We move towards self-sufficiency in petroleum when individuals, small and independent oil companies and drilling companies can operate at a profit. The reduction of these incentives was hardest on the wildcatters and independents who were searching for oil. Our largest oil companies have a source of income from their chain operation of filling stations which sell petroleum products, tires, accessories and other items.

Let us look just at what is happening in Nebraska. I have reliable information concerning two oil wells in Cheyenne County. The production from these wells had dropped to six barrels a day per well. The price received for this oil had been $3.80 per barrel. These two wells were about to be abandoned. The price of a barrel of oil is now $8.47. This individual operator spent $20,000 to get both of these wells back in production and each well is producing 20 barrels a day.

In Kimball, Cheyenne, and Banner Counties there are 100 wells which are producing today which would not be producing if it had not been for the raise in price, and these wells are producing 1,000 barrels of oil a day.

In that area of Nebraska the cost of drilling alone is $32,000 per well. If they find oil, the additional expense for pipes, pumps, and putting the oil on the line runs the cost to $100,000 per well. We are talking about wells that produce from 50 to 100 barrels a day. In that area over the last three years, thirteen dry holes have been drilled for each one that was an oil producer. These figures illustrate the role that is played by price and tax incentives in increasing of oil resources in this country.

In recent years we have imported too much foreign oil. The large oil companies had a financial interest in the foreign oil. It was very, very cheap and they joined up with other political groups and fought for and got larger import quotas. The independent oil producers wanted less foreign imports. The only way many of these independents could operate was to receive a higher price by being protected from the flood of foreign oil imports.

As a national policy, we have been slow in developing additional sources of fuel. The Alaska Pipeline has been delayed for five years because of lawsuits by individuals who said that it would ruin the countryside. The use of coal has been banned in many instances. Restrictions have been put on strip mining not withstanding the fact that it can be done and the land can be restored to beauty and productivity.

The same groups have brought lawsuits and delayed the development of atomic power. Some of our great cities face a real crisis. They are depending upon petroleum and they could have had atomic power plants in operation if they had not been stopped.

Pollution devices have not only increased the consumption but they have made refineries far more expensive. We have not built refineries as we should because of regulations and uncertainty. The offshore drilling for oil in the ocean has been held up in the very months and years that it should have been going full speed ahead.

Perhaps most of us could save on gasoline with our passenger cars. We can make one trip to the market where we have been making two and do a lot of other helpful things. If you cut the available petroleum for agriculture, if irrigation pumps stop or are reduced in operation, and if the use of fertilizers is curtailed it means less food and scarcity which means higher prices. Our transportation system is bad now, but if it is curtailed in the use of fuel, it will be worse.

Thousands of industries, both large and small, are dependent upon petroleum. If they slow down or stop, we have a widespread of unemployment, scarcity of products and higher prices. Many of us can save on fuel in our homes, but there are those who live in hard-to-heat apartments and homes. There are those who, because of age, or infirmities, should not be called upon to be uncomfortable by lack of heat. The whole problem is very complex. I do not think that any company or individual should be permitted to take advantage and reap unconscionable profits in this situation.

I believe our new Attorney General is going to have a sound approach on that. At the same time, some increase in price, particularly in the field of exploration and discovery and production of oil, is absolutely necessary if we are to expand production and do the maximum in meeting the needs of our economy and our people. This whole area of price must be handled with great expertise and wisdom and with an extreme amount of courage. It is no place for the demagogues.

The mandatory allocation program announced on January 15, 1974 gave agriculture 100 percent of current requirements. Our job will be to follow-through and see that we have good administration. Agriculture is the most important means whereby man produces new wealth. The production of our farmers must be processed, transported, packaged, labeled, advertised, wholesaled, retailed, financed, bought and sold and insured. In other words, when a farm commodity is produced, it sets in motion a whole chain of activity that means jobs and business and wages and profits for Americans. The fact that fewer individuals are involved does not lessen the importance of agriculture. It is the foundation of our economy.

Today we live at a time when there are many problems. Watergate was a foolish wrongful third-rate burglary. Every guilty party should be punished. The President was not involved and we should stop tearing our country apart.

A few weeks ago I appeared with a panel on the public radio network. The subject of discussion was the Watergate scandals. I asserted that there had been no evidence whatever involving the President of the United States with these wrongdoings. I would like to quote to you what was said by Mr. Edmisten, the Assistant Counsel to the Ervin Committee. Incidentally, Mr. Edmisten has been employed by Senator Ervin for 10 years. He is in a position to know. Here is what Mr. Edmisten said:

"I agree with Senator Curtis entirely that there's not been any evidence whatsoever to link the President with any of these doings. It's not credible evidence . . . and, as a lawyer, I agree, too, that no court in the land would admit an iota of it."

It is time for us to think about what is right with America.

There are more things right with our country than are wrong. America is still the greatest place on earth. America is the most kind, benevolent, and helpful nation that ever existed in all history. Our standard of living exceeds the standard of living any place in the world. Our basic liberties are still unimpaired. Thanks to the leadership of our great President, our involvement in the Vietnam War is over. Our combat troops have been brought home. American prisoners of war have been returned. American boys are not being drafted and no American troops are stationed in the Mideast.

As we approach the beginning of 1974, we need to count our blessings and to apply ourselves to the solution of the problems we face. The greatest disservice that responsible people could render, not only to our country but to all mankind, would be to say that the United States is not worth saving and that they were ready to throw in the towel. It is the greatest place on earth and it is worth saving, regardless of the sacrifice that it takes.

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## LATIN AMERICA

Mr. KENNEDY. Mr. President, in a recent article in Saturday Review/World magazine, Max Lerner perceptively reports on his impressions after a trip through Latin America.

He cites not only the strength of economic nationals but warns that the changing role of the military elites must be a major subject of concern, a warning intensified by the Chilean coup and the obvious intentions of the junta to maintain itself in power for some time to come.

Perhaps the element of the article that is most worth underlining is his reminder that the United States still takes the countries of Latin America for granted. The administration has neglected the Republics of Central and South America for 5 years and yet one finds little public criticism of that neglect. He notes that the major institutional concern for Latin America continues to be private corporations engaged in the pursuit of markets and profits.

All too often, the public and the press treat life and events in Latin America as if they were occurring halfway around the globe instead of in our own hemisphere.

While for Europe, the violent military overthrow of the elected Chilean Government and the death of its President were among the top three or four stories of the year, in the United States, that event was not listed among even the top ten.

I have long shared the view expressed by Mr. Lerner in the conclusion of his article. He wrote:

> We, too, in the America of the north, will deserve better of our neighbors to the south if we change our perspective: if we value them as more than just a source of profits, a market for products, and an area for capital investment; if we accord them continuing quiet attention for what they do and are every day; if we visit them to see their great ruined cities, their artifacts, their majestic landscapes, and their living cities as well, and become part of their lives when we are there; if we report in our press not only on their kidnapings, coups, changes of government but also on the continuing cultural richness of a continent that produced the Mayan, Aztec, and Inca civilizations and has not lost its creative thrust since.

I ask unanimous consent that the article in its entirety be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Saturday Review/World, Oct. 23, 1973]

### MILITARY RULE—CAN IT SPEAK A NEW LATIN SELF-RELIANCE?

(By Max Lerner)

The generals are on the move in Latin America—that much is certain, on a continent where much else is uncertain. The army overthrow of the Allende regime in Chile, a country with a strong tradition of a nonpolitical soldiery, is added evidence of the sway of the generals. The *golpe*, or coup, has long been part of the landscape in South America, where the democracies are still young, the class gulf wide, the political emotions intense and volatile, and the leaders colorful.

Yet even on this score the changes in climate are becoming evident. The military regimes are no longer run, as they used to be, by a single charismatic tyrant with the nimbus of god or devil around him. The greater likelihood is that the junta members are somewhat anonymous men—professional soldiers, often trained in technical schools, and with little of the personal flair that Latin American dictators used to have. If they are not themselves technocrats in uniform, they seek our technocrats to carry out the self-imposed mandate the generals have assumed.

This is not the picture that most Americans have of the change or of the other America to the south. But that is because most of us have not really been watching. It bears watching. Speaking to a U.N. group just after the coup that toppled Allende and sent him to his death, whether by his own hand or not, an economist sympathetic to his regime urged the American people to "keep the Chilean drama in mind." It was a plea worth heeding.

The thing that strikes a North American like myself, traveling in Latin America, talking to students, media people, officials, businessmen, military men, is what one might call the paradox of caring. They keep asking why it is that North Americans pay so little attention to Latin America, and they profess not to care about it, one way or another. But the fact that they press the question shows that they do care about the answer.

They care, not because their huge neighbor to the north is rich and powerful—although wealth and power do count in the Latin American mind—but because there is a new awareness in the Americas to the south, a new phase in the centuries-old search for identity, and their self-image today is of immense importance to them. To get at that self-image, they must see themselves in the mirror of others.

Hence their persistent questions: Why do (North) Americans take them for granted? Why do the U.S. papers print Latin American news, only when there is a revolution or a major nationalization of a big American corporation in a Latin American country? Why does the State Department send down what many Latin Americans regard as second-rate diplomats? Why do U.S. Presidents visit Peking and Moscow, London and Paris and Bonn, but not Rio de Janeiro and Buenos Aires and Mexico City? Why do American universities concentrate on Soviet studies, Chinese studies, Asian studies, European studies, Middle East studies, African studies, but leave Latin American studies out in the cold? Why is there a Year of Europe in the strategic lexicon of Richard Nixon and Henry Kissinger, after a decade of Vietnam and Cambodia, but no signs of a Year of Latin America?

And not least, Why do streams of American tourists flow into the tired channels of sightseeing in Paris, Rome, London, when the more dramatic glories of Palenque, Copán, Mérida, Chichén Itzá, Lake Titicaca, Cuzco, and Machu Picchu get only rivulets of attention?

In form these are questions thrust at convenient visitor targets like myself; in fact they are questions turned inward, self-explorations, tentatives toward a self-image, probings of awareness for a continent. The probings go with the territory. This is a continent settled from Asia, the scene of proud Mayan, Aztec, and Inca empires. Then it was discovered by voyagers from Europe, conquered by Spanish adventurers, and ruled for centuries by Spanish viceroys, landlords, and clerics, liberated by young, swashbuckling idealists, mostly *criollo* aristocrats, only to be conquered again from within by home-grown despots and *caudillos*. Finally Latin America was invaded again by an industrial Goliath, whose military attachés acted as viceroys and whose multinational corporations were proconsuls. What could such a continent do except search for some unifying identity that would give meaning to struggle and survival in the midst of such tragic enactments?

Accordingly, the peoples of the continent sought a symbol of common effort and identity at each phase of their history. First in a common front of enslaved and broken peoples against the Spaniards. Then in following and almost deifying the Liberators (Bolivar and San Martín), who were themselves carried along in confusion on the tumultuous torrent they had set in motion. Then in yielding themselves—sometimes with enthusiasm—to a series of dictators on horseback—Iturbide, Rosas, Gomez, Vargas, Pérez, Jiménez, Trujillo, Perón, Batista, Castro himself. Then in rediscovering the heritage and reality of the Indian, on whose sweat and toil (especially in Central America and the Andean countries) so much of the social superstructure had been erected and whose early communities had possessed an organic character that many of the New Left intellectuals perceived as the road not taken. Then (especially for these intellectuals) in the ideologies of Marxism and the romanticizing of desperate guerrilla bands, whether in the mountains or the cities; finally in the common pathos of underdevelopment and the cult of salvation by industrial growth.

Today the quest continues, but there are new directions for Latin American energies, struggles, awareness. The day of the oligarchies is past. They are having to move to the back of the stage, and they are even unable to function behind the scenes, manipulating their puppets.

Everyone is more or less on the Left in Latin America, including the rightists. Whatever the actions may be, the language is liberal, welfarist, progressive, Populist, or Marxist. This applies to the Church, the big family-business corporations, even the military. It would be hard for a conservative—in the Buckley, Kilpatrick, or Kirk sense—to get a teaching post in a university or be a regular commentator in the press: He would have to teach or write as a moderate who is critical of socialism and a planned economy.

The earlier *caudillos* also have had their day. The return of Perón to power in Argentina is a special case of nostalgia for a golden age when wages were high, prices tolerable, welfare benefits bountiful, and the trade unions had a friend in power. Perón today, in his late seventies, is thus a throwback to the past—to the era of his earlier flourishing—and he is unlikely to set a fresh pattern in other countries. The earlier Perón captured power and developed authority; the current Perón returned with authority, and a new tenure of power followed. The most interesting thing about the new Perón is that he himself has become an arena in which the left and right wings of his movement contend for power, each pulling him in its own direction, neither of them able to win power except through him.

The guerrilla movements are also subsiding in importance. They may still be nuisance methods for kidnaping executives of foreign corporations and throwing a fright into the multinationals; but they are not a viable path to power in any country, including Bolivia, Venezuela, Brazil, Argentina, Colombia, even Uruguay, the scene of the American kidnaping that gave Costa-Gavras the film theme for *State of Siege*.

This doesn't mean that the students and young professionals who formed the nucleus of the guerrillas are no longer important but that they are in no sense decisive in the fate of the nation. The armed campus no longer exists anywhere. No military elite would tolerate it and still keep its prestige or self-image.

Even more important, the ideological climate that made possible the machine guns and arms cache on the campus, and the guerrillas with their legion of sympathizers and their "safe houses," has been transformed. Soviet communism has lost the halo it had earlier, and with it has gone the Castro cult, since the Cuban leader is so closely identified with Moscow. In its place has come a trend toward fragmentary "socialist" movements and parties, in part inspired by the "socialism with a human face" of the Czech experiment, before the Soviet tanks crushed it, and in part vaguely Maoist. We still don't know what will come of this trend, given another decade of growth.

For the present the two strongest movements, cutting across all the national variations in regimes, are economic nationalism and the political trend of the military elites.

Economic nationalism is the strong, new battle cry. It has the double merit of rallying the party and nation against a foreign "imperialist" target, thus helping to unify both of them while also providing a loose frame for common sentiment and action among a number of nations that have the same enemy symbol in mind. The United States is of course the enemy symbol, and economic nationalism is thus the newest chapter in the long history of anti-Americanism among the Americas to the south. But it is a shrewder form; it isn't wholly negative; it doesn't depend on Marxist concepts or ideology; it is superior to the earlier "undeveloped nations" theme and the bitterness about the failure of aid, since it stresses not economic dependence but economic independence.

Currently, economic nationalism operates wherever the going rules and arrangements between the particular nation and the United States are felt to need drastic change. This applies to the territorial-waters disputes, in which a number of nations are now claiming a 200-mile fishing limit as against the earlier ones. It applies to the ending of concessions contracts with foreign corporations, on the very solid ground that a sovereign people can reclaim their natural resources even though former regimes have signed them away. It applies to new "participation" agreements, which form the trend with oil agreements and which may be happening soon in Venezuela but may be relevant to other kinds of resources and operations as well. It even applies to nationalization, again because no government can sign away a people's basic sovereignty.

In the past the U.S. government and people have found nationalization more traumatic than any other event, because it touched the sensitive property nerve of Americans. For the future—provided there is some kind of compensation deal—they will have to lump it even if they don't like it. For not only the Marxist and other militant regimes and parties are committed to it but even the centrist Catholic Democratic parties. It is part of the fierce pride of the Latin peoples that they should have the right and power to take this ultimate step toward the holdings of foreign companies. It is a way of meeting their deeply inbred inferiority feeling toward the United States.

Does this mean that all left-of-center regimes are likely to be nationalizing their big corporations and that the ideological differences have been wiped out between the Catholic Democrats (as in Venezuela) and the socially conscious military regimes (as in Peru and Brazil, each in its own way)? No, it doesn't. This was sharply illustrated by a conversation I had with the mines and petroleum minister of the Venezuelan government. He had more than hinted that the government might act to take over the oil companies well before the expiration of the established terminal date. I asked whether he felt the same way about Venezuelan corporations, controlled by a number of affluent and powerful families that support his Catholic Democratic party. No, he shot back; that would be socialism, while the action on the foreign oil companies is merely economic nationalism.

It would have been idle to argue that state socialism and state capitalism are defined by how the industrial apparatus is owned and managed and where the decisions are made and where the profits go, and not by where the capital originally came from. The fact is that economic nationalism suits the present mood, attitude, economic need, and political convenience of Latin America, and it is here to stay.

The second grand theme currently is the role of the military elites. Huey Long once

**said that if America ever goes Communist, it will be the fascists who will take it over.** This was oversimple but with a shrewd grain of truth. **One might say (also an oversimplification) that if the Latin American continent moves all the way to socialism in one form or another, it will not be the Castros and Allendes who will do it but the military elites.**

**What is happening is that the old ideological conflicts are being played out now not in the legislatures and trade unions and universities but in the barracks and military-cadet colleges. When the leftist Goulart regime scared the generals in Brazil, they formed a junta and took over and have remained in power ever since, dealing harshly with political opponents (including, at times, the use of torture), disarming the armed campuses, but also making use of good economic technocrats in dealing with inflation, expanding production, and prosperity. It is a right-of-center military regime, but independent politically and diplomatically, and an economic success story. It is likely to serve as a model for other right-of-center military elites, in a way the Argentinian regime failed to do.**

**The left-of-center parallel to Brazil is likely to be Peru. It furnishes a striking case history of how an elite entangles itself in coping with an internal enemy and takes over many of the features it has been fighting. One of the acronyms that frightened the possessing classes and the military in Peru** from the mid-1920s until the early 1960s was **APRA, the populist semi-Marxist party and** program of Victor Raúl Haya de la Torre, who went back to the Inca collectivism for his mystique. However, he joined that technique with a modern social consciousness that left its marks on the leaders of the democratic Left of the past quarter-century. Returning from a long exile, Haya de la Torre modified and mellowed his doctrines, won a following, and twice would have become president if the military had not intervened.

But today, on the division of land among the peasants, on the nationalization of foreign corporations, on the control of the press through workers' associations, the Left military regime of Peru owes as much of its old APRISTA enemey as to the Nasser-style socialism that some of the younger officers have cultivated.

The Right-Center military regimes, like Brazil, Bolivia, and Uruguay, are perhaps less caught up in economic nationalism than the Left-Center regimes of Peru and Ecuador, but they too are drawn into its vortex. It was the blunder of Allende's Left civilian regime in Chile to threaten the independent classes—small landowners, small entrepreneurs, shopkeepers, bus and truck owners, large Chilean (not foreign) firms, professional classes—with the specter of state take-over. The result was a situation of economic resistance and chaos, which led to the overthrow of the Allende regime and the take-over of power by a military junta.

However, nationalism in itself, whether economic or military, will not win for the Latin American countries the freedom of action or the self-image they long for. To expropriate a foreign corporation may be a necessary decision, and a viable one if there is a trained native technical and managerial group; but while it adds to the *élan* of the people, it will not in itself solve much. To call in the military may be a way to get some stability of a law-and-order brand, but the people pay a high price even for that; and it solves nothing else. Salvation doesn't come ready made in these packages. There are still obtacles in the way of a decent living standard a humanistic life quality. All the nations share these obstacles: the continuing poverty, the swollen and unchecked birth rates, the unequal land hunger and land use, the one-crop or one-resource imbalance of the economy, the depressed Indian caste, the lack of a strong middle class, the widespread illiteracy. Above all, there are the shantytowns, by whatever name—*ranchos, favelas, calampas, barriados, casas brujas, villas miserias*—clinging to the hillsides around the big cities, crowded with peasants whom the rumor of jobs and the lure of a metropolis have uprooted from their villages and brought chasing after strange, false gods.

There are false ways of coping with these obstacles. One is through demonology. Whatever the faults of the North American demonology of communism in the past era of the cold wars, the Latin American demonology of North America is just as crippling and has even less basis in actuality. Another false way is to make a cult of economic growth and use the expectation of foreign aid—usually from the hands of a Goliath demon—as a crutch. Gunnar Myrdal has strongly underscored in his latter-day writings how false an illusion this reliance on foreign aid has been and how unhealthy the whole concept of "underdeveloped countries" is if it becomes a reason for twisting the economic and social organism into unnatural shapes dictated by the industrialization model. Few Latin American countries can do what Mexico and Brazil have done in terms of economic growth, but few have had their resources. The growth-industrialism rat race leaves most of them embittered, with a weakened self-confidence.

The current experiments with a regional Common Market setup—for the Central American republics and the Andean region especially—are far more hopeful. So are the efforts, inside the Organization of American States, to use the Economic Commission for Latin America as a way of achieving economic independence of the United States. The changes in the well-being of the Latin American peoples will come from many diverse directions: from better land tenure, from population control, from Common Market membership; from a better regulated structure of foreign investment, with majority "participation" by the governments from the encouragement of small business and the independent professions as the basis for a middle class; from opening the career ladder to talent through higher education so that the army and the Church will not be the only channels through which a peasant's son can rise.

But more than anything, healthy change will be expedited by a clearer awareness within each nation of its own nature and self-image and the nature of the continent as a whole. This involves discharging the demonologies. A young British Labourite, John Mander, who has written one of the few brilliant books on Latin America in the past decade, *The Revolutionary Society* (Knopf), suggests that anti-Americanism will continue because "the United States is not hated for what she does but for what she is." As long as the United States prospers and remains a giant world power and exudes and exports its overflowing energy everywhere, the hostility will be there.

By the same token, Latin American peoples have a chance to express their rivalry not only in what they do, which will result in more income and power, but also in what they are. It is worth noting that with the considerable roster of Latin American philosophers and writers—on politics, history, national character—there has been little in the way of a philosophy or sociology of values. The daily ritual slaying of the North American father—or big brother—will cease to be much of a pastime when the elites and people to the south achieve the self-confidence needed to go their own way and to be themselves, not through the febrile short-distance urgencies and pantings but through the lonely, awareness of the long-distance runner.

We, too, in the America of the north, will **deserve better of our neighbors to the south if we change our perspective: if we value them as more than just a source of profits, a market for products, and an area for capital investment, if we accord them continuing quiet attention for what they do and are every day; if we visit them to see their great ruined cities, their artifacts, their majestic landscapes, and their living cities as well, and become part of their lives when we are there; if we report in our press not only on their kidnapings, coups, changes of government but also on the continuing cultural richness of a continent that produced the Mayan, Aztec, and Inca civilizations and has not lost its creative thrust since.**

## THE PRICE OF WHEAT AND THE COST OF BREAD

Mr. YOUNG. Mr. President, with all the propaganda intended to make people believe that a loaf of bread might go as high as $1, an article appearing in the Washington Evening Star of January 21, 1974, entitled "Spare Us the Bread Panic, Please," is most encouraging.

Mr. Wilson's column is based on factual information not myth, which is so typical of all his columns. I agree with Mr. Wilson that there is no possible chance of $1 bread. In fact, if there is any increase in the price of bread from what it is now, it undoubtedly will be for reasons other than the price of wheat that goes into a loaf of bread.

Mr. President, I ask that unanimous consent that Mr. Wilson's column be printed in the Record as a part of my remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Spare Us the Bread Panic, Please

(By Richard Wilson)

Excuse me if I don't panic over the prospect of the $1 loaf of bread. Given any kind of good weather, wheat, which represents only a fraction of the cost of bread, will be clogging the supply lines this fall. Farm state congressmen running for reelection may be clamoring for higher prices.

Panic is the spirit of the time. Everybody is gloomy and grim. Nixon can't govern. Gas is short. Houses are cold. Mornings are dark. Government commits one blunder after another. Hope rests only in Henry Kissinger.

But spare us the bread panic. It's a phony. The Lord willing, the spring and summer of 1974 will bring forth an enormous crop of wheat in response to the new, and maybe temporary, world demand for the bread grain.

Alarm of the American Bakers Association that the nation may run completely out of wheat before the new crop begins to come in late in May has to reflect more than its concern over the price of wheat. Since the wheat in a loaf of bread represents about one-fifth of its cost, maybe there are some other factors such as inefficient operation, extravagant promotion costs and shaky financing which give the bakers cause for thought.

Now it goes without saying that if the traders hadn't sold all that wheat to Russia last year there could not now be any concern over existing supplies of wheat. We would have too much, as usual. The bakers would be getting their flour based on the usual low wheat price and wouldn't have to worry so much about the efficiency and utility of their operations. Let the farmer worry.

A strange kind of logic governs all this. The bakers, with all their loaded-on costs, are pictured as the nation's benefactors denied the means to provide the hungry with the staff of life at a decent price. The farmer is the avaricious peasant squeezing the dear life out of the helpless urbanite. In between them is the bungling government mismanaging supplies over which it actually has very little control.

This picture is about as false as it could possibly be. In the first place, there is no accepted, reliable estimate that the United States will run out of wheat before the new crop comes in. Even shading the government's estimate that there will be 200 million bushels left over, there would still be enough.

In the second place, wheat would have to double or triple in price (according to one estimate, rise to $30 per bushel from $5 plus) to provide any justification for the $1 loaf of bread.

And in the third place, the Russians have already received most of the wheat they bought last year and are willing to put off taking the rest. They have said they don't plan to buy any U.S. wheat this year and if they do it is not expected to be very much. Meanwhile, if the weather is O.K., we may end up in the fall with 15 percent more wheat than was produced last year.

So what's to panic about? We panic, for one reason, because the United States no longer sits here on a huge supply of wheat which gives the world a continuous glut and makes domestic subsidies necessary. Some argue this is America's responsibility to the world.

We panic because the bakers don't get a comfortable ride on cheap wheat.

We panic because it makes sense to import wheat that might be more cheaply delivered in some sections of the country even if we don't begin to run short.

We panic, in fact, because supply and demand is working in favor of the farmer, for once, and is putting the squeeze on the middleman. And, finally, we panic just because it is in season.

## OSTRACIZING CUBA

Mr. McGEE. Mr. President, in yesterday's publication of the Washington Star-News, there appeared an excellent editorial comment on the ridiculousness of the continued U.S. boycott of Cuba.

The editorial writer makes a number of significant points, not the least of which is the fact that the political and economic sanctions against Cuba, adopted in 1964 by the Organization of American States, have rapidly deteriorated in recent years.

Now we find ourselves in another awkward position on the Cuban question. This time it is Argentina. Subsidiaries of the three largest U.S. automobile manufacturers find themselves in the untenable position of being in conflict with U.S. law or Argentine law on the question of selling automobiles to Cuba through their Argentine subsidiaries.

The editorial also echoes a warning I issued nearly a year ago when I noted the continued inflexible U.S. policy toward Cuba could very well end with the isolation of this Nation within the Western Hemisphere, rather than the original intent of isolating Cuba.

A change in U.S. policy toward Cuba is long overdue. I hope that our Government recognizes this reality and makes the necessary policy adjustments.

I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Washington Star-News, Jan. 21, 1974]

### Ostracizing Cuba

Recent events have provided additional reasons for changing the United States' policy of economic and political boycott against Cuba. The trade embargo makes particularly little sense these days in the light of our worldwide interests.

Detroit's Big Three automobile manufacturers and their Argentine subsidiaries are wondering how the latter can sell substantial numbers of vehicles to Cuba. If they do, the parent firms violate the American embargo and if they don't they will run afoul of law and political desires of Peron's Argentina, which recognized the Castro government last year and is extending large trade credits to Cuba. Resolution of the problem could affect the treatment of American-owned multinational corporations in Argentina and many other countries.

The Arab oil embargo puts the United States in the position of arguing against the political use of economic power, especially when the victims might suffer gravely. How to square this with continuance of an embargo that severely crimps the Cuban economy, forcing dependence on massive Soviet aid and irrational pipelines for supplies and exports?

The boycott gets more anachronistic the longer the United States pursues detente with Russia and Communist China, contemplating such economic coziness as joint development and purchase of Siberian gas and oil, and the sale of helicopters to China. The attempt at ostracism also happens to be crumbling more markedly the longer it persists, raising the possibility that we might end up more isolated than Castro.

Cuban trade with non-Communist countries, including most of our staunchest Western allies, has more than doubled in the last five years. The political and economic sanctions against Cuba, adopted in 1964 by the Organization of American States, have crumbled badly in recently years. Cuba has formal relations with six members, though losing Chile with the downfall of Allende last September.

Much of the Hemisphere's fear of Castro has dissipated along with his once-strident threat to export revolution to other parts of Latin America. Secretary of State Kissinger should get a personal reading of the OAS mood in his meeting next month with Latin American foreign ministers.

The updating of American policy does not require fondness toward a still-hostile Castro and his totalitarian regime—a test we do not apply in dealing with many other unpleasant governments. A recognition of realities, 15 years after the fall of Batista and 11 years after the missile crisis, calls for an end of the economic boycott and talks leading to diplomatic relations.

## INTERNATIONAL TRADE IN TEXTILES

Mr. THURMOND. Mr. President, at a time of great domestic problems and uncertainty, and at a time of great international problems and uncertainty, President Nixon has again demonstrated his sound leadership by obtaining a major new international trade agreement in textiles. As a result of this leadership, he has fulfilled a public commitment made in 1968 on behalf of the millions of textile workers and businesses so critical to the economic well-being of our country. Mr. President, I can attest that President Nixon is one elected official who keeps his campaign promises.

Three administrations have tried to conclude such a comprehensive international textile trade agreement. This administration persisted for close to 2 years to negotiate with 50 countries and finally achieved a most satisfactory and beneficial solution, not just to the United States, but to the world at large.

This new agreement became effective on January 1 of this year. It is a multifiber-multilateral agreement encompassing cotton, wool, manmade fibers and blends. It sets forth standards by which international trade in this field will be governed. It also sets an historic precedent by establishing an international surveillance body to insure that textile trading countries conform to this new arrangement. The agreement is for a term of 4 years.

This new multifiber agreement contains all the essentials necessary for the United States to protect its interests. As a result, it will provide for the security of its workers and its firms, and thereby insure that an important sector of our country's economy will be healthy and viable.

It is not a one-sided agreement. It is fair and balanced, setting forth less restrictive measures than former agreements. It provides that special consideration will be given to less-developed countries which, in many cases, rely upon the field of textiles as the most significant element in their domestic economy and their international trade. The thrust of this new agreement is also more liberal in the sense that it makes it more difficult for importing countries to take arbitrary and unfair actions against exporting countries. However, as I have stated earlier, it is balanced in that it also contains measures that help to insure orderly trade and prevent the flood of imports into any importing country that would cause disruption and damage to a domestic textile industry.

The surveillance body previously mentioned, of which we fully expect the United States to be a member, has also been established in a fair and equitable manner. Neither the United States nor any other country has relinquished its sovereignty to this international body. The final decision relative to our country's interests remains with our Government. However, we can expect that this body will perform a very useful and effective function. It will review the actions of participating countries, including our own, to see that they do conform to this new arrangement. This body will provide a forum for complaints to be heard between trading partners. Recommendations will be made and, although not binding, will have moral suasion in that all the participating countries will know the findings of this body and in turn, can judge the actions of their trading partners.

As one can see from the brief description just offered, it is the most encompassing international textile trade agreement ever reached. Equally important, it is a fair and balanced agreement which will benefit all the countries participating in textile trade. Furthermore, there are already indications that its effect will be felt beyond textiles.

It is noteworthy that when this agreement was concluded, our country had the good will and respect of all its negotiating partners. I believe this bodes well for the future of this agreement and that consequent favorable impact upon our country's textile industry.

At this time, I would particularly like to commend Mr. Anthony Jurich, the chief negotiator of this agreement, and his competent team. Their persistent dedication and negotiating skill is clearly reflected in the obvious success of having reached this agreement. I give credit not only to the final form and terms we now have before us, but to the manner in which it was accomplished.

Finally, Mr. President, I would like to again commend the sound leadership of President Nixon in reaching this major new agreement.

I ask unanimous consent that the full text of the agreement be printed in the RECORD, so that all may see for themselves this notable and significant achievement.

There being no objection, the agreement was ordered to be printed in the RECORD, as follows:

## ARRANGEMENT REGARDING INTERNATIONAL TRADE IN TEXTILES

### PREAMBLE

Recognizing the great importance of production and trade in textile products of wool, man-made fibres and cotton for the economies of many countries, and their particular importance for the economic and social development of developing countries and for the expansion and diversification of their export earnings, and conscious also of the special importance of trade in textile products of cotton for many developing countries;

Recognizing further the tendency for an unsatisfactory situation to exist in world trade in textile products and that this situation, if not satisfactorily dealt with, could work to the detriment of countries participating in trade in textile products, whether as importers or exporters, or both, adversely affect prospects for international co-operation in the trade field, and have unfortunate repercussions on trade relations generally;

Noting that this unsatisfactory situation is characterized by the proliferation of restrictive measures, including discriminatory measures, that are inconsistent with the principles of the General Agreement on Tariffs and Trade and also that, in some importing countries, situations have arisen which, in the view of these countries, cause or threaten to cause disruption of their domestic markets;

Desiring to take co-operative and constructive action, within a multilateral framework, so as to deal with the situation in such a way as to promote on a sound basis the development of production and expansion of trade in textile products and progressively to achieve the reduction of trade barriers and the liberalization of world trade in these products;

Recognizing that, in pursuit of such action, the volatile and continually evolving nature of production and trade in textile products should be constantly borne in mind and the fullest account taken of such serious economic and social problems as exist in this field in both importing and exporting countries, and particularly in the developing countries;

Recognizing further that such action should be designed to facilitate economic expansion and to promote the development of developing countries possessing the necessary resources, such as materials and technical skills, by providing larger opportunities for such countries, including countries that are, or that may shortly become, new entrants in the field of textile exports to increase their exchange earnings from the sale in world markets of products which they can efficiently produce;

Recognizing that future harmonious development of trade in textiles particularly having regard to the needs of developing countries, also depends importantly upon matters outside the scope of this Arrangement, and that such factors in this respect include progress leading both to the reduction of tariffs and to the maintenance and improvement of schemes of generalized preferences, in accordance with the Tokyo Declaration;

Determined to have full regard to the principles and objectives of the General Agreement on Tariffs and Trade (hereinafter referred to as the GATT) and in carrying out the aims of this Arrangement, effectively to implement the principles and objectives agreed upon in the Tokyo Declaration of Ministers dated 14 September 1973 concerning the Multilateral Trade Negotiations;

The parties to this arrangement have agreed as follows:

### ARTICLE 1

1. It may be desirable during the next few years for special practical measures of international co-operation to be applied by the participating countries[1] in the field of textiles with the aim of eliminating the difficulties that exist in the field.

2. The basic objectives shall be to achieve the expansion of trade, the reduction of barriers to such trade and the progressive liberalization of world trade in textile products, while at the same time ensuring the orderly and equitable development of this trade and avoidance of disruptive effects in individual markets and on individual lines of production in both importing and exporting countries. In the case of those countries having small markets, an exceptionally high level of imports and a correspondingly low level of domestic production, account should be taken of the avoidance of damage to those countries' minimum viable production of textiles.

3. A principal aim in the implementation of this Arrangement shall be to further the economic and social development of developing countries and secure a substantial increase in their export earnings from textile products and to provide scope for a greater share for them in world trade in these products.

4. Actions taken under this Arrangement shall not interrupt or discourage the autonomous industrial adjustment processes of participating countries. Furthermore, actions taken under this Arrangement should be accompanied by the pursuit of appropriate economic and social policies, in a manner consistent with national laws and systems, required by changes in the pattern of trade in textiles and in the comparative advantage of participating countries, which policies would encourage businesses which are less competitive internationally to move progressively into more viable lines of production or into other sectors of the economy and provide increased access to their markets for textile products from developing countries.

5. The application of safeguard measures under this Arrangement, subject to recognized conditions and criteria and under the surveillance of an international body set up for that purpose, and in conformity with the principles and objectives of this Arrangement, may in exceptional circumstances become necessary in the field of trade in textile products, and should assist any process of adjustment which would be required by the changes in the pattern of world trade in textile products. The parties of this Arrangement undertake not to apply such measures except in accordance with the provisions of this Arrangement with full regard to the impact of such measures on other parties.

6. The provisions of this Arrangement shall not affect the rights and obligations of the participating countries under the GATT.

7. The participating countries recognize that, since measures taken under this Arrangement are intended to deal with the special problems of textile products, such measures should be considered as exceptional, and not lending themselves to application in other fields.

### ARTICLE 2

1. All existing unilateral quantitative restrictions, bilateral agreements and any other quantitative measures in force which have a restrictive effect shall be notified in detail by the restraining participating country, upon acceptance of or accession to this Arrangement, to the Textiles Surveillance Body, which shall circulate the notifications to the other participating countries for their information. Measures or agreements which are not notified by a participating country within sixty days of its acceptance of, or accession to, this Arrangement shall be considered to be contrary to this Arrangement and shall be terminated forthwith.

2. Unless they are justified under the provisions of the GATT (including its Annexes and Protocols), all unilateral quantitative restrictions and any other quantitative measures which have a restrictive effect and which are notified in accordance with paragraph 1 above shall be terminated within one year of the entry into force of this Arrangement, unless they are the subject of one of the following procedures to bring them into conformity with the provisions of this Arrangement:

(i) inclusion in a programme, which should be adopted and notified to the Textiles Surveillance Body within one year from the date of coming into force of this Arrangement, designed to eliminate existing restrictions in stages within a maximum period of three years from the entry into force of this Arrangement and taking account of any bilateral agreement either concluded or in course of being negotiated as provided for in (ii) below; it being understood that a major effort will be made in the first year, covering both a substantial elimination of restrictions and a substantial increase in the remaining quotas;

(ii) inclusion, within a period of one year from the entry into force of this Arrangement, in bilateral agreements negotiated, or in course of negotiation, pursuant to the provisions of Article 4; if, for exceptional reasons, any such bilateral agreement is not concluded within the period of one year, this period, following consultations by the participating countries concerned and with the concurrence of the Textiles Surveillance Body, may be extended by not more than one year;

(iii) inclusion in agreements negotiated or measures adopted pursuant to the provisions of Article 3.

3. Unless justified under the provisions of the GATT (including its Annexes and Protocols), all existing bilateral agreements notified in accordance with paragraph 1 of this Article shall, within one year of the entry into force of this Arrangement, either be terminated or justified under the provisions of this Arrangement or modified to conform therewith.

4. For the purposes of paragraphs 2 and 3 above the participating countries shall af-

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[1] The expressions "participating country", "participating exporting country" and "participating importing country", wherever they appear in this Arrangement shall be deemed to include the European Economic Community.

ford full opportunity for bilateral consultation and negotiation aimed at arriving at mutually acceptable solutions in accordance with Articles 3 and 4 of this Arrangement and permitting from the first year of the acceptance of this Arrangement the elimination as complete as possible of the existing restrictions. They shall report specifically to the Textiles Surveillance Body within one year of the entry into force of this Arrangement on the status of any such actions taken or negotiations undertaken pursuant to this Article.

5. The Textiles Surveillance Body shall complete its review of such reports within ninety days of their receipt. In its review it shall consider whether all the actions taken are in conformity with this Arrangement. It may make appropriate recommendations to the participating countries directly concerned so as to facilitate the implementation of this Article.

ARTICLE 3

1. Unless they are justified under the provisions of the GATT (including its Annexes and Protocols) no new restrictions on trade in textile products shall be introduced by participating countries nor shall existing restrictions be intensified unless such action is justified under the provisions of this Article.

2. The participating countries agree that this Article should only be resorted to sparingly and its application shall be limited to the precise products and to countries whose exports of such products are causing market disruption as defined in Annex A taking full account of the agreed principles and objectives set out in this Arrangement and having full regard to the interests of both importing and exporting countries. Participating countries shall take into account imports from all countries and shall seek to preserve a proper measure of equity. They shall endeavour to avoid discriminatory measures where market disruption is caused by imports from more than one participating country and when resort to the application of this Article is unavoidable, bearing in mind the provisions of Article 6.

3. If, in the opinion of any participating importing country, its market in terms of the definition of market disruption in Annex A is being disrupted by imports of a certain textile product not already subject to restraint, it shall seek consultations with the participating exporting country or countries concerned with a view to removing such disruption. In its request the importing country may indicate the specific level at which it considers that exports of such products should be restrained, a level which shall not be lower than the general level indicated in Annex B. The exporting country or countries concerned shall respond promptly to such request for consultations. The importing country's request for consultations shall be accompanied by a detailed factual statement of the reasons and justification for the request, including the latest data concerning elements of market disruption, this information being communicated at the same time by the requesting country to the Chairman of the Textiles Surveillance Body.

4. If, in the consultation, there is mutual understanding that the situation calls for restrictions on trade in the textile product concerned, the level of restriction shall be fixed at a level not lower than the level indicated in Annex B. Details of the agreement reached shall be communicated to the Textiles Surveillance Body which shall determine whether the agreement is justified in accordance with the provisions of this Arrangement.

5. (i) If, however, after a period of sixty days from the date on which the request has been received by the participating exporting country or countries, there has been no agreement either on the request for export restraint or on any alternative solution, the requesting participating country may decline to accept imports for retention from the participating country or countries referred to in paragraph 3 above of the textiles and textile products causing market disruption (as defined in Annex A) at a level for the twelve-month period beginning on the day when the request was received by the participating exporting country or countries not less than the level provided for in Annex B. Such level may be adjusted upwards to avoid undue hardship to the commercial participants in the trade involved to the extent possible consistent with the purposes of this Article. At the same time the matter shall be brought for immediate attention to the Textiles Surveillance Body.

(ii) However, it shall be open for either party to refer the matter to the Textiles Surveillance Body before the expiry of the period of sixty days.

(iii) In either case the Textiles Surveillance Body shall promptly conduct the examination of the matter and make appropriate recommendations to the parties directly concerned within thirty days from the date on which the matter is referred to it. Such recommendations shall also be forwarded to the Textiles Committee and to the GATT Council for their information. Upon receipt of such recommendations the participating countries concerned should review the measures taken or contemplated with regard to their institution, continuation, modification or discontinuation.

6. In highly unusual and critical circumstances, where imports of a textile product or products during the period of sixty days referred to in paragraph 5 above would cause serious market disruption giving rise to damage difficult to repair, the importing country shall request the exporting country concerned to co-operate immediately on a bilateral emergency basis to avoid such damage, and shall, at the same time, immediately communicate to the Textiles Surveillance Body the full details of the situation. The countries concerned may make any mutually acceptable interim arrangement they deem necessary to deal with the situation without prejudice to consultations regarding the matter under paragraph 3 of this Article. In the event that such interim arrangement is not reached, temporary restraint measures may be applied at a level higher than that indicated in Annex B with a view, in particular, to avoiding undue hardship to the commercial participants in the trade involved. The importing country shall give, except where possibility exists of quick delivery which would undermine the purpose of such measure, at least one week's prior notification of such action to the participating exporting country or countries and enter into, or continue, consultations under paragraph 3 of this Article. When a measure is taken under this paragraph either party may refer the matter to the Textiles Surveillance Body.

The Textiles Surveillance Body shall conduct its work in the manner provided for in paragraph 5 above. Upon receipt of recommendations from the Textiles Surveillance Body the participating importing country shall review the measures taken, and report thereon to the Textiles Surveillance Body.

7. If recourse is had to measures under this Article, participating countries shall, in introducing such measures, seek to avoid damage to the production and marketing of the exporting countries, and particularly of the developing countries, and shall avoid any such measures taking a form that could result in the establishment of additional non-tariff barriers to trade in textile products. They shall, through prompt consultations, provide for suitable procedures, particularly as regards goods which have been, or which are about to be, shipped. In the absence of agreement, the matter may be referred to the Textiles Surveillance Body, which shall make the appropriate recommendations.

8. Measures taken under this Article may be introduced for limited periods not exceeding one year, subject to renewal or extension for additional periods of one year, provided that agreement is reached between the participating countries directly concerned on such renewal or extension. In such cases the provisions of Annex B shall apply. Proposals for renewal or extension, or modification or elimination or any disagreement thereon shall be submitted to the Textiles Surveillance Body, which shall make the appropriate recommendations. However, bilateral restraint agreements under this Article may be concluded for periods in excess of one year in accordance with the provisions of Annex B.

9. Participating countries shall keep under review any measures they have taken under this Article and shall afford any participating country or countries affected by such measures, adequate opportunity for consultation with a view to the elimination of the measures as soon as possible. They shall report from time to time, and in any case once a year, to the Textiles Surveillance Body on the progress made in the elimination of such measures.

ARTICLE 4

1. The participating countries shall fully bear in mind, in the conduct of their trade policies in the field of textiles, that they are, through the acceptance of, or accession to, this Arrangement, committed to a multilateral approach in the search for solutions to the difficulties that arise in this field.

2. However, participating countries may, consistently with the basic objectives and principles of this Arrangement, conclude bilateral agreements on mutually acceptable terms in order, on the one hand, to eliminate real risks of market disruption (as defined in Annex A) in importing countries and disruption to the textile trade of exporting countries, and on the other hand to ensure the expansion and orderly development of trade in textiles and the equitable treatment of participating countries.

3. Bilateral agreements maintained under this Article shall, on overall terms, including base levels and growth rates, be more liberal than measures provided for in Article 3 of this Arrangement. Such bilateral agreements shall be designed and administered to facilitate the export in full of the levels provided for under such agreements and shall include provisions assuring substantial flexibility for the conduct of trade thereunder, consistent with the need for orderly expansion of such trade and conditions in the domestic market of the importing country concerned. Such provisions should encompass areas of base levels, growth, recognition of the increasing interchangeability of natural, artificial and synthetic fibres, carry forward, carryover, transfers from one product grouping to another and such other arrangements as may be mutually satisfactory to the parties to such bilateral agreements.

4. The participating countries shall communicate to the Textiles Surveillance Body full details of agreements entered into in terms of this Article within thirty days of their effective date. The Textiles Surveillance Body shall be informed promptly when any such agreements are modified or discontinued. The Textiles Surveillance Body may make such recommendations as it deems appropriate to the parties concerned.

ARTICLE 5

Restrictions on imports of textile products under the provisions of Articles 3 and 4 shall be administered in a flexible and equitable manner and over-categorization shall be avoided. Participating countries shall, in consultation, provide for arrangements for the administration of the quotas and restraint levels, including the proper arrangement for allocation of quotas among the exporters, in such a way as to facilitate full utilization of such quotas. The participating importing country should take full account of such factors as established tariff classification and quantitative units based on normal commercial practices in export and import transactions, both as regards fibre composition and in terms of competing for the same segment of its domestic market.

ARTICLE 6

1. Recognizing the obligations of the participating countries to pay special attention to the needs of the developing countries, it shall be considered appropriate and consistent with equity obligations for those importing countries which apply restrictions under this Arrangement affecting the trade of developing countries to provide more favourable terms with regard to such restrictions, including elements such as base level and growth rates, than for other countries. In the case of developing countries whose exports are already subject to restrictions and if the restrictions are maintained under this Arrangement, provisions should be made for higher quotas and liberal growth rates. It shall, however, be borne in mind that there should be no undue prejudice to the interests of established suppliers or serious distortion in existing patterns of trade.

2. In recognition of the need for special treatment for exports of textile products from developing countries, the criterion of past performance shall not be applied in the establishment of quotas for their exports of products from those textile sectors in respect of which they are new entrants in the markets concerned and a higher growth rate shall be accorded to such exports, having in mind that this special treatment should not cause undue prejudice to the interests of established suppliers or create serious distortions in existing patterns of trade.

3. Restraints on exports from participating countries whose total volume of textile exports is small in comparison with the total volume of exports of other countries should normally be avoided if the exports from such countries represent a small percentage of the total imports of textiles covered by this Arrangement of the importing country concerned.

4. Where restrictions are applied to trade in cotton textiles in terms of this Arrangement, special consideration will be given to the importance of this trade to the developing countries concerned in determining the size of quotas and the growth element.

5. Participating countries shall not, as far as possible, maintain restraints on trade in textile products originating in other participating countries which are imported under a system of temporary importation for re-export after processing, subject to a satisfactory system of control and certification.

6. Consideration shall be given to special and differential treatment to re-imports into a participating country of textile products which that country has exported to another participating country for processing and subsequent reimportation, in the light of the special nature of such trade without prejudice to the provisions of Article 3.

ARTICLE 7

The participating countries shall take steps to ensure, by the exchange of information, including statistics on imports and exports when requested, and by other practical means, the effective operation of this Arrangement.

ARTICLE 8

1. The participating countries agree to avoid circumvention of this Arrangement by trans-shipment, re-routing, or action by non-participants. In particular, they agree on the measures provided for in this Article.

2. The participating countries agree to collaborate with a view to taking appropriate administrative action to avoid such circumvention. Should any participating country believe that the Arrangement is being circumvented and that no appropriate administrative measures are being applied to avoid such circumvention, that country should consult with the exporting country of origin and with other countries involved in the circumvention with a view to seeking promptly a mutually satisfactory solution. If such a solution is not reached the matter shall be referred to the Textiles Surveillance Body.

3. The participating countries agree that if resort is had to the measures envisaged in Articles 3 and 4, the participating importing country or countries concerned shall take steps to ensure that the participating country's exports against which such measures are taken shall not be restrained more severely than the exports of similar goods of any country not party to this Arrangement which are causing, or actually threatening, market disruption. The participating importing country or countries concerned will give sympathetic consideration to any representations from participating exporting countries to the effect that this principle is not being adhered to or that the operation of this Arrangement is frustrated by trade with countries not party to this Arrangement. If such trade is frustrating the operation of this Arrangement, the participating countries shall consider taking such actions as may be consistent with their law to prevent such frustration.

4. The participating countries concerned shall communicate to the Textiles Surveillance Body full details of any measures or arrangements taken under this Article or any disagreement and, when so requested, the Textiles Surveillance Body shall make reports or recommendations as appropriate.

ARTICLE 9

1. In view of the safeguards provided for in this Arrangement the participating countries shall, as far as possible, refrain from taking additional trade measures which may have the effect of nullifying the objectives of this Arrangement.

2. If a participating country finds that its interests are being seriously affected by any such measure taken by another participating country, that country may request the country applying such measure to consult with a view to remedying the situation.

3. If the consultation fails to achieve a mutually satisfactory solution within a period of sixty days the requesting participating country may refer the matter to the Textile Surveillance Body which shall promptly discuss such matter, the participating country concerned being free to refer the matter to that body before the expiry of the period of sixty days if it considers that there are justifiable grounds for so doing. The Textiles Surveillance Body shall make such recommendations to the participating countries as it considers appropriate.

ARTICLE 10

1. There is established within the framework of GATT a Textiles Committee consisting of representatives of the parties to this Arrangement. The Committee shall carry out the responsibilities ascribed to it under this Arrangement.

2. The Committee shall meet from time to time and at least once a year to discharge its functions and to deal with those matters specifically referred to it by the Textiles Surveillance Body. It shall prepare such studies as the participating countries may decide. It shall undertake an analysis of the current state of world production and trade in textile products, including any measures to facilitate adjustment and it shall present its views regarding means of furthering the expansion and liberalization of trade in textile products. It will collect the statistical and other information necessary for the discharge of its functions and will be empowered to request the participating countries to furnish such information.

3. Any case of divergence of view between the participating countries as to the interpretation or application of this Arrangement may be referred to the Committee for its opinion.

4. The Committee shall once a year review the operation of this Arrangement and report thereon to the GATT Council. To assist in this review, the Committee shall have before it a report from the Textiles Surveillance Body, a copy of which will also be transmitted to the Council. The review during the third year shall be a major review of this Arrangement in the light of its operation in the preceding years.

5. The Committee shall meet not later than one year before the expiry of this Arrangement in order to consider whether the Arrangement should be extended, modified or discontinued.

ARTICLE 11

1. The Textiles Committee shall establish a Textiles Surveillance Body to supervise the implementation of this Arrangement. It shall consist of a Chairman and eight members to be appointed by the parties to this Arrangement on a basis to be determined by the Textiles Committee so as to ensure its efficient operation. In order to keep its membership balanced and broadly representative of the parties to this Arrangement provision shall be made for rotation of the members as appropriate.

2. The Textiles Surveillance Body shall be considered as a standing body and shall meet as necessary to carry out the functions required of it under this Arrangement. It shall rely on information to be supplied by the participating countries, supplemented by any necessary details and clarification it may decide to seek from them or from other sources. Further, it may rely for technical assistance on the services of the GATT secretariat and may also hear technical experts proposed by one or more of its members.

3. The Textiles Surveillance Body shall take the action specifically required of it in articles of this Arrangement.

4. In the absence of any mutually agreed solution in bilateral negotiations or consultations between participating countries provided for in this Arrangement, the Textiles Surveillance Body at the request of either party, and following a thorough and prompt consideration of the matter, shall make recommendations to the parties concerned.

5. The Textiles Surveillance Body shall, at the request of any participating country, review promptly any particular measures or arrangements which that country considers to be detrimental to its interests where consultations between it and the participating countries directly concerned have failed to produce a satisfactory solution. It shall make recommendations as appropriate to the participating country or countries concerned.

6. Before formulating its recommendations on any particular matter referred to it, the Textiles Surveillance Body shall invite participation of such participating countries as may be directly affected by the matter in question.

7. When the Textiles Surveillance Body is called upon to make recommendations or findings it shall do so, except when otherwise provided in this Arrangement, within a period of thirty days whenever practicable. All such recommendations or findings shall be communicated to the Textiles Committee for the information of its members.

8. Participating countries shall endeavour to accept in full the recommendations of the Textiles Surveillance Body. Whenever they consider themselves unable to follow any such recommendations, they shall forthwith inform the Textiles Surveillance Body of the reasons therefor and of the extent, if

any, to which they are able to follow the recommendations.

9. If, following recommendations by the Textiles Surveillance Body, problems continue to exist between the parties, these may be brought before the Textiles Committee or before the GATT Council through the normal GATT procedures.

10. Any recommendations and observations of the Textiles Surveillance Body would be taken into account should the matters related to such recommendations and observations subsequently be brought before the CONTRACTING PARTIES to the GATT, particularly under the procedures of Article XXIII of the GATT.

11. The Textiles Surveillance Body shall, within fifteen months of the coming into force of this Arrangement, and at least annually thereafter, review all restrictions on textile products maintained by participating countries at the commencement of this Arrangement, and submit its findings to the Textiles Committee.

12. The Textiles Surveillance Body shall annually review all restrictions introduced or bilateral agreements entered into by participating countries concerning trade in textile products since the coming into force of this Arrangement, and required to be reported to it under the provisions of this Arrangement, and report annually its findings to the Textiles Committee.

### ARTICLE 12

1. For the purposes of this Arrangement, the expression "textiles" is limited to tops, yarns, piece-goods, made-up articles, garments and other textile manufactured products (being products which derive their chief characteristics from their textile components) of cotton, wool, man-made fibres, or blends thereof, in which any or all of those fibres in combination represent either the chief value of the fibres or 50 per cent or more by weight (or 17 per cent or more by weight of wool) of the product.

2. Artificial and synthetic staple fibre, tow, waste, simple mono- and multifilaments, are not covered by paragraph 1 above. However, should conditions of market disruption (as defined in Annex A) be found to exist for such products, the provisions of Article 3 of this Arrangement (and other provisions of this Arrangement directly relevant thereto) and paragraph 1 of Article 2 shall apply.

3. This Arrangement shall not apply to developing country exports of handloom fabrics of the cottage industry, or handmade cottage industry products made of such handloom fabrics, or to traditional folklore handicraft textiles products, provided that such products are properly certified under arrangements established between the importing and exporting participating countries concerned.

4. Problems of interpretation of the provisions of this Article should be resolved by bilateral consultation between the parties concerned and any difficulties may be referred to the Textiles Surveillance Body.

### ARTICLE 13

1. This Arrangement shall be deposited with the Director-General to the Contracting Parties to the GATT. It shall be open for acceptance, by signature or otherwise, by governments contracting parties to the GATT or having provisionally acceded to the GATT and by the European Economic Community.

2. Any government which is not a contracting party to the GATT, or has not acceded provisionally to the GATT, may accede to this Arrangement on terms to be agreed between that government and the participating countries. These terms would include a provision that any government which is not a contracting party to the GATT must undertake, on acceding to this Arrangement, not to introduce new import restrictions or intensify existing import restrictions, on textile products, in so far as such action would, if that government had been a contracting party to the GATT, be inconsistent with its obligations thereunder.

### ARTICLE 14

1. This Arrangement shall enter into force on 1 January 1974.

2. Notwithstanding the provisions of paragraph 1 of this Article, for the application of the provisions of Article 2, paragraphs 2, 3 and 4 the date of entry into force shall be 1 April 1974.

3. Upon request of one or more parties which have accepted or acceded to this Arrangement a meeting shall be held within one week prior to 1 April 1974. Parties which at the time of the meeting have accepted or acceded to the Arrangement may agree on any modification of the date envisaged in paragraph 2 of this Article which may appear necessary and is consistent with the provisions of Article 16.

### ARTICLE 15

Any participating country may withdraw from this Arrangement upon the expiration of sixty days from the day on which written notice of such withdrawal is received by the Director-General to the Contracting Parties to the GATT.

### ARTICLE 16

This Arrangement shall remain in force for four years.

### ARTICLE 17

The Annexes to this Arrangement constitute an integral part of this Arrangement.

Done at Geneva this twentieth day of December one thousand nine hundred and seventy-three, in a single copy in the English, French and Spanish languages, each text being authentic.

### ANNEX A

I. The determination of a situation of "market disruption", as referred to in this Arrangement, shall be based on the existence of serious damage to domestic producers or actual threat thereof. Such damage must demonstrably be caused by the factors set out in paragraph II below and not by factors such as technological changes or changes in consumer preference which are instrumental in switches to like and/or directly competitive products made by the same industry, or similar factors. The existence of damage shall be determined on the basis of an examination of the appropriate factors having a bearing on the evolution of the state of the industry in question such as: turnover, market share, profits, export performance, employment, volume of disruptive and other imports, production, utilization of capacity, productivity and investments. No one or several of these factors can necessarily give decisive guidance.

II. The factors causing market disruption referred to in paragraph I above and which generally appear in combination are as follows:

(i) a sharp and substantial increase or imminent increase of imports of particular products from particular sources. Such an imminent increase shall be a measurable one and shall not be determined to exist on the basis of allegation, conjecture or mere possibility arising, for example, from the existence of production capacity in the exporting countries;

(ii) these products are offered at prices which are substantially below those prevailing for similar goods of comparable quality in the market of the importing country. Such prices shall be compared both with the price for the domestic product at comparable stage of commercial transaction, and with the prices which normally prevail for such products sold in the ordinary course of trade and under open market conditions by other exporting countries in the importing country.

III. In considering questions of "market disruption" account shall be taken of the interests of the exporting country, especially in regard to its stage of development, the importance of the textile sector to the economy, the employment situation, overall balance of trade in textiles, trade balance with the importing country concerned and overall balance of payments.

### ANNEX B

1. (a) The level below which imports or exports of textile products may not be restrained under the provisions of Article 3 shall be the level of actual imports or exports of such products during the twelve-month period terminating two months or, where data are not available, three months preceding the month in which the request for consultation is made, or, where applicable, the date of institution of such domestic procedure relating to market disruption in textiles as may be required by national legislation, or two months or, where data are not available, three months prior to the month in which the request for consultation is made as a result of such domestic procedure, whichever period is the later.

(b) Where a restraint on the yearly level of exports or imports exists between participating countries concerned, whether provided for under Article 2, 3 or 4, covering the twelve-month period referred to in paragraph (a), the level below which imports of textile products causing market disruption may not be restrained under the provisions of Article 3 shall be the level provided for in the restraint in lieu of the level of actual imports or exports during the twelve-month period referred to in paragraph (a).

Where the twelve-month period referred to in paragraph (a) overlaps in part with the period covered by the restraint, the level shall be:

(i) the level provided for in the restraint, or the level of actual imports or exports, whichever is higher, except in case of overshipment, for the months where the period covered by the restraint and the twelve-month period referred to in paragraph (a) overlap; and

(ii) the level of actual imports or exports for the months where no overlap occurs.

(c) If the period referred to in paragraph (a) is specially adverse for a particular exporting country due to abnormal circumstances, the past performance of imports from that country over a period of years should be taken into account.

(d) Where imports or exports of textile products subject to restraints were nil or negligible during the twelve-month period referred to in paragraph (a), a reasonable import level to take account of future possibilities of the exporting country shall be established through consultation between the participating countries concerned.

2. Should the restraint measures remain in force for another twelve-month period, the level of that period shall not be lower than the level specified for the preceding twelve-month period, increased by not less than 6 per cent for products under restraint. In exceptional cases where there are clear grounds for holding that the situation of market disruption will recur if the above growth rate is implemented, a lower positive growth rate may be decided upon after consultation with the exporting country or countries concerned. In exceptional cases where participating importing countries have small markets, an exceptionally high level of imports and a correspondingly low level of domestic production and where the implementation of the above growth rate would cause damage to those countries' minimum viable production, a lower positive growth rate may be decided upon after consultation with the exporting country or countries concerned.

3. Should the restraint measures remain in force for further periods, the level for each subsequent period shall not be lower than the level specified for the preceding twelve-

month period, increased by six per cent, unless there is further new evidence which demonstrates, in accordance with Annex A, that implementation of the above growth rate would exacerbate the situation of market disruption. In these circumstances, after consultation with the exporting country concerned, and reference to the Textiles Surveillance Body in accordance with the procedures of Article 3 a lower positive growth rate may be applied.

4. In the event any restriction or limitation is established under Article 3 or 4 on a product or products as to which a restriction or limitation had been suppressed in accordance with the provisions of Article 2, such subsequent restriction or limitation shall not be re-established without full consideration of the limits of trade provided for under such suppressed restrictions or limitation.

5. Where restraint is exercised for more than one product the participating countries agree that, provided that the total exports subject to restraint do not exceed the aggregate level for all products so restrained (on the basis of a common unit to be determined by the participating countries concerned), the agreed level for any one product may be exceeded by 7 per cent save in exceptionally and sparingly used circumstances where a lower percentage may be justified in which case that lower percentage shall be not less than 5 per cent. Where restraints are established for more years than one, the extent to which the total of the restraint level for one product or product group may, after consultation between the parties concerned, be exceeded in either year of any two subsequent years by carry forward and/or carryover is 10 per cent of which carry forward shall not represent more than 5 per cent.

6. In the application of the restraint levels and growth rates specified in paragraphs 1 to 3 above, full account shall be taken of the provisions of Article 6.

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## HELP FOR THE ORPHANS OF VIETNAM

Mr. KENNEDY. Mr. President, over the congressional recess I was pleased to receive a letter from the Administrator of the Agency for International Development, Mr. Daniel Parker, announcing a new and expanded program to provide emergency child welfare services in South Vietnam and to facilitate the adoption of Vietnam war orphans by American citizens.

This is a welcome sign of progress in an area of deep public and congressional concern and I commend AID for its new initiatives.

According to Mr. Parker's letter, the U.S. Mission in Saigon and the AID staff in Washington have now worked out a plan to meet many of the child welfare needs in South Vietnam "through a comprehensive program will cost an estimated $7.2 million." He said the funds would be spent through contracts with private voluntary agencies.

Mr. Parker's letter was in response to long-standing recommendations by the Judiciary Subcommittee on Refugees, which I serve as chairman. It follows also letters from myself and the distinguished Senator from Minnesota, Mr. HUMPHREY, when we inquired as to our Government's priority and programs in this area, following passage of the foreign assistance authorization.

Mr. President, the new program outlined by AID will hopefully make it possible to finally sweep away some of the bottlenecks and redtape in the adoption process. It should also go a long way in supporting voluntary agency programs for the care and rehabilitation of the young war victims in Vietnam. And hopefully, too, this new effort to assist children is an indicator of new priorities in our future aid to Indochina.

According to Mr. Parker's letter and information received from AID, the $7.2 million funding for fiscal year 1974 of child welfare and intercountry adoption programs, represents an increase of nearly $6 million over similar allocations in fiscal year 1973. His letter also makes these points:

> According to a recent survey by the U.S. Mission in Saigon, "about 5,000 of the children in Vietnam orphanages can be considered as available for inter-country adoption . . . only 770 are Amerasian children, of whom 276 are partly black.
>
> The Government of Vietnam has now authorized 5 foreign voluntary agencies to process inter-country adoption, and has improved its own processing of adoption applications."
>
> Since 1970 some 1,300 Vietnamese orphans and children were adopted in the U.S. and other countries.
>
> A.I.D. has moved past the planning stage and into the "implementation of a much expanded program to meet Vietnam's child care needs.

Again, Mr. President, I commend AID for the new steps it has taken to help the children disadvantaged by the war in Vietnam—for our only true remaining obligations to that area are to help heal the wounds of war and bring relief and rehabilitation to those in need.

I ask unanimous consent that the full text of the correspondence between myself and AID Administrator Parker be printed in the RECORD.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

### LETTER FROM AID ADMINISTRATOR DANIEL PARKER TO SENATOR EDWARD M. KENNEDY ON CHILD WELFARE AND ORPHAN PROGRAMS IN SOUTH VIETNAM

Hon. EDWARD M. KENNEDY,
*Chairman, Judiciary Subcommittee on Refugees, U.S. Senate, Washington, D.C.*

DEAR CHAIRMAN KENNEDY: Thank you for your letter of December 10, 1973, regarding humanitarian programs in Indochina. I also appreciated the opportunity to speak with you regarding the foreign aid bill, and hope that this will be the first of a continuing dialogue.

I reviewed the matters raised in your letter of December 10, and was pleased to find that much progress has been made in the areas of your concern. Specifically:

1. *Funds for Voluntary Agency Programs*: Our Mission in Saigon and our Washington staff have worked out a plan for meeting many of the child care needs in Vietnam through a comprehensive program which will cost an estimated $7.2 million. It has been worked out in consultation with the voluntary agencies and the Government of Vietnam. This compares, incidentally, with $1.3 million spent in FY 1973 for child care programs in Vietnam.

This program is designed to address problems of health, sanitation, nutrition, management and physical facilities of orphanages and day care centers, and foster home care for orphans. The program is divided into a number of mutually supportive subprojects, each of which can be funded and initiated separately. It is the intention to have each project coordinated by a voluntary agency so that we can mobilize the maximum available professional personnel to address the child care problems in Vietnam.

Details of some of the subprojects are still being worked out. Already, several elements have been initiated, including a rice subsidy to children in orphanages and pediatric services to orphans, especially those being processed for international adoption. I have asked my staff to give copies of the detailed program to your staff, and I am certain that they will be glad to answer any questions which you might have about it.

2. *Additional Personnel:* Since you raised this question last summer, two social welfare experts have been recruited and added to our Vietnam staff. One of these, Edward H. Ruoff, is one of the Agency's most experienced refugee officers who also has a Master's Degree in Public Health. The other, Mrs. Vera Camden, is a trained and experienced child welfare specialist with more than 17 years of job experience working directly with orphanages, voluntary agencies and social welfare personnel. We have also added Mr. Edward Marks, another of the Agency's most experienced and knowledgeable refugee and social welfare officers, to our Washington staff, and have used a number of retired or separated A.I.D. personnel with social welfare experience in Vietnam periodically as consultants to A.I.D. and the voluntary agencies. We are continuing to examine our staff needs, and will make further additions where this appears to be necessary to assure that the program moves ahead.

3. *Diplomatic Representations to the South Vietnamese Government:* Our Ambassador in Saigon is, as you know, fully aware of the high degree of interest in adoption and child welfare programs in Vietnam, and takes an intense personal interest in them. His own long experience with voluntary agencies and UN relief work makes him particularly knowledgeable and effective in this field. We have been in frequent communication with him as well as with our Mission, and he has personally involved himself in these problems in great detail. I am certain that he will take every possible step to assure that these programs receive high priority within the South Vietnamese Government.

While reviewing our programs for child care in Vietnam, there were some additional facts which came to my attention which I believe will be of interest to you. First, our Mission in Saigon recently conducted a census of Vietnamese orphanages which now gives us more precise data on the magnitude of the adoption problem than we had before. This survey determined that only about 5,000 of the children in Vietnamese orphanages can be considered as available for inter-country adoption, and about 1,500 of these would be difficult to place either because of age or serious mental or physical impairment. Also, of the total number of adoptable children now in orphanages only 770 are Amerasian children, of whom 276 are partly black. This census gives us a much more precise grasp of the size of the problem, and will be a great help in future planning.

During the last two years much progress has been made to speed up the inter-country adoption process. The Government of Vietnam has now authorized five foreign voluntary agencies to process intercountry adoptions (compared to none three years ago), and has improved its own processing of adoption applications. While less than 200 inter-country adoptions were completed in 1970 and 1971 combined, and only 485 in 1972, 682 were completed during 1973. Substantial acceleration in adoptions is projected for 1974.

We have also made much progress in consulting with voluntary agencies even though the original plan of calling a general conference for this purpose has been set aside. In addition to the preliminary conference to discuss the special problems of black fathered

Vietnamese children which you referred to in your letter, we have had frequent meetings with Wells Klein of the American Council of Nationalities Services and Dean Dumpson of Fordham University, as well as many of the Voluntary Agencies both in Vietnam and in the United States.

On December 17 and 18, meetings were held with Wells Klein, Dean Dumpson, Father Charlebois of Catholic Relief Service, the Vietnamese Ambassador to the United Nations, UNICEF, and A.I.D. officials in New York to plan future consultations and meetings. The consensus of these meetings was that, for the present, continued ad hoc consultations with the voluntary agencies on individual projects and programs would be more useful than a general conference. I am told that Wells Klein and Dean Dumpson fully supported this viewpoint.

As you can see from the above, much progress has been made and we have moved well past planning and into implementation of a much expanded program to meet Vietnam's child care needs. We will continue to press forward on these programs as rapidly as possible.

We appreciate the continued interest and support of your Subcommittee. Naturally we are disappointed that the final Congressional authorization for Indochina economic aid is substantially below the Administration's request, making it much more difficult to implement programs aimed at raising the general living standards in Vietnam, which are so important to the success of refugee and child welfare programs. However, we do plan to proceed with the child care programs described above, and will seek to do a better job next year of convincing your Subcommittee and the Congress that a higher level of total economic assistance is necessary to the ultimate success of our specific humanitarian endeavors.

Best wishes for the New Year.

Sincerely yours,

DANIEL PARKER, *Administrator.*

### LETTER FROM SENATOR EDWARD M. KENNEDY TO AID ADMINISTRATOR

DECEMBER 10, 1973.

Hon. DANIEL PARKER,
*Administrator, Agency for International Development, Department of State, Washington, D.C.*

DEAR MR. PARKER: I appreciated the opportunity to speak briefly with you last week in the Senate during the vote on the foreign aid bill.

As I expressed to you then, and as I made clear in my statement on the floor, I voted in favor of the Conference Report only reluctantly. Besides my very strong feeling that we need to separate military aid from our economic assistance programs, I have also been troubled for some time over the character and direction of our aid programs in Indochina. In particular, I have been concerned over the lack of priority and concern for humanitarian programs for the lack of priority and concern for humanitarian programs for refugees, civilian war casualties, orphans and others in need of relief and rehabilitation throughout that war-affected region.

In my brief conversation with you, I specifically mentioned the problems we have encountered over the past many months concerning programs for Vietnamese children disadvantaged by the war—especially those children fathered by Americans, for whom inter-country adoption is now, and has been for many months, their best hope. As the record will show, our concern over the problems of disadvantaged children in Vietnam goes back many years, and, as each year passes, our frustrations grow over the seeming inability of our government to make substantive progress in meeting these relatively simple humanitarian needs. During this same period of time we have, somehow, found it possible to move and equip whole armies in Vietnam and Cambodia; yet we cannot move or help these children and orphans in need.

The most recent Subcommittee recommendations in this area—the report of its Study Mission, the hearings in May and August, and correspondence and personal meeting with former Secretary of State William Rogers—are all a matter of record. But, given what little progress has been made on these recommendations, and how little conditions have improved in this field in this area, it is perhaps necessary to repeat again the essential points I raised last summer with Secretary Rogers, and to restate the recommendations of the Subcommittee Study Mission.

First, it was understood last May and before—from statements made by A.I.D. officials to the Subcommittee staff, as well as in testimony during hearings—that a general conference of voluntary agencies concerned with programs for children in Vietnam would be convened as soon as possible. This, in part, was in response to the Subcommittee's Study Mission recommendations made three months earlier.

Today, well over seven months later, no such general conference has been held. A preliminary conference was called in July to focus attention on the special needs of Vietnamese orphans fathered by Black-Americans. That conference produced the Interagency Vietnamese Adoption Committee (IVAC), and is certainly a praiseworthy step in opening important channels with Black adoption and community agencies to better provide placement opportunities for Black-fathered Vietnamese children in Black homes. And, I understand, next week in New York a conference of voluntary agencies has been scheduled to discuss child welfare programs in Vietnam—called, not by A.I.D., but by the American Council of Voluntary Agencies.

These conferences are important. But the purpose should be to simply establish the mechanism necessary for coordinating the common efforts of voluntary agencies in this area. Yet, they can hardly establish, muchless coordinate, programs for children in Vietnam which do not exist, either because A.I.D. has not funded them or because the U.S. Mission in Saigon has failed to support them.

What we need now is not more conferences or more study missions, but firm decisions within A.I.D. to fund specific voluntary agency programs and proposals. We do not need to create new organizational mechanisms, but contracts granted to those voluntary agencies whose current programs in Vietnam, or future capacities, are fully capable of helping to meet the needs of children in Vietnam as well as intercountry adoption for American-fathered Vietnamese orphans. The model for such an effort can easily be found in the U.S. Government's handling of the Cuban Refugee program, or in the many other humanitarian programs which have been contracted to, and successfully administered by, the voluntary agencies for our Government.

However, the voluntary agencies can only do so much, and they can go only so far, in helping the disadvantaged children of war in Vietnam. With government support, they can help administer child welfare programs, and they can undertake the process of intercountry adoption of Vietnamese orphans. But, ultimately, only a functioning Ministry of Social Welfare within the South Vietnamese government, and an effective program of support for it within the U.S. Mission in Saigon, can provide the long-term programs necessary to help the children of Vietnam. These are governmental responsibilities for which government programs are required. Hopefully, our officials in the field assume these responsibilities seriously, and that, within the Embassy and the U.S. Mission, high priority will be placed on efforts to strengthen the social welfare capabilities of the South Vietnamese government and to expedite programs for children.

It was to these ends that the Subcommittee Study Mission addressed its recommendations last May, and it was for these reasons that I made the following additional points with Secretary Rogers last August, which I would again like to emphasize.

1. *Funds for Voluntary Agency Programs:* First, I hope that the Administration will now act to provide funds and contracts to American voluntary agencies which have submitted proposals for processing inter-country adoptions or for establishing child welfare services within South Vietnam. A number of agency proposals have come to my attention, and I hope they will be sympathetically reviewed, on a case-by-case basis, by A.I.D.

2. *Additional Personnel:* Neither A.I.D. in Washington or Saigon appears to be adequately staffed to handle the urgent requirements for American support of South Vietnamese child welfare programs. The two principal social welfare officers in the U.S. Mission in Saigon have departed, and in Washington the responsibility for child welfare and orphan problems is vested in an officer who is also responsible for refugees, education, administration, land reform in Vietnam as well as five other countries.

I would hope A.I.D. would secure adequate, qualified social welfare personnel, from outside the Agency if necessary, to be assigned to both Saigon and Washington. There also needs to be, at a high level, a qualified and energetic officer, assigned the sole responsibility (for at least 12 months), of child welfare or orphan programs in South Vietnam. And there would be no question among other elements of the Mission that this officer carries the authority and the concern of our highest officials, and his position should be so designated.

3. *Diplomatic Representations to the South Vietnamese Government:* We should instruct our Ambassador to initiate, at the highest levels, discussions with the South Vietnamese Government to persuade it to give higher priority and more staff to implement effective adoption and child welfare programs.

Child welfare concerns, as well as the programs of the Ministry of Social Welfare in general, have almost no priority within the South Vietnamese governmental structure at the present time. Until the Ministry of Social Welfare is given a clear mandate, sufficient priority and adequate funds, there is little hope that it will be capable of effectively responding to the initiatives or support offered by either the U.S. Government or the voluntary agencies.

In conclusion, let me say that in taking these steps to help meet the needs of the children and orphans in Vietnam, I trust that A.I.D. will view the $5 million earmarked for this purpose in the Foreign Assistance Authorization as the bare minimum to be spent in this area, not, by any means, the maximum.

The orphans and disadvantaged children in Vietnam and other areas of Indochina measure their lives in minutes and days. They deserve better than America has given, and they must become a central focus of our post-war relief and rehabilitation effort.

Many thanks for your consideration, and best wishes.

Sincerely,

EDWARD M. KENNEDY,
*Chairman, Judiciary Subcommittee on Refugees.*

## FRED SEATON—FULL-TIME CITIZEN, FORMER U.S. SENATOR

Mr. HRUSKA. Mr. President, it is with sadness that I address the Members of the Senate today on behalf of both Senator Curtis and myself. Yesterday, funeral services were held in Hastings, Nebr., for one of its leading citizens, Fred A. Seaton. For Senator Curtis and me, Fred's passing is a deep personal loss. I am sure some of my colleagues will remember Fred well for he served in this body from 1951 to 1953.

The death of Fred Seaton is a great loss to all Nebraska. His accomplishments were many and varied. Yet, no matter in what capacity he served, he was always very much a part of his home State, and all Nebraska mourns his passing.

It is difficult to list the accomplishments of a man like Fred Seaton. Certainly among his greatest were his years of service as President Eisenhower's Secretary of the Interior. It was Fred Seaton who played a major role in winning statehood for Alaska and Hawaii.

Some of our young people may believe that environmentalism is something they invented for the 1970's—that conservationism, and concern for the land is something new. In reality, they have only followed in the footsteps of men like Fred Seaton who as Secretary of the Interior and as a private citizen was one of the primary movers in this field. His work won national recognition.

The list of his accomplishments in public life is long and distinguished. He was a member of the Nebraska Legislature, a U.S. Senator, Assistant Secretary of Defense, Adviser to President Eisenhower, Secretary of the Interior, Nebraska chairman for Radio Free Europe, to name a few.

But his accomplishments were not limited to those in public life.

He was also an outstanding success in the business field. His leadership in the newspaper and broadcasting industry was recognized throughout America.

I should like to pay special tribute as well to a very great Republican. Fred Seaton's leadership within the ranks of our party is known by those of us in the State as well as nationally. His role in the Republican Party began in 1936 when he worked for Alfred Landon's Presidential candidacy. Mr. Seaton was instrumental in urging General Eisenhower to run for the Presidency in 1952. He was likewise active in Richard Nixon's campaigns for the Presidency. As Republicans, Senator Curtis and I had numerous occasions to call upon Fred Seaton for support and counsel. He was a man to be trusted, and his advice was always highly valued.

Carl Curtis and I have lost a good friend. Fred Seaton's service to his community, State, and Nation will be sorely missed.

Mr. President, I ask unanimous consent to have printed in the Record several news clippings which detail the life of Fred Seaton and his meaning to Nebraska.

There being no objection, the news clippings were ordered to be printed in the Record, as follows:

[From the Hastings (Nebr.) Daily Tribune, Jan. 17, 1974]

### Former Secretary of Interior—Publisher Fred Seaton, 64, is Dead

Fred A. Seaton, 64, well known midwest newspaper publisher and Secretary of Interior under President Dwight D. Eisenhower is dead.

He had been ill since last October and had been undergoing treatment in a Minneapolis hospital for the past several weeks. Mrs. Seaton was with him.

He died late Wednesday night in Minneapolis.

Seaton went to the family summer home in the Black Hills late last summer and did not return to his Hastings home after he became ill.

He had been publisher of the Hastings Tribune and had made his home here since 1937 except for the period from 1951 to 1961 when he served, first in the U.S. Senate and then in the Eisenhower adminstration in a variety of top level positions in Washington.

#### BORN IN WASHINGTON, D.C.

Seaton was born in Washington, D.C. His father, the late Fay Seaton, was serving there as secretary to U.S. Sen. Joseph Bristow of Kansas. The family later moved to Manhattan, Kans., where the elder Seaton owned and published the Manhattan Mercury and Chronicle newspapers.

Seaton attended schools there and was a student at Kansas State College. He was married in 1931 to Gladys Dowd, a fellow student in the School of Journalism.

Surviving are his widow, Gladys, two sons. Donald of Hastings and Alfred of Sacramento, Calif., two daughters, Mrs. Maynard Epp of Henderson and Mrs. Jerry Hansen of Norfolk, a brother, Richard M., of Coffeyville, Kans., and five grandchildren.

Funeral services are Monday at 10 a.m. at St. Mark's Pro-Cathedral, Hastings, with the Very Rev. John P. Bartholomew, Dean of St. Mark's Pro-Cathedral, Dr. Silas G. Kessler of the First Presbyterian Church and the Rev. Willis H. Steinberg of St. Paul's Church, Minneapolis, officiating. Burial will be in Parkview cemetery. Memorials are suggested to Hastings College.

The Seaton business interests, besides the Tribune, include newspapers at Alliance, Sheridan, Wyo., Lead and Deadwood, S. Dak., Manhattan, Winfield and Coffeyville, Kans., KHAS-TV and KHAS Radio in Hastings, and radio stations at Manhattan and Coffeyville.

Seaton's long political career ran from 1936, when he worked with former Kansas Gov. Alf Landon in his bid for the presidency, to 1973 when he completed a special assignment for President Richard M. Nixon as chairman of the Timber and Environment Committee.

During that span he was also involved in many other business activities and served on various state and local boards.

In 1955 Seaton was mentioned in the nation's press as a possible Republican candidate for President. In 1967 he was suggested as Richard Nixon's running mate in the 1960 presidential election. Many of Seaton's friends conducted a campaign in his behalf for second place on the GOP ticket.

Nebraska Republicans nominated him for governor in 1962. He was a member of the original Nixon for President Committee and served throughout the 1968 campaign as chairman of Senior Advisors to Nixon.

#### TWO LEGISLATIVE TERMS

The former Interior Secretary served two terms, 1945 and 1947, in the Nebraska Legislature and in 1948 was state chairman for the Harold E. Stassen campaign for President. In 1951, on the death of U.S. Sen. Kenneth Wherry, he was appointed by former Gov. Val Peterson to serve out the unexpired term.

He returned to Hastings in 1952 but soon was actively engaged in the campaign to persuade Gen. Dwight D. Eisenhower to become a candidate for President on the Republican ticket. He made a trip to Paris, where the General was serving as commander of NATO, to visit with him. After Eisenhower agreed to run, Seaton became a presidential campaign advisor.

Seaton was first asked by Eisenhower to serve as an assistant secretary in the Defense Department under the late Charles Wilson. That assignment started in 1953 and continued until 1955 when he was appointed administrative assistant by President Eisenhower and he moved his offices to the White House. One of his assignments was to serve as liaison between the White House and Congress.

A few months later Seaton was appointed deputy assistant to the President. He continued in that position until early 1956 when he was named Secretary of the Interior, a department with wide ranging responsibilities throughout the nation and employed several thousand people. He continued as Interior Secretary until the end of Eisenhower's second term in 1961. Seaton is given most of the credit for bringing Hawaii and Alaska into the Union.

#### PRESIDENTIAL MEDAL OF HONOR

For his service in the Defense Department he received the Presidential Medal of Honor, the highest government award that a civilian employe can receive

After ending his association with the Eisenhower administration he served the Republican National Committee as a member of the Finance Committee and also as a member of the National Speakers Bureau. He was Nebraska chairman for Radio Free Europe and was elected a corporate member of the organization. On behalf of the RFE program he made many speeches in this country and made one trip to Europe.

For his community services in Hastings he received the Distinguished Governmental Service and Boss of the Year Awards from the Junior Chamber of Commerce. He also was given the KMMJ Distinguished National Service Award.

Seaton served as a member of the Hastings College Board of Trustees for 33 years. He was also a member of the University of Nebraska Foundation. He was a member of the Bicentennial Commission for Commemoration of the Revolutionary War, the Board of Advisors of the National Trust for Historic Preservation and the Board of Advisors of the American Heritage Association. He was an honorary member of the National Council of Boy Scouts of America.

#### ACTIVELY INVOLVED

Seaton was a member of the National Advisory Committee of Stanford University for professional journalism fellowships, and a trustee of the Kiplinger Washington, D.C., Journalism Center.

He was a past president of the Inland Daily Press Association, and a former member of the board of directors of the Associated Press. He was a past president of the Nebraska Associated Press and served as president of the Association of Outstate Nebraska Newspaper Publishers. In 1973 he was presented the Master Publisher-Editor Award by the Nebraska Press Association, the second person ever to receive it.

Seaton served as president of the Hastings Corporation in 1966, a non-profit corporation to promote business and industry in the city. He was a past president of the Hastings Chamber of Commerce, and was a member of the board of directors of the First National Bank.

He was an honorary member of the Innocents Society at the University of Nebraska and a member of the Sigma Delta Chi, professional journalism fraternity.

He was a member of the * * * Masons, Scottish Rite, Shrine, Elks, Rotary Club, National Press Club in Washington, D.C., and Lochland Country Club.

He held honorary degrees from several colleges and universities. Biological data on Fred Seaton is included in Who's Who in America, Who's Who in U.S. Politics, Who's Who in the World, Who's Who in Finance and Industry, and the Blue Book which lists leaders in the English speaking world.

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[From the Hastings (Nebr.) Daily Tribune, Jan. 17, 1974]

### FRED A. SEATON MADE CONTRIBUTIONS TO NEWSPAPER BUSINESS, GOVERNMENT

Fred A. Seaton's adult years were marked by one good deed after another and for this he was respected and admired by all who knew him as a friend, colleague, or employer.

Throughout his active professional and political life nothing was ever said of him, by friend or foe, that was not complimentary.

Fred Seaton, who died Wednesday, first gained prominence as a very able, successful and honest newspaper publisher. In his second career, that of serving his national government, he was considered one of the most capable, devoted and influential men during the 10 years he served in our nation's capital.

He compiled a record in both fields of endeavor that most would envy. But he didn't take himself too seriously. He recognized he was human and as such had his faults. He didn't try to impress those about him with his knowledge or his importance.

Even though he stood very close to two of this nation's Presidents, knew intimately the heads of many state and foreign governments and had more than a speaking acquaintance with many rich and powerful men in the field of industry and finance, he was always ready to hear about the problems of those less fortunate than himself. He gave advice only when it was sought.

He was one of the youngest men in recent times to serve in the cabinet of a President. At the age of 46 Fred A. Seaton became Secretary of Interior and he filled the position with distinction. While he held that office there was little criticism of his policies, and editorial writers and columnists for the nation's newspapers praised his decisions. He was generally regarded as one of the most able men in the Eisenhower cabinet and many of the policies he adopted while secretary are still being followed.

Those in the newspaper profession have long considered him one of the very best. He was a capable businessman and one who was more than considerate of his employees. He instituted programs in his business that were frowned upon by his fellow publishers but who soon came to recognize them as sound and practical. Never was an employe treated unfairly even though he may have been in the wrong. Fred Seaton went more than the proverbial mile on many occasions in behalf of an employe.

As a publisher he required that the news be written fairly and accurately. Never in his long career as publisher did he try to influence a Tribune reporter to write a news story to reflect the newspaper's editorial policy. Never did he treat in his newspaper columns, or in his personal contacts, the wealthy and powerful any differently than those on the lower level of the economic scale. He refused to yield to pressure to print the names of juveniles charged with law violations unless they were of a serious nature. Seaton, and his newspaper, treated all people the same regardless of race, creed or color.

He placed his stamp on the Tribune soon after he took command of its fading fortunes in 1937 and he continuously worked to make it a good publication, one of which he could be proud and one which his readers liked and trusted. The fact that he succeeded is reflected in the great many awards the newspaper has won over the years and its steady circulation growth.

He was liked by all who worked for him and in some instances he was almost worshipped. Many who left his employment later returned or sought to return to the Tribune.

One of the things he usually told a new employe was, "We won't fire you and we won't let you quit." A good many found these words not just idle conversation.

Fred A. Seaton must go down as one of the nation's doers; a man who knew what he wanted and who worked hard to attain his goals. He had respect for and confidence in those who worked with him and he knew he must have the respect and confidence of others. We believe most will agree he was a successful man by any measurement and that he attained that success without making compromises along the way.

He will be sorely missed by all. There will not be another Fred A. Seaton.

B.J.

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[From the Hastings (Nebr.) Daily Tribune, Jan. 17, 1974]

### FRED SEATON, A QUIET "DOER"

(By Burt James)

Fred A. Seaton, a quiet "doer" in the newspaper publishing business as well as in state and national politics, climbed from printer's devil to the lofty position of being the youngest member (46) of the cabinet of President Dwight D. Eisenhower, a position he held from 1956 until early 1961 when the Republicans lost control of the White House.

He was successful in many activities before reaching the zenith of his career. He was no magician, but he was intelligent, not afraid of hard work, had great charisma and poise. He learned about adversity at an early age and in overcoming these he established a foundation for meeting the many problems in business and politics he was to face later.

He started the climb up the ladder as an odd-job employee in his father's newspaper, the Manhattan, Kan., Mercury. This was his training ground for his successful career as a newspaper reporter, printer and publisher. He was without question one of the best informed publishers in the business. He knew and understood every facet of it. He could help repair a piece of broken printing equipment, he could diagnose the fault of a printing press, he knew about type faces and which ones belonged in the same family, he knew what made a good newspaper and what newspaper readers wanted and expected. On every count he was informed, but he was never one to make the apprentice printer or the cub reporter feel that he was the one who had the superior knowledge.

Fay N. Seaton, father of Fred A., and Richard M . Coffeyville, Kan., publisher, had considerable influence with his sons carrying on the family publishing business. The father, who died in December 1952, was secretary to U.S. Sen. Joseph Bristow of Kansas. It was while serving in this position that the elder Seaton played a part in getting a West Point appointment for a young man at Abilene, Kan., Dwight David Eisenhower. There may have been a predestination in what was to follow about 20 years later, for it was in 1956 that President Eisenhower appointed Fred A. Seaton, then 46, as Secretary of Interior in his Cabinet.

The political bug bit Fred Seaton at an early age. It was while a student at Kansas State College, now Kansas State University, that he became one of the chief organizers of a Young Republican Club, one of the first in the nation. He traveled over Kansas in the early 1930's in behalf of the organization and soon learned the business of "stump" speaking. He visited a dozen or more towns per day. He soon became recognized as one of the state's best orators. He was a member of the KSC debate team four years.

He left college, without getting his degree, in 1931 and devoted full time to the newspaper business. He worked in a variety of positions for the Manhattan Mercury which at that time published both morning, evening and Sunday editions.

While in his late teens Seaton decided he wanted to be a professional fighter, a career that was short lived. He fought in rings in various Midwest towns under an assumed name, but his mother soon learned of it. She traced him to St. Louis where she went and prevailed upon him to give it up. While serving in the Nebraska Legislature a lobbyist, who could not prevail upon the senator to vote for his bill, leaned across the table and punched him in the mouth. It took several stitches to close the wound. Only the presence of the senator's friends prevented him from giving the man a lesson in the art of boxing. Later the senator accepted an apology and the two resumed their friendship.

He was successful in getting the Kansas Young Republicans on a firm foundation and built the membership to over 60,000. In this work he became acquainted with Gov. Alf Landon of Kansas. The governor appointed him as his secretary and one of his campaign managers in his bid for the Republican presidential nomination in 1936. When that goal was successfully attained Seaton continued to serve on the Landon Presidential campaign team.

Many years later, Alf Landon was one of the first to tout Fred Seaton as a Republican presidential prospect.

Seaton, in addition to his many other activities, served as Manhattan correspondent for several large newspapers and was also the play-by-play announcer for Kansas State football games which were broadcast over the college station, KSAC. In later years Seaton could quickly recall the names of many of the stars in the Big 8 and also recount some of the outstanding plays. For five years he was publicity director of the KSC athletic department.

He also liked to recall his experience as a student actor. He played the part of a hero in the play, "Chip, the Miner's Daughter," and in the course of it he was to overpower the villain who was stealing a sack of gold. Seaton said the first night a sack of sawdust was used but the second night a bag of nails was substituted. When Seaton accosted the villain the latter swung around and hit him on the head. The result was a skull fracture which put the hero in the hospital for several days and ended with a steel plate being placed in his head.

The Seaton family in 1937 launched a newspaper expansion program that was to result in the acquisition of six more newspapers.

The first of these was the Hastings Daily Tribune which Fred A. took over as publisher and editor. He later said that after all the legal requirements of ownership had been met he walked into the front office of the newspaper to tell the receptionist he was the new owner. She had not been informed of the sale and refused to believe his statement. There were several employees on the newspaper at that time who stayed and worked with the new owner and publisher over a long span of years. Several of them received recognition for 25 years or more of continuous employment with the Seaton newspaper.

The Seaton family then added the Lead, S.D., Daily Call, the Deadwood, S.D., Times. This was in 1946. The same year the Sheridan, Wyo., Press was purchased. The following year the Winfield, Kan., Courier and the Coffeyville, Kan., Journal were taken over. The Alliance Times-Herald, a biweekly, was purchased in 1948 and soon converted into a daily. The family also at one time owned a farm magazine, the Western Farm Life, published at Denver.

Even though the Seatons were still expanding their newspaper holdings Fred A. took time to run for and be elected to the Nebraska Legislature. This was in 1945. He was re-elected in 1947 and led the fight to change the state law prohibiting transfer of water from one watershed to another.

Seaton was responsible for legislation relating to education, health and welfare and public works.

In 1948 he was a candidate for re-election to a third term but was defeated because he did not campaign in his own behalf but devoted all of his time to the Nebraska presidential campaign of Harold E. Stassen, former governor of Minnesota. Seaton was state chairman and was successful in making Stassen a winner in the All-Star primary of that year over such candidates as Gov. Thomas Dewey of New York, Sen. Robert Taft of Ohio and others.

After his retirement as a state senator Seaton devoted all of his time and energies to the family's various publications. In addition to the seven newspapers and a farm publication, it had acquired Radio Station KHAS in Hastings and Radio Station KMAN in Manhattan and Radio Station KGGF in Coffeyville.

The death of U.S. Senator Kenneth Wherry set the stage for Seaton's rise to fame in national political circles. He was appointed in 1951 to fill out the unexpired term by former Gov. Val Peterson. Almost as soon as he was appointed he announced he would not seek election to the next regular term.

The new Senator from Nebraska made his maiden speech in the U.S. Senate on Jan. 10, 1952. According to newspaper reports it was the first time a new Senator was given the opportunity to speak before any other business had been transacted. Seaton made a four minute talk in which he eulogized Senator Wherry. At the conclusion he was quickly surrounded by other senators who came to offer their congratulations. In addition to Mrs. Seaton there were several other Nebraskans present for the occasion.

The time spent in the U.S. Senate whetted Seaton's appetite for big time politics and when the invitation came to go into the Defense Department as an assistant to Defense Department Chief Charles Wilson he quickly accepted. There he helped rebuild the public image of the department which had been badly hurt by Wilson's lack of experience in the field of public relations. Seaton quickly restored order.

Having again demonstrated his political savvy, the Nebraska publisher was next invited to take an even greater part in the inner workings of the Eisenhower administration.

As a presidential assistant at the White House he had considerable power. He was in the thick of the farm fight that year. He helped shape administration strategy on several major issues. He was prominent in the Sen. Joseph McCarthy controversy. He was given these important assignments because he had established a good record during the 1952 campaign.

It was Seaton, according to best reports, who alone kept his head when the story broke about Richard M. Nixon's special campaign fund. It was Seaton who planned the strategy that was to put Nixon on the air to explain the campaign contributions, an address that turned the affair into an asset for the Eisenhower-Nixon ticket.

Seaton was also credited by the Washington press corps with having brought new life into the Department of Interior when he became secretary in May 1956. He was credited with having revolutionized the department, corrected many stagnant ideas, operations and procedures. One of his greatest contributions was a complete overhaul of the national parks. He obtained additional funds and carried on an extensive improvement program. He recognized early that more and more people would be using the parks and that they must be developed to handle the huge crowds that had discovered them.

Seaton, as Interior Secretary, also instituted action for more vigorous reclamation programs and pushed efforts to discover economical means of converting saline water to fresh water. He was a believer in soil and water conservation and served on the executive committee of the Nebraska Reclamation Association. He was also helpful in expanding Rural Electrification. He was a strong advocate of the Eisenhower philosophy that private and public power interests should work as partners in the development of power resources.

It was during Seaton's tenure as Interior Secretary that two new states, Hawaii and Alaska, were added to the Union. He led the fight to bring both territories into the U.S. and he frequently referred to this as one of the bright spots of his long Washington career.

Time Magazine said of Seaton soon after he became secretary that he was "razor sharp, affable, cool, sensible, popular at the Pentagon, at the White House, with both Republicans ·and Democrats on Capitol Hill and with the press." GOP National Chairman Leonard Hall, in 1956, described Seaton as "a damn smart politician" and perhaps the most politically promising member of the Eisenhower Cabinet.

Barnet Nover of the Denver Post said this about Seaton after he was Interior Secretary: "One of the calmest spots in this town (Washington) these days is the structure that houses the Department of Interior. No government department has to deal with so many controversial issues as Interior; Indian affairs, public lands, mineral resources, national parks, fish and wildlife, oil and gas leases on the national domain, the territories, reclamation and federal power."

Nover went on to say that of the 35 men who had held the post of Secretary that Seaton would be one of the few to be remembered.

After his return to Nebraska, Seaton made one final venture into the field of partisan politics. Upon the encouragement of President Eisenhower. Seaton decided to run for the position of governor in 1962. Some of his friends advised against it on the grounds it was not the time. Seaton, however, listened instead to the words coming from his Washington friends rather than those on the home front. He lost the election, but by a very close margin. The shift of a few votes in precincts in Douglas and Lancaster counties would have meant victory for Seaton.

Seaton always had the friendship of the Midwest publishing fraternity and he was a leader among those in Nebraska. He was always tacful and generally charming. A few minutes of conversation and they knew he understood their point of view. If he disagreed with a person he told them so and his candor also included admitting his mistakes.

When he took over as publisher of the Tribune it was not in good condition financially and the equipment left much to be desired. He started a rehabilitation program that was to continue as long as he was on the job. He bought new equipment and insisted that it be used properly. He expected the Tribune to reflect brightness, to be easily read and that it be accurate not only in its account of news stories but in grammar and spelling. He carefully checked each page of each new edition. He marked errors, broken rules, and smudges. On the following editions errors were corrected and the smudges removed.

The Tribune newspaper plant was always kept neat and clean. In comparison with some former Nebraska newspaper plants the one at the Tribune looked like the interior of a hospital. It was air conditioned and well lighted.

To make the Tribune the best, Seaton added new equipment as it was tested and proved. He frequently changed type faces to make easier reading. He was the first outstate Nebraska publisher to use wirephoto, and the only one to have three wire services. He was instrumental in getting out-state publishers to adopt a program of sending and receiving news by tape which speeded production and cut costs. The Associated Press and United Press International later took over the system which had its headquarters at the Tribune in Hastings.

The former Tribune publisher had hard and fast rules concerning newspaper makeup and these sometimes clashed with the views of advertisers and staff members. Seaton refused to change the style of makeup if the proposals tended to detract from the Tribune's sharp and bright appearance.

He instituted employe-employer relations that were far ahead of those of other newspapers. He provided life insurance, regular merit raises and was one of the first in the state to adopt an employe retirement program paid for entirely by the newspaper.

He was, however, the last newspaper publisher in the state to permit closing the offices on Saturday afternoon and this was a change that he never fully accepted.

Seaton worked long hours and expected his department managers to do the same. Like so many successful bosses, he would not ask employes to do anything he would not.

His fellow workers at the Tribune and the Mercury in Manhattan recall the disastrous flood which swept through the plant leaving a deep layer of silt and also complete destruction of the printing equipment. Fred Seaton went to the scene with the others and worked with them as they cleaned up and got the newspaper back into operation.

Although the Seaton newspapers are often referred to as a chain, that is incorrect. Each is independent with its own editorial policy and business office. Each editor or publisher is the largest single stockholder in the newspaper he manages.

Seaton said that when he conceived the idea of expanding he knew several young newsmen with good ideas but no money. He arranged the financing of the newspapers which were bought and the publishers were then sold, on credit if necessary, a 25 per cent interest. He also made it possible for employes serving in managerial positions to purchase stock in Seaton newspapers. Seaton loaned the money at a low rate of interest to the purchaser who then paid off the loan from dividends on the stock. It was a unique method at the time it was instituted.

He was always more than willing to employ the physically handicapped and during the years had many such on the payroll. He was also insistent upon permitting long time workers to continue at their jobs even after the time when they were not as productive as younger workers would have been.

His final step toward making the Tribune a better newspaper, one that has won more prizes in more different categories than any other daily newspaper in the state, was the conversion to offset printing.

It was a step that he put off for more than 10 years. The delay was not because he was not progressive, but because he believed that the offset method did not produce a newspaper as attractive as the hot type method, a system that he had worked with for nearly 50 years.

Seaton once said of being a publisher: "Newspapering is a pleasure and privilege for anyone who has the slightest love for his fellow man. You are in a position, to a satisfying degree, to see the news as it is made, as it happens and as it is recorded. I got into it by being raised by a newspaperman-father. I stayed because I would rather be a newspaperman than anything else in the world."

At another time, in discussing the newspaper business, he said: "There are not many pitfalls and perils in the business but they can be fatal. Most of them are born of trying to be an oracle rather than a reporter of facts; fancying yourself a genius instead of a local analyst of business management—a fountain of knowledge on how many pigs and cows there are in your circulation territory. What other profession puts such a small premium on native ability and such a high one on old-fashioned hard work and toil?"

Fred Seaton was a generous man. He had a part in every fund raising campaign in the city. He expected his employees to work in religious, civic and community affairs and most of them did. He established scholarships at both the University of Nebraska and Kansas State University. The Seaton family provided the Dorothea Elizabeth Seaton Memorial Chapel on the Hastings College campus.

Fred Seaton's thoughts on the newspaper business to which he gave so much, perhaps are best reflected by these often repeated words to his associates: "When I die I don't want this newspaper to close its front doors on the day of my funeral."

"Thirty"—newspaper parlance marking the end of a story—has been placed at the end of a distinguished newspaper career, but the publications in which he was most interested will continue to reflect the policies and attitudes of Fred Seaton.

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[From the Lincoln (Nebr.) Journal, Jan. 17, 1974]

### Former Interior Secretary Fred A. Seaton Dies—Hastings Newspaper-Radio Executive Was 64

Fred A. Seaton, Hastings newspaper and radio executive and former secretary of the interior, is dead at 64.

Ill since last October, Mr. Seaton died late Wednesday night at St. Mary's Hospital in Minneapolis, Minn. where he had been hospitalized since December. His wife was with him.

The first Nebraskan since William Jennings Bryan to serve in a presidential cabinet, Mr. Seaton's political career ran from 1936, when he worked with Kansas Gov. Alf Landon in Landon's bid for the presidency, to 1973, when he completed a special assignment for President Richard M. Nixon as chairman of the Timber and Environment Committee.

Born in Washington, D.C., where his father, the late Fay N. Seaton, was serving as secretary to U.S. Sen. Joseph Bristow of Kansas, Mr. Seaton was mentioned in 1955 as a possible Republican candidate for president.

In 1957, he was suggested as Nixon's running mate in the 1960 presidential election.

Nebraska Republicans nominated him for governor in 1962.

A member of the original Nixon for President committee, Mr. Seaton served throughout the 1968 campaign as chairman of senior advisers to Nixon.

In 1945, Mr. Seaton began the first of two terms in the Nebraska Legislature. He acted as chairman of the Legislative Council and was a member of the State Judicial Council. During that period, he also served as state chairman for Harold E. Stassen's presidential campaign.

In 1951, Gov. Val Peterson appointed him to the U.S. Senate to fill the unexpired term of the late Sen. Kenneth Wherry.

Mr. Seaton returned to Hastings in 1952 but soon became involved in the campaign to persuade Gen. Dwight D. Eisenhower to become a candidate for president on the Republican ticket.

After Eisenhower's victory, Mr. Seaton was named assistant secretary in the Defense Dept.

In 1955, Eisenhower appointed Mr. Seaton administrative assistant, after which he became the President's deputy assistant, a post he retained until early 1956, when he was named secretary of the interior. He held that post until the end of Eisenhower's second term.

As secretary of the interior, Mr. Seaton inaugurated the Mission 66 program to expand and develop the national park system. He was also given a large measure of credit for bringing Hawaii and Alaska into the Union.

For his service in the Defense Dept., he received the Presidential Medal of Honor, the highest government award a civilian can receive.

Mr. Seaton served on the Republican National Committee and was a member of the National Speakers Bureau. He was Adams County Republican chairman and served as regional vice chairman of the Republican National Finance Committee for Nebraska, Kansas and Missouri.

Mr. Seaton, who had made several trips behind the Iron Curtain, became Nebraska chairman for Radio Free Europe and in 1967 was elected a corporate member of that organization.

In 1967, former President Lyndon Johnson appointed him to the American Bicentennial Commission, a post to which President Nixon reappointed him in 1969.

Mr. Seaton graduated from Kansas State College at Manhattan in 1931. He held honorary degrees from Kansas State and Maryville College in Maryville, Tenn.

He married Gladys Dowd, a college journalism classmate, in 1931 and bought the Hastings Tribune in 1937. He subsequently made his home in Hastings. A son, Donald, has been associate publisher of the family-owned newspaper since 1971.

In addition to the Hastings Tribune, Seaton's business interests included newspapers in Alliance; Sheridan, Who.; Lead and Deadwood, S.D.; Manhattan, Winfield and Coffeyville, Kan.; KHAS-TV and KHAS radio in Hastings, and radio stations in Manhattan and Coffeyville.

He was a past president of the Associated Press Newspapers of Nebraska and a past president and chairman of the Inland Press Assn. board of directors. He received the Nebraska Press Assn.'s second annual Master Editor and Publisher Award in 1973.

He also held the Distinguished Governmental Service Award and the Boss of the Year Award from the Hastings Chamber of Commerce, which he served as president.

For 33 years, Mr. Seaton was a member of the Hastings College Board of Trustees. He was also a member of the University of Nebraska Foundation.

His name, along with biographical information, is included in Who's Who in America, Who's Who in U.S. Politics, Who's Who in the World, Who's Who in Finance and Industry and The Blue Book, which lists leaders in the English-speaking world.

In addition to his wife, survivors include sons, Donald of Hastings and Alfred of Sacramento, Calif.; daughters, Mrs. Maynard Epp, Henderson, and Mrs. Jerry Hansen, Norfolk; a brother, Richard M., Coffeyville, Kan., and five grandchildren.

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[From the Lincoln (Nebr.) Evening Journal, Jan. 17, 1974]

### Friends Picture Fred Seaton as Very Influential Politician

It all started when he was a collegian in Kansas.

From the presidency of the college chapter of the Young Republicans, Fred Seaton moved into a life of politics and newspapering that personally involved him in several presidential campaigns during the last four decades.

"His first taste of the political scene came in the 1930s when he was a top adviser to Kansas Gov. Alf. Landon, who was making a bid for the presidency against FDR," said Val Peterson, former Nebraska governor and good friend of Mr. Seaton.

"Shortly after that campaign—which Landon lost rather badly—Fred came to Nebraska, and from then on, we were good friends.

Mr. Seaton's next taste of presidential politics came when he became involved in the Eisenhower campaign, according to Peterson. Mr. Seaton always had close ties with the Eisenhower family through his association with Dr. Milton Eisenhower, the late President's brother, who once served as president of Kansas State University at Manhattan.

"He rendered distinguished service to his state and nation," said Peterson. "He was a top-flight political figure and public servant, as well as one of the best businessmen I have ever known. He was also a superb newspaperman.

"In politics and government, Fred Seaton was progressive in his outlook, and he tried to better the lot of the people through forward-looking and soundly based measures.

"Fred Seaton was a close political associate. I feel a deep sense of personal loss at his death," Peterson concluded.

President Nixon, who counted Mr. Seaton among his political friends, made this statement Thursday:

"I am deeply saddened by the death of Fred Seaton, a valued friend of more than 20 years. America was enriched by his many years of selfless and dedicated service in a wide range of positions . . .

"Fred Seaton was a son of our nation's heartland, a distinguished servant of his government. As a newsman and newpublisher, he graced the life of all who knew him.

"Mrs. Nixon joins me in extending to his family our most sincere condolences at the loss of this good and gracious man."

Sen. Carl Curtis, also a close political associate of Mr. Seaton, said by telephone from Omaha:

"I am very saddened at the death of Fred Seaton. I have known him since he came to Nebraska. My home town was a nearby county seat, and I regarded him as both a friend and neighbor.

"As a public servant, he did many fine things, and he will be missed. I think he will always be known for his fight to bring statehood to Alaska and Hawaii."

Sen. Roman Hruska, reached in Washington, said: "The death of Fred Seaton is a tragic loss for all Nebraskans. He served his community, his state and his nation in a wide variety of leadership positions."

Hruska described as Mr. Seaton's most outstanding achievements the admission to the Union of Alaska and Hawaii.

"All of us who were privileged to have known and worked with him feel a deep sense of personal loss and extend our sympathies to his wife and family," Hruska said.

J. Lee Rankin, a former Nebraskan who served as solicitor general in the Eisenhower administration, said upon learning of Mr. Seaton's death:

"I enjoyed working with him and I enjoyed the mutual experience we had in behalf of the country and the Eisenhower administration. We shared many problems and activities in connection with our respective positions.

"He was a fine person and I shall miss him," Rankin said from his Sunnyvale, Calif., law office.

Old political friends of Mr. Seaton say his friendship with leading politicans reached into the Nixon administration.

According to sources, Mr. Seaton was on hand for moral support when Nixon made his now famous "Checkers" speech.

At the 1968 GOP convention in Miami Beach, Mr. Seaton was one of the men who heralded the selection of Spiro T. Agnew as "the best possible man" for the vice presidency.

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## SENATOR ROBERT STAFFORD'S SPEECH

**Mr. WILLIAMS.** Mr. President, on December 5, Senator Robert Stafford delivered the keynote address to the regional convention of the Council for Exceptional Children in Boston, Mass. Senator Stafford's speech emphasized his belief, as ranking minority member of the Subcommittee on the Handicapped, of the need to continue Federal leadership and focus on the educational needs of handicapped children through the Bureau of Education for the Handicapped. He also stressed the need to make central to all of our concerns in this area the right to education for all handicapped children, and to fashion educational programs around this basic right. His speech builds around his primary concern which has been demonstrated over and over in the subcommittee: The belief that services should reflect the individual needs of the handicapped child or adult, and that such services should be made available in accordance with that individual's needs and wants.

Presently, only 40 percent of all handicapped children have been accorded their right to an education, and many are denied access to free public educational facilities because of mental or physical disabilities. In the regional hearings I have conducted on S. 6, witnesses from many different regions of the Nation have testified for Federal recognition of these conditions and the tailoring of legislation to alleviate them. S. 6, which would provide Federal payments to the States based on excess costs for the education of all handicapped children, was drafted with these purposes in mind.

Senator Stafford's address draws clear attention to these concerns, and I believe my colleagues will find what he says a strong case for increased Federal involvement in assuring that the educational needs of each handicapped child is met. I ask unanimous consent that Senator Stafford's speech be printed in the Record immediately following my remarks.

There being no objection, the speech was ordered to be printed in the Record, as follows:

### U.S. SENATOR ROBERT T. STAFFORD KEYNOTE ADDRESS TO THE REGIONAL CONVENTION OF THE COUNCIL FOR EXCEPTIONAL CHILDREN

I am delighted that I was able to accept your kind invitation to address this New England Regional Meeting of the Council for Exceptional Children for several reasons.

First, it has enabled me to again find a reason to come to New England, and particularly to the State of Massachusetts whose Bay Laws of the 1640s gave birth to the concept of public education in our nation.

I must confess to you, however, that I come from a part of New England that resists the claim that this City of Boston is the intellectual and spiritual capital of our six-state region.

More importantly, I am delighted to be here because it gives me another opportunity to speak on one of my favorite subjects—education. It is a subject to which I eagerly devote much of my official time and attention in Washington.

Special education programs for the handicapped are of particular interest to me, especially at this time when the Congress will have to make some important decisions dealing with legislation regarding elementary and secondary education programs.

It is important that we make the right decisions and that our efforts continue the federal movement in support of education for the handicapped that began in 1955.

In that year, it was not possible to identify a single categorical program that was designed to deal with mental retardation. But, things began to move at that point.

Federal funds for programs dealing with mental retardation increased from $1 million in 1955 to more than $22 million by the 1962 Fiscal Year.

Gains continued after that, as you know. In 1967, significant support for special education within the U.S. Office of Education blossomed with the creation of the Bureau of Education for the Handicapped.

Then came the earmarking of federal funds—never enough to be sure, but more than before—for Titles I and III of the Elementary and Secondary Education Act in 1966; the Vocational Education Act in 1968, and the earmarking of enrollment opportunities in Headstart in 1972.

In each case, a portion of the total appropriation was earmarked by the Congress for services to the handicapped.

It is my view that we must continue that kind of earmarking.

I think it is also vital that the Bureau of Education for the Handicapped be continued as an advocacy agency within the Office of Education for the needs of the estimated 7 million children of our nation who are deaf, blind, retarded, emotionally disturbed, crippled, or otherwise handicapped by physical or mental defects.

I imagine I do not have to tell this gathering the importance of continuing the operation of a federal agency whose purpose is to focus a national effort on particular problems of the handicapped that few federal or state programs can duplicate.

Jean Garvin, who is director of special education for my State of Vermont, told the Senate Subcommittee on the Handicapped earlier this year that the Bureau of Education for the Handicapped has provided my state with what she termed "enlightened leadership," and that the BEH has "understood the issues of the 1970s and the 1980s in special education."

We in the Congress don't often hear state officials talk that way about any federal bureaucracy, but we have heard spokesmen from other states say much the same thing. We are impressed by that kind of testimony.

Therefor, it is my view that we must continue the Bureau of Education for the Handicapped as an advocacy agency, and we must continue to target our limited federal resources on specific programs for the handicapped.

Why must we do this?

First because we have always known—and recent court decisions have reminded the non-believers among us—that all Americans have the right to equal educational opportunities.

Indeed, the recent court decisions have directed our attention to the fact that the handicapped, along with all other Americans:

Have the right to public education, regardless of the degree of disability.

Have the right to appropriate treatment at public institutions.

Have the right to just compensation for labor, and

Have the right to fair protection from harm.

I expect the trend of those court decisions to continue to open the doors of equal opportunity for the handicapped.

Yet, for all of this growing federal commitment and for all of the court decisions, data indicates that less than 40 percent of our handicapped children are receiving an adequate education in this nation.

And we all know that percentage is considerably lower in some parts of the nation and that geography often plays an important role in just how much equality of opportunity is available to our handicapped children.

There is also another important reason we must press for continued concentration in our efforts to provide programs for the handicapped.

The use of tax money by government to finance educational programs represents more than simply spending. It represents an investment. I think that is particularly true when we allocate our tax money for the education of the handicapped.

Good educational programs yield both human and economic dividends.

The human dividends are apparent.

For those interested in getting dollar returns on their dollar investments, I offer the point that even the most severely handicapped child can be made less dependent through education.

And, of course, failure to invest in education for these children almost always results in dependency—often at the expense of the community.

We are told that it costs the taxpayers about $250,000 to support a totally handicapped person over his lifetime.

All of which makes the choice before us a simple one from both the humanitarian and economic standpoint. We simply must find ways to improve and to increase educational opportunities for handicapped children.

I trust you share those goals and that you will lend your support and your guidance to those of us in the Congress who are working to achieve them.

But I must add some words of caution about the prospects of achieving the kind of programs and federal funding levels that we all desire for the handicapped.

Your organization's membership is composed of the professionals in the field, the handicapped and their parents and their friends.

You are among those who have provided much of the advocacy and leadership for increased federal involvement in the field, and much of the expertise for directing that involvement and for delivering the services so desperately needed by the Handicapped.

Many of you have been involved in this effort when it was a lonely task. I know the road has been a difficult one to travel and that, for many reasons, too often the rewards at the end of the road have been meager.

There are too few dollars available to meet our vast needs. Federal funding, although it has increased substantially, remarks almost pitifully small when compared to the need. And, there is little evidence that more money will be available soon.

I am sure that there are many of you here who feel that all the federal funding available is not enough to begin to meet the needs of the specific group of handicapped children that inspires your major attention and concern.

I understand the temptation to get as much assistance as you can for your own first-priority project, even if that means less support for some other project. The struggle for a "fair" share of an inadequate supply is one that tests the nobility of man.

May I suggest to you, however, that you do yourself—and each other—a disservice when your advocacy efforts appear to be too self-serving.

Even more importantly, you do a disservice to those who need help—to the handicapped children of the nation.

May I suggest to you that you would do yourself—and each other—a greater service by adopting what might be called an attitude and unselfish advocacy in the quest for federal assistance.

And, may I also suggest that it is most important that you never lose sight of the fact that the major purpose of this federal commitment is to provide educational services to the handicapped—and not to improve the lot of the providers of the services. It is essential that we always keep in mind that the needs of the handicapped child must be given priority even over the sometimes conflicting desires of their loved ones.

What I am saying, of course, is that we must never lose sight of the fact that the federal commitment is to the handicapped child, first and foremost.

And, so long as I have gotten into this business of making suggestions may I propose that more attention be paid to the sometimes inadvertent danger of shutting out the handicapped child or adult from active participation in his or her own educational program.

Along this line of thought, I was most impressed during our hearings on the Rehabilitation Act of 1973 by the testimony of a Dartmouth College student named Jim Stearns.

Jim stressed to us that it was most important that handicapped persons be given a strong voice in the design and implementation of their programs so that—in his words—they may become contributors to the program and not merely recipients of it.

He reminded us forcefully that the critical factor in the minds of most handicapped persons is whether they are able to develop a sense of independence. Jim emphasized to us that the handicapped person is the only person who really knows what is going on in his head.

I realize there are situations where the possibility of that kind of participation by a handicapped person may only be minimal, but I think it is important that every effort be made to encourage that participation to demonstrate that we have our priorities in the right order.

The goal of our federal programs is to assist the handicapped to become as independent as possible—to help them to become contributors to society as well as to help themselves. I am impressed by programs that reflect this kind of participation. It is one of the reasons the Bureau of Education for the Handicapped is held in high regard, even though it can do better in the utilization of handicapped persons in its operation.

Decisions you make in your own programs and in your advice to us will be influential in this regard.

So, my challenge to you is to find ways of opening up the system for greater participation by the handicapped and, where appropriate, by their parents and others directly concerned with individual problems.

I fear we will never have enough money to meet all our needs and desires in this field. That makes it more important that every effort be made to deliver the most money possible into channels that lead to direct educational services to the handicapped.

You must seek ways to make your own programs more productive from the standpoint of the handicapped person, even if that means less emphasis on your own institutional structures and your personal professional priorities.

Frankly, it is becoming more difficult for those of us who support human service programs to win adequate funding for all of our traditional needs and for those new needs we are uncovering.

Critics who do not share my views on the importance of investing in educational programs are always ready to argue that our present system too often fails to deliver the money to the target area—that too much of the money gets absorbed along the way by the professionals and their organizations.

And, I must tell you frankly that there are times—and only a few examples can be fatal in this effort—when it is difficult to contest the arguments of some critics.

It is difficult to defend federal support for facilities that give the appearance of providing more support for universities and other institutions than of providing services directly to the needy. It is difficult to defend continued spending for facilities whose hours appear to be designed to suit the schedules of the professionals, rather than the needs of the clients.

I urge you to meet this challenge. The better you succeed at it, the better are the chances of those of us in the Congress to continue—and hopefully to increase—the kind of assistance we all are agreed is so vital to meet the needs of the handicapped young people of our nation.

We need more interaction and less competition.

We need a more unselfish advocacy.

We need to remember—always—that all of our efforts must be directed towards delivery of services to the handicapped.

May I paraphrase Albert Camus:

If we who are gathered here don't help the handicapped child, who in the world will?

Thank you.

## DAV MOBILE VAN PROGRAM

Mr. THURMOND. Mr. President, I commend the Disabled American Veterans for their institution of the DAV Mobile Van Service program. It is an outstanding outreach program designed to carry DAV service officers to all parts of our Nation in an effort to seek out and solve veterans' problems.

It is with great pride that I note that DAV chose Columbia, S.C., for the inauguration of this program. I think this program will prove to be one of the most worthy efforts we have seen in many years.

The January issue of "DAV," the official magazine of the Disabled American Veterans and DAV Auxiliary, carried a number of accounts about this outreach program.

Mr. President, I call these accounts to the attention of my colleagues, and ask unanimous consent that they be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### SERVICE COMMENTS

(By John J. Keller)

On January 7, 1974, in Columbis, S.C., the call will be: "Drivers, start your engines!"

No, it will not be the start of a well-known automobile race. It will be, instead, the beginning of the DAV Mobile Van Service program—the newest and most extensive outreach program to date in providing service to veterans and their dependents.

Experienced National Service Officers of the DAV will be crossing the country in six gleaming white GMC Mobile Vans, bringing the service program of our organization to the highways and byways of the Nation, particularly the areas of each state located some distance from VA Regional Offices and Hospitals.

During the first year of this program, all six vans will tour a state at one time, each covering a different route. Tours within each state will be appropriately arranged to provide adequate coverage of the state, and every state, except for Hawaii and Alaska, will be visited during the first year.

Fully equipped to function as traveling National Service Offices, these vans will be accomplishing the objective recorded on the side of each van . . . "Reaching out to assist America's war disabled." The two National Service Officers operating each van will counsel and assist in completing applications for benefits from the Veterans Administration, Social Security Administration, and other governmental agencies.

Each day, claims and inquiries will be cleared to the appropriate DAV National Service Office in the VA Regional Office having jurisdiction of records to accomplish the necessary development of the claim and follow-up action.

Following the dedication ceremony in Columbia, S.C., the Mobile Vans will tour South Carolina. Then, after a suitable kickoff program in the capital city of each state, the vans will consecutively tour Georgia, Florida and Alabama during the month of January.

In each community selected for a service office stop, a suitable site will be selected to provide easy access to the van. To make this traveling service available to the greatest number of people, the mobile service offices will open at noon or 1 p.m., depending on travel arrangements, and remain open until 8 or 9 p.m.

Every effort will be made to locally publicize the site where the vans will be stationed, so you should have no problem locating the van when it is stationed near your home.

Each month we will keep you advised of the van schedules by listing the current month's schedule in DAV Magazine. During the remainder of January 1974, the DAV Mobile Vans will be visiting the following communities:

#### SOUTH CAROLINA

Jan. 7—Columbia, dedication ceremony for South Carolina. Jan. 8—Orangeburg, Sumter, Camden, Union, Newberry, Walterboro. Jan. 9—Goose Creek, Marion, Lancaster, Greer, Greenwood, Allendale. Jan. 10—Beaufort, Andres, Rock Hill, Anderson, Saluda, Aiken.

#### GEORGIA

Jan. 14—Macon, kickoff ceremony for Georgia. Jan. 15—Cartersville, Gainesville, Lagrange, Griffin, Augusta, Dublin. Jan. 16—Lafayette, Athens, Columbus, Perry, Statesboro, Douglas. Jan. 17—Rome, Milledgeville, Albany, Cordele, Savannah, Waycross. Jan. 18—Carrollton, Thomasville, Tifton, Brunswick, Valdosta.

#### FLORIDA

Jan. 21—Tallahassee, kickoff ceremony for Florida. Jan. 22—Rockledge, Brandenton, Daytona Beach, Gainesville, Marianna, Madison. Jan. 23—Ft. Pierce, Port Charlotte, Titusville, Ocala, Chipley, Tallahassee. Jan. 24—Ft. Lauderdale, Ft. Myers, Orlando, Defuniak Springs, Chattahoochee. Jan. 25—West Palm Beach, Nokomis, Lakeland, St. Augustine, Crestview, Panama City. Jan. 26—Melbourne, Sarasota, Brooksville, Jacksonville, Pensacola, Ft. Walton Beach.

#### ALABAMA

Jan. 29—Montgomery, kickoff ceremony for Alabama. Jan. 30—Roanoke, Opelika, Selma, Tuscaloosa, Talladega, Anniston. Jan. 31—Phenix City, Eufaula, Demopolis, Jasper, Gadsden, Scottsboro, Feb. 1—Troy, Dothan, Jackson, Florence, Decatur, Huntsville. Feb. 2—Andalusia, Evergreen, Saraland, Cullman, Bessemer, Center Point.

The DAV, long noted as the voice of the wartime disabled, and recognized as having a single-purpose organization—that of providing service to veterans and their dependents—is proud to continue its record of innovative achievement through this Mobile Van Program.

We're enthusiastic and convinced of the results that will be accomplished through the program. We look forward to having the capacity to serve greater numbers of veterans and dependents by meeting with them in their local communities.

We would ask that you pass the word about the DAV Mobile Vans, and their schedules, particularly when one is scheduled near your community—and don't forget to wave to our dedicated DAV National Service Officers driving the Mobile Vans when you see them on the highway.

Yes, the "Drivers, start your engines" recorded at Columbia, S.C., January 7, 1974, will, indeed, represent another hallmark in the annals of the DAV National Service Program.

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### MEANWHILE . . . BACK AT HEADQUARTERS

(By Denvel D. Adams)

Just as this month's DAV Magazine front cover says . . . "The Vans Are Coming!"

And, on January 4th, the caravan of six 28-foot Field Service Units will roll out of National Headquarters in Cold Spring, Ky., toward Columbia, S.C., where they kickoff their nationwide, year-long tour on January 7th.

We at National Headquarters are tremendously excited about this project, which will carry our National Service Program out into the suburban and rural communities of America. We can all be proud of this DAV effort . . . because it is the first time that any veterans' organization has undertaken a program of such magnitude in behalf of members and non-members alike.

The logistics and coordination required to launch the state-by-state campaign of the Field Service Units has been going on for months. And, we have no doubt that changes in our methods of operation will become necessary from time to time, as we gain experience in the field.

Scheduling of the units . . . state-by-state, town-by-town . . . has been an extremely challenging task for the National Service Department. But, the job was accomplished, and we now have a schedule that is plotted to reach as many disabled veterans as possible outside of the major metropolitan areas.

In addition, it was necessary for us to take a standard production-line model of the GM motor van and convert certain features so each unit can truly serve as an "office on wheels." Closets and drawers have been outfitted for filing and storage of the many forms and materials that the National Service Officers will need in their contact with disabled veterans. We have installed a public address system and a rear-view movie projector in each unit, and all will be equipped with radio telephone systems.

We are prepared to saturate all newspapers, radio and television in each state with special publicity materials two weeks prior to the vans' appearance. Special poster reprints of this month's cover of DAV Magazine will also be distributed through National Service Offices, Departments and Chapters . . . with a space reserved on the poster to insert the date, community and exact location within the community where the vans will be located. In addition, the Highway Patrol Department in every state will be alerted by our Public Relations Department concerning the Field Service Unit visit.

Chapter members are encouraged to greet the vans when they arrive in their respective communities . . . and to help out whenever possible in assisting disabled veterans and their dependents to visit the units. However, it is urgently requested that DAVers not use the Field Service Units as informal meeting headquarters. Working space in the vans is extremely limited . . . and it must be reserved for the working NSOs on board and those who need their help. We are confident that members will respect this request, and thus, make it possible for the traveling service units to accomplish their purpose.

We cannot overlook the favorable public reaction that the Field Service Unit program should generate. In fact, this aspect alone makes the project one of the most important ever put together by the DAV. We look forward to your impressions . . . and that of your neighbors . . . after the Field Service Units have visited your community.

As most of you know, our by-laws prohibit the Blind Veterans National Chapter from engaging in fund-raising activities. This restriction places the BVC in the position of carrying out its various programs through the generosity of other Chapters whose members support the BVC activities. We hope that each of our Chapters throughout the country will give consideration to this worthy cause, and make provisions to help the Blind Veterans National Chapter throughout 1974.

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## OIL CRISIS: FACT OR FICTION?

Mr. KENNEDY. Mr. President, two investigative reporters for the Philadelphia Inquirer, Donald L. Bartlett and James B. Steele, have produced a second series of reports on the oil crisis which follows a similar effort last July that many of us saw and admired.

I want to call the attention of my colleagues to the recent analyses which cover not only the current levels of supply which raise serious question as to the magnitude of the immediate crisis, but also about the underlying actions of the oil companies during recent months.

I believe their effort constitutes an impressive example of journalistic excellence and I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THE PHILADELPHIA INQUIRER,
*Philadelphia, Pa.*

I would like to call your attention to the accompanying articles, a series of special investigative reports concerning the nation's enery crisis that The Philadelphia Inquirer has published over the last two months.

The articles are based on an exhaustive examination of records in more than a half-dozen states and several foreign countries and were prepared by James B. Steele and Donald L. Bartlett, an investigative reporting team. They were assisted by Susan Q. Stranahan, The Inquirer's federal court reporter, who coordinated research and reported from Washington and New England.

These articles follow a 12,000 word, three-part series published by The Philadelphia Inquirer last July on "Oil—The Created Crisis," which traced the underlying reasons for the nation's oil shortage.

GENE ROBERTS,
*Executive Editor.*

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### OIL: THE CRISIS AND THE FACTS

(By Donald L. Barlett and James B. Steele)

Despite an outpouring of proposed legislation and Presidential proclamations on energy matters, neither Congress nor the Nixon administration has come to grips with the two underlying problems that brought on the present oil shortage.

They are:

A serious lack of refinery capacity. With demand for petroleum products running about 17 million barrels a day (there are 42 gallons in a barrel), refineries in the United States can process fewer than 13 million barberls—a refinery capacity shortage of four million barrels a day.

A leveling off in production of crude oil in the United States and a decline in exploration activities. This despite the existence of huge oilfields still to be tapped, largely in offshore areas, Alaska and the Arctic region.

Only one major new refinery has been built in the United States since the late 1960s and plans for the construction of additional refineries, announced just several months ago by a number of oil companies, already have been shelved or construction dates pushed back.

But, at the same time that America's largest oil companies are suspending their refinery expansion projects in the United States because of alleged uncertainties in the world oil market, an independent New York oilman is forging ahead with a three-quarter billion dollar refinery-building program in Canada.

The oilman is John M. Shaheen, a onetime publicity director for the Illinois Republican Party who heads a closely held New York company called Shaheen Natural Resources Company.

Seven weeks ago, a new Shaheen refinery was dedicated in Newfoundland. Two weeks ago, Shaheen signed contracts for the construction of a second refinery in Nova Scotia. And site clearance has begun for a third refinery, also to be located in Newfoundland.

The three refineries have a planned total capacity of 600,000 barrels a day. When the second and third refineries are completed, Shaheen personally will have built more refineries in Canada than all the major American oil companies combined have built in the United States in the last five years.

Interestingly, during his negotiations with Canadian politicians in the 1960s, negotiations which ultimately led to the ambitious refinery construction projects, Shaheen was represented by Richard M. Nixon, then a Wall Street lawyer.

While the Federal Government has failed to tackle the issue of lagging refinery construction in this country, an Inquirer investigation has turned up some curious patterns in the Nixon administration's approach to dealing with the energy crunch.

Item. A mandatory fuel allocation program, to take effect Dec. 27, will come down hardest on those persons who already use a very small percentage of the petroleum products consumed daily—families who heat their homes with fuel oil.

Demand for petroleum products last year amounted to 16,354,000 barrels a day, according to the United States Bureau of Mines. Of that figure, 1,248,000 barrels a day—or 8 percent of total demand—consisted of the No. 2 heating oil used for residential heating.

Item. While the allocation program provides that families who use heating oil must turn back their thermostats or risk running out of oil (the elderly have been advised to take aspirin if affected by the chill), there is no provision requiring refineries to increase heating oil production.

Perhaps coincidentally, heating oil is one of the oil industry's least profitable products in the United States, a condition attributed by the oil companies to the administration's wage and price controls and other government policies such as the regulation of natural gas prices.

Item. Statistics maintained by the Bureau of Mines show that during four of the first eight months of this year—the latest period for which figures are available—the nation's oil companies produced a smaller percentage of distillate fuel oil, which include home heating oil, than during the same months in the preceding three years.

Last April, for example, as the nation was emerging from a season of spot fuel shortages, especially in the upper Midwest, distillate fuel oil consisted of 20.7 percent of the total products produced by refineries. During the same month in 1972, the percentage was 22.2. In 1971, it was 23.1 percent and in 1970 it was 22.3 percent.

Item. Statistics published by the American Petroleum Institute, the oil industry trade organization, show that this pattern in refinery production continued well into the fall despite clear signs of impending shortage.

An API refinery report for Sept. 21, 1973, shows distillate production was at 21.4 percent, down from 22.3 percent a year earlier. A refinery report dated Oct. 5, 1973, lists distillate production at 21.9 percent, down from 22.3 percent the previous year.

Item. Jet fuel, another small volume product, also was placed under the administration's mandatory allocation program. Airlines are scheduled to receive 15 percent less fuel than they used last year.

### 6 PERCENT OF TOTAL

Bureau of Mines data show that jet-fuel demand in 1972 amounted to 1,045,000 barrels a day—or 6 percent of total demand for petroleum products.

Item. While families must cut back fuel oil consumption by 15 percent and commercial users by 25 percent, the proposed reduction for gasoline is 10 percent below 1972 demand.

Gasoline, of course, is the single largest volume product turned out by the nation's refineries. Last year, demand for gasoline was 6,376,000 barrels a day—or 39 percent of total product demand of 16,354,000 barrels.

Item. There is some reason to be suspicious of all the oil shortage statistics floating out of Washington. That is not to suggest there is no shortage. There is. But there is some question as to the severity of the shortage.

For example, a fact sheet distributed by the White House last Sunday, when President Nixon delivered a nationwide address announcing the mandatory fuel allocation program, lists the current demand for petroleum products at 18.6 million barrels a day, rising to 19.7 million barrels in the first quarter of next year.

That means the Nixon administration has planned a larger increase in demand during the coming months than at any comparable time in the past three years.

For—while demand for petroleum products runs stronger during the first and fourth quarters—the 19,700,000 figure represents a jump in demand of 8 percent from the same quarter of this year.

Demand for the first quarter of 1973, for example, was up 5 percent over 1972, and 1972 first quarter demand increased 6 percent over 1971.

In an article published last July 30, the Oil and Gas Journal, the industry trade publication, estimated that 1973 demand would average 17,355,000 barrels a day—a 6.1 percent increase over 1972.

An Inquirer analysis of Bureau of Mines date produced just about the same figures as those arrived at by the Oil and Gas Journal.

During the first six months of 1973, demand was running at an average of 17,286,000 barrels a day, compared with 16,304,000 barrels during the same period in 1972—an increase of 6 percent.

The demand figure (19,700,000 barrels) as set by the Nixon administration's oil policy experts is important because it is the figure used to calculate desired cutbacks in consumption.

Thus, the planned reductions in home heating oil, and fuel oil for commercial and industrial use, as well as jet fuel, all are tied to this demand figure.

But statistics on supply and demand, like all oil statistics used by the federal government, have but one certainty: Each and every figure is derived from a single source—the American oil industry.

And therein rests still another disturbing aspect of the current energy crisis. There is no government agency that either verifies data furnished by the oil industry, or collects the information independently.

This means the mandatory allocation program now being put into effect, and the gasoline rationing expected to follow, are based on information supplied by the oil idustry itself—without any verification.

In fact, the oil industry has even discouraged attempts by the Bureau of Labor Statistics to collect some of the same kinds of statistics the agency gathers from other businesses and industries.

The significance of the government's failure to collect oil industry data was spelled out in a three-part, 12,000-word series of articles published by The Inquirer last July, entitled "Oil—The Created Crisis."

Based on a two-month, nationwide investigation, and the assembling of a wide range of statistical material from a variety of sources, The Inquirer established that the energy shortage was brought on by long-term policy decisions made by the oil companies and a series of administrative blunders beginning in the Eisenhower administration and continuing through the Kennedy, Johnson and Nixon administrations.

In a report released last month a Congressional investigation committee published essentially the same findings documented by The Inquirer.

These findings run contrary to the claims of both the oil industry and the Nixon administration that an energy-guzzling American public is to blame for the oil shortage.

### U.S. OUTSTRIPPED

Indeed, the Inquirer survey found that the percentage growth in energy consumption in Europe and Asia has far outstripped that in the United States over the last two decades.

And to meet that growing demand, the five, major multinational American oil companies, over the last 20 years, have been concentrating their operations overseas, drilling and producing oil abroad, constructing their refineries around the world.

As result, the United States is just another market—and not necessarily the largest—for these five companies—Exxon Corp., Mobil Oil Corp., Texaco Inc., Gulf Oil Corp. and Standard Oil Company of California.

Last year, for every barrel of oil these five companies sold in the United States, they sold nearly two barrels in other countries. Twenty years ago, the bulk of the sales of the five companies was in the United States.

For example, Exxon Corp., the world's largest oil company, sold 5,701,000 barrels of petroleum products every day last year.

Of that total, just 1,730,000 barrels—or 30 percent—were sold in the United States, or 3,971,000 barrels, were sold in foreign countries.

Mobil Oil Corp. sold 2,409,000 barrels of petroleum products daily last year. Sales in the United States amounted to 1,004,000—or 42 percent of total sales—while sales outside the United States were 1,405,000 or 58 percent.

This trend, which has been developing over the last two decades, is especially important now, and not just because of oil shortages in the United States.

Because prices for petroleum products are running two to three times higher in Europe and Asia than in the United States, it is more profitable to sell overseas.

To keep their supply sources close to the expanding markets, the five companies not only drilled for oil overseas but built their refineries across Europe and Asia.

Last year, the five companies processed 31 percent of their crude oil at refineries in the United States, 69 percent in other countries.

With worldwide refinery runs of 5,146,000 barrels a day, Exxon Corp. processed 1,029,000 barrels—or 20 percent—in the United States. The remaining 80 percent (4,117,000 barrels) was refined outside this country.

Although a lack of refinery capacity is one of the root causes of the energy crisis in the United States, this winter's fuel oil shortage has been aggravated by refinery operating practices and an indifferent federal government.

Europe and Asia, which have sufficient refinery capacity but little crude oil of their own, are more affected by the Arab oil embargo than the United States, which last year obtained only 2 percent of its crude oil from the Mideast.

### VARIETY OF PRODUCTS

A refinery converts a barrel of crude oil into a variety of products—from home heating oil and residual fuel to gasoline and kerosene and asphalt. Set percentages of each product are turned out from a barrel of crude oil.

The refinery revises these percentages of the seasons, and demand economic conditions change, producing more heating oil in the winter months, more gasoline in the summer months, all the time trying to keep a sufficient reserve of all products.

While there was abundant evidence last summer that there would be fuel oil problems this winter, refineries produced record volumes of gasoline at the expense of fuel oil.

Last June, on the eve of what was billed as the great gasoline shortage of 1973, gasoline represented 48.4 percent of the total products being turned out by refineries. This compared with a production rate of 45.8 percent a year earlier.

While the summer days slipped by, early prophecies of motorists stranded on turnpikes and interstate highways, unable to buy gasoline, went unfulfilled as refineries churned out more and more gasoline.

The record production prompted The Wall Street Journal on July 2, in an article headlined "The gasoline shortage cases as U.S. refiners step up their output," to observe that:

"Refiners are demonstrating that, barring breakdowns or an interruption in the flow of crude, they can handle the demand."

The Journal added: "Because they can sell every drop they can make, few refiners are likely to be in any hurry to begin reducing gasoline production."

And that is what happened. With gasoline selling at a more profitable level, refiners continued turning out gasoline rather than heating oils.

A few percentage points may seem like a slight difference, but over a year's time, a change of a single percentage point can represent an increase or decrease of more than 43,000,000 barrels of a particular product.

While all of this gasoline was being produced last summer, federal officials were sitting by, hoping for warm weather this winter and insisting that a mandatory fuel allocation program was unnecessary.

In September, former Colorado Governor John A. Love, the White House energy chief, noted that "the situation for this winter is very tight, although it is difficult to forecast because of the variables."

During the same month, President Nixon discounted any talk of an energy crisis. Said the President: "We have heard a lot about a crisis. I do not use that term because we do not face a crisis in that sense of the word.

"I would simply say that in the short term, we face a problem with regard to energy, heating for example, this winter, just as we thought we faced a problem of gasoline this summer, and the possibility of brownouts."

### POLITICIANS ASSURED

Meanwhile, Love was assuring New England politicians that there would be adequate supplies of fuel oil for the coming winter, as long as the weather didn't turn especially cold.

In August, Love suggested that it might be a good idea if refiners increased their output of heating oils—a proposal largely ignored—and in the weeks that followed he continued to insist that a mandatory allocation program was not needed, a position the administration adopted early in the year. Said Love:

"(The administration is) extremely wary of the ramifications and potential risks of a mandatory petroleum allocation system and (did) not believe that the current supply situation or other industry problems warrant use of such a system as a remedy at this time."

The administration was still clinging to this position in October, when Stephen A. Wakefield, an assistant Department of the Interior secretary predicted there could be heating oil shortages with some resultant hardships.

Explaining what he considered as hardship to be, Wakefield said:

"I am talking about men without jobs, homes without heat, children without schools. That is what I mean by hardship."

More weeks went by until finally last Sunday President Nixon reversed positions and announced his mandatory allocation program, a Washington term for rationing.

The fuel oil allocation program has been pictured by Washington officials as the lesser of two evils—a choice between personal inconvenience and discomfort rather than industry shutdowns and job losses. But the choice really isn't quite that clear.

Thomas F. Field, a former attorney-adviser in the Treasury Department's Office of Tax Legislative Counsel, and now executive director of Tax Analysts and Advocates, a public interest law firm in Washington, puts it this way:

"No matter how much within reason we restrict home heating oil consumption, we will restrict some industrial consumption this winter.

"There clearly is going to be a downward effect on industrial activity. Anybody who says turning down thermostats is going to prevent a downturn in industrial activity is just whistling Dixie."

### THE OPTIMUM WAY

Field believes, as do many other economists, that the energy shortage is not going to be resolved until prices are allowed to rise substantially. "The only thing that's going to reduce consumption is an increase in price," he said.

"The price of home heating oil ought to rise. That's the optimum way to solve the problem. The reason we're producing more gasoline is that it is more profitable.

"If the home heating oil price goes up," says Field, "production will go up. "If No. 2 oil is unprofitable, you can't expect oil companies to produce it."

The Inquirer, in its series last July, pointed out that fuel oil shortages could be expected this winter and gasoline shortages again next summer.

That pattern probably will continue for the next several years, until refinery capacity is expanded and oil production is increased in the United States and the Western Hemisphere generally.

To show that the industry is beginning to catch up on the refinery construction lag, the Office of Oil and Gas of the United States Department of the Interior has compiled an impressive chart showing the location of proposed refineries and the dates they will be completed.

The four-page chart, which breaks down construction by different sections of the country, lists a total of 18 new refineries with a capacity of 2,440,000 barrels a day as well as refinery expansion programs.

There is a footnote cautioning that 10 of the 18 refineries (capacity 1,330,000 barrels) are "projects which are uncertain or in very early stages of planning."

And how did the Office of Oil and Gas come by these statistics?

"This is information we picked up from various sources," said an Interior Department official, "from trade journals (of the oil industry) and from some of the companies themselves."

How is construction going with some of the eight refineries that are slated to be in operation sometime between 1974 and 1977.

The Interior Department reports that a Shell Oil Company refinery with a capacity of 150,000 barrels a day will be in operation in Paulsboro, N.J., sometime in 1977.

A Shell Oil Company public relations official, asked when the refinery would be operational, said:

"I wish I could tell you. We're still trying to get permits. There's no definite time for completion." He said that it will take about four years to build the refinery so even a 1978 or 1979 completion date is "optimistic."

"We don't have any permits," he added, "and the environmental impact statement hasn't even come through yet."

### OFFICIALS UNDECIDED

In another case, the Interior Department reports that a Pennzoil Company refinery with a capacity of 150,000 barrels a day will be in operation in Pascagoula, Miss., sometime in 1976.

A Pennzoil Co. official, asked when the refinery would be operational, said:

"About a year (ago) we had obtained option on land in Pascagoula as a possible plant site. But we have looked at land in Louisiana as well as land in Mississippi and frankly have not made up our minds as what the best location would be.

"We're torn between Pascagoula and a site on the Mississippi and we are giving some thought to the Gulf Coast in Texas. Needless to say, the Mideastern war has raised serious questions about our ability to continue with this project."

That's the way it goes with government statistics on the oil industry. The situation is not new.

A Congressional investigating committee once urged that a government agency be empowered to collect data "so that any time the exact condition of the industry can be ascertained." That was back in 1923.

Last June 4, 50 years later, Sen. Henry Jackson (D., Washington), made a similar recommendation, telling his Senate colleagues that Congress needed to have "objective facts" on the oil industry:

"I hope we will have something introduced shortly, probably giving this authority to collect the data to the General Accounting Office, to marshall all the facts and the information so that we can get it on the basis of sound data, objective facts," Jackson said.

Now, with many of the essential statistics lacking, the federal government, or more particularly the Office of Petroleum Allocation (OPA), is getting ready to administer a fuel oil allocation program.

Last week the OPA staff was just getting settled into its new office in the Winder Building in Washington, the former headquarters of the Office of Emergency Preparedness.

It was from this building in the fall of 1972 that OEP conducted a survey of the nation's energy needs and announced that there would be no fuel oil problems and that the oil industry was capable of meeting demand.

A few months later, fuel oil shortages developed in New England and the upper Midwest, forcing school closings and the tanking of fuel oil from Canada down into Minnesota.

Taped to the wall in the office of a petroleum allocation official, there are, appropriately, two Exxon Corp. advertisements from the Wall Street Journal.

### NO IMMEDIATE RELIEF

The advertisements read in part: "What you do to save energy is what counts now. This country's energy problems have gotten worse. And there's no immediate relief in sight."

The OPA official, working in shirtsleeves, is explaining the cutbacks in fuel oil deliveries and how the program will be administered and how the agency will keep tabs on supplies:

"Every month they will have to submit forms to us saying how much fuel they have on hand and things like that. The forms are supposed to be coming in right now."

And who are "they"?

"Basically, the major oil companies and the independent oil companies."

And just how will the program work for the average family which heats its house with fuel oil?

"There's a mandatory reduction on the inside temperature of six degrees. The wholesale distributor is really responsible for this.

"He takes the current daily temperature and according to his records he should be able to figure out how much his customers should be using based on the six-degree reduction and then he supplies the customer accordingly.

"So in other words, if the thermostat is set at 72 degrees, it has to be turned back to 66 degrees," says the official, adding "which reminds me, before I catch cold I'm going to put my jacket on."

But how does the fuel oil dealer calculate a six-degree reduction?

"I don't know how these things work," says the OPA official. "Don't use my name. Just quote a department spokesman. But the distributor knows he delivered 1,000 gallons last winter and by reducing the temperature six degrees he subtracts X number of gallons from that."

Up in Ellsworth, Maine, in a state heavily dependent on fuel oil, Jack Gledhill of the Hancock Oil Company, doesn't share the OPA official's confidence in his ability to convert six degrees on a thermostat into a reduced fuel oil delivery.

"Geez, that's a job alright," says Gledhill.

Gledhill and Basil Simpson of the Webber Oil Co. in Bangor, Maine, told Inquirer reporter Susan Q. Stranahan that they try to provide every customer with a 75-gallon emergency reserve in the event future deliveries are delayed because of snow or reduced oil supplies.

It will be from that 75-gallon reserve, Simpson and Gledhill said, that the 15 percent reduction in home heating oil will be made.

John Carlisle, manager of Webber Tanks Inc., an independent fuel oil distributor of Bucksport Maine, is pinning his hopes on continued mild-weather.

"If the weather continues as it is, we've got a chance to squeak through," said Carlisle.

In Machiasport, Maine, Gilbert E. Hanson, the retired Machiasport postmaster, is philosophical about the fuel shortage.

"You hear that chain saw?" he asks a reporter. "That's the oil shortage. He's got seven cords cut already and he plans to cut a lot more. He won't be cold."

### SELECTED IN 1960

It was back in the late 1960s that Machiasport was selected as the site for a 30,000-barrel-a-day refinery by the Occidental Petroleum Corp., then considered somewhat of a maverick in the oil industry.

Occidental planned to process foreign crude oil in the refinery, but because of the mandatory import controls in effect at the time needed a special exemption from the Federal government.

The other major oil companies opposed the refinery, saying it would give Occidental an unfair competitive advantage, and the project subsequently was scrapped by the Nixon administration.

Hanson is philosophical about that, too.

"It's been blamed on several people high up in politics—high cabinet people in the politics—high cabinet people in the Johnson and Nixon administrations. Oil has played a big part in the last four administrations."

A Colorado politician was one of those who journeyed to Washington in the Fall of 1968 to testify at hearings being held to determine whether the Machiasport refinery should be built.

He vigorously opposed the refinery because it would, he said, delay the development of huge oil shale deposits in his home state.

That Colorado politician was John A. Love, now President Nixon's energy czar. As for the shale oil deposits, they remain to be developed.

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### U.S. Firms Exaggerate Effects

(By Donald L. Barlett and James B. Steele)

Key officials in the Nixon Administration—aided by the major oil companies—are exaggerating American dependence on Arab oil and the effects of the Middle East oil embargo.

The exaggerations have tended to obscure the fact the United States would be experiencing an energy crisis even without the Arab oil boycott.

Contrary to a barrage of publicity from federal officials, the United States receives only a small percentage of its petroleum supplies from Arab nations.

In fact, the very same fuel oil shortages that exist today would have existed even if Arab oil was flowing without any restrictions. The same is true of the gasoline shortages that will follow next year.

Just how little this country depends on Arab oil is reflected in a variety of statistics compiled by The Inquirer from data prepared by the United States Bureau of Mines and the British Petroleum Co., Ltd.

During 1972, for example, the United States received an average of 562,000 barrels a day of crude oil and refined petroleum products directly from Arab countries—or 3 percent of the nation's daily demand of 16,354,000 barrels. A barrel contains 42 gallons.

Additional Arab oil was refined in other countries and the products ultimately shipped into the United States. This was especially true of the Caribbean area and such countries in Europe as Italy and Belgium.

There are no precise figures on the amount of Arab oil used in these products, but a reasonable and liberal estimate, based on available refinery data, would place the total at about 368,000 barrels a day.

That would bring the overall volume of imports of Arab crude oil, as well as petroleum products made from Arab crude oil, to 930,000 barrels a day—or 6 percent of the nation's daily demand.

Even though Arab oil imports rose steeply during the first six months of this year, that increase, projected for the year, still would leave Arab oil accounting for only 7 percent of the nation's petroleum needs.

When viewing the statistics from the Arab standpoint, there is an even sharper focus on the distribution of Middle East oil.

Last year, the Arab countries produced about 12,325,000 barrels a day, of which 930,000 barrels—or less than 8 percent—came into the United States.

The remaining 92 percent of Arab oil went largely into Europe and Asia, and that is why countries like the Netherlands and Japan are especially hard hit by the Arab production cutbacks.

These figures contrast sharply with those being tossed out by key federal oil policy officials in Washington and even President Nixon himself.

In a nationwide television address on Nov. 25, when he announced implementation of a mandatory fuel-oil-allocation program, President Nixon said shortages "could run as high as 17 percent." That would be about 3,000,000 barrels a day.

Speaking of the effects of the Arab oil embargo, the President declared:

"When I spoke to you earlier (in November), I indicated that the sudden cutoff of oil from the Middle East had turned the serious energy shortages we expected this winter into a major energy crisis."

But such is not the case, according to findings documented by The Inquirer into the underlying reasons for the oil shortage and the way both the federal government and the industry are handling the problem.

As The Inquirer disclosed last summer in a three-part, 12,000-word series on "Oil—The Created Crisis," the present petroleum product shortages in this country can be traced to a hefty lack in refinery capacity.

The failure to build new refineries—the shortage in refinery capacity now is running upward of 4,000,000 barrels a day—was accompanied by a general decline in the domestic oil industry.

In recent years, the difference between the country's demand and available refinery capacity has been made up largely of imports of finished petroleum products from Canada and the Caribbean area.

The industry's present inability to meet the country's needs stems directly from policy decisions made by the federal government and the major oil companies, which have been concentrating their producing and refining and marketing operations in foreign countries over the last two decades.

### CONFLICT OF INTEREST

Why, then, all the emphasis on the Arab oil shutoff by the Nixon administration and the oil industry when the United States receives only about 7 percent of its petroleum supplies from the Arab countries?

One possible explanation is that there exists a potentially, serious conflict of interest between the petroleum needs of the United States and the financial security of at least several large American oil companies.

The reason is this: The five largest multinational oil companies have invested billions of dollars in their oil operations in Arab countries. These companies are Exxon Corp., Mobil Oil Corp., Texaco Inc., Gulf Oil Corp. and Standard Oil Co. of California.

In addition to their direct investments in the Arab countries, these same five companies have spent more billions building refining and marketing systems throughout Europe and Asia to sell products made from Arab crude oil.

Thus, while the United States is not dependent on Arab oil, European and Asian countries are. And so are the multinational American oil companies that rely on Arab oil to supply their markets in those countries.

That is why several of the large American oil companies, beginning last summer, urged the United States government to bring pressure on Israel to reach a Middle East peace agreement and keep the Arab oil flowing.

Consider just a few of the statistics:

Gulf Oil Corp., the nation's fourth largest oil company, has about 79 percent of its worldwide crude oil reserves located in the tiny (pop. 830,000) Arab state of Kuwait on the Persian Gulf. The company produced 1,569,100 barrels of oil daily last year in Kuwait, 786,600 barrels in both North and South America.

Exxon Corp, has investments of $4.8 billion in the eastern hemisphere, much of it in property, plants and equipment either in Arab states or in countries dependent on Arab crude oil. Of the 5,701,000 barrels of petroleum products sold daily last year by the world's largest oil company, 2,950,000 or 52 percent, were sold in Europe, Asia and Africa.

Texaco Inc. has crude oil reserves totaling about 30 billion barrels in the Middle East, or 80 percent of its worldwide reserves. The third largest oil company processed 1,314,000 barrels of crude oil a day—the bulk of it from Arab countries—in refineries across Europe and Asia. In the United States, the company refined 1,012,000 barrels a day.

Standard Oil Co. of California produced 2,555,306 barrels of crude oil a day last year in the eastern hemisphere, again much of it in Arab countries. The figure represents 81 percent of the company's total daily crude oil production of 3,159,530 barrels. The company, the fifth largest in the country, has an interest in more than three dozen refineries in the eastern hemisphere which rely heavily on Arab oil.

Mobil Oil Corp., the country's second largest oil company, produced 1,911,000 barrels of crude oil daily last year. Of that amount, 791,000 barrels, or 41 percent, were produced in Arab countries. The company sold 1,291,000 barrels of petroleum products daily across Europe, Asia and Africa, or 54 percent of the company's total worldwide daily sale of 2,409,000 barrels.

It should be emphasized that it has been a long-standing policy of the international oil companies to sell most crude oil produced in the Arab states, as well as elsewhere in the eastern hemisphere, in Europe, Asia and Africa—not the United States.

That means that most Arab oil was never intended for the United States—embargo or not.

That policy was spelled out way back in September 1947, when then Standard Oil Company of New Jersey (now Exxon) entered into a secret agreement with the Anglo-Iranian Oil Co. (now British Petroleum Co. Ltd.)

The agreement, one of several signed during the late 1940s by the major international oil companies, effectively carved up the markets and staked out territorial rights in the eastern hemisphere for these companies.

The Standard Oil Company of New Jersey (Exxon) contract carried a clause that stated:

"It is, however, buyer's (Standard) intention in entering into this agreement to use oil receivable by buyer here under in supplying buyer's business in Europe (including the British Isles), North Africa (including the whole of Egypt), and West Africa."

During negotiations with the British oil company, a Jersey Standard official stated:

"I told Basil (B. R. Jackson of Anglo-Iranian) that so far as crude oil deliverable by pipeline was concerned, it was for the purpose of helping to supply the requirements of our total business in the European and North African countries."

More than two decades later, on May 22, 1969, this policy of foreign oil for foreign markets was affirmed by another Standard Oil Co. of New Jersey official, M. A. Wright, now chairman and chief executive officer of Exxon Co., U.S.A.

In an appearance before the Senate Antitrust and Monopoly Subcommittee, Wright declared:

"I think the important thing to you gentlemen is that, in a company like Jersey, the foreign production that is developed is primarily for the purposes of supplying foreign markets.

"We do not develop crude on the outside of the United States primarily to supply markets inside the United States. Now, this I think is something that many people do not quite understand."

### UNITED STATES PAID OFF SHEIKS

There are several interesting footnotes to the multibillion dollar investments by the international oil companies, not only in Arab countries but throughout Europe, Asia, and Africa.

The American taxpayer over the years has subsidized the foreign operations of the oil companies through a variety of tax allowances and benefits. For example, the oil industry deducts from its United States taxable income the same 22 percent depletion allowance for oil produced in Arab countries that it deducts for oil produced in the United States—even though the Arab oil is intended for sale abroad.

Even more beneficial was a private ruling issued by the Internal Revenue Service (IRS) in the early 1950s which had the practical effect of enabling the oil companies to convert royalty payments to Arab rulers into foreign taxes, allowing a foreign tax writeoff, dollar for dollar, against income taxes they owed in this country.

During 1970, the latest year for which complete figures are available, the depletion allowance—for oil produced in this country and abroad—provided deductions totaling $2.9 billion for the oil industry, the foreign tax credit allowed writeoffs of $1.3 billion. With spiraling prices on Arab and other oil, as a result of increased taxes and royalties, these writeoffs will climb sharply next year.

Even with all these tax benefits and a private IRS ruling not available to other businesses and industries operating abroad, several of the international oil companies, The Inquirer has established, substantially underreported the federal income taxes they owed during the 1960s.

An intensive IRS audit, which was to become known as the Persian Gulf audit within IRS and the Treasury Department, resulted in what has been described as the largest deficiency assessment ever levied by IRS.

The audit, as is the case with all IRS audits, was carried out in secrecy. And after lengthy and secret negotiations during the late 1960s, a settlement was reached to pay a percentage of the back taxes that the IRS said were owed.

### FIRST AND LAST AUDIT

Because of the secrecy surrounding the audit, the exact figures are unknown. But a former Treasury Department official told The Inquirer the IRS assessment was for about a half-billion dollars and the oil companies finally paid approximately $300 million.

One of the irregularities the audit turned up, the former Treasury Department official said, was an oil industry practice of using an inflated figure as the cost for producing a barrel of crude oil, thus increasing the value of depletion allowance, which is calculated in that per barrel cost.

Curiously, the Persian Gulf audit was the first and last audit of its kind ever made involving the business practices of American oil companies operating abroad.

One reason for this, put forth by the former Treasury Department official, is that the oil industry is so complex, and the overall rate at which oil companies pay taxes so low, that the additional taxes collected are not worth the manpower needed to make an exhaustive audit that may take several years to complete.

In any case, one of the problems encountered by the IRS auditors, according to a government official familiar with the case, was a lack of basic data relating to oil industry costs. There is similar lack of information concerning other phases of the oil industry.

As The Inquirer has disclosed previously, there is no government agency authorized to collect and verify data concerning the operations of oil companies—a condition which has aggravated the nation's energy problems and precluded the formation of any meaningful national energy policy.

As has been the case since the first oil well was drilled, all government oil policies—including the current mandatory fuel-oil-allocation programs—are based solely on unverified data furnished by the oil companies.

To further compound the problem, an assortment of government agencies with no particular expertise in oil matters—from the Treasury Department to the State Department—are churning out their own sets of statistics in response to the energy crisis.

That explains in some measure the conflicting figures federal oil policy officials toss out concerning not only the extent of the oil shortage but the effect of the Arab oil embargo.

Speaking on United States dependence on Arab oil, Duke R. Ligon, director of the Office of Oil and Gas in the Interior Department, told a United States House subcommittee on the merchant marine last Oct. 10:

"There will be an increasing reliance on Middle East oil. In 1970 we imported only 185,000 barrels a day from that source or only 1 percent of our consumption. We project that by 1975 we will be importing over 2,000,000 barrels a day from the Middle East."

### HOW FIGURE VARIES

Less than two weeks later, on Oct. 22, figures released by Stephen A. Wakefield, another Interior Department official, showed that the United States had just about reached the 2,000,000 barrel a day of imports projected for 1975.

Wakefield, assistant secretary for energy and minerals in the Interior Department, told the annual meeting of the Independent Petroleum Association of America in Houston:

"When you include our purchases of refined products made from crudes originating in these areas (Middle East and North Africa) we are now importing 1,750,000 barrels a day of oil from this region."

A little more than two weeks later, a third government agency, the new Energy Policy Office, reported imports of 1,200,000 barrels a day—a decline of 550,000 barrels from the figures released Oct. 22.

In an environmental-impact statement published Nov. 7, the Energy Policy Office—created specially by the White House to solve the energy crisis—reported:

"Last year America imported about 400,000 barrels of Middle Eastern oil a day. Data from the Bureau of Mines reports indicate that this figure has jumped 200 percent this year to 1,200,000 barrels a day."

But two weeks later, on Nov. 14, another government official, Julius L. Katz, was again putting Arab oil imports at 1,700,000 barrels.

Katz, deputy assistant secretary of state for international resources and food policy, told a House Committee on Interstate and Foreign Commerce:

"Prior to the imposition of the Arab boycott, the United States was importing about 6,300,000 barrels per day, of which the Arab producers furnished 1,700,000 in direct shipments of crude oil and products refined from Arab oil in third countries."

By Nov. 29, the loss of crude oil imports as a result of the Arab boycott had soared to between 2,500,000 and 3,000,000 barrels a day, at least according to the calculations of George M. Bennsky, another State Department official.

Testifying before a House Foreign Affairs subcommittee, Bennsky, director of the Office of Fuels and Energy in the State Department, reported:

"Taken altogether the Arab oil boycott will deprive the United States of between 2,500,000 and 3,000,000 barrels a day of oil this winter or up to 17 percent of our estimated winter demand of 18,500,000 barrels a day."

What with all the apparent confusion among those federal officials responsible for resolving the energy shortage, it is little wonder the problem has spawned a wave of near-hysteria stories on television and radio and in the newspapers and newsmagazines ranging from how much oil can be saved by turning out Christmas tree lights to a war against the Arabs.

### PREMATURE WORRIES

In Philadelphia, a radio talk show host invited his listeners to voice their opinions as to whether the United States should mount an invasion against the Arabs if they persisted in maintaining the boycott.

Even Time Magazine, in its Dec. 3 issue, raised the question of military intervention, stating:

"Unhappily, the one countermeasure that would be effective would be invasion and occupation of the Arab oil fields. The United States could easily defeat the Arab armies, and though the Arabs would probably blow up the wells, the technology of oil production in the desert is so simple that the United States could get some oil flowing again."

And Newsweek magazine, in its issue on the same date, observed:

"Secretary of State Henry Kissinger spoke openly but vaguely of possible retaliation against the boycotting Arab states. Most people thought he meant economic countermeasures, but some people spoke wildly of military action."

Shortly after the Arab boycott was announced in mid-October, Time magazine forecast the possibility of dire consequences for the United States, Europe and Japan. Time wrote:

"That oil squeeze could easily lead to cold homes, hospitals and schools, shuttered factories, slower travel, brownouts, consumer rationing, aggravated inflation and even worsened air pollution."

While all of this may come about in Europe and Japan—which rely heavily on imports from Arab states—the boycott itself never would have brought on all those calamities in this country.

### UNITED STATES DOESN'T KNOW

The popular predictions of assorted national disasters brought on by the Arab shutoff seem to grow naturally out of the inflated statistics tossed around casually by the federal government's oil policy authorities.

While it is possible to come up with reasonable estimates of the amount of crude oil imported into the United States directly from Arab states, such is not the case when it comes to computing the volume of products refined in other countries from Arab crude oil and then shipped here.

The federal government never has been much interested in charting the flow of international oil and, indeed, the Bureau of Mines has had only one minerals specialist assigned to the task.

As for the data available from foreign countries, it is even more sketchy than that for the United States. And naturally the information is not subject to independent checks.

Then, too, refineries may receive crude oil from a half-dozen different countries. The oil is pooled for refinery runs and the gasoline, home heating oil and other products turned out actually are derived from both Arab and non-Arab oil.

How then does the Interior Department come by its refinery statistics?

Largely from the oil companies themselves, an Interior Department official acknowledged, adding: "We try to pick up statistics wherever we can. But you can guess to a degree."

And that is still another reason for all those conflicting figures coming out of Washington.

Although the Bureau of Mines maintains data on the source of crude oil going into refinery centers in the Carribbean area—which accounts for a sizable volume of United States imports—the information from elsewhere around the world is vague.

In some countries, like Israel and South Africa, oil statistical material is considered secret. Countries like Iran, a major oil producer, do not publish information showing the final destination of all of their exports.

There are reasons for all this secrecy. Iran, for example, which borders the Arab state of Iraq, for years has been sending oil around Arab lands into Israel. Neither government wants to acknowledge the shipments.

But the figures the Bureau of Mines has pulled together for the Caribbean area—the single largest foreign supplier of finished petroleum products to the United States—at least offer some indication of the amount of Arab oil included in refined products that are imported.

During 1971, the most recent year for which figures are available, a refining complex in the Netherlands Antilles received 751,000 barrels of crude oil daily from at least six different sources.

The largest supplier was Venezuela, which shipped in 613,000 barrels a day, or 81 percent of the refinery center's total input.

Other crude oil came from Brazil, Gabon and Nigeria. And there were 33,000 barrels a day that came from some unaccounted-for source.

Only 5,000 barrels a day, or 1 percent of the oil the refinery complex received daily, was shipped from an Arab country, in this case Libya.

### WHAT COULD BE DONE

At another Caribbean refinery center, this one in Trinidad, the shipments of Arab crude oil were much higher. The center received 293,000 barrels of crude oil daily, of which 154,000 barrels, or 53 percent, originated in Saudi Arabia and Libya.

The remaining 139,000 barrels a day came from eight different countries—Venezuela, Iran, Angola, Gabon, Indonesia, Brazil, Colombia and Nigeria.

But while Arab crude oil accounted for 53 percent of the crude oil sent to the refinery center, the United States imported only 217,000 barrels of petroleum products a day, or 54 percent of the refinery's total production.

And therein rests another fascinating aspect of the Arab boycott: The multinational American oil companies play a major role in policing the oil embargo for the Arabs.

For in theory, at least, the Trinidad refinery center could take the non-Arab crude oil, refine it and export the finished products to the United States.

It then could take the Arab oil, process it and ship the refined products elsewhere around the world, to those countries not under the Arab embargo.

There is, though, another way in which the international oil companies control the worldwide flow of oil, and that is through their huge tanker fleets.

If the companies were so disposed, and if the Arab cutoff had created truly serious problems, then tankers carrying Arab oil could be directed to those refining centers producing petroleum products for countries not under the embargo.

Similarly, tankers carrying non-Arab oil could be steered to refining centers processing crude oil for distribution in the United States.

But the trading off of oil shipments can work both ways. If the multinational oil companies wanted to emphasize American dependence on Arab oil, then tankers carrying Arab oil could be directed to refining complexes that normally would use non-Arab oil.

Last year, the largest exporter of crude oil and petroleum products to the United States was Canada. The second largest exporter was Venezuela.

In fact, these two countries accounted for imports of 2,068,000 barrels daily—or well over twice as much as the United States received from Arab countries.

But such is not the case with America's five largest international oil companies, which last year produced well over 6,000,000 barrels of crude oil daily in Arab countries.

A Bureau of Mines official told The Inquirer that although the figures for the Caribbean refineries are for 1971, and the volume of oil processed has changed, there is no reason to believe that the percentages of distribution have changed.

He said a survey of the 1972 operations of a Virgin Islands refinery complex showed about the same percentage of crude oil imports by country as in 1971.

### REASON FOR SITUATION

With all of the talk about American dependence on Arab oil, it is important, perhaps, to keep a few other statistics in mind.

The growing bind the American oil companies now face in the Arab world is the result of some two decades of multibillion dollar expansion of the Middle East oil reserves.

It was during the early 1920s, when the United States once before feared it was exhausting its domestic oil reserves, that the federal government urged major oil companies to obtain oil reserves in foreign countries, including the Middle East.

A worried Herbert Hoover, then Secretary of Commerce, met with oil industry leaders on August 16, 1921, in Washington and stressed the need to obtain secure sources of foreign oil under the control of American companies.

"Unless our nationals reinforce and increase their holdings abroad," Hoover said, "we shall be dependent upon other nations for the supply of this vital commodity within a measurable number of years . . . We must go into foreign fields in a big way."

Aided by the United States State Department, the oil companies had soon done just that.

The department conducted extensive negotiations with the British, who already had a foothold in Iran where oil was discovered in 1908, to open the door for American companies to explore for oil around the Persian Gulf.

Even so, a glut of oil discoveries in the United States in the 1920s and 1930s dampened interest in the Middle East as American companies were hard-pressed to sell all the oil they had found back home.

American companies reported major oil discoveries in Kuwait and Saudi Arabia in 1938, but it was not until after World War II that production began to rise dramatically, from roughly 700,000 barrels daily then to 12,300,000 daily by 1973.

Once again in the 1940s, as it had in the 1920s, the State Department played an active role in encouraging the multinational oil companies to secure more foreign oil holdings.

After the war, the oil companies made a fundamental shift in their worldwide distribution system of crude oil due to rising production in the Middle East. Increasingly, they shifted that oil into Europe, a market that previously was served by oil from the United States and Venezuela.

Since then, of course, Arab oil has played an even greater role in the economies and life of European nations, with the oil companies investing billions of dollars to supply their growing market there and in Asia. Much of the development has come at the expense of the United States.

In the case of Exxon Corp., for example, the company increased its already sizable reserves in the Middle East and Africa, mostly in Arab states, from 4 billion barrels in 1963 to 34 billion barrels in 1972.

At the same time, Exxon's United States reserves increased only slightly, from 5.1 billion barrels to 5.5 billion. Such figures help explain America's slide from self-sufficiency.

But the explanation as to why the multinational oil companies have continued to explore and develop the oil reserves of Arab states while ignoring other regions is found in the nature of the oil industry itself.

The oil industry has a herd instinct, not unlike the 19th century gold rushers who flocked to the Yukon and California in search of a quick fortune.

"It's not really a very sophisticated industry," said Donald L. Campbell, a vice president of J. C. Sproule and Associates of Calgary, Canada, a geological consulting firm. "It has a follow-the-leader psychology."

Campbell said substantial exploration was under way in Canada's lower Mackenzie Valley above the Arctic Circle in the late 1950s. Then oil was discovered off the coast of southern Alaska and in the North Sea. The oil rigs soon disappeared from the desolate north and were on their way to the new strikes, he said.

Not only is exploration easier in countries around the Persain Gulf than in less accessible regions, but the oil wells in the Middle East flow with incredible force. Thus, production costs are much cheaper than in places such as Texas.

That powerful economic attraction of Middle Eastern oil development in the past has created the mistaken impression that the Middle East is the only place left in the world with sizable oil deposits. Such is not the case.

In the United States alone, roughly only one-third of the oil that has been found in the country's history has ever been produced. The rest is still in the ground. The oil industry has always maintained that it is uneconomic, in most cases, to extract more than one-third of a reservoir's oil.

But that does not mean the oil cannot be produced. In fact, the Quaker State Oil Refining Corp. of Oil City Pa., has been conducting tests for several years to increase the amount of oil recovered from oil reservoirs.

A company official said most oil eventually can be recovered. "It's really just a matter of economics," he said. "The trick is to get the price down far enough to equal the price of crude."

Or put another way, as the prices of petroleum products rise, the companies will begin extracting the oil that is more expensive to reach and the nation's reserves figure will go up once again.

Indeed, even if there were no more oil discoveries in Alaska or elsewhere in the United States, there remains enough oil in the ground to keep the country running well into the next century.

And that does not include the substantial offshore oil deposits—which are at least five times greater than the present proved reserves of the country. Nor does it include the huge reserves in the Arctic, nor the more exotic sources such as shale oil and tar sands. Nor does it include the massive coal supplies which can be converted to gas.

Computing all these sources together, there are sufficient supplies of petroleum to keep the country running for centuries.

With their interests tied so closely to the Middle East's future, it is not surprising that some of the oil companies publicly urged the United States this summer to give the Arabs more support in working out a peace settlement with Israel.

"There must be understanding on our part of the aspirations of the Arab people and more positive support of their efforts toward peace in the Middle East," Otto N. Miller, California Standard's president, wrote to stockholders and employes in July.

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### Oil: Future Crises Bred by Pipeline

(By Donald L. Barlett and James B. Steele)

At a time when Americans are being asked by their government to lower thermostats and turn off lights, the Nixon administration is actively pursuing policies that threaten to deprive the nation of sizable quantities of crude oil and natural gas in the years ahead.

A continuing Inquirer investigation into the nation's energy crisis, and the federal policies and oil industry actions that helped create it, has established that:

Item. A decision made by the Nixon administration back in 1969 to support the construction of a trans-Alaskan pipeline, rather than a pipeline through Canada, severely dampened oil exploration in Canada, and limited the supply of American money needed to develop new oil fields.

For years, Canada has been the leading foreign supplier of oil to the United States. The country's potential oil reserves are placed at 118 billion barrels—enough to double exports to the United States and meet its own needs for another century.

Item. There are strong indications the Nixon administration is getting ready to make the same kind of decision once again—this time involving a proposal by El Paso Natural Gas Co. to build a gas line parallel to the Alaskan oil line rather than through Canada.

That would mean the natural gas would have to be liquefied and shipped to this country by tanker, resulting in inflated prices. It also would mean delayed development of the huge natural gas reserves in northern Canada.

Item. The administration already is dropping hints that it will push for a second Alaskan oil line instead of a Canadian pipeline, as many Congressmen and Senators had hoped, paving the way for the possible exporting of oil to Japan.

If built, a second pipeline across Alaska would result in an oversupply of crude oil on the West Coast and do little to relieve mounting energy shortages in the East and Middle West where demands are greater.

Item. In turning its back on Canada immediately after taking office, the Nixon administration retarded the development of Canadian oil and gas reserves which one day would be needed to help meet American energy needs. Most recently, the State Department distorted the Canadian government's position on joint energy matters.

This despite the fact that from January 1970 through June of this year the United States imported more than a billion barrels of oil from Canada—double the imports that were received from Arab countries in the Middle East where the State Department now is applying pressure on Israel to sign a peace agreement with the Arabs in order to get the Arab oil embargo lifted.

These Federal policies, coupled with President Nixon's stated goal of making the country self-sufficient in energy by 1980—by developing everything from shale oil to more nuclear reactors—are having yet another effect:

They are driving prices up sharply—crude oil prices in this country are expected to soon triple 1972 prices and gasoline prices to more than double—forcing individuals and industry alike to pay inflated prices for their fuel supplies.

Says Dr. Arthur W. Wright, an assistant professor of economics at the University of Massachusetts, who has made extensive studies of the oil industry:

"What we are doing is laying the groundwork for a lot of expensive fuel projects. We could go from a period of underpricing in energy to a period of over-pricing. One thing you don't do is make a lot of bad policy in a hurry.

"Crash programs are terribly expensive things. There is no one inveighing against these people in Washington who are running around like they've had their heads cut off."

There is nothing especially new about the United States short-sighted behavior toward Canada, which last year exported 1,108,000 barrels of crude oil and petroleum products every day to this country. There are 42 gallons in a barrel of oil.

As The Inquirer disclosed last summer in a 12,000-word series, "Oil—The Created Crisis," the Administration's policies toward Canada aggravated this year's energy crisis.

In 1970, President Nixon slapped restrictions on the amount of oil coming into the United States from Canada at the very time the Canadian oil industry was seeking a larger market in the United States for its products.

Denied greater access to the United States market, the Canadian oil industry's growth faltered. There is no doubt that had it been guaranteed a market for its production as recently as 1970, Canadian oilmen told The Inquirer, it would have grown at a faster pace and been able to supply the United States with thousands of more barrels than it did this year.

As for constructing an oil line through Canada to bring Alaskan oil to the lower 48 states, the Administration was never really interested in pursuing the Canadian alternative to the Alaska line, largely because the large oil companies opposed it.

Instead, the Administration lobbied against the Canadian pipeline, citing the fact it would be longer than the Alaskan route, would take longer to construct and would travel through a foreign country.

Now, many of the same arguments are beginning to surface quietly against a long-planned natural gas pipeline through Canada to transport Alaskan and Canadian gas to the United States.

The Administration is reportedly looking favorably on a more recent proposal of the El Paso Natural Gas Co. to build a gas transmission line along the right-of-way of the oil pipeline to Valdez, Alaska, where the gas would be liquefied and shipped by tanker to the West Coast.

In addition to higher costs for liquefaction and some loss of the gas itself due to the liquefaction process, the chief disadvantage of the route is that the gas would come into the West Coast instead of the energy-starved Middle West which could have been supplied by the Canadian line.

The El Paso Company has been in and out of Federal courts for more than a decade, accused of violating antitrust laws, monopoly practices and over-charging consumers.

During the 1960s, the company was represented by the Wall Street law firm of Nixon, Mudge, Rose, Guthrie, Alexander and Mitchell.

That was the law firm of President Nixon and former Attorney General John N. Mitchell, now under Federal indictment in connection with his handling of campaign funds in the 1972 Presidential election.

From the mid-1960s through last year, the former Nixon law firm collected more than $1 million in legal fees from El Paso—a company which has benefited directly from a variety of Nixon administration decisions.

Records of the Federal Power Commission show that from 1966 to 1968, the earliest period for which records are currently available, El Paso paid the Nixon law firm $345,899 for legal services.

From January 1969, when President Nixon was inaugurated, through last year, the law firm received about three-quarters of a million dollars in legal fees.

The decision to build the Alaska oil pipeline, a decision made privately by the oil industry and then supported by the administration, also illustrates how oil companies sometimes determine public policy.

And in making that policy, the oil companies are reaching decisions that may well be in the best interests of their stockholders, but not necessarily in the best interests of the American consumer or, more particularly, the long-range energy needs of the country.

The decision to build the trans-Alaska pipeline was made quickly and quietly by three oil companies—Standard Oil Co. of New Jersey (now Exxon), Atlantic Richfield Co. and the British Petroleum Co. Ltd.

The major Alaskan oil strike was made after a joint exploratory operation by an Exxon subsidiary and Atlantic Richfield on the North Slope in January 1968. A second strike followed in June seven miles from the first.

Just eight months later, at a joint news conference in New York City on Feb. 10, 1969, Exxon, Atlantic Richfield and British Petroleum announced plans to build an 800-mile, 48-inch pipeline from the North Slope south past Fairbanks and on to the port of Valdez on the Gulf of Alaska.

There were, at the time, two major options open to the oil companies.

Run the pipeline to Valdez and then transport the crude oil by tanker to refinery centers on the West Coast and possibly to the Far East for sale in Japan.

Build the pipeline south through Canada and into Chicago, where the crude oil could be refined and the products distributed throughout the Midwest and into markets on both the East and West Coasts.

Why did the companies and the Administration decide on the Alaskan route?

The Administration seems to have wanted the line mainly because the oil companies preferred it. And the oil companies preferred the line, it seems, because it was in their best financial interests. In the end, Congress approved the Alaskan line because of the Administration's support.

While a Canadian route would open up the Canadian north for more exploration, the trans-Alaska line, which will discharge oil into tankers on Alaska's south coast, would mean oil could be shipped to Japan and other nations, should the companies decide that was in their best interests.

Economists and oil industry authorities interviewed by The Inquirer agree the decision was purely a "private one" to build the Alaska line.

In fact, a spokesman for Atlantic Richfield said the Canadian route was never seriously considered. "I don't think it was even a factor in 1968 or 1969," he said.

The reason was this:

When the pipeline project was announced in 1969, there was a huge surplus of crude oil, not only in the United States but throughout the world.

Crude oil and petroleum product prices in this country were generally depressed. The big oil states were holding down production in order to keep supply more in balance with demand.

During the month of March 1969, oil wells in the state of Louisiana were producing at 42 percent of their capacity. In the oil fields of Texas, production during August was at 53 percent of capacity.

A Mobil Oil Corp. official, explaining in July 1969 why the company wanted to cut back production at its Texas wells, told a state regulatory agency:

"(Mobil has made) substantial cuts in Texas and all other states where we purchase because our crude oil inventories are reaching an all-time high and we are attempting to reduce them."

At the same time, state agencies were holding down oil production, the nation's chief sources of foreign oil—Canada and Venezuela—were apprehensive that the United States was going to slash the amount of oil bought from them.

Venezuela complained that the United States Department of the Interior—which supervised the import program limiting the amount of oil that could be brought into the country—was encouraging American refineries in the Caribbean to use lower-priced Middle East oil.

And in Canada, a top-level meeting was called between senior government officials from both Canada and the United States to discuss ways of reducing the imports of cheaper Canadian crude oil into this country.

It was during this period of overabundance of oil that Atlantic Richfield and Exxon and British Petroleum were pushing ahead with plans to develop the North Slope, the largest oil field ever discovered in the United States.

The field contained, according to the estimates of independent geologists, from five to 10 billion barrels of oil.

Those, of course, were the conservative figures for the lone field. As for the entire North Slope, the more liberal estimates ranged up to 100 billion barrels—or nearly triple the country's present reserves.

It was against this background that the two American oil companies and British Petroleum announced their plans to build a trans-Alaskan pipeline—a decision distinguished by the fact it would not disrupt existing markets and drive down the price of petroleum products.

Although it seldom is discussed publicly, the one overriding fear in the oil industry is not that the world is running out of oil, but rather that overproduction will produce an oil glut and depress prices.

So it was, then, that the last thing the oil industry needed in 1969 was a pipeline running through Canada and into Chicago—pouring two million barrels of crude oil a day into the middle of a country that couldn't use all the crude oil it already was producing.

Coincidentally, the last time that happened was in the 1930s following the discovery of the huge East Texas field—the largest find until Alaska's North Slope. Then prices plunged from about $1.30 a barrel to a dime.

As Business Week magazine put it in its Feb. 1, 1969, issue:

"The West Coast market (can't) absorb all the oil that even a comparatively moderate Alaskan field can produce. And that's what leads to the big marketing problems that oil analysts foresee. The first of these problems is whether the present structure of crude prices can withstand the onslaught of cheap Arctic crude.

"No one—certainly not the major oil companies that will determine the pace of Alaskan oil development—wants a repetition of what happened after the East Texas find of the 1930s."

Interestingly, while there was a conflict between the short-term financial interests of the oil companies and the long-term energy needs of the country, there was a similar conflict between the two companies that drilled the North Slope well.

Exxon Corp., the world's largest oil company, with vast reserves in the Middle East, was not in any hurry to rush development of the North Slope.

Atlantic Richfield, on the other hand, was very much in need of the new-found oil.

Just two years earlier, the old Atlantic Refining Co., located along the East Coast, had merged with the Richfield Company, based on the West Coast, and a new supply was needed for the Western markets.

Soon after the size of the Alaskan discovery was established, Atlantic Richfield began counting on moving the oil into its marketing system by 1972.

Forecasting a glowing future for the company, Thornton F. Bradshaw, president of Atlantic Richfield, reported in 1969:

"We anticipate early in 1972 a big business in cash flow and profits, and they will increase on an ascending scale as growing needs make room for Alaskan oil."

As everyone now well knows, construction of the pipeline will not even start until next year and the earliest possible completion date is sometime in 1977–78.

The project has been delayed not only by the objections of environmentalists, who are usually blamed, but a general lack of enthusiasm within the oil industry itself.

But if the oil companies and the Federal Government were cool to the idea of developing oil in Alaska and northern Canada in the late 1960s, such was not the case with the Canadian government.

Within months of the big Alaskan oil strike in 1968, the National Energy Board of Canada suggested a Canadian route to bring the North Slope oil to market. The Canadian government has consistently supported the route.

Energy Minister J. J. Greene tried to assure the United States government and the oil companies in March 1971 that "there will be no unnecessary roadblocks at the Canadian end and the Canadian government side" to construction of such an oil pipeline.

A year later, a new energy minister, Donald Macdonald, who still holds that cabinet post, pointed out the virtues of the Mackenzie valley line to Canada in a May 1972 letter to Rogers C. B. Morton, Interior Secretary.

"The Mackenzie route would, of course, be advantageous to Canada in that it would give access to our potential oil resources in the northern Yukon and Mackenzie river areas," Macdonald wrote.

Not only did Canada favor the Mackenzie line, but so did many environmentalists, economists and lawmakers in the United States.

Environmentalists, for example, considered the Mackenzie line far superior to the trans-Alaska line because it would avoid earthquake prone regions in Alaska and eliminate the danger of oil spills from huge tankers carrying Alaskan oil to the United States past the west coast of Canada.

The chief advantage of the Mackenzie line, advanced particularly by economists and congressmen and senators from the Middle West, is that it would have delivered the Alaskan oil to the Middle West and East where it was needed more than in the West.

"By the early 1980s, close to two million barrels of crude oil a day will be available for transport to the lower 48," Sen. Adlai Stevenson III of Illinois testified in May. "Where will that oil be most needed by the 1980s?

"Already prices in crude oil per barrel are 20 percent higher in the Midwest than on the West Coast, 25 percent higher in New York than in Los Angeles."

Even though Canada consistently voiced support for the Mackenzie line, the Nixon Administration and particularly the State Department conveyed the impression to Congress that the Canadians were not really interested in building such a line.

On June 14, the Canadian government delivered documents to the State Department spelling out the Trudeau government's position on several points relating to the Mackenzie line.

In brief, Canada said that remaining unresolved problems such as the settlement of native claims could be solved and would not interfere with construction of a Mackenzie oil line.

Eight days later, the state department, in a letter to Rep. John Melcher (D., Mont.) signed by Julius Katz, a deputy assistant secretary of state, said flatly:

"Negotiation by the United States of the pipeline agreement with Canada does not appear possible at this time."

Katz was later questioned by senators who were angry with his interpretation of the Canadian government's position. When asked how he could have interpreted the favorable responses of the Trudeau government to mean that pipeline negotiations are not possible, he answered:

"What we meant by that was at the time and within an acceptable time frame, and this was based on our evaluations of all the hurdles that would have to be met before application could be presented to the Canadian government and considered by the Canadian government."

In the final analysis, there were never any negotiations over the line.

"This government and the Canadian government have never engaged in serious discussions of such issues, despite repeated expressions of interest by the Canadian government," John F. Dienelt, a lawyer representing several environmental groups, told a Senate committee in May.

The one time there were any discussions at all by any of the parties, the oil companies made it clear to the Canadian government they did not favor the Canadian route, according to a Canadian oil publication.

"When they visited Ottawa in 1971," the magazine Oilweek reported on August 6, 1973, "the presidents of the companies participating in 'Alaska' made it quite clear they had given such a project (the Mackenzie line) but scant attention.

"Atlantic Richfield said a Canadian line would bring the economic policies of the two countries in direct conflict because Canada would insist on the line being available to move its own northern crude."

What the United States wanted, the magazine said, "was a right of way across Canada for an oil pipeline that would not be subject to Canadian control." In other words, Oilweek said, "it wanted another Panama Canal zone."

Not surprisingly, the Canadians did not look favorably on such a one-sided proposal. But the argument against the Canadian line raised by the oil companies would be used again and again; the fact it passed through a foreign country.

Time and again, opponents of the trans-Canadian line used with some success the fact the Mackenzie line would not be under the direct control of the United States.

The implication, apparently, was that Canada could shut off the United States' oil, if the two nations should ever find themselves in a bitter dispute.

Such a theory overlooks the leverage the United States already has over Canadian energy supplies. Today, hundreds of miles of Canadian oil and natural gas lines pass through the United States feeding crude oil and gas to the metropolitan areas of Toronto and Montreal.

But it was the State Department's handling of diplomatic cables from the Trudeau government last summer that best demonstrates the extent to which the Nixon Administration went to misrepresent the Canadian government's stand on the Mackenzie line.

Perhaps the most crucial question regarding the Mackenzie alternative was whether Canada would require 51 percent Canadian ownership of such a line, a point the Americans saw as a possible stumbling block to construction. Until mid-summer, Canada indicated it favored majority ownership.

On July 5, the Canadian government conveyed information to the State Department in Ottawa clarifying the government's position on the ownership question. The two governments agreed to release the information the next day.

But in a subsequent conversation between Canadian and United States diplomats, it was discovered that for some unexplained reason the two countries had opposing answers to the Canadian government's position on pipeline ownership.

Documents of the Canadian government stated that majority ownership of the line would not be required. Documents of the American government stated that the Canadians insisted on majority ownership.

Whatever the cause of the mixup, Canada immediately issued a clarification and sent it to the American embassy in Ottawa where it arrived on July 11. The cable made it clear that Canada would not insist on 51 percent Canadian ownership, although it added that Canada would like the opportunity to acquire majority ownership.

That was six days before the Senate was scheduled to vote on an amendment to clear the way for construction of the Alaska pipeline. But the State Department did not get the revised answer to the Senate until about two hours before the final vote was taken.

How could such a development have occurred?

"Well, I suppose basically human error," Rufus Z. Smith, a deputy assistant secretary of state, explained to the Senate in July.

"It was promptly mailed from the embassy in Ottawa to the State Department (referring to Canada's clarification). It should have been cabled or telephoned. There is no question about that."

As the senators soon found out, the only reason the Senators even got a clarification on Canada's position was due to the Canadian government, not the State Department.

Smith said he found out about the slipup when an official of the Canadian embassy called him the day before the Senate vote and asked why the State Department had failed to make public the Canadian position on pipeline ownership.

Sen. Walter Mondale (D., Minn.) summed up the affair by saying, "We have treated an old and valuable ally rather shabbily in this matter.

"While all of those debates were going on, we now know that for some days ... that the State Department had in its possession the cable ... which settled most of those issues in favor of Canadian interest in the line."

A trans-Canadian oil pipeline, Canadian oilmen say, would have spurred much more exploration in the Canadian north because the line would have made it possible to get the oil reserves to market.

Congress wrote into the Alaska pipeline bill a provision that the oil cannot be sold to foreign nations without federal approval, but there are some loopholes and some senators are skeptical about the companies' motives.

"Our thought is that when some of this (Alaskan) oil is delivered to the West Coast," Sen. Mondale said in July, "that oil from Ecuador and Indonesia (now imported into the West Coast) would then end up in Japan."

The recent suggestion by the President's new energy czar, William E. Simon, that possibly a second oil pipeline should be built through Alaska will probably only fan Congressional fears that some of the Alaskan oil is earmarked for markets other than the United States.

Indeed, the suggestion is just another example of the Federal Government's inability to develop a long range energy policy for the country—a failure The Inquirer disclosed last summer that had helped create the present oil shortages.

As recently as two weeks ago, energy boss Simon was quoted by the Washington Post as saying that the United States will not build a pipeline through Canada, at least at the present time, because the country cannot afford to share its oil with Canada.

Arguments that were so successful in killing any interest in the Canadian pipeline are now beginning to gain ground in the Administration against a long-proposed natural gas pipeline through Canada to bring vast Alaskan and Canadian natural gas reserves to the United States.

A consortium composed of Canadian and American pipeline, natural gas and oil companies called Canadian Artic Gas Study Limited has spent upward of $70 million in recent years studying the proposed gas pipeline route, also down the Mackenzie River valley.

In December 1972, the El Paso Natural Gas Co., the nation's largest natural gas transmission company, announced plans to study an alternate route along the right of way of the Alaskan oil pipeline to Valdez where the gas would be liquefied and shipped by tanker to the West Coast.

Neither El Paso nor Canadian Artic has applied for a permit to build a gas pipeline with either the Canadian or the United States governments, but an application is expected to be filed soon by the Canadian Artic group.

No one took the El Paso proposal very seriously a year ago since liquefaction is generally thought to be an unnecessary and costly step if a land route is available to transport the gas.

But recently, Canadians who favor the Mackenzie route have grown increasingly concerned that the Nixon Administration, in pursuit of a goal of national self-sufficiency in energy, will opt for the El Paso proposal.

El Paso has already engineered several liquefied natural gas deals around the world and has received Federal Power Commission (FPC) approval to market the gas in this country.

Further, El Paso and Occidental Petroleum Corp. announced on June 8 that they had signed an agreement with the Soviet Union on a $10 billion project to bring Siberian natural gas to the West Coast of the United States.

El Paso seemingly had enjoyed a good working relationship with federal agencies. An article published in the April 16, 1970, issue of the "Oil and Gas Journal," an industry trade publication, stated that:

"El Paso Natural Gas Co. is so confident it can shove through its largest liquefied natural gas supply deal in history that it is ordering two of the world's largest cryogenic tankers.

"The company revealed last week that it has placed an order with a French shipbuilder for construction of two 750,000-barrel LNG tankers. The vessels will be built at a cost of about $100 million."

That, again, was back in April 1970—two years before the Federal Power Commission approved an El Paso plan to import one billion cubic feet of liquefied natural gas daily from Algeria into Maryland and Georgia. A request to import another one billion cubic feet daily into New Jersey, Maryland and Georgia is pending.

In September 1972, according to documents filed with the United States Securities and Exchange Commission, El Paso entered into a contract with another shipbuilder for the construction of three more cyrogenic tankers at a cost of some $300 million.

This time the federal government agreed not only to pay one-fourth of the cost of the ships, or about $77.5 million, but also to "make United States government guarantees available for the financing of 75 percent of the remaining cost of these three tankers."

Still, Canadian oilmen believe the Mackenzie line is far superior to the El Paso proposal and believe it could be built if Canada and the United States simply agreed to it.

"We further believe that this will have a tendency to retard exploration in the Canadian north."

El Paso's 1972 annual report mentions the Alaskan study only briefly, although it is expected to cost the company millions of dollars.

But El Paso did emphasize that its proposed line would be an all-American project that would not pass through a foreign country.

As to drawbacks in the El Paso proposal, compared to the Mackenzie Valley gas pipeline, Canadian oil and gas men interviewed by The Inquirer in Toronto, Calgary and Edmonton generally agreed on the following:

Gas delivered on the lower 48 states by way of the El Paso plan would result in inflated charges to the American consumer because of excess charges for liquefaction.

A certain percentage of the natural gas is lost in the process of converting the gas to a liquefied state.

The United States energy market would be deprived of trillions of feet of natural gas reserves in northern Canada because there would be no way to get the reserves to market.

Gas exploration efforts would slow down dramatically in the Canadian north.

But such considerations may be secondary to El Paso in trying to win approval of its pipeline plan. For as several economists interviewed by The Inquirer pointed out, conversion of Alaskan North Slope gas reserves to a liquefied state may benefit El Paso more than the American public.

"It's more expensive than deregulating the price of natural gas and running a pipeline down the Mackenzie Valley," said Dr. Edward W. Erickson, an economics professor at North Carolina State University. "But no one in Washington seems to be groping with the sensible thing to do."

What are the disadvantages of the Canadian line?

"If you have a pipeline through Canada," Dr. Erickson said, "you can't move gas to Japan. If you have a liquefaction plant, you can look at several different markets, including Japan."

There is more to that possibility than idle speculation.

Although most Americans probably do not know about it, the Phillips Petroleum Co. and Marathon Oil Co., have been selling liquefied natural gas from Cook inlet in Southern Alaska to Tokyo since 1969.

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## Wanted: Immunity for Oil Execs

(By Donald L. Barlett and James B. Steele)

During a time of soaring prices and profits in the oil industry, the Nixon Administration has been quietly trying to exempt oil companies and their executives from prosecution under the antitrust and conflict of interest laws.

The exemptions—which would pave the way for oil company executives to manage the administration's rationing programs for petroleum products—are being sought through legislation and by private agreement with the Justice Department.

The administration has maintained that the oil company officials are needed because they have the expertise to deal with supply and distribution problems.

But such joint action by executives of competing companies could normally violate both antitrust and conflict of interest laws.

The new exemptions would be in addition to an antitrust exemption the oil companies already have, which enables them to work together in arranging the distribution and sale of crude oil produced outside the United States and earmarked for sale in this country and abroad.

Martin Lobel, a former oil specialist on the staff of Sen. William Proxmire (D., Wisconsin) and now a member of the Washington law firm of Lobel, Novins and Lamont, believes the existing antitrust exemption already means higher profits for the multinational oil companies next year.

"The increased profits come through efficiency of supply distribution," says Lobel, because the companies are able to pool their oil sources and reduce transportation costs at the same time petroleum product prices are going up.

Key federal oil policy officials have been working to arrange immunity for the oil industry at a time when:

Item. During the first nine months of this year, the profits of the country's five largest international oil companies totaled $4.1 billion—an increase of 48 percent over the same period last year.

Item. From last January until the first week in December, the retail price of gasoline was up an average 19 percent nationwide. Price increases approved by the federal government in the last two weeks will boost this increase to about 30 percent.

Item. In some sections of the country the wholesale price of home heating oil has shot upwards of 100 percent since January, going from 10 cents to 21 cents a gallon in the Gulf Coast area.

Item. The price increases already approved by the Nixon administration will cost the American consumer an additional $7 billion next year for gasoline alone. Each one cent increase in the price of gasoline costs the consumer $1 billion over a year.

Meanwhile, a little-known group called the Emergency Petroleum Supply Committee (EPSC)—made up of representatives of 23 oil companies—has been at work for some six weeks now, assembling data relating to the worldwide crude oil supplies of each company.

The 23 companies already enjoy antitrust immunity covering their actions as committee members. The immunity was granted by the United States Attorney General's Office under provisions of the Defense Production Act.

The committee, which has broad powers, may determine the rate of oil production, the volume of petroleum products turned out by refineries, how much oil will be imported into the United States and whether oil produced in this country will be shipped to other nations.

Information gathered by the committee and its recommendations ultimately may be used by the federal government to determine how much fuel oil a homeowner or industry receives, how much gasoline will be allocated to motorists, how much diesel fuel will be distributed to truckers.

As The Inquirer disclosed last summer, virtually all the government's information on oil supplies and reserves—information on which national energy decisions are based—comes from the oil companies and is not subject to independent verification.

The far-reaching implications of the EPSC's authority notwithstanding, all of its meetings are conducted behind closed doors at the U.S. Department of the Interior. And documents compiled by the committee are considered secret.

Robert L. Presley, an official of the Interior Department's Office of Oil and Gas and a government representative on the Emergency Petroleum Supply Committee, explained the need for secrecy this way to The Inquirer:

"The meetings are closed in order to get free expression from individual people. They will be more constrained if members of the press are there.

"We get very free exchanges about the problems they have. I haven't heard anything said, however, that would harm them."

INCREASE IN PRICE OF REGULAR GASOLINE IN 1973

[Figures in cents per gallon, excluding tax]

| | January | December | Percent increase |
|---|---|---|---|
| Baltimore | 26.9 | 30.4 | 13 |
| Boston | 23.4 | 32.9 | 41 |
| Charlotte | 25.9 | 28.9 | 12 |
| Chicago | 27.4 | 32.4 | 18 |
| Detroit | 24.9 | 29.9 | 20 |
| Houston | 22.9 | 28.3 | 24 |
| Los Angeles | 24.9 | 29.9 | 20 |
| Miami | 21.9 | 32.4 | 48 |
| New York | 28.9 | 34.4 | 19 |
| Philadelphia | 25.9 | 28.9 | 12 |
| National average | 25.2 | 29.9 | 19 |

Source: Oil and Gas Journal.

INCREASE IN PROFITS OF 5 LARGEST AMERICAN OIL COMPANIES

| | 1st 9 months | | |
|---|---|---|---|
| | 1972 | 1973 | Percent increase |
| Gulf Oil Corp | $356,000,000 | $570,000,000 | 60 |
| Exxon Corp | 1,039,000,000 | 1,656,000,000 | 59 |
| Standard Oil Co. of California | 401,300,000 | 560,460,000 | 40 |
| Mobil Oil Corp | 412,700,000 | 571,200,000 | 38 |
| Texaco Inc | 622,400,000 | 838,920,000 | 35 |
| Total | 2,831,400,000 | 4,196,580,000 | 48 |

Sources: U.S. Securities and Exchange Commission; Standard and Poor's Industry Surveys.

INCREASE IN WHOLESALE PRICE OF HOME HEATING OIL IN 1973

[Figures are in cents per gallon]

| | January | December | Percent increase |
|---|---|---|---|
| Gulf Coast | 10.38 | 21.00 | 102 |
| Chicago | 11.00 | 17.00 | 55 |
| New York | 10.90 | 13.95 | 28 |

Source: Oil and Gas Journal.

Note: The above chart shows the increase in the retail price of gasoline, the wholesale price of home heating oil and the profits of the 5 largest American oil companies during the last year. The profit figures are for the 1st 9 months of this year, the gasoline and home heating oil prices are from the 1st week in January and the 1st week in December. The figures do not include price increases which have occurred in the last 2 weeks, or the 2.3 cent increase announced last Wednesday by the Nixon administration. Over the period of 1 year, each penny increase in the price of a gallon of gasoline costs American consumers $1,000,000,000.

### LOOK AT DATA BARREL

Presley refused to allow Inquirer reporters to examine the data pulled together so far by the committee, contending the committee's functions had nothing to do with the nation's current energy crisis.

"The committee's not going to do one thing to solve the oil shortage," declared Presley. "We hope to get an idea how serious the shortage is in the world. We (the committee) have only authorizations to act on the international movement of oil."

But John Lamont, a former Justice Department attorney and another member of the Washington law firm of Lobel, Novins and Lamont, said it is not possible to separate the international movement of oil and oil needs of the United States.

"When this committee is dealing with the international movement of crude oil," Lamont said, "and the United States receives 25 percent of its supply from other countries, how can its decisions fail to affect the United States?"

Clearly, the committee's decisions will have a direct impact on government oil rationing and allocation programs because it will determine exactly how much oil is available for importing into the United States.

The Inquirer has disclosed in previous articles that one of the underlying reasons for the energy crunch is a decision made some years ago by America's multinational oil companies to expand their production, refining and marketing facilities in foreign countries.

As a result, the five largest oil companies now sell nearly two barrels of petroleum products in other countries for every barrel they sell in this country, making the United States just one more market. (A barrel contains 42 gallons.)

These five companies—Exxon Corp., Mobil Oil Corp., Texaco Inc., Gulf Oil Corp. and Standard Oil Company of California—also are members of the Emergency Petroleum Supply Committee, helping to make decisions on the worldwide distribution of oil.

### U.S. OIL FOR OTHERS

Indeed, the EPSC could recommend diverting to other countries oil originally intended for sale in the United States.

The Interior Department's Presley, in an interview with Inquirer reporter Susan Q. Stranahan, said of the EPSC's studies to date:

"There is a possibility that if the situation (worldwide oil shortage) becomes serious enough, the United States may reduce its own supply to supply other nations. The real purpose is to provide help to friendly foreign countries."

Presley's remarks are the first indication the federal government, or at least the oil industry's Emergency Petroleum Supply Committee, is considering the possibility of shipping oil to European and Asian nations reeling from the effects of the Arab oil embargo and production cutbacks.

This comes at a time when the Nixon administration has requested thermostats turned back in private homes and business establishments in the United States, cut fuel oil deliveries to industry and reduced jet fuel supplies, bringing about the layoff of thousands of workers.

While the Emergency Petroleum Supply Committee has immunity from antitrust law prosecutions, this immunity covers only the international movement of oil and does not apply to distribution within the United States.

It was to cover this latter situation that the Nixon Administration asked both Congress and the Justice Department for additional oil industry exemptions from antitrust and conflict of interest statutes.

The expanded immunity coverage was needed after the White House decided to draft oil industry executives to manage the programs allocating fuel oil and other petroleum products.

In an article headlined, "United States to draft industry experts," the Oil and Gas Journal, an oil industry trade publication, reported in its Dec. 3 issue:

"Industry executives with special transportation and distribution skills will soon be 'invited' by the government to help solve allocation problems during the oil shortage.

"They will be drafted as 'special government employees' early this month for service in the Office of Oil and Gas and the Office of Petroleum Allocation."

The administration received its first setback when then Acting Attorney General Robert H. Bork refused to provide the blanket protection sought by the White House and the oil industry.

### IMMUNITY NOT CERTAIN

In a three-page letter, Bork told Interior Secretary Rogers C. B. Morton that the antitrust laws do not prohibit the hiring of oil industry personnel, but that immunity could not be guaranteed.

Bork wrote:

"The antitrust laws do not prohibit the use of industry personnel as advisers within your department. Having said the foregoing, we are obliged to point out that this is different from saying that such personnel will be free of any possible threat of liability from antitrust prosecution.

"No opinion which I could render could immunize any activities of such employees from treble damage actions brought by private plaintiffs . . .

"It is not possible to say that such personnel do not run the risk of being charged with antitrust violations, since a determination of this question would depend upon knowledge of all relevant facts."

Bork's letter was dated Nov. 21. On Dec. 14, Duke R. Ligon, director of the Interior Department's Office of Oil and Gas, issued a memorandum stating that the plan to draft oil industry executives "has been postponed indefinitely due to the conflict of interest problems."

There is nothing especially new in the Nixon Administration's bid to exempt oil companies and their employes from antitrust law prosecutions.

Back in 1970, the international oil companies operating in the Persian Gulf asked the administration for the same kind of immunity and it was granted—privately.

At that time, the oil companies sought the protection in connection with negotiations they were entering with the Arab oil-producing states and other members of the Organization of Petroleum Exporting Countries (OPEC).

In a secret business review letter issued in January 1971, the federal government assured the oil companies that no criminal actions would be filed for any violations of the antitrust laws.

### ORDERED BY MITCHELL

The letter was issued by the Justice Department on orders of former Attorney General John N. Mitchell, now under federal indictment in connection with his handling of campaign funds in the 1972 presidential election.

An Inquirer request made last Wednesday to examine the business review letter was rejected by the Justice Department. Richard Sayler, a special assistant in the department, said:

"We have consistently stated that the materials will be made available when we hear from the State Department that publication will not be detrimental to national security.

"The State Department continues to advise us that publication of the materials would be detrimental to national security."

Stephen Schwebel of the State Department's international law section, was asked about making public the business review letter. He replied:

"These letters have not been released. They are classified. I doubt if they'll be released in this current delicate situation with the Arab negotiations."

But a former federal official familiar with the letters dismissed the argument put forth by the State and Justice Departments for keeping the letters secret.

He cited possible government embarrassment—rather than national security—as the reason for withholding the information, saying that the "Justice and State Departments aren't particularly proud of those letters."

The immunity granted the oil companies by the Justice Department went far beyond permission to engage in joint negotiations over the price of crude oil.

### SHARING OF CRUDE OIL

One of the provisions of the Justice Department agreement, a former federal official told The Inquirer, covered the sharing of crude oil and tanker space by the companies.

Thus, if an OPEC country shut down the operations of one company, the remaining companies could supply that company with crude oil from a common pool.

The Justice Department not only has refused to make public the details of the immunity agreements, it has even declined to say whether the agreements are still in effect. The Justice Department also has denied Congress any information about the agreements.

At the time the Justice Department gave the companies approval to bargain together with the oil-producing countries in 1971, Sen. Philip Hart (D., Mich.), chairman of the Senate's Antitrust and Monopoly subcommittee, asked for a full report on the talks.

Subcommittee staff aides told The Inquirer that the State Department and antitrust division of the Justice Department declined to provide the information during the negotiations, contending that any disclosure during the talks might jeopardize the sensitive nature of the discussions.

But the two departments did agree to supply Hart with a full report after the 1971 negotiations were completed. That was nearly three years ago and Hart, despite repeated, renewed requests, is still waiting for a report on the 1971 negotiations.

The House of Representatives has fared no better than the Senate in its attempts to obtain some of the same information.

At a House subcommittee hearing held July 12, 1971, Silvio O. Conte (R., Mass.) had the following exchange with Walker B. Comegys, then acting assistant attorney general in the antitrust division of the Justice Department:

Conte—"I wonder if you could provide the committee with a copy of your Jan. 15 letter, giving immunity to the majors, to let them bargain as a cartel with the Persian Gulf nations and with Libya?"

Comegys—"Mr. Conte, I cannot comment on any of the statements that you have made, because I am under the injunction that it is not in the national interest for me to do so."

Comegys also argued that the business review letter did not constitute a grant of immunity from prosecution. But when Conte asked exactly what the letter provided, the Justice Department lawyer replied:

"I cannot go into that, sir, at this point. We have been under strict injunction from the Department of State . . . I cannot comment in the context of this Middle East oil situation."

### INTENT OF LETTER

The Justice Department has long contended that a business review letter only sets forth the intentions of the department.

That is, the Justice Department advises a company that, given a special set of circumstances, the department will or will not initiate legal action.

But from a practical standpoint, former Justice Department attorneys told The Inquirer, the issuance of a letter means the department will not file criminal charges under most any circumstances, although it may at some later date bring a civil lawsuit. But even civil cases are seldom filed once a letter is issued.

Sen. Hart now is preparing to call Secretary of State Henry Kissinger or another high Department official before his subcommittee to testify in executive session about the agreements made by the Justice Department with the oil companies.

At the time of the oil company negotiations with the Organization of Petroleum Exporting Countries (OPEC), President Nixon dispatched a top State Department official to meet with Arab leaders and assist in the oil talks.

When negotiations with the oil-producing countries finally were completed, everyone—the international oil companies, the State Department and the Justice Department—expressed their satisfaction with the outcome.

The State Department hailed the oil companies new pact with OPEC as bringing "stability" to the "turbulent international oil situation."

The oil companies declared the "agreement established security of supply and stability in financial arrangements for the five-year period 1971–75 . . ."

And the Justice Department, the industry's Oil and Gas Journal reported, said the department's decision to allow the oil companies to negotiate jointly "will help to minimize price hikes to consumers."

Of course, the oil companies-OPEC agreement produced nothing of the sort.

### DIDN'T BRING STABILITY

It failed to bring stability to the Arab oil situation. It failed to assure a secure source of supply for even two years, let alone five years. It failed to minimize price hikes.

Indeed, what has happened since the Nixon Administration injected the State Department and the Justice Department into the oil company talks now is a matter of history. For example:

—The price of crude oil in some Arab states, and in other oil-producing countries, has soared more than 500 percent and is still climbing. In the last few weeks, Middle East and African oil has been selling for more than $17 a barrel.

It should be pointed out that labor and production costs have no connection whatsoever with the selling price of foreign oil. It costs about 20 cents to produce a barrel of Arab oil—less than a half-penny a gallon—now selling for more than $17.

—The ink was no sooner dry on the 1971 agreement than the Arab nations were insisting on—and getting—participation agreements through which they obtained an interest in the oil companies operating in their countries.

—The consumer prices for petroleum products have spiraled throughout Europe and Asia as well as the United States. And prices will continue to climb in the coming months.

—Last October, the Arab nations shut off the supply of oil to the United States and the Netherlands and began a series of systematic cutbacks in oil shipments to other European countries and Japan, forcing massive layoffs, industry shutdowns and rationing.

But there was one favorable aspect to the 1971 agreement: The oil industry, especially the multinational companies, reported substantially increased earnings for the year.

Observed the Oil and Gas Journal on Feb. 7, 1972:

"Oil industry profits took their first solid step forward in 1971, since their last good year in 1968.

"All of the top five international majors continued to make good earnings showings for the year, with most up at least 10 percent over 1970."

M. A. Adelman, an economist at the Massachusetts Institute of Technology and a longtime authority on the oil industry, maintains that OPEC and the Arab states could not have been welded into an effective international petroleum cartel had it not been for bungling by the State Department.

In a paper published earlier this year in Foreign Policy magazine, Adelman said the State Department caved in to the threat of a boycott in 1971 rather than resisting the demands of the OPEC cartel.

### BLAMED FOR CRISIS

As the Inquirer disclosed last summer in a series of articles on "Oil—The Created Crisis," the nation's present energy crisis stems directly from policy decisions made by major oil companies and one administrative blunder after another by the Federal government.

At the same time that the Nixon Administration has been trying to extend antitrust immunity to oil industry executives, it had been attempting to undermine or discredit antitrust enforcement efforts against the oil industry by the Federal Trade Commission (FTC).

The FTC issued a complaint last July 18 against the nation's eight largest oil companies, charging them with a variety of anticompetitive practices, including limiting the supply of crude oil to independent refiners.

The FTC investigation has centered on practices of the major oil companies the commission believes weakened oil industry competition and helped drive independent refiners and marketers out of business.

The companies named in the FTC complaint are Exxon, Mobil, Texaco, Gulf, Standard Oil Company of California, Standard Oil Co. of Indiana, Shell and Atlantic Richfield.

On July 30, William E. Simon, chairman of the Oil Policy Committee and now the President's chief energy administrator, wrote to FTC chairman Lewis Engman saying that statements by FTC staff members about possible breakup of the large oil companies were causing him a "great deal of concern."

Simon went on to say that FTC statements urging that major oil companies be required to sell their refining operations as a way to loosen their control of the industry have given some companies "second thoughts" about building badly-needed refineries.

### REPORT CHALLENGED

On August 27, Simon a former Wall Street securities dealer, expanded on those themes in a 63-page report prepared by his staff rebutting many of the conclusions and facts of an FTC staff report on the oil industry.

Among the conclusions about the FTC report made by Simon's staff analysis:

"Many of the facts in the FTC report are inaccurate. Consequently, the resulting conclusions are questionable . . . the FTC report is biased against the largest integrated oil companies . . . As a result of this bias, the FTC's final conclusions are incorrect or misleading at best . . . The FTC should reconsider its action and withdraw the complaint issued against the eight largest oil companies."

The Simon staff analysis in effect exonerated the oil industry for the present oil shortage and said the crisis was caused by a variety of factors, "mostly governmental laws and policies."

Despite Administration pressure, the FTC is going forward with a full inquiry into the operations of the eight oil companies.

As for the inquiry itself, however, crucial prehearing conferences where attorneys for both sides argue the merits of the complaint will be held in secret because the oil companies object to opening the sessions to the public.

Under FTC rules, such conferences can be opened to the public if both sides agree to it.

In a motion filed Nov. 5, Robert E. Liedquist, FTC complaint counsel, requested that the prehearing conferences be opened to the public. He wrote:

"The prehearing conferences in a case of this size and complexity will obviously be a very important and significant phase of the litigation.

"The 'simplification and clarification of the issues' which can be expected to result from the conferences will no doubt shape the whole course of the proceeding.

"We do not believe that matters as serious as this should be dealt with outside of public security. Public interest in this case is very great. It has been stimulated not only by the gasoline shortage of this summer and the expected heating fuel shortage this winter but also by the respondents' (oil companies) own massive advertising and public relations campaign concerning the energy issue.

"In this context we believe that it would be most unwise for the prehearing conferences to be conducted in secret, and we therefore urge the respondents to join with us in asking that they be made public."

### REJECT OPEN HEARINGS

Within 11 days, seven of the eight companies named in the complaint flatly rejected the idea of opening the hearings. Typical of the companies' answers was this response from Mobil:

"Mobil Oil Corporation does *not* agree to public prehearing conferences in this matter."

This position contrasts sharply with a Mobil Oil Corp. advertisement published in the New York Times last July 10, in the form of a letter addressed to New York's two Senators and 12 Congressmen.

"We are publishing this letter in your hometown newspaper, and in those of the other members of Congress, because we want you and your constituents to have the facts about the gasoline shortage as we see them" the advertisement stated.

"We are doing this because many people are being misled by the absolute nonsense, totally unsupported charges, and outright lies being spread around by a variety of people."

At the same time the Nixon administration was trying to get the Justice Department to grant antitrust and conflict of interest immunity to oil company executives, White House aides were at work on Capitol Hill attempting to arrange the same kind of protection through legislation.

When the Energy Emergency Act legislation was being considered by separate committees in the House and Senate, Sen. Hart's antitrust and monopoly subcommittee drafted proposed language for the antitrust section and submitted it to House and Senate committees.

Most parties agreed that such a section was needed to permit the government to appoint or seek the advice of oil industry personnel in carrying out the emergency petroleum allocation program.

The section submitted by Senator Hart's staff sought to closely define activities that would be included in the antitrust immunity and wrote into the legislation safeguards against abuses.

Hart's version provided for public participation in all meetings and verbatim transcripts, set a specific date for termination of the immunity and required Justice Department officials to prevent any monopolistic practices.

However, most of these or similar limiting provisions were bargained away by the Senate Interior Committee, headed by Sen. Henry Jackson (D., Wash.) in negotiations with the administration.

By the time the bill reached the Senate floor and was finally approved, most of the safeguards had been eliminated or weakened.

But in the House of Representatives, a Congressional aide told The Inquirer, the administration failed to make a major effort to get its bill approved.

As a result, many of the anti-trust safeguards proposed by Hart's subcommittee, along with other provisions imposing controls over the administration's handling of the energy crisis, were retained in the Emergency Energy Act passed by the House on Dec. 14.

As for how the administration finally will deal with the antitrust issue, James E. Merna, a public information officer in the Federal Energy Office, reported:

"We are kind of hazy on that. We should find out."

While both the Senate and the House failed to tackle the problem of excess profits in the oil industry during a time of shortages and rationing, President Nixon announced his own plan last week for what he described as a "windfall profits" tax.

What the President was labeling a windfall profits tax, though, actually was an excise tax that would fall hardest on small independent oil producers and refiners.

The President's proposal—calling for a graduated tax on the selling price of a barrel of crude oil—would have little effect on the major oil companies and especially those operating abroad like the five largest international oil companies.

### CAN SHIFT PROFITS

That is because these companies are fully integrated, that is they engage in all phases of the petroleum business—from production of crude oil to refining and marketing.

With this kind of flexibility, a large company can shift its profits from one segment of its operations to another, avoiding the impact of the administration's proposed tax.

But an independent producer or refiner, whose income is derived solely from production or refining of crude oil, would be especially hard hit by the tax.

If any of this activity over antitrust immunity for oil companies in times of crisis, amidst rising prices and profits, sounds familiar, that's because it has all happened before.

During the blockade of the Suez Canal in 1956–57, when oil shipments from the Middle East to Europe were disrupted, the Justice Department speedily granted antitrust immunity to major oil companies, allowing them to pool their oil sources and work together in supplying oil to Europe.

In a Senate hearing in 1957, the late Sen. Estes Kefauver of Tennessee questioned an Interior Department official about the huge profits the companies would make by pooling their efforts during the crisis.

Interior Official—"We have nothing to do sir, with the profits of any of the oil companies."

Sen. Kefauver—"You are going to stand by and let them make any exorbitant amount of profit out of this voluntary arrangement that you sponsored."

Interior Official—"As I said before, senator, we have nothing to do with prices."

Sen. Kefauver—"I must say that it is unbelievable that you take this attitude, I just can't conceive of a man heading up this organization . . . making an arrangement that these companies have taken advantage of to make an enormously large profit at the expense of the American consumer, and you do nothing about it and express no interest in it. It is inconceivable to me."

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## U.S. FUEL OIL SUPPLIES BULGING—RESERVES UP 23 PERCENT IN A YEAR

(By Donald L. Barlett and James B. Steele)

The oil industry has stockpiled enough oil to get the country almost through February—even if all refineries were shut down tomorrow and if homeowners and business would not turn back their thermostats.

As of Dec. 21, the supply of home heating oil, kerosene and other distillate fuels stored by oil companies totaled 203 million barrels—up 23 percent over the 165 million barrels on hand one year earlier.

That is enough fuel oil to last for 58 days (or to Feb. 17), according to estimates made by the American Petroleum Institute (API), an industry trade organization. The estimates are based on demand figures calculated by the U. S. Bureau of Mines.

For this time of year, the 203 million-barrel supply (there are 42 gallons in a barrel) represents, in terms of volume, one of the largest stockpiles of distillate fuel oil in the nation's history.

This is the situation in the wake of a series of statements by the Federal government urging homeowners and businesses alike to turn back their thermostats or else risk living and working in homes and offices without heat.

In a nationwide television address last Nov. 25, President Nixon first stressed the need for allocating fuel oil, saying the government planned to reduce supplies to industry by 10 percent, to homeowners by 15 percent and to commercial establishments by 25 percent.

"For the average American family," the President said, "this cutback in heating oil does not mean severe discomfort for anyone, but it will mean that everyone should lower the thermostat . . . by six degrees below its normal setting."

The goal was to achieve a national daytime average of 68 degrees. The President warned, "Those who fail to adopt such a cutback risk running out of fuel before the winter is over."

A fact sheet, distributed by the White House before that speech, estimated that the shortage of distillate fuel oil would average about 900,000 barrels a day during the coming winter months.

That was an increase of 100 percent over the projected shortage reported a little more than two weeks earlier in another White House fact sheet, when the shortage was placed at 450,000 barrels a day.

At the time Mr. Nixon announced his fuel oil allocation program, the administration's oil policy experts predicted that the overall shortage in petroleum supplies (for gas, oil and all other needs) would average 3.5 million barrels a day during the first quarter of this year.

As The Inquirer first disclosed last Dec. 2—in one of a series of special investigative reports on the nation's energy crisis—there was substantial evidence to suggest that the Federal government had exaggerated the oil shortage.

Since then, the new Federal Energy Office has substantially revised its estimates of the oil deficit—lowering the original projection from 3.5 million barrels to 3.3 million, and finally last week to 2.7 million a day.

There is some reason to believe that even the last figure is too high.

On Wednesday, the Conference Board, an economic research group based in New York, estimated that the difference between supply and demand would run between 2.2 million and 2.4 million barrels a day.

The Conference Board criticized the Nixon Administration for overstating the petroleum shortage, declaring:

"If an allocation program is based on an estimate of the shortfall that is too large, plants may be forced to close unnecessarily. If the estimate is too small, we may run short late in the winter and be forced to make Draconian cutbacks in use."

Interestingly, the American Petroleum Institute report showing the high level of fuel oil stocks was issued just as refineries—acting on orders of the Nixon Administration—were preparing to increase fuel oil production still further and cut back gasoline production.

William E. Simon, administrator of the Federal Energy Office, has ordered refineries to reduce gasoline production by about 900,000 barrels a day and increase the distillate fuel oil and other products.

When a spokesman for Simon's office was asked about the size of the fuel oil stockpile and the reason for the proposed rationing program, he told The Inquirer:

"It's a matter of being safe and not sorry. It's a matter of keeping the homes heated and people working. They (the figures) look truly like the conservation programs are working."

Actually, the conservation programs appear to have had little or no effect on the stockpile of distillate fuel oil, at least up to the time the API report was released.

For on the week the projected fuel oil rationing program was announced, the supply stood at 205 million barrels, according to API statistics.

With businesses and home-owners turning back thermostats, there is reason to believe the demand figure has decreased while the supply has remained relatively constant. This picture indicates that the current stocks probably would last more than 58 days at present usage.

A spokesman for the American Petroleum Institute discounted any comparison of this year's supplies with those available last year.

"Last year was an abnormally poor year," said Earl Ross, an API public relations official. "There was cold, wet weather early in the year and the stocks were drawn down.

"Also, you've had a very mild winter so far this year, so the demand has been less than anticipated."

Ross said a more meaningful comparison would be with 1971, when on the same date fuel oil stocks totaled 196 million barrels, or a 66-day supply (based on the smaller demand of that year).

In Philadelphia, interviews with fuel oil dealers indicate they are receiving anywhere from 68 to 100 percent of last year's supply from major oil companies.

Some less-established dealers, either newcomers to the business or small independents, have been cut off altogether and have gone out of business.

### OIL FIRMS HOARDING BIG JET-FUEL SUPPLY

(By Donald L. Barlett and James B. Steele)

While the nation's airlines have slashed schedules and laid off thousands of employes because of the energy crisis, the oil industry has built up one of the largest stockpiles of jet fuel in the country's history for this time of year.

Jet fuel supplies stood at a near-record 28.9 million barrels for the week ending Dec. 12—14 percent more than the reserves total of 25.2 million barrels one year earlier. A barrel holds 42 gallons.

These figures come from the American Petroleum Institute (API), a trade organization which compiles weekly statistics on the industry.

Earl Ross, a public relations official for the API, appeared baffled about the increase in jet fuel supplies over 1972.

"I really couldn't say," he replied when asked about the high level of stocks. "I really have no way of knowing. We just get the numbers from the oil companies. Sometimes there are no apparent explanations for these things."

About 1,500 departures a day have been canceled by the airlines, because of the energy crisis. And Lou Davis, a public relations official for the Air Lines Pilots Association, says about 16,000 employes are slated for layoff due to what he termed "the alleged oil shortage."

William E. Jackman, an assistant vice president of the Air Transport Association of America, told The Inquirer that early last month the international carriers were having trouble getting jet fuel and indicated they would have to cancel flights over the holidays.

Then William E. Simon, administrator of the new Federal Energy Office, announced that 1.5 million gallons of jet fuel would be requisitioned from the Defense Department and made available to the airlines.

Within several days of Simon's announcement, Jackman said, "suddenly a lot of fuel became available from the large suppliers. Two suppliers—Standard Oil Co. of California and Texaco—came forward with 9 million gallons each.

"Now, the next question you're going to ask is, where did all that jet fuel come from? We're living with that question from day to day," Jackman added.

Jackman said the airlines were paying an average of about 12 cents a gallon for fuel at the beginning of 1973. By the end of the year, he said, the price had increased by 50 to 100 percent.

In some instances, where airlines purchased fuel on a spot basis rather than under longer term contracts, the price was as high as 60 cents to 80 cents a gallon, Jackman said.

On Thursday The Inquirer disclosed that the oil industry, as of Dec. 21, 1973, also had stored away a near-record 203 million barrels of heating oil and other distillate fuel oils—up 23 percent over the 165 million barrels on hand last year.

The 203 million barrels equal a 58-day supply, even without taking into account any of the conservation measures implemented under the Federal government's mandatory allocation programs. The measures include the turning back of thermostats in homes and businesses.

The supply figure also does not include the fuel oil stocks of independent companies and the supplies of individual dealers.

This means the oil companies already have put away enough distillate fuel oil to meet the nation's needs through much of the winter.

But while the reserves of both distillate fuel oils and jet fuel are up over a year ago, the picture is somewhat different for gasoline reserves.

For the week ending Dec. 21—the latest figures available—motor gasoline supplies amounted to 203 million barrels. This figure is down 3 percent from the 1972 figure of 209 million barrels.

Even worse, with gasoline prices now in the 50-cent-a-gallon range, oil company refineries this month—acting on orders of the Nixon Administration—are scheduled to cut their gasoline production by 900,000 barrels a day.

Martin Lobel, a Washington attorney and former oil specialist on the staff of Sen. William Proxmire (D., Wis.), says that, because of the cutback in gasoline production, there will be another round of price hikes this spring.

"What's going to happen," says Lobel—whose law firm represents a number of independent oil companies—"is that the companies will raise prices once again, citing the shortage of gasoline."

Under the Federal government's mandatory allocation program, airlines currently are operating with 5 percent less fuel than they used in 1972. That reduction in supplies took effect last Dec. 1.

Interestingly, the American Petroleum Institute statistics show that in November the industry stockpile of jet fuel rose 11 percent, climbing from 24.4 million barrels to 27.1 million barrels.

Those reserves continued to mount during the first three weeks of December, going up to 28.9 million barrels.

The figures include two kinds of jet fuels, naphtha-based and kerosene. The airlines use a much larger volume of the kerosene variety, and these stocks are up—even higher than the overall figures.

For example, for the week ending Dec. 21, the kerosene-type jet fuel reserves were at 23.2 million barrels, compared with 19.6 million barrels a year earlier—a jump of 18 percent.

In some weeks in September and October and even into November, refineries were turning out upwards of 700,000 barrels of kerosene type jet fuel a day.

When the allocation program took effect, Dec. 1, kerosene jet fuel production dropped, to an average of 687,000 barrels a day the first week, then to 611,000 barrels a day the second week.

In designing the allocation program, the Federal government projected a jet fuel shortage of 400,000 barrels a day in the first three months of this year.

### OIL SUPPLIES ADEQUATE DESPITE "CRISIS" FEARS

(By Donald L. Barlett and James B. Steele)

Oil has poured into the United States during the last 12 months at levels high enough to meet current demands—even without rationing cutbacks—for gasoline, heating oil and jet fuel.

Thus, the United States, at worst, should be experiencing an oil shortage no more severe than what it endured last summer and last winter when there were only slight shortages in scattered regions of the country.

This conclusion is based on studies of data compiled by the United States Bureau of Mines and the American Petroleum Institute (API), an organization supported by the oil industry. Both the bureau and the API get their figures directly from the oil companies.

The Bureau of Mines data show that from January through last September, the latest period for which figures are available, supplies of oil products totaled 4.8 billion barrels while demand was at 4.7 billion barrels.

From October through December, API figures show that imports of both crude oil and refined products were running ahead of the same months in 1972—despite fear that the

Arab oil boycott would drastically reduce supplies.

For the four weeks ending last Nov. 30, imports of crude oil were averaging 3.2 million barrels a day—up 38 percent from the same time in 1972, when the figure was 2.3 million barrels a day.

For the four weeks ending Dec. 28, crude oil imports averaged 2.9 million barrels a day, an increase of 26 percent over the 2.3 million barrels a day imported during the same period in 1972.

While there are no final consumption statistics yet for 1973, available data from both the Bureau of Mines and API indicate petroleum supplies for the year will have totaled approximately 6,408,000,000 barrels and demand will have been about 6,392,000,000 barrels.

The API figures, as The Inquirer reported earlier this week, show the oil industry has stockpiled near-record levels of heating oils and jet fuel for this time of year.

According to API's latest figures, released late Friday afternoon, there was another increase in heating oil inventories last week, which now stand at 203.5 million barrels, up 28 percent over this time last year.

The five largest oil companies in the country were asked by The Inquirer why the large quantities of oil coming into the country were not being passed on directly to gas stations, airlines and homeowners. Only one company, Gulf Oil Corp., had an immediate response.

Fuller McCowan, Gulf's coordinator of foreign public relations, said fuel oil is being held in reserve by Gulf because "the cold weather is ahead of you."

As for airline fuel, he said, "I have not heard that any airline is having trouble getting jet fuel."

McCowan said he would need more time for research to fully explain the apparent paradox between oil inflow into the United States and the current oil crisis. But he emphasized that "it's absolutely untrue that Gulf Oil Corp. is stockpiling. We are refining our products at maximum."

The companies that declined to respond at all until they could further study the data were Exxon, Mobil, Texaco and Standard of California.

The continuing Inquirer study has indicated that the Federal Government has consistently overstated the immediate severity of the oil shortage.

Last November, the White House released a statement forecasting that demand for petroleum products would outstrip supplies by 7.5 percent during the last three months of 1973.

But records maintained by the Bureau of Mines show that demand ran ahead of supplies in the last quarters of both 1972 and 1971, as well as in other years.

In 1972, for example, when there were no rationing programs and no soaring prices for oil products, there was a 4 percent deficit between supply and demand.

An Inquirer analysis of Bureau of Mines data shows a regular pattern over the last three years, with the oil industry turning out more products than are used in the months from April through October.

But beginning in November, and continuing into March, the demand begins to run ahead of production.

During February 1973, for example, the production of petroleum products represented 94 percent of demand. In February 1972, it was even lower—91 percent. And in February 1971, it was 94 percent.

Then in June last year, production reached 106 percent of demand. In June of 1972, the figure was 103 percent; in June 1971, it was 106 percent.

As The Inquirer disclosed last Dec. 2, the Federal Energy Office inflated the oil shortage figures for both the last quarter of last year and the first three months of this year, at first predicting a 17 percent deficit this quarter. That prediction has now been reduced to 13.6 percent.

The importance of not overstating the extent of the oil shortage was underscored earlier this week by the Conference Board, a prestigious economic research organization based in New York.

The board is headed by Alexander B. Trowbridge, former Secretary of Commerce, and its membership includes some of the nation's leading business executives from such corporation as General Electric Co. and General Foods Corp. and Koppers Co. Inc.

While agreeing there was an oil shortage, the Conference Board pointed out that exaggerating the problem could force plants to close unnecessarily because fuel allocations were not as large as they might have been.

The Conference Board noted, as The Inquirer disclosed earlier this week, that the oil industry had built up substantial inventories, especially of heating oils and jet fuel.

The stockpiles of both now stand at near-record levels, although gasoline inventories are down somewhat from previous years.

None of this is to suggest there is no oil shortage. Nor that conservation measures should be abandoned.

One of the problems, as last year's statistics indicate, is the supply of petroleum products is about even with demand.

A barrel of crude oil, which holds 42 gallons, is converted into a variety of products, from gasoline to jet fuel to residual fuel for electrical utilities.

To increase the output of any one product, a refinery must reduce the output of another product. Thus, there may be enough home heating oil at a given time, but a shortage of gasoline because of miscalculations in demand for individual products.

This is what is happening now, as refineries, on orders of the government, have cut back gasoline production while increasing the output of other products.

But while there are sizable inventories of jet fuel and heating oil, the existing stockpile of gasoline is below last year's level.

The problem is further aggravated because of a shortage of refinery capacity in the United States and the inability of many refineries to process foreign crude oil which has a high sulphur content.

The Inquirer disclosed last July that the lack of refinery capacity—now short about 4 million barrels a day—was one of the underlying reasons for the country's energy problems.

Over the last 20 years, the major American international oil companies gradually shifted the base of their refinery and marketing operations outside the United States.

They invested billions of dollars throughout Europe and Asia, building refineries to meet their growing markets in the Eastern Hemisphere, while failing to keep pace with energy needs in this country.

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### OIL TANKERS SAIL ON DESPITE EMBARGO

(By Donald L. Barlett and James B. Steele)

During the month of December—some seven weeks after the Arab states announced they were cutting off oil shipments to the United States and the Netherlands and reducing overall production—103 oil tankers sailed from Bahrain, a tiny Arab shiekdom on the Persian Gulf.

That was the largest number of tankers to leave the Arab oilport in any single month last year except May, when there were 127 sailings. During September—the month preceding the boycott—63 tankers left the port, 40 ships fewer than in December.

Those few statistics, perhaps better than others, explain what is happening in the oil-rich countries of the Middle East—with the one exception of Saudi Arabia. They also explain, at least in part, why the United States is not experiencing the massive oil shortages originally forecast by the Federal government.

They also help to explain the lack of concern over the oil crisis shown by officials in the governments of some European countries—such as Spain, France and the United Kingdom—where the mood is much more optimistic than in Washington.

For the past week, an Inquirer reporter working in London has been sifting through the shipping reports of Lloyd's of London, tracing the movement of oil tankers in and out of the Persian Gulf ports of the Arab nations.

The tankers have names like the Esso Aruba and the Texaco Newcastle and the Chevron Madrid and the Esso Okinawa and the Chevron Antwerp. After loading up with oil, they head for ports like Milford Haven in Great Britain and, in some cases, "unspecified designations."

An Inquirer analysis of the Lloyd's of London shipping reports, covering six large Arab ports picked at random, shows that:

From January through September 1973, on the average, a total of 475 ships sailed from the ports each month. During the last three months of the year, with the embargo going into effect Oct. 19, there were an average of 478 tanker departures each month.

There has been a marked decline in oil tankers leaving Saudi Arabia, by far the most vocal of the Arab states in the current Middle East boycott. In December, 171 tankers left Ras Tanura, Saudi Arabia, compared with 228 ships in September.

But tanker sailings from Kars Island in Iran, a country close to Saudi Arabia, but not an Arab state and not a participant in the boycott, have increased substantially. In the first nine months of 1972, there were, on the average, 77 tankers departing monthly. In the last three months, this figure soared to 124 ships per month.

In Kuwait, 98 tankers sailed from the oilport of Mena Al Ahmadi during December. That was the largest number of sailings reported from the port in any month last year.

Total sailings during the final quarter of 1973 from the six analyzed ports were up substantially over the same period in 1972.

During 1972, the six ports recorded a total of 1,093 sailings for the months of October, November and December. In 1973, the same ports showed 1,435 sailings—a 31 percent increase.

The general picture that emerges from these statistics is that while there has been a cutback in oil production in Saudi Arabia, the Middle East cutback as a whole clearly is nowhere near as profound as suggested by the Arabs and government officials in Washington.

As one official in one of the world's largest oil companies told an Inquirer reporter in his London office:

"You must remember, the Arabs are a very proud people. They may say, 'Do what you want to, but don't let us know about it.' "

"It's been rumored some of the Arabs have even told the companies they don't have to cut back (oil production) the full amount."

He said definitely that the Arabs are not enforcing the oil embargo and no restrictions were placed, for example, on any oil company's dealings with the Netherlands.

For the more than two months the oil embargo has been in effect, the oil company official said, Arab oil has been flowing into Holland.

Why would the Arabs, with great fanfare, announce that they were shutting off oil shipments to the United States and the Netherlands, cutting back production by millions of barrels a day, and then not bother to really enforce the boycott or reduce production to the levels claimed?

One possible explanation is that the mere shock value of the announcement alone, and the panic that followed, got the Arabs what they wanted.

First, the United States began exerting pressure on Israel to reach a Middle East peace agreement. Then the price of oil started to soar, with oil that once sold for $2 a barrel now going in some cases for upwards of $17.

Those price increases already are being felt in the United States as the multinational oil companies begin passing along the increases to gasoline stations dealers and heating oil distributors.

The fears over the effects of the embargo and cutbacks in oil production were fanned by gloomy predictions from Washington.

In a nationwide television address delivered Nov. 25, President Nixon, warning of oil shortages running up to 17 percent of demand, said:

"When I spoke to you earlier, I indicated that the sudden cutoff of oil from the Middle East had turned the serious energy shortages we expected this winter into a major energy crisis.

"That crisis is now being felt around the world, as other industrialized nations have also suffered from cutbacks in oil from the Middle-East."

As everyone now knows, of course, that 17 percent shortage never materialized and the figure has been scaled back.

Indeed, the Lloyd's shipping statistics supported by interviews with knowledgeable oil industry sources in London, seem to indicate the Arabs got exactly what they wanted without reducing production to the point where it would have had the crippling effects on European nations that were first forecast.

Then, too, the Arab states will be pulling in tens of billions of dollars more each year in additional revenue as a result of higher prices.

As the Inquirer reported if the Arab boycott were not as damaging as U.S. government officials were saying, it is the international oil companies that ultimately determine how much oil each country will receive.

As the system now works, the multi-national oil companies distribute the supply of crude oil and petroleum products to their markets in Europe and Asia and the United States.

And even though the major oil companies have lost some of their power over the years, the international flow of oil still is controlled largely by seven oil companies, five of which are American. The Arab nations play no role in this distribution process.

The seven are Exxon Corp., Mobil Oil Corp., Texaco Inc., Gulf Oil Corp., Standard Oil Company of California, British Petroleum Company and Royal Dutch Shell.

The Inquirer reported last summer, in a three-part series entitled "Oil—The Created Crisis," that the five American multi-national oil companies have been shifting their operations outside the United States.

As a result, these companies—which now determine in large measure how much oil the United States will receive, and when—sell nearly two barrels of petroleum products in foreign countries for every barrel they sell in this country. A barrel holds 42 gallons.

This is a condition which enables at least the international oil companies to engage in self-fulfilling prophecies when it comes to determining the level of oil imports in the United States.

None of this is to suggest that the United States does not have energy problems. Nor that practical conservation measures should be abandoned.

What it does mean, though, is that the severity of the oil shortage has been overstated, resulting, in turn, in a needless loss of jobs and slowdowns in other businesses and industries.

While most Arab states have cut oil production to the levels announced, other countries, in addition to Iran, have stepped up production.

A shipping industry authority who supervises the chartering of tankers in London told The Inquirer that American oil companies were looking for tankers to transport additional crude oil from Nigeria.

Nigeria, along with the Arab states, is a member of the organization of Petroleum Exporting Countries (OPEC), but it is not participating in the embargo.

There has been speculation among some industry observers that the oil companies, rather than directly violate the Arab embargo, simply switched oil shipments from one country to another.

For example, Nigerian oil originally scheduled to be shipped to Europe may have been sent to the United States while the Arab oil scheduled for the United States was shipped to Europe.

Although the Lloyd's of London shipping statistics indicate no cutback in the number of ships leaving Arab ports, some oil industry officials claim that some of the tankers are not fully loaded.

Fuller McCowan, coordinator of foreign public relations for Gulf Oil Corp, said the company's field personnel reported that ships were leaving with less than a full load, but he didn't know if any of the tankers belonged to Gulf.

Other oil industry observers doubt that many ships leave with less than full loads because it simply isn't economical.

An official of the British Petroleum Company told The Inquirer that all BP ships are sailing fully loaded, although they wait longer at the docks because there is somewhat less pressure to sail.

Interestingly, a dispatch filed last week by the London Times from Bahrain, which began:

"Tankers bound for Britain loaded 3.5 million barrels less than their permitted quota from Aramco's Saudi Arabian terminal.

"The fact that the oil was available and just not lifted has astonished shipping circles here (in the Persion Gulf)."

The Times, speculating on the reason for this, guessed that there was a momentary tanker shortage—but not an oil shortage.

Aramco is owned jointly by Exxon Corp., Texaco Inc., Mobil Oil Corp. and Standard Oil Company of California.

The Lloyd's figures, gleaned from statistics covering the sailings of 5,707 ships, list both arrivals and departures at most of the world's major ports.

The information appears in Lloyd's List, which has been published on most weekends and Saturday by Lloyd's of London since 1734.

The information concerning shipping movements is reported to Lloyd's by its agents stationed at ports around the world.

While The Inquirer analysis of the destination of ships that picked up oil in Arab ports during the last three months did not turn up any bound for the United States, some ships were listed as headed for Rotterdam, the Netherlands oil port supposedly under a complete Arab embargo.

In England, where a wage dispute with coal miners has led to drastic reductions in electrical power, there are few signs of the oil shortage.

Milford Haven, England's largest oil port and the second largest in Europe after Rotterdam, is receiving an ample supply of oil from the Arab states.

Milford Haven recorded an average of 248 oil tanker arrivals for each of the first nine months of 1973, according to Lloyd's.

But in the final three months of the year, during the global energy scare, Milford Haven received an average of 270 arrivals a month, a 9 percent increase over the same period last year.

The inventory of petroleum products in England is now higher than at this time last year, according to a British Petroleum Company executive.

He said that despite an estimated deficit of 9 to 10 percent, more oil is flowing into England now than last year and rationing is not under consideration.

The fact that England's imports of petroleum are increasing is not surprising when viewed in light of disclosures by The Inquirer last week of similar circumstances in the United States.

In the States, The Inquirer found, American oil companies have built up stockpiles of heating oils and jet fuel to near-record levels for this time of the year.

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## Dutch Oil Plentiful—Crisis a Hoax, Official Says

(By Donald L. Barlett and James B. Steele)

Despite fears of massive disruptions for the Netherlands because of the Arab oil embargo, the Dutch are getting most of the petroleum they need and their economy is operating at near normal levels.

"Personally, I think the whole thing is a hoax and the government is being carried away with it," said Jack Bax, a press aide for the city of Rotterdam, Europe's largest oil port, in speaking to an Inquirer reporter.

The Netherlands and the United States were the only two countries in the world supposed to be totally cut off from Arab oil. The impact was expected to be far more severe for the Dutch, who are accustomed to importing 70 percent of their petroleum from the Arabs, than for the Americans, who get less than 10 percent from that source.

But to this date, 2½ months since the boycott started, Dutch service stations remain open, gas is plentiful and no one is being asked to limit sales to 10 gallons per customer to hold down consumption. Sunday driving, however, is still barred throughout the country.

There have been no massive layoffs, oil refineries are running at a swift pace and oil stocks are close to normal for this time of year.

The Dutch government, which frantically warned of impending oil shortages two months ago, is growing increasingly embarrassed by its earlier predictions, and it has now scaled down estimates of the shortage.

Gas rationing, anticipated weeks ago, has been postponed until Jan. 11 at the earliest. And if rationing does come, it may not last more than three weeks, according to one Amsterdam newspaper.

### EFFECTS OVERSTATED

A similar situation has existed in the United States where the Federal Government—as The Inquirer disclosed early last month—exaggerated both the effects of the Arab boycott and the severity of the nation's oil shortage.

As a result of these over-statements, coming in the midst of continuously rising prices for petroleum products, there have been layoffs of thousands of workers in the United States and slow-downs in some businesses and industries.

The Netherlands has weathered the oil boycott so well, according to Dutch sources, because the multi-national oil companies have quietly sent to The Netherlands large supplies of Venezuelan, Nigerian and Iranian crude once earmarked for other nations.

Arab oil, once expected to go to the Dutch, has filled in the gap elsewhere for the diverted Venezuelan, Nigerian and Iranian supplies.

The Inquirer also disclosed early last month that America's international oil companies were acting as policemen for the Arabs during the embargo, making the final decision as to which countries would receive oil and how much.

Thus, the oil companies, rather than the Arabs, actually determine the level of oil imports into both the United States and the Netherlands.

Although sources familiar with the Dutch oil situation take the fact of diversion for granted, it is impossible to say exactly how much oil is coming from where.

BAN IS IMPOSED

The national government imposed a ban on the reporting of oil stocks and of shipping movements in Rotterdam after the Dutch news service, Algemeen Neederlands Per, published a story Dec. 7 showing that the Arab boycott had not slowed the flow of oil into Rotterdam.

The ANP story quoted sources in the port of Rotterdam who predicted a slight downturn in December, an upswing of oil imports in January and normal oil imports in February and March.

The reporting ban was implemented for "state reasons," according to B. Van Donkelaar, an aide to the minister of economic affairs, who oversees petroleum and energy matters.

To release import and export information, he added, might "annoy other states."

Rotterdam observers who are close to the port and the oil supply situation believe the government has imposed the secrecy ban because it does not want to provoke the Arabs into taking steps that would truly seriously deprive The Netherlands of oil.

"We really don't care where the ships are coming from," said Bax, the Rotterdam press aide. "It's the companies' business where they get oil. All we care about is how much is coming in. I don't think the problem is very serious."

PRICES SOARING

Indeed, about the only factor of the energy crisis that seems to have the Dutch bothered is the soaring price of petroleum—a problem that is worrying many other countries.

Keeping Rotterdam and the Dutch supplied with oil—regardless of its derivation—is an important consideration for the multinational oil firms.

As Europe's largest oil port, Rotterdam is as vital to the oil companies as to the daily lives of the Dutch citizens.

The city is a major distribution point for moving oil to the rest of western Europe. In 1972, a total of 129 million tons of crude oil was discharged at Rotterdam.

About 45 percent of that crude oil was re-exported to other counties. The rest was processed at Rotterdam refineries and the finished products either exported or used in The Netherlands.

THREE ARE U.S. OWNED

The heart of the oil industry in Rotterdam is the sprawling refineries and terminals of five multi-national companies—three of them American owned. They are Esso, a subsidiary of the Exxon Corp.; Gulf Oil Corp., and Chevron, a subsidiary, of Standard Oil of California.

Royal Dutch Shell and British Petroleum are the other two major companies operating in Rotterdam.

This week, an Inquirer reporter could note that the refineries of these companies were busy and that tankers, such as the ESSO Aarhus and Mytrea were discharging their cargoes of crude oil.

While no official estimates are available, observers believe that the Dutch oil stockpile is between five and six million tons, normal for this time of year. The Netherlands storage capacity is six million tons.

SPEEDS REDUCED

The government is crediting its oil conservation programs with keeping The Netherlands from being as hard-pressed as originally feared. Conservation measures have included no driving on Sundays, reduced speed limits and pleas for the use of less electricity.

But observers believe that these programs alone could not possibly account for the fact that Rotterdam's ports and refineries continue to operate at a high rate.

And this has added to speculation that the Arab boycott and production cutbacks have been far less stringent than announced.

The Arabs said they would boycott only The Netherlands and the U.S. But had threatened, in addition, to reduce overall production by 25 percent. That means daily production should have fallen from 20 million barrels to 15 million. There are 42 gallons in a barrel.

SLACK PICKED UP

Observers in Rotterdam argue that the diversion of Venezuelan, Nigerian and Iranian oil to The Netherlands would have been impossible unless Arab oil was picking up the slack in other countries. But, they add, with all the oil coming into Rotterdam, it would be difficult for the Arabs to pick up the slack if production had actually been cut 25 percent.

The Inquirer disclosed Sunday that shipping statistics from Lloyd's of London indicated that oil tanker shipments from six major Arab ports averaged about the same for October, November and December—the three boycott months—as for the nine previous months.

Even the Arabs are starting to hint that the cutback has been less than 25 percent. A Beirut newspaper, quoting a source in the Organization of Petroleum Exporting Countries (OPEC), said that roughly 25.5 million barrels of oil had gone to the United States, despite the boycott.

The OPEC source said most of this, but not all, had been shipped from Libya and refined in the Bahamas before entering the United States.

## UKRAINIAN INDEPENDENCE DAY

Mr. ROTH. Mr. President, the calendar has once more moved on to a day well worthy of notice by the free world: Ukrainian Independence Day, January 22. This marks the 56th anniversary of Ukrainian independence, which took place in the city of Kiev on January 22, 1918. Unfortunately, this was a short-lived independence; for in 1921, the Ukrainians were overwhelmed by the Soviet army. Grim tyranny became the lot of the Ukrainian people, and a puppet government purported to speak for them.

This stark tragedy was formalized in 1923, when the puppet government was incorporated into the Union of Soviet Socialist Republics. All too often—and even now—repression of so-called dissidents takes place when brave men and women dare to speak out for freedom.

Ukrainians may take heart that their plight has not gone unnoticed, for those who love liberty and freedom have not forgotten that Ukrainian independence still has not been achieved.

So today, Mr. President, we commemorate Ukrainian Independence Day, and we trust and hope that a time will come when self-determination shall be a rule of law among the nations of the world. Surely, the proud and courageous Ukrainian people deserve no less than the justice and freedom so long denied them.

## ABUSE OF MILITARY AIRLIFT COMMAND AND SUPPORTING MILITARY SERVICES

Mr. PROXMIRE. Mr. President, over the past several months I have become increasingly concerned over what appears to be an unconscionable waste of the taxpayers' money through abuse of the Military Airlift Command—MAC, and supporting military services. MAC is the agency of the Department of Defense charged with the responsibility of scheduling and operating aircraft to satisfy the air transport requirements of the military services. In addition to satisfying the official needs of the Defense Department, MAC also affords certain persons the privilege of flying on MAC aircraft on a standby or space-available basis. It is this aspect of the military transportation system which concerns me.

EXTENT OF SPACE-AVAILABLE TRAVEL

The use of space-available travel in recent years has been enormous. An excellent study prepared for the House Appropriations Committee found that MAC moved 1,682,550 space-available passengers during the 5-year period of fiscal years 1968–72 on international channel flights alone. Domestic flights within continental United States and flights conducted by the 89th Military Airlift Wing out of Andrews AFB are not included in these figures. The 5-year figures result in an average of 336,510 space-available passengers per year, with each passenger flying an average of 4,400 miles. Had these passengers been flown on a commercial B–707 or DC–8, which can carry 165 passengers, they would have filled 2,039 planes, in each year and consumed 24 million gallons of fuel. The Defense Department and our domestic economy simply cannot afford the expense of these costly vacation trips any longer.

PERCENTAGE DISTRIBUTION OF PASSENGERS

It is true that some of these space-available passengers are servicemen on emergency leave to rejoin their families in a moment of personal crisis. I wholeheartedly agree with those who say that the Department of Defense has a duty to facilitate transportation in these cases. In fact, I think that these servicemen should be considered as space-required—paying—passengers with the Department of Defense footing the bill.

But emergency leave passengers should not be considered as an excuse for providing the space-available privileges to all military personnel, since these cases represent only one one-thousandth of all space-available passengers moved by MAC each year. Retirees and their dependents, on the other hand, total more than 17 percent of all such passengers. Active duty personnel on ordinary leave and their dependents occupy more than 75 percent of the space-available seats, with miscellaneous passengers filling the remainder. Dependents alone of both active and retired military personnel account for 35 percent of space-available passengers.

Of the 1.68 million passengers transported for fiscal years 1868–72, about 60 percent flew on commercial aircraft chartered by MAC and approximately 40 percent flew on military aircraft. In fiscal year 1972, however, when MAC moved 336,229 space-available passengers, these passengers were 48 percent of all passengers moved on MAC's military aircraft and only 8 percent of all passengers on chartered planes. The implication seems apparent from these percentages that MAC is more efficient in its scheduling and use of chartered commercial aircraft than of its own planes.

This implication that MAC can be either careful or careless in its scheduling is supported by data on the percentage of occupany of MAC flights. Last summer, in response to an inquiry which I made, Mr. Donald R. Brazier, then the Comptroller of the Defense Department, wrote to me that—

> Experience with this system results in 95% of the seats procured over major routes being filled by space required (paying) travelers.

The House investigation, however, found that only 85 percent of the seats were filled with paying passengers, leaving 15 percent of all seats occupied by space-available travelers. Since 5 percent of the total seats represented space-required passengers who failed to appear for their flights, a full 10 percent of all passengers, because MAC scheduled or the requesting service overforecasted its mission requirements. Thus, despite MAC's avowed policy of scheduling less space than requested by the branches in order to maximize the use of aircraft, too many seats were scheduled.

### FORECASTING ERRORS

A closer examination of the data gathered by the House investigative staff reveals a glaring discrepancy between the passenger and cargo forecasts of the various services. These service forecasts serve as a key input for MAC's scheduling procedures. For a 23-month period, cargo underforecasts canceled out overforecasts for each of the armed services. But for each month of the same period, passenger forecasts for each branch were consistently higher than needed.

There is simply no reason that passenger forecasts cannot be as close to the mark as cargo forecasts. The conclusion is inescapable: Two-thirds of all space-available seats are intentionally made available and are not the result of any forecasting errors. How many additional but unnecessary flights result is impossible to determine precisely. Yet it is clear that the intentional procurement of space-available seats has contributed greatly to the spiraling transportation costs of the branches and to MAC's $74 million net operating loss for the 4-year period, fiscal years 1969–72.

### SPECIAL PRIVILEGES

Abuse of the space-available privilege by high-ranking officers for free vacation trips whenever they wish represents an additional cost which is also hidden in the budgets of the various services. Active-duty generals, admirals, colonels, and Navy captains, and certain retired officers are entitled to make reservations 30 days in advance of their departure for up to five alternate destinations. These senior officers, who are ostensibly requesting a standby seat, travel as planned 99 percent of the time. The House study estimated that 25,520 of these senior officers traveled on MAC as space-available passengers in fiscal years 1971–72 and sent 75,000 reservation messages to MAC terminals over Government communication lines.

All of these active-duty officers together with all retired military personnel of the rank of colonel or Navy captain or above are classified as distinguished visitors. As such they are entitled to baggage handling, on- and off-base transportation, guest house quarters at $3 to $5 per day, personal escorts to and from the plane and through customs, use of the distinguished visitors' lounge, and access to the officers' club, post exchange, swimming/pool/beach, and golf course. Furthermore, within 30 minutes of the departure of a distinguished visitor, a MAC protocol officer must wire ahead to the officer's destination to tell the receiving terminal when the officer will arrive and the services he will require upon arrival.

These prerequisites, Mr. President, are not for a busy officer attending to his duty and traveling on official business. They are creature comforts for high-ranking military personnel while on leave from service, and for retired senior officers.

One concerned airman who is deeply concerned about these abuses has sent me a first-hand report on the operation of a distinguished visitor's lounge at Hickam AFB, Hawaii. He writes that—

> There are ten enlisted men assigned to it, and their main function is to pamper those of the rank of Colonel and above, when traveling through Hickam aboard MAC aircraft. PACAF (Pacific Air Forces), the other major command on this base have their own serfs to pamper DV's (Distinguished Visitors) on their aircraft. I can understand the necessity of according certain honors to General officers, but 99% of the people handled are Colonels and half of them retired at that. Most of these Colonels are on leave and for some reason can't just simply check in and carry their bags to the weigh-in scales like everyone else. They are met at the aircraft, and delivered to the aircraft in a staff car separate from other passengers, and while they are waiting for the DV representative to fetch their bags, they recline in their own plush little lounge, drinking coffee and watching color TV. Their every wish and whim attended to as if they were some sort of royalty. Incidentally, these DV lounges are standard operating procedure at all MAC stations. Not just here.

If these allegations are true, an incredible squandering of our tax dollars has taken place and continues to occur in order to provide this type of privilege to high-ranking officers and retirees.

### ABUSE BY RETIREES

Retired members of the Armed Forces are prohibited from using the space-available privilege to advance their personal interests. Department of Defense form 1382, which must be signed by all retired military members and their dependents before flying as space-available passengers, certifies that the transportation is not for personal gain, nor in connection with business of any nature, and that the trip will not result in any form of remuneration.

The former Comptroller of the Defense Department has indicated to me that the cases experienced where space-available transportation was used for personal gain in violation of a signed DD form 1382 have been rare. Yet I have been informed that the Department of the Air Force, Office of Special Investigations has recently conducted 103 investigations into instances where retired military members misused space-available transportation for personal gain in 1970 through 1972. Most of these cases belonged to a single group of retirees employed by civilian companies who traveled to and from their employment in Saudi Arabia and received travel expenses from their employers at the same time that they were receiving free transportation from the U.S. Government.

The Air Force is now seeking collection from these individuals and is to be commended for doing so. Yet as long as the Air Force believes that these incidents are rare and that the current procedures for detecting violations of DD form 1381 are adequate, a great many more violations are likely to be overlooked. What has been discovered to date possibly is only the tip of an iceberg of abuse of space-available travel for personal profit.

### STATUTORY JUSTIFICATION

The statutory authority for the practice of permitting military and defense personnel to ride without payment on MAC planes while acting in an unofficial capacity is based upon title 10, United States Code, section 4744, which reads:

S. 4744. Persons and supplies; sea transportation:

> Whenever the Secretary of the Army considers that space is available, the following persons and supplies may be transported on vessels operated by Army transport agencies, or, within bulk space allocations made to the Department of the Army, on vessels operated by any military transport agency of the Department of Defense.
>
> (1) Members of the Navy, Marine Corps, or Coast Guard.
>
> (2) Officers and employees of the Department of the Army, the Department of the

Navy, the Department of the Air Force, or the Coast Guard.

(3) Supplies of the Department of the Navy.

(4) Members of Congress.

(5) Other officers of the United States traveling on official business.

(6) Secretaries and supplies of the Armed Services Department of the Young Men's Christian Association.

(7) Officers and employees of the Commonwealth of Puerto Rico on official business.

(8) The families of persons described in clauses (1), (2), (4), (5), and (7).

However, a person described in clause (7) or (8) may be so transported only if the transportation is without expense to the United States. As amended July 12, 1960, Pub. L. 86–624, S. 4(d), 74 Stat. 411.

This law reflects three prior sections of the United States Code dealing with transportation, which were codified into section 4744 when title 10 was revised in 1956.[1] No significant changes in the existing law on this subject were contemplated at that time, rather, a clearer statement of the law was all that Congress intended, except for the deletion of a section dealing with the transport of general passengers to Guam.

In none of these earlier sections is there any reference to retired military personnel. Under the present statute, retirees clearly cannot be considered as "officers and employees of the Department of the Army, the Department of the Navy, the Department of the Air Force, or the Coast Guard." It is only by a stretching of the statutory language that retirees might be considered as "members of the Navy, Marine Corps, or Coast Guard." Of course, even under this liberal definition, Army and Air Force retirees would be excluded from space-available travel.

Section 4744 specifically provides space-available travel for dependents only if such travel is without expense to the United States. With dependents accounting for 35 per cent of all space-available travelers and with MAC suffering from recurring operating deficits as a result of service overforecasts, it is clear that the law is being violated each time a dependent is transported for free as a space-available passenger.

Thus, the statutory authority does not support the use of Government aircraft via the space-available privilege for either retired military personnel or dependents of active or retired personnel. By a stretching of statutory language over a period of several decades, however, the extension of this privilege to retired individuals has become encrusted with tradition. For dependents space-available transportation has been in violation of Federal law since the time when the services began procuring more passenger space than was required in order to provide seats for vacationers.

### COST OF SPACE-AVAILABLE TRAVEL

Unfortunately, there is no way of knowing how much this costs the beleaguered taxpayer. The Comptroller of the Defense Department states that the space-available privilege costs only $1,200 per year for the maintainance of travel registers, since MAC is only filling space that would otherwise be empty. The House study, on the other hand, estimated the cost in the millions of dollars. In that study the expense of processing, registers, protocol officers, and 30-day reservation messages for the brass totaled more than $3 million. How many more millions of dollars were wasted in additional flights as a result of intentional passenger overforecasts is unknown.

What is obvious from only a superficial look at this much-abused privilege is that it urgently needs to be reevaluated and trimmed down to a level that does not consume indeterminate amounts of our defense budget.

To assist my colleagues in understanding this system of free transportation, I ask unanimous consent that the letters which I have received from the Defense Department be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Assistant Secretary of Defense,
*Washington, D.C., June 14, 1973.*

Hon. William Proxmire,
*U.S. Senate.*

Dear Senator Proxmire: The attached information is forwarded in response to the questions asked in your letter of April 20, 1973 concerning transportation services provided by the Air Force to retired military personnel, their dependents and others on a space available basis.

Sincerely,

Don R. Brazier,
*Acting Assistant Secretary of Defense, Comptroller.*

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### Questions and Answers

Question 1:

A. How many of those persons who used this service in FY 72 were not active members of the Armed Forces nor dependents of personnel on active duty?

Answer: Approximately 52,976.

Space available transportation on MAC owned and controlled aircraft covers three groups of personnel:

(1) Active duty military and their dependents.

(2) Civilian employees of the DOD when stationed overseas and their dependents.

(3) Retired military personnel and their dependents.

Separate statistics are maintained on civilian personnel and their dependents and also on active duty military and retired military, but their dependent statistics are combined. However, based on a comparison of active duty personnel on leave and retired military personnel to dependents who traveled, it was determined that a ratio of .6 dependent traveled for every active duty and retired military person. Any other VIPs or distinguished visitors' transportation that is in the interest of DOD would be on a space required, reimbursable basis, in accordance with tariffs established by the Department of Defense. In accordance with DOD policy, transportation for other government agencies is furnished on a reimbursable basis and only when it is in the national interest and commercial air is either not adequate or available. Statistics in the latter cases are all combined as part of the total revenue passengers moved by the Single Manager for Airlift (MAC).

B. How many of these were retired military personnel?

Answer: 32,917.

C. Dependents of retired military personnel?

Answer: Approximately 19,750 dependents of retired military personnel traveled space available based on the ratio of .6 dependent per every retired military or active duty member as explained in answer to question 1A.

D. What is the percentage relationship of these groups to the total number of individuals utilizing the facilities of the Military Airlift Command?

Answer:

Total nonactive duty—2.4 percent.

Retired military—1.5 percent.

Dependents of retired military—0.9 percent.

Question 2: What was the cost (estimated if necessary) of this service for persons not currently attached to the Armed Forces for FY 72, including all direct costs to MAC and the cost of all support services to the Air Force (i.e., use of guest facilities, ground transportation, etc.)?

Answer: Space available transportation is provided as a by-product of space procured or operated to meet Department of Defense (DOD) requirements. DOD would incur the same transportation costs even if no space available travelers were transported. Development of airlift requirements is based on the estimated requirements of the user Services submitted to MAC in accordance with AFR 76–38. These requirements are the quantity or personnel and the tons of cargo the services plan to move over a given period of time. MAC, as the Single Manager for Airlift Operations, charters and schedules the aircraft over principal routes to satisfy the user Service's estimated requirements. The space that has been procured under the whole aircraft procurement procedure does become available for the free space available travelers only when the expected space required travelers or cargo do not appear as originally programmed. Experience with this system results in 95% of the seats procured over major routes being filled by space required (paying) travelers. The space available transportation is then derived as a by-product of space procured and operated to meet DOD DOD will remain the same even if no space requirements. Transportation costs to the available travelers were transported.

However, there are some minor administrative direct costs associated with maintaining the space available registers and counters. The portion which can be attributed to non-active duty personnel and their dependents is approximately $1,200.00 a year or a little over 2 cents per passenger.

In the support service area there are no direct costs to the Air Force. Guest facilities the cost of the service and are provided only are provided to retired personnel on a reimbursable basis only. The charges fully cover in space that is excess to the duty requirements of the facilities. Air Force regulations do not permit the furnishing of government ground transportation to retired personnel per se. However, they are permitted to use ground transportation on a space available basis provided the vehicle is already operating to meet other official duty purposes.

Question 3:

A. What are the eligibility standards for the use of these services by individuals?

Answer: The eligibility standards for use of DOD owned and controlled aircraft are contained in DOD Regulation 4515.13–R, "Air Transportation Eligibility." Space available transportation is by category of travel on a first-come-first-serve basis within the category and there is no guarantee that space will become available for these travelers. There are four categories of space available travel, and they can be summarized as follows:

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[1] 10 U.S.C. 1369, 10 U.S.C. 1370, 10 U.S.C. 1371 (less last 29 words).

Category 1—Dependents of active duty military members and DOD civilian employees and their dependents, when stationed overseas for transportation to and from overseas in conjunction with the serious illness of a member of the immediate family.

Category 2—Active duty military personnel on ordinary leave and their dependents.

Category 3—Student dependents of active duty military personnel and of US citizen employees of the DOD stationed overseas for travel to the nearest accredited school overseas, and between overseas and the United States while engaged in undergraduate study. Transportation to the United States is limited to one round-trip per year.

Category 4—Retired military personnel and their dependents.

Retired personnel and their accompanying dependents are assigned the last Category of space available travel, which means that all space required (paying) passengers and space available passengers in the other three Categories are permitted to move before retired personnel and their accompanying dependents.

B. By what authority is such use permitted?

Answer: Space available transportation derives in part from Section 4744, Title 10, United States Code, dating back to 1907. This provided space available travel of certain personnel and supplies within the bulk allocations on vessels operated by Army transport agencies or within bulk allocations made to the Department of Army, on vessels operated by any military transport agency of the DOD. As airlift replaced sealift in the late 1940's and early 1950's, a transition took place where MAC became the Single Transport Agency for bulk procurement of seats for movement of service personnel and the same space available transportation system carried over to the airlift system, since it became the prime carrier of DOD personnel.

Question 4:

A. Who is required to sign a "Flight Certificate," DD Form 1382?

Answer: All retired military members and their accompanying dependents who are furnished transportation under the space available provisions of DOD Regulation 4515.13–R.

B. Has there been any recent evidence of use of military aircraft for personal business in violation of a signed DD Form 1382?

Answer: Yes, a few cases have been experienced where space available transportation was used for personal gain.

C. Have such violations been prosecuted?

Answer: No, personnel were not prosecuted. Personnel have been billed and collection action is underway to obtain reimbursement for the transportation furnished at the non-government tariff rate (equivalent to commercial air tourist tariff rates). Cases were not for furtherance of personal business but involved a situation where the civilian companies overseas paid the employee not only for Rest and Recuperation Leave but also a transportation allowance for travel to and from the Rest and Recuperation point. Some retired military personnel who received these travel payments then used space available transportation aboard military owned or controlled aircraft to their Rest and Recuperation point. Upon investigation, this was held to be personal gain in form of a remuneration, since the money paid was specifically identified for travel. Since there did not appear to be any premeditation, personnel are being required to reimburse the Government at the non-government tariff rate. The Comptroller General of the United States has before him, a request for a decision as to the legality of deducting the cost of transportation from the retired pay of the military personnel who did not voluntarily pay the bill.

D. What procedures are currently established to prevent the misuse of military transport for personal gain?

Answer: All retired military members and their dependents are required to sign the "Flight Certificate" that certifies that acceptance of space aboard military aircraft is not for personal gain nor in connection with business of any nature. In addition, the procedures that prevent use of space available transportation for personal gain are published periodically in retired newsletters, etc.

Terminal personnel are also on the lookout and report any unusual or unauthorized situations to the local commander or through channels. The Office of Special Investigation (OSI) then conducts an official investigation into the allegation to determine if misuse of government air is involved.

E. In your opinion, are these safeguards adequate?

Answer: Yes, the uncertainty of travel and the long waiting periods experienced do not lend this type of travel to pursue personal business or misuse for personal gain. In addition, over the last 15 years cases of misuse of government aircraft have been rare.

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Department of the Air Force,
*Washington, D.C., December 7, 1973.*
Hon. William Proxmire,
*U.S. Senate.*

Dear Senator Proxmire: This is in reply to your inquiry of October 11, 1973, regarding investigations by the Air Force into misuse of military aircraft space available privilege by retired military personnel.

Since July 1971, the Air Force Office of Special Investigations (AFOSI) has conducted a total of 103 investigations of retired military personnel who were alleged to misuse space available privileges on military aircraft. Of these investigations, 76 involved retired Army personnel, 23 retired Air Force personnel, 2 retired Navy personnel, and 2 retired Marine Corps personnel. Twenty-six service dependents were also involved. The flights were made during the calendar years 1970, 1971, and 1972. Some of the retired personnel made more than one trip involving more than one calendar year. In 14 cases, the flights were all made in 1970 while in 54 cases, the flights were made in 1971. In 32 cases, the flights were made in both 1970 and 1971, while 2 cases involved flights in 1971 and 1972. All of the flights in question were either made on Military Airlift Command aircraft or military contract aircraft. All of these investigations were referred to the Military Airlift Command for collection action. In one case, the allegation was disproved. In 99 cases, the retired members were billed a total of $65,752, and Military Airlift Command has to date collected $24,853 of the amount billed. The remaining $40,899 has been referred to the Air Force Accounting and Finance Center (AFAFC) for collection action. AFAFC has collected $110 so far, and involuntary collection action is now being taken against the retired pay of those individuals with out standing balances. In three of the investigations, no collection has been reported.

In 100 of these cases, the retired military members were employed by civilian companies in Saudi Arabia and traveled space available on military aircraft although they were receiving travel expenses for the trips from their employers. In two cases, the retired military members were employed by a European Exchange System concessionaire and traveled space available on military aircraft in connection with their employer's business of selling encyclopedias. One case pertained to a retired military member who traveled space available from Alaska to the continental United States in connection with a private business for the purpose of picking up trucks and campers he had sold in Alaska.

Sincerely,

E. Archie NeSmith, Jr.,
*Colonel, U.S. Air Force, Congressional Inquiry Division, Office of Legislative Liaison.*

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## TOBACCO AND PEANUT ALLOTMENT PROGRAMS

Mr. THURMOND. Mr. President, on January 9, 1974, the General Assembly of the State of South Carolina adopted the U.S. Department of Agriculture to continue the 1973 tobacco and peanut allotment programs into the 1974 growing season.

The Secretary of Agriculture has already announced a 10-percent increase in tobacco allotments. This action maintains the overall tobacco program; however, it presents serious problems to the tobacco growers.

Last year South Carolina growers had 12.5 million pounds of tobacco left unsold on the closing day of the markets. Only through the combined efforts of the Department of Agriculture and tobacco buyers was this tobacco sold. This increase in allotments may only compound the marketing problems experienced last year resulting in oversupply and reduced prices.

The problems facing peanut growers are more severe. No longer will the lease or transfer of peanut allotments be allowed.

Many peanut growers have already leased allotments for the coming year. Now they will not be able to use the land for peanut production. This factor alone has serious financial implications for peanut growers. The overall production of peanuts may be reduced by one-third thus reducing income to peanut growers by the same percentage.

I am in agreement with the South Carolina State Legislature that changes in these two farm programs will be detrimental to farmers in South Carolina and the Southeast.

Mr. President, on behalf of myself and the junior Senator from South Carolina (Mr. Hollings), I ask unanimous consent that this concurrent resolution be printed in the Record at the conclusion of my remarks.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

### A Concurrent Resolution Memorializing the U.S. Department of Agriculture To Continue the 1973 Tobacco and Peanut Allotment Program Into the 1974 Growing Season

Whereas, the United States Department of Agriculture's intention to terminate or suspend the quota system or increase the acreage allotment for the 1974 growing season forebodes economic chaos for tobacco and peanut growers in South Carolina; and

Whereas, the acreage allotment formula

agreed upon in 1973 was a method used by the U.S. Department of Agriculture to fight declining domestic and worldwide stocks of flue-cured tobacco; and

Whereas, the acreage allotment formula promulgated by the U.S. Department of Agriculture for 1973 was an agreeable and workable system by which the beleaguered tobacco and peanut farmers could survive and meet consumer demand with a reasonable expectation of profit.

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

That the United States Department of Agriculture is hereby memorialized to continue the 1973 tobacco and peanut allotment program into the 1974 growing season.

Be it further resolved that copies of this resolution be forwarded to Earl L. Butz, Secretary of Agriculture, U.S. Department of Agriculture, and to each member of the South Carolina Congressional Delegation.

STATE OF SOUTH CAROLINA.

In the House of Representatives, Columbia, South Carolina, January 9, 1974.

## AMNESTY FOR VIETNAM DESERTERS AND RESISTERS

Mr. HUGHES. Mr. President it seems to me that for the unity of the Nation, we must now take the inevitable action of conscience with regard to the young men who chose not to participate in the war in Vietnam, either by deserting the military or by avoiding it altogether.

From the rebellion of 1794, through the War of 1812 and the Civil War, up to the present time, more than a dozen amnesties have been declared by our Government. We have forgiven or lightly reprimanded leaders who involved our forces in secret, illegal wars; who practiced official deception; who betrayed positions of high trust by flaunting the laws of the land.

Now I believe we must find it in our hearts to work out some solution for the return of those who for valid reasons of conscience or less noble considerations, refused to fight in a war that millions of Americans believed to be wrong and immoral.

In this context, I think my colleagues would be interested in a penetrating sermon on amnesty written by the Reverend Robert Newton Barger, president of the Religious Workers Associations at the University of Illinois at Champaign-Urbana. In his sermon, the Reverend Barger presents a view on amnesty which has not yet come fully to the surface of discussion; namely, the biblical view. He points out with moving clarity that in the Scripture, "Reconciliation, for God, is not based on strict justice, but rather on generosity."

. The good minister quotes the words of the Lord's Prayer:

"Forgive us our trespasses, as we forgive those who trespass against us."

States the minister:

> I submit that that's a very risky prayer for someone to say who takes a hard line on amnesty.

I ask unanimous consent that this wise and moving sermon be printed in the RECORD.

There being no objection, the sermon was ordered to be printed in the RECORD, as follows:

### SERMON

(By Rev. Robert Newton Barger)

Today the United States of America, our homeland is a nation divided, and as President Abraham Lincoln has reminded us, a house divided against itself cannot long stand. We have wounds, and they need to be healed. We are not at one, and so we stand in urgent need of reconciliation. The Vietnam war, whose decade-long duration was responsible for much of the division which we experience, has not left us totally at peace, even though it is now over. There is still the question before us: . . . What to do with the war resisters. This question involves a tension between justice on the one hand and mercy on the other. The resolution that we make of this tension between justice and mercy will provide the answer to what kind of reconciliation we can reasonably expect. In other words, how we treat those who have conscientiously evaded the draft or deserted from the war will determine in large part whether we will, or will not, have that domestic tranquility of which our constitution speaks.

I am going to make here some theological observations on the political question of amnesty. I would like to say at the outset that I am well aware of the danger of attempting to take concepts from the spiritual realm and apply them in the political order. The brilliant Protestant theologian, Reinhold Niebuhr, in his classic study entitled "Moral Man and Immoral Society," has expressed a healthy pessimism about the possibility of making an individualistic ethic apply to a collective such as a Nation-State. But even such a realist as Niebuhr goes on to say: "Every genuine passion for social justice will always contain a religious element within it. Religion will always leaven the idea of justice with the ideal of love. It will prevent the idea of justice, which is a politico-ethical ideal, from becoming a purely political one, with the ethical element washed out." (P. 80, MM&IS).

So, theology can and must supply ideals for the reflection of the national sovereign . . . and in the case of a democracy such as ours, the sovereign is us. The Government is responsible to us, and that is why, ultimately, we the people, will get the kind of justice or mercy that we earnestly seek—or, . . . we won't get it, if we grow indifferent. The question of amnesty for the Vietnam war resisters illustrates the tension between justice and mercy which is troubling our society today, I should like to turn to sacred scripture for some insight toward a solution of this problem.

But, before I do, I think it is necessary to point out that there are three possible motivations for the granting of an amnesty, first, we may believe that the war resisters were morally wrong, that their actions encouraged the North Vietnamese and thus prolonged the war, increasing the loss of life on both sides, but that by means of an amnesty we should forgive them. Secondly, we may believe that the war resisters were morally right, that the war had gone on for nearly a decade and might have continued much longer were it not for their dissent, and hence by means of an amnesty we should exonerate them, or thirdly, we may not make a judgment about the war resisters, refraining from either condemning or condoning them, but simply repatriating them, bringing them back, forgetting about the guilt or innocence aspect. This is literally the meaning of the word amnesty: that is, "forgetfulness", or "oblivion."

For purposes of reflecting on the problem in the light of scripture, I will be dealing at various points in my scriptural examples with one or another of these three motivations to see if there might be a theological basis for amnesty, before I start, I'll give you my own personal opinion, as a former political science instructor and a current Christian morals instructor, and that is that the war resisters were in fact morally correct . . . but I will go on to give you a preview of my ultimate conclusion: which is, that we should avoid judgment on the morality of the war resisters actions and follow the third motivation for amnesty; namely, that we take amnesty in its literal sense and not make a judgment one way or the other, what does the Bible have to say about all this?

Let's look first at the Old Testament. We usually think of Old Testament morality as very harsh: "An eye for an eye and a tooth for a tooth." In fact, however, when we take the Old Testament as a whole and don't just draw out one-liners like the one I just quoted, we see that mercy is one of the most prominent features of the Old Testament. Beginning on the first pages of the Bible, where humankind messes up God's gift of life by sinning, we see the gracious mercy of God offering man another chance. As often as man sins—and according to salvation history, that's pretty often!—God calls him back again. . . . God is not only a living God. He is a forgiving God. And he tells us in the Jewish law, in what Jesus was later to join to love of God as the greatest commandment, that we must be giving and forgiving too. This is the way it's stated in the Book of Leviticus:

"You shall not hate your brother in your heart, but you shall reason with your neighbor, lest you bear sin because of him. You shall not take vengeance or bear any grudge against the sons of your own people, but you shall love your neighbor as yourself," (LV 19. 17–18). The reading about the cities of refuge from the Book of Joshua (20. 1–6) reminds us of God's instruction that those who have killed thru accident should be allowed a place of refuge and then free return to their homeland. Of course the question before us today does not concern those who killed without premeditation, but rather those who, with premeditation, refused to kill. The cases are not the same, certainly, but I suggest that there may be a parallel. How God provided for the solution of this case in the Bible may provide a clue for the solution of our amnesty problem today.

The illustration of God's mercy and loving faithfulness to his people, despite their unfaithfulness, is spread upon almost every page of the Old Testament. But it is even more abundantly evident in the New Testament, it is in the New Testament that Jesus gives us the most amazing revelation from God. Namely, that God is a community. God is three persons in one being: Father, Son, and Holy Spirit. St. John defines this unity in community with one word: Love. The first letter of John says quite simply: "God is love" (1 Jn 4.8). Jesus came to tell us that if we are to live the life of God, if we are to have the Spirit of God in us, we must be loving people. To quote a little more from the first letter of John: "Beloved, let us love one another; for love is of God, and he who loves is born of God and knows God. He who does not love does not know God; for God is love" (1 Jn 4. 7–8).

But of course this leads us to ask the same question that the lawyer asked upon hearing the command of love from Jesus, and that is: "Who is my neighbor?" (Lk 10.29). It's not without relevance to our topic to note that the person that Jesus described as neighbor in his parable-answer was a samaritan . . . one who had broken off from the land of Israel and who adopted an alternate form of the Jewish religion. He was a dissenter, yes, even a resister as far as the jews were concerned. They hated him. And he was the person that Jesus chose to exemplify the idea of neighbor!

In making mention of a parable, I would like to point out that Jesus gave neither specific commands nor ready answers for problems. The gospel records him as giving only one directive, and that is to love. Beyond that he simply told stories. The parables of Jesus are meant to show the quality of love that he asks of us.

Let's take a brief look at two of them, first, the parable of the laborers in the vineyard. The householder in the parable represents God. He sends people out to work at the first hour, promising to give them a denarius. Later he sends other people out into the vineyard, promising to give them "what is right," finally, at the eleventh hour, he goes out and finds some men still standing idle and he sends these in too. When it comes time to settle accounts, he treats all of them the same! They all get a denarius. And those who had been working all day long started to grumble. They said it wasn't fair! They said they had borne the heat of the day and here these malingers came in after the real work was done and they were rewarded the same as the people who had responded to the original call!

And what does Jesus say? I think the reply He has the householders give is really instructive for our handling of the amnesty question. He says to the one who bore the heat of the day: "Friend, I do you no wrong I choose to give this last person as much as I give you, am I not allowed to do what I choose with what belongs to me? Or do you begrudge me my generosity?" Translated into present terms, the teaching of Jesus seems to say that magnanimity to the war resisters would not be unfair to those who served. The question before us, then, is whether we care to make God's logic our own.

I might remark in passing, that this fairness consideration can cut both ways. Russell Baker, a columnist for the New York Times, has suggested that it was really the American public who dodged the war issue. Sending its young men off to fight and die and, to this day, not being able to tell them what it was all about. It is perhaps kinder to us all if we do not try to enter into judgment now.

I'd like to consider now the parable of the prodigal son, or, as I think it should be better named, the parable of the forgiving father. The younger son in the story took his part of the inheritance and went off to a faraway country. And after awhile, the memory of his homeland his father's house awakened in him the desire to return. So he started back, thinking of the words he would say to ask for readmission to the family. He really didn't get a chance to get halfway thru what he had decided to say.

The father, who represents God the father in the parable, ran out to meet the son before he had even gotten back home. There was no knocking at the door or begging to come in necessary by the son. The father threw his arms around the son and invested him with all the signs of full membership in the household: the ring, the shoes, the robe. Then he decreed a feast to celebrate the return.

Now comes the most interesting part of the story, the other brother, the *older* one, comes along. When he finds out what's happened he is upset. He won't go in. Now *he* refuses to be part of the family. The father comes out to him and the elder son says: "These many years I have served you, and I never disobeyed your command; but when this son of yours came, who has devoured your living with harlots, you killed for him the fatted calf." The father responds: "son, you are always with me, and all that is mine is yours. But it was fitting to make merry and be glad, for this your brother,"—(not "that son of yours" but "your brother")—was dead and is alive; he was lost and is found."

This parable, as the former one, tells us that reconciliation, for God, isn't based on strict justice, but rather on generosity.

Now I'd like to look briefly at Paul's teaching, in his letter to the Ephesians (4.30–5.2), he asks us not to grieve the Holy Spirit—God's spirit in us. He says: don't be unfaithful to it. He asks us to put all bitterness and wrath and anger and clamor and malice away from us. He asks us to be tenderhearted and forgiving, as God has forgiven us. We are called upon to be imitators of God. We have to pass along forgiveness, thus in the Lord's Prayer we pray: "forgive us *our* trespasses, as we forgive those who trespass against us." I submit that that's a very risky prayer for someone to say who takes a hard line on amnesty!

Permit me to return, now to one final quote from the gospel (LK 6.36–38): Jesus says: "be merciful, even as your father is merciful. Judge not, and you will not be judged; condemn not, and you will not be condemned; forgive, and you will be forgiven . . . the measure you give will be the measure you get back."

It is perhaps thoughts such as these that inspired the late Richard Cardinal Cushing to ask the following question in his last Easter message: "Would it be too much to ask that we empty our jails of all the protesters—the guilty and the innocent—without judging them, call back over the border and around the world the young men called "deserters," drop the cases that are still awaiting judgment on our college youth? . . . Could we not do all this in the name of life, and with life, hope?"

The Cardinal puts that as a question—and that is the wax it must treated, as a question put to each of us.

I personally believe that it would not be too much to ask because I believe that we as a nation currently need reconciliation more than we need vindictive prosecution of illegal activity.

The best conclusion to these remarks might well be a prayer. The one I choose is attributed to a man from several hundred years ago named Francis of Assisi. I hope it comes more and more to express a majority sentiment:

Lord, make us instruments of your peace. Where there is hatred, let us sow love, where there is injury, pardon. Where there is doubt, faith. Where there is despair, hope. Where there is darkness, light. And where there is sadness, joy.

Divine Master, grant that we may not so much seek to be consoled as to console; to be understood as to understand; to be loved as to love. For it is in giving that we receive. It is in pardoning that we are pardoned. And it is in dying that we are born to eternal life. Amen.

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## JOHN K. CAUTHEN

Mr. THURMOND. Mr. President, one of South Carolina's truly outstanding citizens, John K. Cauthen, died last month at the age of 67. His record of achievement in both business and public affairs was extensive and distinguished.

John Cauthen was not one who sought elective office but his life and his work were deeply involved in the public life of our State. As a journalist, he began his involvement in the governmental activities of South Carolina. During his tenure as a State house correspondent he earned the respect and admiration of those about whom he wrote.

In 1941 Mr. Cauthen left journalism to become executive secretary to Gov. J. Emile Harley. It was a position which tested his mettle since he was often called upon to handle many problems which would normally be handled by the Governor whose health was failing. Mr. Cauthen even delivered the Governor's 1942 State of the State address to the General Assembly.

In all these functions Mr. Cauthen was found to be amply capable of the tasks he faced, including sensitive investigations and legislative coordination. When Governor Harley died in 1942, Mr. Cauthen was asked to remain in his post by the incoming Gov. R. M. Jefferies.

He was still rendering the same valuable service in the position when he accepted an offer to join the South Carolina Textile Manufacturers Association. He served as executive vice president of that organization until his retirement in 1971.

After becoming associated with the business world as a legislative representative, however, his public service was not concluded. In fact, some of his most distinguished public performances lay ahead, serving effectively and commendably on a number of State boards and commissions.

For example, he served on the committee which recommended the State's first water pollution control laws and was a member of the board which was established to administer those laws. Then, he served on a special committee to study South Carolina port development, resulting in a plan that led to extensive expansion of port activities. Mr. Cauthen was a prime mover in establishment of educational television in South Carolina, making it one of the pioneers in this field. Then, he served as a member of the State Educational Television Commission which developed the program. Further, he served as a member of the Higher Education Commission in our State and its predecessor advisory commission. In 1967, he served an interim term as a member of Columbia City Council to fill a vacancy which had occurred.

In all of these positions of public responsibility he brought the same high standards of dedication and hard work. The wisdom of his vision and the application of his effective leadership are reflected today in the programs of good government he fostered and supported.

Mr. Cauthen was born June 9, 1906, a son of the Reverend Henry J. Cauthen, a Methodist minister, and Mrs. Mary Finlayson Cauthen. He was a man of rare qualities which were applied to the welfare of our State and Nation over four decades. All who lived within his scope have benefited by his life. He will be sorely missed.

Mr. President, I wish to extend my deepest sympathy to his devoted wife, Mrs. Deloris Vaughan Cauthen; his two sons, John V. Cauthen of Greensboro, N.C., and Henry J. Cauthen of Columbia, S.C.; and his two brothers, Henry F. Cauthen, Sr. of Columbia, S.C., and Jennings Cauthen of Charleston, S.C.

At the time of his death, a number of

articles and editorials about John K. Cauthen appeared in newspapers around South Carolina. Mr. President, I ask unanimous consent that several of these articles, in addition to a tribute by Gov. John C. West and the eulogy by Chaplain George E. Meetze of the South Caroline State Senate, be printed in the RECORD at the conclusions of my remarks. The items are as follows: "John K. Cauthen Dies In Columbia," The State, Columbia, S.C., December 19, 1973; "Newsman, Legislative Aide John K. Cauthen Dies At 67," News and Courier, Charleston, S.C., December 19, 1973; "Cauthen Services Planned Tomorrow," the Columbia Record, Columbia, S.C., December 19, 1973; "Former Textile Association Executive Dies At Columbia," the Evening Post, Charleston, S.C., December 19, 1973; "Influential South Carolina Lobbyist's Passing Mourned," the News and Observer, Raleigh, N.C., December 23, 1973; "John K. Cauthen, Textile Executive, Dies Tuesday," the Beaufort Gazette, Beaufort, S.C., December 19, 1973; "Cauthen Service Is Today," the Spartanburg Herald, Spartanburg, S.C., December 20, 1973; "Cauthen Rites Held Today," the Columbia Record, Columbia, S.C., December 20, 1973; "Citizen Extraordinaire," the State, Columbia, S.C., December 20, 1973; "John K. Cauthen," the Greenville News, Greenville, S.C., December 21, 1973; "John K. Cauthen," News and Courier, Charleston, S.C., December 20, 1973; "Impact of a Private Citizen," Florence Morning News, Florence, S.C., December 21, 1973; "John Cauthen, Carolinian," the Columbia Record, Columbia, S.C., December 20, 1973; "John K. Cauthen's Gifts to S.C.," the Charlotte Observer, Charlotte, N.C., December 24, 1973; "Extraordinary S.C. Citizen," the Spartanburg Herald, Spartanburg, S.C., December 21, 1973; "John K. Cauthen," the Index-Journal, Greenwood, S.C., December 20, 1973; a tribute by Gov. John C. West, and the eulogy by Rev. Dr. George E. Meetze.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Columbia (S.C.) State, Dec. 19, 1973]

### JOHN K. CAUTHEN DIES IN COLUMBIA

John K. Cauthen, retired executive vice-president of the South Carolina Textile Manufacturers Association, and long a figure in the public affairs of the state, died Tuesday at Richland Memorial Hospital after a prolonged illness. He was 67.

Mr. Cauthen's retirement from the textile industry came in 1971. He had been with the association since 1943, and had served as its legislative representative, with headquarters in Columbia.

His activities often extended into general public matters and he served on various state boards and committees, and, to fill a vacancy, for a brief period on Columbia's City Council in 1967 by election by the council with the stipulation he would not seek re-election.

Early in his career as a Columbia newspaperman, there began to develop between Mr. Cauthen and leading members of the General Assembly as well as governers a close relationship. This continued through his life and evidences of his counsel and influences could be seen through the years.

Aspects of his career, regarded as unique in the Capital, began to emerge prior to his connection with the textile industry.

He left newspaper work in 1941 to become the executive secretary of the late Gov. J. Emile Harley. Gov. Harley was seriously ill and relied heavily upon his executive secretary.

Mr. Cauthen personally delivered the indisposed governor's message in the General Assembly in 1942. This was a most unusual function for any but a governor himself.

During this period a major scandal occurred in connection with the administration of the state prisons. Gov. Harley took a strong stand for immediate and unqualified correction. Mr Cauthen was delegated to implement the governor's decision and directive and to head a difficult investigation of a difficult problem.

Gov. Harley died in February, 1942, and was succeeded by the late Sen. R. M. Jefferies, the president pro tempore of the Senate. Mr. Cauthen remained as executive secretary until invited to join the textile association, a move that was to determine his lifetime work.

Not long after taking over his textile association assignment he was serving as a member of a committee of three which, after a study, drafted the states' Water Pollution Control Law and set up the first board for that purpose. During the first four years of its existence Mr. Cauthen served as a member of this board.

Mr. Cauthen later was a member of a three-man special committee which made a study of the state's ports. Charles E. Daniel was the chairman. This committee recommended action to improve the ports and out of its design came the intial $21,000,000 bond issue for ports facilities. This was the beginning of the revival of commerce at the port of Charleston. The growth was such that additional bond issues were granted as the years passed.

In 1958, Mr. Cauthen was attracted to what he regarded as the bright possibilities of educational television, and was credited with being largely responsible for initiating the movement which established this facility in South Carolina, using the closed-circuit method which was later to be adopted in many states and even in countries abroad. Educators from practically all the states and many foreign nations came to Columbia to study the system. Its usage grew not only in the classrooms over the state, but in extra-curricula services for nurses, physicians, law enforcement officers, industrial workers and even lawyers. Mr. Cauthen served for some time on the first State Educational Television Commission. His son, Henry J. Cauthen, succeeded the late Lynn Kalmbach as the second director for the system.

Subsequently, Mr. Cauthen served on the advisory Committee for Higher Education, and then on the re-constituted Commission on Higher Education as its chairman. Others succeeded to the chairmanship under a rotation plan adopted for this post. Mr. Cauthen was still a member of the commission at his death and had always been an active member.

He was called into the considerations for the peaceful integration of Clemson University when the first Negro student was received there. And he served on several committees in Columbia which worked for stable race relations in the capital city.

Long a close friend of State Sen. Edgar A. Brown, a Senate leader of many years. Mr. Cauthen in 1970 personally narrated an educational television presentation covering the senator's life. It was done for the occasion of the announcement of the Edgar Brown Foundation for scholarships of Clemson, of the board of which Brown was a member.

Likewise a long-standing friend of Solomon Blatt, speaker of the House of Representatives, Mr. Cauthen, wrote his only book on the speaker. It was entitled "Speaker Blatt—His Challenges Were Greater." It was published in 1965.

Mr. Cauthen was known in public circles as "the pragmatist," a man who sought the facts of any situation.

"John K. Cauthen was one of South Carolina's greatest statesman, while he did not hold an elected office, he nevertheless served our state with great distinction. He also was a giant among the leadership of the textile industry. His contributions to our state and to our industry will be lasting reminders of his genuine greatness," said Ray Shockley, executive vice president of the S.C. Textile Manufacturers Association.

Born at North Augusta, June 9, 1906, Mr. Cauthen was the son of the Rev. Henry J. Cauthen, Methodist minister, and Mary Finlayson Cauthen. Later the family lived in York, Walterboro, Georgetown, Darlington and Charleston. It was in Charleston that he began his newspaper career, serving 11 years on the News and Courier before joining The Columbia Record in 1936.

He was a former member of the Advisory Board of the South Carolina National Bank and was treasurer of the J. E. Sirrine Textile Foundation.

Surviving are his widow, the former Deloris Vaughan, a native of Wilmington, N.C.; two sons, John V. Cauthen, a vice president of Burlington Industries of Greensboro, N.C., and Henry J. Cauthen, president of the South Carolina Educational Television System; and two brothers, Henry F. Cauthen Sr., retired editor of The State, Columbia, and Jennings Cauthen of Charleston.

Plans will be announced by Dunbar Funeral Home.

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[From the Charleston (S.C.) News and Courier, Dec. 19, 1973]

### NEWSMAN, LEGISLATIVE AIDE, JOHN K. CAUTHEN, DIES AT 67

COLUMBIA.—John K. Cauthen, 67, retired executive vice president of the South Carolina Textile Manufacturers Association, died Tuesday at Richland Memorial Hospital after a long illness.

Cauthen had been active in statewide public affairs for many years and was a longtime power in the state legislature. He had served as the association's legislative representative since 1943.

Early in his career, Cauthen worked for 10 years as a reporter for The News and Courier.

He was a son of the late Rev. Henry J. Cauthen, a Methodist minister, and Mrs. Mary Finlayson Cauthen.

As a newspaperman in Columbia early in his career, Cauthen developed a close relationship with governors, other state officials and legislators which continued throughout his lifetime. He left newspaper work in 1941 to become executive secretary of the late Gov. J. Emile Harley. Harley was seriously ill and Cauthen personally delivered the governor's message to the legislature in 1942.

Harley died in 1942 and Cauthen remained as executive secretary to Gov. R. M. Jefferies until Cauthen became the legislative representative of the textile association in 1943.

In 1958, Cauthen was attracted to the bright possibilities of educational television. His efforts and influence are largely regarded as being instrumental in establishing the South Carolina ETV system as a model for the nation.

Cauthen was credited in large part with the peaceful integration of Clemson University in 1963 when the first black student at a South Carolina institution of higher learning, Harvey Gantt, was enrolled there. He served on several committees in Columbia which worked for peaceful race relations.

Born at North Augusta, June 9, 1906, Cauthen is survived by his widow, the former Deloris Vaughan of Wilmington, N.C.; two sons, Henry J. Cauthen of Columbia, president of the South Carolina ETV system, and John V. Cauthen, president of Burlington Industries, Greensboro, N.C.; and two brothers, Henry F. Cauthen, Sr., retired editor of The Columbia State newspaper, and Jennings Cauthen of Charleston.

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[From the Columbia (S.C.) Record, Dec. 19, 1973]

### Cauthen Service Planned Tomorrow

Funeral services for John K. Cauthen will be held at 2 p.m. tomorrow in Washington Street United Methodist Church, conducted by the Rev. Dr. E. Wannamaker Hardin, the Rev. Dr. George E. Meetze and the Rev. Mr. Bryant Wilbourne. Burial will be in Greenlawn Memorial Park.

Mr. Cauthen, 67, retired executive vice-president of the South Carolina Textile Manufacturers Association, and long a figure in the public affairs of the state, died yesterday at Richland Memorial Hospital after a long illness.

Mr. Cauthen's retirement from the textile industry came in 1971. He had been with the association since 1943, and had served as its legislative representative, with headquarters in Columbia.

His activities often extended into general public matters and he served on various state boards and committees, and to fill a vacancy, he served for a brief period on Columbia's City Council in 1967 by election by the council with the stipulation he would not seek re-election.

Early in his career as a Columbia newspaperman, there began to develop between Mr. Cauthen and leading members of the General Assembly as well as governors a close relationship. This continued through his life and evidences of his counsel and influence could be seen through the years.

Aspects of his career, regarded as unique in the Capital, began to emerge prior to his connection with the textile industry.

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During this period a major scandal occured in connection with the administration of the state prisons. Gov. Harley took a strong stand for immediate and unqualified correction. Mr. Cauthen was delegated to implement the governor's decision and directive and to head a difficult investigation of a difficult problem.

Gov. Harley died in February, 1942, and was succeeded by the late Sen. R. M. Jefferies, the president pro tem of the Senate. Mr. Cauthen remained as executive secretary until invited to join the textile association, a move that was to determine his lifetime work.

Not long after taking over his textile association assignment, he was serving as a member of a committee of three which, after a study, drafted the state's Water Pollution Control Law and set up the first board for that purpose. During the first four years of its existence Mr. Cauthen served as a member of this board.

Mr. Cauthen later was a member of a three-man special committee which made a study of the state's ports. Charles E. Daniel was the chairman. This committee recommended action to improve the ports and out of its design came the initial $21,00,000 bond issue for ports facilities. This was the beginning of the revival of commerce at the port of Charleston. The growth was such that additional bond issues were granted as the years passed.

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Subsequently, Mr. Cauthen served on the advisory Committee for Higher Education, and then on the re-constituted Commission on Higher Education as its chairman. Others succeeded to the chairmanship under a rotation plan adopted for this post. Mr. Cauthen was still a member of the commission at his death and had always been an active member.

He was called into the considerations for the peaceful integration of Clemson University when the first Negro student was received there. And he served on several committees in Columbia which worked for stable race relations in the capital city.

Long a close friend of State Sen. Edgar A. Brown, a Senate leader of many years, Mr. Cauthen in 1970 personally narrated an educational television presentation covering the senator's life. It was done for the occasion of the announcement of the Edgar Brown Foundation for scholarships at Clemson, of the board of which Brown was a member.

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Mr. Cauthen was known in public circles as "the pragmatist," a man who sought the facts of any situation.

"John K. Cauthen was one of South Carolina's greatest statement. While he did not hold an elected office, he nevertheless served our state with great distinction. He also was a giant among the leadership of the textile industry. His contributions to our state and to our industry will be lasting reminders of his genuine greatness," said Ray Shockley, executive vice president of the S.C. Textile Manufacturers Association.

Born at North Augusta, June 9, 1906, Mr. Cauthen was the son of the Rev. Henry J. Cauthen, Methodist minister, and Mary Finlayson Cauthen. Later the family lived in York, Walterboro, Georgetown, Darlington and Charleston. It was in Charleston that he began his newspaper career, serving 11 years on the News and Courier before joining The Columbia Record in 1936.

He was a former member of the Advisory Board of the South Carolina National Bank and was treasurer of the J. E. Sirrine Textile Foundation.

Surviving are his wife, the former Deloris Vaughan, a native of Wilmington, N.C.; two sons, John V. Cauthen, a vice-president of Burlington Industries of Greensboro, N.C., and Henry J. Cauthen, president of the South Carolina Educational Television System; and two brothers, Henry F. Cauthen Sr., retired editor of The State, Columbia, and Jennings Cauthen of Charleston.

Dunbar Funeral Home Devine Street Chapel, is in charge.

Memorials may be made to John K. Cauthen Scholarship Fund, University of South Carolina.

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[From the Charleston (S.C.) Evening Post, Dec. 19, 1973]

### Former Textile Association Executive Dies at Columbia

Columbia.—John K. Cauthen, 67, a one-time newspaperman, textile association executive, former chairman of the Commission on Higher Education and a major behind-the-scenes power in the South Carolina legislature, died Tuesday at the age of 67.

Cauthen, retired executive vice president of the South Carolina Textile Manufacturers Association, died at Richland Memorial Hospital after a long illness.

Funeral arrangements were incomplete.

As a newspaper reporter covering the State House early in his career, Cauthen developed powerful friendships which stood him in good stead throughout his lifetime. He was on a first-name basis with governors and influential legislators. Although he never held elective office, he was considered one of the most powerful men in state government.

Ray Shockley, who succeeded Cauthen as executive vice president of the Textile Manufacturers Association, issued this statement after learning of Cauthen's death.

"John K. Cauthen was one of South Carolina's greatest statesmen. While he did not hold an elective office, he nevertheless served our state with great distinction. His contributions to our state and our industry will be lasting reminders of his genuine greatness."

Cauthen worked for 10 years as a reporter and telegraph editor for The News and Courier. He left newspaper work in 1941 to become executive secretary to Gov. J. Emile Harley. Harley died in 1942 and Cauthen remained as executive secretary to his successor, the late Gov. R. M. Jeffries.

He became legislative representative for the textile industry in 1943.

Cauthen's efforts in behalf of South Carolina's Educational Television Network helped establish the ETV system as a model for the nation.

Although seldom in the headlines, he also was credited with helping pave the way for the peaceful integration of Clemson University in 1963 when Harvey Gantt, the first black to enter a state-supported institution of higher learning in South Carolina, was accepted there without incident.

A native of North Augusta, S.C., Cauthen is survived by his widow, the former Deloris Vaughan of Wilmington, N.C.; two sons, Henry J. Cauthen of Columbia, director of the South Carolina ETV system, and John V. Cauthen, an executive of Burlington Industries in Greensboro, N.C.; and two brothers, Henry F. Cauthen Sr., retired editor of The Columbia State newspaper, and Jennings Cauthen of Charleston, retired Charleston County coroner.

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[From the Raleigh (N.C.) News and Observer, Dec. 23, 1973]

### Influential South Carolina Lobbyist's Passing Mourned

(By William Rone)

Columbia. S.C.—The leaders of government and industry in South Carolina stopped their activities last week to pay homage to the memory of a quiet man, a private citizen, who made the wheels of government run more smoothly for over 30 years.

John K. Cauthen was a lobbyist, and he was proud of that calling. In fact, he was the state's most powerful loyybist until his retirement several years ago as executive vice president of the S.C. Textile Manufacturers Association.

A lobbyist can be a hard man to love and respect, but love and respect were evident as the state's leadership turned out for his funeral. He died Tuesday at 67 of a heart condition.

The mourners knew that John Cauthen had been a catalyst for progress in many areas of South Carolina life. His activities and contributions ranged far beyond the narrow interests of the textile industry.

The son of a Methodist minister, Cauthen was not college-trained. Neither was his older brother, Henry, who is now retired after serving for years as editor of the two Columbia newspapers. Both got their education in the newsroom of the Charleston News and Courier. As reporters they learned the lessons of politics covering the art as it was colorfully and sometimes pungently played in the Charleston wards.

John got his first taste of statewide politics when he joined the Columbia Record in 1936 and was assigned the state house beat.

In 1941, that led to an assignment as executive secretary to Gov. J. Emile Harley. Harley developed a serious illness that became terminal, and he relied on Cauthen as his right arm. The exnewsman even delivered the governor's state of the state address to the General Assembly in 1942.

Harley was a member of a famous political clique known as the "Barnwell Ring." Two other members were Senate President Pro Tempore Edgar A. Brown and House Speaker Solomon Blatt.

But his role as conciliator between legislators and quiet adviser to a string of governors was equalled by more public activities.

As Gov. Harley's aide, he conducted an investigation into a scandal in the prison system. Just after taking the textile job he served on a three-man committee that drafted the state's water pollution control act and he served for four years on its implementing board.

The sad plight of the state's ports next claimed his attention. He was a member of a study committee that recommended the ports, particularly Charleston, be revitalized. That resulted in a $21 million bond issue which put Charleston back on seamen's charts.

In 1958 the potential of educational television caught his fancy and became his passion. With help of Brown and Blatt, of course he had led the drive to establish a statewide ETV system, which has been studied by other states and a number of foreign countries. Cauthen served on the first ETV commission.

During a period of years, Cauthen did some of his most effective work behind the scenes in the area of race relations. He orchestrated a plan that won public acceptance of the state's first integration at Clemson University. It went off peacefully despite the intense feelings of the time.

Long before the passage of federal civil rights acts, he saw the need for the textile industry to drop color bars. The reason was pragmatic. White workers were leaving the industry.

Pragmatism was a John Cauthen characteristic. That and his knack of getting things done, of getting stubborn minds together, of knowing what was needed and what was possible.

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[From the Beaufort (S.C.) Gazette, Dec. 19, 1973]

### JOHN K. CAUTHEN, TEXTILE EXECUTIVE, DIES TUESDAY

COLUMBIA.—John K. Cauthen, 67, a onetime newspaperman, textile association executive and a major behind-the-scenes power in the South Carolina legislature, died Tuesday at the age of 67.

Cauthen, retired executive vice president of the South Carolina Textile Manufacturers Association, died at Richland Memorial Hospital after a long illness. Funeral arrangements were incomplete.

As a newspaper reporter covering the State House early in his career, Cauthen developed powerful friendships which stood him in good stead throughout his lifetime. He was on a first-name basis with governors and influential legislators. Although he never held elective office, he was considered one of the most powerful men in state government.

Ray Shockley, who succeeded Cauthen as executive vice president of the Textile Manufacturers Association, issued this statement after learning of Cauthen's death:

"John K. Cauthen was one of South Carolina's greatest statesmen. While he did not hold an elective office, he nevertheless served our state with great distinction. His contributions to our state and our industry will be lasting reminders of his genuine greatness."

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[From the Spartanburg (S.C.) Herald, Dec. 20, 1973]

### CAUTHEN SERVICE IS TODAY

COLUMBIA.—Gov. John West said Wednesday of John K. Cauthen, who died Tuesday, "Few men have served their state with such distinction in so many capacities.

"Few men have given more fully of their energies and abilities," West said, adding that he often consulted Cauthen and found "his judgment always good and advice sound.

"Although he rarely achieved public acclaim or attention, his influence was for years a regular part of the leadership element of this state," West continued.

Funeral services for the 67-year-old retired official of the South Carolina Textile Manufacturers Association will be at 2 p.m. today at Columbia's Washington Street United Methodist Church. Burial will be in Greenlawn Memorial Park.

Cauthen's family asked that any memorials be given to the John K. Cauthen scholarship fund at the University of South Carolina.

Before joining the staff of the textile organization in 1943, Cauthen had been on the staffs of two governors and had been a newspaper reporter. In more recent years he had been an unofficial adviser to the state's top lawmakers.

Cauthen was one of the leaders in the campaign to establish an educational television network in the state and was a behind-the-scenes force for the peaceful integration of Clemson University in 1963.

He was an original member of the board of the Water Pollution Control Agency and of the Education Television Commission, chairman of the Commission on Higher Education.

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[From the Columbia (S.C.) Record, Dec. 20, 1973]

### CAUTHEN RITES HELD TODAY

Funeral services for John K. Cauthen were held today in Washington Street United Methodist Church, conducted by the Rev. Dr. E. Wannamaker Hardin, the Rev. Dr. George E. Meetze and the Rev. Mr. Bryan Wilbourne. Burial was in Greenlawn Memorial Park.

Pallbearers were Jerry Tiemann, Gene Upright, Thomas L. Stepp, Ray Shockley, Henry F. Cauthen and John V. Cauthen.

Mr. Cauthen, 67, retired executive vice-president of the South Carolina Textile Manufacturers Association, died Tuesday in Richland Memorial Hospital after a long illness.

Gov. John West said yesterday of Mr. Cauthen, "Few men have served their state with such distinction in so many capacities.

"Few men have given more fully of their energies and abilities," West said, adding that he often consulted Cauthen and found "his judgment always good and advice sound.

"Although he rarely achieved public acclaim or attention, his influence was for years a regular part of the leadership element of this state," West continued.

Memorials may be made to the John K. Cauthen scholarship fund at the University of South Carolina.

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[From the Columbia (S.C.) State, Dec. 30, 1973]

### CITIZEN EXTRAORDINAIRE

South Carolina's state government has come a long way in the past 30 years, and the catalyst for progress in many areas was a private citizen named John K. Cauthen.

Mr. Cauthen, who will be buried this afternoon after 67 eventful years, had a rare knack of getting things done, of getting stubborn minds together, of knowing what was needed and what was possible.

He operated most often behind the scenes, but he was ever willing to step out in front when necessary and offer personal leadership to projects he deemed important for the state.

True, Mr. Cauthen was not the ordinary private citizen. During much of his influential career, he operated from a powerful base that gave him political strength. This was his job as executive vice president of the South Carolina Textile Manufacturers Association, the state's strongest trade group.

In that role, he made the term "lobbyist" respectable. He did so by maintaining a proper balance between private interest and public interest. His activities and contributions ranged far beyond the narrow concerns of the textile industry.

Areas that have benefited from his leadership and vision include the state prisons, water pollution, the state ports, educational television, higher education, and race relations. He was the first chairman of the S.C. Educational Television Commission and the S. C. Commission on Higher Education.

His special relationship with the oft-warring titans of the General Assembly, former Senate President Pro Tempore Edgar A. Brown and former House Speaker Solomon Blatt, helped smooth the path for many pieces of important legislation. Both of these leaders respected his honesty, his judgment, and his advice. It is not going too far to say that they both loved "Johnny" Cauthen.

Many governors also called on Mr. Cauthen for counsel and assistance. He understood their problems. In 1941 and 1942, during the terminal illness of Gov. J. Emile Harley, whom he served as executive secretary, Mr. Cauthen was virtually acting governor.

John Cauthen and his brother Henry, retired editor of *The State*, were educated not in the classroom but in the newsrooms of Charleston and Columbia newspapers. It was an education short on theory but long on realism.

In the passing of John Cauthen, South Carolina has lost an extraordinary citizen.

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[From the Greenville (S.C.) News, Dec. 21, 1973]

### JOHN K. CAUTHEN

John K. Cauthen never held an elective office, but he was one of the most influential men in South Carolina. His recent death was a public loss.

For more than 30 years Mr. Cauthen was a close adviser and friend to the state's leaders. The leadership of the General Assembly and every governor since Gov. J. Emile Harley relied on his counsel. He personally was involved in most of the progressive changes that have taken place in South Carolina during the past three decades.

Mr. Cauthen was a Columbia newspaperman when Gov. Harley made him his executive secretary in 1941. He already had laid the foundation for contacts in state government that were to grow and flourish over the years.

He shortly left the governor's office to become executive vice president of the South Carolina Textile Manufacturers Association. Under his leadership the textile industry gained a new status in the state and the association developed into a real economic and political power.

John Cauthen had a creative mind and he applied it vigorously to making South Carolina a better place to live and work. It is safe to say that there were few things of importance which happened in the state during the last 30 years in which he did not directly participate, or about which he was not at least consulted.

He had the unique ability to see beyond the present and the courage to speak out for the future. And, most important, when he had something to say, the people who counted listened.

Mr. Cauthen was the primary driving force behind establishment of the state educational television system. He realized its potential and lived to see the system he fathered become not just a national, but a world ETV model. He was instrumental in creation of the State Commission on Higher Education and was its first chairman.

Mr. Cauthen helped implement the peaceful integration of Clemson University and was active in a number of efforts to stabilize race relations. He was working for equal employment opportunities long before the problem received national attention.

John K. Cauthen will be missed by those who knew him and by many South Carolinians, who may never have heard of him, but whose lives were touched by his imagination and vision. There are only a few rare people who use their energy and ability for the public good as he did.

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[From the Charleston (S.C.) News and Courier, Dec. 20, 1973]

### JOHN K. CAUTHEN

Though he never ran for public office, John K. Cauthen was one of the ablest men of his time in South Carolina politics. In his quiet way he earned the respect and confidence of those who represented the economic and political power of the state.

Mr. Cauthen wielded his influence for the good of the public, and deserved gratitude for many of the good things that have happened in the state. One of the projects that he promoted with marked success was the S. C. Educational Television system. Many of his accomplishments are not generally known because they resulted from persuasive negotiations behind the scenes.

We knew John Cauthen as a young colleague on The News and Courier news staff, and later as a friend and counselor. His death in Columbia at age 67 has ended an admirable career in public service, and deprived South Carolina of a loyal and talented citizen.

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[From the Florence (S.C.) Morning News, Dec. 21, 1973]

### IMPACT OF A PRIVATE CITIZEN

John K. Cauthen of Columbia never held and never sought an elective office. But among South Carolina private citizens who could influence the course of government at points where influence counted he was among the foremost.

His method was quiet persuasion. Never one to seek the limelight or to engage in soapbox oratory in support of a cause, he exercised himself as a wise, behind-the-scenes counsellor of South Carolina governors, legislators, educators, business and community leaders over a period of approximately 30 years.

Concern for the state's well-being was not restricted to narrow confines. In one way or another, his leadership was asserted in such varied fields as race relations, water pollution, the development of state ports, industrial expansion, higher education, and educational television. He early saw the potential of television as an educational medium and became the guiding spirit behind the development of the South Carolina Educational Television System into one which other states have viewed as a model.

The Pee Dee has special reason for being grateful to him. As the first chairman of the South Carolina Higher Education Commission, he was quick to join his efforts with those already generated in the Pee Dee for the establishment of a four-year college in the Pee Dee. Resulting endorsement by the Higher Education Commission and subsequent affirmative action by the legislature gave birth to Francis Marion College.

He was among those most pleased with the immediate success of the college. During the long illness which resulted in his death this week, he helped arrange with the state's ETV network for a 30-minute ETV-filmed documentary on the college which is now being prepared for airing statewide in the early future. We recall how immediately and warmly he responded to the suggestion that this be done. Only last week ETV cameras and camera crewmen were on the college campus for most of the week completing the filming process for the documentary showing.

In a singular way and over a prolonged period, Mr. Cauthen illustrated how a private citizen can use his talents with sincerity and integrity to help chart the progress of a state.

We were among the many who knew him as a friend and appreciated the quiet, persistent manner in which he contributed to the common good. His death is the loss of one of the state's most respected and useful citizens.

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[From the Columbia (S.C.) Record, Dec. 20, 1973]

### JOHN CAUTHEN: CAROLINIAN

Although he was never governor of South Carolina, in his way, he governed well. Although he was never a member of the General Assembly, in his fashion he wrote more permanent legislation for the people than most members of the House or Senate.

For several decades a valued counselor to men who exercised power of government, John K. Cauthen was gifted with wisdom that surpasses mere knowledge, with creative imagination for the common good conditioned by pragmatism, and with the rare talent of persuasion by honor, grace and good manners.

A contemporary model of the best that was the Renaissance man, John K. Cauthen's human and intellectual interests ranged far and wide—with a common thread. That thread was a daring vision of Carolina's future, tempered by the reality and reason of Carolina's past.

In all of his manifold acts for his community, state and nation, he tempered creative change with civilized restraint. Unafraid of a fretful future for Carolinians, he masterfully helped direct destiny with endurance rather than fragility.

As racial relations changed dramatically during the late 1950's and the 1960's, John K. Cauthen didn't look back to glory but forward to justice and amity among all our people. He helped fashion the mannerly desegregation of the state's official and social institutions as essential to human dignity and equity. Fleeting unpopularity of the political right, as God gave him the wisdom to see the moral right, was no deterrent to John K. Cauthen's judgment and vision.

He was a newspaperman, a moulder of the textile industry's contemporary and enlightened function in our economic life, creator of the innovative ETV system, reshaper of our higher educational system, expansionist of our state ports system, and a friend to all Carolinians.

Many were his deeds of public record; countless were his small but important counselings freely given to his fellow Carolinians in moments of unseen travail.

He held honest thought in high esteem as he placed South Carolina's betterment as a great, throbbing star as his guide for life. No man loved his native state and its people more. No man gave more willingly of himself, time and time again, in selfless service to men and women of high and low estate. No task was too great or too small if it involved the welfare of Carolina.

In his life, John K. Cauthen gave Carolina a new life, a new hope, a new future.

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[From the Charlotte (N.C.) Observer, Dec. 24, 1974]

### JOHN K. CAUTHEN'S GIFTS TO SOUTH CAROLINA

As a youngster, John K. Cauthen dropped out of school to become a breadwinner because his father had died. He never attended college. But in his later years he was one of the most powerful and effective forces for progress in higher education in his native South Carolina.

As executive director of the South Carolina Textile Manufacturers Association, Mr. Cauthen was the most successful lobbyist in the state. The Observer once said his success was based on integrity and an earned reputation for good judgment.

Mr. Cauthen used his influence and good judgment to the benefit of his state during his 30 years as a powerful public figure. He helped create South Carolina's educational television system, of which his son is now president. As chairman of the state Commission on Higher Education, he tried to make it a coordinating force among South Carolina's fiercely-competitive universities. He was a leader in the successful effort to insure responsible leadership and prevent disorders when Clemson University was desegregated in 1963.

Mr. Cauthen died last week in Columbia at the age of 67. His family asked that any memorials be donated to the John K. Cauthen Scholarship Fund at the University of South Carolina. It is fitting that those memorial gifts will be used for higher education.

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[From the Spartanburg (S.C.) Herald,
Dec. 21, 1973]

### Extraordinary South Carolina Citizen

John K. Cauthen, though never elected to office, exerted more positive influence over a longer period of time than most public figures of this time.

He began his career as a newspaperman, became executive secretary to a governor, and for many years served effectively as executive vice president of the S. C. Textile Manufacturers Association.

In that capacity, he was the prime mover in South Carolina's pioneering development of educational television. He was first chairman of the E–TV Commission and first chairman of the S. C. Commission on Higher Education.

The State newspaper, for which Mr. Cauthen worked several years, said he was "the catalyst for progress in many areas."

It added that he "had a rare knack of getting things done, of getting stubborn minds together, of knowing what was needed and what was possible.

"He operated most often behind the scenes, but he was ever willing to step out in front when necessary and offer personal leadership to projects he deemed important for the state."

The many who knew him will agree with The State: "In the passing of John Cauthen, South Carolina has lost an extraordinary citizen."

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[From the Greenwood (S.C.) Index-Journal,
Dec. 20, 1973]

### John K. Cauthen

Out front and behind the scenes, John K. Cauthen was a powerful figure in South Carolina.

He began as a newspaperman, but was early called to public service as the executive secretary and advisor to two governors.

But it was as executive vice president of the S.C. Textile Manufacturers Association that he was to make his greatest contribution to state affairs.

He not only was a factor in involving this powerful organization in areas of state service, but as its chief executive officer served on numerous committees which probed into problems affecting South Carolina.

Not the least of his efforts was in behind-the-scenes work to make the integration of Clemson University an event that was to gain much favorable recognition for the state. He was only one of many persons working toward that end, but he was a powerful force toward that commendable achievement.

The book jacket of his biography of House Speaker Solomon Blatt puts it well in stating that "John Cauthen perhaps has looked into and out of more windows at what has been happening in South Carolina's public affairs during the past thirty years than any other man."

In later years he became a fervent missionary for educational television. Perhaps more than any other individual he pushed it as one of the great answers to our educational problems.

He was an individual who had rare opportunities to help direct the forces of government and organized industry in South Carolina. Much of his good work was done quietly and without public fanfare.

But good works he did. And the state is better for his having lived and worked for what he believed in.

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### Tribute to John K. Cauthen by Gov. John C. West

It is with great sadness that I have learned of the passing of my good friend John Cauthen. Few men have served their State with such distinction in so my capacities and few men have given more fully of their energies and abilities. As a newsman, business executive, citizen, leader, author, and valued advisor, John Cauthen helped steer South Carolina through stormy days on a course of social, political, and economic progress. During my years of public service, I have frequently turned to John Cauthen for advice and counsel. His judgment was always good and his advice sound. I have personally benefited tremendously from his unselfish friendship. Although he never had a college education, he left an imprint on the permanent educational structure of our State through Educational Television and the Higher Education Commission. These agencies will influence South Carolinians for generations to come. Although he rarely received and never sought public acclaim or attention, his influence was for years a regular and steady part of this State's leadership element. As a man who helped to shape and chronicle the history of South Carolina, John Cauthen now becomes a very important part of that history.

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### John K. Cauthen Funeral, December 20, 1973, Washington Street Methodist Church

(Dr. George E. Meetze, Chaplain of the South Carolina Senate)

Psalm 1—"He shall be like a tree, planted by the rivers of water that bringeth forth its fruit in its season. His leaf also shall not wither and whatsoever he doeth shall prosper . . ."

We thank God for the life and labors of John K. Cauthen. He walked with the giants of our State and was moved and motivated by concern for the poor, disfranchized, the lowly.

I shall cherish as long as I live my friendship with John. We stood together "in the wings" as it were, just off the stage where great issues of the last quarter of a century were being hammered out. As chaplain of the Senate I considered it part of my role to see to it that good men did not lose heart from the frustrations and trials of public life. John's was a far more active role as specific counselor and side line coach, and enabler. Many a man rose to power in this State because he was blessed by the friendship, the prestige, wisdom, and powerful influence that John Cauthen wielded.

It is no secret that John Cauthen's associates controlled the economy of this State. He knew the power of money; but the influence of the Methodist parsonage had taught him that "Man shall not live by bread alone, but by every word that proceedeth out of the mouth of God."

He walked with tall men, because, spiritually and by character he was a tall man. But in it all he was a humble man. Here again he remembered on the gridiron of life what he was taught in the Methodist parsonage, "he that would be great among you, let him be servant of all."

He made a great contribution to business and industry, but his motivations came from remembering what the Good Book says about "building your house upon the rock, and not upon the sand."

He made a great contribution to education, but was the first to admit that "the fear of God is the beginning of wisdom."

He was not an ecclesiastic, but he took religion from the altar out into the market place, and like a modern St. Francis, by his deeds of love and service he praised his God. St. Paul would have loved him, too, as an Apostle of practical Christianity. Remember how he wrote, "Humbly accept the message that God has sown in your hearts, and which can save your souls. Don't, I beg you, only hear the Word, but put it into practice; otherwise you are merely deluding yourselves. The man who simply hears and does nothing about it is like a man catching the reflection of his own face in a mirror. He sees himself, it is true, but he goes on with whatever he was doing without the slightest recollection of what sort of person he saw in the mirror. But the man who looks into the perfect mirror of God's law, the law of liberty, and makes a habit of so doing, is not the man who sees and forgets. He puts that law into practice and he wins true happiness."—"Faith without action is as dead as a body without a soul."

As men like John Cauthen are called away to their Eternal Home and rest from the toil of this life, we must remind ourselves that victory and success in the level of business, industry, and government are determined by the quality of men produced in the homes and churches of this land.

St. James would also have loved John Cauthen, because St. James said, "If any of you lack wisdom, let him ask of God, who giveth to all men liberally." (Jas. 1:5)

Our desperate need in these days is men to follow in the train of John Cauthen. This need is set forth in the words of Josiah Holland when he prayed:

"God give us men! A time like this demands
Strong minds, great hearts, true faith and ready hands;
Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor, men who will not lie;
Men who can stand before a demagog,
And damn his treacherous flatteries without winking!
Tall men, sun-crowned, who live above the fog
In public duty and in private thinking."

Let us pray:

O God our Father—have mercy upon us.

O Christ the Son—have mercy upon us.

O God the Holy Ghost—grant us Thy peace.

We praise Thy Holy Name and thank Thee this day for the life and labors of Thy servant, John.

For his loved ones and friends we pray for the gifts and consolations of the Holy Gospel, which only the Holy Spirit can give.

Lift up our hearts by the remembrance of the words of Jesus, "I am the resurrection and the life, he that believeth on me shall never die."

Help us so to live that "when our summons comes we shall be ready and be able to approach our grave as one who wraps the drapery of his couch about him and lies down to pleasant dreams" is our prayer in the Name of Him who taught us to pray together—

"Our Father who art in heaven . . ."

## OLDER AMERICANS TAX COUNSELING ASSISTANCE ACT

Mr. WILLIAMS. Mr. President, I am pleased to join the distinguished chairman of the Senate Special Committee on Aging (Mr. CHURCH) in cosponsoring the Older Americans Tax Counseling Assistance Act.

As the former chairman—and now the ranking majority member—of the Special Committee on Aging, I have been especially concerned about the extraordinarily high incidence of elderly persons paying more Federal income tax than required by law.

This harsh fact of life was brought home very forcefully during hearings I conducted while still chairman of the special committee on the subject of "Income Tax Overpayments by Older Americans."

Several expert witnesses confirmed reports that large numbers of older persons were paying more taxes than required. Mr. Henry W. Block—president of the Nation's largest tax service, H. & R. Block, Inc., said:

> Do our over-65 taxpayers overpay their income taxes? Of course they do. Statistics relating to the extent of those overpayments are much better known to the Treasury, but there can be no doubt that our current laws and reporting forms, as they deal with tax reporting by our elderly citizens, have resulted in confusion, improper reporting, and a widespread failure to take advantage of the tax-reducing devices available.

A report was later issued by the committee, calling for far-reaching action on several fronts. The No. 1 recommendation was to expand the tax assistance program for the elderly, conducted jointly by the Internal Revenue Service and senior citizen organizations, such as the National Retired Teachers Association—American Association of Retired Persons.

The bill that we introduce today is designed to implement this recommendation.

Specifically, this proposal would provide the wherewithal for the IRS to strengthen its training and technical assistance program for elderly volunteer tax counselors. This measure would also permit the IRS to reimburse the tax consultants for their out-of-pocket expenses for training and providing services under this act. Finally, the bill would authorize the IRS to conduct special alerts to help assure that all aged taxpayers are fully aware of important tax relief measures, such as the retirement income tax credit.

Today many older Americans need tax counseling assistance in order to prepare their own returns. Moreover, large numbers should be notified about tax relief measures which can result in substantial savings. This becomes all the more important because the soaring rate of inflation continues to rob the elderly's limited pocketbooks.

Five years of successful operations by the tax-aide for the elderly program have demonstrated beyond any doubt the value of tax counseling assistance for the aged. Equally important, the program has clearly shown the effectiveness of utilizing qualified older persons—who are glad to volunteer their time and talents to counsel other elderly taxpayers.

To my way of thinking, there is an urgent need to expand the activities of the tax-aide for the elderly program. Nearly 7 million returns are filed by older Americans. Many of these individuals desperately need assistance in order to avoid paying in taxes more of their limited incomes than the law requires.

The Older Americans Tax Counseling Assistance Act would be a constructive means to provide further safeguards against elderly persons overpaying their taxes.

## CHILE

Mr. KENNEDY. Mr. President, recent news reports continue to underline the denial of human rights in Chile 4 months after the military coup that deposed its elected government and abrogated its Constitution.

While there has been cooperation with the United Nations refugees organizations, that cooperation has been undercut by episodic violations of the safe conduct guarantee, affecting both individuals under United Nations protection and those under the supposed diplomatic protection of foreign embassies.

On January 3, according to the New York Times, a Chilean with a safe conduct pass, was killed while Argentine officials stated he was on embassy grounds. Earlier, another Chilean was shot and killed while seeking to enter the Argentine Embassy.

Also, the former Minister of Agriculture in the Allende regime, Rolando Calderon was critically wounded while in an embassy compound where he had been given asylum.

In late December, two Americans, David and Darlene Kalke, working as volunteers in the United Nations refugee camps were arrested along with five refugees, all with safe conduct passes. One of the refugees has never been released.

In the past 2 weeks, a number of medical doctors including internationally recognized nutrition expert, Dr. Giorgio R. Solimano Cantuarias, have been arrested.

These events as well as the increase in censorship and the continued imprisonment without due process of former Congressmen and appointees of the elected Allende Government reflect a sad extension of repression by the military dictatorship in Santiago.

The latest commentary by an independent team of observers, sent by Amnesty International to the United Nations and reported in yesterday's New York Times, also concludes that "there is substantial evidence of a persistent and gross violation of the most fundamental human rights."

Perhaps the most vivid account of conditions in Chile is described in the article published in the Washington Post yesterday by Laurence Stern, an account of the death of the 27 year-old son of an American citizen after his arrest by the junta.

I call these matters to my colleagues' attention because the continuing attitude of our Government reveals little evidence of a concern for human rights. The administration lobbied for the death of the amendment I introduced cutting off military aid to Chile which was adopted by the Senate. It not only is extending substantial credits to the junta but is apparently encouraging private banks to do the same. The key element in the attitude of the administration apparently is the junta's open solicitation of U.S. private investment once more.

I would expect our embrace for the junta to be at least somewhat tempered by its disregard of human rights within that land.

I ask unanimous consent that recent articles on this subject be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 20, 1974]

### CHILE IS ACCUSED IN REPORT TO U.N.

(By Kathleen Teltsch)

UNITED NATIONS, N.Y., January 19.—Amnesty International contends that political arrests and executions are continuing in Chile under the military junta that seized power last September.

Killings are fewer and torture seems less widely used than in the period immediately after the coup d'état, the organization said in a report yesterday, but many hundreds are still held in prison without trial.

Contrary to statements by Chilean officials, it declared, "there is substantial evidence of a persistent and gross violation of the most fundamental human rights."

The findings were based on a week-long visit in November by an Amnesty team and were updated and supported, Amnesty said, by recent information reaching its headquarters in London. Amnesty is recognized at the United Nations as an accredited organization and frequently submits data on political prisoners.

The Chilean Government repudiated Amnesty's charges in a statement made in Santiago and given out by its delegation here. It said that the inquiry was biased and superficial and that its members had limited their stay to Santiago and had used hearsay information.

Amnesty's inquiry was made by Prof. Frank C. Newman of the University of California Law School at Berkeley; Bruce W. Sumner, presiding judge of the Supreme Court of Orange County, Calif., and Roger Plant, a Spanish-speaking researcher from Amnesty's London staff who later interviewed Chilean refugees living outside the country.

The investigators said they had met with government ministers in Santiago but also had been left free to talk with Chileans in their homes, with lawyers, priests, students and welfare workers and with the families of political prisoners. They praised the Chilean officials for their cooperation.

Accurate statistics on prisoners were not available, the report said, but the Chilean authorities estimated that in Santiago alone 550 people were awaiting trial and another 1,000 were held in "preventive detention" meaning they may never come to trial, and that at least an equal number were in custody outside the capital.

"We are not convinced that complete information is available even to high officials," the inquiry team wrote. "Every day people are taken into custody to be held indefinitely without charge."

### "A DAMNING ADMISSION"

Chilean officials acknowledged that some of those detained are held for as long as eight months, the report said. It called this "a damning admission."

In describing conditions in Santiago, where they said house searches were common, the investigators asked, "How, briefly, does one describe fear and its chilling effect?"

The report said that the team had concluded that beatings and electric shock were used during interrogation.

The statement by the Chilean Government said the A team had refused to visit any other place than Santiago and therefore could not intellectually, legally or morally make a well-funded judgment on the country.

Dr. Amelia Augustus, an Amnesty spokesman in New York, said that the team had restricted its inquiry to Santiago because its members were short of time.

The report is to be submitted to the Human Rights Commission, Dr. Augustus said, and will include a confidential list of the names of persons known to be held.

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[From the New York Times, Jan. 12, 1974]

## Chilean Deadline Is Worrying Political Refugees

(By Marvine Howe)

SANTIAGO, CHILE, January 11.—There is a new feeling of insecurity and urgency among political refugees in United Nations-sponsored safe havens here as the February deadline for leaving the country draws near.

There are known to be more than 3,000 Chileans and foreigners in the four sanctuaries and in foreign embassies or private homes, desperately waiting to get out of reach of the military junta that ousted the Marxist Government of President Salvador Allende Gossents in September.

The junta declared that it had delivered 6,462 safe-conduct passes. A major problem has been to find countries willing to take the refugees, who include not only partisans of the Allende Government but political exiles from neighboring right-wing dictatorships and other Latin-American countries.

Countries that usually cooperate with the United Nations High Commission for Refugees, among them the United States and Britain, have shown reluctance, presumably because of the leftist views of many of the refugees. The United States accepted its first refugee family only last week, and has some 60 requests under study. Britain has taken none, but Canada is beginning to relax restrictions and receive families.

### RED BLOC OPENS DOORS

On the other hand Communist countries have shown willingness to cooperate with the United Nations Commission.

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The Chilean Government has set Feb. 3 as the deadline for the departure of foreign refugees. If they do not get out by then, they risk difficulties with the police because most have no identity papers, and there is the danger that they could be returned to their countries of origin. Many have been dismissed from their jobs.

Tension has risen in the sanctuaries and embassies because of several incidents in recent weeks showing that refugees are not safe, not even with United Nations protection.

On Jan. 3 a 27-year-old Chilean, Sergio Leiva Molina, who had a safe-conduct pass from the Chilean authorities, was shot and killed by a policeman at the Argentine Embassy. Argentina has protested vigorously, saying the incident took place on the embassy grounds. The Government says Mr. Leiva Molina was shot outside the embassy while trying to enter.

Argentine sources say another Chilean was shot and killed on Dec. 31 while outside the embassy trying to get in, but they insist that Mr. Leiva Molina was on the grounds and was killed by machine-gun fire from outside.

### EX-MINISTER WOUNDED

Rolando Calderon, Minister of Agriculture in the Allende Government and secretary-general of the National Workers Federation, now outlawed, was critically wounded on Dec. 18 in the Cuban Embassy compound, where he had been given asylum. The attack was witnessed by a member of the Swedish Embassy, which has been charged with Cuban affairs since the rupture in diplomatic relations after the coup. The Swedes declare that the shot came from outside the embassy; the Chileans assert that Mr. Calderon was wounded in a fight with a fellow exile.

Armed guards have been set up outside the United Nations havens and most of the Latin-American embassies and other diplomatic missions to discourage people from seeking asylum. Numerous arrests have been reported.

An American couple, David and Darlene Kalke, volunteers from the Lutheran World Federation, were arrested with five refugees from a United Nations sanctuary. The Kalkes were taking the refugees to the National Committee for Help to Refugees to obtain travel documents. All were held at gunpoint.

The Americans were released after several hours' interrogation. When they were warned that they would be picked up again, they left the country. Four of the refugees, all of whom had safe-conduct passes, were released after five but the fifth is still held.

### 1,480 NON-CHILEANS DEPARTED

The urgency of the situation was confirmed by a statement in the press calling on all foreigners registered as refugees to present themselves to the refugee-aid committee before Tuesday. It said resettlement in another country would be difficult after that time.

A United Nations tally as of Jan. 3 shows that 1,480 refugees other than Chileans have been sent out of the country since the military take-over. The largest contingent was Brazilian.

There remain 1,800 registered foreign refugees, 455 of whom are in safe havens and 112 in embassies along with about 500 Chilean exiles; 1,210 foreigners are living in private homes and 23 are known to be in prison.

Discussing the resettlement effort, a spokesman for the High Commission for Refugees, said in an interview, "We are very encouraged by the response to our appeal from Cuba and other socialist countries."

The Cuban Foreign Minister, Raul Roa, informed the United Nations mission that his Government would take all Chileans and foreigners who asked to go to Cuba. Yugoslavia has agreed to take 60; East Germany is taking 400; Poland has expressed willingness to take an unspecified number. The Soviet Union has agreed to accept six Russian women and their Chilean husbands and children.

### MOST TO TWO COUNTRIES

Mexico and Argentina have taken the largest numbers of Chilean exiles, said to be in the thousands. Many are reported to have crossed into Argentina on foot.

Of the non-Communist European countries, Sweden has taken 600 Chileans and others and is showing willingness to accept their close kin. Other countries that have helped include France, which has taken more than 350, Finland, Belgium, the Netherlands and Switzerland.

West Germany recently promised to take more than a thousand refugees and has a special mission interviewing cases. It has received 150 so far, and if it fulfills its pledge the situation will be greatly alleviated, according to United Nations sources.

A United Nations official noted that countries accepting refugees have assumed heavy responsibilities, generally paying for transport and committing themselves to food, clothing, housing and language instruction until employment can be found.

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[From the New York Times, Jan. 13, 1974]

## Chile Is Arresting Prominent Doctors Connected With Allende Government

(By Marvine Howe)

SANTIAGO, CHILE, January 12.—Chile's military junta has arrested a number of physicians in a campaign against medical men who were connected with the left-wing government of the late president Salvador Allende Gossens.

The Minister of Health, Col. Alberto Spoerer Covarrubias of the Air Force, said yesterday that at least six medical doctors had been detained in the last week and a half, including the former Minister of Health, Dr. Mario Lagos; Chile's leading lung specialist, Dr. Victorino Farga, and an internationally known nutrition expert, Dr. Giorgio R. Solimano Cantuarias.

Colonel Spoerer said in an interview that he did not know the reasons for the arrests but believed they were connected with investigations into the discovery of some 25 to 30 clandestine hospitals in the Santiago area.

There is now an order out to apprehend 20 doctors in connection with the clandestine hospitals, according to sources close to the Government.

### TWO VIEWS ON HOSPITALS

The Minister of Health declared that the underground hospitals were part of alleged preparations by Allende followers for an assault on the armed forces, which was forestalled by the military coup of Sept. 11.

On the other hand sources once linked to the Allende Government said the clandestine hospitals were "defensive," set up in the event of an attempted coup, which they believed would degenerate into civil war.

But Colonel Spoerer, who is also a heart surgeon, said: "The Marxists knew that if they started a revolution or a civil war they would have lots of wounded and so they set up the secret hospitals—some in the facilities of the National Health Service."

He added that the doctors would be tried for common crimes such as the diversion of medical supplies—bandages, surgical instruments, plasma, medicine—from the National Health Service—to the clandestine hospitals.

The doctors who have been detained are being held without formal charges and are incommunicado, according to sources in the Chilean Medical Association.

### BROAD INQUIRY IS SEEN

Military intelligence officers, acting under the martial law in effect since the overthrow, are handling the action against the doctors, medical sources disclosed. The case is said to involve a broad investigation into the operations of the National Health Service under the Allende Government.

The medical profession as a whole has not been hard hit because it is generally estimated that 75 per cent of the doctors favored the military coup d'état that ended the Allende attempt to bring socialism to this country through democratic means.

### ARRESTS BEGUN JANUARY 2

However, those doctors considered leftists have been under increasing pressure. The National Health Service has been subject to special attack and a large number of persons have been dismissed for having supported the Allende Government.

In the area of Valparaiso, Chile's second city, 60 left-wing or independent doctors, out of a total of 400, are said to be under investigation and risk suspension from the medical order. Another 15 have been jailed or forced to flee.

Colonel Spoerer disclosed that 16 doctors were being held at the Chacabuco detention camp, an old nitrate mining area in the

Atacama Desert in northern Chile. Some of the doctors imprisoned at Chacabuco were convicted by military courts for "actively participating in the formation of clandestine hospitals," he said.

The current wave of arrests began on Jan. 2, with the detention of Dr. Enriques Sepúlveda, a pediatrician, medical sources here said. In the following days, Dr. Lagos and Dr. Farga were detained.

On Jan. 7, Dr. Maricelo Taborga of the Thorax Hospital and Dr. Gustavo Molina, former director of health for greater Santiago and now retired, were arrested.

The following day, Dr. Solimano, who was chief of the Allende nutrition program, was arrested at the University of Chile, where he is assistant to the director of the nutrition program.

### Santiago Clamps Down on Its Remaining Press

Santiago, Chile, January 12.—Chile's military junta established prepublication censorship today over all newspapers and magazines here.

No official reasons were given for the clampdown, but an authoritative source said that the aim was "'to prevent the spread of alarmist news during this delicate period."

The censorship measure actually affects only the conservative press that supports the military junta, because all the left-wing publications were promptly banned after the military coup on Sept. * * *.

At the same time, the military authorities suspended the influential right-wing afternoon newspaper, La Segunda, today, again without giving any official explanation.

Sources close to the government, however, disclosed that La Segunda had been closed because of a front-page article yesterday reporting the current cigarette shortage, brought direct by price speculation. Price rises and shortages have followed the abrupt return to a free market after three years of price controls, and the government found the article "alarmist."

[From the Washington Post, Jan. 20, 1974]

### A Young Washingtonian Went to Chile Just Before the Coup; What Happened Next Was Regrettable

(By Laurence Stern)

"It doesn't matter where I begin. Perhaps I could begin when I was arriving in the airplane with the children on the second of July. The plane was flying very low and the day was ending and the desert and the mountains seemed empty and sterile that day when in my youth they had seemed so mysterious and peaceful and majestic.

"And I cried because I didn't know where I was going and from where I was coming. I was very close to the window and the children couldn't see me."

These were among the first words in the final notebook of Christian Montecino who felt, as some men do, that he had lost his way in life and so he decided last summer to retrace his steps to the place from where he had come.

He quit his job at the International Monetary Fund and gave up his rented house in Arlington and left Washington with his two young children and with a strong sense of premonition. He returned to Chile.

Those who knew him in Washington, where he had lived with his mother and brother for most of his 27 years, did not think of Christian as a man given to impetuousness, either personally or politically. He was serious in manner, slight of build and wore a beard that tended to heighten the introspective cast of the face. He attended Archbishop Carroll, a Washington Catholic high school, and studied philosophy at Georgetown University. Once he had considered entering the priesthood, but instead he married at 20 and there was the quick succession of two children, the growing pressures of family responsibility, the moves to Washington suburbs and finally the ordeal of a mentally ill wife.

On October 20, he was found in the morgue of the city of Santiago, Chile, dead of gunshot wounds and lacking any trace of identification, ready to be consigned to the mass burial site for anonymous cadavers which was much employed during the civil turmoil last fall.

Christian was found by his father, Marcelo Montecino St., an ardent supporter of the September 11 army coup and a member of the right wing National Party, after a painstaking examination of more than 100 corpses in the Santiago morgue. Later officials of the junta conveyed their sympathy and regrets to the senior Montecino in tacit acknowledgment that it had been a regrettable mistake.

The body was recovered for burial by his brother, Marcelo, 30, a graduate student in Latin American literature and free lance photographer who shared with Christian the experience of the civil war in Santiago. Now he occupies a cramped efficiency with his mother in an apartment building south of Dupont Circle and he speaks of the events leading to his brother's execution in a halting, sad monotone. Marcelo and his mother retain Christian's legacy—dozens of photographs of the war, his lined green diary book containing mostly empty pages and his letters.

Christian's return to Chile was not prompted by any strong sense of political mission. The hereditary politics of the Montecino family is conservative as befits an old and socially prominent line of land owners. (Christian's father is an influential member of the Chilean academic establishment: he is a cellist, composer and musical educator.) Both parents, though separated for nearly 20 years—he in Chile, she in the U.S.—had a common upper middle class distaste for the socialist government of the late Salvador Allende. The politics of Mrs. Montecino, a cultural affairs specialist with the Chilean embassy until recently, have been somewhat modified by the loss of her son.

"Chris's one outstanding quality, was innocence," said Marcelo. "He had no conception of politics. He had been very religious, very Catholic, until just a couple of years ago."

What propelled him back to Chile was a sick wife, his disintegrating marriage and his need to make a new start. "I felt I was no longer a young man because I could not visualize a future," he wrote gloomily on September 1. "And I wasn't even a man because my past had escaped me. . . . On landing, I didn't feel I began something but rather that something had ended. I felt the closing of a cycle—as a death might be."

Christian brooded in this vein through those weeks before the coup, barely brushed by the spiraling economic and political chaos in which the Allende government was foundering. But on September 11 Chile exploded into violence and young Montecino was drawn out of his own self-preoccupation into a concern for the anguish of his country.

"Yesterday Chile has been shattered," he wrote his mother on September 12. "What the military has started they will never be able to repair. Now both sides are part of a struggle that will not end for a generation. There won't be hundreds of dead like yesterday and today, but the country will be bled, little by little, like Ireland and Vietnam or the Arabs and Israelis . . . Chile is now a country without an exit."

He roamed the war zone of downtown Santiago with his camera and he tried to record his sense of devastation in the little brown notebook. (Christian was a professional photographer in the graphics division of the IMF).

"Why he left was debatable," said Joseph Diana, Christian's boss in the Graphics Division of the Fund. "I tried to discourage him from going. You know, especially in these times. I told him, you have two children—think of their welfare. But he took his salary and made his plane reservations. We knew he was going back to Chile. I thought he might be planning to make films, or maybe go into business for himself. Heck, how can you stop a man from bettering himself?

"All he told me was that there were certain things he had to do."

In the months since the coup the story of Chile's ordeal has seeped out to foreign capitals—Madrid, Paris, Lima, Buenos Aires, Mexico City—with the exodus of political refugees whose mouths are no longer sealed by military restraints. But the story was overshadowed on the home front by the revelations of Watergate and by the high-bouncing detentemanship of Henry Kissinger.

In an entry on the 11th of September the diary of Christian Montecino crackled excitedly:

"The world has collapsed around me. Civil war. I described the events," he wrote in Spanish.

"Ten a.m. Shooting broke out in the Moneda (the Presidential Palace in which Allende died.) I was two blocks away. Army sharpshooters were killing and wounding while I took pictures. Once I arrived in my building, soldiers took away my pictures. There are sharpshooters everywhere. We can see the bombing of the Moneda."

A subsequent letter to his mother describes the scene in greater detail.

"I was behind a newspaper stand taking pictures of people throwing themselves to the ground. Through the camera I saw someone fall down face up. Some children tried to help him but there was nothing they could do. Soon an ambulance went by. But when the driver saw he was dead, the ambulance continued on. There is sporadic shooting everywhere.

"In the Moneda there is a huge battle, something such as I have never seen. Tanks, machine guns and small arms fire . . . in about 20 minutes there must have been a lot of people killed. The noise was incredible. All at once there was shooting from behind."

Christian recorded the day-by-day developments in sporadic entries. So many killed here, so many there. Widespread reports of wanton killings by the army and of reprisals by the Allende guerilla partisans.

"For a while," Christian wrote his mother on September 14, "the only news we have is through shortwave from Argentina by which we learned about the death of Allende. Now people are able to communicate and learn from mouth to mouth stories of the death and agony of the civil war. For the first time I am ashamed of Chile.

"Oh my God, my God. Liberate us from both sides—the army and the extremists."

Mayita . . . he called her that because his brother, Marcelo, had once said she looked like a Mayan princess with her beautifully-chiseled Latin profile. Christian's decision to go to Chile separated him from Mayita for the first time in two years. They had probably been the best of times for Christian.

Before the shooting started on the streets of Santiago, Christian wrote wistfully in his diary: "Mayita. That will never finish." They had begun living together after his wife returned to Chile for treatment of the mental illness that had blighted the marriage beyond repair. Christian was planning a divorce and—when he came back—marriage to Mayita. She had finally brought him a good measure of happiness, almost as a respite, his mother said. The romance started in the unlikeliest of incubating grounds, the International Monetary Fund, where Mayita was an executive secretary to a bigwig.

"When I called Mayita from Chile and told her Christian was dead she began to scream on the phone. I couldn't tell her what had happened until I came back to Washington," said Marcelo.

On September 14:

"In Puente Alto they have hosed down the square because it was full of blood. Apparently there was a great killing there.

"In Ermida they hanged two policemen who were already dead. When the patrols arrived, they ordered all women and children out in 15 minutes. But no one was permitted to leave. In 15 minutes everyone was killed, women, children, etc."

Through the worst of the battle Christian was living in a 30-story apartment building in San Borja, an urban renewal area which was under constant army fire and from which guerrilla snipers shot back.

"My father has a gun, which we hid," wrote Christian. "If one goes to turn it in, there is always the danger of arrest and perhaps execution.

"Many leftists have been arrested. Some of them were accused of hoarding, which means they might have an extra can of milk. A cousin tells me in his neighborhood they have executed people on charges of black-marketing. A girl was killed, leaving behind a month-old-baby. Her sin was that she had been a Communist.

"When I was guarding the building last night four carabineros came and told us many stories, how many of them had been killed by hanging and having their testicles cut off."

By September 19:

"No one is safe, even the American reporters. Ambulances are being fired upon from both sides. There is no point in going on since it would be a large book. We have good photographs but a lot of work ahead.

"Don't come," Christian entreated his mother in Washington. "We will leave in about two months. Don't worry about us. We will get credentials so we won't be arrested. Pray for Chile." Mrs. Montecino disregarded the advice and arrived on September 24, worried greatly about the safety of her sons.

On September 24, Christian made a doleful entry in his diary, for the first time in English:

"At this point in my life I see death all around me. Today Hernde died. Today by coincidence I spent the afternoon at the cemetery general, hearing the grisly stories of truckloads of bodies going to the crematorium without ever being identified, one yesterday from the National Stadium which I visited with newsmen two days ago."

He was thrown into a brief panic by the arrest of his brother, Marcelo.

"I was arrested in front of the National Stadium," Marcelo related, "where I had been taking pictures of women checking on their sons or husbands or daughters. I was kept against a wall, spreadeagled for three hours. If I moved, they kicked me. Then they released me, just as abruptly, and gave me my camera back empty. I'd expected to stay the night."

Christian's diary, meanwhile, spoke of the growing death toll. "People are being executed in public for speculation and the bodies are then chucked into the river. Life is cheap in Chile. Truckloads of bodies. Thousands of dead and detained.

"I pause a long time to know what I want to say. I wonder and ponder just how this has changed me and altered my life. Obviously I am assimilating so much at one time, none of it positive, that I am making an effort to see so as to know who I am. I've lost myself in all this. I'm not an entity. I don't have pride . . .

"Spring is coming. Soon I'll be able to leave and maybe I'll have a little God-sent energy to go to Europe, work, start all over again, one more time. Maybe all of this will be behind me. As for now even my desires, such as for writing this are short, spontaneous and listless. That summarizes it all, maybe."

The final entry comes on October 10.

"Everyone in this world has, will be and is born, lives and dies (in that order) no exception. The first and last we rarely get to taste first hand. It is only life that's left."

At 5 a.m. on Wednesday, October 16, soldiers knocked at the door of the senior Marcelo Montecino's apartment in San Borja. Their commanding officer was polite and solicitous, everyone recalls. He inquired about the photographs of Christian's two sons and said he, too, was the father of two boys. He asked that Christian get dressed and accompany them. "My first reaction was that he would get a good tan at the National Stadium," Marcelo said.

"He visited me the night before he was arrested," Christian's mother recalled long after the time of tears. "He planned to go to Valparaiso the next day and pick up his car, which had been shipped down from Washington.

"I said to him, 'Why don't you stay here tonight and then go straight to Valparaiso?' But he insisted that he had to stay with his father who was alone in his apartment downtown. If he had stayed with me that night, he probably would be alive now."

Three days passed of futile inquiries to authorities. Christian's name was on no list, Marcelo was told at the detective headquarters and at the Stadium.

On Saturday the 20th of October, Christian's father received a call from a doctor friend who had been in the morgue and recognized the body of a young man arrested in the same building the same night as Christian. "It would be advisable for you to go to the morgue," the senior Montecino was told.

"My father went to the morgue and had to search among practically all the cadavers before he found the body of my brother," said Marcelo.

"And when he found Christian, my father said for the first time, 'The junta has bloodied its hands.

"I saw scores of cadavers. Most of them were young men. Most had been shot in the head. I went to get Christian's body; however, since it was the weekend we had to delay the cremation until Monday."

Morgue officials could not provide much information on the circumstances of Christian's murder or the killing of the other five who had been arrested with him that night. The victims included a young Argentine couple (she was two months pregnant) vaguely suspected of leftist tendencies, and a 26-year-old architectural student. One of the most puzzling of the names on the execution list was Victor Garreton, a 60-year-old Santiago businessman who, like Christian's father, was a member of the rightist National Party and a devoted supporter of the anti-Allende coup.

Garreton's son, a Chilean Air Force officer, insisted on an investigation. "He couldn't understand what was happening—why a man like his father should be killed," Marcelo said.

"Afterwards my husband was told," said Mrs. Montecino "that the man who had given the order to shoot them was himself executed as punishment. Who believes that?"

It was explained to the senior Montecino that the six bodies were found in a tunnel on the way to Valparaiso, some 30 kilometers outside of Santiago. It could not be explained why there was no identification, no belongings with the bodies.

After the death of Christian, Mrs. Montecino rushed to the United States Embassy, where she had once helped to administer the U.S. Peace Corps program, and looked up her old friend, Ambassador Nathaniel Davis. "One of my sons has been killed and I am afraid for the life of my other son," she appealed. "Can you give him refuge in your Embassy?"

She was told by a senior American official, "I'm sorry we cannot help you. There is nothing we can do. Goodby, we are very busy." So related Marcelo.

Mrs. Montecino returned to Washington in a rage and rushed to her Chilean Embassy position as a specialist in cultural affairs programs. She confronted the new Chilean Ambassador, Walter Heitmann.

"I told him that I could no longer work for a regime that had assassinated my son. I told him that out of respect I had to tell him the story.

"He objected to the use of the word assassination. He said that was not the right word for what had happened to Chris. I asked him whether he would kindly find another word to describe it. He seemed to soften. He said, 'We're all human. We all make mistakes.' "

Mrs. Montecino resigned from her position with the Chilean Embassy. She is still unemployed. "Can you imagine, I am a graduate of the Columbia University Graduate School of Journalism and I am being asked whether I can type 50 words a minute? They don't seem to care whether you can write ten intelligent words a minute."

The senior Montecino continued to be a supporter of the junta and its "surgical operation" against Allende. "He is still hoping to find a way for them to wash their hands and come out of the affair with honor. He continues to believe that the people responsible for the tragedy are the Marxists," Marcelo says with sadness.

Lillian Montecino, still a handsome and strong-featured woman in her early 60s, has become intense in her desire to bring her two grandsons to the United States.

"I want to stay clear in every way to achieve that ambition. What I believe in my heart, you know," she says, with a certain passion.

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[From the New York Times, Jan. 15, 1974]

## PRAGMATIC TREND IN NIXON FOREIGN POLICY

(By David Binder)

WASHINGTON, January 14.—"Our view about detente," Secretary of State Kissinger said recently, "did not indicate moral approval in any respect of the Soviet system." He was replying at a news conference to a question about the effect of United States-Soviet relations of Aleksandr I. Solzhenitsyn's book about the Soviet prison system, "The Gulag Archipelago, 1918–1956."

The question whether United States foreign policy should be influenced by the domestic policies of other nations has also come up, among other occasions in recent months, in connection with developments in Greece and Chile, with Congressional debate over United States imports of chrome from Rhodesia, whose discriminatory racial policies have been condemned by the United Nations, and with the question whether trade restrictions with the Soviet Union should be eased in light of its policy on emigration, principally by Jews.

While the "mortality" issue is not new, President Nixon's assessment of a number of American foreign-policy commitments has produced a change not only in the United States posture but also in the debate about it.

### THE BACKGROUND

The alteration in the American posture in foreign policy during the Nixon Administration—away from "making the world safe for democracy," as in Woodrow Wilson's day, or the assertion by John F. Kennedy that "we shall pay any price, bear any burden—to assure the survival and the success of liberty"—has been more implicit than explicit.

Until the Administration began improving relations with the United States' major adversaries, the Soviet Union and China, much of foreign policy was based on a sense of mission: the moral value of spreading the American concept of democracy to the far corners of the earth and of defending the right to "self-determination."

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Until last year it was also common for the United States to deny recognition to governments of which it disapproved or to lower the rank of its diplomatic mission if something inimical occurred in a foreign capital. American missions in several Eastern European countries were held at the legation level for years as a sign of disapproval.

In contrast, the Nixon Administration has substituted the pursuit of détente and an accompanying "realpolitik" for the defense of democracy and the right to self-determination as the presumed basis of American foreign policy. What follows are the Administration's arguments in support of that shift and criticism of it in and out of Congress.

### ADMINISTRATION VIEW

President Nixon and Secretary Kissinger have tended to muffle the issue by maintaining that détente is fundamentally a "moral" policy. "What could be more moral than the establishment of world peace?" a Kissinger aide asked in a recent discussion of international morality with a reporter.

But Mr. Kissinger avoided any reference to morality when, in a policy meeting with assistant secretaries of state shortly after he took over the department in October, he said, "We don't interfere in the politics of other countries."

The immediate issue was the United States stance toward the ruling military junta in Greece and the difficulties that would face the United States Navy in obtaining homeport facilities near Athens if there was official criticism.

"Kissinger made the statement as a general proposition, not as an ukase or a written order," an official who attended the meeting recalled. "But the word was passed down through the bureaucracy. We are all realpolitikers now." Realpolitik—"a policy of realism"—was used to describe the German foreign policy under Bismarck, a favorite historical subject of Mr. Kissinger.

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Mr. Kissinger's approach to the situation of Soviet Jews wanting to emigrate was much the same. "There is no question where we stand on human rights," he testified before the Senate Foreign Relations Committee in September. "The question is what we should and can do about it."

This was his argument in response to such critics as Senator Henry M. Jackson, Democrat of Washington, who had submitted a controversial amendment to the Administration's trade bill in which he linked trade advantages for the Soviet Union to Soviet liberality in allowing Jews to emigrate.

The Secretary of State contends that quiet, behind-the-scenes diplomacy has effected the release of thousands of Jews—about 35,000 so far—and that tying trade to the matter could only hinder emigration. He and President Nixon have consistently maintained that engaging the Soviet Union and other adversaries in ever-deepening cooperation is the best means of obtaining desirable responses.

### OPPOSITION VIEW

While not denying the results produced by the Nixon-Kissinger approach in ending United States participation in the Indochina war and improving relations with the Communist countries, critics of the Administration charge that there is neglect in certain areas. They say it has left questions unanswered or at least in a moral limbo with respect to smaller countries and ethnic and ideological minorities.

The September coup d'etat against President Salvador Allende Gossens in Chile, for example, left at least 2,000 dead—many of them executed by the new military junta. Senator Edward F. Kennedy asked if the United States could not have demanded impartial justice for the overthrown leftists; Washington was silent.

Portugal, which Mr. Kissinger visited Dec. 17, retains territories in Africa by military force, yet he found it possible to speak of the moral courage of the Portuguese in thanking them for assistance for the United States airlift to Israel during the October Middle East war.

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Last November, when Senator Claiborne Pell, Democrat of Rhode Island, submitted a bill to bar arms aid to Greece, he said: "We have talked a great deal about democracy. But in our policy toward Greece the United States Government consistently has turned its back on those Greeks who have looked to this nation for support in their courageous stand for democratic rights and freedoms."

And after the campaign to block imports of Rhodesian chrome, led by Senators Gale McGee and Hubert H. Humphrey, ended in success the week before Christmas, Mr. Humphrey said in an interview: "The purpose of government is not to be efficient but to do justice. To do the right thing is to do the good thing because, sooner or later, you are judged by what you have done, also in foreign policy."

Mr. Humphrey said he supported the idea that the United States should speak up about injustice even when it occurred in an allied country and in a critical relationship with the United States.

"If foreign policy is a product only of government and not of the people," he asserted, "then it becomes essentially Machiavellian and it doesn't retain a hold on the people."

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[From Time magazine, Dec. 31, 1973]

## THE PRICE OF ORDER

Time Correspondent Charles Eisendrath was in Santiago during the September coup that overthrew the Marxist government of Salvador Allende Gossens; last week he returned to see what changes had been made by the new military junta. His report:

Signs of change begin at Santiago's Pudahuel airport. There are taxis now. In the chaotic days before the coup, just getting to town took a feat of near legerdemain, since cab drivers, like many other businessmen, were on strike against Allende's plans to nationalize many sectors of the economy, including transportation. Another obvious change: the multicolored graffiti that turned the walls of Santiago's buildings into checkered political billboards have been whitewashed by junta order.

In bars where journalists, politicians and diplomats used to meet and chat, the leftist hangers-on and exiles are gone. Most of them have been expelled from the country, are under arrest or are languishing in embassies and "safe havens" to avoid prison.

The most promising change has taken place in Chile's economy, which Allende left a shambles. After the coup, General Gustavo Leigh Buzmán, chief of the air force and a junta member, prescribed a spartan program of "work, work, work." It has helped. The copper industry, which accounts for 80% of Chile's foreign earnings, had been nationalized, poorly managed, and so riven with strikes that production plummeted. But under the junta copper production rose to 61,000 tons during October, compared with a monthly average of under 50,000 tons during Allende's last months in office. With food prices up by 300%, the farmers are again tilling their land. Increased crops will reduce by nearly $100 million the need for the huge food imports (some $700 million) ordered by Allende.

### HARSH DECREES

Two weeks ago, the government announced that 115 companies that had been nationalized by Allende would be returned to their former owners. The junta also said it was willing to discuss compensation for the U.S. copper mines, with assets of $500 to $700 million, that were taken over by Allende. All this has raised the government's stock in the eyes of foreign investors. American banks have offered Chile short-term loans of $150 million. Canadian, British and German banks are negotiating similar arrangements. By contrast, practically no foreign credit was available to Allende during his last month.

The bright signs are counterbalanced by harsh decrees. The removal of Allende's subsidization of many consumer items has caused prices to soar so high that few shoppers can afford to buy. Though wages have risen 70% under the junta, the cost of living has jumped 120%. Bread is up 350%, cooking oil 400%, gasoline 700%. Many poor Chileans are going hungry.

There is still a depressing mood of fear in Chile. Armed troops patrol Santiago's streets, and gunfire is frequently heard at night. Most observers now believe that the death toll is around 2,000, not 675 as the junta claims. Executions continue, though indiscriminate killings apparently have ceased. Several thousand political leftists are still being held in military prisons without trial. Political parties have been banned, and the junta indicates that the earliest it might allow elections would be in two years.

Meanwhile, Santiago's provincial military boss has issued "*Bando* 28" (Order 28), forbidding "elections of any kind in union, guild, political, student or any other kind of group." Vacancies will be filled by the military. The draconian measure led one Santiagoan to wonder wryly whether the order applied "to the local football club too." The constitution was recently amended so that Chileans who criticize the government while traveling abroad will automatically lose their citizenship.

Santiago's raucous night life has been snuffed out by an 11 p.m.-5:30 a.m. curfew. Restaurants other than those in tourist hotels no longer serve dinner. "*Bando* 28" bans all gatherings during curfew hours, thus thwarting attempts by fun lovers to get around the curfew by holding their parties from dark to dawn.

Despite all this, Chileans, if they had the choice, would probably reluctantly vote for the junta as the lesser of evils. Though the junta is hardly popular, it does have the country running again. Chileans chafe under its totalitarian restrictions, but they also remember the chaos and strife of Allende's regime. For the moment Chile's citizens appear content to get back to work and the rhythms of an orderly society. But with their long democratic tradition, they are not likely to tolerate junta rule indefinitely.

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## RETIREMENT OF CONGRESSMAN H. R. GROSS

Mr. HUGHES. Mr. President, we have disagreed on virtually every human value issue under the shining sun, but this in no way diminishes my respect for the honesty, conscientiousness, and independence of my Iowa colleague. Congressman H. R. Gross. So in the wake of his announcement that he will retire after this, his 13th term in the House, I want to take this opportunity to wish him health and happiness in the years of his well-earned retirement. It is my hope that he will find time to do some of the things that his rigorous, self-imposed schedule as a Congressman did not permit him to do—perhaps even to take a pleasure "junket" or two, obviously not at taxpayers' expense.

In his 25 years in Congress, H. R. has won the reputation of being a no-sayer, a role that requires considerable fortitude, whether one approves or disapproves. He has been called fiscal watchdog, gadfly and, at times, spoilsport, but this has never deterred him from his appointed rounds.

Those who have disagreed with him on civil rights, Vietnam, education, and various other areas nonetheless acknowledge the validity of his doctrine that Congress has an obligation to scrutinize every item it spends with minute care. Tax money does not grow on trees, and this is a point he never let anyone forget.

From time to time, H.R. could be counted on to level blasts at his colleagues in Congress, sometimes with a shotgun, sometimes with a rifle. Perhaps it was because of the majesty of his rhetoric, but it never seemed to me, an occasional recipient of a few pellets, that these attacks stung too much.

The Wall Street Journal, noting Congressman GROSS' unique role, has suggested that the joint leadership of the House should begin a search for and training of a successor. Good luck, leadership. I personally think the die was broken. Others will carry on, but it will never be quite the same.

## IT IS TIME TO SPEAK OUT FOR RATIFYING THE U.N.'S 1948 GENOCIDE TREATY

**Mr. PROXMIRE.** Mr. President, on January 18, 1974, the Milwaukee Journal carried an excellent article on the need for ratification of the Genocide Convention. The author of the article is Mr. Bruno Bitker, a Milwaukee attorney, who has long been active in the crusade for human rights. He is currently serving as chairman of the Governor's Commission on the United Nations, and has been one of the outstanding supporters of the Genocide Convention.

Mr. President, I commend this article to my colleagues and urge them to lend their support for ratification in the next few days. I ask unanimous consent to have it printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### IT IS TIME TO SPEAK OUT FOR RATIFYING THE U.N.'S 1948 GENOCIDE TREATY

After 25 years of being shelved in the United States Senate, the United Nations treaty on genocide is now on the Senate calendar, scheduled for a vote on Jan. 23.

The fact that it has reached this point is due in great measure to Sen. Proxmire's persistence. The constitutionally required two-thirds vote seems assured. But it is uncertain whether there are sufficient votes to impose cloture against a possible filibuster, which it is feared may be tried by a few opponents, led by Sen. Ervin.

The treaty provides that mass murder intended to destroy a national, ethnic, racial or religious group is an international crime. Conduct like Hitler's treatment of the Jews is declared a crime for which the individual perpetrators are held responsible. The treaty was unanimously adopted by the UN General Assembly on Dec. 9, 1948. Its principal sponsor then was the United States, acting through its secretary of state, George C. Marshall, and its representative on the UN Human Rights Commission, Eleanor Roosevelt. This country was a key draftsman of the document.

When President Truman sent the treaty to the Senate in 1949 for its advice and consent, as required by our Constitution, it was assumed that Senate approval would be forthcoming promptly.

### OPPOSITION HAS PREVENTED A VOTE

It was a time when the stench of Nazi gas chambers still polluted the world atmosphere. Who could refuse to endorse a treaty that made genocide an international crime? As President Truman said: ". . . by the leading part the United States has taken in the United Nations in . . . outlawing the world shocking crime of genocide, we have established before the world our firm and clear policy toward that crime."

Most Americans are not aware that the United States has not yet ratified this treaty. But during a quarter of a century a handful of opponents has succeeded in preventing a vote on the Senate floor.

These opponents have been moved, in part, by fears that the sovereignty of states within the United States might be weakened, a reargument of the supremacy of the states' rights theory; a rerun of the Civil War philosophy.

A less acknowledged opposition is based on civil rights. It was even asserted by some that, under the treaty, a citizen accused of lynching could be seized by some foreign secret police and flown to an unknown destination to be tried by a "Communist controlled court." But the treaty provides that the trial of a person charged with genocide shall be in the court of the nation where the act was committed. The treaty also contemplates trial by an international criminal court. Unfortunately, no such court now exists, although the present wave of international terrorism has given added impetus to the creation of such a tribunal.

Secretary of State George Marshall thus expressed an underlying reason for the treaty: "Governments which systematically disregard the rights of their own people are not likely to respect the rights of other nations and other people, and are likely to seek their objectives by coercion and force in the international field."

### LIVES OF BIRDS, LIVES OF HUMANS

In 1902, in a case involving a treaty which protected the lives of migratory birds flying between Canada and the United States, the Supreme Court held the treaty to be superior to the laws of a state. Are the lives of human beings less important than the lives of birds?

When a nation signs a treaty, as the United States signed the genocide treaty in 1948, presumably it acts in good faith, with the implication that ratification is intended. Is it any wonder that our failure to ratify is embarrassing to our representatives in international organizations and to America as a nation? As Chief Justice Earl Warren noted: "We as a nation should have been the first to ratify the genocide convention . . . Instead, we may well be the last . . ."

In the interest of the international community and in our own national interest, the United States should ratify the treaty. Now is the moment for the public to speak out.

## BILINGUAL EDUCATION—SUPREME COURT

**Mr. KENNEDY.** Mr. President, I would like to call to the attention of my colleagues a decision issued yesterday by the Supreme Court which is of major importance to the bilingual community.

The decision for the first time States unequivocally the right under the Civil Rights Act of 1964 for non-English-speaking students to receive special education instruction to meet their language deficiency.

The Court found that the section of the act baning "discrimination based on the ground of race, color, or national origin," in "any program or activity receiving Federal financial assistance." The Court found that failure to provide non-English-speaking students "effectively forclosed—them—from any meaningful education."

I believe that in most instances where limited or non-English-speaking students require special instruction that the most productive way of meeting that problem is through a bilingual education program that permits them to move forward in the academic attainment of skills through instruction in their native language while they are obtaining the ability to learn English in a manner equal to their ability to learn in their native language.

The evidence seems clear that bilingual education programs containing respect for and recognition of the cultural background of the limited English-speaking students is the best way to meet this problem.

It was this belief that underlay the bilingual education act originally adopted in 1967 and it is the same philosophy that has prompted Senator CRANSTON, Senator MONTOYA, and myself to introduce bilingual education bills this session. The amendment now adopted to the Elementary and Secondary Education Act, S. 1539, and approved by the Education Subcommittee represents a combination of S. 2552 and S. 2553, which we introduced earlier in this session.

The action by the Supreme Court underlines the need for the passage of this measure as well as for an increase in the level of authorization.

Although the Court did not recommend a specific remedy to the language deficiency of the non-English-speaking students, it is clear that bilingual education will in most cases provide the fullest educational opportunity for those children.

Mr. President, I ask unanimous consent that the Court's decision be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### SUPREME COURT OF THE UNITED STATES SYLLABUS LAU ET AL. VERSUS NICHOLS ET AL.

### CERTIORARI TO THE U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 72-6520. Argued December 10, 1973—Decided January 21, 1974.

The failure of the San Francisco school system to provide English language instruction to approximately 1,800 students of Chinese ancestry who do not speak English denies them a meaningful opportunity to participate in the public educational program and thus violates § 601 of the Civil Rights Act of 1964, which bans discrimination based "on the ground of race, color, or national origin," in "any program or activity receiving federal financial assistance," and the implementing regulations of the Department of Health, Education, and Welfare. Pp. 2–6.

483 F. 2d 791, reversed.

Douglas, J., delivered the opinion of the Court, in which Brennan, Marshall, Powell, and Rehnquist, JJ., joined. Stewart, J., filed an opinion concurring in the result, in which Burger, C. J., and Blackmun, J., joined. White, J., concurred in the result. Blackmun, J., filed an opinion concurring in the result, in which Burger, C. J., joined.

[Supreme Court of the United States, No. 72–6520]

Kinney Kinmon Lau, a Minor by and Through Mrs. Kam Wai Lau, His Guardian ad litem, et al., Petitioners, Versus Alan H. Nichols et al.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

[January 21, 1974]

Mr. Justice Douglas delivered the opinion of the Court.

The San Francisco California school system was integrated in 1971 as a result of a federal court decree, 339 F. Supp. 1315. See *Lee* v. *Johnson*, 404 U.S. 1215. The District Court found that there are 2,856 students of Chinese ancestry in the school system who do not speak English. Of those who have that language deficiency, about 1,000 are given supplemental courses in the English language.[1] About 1,800 however do not receive that instruction.

This class suit brought by non-English speaking Chinese students against officials responsible for the operation of the San Francisco Unified School District seeks relief against the unequal educational opportunities which are alleged to violate the Fourteenth Amendment. No specific remedy is urged upon us. Teaching English to the students of Chinese ancestry who do not speak the language is one choice. Giving instructions to this group in Chinese is another. There may be others. Petitioner asks only that the Board of Education be directed to apply its expertise to the problem and rectify the situation.

The District Court denied relief. The Court of Appeals affirmed, holding that there was no violation of the Equal Protection Clause of the Fourteenth Amendment nor of § 601 of the Civil Rights Act of 1964, which excludes from participation in federal financial assistance, recipients of aid which discriminate against racial groups, 483 F. 2d 791. One judge dissented. A hearing *en banc* was denied, two judges dissenting. *Id.*, at 805.

We granted the petition for certiorari because of the public importance of the question presented, 412 U.S. 938.

The Court of Appeals reasoned that "every student brings to the starting line of his educational career different advantages and disadvantages caused in part by social, economic and cultural background, created and continued completely apart from any contribution by the school system," 483 F. 2d, at 497. Yet in our view the case may not be so easily decided. This is a public school system of California and § 571 of the California Education Code states that "English shall be the basic language of instruction in all schools." That section permits a school district to determine "when and under what circumstances instruction may be given bilingually." That section also states as "the policy of the state" to insure "the mastery of English by all pupils in the schools." And bilingual instruction is authorized "to the extent that it does not interfere with the systematic, sequential, and regular instruction of all pupils in the English language."

Moreover § 8573 of the Education Code provides that no pupil shall receive a diploma of graduation from grade 12 who has not met the standards of proficiency in "English," as well as other prescribed subjects. Moreover by § 12101 of the Education Code children between the ages of six and 16 years are (with exceptions not material here) "subject to compulsory full-time education."

Under these state-imposed standards there is no equality of treatment merely by providing students with the same facilities, text books, teachers, and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education.

Basic English skills are at the very core of what these public schools teach. Imposition of a requirement that, before a child can effectively participate in the educational program, he must already have acquired those basic skills is to make a mockery of public education. We know that those who do not understand English are certain to find their classroom experiences wholly incomprehensible and in no way meaningful.

We do not reach the Equal Protection Clause argument which has been advanced but rely solely on § 601 of the Civil Rights Act of 1964, 42 U.S.C. § 2000(d) to reverse the Court of Appeals.

That section bans discrimination based "on the ground of race, color, or national origin," in "any program or activity receiving federal financial assistance." The school district involved in this litigation receives large amounts of federal financial assistance. HEW, which has authority to promulgate regulations prohibiting discrimination in federally assisted school systems, 42 U.S.C. § 2000(d), in 1968 issued one guideline that "school systems are responsible for assuring that students of a particular race, color, or national origin are not denied the opportunity to obtain the education generally obtained by other students in the system." 33 CFR § 4955. In 1970 HEW made the guidelines more specific, requiring school districts that were federally funded "to rectify the language deficiency in order to open" the instruction to students who had "linguistic deficiencies," 35 Fed. Reg. 11595.

By § 602 of the Act HEW is authorized to issue rules, regulations, and orders[2] to make sure that recipients of federal aid under its jurisdiction conduct any federal financed projects consistently with § 601. HEW's regulations specify, 45 CFR § 80.3(b)(1), that the recipients may not:

"Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program:

* * * * *

"Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program";

Discrimination among students on account of race or national origin that is prohibited includes "discrimination in the availability or use of any academic . . or other facilities of the grantee or other recipient." *Id.*, 80.5 (b).

Discrimination is barred which has that *effect* even though no purposeful design is present: a recipient "may not . . . utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination" or has "the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin." *Id.*, 80.3(b)(2).

It seems obvious that the Chinese-speaking minority receives less benefits than the English-speaking majority from respondents' school system which denies them a meaningful opportunity to participate in the educational program—all earmarks of the discrimination banned by the Regulations.[3] In 1970 HEW issued clarifying guidelines (35 Fed. Reg. 11595) which include the following:

"While inability to speak and understand the English language excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students." (Pet. Br. App. 1a)

"Any ability grouping or tracking system employed by the school system to deal with the special language skill needs of national origin-minority group children must be designed to meet such language skill needs as soon as possible and must not operate as an educational deadend or permanent track." (Pet. Br. p. 2a).

Respondent school district contractually agreed to "comply with title VI of the Civil Rights Act of 1964 . . . and all requirements imposed by or pursuant to the Regulations" of HEW (45 CFR Pt. 80), which are "issued pursuant to that title . . ." and also immediately to "take any measures necessary to effectuate this agreement." The Federal Government has power to fix the terms on which its money allotments to the States shall be disbursed. *Oklahoma* v. *Civil Service Commission*, 330 U.S. 127, 142–143. Whatever may be the limits of that power, *Steward Machine Co.* v *Davis*, 301 U.S. 548, 590 *et seq.*, they have not been reached here. Senator Humphrey, during the floor debates on the Civil Rights Act of 1964, said:[4]

"Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in racial discrimination.'

We accordingly reverse the judgment of the Court of Appeals and remand the case for the fashioning of appropriate relief.

Reversed.

Mr. Justice White concurs in the result.

[Supreme Court of the United States, No. 72–6520]

Kinney Kinmon Lau, a Minor by and Through Mrs. Kam Wai Lau, His Guardian ad litem, et al., Petitioners, Versus Alan H. Nichols et al.

[January 21, 1974]

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

Mr. Justice Blackmun, with whom The Chief Justice joins, concurring in the result.

I join Mr. Justice Stewart's opinion and thus I, too, concur in the result. Against the possibility that the Court's judgment may be interpreted too broadly, I stress the fact that the children with whom we are concerned here number about 1800. This is a very substantial group that is being deprived of any meaningful schooling because they cannot understand the language of the classroom. We may only guess as to why they have had no exposure to English in their preschool years. Earlier generations of American ethnic groups have overcome the language barrier by earnest parental endeavor or by the hard fact of being pushed out of the family or community nest and into the realities of broader experience.

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[1] A report adopted by the Human Rights Commission of Francisco and submitted to the Court by respondent after oral argument shows that, as of April 1973, there were 3,457 Chinese students in the school system who spoke little or no English. The document further showed 2,136 students enrolled in Chinese special instruction classes, but at least 429 of the enrollees were not Chinese but were included for ethnic balance. Thus, as of April 1973, no more than 1,707 of the 3,457 Chinese students needing special English instruction were receiving it.

[2] Section 602 provides:

"Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 2000d of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. . . ."

[3] And see Report of the Human Reights Commission of San Francisco. Bilingual Education in the San Francisco Public Schools, Aug. 9, 1973.

[4] 110 Cong. Rec. 6543 (Senator Humphrey quoting from President Kennedy's message to Congress, June 19, 1963.)

I merely wish to make plain that when, in another case, we are concerned with a very few youngsters, or with just a single child who speaks only German or Polish or Spanish or any language other than English, I would not regard today's decision, or the separate concurrence, as conclusive upon the issue whether the statute and the guideline require the funded school district to provide special instruction. For me, numbers are at the heart of this case and my concurrence is to be understood accordingly.

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Supreme Court of the United States,
No. 72–6520

KINNEY KINMON LAU, A MINOR BY AND THROUGH MRS. KAM WAI LAU, HIS GUARDIAN AD LITEM, ET AL., PETITIONERS, VERSUS ALAN H. NICHOLS ET AL.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

[January 21, 1974]

Mr. Justice Stewart, with whom the Chief Justice and Mr. Justice Blackmun join, concurring in the result.

It is uncontested that more than 2,800 school children of Chinese ancestry attend school in the San Francisco Unified School District system even though they do not speak, understand, read, or write the English language, and that as to some 1,800 of these pupils the respondent school authorities have taken no significant steps to deal with this language deficiency. The petitioners do not contend, however, that the respondents have affirmatively or intentionally contributed to this inadequacy, but only that they have failed to act in the face of changing social and linguistic patterns. Because of this laissez faire attitude on the part of the school administrators, it is not entirely clear that § 601 of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, standing alone, would render illegal the expenditure of federal funds on these schools. For that section provides that "[n]o person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

On the other hand, the interpretive guidelines published by the Office for Civil Rights of the Department of Health, Education, and Welfare in 1970, 35 Fed. Reg. 11595, clearly indicate that affirmative efforts to give special training for non-English speaking pupils are required by Tit. VI as a condition to receipt of federal aid to public schools:

"Where inability to speak and understand the English language excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students."[1]

The critical question is, therefore, whether the regulations and guidelines promulgated by HEW go beyond the authority of § 601.[2] Last Term, in *Mourning* v. *Family Publications Service, Inc.*, 411 U.S. 356, 369, we held that the validity of a regulation promulgated under a general authorization provision such as § 602 of Tit. VI[3] "will be sustained so long as it is 'reasonably related to the purposes of the enabling legislation.' *Thorpe* v. *Housing Authority of the City of Durham*, 393 U.S. 268, 280–281 (1969)." I think the guidelines here fairly meet that test. Moreover, in assessing the purposes of remedial legislation we have found that departmental regulations and "consistent administrative construction" are "entitled to great weight." *Trafficante* v. *Metropolitan Life Insurance Co.*, 409 U.S. 205, 210; *Griggs* v. *Duke Power Co.*, 401 U.S. 424, 433–434; *Udall* v. *Tallman*, 380 U.S. 1. The Department has reasonably and consistently interpreted § 601 to require affirmative remedial efforts to give special attention to linguistically deprived children.

For these reasons I concur in the judgment of the Court.

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[1] These guidelines were issued in further clarification of the Department's position as stated in its regulations issued to implement Tit. VI, 45 CFR pt. 80. The regulations provide in part that no recipient of federal financial assistance administered by HEW may

"Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program; [or]

"Restrict an individual in any way in the enjoyment of an advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program." 45 CFR §80.3 (b) (1) (ii), (iv).

[2] The respondents do not contest the standing of the petitioners to sue as beneficiaries of the federal funding contract between the Department of Health, Education, and Welfare and the San Francisco Unified School District.

[3] Section 602, 42 U.S.C. § 2000d–1, provides in pertinent part:

"Each Federal department and agency which is empowered to extend Federal assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 2000d of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. . . ."

The United States as *amicus curiae* asserts in its brief, and the respondents appear to concede, that the guidelines were issued pursuant to § 602.

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## ABORTION IN HAWAII

Mr. INOUYE. Mr. President, in March of 1970, Hawaii became the first State in our Nation to allow abortion essentially at the request of the individual woman. Prior to passage of this historic law, many legislators, individuals, and organizations in my State expressed concern about what its effects would be. Accordingly, the State legislature allocated funds to the University of Hawaii's School of Public Health to provide for a multidisciplinary study of the operations and effects of the law.

I ask unanimous consent to have printed in the RECORD, copies of two publications which resulted from the study.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### SEXUALITY, BIRTH CONTROL AND ABORTION: A DECISIONMAKING SEQUENCE[1]

(By Milton Diamond,[2] Patricia G. Steinhoff, James A. Palmore and Roy G. Smith)

HAWAII PREGNANCY, BIRTH CONTROL AND ABORTION STUDY, UNIVERSITY OF HAWAII, HONOLULU, HAWAII

Summary. A matched group of women who conceived during a 2-month period in 1971 was used to trace some parameters involved in their decision to carry their pregnancies to term or to seek an abortion.

Several specific indices to the decision were considered: whether coitus was anticipated; whether the pregnancy was planned; whether birth control methods were used; and how the pregnancy ended. The effects of age, marital status, religion, reasons for the abortion or carrying the pregnancy to term, and attitude towards a possible delivery were also studied.

It was found that coitus was anticipated by the majority of women, but pregnancy was unplanned for. Two-thirds of the women who did not want to become pregnant were not using a contraceptive method; yet, regardless of whether birth control was used or not, one of three . . . women chose to have an abortion.

Among the most common reasons for women indicating that contraceptive measures were not used were: "I didn't want sex to seem planned" and "I thought I was in a safe period". The decision to have an abortion usually depended upon the woman's marital status, age, religion, and previous use of birth control. Surprisingly, among women who had not planned to become pregnant, the percentage of women choosing abortion was the same from both subgroups of women who used or did not use contraception. It was also surprising that no strong relationship seemed to exist between the type of contraceptive technique used and the decision to have an abortion.

Women who planned ahead to have an abortion if they became pregnant were more often using contraception; thus for these women abortion was not a primary method of family planning but a back-up for failed contraception. Women who had their babies, infrequently considered abortion as an alternative.

It was predicted and found true that women who positively viewed the prospect of having a child chose to carry the pregnancy to term while those who expressed unhappiness at having a baby chose abortion. Unexpectedly, we found the overwhelming majority of women who claimed 'I would be neither happy nor unhappy to have this baby' chose to have an abortion. Thus a woman's so-called neutral statement regarding a desire was generally seen not to be neutral.

Our use of a pregnant population of women who conceived at the same time (conception cohort) for the analysis of the decision of whether to have an abortion or carry to term, when abortion is legal, thus seemed to be feasible and practical.

#### INTRODUCTION

The Hawaii Pregnancy, Birth Control and Abortion Study is a state-wide investigation conducted continuously since March 1970, the date of the passage of the law which legalized abortion in Hawaii, essentially allowing abortion on request. Our group studies abortions and live births in the state using the pregnant population that presents itself to hospitals throughout the state (all legal abortions must be done in hospitals). From every hospital performing abortions in Hawaii, we collect data from hospital charts and from self-administered questionnaires given to the women. These data provide information not only on the woman's reproductive history, but also on her attitudes and practices in regard to sexual behaviour, birth control usage, and reasons for carrying the pregnancy to term or having an abortion. The present study will report on some behavioural and contraceptive correlates of women from a special population pool which we refer to as a conception cohort.

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[1] Originally presented at the 80th Annual Convention of the American Psychological Association, Honolulu, Hawaii, 2nd September 1972.

[2] University of Hawaii, School of Medicine, Department of Anatomy and Reproductive Biology, 1951 East-West Road,, Honolulu, Hawaii 96822, USA.

### COHORT CONSTRUCTION

The conception cohort consists of: (a) women who gave birth during a given period of time (April and May 1971), and (b) women who had abortions but whose pregnancies otherwise would have come to term during April and May 1971. The abortion patients were selected on the basis of the calendar month during which they had their abortions, and the estimated gestation at abortion (in 4-week intervals). Because both criteria were coded in rather broad categories, each case was then weighted on the basis of the probability that the birth actually would have occurred during the target maternity period. We call this a 'conception cohort', because theoretically it includes all women who conceived at the same time, and therefore were making the decision to have the baby or have an abortion, at the same time. Excluded from consideration was any woman who had a stillbirth, spontaneous abortion or illegal abortion. We are reporting here on only the first of six planned cohorts covering 3 years of data; with additional data, some results may be different.

Demographic data were available on every maternity abortion patient in the state who met the criteria for inclusion in the cohort. Questionnaires were obtained from about 45% of the women who had live berths and 56% of the women obtaining abortions in the state during the period of the cohort. The questionnaire samples in the cohort were weighted on the basis of the 100% demographic data available to correct for small response biases. Thus the final questionnaire sample of 1579 cases fairly accurately represents the composition and relative proportions of the corresponding conception cohort for the State of Hawaii. The sample is about half the size of the actual population of women involved.

### DECISION MAKING

Using this cohort population, we have attempted to trace several parameters involved in the women's pregnancies. For this report, we emphasize coital and contraceptive factors involved in becoming pregnant and the relationships of several of these factors to the decision to maintain the pregnancy to term or to have an abortion.

While these are indeed complex and interrelating variables, they are dealt with here as independent variables but mention is made of other related factors which we have found to intervene.

It might be hypothesized that decisions related to coitus, birth control and pregnancy outcomes are related. For example, a woman may obviously plan to have, and actually have, intercourse while refraining from using contraceptives in order to have a desired baby. On the other hand, it has been well documented that many women who have coitus regularly without using a birth control method do not want to become pregnant or have children. Table I indicates how some of these factors may be considered.

TABLE 1.—SEXUAL BEHAVIOR AND REPRODUCTION: A DECISIONMAKING PROCESS

| Coitus | Birth control | Pregnancy outcome |
|---|---|---|
| Planning and attitudes: | | |
| Expected | How considered | Planning. |
| Unexpected | | Desire. |
| Outcome and practices: | | |
| Frequency | Choice of method | Maternity. |
| Duration | Use of method | Abortion. |

### *Coitus*

From our cohort sample, we first ascertain whether coitus was an expected event. It is apparent that a woman who desires to become pregnant expects to have coitus but this is not apparent of women who did not plan to become pregnant. Relative to the pregnancy under discussion, coitus was reported as unexpected by 6% (96) of the women. This can be interpreted that coitus was expected in 94% (1483) of the cohort population (Text-fig. 2).

### *Pregnancy planning*

Among those women who had an expected coitus, 45% planned to become pregnant. We ascertain if a pregnancy was planned by two methods in concert. The first involves a 'Yes' or 'No' response to the question, 'Were you using any birth control technique when you became pregnant?', followed by the woman, selecting from a series of multiple choices, 'I wanted to be pregnant' for her reason. The second, used for women who go on to deliver, is a selection of 'My husband and I planned to have this child' as one of many possible reasons for maternity. Both correlate well. This 45% represents 42% of the total pregnant cohort population. Thus, put another way, the pregnancies of 58% of the cohort population were unplanned.

Surprisingly, in our cohort population we found many unmarried girls who claimed they became pregnant by choice. About 7–10% of the women who indicated they were single or going steady said they wanted to become pregnant; 27–29% of women who were living with a man or engaged reported similarly. Among married women, 63% indicated they were pregnant by choice (Table 2).

TABLE 2.—PLANNED PREGNANCY WITHIN MARITAL STATUS AMONG THOSE NOT USING A CONTRACEPTIVE TECHNIQUE[1]

| Marital status at conception | Number of pregnant women | Number of planned pregnancies | Percent of planned pregnancies |
|---|---|---|---|
| Never married | 266 | 39 | 14.7 |
| Single | 82 | 6 | 7.3 |
| Steady | 102 | 10 | 9.8 |
| Living together | 29 | 8 | 27.6 |
| Engaged | 53 | 15 | 28.3 |
| Married | 954 | 604 | 63.0 |
| SDW | 34 | 1 | 2.9 |

[1] Weighted figures.

### *Use of birth control*

When a pregnancy is planned, it would be anticipated that coitus would occur without contraceptive measures, and all planned pregnancies would be carried to term. Vice versa, it would be expected that when babies are not desired, some contraceptive methods would be utilized and if pregnancy were to occur, when abortion is legal, it would be the solution to the dilemma. The former hypothesis was generally substantiated, the latter hypothesis rarely so.

As expected, our data indicate that almost all women who planned to become pregnant (97%) did not employ any contraceptive methods. Surprisingly, 3% of the women who wanted to become pregnant nevertheless reported using a contraceptive technique (Text-fig. 2). It is quite possible that these 3% were using rhythm or other methods in order to achieve pregnancy. Among the women who wanted to become pregnant, 26.4% indicated that they had been trying to conceive for more than 1 year; 3.5% of these for more than 3 years and another 3.5% for more than 5 years.

The majority of sexually active women who did not plan to become pregnant did not use a contractive method. Many reasons exist for not using a contraceptive technique to prevent an unwanted pregnancy. With an unexpected coitus, as reported by 6% (96) of the women in the cohort, a report of 'no method used' would seem acceptable (despite the fact that withdrawal might have been advocated). There nevertheless remained 57% (520) of all those women not planning to become pregnant who expected coitus, yet did not use any form of contraception.

In addition to considering the coitus unexpected, the reasons given for not using birth control methods vary with special factors such as age and marital status. Young and single women tended to indicate: 'I didn't want sex to seem planned'. Married as well as single women reported: 'I thought I was in a safe period'.

'It's against my religion to use birth control' and 'The father wouldn't let me use birth control' were reported with about equal frequency and account for 123 of the 520 women who, despite the fact that they anticipated coitus and did not want to become pregnant were not using a birth control method; 72% of these non-contracepting women giving either or both of these last two reasons were Catholic (88 of 123).

A large percentage (33%) of the pregnant women who did not plan to become pregnant used contraceptive methods, yet became pregnant. This is about 19% of the total cohort population. It must be recalled that all these data are derived from a pregnant population. Those women who are effective contraceptors, probably the majority of sexually active women, do not enter our sample. Using 1970 census data, the number of women of reproductive age in Hawaii was approximately 194,000. Since there were about 19,500 women (10% of the possible population) pregnant during 1971 (in round figures a combined total of 15,900 live births and 3600 abortions), we can extrapolate and say that, theoretically, 19% of these, roughly 300 or 1–2% of the state's population of women of reproductive age, became pregnant due to birth control failure that year.

Among these contraceptive failures, all methods were represented. The pill was used by 31% of all those using birth control at conception who did not plan to become pregnant. Foam users represent the next largest group, 22% of this contraception population. The rhythm method was reportedly used by 18%. Regrettably, we do not know what proportions of the total state population of women using contraception were using the various techniques so it is not possible to calculate contraceptive efficiency from these data.

There was a surprising reversal of contraceptive usage among religious groups (Table 3). Comparing Catholics with Protestants and Buddists, the other two large religious groups in the state, we find proportionately fewer Catholics having used rhythm and more having used the pill.

Recalling again that it is only the failures that we are seeing in our population, this may reflect that Catholics use rhythm best and pills poorest. Of course, our findings could also mean that some of the classical associations of religion with contraceptive method might need re-examination.

TABLE 3.—RELIGION AND USE OF BIRTH CONTROL [1]

| Religion | Number of women using— Rhythm Number | Rhythm Percent | Pill Number | Pill Percent | IUD Number | IUD Percent | Other Number | Other Percent | Total using birth control |
|---|---|---|---|---|---|---|---|---|---|
| Buddhist | 6 | 21 | 7 | 25 | 0 | 0 | 14 | 50 | 27 |
| Catholic | 14 | 13 | 47 | 44 | 7 | 7 | 38 | 36 | 106 |
| Protestant | 24 | 18 | 39 | 30 | 17 | 13 | 50 | 39 | 130 |
| None | 6 | 15 | 7 | 18 | 10 | 25 | 17 | 42 | 40 |
| Other | 3 | 20 | 3 | 20 | 2 | 13 | 7 | 47 | 15 |

[1] Weighted figures.

Particularly peculiar was our finding that among the group of contracepting women, four women were found who supposedly had had their tubes tied, yet became pregnant. Investigation of the medical records confirmed that two of these women had had the procedure indicated; the records were incomplete for the other two. One of these four women has now had a hysterectomy.

The use of birth control methods in general increased with the strength and type of the sexual relationship (Table 4). In general, in the cohort population engaged couples used birth control measures with about the same frequency as did couples going steady (19.1% and 17.9%). Married couples and couples living together also used birth control measures in about the same proportions (40.2% and 38.2%). Regrettably, single 'unattached' girls, i.e. those with the least firm relationships and thus least ready for family unions, used birth control least (13.6%).

TABLE 4.—USE OF BIRTH CONTROL WITHIN MARITAL STATUS FOR UNPLANNED PREGNANCIES

| Marital status at conception | Number of pregnant women | Number of women using birth control | Percent women using birth control |
|---|---|---|---|
| Never married | 281 | 54 | 19.2 |
| Single | 88 | 12 | 13.6 |
| Steady | 112 | 20 | 17.9 |
| Living together | 34 | 13 | 38.2 |
| Engaged | 47 | 9 | 19.1 |
| Married | 595 | 239 | 40.2 |
| SDW | 41 | 8 | 19.5 |
| Total | [1] 916 | [1] 300 | |

[1] Weighted figures.

*Pregnancy outcome*

We can now examine how women having become pregnant, whether planned or unplanned, having used contraceptive methods or not, terminated their pregnancies when abortion was a legal choice (Text-fig. 2).

With planned pregnancies, it is to be expected that the women will go to term and deliver. This was indeed demonstrated in the vast majority (98%) of the cases. Significantly, 2% of the women who had originally planned to have a baby and did not use birth control, after becoming pregnant chose to have an abortion. Some of these women reported that they had been trying for some time to become pregnant but now were choosing an abortion for various reasons such as: 'I am still single', 'I am not able to cope with a child at this time', 'The child is not my husband's', 'My marriage is too shaky', 'My husband doesn't want the child', and 'A child would interfere with my or the father's job or education'. The mean age for these women was 23-1, and the median age was 24 so age generally did not seem to be a factor.

Surprisingly, among those women who had not planned to become pregnant, the percentage of women choosing an abortion is the same from both subgroups of women who used or did not use contraceptive methods; 31% and 32% respectively (Text-fig. 2). Thus the use of birth control *per se* did not seem to be predictive of resolve not to have a baby.

It is also surprising that there is no strong correlation between the type of contraceptive technique used and the decision to have an abortion. It had been hypothesized that a woman using a 'good' contraceptive such as the pill would be more likely to be determined not to have a child than is a woman who was relying on rhythm or withdrawal. In fact the findings seem to indicate the oppposite (Table 5).

The data indicate of all women who were using oral contraceptives when they became pregnant, only 14% chose to have an abortion. If the women were married and became pregnant while using the pill, only 6% chose abortion. An incidence of abortion from between 30% and 40% of women was associated with the other routinely used contraceptive methods, except the condom and the IUD. This was generally reduced markedly if the woman was married and increased markedly if the woman was single.

If the condom was used, a higher proportion of women in each marital status group chose abortion. Use of this contraceptive technique might thus be considered to reflect a greater resolve not to have a baby. If the IUD was used, independent of marital status, about one in three women chose abortion.

All four of the women who supposedly had had tubal ligations but became pregnant chose to carry their pregnancy to term. Two considered it as 'natural or God's will' and two claimed they did not believe in abortion.

For those women choosing to have an abortion, the decision to do so was made as soon as the woman knew she was pregnant in 63.0% of the cases; before pregnancy in 8.5% and just before the abortion ('recently') in 23.9% of the cases. Those women who planned ahead to have an abortion if they became pregnant were more often using contraceptives. For this group, therefore, it does not seem as if abortion was a substitute contraceptive method; rather, it was a back-up for failed contraception. No clear relation exists between contraceptive use and when the decision to have an abortion was made in the other groups.

TABLE 5.—CONTRACEPTIVE USE [1] AND CHOICE OF ABORTION RELATED TO MARITAL STATUS AT CONCEPTION

| Contraceptive method used | Total number using this method | Total choosing abortion Number | Total choosing abortion Percent | Number never married using this method | Never married choosing abortion Number | Never married choosing abortion Percent | Number married using this method | Married choosing abortion Number | Married choosing abortion Percent |
|---|---|---|---|---|---|---|---|---|---|
| Foam | 66 | 21 | 32 | 12 | 7 | 58 | 54 | 14 | 26 |
| Diaphragm | 18 | 6 | 33 | 0 | 0 | | 17 | 5 | 29 |
| Condom | 46 | 21 | 46 | 10 | 7 | 70 | 36 | 14 | 39 |
| Rhythm | 53 | 20 | 38 | 15 | 11 | 73 | 38 | 9 | 24 |
| Withdrawal | 29 | 11 | 38 | 13 | 9 | 69 | 16 | 1 | 6 |
| IUD | 36 | 14 | 39 | 6 | 2 | 33 | 30 | 10 | 33 |
| Pill | 103 | 14 | 14 | 12 | 7 | 53 | 88 | 5 | 6 |
| Remainder | 16 | 5 | 31 | 5 | 3 | 60 | 10 | 1 | 10 |

[1] Some couples use combined methods.

For women going on to have their babies, relatively few considered abortion as an alternative. Among those women who did not use contraceptive techniques, 91.1% indicated they did not consider having an abortion; among those women who did use contraceptives, 86.4% indicated they did not consider having an abortion.

As reported previously by Smith *et al.* (1971) and Steinhoff, Smith & Diamond (1972), the reasons most often given by a woman for deciding to have an abortion were: "I am not married," "I cannot afford the child financially," "I already have enough children," "A child would interfere with my education," and "I am not able to cope with a child at this time".

The reasons vary with contraceptive usage and this is related to age and marital status. For example, older or married women were more likely to have been using contraceptive techniques and indicated they chose abortion because they could not cope with a child or considered they had enough children already.

The most frequently given reasons for carrying the pregnancy to term were, as might be expected, related to whether the baby was planned and whether contraceptive techniques were used.

Quite often when the woman found she had an unplanned pregnancy, she and her husband decided to have the child anyway. Disapproval of abortion was given as a reason for having the baby by about 13% of the women with unplanned pregnancies who had not used contraception. Similarly, of women who had used contraception, 10% said they did not approve of abortion so were having the baby.

The decision of a pregnant woman to have an abortion or carry to term is often thought to be related to marital status, age and religion. We have considered these factors along with contraceptive use (Text-fig. 3).

Marital status was seen to relate with contraceptive use to predict the decision regarding pregnancy termination. Non-married contraceptors were more likely to have an abortion than were married contraceptors; non-married women, in general, were more likely to have an abortion than were married women. This is in sharp contrast to national findings under illegal conditions in the late 1950s (Gebhard *et al.*, 1958) but is in keeping with recent findings in New York and California (Berkov & Sklar, 1972; Duffy, 1971; Pakter & Nelson, 1971; Russell, 1969; Tietze & Lewit, 1972). It must nevertheless be emphasized that a large percentage of women, regardless of their marital status, chose to carry the pregnancy to term (Text-fig. 3).

This relationship of marriage to choice of abortion was, as might be expected, related to age. The older married woman more often chose an abortion than did the younger. While in absolute numbers more women under 25 years had abortions, a much greater proportion of pregnant women 25 years and older chose abortion than did younger women (Text-fig. 4).

Religion, too, was related to how a woman terminated her pregnancy. Regardless of marital status, Catholics consistently chose abortion less frequency than did Protestants or those women who professed no religion (Text-fig. 5). Buddhists, too, chose abortion less frequently than Protestants but this was due to a great percentage of their pregnancies being planned.

With marital status, we have related a simple multiple choice question as to how each woman viewed the prospect of having a child and her choice of pregnancy outcome. Predictably, almost all women who expressed 'I would be unhappy to have this baby' decided to have an abortion. Less predictable is the finding that a number of women chose abortion despite their saying 'I would be happy to have this baby.' Least predictable was the finding that the overwhelming majority of women who claimed 'I would be neither happy nor unhappy to have this baby' chose abortion. A woman's so-called neutral statement regarding her desire to have a baby when she is pregnant was thus generally seen not to be neutral.

Finally, we correlated some early steps in the decision-making process with the final pregnancy outcome. Of those women not using contraceptives who claimed 'Sex was unexpected', 25% had their pregnancies terminated; so, too, did 26% of those women whom claimed 'I thought I was in a safe period.' These two groups of women who were non-contraceptors and who did not plan to become pregnant comprise 68% of those who chose abortion. Of those who indicated that their pregnancy was the result of a birth control failure, 31% chose abortion.

## DISCUSSION

We have attempted to show, by using a fairly complete population of pregnant women (conception cohort), a decision-making process relating how sexual behaviour, birth control use and pregnancy outcome could be monitored under conditions where abortion is legal and access to the total population was possible. Starting with the expectancy component of coitus, we traced pregnancy planning, birth control use and pregnancy outcome. The analysis was basically sequential but it is obvious that the decision-making process cannot be fully considered as a linear progression of events. Coitus for the majority of women was anticipated and yet pregnancy was not generally planned for. Regrettably, two-thirds of the women who had not planned their pregnancies had not used a birth control method to prevent such consequences. Of these women, as of the one-third that did attempt to prevent conception, only one out of three women elected to have an abortion. Marital status, age and religion were seen to affect the decision as to whether or not to have an abortion, but we also found that a woman's acceptance of her sexuality and attendant use of contraception related to these factors and correlated with how she decided to terminate her pregnancy.

This use of conception cohorts and the analysis of the decision-making process is believed to provide a model that is applicable elsewhere. Different independent variables may be used as filters at any stage to provide analyses of the decision-making process for any group under study. For example, one could monitor the change in dependent variables such as coitus or birth control usage, while using as independent variables religion, socio-economic status or age. Other models for similar analysis have been proposed (e.g. Friedman, 1972). The present model seems advantageous primarily because it provides a built-in comparative control group of women who planned their pregnancy and indeed chose to deliver. This type of analysis of choice deals with a selected population from among a larger one available to us (Diamond *et al.*, 1972). We consider that this gives a better reflection of the actual parameters attendant on the decision to have an abortion or carry to term, particularly if used repeatedly so that controlled comparisons can be made over a period of time.

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## THE EFFECTS OF THE NEW LAW SUMMARIZED FOR THE FIRST 21 MONTHS—ABORTION IN HAWAII: 1970–1971

(By Roy G. Smith, M.D., M.P.H., Patricia G. Steinhoff, Ph.D., James A. Palmore, Ph.D., and Milton Diamond, Ph. D.)

On March 11, 1970, Hawaii became the first State in the nation to allow abortion essentially at the request of the woman. An abortion may be performed legally by a licensed physician in an accredited hospital before the fetus is viable outside the uterus, if the woman has been a resident for a minimum of 90 days immediately prior to the abortion. Other restrictions imposed are those that normally apply to any medical-surgical procedure.

Prior to the passage of the law, many legislators, individuals, and organizations in Hawaii expressed concern about the effects of the new law. The State Legislature allocated funds to the University of Hawaii, School of Public Health, to initiate a study of the operation and effects of the law. The study was multi-disciplinary from its inception, and now involves a research team composed of representatives from the School of Public Health, the School of Medicine, the Department of Sociology and the East-West Population Institute.

This article, based on a report made to the Hawaii State Legislature on the operation and effect of the law, is an analysis of data from all cases of induced abortion performed in hospitals in 1970–71.[1]

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[1] The research team would like to express its gratitude to the legislature for its assistance. Additional support has been received from the Population Council, the National Institute of Child Health and Human Development, the Ford Foundation, the East-West Population Institute, and the Health and Community Services Council of Hawaii. The co-authors are indebted to Alice Beechert and Kay Hoke for assistance in preparing this paper. They also gratefully acknowledge the cooperation of the many phyiscians and hospital personnel who make this study possible. This is Report No. 4 of the Hawaii Pregnancy, Birth Control and Abortion Study.

Following the enactment of the law, from March 11, 1970 through December 31, 1971, 7,148 induced abortions were performed in 15 hospitals. During the first 21 months of the new law, there were changes in characteristics of women receiving induced abortion, and also in medical and social factors related to the operation of the law. However, it was still too early to assess the full effect of the new abortion law on birth rates, illegitimacy, adoptions, or sexual and reproductive behavior. Yearly fluctuations in such factors have occurred even before the abortion law was changed, and a time period longer than one or two years is necessary before we can assess these effects of the law change.

### METHODS

Data on abortion patients were collected from hospital charts, self-administered questionnaires, and in-depth interviews.[2] Information from hospital charts on all abortion patients was made available to the study by every hospital in the State of Hawaii performing abortions. Information from the charts includes limited demographic, medical, and socioeconomic data. A self-administered questionnaire was given to abortion patients when they were admitted to the hospital and was filled out by each patient prior to abortion. Questionnaire participation by all patients was voluntary.[3] The questionnaire provides information on demographic, socioeconomic and attitudinal factors, aspirations of family size, contraceptive practices, reasons for use and non-use of contraceptives, and reasons for having the abortion. Information was also obtained by interviews and correspondence with hospital administrators, physicians, and other medical personnel.

To determine whether changes had occurred during the first two years, the data were divided into calendar quarters, with the first quarter including March 11, 1970 through June 30, 1970. This first reporting period is somewhat longer because the law took effect in the middle of a month. Where changes were observed, the data are reported by period. If no change was observed, data are reported for the entire period, March 11, 1970 through December 31, 1971.

### FINDINGS AND DISCUSSION

### *Geographic distribution*

The geographic distribution of the 7,148 induced abortions did not follow the population distribution in the State (Figure 1).[4] A total of 6,675 abortions were performed on Oahu. This was 93.4% of the abortions, while only 83.4% of the women aged 13–49 in the State live on Oahu. However, 4.1% of the Oahu abortions were performed on neighbor island women.

During the first three months after the change in the law, only 3.2% of the abortions were performed on the neighbor islands, though 16.6% of the population at risk resided there. By the last quarter of 1971, this had increased to 7.5%. The average for the entire period was 6.6%. Three major hospitals on Oahu performed 92.5% of the State's abortions during the first period compared to 84.4% for the entire 21 months. This represents a general trend for women to obtain abortions in their own community.

TABLE 1.—INDUCED ABORTIONS BY HOSPITAL—HAWAII: MAR. 11, 1970–DEC. 31, 1971

| | Abortions | Percent |
|---|---|---|
| Hospital: | | |
| 1 | 666 | 9.3 |
| 2 | 4,153 | 58.1 |
| 4 | 1,215 | 17.0 |
| 5 [1] | 641 | 9.0 |
| 6 [2] | 473 | 6.6 |
| Total | 7,148 | 100.0 |

[1] Conglomerate representing 6 small hospitals on Oahu.
[2] Conglomerate representing 6 hospitals on neighbor islands.

### *Frequency of abortions*

The number of abortions performed per day increased slightly during the 21 months, from 9.1 to 11.4 with an average of 10.9 per day. The number of maternity cases in the State decreased during the two-year period from 16,467 in 1970 to 15,874 in 1971. At the same time, the ratio of abortions to live births changed from one abortion for every 4.8 live births to one abortion for every 3.8 live births. In sum, the absolute number of pregnancies represented by live births and abortions increased very slightly while the number of such pregnancies terminated in abortion increased substantially, as shown by the live birth to abortion ratio (Table 2). Live births in the State seem to be reduced both by increased utilization of contraception and by increased use of abortion.

TABLE 2.—RATIO OF ABORTIONS TO LIVE BIRTHS BY PERIOD—HAWAII: MAR. 11, 1970-DEC. 31, 1971.

| | Abortions | Live births | Ratio |
|---|---|---|---|
| March-June | 1,015 | 4,833 | 1:4.8 |
| July-September | 996 | 4,228 | 1:4.4 |
| October-December | 884 | 4,320 | 1:4.9 |
| January-March | 994 | 3,978 | 1:4.0 |
| April-June | 1,089 | 3,796 | 1:3.5 |
| July-September | 1,153 | 4,081 | 1:3.5 |
| October-December | 1,047 | 4,019 | 1:3.8 |
| Total | 7,148 | 29,255 | 1:4.1 |

### *Gestation*

For 87.2% of the abortions performed, the gestation period was 12 weeks or less (Table 3). Only 1% of the abortions were performed when the period of gestation was more than 20 weeks, and only seven abortions were performed after a 24 week gestation period.

TABLE 3.—LENGTH OF GESTATION IN WEEKS FOR 7,148 ABORTIONS PERFORMED PER REPORTING PERIOD AS PERCENT OF ABORTIONS IN THAT PERIOD—HAWAII: MAR. 11, 1970-DEC. 31, 1971

| | Weeks of gestation | | | | | |
|---|---|---|---|---|---|---|
| | 8 or less | 9-12 | 13-16 | 17-20 | Over 20 | Total |
| March to June | 40.5 | 44.1 | 7.6 | 6.6 | 1.2 | 100 |
| July to September | 46.0 | 41.5 | 6.5 | 5.1 | .9 | 100 |
| October to December | 47.3 | 41.3 | 5.4 | 5.3 | .7 | 100 |
| January to March | 45.8 | 41.4 | 5.9 | 6.0 | .9 | 100 |
| April to June | 42.8 | 43.4 | 8.3 | 4.9 | .6 | 100 |
| July to September | 49.0 | 39.0 | 6.5 | 4.2 | 1.3 | 100 |
| October to December | 48.0 | 40.1 | 5.8 | 4.8 | 1.3 | 100 |
| Overall | 45.7 | 41.5 | 6.6 | 5.2 | 1.0 | 100 |

### *Abortion procedures, complications, and length of stay*

Six different procedures were used to perform abortions. The methods used were generally determined by the length of gestation at the time of abortion. Dilatation and curettage (D&C) and/or suction were the two procedures most frequently used up to 12–14 weeks gestation. Saline infusion and hysterotomy were generally used at 15 or more weeks' gestation. Hysterectomy was used at any time during gestation when removal of the uterus was indicated. Prostaglandin, a new medication under clinical investigation, was used to induce abortion primarily early in gestation. Approximately 89.7% of the abortions were performed by D&C and/or suction (Table 4).

TABLE 4.—PROCEDURES USED TO INDUCE ABORTIONS—HAWAII: MAR. 11, 1970–DEC. 31, 1971

| Procedure | Abortions | Percent |
|---|---|---|
| D. & C | 1,495 | 20.9 |
| D. & C./suction | 4,915 | 68.8 |
| Subtotal | 6,410 | 89.7 |
| Saline | 614 | 8.6 |
| Hysterotomy | 49 | .7 |
| Hysterectomy | 40 | .6 |
| Prostaglandin | 28 | .3 |
| Other | 7 | .1 |
| Total | 7,148 | 100.0 |

Note: Abortions in the "Other" category were performed using, alone or in combination, the following: laminaria, pitocin, mannitol, and Foley bag.

The incidence of complications resulting from 7,148 abortions was 6.9% (Table 5). There was an increase in complication rates during the 21 months, from 4.1% in the first period to 9.7% in the last period. A detailed study of this trend is underway and will be reported on in the near future. No mortalities occurred during the first year. However, one mortality occurred during the second year. At this writing over 13,000 abortions have been performed with only the one mortality. By far the majority of the complications were minor. Major complications (hemorrhage, uterine perforation, metabolic disorders and related sequelae) comprised 23.5% of all complications and represented 1.6% of the patients who received abortions. Our criteria for complications are very broad and include some minor items not usually considered by the hospitals or other researchers to be complications (e.g., elevated temperature of 100.6°, minor infection or cervical laceration of any degree). Even with the broad definition we have used, Hawaii's over-

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[2] Data from maternity patients were also collected but are not included in this report.

[3] Questionnaires were phased into use beginning in June, 1970, so not every abortion patient received one during the first year. In all, 72.6% (3,121) completed questionnaires were received from 4,096 patients. The availability of demographic information from hospital records on virtually all abortions made it possible to identify most of the non-response bias in the questionnaire sample and to correct for the bias by a weighting procedure. Initial tests revealed a slightly skewed distribution on the variables of age, marital status and ethnicity. For age and ethnicity this was due to both questionnaire refusal and faulty questionnaire distribution. Smaller biases in marital status were due almost entirely to questionnaire distribution. There were no distortions in residence (urban-rural) in the abortion sample. To account for both sources of bias, a three-factor weighting on age, marital status and ethnicity was applied according to the following formula:

$$\frac{Ci+Ri+Ni}{Ci}\;\frac{\sum_{i=1}^{P}(Ci+Ri)}{\sum_{i=1}^{P}(Ci+Ri+Ni)}$$

Where
$C$ = completed questionnaires
$R$ = refused questionnaires
$N$ = not distributed questionnaires
$P$ = total number of groups

The weights range in value from .55 to 4.95 with 82 percent of the weights between the values of 1.00 and 2.00.

[4] The most appropriate comparison to make, in this and subsequent tables, would be to all pregnant women in the State. Comparisons of this type are underway utilizing "conception cohorts" of maternity and abortion patients matched by estimated time of conception 1. For this report, the less exact comparison to State population figures is employed. Where possible, these figures are limited to women, or to women in the fertile age range.

all complication rates were equivalent to those reported by studies on the mainland.[3]

TABLE 5.—NUMBER OF COMPLICATIONS BY TYPE IN 7,148 INDUCED ABORTIONS—HAWAII: MAR. 11, 1970–DEC. 31, 1971

| Type of complication | Percent of complications (6.9 percent) | Number of complications |
|---|---|---|
| Cervical laceration | 17.7 | 87 |
| Hemorrhage | 19.8 | 97 |
| Infection | 22.2 | 109 |
| Failed abortion | 13.0 | 64 |
| Retained tissue | 17.1 | 84 |
| Uterus perforation | 3.1 | 15 |
| Metabolic | .6 | 3 |
| Death | .2 | 1 |
| Miscellaneous | 6.3 | 31 |
| Total | 100.0 | 491 |

The incidence of complications was closely related to length of gestation. Through the first 12 weeks of gestation, complications were about 5%. After the 12th week, the incidence of complications more than quadrupled (Table 6). New York City reported the same ratio.[3] California noted approximately a five-fold increase.[4]

TABLE 6.—COMPLICATIONS BY GESTATION.—HAWAII: MAR. 11, 1970–DEC. 31, 1971

| Gestation | Number of abortions | Percent complications |
|---|---|---|
| 8 weeks or less | 3,263 | 4.2 |
| 9 to 12 weeks | 2,969 | 5.2 |
| 13 to 16 weeks | 473 | 20.1 |
| 17 to 20 weeks | 374 | 25.8 |
| Over 20 weeks | 69 | 20.3 |
| Total | 7,148 | |
| Overall | | 6.9 |

Because the type of procedure varies with length of gestation, the rate of complications also varied with procedure. Complications associated with D&C, and/or with suction, occurred at the rate of 4.6%. (During the first year suction was rarely used alone. Hence, the two procedures are reported together.) With experience and changes in techniques, the frequency and pattern of complications changed. For example, with increased use of laminaria, 4 mm and 6 mm suction tips, and decreased use of manual dilatation, there was a marked decrease in the incidence of cervical lacerations from 22.1% in 1970 to 17.7% by the end of 1971. Infection rose from third to the most frequent complication while hemorrhage remained second.

The most frequently used procedure for abortion late in gestation, saline infusion, had a complication incidence of 23.9% in Hawaii, which is comparable to the national figures.[2] The majority of complications resulting from saline infusion procedures were minor, and were in three categories: 1) infection (32.7%), 2) failed abortion necessitating a repeat of the procedure at a later date (28.6%), and 3) retained secundines (24.5%).

When abortions were performed early in gestation in the hospitals doing most of the abortions, the patient's length of stay in the hospital was short (6–12 hours). In those hospitals performing fewer abortions, there was a tendency to retain the patient for a minimum of 36 hours, regardless of length of gestation.

As hospitals and physicians gained more experience with the management of induced abortions, the length of stay in the hospital decreased. A comparison of the first reporting period with later periods for under 12-hour hospitalizations shows a slight trend to shorter stay (Table 7).

TABLE 7.—LENGTH OF STAY IN HOSPITAL, PERCENTAGE BY REPORTING PERIOD—HAWAII: MAR. 11, 1970–DEC. 31, 1972.

| | Hours in hospital | | | | | |
|---|---|---|---|---|---|---|
| | 6 or less | 7–12 | 13–24 | 25–48 | 49 or more | Total |
| March to June | 8.6 | 38.5 | 15.4 | 27.1 | 10.4 | 100 |
| July to September | 8.2 | 47.2 | 12.4 | 20.5 | 11.7 | 100 |
| October to December | 8.9 | 49.1 | 11.4 | 20.9 | 9.6 | 100 |
| January to March | 10.5 | 49.2 | 8.2 | 19.4 | 12.7 | 100 |
| pril to June | 8.4 | 48.8 | 9.7 | 22.2 | 10.9 | 100 |
| uly to September | 8.8 | 52.4 | 8.4 | 18.9 | 11.5 | 100 |
| October to December | 11.6 | 51.0 | 8.5 | 17.2 | 11.7 | 100 |
| Overall | 9.3 | 48.1 | 10.5 | 20.8 | 11.3 | 100 |

### *Factors leading to later abortions*

Women under 20 were much more likely than older women to have abortions after the end of the 12th week of gestation. Among women under 18, 27.6% obtained their abortions after the 12th week. Of the 18 and 19 year olds, 20.1% had abortions after the first 12 weeks, as compared with 12.4% of the 20 year olds. Of all women over 20, 9.6% received their abortions after 12 weeks.

The percentage of women who received their abortions by the end of the 12th week was related to their method of payment for the abortion. In cases where parents paid for the abortion, 27.1% of the women aborted after the 12th week of gestation. By contrast only 7.8% of women with insurance coverage and 8.8% of women whose bill was paid by the man involved other than husband had their abortions after the 12th week, as did 12.7% of women paying out of personal funds. All women who paid for their abortion by a loan had aborted before the 13th week.

Patients whose method of payment involved Department of Social Services or military payment procedures were more likely to have their abortion later. Of the welfare-assisted abortions and for those paid by the military, 17.5% were obtained after 12 weeks of gestation.

The woman's major source of income was also related to the timing of her abortion. Of those supported by scholarships, alimony, or their own or their husband's job, 92.1% received their abortions during the first 12 weeks of gestation. Of those on welfare assistance, 83.3% and of those supported by their parents, 81.6%, received their abortions during the same time period. Of those living in their own house or apartment or with friends, 91.0% received their abortions by the end of the first 12 weeks, as compared with 85.0% of those living with their parents.

In summary, the greatest delays in obtaining abortions occurred among women who were under 18, women who lived at home, women who were supported by their parents, or women whose abortions were paid for by their parents. These lags seemed to result from a combination of financial dependence and the necessity for minors to obtain parental permission for the abortion. Despite the fact that insurance coverage was seldom available to single women during the first year of the new law, this did not cause an appreciable lag in obtaining abortions if they had resources other than their own parents.

Delaying an abortion past the 12th week of gestation involves changes in abortion procedure, increased hospitalization time, and a markedly higher risk of complication. There are both medical and social conditions which make abortions beyond the 12th week necessary. However, many late abortions could be eliminated if legal and financial barriers were removed.

### *Medical Safeguards*

The medical profession and the hospitals established conservative safeguards for the implementation of the abortion law. Whether the physician performing abortions was a specialist in obstetrics and gynecology depended on the hospital's policies and regulations. For the most part, hospitals allowed only board-eligible or certified obstetrician-gynecologists to perform abortions on patients over a specified period of gestation. In some hospitals the limit was 12 weeks, in others 16 weeks.

Hospitals also set up other safeguards in consideration of the patient's welfare. When a woman was to have an abortion late in gestation (12 or 16 weeks depending upon the particular hospital), a minimum requirement generally was one or more consultations with an obstetrician-gynecologist. If the gestation was as late as 20 weeks, the case was presented to an abortion board or committee in order to determine the necessity of the abortion, and to weigh its medical risks against the need for the abortion.

While the pattern varied from hospital to hospital, it seems apparent that safeguards were taken by the hospitals and their medical staffs to prevent the performance of abortions by physicians not qualified in specific procedures and to avoid non-indicated abortions performed very late in gestation, when there may be a question of fetal viability.

### *Cost*

The usual cost for an abortion in Hawaii was about $350.00. This varied from locale to locale and among physicians. For a patient without insurance or other assistance, the personal cost to the woman was a minimum of $300.00. This cost consisted of two main components: physician's fees and hospital charges. For those hospitals other than prepaid insurance or military, charges were approximately $160.00 for those patients remaining in the hospital 12 hours or less and not overnight. Most physicians' fees were around $150.00 when the abortion was performed early in gestation and no complications were involved.

The largest percentage of abortions were paid for by personal funds (50.4%), which were obtained from the patient, parents, husband, male involved in the pregnancy other than husband, or a loan. During the first year of the new law, insurance coverage was not available to most women who had abortions. Insurance partially covered the expenses of 26.9% of the women during the first period and 38.8% during the last quarter of 1971, or for 28.2% of the total during the 21 months. Military insurance paid for 8.3% of the abortions, 43.7% of which were performed in non-military hospitals. Prepayment plans, major medical carriers, and the military covered from 30% to 92% of total costs to the patient.

Department of Social Services (DSS) assistance for payment of abortion costs was available both to regular welfare recipients and to other women classified as medically indigent. DSS paid for 817 (11.4%) abortions, but fewer than one-fourth of these women were receiving other welfare assistance. DSS paid for 9.4% of abortions on the outer islands during the first reporting period. However, for 1970–71 as a whole this figure increased to 22.2%.

### *Sterilization*

Sterilization was available to women while they were in the hospital to have an abortion, but very few women elected to be sterilized, in part because 47.0% of the women were terminating a first pregnancy. Only 3.6% of the women were sterilized; 200 women had tubal ligations and 59 women had hysterectomies. Sterilizations were performed on 7.0% of the private insurance patients; 4.6% of the welfare patients; 4.4% of the military payment patients; 2.8% of loan patients; and 1.7% of the patients paying from personal savings. There were no sterilizations among patients whose abortions were paid for by the man involved in the pregnancy other than the husband.

### *Demographic and Social Characteristics*

Nearly half of the abortion patients (47.0%) were terminating a first pregnancy. An additional 26.9% were terminating a second or third pregnancy, while the remaining women (26.1%) were ending a fourth or higher pregnancy.

The age distribution of the 7,148 women having induced abortions covers a wide range of fertile years, 12–48. 20.2% were under 20 years of age; 21.8% were 30 or over. The average age was 24.7 years. 53.4% had never been married. The remaining 46.6% were married (36.6%), divorced (6.6%), separated (2.7%) or widowed (0.6%).

The religious distribution of abortion patients closely followed that of the State for Catholics and Protestants (Table 8). Of the abortion patients, 39.7% were Protestant and 28.9% were Catholic. Buddhists comprise 14.0% of the population and only 8.1% of the abortion patients. The religious preference of the women did not affect their reasons for abortion, the length of gestation, or prior use of birth control.

TABLE 8.—RELIGIOUS DISTRIBUTION OF 7,148 ABORTION PATIENTS COMPARED WITH STATE OF HAWAII TOTAL POPULATION—HAWAII: MAR. 11, 1970–DEC. 31, 1971

| | Percent of abortions | Percent of State |
|---|---|---|
| Protestant | 39.7 | 46.7 |
| Catholic | 28.9 | 27.3 |
| Buddhist | 8.1 | 14.0 |
| Jewish | .9 | 1 |
| Other and none | 22.4 | 9 |

Note: Statistical abstract of sample survey, 1962, Economic Research Center, University of Hawaii. These are the most recent figures available. Later data have been compiled for church membership, State of Hawaii Data Book, 1971," Table 9, but this information is not directly comparable.

Of the abortion patients, 43.7% were born and raised in Hawaii, while 17.4% had lived in the State less than a year.

The law stipulates a 90-day residence for women receiving abortions. At present the hospitals protect themselves against possible liability by requiring every abortion patient to file a notarized statement that she has been a resident in the state for the past 90 days. An effort was made early in the year to determine the degree of non-compliance. Four methods were used to estimate residency, three statistical and one an audit.[5] Each method indicated that during the first five months the percentage of women coming to Hawaii without fulfilling the 90-day residency clause was between 8% and 13%, or an average of one per day. The low estimate is from direct reporting by questionnaire respondents. Some falsification might be expected since the respondents were reporting illegal behavior. The percentage reported dropped to 2.3% immediately after New York's abortion law was enacted in July, 1970. By the end of 1970, other states on the west coast—Alaska, California, and Washington—had also begun to relax abortion restrictions; and the rate of non-resident abortions reported in Hawaii dropped to less than 1%. Obviously, Hawaii had not become an "abortion mecca" as some feared.

The ethnic distribution of abortion patients differed from the State's distribution of females by ethnic group (Table 9). Caucasians comprised 37.4% of the state population of females and 44.0% of the abortion population. Japanese comprised 30.4% of the State female population and 20.5% of the abortion population. Hawaiians and part-Hawaiians comprised 9.8% of the State female population, and 8.0% of the abortion population.

TABLE 9.—ETHNIC DISTRIBUTION OF ABORTION PATIENTS COMPARED TO STATE POPULATION OF WOMEN—HAWAII: MAR. 11, 1970–DEC. 31, 1971

| | Number of abortions | Percent of abortions | Percent of State |
|---|---|---|---|
| Caucasian | 3,144 | 44.0 | 37.4 |
| Japanese | 1,463 | 20.5 | 30.4 |
| Hawaiian/part Hawaiian | 572 | 8.0 | 9.8 |
| Filipino | 524 | 7.3 | 11.0 |
| Chinese | 264 | 3.7 | 7.0 |
| Other and mixed | 1,181 | 16.5 | 4.4 |
| Total | 7,148 | 100.0 | 100.0 |

Note: Recalculated from: table 34, U.S. Department of Commerce, "General Population Characteristics, 1970," PC(1)–B13 Hawaii.

At the time of conception, over 50% of the Caucasians, Japanese and Chinese abortion patients were unmarried, as were 40.4% of the Hawaiian patients. However, only 32.3% of the Filipino patients were unmarried.

Of the abortion patients, 24.7% were students, 22.2% housewives, and 22.1% were clerical workers. In the student category, 37.2% were under 18 years of age. 50.9% of the students were 18–22 years of age.

The educational level of abortion patients was high. Over 80% of the women had completed high school and more than 50% had education beyond high school. Only 15.7% of the women had less than a high school education, and many of these women were currently in high school and planning to obtain further education.

Abortion patients were asked to report their family income (Table 10). Since many of the women were single, however, it was difficult to determine what family income included. In some cases, it might have been the personal income of an independent college student or employed woman. In other cases, it might have been of a student who was wholly supported by the parents. This problem made it difficult to compare the income level of abortion patients with that of the State as a whole. When compared with 1970 census figures for family income in Hawaii, abortion patients appeared to have considerably lower incomes. However, when the census figures for family income and income of unrelated individuals in the state were compared, the distribution was very similar to that of abortion patients. In either case, there was no evidence to suggest that abortion patients were drawn disproportionately from higher income categories.

TABLE 10.—FAMILY INCOME DISTRIBUTION OF ABORTION PATIENTS COMPARED WITH STATE OF HAWAII TOTAL POPULATION—HAWAII: MAR. 13, 1970—DEC. 31, 1971

| Income ranges | Percent of abortions | Percent of State family income | Percent of State family income and unrelated individuals |
|---|---|---|---|
| Under $6,000 | 34.0 | 18.4 | 37.1 |
| $6,000 to $9,999 | 25.1 | 22.9 | 20.6 |
| $10,000 to $14,000 | 20.7 | 26.2 | 19.5 |
| $15,000 or more | 20.2 | 32.5 | 22.8 |
| Total | 100.0 | 100.0 | 100.0 |

Note: State income distribution calculated from tables 47 and 57, U.S. Department of Commerce, "General Social and Economic Characteristics, 1970," PC(1)–C13, Hawaii.

### *Motivations, sexual behavior, and contraception*

Prior to the change in the law, some legislators and community members expressed concern about the reasons for abortion and whether noticeable changes in behavior would follow the change in Hawaii's abortion law. This is an area very difficult to monitor.

The most frequently cited reasons for abortion in the sample were, "I am not married" and "I cannot afford to have a child at this time," which were given by 35.4% of the patients answering the questionnaire. Next most frequent were, "I feel that I am unable to cope with a child at this time," given by 26.4%, and, "A child would interfere with my education," given by 23.1%. "I have enough children already," said 15.4%, and 16.4% said, "I am too young to have a child." Other reasons were less frequently given.

In the past, morality has been measured by adherence to a religion, illegitimacy rates and/or promiscuity. Information on religion has been reported above. Data from our study indicate that, if abortion were still illegal, approximately 0.1% of the women who had legal abortions would have remained single and borne children out of wedlock. However, statewide illegitimacy trends cannot be determined for at least another year or two, due to normal fluctuation in rates.

During the first 21 months of the law, 36.6% of the women having abortions were married and 18.6% were engaged, going steady or living with a man at the time of conception. Thus, 55.2% of the women were involved in a continuing relationship.

Another possible indicator of morality is the age at which girls first engage in intercourse. Our data for the first three months following the abortion repeal show 18.7 as the mean age of first coitus. For the last three months, 18.2 was the mean age of first coitus. No significant change in sexual behavior is revealed by this measure, but we do not know if the proportion of women who engaged in intercourse has changed.

There was some concern that the use of birth control methods would diminish following reform of the abortion law. There seems to be no evidence in the data to substantiate this fear. In fact, the opposite seems to be occurring. In the first quarter of the year, 64.9% of the women receiving abortions had not been using birth control. A smaller percentage, 58.8%, had not used birth control during the last quarter, with a mean of 64.4% not using birth control over the 21 month period. Although there was an increase in the percent using birth control, the rate of non-use itself was still high.

Another measure of the use of abortion as a means of birth control is the frequency of repeat abortions. It is difficult to have complete reporting of repeat abortions since patients may change doctor and hospital, and may not report previous abortions to medical personnel. According to available medical record data, only 195 women (2.7%) received two legal abortions during 1970–71. We expect that this number will rise slightly in the future, since reporting is cumulative. Overall, 10.7% of the women reported having had one abortion, legal or illegal, at some previous time. Only 1.9% reported having had more than one previous abortion.

### CONCLUSION

In general, Hawaii's new abortion law has been used by women of all religions, ethnic groups and geographic areas in the State. During the first 21 months following the change in the abortion law, no large influx of non-residents was observed nor was there any appreciable change in sexual behavior or contraceptive usage. As anticipated, the physicians and hospitals in Hawaii have proved fully capable of handling the abortion procedures and their record of service is generally good. Legal abortion has not created any serious problems for Hawaii, medically or socially. Safeguards established by the medical profession and hospital administrations have provided safe medical care for the women of Hawaii.

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[5] Conducted in association with Frank Zimring, Associate Professor of Law, Center for Studies in Criminal Justice, The Law School, University of Chicago.

Based on the above findings and our concern for the women of Hawaii, the following recommendations are suggested for consideration by the Hawaii Medical Association and the Legislature of the State of Hawaii.

### RECOMMENDATIONS

To decrease the need for abortion we recommend that:

A. Family life, sex and reproduction education appropriate to age level and including information on birth control and abortion, be further emphasized and supported in all schools, public and private. Such education should be offered in primary, intermediate, secondary, and post-secondary institutions, to enable individuals to control their reproductive lives.

B. Conception planning be integrated into abortion services. All institutions offering abortion services should offer birth control counseling in order to prevent repetition of the need for abortion.

C. There be no restrictions on the provision of birth control services or the availability of contraceptives for any sexually active person regardless of age, sex, or marital status.

To ensure equal availability of abortion services regardless of social or economic class we recommend that:

A. Abortion services (i.e., pregnancy counseling, laboratory services, and referral and payment for the abortion) be made available through state-administered health services such as maternity and family-planning clinics and other prenatal care programs.

B. The State provide subsidies or low-interest loans to all women in financial need who are seeking abortions, with a minimum of procedures which might delay obtaining the abortion.

To facilitate early abortions we recommend:

A. Increased dissemination of information on abortion, regarding provisions of the law, availability of assistance, procedures for obtaining abortion, and the greater safety of early abortion.

B. That minors be permitted to obtain abortion services without parental consent. Parental guidance in such matters is highly desirable, but not at the cost of delaying or denying needed medical services to the pregnant woman.

To obtain continuing and accurate abortion information we recommend that:

A. A standardized state-wide reporting system be established which maintains the distinction between fetal deaths and induced abortions, and provides for the routine collection of basic demographic and medical information on all induced abortions in the state.

B. Fetal deaths and induced abortions be distinguished, both statistically and conceptually.

To facilitate the administration of the law we recommend that:

The 90 days residency requirement be rescinded. The availability of legal abortion on the mainland and relatively infrequent use by non-residents in Hawaii of abortion procedure makes the administrative procedures attendant to proof of residence superfluous in the great majority of cases. This is an added burden to the hospitals and is considered an infringement of privacy by most women.

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3. Pakter J, Harris D, Nelson F: Surveillance of Abortion Programs in New York City: Preliminary Report, *Clinical OB–GYN*, 14:1, 1971.

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## WATER RESOURCES DEVELOPMENT AND RIVER BASIN MONETARY AUTHORIZATIONS ACT OF 1973

The PRESIDING OFFICER (Mr. METZENBAUM). Under the previous order, the Senate will now resume consideration of the unfinished business, S. 2798, which the clerk will state.

The legislative clerk read as follows:

S. 2798, authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

Mr. GRAVEL. Mr. President, yesterday, during colloquy I had with the Senator from New York (Mr. BUCKLEY), I stated that I would submit for the RECORD a statement in connection with the 10 sections of S. 2798 which Senator BUCKLEY proposed to strike. I ask unanimous consent that the statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

### TEN SECTIONS OF S. 2798 WHICH SENATOR BUCKLEY PROPOSED TO STRIKE

#### 1. SEC. 4: CORPUS CHRISTI SHIP CHANNEL, TEXAS

The 1968 River and Harbor Act authorized a Federal navigation project for the Corpus Christi Ship Channel, Texas. Construction of a portion of the project is underway but will not be completed for several years.

There exists an increased need to import significant quantities of foreign crude oil through the Corpus Christi area for energy-producing industries now in operation and those planning to locate there. The House Committee on Public Works adopted a resolution in October of 1972 authorizing the Corps of Engineers to study the feasibility of modifying the authorized Corpus Christi project to provide increased depths and widths in the Channel from the Gulf of Mexico to an inshore port in the vicinity of Harbor Island. Funds to initiate this study were provided in fiscal year 1974, but additional funds will be required from future appropriations to complete the Corps study.

Local interests, acting through the Nueces County Navigation District No. 1, have developed a proposal for enlarging the entrance channel from the Gulf to Harbor Island to a depth of 72 feet for a total distance of about ten miles. Such depths would accommodate vessels in the 250,000 to 300,000 DWT category.

Such a proposal is in line with the Corps study which cannot be completed expeditiously due to lack of funds. Local interests have indicated a willingness to provide funds to complete the Corps study and to finance the advanced engineering and design phase of this project modification, with the understanding that they will later be reimbursed out of Federal funds authorized for construction of the project.

This section provides authority to use non-Federal funds to complete the Corps study and the advanced engineering and design phase of the project, such funds to be repaid out of construction money to be appropriated. It also directs the Corps to complete the study and submit a report to Congress by the end of June 1974, and authorizes completion of the advanced engineering and design phase prior to authorization of the project modification. The Corps estimates that costs will be approximately $780,000.

Justification: This project modification is necessary to alleviate the severe energy shortage in southern Texas at the earliest possible time. The improvement of an existing port in the Corpus Christi area is the fastest and most economical way to solve the problem. Authorization of AE & D phase at this time will provide the Congress with sufficient information on which to base its decision as to whether the channel deepening is justifiable and should be fully authorized. Local willingness to advance funds for this work is commendable.

#### 2. SEC. 14: CONWAY, ARKANSAS

Construction of the McClellan-Kerr Arkansas River navigation system has resulted in a decrease in the quality of water at the municipal intake of the Conway water supply system.

Project construction has raised the stream water level about 10 feet, the volume of water impounded within streambanks is now more than six times greater, and the normal difference in water surface elevation across the substitute weir is now only 1½ feet. The Federal project also contributes to an objectionable odor and taste during summer periods of extended low streamflow. A new source of raw water supply is required to correct the situation.

This section provides for the alteration, at Federal expense, of the municipal water supply facilities of the city of Conway by construction of water impoundment facilities, together with interconnecting pipeline and other appurtenant work. The water supply capacity will be equivalent to that existing before construction of the McClellan-Kerr navigation project. $7.5 million is estimated for such alterations.

Justification: This section corrects a situation caused by Federal construction activity. It is clearly the responsibility of the United States to provide the City of Conway with a water supply system equivalent to that existing prior to Federal activity in the area. Failure to enact section 14 will result in necessary expenditure by local interests to remedy a situation in no way their fault.

#### 3. SEC. 15: NORFOLK RESERVOIR BRIDGE, ARKANSAS

In 1939, after the disastrous floods of 1937, Congress authorized construction of Norfork Dam, to be built across the North Fork River above its confluence with the White River, Arkansas. It was originally authorized as a flood control structure only, and was expected to result in the inundation of the existing State-constructed bridge only a few days at a time on an occasional basis when required for flood protection. At the time the Corps of Engineers estimated relocation costs of highways to be inundated by the dam at $1.3 million and offered to operate a standby ferry service for the expected occasional floodings. The Arkansas State Highway Commission agreed to this proposal.

In 1941, however, wartime exigencies led Congress to add hydroelectric power to the Norfork project. This required the permanent inundation of the bridge. An agreement was made between State and Federal officials that the Corps would build, prior to the filling of the lake, bridge piers for the foundation of a replacement bridge to be constructed by the Federal Government after the war was over.

The bridge piers were never built, as the War Production Board denied approval for the materials needed. In 1945, after court proceedings, the State Highway Department agreed to accept the sum of $1,342,000 from the Federal Government for the construction of an alternate highway and in reimbursement for temporary ferry services. This sum was far short of adequate compensation, and insufficient to build a replacement bridge—

the cost of which had been materially increased because the foundation piers had not been set prior to inundation of the lake.

There is no bridge across Lake Norfork. A crossing can only be made by means of a ferry service, which is inadequate to serve the increased traffic in the area. The estimated cost of construction of a bridge is $14 million.

This section provides that the Corps of Engineers construct a free highway bridge over the Norfork Reservoir. Upon completion of the bridge, the State of Arkansas is to reimburse the Federal Government the sum of $1,342,000 plus interest, compounded annually, for the period from 1943 to date of enactment. This is estimated at approximately $3 million; the $11 million remaining cost would be borne by the Federal Government.

Justification: The replacement bridge was originally planned to be built at Federal expense at the time Norfork dam was constructed in accordance with the original agreement between the State and the Federal Government. Due to emergency wartime conditions and the lack of critical building materials, it was not built. The money awarded was clearly insufficient to compensate the State of Arkansas for the loss of the existing bridge. The State is willing to repay that money, with interest, as its contribution toward construction of the necessary bridge. This is an obligation that clearly rests with the Federal Government.

### 4. SEC. 21: CHARITON RIVER, IOWA

Construction of four Corps of Engineers reservoirs in the State of Iowa (Rathbun Lake, Saylorville, Coralville, and Red Rock Dam and Lake) has resulted in severe fish losses.

The State of Iowa plans to construct a fish hatchery at Rathbun Lake which would restore the losses suffered from the Federal projects.

This section authorizes and directs the Secretary of the Army to make a contribution of $700,000 to the Iowa Conservation Commission as part of the cost of construction.

Justification: The fish losses compensated for in this section are a direct result of Federal construction activity. As such, it is only just that the United States contribute its share toward a correction of the situation. Moreover, the amount authorized ($700,000) represents only 23 percent of the total cost of the fish hatchery.

### 5. SEC. 23: BIG SANDY RIVER BASIN, KY. AND W. VA.

(a) *Dam Repair and Conversion:*

Dam No. 3 on the Big Sandy River was constructed many years ago by the Corps of Engineers. It is obsolete, and has not been used since about 1910. The land on which it is located was acquired from the Federal Government in 1956 by the local school board.

There now exists a critical water supply problem in the area. If this dam, which has deteriorated to the point of near-collapse, were to be repaired and converted to a fixed-type structure, it would ensure adequate water supplies for the towns of Louisa, Kentucky, and Fort Gay, West Virginia.

This subsection authorizes the Corps to undertake such repair and conversion, at an authorized cost of $300,000.

Justification: Repair and conversion of an existing facility is the most economical way of alleviating the water supply problem in the area. Failure to enact this provision would eventually result in expenditure of far more than $300,000 to provide the needed facility, the cost of which is beyond the ability of local interests to provide.

(b) *Flood Control for the Tug Fork Valley:*

The Tug Fork Valley is located in one of the nation's most important areas of coal production. Nearly 11 percent of all bituminous coal mined in this country comes from this general area. The economy of the valley is based on coal and associated industries.

The Valley is subject to severe floods, which regularly cause extensive damage to homes and businesses. This situation discourages new industrial growth and seriously retards the development of community services.

Flood protection for part of the valley was authorized in the 1970 Flood Control Act. Such protection, for the towns of Williamson and Matewan, West Virginia, was never implemented due to lack of Presidential approval.

Last year's omnibus bill included an authorization for the Appalachia Water Resources Program as recommended by the Secretary of the Army. This included a recommendation that flood protection be provided for the entire Tug Fork Valley. That measure was vetoed.

Section 23(b) authorizes the Corps of Engineers to provide all communities in the Tug Fork Valley with comprehensive flood protection by a combination of local flood protection works and residential flood proofing similar to the measures recommended by the Army. Such authorization is, however, limited to the phase I design memorandum stage of advanced engineering and design, at an estimated cost of $1,290,000.

Justification: Protection of this area is vital to the nation's interest in view of the coal mining communities which are threatened by flooding. The current energy crisis makes it imperative that our productive capacity be protected. The information provided by AE & D will enable the committee to make an informed judgment on the techniques to be utilized and the final form in which this project should be authorized.

### 6. SEC. 29: LAKE PONTCHARTRAIN, LA.

The Lake Pontchartrain hurricane-flood protection project was authorized in 1965. At that time, the non-Federal share of the project was estimated to be approximately $23 million.

Escalating costs have increased the non-Federal share to $88 million, of which over $65 million is a cash contribution, which under the terms of the original agreement, is to be paid during the construction period. This has imposed a severe financial hardship on local interests.

This section does not change the amount of non-Federal costs, but does amend the items of local cooperation to permit the payout period of such costs to be stretched out over a period of 25 years, payments to begin at completion of construction or ten years after initiation of construction, whichever is sooner. Once payments are initiated, they must be on a yearly basis and must be at least one twenty-fifth of the remaining unpaid balance. All required costs, including interest, are to be repaid to the Federal Government within the 25-year period.

Justification: Expeditious construction of this project is necessary for the hurricane and flood protection of the City of New Orleans. This section will not result in any additional cost to the Federal Government. It merely stretches out the period of local repayment. At the same time it protects the Federal investment already made in a project which has been underway since 1967 and is more than 20 percent complete.

### 7. SEC. 43: PRESQUE ISLE, PA.

Presque Isle State Park, located on the shores of Lake Erie, is subject to severe beach erosion problems. Until 1960, efforts to repair and prevent erosion damages were carried out entirely by the State of Pennsylvania. The 1960 River and Harbor Act authorized Federal participation in the Presque Isle beach erosion control project for a period of 10 years. That authority existed from 1961 until May of 1971, when it expired.

Anticipating such expiration, Pennsylvania Senators Hugh Scott and Joseph Clark requested a resolution providing for a Corps of Engineers study of the problem. Such a resolution was adopted by the Senate Committee on Public Works in May of 1968. The study is currently nearing completion.

Since expiration of Federal authority in 1971, severe storms in the area have exacerbated the problem. It is apparent that permanent protection for the peninsula is required. Measures to provide such permanent protection are being considered by the Corps in the course of its study.

In the period remaining before submission of the Corps study to Congress and subsequent authorization of an erosion control project designed to protect the area on a permanent basis, emergency measures are needed.

This section would provide for continued Federal participation in erosion control measures at Presque Isle for five years or until the Corps study is completed and submitted to Congress. Up to $3.5 million is authorized.

Justification: The Federal Government has already invested nearly $4 million in beach erosion control measures at Presque Isle. Failure to provide the extension of assistance as provided in sec. 43 in the period remaining before submission of the Corps study will result in the expenditure of even more Federal funds at such time as a permanent beach erosion control project is authorized. Section 43 provides well-justified assistance in an emergency situation while at the same time protecting previous Federal investment.

### 8. SEC. 46: LAKE TEXOMA, TEX. AND OKLA.

Lake Texoma, on the border of Texas and Oklahoma, was constructed by the Corps of Engineers in the 1930's. At that time the only roads built were construction roads. Most of these have long since disappeared. There is no system of access roads or scenic roads around the lake.

This section authorizes and directs the Corps to improve perimeter access at the lake, utilizing existing roads to the extent feasible. Not to exceed $3 million is authorized.

Justification: The roads provided for in this section are all within the boundaries of a Federal project. As such, they are clearly the responsibility of the Federal Government. There is ample precedent for such action.

(Several provisions providing for road construction outside Federal recreation projects were stricken from the bill in committee, as such roads are not a Federal responsibility.)

### 9. SEC. 50: WYNOOCHEE DAM WATER SUPPLY, WASHINGTON

The Wynoochee Dam and Reservoir was authorized by the 1962 River and Harbor Act. Works was begun in 1969 and was completed last year, at a total Federal cost of $21 million. About 78 percent of the cost of the project is allocated to water supply.

During project formulation, pulp plants in the area expressed a need for additional water supply. Based on this need, the City of Aberdeen entered into a water supply contract with the United States under the Water Supply Act of 1958, as amended. That Act stipulates that not more than 30 percent of the total water supply in a project may be allocated to future water supply demands. Therefore, the City of Aberdeen signed a contract which obligated them to initiate payments on the difference, or about 48 percent of the project cost, as soon as the project became operative.

The total obligation of the city is about $17 million, repayable in 50 annual installments of some $410,000. The first payment is due.

The city entered into the contract on the basis of projected needs of local industry.

These needs have not materialized because of adverse economic and employment conditions in the area, and the city has no customers for the water.

In April of 1973, however, the Washington Public Power Supply System announced that it would build a nuclear powerplant in the area. It is anticipated that approximately 25 million gallons of water per day from the Wynoochee project will be required in connection with this plant's operation. The plant will go into operation in about eight years.

The City of Aberdeen has requested a ten-year deferral of its annual repayments, including interest. If they are required to make payments with no customers for the water, it will impose an intolerable financial burden on local government in an area plagued by distressed economic conditions and chronic unemployment for the past decade.

This section provides that initial and subsequent payments, including interest, may be deferred for a period up to ten years or until the city finds customers for the water, whichever is sooner.

Justification: The city of Aberdeen entered into this contract in good faith. It is through no fault of their own that altered conditions in the area have resulted in a lack of projected customers for the water. The question of deferral of interest can be settled in conference, as the House Omnibus bill does not contain forgiveness for the interest which would accrue during the ten year period.

10. SEC. 52: NORTH BONNEVILLE, WASH.

The town of North Bonneville is located on the Washington shore of the Columbia River at the north abutment of the Bonneville Dam spillway. Construction of the second powerhouse, part of the authorized Bonneville Dam project, is ready to begin. Such construction will require the taking of approximately 95 percent of the town, which encompasses nearly 225 acres and has a population of 470.

Inhabitants wish to maintain the identity of the town by relocating the community as a unified whole. There is no provision in existing law for such relocation. While the Uniform Relocation Assistance Act provides for Federal assistance to individuals in such cases, it does not provide for the relocation of an entire town.

This section authorizes the Corps to relocate the town, including cooperating in planning with other Federal agencies and local interests, land acquisition, title conveyance, and construction of a central sewage collection and treatment facility and other necessary municipal facilities.

This section is designed to ensure that the relocation will be accomplished in a fair and equitable manner, and that no windfalls or unjust enrichment will occur. The relocated town is not to contain land in excess of that in the existing town; utilities furnished at Federal expense will have the same capacity as those at the present time.

Individuals or entities receiving compensation under this section will receive the amount due them under the Uniform Relocation Assistance Act, less the fair market value of the real property conveyed to them in the new town.

Justification: Individuals receiving assistance under this section will not receive more than they would on an individual basis under existing law. Additional funds are to provide for sewer and other necessary municipal facilities. If this section is not enacted, monies for construction of such facilities will have to come from other Federal agencies, as the inhabitants of North Bonneville cannot provide the needed funds.

(This section is similar to another in the bill, sec. 35, which provides for nearly $12 million to relocate the town of Niobrara, Nebraska—also made necessary by construction of a Federal project. The administration has approved the Niobrara provision.)

The PRESIDING OFFICER. The pending question is on agreeing to the amendment (No. 896) of the Senator from North Carolina (Mr. ERVIN).

Mr. ERVIN. Mr. President, this amendment is in accord with the provision of the bill when it passed the House. Its objective is merely to restore the House provision. The amendment provides in effect that the Federal Power Commission cannot issue a license for the construction of the proposed hydroelectric development on the New River in Grayson County in Virginia, which will impound the waters of New River in the Alleghany and Ashe Counties in North Carolina near Grayson County, Va., and in Grayson County, Va., until 2 years after a study has been made by the Corps of Engineers to determine whether alternative plans for the development of the New River can be had which will do less injury to the environment than the project now proposed by the Appalachian Power Co., which has no interest in it except for the filthy lucre it can get by bringing ruin to the handiwork of Almighty God. The Appalachian Power Co. made an original proposal which would have enabled the development of New River, without doing the great environmental injury, and without displacing hundreds and perhaps thousand of people in Grayson County, Va., and in Alleghany and Ashe Counties in North Carolina, which the presently proposed proposal would occasion.

This whole project is a pennywise and pound-foolish proposition.

North Carolina contends that the annual value of all the power that would be generated by this proposed development would be less than the value of the food and fiber which is now being produced annually, upon the land which will be inundated by the people who are to be driven from their homes.

After this project had been pending for some time before the Federal Power Commission, the Appalachian Power Co. amended the original project so as drastically to alter its purpose. It then proposed to put two dams there and to take the water that flows through the first dam and pump it back into the first dam so that they can utilize it twice, thereby constantly drawing down the impounded waters most seriously and leaving a horrendous scar on one of the most beautiful areas that the Lord God Almighty ever created.

Most of the injury for this development will occur in North Carolina. The people of North Carolina are willing to have a reasonable development which will take into consideration the injury to the environment, the power to be produced, and the preservation to the greatest degree of the homes of the people whose families have been living there for generation after generation.

This project in its present form was opposed by the administration of Bob Scott, the last Democratic Governor of North Carolina. It is opposed by the administration of Gov. James E. Holshouser, Jr., the first Republican Governor of North Carolina since approximately 1900. It has been opposed by hundreds of individuals, one of whom is a schoolboy, Steve Teague, who wrote me a letter, which I ask unanimous consent to have excerpts from printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS OF LETTER FROM STEPHEN TEAGUE TO SENATOR SAM J. ERVIN, JR.

GREENSBORO, N.C.,
*November 1973.*

DEAR MR. ERVIN: I am writing this letter concerning the proposed damming of the New River. My name is Steve Teague and I'm a sophomore at Page High School in Greensboro. I have been canoeing on the New several times and seen the beautiful river and countryside the power companies want to destroy.

You, Mr. Ervin, may never have seen the mountains the New River flows through, but I am sure you know the value of a river and surrounding country that can be destroyed so easily and never recreated. We need to preserve what's left of our state's unspoiled land.

The lake the power companies propose will be of negligible recreational use, because of the great mud flats caused by the fluctuating water level. This project, if passed, will force hundreds off of their lands which single families have worked on for scores of years. Clearly, the only people who will profit from this project will be the power companies.

You need not take my word for it. I invite you, or an assistant if you are too busy, to come on a canoe trip with me to see first hand what they want to put underwater. If you are interested, contact me at the return address.

Save this small part of America.

Sincerely,

STEVE TEAGUE.

Mr. ERVIN. Mr. President, this drastically altered project will virtually destroy one of the most scenic areas in the United States.

The name of the river is New River, but it is said by geologists to be the oldest river in North America. For about 40 miles New River flows through a mountainous area of North Carolina. Virtually all the good farming land there is located on the New River and its tributaries.

If this project is built according to present plans, it will destroy in large measure these farmlands which, as I say, North Carolina authorities assert produce food and fiber of more value than all the power that will be generated by this development.

Not only have all the Governors of North Carolina who have been in office since the project was envisaged opposed it, not only does the legislature of North Carolina oppose it in its present form, not only do the county governments of Alleghany and Ashe Counties oppose it, but the overwhelming majority of the people in that area are opposed to the construction of the project in its present form.

Not only that, the Izaak Walton League of America, the Conservation Council of Virginia representing over 40 organizations, the Environmental Policy Center, the American Rivers Conservation Council, the Appalachian Research and Defense Fund, the Congress for Appalachian Development, the Legal

Environment Group of the University of Virginia School of Law, and Representative KEN HECHLER, of West Virginia, are all opposed to this project in its present form.

In addition, other agencies of the Federal Government have raised serious questions about the project's environmental and social effects. The Federal Power Commission has acted solely on the basis of hearings by a trial examiner, whom observers at the hearings say his bias showed at every stage. They say he was like the owl in that the more light he received, the blinder. On the basis of his hearings, the Power Commission made a statement on environment which North Carolina newspapers declare was manufactured out of whole cloth. The Environmental Protection Agency, on the contrary, investigated the proposed project and condemned it. In addition, the Department of the Interior has expressed serious concern. The Appalachian Region Commission, the Department of Housing and Urban Development, and the North Carolina Department of Natural and Economic Resources have serious questions about the environmental and social impacts of this project.

This is a simple amendment. It provides that the Federal Power Commission cannot issue a license for the construction of this project until the Army Corps of Engineers, which is a neutral body having much experience in the development field, and which is unbiased, has made a study of the proposition, and reported its findings to Congress and 2 years has elapsed from the making of its report.

Those who favor running roughshod over the State of North Carolina say, "Don't delay the matter." I think that when the good Lord created the New River and these beautiful mountains of Alleghany and Ashe Counties in North Carolina and Grayson County in Virginia, he must have regarded the River and Mountain with much pride. It is one of the most scenic regions of the United States and of the world. This area has been there since the creation without having the raw rape committed upon it the Appalachian Power Co. proposes to commit.

It will not hurt to delay the destruction of the handiwork of Almighty God and the thrift of generations of law-abiding and God-fearing people for 2, or 3 or 4 years more. All this amendment provides is that, instead of going ahead with a project—which is condemned by the overwhelming majority of the people concerned, which is condemned by the State of North Carolina, which is condemned by the North Carolina Department of Development and Conservation, which is condemend by both North Carolina Senators and every Representative from North Carolina in the House of Representatives, which is opposed by the Commonwealth attorney of Grayson County and which is condemned by many of the citizens of Grayson County—a study will be made by the Corps of Army Engineers to determine whether or not a better scheme of development can be found.

My opponents argue that we ought to let the Federal Power Commission alone handle this. The Federal Power Commission has had a hearing conducted by a trial examiner in whom the people of North Carolina and North Carolina's government and the government of the counties affected have no confidence. If we leave it before the Federal Power Commission, they can only go into the court and have it reviewed on the record made by this trial examiner. That is what it comes down to. We merely ask that it be reviewed by the Corps of Army Engineers. We want it reviewed by a Federal agency which is neutral. We want it reviewed by a Federal agency which takes into consideration not only the matter of power but also, in addition to that recreational matters and environmental matters and the welfare of the people the Appalachian Power Co. seeks to displace.

We ask that this amendment be adopted, that the Senate restore this provision in the form in which it passed the House of Representatives, and that the Federal Power Commission be precluded from issuing a license for the construction of this project in its present form until the Corps of Engineers can make an adequate study of the proposition from all standpoints and make a report to the Congress.

Surely, my State is entitled to that consideration at the hands of the Senate of the United States. Surely, the people in this area are entitled to that consideration at the hands of the U.S. Senate. That is all this amendment asks. I implore every Senator who thinks that the welfare of the people is superior to the welfare of a power company whose only interest is the filthy lucre it can obtain by defiling the handiwork of Almighty God to vote for this amendment.

I reserve the remainder of my time.

The VICE PRESIDENT. The Senator from Alaska is recognized.

Mr. GRAVEL. Mr. President, I will take a moment to respond to my colleague.

One of the major deficiencies of the amendment is that it contains no way of implementing itself, either through appropriation or some other means. So the impact of the amendment is to delay indefinitely any licensing procedure.

The second item in question, of course, is the Senator's desire for a study. Let me mention the fact that the corps is now serving as the study agency for the entire Kanawha River basin, undertaken at the direction of the Water Resources Council. This study is due for clearance in a matter of days by the Office of Management and Budget. It will provide a fully up-to-date analysis of the basin in general, and the New River sector in particular. So the corps, the Department of the Interior, and the other affected Federal agencies have provided detailed data and comment for the record at all stages of the Federal Power Commission proceedings. These proceedings must include consideration of all alternatives, including those for which the pending amendment proposes an additional study.

I think the possibility of going 7 or 8 years into the process of litigation certainly should not now be shelved by capriciously requiring one more study. It is a device that has been overused by Congress to delay or to stop. Furthermore, this proposal asks for a study but offers no plan to implement that study.

For that reason, I feel that I must oppose the approach taken by my colleagues, Senator ERVIN and Senator HELMS, in the amendment they propose. I hope that the Senate will sustain the committee's action in turning down this amendment.

Mr. President, I need no further time to discuss the subject.

My colleague from Virginia may wish to add his remarks.

Mr. WILLIAM L. SCOTT. Mr. President, will the distinguished chairman yield 7 minutes to me?

Mr. GRAVEL. I am happy to yield to the distinguished Senator from Virginia.

The PRESIDING OFFICER (Mr. METZENBAUM). The Senator from Virginia is recognized.

Mr. WILLIAM L. SCOTT. Mr. President, I rise in opposition to the amendment of the Senator from North Carolina regarding a project in Virginia to be constructed with private capital.

The proposed amendment, in effect, asks Congress not only to take a position on the merits of a very important and complex energy-producing project now before the Federal Power Commission, but, in fact, the amendment would kill the project without the Senate having the facts before it.

The Blue Ridge project against which the proposed amendment of the Senator from North Carolina is directed is primarily a Virginia project, although a portion of the reservoir area extends into North Carolina. It is a two-dam, pumped-storage hydroelectric project to be built with private capital by the Appalachian Power Co. of Roanoke, Va., at an estimated cost of $430 million.

About two-thirds of the reservoir surface areas will be located in Virginia, as well as the project's two dams, powerhouses, and associated transmission facilities. In fact, all of the project's physical facilities will be located within Virginia.

The distinguished chairman referred to the delegation from North Carolina. My distinguished colleague (Mr. HARRY F. BYRD, JR.) agrees that this is a matter that should be decided by the Federal Power Commission, as does Representative WAMPLER of the Ninth District of Virginia where the project is proposed to be constructed.

The attorney general of Virginia has intervened in the Blue Ridge license application proceeding which has been pending before the Federal Power Commission since 1965, and, in recognition of the power, flood control, and recreation benefits which the project will provide, has taken a position strongly in support of Blue Ridge.

Nevertheless, I do not suggest that we take a position in favor of the Blue Ridge project in the Senate. To do so, in my opinion, would be inappropriate. My suggestion is that the amendment be defeated and that the decision be left with the Federal Power Commission, the Federal agency having general jurisdiction over the licensing of private projects. Such a decision by the Federal Power Commission would be made on the basis of the comprehensive evidentiary record which has been developed before that agency since 1965, a proceeding in which all of those wishing to intervene have been permitted to do so, and all points of view have been freely expressed.

In this connection the Chairman of the Federal Power Commission furnished me a copy of his letter dated November 9, 1973, to the distinguished chairman of the Committee on Public Works (Mr. RANDOLPH), asking that the Commission be permitted to make this decision. I ask unanimous consent that the letter in its entirety be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEDERAL POWER COMMISSION,
*Washington, D.C., November 9, 1973.*

Hon. JENNINGS RANDOLPH,
*Chairman, Committee on Public Works,*
*U.S. Senate,*
*Washington, D.C.*

DEAR MR. CHAIRMAN: H.R. 10203, the Rivers and Harbors bill[1] as passed by the House, contains § 67 which authorizes the Secretary of the Army to make a detailed study into the potential use of the New River. The section also prohibits construction of any dam or reservoir on or affecting the New River until two years after the study report is submitted to the Congress. Since H.R. 10203 authorizes no funds for the New River study, construction could be delayed for an indefinite period of time.

On February 26, 1965, the Appalachian Power Company filed an application with the Federal Power Commission for the Blue Ridge Hydroelectric Pumped Storage Project, FPC Project No. 2317. Hearings were held on many days between May 23, 1967 and July 22, 1969. On October 1, 1969, the Administrative Law Judge issued his Initial Decision approving the application. On February 2, 1970, the Commission heard oral argument. Thereafter, the Commission remanded the proceeding to the Administrative Law Judge for further hearing on compliance with the National Environmental Policy Act. Ten days of additional hearings were held. On June 21, 1971, the Administrative Law Judge issued a supplemental decision recommending Commission approval of the project. In the eight years that the Appalachian Power Company's application has been before the Commission, testimony of over 7,400 pages has been taken from 95 witnesses and almost 300 exhibits have been presented.

In *Scenic Hudson Preservation Conference* v. *Federal Power Commission*, 453 F.2d 463, 467 (1971), and in *First Iowa Hydro-Electric Cooperative* v. *Federal Power Commission*, 328 U.S. 152, 180–182 (1946), the courts, in interpreting §§ 4(e) and 10(a) of the Federal Power Act, held that the Commission, in evaluating a license application, has the primary responsibility for determining whether the project embodies a comprehensive plan for improving the waterway. Yet, despite many years of study by the Federal Power Commission staff, the bill gives the Commission no authority to participate in the Corps' New River study.

In view of the extensive time and effort expended by the Commission staff, the applicant, and interested parties on the Blue Ridge application, the Commission believes that it should be permitted to decide the case. Therefore, § 67 of H.R. 10203, the House Omnibus Rivers and Harbors Bill, should be amended so as not to preclude Federal Power Commission licensing of the Blue Ridge Hydroelectric pumped storage project.

The Office of Management and Budget advises that it has no objection to the submission of this report.

Sincerely,
JOHN N. NASSIKAS, *Chairman.*

Mr. WILLIAM L. SCOTT. Mr. President, I wish to read just a portion of the letter for the information of the Senate. The Chairman of the Commission states in the letter.

> Hearings were held on many days, between May 23, 1967 and July 22, 1969. On October 1, 1969, the Administrative Law Judge issued his Initial Decision approving the application. On February 2, 1970, the Commission heard oral argument. Thereafter, the Commission remanded the proceeding to the Administrative Law Judge for further hearing on compliance with the National Environmental Policy Act. Ten days of additional hearings were held. On June 21, 1971, the Administrative Law Judge issued a supplemental decision recommending Commission approval of the project. In the eight years that the Appalachian Power Company's application has been before the Commission, testimony of over 7,400 pages has been taken from 95 witnesses and almost 300 exhibits have been presented.

Then, near the end of the letter the Chairman states:

> In view of the extensive time and effort expended by the Commission staff, the applicant, and interested parties on the Blue Ridge application, the Commission believes that it should be permitted to decide the case.

That is exactly my feeling. This decision should be made by the Federal Power Commission.

The distinguished Senator from North Carolina did appear before our Subcommittee on Water Resources of the Committee on Public Works during its deliberations and suggest the adoption of this provision. But the committee did not see fit to include the amendment. I understand that Blue Ridge will provide 1.8 million kilowatts of critically needed electric generating capacity. At this critical time of shortage of energy it seems unreasonable for us to deny private enterprise the right to provide power without cost to the taxpayers and to take jurisdiction away from the Government regulatory agency.

As I understand the amendment it would authorize a study of the New River by the Corps of Engineers even though a comprehensive multistate and Federal agency study of the Kanawha River Basin, which includes the New River, was completed less than 3 years ago.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield to me for 1 additional minute?

Mr. GRAVEL. I yield.

Mr. WILLIAM L. SCOTT. Mr. President, while the proposed amendment would authorize this duplicate study, it would authorize no funds for such a study. In this posture, a study probably would never be undertaken and, therefore, never be completed. Apparently the amendment's prohibition against development of the hydropower project would, in fact, be perpetual. This is certainly not the most direct way to deal with such important matters.

I repeat that both Senators from Virginia oppose the amendment affecting a private project in our State, as does the Representative from the district in Virginia where it is proposed to be constructed. Let us leave private projects to the Federal Power Commission.

Mr. BUCKLEY. Mr. President, I, too, rise in opposition to the amendment supported so eloquently by the senior Senator from North Carolina (Mr. ERVIN). While I share his concern over the environment of the New River Valley, I believe this amendment asks the Senate to make an ad hoc decision without hearings.

As my colleagues have noted, the Federal Power Commission currently is reviewing an application for construction of two privately financed power dams on the New River in Virginia.

We should allow the administrative process to run its course.

The Senator from North Carolina is rightly concerned over the effect of the reservoirs on residents of his State. The Senators from Virginia have pointed out that there have been numerous studies of the New River indicating that power development was the most economic use of this water resource. I am not convinced that that is so. But I am convinced that there is no need at this stage for the Senate to interpose itself into an administrative procedure. If this is an argument between two neighboring States, then the issue deserves a full and fair hearing, which it shall receive, I feel confident, under the FPC procedures.

For this reason, I shall vote against the Ervin amendment.

Mr. GRAVEL. Mr. President, does my colleague wish to take some time?

Mr. ERVIN. Mr. President, since I offered the amendment, I think I should be entitled to make the opening and closing arguments.

Mr. GRAVEL. There is no problem with the closing. I believe the Senator has 14 minutes.

Is that correct, Mr. President?

The PRESIDING OFFICER (Mr. HASKELL). The Senator from Alaska has 16 minutes; the Senator from North Carolina has 14 minutes.

Mr. GRAVEL. Mr. President, I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I support the position of the Committee on Public Works and the position of my colleague from Virginia (Mr. SCOTT). I do not like to get into a controversy with my close friends and neighbors, the Senators from North Carolina.

I would point out that this project, the Blue Ridge project, is a hydroelectric and pumped storage project which is to be located on the New River in Virginia, with reservoirs extending into the neighboring State of North Carolina. Two-thirds of the land area is in Virginia; one-third is in North Carolina.

Mr. President, this project goes back some 8 years—really longer than that when the preliminary application was made. It has been studied for about 8 years, or at least 8 years. Many pages of testimony have been taken in regard to it. It is now before the Federal Power Commission. It has been before the Federal Power Commission since the original application was made in 1962.

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[1] S. 606, the Senate-passed Rivers and Harbors bill, does not contain a comparable provision.

It seems to me that we in the Senate would be acting unwisely if we were to legislate against the Power Commission having the authority to approve the license. This is not a Corps of Engineers project. There are no Federal funds involved. It is entirely a private power facility.

We have passed many pieces of legislation dealing with the matter of energy in the last few months. None, with the possible exception of the Alaskan pipeline, which will take a long time to complete, provides any additional energy.

I do not prejudge the case, but if the Federal Power Commission decides that additional power resources are needed and approves a license to build this facility, then it seems to me that we would be in the position of denying to the people of Virginia and the people of the adjacent States, in the areas that would be served, this facility and the additional resource and the additional power that would be created.

I do not argue in favor of the project. I argue in favor of permitting the Federal Power Commission to make the decision. That is where the decision in all of these cases in the past has always been placed. I think it would be a mistake if we attempted to change that by legislation on the floor of the Senate.

I emphasize again that the bulk of the land is in Virginia. Two-thirds of the land area is in the State of Virginia and the remainder in North Carolina.

The Commonwealth of Virginia, the State in which all of the project works and two-thirds of the project reservoirs will be located, filed a brief on September 10, 1973, and in that brief it said this:

> Virginia fully appreciates the need for the peaking energy to be produced by the Blue Ridge Project, and the Commonwealth feels that the project will provide significant recreation and flood control benefits in addition to the power it will produce. Accordingly, Virginia urges the expeditious licensing of the Blue Ridge project.

Mr. President, if the Senate adopts the amendment submitted by the Senators from North Carolina, it will deny the Federal Power Commission the right to issue this license. The Federal Power Commission has not yet rendered a decision. It has had the case under advisement. It has taken over 700 pages of testimony over a period of some 8 years. It would be unwise, it seems to me, for the Senate to adopt the amendment offered by the 2 able and distinguished Senators from North Carolina.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield me half a minute?

Mr. GRAVEL. I yield.

Mr. HARRY F. BYRD, JR. Mr. President, I would like to point out that the matter was brought before the Public Works Committee by the Senators from North Carolina, and the Public Works Committee declined to act on the proposal.

Mr. GRAVEL. Mr. President, I think that, other than to say that action here by the Senate would certainly preempt any ability of the Federal Power Commission to act in its licensing capacity, a capacity and a power which has been given by the Congress, there is nothing that has been brought forward to persuade me or the committee that we should preempt what the Federal Power Commission is very able to do.

In addition to that, there is another process which is left open to the proponents of this amendment in their exercising their options, and that is to have the area declared a wild and scenic river.

The distinguished Senators from North Carolina have such a proposal in the Congress, which is now in the Interior and Insular Affairs Committee for its consideration, and if they are successful in receiving this designation, then the matter in question will be moot. So there are two approaches which are being exercised which I think are proper in this matter. I do not think it would be proper in this instance to legislate the proposal which is presently described by the proponents.

Mr. President, I think we have made our case on this side, and would just suggest that if my colleague is prepared to yield back the remainder of his time, I am prepared to yield back my time. If not, he can continue to make his case, but I think we have made as good a case as we can make on this side.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield?

Mr. GRAVEL. I yield.

Mr. WILLIAM L. SCOTT. I would like an opportunity to respond, if possible.

Mr. ERVIN. Mr. President, I do not propose to speak at this time, because I think I have the right to open and close since it is my amendment, hence, I suggest that my opponents respond now.

Mr. GRAVEL. Mr. President, how much time do I have now?

The PRESIDING OFFICER. The Senator from North Carolina has 14 minutes. The Senator from Alaska has 7 minutes.

Mr. GRAVEL. Mr. President, I do not wish to speak further on the issue. My colleague from Virginia wishes a few more minutes to close. I understand the Senator from North Carolina wants to wrap up on the issue. That certainly is acceptable to me. If he is going to use his whole 14 minutes to wrap up the issue, then fine. If not, perhaps he could proceed for a few more minutes, then the Senator from Virginia could proceed, and then the matter could be closed out by the Senator from North Carolina. I offer that as a suggestion.

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. RANDOLPH. Mr. President, would the Presiding Officer tell the Senate the time remaining to the proponents of the amendment and to the opponents who represent the committee viewpoint?

The PRESIDING OFFICER. The proponents of the amendment have 14 minutes remaining. The opponents have 6 minutes.

Mr. RANDOLPH. I thank the Chair.

Mr. GRAVEL. Mr. President, if I could, I would like to suggest to the proponents that if they will use 6 minutes, we will use our 6 minutes. Then, the remaining time may be used by the proponents.

Mr. ERVIN. Mr. President, I do not care to make more than two speeches on the subject. It is a rule in the courts that the proponents have the right of opening and closing. I think a similar practice should prevail in the Senate.

The PRESIDING OFFICER. The Chair would state to the Senator from North Carolina that there is no such rule in the Senate.

Does anyone yield time? If not, time will be equally charged against both sides. Time is running, and the Chair announces that the time will be charged equally to both sides.

Mr. WILLIAM L. SCOTT. Mr. President, would the Senator from Alaska yield me a few minutes?

Mr. GRAVEL. I yield 3 minutes to the Senator from Virginia.

Mr. WILLIAM L. SCOTT. Mr. President, I call the attention of the Members of the Senate to a letter that is on the desk of each Senator. That letter is from my distinguished senior colleague the distinguished Senator from Virginia, HARRY F. BYRD, Jr., and me. We urge that Senators review the letter. Our distinguished friend, the Senator from North Carolina, did send a dear colleague letter some days ago. We felt that it would be proper for our viewpoint also to be presented to the Members of the Senate. That is why we wrote the letter.

I do feel that this is a matter that has been before the Federal Power Commission for many years. Extensive hearings have been had, and 7,400 pages of testimony have been taken.

I think that we are quite fortunate to have private capital spent to provide energy. So often we leave these things to the Federal Government. Here is a private power company that is attempting to provide the necessary energy that we need in a day when energy is a most critical concern of the people of the country.

Mr. President, I spoke before the county farm bureau in an area near the project, in Pulaski County, Va. After my talk, during a question and answer period, I was asked what my position was on this project. I did not know the feeling of those people. It is an adjoining county to Grayson County, where the project is to be located. However, I did tell them that I was in favor of letting the power company make the decision. In fact, I went further and said that I would favor the project. They have a similar project already in existence nearby and are familiar with the details of such a project.

They assured me that they, too, were in favor of the project.

So we are not talking about a matter that the overwhelming public opinion is opposed to. It seems to me that this is an administrative decision to be made by the Federal Power Commission. I urge the Senate that we permit that to be done.

Mr. President, I ask unanimous consent that the letter to which I have referred be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, D.C., January 22, 1974.*

DEAR COLLEAGUE: The pending business this morning is the Helms-Ervin Amendment No. 896 to S. 2798, the Water Resources Development Act.

The Amendment is designed to block construction of the proposed Blue Ridge twin-dam pumped storage and hydro-electric project on the New River in Virginia, pending a detailed study by the Corps of Engineers of other possible alternate uses of that section of the river. Although both of the dams, power generation units and transmission facilities and almost two-thirds of the land involved lie in Virginia, a portion of both reservoirs will lie in North Carolina, which undoubtedly accounts for our colleagues' interest.

The proposal would forbid issuance of a project license by the Federal Power Commission until at least two years after completion of the study and a report to Congress on its conclusions.

In our considered judgment, the amendment is faulty on several salient points.

First, there is the question of jurisdiction.

The development at which the amendment is aimed is a *private* power proposal rather than a Corps of Engineers project. As such, it is within the prescribed province of the Federal Power Commission and has been so recognized by the Corps and other affected federal agencies since 1962 when the preliminary permit application was filed with the Federal Power Commission.

Thus the amendment has no proper place in public water resources development legislation conceived by the Public Works Committee.

It should be further noted that, as a project of a private power company, *no* Federal funds are involved. The Blue Ridge project would create vital additional energy resources at the expense of the power company—not the taxpayer.

A second basic defect in the amendment is the absence of any specific provision for implementation. It sets no target date for the initiation of the study and does not even authorize a token amount to finance it.

One can only conclude that the real intent of the proposal is to permanently block the Blue Ridge power plan or any similar development on the river.

Congress has conferred on the Federal Power Commission the duty and responsibility for decision-making in matters of this nature. Any such decision is subject to court review under established appeal procedure. The amendment now pending would impair operation of that established procedure and would, if successful, serve only to further delay final settlement of the question at issue.

We, therefore, urge its rejection.

Sincerely,

HARRY F. BYRD, Jr., *U.S. Senate.*
WILLIAM L. SCOTT, *U.S. Senate.*

Mr. ERVIN. Mr. President, how much time remains to me?

The PRESIDING OFFICER. Fourteen minutes remain to the Senator from North Carolina.

Mr. ERVIN. Mr. President, I ask unanimous consent that a statement prepared by me entitled "An Amendment to Protect the New River in North Carolina;" a letter dated December 13, 1973, written by me, and addressed to "Dear Colleague;" and a statement by my colleage from North Carolina (Mr. HELMS), who is necessarily absent today, and also several newspaper articles be printed at this point in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

### STATEMENT BY SENATOR ERVIN, AN AMENDMENT TO PROTECT THE NEW RIVER IN NORTH CAROLINA

Today Senator Helms and I are proposing an amendment to S. 2798, the Water Resources Development and River Basins Monetary Authorization Act of 1973, which has been reported to the Senate by the Committee on Public Works.

This amendment is being offered to protect one of the most beautiful and unique rivers in America, the New River, and to preserve one of the most lovely sections of North Carolina which is being threatened by the impending construction of a massive power project on the New River. The amendment provides for a U.S. Army Corps of Engineers study of possible alternative recreational, preservation, and conservation uses of the New River and its environs which would be affected by the "Blue Ridge Power Project," and prohibits the licensing of such a project until two years after the study has been submitted to Congress.

This project is opposed by an overwhelming majority of North Carolinians in the affected area, and the North Carolina State Government, as well as the Boards of Commissioners in the two North Carolina counties involved, have officially expressed their opposition to this project because of the tremendously adverse economic and ecological impact which its construction would have. I too have continuously expressed my opposition to the project as it is presently designed.

I believe it is significant to note that neither the U. S. Army Corps of Engineers, nor any other neutral government agency, has ever conducted a study of the "Blue Ridge Power Project." Nevertheless, the Federal Power Commission will probably issue a license for the construction of the project in the immediate future. Unless Congress acts to require adequate study, this most beautiful and bounteous countryside, this most precious, irreplaceable natural resource will be forever lost.

The provision which Senator Helms and I propose to incorporate into S. 2798 was included by the House of Representatives, after Committee hearings, in the water resources development legislation recently passed by the House, HR 10203. Because the House has already approved of this study by the Corps, I do not believe that this amendment will in any way impede legislative action on S. 2798.

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U.S. SENATE,
*Washington, D.C., December 13, 1973.*

DEAR COLLEAGUE: I am writing to urge your support for an amendment which Senator Helms and I intend to offer to S. 2798, the Water Resources Development bill, reported by the Senate Committee on Public Works. We will offer this amendment when S. 2798 comes before the Senate next week.

This amendment is offered to protect one of the most beautiful and unique sections of North Carolina which is threatened by the impending construction of a massive power project on the New River. It provides for a U.S. Army Corps of Engineers study of possible alternative recreational, conservation, and preservation uses of the New River and its environs which would be affected by the "Blue Ridge Power Project," and prohibits the licensing of such a project until two years after the study has been submitted to Congress.

This proposal was included in H.R. 10203, the water resources development legislation passed by the House of Representatives, after Committee hearings on the matter. Although both Senator Helms and I appeared before the Senate Subcommittee on Water Resources of the Committee on Public Works, S. 2798 unfortunately does not retain this provision.

As yet there has been no study by the Army Corps of Engineers of this matter and there has never been a study conducted by a neutral government agency. Nevertheless, the Federal Power Commission will most probably issue a license for this project in the immediate future. Unless Congress acts to require adequate study, the beautiful and valuable countryside around the New River will be forever lost.

The overwhelming majority of North Carolina citizens in the area affected by the proposed Blue Ridge Power Project are opposed to its construction because of the adverse economic and ecological impact. In addition, the North Carolina State Government and the County Boards of Commissioners in the two affected counties are on record in opposition to the Project. I have continually expressed my own opposition to the Project as it is presently designed.

Inasmuch as the House of Representatives has already approved of the study by the U.S. Army Corps of Engineers, I do not believe the amendment which Senator Helms and I will offer will in any way impede legislative action on the Omnibus Water Resources Development bill.

For further information on this matter, please call Bill Pursley, of my staff, at 225-3318.

Sincerely yours,

SAM J. ERVIN, Jr.

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### STATEMENT BY SENATOR HELMS

#### ERVIN-HELMS AMENDMENT TO THE RIVERS AND HARBORS ACT (S. 2798)

I am joining with the distinguished senior Senator from North Carolina (Mr. Ervin) in offering an amendment which would authorize a detailed study by the Army Corps of Engineers of the recreational, conservation, and preservation uses on the New River and its surroundings in northwest Carolina and southwest Virginia.

This amendment would not in any way jeopardize the bill in conference with the other House. It is identical to the language in Section 167 of H.R. 10203, the companion bill which has already passed the House. The Senate would merely be concurring in the House language.

This amendment means a lot to the people of North Carolina. The people of my State feel strongly about this issue. They know and love the beauty of the New River and they are not about to see it destroyed forever.

I would like to quote the comment of a prominent Winston-Salem North Carolina newspaperman:

"The New River is one of the last remaining unpolluted, free-flowing rivers in the Eastern United States. Flowing northward through the Blue Ridge foothills of North Carolina and Virginia, the river is a scenic, recreational and biological treasure—not only for the residents of the river valley, but for all Americans who visit the area. In addition, geologists tell us that the New River is misnamed, and that it is actually the oldest river in the United States and the only remaining section of the North American continent's original prehistoric watershed.

"In my opinion, the New River is of such overwhelming historic, scenic and biological value that it should be preserved in its natural state and permanently protected from impoundments or other development."

The elected representatives of the people of North Carolina at the local, State, and Federal level, have all voiced their opposition to this project. Earlier this year, the General Assembly of North Carolina adopted a resolution (Resolution Number 79) vigorously opposing the construction of the Blue Ridge Project which would dam the New River. The distinguished Senior Senator from North Carolina, Senator Ervin, has joined with me in sponsoring S. 2439, a bill which would designate the New River for inclusion in the National Wild and Scenic Rivers System.

Because of the prospect that the Federal Power Commission may grant a license for the construction of a dam on the New River, it is vitally important to the people of North Carolina that this provision be added to the Senate bill.

The proposed dam destroys approximately forty-four miles of the river with permanent damage to much of the area's farm land and pasture land. In addition, thousands of citizens in Ashe and Alleghany Counties in North Carolina will be permanently dislocated from the homes and the way of life that they have historically enjoyed. This provision would not reach a final determination on the merits of the Blue Ridge Project, but it is essential at this time, if we are to prevent irreparable damage from being inflicted on this part of the country.

Many Americans—and I am one of them—feel that the influence of our Federal government has become so pervasive that citizens of a locality or a State are no longer able to control their destiny. Decisions which vitally affect their lives and which have profound local consequences are being made at the national level by some agency of the Federal Government with little or no sensitivity of the consequences that these decisions produce on a local scale.

I think we have an opportunity here through this legislation which is pending to express the will and the good judgment of the people of North Carolina and preserve the New River in its natural state.

I ask unanimous consent that several editorials which appeared in the Winston-Salem Journal and which highlight the local concern for the preservation of the New River be printed in the RECORD at the conclusion of my remarks.

### THE GENEROUS BOYS AT FPC

The more the Federal Power Commission's legal experts study the proposed Blue Ridge hydroelectric project, the bigger it seems to get. But perhaps we should stop being so hard on these people, who are only trying to see that the New River Valley gets the best deal possible in exchange for the devastation about to be visited upon it.

The FPC staff admits that the project will have many undesirable side effects: Hundreds of people will be driven from their homes, thousands of acres will be flooded for reasons which are clear to no one except the builders of the dams, and there will be an influx of all kinds of industry and housing developments. "What is bucolic," said the FPC in an unforgettable phrase, "will become busy."

But we should try to remember what the people of the valley are getting in return. Around the shores of the busy, polluted reservoirs a new and more complex environment will spring up. There will be mudflats, mosquito breeding grounds, noisome backwaters, rat burrows, festering bogs and many other attractions which will be of immense interest to biologists and to homesick tourists from war-torn Vietnam.

We should not complain too much about the loss of the New River, either. Right now the river appeals mostly to canoeists, hikers and fishermen. In the future, however, it will be suitable for higher forms of life: power boats, for instance, and unsightly houseboats galore.

The people of the valley should be happy to sacrifice their good land for a worthy public purpose. That purpose, of course, is to create a backlog of electricity which in times of peak demand can be used to light the homes of Buffalo and keep the generators in Youngstown humming. Though the people most affected by the project will derive no direct benefit from it (other than the environmental benefits already mentioned) they can be certain that an energy-starved nation will be grateful.

It is true that the project will actually consume more power than it generates, owing to the complex engineering mechanism required to pump the water from one dam to the other. And since this is so, many people may be asking themselves why it is necessary to flood the valley in the first place.

The obvious answer is: Because it is there. We should all feel a lot better knowing that the government has logical reasons for what it is doing, and is not acting merely out of bureaucratic whimsy or in an attempt to justify its stubborn support of a project which almost everybody else opposes, which burns up more electricity than it creates, and which may even be obsolete before it is built.

### AND NOW THE EPA

Critics of the Blue Ridge Power project have suspected all along that the proposed hydroelectric dams would be far more ruinous to the majestic New River Valley than the Appalachian Power Co. and its apologists have made it appear.

Now the Environmental Protection Agency is saying precisely that.

Unlike the Federal Power Commission's impact statement, which was put together under duress, the EPA assessment makes it utterly plain that the benefits of this project do not outweigh the disadvantages. Among the many supposed benefits was the FPC's suggestion that the pumped-storage project envisioned by Appalachian would cause less air pollution than other types of power generating plants.

The EPA disputes this in so convincing a fashion that one is tempted to conclude that the power commission's entire impact statement was made up out of whole cloth.

Reasonable men possibly could disagree over the conclusions contained in the EPA report, but surely they cannot agree, if they are reasonable, to license the project until these things are settled with finality.

Nonetheless the FPC is expected shortly to approve the licensing, regardless of the many arguments raised against it. This is why the fight has now shifted to Congress, where Rep. Wilmer Mizell, Sen. Jesse Helms and others are attempting to delay the project, with the additional hope that the government can be persuaded to preserve the New River as part of America's wild and scenic rivers system.

But the power company has allies too, in Congress and out—so many in fact that it would be premature and unduly sanguine to predict that reason will somehow ultimately prevail.

### MORE HELP FOR THE RIVER

The prospects for a political solution to the Blue Ridge hydroelectric controversy are considerably brighter than they once were, and that is good news to the people of Northwest North Carolina and Southwest Virginia.

As long as the fate of the Blue Ridge Project rested solely with the Federal Power Commission, there seemed little chance of a satisfactory administrative solution. The administrative judge who has twice recommended licensing of the project, William C. Levy, apparently remains true to his original purpose—which is to say that he undoubtedly will again recommend that the builders of the proposed twin dams be allowed to get on with construction at the earliest possible moment.

Levy's bias was much in evidence during a recent round of hearings on the project, and despite the new arguments raised by opponents he seemed in no mood to modify his hard-line stand.

Which brings us back to the question of a political solution. The most welcome aspect of this question is the fact that Sen. Sam J. Ervin and Sen. Jesse Helms are working together in support of a bill that would designate the New River, on which the proposed dams are to be built, as part of the wild and scenic rivers system. This, of course, is is the surest way of preserving the river permanently.

Rep. Mizell, who represents the two North Carolina counties most directly affected by the project, Ashe and Alleghany, has introduced legislation which would authorize an engineering study of possible recreational uses for the river and bar any construction for a period of two years after the study is completed. But presumably he would also support the more far-reaching move to make the stream a part of the wild and scenic rivers system.

What this means in effect is that North Carolina's political leaders have now built a solid front of opposition to the project. Not only have the state's two senators and Rep. Mizell put themselves on record as opposing construction; so has the Holshouser administration, which has already done far more than the Scott administration to make certain that the power project rests in permanent limbo.

And since the 1973 General Assembly adopted a resolution opposing the Blue Ridge project, we can hope for legislative support for the Helms-Ervin proposal.

All of this, it seems to us, should be enough to encourage the American Power Co. and its subsidiary, Appalachian Power Co., to find other ways of meeting the growing demands for electrical power. This project surely illustrates why the nation simply cannot continue meeting these demands in the same old way. To do so we will have to pay a price in environmental damage and social upheaval that is, quite simply, intolerable.

### STOP AT NOTHING

In the new round of hearings beginning next week the Federal Power Commission almost certainly will decide, once and for all, the fate of the controversial Blue Ridge hydroelectric project.

Indeed, there are a good many signs that the fate of the river has been decided already. None of the officials who previously passed judgment on the power project has changed his mind, and the FPC staff lawyers strongly endorse the project in the final version of their Blue Ridge environmental-impact statement.

The authors gave it their approval even while admitting that the building of the reservoirs would "alter natural aesthetic values," cause "personal hardship" for a great many people and impose on a predominantly rural area the "complexities, sophistications and adversities of an urbanized society."

But there's more to it even than this. The New River is not only one of the world's most scenic. It is also, despite its name, the second oldest next to the White Nile).

In prehistoric times, according to geologists, this stream formed the headwaters of river—known to us as the Teays—which traversed almost half a continent before emptying into an arm of the Gulf of Mexico. But the last ice age drastically altered the face of North America and with it the mighty Teays. Only the portion known as the New River survives in more or less its original state.

Surely this venerable and surpassingly beautiful stream deserves a better fate than the one the builders of the proposed project have in store for it. A measure to preserve the New as part of America's Wild and Scenic River System died in the last Congress. The time has come to revive the proposal, and this time the powers-that-be in this state—including the governor and the attorney general—should stop at nothing short of felonious persuasion to see that it passes.

Mr. ERVIN. Mr. President, the opponents of the amendment put a wrong construction on it. The amendment states expressly:

> Nothwithstanding any other provision of law, no Federal agency or entity shall license or otherwise give permission under any Act of the Congress to the construction of any dam or reservoir on or directly affecting the New River from the headwaters of its South and North Forks to the town of Fries, Virginia, until two years after the report authorized by this section has been submitted to the Congress.

Notice that this provision does not displace the jurisdiction of the Federal Power Commission; it merely delays the exercise of its jurisdiction in order to give North Carolina, the counties and the people to be affected an opportunity to have a neutral body—the Corps of Engineers—consider the matter. The objective is to see that we have some independent, neutral body review the whole project, with a view to making certain that a minimum of injury will be done to the handiwork of Almighty God, and to the people of Alleghany and Ashe Counties, N.C., and Grayson County, Va., whose lives the Appalachian Power Co. wishes to disrupt and whose property the Appalachian Power Co. proposes to appropriate to its use.

My friends from Virginia say that the dam will be in Virginia. The bad effects, however, are going to be in North Carolina, where the reservoir in large part is going to be. It will run through two counties and will be about 44 miles long. The project will virtually destroy 212 miles of trout-bearing tributary streams. It will flood over 38,000 acres or rill, forest, and agricultural land, most of which is in North Carolina.

I am not surprised that the people of Pluaski County are not opposed to this proposal. Their ox is not being gored. Somebody else's ox is being gored, so that the people of Pulaski can get a little more illumination. But the people of Grayson County, Va., and the people of Alleghany and Ashe Counties, N.C., are having their oxen gored.

Why the hurry? Why would it hurt to postpone the project for a few years, to protect the handiwork of Almighty God and the rights of human beings?

Mr. WILLIAM L. SCOTT. Mr. President, will the distinguished Senator from North Carolina yield?

Mr. ERVIN. No; the Senator from Virginia has had his time. I have very little time left. I am speaking on limited time.

Mr. WILLIAM L. SCOTT. I merely wanted to ask the distinguished Senator a question.

Mr. ERVIN. A very short question.

Mr. WILLIAM L. SCOTT. Will the Senator tell us when this report will be prepared?

Mr. ERVIN. I do not command the Corps of Engineers. I cannot answer the Senator's question. But my experience has been that the Corps of Engineers moves with considerable dispatch. There has never been any investigation of this proposal by the Corps of Engineers.

The Power Commission is interested in power; it is not interested in environment. The Commission wants power. The Appalachian Power Co. came before the Power Commission with an original proposal and subsequently drastically altered it. If the company had adhered to its original project, which did a minimum of injury to the scenic beauties and to the interests of the people living in this area, there would have been no controversy. But they decided they would vastly expand the project.

Why hurry? I am reminded of the man who was sentenced by the judge to be hanged by his neck on the last Friday in August until he was dead, dead, dead.

The condemned man said to the judge "I hope to God you do not mean this coming August."

Surely the State of North Carolina, which is represented by my colleague, Senator HELMS, and myself, and for which we speak, is entitled to as much consideration at the hands of the Senate of the United States as a private power company, even though that private power company is based in the Old Dominion.

All we are asking is that this project, which they say has been under study since 1963 by the Federal Power Commission, be studied just a little bit further—be studied by a neutral body, a body which is concerned with recreation, which is concerned with conservation, and whose sole objective is not acquiring new power sites.

As I have pointed out, the Environmental Protection Agency has studied this project and made an environmental impact statement which charges, in substance, that this project will have serious consequences on the environmental interests of the area and on the social interests of the area.

If construction were to begin right now the proposed project would not produce any power that would become available during the present energy emergency. Since the Federal Power Commission permitted the Appalachian Power Co. to make a drastic amendment of its original plan after all previous studies were made the Senate should adopt the amendment and grant the request for a study of the present plan by a neutral body which would consider all relevant matters.

As I have stated, this amendment does not affect the jurisdiction of the Federal Power Commission, it merely postpones for a limited time the exercise of that jurisdiction. Surely the Senator of the United States should have enough consideration for my State, and for the people of Allegheny and the Ashe Counties, N.C., and Grayson County, Va., to grant a delay in order that further investigation can be made by a neutral body, and that neutral body may advise Congress what development will best serve our country.

If the Appalachian project ought to be constructed according to this plan, which everyone concerned in opposition to it asserts commits a raw rape upon the handiwork of Almighty God, there ought to be some delay and some opportunity for North Carolina, these counties, and these people to have an investigation of this matter by a neutral body, and if the project ought to be built according to the present plans, undoubtedly the Corps of Engineers, which is just as competent as the Federal Power Commission and, indeed, more so, because it takes into consideration more things than the mere development of power, would agree with the trial examiner who heard this testimony.

So all I ask is that the people of my State, the people of Grayson County, Va., and all persons interested in the environment, be given an opportunity to have this question reviewed by a neutral and competent body without impairing the jurisdiction of the Federal Power Commission beyond delaying the exercise of that jurisdiction for a comparatively brief period. The delay may result in the development of alternative plans which will do justice to all.

If this delay can be had, a fatal mistake may be avoided. I am certain that mere delay will not cause the heavens to fall. But it might result in the development of alternative means of developing the area and these water resources without committing a raw rape upon the handiwork of Almighty God, and without doing a grave injury to those people whose families for generation after generation have lived as God-fearing and law-abiding citizens along the waters of the New River.

I am ready to yield back the remainder of my time if the opponents of the amendment are——

Mr. WILLIAM L. SCOTT. Mr. President, will the distinguished Senator from Alaska yield very briefly?

Mr. GRAVEL. I yield.

Mr. ERVIN. I still have the floor.

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired.

Mr. ERVIN. Has my time expired?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ERVIN. Then I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska has 3 minutes remaining.

Mr. GRAVEL. I yield the Senator from Virginia 1 minute.

Mr. WILLIAM L. SCOTT. Mr. President, I ask unanimous consent that a fact sheet prepared by the Library of Congress be printed in the RECORD at this point, since I do believe that we should have a factual statement by an impartial group. I rise simply for that purpose.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

### FACT SHEET—PROPOSED BLUE RIDGE HYDROELECTRIC POWER PROJECT

(By Howard A. Brown, Analyst in Environmental Policy, Environmental Policy Division, September 27, 1973)

The New River originates in the Blue Ridge Mountains of northwestern North Carolina and flows north across Virginia into West Virginia where it joins the Gauley River to form the Kanawha River which in turn flows through Charleston, West Virginia and on into the Ohio River. In June of 1962 the Appalachian Power Company applied to the Federal Power Commission for a preliminary permit to build a combined conventional and pumped storage hydroelectric plant on the New River near the Virginia-North Carolina border. This proposed Blue Ridge project has been the subject of controversy ever since and the final FPC decision has not yet been made.

### APPALACHIAN POWER

The Appalachian Power Company is headquartered in Roanoke, Virginia, and is a relatively small local utility. It is, however, a subsidiary of the American Electric Power Company which is headquartered in New York and operates in Virginia, Indiana, Kentucky, Tennessee, Michigan, Ohio, and West Virginia. Direct use of power from the proposed Blue Ridge project would be relatively local but since the project would be part of the American Electric Power Company System and especially since the project includes pumped storage for peaking power the project would in effect serve the entire American Electric Power System.

### ORIGINAL PLAN

In March of 1963 Appalachian Power was granted a two year preliminary permit to study the project. Following up on this, in February of 1965, Appalachian applied for a license for the project. As then proposed, the project would have had installed capacity of 980,000 kilowatts, cost an estimated $140 million and would have included two impoundments: a lower reservoir of 2,850 acres and an upper reservoir of 16,600 acres.

### LOW FLOW AUGMENTATION

The basic operating concept of a dam is regulation of river flow so as to prevent flooding and to insure adequate flows during dry periods. In 1966 the Department of the Interior recommended that the proposed project be operated so as to provide low flow augmentation to mitigate water quality problems in the Charleston, West Virginia area where there are large chemical plant complexes.

### DRAWDOWNS

The low flow augmentation requirements would have required reservoir drawdowns considered excessive by the power company and Virginia and North Carolina interests in the vicinity of the proposed reservoirs. Large water level fluctuations detract considerably from recreational value and can expose considerable expanses of mud. The original proposal would have had regular drawdowns of 35 feet in the lower reservoir and a maximum of 8.2 feet in the upper reservoir. To meet the low flow requirements would have necessitated drawdowns of as much as 50 feet in the upper reservoir.

### MODIFIED PLAN

Efforts to resolve these problems resulted in development of an alternative proposal by Federal Power Commission staff. In June of 1968, Appalachian Power amended its application to propose this modified plan. The modified plan could meet the low flow augmentation requirements with upper reservoir drawdowns of only 10 or 12 feet. To do this the reservoirs would be placed in slightly different sites and the project would be twice as large. The modified plan calls for installed capacity of 1,800,000 kilowatts at a cost of about $297 million. The lower reservoir surface area would be about 14,400 acres and the upper reservoir about 26,000 acres.

### EPC PROCEDURES

Under FPC procedures hearings are generally held before an Administrative Law judge who makes the initial decision. Only if the decision is appealed does the Commission itself make a final decision. Affected State and local governments and other Federal agencies are notified and may request intervenor status, but no approval other than FPC's own is required to issue a license.

### INITIAL DECISION AND ENVIRONMENTAL CONCERNS

In October of 1969 the Presiding Examiner (Administrative Law judge) recommended granting a 50 year license for the modified project. At this point, however, several conservation groups took active opposition as did West Virginia citizens who were concerned that the increased water flows would prove detrimental to fishing and boating. The decision was appealed and the hearing reopened.

### SECOND DECISION AND ENVIRONMENTAL IMPACT STATEMENTS

Because of the enactment in 1969 of the National Environmental Policy Act (NEPA), and subsequent FPC regulations, Appalachian Power prepared an environmental impact statement on the project. After receiving comments, the FPC issued an impact statement in April of 1971. In June of 1971 the Presiding Examiner for the second time recommended granting Appalachian a 50-year license for the project. Again the decision was appealed to the Commission itself. During FPC consideration an unrelated court case, *Greene County Planning Board v. FPC,* found FPC's implementation of NEPA invalid, basically because it did not itself partake sufficiently in preparing the impact statements allowing the applicants to write them. Consequently the case was reopened and preparation of a new environmental impact statement was directed.

### LOW FLOW AUGMENTATION PHILOSOPHY CHANGE

Also during this time, changes were taking place in regard to policy on low flow augmentation. In August of 1971 the Environmental Protection Agency now handling water quality, reversed the position taken by its predecessor, the Federal Water Pollution Control Agency. It recommended further study of the provision of low flow augmentation by the Blue Ridge Project saying that augmentation could not be a substitute for adequate treatment. Probably partially because of the Blue Ridge proposal, the Federal Water Pollution Control Act Amendments of 1972, Public Law 92–500, included explicitly a statement that low flow augmentation could not be provided as a substitute for treatment at the source. With the tougher requirements of the new law of best practical effluent control of 1978 and best technologically feasible control by 1985, there would be little need for low flow augmentation if the point source requirements are enforced.

### CURRENT STATUS

The rewritten environmental impact statement has been completed and hearings have again begun before an Administrative Law judge. Low flow augmentation for water quality purposes is no longer a proposed part of operation, but the project design has not been changed. Although the formal positions of the States would have to be judged from their participation in the hearing, the North Carolina General Assembly recently passed a resolution in opposition to the project. Also the West Virginia Legislature recently memorialized Congress to create a national park in the New River region. This would not necessarily imply opposition to the project, but does indicate concern for downstream environmental values.

### INUNDATION BY PROPOSED RESERVOIRS

As proposed, both dam sites would be in Virginia: the lower reservoir would be about 90 percent in Virginia, 10 percent in North Carolina; the larger upper reservoir would be a little over 50 percent in Virginia, a little under 50 percent in North Carolina. The impoundments would displace an estimated 2,800 inhabitants. The attached table from the draft environmental statements summarizes present land use within the proposed reservoir boundaries. As can be seen this includes 526 dwellings in Grayson County, Virginia, 80 dwellings in Allegheny County, North Carolina, and 287 dwellings in Ashe County, North Carolina.

### COORDINATION WITH OTHER PROJECTS AND AGENCIES

There are several major reservoirs existing in the Kanawha Basin as well as several other proposed projects. Bluestone Dam and Lake, West Virginia is an existing Corps of Engineers project on the New River downstream from the Blue Ridge site. The dam is designed to allow future installation of hydroelectric generating facilities but generating equipment has not been installed. In Appalachian Power's original application they requested that since flood control storage at Blue Ridge would lessen the need for flood storage at Bluestone allowing power development, Appalachian should be allowed to install that power equipment. This was denied as Federal development of power at Bluestone was already authorized. Blue Ridge would preempt the Moores Ferry Lake site a unit of the comprehensive flood control authorization for the Ohio River Basin.

Under the Water Resources Planning Act of 1965 river basin planning program, a Type II comprehensive study was conducted of the Kanawha River Basin. The review draft of that study was published in June 1971; it is currently under review in the Office of Management and Budget. The study sought to identify water resource needs and possible solutions including potential reservoir sites for the basin and to formulate a plan to best meet the identified needs. Although it is not entirely clear it seems that the basin study accepted construction of the Blue Ridge project as a given. The project is included in the recommended plan and the recommendation made that if the site is not privately developed, consideration should be given to public development.

SUMMARY OF LAND USE SURVEY WITHIN RESERVOIR LIMITS—DWELLINGS, BUSINESSES, AND OTHER ESTABLISHMENTS

| Classification | Grayson County |  | Alleghany County |  | Ashe County, upper reservoir | Total |
|---|---|---|---|---|---|---|
|  | Upper reservoir | Lower reservoir | Upper reservoir | Lower reservoir |  |  |
| Dwellings: |  |  |  |  |  |  |
| Houses | 326 | 186 | 57 | 21 | 270 | 860 |
| Trailers | 9 | 5 | 2 | 0 | 17 | 33 |
| Total | 335 | 191 | 59 | 21 | 287 | 893 |
| Summer cabins | 3 | 11 | 0 | 8 | 21 | 43 |
| Industrial (sawmills, factories, etc.) | 5 | 1 | 1 | 0 | 3 | 10 |
| Commercial (sales and services) | 10 | 4 | 0 | 0 | 9 | 23 |
| U.S. post offices | 2 | 0 | 0 | 1 | 2 | 5 |
| Churches | 8 | 3 | 2 | 0 | 2 | 15 |
| Cemeteries | 6 | 2 | 2 | 1 | 1 | 12 |
| Others | 6 | 2 | 0 | 0 | 0 | 8 |

APPENDIX E

SUMMARY OF LAND USE SURVEY WITHIN RESERVOIR LIMITS—LAND USE

| | Acres— | | | | |
|---|---|---|---|---|---|
| | Cultivated | Fields | Rivers | Wooded | Total |
| Virginia: | | | | | |
| Upper reservoir (elevation 2,655) | 760 | 10,800 | 44 | 3,650 | 15,254 |
| Upper reservoir (elevation 2,450) | 700 | 6,450 | 180 | 6,630 | 13,960 |
| Virginia, total acres | 1,460 | 17,250 | 224 | 10,280 | 29,214 |
| North Carolina: | | | | | |
| Upper reservoir (elevation 2,655) | 2,059 | 7,595 | 123 | 2,552 | 12,329 |
| Lower reservoir (elevation 2,450) | 70 | 578 | 38 | 780 | 1,466 |
| North Carolina, total acres | 2,129 | 8,173 | 161 | 3,332 | 13,795 |
| Total acres, upper reservoir | 2,819 | 18,395 | 167 | 6,202 | 27,583 |
| Total acres, lower reservoir | 770 | 7,028 | 218 | 7,410 | 15,426 |
| Total acres, project | 3,589 | 25,423 | 385 | 13,612 | 43,009 |

Mr. GRAVEL. Mr. President, I just want to state very briefly that I think the Corps of Engineers should be flattered to be considered the protector of the environment.

I point out further that there has been an environmental statement made by NEPA, which would be subject to judicial review. Regardless what we do here, the possibility of judicial review still remains with respect to the NEPA statement.

I yield my remaining 1 minute to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I just want to say again that I oppose the amendment offered by the Senators from North Carolina. I favor the position taken by the Public Works Committee. The Public Works Committee declined to consider this amendment in committee. They thought it was not an appropriate amendment, and I hope the Senate will reject it and let the Federal Power Commission make whatever decision it feels is in the best interests of the Nation, considering the need for additional energy resources.

Mr. WILLIAM L. SCOTT. Mr. President, if the Senator will yield, in view of various statements made, let me assure our distinguished friend from North Carolina that I, too, am in favor of Almighty God.

Mr. ERVIN. It seems, however, that the Senator is not anxious to maintain the handiwork of Almighty God in its beautiful aspects as far as Alleghany County and Ashe County, N.C., are concerned.

Mr. GRAVEL. Mr. President, I am prepared to vote.

The PRESIDING OFFICER (Mr. Haskell). All time having expired, the question is on agreeing to the amendment of the Senator from North Carolina. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from California (Mr. Cranston), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from New Hampshire (Mr. McIntyre), the Senator from Alabama (Mr. Sparkman), the Senator from California (Mr. Tunney), and the Senator from Louisiana (Mr. Long) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bartlett), the Senator from Arizona (Mr. Fannin), and the Senator from Wyoming (Mr. Hansen) are absent on official business.

I also announce that the Senator from Vermont (Mr. Aiken), the Senator from Nebraska (Mr. Curtis), the Senator from Arizona (Mr. Goldwater), the Senator from North Carolina (Mr. Helms), and the Senator from Texas (Mr. Tower) are necessarily absent.

The result was announced—yeas 31, nays 51, as follows:

[No. 5 Leg.]

YEAS—31

Abourezk
Allen
Bible
Brooke
Case
Chiles
Church
Clark
Cook
Ervin
Hart
Hollings
Huddleston
Johnston
Kennedy
Mansfield
Mathias
McClure
Metcalf
Metzenbaum
Nelson
Nunn
Pastore
Pell
Proxmire
Ribicoff
Schweiker
Stafford
Stevenson
Talmadge
Weicker

NAYS—51

Baker
Beall
Bellmon
Bennett
Biden
Brock
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cotton
Dole
Domenici
Dominick
Eagleton
Eastland
Fong
Fulbright
Gravel
Griffin
Gurney
Haskell
Hatfield
Hathaway
Hruska
Hughes
Inouye
Jackson
Javits
Magnuson
McClellan
McGee
McGovern
Mondale
Montoya
Moss
Muskie
Packwood
Pearson
Percy
Randolph
Roth
Scott, Hugh
Scott, William L.
Stennis
Stevens
Symington
Taft
Thurmond
Williams
Young

NOT VOTING—18

Aiken
Bartlett
Bayh
Bentsen
Cannon
Cranston
Curtis
Fannin
Goldwater
Hansen
Hartke
Helms
Humphrey
Long
McIntyre
Sparkman
Tower
Tunney

So Mr. Ervin's amendment (No. 896) was rejected.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HARRY F. BYRD, JR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 1745) to provide financial assistance for research activities for the study of sudden infant death syndrome, and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed a bill (H.R. 10957) to consolidate and revise the laws relating to public health, in which it requested the concurrence of the Senate.

## HOUSE BILL REFERRED

The bill (H.R. 10957) to consolidate and revise the laws relating to public health, was read twice by its title and referred to the Committee on Labor and Public Welfare.

## MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

## ECONOMIC STABILIZATION PROGRAM QUARTERLY REPORT

The PRESIDENT pro tempore laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Banking, Housing and Urban Affairs. The message is as follows:

*To the Congress of the United States:*

I herewith transmit to the Congress the most recent quarterly report of the Economic Stabilization Program, covering the period July 1, 1973 through September 30, 1973.

The third quarter of 1973 was a time of strong continued growth for the American economy. Our gross national product grew to $1304 billion, an increase of $32 billion over the previous quarter, representing a growth rate of 3.4 percent in real terms. Unemployment dropped to 4.8 percent, its eighth consecutive quarterly decline, as the number of people employed increased by over 450,000. The dollar strengthened internationally, gaining by fully one percent against the trade weighted average for currency of other members of the Organization for Economic Cooperation and Development.

The picture was not as bright as we would have liked in the third quarter as far as inflation was concerned. Consumer prices continued to climb, reflecting increasing worldwide competition for products. A freeze was imposed in mid-June to arrest the inflationary spiral and to provide time for the development of a more effective system of controls with tighter standards and compliance procedures than those which characterized Phase III. This fourth phase of the Economic Stabilization Program was launched in July. Its introduction was staggered so that any price increases which followed the freeze would be spread over several months.

Phase IV was designed to provide a tough program of controls that would enable this country to return to the free market system as soon as possible. Since its introduction, Phase IV has made admirable progress toward reducing the dangers of inflation, demonstrating that the public and private sectors of our economy can work cooperatively and effectively together to enhance our Nation's economic future.

Unprecedented developments in all parts of the world have created extraordinary pressures on our economy. We can be proud, however, of the way in which we have responded to these problems. We are proving that a dynamic and resilient people can meet the challenge of inflation without sacrificing the ideal of a free market system. If we continue our recent progress—and if we respond to new challenges, including the current energy shortage, with this same sense of poise and flexibility—then we can look forward with assurance to a prosperous New Year.

Richard Nixon.

The White House, *January 22, 1974.*

## EXECUTIVE MESSAGES REFERRED

As in executive session, the President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

## WATER RESOURCES DEVELOPMENT AND RIVER BASIN MONETARY AUTHORIZATIONS ACT OF 1973

The Senate continued with the consideration of the bill (S. 2798) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

Mr. RANDOLPH. Mr. President, I wish to ask the manager if the bill, the distinguished chairman of our Subcommittee on Water Resources, for a clarification of the committee's intent with respect to the Tug Fork Valley flood protection project. As the Senator recalls, section 224 of the Flood Control Act of 1970 (Public Law 91-611) authorized comprehensive flood protection for the towns of Williamson and Matewan, two West Virginia communities in the Tug Fork Valley, at a total cost not to exceed $10 million. This authorization was contingent upon the approval of the Appalachian Regional Commission and the President. Approval has been given by the Appalachian Regional Commission. Yet today the inhabitants of the Tug Fork Valley continue in their desperate need for flood protection, but the project authorized in 1970 has not yet received Presidential approval through clearance by the Office of Management and Budget. I ask the chairman of the subcommittee, does subsection (b) of section 23 of the bill before us, which authorizes comprehensive flood protection for all the communities in the Tug Fork Valley, eliminate the requirement in the 1970 act for any further approval by the executive branch?

Mr. GRAVEL. I thank the distinguished chairman of our Committee on Public Works for his question. He has been very diligent in following this legislation during its consideration by the Subcommittee on Water Resources and in moving it expeditiously through the full committee to the Senate. I am glad to clarify this point as to the intention of the committee which, of course, was discussed in executive sessions on the legislation.

Section 23(b) of S. 2798 extends comprehensive flood protection to the entire Tug Fork Valley in addition to the communities of Williamson and Matewan for which protection was authorized under the 1970 act. The expanded project for the balance of the valley is authorized through the phase I design memorandum stage of advanced engineering and design. The Senator from West Virginia (Mr. Randolph) is correct in stating that one of the committee's primary intentions in this section was to remove the requirement for approval by the President before funds are appropriated to carry out the needed flood protection work in the Tug Fork Valley.

Mr. RANDOLPH. I thank the Senator for his response. I know he has given this project careful attention as he has every other provision in this major water resource legislation.

### AMENDMENT NO. 935

Mr. MATHIAS. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment is as follows:

On page 8, beginning with line 7, strike out all through line 16 on page 9, and insert in lieu thereof the following:

(b)(1) Prior to any further authorization of such Sixes Bridge Dam project, the Secretary of the Army acting through the Chief of Engineers, shall (A) make a full and complete investigation and study of the future water resources needs of the Washington metropolitan area, including but not limited to the adequacy of present water supply, nature of present and future uses, the effect water pricing policies and use restrictions may have on future demand, the feasibility of utilizing water from the Potomac estuary, all possible water impoundment sites, natural and recharged ground water supply, wastewater reclamation, and the effect such project will have on fish, wildlife, and present beneficial uses, and shall provide recommendations based on such investigation and study for supplying such needs, and (B) report to the Congress the results of such investigation and study together with such recommendations. The study of measures to meet the water supply needs of the Washington metropolitan area shall be coordinated with the Northeastern United States water supply study authorized by the Act of October 27, 1965 (79 Stat. 1073).

(2) The Secretary of the Army, acting through the Chief of Engineers, shall undertake an investigation and study of the use of estuary waters to determine the feasibility of using such waters as a source of water supply and is authorized to construct, operate, and evaluate a pilot project on the Potomac estuary for the treatment of such waters at an estimated cost of $6,000,000.

(3) Prior to any further authorization of such Sixes Bridge Dam project, the Secretary of the Army, acting through the Chief of Engineers, shall (a) request the National Academy of Sciences-National Academy of Engineering to review and by written report comment upon the scientific basis for the conclusions reached by the investigation and study of the future water resource needs of the Washington metropolitan area and the pilot project for the treatment of water from the Potomac estuary and (b) forward such report to the Congress with the report submitted pursuant to paragraph (1).

(4) The Secretary of the Army is authorized to enter into appropriate arrangements with the National Academy of Sciences-National Academy of Engineering for the purpose of this subsection.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MATHIAS. I yield.

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that this amendment, which is apparently acceptable to the committee, will probably be agreed to by the committee. I wonder whether it would be possible to get a time limitation on the amendment of, say, 5 minutes or 10 minutes, equally divided.

Mr. MATHIAS. If the committee is willing to accept it, we will agree to it. I am sure my colleague will agree.

Mr. BEALL. It is agreeable to me.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation on the pending amendment of not to exceed 6 minutes, to be equally divided.

Mr. WILLIAM L. SCOTT. Mr. President, reserving the right to object, this amendment affects both Maryland and Virginia. It involves the Potomac River. I have never seen the amendment, and I would want more time than that. I ask that we have at least 10 minutes on each side.

Mr. ROBERT C. BYRD. Not to exceed 20 minutes, to be equally divided, in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the disposition of the pending amendment, the distinguished Senator from Wisconsin (Mr. Proxmire)——

Mr. CASE. Mr. President, I do not

want to object, but I have been waiting a long time, and I have 1 minute on my amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the disposition of the pending amendment, the distinguished Senator from New Jersey (Mr. CASE) be recognized to call up his amendment, on which there be a time limitation of not to exceed 10 minutes, to be equally divided, in accordance with the usual form; that following the disposition of that amendment, the distinguished Senator from Wisconsin be recognized to call up his amendment, on which there be a 1-hour limitation, to be equally divided, in accordance with the usual form; that any rollcall votes on any amendments this afternoon be delayed until the hour of 2:45 p.m., and that any such votes which may have accumulated by that time occur seriatim.

Mr. GRIFFIN. Mr. President, reserving the right to object, and I shall not object, the senior Senator from Michigan wants the opportunity to raise a matter which will involve a colloquy of less than 5 minutes in which the junior Senator from Michigan would like to join. I wonder if that could be worked in at some point during the afternoon.

Mr. ROBERT C. BYRD. Yes. I suggest that that follow the debate on the amendment by the Senator from Wisconsin (Mr. PROXMIRE), the vote on which would not occur before 2:45 p.m.

Mr. BUCKLEY. Mr. President, reserving the right to object, and I shall not object, I have an amendment which is collateral to the Proxmire amendment. I wonder if I may follow the colloquy of the Senator from Michigan? We will not need more than 10 minutes to a side.

Mr. ROBERT C. BYRD. Very well. I incorporate that in my request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators.

The PRESIDING OFFICER. The Senate will be in order. The Senator will suspend until the Chamber is in order. Senators who are conversing will leave the Chamber so that the Senator from Maryland may be heard on the amendment.

The Senator from Maryland may proceed.

Mr. MATHIAS. Mr. President, when the amendment was submitted by my colleague from Maryland (Mr. BEALL) and myself, it dealt purely with an intra-Maryland question and it provided merely for the most complete and authoritative collection of data and information relative to the construction of the Sixes Bridge Dam.

The committee has made a very positive suggestion in connection with this matter, a suggestion which would place time limits on the study that has been proposed by the amendment. In order to effect the suggestion made by the committee I now send to the desk a substitute for the amendment which is identical in all respects except that it does include the time limitation proposed by the committee. I substitute that amendment for the amendment I have submitted.

The PRESIDING OFFICER. The Senator will send the substitute to the desk.

The substitute amendment is as follows:

On page 8, beginning with line 7, strike out all through line 16 on page 9, and insert in lieu thereof the following:

(b)(1) Prior to any further authorization of such Sixes Bridge Dam Project, the Secretary of the Army, acting through the Chief of Engineers shall (A) make a full and complete investigation and study of the future water resources needs of the Washington metropolitan area, including but not limited to the adequacy of present water supply, nature of present and future uses, the effect water pricing policies and use restrictions may have on future demand, the feasibility of utilizing water from the Potomac estuary, all possible water impoundment sites, natural and recharged ground water supply, wastewater reclamation, and the effect such projects will have on fish, wildlife, and present beneficial uses, and shall provide recommendations based on such investigation and study for supplying such needs, and (B) report to the Congress the results of such investigation and study together with such recommendations. The study of measures to meet the water supply needs of the Washington metropolitan area shall be coordinated with the Northeastern United States water supply study authorized by the Act of October 27, 1965 (79 Stat. 1073).

(2) The Secretary of the Army, acting through the Chief of Engineers, shall undertake an investigation and study of the use of estuary waters to determine the feasibility of using such waters as a source of water supply and is authorized to construct, operate, and evaluate a pilot project on the Potomac estuary for the treatment of such waters at an estimated cost of $6,000,000. The Secretary of the Army, acting through the Chief of Engineers, shall report to the Congress on the results of such project within three years and such report shall include the results of two years testing at the pilot project for the treatment of water from the Potomac estuary.

(3) The Secretary of the Army, acting through the Chief of Engineers, shall request the National Academy of Sciences-National Academy of Engineering to review and by written report comment upon the scientific basis for the conclusions reached by the investigation and study of the future water resource needs of the Washington metropolitan area and the pilot project for the treatment of water from the Potomac estuary. Such review and written report shall be completed and submitted to the Congress within one year following the completion of both the Corps of Engineers report on the future water resource needs of the Washington metropolitan area and the report on the results derived from the pilot project for the treatment of water from the Potomac estuary. Completion of such review and written report by the National Academy of Sciences-National Academy of Engineering shall be a condition of further authorization of such Sixes Bridge Dam Project.

(4)(a) The Secretary of the Army is authorized to enter into appropriate arrangements with the National Academy of Sciences-National Academy of Engineering for the purpose of this subsection.

(b) There shall be authorized $1,000,000 for the purposes of carrying out the provisions contained in paragraph (3).

Mr. MATHIAS. Mr. President, this is a very simple matter. It deals with a dam on the Monocacy River in Frederick County, Md. It does not preclude construction of a dam by any manner or means. It merely provides that before we go ahead and construct the dam we understand clearly and fully what we are doing. It provides merely for a study. As amended, the study cannot be prolonged so as to unduly delay a final decision on the project.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield?

Mr. MATHIAS. I yield.

Mr. WILLIAM L. SCOTT. I thank the Senator for yielding. My only concern is that even though this is a dam in the State of Maryland, it relates to the water supply for the general Washington metropolitan area. Although the Potomac River is a Maryland river, it does pass between the States of Maryland and Virginia. We have a proposed dam in Virginia, also. I would want Maryland and Virginia to share the responsibility of providing water for the respective States out of the Potomac River, and also for the District of Columbia. I would like to have some assurance from the Senator, since he is the author of the amendment and is familiar with the details, that this would not place the burden of the dam on Virginia, and to assure that benefits and obligations would be equally divided. There is nothing of that nature in the amendment, is there?

Mr. MATHIAS. No. I think I can assure the Senator from Virginia that this study would be of value to Virginia as well as to Maryland because it looks to a study of the water supply of the metropolitan area, the National Capital area. It would be a prototype study, the result of which would be valuable to Maryland, as well as Virginia and the District of Columbia.

Mr. WILLIAM L. SCOTT. Our water supply problem becomes increasingly acute. I would not want to unduly delay obtaining adequate water from both sides of the Potomac River, and I am sure this is the desire of the Senator from Maryland.

Mr. MATHIAS. Absolutely; and the constructive suggestions of the committee preclude any inordinate delay in the collection of this information.

Mr. WILLIAM L. SCOTT. Mr. President, I have no objection to the amendment.

Mr. MATHIAS. Mr. President, I yield the remainder of my time to my colleague from Maryland (Mr. BEALL).

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. BEALL. I thank my colleague for yielding.

Mr. President, I join with my distinguished colleague from Maryland (Mr. MATHIAS) in offering an amendment to S. 2798, the purpose of which is to bring about a definitive and scientific approach to the water supply problems of the Washington metropolitan area and the Potomac River Basin.

I for one recognize the tremendous demands that the growth of the Washington metropolitan area has made and will continue to make on the water resources of the Potomac Basin. Based on projected population growth, made in connection with the North Atlantic Regional Study, the Washington area's summer day peak usage is forecasted to reach 800 million gallons per day by

1980. This, of course, will seriously tax the current ability of the Potomac River to meet this tremendous demand. The problem is further compounded by the fact that the Washington area has continued its almost total dependence on the presumed abundance of its river. Whereas Baltimore has a 1-year reserve and New York City a 3-year reserve, Washington continues to look no further than the banks of the Potomac for its water reserve.

The legislation before us today authorizes phase I planning for the construction of the Sixes Bridge Dam in Maryland, and the Verona Dam in Virginia. The dams would impound water to prevent local flooding and, in dry seasons, release water to increase the flow of the Potomac River.

However, many of our constituents remain unconvinced as to the advisability of constructing the Sixes Bridge Dam. It has been argued that the estimated benefits attributed to this project are excessive, and that the Corps of Engineers has failed to reflect some of the costs that will be associated with the project. Of particular importance to me is the great amount of prime agricultural land to be flooded, questions as to the actual quality of the water that would be impounded, and whether the benefits which may accrue to recreation and downstream enhancement are justified.

Mr. President, I can assure this body that this problem has received the closest review by me. Through countless discussions with officials and residents throughout the Potomac Basin, I have sought to recognize the possible problems which might occur, and develop all possible alternatives. After careful consideration of the entire situation, I have concluded that many legitimate questions have been raised and am convinced that we must resolve those questions. For that reason, I join Senator MATHIAS in offering the amendment now at the desk.

The amendment, which relates solely to the Maryland project and does not affect Verona, would prohibit any further authorization for construction of the Sixes Bridge Dam until such time as we have the benefit of the findings of a much needed estuary pilot project and a comprehensive study of the water resources and future needs of the Washington metropolitan area by the Army Corps of Engineers. This study would investigate the nature of present and future water uses, the effect water pricing policy and use restrictions may have on future demand, the feasibility of utilizing water from the Potomac estuary, all possible water impoundment sites, natural and recharged ground water supply, wastewater reclamation and the effect such projects will have on fish, wildlife, and present beneficial uses. Recommendations will be offered by the Secretary of the Army, and a full report to the Congress will be submitted.

I might point out that our amendment accommodates the clearly enunciated views of the House Public Works Committee on this matter. In their legislation, H.R. 10203, and accompanying report, they emphasize the need for studies of a pilot water treatment plant and a review of water and related resources of the Potomac River Basin and the Washington metropolitan area. Most important is the manner in which they end the section of the report on this project.

> The Committee wishes to emphasize that in no event will the Sixes Bridge and Verona projects be authorized for construction until the Committee is satisfied, based on the results of the pilot program and on the comprehensive review study, that they are necessary.

Certainly, the House resolve on this issue cannot be more clear.

Additionally, Mr. President, the National Academy of Sciences will review the scientific basis for all fundings and recommendations of the Corps of Engineers. Their participation will insure that the Congress will have a report that is both totally objective and based upon the best available data.

This period of study would guarantee to the Congress that the best possible information is presented to the Congress, not only as to the advisability of constructing Sixes Bridge, but also as to the entire water resources picture of the region. If better alternatives can be found, the Sixes Bridge Dam would not be constructed. However, this amendment in no way prevents the Congress from moving ahead with just phase planning at this time.

Mr. President, I submit that the amendment offered by Senator MATHIAS and I is a completely reasonable way to proceed. It will give us a chance to study the regional water needs of millions of people, and I urge the Senate not to miss this valuable opportunity.

Mr. President, this is a good amendment. I am happy the committee has seen fit to accept it and to offer the suggestions incorporated in the substitute amendment. The entire area would be served by having this amendment agreed to.

Mr. MATHIAS. Mr. President, this is an amendment to section 3 of the bill. The amendment concerns the Sixes Bridge Dam on the Monocacy River in Frederick County, Md., and the water supply for the Washington metropolitan area. Subsection (a) of section 3 authorizes a phase I design memorandum for Verona and Sixes Bridge Dams. Other subsections provide for continued study of the many ways which could be implemented to meet the Washington water supply needs. Also authorized is the pilot treatment facility to test the feasibility of using estuary water. Briefly, our amendment requires the National Academy of Sciences to review the Corps of Engineers study of the entire river basin and to report their findings and recommendations to the Congress. This report would be a condition precedent to receiving further authorization.

Both Senator BEALL and I recognize the necessity for continually monitoring the water supply needs of Washington and the surrounding suburbs. We are concerned that supply and demand are currently in an untenable relationship. We agree with much of what the Public Works Committees in the Senate and the House have done. We agree that Sixes Bridge Dam should be authorized through the phase I design memorandum stage so that the preliminary engineering work can proceed simultaneously with the broad review and testing programs authorized by this section.

We agree that it is necessary to investigate the use of the waters of the Potomac estuary, the greatest potential source of water supply for the Washington metropolitan area. We further agree that it is necessary to fund a $5.5 million review study of the water and related resources needs of the Potomac River Basin in the Washington metropolitan area. Finally, we welcome the fact that the National Academy of Sciences-National Academy of Engineering will review and by written report comment upon the scientific basis for the conclusions reached with respect to the use of the estuary for water supply. Our amendment will not disturb these points of agreement, but will provide further safeguards to insure that an innovative and comprehensive solution is forged.

We require the National Academy of Sciences-National Academy of Engineering to not only look at the pilot water treatment plant for the estuary, but also to look at the many other alternatives to supplying the water needs of Washington. Our amendment will give the Corps of Engineers and the National Academy the kind of mandate they need to do the job. Presently, section 3 provides boilerplate language to guide the study. We need to do more. The situation is serious and clearer guidelines are needed. Furthermore, our amendment will insure that all the steps which we propose and which the committee has proposed will be undertaken in an expeditious fashion.

It is important to recognize that Sixes Bridge is only one of many possible alternatives. At this point we do not know whether it is the best or the worst. We can be sure of one thing. More study is needed. We want the experts to look at the adequacy of the present water supply, at the nature of present and future uses, at the effect water pricing policies and use restrictions may have on future demand, at the feasibility of using water from the Potomac estuary, and at all the other posible impoundment sites, both on the Potomac and immediately adjacent thereto, at the feasibility of natural and recharged ground water supply, indeed at reclamation of wastewater.

We need to know the effect Sixes Bridge Dam will have on fish, wildlife, and the present beneficial uses of the land and waters. Building this dam is not a trivial matter. It represents an irrevocable commitment in concrete and in flooded farmland. We must be very sure when we make that commitment. At a minimum, we must undertake the studies that our amendment requires. We are not alone in making this request. Our colleague, Representative GILBERT GUDE, of Maryland, expressed much the same point of view in a letter to the Washington Post early in September of 1973. I ask unanimous consent that the full text of that letter be included in the RECORD following my remarks. I would like at this point to quote a portion of Congressman GUDE's letter.

> As in so many other areas, our water resources are growing scarce. Dams and impoundments have their limits. The Verona and Sixes Bridge Dams can only be of some

> limited, back-up assistance to the Washington area. Their principal justification must be as a water source for the local areas for which they are to be built. Otherwise, the citizens in those areas will oppose their construction. The science of water recycling must be given the immediate attention it deserves. The American people are entitled to water treated by the best advanced 20th century techniques to the highest possible degree of purity.

Mr. GUDE is correct in stating that unless the need for such large water impoundments is conclusively demonstrated to the people in the affected area, they will oppose it. On September 17, 1973, the Board of County Commissioners of Frederick County, Md., unanimously resolved to oppose the construction of Sixes Bridge Dam because they felt that its construction would not be in the best interests of Frederick County. I also note that both major daily newspapers serving Washington and the surrounding suburbs have recognized that providing water for the metropolitan area is a complex, difficult job. Let me quote first from an editorial in the Washington Evening Star. After pointing out the necessity for considering the estuary as a source of water supply, the editorial notes:

> There are some strong suspicions on Capitol Hill, as we understand it, that the estuary study might receive something less than a fair, sympathetic shake from the Army Engineers and that perhaps some other scientific body less committed ought to run it. That is a consideration that the Senate, in considering the House approach might well consider.

I ask unanimous consent that the full text of that editorial be reprinted in the RECORD following my remarks. I agree with that editorial. We do need a fresh look and the National Academy, to be effective, must review all the alternatives. To do otherwise will condemn us to repeat past mistakes. The Academy can provide a valuable yardstick for decisionmakers. There is no question in my mind that the alternatives are promising enough to be worth pursuing. The Washington Post in an editorial notes that:

> There is every reason to hope the optimists are right and that the estuary can be used as at least a partial source of water when the Potomac flow is low. The proposed Sixes Bridge and Verona Dams, costly and environmentally disruptive as they would be, would offer only limited relief from future water shortages. A large system of dams in the Potomac Basin would be unacceptable. Thus, if ways to clean up the estuary cannot be devised, far more extensive and elaborate alternatives will have to be found.

Again, I ask that the full text of that editorial be included in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1, 2 and 3.)

Mr. MATHIAS. So, what it all boils down to is a question of emphasis and timing. Right now we do not know the answers, and I am concerned that section 3 as it is presently worded will not provide the kind of framework which will give those answers. Senator BEALL and I want the Government to move ahead on a number of different fronts. We want the National Academy to be involved because they represent some of the finest scientific talent in the country. I might add that it is particularly appropriate that they play a part, since we are dealing here with water for the Federal City. We want authorization for a phase I design memorandum on Sixes Bridge, but at the same time we think it is imperative that the Senate provide comprehensive guidance on the relationship of the broad study of water needs, to the estuary treatment project and to further authorization of the Sixes Bridge Dam project.

It may be that when all the studies are completed and the conclusions are reached, we will have to build Sixes Bridge Dam. If the need is proven and the alternatives to Sixes Bridge are unacceptable, the situation will be vastly different from today. At present, we find projected need, based upon out-of-date population and demand projections and insufficient study of alternatives. This has been noted by the Department of Interior. Lawrence E. Lynn, Jr., Assistant Secretary of the Interior, in a letter to Lt. Gen. F. J. Clark, Chief of Engineers, made the following point as to the environmental impact statement on Sixes Bridge Dam:

> While the statement seems to present an adequate description of the impact of construction of Verona and Sixes Bridges reservoirs on the environment, [it] fall[s] short of the intent of NEPA in the treatment of alternatives. It is obvious that the statements were prepared after the decision on a plan was made.

That is not a statement which comes from a landowner whose farm will be inundated; it does not come from a local citizen in Frederick who resents the loss of valuable dairy land to satisfy metropolitan and suburban water needs downstream, it comes from the Department of Interior and the problem which they note must be corrected.

The people of Frederick County are entitled to their doubts that Sixes Bridge Dam is the answer to the water supply problems of Washington and deserve to have them resolved. They have heard it not only from their local officials, but also from Federal agencies.

The Environmental Protection Agency has joined the Department of the Interior in noting reservations. In a letter to Col. Louis W. Prentiss, Jr., District Engineer of the Baltimore District and dated June 25, 1973, region III of the EPA made the following findings. First, that Sixes Bridges project would require the commitment of a high-quality stream supporting an outstanding fishery. Second, that the reservoirs could be expected to develop serious eutrophic conditions as shown by the data on the impact statement. Third, that the need for these projects for water supply lacked the degree of urgency implied in the impact statement. This last finding was based on the opinion that the possibility of an estuarial intake had not been sufficiently studied. While region III later modified their recommendation somewhat, I would note that no report detailing the reasons for modification has been forthcoming. Daniel J. Snyder III, Regional Administrator, wrote to me on August 20, 1973, and reported EPA's new position. The pertinent section of his letter reads as follows:

> It *appears* from the data available at this time, that the Verona and Sixes Bridge impoundments *may* be the best water supply source to meet the metropolitan area demands of the 1980's. However, we also support the continued investigation of the estuary for water supply so that decisions regarding its future use will have a sound rational basis.

Explicit in Mr. Snyder's letter are reservations as to the projected benefits to be derived from Sixes Bridge—reservations which go to the quality of the data available. He also notes that the impoundment may represent a very short term response. It will be at least 10 years before Sixes Bridge can be used for water supply. We all recognize that dam building is a long process and therefore implicit in Mr. Snyder's letter is the recognition that Sixes Bridge could prove inadequate and obsolete on the day it is dedicated. Finally, he makes a plea that further study of the estuary must take place. Something we all can agree on.

I am not prepared to make a decision today on whether Sixes Bridge Dam should be built. The Corps of Engineers has not provided me or any other member of Congress with the hard data, which we can rely upon in making this irrevocable commitment.

In the supplement to the Final Environmental Impact Statement on Sixes Bridge Dam the corps was required by law to discuss alternative ways of providing water for Washington. They stated at page 86 that:

> Use of the Potomac Estuary could result in high environmental costs as extensive withdrawals of freshwater from it could change salinity levels and current patterns thereby reducing the possibility that it could support desirable aquatic life. Also, the public health risks associated with this alternative could be considered environmental and social costs.

But the Environmental Impact Impact Statement for the estuary pumping station is more optimistic on this point. On page 84 of that statement there is a summary which reports on tests which indicate that even continuous 100 million gallons per day withdrawals will not increase the impact of drought conditions on the estuary. They further note that viruses, which are a concern to all of us, will probably not proliferate in the estuary.

This last statement would seem to indicate that one of the significant differences between the free-flowing Potomac and the estuary—the fact viruses might breed in the estuary—is not a difference at all. If the difference is more apparent than real, then why have we not made more use of the Potomac estuary.

I note these conflicting reports not to advocate one side or the other, but rather to indicate how far away we are from having a definitive answer on which we can proceed. This is the same concern that was expressed by the Department of Interior and which I noted earlier. We are past the point when the study of alternatives can be a result-oriented process, designed to justify a particular project.

Conflicting points of view exist with regard to many of the other alternatives. The Department of Natural Resources in a letter to Senator GRAVEL dated November 30, 1973, first, indicate that they are not opposed to our amendment and second, express concern that all alternatives have not been given sufficient study. Specifically, they recognize that ground water could provide great assistance to the Washington metropolitan area, but that little or no work has been done in this area.

The Corps, for all practical purposes, dismisses the proposal to obtain water from other river basins. But many feel differently. The Mason-Dixon Water Project could have important consequences for the Nation's Capital and its surrounding suburbs. The Susquehanna could be linked by a pipeline with the Monocacy at Gettysburg.

The Monocacy link would establish a means of low flow augmentation for the Potomac River and give Washington, D.C., and adjoining Maryland and Virginia communities an added assurance of water supply in times of low stream flow.

Discussion of this proposal has taken place since 1965 in Maryland, Pennsylvania and Delaware. Our amendment will insure that proposals such as the Mason-Dixon Water Project be given the attention which they deserve.

The Corps of Engineers has paid scant attention to the effect water pricing policies and use restrictions may have on water demand. We have already noted that if water consumption follows present trends, Sixes Bridge will be inadequate at the time it is dedicated to use. Just as we are energy wastrels, we are water wastrels. Water can be just as finite as fuel in certain areas. Washington is one of those areas. It is disturbing to find that programs to conserve water are in their infancy. Much of the study which has taken place has been done by the Johns Hopkins University Department of Geography and Environmental Engineering. Profs. Robert K. Davis and Steve H. Hanke have coauthored two exceptional works on this subject—"Demand Management Through Responsive Pricing" in the Journal of the American Water Works Association in September of 1971 and "Conventional and Unconventional Alternatives for Water Supply Management" in the August 1973 issue of Water Resources Research Consumption cannot continue at present rates without a water crisis. We, in government, should anticipate this.

Two principal objections of Sixes Bridge are that it is first a very inefficient reservoir. Over 3,500 acres will be inundated; in total, 11,000 acres must be acquired. Second, that the impoundment will be far upstream from Washington where the water is needed. Travel time for the water will be measured in weeks. There will necessarily be times when water is released, but eventually not needed and times when water will not be released, but will be needed. The only possible way this can be avoided is to find a gatekeeper who can divine the future. A member of my staff has met with an engineer from the Baltimore District of the Corps of Engineers to discuss ways of overcoming these two objections. It was suggested that offstream impoundments closer to Washington might be a solution. There are a number of deep valleys, close to the main stem of the Potomac, which could serve. Water could be pumped from the Potomac during periods of high flow for use during periods of low flow and peak use. Sixes Bridge will inundate 3,500 acres. The same volume of water could be contained in one of these deep valleys by only inundating 600 to 800 acres.

I speak of these many alternatives not as an advocate, but rather as an inquirer. I ask why they have not been sufficiently studied and how long we can continue to neglect them. We constantly deal with four elements—the air, the land, the water, and energy. The fuel shortage has awakened this Nation to the finite nature of one of the four elements. Our amendment primarily concerns the land and the water. Their finite nature dictates that we establish a process which conserves both. Our amendment provides this and I ask that it be adopted.

### Exhibit 1

### Sixes Bridge and Verona Dam: More Planning Needed for Water Sources

The September 12 article concerning new legislation in Congress to authorize the construction of the Sixes Bridge and Verona Dams and a pilot water treatment plant on the Potomac estuary immediately brings to mind several points important to a full understanding of this vital issue.

First of all, since the dams cannot be on line until 1980 at the earliest, we will have at least six years, and probably more, during which Washington area water shortages will have to be met by drawing out of the Potomac Estuary. The Army Corps of Engineers has indicated that there is a 23 per cent chance of a water deficit for a day or more by 1976 and a 34 per cent chance by 1979. The House Public Works Committee and the Congress have already authorized an estuary intake pumping facility for this purpose and it should be on line by the summer of 1974.

It is interesting to note that the use of polluted surface water or rejected waste water is hardy a novel concept. An exhaustive study of ⅓ of American cities in 1961 demonstrated that the raw water supplies of these municipalities contained as much as 18 per cent waste water from upstream sources, with the average city having 3.5 per cent. Increased use of water and discharge of sewage, both treated and untreated, in the 12 years since the study makes it clear that this percentage must be considerably higher today.

Given this situation, it is no wonder that water researchers are finding more and more evidence that viruses are, in fact, passing through conventional American drinking water treatment systems. For example, a recent study of the Washington Suburban Sanitary Commission's drinking water treatment facility indicated that viruses are, evidently, passing through that system.

Those who dismiss the estuary as a potential water supply source ignore the fact that polluted water supplies are not by any means uncommon and show less than a full appreciation of the technological progress that has been made in the treatment area. Ozone, for example, has been used for years in the preparation of drinking water in other countries but there is little broad range awareness among our sanitary engineering community of its potential in the U.S. Research and experience have shown that ozone is more effective than chlorine in killing viruses and, moreover, it produces an aesthetically better result in both taste and odor. Used in conjunction with a chlorine residual, ozone could well be the answer for treating polluted water sources such as the estuary.

As in so many other areas, our water resources are growing scarce. Dams and impoundments have their limits. The Verona and Sixes Bridge Dams can only be of some limited, backup assistance to the Washington area. Their principal justification must be as a water source for the local areas in which they are to be built. Otherwise the citizens in those areas will oppose their construction.

The science of water recycling must be given the immediate attention it deserves. The American people are entitled to water treated by the most advanced 20th century techniques to the highest possible degree of purity.

GILBERT GUDE,
*Member of Congress,*
*Eighth District, Maryland.*

### Exhibit 2

### Washington's Water Supply

Considering the diversity of views on how best to assure the future adequacy of the Washington area's water supply, none of the various pressure groups involved is apt to be totally satisfied with the approach advanced the other day by the House of Representatives. But the House action at least keeps alive the hope that a rational congressional policy may yet emerge this year, and in that light it is a step forward.

The dominant issue confronting the House was an Army Corps of Engineers' proposal—strongly supported by most of our local jurisdictions—to get started immediately on two upriver dams in the Potomac River Basin to provide an emergency, interim measure of protection pending development of a more comprehensive plan. Countering that proposal were arguments that technological breakthroughs, including the possible recycling of water from the Potomac estuary below Washington, might obviate the necessity for either of the two projects—the Sixes Bridge Dam on the Monocacy near Frederick, Maryland, and the Verona Dam on the Middle River near Staunton, Virginia.

Well, the House-passed bill would steer something of a middle course. Advanced engineering and design of the two dams would be authorized immediately. But at the same time the Army Engineers would build a pilot plant to test the efficacy of reusing estuary water, and yet another $5.5 million study of basin-wide water resources also would be initiated. A House member explained the proposition in these terms: "If the pilot treatment plant and study indicate that the Potomac estuary cannot be used for water supply, and if the review study . . . concludes that there is no feasible alternative to (the dams) and that they must be constructed to meet the water supply needs, then we will not have lost valuable time—we will be ready to authorize the projects for construction."

Now there are some strong suspicions on Capitol Hill, as we understand it, that the estuary study might receive something less than a fair, sympathetic shake from the Army Engineers, and that perhaps some other scientific body, less committed, ought to run it. That's a consideration that the Senate, in considering the House approach, might well consider.

But it seems to us eminently desirable that those two upriver dams be kept, as the House suggests, on the front burner. And in the meantime, the hopes of an agreement could well rest on the abilities of the senators from Maryland and Virginia—who have not thus far been heard from—to throw their considerable influence behind a single regional political strategy.

### Exhibit 3

### Enough Drops To Drink

The House water resources subcommittee has come up with a logical way to resolve the prolonged dispute over future sources of clean water for the Washington area. The panel, chaired by Rep. Ray Roberts (D-Tex.), wants to explore the two competing approaches at once. A subcommittee bill now working its way to the House floor would authorize advanced work, but not construction, for the controversial Sixes Bridge and Verona reservoir projects. At the same time, the bill would authorize the Corps of Engineers to build and run a pilot purification plant to see whether water from the upper Potomac estuary can be made fit for human consumption.

A sophisticated, large-scale test of the estuary's potential is overdue. Some experts assert that viruses and other contaminants make the billions of gallons of fresh water below Little Falls too dirty to drink. Many others, including Rep. Gilbert Gude (R-Md.), are convinced that those pollutants can be removed or rendered harmless to man. There is every reason to hope that the optimists are right and that the estuary can be used at least as a partial source of water when the Potomac flow is low. The proposed Sixes Bridge and Verona dams, costly and environmentally disruptive as they would be, would offer only limited relief from future water shortages. A large system of dams in the Potomac basin would be unacceptable. Thus if ways to clean up the estuary cannot be devised, far more extensive and elaborate alternatives will have to be found.

The House subcommittee's initiatives are welcome, but local officials should not just sit back and wait for the federal studies to be authorized and made. The most difficult parts of the area's water resources problem are political and institutional, and these matters cannot be bucked to Congress, For instance, the future health of the estuary may well hinge on halting the dumping of filth into the river from Blue Plains and other points where raw and inadequately treated wastes are now discharged. Virginia and the District of Columbia are about to take the Washington Suburban Sanitary Commission to court over the Maryland agency's overloading of Blue Plains. Unless regional mechanisms can be forged to preclude a series of such disputes, the future of the estuary will be murky indeed.

Beyond the immediate problem of regulating sewage flows lies the general challenge of determining how the region's common water resources will be protected and enjoyed. The studies proposed by the House subcommittee make most sense as part of an intensive, cooperative drive to establish long-range policies and build the institutions to carry them out. With billions of gallons of fresh water available at the doorstep of the nation's capital, it would be a sad commentary if failures of foresight and ingenuity should force Washingtonians to turn elsewhere for enough water to drink.

Mr. GRAVEL. Mr. President, we accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CASE. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. CASE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment, ordered to be printed in the Record, is as follows:

Strike Sec. 66, beginning on page 79, line 11, through page 81, line 5, and insert in lieu thereof the following:

Sec. 66. Upon enactment of this Act, the authorization for any public works project shall be terminated, if such project has been authorized by law for eight years or more and if no funds have been appropriated for construction of such project since authorization. The Secretary of the Army, acting through the Chief of Engineers, is authorized to submit to the Congress a study and recommended plan for reauthorizing any project terminated by this section, if such plan reflects national needs and priorities in effect at the time the plan is submitted.

Mr. CASE. Mr. President, the amendment I propose is to substitute for section 66 of the bill as reported an alternative provision.

The committee section and my proposal provide means for the deauthorization of projects after they have been authorized for 8 years and no moneys have been appropriated for construction during that 8-year period. The committee bill provides for action by a recommendation of the Chief of Engineers for deauthorization, and if such a recommendation is made before deauthorization becomes effective, the Committees on Interior in both the Senate and the House must approve.

My own provision in the alternative would provide for automatic deauthorization after 8 years from the date of authorization, absent the appropriation of any money during that period. I think my proposal is a sounder provision and it is in accordance with a bill I introduced for this general purpose several years ago.

I am happy that the committee has taken note of the desirability of proceeding in connection with old authorized projects which have been on the books, as the report shows, for many years.

Mr. GRAVEL. Mr. President, will the Senator yield at this point?

Mr. CASE. I yield.

Mr. GRAVEL. It should be stated for the record that we have done more than take note. My colleague has come up with a proposal for deauthorization as a method to clear away dead wood. We have probably 218 projects scattered around. It is important that we take this step. The Senator's proposal was introduced most recently in May of last year. The House followed his sage advice at that time.

We did alter it but slightly, in our deliberations, from the House-passed proposal. The triggering mechanism was altered so that it took some initiative on the part of the committees to effect this authorization, and not have it done alone by the unilateral action of the Corps of Engineers.

So I want to compliment the Senator for making this legislative proposal, and only hope he will not press the amendment. We did not do exactly as he proposed, but we took the kernel of it, and on the remainder of it there are reasonable differences of opinion.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield?

Mr. CASE. I am happy to yield.

Mr. WILLIAM L. SCOTT. I would join the distinguished chairman of the subcommittee, the Senator from Alaska, and express the hope that the distinguished Senator from New Jersey would not press the amendment. We had some detailed discussion in the subcommittee on this matter, and the fear was expressed by me and others that perhaps a project that a particular Senator was interested in might be deactivated without his knowledge.

We have difficulty keeping on top of everything that happens in the executive branch of the Government, and we wanted to have affirmative action, even though it might be pro forma to a large extent, by the committee before a project was deactivated. This means more work on the part of the subcommittee, and the committee.

I do hope the Senator will know that we considered his suggestion. It is a matter of mechanics that is involved.

Mr. CASE. Mr. President, I do want to express appreciation to both the Senator from Virginia and the acting manager of the bill, the Senator from Alaska. I appreciate what they have done. I will not now make a final judgment that their way may be better or less effective than my own, but they are doing this, and they have considered it, I know, and they are going to be in charge. I am quite content to leave the matter, at least for a trial period, in the shape in which they have brought it to the floor, and I know that they, as well as I, if it does not work, will be wanting to consider alternatives, and possibly my own suggestion may be offered again at that time.

Acting on their suggestions——

Mr. GRAVEL. Mr. President, if the Senator will yield one more time, I merely want to state that I feel we have taken 90 percent of the Senator's concept, and it is embodied in what we are doing here. I think we owe him a debt of gratitude for his vision in realizing this particular facet of dealing with the corps projects. So I for one think he has done a service for us all in pushing this idea. We have made a slight input on his basic idea.

Mr. WILLIAM L. SCOTT. Mr. President, if the Senator will yield, I understand that the Army Corps of Engineers has identified 218 projects that have been authorized for at least 8 years, but on which construction has not begun. Quite obviously many, possibly most, of these projects will never appear on the deauthorization list authorized by section 66 of S. 2798. But I believe it would be useful to any colleagues to see a list, prepared by the corps, of those projects.

Therefore, Mr. President, I ask unanimous consent that this list be printed at this point in the Congressional Record.

There being no objection, the list was ordered to be printed in the Record, as follows:

There are presently 218 Corps of Engineers projects which have been authorized for a period of at least 8 years but which have not as yet been placed under construction. These projects are for the improvement of rivers and harbors and other waterways for navigation, beach erosion, flood control, and other purposes. Of the 218 projects, 108 have not received any Congressional appropriations within the last 8 years.

Inclosure 1 is a summary of the 218 projects broken out into four categories:

a. No pre-construction planning required.
b. Pre-construction planning not started.
c. Pre-construction planning underway.
d. Pre-construction planning complete

The first two categories include those projects for which Congressional appropriations have not been received in the last 8 years. Each of the categories are subdivided into four types of projects; navigation, beach erosion control, flood control (and other purposes, excluding power), and multiple-purpose, including power.

Inclosure 2 is a listing of the 218 projects by category. Also included in the tabulation is the year of the authorizing legislation.

### SUMMARY

Backlog of projects not under construction—authorized 1966 or before:

| *Category* | *Number of projects* |
|---|---|
| No pre-construction planning required: | |
| Navigation | 1 |
| Beach erosion control | 19 |
| Flood control | 0 |
| Multiple-purpose, including power | 0 |
| Total | 20 |
| Pre-construction planning not started: | |
| Navigation | 24 |
| Beach erosion control | 5 |
| Flood control | 55 |
| Multiple-purpose, including power | 4 |
| Total | 88 |
| Pre-construction planning underway: | |
| Navigation | 11 |
| Beach erosion control | 1 |
| Flood control | 46 |
| Multiple-purpose, including power | 3 |
| Total | 61 |
| Pre-construction planning complete: | |
| Navigation | 5 |
| Beach erosion control | 2 |
| Flood control | 38 |
| Multiple-purpose, including power | 4 |
| Total | 49 |

### BACKLOG OF PROJECTS NOT UNDER CONSTRUCTION AUTHORIZED 1966 OR BEFORE

Category 1—Projects for which no pre-construction planning is required prior to construction.

Purpose, Project, and Authorizing Act:

#### NAVIGATION

| | |
|---|---|
| Mississippi River, Baton Rouge to Gulf of Mexico, Louisiana | 1945 |

#### BEACH EROSION CONTROL

| | |
|---|---|
| Silver Beach to Cedar Beach, Conn | 1954 |
| Palm Beach County, Florida | 1962 |
| Hanapepe Bay, Hawaii | 1958 |
| Waimea Beach, Hawaii | 1930 |
| Brant Rock, Mass | 1960 |
| Clark Point, Mass | 1962 |
| Lynn-Nahant Beach, Mass | 1954 |
| North Scituate, Mass | 1960 |
| Plymouth Town Beach, Mass | 1960 |
| Thumpertown Beach, Mass | 1960 |
| Town Neck Beach, Mass | 1960 |
| Winthrop Beach, Mass | 1960 |
| St. Joseph Shore, Michigan | 1958 |
| Hampton Beach, New Hampshire | 1962 |
| Cape May, New Jersey | 1960 |
| Perth Amboy, New Jersey | 1965 |
| Stone Harbor, New Jersey | 1960 |
| Crane Creek State Park, Ohio | 1962 |
| San Juan and Vicinity, Puerto Rico | 1962 |
| Total, projects | 20 |

Category 2—Projects for which pre-construction planning has not been started.

Purpose, Project, and Authorizing Act:

#### NAVIGATION

| | |
|---|---|
| Montgomery to Gadsden, Ala | 1945 |
| Sacramento River—Calousa to Red Bluff, Calif | 1958 |
| Hanale: Small Boat Harbor, Hawaii | 1965 |
| Hana Small Boat Harbor, Hawaii | 1965 |
| Kailua Small Boat Harbor, Hawaii | 1965 |
| Kaunakakai Deep Draft Harbor, Hawaii | 1962 |
| Reeds Bay Harbor, Hawaii | 1965 |
| IWW, Marseilles Canal Pekin Bend, Ill. | 1935 |
| Mississippi River between Missouri River and Minneapolis, 9-Ft. Channel, Ill., Iowa, Minn. Mo., and Wisc. | 1935 |
| Clinton Small Boat Harbor, Iowa | 1962 |
| Keokuk Small Boat Harbor, Iowa | 1962 |
| GIWW, New Orleans-Houston-Louisiana Section, Louisiana | 1962 |
| Cross Village Harbor, Mich | 1966 |
| Middle Channel, Great Lakes, Mich | 1946 |
| Pear River Waterway, Miss | 1966 |
| East Chester Creek, New York | 1950 |
| Port Ontario Harbor, N.Y | 1945 |
| Shinnecock Inlet, N.Y | 1960 |
| West Harbor, Ohio | 1965 |
| Elk Creek Harbor, Pa | 1966 |
| Morehead City Harbor—Jetties at Beaufort Inlet, N.C | 1937 |
| GIWW, New Orleans-Houston-Texas Section (Matagorda Bay only) | 1962 |
| Hudson Small Boat Harbor, Wisconsin | 1950 |
| Wilds Bend Cutoff, Mississippi River, Wisconsin | 1935 |

#### BEACH EROSION CONTROL

| | |
|---|---|
| San Diego Sunset Cliffs, Segment A, Calif. | 1966 |
| Ashbury Park, N.J | 1958 |
| Point Pleasant Beach, N.J | 1958 |
| Sea Bright to Ocean Township, N.J | 1958 |
| Cape Lookout, N.C | 1966 |

#### FLOOD CONTROL

| | |
|---|---|
| Camelsback Dam, Ariz | 1962 |
| Phoenix and Vicinity, Ariz., (remaining work) | 1965 |
| Knights Valley Lake, Calif | 1966 |
| South Platte River from Denver to Ft. Lupton, Colo | 1950 |
| Phillippi Creek, Florida | 1965 |
| Big Swan D&L Dist., Ill | 1962 |
| Bonpas Creek, Ill | 1946 |
| Community of Meredosia, Ill | 1962 |
| Eldred and Spankey, D&L Dist., Ill | 1962 |
| Eldred, Ill | 1962 |
| Farmers D&L Dist., Ill | 1962 |
| Hartwell D&L Dist., Ill | 1962 |
| Hillview D&L Dist., Ill | 1962 |
| Indian Creek Area, Ill | 1962 |
| Kaskaskia Island D&L Dist., Ill | 1962 |
| Levee Unit # 2, Little Wabash River, Ill | 1946 |
| Levee Units # 3 and # 4, Ill | 1936 |
| Meredosia Lake and Willow Creek, Ill | 1962 |
| Nutwood, Ill | 1962 |
| Scott County D&L Dist., Ill | 1962 |
| Levee Unit # 17, Wabash River, Ind | 1946 |
| Lower Big Sioux River, Iowa and S. Dakota | 1965 |
| Douglas Lake, Kansas | 1965 |
| Eldorado, Kansas | 1965 |
| Towanda Lake, Kansas | 1965 |
| North Nashua River, Mass | 1966 |
| Phillips Lake, Mass | 1966 |
| East Muddy Creek, Missouri | 1965 |
| I–38 Lake, Missouri | 1966 |
| Irondale Lake, Missouri | 1966 |
| Lower Grand River, Missouri | 1963 |
| Mississippi River Agricultural Area # 10, Missouri | 1966 |
| Mississippi River Agricultural Area # 12, Missouri | 1966 |
| Nineteen angler sites, Missouri | 1966 |
| Pine Ford Lake, Mo | 1966 |
| Upper Grand River, Mo | 1965 |
| Billings (Western Unit), Mont | 1950 |
| Gleason Creek, Nev | 1960 |
| Rome, N.Y | 1958 |
| Bodie Island, N.C | 1966 |
| Hyde Co., N.C | 1966 |
| Neuse River Barrier, N.C | 1965 |
| North River Dike, N.C | 1966 |
| Topsail Beach & Surf City, N.C | 1966 |
| Empire Stratton, Ohio | 1938 |
| Ottawa, Ohio | 1966 |
| Reno Beach, Howard Farms, Ohio | 1948 |
| Sand Lake, Okla | 1962 |
| Tuskahoma Lake, Okla | 1962 |
| Grande Ronde Lake, Ore | 1965 |
| Aquashicola Lake, Pa | 1962 |
| Francis E. Walter Res., Pa | 1962 |
| Maiden Creek Lake, Pa | 1962 |
| Westerly, Rhode Island | 1965 |
| Roanoke Lake, Texas | 1965 |

#### MULTIPLE-PURPOSE INCLUDING POWER

| | |
|---|---|
| Bradley Lake, Alaska | 1962 |
| Lower Auchumpkee Creek Lake, Ga | 1965 |
| Denison Dam—Power Unit # 3, Okla. & Texas | 1957 |
| Lower Monumental Lock and Dam, Wash. (Add'l Units) | 1945 |

Total projects—88

Category 3—Projects for which pre-construction planning is underway.

Purpose, Project, and Authorizing Act:

#### NAVIGATION

| | |
|---|---|
| Bodega Bay, Calif | 1965 |
| Heeia-Kea, Small Boat Harbor, Hawaii | 1965 |
| Kaunakakai Light Draft Harbor, Hawaii | 1962 |
| Waianae, Small Boat Harbor, Hawaii | 1965 |
| Illinois Waterway, Duplicate Locks, Ill | 1962 |
| Vermilion Lock, La | 1909 |
| Beaver Bay Harbor, Minn | 1945 |
| Lusten Harbor, Minn | 1945 |
| Shrewsbury River, N.J | 1965 |
| Huron Harbor, Ohio | 1962 |
| Trinity River Project, Texas | 1965 |

#### BEACH EROSION CONTROL

| | |
|---|---|
| Duval County, Florida | 1965 |

#### FLOOD CONTROL

| | |
|---|---|
| Montgomery, Ala | 1958 |
| Indian Bend Wash, Ariz | 1965 |
| Pinal Creek, Ariz | 1962 |
| Phoenix & Vicinity Stage 2, Ariz | 1965 |
| Bell Foley Lake, Ark | 1938 |
| Village Creek, Jackson & Lawrence Co., Ark | 1962 |
| University Wash & Spring Brook, Calif | 1965 |
| Sonoma Creek, Calif | 1965 |
| East St. Louis & Vicinity, Interior Flood Control, Missouri | 1965 |
| Cedar Point Lake, Kansas | 1950 |
| Great Bend, Kansas | 1965 |
| Grove Lake, Kansas | 1962 |
| Onaga Lake, Kansas | 1962 |
| Winfield, Kansas | 1965 |
| Booneville Lake, Ky | 1944 |
| Eagle Creek, Ky | 1962 |
| Falmouth Lake, Ky | 1938 |
| Kehoe Lake, Ky | 1966 |
| Newport-Wilder, Ky | 1938 |
| Saxonville, Mass | 1966 |
| Winona, Minn | 1965 |
| Brookfield Lake, Mo | 1965 |
| Hannibal, Mo | 1962 |
| Mercer Lake, Mo | 1965 |
| Mississippi River, Agricultural Area No. 8 (Elsberry), Mo | 1966 |
| Pattonsburg Lake (Town Relocation), Mo. | 1965 |
| Platte River, Mo | 1965 |
| Humboldt River, Nevada | 1950 |
| Alamagordo Diversion Channel, N. Mexico | 1962 |
| Allegheny, N.Y | 1946 |
| Davenport Lake, N.Y | 1938 |
| East Rockaway, Inlet to Rockaway Inlet & Jamaica Bay, N.Y | 1965 |
| Yonkers, N.Y | 1965 |
| Reddies River Lake, N.C | 1946 |
| Chillicothe, Ohio | 1962 |
| Boswell Lake, Okla | 1946 |
| Candy Lake, Okla | 1962 |
| Prompton Lake, Pa | 1962 |
| Aubrey Lake, Texas | 1965 |
| Big Pine Lake, Texas | 1962 |
| Pecos, Texas | 1954 |
| Rutland, Vermont | 1941 |
| Leading Creek Lake, W. Virginia | 1938 |
| Panther Creek Lake, W. Virginia | 1965 |

| | |
|---|---|
| Rowelsburg Lake, W. Va | 1965 |
| West Fork Lake, W. Va | 1938 |

MULTIPLE-PURPOSE INCLUDING POWER

| | |
|---|---|
| Marysville Lake, Calif | 1966 |
| Dickey-Lincoln School Res., Maine | 1965 |
| Libby Dam-Lake Koocanusa (Add'l Units), Mont | 1950 |

Total projects, 61.

Category 4—Projects for which pre-construction planning is complete.

Purpose, Project, and Authorizing Act:

NAVIGATION

| | |
|---|---|
| Meyers Chuck Harbor, Alaska | 1945 |
| Port San Luis Obispo, Calif | 1965 |
| Barbers Point Harbor, Hawaii | 1965 |
| Honolulu Harbor, Hawaii | 1965 |
| Kawaihae Small Boat Harbor, Hawaii | 1965 |
| Lahaina Small Boat Harbor, Maui, Hawaii | 1965 |
| Mound City Lock & Dam, Ill | 1963 |
| Cedar River Harbor, Mich | 1965 |
| Moriches Inlet, N.Y | 1960 |
| Brazos Island Harbor, Texas | 1960 |
| James River, Va | 1962 |

BEACH EROSION CONTROL

| | |
|---|---|
| Hamlin Beach State Park, N.Y | 1958 |
| Lakeview Park, Lorain, Ohio | 1954 |

FLOOD CONTROL

| | |
|---|---|
| Bayou Bartholomew, Ark. & La | 1966 |
| Pine Mountain Lake, Ark | 1965 |
| Lakeport Lake, Calif | 1965 |
| Pajoro River, Calif | 1966 |
| San Diego River, Mission Valley, Calif | 1965 |
| Boulder, Colo | 1950 |
| Danbury, Conn | 1965 |
| Blackfoot Reservoir, Idaho | 1962 |
| Cottonwood Creek Dam, Idaho | 1966 |
| Stuart Gulch, Idaho | 1966 |
| Columbia D&L Dist., Ill | 1962 |
| Harrisonville and Ivy Landing, Ill | 1962 |
| McGee Creek D&L Dist., Ill | 1962 |
| Wood River, Ill | 1965 |
| Fort Hill Lake, Kansas | 1954 |
| Dayton, Ky | 1938 |
| Nookagee Lake, Mass | 1966 |
| Whitmanville Lake, Mass | 1966 |
| Warroad River and Bulldog Creek, Minn. | 1962 |
| Union Lake, Mo | 1938 |
| Red Creek, N.Y | 1966 |
| Staten Island, Fort Wadsworth to Arthur Hill, N.Y | 1965 |
| Ocracoke Island, Ocean Shore, N.C | 1965 |
| East Lake—Chagrin River, Ohio | 1965 |
| Shidler Lake, Okla | 1966 |
| Beaver Drain. Dist., Ore | 1950 |
| Cascadia Lake, Ore | 1962 |
| Gate Creek Lake, Ore | 1962 |
| Willow Creek Lake, Ore | 1965 |
| Muddy Creek Dam, Pa | 1962 |
| Trerlar Lake, Pa | 1962 |
| Elm Fork, Floodway, Texas | 1965 |

MULTIPLE-PURPOSE INCLUDING POWER

| | |
|---|---|
| Lazer Creek, Georgia | 1965 |
| Bonneville Lake and Dam (2d Power Plant), Oregon and Washington | 1937 |
| Little Goose Lock and Dam (Lake Bryan), Washington (Add'l Units) | 1945 |
| Lower Granite (Add'l Units), Wash | 1954 |

Total projects 49.

Mr. CASE. Mr. President, I thank both colleagues.

Observing that flattery will get you almost anything——

Mr. GRAVEL. In this case the flattery is deserved.

Mr. CASE. I am happy to withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

CHARLES RIVER WATERSHED

Mr. KENNEDY. Mr. President, the Water Resources Development Act which the Senate has the opportunity to consider today includes an innovative proposal, the Charles River Watershed project, which will serve as a model to the Nation of citizen participation in water resources planning.

The Charles River Watershed plan calls for the acquisition of approximately 8,500 acres of land for 17 natural storage areas. The natural resources of the area will be used to reduce flood hazards in a natural way, without the construction of additional facilities on this section of the river. In addition, management of the land and water resources of the watershed will provide conservation, recreation, and open space benefits for the 1 million residents of the Charles River Watershed.

In the last 2 decades, the population of the middle and upper watershed has increased 79 percent as a result of the urban sprawl from Boston and its suburbs, increasing the pressure of development and the hazards of flooding. Recognizing these hazards, the Army Corps of Engineers and the citizens of the area joined together in an extraordinary effort to develop the unique plan included in the legislation we consider today.

The Charles River Watershed project is unique for three reasons:

First, it is a plan on which everyone agrees. Elected officials, Federal, State, and local government agencies, homeowners, conservation groups—everyone affected by the plan enthusiastically supports it.

Second, the process of developing this proposal is an outstanding example of citizen participation at every step of the decisionmaking process. Citizen commitment to this project is largely the result of citizen input. Long before the final plans were drawn, citizens of the area had the benefit of open public hearings and informational meetings.

Third, the plan itself is unique. The proposal for using the environment itself to preserve and protect the environment is a landmark in conservation planning.

The Citizens Advisory Committee composed of more than 30 private citizens represented the industrial, conservationist, educational, recreational, and real estate interests of the watershed area. The Citizens Advisory Committee acted as a sounding board for a variety of study proposals and sponsored 12 informational meetings to acquaint their neighbors with the study results. The Army Corps reports that by encouraging comment, the corps sought to improve its product through open public planning. On every occasion, local residents responded energetically. Hundreds of residents studied and asked questions. These sessions made a direct contribution to the study in helping to formulate the final recommendations made by the Army Corps.

I would like to include in the RECORD at this point, a letter I wrote to the Corps in June of 1971 after so many citizens of the watershed expressed their enthusiasm for the process by which they were fully participating in the development of a plan for the watershed.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JUNE 11, 1971.

Col. FRANK P. BANE,
*Chief, New England Division,*
*Army Corps of Engineers,*
*Waltham, Mass.*

DEAR COLONEL BANE: I want to express my support of the objectives of the Army Corps of Engineers on the plan to protect and preserve areas in the Charles River Watershed for recreation and environmental enhancement. It seems to me that the use of natural means to protect our natural resources is the most effective and the least costly method of preservation. I agree that the citizens living in the area should profit both because their quality of life will be improved and ultimately their property values increased. To have beautiful wooded areas and a clean river so accessible to the urban population seems to me to be an ideal situation.

I hope that the Army Corps will continue to meet with the affected citizens of the area. The concerns of these residents, the pollution potential of the water impoundment areas, I am sure will be thoroughly investigated before any action is taken.

I look forward to working with you on this project. Please let me know if I can be of assistance.

Sincerely,

EDWARD M. KENNEDY.

Mr. KENNEDY. Mr. President, in September of 1972, I had the opportunity to submit testimony to the Water Resources Subcommittee in support of the Charles project. In February 1973, Senator RANDOLPH, the distinguished chairman of the Public Works Committée, pledged his support for the Charles River Watershed proposal. And in May 1973 hearings were held here in Washington. Representatives from the Citizens Advisory Committee, the Charles River Watershed Association, the Massachusetts Audubon Society, the League of Women Voters, and the Massachusetts Division of Water Resources joined with me in full support of the Army Corps proposal.

Since 1972, when the study of the Charles River Watershed was completed, I have not received one letter or call in opposition to the plan. The following local governments, commissions, and State agencies have notified me of their enthusiastic support for the Charles River plan:

City of Newton—Conservation Commission;

City of Waltham—Office of the Planning Director;

Town of Medfield—Board of Selectmen;

Town of Wellesley—Board of Selectmen;

Town of Norfolk—Board of Selectmen;

Town of Dedham—Board of Selectmen, Conservation Commission;

Town of Millis—Conservation Commission;

Town of Westwood—Board of Selectmen;

United Chamber of Commerce—Western Norfolk County;

Massachusetts Department of Natural Resources; and

Massachusetts Secretary for Environmental Affairs.

Both houses of the Massachusetts Legislature have passed resolutions commending the Army Corps and endorsing the Charles River Watershed proposal

I ask unanimous consent that those resolutions be included in the RECORD at this point.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

### Resolutions Commending and Endorsing the U.S. Army Corps of Engineers for Its Charles River Watershed Proposal

Whereas, The Charles River Watershed includes one tenth of the municipalities and one sixth of the residents of the Commonwealth; and

Whereas, For the protection of said residents the United States Army Corps of Engineers has completed a survey of the water resources of said watershed; and

Whereas, The United States Army Corps of Engineers has recommended flood control by the storage of flood waters in seventeen scattered wetlands preserved in their natural state in perpetuity as the most economic and most environmentally acceptable measures; therefore be it

Resolved, That the Massachusetts Senate hereby commends the United States Army Corps of Engineers and endorses its so-called Natural Valley Storage Proposal; and be it further

Resolved, That copies of these resolutions be forwarded by the Senate Clerk and Parliamentarian to the President of the United States, to the Secretary of Defense, to the Secretary of the Army, to the presiding officer of each branch of Congress and to the members thereof from this Commonwealth.

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### Resolutions Commending and Endorsing the U.S. Army Corps of Engineers for Its Charles River Watershed Proposal

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Whereas, The United States Army Corps of Engineers has recommended flood control by the storage of flood waters in seventeen scattered wetlands preserved in their natural state in perpetuity as the most economic and most environmentally acceptable measure: therefore be it

Resolved, That the Massachusetts House of Representatives hereby commends the United States Army Corps of Engineers and endorses its so-called Natural Valley Storage Proposal; and be it further

Resolved, That copies of these resolutions be forwarded by the Secretary of the Commonwealth to the President of the United States, to the Secretary of Defense, to the Secretary of the Army, to the presiding officer of each branch of Congress and to the members thereof from this Commonwealth.

**Mr. KENNEDY.** Mr. President, in recent years, the lower basin of the Charles River Watershed has been subject to severe flooding. During the flood of 1955, damages amounted to over $5 million. A repetition of this flood today would cause an estimated $12 million loss. A multiple-purpose dam will reduce flood hazards in the lower basin; but immediate action must also be taken to reduce those hazards in the middle and upper basins. Federal acquisition offers a manageable and desirable approach. This acquisition of 17 natural storage areas totaling 8,500 acres provides the opportunity for varied use of the natural resources of the watershed.

In recreation, fish and wildlife benefits alone the Corps estimates annual benefits of $124,000. Preservation of the wetlands and banks of the Charles will enhance an intensive and cohesive fish and wildlife management plan for the Watershed while providing a natural open space area for nearby residents. The environmental impact of the plan has been characterized as "beneficial" and endorsed by the Department of Interior, the Department of Agriculture, the Department of Transportation, and the Environmental Protection Agency.

The Water Resources Subcommittee and the Public Works Committee and their distinguished chairmen are to be congratulated. The Army Corps is to be congratulated. The residents, conservation groups, and elected officials of the Charles River Watershed are to be congratulated.

The same area of this nation that held the first town meeting and set the stage for truly representative government is that area that has been in the development of this plan the finest example of government-citizen participation. All of us and our children will benefit tremendously from the fulfillment of this plan, the revitalization of the Charles River Watershed, and the recognition of this unparalleled achievement in cooperative planning.

**Mr. BUCKLEY.** Mr. President, I would like to explain the background of the New York debris removal problem, and why I concluded, however reluctantly, that it was a special interest proposal.

From the early days of the Republic, the Corps of Engineers removed debris from navigation channels under Federal authorities to encourage interstate commerce.

Enactment of the 1899 Refuse Act expanded Federal jurisdiction and control over navigational debris. Section 19 of that act directed the corps to remove sunken vessels that obstructed or endangered navigation. Section 13 of the 1899 act also made it unlawful "to throw, discharge, or deposit, or cause, suffer, or procure to be thrown, discharged, or deposited either from or out of any ship, barge, or other floating craft of any kind, or from the shore, wharf, manufacturing establishment, or mill of any kind, any refuse matter of any kind or description whatever other than that flowing from streets and sewers and passing therefrom in a liquid state, into any navigable water of the United States."

In addition to this general authority, the Congress has directed the Corps of Engineers to undertake specific debris-removal work at several major harbors, including New York, San Francisco, and Baltimore. This authority, first provided for New York Harbor in the Rivers and Harbors Act of 1915 and updated in acts in 1918 and 1930, allows the corps to remove any floating debris, whether or not the debris poses an immediate danger to navigation. The corps now spends about $1,300,000 yearly on debris cleanup in New York Harbor, about half of the national expenditure on debris removal.

Section 120 of the 1968 Rivers and Harbors Act (Public Law 90–483) directed the corps to study the national debris removal problem. The study, sent to Congress in 1970, cited debris problems in 250 harbors. The corps estimated that there are over 3,000 abandoned vessels and countless deteriorating piers and wharfs as sources of navigation debris. The corps, estimating the cost of removal at $100 million, recommended a national $5-million-a-year debris removal program, limiting expenditures to $500,000 at any single locality. Cost would be shared: Two-thirds Federal, one-third local.

Coincident with that study, the corps evaluated the drift removal problem in New York Harbor under 1963 resolutions adopted by both Committees on Public Works. Section 113 of the 1970 Omnibus Act (Public Law 91–611) authorized a debris removal program in New York Harbor, as proposed by the district engineer:

> Subject to the approval of such plans and recommendations for requirements of local cooperation by the Secretary of the Army and the President.

In line with that tentative authorization, the Chief of Engineers last year recommended two-thirds to one-third cost sharing on a project to remove derelict vessels and deteriorating publicly owned piers and wharves in New York Harbor.

In rejecting the corps proposals, the Office of Management and Budget stated in a letter to the Department of the Army:

> Most of the drift and debris could be controlled by adoption and implementation of local ordinances and enforcement of the Refuse Act. With tighter restrictions on drift and debris caused by known economic activities or by structures and derelicts whose owners are known, the need for the Federal Government to participate in the additional proposed remedial measures is questionable.
>
> The proposed New York Harbor study shows that derelict vessels and dilapidated shore structures contribute about 36 percent of the total drift and debris in New York Harbor. Only about one-third of these vessels and structures are of undetermined ownership. Equity calls for the owners of debris-causing property to assume the costs of debris prevention, rather than have these costs assumed by the Federal taxpayer.
>
> The U.S. Army Corps of Engineers has responsibilities for certain harbor navigation facilities which it carries out under existing law, and through specific projects as authorized by the Congress. The additional authority to subsidize the removal of debris-causing structures is not required for the Corps to continue its traditional functions and responsibilities related to the Nation's navigation system.

New York City has argued that it did not have the money to remove publicly owned wharves. And private owners have taken a "take me to court" attitude. Until recently, U.S. attorneys have generally taken the attitude that prosecution was not worth the time. I am urging the U.S. attorneys having jurisdiction over New York Harbor to take appropriate action to have these sources of drift removed.

One problem with using the 1899 Refuse Act involves whether or not the Government can make a case on whether material falling from a deteriorating structure meets the act's language making it illegal to have "thrown, discharged, or deposited" refuse into a navigable waterway. But the Federal Government recently identified 173 cases of known owners of abandoned private piers. About 24 have complied with renovation or removal requests. The other cases remain unresolved.

In an effort to approach this problem on a national basis, I intend to introduce legislation that would on a national basis, direct the corps to go to the sources of drift and remove those sources, and, where responsibility can be established, collect the costs of removal from the owners of any dilapidated and abandoned facility that is removed. To me this is the legislatively responsible approach. It is also the approach which, if applied to all "special interests" projects, will in the long run save New York taxpayers hundreds of millions of dollars, as New Yorkers bear about 20 percent of the cost of all Federal projects, only a small percentage of which are located in their State.

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## MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had agreed to a concurrent resolution (H. Con. Res. 413) providing for a joint session of the House and Senate on Wednesday, January 30, 1974, for the purpose of receiving such communications as the President of the United States shall be pleased to make to the Congress, in which it requested the concurrence of the Senate.

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## WATER RESOURCES DEVELOPMENT AND RIVER BASIN MONETARY AUTHORIZATIONS ACT OF 1973

The Senate continued with the consideration of the bill (S. 2798) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

Mr. PROXMIRE. Mr. President, I send to the desk an amendment cosponsored by the Senator from New York (Mr. BUCKLEY) and myself, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 77, line 18, strike the word "not".

On page 77, beginning with the word "or" on line 29, strike out all through line 10 on page 79 and insert in lieu thereof the following:

(b) In the case of any Federal water or related land resource project authorized for construction prior to the date of enactment of this Act, but which has not reached the construction stage, the interest rate formula set forth in the Principles and Standards For Planning Water and Related Land Resources, approved by the President on September 5, 1973 (38 Federal Register 24777) shall apply for the purpose of discounting future benefits and computing costs at the discretion of the head of the Federal department or agency concerned.

Mr. PROXMIRE. Mr. President, it appears at the present time that there are not enough Senators to secure a rollcall on this amendment, but I hope that at a later time an order for a rollcall on the amendment may be had when more Senators are on the floor, and I am going to ask that a rollcall be ordered on the amendment.

The purpose of this amendment is straightforward. It would permit the executive branch to apply the 6⅞-percent discount rate—agreed upon by the U.S. Water Resources Council last October after extensive hearings—to all public works projects heretofore authorized by the Congress, but not yet under construction. It would require the application of this rate to projects authorized by the pending omnibus rivers and harbors bill.

Each of my colleagues has on his desk an information sheet prepared by my office explaining why this amendment should pass. In my remarks I will elaborate on this barebones presentation and show why Senate endorsement of this legislation is essential if we are to see that the taxpayer's dollars are spent wisely on the basis of objective fact, rather than through the politics of the pork barrel.

To begin with let us look at exactly what we mean when we discuss the discount rate as applied to Federal public works projects. This is an essential ingredient in determining whether or not the benefits to be realized by a project exceed the costs. Of course, if benefits do not exceed costs—if the benefit-cost ratio is not greater than 1 to 1—then the project is not authorized by the Congress.

In determining benefits we have to look at the present value of future benefits.

That is very complicated, because the benefits overwhelmingly come at a future time, sometimes as much as 5, 10, 20, 40, or 50 years in the future.

This is where the discount rate comes in and why the discount rate is critical—crucial—in determining whether the project should go ahead. I think it is possible to justify almost anything if the discount rate is very low. On the other hand, it is possible to exclude everything if the discount rate is too high. So it is the discount rate that is the determining factor on the amount to be spent on public works projects.

What is the value today, for example, of a benefit worth $5 million in the year 1984? Such future benefits have to be discounted because, just as $1 invested today would be worth a great deal more in 10 years, so $1 in benefits accruing several years from now is worth a great deal less than that dollar is worth today. A bird in the hand is worth two in the bush.

As chairman of the Joint Economic Committee I have held a series of hearings on the discount rate issue. For example, in January of 1968, the committee held hearings on "Interest Rate Guidelines for Federal Decisionmaking." In May of 1969, I chaired additional hearings entitled "Guidelines for Estimating the Benefits of Public Expenditure."

The vast majority of economists and other experts who testified at these hearings concluded that the best standard for discounting the value of benefits over time is the interest rate representing opportunities foregone in the private sector. There is a good reason for this substantial agreement. If we remove funds from the private sector through Federal taxes and these funds would have yielded 12 percent if privately invested, we only waste these resources if we invest them in a Federal project yielding a 4-percent return. We are over-investing in an activity that yields less real economic benefits than its alternatives. This is a clear misallocation of resources.

The professionals unanimously agree among themselves that this is a waste of our economic resources. Whether the economists are conservative or liberal, they all come down hard on the assertion that in the past our public works expenditures have not been based on a correct allocation of our resources and have, indeed, been wasteful.

The Nation cannot afford such waste when we have so many high priority public investment needs.

What is the current private sector rate? It is generally considered to hover somewhere between 8 and 12 percent. As a matter of fact, it is around 12 percent if we take the return before taxes, and that is a fair comparison. The prime commercial lending rate has been well above 9 percent over the past few months. This is the cost of money in the private sector. The Office of Management and Budget in budget circular A–94, discount rates to be used in evaluating time-distributed costs and benefits, states that a discount rate of 10 percent is to be used to evaluate programs subject to the circular.

In any event the generally accepted discount rate is well above the rate that would apply to public works projects if my amendment were to be accepted. As I indicated earlier the rate set by my amendment would be a modest—very modest—6⅞ percent.

Even if we consider the Federal long-term borrowing rate, the rate under discussion today is extraordinarily reasonable. In my estimation the long-term borrowing rate is too low a standard to apply, by and large. But even this rate—which is the minimum standard rate we could rationally apply to evaluating Federal projects—is no lower than the discount rate I am proposing today. In fact it is currently hovering around 7 percent.

Now the U.S. Water Resources Council originally proposed a discount rate of 7 percent—somewhat higher than the standard they finally settled on. What was the reaction to this proposal? Over half of those responding favored the application of a higher discount rate to Federal public works projects. The following conservation groups, concerned as they are by a rate so low as to minimize the value of protecting the environment, favored a discount rate of 10 percent:

Citizens Committee on Natural Resources.
Environmental Action.
Environmental Defense Fund.
Friends of the Earth.
Izaak Walton League of America.
National Parks & Conservation Association.
National Audubon Society.
National Wildlife Federation.
National Resources Defense Council.
Sierra Club.
Trout Unlimited.
Wilderness Society.
Wildlife Management Institute.

They are all in favor of a higher discount rate than the discount rate my amendment provides.

Ex-Secretary of the Interior Stewart Udall responded to the Council's proposed 7 percent rate in these words:

> Especially noteworthy are the proposals to set the discount rate at a much more realistic level than exists under present guidelines and the much greater recognition given to preserving environmental guidelines.

I think that we all recognize that Mr. Udall was not only a great Secretary of the Interior who understood the importance of these projects, because he came from a State that benefited greatly from these projects, but he is also one of the most outstanding environmentalists in this country or anywhere else. And, as I say, he favors a discount rate of 7 percent or higher.

The next question is why should we apply this rate to past and present public works projects as well as future authorizations? Frankly, a much more reasonable question would seem to be why shouldn't we? Why should we give a public works project a break simply because it was authorized in, say, 1962, while a project authorized next year suffers?

Certainly there is no excuse for not applying the 6⅞-percent rate to the projects authorized by the pending bill. The new standard was promulgated last October. Why in the world shouldn't it apply to projects approved since that date?

Frankly I can think of only one answer to this last question, and it is not a very good answer. If we applied the new higher rate to projects included in the pending bill a number of marginal projects simply would not qualify. Of course, they should not qualify. If they cannot meet a standard considerably more lenient than the one used in the marketplace, there is no reason in the world why the taxpayer should be asked to subsidize them. They are economic cripples and should be treated as such.

Even at a lower rate many of these projects are very questionable. Why? Because certain benefits are added to the total picture that should not be counted at all. A sterling example is future flood control benefits. Many of the projects included in the bill are promoted on the ground that they would result in more intensive flood plain development. For example, the basic justification of the Days Creek Lake project comes from development related to construction that will take place at a later date and will be located in the former flood plain. Yet the use of flood plain development benefits violates sound land use principles. It also happens to run counter to the recommendations of the National Water Commission.

But how about projects authorized before the effective date of the newly approved 6⅞ percent discount rate? Why should they have to be reevaluated in terms of the new rate?

First let me make it clear that my amendment does not require these older projects to be reevaluated. It simply permits it. The language of my amendment would allow the executive branch to reevaluate the older projects if such a reevaluation was felt to be appropriate. This is in sharp contrast to the language of the bill as it was reported from committee, which would require the use of discount rates as low as 3¼ percent and, in effect, prohibits a reevaluation.

Over 80 percent of those commenting on the new standards proposed by the U.S. Water Resources Council believed that these standards should be applied to projects previously authorized as well as future projects. This is the way the Council summarized comments on retroactivity:

> Projects are not ends in themselves, but means for achieving our national goals. These Principles and Standards reflect the fact that our goals have changed. Our public works program must now dovetail with these new goals; otherwise, the program ceases to serve its national purpose. This, it seems, is elementary. . . . Projects which do not conform with the new goals do not serve the national interest.

This, it seems to me, is elementary.

There is also a good dollars and cents reason why a realistic discount rate should be applied to all authorized public works projects—whether the projects were authorized 10 years ago or yesterday. It would save the taxpayer literally billions of dollars. The Water Resources Congress has estimated that a 7-percent discount rate would kill 50 percent of the projects already authorized. Since the dollar value of these authorizations is $11.9 billion the savings to the American public could be more than $5 billion. Keep in mind that these are projects that simply cannot be justified as providing benefits equal to their cost under current standards.

Should we fail to pass my amendment some projects will be built on the basis of a 3¼-percent discount rate. This is a ludicrously low figure when we consider that the Federal Government has to pay almost 7 percent—twice as much—to borrow the money that finances these public works projects. The return on those dollars would be only half what we pay for them.

This brings me to my next point. Let us consider the fact that projects authorized on the basis of discount rates ranging from 3¼ to 5⅝ percent will have to compete with future projects based on a 6⅞ percent discount rate. Does this make any sense in allocating scarce Federal dollars? Why should a State or region suffer because the discount rate applied to a project in that region is twice the discount rate applied to a competing project that never should have been authorized, and would not have been if the higher discount rate had been in effect at the time of authorization? The answer is obvious. This is economic discrimination of the worst sort. And I might add that any of my colleagues shortsighted enough to vote against my amendment because it would have an adverse impact on one or two projects in their State may find that they are sowing the seeds of destructive public policy in the future as good projects in their State go by the boards while less justifiable programs are pursued.

Some may argue that my amendment would adversely affect projects authorized many years ago as part of a system of water resource projects, thus adversely affecting an entire program. Or it may be possible to point to communities that have relied on a previously authorized project, to their detriment if the project is not constructed. That is exactly why I have left it up to the executive branch agencies to make the decision as to whether or not to apply the new discount rate of older projects. This will permit the flexibility needed to take account of mitigating circumstances.

Finally let me point out that the death of an inefficient project does not mean that a particular erosion or flood control problem can never be resolved. There are many ways to skin a cat. There are all sorts of solutions to individual flood control problems. Some of them may be less costly and have a lesser impact on the environment than a project authorized 5 or 10 years ago. My amendment would focus attention on these alternative solutions.

Before I conclude I want to make it clear that my amendment articulates and represents the administration's position on the subject. In order to drive this point home I would like to quote from a news release put out by the Water Resources Council last August announcing the new planning criteria for the Nation's water resources. These criteria include the discount rate formula implemented by my amendment—the formula that the Senate Public Works Committee has attempted to nullify through the language contained in section 65 of the bill. Here is what the President said about the new standards, including the new discount formula:

> The Principles and Standards ". . . represent the culmination of several years review by the Water Resources Council to develop improved planning criteria to achieve our goal of wise use of the Nation's water and related land resources with full consideration to the protection of our environment. I commend the Water Resources Council for accomplishing such a difficult task."

Secretary of the Interior Morton had this to say about the new discount rate formula:

> It is felt that the discount rate provision will foster the planning of better programs and projects for a given level of Federal investment.

In order to make it crystal clear that my amendment and the administration's position are identical I would like to quote one final segment from the aforementioned news release:

> A planning discount rate to reflect the relative value of beneficial and adverse effects occurring in the furture as compared with the present has been established by the Council. This rate is consistent with the cost of Government borrowing concept which is based on the assumption that the Government's investment decisions are related to the cost of money to the Government. The rate has been established at 6–7–8% and will change up or down, as appropriate, not more than or less than ½ of 1% per year. The "Principles and Standards" will be applied to all currently authorized but unfunded projects on a selective basis to be determined by the head of the agency.

There is absolutely no difference between this language and the impact of my amendment on water resources projects.

I earnestly hope that the Senate will adopt this amendment, and I reserve the remainder of my time.

Mr. WILLIAM L. SCOTT. Mr. President, if the Senator will yield briefly, I just want to ask a couple of questions.

I am concerned about projects that have previously been authorized by Congress. Is it the thrust of the Senator's amendment that the new rate would apply to old projects unless the administration found that they should not do it? Would we come back to Congress——

Mr. PROXMIRE. The Senator is correct, yes, it would be permissive with the administration. The administration could apply it or not, as it saw fit.

I did that because I think a lot of flexibility is required here. There are some cases where we have large authorizations, where the community has counted on and planned on the expenditure to the point where there would be real economic distress if the project did not go ahead. So they would have this discretion.

Mr. WILLIAM L. SCOTT. I am sure we would all agree that the Members of the Senate and the Senate committees should do the work that the people sent them here for but I have a concern about increasing the work of our Public Works Committee and our Subcommittee on Water Resources. Might this not lead to the recomputation of the interest rate and the cost-benefit ratio, and the committee's reconsideration of projects which they had approved in the past? Would it not mean more work for the subcommittee, the committee, and the Senate as we reconsider formerly approved projects?

Mr. PROXMIRE. It would not necessarily mean that. Of course, we would have the situation where, if we had a marginal project, the committee might or might not choose to reconsider it. It would not mandate that reconsideration.

Mr. WILLIAM L. SCOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ABOUREZK). To whose time is the quorum to be charged?

Mr. WILLIAM L. SCOTT. To be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

Mr. BUCKLEY. Mr. President, I would like to make a statement, if I may.

The PRESIDING OFFICER. A quorum call is in progress.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded. I should like to make a brief statement.

Mr. WILLIAM L. SCOTT. Mr. President, the reason why I have asked for a quorum call is that the distinguished Senator from Alaska, the manager of the bill, is not in the Chamber. I have no objection to rescinding the quorum call if the distinguished Senator from New York wishes to make a comment. However, I would not want any action to be taken in the Senate without the manager of the bill being present.

Mr. BUCKLEY. I shall make only a brief comment in support of the Proxmire amendment.

Mr. WILLIAM L. SCOTT. I shall be glad to withdraw my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, will the Senator from New York yield?

Mr. BUCKLEY. I yield.

Mr. PROXMIRE. It is really the Proxmire-Buckley amendment.

Mr. BUCKLEY. The Proxmire-Buckley amendment.

Mr. PROXMIRE. I am very proud of the fact that the distinguished Senator from New York is a cosponsor of the amendment.

Mr. BUCKLEY. Mr. President, I wish to express my very strong support of the amendment offered by the distinguished Senator from Wisconsin and myself.

This amendment, as Senator PROXMIRE has stated, would require Federal agencies to consider the use of a reasonable rate of interest in calculating the costs and long-term benefits of water resources development projects.

But what is a reasonable rate of interest? I believe it is one based, at a minimum, on the cost of Federal borrowing. That present rate is 6⅞ percent, hardly a rate that would be classified as usury.

Such a 6⅞ percent rate is not designed to "kill" the water resources program. Rather, it is designed to assure the American people that economically sound projects are undertaken. I believe that the rational development of our water resources would be enhanced by the use of such a realistic rate of interest in computing project costs and benefits. Perpetuation of the current procedure, means that some projects will continue to be studied and analyzed at interest rates as low as 2½ percent.

The amendment of the distinguished Senator from Wisconsin (Mr. PROXMIRE), which I am cosponsoring, would allow the agencies to use an up-to-date interest rate on all projects, old or new. But our amendment would grant administrative flexibility, as envisioned by the standards and principles developed by the Water Resources Council. It would not mandate the use of the new interest rate.

The Corps of Engineers recently made a study of the effect of the new interest rate on the cost-benefit analysis of a number of older projects. The Corps found 28 potential candidates for construction that are still carried on the books at 2½ percent interest. Approximately two-thirds of those projects would be knocked out under a 6⅞ percent interest rate.

Frankly, I do not think we can justify a project to the American people if, at even a relatively modest rate of interest like 6⅞ percent, it would return less in benefits than it would cost.

The public will argue—as well they should—that such a procedure is wasteful and irresponsible. This amendment would go far toward correcting that problem.

Mr. President, I should also like, at this moment, to talk about some of the objections to the amendment that have been raised by the opponents.

First of all, they say that the amendment goes beyond the recommendations of the Water Resources Council. It does not, as I pointed out earlier. It does not mandate the use of a 6⅞ percent rate on old projects; it permits such usage, as did the Water Resources Council guidelines. In other words, we have flexibility.

The opponents argue that the section 66 deauthorization process would take care of this problem. How will section 66 give us realistic assessments of the costs and benefits of a project?

Opponents also argue that it would eliminate many worthy projects on "strictly statistical grounds"—whatever that means. I would argue that when a project is "urgently needed," it should produce more benefits than it costs to build. The benefit-cost ratio was developed so as to assure the American people that we were not wasting their money. Holding to a subsidized interest rate is just another way of playing a shell game with the American taxpayer.

I would note that many people have argued that we should impose an interest rate based on an "opportunity" cost of money, a rate of 10 or even 12 percent. Such a rate, it is argued, would give us a true understanding of the costs of a particular capital investment. By such a yardstick, this bill is wholly inadequate.

This amendment, however inadequate by any "opportunity cost" standard, would at least move us toward a standard that uses the real cost of Federal borrowing.

I think that the approach taken in the Proxmire-Buckley amendment is one that we should support, is one that is businesslike, is one that is necessary, and is one in the ultimate interest of the American people.

I urge its adoption.

Mr. PROXMIRE. Mr. President, I hope that a little later, when more Senators are in the Chamber, we can get the yeas and nays on the amendment. I hope that we can arrange it, somehow, depending on how much time the committee chairman wants to take on this bill, so that we can then set it aside and get the yeas and nays a little later on, if that is possible.

Mr. GRAVEL. I will be glad to accommodate the Senator in that regard. If other Members will present themselves, we can take up other amendments that we are prepared to accept. In the interim, I should like to address myself somewhat to the proposal of the Senator from Wisconsin, namely, his effort to re-do the committee's work in establishing an interest rate. We felt that we were covering a great deal of the ground when we deviated from the House position in not wanting to see it applied to the extent they have.

Mr. President, at this point I will forgo my comments on the amendment of the Senator from Wisconsin (Mr. Proxmire) and will be happy to yield the floor so that an amendment may be offered.

Mr. YOUNG. Mr. President, I send an amendment to the desk and ask that——

The PRESIDING OFFICER (Mr. Abourezk). Is there objection to consideration of this amendment out of order?

Mr. PROXMIRE. Mr. President, I have no objection, with the understanding that if my amendment is laid aside, we can get the yeas and nays on it later; otherwise, I am happy to accommodate the distinguished Senator.

The PRESIDING OFFICER. The Chair would ask if Senators are yielding back their time.

Mr. GRAVEL. No. The Proxmire amendment has not been fully handled yet.

I ask unanimous consent that we may move from the Proxmire amendment without the Senator from Wisconsin losing his right to ask for the yeas and nays and have a vote on his amendment later, and that the time used for any other amendments not be charged to the Proxmire amendment, on either side.

The PRESIDING OFFICER. Without objection it is so ordered.

The Chair observes the absence of a quorum and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the Young amendment.

The legislative clerk read as follows:

S. 2798

On page 69, between lines 16 and 17, insert the following new section and renumber subsequent sections accordingly:

The project for flood protection on the Souris River at Minot, North Dakota, approved by resolutions of the Committees on Public Works of the Senate and House of Representatives under the authority of Section 201 of the Flood Control Act of 1968, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to reimburse the designated nonfederal public bodies for the estimated additional cost being incurred by them for lands and relocations in the proposed channel realignment at the Third Avenue N E. Bridge in Minot. The amount of reimbursable costs shall not exceed $200,000.

Mr. YOUNG. Mr. President, the amendment my colleague, Mr. Burdick and I are offering to S. 2798 has been requested by Hon. Chester Reiten, mayor of the city of Minot, N. Dak.

It would amend the authorization for the flood protection project on the Souris River in North Dakota which was approved by the Public Works Committees of the two Houses of Congress under the authority of section 201 of Public Law 89-298. This project is for the purpose of straightening and widening the channel of the Souris River through the city of Minot, N. Dak.

The amendment we are offering is quite similar to authorization contained in the House-approved Flood Control bill, H.R. 10203 for the city of Mankato, Minn. Mankato, Minn., faced a similar problem requiring the relocation of a sewer line due to construction by the Corps of Engineers of a floodwall. The House has approved authorization for the Corps of Engineers to assume the city's cost of relocating this sanitary sewer.

Mr. President, the city of Minot has suffered from two disastrous floods in 1969 and 1970. I do not know of any city in the Nation which has suffered more drastically from floods than has this community. In 1969, for example, the water remained as high as the second story on residences and buildings throughout the city for a period of 6 weeks.

This flood protection project was authorized shortly after this flood. The Corps of Engineers has been proceeding with its construction and in the process of reviewing the project, the corps determined that a further improvement in the project would cut off one more of the river's many loops within the city and result in a more effective passage of floodwater through the city.

This improvement in the project, I am pleased to report, would result in an estimated savings to the Federal Government of $440,000. These savings are the result of decreasing the over-all amount of work on the Souris River channel which would have to be done in Minot through eliminating one of the tortuous loops in the river within the city of Minot. Making this improvement in the project, however, would result in the city of Minot being required to provide the local assurances which include right-of-way for this work, a new bridge across the channel, and a business relocation cost. It is estimated that this would cost the city $200,000 in additional local assurances.

When this project was first authorized, the residents of this city overwhelmingly approved a bond issue in the sum of $1,300,000 to provide local assurances. Local officials, and I am sure they are right, do not believe that it would be possible to secure the approval of the electorate of another bond issue.

The purpose of this amendment, therefore, is to relieve the city of Minot from the added cost of these additional local assurances and allow them to be borne by the Federal Government.

Mr. President, as I have indicated, this improvement in the project design would result in a savings of $440,000 to the Federal Government. If my amendment is adopted and the Federal Government assumes these local assurances, there still will be a net savings of $240,000 to the Federal Government.

Shortly after S. 2798 was reported by the Senate Committee on Public Works, I received a report from the Chief of Engineers on the Souris River project and on this particular proposal. I ask unanimous consent that the letter I received in behalf of the Chief of the Corps of Engineers from Lt. Col. Early J. Rush III, Assistant Director of Civil Works, Upper Mississippi, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Department of the Army,
*Washington, D.C., November 30, 1973.*

Hon. Milton R. Young,
*U.S. Senate,*
*Washington, D.C.*

Dear Senator Young: On behalf of the LTG William C. Gribble, Chief of Engineers, I am replying to your letter of 31 October 1973 inclosing a letter from the Honorable Chester Reiten, Mayor of Minot, concerning the channelization project on the Souris River in Minot, North Dakota.

This local flood protection project was approved by resolutions of the Public Works Committees pursuant to the authority of Section 201, P.L. 89–298 (Flood Control Act of 1965). Applicable local cooperation includes requirements that local interests will: "a. Provide without cost to the United States all lands, easements, and rights-of-way necessary for construction and subsequent maintenance of the channel improvements; . . . d. Accomplish without cost to the United States all necessary changes to buildings, highway bridges (including approaches) streets, dams, sewers, and utilities, as required for construction of the channel improvement; . . ." With due regard for environmental and social aspects, preconstruction planning examines alternatives and selects the most economical plan to accomplish the authorized public purposes. The cost of accomplishing this most economical plan is then apportioned to Federal and non-Federal interests in accordance with the authorization requirements of local cooperation.

The mayor's letter is prompted as a result of the Corps of Engineers' Value Engineering Program whereby authorized projects are reviewed by an engineering team to see if there is a way of reducing project costs without sacrificing the quality of the works. In the case of Minot, a channel cutoff is proposed to eliminate the river's tortuous route beneath the Third Avenue N.E. bridge. In addition to resulting in a reduced overall cost, the proposed cutoff would result in a more effective passage for flood water, thereby, reducing the flood profile immediately upstream. This action would reduce the project Federal construction cost by an estimated $440,000 but would result in an estimated additional cost of $200,000 to the city for a new bridge to cross the channel and for right-of-way and a business relocation cost. The project authorization does not allow the Government to assume the increased cost to the city as the result of the planning change at this small segment of a much larger project plan.

The Mankato project in Minnesota referred to by Mayor Reiten resulted when a sewer line had to be relocated due to the construction of a Corps of Engineers' floodwall. The city was responsible for relocating the sewer as part of its requirement for providing project right-of-way. Legislation has been introduced in behalf of the city to make relocation of the city sanitary sewer a Federal responsibility. At this time, the proposal is a part of the current Public Works Bill (Section 21, HR 10203) passed by the House of Representatives on 12 October 1973.

Special legislation would be needed to provide the city of Minot with the financial relief it requests. I will cooperate informally with your staff to provide appropriate draft legislation if requested. However, this would be a drafting service only, and would not necessarily represent the views of the Department of the Army. Under departmental policies and regulations, views on proposed legislation are expressed by the Secretary of the Army in response to a request from the congressional committee having such legislation under consideration, and then only after coordination with the Office of Management and Budget.

Sincerely yours,

EARLY J. RUSH III,
*LCT, Corps of Engineers, Assistant Director of Civil Works, Upper Mississippi.*

Mr. YOUNG. Mr. President, as I have indicated previously, the House-passed Flood Control bill contains an authorization for Mankato, Minn., similar to what my amendment would do for the city of Minot, N. Dak.

I sincerely hope, Mr. President, that my amendment will be approved. There is every justification for it, as it would result in a net savings to the Federal Government of $240,000 in the construction of this badly needed flood protection project. Equally important, it would vastly improve this project by making it possible for floodwaters to be passed more rapidly through the city of Minot.

Mr. GRAVEL. Mr. President, the situation in Minot was brought to the attention of the subcommittee by our distinguished colleague and fellow subcommittee member, the junior Senator from North Dakota, in the final days before S. 2798 was reported. Due to the time element and the lack of detailed information available, it was not possible to include the Minot provision in the bill prior to the end of markup.

In the last month, however, the committee has been fully apprised of the details of the situation. On this basis, the committee accepts this amendment to the Water Resources Development Act.

I want to emphasize that the efforts of the junior Senator from North Dakota, Mr. BURDICK, were most instrumental in persuading the committee to accept this amendment.

Mr. BURDICK. Mr. President, I rise in support of the amendment. This amendment is meritorious and stands on the precedent established in the matter of involving Mankato, Minn. Unfortunately, the request for the amendment arrived too late for me to present it to the Committee on Public Works, of which I am a member. The adoption of the amendment will actually save the Federal treasury $240,000. I urge the acceptance of the amendment.

Mr. GRAVEL. Mr. President, I think we can take this opportunity to save the Federal Government $240,000. I have consulted with the minority, and we both feel that this is a very good amendment, and we are happy to accept it.

The PRESIDING OFFICER (Mr. HATHAWAY). The question is on agreeing to the amendment of the Senator from North Dakota (Mr. YOUNG).

The amendment was agreed to.

Mr. ABOUREZK. Mr. President, I wish to speak briefly on the Proxmire-Buckley amendment. I understand the concern——

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Is the Senator for or against it?

Mr. ABOUREZK. I am speaking against it.

Mr. GRAVEL. I yield to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. ABOUREZK. I understand the concern of the Senator from Wisconsin for the Federal budget and his concern with the cost-benefit ratio and the discount rate now being used to compute the feasibility of these particular projects. But I might say that we in South Dakota have had an experience that would refute somewhat the arguments of the Senator from Wisconsin with regard to the cost to the American taxpayers of some of these flood control projects.

In 1972, in the summer, there was a flood resulting from a heavy and unique kind of rain storm in the Black Hills of South Dakota. This flood caused several million dollars in damage and the loss of 230 lives in the Rapid City area.

I was told by the Corps of Engineers that several years earlier they had done a feasibility study on the question of whether they should build some flood control dams higher up in the Black Hills in order to prevent that kind of flood from happening in the Rapid City area. The cost to benefit ratio was not favorable to them so the project was considered not to be feasible.

My question is this: While we can determine the cost to benefit ratio and the feasibility, based on the dollar amount of benefit to the United States when the projects are built, how do we measure the loss of human lives? How do we measure the social disruptions?

Another factor not put into the cost to benefit calculations is the economic disruption caused and that results from a flood of this charter.

I am of the opinion that in a flood control project there should not be any cost-to-benefit calculation, that it should be determined on whether it will prevent a flood.

I think that that is something the committee really should consider.

For these reasons, I am going to oppose the Proxmire amendment quite strongly, even though I understand his desire is to save the taxpayers money.

Mr. PROXMIRE. May I say to my good friend from South Dakota that I have great respect for that position. The Senator has put his finger on what is undoubtedly one of the most persuasive arguments. We cannot go out and proceed with any kind of flood control project, regardless of how small the benefit may appear to be or how great the cost may be, because the cost could be immense. By going ahead in that way, we would encourage grossly uneconomic building and investment in areas which are flood prone. We have had that argument before, in trying to work out some kind of flood insurance program. We have to work out some kind of accommodation among those who are moving into an area, no matter how flood-prone it is, who expect the Government to bail them out when there is a flood every year in that area. We have that in my State as well as in the State of South Dakota.

The feeling I have is that we should have some kind of basis—maybe my proposal for a cost-benefit discount is not satisfactory, but the argument made by the Senator from South Dakota seems to me would work against even the discount factor that the committee decided on.

Mr. ABOUREZK. Could that not be taken care of by some kind of provision to prevent people from moving into a flood-prone area? The fact remains that if we are going to determine whether to build a flood-control project on a cost-benefit ratio, we are not taking into consideration the cost of human life and the social disruption. It would seem to me that we should have something entirely separate to prevent that from happening.

Mr. GRAVEL. That is exactly one of the proposals we suggest in the new policy in this bill—that is, utilization of nonstructural alternatives to flood control. We are doing this in the reaches above Boston, where we will be acquiring large tracts of land, which will hold this land as a green belt. But people will not be able to live on it; as a result, we will not bring about the urbanization that would cause the floods, that would have an effect upon Boston. We are doing this in other instances also.

There is no question that under present criteria, many of the needs of individuals—needs that go beyond the improper personal decisions—are not attended to, because in this arbitrary ratio we know that the higher interest rate will not qualify a number of worthy projects.

The committee hopes that as a result of hearings and future activity, we can develop a different approach to the cost-benefit ratio, and perhaps add factors into the calculation which will offset the increased interest cost, which is a real cost. We are now taking cognizance of that.

Mr. ABOUREZK. I think that is an excellent idea, but at the present time neither is being done. People are neither being prevented from moving into a flood area—to a great extent—nor is provision being made for a flood control project to be built. It would be prevented from being built with this kind of cost ratio, and it would be worse with the amendment of the Senator from Wisconsin.

Mr. PROXMIRE. I really do not think my amendment should be judged on the basis of the criteria raised by the distinguished Senator from South Dakota, because that would apply against any kind of cost-benefit ratio, and he admits that. I agree that we cannot put a value on human life. Is it worth $1 million, $100 million? It is infinitely valuable.

The argument of the Senator from South Dakota is very appealing to me, as I am sure it is to any human being. We all feel that way about human life. But to apply that to knock out my proposal, which applies to reclamation, to recreation, and to many other public works projects, is not fair to my amendment.

Mr. ABOUREZK. Would the Senator be willing to modify his amendment to exclude purely flood control projects from this discount rate?

Mr. PROXMIRE. Would the Senator vote for it if I did that?

Mr. ABOUREZK. Yes, I would, as a matter of fact. The Senator from Wisconsin has struck a bargain.

Mr. GRAVEL. I do not want to throw any cold water on the bargain, but if the Senator will yield, let me say that many of the projects in the bill are not entirely flood related. On the average, 44 percent of them would be wiped off the books, because they would not qualify under this new approach. We do not know what the impact of this would be. These are projects that have been negotiated with local participation; contracts have been arrived at. To say that we are going to change the rules of the game right now, I do not think is good legislation. That is the reason why we did not make this retroactive.

Mr. PROXMIRE. I would like to move to modify my amendment in order to accommodate the distinguished Senator from South Dakota, because I think he is a wonderful man and a fine Senator, but I do not see how I could possibly do that; because, as I am reminded by my legislative assistant, almost every kind of project—at any rate, a very large proportion of the projects—has a flood control aspect. Once that door is opened, there is no cost-benefit ratio at all.

This is at least a partial discipline on public spending to make up for the loss of the discipline in the private sector. If you do not provide this, you open the Treasury to a tremendous raid, or you have to decide these things strictly on this basis of sheer political power.

Mr. ABOUREZK. I understand that it is a matter of conscience with the Senator from Wisconsin with regard to the public treasury, and I share that view of saving the taxpayers' money. But, concurrently, I do not want it on my conscience to prevent a flood-control project from being built because of a high discount rate and have some lives lost.

I wish the Senator could have been in my State immediately following the flood. I have not been through a more tragic or more sad experience. Two hundred and thirty people in a small community were dead or missing, lost somewhere in the waters downstream. They were unable to come back and comment on whether they wished the dam had been built higher in the hills to prevent that flood. I could not have it on my conscience again.

Mr. PROXMIRE. That dam would not have been built whether the Proxmire amendment had been adopted or not. I really do not think the Senator's objection is relevant to my amendment. But I would like to do my best to work with the Senator, to support him in trying to find a solution to this problem, because I think he is absolutely right in saying that there is no value anybody can put on a human life; and whatever we have to do, whatever we have to expend to save lives, we should.

Mr. ABOUREZK. I thank the Senator for yielding.

Mr. GRAVEL. I would only add that it might not apply to that specific dam; but certainly, by raising the discount rate, the economic viability of the various flood-control projects would be altered. The amendment of the Senator from Wisconsin would affect the economic viability of all existing projects, since they would have to be recalculated to satisfy the new criteria that would be set.

Mr. PROXMIRE. I would agree with the Senator, but I think that is only fair. Why should we not apply the same discount rate to every project? If we do not do that, we discriminate.

Mr. GRAVEL. That is what we are trying to do in this bill from this day forward, to apply the new criteria to projects so that they will qualify.

Mr. PROXMIRE. Will the Senator from Alaska make clear to the Senate that the committee next year will insist on a 6⅞ discount factor for all projects that come forward?

Mr. GRAVEL. That is the position I have taken and the committee has taken, that henceforth that would be the calculation. That is where we plowed the new ground, and the House did not plow that ground. We are going to have a tough time in conference in reconciling the differences between our positions.

We think it would be legislatively capricious to go backward and say that all the projects that have come thus far should be recalculated. We say that the projects that have come this far should be on existing economic criteria and that henceforth the new criteria will better take into account the financial requirements of the Federal Treasury, particularly the cost of the money.

Mr. PROXMIRE. There is not much difference between the position taken by the committee and the Senator from Alaska and the position taken by the Senator from Wisconsin, except that I am saying we should apply this proposal. Since the Water Resources Council has made its finding and since the Government is now borrowing for every project in excess of 6⅞ percent, on a long-term basis, it should be applied across the board to everybody; and what is in the bill now would be in the bill in the future.

If the Senator will accept the principle in the future and will fight next year for this, I think we have made some progress. I hope the Buckley-Proxmire amendment is going to be adopted now; but if it is not adopted, I think we have made some progress, anyway.

Mr. BUCKLEY. If the Senator will yield, I think we have made progress. In principle, the committee accepts the logic and fairness of applying realistic interest rates.

The Senator from Wisconsin and I are merely urging that that logic be applied to all projects on which construction has not begun in terms of the hardware—the brick, the mortar, the cement, and the bulldozers—because we are dealing with expenses that are projected. A reassessment to make sure we are not wasting money is precisely that—a reassessment to make sure that the currently authorized projects will in fact be useful, and measure up to the public's expectations.

Mr. GRAVEL. As the Senator from New York realizes, that is not the position the House took. They were very adamant in their approach. There is no question in my mind. We agree that certain costs of the money should be cranked into the cost of the project, but the Proxmire recommendation goes beyond that. It would have to be recomputed, and many projects no longer would be qualified. That is the difference in the approach of the Senator from New York and the committee.

In many projects we have to turn the dirt on them, but they have qualified and they have gone through a long proceeding in qualifying. In my mind it would be legislative capriciousness to cut them off on another qualification, in connection with which we have changed the rules.

I think we can say that henceforth any project that is going to qualify must be on this economic basis. But when we turn around and change the rules on people who labored for years to get the project to a certain level, it is arbitrary, and it is not good legislation. When we recognize there should be a change we should be willing to change. We are willing to change in committee, and we are willing to say that from this day forward we will establish new criteria.

Mr. PROXMIRE. This is precisely what the amendment provides, as the Senator from New York (Mr. BUCKLEY) pointed out. If no actual work has been done, this would apply. There is a further exception. Even if no work has been done, if the administration feels the discount factor in my amendment would have a serious economic effect, or would prejudice the value of other projects which have begun, they could provide an exception. It is permissive in that connection.

Mr. GRAVEL. I am sure I am not disillusioning my colleague when I say that the smallest part of the job is turning the dirt. There are projects that have languished here for decades and then finally get disqualified; and now by the Senator's criteria, just because they do not have the bulldozers down the road, they are going to alter the entire qualifications.

Mr. PROXMIRE. The biggest part of the work, the economic part, is still in the future. That is the work of buying the necessary materials, doing the hard, tough construction that may take 3, 4, 5, or 10 years to finish. This is in the future, and it is what we are talking about. Everyone should be treated alike. The Senator from Alaska is a fair man, and I am sure he would agree. Therefore I expect him to support the amendment.

Mr. GRAVEL. I think it changes the rules in midstream. They think the amendment is fine prospectively. That is what the committee decided to do. We will have to fight for it in the House, but carrying this kind of baggage, we will not be able to walk through the corridors.

Mr. PROXMIRE. In the event we lose, and I hope and pray we do not, I am going to read to the Senator next year those words, and I hope the Senator and the committee will recognize that the

6⅞ factor will be applied in 1975 to the 1976 fiscal year.

Mr. GRAVEL. I hope that is the case. I will use my offices to have that new doctrine established.

Mr. BUCKLEY. Mr. President, if the Senator will yield, the Senator from Alaska has pointed out a practical problem. He has pointed out the situation with regard to the House. The Senator should have this amendment so he will have something from which to recede.

Mr. GRAVEL. I can only respond to my colleague by saying that in the application of tactics, there are two approaches: One is to go in and insult and have no ground on which to negotiate, and the other is to exercise restraint and hope that they will also. I have a high opinion of the membership of the other Chamber; when they see the wisdom of the committee action, they will come to our ground on the subject matter.

Mr. PROXMIRE. This is not a far out proposal. I would go much further than this. We are taking the recommendation of the Water Resources Council, the overwhelming recommendation of economists.

Mr. GRAVEL. The Senator should recognize his amendment goes beyond what the Water Resources Council recommends. At least we can arrive at that point of clarity.

Mr. PROXMIRE. I do not agree with that. Here is what the Water Resources Council said:

> E. SCHEDULE FOR APPLYING STANDARDS
>
> The principles and standards will apply to all levels of planning studies. For authorized but unfunded projects the principles and standards will be applied on a selective basis to be determined by the head of the agency, with opportunity for suggestions from the Water Resources Council, and other governmental entities. Authorized plans or projects that are substantially reformulated as a result of application of these principles and standards will be submitted to Congress for reauthorization. Separable and independent elements of a project or a system also would be subject to review prior to funding for construction.

This is precisely what we provide in our amendment.

Mr. GRAVEL. The Senator's amendment provides this new rate shall apply—is that correct?

Mr. PROXMIRE. No; it provides that the administration shall have discretion. I wish to read the last lines of the amendment:

> The interest rate formula set forth in the Principles and Standards for Planning Water and Related Land Resources, approved by the President on September 5, 1973 (38 Fed. Reg. 24777) shall apply for the purpose of discounting future benefits and computing costs at the discretion of a head of a Federal Department or agency concerned.

That is exactly what the Water Resources Council states.

Mr. GRAVEL. We leave that discretion in the hands of Congress rather than the Corps of Engineers.

Mr. PROXMIRE. The bill removes any discretion, without my amendment.

Mr. GRAVEL. That is correct, and we still have discretion because under the deauthorization approval it is encumbent upon the Corps of Engineers to come up with a list of projects that have not been funded in the last 8 years. If the committees of the House and the Senate choose to act affirmatively, these projects are deauthorized, which means we can deauthorize for other reasons that arise along the way. But we have the same discretion at that point as the Senator is prepared to give wholesale over to the corps. I think we give too much power to the Executive, and we should reserve some judgment in the hands of Congress.

Mr. PROXMIRE. It is our decision to make this discount whatever we wish. The Senator agrees the study is a good study. All I am saying is we should accept also the recommendation that it be applied in a discretionary way.

Mr. GRAVEL. About 44 percent of the existing projects would be disqualified.

Mr. PROXMIRE. I am very encouraged by that. There are many wasteful projects. We would be saving billions of dollars. There is no way to save money without disqualifying projects.

Mr. GRAVEL. What about the situation where a community has gone ahead and bonded itself?

Mr. PROXMIRE. In those situations we make clear discretion can be exercised. That would be a very serious consideration, permitting them to go ahead in spite of the fact they need the lower discount rate to qualify.

Mr. GRAVEL. Then, perhaps what we should do is let the Corps of Engineers stand for election next time.

Mr. PROXMIRE. No, we are saying there are differences in these projects. These are professionals.

Mr. GRAVEL. But we are pulling more authority unto ourselves and not less. That is what we are doing by the two-stage procedure. This will add more power to Congress.

Mr. PROXMIRE. I am not in favor of giving more power to the President.

Mr. GRAVEL. Forty-four percent of the projects would be wiped out. The Senator is saying that after Congress has labored all these years, 44 percent of them can be wiped out through the capricious decision of the corps alone.

Mr. PROXMIRE. No; through our own decision.

Mr. GRAVEL. Once we have made that decision on the interest rate, we have done it. We have done it wholesale, and that would have a wholesale impact.

Mr. PROXMIRE. The Senator would do it.

Mr GRAVEL. I would do it prospectively. Here we would be changing the rules. I would do it by carrying out new rules. Everybody would know about it. But people may have worked 20 years on a project, and we turn around and change the rules. They have spent money and effort, and 1 day we say the whole thing is over; we are not going ahead, because of the interest rate. I think people ought to know, and not have retroactive actions taken.

Mr. PROXMIRE. I am saying where no project has been started, where no equipment has been used, where no dirt has been turned, they would all be treated alike, except where there is a situation which would be so prejudicial for economic or social reasons, and an exception could be made there. I do not know how one can be any fairer than that.

Mr. President, I am happy to yield the floor at this time.

Mr. GRAVEL. Mr. President, apparently the cost is the only measure. The Senator said where no dirt has been turned.

I will give one example, where bonds are sold and a commitment is made. Suppose there is a banker in a midwestern town, and I buy some bonds of a local community or commit myself to buy bonds, and then, at some later time, that project is no longer feasible, because the economics have been altered. That is their tough luck, but at the same time I made a commitment with my bank to buy those bonds. That was done prospectively, involving a certain rate of interest. If those bonds were to go into default before they are issued, what recourse do I have before that community, after having made a prospective decision that has to be altered, and which may have some financial consequences on the portfolio of the bank? Of course, there is no recourse that can be taken. I have been hurt through the capricious action of the Government.

I cannot help but think that the worst thing we can do in Congress is to act capriciously and have people get hurt as a result of it. That is exactly what the Proxmire amendment would do. On the other hand, we can make a change in the interest rate, but we should do it prospectively, so nobody gets hurt.

I yield to the Senator from Michigan.

Mr. HART. Mr. President, I am not sure to which Senator I should address a question, but I am reaching for information. I have been here on the floor for the past few minutes and have enjoyed the discussion.

As I understand the Proxmire amendment, with respect to projects not yet taken but earlier approved, a new cost of money figure would be applied. If that action were taken, would there also be opportunity to recompute the change in the value of the benefits that might be identified in the project?

Specifically, I can see the logic, as all of us do, in prospective projects, of being more realistic on the cost of money, but I am uneasy if, with respect to projects heretofore approved, the only change that would be permitted would be the recomputation of the money cost.

Mr. PROXMIRE. It is my understanding, certainly—and I can make legislative history—and I think the Water Resources Council made it clear, that under those circumstances, if the projects are reauthorized, certainly the benefit should be considered and also the cost, because both might change, and it would be very unwise or unfair for a project to be changed if there have been other changes. The situation 2 or 3 years from now could be very different, on the basis of flood experience or all kinds of situations, from the situation that exists now. Technology can make a difference in cost. So I think all those things should properly be taken into consideration.

Mr. GRAVEL. I think the point made by the Senator from Michigan would be more germane to another aspect of this legislation, relating to the cost of a project. We could have inflation, and design factors may come into consideration that would alter the costs appreciably. That is why we have approached this in two stages. One stage is the advance engineering design, where the corps will go out and do studies. Actually, the studies are done first. After that, it is presented and we decide whether to approve it. Then the advance engineering design studies are done. After that, the corps comes back to Congress and says, "All right, here is how much it will cost us, the way we assess it." That may be different than it was at the time they determined feasibility. Sometimes it takes a number of years, 3 or 4 or 5, and sometimes as much as 6, between the time when the economic feasibility study was done, when we have approval, and when the construction contract is let. A lot of money can be spent during that time. A third of the contract's cost can be spent.

At that point we can take another look and decide whether to approve or disapprove. We can take a look at the economics of the cost, the economics of the benefits, and make a judgment.

The Proxmire amendment would take only one facet to determine the feasibility. That is just the cost of the money, and not any other factor. And because the cost of money has increased over a period of years—and obviously this approach has only casually been taken care of—in the cost of the project a dislocation has taken place. The project has enjoyed cheaper money than the money market would have warranted. We are saying we are now going to take cognizance of that economic factor, but we do it prospectively, rather than alter the existing rules in which people are participating today with respect to these projects.

Mr. PROXMIRE. Mr. President, I want to make it absolutely clear that my amendment would certainly contemplate a review of the benefits and cost, and make it very clear by reading this language which I took from the language recommended by the Water Resources Council:

> Authorized plans or projects that are substantially reformulated as a result of the application of these principles—

That is, change in the discount rate—

> And standards will be submitted to Congress for reauthorization. Separable and independent elements of a project or a system will be subject to review prior to funding for construction.

I do not know how one can possibly construe that except as applying to benefits and cost.

Mr. GRAVEL. That would happen in any event, even if the Proxmire amendment were not adopted, because we have a section under which the first phase will proceed only to that point, and Congress then will take additional action.

### PROXMIRE AMENDMENT WOULD ELIMINATE VALUABLE PROJECTS

Mr. RANDOLPH. Mr. President, the impact of the amendment of the Senator from Wisconsin (Mr. PROXMIRE) would be widespread. It is not a matter of limited application. At the present time, there are 434 projects of the Corps of Engineers which would be subject to recalculation at an interest rate of 6⅞ percent under the provisions of this amendment. A total of 44 percent of these projects would be eliminated through the use of this higher rate of interest, projects which are badly needed in many parts of this country.

Under the provisions of section 66 of this legislation, 218 previously authorized projects would be de-authorized. Section 66 improves the orderly procedures for reviewing and eliminating old projects. The Proxmire amendment, however, would create great uncertainty with regard to projects authorized within the past 8 years.

The PRESIDING OFFICER. All time of the Senator from Alaska has expired. The Senator from Wisconsin has 2 minutes remaining.

Mr. PROXMIRE. Mr. President, in view of the fact that the time of the Senator from Alaska has expired, I will yield back my time, but I would ask, if I could for the yeas and nays on the amendment, because a sufficient number of Senators is not on the floor and we postponed a vote until 2:45 p.m., 1 hour from now.

The PRESIDING OFFICER. All time is yielded back——

Mr. PROXMIRE. Mr. President, before I yield back, let me get a ruling.

The PRESIDING OFFICER. Does the Senator ask unanimous consent——

Mr. GRAVEL. Mr. President, there was a proposal by the majority whip. That was that the vote take place at 2:45 p.m. That was the action taken by this body.

Mr. PROXMIRE. Mr. President, I think I am protected by the fact that I can always put in a quorum call and, if necessary, get a live quorum. I will do that if necessary. So, I yield back the remainder of my time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the pending Proxmire amendment be laid aside until 2:45 this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

### DAYS CREEK PROJECT

Mr. HATFIELD. Mr. President, first, I want to compliment the committee on its fine work in reviewing these proposals making up S. 2798. The chairman of the full committee, as well as the ranking Republican, have provided leadership in reporting out a good bill. The subcommittee chairman and its ranking Republican have played a critical role in shaping policies affecting the water resources development and river basin land management across the country.

Wise management of our land and its resources lies at the heart of this legislation. The close tie between the Senate Public Works Committee, and the Senate Interior Committee, on which I serve, is certainly clear when we consider the question of management of our land, where many similar problems arise on issues before both committees.

My comments today, however, are centered on a project included in this omnibus bill. I speak of the Days Creek project on the South Umpqua River in Douglas County, Oreg. The flood control project is not new to the member of this committee. After a thorough review, you included this in the omnibus bill passed by Congress last fall which was unfortunately vetoed by the President, The Senate then repassed the omnibus bill—and Days Creek was included. Now, following House consideration of the legislation with its change in authorization procedure, the Public Works Committee has again included it in this bill, S. 2789. My Senate colleagues have heard me speak in support of Days Creek a number of times.

I want to call particular attention today to the serious flooding occurring right now along the South Umpqua River—flooding that would have been reduced had the Days Creek project been completed and in operation. It is too early to assess damage from this flood, which has hurt our State in several areas. I cannot cite, therefore, any dramatic dollar damage at this time. I am aware, however, of the human suffering that is occurring—suffering that would have been eased greatly by construction of this project.

The human aspect of this should be a part of our consideration of this legislation. There are other projects throughout the country where flooding of a serious nature has occurred. In Douglas County, however, the digging out from flood damage is going on today.

This past week during which the ravaging floods were tearing through Douglas County reminded me of a visit I made there last summer.

Then, I was able to walk across the river when the water was nearly stagnant. When we think about the flooding of today, I know it is difficult to picture a water flow of some 27 cubic feet per second. The bankful level below flood stage is 45,000 cubic feet per second. Serious problems arose then with cities' water supplies, severe fish kills, reduced water quality and numerous other complications due to the low slack water.

It is this near stagnation in summer and these ravaging floods in winter that form the crux of why I believe this vital project must be built without further delay.

The people of the South Umpqua River Basin are plagued with extremes of streamflows. Devastating floods occur with oppressive frequency—there have been six in the past 12 years. Each summer, on the other hand, streamflows become lower than in almost any other major stream in western Oregon. The proposed Days Creek Dam and Reservoir would meet the problems associated with these extremes, to the great benefit of the people of Douglas County.

Floodflows of the South Umpqua River and its tributaries cause damages throughout almost the entire drainage area. They also contribute to the damages caused by the Umpqua River, into which the South Umpqua flows. The problem along South Umpqua is especially severe, because most of the available level land in the basin lies adjacent to the streams of this drainage area. Most developments and transportation routes have been located in the flood plain. During major floods, water covers entire flatland expanses, inundating towns and interrupting transportation. Often the South Umpqua rises to flood stage before emergency action can be taken, due to the impervious soils of the drainage area which do not readily absorb storm runoff. Floods on the South Umpqua are thus more severe and rise faster than on most other streams of western Oregon. Damages from the 1964 and 1971 floods downstream from the Days Creek site have totaled $20 million; but at the projected 1985 development of the region floods of the 1964 and 1971 varieties would cause more than $43 million total damages—at 1971 prices.

I certainly will share with my colleagues on the committee when detailed figures are received from the 1974 flood. This flood resulted from a snowstorm and prolonged freezing period followed by warm winds and heavy rains. The inability of the frozen ground to absorb the heavy rains aggravated the flooding.

This region of Oregon has hot, dry summers—very little rain falls and extended droughts occur. Less than 5 percent of the annual precipitation occurs from July through September, during the last part of the growing season. The area needs a reliable source of irrigation water, but under present conditions the natural flows in the South Umpqua are insufficient, in most water-short years, to satisfy existing water rights. Holders of these rights have been forced to abstain from exercising them when stream depletion has been threatened in recent summers.

Most of the municipal and industrial water supply in the basin is obtained from surface water sources, and future development must expand these sources since there is a general lack of underground water. In addition to this problem of water supply, the South Umpqua River receives the major portion of the basin's waterborne waste load. During low summer flows, the river has not been able to assimilate that load, causing a serious water quality problem. In several areas the stream becomes unsafe for water-contact usage, because of profuse algal growth, bacterial contamination, and floating solids. These same areas are in the vicinity of major municipal and industrial water supply systems.

The depleted summer flows, the poor water quality, and high water temperature have wreaked havoc with fishery resources of the South Umpqua River. At present there remains only a small fraction of the fish population that local residents state to have existed in earlier days. Augmentation of summer flow, as would be provided by a storage reservoir at Days Creek, would alleviate the three conditions I have just outlined. Present day summer flows of the South Umpqua at Brockway have been observed to drop as low as 27 cubic feet per second—bankfull is 45,000 cubic feet per second—with a water temperature of 87 degree. Consider what Days Creek will do in this regard: It will decrease the average August temperature of the River below the dam by 15 degrees—from 70 to 75 degrees—by increasing the average flow from 70 to 950 cubic feet per second.

The movement to save the South Umpqua River from collapse of its resource capabilities and to spare the people of this basin from the frequent destructive floods began with a public meeting in Roseburg, Oreg., in 1956. Since that time, the development of this proposal has been of model cooperation between the Federal Government and the local people. Local desire has never been in doubt, from 1956 when 100 people showed up at the Roseburg meeting to state the need for control of this resource, to recently when 1,200 people demanded an immediate solution to the problems of the South Umpqua River at the final public meetings on this project.

I have been impressed with the depth and breadth of the Corps of Engineers' consideration of the problems and possible solutions related to the water resource of the South Umpqua. Their treatment of the environmental aspects of Days Creek and its alternatives has likewise been admirably complete. The result of 15 years of diligent effort is the excellent South Umpqua River proposal—Days Creek Lake—that has been approved by the Office of Management and Budget and included in the omnibus rivers and harbors authorization bill.

In closing, let me repeat the critical nature of proceeding as rapidly with this project as possible. As Governor of Oregon during the 1964 floods, I dealt firsthand with the devastation those floods caused. I was in Oregon this past weekend to see evidence in several areas of the severe damage caused by these 1974 floods. I hope we approve the Days Creek project as a part of this Senate bill. In addition, I certainly hope the House conferees will accept it. To me, the merits of this project are clear, and work should begin on it.

I also would like to call attention briefly to the packet of information I have presented regarding the floods of last week. This very remarkable packet of pictures and documents supplements the material in my remarks in providing dramatic evidence of the devastation of these most recent floods.

I recognize that the printed CONGRESSIONAL RECORD cannot portray the damage shown in these pictures. Yet I think they show what the residents of Douglas County have had to live with from these cyclical floods. The damage to farmlands, the ruination of many homes, the disruption of businesses, the numerous other results of the flooding are shown in these pictures.

One picture is of personal interest to me. As I mentioned earlier, I visited Roseburg late last summer, and was able to walk across the river on the rocks. This was when the streamflow was around 30 cubic feet per second. One of these pictures shows the low-water level that day, and to compare that with the devastation and the human misery caused by these floods expresses in sum why we must approve this project. We have gone in less than 6 months from a near stagnant river level to a flood of major proportions.

I thank the committee chairman for his review of this material, and I ask unanimous consent that the letters from officials included in the material appear at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BOARD OF COMMISSIONERS,
*Roseburg, Oreg., January 18, 1974.*

Re Days Creek Lake project.
Senator MARK O. HATFIELD,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR HATFIELD: This letter is in furtherance of our former presentations urging approval of the Days Creek Lake Project for Douglas County, Oregon. The accompanying photographs taken several hours after the waters began receding depict some of Douglas County's areas hit hardest by the flood waters of the South Umpqua River on January 15 and 16, 1974. While this most recent flood fortunately did not reach the disastrous $24 million proportions of the flood of 1964, it did cause damage to private property in the amount of $5,744,750 as evidenced in a statement attached herewith from the Douglas County assessor.

The Douglas County engineer estimates $900,000 damage to county-maintained roads alone with no figures yet available for damage to state and federal highways and private roads.

Floods of this magnitude have inundated large areas of Douglas County on at least a ten-year cycle. We appeal to you in the names of all of those persons in the South Umpqua River drainage, and particularly those who sustained loss or great inconvenience, for affirmative action on the Days Creek Lake Project.

Very truly yours,
RAY E. DOERNER,
*Chairman, Board of County Commissioners of Douglas County, Oreg.*

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ROSEBURG, OREG.,
*January 17, 1974.*

U.S. Senator MARK O. HATFIELD,
U.S. Senator ROBERT PACKWOOD,
Congressman JOHN DELLENBACK,
Congressman WENDELL WYATT,
Congressman AL ULLMAN,
Congresswoman EDITH GREEN.

DEAR OREGON CONGRESSIONAL DELEGATION: As Mayor of the City of Roseburg, representing one of the communities of Douglas County hard hit by the recent flood, I urge the Oregon Congressional Delegation to expedite the Rivers and Harbors Authorization Bill which includes the Days Creek Dam.

The Days Creek Dam proposed on the South Umpqua would provide the necessary storage, preventinig the needless loss of life and property that we have experienced through almost every flood along the South Umpqua River.

The County of Douglas has been declared as a disaster area due to many of our areas in the southern part of the County being hard hit by the flood.

It is estimated 200 families were evacuated from homes due to the high water. Many people were out of work because of floods, industries were shut down, schools were closed. A good number of our roads and other transportation systems were inundated and several cities along the South Umpqua were isolated from the rest of the County because of high water.

It is our understanding that the River and Harbors Authorization Bill will be one of the first measures to be considered by the U.S. Senate when it convenes on Monday, January 21. Whatever additional efforts of persuasion that you might give to the passage of this bill will be greatly appreciated by the citizens of Douglas County.

Each year that passes without an approval of the Days Creek Dam only means suffering and loss of life and property to the people of Douglas County. We need your help, we need it now and we need it badly.

Very truly yours,

WILLIAM T. EVANS,
*Mayor.*

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ROSEBURG, OREG., *January 17, 1974.*

U.S. Senator MARK O. HATFIELD,
U.S. Senator ROBERT PACKWOOD,
Congressman JOHN DELLENBACK,
Congressman WENDELL WYATT,
Congressman AL ULLMAN,
Congresswoman EDITH GREEN.

DEAR OREGON CONGRESSIONAL DELEGATION: Each of you know me personally and know my interest in watershed development and soil and water conservation. For several years I have served as Chairman of Umpqua Water Resources Revelopment Association, a group that was incorporated in 1968 to promote the livability through development of Water Resources in our county.

Recently I was appointed Chairman of the Douglas County Water Resources Board by the County Commissioners. Both the UWRDA and the Douglas County Water Resources Board have worked cooperatively in seeking a project that would control the flood waters of the South Umpqua River. Last summer we were so short of water that the river was virtually dry and industries were nearly at a standstill, communities were suffering for lack of domestic water, irrigation was curtailed and now this week we have been hit with one of the County's worst floods since 1964, destroying property and loss of life that has listed Douglas County as a disaster area due to high water.

The one project that has County approval by the residents of this County, the State of Oregon and the Army Corps of Engineers that would eliminate both lack of water in the summer and too much water in the winter is the Days Creek Dam.

We urge you to expedite early approval of the River and Harbors Authorization Bill which includes the Days Creek Dam. We need your help now and would appreciate your support in helping your state by helping Douglas County gain approval of the Days Creek Dam project.

Very truly yours,

GEORGE STUBBERT,
*City Manager.*

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ROSEBURG AREA
CHAMBER OF COMMERCE,
*Roseburg, Oreg., January 17, 1974.*

*The State of Oregon Congressional Delegation, Washington, D.C.*

GENTLEMEN: In 1964, a great flood bringing disaster to Douglas County was well publicized. This week, in the year 1974, almost the same disaster has been repeated bringing great damage to our area and making over 200 families homeless. It will be months before the exact cost will be available on losses to the citizens of Douglas County. Accordingly, the Roseburg Area Chamber of Commerce will take this opportunity to plead its case again for the immediate passage of the Rivers and Harbor Bill currently in the United States Senate which contains the approval of the Days Creek Dam.

According to the 1974 census, there are 76,000 citizens of Douglas County. More than 90% of the citizens of the County are concentrated in the valleys through which the North Umpqua, the South Umpqua and the main stream of the Umpqua River flows. Along with the concentration of residents in the Valleys, there are located many major industries and farms that are the source or the citizens employment.

These citizens, industries and farms are affected by seasonal problems of too much and .too little water. During the past sixty years flood stage on the South Umpqua River has been equalled or exceeded once every three years on the average. These floods have caused damage, anxiety, inconvenience and have inundated large areas causing considerable amount of economic loss.

The following table, taken from the U. S. Corps of Engineers Flood Plan Study of 1966, shows damages sustained in the Umpqua River Basin during some of the more recent floods.

| Types of damage | Flood damages in Umpqua River basin | | | |
|---|---|---|---|---|
| | 1945 | 1955 | 1961 | 1964 |
| Agriculture | $100,000 | $674,000 | $4,000 | $5,025,000 |
| Residential | 2,000 | 554,000 | 40,000 | 6,454,000 |
| Commercial | 8,000 | 109,000 | 31,000 | 2,952,000 |
| Industrial | 61,000 | 451,000 | 134,000 | 1,824,000 |
| Utility | | 214,000 | 20,000 | 2,885,000 |
| Highway | 2,000 | 133,000 | 3,000 | 6,205,000 |
| Emergency | | 8,000 | | 417,000 |
| Total based on actual damage | 173,000 | 2,143,000 | 232,000 | 25,732,000 |
| Total based on 1965 prices and developments | 608,000 | 3,493,000 | 274,000 | 25,732,000 |

As outlined in the above table, the 1964 flood created record damages. About 22,500 acres were inundated along the South Umpqua Rivers in that flood.

The summer in the Umpqua Valleys are probably one of the most enjoyable and livable times in the Nation. It is a time for the citizens to enjoy the recreation and fishing. But, in the summer, the South Umpqua is practically a "dead river". It becomes an almost stagnant, polluted, algae choked mess as the stream flow drops to less than 91 cubic feet. The lowest flod on record is 36 cubic feet per second.

The South Umpqua River currently does not support game fish because of the high of water temperature. In years past, this river was one of the finest for fishing and had runs of Salmon, Steelhead and Trout.

More and more, industry and the cities along the river are dependent upon the river for water supplies. Under the present water flow conditions in the South Umpqua River, in the summer time, the cities and industries are water short. If the cubic feet flow per second drops any lower, the economic effects to our area would be disastrous.

Because of the past history of the Umpqua Valleys of having too much or too little water, it is very apparent that a multiple-purpose water storage project, such as the proposed Days Creek Dam, is long overdue. The benefits of such a water impoundment project on the South Umpqua Rivers would create a great economic impact in Douglas County.

The raging floods of the South Umpqua would be controlled. The dam would return a sense of security to the citizens of the Umpqua Valleys as the control of water reduces the threat of floods and damage to property. The financial loss to industry and agriculture would be reduced.

Controlled water flow in the South Umpqua River would produce greater summer flows for municpal and industrial use. The clean, cool river would be a stark contrast to the present condition of the river and would have a major improving effect on the environment.

Augmented flows of temperature controlled water downstream in the South Umpqua River would improve the instream fishery habitat. The effect would be a return on the South Umpqua to a major sportsman's river. Once again the river would become alive with runs of Salmon and Steelhead.

The benefits of a large lake behind the Days Creek Dam would complement the growing tourist industry in Douglas County. The additional parks and recreation are in great need for a recreation minded citizenry.

The additional water, in addition to all the above, would provide irrigation from an already overworked river. It would allow the agriculture interest to put additional acreage into irrigated crops which would more than offset the loss of agricultural land taken for storage behind the dam.

Therefore, the Board of Directors of the Roseburg Area Chamber of Commerce, in behalf of the membership representing business, industry and professionals have gone on record of being in full support of the Days Creek Dam project as proposed for the South Umpqua River. It is hoped that the Corps of Engineers and the Congress of the United States will act in all expendiency in approving the project.

Sincerely,

JACK C. DAVIS.

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DOUGLAS COUNTY SHERIFF'S OFFICE,
*Roseburg, Oreg., January 18, 1974.*

*Congressional Delegation,*
*Washington, D.C.*

GENTLEMEN: I am writing this letter in behalf of the citizens of Douglas County while I serve in the capacity of Director for Emergency Services.

The Assessors Office of Douglas County was gracious enough to assign the entire staff to given areas of the county to do a property damage assessment. That property damage assessment, not taking into consideration the damage done to roads and bridges, has amounted to $5,744,750.

The Roadmaster has given me a road and bridge structural damage cost in the amount of $900,000.

I am sure you gentlemen are very aware that Douglas County and various areas has gone through this type of flooding in prior years where the cost of damage was even greater than this particular flood. I certainly hope that you have viewed the damage done by this flood, or prior floods, and the damage assesment that has been created through the many floods we have had, will certainly join with the citizens of Douglas County in favor, and do all possible at the congressional level, for the approval of the Days Creek Dam.

Certainly, we realize that the building of Days Creek Dam does not, in fact, solve all of our flooding problems, but certainly it solves the greatest potential flood threat that we have in the county.

I would like to take this opportunity to express my sincere appreciation to each one of you for your interest and work contributed to this particular project.

Sincerely,

JOHN T. TRUETT,
*Sheriff, and Director of Emergency Services.*

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DOUGLAS COUNTY—WATER RESOURCES SURVEY—RIVER CRESTS, JANUARY 1974 AS COMPARED TO 1955, 1964 AND 1971

| | Feet— | | | | |
|---|---|---|---|---|---|
| | 1974 | 1971 | 1964 | 1955 | Flood |
| South Umpqua River at Tiller | 18.34 | 18.45 | 26.7 | 20.85 | 18.0 |
| South Umpqua River at Winston | 32.64 | 30.60 | 34.0 | 31.55 | 26.0 |
| South Umpqua River at Roseburg | 30.50 | 27.83 | 34.05 | 29.20 | 22.0 |
| Cow Creek at Riddle | 27.89 | 24.09 | 27.8 | 27.35 | 18–22 |
| North Umpqua River at Winchester 3W | 23.3 | 26.4 | 34.2 | 29.14 | 26 |
| North Umpqua River at Winchester Dam | 15.70 | 18.2 | 24.2 | 19.8 | 18 |
| Umpqua River at Umpqua | 37.45 | 40.95 | | | 31–32 |
| Umpqua River at Scottsburg | 38.50 | 38.31 | | 47.3 | 29 |
| Umpqua River at Elkton | 44.20 | 43.63 | 51.9 | 45.0 | 33 |

RESULTS OF HIGH WATERS OF JANUARY 15 AND JANUARY 16, 1974

South Umpqua River at Tiller crested at 18.34' at 1900 on 1/15/74.

South Umpqua River at Winston crested at 32.64' at 0300 on 1/16/74.

South Umpqua River at Roseburg crested at 30.50' at 0500 on 1/16/74.

Cow Creek at Riddle crested at 27.89' at 1900 on 1/15/74.

North Umpqua River at Winchester Dam crested at 15.70′ at 2300 on 1/15/74.

Steamboat Creek crested at 12.27′ at 2200 on 1/15/74.

North Umpqua River at Brown's Bridge crested at 23.3′ at 0300 on 1/16/74.

Deer Creek nr. Roseburg crested at 12.8′ at 1230 on 1/15/74.

Umpqua River at Elkton crested at 44.20′ at 12 noon on 1/16/74.

North Umpqua below Steamboat nr. Glide crested at 15.81′ at 2330 on 1/16/74.

SUMMARY OF PROPERTY DAMAGE ASSESSMENT DUE TO FLOODING JAN. 15-18, 1974 PERIOD

| Area | Families, people evacuated | Houses flooded | House damage | Businesses flooded | Business damage | Industries flooded | Industrial damage | Utilities flooded and utility damage | School closure | General and miscellaneous | City streets | Area, total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Reedsport-gard |  | 32 | $36,000 | 6 | $7,500 | 6 | $300,000 |  | $7,500 | $50,000 |  | $401,000 |
| Elkton-Scottsburg | 1 | 1 | 2,000 |  |  |  |  | City water—$5,000 | 5,000 | 100,000 |  | 112,000 |
| Drain, Yoncalla, Oak | 15 | 5 | 5,000 |  |  | 1 | 150,000 |  | 25,000 | 50,000 | $20,000 | 250,000 |
| Sutherlin-Umpqua | 4 |  | 1,000 |  |  |  |  |  | 10,000 | 75,000 |  | 86,000 |
| Roseburg, Deer Cr | 200 | 52 | 189,500 |  |  |  |  | 2—$103,500 | 20,000 | 100,000 | 32,950 | 445,950 |
| Winston-Green | 75 | 25 | 50,000 | 1 | 10,000 |  |  |  | 5,000 | 210,000 |  | 275,000 |
| Myrtle Creek | 115 | 175 | 1,061,500 | 21 | 108,500 | 1 | 250,000 | Public—$100,000; Cal-Pac—$35,000. | 15,000 | 50,000 |  | 1,620,000 |
| Dillard | 125 | 76 | 200,000 | 5 | 25,000 | 4 | 150,000 |  |  | 150,000 |  | 525,000 |
| Riddle | 25 | 25 | 37,500 |  |  | 1 | 500,000 |  | 5,000 | 25,000 |  | 567,500 |
| Canyonville |  |  |  | 1 | 5,000 |  |  | City water out—$100,000. |  | 50,000 |  | 155,000 |
| Glendale | 50 | 75 | 306,000 | 20 | 20,000 | 2 | 410,300 | City water—$1,000 | 15,000 | 250,000 |  | 1,002,300 |
| Melrose-Gard. V | 25 | 8 | 50,000 |  |  | 1 | 5,000 | Umpqua Basin—$50,000. |  | 200,000 |  | 305,000 |
| Glibe [1] |  |  |  |  |  |  |  |  |  |  |  |  |
| Total | 695 | 474 | 1,938,500 | 54 | 176,000 | 16 | 1,765,300 | 8—$394,500 | 107,500 | 1,310,000 | 52,950 |  |
| Estimated total damages not including roads. |  |  |  |  |  |  |  |  |  |  |  | 5,744,750 |

[1] No damage found.

DAYS CREEK DAM

**Mr. PACKWOOD.** Mr. President, I rise today to support final passage of S. 2798, the so-called rivers and harbors bill.

This bill includes an authorization of $400,000 for the design memorandum of Days Creek Dam. It is critically important to thousands of citizens in southwestern Oregon.

Mr. President, I returned Sunday night from a 10-day visit to Oregon. While I was there I visited the storm-ravaged Douglas County. I viewed the thousands of acres flooded by the South Umpqua River. I saw the uninhabitable homes, mud slides, and human misery accompanying the loss of lives and livelihood.

As I viewed this devastation, Mr. President, I kept asking myself why it had to happen. And the frustration for me and those from Douglas Couty is that it did not have to happen. Had the construction of the Days Creek Dam been completed, the effects of the flood would have been far less severe.

We are not talking about a project that Oregonians started thinking about last year or even 5 years ago. Days Creek Dam has been in a holding pattern for decades. In fact, the original study for this dam was authorized by the Congress on November 18, 1937.

It is a project which merits the support of my colleagues here in the Senate. The time has come for the Congress of of the United States to get things moving.

The Days Creek Dam would be located just upstream from the town of Days Creek on the South Umpqua River. The project would be constructed and operated for the control of floods on the South Umpqua and Umpqua Rivers. It would store water for the summer months for the purposes of fish and wildlife enhancement, recreation, water supply, water quality control, and irrigation.

The rivers and harbors bill outlines a new two-stage procedure to be followed in the authorization of public works projects. Under this system, a project would be authorized initially only through the first phase of advanced engineering and design—A. E. & D. The fully designed project, coupled with the completed environmental impact statement, would then be brought back to the Congress for further consideration.

Mr. President, I urge my colleagues to support Days Creek Dam.

**Mr. BUCKLEY.** Mr. President, it has been argued on the floor this afternoon that this is the "smallest" Omnibus bill in nearly three decades.

Looking strictly at the dollar figures quoted in the bill, that may be true. But I should point out that the new, two-step authorization procedure incorporated within this bill reduces sharply the cost of the bill.

There are some 23 projects that are approved only for phase I advanced engineering and design in this bill. It is safe to assume, I believe, that in most or all cases phase I approval will ultimately mean construction. While the total of these 23 projects in the bill is $10,886,000, the ultimate cost for these 23 projects exceeds $667,000,000.

The extrapolated cost of title I, as I calculate it, is $1,151,000,000, with the annual authorizations calculated for a 5-year period. Adding in the cost of title II—$780,000,000—this bill has a true probable cost approaching $2 billion.

I ask unanimous consent that a chart showing these differences be printed at this point in the RECORD.

CHART COMPARING STATED WITH TOTAL COSTS FOR PROJECTS APPROVED FOR PHASE I ADVANCED ENGINEERING AND DESIGN IN S. 2798

| Project | Bill cost | Total cost |
|---|---|---|
| SEC. 1 |  |  |
| Virginia Beach, Va | $954,000 | $17,010,000 |
| Buena Vista, Va | 665,000 | 11,561,000 |
| Camp Ground Lake, Ky | 330,000 | 50,000,000 |
| Bowie Creek, Miss | 390,000 | 32,410,000 |
| Pearl River, Miss | 310,000 | 30,146,000 |
| Greenville Harbor, Miss | 200,000 | 17,100,000 |
| Warren to Wilkinson Counties (Natchez area), Miss | 150,000 | 11,100,000 |
| Warren to Wilkinson Counties (Vicksburg-Yazoo), Miss | 150,000 | 7,727,000 |
| Bushley Bayou, La | 300,000 | 13,350,000 |
| Zumbro River, Rochester, Minn | 150,000 | 33,922,000 |
| Roaring River Reservoir, N.C | 400,000 | 10,758,000 |
| Curry Creek Reservoir, Ga | 400,000 | 17,757,000 |
| Dalton Reservoir, Ga | 440,000 | 44,300,000 |
| Blanco River, Tex | 177,000 | 42,271,000 |
| Arkansas River, Colo | 1,140,000 | 47,091,000 |
| Center Creek, Mo | 150,000 | 14,500,000 |
| Libby Reregulating Dam, Mont | 75,000 | 16,000,000 |
| Days Creek Dam, Oreg | 400,000 | 113,000,000 |
| SEC. 2 |  |  |
| Lower Rio Grande, Tex | 600,000 | 21,000,000 |
| SEC. 3 |  |  |
| Potomac Valley | 1,400,000 | 80,321,000 |
| SEC. 4 |  |  |
| Corpus Christi Harbor | 465,000 | (1) |
| SEC. 23 |  |  |
| Big Sandy River-Tug Fork Valley | 1,290,000 | (1) |
| SEC. 32 |  |  |
| Pattonsburg Dam, Mo | 350,000 | 28,620,000 |
| Total | 10,886,000 | [2] 667,944,000 |

[1] Unknown.

[2] Plus 2 sections of unknown cost.

AMENDMENT NO. 936

**Mr. BUCKLEY.** Mr. President, I call up my amendment No. 936. This is the amendment that has a limitation of 10 minutes to the side.

**The PRESIDING OFFICER.** The clerk will state the amendment.

The legislative clerk read as follows:

> On page 77, beginning with the word "or" on line 19, strike out all through the word "Act," on line 23, and insert in lieu thereof the phrase "in this Act,".

**Mr. BUCKLEY.** Mr. President, this amendment should be referred to as the Buckley-Proxmire amendment. It, in effect, is a compromise between the Proxmire amendment and the position taken by the Committee on Public Works. It would restrict the scope of section 65 of S. 2798. I circulated information on this amendment to my colleagues last week. I trust that they are familiar with its intention and effect.

Section 65 prevents the use by the Corps of Engineers and other agencies of a more realistic interest rate in computing the costs and benefits of a Federal water resources project.

I should point out that this amendment represents a compromise proposal. My initial inclination in committee and on the Senate floor was to introduce an amendment to wipe out the old, unrealistic interest rates entirely. For that reason, I supported enthusiastically the earlier amendment introduced by Senator PROXMIRE.

But I can understand the reluctance of some of my colleagues in supporting that approach. For that reason, I developed this second approach as a compromise. It does not disturb any "old" projects. All it says is that a phase I updating of the physical factors of a project shall include the development of up-to-date financial information.

As reported by the committee, section 65 would continue the use of the older, subsidized interest rates on all water resource projects authorized prior to this bill, on all projects authorized in whole in this bill, and all projects authorized for phase I advanced engineering and design. My amendment would direct the corps to use the more realistic interest rate on these projects when a construction authorization is sent to the Congress.

The committee adopted this new phase I authorization approach from the House bill to give us a more complete evaluation of a project's costs and benefits before it is approved for construction.

The phase I approach will enable us to obtain up-to-date information on the physical and environmental aspects of any particular project. But to make a reasoned decision on that project, we also need up-to-date financial analysis as well. Use of the new interest rate formula would assure a realistic evaluation or costs.

The alternative of using antique interests rates would upset the whole rationale for the two-step authorization project, I believe.

Let me call the attention of my colleagues to the laudable sentiment that appears on page 9 of the committee report in describing the intent of the two-step authorization process:

> The Committee has adopted this change in procedure in recognition of its growing concern over the major changes that often take place in water resources development projects between the time a project is first proposed for authorization and the time detailed plans are prepared for construction. While the Committee recognizes the need to refine plans to make them responsive to changing public attitudes and needs that develop during the post-authorization planning period, and to newly enacted legislation and policy changes, the changes incorporated in the project plans are often of such magnitude that the scope of the project is materially changed or that alternative solutions may prove to be more acceptable in the overall public interest. Under these circumstances, the Committee has adopted the procedure prescribed in this section to give the Congress the opportunity to reaffirm or modify its previous authorization in keeping with the new information that becomes available. This requirement is compatible with procedures previously adopted by the Corps of Engineers for advanced engineering and design and in the opinion of the Committee will facilitate moving ahead with needed water resources development projects which are responsive to more current conditions.
>
> The Phase I design memorandum stage of advanced engineering and design is defined to include post-authorization studies that are necessary to establish the basic design and scope of the project, and to appraise its justification and public acceptability under current conditions.

Then, on the following page in the report, the committee lists a number of specific items that are to be brought up to date before authorization of project construction. Among those items were:

> d. Provide the basis for a reliable, up-to-date estimate of project cost. . . .
>
> f. Establish the current economic aspects of the project.

Let me ask how can the corps hope to make such an assessment if it is locked into the use of out-of-date interest rates?

Many of my colleagues may honestly decry the current cost of borrowing as being too high. They will say, with some justification, that the use of a cost-of-borrowing rate will make some seemingly worthy projects uneconomical. But whether we like it or not, relatively high interest rates are now a fact of life. It costs the American taxpayer, through their government, about 7 percent to borrow long-term money today. If that is what it costs to borrow, then I believe that is the rate that should be used in computing the costs and benefits of water resource projects. Subsidizing water development projects through the use of unrealistically low interest rates to magically produce a favorable benefit-cost ratio merely takes money out of some other facet of the economy where that money could be used more productively.

The formulation of the 6⅞ percent rate is not arbitrary. Treasury Secretary Shultz made this comment in a letter to Senator BAKER on the subject:

> The formula in the 1973 regulations is substantially the same as the formula in OMB Circular No. A–70, which prescribes the method for determining interest rates on direct Federal loans—the use of this approach has also been recommended by GAO for cost analysis of Federal activities generally and for water resource projects particularly.

There may be questions raised over the difference between the old and new rates, since both are based in the "yield" rates on Federal debt issues.

Secretary Shultz explained this difference in his letter to Senator BAKER:

> The major reason for the differences in the discount rates produced by the 1968 and 1973 regulations is that the 1973 regulations permit us to ignore the yields on certain low coupon issues which are selling at deep discounts and are clearly not in line with the rates the Treasury would currently be required to pay on new borrowings.

Some people argue that new interest rates represent an incursion on congressional policymaking. I would point out that the Congress specifically authorized the President to propose and implement these changes when it established the Water Resources Council with passage of the Water Resources Planning Act of 1965 (Public Law 89–80). That law, as I read it, expressly delegated to the Council the responsibility for drawing up principles and standards for water resource projects.

The law states that the Council "shall make recommendations to the President with respect to Federal policies and programs." The act goes on to say:

> (Title 42, Section 1962a–2)
>
> The Council shall establish, after such consultation with other interested entities, both Federal and non-Federal, as the Council may find appropriate, and with the approval of the President, principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects. Such procedures may include provision for Council revision of plans for Federal projects intended to be proposed in any plan or revision thereof being prepared by a river basin planning commission. (Pub. L. 89–80, Title I, Sec. 103, July 22, 1965, 79 Stat. 245.)

I ask unanimous consent that a copy of the discount rate formula issued in 1968 (1) and the one issued in the Federal Register last September be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### SUBPART E—STANDARDS FOR PLAN FORMULATION AND EVALUATION

§ 704.39 Discount rate.

(a) The interest rate to be used in plan formulation and evaluation for discounting future benefits and computing costs, or otherwise converting benefits and costs to a common time basis, shall be based upon the average yield during the preceding fiscal year on interest-bearing marketable securities of the United States which, at the time the computation is made, have terms of 15 years or more remaining to maturity: Provided, however, That in no event shall the rate be raised or lowered more than one-quarter of 1 percent for any year. The average yield shall be computed as the average during the fiscal year of the daily bid prices. Where the average rate so computed is not a multiple of one-eighth of 1 percent, the rate of interest shall be the multiple of one-eighth of 1 percent nearest to such average rate.

(b) The computation shall be made as of July 1 of each year, and the rate thus computed shall be used during the succeeding 12 months. The Executive Director shall annually request the Secretary of the Treasury to inform the Water Resources Council of the rate thus computed.

(c) Subject to the provisions of paragraphs (d) and (e) of this section, the provisions of paragraphs (a) and (b) of this section shall apply to all Federal and federally assisted water and related land resources project evaluation reports submitted to the Congress, or approved administratively, after the close of the second session of the 90th Congress.

(d) Where construction of a project has been authorized prior to the close of the second session of the 90th Congress, and the appropriate State or local governmental agency or agencies have given prior to December 31, 1969, satisfactory assurances to pay the required non-Federal share of project costs, the discount rate to be used in the computation of benefits and costs for such project shall be the rate in effect immediately prior to the effective date of this section, and that rate shall continue to be used for such project until construction has been completed, unless the Congress otherwise decides.

(e) Notwithstanding the provisions of paragraphs (a) and (b) of this section, the discount rate to be used in plan formulation and evaluation during the remainder of the fiscal year 1969 shall be 4⅝ percent except as provided by paragraph (d) of this section.

(f) Section V. G. 2 of the interagency agreement dated May 15, 1962, approved by the President on May 15, 1962, entitled "Policies, Standards, and Procedures in the

Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources," and published on May 29, 1962, as Senate Document No. 97, 87th Congress, 2d Session, is superseded by the provisions of this section.

This section shall be effective upon publication in the FEDERAL REGISTER.

[F.R. Doc. 68–15365; Filed, Dec. 23, 1968; 8:51 a.m.]

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D. THE DISCOUNT RATE

The discount rate will be established in accordance with the concept that the Government's investment decisions are related to the cost of Federal borrowing.

(a) The interest rate to be used in plan formulation and evaluation for discounting future benefits and costs, or otherwise converting benefits and costs to a common time basis, shall be based upon the estimated average cost of Federal borrowing as determined by the Secretary of the Treasury taking into consideration the average yield during the twelve months preceding his determination on interest-bearing marketable securities of the United States with remaining periods to maturity comparable to a 50-year period of investment: *Provided, however,* that the rate shall be raised or lowered by no more than or less than one-half percentage point for any year.

When the average cost of Federal borrowing as determined by the Secretary of the Treasury exceeds the established discount rate by more than 0.25 percentage points, the rate shall be raised 0.5 percentage points. When the average cost is less than the established rate by more than 0.25 percentage points, the rate shall be lowered 0.5 percentage points.

(b) The Water Resources Council shall determine, as of July 1, the discount rate to be used during the fiscal year. The Director of the Water Resources Council shall annually request the Secretary of the Treasury during the month of June to advise the Water Resources Council of his determination of the average cost of Federal borrowing during the preceding twelve months.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, the discount rate to be used in plan formulation and evaluation during the remainder of the fiscal year 1974 shall be 6⅞ percent.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that a copy of a letter to Senator BAKER from Treasury Secretary Shultz discussing interest rate computations be printed at this point in the CONGRESSIONAL RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
*Washington, D.C., November 5, 1973.*

DEAR SENATOR BAKER: This is in response to your letter of October 29 in which you requested information regarding alternative methods for computing the discount rate for use in evaluating the costs and benefits of Federal water resources projects under regulations issued by the Water Resources Council in December 1968 and September 1973. In both cases, responsibility for setting the discount rate rests with the Water Resources Council. The role of the Secretary of the Treasury, as prescribed in the regulations, is to provide certain estimates of the cost of Treasury borrowing based on average market yields on long-term Treasury securities outstanding.

I am happy to provide the following answers to the three questions in your letter.

1. The discount rates which would have been used each fiscal year under the 1968 regulations, if there had been no ceiling of ¼ of 1 percentage point in the annual change of the rate, are as follows:

1969, 4⅝%.
1970, 5½%.
1971, 6⅜%.
1972, 6⅛%.
1973, 5½%.
1974, 5⅝%.

2. The discount rates which would have been used during the same period under the principles and standards in the September 1973 regulations, if the initial rate for use in fiscal 1974 had not been set at 6⅞ percent, are as follows:

1969, 5⅜%.
1970, 5⅞%.
1971, 6⅜%.
1972, 6⅜%.
1973, 5⅞%.
1974, 6⅜%.

3. The Federal debt securities used in the calculations under the 1968 regulations are, as required by the regulations, all outstanding Treasury interest-bearing marketable securities of the U.S. with terms of 15 or more years remaining to maturity. A list of these securities outstanding on October 31, 1973 is enclosed.

The first calculation by us under the September regulations will not be made until June of next year. The securities used in the calculations will be determined at the time, in accordance with the intent of the regulations, on the basis of our judgment as to which securities are most representative of the cost of Federal borrowing for a period comparable to a 50-year period of investment.

The 6⅜ percent shown above for use in fiscal 1974 was arrived at simply by adding one-half percent to the 5⅞ percent rate shown for 1973, because of the requirement in the September regulations that the discount rate not change by more than one-half of one percent a year. Were it not for this requirement, we would have shown a rate of 6¾ percent, based on the average yield on Treasury obligations with periods remaining to maturity of approximately 25 years. The rates shown for the fiscal years 1969–1973 are, subject to the one-half percent limitation on annual change, based on Treasury obligations with approximately 15 years remaining to maturity, because there were no longer term Treasury obligation outstanding during that period which were reasonably representative of the current cost of Treasury borrowing.

The major reason for the differences in the discount rates produced by the 1968 and 1973 regulations is that the 1973 regulations permit us to ignore the yields on certain low coupon issues which are selling at deep discounts and are clearly not in line with the rates the Treasury would currently be required to pay on new borrowings. The yields on these issues are artificially low because (1) a portion of the yield to the investor is provided by the capital gains taxation treatment of the difference between the investor's purchase price and redemption at par at maturity, (2) these issues are redeemable at par prior to maturity in payment of Federal estate taxes (P.L. 92–5 barred this privilege with respect to obligations issued after March 3, 1971), and (3) the 4¼ percent ceiling on the interest rate which may be paid on Treasury bonds produced a relative scarcity of long-term issues by precluding issuance of long-term obligations from 1965 until enactment of P.L. 92–5 on March 17, 1971, which authorized the issuance of up to $10 billion of bonds without regard for the 4¼ percent limit. The disparities resulting from these factors are evident from the enclosed table.

The formula in the 1973 regulations is substantially the same as the formula in OMB Circular No. A–70, which prescribes the method for determining interest rates on direct Federal loans. This basic formula has been adopted by the Congress in a large number of legislative enactments in recent years, including, for example, the Environmental Financing Act of 1972 which was approved by the Committee on Public Works and enacted on October 18, 1972. The use of this approach has also been recommended by GAO for cost analysis of Federal activities generally and for water resource projects particularly. (See GAO reports: "Change Proposed in Interest Rate Criteria for Determining Financing Costs of Federal Power Program," January 13, 1970; and "Legislation Needed to Revise the Interest Rate Criteria for Determining the Financing Costs of Water Resources Projects," August 11, 1972.) After a number of studies by the Congress and by Federal agencies, this approach has been generally accepted as the most effective and equitable method of estimating current Treasury borrowing costs for a wide variety of Federal lending, borrowing, and investment decisions.

Please let me know if we can be of further assistance.

Sincerely yours,

GEORGE P. SHULTZ.

TREASURY SECURITIES WITH REMAINING PERIODS TO MATURITY OF 15 YR. OR MORE AS OF OCT. 31, 1973

| Maturity | Coupon rate | Price[1] | Yield to maturity |
|---|---|---|---|
| Feb. 15, 1990 | 3½ | 76.28 | 5.70 |
| Aug. 15, 1987–92 | 4¼ | 78.00 | 6.26 |
| Feb. 15, 1988–93 | 4 | 77.24 | 5.96 |
| Feb. 15, 1993[3] | 6¾ | 94.20 | 7.27 |
| Aug. 15, 1988–93[3] | 7½ | 101.14 | 7.36 |
| Aug. 15, 1988–93[2] [3] | 7½ | 101.12 | 7.37 |
| May 15, 1989–94 | 4⅛ | 78.16 | 5.95 |
| Feb. 15, 1995 | 3 | 76.27 | 4.74 |
| May 15, 1993–98[3] | 7 | 96.24 | 7.29 |
| Nov. 15, 1998 | 3½ | 76.26 | 5.16 |

[1] Closing bid price expressed as a percentage of par. Decimals are thirty-seconds.

[2] Trading on a when issued basis.

[3] Securities which would be considered for the purpose of calculating average yields under the Sept. 10, 1973 regulations issued by the Water Resources Council.

Source: Office of the Secretary of the Treasury, Office of Debt Analysis, Nov. 2, 1973.

Mr. BAKER. Mr. President, I shall support the Buckley amendment striking the exception from the new discount rate to be used in the planning and formulation of projects, made in this bill for the projects authorized for phase I design.

The committee made its decision to accept the new discount rate, published by the Water Resources Council and adopted by the President, on the grounds that the cost of money to the Government—particularly the cost of long-term money—is an appropriate charge in the formulation of water resources projects. I support that decision, for I consider it a sound judgment that Federal projects reflect the long-term cost of borrowing. I point out that in taking this action, the committee did not approve a higher charge, such as the so-called opportunity cost of money, or a discount rate radically increased from present practices which could have the effect of making infeasible many needed projects which otherwise might be justified.

The committee bill exempts from the new rate not only projects heretofore authorized for construction, but also those authorized in this bill for phase I design, which will later come before the Congress for the authorization for construction—and, of course, before the Appropriations Committees for funds to initiate and complete construction. I do not think that at this time we should foreclose their consideration at the discount rate which will then be applicable. So, it seems to me that the Senator from New York is on sound ground.

Whether his amendment is adopted or not, however, I note that when these projects come back for construction authorization—and as a matter of fact whenever any project is before the Appropriations Committees for the initiation of construction—any Member may inquire as to what the cost/benefit ratio would be if calculated at the current discount rates. That is, whether or not the project would be feasible as formulated under the procedures then being applied to new projects. I believe such inquiries have been made in the past, and for those who are interested in comparing the benefits and costs of these proposals, and in establishing priorities—which, of course, should include human factors and local needs as well as economics—such inquiry will continue to be informative.

I credit the junior senator from New York for his responsible actions and continuing interest.

Mr. BUCKLEY. Mr. President, I can summarize my position very simply. The committee has accepted the principle that in the future we must apply realistic rates of interest in order to determine whether we are obtaining fair value for our Federal funds.

My amendment would not extend this principle to projects that have gone through the full authorization process. It would affect only those approved for phase I analysis. So, in conformity with the principles of phase I authorization, we should review all factors that are pertinent: not only physical and environmental factors, but also financial ones.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. BUCKLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. There is not a sufficient second. The Senator from Alaska has 10 minutes remaining.

Mr. GRAVEL. I am happy to yield my colleague from New York additional time if he desires.

Mr. BUCKLEY. Mr. President, I am very grateful to the Senator from Alaska for yielding me a minute.

Mr. GRAVEL. I am happy to yield the Senator 2 minutes.

Mr. BUCKLEY. If I may reserve that minute so that I may later ask for the yeas and nays. I have no further statement to make at this time.

Mr. GRAVEL. Mr. President, I ask unanimous consent to lay aside the pending amendment and the amendment to the amendment, so that we may take up an amendment offered by the Senator from Illinois.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I call up my Amendment No. 917.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. STEVENSON. I ask unanimous consent that further reading of the amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I ask that the amendment be modified by a technical correction in conformity with the star print copy of the amendment which is at the desk.

The PRESIDING OFFICER. The Senator's amendment is so modified.

Mr. STEVENSON's amendment, as modified, is as follows:

On page 39, line 14, insert the following: "$10,000,000" in lieu of "$5,000,000".

On page 39, line 16, strike "and" the second time it appears on that line.

On page 39, line 18, strike "." and insert in lieu thereof "and by striking out 'of emergency bank-protection works to prevent flood' and inserting in lieu thereof ', repair, restoration, and modification of emergency streambank and shoreline protection works to prevent'.".

Mr. STEVENSON. Mr. President, I have discussed the amendment with the distinguished manager of the bill. It simply gives the Army Corps of Engineers the same authority with respect to erosion of shorelines along lakes, oceans, and gulfs as it now has with respect to streambank erosion.

Mr. President, the Army Corps of Engineers has cataloged 2,700 miles of critically eroding shoreline. This erosion threatens public roads, utilities, buildings, and recreation facilities. In many locations the danger is imminent. If action is not taken soon there will be nothing left to save.

Yet neither the Army Corps of Engineers, nor any other Federal agency, has the authority to assist communities and nonprofit institutions threatened with imminent loss of irreplaceable soil, shore, and appurtenant properties along lakes and oceans.

The corps does have authority to treat emergency erosion along streambanks. Section 12(f) of S. 2798 expands that authority. I see no significant difference between shorelines and streambanks in this regard. The damage to each can be severe and destructive of public properties.

This amendment would make shorelines eligible for the same emergency assistance as streambanks. To effectuate this purpose the amendment increases the section 12(f) authorization from $5 to $10 million. I would expect that the corps would divide the $10 million fund equally between shorelines and streambanks.

Mr. President, I believe this amendment accords with the general principles evidenced by S. 2798's shoreline and streambank erosion provisions. Those provisions recognize the need for increased Federal involvement in these important environmental problems, and I commend the committee for its steps in this direction. Yet the committee's efforts would be more complete if they contained some provision for meeting our Nation's immediate needs. My amendment does that by authorizing the Army Corps of Engineers to act to save those roads, churches, hospitals, public beaches, and recreation areas, and public works most threatened by erosion, along our ocean, gulf, and Great Lake shorelines. With that amendment, this bill will aid significantly the effort to save our shoreline.

I am hopeful, after having discussed the amendment with the distinguished Senator from Alaska, that the committee might be prepared to accept the amendment and eliminate a discrimination in the law against those communities and areas that abut oceans and lakes, as opposed to stream banks and rivers. I hope that the committee will accept the amendment.

Mr. GRAVEL. Mr. President, we have consulted the members of the committee on this particular amendment, and I think that it represents a compromise from our point of view on the subject that the Senator from Illinois has pressed for very diligently. So at least for my part, I am ready to accept the amendment and take it to conference.

Mr. WILLIAM L. SCOTT. Mr. President, I am not going to object to nor work against the amendment. I do have a concern about the overall cost of this bill. This would increase the cost, I understand, by $5 million. I understand it is a worthwhile thing, but we are going to have more and more worthwhile activities in our various States; so again, while the amendment is acceptable to me, I would hope that we might have fewer or no more of these amendments, certainly, costing in the millions of dollars.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment was agreed to.

The PRESIDING OFFICER (Mr. HATHAWAY). The question now recurs on agreeing to the amendment of the Senator from New York.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. I ask unanimous consent that a vote on my amendment be scheduled to follow immediately after the vote on the Proxmire amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, I relinquish the remainder of my time on my amendment.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Kansas is recognized.

Mr. PEARSON. Mr. President, I should like to inquire of the distinguished Senator from Alaska, the manager of this bill today, about an amendment which has been accepted by the Senate on two prior occasions, once when it was accepted in a bill which was subject to veto, and another time when passed by the Senate as a part of legislation not considered in the House.

That proposal, which was considered by the committee during the consideration of this bill, was one which dealt with provisions made for access roads to Federal lakes, and I have reference particularly to three Federal lakes within the State of Kansas. Two of these lakes are Pomona and Melvern in Osage County, and the other is Tuttle Creek in Pottawatomie County, Kans.

In Osage County, local officials have literally exhausted all possible funds to take care of the enormous traffic which has come into the area of the two lakes, particularly during the recreational seasons. The dust, the traffic—indeed, the environmental problems have been very great. I think it makes no sense at all to provide for these enormously beneficial lakes and then provide no way for people to get in or out. Much the same situation exists with regard to the Tuttle Creek project.

The proposal provided $500,000 for the two lakes in Osage County, and $500,000 for the one lake in Pottawatomie County which is the Tuttle Creek Reservoir. I note with great satisfaction that this particular proposal has been adopted by the House. I note also that the Senate has, on two prior occasions, as I have indicated, seen the wisdom of adopting this sort of program. So I had an amendment to provide for these improvements and I have discussed them with the chairman of this subcommittee, the able manager of this bill.

I would therefore like to inquire as to what he sees as the possible future for these kinds of improvements and what he may see as to how we may accommodate this bill to this particular proposal. These are questions of parochial interest, but they touch on the larger issue of what we are going to do with these problems in future days.

Mr. GRAVEL. Mr. President, there is no question in my mind that the Senator from Kansas has defined the situation accurately. We have expended moneys to provide for the lakes and these kinds of projects, but then we do not come forward with the necessary money to provide for the appurtenances or the improvements on the land to make them immediately available to the people so that they can enjoy them.

The committee went on record against the proposal, I am chagrined to say. If it were not for that, I would be prepared to accept the amendment at this time. But since the committee is on record, let me assure the Senator from Kansas that the issue will be pressed in the House bill since it is in the House bill, and the conferees will press the issue very strongly. It will be my view to accede to any House pressure in this regard.

Mr. PEARSON. I thank the able Senator from Alaska. I have every confidence in the conferees, and that the Senator will be most vigorous in seeing to it that we get a start on this particular program. I also want to thank the other members of the Public Works Committee for scheduling hearings on this proposition, so that in the future we will have some program available and will not have to come in here with amendments piecemeal but have an effective program in the years ahead. I thank the Senator very much.

Mr. DOLE. Mr. President, I wish, as a member of the Public Works Committee, until January 1973 to address several points concerning the Water Resources Development Act.

This is the third water resources measure to be considered by the Senate in little more than a year. The first, S. 4018, in the second session of the 92d Congress, passed Congress, but was vetoed by the President. The second, S. 606, was passed by the Senate in February 1973, but did not receive consideration by the House. Today we consider the third bill, S. 2798, which was reported by the Public Works Committee in December 1973.

I believe this bill, as did the others, takes a constructive approach to the job. However, it omits two provisions dealing with projects in Kansas which were considered during the course of action on the previous two bills and which were included in them.

### ROAD IMPROVEMENTS FOR MELVERN, POMONA, AND TUTTLE CREEK LAKES

They deal with road improvements in the facility of three Federal lakes and recreation areas, Melvern and Pomona Lakes in Osage County and Tuttle Creek Lake in Pottawatomie County. These improvements have been made necessary because of the heavy traffic generated over local roads and highways near these lakes. And I would imagine that the energy crisis will draw even greater numbers of individuals and families to these facilities as long-distance driving is limited.

By way of explanation of the need for these three projects, I attach as appendix I my introductory remarks for S. 46, a bill sponsored by Senator PEARSON and myself, to deal with the Osage County situation growing out of Melvern and Pomona Lakes. The circumstances involved with Tuttle Creek Lake in Pottawatomie County are quite similar.

These projects have been approved twice by the Senate. They are now contained in the House version of the Water Resources Act, and I believe it would be appropriate for the Senate to include them in S. 2798. Therefore, I have joined with Senator PEARSON in sponsoring an amendment to restore these projects to the bill. As appendix II, I attach the language of the conference report on S. 4018—92d Congress—discussing approval for these projects.

### BRIDGE LOCATION FOR ONAGA LAKE

I wish to call attention to section 22 of the bill which provides authority for advance relocation of a bridge involved in the Onaga Lake project.

This section is identical to S. 45 which I introduced in January 1973, and I believe it is a constructive measure, meeting a real need of local citizens without any additional expense to the Federal Government.

As appendix III, I include the text of my introductory remarks for S. 45.

### INCREASED FUNDING FOR SMALL FLOOD CONTROL PROJECTS

I also wish to compliment the committee for its work on section 75 which increases the ceilings on Federal funding for local flood control projects to $2 million. These projects are vitally important to many small communities in Kansas which face the threat of recurring floods each year. As the report points out, inflation has raised the costs of these projects by more than 90 percent since the last congressional action on a ceiling in 1962. The result has been real hardship on many localities which cannot bear these increased costs through their own resources and which, therefore, have been unable to proceed with providing the necessary flood protection for their citizens, their homes, and businesses.

By increasing the annual Federal expenditure on such projects to $50 million and the limitation on the Federal share for any individual project from $1 million to $2 million, Congress will provide significant assistance to many Kansas communities which are actively seeking to increase their level of protection from disastrous floods.

### EXPEDITED CONSTRUCTION FOR SMALL PROJECTS IN DISASTER AREAS

A second provision of section 75 provides much-needed flexibility and capability for the Corps of Engineers to construct these small local protection projects in areas which have been victimized by major disasters. It authorizes $25 million to enable the Chief of Engineers to proceed with the construction of small projects without the time-consuming requirement for congressional approval.

Many Kansas communities which did not have existing or previously authorized flood protection projects suffered major flood damage with last year's unusually heavy precipitation, and a program to protect them from recurrence of similar catastrophes on a priority and expedited basis will be most valuable. The same dollar limitations on Federal participation and the requirements for local cooperation as for any such small project will apply. And I believe this step will be one of the most worthwhile and important actions taken by Congress in the management of our water resource.

### REVIEW OF ACCESS PROBLEMS

I am also pleased that, following my appearance before the Public Works Committee, language was included in the report to express the committee's awareness of the problems of providing safe and adequate access to Federal lakes and their recreation facilities. And I wish to express my appreciation to the committee for its commitment to review these problems in its 1974 oversight hearings.

I believe the committee has recognized an important area of concern for the Federal Government, and I look forward to participating in these upcoming hearings.

The texts of the three appendices are as follows:

### Appendix I

By Mr. DOLE (for himself and Mr. PEARSON):

S. 46. A bill authorizing the improvement of certain roads in the vicinity of Melvern and Pomona Reservoirs, Osage County, Kans. Referred to the Committee on Public Works.

#### ROAD AND BRIDGE CONSTRUCTION ASSISTANCE FOR OSAGE COUNTY, KANS.

Mr. DOLE. Mr. President, construction of a Federal multipurpose dam and reservoir is a highly valuable addition to any county or region. The construction process initially has a favorable economic impact in the area. And completion of the facility often means assurance of nearby communities' water supplies; valuable flood protection for homes, businesses and farms; and the establishment of a new leisure-and-recreation economic base for the area.

A new reservoir, however does not bestow its benefits without cost to its locality, for it necessarily removes substantial acreage from the tax rolls. A dilemma is posed in that reduction of the tax base is accompanied by an increased need for outlays to finance construction of improvements—particularly roads and bridges—which will enable the tax base to be built up through business, recreational, and residential developments.

In most cases, the problems of financing the expenditures required to stimulate this compensating growth of the tax base are within the capabilities of the affected local and State governments. Most citizens recognize the need and respond by supporting tax levies and bond issues to underwrite these costs. Frequently, such efforts require significant sacrifices, but they are made in the realization that such investments in future growth will pay handsome dividends.

Ten years ago, the Pomona Reservoir was constructed in Osage County, Kan., and it has proven to be a highly successful project, providing substantial flood protection for a wide area of eastern Kansas and proving to be an outstanding attractive recreation area with its 246,000 acre-feet impoundment in a beautiful natural setting.

But Osage County has been doubly blessed; for, now nearing completion is the 360,000 acre-feet Melvern Reservoir. Completion of Melvern will make Osage County one of the prime tourist attractions in the eastern Kansas-western Missouri area and will give the county a unique status in having two Federal reservoirs within its borders. But while this county has benefited substantially from the development of its water resources, it must contend with an unusual set of problems raised by this double helping of attractive features.

Only 13,000 people live in this county, and some 12,000 acres of its most valuable agricultural land have been removed from the tax base. Thus diminished, the tax rolls have been squeezed, and the burdens of the taxpayers have, for the time being, been increased. Even so, the citizens of the county have welcomed and supported these additions to their area. In recognition of the need to stimulate the lakes' business, recreational and residential development by making them more accessible, a countywide $1.5 million bond issue has been passed to support a replacement program for the oldest and most unsafe bridges. But the capacity of local citizens to do more is seriously limited. The State of Kansas has also made an effort to help by improving the highway which runs near both reservoirs, but much more must be done.

I would point out that the improvement of these roads and highways is not simply a matter of local economic interest. It also reflects a broader public interest in seeing that these federally funded projects return the maximum possible benefits for the American taxpayer's dollar, and those returns can be measurably enhanced by making access to those reservoirs easier and safer for visitors. Nearly 1 million people visited the Pomona Reservoir last year, and more than 7 million have come since it opened. When Melvern also becomes operational, the volume of visitors can be expected to increase substantially and thereby overtax the local bridges and roads which were originally designed and constructed with no idea of carrying the volume of traffic which they are now facing. A first-rate crisis in terms of capacity, accessibility and safety will occur unless major steps are taken to expand and improve the local road and highway system.

Therefore, I am introducing legislation to provide authority for the Army Corps of Engineers to undertake a substantial road improvement program for Osage County in the vicinity of the Melvern and Pomona Reservoirs.

I have been in contact with the Osage County Commissioners and am aware of the major efforts the county has undertaken to solve the problem on its own. Yet, there is only so much that can be done locally and additional assistance should be made available.

Therefore, I would hope this proposal can receive favorable and speedy consideration so that the improvements may be completed at the earliest possible date and the visitors and residents in Osage County can be provided safe and adequate roads in the Pamona and Melvern Reservoir areas.

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### Appendix II

### Excerpts From Conference Report

#### SECTION 15

This section modifies the projects for Melvern Lake and Pomona Lake, Kansas, to authorize the Secretary of the Army, acting through the Chief of Engineers, to improve surface roads in the vicinity of the projects which he determines to be necessary for appropriate utilization of the projects. Not to exceed $500,000 is authorized to be appropriated to carry out the section.

Construction of these projects has resulted in an unexpectedly large number of persons visiting them and using their recreation areas. Existing roads providing access to the project are inadequate and in need of repair. The Committee considers it only just that if the Federal Government constructs a water resources project with recreation areas, it should provide adequate access to those areas. Section 15 provides authority to do this. Its authority is limited to such work as the Secretary of the Army determines necessary for appropriate utilization of the projects.

#### SECTION 16

This section modifies the project for Tuttle Creek Reservoir, Kansas, to authorize the Secretary of the Army, acting through the Chief of Engineers, to improve a portion of a highway providing access to the project. This section is similar to section 15, and the reasons for it are the same—to authorize the improvment of roads needed for access to recreation areas at a Federal project.

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### Appendix III

By Mr. DOLE:

S. 45. A bill to authorize advance relocation of FAS Route 1343 in connection with the Onaga Lake project in Kansas. Referred to the Committee on Public Works.

#### BRIDGE CONSTRUCTION IN POTTAWATOMIE COUNTY, KANS.

Mr. DOLE. Mr. President, a situation has arisen in Pottawatomie County, Kans., as the intersection of two Federal programs has put local citizens and local government in a difficult position.

The Federal Aid Highway Act of 1968 contained a provision—section 26—calling for inspections and engineering studies to be made on all bridges in the Federal aid secondary system of roads and highways in the United States. This legislation was wise and responsive to a real need to assess the safety of these bridges many of which are quite old and have come to carry traffic loads for in excess of their original design specifications. Throughout the country, these studies have been undertaken, and in many cases it has been shown that bridges are unsafe and should be repaired, replaced, or closed. Of course, the closing and repair of some bridges has imposed some hardships on the county governments responsible for maintenance on the FAS system. But it is generally recognized that safety should be a prime consideration for any transportation system.

Pottawatomie County in northeastern Kansas has complied with the bridge inspection law by contracting for a 3 year, $10,000 study of its bridges, giving first consideration to those structures lying within the general area of the Onaga project of the Corps of Engineers authorized by Congress in 1962. It was felt that these structures should be studied first, because of the expected requirements for quality bridges to serve the large numbers of tourists who will be drawn to the area and because it would not be wise to expand funds for the improvement of some bridges if they are soon to be closed and flooded when impoundment begins in the lake. As it has turned out five of these bridges are unsatisfactory and should be closed. The findings of this study are not disputed, and county officials readily accept the need for this action to be taken in the interests of public safety.

But a major problem presents itself in that if all five of these bridges—which extend along 16 miles of the Vermillion Creek—are closed, a major disruption in local traffic will occur and serious inconvenience for farmers and other local residents will result.

A tantalizing element is introduced into this matter by virtue of the fact that one bridge on FAS route 1343 approximately midway along this 16-mile distance is near a site considered by the Corps of Engineers in its preliminary planning for the Onaga Lake to be desirable for a lake crossing. Construction of such a crossing would, therefore, provide an ideal solution for the traffic problems of Pottawatomie County. The problem, however, is that, although the lake project is well into development with $250,000 appropriated in fiscal year 1973 for advanced engineering and design work, actual construction probably will not begin for 2 years.

So the county is faced with a serious need to provide a bridge to allow traffic movement across this 16-mile length of Vermillion Creek, and at the same time it sees that any money spent on improvement of one of these bridges will be wasted when the Onaga Lake is completed, both because the bridge will be inundated and because the Corps of Engineers will proceed with its road relocation plans in any event. The Corps of Engineers, as it has indicated in extensive correspondence with my office, appreciates the country's problem, but it cannot proceed with advance relocation of this FAS route on the basis of its current authority.

In view of these facts and the obvious good sense, economically and practically, of helping both the country and corps to do their jobs in the best interests of the taxpayers, I am introducing legislation to authorize the Corps of Engineers to proceed with advance relocation of FAS 1343 over the Vermillion Creek in accordance with the requirements of the Onaga Lake project.

I believe this legislation will provide the best possible solution for the problems which have been encountered. The citizens of Pottawatomie County will be able to travel through the area without unreasonable inconvenience; the county government and its taxpayers will be spared the unnecessary expense of repairing or replacing a bridge that will be of no use in 2 or 3 years; and the Corps of Engineers will be able to complete a necessary and important segment of its project in a manner which will be entirely consistent with the project's overall goals and requirements.

By Mr. DOLE (for himself and Mr. PEARSON):

S. 46. A bill authorizing the improvement of certain roads in the vicinity of Malvern and Pomona Reservoirs, Osage County, Kans. Referred to the Committee on Public Works.

### ROAD AND BRIDGE CONSTRUCTION ASSISTANCE FOR OSAGE COUNTY, KANS.

Mr. DOLE. Mr. President, construction of a Federal multipurpose dam and reservoir is a highly valuable addition to any county or region. The construction process initially has a favorable economic impact in the area. And completion of the facility often means assurance of nearby communities' water supplies; valuable flood protection for homes, businesses and farms; and the establishment of a new leisure-and-recreation economic base for the area.

A new reservoir, however, does not bestow its benefits without cost to its locality, for it necessarily removes substantial acreage from the tax rolls. A dilemma is posed in that reduction of the tax base is accompanied by an increased need for outlays to finance construction of improvements—particularly roads and bridges—which will enable the tax base to be built up through business, recreational, and residential developments.

In most cases, the problems of financing the expenditures required to stimulate this compensating growth of the tax base are within the capabilities of the affected local and State governments. Most citizens recognize the need and respond by supporting tax levies and bond issues to underwrite these costs. Frequently such efforts require significant sacrifices, but they are made in the realization that such investments in future growth will pay handsome dividends.

Ten years ago, the Pomona Reservoir was constructed in Osage County, Kans., and it has proven to be a highly successful project, providing substantial flood protection for a wide area of eastern Kansas and proving to be an outstandingly attractive recreation area with its 246,000 acre-feet impoundment in a beautiful natural setting.

But Osage County has been doubly blessed; for, now nearing completion is the 360,000 acre-feet Melvern Reservoir. Completion of Melvern will make Osage County one of the prime tourist attractions in the eastern Kansas-western Missouri area and will give the county a unique status in having two Federal reservoirs within its borders. But while this county has benefited substantially from the development of its water resources, it must contend with an unusual set of problems raised by this double helping of attractive features.

Only 13,000 people live in this county, and some 12,000 acres of its most valuable agricultural land have been removed from the tax base. Thus diminished, the tax rolls have been squeezed, and the burdens of the taxpayers have, for the time being, been increased. Even so, the citizens of the county have welcomed and supported these additions to their area. In recognition of the need to stimulate the lakes' business, recreational, and residential development by making them more accessible, a countywide $1.5 million bond issue has been passed to support a replacement program for the oldest and most unsafe bridges. But the capacity of local citizens to do more is seriously limited. The State of Kansas has also made an effort to help by improving the highway which runs near both reservoirs, but much more must be done.

I would point out that the improvement of these roads and highways is not simply a matter of local economic interest. It also reflects a broader public interest in seeing that these federally funded projects return the maximum possible benefits for the American taxpayer's dollar, and those returns can be measurably enhanced by making access to those reservoirs easier and safer for visitors. Nearly 1 million people visited the Pomona Reservoir last year, and more than 7 million have come since it opened. When Melvern also becomes operational, the volume of visitors can be expected to increase substantially and thereby overtax the local bridges and roads which were originally designed and constructed with no idea of carrying the volume of traffic which they are now facing. A first-rate crisis in terms of capacity, accessibility and safety will occur unless major steps are taken to expand and improve the local road and highway system.

Therefore, I am introducing legislation to provide authority for the Army Corps of Engineers to undertake a substantial road improvement program for Osage County in the vicinity of the Melvern and Pomona Reservoirs.

I have been in contact with the Osage County Commissioners and am aware of the major efforts the county has undertaken to solve the problem on its own. Yet, there is only so much that can be done locally and additional assistance should be made available.

Therefore, I would hope this proposal can receive favorable and speedy consideration so that the improvements may be completed at the earliest possible date and the visitors and residents in Osage County can be provided safe and adequate roads in the Pamona and Melvern Reservoir areas.

Mr. DOLE. Mr. President, I support the position taken by my senior colleague from Kansas. I appreciate the comments of the distinguished Senator from Alaska (Mr. GRAVEL). Having just returned from Kansas last night, having been in Osage County where the two facilities are located, and having visited the county commissioners, I can understand the great strain this puts on any county's resources. As my colleague from Kansas has just said, it is a small county, the only county with two such Federal projects, and this situation has caused rather great distress insofar as revenue capabilities and the tax base are concerned.

Now, I recognize the difficulty of the Public Works Committee, having served on that committee, in accepting every amendment that comes from the floor. I recognize that the amendment is contained in the House bill and I would assume that the position stated by the Senator from Alaska would also apply to the minority conferees—the Republican conferees; so if that is the case, then we are home free. But, does the Senator from Alaska speak for all the conferees?

Mr. GRAVEL. I obviously cannot speak for all the conferees, but I think the chances are that we will succeed.

Mr. DOLE. I thank the Senator.

Would the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT) like to comment on it, at least?

Mr. WILLIAM L. SCOTT. Mr. President, I think the Senator is justified in his confidence in the Senate.

Mr. DOLE. I have not only great confidence in the Senate, but I have great confidence in the statement made by the distinguished senior Senator from Kansas (Mr. PEARSON), and also in the merits of the proposal.

Having served on the Committee on Public Works, I know that no measure is passed out of that committee without merit. At least, we did not do so when I was a member of the committee, and I do not think that policy has been changed. But this is a serious matter, one that deserves consideration. I join my distinguished senior colleague in expressing my thanks to both the distinguished Senator from Alaska (Mr. GRAVEL) and the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT).

The PRESIDING OFFICER. The bill is open to amendment.

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

I also ask unanimous consent that the distinguished senior Senator from Kansas (Mr. PEARSON) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. DOLE. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be printed in full in the RECORD.

The amendment ordered to be printed in the RECORD is as follows:

On page 88, between lines 22 and 23, insert the following.

"SEC. —. (a) The project for Clinton Reservoir, Kansas River, Kansas, Nebraska, and Colorado, authorized by the Flood Control Act approved October 23, 1962 (76 Stat. 1193) is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct a highway in Douglas County, Kansas, to be known as the Clinton Parkway. Such highway shall run from Twenty-third and Iowa Streets in Lawrence, Kansas, westward approximately four and one-tenth miles to the Clinton Lake Access Road A and shall be constructed in cooperation with the State of Kansas and affected political subdivisions.

"(b) The Federal share of the work performed under this section shall not exceed 70 per centum of the costs of such work. The Secretary may enter into such agreements with the State of Kansas and political subdivisions thereof as he deems necessary to provide for the cost sharing and construction by such non-Federal interests of the work authorized by this section.

"(c) The highway shall be placed in the Federal-aid secondary highway system of roads and maintained by the State of Kansas or political subdivisions thereof upon completion.

"(d) There is authorized to be appropriated to the Secretary not to exceed $6,000,000 to carry out this section.

"Renumber Sec. 83 as Sec. 84."

Mr. DOLE. Mr. President, let me state briefly that having disposed of road problems and other problems requiring attention in the State of Kansas, a more difficult situation has developed in connection with Clinton Lake, in Douglas County, Kans.

This major multipurpose Corps of Engineers project is now under construction, with impoundment of water expected to begin in 1975. When completed, it will be one of the major attractions for the city of Lawrence and for the entire northeast area of the State. Millions of people are expected to visit the lake each year to enjoy its water, its shores and many other attractive features associated with it.

The problem, however, lies in the lack of adequate access routes to the project—

particularly from the southwestern portion of Lawrence at the intersection of two major highways from the south and east of the city. At the present time only a two-lane road leads from this intersection westward to the project area, and it is entirely inadequate to carry the traffic which is expected to be going to and from the project.

By way of a further explanation of the city's plight, I ask unanimous consent that an editorial published in the Lawrence Daily Journal-World be printed at this point in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### Clinton Parkway

Immediate action is necessary at the city, county and state level to get work started as soon as possible on the Clinton Parkway route. Water is scheduled to be impounded in Clinton Reservoir starting in 1975, yet some local officials are talking about not contracting the road work until 1976, and one spokesman speculated the project might take eight years to complete. Lawrence and Douglas County cannot afford to stumble around, twiddle their thumbs and do nothing.

Whether the Corps of Engineers, the Environmental Protection Agency, the Department of Interior or some other office has thrown the city, county and state a curve relative to making new requests for information about the impact of the roadway, it is essential that action be taken to get the necessary reports prepared as soon as possible and quit talking about the project taking eight years to complete.

The Corps of Engineers predicts three million visitors a year shortly after Clinton is opened, and evidently one study talked about 10,000 vehicles a day using the Parkway. Imagine what Twenty-Third Street and the already dangerous roadway now providing access to the Clinton Reservoir area will be like in only a few years with 10,000 additional vehicles a day.

Were local officials negligent in not providing complete information for the various state and federal agencies who now demand more facts and studies before they place their stamp of approval on the Parkway project? Something has gone wrong somewhere, and it should be corrected. According to reports the County Commission was informed in July, 1972, that a comprehensive study would be required because the road would pass through federally owned land. The report was due to be completed by early 1973, but evidently there have been numerous delays.

Now an official who talks about it possibly being another eight years before the project might be completed says, "That's the way the Federal government does things. There is no way to push it along."

This sounds like a defeatist attitude and the city, county and state should join forces and start "pushing" as hard as possible right now! There might be surprising results.

The roadway is badly needed and cannot be put off for a 1982 completion date.

Mr. DOLE. Mr. President, I believe that special action is required to deal with this problem. And I offer an amendment to expand the project to include construction of this very important road leading from Lawrence to the Clinton Lake project area.

The amendment would provide Federal funding for 70 percent of the road's cost, up to a limit of $6 million. The road would be constructed, as is the usual case, in cooperation with State and local authorities, who would also assume responsibility for maintaining it after completion.

I have discussed this proposal with my distinguished senior colleague from Kansas (Mr. Pearson) and with members of the Committee on Public Works. The amendment has not been fully considered by the Committee on Public Works, so it is my hope that rather than to adopt the amendment at this time—unless the committee is willing to have it adopted, and I shall ask the manager of the bill now whether he will agree to that——

Mr. GRAVEL. Mr. President, I am very sympathetic to the issue propounded by the distinguished Senator from Kansas and would be prepared to accept the amendment if it were not for one simple fact: It comes before the Senate at a time, I should say in all fairness, when the committee has not had an opportunity to hold hearings. So I would hope that the Senator from Kansas, who has made his point, might withdraw the amendment, with my assurance that the subcommittee will take it up, hold hearings on the proposal, and report the matter to the full committee. I am sure that as a result of that process, the proposal will receive more favorable treatment.

Mr. DOLE. I appreciate that assurance, and I have the same assurance from the chairman of the full committee, the distinguished Senator from West Virginia (Mr. Randolph). I understand that it is in many ways a departure, that it does deserve serious consideration, and hopefully sympathetic consideration, which I know it will receive from that committee.

Based on the statement of the distinguished Senator from Alaska, the chairman of the subcommittee, I withdraw the amendment.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. RANDOLPH. Mr. President, the Senator from Kansas, who has the floor with respect to the pending amendment, I am sure realizes that the procedure by which we will look into this matter is the procedure which is followed traditionally. We shall not delay. We will give this matter attention in the subcommittee and in the full committee.

I commend the knowledgeable Senator from Kansas for discussing this proposal in the Senate today. I want him to be assured, as he has been assured, that, as with all projects that are presented to us through the Corps of Engineers or through the authorities that act in matters of this kind, including the understandable concern of a Senator—in this instance, both able Senators from Kansas—the matter will be given an expeditious hearing and a decision. We will do that, as has been indicated here today. I say that to the Senator who now speaks and to Senator Pearson, who is in the Chamber at this time.

Mr. DOLE. I thank the distinguished chairman. I certainly appreciate his statement and the statement of the Senator from Alaska. I have served on the Public Works Committee, and I am certain that the matter will be heard expeditiously and fairly and that a decision will be reached. That is really all we can expect or should expect. On that basis, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. THURMOND. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At an appropriate place in the bill, insert the following:

The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake the removal of silt and aquatic growth from Broadway Lake, Anderson County, South Carolina, at an estimated cost of $400,000.

Mr. THURMOND. Mr. President, the wording of this amendment is identical to that in section 98 of the House bill. This amendment was included in the bill passed by the House. Its only purpose is to save a major recreational facility in Anderson County, S.C.

This facility, Broadway Lake, was built as a WPA project during the depression years. It is on a tributary of the Savannah River, and is the major facility in Anderson County for such recreational activities as boating, skiing, swimming, and fishing.

No provision has ever been made to retard silt running off from the river that feeds the lake. As a result, silt has been deposited over the years until sections of the lake are no longer usable. The depth of the silt has contributed to a rapid increase in the growth of aquatic life.

Both the Corps of Engineers and the Soil Conservation Service, USDA, have studied this problem. They have recommended that the lake first be cleaned and dredged. This will be followed by the building of dams and sluices above the lake to avoid future silt buildup. The estimated cost of the cleaning and dredging is around $400,000. My amendment would authorize the Corps of Engineers to undertake this cleaning and dredging.

Mr. President, suitable recreation areas are necessary for the continued growth of every State, and this proposal would be a major step in preserving an existing facility in South Carolina.

It would cost a large amount now to build a facility such as this. We have the facility, but the silt has come in from the Savannah River and has clogged the facility and has practically made it unusable.

As I have stated, the House of Representatives included this proposal in its version of the public works bill. We did not have the opportunity to appear before the committee and explain this matter in more detail, or I feel certain that the committee would have approved it at this time.

I have talked to the able chairman who is handling this bill, the distinguished Senator from Alaska, and I hope he will see fit to accept the amendment.

Mr. GRAVEL. Mr. President, I am extremely impressed with the proposal as the Senator from South Carolina has propounded it. However, I am informed by the staff that we have some difficulties. To propound the proposal as he presently does would fly in the face of the Federal Water Pollution Control Act, which has a clean lakes provision, and which contains an authorization of $150 million for fiscal 1975, for grants to States.

I hope that the Senator from South Carolina will not press his amendment. I will give him a personal guarantee that we will alter the House language in the conference so that the authority will come under the Federal Water Pollution Control Act, but the work will be done by the Corps of Engineers.

As with assurance I have given earlier on the floor, the issue will be pressed in conference, and we will see that Broadway Lake is accommodated. But it will be under laws which Congress has already enacted.

I hope the Senator will see that as a solution to his proposal. I can assure him that it will be an actual solution, because I am sure the House will accommodate us on this language, to make sure the project is undertaken.

Mr. THURMOND. Mr. President, if the distinguished manager of the bill feels that that is the best procedure and assures me, as he has, that he will support this matter in conference in the way that is best under the law to get approval of the project and to get action in order to remedy this situation, I will not press the amendment; and I will leave it to the distinguished manager of the bill to handle it in conference.

Mr. GRAVEL. I appreciate the Senator's confidence. I was just made aware of the existing authorization and the vehicle through which it can be undertaken. The corps can do the job, and we will correct the language of the report, so that when the conference is completed, Broadway Lake will be taken care of.

Mr. THURMOND. I thank the able and distinguished chairman for the assurance he has given in this important matter.

The PRESIDING OFFICER. Does the Senator from South Carolina withdraw the amendment?

Mr. THURMOND. In view of that assurance, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. TAFT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment is as follows:

On page 88, line 23 of S. 2798, add a new Section 83 which states: Section 123 of the River and Harbor Act of 1970 (84 Stat. 1818, 1823) is hereby amended by adding at the end of subsection (d) of such section the following: "in the event such findings occur after the appropriate non-Federal interest or interests have entered into the agreement required by subsection (c), any payments due after the date of such findings as part of the required local contribution of 25 percentum of the construction costs shall be waived by the Secretary of the Army.".

Renumber the following sections of the bill.

Mr. TAFT. Mr. President, the unprinted amendment I have offered to S. 2798 would amend section 123(c) of the River and Harbor Act of 1970, Public Law 91–611, to provide for the construction and financing of containment areas for the disposal of polluted dredged materials and requires that non-Federal interests furnish all lands, easements, and rights-of-way.

In addition, the non-Federal interests must contribute 25 percent of the construction costs. Subsection (d) of the River and Harbor Act permits the Corps of Engineers and the EPA to waive the 25 percent construction repayment if non-Federal interests are participating in and in compliance with an approved plan for construction, expansion or rehabilitation of waste treatment facilities and the Administrator of Environmental Protection Agency has found that water quality standards are not being violated.

My amendment adds to this law that in the event that the findings occur after the non-Federal interests have entered into the agreement to make the 25 percent payments, any payment due after the date of the finding as part of the required local contribution of 25 percent of the construction costs shall be waived by the Secretary of the Army.

On future agreements, the repayments will be scheduled in such a manner as to insure that in the event of a waiver during payments, those payments which have been made will reflect the percentage of the facilities' life which has been used up to that point.

This amendment has been urged by the Great Lakes Task Force in a letter to the Members of Congress from the Great Lakes States, and in my own State, by the Port Authority of Cleveland, Ohio.

Mr. President, I ask unanimous consent to have printed in the Record a letter from Richard L. Schultz, executive director, Cleveland Port Authority, dated December 14, 1973.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Port of Cleveland,
*Cleveland, Ohio, December 14, 1973.*

Hon. Robert Taft, Jr.
*U.S. Senate,*
*Russell Senate Office Building,*
*Washington, D.C.*

Dear Senator Taft: I am writing to solicit your assistance with legislation of great interest to Great Lakes ports including all of Ohio's ports—and of paramount importance to the Port of Cleveland and the Cleveland-Cuyahoga County Port Authority. Our legislative problem occurred when a specific section of the Omnibus Public Works bill reported out by the House Committee was not included in the Senate version reported out on Tuesday, December 11th.

The section involved was Sec. 23 of H.R. 10203 and H.R. 10204, identical bills except as to sponsors. The section amended Sec. 123 of the 1970 River and Harbor Act (PL 91–611) which provided a cost-sharing program for construction of dredging spoil retention dikes for Great Lakes ports. It had been my understanding that the bill reported out Tuesday by the Senate Public Works Committee, S-2798, would contain all of the key sections of the House bills that were of interest to ports generally. (Sec. 109, 170, and 180 as well as Sec. 123). In fact, most of these did survive, although Sec. 180 was changed significantly.

Our dismay at losing Sec. 23 requires explanation. Under the 1970 legislation, spoil dike costs were to be shared 25% local and 75% federal with a proviso for waiving the local cost share if the port community involved had an acceptable (to EPA) water pollution control program. Several Great Lakes ports have received such waivers (Milwaukee, Buffalo) and are proceeding with spoil dikes. Many other ports have not qualified for waivers and have therefore not started their dikes (Toledo, Conneaut, Ashtabula, Fairport Harbor, plus others out-of-state). Because of our dredging crisis at Cleveland, we were the first port (and apparently still the only one) to proceed with dikes without the 25% share waiver. The Port Authority has contracted as the "local cooperator," and we could be obligated to pay 25% of as much as $50 million—although God knows where that amount of money would come from.

However, there is hope that Cleveland will qualify for a waiver soon, before the first dike under our program is completed next August (1974) and before our first installment payment of the dike cost is due. Unfortunately the language of PL 91–611 did not clearly provide for a waiver once the cooperation agreement had been signed, but there appeared to be time to cure this legislatively before our payments were due. We were encouraged to go this route by the House Public Works Committee staff who helped draft the 1970 legislation.)

Accordingly, Representative James V. Stanton, a member of the House Public Works Committee and in whose 20th District the Port of Cleveland is physically located, introduced H.R. 9842, a very brief but vital piece of legislation for us. In time, 9842 was consolidated into 10204, and until Tuesday we thought everything was going well.

There has been interest in the Sec. 123 amendment by ports throughout the nation, and numerous endorsements by Great Lakes agencies including the Great Lakes Commission and various Ohio ports. The amendment would not produce a retroactive waiver, but would provide a pro-rate waiver in the case when a port community qualified during the useful life of the dikes. This would avoid the inequity we face of paying for dikes years after we have a waiver.

I have enclosed some explanatory materials including a copy of Sec. 123, my letter to Chairman Randolph of the Senate Committee (which was acknowledged), the Great Lakes Commission statement, and a Conneaut endorsement.

I am certain we could produce impressive evidence of Ohio and regional support for retaining the Sec. 123 provision when the Senate and House bills go to Conference Committee. We are concerned, however, that waiting until the conference leaves no margin for error.

Senator Taft, do you think it feasible and would you be willing to offer an amendment from the floor to include Sec. 123 in the Senate bill when it is voted on by the Senate?

We shall appreciate any assistance you can give us.

Sincerely,

Richard L. Schultz,
*Executive Director, Cleveland-Cuyahoga County Port Authority.*

Mr. TAFT. Mr. President, this amendment is in the exact language that is presently in the House bill. My understanding is that it did not get included in the considerations of the Senate committee. I have talked with the chairman of the committee and the chairman of the subcommittee in this regard, and I have also talked to the ranking member of the subcommittee. I understand the matter will come up in conference. I ask the chairman of the subcommittee if he would make any observations with regard to the proposal.

Mr. GRAVEL. I can assure my colleague that when we get to conference it will have a very receptive ear. A number of items are coming up in conference that we have not had hearings on. I do not know whether some of the issues are of a nature that would require hearings on the Senate side, but if we depart from that position, I can assure the Senator that one of the issues that will benefit from that departure is the issue he presented so ably today.

Mr. TAFT. I thank the Senator. With that assurance, rather than pressing the matter at this time on the floor without having had full consideration of it, I withdraw the amendment at this time and I hope it will be taken up and acted upon favorably in conference.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. GRAVEL. Mr. President, I believe we have handled all the amendments on this particular bill except the two which will be voted upon at 2:45 p.m. or shortly thereafter.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Domenici). Without objection, it is so ordered.

Mr. HART. Mr. President, earlier today my colleague (Mr. Griffin) indicated that he and I had a great concern with one aspect of the bill that the committee has reported. He and I had drafted an amendment, which I ask unanimous consent be printed at this point in the Record, although after discussion we have had with the floor manager of the bill (Mr. Gravel), it is our intention not to offer the amendment.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

On page 88, between lines 22 and 23, insert the following:

"Sec. 83. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to remove from Manistee Harbor, Michigan, the sunken steamer Glen."

On page 88, line 23, strike "Sec. 83" and insert in lieu thereof "Sec. 84."

Mr. HART. Mr. President, in brief, the House-approved bill provided the sum of $33,000 and authorized and directed the Secretary of the Army, through the corps, to remove a sunken steamer, the *Glen*, from Manistee Harbor in Michigan. Twice before the Senate has approved this language.

In discussion with the Senator from Alaska (Mr. Gravel), he, as I understood him, assured us that there is the authority under existing law in the corps to undertake this action, that it now has the authority to act under its general responsibility for eliminating obstructions and hazards.

Without detailing or seeking to determine the basis for the action of the subcommittee in eliminating this factor, I would like, as would my colleague (Mr. Griffin), to insure that this Record arm the Senate conferees with some specifics which we believe argue strongly that a very sound use of Federal money would be reflected in agreeing with the House and authorizing the $33,000, which is the cost of removing this hazard to navigation.

First of all, it is my understanding that the corps agrees that there is a hazard to people using Manistee Harbor. They take the position that those people can live with it for a little while longer.

People who use the harbor, understandably, feel that this is both unwise and uneconomic. In the last several years, facts establish the seriousness of the obstruction caused by the sunken hulk. Twenty-five ships struck the wreck in 1968. Thirty ships struck it in 1970. So it goes. These accidents cost thousands of dollars in damage and personal injuries, and this will continue for so long as that hulk is permitted to sit there.

Measured against just the damage to property which has already been inflicted on boats using the harbor, forgetting potential damage in the future, $33,000, which the corps estimates, would be required to move the wreck, will be a sound investment.

My colleague (Mr. Griffin) and I hope very much that, with this factual explanation as to the reasons, it will persuade the Senate, which has been persuaded twice before to adopt this language, and the House now, to go forward with this provision for the removal of this hulk and will persuade the conferees that it is a wise and prudent and responsible action.

I yield to my colleague from Michigan.

Mr. GRIFFIN. Mr. President, I thank my senior colleague for yielding, and I wish to associate myself with his remarks.

When I was privileged to be a Member of the other body, I represented the congressional district that includes Manistee, and I am very familiar with the harbor there and the situation which exists.

It should be noted as a part of the factual presentation that in recent years the Michigan Department of Natural Resources, with Federal assistance from the Federal Government, has planted a great many coho salmon in the Lake Michigan area, and the project has been successful—indeed, very successful, so much so that boating activity has greatly increased in the Manistee Harbor and up and down the west shore of Michigan.

It seems to me that the very recitation of the number of accidents, as my senior colleague has done—there have been from 20 to 30 boating accidents by reason of boats striking this submerged ship in the Manistee Harbor—speaks very loudly for the expenditure of a very, very small amount—$35,000 or $33,000, whatever it is—to remove this sunken ship, which has been there for too long.

It is only because this particular provision or measure has been included in other omnibus bills from time to time that have fallen between the chairs or have been vetoed for one reason or another, having nothing to do with this particular project, that the funds have not heretofore been made available.

I certainly join with my senior colleague and wish to underscore what he says and urge the committee to see that the Corps of Engineers takes what is long overdue action with respect to this sunken ship at Manistee Harbor.

Mr. GRAVEL. Mr. President, I would like to congratulate my two colleagues from the State of Michigan for pressing so strongly and so vigorously on this particular issue.

The Senator from Michigan (Mr. Hart) has spoken to me privately on this matter. And I express my support for what I think is a serious problem. I think it is ridiculous to have such a situation. I am aware of the problem, because we have a similar situation in Cook Inlet in Alaska.

The corps has existing authority to do this. The sum is indeed modest. I can assure the Senators from Michigan that I will address a letter to the corps and ask them to give some degree of priority to this particular undertaking. And if that does not appear to have sufficient force, then I think we can reconcile something in the conference with the House Members.

I can assure the Senators that they have my full and complete support in seeing that this obstruction to healthy navigation is removed as quickly as possible. The sum is so modest that it is not asking for a great deal.

Mr. HART. Mr. President, I know that I can speak for my colleague from the State of Michigan when I extend thanks to the Senator from Alaska for his understanding of the problem.

I am glad to hear that there is a comparable situation in Cook Inlet. I hope that both situations can be remedied.

Mr. GRAVEL. Mr. Presdent, I only wish that ours could be remedied as quickly as the situation existing in Michigan.

Mr. DOMINICK. Mr. President, I would like to take a couple of minutes before the vote to ask a question of the manager of the bill.

The provision contained in section 68(a) concerned me when I read it the other day. I have not had a chance to ask about this before now. It refers to nonstructural alternatives whereby a Federal agency can act if a project involves flood protection. Apparently it refers to any Federal agency, and almost every reclamation project in the country has some element of flood protection in it.

One of the projects we are going forward with at this time has a good deal of flood protection involved, perhaps 40 percent.

Would that mean that the dam or flood control project would be overruled, or how long would that continue?

Mr. GRAVEL. Mr. President, I think that all we are trying to establish here is a new direction of policy; namely, if a funding problem can be handled in a fashion that is cheaper, we would not hesitate to take that new approach.

The best example of this is what we are doing in Boston in acquiring land north of Boston in that drainage area, which would have a flood impact on the community of Boston. So we would have to pay something along the way.

Mr. DOMINICK. Would the manager of the bill be receptive to any kind of time limitation? The particular dam I am thinking of is in the South Platte of Colorado. It has been authorized and reauthorized time and again. Now they are going to go ahead and give approval to a new kind of project.

Mr. GRAVEL. No. I think that the Senator from Colorado is reading much more into the section than is there.

We are suggesting that this situation could exist on any project in the future as it comes up. I am sure that this must have been considered before. However, we are giving a definition of policy.

Mr. DOMINICK. This would apply to new projects then?

Mr. GRAVEL. It would apply to new projects as I see it. However, if an old project came up for reconsideration for some reason or other, and we have a device by which that could happen, we might require a new and different approach to be undertaken for the simple reason that nothing had been done on the project up to that point in time. Where we deal in items of reclamation, particularly where it is more important than the flood aspect of it, obviously the judgment would prevail in favor of the present phase, to give greater weight to the reclamation aspect. And certainly that could not be done without some additional activity. They would go hand in hand.

Mr. DOMINICK. Mr. President, it is not the intention of the manager of the bill or of the committee to have this approach applicable to authorized projects that are in the process of going forward.

Mr. GRAVEL. No, not unless good judgment dictated their reexamination.

Mr. DOMINICK. I thank the Senator.

Mr. WILLIAM L. SCOTT. Mr. President, let me add to what the distinguished floor manager of the bill has said. This matter came before us in committee in connection with the Charles River in Massachusetts. I note that the distinguished Senator from Massachusetts (Mr. Brooke) is present in the Chamber. I was opposed to this matter, but I was defeated in committee and did not bring it up on the floor of the Senate.

We are talking about a flood area. It seems to me that the State and locality can prevent the building on flood plains through their zoning and planning powers, thereby alleviating flood problems.

The PRESIDING OFFICER. The hour of 2:45 having arrived, under the previous order the Senate will proceed to vote on the Proxmire amendment.

Mr. GRAVEL. Mr. President, I ask for the yeas and nays on the Proxmire amendment and on the Buckley amendment.

The PRESIDING OFFICER. Is there a sufficient second for the yeas and nays on the Proxmire amendment (putting the question).

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, how many rollcall votes are back to back?

The PRESIDING OFFICER. Two.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all rollcall votes after the initial rollcall vote this afternoon be limited to 10 minutes with the warning bell to be sounded after 2½ minutes.

Mr. WILLIAM L. SCOTT. Mr. President, reserving the right to object, I ask the distinguished majority whip how many are back to back?

Mr. ROBERT C. BYRD. Two are back to back. The first would be 15 minutes.

Mr. WILLIAM L. SCOTT. Mr. President, I am going to object any time there is a request for a 10-minute rollcall vote. During the 1st session of the 93d Congress, I missed two votes. I was over on the House side and missed the votes.

I do not think that we save sufficient time of the Senate in having 10-minute rollcall votes. I do object to the request.

The PRESIDING OFFICER. Objection is heard.

Is there a sufficient second for the yeas and nays on the Buckley amendment? (Putting the question.)

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the Proxmire amendment. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Nevada (Mr. Cannon), the Senator from California (Mr. Cranston), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Hawaii (Mr. Inouye), the Senator from New Hampshire (Mr. McIntyre), the Senator from Alabama (Mr. Sparkman), the Senator from California (Mr. Tunney), and the Senator from Texas (Mr. Bentsen) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bartlett), the Senator from Arizona (Mr. Fannin), and the Senator from Wyoming (Mr. Hansen) are absent on official business.

I also announce that the Senator from North Carolina (Mr. Helms), the Senator from Illinois (Mr. Percy), and the Senator from Texas (Mr. Tower) are necessarily absent.

The result was announced—yeas 9, nays 75, as follows:

[No. 6 Leg.]

YEAS—9

Brock
Buckley
Case
Clark
Ervin
Hart
Proxmire
Ribicoff
Roth

NAYS—75

Abourezk
Aiken
Allen
Baker
Beall
Bellmon
Bennett
Bible
Biden
Brooke
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chiles
Church
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Fong
Fulbright
Goldwater
Gravel
Griffin
Gurney
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Hughes
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Randolph
Schweiker
Scott, Hugh
Scott,
  William L.
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Weicker
Williams
Young

NOT VOTING—16

Bartlett
Bayh
Bentsen
Cannon
Cranston
Fannin
Hansen
Hartke
Helms
Humphrey
Inouye
McIntyre
Percy
Sparkman
Tower
Tunney

So Mr. Proxmire's amendment was rejected.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. GRAVEL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. McClure). The vote now occurs on the amendment of the Senator from New York (Mr. Buckley) No. 936.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation on this vote of 10 minutes, with the warning bell to be sounded after 2½ minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, is my understanding correct that the vote on final passage will follow immediately after the vote on the Buckley amendment?

Mr. GRAVEL. To my knowledge, everyone has put in the amendments so there is no reason why we cannot move right on to final passage. I would hope for a short vote.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GRAVEL. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on H.R. 10203.

The PRESIDING OFFICER. Without objection, it will be in order at this time to order the yeas and nays.

Mr. GRAVEL. Mr. President, I ask for the yeas and nays on H.R. 10203.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, with the understanding that the vote on final passage will occur right after the vote on the Buckley amendment, that there be a similar time limit of 10 minutes on the vote on final passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from New York (Mr. Buckley) No. 936.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from California (Mr. Cranston), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Hawaii (Mr. Inouye), the Senator from New Hampshire (Mr. McIntyre), the Senator from Alabama (Mr. Sparkman), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bartlett), the Senator from Arizona (Mr. Fannin), and the Senator from Wyoming (Mr. Hansen) are absent on official business.

I further announce that the Senator from North Carolina (Mr. Helms), the Senator from Illinois (Mr. Percy), and the Senator from Texas (Mr. Tower) are necessarily absent.

The result was announced—yeas 21, nays 63, as follows:

[No. 7 Leg.]

**YEAS—21**

Baker
Beall
Brock
Brooke
Buckley
Byrd, Harry F., Jr.
Case
Clark
Goldwater
Gurney
Hart
Javits
Mathias
Pastore
Pell
Proxmire
Ribicoff
Roth
Taft
Thurmond
Weicker

NAYS—63

Abourezk
Aiken
Allen
Bellmon
Bennett
Bible
Biden
Burdick
Byrd, Robert C.
Chiles
Church
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fong
Fulbright
Gravel
Griffin
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Hughes
Jackson
Johnston
Kennedy
Long
Magnuson
Mansfield
McClellan
McClure
McGee
McGovern
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pearson
Randolph
Schweiker
Scott, Hugh
Scott, William L.
Stafford
Stennis
Stevens
Stevenson
Symington
Talmadge
Williams
Young

NOT VOTING—16

Bartlett
Bayh
Bentsen
Cannon
Cranston
Fannin
Hansen
Hartke
Helms
Humphrey
Inouye
McIntyre
Percy
Sparkman
Tower
Tunney

So Mr. Buckley's amendment (No. 936) was rejected.

Mr. RANDOLPH. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

Mr. GRAVEL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I might note that on page 7 of the committee report there appears a paragraph on "effective utilization of the dredging industry." While I did not attend every meeting, I recall no discussion of this matter in the committee, and I am not certain that the paragraph added to the report constitutes the considered judgment of the committee.

It may be of little or no effect, but in the last sentence—which purports to predict what the result of policy guidance from the Congress should be, in the event the Congress establishes a national dredging policy for the guidance of the corps—one may draw an inference that the corps should utilize private dredgers and leave its own equipment idle, wherever possible. That may be desirable or not, but the only point I make at this time is that I do not consider that the question has yet been addressed by the committee.

Before we vote on final passage of the bill, I would like to extend a word of thanks and appreciation to three members of the committee who worked long and hard on this bill. Chairman Randolph, as always, was fair and considerate in his handling of this bill in committee. He is to be commended. The distinguished chairman, Mr. Gravel, and ranking member, Mr. William L. Scott, of the subcommittee, spent long hours on this bill, seeking to develop a sound and reasonable bill. They, too, are to be commended. While other members of the committee were active in development of the bill, I want to reiterate a special word of respect for the junior Senator from New York (Mr. Buckley). The attention of these four members has been particularly valuable in bringing a good bill to the Senate.

Mr. STEVENSON. Mr. President, for more than 3 years the residents of the neighborhoods in which the Little Calumet River flows in Illinois, have been working to clean this stream.

Yet the job has proven too big for the community. As a result, the Little Cal remains part sewer, part river. This is particularly distressing in northeastern Illinois, which has less than half the open recreation space needed for a healthy urban environment.

Last summer I introduced a bill to authorize the Army Corps of Engineers to clean this river. This fall I modified the bill to include a provision for the annual maintenance of the stream.

When the Water Resources Subcommittee considered the modified two-part bill, it rejected the entire Little Cal section. I understand the subcommittee objects to the second part, the annual maintenance provision. If that is so it would be more appropriate to strike that half alone and allow the first part, the section authorizing the initial cleaning of the river to remain in the bill. That would have been in accord with the Federal policy of assisting communities with the one-time cleaning of a river.

Section 66 of H.R. 10203 authorizes the cleaning of the Little Cal. I have no desire to take up the time of the Senate with a futile amendment. Instead, I will express the hope that the Senate conferees will not resist inclusion of the House provision in the final version of the Water Resources Development Act of 1973.

Mr. ROBERT C. BYRD. Mr. President, I wish to express my strong support for S. 2798, the Water Resources Development and River Basin Authorization Act of 1973, which was reported by the Senate Public Works Committee to the Senate on December 11, 1973. This is a comprehensive piece of legislation which authorizes the construction, repair, and preservation of certain public works on rivers and harbors, for both navigation and flood control purposes. I think the Public Works Committee has creditably performed a sizable task in holding the extensive hearings which preceded the writing of this legislation and in considering the literally thousands of requests for assistance which the committee received.

I am particularly grateful for the committee's inclusion of several items which are of particular interest to West Virginia. I have been working toward realization of these items and urging their inclusion for many years, and I hope that this bill is quickly signed into law in order that they may finally become a reality. The projects to which I specifically refer are, as follows:

1. Pocatalico River Basin, West Virginia: Section 5 of this Bill authorizes works of improvement in the amount of $3,772,700, to provide for accelerated conservation land treatment on about 2,400 acres of basin lands and in the construction of two multiple-purpose dams for serving the purposes of water supply, flood prevention, and low-flow augmentation. The main objective of this work is to obtain an adequate water supply source for the communities of Walton, Sissonville, Pocatalico, and Grandeeville.

2. Ohio River Bank Erosion Control: Section 12 authorizes $25 million over a five-year period for a streambank erosion control demonstration program. One of the locations for testing this pilot demonstration and development work will be along the Ohio River banks in West Virginia. This section also directs the Corps to develop new construction and vegetative techniques to provide low-cost bank protection and to develop new methods to prevent and control streambank erosion.

3. Flood Control Program for the Tug Fork Valley: Section 231 of this Bill authorizes advanced engineering and design work to develop a comprehensive flood control program for the Tug Fork Valley. The authorization for this badly needed project was included last year in the Public Works Act which the President vetoed. This section will provide badly needed protection for one of the most flood-prone areas in the country—an area which has been recurrently inundated by severe flooding, the last such disaster occurring January 11 of this year. I offered an amendment to the Fiscal Year 1972 Supplemental Appropriations Bill to include $150,000 for planning this Project. My amendment was adopted but, at the insistence of the House Conferees, those funds were agreed to by the House, contingent upon the enactment of authorizing legislation. If this bill becomes law, those funds could readily be made available thus allowing the advanced planning work to proceed immediately and prior to the obtaining of additional appropriations which will be required to plan the more comprehensive program authorized in this Act.

4. Cleaning and snagging of the Guyandotte River: Section 53 authorizes up to $2,000,000 to clean out the lower Guyandotte River and the immediate tributaries where chronic and persistent flooding has occurred. The accumulation of silt-sediment and de-

**bris has severely aggravated the flooding conditions in this area of the lower Guyandotte River Basin.**

**5. Stonewall Jackson Lake: Section 54 removes a possible impediment to the timely construction of the Stonewall Jackson Lake project by specifying that Section 221 of the Flood Control Act of 1970 shall not apply to any agreement between the Federal Government and the State of West Virginia. It is important to resolve any remaining doubt as to the Secretary of the Interior's authority to enter into this agreement.**

I hope that the passage of S. 2798 will move these items closer to reality. Therefore, I urge the passage of this bill.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the Committee on Public Works be discharged from the further consideration of H.R. 10203 and that the Senate proceed to the immediate consideration of that bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

H.R. 10203. An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska.

Mr. GRAVEL. Mr. President, I move to amend H.R. 10203 by striking all after the enacting clause and inserting in lieu thereof the text of S. 2798, as amended, as it is at present before the Senate.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

Mr. GRAVEL. Mr. President, I ask unanimous consent that S. 2798 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 10203) having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from California (Mr. TUNNEY), and the Senator from Indiana (Mr. BAYH) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Arizona (Mr. FANNIN), and the Senator from Wyoming (Mr. HANSEN) are absent on official business.

I also announce that the Senator from North Carolina (Mr. HELMS), the Senator from Illinois (Mr. PERCY), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The result was announced—yeas 78, nays 6, as follows:

[No. 8 Leg.]

YEAS—78

Abourezk
Aiken
Allen
Baker
Beall
Bellmon
Bennett
Bible
Biden
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Clark
Cook
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fong
Fulbright
Gravel
Griffin
Gurney
Hart
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Hughes
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Randolph
Ribicoff
Schweiker
Scott, Hugh
Scott, William L.
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Weicker
Williams
Young

NAYS—6

Brock
Buckley
Cotton
Goldwater
Proxmire
Roth

NOT VOTING—16

Bartlett
Bayh
Bentsen
Cannon
Cranston
Fannin
Hansen
Hartke
Helms
Humphrey
Inouye
McIntyre
Percy
Sparkman
Tower
Tunney

So the bill (H.R. 10203) was passed.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GRAVEL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RANDOLPH. Mr. President, I move that the Senate insist upon its amendments to H.R. 10203 and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. GRAVEL, Mr. RANDOLPH, Mr. BENTSEN, Mr. BURDICK, Mr. WILLIAM L. SCOTT, Mr. BAKER, and Mr. STAFFORD conferees on the part of the Senate.

Mr. MANSFIELD. Mr. President, the Senators from Alaska (Mr. GRAVEL) and West Virginia (Mr. RANDOLPH) deserve the highest commendation of the entire Senate for their able and competent handling of the water resources measure that was adopted overwhelmingly today. Senator RANDOLPH, the distinguished chairman of the committee, and Senator GRAVEL, the floor manager of the bill, both demonstrated great knowledge and understanding of the Nation's needs with respect to control of our vast water supplies and their uses. Indeed, Senator RANDOLPH and Senator GRAVEL have been in the forefront in bringing new ideas into play regarding the problems of flood control and navigation concerning our waterways. The Senate and the Nation stand in their debt.

Joining with Senators GRAVEL and RANDOLPH in presenting thoughtful views on the matters involved was the Senator from Oregon (Mr. PACKWOOD). He contributed a great deal to the high caliber of the entire debate. So, too, did Senator PROXMIRE, Senator BUCKLEY, and Senator WILLIAM L. SCOTT—who managed the bill so ably in behalf of the minority. Their contributions were immeasurable.

Finally, the Senate appreciates the contributions made by all who participated in this most important and timely debate.

Mr. RANDOLPH. Mr. President, earlier in the discussion of this important legislation it was my privilege to commend the work of the members of our Subcommittee on Water Resources, and especially to direct the attention of our colleagues to the very able management of this legislation by the knowledgeable Senator from Alaska, Senator GRAVEL. These words are just to reinforce what I said earlier during the debate. They are well deserved by the distinguished Senator from Alaska and all members of the subcommittee, and the Committee on Public Works, of which I have the responsibility to be chairman.

Mr. GRAVEL. Mr. President, I thank the distinguished chairman of the Committee on Public Works for his very kind remarks about our efforts, and particularly about me.

This bill was particularly difficult. It was the first time, for many of us, to be involved in such a large undertaking. If it had not been for the wise counsel of the chairman, for his advice as we proceeded to work on this piece of legislation, our task would have been much more difficult. It would not have been handled as smoothly on the floor as it was today without his efforts. For that I am personally grateful, and find it a great pleasure to serve with him on the Public Works Committee.

I also want to thank the ranking Republican member of the subcommittee, the Senator from Virginia (Mr. WILLIAM L. SCOTT), who attended all the meetings and participated in a leadership role in the legislation that evolved.

I also want to thank the members of the subcommittee and the full committee who participated, particularly the Senator from New York (Mr. BUCKLEY), with whose views I did not necessarily agree, but I must say I was impressed with his economic perspectives, which he espoused in the finest tradition of the Senate.

I think we owe a great debt to the individual who counseled the committee and who has always been of value to the committee. I refer to our chief counsel, Mr. Barry Meyer. I think our committee is particularly blessed in having such a gentleman to guide us in our deliberations.

We are also indebted for having on the subcommittee Mr. Wes Hayden, who is next to me on the floor at the present time, and Ann Garrabrant, who was assigned to the subcommittee.

They worked long and hard and over weekends to meet certain deadlines so we could bring this measure to the floor.

Special mention, of course, should be made of Phil B. Cummings, John Yago, Bailey Guard, Hal Brayman, Steve Swain, Rick Herod, and Ann Brown.

And a very special note of gratitude should be paid to our friends in the executive, particularly Irwin Reisler, Alex Shwarka, and Ron Allen, of the Corps of Engineers, who assisted us with technical counsel in our deliberations.

As a result of their real help, we have a fine bill, and we go forward to deliberations in conference confident that much of the policy we have developed in committee and on the floor will be sustained.

**Mr. DOMINICK.** Mr. President, today the Senate passed S. 2798, the Water Resources Development and River Basin Monetary Authorization Act of 1973. This legislation provides for the construction, repair and preservation of certain public works on rivers and harbors for navigation and flood control purposes.

S. 2798 is of particular importance to the people of the State of Colorado. It establishes 18 new water resources projects, one of which involves the water management problems of the Arkansas River and Tributaries above the John Martin Dam in Colorado. It is estimated that this project, when completed, will have cost $47 million, of which $41.5 million will have come from Federal funding. However, expenditure of these funds will prevent recurrences of the record 1921 flood in that area, which today would cause damage estimated at more than $56 million, and the 1965 flood, which resulted in the loss of four lives, nearly $18 million in damages, and the disruption of badly needed water supply to lands outside the flood plain.

The bill also increases the monetary authorization for sixteen comprehensive river basin plans previously approved by Congress. One of these is the Arkansas River Basin occupying parts of the States of Colorado, New Mexico, Oklahoma, Texas, Missouri, and Arkansas, for which an additional authorization of $14 million has been provided.

In addition, S. 2798 contains a provision modifying the project for flood control below Chatfield Dam on the South Platte River near Littleton, Colo. It authorizes the Secretary of the Army to allow the Corps of Engineers to participate with the city of Littleton in acquiring lands and developing recreational facilities immediately downstream of the Chatfield Dam. The project plans originally called for channel improvements and levees downstream of the dam to handle flood releases. Subsequently, the city of Littleton proposed that for the first mile or so below the dam the channel improvements be deleted and the money used instead to help acquire lands as a flood plain park area.

Mr. President, since I had previously introduced legislation to accomplish this nonstructural approach to flood control on the South Platte River, I am particularly pleased to see this provision enacted today.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed, without amendment, the bill (S. 1070) to implement the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969.

The message also announced that the House had passed the bill (S. 1125) to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act and other related acts to concentrate the resources of the Nation against the problem of alcohol abuse and alcoholism, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed a bill (H.R. 11385) to amend the Public Health Service Act to revise the programs of health services research and to extend the program of assistance for medical libraries, in which it requested the concurrence of the Senate.

## HOUSE BILL REFERRED

The bill (H.R. 11385) to amend the Public Health Service Act to revise the programs of health services research and to extend the program of assistance for medical libraries was read twice by its title and referred to the Committee on Labor and Public Welfare.

## SUBPENA DIRECTED TO ALFHILD M. MICHAL

**Mr. MANSFIELD.** Mr. President, on behalf of Senators HUGH SCOTT and GURNEY and myself, I send a resolution to the desk and ask for its immediate consideration.

**The PRESIDING OFFICER.** The clerk will state the resolution.

The legislative clerk read the resolution by title, as follows:

A resolution (S. Res. 233) relating to a subpoena directed to Alfhild M. Michal, an employee on Senator GURNEY's staff.

**The PRESIDING OFFICER.** Is there objection to the immediate consideration of the resolution?

There being no objection, the resolution was considered and agreed to, as follows:

S. RES. 233

Whereas a subpena issued on application of the United States addressed to and served upon Alfhild M. Michal, an employee on Senator Gurney's staff, directs her to appear and testify before a grand jury impaneled by the United States District Court for the Middle District of Florida, Jacksonville Division, on January 23, 1974, at 9:30 a.m.: Now, therefore, be it

*Resolved,* That by the privileges of the Senate of the United States no evidence in the possession and under the control of the Senate of the United States can, by the mandate of process of ordinary courts of justice, be taken from such possession or control but by its permission; be it further

*Resolved,* That by the privilege of the Senate and by rule XXX thereof, no Member or Senate employee is authorized to produce Senate documents, papers, or evidence but by order of the Senate, and information secured by Senate staff employees pursuant to their official duties as employees of the Senate may not be revealed without the consent of the Senate; be it further

*Resolved,* That when it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that testimony of an employee of the Senate is needful for use in any court of justice or before any judge or legal officer for the promotion of justice and that such testimony may involve documents, papers, or evidence related thereto under the control of or in the possession of the Senate, the Senate will take such order thereon as will promote the ends of justice consistently with the privileges and rights of the Senate; be it further

*Resolved,* That Alfhild M. Michal, an employee on Senator Gurney's staff, be authorized to appear at the time and place and before the court named in such subpena; but shall not take with her any papers, documents, or evidence on file in her office, under her control, or in her possession as an employee on that staff and of the Senate; be it further

*Resolved,* That the said Alfhild M. Michal, in response to such subpena may testify to any matter determined by the court to be material and relevant to matters investigated by the grand jury before whom she is subpenaed to appear; and be it further

*Resolved,* That a copy of this resolution be transmitted to such court as a respectful answer to such subpena.

**Mr. MANSFIELD.** Mr. President, I suggest the absence of a quorum.

**The PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

**Mr. GRIFFIN.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

## PRIVILEGE OF THE FLOOR

**Mr. GRIFFIN.** Mr. President, I ask unanimous consent that Fred Craft, of the staff of the Committee on Interior and Insular Affairs, be permitted on the floor during the debate in the Senate on the energy conference report.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

## QUORUM CALL

**Mr. GRIFFIN.** Mr. President, I suggest the absence of a quorum.

**The PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

**Mr. GRIFFIN.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

## HOUSE CONCURRENT RESOLUTION 413—A JOINT SESSION OF THE TWO HOUSES

**Mr. ROBERT C. BYRD.** Mr President, I ask the Chair to lay before the Senate a message from the House on House Concurrent Resolution 413.

The Chair laid before the Senate House Concurrent Resolution 413, which was read as follows:

*Resolved by the House of Representatives (the Senate concurring)*, That the two Houses of Congress assemble in the Hall of the House of Representatives on Wednesday, January 30, 1974, at 9:00 o'clock p.m., for the purpose of receiving such communications as the President of the United States shall be pleased to make to them.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent for the immediate consideration of the resolution.

The PRESIDING OFFICER. Is there objection?

There being no objection, the resolution (H. Con. Res. 413) was considered and agreed to.

## QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRISONERS OF WAR AND MISSING IN ACTION TAX ACT

Mr. ROBERT C. BYRD. Mr. President, for the purpose of making it the pending business today and the unfinished business on tomorrow, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 530, H.R. 8214, with the understanding that there be no action on the bill today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

Calendar No. 530 (H.R. 8214) a bill to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

The Senate proceeded to consider the bill which had been reported from the Committee on Finance with amendments, on page 1, after line 2, strike out "Section 1. Amendment of 1954 Code."; and insert "That (a) this Act may be cited as the "Prisoner of War and Missing in Action Tax Act".; at the beginning of line 6, insert "(b)"; on page 2, after line 14, strike out "any month beginning more than 2 years after the date of the termination of combatant activities in such zone", and

(3) by adding at the end thereof the following new sentence:

"With respect to service in the combat zone designated for purposes of the Vietnam conflict, paragraph (2) shall not apply to any month beginning more than 2 years after the date of the enactment of this sentence." And, in lieu thereof, insert "any month beginning more than 2 years after—

"(A) the date of enactment of the Prisoner of War and Missing in Action Tax Act, in the case of service in the combat zone designated for purposes of the Vietnam conflict, or

"(B) the date of termination of combatant activities, in the case of any other combat zone.".

On page 3, after line 7, insert:

(b) Conforming Amendment.—Subsection (c) of section 112 is amended by striking out paragraph (5).

(c) Amendment of Subsection (d).—Subsection (d) of section 112 (relating to prisoners of war, etc.) is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) Period of conflict.—For purposes of this subsection, the Vietnam conflict began February 28, 1961, and ends on the later of the date designated by the President by Executive order as the date of termination of combatant activities in Vietnam, or the date occurring 2 years after the date of enactment of the Prisoner of War and Missing in Action Tax Act. For purposes of this subsection, an individual is in a missing status as a result of the Vietnam conflict if immediately before such status began he was performing service in Vietnam or was performing service in Southeast Asia in direct support of military operations in Vietnam.

"(4) Period of service in combat zone.—For purposes of this section, and sections 692, 2201, and 7508, the terms 'while serving in a combat zone' and 'the period of service in such area' include the entire period a person designated in paragraph (1) or (2) was in a missing status during the Vietnam conflict.".

On page 4, at the beginning of line five, strike out "(c)" and insert "(d)"; after line 21, strike out "2 years after the date designated under section 112 as the date of termination of combatant activities in such zone,

then such spouse may elect under subsection (a) to file a joint return for such taxable year. With respect to service in the combat zone designated for purposes of the Vietnam conflict, no such election may be made for any taxable year beginning more than 2 years after the date of the enactment of this sentence. "; and, in lieu thereof, insert "2 years after—

"(i) the date of enactment of the Prisoner of War and Missing in Action Tax Act, in the case of service in the combat zone designated for purposes of the Vietnam conflict, or

"(ii) the date designated under section 112 as the date of termination of combatant activities in any other combat zone,

then such spouse may elect under subsection (a) to file a joint return for such taxable year.";

On page 7, line 22, after the word "of", strike out "this paragraph,"; and insert "the Prisoner of War and Missing in Action Tax Act,";

On page 8, line 5, after the word "in", where it appears the first time, strike out "that zone, in the case of any combat zone other than that referred to in clause (i)" and insert "any other combat zone"; on page 9, line 3, after the word "section", insert "555 or"; in line 7, after the word "of", where it appears the second time, strike out "this subsection" and insert "the Prisoner of War and Missing in Action Tax Act"; in line 12, after the word "in", strike out "that zone, in the case of any combat zone other than that referred to in paragraph (1)" and insert "any other combat zone"; on page 10, line 19, after the word "of", where it appears the second time, strike out "this subsection" and insert "the Prisoner of War and Missing in Action Tax Act"; in line 24, after the word "in", strike out "that zone, in the case of any combat zone other than that referred to in paragraph (1)" and insert "any other combat zone"; on page 13, after line 13, insert a new section, as follows:

Sec. 8. Cooperative Investment Activities of Educational Institutions.

(a) In General.—Section 501 (relating to exemption from tax on corporations, etc.), is amended by redesignating subsection (f) as (g), and by inserting after subsection (e) the following new subsection:

"(f) Cooperative Service Organizations of Operating Educational Organizations.—For purposes of this title, if an organization is—

"(1) organized and operated solely to hold, commingle, and collectively invest and reinvest (including arranging for and supervising the performance by independent contractors of investment services related thereto) in stocks and securities, the moneys contributed thereto by each of the members of such organization, and to collect income therefrom and turn over the entire amount thereof, less expense, to such members.

"(2) organized and controlled by one or more such members, and

"(3) comprised solely of members that are organizations described in clause (ii) or (iv) section 170 (b) (1) (A)—

"(A) which are exempt from taxation under subsection (a), or

"(B) the income of which is excluded from taxation under section 115(a),

then such organization shall be treated as an organization organized and operated exclusively for charitable purposes.".

(b) Effective Date.—The amendments made by this section shall apply to taxable years ending after December 31, 1973.

On page 14, after line 19, insert a new section, as follows:

Sec. 9. Ordinary Treatment Processes for Trona.

(a) In General.—Section 613(c) (4) (E) (relating to treatment processes considered as mining) is amended by inserting after "phosphate rock," the following: "the decarbonation of trona,".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1970.

On page 15, after line 2, insert a new section, as follows:

Sec. 10. Application of Section 82 and Section 217 To Members of Uniformed Services.

(a) In General.—Notwithstanding the provisions of section 82 (relating to reimbursement for expenses of moving) and section 217 (relating to moving expenses), of the Internal Revenue Code of 1954, the Secretary of the Treasury, in the administration of those sections, is authorized—

(1) to enter into an agreement with the Secretary of Defense under which the Secretary of Defense will not be required to withhold tax on, or to report, moving expense reimbursements made to members of the uniformed services;

(2) to permit any taxpayer who is a member of the uniformed services not to include in adjusted gross income the amount of any reimbursement in kind of moving expenses made by the Secretary of Defense; and

(3) to permit any taxpayer who is a member of the uniformed services to deduct any amount paid by him as moving expenses in connection with any move required by the Secretary of Defense, in exces of any reimbursement received for such expenses, with-

out regard to the provisions of section 217(c) (relating to conditions), to the extent it is otherwise deductible under section 217.

(b) Definitions.—For purposes of this section, the term "uniformed service" has the meaning given it by section 101(3) of title 37, United States Code, and the terms "adjusted gross income" and "moving expense" have the meanings given them by sections 62 and 217(b), respectively, of the Internal Revenue Code of 1954.

(c) Effective Date.—The provisions of this section shall apply with respect to taxable years ending before January 1, 1975.

On page 16, after line 9, insert a new section, as follows:

Sec. 11. Distilled Spirits From Puerto Rico or the Virgin Islands.

(a) In General.—Section 5008 (relating to abatement, remission, refund, and allowance for loss or destruction of distilled spirits) is amended by—

(1) inserting "or section 7652" in subsection (b)(1) after "the tax imposed by this chapter";

(2) striking out "under section 5001(a)(1) or under subpart B of this part" in subsection (b)(2), and inserting in lieu thereof the following: "under section 5001(a)(1), subpart B, this part, or section 7652";

(3) inserting "or section 7652" in subsection (c)(1) after "section 5001(a)(1)"; and

(4) inserting "or section 7652" in subsection (d)(1) after "section 5001(a)(1)".

(b) Effective Date.—The amendments made by this section shall apply with respect to the loss or destruction of distilled spirits occurring after the date of enactment of this Act.

On page 17, after line 3, insert a new section, as follows:

Sec. 12. Redemption of Stock With Appreciated Property.

(a) In General.—Section 311(d)(2)(A) (relating to appreciated property used to redeem stock) is amended by inserting after "owns" the following: "(directly or constructively under the rules of section 318(a), which shall apply in determining ownership of stock for purposes of this subparagraph to the same extent and in the same manner as such rules apply for purposes of section 302(b)(3))".

(b) Conforming Amendment.—Section 318(b) (relating to cross-reference) is amended by redesignating paragraphs (4), (5), (6), (7), and (8) as paragraphs (5), (6), (7), (8), and (9), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) section 311(d)(2)(A) (relating to taxability of corporations on distributions of appreciated property in redemptions of stock);".

(c) Effective Date.—The amendment made by this section shall apply with respect to distributions made after the date of enactment of this Act.

At the top of page 18, insert a new section, as follows:

Sec. 13. Repeal of Regulatory Taxes on Filled Cheese.

(a) In General.—

(1) Part II of subchapter C of chapter 39 (relating to regulatory provisions affecting filled cheese) is repealed.

(2) The table of parts of such subchapter is amended by striking out the item relating to part II.

(b) Technical and Conforming Changes.—

(1) Section 7236 (relating to false branding, etc.) is repealed.

(2) The table of sections of part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7236.

(3) Section 7266 (relating to offenses relating to filled cheese) is repealed.

(4) The table of sections of subchapter B of chapter 75 is amended by striking out the item relating to section 7266.

(5) Section 7303 (relating to property subject to forfeiture) is amended by striking out paragraphs (4) and (5) and inserting in lieu thereof the following:

"(4) Purchase or receipt of adulterated butter.—All articles of adulterated butter (or the full value thereof) knowingly purchased or received by any person from any manufacturer or importer who has not paid the special tax provided in section 4821.

"(5) Packages of oleomargarine.—All packages of oleomargarine subject to the tax under subchapter F of chapter 38 that shall be found without the stamps or marks provided for in that chapter.".

(6) Section 6808 (relating to cross references) is amended by striking out paragraph (5).

(7) Section 7103(d)(3) (relating to cross references) is amended by striking out subparagraph (C).

(c) Effective Date.—The repeals and amendments made by this section shall apply to filled cheese manufactured, imported, or sold after the date of enactment of this Act.

On page 19, after line 13, insert a new section, as follows:

Sec. 14. Accrued Vacation Pay.

Section 97 of the Technical Amendments Act of 1958 is amended by striking out "January 1, 1973" and inserting in lieu thereof "January 1, 1974".

On page 19, after line 17, insert a new section, as follows:

Sec. 15. Certain Casualty Losses.

(a) In General.—Notwithstanding the provisions of section 61 (relating to gross income), section 165 (relating to losses), or any other provision of the Internal Revenue Code of 1954, any taxpayer who was allowed a deduction under section 165 of such Code for a loss attributable to a disaster described in section 165(h) occurring during calendar year 1972, and who received compensation (not taken into account in computing the amount of the deduction) for such loss in settlement of any claim of the taxpayer against a person for that person's liability in tort for the damage or destruction of that taxpayer's property in connection with the disaster, may elect, at such time and in such manner as the Secretary of the Treasury may prescribe, to exclude from gross income the amount of such compensation if the taxpayer enters into an agreement with the Secretary or his delegate under which—

(1) the basis of any property of the taxpayer which was damaged in such disaster, or which is replacement property of like kind for property destroyed in such disaster (acquired within 36 months after such destruction), is reduced (but not below zero) by the amount of any part of such compensation, the exclusion of which does not result in a tax benefit in excess of $5,000, allocable to such damage or destruction, and

(2) the taxpayer will include in his gross income, in equal installments over not more than 5 consecutive taxable years (beginning with the taxable year in which such compensation was received), any amount of such compensation the exclusion of which would result in a tax benefit in excess of $5,000.

(b) Definitions.—For purposes of this section, the term—

(1) "tax benefit" means an amount equal to the amount of the difference between—

(A) the liability of a taxpayer under chapter 1 of the Internal Revenue Code of 1954 for tax for the taxable year in which the compensation was received, computed without regard to the provisions of this section, and

(B) the liability of that taxpayer for such tax for that taxable year computed after the application of the provisions of this section (without regard to the requirements of paragraphs (1) and (2) of subsection (a));

(2) "gross income" means gross income as defined in section 61 of the Internal Revenue Code of 1954; and

(3) "basis" means the basis of property determined in accordance with the provisions of part II of subchapter 0 of chapter 1 of such Code (relating to basis rules of general application).

(c) Rules.—In applying the provisions of paragraph (1) of subsection (a) of his property, a taxpayer shall reduce the basis of any depreciable property to which that paragraph applies before he reduces the basis of any of his other property, then he shall reduce the basis of any trade or business property (other than depreciable property) to which that paragraph applies, and finally he shall reduce the basis of any other property to which that paragraph applies. For purposes of this subsection, the term "trade or business property" means property which is not described in section 1221 of the Internal Revenue Code of 1954 (relating to the definition of capital assets), and the term "depreciable property" means property of the taxpayer with respect to which a deduction is allowable under section 167 of such Code (relating to depreciation).

On page 22, after line 9, insert a new section, as follows:

Sec. 16. Application of Federal Unemployment Tax Act to Certain Employees of School-Related Organizations.

(a) In General.—Subparagraph (B) of section 3306(c)(10) (relating to definition of "employment" for purposes of the Federal Unemployment Tax Act) is amended by striking out so much of such subparagraph (B) as precedes "(i)" and inserting in lieu thereof the following:

"(B) service performed in the employ of a school, college, or university, and service performed in the employ of an organization described in section 509(a)(3) (but only if such organization is organized, and at all times thereafter is operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of a school, college, or university and is operated, supervised, or controlled by or in connection with such school, college, or university), if such service is performed".

(b) Effective Date.—The amendment made by this section shall apply to remuneration paid after December 31, 1973.

On page 23, after line 5, insert a new section, as follows:

Sec. 17. Application of Section 4942 Tax on Failure to Distribute Income.

(a) In General.—Section 101(l)(3) of the Tax Reform Act of 1969 (relating to savings provisions under section 4942 of the Internal Revenue Code of 1954) is amended by—

(1) striking out "and" in subparagraph (D),

(2) striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; and ", and

(3) adding after subparagraph (E) the following new subparagraph:

"(F) apply, in the case of an organization described in paragraph (4)(A) of this subsection,

"(i) by applying section 4942(e) without regard to the stock to which paragraph (4)(A)(ii) of this subsection applies,

"(ii) by applying section 4942(f) without regard to dividend income for such stock, and

"(iii) by defining the distributable amount as the sum of the amount determined under section 4942(d) (after the application of clauses (i) and (ii)), and the amount of the dividend income from such stock.".

(d) The amendment made by this section

shall apply to taxable years beginning after December 31, 1971.

On page 24, after line 5, insert a new section, as follows:

SEC. 18. APPLICATION OF SECTION 117 TO CERTAIN EDUCATION PROGRAMS FOR MEMBERS OF THE UNIFORMED SERVICES.

(a) IN GENERAL.—Any amount received from appropriated funds as a scholarship, including the value of contributed services and accommodations, by a member of a uniformed service who is receiving training under the Armed Forces Health Professions Scholarship Program (or any other program determined by the Secretary of the Treasury or his delegate to have substantially similar objectives) from an educational institution (as defined in section 151(e)(4) of the Internal Revenue Code of 1954) shall be treated as a scholarship under section 117 of such Code, whether that member is receiving training while on active duty or in an off-duty or inactive status, and without regard to whether a period of active duty is required of the member as a condition of receiving those payments.

(b) DEFINITIONS.—For purposes of this section, the term "uniformed service" has the meaning given it by section 101(3) of title 37, United States Code.

(c) EFFECTIVE DATE.—The provisions of this section shall apply with respect to amounts received during calendar years 1973 and 1974.

And, on page 25, after line 3, insert a new section, as follows:

SEC. 19. DOMESTIC INTERNATIONAL SALES CORPORATION AMENDMENT.

(a) IN GENERAL.—Section 993(b)(3) (relating to qualified export assets) is amended by striking out "such corporation" and inserting in lieu thereof "such corporation or of another corporation which is a DISC and which is a member of a controlled group which includes such corporation".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to taxable years beginning after December 31, 1973. Such amendment shall, at the election of the taxpayer made within ninety days after the date of the enactment of this Act, also apply to any taxable year beginning after December 31, 1971, and before January 1, 1974.

## ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR RECOGNITION OF SENATORS GRIFFIN AND ROBERT C. BYRD, FOR TRANSACTION OF ROUTINE MORNING BUSINESS, AND FOR CONSIDERATION OF PRISONERS OF WAR AND MISSING IN ACTION TAX ACT TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent on tomorrow, after the two leaders or their designees have been recognized under the standing order, that the distinguished minority leader, the Senator from Michigan (Mr. GRIFFIN) be recognized for not to exceed 10 minutes, that he be followed by the undistinguished majority whip, for not to exceed 10 minutes, that there then be a period for the transaction of routine morning business not to exceed 10 minutes with statements made therein limited to 3 minutes, at the conclusion of which the Senate will resume its consideration of the unfinished business, calendar No. 530, H.R. 8214.

The PRESIDING OFFICER. Without objection, it is so ordered.

## THE ENERGY EMERGENCY ACT

Mr. LONG. Mr. President, if the Senator will yield, I want to state to the acting majority leader and the acting minority leader for their information, as well as for the information of the Senate, that as far as I am concerned there will be no filibuster on the conference report on the energy bill.

I would hope that I would have an opportunity to explain to the Senate the dangers and the faults that we find in the tax proposal which I fear would make it absolutely impossible for the oil and gas industries to do their share toward solving the energy crisis.

I feel that those things must be acted upon, and if Congress is determined to make its own mistake in passing some unconstitutional measure that will do more harm than good to the tax structure, at least we will have an opportunity to correct that mistake.

As chairman of the hearings before the Finance Committee, I will do my best to see that we correct whatever unwisdom we do in the tax area.

I would hope that the majority and minority leaders would accord us a few days to complete our hearings so that we might hear from experts in that area and lay that information before the Senate. If the matter extends for more than a week, I would withdraw my request.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator from Louisiana. We all appreciate his statement.

## QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 12 noon tomorrow. After the two leaders or their designees have been recognized under the standing order, the distinguished assistant Republican leader, the Senator from Michigan (Mr. GRIFFIN), will be recognized for not to exceed 10 minutes, after which the junior Senator from West Virginia (Mr. ROBERT C. BYRD) will be recognized for not to exceed 10 minutes, after which there will be a period for the transaction of routine morning business for not to exceed 10 minutes, with statements made therein limited to 3 minutes, at the conclusion of which the Senate will resume its consideration of the then unfinished business, calendar No. 530, H.R. 8214, a bill to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes.

Yea-and-nay votes could occur on amendments thereto or on passage of the bill.

The conference report on the National Energy Emergency Act may be called up at any time tomorrow, it being a privileged matter. I do not foresee final action on the conference report on tomorrow. However, Senators are alerted to the fact that there will likely be yea-and-nay votes on the unfinished business at least.

Other items that are unobjected to and cleared for action in the meantime may be called up and acted on by unanimous consent on tomorrow.

## ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until the hour of 12 noon tomorrow.

The motion was agreed to; and, at 3:49 p.m., the Senate adjourned until tomorrow, Wednesday, January 23, 1974, at 12 noon.

## NOMINATIONS

Executive nominations received by the Senate January 22, 1974:

### DEPARTMENT OF STATE

Joseph John Sisco, of Maryland, a Foreign Service Officer of the Class of Career Minister, to be Under Secretary of State for Political Affairs.

David B. Bolen, of Colorado, a Foreign Service Officer of Class two, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Botswana, to the Kingdom of Lesotho, and to the Kingdom of Swaziland.

James F. Campbell, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to El Salvador.

G. McMurtrie Godley, of the District of Columbia, a Foreign Service Officer of the District of Columbia, a Foreign Service Officer of the Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lebanon.

William J. Jorden, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Panama.

David L. Osborn, of Tennessee, a Foreign Service Officer of Class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Socialist Republic of the Union of Burma.

William J. Porter, of Massachusetts, a Foreign Service Officer of the Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Canada.

Robert S. Smith, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ivory Coast.

### DEPARTMENT OF JUSTICE

Duane K. Craske, of Guam, to be U.S. attorney for the district of Guam for the term of 4 years. (Reappointment)

William W. Milligan, of Ohio, to be U.S. attorney for the southern district of Ohio for the term of 4 years. (Reappointment)

Stanley G. Pitkin, of Washington, to be U.S. attorney for the western district of Washington for the term of 4 years. (Reappointment)

Robert G. Renner, of Minnesota, to be U.S. attorney for the district of Minnesota for the term of 4 years. (Reappointment)

Wayman G. Sherrer, of Alabama, to be U.S. attorney for the northern district of Alabama for the term of 4 years. (Reappointment)

Thomas F. Turley, Jr., of Tennessee, to be U.S. attorney for the western district of Tennessee for the term of 4 years. (Reappointment)

Leonard E. Alderson, of Wisconsin, to be U.S. marshal for the western district of Wisconsin for the term of 4 years. (Reappointment)

Harry D. Berglund, of Minnesota, to be U.S. marshal for the district of Minnesota for the term of 4 years. (Reappointment)

Harry Connolly, of Oklahoma, to be U.S. marshal for the northern district of Oklahoma for the term of 4 years. (Reappointment)

J. Keith Gary, of Texas, to be U.S. marshal for the eastern district of Texas for the term of 4 years. (Reappointment)

Raymond J. Howard, of Wisconsin, to be U.S. marshal for the eastern district of Wisconsin for the term of 4 years. (Reappointment)

George A. Locke, of Washington, to be U.S. marshal for the eastern district of Washington for the term of 4 years. (Reappointment)

Lee R. Owen, of Arkansas, to be U.S. marshal for the western district of Arkansas for the term of 4 years. (Reappointment)

John W. Spurrier, of Maryland, to be U.S. marshal for the district of Maryland for the term of 4 years, vice Clarence A. Butler, resigned.

### Federal Reserve System

Henry C. Wallich, of Connecticut, to be a member of the Board of Governors of the Federal Reserve System for a term of 14 years from February 1, 1974, vice J. Dewey Daane, term expiring.

### Interstate Commerce Commission

George M. Stafford, of Kansas, to be an Interstate Commerce Commissioner for a term of 7 years expiring December 31, 1980. (Reappointment)

### In the Coast Guard

The following-named officers of the Coast Guard for promotion to the grade of rear admiral:

Robert I. Price
Winford W. Barrow
James P. Stewart
G. H. Patrick Bursley
Robert W. Durfey
James S. Gracey

### Public Health Service

The following candidates for personnel action in the Regular Corps of the Public Health Service subject to qualifications therefor as provided by law and regulations:

*To be senior surgeons*

John C. Ballar III
Vivian Chang
Ellen E. Garrecht
James M. Gilbert
David W. Johnson
Gerald D. LaVeck
Wandyr J. Moore
Lawrence R. Rose
Paul C. White, Jr.

*To be surgeons*

Stephen P. Bartok
Robert L. Bergman
Donald R. Bergsma
George R. Brenneman
Joe H. Davis
Thomas C. Davis
Evan Elsenberg
Stephen J. Kraus
Floyd M. Kregenow
Leonard B. Krich
Richard T. Light
Harold D. McDonald
Charles L. McIntosh
Dean F. Obenchain
Betty A. Paeth
Peter L. Putnam
Jerry A. Shoukas
Robert T. Simpson

*To be senior assistant surgeons*

Thomas Bender
Alfred L. Brassel, Jr.
James D. Felsen
Mitchell H. Gail
Roger H. Halterman
Charles L. Hostetter
David G. Kaufman
William H. King
Robert F. Knouss
Oliver M. Korshin
Rice C. Leach
Sanford S. Leffingwell
David L. Levin
Randall H. Lortscher
David A. McGuire
Kenneth P. Moritsugu
John J. Mulvihill
William A. Paton
Frederick R. Pintz
Bernard E. Schatz
Robert M. Schmidt
Derald L. Seid
George F. Sheckleton
Richard W. Smith
Verner Stillner
Mark H. Zweig

*To be senior dental surgeon*

Roald J. Shern

*To be dental surgeons*

Robert W. Beck
John Folio

*To be senior assistant dental surgeons*

Robert S. Andrews
Stephen R. Curtice
John L. Drager
Marvin A. Eichner
Darrell R. Hazle
William J. Kline
John R. Ludington, Jr.
Robert F. Martin
Lawrence H. Mellor
Neil H. Nilsson
Terry J. Ortman
Philip C. Rake
Lawrence R. Sarmiere
Richard A. Spagna
John R. Sundell
Edwin R. Thorp
James D. Vesbach
Charles R. Wanner
William J. L. Williams
Raymond C. Winters
Stephen M. Young

*To be nurse officers*

Rose A. Britanak
Claire M. Coppage
Lois M. Dommert
Celeste B. Evans
Eleanor V. Flynn
Margaret J. Howe
Elizabeth L. Iddings
Margaret A. McCombs
Susan E. Milman
Jane A. Moretto
Katheryn E. Renney
Barbara A. Rolling
Elizabeth D. Watrous
Arthur C. Williams

*To be senior assistant nurse officers*

Paul A. DuCommun
Robert L. Oshins

*To be assistant nurse officer*

Bernice M. Sextro

*To be sanitary engineer director*

Aleck Alexander

*To be sanitary engineers*

Robert E. Hatten
George B. Martin
Thomas J. Sorg

*To be senior assistant sanitary engineers*

Joseph S. All
David W. Alton
J. Douglas Ashbrook
Francis W. Bennett
Gunther F. Craun
Kenneth R. Harper
Allan P. Heins
Peter R. Johnson
Ralph C. Olsen
Gary K. Radtke
Ira J. Somerset
Ronald R. Speedy
Linden E. Witherell

*To be assistant sanitary engineer*

John A. George

*To be senior scientists*

Martin I. Goldenberg
Leon J. Greenbaum, Jr.

*To be scientist*

Larry K. Lowry

*To be senior assistant scientists*

William A. Betts
Bobby D. Brayboy
David L. DeMets
James M. Everts
William Kroes
Donald V. Lassiter
James B. Wade
Lawrence A. Yamamoto

*To be sanitarians*

John P. Conrad, Sr.
Curtis A. Golden
H. Harold Lehman
Safety E. Reynolds
Laren J. Sickles
Jerome J. Smith
Robert J. Weatherby

*To be senior assistant sanitarians*

Thomas R. Bonifield
Donald W. Payne
Darrell J. Schwaim
Richard M. Tanimoto
Ray A. Van Ostran
Joseph W. Winkler

*To be veterinary officers*

Charles G. Liddle
James L. Murray

*To be senior assistant veterinary officers*

John R. Broderson
Russell W. Currier II

*To be senior assistant pharmacists*

Robert J. Aleksun
Alvin E. Arneson
Cletis V. Bonnett
Gary J. Buehler
Gerald M. Burge
William H. Caldwell
Gary L. Chadwick
John S. Cipriano
Gary C. Collins
James C. Cradock
Roger L. Dinwiddie
Norman C. Dittman
Aubrie L. Duncan
David C. Ewing
Roger D. Gorton
Stephen C. Groft
Paul K. Hiranaka
Archie R. Hill
James K. Hooper
Edgar R. Jeter
Dale L. Johnson
William H. Kehoe, Jr.
Larry M. Kleinman
Christopher P. Konrad
Harry A. Milman
Gary L. Nelson
Johnny B. Peebles
Mary L. Pengelly
Theodore B. Pukas
Richard M. Taffet
Lawrence A. Trissel
Paul J. Vilk
Theodore A. Westley

*To be assistant pharmacists*

Gordon R. Baldeschwiler
Michael S. Brown
Ira J. Fox
Steven C. Garrett
Gill D. Gladding
James A. May
Paul V. McSherry
Robert G. Nolan
Ronald E. Powell
William M. Singleton, Jr.
Joseph A. Tangrea
Robert L. West

*To be dietitians*

Mary E. Ferrell
Catherine G. Waters

*To be senior assistant dietitians*

Michael A. Bernstein
Virginia E. Spangler
Peter M. Stegmayer

*To be assistant dietitian*

William J. Jajesnica

*To be therapists*

Ronald E. LaNeve
Helen L. Woods

*To be senior assistant therapists*

Robert B. Beach
Harry T. Bergtholdt
Judith V. Culver
Walter P. Schneiderwind

*To be assistant therapist*

James A. Birke

*To be health services officers*

Lawrence T. Barrett
Arthur N. Jarvis
Gordon G. McLain
Michael J. Speshock

*To be senior assistant health services officers*

Robert J. Bettjes
John C. Bernson
Vernon H. A. Bowman
Sang R. Chol
Frederick C. Churchill II
John J. Cohn
Winston J. Dean
Stephen D. Finstein
Arthur J. Forest
Allen R. Forman
Norbert P. Heib, Jr.
John R. Heinz
John M. Kutch, Jr.
Gary R. Lounsberry
Douglas A. Mahy
Daniel L. Mintz
Judith L. Munsterman
William E. Murray, Jr.
Jennings E. Partridge
Marc R. Rose
Martiniano R. Sandoval
Dale F. Schramm
Paul F. Schulze
Edwin L. Sensintaffar
George J. Vasconcelos
William M. Wagner
David E. Weber
Samuel T. Windham, Jr.
Gerald G. Wheeler

*To be assistant health services officers*

Kenneth R. Bahm
Laurence W. Grossman
Johnny R. Rainey
Jon P. Yeagley

### In the Air Force

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10, of the United States Code:

*To be lieutenant general*

Lt. Gen. Robert E. Pursley, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

The following officers for temporary appointment in the U.S. Air Force under the provisions of chapter 839, title 10 of the United States Code:

*To be brigadier general*

Col. Robinson Risner, [redacted] FR, Regular Air Force.

Col. Garth B. Dettinger, [redacted] FR, Regular Air Force, Medical.

Col. Thomas M. Groome, Jr., [redacted] FR, Regular Air Force, Chaplain.

Col. Norman C. Gaddis, [redacted] FR, Regular Air Force.

Col. Howard R. Unger, [redacted] FR, Regular Air Force, Medical.

Col. William J. Holton, [redacted] FR, Regular Air Force.

Col. George W. Rutter, [redacted] FR, Regular Air Force.

Col. Charles F. G. Kuyk, Jr., [redacted] FR, Regular Air Force.

Col. Donald R. Klang, [redacted] FR, Regular Air Force.

Col. Howard M. Estes, Jr., [redacted] FR, Regular Air Force.

Col. Howard W. Leaf, [redacted] FR, (lieutenant colonel Regular Air Force) U.S. Air Force.

Col. Bruce K. Brown, [redacted] FR, (lieutenant colonel Regular Air Force) U.S. Air Force.

Col. Robert A. Foster [redacted] FR, (major Regular Air Force) U.S. Air Force.

Col. Stuart H. Sherman, Jr., [redacted] FR, (major Regular Air Force) U.S. Air Force.

Col. Richard B. Collins, [redacted] FR, (lieutenant colonel Regular Air Force) U.S. Air Force.

Col. Kermit Q. Vandenbos, [redacted] FR, Regular Air Force, Medical.

Col. William R. Coleman, [redacted] FR, Regular Air Force.

Col. Alonzo J. Walter, Jr., [redacted] FR, Regular Air Force.

Col. Don H. Payne, [redacted] FR, Regular Air Force.

Col. Edwin A. Coy, [redacted] FR, Regular Air Force.

Col. James B. Currie, [redacted] FR, Regular Air Force.

Col. William L. Nicholson, III, [redacted] FR, Regular Air Force.

Col. Hans H. Driessnack, [redacted] FR, (lieutenant colonel Regular Air Force) U.S. Air Force.

Col. Paul A. Kauttu, [redacted] FR, (lieutenant colonel Regular Air Force) U.S. Air Force.

Col. William B. Maxson, [redacted] FR, (lieutenant colonel Regular Air Force) U.S. Air Force.

Col. Robert B. Tanguy, [redacted] FR, (lieutenant colonel Regular Air Force) U.S. Air Force.

Col. Harold E. Gross, [redacted] FR, (major, Regular Air Force) U.S. Air Force.

Col. Thomas G. Bee, [redacted] FR, Regular Air Force.

Col. Francis A. Humphreys, Jr., [redacted] FR, Regular Air Force.

Col. Albert L. Melton, [redacted] FR, Regular Air Force.

Col. William W. Dunn, [redacted] FR, (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. John E. Ralph, [redacted] FR, (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. George A. Edwards, Jr., [redacted] FR, (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. John H. Jacobsmeyer, Jr., [redacted], (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. William G. MacLaren, Jr., [redacted] FR, (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. Gerald E. Cooke, [redacted] FR, (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. Frank M. Drew, [redacted] FR, (major, Regular Air Force) U.S. Air Force.

Col. Jerome F. O'Malley, [redacted] FR, (major, Regular Air Force) U.S. Air Force.

Col. Fred A. Haeffner, [redacted] FR, (major, Regular Air Force) U.S. Air Force.

Col. Harry A. Morris, [redacted] FR, (major, Regular Air Force) U.S. Air Force.

Col. Robert T. Herres, [redacted] FR, (major, Regular Air Force) U.S. Air Force.

Col. Melvin G. Bowling, [redacted] FR, (major, Regular Air Force) U.S. Air Force.

Col. William R. Usher, [redacted] FR, (major, Regular Air Force) U.S. Air Force.

Col. Sidney L. Davis, [redacted] FR, Regular Air Force.

Col. John W. Collens, III, [redacted] FR, Regular Air Force.

Col. Charles B. Knudson, [redacted] FR, Regular Air Force.

Col. Jack W. Waters, [redacted] FR, Regular Air Force.

Col. William C. Branan, [redacted] FR, Regular Air Force.

Col. Elwood A. Kees, Jr., [redacted] FR, Regular Air Force.

Col. Doyle E. Larson, [redacted] FR, (major, Regular Air Force) U.S. Air Force.

Col. Michael E. DeArmond, [redacted] FR, Regular Air Force.

Col. David L. Gray, [redacted] FR, (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. John W. Hepfer, [redacted] FR, Regular Air Force.

Col. Warren C. Moore, [redacted] FR, (lieutenant colonel Regular Air Force) U.S. Air Force.

Col. Dewey K. K. Lowe, [redacted] FR, (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. Martin C. Fulcher, [redacted] FR, (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. James H. Ahmann, [redacted] FR, (major, Regular Air Force) U.S. Air Force.

Col. Claire M. Garrecht, [redacted] FR, Regular Air Force, Nurse.

Col. Robert W. Bazley, [redacted] FR, (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. James W. Wold, [redacted] FR, (major, Regular Air Force) U.S. Air Force.

Col. Len C. Russell, [redacted] FR, (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. George D. Miller, [redacted] FR, (major, Regular Air Force) U.S. Air Force.

Col. James A. Abrahamson, [redacted] FR, (major, Regular Air Force) U.S. Air Force.

Col. Dan A. Brooksher, [redacted] FR, Regular Air Force.

Col. Van C. Doubleday, [redacted] FR, (major, Regular Air Force) U.S. Air Force.

Col. Bobby W. Presley, [redacted] FR, (major, Regular Air Force) U.S. Air Force.

### IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

*To be lieutenant general*

Maj. Gen. Herron Nichols Maples, [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

*To be lieutenant general*

Maj. Gen. Daniel Orrin Graham, [redacted], Army of the United States (brigadier general, U.S. Army).

The following-named officer for temporary appointment in the Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 3442 and 3447:

*To be brigadier general*

Col. Thaddeus F. Malanowski, [redacted] U.S. Army.

The U.S. Army Reserve officers named herein for promotion as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, section 593(a) and 3384:

*To be major general*

Brig. Gen. Willie Earl Dixon, Jr., [redacted]

Brig. Gen. Benjamin Lacy Hunton, SSN [redacted]

Brig. Gen. George William McGrath, Jr., [redacted].

Brig. Gen. Frederick Arthur Welsh, [redacted]

*To be brigadier general*

Col. Charles Elmer Blaker, SSN [redacted] Transportation Corps.

Col. Julius Hoesterey Braun, [redacted], Ordnance Corps.

Col. Edwin Francis Dosek, [redacted] Infantry.

Col. Robert Lewis Frantz, [redacted] Infantry.

Col. John David Jones, [redacted] Artillery.

Col. John Q. T. King, [redacted] Medical Service Corps.

Col. Paul Shepard Oliver, Jr., [redacted] Infantry.

The Army National Guard of the United States officers named herein for promotion as Reserve commissioned officers of the Army under the provisions of title 10, United States Code, section 593(a) and 3385:

*To be major general*

Brig. Gen. William Stanley Lundberg, Jr., [redacted]

Brig. Gen. James Lee Moreland, [redacted]

Brig. Gen. D. A. Thompson, SSN [redacted]

*To be brigadier general*

Col. John Glover Castles, [redacted] Field Artillery.

Col. Allen Anderson David, [redacted], Infantry.

Col. William Herbert Duncan, SSN [redacted] Signal Corps.

Col. William Emmett Ingram, [redacted], Infantry.

Col. Carl Frederick Mauger, [redacted], Infantry.

Col. Ben Lane Upchurch, [redacted], Infantry.

### IN THE AIR FORCE

The following-named officers for promotion in the U.S. Air Force, under the appropriate provisions of chapter 839, title 10, United States Code, as amended.

#### MEDICAL CORPS

*Lieutenant colonel to colonel*

Box, Benjamin E., [redacted].
Campbell, John L. II, [redacted].
Chambers, Clint E., [redacted].
Chapman, Robert M., [redacted].
Cheng, Alfred K., [redacted].
Dake, Theodore, Jr. [redacted].
Dibbell, David G., [redacted].
Downs, Spencer R., [redacted].
Ferguson, Emmett B., Jr., [redacted].
Fitzrandolph, Raymond H., [redacted].
Flamm, Melvin D., Jr., [redacted].
Gaines, John W., Jr., [redacted].
Grillo, Donald, [redacted].
Hallewell, John D., [redacted].
Harada, William S., [redacted].
Hart, James E., [redacted].
Hauver, Robert C., [redacted].
Hoffman, James F., Jr., [redacted].
Igelman, Jon M., [redacted].
Jennings, James F., [redacted].
Johnson, Willard L., Jr. [redacted].
Jones, Otis W., [redacted].

Lecuyer, Robert L., [redacted].
Lewis, Sidney T., [redacted].
Mediavilla, Antonio E., [redacted].
Metheny, Ralph S., Jr., [redacted].
Moser, Royce, Jr., [redacted].
Neal, Joseph A., [redacted].
Nonas, Constantine J., [redacted].
Price, Terrill E., Jr., [redacted].
Ramos, Edwin D., [redacted].
Sandiego, Armardo G., [redacted].
Savage, Hilbert B., Jr., [redacted].
Schaller, Laird F., [redacted].
Schultz, Morris A., [redacted].
Shallow, James T., [redacted].
Shepherd, Virgil J., [redacted].
Smith, Oren R., Jr., [redacted].
Stahl, Norman L., [redacted].
Swift, James T., [redacted].
Thomas, Charles N., [redacted].
Triebwasser, John H., [redacted].
Watson, Clarence F., Jr., [redacted].
White, Jerry A., [redacted].
Whiteside, Clarence K., Jr., [redacted].
Wiley, John R., [redacted].
Wingert, Robert I., [redacted].

### DENTAL CORPS

Andrews, Roy W., [redacted].
Aronovitz, Robert, [redacted].
Basse, Adolph F., [redacted].
Binzer, William C., [redacted].
Birmingham, Frederick D., [redacted].
Bottom, James G., [redacted].
Brown, Cecil E., Jr., [redacted].
Davis, Earl W., [redacted].
Derricotte, Eugene A., [redacted].
Garner, Robert S., [redacted].
Hamrick, Joseph E., [redacted].
Jividen, Glenn J., [redacted].
Kramer, Donald C., [redacted].
Nassif, N. Joseph, [redacted].
Richardson, James E., [redacted].
Risk, Donald L., [redacted].
Rymarz, Frank P. R., [redacted].
Schell, Jerome, [redacted].
Smith, Ralph H., Jr. [redacted].
Taylor, Carroll G., [redacted].
Turner, Donald C., [redacted].
Westin, Richard P., [redacted].
Wettlaufer, Robert K., [redacted].
Wilson, Brice N., [redacted].
Wymer, William E., [redacted].
Zwick, Harold W., [redacted].

### MEDICAL CORPS

*Major to lieutenant colonel*

Barrett, Robert T., [redacted].
Biedermann, Eric R., [redacted].
Bitseff, Edward L., [redacted].
Bude, Frederick R., [redacted].
Bodker, James A., Jr., [redacted].
Bornstein, Myer S., [redacted].
Brown, Frederic M., [redacted].
Cabrerahamirey, Lorenzo, [redacted].
Calico, Forrest W., [redacted].
Candy, Jon W., [redacted].
Carmody, John L., [redacted].
Castaneda, Thistan A., [redacted].
Cloyd, Dale E., [redacted].
Corbett, James E., [redacted].
Cronk, Richard V., [redacted].
Diorio, David A., [redacted].
Durr, Maurice M., [redacted].
Dumas, Paul A., [redacted].
Fogel, Lawrence J., [redacted].
Gaines, Larry S., [redacted].
Grant, William H., [redacted].
Gray, Neal H., [redacted].
Grossman, Jerome H., [redacted].
Halverson, James L., [redacted].
Hamilton, Carlos R., Jr., [redacted].
Hilleboe, John W., [redacted].
Hinzman, Gary W., [redacted].
Hughes, Thomas J., [redacted].
Jaffe, Bernard M., [redacted].
Jecha, Larry D., [redacted].
Johnson, Matthew T., [redacted].
Kaplan, Michael F., [redacted].
Klegan, Kirk A., Jr., [redacted].
Kincaid, Charles A., Jr., [redacted].
King, Roy D., [redacted].
Klein, Michael R., Jr., [redacted].
Kuhn, Charles R., [redacted].
Mahoney, John T., [redacted].
Martin, Stephen H., [redacted].
McNutt, Neil S., [redacted].
Meyer, George W., [redacted].
Mozersky, David J., [redacted].
Mueller, Kenneth H., [redacted].
Murray, Arthur J., [redacted].
Notske, Robert N., [redacted].
Novicki, Donald E., [redacted].
Olson, Barry E., [redacted].
Orren, Jerry M., [redacted].
Paget, Edward T., [redacted].
Palmer, Jacques J., [redacted].
Pearson, Harve D., [redacted].
Powell, Jerry R., [redacted].
Rogers, Woods W., III, [redacted].
Schaberl, Karl N., [redacted].
Simpson, Charles L., [redacted].
Snider, William J., [redacted].
Thabalsantos, Jose F., [redacted].
Walters, William E., II, [redacted].
Wanerka, Gary R., [redacted].
Welsh, George F., [redacted].
Whelchel, John D., Jr., [redacted].
Wilder, Thomas C., Jr., [redacted].
Wiley, John K., [redacted].
Williams, Robert A., [redacted].
Yatteau, Ronald F. [redacted].

### DENTAL CORPS

Adan, Cirilo L., Jr., [redacted].
Bernhard, Lee F., [redacted].
Brannon, Robert B., [redacted].
Buchen, Bavard A., [redacted].
Carey, Rubert J., [redacted].
Cooley, Robert L., [redacted].
Davis, Jerry N., [redacted].
Donnelly, Maurice W., [redacted].
Duran, Paul C., [redacted].
Drake, Philip L., Jr., [redacted].
Ellerbruch, Eldon S., [redacted].
Fazio, Louis J., [redacted].
Ferland, Norman G., [redacted].
Freedman, Irving, [redacted].
Freestone, James T., [redacted].
Gleason, Robert W., [redacted].
Green, Larry E., [redacted].
Herbold, Edward T., [redacted].
Hoerath, John C. [redacted].
Knowles, Kenneth I., [redacted].
Kolker, Stanley L., [redacted].
Koutnik, Alfred W., [redacted].
Mauthe, Donald J., [redacted].
McIlwain, James E., Jr., [redacted].
Mills, Donald E., [redacted].
Morlang, William M., II, [redacted].
Moskowicz, Donald G., [redacted].
Osborne, Harold W., [redacted].
Powell David L., Jr., [redacted].
Richard, Glenn E., [redacted].
Ruane, James B., [redacted].
Rucco, James J., [redacted].
Ryan, Doran E., [redacted].
Shibuya, Francis S., [redacted].
Smith, Howard F. [redacted].
Sorensen, Donald C., [redacted].
Stanger, James H. [redacted].
Staup, James C., Jr., [redacted].
Strohaver, Robert A., [redacted].
Strosnider, Roger R., [redacted].
Vugue, Harvey L., [redacted].
Wampler, Henry W., [redacted].
Weinman, Morris L., [redacted].
Wilson, Aaron H., Jr. [redacted].
Wong, Shannon, [redacted].
Wright, Gordon L., [redacted].

### IN THE NAVY

The following-named officers of the U.S. Navy and Naval Reserve for temporary promotion to the grades indicated in the staff corps, as indicated, subject to qualification therefor as provided by law:

### MEDICAL CORPS

*Commander*

Almy, Gary Lee
Angelo, Don Stuart
Antonio, Melvin Quetuli
Bright, Robert Wayland
Branch, John Wayne
Bloustine, Stanley Aaro
Charles, Clive Robert
Clayton, William Ellis
Connolly, William James
Davis, McWilliam Henry
Dennis, David Tappen
Dirkers, Jerome David
Dodson, Jon Harrol
Engeler, James Edward J.
Farrell, Raymond L.
Filo, Ronald Steven
Fink, Lawrence Holliday
Geeslin, James Menard J.
Gray, John E.
Gross, Theodore Donald
Habib, Michael Anthony
Hendricks, Philip Lance
Higgins, Robert W.
Hoskins, William John
Howard, Noel Scott
Humphrey, Chester Bowde
Ines, Mario Bayuga
Jackson, Charles Thomas
Janovich, John Richard
Jochimsen, Peter Rudolp
Ketron, Gary Don
Knopf, Alan Ben
Krishingner, Gene Laver
Lee, Wayland Sherrod
Lipkin, Philip
Maginnis, Michael Allen
McAlary, Brian Gerard
McClurkan, James Michae
McDonald, Harrison Robe
McQuarrie, Irvine G.
Noel, Ewell Carlyle, Jr.
Nye, Charles Erik
Osborne, John Edward
Pepine, Carl John
Rasco, Jerry Lynn
Ricketson, George Manni
Roberts, James Douglas
Robertson, Nathaniel Ri
Sands, John Porter, Jr.
Sanfilippo, Joseph Anth
Scheidt, Kenneth Anthon
Siao, Newton Tiu
Symonds, Ronald Delbert
Tomm, Karl Elmer
Velat, Gary Frank
Williams, Anderson Rodd
Williams, Loy Engene

### SUPPLY CORPS

Arnold, James Leslie
Austin, Walter Ivy
Avery, Bruce Floyd
Awada, James George
Bayles, Ronald Stuart
Bender, James Lawrence
Bian, John William
Biver, David Albert
Blackwell, Lind Bergh
Boesch, Frederick Erskin Jr.
Boese, Fred Merritt
Boylan, Charles Theodore
Brassington, Abram Austin
Bush, William John
Christen, Jimmy Ellette
Clemente, Vincent Francis
Cooper, Donald Reid
Crooks, Robert Edward Jr.
Crosby, Alexander Clayton
Crouch, Donald Glenn
Culbertson, Morris Dean
Cunningham, John Joseph Jr.
Dardis, Ernest Charles
Dolan, Henry James
Dowling, John Patrick Jr.
Drake, Claude Howell
Dyches, James Wilson
Ebey, John Robert
Evans, Steven Harrison
Farley, Robert Howard III
Fedora, John
Felt, John David
Frizzell, Frank Lee Jr.
Goss, Roland Alfred
Hatchett, John Wayne

Hauenstein, William Harry
Haver, David John
Henion, Alan Martin
Huddleston, Roy Lynn
Huffman, Haldon James
Huth, Carl Fredrick Jr.
Hutto, John Aaron
Jackson, Leon Arvil
Jarrett, William Augustus
Johnson Edward Matthew, Jr.
Jones, Everett Leslie III
Julian, Gerald Patrick
Kelly, James Andrew
Koncar, William Robert
Krakower, Matthew Arthur
Krummel, John Cary
Kruse, Marlin Lewis
Lavely, Lawrence William
Leeson, Donald Dozier
Lynam, Edward Joseph
Maginniss, Christopher M., Jr.
McAdams, William Michael
McAllister, Dudley Shaw, Jr.
McCloskey, Michael A., Jr.
Muenster, William Stephens
Napier, William Lloyd
Overman, Douglas Ray
Parker, Charles Edwin
Parsons, Frank Woodhall
Rader, Lynden Larue
Rose, Russell Livingston
Rumpf, Robert Lewis
Russell, Joseph Francis III
Schlenker, Robert Louis
Shaw, Jerry Wayne
Sherwood, William Charles
Smellow, Edwin Neil
Spillane, James Jerome
Stauffer, John Lloyd
Stehly, Frederick Raebel
Stigliano, Carmen Nicholas
Tempest, Edward Harry
Verplaetse, Ronald Arthur
Vevoda, George Lee
Walker, Samuel John
Walther, Harrison Nicholas
Weatherson, Harvey Donald
Webber, Randall Edward
Webb, Robert Donald
Wheeler, J. C., Jr.
Willis, Gerald Worth

### CHAPLAIN CORPS

Antos, Paul Joseph
Boyer, Richard Alfred
Boyette, Earl Lawrence
Cronin, James Edward, Jr.
Cunningham, Robert Ross
Dempsey, Richard Joseph
Doffin, James Elvin, Jr.
Dorsey, Jack Edmond
Frates, Joseph Henry
Gibson, William Moses
Goodwin, Norman
Hamilton, Edward Anthony
Hanawalt, Edward Alan
Hathaway, Dudley Chase
Hiskett, Walter Alvin
Holwager, Philip Joseph
Hughes, Edward Lee
Lewis, Herbert Tilford
Mack, Wilfred Benson
McCoy, Marion Wilbert
McCue, Richard Theodore
McNamara, John Richard
Mowry, John James
Pearson, Paul Warren
Pfannenstiel, James Dixon
Plishker, Richard Alan
Seeland, Arthur David
Smith, Hugh Dwight
Trent, Robert Earl
Waite, Patrick John
Witting, Martin Joseph
Wuebbens, Everett Peter

### CIVIL ENGINEER CORPS

Austin, Donald Ralph
Boothe, Allen Perry
Brockwell, John Albert
Byers, Eugene Waite
Davis, Gene
Enyedy, Joseph Michael II
Gunther, John Albert
Ives, Jon Robert
Jacobsen, John Reinholdt
Martin, Roger Gene
Matthews, William Garfield
Muir, Michael David
Naegele, Frederich Donald
Oswald, Thomas Hepworth, Jr.
Parisius, Philip James
Podbielski, Victor
Reeves, Dwain
Riley, James Leonard
Shackelford, Robert H., Jr.
Smart, Robert Dalton
Swistock, John Richard
Tack, Curtis Allen
Tibbitts, Jonathan Cilley J.
Wagner, David Roy
Young, John Archie, Jr.

### JUDGE ADVOCATE GENERAL'S CORPS

Brickson, Herbert Orion
Crane, William Abraham
Drapeau, John William
Gormley, Matthew Joseph, III
Hoffman, James Lyle, Jr.
Hradecky, Rudolf
Jones, Augustus Bennette, III
Kercheval, John William, II
Nerseth, Marvin Peter
Stumbaugh, Everette D.
Sweeney, James Wallace
Trocki, Daniel Bernard
Vanslate, Jean Ellsworth
Walsh, John Joseph
Ziemniak, Daniel John

### DENTAL CORPS

Albright, Jimmy Edward
Alexander, Roger E.
Allen, John M.
Andrzejewski, David Ale
Antrim, Donald D.
Archer, Jerald Joe
Back, Jim Palmer
Barron, Don Morrow
Barton, Terry Lee
Bauman, John Calvin
Bickenbach, Alan Paul
Billy, Edward Joseph
Blake, James Harris
Blanchard, Donald Georg
Blank, Byron Edgar
Boles, Michael Eugene
Bollinger, Thomas Edwar
Bosley, James Edward
Branham, Gerald Brown
Branon, Anthony William
Bryant, Frederic Stephe
Buchholtz, William J.
Burk, Jimmie Leon Jr.
Burke, Robert Stuart
Butlin, Roderick Willia
Calder, David Robertson
Chandler, Leonard P., Jr.
Charbonneau, Paul Cook
Coggeshall, William Tho
Cook, Robert Corwin
Cornell, Michael Thomas
Crowell, Nelson Thomas
Curtice, Frederick Aust
Davis, Charles Madison
Davis, Norman Lindell
Delaossa, Arthur Dwight
Demeyer, John Hilaire
Ebert, Patrick Corcoran
Emery, Clare Allison, Jr.
Ervin, Melvin, Jr.
Esquire, Robert Gregory
Fady, James A., Jr.
Felger, Milton Robbert
Fields, Marion Spencer
Fjerstad, James Harold
Fletcher, Ernest Clinto
Flinton, Robert John
Fortman, Kenneth Vernon
Foster, George Stavros
Frank, Sam Robert
Frazier, James L.
Gant, Lewis Edward
Glazer, Sanford Allen
Good, Richard James
Greeley, William Edmond
Grisham, John Paul
Groat, Jack Eugene
Gustafson, Duane Olin
Hale, William Franklin
Hancock, Everett Brady
Haro, David Pierce
Hawse, Richard Allen
Hedge, Herbert Roy
Heibel, John Lawrence J.
Hensley, Paul Edwin
Hicks, Morris Lamar
Hillenbrand, Dennis G.
Hinman, Robert Winfield
Hirschfeld, William Ern
Hirst, Robert Charles
Ho, Patrick
Holtan, James Raymond
Horton, Charles Bunion
Howe, David James
Huelster, Peter Charles
Hunter, Thomas Allen
Imlach, William Edward
Isaacs, Jerome Ernest
Jann, Robert Charles
Johnston, William Charl
Julienne, Charles Hunte
Kawahara, Charles Masar
Kehoe, Joseph Clark
King, Ronald Coulter
Kjome, Robert Louis
Knehans, William Edmund
Kobes, Peter
Koenigs, Joseph Francis
Kosobud, William Orvill
Kozma, Ernest Sylvester
Lane, Jerry Lee
Lawton, Robert Anthony
Lehman, Paul Clinton
Leonard, Edward Paul
Lequire, Anton Kilgore
Lineberger, Luther True
Lohr, John R.
Longenecker, David Paul
Lufkin, John Cordell
Luton, Jonathan Paul, Jr.
Maastricht, William Hen
MacLeod, George
MacPherson, John Herman
Mansfield, Thomas Walla
Martin, Richard Leonard
McDavid, Paul Thomas, Jr.
Milford, Michael Louis
Mitchell, Donald Leo
Morris, Don Raymond
Morris, M. Dan
Mowad, Massoud Gazell
Muir, Theodore Erwin
Mullins, Harry Charles
Nelson, Emory Russell
Nelson, Ronald Thomas
Newell, Thomas James, II
Nicklin, Charles Ross
Niesar, George Francis
Nieusma, Gerald Edwin
Nissenson, Marvin
Nowak, Joseph Paul
Orthmeyer, Harold Joseph
Ostrowski, John Stanley
Paulk, Glenn Lamar, Jr.
Perry, Frank Upshaw
Peru, Charles Blaine
Petri, William Henry, II
Phillips, Charles Kenne
Porter, John William
Preece, Richard Golden
Rackley, Otis Dowe, Jr.
Richardson, William Gos
Ridley, Michael Travis
Roberts, William Wallis
Robertson, Gustav Rober
Ross, George Robert
Sadler, John Frank
Sanders, Arthur Ray
Sawyer, Hershel Garvin
Schaberg, Siegfried, John
Scott, Ronald Weldon
Seck, Dale Werner
Selby, Vernice Boyd
Sepe, Walter William

Shafer, Robert Theodore
Shanley, James John
Sharrow, Barry Eugene
Shoemaker, Philip Withe
Siegal, Don Edward
Smith, Maurice Mahlon
Snell, William Howard J.
Splitgerber, Thomas Cla
Stalb, Douglas Bradford
Stanton, Herbert Joseph
Stob, John Albert
Tagge, David Lee
Taylor, Kent Lee
Thetford, Oris Hannon
Vath, Charles Richard
Vazzana, Lorenzo S.
Webster, Roger Allan
Whitlock, Richard P.
Whittaker, James F.
Wible, James Howard
Wickord, Richard W.
Wight, Thomas Alden
Wilson, Noel Charlton J.
Wisser, Robert C.
Woodsmall, James T.
Young, Raymond Francis
Zendt, Robert Richard

### MEDICAL SERVICE CORPS

Brugman, Arthur Paul
Elfstrom, Berger Rudolph, Jr.
Fitts, Marvin Lee
Hunt, James Arthur
Jenkins, Lawrence Jacob, Jr.
Johnson, Ralph Walter
Nelson, Jack Arian
Roper, Charles Austin
Shedlosky, Albert Frank
Epiegler, Joel Benjamin

### NURSE CORPS

Brase, Beverly Jane
Butler, Lois Jeanne
Clunan, Claudette Cecielle
Cope, Patricia Ann
Emal, Janice Ann
Holbrook, Helen Anne
Johnston, Georgia Fay
Kelly, Margy Sue
Kendall, Kathleen Margaret
Kiely, Sally Ann
Ledgerwood, Mary Charline
Lukacs, Mary Cecelia
Majak, Patricia Louise
McNair, Joan Aline
Meehan, Mary Katherine
Nehr, Rosalie Rae
Oregan, Helen Ann
Peters, Edna Lucille
Ross, Stella Ann
Sovich, Patricia Ann
Spellman, Georgia Elizabeth
Stelzer, Kathleen
Stewart, Nicola Joan
Swanson, Joan Frances
Swetonic, Marjorie Ann
Warner, Patricia Ann
Young, Mary Leonard

### MEDICAL CORPS

#### *Lieutenant commander*

Alexander, Alan Ray
Aronen, John Gary
Barber, Martin Steven
Belisle, Charles Mauric
Brett, Charles Burden
Creutz, Robert E.
Dainer, Michael Jeffrey
Depry, Dennis Lee
Everidge, George Jeryl
Fabry, Gerald Roy
Fetter, Theodore Walker
Fischbach, Howard Phili
Gamza, Francis Charles
Gibbons, Gary Ray
Gobien, Rolf Peter
Gray, Kenneth Stewart
Hanlon, Jon Jerold
Harper, Robert David
Hartman, Robert Joseph
Heye, George Henry
Hinckley, James Arthur
Johnson, Dennis Lee
Kachkowski, Sandra Lee
Knispel, John W.
Kuykendall, Stephen Art
LaPoint, John Malcolm
Larsen, Loren Gene
Long, Harry Joseph
Lowe, Jon Bishop
Lutz, Thomas George
Lynch, Donald Francis J
McCord, William Keith
McPhail, Ronald Craig
Menghini, Peter Packard
Miller, George Douglas
Murphy, James George
Nisbet, John Robert
Otoski, Richard Edward
Packard, Russell Calver
Powell, Randall Waynel
Reece, Donald Brooks II
Richmond, David Samuel
Robinson, Lawrence Herb
Ronlov, Carsten Svend
Ross, Cecily Denise Gui
Ross, William Bruce
Schuetz, Michael Willia
Schwarz, David Gerard
Sell, Barry James
Smith, Joseph Jermyn
Soballe, Peter Warren
Sowden, Richard Guy
Stoianoff, John Roger
Street, Henry Hurlbut
Tanner, William Woodrow
Travers, Henry
Wagoner, David Kirk
Walker Michael David
Westby, James Soren
Williams, Louis Simon
Wimmer, John Easter, Jr.
Winkler, Christie Westo

### SUPPLY CORPS

Ashley, Robert Edward, Jr.
Berzins, Aivars Talis
Bishop, Henry Harold, II
Bland, Gerald Hall
Bolling, Terry Lynn
Boyt, George Richard
Burnette, Jimmy Darwin
Campisi, Ronald Alexander
Chertock, Stephen Herman
Chiomento, Thomas Vincent J.
Christophersen, Wilhelm G.
Cosgrove, Patrick Michael
Eager, Donald Richard
Elliot, Ernest, Alexander
Emrich, William Daniel
Danielson, Richard Arnold
Davies, David Alan
Douglas, Bruce Leroy
Fabry, Steven Edwards
Fitzgerald, Preston Hodges
Freeman, James Kirk
Fuller, John Anson
Fyfe, John Kerr, Jr.
Gaunt, John Richard
Geroe, Marvin Kenneth
Gordon, Jeffrey Leroy
Gray, Cameron Rathbone
Groves, Floyd Abram
Gudgen, Richard Abbott
Haynes, James Michael
Hiltbrand, Jon Haden
Jordan, Douglas Saunders
Kalas, Frank Joseph, Jr.
Kennedy, Hunter Lee
Keyworth, Richard Evans
Krause, Donald Edward
Krejci, Stanley Leon
Lamm, David Vincent
Lerner, Kenneth Ward
Lester, Timothy O'Connell
Lewis, Richard Earl
Macarthur, Chester Bruce
Marlin, Frederick Russell J
Mayes, Robert David
McKechnie, Arnold Wilfred J
McLaughlin, Robert
McNabnay, James Richard
Meyer, Fred Lewis
Miller, Barry James
Mitchell, Ralph Melvin, Jr.
Modrowski, Richard Walter
Munro, David Thomas
Nelson, Napoleon B. III
Oswald, John Stephen II
Pearce, Charlie Albert
Poulin, Robert Alfred
Price, Donald Edward
Schandel, George William
Schooley, Robert Allen
Schweitz, James Joseph, Jr.
Seufer, Stephen John
Sheffo, Donald George
Smith, James Lewis
Smith, Roger Joseph
Steffens, Paul Bernard, Jr.
Taylor, Richard Eugene
Turley, Marion Choyce
Turner, Harry Leon II
Valenty, Patrick Paul, Jr.
Vanhaaren, Cary Grant
Walton, William Heritage, Jr.
Wheaton, Kenneth Walter
White, Gordon Rollins, Jr.
Wilson, Charles Alden
Wright, Harry Neil
Ziegler, Lee Alan
Zitzewitz, Robert Frank

### CHAPLAIN CORPS

Hiers, Homer Thomas, Jr.
Mintjal, Frank Delano
Snyder, Edgar Alfred, Jr.
Waterson, Allan Frederick

### CIVIL ENGINEER CORPS

Brown, Harry John Jr.
Buntley, Ronald Eldred Jr.
Carlson, Richard Eric
Conniff, David Denniston
Cook, Roy Herbert III
Corcoran, Anthony Edward
Cugowski, Ralph Marshall
Curtis, Elmer Ross
Dames, Thomas Allan
Dodson, James William Jr.
Elkins, John Carroll
Gant, James Bryant
Hamilton, Charles Dewalt
Harrison, Lloyd Jr.
Kennedy, Ronald Edward
King, Donald Madison
Koski, William Arthur
Meeks, Kenneth Wayne
Thorp, Robert Douglas
Vizza, William Kane
Weston, James Edward
Wood, John Fairbanks
Woodhull, Roger Blake Jr.

### JUDGE ADVOCATE GENERAL'S CORPS

Barr, Philip Conrad
Griffin, Michael Airey
Hughes, Winston Jackson
Neutze, Dennis Richard
O'Boyle, Thomas Robert
Riedel, Charles Thornton
Rosintoski, Lawrence John
Rossi, Robert Raymond
Swayze, Frank Benjamin
Wells, George Lawrence

### DENTAL CORPS

Ancowitz, Stephen Jay
Anderson, Denis David
Anderson, Joseph Humphe
Antimarino, Ronald Fran
Beastall, Raymond Howar
Bokmeyer, Timothy John
Boland, Francis Patrick
Brandt, Alfred Edward
Brennan, Mark Anthony
Burkey, Richard William
Butler, Lee Mark
Cairns, Donald George
Campbell, Larry Gene
Carlberg, Terry Lee
Carlson, Robert Bruce
Chang, Ronald Sai Ngew
Clark, John Charles
Clausen, Donald John

Coleman, Carl James
Cook, Dean Lewis
Coleman, Leroy Dean
Constantine, Patrick Jo
Cothren, Toby Gregory
Crowley, Leo Vincent, Jr.
Culpepper, Lawrence Daf
Cunningham, Walter Turn
Curren, Jack Thomas
Cuscianna, Leonard Geor
Daley, Arthur Stuart, Jr.
Darnall, Richard Thomas
Davies, Jonathan Franci
Davis, Kenneth Junior
Doms, William Fleetwood
Durso, Peter John
Eakin, Donald Richard
Ersland, Nile Peter
Eschete, Earl Francis J.
Farace, Anthony J.
Ferguson, Charles D.
Forgeng, Thomas Josep
Furin, Gregory
Galliani, Robert Edward
Garrett, John Steven
Garrett, William Riddic
Gartner, Richard Ray, Jr.
Gear, Robert Dale
Gerstein, Kenneth Allan
Giere, Robert Adams
Gile, Franklyn Dennis I
Grantham, Gary Bernard
Griffee, Michael Browning
Haag, Russell Edward
Hamilton, Jack Nelson
Hanst, Michael T.
Hargrave, John Walter
Harrigan, Daniel Michael
Harring, Ronald Francis
Harper, Richard Hubert
Hayhurst, William Joseph
Hecht, Frederick Louis U.
Hendrickson, William G.
Hertzberg, Stephen R.
Hintzen, Edward Robert
Hoffman, David Russell
Holton, John Jay
Holton, William Lindsey
House, Ronald Cleve
Hubbard, Thomas Motley
Hwang, William Shaoru
Innes, Joseph Crist
Jester, Craig Willard
Johnson, Jerry Kay
Johnson, Peter Fink
Jones, Harold Lee
Keller, John Jay
Kennard, John Thomas
Kucaba, Walter Joseph
Labore, Wayne Anthony
Lange, Walter Marcus, Jr.
Larson, Jeffrey Frank
Lauth, Dennis Wayne
Leff, Eldon Ray
Ligotti, Benedict
Lippert, James Leonard
Maass, Robert M.
Mackenbach, John Charle
Maddox, Don Colin
Malin, David Morgan
Matheson, John D.
McGuire, Dennis John
McLaughlin, Richard Phi
Mellonig, James Thomas
Moore, Gerald Francis
Moore, James David, Jr.
Mudler, James Thomas, Jr.
Mullins, Edmund Eugene
Nelson, Dennis Lynn
Olson, Glenn Robert
Owens, Gayle Ainsley
Oyler, Robert E., Jr.
Patterson, Michael Will
Pentecost, Robert Leeso
Perkins, Timothy Ray
Peskin, Howard Val
Post, Robert Michael
Potter, Michael Irvin
Provencher, Robert F., Jr.
Pugh, George Spencer
Quine, Gary Don
Reiff, Gregory Joseph
Richards, Mark Warren
Riemann, Richard Allan
Rizas, John Joseph
Rog, Richard Paul
Rohrbaugh, Edward Allen
Rothermel, Richard Alle
Russo, Edward, Jr.
Sailor, Bruce Joel
Schai, Neal Andrew
Scott, Steven Hall
Shelly, Tom Howard
Siciliano, Frank
Silverthorn, Thomas Law
Smith, Ernest Ray
Smyth, Robert Neil
Soteres, James Spiros
Stauffacher, Richard K.
Sweet, Phillip Michael
Terezhalmy, Geza Tibor
Tontz, Russell Clyde, Jr.
Tremann, Charles Freder
Vinton, Jeffrey Ralph
Vosskuhler, Robert Jose
Waters, Warren Parker
Wattenbarger, Clyde Kit
Wells, Thomas Dwight
Werrell, Joseph Michael
Widmer, Leonard W.
Wilson, William Harrison

### MEDICAL SERVICE CORPS

Anderson, David Edward
Arnold, Leroy Edward
Baldwin, Jeffrey Winfield
Barbee, Benjamin Douglas, Jr.
Barnhill, Russell Wynn
Belter, Lyle Edward
Beene, Joe Ray
Bobola, Edward
Bruhn, John Evan
Butler, Raymond Andrew, Sr.
Call, Douglas William
Carney, William Patrick
Carpenter, Gordon Lee
Chaput, Raymond Leo
Charland, Normand Louis
Closson, David Eugene
Cole, Dennis Earl
Coleman, Robert Curtis
Cote, Robert Raymond
Cunningham, Orlin Eugene
Curran, Raymond Michael
Daily, Otis Patrick
David, Dennis Duane
Davis, Donald Marion
Davis, Donald Ralph
Devine, Robert Thomas
Dodson, Jerrold Homer
Glaser, Zorach Raphael
Goodhartt, William Ryan
Gutshall, Richard Brice, Jr.
Hamas, Michael, Jr.
Hammons, Johnnie David, Jr.
Hansel, George Joseph
Hayes, Charles Herbert
Hazelton, Terrial Lynn
Herron, Don Montelle
Heston, Frank David
Hill, Charles Ray
Jones, Thomas Newton
Julius, Leonard Jackson
King, Glen Meredith
Lindberg, John Robert
Loos, Ernest James
Maassen, Leland Richard
Mann, Charles Frank, Jr.
Markley, Edward Grant
Milliken, Paul Robert
Mincer, Arvin Andy
Moore, Leonard Lee
Moore, Patrick Holmes
Moroney, William Francis
Nacrelli, Walter Andre
Newman, Reginald Edward
Owens, Kenneth Lee
Pheeny, Harold Thomas
Raymond, Lawrence Foster
Reynolds, Richard Dale
Rice, Edward Allen, Jr.
Riley, Michael Terrence
Robinson, Ralph Eugene
Sander, Dale Frank
Schlegel, Elvin Lee, Jr.
Schroll, John Egmont
Sherwood, Walter Ollie
Sides, Alfred Leroy, Jr.
Smith, David Gary
Smith, James Peter, Jr.
Smith, Robert Edgar
Smith, William Walter
Spencer, Robert Frank
Sperry, Douglas Ray
Stewart, Gene Nicholas
Taylor, Lloyd Cecil, Jr.
Thorson, Donald Dean
Turco, Ronald Fisher
Wachal, Frederick Joseph
Waln, William Edward
Weber, Herta Antoinette
Wilson, Everett Lynn
Wolff, Lavern Vernon
Wooll, Earl Ronald

### NURSE CORPS

Bagbey, Stanley Robert
Bousquet, Virginia Mae
Cortez, Ida Marie
Gierman, Richard Lawrence
Goss, Barbara Ann
Henderson, Rebecca Robertson
Jackson, Charles Ray
Kerdus, Mary Beth
Klefman, Gloria Gay
Kondash, Anne Marie
Krzewinski, Barbara Ann
Learned, Charles Everett
Nye, Margaret Catherine
Peace, Shirley Ann
Pollock, Linda Sue
Quayle, Leo Claude
Raach, Carolyn Diane
Rieder, Karen Anne
Schneider, Victoria Ann
Snider, Stephen Emmit
Stratton, Mariann
Wadner, Carol Ladzinski
Yahner, Ann, III

Lieutenant Kathleen A. Hammel, Supply Corps, U.S. Navy, for permanent promotion to the grade of lieutenant commander in the Supply Corps, U.S. Navy, subject to qualification therefor as provided by law.

### IN THE MARINE CORPS

The following-named temporary disability retired officer for reappointment to the grade of lieutenant colonel in the Marine Corps, subject to the qualifications therefor as provided by law:

Post, Robert J., [redacted] USMC.

The following-named temporary disability retired officer for reappointment to the grade of major in the Marine Corps, subject to the qualifications therefor as provided by law:

Ciaburo, Michael A., [redacted] USMC.

The following-named (Naval Reserve Officer Training Corps) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Agrati, Stephen P.
Carrese, Robert T.
Clark, Donald E.
Elm, Benjamin R.
Feily, John H.
Grimshaw, James T.
Hagood, Daniel K.
Henderson, James R.
Hogan, John P.
Latsko, Thomas C.
Murray, Cornelius
Passeno, William J.
Stapler, Konrad E.
Tipple, James A.
Walsh, John J.
Way, Bruce L.
Work, Robert D.

### IN THE MARINE CORPS

The following-named (Naval Reserve Officer Training Corps) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Burke, Steven F.
Miller, John S.
Pagel, John M.

The following-named U.S. Naval Academy graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Albano, Michael C.
Alderson, Patrick L.
Baker, William C., Jr.
Ball, Fredrick J.
Ballard, Douglas D.
Bartlett, William J.
Beale, Charles H., III
Beam, Doyle H.
Becker, Michael D.
Bednar, George A.
Bennett, William A., Jr.
Blahnik, Mark A.
Boling, Ernest M., III
Brown, John R.
Bruno, John C., Jr.
Carey, Patrick L.
Champagne, Lynn M.
Chappell, Donald P.
Cole, Jeffrey U.
Condra, Mark E.
Culver, Richard L., Jr.
Davenport, Richard W.
Davis, Bryan M., Jr.
Davis, Paul
Diehl, Albert J., III
Driscoll, Daniel A., Jr.
Duer, Leslie F.
Edwards, Stephen B.
Evans, Thomas J.
Foltyn, Robert W.
Gombo, Johnnie
Harris, William M.
Heinzman, William E., II
Hill, Howard E.
Hughes, Jack L.
Hutcherson, Charles W., Jr.
Jacobson, David L.
Johnson, Mark K.
Johnson, Timothy A.
King, Gregory S.
Koch, Glenn F.
Koenig, Larry D.
Kramer, James R.
Kramer, Jeffrey N.
Krummel, Terry W.
Kuhlmeier, Theodore A.
Larson, Robert D.
Leitch, Scott E.
Leupold, Gary C.
Lores, Michael J.
Madrid, Ronnie R.
McKay, Patrick J.
Mildenstein, Boyd A.
Milligan, Mark A.
Minor, Thomas E.
Mitchell, John W., Jr.
Mooney, Mark E.
Morris, William L.
Nebbia, Karl B.
Niflis, Andrew P.
Phelps, Anthony F.
Pugh, Dale H.
Reed, Robert M.
Riemer, James D.
Rowan, Christopher J.
Rucks, James L.
Schmidt, Ross A.
Sergeant, John W.
Shigley, Stephen D.
Short, Francis R.
Smith, Duane A.
Spies, Harry C.
Stephan, Bradley A.
Stewart, Jeb E. B.
Stith, Scott C.
Stuvek, Fred L., Jr.
Talbott, William D., Jr.
Thrash, Gary D.
Van Loan, Lawrence R.
Wagner, Donald J.
Walters, Robert J.
Watson, Thomas R.
Weiss, Donald L.
Welter, Robert M.
Westfall, Carl D.
Whomsley, Bruce A.
Witesman, Frederick B., II
Zavala, Saul

### Department of Defense

Leonard Sullivan, Jr., of the District of Columbia, to be an Assistant Secretary of Defense, vice Eberhardt Rechtin, resigned.

### Department of State

Thomas W. McElhiney, of the District of Columbia, a Foreign Service Officer of the Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ethiopia.

### Federal Communications Commission

James H. Quello, of Michigan, to be a Member of the Federal Communications Commission for a term of 7 years from July 1, 1973, vice Nicholas Johnson, term expired.

### Interstate Commerce Commission

Charles L. Clapp, of Massachusetts, to be an Interstate Commerce Commissioner for the term of 7 years expiring December 31, 1980, vice Chester M. Wiggin, Jr.

### In the Air Force

The following-named officers for promotion in the Regular Air Force, under the appropriate provisions of chapter 835, title 10, United States Code, as amended. All officers are subject to physical examination required by law.

#### SECOND LIEUTENANT TO FIRST LIEUTENANT LINE OF THE AIR FORCE

Abene, Peter V., [redacted]
Abshier, Stephen E., [redacted]
Acuff, Gregory M. [redacted]
Adams, Patrick O., [redacted]
Adams, Randolph K., [redacted]
Adams, Ronald M., [redacted]
Agnew, Richard H., Jr., [redacted]
Aimone, Michael A., [redacted].
Alderson, William H., III, [redacted]
Aldridge, Lee F. [redacted]
Alexander, Dana L., [redacted]
Alexander, Marian F., [redacted]
Alexander, Stephen D., [redacted].
Alexander, William S., [redacted]
Allen, Danny R., [redacted]
Allen, William A. [redacted].
Allhiser, Gary L., [redacted]
Allison, Clinton D., [redacted].
Almquist, Marilyn J., [redacted].
Alonso, Francis A., [redacted].
Amos, David E., [redacted].
Anderson, Alan J., [redacted].
Anderson, Glenn E., Jr., [redacted].
Anderson, Nolan H., Jr., [redacted].
Andrew, Myron C., [redacted]
Anthony, Richard W., [redacted].
Arentz, Eric G., [redacted].
Armstrong, Michael S., [redacted].
Arnold, Craig E., [redacted]
Arnold, Jerry H., [redacted].
Ashton, Warren A., [redacted]
Autry, Larry D., [redacted].
Bachand, Stephen M., [redacted].
Backlund, Donald R., [redacted].
Bader, Walter L., Jr., [redacted].
Bagley, Ronald L., [redacted]
Bailey, Larry A., [redacted]
Bain, Thomas C., Jr., [redacted].
Baker, James M., [redacted]
Baker, Robert D., [redacted].
Baldwin, Miles A., [redacted].
Ballas, Richard D., [redacted]
Ballintine, Richard G., [redacted]
Banks, Reginald I., [redacted].
Banks, Robert K., [redacted].
Bard, Nathan R., Jr., [redacted].
Barnard, Rocky E., [redacted].
Barnett, Leslie W., Jr., [redacted]
Barngrover, Gary C., [redacted].
Barnhart, James B., [redacted].
Barrett, Henry K., [redacted]
Barrett, Ronald R., [redacted].
Barringer, John D., Jr., [redacted]
Barron, Richard F., [redacted].
Bartel, Harvey D., [redacted].
Bartell, David W., [redacted].
Barter, Stephen W., [redacted]
Barton, Rick R., [redacted]
Bates, Rodney L., [redacted].
Bauman, Philip J., [redacted]
Baumann, David W., [redacted].
Bearce, Douglas L., [redacted].
Beaver, Thomas F., [redacted]
Beck, Gerard R., [redacted]
Becker, Bruce C., II, [redacted].
Becker, Mark S., [redacted].
Bedillion, Arley R., [redacted]
Bedrick, James R., [redacted].
Bell, David E., [redacted].
Bell, James R., [redacted].
Bell, Roger H., [redacted]
Bendrick, Jerome G., [redacted]
Bendure, Alva E., III, [redacted]
Bennett, Christopher P., [redacted]
Bennett, Robert B., [redacted].
Benulis, Cynthia L., [redacted].
Benuzzi, Eugene J., [redacted].
Berger, Stephen F., [redacted].
Berkebile, Wayne E., [redacted].
Berry, Thomas J., Jr., [redacted].
Berube, Normand A., [redacted]
Betsch, Keith A., [redacted].
Bierie, John M., [redacted]
Biggar, Stuart F., [redacted]
Billings, Robert, [redacted]
Bilotta, Joseph P., Jr., [redacted].
Bird, Thomas A., [redacted]
Bjerkaas, Carlton L., [redacted].
Black, Robert H., [redacted]
Blackburn, Thomas D., Jr., [redacted]
Blair, David M., [redacted]
Blake, Peter A., [redacted]
Blakelock, Ralph A., Jr., [redacted]
Blalock, Hubert L., Jr., [redacted].
Blaheuser, Lawrence F., Jr., [redacted]
Blewett, Robert W., [redacted].
Blind, John A., [redacted]
Blough, Robert D., Jr., [redacted]
Bluemer, Gary D., [redacted].
Blumberg, William A., [redacted]
Boatright, Rodney L., [redacted]
Bogstie, Robert C., [redacted].
Bohl, Dwight H., [redacted].
Bohlin, Daniel J., [redacted].
Bolen, Michael D., [redacted].
Boltin, Gerald, [redacted].
Bon, Jaromir J. [redacted].
Bongiovi, Robert P., [redacted].
Borchers, Robert G., [redacted]
Boren, Robert I., [redacted].
Borkowski, Robert A., [redacted]
Boshart, Ann S., [redacted].
Bost, Barry F., [redacted].
Bosward, Allan J., [redacted].
Bouboulis, Charles L., [redacted]
Bouchard, Daniel F., [redacted]
Bovich, Stephen E., [redacted].
Bowen, George S., [redacted].
Boyce, Stephen D., [redacted].
Boyd, Edward J., [redacted].
Boyd, George E., [redacted].
Boykins, Wilson L., [redacted].
Boyle, Patrick M., [redacted].
Bradford, William C., [redacted]
Bradshaw, Edward P. [redacted].
Brady, Terrence V. [redacted].
Brand, Larry W., [redacted].
Brannan, Raymond E., Jr., [redacted]
Brantley, Jim S., [redacted].
Brasher, Charles T., [redacted].
Braun, Richard D., [redacted].
Brayton, Alan R., [redacted].
Bredengerd, Laurence W., [redacted]
Brenton, James A., [redacted].
Bresett, Don E., [redacted].
Brewer, Robert D., [redacted].
Brigman, David F., [redacted].
Brilliant, Howard M., [redacted].
Brims, Richard C., [redacted].
Bristow, Steven R., [redacted].
Brock, John R., Jr., [redacted].
Brockway, Charles L., [redacted]
Brodel, Robert S., [redacted].
Brooks, Bennie R., [redacted].
Brooks, Joseph J., [redacted]
Brothers, Wayne S. [redacted].
Broussard, Neal J., Jr., [redacted]
Browder, David L., [redacted].
Brown, Charles R., Jr., [redacted]
Brown, David I., [redacted]
Brown, Gerald L., [redacted].
Brown, Robert C., Jr., [redacted]
Brown, Thomas F., [redacted].
Brown, Vanita J., [redacted].
Brown, Walter J., Jr., [redacted]
Bruns, Barry J., [redacted]
Bryant, Henry A., [redacted].
Bryson, Harry A., [redacted]
Bryson, Joseph F., Jr., [redacted]
Buckowsky, John P., [redacted].
Buford, Alfred J., Jr., [redacted]
Bugner, John R., [redacted].
Bumgardner, James J. [redacted].
Buran, Robert L., [redacted]
Burr, Annette L., [redacted].
Bush, Richard H., [redacted].
Bustell, Donald K. [redacted].
Butler, Robert R., Jr., [redacted].
Butson, Gary J., [redacted].
Butt, Gerald L., [redacted]
Cabrera, Joseph R., [redacted].
Cafaro, Juliet L., [redacted].
Callahan, Philip A., [redacted].
Callen, Thomas R., [redacted].
Campbell, Thomas C., [redacted]
Campos, Roel C., [redacted].
Cann, Robert A., [redacted].
Cantwell, John J., [redacted].
Capener, Eldon H., [redacted]
Capps, Harris T., [redacted].
Carlson, Bruce A., [redacted].
Carlson, Paul N., [redacted]
Carrell, Kim A. [redacted]
Carriere, Lowell R., [redacted].
Carrol, Julian C., III, [redacted].
Carson, Kent D., [redacted]
Carter, Charles L., [redacted]

Casada, Laurence L., [redacted].
Cassano, Ronald, [redacted].
Catalano, Charles P., [redacted].
Cavender, Virgil C., Jr., [redacted].
Ceroni, Andrew J., Jr., [redacted].
Chalk, Jess W., Jr. [redacted].
Chandler, Ross W., [redacted].
Chase, David L., [redacted].
Chase, Gregory M., [redacted].
Chase, Joseph D., [redacted].
Childers, Clifton H., [redacted].
Chirko, Charles P., [redacted].
Chisolm, Stoney P., [redacted].
Chizmas, Steven J. [redacted].
Christensen, Thomas W., [redacted].
Christenson, Clifford J., [redacted].
Cieszynski, Dennis M., [redacted].
Clark, David [redacted].
Clay, John L., [redacted].
Clay, Richard L., [redacted].
Clovis, Samuel H., Jr., [redacted].
Cochran, Bill L., [redacted].
Cohen, Jordan R., [redacted].
Cole, Larry D., [redacted].
Cole, Lawrence M., [redacted].
Coleman, William T., III, [redacted].
Cook, Joe D. [redacted].
Copeland, Arthur E., Jr., [redacted].
Cornelius, Kenneth A., [redacted].
Corty, Andrew C., Jr., [redacted].
Costigan, Robert R., [redacted].
Cote, Richard W., III, [redacted].
Cotter, Stephen D., [redacted].
Coury, Thomas R., [redacted].
Cowan, Stetson R., [redacted].
Cox, Richard M., Jr., [redacted].
Craig, James A., [redacted].
Crandall, Marshall D., [redacted].
Craycraft, Bruce E. [redacted].
Crego, John F. [redacted].
Crews, Phillip R., [redacted].
Crimin, Bruce E., [redacted].
Cron, Patrick M., [redacted].
Crosby, Sallie A., [redacted].
Cross, Richard B., Jr., [redacted].
Crowe, John B. [redacted].
Culbertson, Robert A., [redacted].
Cunning, Roger A., [redacted].
Cunningham, John D., [redacted].
Curnow, Robert L., [redacted].
Curry, Thomas F. [redacted].
Curtice, William L., III, [redacted].
Curtis, Jesse W., II, [redacted].
Custer, John F., [redacted].
Cushmand, Salvatore J., [redacted].
Cutlip, Robert G., [redacted].
Cyrus, Michael L., [redacted].
Daley, Daniel C., [redacted].
Davidson, Thomas E., [redacted].
Davis, Bulan M., [redacted].
Davis, Charles E., Jr., [redacted].
Davis, Harry F., [redacted].
Davis, John A., [redacted].
Davis, Richard W., [redacted].
Davis, Roy A., [redacted].
Davis, Stephen O., [redacted].
Davis, Walter S., III, [redacted].
Dawson, Derek L., [redacted].
Deahl, Wilburn R., Jr., [redacted].
Dealing, Ernest L., [redacted].
Dearden, Albert C., [redacted].
Dedona, Daniel B., [redacted].
Dehaven, Steven J., [redacted].
Deines, Judith A., [redacted].
Deines, Paul M., [redacted].
Dejongh, Jay E., [redacted].
Delaney, Gary L., [redacted].
Demetrio, James J., [redacted].
Denaro, Robert P., [redacted].
Denchy, William M., [redacted].
Deparle, David V., [redacted].
Derouin, Lawrence W., [redacted].
Deshaies, Leopaul R., [redacted].
Devine, Daniel G., [redacted].
Dewalt, William T., [redacted].
Dewan, Michael R., [redacted].
Dickinson, Jack R., Jr., [redacted].
Diller, Gary G., [redacted].
Dinwiddie, Porter R., [redacted].
Disch, Glenn C., [redacted].
Dobbs, John R., [redacted].
Dobbs, Robert B., [redacted].
Doll, John M., [redacted].
Dooley, Joseph B., [redacted].
Dordal, Paul R., [redacted].
Dotur, Jeffery S., [redacted].
Dougherty, Dan H., [redacted].
Dour, Thomas L., [redacted].
Douthett, Russell M., Jr., [redacted].
Downie, Michael H., [redacted].
Downs, James W., [redacted].
Dreger, Paul A. [redacted].
Drowley, Robert D., [redacted].
Dubois, Thomas R., [redacted].
Duff, Timothy L., [redacted].
Duggleby, Stanley J., [redacted].
Duke, William F., [redacted].
Duke, William M., [redacted].
Duncan, William D., Jr., [redacted].
Dunn, William S., [redacted].
Durham, Harry J., [redacted].
Dysart, Richard A., [redacted].
Dziedzic, Michael J., [redacted].
Dziuban, Gregory S., [redacted].
Dziuban, Stephen T., [redacted].
Edison, Thomas R., [redacted].
Edmonds, Thomas D., [redacted].
Edmondson, William E., [redacted].
Edris, Warren P., III, [redacted].
Eesley, Lyle S. [redacted].
Eggum, Robert L., [redacted].
Ehlers, Michael J., [redacted].
Elmore, Ashby D., [redacted].
Emery, Gary F. [redacted].
Ernst, John R., Jr., [redacted].
Ervin, Claudy O., [redacted].
Eshelman, Douglas W., [redacted].
Evans, John T., Jr., [redacted].
Evans, William E., [redacted].
Everett, John E., [redacted].
Faraone, Michael J., [redacted].
Farish, Stephen H., [redacted].
Farschman, George E., Jr., [redacted].
Fashenpour, David R., [redacted].
Ferencik, Robert E., Jr. [redacted].
Ferguson, Glenn L., III, [redacted].
Fidler, Lawrence R., Jr., [redacted].
Fields, Arthur R., [redacted].
Fields, George H. E., [redacted].
Fischer, Alan M., [redacted].
Fisher, Bruce D., [redacted].
Fisher, Richard W., [redacted].
Fitzgerald, Baldwin G., [redacted].
Flanagan, Michael J., [redacted].
Fleury, Robert D., [redacted].
Flowers, Charles [redacted].
Foerster, Schuyler, [redacted].
Folsom, Thomas C., [redacted].
Foran, William E., [redacted].
Ford, James E. [redacted].
Forth, Charles R., [redacted].
Foster, Mack D., Jr., [redacted].
Fourroux, Melvin R., [redacted].
Fouts, Michael E. [redacted].
Fox, Charles F., [redacted].
Fox, Thomas J., [redacted].
Fraass, Ronald G. [redacted].
Francis, Vernon E. [redacted].
Fraser, John W. [redacted].
Fraser, John H., Jr., [redacted].
Fratzke, Michael A., [redacted].
Frazier, William R., Jr., [redacted].
Freeman, James D., II, [redacted].
Freeman, Robert E., [redacted].
Freeman, William B., [redacted].
Fretzs, Robert G., [redacted].
Friedrich, Richard L. [redacted].
Frost, George R., [redacted].
Frost, Thomas F., [redacted].
Frostman, David L., [redacted].
Fry, Joseph C., [redacted].
Frye, Jeffrey R., [redacted].
Frysinger, Willard D., [redacted].
Funhs, Quentin M., [redacted].
Furr, William F., [redacted].
Gable, Robert D. [redacted].
Gaetz, Leonard M., [redacted].
Gajewski, Ralph R., [redacted].
Gall, Stephen D., [redacted].
Gardner, William L., [redacted].
Garrison, Andrew D., [redacted].
Garvin, Honi J., [redacted].
Garza, Caesar A., [redacted].
Gasery, John L. Jr., [redacted].
Gausmann, Richard E., [redacted].
Gebhardt, Michael E. [redacted].
Geer, Alan B. [redacted].
Geller, David E., [redacted].
George, John E., [redacted].
Gerdes, Gregory W., [redacted].
Getchell, Ralph W. III, [redacted].
Giacofci, Joseph G., [redacted].
Giesecke, Gary F. [redacted].
Giles, Loren D. [redacted].
Gill, Dennis L. [redacted].
Gillman, Paul R. [redacted].
Gilmore, Braxton T., [redacted].
Gingrich, Kenneth S., Jr. [redacted].
Ginn, Gregg H., [redacted].
Gioconda, Thomas F., [redacted].
Girard, Kenneth E. Jr., [redacted].
Glasgow, David A., [redacted].
Glaze, Orville B. Jr. [redacted].
Glover, James M., [redacted].
Glover, William E., [redacted].
Gnader, Kim W., [redacted].
Godby, John R., [redacted].
Goetz, Joseph S., [redacted].
Goodale, John W., [redacted].
Goodwin, Richard C., [redacted].
Gordin, Phillip L. [redacted].
Gordon, Kenneth E., [redacted].
Gorman, Thomas L., [redacted].
Gorman, John J. Jr., [redacted].
Graber, Glenn H., [redacted].
Graf, Peter G., [redacted].
Graham, Charles J. III, [redacted].
Graham, John K. [redacted].
Grandia, Donald K., [redacted].
Gray, Charles D. Jr., [redacted].
Gray, James H. Jr., [redacted].
Grayson, James H. Jr., [redacted].
Green, Murice C., [redacted].
Green, Robert E. Jr., [redacted].
Greene, Donald J., [redacted].
Greene, James K. [redacted].
Greenleaf, Garrison L., [redacted].
Greenwell, Steven A., [redacted].
Greer, Andrew C., [redacted].
Grimes, Paul R., [redacted].
Groman, Michael F., [redacted].
Gross, Richard R., [redacted].
Gross, William A., [redacted].
Grubka, Frank M., [redacted].
Grueser, John H., [redacted].
Guice, David L., [redacted].
Gwyn, Rodney T. [redacted].
Hablenko, Nicholas C., [redacted].
Haesecke, Mark H., [redacted].
Haggerty, Brian C. [redacted].
Hale, Ronald A., Jr., [redacted].
Hall, Billy J., Jr., [redacted].
Hall, Stephen A., [redacted].
Hall, Steven J., [redacted].
Hamby, Miles M., [redacted].
Hamilton, Paul, [redacted].
Hammerud, Russell C., [redacted].
Hammond, Gewl L., [redacted].
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Sparks, Brian R., [redacted].
Spatola, Michael A., [redacted].
Spiker, John B., [redacted].
Spiker, Phillip W., [redacted].
Spitznagel, Frank R., III, [redacted].
Spiva, James W., [redacted].
Spivey, Hugh M., [redacted].
Sprague, Michael W., [redacted].
Springer, Bruce D., [redacted].
Springer, William C., Jr., [redacted].
Sprott, Robert E., [redacted].
Stachak, Stanley J., Jr., [redacted].
Stanbro, Joe B., [redacted].
Stanley, Hal M., [redacted].
Starch, Michael W., [redacted].
Starr, Ronald B., [redacted].
Steffey, Raymond E., Jr., [redacted].
Stegman, Carl D., [redacted].
Steipp, Thomas W., [redacted].
Stephens, Alton L., Jr., [redacted].
Stephens, April J., [redacted].
Stephens, John T., [redacted].
Stephens, John D., [redacted].
Steve, John F., [redacted].
Stevens, David Y., [redacted].
Stevens, Jonathan L., [redacted].
Stewart, Lewis E., [redacted].
Stewart, Robert L., [redacted].
Stewart, Todd A., [redacted].
Stienke, Harold L., Jr., [redacted].
Stiles, Lorren, Jr., [redacted].
Stobie, James G., [redacted].
Stockett, Romeo P., Jr., [redacted].
Stokes, George N., Jr., [redacted].
Stoll, Douglas A., [redacted].
Stone, Kerwin B., [redacted].
Stone, Ralph B., [redacted].
Stooke, Willard N., Jr., [redacted].
Story, Harvey S., [redacted].
Stratton, Vincent V., [redacted].
Strauss, Frederick J., [redacted].
Straw, Charles A., [redacted].
Strawn, Charles D., [redacted].
Strick, David C., [redacted].
Stubblefield, John E., [redacted].
Sucmer, Mark L., [redacted].
Suffron, Raymond D., [redacted].
Sullivan, John G., [redacted].
Sullivan, Richard L., [redacted].
Sullivan, Thomas G., [redacted].
Summers, Victor J., [redacted].
Superak, Richard J., [redacted].
Suter, John D., [redacted].
Suttler, George L., [redacted].
Sveum, Edward A., [redacted].
Swann, Michael K., [redacted].
Swanson, John W., [redacted].
Swecker, Gregory A., [redacted].
Swedenburg, Robert L., [redacted].
Sweeder, James, [redacted].
Sweesy, Thomas I., [redacted].
Swift, Susan R., [redacted].
Sylling, Charles O., [redacted].
Takahashi, Gilbert T., [redacted].
Talley, Autry L., [redacted].
Tame, Catherine C., [redacted].
Tanzola, John C., [redacted].
Taraba, Thomas S., [redacted].
Tarbell, William W., [redacted].
Tate, Jerome A., [redacted].
Tate, Ted M., [redacted].
Tauscher, Leon J., [redacted].
Taylor, Francis X., [redacted].
Taylor, James R., [redacted].
Taylor, Robert G., Jr., [redacted].
Teague, Donald E., Jr., [redacted].
Teasdale, Donald M., [redacted].
Teelin, Harold W., [redacted].
Tehee, Duane D., [redacted].
Temple, Lafayette P., III, [redacted].
Tenney, Richard E., Jr., [redacted].
Terry, Michael J., [redacted].
Thode, Henry P. III, [redacted].
Thomas, Raymond L., Jr., [redacted].
Thomas, Richard W., [redacted].
Thompson, Beatrice A., [redacted].
Thompson, John D., Jr., [redacted].
Thompson, Kenneth H., [redacted].
Thompson, Michael W., [redacted].
Thompson, Richard C., [redacted].
Thorpe, William G., [redacted].
Tibbetts, Gary L., [redacted].
Tiemann, Terry J., [redacted].
Tieszen, Dennis D., [redacted].
Tietz, Dale E., [redacted].
Tiller, Stephen R., [redacted].
Tilton, Frank W., [redacted].
Timmer, John B., [redacted].
Titus, George W., [redacted].
Todd, Sammy S., [redacted].
Tohlen, David R., [redacted].
Tokunaga, Philip I., [redacted].
Tolmich, Harry, [redacted].
Tolson, James D., [redacted].
Toops, Emory E., [redacted].
Torblaa, Jon N., [redacted].
Torkelson, Otis B., Jr., [redacted].
Toussaint, Paul J., [redacted].
Tower, Michael M., [redacted].
Tracey, Robert J., [redacted].
Trotter, David O., [redacted].
Troutman, Jude A., [redacted].
Tully, Peter D., [redacted].
Turk, Reavis W., [redacted].
Turner, Lonnie D., [redacted].
Twining, Lawrence E., [redacted].
Tyree, Kirk J., [redacted].
Uecker, Carolyn A., [redacted].
Uecker, Michael E., [redacted].
Uhlik, Felix T., III, [redacted].
Ulmer, Daniel C., [redacted].
Unz, Richard L., [redacted].
Vandenberg, Doland J., [redacted].
Vangoethem, Anthony J., [redacted].
Vanmeerten, Dick F., [redacted].
Vann, Orville C., Jr., [redacted].
Vanpelt, Jay W., [redacted].
Vansaun, Richard, [redacted].
Vantwout, William A., [redacted].
Varnes, Larrie E., [redacted].
Venemon, William R., [redacted].
Vickroy, Ronald, [redacted].
Vidmar, Randolph F., [redacted].
Vigil, Carlos M., [redacted].
Virgilio, Stephen T., [redacted].
Virgin, Arthur M., III., [redacted].
Vittatoe, Penrose, [redacted].
Vloet, John M., [redacted].
Vranish, Thomas F., [redacted].
Wacker, Daniel J., [redacted].
Wagner, Norbert C., Jr., [redacted].
Wahlquist, John A., [redacted].
Waiss, Steven F., [redacted].
Walker, Murray L., [redacted].
Walker, Robert, [redacted].
Wallace, Nicholas M., [redacted].
Waller, Forrest E., Jr., [redacted].
Waller, Thomas W., [redacted].
Walsh, James L., Jr., [redacted].
Wangsvick, Carl L., [redacted].
Ward, Frank S., Jr., [redacted].
Ware, Worn E., [redacted].
Washco, George W., [redacted].
Watkins, John W., [redacted].
Watson, James G., [redacted].
Watson, Orrin S., [redacted].
Watt, James S. B., [redacted].
Watts, Wayland M., III., [redacted].
Webster, Harry T., [redacted].
Weeks, Larry A., [redacted].
Weeks, Richard P., [redacted].
Weilert, Ronald L., [redacted].
Weimer, Theron E., [redacted].
Weisel, Stephen E., [redacted].
Weisz, John L., Jr., [redacted].
Weitzel, Michael P., [redacted].
Wellington, Michael F., [redacted].
West, Daole A., [redacted].
West, Lawrence A., [redacted].
Whaley, Harold E., [redacted].
White, Charles M., [redacted].
White, Charles T., [redacted].
White, Warren T., III, [redacted].
Whiting, Larry L., [redacted].
Whitmore, Robert M., [redacted].
Whyte, Lynn K., [redacted].
Wieland, George A., Jr., [redacted].
Wilcox, Truman D., [redacted].
Wilderman, Michael B., [redacted].
Wildermuth, Roger L., [redacted].
Wilhelm, Lewis E., II, [redacted].
Willadsen, Lynn J., [redacted].
Williams, Eddie L., [redacted].
Williams, Larry J., [redacted].
Williams, Michael L., [redacted].
Williams, Stephen V., [redacted].
Williford, Randolph J., [redacted].
Willis, Larry D., [redacted].
Wilson, Gary S., [redacted].
Wilson, Samuel H., [redacted].
Wimberley, Amos D., [redacted].
Wimberley, Bruce P., [redacted].
Wingad, David G., [redacted].
Wingo, Gary A., [redacted].
Wintner, Kim M., [redacted].
Wirth, Richard C., [redacted].
Witman, Mark C., [redacted].
Witt, John J., [redacted].

Wittenborn, John L., [redacted].
Witter, Gerald L., [redacted].
Wolf, John D. [redacted].
Wolfe, Lawrence D., [redacted].
Womack, Oscar, Jr., [redacted].
Woodard, Earl W., [redacted].
Woods, Terry L., [redacted].
Woodson, John L., III, [redacted].
Workman, Joseph F., [redacted].
Worsham, Richard E., [redacted].
Worthington, Robert G., [redacted].
Wright, Karen L., [redacted].
Wright, Michael D., [redacted].
Wright, Robert G., [redacted].
Wright, Ted D., Jr., [redacted].
Wroblewski, Jon E., [redacted].
Wuerslin, Thomas H., [redacted].
Yanek, Joseph R., [redacted].
Yanni, Kenneth J., [redacted].
Yasenovsky, Andrew, Jr., [redacted].
Yonemura, Rodney K., [redacted].
Young, Dick H., Jr., [redacted].
Young, Joseph D., [redacted].
Yundt, Robert W., Jr., [redacted].
Zablotny, Mark A., [redacted].
Zambeck, Arthur K., [redacted].
Zavada, Francis J., [redacted].
Zedaker, William D., [redacted].
Zeimet, Richard H., [redacted].
Zeller, Dale L. [redacted].
Zerull, Lynn J., [redacted].
Zettler, Michael E., [redacted].
Ziegler, George W., [redacted].
Zietlow, John E., [redacted].
Zwanzigler, Jon H., [redacted].

NURSE CORPS

Devries, Elwayne L., [redacted].
Zwick, Cecelia A., [redacted].

MEDICAL SERVICE CORPS

Adams, Donald D., Jr., [redacted].
Aenchbacher, Arthur E., Jr., [redacted].
Arnold, Anthony C., [redacted].
Baisden, Clinton E., [redacted].
Biron, Laurent J., [redacted].
Brandler, Sidney, [redacted].
Brown, Robert P., [redacted].
Brumlow, James W., Jr., [redacted].
Craig, Randall G., [redacted].
Dorwart, Robert H., [redacted].
Douville, Douglas R., [redacted].
Friestman, Gerald R., [redacted].
Gray, Mark B. [redacted].
Holmes, Terry F., [redacted].
Johnson, Thomas G., [redacted].
Jones, Lynn M., [redacted].
Kirby, William C., [redacted].
Kruyer, William B. [redacted].
Magee, Joe W., [redacted].
Maldazys, John D., [redacted].
Markellos, David N., [redacted].
Marler, Phillip L., [redacted].
McAnally, Thomas P., [redacted].
McCarthy, Michael J. [redacted].
McKiernan, Thomas L., [redacted].
Modliszewski, Charles S., [redacted].
Owens, Robert H., [redacted].
Paglen, Patrick G., [redacted].
Qualey, Thomas F. [redacted].
Range, David R., [redacted].
Rogers, Robert L., [redacted].
Schutt, David C., [redacted].
Simmons, Willis M., Jr., [redacted].
Soltman, Donald J., Jr., [redacted].
Statzer, Fred C., [redacted].
Stovall, William M., [redacted].
Sutherland, Edward, [redacted].
Temple, Thomas R., [redacted].

BIOMEDICAL SCIENCES CORPS

Bolerjack, Thomas G., [redacted].
Cox, John D., [redacted].
Cunningham, William D., [redacted].
Eyl, Arland W., Jr., [redacted].
Gorman, Richard W., [redacted].
Hill, Ronald C., [redacted].
Lundquist, Fred A., [redacted].
McCloy, David L., [redacted].
McLaughlin, William H., [redacted].
Murata, Steven M., [redacted].
Palagi, Peter A., [redacted].
Patrick, Clarence S., [redacted].
Peterson, Lamont R., [redacted].
Pinkovsky, Dennis D., [redacted].
Rice, Robert M., [redacted].
Shadowens, Melvin R., [redacted].
Tanner, Merle R., Jr., [redacted].

The following officer for appointment in the Regular Air Force, in the grade indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with the date of rank to be determined by the Secretary of the Air Force:

*To be captain (Judge Advocate)*

Schiefelbein, Lester H., Jr., [redacted].

The following-named Air Force officers for reappointment to the active list of the Regular Air Force, in the grade indicated, under the provisions of sections 1210 and 1211, title 10, United States Code:

LINE OF THE AIR FORCE

*To be colonel*

Titsworth, James H., Jr., [redacted].

*To be lieutenant colonel*

Hess, Marvin J., [redacted].
Lantz, John A., [redacted].

*To be colonel (Medical Corps)*

Strub, Giles J., [redacted].

The following officers for promotion in the Air Force Reserve, under the provisions of sections 8376 and 593, title 10, United States Code:

LINE OF THE AIR FORCE

*Lieutenant colonel to colonel*

Sullivan, Dwight E., [redacted].

*Major to lieutenant colonel*

Chubbuck, Robert M., [redacted].
Feld, David A., [redacted].
Flood, John J., [redacted].
Skinner, William B., [redacted].
Vittitiow, Charles D., [redacted].
Wooten, Talmage J., [redacted].

CHAPLAIN CORPS

Gerdes, Everett E., [redacted].

DENTAL CORPS

Ausich, Joseph E., [redacted].

NURSE CORPS

Smith, Alma M., [redacted].

The following person for appointment as a Reserve of the Air Force in the grade indicated (Line of the Air Force), under the provisions of section 593, title 10, United States Code:

*To be colonel*

Hales, J. Vern, [redacted].

The following officer for appointment as a Reserve of the Air Force in the grade indicated (Line of the Air Force), under the provisions of sections 593 and 1211, title 10, United States Code:

*To be lieutenant colonel*

Cyganowski, Gerald D., [redacted].

The following person for appointment as a Reserve of the Air Force (Medical Corps), in the grade indicated, under the provisions of section 593, title 10, United States Code, with a view to designation as a Medical Officer under the provisions of section 8067, title 10, United States Code.

*To be lieutenant colonel*

Skeel, David A., [redacted].

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# HOUSE OF REPRESENTATIVES—*Tuesday, January 22, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. E. G. Latch, D.D., offered the following prayer:

*Let not mercy and truth forsake thee; bind them about thy neck; write them upon the table of thine heart.*—Proverbs 3: 3.

Eternal God, above us yet within us, beyond us yet very near, always good and seeking out good, loving us with a love that never lets us go, and strengthening us with a strength that never lets us down, we enter the life of this new day praying that Thou wilt guide us in the ways of righteousness, truth, and peace. Reveal to us the path of duty and service and give us courage to walk in it until our life's end.

Help us to realize that in this Capitol we are making history with our decisions and our actions—each year a volume, each month a section, each week a chapter, each day a page. In faith and hope and love do Thou lead us in our writing that our people today and the generations to come may be grateful that we served our country as their representatives.

In Thy holy name we pray. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed sundry resolutions of the following titles:

S. RES. 229

*Resolved,* That a committee consisting of two Senators be appointed by the Vice President to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

S. RES. 230

*Resolved,* That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

S. RES. 232

*Resolved,* That the Senate has heard with profound sorrow the announcement of the death of Honorable Charles M. Teague, late a Representative from the State of California.

*Resolved,* That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

*Resolved,* That when the Senate adjourns today, it adjourn as a further mark of respect to the memory of the deceased Representative.

## AUTHORIZING THE SPEAKER TO DECLARE RECESSES ON WEDNESDAY, JANUARY 30, 1974

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that on Wednesday, January 30, 1974, it may be in order for the Speaker to declare recesses at any time, subject to the call of the Chair.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. GROSS. Mr. Speaker, reserving the right to object, I regret that I did not hear the gentleman's request. Will the gentleman repeat his request?

Mr. O'NEILL. Mr. Speaker, my request is that it may be in order for the Speaker to declare recesses on January 30. As the gentleman knows, that is the night the President is scheduled to deliver his address on the state of the Union.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

## BURR POWELL HARRISON

(Mr. BROYHILL of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROYHILL of Virginia. Mr. Speaker, Virginia lost a stalwart son with the death in December of Burr Powell Harrison.

The Nation lost a citizen who had served the Congress of the United States with integrity and distinction from November 1946 until January 1963.

Burr Harrison, son of a former Member of the Congress, enobled every profession he touched, Mr. Speaker—lawyer, judge, scholar, politician, State legislator, and Congressman. The Congress remembers most his untiring and diligent work on the Ways and Means Committee in developing disability payments for social security beneficiaries.

I was honored to serve with him as a Member of Congress for a decade. He was a conservative in outlook, a patriot in practice, and a gentleman in judgment and demeanor. He was a true man of his times, a friend, and a gallant servant of our great Commonwealth. The stability and character of the Congress is better for his having served so long in the calling he held in such high esteem. I honor his memory, Mr. Speaker, along with his family and friends here and across Virginia who loved and respected him.

Mr. ROBINSON of Virginia. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL of Virginia. I yield to the gentleman from Virginia.

(Mr. ROBINSON of Virginia asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. ROBINSON of Virginia. Mr. Speaker, although the configuration of the district has been changed, I now have the honor of representing the Seventh Congressional District of Virginia, which Burr Harrison served with distinction from the 79th through the 87th Congresses.

We were neighbors and friends for many years as lifelong residents of the Winchester area. While we sought public office under different party banners, we had few, if any, differences in basic philosophy of government. On coming to Congress, I sought and valued highly Burr's counsel, and I will miss greatly this resource of sound advice and friendship.

Judge Harrison, as he was known formally to colleagues who recalled his judicial service in Virginia, was a distinguished member of the legal profession, and remained active in the practice of law until his untimely death at the age of 69 in his home city of Winchester, Va., on December 29, 1973.

Burr Harrison was not a formal man by nature and—at the Capitol—his colleagues resorted to the address of "Judge" only in floor debate or in committee proceedings, for he was "Burr" to one and all after brief acquaintanceship.

Burr Harrison was a member of a family notable in public affairs in Virginia from colonial days and was the son of Thomas Walter Harrison, who served the same region of Virginia in this House from the 64th through the 70th Congresses.

When elected to the House on November 5, 1946, to fill a vacancy caused by the resignation of A. Willis Robertson, who was elected to the other body, Judge Harrison resigned from the bench of the 17th Judicial Circuit of Virginia and of the corporation court of the city of Winchester.

Previously, he had served in the Senate of Virginia, 1940–42, and as Commonwealth's attorney for Frederick County, 1932–40.

Burr Harrison did not choose to seek reelection to the 88th Congress, and resumed the private practice of law in Winchester.

While in the House, he served on the Committee on House Administration, the former Committee on Un-American Activities and the Committee on Ways and Means.

He was a conservative and expressed often, while here, his concern over the growth of governmental influence over the lives of individual citizens. At the same time—and consistent with his progressive conservative view of the proper role of government, he recognized human needs which could not be met fully by individual effort, and was ready to support realistic approaches to a governmental function in meeting such needs.

Few outside this House recall it now, but Burr Harrison served as chairman of a subcommittee of the Committee on Ways and Means created to study the social security system. The hearings and report of this subcommittee laid groundwork for extension of social security benefits to disabled persons at an age earlier than that at which basic benefits could be drawn—an arrangement which had been liberalized in recent years and is taken for granted now, but which was a new, somewhat controversial concept at the time.

Burr Powell Harrison was born in Winchester, Va., July 2, 1904. He attended public schools there, Woodberry Forest School, Virginia Military Institute, Hampden-Sydney College, and the University of Virginia. He was graduated from Georgetown University Law School in 1926, and was admitted to the bar of Virginia in the same year.

On taking up the practice of law, Burr Harrison began what was to become a distinguished career of service to community, State, and Nation. He was a Virginia gentleman in the best sense of the term—an individual who respected and served the institutions of representative government and equal justice under law which Virginians of two centuries ago did so much to shape and who, above all, respected the dignity of the individual citizen, of whatever station, and reacted with compassion toward a fellow citizen in distress.

Burr Powell Harrison paid fully the dues of his American birthright. He loved the House, and I know his many friends still in service here will join me in extending sympathy in this great loss to his widow, his daughter, and his two grandchildren.

Under leave to extend my remarks, I include an editorial which appeared in the Winchester (Va.) Evening Star on December 31, 1973.

The editorial follows:

### BURR POWELL HARRISON

The Valley of Virginia mourns a spendid champion. The death Saturday of Burr Powell Harrison places the final period on a career spanning more than four decades as a lawyer, commonwealth's attorney, state senator, circuit judge and congressman.

During a lifetime parallelled by world events that made thoughtful men shudder, he was repeatedly accorded the highest—and most sobering—honor his fellow men could bestow—the public trust. And he wielded it with concern, compassion, and the unimpeachable integrity that marks an uncommon man.

Burr Harrison was a political conservative and a Democrat. His was the unpretentious, down-to-earth style that led voters from both major parties to send him to Congress for 16 years. He preferred studied accomplishment to a torrent of verbage, speaking relatively little on the House floor. Stature came with service. He was named to the House Un-American Activities Committee and also won a seat on the powerful Ways and Means Committee.

Around the Seventh District which he served, then called the Valley District, his dark-suited, bespeckled figure was a familiar one. Perhaps his most well known trademark was his annual visit to each of the scores of post offices up and down the Shenandoah Valley to speak personally with constituents. He shied away from pomp and ceremony, and was perhaps more at ease talking to his neighbors on a store porch than mingling with the mighty in the halls of Congress.

He was known to friends as Judge Harrison, Congressman Harrison, or just Burr. As a circuit judge in Winchester before going to Congress he won a reputation for scrupulous fairness.

Burr Harrison held strong views on the health of America. "You have to consider how this country is to be run if it is to be saved," he said during an interview shortly before retiring from Congress at the end of 1962. "And I mean literally to be saved. Its very existence. During these 16 years I feel the prospects of its staying in existence have deteriorated."

He voiced concern over government spending and saw his expectation for annual increases come true. And he expressed fears of government grown too large—of government being served, rather than serving.

"We can lose," he said, adding "There's a lean and hungry wolf loose in the world, and we can't lick him if we grow soft, and complacent and indifferent.

Burr Harrison ended his career as be began it—as a lawyer. He died without seeing the battle won, and the wolf he hunted so tenaciously remains largely uncaged.

His friends and associates might accord Burr Harrison one final and lasting tribute—emulation of the high standards he possessed.

Mr. MILLS. Mr. Speaker, when Burr P. Harrison passed away last month we lost a dear friend, and the Nation lost a great citizen and leader. It was my privilege to have served with Burr Harrison, whose wonderful sense of humor was and is unequaled in the halls of Congress, throughout his long and distinguished period of service here.

Burr was a valued member of the Committee on Ways and Means first in the 82d Congress and then later from the 84th through the 87th Congresses. He voluntarily retired at the end of the 87th Congress in 1963 and resumed the practice of law in his native Winchester.

Few people have come better prepared than Burr Harrison for service in this body. His father, Thomas Walter Harrison, had been a Member of Congress for many years before him. Burr had also been a member of the State Senate of Virginia and a circuit judge before his initial election to Congress in 1946.

I, of course, cherish with warm recollection his service on the Committee on Ways and Means. Not only was Burr one of the most astute and productive members of the committee in terms of his contribution to the very complex and intricate features of the legislation over which the committee had responsibility, but he was one of the best liked and popular men ever to serve on the committee. His legendary sense of humor very often was the oil which eased and facilitated the committee's labors and aided us in reaching consensus on very important issues. This very wonderful Harrison gift we have sorely missed since his retirement, but we shall remember and appreciate it always.

Our deepest sympathy in this sad hour remains with his lovely wife, Dorothy, of the home in Winchester, his daughter, Mrs. Alice Bruce Schmidt of Long Island, and his two beautiful granddaughters.

Mr. SIKES. Mr. Speaker, I was saddened to learn of the recent death of a former colleague, Burr Powell Harrison, who represented the State of Virginia in this Congress with honor and distinction.

Few men have come to this House so well prepared to serve their constituents and their Nation. Burr Harrison served first as an attorney for the Commonwealth, moving then to the Virginia senate and finally to the bench as circuit judge.

When he came to Congress, having been elected to fill a vacancy in the 79th Congress, Burr Harrison had prepared himself through conscientious service to know first hand the needs of the people. He already had demonstrated a great love of his country and his patriotism and dedication to freedom were without question.

Burr Harrison's insight and keen knowledge were immediately recognized by his colleagues in the Congress and he began service as a member of the Ways and Means Committee. During this assignment he soon became one of those men to whom his fellow Congressmen look for guidance and advice. His contribution to that committee will live long in the annals of the Congress of the United States.

It was during this time that I came to know and admire him. He always was in the lead when it came to programs and policies which would keep America strong and free. He always could be counted on to assume a sound role in any endeavor which he felt was for the good of his people, his State, and his country.

When he left Congress, having decided not to seek reelection in 1962, he left a legacy of service and hard work that will long be recognized as monumental.

With the passing of Burr Harrison, America is left the poorer for having lost him, but richer for his having been among us for many fruitful years. He will be missed, and he will be remembered.

### GENERAL LEAVE

Mr. BROYHILL of Virginia. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may have 5 legislative days in which to revise and extend their remarks on the subject of the late Honorable Burr Harrison.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

## JUNIOR COLLEGES IN FLORIDA'S FIRST DISTRICT HOLD TOP RANK

(Mr. SIKES asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SIKES. Mr. Speaker, I feel that my congressional district can take justifiable pride in the fact that three junior colleges in the district rank as the top three in the State of Florida in terms of academic achievements at the senior universities of the State. These junior colleges, in order, are Okaloosa-Walton Junior College at Niceville; Pensacola Junior College, Pensacola; and Gulf Coast Community College, Panama City. This is a great compliment to the persons who teach and support the teaching of the outstanding student populations of these three fine junior colleges, and to the students who take advantage of the opportunities offered by these colleges. My personal congratulations are extended to each of these splendid institutions.

## PLOT TO MAKE UNITED STATES A SECOND-RATE MILITARY POWER

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, to continue my 1-minute speeches on the volunteer concept, the Washington Post and Star ran headline stories yesterday of a recent study done by the Brookings Institution indicating that the military Reserves should be cut one-third or 300,000 men.

Well, Mr. Speaker, does it make sense to cut the Reserve Forces when each fiscal year we continue to cut the Regular Forces? Ask the Israelis what they think of the Reserves. If it had not been for the Israel Reserves, there would not be an Israel today.

People who make studies and make reports around this town have got it in for the Reserves.

Mr. Speaker, with your help and that of others, we can get to the bottom of this plot as to why some are trying to make this Nation a second-rate military power.

## PAT HOHMAN, POTENTIAL PAGE

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I would like to call the attention of the Members of the House to an advertisement which appeared in today's Washington Post on page A6. It is an open letter to the Members of the 93d Congress from a constituent of mine, a young 16-year-old boy, whose burning ambition and great desire is to become a page of the House of Representatives.

Pat's ad—which cost him several hundred dollars—was paid for with 3 years of earnings from selling his own pen and ink drawings and from mowing neighborhood lawns.

Young Patrick J. Hohman, whose father and family are dear friends of mine, has conducted a very active correspondence perhaps with some of you in the Chamber today seeking your advice and counsel on how to become a page in this body. I understand that all of Pat's contacts have been very disappointing to him: either the Member did not have the seniority to be entitled to appoint a page or, those who had the seniority, had no vacancy to fill.

I would like very much to recommend to the Members of the House that they read this heartfelt letter. I would like also to commend to the attention of the Members the resourcefulness and admirable determination, not to mention the imagination, of this young man.

His desire, fortitude, and unswerving commitment are the stuff of which great pages—and great men—are made.

And I would hope that if any of the Members has a vacancy, and the right to make a page appointment to this body, that he or she would keep Patrick J. Hohman, in mind.

Pat is a very highly qualified young man, and anyone who appoints him a page in the House of Representatives would be doing a credit to this House and this Congress.

### THE LATE ANTONIO FERNOS-ISERN

(Mr. BENITEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENITEZ. Mr. Speaker, it is with deep regret that I rise today to advise the Members of this body of the death last Saturday of one of my predecessors, Dr. Antonio Fernos-Isern,• a distinguished former Member of the House of Representatives for 18 years, from 1946 to 1964.

In that period of time, Dr. Fernos-Isern rendered extraordinary service both to Puerto Rico and to the United States.

Mr. Speaker, I have requested a special order to address the House at the close of business next Thursday. I shall take occasion then to point to the significant contributions and exceptional services of Dr. Fernos-Isern. Much of my labors of the years ahead pertain to the unfinished business which Dr. Fernos-Isern initiated in these very Halls. I am certain that the many friends of Dr. Fernos-Isern who continue to grace this distinguished body join the people of Puerto Rico in their sadness as well as in remembrance of his many noble activities.

### DR. A. FERNOS-ISERN

(Mr. GROSS asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. GROSS. Mr. Speaker, it is with great regret that I have learned from the remarks just made by the Delegate from Puerto Rico, Mr. BENITEZ, of the death last Saturday of our former colleague, the Delegate from Puerto Rico, Dr. A. Fernos-Isern.

Through the many years Dr. Fernos-Isern and I served in the House of Representatives, I came to know him as a gentleman and an able, dedicated representative of the Commonwealth of Puerto Rico and its people.

I am saddened by his death and I extend my sympathy to the members of his family.

### LIFE IS PRECIOUS FOR ALL CHILDREN

(Mr. ZWACH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZWACH. Mr. Speaker, yesterday this body passed a sudden infant death syndrome bill and appropriated $2 million annually to carry out a program to develop public information and for grants for research into causes and prevention of these deaths.

I applaud this concern for the lives of our newborn.

Sudden infant death syndrome each year claims the lives of 10,000 children in their first year of life.

This House should be proud of its concern for life as evidenced by the passage of this legislation.

However, Mr. Speaker, and my colleagues, last year the lives of 1,600,000 unborn babies were terminated by abortion.

It would be hard for me to understand the concern of this body for 10,000 lives of children in one instance and our complete disregard for the lives of over a million and a half in another instance.

Life is precious. It is precious to every child. I urge all of you to join in saving the lives of those 1,600,000 children who are killed by legalized abortions.

I ask your support, in this session, for a constitutional amendment to protect all human life.

Mr. Speaker, this is urgent and this is a matter of life and death.

### AIDING THE HOUSING INDUSTRY

(Mr. WINN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WINN. Mr. Speaker, I want to applaud the action taken and the announcement made yesterday by Secretary of Housing and Urban Development, James Lynn, when he announced a two-part plan to aid the housing industry at the National Association of Home Builders annual meeting in Houston.

This lowers the FHA and the VA mortgage rates to 8¼ percent from 8½ percent.

Secretary Lynn also announced a $6.6 billion building program, which should encourage construction of 200,000 new housing units because the Government National Mortgage Association will be authorized then to buy FHA and VA loans from the builders at a lower-then-market rate. Then GNMA can then resell these loans to the Federal National Mortgage Association at a loss. This is being done in order to make loans available at 7¾ percent, a realistic percentage.

Since lower interest rates stimulate the housing market, this administration plan should improve the market for those buyers who were previously priced out of the market and for those builders with large inventories of unsold houses.

Most of us are well aware that the housing industry has been down anywhere from 27 percent to 30 percent in the last 6 months.

Once again I want to commend Secretary Lynn and the administration for this step forward.

### QUARTERLY REPORT OF THE ECONOMIC STABILIZATION PROGRAM—A MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Banking and Currency:

*To the Congress of the United States:*

I herewith transmit to the Congress the most recent quarterly report of the Economic Stabilization Program, covering the period July 1, 1973 through September 30, 1973.

The third quarter of 1973 was a time of strong continued growth for the American economy. Our gross national product grew to $1,304 billion, an increase of $32 billion over the previous quarter, representing a growth rate of 3.4 percent in real terms. Unemployment dropped to 4.8 percent, its eighth consecutive quarterly decline, as the number of people employed increased by over 450,000. The dollar strengthened internationally, gaining by fully 1 percent against the trade weighted average for currency of other members of the Organization for Economic Cooperation and Development.

The picture was not as bright as we would have liked in the third quarter as far as inflation was concerned. Consumer prices continued to climb, reflecting increasing worldwide competition for products. A freeze was imposed in mid-June to arrest the inflationary spiral and to provide time for the development of a more effective system of controls with tighter standards and compliance procedures than those which characterized Phase III. This fourth phase of the Economic Stabilization Program was launched in July. Its introduction was staggered so that any price increases which followed the freeze would be spread over several months.

Phase IV was designed to provide a tough program of controls that would enable this country to return to the free market system as soon as possible. Since its introduction, Phase IV has made admirable progress toward reducing the danger of inflation, demonstrating that the public and private sectors of our economy can work cooperatively and effectively together to enhance our Nation's economic future.

Unprecedented developments in all parts of the world have created extraordinary pressures on our economy. We can be proud, however, of the way in which we have responded to these problems. We are proving that a dynamic and resilient people can meet the challenge of inflation without sacrificing the ideal of a free market system. If we continue our recent progress—and if we respond to new challenges, including the current energy shortage, with this same sense of poise and flexibility—then we can look forward with assurance to a prosperous New Year.

RICHARD NIXON.

THE WHITE HOUSE, *January 22, 1974.*

### PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

### CALL OF THE HOUSE

Mr. HILLIS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 3]

Anderson, Calif.
Arends
Ashley
Blackburn
Blatnik
Brown, Ohio
Burke, Calif.
Camp
Carey, N.Y.
Carney, Ohio
Chisholm
Clark
Conable
Daniels, Dominick V.
Dellums
Dickinson
Dorn
Dulski
Esch
Fraser
Froehlich
Goldwater
Gray
Green, Oreg.
Gubser
Hanna
Hawkins
Hébert
Jones, Ala.
Mailliard
Nichols
O'Hara
Passman
Pepper
Pike
Powell, Ohio
Price, Tex.
Reid
Rinaldo
Rooney, N.Y.
Ruppe
Ryan
Steed
Steiger, Ariz.
Steiger, Wis.
Stratton
Stubblefield
Taylor, Mo.
Teague
Towell, Nev.
Vander Jagt
Walsh
Whalen

The SPEAKER. On this rollcall 377 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

## INTERVENTION ON THE HIGH SEAS ACT

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5975) to implement the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969.

The Clerk read as follows:

H.R. 5975

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Intervention on the High Seas Act".

SEC. 2. As used in this Act—

(1) "ship" means—

(A) any seagoing vessel of any type whatsoever, and

(B) any floating craft, except an installation or device engaged in the exploration and exploitation of the resources of the seabed and the ocean floor and the subsoil thereof;

(2) "oil" means crude oil, fuel oil, diesel oil, and lubricating oil;

(3) "convention" means the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969;

(4) "Secretary" means the Secretary of the department in which the Coast Guard is operating; and

(5) "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

SEC. 3. Whenever a ship collision, stranding, or other incident of navigation, or other occurrence on board a ship or external to it resulting in material damage or imminent threat of material damage to the ship or her cargo creates, as determined by the Secretary, a grave and imminent danger to the coastline or related interests of the United States from pollution or threat of pollution of the sea by oil which may reasonably be expected to result in major harmful consequences, the Secretary may, except as provided for in section 10, without liability for any damage to the owners or operators of the ship, to her cargo or crew, or to underwriters or other parties interested therein, take measures on the high seas, in accordance with the provisions of the convention and this Act, to prevent, mitigate, or eliminate that danger.

SEC. 4. In determining whether there is grave and imminent danger of major harmful consequences to the coastline or related interests of the United States, the Secretary shall consider the interests of the United States directly threatened or affected including, but not limited to, fish, shellfish, and other living marine resources, wildlife, coastal zone and estuarine activities, and public and private shorelines and beaches.

SEC. 5. Upon a determination under section 3 of this Act of a grave and imminent danger to the coastline or related interests of the United States, the Secretary may—

(1) coordinate and direct all public and private efforts directed at the removal or elimination of the threatened pollution damage;

(2) directly or indirectly undertake the whole or any part of any salvage or other action he could require or direct under subsection (1) of this section; and

(3) remove, and, if necessary, destroy the ship and cargo which is the source of the danger.

SEC 6. Before taking any measure under section 5 of this Act, the Secretary shall—

(1) consult, through the Secretary of State, with other countries affected by the marine casualty, and particularly with the flag country of any ship involved;

(2) notify without delay the Administrator of the Environmental Protection Agency and any other persons known to the Secretary, or of whom he later becomes aware, who have interests which can reasonably be expected to be affected by any proposed measures; and

(3) consider any views submitted in response to the consultation or notification required by subsections (1) and (2) of this section.

SEC. 7. In cases of extreme urgency requiring measures to be taken immediately, the Secretary may take those measures rendered necessary by the urgency of the situation without the prior consultation or notification as required by section 6 of this Act or without the continuation of consultations already begun.

SEC. 8. (a) Measures directed or conducted under this Act shall be proportionate to the damage, actual or threatened, to the coastline or related interests of the United States and may not go beyond what is reasonably necessary to prevent, mitigate, or eliminate that damage.

(b) In considering whether measures are proportionate to the damage the Secretary shall, among other things, consider—

(1) the extent and probability of imminent damage if those measures are not taken;

(2) the likelihood of effectiveness of those measures; and

(3) the extent of the damage which may be caused by those measures.

SEC. 9. In the direction and conduct of measures under this Act the Secretary shall use his best endeavors to—

(1) assure the avoidance of risk to human life;

(2) render all possible aid to distressed persons, including facilitating repatriation of ships' crews; and

(3) not unnecessarily interfere with rights and interests of others, including the flag state of any ship involved, other foreign states threatened by damage, and persons otherwise concerned.

SEC. 10. (a) The United States shall be obliged to pay compensation to the extent of the damage caused by measures which exceed those reasonably necessary to achieve the end mentioned in section 3.

(b) Actions against the United States seeking compensation for any excessive measures may be brought in the United States Court of Claims, in any district court of the United States, and in those courts enumerated in section 460 of title 28, United States Code. For purposes of this Act, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii, and the Trust Territory of the Pacific Islands shall be included within the judicial districts of both the District Court of the United States for the District of Hawaii and the District Court of Guam.

SEC. 11. The Secretary of State shall notify without delay foreign states concerned, the Secretary-General of the Inter-Governmental Maritime Consultative Organization, and persons affected by measures taken under this Act.

SEC. 12. (a) Any person who—

(1) willfully violates a provision of this Act or a regulation issued thereunder; or

(2) willfully refuses or fails to comply with any lawful order or direction given pursuant to this Act; or

(3) willfully obstructs any person who is acting in compliance with an order or direction under this Act, shall be fined not more than $10,000 or imprisoned not more than one year, or both.

(b) In a criminal proceeding for an offense under paragraph (1) or (2) of subsection (a) of this section it shall be a defense for the accused to prove that he used all due diligence to comply with any order or direction or that he had reasonable cause to believe that compliance would have resulted in serious risk to human life.

SEC. 13. (a) The Secretary, in consultation with the Secretary of State and the Administrator of the Environmental Protection Agency, may nominate individuals to the list of experts provided for in article III of the convention.

(b) The Secretary of State, in consultation with the Secretary, shall designate or nominate, as appropriate and necessary, the negotiators, conciliators, or arbitrators provided for by the convention and the annexes thereto.

SEC. 14. No measures may be taken under authority of this Act against any warship or other ship owned or operated by a country and used, for the time being, only on government noncommercial service.

SEC. 15. This Act shall be interpreted and administered in a manner consistent with the convention and other international law. Except as specifically provided, nothing in this Act may be interpreted to prejudice any otherwise applicable right, duty, privilege, or immunity or deprive any country or person of any remedy otherwise applicable.

SEC. 16. The Secretary may issue reasonable rules and regulations which he considers appropriate and necessary for the effective implementation of this Act.

SEC. 17. The revolving fund established under section 311(k) of the Federal Water Pollution Control Act shall be available to the Secretary for Federal actions and activities under section 5 of this Act.

SEC. 18. This Act shall be effective upon the date of enactment, or upon the date the convention becomes effective as to the United States, whichever is later.

The SPEAKER. Is a second demanded?

Mr. GROVER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we will consider first, H.R. 5975, which would implement the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, which was ratified by the Senate on September 20, 1971. Eleven of the 15 signatory nations have already implemented the convention. These are: Belgium, Denmark, France, Japan, Sweden, the United Kingdom, Senegal, Norway, Fiji, Liberia, and Spain.

The convention permits a coastal nation to take whatever action it deems necessary to prevent, mitigate or eliminate, a threat of oil pollution resulting from a maritime accident beyond that coastal state's territorial sea. That authority is subject to reasonable safeguards. The convention addresses, internationally, some of the types of issues which arose in 1967 following the grounding of *Torrey Canyon* off the southeast coast of England.

Under this legislation, if the Secretary of the Department of Transportation determines that a tanker collision or grounding poses a grave and imminent danger to the coastline of the United States from pollution of the sea by oil, appropriate actions can be taken against U.S. and foreign vessels. The command personnel, or any other persons who refuse to comply with the orders to those charged with carrying out the enforcement of this act, in this case the U.S. Coast Guard, would be subjected to prison sentences and/or fines. The criminal sanctions are a $10,000 fine and/or 1 year in prison.

No effort is made in the bill to outline the various types of action which could be taken by the Department. At this point in time, it is impossible to define all the possible incidents because their specific nature will become known only as future situations develop.

For example, we have not had enough experience with the new "super tankers" carrying upwards of 500,000 tons of oil to predict all of the possible accidents or mishaps. Under these circumstances, the bill makes available full exercise of executive branch discretion. At the same time, however, the bill contains a number of restraints to assure that the actions of the Secretary of the Department of Transportation will be responsible and appropriate to the circumstances involved in a given casualty.

Finally, the Secretary would be authorized to use the revolving fund established pursuant to the Federal Water Pollution Control Act as one means of funding extraordinary Federal activities under the bill.

The convention and the bill incorporate an elaborate system of consultations before undertaking intervention. While those consultations could be considered an obstacle to effective action, there is express recognition of the fact that, in cases of extreme urgency, the Coastal State may have to take action without prior notification or consultation, or while consultations are still in progress. While the authorized actions are most carefully circumscribed, latitude is afforded for prompt intervention in appropriate circumstances.

The bill, following the convention, provides a measure of damages in the event intervention action is excessive. The United States will be obliged to pay compensation to the extent that damage is caused by measures which exceed those reasonably necessary. For this purpose, the bill authorizes actions against the United States in Federal court.

Addressing the latter issue, the American Institute of Merchant Shipping, in a letter to the chairman of the Coast Guard Subcommittee, dated October 1, 1973, stated:

> The steamship companies represented by AIMS believe that the authority to take action on the high seas, given by this convention and the implementing legislation, is desirable. We also believe that the safeguards incorporated in this agreement are sufficient to protect the interests of the shipowner in the event that the intervening nation causes unnecessary damage to a vessel.

We have been advised that there will be no additional cost incurred by the Government as a result of enactment of this legislation. There would be no significant impact on the resources of the Coast Guard required to discharge its responsibilities to prevent or mitigate damage to coastal areas. The augmentation of Coast Guard forces necessary under present law to deal with threats of pollution from incidents within the territorial sea and contiguous zone are considered to be adequate to deal with those relatively rarer instances which are likely to arise on the high seas. For example, there were nine incidents in 1972 which might have warranted intervention by the Coast Guard.

During hearings held on this bill on October 2 and 3, 1973, Coast Guard and Environmental Protection Agency witnesses testified that the legislation would afford a great measure of protection to the coast line of the United States against massive oil spills. There were no witnesses opposed to the bill, and I urge all Members to support this legislation in view of the tremendous potential benefit it will have for this country.

Mr. KAZEN. Will the gentleman yield?

Mr. MURPHY of New York. I am happy to yield to the gentleman from Texas.

Mr. KAZEN. I was listening to the gentleman as he was talking about this being an intervention on the High Seas Act. I would like to ask the gentleman about accidents on our riverways within the United States. Does this bill apply to any area within the United States? For example, does the bill apply to the Mississippi River and the accident that occurred there last week.

Mr. MURPHY of New York. No. We have already enacted adequate legislation to protect our coastal waterways from activities and accidents in those waterways and in estuary and river areas. This legislation goes to the offshore areas where there was not previously jurisdiction and it implements the legislation in those areas of the Treaty Convention of 1969.

Mr. GROVER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5975 gives the Secretary of the department in which the Coast Guard is operating—Department of Transportation at present—authority to take measures to protect certain interests of the United States which are imperiled by maritime casualties occurring on the high seas outside this country's territorial jurisdiction. It is legislation designed to implement the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties of 1969, and is one of a series of measures which, as a group, are designed to form a comprehensive program for dealing with maritime casualty and pollution problems. This legislation specifically complements the liability provisions of H.R. 5898, offshore ports and terminals bill, which has been reported out of the Committee on Merchant Marine and Fisheries.

The Secretary may act to prevent, mitigate or eliminate grave and imminent danger of oil pollution which is likely to produce major harmful consequences to the U.S. public and private coastline, living marine resources, wildlife, and coastal zone and estuarine activities. The Secretary's action must be predicated on a reasonable expectation that major harmful consequences would result from the existing situation should there be no intervention. The scope of the action which may be undertaken is wide and includes the power to order that a ship and its cargo be destroyed. However, the way in which the action is to be taken is carefully prescribed to avoid unnecessary interference with the lives, rights, and interests of others.

The first decision for the Secretary to make when he is notified of a threat of oil pollution is whether or not there is any possible danger to U.S. interests. Whether the United States may then act unilaterally or first must engage in consultation with foreign governments and citizens turns on the Secretary's determining whether or not the situation is one of "extreme urgency" (Sec. 7e.14). If it is determined that immediate action is necessary to protect U.S. interests, notice to interested parties or countries and consultations may be dispensed with. If no such immediate action is dictated, the Secretary must first contact the Secretary of State through whom he may then communicate with other parties affected by the event, particularly the government of the flag country of the ship involved. Next, the Administrator of the Environmental Protection Agency and any other persons in the United States whose interest could be affected by proposed intervention measures must be contacted. The opinions of all those consulted must be weighed by the Secretary in making his final decision. If during the course of consultation conditions change, the United States may take unilateral action if the changed circumstances pose an extreme emergency.

The Secretary may not take actions which are unreasonable in proportion to the actual or threatened damage to U.S. interests. He must attempt to balance out the probable damage that would occur should nothing be done, the probable effectiveness of contemplated measures, and the extent of possible damage resulting from the contemplated measures. Actions may be brought in U.S. Federal courts by those seeking compensation for what is felt to have been damage caused by measures exceeding those reasonably necessary to achieve the protection of U.S. interests. Penalties are also prescribed for those found guilty of failing to comply with orders, willfully refusing to comply with orders or willfully obstructing the Secretary's efforts. The only defenses set out in the bill make it the accused's burden to prove that he used all due diligence to comply with orders or directions or that he had reasonable cause to believe compliance would have resulted in serious risk to human life. Not even these are defenses in willful obstruction proceedings.

Warships and ships operated by governments are exempted from the act, and all rights, duties, privileges and immunities of countries and persons remain unprejudiced by the application of this act.

The Secretary, the Secretary of State, and the Administrator of the Environmental Protection Agency may nominate persons to a list of experts who are, under the convention, available for consultation. Negotiators, conciliators and arbitrators who are also required by the convention are nominated by the Secretary and the Secretary of State.

The bill expands the right of the United States to make timely intervention to protect U.S. interests from major pollution damage such as resulted in Britain and France from the *Torrey Canyon* incident of 1967.

Mr. Speaker, I urge that the House pass the bill, H.R. 5975.

Mr. CLARK. Mr. Speaker, we will now consider three bills reported by the Merchant Marine Committee's Subcommittee on the Coast Guard. By far the most important of these measures is H.R. 5975, the "Intervention on the High Seas Act."

The convention, known as the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties was signed on November 29, 1969, at Brussèls, by the U.S. Government. In September 1971, the U.S. Senate gave its advice and consent to ratification of the convention. The legislation before us today which has already passed the Senate will bring us an important step closer to reducing a major source of pollution in the world's oceans.

The convention and this enabling legislation represents an internationl solution to the problem of a coastal state's lack of legal right to prevent major pollution damage to its shorelines as the result of a nearby marine disaster. The convention will permit a coastal state to decide whether or not to take corrective action without concern as to whether the vessel posing the immediate danger is in its navigable waters.

H.R. 5975 is needed to enforce the provisions of the 1969 High Seas Intervention Convention and will help to eliminate or reduce the threats of a catastrophic oil spill such as that which faced Britain and France when the *Torrey Canyon* disintegrated in inclement weather.

The chairman of the Coast Guard Committee, Mr. Murphy, will explain in greater detail the ramifications of the legislation, the results we can expect from its enactment, and the safeguards that have been built into it to protect international maritime interests.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. Murphy), that the House suspend the rules and pass the bill H.R. 5975.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries be discharged from further consideration of a similar Senate bill (S. 1070) to implement the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, and ask for immediate consideration of the Senate bill.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill as follows:

S. 1070

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Intervention on the High Seas Act".

Sec. 2. As used in this Act—

(1) "ship" means—

(A) any seagoing vessel of any type whatsoever, and

(B) any floating craft, except an installation or device engaged in the exploration and exploitation of the resources of the seabed and the ocean floor and the subsoil thereof;

(2) "oil" means crude oil, fuel oil, diesel oil, and lubricating oil;

(3) "convention" means the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969;

(4) "Secretary" means the Secretary of the department in which the Coast Guard is operating; and

(5) "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

Sec. 3. Whenever a ship collision, stranding, or other incident of navigation or other occurrence on board a ship or external to it resulting in material damage or imminent threat of material damage to the ship or her cargo creates, as determined by the Secretary, a grave and imminent danger to the coastline or related interests of the United States from pollution or threat of pollution of the sea by oil which may reasonably be expected to result in major harmful consequences, the Secretary may, except as provided for in section 10, without liability for any damage to the owners or operators of the ship, to her cargo or crew, or to underwriters or other parties interested therein, take measures in the high seas, in accordance with the provisions of the Convention and this Act, to prevent, mitigate, or eliminate that danger.

Sec. 4. In determining whether there is grave and imminent danger of major harmful consequences to the coastline or related interests of the United States, the Secretary shall consider the interests of the United States directly threatened or affected including but not limited to, fish, shellfish, and other living marine resources, wildlife, coastal zone and estuarine activities, and public and private shorelines and beaches.

Sec. 5. Upon a determination under section 3 of this Act of a grave and imminent danger to the coastline or related interests of the United States, the Secretary may—

(1) coordinate and direct all public and private efforts directed at the removal or elimination of the threatened pollution damage;

(2) directly or indirectly undertake the whole or any part of any salvage or other action he could require or direct under subsection (1) of this section; and

(3) remove, and, if necessary, destroy the ship and cargo which is the source of the danger.

Sec. 6. Before taking any measure under section 5 of this Act, the Secretary shall—

(1) consult, through the Secretary of State, with other countries affected by the marine casualty, and particularly with the flag country of any ship involved;

(2) notify without delay the Administrator of the Environmental Protection Agency and any other persons known to the Secretary, or of whom he later becomes aware, who have interests which can reasonably be expected to be affected by any proposed measures; and

(3) consider any views submitted in response to the consultation or notification required by subsections (1) and (2) of this section.

Sec. 7. In cases of extreme urgency requiring measures to be taken immediately, the Secretary may take those measures rendered necessary by the urgency of the situation without the prior consultation or notification as required by section 6 of this Act or without the continuation of consultations already begun.

Sec. 8. (a) Measures directed or conducted under this Act shall be proportionate to the damage, actual or threatened, to the coastline or related interests of the United States and may not go beyond what is reasonably necessary to prevent, mitigate, or eliminate that damage.

(b) In considering whether measures are proportionate to the damage the Secretary shall, among other things, consider—

(1) the extent and probability of imminent damage if those measures are not taken;

(2) the likelihood of effectiveness of those measures; and

(3) the extent of the damage which may be caused by those measures.

Sec. 9. In the direction and conduct of measures under this Act the Secretary shall use his best endeavors to—

(1) assure the avoidance to risk to human life;

(2) render all possible aid to distressed persons, including facilitating repatriation of ship's crews; and

(3) not unnecessarily interfere with rights and interests of others, including the flag state of any ship involved, other foreign states threatened by damage, and persons otherwise concerned.

Sec. 10. (a) The United States shall be obliged to pay compensation to the extent of the damage caused by measures which exceed those reasonably necessary to achieve the end mentioned in section 3.

(b) Actions against the United States seeking compensation for any excessive measures may be brought in the United States Court of Claims, in any district court of the United States, and in those courts enumerated in section 460 of title 28, United States Code. For purposes of this Act, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii, and the Trust Territory of the Pacific Islands shall be included within the judicial districts of both the District Court of the United States for the District of Hawaii and the District Court of Guam.

Sec. 11. The Secreary of State shall notify without delay foreign states concerned, the Secretary-General of the Inter-Governmental Maritime Consultative Organization, and persons affected by measures taken under this Act.

Sec. 12. (a) Any person who—

(1) willfully violates a provision of this Act or a regulation issued thereunder; or

**(2) willfully refuses or fails to comply with any lawful order or direction given pursuant to this Act; or**

**(2) willfully refuses or fails to comply with any lawful order or direction given pursuant to this Act; or**

**(3) willfully obstructs any person who is acting in compliance with an order or direction under this Act shall be fined not more than $10,000 or imprisoned not more than one year, or both.**

**(b) In a criminal proceeding for an offense under paragraph (1) or (2) of subsection (a) of this section it shall be a defense for the accused to prove that he used all due diligence to comply with any order or direction or that he had reasonable cause to believe that compliance would have resulted in serious risk to human life.**

**SEC. 13. (a) The Secretary, in consultation with the Secretary of State and the Administrator of the Environmental Protection Agency, may nominate individuals to the list of experts provided for in article III of the convention.**

(b) The Secretary of State, in consultation with the Secretary, shall designate or nominate, as appropriate and necessary, the negotiators, conciliators, or arbitrators provided for by the convention and the annexes thereto.

SEC. 14. No measures may be taken under authority of this Act against any warship or other ship owned or operated by a country and used, for the time being, only on Government noncommercial service.

**SEC. 15. This Act shall be interpreted and administered in a manner consistent with the convention and other international law. Except as specifically provided, nothing in this Act may be interpreted to prejudice any otherwise applicable right, duty, privilege, or immunity or deprive any country or person of any remedy otherwise applicable.**

SEC. 16. The Secretary may issue reasonable rules and regulations which he considers appropriate and necessary for the effective implementation of this Act.

**SEC. 17. The revolving fund established under section 311(k) of the Federal Water Pollution Control Act shall be available to the Secretary for Federal actions and activities under section 5 of this Act.**

**SEC. 18. This Act shall be effective upon the date of enactment, or upon the date the convention becomes effective as to the United States, whichever is later.**

The Senate bill was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 5957) was laid on the table.

## GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 5975.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

## CONFERENCE REPORT ON S. 2589, ENERGY EMERGENCY ACT

Mr. STAGGERS submitted the following conference report and statement on the Senate bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, national, and international contingency plans; to assure the continuation of vital public services; and for other purposes:

### CONFERENCE REPORT (H. REPT. No. 763)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act, including the following table of contents, may be cited as the "Energy Emergency Act".

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### TITLE I—ENERGY EMERGENCY AUTHORITIES

**SEC. 101. FINDINGS AND PURPOSES.**

(a)(1) The Congress hereby determines that—

(A) shortages of crude oil, residual fuel oil, and refined petroleum products caused by insufficient domestic refining capacity, inadequate domestic production, environmental constraints, and the unavailability of imports sufficient to satisfy domestic demand, now exist;

(B) such shortages have created or will create severe economic dislocations and hardships;

(C) such shortages and dislocations jeopardize the normal flow of interstate and foreign commerce and constitute an energy emergency which can be averted or minimized most efficiently and effectively through prompt action by the executive branch of Government;

(D) disruptions in the availability of imported energy supplies, particularly crude oil and petroleum products, pose a serious risk to national security, economic wellbeing, and health and welfare of the American people;

(E) because of the diversity of conditions, climate, and available fuel mix in different areas of the Nation, a primary governmental responsibility for developing and enforcing energy emergency measures lies with the States and with the local governments of major metropolitan areas acting in accord with the provisions of this Act; and

(F) the protection and fostering of competition and the prevention of anticompetitive practices and effects are vital during the energy emergency.

(2) On the basis of the determinations specified in subparagraphs (A) through (F) of paragraph (1) of this subsection, the Congress hereby finds that current and imminent fuel shortages have created a nationwide energy emergency.

(b) The purposes of this Act are to call for proposals for energy emergency rationing and conservation measures and to authorize specific temporary emergency actions to be exercised, subject to congressional review and right of approval or disapproval, to assure that the essential needs of the United States for fuels will be met in a manner which, to the fullest extent practicable: (1) is consistent with existing national commitments to protect and improve the environment; (2) minimizes any adverse impact on employment; (3) provides for equitable treatment of all sectors of the economy; (4) maintains vital services necessary to health, safety, and public welfare; and (5) insures against anticompetitive practices and effects and preserves, enhances, and facilitates competition in the development, production, transportation, distribution, and marketing of energy resources.

**SEC. 102. DEFINITIONS.**

For purposes of this Act:

(1) The term "State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(2) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (as defined in the Emergency Petroleum Allocation Act of 1973).

(3) The term "United States" when used in the geographical sense means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(4) The term "Administrator" means the Administrator of the Federal Energy Emergency Administration.

**SEC. 103. FEDERAL ENERGY EMERGENCY ADMINISTRATION.**

(a) There is hereby established until May 15, 1975, unless superseded prior to that date by law, a Federal Energy Emergency Administration which shall be temporary and shall be headed by a Federal Energy Emergency Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. Vacancies in the office of Administrator shall be filled in the same manner as the original appointment.

(b) The Administrator shall be compensated at the rate provided for level II of the Executive Schedule. Subject to the Civil Service and Classification provisions of title 5, United States Code, the Administrator may employ such personnel as he deems necessary to carry out his functions.

(c) Effective on the date on which the Administrator first takes office (or, if later, on January 1, 1974), all functions, powers, and duties of the President under sections 4, 5, 6, and 9 of the Emergency Petroleum Allocation Act of 1973 (as amended by this Act), and of any officer, department, agency, or State (or officer thereof) under such sections (other than functions vested by section 6 of such Act in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice), are transferred to the Administrator. All personnel, property, records, obligations, and commitments used primarily with respect to functions transferred under the preceding sentence shall be transferred to the Administrator.

(d) (1) Whenever the Federal Energy Emergency Administration submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress.

(2) Whenever the Federal Energy Emergency Administration submits any legislative recommendations or testimony or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Federal Energy Emergency Administration to submit its legislative recommendations, or testimony or comments to any officer or agency of the United States for approval, comments, or review prior to the submission of such recommendations, testimony, or comments to the Congress.

(3) The Federal Energy Emergency Administration shall be considered an independent regulatory agency for purposes of chapter 35 of title 44, United States Code, but not for any other purpose.

### SEC. 104. END-USE RATIONING.

Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection:

"(h) (1) The President may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with the objectives of subsection (b), for the establishment of a program for the rationing and ordering of priorities among classes of end-users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to end-users of such products of rights, and evidence of such rights, entitling them to obtain such products in precedence to other classes of end-users not similarly entitled.

"(2) The rule under this subsection shall take effect only if the President finds that, without such rule, all other practicable and authorized methods to limit energy demand will not achieve the objectives of section 4 (b) of this Act and of the Energy Emergency Act.

"(3) The President shall, by order, in furtherance of the rule authorized pursuant to paragraph (1) of this subsection and consistent with the attainment of the objectives in subsection (b) of this section, cause such adjustments in the allocations made pursuant to the regulation under subsection (a) as may be necessary to carry out the purposes of this subsection.

"(4) The President shall provide for procedures by which any end-user of crude oil, residual fuel oil or refined petroleum products for which priorities and entitlements are established under paragraph (1) of this subsection may petition for review and reclassification or modification of any determination made under such paragraph with respect to his rationing priority or entitlement. Such procedures may include procedures with respect to such local boards as may be authorized to carry out functions under this subsection pursuant to section 122 of the Energy Emergency Act.

"(5) No rule or order under this section may impose any tax or user fee, or provide for a credit or deduction in computing any tax."

### SEC. 105. ENERGY CONSERVATION REGULATIONS.

(a) (1) (A) Pursuant to the provisions of this section, the Administrator is authorized to promulgate by regulation one or more energy conservation plans in accord with this section which shall be designed (together with actions taken and proposed to be taken under other authority of this or other Acts) to result in a reduction of energy consumption to a level which can be supplied by available energy resources. For purposes of this section, the term "energy conservation plan" means a plan for transportation controls (including but not limited to highway speed limits) or such other reasonable restrictions on the public or private use of energy (including limitations on energy consumption of businesses) which are necessary to reduce energy consumption and which are authorized by this Act.

(B) No energy conservation plan promulgated by regulation under this section may impose rationing or any tax or user fee, or provide for a credit or deduction in computing any tax.

(2) An energy conservation plan shall become effective as provided for in subsection (b). Such a plan shall apply in each State, except as otherwise provided in an exemption granted pursuant to the plan in cases where a comparable State or local program is in effect, or where the Administrator finds special circumstances exist.

(3) An energy conservation plan may not deal with more than one logically consistent subject matter.

(4) An amendment to an energy conservation plan, if it has significant substantive effect, shall be transmitted to Congress and shall be effective only in accordance with subsection (b). Any amendment which does not have significant substantive effect and any rescission of a plan may be made effective in accordance with section 553 of title 5, United States Code.

(5) Subject to subsection (b) (3), provision of an energy conservation plan shall remain in effect for a period specified in the plan unless earlier rescinded by the Administrator, but shall terminate in any event no later than May 15, 1975.

(b) (1) For purposes of this subsection, the term "energy conservation plan" means a plan promulgated by regulation proposed under subsection (a) of this section or an amendment thereto which has significant substantive effect.

(2) The Administrator shall transmit any energy conservation plan (bearing an identification number) to each House of Congress on the date on which it is promulgated.

(3) (A) If an energy conservation plan is transmitted to Congress before March 1, 1974, and provides for an effective date earlier than March 1, 1974, such plan shall take effect on the date provided in the plan; but if either House of the Congress, before the end of the first period of 15 calendar days of continuous session of Congress after the date on which such plan is transmitted to it, passes a resolution stating in substance that such House does not favor such plan, such plan shall cease to be effective on the date of passage of such resolution.

(B) If an energy conservation plan is transmitted to the Congress and provides for an effective date on or after March 1, 1974 and before July 1, 1974, such plan shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which such plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that such House does not favor such plan.

(C) An energy conservation plan proposed to be made effective on or after July 1, 1974, shall take effect only if approved by Act of Congress.

(4) For the purpose of paragraph (3) of this subsection—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 15-day period.

(5) Under provisions contained in an energy conservation plan, a provision of the plan may take effect at a time later than the date on which such plan otherwise is effective.

(c) (1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2) For the purpose of this subsection, "resolution" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the ———— does not favor the energy conservation plan numbered ———— transmitted to Congress by the Administrator of the Federal Energy Emergency Administration on ————, 19—.", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy conservation plan.

(3) A resolution with respect to an energy conservation plan shall be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4) (A) If the committee to which a resolution with respect to an energy conservation plan has been referred has not reported it at the end of 5 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to such energy conservation plan which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy conservation plan), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(C) If the motion, to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same plan.

(5) (A) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to an energy conservation plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(6) (A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution with respect to an energy conservation plan, and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to an energy conservation plan shall be decided without debate.

(d) (1) In carrying out the provisions of this Act, the Administrator shall, to the greatest extent practicable, evaluate the potential economic impacts of proposed regulatory and other actions including but not limited to the preparation of an analysis of the effect of such actions on—

(A) the fiscal integrity of State and local government;

(B) vital industrial sectors of the economy;

(C) employment, by industrial and trade sector, as well as on a national, regional, State, and local basis;

(D) the economic vitality of regional, State, and local areas;

(E) the availability and price of consumer goods and services;

(F) the gross national product;

(G) competition in all sectors of industry; and

(H) small business.

(2) The Administrator shall develop analyses of the economic impact of any energy conservation plan on States or significant sectors thereof, considering the impact on energy resources as fuel and as feedstock for industry.

(3) Such analysis shall, whenever possible, be made explicit and, to the extent practicable, other Federal agencies and agencies of State and local governments which have special knowledge and expertise relevant to the impact of proposed regulatory or other actions shall be consulted in making the analyses, and all Federal agencies shall cooperate with the Administrator in preparing such analyses except that the Administrator's actions pursuant to this subsection shall not create any right of review or cause of action except as otherwise exist under other provisions of law.

(4) The Administrator, together with the Secretaries of Labor and Commerce, shall monitor the economic impact of any energy actions taken by the Administrator, and shall provide the Congress with separate reports every thirty days on the impact of the energy shortage and such emergency actions on employment and the economy.

(e) Any energy conservation plan which the Administrator submits to the Congress pursuant to subsection (b) of this section shall include findings of fact and a specific statement explaining the rationale for each provision contained in such plan.

### SEC. 106. COAL CONVERSION AND ALLOCATION.

(a) The Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this Act, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies shall be permitted to continue to use coal as provided in section 119(b) of the Clean Air Act. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact. A prohibition on use of natural gas and petroleum products under this subsection shall be contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area. The Administrator shall require that fossil-fuel-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant may be required under this section to be so designed and constructed, if (1) to do so would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether to impose a design and construction requirement under this subsection, the Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the capability of the owner or operator to recover any capital investment made as a result of the conversion requirements of this section.

(b) The Administrator may by rule prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in this section.

### SEC. 107. MATERIALS ALLOCATION.

(a) The Administrator shall, within 30 days after the date of enactment of this Act, propose (in the nature of a proposed rule affording an opportunity for the presentation of views) and publish (and may from time to time amend) a contingency plan for allocation of supplies of materials and equipment necessary for exploration, production, refining, and required transportation of energy supplies and for the construction and maintenance of energy facilities. At such time as he finds that it is necessary to put all or part of such plan into effect, he shall transmit such plan or portion thereof to each House of Congress and such plan or portion thereof shall take effect in the same manner as an energy conservation plan prescribed under section 105 and to which section 105(b) (3) (B) applies (except that such plan may be submitted at any time after the date of enactment of this Act and before May 15, 1975).

(b) Section 4(b) (1) (G) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of—

"(i) fuels, and

"(ii) minerals essential to the requirements of the United States,

and for required transportation related thereto,"

### SEC. 108. FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES.

(a) The Administrator may initiate the following measures to supplement domestic energy supplies for the duration of the emergency:

(1) require by order or rule, the production of designated existing domestic oilfields, at their maximum efficient rate of production, which is the maximum rate at which production may be sustained without detriment to the ultimate recovery of oil and gas under sound engineering and economic principles. Such fields are to be designated by the Secretary of the Interior, after consultation with the appropriate State regulatory agency. Data to determine the maximum efficient rate of production shall be supplied to the Secretary of the Interior by the State regulatory agency which determines the maximum efficient rate of production and by the operators who have drilled wells in, or are producing oil and gas from such fields;

(2) require, if necessary to meet essential energy needs, production of certain designated existing domestic oilfields at rates in excess of their currently assigned maximum efficient rates. Fields to be so designated, by the Secretary of the Interior or the Secretary of the Navy as to the Federal lands or as to Federal interests in lands under their respective jurisdiction, shall be those fields where the types and quality of reservoirs are such as to permit production at rates in excess of the currently assigned sustainable maximum efficient rate for periods of ninety days or more without excessive risk of losses in recovery;

(3) require the adjustment of processing operations of domestic refineries to produce refined products in proportions commensurate with national needs and consistent with the objectives of section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(b) Nothing in this section shall be construed to authorize the production of any Naval Petroleum Reserve now subject to the provisions of chapter 641 of title 10 of the United States Code.

### SEC. 109. OTHER AMENDMENTS TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 as amended by section 104 of this Act is amended by adding at the end of such section the following new subsection:

"(i) If any provision of the regulation under subsection (a) provides that any allocation of residual fuel oil or refined petroleum products is to be based on use of such a product or amounts of such product supplied during a historical period, the regulation shall contain provisions designed to assure that the historical period can be adjusted (or other adjustments in allocations can be made) in order to reflect regional disparities in use, population growth or unusual factors influencing use (including unusual changes in climatic conditions), of such oil or product in the historical period. This subsection shall take effect 30 days after the date of enactment of the Energy Emergency Act. Adjustments for such purposes shall take effect no later than 6 months after the date of enactment of this subsection. Adjustments to reflect population growth shall be based upon the most current figures available from the United States Bureau of the Census."

(b) Section 4(g)(1) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "February 28, 1975" in each case the term appears and inserting in each case "May 15, 1975."

### Sec. 110. Prohibition on Windfall Profits—Price Gouging

(a)(1) The President shall exercise his authority under the Emergency Petroleum Allocation Act of 1973 and under the Economic Stabilization Act of 1970 so as to specify prices for sales of petroleum products produced in or imported into the United States, which avoid windfall profits by sellers.

(2) Any interested person, who has reason to believe that any price (specified under any of the authorities referred to in paragraph (1) of this subsection) of petroleum products permits a seller thereof any windfall profits, may petition the Renegotiation Board (created by section 107(a) of the Renegotiation Act of 1951 and hereinafter in this subsection referred to as the "Board") for a determination under subparagraph (A) or (B) or paragraph (3).

(3)(A) Upon petition of any interested person, the Board may by rule determine, after opportunity for oral presentation of views, data, and arguments, whether the price (specified under any of the authorities referred to in paragraph (1)) of petroleum product permits sellers thereof to receive windfall profits. Upon a final determination of the Board that such price permits windfall profits to be so received, it shall specify a price for such sales which will not permit such profits to be received by such sellers. After such a final determination, no higher price may be specified (under any of the authorities specified in paragraph (1)) except with the approval of the Board.

(B) Upon petition of any interested person and notwithstanding any proceedings or determination under subparagraph (A), the Board may determine whether the price charged by a particular seller of any petroleum product permitted such seller to receive windfall profits. If, on the basis of such petition, the Board has reason to believe that such price has permitted such seller to receive windfall profits, it may order such seller to take such actions (including the escrowing of funds) as it may deem appropriate to assure that sufficient funds will be available for the refund of windfall profits in the event there is a final determination by the Board under this subparagraph that such seller has received windfall profits. Prior to a final determination under this subparagraph, such seller shall be afforded a hearing in accordance with the procedures required by section 554 of title 5, United States Code. Upon a final determination of the Board that such price permitted such seller to receive windfall profits, the Board shall order such seller to refund an amount equal to such windfall profits to the persons who have purchased from such seller at prices which resulted in such windfall profits. If such persons are not reasonably ascertainable, the Board shall order the sellers for the purpose of refunding such profits, to reduce the price for future sales, to create a fund against which previous purchasers of such item may file a claim under rules which shall be prescribed by the Board, or to take such other action as the Board may deem appropriate.

(C) Notwithstanding section 108 of the Renegotiation Act of 1951 and section 211 of the Economic Stabilization Act of 1970, any final determination under subparagraph (A) or (B) shall be subject to judicial review in accordance with sections 701 through 706 of title 5, United States Code.

(4)(A) The Board may provide, in its discretion under regulations prescribed by the Board, for such consolidation as may be necessary or appropriate to carry out the purposes of this subsection.

(B) The Board may make such rules, regulations, and orders as it deems necessary or appropriate to carry out its functions under this subsection.

(5) The determination and approval authority of the Board under this paragraph may not be delegated or redelegated pursuant to section 107(d) of the Renegotiation Act of 1951 to any agency of the Government other than an agency established by the Board.

(6) For the purposes of subparagraph (B) of paragraph (3), the term "windfall profits" means that profit (during an appropriate accounting period as determined by the Board) derived from the sale of any petroleum product determined by the Board to be in excess of the lesser of—

(A) a reasonable profit with respect to the particular seller as determined by the Board upon consideration of—

(i) the reasonableness of its costs and profits with particular regard to volume of production;

(ii) the net worth, with particular regard to the amount and source of capital employed;

(iii) the extent of risk assumed;

(iv) the efficiency and productivity, particularly with regard to cost reduction techniques and economies of operation; and

(v) other factors the consideration of which the public interest and fair and equitable dealing may require which may be established and published by the Board; or

(B) the greater of—

(i) the average profit obtained by sellers for such products during the calendar years 1967 through 1971; or

(ii) the average profit obtained by the particular seller for such products during such calendar years.

(7) Except as provided in paragraph (6), for the purposes of this subsection, the term "windfall profits" means profit in excess of the average profit obtained by all sellers for such products during the calendar years 1967 through 1971.

(8) For the purposes of this subsection, the term "interested person" includes the United States, any State, and the District of Columbia.

(9) This subsection shall not apply to the first sale of crude oil described in subsection (e)(2) of this section (relating to stripper wells).

(10) This section shall take effect on January 1, 1975, and shall apply to profits attributable to any price (specified under any of the authorities referred to in paragraph (1) of this subsection) of crude oil, residual fuel oil, and refined petroleum products in effect after December 31, 1973.

(b) Notwithstanding any other provision of law, administrative proceedings before the Board under this section shall be governed by subchapter II of chapter 5 of title 5, United States Code, and such proceedings shall be reviewed in accordance with chapter 7 of such title.

### Sec. 111. Protection of Franchised Dealers.

(a) As used in this section:

(1) The term "distributor" means a person engaged in the sale, consignment, or distribution of petroleum products to wholesale or retail outlets whether or not it owns, leases, or in any way controls such outlets.

(2) The term "franchise" means any agreement or contract between a refiner or a distributor and a retailer or between a refiner and a distributor, under which such retailer or distributor is granted authority to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or distributor, or any agreement or contract between such parties under which such retailer or distributor is granted authority to occupy premises owned, leased, or in any way controlled by a party to such agreement or contract, for the purpose of engaging in the distribution or sale of petroleum products for purposes other than resale.

(3) The term "notice of intent" means a written statement of the alleged facts which, if true, constitute a violation of subsection (b) of this section.

(4) The term "refiner" means a person engaged in the refining or importing of petroleum products.

(5) The term "retailer" means a person engaged in the sale of any refined petroleum product for purposes other than resale within any State, either under a franchise or independent of any franchise, or who was so engaged at any time after the start of the base period.

(b)(1) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless he furnishes prior notification pursuant to this paragraph to each distributor or retailer affected thereby. Such notification shall be in writing and sent to such distributor or retailer by certified mail not less than ninety days prior to the date on which such franchise will be canceled, not renewed, or otherwise terminated. Such notification shall contain a statement of intention to cancel, not renew, or to terminate together with the reasons therefor, the date on which such action shall take effect, and a statement of the remedy or remedies available to such distributor or retailer under this section together with a summary of the applicable provisions of this section.

(2) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless the retailer or distributor whose franchise is terminated failed to comply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out the terms of such franchise, or unless such refiner or distributor withdraws entirely from the sale of refined petroleum products in commerce for sale other than resale in the United States.

(c)(1) If a refiner or distributor engages in conduct prohibited under subsection (b) of this section, a retailer or a distributor may maintain a suit against such refiner or distributor. A retailer may maintain such suit against a distributor or a refiner whose actions affect commerce and whose products with respect to conduct prohibited under paragraphs (1) or (2) of subsection (b) of this section, he sells or has sold, directly or indirectly, under a franchise. A distributor may maintain such suit against a refiner whose actions affect commerce and whose products he purchases or has purchased or whose products he distributes or has distributed to retailers.

(2) The court shall grant such equitable relief as is necessary to remedy the effects of conduct prohibited under subsection (b) of this section which it finds to exist including declaratory judgment and mandatory or prohibitive injunctive relief. The court may grant interim equitable relief, and actual and punitive damages (except for actions for a failure to renew) where indicated, in suits under this section, and may, unless such suit is frivolous, direct that costs, including reasonable attorney and expert witness fees, be paid by the defendant. In the case of actions for a failure to renew damages shall be limited to actual damages including the value of the dealer's equity.

(3) A suit under this section may be brought in the district court of the United States for any judicial district in which the distributor or the refiner against whom such suit is maintained resides, is found, or is doing business, without regard to the amount in controversy. No such suit shall be maintained unless commenced within three years after the cancellation, failure to re-

new, or termination of such franchise or the modification thereof.

SEC. 112. PROHIBITIONS ON UNREASONABLE ACTIONS.

(a) Action taken under authority of this Act, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in the allocation of petroleum products and electrical energy among classes of users or resulting in restrictions on use of petroleum products and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among classes of users: *Provided*, That with respect to allocations of petroleum products applicable to the foreign trade and commerce of the United States, no foreign corporation or entity shall receive more favorable treatment in the allocation of petroleum products than that which is accorded by its home country to United States citizens engaged in the same line of commerce, and allocations shall contain provisions designed to foster reciprocal and non-discriminatory treatment by foreign countries of United States citizens engaged in foreign commerce.

(b) To the maximum extent practicable, any restriction on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restriction on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific industry, business or commercial enterprise, or on any individual segment thereof and shall give due consideration to the needs of commercial, retail, and service establishments whose normal function is to supply goods and services of an essential convenience nature during times of day other than conventional daytime working hours.

SEC. 113. REGULATED CARRIERS.

(a) The Interstate Commerce Commission (with respect to common or contract carriers subject to economic regulation under the Interstate Commerce Act), the Civil Aeronautics Board, and the Federal Maritime Commission shall, for the duration of the period beginning on the date of enactment of this Act and ending on May 15, 1975, have authority to take any action for the purpose of conserving energy consumption in a manner found by such Commission or Board to be consistent with the objectives and purposes of the Acts administered by such Commission or Board on its motion or on the petition of the Administrator which existing law permits such Commission or Board to take upon the motion or petition of any regulated common or contract carrier or other person.

(b) The Interstate Commerce Commission shall, by expedited proceedings, adopt appropriate rules under the Interstate Commerce Act which eliminate restrictions on the operating authority of any motor common carrier of property which require excessive travel between points with respect to which such motor common carrier has regularly performed service under authority issued by the Commission. Such rules shall assure continuation of essential service to communities served by any such motor common carrier.

(c) Within 45 days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the period beginning on the date of enactment of this Act and ending on May 15, 1975 while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—

(1) the type of regulatory authority needed;

(2) the reasons why such authority is needed;

(3) the probable impact on fuel conservation of such authority;

(4) the probable effect on the public convenience and necessity of such authority; and

(5) the competitive impact, if any, of such authority.

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to provide for the public convenience and necessity during such period.

SEC. 114. ANTITRUST PROVISIONS.

(a) Except as specifically provided in subsection (i), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil and criminal liability or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust laws" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c) (1) To achieve the purposes of this Act, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App. I), whether or not such Act or any of its provisions expires or terminates during the term of this Act or of such committees, and in all cases shall be chaired by a regular full-time Federal employee and shall include representatives of the public. The meetings of such committees shall be open to the public.

(2) A representative of the Federal Government shall be in attendance at all meetings of any advisory committee established pursuant to this section. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of section 552 (b)(1) and (b)(3) of title 5, United States Code.

(d) The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil or any refined petroleum product may develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives stated in section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things that—

(1) Such agreements and plans of action shall be developed by meetings of committees, councils, or other groups which include representatives of the public, of interested segments of the petroleum industry and of industrial, municipal and private consumers, and shall in all cases be chaired by a regular full-time Federal employee.

(2) Meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission and to the public in the affected community;

(3) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views and arguments at such meetings;

(4) A full and complete verbatim transcript shall be kept of any meeting, conference or communication held to develop, implement or carry out a voluntary agreement or a plan of action under this subsection and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be available for public inspection and copying, subject to provisions of section 552 (b)(1) and (b)(3) of title 5, United States Code.

(f) The Federal Trade Commission may exempt types or classes of meetings, conferences or communications from the requirements of subsection (c)(3) and (e)(4) provided such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of implementing or carrying out a voluntary agreement or plan of action authorized pursuant to this section. Such ministerial meeting, conference or communication may take place in accordance with such requirements as the Federal Trade Commission may prescribe by rule. Such persons participating in such meeting, conference or communication shall cause a record to be made specifying the date such meeting, conference, or communication took place and the persons involved, and summarizing the subject matter discussed. Such record shall be filed with the Federal Trade Commission and the Attorney General, where it shall be made available for public inspection and copying.

(g) (1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation and carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this Act. Each shall have the right to review, amend, modify, disapprove, or prospectively revoke, on its own motion or upon the request of any interested person, any plan of action or voluntary agreement at any time, and, if revoked, thereby withdraw prospectively the immunity conferred by subsection (i) of this section.

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented, where it shall be made available for public inspection and copying.

(h) (1) The Attorney General and the Federal Trade Commission shall monitor the development, implementation and carrying out of plans of action and voluntary agreements authorized under this section to assure the protection and fostering of competition and the prevention of anticompetitive practices and effects.

(2) The Attorney General and the Federal Trade Commission shall promulgate joint

regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts and other records related to the development, implementation or carrying out of plans of action or voluntary agreements authorized pursuant to this Act.

(3) Persons developing, implementing or carrying out plans of action or voluntary agreements authorized pursuant to this Act shall maintain those records required by such joint regulations. The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Federal Trade Commission and the Attorney General may each prescribe such rules and regulations as may be necessary or appropriate to carry out their responsibilities under this Act. They may both utilize for such purposes and for purposes of enforcement, any and all powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by any other provision of law, including the antitrust laws; and wherever such provision of law refers to "the purposes of this Act" or like terms, the reference shall be understood to be this Act.

(i) There shall be available as a defense to any civil or criminal action brought under the antitrust laws in respect of actions taken in good faith to develop and implement a voluntary agreement or plan of action to carry out a voluntary agreement by persons engaged in the business of producing, refining, marketing or distributing crude oil, residual fuel oil, for any refined petroleum product that—

(1) such action was—

(A) authorized and approved pursuant to this section, and

(B) undertaken and carried out solely to achieve the purposes of this section and in compliance with the terms and conditions of this section, and the rules promulgated hereunder; and

(2) such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

(j) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act, (2) outside the scope and purpose or not in compliance with the terms and conditions of this Act and this section, or (3) subsequent to its expiration or repeal.

(k) Effective on the date of enactment of this Act, this section shall apply in lieu of section 6(c) of the Emergency Petroleum Allocation Act of 1973. All actions taken and any authority or immunity granted under such section 6(c) shall be hereafter taken or granted, as the case may be, pursuant to this section.

(l) The provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action authorized to be taken under this Act or the Emergency Petroleum Allocation Act of 1973.

(m) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every six months, a report on the impact on competition and on small business of actions authorized by this section.

(n) The authority granted by this section (including any immunity under subsection (i)) shall terminate on May 15, 1975.

(o) The exercise of the authority provided in section 113 shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing from the beginning an adequate opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division, who shall propose any alternative which would avoid or overcome, to the greatest extent practicable, any anticompetitive effects while achieving the purposes of this Act.

### SEC. 115. EXPORTS.

To the extent necessary to carry out the purpose of this Act, the Administrator may under authority of this Act, by rule, restrict exports of coal, petroleum products, and petrochemical feedstocks, under such terms as he deems appropriate: *Provided*, That, the Administrator shall restrict exports of coal, petroleum products, or petrochemical feedstocks if either the Secretary of Commerce or the Secretary of Labor certifies that such exports would contribute to unemployment in the United States. The Secretary of Commerce, pursuant to the Export Administration Act of 1969 (but without regard to the phrase "and to reduce the serious inflationary impact of abnormal foreign demand" in section 3(2)(A) of such Act), may restrict the exports of coal, petroleum products, and petrochemical feedstocks, and of materials and equipment essential to the production, transport, or processing of fuels to the extent necessary to carry out the purpose of this Act and sections 4(b) and 4(d) of the Emergency Petroleum Allocation Act of 1973: *Provided*, That in the event that the Administrator certifies to the Secretary of Commerce that export restrictions of products enumerated in this section are necessary to carry out the purpose of this Act, the Secretary of Commerce shall impose such export restrictions. Rules under this section by the Administrator and actions by the Secretary of Commerce under the Export Administration Act of 1969 shall take into account the historical trading relations of the United States with Canada and Mexico and shall not be inconsistent with subsections (b) and (d) of section 4 of the Emergency Petroleum Allocation Act of 1973.

### SEC. 116. EMPLOYMENT IMPACT AND UNEMPLOYMENT ASSISTANCE.

(a) The President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

(b) The President shall make grants to States to provide to any individual unemployed, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred.

(c) On or before the sixtieth day following the date of enactment of this Act, the President shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers and shall include legislative recommendations which the President deems appropriate to meet such needs, including revisions in the unemployment insurance laws.

### SEC. 117. USE OF CARPOOLS.

(a) The Secretary of Transportation shall encourage the creation and expansion of the use of carpools as a viable component of our nationwide transportation system. It is the intent of this section to maximize the level of carpool participation in the United States.

(b) The Secretary of Transportation is directed to establish within the Department of Transportation an "Office of Carpool Promotion" whose purpose and responsibilities shall include—

(1) responding to any and all requests for information and technical assistance on carpooling and carpooling systems from units of State and local governments and private groups and employees;

(2) promoting greater participation in carpooling through public information and the preparation of such materials for use by State and local governments;

(3) encouraging and promoting private organizations to organize and operate carpool systems for employees;

(4) promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of carpool systems; and

(5) promoting other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

(c) The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll adjustments, and other incentives as may be found beneficial and administratively feasible to the furtherance of carpool ridership, and consistent with the obligations of the State and local agencies which provide transportation services.

(d) The Secretary of Transportation shall allocate the funds appropriated pursuant to the authorization of subsection (f) according to the following distribution between the Federal and State or local units of government:

(1) The initial planning process—up to 100 percent Federal.

(2) The systems design process—up 100 percent Federal.

(3) The initial startup and operation of a given system—60 percent Federal and 40 percent State or local with the Federal portion not to exceed 1 year.

(e) Within 12 months of the date of enactment of this Act, the Secretary of Transportation shall make a report to Congress of all his activities and expenditures pursuant to this section. Such report shall include any recommendations as to future legislation concerning carpooling.

(f) The sum of $5,000,000 is authorized to be appropriated for the conduct of programs designed to achieve the goals of this section, such authorization to remain available for 2 years.

(g) For purposes of this section, the terms "local governments" and "local units of government" include any metropolitan transportation organization designated as being responsible for carrying out section 134 of title 23, United States Code.

(h) As an example to the rest of our Nation's automobile users, the President of the United States shall take such action as is necessary to require all agencies of Government, where practical, to use economy model motor vehicles.

(i)(1) The President shall take action to require that no Federal official or employee in the executive branch below the level of Cabinet officer be furnished a limousine for individual use. The provisions of this subsection shall not apply to limousines furnished for use by officers or employees of the Federal Bureau of Investigation, or to those persons whose assignments necessitate transportation by limousines because of diplomatic assignment by the Secretary of State.

(2) For purposes of this subsection, the term "limousine" means a type 6 vehicle as defined in the Interim Federal Specifications issued by the General Services Administration, December 1, 1973.

### SEC. 118. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.

(a)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order (including a rule or order issued by a State or officer thereof) under this title (except with respect to any rule or order pursuant to sections 108 and 113 of this Act, section 205 (a), (b), and (c), of this Act, or section 4(h) of the Emergency Petroleum Allocation Act of 1973) or under the authority of any energy conservation plan.

(2) Notice of any proposed rule or order described in paragraph (1) shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious impairment to the operation of the program to which such rule or order relates and such findings are set out in detail in such rule or order. In addition, public notice of all rules or orders promulgated by officers of a State or political subdivision thereof or to State or local boards pursuant to this Act shall to the maximum extent practicable be achieved by publication of such rules or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(3) In addition to the requirements of paragraph (2), if any rule or order described in paragraph (1) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the implementation of such rule or order, but in all cases such opportunity shall be afforded no later than 45 days after the implementation of any such rule or order. A transcript shall be kept of any oral presentation.

(4) Any officer or agency authorized to issue rules or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act or the Emergency Petroleum Allocation Act of 1973 (as the case may be), as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of or an exception to or exemption from, such rules and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) when such denial becomes final. The officer or agency shall, in rules prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(5) In addition to the requirements of section 552 of title 5, United States Code, any agency authorized by this Act or the Emergency Petroleum Allocation Act of 1973 to issue rules or orders shall make available to the public all internal rules and guidelines which may form the basis, in whole or in part, for any rule or order with such modifications as are necessary to insure confidentiality protected under such section 552. Such agency shall, upon written request of a petitioner filed after any grant or denial of a request for exception or exemption from rules or orders, furnish the petitioner with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. Such opinions shall be made available to the petitioner and the public within thirty days of such request and with such modifications as are necessary to insure confidentiality of information protected under such section 552.

(b)(1) Judicial review of administrative rulemaking of general and national applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the District of Columbia within thirty days from the date of promulgation of any such rule or regulation, and judicial review of administrative rulemaking of general, but less than national, applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within thirty days from the date of promulgation of any such rule or regulation, the appropriate circuit being defined as the circuit which contains the area or the greater part of the area within which the rule or regulation is to have effect.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under regulations or orders issued thereunder, except any actions taken by the Civil Aeronautics Board, the Interstate Commerce Commission, Federal Power Commission, or the Federal Maritime Commission, or any actions taken to implement or enforce any rule or order by any officer of a State or political subdivision thereof or State or local board which has been delegated authority under section 122 of this Act except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the constitutionality of this title or the validity of action taken by any agency under this Act). If in any such proceeding an issue by way of defense is raised based on the constitutionality of this Act or the validity of agency action under this Act, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code. Cases or controversies arising under any rule or order of any officer of a State or political subdivision thereof or a State or local board may be heard in either (1) any appropriate State court, and (2) without regard to the amount in controversy, the district courts of the United States.

(c) The Administrator may by rule prescribe procedures for State or local boards which carry out functions under this Act or the Emergency Petroleum Allocation Act of 1973. Such procedures shall apply to such boards in lieu of subsection (a), and shall require that prior to taking any action, such boards shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) at least 10 days before taking the action. Such boards shall be of balanced composition reflecting the makeup of the community as a whole.

### SEC. 119. PROHIBITED ACTS.

It shall be unlawful for any person to violate any provision of title I of this Act (other than provisions of this Act which make amendments to the Emergency Petroleum Allocation Act of 1973 and section 113) or to violate any rule, regulation (including an energy conservation plan) or order issued pursuant to any such provision.

### SEC. 120. ENFORCEMENT.

(a) Whoever violates any provision of section 119 shall be subject to a civil penalty of not more than $2,500 for each violation.

(b) Whoever willfully violates any provision of section 119 shall be fined not more than $5,000 for each violation.

(c) It shall be unlawful for any person to offer for sale or distribute in commerce any product or commodity in violation of an applicable order or regulation issued pursuant to this Act. Any person who knowingly and willfully violates this subsection after having been subjected to a civil penalty for a prior violation of the same provision of any order or regulation issued pursuant to this Act shall be fined not more than $50,000 or imprisoned not more than six months, or both.

(d) Whenever it appears to any person authorized by the Administrator to exercise authority under this Act that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of section 119, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any provision, the violation of which is prohibited by section 119.

(e) Any person suffering legal wrong because of any act or practice arising out of any violation of section 119 may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

### SEC. 121. USE OF FEDERAL FACILITIES.

Whenever practicable, and for the purpose of facilitating the transportation and storage of fuel, agencies or departments of the United States are authorized, during the period beginning on the date of enactment of this Act and ending May 15, 1975, to enter into arrangements for the acquisition or use by domestic public entities and private industries of equipment or facilities which are surplus to the needs of such agency or department and appropriate to the transportation and storage of fuel, except that such arrangements may be made (1) only after the Administrator finds that such equipment or facilities are not available from private sources and (2) only on the basis of compensation for the acquisition or use of such equipment or facilities at fair market value prices or rentals.

### SEC. 122. DELEGATION OF AUTHORITY AND EFFECT ON STATE LAW.

(a) The Administrator may delegate any of his functions under the Emergency Petroleum Allocation Act of 1973 or this Act to any officer or employee of the Federal Energy Emergency Administration as he deems appropriate. The Administrator may delegate any of his functions relative to implementation and enforcement of the Emergency Petroleum Allocation Act of 1973 or this Act to officers of a State or political subdivision thereof or to State or local boards of balanced composition reflecting the make-up of the community as a whole. Such officers or boards shall be designated and established in accordance with regulations as the Administration shall promulgate under this Act. Section 5(b) of the Emergency Petroleum Allocation Act of 1973 is repealed effective on the date of the transfer of functions under such Act to the Administrator pursuant to section 103 of this Act.

(b) No State law or State program in effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of this Act or any regulation, order, or energy conservation plan issued pursuant to this Act except insofar as such State law or State program is inconsistent with the provisions of this Act, or such a regulation, order, or plan.

### Sec. 123. Grants to States.

Any funds authorized to be appropriated under section 127(b) shall be available for the purpose of making grants to States to which the Administrator has delegated authority under section 122 of this Act, or for the administration of appropriate State or local energy conservation programs which are the basis of an exemption made pursuant to section 105(a)(2) of this Act from a Federal energy conservation plan which has taken effect under section 105 of this Act. The Administrator shall make such grants upon such terms and conditions as he may prescribe by rule.

### Sec. 124. Reports on National Energy Resources.

(a) For the purpose of providing to the Administrator, Congress, the States, and the public, to the maximum extent possible, reliable data on reserves, production, distribution, and use of petroleum products, natural gas, and coal, the Administrator shall promptly publish for public comment a regulation requiring that persons doing business in the United States, who, on the effective date of this Act, are engaged in exploring, developing, processing, refining, or transporting by pipeline, any petroleum product, natural gas, or coal, shall provide detailed reports to the Administrator every sixty calendar days. Such reports shall show for the preceding six calendar days such person's (1) reserves of crude oil, natural gas, and coal; (2) production and destination of any petroleum product, natural gas, and coal; (3) refinery runs byproduct; and (4) other data required by the Administrator for such purpose. Such regulation shall also require that such persons provide to the Administrator such reports for the period from January 1, 1970, to the date of such person's first sixty day report. Such regulation shall be promulgated 30 days after such publication. The Administrator shall publish quarterly in the Federal Register a meaningful summary analysis of the data provided by such reports.

(b) The reporting requirements of this section shall not apply to the retail operations of persons required to file such reports. Where a person shows that all or part of the data required by this section is being reported by such person to another Federal agency, the Administrator may exempt such person from reporting all or part of such data directly to him, and upon such exemption, such agency shall, notwithstanding any other provision of law, provide such data to the Administrator. The district courts of the United States are authorized, upon application of the Administrator, to require enforcement of such reporting requirements.

(c) Upon a showing satisfactory to the Administrator by any person that any report or part thereof obtained under this section from such person or from a Federal agency would, if made public, divulge methods or processes entitled to protection as trade secrets or other proprietary information of such person, such report, or portion thereof, shall be confidential in accordance with the provisions of section 1905 of title 18 of the United States Code, except that such report or part thereof shall not be deemed confidential for purposes of disclosure to (1) any delegate of the Federal Energy Emergency Administration for the purpose of carrying out this Act, (2) the Attorney General, the Secretary of the Interior, the Federal Trade Commission, the Federal Power Commission, or the General Accounting Office when necessary to carry out those agencies' duties and responsibilities under this and other statutes, and (3) the Congress or any Committee of Congress upon request of the Chairman. The provisions of this section shall expire on May 15, 1975.

### Sec. 125. Intrastate Gas.

Nothing in this Act shall expand the authority of the Federal Power Commission with respect to sales of non-jurisdictional natural gas.

### Sec. 126. Expiration.

The authority under this title to prescribe any rule or order or take other action under this title, or to enforce any such rule or order, shall expire at midnight, May 15, 1975, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, May 15, 1975.

### Sec. 127. Authorization of Appropriations.

(a) There are authorized to be appropriated to the Federal Energy Emergency Agency to carry out its functions under this Act and under other laws, and to make grants to States under section 123, $75,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975.

(b) For the purpose of making payments under grants to States under section 123, there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975.

(c) For the purpose of making payments under grants to States under section 116, there is authorized to be appropriated $500,000,000 for the fiscal year ending June 30, 1974.

### Sec. 128. Severability.

If any provision of this Act, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

### Sec. 129. Price Authority.

The President shall exercise his authority under the Economic Stabilization Act of 1970, as amended, and the Emergency Petroleum Allocation Act of 1973 to specify prices for sales of crude oil, residual fuel oil, or refined petroleum products in or imported into the United States which avoid windfall profits by sellers. For purposes of this section, windfall profits shall be defined as those profits which are excessive or unreasonable, taking into consideration normal profit levels. This section shall be effective only until December 31, 1974.

### Sec. 130. Importation of Liquefied Natural Gas.

The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new section:

"Sec. 8. Notwithstanding the provisions of section 3 of the Natural Gas Act (or any other provisions of law) the President may by order, on a finding that such action would be consistent to the public interest, authorize on a shipment-by-shipment basis the importation of liquefied natural gas from a foreign country: *Provided, however,* That the authority to act under this section shall not permit the importation of liquefied natural gas which had not been authorized prior to the date of expiration of this Act and which is in transit on such date."

## TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

### Sec. 201. Suspension Authority.

Title I of the Clean Air Act (42 U.S.C. 1857 et seq.) is amended by adding at the end thereof the following new section:

### "ENERGY EMERGENCY AUTHORITY

"Sec. 119. (a)(1)(A) The Administrator may, for any period beginning on or after the date of enactment of this section and ending on or before November 1, 1974, temporarily suspend any stationary source fuel or emission limitation as it applies to any person, if the Administrator finds that such person will be unable to comply with such limitation during such period solely because of unavailability of types or amounts of fuels. Any suspension under this paragraph and any interim requirement on which such suspension is conditioned under paragraph (3) shall be exempted from any procedural requirements set forth in this Act or in any other provision of local, State, or Federal law; except as provided in subparagraph (B).

"(B) The Administrator shall give notice to the public of a suspension and afford the public an opportunity for written and oral presentation of views prior to granting such suspension unless otherwise provided by the Administrator for good cause found and published in the Federal Register. In any case, before granting such a suspension he shall give actual notice to the Governor of the State, and to the chief executive officer of the local government entity in which the affected source or sources are located. The granting or denial of such suspension and the imposition of an interim requirement shall be subject to judicial review only on the grounds specified in paragraphs (2)(B) and (2)(C) of section 706 of title 5, United States Code, and shall not be subject to any proceeding under section 304(a)(2) or 307 (b) and (c) of this Act.

"(2) In issuing any suspension under paragraph (1) the Administrator is authorized to act on his own motion without application by any source or State.

"(3) Any suspension under paragraph (1) shall be conditioned upon compliance with such interim requirements as the Administrator determines are reasonable and practicable. Such interim requirements shall include, but need not be limited to, (A) a requirement that the source receiving the suspension comply with such reporting requirements as the Administrator determines may be necessary, (B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and (C) requirements that the suspension shall be inapplicable during any period during which fuels which would enable compliance with the suspended stationary source fuel or emission limitations are in fact reasonably available to that person (as determined by the Administrator). For purposes of clause (C) of this paragraph, availability of natural gas or petroleum products which enable compliance shall not make a suspension inapplicable to a source described in subsection (b)(1) of this section.

"(4) For purposes of this section:

"(A) The term 'stationary source fuel or emission limitation,' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under this Act (other than section 303, 111(b), or 112) or contained in an applicable implementation plan and which is designed to limit stationary source emissions resulting from combustion of fuels, including a prohibition on, or specification of, the use of any fuel of any type or grade or pollution characteristic thereof.

"(B) The term 'stationary source' has the same meaning as such term has under section 111(a)(3).

"(b)(1) Except as provided in paragraph (2) of this subsection, any fuel-burning stationary source (A) which is prohibited from using petroleum products or natural gas as fuel by reason of an order issued under section 106(a) of the Energy Emergency Act, or which the Administrator determines began conversion to the use of coal as fuel during the 90-day period ending on December 15, 1973, and (B) which converts to the use of coal as fuel, shall not, until January 1, 1979, be prohibited, by reason of the application of any air pollution requirement, from burning coal which is available to such source.

"(2)(A) Paragraph (1) of this subsection shall apply to a source, only if the Administrator finds that emissions from the source will not materially contribute to a significant risk to public health and if the source has submitted to the Administrator a plan for compliance for such source which the Administrator has approved, after notice to interested persons and opportunity for presentation of views (including oral presentations of views). A plan submitted under the preceding sentence shall be approved only if it provides (i) for compliance by the means; and in accordance with a schedule which meets the requirements of subparagraph (B), and (ii) that such source will comply with requirements which the Administrator shall prescribe to assure that emissions from such source will not materially contribute to a significant risk to public health. The Administrator shall approve or disapprove any such plan within 60 days after such plan is submitted.

"(B) The Administrator shall prescribe regulations requiring that any source to which this subsection applies submit and obtain approval of its means for and schedule of compliance. Such regulations shall include requirements that such schedules shall include dates by which such source must (i) enter into contracts or other enforceable obligations for obtaining a long-term supply of coal or coal by-products (which contracts or obligations must have received prior approval of the Administrator), and (ii) take steps to obtain continuous emission reduction systems necessary to permit such source to burn such coal or coal by-products and to achieve the degree of emission reduction required by the following sentence. (Which steps and systems must have received prior approval of the Administrator). Such regulations shall also require that the source achieve as expeditiously as practicable considering the type of coal to be used (but not later than January 1, 1979) the same degree of emission reduction as it was required to achieve by the applicable implementation plan in effect on the date of enactment of this section. Such regulations shall also include such interim requirements as the Administrator determines are reasonable and practicable including requirements described in clauses (A) and (B) of subsection (a)(3).

"(C) The Administrator (after notice to interested persons and opportunity for presentation of views, including oral presentations of views, to the extent practicable) (i) may, prior to November 1, 1974, and shall thereafter prohibit the use of coal by a source to which paragraph (1) applies if he determines that the use of coal by such source is likely to materially contribute to a significant risk to public health; and (ii) may require such source to use coal of any particular type, grade, or pollution characteristic if such coal is available to such source. Nothing in this subsection (b) shall prohibit a State or local agency from taking action which the Administrator is authorized to take under this paragraph.

"(3) For purposes of this subsection, the term "air pollution requirement" means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation, including this Act (except for any requirement prescribed under this subsection or section 303), and which is designed to limit stationary source emissions resulting from combustion of fuels (including a restriction on the use or content of fuels). A conversion to coal to which this subsection applies shall not be deemed to be a modification for purposes of section 111(a)(2) and (4) of this Act.

"(4) A source to which this subsection applies may, upon the expiration of the exemption under paragraph (1), obtain a one year postponement of the application of any requirement of an applicable implementation plan under the conditions and in the manner provided in section 110(f).

"(c) The Administrator may by rule establish priorities under which manufacturers of continuous emission reduction systems shall provide such systems to users thereof, if he finds that priorities must be imposed in order to assure that such systems are first provided to users in air quality control regions with the most severe air pollution. No rule under this subsection may impair the obligation of any contract entered into before enactment of this section. No State or political subdivision may require any person to use a continuous emission reduction system for which priorities have been established under this subsection except in accordance with such priorities.

"(d) The Administrator shall study, and report to Congress not later than May 31, 1974, with respect to—

"(1) the present and projected impact on the program under this Act of fuel shortages and of allocation and end-use allocation programs;

"(2) availability of continuous emission reduction technology (including projections respecting the time, cost, and number of units available) and the effects that continuous emission reduction systems would have on the total environment and on supplies of fuel and electricity;

"(3) the number of sources and locations which must use such technology based on projected fuel availability data;

"(4) priority schedule for implementation of continuous emission reduction technology, based on public health or air quality;

"(5) evaluation of availability of technology to burn municipal solid waste in these sources; including time schedules, priorities analysis of unregulated pollutants which will be emitted and balancing of health benefits and detriments from burning solid waste and of economic costs;

"(6) projections of air quality impact of fuel shortages and allocations;

"(7) evaluation of alternative control strategies for the attainment and maintenance of national ambient air quality standards for sulfur oxides within the time frames prescribed in the Act, including associated considerations of cost, time frames, feasibility, and effectiveness of such alternative control strategies as compared to stationary source fuel and emission regulations;

"(8) proposed allocations of continuous emission reduction technology for nonsolid waste producing systems to source which are least able to handle solid waste by-product, technologically, economically, and without hazard to public health, safety, and welfare; and

"(9) plans for monitoring or requiring sources to which this section applies to monitor the impact of actions under this section on concentration of sulfur dioxide in the ambient air.

"(e) No State or political subdivision may require any person to whom a suspension has been granted under subsection (a) to use any fuel the unavailability of which is the basis of such person's suspension (except that this preemption shall not apply to requirements identical to Federal interim requirements under subsection (a)(1)).

"(f)(1) It shall be unlawful for any person to whom a suspension has been granted under subsection (a)(1) to violate any requirement on which the suspension is conditioned pursuant to subsection (a)(3).

"(2) It shall be unlawful for any person to violate any rule under subsection (c).

"(3) It shall be unlawful for the owner or operator of any source to fail to comply with any requirement under subsection (b) or any regulation, plan, or schedule thereunder.

"(4) It shall be unlawful for any person **to fail to comply with an interim requirement under subsection (i)(3).**

"(g) Beginning January 1, 1975, the Administrator shall publish at no less than 180-day intervals, in the Federal Register the following:

"(1) A concise summary of progress reports which are required to be filed by any person or source owner or operator to which subsection (b) applies. Such progress reports shall report on the status of compliance with all requirements which have been imposed by the Administrator under such subsections.

"(2) Up-to-date findings on the impact of this section upon—

"(A) applicable implementation plans, and

"(B) ambient air quality.

"(h) Nothing in this section shall affect the power of the Administrator to deal with air pollution presenting an imminent and substantial endangerment to the health of persons under section 303 of this Act.

"(i)(1) In order to reduce the likelihood of early phaseout of existing electric generating facilities during the energy emergency, any electric generating power plant (A) which, because of the age and condition of the plant, is to be taken out of service permanently no later than January 1, 1980, according to the power supply plan (in existence on the date of enactment of the Energy Emergency Act) of the operator of such plant, (B) for which a certification to that effect has been filed by the operator of the plant with the Environmental Protection Agency and the Federal Power Commission, and (C) for which the Commission has determined that the certification has been made in good faith and that the plan to cease operations no later than January 1, 1980, will be carried out as planned in light of existing and prospective power supply requirements, shall be eligible for a single one-year postponement as provided in paragraph (2).

"(2) Prior to the date on which any plant eligible under paragraph (1) is required to comply with any requirement of an applicable implementation plan, such source may apply (with the concurrence of the Governor of the State in which the plant is located) to the Administrator to postpone the applicability of such requirement to such source for not more than one year. If the Administrator determines, after balancing the risk to public health and welfare which may be associated with a postponement, that compliance with any such requirement is not reasonable in light of the projected useful life of the plant, the availability of rate base increases to pay for such costs, and other appropriate factors, then the Administrator shall grant a postponement of any such requirements.

"(3) The Administrator shall, as a condition of any postponement under paragraph (2), prescribe such interim requirements as are practicable and reasonable in light of the criteria in paragraph (2).

"(j)(1) The Administrator may, after public notice and opportunity for presentation of views in accordance with section 553 of title 5, United States Code, and after consultation with the Federal Energy Emergency Administration, designate persons to whom fuel exchange orders should be issued. The purpose of such designation shall be to avoid or minimize the adverse impact on public health and welfare of any suspension under subsection (a) of this section or conversion to coal to which subsection (b) applies or of any allocation under the Energy Emergency Act or the Emergency Petroleum Allocation Act.

"(2) The Administrator of the Federal Energy Administration shall issue exchange orders to such persons as are designated by the Administrator under paragraph (1) requiring the exchange of any fuel subject to allocation under the preceding Acts effective no later than 45 days after the date of the designation under paragraph (1), unless the Administrator of the Federal Energy

Administration determines, after consultation with the Administrator, that the costs or consumption of fuel, resulting from such exchange order, will be excessive.

"(3) Violation of any exchange order issued under paragraph (2) shall be a prohibited act and shall be subject to enforcement action and sanctions in the same manner and to the same extent as a violation of any requirement of the regulation under section 4 of the Emergency Petroleum Allocation Act of 1973."

### Sec. 202. Implementation Plan Revisions.

(a) Section 110(a) of the Clean Air Act is amended in paragraph (3) by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) (1) For any air quality control region in which there has been a conversion to coal under section 119(b), the Administrator shall review the applicable implementation plan and no later than one year after the date of such conversion determine whether such plan must be revised in order to achieve the national primary standard which the plan implements. If the Administrator determines that any such plan is inadequate, he shall require that a plan revision be submitted by the State within three months after the date of notice to the State of such determination. Any plan revision which is submitted by the State after notice and public hearing shall be approved or disapproved by the Administrator, after public notice and opportunity for public hearing, but no later than three months after the date required for submission of the revised plan. If a plan provision (or portion thereof) is disapproved (or if a State fails to submit a plan revision), the Administrator shall, after public notice and opportunity for a public hearing promulgate a revised plan (or portion thereof) not later than three months after the date required for approval or disapproval.

"(2) Any requirement for a plan revision under paragraph (1) and any plan requirement promulgated by the Administrator under such paragraph shall include reasonable and practicable measures to minimize the effect on the public health of any conversion to which section 119(b) applies."

(b) Subsection (c) of section 110 of the Clean Air Act (42 U.S.C. 1857 C–5) is amended by inserting "(1)" after "(c)"; by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and by adding the following new paragraph:

"(2) (A) The Administrator shall conduct a study and shall submit a report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate not later than May 1, 1974, on the necessity of parking surcharge, management of parking supply, and preferential bus/carpool lane regulations as part of the applicable implementation plans required under this section to achieve and maintain national primary ambient air quality standards. The study shall include an assessment of the economic impact of such regulations, consideration of alternative means of reducing total vehicle miles traveled, and an assessment of the impact of such regulations on other Federal and State programs dealing with energy or transportation. In the course of such study, the Administrator shall consult with other Federal officials including, but not limited to, the Secretary of Transportation, the Administrator of the Federal Energy Administration, and the Chairman of the Council on Environmental Quality.

"(B) No parking surcharge regulation may be required by the Administrator under paragraph (1) of this subsection as a part of an applicable implementation plan. All parking surcharge regulations previously required by the Administrator shall be void upon the date of enactment of this subsection. This subparagraph shall not prevent the Administrator from approving parking surcharges if they are adopted and submitted by a State as part of an applicable implementation plan. The Administrator may not condition approval of any applicable implementation plan submitted by a State on such plan's including a parking surcharge regulation.

"(C) The Administrator is authorized to suspend until January 1, 1975, the effective date or applicability of any regulations for the management of parking supply or any requirement that such regulations be a part of an applicable implementation plan approved or promulgated under this section. The exercise of the authority under this subparagraph shall not prevent the Administrator from approving such regulations if they are adopted and submitted by a State as part of an applicable implementation plan. If the Administrator exercises the authority under this subparagraph, regulations requiring a review or analysis of the impact of proposed parking facilities before construction which take effect on or after January 1, 1975, shall not apply to parking facilities on which construction has been initiated before January 1, 1975.

"(D) For purposes of this paragraph, the term 'parking surcharge regulation' means a regulation imposing or requiring the imposition of any tax, surcharge, fee, or other charge on parking spaces, or any other area used for the temporary storage of motor vehicles. The term 'management of parking supply' shall include any requirement providing that any new facility containing a given number of parking spaces shall receive a permit or other prior approval, issuance of which is to be conditioned on air quality considerations. The term 'preferential bus/carpool lane' shall include any requirement for the setting aside of one or more lanes of a street or highway on a permanent or temporary basis for the exclusive use of buses and/or carpools."

### Sec. 203. Motor Vehicle Emissions.

(a) Section 202(b) (1) (A) of the Clean Air Act is amended by striking out "1975" and inserting in lieu thereof "1977"; and by inserting after "(A)" the following: "The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5) (A) of this subsection for light-duty vehicles and engines manufactured during model year 1975."

(b) Section 202(b) (1) (B) of such Act is amended by striking out "1976" and inserting in lieu thereof "1978"; and by inserting after "(B)" the following: "The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1977 shall contain standards which provide that emissions of such vehicles and engines may not exceed 2.0 grams per vehicle mile."

(c) Section 202(b) (5) (A) of such Act is amended to read as follows:

"(5) (A) At any time after January 1, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1) (A) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1) (A) of this subsection) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1977."

(d) Section 202(b) (5) (B) of the Clean Air Act is repealed and the following subparagraphs redesignated accordingly.

### Sec. 204. Conforming Amendments.

(a) (1) Section 113(a) (3) of the Clean Air Act is amended by striking out "or" before "112(c)", by inserting a comma in lieu thereof, and by inserting after "hazardous emissions)" the following: ", or 119(f) (relating to priorities and certain other requirements)".

(2) Section 113(b) (3) of such Act is amended by striking out "or 112(c)" and inserting in lieu thereof ", 112(c), or 119(f)".

(3) Section 113(c) (1) (C) of such Act is amended by striking out "or section 112(c)" and inserting in lieu thereof ", section 112(c), or section 119(f)".

(4) Section 114(a) of such Act is amended by inserting "119 or" before "303".

(b) Section 116 of the Clean Air Act is amended by inserting "119(b), (c) and (e)," before "209".

### Sec. 205. Protection of Public Health and Environment.

(a) Any allocation program provided for in title I of this Act or in the Emergency Petroleum Allocation Act of 1973, shall, to the maximum extent practicable, include measures to assure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Administrator of the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impact on public health.

(b) In order to determine the health effects of emissions of sulfur oxides to the air resulting from any conversions to burning coal pursuant to section 106, the Department of Health, Education, and Welfare shall, through the National Institute of Environmental Health Sciences and in cooperation with the Environmental Protection Agency, conduct a study of chronic effects among exposed populations. The sum of $3,500,000 is authorized to be appropriated for such a study. In order to assure that long-term studies can be conducted without interruption, such sums as are appropriated shall be available until expended.

(c) No action taken under this Act shall, for a period of 1 year after initiation of such action, be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856). However, before any action under this Act that has a significant impact on the environment is taken, if practicable, or in any event within 60 days after such action is taken, an environmental evaluation with analysis equivalent to that required under section 102 (2) (C) of the National Environmental Policy Act, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a 30-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act by the appropriate Federal agency. Any action taken under this Act which will be in effect for more than a one year period (other than action taken pursuant to subsection (d) of this section) or any action to extend an action taken under this Act to a total period of more than 1 year shall be subject to the full provisions of the National Environmental Policy Act notwithstanding any other provision of this Act.

(d) Notwithstanding subsection (c) of this section, in order to expedite the prompt construction of facilities for the importation of hydroelectric energy thereby helping to reduce the shortage of petroleum products in the United States, the Federal Power Commission is hereby authorized and directed to issue a Presidential permit pursuant to Executive Order 10485 of September 3, 1953, for the construction, operation, maintenance, and connection of facilities for the transmission of electric energy at the borders of the United States without preparing an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969 (83 Stat. 856) for facilities for the transmission of electric energy between Canada and the United States in the vicinity of Fort Covington, New York.

SEC. 206. ENERGY CONSERVATION STUDY.

(a) The Administrator of the Federal Energy Administration shall conduct a study on potential methods of energy conservation and, not later than 6 months after the date of enactment of this Act, shall submit to Congress a report on the results of such study. The study shall include, but not be limited to, the following:

(1) the energy conservation potential of restricting exports of fuels or energy-intensive products or goods, including an analysis of balance of payments and foreign relations implications of any such restrictions;

(2) federally sponsored incentives for the use of public transit, including the need for authority to require additional production of buses or other means of public transit and Federal subsidies for the duration of the energy emergency for reduced fares and additional expenses incurred because of increased service;

(3) alternative requirements, incentives, or disincentives for increasing industrial recycling and resource recovery in order to reduce energy demand, including the economic costs and fuel consumption trade-off which may be associated with such recycling and resource recovery in lieu of transportation and use of virgin materials;

(4) the costs and benefits of electrifying rail lines in the United States with a high density of traffic; including (A) the capital costs of such electrification, the oil fuel economies derived from such electrification, the ability of existing power facilities to supply the additional power load, and the amount of coal or other fossil fuels required to generate the power required for railroad electrification, and (B) the advantages to the environment of electrification of railroads in terms of reduced fuel consumption and air pollution and disadvantages to the environment from increased use of fossil fuel such as coal; and

(5) means for incentives or disincentives to increase efficiency of industrial use of energy.

(b) Within 90 days of the date of enactment of this Act, the Secretary of Transportation, after consultation with the Federal Energy Administrator, shall submit to the Congress for appropriate action an "Emergency Mass Transportation Assistance Plan" for the purpose of conserving energy by expanding and improving public mass transportaion systems and encouraging increased ridership as alternatives to automobile travel.

(c) Such plan shall include, but shall not be limited to—

(1) recommendations for emergency temporary grants to assist States and local public bodies and agencies thereof in the payment of operating expenses incurred in connection with the provision of expanded mass transportation service in urban areas;

(2) recommendations for additional emergency assistance for the purchase of buses and rolling stock for fixed rail, including the feasibility of accelerating the timetable for such assistance under section 142(a) (2) of title 23, United States Code (the "Federal Aid Highway Act of 1973"), for the purpose of providing additional capacity for and encouraging increased use of public mass transportation systems;

(3) recommendations for a program of demonstration projects to determine the feasibility of fare-free and low-fare urban mass transportation systems, including reduced rates for elderly and handicapped persons during nonpeak hours of transportation;

(4) recommendations for additional emergency assistance for the construction of fringe and transportation corridor parking facilities to serve bus and other mass transportation passengers;

(5) recommendations on the feasibility of providing tax incentives for persons who use public mass transportation systems.

(d) In consultation with the Federal Energy Administrator, the Secretary of Transportation shall make an investigation and study for the purpose of conserving energy and assuring that the essential fuel needs of the United States will be met by developing a high-speed ground transportation system between the cities of Tijuana in the State of Baja California, Mexico, and Vancouver in the Province of British Columbia, Canada, by way of the cities of Seattle in the State of Washington, Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, Los Angeles and San Diego in the State of California. In carrying out such investigation and study the Secretary shall consider, but shall not be limited to—

(1) the efficiency of energy utilization and impact on energy resources of such a system, including the future impact of existing transportation systems on energy resources if such a system is not established;

(2) coordination with other studies undertaken on the State and local level; and

(3) such other matters as he deems appropriate.

The Secretary of Transportation shall report the results of the study and investigation pursuant to this Act, together with his recommendations, to the Congress and the President no later than December 31, 1974.

SEC. 207. REPORTS.

The Administrator of the Environmental Protection Agency shall report to Congress not later than January 31, 1975, on the implementation of sections 201 through 205 of this title.

SEC. 208. FUEL ECONOMY STUDY.

Title II of the Clean Air Act is amended by redesignating section 213 as section 214 and by adding the following new section:

"FUEL ECONOMY IMPROVEMENT FROM NEW MOTOR VEHICLES

SEC. 213. (a)(1) The Administrator and the Secretary of Transportation shall conduct a joint study, and shall report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committees on Public Works and Commerce of the United States Senate within 120 days following the date of enactment of this section, concerning the practicability of establishing a fuel economy improvement standard of 20 percent for new motor vehicles manufactured during and after model year 1980. Such study and report shall include, but not be limited to, the technological problems of meeting any such standard, including the leadtime involved; the test procedures required to determine compliance; the economic costs associated with such standard, including any beneficial economic impact; the various means of enforcing such standard; the effect on consumption of natural resources, including energy consumed; and the impact of applicable safety and emission standards. In the course of performing such study, the Administrator and the Secretary of Transportation shall utilize the research previously performed in the Department of Transportation, and the Administrator and the Secretary shall consult with the Administrator of the Federal Energy Administration, the Chairman of the Council on Environmental Quality, and the Secretary of the Treasury. The Office of Management and Budget may review such report before its submission to Congress but the Office may not revise the report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comments respecting such report. In connection with such study, the Administrator may utilize the authority provided in section 307 (a) of this Act to obtain necessary information.

"(2) For the purpose of this section, the term 'fuel economy improvement standard' means a requirement of a percentage increase in the number of miles of transportation provided by a manufacturer's entire annual production of new motor vehicles per unit of fuel consumed, as determined for each manufacturer in accordance with test procedures established by the Administrator pursuant to this Act. Such term shall not include any requirement for any design standard or any other requirement specifying or otherwise limiting the manufacturer's discretion in deciding how to comply with the fuel economy improvement standard by any lawful means."

## TITLE III—STUDIES AND REPORTS

SEC. 301. AGENCY STUDIES.

The following studies shall be conducted with reports on their results submitted to the Congress:

(1) Within 30 days after the date of enactment of this Act:

(A) The Administrator of the Federal Energy Emergency Administration shall conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if such rulings and regulations are contributing to the shortage of fuels and of materials associated with the production of energy supplies.

(B) All Federal departments and agencies, including the Federal regulatory agencies, are directed to undertake a survey of all activities over which they have special expertise or jurisdiction and identify and recommend to the Congress and to the President specific proposals to significantly increase energy supply or to reduce energy demand through conservation programs.

(C) The Secretary of the Treasury and the Director of the Cost of Living Council shall recommend to the Congress specific incentives to increase energy supply, reduce demand, to encourage private industry and individual persons to subscribe to the goals of this Act. This study shall also include an analysis of the price-elasticity of demand for gasoline.

(D) The Administrator shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers, together with legislative recommendations appropriate to meet such needs, including revisions in the unemployment insurance laws.

(E) The Secretary of the Interior and the Secretary of Commerce are directed to prepare a comprehensive report of (1) United States exports of petroleum products and other energy sources, and (2) foreign investment in production of petroleum products and other energy sources to determine the consistency or lack thereof of the Nation's trade policy and foreign investment policy with domestic energy conservation efforts. Such report shall include recommendations for legislation.

(2) Within 6 month after the date of enactment of this Act:

(A) The Administrator shall develop and submit to the Congress no later than May 15, 1974, a plan for providing incentives for the increased use of public transportation and Federal subsidies for maintained or reduced fares and additional expenses incurred because of increased service for the duration of the Act. For the purposes of section ——, the plan provided for in this section shall be considered an energy conservation plan.

(B) The Administrator of the FEEA shall recommend to the Congress actions to be taken regarding the problem of the siting of energy producing facilities.

(C) The Administrator of the FEEA shall conduct a study of the further development of the hydroelectric power resources of the Nation, including an assessment of present and proposed projects already authorized by Congress and the potential of other hydroelectric power resources, including tidal power and geothermal steam.

(D) The Administrator shall prepare and submit to Congress a plan for encouraging the conversion of coal to crude oil and other liquid and gaseous hydrocarbons.

(E) The Secretary of the Interior shall study methods for accelerating leases of energy resources on public lands including oil and gas leasing onshore and offshore, and geothermal energy leasing.

SEC. 302. REPORTS OF THE PRESIDENT TO CONGRESS.

The President shall report to the Congress every sixty days, beginning February 1, 1974, on the implementation and administration of this Act and the Emergency Petroleum Allocation Act of 1973, together with an assessment of the results attained thereby. Each report shall include specific information, nationally and by region and State, concerning staffing and other administrative arrangements taken to carry out programs under these Acts and may include such recommendations as he deems necessary for amending or extending the authorities granted in this Act or in the Emergency Petroleum Allocation Act of 1973.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the Senate bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the Senate bill, insert the following: "An Act to assure, through energy conservation, end-use rationing of fuels, and other means, that the essential energy needs of the United States are met, and for other purposes."

And the House agree to the same.

HARLEY O. STAGGERS,
TORBERT H. MACDONALD,
JOHN E. MOSS,
PAUL G. ROGERS,
JAMES T. BROYHILL,
J. T. HASTINGS,
*Managers on the Part of the House.*
HENRY M. JACKSON,
ALAN BIBLE,
LEE METCALF,
JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
HOWARD BAKER,
ADLAI STEVENSON,
TED STEVENS,
*Managers on the Part of the Senate.*

### JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and International contingency plans; to assure the continuation of vital public services; and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendments struck out all of the Senate bill after the enacting clause and inserted a substitute text and provided a new title for the Senate bill.

The committee of conference has agreed to a substitute for both the Senate bill and the House amendment to the text of the bill. Except for clarifying, clerical, and conforming changes, the differences are noted below:

Several general comments should be made concerning the overall pattern of the legislation agreed to by the Conference Committee. The Substitute text agreed to does not contain a number of provisions which were contained in either the House or Senate bill. The Committee wishes to emphasize that it has eliminated these provisions without prejudice. In a number of cases these matters were not agreed to in deference to the jurisdictional prerogatives of other committees of the Congress who were not represented at the Conference. In other cases the Conferees eliminated provisions which in their judgment addressed problems which did not relate to the short term emergency situation. Because of the exigencies of the situation, the Conferees have attempted to confine the scope of this legislation to those matters which were essential and leave to a time which affords more studied consideration those proposals which attempt to deal with the more long term and basic energy supply and demand problems which confront this nation.

### EMERGENCY CONSERVATION REGULATIONS

Faced with the emergency situation, on November 8, 1973, the President addressed the nation on the dimensions of the energy crisis. In that address, the President announced that he would request the Congress to vest in him emergency authority to impose restrictions on both the public and private consumption of energy. The legislation which the Conferees have agreed to proposes to give to the Executive a full spectrum of extraordinary powers to cope with the situation. The Conferees fully expect that the Administration, having been granted these authorities under the Act, will use them forthwith, and take strong action to reduce demand for energy during this period of national energy shortages and to expand supply of petroleum products through the conversion of stationary electric power plants now burning oil or natural gas.

The Conferees have not, however, agreed to vest without limitation the all pervasive and ill defined authority to restrict public and private consumption of energy which had been requested by the President. Instead, the Conferees have devised a mechanism for allowing further legislative consideration and control over the exercise of these powers.

Under its terms, the Administrator of the Federal Emergency Energy Administration created by this legislation would be permitted to issue regulations restricting energy use subject to a reservation of Congressional veto power. This control is to be exercised in a manner which closely parallels statutory mechanisms which have been used in various reorganization acts of the Congress over the past thirty years. The Conferees have carefully tailored this mechanism to take into consideration the emergency circumstances which confront the nation. Thus, the Administrator would be permitted to immediately implement conservation regulations prior to March 1, 1974, in order to reduce demand in the harsh winter months of January and February without delay. Such regulations must be submitted to the Congress simultaneously with their promulgation. Thereafter, the Congress would have an opportunity to veto the regulation by simple resolution in either house. If vetoed, the regulation would not continue in effect. The Committee wishes to emphasize that any such regulation would, until vetoed, be given full force and effect. Compliance may be obtained through court injunctive process or through the imposition of civil and criminal penalties for any violation.

Conservation regulations proposed to take effect after March 1, 1974, would be delayed in their implementation until Congress is afforded an opportunity of 15 consecutive days in continuous legislative session to consider disapproval resolutions. If the Congress does not act within that 15-day period, the regulation may be implemented. Lastly, the Conferees have determined that any conservation measure which is proposed to take effect after June 30, 1974, must be submitted to the Congress in the nature of a legislative proposal for appropriate Congressional consideration. Actions of this nature are sufficiently long term in their objective so as to permit the normal legislative process to be observed.

The law passed since the first declared national emergency in 1933 commonly transferred almost unlimited power to the Executive to permit government to act effectively in times of great crisis. A recently issued report of the Special Committee on the Termination of the National Emergency, United States Senate, catalogued over 470 significant statutes which the Congress has passed since 1933 delegating to the President powers that has been "the prerogatives and responsibility of the Congress since the beginning of the Republic".

Over the course of that 40-year period, the Congress has repeatedly been presented with the problem of finding a means by which a legislative body in a democratic republic may extend extraordinary powers for use by the Executive during times of emergency without imperiling our Constitutional balance of liberty and authority. The Conferees believe that the disapproval mechanism contained in this legislation provides the best opportunity for resolution of this problem.

The veto authority coupled with a termination date which limits the duration of the period within which these powers may be exercised provides assurance that normal legislative processes will be resumed at a time certain and that the Constitutional checks and balance system will be preserved. It is firmly believed that this form of legislative consideration and control gives full effect to the separation of powers principle so fundamental to our system of government while at the same time allowing a vesting of power in the Executive branch to permit actions to be taken expeditiously in order to respond to immediate and changing circumstances during a crisis situation.

### FEDERAL ENERGY EMERGENCY ADMINISTRATION

To exercise the authority granted under this legislation, the Committee has created a temporary Federal Emergency Energy Administration to be directed by an administrator appointed by the President with the advice and consent of the Senate. In addition to its duties under this Act, the Administration is to exercise the authority provided for in the Emergency Petroleum Allocation Act of 1973 previously reported by this Committee and already enacted into law. In so doing the Committee proposes to parallel and give statutory force to the Federal Energy Office created by executive order of the President on Tuesday, December 4, 1973. It is the understanding of the conferees that the office of Administrator came into existence on the effective date of this Act and that vacancies exist in such offices from the time of their creation until they are filled. Accordingly, Article 2, Section 2, Clause 3 of the Constitution is applicable.

The creation of this new administration to deal with the emergency fuels shortages is proposed on the premise that we must focus authority in a single agency head with decisionmaking responsibility for these programs. This agency is to operate within the Executive Department subject to the supervision of the President. Several trappings of independence, however, are given to the Administrator to assure that he may act consonant with the preeminence of his mission free from certain administrative controls which have been ingrafted on agency actions in the name of administrative efficiency. Thus, the Federal Emergency Energy Administration is relieved of the necessity of obtaining prior OMB clearance for information gathering activities. Also to assure that the administration will have high visibility in government, budget requests and legislative recommendations are to be transmitted to the Congress simultaneously with their submission to the Office of Management and Budget. In so doing the Committee seeks to assure that the Congress will know without question or qualification what the Administrator determines to be his fiscal needs in carrying out his legislative assignment and what additional authority may be required to get the job done effectively and expeditiously.

In addition to the powers under the Emergency Petroleum Allocation Act of 1973 and as may be authorized under this Act, the President has proposed to transfer other functions of the Executive Department to a Federal Energy Administration so as to consolidate energy related activities. The Committee has not attempted and does not propose to transfer these functions in this Act. It is understood that some of these proposed transfers, such as the transfer from the Department of Interior of its Office of Oil and Gas and the Outer Continental Shelf authority, require legislative approval. An appropriate bill has been submitted to the Congress and has been considered by the Government Operations Committees of the House and Senate. On December 19 the Senate passed the Administrations proposed bill to establish an FEA.

The conferees wish to emphasize that the creation of a temporary Federal Emergency Energy Administration under this Act does not remove the necessity of the Congress acting upon the legislation reported by the House and Senate Government Operations Committees. The need for statutory creation of an administrative office within the Executive Branch which consolidates energy policy related functions of government remains real and immediate. This Act provides the basic authority to initiate the establishment of such an administrative office.

SAFEGUARDS AGAINST UNREASONABLE DISCRIMINATION AND UNEQUITABLE TREATMENT

The authorities contained in this legislation and in the Emergency Petroleum Allocation Act of 1973, which it amends, call for a major intrusion into the competitive marketplace by the federal government. In allocating fuels so as to maintain essential services during times of shortage and to assure equitable distribution of supplies throughout the nation, decisions will be made which will impact on all regions of the country and all sectors of the economy. Already significant actions have been taken in some cases on questionable legal authority, which have produced dislocations and distortions in the competitive market which have impacted disproportionately on individual groups of competitors offering similar services. In part, this has been the unavoidable result of attempting to cope with a crisis situation wihout having first developed a decision-making structure which affords government an opportunity to appreciate the full ramifications of its direct and indirect actions. For example, there must be a realization by those in authority that the public good is not served by denying allocations of fuel for certain uses which have the appearance of being nonessential (such as recreational activities or various aspects of general aviation) if to do so would result in significant unemployment and economic recession for some regions of the country. There are, of course, many areas in this nation where recreation and tourism provide the base of the local economy. Careful attention must be given to the needs of these as well as other areas. Moreover, government must equip itself so as to be able to look beyond the immediately affected industry to discover the unforeseen ripple effects of its action on other supportive and relative industry groupings.

Access to adequate supplies of fuels is basic to the survival of virtually every commercial enterprise and, accordingly, government must act with great care to assure that its actions are equitable and do not unreasonably discriminate among users. The Committee has added a separate section to this legislation creating a statutory standard of reasonableness to be observed in the allocation of refined petroleum products and electrical energy among users or in taking actions which result in restrictions on use of such products and electrical energy. The Committee intends the term equitable to be applied in its broadest and most general sense. As such, the term denotes the spirit of fairness, justness, and right dealing. No user or class of users should be called upon during this shortage period to carry an unreasonably disproportionate share of the burden. This is fundamental to the traditional notion of fairness and equal protection. The Committee expects the President and the Administrator of the Federal Emergency Energy Administration created under this Act to assiduously observe these requirements in the conduct of their functions.

The Committee also adopted a section which requires the preparation of an economic impact analysis of any actions it proposes to take to bring supply and demand into balance. Wherever practicable, this analysis is to be completed prior to implementation of the proposed action. If conditions do not permit full advance preparation of the economic impact analysis in acting to deal with emergency conditions, the analysis is to be prepared contemporaneously with implementations of any proposed action between date of enactment and March 1, 1974.

The committee is concerned about the very real threat of the cut off of Canadian fuel to the United States, particularly fuel essential for business and heating purposes. A specific example of such an action is the possibility that the Canadian government may stop supplying fuel to the great Northern Paper and Georgia-Pacific plants in the State of Maine. The following amendment was offered in the conference but was subsequently withdrawn in recognition of the desirability of allowing diplomatic endeavors to be pursued:

"Whenever, as a result of action by the Canadian Resources Board, fuel exports to any manufacturing plant in the United States are interrupted, the Administrator shall make an allocation of fuel to such manufacturing plant in accordance with the provisions of the Emergency Petroleum Allocation Act. Where possible, such allocation shall be from fuel which would otherwise be exported from the United States to Canada."

The committee understands that diplomatic efforts are underway to reverse the actions contemplated by the Canadian government and expresses a strong interest in having all diplomatic avenues pursued vigorously to successfully resolve this and other similar situations.

END USE RATIONING AUTHORITY

The conferees have agreed on provisions which authorize the President to develop and implement an end use rationing plan for crude oil, residual fuel oil and refined petroleum products. This authority is to be exercised under the Emergency Petroleum Allocation Act of 1973 and must be consistent with the attainment of the congressionally stated objectives of that Act. Procedural protections are provided to permit users an opportunity to present views respecting the development of the plan. It is the firm intention of the conferees that end use rationing be implemented as a last resort measure. Accordingly it has been provided in the conference substitute that end use rationing may be implemented only upon a finding that all other practicable and authorized actions are insufficient to assure the preservation of public health, safety, and the public welfare and those other defined objectives set forth in section 4(b) of the Emergency Petroleum Allocation Act. Should the President be able to make such a finding, he is authorized to implement end use rationing without further action of the Congress.

The conferees wish to state their intent that in the development of an end use rationing plan, the President shall give special consideration to the transportation needs of our handicapped Americans. Clearly, if the employment, medical, and therapeutic services of our physically handicapped citizens are interrupted as a result of lack of transportation, a hardship for such individuals will be incalculable in its effects. Moreover, the conferees believe that actions taken under the Emergency Petroleum Allocation Act of 1973 shall, where consistent with the objectives of section 4(b) of that Act, give consideration to providing allocations of petroleum products for the timely completion of Federal construction projects and give consideration to the public welfare needs of meeting the educational or housing requirements of our citizens.

The Conferees also recognize that end-use rationing plans should give consideration to the personal transportation needs of American military personnel re-assigned to other duty stations and of those persons who are required to relocate for employment purposes.

SHORT TITLE

TABLE OF CONTENTS

Senate Bill

The Senate bill provided that it could be cited as the "National Energy Emergency Act of 1973". It had no table of contents.

House Amendment

The House amendment provided that it could be cited as the "Energy Emergency Act".

The House amendment also included a table of contents of the legislation.

Conference Substitute

The conference substitute has the same short title as the House amendment and includes a table of contents.

TABLE I—ENERGY EMERGENCY AUTHORITIES FINDINGS AND PURPOSES—ENERGY EMERGENCY

*Findings*

Senate Bill

Under section 101 of the Senate bill the Congress would make a determination that a shortage of crude oil, residual fuel oil, and refined petroleum products does now exist. In addition, it would make determinations with respect to the effect of those shortages; what steps should be taken with respect thereto; that primary responsibility for developing and enforcing fuel shortage contingency plans lies with the States and certain local governments, and that, during the energy emergency, the protection and fostering of competition and the prevention of anticompetitive practices and effects are vital.

House Amendment

No provision.

#### Conference Substitute

Section 101(a)(1) of the conference substitute is in most respects the same as the Senate bill.

### *Declaration of emergency*

#### Senate Bill

Under Section 201 the Congress would declare that current and imminent fuel shortages have created a nationwide energy emergency.

#### House Amendment

No provision.

#### Conference Substitute

Section 101(a)(2) of the conference substitute states that on the basis of the determinations specified in paragraph (1) thereof the Congress hereby finds that current and imminent fuel shortages have created a nationwide energy emergency.

### *Purposes*

#### Senate Bill

Section 102 of the Senate bill lists the purposes of the legislation. Among the purposes listed are (1) to declare an energy emergency, (2) to direct the President to take action with regard thereto, (3) to provide a national program to conserve scarce energy resources, (4) to minimize the adverse effects of energy shortages on the economy and industrial capacity of the Nation, and (5) to direct the President and State and local governments to develop contingency plans for making specified reductions in energy consumption.

#### House Amendment

Section 101 of the House amendment sets forth the purpose of the legislation which is to (1) call for proposals for measures which could be taken in order to conserve energy, and (2) authorize specific temporary emergency measures to be taken to assure that the Nation's essential needs for fuel will be met in a manner which to the maximum practicable extent meets certain specified objectives.

#### Conference Substitute

Section 101(b) of the conference substitute provides that the purposes of the legislation are to call for proposals for energy emergency rationing and conservation measures and to authorize specific temporary emergency actions to be exercised, subject to congressional review and right of approval or disapproval, to assure that the essential needs of the United States for fuels will be met in a manner which to the fullest extent practicable meets specified objectives.

## DEFINITIONS

#### Senate Bill

No provision.

#### House Amendment

Section 102 defined the terms "State", "petroleum product", "United States" and "Administration" for purposes of the legislation.

"Administrator" is defined to mean the Administrator of the Federal Energy Administration which is established by section 104 of the House amendment. The term is used with that meaning throughout the House amendment segments of this joint statement unless another intent is specifically indicated.

#### Conference substitute

Section 102 of the conference substitute is the same as the House amendment, except that "Administrator" is defined to mean the Administrator of the Federal Energy Emergency Administration which is established by section 103 of the conference substitute. That term will be used with that meaning throughout the conference substitute portions of this joint statement unless another intent is specifically indicated.

## FEDERAL ENERGY EMERGENCY ADMINISTRATION

#### Senate bill

No provision.

#### House amendment

Section 104 would establish a Federal Energy Administration. The Administration would be headed by a Federal Energy Administrator appointed by and with the consent of the Senate who would serve until May 15, 1975. The Administrator would be responsible for the development and implementation of Mandatory Allocation Programs provided for in the Emergency Petroleum Allocation Act of 1973.

Copies of budget estimates and requests, legislative recommendations, testimony, or comments on legislation which are submitted to the President or to the Office of Management and Budget would be concurrently transmitted to the Congress. The Administration would be considered an independent regulatory agency for purposes of the collection of information and as such is exempt from Office of Management and Budget veto of its actions for the collection of necessary information.

#### Conference substitute

Section 103 of the conference substitute establishes until May 15, 1975, unless superseded prior to that date by law a Federal Emergency Energy Administration (FEEA) which shall be temporary and headed by an Administrator who shall be appointed by the President by and with the advice and consent of the Senate.

It is the understanding of the conferees that the office of Administrator comes into existence on the date of enactment of the legislation and that a vacancy exists in such office from the time of its creation until it is filled. Accordingly, Article II, Section 2, Clause 3 of the Constitution is applicable.

Effective on the date on which the Administrator first takes office (or, if later, on January 1, 1974) certain functions, powers, and duties under specified sections of the Emergency Petroleum Allocation Act of 1973 (other than functions vested by section 6 of such Act in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice) are transferred to the Administrator. Personnel, property, records, obligations, and commitments used primarily with respect to functions transferred to the Administrator are also transferred to him.

Whenever the FEEA submits any (1) budget estimate or request, or (2) legislative recommendations or testimony or comments on legislation, to the President or the Office of Management and Budget it must concurrently transmit a copy thereof to the Congress. No officer or agency of the United States may require the FEEA to submit its legislative recommendations or testimony or comments to any officer or agency of the United States for approval, comments, or review prior to the submission thereof to the Congress.

The FEEA shall be an independent regulatory agency for purposes of Chapter 35 of Title 44, United States Code, but not for any other purpose.

## ENERGY CONSERVATION, DISTRIBUTION, AND ALLOCATION PROVISIONS—RATIONING AUTHORITY

#### Senate Bill

### *Energy rationing and conservation program*

Under subsections (a) and (b) of section 203, the President would be required to promulgate a nationwide emergency energy rationing and conservation program within 15 days after enactment of the legislation: Such program would include (1) a priority system and plan, including a program to be implemented without delay for rationing scarce fuels among distributors and consumers, and (2) measures capable of reducing energy consumption in the affected area by no less than 10% within 10 days, and by no less than 25% within 4 weeks after implementation.

### *Fuel distribution plan*

Section 203(c) would require the President within 15 days after enactment of the legislation to determine the fuel needs of the major geographic regions of the United States and to promulgate a plan assuring equitable distribution of available fuel supplies among such regions based on their respective relative needs, including such needs of the States within such regions.

The plan would include allocation of available transport facilities necessary to assure equitable distribution of fuel supplies under the plan.

The fuel distribution plan or plans would be implemented within 30 days after promulgation.

#### House Amendment

### *Energy conservation plans*

Section 105 would require the Administrator, within 30 days after enactment of the legislation and from time to time thereafter, to propose one or more energy conservation plans, as defined, to reduce energy consumption to a level which could be supplied from available energy resources. The plans would be submitted to Congress for appropriate action.

Section 105(b) would require such plans to provide for the maintenance of vital services. Section 105(c) would require that proposed restrictions on the use of energy in such plans to be submitted by the Administrator would be designed, to the maximum extent practicable, to be carried out in a manner which is fair and reasonably distributes the burden on all sectors of the economy. Such restriction should also give due consideration to the needs of commercial, retail, and service establishments with unconventional working hours. Section 105(e) would state that no provision of the Act or the EPAA should be construed as authorizing the imposition of any tax.

### *Amendment to Emergency Petroleum Allocation Act of 1973—EPAA*

Section 103(a) would amend section 4 of the EPAA, relating to mandatory allocation of crude oil, residual fuel oil, and refined petroleum products.

Proposed subsection 4(h) would authorize the President to establish rules for the ordering of priorities among users of petroleum products and to assign to such users rights to obtain petroleum products in preference to those assigned a lower priority. Prior to this ordering of priorities and assignment of rights, the President must find that such action is necessary in order to carry out the objectives of subsection 4(b) of the EPAA. (Subsection 4(b) is the section which defines the provisions which must be fulfilled by the regulation providing for the mandatory allocation of petroleum products.)

In the ordering of priorities among users, the maintenance of vital services would be emphasized.

Allocations of products made pursuant to the proposed subsection would be adjusted by the President as necessary to assure that those entitled to receive allotments would actually obtain such allocated products.

The President would be required to establish procedures whereby users may petition for review, reclassification, and modification of priorities and entitlements assigned in accordance with the subsection. These procedures may include procedures with respect to local boards which could be established under section 109(c) of the legislation.

The President would be authorized to require refineries in the United States to adjust their operations with regard to the proportions of products produced in the refining process. These adjustments would be required as necessary to assure that the proportions produced are consistent with the objectives set forth in section 4(b) of the EPAA.

The definition of "allocation" as used in this subsection would be clarified by stating that it "shall not be construed to exclude the end-use allocation of gasoline to individual consumers". Thus, the President would be authorized to ration gasoline.

Section 103(e) would amend section 4 of the EPAA by adding subsections (l) through (n) thereto providing a procedure for Congressional review and disapproval of any rule issued under section 4(h) (which is discussed above) with respect to end-use allocation which is referred to as an "energy action".

Under the procedure, the President would be required to transmit any energy action to both Houses of the Congress on the same day.

An energy action would take effect at the end of the first period of 15 calendar days of continuous session of the Congress after the date on which the energy action is transmitted, unless either House passed a resolution stating that it did not favor the energy action. A detailed disapproval procedure is set out which would be enacted as an exercise of the rulemaking power of each House of Congress. Any energy action which became effective would be printed in the Federal Register.

Proposed section 4(j) of the EPAA would provide that, notwithstanding any other provision of the EPAA, or of any State or local law regarding fuel allocation, provision will be made for adequate supplies of fuels for:

(a) moves of armed services personnel on orders;

(b) household moves related to employment;

(c) household moves rising from displacement due to unemployment; and

(d) moves due to health, educational opportunities, or other good and sufficient reasons.

### Conference Substitute

### *End-use allocation*

Section 104 of the conference substitute amends section 4 of the Emergency Petroleum Allocation Act of 1973 (EPAA) by adding a new subsection (h).

Under the new subsection the President may promulgate a rule which shall provide, consistent with the objectives of section 4(b) of that Act, an ordering of priorities among users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of rights entitling them to obtain any such oil or product in precedence to other users not similarly entitled.

Such rule shall take effect only if the President finds that, without such rule, all other practicable and authorized methods to limit energy demand will not achieve the objectives of Emergency Petroleum Allocation Act of 1973, and of this Act.

The President shall, by order, in furtherance of such rule cause such adjustments in the allocations made pursuant to the regulation under section 4(b) of the EPAA as may be necessary to provide for the allocation of crude oil, residual fuel oil, or any refined petroleum product as necessary to attain the objectives established for the Allocation Program in the Emergency Petroleum Allocation Act.

The President must provide for procedures by which any user of such oil or product for which priorities and entitlements are established under this new subsection may petition for review and reclassification or modification of any determination made thereunder with respect to his priority or entitlement. Provision is made for the establishment of local boards to administer allocation or rationing programs. In providing for the implementation of rationing the conferees specifically state that no taxing authority, of any type, is granted.

### *Energy conservation regulations*

Under section 105 of the conference substitute, the Administrator may propose one or more energy conservation regulations which shall be designed (together with certain other actions) to result in a reduction of energy consumption to a level which can be supplied by available energy resources. The term "energy conservation regulations" is defined to mean limits, or such other restrictions on the public or private use of energy (including limitations on operating hours of businesses) which are necessary to reduce energy consumption.

An energy conservation regulation—

(1) may not impose any tax or user fee, or provide for a credit or deduction in computing any tax,

(2) may not provide for taking any action of a kind which may not be taken under this legislation, the Emergency Petroleum Allocation Act of 1973, or the Clean Air Act,

(3) shall apply according to its terms in each State except as otherwise provided in the regulation, and

(4) may not deal with more than one logically consistent subject matter.

An energy conservation regulation may be amended or repealed only in accordance with section 105(b), except that technical or clerical amendments may be made in accordance with section 553 of title 5, United States Code.

Subject to provisions relating to Congressional approval or disapproval, a provision of an energy conservation regulation shall remain in effect for a period specified in the plan but may not remain in effect after May 15, 1975.

The term "energy action" is defined to mean an energy conservation regulation or an amendment (other than a technical or clerical amendment) or repeal of such an energy conservation regulation.

The Administrator must transmit any energy action (bearing an identification number) to each House of Congress on the date on which it is promulgated.

If an energy action is transmitted to Congress before March 1, 1974, and provides for an effective date earlier than March 1, 1974, then such action shall take effect on the date provided in the action; but if either House, before the end of the first period of 15 calendar days of continuous session of Congress after the date on which the plan is transmitted to it, passes a resolution stating in substance that that House does not favor the energy action, such action shall cease to be effective on the date of passage of such resolution.

If an energy action is transmitted to Congress and provides for an effective date on or after March 1, 1974 and before July 1, 1974, such action shall take effect in most cases at the end of the first period of 15 calendar days of continuous session of Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that that House does not favor the energy action.

A plan proposed to be made effective on or after July 1, 1974, shall take effect only if approved by Congress by law.

In carrying out the provisions of this legislation, the Administrator must, to the greatest extent practicable, evaluate the potential economic impacts of proposed regulatory and other actions. This would include but not be limited to the preparation of an analysis of the effect of such actions on certain entities and other things which are enumerated.

The Administrator must also develop analyses of the economic impact of various conservation measures on States or significant sectors thereof, considering the impact on both energy for fuel and energy as feed stock for industry. Such analysis shall, wherever possible, be made explicit and to the extent practicable other Federal agencies and agencies of State and local governments which have special knowledge and expertise relevant to the impact of proposed regulatory or other actions shall be consulted in making the analysis, and all Federal agencies shall cooperate with the Administrator in preparing such analyses.

The Administrator, together with the Secretaries of Labor and Commerce, must monitor the economic impact of any energy actions taken by the Administrator, and must provide the Congress with separate reports every thirty days on the impact of the energy shortage and such emergency actions on employment and the economy.

### COAL CONVERSION AND ALLOCATION

### Senate Bill

Section 204(a) would authorize the President to require that any major fossil fuel burning installation (including existing electric generating plants) which has the ready capability and necessary plant equipment to burn coal or other fuels, convert to burning coal or other fuels as its primary energy source. Any installation so converted could be permitted to use such fuel for more than one year, subject to the provisions of the Clean Air Act. To the extent practicable, plant conversions would first be required where the use of coal would have the least adverse environmental impact. Such conversions would be contingent on the availability of coal and reliability of service.

The President would require that fossil fuel fired electrical powerplants now being planned be designed and constructed so as to have capability of rapid conversion to burn coal.

The President could require that certain fossil fuel fired baseload powerplants (other than combustion turbine and combined cycle units) now being planned be designed and constructed so to be capable of rapid conversion to burn coal.

### House Amendment

The provisions of section 106 of the House amendment are in most respects the same as in the Senate bill with the following exceptions:

(1) Under the House amendment the powers and duties are vested in the Administrator of the Federal Energy Administration rather than the President.

(2) Any installation limited to burning coal as its primary energy source under the legislation or which converted to the use of coal after beginning such conversion within 90 days before the effective date of the legislation could continue to use coal until January 1, 1980, if the Administrator of the EPA approves a plan submitted by the operator of such installation after notice to interested persons and opportunity for presentation of views. The plan would have to meet requirements spelled out in section 106 (b)(1).

(3) The Administrator of EPA or a State or local agency could, after notice to interested persons and an opportunity for presentations of views, (A) prohibit any such installation from using coal if it determines that such use is likely to materially contribute to a significant risk to public health, or (B) require any such installation to use a particular type and grade of coal if such coal is available.

(4) The Administrator would be authorized to prescribe a system for allocation of coal.

### Conference Substitute

Section 106 of the conference substitute provides that the Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this legislation, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this legislation, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies is permitted to continue to use coal as provided in section 119(b) of the Clean Air Act. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact. A prohibition on use of natural gas and petroleum products hereunder is contingent upon the availability of coal, transportation facilities, and the maintenance of reliability of service in a given service area.

The administrator must require that fossil-fuel-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant is required to be so designed and constructed, if (1) to do so would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether to impose a design or construction requirement, the Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the capability of the owner or operator to recover any capital investment made as a result of the conversion requirements of this section.

The Administrator is authorized by rule to prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in this section.

### MATERIALS ALLOCATION

#### Senate Bill

The first paragraph of section 313 would authorize the President to allocate supplies of materials, equipment, and fuel associated with exploration, production, refining, and required transportation of energy supplies to maintain and increase the production of coal, crude oil, natural gas, and other fuels.

Under section 606 the President would be authorized to allocate residual fuel oil and refined petroleum products for the maintenance of exploration for, and production or extraction and processing of, minerals, and for transportation related thereto.

#### House Amendment

Section 103(b) would amend section 4(b) of the EPAA to provide for such allocation for maintenance of exploration for, and production or extraction of fuels and minerals essential to the requirements of the United States, and for required transportation related thereto.

Section 210 would allow the formulation of rules to provide the necessary fuels for all operations of any project or enterprise authorized by the Federal Government.

#### Conference Substitute

Under section 107(a) of the conference substitute, the Administrator must within 30 days after enactment of the legislation propose and publish a contingency plan for allocation of supplies of materials and equipment necessary for exploration, production, refining, and required transportation of energy supplies and for the construction and maintenance of energy facilities. When he finds it necessary to put all or part of the plan into effect, he must transmit the plan or portion thereof to Congress and such plan or portion thereof shall take effect in the same manner as an energy conservation plan prescribed under section 105.

Section 107(b) of the conference substitute is the same as section 103(b) of the House amendment which is described above.

### FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES

#### Senate Bill

Section 207 would authorize the President—

(a) to require that existing domestic oil fields produce at their maximum efficient rate (MER). MER is a level of production fixed by State agency regulation at which it is estimated that production can be sustained without detriment to the ultimate recovery;

(b) to require certain designated oilfields, on lands in which there is a Federal interest, to produce in excess of their maximum efficient rate. Such fields would be those in which production in excess of their currently assigned maximum efficient rate would not result in excessive risk of losses of recovery;

(c) to require adjustment of product mix in domestic refinery operations, in accordance with national needs and priorities; and

(d) to order acceleration of oil and gas leasing programs, both onshore and offshore, and for geothermal leasing. Such an accelerated program would be subject to the provisions of all existing laws, including the National Environmental Policy Act.

#### House Amendment

Section 103(a) would add a new section 4(h)(4) to the EPAA which would vest the President with the same authority with respect to refineries as provided in section 207(c) of the Senate bill.

Section 103(a) would also add new section 4(i) to the EPAA. This new section would authorize the President to require the production of crude oil at the MER. He would consult with the Department of the Interior and with State governments in order to determine which producers shall be so required. The MER would be as determined by the State in which the field is located. However, after consultation with such State or with the Department of the Interior, the President may set a higher rate if he determines that in doing so the ultimate recovery of crude oil and natural gas is not unreasonably impaired.

Existing and future development plans for the production of crude oil on Federal lands would include or be amended to include provisions for the secondary recovery and, insofar as possible, the tertiary recovery of crude oil before the well was abandoned.

#### Conference Substitute

Section 108(a) of the conference substitute is substantially the same as the provisions of the Senate bill described above, except that section 108 vests the authority in the Administrator of FEEA rather than the President, and the provisions for accelerated leasing programs are not included.

Section 108(b) of the conference substitute provides that nothing in this section shall be construed to authorize the production of any Naval Petroleum Reserve now subject to chapter 641 of title 10 of the U.S.C.

### OTHER AMENDMENT TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973

#### Senate Bill

No provision.

#### House Amendment

Section 103(a) of the House amendment would have added a new subsection (l) to section 4 of the Emergency Petroleum Allocation Act. Such new subsection would require that, if any allocation of residual fuel oil or refined petroleum products under section 4(a) of the EPAA is based on the amount used or supplied during a historical period, adjustments could be made reflecting regional disparities in use, or unusual factors influencing use, in the historical period. This subsection would take effect 30 days after enactment of the legislation.

Section 103(c) would amend section 4(c)(3) of the EPAA to direct the President, when requiring adjustments in allocations, to take into account lessened use of crude oil, residual fuel oil, and defined petroleum products prior to enactment as a result of unusual regional climatic variations.

Section 103(d) would amend section 4(g)(1) of the EPAA to change the termination date in each case to May 15, 1975.

#### Conference Substitute

Section 109 of the conference substitute is the same as the House amendment, except that—

(1) the new subsection which would be added to section 4 of the EPAA would be designated as subsection (l),

(2) population growth and unusual changes in climatic conditions are added as factors on which adjustments under the subsection can be based, and such adjustments to reflect population growth will be based on the most current figures available from the Bureau of the Census, and

(3) a specific provision has been added so that adjustments under the subsection shall take effect no later than 6 months after the date of enactment of the legislation.

(4) the amendment to section 4(c)(3) is omitted.

### PROHIBITION ON WINDFALL PROFITS—PRICE GOUGING

#### Senate Bill

No provision.

#### House Amendment

Section 117 would amend section 4 of the Emergency Petroleum Allocation Act of 1973 by adding a new subsection to prevent price gouging with respect to sales of crude oil, residual fuel oil, refined petroleum products, and *coal*, including sales of diesel fuel to motor common carriers. The amendment would direct the President to use authority under the Act and under the Economic Stabilization Act of 1970, to specify prices for sales of crude oil, refined petroleum products, residual fuel oil, produced in or imported into the United States, which avoid windfall profits by sellers.

Any interested person who had reason to believe that established prices allowed windfall profits could petition the Renegotiation Board for a determination by rule of the existence of such profits and for their recovery. The seller would be afforded a hearing in accordance with the procedures required by section 554 of title 5, United States Code. Upon final determination that such price permitted windfall profits, the Board would order the seller to refund an equivalent amount to those affected purchasers reasonably ascertainable. The Board could order a reduction in price for future sales of such item or take other appropriate action. The Board's final determination is subject to judicial review.

The term "windfall profits" would be specifically defined in paragraphs (6) and (7). Such profits would refer only to profits earned during the period beginning with the enactment of the Act and ending on the date of its expiration. Actions to determine or recover windfall profits must be brought within one year of the Act's expiration.

#### Conference Substitute

Section 110 of the conference substitute is the same as the House amendment, except that—

(1) The section is no longer an amendment to the Emergency Petroleun. Allocation Act.

(2) A new subsection 110(a)(10) has been added which provides that no provision of this section 110 in its entirety shall take effect prior to January 1, 1975. When section 110 does take effect on January 1, 1975, it shall apply to profits attributable to prices

charged after December 31, 1973 for crude, residual oil and refined petroleum products.

(3) A new and separate section 129 has been added to the conference substitute which requires the President to set prices for crude oil, residual fuel oil and refined petroleum products which avoid windfall profits. That term "windfall profits" is separately defined in that subsection to mean profits which are excessive or unreasonable levels. The new section 129 shall be in effect taking into consideration normal profit only until December 31, 1974.

### PROTECTION OF FRANCHISED DEALERS

#### Senate Bill

Section 607 would provide for protection of franchised dealers. The term "franchise" would mean any agreement or contract between a refiner or a distributor and a retailer or between a refiner and a distributor, as these terms were defined by the section. A refiner or distributor was prohibited from terminating a franchise unless he furnished prior notification to each affected distributor or retailer in writing by certified mail not less than 90 days prior to the date on which such franchise would be cancelled. Such notification must contain a statement of intention to terminate with the reasons therefor, the date on which such action would take effect, and a statement of the remedy or remedies available to such distributor or retailer. This franchise could not be terminated by the refiner or distributor unless the affected retailer or distributor failed to comply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out its terms, or unless such refiner or distributor withdrew entirely from the sale of petroleum products in commerce for sale other than resale in the United States.

A retailer with a franchise agreement could bring suit against a distributor or refiner whose actions affected commerce and who has engaged in conduct prohibited by this section. Similarly, a distributor could bring suit against a refiner. Such suits could be brought in a United States district court if commenced within three years after the cancellation, failure to renew, or termination of a franchise. The district court was empowered to grant the necessary equitable relief including declaratory judgment and injunctive relief. The court could grant an award for actual and punitive damages as well as reasonable attorney and expert witness fees.

#### House Amendment

Section 113 amended the Emergency Petroleum Allocation Act of 1973 to provide for fair marketing of petroleum products. Certain terms were defined, including "commerce" to mean commerce between a state and a point outside such state; "marketing agreement" to mean a specified portion of an agreement or contract between a refiner and a branded independent marketer.

The notice and termination requirements would be the same as those in the Senate bill except that termination could not be made for withdrawal from the market unless the refiner did not for three years after termination engage in the sale of petroleum products in the same relevant market area within which the terminated marketer operated. Another difference required a terminated marketer to bring suit in district court against a refiner within four years after the date of termination of such marketing agreement.

#### Conference Substitute

Section 111 of the conference substitute is the same as the Senate bill, except that—

(1) the terms "distributor", "refiner" and "retailer" are defined in terms of a *person* engaged in certain acts, rather than in terms of an *oil company* engaged in certain acts as in the Senate bill, and

(2) in the case of an action for failure to renew a franchise, damages would be limited to actual damages including the value of the dealer's equity.

### PROHIBITING OF UNREASONABLE ACTIONS

#### Senate Bill

No provision.

#### House Amendment

Section 115 provides that actions taken under the legislation, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in allocation or restriction on the use of refined petroleum products and electrical energy must be equitable and not arbitrary or capricious or unreasonably discriminate among users.

In the case of allocations of petroleum products applicable to foreign commerce no foreign entity would receive more favorable treatment than that which is accorded by its home country to U.S. citizens in the same line of commerce. Allocations would include provisions designed to foster reciprocal and nondiscriminatory treatment by foreign countries of U.S. citizens engaged in foreign commerce.

Section 105(c) would provide that, to the maximum extent practicable, restrictions on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden on all sectors of the economy, without imposing an unreasonably disproportionate share on any specific industry, business, or commercial enterprise, and shall give due consideration to the needs of commercial, retail, and service establishments with unconventional working hours.

#### Conference substitute

Section 112 of the conference substitute is the same as the House amendment except that section 112(a) refers to allocation of petroleum products and electrical energy among classes of users. Section 112(b) incorporates the provisions of section 105(c) of the House amendment, without the specification that the normal function of commercial, retail, and service establishments must be to supply goods and services of an essential nature.

### REGULATED CARRIERS

#### Senate Bill

Under section 204(b)(1), the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission with respect to certain carriers which they regulate could make reasonable and necessary adjustments in the operating authority of such carriers in order to conserve fuel.

Section 204(b)(2) would require each of these agencies to report to the appropriate Committees of Congress within 15 days after enactment of the legislation on the need for additional regulatory authority to conserve fuel.

#### House Amendment

Sections 107(a) and 107(d) of the House amendment are substantially the same as the provisions of the Senate bill described above, except that the reports of the ICC, CAB, and FMC would not have to be submitted until 60 days after the date of enactment of the legislation.

In addition, section 107(b) would require the ICC to eliminate restrictions on the operating authority of any motor common carrier of property which require excessive travel between points. This would be done without disrupting essential service to communities served by any such carrier.

Section 107(c) would require the ICC to adopt rules which contribute to conserving energy by eliminating discrimination against the shipment of recyclable materials in rate structures and Commission practices.

#### Conference Substitute

Section 113 of the conference substitute is the same as the House amendment with two exceptions. The reports of the ICC, CAB, and FMC must be submitted within 45 days after enactment and section 107(c) of the House amendment is deleted.

### ANTITRUST LAWS

#### Senate Bill

Under section 314, the President would develop plans of action and could authorize voluntary agreements which are necessary to achieve the purposes of the legislation. In addition, the President could provide for the establishment of interagency committees and advisory committees.

Advisory committees would be subject to the Federal Advisory Committee Act of 1972 and would be chaired by a regular full-time Federal employee.

An appropriate representative of the Federal Government would attend each meeting of any advisory committee or interagency committee established under the legislation. The Attorney General and the Federal Trade Commission would be given advance notice of any meeting and could have an official representative attend and participate in any such meeting.

A verbatim transcript would be kept of all advisory committee meetings, and subject to existing law concerning the national security and proprietary information, would be deposited together with any agreement resulting therefrom with the Attorney General and the Federal Trade Commission. The transcript would be available for public inspection.

The Attorney General and the Federal Trade Commission would participate in the preparation of any plans of action or voluntary agreement and could propose any alternative which would avoid, to the greatest extent practicable, any anticompetitive effects while achieving the purposes of the legislation. They would also review, amend, modify, disapprove or prospectively revoke any plan of action or voluntary agreement which they determined was contrary to the purposes of section 314 or not necessary to achieve the purposes of the legislation.

If necessary to achieve the purposes of the legislation, owners, directors, officers, agents, employees, or representatives of two or more persons engaged in the business of producing, transporting, refining, marketing, or distributing crude oil or any petroleum product would meet, confer, or communicate in accordance with the provisions of section 314 and solely to achieve the objectives of the legislation. In those instances, such persons would have a defense against any civil or criminal action brought under the antitrust laws.

The Attorney General would be granted authority to exempt certain meetings, conferences, or communications from being chaired by a regular full-time Federal employee or from the requirement that a verbatim transcript be kept, deposited with the Attorney General and Federal Trade Commission and made available for public inspection.

The President could delegate the functions of developing plans of action, authorizing voluntary agreements, and providing for the establishment of interagency committees and advisory committees.

Section 708 of the Defense Production Act of 1950 would not apply to any action taken under this legislation or the Emergency Petroleum Allocation Act of 1973. The provisions of section 314 would apply to the latter Act, notwithstanding any inconsistent provisions of section 6(c) thereof.

There would be a defense available to any civil or criminal action brought under the antitrust laws arising from any course of action, meeting, conference, communication or agreement which was held or made in compliance with the provision of this section.

The Attorney General and the Federal Trade Commission would be responsible for monitoring any plan of action, voluntary agreement, regulation, or order approved under section 314 to prevent anticompetitive practices and promote competition.

The Attorney General and the Federal Trade Commission would promulgate joint regulations concerning maintenance of documents, minutes, transcripts, and other records relating to the implementation of any plan of action, voluntary agreement, regulation, or order approved under the legislation. Persons involved in any such implementation would be required to maintain the record required by any such joint regulation and make them available for inspection by the Attorney General and the Federal Trade Commission at reasonable times on reasonable notice.

Actions taken by the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission under section 204(b)(1) would not have as their principal purpose or effect the substantial lessening of competition among the carriers affected. Actions taken under that section would be taken only after providing an opportunity for participation to the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division.

### House Amendment

The provisions of section 120 are similar to the provisions in the Senate bill described immediately above. However, the following differences should be noted:

The House version vests various powers and duties in the Administrator of the Federal Energy Administration. In the Senate version powers and duties were vested in the President.

The House version requires that advisory committees include representatives of the public and be open to the public.

The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission would by rule promulgate standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil, or any refined petroleum product could develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives of section 4(b) of the EPAA. Such standards and procedures would be promulgated under the section 553 of title 5, United States Code. Several standards and procedures are set forth and required by the legislation.

The Federal Trade Commission instead of the Attorney General could exempt types or classes of meetings, conferences, or communications from the requirement that a verbatim transcript be kept and deposited with the Attorney General and Federal Trade Commission and made available for public inspection and copying.

Any voluntary agreement or plan of action entered into under the section would have to be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented and would be available for public inspection and copying.

The Attorney General and the Federal Trade Commission could each prescribe rules and regulations necessary or appropriate to carry out their responsibilities under the legislation.

The Attorney General and the Federal Trade Commission would each submit to the Congress and the President at least once every 6 months a report on the impact on completion and on small business of actions authorized by section 120.

The authority granted under section 120 and any immunity from the antitrust laws thereunder would terminate on December 31, 1974.

### *Retail and service establishments—Voluntary energy conservation agreements*

Section 114 of the House amendment would provide that within fifteen days of enactment of the legislation, the Administrator, in consultation with the Attorney General and the Federal Trade Commission, would promulgate standards and procedures for retail or service establishments to enter into voluntary agreements to limit operating hours, adjust retail-store delivery schedules and take such other action as the Administrator, after consultation with the Attorney General and the Federal Trade Commission, determines to be necessary and appropriate to accomplish the objectives of this Act.

Such standards and procedures would be promulgated pursuant to section 553 of title 5 of the United States Code. Among these standards and procedures would be provision for the filing of a copy of any agreement with the Attorney General and the Federal Trade Commission, which would be available for public inspection. Meetings held to develop and implement a voluntary agreement could be attended by interested persons, who would be afforded opportunity to make oral and written presentations, and such meetings shall be preceded by timely notice to the Attorney General, the Federal Trade Commission and be available for public in the affected community. A summary of such meeting, along with any written presentation of interested persons, would be submitted to the Attorney General and the Federal Trade Commission and be available for public inspection. Actions in good faith which are taken by firms in conformity with this section to develop and implement voluntary energy conservation agreements shall not be construed to be within the prohibitions of the antitrust laws of the United States, the Federal Trade Commission Act or similar State statutes.

Any voluntary agreement entered into under this section would be submitted to the Attorney General 10 days before being implemented. The Attorney General at any time on his own motion or upon request of any interested person could disapprove any voluntary agreement under section 114 and thereby withdraw prospectively any immunity from the antitrust laws.

No voluntary agreement under this section would pertain to activities relating to marketing and distribution of crude oil, residual fuel oil or refined petroleum products, which are matters dealt with under section 120. Also, this section is limited to those voluntary agreements in which all members have 75 per cent of their annual sales not for resale and recognized as retail in the particular industry, as determined by the Attorney General.

The Attorney General and the Federal Trade Commission would be required to submit to Congress and the President at least once every six months a report on the impact on competition and on small business of agreements authorized by this section.

### Conference Substitute

Section 114 of the conference substitute is the same as section 120 of the House amendment, except that the authority granted and any immunity from the antitrust laws thereunder would terminate on May 15, 1975.

## EXPORTS

### Senate Bill

Subsection (e) of section 207 authorized the President to limit the export of gasoline, number 2 fuel oil, residual fuel oil, or any other petroleum product, pursuant to the Export Administration Act of 1969, to achieve the purposes of the Act.

### House Amendment

To the extent necessary to carry out the purposes of the Act, section 123 authorized the Administrator by rule to restrict exports of coal, petroleum products, and petrochemical feedstocks, under such terms as he deems appropriate. He must restrict exports of such commodities if the Secretary of Commerce or the Secretary of Labor certified that such exports would contribute to unemployment in the United States. The Administrator could use, but was not limited to, existing statutes such as the Export Administration Act of 1969. Rules should take into account the historical trading relations with Canada and Mexico and should not be inconsistent with section 4(b) and (d) of the Environmental Protection Agency Act.

### Conference Substitute

Section 115 of the conference substitute follows the provisions of the House amendment. The authority of the Administrator to set appropriate terms for the restriction of exports of coal, petroleum products, and petrochemical feedstocks and the requirement that he do so upon certification by the Secretary of Commerce or the Secretary of Labor is the same as in section 123 of the House amendment.

In addition, the Secretary of Commerce, pursuant to the Export Administration Act of 1969 may restrict the exports of coal, petroleum products, and petrochemical feedstocks, and of materials and equipment essential to the production, transport, or processing of fuels to the extent necessary to carry out the purpose of this legislation and sections 4(b) and 4(d) of the Emergency Petroleum Allocation Act of 1973. If the Administrator certifies to the Secretary of Commerce that export restrictions of such commodities are necessary to carry out the purposes of this legislation, the Secretary of Commerce shall impose such export restrictions. The requirements for rules in the House amendment are also applied to actions taken by the Secretary of Commerce under the Export Administration Act of 1969.

The Committee has confined the export control authority to petrochemical feedstocks, coal, and petroleum products which are subject to allocation under the Emergency Petroleum Allocation Act of 1973. In using the term "petrochemical feedstocks" the Committee intends to identify the basic hydrocarbon derivatives of crude oil such as propane, butane, naphtha, olefins such as ethylene and propylene, aromatics such as benzene, toulene and the xylenes, extender oil used in the manufacture of rubber, and aromatic oils used in the manufacture of carbon black.

The Committee has vested separate authority in both the Administrator and the Secretary of Commerce (in connection with the administration of the Export Administration Act). This will insure that the essential needs of American consumers will be met and that private enterprises will not be permitted to export energy in a manner not in accord with the national interest.

## EMPLOYMENT IMPACT AND WORKER ASSISTANCE

### Senate Bill

Section 208 would direct the President to take into consideration and minimize, to the fullest extent practicable, any adverse impact of actions taken under this Act upon employment. All government agencies would be directed to cooperate fully to minimize any such adverse impact.

Section 501 would direct the President to make grants to states to provide unemployment assistance to individuals as he deemed appropriate during the individual's unemployment. The individual must be not otherwise eligible for unemployment compensation or have exhausted his eligibility for it. There is a two-year limitation on the eligibility for such assistance and a limitation on the amount.

This section would also authorize the President to prescribe terms and conditions for the distribution of food stamps through the Secretary of Agriculture pursuant to the provisions of the Food Stamp Act of 1964, as amended, for so long as he determined necessary. The Secretary of Labor would be directed to provide reemployment assistance services under other laws to any unemployed individual, including assistance to relocate in another area where employment was available.

The President would be directed, acting through the Small Business Administration, to make loans to aid in financing domestic projects required by the Administration for administration or enforcement of the Act for approved private and public applicants. The President would determine the terms and conditions of such financial assistance subject to stated exceptions.

The authorization of such appropriations as might be necessary to carry out the provisions of this section would be included. The Secretary of Labor must report to Congress on the implementation of this section no later than six months after enactment and annually thereafter. The report must include an estimate of the funds necessary in each of the succeeding three years.

#### House Amendment

Section 122 included provisions very similar to those in the Senate bill except that the distribution of food stamps and reemployment assistance and Small Business loans would not be provided for. Also, the President was required to report to Congress within 60 days of enactment on the present and prospective impact of energy shortages upon employment, the adequacy of existing programs to deal with such impact, and recommendations for legislation needed to adequately meet the needs of adversely affected workers.

#### Conference Substitute

Section 116 of the conference substitute is the same as the House amendment, except that the provision for authorization of appropriations is deleted.

In adopting this provision, the Conferees expressed the serious concern that a broad interpretation of this section could result in massive Federal expenditures beyond those intended by this provision. The Conferees therefore wish to make it clear that this section is intended to apply only to those persons directly unemployed as a result of the implementation of any of the authority provided for in this Act.

The authorization is limited to $500,000,000 for the remainder of fiscal year 1974. Funds for this purpose must, of course, be appropriated by the Congress.

The Committee intends that at a time when the American people are being called upon to make sacrifices and share the burden of the energy shortage the Federal government should provide a program of unemployment assistance to State government that is adequate to cover essential human needs.

### USE OF CARPOOLS AND GOVERNMENT MOTOR VEHICLES

#### Senate Bill

Section 605 directs the Secretary of Transportation to encourage the creation and expansion of the use of carpools and to establish within DOT an Office of Carpool Promotion and authorizes an appropriation of $25,000,000 for the conduct of programs to promote carpools. Appropriated funds would be allocated to State and local governments in fixed proportions to carry out the promotion of carpooling. The Secretary would make a report to the Congress within one year after enactment of the legislation on his activities and expenditures under section 605.

Section 603 would generally preclude the use of funds for passenger motor vehicles or to pay the salaries of drivers of such vehicles unless they are operated out of carpools.

This would not apply to vehicles for the use of the President and one each for the Chief Justice, members of the President's Cabinet, and the elected leaders of Congress, or to vehicles operated to provide regularly scheduled service on a fixed route.

#### House Amendment

Section 116(a)–(f) of the House amendment is generally the same as the provisions of section 605 of the Senate bill with respect to carpools, except that only $1 million is authorized to carry out the provisions of the section. Section 116(g) would define local governments and local units of government.

The President under section 116(h) would be required to take action to require all agencies of the Government, where practicable, to use economy model motor vehicles.

Section 116(h) would also specify the number of "fuel inefficient" motor vehicles which could be purchased for the Federal Government in fiscal years 1975 and 1976.

Section 116(i) would direct the President to take action to prevent with specified exceptions any officer or employee in the Executive Branch below the rank of Cabinet officer from being furnished a limousine for his individual use.

#### Conference Substitute

Section 117(a) through (h) of the conference substitute is the same as section 116(a) through (h) of the House amendment with two exceptions. The sum of $5 million, not $1 million, is authorized to be appropriated for the conduct of programs to promote carpools, such authorization to remain available for two years. Also, the provisions in section 116(h) of the House amendment on government motor vehicles specifying the number of "fuel inefficient" motor vehicles which could be purchased has been deleted

### ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

#### Senate Bill

Section 311(a) would waive the more time-consuming procedures of the Administrative Procedure Act, notably the requirements of adjudicatory hearings according to section 554 of title 5, United States Code, which could otherwise apply to functions exercised under the Act. However, the requirements of sections 552, 553 (as modified by section 311(b) of the Act), 555 (c) and (e), and 702 would apply to such functions.

Section 311(b) would require that all rules, regulations, or orders promulgated pursuant to the Act be subject to the provisions of section 553 of title 5, United States Code, with the following exceptions: (1) Notice and opportunity to comment (a minimum of five days) by publication in the Federal Register of all proposed general rules, regulations or orders (this requirement could be waived upon a finding that strict compliance would cause grievous injury); (2) public notice of State rules, regulations, or orders promulgated pursuant to section 203 of the Act by widespread publication in newspapers of statewide circulation, and (3) public hearings on those rules, regulations, or orders issued by authorized agencies and determined to have substantial impact, to be held prior to implementation to the maximum extent practicable and no later than sixty days following implementation.

Section 311(c)(1) would require, in addition to the requirements of section 552 of title 5, United States Code, any agency authorized to issue rules or orders to make available to the public all internal rules and guidelines upon which they are based, modified as necessary to insure confidentiality protected under such section 552. Such agency must publish written opinions on any grant or denial of a petition requesting exemption or exception within thirty days with appropriate modifications to insure confidentiality.

Authorized agencies would also be required to make adjustments to prevent hardships and establish procedures available to any person making appropriate requests.

Section 311(d) would require the President's proposals submitted pursuant to section 301 of the Act to include findings of fact and explanation of the rationale for each provision, proposed procedures for the removal of restrictions imposed, and a schedule for implementing the provisions of section 552 of title 5, United States Code.

Section 312 contained judicial review provisions. National programs required by the Act and regulations establishing such national programs could be challenged only in the United States Court of Appeals for the District of Columbia within 30 days of the promulgation of the regulations. Programs and regulations of general, not national, applicability (to a State, or several States, or portions thereof) could be challenged only in the United States Court of Appeals for the appropriate circuit within 30 days of promulgation. Otherwise, the United States district courts would have original jurisdiction of all other litigation arising under the Act.

However, this section would not apply to actions taken under the act by the Civil Aeronautics Board, the Interstate Commerce Commission, the Federal Power Commission, or the Federal Maritime Commission. The judicial review provisions in their respective organic acts would apply for the sake of uniformity.

#### House Amendment

Section 109(a) would provide for the streamlining of administrative procedures for actions taken pursuant to this Act and the Emergency Petroleum Allocation Act, including the formulation of energy conservation plans.

Actions taken under title I of the bill and under the allocation exchange authority in section 205 would be subject to special administrative procedure and judicial review provisions. Section 109 would provide expedited administrative procedures for Federal actions. These same procedures would also apply to State actions unless the Federal Energy Administrator specified different but comparable procedures for the State. Included among the procedures are publication and notice and an opportunity for comment on agency rules and orders. All rules and orders issued by Federal and State agencies both under title I and under the new subsections (h) and (i) of section 4 of the Emergency Petroleum Allocation Act would be required to include provisions for making adjustments in hardship cases.

Section 109(b) would provide judicial review of rules issued under these provisions in the Temporary Emergency Court of Appeals which was created under the Economic Stabilization Act. Orders issued in individual cases would be reviewed first in the United States district court and then in the Temporary Emergency Court of Appeals.

Section 109(c) would authorize the Administrator to prescribe by rule procedures for State or local boards carrying out functions under the Act or the Emergency Petroleum Allocation Act. Such procedures would apply in lieu of those in section 109(a) and would require notice to affected persons and an opportunity for presentation of views. Such boards must be of balanced composition reflecting the makeup of the community as a whole.

The bill would not alter the judicial review provisions of the Clean Air Act. These would continue to apply to actions taken by the Administrator of EPA under that Act, including the amendments made to that Act by the Energy Emergency Act.

#### Conference Substitute

Section 118 of the conference substitute incorporated provisions of both the Senate bill and the House amendment. The administrative procedures of section 118(a) are the same as the streamlined administrative procedures of section 109(a) of the House amendment, with the addition of section 311 (c)(1) of the Senate bill as section 118(a) (5) of the conference substitute.

Section 118(b) on judicial review is the same as section 312 of the Senate bill, except that any actions taken by any State or local officer who has been delegated authority under section 122 of the conference substitute would be subject either to district court jurisdiction or to appropriate State courts.

### PROHIBITED ACTS

#### Senate Bill

No provision.

#### House Amendment

Section 110 stated that the following acts would be prohibited under the Act: (1) to deny full fillups of diesel fuel to trucks, unless a rationing program is in effect which restricts such full fillups to trucks or if the diesel fuel is not available for sale; (2) to violate any order concerning the use of coal as a primary energy source pursuant to section 106; (3) to violate export restrictions established under section 123; (4) to violate any order of the Renegotiation Board issued pursuant to its authority under section 117.

#### Conference Substitute

Section 119 of the conference substitute makes it unlawful for any person to violate any provision of Title I of this legislation (except provisions making amendments to the Emergency Petroleum Allocation Act and section 113) or to violate any rule, regulation (including an energy conservation plan), or order issued pursuant to such provisions.

### ENFORCEMENT

#### Senate Bill

Section 306 provided for application by the Attorney General to the appropriate United States district court to restrain violation of the Act or regulations or orders issued thereunder by issuing a temporary restraining order, preliminary or permanent injunction.

Section 307 provided for a criminal penalty of not more than $5,000 for each willful violation of any order or regulation issued pursuant to the Act and a civil penalty of not more than $2,500 for each day of each violation of any order or regulation issued pursuant to the Act. In addition, subsection (c) made it unlawful to sell or distribute in commerce any product or commodity in violation of an applicable order or regulation. Any person who knowingly and willfully, after having been subjected to a civil penalty for a prior violation of any order or regulation violated the same provision of that order or regulation would be fined not more than $50,000 or imprisoned not more than six months, or both.

#### House Amendment

Section III provided for fines up to $5,000 for each willful criminal violation of the Act, and civil penalties up to $2,500 for each violation of any provision of a prohibited act.

The Attorney General was authorized by this section to obtain temporary restraining orders or preliminary injunctions against actual or impending violations of this Act. It also provided for the private injunction actions.

#### Conference Substitute

Section 120 of the conference substitute is the same as the House amendment. In addition, the provisions of subsection (c) of section 307 of the Senate bill are included.

### USE OF FEDERAL FACILITIES

#### Senate Bill

Section 305 would provide for the use of surplus government equipment or facilities, whenever practicable and to facilitate the transportation and storage of fuel, by domestic public entities and private industries for the duration of the emergency. Arrangements for such use with Federal agencies or departments must be made at fair market prices and only if such facilities or equipment would be needed, otherwise unavailable, and not required by the Federal government.

#### House Amendment

No provision.

#### Conference Substitute

Section 121 of the conference substitute is the same as the Senate bill, except that such government equipment or facilities must also be appropriate to the transportation and storage of fuel and can be acquired as well as used by domestic public entities and private industries. The use of federal facilities is authorized during the period beginning on the date of enactment and ending May 15, 1975.

This provision was adopted by the conferees primarily for the purpose of freeing for use tankers now being kept in "mothballs" by the Armed Services. Such tankers, largely left over from World War II could be used by private carriers for storing oil or for transporting oil in coastwise trade where the Jones Act would otherwise prohibit the use of foreign tankers. It was the express intent of the conferees that any use of such surplus Federal equipment would not put the Federal government in the transportation business. The Navy, for example, would not be required to operate any tankers used for private shipment of oil.

### DELEGATION OF AUTHORITY AND EFFECT ON STATE LAWS

#### Senate Bill

Section 304 would provide that only State laws or programs which are inconsistent with this legislation would be superseded by it.

#### House Amendment

Section 108 would permit the Administrator to delegate all or any of his functions under the Act or the EPAA to any officer or employee of the Federal Energy Administration. He could also delegate any of his functions relative to implementation of regulations and energy conservation plans under either of such Acts to State officers or State and local boards of balanced composition. This section would also repeal section 5(b) of the EPAA, effective on the date of transfer of functions under such Act to the Administrator.

#### Conference Substitute

Subscetion (b) is the same as the Senate bill, except that a technical amendment is made reflecting the fact that the term "regulation", "order" and "energy conservation plan" are used in the legislation rather than "program".

Subsection (b) is the same thing as the Senate bill, except that a technical amendment is made reflecting the fact that the terms "regulation", "order" and "energy conservation plan" are used in the legislation rather than "program".

The administrative mechanism for the implementation of the conservation and rationing program provided for in the Act must be such as to insure equity on a nationwide basis. At the same time it is imperative that it be responsive to the varying conditions and unique problems of the several States and regions of the Nation. For that reason, the conferees drew from both the House and Senate bills in drafting sections 104 and 122 which authorizes the Administrator to delegate functions assigned to him. Such delegation may be to either State and regional officers of the Administration or to the officers of a State or locality. For the implementation of rationing programs the establishment and use of State or local boards to handle hardship appeals and perform other functions is authorized. To insure that any rationing program is as just and equitable as possible, section 122 specifically requires that State or local boards must be of balanced composition so as to reflect the make up of the community as a whole. This provision is intended to insure that the interests of all classes of users are both represented and protected. The Act authorizes the appropriation of funds from which the Administrator may make grants to the States for the exercise of such authority as he may delegate or for the Administrator of State or local energy conservation measures which are independent of the authority in this Act.

### GRANTS TO STATES

#### Senate Bill

Section 315 would authorize the President to make grants to any State or major metropolitan government, in accordance with but not limited to, section 302 for the purpose of assisting, developing, administering, and enforcing emergency fuel shortage contingency plans under the Act and fuel allocation programs authorized under the Emergency Petroleum Allocation Act of 1973.

#### House Amendment

Section 112 authorized to be appropriated such sums as might be necessary for the purpose of making grants to States to which the Federal Energy Administrator has delegated authority under section 109. The Administrator would prescribe the terms and conditions for such grants.

#### Conference Substitute

Section 123 of the conference substitute authorizes funds for the Administrator of the Federal Energy Emergency Administration to make grants to States for the purposes of implementing authority he has delegated to them, or for the administration of appropriate State or local conservation measures where exempted from Federal conservation regulations under section 105 of the Act.

In authorizing grants to States for the purpose of carrying out their responsibilities implementing this Act, it was the express intent of the conferees, that, if a rationing program were implemented, additional sums would need to be appropriated for grants in aid to the States for their participation in the rationing program.

### REPORTS ON NATIONAL ENERGY RESOURCES

#### Senate Bill

No provision.

#### House Amendment

Section 126 would require the Administrator to issue regulations requiring persons doing business in the United States who on the effective date of the legislation are engaged in exploring, developing, processing, refining, or transporting by pipeline, any petroleum product, natural gas, or coal, to provide reports to the Administrator.

Such reports would be submitted every 60 days and a report would be required to cover the period from January 1, 1970, to the date covered by the first 60-day report.

Each report would show for the period covered the person's (1) reserves of crude oil, natural gas, and coal, (2) production and destination of any petroleum product, natural gas, and coal, (3) refinery runs by-product, and (4) other data required by the Administrator.

The Administrator would publish quarterly in the *Federal Register* a summary analysis of the data provided by such reports.

These reporting requirements would not apply to retail establishments.

Where any person is reporting all or part of the required data to another Federal agency, the Administrator could exempt the person from reporting all or part of the data to him and such other Federal agency would provide the data to the Administrator.

Provisions are included to protect trade secrets and proprietary information.

#### Conference Substitute

Section 124 of the Conference substitute is the same as the House amendment.

### INTRASTATE GAS

#### Senate Bill

Section 210 of the Senate bill would require the President, within 90 days after enactment of the legislation, to promulgate a plan for the development of hydroelectric resources. Such plan would provide for expeditious completion of projects authorized by Congress and for the planning of other projects designed to utilize available hydroelectric resources, including tidal power.

#### House Amendment

Section 119 is the same as the Senate provision except that it would also apply to solar energy, geothermal resources, and pumped storage.

#### Conference Substitute

Section 125 of the conference substitute provides that nothing in the legislation shall expand the authority of the Federal Power Commission with respect to non-jurisdictional natural gas.

### EXPIRATION

#### Senate Bill

Subsection (d) of section 202 would provide in part that the nationwide energy emergency and the authority granted by the Act would terminate one year after the date of enactment.

#### House Amendment

Subsection (b) of section 125 would provide for the expiration of all authorities granted under Title I of the Act or under the Emergency Petroleum Allocation Act on May 15, 1975.

#### Conference Substitute

Section 126 of the conference substitute follows the House amendment by providing that the authority under Title I to prescribe any rule or order or take other action shall expire on midnight, May 15, 1975. In addition, the authority under Title I to enforce any such rule or order shall likewise expire; however, such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, May 15, 1975.

### AUTHORIZATION OF APPROPRIATIONS

#### Senate Bill

Section 318 would authorize to be appropriated such funds as were necessary for purposes of the Act.

There were authorizations of appropriations for particular provisions which have been considered in the appropriate sections of this statement.

#### House Amendment

The House amendment contained no provision for the authorization of funds to carry out all provisions of the Act but included authorizations of appropriations for particular provisions which have also been considered in the appropriate sections of this statement.

#### Conference Substitute

Section 127 of the conference substitute authorizes an appropriation to the Federal Energy Emergency Agency to carry out its functions under this legislation and under other laws, and to make grants to States under section 123, of $75,000,000 for each of the fiscal years 1974 and 1975. In addition, for the purpose of making payments under grants to States to carry out energy conservation measures under section 123, $50,000,000 is authorized to be appropriated for fiscal year 1974 and $75,000,000 is authorized to be appropriated for the fiscal year 1975. Also, for the purpose of making payments under grants to States under section 116, $500,000,000 is authorized to be appropriated for fiscal year 1974.

### SEVERABILITY

#### Senate Bill

Section 319 would provide that if any provision of the legislation or the applicability thereof is held invalid, the remainder of legislation would not be affected thereby.

#### House Amendment

No provision.

#### Conference Substitute

Section 128 of conference substitute follows the Senate bill and also specifies that if the application of any provision to any person or circumstance shall be held invalid, such application to other persons or circumstances shall not be affected thereby.

### IMPORTATION OF LIQUEFIED NATURAL GAS

#### Senate Bill

No provision.

#### House Amendment

Section 118 would amend the Emergency Petroleum Allocation Act of 1973 by adding a new section 9. This new section 9 would authorize the President to permit liquefied natural gas imports on a shipment-by-shipment basis until the expiration of the legislation.

#### Conference Substitute

The Senate recedes.

### PROHIBITION AGAINST FUEL ALLOCATION FOR CERTAIN SCHOOL BUSING

#### Senate Bill

No provision.

#### House Amendment

Section 103 would add a new section 4(k) to the Emergency Petroleum Allocation Act of 1973. Under section no refined petroleum product could be allocated under a mandatory fuel allocation regulation made under section 4(a) of that Act to be used to transport any public school student to a school farther than the public school closest to his home offering the courses for the grade level and course of study of the student which is within the school attendance district where the student resides.

This would not prevent the allocation of refined petroleum products for transportation to relieve overcrowding, to meet needs for special education, or if the transportation is within the regularly established neighborhood school attendance areas.

These provisions would not take effect until August 1, 1974.

#### Conference Report

The House recedes.

### NATIONAL ENERGY EMERGENCY ADVISORY COMMITTEE

#### Senate Bill

Section 310 would establish a National Energy Emergency Advisory Committee to advise the President with regard to implementation of this legislation. The Chairman of the Committee would be the Director of the Office of Energy Policy.

The Committee would consist of 20 members (in addition to the chairman) appointed by the President representing specified interests.

The heads of listed Federal departments, agencies, and instrumentalities would designate a representative to serve as an observer at each meeting of the Committee and to assist the Committee in performing its functions.

#### House Amendment

No provision.

#### Conference Substitute

The Senate recedes.

### SMALL BUSINESS AND HOMEOWNER ASSISTANCE

#### Senate Bill

Section 209 would amend the Internal Revenue Code to allow a taxpayer to deduct an energy-conserving residential improvement expense, not to exceed $1,000, paid or incurred by him during the taxable year on his tax return for such year. These amendments apply to taxable years ending after the date of enactment of the Act and expire on termination of the Act.

Section 308 would authorize the Federal Housing Administration and the Small Business Administration to make low interest loans to homeowners and small businesses for the purpose of installing insulation, storm windows, and more efficient heating units. Detailed requirements were set out to express the intent of Congress that small business enterprises should cooperate to the maximum extent possible to achieve the purposes of the Act and their varied needs should be considered by all levels of government in implementing emergency fuel shortage contingency programs. Any controls instituted should be equitably applied to large and small businesses and the unique problems of retailing establishments and small businesses should be considered in implementing the provisions of the Act to avoid discrimination and undue hardship.

#### House Amendment

No provision.

#### Conference Substitute

The Senate recedes.

Although the Senate receded from the provisions of their bill because of a jurisdictional question on the part of the House, the conferees agreed that the provisions of the Senate bill merited implementation by the appropriate agencies. The conferees urge that the Small Business Administration, and the Department of Housing and Urban Development would consider and implement regulations permitting assistance in the form of low interest loans to persons otherwise eligible for such assistance for the purposes of installing energy saving features in homes or places of business.

### INTERNATIONAL AGREEMENTS

#### Senate Bill

Section 202(b) would authorize the President to enter into agreements with foreign entities, or to take such other action as he deems necessary, with respect to trade in fossil fuels, to achieve the purpose of the legislation. Any formal agreement would be submitted to the Senate and would be operative but not final until the Senate had 15 days, at least 7 of which were legislative days, to disapprove the agreement.

Section 202(c) expresses the sense of Congress that th energy crisis is also an international problem and therefore the United States should attempt to reach an agreement with other member nations of the Organization for Economic Cooperation and Development with respect to supplies of energy available to the industrialized nations of the free world with special reference to joint or cooperative research and development of alternative sources of power.

#### House Amendment

No provision.

#### Conference Substitute

The Senate recedes.

Although the Senate receded on these provisions because of a jurisdictional problem on the House side, the conferees wish to make clear that the section was dropped without prejudice from the bill.

### CONSULTATIONS WITH CANADA

#### Senate Bill

Section 601 would direct the President to convene consultations with the Government of Canada at the earliest possible date to safeguard joint national interests through consultations on encouraging trade in natural gas, petroleum, and petroleum products between the two nations. The President must make an interim report to Congress on the progress of such consultations within forty-five days after enactment and a final report with legislative recommendations ninety days of enactment.

#### House Amendment

No provision.

#### Conference Substitute

The Senate recedes.

## TITLE II.—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

### SHORT-TERM AND LONG-TERM SUSPENSIONS

#### *Short term*

#### Senate Bill

The Senate bill would have allowed temporary suspensions of any emission limitation requirement or compliance schedule contained in a state implementation plan, regardless of whether the origin of the suspended provision was in State, Federal, or local law. Suspensions could only be granted during the period commencing November 15, 1973, and ending August 15, 1974, and no suspension could last beyond November 1, 1974. Only currently existing stationary fuel-burning sources which had been deprived of their supplies of clean fuel by actions taken by the President under the Senate bill itself would have been eligible to receive for suspensions, and no suspension could be granted unless the Administrator of EPA found either (i) that a suspension was essential to enable clean fuels to be redistributed to another area in order to avoid or minimize violations of primary air quality standards, or (ii) that the source in question was not likely to have available a sufficient supply of clean fuels even after all practicable steps to allocate such fuels had been taken. Suspension would only last for as long as clean fuels were unavailable. Where practicable, a suspension would be conditioned on the source's agreeing to keep on hand an emergency supply of clean fuel to burn during periods of air stagnation. The Administrator could deny any suspension request if he found that an imminent and substantial endangerment to the health of persons would result from granting it.

Suspension applications would be heard under abbreviated administrative procedures, and would not be subject to judicial review under Sections 304 or 307 of the Clean Air Act.

#### *Short term*

#### House Amendment

The House amendment would have allowed the Administrator of EPA during the period between enactment and May 15, 1973, to suspend any fuel or emission limitation (including compliance schedules) contained in an applicable implementation plan. The only ground for granting such a suspension would be inability to comply with the suspended requirement due to unavailability of types or amounts of fuels. Interim requirements of emission control could be imposed as a condition of suspension.

No procedural requirements would apply to suspension applications under the terms of any law, and judicial review of their grant or denial would be severely restricted.

#### *Long term*

#### Senate Bill

The Senate bill provided for revisions of State implementation plans, which could be requested by either individual sources or by a State. The Administrator would be required to approve or disapprove suspension applications within 60 days if requested by a source, or within 120 days if requested by a State. For a revision requested by a source to be approved, the Administrator would have to determine, after notice and opportunity for presentation of views, (1) that the source was able to enter into a contract either for a permanent continuous emission reduction system which the Administrator determined to have been adequately demonstrated or for a long term supply of low sulfur fuel and (2) that the revision was consistent with the implementation plan so that ambient air quality standards would still be attained. The Administrator's approval would have to be conditioned on the source actually entering into such contract. Any plan revision, whether requested by a source of a State, would have to include legally enforceable compliance schedules for the fuel burning sources affected by the revision. The schedule would establish continuous emission reduction measures to be employed by the sources, including interim steps of progress toward implementation of such measures, and would provide for alternate emission control measures that could be employed during the interim period before final compliance with the applicable emission limitations to minimize pollutant emissions. Any such revisions could defer compliance only until July 1, 1977, although a one-year extension pursuant to section 110(f) of the Act would be authorized.

#### *Long term*

#### House Amendment

The House amendment provided that the Administrator could suspend fuel or emission limitations upon his own motion or upon the application of a source of a State (1) if he found that the source could not comply because of the unavailability of types and amounts of fuels, (2) if the suspension would not cause violations of a primary ambient air quality standard beyond the time provided for attainment of such standard in the plan, and (3) if the source were placed on a compliance schedule, with increments of progress, which would provide for the source to use methods of emission control that would assure continuing compliance with a natural ambient air quality standard as expeditiously as practicable. No such suspension could defer compliance beyond June 30, 1979. Notice and opportunity for presentation of views would be required before approval of any such suspension. The compliance schedule would have to include a date for entering into a contractual obligation for an emission reduction system which the Administrator had determined to be adequately demonstrated. A source could also construct and install such a system itself if it provided plans and specifications for installation of such a system. Sources were given the option of not providing a compliance schedule with a contract date, or plans for an emission reduction system, if the source elected (prior to May 15, 1977) not to provide one, and established to the satisfaction of the Administrator that it had binding, enforceable rights of sufficient low polluting fuels or other means of insuring long-term compliance. If such an election were made, the amendment would limit the suspension to no later than May 15, 1977. In granting suspensions, the Administrator could impose interim requirements to minimize adverse health effects before the primary ambient air quality standard was achieved and to assure maintenance of the standard where the suspension extended beyond the attainment date deadline.

The House amendment specifically provided that such interim requirements could include intermittent control measures which the Administrator determined to be reliable and enforceable and which would permit attainment and maintenance of primary ambient air quality standards during the suspension. The interim requirements would include the obligation to utilize fuels or emission reduction systems that would permit compliance with the suspended fuel or emission limitation when such fuels or systems became available. However, use of such fuel would not be required if the costs of changing the source to permit it to burn the fuel would be unreasonable.

The House amendment also provided additional provisions making the terms of such suspensions enforceable under the Clean Air Act and to require the Administrator to publish reports at 180-day intervals on the status and effect of such suspensions. Limited judicial review of any suspension was also specified.

A specific exemption of certain coal-fired steam electric generating plants from fuel or emission limitations was provided for in the House amendment. Only facilities which were to be permanently taken out of service by December 31, 1980, and which had certified such fact to the satisfaction of the Federal Power Commission would be eligible for such exemption. Interim requirements could, however, be imposed on such facilities. The suspension would be authorized whenever the Administrator determined that compliance was unreasonable in light of (1) the useful life of the facility, (2) the availability of rate increases, and (3) the risk to the public health and the environment of such exemption.

The House Amendment also contained a separate provision in section 106(b) which provided for suspension of fuel or emission limitations that would prohibit the use of coal with respect to any source which was ordered to convert to coal by the Administrator of the Federal Energy Administration pursuant to section 106(a) of the House bill or which had voluntarily begun to convert to coal prior to the effective date of the Act. The suspension would have extended to January 1, 1930, and would have been available only if the Administrator of the Environmental Protection Agency approved, after notice and opportunity for presentation of oral views, a plan submitted by the source. The plan would, in order to be approved, have to provide (1) that the power plant would use the control technology necessary to permit the source to comply with national ambient air quality standards as expeditiously as practicable; (2) that the power plant was placed on a schedule providing for the use of emission reduction systems as soon as practicable but no later than June 30, 1979, and (3) that the power plant would comply with such interim requirements as the Administrator of the Environmental Protection Agency prescribed to insure that the power plant would not contribute to a substantial risk to public health. Such plans were to be approved before May 15, 1974, or within 60 days after submittal if submitted after that date.

The Administrator of the Environmental Protection Agency was, however, authorized, after notice and opportunity for presentation of oral views, to prohibit the use of coal if he determined that the use of coal would be likely to materially contribute to a significant risk to public health, or to require the use of a particular grade of coal if it were available to the power plant.

#### Conference Substitute

The conference substitute provides for short term suspension of stationary source fuel or emission limitations but, with one exception, does not authorize long term suspension of such limitations. The conference substitute adds a new section 119 of the Clean Air Act which will permit the Administrator of the Environmental Protection Agency to suspend until November 1, 1974, any stationary source fuel or emission limitation, either upon his own motion or upon the application of a source or a State, if the source cannot comply with such limitations because of unavailability of fuel. The Administrator of the Environmental Protection Agency is directed to give prior notice to the Governor of the State and the chief executive of the local governmental unit where the source is located. He is also directed to give notice to the public and to allow for the expression of views on the suspension prior to granting it unless he finds that good cause exists for not providing such opportunity. Judicial review of such suspension would be restricted to certain specified grounds.

The Administrator is required to condition the granting of any suspension upon adoption of any interim requirements that he determines are reasonable and practicable. These interim requirements must include necessary reporting requirements, and a provision that the suspension would be inapplicable during any period when clean fuels were available to such source The Administrator would be required to determine when such fuels were in fact available. It is the intent of the conferees that the Administrator in making such determination take into consideration the costs associated with any changes that would be required to be made by the source to enable it to utilize such fuel. No source which has converted to coal under section 119, however, could be required under this provision to return to the use of oil.

The suspension would also be conditioned on adoption of such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to the health of persons. This would authorize not only requirements that a facility shut down during air pollution emergencies, but also (for example) a requirement that it keep a reserve supply of clean fuels on hand to be burned to avoid such emergencies.

The purpose of the short term suspension provision is to enable sources to continue operation during the immediate fuel shortage while at the same time limiting as much as possible the impact on air quality. In rejecting the provisions for long term suspensions, the conferees were of the opinion that more information and experience should be acquired before any long term postponement of emission limitations was authorized. If additional tools for dealing with energy shortages are needed by the end of 1974, the Congress can address the issue prior to that time. For this reason both the provisions in section 402 of S. 2589 and section 119(b) of section 201 of H.R. 11882 were rejected.

In recognition of the need to balance energy needs with environmental requirements and the unique problems facing any source which is converted to coal in response to the emergency, the conferees adopted a provision which provides that no fuel or emission limitation (as defined in the conference substitute) could have the effect of prohibiting any such source from burning coal. The conference version would prohibit the application of such fuel or emission limitations to sources which are either ordered to convert to coal or which began to convert to coal during the 90-day period prior to December 15, 1973. This prohibition against application of such limitation to such source could continue until as late as January 1, 1979. The prohibition would only apply if the source were placed after notice and opportunity for oral presentation of views, on a schedule approved by the Administrator of the Environmental Protection Agency. The schedule must provide a timetable for compliance with the fuel or emission limitations of the applicable plan no later than January 1, 1979, and must provide for compliance with interim requirements that will assure that the source will not materially contribute to a significant risk to public health.

The term "significant risk to public health" is used in several instances in section 119. The conferees are aware that the Environmental Protection Agency, taking its lead from the Senate Committee Report on section 303 of the Clean Air Amendments of 1970, has defined "imminent and substantial endangerment" by regulation as a significant risk to the health of persons and has specified levels for various pollutants which reflect its judgment as to where those risks occur. The conferees emphasized that the language which is used in this section is not used in the same sense as in the EPA regulations. Rather, the language of the conference substitute, as with the House-passed bill, deals with risks to health which are less severe than those specified by the Agency's "endangerment" regulations. What is intended is that some violation of the national primary ambient air quality standards can be permitted so long as any of the public would not be exposed to significant health risks.

The timetable for compliance which must be included in the schedule will specify a means of compliance. If the source chooses to utilize low sulfur coal or coal by-products, so that the standards will be met without use of continuous emission reduction equipment the schedule must provide for compliance as expeditiously as practicable but no later than January 1, 1979. If the source elects to use fuel which will require the use of permanent emission reduction equipment, the schedule must provide that such equipment will be purchased, installed, tested, adjusted, and in operation in time to permit compliance no later than January 1, 1979. It is the intent of the conferees that when the source selects coal which will require the use of continuous emission reduction equipment, the source will have as much time as necessary to install the equipment and achieve compliance in order to permit the orderly development of technology.

In recognition of the complex factors involved in determining schedules for the various sources, the conferees intend that the Administrator have broad discretion in prescribing and approving schedules of compliance to insure that sources meet the requirements of this section without overburdening production capacity for continuous emission reduction systems or causing unacceptable disruption in energy production capacity.

In addition, the conference committee believes that sources which intend to rely on using coal that will meet applicable requirements without reliance on continuous emission reduction systems should enter into the necessary long-term supply contracts as soon as possible to assure opening new mines. It is expected that the Administrator would include, but would not be limited to, the following requirements in such schedule:

(1) the dates by which the source will solicit bids and enter into binding contractual agreements (or other equally binding commitment) for the procurement of an adequate fuel supply to permit continued long term operation of the source;

(2) where the coal obtained by the source has pollutant characteristics which will require installation of continuous emission reduction equipment to enable the source to comply with emission limitations, the dates for soliciting bids for such equipment, contracting for such equipment, and installation and start-up of such equipment by a date that will permit a reasonable time for necessary adjustments of the equipment to maximize the reliability and efficiency of the system prior to January 1, 1979; and

(3) reasonable interim measures which the source should employ to minimize the adverse impact on air quality.

In establishing dates for contracting for coal, the Administrator should determine the earliest date that is reasonable and which will permit compliance by the time specified in this section. Because the dates for obtaining fuels or system may occur at approximately the same time for more than one source which may overburden suppliers, the Administrator is specifically authorized to establish differing dates for obtaining fuels or equipment to insure availability of supplies of such fuels or equipment. In making such decisions, it is expected that the Administrator will provide the earliest date for those sources in areas with the most serious pollution problems.

The provision relating to conversions under section 119(b) does not apply to fuel burning stationary sources which would propose to reconvert to petroleum products or natural gas. Only fuel burning stationary sources which select coal, receive EPA approval and submit a new compliance schedule which will achieve applicable emission limitations by January 1, 1979 can take advantage of section 119(b) beyond November 1, 1974. After November 1, 1974, fuel burning stationary sources which choose to reconvert to oil remain subject to compliance schedules which were applicable prior to the temporary suspension.

The conference bill does provide for two exceptions to the prohibition on enforcing fuel or emission limitations. The Administrator, or a State or local governmental unit, may, after notice and opportunity for presentation of oral views, if practicable, prohibit the use of coal if it is determined that such use will materially contribute to a significant risk to public health. The Administrator, or a State or local government unit, may also require that a source use a particular grade of coal or coal with particular pollutant characteristics if such coal is in fact available to such source.

The conference bill makes explicit that the period of inapplicability under section 119 (b) of State implementation plan requirements may be extended for one year under the procedure of section 110(f) of the Clean Air Act. It is the intent of the conferees, however, that the requirement of that section be clearly satisfied before any one year suspension is granted; the conferees believe that requiring compliance by 1979 should permit adequate time for all sources to achieve compliance. The additional one year postponement to 1980 should only be necessary to accommodate strikes, natural disasters or other unanticipated occurrences that may prevent compliance by that time.

The House-passed bill would have permitted the use of so-called intermittent or alternative control strategies as a means of meeting ambient air quality standards if such strategies were determined by the Administrator to be reliable and enforceable. This permission would have applied to both existing sources not affected directly by the energy emergency and sources required to convert to coal under the emergency legislation.

The Senate bill would have permitted revision of existing implementation plans to require use of continuous emission reduction systems on any fuel-burning stationary sources affected by shortages of fuels, suspensions or conversions.

The conference agreement does not include either of the foregoing broad provisions. Instead, the conferees decided to limit the application of this provision to those sources which convert to combustion of coal as a result of the energy emergency. The conference substitute requires these converting sources to come into compliance with all plan requirements by 1979 (or 1980, if a postponement is obtained under section 110 (f)) in accordance with a schedule which meets requirements of regulations of EPA. These requirements would require incremental steps toward compliance by utilization of low sulfur coal or coal by-products, or by continuous emission reduction systems to permit the combustion of high sulfur coal (or coal with high ash content) in compliance with such plan requirements.

The right to continue to burn coal until January 1, 1979, would extend to sources which began converting to coal use at any time between September 17 and December 15, 1973. A source should be regarded as having begun a coal conversion if it has made significant efforts to obtain an adequate supply of coal to justify conversion, such as having solicited bids for an adequate coal supply. The Administrator would have to determine whether any such efforts were made in good faith as part of a determination by the source owner or operator to convert to coal in the face of anticipated short falls in its supply of petroleum or natural gas.

The conference bill includes the House amendment provision which authorizes the

Administrator of the Environmental Protection Agency to allocate continuous emission reduction systems among users where supplies are less than demand. This provision is modified in the conference substitute to include the stipulation in the Senate bill that such allocation authority shall not impair the obligation of any contract entered into prior to the enactment of this Act.

*Study and reports*

The conference bill also adopts the provisions of the House bill which required the Administrator of the Environmental Protection Agency to report to Congress on the impact of fuel shortages on the Clean Air Act programs as well as other factors, including the availability of continuous emission control equipment. The Administrator would also have to publish periodic reports on compliance with requirements imposed as part of any suspension or coal conversion, and other information on the impact of the section. The only change from the House version was to provide for reports on all continuous emission reduction systems and not limit the report to scrubbers. The conference bill also retained the House bill provisions making the violation of any requirement imposed as part of the new section 119 subject to enforcement under section 113 of the Act. Finally, the conference version adopts the House bill provision preempting any State or local government from enforcing a fuel or emission limitation against a source granted a suspension under the section because of the availability of fuel to permit the source to comply with such fuel or emission limitation. Such preemption does not apply with respect to requirements which are identical to Federal interim requirements.

The conference bill adopts a provision similar to that in the House bill, which provided a specific exemption for electric generating plants which are scheduled to be permanently taken out of service by 1980. Unlike the House bill, the conference substitute authorizes a one year postponement of applicable plan requirements for certain power plants. To be eligible, the power plant must be on a schedule to cease operations by January 1, 1980. The Federal Power Commission must also determine that the facility will in good faith carry out such plan.

To obtain the one year postponement of an emission limitation which is part of a State implementation plan, the Governor of the State must concur in the application to the Administrator of the Environmental Protection Agency. The Administrator shall consider the risk to the public health and welfare and only grant the postponement if he determines that compliance is not reasonable in light of the projected useful life of the plant and availability of rate increases, as well as other factors. He may prescribe such interim requirements as may be reasonable. The conferees limited this suspension to one year since it is intended that this bill only address the immediate energy emergency and the conferees do not intend for any electric generating facility to be shut down in the near future because of the infeasibility of employing required emission control measures due to the age of the facility. The Congress intends to review the long term energy problems and environmental needs during the next year and will consider such relief as may be justified to alleviate the problems presented to facilities, including power plants, which are scheduled to be phased out.

*Fuel exchange authority*

House Amendment

Section 205 of the House amendment would have directed the Administrator in establishing any allocation program to allocate low sulfur fuels to those areas of the country designated by the Administrator of EPA as requiring such fuels to avoid or minimize adverse health effects. This provision would have taken effect after May 15, 1974 and after such an allocation program had been established.

Section 205 would have further authorized the Administrator of EPA by rulemaking after informal hearings to issue binding exchange orders to persons subject to it. Such exchange orders would have been designed to avoid or minimize the adverse effects of any allocation program on public health. They would only have been authorized if substantial emission reduction would have resulted.

By virtue of Section 106(c), the House amendment would have explicitly authorized the Administrator to establish allocation programs for coal. If such a program were established, it would have been subject to the provisions of section 205.

Section 119(c), of the Clean Air Act, added by Section 201 of the House amendment, would have allowed the Administrator of EPA to establish by rule priorities for the supply of emissions reduction system so that they could be routed to users in regions with the most severe air pollution.

Senate Bill

Section 203 of the Senate bill would have required any general priority and rationing program to provide to the extent practicable for allocation of low sulfur fuels to areas of the country designated by the Administrator of EPA as needing such fuels in order to avoid or minimize adverse impacts on public health.

The Administrator of EPA would be authorized under Section 402 of the Senate bill to further allocate low sulfur fuels within any such area. He would also be authorized to allocate emission reduction system first to users in air quality control regions with the most severe air pollution (except that no such action could affect existing controls).

Conference Substitute

In order to assure the Administrator of the Environmental Protection Agency an adequate supply of information on the types, amounts, price, pollution characteristics and allocation of available fuels, it is expected that he will have access to all data available to the Administrator of the Federal Agency Administration.

Such information will assist in effective and timely performance of the Administrator of EPA's function under this section as well as those provisions relating to suspensions, conversions, enforcement, and other responsibilities of EPA.

The conferees expect that both the FEA and EPA Administrators will facilitate interagency cooperation and information exchange. EPA is expected to establish a permanent liaison in the office of the FEA Administrator for the duration of the emergency and the FEA Administrator is expected to do the same at EPA. This may reduce the confusion which can otherwise be expected to result from those decisions each agency is required to make under statutory authorization.

*Revisions of implementation plans*

Senate Bill

The Senate bill provided that the Administrator of the Environmental Protection Agency was to review by May 1, 1974, all State implementation plans to determine if shortages of fuels or emission reduction systems, or any suspensions of emission limitations provided for in the bill (including future anticipated suspensions) would result in any plan failing to achieve the national ambient air quality standards within the time provided for in section 110 of the Clean Air Act. Where the results of review indicate that a plan would be inadequate, the Administrator would be directed to order those States to submit revisions to their plans by July 1, 1974, which would achieve the standards within the time limits. Two months were provided for the Administrator to review and approve or disapprove the plan revisions, and an additional two months were provided for him to promulgate regulations if a revision were not approvable.

House Amendment

The House amendment contained a similar provision.

Conference Substitute

The conference substitute provides that the Administrator will only review those plans for regions in which coal conversion under section 119(b) of the Clean Air Act may result in a failure to achieve a primary ambient air quality standard on schedule. The conference substitute directs the Administrator to order necessary plan revisions within one year after such conversion that would set forth any additional reasonable and practicable measures required to achieve ambient air quality standards. The plan revision would have to consider whether, despite the coal conversions, the standard could be achieved through the use of additional reasonable and practicable measures (which may include energy conservation measures) that were not included in the original plan. In allowing up to a year for the Administrator of the Environmental Protection Agency to act, it is the intent of the conferees to permit both the Administrator and the States sufficient leadtime to develop adequate information on the impact of coal conversions, both effected and anticipated, and to permit accurate assessment of the additional measures required for State implementation plans.

The conferees expect that revisions under this section will be required only after careful consideration of a number of factors to assure that existing sources which do not convert will not be subjected to new requirements where such requirements are unreasonable or impractical. In determining reasonability and practicability, the Administrator shall consider whether the source is presently subject to requirements, is on schedule and has expended or is expending funds to comply. In this event, no requirement shall be imposed under this section which will require unreasonable additional expenditures. However, where reasonable measures can be imposed, without penalizing sources which are in compliance or are in the process of complying with the law, the Administrator shall impose such requirements.

*Transportation control plans*

Senate Bill

The Senate bill contained no provision relating to transportation control plans.

House Amendment

The House amendment would have directed the Administrator, upon application by the Governor concerned, to extend until June 1, 1977, the date for achieving primary air quality standards in any air quality region subject to transportation controls which mandated a 20% or greater reduction in vehicle miles travelled by June 1, 1977, or imposed any transportation controls that could not be practicably implemented by that date. The Administrator could grant further extensions until January 1, 1985. These further extensions would be conditioned both on the application of all practicable interim control measures and on the attainment of at least a 10% annual improvement in air quality.

The House amendment would also have directed the Administrator to conduct a study of the necessity of parking surcharges, review of new parking facilities, and preferential bus/carpool lanes to achieve air quality standards. The Administrator would be required to report to the appropriate committees of the Congress within six months after enactment. Until such measures had been explicitly authorized by the Congress in subsequently enacted legislation, the Administrator could not require them to be included in an implementation plan, although he could approve such measures if they were submitted by the State. Previously promulgated regulations requiring such measures would be declared null and void.

### Conference Substitute

The conference substitute does not contain the provisions of the House amendment allowing modifications of the date by which primary ambient air quality standards must be achieved. The conferees expect the appropriate committees of the Congress to include in their re-examination of the Clean Air Act scheduled for the next session of the Congress, consideration of the effect modifications in new motor vehicle emission standards will have on the ability to achieve the primary standards by statutory deadlines, as well as the practicability of various transportation control strategies within the time available.

The other related provision of the House amendment has been modified to provide that only parking surcharges (rather than surcharges, management of parking supply, and bus/carpool lanes) must receive the explicit authorization of the Congress before they may legally be imposed by the Environmental Protection Agency. The conference substitute would therefore continue to permit preferential bus/carpool lanes to be implemented by the Environmental Protection Agency as set forth in current transportation control plans. In implementing requirements for bus/carpool lanes, the basic responsibility rests with State and local governments and transportation agencies, and local hearings should be considered for specific proposals.

The conferees note that the appropriate committees with jurisdiction over the Clean Air Act will be reviewing the issues involved in transportation controls in hearings during the next session. The study mandated by this bill of the necessity and impact of these specific transportation controls will be useful to the committees in their inquiry.

In addition, the conferees direct the Administrator of the Environmental Protection Agency to review all the transportation controls which have been promulgated or proposed as their efficacy and practicability, and to provide the appropriate committees with the results of that review in connection with hearings during 1974.

The conference substitute would also empower the Administrator of the Environmental Protection Agency to suspend for one year the review of new parking facilities. In response to inquiries by the conferees, the Administrator has provided a letter stating his intention to suspend these regulations under this authority.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
OFFICE OF THE ADMINISTRATOR,
*Washington, D.C., December 19, 1973.*

Senator JENNINGS RANDOLPH,
*Chairman, Senate Committee on Public Works, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: I would like to reaffirm for the record my understanding of our conversation yesterday on the subject of the "parking management" portions of EPA transportation control plans. I hope this letter will help to clarify EPA's position and that it will be useful to you in your continuing deliberations in the Senate-House conference on the Emergency Energy Bill.

I understand that based on provisions in the House Bill the conference committee has considered provisions which would by statute postpone requirements of parking management plans for at least one year and that consideration has also been given to an alternative provision which would simply authorize EPA to grant such an extension. You have asked what action EPA would take pursuant to such a grant of authority. As I stated to you, our position if such authority were granted would be to delay for one year from enactment (i.e. until December 1974) the effective date of parking management plans promulgated by EPA which would otherwise go into effect at an earlier date.

During this year-long suspension, EPA would continue to work with the States and localities and to provide assistance to them in developing plans which will result in the necessary reductions of vehicle miles traveled by automobiles which are required to meet the ambient air standards and thereby to achieve compliance with the Clean Air Act. During this year, EPA would not impose any postponement or restraint on action by the States and localities in furtherance of parking management plans of their own, and it is our hope that we can assist the States and localities in developing long-term strategies to achieve clean air in urban centers.

We believe that parking management plans can provide an effective tool toward meeting air quality needs. Effective use of this tool, however, does depend largely on the understanding and support of State and local officials and the general public in the individual cities in question. Further review during the one year suspension contemplated by the committee would facilitate better understanding and support for such measures.

I want to thank you for the courtesy and hospitality you extended to me and my EPA colleagues yesterday.

Sincerely yours,
JOHN R. QUARLES, Jr.,
*Deputy Administrator.*

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U.S. ENVIRONMENTAL PROTECTION AGENCY,
OFFICE OF THE ADMINISTRATOR,
*Washington, D.C., December 20, 1973.*

Hon. PAUL G. ROGERS,
*House of Representatives,*
*Washington, D.C.*

DEAR MR. ROGERS: I am writing pursuant to our telephone conversation this morning concerning my letter to Senator Randolph dated yesterday (with a copy to you) about the parking management plans. In that letter I indicated that if granted authority under the Emergency Energy Act EPA would delay until one year from now the effective date of parking management plans.

You have expressed concern that I referred to parking management plans only in relationship to transportation control plans, whereas the proposed legislation would apply also to review of parking facilities under our proposed indirect source regulations. As I explained to you, our position with regard to both is the same.

Very truly yours,
JOHN R. QUARLES, Jr.,
*Deputy Administrator.*

Although the conferees do not believe that regulations on the management of parking supply should be made subject to prior congressional approval, they did conclude that a period for refining the criteria which will be used in the review of such facilities and establishing the administrative machinery to review them should be permitted before the program is placed in operation. The conference substitute provides that when the suspension authority is exercised, no parking facility on which construction is initiated before January 1, 1975, would be subject to review for its impact on air quality as a result of any Environmental Protection Agency regulations on the management of parking supply.

In adopting these aspects of the conference substitute, the conferees do not intend to question either the need for, or the authority of the Administrator of the Environmental Protection Agency to impose, transportation control plans.

## *Auto emissions*

### Senate Bill

S. 2589, as passed by the Senate, would not have affected section 202 of the Clean Air Act. The conference committee notes, however, that on December 17, 1973, the Senate passed a bill, S. 2772, which would have extended through 1976 the interim hydrocarbon, carbon monoxide, and oxides of nitrogen emission standards established by the Administrator for model year 1975 vehicles.

### House Amendment

The House amendment would have amended section 202 of the Clean Air Act to defer the date for achieving the statutorily required 90% reduction in hydrocarbon and carbon monoxide automobile emissions. The date would have been deferred from model year 1976 until model year 1978. The House amendment would have required the interim hydrocarbon and carbon monoxide emission standards established by the Administrator for 1975 model year automobiles to also be applied in model years 1976 and 1977. Under the House amendment, the nitrogen oxides emission standards for 1976 model year automobiles could not exceed 3.1 grams per mile; for 1977 and subsequent model year automobiles emissions of oxides of nitrogen could not exceed 2.0 grams per mile.

In addition, the Administrator of the Environmental Protection Agency would be authorized to extend the deadline for achieving the ambient air quality standards in any air quality control region for up to two years to the extent he determined that an inability to achieve the standards on schedule would result solely from the modifications of the statutorily mandated auto emission levels and the deadlines for achieving those standards.

### Conference Substitute

The conference substitute amends section 202 of the Clean Air Act to continue the emission standards established by the Administrator for 1975 model year automobiles during the 1976 model year. The effect of this provision is to maintain in the 1976 model year a Federal 49-State standard of 1.5 grams per mile of hydrocarbons, 15.0 grams per mile of carbon monoxide and 3.1 grams per mile of oxides of nitrogen, and a standard for California of 0.9 grams per mile of hydrocarbons, 9.0 grams per mile of carbon monoxide, and 2.0 grams per mile of oxides of nitrogen. These standards apply to automobiles produced by all manufacturers, whether or not any individual manufacturer had applied for or received a suspension under section 202 (b) (5) previous to the enactment of this Act.

The conference substitute provides that after January 1, 1975, an automobile manufacturer may seek a single one-year suspension of the statutory standards for hydrocarbons and carbon monoxide applicable to the 1977 model year. The Administrator would be required to establish interim emission standards for 1977 model automobiles for hydrocarbons and carbon monoxide if he grants the suspension.

In authorizing the suspension for the 1977 model year, the conferees point out that one of the considerations advanced by Judge Levanthall in remanding EPA's decision not to authorize a suspension of the 1975 standards for one year was that adverse fuel economy would deter consumer purchasing of new automobiles, resulting in greater retention of old automobiles with inefficient pollution control devices. As Judge Levanthal pointed out, this might lead to a situation whereby denial of a suspension would result in greater total actual emissions of all cars in use than would be the case if a suspension were authorized. See *International Harvester Company, et al.* v. *Ruckelshaus*, 478 F. 2d 615, 633–634 (February 20, 1973). If the Administrator is asked to authorize a suspension for HC and

CO for model year 1977, and if the country is experiencing an energy crisis at the time a suspension is requested, the conferees would expect the Administrator to weigh carefully whether the application of the statutory standard would result in significant increase in fuel consumption.

The conference substitute amends section 202(b)(1)(B) of the Clean Air Act to establish a maximum emission standard for oxides of nitrogen of 2.0 grams per mile applicable nationwide to 1977 model year automobiles. This defers the previous statutory standard of 0.4 grams per mile of oxides of nitrogen until the 1978 model year. No administrative suspensions would be possible from either the 1977 or 1978 standard. While the 1977 model year standard is a maximum of 2.0 grams per mile nationwide, under the conference substitute California retains the right under section 209 of the Clean Air Act to seek a waiver for a more stringent standard.

The conferees are concerned with what may be unwarranted or, at least, untimely changes in EPA's certification test procedures for new automobile emissions. It is intended that uncertainty as to requirements for compliance with such standards be minimized. Any changes in test procedures shall be kept to an absolute minimum and should occur only where such changes improve instrumentation, reduce cost of testing or improve the reliability and validity of the test results.

The conference substitute does not contain the language of the House amendment providing for extensions of implementation plan deadlines in response to the changed standards and deadlines for automobile emissions.

### *Report language: fuel economy study*

The fuel economy study requirement was amended to provide for joint conduct of the study with the Department of Transportation. The conferees insisted on a joint study to eliminate duplication with current, ongoing fuel economy studies.

The conferees expect, of course, that any current DOT studies will be coordinated with this study to eliminate any potential duplication and minimize waste of funds.

At the same time, the conferees agree that EPA must be actively involved in any fuel economy analysis to assure consistency between the findings of the study and the statutory requirements for automobile emission reductions.

The conferees recognize that DOT has an equally important safety responsibility but does not have either established test procedures, testing facilities or the expertise on engine technology to perform an independent review.

The conferees expect this study to utilize EPA's established emission test procedures in order to avoid inconsistency in any subsequent legislative recommendation.

## TITLE III—REPORTS AND STUDIES

### Senate Bill

Section 204(c) would direct the President to develop and implement incentives for the use of public transportation. In addition, the Federal share of expenditures for buses and rail cars from the Highway Trust Fund increased to 80 percent.

Section 210 of the Senate bill would require the President, within 90 days after enactment of the legislation, to promulgate a plan for the development of hydroelectric resources. Such plan would provide for expeditious completion of projects authorized by Congress and for the planning of other projects designed to utilize available hydroelectric resources, including tidal power.

Under section 211, within 30 days of enactment of the legislation, the Secretaries of the Interior and of Commerce would prepare and submit to Congress a comprehensive review of U.S. export policies for energy sources. The purpose of this study would be to determine any inconsistencies between national energy trade policies and domestic fuel conservation efforts.

Section 303 would direct the Secretary of the Treasury and the Director of the Cost of Living Council to provide the Congress with recommended economic incentives to encourage both individuals and industry to subscribe to the purposes of the Act. An analysis of actions needed to effect payment by producers and users of the full cost of producing incremnetal energy supplies would also be required.

Under the second paragraph of section 313, the President would review all rulings and regulations issued under the Economic Stabilization Act to determine if they are contributing to the shortage of materials associated with the production of energy supplies and equipment necessary to maintain and increase the production of coal, crude oil, and other fuels.

The results of this review would be submitted to the Congress within 30 days after the date of enactment of this legislation.

Section 316 would require the Department of Health, Education, and Welfare, in cooperation with the EPA, to conduct a study of the health effects of emissions of sulphur oxide to the air resulting from any conversion to burning coal pursuant to section 204 (a) of the Act. The sum of $5 million would be authorized to be appropriated for such a study.

Section 317 would require the Council of Economic Advisors, in cooperation with other agencies and departments, to submit an Emergency Energy Economic Impact Report to the Congress which must include, but was not limited to, certain assessments of the impact of the energy shortage on employment, agriculture, various industries, commerce, and public services, as well as projections of its impact on the economy. A preliminary report would be filed thirty days after enactment and a final report no later than sixty days after enactment.

Section 402 would amend the Clean Air Act, as amended, to require the Administrator of the EPA to report to the Congress by May 1, 1974, on the extent to which any applicable State or local air pollution requirement or deadline may adversely affect the implementation of the National Energy Emergency Act or of the proposed amendments to the Clean Air Act.

### House Amendment

The provisions of section 104(d) of the House amendment parallel Section 313 of the Senate bill are almost the same, except that the responsibility for conducting the review would be vested in the President and the Administrator of the Federal Energy Administration.

Section 105(d) would require energy conservation plans to include proposals to provide for Federally sponsored incentives for the use of public transportation and Federal subsidies to maintain or reduce existing fares and additional expenses incurred because of increased service.

Section 121 of the House amendment is the same as the provision of Section 211 in the Senate bill, except that (1) the report under the House version would also cover foreign investment in production of energy sources and be included for the purpose of determining any inconsistencies between such investment and domestic conservation efforts, and (2) the report would have to be submitted within 90 days of enactment of the legislation rather than 30 days.

Under section 127 the Administrator would be required to prepare and submit within 90 days after enactment of the legislation a plan for encouraging the conversion of coal to crude oil and other liquid and gaseous hydrocarbons.

Section 207 would require the Administrator of the Environmental Protection Agency to report to the Congress by January 31, 1975, on the implementation of sections 201–205 of this title.

* * * * *

of Health, Education, and Welfare and the Environmental Protection Agency of the health effects of sulphur oxide conversions, except that the sum authorized was $2 million.

Section 206(a) would direct the Federal Energy Administration to conduct a study on energy conservation methods and to report the results to the Congress within six months of enactment. The study must address the energy conservation potential of restrictions on export of fuels and energy-intensive products (including balance of payments and foreign relations implications); federally sponsored incentives for public transit use and Federal authority to increase public transit facilities; alternative requirements, incentives, or disincentives for increasing recycling and resource recovery to reduce demands on energy (including a comparison of the economic and fuel impacts of such recycling and resource recovery with the transportation and use of virgin materials); the costs and benefits of electrifying high traffic rail lines; and means for incentives or disincentives to decrease industrial use of energy.

Section 206(b) would require the Secretary of Transportation, after consulting with the Federal Energy Administrator, to submit to the Congress within 90 days of enactment an "Emergency Mass Transportation Assistance Plan" to expand and improve public mass transportation systems and encourage increased ridership. This plan must include, but is not limited to recommendations for: emergency temporary grants to assist States and local public bodies in payment of operating expenses for expanded urban mass transportation service; additional emergency assistance for the purchase of buses and rolling stock and the construction of fringe parking facilities; demonstration projects to determine feasibility of fare-free and low-fare urban mass transportation system; and the feasibility of providing tax incentives for users or urban mass transportation systems.

Section 206(d) would provide that no later than December 31, 1974, the Secretary of Transportation, in consultation with the Federal Energy Administrator, must also study and report to the Congress on the development of a high-speed ground transportation system between the cities of Tijuana, Mexico and Vancouver, British Columbia, Canada.

Section 208 would direct the President, within 90 days following enactment, to recommend to the Congress actions to be taken by the Executive and the Congress regarding siting of all types of energy producing facilities.

Section 209 would amend the Clean Air Act by directing the Administrator of EPA to conduct a study of the feasibility of establishing a fuel economy improvement standard of 20% for 1980 and subsequent model year new motor vehicles. A report on the study must be submitted to the Congress within 120 days after enactment, and the Administrator must consult with designated Federal agencies in the course of the performance of the study. The Administrator would be directed to fully examine the problems associated with obtaining a 20% improvement in fuel economy. The study must include technological problems, costs, relation to safety and emission standards as well as energy impact and enforcement. The agency would be authorized to obtain information for the study under its section 307 (a) powers.

### Conference Substitute

Title III contains a number of provisions for studies to be conducted. Recognizing the merit of these provisions, the Conferees included them in this bill although they will not necessarily contribute to the relief of the immediate energy emergency.

The Conferees provided for three categories of studies and reports to be made to Congress. The first provides for immediate recommendations on means for near term increases in energy supply or reductions in energy consumption. The second set of studies and reports deal with longer term methods for achieving these same objectives. The third class of reports essentially reserve to the Congress an oversight function on the implementation of this Act, by requiring reports from the President to the Congress every 60 days on the implementation and administration of this Act and the Emergency Petroleum Allocation Act of 1973, and an assessment of the results attained thereby.

The conferees recognize that increased use of mass transit is essential to energy conservation both in the short term and in the longer run. For this reason, the conferees wish to call attention to the adoption of several studies dealing with the major energy conservation measures. The first is a Senate-sponsored provision to provide for plans for Federal subsidies to mass transit systems for reduced fares and operating costs. The details of this plan will be subject to Congressional approval, prior to implementation. The conferees believe that such incentives to greater use of mass transit coupled with reduced use of personal vehicles, can result in significant energy saving.

In addition, to reflect the need for improving mass transit in the longer run as well the conferees adopted a number of provisions providing for study of various mass transit systems.

In the first class of studies which are to be completed with a report submitted to Congress within 30 days after enactment of the Act, the conference substitute adopted the following studies:

From the Senate bill—

Of the rulings and regulations issued pursuant to the Economic Stabilization Act, by the Administrator of the FEEA on methods of energy conservation and production by all Federal agencies.

On specific incentives to increase energy supply and reduce consumption, by the Secretary of the Treasury and the Director of the Cost of Living Council.

On the impact of energy shortages on employment, by the Administrator of the FEEA.

From the House amendment:

A comprehensive review of United States exports and foreign investment policies by the Secretaries of the Interior and Commerce.

The second group of studies adopted in the Conference substitute, to be completed with a report submitted to Congress within 6 months from the date of enactment, include the following:

From the Senate bill:

From section 204(c) of the Senate bill, a plan to be submitted to the Congress for approval, to provide federally-sponsored incentives for increased use of mass transit, by the Administrator of the Federal Energy Emergency Administration.

Of the potential for further development of hydroelectric power resources, by the Administrator of Federal Energy Emergency Administration.

From section 207(d) of methods for accelerated leasing of energy resources on public lands, by the Secretary of the Interior.

From the House amendment:

Of energy facility siting problem, by the Administrator of the Federal Energy Emergency Administration.

On the potential for conversion of coal to synthetic oil or gas, by the Administrator of the Federal Energy Emergency Administration.

HARLEY O. STAGGERS,
TORBERT H. MACDONALD,
JOHN E. MOSS,
PAUL G. ROGERS,
JAMES T. BROYHILL,
J. F. HASTINGS,
*Managers on the Part of the House.*

HENRY M. JACKSON,
ALAN BIBLE,
LEE METCALF,
JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
HOWARD BAKER,
ADLAI STEVENSON III,
TED STEVENS,
*Managers on the Part of the Senate.*

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## COAST GUARD SAFETY STANDARDS FOR BOILERS AND PRESSURE VESSELS

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10309) to amend the Act of June 13, 1933 (Public Law 73–40), concerning safety standards for boilers and pressure vessels, and for other purposes.

The Clerk read as follows:

H.R. 10309

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 4433 of the Revised Statutes, as amended (46 U.S.C. 411), is amended as follows:

(1) By deleting the word "and" before the words "construction of boilers,".

(2) By inserting the words ", and operation" before the words "of boilers, unfired".

(3) By inserting after the words "unfired pressure vessels" the words "piping, valves, fittings,".

(4) By placing the word "other" before the word "appurtenances".

(5) By deleting the words "thereof, and steam piping".

(6) By deleting the second sentence including the proviso.

The SPEAKER. Is a second demanded?

Mr. GROVER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 10309, is to amend the act of June 13, 1933, concerning safety standards for boilers and pressure vessels.

According to the transmittal letter from Secretary Claude Brinegar to Speaker CARL ALBERT, "the statute to be amended provides that the maximum working pressure for marine boilers and pressure vessels shall be based on a safety factor of four. This means the boilers and pressure vessels must be built in such a way as to theoretically withstand up to four times their normal operating pressure without fail. The proposed amendment would empower the Commandant of the Coast Guard to set boiler and pressure vessel standards through the regulatory process."

The present statute was passed in 1933. Since then, significant strides have been made in the technology of boiler and pressure vessel fabrication.

Boiler and pressure codes, which represent more modern standards for safety in boiler and pressure vessel design, have been developed by the American Society of Mechanical Engineers.

These codes permit the use of a safety factor of three. Equivalent or higher integrity is obtained by replacing the larger safety factor of four with the smaller safety factor of three, accompanied by a detailed stress analysis. Requirements for material fabrication and inspection are also more restrictive under the codes, and reflect practices which have been developed and proven in the United States during the past decade in the construction of nuclear reactor vessels.

A number of current projects of interest to both the Government and industry, including a proposed floating nuclear powerplant, various liquefied natural gas cargo containment systems using pressure vessel type tanks, and the American Society of Mechanical Engineers Ad Hoc Committee Study on Hyperbaric Chambers, would utilize an ASME code with the pressure vessel safety factor of three. In each of these projects, a saving in terms of safety and weight efficiency is achieved by using the more modern safety factor combined with a detailed stress analysis.

Mr. Speaker, the continued inability of the Coast Guard to use modern standards in this area will impose an economic and technical hardship on the American shipbuilding industry without meaningful benefits in terms of increased safety.

For example, the greatest cost benefit to American industry will be in the relatively newer field of nuclear and cryogenic vessels, that is, LNG tankers. Shipbuilders will be able to produce a pressure vessel or a containment system that has the required level of safety, but at a lighter weight. This means a savings in material and money which will make our vessels cost competitive with similar foreign built ships.

Finally, the proposed legislation will provide greater flexibility in the safety standards applicable to boilers and pressure vessels which, in turn, will allow the Coast Guard to maintain a more realistic position, consistent with current technology, in the regulation of marine safety.

There will be no additional cost to the Government in the event of the enactment of this legislation. There were no witnesses opposed to the bill during Coast Guard Subcommittee hearings held on October 2, 1973.

I urge Members to support this modern, more cost effective, safety measure.

Mr. Speaker, I reserve the balance of my time.

Mr. GROVER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 10309, bill to amend the law regarding safety standards for boilers and pressure vessels. It requires no additional costs to government and no additional personnel. Under existing law, boilers and other pressure vessels used onboard ships must be built to withstand up to four times their normal operating pressure without failure. The proposed amendment set forth in H.R. 10309 would empower the Commandant of the Coast Guard to set standards through the normal regulatory processes.

Great strides have been made since 1933 in the manufacture and testing of pressure vessels, and standards have been developed by the American Society of Mechanical Engineers. Under the existing law, the Coast Guard cannot follow the ASME code or similar standards. The enactment of this legislation would give the Coast Guard the needed degree of flexibility to adopt more realistic standards consistent with current technology. Given the Coast Guard's well known conservative approach to matters of maritime safety, I believe that we may confidently rely upon that agency in the development of new standards to maintain more than adequate safety margins for the protection of the men who work near boilers and other pressure vessels and the general public.

The effect of this legislation would be to replace an arbitrary safety factor which in a given instance may be unreasonably high or indeed potentially too low for the authority to impose standards that intelligently reflect the design and intended purpose of the pressure vessel in question. I, therefore, urge the enactment of H.R. 10309.

Mr. BIAGGI. Mr. Speaker, I rise in support of H.R. 10309, the Coast Guard Safety Standards for Boilers and Pressure Vessels Act.

This is an amendment to an old law, to bring our safety standards up to date, and to remove a hardship resulting from an antiquated and insufficiently flexible law. There is no reduction in safety requirements, merely an improvement.

Since the first standards were enacted in 1933, there have been great technological strides in the areas of pressure measurement, stress analysis and in the manufacturing and testing of construction materials for boilers. The result of these improvements has been the gaining of significant knowledge in what constitutes safe boiler pressure in our ships at sea.

As a result of the use of stress analysis, and tougher requirements for material fabrication and inspection, we are now able to reduce the old safety factor of 4—that is, that the boiler be able to withstand up to 4 times normal operating pressure without failure—to 3. This means a reduction in hardship to the American shipbuilding industry, which has been laboring under outmoded and inflexible standards. It also makes more meaningful the monitoring system of the Coast Guard.

It is an important adjustment of the law to keep pace with scientific progress. Mr. Speaker, I urge quick passage.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill (H.R. 10309).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 10309.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

## INSPECTION OF MOTOR VESSEL "MANATRA II"

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6120) to permit the vessel *Manatra II* to be inspected, licensed, and operated as a passenger-carrying vessel, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6120

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, subject to the provisions of section 2 of this Act, the vessel known as *Manatra II* (formerly United States Coast Guard Cutter *McLane* WMEC/146) shall be—

(1) inspected, licensed, and operated as a passenger-carrying vessel, for the purpose of carrying officers, crew, and passengers, in accordance with the provisions of the Act of May 10, 1956 (70 Stat. 151; 46 U.S.C. 390–390g); and subject to such additional requirements as the Coast Guard may prescribe, including, but not limited to:

(A) a limitation of forty-nine passengers to be permitted on board,

(B) a restriction of operations to Lake Michigan and the Straits of Mackinac, and

(C) compliance with the stability requirements of a vessel more than sixty-five feet in length and less than one hundred gross tons; and

(2) exempt from the loadline requirements set forth in the International Voyage Load Line Act of 1973 (87 Stat. 418), and in the Coastwise Load Line Act, 1935 (49 Stat. 888; 46 U.S.C. 88–881).

SEC. 2. The provisions of the first section of this Act shall apply only so long as such vessel remains under the continuous ownership of the Marine Navigation and Training Association of Chicago, Illinois.

The SPEAKER. Is a second demanded?

Mr. YOUNG of Illinois. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6120 which will permit the vessel *Manatra II* to be inspected, licensed, and operated as a passenger-carrying vessel.

The vessel involved is a former U.S. Coast Guard cutter which was disposed of as surplus in 1969. The basic problem is that the vessel is now 46 years old, and the age alone would create some concern for its use as a passenger-carrying vessel, particularly since the passengers involved are, in many cases, young people.

Because the vessel measures more than 100 gross tons, it is subject to the inspection requirements of that section of title 46 United States Code which governs passenger-carrying vessels. The basic differences between the requirements of the regulations under the two acts lies in different provisions for stability tests, for construction standards, and for manning requirements.

United States inspected passenger vessels are basically divided into three categories for inspection purposes. This bill would exempt the vessel *Manatra II* from the Coast Guard inspection and manning requirements as a passenger vessel under the provisions of 46 United States Code 391 and 46 United States Code 404. Vessels in this category are required to meet the highest inspection standards of all inspected passenger vessels. The *Manatra II* is in this category because of its tonnage. The bill requires that the vessel be inspected by the Coast Guard and manned as a small passenger vessel under 46 United States Code 390. Passenger vessels in this category are required to meet the least stringent inspection requirements of all inspected passenger vessels.

The *Manatra II* is now owned and operated by the Marine Navigation and Training Association, Inc., a nonprofit educational corporation in the State of Illinois. The purpose of the organization is to provide nautical training to youth groups, primarily U.S. Naval Sea Cadets, Sea Scouts, Explorer Scouts, and Mariners. It also provides training for members of the Coast Guard auxiliary and the U.S. Naval Reserve.

Under the present situation, there is apparently not sufficient flexibility to relax the requirements of the applicable law. For that reason, hearings on H.R. 6120 were held so that the Merchant Marine and Fisheries Committee could determine whether present requirements might be appropriately changed as proposed in the bill without sacrificing safety features intended to protect the passengers which this vessel is engaged in carrying.

In view of the worthwhile nature of the *Manatra II* enterprise, the chairman of the subcommittee arranged a meeting between Adm. William F. Rae and Capt. Donald F. Hall, of the Coast Guard, to see if H.R. 6120 could be amended to allow the vessel to continue in operation. Accordingly, H.R. 6120 was amended to provide the restrictions necessary to meet safety requirements acceptable to the Coast Guard while moving the *Manatra II* from the category of a large, oceangoing passenger vessel.

The Merchant Marine Committee now feels that the changes, as proposed in the bill, will meet Coast Guard requirements without sacrificing safety features intended to protect the passengers which this vessel is engaged in carrying.

I urge Members to support this legislation because of the worthwhile nature of the program represented by the *Manatra II* and its sponsors.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, does this bill provide for any money or cost in any way to the Federal Government for the operation of this vessel?

Mr. MURPHY of New York. There is no cost to the Federal Government for continued operation of this vessel.

Mr. GROSS. I thank the gentleman.

I assume it is a typographical error on the first page of the bill where it states "passenger-carrying vessel."

Mr. MURPHY of New York. That is a technical error, I will say to my colleague, and I will ask unanimous consent to make the appropriate correction.

Mr. GROSS. I thank the gentleman.

Mr. YOUNG of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill which has been introduced for the purpose of allowing the vessel *Manatra II* to continue operation under the guidance of the Marine Navigation and Training Association of Chicago, Ill., as a passenger carrying vessel. The association has been successful in training over 3,500 sea scouts, sea cadets, and explorer scouts in the safe operation of a vessel at sea since 1946. The bill exempts this vessel in view of its special and limited use from "loadline" requirements.

The *Manatra II* was originally a Coast Guard cutter, built in 1927, decommissioned as a cutter in 1969, and transferred to the Navy, and subsequently transferred to the present owner. The *Manatra II* does not conform to the Coast Guard inspection standards for small passenger carrying vessels. This is particularly the case with respect to fire protection. The hull is constructed of steel; however the decks are of wood and wood has been used extensively in the interior work. Reconstruction so as to comply with existing law would be prohibitive.

However, as it did earlier this year in the case of the *Delta Queen*, a comparable situation from the standpoint of use of wood in the ship, the Committee on Merchant Marine and Fisheries felt that there were present in this case circumstances sufficient for the purposes sought by the owner to provide an exemption.

Principally it is noted the vessel is not used for hire in any real sense of the term and is operated strictly for very worthwhile training purposes.

The committee has amended the bill to incorporate restrictions deemed necessary to insure that the exemption granted is not broader than needed to continue the training work of *Manatra II*. These five restrictions are set forth beginning on line 14, page 2, of the bill. There is no intent in this bill to compromise with safety. The skippers will continue to be licensed as required by the U.S. Coast Guard, as well as internally by the Marine, Navigation and Training Association's Board of Skippers. All safety gear and firefighting equipment as required by the U.S. Coast Guard will, as now, be provided. Regular training schedules will continue in effect, with all hands participating in fire drills, man overboard drills, collision, and other emergency procedures. Regular training in the "Rules of the Road," proper instruction in line handling, small boat handling, heavy weather procedures, and others, will continue to be of the utmost importance. The vessel will not be moved without a trained competent crew, headed by a licensed skipper.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill, H.R. 6120, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended was passed.

The title was amended so as to read: "A bill to permit the vessel *Manatra II* to be inspected, licensed, and operated as a passenger-carrying vessel, and for other purposes."

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. MURPHY of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill (H.R. 6120) just passed.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

## ANADROMOUS FISH CONSERVATION ACT

Mr. DINGELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11295) to amend the Anadromous Fish Conservation Act in order to extend the authorization for appropriations to carry out such act, and for other purposes.

The Clerk read as follows:

H.R. 11295

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 2 of the Anadromous Fish Conservation Act (16 U.S.C. 757b) is amended by striking out the semicolon at the end of clause (3) thereof, and inserting the following new language: ", and for the control of the sea lamprey;".

SEC. 2. Section 4(a) of the Anadromous Fish Conservation Act (16 U.S.C. 757d(a)) is amended by striking out "the fiscal year ending June 30, 1974" and inserting in lieu thereof the following: "each of the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, June 30, 1977, June 30, 1978, and June 30, 1979".

The SPEAKER. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, the purpose of H.R. 11295 is to extend and expand the program for the conservation, development, and enhancement of our Nation's anadromous fish and fish in the Great Lakes that ascend streams to spawn.

Mr. Speaker, briefly explained, anadromous fish are those species of fish that begin their life in fresh water, where they live for varying periods, then migrate to salt water where they usually spend most of their adult lives and finally return to fresh water—usually to the stream of their birth—to spawn, after which many die, having completed their life span. There are many species of fish in the Great Lakes similar to anadromous fish, however, they are not considered anadromous because they do not migrate to salt water. Some examples of the species of fish with which this program is concerned are the Atlantic salmon, five species of the Pacific salmon, shad, striped bass, steelhead, arctic char, sheefish, and the Dolly Varden trout.

As the Members will recall, in 1965 the Anadromous Fish Conservation Act was enacted in response to an urgent need for a comprehensive national program designed to benefit the anadromous fishery resources of our Nation. The 1965 act authorized the Secretary of the Interior to enter into cooperative agreements with the States, either separately or jointly, for the conservation, development, and enhancement of anadromous fish and those stocks of fish in the Great Lakes that ascend streams to spawn. The Federal share of the total cost of any project approved by the Secretary of the Interior is limited to an amount not to exceed 50 percent of such costs, with the remaining cost to be paid by for by the States. However, in order to encourage multi-State projects, in 1970, the act was amended to provide that whenever two or more States having a common interest in any basin jointly enter into a cooperative agreement with the Secretary of the Interior, the Federal share of the program costs would be increased to 60 percent with the remaining costs to be borne by the States concerned.

Mr. Speaker, since the enactment of the act the program has met with enthusiastic response from all of the States participating in the program with $16 million of Federal funds being invested in the program. For instance, through research significant progress has been made in the development of techniques for fish disease detection, development of accurate forecasts of life and timing of salmon runs, and the use of artificial spawning and incubation channels for steelhead trout. Other accomplishments have included the construction of fishways in dams and rivers in Rhode Island, Connecticut, Delaware, Massachusetts, and many other New England States, and the construction of fish hatcheries in Oregon, Washington, California, and Alaska. Resources inventories are being conducted in Alaska; the Atlantic, Pacific, and Gulf Coastal States; and in the Great Lakes.

With respect to the Great Lakes, the anadromous fish program has played a prominent role in the development of a completely new fishery. This program began in 1965 with the transplanting of the west coast coho salmon into the Great Lakes. Not only has this program produced a new fishery, but it has had a tremendous effect on the economy of the area. It is estimated that each coho salmon in the sport fishery is worth about $50 to the economy.

Mr. Speaker, the need for the legislation under consideration today is due to the fact that the Anadromous Fish Conservation Act expires June 30, 1974. Briefly explained, H.R. 11295 would simply extend the act for an additional 5 years, that is until June 30, 1979, and authorize to be appropriated $10 million per year, which is at the same level of funding authorized to be appropriated under present law.

Mr. Speaker, I might point out for the benefit of my colleagues that it was necessary to extend the program at the appropriation-authorization level of $10 million per year in order to meet the anticipated needs of the States participating in the program.

Mr. Speaker, the legislation makes one other change to existing law; it broadens the act to authorize the carrying out of a program to provide for the control of the sea lamprey. The need for this provision arises from the fact that in 1965, when the act came into being, the Great Lakes Fishery Commission had underway a program to control sea lamprey with electric weirs and selective chemical toxicants. It had been anticipated at that time that with the continued use of these methods, control of sea lampreys would be a reality within 5 to 10 years. It has now been determined that the original goal was optimistic and that additional time and effort will be needed before lamprey control can be achieved. In view of this, a number of Great Lakes States expressed a desire to use funds under this act to assist in resolving this problem. In order that a concerted effort may be made and the sea lamprey brought under control at the earliest possible date, the bill was amended to reflect this need.

Mr. Speaker, in closing, I might point out, that the bill, as reported, including the provision that extends the act for an additional 5 years at an appropriation-authorization level of $10 million per year, has the strong support of the Department of the Interior as well as all States participating in the program.

Mr. Speaker, I think it is a good bill, it was unanimously reported by the Merchant Marine and Fisheries Committee, and I urge its prompt passage.

Mrs. SULLIVAN. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to my distinguished chairman, the gentlewoman from Missouri (Mrs. SULLIVAN), such time as she may consume.

Mrs. SULLIVAN. Mr. Speaker, this is very worthwhile legislation. The chairman of the subcommittee has done his usual very fine job in the hearings on the discussion and I have nothing further to say, except to urge passage of the bill.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in very enthusiastic support for this legislation and compliment the committee for its efforts.

Mr. GOODLING. Mr. Speaker, H.R. 11295 has as its purpose the extension and expansion of programs designed to aid in the conservation, development, and enhancement of anadromous fish and Great Lakes fish which also ascend streams to spawn. Specifically, section 4(a) of the act of October 30, 1965, would be amended to extend the program for a period of 5 years until June 30, 1979. The existing level of funding of $10 million per year will be continued during this 5-year extension of the act. The scope of the Anadromous Fish Conservation Act would be broadened to authorize a Federal-State program for the control of the sea lamprey in the Great Lakes.

Anadromous fish and Great Lakes fish which ascend streams to spawn are of great commercial and recreational value. Anadromous fish begin their lives in fresh water streams, grow to maturity in the ocean, and then return to fresh water streams—usually that in which they were hatched—to spawn. Some Great Lakes species have the same life cycle except that they mature in the fresh water of the lakes rather than salt water oceans. Both types of fish may spend at least part of their adult lives in waters over which the United States has no jurisdiction. Funds are necessary for both international and for Federal-State programs. Internationally, limits must be set on the pelagic takes of these species. Federal-State programs concentrate on the development of hatcheries, the preservation of spawning areas, and the maintenance of access routes for fish to take to and from them.

Pollution and man-made physical obstructions such as locks and dams could either stop access completely, or so upset the natural timetable of migration as to prevent the fish from reaching the spawning area on time. Downstream migration of newly hatched fish is made hazardous by hydroelectric facilities. The widespread recognition of these problems has led to combined Federal-State efforts between the Federal Government and 29 of 31 eligible States and other non-Federal interests on dollar-for-dollar matching fund bases. According to the Department of the Interior, every $1 million of Federal funds expended has generated approximately $9 million of benefits to the States. In light of the economic importance of the fish species involved and the proportion of return on the dollars invested, the continuation of the program should be assured.

The amendment increasing the scope of the Anadromous Fish Conservation Act to include control of the sea lamprey is needed because of the devastating effect of the sea lamprey on native Great Lakes stream-spawning species and the recently introduced coho salmon. Efforts to control sea lampreys have been carried on since 1956 under the Great Lakes Fishery Act (16 U.S.C. 931). However, control programs of barrier construction and chemical treatment have not been as quick to succeed as had been hoped. States in the Great Lakes area have requested that they be given further flexibility in dealing with the sea lamprey problem, and are willing to provide matching funds to go with those made available under the Anadromous Fish Conservation Act.

The Anadromous Fish Conservation Act has been very successful. Its continued existence and funding are in the best interest of the United States. Its extension to include the sea lamprey problem raises hopes for the earliest possible control of this decimator of Great Lakes fish populations.

I would like to commend my colleague Congressman DON CLAUSEN of California for his longstanding interest and support for the Anadromous Fish Conservation Act. He was one of the original sponsors of this legislation and has worked extremely hard to insure its success in California and throughout the United States. The cost-sharing aspects of this program are consistent with sound fiscal policies which my colleague from California has also supported so vigorously. His continued support for sound conservation programs is appreciated by the Committee on Merchant Marine and Fisheries.

Mr. Speaker, I urge that the House pass H.R. 11295.

Mr. BIAGGI. Mr. Speaker, I rise to speak in support of H.R. 11295, the Anadromous Fish Conservation Act. This bill would extend the current program for 5 years, providing $10 million per year for this very important work.

We have spent money in the past for this program—and are being asked to spend it now—because of man's folly in tampering with the environment without knowing the effects such tampering will have. We have done severe damage to our resources—in this case to a large number of anadromous fish—and must, I repeat must spend the money and time to save them, and our environment.

There was once an abundance of anadromous fish—those hatched in fresh water that migrate to the ocean but return to their birth place to spawn and die—which are now, in many cases, in the endangered species category. This bill will help to save them.

In the last 5 years the accomplishments under this act were tremendous. Just to give a few examples, six new hatcheries and nine major additions or modifications of hatcheries are being constructed. This has increased production of juvenile anadromous fish by 835,000 annually. Four major fish screens installed at hydroelectric dams save an estimated 12 million fish a year. Nine streamside rearing ponds recently constructed are increasing production of juvenile fish by 1.6 million annually.

The point is clear. The program is working, and is essential. And not only for environmental reasons. We have so thoroughly decimated our fresh waters of anadromous fish that soon the sportsman will have no fish to catch. This will severely reduce the recreational and commercial fishing potential of our fresh water areas, having a significant negative impact on the economies of the regions involved.

Thus we are not merely saving fish and redeeming our moral commitment to the environment. We are also doing something for man in a practical sense.

Mr. Speaker, I urge the passage of this bill as quickly as possible.

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in strong support of the legislation to extend and improve the Anadromous Fish Act.

As one of the original authors of this program almost a decade ago, I take great pleasure in the advances that have been made during these last few years, but I fully recognize that we have a long, long way to go.

Anadromous fish are a particularly precious and fragile resource. They are of great value to man but they have great difficulty living in peaceful coexistence with us.

In the past, we did not understand the problem fully and, as a consequence, failed to attempt to solve it. Today, with growing knowledge and public awareness we have been making great strides toward protecting anadromous species.

Now we are starting to move beyond simply protecting these fish from further losses to the point of expanding their numbers and enhancing their habitats.

The bill before us authorizes a $50 million, 5-year program of fishery research and construction of fish hatcheries and other protective works.

This program will continue America's leadership in the enhancement of anadromous fisheries and will be accompanied by an effort to insure their protection on the high seas through diplomatic channels. I am extremely optimistic that we can succeed in this area.

The SPEAKER. The question is on the motion offered by the gentleman from Michigan (Mr. DINGELL) that the House suspend the rules and pass the bill, H.R. 11295.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 11295) just passed.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

## AMENDING THE NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT OF 1966

Mr. DINGELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11541) to amend the National Wildlife Refuge System Administration Act of 1966 in order to strengthen the standards under which the Secretary of the Interior may permit certain uses to be made of areas within the system and to require payment of the fair market value of rights-of-way or other interests granted in such areas in connection with such uses, as amended.

The Clerk read as follows:

### H.R. 11541

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 4(d) of the Act of October 15, 1966 (80 Stat. 928, 16 U.S.C. 668dd(d)) is amended—

(1) by striking out "(1)" and inserting in lieu thereof "(A)";

(2) by inserting "(1)" immediately after "(d)";

(3) by amending paragraph (2) to read as follows:

"(B) subject to paragraph (2) of this subsection, permit the use of any area within the system for purposes such as, but not necessarily limited to, powerlines, telephone lines, canals, ditches, pipelines, and roads, including the construction, operation, and maintenance thereof, whenever he determines that (i) such use is compatible with the purposes for which the area is established, and (ii) there is no feasible and prudent alternative to such use of such area."; and

(4) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of law, the Secretary of the Interior may not grant to any Federal, State, or local agency or to any private individual or organization any right-of-way, easement, or reservation in, over, across, through, or under any area within the system in connection with any use permitted by him under paragraph (1) (B) of this subsection unless the grantee pays to the Secretary the fair market value (determined by the Secretary as of the date of conveyance) of the right-of-way, easement, or reservation. All sums received by the Secretary of the Interior pursuant to this paragraph shall, after payment of any necessary expenses incurred by him in administering this paragraph, be deposited into the Migratory Bird Conservation Fund and shall be available to carry out the provisions for land acquisition of the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.) and the Migratory Bird Hunting Stamp Act (16 U.S.C. 718 et seq.)."

Sec. 2. (a) Any request for permission to use an area within the National Wildlife Refuge System which was filed with the Secretary of the Interior under section 4(d)(2) of the Act of October 15, 1966 (as in effect before the date of the enactment of this Act), and with respect to which the Secretary has not taken final action before such date of enactment shall be treated by the Secretary as having been filed with him pursuant to section 4(d)(1)(B) of the Act of October 16, 1966 (as added by this Act) on such date of enactment.

(b) Section 4(d)(2) of the Act of October 15, 1966 (as added by this Act), shall apply with respect to any right-of-way, easement, or reservation granted by the Secretary of the Interior on or after the date of the enactment of this Act, including any right-of-way, easement, or reservation granted on or after such date in connection with any use permitted by him pursuant to section 4(d)(2) of the Act of October 15, 1966 (as in effect before the date of the enactment of this Act).

The SPEAKER. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. DINGELL. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, the purpose of H.R. 11541 is to provide for the replacement of lands within the national wildlife refuge system that are permitted to be used for such things as roads, canals, and pipelines.

Mr. Speaker, the national wildlife refuge system consists of wildlife refuges, wildlife ranges, game ranges, wildlife management areas, waterfowl production areas, and areas for the conservation and protection of endangered species of fish and wildlife. The system is composed of both public domain and acquired lands, of which approximately 85 percent are public domain and 15 percent acquired or leased lands.

Under present law, the Secretary of the Interior is authorized to permit any area within the system to be used for any purpose such as for powerlines, telephone lines, ditches, pipelines, and roads provided the Secretary determines that such areas are compatible with the purposes for which these areas were established.

Mr. Speaker, H.R. 11541 would amend present law to require the Secretary to determine, not only that the use to be permitted would be compatible with the purposes for which such area was established, but he must also determine that there is no feasible and prudent alternative to such use of such area.

Mr. Speaker, the new test required to be met by this legislation is, in essence, the same test that would have to be met under the Federal-Aid Highway Act of 1968 concerning an application for use of area within the system for highway purposes. However, under that act, the determination is made by the Secretary of Transportation. H.R. 11541 would require such a determination to be made by the Secretary of the Interior regardless of the use to which the land would be put.

Mr. Speaker, under present law, there is no requirement that any payment be made by a permittee for any use of an area within the system that may be authorized by the Secretary of the Interior. H.R. 11541 would require the grantee of a right-of-way through any area within the system, in connection with any use that may be permitted—such as for piplines, powerlines, and high ways—to pay to the Secretary of the Interior the fair market value of such use as determined by the Secretary as of the date of the conveyance. In addition, after paying administrative expenses, all sums would be required to be deposited in the Migratory Bird Conservation Fund and earmarked for land acquisition purposes only. In this way, lands that are diverted to other uses will be assured of being replaced with other lands of equal value.

Mr. Speaker, it has been estimated by the Department of the Interior, that had the predecessor bill H.R. 2286, as introduced, been in effect, the legislation would have produced about $60,000 per year for the past 5 years. However, since the clean bill, H.R. 11541, would cover transfer of rights-of-way for any purpose—not just for roads—and in view of the recently enacted Alaska Pipeline Act, which authorizes the building of gas and oil pipelines across Federal lands, it is anticipated that the legislation will produce considerably more replacement funds in the future.

Mr. Speaker, H.R. 11541 was unanimously ordered reported by the Merchant Marine and Fisheries Committee, and I urge its prompt passage.

Mr. GOODLING. Mr. Speaker, I rise in support of H.R. 11541, which would amend the National Wildlife Refuge System Administration Act of 1966. The bill would strengthen the standards under which the Secretary of the Interior may permit certain uses of refuge system areas and would require that the fair market value be paid for rights-of-way or other interests granted in such areas. The legislation would further require that the amount collected as the fair market value for such areas of the refuge system be paid into the Migratory Bird Conservation Fund to carry out the existing land acquisition provisions of both the Migratory Bird Conservation Act and the Migratory Bird Hunting Stamp Act. Thus, the legislation would provide for the replacement of lands within the national wildlife refuge system that are permitted to be used for roads, canals, pipelines, and the like. The earmarking of funds for land acquisition purposes only was suggested by the Department of the Interior. Your committee wholeheartedly agrees with the suggestion and so provided in the legislation. The theory behind this provision is that starting with fiscal year 1977, 75 percent of the money accruing to the Migratory Bird Conservation Fund from the sale of duck stamps will have to be utilized to repay advance appropriations under the Wetlands Loan Act of 1961. Consequently, after fiscal year 1977, there will be little money available with which to complete the original land acquisition goal. The moneys to be received from such permittees should go a long way in helping to achieve this goal. Also, in this way, lands that are diverted to other uses will be assured of being replaced with other lands of equal value.

It should be noted that although it appears that the legislation would produce only nominal funds for land acquisition, it is an equitable way to replace wildlife lands taken out of the national wildlife refuge system. According to the Department of the Interior, the legislation as reported, would have produced about $60,000 per year for the fund had it been in effect for the past 5 years. It is conceivable, however, that the legislation will result in a considerably larger amount of funds than estimated. I say this in view of the recently enacted legislation authorizing the building of the Alaska pipeline. While it does not appear that the Alaska pipeline will cross any lands within the refuge system, the Alaska Pipeline Act does recognize that other pipelines will be necessary and authorizes the building of pipelines across Federal lands in the State of Alaska and across lands within the national wildlife refuge systems located in any of the other 49 States. It is the opinion of your committee that should any lands of the refuge system be utilized for such purposes, fair market value of such lands should be paid and placed in the Migratory Bird Conservation Fund so that these lands, which are held in trust, can be replaced at the earliest possible date.

If the legislation is enacted into law, your committee, based on information supplied by the Department of the Interior, estimates that there would be no additional cost to the Federal Government.

Mr. Speaker, I urge my colleagues to support passage of this bill.

Mr. CONTE. Mr. Speaker, as a cosponsor of H.R. 11541, I rise to urge its passage.

Since 1965, it has been my privilege to serve, along with my distinguished colleague, the gentleman from Michigan (Mr. DINGELL) on the Migratory Bird Conservation Commission.

I am proud to say in prefacing my remarks on this legislation that using funds derived from the sale of migratory bird hunting stamps—duck stamps—more than 2 million acres of land have been added to those already within the national wildlife refuge system.

This legislation provides that any land encompassed in our national wildlife refuge system that is to be diverted from its originally intended uses for a number of purposes be purchased at its fair market value.

I am sure my colleagues will agree with me that this is an eminently even-handed manner with which to deal with increased demands for right-of-way across our refuges.

As originally drafted, this legislation called for consideration of only those right-of-way transfers required for the construction of highways. The Committee on Merchant Marine and Fisheries has exercised admirable foresight in broadening the scope of the legislation to include all right-of-way transfers including those for pipelines, canals, roads, ditches, and so forth.

And there can be no doubt that the demand for access through our public lands to provide for pipeline installation will increase. While, as presently planned, the Alaska pipeline will not cross any of our national wildlife refuge land, it is certainly within the realm of possibility that subsequent oil and natural gas pipelines will be laid through our refuges. Although I hasten to emphasize that any use must be compatible with the refuge and there be no feasible alternate route. Lands taken for those rights-of-way must be replaced.

We are asking in this bill for payment of fair market value for land taken for rights-of-way through our wildlife refuges. This is the only way we can insure that we will be able to replace land taken with property of equal value.

Mr. BIAGGI. Mr. Speaker, I rise to speak in support of H.R. 11541, the Transfers of Wildlife Refuge Rights-of-Way Act.

This bill serves a very important public purpose. It provides that when the Secretary of the Interior grants power companies or public bodies the right to lay cable, string wires or build roads through our precious wildlife refuges, that they must pay the fair market value of the land which they use.

This is only fair, of course. Increasingly, our refuges are being invaded by these powerlines, cables, and highways. They are making significant use of the land, and while the Secretary of the Interior is directed to grant these rights-of-way only when there is no feasible alternative, there often is not one. Thus our total refuge land is being reduced.

There is no danger here, but there is an important problem. We have not yet purchased all of the expensive land which ought to be included in the wildlife refuge system, and which Interior Department plans already call for inclusion of in the system. We have not purchased this land because of the high cost involved.

What fairer method is there to increase our purchases than to require those who deplete the total amount of refuge land to pay the market value of such land, and use that money to purchase new lands which are urgently needed?

And let there be no misunderstanding that this bill is concerned with insignificant amounts of money. The Congress, in response to the energy crisis, recently passed the Alaska pipeline bill, and while the pipeline will not invade the wildlife refuge system, many energy conduits for natural gas and oil are soon to be constructed that will. This means substantial amounts of money for fair market value of land taken that can be used to accelerate the purchase of new lands and expand the wildlife refuge system.

Mr. Speaker, this bill is an important step in our program of wildlife preservation and protection. I urge its quick passage.

The SPEAKER. The question is on the motion offered by the gentleman from Michigan (Mr. DINGELL) that the House suspend the rules and pass the bill H.R. 11541, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation (H.R. 11541) just passed.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

## CONSERVATION PROGRAMS ON MILITARY AND OTHER FEDERAL LANDS

Mr. DINGELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11537) to extend and expand the authority for carrying out conservation and rehabilitation programs on military reservations, and to authorize the implementation of such programs on certain public lands, as amended.

The Clerk read as follows:

H.R. 11537

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Act entitled "An Act to promote effectual planning, development, maintenance, and coordination of wildlife, fish and game conservation and rehabilitation in military reservations", approved September 15, 1960 (16 U.S.C. 670a–f), is amended—

(1) by inserting immediately after the first sentence of the first section thereof the following new sentence: "Such cooperative plan shall provide for (1) fish and wildlife habitat improvements or modifications, (2) range rehabilitation where necessary for support of wildlife, and (3) control of off-road vehicle traffic."; and

(2) by amending section 6(b) thereof—

(A) by amending the first sentence thereof by inserting immediately after "July 1, 1971," the following: "and not to exceed $1,500,000 for the fiscal year beginning July 1, 1972, and for each of the next five fiscal years thereafter,"; and

(B) by inserting immediately before the last sentence thereof the following new sentence: "There is authorized to be appropriated to the Secretary of the Interior not to exceed $2,000 000 for the fiscal year beginning July 1, 1973, and for each of the next four fiscal years thereafter to enable the Secretary to carry out such functions and responsibilities as he may have under cooperative plans to which he is a party under this title."

Sec. 2. Such Act of September 15, 1960, is further amended by adding at the end thereof of the following:

## "TITLE II—CONSERVATION PROGRAMS ON CERTAIN PUBLIC LAND

"Sec. 201. (a) The Secretary of the Interior and the Secretary of Agriculture shall each, in cooperation with the State agencies and in accordance with comprehensive plans developed pursuant to section 202 of this title, plan, develop, maintain, and coordinate programs for the conservation and rehabilitation of wildlife, fish, and game. Such conservation and rehabilitation programs shall include, but not be limited to, specific habitat improvement projects and related activities.

"(b) The Secretary of the Interior shall implement the conservation and rehabilitation programs required under subsection (a) of this section on public land under his jurisdiction. The Secretary of the Interior shall adopt, modify, and implement the conservation and rehabilitation programs required under such subsection (a) on public land under the jurisdiction of the Chairman, but only with the prior written approval of the Atomic Energy Commission, and on public land under the jurisdiction of the Administrator, but only with the prior written approval of the Administrator. The Secretary of Agriculture shall implement such conservation and rehabilitation programs on public land under his jurisdiction.

"Sec. 202. (a) (1) The Secretary of the Interior shall develop, in consultation with the State agencies, a comprehensive plan for conservation and rehabilitation programs to be implemented on public land under his jurisdiction and the Secretary of Agriculture shall do the same in connection with public land under his jurisdiction.

"(2) The Secretary of the Interior shall develop, with the prior written approval of the Atomic Energy Commission, a comprehensive plan for conservation and rehabilitation programs to be implemented on public land under the jurisdiction of the Chairman and develop, with the prior written approval of the Administrator, a comprehensive plan for such programs to be implemented on public land under the jurisdiction of the Administrator. Each such plan shall be developed after the Secretary of the Interior makes, with the prior written approval of the Chairman or the Administrator, as the case may be, and in consultation with the State agencies, necessary studies and surveys of the land concerned to determine where conservation and rehabilitation programs are most needed.

"(b) Each comprehensive plan developed pursuant to this section shall be consistent with any overall land use and management plans for the lands involved. In any case in which hunting, trapping, or fishing (or any combination thereof) of resident fish and wildlife is to be permitted on public land under a comprehensive plan, such hunting, trapping, and fishing shall be conducted in accordance with applicable laws and regulations of the State in which such land is located.

"(c) (1) Each State agency may enter into a cooperative agreement with—

"(A) the Secretary of the Interior with respect to those conservation and rehabilitation programs to be implemented under this title within the State on public land which is under his jurisdiction;

"(B) the Secretary of Agriculture with respect to those conservation and rehabilitation programs to be implemented under this title within the State on public land which is under his jurisdiction; and

"(C) the Secretary of the Interior and the Chairman or the Administrator, as the case may be, with respect to those conservation and rehabilitation programs to be implemented under this title within the State on public land under the jurisdiction of the Chairman or the Administrator; except that before entering into any cooperative agreement which affects public land under the jurisdiction of the Chairman, the Secretary of the Interior shall obtain the prior written approval of the Atomic Energy Commission and before entering into any cooperative agreement which affects public lands under the jurisdiction of the Administrator, the Secretary of the Interior shall obtain the prior written approval of the Administrator. No conservation or rehabilitation program, nor any recommendation in any preliminary study or survey undertaken with respect to any such program, may be implemented under this title unless it is included within a cooperative agreement.

"(2) Any conservation and rehabilitation program included within a cooperative agreement entered into under this subsection may be modified in a manner mutually agreeable to the State agency and the Secretary concerned (and the Chairman or the Administrator, as the case may be, if public land under his jurisdiction is involved). Before modifying any cooperative agreement which affects public land under the jurisdiction of the Chairman, the Secretary of the Interior shall obtain the prior written approval of the Atomic Energy Commission and before modifying any cooperative agreement which affects public land under the jurisdiction of the Administrator, the Secretary of the Interior shall obtain the prior written approval of the Administrator.

"(3) Each cooperative agreement entered into under this subsection shall—

"(A) specify those areas of public land within the State on which conservation and rehabilitation programs will be implemented;

"(B) provide for fish and wildlife habitat improvements or modifications, or both;

"(C) provide for range rehabilitation where necessary for support of wildlife;

"(D) require the control of off-road vehicle traffic;

"(E) if the issuance of public land area management stamps is agreed to pursuant to section 203(a) of this title—

"(i) contain such terms and conditions as are required under section 203(b) of this title;

"(ii) require the maintenance of accurate records and the filing of annual reports by the State agency to the Secretary of the Interior or the Secretary of Agriculture, or both, as the case may be, setting forth the amount and disposition of the fees collected for such stamps; and

"(iii) authorize the Secretary concerned and the Comptroller General of the United States, or their authorized representatives, to have access to such records for purposes of audit and examination; and

"(F) contain such other terms and conditions as the Secretary concerned and the State agency deem necessary and appropriate to carry out the purposes of this title.

A cooperative agreement may also provide for arrangements under which the Secretary concerned may authorize officers and employees of the State agency to enforce, or to assist in the enforcement of, section 204 (a) of this title.

"(4) Except where limited under a comprehensive plan or pursuant to cooperative agreement, hunting, fishing, and trapping shall be permitted on public land which is the subject of a conservation and rehabilitation program implemented under this title.

"(5) The Secretary of the Interior and the Secretary of Agriculture, as the case may be, shall prescribe such regulations as are deemed necessary to control, in a manner consistent with the applicable comprehensive plan and cooperative agreement, the public use of public land which is the subject of any conservation and rehabilitation program implemented by him under this title.

"Sec. 203. (a) Any State agency may agree with the Secretary of the Interior and the Secretary of Agriculture (or with the Secretary of the Interior or the Secretary of Agriculture, as the case may be, if within the State concerned all conservation and rehabilitation programs under this title will be implemented by him) that no individual will be permitted to hunt, trap, or fish on any public land within the State which is subject to a conservation and rehabilitation program implemented under this title unless at the time such individual is engaged in such activity he has on his person a valid public land management area stamp issued pursuant to this section.

"(b) Any agreement made pursuant to subsection (a) of this section to require the issuance of public land management area stamps shall be subject to the following conditions:

"(1) Such stamps shall be issued, sold, and the fees therefor collected, by the State agency or by the authorized agents of such agency.

"(2) Except for expenses incurred in the printing, issuing, or selling of such stamps, the fees collected for such stamps by the State agency shall be utilized in carrying out conservation and rehabilitation programs implemented under this title in the State concerned and for no other purpose. If such programs are implemented by both the Secretary of the Interior and the Secretary of Agriculture in the State, the Secretaries shall mutually agree, on such basis as they deem reasonable, on the proportion of such fees that shall be applied by the State agency to their respective programs.

"(3) The purchase of any such stamp shall entitle the purchaser thereof to hunt, trap, and fish on any public land within such State which is the subject of a conservation or rehabilitation program implemented under this title except to the extent that the public use of such land is limited pursuant to a comprehensive plan or cooperatve agreement; but the purchase of any such stamp shall not be construed as (A) eliminating the requirement for the purchase of a migratory bird hunting stamp as set forth in the first section of the Act of March 16, 1934, commonly referred to as the Migratory Bird Hunting Stamp Act (16 U.S.C. 718a), or (B) relieving the purchaser from compliance with any applicable State game and fish laws and regulations.

"(4) The amount of the fee to be charged for such stamps, the age at which the individual is required to acquire such a stamp, and the expiration date for such stamps shall be mutually agreed upon by the State agency and the Secretary or Secretaries concerned; except that each such stamp shall be void not later than one year after the date of issuance.

"(5) Each such stamp must be validated by the purchaser thereof by signing his name across the face of the stamp.

"(6) Any individual to whom a stamp is sold pursuant to this section shall upon request exhibit such stamp for inspection to any officer or employee of the Department of the Interior or the Department of Agriculture, or to any other person who is authorized to enforce section 204(a) of this title.

"SEC. 204. (a)(1) Any person who hunts, traps, or fishes on any public land which is subject to a conservation and rehabilitation program implemented under this title without having on his person a valid public land management area stamp, if the possession of such a stamp is required, shall be fined not more than $1,000, or imprisoned for not more than six months, or both.

"(2) Any person who knowingly violates or fails to comply with any regulations prescribed under section 202(c)(5) of this title shall be fined not more than $500, or imprisoned not more than six months, or both.

"(b)(1) The Secretary of the Interior and the Secretary of Agriculture may designate and authorize officers and employees of their respective departments to enforce subsection (a) of this section. Such officers and employees, and any State officers or employees authorized under a cooperative agreement to enforce such subsection (a) are authorized—

"(A) with or without warrant or other process, to arrest any person committing in his presence or view an offense under subsection (a) of this section;

"(B) to execute any warrant or process issued by an officer or court of competent jurisdiction for the arrest of any person charged with the commission of any such offense; and

"(C) with or without a warrant, as authorized by law, to search any place.

"(2) Upon the sworn information by a competent person, any United States magistrate or court of competent jurisdiction may issue process for the arrest of any person charged with committing any offense under subsection (a) of this section.

"(3) Any person charged with committing any offense under subsection (a) of this section may be tried and sentenced by any United States magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in section 3401 of title 18, United States Code.

"(c) All guns, traps, nets, and other equipment, vessels, vehicles, and other means of transportation used by any person when engaged in committing an offense under subsection (a) of this section shall be subject to forfeiture to the United States and may be seized and held pending the prosecution of any person arrested for committing such offense. Upon conviction for such offense, such forfeiture may be adjudicated as a penalty in addition to any other provided for committing such offense.

"(d) All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as such provisions of law are applicable and not inconsistent with the provisions of this section; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Department of the Treasury shall, for the purposes of this section, be exercised or performed by the Secretary of the Interior or the Secretary of Agriculture, as the case may be, or by such persons as he may designate.

"SEC. 205. As used in this title—

"(1) The term 'Administrator' means the Administrator of the National Aeronautics and Space Administration.

"(2) The term 'Chairman' means the Chairman of the Atomic Energy Commission.

"(3) The term 'off-road vehicle' means any motorized vehicle designed for, or capable of, cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain; but such term does not include—

"(A) any registered motorboat;

"(B) any military, fire, emergency, or law enforcement vehicle when used for emergency purposes; and

"(C) any vehicle the use of which is expressly authorized by the Secretary of the Interior or the Secretary of Agriculture under a permit, lease, license, or contract.

"(4) The term 'public land' means all lands under the respective jurisdiction of the Secretary of the Interior, the Secretary of Agriculture, the Chairman, and the Administrator, except land which is, or hereafter may be, within or designated as—

"(A) a military reservation;

"(B) a national park or monument; or

"(C) an area within the national wildlife refuge system;

"(5) The term 'State agency' means the agency or agencies of a State responsible for the administration of the fish and game laws of the State.

"SEC. 206. (a) There is authorized to be appropriated the sum of $10,000,000 for the fiscal year ending June 30, 1974, and for each of the next four fiscal years thereafter to enable the Department of the Interior to carry out its functions and responsibilities under this title.

"(b) There is authorized to be appropriated the sum of $10,000,000 for the fiscal year ending June 30, 1974, and for each of the next four fiscal years thereafter to enable the Department of Agriculture to carry out its functions and responsibilities under this title."

SEC. 3. Such Act of September 15, 1960, is further amended—

(1) by redesignating the first section and sections 2 through 6 as sections 101 through 106, respectively;

(2) by striking out "That the Secretary of Defense" in section 101 (as so redesignated) and inserting in lieu thereof the following:

### "TITLE I—CONSERVATION PROGRAMS ON MILITARY RESERVATIONS

"SEC. 101. The Secretary of Defense";

(3) by striking out "Act" the first time it appears in the proviso to section 102 (as so redesignated) and inserting in lieu thereof "title";

(4) by striking out "Act" each place it appears in sections 104 and 106 (as so redesignated) and inserting in lieu thereof "title"; and

(5) by striking out "sections 1 and 2" in section 106 (as so redesignated) and inserting in lieu thereof "sections 101 and 102".

The SPEAKER. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. DINGELL. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, the purpose of the legislation is to extend the game conservation and rehabilitation program carried out on military reservations and to provide for the carrying out of such programs on certain other federally owned lands; namely, Bureau of Land Management lands within the Department of the Interior, National Forest lands within the Department of Agriculture, Atomic Energy Commission lands, and National Aeronautics and Space Administration lands.

Mr. Speaker, under existing law known as the Sikes Act, the Secretary of Defense is authorized to carry out game conservation and rehabilitation program on military reservations in accordance with a cooperative plan mutually agreed to by the Secretary of Defense, the Secretary of the Interior, and the State in which the reservation is located.

Under these agreements, and within the funds generated by hunting and fishing fees supplemented by other resources of the Department of Defense, many successful and well-balanced conservation programs have been developed at Defense installations capable of supporting such programs but yet consistent with the military mission of each installation.

Mr. Speaker, much of this land has tremendous wildlife enhancement potential while other areas are important in the preservation of endangered and threatened species of fish and wildlife. For instance, three military installations along the lower California coast contain important nesting areas for the California least tern and the light-footed clapper rail, both of which are endangered. Fort Hood, in Texas, has set aside habitat for the rare golden-checked warbler; and in South Dakota, the black-footed ferret is being protected on the Air Force Aerial Gunnery Range.

Mr. Speaker, in addition to providing habitat for rare and endangered animals, these military installations throughout the United States provide our citizenry with a variety of recreational activities. Although statistical data on some of these activities is not available, without question, use is being made of these areas by pleasure boaters, nature photographers, birdwatchers, amateur naturalists, and others in hot pursuit of high-quality outdoor recreation. The latest figures available indicate that these installations are supporting annually over 1.5 million man-days of fishing and considerable man-days of hunting.

Mr. Speaker, there are over 19 million acres of military lands on which these programs can be carried out. However, the Department of Defense provided the Committee on Merchant Marine and Fisheries with a detailed list of more than 60 installations throughout the country that are suitable for more aggressive fish and wildlife programs if additional funds were available. The list is contained on pages 6 and 7 of the committee's report.

Mr. Speaker, title I of H.P. 11537 is designed to provide the necessary funds needed to carry out this expanded program on military reservations. In this regard, title I of this bill would extend the program authorized by the Sikes Act until June 30, 1979, and would increase the amount of funds authorized to be appropriated from $500,000 to $1.5 million per year. In addition, in order to assist the Secretary of the Interior in carrying out his functions and responsibilities under any cooperative agreements to which he is a party affecting these lands, the legislation would authorize to be appropriated to him the sum of $2 million per year for the 5-year period.

Mr. Speaker, title II of the bill is designed to provide for the carrying out of the highly successful Sikes Act programs on other Federal lands throughout the

United States. In this regard, the bill would cover approximately 450 million acres of BLM lands, 187 million acres of national forest lands, 2 million acres of AEC lands, and many thousands of acres of NASA lands.

Mr. Speaker, in accomplishing this purpose, briefly explained, title II of the bill would require the Secretary of Agriculture, in consultation with the State fish and game agencies, to develop a comprehensive conservation and rehabilitation program on lands under his jurisdiction. The Secretary of the Interior, in consultation with the States, would be required to develop such a plan on lands under his jurisdiction. In addition, in consultation with the States, the Secretary of the Interior would be required to develop such a program on AEC and NASA lands, but only with the prior written approval of the AEC and the Administrator of NASA, as the case may be.

Mr. Speaker, after these comprehensive plans have been developed, then the Secretary of Agriculture would be charged with the responsibility of implementing the plan on national forest lands, the Secretary of Interior on BLM lands, as well as on the lands under the jurisdiction of AEC and NASA.

However, it is to be noted that no conservation or rehabilitation program could be implemented on any of the lands covered by this legislation unless such programs are subject to a cooperative agreement.

In addition, Mr. Speaker, the legislation would require that each comprehensive plan would have to be consistent with any overall land use and management plan for the lands involved. Also, in any agreed-to program which allows hunting, trapping, and fishing of resident fish and wildlife to take place, then such activities are required to be carried out in accordance with applicable State laws and regulations.

Mr. Speaker, each cooperative agreement entered into would be required to specify those areas of public land within the State that are subject to a game conservation and rehabilitation program; provide for fish and wildlife habitat improvement; provide for range rehabilitation, where necessary for support of wildlife; require the control of off-road vehicle traffic; and, if the States so agree, the issuance of public land area management stamps.

I would like to call to the attention of my colleagues that the issuance of a public land management area stamp is strictly voluntary. No stamp can be issued unless the State concerned agrees to the issuance and sale of such a stamp. The legislation would not set the price for such a stamp if it is agreed that the stamp will be sold in a certain State. Again, this is negotiable and the price of such a stamp would be that which is agreed to by the State concerned and the Secretary of the Interior or the Secretary of Agriculture, as the case may be.

Mr. Speaker, all proceeds from the sale of such stamps which, incidentally, would be sold by the appropriate State agency, are required to be expended in carrying out a game conservation and rehabilitation program on lands within the State involved.

Mr. Speaker, the legislation would make it unlawful for anyone to hunt, trap, or fish on any Federal lands included in an agreed-to program without having on his person a valid public land management area stamp; that is, if the possession of such a stamp is required by the agreement. Violators would be subject to a fine of $1,000 or imprisonment of 6 months, or both. Also, anyone who knowingly violates a regulation issued under this title would be subject to a fine of $500 or six months imprisonment, or both.

The legislation would authorize the Secretary of the Interior and the Secretary of Agriculture, as the case may be to enforce the provisions of this title. Any guns, traps, nets, other equipment, and any means of transportation used by any person when engaged in committing an offense would be subject to forfeiture pending the prosecution of the person involved and an adjudication of the forfeiture.

Mr. Speaker, in carrying out their respective functions and responsibilities of this title, there would be authorized to be appropriated each to the Secretary of the Interior and the Secretary of Agriculture the sum of $10 million per year for the 5-year life of the program; that is, from July 1, 1974 to June 30, 1979.

Mr. Speaker, this legislation has the support of the National Wildlife Federation, Wildlife Management Institute, the International Association of Game, Fish, and Conservation Commissioners; the American Forestry Association, and conservational and sportsmen in general throughout the country.

Mr. Speaker, H.R. 11537 is a good bill, and I urge its passage.

Mr. GROSS. I thank the gentleman for yielding.

Are the permits for hunting and fishing and other recreational activities?

Mr. DINGELL. They would just be for hunting, fishing, and trapping, if the State agrees to requiring a stamp for such purposes. I would say to my good friend, that any stamp sold would be sold by the State agency and not by the Federal Government and would be sold pursuant to a cooperative agreement executed by and between the State agency and the Federal Government.

Mr. GROSS. Are those uniform as between the States?

Mr. DINGELL. No; we tried to come up with a figure and finally figured that we would allow the State agency and the Federal Government to negotiate the level on which they would be charged. It would vary according to the kind of activity authorized and the type of area and so forth. It is my opinion, based on the experience in the State of Virginia where a similar practice is utilized, that it would run probably around $1 for a permit.

Mr. GROSS. $1, did the gentleman say?

Mr. DINGELL. For the permit. That is what the committee anticipates.

Mr. GROSS. The bill provides for an authorization of $23.5 million over a period of 5 years, I believe. These Federal funds are in addition to those collected by the States with respect to permits, is that not true?

Mr. DINGELL. The answer to that question is "Yes." It is almost the level at which we anticipate prudent management would require in order to be able to take care of the matter.

Mr. GROSS. And the other funds for permits would go to the States?

Mr. DINGELL. They would be utilized by the State on the lands in that State under an agreed-to program only and not by the Federal Government.

Mr. GROSS. For the purpose of this legislation, would the cooperating States stock the ponds, lakes and reservoirs with fish?

Mr. DINGELL. It is assumed that the States would engage in a modest amount of stocking and habitat increasing.

Mr. GROSS. That would not be an obligation on the part of the Federal Government?

Mr. DINGELL. The answer to that question is, "It would not be an obligation of the Federal Government but, rather, the States would undertake the stocking."

Mr. GROSS. I thank the gentleman.

Mr. GOODLING. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. RUPPE), a member of the committee.

Mr. RUPPE. Mr. Speaker, I reluctantly oppose this legislation before us at this moment because, first of all, I believe it is unnecessary and second, I believe it will very definitely lead to a tax or a user's fee being placed on any individual who chooses to hunt or fish on Federal property.

In my own particular district we have over 2 million acres of Federal forest lands which at the present time are utilized by sportsmen for hunting and fishing purposes but no licensing or regulatory fee is charged for such usage. There will certainly be with the advent of this legislation, because this provision is supported by the State Department of Natural Resources and various State departments. It would certainly lead to a user's fee in areas like those I outlined in the State of Michigan. People will not get more service or better game management but will simply pay an additional fee for the right to hunt and fish on Federal properties, which right they have already exercised for many years.

I say that this legislation, in my opinion, is not necessary. It is my understanding most States have cooperative agreements at the present time with the Federal Government. Again, relating to the Federal Forest Service, I do know there are numerous cooperative agreements in existence at the present time and most States have them with the Federal Forest Service whereby the Forest Service and the Departments of Natural Resources cooperate with State departments called in to help with fish and wildlife and habitat. But there is now no fee involved.

Under this legislation, in addition to a fee being charged, the State governments become, in effect, full partners or cosponsors with the Federal Forest Service on Federal land. At the present time the discretion as to whether the cooperative agreements should or should not be made is in the hands of the Federal Government. Under this bill the State will have the decisionmaking capability to set up cooperative agreements, if you will have the decisionmaking capability Federal Government agencies regardless of the quality of the work the Federal game and fish people do and regardless of their program effectiveness on Federal property. At the present time the control and ultimate determination as to this effectiveness is in Federal hands. Under this legislation it would at best be a 50-50 State responsibility. It will inevitably, because it is supported by the States, lead to a Federal fee for hunting and fishing purposes.

We will not get anything in most areas beyond what we have already in terms of volunteer agreements between the Federal Government, the Federal Forestry Service, and State Departments of Natural Resources, but we will certainly get, because it sets up the right to do so, a fee charged for those who wish to hunt or fish on Federal forest properties.

In conclusion, Mr. Speaker, may I also say that the enforcement problem would be very grievous in many parts of the country. For instance, in my own particular area we have three Federal forests, and they are all checkerboarded by private property, and therefore an individual hunting or fishing on Federal forest land is never sure whether he is on Federal land or whether he is on private land which is adjacent to the Federal land, and is checkerboarded within this particular Federal perimeter. We will have many individuals who will undoubtedly be confused, and therefore subject to 6 months in jail or a fine of $1,000, because they will never know for sure whether they are on Federal land or on private adjacent land, even though they in their own mind may think they know which is the Federal land. In reality they will be in violation of Federal law.

Therefore, Mr. Speaker, in my own opinion, regardless of how worthy such legislation may be, when it comes to Federal forest properties this legislation, in terms of the fees charged to those individuals who wish to hunt or fish on those properties, will not necessarily improve the quality of the wildlife habitat or the fishing on those Federal properties. It will in fact diminish the rights of the Federal Government and increase the rights of the States, making them coequals, as the States may wish, since they are so very strongly in support of this legislation. And, finally, the enforcement problem will be very difficult to exercise and to maintain equitably because of the fact that private and Federal Government properties are very often interspersed in a checkerboard fashion.

So, Mr. Speaker, I regretfully must ask the Members to oppose this legislation.

Mr. GOODLING. Mr. Speaker, I yield 5 minutes to the gentleman from Montana (Mr. SHOUP).

Mr. SHOUP. Mr. Speaker, I reluctantly must rise in opposition to this legislation. I certainly applauded and supported the original bill as put in by my colleague, the gentleman from Florida, in the extension of this very needed legislation, but I find that the additional material that was added in title II to the original bill contains what I think are several objectionable additions insofar as the implementation of the original bill.

For that reason I would like to ask a question or two of the distinguished gentleman from Michigan (Mr. DINGELL) so that perhaps the gentleman may clarify a few points.

First, Mr. Speaker, I am somewhat surprised that the committee in face of the opposition of the Federal agencies that are affected by this bill would pass out this type of legislation. I note in the report that the Department of Agriculture, the Department of the Interior, both oppose the legislation, and that in the rest of the report it contains opposition by the Department of Justice, NASA, the AEC, the General Services Administration, the Comptroller General of the United States, and the Treasury.

It would appear that everyone is against the legislation, and they say they do not need it, and that as far as they are concerned they can implement what is wanted, and yet we have to pass another bill.

Mr. DINGELL. Mr. Speaker, if the gentleman will yield, I am sure the gentleman from Montana is aware of the fact that the committee on which the gentleman serves and on which I serve has long had the tradition of bringing forth legislation that the committee has thought would be in the public interest. I am sure the gentleman from Montana recalls the railroad legislation which was opposed by every Government agency, but which they now concede is excellent legislation, and other such legislation.

The answer is "Yes," that there may be authority for the various agencies to do what this bill would ask them to do, but the answer is that authority is not clearly codified, and is not being properly and adequately utilized by almost all of the agencies. This legislation does give to the States what they have wanted in order to achieve intelligent management of wildlife on public lands.

Mr. SHOUP. Did the committee feel that the present management of our Federal lands is so deficient as to demand this type of legislation?

Mr. DINGELL. The answer to that is "Yes," and we felt that there are many ways that hunting and fishing on public lands could be improved.

We have a program of this kind which is engaged in in Virginia. It is most successful, but the agencies have not utilized these kinds of devices elsewhere throughout the United States, with the result that hunting opportunities are not as good as they could be if this kind of legislation were enacted.

Mr. RUPPE. Mr. Speaker, will the gentleman yield?

Mr. SHOUP. I yield to the genleman from Michigan.

Mr. RUPPE. I thank the gentleman for yielding.

Is it my understanding that the Federal Forest Service now has an agreement in every State in which there is a Federal forest?

Mr. DINGELL. The answer to that question is "Yes."

I should like to remind my friend, the gentleman from Michigan, that the Service does not have any agreement between State government and the Federal Government as to sale of permits. This is permissible under the legislation and I would assume that the State agency in Montana where my good friend comes from, or in Michigan where Mr. RUPPE and I come from, would be keenly sensitive to the will of the people on this kind of question.

Mr. SHOUP. I find it very difficult to understand how the gentleman is going to implement this. If I may illustrate. In section 202a) (1), it says:

> The Secretary of the Interior shall develop—

And I emphasize the word "shall"—

> shall develop, in consultation—

Only in consultation—

> with the State agencies, a comprehensive plan for conservation and rehabilitation programs—

And I emphasize these words—

> to be implemented on public land under his jurisdiction. . . .

Then it goes on to refer to the Secretary of Agriculture in the same text.

There is a clear directive that there shall be a plan devised and implemented.

Mr. DINGELL. The gentleman is correct, and that is a nationwide plan.

Mr. SHOUP. Then on page 5 it says:

> Each State agency—

If I may emphasize this—

> may enter into a cooperative agreement. . . .

Mr. DINGELL. Yes.

Mr. SHOUP. First, we are telling the Secretary of Agriculture that he shall do something, and they simply state "may enter into it."

Then if you go to page 6, line 4, it predicates the accomplishment by the Federal agency on whether or not the State has agreed. It seems to me there is a conflict of language here which indicates that possibly this section or this title was drawn hastily.

Mr. DINGELL. The answer to the question is this: There is no conflict here. The Secretary is directed to develop a program for conservation of natural resources on public land.

The SPEAKER. The time of the gentleman has expired.

Mr. GOODLING. Mr. Speaker, I yield 1 additional minute to the gentleman from Montana.

Mr. DINGELL. Will the gentleman yield?

Mr. SHOUP. I yield to the gentleman from Michigan.

Mr. DINGELL. The answer is that the heads of the Forest Service are authorized and directed to come forward with a national plan for wildlife resources on lands under their jurisdiction, and they are to do so in consultation with the State agencies. Then they are authorized, but not directed, to enter into cooperative agreements with the State agencies with regard to game management on public lands under their jurisdiction. There is really no conflict. It is a comprehensive planning package in which the States will be ultimately involved. It is an attempt to finally resolve this ancient battle which has existed between the States and the Federal Government of game management on public lands.

Mr. SHOUP. I have one further question regarding the statement by the gentleman from Michigan on the problem of defining the boundaries of the national forest or Federal lands with private or State lands. As the gentleman knows, Montana is a maze of checkerboard ownership due to the land-grant railroads. Did the committee approach this?

The SPEAKER. The time of the gentleman has expired.

Mr. DINGELL. Mr. Speaker, I yield to my good friend, the gentleman from Montana, 1 minute and yield myself such additional time as we need to discuss this.

The answer is that we have tried to give the State agencies of the States concerned and the Federal agencies sufficient latitude and discretion to meet peculiar problems which exist in the different States. For example, that is the reason that we have not fixed a fee. We have simply authorized the establishment of a stamp tax pursuant to a cooperative agreement between the gentleman's State Game Management Agency and the Federal agency in question, so that local conditions may be taken into consideration, so that, for example, the State agency may be responsive to the wishes of the State legislature with regard to this particular question. It is assumed that the different problems of the different States will be met in a fashion most appropriate to those particular States, rather than to establish a national program.

It is our intent to see to it that the State game management agencies are able to tailor their solution to these problems, to the particular problems which exist in the gentleman's State, or in my State, to suit the problems that exist there. It is to involve the State agencies as closely as possible and the Governors and the people most directly involved on a State-by-State basis as opposed to sending them some fiat from Washington.

Mr. SHOUP. I thank the gentleman from Michigan.

Mr. DINGELL. I yield 5 minutes to my good friend, the gentleman from Florida (Mr. SIKES), the author of the legislation before us.

Mr. SIKES. Mr. Speaker, first let me express my appreciation to the distinguished gentleman from Michigan (Mr. DINGELL) for his sponsorship of this bill, which I also sponsor, and my appreciation to the great committee of which he is a member for the very important work done on so many needed measures to improve public recreation and to insure the preservation of America's wildlife and natural resources. Mr. DINGELL in particular has long been a recognized leader in this field—a field which each year becomes more essential as an exploding population seeks the peace and freedom of the outdoors. We, through this bill, hope to improve these resources.

The appropriations which will be authorized are not mandatory. They will be voted only as justified to the Appropriations Committees of the Congress. The authorization provides insurance of adequate support of these programs in the future.

The bill provides for an extension of present programs for the conservation of fish and wildlife and the recreational use of lands in military reservations. This program has proven itself. It contains a new section which permits the bill to apply to BLM lands, to national forests, to NASA-owned lands, et cetera, on a voluntary, as-requested basis. The program is designed to improve access to and use by the public of these lands for hunting, fishing, boating, swimming, hiking, picnicking, or whatever legitimate use is beneficial to the public and reflects sound forest and wildlife management programs.

This legislation grew out of a pilot program approved to insure sound management practices for the Eglin Reservation, comprising nearly half a million acres in northwest Florida. Subsequently, Eglin Air Force Base has been a perennial winner in wildlife conservation competitions among military bases. It is interesting to note that the entire world population of the Okaloosa darter is found in this reservation. This small fish has been listed as a rare and endangered species by the Department of the Interior.

In 1960 general legislation was approved by Congress to initiate a program of wildlife conservation on military reservations throughout the country. Through implementation of the conservation program, tens of thousands of man-years of recreation have been made possible. A further contribution of the program has been the protection and assistance furnished to various endangered species. The American alligator, the southern bald eagle, and the osprey are among those species whose continued existence is being protected by virtue of wildlife conservation programs on military bases.

It is important to note that the hunting and fishing or other recreational uses associated with wildlife in this program are available to all citizens and not just to the personnel on the military base. State fish and game laws generally are in effect, and enforcement of those laws frequently is handled by regular employees of the State wildlife agency.

Concern has been expressed about the fact that a fee can be charged for people utilizing the lands covered by this act. The fee is flexible. It is negotiated between State and local authorities and is intended only to help defray the actual costs of the program. In no instance is it excessive.

Concern also has been expressed over the fact that penalty and seizure provisos are contained in the bill for violators. This is contained in present law. It is intended only to protect the reservations and the public who use them. Law-abiding recreation-minded citizens are entitled to protection from poachers and others intent on crime. I have watched the operation of this legislation for years, and I have known of no instance where excessive or unreasonable procedures were followed under the penalty and seizure sections. Every State has such laws. It is sound to apply them also to Federal lands.

Over 200 bases containing 19 million acres have developed cooperative programs under the 1960 legislation—an outstanding record—but one which I hope to see improved to cover all the 26 million acres under the management of the Department of Defense. A step toward this goal was taken in 1968 when the Congress amended the 1960 act to authorize the appropriation of moneys to initiate programs on those reservations which did not possess a natural resource base adequate to build upon. These areas require appropriated funds so that they can establish forestry or other conservation programs with wildlife benefits which in time would become self-sustaining. This bill will continue that authorization.

The 1968 amendment allowed the appropriation of $500,000 per year for fiscal year 1970, 1971 and 1972. Because of fiscal limitations, the Department of Defense did not request funding of these authorities. Now, in view of the rising costs associated with such a delay and the increasing need for the program, it is proposed in title I of H.R. 11537 that the appropriate authority for the Department of Defense be extended to cover the period through fiscal year 1977 and the level increased to $1,500,000 per year. The title would also authorize the appropriation of $2 million per year for a 5-year period beginning July 1, 1973, to the Secretary of Interior to carry out the portions of cooperative programs established under this title which are the responsibility of the Interior Department.

The second title of H.R. 11537 would allow the implementation of these commendable conservation management programs on other public land. Over 500 million additional acres would be brought within the management authority of this bill by including the lands under the jurisdiction of the Bureau of Land Management, Forest Service, Atomic Energy Commission and the National Aeronautics and Space Administration.

I would hasten to add that participation in the conservation program is voluntary on the part of AEC and NASA, and that no management authority is being taken from the heads of these two agencies. Rather, they are being given the opportunity to cooperate in a venture which will be of benefit to the public and to wildlife.

Certainly as we consider the Federal role in providing for outdoor recreation in the energy-restricted years ahead, a program which will make more high quality recreation lands available, especially in the populous East, appears as a most helpful adjunct.

The bulk of Federal lands on which recreation is a major function—the national parks and forests—are located primarily in the West. The most concentrated centers of population, on the other hand, are in the East. There are military reservations throughout the Nation, and extensive AEC and NASA lands are appealingly located in the East. Here, then, is an opportunity to provide new outdoor recreation options for the growing number of citizens who will have less opportunity to enjoy the benefits of America's recreational estate. The lessened opportunity will be made even more restrictive if available supplies of gasoline limit travel in future years.

In light of such considerations, this

proposal emerges as one of those rare pieces of legislation with the capacity to lessen problems in apparently unrelated areas. Through adoption of the broadening provision of H.R. 11537 we can conserve not only land and wildlife, but energy as well.

Now I want to touch briefly on the details of title II. The Secretaries of Interior and Agriculture are required to develop, in cooperation with the several States involved, comprehensive plans for the conservation and rehabilitation of public lands under their jurisdiction. Upon written approval of the head of the AEC and NASA, lands under the jurisdiction of either agency may be included under such a comprehensive program. The title makes clear that State fish and wildlife laws shall be applicable on any of these lands on which hunting or fishing are permitted. An important provision in the operation of the wildlife conservation programs on military reservations is that these programs have been self-sufficient, the fees collected from users being used to offset the costs of operation. This concept is carried through in the current proposal. Section 203 provides a mechanism for this, with the authorization of a public land management area stamp which must be displayed by anyone seeking to harvest wildlife on lands covered by a cooperative program authorized by this title.

These stamps would be sold by the State wildlife agency or its authorized agency, and the proceeds of such sales shall be used only for the implementation of conservation and rehabilitation programs authorized by this act. The penalty for failure to possess such a stamp when required is a fine not to exceed $1,000 or imprisonment for not more than 6 months, or both. The bill also authorizes the sum of $10,000,000 to be appropriated for the fiscal year ending June 30, 1974, and for each of the next 4 fiscal years to enable the Interior Department to carry out the provisions of this act. Similar appropriation authority is contained for the Department of Agriculture.

Mr. Speaker, I would like to reiterate that this legislative proposal will enable us to make progress in two areas currently of great concern—the enhancement of our natural environment and the alleviation of the pressures generated by the energy crisis.

Should any of our colleagues be interested in observing first hand the effectiveness of this program, I invite them to visit Eglin and Tyndall Air Force Bases in Florida's first and finest district. Tyndall, although a much smaller reservation comprising only 20,000 acres, has been the most consistent winner in national competition on conservation programs in the Nation. The accomplishments in the program at these bases are outstanding.

My hope is that more Americans will be able to see and use the results of sound conservation and rehabilitation programs on Federal lands near where they live.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to my friend from Florida.

Mr. SIKES. Mr. Speaker, I am glad to yield to my friend from Florida, the chairman of one of the great committees of the House, the Committee on Interior and Insular Affairs (Mr. HALEY).

Mr. HALEY. Mr. Speaker, I would like to associate myself with the remarks of the distinguished dean of our delegation and heartily concur in his remarks.

Mr. SIKES. Mr. Speaker, I appreciate the contribution of my good friend. I reiterate that this legislative proposal will enable us to make progress in two areas currently of great concern, the enhancement of our natural environment and the alleviation of the pressures generated by the energy crisis.

I yield to the distinguished gentlewoman from Washington.

Mrs. HANSEN of Washington. Mr. Speaker, I would appreciate the distinguished gentleman from Florida clarifying the statement on page 14, wherein it said:

> (4) The term "public land" means all lands under the respective jurisdiction of the Secretary of the Interior, the Secretary of Agriculture, the Chairman, and the Administrator, except land which is, or hereafter may be, within or designated as—
>
> (A) a military reservation;
>
> (B) a national park or monument; or
>
> (C) an area within the national wildlife refuge system;

This kind of leaves hanging the status of the Indian-owned lands, and because we have had so many conflicts over the Indian fishing and Indian hunting and so on, I would like the gentleman to clarify and state that this does or does not include the Indian lands.

Mr. SIKES. That is a very sound question and I yield to the very distinguished chairman of the subcommittee who has a detailed answer on the subject.

Mr. DINGELL. Mr. Speaker, I thank my good friend and colleague for yielding. In response, I would say it is the understanding and the intention of the subcommittee and the committee that it did not cover Indian lands, because Indian lands are different. Those are trust lands and are not included under the language of the legislation, according to the clear intent of the committee. I am sure my good friend from Florida, (Mr. SIKES) will concur in that understanding.

Mr. SIKES. Mr. Speaker, I concur in the statement and I think it is well to bring this out. Again, let me thank this distinguished committee for what I think is a valuable contribution in this field of legislation.

Mr. DINGELL. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I want to commend my friend from Florida (Mr. SIKES) for his outstanding work in bringing this legislation about. It is a monument to his tenacity and his vision and it certainly represents a continuation of the program which he has most successfully fought for in his years in Congress.

Mr. Speaker, I yield 1 minute to the distinguished chairman, the gentlewoman from Missouri (Mrs. SULLIVAN).

Mrs. SULLIVAN. Mr. Speaker, I rise in support of H.R. 11537 and urge its immediate passage.

I commend the gentleman from Michigan, the chairman of the subcommittee, for doing an excellent job on this very difficult subject.

Mr. Speaker, this bill will provide for the continuation of a program of planning, development, maintenance, and coordination of wildlife, fish, and game conservation, public recreation, and rehabilitation on military reservations carried out under cooperative plans between the Secretaries of Defense and Interior and the appropriate State agency. This program has made possible many successful and well-balanced conservation programs at Defense installations capable of supporting such a program consistent with the military mission.

Under these cooperative efforts, military lands have been used for the benefit of all our citizens as sources of wildlife-oriented recreational activities, the demand for which is increasing at a faster rate than it can be provided. At the same time, appropriate areas on these military lands are serving as sanctuaries for some of our threatened and endangered species.

Mr. Speaker, with the passing of each day, land in general becomes increasingly expensive as the competition for its use grows. The amount of available land remains the same, therefore, we must learn to use each parcel of land for as many complementary purposes as possible. As we all know, vast areas of our country have been set aside for the necessary requirements of our military services. Existing programs have provided for the partial use of these same lands for recreation and conservation. The potential exists for far more extensive use of these lands for wildlife-oriented uses and the legislation before us today would increase the use of military lands for such purposes and set up similar programs for multiple use of other Federal lands.

Mr. Speaker, these programs have proved highly beneficial on a limited scale and I believe they should be extended and expanded. Accordingly, I urge the immediate passage of H.R. 11537.

Mr. SIKES. Mr. Speaker, I yield to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Speaker, I rise in support of H.R. 11537, a bill to extend the program for conservation on military reservations and to authorize such programs on other Federal lands. The existing act of September 15, 1960, which will become title I by the legislation before us, will be extended through fiscal year 1978 with an annual authorization of $1.5 million for the Secretary of Defense and $2 million for the Secretary of the Interior to carry out their joint responsibilities for wildlife conservation planning and management on military reservations.

Under the 1960 act, the Departments of the Interior and Defense have entered into a basic agreement covering conservation of fish and wildlife resources on military reservations, and 237 cooperative agreements covering approximately 19 million acres of DOD land have been entered into between installation commanders and State wildlife agencies.

This is a sound program which has, unfortunately, been woefully underfunded. The previous authorization level of $500,000 was simply not adequate and, based upon the estimates of Defense witnesses before the committee, the proposed funding level of $1.5 million per year is recommended by your committee. Further, the existing act did not authorize any funds for the use of the Department of the Interior to carry out its responsibility for planning conservation programs. Again, based upon the advice of Interior Department witnesses, the committee has recommended an annual authorization level of $2 million. If fully funded, this will enable the Departments of the Interior and Defense to implement fish and wildlife conservation programs on many military reservations that have great potential. A list of those military installations appears on pages 6 and 7 of your committee report.

Title II of the 1960 act, as proposed in H.R. 11537, would authorize the Secretary of the Interior, with respect to certain public lands under his jurisdiction and with respect to lands administered by the Atomic Energy Commission and NASA, to enter into cooperative wildlife conservation programs with appropriate State agencies. Any agreement involving AEC or NASA lands would be made with the written approval of the chairman of those agencies. The cooperative program envisioned by title II is designed to substantially expand the level of rehabilitation efforts on public lands so as to increase and enhance wildlife habitat. Comparable authority would be vested in the Secretary of Agriculture with respect to national forest lands. The lands administered by the Agriculture Department and the Bureau of Land Management of the Department of the Interior account for the vast bulk of our public domain. They are in effect the Nation's reservoir of undeveloped lands where wildlife of all kinds can and should be not only preserved, but given every opportunity to flourish for the benefit of this and future generations. The cooperative management programs as envisioned by this legislation will give the States the significant role in this effort and hopefully will terminate the jurisdictional disputes that have gone on over the years between Federal agencies and the States over the question of wildlife management on Federal lands. This legislation does not turn over to the States jurisdiction over resident species of wildlife found on Federal lands, but pursuant to the cooperative agreements would give the States operational responsibility for management.

In addition, the legislation would strengthen the President's Executive Order 11644 dealing with the use of off-road vehicles on Federal lands. The funding for title II constitutes a small increase over current appropriations; $10 million per year would be authorized for the Department of the Interior with respect to lands under its jurisdiction and AEC and NASA lands; $10 million would also be authorized for the Department of Agriculture.

Mr. Speaker, while the executive agencies do not support title II of this legislation on the grounds that they have sufficient authority to carry out such programs, the bill would provide a statutory basis for the joint management of wildlife with the States and would tend to bring about a more uniform and rational cooperative system throughout the United States. I therefore urge my colleagues to support its enactment.

Mr. Speaker, I yield 5 minutes to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, I stand unsure whether I support or oppose this bill. I do apologize for not attending the committee meeting held March 8, 1973.

Whenever the gentleman mentions public lands, I become a little nervous because we are dealing with about 96 percent of the State of Alaska. I do know, Mr. Speaker, that we have now before this legislative body approximately four bills dealing with public lands and land use planning commissions.

What effect this is going to have on Alaska, is what I would like to have clarified.

Mr. Speaker, I will yield to the gentleman from Michigan for the purpose of answering this question: Will this in any way affect the jurisdiction of the State Fish and Game Division now as far as the overseeing of the bag limit, and so forth, of game now on public lands?

Mr. DINGELL. Mr. Speaker, the answer to that question is an unqualified no. This legislation, if the gentleman would permit me to reply, is solely to resolve the bitter controversy that has existed between game and fish directors particularly of Western States, as to who manages the land in the public domain. The idea is that it would require cooperative agreements between the States and the Federal Government on this question.

The State agency is given an opportunity to enter into an agreement with the Federal Government insofar as how this management will take place. It does not have to enter into such an agreement.

Mr. YOUNG of Alaska. Mr. Speaker, what happens if the State does not enter into an agreement? The gentleman says "shall" here, and the State "may."

Mr. DINGELL. The answer is that if the State does not enter into the agreement, nothing.

Mr. YOUNG of Alaska. Nothing happens?

Mr. DINGELL. Nothing. Absolutely nothing.

Mr. YOUNG of Alaska. Mr. Speaker, I have another question concerning the Indian lands. Most of the land utilized for substantial hunting is on public lands. Would this affect their right to hunt?

Mr. DINGELL. Mr. Speaker, the answer to that question again is an unqualified no. It would not affect existing Indian rights in any fashion whatsoever.

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman.

Mr. GROSS. Mr. Speaker, will the gentleman yield so that I may ask the gentleman from Michigan (Mr. DINGELL) a question?

Mr. YOUNG of Alaska. Mr. Speaker, I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, what happens to a State if it does not enter into an agreement? Is the State penalized in any way?

Mr. DINGELL. In no way. I want the States to be able to enter into an honorable contract on equal terms with the Federal Government with regard to the questions that this bill addresses itself to.

Mr. GROSS. There will be no denial of funds?

Mr. DINGELL. Absolutely none.

Mr. GROSS. Of any kind?

Mr. DINGELL. Absolutely not.

Mr. GROSS. Mr. Speaker, I thank the gentleman.

Mr. RUPPE. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. Mr. Speaker, I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Speaker, I think the question is not whether the States will not develop the cooperative agreements. The fact of the matter is that the States are very anxious for the legislation and they will develop the agreements.

I would state, however, that for the most part and in every case where there is a Federal forest located, it has a cooperative ongoing agreement with the States. Under the legislation, the States become coequals, and in fact, regardless of the opposition of any Federal agency, the States will develop cooperative agreements with the Federal Government because the Federal Government must develop these agreements.

They are to the advantage of the State in defraying some costs. The States are now under the bill able to levy a State license fee for game netted and for fishing and hunting on Federal properties. The management cooperative agreements are good now without the license. Under the bill, the State governments would have an opportunity to be coequals as land managers and developers of the fish and wildlife habitat in these areas and could charge a fee.

In addition to charging a fee, there is no doubt the Federal Government will actually get a fair rate. It can be charged regardless of the extent or the narrowness in size and scope of the State program, so the fee can be charged at the State's discretion.

In my own particular area, there will be a strong temptation on the part of the Department of Natural Resources to charge the fees and grab the extra revenue regardless of what they do on the Federal level. It will be likely that they will do nothing more.

It is, in a way, a financing device of the State Departments of Natural Resources. That, frankly, is my objection along with the fact that private and Federal lands are interspersed and checkerboarded. I can be hunting on my own land or my neighbor's land and never know for sure when I am on Federal lands because they are not fenced. I would be liable to a 6 months' prison sentence or a $1,000 fine in making a mistake, and I have no real way of knowing whether I am hunting on private or public domain lands.

Mr. BIAGGI. Mr. Speaker, I rise to speak in support of H.R. 11537, the Game Management on Public Lands Act.

Once again, the Congress has an opportunity to demonstrate its commitment to saving our nearly ruined national environment and to redeem its pledge to create a safe habitat for every species of animal which we found here when God gave us this Earth.

We already have a game management program on the books. This bill would extend and improve it. We are asking the Congress to authorize $1.5 million per year to the Secretary of Defense, a threefold increase, and $2 million per year to the Secretary of the Interior to carry out conservation programs on military reservations. We are also including those lands held by the U.S. Forest Service, the Bureau of Land Management, the Atomic Energy Commission, and the National Aeronautics and Space Administration.

And perhaps most important, we are requiring the appropriate agencies to develop comprehensive game conservation and rehabilitation plans in consultation with the States. This is essential if we are to spend the money wisely and win the race between those who would deplete our environment of its natural inhabitants and those who would save it for them.

Finally, the bill requires those who stalk game to purchase stamps—without which they would not be allowed to hunt—in order to help defray the cost of the program. In this sense, the bill is operating on a wise principle of government—spend where you must, but save where you can.

Mr. Speaker, this is an important national challenge, and the bill helps meet it. I urge quick passage.

Mr. VANIK. Mr. Speaker, I object to this legislation on the grounds that the committee report was not available for 3 calendar days. Under rule 27(d)(4), a measure shall "not be considered in the House until the third calendar day on which the report of that committee . . . has been made available to the Members of the House."

I would like to point out that the last time we considered this program—on July 15, 1968—the bill was also brought up under suspension of the rules, was not adequately explained and was not debated for the full 40 minutes available under the suspension provision. As one of our colleagues said at that time, the committee's decision not to debate the bill was wise—if the House understood what the bill had meant, it would not have passed the bill.

The same situation prevails today.

The bill before the House today is a gift to the hunters and fishers. It raises the authorization for game conservation and rehabilitation programs on military reservations from half a million dollars a year to $1.5 million per year. In addition, the program is expanded by providing conservation and rehabilitation programs on other public lands. The Secretary of the Interior will get $2 million a year for such "conservation" programs. In addition, the bill authorizes $10 million annually for 5 years to the Agriculture Department for "conservation" on Forest Service lands and $10 million annually for 5 years for programs on lands under the control of the Bureau of Land Management, the Atomic Energy Commission, and NASA.

Why is "conservation" and "rehabilitation" necessary? Because sportsmen are apparently killing off all the game. This is not a conservation program. It is a restocking program so that hunters will continue to have enough to hunt.

Now I have nothing against hunting and fishing. If people enjoy this as a sport, that is their business. But I do not believe that the general public and the Federal Treasury should subsidize this hobby.

Funds were provided for this program in 1968, because the proceeds from hunting and fishing permits were averaging only about $150,000 per year.

In the committee's hearings on this bill, the Atomic Energy Commission reported that an average of 4,800 people used their lands annually for hunting and fishing. Following are the fees that the AEC received for such land use and the approximate gross and net costs to the AEC for participating in this type of program:

| | Gross cost to AEC | Fees received by AEC | Net costs to AEC |
|---|---|---|---|
| Fiscal year: | | | |
| 1970 | $61,000 | $14,000 | $47,000 |
| 1971 | 62,000 | 15,000 | 47,000 |
| 1972 | 76,000 | 16,000 | 60,000 |

By the AEC's own testimony at the hearings, the annual subsidy per hunter or fisher is running about $10.

Well, if people want to hunt and fish on publicly stocked lands, they should pay for the privilege. If it is vital that the game life on these lands be rehabilitated, I would suggest that we cut down on the amount of hunting and fishing.

I do not think that the House should be deceived into believing that this is an ecology or environmental-conservation bill. The only reason conservation and "rehabilitation" are necessary is because people are overhunting and overfishing the resources. The proper conservation procedure would be for the amount of fishing and hunting to be cut back.

I cannot find in this bill any specific mention of what these "conservation" programs or what the "wildlife management" programs are going to be. However, I do find very specific mention of the regulations surrounding the hunting and fishing licenses. There are no limitations on the numbers of hunters and fishers, limitations that would decrease the need for conservation or rehabilitation. There is only an increase in the amount of corrective money.

It is a disgrace for this Congress to authorize $23.5 million over the next 5 years for the pleasure of the gun lobby.

Mr. Speaker, I hope this legislation will be defeated.

The SPEAKER. The question is on the motion offered by the gentleman from Michigan (Mr. DINGELL) that the House suspend the rules and pass the bill, H.R. 11537, as amended.

The question was taken.

Mr. RUPPE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 355, nays 25, not voting 50, as follows:

[Roll No. 4]

YEAS—355

Abzug
Adams
Addabbo
Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Aspin
Badillo
Bafalis
Baker
Barrett
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Boggs
Boland
Bolling
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byron
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Conlan
Conte
Corman
Cotter
Coughlin
Cronin
Culver
Daniel, Robert W., Jr.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellums
Denholm
Dennis
Dent
Derwinski
Devine
Diggs
Dingell
Donohue
Downing
Drinan
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Grasso
Gray
Green, Pa.
Griffiths
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hawkins
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
King
Kluczynski
Koch
Kuykendall
Kyros
Landrum
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Lott
Lujan
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McKinney
McSpadden
Madden
Madigan
Mahon
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Milford
Mills
Minish
Mink
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher

Nedzi
Nelsen
Nix
Obey
O'Brien
O'Neill
Owens
Parris
Patman
Patten
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reid
Reuss
Riegle
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Runnels
Ruth
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steele
Steelman
Steiger, Wis.
Stephens
Stokes
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Teague
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Udall
Ullman
Van Deerlin
Veysey
Vigorito
Waggonner
Waldie
Wampler
Ware
White
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

### NAYS—25

Abdnor
Ashbrook
Bauman
Beard
Butler
Collins, Tex.
Conyers
Crane
Daniel, Dan
Gross
Holt
Johnson, Colo.
Landgrebe
Long, Md.
McEwen
Mallary
Miller
Rhodes
Ruppe
Shoup
Symms
Treen
Vanik
Whitehurst
Yates

### NOT VOTING—50

Anderson, Calif.
Arends
Ashley
Blackburn
Blatnik
Bowen
Brown, Ohio
Camp
Carey, N.Y.
Carney, Ohio
Chisholm
Clark
Conable
Daniels, Dominick V.
Dellenback
Dickinson
Dorn
Dulski
Esch
Fraser
Froehlich
Goldwater
Green, Oreg.
Hanna
Hays
Jones, Ala.
Jones, N.C.
McClory
Macdonald
Mailliard
Michel
Mitchell, Md.
Moss
Nichols
O'Hara
Passman
Pepper
Price, Tex.
Rinaldo
Rooney, N.Y.
Ryan
Scherle
Steed
Steiger, Ariz.
Stratton
Stubblefield
Taylor, Mo.
Vander Jagt
Walsh
Whalen

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The Clerk announced the following pairs:

Mr. Hays with Mr. Arends.

Mr. Rooney of New York with Mr. Passman.

Mr. Fraser with Mr. Esch.

Mr. Dulski with Mr. Ryan.

Mr. Ashley with Mr. Michel.

Mr. Blatnik with Mr. Froehlich.

Mr. Carney of Ohio with Mr. Camp.

Mr. Carey of New York with Mr. Goldwater.

Mr. Dominick V. Daniels with Mr. Rinaldo.

Mr. Clark with Mr. Mailliard.

Mr. Hanna with Mr. McClory.

Mr. Macdonald with Mr. Brown of Ohio.

Mrs. Green of Oregon with Mr. Price of Texas.

Mr. Mitchell of Maryland with Mr. Stratton.

Mrs. Chisholm with Mr. Moss.

Mr. Nichols with Mr. Scherle.

Mr. O'Hara with Mr. Dellenback.

Mr. Stubblefield with Mr. Blackburn.

Mr. Steed with Mr. Steiger of Arizona.

Mr. Jones of Alabama with Mr. Taylor of Missouri.

Mr. Anderson of California with Mr. Conable.

Mr. Jones of North Carolina with Mr. Dickinson.

Mr. Bowen with Mr. Vander Jagt.

Mr. Dorn with Mr. Walsh.

Mr. Pepper with Mr. Whalen.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 11537.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

## CONTIGUOUS FISHERIES ZONE

Mr. DINGELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11809) to amend the act entitled "An act to establish a contiguous fishery zone beyond the territorial sea of the United States," approved October 14, 1966, to require that the method of straight baselines shall be employed for the purposes of determining the boundaries of such fishery zone, and for other purposes, as amended.

The Clerk read as follows:

H.R. 11809

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 2 of the Act entitled "An Act to establish a contiguous fishery zone beyond the territorial sea of the United States", approved October 14, 1966 (16 U.S.C. 1092), is amended to read as follows:

"SEC. 2. (a) The fisheries zone has as its inner boundary the outer limits of the territorial sea and as its seaward boundary a line drawn so that each point on the line is nine nautical miles from the nearest point in the inner boundary, and, in any case in which the straight baseline method is applied for the purpose of determining such zone, includes any waters between the seaward boundary of such zone as determined by application of such method and the seaward boundary of the fisheries zone as determined by application of the low-waterline baseline method.

"(b) For the purposes of this section, the baseline for measuring the breadth of the territorial sea shall be established in accordance with the provisions of the Convention on the Territorial Sea and the Contiguous Zone which came into force on September 10, 1964, and, where applicable, the method of straight baselines shall be employed in drawing the baseline pursuant to article 4 of such convention."

SEC. 2. Such Act of October 14, 1966, is amended by adding at the end thereof the following new sections:

"SEC. 5. Within the two-year period beginning on the date of enactment of this section, the baseline for the purpose of charting the contiguous fisheries zone, described in subsection (b) of section 2 of this Act, shall be marked on large-scale charts officially recognized by the United States.

"SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act."

The SPEAKER. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. DINGELL. Mr. Speaker, the purpose of H.R. 11809 is to expand the area of the contiguous fisheries zone off the coast of the United States by using the straight baseline method in charting the boundaries of the zone.

Mr. Speaker, the concept behind this proposal is derived from the Convention on the Territorial Sea and the Contiguous Zone, which entered into force for the United States in 1964.

Article IV of the convention provides that where the coastline of a nation is deeply indented and cut into, or if there are a fringe of islands along the coast in its immediate vicinity, the method of straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured.

Mr. Speaker, although the United States has not seen fit to use this method to chart our territorial sea, more than 50 other coastal nations have gone so far as to chart at least part of their territorial sea and/or contiguous zone by this method or have passed legislation authorizing such use. Included in this list of nations that have taken this action are such countries as Canada and Mexico, both of which border the United States, Norway, Iceland, Ecuador, Brazil, the United Kingdom, and Russia.

Mr. Speaker, the need for this legislation arises from the fact that in 1966 the United States extended our exclusive fisheries zone from 3 to 12 miles off our coastal shores. The zone has as its inner boundary the outer limits of the territorial sea and its seaward boundary a line drawn so that each point on the line is 9 nautical miles from the nearest point in the inner boundary. Since 1966, there has been a tremendous increase in the number of foreign vessels fishing within or just beyond this exclusive zone. For instance, in May of 1973 about 860 foreign fishing vessels were sighted off our coastal shores as compared to 730 in May of 1972. In June of 1973, the number of vessels sighted increased to 930 as compared to 770 in June of 1972.

Mr. Speaker, briefly explained, the legislation would amend the Exclusive Fisheries Zone Act to provide that in any case in which the straight baseline method is used for determining the measurements of such zone, the zone would include the seaward boundaries of such zone as determined by application of such method and the seaward boundary of the fisheries zone as determined by application of the low-waterline baseline method.

Mr. Speaker, the net effect of this provision in the bill, based upon the best information available, is to extend our fisheries zone overall anywhere from 2 to 10 percent, the biggest increase occurring off the coasts of Alaska, Maine, Massachusetts, and the Northwest Pacific States.

Mr. Speaker, in addition, the bill would require, within 2 years from the date of enactment of this legislation, the charting of the fisheries zone on large-scale maps which are officially recognized by the United States.

Mr. Speaker, before closing, I think it is important to make two observations for the benefit of my colleagues. This legislation would not provide for the charting of the territorial sea; it only provides that the concept for charting the territorial sea, as provided by article 4 of the convention, would be utilized when charting the contiguous fisheries zone, and the legislation would in no way affect State jurisdiction or State rights in these waters.

Mr. Speaker, H.R. 11809 was unanimously ordered reported by the Merchant Marine Fisheries Committee, and I urge its prompt passage.

Mr. DENNIS. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Mr. Speaker, I thank the gentleman from Michigan for yielding.

I am certainly sympathetic with the objective of this bill as I understand it, but I realize this is a subject which gets into matters of international law, and I note from the report and from other sources here that apparently the Department of State is opposed to the bill, among other reasons on the ground they feel this straight line method might interfere, if adopted generally and for other than fishery purposes, with some important ideas we have on the freedom of navigation of the seas in general.

Mr. DINGELL. The State Department, as the gentleman will recall, seems to spend a great deal of time representing other governments and very little time representing our own people.

The answer is that the State Department's apprehension on that point is totally without foundation.

There is going on at this time an international convocation to establish the laws of the sea, which will probably define more clearly the amount of sea and seabed which will be subject to jurisdiction of the adjacent States. Other nations have already gone to this device of establishing both their territorial sea and their contiguous fishing zone, such as Great Britain, Norway, Canada, and others.

We are only doing what others have already done.

Mr. Speaker, I yield myself 1 additional minute. I would continue after yielding.

We do not change the law of navigation. This legislation has to do only with the contiguous fisheries zone as it would relate to foreign fishing activities in that zone.

I happen to feel, as do many of our colleagues, there has to be something done about the foreign fishing off our shores, which is doing such great damage to the fish upon which we are dependent; but until we can get some support from the administration toward expending these zones, this modest proposal will only afford a slight protection to our fishermen.

Mr. DENNIS. Mr. Speaker, will the gentleman yield?

Mr DINGELL. I yield to the gentleman.

Mr. DENNIS. Mr. Speaker, all we do under this bill is use the straight-line method for the fishing zone?

Mr. DINGELL. That is right.

Mr. DENNIS. Not for the territorial sea, although we have a right to do that under the convention?

Mr. DINGELL. The gentleman is absolutely right. I would like to see us do it also for the territorial sea.

Mr. DENNIS. The gentleman does not see anything in the idea of the Department of State that this will jeopardize our position for other purposes in the forthcoming conference on the laws of the sea?

Mr. DINGELL. I do not and the committee does not. We have representatives over there from the committee in that conference.

Mr. DENNIS. I thank the gentleman.

Mr. DON H. CLAUSEN. Mr. Speaker, I wonder if the gentleman could respond to a question.

While I believe this is a significant improvement over the establishment of legislation dealing with the contiguous fisheries zone, there are a number of us that do feel that the contiguous fisheries zone should be extended significantly, possibly to 200 miles.

I, for one, introduced legislation to extend the 200-mile limit, which affects jurisdiction over fishery and marine resources only so that it separates the conservation question from the security issue.

So the question I have from the gentleman from Michigan is, can we anticipate hearings in the very near future from his subcommittee on the matter of extending the contiguous fisheries zone?

Mr. DINGELL. I thank the gentleman for raising that point. It is my intention, and my chairman, the gentlewoman from Missouri (Mrs. SULLIVAN) is in agreement this should be done. We contemplate hearings at an early time.

Mr. Speaker, I yield myself 1 additional minute.

As the gentleman is aware, the gentleman from Massachusetts (Mr. STUDDS), the gentleman from New Jersey (Mr. FORSYTHE), the gentleman from North Carolina (Mr. JONES), the gentleman from Connecticut (Mr. STEELE), the gentlemen from Maine (Mr. KYROS and Mr. COHEN), the gentleman from Virginia (Mr. DOWNING), the gentleman from Alaska (Mr. YOUNG), the gentleman from Georgia (Mr. GINN), the gentlewoman from Massachusetts (Mrs. HECKLER), and the gentlewoman from Washington (Mrs. HANSEN), are all very interested in this question and we are all anxious to have hearings on the subject matter at an early time.

Mr. DON H. CLAUSEN. I thank the gentleman for that.

I would ask the chairman of the full committee, Mrs. SULLIVAN, whether we will have hearings very soon?

Mrs. SULLIVAN. Mr. Speaker, will the gentleman yield?

Mr. DON H. CLAUSEN. I yield to the gentlewoman.

Mrs. SULLIVAN. Yes. I am in agreement.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Speaker, I take this time to ask the gentleman a question or two. I note in the report that the Department of State was opposed to H.R. 2283, which I assume pertained to this precise subject. Have the objections of the Department of State been met in this legislation?

Mr. DINGELL. Mr. Speaker, the answer is no. The State Department has a long record of tradition in opposing this kind of legislation. As the gentleman from Iowa will recall, and I think he was a member of the subcommittee at the time they considered the matter, the department opposed the legislation which set up these contiguous fishing zones in the first place.

They saw to it that we drew the line more narrowly on the map under that legislation. This legislation will correct that, and I am comfortable in their opposition.

Mr. GROSS. Mr. Speaker, does this bill in any way affect the delineation of State boundaries with respect to offshore oil rights,

Mr. DINGELL. The answer to that question is, absolutely not. Contiguous fishing zones relate solely to an area in which our laws protect the fishery resources and not to sea bed resources, mining minerals, extraction of oil.

Mr. GROSS. The gentleman is aware, I am sure, that legislation dealing with offshore oil has been proposed to do precisely what this legislation does, and that is to follow straight lines from point to point.

Mr. DINGELL. That is what this legislation does, but only for fishery, not for mineral or oil.

Mr. GROSS. This is limited strictly and in no way can be interpreted as changing the territorial lines with respect to offshore oil?

Mr. DINGELL. No, no; the answer is, it does not.

Mr. GROSS. Mr. Speaker, I thank the gentleman.

Mr. GOODLING. Mr. Speaker, H.R. 11809, a bill to establish the contiguous fishery zone by the straight baseline method, is designed to make some minimal changes in our contiguous fishery zone. This zone established by statute enacted in 1966 extends 9 miles seaward from the traditional 3-mile territorial sea. Foreign fishing within the zone is, of course, prohibited except in those instances where the Secretary of State has recognized an historic fishing right as in the case of certain Canadian fishermen, or has entered into a bilateral agreement granting this right to nationals of a foreign country in exchange for some meaningful concession. The outer limit of the contiguous fishery zone is a line which parallels the line of the territorial sea.

Both of these lines generally follow

the contours of the coast and, therefore, where the coast contains bays and inlets, these lines are indented. The Convention on the Territorial Sea and Contiguous Zone of 1958 authorizes nations to measure these lines by the so-called straight baseline method. If the distance between the low-water marks of the natural entrance points of a bay does not exceed 24 miles, a closing line may be drawn between these two low-water marks, and the waters within that line are considered internal waters. Where the distance exceeds 24 miles, a straight baseline of 24 miles may be drawn within the bay in such a manner as to enclose the maximum area of water permissible with a line of that length.

This legislation would require that our contiguous fishery zone be computed according to this straight baseline method. The net result will be a modest extension of the zone in those areas where it is now indented at the entrance to bays, and the elimination of a number of incongruous situations, particularly in the State of Alaska where, under the existing system of measurement, it is extremely difficult for a vessel to determine whether it is inside or outside the contiguous zone because of geographic conditions. The adoption of this legislation should lead to better enforcement of our fishery laws, since foreigners fishing near our shores will be able to determine more accurately their position in relation to the line of demarcation between the contiguous zone and the highways. The minimal extension of U.S. jurisdiction resulting from adoption of the straight baseline method should in no way influence the current law of the sea negotiations, since this action is authorized by existing international law. At least 48 nations now compute their territorial sea and/or contiguous fishery zone by the straight baselines method. I, therefore, urge the passage of this bill.

Mr. DINGELL. Mr. Speaker, I yield good friend, the chairman of the committee, the gentlewoman from Missouri (Mrs. Sullivan).

Mrs. SULLIVAN. Mr. Speaker. I rise in support of H.R. 11809 and urge its immediate passage.

Mr. Speaker, it is common knowledge that, over the past few years, there has been a tremendous increase in the taking of fishery resources by foreign vessels beyond, but in the vicinity of the outer limits of our 12-mile exclusive fisheries zone. There has even been an increase in such taking within the 12-mile zone despite the existence of strong penalties.

During this period, the number of foreign vessels fishing in these waters has increased but, more importantly, the size of such vessels and their sophistication in terms of productive capacity has grown by leaps and bounds.

Because the areas covered by this legislation contain the highest concentration of fisheries resources, they are of utmost importance to our domestic fishing industry and, as a valuable food resource, to all of our citizens as well.

Both the amount of fish taken and the methods used by foreign fishing fleets are providing detrimental to the future of our fishery resources, some of which may disappear if the present situation continues unabated. The legislation before us today offers no cure-all for the problems of our fishing industry nor for the protection of our fishery resources, but it is a step in the right direction and one which the members of my committee and I are convinced can be taken without any adverse effect on current international negotiations.

It has been estimated that this method of determining our fishery zone will result in an increase in the size of that zone of from 2 to 10 perecnt although no accurate estimate can be made until the charts called for in the bill have been prepared. It should be understood, however, that those areas where the greatest increase in the zone size is likely to occur—off the coast of the Northwest and Mid-Atlantic States and Alaska—are exactly the same areas hardest hit by increased foreign fishing.

Mr. Speaker, I urge the prompt passage of H.R. 11809.

Mr. O'NEILL. Mr. Speaker, a dramatically significant measure which would protect the New England Fishing Industry and the fisheries industry all over this Nation is before the House today. I would be remiss if I did not take this opportunity to call to the attention of my colleagues the necessity for swift passage of H.R. 11809, the contiguous fisheries zone bill.

I want to congratulate chairwoman Lenore Sullivan and the members of the Merchant Marine and Fisheries Committee for their careful consideration of the evidence presented at the hearings and for their expeditious reporting of this bill so that the House could debate and pass it early this session.

The purpose of this legislation is to expand the area of the contiguous fisheries zone off the coast of the United States by using a new method of straight baselines in charting the boundaries of the zone. In using this measurement for determining the contiguous fisheries zone off the coast of Massachusetts the fishing area would be pushed out a considerable distance—some estimate as much as 10 to 12 miles—beyond No Man's Island and Block Island. Within the confines of the outer edges of the zone plotted by the new lines is an area where valuable resources, particularly around those two islands, abound.

Anything we can do to extend our fishing area helps our domestic fisheries. We need this legislation because over the past decade there has been a tremendous increase in the taking of valuable fishery resources by foreign vessels operating within the designated 12-miles exclusive fisheries zone of the United States and in the vicinity of the outer limits of that zone.

Do my colleagues realize that more than 800 foreign vessels were sighted just last year off the coast of this Nation depleting our limited supply?

As this committee has so succinctly pointed out, since more than 80 percent of the total U.S. catch is taken within 12 miles of our shores, it is imperative that these highly productive areas be protected from ruthless exploitation by our foreign fishing fleets. These foreign vessels have greatly hampered the fishing activities of our own fishermen.

Some of the sophisticated techniques employed by these foreign vessels, larger than most of ours and equipped with material which can just scoop up every living thing within a broad area, have contributed to a serious depletion of valuable fish such as lobster and cod which inhabit the New England waters and to the near extinction of other valuable species.

Let us all vote to curtail the careless overfishing and indiscriminate taking of fishlings and potential breeders practiced by foreign fishing operations off our coasts by adopting this measure.

Mr. BIAGGI. Mr. Speaker, I rise to speak in support of H.R. 11809, the Straight Baseline Measurement of Fisheries Zone Act.

This bill addresses itself to a critical issue, long past due for resolution. In recent years, many foreign fishing vessels have intruded themselves into U.S. territorial waters and reduced the supply of fish available to the American commercial fishing industry. The general supply of fish is being drastically reduced, and to correct this we must prevent overfishing.

The most important step we can take is to restrict for our own vessels what is rightfully theirs, and thus partially reduce overfishing, while insuring our hard working fishermen a decent living.

This bill would do just that by requiring the U.S. Government to rechart the zone of fishing off our coasts within 2 year, using the straight baseline method. Such recharting would increase the fishing waters reserved for U.S. vessels by an estimated 2 to 10 percent.

This action is fully permissible under our international agreements. The 1964 Convention on Territorial Seas and Contiguous Zones permits the use of the method of straight baselines in charting its territorial waters. For technical reasons, the United States has not done so. The measures we have taken are inadequate. Foreign fishing has increased, overfishing has increased, and our own commercial fishing industry has declined. It is time to act.

Indeed, I hope this will represent a step toward what I believe ought to be the policy of the United States—a 200-mile territorial waters limit. In any case, it represents a vital protection to the fishing industry.

In sum, Mr. Speaker, I urge quick passage of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Michigan (Mr. Dingell), that the House suspend the rules and pass the bill, H.R. 11809, as amended.

The question was taken.

Mr. DON H. CLAUSEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 375, nays 1, not voting 54, as follows:

[Roll No. 5]

YEAS—375

Abdnor
Abzug
Adams
Addabbo
Alexander
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Aspin
Badillo
Bafalis
Baker
Barrett
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Derwinski
Dingell
Donohue
Downing
Drinan
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Grasso
Gray
Green, Pa.
Griffiths
Gross
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanrahan
Hansen, Idaho
Harrington
Harsha
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
King
Kluczynski
Koch
Kuykendall
Kyros
Landgrebe
Landrum
Latta
Leggett
Lehman
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
McSpadden
Madden
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Milford
Miller
Mills
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nix
Obey
O'Brien
O'Neill
Owens
Parris
Patman
Patten
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reid
Reuss
Rhodes
Riegle
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steele
Steelman
Steiger, Wis.
Stephens
Stokes
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, N.C.
Teague
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vanik
Veysey
Vigorito
Waggonner
Waldie
Wampler
Ware
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—1

Buchanan

NOT VOTING—54

Anderson, Calif.
Anderson, Ill.
Annunzio
Arends
Ashley
Biaggi
Blackburn
Brown, Ohio
Camp
Carey, N.Y.
Carney, Ohio
Chisholm
Clark
Conable
Daniels, Dominick V.
Devine
Dickinson
Diggs
Dorn
Dulski
Fraser
Froehlich
Goldwater
Green, Oreg.
Grover
Hanna
Hansen, Wash.
Harvey
Hogan
Jones, Ala.
Jones, N.C.
Lent
Macdonald
Mailliard
Michel
Nichols
O'Hara
Passman
Pepper
Price, Tex.
Rinaldo
Roncallo, N.Y.
Rooney, N.Y.
Ryan
Scherle
Steed
Steiger, Ariz.
Stratton
Stubblefield
Taylor, Mo.
Vander Jagt
Walsh
Whalen
Wolff

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Arends.

Mr. Rooney of New York with Mr. Blackburn.

Mr. Fraser with Mr. Conable.

Mr. Dulski with Mr. Dickinson.

Mr. Ashley with Mr. Mailliard.

Mr. Biaggi with Mr. Froehlich.

Mr. Carney of Ohio with Mr. Harvey.

Mr. Carey of New York with Mr. Brown of Ohio.

Mr. Dominick V. Daniels with Mr. Camp.

Mr. Clark with Mr. Devine.

Mr. Hanna with Mr. Grover.

Mr. Macdonald with Mr. Whalen.

Mrs. Green of Oregon with Mr. Goldwater.

Mr. Nichols with Mr. Hogan.

Mr. O'Hara with Mr. Taylor of Missouri.

Mr. Stubblefield with Mr. Lent.

Mr. Steed with Mr. Rinaldo.

Mr. Jones of Alabama with Mr. Michel.

Mr. Anderson of California with Mr. Price of Texas.

Mr. Jones of North Carolina with Mr. Scherle.

Mr. Dorn with Mr. Vander Jagt.

Mrs. Chisholm with Mr. Ryan.

Mr. Passman with Mr. Walsh.

Mr. Diggs with Mr. Stratton.

Mr. Pepper with Mr. Steiger of Arizona.

Mr. Wolff with Mr. Anderson of Illinois.

Mrs. Hansen of Washington with Mr. Roncallo of New York.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mrs. SULLIVAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 11809) just passed.

The SPEAKER. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

## PERSONAL EXPLANATION

Mr. DEVINE. Mr. Speaker, on rollcall No. 5, the gentleman from Michigan (Mr. HARVEY) and I were coming through the door as the Speaker was announcing the vote.

I would like to advise the House that had we been present, I personally would have voted "aye." We were delayed in getting through the crowd of "right-to-life" people in the Capitol.

## A TRIBUTE TO PRESIDENT LYNDON B. JOHNSON

(Mr. PICKLE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. PICKLE. Mr. Speaker, the Nation pauses to remember that we lost our late beloved President Lyndon Johnson a year ago today.

He was a giant of a man who had the ability to get things done. Hundreds of bills attest to his effectiveness and his compassion.

The Members of Congress will recall we have passed a resolution establishing an LBJ memorial grove of trees on the Potomac River. This is a modest goal with no Federal tax money involved. But it is a chance for all people, rich and poor alike, to have a part in a living memorial to President Johnson.

I have written the school principals and superintendents of the 10th district reminding them that President Johnson was an educational President.

Our children's lives have been touched by the care and ability of this man, and I thought they may want to participate in creating this memorial to him.

The letter tells how any citizen may help.

I insert it in the CONGRESSIONAL RECORD along with several articles from the Washington Post and the New York Times commenting on the life of this great and good President:

> MY DEAR FRIEND: In December, the Congress passed and the President signed a bill to establish the Lyndon Baines Johnson Memorial Grove on the Potomac River. Democratic and Republican leaders co-sponsored the Joint Resolution I introduced in the House of Representatives, a copy of which is attached.
>
> The thought that prompted this resolution was to create a living memorial to President Johnson. Previously, the Secretary of the Interior designated that the beautiful Columbia Island, across the Potomac from the Jefferson and Lincoln Memorials, be designated the "Lady Bird Johnson Park." The Lyndon Baines Johnson Memorial Grove will

consist of 15 acres of 500 towering white pine trees within the Lady Bird Johnson Park and will include bike paths, nature hiking trails, etc.

Funds will be raised from the public and on a national basis, and no Federal tax money will be involved. The Committee for a Lyndon Baines Johnson Memorial Grove and the Society for a More Beautiful National Capitol felt that the people of America would want to establish this memorial without calling on Federal funds. It can be a beautiful tribute not only to President Johnson but to Mrs. Johnson as well, who did so much to bring the beautification of our environment to the national forefront.

Near January 22nd, the announcement will be made in many areas about this program, inviting the public' participation. One or two schools have already asked me how they could participate in this memorial to the only Texan ever to be elected President. The idea then occurred to me that perhaps the school children of the 10th District, which was his old Congressional District, would get particular pleasure out of taking part in this endeavor. You might mention this to your teachers, who in turn might ask their students if they want to have a part in making this Memorial Grove a reality.

I would like to hope our contribution would be broad-based. Certainly, since President Johnson was an educational leader and a teacher himself, I think that many schools and the teaching profession in general would want to play a part.

You will note that any donations can be made to the Society for a More Beautiful National Capitol (LBJ Grove), Box 5557, Washington, D.C. 20016. Any kind of donation would be appreciated.

This letter is written just for your information only. You need not acknowledge it, but I did want you to know of the Resolution and the hopes of our national committee.

Sincerely,

J. J. PICKLE.

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[From the Washington Post, Jan. 22, 1974]

### WE MUST OVERCOME UNEQUAL HISTORY

(NOTE.—Lyndon B. Johnson, who died a year ago today, delivered his last major speech at a Symposium on Civil Rights at Austin, Texas, Dec. 12, 1972. The following is excerpted from those remarks.)

Yesterday it was commonly said that the black problem was a Southern problem. Today it is commonly said that the black problem is an urban problem, a problem of the inner-city. But as I see it, the black problem today, as it was yesterday and yesteryear, is not a problem of regions or states or cities or neighborhoods. It is a problem, a concern and responsibility of this whole nation. Moreover, and we cannot obscure this blunt fact, the black problem remains what it has always been, the simple problem of being black in a white society. That is the problem which our efforts have not yet addressed.

To be black, I believe, to one who is black or brown, is to be proud, is to be worthy, is to be honorable. But to be black in a white society is not to stand on level and equal ground. While the races may stand side by side, whites stand on history's mountain and blacks stand in history's hollow. We must overcome unequal history before we overcome unequal opportunity. That is not, nor will it ever be, an easy goal for us to achieve . . .

Our objective must be to assure that all Americans play by the same rules. And that all Americans play against the same odds. Who among us would claim that that's true today? I feel this is the first work of any society which aspires to greatness. So let's be on with it.

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[From the New York Times, Jan. 22, 1974]

### HE LOVED ACTION

(By Liz Carpenter)

WASHINGTON.—A year ago today Americans watching the nightly news broadcasts saw television commentators pick up the red emergency telephones and repeat the bulletin from Texas: Lyndon Baines Johnson, 36th President of the United States, was dead.

He was buried a few days later in the Texas hill country from which he had drawn strength all his life.

Only a year ago. Why does it seem so much longer to those of us who worked with him? Is it the staccato of news of Watergate that deadens all memories and national dreams? Is it the effort to "impound"—and thus kill—his Great Society programs?

How long it seems since we indulged ourselves in great hopes! Since we opened up what we hoped would become new lifelines to the poor, the sick, the black—all those who had been counted out of the system. Since we reached into Appalachia with the Job Corps, and into the slums with Head Start.

Most people think of Mr. Johnson as more doer than dreamer, but almost all of his speeches and conversations were filled with plans, ideas and hopes.

He loved the East Room ceremonies and bill-signings. To him, they were earnests of progress, and he wanted everyone there and he wanted everyone to have a pen. We always had to send out for more pens!

This headlong, impatient, expansive President, invited a camel-driver to Texas, hunkered down with a family on the front porch in Kentucky, looked Congress straight in the eye and told it what he intended to do about civil rights: "I have the power now and what's more, I intend to use it."

He loved action. And so it seems appropriate that those who shared those heady years with him are trying to remember him with action.

In Austin, the friends of the Johnson Library sponsor frequent seminars on public issues—civil rights, education, improving our cities, the environment.

In Washington, the city that drew him as a young Congressional secretary and that he bestrode for 38 years as Congressman, Senate Majority Leader, Vice President and President, his memorial will not be a building or piece of statuary.

Overlooking the city from across the Potomac, it will be a grove of tall white-pine trees, green the year around, an area of fifteen acres threaded by trails and flowering shrubs. In the center, nothing elaborate—a rough-hewn granite stone from his native Texas.

For many of us, the spot will be a place for remembering all his fervor to save and restore the environment. More than 100 environmental laws: the Water-Quality Act, the Clean-Air and Air-Quality Acts, the Scenic Rivers and Trails Act, vest-pocket parks for congested areas, the national redwood forest, three million more acres for the National Park System.

Once he invited Congress to a White House reception, then sent word up to the House of Representatives: Pass the Highway Beautification Act before you come to the party. The Congressmen, weary and bedraggled, finally arrived at midnight; the legislation had passed. The President, meantime, had suddenly gone off to the hospital for a gall-bladder operation, leaving his congratulations along with refreshments.

Generally, he labeled the environmental program "Lady Bird's business." But he was there every step of the way, rallying, telephoning, cajoling for the needed votes, scolding, flattering—pouring on the Johnson treatment.

Hubert Humphrey said: "He could take a bite out of you bigger than a T-bone steak and the very next day he would put his arms around you like a long-lost brother. Sometimes I tried to stir up a little trouble just so I could be loved up once again."

"Lady Bird's business" was in a way Mr. Johnson's own vest-pocket park—his own recreation during those days when the war in Vietnam hung on with its grim problems and bleak news.

He would brag about her role, then tease her about it. When a reporter asked him how he liked living in the White House, he complained that it was hard to get any rest. "If I'm lucky, I get a little nap in the afternoon, but usually I'm interrupted by Lady Bird and Laurance Rockefeller planting daffodils in the next room."

The next time he told the story, he embellished it: "I woke up hearing a lot of conversation next door and I looked in and there was not only Laurance Rockefeller and Lady Bird and the sixty that started out with them but a thousand more that had joined them, planting roadside parks and trees."

When he died, Lady Bird told his friends: "You know, days were never large enough, years never long enough to do all that he wanted done on this earth. I like to think not that he's at rest, but that he's at work—through all of us."

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[From the Washington Post, Jan. 22, 1974]

### A PINE GROVE BY THE POTOMAC

(By Harry C. McPherson, Jr.)

(NOTE.—The writer served as special counsel to the President in the Johnson administration.)

Seen from the Virginia side, the city stretches along the Potomac like Venice in a painting by Canaletto, its lateral line broken only by the Monument. It is best understood, or at least best felt, from here—across the river that once divided the nation, and that has been, for many ambitious Southern boys, the last frontier to cross before committing a lifetime to national politics.

Directly across, in the chilly mist, is the serene memorial to Jefferson. It reflects his view of man's dignity and high purpose, but in no way suggests the political tumult of the times in which he lived and operated. Upriver to the left, Abraham Lincoln broods in his severe temple—his astute politicking long forgotten in reverence to his wartime leadership. Beyond is the Kennedy Center, a vast barn in which every performing art is celebrated, save the one John Kennedy loved most: the art of politics.

Three memorials to three superb politicians—fitting for a capital that lives by, governs, through and is chiefly interested in, the exercise of political power.

Downriver, just visible over a heavy mass of government buildings, is the Capitol itself, the shrine and theater of practical politics. It is somehow more gentle than formidable at this distance.

Lady Bird Johnson remembers a long Sunday drive with her husband and Speaker Sam Rayburn through northern Virginia many years ago. As they approached the Potomac, "there was that dome of the Capitol like a beacon light. All of us felt a surge of spirit and Mr. Rayburn said, 'Lady Bird, how do you like *my* Capitol?' We all felt it was *our* Capitol in our own particular way. That sense of possession is what a democracy is all about."

One can feel it now as a private citizen, on this January afternoon. It is our building, as the White House, the Supreme Court, and the other institutional structures are not. Officials in the Agriculture Department—just to the right of the bridge there—arrange to feed us; further on, in the Federal Triangle, people figure our taxes, police our business transactions, inquire into working conditions. There are men and women over there worrying about almost every aspect of the way we live. But we did not elect them. They do not really need us. If they wrong us, we can take them to court. We cannot dismiss them after a term, nor can we reward them with fresh approval if they please us. It is in the Capitol that our views count. Representative democracy is an intimate political relation involving two hundred million people.

Some Presidents—Andrew Jackson, Lincoln, Teddy Roosevelt, FDR in his fireside chats—have managed to establish a similar sense of intimacy with us. And there was a time when people walked to town across what is now the south lawn of the White House, passing close to the mansion where their Chief Executive lived and worked. But the place has grown increasingly remote with the passing years. There is the constant problem of the President's safety. There is the concentration of power and responsibility in the office, so that the President seems less an elected official than an oracle deciding our fate by fiat, while laboring under burdens we cannot imagine. Surrounded by an army of assistants and still beleaguered, he inhabits a museum owned by a corporation entity called "The United States"—not by the tourist contemplating his capital city from the Virginia shore.

Nor by the temporary occupant, no matter how long he stays. Lyndon Johnson spent more than five years in the White House, years of exhilarating success and fiendish difficulty, and yet he refered to the Capitol as "my home." There he was with his peers, each of them facing an ineluctable challenge—reelection—and each subject to the others' constant scrunity and judgment. Proud to bear the title "representative" or "senator," excited to be part of great events, they were subject always to the humiliation of defeat and the more subtle pain of anonymity. They were vulnerable. You could watch them sweat under presure. They were a family, not figures in an organizational chart or biennial performers in a television news conference.

Memories crowd into this little park on the river—the Lady Bird Johnson Park, so named because she used her years in the White House to make Washington and many other parts of the country more beautiful. My wife and I drove across that bridge, to the right, on another January evening 18 years ago. Young, Southern and scared, we were on our way to work for Lyndon Johnson—already dominant in the Capitol and said to be "the second most powerful man in America." We intended to stay two years, expecting—to the extent we thought about it—that we would take part in events no more promising or disconcerting than those of the Eisenhower years. Then came the 1960s.

I crossed Memorial Bridge there one Sunday afternoon in December 1963, in the car of the new President of the United States. We drove up the hill into Arlington Cemetery, and stopped not far from the gravesite of John Kennedy, dead little more than a week. There was a crowd and an honor guard. We stood by the grave, the President frowning in the hard light. Once a cold wind lifted the wreath we had brought, and Mrs. Johnson shook her head. After a while we drove back to the White House, where Johnson met with several men from whom he had become estranged and whose support he now needed. He wooed them and they responded warmly. The pulse of government—politics—was beating again.

Another winter's noon, years later, and I was holding my baby son beside the statue of Lincoln. Military heels cracked together with the sound of shots, and Johnson, looking down on a shivering crowd, spoke of equal rights and national unity. Out there in the city, the seeds of violence and dissension lay waiting in the ground.

Behind me now, the Pentagon. We drove over there in early 1968 to pay tribute to an exhausted Robert McNamara. Too many of us piled into an elevator on the way to the retiring Secretary's office. The car slowed and then stopped between floors. There was panic in the eyes of sergeants and colonels and assistant secretaries of defense. I looked at Johnson, expecting to see impatient rage on his face. Not at all. Trapped, there was nothing for him to do but to abide it with a kind of bemused patience. Ultimately, the elevator moved and we were released. Then we went down and out into a fine rain. Facing a solemn rank of soldiers, Johnson talked of courage and steadfastness in the country's service.

A jet whines overhead, on its way to a landing at National Airport. One night in 1965, Johnson and Rayburn stepped off a plane there, back from Texas, where at Rayburn's urging, Johnson had taken on Allan Shivers for control of the Texas delegation to the Democratic convention and beaten him. It was the loyalists against the Eisenhowercrats, and the loyalists had won. A band played "The Yellow Rose of Texas," and we whooped like a courthouse crowd from the 1930s when Johnson waved his Stetson and Sam Rayburn's bald head gleamed on the dazzling floodlights.

The river itself bears memories—summer nights on "The Honey Fitz," with members of Congress and assorted Texans on board. It was a working boat. Once in the White House, Joe Califano and I asked the President to make a special effort in behalf of an administration bill. His eyes narrowed, and he said, "Where were you boys last night? Don't tell me—I know. Over in Georgetown, with those columnists and newspaper friends of yours. Do you know where I was? I was out on the boat with 20 congressmen and their wives. I was hugging 'em and patting 'em and begging 'em to pass that damned bill of yours. I could have used you there to help me. That's how we're going to get that bill—not at your Georgetown dinner parties!"

He gave his life to Washington politics, and received much in return—fame, power, the satisfaction of achieving good for the country. And suffered much as well: the responsibility for leading us deeper into an unpopular war, the grief of presiding during a chaotic period in relations between the races.

From this place on the Virginia shore, most of the Washington he knew for 35 years is palpably clear across the river. Not the victories and defeats, not the men and women he sought to persuade, but the arena in which he performed; not the drama itself, but the setting in which it was played out.

Here on a rise to be landscaped up from the river, a stand of pines will be planted, to be called the Lyndon B. Johnson Memorial Grove. Pathways will wind through it, and there will be flowers and, in the middle, a great rock, brought up from the hill country of Texas.

In the composure of that grove, we may not feel the tumult of his career, any more than we feel Jefferson's or Lincoln's in the marble enclosures that commemorate them. But there will be passion in the scene across the river to those, like me, to whom Washington is not an abstraction or a dateline, but the city where America's destiny is worked out by fallible and gifted men like Lyndon Johnson. It is right that from his memorial grove, the rest of us will be able to see that political city, its memories and promise manifest before us.

[From the Washington Post, Jan. 22, 1974]

### A MEMORIAL FOR LBJ

Elsewhere on this page today, Harry C. McPherson Jr. has written his reflections on a memorial being created for Lyndon B. Johnson. This captial is strangely arbitrary, not to say capricious, about the monuments its builds and does not build to our Presidents. There always seems to be a controversy. Americans thrilled at the very thought of building a monument to George Washington, according to Samuel Blodgett, writing in 1801. Yet, what with miscarried fund drives, the protests of the Know-Nothings (who objected to a stone donated by the Pope) and all sorts of quibbles and delays, it took 98 years from the time Congress authorized the monument until that marvelous obelisk was finally dedicated. Thomas Jefferson did not get his memorial on the Tidal Basin until 1943. Lincoln's took 55 years. Madison is at last having a Library of Congress Annex named in his honor, and there is solace in the fact that the building will use as much marble as the office building named in honor of Sam Rayburn. Ulysses S. Grant got the biggest horse in town and his monument, at the Capitol end of the Mall, extends all of 252 feet in length and includes a good part of his army cast in bronze. Teddy Roosevelt got a whole island with quite a bit of statuary. Woodrow Wilson has some scholars working in his memory in the depths of the Old Smithsonian Castle.

Franklin D. Roosevelt has been memorialized with an illustrious commission, established by Congress in 1955, which found him a prominent site but has so far, despite a national competition and all sorts of fanfare, failed to find a design on which everyone can agree. But then we'll shortly have a fine FDR Memorial in New York City, as far as we can make out, has as yet thought seriously—or seriously enough—about memorializing Harry S Truman. Dwight D. Eisenhower's name is to be attached to a controversial convention hall and John F. Kennedy's name was given to the national cultural center he had wanted this city and the nation to have.

Now Lyndon B. Johnson, who died a year ago today and who was surely not controversial, will be commemorated by what we predict will be the least controversial presidential memorial in Washington. It has already been approved by the Fine Arts Commission, the Planning Commission, the Secretary of the Interior, Congress and the President.

The LBJ Memorial Grove will be a simple stand of 500 indigenous white pines, to be planted on a man-made rise west of the Memorial Highway between 14th Street Bridge and Memorial Bridge. It doesn't take land from any other purpose because that whole stretch, with its beautiful view on the entire expanse of the capital, is already a public park, named in honor of Lady Bird Johnson. It won't take public money, because friend of the late President are pledged privately to raise the needed $2 million (of which $500,000 will be placed in trust for future care and maintenance of the grounds).

It was designed by landscape architect Mead Palmer, who also landscaped the Tomb of the Unknown Soldier, among other prominent sites. It will be a simple, quiet place, adorned only by a large granite rock from Texas, inscribed with quotations from LBJ's speeches. Other than that, there will only be trees, flowers, pathways and that great view of the city. The present parking area of the Columbia Marina will be somewhat enlarged to accommodate the 15-acre place of repose. There will also be bicycle trails.

Donations for the LBJ Grove may be made to the Society for a More Beautiful National Capital, Inc.—LBJ Grove, Box 5557, Washington, D.C. 20016. The hope is that people will respond to this different kind of memorial so that ground can be broken next August 27, the day that would have been President Johnson's 66th birthday.

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## HAPPY BIRTHDAY: WE ALL MISS YOU, ERNIE!

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURKE of Massachusetts. Mr. Speaker, something is missing as we return to begin this session. One of the great institutions of Congress. Though few things are certain in the career of a Representative, for as long as any of us here can remember we could always count on the cheerful countenance and competence of one of the House's great career and unfailingly civil servants. I refer, of course, to the man who celebrated his birthday Sunday, January 20 at the beginning of his well-deserved retirement and, coincidentally, the start of the 2d session of the 93d Congress, Ernest A. Petinaud. Ernie was more than a maitre'd; he was, as I have said, a congressional institution. Thousands of constituents for decades have been returning home from Washington with memories of their visit and I have always been amazed how many remember having met Ernie while in Washington. I think if you took a survey, Ernie would be better known by many people around this country because of their visit to Washington than most of the Senators and Representatives in Congress. And this is not surprising, for no matter how busy he was, no matter how crowded the House dining facilities, no matter how unbearable the temperature, no matter what catastrophies were occurring behind the scenes in the kitchen, Ernie was always there out in front, listening to everybody's pressing needs for immediate accommodations, aware of the impossibilities of his task and yet, somehow managing to please everyone. I do not think there is any question about it, if Ernie had not been content to serve the Congress in the capacity he did, he could have been serving in the Congress as one of the most popular elected Representatives in the country.

And not only was Ernie's smile contagious and personality winning and his patience obvious, but there was another feature which stood out and that was his wide range of interests. There were few things that Ernie could not converse about, no matter what the nature of your constituent's business. For my part, I remember the hours that Ernie used to spend late into the evening, after the House had concluded its business, discussing with the late, beloved Congressman Phil Philbin the music and lives of the great American composers of the century. Ernie was perfectly at ease whether humming the themes or discussing the music of Victor Herbert, Sigmund Romberg, Jerome Kern, Rudolph Friml, George Gershwin, Cole Porter, or Lerner and Lowe. Since Phil Philbin had to easily have been the most knowledgeable Member of Congress when it came to the history of the American musical, Ernie had to be pretty familiar with his subject to hold his own in such company, but I never noticed Ernie had any trouble.

It is memories like this that stand out after someones leaves the scene. Such pleasant memories do not always occur, but they do in Ernie's case. I have always thought it was a measure of someone's real qualities that when you leave, your friends are left with so many happy memories. In short, Ernie not only is missed, he will be missed. This is not to in any way slight the person who will be asked to take his place, but rather simply to say that Ernie's shoes will be difficult ones to fill. While they say no one is indispensible, it is also true that even the most ordinary things can be done with a style and grace and charm that make all the difference in the world. It is this difference, I think, that made Ernie Petinaud stand out from the crowd and made him someone we not only miss today, but will miss in the days and months ahead. Ernie proved again and again that even the performance of the most impossible tasks can give rise to more popularity than unpopularity.

I know all his many friends in Congress will want to join with me in saluting Ernie on his birthday and wish him well for the future. As Phil Philbin used to say, "Ernie was one in a million." The place will not be quite the same without him. Congress is indeed entering a new era; one without Ernie Petinaud.

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## COMMODITY FUTURES INDUSTRY ENDANGERED

(Mr. SYMMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SYMMS. Mr. Speaker, the commodity futures industry is in danger. The House Agriculture Committee is considering legislation that will bring commodity futures trading under unprecedented Government control. Under "disorderly trading" or "emergency" conditions, the Government would have carte blanche authority over the industry. The criteria laid down in the bill for "emergency" conditions already exist, and could justify an immediate takeover of futures markets.

Hearings on the bill, H.R. 11955, are scheduled to begin January 23. In addition to the emergency provisions, the legislation establishes a five man Commodity Futures Trading Commission within the Department of Agriculture. Even in the absence of disorderly trading or emergency conditions, this commission will exercise nearly complete control over commodity futures traded in the United States.

Section 215 describes the circumstances under which the Commission could justify seizing control of the futures industry:

> Whenever it has reason to believe that the amount of deliverable supplies, the number of open contracts, the relative size of individual traders' positions, the amount and direction of price movements in cash and futures markets, the impact of government edicts and regulations . . . other such market factor creates a condition which threatens orderly trading.

The Commission itself will decide when the number of open contracts is correct, when the individual traders positions are balanced, whether cash and futures prices are moving in the right direction. There are no objective criteria for determining these conditions, so the Commission's subjective interpretation will determine when it has the right and duty to intervene.

The Commission may also direct markets in "market emergencies." Market emergencies are defined as:

> Significant intervention of foreign governments in the futures market, war or other national emergency, price controls, export embargoes, or any other significant disruption of normal commercial processes which can reasonably be deemed to affect futures transactions.

Price controls have existed for years, and, tragically, are likely to continue indefinitely. This emergency condition will be a fact of everyday life in the United States for some time to come. The moment the Commission is voted into existence, it will have immediate justification for assuring direction of the commodity futures industry.

As if these criteria were not sufficiently all embracing, note that the Commission will also have power to direct the industry whenever "any other such market factor creates a condition which threatens orderly trading." Authority to decide when orderly trading stops and disorderly trading starts will again remain in the hands of the Commission, for there are no objective criteria written into the bill.

Once the Commission decides to intervene, it can move against the industry virtually without restraint. The Commission is specifically granted the powers to extend the expiration date of futures contracts, extend the time for making deliveries in fulfillment of a futures contract, limit trading to liquidation, and to suspend trading.

But the unspecified powers are still more menacing. The bill says that: "Such actions may include, but are not limited to" any of the above. We are left to guess what other actions the Commission may take. It can do whatever it sees fit, whenever it sees fit.

Widescale injunctive powers are vested in the Commission. It can halt the transactions of any market or person who "has engaged, is engaging, or is about to engage" in any act constituting a violation of the law. This power of preventive injunction appears unconstitutional on the face of it. Legislation aimed at preventing, rather than punishing an action, has within it all the problems inherent in conspiracy and preventive detention laws. It is a particularly ominous threat against the right to conduct business.

Injunctions will also be issued when an individual or market is in a position "to effectuate a squeeze or corner or otherwise restrain trading." Here there need be no suspicion of intended wrong-doing. The mere possession of the power to do wrong potentially will suffice to justify an injunction. This power to enjoin even in the absence of suspicion of dishonest intention may be uprecedented power for a regulatory body. The power is compounded by the failure of the legislation to stipulate what is meant by the phrases "squeeze, corner, or otherwise restrain trading." Perhaps it is not surprising that the legislation does not define these contingencies, for as yet economists can not agree on what they mean.

A witness at recent House Agriculture Committee hearings foresaw a situation involving a difference of opinion between the trader and the new Commissioners. Tre trader's information, analysis, and understanding of the supply and demand situation may be superior to the Commissioners'. The injunction might be granted anyway, and the trader stopped, only to be judged innocent later. How will the trader then be compensated for his losses? This witness remarked:

> For commodity markets, the power to enjoin is the power to destroy.

All contract markets will need Commission licensure. To obtain it, each must prove it served an "economic purpose," otherwise the license can be denied. Market transactions are said to have "economic purpose" when they serve the function of hedging producers, merchants, or consumers against loss through price fluctuations. These are broad, subjective standards, and it will be the Commission who decides them, not the customers whom the markets serves.

I recently encountered a dismaying illustration of how the Commission might interpret its power to deny licensure. While talking to a high-ranking CEA official, one of my staff members was told that all currently regulated futures markets served an "economic purpose." Which of the currently unregulated markets might be liquidated for lack of economic purpose? "It is hard to see how futures trading in silver coins serves an economic purpose" this official mused.

There are others who might not share this official's viewpoint on silver coin speculation. They might feel that silver coin futures serve as a hedge against inflation which surely is an "economic purpose."

The Commission will put limitations on brokers and floor traders buying for their own accounts as well as for their customers. This provision is not necessary to keep brokers honest—market considerations are much more forceful—and its only effect will be to hurt the liquidity of the futures market.

If a broker cheats his customer in trading, he only hurts his own economic self-interest. His reputation would be swiftly known, and his customers would find a new broker. A broker's conflict of interests is infrequently a problem.

In cases where a problem does arise, the contract markets already have their own internal disciplinary procedures.

This is not to suggest that the Government has no part to play in an honest commodity futures markets. As a first step, Congress and the Department of Agriculture must insure that Government information is available to each buyer and seller on an equal basis. Charges that inside information was made available to selected firms in the Russian wheat deal have hurt the reputation of the futures market, and doubtless these rumors have played a large part in the demand for more regulation. Even if these allegations are true, the answer is not to shackle the market, but to demand fair business practices from the Government.

The thinking behind the bill displays a lack of understanding of the mechanisms of futures trading, and particularly the importance of speculators to the smooth functioning of the market. Speculation is the heart of the market. Speculators stand between the producer who wants the highest price for his product and the consumer who wants the lowest price for the product. The speculator provides liquidity to the marketplace, and he levels the many peaks and valleys that would otherwise occur in the price structure. The speculator generally takes the position opposite the hedger and performs the function of the insurer. He guarantees a certain price on a market frought with uncertainties for the seller. Contrary to popular mythology, the speculator makes the market more predictable, not less predictable for buyers and sellers.

Speculators serve other market functions. By operating on extremely small profit margins, they are willing to realize small profits by buying and selling within fractions of a cent. Many of these speculators also act as brokers trading for their customers' accounts. They can flow with the volume of trading. When volume is heavy, floor traders act as brokers. When volume declines, they trade for their own accounts.

If the hedger wants to sell, it is this speculator who will buy. All this would be lost if the bill puts limitations on their activities.

Many floor traders and brokers depend on the additional income which they gain from their private transactions; if this revenue were not available to them, they would have to leave the field, thus reducing the liquidity they now bring to the market.

The speculator must put up margains before he buys. By doing so, he provides the futures market on which he buys with interest-free financing. This financing will be lost, as well.

The new Commission will determine the location and number of delivery points of commodities. The framers of the bill do not seem to realize that standardized delivery points are crucial in futures trading. Wheat delivered in Chicago, Ill., is more valuable than wheat delivered in Des Moines, Iowa. When the Commission sets delivery points on its own descretion, the futures buyer will not be able to anticipate if he is buying wheat in Chicago or in Des Moines. Traders will not be able to estimate the value of the contracts. This provision alone could destroy futures trading.

This provision seems to be based on the false premise that futures are a mechanism for merchandising grain. They are not. They are a substitute for a cash contract and provide buyers and sellers with specific economic benefits—such as shifting the risk of ownership of inventory and forward pricing. Frederic G. Uhlmann, chairman of the Chicago Board of Trade, believes the delivery privilege is an assurance that delivery is available in case the cash buyer or seller cannot make his own contractual arrangements. If a buyer has to take delivery at a point where it is disadvantageous for him to ship the grain, the futures contract breaks down, in Uhlmann's opinion.

The futures system developed under a system where buyer and seller were free to carry out mutually beneficial and voluntary transactions. It has served the farmer, the merchandiser, and the consumer supurbly well. The freedom that made it the remarkable success it is will soon be lost, unless the futures industry exerts enormous pressure to halt this legislation.

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## IN SUPPORT OF HUMAN LIFE

(Mr. RONCALLO of New York asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. RONCALLO of New York. Mr. Speaker, today marks a tragic anniversary in American history. Just 1 year ago today, the Supreme Court struck down State laws which had until then been protecting the right to life of our unborn children throughout the country. All morning long, buses from every part of the Nation have been arriving at the Capitol, bringing nearly 10,000 concerned Americans in support of human life. I am proud to say that among these are some 2,000 to 3,000 of my Long Island neighbors.

These men, women, teenagers, and children have come here to ask why the Congress has not acted to make clear that the constitutional right to life includes all persons, born or unborn. They have come to talk to their elected Representatives and Senators and tell us of the pressing need to pass a pro-life amendment to the Constitution. We have certainly had every opportunity to do so. Dozens of resolutions have been introduced by me and other Members, Congressman HOGAN's discharge petition is right here at the desk, and a Select Committee on Abortion has been proposed. Still there have been no hearings by the Judiciary Committee.

We are often asked to and do pass bills affecting a single individual. How much more important it is to give our attention to legislation affecting the hundreds of thousands of children who will otherwise not be permitted to continue their lives. No matter what your views on the abortion are, you must agree that any proposal that has the support of so many Americans—and those here today are only a small representative fraction—deserves full committee hearings, at the very least.

I call upon the distinguished chairman of the Judiciary Committee, Mr. RODINO, to introduce a profile constitutional amendment of his own, hold full and complete hearings in the next few weeks, and allow Congress to work its will.

I welcome the supporters of human life to Washington and promise to continue my efforts in their behalf.

## THE ENERGY CRISIS AND THE NEED FOR A JOINT COMMITTEE ON ENERGY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, Over the past several weeks, I have had the opportunity to speak with hundreds of Illinois residents. Overwhelmingly, the energy crisis was their primary concern. While most assured me they were willing to do their part to reduce consumption, at the same time, they could not help but wonder how serious the energy shortage really is. It seemed to many that the crisis should have been foreseen by the oil companies, the electric utilities, the Congress, and the White House.

Many workers with whom I met at farm implement and other companies work in metropolitan areas, but actually live as far away as 30 to 40 miles. In fact, it is estimated approximately 85 percent of the Farmall Works International Harvester employees in my district live outside the metropolitan area of Rock Island. Therefore, rationing would pose a real hardship on such individuals. Other companies, such as Deere & Co., I am sure face the same problem. Therefore, I again assured these individuals I hoped rationing would be used as only a last resort.

Fortunately, several helpful steps have been taken. People are driving at 50 miles per hour, gasoline is generally not being sold on Sundays, temperatures at home and places of business have been cut back, and utilities and industries are being urged to switch from fuel oil to coal. In addition, the President has signed legislation putting the Nation on year-round daylight saving time—hopefully, providing a savings of 3 percent in energy consumption—and authorizing the construction of the Alaska pipeline—which could contribute as much as 10 percent of our domestic oil needs.

Perhaps one of the most significant pieces of legislation enacted thus far in the 93d Congress was the Emergency Petroleum Allocation Act. This measure authorizes the President to begin the allocation of petroleum products so that no one region of the country or sector of the economy should suffer more than an other.

There is one important bill, however, that the Congress has not as yet enacted—the Emergency Energy Act. Although the bill passed the House and Senate in different forms before Christmas, conferees were unable to reconcile important differences before adjournment. Congress must make passage of the emergency energy bill one of its first orders of business this month.

There are several other measures still pending before the Congress which should receive final action during the second session. These include bills on strip mining and strip mine reclamation, a resolution on the Naval Petroleum Reserves, amendments to the Clean Air Act, and several other proposals to attain the goal of "Project Independence." In addition, the Congress must look at such long-range programs as geothermal energy, solar energy, and nuclear energy with, in my opinion, emphasis upon fusion power.

Right now no one knows how to measure the energy shortage and its impact upon this country. The information-gathering system to date has been, at best, loose and poorly coordinated. An overwhelming amount comes from the petroleum industry, and their projections have gone up and down like a roller coaster over the past several months. This makes it difficult to plan for the future. It also makes some Americans question the reality of the oil shortage.

Today, I am introducing legislation establishing a Joint Committee on Energy. Briefly stated, the committee will be composed of 24 members, 12 from the Senate, 12 from the House, not more than 7 of the members from each body being of the same political party.

The Joint Committee on Energy will make a continuing investigation and study of the development, use, and control of all forms of energy, will examine current proposals for legislation, review the present policies and actions of the Government concerning energy, and will submit periodic reports to the House and Senate outlining its findings and making recommendations.

A joint committee will be able to centralize all the information relevant to the energy crisis, and hopefully assist in formulating a major energy policy for our Government. Since last July, over 200 hearings were held specifically on energy issues. And 21 Senate and House committees held hearings during the last 6 months of 1973. It is clear that we need a central location for all energy information in the Congress.

I urge immediate consideration of the resolution I am introducing today.

## FEDERAL PAPERWORK BURDEN RELIEF ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS) is recognized for 5 minutes.

Mr. EDWARDS of Alabama. Mr. Speaker, I address the House today on a subject which has concerned me and many of my constituents for a long time. I have discussed this topic here on prior occasions. I am referring to the Federal paperwork burden imposed upon the small businessmen of America.

I am cosponsoring legislation entitled the Federal Paperwork Burden Relief Act which directs the General Accounting Office to conduct an extensive study on the extent and nature of the paperwork burden imposed upon small businessmen by the Federal Government. The purpose of the study will be to report to Congress within 1 year on how present requirements may be revised to ease the burden. It will then be up to Congress to wield tough legislative shears to cut away unnecessary red-tape and reporting requirements.

Mr. Speaker, there are over 8 million small businesses in America and around 10,000 in my own State of Alabama. Many farmers fall in this category. All are flooded regularly with forms and reporting requirements. All are faced with hundreds of rules and regulations which require an army of lawyers and accountants to decipher. The giant company can perhaps afford these squads of advisers and interpreters. But for the small businessman, the cost of Government paperwork can mean the difference between profit and loss.

In fairness, it should be noted that some reporting, some information gathering is necessary to run government programs effectively. But if and when paperwork is absolutely necessary, it should be simplified and technical assistance should be provided. A proper differentiation must be made between giant businesses and small businesses. I expect the GAO study to show us where the line should be drawn, and I expect a significant portion of present day paper-pushing requirements to fall on the "unnecessary" side of the line.

There are several courses of action which the Congress can and should take to curb the paperwork burden on the small businessman in addition to passing the legislation I am cosponsoring today. We can carefully examine every bill considered here to see just what its effect will be on the small businessman, requiring a "redtape impact statement." Experience has taught us that tall oaks of bureaucracy grow from small legislative acorns, that a redtape-generating agency is easy to create but very difficult to terminate, that once a program is started, it tends to feed on itself, moving forward on its own momentum, spreading a thicket of rules and regulations as it proceeds.

We can make tax simplification for small businesses an integral part of any tax reform proposal. Before granting annual appropriations, we can inquire of each Federal agency what steps it is taking to loosen the shackles of unnecessary paperwork. We can tighten the reins on the bureaucracy and insist that any paperwork required of small businessmen be fully justified.

Mr. Speaker, people have a right to understand what is expected of them by their Government. They have a right to be confident that rules and regulations which make a large demand on their time and resources are reasonable and necessary. A bureaucracy can separate people from their Government by inserting layers of redtape which soak up effectiveness and reponsiveness. It is easy to see how a small businessman could come to feel that his government is more concerned with shuffling papers than with providing services.

Our small businesses are the backbone of our economy. It is the responsibility of the Congress to free small businessmen from unnecessary paperwork burdens so they can do their jobs. If government intervention is minimized and a free enterprise environment is allowed, the small businessman will take care of the rest.

## CONTROLS MUST EXPIRE; TAX ON EXCESS PROFITS SOUGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. QUIE) is recognized for 15 minutes.

Mr. QUIE. Mr. Speaker, Congress passed the Economic Stabilization Act hoping that inflation would be slowed and the consumer price index would be stabilized. In authorizing the President to control the economy, we told him, in effect, "Here, you solve the economic problems of the country."

On that memorable night of August 15, 1971, the President stopped denouncing them and started embracing them. He answered the call with Pay Boards, Price Commissions, the Cost of Living Council and phases I, II, III, and IV, all of which attempted to prescribe the proper economic medicine through a series of adjustments, freezes, and complex formulas.

But now 2 years and 5 months later, the wage and price control program has produced severe economic dislocations and shortages that are affecting nearly every segment of the American economy.

The Economic Stabilization Act expires on April 30, and I believe we in the Congress should allow it to become part of our history. The economy cannot function properly if it continues to be wedded in an economic straitjacket. The Federal Government is not wise nor sensitive enough to substitute its judgment for those who actually make the economy work: 210 million Americans.

I am distressed over the apparent link between wage and price controls and the energy crisis, and the effect controls have had in bolstering exports while simultaneously creating shortages at home. During the adjournment period, my constituents questioned the shortage of gasoline and other petroleum products. They are suspicious over the cause of the shortage and so am I.

Before 1971, the only thing most Americans were short of was credit and time. But now, if you want gasoline, it is short. If you want anything made of steel, it is short. If you want fertilizer, it is short. If you want anything made of plastic or cloth, it is short. If you want anything made out of paper, it is short.

In short, everything is short.

Wage and price controls, with all of their phases and adjustments, have not and will not work. Controls are like placing your hand at the mouth of a steam kettle. In the short run, the steam is reduced. But in the long run—what really matters—is the amount of steam inside the kettle. And continued reckless Federal spending greatly increases the amount of inflationary heat.

Economists are warning that continued economic controls will lead the country down the path of further shortages and higher unemployment.

I am convinced that there is a direct relationship between last summer's beef shortage and this year's oil and gasoline problems.

Last summer the President exempted most segments of the food industry from the June 13 price freeze. Beef prices, however, remained under the ceiling imposed March 29. As a result, live cattle prices soared, but beef producers, expecting higher profits in September, held their cattle. Predictably, beef disappeared from the meat counter and beef processing plants closed or cut back operations while hundreds of workers remained idle. Consumers panicked. There was a run on home freezers which created artificial shortages in the Nation's department stores. Spring's meat boycott switched into summer's meat hoarding.

Beef price ceilings were retained until September 12 to allow price increases to spread the accumulated pressure, but cattlemen figured that prices would ultimately increase when controls came off, so they held cattle from the market. The extension of controls on the domestic beef supply cut production and availability about 30 percent, according to Secretary Butz.

Because beef was scarce, demand for poultry and pork skyrocketed and their prices zoomed to artificial highs. Extending beef controls turned out to be counterproductive: beef supplies dwindled and other meat and protein supplies rose to levels much higher than what they otherwise would have been.

Finally on September 12 the freeze was lifted. Anxious farmers sent their overfattened cattle to the market as prices skidded. A market balance quickly returned because it was allowed to function without Government restraints. There was a steady gain in meat supply and availability.

Mindful of the economic lesson, let us examine the relationship between controls and the energy shortage. Federal Energy Director William Simon has said that the price of petroleum products will rise to higher levels in the next few months, and the price of gasoline could climb as much as 11 cents by March 1. Unlike the beef industry, petroleum products can be held from the market indefinitely.

Is this why we hear reports that oil and gasoline storage tanks are filled to capacity? Is this why we are advised that huge oil tankers are waiting off the East Coast and elsewhere to unload millions of gallons of fuel? Are oil companies, like beef producers, holding their supplies from the market in anticipation of higher prices? I suggest they are.

Mr. Speaker, I do not suggest that there is no energy crisis but present problems are a direct result of wage and price controls. I do believe that we would experience more plentiful supplies of oil and gasoline, if the Economic Stabilization Act were allowed to expire and an excess profits tax were enacted. Taking this action would be a strong signal to oil producers that the Government intends to allow the economy to function on the basis of supply and demand. Tinkering with this delicate balance has thrown the economy out of kilter, creating high prices, shortages, and a weakened faith in the economic system. Producer confidence must be restored now because decisions made now will determine the supply in the next few years.

Continuing the economic stabilization program beyond April 30 can do nothing but intensify the Nation's abundance of shortages.

There is great debate about how to stretch the Nation's crucially short supply of petroleum products to meet current needs, and some influential people are calling out for a system of rationing. On the surface this seems to make sense: rationing, they say, would make sure that everyone gets his fair share of the available energy supplies.

But I submit that nothing could be as disastrous. Rationing itself is not only unfair, but it would do nothing to increase energy supplies.

Domestic production of crude oil and natural gasoline supplies last year ran close to 11 million barrels per day, while imports registered about 6 million barrels per day. Imports, not covered by the wage and price controls, are now averaging $8 to $12 per barrel and higher. Meanwhile, domestic sources are restrained to about $6 per barrel, and less.

Recently, new and stripper well oil production was freed from controls and now sells for about $7 per barrel. The Cost of Living Council has allowed the price ceiling on "old oil" to be raised $1 per barrel but this still leaves two-thirds of American's oil selling for less than $6 per barrel.

The inequity between domestic and imported oil prices prompted the Wall Street Journal to note:

> The stated objective of these pricing policies is to encourage the finding of new oil and the maintenance of production from marginal wells, but under such a system there is clear incentive to cut production of non-strippers and wait for prices to rise when ceilings are removed. Such incentive explains why many wells have been capped under the present pricing system.

Price controls have aided the United States in achieving a favorable balance of trade, but ironically, they have significantly contributed to the growing shortages here at home. Because they are creating maladjustments in the economy, business and labor leaders are joining together to seek an early abolition to the wage and price control program.

In the paper, steel, and textile industries, as well as several others, domestic manufacturers have found that they could realize higher profits overseas than they could at home. By holding domestic prices to artificial lows while prices on world markets have been determined by supply and demand, the Economic Stabilization Act has compounded our domestic shortages. The strain prompted the Congress to consider the Export Administration Act which allows the administration to impose controls on exports. I am advised that the House-passed measure, which I opposed, has been tabled in the Senate.

The National Association of Manufacturers recently announced the findings of a survey it conducted among its 2,300 members. It concluded that wage and price controls are "hurting capital expenditures, causing shortages of products and raw materials, and are contributing to inflation."

Added the NAM survey:

> Clearly, the largest single factor contributing to the shortage situation has been the control program itself. . . . The second great cause of the shortages, according to the survey, is insufficient domestic production. Controls have been responsible for this area because firms won't expand production facilities. . . . The third largest contributing factor is international price differentials, which is . . . a result of the imposition of controls. . . . There has been a great incentive to export because firms could get a better price in a foreign market. Most prices for internationally-traded commodities have risen sharply in recent years, yet the domestic U.S. price has been held artificially down.

Of the firms responding to the survey, 85.1 percent said if controls were to remain, shortages would worsen. At the same time, 84 percent of those same firms said there would be an improvement in the shortage problem if controls were terminated.

Mr. Speaker, the evidence is clear. The wage and price control program has caused an economic maladjustment that will affect us far into the future if controls are allowed to continue beyond the April 30 cutoff. Nearly every day I pick up the newspaper and read of some new shortage which threatens the economy, affects hundreds of other industries, and forces production cutbacks.

Are we going to allow this program to continue? A program which has proven itself not to be in the public interest? A program which has contributed to energy, steel, textile, food and other shortages? A program blighted by economic slowdowns? A program which could push unemployment higher than its present 4.9 percent?

I hope that we do not. We acted out of good intentions when we passed the Economic Stabilization Act, but I believe that controls have outlived their effectiveness. We must not allow the program to continue beyond April 30. The next phase of the Economic Stabilization Act should be "phaseout."

With a total phaseout an individual may ask: "What will prevent large companies from making a ripoff because of the higher prices induced by shortages which were, to a large extent, caused by the Government's own economic policy?

The answer to that is an excess profits tax. Without such a tax companies have a choice between additional expenditures to increase production, or increase payments to company stockholders. With an excess profits tax, companies will have the choice between increased expenditures to boost production levels, or additional payments to the Federal Government. With an excess profits tax, I believe the oil companies would more likely earmark expenditures for exploration, drilling, pumping, and refining, than they would if no excess profits tax were levied.

I recognize that an excess profits tax could prevent investments which are necessary to provide adequate energy sources for the American people; however, that can easily be avoided. With the combined wisdom of the executive branch of Government and the Ways and Means Committee, certainly an excess profits tax, which would accomplish what we desire for the benefit of the citizens of this country, could and should be enacted before April 30. This also could, in the long run, be much more anti-inflationary than wage and price controls have turned out to be.

### RESTORING A VIABLE MORTGAGE MARKET FOR HOME BUYERS AND BUILDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. Widnall) is recognized for 10 minutes.

Mr. WIDNALL. Mr. Speaker, it is not often these days that one can be the bearer of good news. It gives me real pleasure, therefore, to report to you on actions being taken to restore a viable mortgage market for American home buyers and builders.

Yesterday, in his address to the National Association of Home Builders in Houston, Tex., Secretary James T. Lynn announced two actions—to be initiated immediately—which should make it possible for many thousands of home buyers and sellers to realize significant opportunity.

In the first instance, the FHA and VA approved interest rate for insured mortgages will be reduced from 8½ to 8¼. This may seem odd in terms of current market rates which are still hovering around 9 percent, but Secretary Lynn has taken this action as a positive means of leading the market to more realistic lower interest levels.

Market interests rates have softened some over the past 2 months. Mortgage money in the secondary market has been available through GNMA since September 1973, but it has found little use at the stated 8½ rate. Mortgage money has also begun to return to the savings and loan institutions—a gain of $3.1 billion in deposits was recorded in December. But still, the lending market remains notably inactive. The reduction of the FHA and VA rates to 8¼ percent is significant in persuasion for positive action. The Secretary's positive use of the FHA program in leading the market to more acceptable interest levels is commendable.

Secretary Lynn's second announcement is even more responsive to the needs. Effective today GNMA will be authorized to purchase up to $6.6 billion in FHA-insured and VA-guaranteed mortgages bearing a stated interest rate of 7¾ percent; 200,000 units of new construction single-family and multi-family dwellings will be supported through this effort. These mortgages will be purchased by GNMA at 96 and resold to secondary lenders at market auction price. Through its special assistance funds GNMA will accommodate the market by buying, holding, and later reselling these mortgages in tandem fashion. The cost to the Government will depend in large measure on the future actions in the secondary market.

With this expanded program builders and buyers will be able to move in the new construction field at a buyer's interest rate more akin to the rates of last July.

After 6 months of the credit crunch which rendered the housing industry and consumers helpless, we will hopefully see an invigorating restoration of activity—it is a needed infusion of blood, and it should serve the Nation well.

Secretary Lynn also revealed other constructive commitments to serve the Nation's housing needs, and he called upon the Congress to act positively in considering housing proposals now before committee. I am hopeful that the Congress will follow this leadership and act promptly on housing legislation which will give stability and strength in meeting the Nation's housing needs.

I commend the address to my colleagues and its synopsis follows:

#### SYNOPSIS OF REMARKS BY SECRETARY JAMES T. LYNN

Secretary James T. Lynn of the Department of Housing and Urban Development today announced important steps to enable more families to qualify for home ownership, and to stimulate home building.

Addressing the annual convention of the National Association of Home Builders in Houston, Texas, Secretary Lynn announced:

A reduction from 8½ percent to 8¼ percent in the maximum allowable interest rate for mortgages insured by the Federal Housing Administration.

Expansion of the tandem plan of the Government National Mortgage Association (GNMA) that will assist in the construction of 200,000 housing units by providing below-market interest rate mortgages up to a possible total of $6.6 billion.

To be eligible under the expanded program, mortgages must be for new construction, bear an interest rate of 7¾ percent, and have received conditional commitment for FHA insurance or VA guarantee on or after January 22, 1974.

The 200,000 units of housing will be produced under a revision of GNMA's Special Assistance Programs for the purchase of unsubsidized FHA-insured and VA-guaranteed home and project mortgages.

Other GNMA tandem plans will be unchanged except that mortgages will be accepted at the new interest ceiling rate of 8¼ percent unless covered by special exceptions.

The new interest rate ceiling of 8¼ percent was determined after consultation with Donald Johnson, Administrator of the Veterans Administration, who simultaneously announced a similar decrease in the allowable rate for GI home mortgage loans.

The rate ceiling had been at 8½ percent since August 25, 1973.

Secretary Lynn also announced that HUD is embarking on a total effort to simplify processing and office procedures relating to FHA insurance programs. Teams from HUD's Washington headquarters will be working with field offices nationwide in a coordinated attack upon processing bottlenecks and other obstacles to speedy and effective service. The Secretary pointed out that this effort to achieve better service and use of resources will in no way de-emphasize equal opportunity or environmental requirements, other designated national or community social priorities, or quality standards for processing.

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## ABORTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 30 minutes.

Mr. HOGAN. Mr. Speaker, 1 year ago today, the Supreme Court handed down a decision which means in effect makes abortion on demand the law of the land up to the moment of birth. The court decision has been inaccurately reported by many individuals and organizations and I feel it is necessary at this time to consider exactly what the Court has done.

First, the Court has held that the right to terminate a pregnancy at any time during the pregnancy was a right protected by the U.S. Constitution, a fundamental right, implicit in the concept of ordered liberty—Roe against Wade, pages 37–38.

Second, the Court held that a State has no power to regulate abortion in any way to protect the baby in the first 6 months of fetal existence—Roe against Wade, page 48.

Third, the Court held that in the final 3 months of fetal existence, a State has no power to prefer the life of the baby to the health of the mother—Roe against Wade, page 48.

Fourth, the Court held that the health of the mother was to be determined by medical judgment "exercised in the light of all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient"—Doe against Bolton, pages 11–12.

Fifth, the Court held that a State does not have the power to require an abortion to be performed in a hospital accredited by the Joint Commission on Accreditation or in any hospital—Doe against Bolton, page 15. It does not have power to require review of an abortion decision by a hospital committee—Doe against Bolton, page 17. It does not have the power to require that the mother be a resident of the State—Doe against Bolton, page 20.

Sixth, the Court held that a State does have the power to require that only a licensed physician perform or sanction an abortion—Roe against Wade, page 49—and that a licensed facility house the operation after the baby in the womb is 3 months old—Doe against Bolton, page 15.

In essence, this is a summary of the Supreme Court decision which has caused the slaughtering of over 1.5 million unborn babies during the last year.

Life is a biological continuum from the moment of conception to death. The unborn baby is innocent of any crime, but the proabortionists feel that he should be destroyed for the convenience of the mother and society. At a time when all reasonable people are concerned about the rights of minorities and the underprivileged, surely the unborn baby is the most underprivileged minority of all.

Contrary to the Supreme Court decision, the fetus is not "a potential human being," but medical science says it is an actual human being waiting for growth to develop. The Court rejected the argument that from the moment of conception, an embryo possesses a right to life.

Mr. Speaker, I wish that all of our colleagues would study photographs of what the unborn child, the so-called, fetus, looks like. Seeing the perfectly formed human features no one can logically challenge the obvious fact that this is a human being. It can be nothing else. So when we talk about abortion, we should talk about the rights of this other human being as well as the rights of the mother.

Our laws have traditionally recognized that in cases of inheritance, tort liability and other civil matters, the unborn child has had legally protected rights from conception. Conception clearly means what in scientific terms we would call fertilization. To make an amendment apply from a time later than the moment of conception would be to constitutionalize the killing of innocent human beings prior to the point in time at which the protection of the amendment would attach.

Mr. Speaker, I would like to include the text of my constitutional amendment at this point and take the time to discuss its particulars:

> Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as a part of the Constitution only if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:
>
> ARTICLE
>
> Section 1. Neither the United States nor any State shall deprive any human being, from the moment of conception, of life without due process of law; nor deny to any human being, from the moment of conception, within its jurisdiction, the equal protection of the laws.
>
> Section 2. Neither the United States nor any State shall deprive any human being of life on account of illness, age, or incapacity.
>
> Section 3. Congress and the several States shall have the power to enforce this article by appropriate legislation.

My amendment would definitely prevent all abortions for reasons less than the preservation of the very life of the mother.

The amendment would apply the existing principles of due process of law and the equal protection of the laws to all human beings, including the child in the womb. It would abolish the abortion mills all over America. The Supreme Court rulings defined the child in the womb as a nonperson and deprived him of his most basic right. All the amendment would do is give the child in the womb the same right to continue living as his older brother, with both of them, of course, being governed by the even-handed application of the principles of due process and equal protection.

My constitutional amendment is presently pending in the Subcommittee on Civil Rights and Constitutional Rights of the Judiciary Committee. In a statement issued on October 30, 1973, by Chairman PETER RODINO, he made reference to the fact that he has received 27,634 letters urging action on impeachment and that therefore they are moving "full steam ahead." The hundreds of thousands of letters from citizens requesting action on abortion legislation received no such response. Today, on the Capitol steps, I was presented petitions endorsing the constitutional amendment signed by 3½ million citizens. There has still been no action by the Judiciary Committee.

I have followed the orderly procedures of the House so that the proposed legislation could be handled in the customary way. Yet, this is a matter of life and death and every day we delay we are responsible for the killing of thousands and thousands of live babies.

Since it appears obvious that the Judiciary Committee has no intention of holding hearings on this amendment, I have filed a discharge petition which, if it obtains the signatures of 218 Members of the House, will bring my constitutional amendment to the floor of the House for an immediate vote.

I am confident that we have the necessary support in the House to pass my amendment if we can get it to the floor for a vote. I base this on the evidence of four separate votes where the House has had the opportunity to vote on amendments to bills that relate to the question of abortion and on all four the votes were overwhelmingly "pro-life." These four votes include the Roncallo amendment to the biomedical research bill prohibiting experimentation on fetuses. This passed by a vote of 354 to 8. On June 22, a similar amendment to the National Science Foundation bill was adopted by a vote of 288 to 73. On June 21, I offered an amendment to the Legal Services Corporation Act which was adopted by a vote of 301 to 68 as amended by the Froehlich amendment, accepted by a vote of 316 to 53. These provisions prohibited legal assistance from the Legal Services Corporation in connection with abortion. This overwhelming interest shown by the House and coupled with the evidence of the great interest of the public in the issue of abortion, make it imperative that we act as expeditiously as possible on this matter.

Mr. Speaker, the January 22 Supreme Court decision has negated the rights of a significant number of human beings. They have been denied the right to life itself. This black mark on American history has shocked millions of concerned people across the country. I have been heartened by the response from the American people and the support they have gathered to help overturn this decision. Today there were over 10,000 people from all over America here at the Capitol urging congressmen to sign my discharge petition.

It is noteworthy that since the Supreme Court decision 1 year ago today, 11 States, the House of Representatives in Montana and the Senate in West Virginia have passed memorial resolutions urging the Congress to enact a constitutional amendment to overrule the Court's decision on abortion.

Certainly the fact that such a significant number of States have already responded should clearly indicate to Congress that the people of the United States expect Congress to face up to this issue and do something about it. It is paramount that Congress confront this responsibility and act favorably toward adopting a constitutional amendment to protect the innocent unborn.

## COMPULSORY PREGNANCY

The **SPEAKER** pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 30 minutes.

Ms. **ABZUG**. Mr. Speaker, in a democratic country we must respect personal or religious objections to abortion. We in Congress would never pass legislation forcing a woman to have an abortion. Yet there are those who would force women to bear children, without respect for their personal convictions or needs.

A majority of the public, regardless of religious affiliation, now favors legal abortion. They understand that legal abortion means state neutrality. Anything else is compulsory pregnancy.

It is this principle that the Supreme Court upheld in its historic decisions a year ago today. In an earlier decision—Eisenstadt against Baird—Justice Brennan wrote:

> If the right of privacy means anything, it is the right of the individual, married or single, to be free from unwarranted governmental intrusion into matters so fundamentally affecting a person as the decision whether to bear or beget a child.

Accordingly the Court stated that during the first trimester the decision on abortion must be left solely to the woman and her doctor. During the second trimester, some government regulations are permitted for the woman's health and safety. In the last trimester, States may restrict abortion only with exceptions for the preservation of the woman's life and health.

We must remember that concern for the health of women is the reason for abortion laws in the first place. Most were enacted in the 19th century and have remained literally unchanged until the past year when the Supreme Court decisions overruled them.

Until antiseptic surgery was discovered, even abortions performed by physicians were highly dangerous. English common law, however, respect a woman's right to take the risk; as did American law until the 19th century when some States considered it essential to protect women from unscrupulous abortionists.

That condition no longer exists: Under present conditions sterile abortions are eight times safer than childbirth. Until this year, botched abortions were the main single cause of maternal deaths. Since abortion became legal, that rate has dropped dramatically. In New York City it dropped from 5.3 per 10,000 births in 1969 to 2.6 in 1972. Restrictive laws, therefore, are unconstitutional in forcing women to accept the more dangerous procedures.

The philosophy called "right to life" is misnamed. It would in fact deny life to thousands of women who can now obtain a safe and legal medical procedure, and who would resort to unsafe and illegal procedures if this right were snatched away.

Seventy percent of the abortions performed in New York State last year, studies show, would have taken place whether abortion was legal or illegal. The women would have used self-induced and dangerous methods or would have gone to the unskilled neighbor, quack or medical bootlegger who performs abortions for extra income. Hundreds of thousands of women have died in the past, in such desperation; hundreds of thousands more will die in the future if we are unclear on this issue.

Abortion will not cease if we pass restrictive legislation; it will simply cease to be safe and legal. Abortion is almost always a last resort for a pregnant woman—but it must be an available option.

Until we have the perfect contraceptive, women of all walks of life, all races, religions, ages, and conditions, will resort to abortion. If we turn back the clock, many of those who die will leave motherless families, for a great many women who choose abortion already have more children than they can bring up. When we speak of concern for children, where is our concern for those whose mothers will be killed or left crippled?

And where is our concern for the children brought into the world unwanted? Sociologists and psychiatrists have told us for years that unwanted children suffer neuroses and psychoses that can easily turn to crime and violence, as in the battered child syndrome which is passed on from one generation to the next. Why should we inflict such a fate upon helpless children—and upon society that must pay for keeping them in jails and institutions? Some of the legislation introduced actually would make it compulsory to bear a seriously defective child, even though the condition was known in advance, as it now can be. This is inhuman to the child, the parents, and all other family members.

This Congress is not yet prepared to pass legislation that will adequately feed and clothe the poor and unwanted children already in our midst, in institutions and substandard homes. Are we ready to decree that thousands more must be born each year?

Women, as never before, are asserting their right to make these decisions according to their own conscience and circumstances. This right of privacy was specifically recognized by the Supreme Court in its rulings last year.

Knowing that women will no longer quietly consent to male domination of their right to control their own bodies, antiabortion forces have shifted their attack to the "right of the fetus." The proposal to overturn the Supreme Court decision through a constitutional amendment, as introduced by Senator BUCKLEY, declares:

> The word "person" as used in the 5th and 14th Amendments . . . applies to all human beings, including their unborn offspring at every stage of their biological development, irrespective of age, health, function or condition of dependency.

On the contrary, last year in Roe against Wade, the Court declared:

> The word "person" as used in the 14th amendment does not include the unborn.

To do so would be to open the door to a series of ridiculous legal questions. Arlie Schardt, associate director of the ACLU in Washington, has pointed out that—

> Every pregnant woman would be constantly acting at her peril . . . lest she be held accountable for any injury the fetus suffered . . . Prosecutors might well be obliged to investigate every miscarriage to see if it resulted from fetus abuse, carelessness or recklessness. Women taking medicine which also happens to expel the fetus could be guilty of murder. So could women using IUDs. Every woman might have to register her pregnancy with a fetus protection authority, subjecting every aspect of her life to potential state inspection, regulation and control.

If this seems farfetched I need only remind you of the increasing control and surveillance of every aspect of our lives. It is ironic that conservatives are leading a drive that could well result in such surveillance, when the basic principle of conservatism is resistance to State interference with individual rights.

Representative HOGAN's proposed constitutional amendment would prohibit abortion "from the moment of conception"—a moment no scientist has yet been able to pinpoint, any more than the moment of viability.

It has been noted that such attempts would give a fetus rights that no living person has, to use another's body and life-support systems against that person's will.

Other proposals discriminate flagrantly against the poor. Senator BUCKLEY's amendment to the Social Security Act would deny medicaid funds to those who can least afford to support unwanted children, and who have least access to contraceptive services. It would subject them alone to State coercion, denying them the equal protection of the law. Affluent women have always been able to get medical abortions and working class women with private health insurance will continue to be covered. But a recent Government study shows that over half the counties in the United States offer no public family planning services at all, and a large number of nonprofit hospitals, in which 60 to 65 percent of low-income mothers deliver their babies, offer no contraceptive programs either. Many women thus remain uninformed; others, often very young, get into situations they cannot control. And even well-informed women discover that no contraceptive device is 100 percent effective. Abortion is certainly not the best method of family planning, but it must be available to all as a last resort.

Representative Hogan's amendment to the Legal Services Act would further discriminate against poor women by denying the use of Federal funds to support any challenge to the denial of abortion service including the right to bring a malpractice suit.

Senator Church's amendment to the Health Programs Extension Act, already passed, if utilized by hospitals to deny abortion or sterilization while receiving Federal funds, is in my opinion unconstitutional.

And the proposed Helms amendment led to the inclusion in the Foreign Assistance Act of language which will seriously affect the use of AID funds for abortion services overseas. It is bad enough that we permit the views of a minority to reverse our domestic policy; it is incredible that we would even consider such an incursion into foreign policy.

For it is a minority that is attempting to overturn the Supreme Court's rulings. In June 1972 a Gallup poll found 64 percent of the public agreeing that abortion is a decision solely for a woman and her doctor. In January 1972, Gallup found 54 percent of Catholics held the same opinion. A recent poll in the Catholic Reporter shows increasing support among both Protestants and Catholics for abortion for a variety of causes.

Religious leaders are now banding together to insist upon the separation of church and state on this issue. The Religious Coalition for Abortion Rights, encompassing Protestant, Jewish, and Humanist leaders, joins with such groups as Catholics for Free Choice, to support the Supreme Court decision. They ask only what I am asking today: That we sustain the right of every woman to make her decision guided by her own conscience and convictions.

One year later we have proof of the wisdom of this approach. Planned Parenthood Federation has just published a report showing not only the startling decline in maternal death rates, but a decline in hospital admissions for botched abortion; a decline in abandoned infants from 14.9 per thousand to 6.6 per thousand; a decline in out-of-wedlock births. In addition to the amelioration of human misery in all these cases, there has been a saving of public assistance funds in New York City alone, of some $15 million.

Another important benefit is the reduction of a too-rapidly rising birth rate. The shortages of fuel and other resources we now face are as nothing compared to the situation we will face if world population is allowed to outrun resources. If we do not want to live in a world jungle, clawing for food and heat and light, we will combine forces around the world to insist upon populations of manageable size. Fifty-eight percent of the world's population lives in countries that have legalized abortion—again, recognizing that it is not the best method of population control but must be available as a back-up measure. Without it, countries such as Japan and the Soviet Union would never have kept their population within livable bounds—nor could we.

For the sake of the world, the Nation, and the individuals who live in it, we must see that no more regressive legislation is passed to limit women's free choice in seeking abortion.

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## FUTURE CREDIT FOR THE SOVIET UNION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. Ichord) is recognized for 30 minutes.

Mr. ICHORD. Mr. Speaker, today I was joined by 24 of my colleagues in the introduction of a Sense of the House Resolution instructing the Export-Import Bank not to grant any further credit to the Soviet Union until the Congress has had the opportunity to debate the question fully and take such action as it deems desirable. The House has already taken action to prohibit the extension of any such credit and the Senate is shortly to act on the measure. We ask only that the Bank await the final expression of the Congress on the matter.

Although such a resolution will not have the binding force of law it will serve as a forceful reminder that the Congress of the United States still controls the future and the programs of the Exim Bank. At the present time the Bank appears to be determined to lend as much money to the Soviets as they personally desire regardless of the will of Congress.

Last Friday, Mr. Speaker, the Export-Import Bank announced another $38 million worth of credit to the Soviet Union despite the forceful action the House of Representatives took on the Mills-Vanik amendment to the Trade Reform Act of 1973, prohibiting any extension of such credit by this Bank or any other agency of the Government. On December 11, 1973, this amendment was approved by an overwhelming vote of 319 to 80. As all of the Members of this House are well aware, the Trade Reform Act of 1973 is now awaiting action in the U.S. Senate where an identical amendment proposed by Senator Jackson has been cosponsored by over 77 of the 100 Senators.

It appears to me that the Exim Bank has taken on the characteristic of a bureaucratic operation which apparently feels that it exists as the result of some divine right and does not depend on the will of the American people and certainly not on the actions of those who have been elected to represent our citizens. I am, therefore, constrained to remind the Board of Directors of this Bank today that the Export-Import Bank is an agency of the U.S. Government and as such is expected to carry out the policies made by the duly elected legislative branch of our Government. The Board does not have the responsibility of determining policy and if the Board members are determined to do so I would suggest that they run for public office.

In extending the latest credits to the Soviets, the Board has loaned a grand total for 1973 and 1974 of almost $160 million and another $200 million plus has been promised on the basis of preliminary commitments. It would appear clear that the Bank directors have made the arrogant determination that they are going to lend as much money as they please to the Soviet Union. In the last couple of weeks Congressmen Aspin, Dent, Karth, Fulton, Davis, and myself have forcefully reminded them by statement and telegram that they are acting in direct violation of the will of Congress and they should cease and desist until the question has been finally resolved.

We have also been advised that the Export-Import Bank is presently considering a $49 million loan to the Soviet Union for exploration of the gas fields in eastern Siberia. The Chairman of the Bank has informed us that a decision will be made in the near future and all indications are that they are preparing to also approve a preliminary commitment for this loan.

Mr. Speaker, I am forced to conclude that American financing of Soviet gas exploration at this particular time in history, especially at an interest rate of 6 percent which is in effect to be subsidized by the American taxpayer, smacks not only of poor business judgment, but suggests a disregard for the national security. Exploration and development of a nation's energy supplies has such clear national security implications that they need not be spelled out. What possible logic could lead to the conclusion that we should participate in the development of natural gas for Soviet use or expect to depend on it for our own use? Does any thinking American really believe that the Soviets would ever fulfill any commitment to use to deliver gas during a major world crisis even if we could work out all the other problems connected with the production and transportation of Siberian gas? Let me remind my colleagues in this House that the Arabs have never threatened to "bury us" nor have they ever expressed the intentions to fly the Communist flag over the world and yet they were more than willing to use oil as a weapon to influence world political opinion. Do we have any reasons to believe that the Soviets would not do the same thing under similar circumstances?

It is obvious that the Soviets need our technology and financing to explore and develop the oil and gas reserves in Siberia but what about the interest of this country? What have we to gain? Let us review a few of the basic facts surrounding the proposal: First, the severe climatic conditions existing in Siberia will make development of these fields extremely difficult; and second, will present unusual problems in laying the extensive pipelines that would be necessary to transport the gas or oil to the coast;

third, the projected wellhead cost per thousand cubic feet leads one to seriously question the economic soundness of the project; fourth, the difficulties in shipping this gas in tankers with all the safety hazards involved cannot be ignored. When we add to these problems the obvious political difficulties and our own stated goal of energy independence, we certainly have many hard and serious questions to answer before plunging blindly into such a project.

I think it is incumbent upon us to ask if we could not much more wisely spend such money for energy exploration and development at home or at least in a country with which we have some history of tried and proven friendly relations. Certainly the Congress has the right and the responsibility to explore this entire question in all possible depth and make a reasoned determination of the course we should follow before our bureaucrats get us entangled in such an undertaking with all the possible ramifications entailed in the project.

As far as I am concerned we must solve such basic differences between our society and the Russian government as: First, their restrictive and repressive emigration policies; second, the increasing evidence of Soviet persecution of scientists and intellectuals with the attendant denial of the most basic human rights; third, the question so vital to the entire free world of what effect our credit and technology in domestic fields will have on Soviet military strength and the balance of military power in the world. In this connection I must remind my colleagues that on January 8, 1974, the Soviet Defense Minister called for the strengthening of Soviet military might. This, against the background of the SALT agreements and talks and the fact that the Soviets are already spending over 12 percent of their GNP, based on their own suspect figures, on military matters certainly raises new concerns. Should we make our financial and technological resources available to them in order that they might divert even more of their resources to military buildup? Finally, we must consider the effect of such credit being applied toward improving the competitive position of the Soviet Union with U.S. business in foreign markets. We must not overlook the potential danger in further undermining the job security of American workers.

Mr. Speaker, the resolution I am introducing today, along with Mr. ASPIN, Mr. DENT, and 22 other colleagues is nothing more than a temporary measure to stop the unilateral action of the Bank in granting loans to the Soviet Union until the Congress has worked its will in the matter. Once the Senate has acted upon the Trade Reform Act of 1973 this resolution would no longer be in effect. It simply instructs the Bank to make no more loans to nonmarket economy countries except those already enjoying column 1 tariff treatment—Yugoslavia and Poland—until the Senate has acted on the Jackson-Mills-Vanik amendment. The definition of the countries to be excluded corresponds exactly to the language in the Vanik amendment. I urge the House to ready the resolution for House consideration as quickly as possible:

RESOLUTION

*Resolved*, That it is the sense of the House that, during the period pending consideration and action by the Senate upon the bill H. R. 10710, as introduced in the 1st Session of this Congress, cited as the "Trade Reform Act of 1973", and as amended and passed by the House, no loan, guarantee, insurance, or credit shall be extended by the Export-Import Bank of the United States to any nonmarket economy country (other than any such country whose products are eligible for column 1 tariff treatment on the date of the enactment of this resolution), and no such country shall participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly or indirectly.

Mr. RANDALL. Mr. Speaker, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Missouri (Mr. RANDALL).

Mr. RANDALL. Mr. Speaker, I want to commend the gentleman from Missouri (Mr. ICHORD) for his effort and I want to be certain that my name is jonied with his on this sense of the House resolution. Please do not omit to add my name to this resolution.

I read with considerable interest your news release issued during the recess. I might say that those of us who got around their districts to do some opinion-sounding found your views were popular with the people. I made a personal survey in 13 of our 16 counties. In many of those places we found an interesting thing, that the people are not sure whether the Soviets are sincere about détente. Now let me be certain that I understand what the gentleman is talking about. Is this a $40 or $50 million loan—what is the amount?

Mr. ICHORD. I will say to the gentleman from Missouri (Mr. RANDALL) that the resolution is couched in the same language as the Vanik amendment which we adopted in the House which would prohibit credits until the Soviet Union has changed its immigration policies.

As far as our total loans to date to the Soviet Union, the Board has loaned a grand total for 1973 and 1974 of almost $160 million and another $200 million has been promised on the basis of preliminary commitments. I would almost state that the Export-Import Bank at the present time is considering a $49 million loan to the Soviet Union for the exploration of gas fields in Eastern Siberia. This is right in the face of the fact that the House voted overwhelmingly in favor of the Vanik amendment and right in the face of the fact that Senator JACKSON has been joined by almost 80 Members of the U.S. Senate in opposition to such a policy.

Personally I am very much concerned about the bureaucratic arrogance that is being exercised by the Board of Directors of the Export-Import Bank. I would remind them that it is the Congress of the United States which makes policy. It is not the responsibility of the Board of Directors of the Export-Import Bank to make policy. That is the responsibility of the duly elected Members of Congress. If the members of the Board of Directors of the Export-Import Bank wish to make policy I would submit that they should run for public office.

Mr. RANDALL. Mr. Speaker, will the gentleman yield further?

Mr. ICHORD. I yield to the gentleman from Missouri (Mr. RANDALL).

Mr. RANDALL. With respect to the specifics involved, the $49 million loan for this gas line which probably will cross Siberia and benefit certain areas outside the Soviet Union, perhaps Japan, let me say that during the recess just ended again and again our constituents would ask: "Have you joined with your colleague, the gentleman from Missouri, Mr. ICHORD, to keep an eye on the Export-Import Bank making a loan to the Russians for a gas line?" My answer was I would join as soon as Congress reconvened.

I think what the gentleman in the well is saying to the House is if this House passes an amendment of some kind, which expresses the will of the House, then such a procedure is all right. But instead we see an agency of the Government downtown acting in opposition to the policy of the House. Is that what the gentleman is saying?

Mr. ICHORD. The Export-Import Bank, I would say to the gentleman from Missouri, is trying to hurry up the action on the loans in order to escape the inevitable mandate from the Congress that it shall not make such loans under present conditions.

Mr. RANDALL. If the gentleman will yield further, we, of course, are encouraged by certain signs of détente; but I think we must also look beyond what the Soviets are saying and, in effect, look at what they are doing, in other words their actions speak louder than their words.

They always welcome our loans and welcome our country sharing its technology with them, but on the other hand there is some evidence that they have not shared their technology with this country.

Mr. ICHORD. I would agree with the gentleman from Missouri, and I would point out this is not merely a loan. This is a loan at a subsidized interest rate.

Personally, I cannot see any commonsense in the approach of lending the Soviet Union money while they continue their present military buildup. I have no objection to trade as such on a barter basis or on a cash basis; but I cannot see any sense or logic at all to the act of lending money to a nation following the policies of the Soviet Union. A loan undoubtedly makes it easier for them to continue to divert such a large portion of their gross national product to the production of military armament. They are now, to the best I can figure out, diverting about 12 percent of their gross national product to the production of military armament, while we are spending about 6 percent of our gross national product.

Mr. RANDALL. Would the gentleman be generous enough to yield for just 1 additional minute?

Mr. ICHORD. I yield to the gentleman.

Mr. RANDALL. The point the gentleman is making is well taken and well founded in logic. Yet I conclude what the gentleman has just said is that it is by virtue of our loans and our bounty, the Russians are making progress on all fronts. I presume the gentleman is saying there is nothing wrong in dealing with the Soviets, provided it is on a cash basis and on the same terms we would with anyone else; but here it seems we have been dealing with them on a favored basis. We are, in fact, providing a further loan that enables them at the same time to increase their military budget. In essense then we are paying for their increased military budget and by our loans—indirectly enabling Russia to enhance their military strength.

Mr. ICHORD. The Export-Import Bank, I would state to the gentleman from Missouri, by this proposed action is asking the American taxpayer to subsidize the building of a gas line, the development of a gas field in Siberia. The economic advantages seem to be very, very obscure. It is a very, very difficult project.

I will leave it up to the gentleman from Missouri whether we would have any assurance that we could develop a dependable gas supply in the Soviet Union.

I point out to the gentleman that the Arab Nations have not publicly stated that they intend to bury us. They have not taken any direct action against us. I do not think they are apt to become Communists, but yet they cut off our oil supply. Do we have any real assurance that the Soviet Union would continue to pump the gas once they came into being?

Mr. Speaker, I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. Mr. Speaker, I wish to compliment my colleague from Missouri for raising this issue. It is true, much of this information was called to our attention in the newspapers during the time we were in recess.

Is it not true that in the particular application from the Soviet Union that is being discussed with the Export-Import Bank, that it is very likely that this "business loan" would be at more favorable interest rates than any people in our own county are now able to secure?

Mr. ICHORD. Mr. Speaker, as I understand the proposal, I would state to the gentleman from California that this would be an interest rate of 6 percent, and it is very, very difficult for any business to borrow money at 6 percent today in the American money market.

Mr. ROUSSELOT. Mr. Speaker, in other words, the gentleman is trying to point out that the Export Import Bank is asking our taxpayers, even though the Export-Import Bank is now supposedly self-sufficient, but an agency that is sponsored by our Government, to be guaranteeing a loan at an interest rate at a substantially lesser amount than most businesses and most churches or most anybody else can borrow in this country at this time.

Mr. ICHORD. Mr. Speaker, that is precisely the case.

Mr. ROUSSELOT. Mr. Speaker, I think the gentleman has performed a good service, along with some of our other colleagues, who have tried to bring to the attention of this Congress the particular situation relating to the so-called loans with the "big gas deal" in Russia. I think that it behooves us as a Congress to perhaps attach to any future legislation relating to the Export-Import Bank, a more definitive use of how this tremendous Bank is used to finance these kinds of situations.

It is unfortunate, when our own business people in our own country and many other people are paying such substantial interest rates right here in the free market in our own country, one of our own Government agencies, is contemplating giving such a favorable financial arrangement to a country that is run as a Communist dictatorship, and has agitated against our country all over the world.

Mr. Speaker, I compliment my colleague from Missouri for calling this to our attention.

Mr. ICHORD. Mr. Speaker, I thank the gentleman for his contribution.

Mr. MARAZITI. Mr. Speaker, will the gentleman yield?

Mr. ICHORD. Mr. Speaker, I yield to the gentleman from New Jersey.

Mr. MARAZITI. Mr. Speaker, I compliment the gentleman on his remarks, and I wish to associate myself with his remarks.

Mr. ICHORD. Mr. Speaker, I thank the gentleman.

Mr. Speaker, in closing, I would reemphasize that the resolution we have introduced today is nothing more than a temporary measure to stop the unilateral action of the Bank in granting loans to the Soviet Union until the Congress has had the opportunity to work its will upon the matter. Once the Senate has acted upon the Trade Reform Act of 1973, this resolution will no longer be in effect. It simply instructs the Bank to make no more loans to nonmarket economy countries except those already in being; namely, Yugoslavia and Poland, until the Senate has acted upon the Jackson-Mills-Vanik amendment.

The definition of the countries to be excluded corresponds exactly to the language in the Vanik amendment.

Mr. Speaker, I hope the resolution will be promptly considered and passed by the Congress.

## FEDERAL RETIREMENT BENEFITS AND ANNUITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Gonzalez), is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, today I am introducing a bill to amend title 38 of the United States Code so as to provide that monthly Federal retirement benefits and annuities shall not be included as income for the purpose of determining eligibility for a veterans' or widow's pension.

I am proposing this legislation because I know there are many people across the country whose VA pension is cut if he becomes eligible for a Federal retirement benefit, or the retirement benefit he receives is increased.

I am sure that every Member of the House is deluged with letters from constituents every time we pass a social security increase, because the people receiving VA benefits must report any increase in income and they then find that their VA benefits are cut.

I do not believe that Congress meant for this situation to develop, but it now exists and I, for one, feel it is time to be changed.

Our country is currently experiencing rampant inflation and we find many of the elderly people living close to, if not within, the poverty level. These people who served in the military and gave of themselves unselfishly, now find that they have no financial security. They do not know from 1 month to the next what might happen to their VA pensions. The widows of these men find that they must count every penny and try to save something for the time when they might be notified of a cut in their VA pensions.

I am hopeful that in this session of Congress we will take a serious look at the situation confronting those who receive VA pension benefits, and make the necessary changes to enable these elderly people to live a decent life under the current economic conditions of our Nation

## PRICE CONTROLS ON DOMESTIC CRUDE OIL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Reuss) is recognized for 10 minutes.

Mr. REUSS. Mr. Speaker, I have today introduced H.R. 12214 to tighten price controls on domestic crude oil, and thus to insure that we are not just capitulating to runaway inflation.

Cosponsors of this bill are Mr. Ashley, Mr. Koch, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Moorhead of Pennsylvania, Mr. Stark, and Mr. Studds.

Secretary Shultz of the Treasury last weekend asked the oil-producing nations to cut back on unjustified price increases. We should ask the major domestic oil producers to cut back on their price increases as well.

On August 17, 1973, the Cost of Living Council phase 4 price regulations for domestic crude petroleum were published, setting up a two-tier pricing system. "Old" crude—crude oil in amounts up to 1972 production levels—was subject to a price ceiling equal to the posted price on May 15, 1973, plus 35 cents per barrel, "new" crude—crude oil in excess of 1972 production levels—and oil from "stripper" wells—wells producing less than 10 barrels a day—were removed from price controls. The object of this two-tier structure was to encourage additional domestic exploration and production, while keeping average crude prices from rising rapidly.

Since August 15, 1973, however, the COLC has raised the price of "old" domestic crude from $3.86 to $5.25 a barrel—first, on August 17, when the 35 cents bonus was added, and second, on December 19, when "old" crude was allowed to rise by a further $1 per barrel.

In addition, producers were allowed to release a barrel of "old" crude from price controls for each barrel of "new" crude produced, thus increasing the decontrolled fraction of domestic crude oil production from about 20 to 25 percent.

The COLC has made no attempt to justify the price increases and price control release of "old" crude in terms of increased costs, and for good reason—cost increases in "old" oil production are minimal. The drilling equipment is in place, the derricks are pumping, and oil is flowing out of the ground.

The COLC did say on December 19, 1973, that the increased prices on "old" crude, while generating "only marginal increments to crude supply in the short run," will "create additional incentive for the petroleum industry to pursue further research and development efforts, new exploration and new technology to augment our energy resources."

What an expensive and inefficient way to go about it. The price of "new" crude is decontrolled, and runs between $8 and $10 a barrel. Rising world prices will pull up "new" domestic crude still further. This is plenty of incentive—there is no need to give the oil companies two unrelated additional bonanzas on "old" crude—price hikes and release for "matching" barrels of "old" crude.

H.R. 12214's purpose is to:

First, roll back the price of "old" crude to May 15, 1973, levels, adjusted to reflect actual production cost increases since then; and

Second, eliminate the provision releasing a barrel of "old" crude for each barrel of "new" produced.

Neither independent producers—those with crude production of less than 20,000 barrels a day—nor stripper wells—as under present regulations—would be subject to price controls.

Under this bill, companies whose cost of producing "old" oil has genuinely increased—perhaps because they have resorted to more expensive secondary and tertiary recovery methods—will be allowed a dollar-for-dollar cost pass-through. But increases in price will be granted only on a case-by-case basis, where need is proven.

We must keep our heads, despite the rhetoric and uncertainties of the energy crisis. We want to increase production and particularly exploration—not only of oil, but of alternative energy sources, not only by major oil companies, but by other producers, But we also want to find the most efficient and anti-inflationary way of doing so. There is every reason, both in economic theory and in actual example, to believe that allowing "new" crude to be sold at a high and rising market price is sufficient incentive, without hiking the effective price of "old" crude too. Let us see how it works, before subjecting American consumers and petroleum-dependent industries to a truly staggering increase in costs this year.

## POLITICAL EARTHQUAKE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. CULVER) is recognized for 5 minutes.

Mr. CULVER. Mr. Speaker, while we were scattered in our districts during the recess a political earthquake occurred in Iowa, the tremors of which had perceptible effects across the Nation. I am sure that the instigator of these shocks deliberately chose to set them off at a time of congressional dispersion, since otherwise we would all have been too stunned. For all of us know that the House of Representatives operates through a delicate system of checks and balances, about one of which the House rules are silent. I refer, of course, to that majestic and rock-like institution, H. R. GROSS.

In announcing his intention to retire from the House at the end of his current term, H. R. GROSS is removing one of the pillars on which our legislative procedures are built. In taking away this bulwark he imposes a heavy responsibility on all those who remain in this body to compensate for a large vacancy. H. R. embodies not only a unique and memorable personality; he also brought distinction to the legislative craft.

There is probably not a member here who has not at some time left the floor with the conviction that H. R. saved them from foolish or inadvertent legislative error. There is no one in this body who has not marvelled at his command of legislative intricacies or at his professional skill in the reading of fine print. Moreover H. R. has always exhibited the values of a firm grounding in arithmetic and vocabulary. He always recognizes the difference between $1 million and $1 billion—and even the difference between 1 and 10. His mastery of the active verb and the telling adjective are also legendary. As one of his colleagues from Iowa, I have profited from his example and earthy wisdom however much I have disagreed with a good many of the policy conclusions he has reached. But even in disagreement H. R. is the kind of man who at least makes colleagues less smug in their beliefs and readier to see the possibilities of error.

H. R. GROSS has made this a livelier and better place in which to do the Nation's business. He will leave with universal affection and with our delight that we have been both the objects of his vigilance and the beneficiaries of his good will.

## HEARING SET ON VOTING RIGHTS OF EX-OFFENDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 5 minutes.

Mr. KASTENMEIER. Mr. Speaker, the Subcommittee on Courts, Civil Liberties, and the Administration of Justice has scheduled a hearing on H.R. 9020, and a number of identical measures to amend the Voting Rights Act of 1970 to prohibit the States from denying the right to vote in Federal elections to former criminal offenders who have not been convicted of any offense relating to voting or elections and who are not confined in a correctional institution.

The legislation was introduced by me and has been cosponsored by 27 other Members of the House. Its purpose is to prohibit the States from denying the right to vote in Federal elections to former criminal offenders who have not been convicted of an offense relating to voting and who are not incarcerated. The denial of the right to vote to citizens who have been convicted of a criminal offense is a significant obstance to the full enjoyment of that right by American citizens.

The bill sets forth findings supporting the constitutional foundation of this legislation.

A question is raised by the very recent Supreme Court decision in O'Brien against Skinner whether the bill can constitutionally provide, as it purports to do, that incarceration in a correctional institution deprives the inmate of his right to vote. Also, it has been proposed that the protection of the bill should be extended to State and local elections. The subcommittee will study the legislation with great care.

The hearing will be held at 10 a.m., on Wednesday, January 30, 1974, in room 2226, Rayburn House Office Building. Witnesses will be heard from the Department of Justice, the U.S. Commission on Civil Rights, and the American Bar Association.

## UKRAINIAN INDEPENDENCE DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. STRATTON) is recognized for 5 minutes.

Mr. STRATTON. Mr. Speaker, at a time when Alexander Solzhenitsyn's brilliant new work on Soviet concentration camps has focused world attention on the repressive practices of the Soviet Union over the years, it is especially appropriate to remember the valiant and hardworking people of the Ukraine who have been struggling against these policies for over half a century.

For most of the past 300 years the Ukraine has been submerged in the massive Russian state and for most of those years, the Ukrainian people battled valiantly against czars and later Communists in an effort to win the inalienable rights of people everywhere, namely personal and political freedom.

For just one bright, shining moment, when czarist authority was first smashed in 1917 the Ukrainian people were able to gain their freedom and create their own state. That interlude began on January 22, 1918, and ended 5 short years later, when Bolshevik occupation finally took over.

Today, 56 years later, Ukrainians are still in political and intellectual bondage. Their brief taste of independence evaporated all too quickly. But even though the independent State of the Ukraine is only a memory today, the spirit of freedom still burns brightly in the minds and hearts of all Ukrainian people everywhere.

In this era of detente with the Soviet Union, we must never forget that the leaders in the Kremlin are still suppressing the legitimate hopes and aspirations of the Ukrainian people for freedom and self-determination. Yet this suppression has merely served to strengthen the spirit and the resolve of the people of the Ukraine. And it is this brave spirit which we commemorate today, on the anniversary of Ukrainian independence, and which we deeply believe will eventually bring the Ukraine back into the world community again as a free and independent state.

I know that in my own upstate New

York district, the blue and gold national flag of the Ukraine is being raised over a number of city halls today. And so I join in expressing the sentiments which that flag conveys symbolically to Ukrainians and non-Ukrainians alike: strong Ukrainian love of homeland, unique ethnic and linguistic heritage, and the worldwide cohesion of all Ukrainian people united in the deep hope for an independent Ukraine in the days to come.

## CONGRESSMAN JOSEPH P. ADDABBO REPORTS ON 93D CONGRESS, 1ST SESSION—1973

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 30 minutes.

Mr. ADDABBO. Mr. Speaker, as soon as possible at the end of each Congress, I summarize the activities of the Congress for the past year, reprint it from the CONGRESSIONAL RECORD at my expense and mail it to my constituents.

In addition to sending a summary of the year's activities, each Congress I send to my constituents a questionnaire on the issues expected to come before the Congress. From the answers received to the questions, from the mail received in my office, and from personal contacts in the district, I believe I learn the majority thinking of those whom I represent and, as I vote on the various legislative matters which come before us, I try to reflect the will of the people. I believe that I have been successful to a large degree.

As I begin my 14th year as a Member of this body, it seems the problems facing our Nation are as serious and complex as at any time in this Nation's history. Certainly there has never been in my lifetime a period in which this Nation faced the future with such uncertainty.

The events of the past year were so unpredictable and so often unbelievable that all of us in this Nation were caught unprepared. To a large degree, we still do not know the extent of these blights against our way of life, but we shall know them before we are through. We must, if our way of life is to continue.

Watergate as a catch-all title contains so many issues that our citizens are almost overwhelmed by the extent and the complexities of all of them. We have seen a Vice President dishonored and removed from office; we have seen a President sent to a near-ruin only months after the greatest of all Presidential landslide victories and we have seen men go to jail for their crimes with others undoubtedly destined to follow them. We may yet see that President impeached.

I have taken the position and I will hold to it until it becomes time to vote on the issue, that I will not prejudge the matter of impeachment. It would be easy to do so, just on the basis of news reports, actions of three grand juries, and the findings of the Senate Watergate Committee.

But if the most precious jewel in our system of justice is the determination that a man is presumed innocent until proven guilty, we must strive to keep that principle doubly pure in the case of impeachment of the President.

But if my vote is to be cast for impeachment, it will only come after all evidence is presented to the House of Representatives that he has committed an impeachable offense. As much as anyone, I have consistently opposed the policies of President Nixon, and from a political point of view, I believe my points of view would prevail more often with him out of office. But that political goal is not best served by turning the impeachment process into a political ploy.

Energy, even more than Watergate, is on the minds of most people I talk to these days, in and out of my district. And right they are to worry.

For 4 years now, a congressional committee on which I serve has issued increasingly strident reports about the growing energy crisis, and for 4 years, everybody in this land, including the President, ignored them.

It is no comfort whatsoever to have our predictions borne out by events. The energy crisis is here and we are going to have to live with it. And it is not going to be comfortable.

But rather than concern ourselves with what happened before, we must look to the future on this issue. First, the Congress must assure the American public that this crisis is not a manufactured one to provide oil companies with huge profits, if indeed that can be proven. We must act to see to it that huge profits at the expense of the consumer are disallowed in the future and we must act to insure that available supplies of gasoline, heating oil, and other fuel products are distributed on an equitable basis to all sections of this Nation.

If we are to expect the Nation to limit its consumption of gasoline, then we must upgrade quickly other modes of travel. Money for mass transit is a must in large doses as fast as the Congress can act. We must put the best brains available in this Nation to work devising ways to make alternate sources of fuel abundant at a price the Nation can afford. We have, in short, an awful lot of work to do on this issue and not a lot of time in which to do it.

The economy is, I fear, in a mess and it is not likely to get better for a while.

As we look around us, we see rising prices, rising unemployment, a disastrous stock market, a deadening of the construction industry, near-panic in the airlines, and gross confusion by almost all economic experts.

We are hurting and it is bad but it is not fatal. It is time for a complete reevaluation of national economic policies by the Congress.

We will soon have before us a bill to extend the Economic Stabilization Act which expires April 30. I believe price controls were imposed too late and have remained on the economy too long. Either we must refuse to extend the act or insist on a more effective system of controls—controls which will keep the lid on unemployment while protecting the consumer against excessive profits and unreasonable prices.

All Presidents and all Congresses ultimately find out nothing is more difficult to understand and nothing is less easy to successfully manipulate than this Nation's complicated, inefficient, multifaceted economy. For almost 200 years it has worked, sometimes better, sometimes worse. Now, nothing seems to help revive it. I think a strong Congress acting on the input of the people can go a long way in the year ahead to putting us back on the right track.

Foreign Affairs. Congress continued the foreign aid program but at a funding level considerably below the administration request.

The sudden outbreak of war in the Middle East caught many Americans by surprise who were certainly not eager to commit additional U.S. men, military hardware or dollars following the long Vietnam struggle. The differences between these two wars were very clear though and there was never a question about using U.S. troops. Congress responded by passing an emergency appropriation measure to help Israel replace military hardware and aircraft lost during the war. I supported that emergency bill without reservation particularly after a trip to Israel where I met with Prime Minister Golda Meir and other government leaders and saw the modern Russian equipment captured.

Now then, everybody ought to get a chance to brag every once in a while, and the following issues are my chance.

I was able to be active in two battles last year in which I eventually emerged successful. In neither issue, of course, did I act alone; it took the help of many House and Senate Members to win. But we took on the White House twice when we believed them wrong and we beat them, even when they held all the cards.

The most important issue, as far as the Nation is concerned, was my amendment to force the end of the bombing of Cambodia.

After years of bitter debate over the war in Indochina and after vote after unsuccessful vote, we finally succeeded in passing my amendment to cut off funds for U.S. troops activities in Indochina.

Many organizations, in summarizing the year's congressional action, termed passage of the amendment one of the two most important bills to face the congress in 1973. I happen tc think they are right, even if it was my amendment.

St. Albans Naval Hospital. One of my highest local priorities during 1973 involved urging the Defense Department to reconsider its decision to close St. Albans Naval Hospital. My efforts were successful when at the end of the legislative session the Congress adopted my amendment to the Defense Appropriations bill requiring that the hospital be kept open for another year.

The Nixon administration's Office of Management and Budget—OMB—wanted to close it completely. I, with the full cooperation of the New York congressional delegation, the State legislature, Mayor John V. Lindsay and hundreds of Queens political figures and civic leaders, went to work to save it.

For a while it appeared the Agriculture Department was going to gain control of St. Albans to use it as an animal detention center, an unconscionable idea.

By working within the Congress to force the administration to continue its operation for at least another year, and by working with the Veterans' Administration, we were able to save it. In July, St. Albans will be turned over to the VA and provide a desperately needed service for this area's hundreds of thousands of veterans.

There is no other way to say it: I am tickled pink about St. Albans. We worked hard for it and Queens deserves it. But again, we would not have won if everyone would not have worked together so unselfishly and if the VA had not cooperated fully with us.

Bills passed by Congress in 1973:

Although we were in session last year, a vast number of bills are still proceeding through the legislative machinery and it appears that an unusual amount of important legislation will be acted upon early in this session. In spite of the fact that a great deal of time has been consumed on investigations and one crisis after another, hundreds of bills have passed and it would be impossible to describe all of them in a reasonable amount of space, but I am including those which I believe to be of the most interest.

### IMPOUNDMENT

One of the major issues left unresolved at the end of this session is whether the President has an unlimited authority under the Constitution to impound, or withhold from spending, money appropriated for a specific purpose by Congress.

As this year began, many were saying that this would develop into a constitutional crisis. President Nixon claimed that the Constitution gave him absolute authority to withhold funds appropriated by Congress, and he ordered the impoundment of amounts estimated as high as $12 billion.

### ENVIRONMENT

Public Law 93–15 extends the authorization for funds to enforce the Clean Air Act until June 1974.

Public Law 93–14 extends the Solid Waste Disposal Act until June 1974.

Public Law 93–6 extends the life of the Commission on Highway Beautification and increases the funding authorization.

Public Law 93–54 authorizes funds through 1976 to survey and acquire properties of historic or cultural interest.

### WAR POWERS

Public Law 93–148, which was passed into law over President Nixon's veto, provides that the President shall not engage U.S. forces in hostilities for a period exceeding 90 days without congressional approval. During that period, the President is required by the law to keep Congress fully informed.

### HEALTH AND WELFARE

Public Law 93–29 extends through June 1975, the Older Americans Act which provides Federal assistance for programs to help the elderly. The scope of this bill had to be trimmed back sharply to avoid a veto by the President.

Public Law 93–45 extends until June 1974, a wide variety of Federal health programs, including public health training, hospital construction, family planning, and health research.

Public Law 93–13 contains provisions to assure that the full amount approved by Congress for the school lunch program for 1972–73 will be made available either in cash or commodities.

Public Law 93–112, the Rehabilitation Act, provides for Federal assistance to States for vocational rehabilitation programs, with special emphasis on helping the most severely handicapped.

Public Law 93–150 increases Federal assistance under the school lunch and child nutrition programs.

Public Law 93–151 authorizes funds for the next 2 fiscal years to prevent health damage from lead-based paint.

Public Law 93–154 authorizes Federal assistance in developing local emergency health care services.

### CONSUMER PROTECTION

Public Law 93–153 includes provisions giving the Federal Trade Commission legal authority to protect consumers against unfair business practices.

### LAW ENFORCEMENT

Public Law 93–83 extends for 3 years the program, established in 1968, for assistance to State and local governments in improving their anticrime efforts.

### EDUCATION

The administration sought to reduce funds for many programs where the funds go to local districts, but wanted increases in some others such as a national institute. We finally resolved the matter by reducing funds for the national offices as Congress preferred and funding most local programs at slightly over last year's level.

### TRANSPORTATION

Public Law 93–87, the Federal Aid Highway Act, continues through 1976 the Federal program of assistance for constructing and improving rural, urban and interstate highways. It also allows, starting in June 1974, cities to use some of their money for streets from the highway trust fund for mass transit purposes.

### VETERANS

Public Law 93–177 provides for an increase of at least 10 percent in non-service-connected disability veterans pensions.

Hearings have been held on my bill and others to increase Vietnam veterans educational benefits. I believe such a bill will pass soon.

### ENERGY CRISIS

In 1970 a House subcommittee, of which I am chairman, held the first congressional hearings on the energy crisis and warned in a report that immediate action was needed to prevent what would within a few years, become an energy crisis. Among the recommendations in that report were the following:

> "First, that a single Federal agency be designated the responsibility, authority, and jurisdiction to establish a national energy policy directed at the production and efficient use of our country's total energy resources;
>
> "Second, that action be taken to increase the production of all energy sources;
>
> "Third, that the mandatory oil import quota program be changed to provide a continuing adequate supply of fuel;
>
> "Fourth, that the President suspend the operation of the Connally Hot Oil Act under authority contained in 15 U.S.C. 715(d);
>
> "Fifth, that the Canadian crude oil and finished petroleum products import quotas be eliminated;
>
> "Sixth, the import quota on No. 2 fuel oil be suspended;
>
> "Seventh, that import quotas on residual oil be suspended;
>
> "Eighth, that the Office of Emergency Preparedness institute procedures to expedite the distribution of oil export quota tickets;
>
> "Ninth, that the Interstate Commerce Commission take whatever action is necessary to insure that transportation will be available to move coal from mines to final destination; and
>
> "Tenth, that the Department of the Interior and other agencies establish long-term projections on future coal usage and assure that adequate production facilities will be available to handle future needs."

Thereafter my subcommittee held hearings and made investigations and issued several more reports reiterating these warnings and refining the recommendations of action needed but neither the administration nor most of the American people would believe that such a severe situation was developing. As late as 1 year ago, a chief administration spokesman, OEP Deputy Elmer Bennett, stated:

> "We have enough of a refinery capacity today, but . . . problems . . . could arise 2, 3, 4, years from now."

Finally both the administration and the Congress are convinced that we must become more self-sufficient and catchup actions of various kinds are now being taken. Many of them are temporary and are very disruptive of our normal distribution system and the freedoms of individuals generally.

Public Law 93–28 and Public 93–159 authorized the President to establish priorities and allocations of certain petroleum products.

Public Law 93–97 provided $10.6 million to fund research in nuclear, solar and geothermal energy but so far the administration has not used those funds.

Public Law 93–153 permits construction of the trans-Alaskan oil pipeline.

Public 93–182 provides daylight savings time on a year-round basis for a 2-year period.

Public 93– sets a 55 mile per hour maximum speed limit for all vehicles. The President had proposed 50 mile per hour for autos and 55 miles per hour for trucks and buses.

Various other bills dealt with research and development programs and the establishment of new agencies or transfers of authority deemed necessary to administer these laws.

### SOCIAL SECURITY

Public Law 93–66 increases social security benefits by 5.9 percent effective June 1, 1974. Other bills provide a total of an additional 11 percent have passed both the House and Senate and I feel sure will become law and effective about that same time.

### PASSED CONGRESS

Listed below are bills which passed Congress at the very end of the session. These may or may not be signed into law by the President.

S. 1435 would provide a home rule charter to the District of Columbia.

S. 14 would improve medical care by providing Federal assistance for health maintenance organizations, or HMO's.

S. 1559 would authorize assistance to

State and local agencies for comprehensive manpower training programs.

S. 373—pending in conference committee—would place restrictions on the authority President Nixon claims he has to impound congressional authority.

VETOED BILLS

Under the Constitution, a bill vetoed by the President can become law only if two-thirds of the Members in the House and Senate vote to override the veto. As a practical matter, it is very difficult to achieve such a majority. The following bills failed to become law this session after being vetoed by the President.

H.R. 7447, the second supplemental appropriations bill, which included a provision for an immediate end to U.S. military action in Indochina.

S. 7, whch would have extended and improved programs for the handicapped.

H.R. 3298, which would have restored the program for grants to build water and sewer systems in rural communities. The program had been terminated by the administration.

S. 518, which would have required Senate confirmation of present and future Directors of the Office of Management and Budget.

S. 504, which would have set up emergency health care service programs and kept open Public Health Service hospitals.

H.R. 7935, which would have increased the minimum wage, by stages, from $1.60 to $2.20 an hour.

S. 1672, which would have increased small business assistance, provided for more disaster loan aid and banned sex discrimination in certain areas.

S. 1317, which authorized funds for the U.S. Information Agency.

APPROPRIATIONS

It is estimated that the final amount appropriated by Congress this session will be about $2.8 billion below what was requested by the administration.

The reduction was achieved by trimming down the military and foreign aid programs more than the amount required to restore funds for domestic purposes, mainly health, education, and welfare.

The following chart shows full expenditures:

ACTIONS ON BUDGET ESTIMATES OF NEW BUDGET (OBLIGATIONAL) AUTHORITY CONSIDERED IN APPROPRIATION BILLS, 93D CONG., 1ST SESS., REVISED TO DEC. 20, 1973

Does not include any "back-door" type budget or spending authority in legislative bills; or any permanent (Federal or trust) authority, under earlier or "permanent" law,[1] without further or annual action by the Congress]

| | House actions | | | | Senate actions | | | Final action | |
|---|---|---|---|---|---|---|---|---|---|
| Bill and fiscal year | Budget requests considered | Reported by committee | Approved by House | Compared with budget requests | Budget requests considered | Approved by Senate | Compared with budget requests | Reported by conference | Compared with budget requests |
| A. BILLS FOR FISCAL 1974 | | | | | | | | | |
| 1. Legislative (H.R. 6691) | $566,945,389 | $550,044,940 | $550,044,940 | −$16,900,449 | $677,150,959 | $640,558,952 | −$36,592,007 | $605,189,933 | −$71,961,026 |
| 2. Agriculture-Environmental and Consumer Protection (H.R. 8619) | 9,505,750,600 | 9,385,750,600 | 9,385,737,600 | −120,013,000 | 9,519,550,600 | 10,176,926,500 | +657,375,900 | 9,927,667,000 | +408,116,400 |
| 3. District of Columbia (Federal funds) (H.R. 8658) | 432,998,000 | 427,717,000 | 427,717,000 | −5,281,000 | 432,998,000 | 417,717,000 | −15,281,000 | 417,717,000 | −15,281,000 |
| 4. Transportation (H.R. 8760) | [2] 2,892,732,006 | [2] 2,752,631,006 | [2] 2,753,231,006 | −139,501,000 | [2] 3,010,732,006 | [2] 2,968,451,006 | −42,281,000 | 2,898,446,006 | −112,286,000 |
| 5. HUD-Space-Science-Veterans (H.R. 8825) | 18,617,453,000 | 19,070,954,000 | 19,070,954,000 | +453,501,000 | 18,617,453,000 | 19,118,373,063 | +500,920,063 | 19,056,500,000 | +439,047,000 |
| 6. Labor-HEW (H.R. 8877) | 31,544,954,000 | 32,816,467,000 | 32,816,467,000 | +1,271,513,000 | 31,549,953,000 | 33,396,379,000 | +1,846,426,000 | 32,926,796,000 | +1,376,843,000 |
| 7. Interior (H.R. 8917) | 2,274,431,300 | 2,269,554,200 | 2,269,554,200 | −4,877,100 | 2,370,367,300 | 2,488,773,700 | +118,406,400 | 2,443,137,200 | +72,769,900 |
| 8. State-Justice-Commerce-Judiciary (H.R. 8916) | 4,235,080,000 | 4,150,143,000 | 4,152,946,000 | −82,134,000 | 4,522,901,000 | 4,459,478,250 | −63,422,750 | 4,466,012,000 | −56,889,000 |
| 9. Public Works—AEC (H.R. 8947) | 4,757,469,000 | 4,671,695,000 | 4,676,395,000 | −81,074,000 | 4,757,469,000 | 4,772,982,000 | +15,513,000 | 4,749,403,000 | −8,066,000 |
| 10. Treasury-Postal Service-General Government (H.R. 9590) | 5,073,345,000 | 4,843,698,000 | 4,844,723,000 | −228,622,000 | 5,373,345,000 | 5,123,352,000 | −249,993,000 | 5,233,189,000 | −140,156,000 |
| 11. Defense (H.R. 11575) | 77,250,723,000 | 74,106,309,000 | 74,101,309,000 | −3,149,414,000 | 77,250,723,000 | 73,264,627,000 | −3,986,096,000 | 73,714,930,000 | −3,535,793,000 |
| 12. Foreign Assistance (H.R. 11771) | 6,866,567,000 | 5,833,912,000 | 5,833,912,000 | −1,032,655,000 | 6,992,917,000 | 5,593,440,000 | −1,399,477,000 | 5,780,434,000 | −1,212,483,000 |
| 13. Military Construction (H.R. 11459) | 2,944,900,000 | 2,609,090,000 | 2,609,090,000 | −335,810,000 | 2,944,900,000 | 2,670,972,000 | −273,928,000 | 2,658,861,000 | −286,039,000 |
| 14. Special Resolution, Gold Devaluation (H.J. Res. 748) | [3] 2,250,000,000 | [3] 2,203,000,000 | [3] 2,203,000,000 | −47,000,000 | [3] 2,250,000,000 | [3] 2,203,000,000 | −47,000,000 | [3] 2,203,000,000 | −47,000,000 |
| 15. Supplemental (H.R. 11576) | 1,428,790,218 | 1,432,685,718 | 1,433,035,718 | +4,245,500 | 1,534,183,886 | 1,888,425,386 | +354,241,500 | 1,703,125,386 | +168,941,500 |
| Total, bills for fiscal 1974, to date | 170,642,138,513 | 167,123,651,464 | 167,128,116,464 | −3,407,809,049 | 171,804,643,751 | 169,183,455,857 | −2,621,187,894 | 168,784,407,525 | −3,020,236,226 |
| B. BILLS FOR FISCAL 1973 | | | | | | | | | |
| 1. Urgent Supplemental (H.J. Res. 496) | 1,366,800,000 | 494,800,000 | [4] 1,368,600,000 | +1,800,000 | 1,366,800,000 | 1,368,600,000 | +1,800,000 | 1,368,600,000 | +1,800,000 |
| 2. 2d Supplemental (H.R. 7447, vetoed) | [3,162,880,434] | [2,855,542,209] | [2,855,542,209] | [−307,338,225] | [3,607,105,504] | [3,699,239,279] | [+92,133,775] | [3,362,845,279] | [−244,260,225] |
| 3. 2d Supplemental (H.R. 9055) | 3,607,105,504 | 3,362,845,279 | 3,362,845,279 | −244,260,225 | 3,607,105,504 | 3,362,845,279 | −244,260,225 | 3,362,845,279 | −244,260,225 |
| Total, bills for fiscal 1973 | 4,973,905,504 | 3,857,645,279 | 4,731,445,279 | −242,460,225 | 4,973,905,504 | 4,731,445,279 | −242,460,225 | 4,731,445,279 | −242,460,225 |
| C. CUMULATIVE TOTALS FOR THE SESSION, TO DATE | | | | | | | | | |
| 1. House | 175,616,044,017 | 170,981,296,743 | 171,859,561,743 | −3,650,269,274 | | | | | |
| 2. Senate | | | | | 176,778,549,255 | 173,914,901,136 | −2,863,648,119 | | |
| 3. Enacted | | | | | | | | 173,515,852,804 | −3,262,696,451 |

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[1] The Budget for 1974, as submitted January 29, 1973, tentatively estimated total new budget authority for 1974 at $288,029,000,000 gross ($256,761,000,000 net of some $31,268,000,000 interfund and intragovernmental transactions and certain so-called proprietary receipts handled as offsets for budget summary purposes only). Of this total, an estimated $146,477,000,000 does not require current action by Congress; it involves so-called permanent appropriations such as interest, and various trust funds, already provided for in other basic laws. The remainder, $172,820,000,000 is for consideration at this session (mostly in the appropriation bills). About $8,600,000,000 of the ,820,000,000 was shown in the January budget as being "for later transmittal" for supplemental requirements under present law, new legislation, and allowances for contingencies and civilian pay raises, and $49,534,408 of the remainder requires legislative reauthorization through various annual authorization bills or where the authorization expires periodically.

[2] Includes $90,360,000 in advance 1975 appropriations.

[3] "Not to exceed."

[4] $873,800,000 was added on the House floor as a committee amendment and was covered by a budget estimate.

MY WASHINGTON AND NEW YORK OFFICES

One of my most important duties as your Representative is to assist the people of the Seventh Congressional District with their individual problems involving the Federal Government. I try to be available at all times to constituents who wish to speak to me and as time permits, I attend meetings and other functions of various civic, fraternal, veterans, and religious organizations in the district.

For the convenience of my constituents, I maintain a full-time District office and my office in Washington is always ready to assist you. Please write or call me at room 2420 Rayburn House Office Building, Washington, D.C. 20515 or 96-11 101 First Avenue, Ozone Park, N.Y. 11416.

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## TAX BREAK NEEDED FOR VICTIMS OF PLANT CLOSINGS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. JAMES V. STANTON) is recognized for 5 minutes.

Mr. JAMES V. STANTON. Mr. Speaker, last January 18 Congressman ROSTENKOWSKI and I introduced legislation concerning "downside" income tax averaging. This bill provides a tax break for the individual whose income falls off abruptly due, for example, to a work layoff or other reason beyond his control. Plant shut-downs necessitated by the energy crisis are leaving thousands of Americans out of work. Workers who have enjoyed a stable income are suddenly faced with a sharp drop in earnings during a given year. This abrupt loss of income imposes an extreme financial hardship on families, and presently, no provision exists in the current tax code to help these unfortunate individuals. This bill would provide a tax break for these individuals when they need it most.

"Income averaging" is already available for those who enjoy a sharp rise in income. We wish to extend this opportunity to those in our society who are much less fortunate. This bill, if enacted, would result in a revenue loss of $355 million a year, according to an estimate from the Joint Committee on Internal Revenue Taxation, while the current "income averaging" provisions result in a loss of $650 million and affect fewer taxpayers than our proposed bill. The current flurry of plant shutdowns caused by the energy crisis makes this bill vitally important to the taxpayers of America.

This legislation was heard by the Ways and Means Committee last April 17 and response was favorable from both Democrats and Republicans. However, action was delayed due to the committee's postponement of tax reform legislation. We are expecting the committee to resume consideration of tax reform legislation and are presently seeking cosponsors to join us in the reintroduction of this bill. I hope that the merits of this bill are recognized and we may gain the support needed to speed the passage of this bill.

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## ERNEST PETINAUD—FRIEND OF THE CONGRESS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. CHAPPELL) is recognized for 5 minutes.

Mr. CHAPPELL. Mr. Speaker, yesterday, a famous favorite of Capitol Hill for the past 40 years celebrated his 69th birthday. I speak of Ernest Petinaud who just retired as maitre de of our congressional dining room.

A person so sure of himself that he could joke about his own or any other race, he nonetheless took umbrage with anyone who mistook his candor for meekness. Ernie is a man on a par with all others.

His outstanding service to the Members, as well as his fine sense of humor are to be long remembered by those of us who welcomed a little levity as a contrast to our work here in the Congress.

Ernie is a walking history book of past Speakers—Martin, Rayburn, McCormack, and current Speaker ALBERT—as well as several thousand Congressmen. He regales one with stories about them—not just how they voted, but how they acted as men. His stories about some of the oldtimers are priceless and Ernie's brogue—his own British, South Carolinian, and District of Columbia combination—adds flavor to every story.

Repartee with Ernie usually finds him having the last word. In my own experience, after having invited him several times to the Daytona Beach "500" races, I finally mentioned I would be flying my own little single engine plane down and would be delighted to have him accompany me.

He protested:

> Now, Congressman, you've seen those stories on the Red Baron, but don't think I'm going to be the first Black Baron.

The good thing about Ernie's work is that he really enjoyed it. He tells me he has enjoyed every moment of his years of service to the members of the House "and I leave with mixed emotions and a bit of reluctance."

We deeply regret to see Ernie leave us. He is an institution in itself—one that we would wish to keep on and on in the House. Typically Ernie-fashion, he leaves thinking of us instead of himself:

> I will always cherish the memories of my days on Capitol Hill and I am wishing the best to all the fine people I have met. May God bless all of you abundantly.

Mr. Speaker, we all say: "We reciprocate those feelings, Ernie. Our thanks for a job well done and our blessings go with you and Jeannette."

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## INCONSISTENT OIL STATISTICS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. OWENS) is recognized for 15 minutes.

Mr. OWENS. Mr. Speaker, early last November the President estimated a 17 percent shortage in oil supplies for this winter. This estimate has been reduced several times due to a relatively mild winter, "leaks" in the Arab oil embargo, energy conservation efforts, and, I believe, inaccurate information about the real amount of petroleum available. Reliable statistics on oil reserves and production capabilities are virtually impossible to obtain because the oil companies' reporting methods are inconsistent, and the Government is unable to audit the reporting process. This has created an intolerable situation of uncertainty.

I have concluded that the major oil companies have not provided correct information regarding the energy situation and have acted to the detriment of the public. Their monopoly power is not acceptable in a free market economy. Cooperation, rather than competition, now pervades the oil industry in this country. I support the antitrust suit file by the Federal Trade Commission against the eight largest oil corporations, and will do all I can to revitalize the Anti-Trust Division of the Justice Department. Only when the benefits of the free market have been returned to the oil industry can we be assured the public interest is protected.

Consequently, I strongly support Energy Administrator William Simon's plan to organize an Internal Revenue task force to audit the price, profit, and supply records of petroleum refineries. I have also pressed for congressional investigations of the major oil companies' reserves and production capabilities in order to determine the real extent of the energy crisis.

The latest guess—and that is all it is—at the divergence between oil supplies and domestic consumption requirements is 2.7 million barrels per day. The administration has undertaken a mandatory fuel allocation program and has established a standby end-use rationing program for gasoline. If accurate data show that gasoline consumption must be drastically reduced, the most effective and equitable way to limit the impact of the shortage is through a rationing program. Although rationing would be inconvenient and bureaucratic, it is a better short-term solution than skyrocketing gasoline prices, high gasoline taxes, and long lines at gas stations.

The seriousness of the energy situation and the effects of an initial shortage of fuel on the economy necessitates selective and temporary environmental compromises. The Emergency Energy Act of 1973, which Congress must pass soon, will include several important measures directed at this problem. The bill authorizes the Federal Energy Administration—FEA—to suspend until June 30, 1979, stationary source fuel or emission limitations under the 1970 Clean Air Act and requires that oil and gas-burning plants burn coal if possible. The bill also gives the Environmental Protection Agency the authority to suspend the 1976 auto emissions standards for 2 years.

In addition, FEA is empowered to ration petroleum products. The bill specifies that in ordering priorities among users, the maintenance of vital services shall be the top consideration. Vital services are defined to include new housing construction, education, health care, hospitals, public safety, energy production, agriculture, and transportation services. The bill establishes a Federal Energy Administration to be headed by an administrator appointed by the President with Senate confirmation, and the administrator is required to submit energy conservation plans within 30 days after enactment. The House in late December refused to accept a Senate compromise on the bill which deleted provisions limiting windfall profits for the oil industry and granting the Federal Government broad data-collecting powers over information on supply and production capabilities of the oil companies. The Senate will vote again on the bill today.

Denying allocations of fuel for certain uses such as recreational activities and general aviation would result in significant unemployment, especially in Utah where tourism and recreation are important segments of the economy. The Federal Energy Office issued a final set of fuel allocation regulations on January 15. The Emergency Petroleum Allocation Act of 1973 requires the allocation of crude oil, residual fuel oil, and refined petroleum products manufactured in or imported to the United States. Under the mandatory allocation program, the Governor of each State has control over approximately 3 percent of his State's allocation of petroleum supplies which he can direct to industries suffering hardship due to the energy crisis. I have worked for inclusion of a provision in the Emergency Energy Act which will allow Governors to consider recreation as an industry in the fuel allocation plan. I am confident that this provision will be retained when the final bill is sent to the President.

A number of other bills concerning energy conservation have been passed or are scheduled for immediate action in the House. Emergency daylight savings time is already in effect. Impressive statistics indicating a 2 to 3 percent saving in energy supplies produced widespread support for this measure in Congress. If evaluation of this program shows that the adverse effects of year-round daylight saving time outweigh the benefits, then I will vote to repeal the bill next summer. The Energy Reorganization Act of 1973, which would reorganize and consolidate all research functions of the Federal Government into a new Energy Research and Development Administration has passed the House and will focus and direct on a massive scale, joint efforts to produce new sources of energy.

Several bills establishing programs for research and development of fuels and energy have been introduced. This legislation is designed to initiate research and development in the areas of solar energy, geothermal energy, low lead hydroelectric power, wind power, automated mining methods, in situ conversion of fuels, cryogenic transmission of electric power, electric energy storage methods, alternatives to the internal combustion engine, solvent refined coal, shale oil, coal gasification and liquefaction, utilization of waste products for fuel, hydrogen gas systems, advanced power cycles, stack gas cleanup, and others. The program will be funded by a minimum of $10 billion over the next 5 years.

I have become very concerned about our oil exports in light of the forecasted shortages of fuel. During the months of September and October, exports of petroleum increased to approximately five times their normal traffic. However, this represents less than 1 percent of 1 month's consumption in the United States, and most oil exports serve our interests because of reciprocal petroleum agreements. I supported an amendment which passed the House to stop all exports of oil to Indochina.

Long-run solutions require conservation of existing resources. The Federal Energy Office claims that the public's conservation efforts this winter have been successful. I cosponsored the National Fuel and Energy Conservation Act of 1973 which authorizes the Secretary of Housing and Urban Development to develop standards for efficient energy use in residential, commercial, and industrial buildings, and have submitted a bill offering tax incentives to businesses who conserve natural resources and reserves through recycling.

If government, consumers, and industry work together we will find solutions to today's shortages and tomorrow's needs. We have already delayed far too long. Joint action is needed now to assure reliable supplies of energy and a quality environment. Intensive conservation efforts and effective energy policy will allow us to regain self-sufficiency in vital resources which for so long had been the cornerstone of our economic security and prosperity.

## MORE AGENCY OBJECTIONS TO GRANTING A CPA APPEAL POWER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Fuqua) is recognized for 10 minutes.

Mr. FUQUA. Mr. Speaker, I have asked a number of Federal agencies, all of whom would be subject to advocacy by Federal consumer agents after the creation of a Consumer Protection Agency, to review their records for the calendar year 1972 so that we may better appreciate the possible impact of such an agency on the Federal administrative process.

I have periodically inserted in the Record the replies of those agencies as they were received. Those replies have helped define the contours of Federal action touching upon consumer interests and show the likely areas of CPA activity.

Recognizing the need for more effective consumer representation at the Federal level, the Congress must respond by creating a CPA to function within the existing contours of Federal action. In order to assure proper representation of consumer interests, it is necessary to create a CPA which can participate alongside the existing agencies, helping alert those agencies to policies which have failed to give proper weight to the consumer interests, but to accomplish this without changing the Federal administrative mechanism. I think this is a most serious consideration, which some proponents of a CPA may have overlooked. The Federal administrative apparatus is not anti-consumer. If it were, creating another agency would be an inadequate corrective measure; we would have to completely alter the existing agencies. However, there is need for additional consumer input because there have been certain operational policies of the component agencies of the administrative apparatus which have not served the consumer as well as we all would like.

Thus, we must keep in mind that it is policy, or more accurately some decisionmaking policy, that we wish to change—not the basic mechanism for establishing policy and arriving at decisions.

There are three bills which would create a Consumer Protection Agency now being considered. They are H.R. 21, introduced by the Chairman and the ranking Minority Member of the Government Operations Committee, Congressmen Holifield and Horton; H.R. 14 introduced by Congressman Rosenthal, and H.R. 564 introduced by Congressman Brown of Ohio and myself.

There are significant philosophical differences among these bills. As a result, each would create a CPA easily distinguishable from the other two. However, the greatest and most important dissimilarities are between the Fuqua-Brown bill, H.R. 564, and the other two. It is the most important of these dissimilarities that I wish to discuss today, because I feel that on reflection those Members who are not yet familiar with the details of these very complex bills, will find the approach taken in H.R. 564 to be the most appropriate for a new CPA.

The inadequacies of administrative policy which we have found, as they affect consumers, have resulted from insufficient input of the consumer viewpoint into the process of creating policy. Therefore, the Fuqua-Brown bill would grant the CPA the power to require all agencies to permit the CPA to participate in their decisionmaking process by presenting, orally or in writing, arguments, views or data based upon all the information in the possession of the CPA bearing on that policy.

The role the CPA would play in the agency process has been compared to that of an amicus curiae in a court. But, that is not a wholly correct analogy, for the CPA would have a much more intimate role in the agency proceedings. CPA participation would not be at the discretion of the forum agency, as would that of a true amicus curiae. More importantly, the CPA would not only make an initial presentation, it would be authorized to review, if it wished, the entire administrative record, after all other participants have completed their participation but before the final decision, and at that time present any further information, arguments, or suggestions bearing on the decision to be made.

Unless we are prepared to say that the forum agency will not act on the established record in good faith as Congress has ordered it to do, we must acknowledge that this CPA role authorized by H.R. 564 is sufficient to provide all the input of the consumers viewpoint that is necessary to assure that the host agency takes full account of that viewpoint. There is no need to grant the new CPA additional power at this time. What I find most attractive about this so-called amicus approach is that it permits a complete input for consumer advocacy, but does so within, and without doing damage to, the existing administrative structure. The consumer interest is fully represented and protected by the nonregulatory CPA, while the status of the forum regulatory agencies as the ultimate decisionmaker is fully maintained.

Another major difference which distinguishes H.R. 564 is on the question of granting the nonregulatory CPA a right to obtain judicial review of the final decisions of regulatory agencies. Such a right would be granted by the two other bills, but withheld at this time by the Fuqua-Brown bill. This difference reflects the same divergence of philosophy.

Consider this: If we are generally satisfied with the structure of existing administrative law, we should avoid altering it. Granting a CPA appeal power is different than granting that power to other participants in the administrative process. It is different, to cite just one reason, because of the strain it will put on the Federal court system. The CPA will be an agency of the Federal Government. If the CPA appeals a final agency decision, then the reviewing court must decide between competing Federal components—who speaks for the Government? What standards can such a court apply? A great body of administrative law has been built up over the years. This has provided certain guidelines for a reviewing court and has lent a degree of certainty to those who must deal with administrative agencies. If a CPA can appeal final agency decisions, thereby making them "unfinal" as far as the Government is concerned, more than mere delay will result—although delays in regulation often have a significant crippling effect on the public interest.

The Chairman of the Federal Administrative Conference, Prof. Antonin Scalia, in addressing himself to the problem of giving the CPA a right to seek court appeal, has termed it a "danger" about which he is "terribly concerned." The danger he sees is a transfer of public policymaking to the courts. Not only are the courts not equipped to handle the functions of administrative agencies but, to the extent we move the final administrative decisionmaking to the courts, we diminish the role of the agencies. In fairness, I should note that Professor Scalia did offer testimony in which, after warning us of the clear risks involved, he stated that he, personally, would take such risks with the CPA. But, as he recognized, it is up to Congress to judge whether the risks are worth taking, and since the professor's testimony, we have entered into emergency administrative actions to solve the energy crisis—actions where even the shortest delays could be critical.

Professor Scalia is not alone in his fear of the potential for disruption the granting of appeal power to the CPA may have. I have been receiving replies from agencies expressing similar fears and requesting exemption of their responsibilities from any grant of appeal power to the CPA. Today, I wish to call your attention to the reply of the Director of the Office of Oil and Gas of the Department of the Interior—

> We agree with you that the CPA should not be granted a legislative right to appeal to the courts the final decisions of other Federal agencies such as the Office of Oil and Gas. We heartily support your view that this type of legislation would lead to the disruption and delay by court challenges of final agency decisions designed to solve or reduce the nations' energy problems during the current energy crisis. Therefore, we feel that all of the decision-making authority of the Office of Oil and Gas should be excluded from any power to appeal to the courts the final decisions of other agencies.

I also wish to call to the Members' attention today the reply of the Federal Power Commission similarly opposing granting the CPA appeal rights. The full replies of the FPC and the Office of Oil and Gas will be inserted into the RECORD at the end of this speech.

Those Members who have seen the letter of Secretary of the Treasury Shultz, which I inserted in the RECORD of December 13, 1973, will recall that he too opposed granting this power to the CPA and that he did so in the strongest of terms.

Another specialist in administrative law, Professor Harold C. Petrowitz of American University, whom the Supreme Court has called "our leading authority" on appeal questions in Government contract law, has opposed any such grant. He testified that the grant of appeal rights contained in H.R. 14 and H.R. 21 would significantly alter the established law on Government contracts by reversing the U.S. Supreme Court decision in the important case of S & E Contractors, Inc., v. United States.

I trust that the Members will consider the effect that a too-powerful CPA can have on settled law. It is my hope that the Members will consider the effect that a CPA with powers making it more than the equal of its sister agencies will have on the functioning of those agencies.

Let us not create a CPA which could radically change the functioning and purpose of the administrative agencies, as would either H.R. 14 or H.R. 21. Let us create a CPA which can serve the consumer interest and thereby assist its sister agencies in serving the public interest. The Fuqua-Brown bill, H.R. 564, will create such a CPA. The letters of which I spoke follow:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF OIL AND GAS,
*Washington, D.C., January 3, 1974.*
Hon. DON FUQUA,
*House of Representatives,*
*Washington, D.C.*

DEAR MR. FUQUA: In your letter of November 20 you requested us to let you know which, if any or all, of the decision-making authority of the Office of Oil and Gas in energy-related areas should be excluded from any new Consumer Protection Agency's power to appeal to the courts the final decisions of other agencies.

We agree with you that the CPA should not be granted a legislative right to appeal to the courts the final decisions of other Federal agencies such as the Office of Oil and Gas. We heartily support your view that this type of legislation would lead to disruption and delay by court challenges of final Federal agency decisions designed to solve or reduce the nation's energy problems during the current energy crisis. Therefore, we feel that *all* of the decision-making authority of the Office of Oil and Gas should be excluded from any power to appeal to the courts the final decisions of other agencies. I would observe, incidentally, that the Office of Oil and Gas is slated for inclusion in the proposed Federal Energy Administration, now under consideration by the Congress.

Sincerely yours,
DUKE R. LIGON, *Director.*

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FEDERAL POWER COMMISSION,
*Washington, D.C., December 28, 1973.*
Hon. DON FUQUA,
*House of Representatives,*
*Washington, D.C.*

DEAR CONGRESSMAN FUQUA: This is in response to your letter of November 20, 1973, regarding provisions in pending legislation to allow a newly-created Consumer Protection Agency (CPA) the right to appeal to the courts final decisions of other federal agencies. You ask which of the Federal Power Commission's decision-making authority in energy-related areas should, in our opinion, be excluded from such a CPA right to appeal.

The Commission would oppose the right of a CPA to appeal any final decision of the Commission. All final decisions of the Commission are necessarily in energy-related areas because the Commission's regulatory responsibilities related to the electric utility and natural gas industries. The present system of judicial review of the Commission's administrative decisions adequately protects the consumer interest in addition to protecting those who have participated in Commission proceedings. The Commission has adopted a liberal policy of intervention in agency proceedings for participation by interested parties. In this way, consumers have appeared before the Commission as individuals and in association with various groups.

It is important to note that the staff of the Federal Power Commission has accepted its legal obligation to provide a forthright presentation and advocacy of the consumer viewpoint before the Commission and the courts. This obligation stems from the enactment by Congress of the Federal Power Act and the Natural Gas Act to provide Federal regulation in the public interest of those aspects of the electric utility and natural gas industries beyond the reach of State regulatory control. Among Congress' chief concerns was the provision of meaningful protection of the interests of the ultimate consumer. In accordance with the mandate of Congress, the Supreme Court has repeatedly stated that the Commission is under a legal obligation to protect consumers. See *e.g., FPC* v. *Hope Natural Gas Co.,* 320 U.S. 591, 610 (1944), *Atlantic Refining Co.* v. *Public Service Commission,* 360 U.S. 378, 388 (1959); and *F.P.C.* v. *Louisiana Power & Light Co.,* 406 U.S. 621, 631, 640–41 (1972).

The additional rights of judicial review given to the CPA would serve only to delay the finality of Commission actions especially where the CPA alone is seeking judicial review.

We hope our response will be helpful in the consideration of this legislation.

Sincerely,
JOHN N. NASSIKAS, *Chairman.*

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## LET ME SPEAK TO THE MANAGER

(Mr. MILFORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILFORD. Mr. Speaker, next to the oil industry, commercial television is probably the most "cussed" and discussed industry in this Nation. TV is very analogous to the oil industry in that both produce a hopeless feeling of frustration in the minds of Americans.

Seemingly, no one is looking after the poor little guy switching the TV dial or standing in line at the local gasoline pump. In both industries, he seems to have no control but must merely take what is handed out.

Therefore, it is extremely refreshing to hear a voice from the wilderness that would dare stand up and challenge the "giants" by speaking out with honesty and candor. Such a man is Mike Shapiro, a nationally recognized leader in the television industry—

> The moral values of our country are being tested. I know it is chic in contemporary television programming to put down the family, marriage, home, and church. We are told by our learned network colleagues that current programs simply mirror our decaying times. Can such fare fulfill our moral responsibilities as broadcasters?
>
> I am encouraged by excellent audience support of shows such as "The Waltons" and a few other isolated nighttime programs. Let us hope the pendulum is swinging back toward old and proven values that are our great country's heritage.

These are the words of a very concerned man, Mike Shapiro, executive vice president of the Belo Broadcasting Corp. and general manager of WFAA–AM TV and KZEW–FM, Dallas-Fort Worth, and KFDM–TV, Beaumont, Tex.

Mr. Shapiro feels his responsibility as a broadcaster to the point of doing more than the usual oratorical rhetoric. He is in his 13th year of telecasting a local program titled "Let Me Speak to the Manager" in which he answers viewers' complaints, criticisms, and suggestions regarding the broadcasting industry.

The program began as a 15-minute experiment, the purpose being to fill a need regarding communication between the actual viewing audience and the television industry itself. The program almost immediately expanded to a half hour. Mr. Shapiro, himself, appeared on camera as host and has continued in this unenviable "hot seat" since its inception. TV Guide in March 1966 did a story of this man called "The Intrepid Sitting Duck" and stated that his program was TV's answer to group therapy. It also stated that—

> The show has earned Mr. Shapiro a larger competitive audience than that of, say, Johnny Carson, and has been copied by outlets in half a dozen major cities.

"Let Me Speak to the Manager" is not meant to be an affirmation of television programs and broadcast properties. Instead, it answers viewers' questions and grievances in terms that include advice on how to make united efforts to clean up the lack of morality, or preponderance of violence seen in many of today's programs. While the aim of the program is fact, Mr. Shapiro's personal feeling in regard to what he believes is lack of concern on the part of the networks to wholesome entertainment, is often aired. He has often had as his guests on the program such experts in the field as network executives, FCC and FTC Commissioners, and NAB Administrators, as well as fellow broadcasters giving their own views on what he considers "these relevant social issues."

His successful "Let Me Speak to the Manager" show is one of a long line of achievements for Mike Shapiro. Since he began his broadcasting career in 1945 in his home State of Minnesota, he has been involved in all facets of local, regional, and national radio and television.

Mike Shapiro came to WFAA–TV as manager in 1958 after serving as vice president and managing director of the Griffin Co. telecasting properties in Tulsa, Okla., KTUL–TV, and Little Rock, Ark., KATV. Since joining WFAA he has presided as local sales manager, commercial manager, and in 1958 he became station manager of television. In 1960 he assumed the position of general manager of WFAA radio and television and in 1968 was appointed to the board of directors of the A. H. Belo Corp., owner of the Dallas Morning News and WFAA radio and television.

In June 1969, Belo acquired the Beaumont Television Corp., KFDM–TV, and the added duties of president of the acquisition were awarded to Shapiro. He was elected a vice president of the Belo Corp. in May 1970. Shapiro is past president of the Association of Broadcasting Executives of Texas and was recipient of the Outstanding Broadcaster Award in 1962. He has also served as chairman of the ABC–TV Affiliates Association, chairman of the TV board of directors of the National Association of Broadcasters and as a member of the board of directors of the TV Code Authority of NAB.

Despite his heavy schedule in the broadcasting industry, Mike Shapiro still finds time for involvement in civic activities. He is former chairman of the Dallas Chapter of the March of Dimes and is currently on the board of directors of Operation Lift, Cancer Society, and Better Business Bureau.

In 1972, Mike Shapiro bought a full page ad in Broadcasting Magazine offering gratis to anyone interested a copy of a booklet that spells out in detail how to produce and sustain interest in such a program as "Let Me Speak to the Manager." He stated the needs and reasons for the presentation, again, to encourage better communications with the total community. Over 200 broadcasters responded, plus a surprising inquiry from someone in the Labor Department.

The program continues on the air weekly, on Sunday night at 9:30 p.m., prime access time, in the Dallas and Fort Worth area. And, the people of the area continue to show their appreciation and interest. The latest rating information shows Mr. Shapiro's program heading the time period garnering 38 percent share of total viewers in the six-station market, ARB ADI, November 1973. The mail, as well, becomes more preponderant weekly, and comes from as far away as San Angelo in West Texas and towns in southern Oklahoma.

Mike Shapiro's concern for his industry is actually the manifestation of his concern for the American family. In his words—

> I think we must always remember that our product is received in the home—we are a family medium. It is broadcasting's responsibility, all of us in broadcasting, to keep in mind what kind of programs we beam into the living rooms of our country.

Mr. Speaker, such a man should not go unrecognized. I am proud to bring notice of his work to the attention of the U.S. Congress. Let us pray that others will take notice and follow his lead.

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## THE NEED FOR A SPECIAL JOINT COMMITTEE ON ENERGY

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, every day the energy crisis becomes more confusing to the average American—and to me. Many of us have waited patiently for hours to buy gas; we have paid without complaint rapidly inflating prices; we have cut back our travel and reduced our heat; many of our businesses are in economic danger and hundreds of thousands of jobs have been lost or are in jeopardy. And yet we read reports about tankers loaded with oil sitting off our coast; of full storage tanks waiting to be refined; of windfall profits going to some large oil companies and speculators.

The administration has had several months to convince the American people that it is on top of this problem, and I believe it has failed. In fact, the administration does not even know how much oil we have and where it is coming from—it relies on the information supplied by the oil industry, which we all know contributed millions to the Nixon election fund.

In view of this intolerable situation, I am introducing a joint resolution today to establish a special Joint Committee on Energy composed of eight Members of the House of Representatives and eight Members of the Senate to give the American people the facts on the energy crisis. The purpose of this committee would be to conduct an immediate investigation into the energy crisis and report its findings and any recommendations for legislative action in 6 months; a preliminary report would be due in 3 months after the committee's creation. The committee would be dissolved 90 days after making its final report.

I further propose that this special Joint Committee on Energy appoint a truly respected person to direct its study. I am thinking of someone with the stature of former Chief Justice Earl Warren or former Justice Arthur Goldberg. The committee would be given an adequate staff and effective subpena powers.

The committee would seek to give the Congress and the American people the facts on questions such as the following:

First. To what extent is the inadequate refining capacity of the United States the result of planning errors, and to what extent can such errors be avoided in the future?

Second. Is the fuel shortage in any way a result of collusion among the oil companies?

Third. To what extent is the fuel shortage a result of fear, confusion, and hoarding?

Fourth. To what extent is the United States dependent upon foreign energy supplies and why were the Federal Government and the oil industry not better prepared to deal with an Arab embargo? and

Fifth. What are the policies and actions of oil companies with respect to fuel allocation to retailers in the several States?

These are among the questions the Joint Committee would answer. From this base of information, the Congress will be in a better position to initiate legislation to deal effectively with these problems.

The creation of a joint committee with Members from both the House and Senate and the initiation of this study is vitally important to assure the American people that the facts on the energy shortage are being sought energetically and by individuals of responsibility.

H.J. RES. 873

The text of the resolution follows:

Joint resolution to establish a Joint Committee on Energy

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

ESTABLISHMENT OF THE JOINT COMMITTEE

SECTION 1. There is hereby established a joint congressional committee which shall be known as the Joint Committee on Energy (hereinafter in this joint resolution referred to as the "Joint Committee").

MEMBERSHIP AND ORGANIZATION

SEC. 2. (a) The Joint Committee shall be composed of sixteen members as follows:

(1) Eight Members of the Senate, appointed by the President pro tempore of the Senate.

(2) Eight Members of the House of Representatives, appointed by the Speaker of the House. Not more than five of the members appointed from each House of Congress shall be members of the same political party.

(b) Vacancies in the membership of the Joint Committee shall not affect the power of the remaining members to execute the functions of the Joint Committee and shall be filled in the same manner as in the case of the original selection.

(c) The Joint Committee shall select a chairman and a vice chairman from among its members. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman.

(d) The Joint Committee may establish such subcommittees as it deems necessary and appropriate to carry out the purposes of this joint resolution.

(e) The members of the Joint Committee shall serve without pay in addition to that received for their services as Members of the Senate or the House of Representatives; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Joint Committee, other than expenses in connection with meetings of the Joint Committee held in the District of Columbia during such times as the Congress is in session.

DUTIES AND FUNCTIONS

SEC. 3. (a) The Joint Committee shall conduct a study and investigation of the current energy crisis. The study shall include, but not be liimted to, a discussion of the following questions:

(1) To what extent is the inadequate refining capacity of the United States the result of planning errors, and to what extent can such errors be avoided in the future?

(2) Is the fuel shortage in any way a result of collusion among the oil companies?

(3) To what extent is the fuel shortage a result of fear, confusion, and hoarding?

(4) To what extent is the United States dependent upon foreign energy supplies and why were the Federal Government and the oil industry not better prepared to deal with an Arab embargo?

(5) What are the policies and actions of oil companies with respect to fuel allocation to retailers in the several States?

(6) Are American businesses using our energy problems as an excuse for noncompliance with environmental standards?

(b) The Joint Committee shall transmit an interim report to Congress not later than three months from the date of approval of this joint resolution, and shall transmit a final report to Congress not later than six months from the date of approval of this joint resolution. The final report shall contain a detailed statement of the findings and conclusions of the Joint Committee together with such recommendations as such committee deems appropriate.

(c) Ninety days after submission of its final reports and recommendations, the Joint Committee shall cease to exist.

(d) Nothing in this joint resolution shall be construed to authorize the Joint Committee to report to either House any proposed bill, resolution, or measure, or to have referred to the Joint Committee any proposed bill, resolution, or measure.

(e) The Joint Committee shall keep a complete record of all committee actions, including a record of the votes on any question on which a record vote is demanded. All committee records, data, charts, and files shall be the property of the Joint Committee and shall be kept in the offices of the Joint Committee, or such other places as the Joint Committee may direct. All such records, data, charts, and files shall be available for public inspection at such times and places as the Joint Committee may reasonably direct.

POWERS OF JOINT COMMITTEE

SEC. 4. (a) The Joint Committee, or any duly authorized subcommittee thereof, may—

(1) sit and act as such places and times during the sessions, recesses and adjourned periods of Congress,

(2) require by subpoena or otherwise the attendance of such witnesses and the production of such books, records, correspondence, papers, and documents,

(3) administer such oaths and affirmations,

(4) take such testimony,

(5) procure such printing and binding, and

(6) make such expenditures,

as it deems advisable.

(b) The Joint Committee may make such rules respecting its organization and procedures as it deems necessary, except that no recommendation shall be reported from the Joint Committee unless a majority of the Joint Committee assent. Subpoenas may be issued over the signature of the chairman of the Joint Committee or of any member designated by him or by the Joint Committee, and may be served by such person or persons as may be designated by such chairman or member. The chairman of the Joint Committee or any member thereof may administer oaths or affirmations to witnesses.

STAFF OF JOINT COMMITTEE

SEC. 5. (a) In carrying out its functions under this joint resolution, the Joint Committee may—

(1) appoint, without regard to political affiliation and solely on the basis of fitness to perform their duties, such professional, technical, clerical, and other personnel as the Joint Committee considers appropriate;

(2) prescribe their duties and responsibilities;

(3) fix their pay at respective per annum gross rates not in excess of the highest rate of basic pay, as in effect from time to time, of the General Schedule of section 5332(a) of title 5, United States Code; and

(4) terminate their employment as the Joint Committee may deem appropriate, but not later than 9 months after the date of enactment of this joint resolution.

(b) In carrying out any of its functions under this joint resolution the Joint Committee may utilize the services, information, facilities, and personnel of the departments and establishments of the Government, and may procure the temporary or intermittent services of experts or consultants or organizations thereof by contract at rates of pay not in excess of the per diem equivalent of the highest rate of basic pay set forth in the General Schedule of section 5332(a) of title 5, United States Code, including payment of such rates for necessary traveltime.

(c) The Joint Committee may reimburse any member of its staff for travel, subsistence, and other necessary expenses incurred by him in the performance of the functions, powers, and duties of the Joint Committee while outside the District of Columbia.

ADDITIONAL POWER TO SECURE INFORMATION

SEC. 6. The Joint Committee, upon the approval of the chairman, may secure directly from any department, agency, office, or other organizational unit of the Federal Government, such information as is necessary to enable it to carry out this joint resolution, and the head of such department, agency, office or other organizational unit shall furnish such information to the Joint Committee upon request made pursuant to this section.

EXPENSES

SEC. 7. The expenses of the Joint Committee shall be paid one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of Representatives upon vouchers signed by the chairman or vice chairman of the Joint Committee.

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## ON ABORTION

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, today marks the first anniversary of the Supreme Court decision on abortion that in effect established a constitutional right of privacy allowing a woman in the first 6 months of her pregnancy to decide whether she wishes to have an abortion. The State of New York was one of the first States in advance of the Supreme Court decision to give women this right. I supported early efforts in the State of New York to change the law so as to protect that right by legislation. I applauded the Supreme Court decision in that it removed the matter from legislative debate by finding that this is a right protected by the Constitution and one that cannot be negated by simple legislation. Furthermore, it extends the protection uniformly in the 50 States.

There are those who because of religious or philosophical convictions believe abortions are wrong. While I take a contrary view religiously and philosophically, I respect their right to hold this view. But, what must be remembered is that no one is compelled to undergo an abortion unless she desires to do so. Nor can anyone be compelled to perform or assist in an abortion if it is against his or her religious or philosophical convictions and I am in accord with that protection. But, it is equally important that no one be denied the opportunity to make the moral decision of whether or not she should terminate her pregnancy.

The question of abortion is a philosophical and religious one and like other religious questions involves fundamental questions that will never be definitively answered and must ultimately be decided by each individual. To protect our freedom of religion and the holding of different religious beliefs, the Founding Fathers included in the Constitution the first amendment. To deny a woman the right to have an abortion would be to abridge her religious and philosophical freedom.

There are now efforts underway to change the Constitution and limit or prohibit entirely abortion, in effect erasing last year's Supreme Court decision.

Our country permits and encourages those who believe the laws to be unjust to change them legislatively and constitutionally. I do not concur with the position of those who would rescind the Supreme Court's decision, and I will resist their efforts to do so while acknowledging their right to try.

On a number of occasions I have met with those who would seek to change my point of view on this matter and who seek to persuade me that their sense of morality is greater than mine on this subject. My response to them as I am sure it will be to others is that, "I respect their sense of morality and I hope they will find it in their hearts to respect mine." On a matter of morality, a legislator should not simply decide where the votes are and count the mail—on these issues in particular, a legislator must follow his or her conscience, and I will.

## ADM. LEWIS L. STRAUSS

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, I was most saddened to hear of the death yesterday of Adm. Lewis L. Strauss. I have known Admiral Strauss since he became one of the first members of the Atomic Energy Commission. He became a Commissioner on November 12, 1946. Admiral Strauss participated in the development of the basic plans and actions which now provide us the basic for our national security and a basically new source of energy for our civilian economy. These two facts clearly show the greatness of this man. The citizens of this Nation owe Admiral Strauss a great debt for his dedicated and unstinting efforts.

I extend to Admiral Strauss' family my heartfelt condolences on their great personal loss. Admiral Strauss will remain in the memories of all of us who knew him and worked with him as a great and humane person.

Mr. Speaker, may I include in the RECORD a copy of today's Washington Post article by George C. Wilson, regarding Adm. Lewis L. Strauss:

### LEWIS L. STRAUSS, EX-AEC CHAIRMAN, DIES AT AGE 77

(By George C. Wilson)

Lewis Lichtenstein Strauss started out his adult life quietly enough—as a banker—but then found himself in public life embroiled in one controversy after another. The controversies included the Dixon-Yates power contract and his role in stripping famed nuclear scientist J. Robert Oppenheimer of his security clearance.

Born in Charleston, W. Va., on Jan. 31, 1896, Mr. Strauss (pronounced Straws) went to public schools in Richmond before beginning his long but often-interrupted government service in 1917 as secretary to Herbert Hoover, then head of the Belgian Relief Commission.

His banking career followed two years later when, at the age of 23, he joined the Wall Street firm of Kuhn, Loeb & Co.—eventually becoming a partner. He married another partner of that firm, the former Alice Hanauer, in 1923.

He returned to government in 1941 when he was activated as a naval reserve officer. His active-duty naval career, from February, 1941, to May 1946, set him on a course of top-level federal jobs.

He rose to the rank of rear admiral in the successive jobs of assistant to the chiefs of the Naval Bureau of Ordnance of the Navy and naval member of the Interdepartmental Committee on Atomic Energy. He became a right-hand man to the late James V. Forrestal, Secretary of the Navy during World War II and later the nation's first Secretary of Defense.

President Truman in 1946 named Mr. Strauss as one of the first members of the Atomic Energy Commission when the then-secret art of nuclear explosives and energy was placed under civilian control. The seeds of controversy were sown in this appointment to the AEC.

Mr. Strauss, as an AEC member with the ear of the President, urged Mr. Truman to reject the advice of some scientists—including J. Robert Oppenheimer—and go ahead with the construction of the hydrogen bomb.

Mr. Strauss later said that he advised President Truman to take this course for fear that without the H-bomb the United States could not maintain its nuclear edge over the Soviet Union.

President Truman made his momentous decision to go ahead with the H-bomb in 1950. Mr. Strauss, upon learning the President's decision, resigned from the AEC because—as he wrote Mr. Truman—he felt he could safely return to private business. "The issues involving national security which are my primary concern are now resolved as I had hoped and recommended," he wrote.

In accepting the resignation, President Truman said, "Your counsels have been invaluable."

Before Mr. Strauss left the AEC for what turned out to be a short break in public service, there had been numerous reports of the raging controversy within the government over whether the H-bomb should be built. The objections included moral reservations about developing a weapon with such immense destructive power.

Not only was Mr. Strauss one of those pushing hard for speedy construction of the H-bomb, he also was at the forefront of the successful effort to monitor Soviet progress by developing detection devices for nuclear blasts. He contended that the Soviets stole American nuclear secrets, enabling the Soviet Union to break the U.S. monopoly on the superweapon.

During his brief return to the business world, from 1950 to 1953, Mr. Strauss served as financial adviser to the Rockefeller family and as a director of Rockefeller Bros., Inc., and Rockefeller Center, Inc.

He returned to the atomic energy field on March 9, 1953, when he was named a special assistant to President Eisenhower on atomic energy matters. Mr. Eisenhower, on June 24, 1953, nominated him as chairman of the AEC keeping him as a personal atomic adviser as well.

In contrast to the conservative stance on sharing information he took in his first term on the AEC, including being the lone dissenter in a 4-to-1 vote to export isotopes (material made radioactive by exposure to atomic materials) to nations near Russia for commercial and possibly military use, Mr. Strauss was credited with shaping President Eisenhower's famous Atoms for Peace Program speech of Dec. 8, 1953, to the United Nations. That plan was to help other nations harness the atom for peaceful uses with the corollary hope it would shunt the emphasis away from military exploitation of nuclear energy.

Mr. Strauss, in his book "Men and Decisions," published in 1962, discussed the way he allayed Mr. Eisenhower's fears about aggressor nations hijacking uranium contributed to the U.N. Mr. Strauss proposed suspending uranium in a solution in tanks buried underground "thus making a quick raid impossible."

Once nations became accustomed to contributing uranium to the U.N. bank—or as an aide put it: once "the first olive was out of the bottle"—Mr. Strauss and others working on the Atoms for Peace plan hoped the world demand would outstrip the supply until nuclear weapons would be cannibalized for peaceful purposes.

President Eisenhower never saw this dream come true. Mr. Strauss blamed "Soviet roadblocks" to stopping the International Atomic Energy Agency from realizing its full potential.

An ugly phase of Mr. Strauss' government service came in 1954—the Oppenheimer affair. Dr. J. Robert Oppenheimer was the nuclear scientist whom Mr. Strauss and others credited with making the paramount contribution to development of the atomic bomb.

But on June 12, 1954, Maj. Gen. K. D. Nichols, general manager of the Atomic Energy Commission and previously second-in-command of the manhattan atomic bomb development project, said on the basis of a personnel hearing that Oppenheimer's security clearance for government secret information "should not be reinstated."

Mr. Strauss, then chairman of the AEC, was one of the four on the commission who voted to strip Oppenheimer of his clearance—an action that is still abhorred by much of the American scientific community.

Dr. L. A. DuBridge, former science adviser to President Nixon, wrote the commission that Oppenheimer's value is "so enormous as to completely overbalance and override the relatively trivial risks which the Personnel Security Board reports. In other words, the net benefits to national security will be far greater if Dr. Oppenheimer's clearance is restored than if it is terminated."

Specifically, Nichols, on the basis of the personnel board's investigation, said that Oppenheimer "did not show enthusiastic support" for the President's decision to develop the H-bomb, "which might have been expected of the chief atomic adviser to the government . . ."

Oppenheimer's opposition was not based on "sinister motives," Nichols said. But the way the scientist portrayed his opposition raised "disturbing" questions about his veracity. Nichols cited what he considered other conflicting statements by Oppenheimer that Nichols said "raise a question" about "his character and veracity in general."

In defending his own vote to strip Oppenheimer of his security clearance, Mr. Strauss wrote in his 1962 book that Oppenheimer continued to have contact with Haakon Chevalier—an academic colleague of Oppenheimer whom Mr. Strauss said Oppenheimer "had informed on as being involved in an attempt to obtain secret information on the atomic weapon project for the Soviet espionage organization."

The personnel hearings on Oppenheimer,

Mr. Strauss wrote, "also developed Dr. Oppenheimer's admission that he had fabricated a 'tissue of lies' to tell to American security officers . . ." Mr. Strauss said he concluded Oppenheimer's employment by the U.S. Government was not "clearly consistent with the interests of the national security . . ."

Critics of Mr. Strauss' role in the Oppenheimer case contended he went beyond his rightful role of weighing the evidence and participated in a campaign to "get" the scientist. Joseph and Stewart Alsop, in a Harper's magazine article in 1954 entitled, "We Accuse," accused Mr. Strauss of "venting the bitterness of old disputes through the security system" and of helping to instigate Oppenheimer's security problems.

Public attacks from a different direction were launched against Mr. Strauss for negotiating the Dixon-Yates power contract. The controversy centered around the proposal for a private utility combine to build a power plant near Memphis, Tenn., and to sell the electricity to the government. Edgar Dixon and Eugene A. Yates were the chief executives of the independent utility.

In response to charges that Dixon-Yates was a fix of some type, President Eisenhower ordered the papers surrounding the contract proposal released to the press.

The name of Adolph Wenzell, then a vice president of an investment firm called the First Boston Corp., was not mentioned in the public papers on the Dixon-Yates contract negotiations released by the Eisenhower administration.

Since Wenzell had been a consultant for the government's Budget Bureau as well as the utility companies trying to get the contract, his omission in the AEC's public release of Dixon-Yates proceedings prompted conflict-of-interest charges. The Dixon-Yates contract was signed on Nov. 11, 1954, amid controversy—only to be canceled on June 16, 1954, amid more controversy.

The new question was whether the Dixon-Yates combine should be paid cancellation costs. The AEC's general counsel concluded that such payment should be held up until it was determined whether Wenzell was indeed guilty of conflict of interest. The attorney's advice, Mr. Strauss wrote in his book, "made me unhappy, for I believed the parties had acted in complete good faith."

The Supreme Court, on Jan. 9, 1961, ruled that Wenzell had indeed been guilty of conflict of interest and therefore reversed the lower court's finding that the utility should be reimbursed. Mr. Strauss regarded part of that Supreme Court decision as his personal vindication:

". . . No one in the AEC" knew, until December, 1954, that "Wenzell, while serving as a consultant to the Budget Bureau, had been meeting with and supplying information to the sponsors regarding the project," the court said in part of its opinion cited by Strauss.

But the U.S. Senate saw Mr. Strauss' role differently. Sen. Wayne Morse (D.-Ore.), for example, said in 1959—after the Dixon-Yates contract had been canceled but before the Supreme Court ruling—that Mr. Strauss was "an enemy of the American people" for trying to "foist" the contract on the nation. Morse also assailed Mr. Strauss for his opposition to proposals to limit testing of nuclear weapons.

It was this type of opposition that prompted the Senate, on June 19, 1959, to reject on a 49-to-46 vote President Eisenhower's nomination of Mr. Strauss as Secretary of Commerce. The Washington Post, in an editorial printed Oct. 25, 1958, had criticized Mr. Strauss "penchant for deviousness and secrecy," but his competence as an administrator entitled him to the job of Secretary of Commerce.

In his book, Mr. Strauss explained the Senate's rejection this way:

"Several elements of opposition converged at the vote and augmented one another. Anti-Semitism was certainly the least of these, and negligible. But there was the punitive opposition by the advocates of government development of electric power; the animosity engendered by the Oppenheimer case; the personal animus of a senator; my strong belief in the paramount importance of maintaining the constitutional principle of the separation of powers and my defense of the executive branch in that regard; my unfortunate trait of stubborness in refusing to conciliate by conceding error where error had not occurred; for following orders and honoring the oath of office, and opportunity for a numerically superior political opposition to strike a blow at a popular President . . ."

The newspaper clips about Lewis Lichtenstein Strauss thin out after the Senate debate of 1959. His book caused a flurry of attention, with the Aug. 5, 1962, review by Charles Poor of The New York Times opening with the line: "The stature of those who have opposed Lewis L. Strauss does not seem to have grown tremendously through the years . . ."

Mr. Strauss did break into the national news briefly in 1963 when he testified before Congress against the nuclear test ban treaty, calling it "a clay pigeon made to be breached." But otherwise the spotlight in the 1960s moved off Mr. Strauss and other Eisenhower Republicans. One bit of irony came in 1963 when Mr. Strauss sent Oppenheimer a congratulatory telegram for receiving the highest AEC honor, the $50,000 Fermi award.

In 1964, Mr. Strauss headed a space and atomic energy panel for GOP presidential candidate, Barry Goldwater and was elected as the first chairman of the Eisenhower College in Seneca, N.Y., in 1965. Mr. Strauss popped into the news again in 1967 as his plan for setting up nuclear desalting plants in the Middle East for both Arabs and Jews was discussed. Otherwise, it was a comparatively quiet life on the Strauss Black Angus cattle farm in Brandy, Va.

Mr. Strauss' long list of trusteeships and other offices during his lifetime included that of president of the board of trustees of the Institute for Advanced Study at Princeton, N.J.

President Eisenhower personally presenting him the Medal of Freedom in July, 1958, was one of the admiral's most treasured moments. He also received more than 20 honorary degrees from colleges and universities in the United States and abroad.

Besides his wife, Mr. Strauss leaves a son, Lewis L. Jr. of Culpeper, Va.

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## ATTEMPTS TO MISLEAD PUBLIC ON PROPER PROCEDURE TO BE TAKEN ON POSSIBLE IMPEACHMENT OF THE PRESIDENT

(Mr. SANDMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SANDMAN. Mr. Speaker, because of the confused state of affairs that we have pertaining to the possible impeachment of the President of the United States, I think it is appalling that some people are attempting to mislead the public as to the proper procedure that should be taken by this House in considering the possible impeachment of President Nixon.

A state of hysteria and misunderstanding has been cast upon the people of the Nation. One example of such a misunderstanding of the law is illustrated by an editorial written in a leading newspaper in my district. This is a case of how a very responsible newspaper and an excellent editor can be preyed upon by those who spread such misinformation.

My letter to this editor is as follows:

CONGRESS OF THE UNITED STATES,
*Washington, D.C., January 22, 1974.*

DEAR EDITOR: I am astounded by your recent editorial, especially the section where you say:

"It isn't necessary to convict a President of committing a crime to impeach him. *Congress need merely express its lack of confidence in his ability to govern.*"

No part of the Constitution has such a provision nor has any precedent been set in the history of this country to support your contention. In fact, your whole article is so misleading that I am enclosing a copy of the Constitution of the United States. I call your attention to Article II, Section 4 which states:

"The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, *Treason, Bribery, or other high Crimes and Misdemeanors.*"

No other provision of the U.S. Constitution sets forth the grounds for which the President may be impeached.

Treason is defined by Article III, Section 3. Bribery needs no definition. It is well established in the law as to what constitutes bribery. According to Article II, Section 4, the only other grounds for impeachment and conviction are ". . . other high Crimes and Misdemeanors." In the only other case affecting the impeachment of the President of the United States, namely the case against President Andrew Johnson in 1868, no definition was made as to what the other high crimes and misdemeanors are that would constitute an impeachable offense. In the more than 100 years that followed the trial of President Andrew Johnson, the Congress has never made any definition or determination as to what those high crimes and misdemeanors can be.

Now, take all of the categories that have been established one by one:

(1) Treason is a crime;
(2) Bribery is a crime;
(3) All other crimes and misdemeanors are crimes.

It is true that some believe that that section that says ". . . other high Crimes and Misdemeanors" can, in the misdemeanor section, include offenses that do not ordinarily constitute a crime. However, the only authority that those people have is the ancient common law of England which is a far-fetched route to find a cause for impeachment.

The last sentence of Article I, Section 2 states that:

"The House of Representatives shall choose their Speaker and other Officers; *and shall have the sole Power of Impeachment.*"

The last two paragraphs of Article I, Section 3 give the sole power to try all impeachments to the United States Senate.

It is well established by law that the President of the United States cannot be indicted or convicted of a crime while he is the President. Therefore, impeachment of the President of the United States is the same as indictment by grand jury to all other persons accused of a crime. This is not my isolated opinion. It is the opinion of most of the scholars of the law throughout the country.

The Twenty-Fifth Amendment has been used by some to reach the conclusion that you have reached in your editorial when they read into Section 3 and Section 4 of that Amendment the right of the Congress to remove the President.

The Twenty-Fifth Amendment procedures set forth in Sections 3 and 4 are not provisions that apply to the impeachment of the President of the United States. It is an altogether separate procedure pertaining to the President's inability to discharge the powers and duties of his office. Section 4 is an action commenced by the Vice President and a majority of the principal officers of the Executive Department (the President's Cabinet) which gives reasons that the President is unable to discharge the powers and duties of his office.

The intent here is clearly physical disability because the President, under the procedure, has the right to contest the charge that he is unable to carry out the powers and duties of his office. In such a case, that provision requires both Houses of Congress to hear the issue within 48 hours. A two-thirds vote of both Houses is required to determine that the President is unable to discharge the powers and duties of his office.

This has nothing whatsoever to do with the provisions set forth in your editorial, nor does it in any way add an additional ground for impeachment to Article II, Section 4 of the Constitution.

The Judiciary Committee is entrusted with all accusations against the President of the United States. For this reason, it is given the jurisdiction to decide whether or not to offer a resolution of impeachment to the House of Representatives.

The resolution for impeachment should be reached in a judicious manner according to the law. It should not be rendered in the heat of passion nor should it be a trial over the television tubes and the newspapers throughout the country. Only the case against the accused is heard before a grand jury so that those accusations that may later prove to be untrue will not damage the reputation of the accused. Is the President of the United States entitled to less civil rights than any of the more than 200 million other Americans? I don't think so.

Once the Judiciary Committee has reached its decision approving the resolution of impeachment, a record of the Judiciary Committee's proceedings would become a printed report. Upon presentation of the impeachment resolution on the floor of the House of Representatives, the presentation would be made by the Chairman of the Judiciary Committee. The Chairman would urge a vote of the full House of Representatives on the resolution. The time for debate on the resolution would be equally divided between both sides of the aisle. At this point, all of the 435 Members of Congress would have the written report and the full benefit of the full-scale debate to enable them to reach their decision. This is an orderly procedure, and it does not in any way interfere with the public's right to know.

Upon passage of the impeachment resolution, the trial would be conducted by the United States Senate presided over by the Chief Justice of the Supreme Court. This would be conducted in an open public fashion, the same as any criminal trial would be against any other person.

Under this procedure, I am suggesting no additional benefits for the President that you and I as citizens don't already have. *To proceed otherwise would be to have a full trial in both Houses of Congress. This was never intended in the Constitution.*

I firmly believe that unless these proceedings are held fairly, sufficient votes for impeachment will not be available nor will the case against the President be fairly presented.

If a case exists for the impeachment of the President, as set forth in Article II, Section 4 of the U.S. Constitution, I will vote for the resolution to impeach, but I will only do so after careful consideration of the evidence presented to the Committee on which I serve.

At this point in time, we can all better serve our country and our people by addressing ourselves to this most important question conscientiously and fairly. Let's judge the individual on the facts presented. Let's not be hostile just because we don't like the name Nixon.

Make no mistake about it. These proceedings seek to try the head of our government to the end that if he is convicted, he will be removed from office. No part of the Constitution, nor any of the historical data surrounding the adoption of the Constitution, advocates that this should be done except in the most serious of all circumstances.

The action of the 93rd Congress in the impeachment proceedings of Richard Nixon will be a precedent for centuries to come. As one Member of the 93rd Congress charged with this responsibility, I choose to act judiciously, although such action may not get me the most support for the next election.

If this kind of thinking destroys your confidence in me, the only thing that I can say to you—please study the enclosed copy of the U.S. Constitution. Then, knowing you to be a fair man, I know that your confidence will be restored.

Sincerely,  
Charles W. Sandman, Jr.,  
*Member of Congress.*

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Pepper (at the request of Mr. O'Neill), for January 21 and 22, on account of official business.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Cochran) and to revise and extend their remarks and include extraneous matter:)

Mr. Railsback, for 5 minutes, today.

Mr. Edwards of Alabama, for 5 minutes, today.

Mr. Quie, for 15 minutes, today.

Mr. Widnall, for 10 minutes, today.

Mr. Hogan, for 30 minutes, today.

Mr. Wyman, for 30 minutes, today.

Mr. Gubser, for 60 minutes, on January 29.

(The following Members (at the request of Mr. Breckinridge), to revise and extend their remarks, and to include extraneous matter to:)

Mr. Davis of Georgia, for 5 minutes, today.

Ms. Abzug, for 30 minutes, today.

Mr. Natcher, for 5 minutes, today.

Mr. Ichord, for 30 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Reuss, for 10 minutes, today.

Mr. Culver, for 5 minutes, today.

Mr. Kastenmeier, for 5 minutes, today.

Mr. Stratton, for 5 minutes, today.

Ms. Holtzman, for 60 minutes, today.

Mr. Addabbo, for 30 minutes, today.

Mr. James V. Stanton, for 5 minutes, today.

Mr. Chappell, for 5 minutes, today.

Mr. Owens, for 15 minutes, today.

Mr. Benitez, for 60 minutes, on January 24.

Mr. Flood, for 60 minutes, on January 30.

Mr. Fuqua, for 10 minutes, today.

Mrs. Collins of Illinois, for 10 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Cochran) and to include extraneous matter:)

Mr. Heinz in two instances.

Mr. Bell.

Mr. Derwinski in three instances.

Mr. Hosmer in three instances.

Mr. Crane in five instances.

Mr. Carter in five instances.

Mr. Andrews of North Dakota.

Mr. Veysey in three instances.

Mr. Lent.

Mr. Talcott in two instances.

Mr. Winn.

Mr. Don H. Clausen.

Mr. Abdnor.

Mr. Gilman.

Mr. O'Brien.

Mr. Bob Wilson.

Mr. Widnall.

Mrs. Holt.

Mr. Archer in two instances.

Mr. Hudnut.

Mr. Hogan.

Mr. Wyman in two instances.

Mr. Collins of Texas in four instances.

Mr. Mizell in five instances.

Mr. Smith of New York.

Mr. King.

Mr. Huber in two instances.

Mr. Ashbrook in four instances.

(The following Members (at the request of Mr. Breckinridge) and to include extraneous matter:)

Mr. Cotter in 10 instances.

Mr. Bergland in three instances.

Mr. Anderson of California in three instances.

Mr. Rarick in three instances.

Mr. Gonzalez in three instances.

Mr. Gunter in two instances.

Mr. Rosenthal in five instances.

Mr. Harrington in four instances.

Mr. Rangel in 10 instances.

Mr. Hamilton in 10 instances.

Mr. Seiberling in 10 instances.

Mr. Diggs in two instances.

Mr. Davis of Georgia in 10 instances.

Mr. Howard.

Mr. Eilberg in 10 instances.

Mr. Conyers in 10 instances.

Mr. Lehman in 10 instances.

Mr. Stokes in six instances.

Ms. Abzug in 10 instances.

Mr. Roe in three instances.

Mr. Biaggi in five instances.

Mr. Fraser in five instances.

Mr. Addabbo.

Mr. Helstoski in 10 instances.

Mr. Corman.

Mr. Adams.

Mr. Hungate.

Mr. Andrews of North Carolina.

Mrs. Collins of Illinois.

Mr. Fascell in three instances.

Mr. Udall in 10 instances.

Mr. Brinkley.

Mr. Charles H. Wilson of California in three instances.

## SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 58. Concurrent resolution authorizing the printing of additional copies of the Report of the Commission on the Bankruptcy Laws of the United States for the use of the Senate Committee on the Judiciary; to the Committee on House Administration.

## BILL PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on January 21, 1974 present to the President, for his approval, a bill of the House of the following title:

H.R. 9256. To increase the contribution of the Government to the costs of health benefits for Federal employees, and for other purposes.

## ADJOURNMENT

Mr. BRECKINRIDGE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 55 minutes p.m.), the House adjourned until tomorrow, Wednesday, January 23, 1974, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1756. A letter from the Executive Secretary, Federal Metal and Nonmetallic Mine Safety Board of Review, transmitting the annual report of the Board for calendar year 1973, pursuant to 30 U.S.C. 729(1); to the Committee on Education and Labor.

1757. A letter from the President, Gorgas Memorial Institute of Tropical and Preventive Medicine, Inc., transmitting the 45th Annual Report of the Gorgas Memorial Laboratory covering fiscal year 1973, pursuant to 22 U.S.C. 278a, together with a report on the research activities of the Gorgas Memorial Institute-Middle America Research Unit, and the Comptroller General's examination of the financial statements of the Institute for fiscal years 1972 and 1973 (H. Doc. No. 93–260); to the Committee on Foreign Affairs and ordered to be printed.

1758. A letter from the Fiscal Assistant Secretary of the Treasury, transmitting the statement of liabilities and other financial commitments of the U.S. Government as of June 30, 1973, pursuant to 31 U.S.C. 757f; to the Committee on Ways and Means.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 5975. A bill to implement the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969 (Rept. No. 93–760). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SULLIVAN: Concurrent on Merchant Marine and Fisheries. H.R. 6120. A bill to permit the vessel *Manatra II* to be inspected, licensed, and operated as a passenger-carrying vessel, and for other purposes; with amendment (Rept. No. 93–761). Referred to the Committee of the Whole House.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 10309. A bill to amend the act of June 13, 1933 (Public Law 73–40), concerning safety standards for boilers and pressure vessels, and for other purposes (Rept. No. 93–762). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on conference. Conference report on S. 2589 (Rept. No. 93–763). Ordered to be printed.

Mr. SISK: Committee on Rules. House Resolution 779. Resolution providing for the consideration of H.R. 11354. A bill to provide for increased participation by the United States in the International Development Association (Rept. No. 93–764). Referred to the House Calendar.

Mr. SISK: Committee on Rules. House Resolution 780. Resolution providing for the consideration of H.R. 11666. A bill to provide for U.S. participation in increases in the ordinary capital and special funds resources of the Asian Development Bank (Rept. 93–765). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI:

H.R. 12188. A bill to provide for improved labor-management relations in the Federal service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. BRADEMAS:

H.R. 12189. A bill to establish a National Energy Information System, to authorize the Department of the Interior to undertake an inventory of U.S. energy resources on public lands and elsewhere, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BRINKLEY:

H.R. 12190. A bill to enable egg producers to establish, finance, and carry out a coordinated program of research, producer and consumer education, and promotion to improve, maintain, and develop markets for eggs, egg products, spent fowl, and products of spent fowl; to the Committee on Agriculture.

H.R. 12191. A bill to provide that the State of Georgia shall be included in the central standard time zone; to the Committee on Interstate and Foreign Commerce.

By Mr. BURLISON of Missouri:

H.R. 12192. A bill to authorize cooperative operation, maintenance, and repair of the Chester Bridge, Missouri and Illinois, and for other purposes; to the Committee on Public Works.

By Mr. CLARK:

H.R. 12193. A bill to provide for the establishment of an American Folk Life Center in the Library of Congress, and for other purposes; to the Committee on House Administration.

H.R. 12194. A bill to prohibit discrimination against locally recruited personnel in the granting of overseas differentials and allowances, equalize the compensation of overseas teachers, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ERLENBORN (for himself and Mr. Udall):

H.R. 12195. A bill to amend the Freedom of Information Act to require that information be made available to Congress; to the Committee on Government Operations.

By Mr. FAUNTROY:

H.R. 12196. A bill to adopt for the District of Columbia the Uniform Management of Institutional Funds Act, and for other purposes; to the Committee on the District of Columbia.

H.R. 12197. A bill to establish an urban homesteading program to refurbish abandoned real estate in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. FAUNTROY (for himself, Mr. Conyers, Mrs. Chisholm, Mr. Dent, Mr. Moakley, Mr. Rodino, Mr. Roe, Mr. Roncallo of New York, Mr. Rosenthal, Mr. Seiberling, and Mr. Studds):

H.R. 12198. A bill to amend the Export Administration Act of 1969, to provide a formula to control the exports of wheat, soybeans, and corn from the United States, and for other purposes; to the Committee on Banking and Currency.

By Mr. FULTON:

H.R. 12199. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. PATMAN:

H.R. 12200. A bill to make technical amendments to the Federal Credit Union Act; to the Committee on Banking and Currency.

By Mr. GONZALEZ:

H.R. 12201. A bill to amend title 38 of the United States Code in order to require that all Federal retirement or annuity payments be disregarded in determining annual income under the veterans' pension laws; to the Committee on Veterans' Affairs.

By Mr. GUNTER:

H.R. 12202. A bill to amend the Internal Revenue Code of 1954 to allow an income tax credit for certain repairs or improvements of the residence of a taxpayer which improve the thermal design of such residence; to the Committee on Ways and Means.

By Mr. HARRINGTON:

H.R. 12203. A bill to provide for the public design and construction of a minimum of seven full-scale facilities for the refining of petroleum products; to the Committee on Interstate and Foreign Commerce.

By Mr. JONES of Oklahoma (for himself, Mr. McSpadden, and Mr. Camp):

H.R. 12204. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. KEMP:

H.R. 12205. A bill to require oil producers, refiners, and distributors to provide certain information as requested by the Federal Energy Administration, to authorize auditing of such information by the General Accounting Office, and to provide for enforcement; to the Committee on Interstate and Foreign Commerce.

By Mr. KOCH:

H.R. 12206. A bill to amend title 5, United States Code, to provide that persons be apprised of records concerning them which are maintained by Government agencies; to the Committee on Government Operations.

H.R. 12207. A bill to amend title 5, United States Code, to provide that persons be apprised of records concerning them which are maintained by Government agencies; to the Committee on Government Operations.

By Mr. LEGGETT (for himself and Mr. Moss):

H.R. 12208. A bill to confer exclusive jurisdiction on the Federal Maritime Commission over certain movements of merchandise by barge in foreign and domestic offshore commerce; to the Committee on Merchant Marine and Fisheries.

By Mr. McCOLLISTER:

H.R. 12209. A bill to amend the Occupational Safety and Health Act of 1970 to provide that where violations are corrected within the prescribed abatement period no penalty shall be assessed; to the Committee on Education and Labor.

H.R. 12210. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MARAZITI:

H.R. 12211. A bill, Emergency Export Control Act of 1974; to the Committee on Banking and Currency.

H.R. 12212. A bill to prohibit the exportation of grain from the United States whenever the supply of grain is not sufficient to meet domestic needs; to the Committee on Banking and Currency.

By Mr. PATTEN:

H.R. 12213. A bill to establish a National Energy Information System, to authorize the Department of the Interior to undertake an inventory of U.S. energy resources on public lands and elsewhere, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. REUSS (for himself, Mr. Ashley, Mr. Koch, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Moorhead of Pennsylvania, Mr. Stark, and Mr. Studds):

H.R. 12214. A bill to amend the Economic Stabilization Act of 1970 to require the President to set a ceiling price on certain domestic crude petroleum not to exceed prices prevailing on May 15, 1973, adjusted for cost increases; to the Committee on Banking and Currency.

By Mr. ROE:

H.R. 12215. A bill to amend the Public Health Service Act to provide assistance for programs for the diagnosis, prevention and treatment of, and research in, Huntington's Disease; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSE:

H.R. 12216. A bill to amend the act relating to the Lumbee Indians of North Carolina; to the Committee on Interior and Insular Affairs.

By Mr. ROYBAL:

H.R. 12217. A bill to amend title 38, United States Code, to provide appropriate ceremonies with respect to the burial of veterans in national cemeteries; to the Committee on Veterans' Affairs.

By Mr. STAGGERS:

H.R. 12218. A bill to amend the Communications Act of 1934 to repeal the equal time requirement for candidates for the Office of President and Vice President; to the Committee on Interstate and Foreign Commerce.

By Mr. THOMPSON of New Jersey:

H.R. 12219. A bill to establish a National Energy Information System, to authorize the Department of the Interior to undertake an inventory of U.S. energy resources on public lands and elsewhere, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. VEYSEY:

H.R. 12220. A bill to establish a national homestead program under which single-family dwellings owned by the Secretary of Housing and Urban Development may be conveyed at nominal cost to individuals and families who will occupy and rehabilitate them; to the Committee on Banking and Currency.

By Mr. WYATT:

H.R. 12221. A bill to declare Lake Oswego, Oreg., a nonnavigable water of the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. EILBERG:

H.J. Res. 872. Joint resolution proposing an amendment to the Constitution of the United States guaranteeing the right to life to the unborn, the ill, the aged, or the incapacitated; to the Committee on the Judiciary.

By Mr. KOCH:

H.J. Res. 873. Joint resolution to establish a Joint Committee on Energy; to the Committee on Rules.

By Mr. O'HARA:

H.J. Res. 874. Joint resolution to designate the first week in October of each year as "National Father-Son Week"; to the Committee on the Judiciary.

By Mr. BOB WILSON:

H.J. Res. 875. Joint resolution designating February of each year as "American History Month"; to the Committee on the Judiciary.

By Mr. RAILSBACK:

H. Con. Res. 414. Concurrent resolution to establish a Joint Committee on Energy; to the Committee on Rules.

By Mr. ICHORD (for himself, Mr. Aspin, Mr. Dent, Mr. Satterfield, Mr. Howard, Mr. Rarick, Mr. Zion, Mr. Sarasin, Mr. Roe, Mr. Kemp, Mr. Podell, Mr. Burke of Florida, Mr. Sikes, Mr. James V. Stanton, Mr. Bennett, Mr. Eilberg, Mr. Huber, Mrs. Grasso, Mrs. Schroeder, Mr. Karth, Mr. Nix, Mr. Vanik, Mr. Fulton, Mr. Davis of South Carolina, and Mr. Long of Maryland):

H. Res. 774. Resolution declaring the sense of the House with respect to a prohibition of extension of credit by the Export-Import Bank of the United States; to the Committee on Banking and Currency.

By Mr. MARAZITI:

H. Res. 775. Resolution providing for an investigation of the amount of petroleum resources; to the Committee on Rules.

By Mr. RANGEL:

H. Res. 776. Resolution creating a select committee to conduct an investigation and study of the health effects of the current energy crisis on the poor; to the Committee on Rules.

H. Res. 777. Resolution creating a select committee to conduct an investigation of the nationalization of the oil industry; to the Committee on Rules.

By Mrs. SULLIVAN:

H. Res. 778. Resolution to provide further funds for the expenses of the investigations and study authorized by House Resolution 187; to the Committee on House Administration.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. FAUNTROY (by request) introduced a bill (H.R. 12222) to correct an inequity in the case of certain applications for letters patent of Tsukumo Nobusawa; to the Committee on the Judiciary.

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# EXTENSIONS OF REMARKS

## IMPLEMENTATION OF MPAP CAUSES CONFUSION AT ALL LEVELS

### HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. ALEXANDER. Mr. Speaker, the mandatory petroleum allocation program went into effect on November 1. At that time its Administrator said that he did not have the staff to handle this program and it would take him 60 to 90 days to set it up. However, this country was expected to live under a program for 2 to 3 months that was not in full operation. Not only were those administering and affected by the program at local and State levels confused and unsure of its provisions and authority, but we in Congress were not much more successful in obtaining answers from those responsible for the program at the Federal level. And, the MPAP has been revised several times since its issuance to make up for the hasty, seemingly thoughtless omissions and mistakes made in the promulgation of the first regulations.

As an example of the lack of information our States are getting on this program, I wish to share with you a copy of a letter Mr. Pat Moran, fuel allocation officer for the State of Arkansas, wrote to Secretary of the Interior Rogers Morton. I am afraid that such problems are not peculiar only to the Arkansas allocation officer.

It is time for us to stop the backbiting over how we got into this situation and who is to blame. We have got to start working together to get some truthful answers to the extent of this crisis and then constructively take measures to alleviate it.

The letter follows:

Arkansas Public
Service Commission,
*Little Rock, Ark., November 19, 1973.*

Hon. Rogers C. B. Morton,
*Secretary of Interior, Department of the Interior, Washington, D.C.*

Dear Mr. Secretary: During the past month I have attended approximately three briefings at the invitation of your agency, or the Energy Policy Office, which were supposedly designed to bring appropriate state officials up to date on the workings of the newly formed "middle distillate fuels allocation program" formulated and announced by the Energy Policy Office for implementation by the Department of Interior, effective November 1, 1973.

My knowledge of the "middle distillate allocation program" was, and still is, what I have gleaned from a careful reading and rereading of the program as it was printed in the Federal Register when it was first announced. Much of the publicity surrounding the initiation of this program emphasized that the individual state governments were expected to play an important role in carrying out its day to day operation. In an effort to learn in more detail how the State of Arkansas could do its part during the current energy shortage, I have attended these briefing sessions of your department, all to no avail; the speakers are not sure of anything when questioned by the various state officials in attendance.

However, the particular briefing which takes the cake, so to speak, was the one in Dallas, Texas last Friday morning, November 16. This meeting, to which each Governor in this region was asked to send a representative, was addressed by Under Secretary Whitaker in your absence. Secretary Whitaker delivered an absolutely ridiculous speech (although it was mercifully short) in which he sought to convince the audience that President Nixon had seen the present fuel shortage coming for years and that it was the Congress who was at fault for failure to act.

Secretary Morton, most of the people in the Dallas audience last Friday came in an effort to get some answers about the day to day workings and administration of the fuel allocation program being sponsored by your department. What they received was a thinly disguised political speech which no one appreciated. In the current stage of the energy shortage we are surely past playing the asinine game wherein one branch of our government blames another for our troubles (a point very aptly made by Congressman Milford of Texas at the Dallas meeting.)

Whether it be termed "New Federalism" or otherwise, the States are ready to assume any responsibility given them in the present energy situation. In Arkansas, Governor Bumpers created a State Energy Office one week before the middle distillate program was announced. We have since doubled the force in that office and we will increase personnel again if this is needed in order to insure that no Arkansan has to bear more than his or her share of the energy shortage. Our State Energy Office has printed its own forms because we have yet to receive any forms from the Federal Government. These self-generated forms have been sent to the appropriate people throughout the fuel distribution chain in Arkansas and the completed versions thereof have been filed with your office in Washington. In connection with these make-shift forms our Attorney General recently filed a petition seeking state wide relief from our agricultural diesel fuel shortage and at this writing it appears that our prayer for relief has, in part, been granted.

The point I make, however, is that what relief we have thus far received has been almost wholly a result of a herculean joint effort by our entire Congressional delegation, the Governor's Office, and the State Attorney General. We would have been completely out of diesel fuel to harvest crops 10 days ago if we were depending upon a citizens request to make its way through local, regional, and national levels for review. So, please spare us any more Under Secretary's speeches about how much the present administration is on top of our energy problems. I don't believe we can stand it (literally).

Sincerely yours,

PAT MORAN,
*Fuel Allocation Officer.*

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## NATION'S GREATEST NEED: REVERSE DOWNWARD TREND OF ETHICS, WRITES ROSCOE DRUMMOND AS HE COMMENDS AMERICAN VIEWPOINT, INC., EFFORTS

## HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

*Tuesday, January 22, 1974*

Mr. RANDOLPH. Mr. President, the noted columnist, Roscoe Drummond, writing another forthright chapter of his "Point of View," in the Wednesday January 16, 1974, issue of the Christian Science Monitor, discussed "The Nation's Greatest Need," namely,

> To reverse the downward drift we have been witnessing for a decade of violence and lawless government. Such a reversal would be life-giving.

Mr. Drummond declared that:

> Corrupt politics, shabby ethics, and widespread dishonesty are death-dealing to human freedom and to democratic government.

And he expressed enthusiasm for the:

> One organization which is setting out to do something about declining ethics in the U.S.—the organization called American Viewpoint, Inc.—and its premise goes to the heart of the matter. It is: "Let's Make America Honest Enough to Stay Free." That theme means what it says—it is crucial to do something about it now. It may sound idealistic. So what? It may sound Utopian. It isn't; it's practical. Healthy ethics is no more Utopian than a healthy democracy. Neglect one and you kill the other.

It was reassuring to read Mr. Drummond's appraisal of American Viewpoint, headed by Ivan Hill, president, University Square, Chapel Hill, N.C. Its sole, nonprofit concern being to help "make honesty a working social principle, rather than a moral issue apart from our daily lives." He wrote:

> From first hand experience, I can vouch for American Viewpoint. It is sound and sane.

Mr. President, I have felt so, too, especially since reading its full page advertisement in the Friday, December 14, 1973, issue of the Wall Street Journal making a special appeal to business leaders "with the courage and faith to support a movement to make America more honest".

I ask unanimous consent, Mr. President, that Roscoe Drummond's column, "Point of View," under the heading, "The Nation's Greatest Need," from the Wednesday, January 16, 1974, the Christian Science Monitor, be printed in the RECORD.

There being no objection, the column by Mr. Drummond was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Jan. 16, 1974]

### THE NATION'S GREATEST NEED

The No. 1 problem in the United States is not the energy crisis nor health nor housing nor unemployment—urgent as these matters are.

It's something else.

It's sleazy ethics and pervasive dishonesty in just about everything—in government, in politics, in business, in labor, and to some extent in the media. They all suffer from widespread public distrust.

The truth is that a lack of faith is dangerously eroding the resources of the nation.

Here is one verdict which is blunt and to the point:

"People are fed up, disillusioned by the liars. Sick of the exploiters.

People want faith instead of anxiety. Faith in themselves, faith in their unions, their schools, their government. Faith in each other.

"They are ready to believe in ethics and honesty. But to improve our system, we must improve ourselves. That's the challenge."

But just how important is it to confront this challenge and begin to do something about it? Is it something just nice to do or is it imperative? I submit that corrupt politics, shabby ethics, and widespread dishonesty are death-dealing to human freedom and to democratic government. To reverse the downward drift we have been witnessing for a decade of lawless violence and lawless government will be life-giving.

One organization, which is setting out to do something about declining ethics in the U.S., is called American Viewpoint, Inc., and its premise goes to the heart of the matter. It is: "Let's Make America Honest Enough to Stay Free."

This is not mere rhetoric. History makes it amply clear that the alternative to a decent and workable standard of honor and honesty in any society is not disorder, it is enforced discipline; it is repression; it is the authoritarian state and, in the end, dictatorship.

That is why the theme, "Let's Make America Honest Enough to Stay Free," means what it says. That's why it is crucial to do something about it now. It may sound idealistic. So what? It may sound Utopian. It isn't, it's practical. Healthy ethics is no more Utopian than a healthy democracy. Neglect one and you kill the other.

The danger is plain to see. It is not an overstatement to say that it is as great a challenge to American freedom as World War II. We either face it or run away from it and suffer the consequences.

Much can be done individually to restore higher ethical conduct to all our relations. But collective efforts will be needed. I make this suggestion:

Shouldn't every major civic organization in the U.S.—like the League of Women Voters, the Junior Chambers of Commerce, Rotary, Kiwanis—every labor union, every business organization, every professional group, make it a first priority in 1974 to study codes of ethics to find out how well they work and find ways to make them work better?

I'm not talking about ethics you frame and hang on the wall. I am not talking about ethics with which to measure others, but ethics to measure ourselves and to live by.

The leaders of these and other organizations can do much to stir and stimulate a genuine revival of ethics-at-work in the U.S. and one way to begin would be to consult with American Viewpoints, Inc., whose sole, non-profit concern is to help "make honesty a working social principle, rather than a moral issue apart from our daily lives."

The address is: Ivan Hill, president, University Square, Chapel Hill, North Carolina 27514. From firsthand experience I can vouch for American Viewpoint. It is sound and sane.

The American people can have any kind of government, any kind of politics, any kind of society they want. But it won't come from wishing; only from doing.

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## THE LATE DR. MANUEL GIBERGA

## HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. DERWINSKI. Mr. Speaker, it is my sad duty to inform the Members of the death last week of my good friend, Dr. Manuel Giberga.

The former treasurer of the Republican National Heritage Groups Council and, at his death, third vice chairman of the council, Dr. Giberga was known widely for his philanthropic and humanitarian deeds. He also was vice chairman of the President's Advisory Council to the Cabinet Committee on Opportunities for Spanish-Speaking Americans.

Manuel Raphall Giberga was born September 3, 1916, in Havana, Cuba. He was graduated from Havana University where he received his B.A. degree in 1939 and his M.A. in 1945 in social, economic, and political history. He completed postgraduate studies at the University of Villanueva in Havana in economics and marketing. He became an economic adviser to the Cuban Labor Department in 1947 and in 1948 worked with the Cuban Treasury Department in sugar fiscal control.

From 1946 to 1966 Dr. Giberga was an international consultant to many South American banking and business firms. He held a seat on the New York coffee and sugar exchanges. Through 1968 he was president of Tinguaro sugar mill in Louisiana. He was Director of Tax Division Sugar Production in the Cuban Treasury Department and special economic consultant to the Prime Minister of Cuba, Dr. Carlos Prio, 1952–55.

One of the recent highlights of Manuel Giberga's career was his indefatigable efforts in bringing to fruition the return to the United States from Spain of 25,000 Cuban refugees. He was a war hero, a patriot, a civic leader.

Dr. Giberga was the author of a number of books and articles in the field of economics.

Mr. Speaker, Manuel is survived by his wife, Lillian, of Washington, D.C., and eight daughters. I take this time to alert many Members of Congress of his death since it may not have been called to their attention while Congress was adjourned.

## POWER OF THE PURSE

## HON. BOB BERGLAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. BERGLAND. Mr. Speaker, I am dismayed and disturbed by the continued thwarting by the executive branch of not only the will and the express direction of the Congress but also of the indifference and disregard of the interests by the executive branch of our citizens in rural communities.

Specifically at this time I refer to the impoundment of moneys appropriated to construct needed water and sewer facilities in rural areas.

In that connection, Mr. Speaker, I include an editorial on this subject appearing in the New York Times on December 17, 1973:

### POWER OF THE PURSE

Congress in its collective wisdom decided last year and again this year to appropriate funds for the construction of needed water and sewer systems in rural areas. The executive branch decided that the program was unnecessary and impounded the money.

Far from being "redundant"—to use the Administration's word—the program in dispute is distinct from the Government's existing program, which has to do with sewage treatment systems, not sewers themselves. But even if the Administration's explanation were sound, it would be no answer to the real question involved.

The question is this: Which branch of government is constitutionally charged with making laws and appropriating the necessary money and which branch is charged with executing those laws and spending that money? Even in this instance, where Congress has explicitly directed the expenditure within a fixed period, the Administration takes the view that its judgment must prevail.

Its action should quicken the pace of Congressional efforts to curb a growing usurpation of legislative function by the executive branch. Both houses have already passed bills giving Congress the power to override such impoundments and force the release of appropriated funds. Tacitly acknowledging that these attempts might be vetoed, the House of Representatives embodied an anti-impoundment section in a much-needed bill to enhance budgetary responsibility in Congress.

Combining these two purposes would not only make it harder for President Nixon to veto a curb on his own Administration's assumption of the power of the purse; it would increase the possibility of overriding such a veto if it did come. The Senate would do well to follow the lead of the House.

## TRIBUTE TO THE GARDENA VALLEY COUNCIL OF THE KNIGHTS OF COLUMBUS

## HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. ANDERSON of California. Mr. Speaker, I rise today to pay tribute to the outstanding community work being done by the Knights of Columbus Council No. 4038 of Gardena, Calif.

Over 100 years ago, Walt Whitman seemingly prophesied our good fortune when he wrote:

> A great city is that which has the greatest men and women.

Gardena is such a city.

The Gardena Valley Council of the Knights of Columbus was founded by 105 charter members in 1955. Through their hard work and dedication this organization has now more than doubled its enrollment. In fact, it has received the Century Club Award for acquiring 100 new members in a single year.

In addition to the work the Knights of Columbus do for their parishes—St. Anthony, Maria Regina, St. Catherine, St. Frances Cabrini, and St. Philomena—their achievements and activities have greatly benefited all the citizens of the community. Almost $1 million has been raised in the past for various charitable organizations, including Boys Town of the West. Members of the Knights also take part in alcoholic and narcotic prevention and treatment programs, Boy Scout activities, senior citizen programs, and visit patients in area hospitals on Sundays. The Gardena Valley Council was instrumental in starting the Outstanding Citizen of the Year Award and the Community Field Day for the citizens of Gardena.

One of the major activities of the council is the Annual Sports Award night honoring outstanding athletes chosen by the local high schools and colleges. The 16th annual presentation will be held on January 25, and I am honored to have been invited to help present this year's awards to Don Rowell of Harbor Junior College, Wayne Johnson of Compton Junior College, Mike Gilbert of El Camino College, Kevin Cole of Gardena High School, and Pat Donahue of Serra High School. I am sure that the parents, schools and communities of these fine young men are very proud of their achievements.

We in the South Bay area are fortunate to have such a dedicated organization as the Gardena Valley Knights of Columbus willing to unselfishly serve the interests of our community. It is indeed fitting that Council No. 4038 has twice received the Star Council Award for being the most outstanding Knights of Columbus council in the State of California. The Gardena organization is the only one to have ever received this award for two consecutive years—1972 and 1973.

Under the leadership of Grand Knight Oscar Santos, Deputy Grand Knight Alred H. Lecesne, Financial Secretary James Pierceall, Treasurer Fred Purifoy, and Junior Past Grand Knight Fred Hand, we can be assured that this distinguished council will continue to live up to the motto of the Knights of Columbus, "All this and much more are these men they call the Knights of Columbus."

## REPORT TO THE SEVENTH CONGRESSIONAL DISTRICT OF ILLINOIS FROM CONGRESSWOMAN CARDISS COLLINS

## HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mrs. COLLINS of Illinois. Mr. Speaker, last fall I sent a questionnaire to all of the residents of the Seventh Congressional District of Illinois. The questions and findings of that survey are as follows:

### SURVEY

1. Amnesty: Favor amnesty for draft evaders if they perform several years of public service work upon their return? Yes, 54.5%; No, 38.1%; No opinion, 7.4%.

2. Bilingual: Favor more federal funding to aid bilingual education? Yes, 50.2%; No, 35.5%; No opinion, 14.3%.

3. Cost of living: Feel that the costs of food and rent have become excessive? Yes, 84.5%; No, 9.0%; No opinion, 6.5%.

4. Day care: Feel that more federally funded day care centers are needed? Yes, 60.2%; No, 28.9%; No opinion, 10.9%.

5. Economy: Favor continued wage and price controls to fight inflation? Yes, 53.0%, No, 33.3.%; No opinion, 13.7%.

6. Environment: Think that sufficient progress is being made to clean our air and water? Yes, 28.3%; No, 67.8%; No opinion, 8.9%.

7. Headstart: Feel that federal funds to give pre-schoolers a "headstart" should be increased? Yes, 56.3%; No, 32.3%; No opinion, 11.3%.

8. Health insurance: Feel that a national health insurance program to serve the medically poor is needed? Yes, 69.7%; No, 21.5%; No opinion, 8.8%.

9. Housing: Feel that the President should lift the moratorium on federally subsidized low-income housing? Yes, 51.0%; No, 31.6%; No opinion, 17.3%.

10. Impoundment: Feel that the President has the right to refuse to spend funds appropriated by Congress? Yes, 32.9%; No, 55.4%; No opinion, 11.7%.

11. Military: Feel that the military budget is excessive? Yes, 60.9%; No, 27.1%; No opinion, 12.0%.

12. News: Guarantee reporters the right to confidential news sources? Yes, 61.3%; No, 25.1%; No opinion, 13.6%.

13. OEO: Agree that federal funding of community action programs should be continued? Yes, 54.1%; No, 30.5%; No opinion, 15.4%.

14. Postal Service: Feel that the postal service has improved during the last two years? Yes, 19.6%; No, 69.5%; No opinion, 10.9%.

## DÉTENTE FOR ENEMIES: BUT WHAT ABOUT FRIENDS?

### HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. ASHBROOK. Mr. Speaker, the efforts of President Nixon and Secretary of State Kissinger to achieve détente with Communist countries are well known. Not so well known are the efforts by the same individuals to achieve a cold war with a country which desires to be our friend—Rhodesia. While Secretary of State Kissinger maintains that we should not put pressure on the Soviets to change internal policies, we should and must put pressure on Rhodesia to change their internal policies. It would seem that there is a certain amount of hypocricy in this position.

Smith Hempstone, in the Washington Star-News on December 21, 1973, has written that the United States—

> Should be encouraging conciliation rather than confrontation, compromise rather than conflict.

At this point, I include in the Record excerpts of Mr. Hempstone's column entitled "Embargo Debates Called Ill Informed."

The excerpts follow:

EMBARGO DEBATES CALLED ILL INFORMED

(By Smith Hempstone)

"There are really only three questions worth asking, and nobody is asking them:

"—Is the government of that white-ruled Central African state so odious as to merit isolating Rhodesia from the rest of the civilized world?

"—Are [trade] sanctions likely to moderate the racial policies of Rhodesia, or lead to the collapse of Premier Ian Smith's regime?

"—If sanctions were to lead to the collapse of the Smith regime, what would be the consequences?

"One does not have to be particularly perspicacious to see that the Smith regime was not made in Heaven. Africans are discriminated against over a broad spectrum of matters. But when it comes to oppressiveness, the Rhodesians are amateurs when compared to all those Communist regimes (and some non-Communist ones) with which we trade and maintain diplomatic relations.

"As to the likelihood of sanctions having a beneficial influence on the policies of the Rhodesian government or resulting in its collapse, one can only say that neither has happened in the eight years since Rhodesia declared its independence from Britain. . . .

"It is difficult to see how the sudden collapse of white rule would benefit black Rhodesians or the United States. A terrorist movement, aimed primarily against black Rhodesians seeking accommodation with the white minority, already is under way and the dissolution of authority could only lead to an orgy of reprisals between rival tribal power groups.

"To the extent that conditions in Rhodesia warrant the consideration of worthy members of the U.S. Senate—and one would really think there would be matters of more urgency commanding their attention—it would seem that that venerable body should be encouraging conciliation rather than confrontation, compromise rather than conflict.

"Rhodesian chrome is not and never has been the real issue. The Senate has been getting the wrong answers on Rhodesia for the simplest of all reasons: It has refused to ask itself the right questions."

## THE POLITICS OF FAMINE AND THE SAHEL

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. RANGEL. Mr. Speaker, for 3 years drought has ravaged the Sahel in north Africa. The effect on both the peoples and the economies of the region has been devastating, but neither the United States nor the United Nations has made a substantive commitment of economic and humanitarian assistance. It seems that we can sell wheat to the Soviet Union and force our own consumers to pay higher prices for bread, but we cannot provide grain to starving Africans.

Jeffrey L. Hodes has written an incisive article on how most of the world is shutting its eyes to the Sahel tragedy. I am sharing this article, which appears in the February issue in Encore magazine, with my colleagues in the Congress in the hope that our collective conscience will be moved to insist upon greater U.S. commitment to relieve the suffering of the starving people of the Sahel.

The article follows:

THE POLITICS OF FAMINE

(By Jeffrey L. Hodes)

The drought and devastation of the Sahel is now entering its third year. The famine that has besieged this region of North Africa is a blot on the conscience of the international community. The technocrats use code words like "developing countries" and "lack of infra-structure" to belittle African estimates of the tragedy.

Each news dispatch coming out of Dakar, Senegal; Niamey, Niger; and Ouagadougou, Upper Volta; documenting the desolation and death that has overcome a quarter of the 25 million nomads of this sun-scorched bowl, offers a distressing example of the low premium placed on life in Black Africa by the West. Much of the human suffering could have been avoided if it wasn't for the indifference, bureaucratic hassles and inertia of the emergency relief operations of the United Nations and the U.S. Agency for International Development (AID).

The drought was officially "recognized" in August, 1972, but the last shipments of emergency grain did not arrive in Mauritania, Senegal, Chad, Mali, Niger and Upper Volta until October, 1973. For five months the UN did not even heed the SOS of its own "early warning system," and its record from that point on is something of a cruel joke.

The Sahel has also dramatized what little regard the U.S. government has for Black Africa. Faced with massive starvation last summer, the Sahelian governments pleaded with the U.S. Air Force for at least 20 planes for an emergency airlift. The State Department allocated three C–103 cargo planes for 105 days.

The U.S. countered famine and flooding in Bangladesh with $318 million in assistance. "No less can be done to assist the 25 million people of the Sahel," says Rep. Charles Diggs, chairman of the House subcommittee on Africa. But, unfortunately, drought does not have the visual immediacy of a flood or earthquake. Its physical properties are more elusive and difficult to establish. And the Sahel does not have much strategic, political or economic value for the U.S. government, the criteria for most bilateral assistance.

The Sahel exists in a time capsule today, as it tries to shakes loose the shackles of colonial servitude, while leaping across centuries of economic development. The six nations carved out of the heartland of once semi-arid French West Africa are still scarred by the worst kind of economic balkanization, perpetrated by artificial national boundaries imposed by a colonial power.

The Sahel is a flat, harsh region stretching across the continent from the sands and barren mountains of the Sahara, to where the desert gives way to the grasslands and trees of the savannahs in central Africa. The desert is encroaching upon the region at the rate of 30 miles per year. It has already partially consumed Mauritania, is threatening the southern half of Niger, and has long since covered Chad as it advances southward, edging into Senegal and Upper Volta.

The six Sahelian states cover an area equivalent to 60 percent of the U.S. There the similarity with America ends. The Sahelian people are among mankind's poorest. Upper Volta is often referred to as the world's poorest nation. Its five million people have an annual per capita income of $50 and a life expectancy of 32 years. Only 10 percent of the population is literate.

Life in Mali, Chad and Niger is little better. The average 10-year-old in Niger has a life expectancy 14 years shorter than a 10-year-old in India. In Chad, during "normal" years, it isn't unusual for six out of every 10 babies to die before they reach five years of age.

Mauritania and Senegal are only slightly better off. In sparsely-populated Mauritania, the GNP is a princely $140 per capita. In Senegal, children lacking protein suffer from *kwashiorkor*—bloated bellies—and pregnant women lacking vitamin A suffer from *keratomalacia*—blindness.

*Amane* is what the Sahel nomads call water. It is the basis of existence in the Sahel. Yet the region's rains are scanty and erratic. The annual rainfall is from 16 to 120 inches in west Africa. In the Sahel, the average rainfall is between 4 and 16 inches.

The precipitation usually lasts from late May through the summer into late September. But the sun quickly sucks up the rain, reducing the impact of the precipitation. Thus, the intensity of the summer rains—the monsoons—usually determines the success or failure of the agricultural output.

This delicate ecological balance supports a largely pastoral economy, where nine out of every 10 workers engage in "subsistence farming," raising cattle or growing either peanuts, sorghum, or millet, primarily for self-consumption.

The magnitude of 1972's short-lived rainfall, combined with the hardships and declining water levels of the lengthy dry 1969–1971 seasons, precipitated the catastrophic drought and famine which overwhelmed the Sahel, and after seven disastrous years of declining rainfall, finally brought the region to international attention. "If you bring this region back to where it was before the drought, "one aid expert commented, "it will not be good enough."

Last fall's harvest was as poor as the previous year's, necessitating a continued emergency relief operation of the same magnitude—if not larger—than 1972's. And beyond this remains the necessity of coming to grips with the spreading desert and restoring the ecological balance of the environment. "There is no doubt that the present crisis will happen again," a UN report declared, "possibly each time more severe, because of the growing degradation of the rangelands."

The rain that did fall last summer was late in coming, inadequate and short-lived. By early October the crops were withering in the ground. A multi-nation survey mission assessed the fall harvest and concluded that the crop was sufficient to sustain the Sahel only through the winter months. This spring will probably see a repeat of last year's famine.

Mass starvation was averted in 1973 because of the eventual arrival of 625,000 metric tons of grain. At least that amount will again be needed. Meanwhile, disease claims a large number of the already emaciated nomads, especially children. This winter many will succumb to respiratory ailments.

The actual cost in human life to date is as yet unknown. Statistics are hard to come by in such a desperately poor region. The Sahelians say that six million faced starvation last summer. The UN denied it. The League of Red Cross Societies said it was twice as many. "I cannot play the numbers game," says Carl Rowan, who was in the Sahel last summer, "but I know what I am seeing: flies feasting on the sore-pocked face of a child pot-bellied and deformed by hunger; children crying incessantly."

Life in capital cities like Bamako, Mali, and Niamey, Niger, is becoming a nightmare. With the social disintegration of the nomadic tribes, herdsmen are leaving their families and are being forced to live on the dole near refugee camps.

Indeed, the effects of the drought were devastating. All six Sahelian nations share a common dependence on livestock and agriculture for their livelihood. With insufficient rainfall, crop production was ravaged and food production was halved. Before the drought, there were about 60 million animals, including several million head of cattle. Millions perished. Estimates are that from 40 to 80 percent of the livestock were decimated in some regions.

The UN Food & Agricultural Organization's early warning system reported an "acute emergency situation" in the Sahel in September, 1972. Yet, nothing significant was done to mobilize the international community until the spring of 1973. And a major appeal was not made until May—two months after the six Sahelian governments declared a state of emergency at a heads-of-state meeting in Ouagadougou, Upper Volta.

In the U.S. there is evidence that AID officials wired the State Department from Africa as early as August, 1972, of the imminent disaster. And Sahelian embassies in Washington insist that they appealed to AID for emergency food provisions in September and October of that year.

Yet AID didn't respond until the winter months. AID and the Agriculture Department's Food for Peace program are the major sources for the UN's World Food Programme reserves. Some government bureaucrats have implied that the global grain deficit was one reason why AID couldn't move faster and more generously. This simply isn't true; the problem was financial and political, not agricultural. The delay on grain shipments to the Sahel was caused by the priority given to the shipment of $200 million in wheat to the Soviet Union, which completely tied up U.S. ports on the Gulf of Mexico.

The size of the U.S. commitment has also appalled the Black community. Of 625,000 metric tons of grain donated internationally, the U.S. contributed only 156,000 M.T., and this fall—after the worst of the drought had passed—committed another 100,000 M.T. In addition, the donor nations gave over $40 million in cash and service-in-kind. The U.S. share was only $4.4 million. As a matter of fact, until the Black community mobilized public opinion last spring, there was little recognition of the problem at all in Washington. The spectre of Jesse Jackson collecting cans of dry milk and appealing to cereal manufacturers jogged the State Department's indifference.

The prodding continued with the formation of Afro-Americans Against the Famine, and RAINS, a Black coalition for "Relief for Africans in Need of the Sahel," headed by former Ambassador Elliott Skinner and Congressman Diggs. Diggs asked for an emergency $30 million in aid for the Sahel. Five months later he compromised with the Senate at $25 million.

Black Africa has never received much U.S. aid. In fiscal 1973 the U.S. allocated only $173 million for economic aid, and $134 million in food commodities. The six Sahel countries received $11.9 million in food commodities and nothing for economic development.

What can be done about the Sahel? Can future famine be averted?

Ministers of the Sahelian states will meet again this fall. They have estimated that rehabilitation projects—reforestation irrigation, transit, etc.—would cost $850 million. Because of the tremendous loss of tax-producing cattle, the governments are all near bankruptcy, and will need subventions and deferment of their present outstanding loans.

But discord between donor nations such as the U.S. with the Sahelians and the UN over the shape of rehabilitation projects offers scant hope that a concerted effort will be launched. The AID technocrats reject remedies and innovations that haven't been engineered by Americans. The World Bank and the UN espouse well-digging and deepening of the existing system of wells. AID says wells contribute to the water shortage.

There is also a major dam project on the Senegal River, that, if built, would help irrigate Mali, Mauritania and Senegal. It has a $1.1 billion price tag on it. Either out of political disinterest or lack of faith in Sahelian research, the U.S. is asking for still more feasibility studies. Indeed, even though the Sahel governments have proposed 123 immediate projects, the U.S. government thinks what is needed now is a major study to determine the parameters of the problem! The real question now is not how many wells will be dug, or how many head of cattle will be replaced, but what is going to be done and who is going to do it.

The Sahelian drought is not a politically-charged situation such as Biafra or Bangladesh. A drought is not as easily identifiable as a civil war or an earthquake. But unless this drought is given the same priority, the 1972–73 tragedy in the Sahel could arise again.

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## LEAVE THE CLOCKS ALONE

## HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. BRINKLEY. Mr. Speaker, I commend the within editorial from the Columbus, Ga., press to the attention of the membership. If, however, there is to be further legislation on the national time zones Georgia properly belongs in the Central Time Zone. The fact that it is not is exactly the reason that daylight savings time is so onerous to most Georgians.

### LEAVE THE CLOCKS ALONE

If you'll pardon the pun, a number of state legislators seem to have time on their hands.

Rep. Norwood Pearce of Columbus, among others, wants to return Georgia to its rightful place, in the Central time zone.

Georgia has been a fish out of water, so to speak, for more than 30 years. He and a few other chosen representatives want to right this long-time wrong.

### . . . END "FAST TIME"?

Meanwhile, a couple of Rome, Ga., lawmakers want to take Georgia off Daylight Saving Time. Georgia and the rest of the nation has been on "fast time" since Jan. 6 in what is supposed to be an energy-conservation move.

Here's our position: Leave the clocks alone. We're sick and tired of all this nonsense about setting our clocks forward or backward or sideways. In fact, one of the positive aspects of year-round Saving Time is that we won't have to go through the confusing ritual of changing a half dozen or so timepieces in our house twice a year. We have a reprieve until October 1975.

### . . . "HE'S STILL 'DADDY' "

As for reverting to Central time, we feel much like the young man who discovers his natural father is not the one he's been calling "Daddy" for 20 years. The guy who's been putting bread on his table may not be his natural father but he's the only father the young man has ever known.

We implore Rep. Pearce and other legislators campaigning to turn our clocks back to forget it and concentrate on the multitude of far more pressing problems.

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## CHARLES M. TEAGUE: A FRIEND OF THE AMERICAN FARMER

## HON. BILL GUNTER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. GUNTER. Mr. Speaker, I was deeply saddened to learn during the days between sessions America lost one of its most respected legislators and a true friend of the Nation's farmers, Hon. CHARLES M. TEAGUE of California.

As a freshman Member of the House I did not know CHARLES TEAGUE as well as many of his friends and colleagues here, but my service with him on the House Agriculture Committee afforded me the opportunity to observe how much he knew about American agriculture.

I know that those who served with him on the House Veterans' Affairs Committee share my high regard for his abilities, his wit, and his dedication to improving the lives of America's farmers and veterans. His passing is a sad event for us all.

Mr. Speaker, I include at this point in the RECORD an article which appeared in the January 2 edition of the Washington Post reporting on the death of Representative CHARLES M. TEAGUE:

### REPRESENTATIVE CHARLES M. TEAGUE DIES

(By Jean R. Hailey)

Rep. Charles M. Teague (R-Calif.), a member of Congress since 1954, died yesterday in Santa Paula at 64.

Aides said he suffered a heart attack while staying at the home of his son, Alan, who is mayor of Santa Paula.

The congressman, who was the ranking Republican on the House Agricultural Committee and the senior Republican member of the Veterans Affairs Committee, had gone home for the holidays.

Santa Paula, where he was born and reared, is in the 13th District, which he represented in Congress.

The unexpected death of the quiet but highly respected congressman brought immediate statements from top-ranking Republicans.

President Nixon said:

"The death of Charles Teague represents a significant loss to the United States Congress, to his home state of California and to the nation he served so long and so well. He will be remembered most especially for his interest in American agriculture and for his many years of devoted service on the House Agriculture Committee. Mrs. Nixon and I were deeply saddened to hear of his passing and we extend our sincere sympathy to his family."

Vice President Gerald R. Ford said: "I am very much saddened by the death of my dear friend and former colleague, Charles Teague. American agriculture owes a great deal to him for his dedication to the best interests of the American farmer. His district, state and the nation have lost an outstanding legislator."

"Congressman Teague typified the best in American politics today," said Rep. Robert H. Michel of Illinois. "He was a dedicated, hard-working legislator whose prime interest was in what is best for the country. As ranking Republican member of the House Agriculture Committee, he also was the leading advocate of American agriculture in Congress. He will be sorely missed." Michel is chairman of the Republican Congressional Committee.

Rep. Teague has served on the Agricultural Committee for most of his tenure in Congress. While he was not noted for introducing major legislation, his efforts to maintain free as opposed to subsidized agriculture were considered very effective.

He also took a strong stand on aiding conservation and environmental programs and for a number of years was the ranking member on the Agricultural Committee's Conservation and Credit Subcommittee.

He was one of those responsible for bringing about an Interior Department ban on new oil drilling platforms in the Santa Barbara Channel in 1971. There had been heavily damaging oil gushing from a drilling platform there several years earlier.

Rep. Teague was a natural choice to serve on the Agricultural Committee. His family was among the founders of the Sunkist co-operative in California, and his father was a pioneer in that state's farm credit program.

Rep. Teague went to Stanford University, where he received his bachelor's degree in 1931 and his law degree three years later.

His practice of law was interrupted during World War II, when he served as a major in the Army Air Corps. He resumed the practice after the war and became involved in community affairs, serving as president of the Ventura County Community Chest, the Ventura Rotary Club and the Ojai Valley School Board of Trustees.

He was president of the Ventura County Republican Assembly when he decided to run for Congress in 1954. He was re-elected to the nine succeeding Congresses and had planned to run again this year.

Rep. Teague had a gentle sense of humor. He once noted that there seemed to be a conflict in the labels applied to him in letters from some of his constituents.

"When the conservatives consider me a liberal and the liberals figure me for a conservative, I must be in trouble," he lamented.

On another occasion, he disowned one of his own bills on the floor of the House. A great pet lover, he had introduced a bill to eliminate tariffs on the importation of wild animals.

He was so proud of the bill that he had asked that it be referred to as the Teague Bill. But by the time it got through the Senate, it had come out as a bill to limit beef imports from Australia and New Zealand. The changes brought this speech from Rep. Teague:

"I was proud to have been the father of such a clean, beautiful little fellow . . . He was prepared to do great things for boa constrictors and gorillas and their owners.

"But, in the course of events, my little baby was sent to the Senate pediatric hospital . . . All that remained of him was the identification number on his poor little wrist.

"Mr. Speaker, I must disclaim fatherhood of (H.R.) 1839 as he is before us today. I am willing to contribute to his support, but he is not mine—my blood no longer flows in his veins.

"I repeat, Mr. Speaker, 'This child ain't mine.' "

Rep. Teague also found humor in another situation. For some time, he and Rep. Olin E. Teague (D-Texas) shared seats on the Veterans Affairs Committee.

The resulting confusion from pronouncements frequently credited to the wrong Teague were usually followed by retractions, which in turn were followed by a good laugh.

There was no confusion in the work both did toward helping veterans.

Among other things, Rep. Charles Teague had worked hard to improve housing rights for veterans.

Rep. Teague's first wife, Marjorie, died in 1970. He remarried that year but was separated from his second wife, Courtney, at the time of his death.

In addition to his son, Rep. Teague also is survived by two daughters, Norma Potter, of Washington, and Judith Kenyon, of Santa Rosa, Calif., and eight grandchildren.

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## RARICK REPORTS TO HIS PEOPLE: FORESTRY IN GERMANY

### HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. RARICK. Mr. Speaker, I recently discussed the problems of forestry with German forest expert Mr. Jost Wilke, forestry counselor for the Republic of Germany, in a televised interview for my constituents. I include the text of that interview:

#### Television Interview

Congressman **Rarick**: Public attention is being focused on the nation's forests today probably more than at any time in the recent past. One of the primary reasons for all this attention after years of neglect, is that our country is running out of timber to satisfy our increased demands. In order to fully understand the forestry situation in this country, it's helpful to gain a perspective by studying the way other countries' forests are managed.

I've been to Germany on several occasions and I've always been highly impressed by their beautiful, well managed and highly productive forests. We in this country can learn a great deal from foresters in the Federal Republic of Germany. With me on the show today is the Forestry Counsel for the Embassy of Germany in the United States, Mr. Jost Wilke. Mr. Wilke, it's indeed a pleasure to have you with us on our show today. And as I understand it, forestry is an important part of the economy of Germany. Would you give us some idea of the scope of forestry in your country?

Mr. **Wilke**. First, Congressman Rarick, let me thank you for your kind invitation. It's of course a pleasure to be with you and to discuss some problems of forestry in which you are interested. You are absolutely right; forestry plays an important role in the economy of my country. This is due to historical reasons. Four or even five hundred years ago we were already forced to manage forestry in an intensive way. Today forests cover nearly 30 percent of all the acreage of my country; the agricultural part is 55 percent, towns, industrial areas, roads and traffic installations such as ports, harbors, airports, etc. cover another 10 percent. Only very small areas are waste lands, idle, or uncultivated rurals.

Mr. **Rarick**. Well, we in the U.S. Congress just recently passed a Forest Incentive Program whereby we are hoping to encourage our private land owners to plant their idle acreages in trees. Germany, as I understand it, has been active in forest incentive for many years. How do your forest incentive and conservation programs work together?

Mr. **Wilke**. Let me first mention, Congressman Rarick, Germany is usually considered, even by Germans, as a typical country with a high percentage of state-owned or public-owned forests. This is not absolutely true, because more than 44 percent of all forests are privately owned. There's one big difference between the United States and Germany, that is, we do not have any industry-owned forests. So we have nearly 900,000 small private woodlot owners. And in these years where the importance of agricultural production is decreasing, farmers give up marginal lands close to forests and in the mountainous areas. All these, or mostly all of these areas are reforested and cultivated. And the government gives these people a subsidy up to one-third of their own cost to reforest or to build up a forest stand on those places. We of course try to get the farmers or the private wood owners to produce mixed stands which are more stable, which offer more recreational possibilities for the people in future years, and which are better habitats for the wildlife.

Mr. **Rarick**. I see. In other words, in Germany, you have the multiple use of your forests also.

Mr. **Wilke**. Yes. We do not call it "multiple use", but is exactly the same system.

Mr. **Rarick**. Mr. Wilke, I noticed during my trips to Germany that the people seem to make great use of your forests for recreational purposes. What specific programs does your government encourage, as far as using the forests in recreation?

Mr. **Wilke**. That is right. Germans are impassioned, dedicated hikers. Not all the forests are state-owned. We have another typical form of forestry proprietorship, namely villages, small towns, counties and even schools or churches own forests. They all try to provide the necessary trails for hiking and also for bicycling, not to forget horseback riding in the forests and playgrounds for children. But it is not allowed, or let me put it this way, not everybody is allowed, for instance, to hunt or fish in the forests. There is a quite different system. And the reason for this is probably that we are, compared to the United States, densely overpopulated. I know a little about your state, lovely Louisiana, called "sportsmen's paradise". And that is really true. We couldn't afford to have such a liberal system of hunting because thousands of people would be in a very small space; so hunting is strictly regulated and is related to an area system. Only a small number of people is allowed to hunt on a given area. The hunt has to be of a minimum size, and there are leasing contracts for those hunting rights with a minimum of nine years for those areas where small game is given and twelve years where stags, wild boar, etc. are present.

Mr. **Rarick**. In our country there has developed a division of opinion between various groups of forest managers, who favor the concept of a managed forest with increased production, and environmentalists, who support a wilderness forest where nature would take its course. What has been the experiences in your country between the managed forest and the wilderness concept?

Mr. **Wilke**. First, Congressman Rarick, I would like to mention that in Germany there are less than one or two percent virgin forests. That means that the abundance of German forests is all man-made, in a certain way. And during a long experience of not only decades, but hundreds of years, we came to the conclusion, and that is the official opinion as well as my own, that the best way to produce and to provide a variety of recreational purposes is a rather well, and high-yield managed forest. If you take several parts of the forests out of this intensive management and try to bring it back to a kind of wilderness, the wilderness is not optimal, neither in the ecological nor in the recreational sense, because in our opinion very, very few people would be able to feel happy in an absolute wilderness, that means no roads, no trails, no restaurants, no accessibility. This is not the ideal which most of our outdoor-loving people would like to have. And in these times where it is and becomes increasingly more difficult to get the necessary raw material out of forestry production, we couldn't afford to exclude and to put aside wilderness area.

Mr. Rarick. In other words, in Germany, you don't have the battle we have between the environmentalists and the timber management folks?

Mr. Wilke. That is true—not to the same extent as over here. But, of course, we do have environmentalist groups who try to attack our intensive way of forestry, especially clear-cutting. But even clear-cutting is an efficient way to renew a forest. And there are a few examples, for instance, if there has been a forest fire or if a stand is highly infected with disease, fungus disease or insect disease, or in the case of an avalanche in mountainous areas and a stand is destroyed or is broken by ice or snow or the like, there is no other way than clear-cutting to a limited extent. It is always the size of a clear-cut area that counts, not the measure itself.

Mr. Rarick. Mr. Wilke, training of forest professionals, as I understand it, began in Germany in the early part of the last century. Your country today is considered as one of the leading advocates of management training. Just how extensive is your training of young foresters?

Mr. Wilke. We have three different careers in the forest service. We can forget the third one because it is running out. In the future we will have two different careers, an academical, strictly academical career with university curriculum for the supervisory level, for the management level, for the ministries and so on. Ministries is the European expression for departments. After graduation from high school you have to do one year of a kind of apprenticeship, where you work in a forest as lumberman, as forest road builder, etc. And then you usually have to serve in the military (we still have the draft system, as you know) for at least a year and a quarter. After that you have to study for a minimum of four years. If you plan to get your doctor's degree, it will require another one or two years. This is not the end of it. You then have to pass a rather difficult examination, at the end of your university curriculum, and join the state forest system which is comparable to your forest service, even if you do not intend to join the state forest service in the future but rather the private forest system. This education in the state forest service, however, is mandatory and at the end of three more years you have to pass a very sophisticated examination in order to prove that you are able to combine your theoretical knowledge with the practical needs a forestry manager is required to have.

Mr. Rarick. Mr. Wilke, let me ask you one more question. In the United States we are losing more timber as a result of insect damage than we lose to forest fires. Do you have the same problem with DDT usage in Germany?

Mr. Wilke. Germany banned the use of DDT nearly two years ago. But there's one big exception, and that is forestry. Foresters cannot afford, in my opinion at least, to completely drop the use of DDT, and DDT has not proven, if carefully considered, to be dangerous to forests. We obey very strictly the regulations and directions for use, and unless we have sufficient other, non-poisonous chemicals to replace DDT or use methods like biologically fighting insects, which is absolutely possible with sophisticated methods. . . .

Mr. Rarick. Mr. Wilke, our time has expired, and I wish we could proceed further. Our guest today has been Mr. Jost Wilke, Forestry Counselor for the Republic of Germany in the United States. Thank you so much.

Mr. Wilke. Thank you.

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## DÉTENTE: A TRADE GIVEAWAY?

## HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. HUBER. Mr. Speaker, there is a misconception in the executive branch as well as among members of the news media that the only reason the Members of Congress are opposed to the President's trade bill is because of the restrictive immigration policies of the Soviet Union. This is but one of many important reasons in my view. Many of us are also concerned about giving away the technology of the United States to our potential enemies. This case was put in an excellent manner in an article that appeared in Business Week of January 12, 1974. Those who feel this trade is innocent and devoid of peril should read this article which follows:

### DÉTENTE: A TRADE GIVEAWAY?

The steadily increasing number of high-technology deals between U.S. companies and the Soviet Union is stirring up a serious policy dispute in Washington. In the past year or so, export restrictions on these transactions have been liberalized as détente has become the essence of U.S.-Soviet relations. But Defense Dept. and other officials now complain that the Soviets are acquiring—or are trying to acquire—U.S. technological knowhow that has important military applications under what are supposed to be commercial agreements. The areas involved in the recent sales range from computers and communications to shipbuilding and aircraft.

The latest affair to disturb the Pentagon critics: Soviet overtures to five U.S. areospace giants—McDonnell Douglas, Boeing, Lockheed, General Electric, and United Aircraft's Pratt & Whitney Div. The Russians have sounded out the companies on the purchase of DC–10, 747, and L–1011 aircraft and engines.

Next month, McDonnell Douglas marketing executives are scheduled to fly to Moscow for talks with Kremlin trade and aviation officials about the possible sale of the DC–10. Negotiations are still in the "feeler" stage and the Russians insist that their interest in wide-bodied jets has no military connotations. But the Pentagon is upset, not so much about potential aircraft sales, but over the package of U.S. aerospace technology that might be part of the deal.

### TECHNOLOGY GRAB?

What the Soviets really want to buy, apprehensive Pentagon spokesmen claim, is not planes but the knowledge that would allow them to build their own production facilities—complete with all the systems and quality control that are the hallmark of U.S. defense plants.

The Soviets already can produce big jets for commercial or military transport. But their manufacturing techniques, according to U.S. experts, are still too backward to permit them to produce them economically and efficiently enough for competition in world markets. Their possession of plants embodying U.S. technology would permit this. Moreover, it would enhance their production of military cargo planes, a type of aircraft that has been accorded considerably higher priority by both the U.S. and the Soviet Union as a result of the recent Mideast war.

The link between civilian and military production technologies is impossible to separate, Pentagon sources emphasize. Aircraft engines, computers, integrated circuitry, telecommunications equipment, navigation systems, and avionics are very similar in both military and civilian aircraft. Less obvious, perhaps, are the similarity in production instruments, tooling, and other manufacturing equipment.

But beyond the new potential in aircraft sales, Pentagon officials are agitated by the general relaxation of export controls. The U.S., for example, now is supplying the Soviets' Kama River truck complex with manufacturing equipment that was embargoed two years ago. The Pentagon, which never did wholly approve of U.S. participation in that project, notes that the technology and equipment required to mass-produce heavy-duty civilian vehicles is virtually the same as that needed for Army trucks.

### CLOSING THE GAPS

Malcolm R. Currie, Director of Defense Research and Engineering at the Pentagon, has launched a campaign warning U.S. industry about the dangers of selling the Russians production technology that is unique to U.S. companies. Currie, an applied physicist, who was a research vice-president for Beckman Instruments, Inc., before joining the Pentagon last spring, says he is "very concerned about exports in high technology areas which have both civilian and military application."

The Soviets have become increasingly aware, Currier claims, that their great deficiency is not in scientific knowledge but in production technology. Says he: "They apparently feel that they can neither close pivotal gaps in their military capability, nor gaps in their general economic growth—domestically and worldwide—until they acquire a manufacturing technology comparable to ours. The processing knowhow, the whole flow of work and equipment in manufacturing plants—that's the technology they're after."

Arguing that "U.S. national policy on technology exports needs to be clarified," Currie is lobbying hard both in the defense industry and other government circles. He has the wholehearted support of Defense Secretary James R. Schlesinger and of Deputy Defense Secretary William P. Clements Jr., both of whom continuously remind listeners of Soviet strides in military research and technology in recent years.

But while these Pentagon officials have a voice in government export licensing clearances, they know they do not exercise control. That control rests with the National Security Council, which gets recommendations on sensitive export licensing clearances from the State Dept., White House Council on International Economic Policy, and the Commerce Dept.'s Bureau of East-West Trade, which was created to promote U.S. sales to Russia and other Warsaw Pact nations.

Defense industry sources say they never make a move in dealing with the Soviets without first checking with the government. "No U.S. company," says a Boeing spokesman, "would ever make any firm commitment to the Soviets without first receiving concrete government authority for it. And the Russians know that this is the case."

Did the Soviets ask Boeing, for one, for information on how to improve plant manufacturing techniques for wide-bodied jet aircraft? "Yes, they brought it up," says the Boeing official. "We just listened."

The key question in all this, according to the director of a Senate committee staff that deals with East-West trade, is "just who is the U.S. government?" There is, he says, "no national policy, and we've all got the feeling, like Currie, that this all needs a very hard look. The list of things that can't be exported to the Soviets is not sufficiently discrete. It's got more exemptions than restrictions. We're moving toward becoming wholly unrestrained in our technology exports. You can't blame the companies; it's not their job to worry about national security."

### WHAT IS SECURITY?

Steven Lazarus, director of the Bureau of East-West trade, acknowledges that there have been conflicts between his agency and the Pentagon on questions of technology export clearance. He agrees that a potential adversary's "possession of technological know-how is often of greater strategic significance than finished items produced from that technology." Consequently, says Lazarus, "it has been necessary to exercise a more restrictive control over transfers of technical data than commodities."

He also acknowledges "what I call the 'dread of cumulative effect'—while no one sale or negotiation between a U.S. company and the Soviets may pose a threat to security, the increasing volume and frequency of sales and talks could be harmful." Still, he insists the bureau is as sensitive to national security as it is to East-West commerce, and he sees "no evidence that security has been compromised."

The debate, however, clearly involves different definitions of security. The Pentagon, for example, feels that security considerations were downrated in one deal which the National Security Council has just cleared—a bid by a team of American computer companies to install in the Soviet Union an air traffic control system comparable to the system used by the Federal Aviation Administration.

IBM heads the team, which also includes Sperry Rand Corp.'s Univac Div., Texas Instruments, and Raytheon. The team is competing with Thomson-CSF of France for the Soviet award, which U.S. sources say could amount to $100-million or more, depending on the extent of the system the Soviets decide to buy.

In the government debate over clearing the system bid by the American team, the Defense Dept. argued that it would provide the Soviets with the technology they need to build the computerized military air traffic control system they now lack.

To aggravate the Pentagon's fears, the White House Council on International Economic Policy is winding up a study of computer exports to the Soviet Union which, according to one high source, "will ease our stance, make it less restrictive." Pentagon experts who participated in the study reportedly argued for a tougher computer export policy, but lost the debate.

The national security debate is complicated by considerations of commercial advantage. "The companies don't have any precedent," says a White House source. "They head détente, and they deal, but they wonder. Individual companies are dealing with ministers of state who trained on the wheat deal. They really know how to do that; they're good at it."

"I would urge our companies and our government to be wary of some of the commercial gain and balance-of-payments advantages," says the Pentagon's Currie, trying to put the damper on strategic exports to the Soviet Union. "In my personal opinion, the market may be significantly less than advertised, the difficulties of doing business may be extensive, and the ability to pay may be questionable." What the Russians want from us, is the whole damn plant," says one aerospace industry source who shares the Pentagon's concern. "As an industry, we've never done that, and we had better be very, very careful."

### WHO IS DEALING WITH THE SOVIET UNION

| Company | and area of cooperation |
|---|---|
| Bechtel | Construction methods, planning. |
| Boeing | Civil aviation, air transport technology. |
| Brown & Root | Oil and gas development. |
| Control Data | Computers, peripheral equipment, systems design, software. |
| Dresser Industries | Oil and gas exploration. |
| General Dynamics | Shipbuilding, aircraft construction, telecommunications, computers. |
| General Electric | Power and electrical engineering, atomic power plants. |
| Hewlett-Packard | Medical electronics, measuring equipment, minicomputers. |
| ITT | Communications technology, electronic components. |
| Joy Mfg. | Coal mining equipment. |
| Litton Industries | (Not available). |
| Monsanto | (Not available). |
| Occidental Petroleum | Oil and gas drilling, refining, agricultural chemicals. |
| Singer | Computers, electronic instruments, textile equipment. |
| Stanford Research Institute | General science and technology. |
| Tenneco | (Not available). |
| Texas Eastern Transmission | (Not available). |

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## JOHN P. BURCH

## HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. BELL. Mr. Speaker, on Thursday, January 31, 1974, in Castagnola's Plush Horse Restaurant in Redondo Beach, John P. Burch, Redondo Beach bank executive and South Bay civic leader, will be honored at a combined retirement-recognition banquet sponsored by the Redondo Beach Chamber of Commerce.

Burch, vice president and manager of the South Bay office of the Crocker National Bank, was named Redondo Beach's "man of the year" in 1964. He is a charter member and past president of the Riviera Village Rotary Club and has served as president of the Redondo Beach Chamber of Commerce, Redondo Beach Coordinating Council, Riviera Village Merchants and Professional Association, and Redondo Beach Sister City Committee.

He has served as a director or officer of the Palos Verdes Navy League, Community Chest, South Bay YMCA, Southwest Optimist Club, Palos Verdes Chamber of Commerce, Redondo Beach Round Table, Palos Verdes Breakfast Club, American Red Cross and the Sales and Marketing Executives Association of Los Angeles. He received the salesman's distinguished award from the latter group in 1970.

Burch was born on August 6, 1909, in Iola, Allen County, Kans. He attended San Jose (Calif.) High School and was graduated from Los Angeles Manual Arts High School. He also graduated from the Pacific Coast Banking School at the University of Washington and the American Institute of Banking.

On his retirement date, January 31, 1974, Burch will have served the same bank for 46 years, 7 months—24 years as a branch manager. He is one of the most admired men in our community and one of our most able leaders.

For these reasons, Mr. Speaker, it is with special pleasure that I call attention to the honor which is being paid to Mr. Burch on January 31. It is a tribute which reflects the regard and respect of everyone who is privileged to know him.

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## ARMADO DE LEON—A JOB WELL DONE

## HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. UDALL. Mr. Speaker, in November of 1973, the job opportunities for Mexican-Americans in the city of Phoenix were significantly increased, thanks to the efforts of a Phoenix city councilman, Armando De Leon. A longtime champion of the Chicano cause, Councilman De Leon pushed for the reduction of height requirements in city employment. His arduous campaign was rewarded when Phoenix announced lower height regulations for all personnel, including those of the fire and police departments. This change was vitally necessary. By creating opportunities for a greater number of Mexican-Americans, the city has moved toward a hiring practice which will involve more people of all minorities.

This broadening of city employment policies to include more minorities is but one of many accomplishments of Armando De Leon. As a past member of the Human Relations Commission, the Housing Code Advisory Committee, and the National Conference of Christians and Jews, Mr. De Leon has had an influential voice in local affairs. His effectiveness in aiding minority groups was increased with his election to the Phoenix City Council 4 years ago. Using his legal background, he was able to benefit another minority group when he represented the National Indian Reservation.

This Phoenix councilman has been a strong advocate for greater Mexican-American rights. In his capacity as legal counselor for the National Council of La Raza, Armando has been working to improve the quality of life for the 7 million people of Mexican descent.

His experience working with Spanish-speaking people expanded while he was a special legal liaison officer for the Department of Defense in Spain. There he worked with city officials in Madrid and key personnel in the Spanish Foreign Office. Since then, Mr. De Leon has continued his international work through Mexican attorney associates. During his practice he has helped many clients with legal problems in Mexico. To improve relations with Mexican lawyers, Mr. De Leon and several Arizona lawyers planned and directed seminars on Mexican law in both Arizona and Mexico. During sessions of the International

American Bar Association in Venezuela and Ecuador, he had further opportunities to work with other lawyers in Latin America.

Mr. De Leon's international and community activities deserve special commendation. All of these activities have led toward an increase in opportunities for members of several minority groups, especially those of Mexican Americans. Armando De Leon's latest achievement, that of opening more Phoenix city jobs to Chicanos, is another measure of his contribution to improving city life for these people.

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## UKRAINIAN INDEPENDENCE DAY

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. RANGEL. Mr. Speaker, I join with millions of Ukrainian citizens throughout the world today in marking January 22 as Ukrainian Independence Day. On January 22, 1918, in the city of Kiev, the Eastern European nation of Ukraine issued its proclamation of independence from the Soviet Union. I would like now to submit a short statement prepared by the United American Ukrainian Organizations Committee of New York for the attention of my colleagues. It carefully and concisely considers the history of Ukraine:

January 22, 1974, will mark the 56th Anniversary of the proclamation of Ukraine's Independence, and the 55th Anniversary of the Act of Union, both of which took place in Kiev on January 22, 1918, and January 22, 1919, respectively. By these acts a Ukrainian independent state was officially established on all the ethnographical Ukrainian territories.

The young Ukrainian democratic republic was short-lived as Communist Russia attacked it almost immediately, despite the fact that the new Soviet Russian government had officially recognized Ukraine as an independent and sovereign state. The same recognition to Ukraine was granted by the Central Powers, and a number of the countries of the Entente, including Great Britain and France.

After almost four years of continuous invasions and fighting, Ukraine, alone and unaided, succumbed to the numerically superior military forces of Communist Russia, which eventually destroyed the Ukrainian National Republic, created a Communist puppet government in Ukraine known as the "Ukrainian Soviet Socialist Republic," and incorporated it in 1922 into the "Union of Soviet Socialist Republics" (USSR).

The whole history of Soviet Russian-dominated Ukraine is a ghastly record in inhumanity, outright persecution and genocide, Russification and violation of human rights. Under Stalin Ukraine was marked for physical extinction; under Khruchchev, and now under Brezhnev-Kosygin outright terror has been replaced by the subtle process of destroying the Ukrainian national consciousness and identity through Russification, mass arrests and illegal trials and by other oppressive methods.

In the course of its rule over captive Ukraine, Communist Russia destroyed millions of Ukrainians through man-made famines, and forced deportations; it abolished the Ukrainian Autocephalic Orthodox Church; it subordinated all aspects of Ukrainian life to the rigid control of Moscow, including Ukrainian economy, education, the press, the arts and literature, trade unions, and so forth.

For the past several years the Kremlin has engaged in a series of arrests, trials and convictions of hundreds of young Ukrainian intellectuals—poets, writers, literary critics, playwrights, professors, students and others—charging them with "anti-Soviet propaganda and agitation." Yet, in the United Nations, Ukraine is a full-fledged member, and the Kremlin makes much of this fact in its massive propaganda drives throughout the world.

The fact is that today Ukraine, with its 48 million people, is more than ever a colony of Communist Russia; it is a land of inhuman persecution and economic exploitation.

Many a Western statesman may be lulled into a sense of false security by the spurious *detente;* but there is no *detente* in the relentless persecution of the Ukrainian people by Communist Russia.

Only outside Ukraine can Ukrainians and their descendents scattered throughout the world speak of the freedom and independence of Ukraine.

Wherever the basic rights of humanity are abused, men of good will must protest. That is why I bring Ukrainian Independence Day to public attention. By appropriately marking this day, we add our voices to those who protest Russia's treatment of Ukraine and the Ukrainian people.

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## UKRAINE ANNIVERSARY

### HON. CARLETON J. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. KING. Mr. Speaker, it is a great pleasure for me to join with the many thousands of Americans throughout this Nation in commemorating the 55th anniversary of the proclamation of the Ukranian National Republic, January 22, 1918, was a day which marked the culmination of century-old dreams of national independence from the Soviet Union. On that occasion, in the city of Kiev, the Ukranian National Republic was born.

The Ukranian people proved themselves to be dedicated and heroic patriots who were able to realize their cherished goals of individual freedom and national liberation from the autocracy of Soviet Russia. Today the 47 million ethnic Ukranians form the largest of the captive nations subject to the control of an unrelenting Communist regime in Moscow. They still hold within their hearts the memories of a glorious history of continual struggle for self-determination.

We Americans must be reminded of our struggles for those same rights which are inalienable to people all over the free world. We share this dream with the people of the Ukraine. Let us pledge to work faithfully for the ideals of the men and women who fought so hard and won a free Ukraine.

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## SOLZHENITSYN AND OPERATION KEELHAUL

### HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. ASHBROOK. Mr. Speaker, over the years I have tried repeatedly to obtain information from our Government concerning Operation Keelhaul. This operation resulted in forcible repatriation of millions of anti-Communist Russians. Execution or imprisonment at the hands of the Soviet Government awaited those who were repatriated.

Why is so little known about this event? Even though over 25 years have passed, the Defense and State Department files on Operation Keelhaul are still classified. In his book, "The Gulag Archipelago", however, Alexander Solzhenitsyn writes about the tragic fate of those who were repatriated. I find it ironic that American citizens will learn about this event in Solzhenitsyn's book rather than from our own Government.

The following article on "The Gulag Archipelago" and Operation Keelhaul appeared in the January 16 edition of the Washington Star-News:

#### REMEMBERING "KEELHAUL"

Russian Nobel Prize-winner Aleksandr I. Solzhenitsyn's new book smuggled out to the West, "The Gulag Archipelago, 1918–1956," is a stinging indictment of the tyranny which is the foundation of the Soviet Union.

But Solzhenitsyn hurls at least one dart that ought to prick the conscience of the West when he recalls how Roosevelt and Churchill condemned literally millions of anti-Communist Russians and Eastern Europeans to execution or imprisonment by agreeing at Yalta to their forcible repatriation.

Not one American in 100,000 has heard of Operation Keelhaul, for the very good reason that the Defense and State Department files on it are still classified top secret. Nor are more aware of its infamous successor, the United Nations Relief and Rehabilitation Agency's Operation Carrot.

Yet it has been estimated that between 6 million and 7 million members of the anti-Communist Russian Liberation Army (who fought on the side of the Germans), POWs and civilians—including women and children—were forcibly repatriated under "Keelhaul" and "Carrot" to the Soviet Union between 1945 and 1947. Some were White Russians who had fled from the Soviet Union a quarter of a century before.

Solzhenitsyn asserts that not a single former POW—let alone members of the Russian Liberation Army, many of whom were executed—returned to his country a free man. Without exception, they were shipped directly from Hitler's concentration camps to no less horrible slave-labor camps of Siberia. There, according to Solzhenitsyn, most of them perished.

In 1945, there were, according to Berlin's figures, nearly 700,000 Russians serving with the German armed forces, most of them on the Eastern Front, since the Russians were interested in the liberation of their country, not in fighting the Western democracies. Their commander was Lt. Gen. Andrei A. Vlasov, a brilliant Soviet officer and one of the heroes of the battle of Moscow, where he was captured in 1942.

In April of 1945, the 45-year-old Vlasov led his three divisions through Bavaria toward

Prague, with the notion of holding Bohemia against the Soviets with the assistance of anti-Communist Czechs until a surrender to the Americans could be arranged. It was also hoped that 30,000 anti-Communist Cossacks retreating from Yugoslavia could effect a juncture in the Bohemian basin with Vlasov's men.

At Pilsen, Vlasov reached the American lines. According to his biographer, Sven Steenberg, Vlasov received no guarantees from the Americans, although his troops laid down their arms and considered themselves to be interned under U.S. protection.

With Russian troops advancing from the East, Vlasov was informed that permission for his troops to pass through the American lines had been refused. This left him no alternative other than to order his unarmed men to save themselves as best they could. Some 10,000 were captured or executed by the Russians. Half of those who slipped through the American lines were forcibly repatriated to the Soviet Union. Vlasov himself was taken from an American escort by Soviet troops, spirited to Moscow and executed.

The British behaved no more honorably. Despite guarantees to the contrary, more than 30,000 Cossacks, including women, and children, led by the 76-year-old Gen. P. N. Krasnov, who had left the Soviet Union in 1920, were disarmed and forcibly turned over to the Red Army. Many committed suicide rather than be repatriated. Krasnov and 36 other generals were executed.

A certain amount of what happened can be laid to the confusion of the moment. But forcible repatriation of anti-Soviet Russians under UNRRA's auspices continued into 1947, more than a year after the fighting had ended. This "indelible stain on the honor of the West" (as the American historian George Fischer has termed it) can only have been a consequence of the desire to please Stalin at any price.

Solzhenitsyn perhaps is being charitable when he attributes this crime against humanity to the "systematic shortsightedness and stupidity" of Roosevelt and Churchill. Perhaps they—and Gen. Dwight D. Eisenhower, who enforced Operation Keelhaul with no apparent pangs of conscience—understood but simply did not care.

## CHARLES M. TEAGUE, 1909–74

## HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. HELSTOSKI. Mr. Speaker, it was with great sadness that I learned of the death of my friend and colleague, Charles M. Teague. Congressman Teague died New Year's Day in Santa Paula, Calif., at the age of 64. Widely respected by his friends, he was also admired by his adversaries for his diligence, forthrightness, sense of humor, and integrity.

Charles Teague leaves an inspiring record of service—he was the senior Republican member of the House Veterans' Affairs Committee, in addition to being the ranking Republican on the Agriculture Committee. As a member of the Veterans' Committee, I consider myself fortunate to have had the opportunity to work closely with Mr. Teague.

Congressman Teague will be remembered for his good judgment, conscientiousness, honesty, and dedication to pursuing what he believed was best for his country. Having come from a family active in California agriculture, Congressman Teague provided the Agriculture Committee with a great deal of valuable insight during his tenure in Congress.

Mr. Speaker, I feel privileged to have known Mr. Teague and to have had the opportunity to work with him. I extend my deepest sympathy to his family, and to the people of the 13th District of California. We all have lost a good friend.

In addition, I would like to share an article with my colleagues concerning Congressman Teague which appeared January 2 in the Washington Post. The article affords us additional insight into some of the highlights of Mr. Teague's career.

The article follows:

[From the Washington Post, Jan. 2, 1974]

### REPRESENTATIVE CHARLES M. TEAGUE DIES

(By Jean R. Hailey)

Rep. Charles M. Teague (R-Calif.), a member of Congress since 1954, died yesterday in Santa Paula at 64.

Aides said he suffered a heart attack while staying at the home of his son, Alan, who is mayor of Santa Paula.

The congressman, who was the ranking Republican on the House Agricultural Committee and the senior Republican member of the Veterans Affairs Committee, had gone home for the holidays.

Santa Paula, where he was born and reared, is in the 13th District, which he represented in Congress.

The unexpected death of the quiet but highly respected congressman brought immediate statements from top-ranking Republicans.

President Nixon said:

"The death of Charles Teague represents a significant loss to the United States Congress, to his home state of California and to the nation he served so long and so well. He will be remembered most especially for his interest in American agriculture and for his many years of devoted service on the House Agriculture Committee. Mrs. Nixon and I were deeply saddened to hear of his passing and we extend our sincere sympathy to his family."

Vice President Gerald R. Ford said: "I am very much saddened by the death of my dear friend and former colleague, Charles Teague. American agriculture owes a great deal to him for his dedication to the best interests of the American farmer. His district, state and the nation have lost an outstanding legislator."

"Congressman Teague typified the best in American politics today," said Rep. Robert H. Michel of Illinois. "He was a dedicated, hardworking legislator whose prime interest was in what is best for the country. As ranking Republican member of the House Agriculture Committee, he also was the leading advocate of American agriculture in Congress. He will be sorely missed." Michel is chairman of the Republican Congressional Committee.

Rep. Teague has served on the Agricultural Committee for most of his tenure in Congress. While he was not noted for introducing major legislation, his efforts to maintain free as opposed to subsidized agriculture were considered very effective.

He also took a strong stand on aiding conservation and environmental programs and for a number of years was the ranking member on the Agricultural Committee's Conservation and Credit Subcommittee.

He was one of those responsible for bringing about an Interior Department ban on new oil drilling platforms in the Santa Barbara Channel in 1971. There had been heavily damaging oil gushing from a drilling platform there several years earlier.

Rep. Teague was a natural choice to serve on the Agricultural Committee. His family was among the founders of the Sunkist cooperative in California, and his father was a pioneer in that state's farm credit program.

Rep. Teague went to Stanford University, where he received his bachelor's degree in 1931 and his law degree three years later.

His practice of law was interrupted during World War II, when he served as a major in the Army Air Corps. He resumed the practice after the war and became involved in community affairs, serving as president of the Ventura County Community Chest, the Ventura Rotary Club and the Ojai Valley School Board of Trustees.

He was president of the Ventura County Republican Assembly when he decided to run for Congress in 1954. He was re-elected to the nine succeeding Congresses and had planned to run again this year.

Rep. Teague had a gentle sense of humor. He once noted that there seemed to be a conflict in the labels applied to him in letters from some of his constituents.

"When the conservatives consider me a liberal and the liberals figure me for a conservative, I must be in trouble," he lamented.

On another occasion, he disowned one of his own bills on the floor of the House. A great pet lover, he had introduced a bill to eliminate tariffs on the importation of wild animals.

He was so proud of the bill that he had asked that it be referred to as the Teague Bill. But by the time it got through the Senate, it had come out as a bill to limit beef imports from Australia and New Zealand. The changes brought this speech from Rep. Teague:

"I was proud to have been the father of such a clean, beautiful little fellow . . . He was prepared to do great things for boa constrictors and gorillas and their owners.

"But, in the course of events, my little baby was sent to the Senate pediatric hospital . . . All that remained of him was the identification number on his poor little wrist.

"Mr. Speaker, I must disclaim fatherhood of (H.R.) 1839 as he is before us today. I am willing to contribute to his support, but he is not mine—my blood no longer flows in his veins.

"I repeat, Mr. Speaker, 'This child ain't mine.' "

Rep. Teague also found humor in another situation. For some time, he and Rep. Olin E. Teague (D-Texas) shared seats on the Veterans Affairs Committee.

The resulting confusion from pronouncements frequently credited to the wrong Teague were usually followed by retractions, which in turn were followed by a good laugh.

There was no confusion in the work both did toward helping veterans.

Among other things, Rep. Charles Teague had worked hard to improve housing rights for veterans.

Rep. Teague's first wife, Marjorie, died in 1970. He remarried that year, but was separated from his second wife, Courtney, at the time of his death.

In addition to his son, Rep. Teague also is survived by two daughters, Norma Potter, of Washington, and Judith Kenyon, of Santa Rosa, Calif., and eight grandchildren.

## UKRAINE ANNIVERSARIES

## HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. SMITH of New York. Mr. Speaker, I would like to join those who today are remembering the 56th anniversary of the proclamation of Ukraine's independence and the 55th anniversary of the

Ukraine's Act of Union. The people of the Ukraine did not have much opportunity to enjoy their freedom before they were incorporated into the Union of Soviet Socialist Republics in 1922. However, the desire for freedom despite Russian occupation has claimed more than 11 million victims. We have achieved some success with support of human rights for Jews in Russia. Can we not extend our scope to include concern and support for other captive peoples?

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## H.R. 8053—POSTCARD VOTER REGISTRATION

## HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. FRASER. Mr. Speaker, the postcard voter registration bill will be considered by the House soon. This is vital legislation. There are too many people in the United States who do not take part in elections because registration is too difficult. H.R. 8053 would supplement the existing registration machinery of the States.

In a letter, Peter Fosco, general president of the Laborers' International Union of North America, states:

> We believe one of the most critical problems facing political leaders is the sharp rise in public cynicism toward government. A survey conducted last November by the University of Michigan's Institute for Social Research showed that 66 percent of the public said they felt they could trust their government only "some of the time."
>
> This is a shocking statistic and, in a democracy, government cannot act effectively if citizens lack confidence in their public leaders. It therefore rests with Congress to help restore the people's faith in their political system. A good first step would be to increase voter participation in the democratic process.
>
> H.R. 8053 would supplement the existing registration machinery and add a new tool to registering voters. . . .

Minnesota used their new postcard registration and election day registration law in last fall's election. The following excerpts are from a letter from Arlen Erdahl, Minnesota secretary of state, whose office administered the new law. He says:

> As you well know, our Minnesota experience with the 1973 law is so far limited to local and municipal elections. About 700 municipalities had elections in November and December, and I feel the experience with the new law was quite satisfactory. . . .
>
> On the whole I felt the new postcard and universal registration law worked quite well. . . .
>
> Voter registration is now an easy process in Minnesota and should not restrict any eligible person from voting. . . .

This letter, from a secretary of state who has had experience with postcard registration, is a positive and powerful argument against the prognosis of secretaries of state who were polled last summer and stated the postcard registration would not work in their States.

The Federal law would not supplant existing registration machinery, it would supplement it. In a letter dated January 16, 1974. Leonard LaShomb, executive vice president of the Minnesota AFL–CIO, says:

> Labor is in full support of this legislation (H.R. 8053) as we feel it will supplement the post card registration we now have in Minnesota.

I agree.

We must make it easier to vote in the United States. I am convinced that the difficult registration procedures limit the turnout on election day. Among the world's democracies the United States has the worst record of voter participation in elections. This country is the only Western democracy that puts the burden of registering on the citizen instead of on the Government. We must remedy this situation.

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## FOURTH AFRICAN AMERICAN DIALOG CONFERENCE

## HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. STOKES. Mr. Speaker, the fourth annual African American Dialog Conference was held in Addis Ababa, Ethiopia, from December 3 through 7 of 1973. This conference is sponsored by the African American Institute, which is based in New York City. The participants in this very important conference consisted of representatives from both the United States and majority-ruled African countries.

The purpose of the dialog between participants centered around the importance of assistance from the United States to majority-ruled African countries in the areas of trade, economic development, and foreign investment.

It was a very important occasion for me, for not only was I a participant in the dialogs, but a chairman of the conference as well.

There were several significant speeches given by various representatives who participated in the conference. One very significant speech was tendered by Chief Gatsha Buthelezi, leader of the Zulu nation, which focused on the evils of the apartheid policy in South Africa. I deem it a privilege to share this magnificent speech with all my colleagues:

COMMENTS ON SOUTHERN AFRICAN ISSUES IN AFRICAN-AMERICAN RELATIONS, ADDIS ABABA, ETHIOPIA—DECEMBER 6, 1973—M. GATSHA BUTHELEZI

I consider it my first duty to thank the Directing Committee for the African-American Dialogues for extending the privilege to me to participate in this fourth Conference of their Dialogues series.

It is always beneficial to one to participate in any Dialogue where one learns from a divergence of opinions. This I think is the whole purpose of any dialogue. One does not come to a dialogue with the purpose of acquiring proselytes or to sell any particular line of thought. More is gained by an exchange of views in any dialogue.

For those of us who live in South Africa, it is a great privilege to come out to Black Africa, something that is not very easy and something which should be happening more often if we had our way. I consider it absolutely essential for Africa and America and the whole world for that matter, to appreciate the fact that although we live under a peculiar regime, such as the one in our country, that we have no option but to live in our country. This means that we just have to make the best of the situation in which we find ourselves. This might even mean living there and suffering the handicaps under which we live just as over 3 million Jews did in Germany before the last world war. We do not accept being chatels in the land of our birth. We have not even resigned ourselves to the state of powerlessness and voicelessness to which we have been reduced by the powerful in our land. The methods we use are dictated largely by the strength of the forces arrayed against us. Even our politics, might look to an outsider as lacking the vigor and force it should leave. It must be remembered that even in that situation politics is the art of the possible.

The rest of the world and even Africa sometimes fail to take cognisance of the fact that we are faced in South Africa with an indigenous white population. Most white South Africans are descendants of settlers who settled in South Africa more than three hundred years ago. They have become indigenous to South Africa as white and black Americans have become to the United States.

This makes no task more difficult because this white minority is powerful and probably has the most powerful army in Africa, the total amounts set aside by white South Africa for Defense for 1973/74 amount to R481,164,000. This figure represents 3.3% of the estimated gross national product as compared to 2.5% in the previous financial year. This is merely to mention one aspect of their power.

When the present regime formulated its Apartheid policy, there was no consultation with Blacks. This was not something peculiar to this Regime as is no other regime has ever done so since our conquest. Before the Nationalist Regime ascended to power, the United Party ruled in South Africa. They had a policy of segregation under which Africans had a Native Representative Council in Pretoria. For quite a long time great African patriots such as the Late Chief A. J. Lutuli, the late Dr. Z. K. Mathews to mention just two well-known names because members of the Native Representative Council. When they did participate they did not by so doing embrace the segregationist policies of the then—government of the Land. National Liberation Movements such as the now banned African National Congress decided to embark on a policy of non-collaboration. In other words, they asked their members not to continue to participate in these bodies set up under the segregationist policies. They then followed a more militant line I need not go through the history of these bodies as it is well known to all of you.

I mention this background to emphasize that Separate Development as Apartheid is now euphemistically known in South Africa, has been imposed on Blacks. No options are open to us, the number of banning orders under which various people have been placed is evidence of this. Homelands have been imposed on us but are now a fact. That does not mean that we are resigned to having a stake only in these impoverished underdeveloped old reserves which have now been romaniticised with the news name of "Homelands". We do not want to opt out of the economy of our country. At the same time it must be realised that our people live in these undeveloped areas and we are concerned about them as much as those of our people who are regarded as soujourners in the metropolitan areas of Scuth Africa.

Africans are the only racial group in South Africa that carry passes. We are in other words, debarred from seeking employment as freely as other racial groups do. Only through labour bureaux can Africans get registered as employment seekers. White South African has now irresponsibly made us responsible for millions of our people under the policies they pursue. In my case 4¼ million Zulus have been pushed on to my lap.We have no industries worth speaking about in the Homelands. Even the Prime Minister has more than once said to me that the former—High Commission Territories which are now independent countries in Southern Africa, and the Homelands, have nothing to sell but their labour. This hurts but it remains a true description of the extent to which we are kept both economically and politically powerless.

We appreciate the volume of sympathy to us that is directed from outside. This moral support means quite much for people like us stewing powerlessly in the Apartheid pot. We appreciate the motives even behind the various attempts to weakening the South African Regime economically. I, for instance, applaud the pressures that have been brought on American Corporations by people like Congressman Charles Diggs. I wish particularly to congratulate Mr. Diggs on his bill. At the same time it must be appreciated that those of us who are responsible for so many millions of people, however irresponsibly this has come about, have to provide for their existence from day to day.

We appreciate that the pressures by Americans. We also understand that the pressure for sanctions and withdrawal of investments are an ideological stand aimed at the Racist Regime in South Africa. However, by virtue of the fact that we are right in the situation, our approach has of necessity to be more pragmatic than doctrinaire. According to a leading Industrial Consultant, Dr. Lawrence McCrystal, given the current economic growth, there would be 728,000 unemployed Africans by the year 1975. Between 1973–77, 107,800 additional African workers will enter the labour force annually, 23,500 Coloured and Indian making a total of 131,300. The cost of training one worker is $1500 and it costs $3,865 to create jobs per worker. The total cost of placing a worker is $5,365. So that the annual cost of providing one job per annum will be: For Africans: $578,347,000. For Coloureds and Indians: $126,077,500 making a total of $704,424,500.

We came from Natal and 60,000 African workers mainly Zulus, went on strike this year as 70 per cent of African wages are uneconomic. Our workers are not members of Trade Unions. But we in Kwa Zulu publicly encourage our people in South Africa to establish Trade Unions and more than five have been founded. At a Summit meeting of Homelands' Leaders held at Umtata on the 8th of November, all Homelands' Leaders except the Chief Minister of Bophutatswana, Chief Mangope supported the stepping up of a campaign for the establishment of more and more trade unions amongst Africans. There is nothing in law forbidding Black Trade Unions. Under the Industrial Conciliation Act the definition of a worker excludes Africans, that is what has hampered the emergence of Black Trade Unions.

The South African Government has up to now refused to give us more land than was promised under the 1936 Native Land and Trust Act under the Hertzog Regime. In other words, no more land is being released by the South African Government to consolidate Homelands as countries. This was one of the main issues we discussed at our Summit Conference at Umtata and we intend approaching the Republican Government on these issues. Whilst people like myself have strong reservations about the philosophy of Apartheid, we feel that the Regime in South Africa must carry out their policy to its logical conclusions. This means providing countries within South Africa for the various African ethnic groups such as they have promised. We are at the same time aware of the fact that ethnic grouping is being used by the Racist Regime to divide us. That is why we have now committed ourselves to the idea of a Federal Union.

We think first of a Federal Union of Black States and we have said that we are not going to agree to any Federal formula which pushes us out into the cold by allowing whites to hoard the economy of South Africa for themselves.

We have said that if whites are so concerned about "being swamped" as they put it, we can work out a federal formula which will ensure that the economy of the Country benefits all the peoples of Southern Africa.

We do not pretend that this is the only formula for the solution of that complex situation. But it must be realized that whatever efforts are made towards resolving the problems of South Africa, from outside, have a highly appreciated but limited value.

In the final analysis, it is the Black people themselves within South Africa who will ultimately throw off the yoke of this racist oppression. This is not just wishful thinking on our part, but this has been the common pattern of liberation throughout the history of Man.

Whilst we try all the formulae at our disposal for our liberation, it must be remembered that our people have to live from day to day. At the same time we have to prepare our people for the time when we shall take full participation in decisionmaking in South Africa. This means uplifting ourselves as much as possible in the meantime. We feel that this is the aspect of assistance which the rest of Africa and the world seem to ignore. We would appreciate any assistance for this vital preparation for our future

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## MURDER BY HANDGUN—THE CASE FOR GUN CONTROL—NO. 262

## HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. HARRINGTON. Mr. Speaker, I wish to direct the attention of my colleagues to the article reprinted below from the January 18 Washington Post. It is, I think, obvious that this murder would not have occurred had Mr. Titlow's assailant been unable to obtain a gun. Once again, I must urge my colleagues to take prompt action to prevent these tragedies through stringent gun control laws.

There are two things that we must not forget. First, no matter what the intentions and capabilities of a person, it is much more difficult to kill someone without a gun. Great Britain, for example, had fewer than a hundred murders in all of last year.

Second, only Congress can do anything to stop this slaughter. The States cannot do it because their jurisdiction is too limited. The Executive and Judicial branches of the Federal Government cannot do it because it is not within their authority.

Only Congress can take effective action, and, as I have said before, if Congress refuses to act, the responsibility for this continuing tragedy must rest with us.

The article follows:

### WOMAN SOUGHT IN K STREET SLAYING

(By Judith Lace Mann)

Shortly before he was shot to death, Tuesday, Willard Titlow, 40, told colleagues at Congressional Quarterly, that he was worried about a secretary in his office who, for several weeks, had been following him when he left for lunch or at the end of the day.

Police said yesterday that the secretary, Paula J. Frendak, 27, has been charged on a warrant with homicide in the fatal shooting of Titlow, whose body was found shortly after lunch just inside the rear door of an office building at 1735 K Street NW, where Congressional Quarterly rents office space on the third floor.

Titlow, who sold the research service of the private government research organization, had been shot twice in the head, according to the D.C. medical examiner's office.

Police described Miss Frendak as being 5 feet, 8 inches tall, weighing 165 pounds. They said she is armed and considered dangerous to herself as well as others.

Colleagues and friends of Titlow's said Miss Frendak, a secretary in the sales section of Congressional Quarterly, sat directly across from Titlow's desk and took letters from him as well as other sales personnel, but that he had no personal relationship with her.

Judy Godsey, a secretary in the same office, described Titlow as "very outgoing, the type of person you could get to know very well and very fast. He was always kidding around." With Miss Frendak, however, "he was very businesslike. He didn't joke around with her like he does with everyone else," said Miss Godsey.

On one occasion when he accidentally touched Miss Frendak, she became annoyed, said Miss Godsey. "He was at the Christmas party and put his hand on her arm and said 'excuse me' as he was passing by, and she said, 'get your hand off,'" Miss Godsey recalled.

Miss Frendak joined the Congressional Quarterly on Dec. 3, according to managing editor Wayne Kelly. At first, said Miss Godsey, "her work used to be pretty good. They were very impressed the first couple of weeks. Then, it started going downhill."

About this same time, according to Kelly, Miss Frendak began following Titlow when he left the office for lunch or in the evenings to go home.

"Mostly it was just joining him (as he walked), although she did follow him at a distance some times," said Kelly.

"This happened frequently enough to disturb him and to disturb the supervisor here in the department.

"Willard had told a couple of friends at the office that he was concerned about her following him and that he was going to speak to her about it We don't know whether he ever did that," Kelly said.

Kelly said Miss Frendak was going to be "let go" this Friday "because of her behavior and our concern about it and because her general secretarial work was not satisfactory." She had not been told that she was going to be fired at the time of the shooting, Kelly said.

Police, in the lookout issued for Miss Frendak here and in her native New York state, said she was wearing an orange dress with white piping around the neck and cuffs, a knit sweater, dark blue suede coat, dark boots and a large pocketbook.

Miss Godsey said Miss Frendak had been wearing that same outfit "for about two weeks." She said Miss Frendak also began wearing a purple and white knit cap, into which she tucked her long dark hair, every day since Christmas.

Miss Godsey also said that Miss Frendak had a large pocketbook and "carried it all the time. If she poured a cup of coffee, she had it with her. The purse was never out of her sight. Not for one minute."

Miss Frendak, who was born in Skaneatells, N.Y., was graduated from the Syracuse University in December, 1967, according to resumes she provided her employers. She worked briefly as a clerk for a radio station in Charlottesville, Va., before coming to the Washington area.

Most of the next five years she lived at 1417 N St. NW, and held various secretarial and clerical positions. Several of her employers described her as quiet and introverted.

In 1969, she was enrolled in the philosophy department at Howard University, according to her resumes.

Miss Frendak worked on Tuesday, according to Kelly, and followed Titlow when he and a friend left the building for lunch. She did not follow them into the restaurant but was in the lobby of the building when they returned. Titlow went to his office, then left shortly before 2:30 to go out on business.

"When he got up to leave, she jumped up and followed him," said Kelly. "She said something about having an appointment, and never came back."

Titlow was born and raised in the Washington area, attended Bethesda-Chevy Chase High School and Montgomery Junior College. He served in the Army for two years, then received a degree in journalism and public relations from the University of Maryland. He had been with Congressional Quarterly about a year and a half.

He was separated from his wife Patricia, who is living in Sydney, Australia, and was living with his mother, Isabel W. Titlow, at 8802 Grant St., in Bethesda. He is also survived by a brother, Richard, who also lives in Bethesda.

## THE 1973 CONGRESS

### HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. HAMILTON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

#### THE 1973 CONGRESS

1973 was a good year for the U.S. Congress. The major concern of the Congress in 1973 was to reverse the long-standing flow of power toward the Presidency. When the Congress assembled in January of 1973, a defiant mood was apparent and its leaders were determined to reassert its constitutional powers. During the year the Congress suffered some losses and made some gains, but, on balance, it ended the year in a stronger position.

In foreign policy it scored two major successes: a first time ever cutoff of funds for a military operation in progress, by voting to end funds for bombing in Indo-China on August 15; and a 60-day limit on the length of time American troops could be committed to combat without Congressional support.

With the help of the federal courts, the Congress is apparently winning the struggle over the control of spending. The lower federal courts have consistently held that the President must carry out the laws enacted by the Congress, and that he does not have the power to impound money that the Congress has appropriated. The House has passed, and the Congress will undoubtedly give final approval next year to a bill to limit the President's power to impound appropriated funds and to give Congress better control over the federal budget.

Of course the Congress often failed, too, by not overriding vetoes and by adjourning with a long list of important and unfinished business. Campaign spending failed, and, in the closing days of the session, no agreement could be reached on emergency energy legislation. Other legislation facing members in the new session will be pensions, trade, tax revision, health insurance, housing, minimum wage, no-fault insurance and land use.

It is easy to put the Congress down for failure to complete actions on these tough issues, but that indictment may be overdrawn, especially if it is recalled that the issues raise terribly difficult problems and that the Congress will act on many of them in 1974.

The 1973 Congress did not achieve landmark legislation on most issues of domestic policy. No major housing, education or tax legislation was enacted, although a farm bill became law which replaced the existing system of rigid farm price supports with a "target price" plan, and major transportation measures were passed, including a highway bill and a railway bill to keep the trains running in the Northeast and Midwest.

Although the list of legislative accomplishments was not long, the Congress showed initiative with legislation to open the highway trust fund to mass transit, home rule for the District of Columbia, a comprehensive manpower program with public service employment, federal aid for emergency medical care and the creation of health maintenance organizations. Congressional reform made a breakthrough, too, with more open meetings of Congressional committees, a further dent in the seniority system, and the installation of an electronic voting system in the House which cut in half the time of a recorded vote.

This Congress also dealt reasonably well with the extraordinary problems of the Presidency. Despite some mistakes, the Senate Watergate Committee performed an important task of public education on the men and events of Watergate. A careful and responsible job was done on the confirmation of a new Vice President, and a beginning was made on a purposeful and professional inquiry into impeachment.

The energy crisis dominated the final days of the Congress. After passing significant energy legislation authorizing construction of the Alaska pipeline, providing for mandatory fuel allocations, approving a 55 mile-per-hour speed limit and daylight savings time, the House and the Senate were unable to agree on the provisions of an emergency energy bill. Three days before Christmas, with the two chambers bogged down over a windfall profits section aimed at the oil industry, and with nearly half the members already gone, the Congress adjourned and let the bill go over to 1974.

Whatever its faults, the first session of the 93rd Congress, which convened on January 3, 1973, and adjourned December 22, 1973, ran 354 days and was hard working. As the seventh longest Congress in history, it considered 17,528 bills, enacted about 200 laws, and took more recorded votes than any Congress in history. During the session the House cast 541 recorded votes, and the Senate 594. (The old records were 329 for the House and 532 for the Senate.)

## UKRAINIAN INDEPENDENCE

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. DERWINSKI. Mr. Speaker, today, January 22, commemorates the 56th anniversary of Ukrainian independence. Normally, Mr. FLOOD would conduct a special order recognizing this historic occasion. Due to the fact that this is the first week of the second session and a heavy legislative schedule awaits us, the special order will be held next Thursday, January 30.

## HOLY FAMILY COLLEGE CELEBRATES 20TH YEAR

### HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. EILBERG. Mr. Speaker, this year marks the 20th anniversary of Holy Family College in Philadelphia. This coed liberal arts college is planning to commemorate its founding by providing a series of complementary lectures to the public dealing with some of the problems facing families today.

Besides providing an outstanding scholastic curriculum, Holy Family College, through its various clubs and activities, has raised money and entertained many needy families and charitable organizations during its 20 years of existence.

Holy Family College is not an institution which hides behind its academic walls. In addition to the many charitable works performed by the faculty, staff, and students, the college makes its facilities available to many segments of the community.

I have used its meeting rooms and classrooms many times for seminars for the public on the vital issues of our day.

At this time I enter into the RECORD an article in a local newspaper, the Northeast Times, commemorating the 20th anniversary of Holy Family College.

The article follows:

#### HOLY FAMILY COLLEGE CELEBRATES 20TH YEAR

Nestled in the quiet setting of Torresdale, Holy Family College is preparing to celebrate its 20th anniversary. Originally chartered in 1954 as a liberal arts college for women, Holy Family is now a coed institution, with programs in elementary and secondary education, medical technology, nursing and business administration as well as the traditional liberal arts curricula.

Founded by the Sisters of the Holy Family of Nazareth, the college is located on a spacious and attractive tract of land bounded by Grant and Frankford Aves. The buildings of Nazareth Academy and Nazareth Grade School adjoin the College property.

Sister M. Lillian is the current president of the college; other administrative officers include Sister M. Immaculata. Academic Dean, Sister M. Praxede, Treasurer, Sister M. Patrice, Dean of Students, and Sister Mary Louise, the Registrar. Sister M. Kathryn directs the services of an adequate and comfortably furnished library.

Recent additions to the original campus have been made to provide for possible expansion in the future. The former Evans property, on the southeast corner of Frankford and Grant Aves., was purchased three years ago and at the present time it provides departmental office space for the faculty of the popular Department of Nursing. Some 20 acres, north of Stevenson Lane and including the former Green property, were purchased more recently from the Orleans Construction Co.

The Green family residence now houses the Mathematics Center, a community-oriented facility under the direction of Wanda Wieckowski of the Department of Education. This facility provides specialized tutorial assistance in the field of mathematics to local school children. At the same time, prospective teachers, students of the college, are trained in the important techniques of special instruction.

According to the Academic Dean, Sister M. Immaculata, establishment of the Mathematics Center was a natural follow-up to the previously established Reading Center. Opened in September 1968 the effectiveness of the Reading Center, which is directed by Sister M. de Lourdes, has been commended by representatives of the Pennsylvania Department of Education as well as by educators generally. The Center has even served as a model for similar installations at other institutions of higher learning. Substantial numbers of students, registering from public and private secondary and elementary schools in the area, have been assisted since the opening of this Reading Center.

Sister M. Patrice, Dean of Students, reports that the typical student at Holy Family is friendly, serious in purpose and, more than likely, holding a part-time job. Most of the students are residents of Philadelphia, many from the Northeast community. And, paralleling a national trend, more than half of the students attend on a part-time basis, pursuing various occupations in conjunction with their academic studies.

The pioneer class, which was graduated in 1958, numbered 19. During the intervening years enrollments have slowly but steadily increased and more than 1,150 baccalaureate degrees have been conferred by the college to date. Courses in business law, family law, real estate, ethnicity and pluralism, personnel management, and the psychology of the socially maladjusted-emotionally disturbed child are courses currently being offered in response to the needs and interests of the present student body.

A variety of courses, for personal enrichment as well as for professional and academic credit, are offered to all interested candidates. Day, evening and Saturday classes are scheduled throughout the year and a growing number of more mature adults as well as younger individuals in the community register each year. Holy Family remains the only fully accredited four year college in the immediate area.

### LECTURES FOR PUBLIC

One of the distinctive features of the college has been an emphasis on family spirit and the importance of inculcating values in all aspects of family life. Appropriately, the family has been chosen as the dominant and particular theme for the entire College community during this 20th anniversary year. Seminar and course themes, the Logos lectures and student sponsored activities will focus on this theme during the year. Moreover, a coordinating council, comprised of students, faculty and alumni of the college, has announced a commemorative lecture series to begin on Jan. 15. These lectures, open to the public without charge, will deal with some of the practical problems which confront families today: communication, morality, finances, mental and physical health, law, and preparation for the later years.

To encourage attendance at the lectures, students of the college have volunteered to provide supervision and recreational activities for the younger members of the family while parents attend the lectures. Further information concerning the lectures is available from the college.

The campus spirit at Holy Family reflects an enthusiasm generated by diverse interests and activities. For example, in addition to the scholastic interests, departmental clubs and other campus organizations pursue a variety of activities, science exhibits and demonstrations, glee club and dramatic performances, athletic events and charitable efforts form an integral part of the collegiate year. Among the beneficiaries, the Riverview Home for the Aged, the Philadelphia State Hospital, local orphanages and several needy families of the city have been entertained or otherwise assisted by campus groups.

Of the 49 full-time faculty members, 26 are religious. The full-time faculty is supplemented by a staff of part-time lecturers, 22 laymen and another 5 religious.

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## GEN. EDWARD I. CREED

## HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. STOKES. Mr. Speaker, during this session of Congress, Maj. Gen. Edward I. Creed, Commander of the U.S. Army Reserve Command, Columbus, Ohio, one of the largest in the Nation, is leaving his command.

General Creed entered the Army on March 18, 1941, and was commissioned from Officer Candidate School at the Aberdeen Proving Grounds, Md., in January 1942. His first assignment was to the Ordnance School at the Aberdeen Proving Grounds. In December 1942 he was assigned as section chief of the Ordnance Training Center at Santa Anita, Calif. He was transferred to the Alaskan Defense Command at Fort Richardson, Alaska, in April 1943 where he participated in the Attu and Kiska campaigns in the Aleutian Islands.

In August 1945 he was assigned as Assistat Chief of Staff, G2, with the 6th U.S. Army and participated in the Hollandia, Admiralty Island, Leyte, and Luzon operations. He was awarded the Bronze Star for Valor for his participation in the landings at Luzon in the Philippines; and the Bronze Arrowhead for participating in the amphibious landings on Attu, Kiska in the Aleutians and Leyte and Luzon in the Philippines. His many other decorations include the Purple Heart Medal; Asiatic Pacific Ribbon with five battle stars; American Defense Ribbon; Philippine Liberation Ribbon with three battle stars; six Overseas Bars; World War II Victory Medal; Army of Occupation Ribbon and Armed Forces Reserve Ribbon.

Following his return to civilian life, he entered the U.S. Army Reserve. His Reserve assignments have included assignment as commanding officer, 302d Ordnance Group, Cleveland, Ohio; chief of staff, 83d Infantry Division; deputy commander, 83d ARCOM. He assumed command of the 83d ARCOM in March 1970.

During General Creed's tenure of duty with the 83d U.S. Army Reserve Command, he has taken an active role in community service relations, mutual support programs, and military affiliated organizations. He consistently and tirelessly devoted his time and attention to the problems at hand and to the one goal of a better Reserve force. His inspiring example, exceptional capabilities and loyalty have earned him the esteem and admiration of subordinates and superiors alike. It is with fond memories and sad regrets that we bid goodby to General Creed as a group commander.

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## NIXON PURSUES DÉTENTE WHILE KREMLIN PURSUES MILITARY SUPERIORITY

## HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. ASHBROOK. Mr. Speaker, the Nixon administration, despite all indications to the contrary, seems to believe that U.S.-Soviet détente will bring about a friendlier and less militant Soviet Union. An article by Evans and Novak in the December 31 edition of the Washington Post, however, exposes the danger of this misconception.

At the same time that Nixon is talking about the supposed benefits of détente, the Soviet Union is pushing to achieve clear military superiority. The Soviets are now spending twice as much as the United States on military research and development, while the United States is spending twice as much as the Soviets on military pay. As Evans and Novak warn:

> If continued, those trends will enable the Soviet Union to pursue a highly bellicose foreign policy within 3 years.

The following is the complete text of the Evans and Novak article:

### THE KREMLIN'S FUTURE POWER

(By Rowland Evans and Robert Novak)

The muscular Soviet military posture during the Mideast war and disturbing trends in comparative U.S.-Soviet defense spending leads senior uniformed officers in the Pentagon to this alarming forecast: a Kremlin with clear military superiority will begin maximum world pressure as early as 1977.

U.S. intelligence analysis shows Moscow spending twice as much as Washington on military research and development and Washington spending twice as much as Moscow on military pay. If continued, those trends will enable the Soviet Union to pursue a highly bellicose foreign policy within three years. By this analysis, Soviet saber rattling during the Yom Kippur war is but a foretaste of what lies ahead.

Going beyond the usual Pentagon rationale for higher defense spending, this assessment represents deep-seated concern for the future by troubled senior officers. In particular, they believe the architect of detente, Secretary of State Henry A. Kissinger, overlooks the danger of declining United States strength in comparison with that of the Russians.

That decline is pointed up in the U.S. intelligence consensus regarding U.S.-Soviet defense spending. Research and development now accounts for 25 per cent of the Soviet defense budget, compared with 12 per cent for the United States.

Converting rubles into dollars, R & D figures for 1970 (the last available year) show $16 billion spent by Soviets against $7.4 billion by Americans, with the gap even wider today. Moscow's crash program in naval expansion is most dramatic. Ship construction now comprises 15 per cent of Soviet defense spending compared with 4 per cent for the United States.

In contrast, inexorable salary demands of the all-volunteer U.S. armed services mean that manpower alone costs the United States an outlandish 57 per cent of the defense budget, compared with 25 per cent for the Soviets. That ratio will get worse before it improves.

These deadly statistics convince high U.S. officers the all-volunteer concept must be replaced by a revived draft. The chairmen of the armed services committees in Congress, Sen. John F. Stennis of Mississippi and Rep. F. Edward Hébert of Louisiana, tend to agree. But they have privately informed the Pentagon that Congress would not adopt a new draft law earlier than 1977. And 1977, ominously, is the year U.S. officers see the Soviets achieving clear-cut conventional superiority.

The question remains: What will the Kremlin do with that superiority? The Pentagon has noted with interest a newsletter published by The Economist of London, describing bilateral meetings early in 1973 between Soviet officials and their Warsaw Pact allies. According to the newsletter:

"Essentially, the East Europeans were told that the Soviet Union aims in the next 12 to 15 years to devote all its resources (A) to pursuing detente with the west and (B) to building up its own strength, militarily and economically. At the end of this period—roughly in the middle or late 1980s—the total strength of the Soviet and East European bloc would have increased to such an extent that it would be able to gain the upper hand in its relationship with the West."

High U.S. officers confirm this account's accuracy but predict the "upper hand" stage will be closer to 1977 than 1987—a view shaped by recent events in the Eastern Mediterranean.

With the Soviets concentrating 93 vessels there against 60 for the United States, the Pentagon believes a clash would have resulted in American disaster. What, then, would the United States have done had there not been a diplomatic settlement? Replies one top officer: "We would have had to throw in our cards." In other words, an ignominious withdrawal of U.S. forces.

Kremlinologists outside the Pentagon always accuse the U.S. military of accepting the worst possible hypothesis of Soviet intentions, neglecting Moscow's desperate need for Western computer technology and fear of U.S.-China entente. Nevertheless, these experts now believe the Pentagon's fears should be taken more into account by Dr. Kissinger.

This view is held by a distinguished Kremlin-watcher, Prof. Zbigniew Brzezinski of Columbia University. Moscow, he said, during a Dec. 7 seminar at the Brookings Institution, continues to "seek a warfare capability to become assured of victory and to have an edge in crisis situations." Hence, the United States must *increase* defense spending to retain vanishing parity.

More important was this recommendation: As chief proponent of detente, Kissinger should participate more actively in drafting the defense budget. To that suggestion from the Columbia professor, the brass in the Pentagon whispers amen.

## GILMAN REPORTS POW-MIA STATUS

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. GILMAN. Mr. Speaker, I recently returned from a trip to Laos taken on behalf of those American men still missing as a result of our military involvement in Southeast Asia.

Today I reported to the National Security and Scientific Developments Subcommittee of the House Foreign Affairs Committee the findings of my trip to Laos.

I respectfully request permission to include this report in the Congressional Record so that my colleagues will have opportunity to give this matter appropriate consideration:

House of Representatives,
*Washington, D.C., January 22, 1974.*

Hon. Clement J. Zablocki,
*Chairman, National Security Policy Subcommittee, House Foreign Affairs Committee, Rayburn House Office Building, Washington, D.C.*

Dear Chairman Zablocki: I welcome this opportunity to formally report to the Subcommittee on National Security Policy and Scientific Developments the findings of my recent visit to Southeast Asia on behalf of those Americans still unaccounted for following our military involvement in that part of the world.

With recent reports that efforts at accounting for our missing men are at a standstill and with the growing frustration on the part of the families of these men, I felt compelled to visit Laos myself for an on-the-spot assessment of our situation there.

Prior to taking this trip, I sponsored legislation, H.J. Res. 716, calling for a Congressional field investigation into the status of our missing men. In October, 1973, I helped arrange a similar trip for a delegation of families of our missing men. Because of our legislative responsibilities, I was unable to accompany the families at the time of their trip. I was pleased, therefore, to have had this opportunity, during our recess, to take a first hand look in Southeast Asia at the conditions surrounding the search for missing American servicemen. Additionally, the State Department urged my visit, lending further impetus to my own interest.

Before reporting on the actual events of my investigation, permit me to take this opportunity to review the provisions of the agreement we signed almost a year ago today.

The Joint Communique signed in Paris on June 13, 1973, details the specific provisions relating to POW-MIA matters agreed to in Article 8 of the original treaty signed in January, 1973.

Section 8(e) states:

"In conformity with Article 8(b) of the Agreement, the parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains, and to take any such other measures as may be required to get information about those still considered missing in action."

To this date the North Vietnamese have failed to comply with these search agreements, and since fighting and military occupation particularly in the areas of Viet Nam, Cambodia and Laos has not fully subsided, members of the Four Party Joint Military Team have been unable to adequately investigate known crash sites.

During my visit to Laos I met and conferred with officials of the Pathet Lao, officers of the Hmong Guerrilla Army which opposed the Pathet Lao in Laos, officials of the North Vietnamese government, and members of the Joint Casualty Resolution Center.

In Vientiane I conferred with Pathet Lao Col. Soth Phetrasy, Co-chairman of the Joint Commission for Implementation of the Peace Agreement.

In reply to my appeal to expedite the search for our MIAs and to provide information concerning POWs in Laos, Col. Phetrasy stated that while his government would be willing to assist, any full scale search would have to await the formation of a coalition government in Laos so that the safety of the search teams would be guaranteed. He further indicated that he knew of no American prisoners being held in Laos with the exception of Emmet Kay, a civilian pilot.

I then conferred with Vu Thien, First Consul of the North Vietnamese Embassy in Vientiane who cited the failure of the South Vietnamese to abide by the conditions of the agreement concerning the release of political prisoners as the major stumbling block to our thwarted search efforts.

I then flew to Long Thien, the Laotian field headquarters for rescue of American pilots downed in North Vietnam. There I met with Major General Vang Pao, Commanding General of Military Region II, the region encompassing the embattled Plain of Jars area. General Vang Pao is commander of the Hmong guerrilla army which opposed the Pathet Lao in Laos.

General Vang Pao informed me that he had received reliable information that "8 to 10 young American pilots were being held by the North Vietnamese" for purposes of extracting technical information. He was unable to supply me with the names or conditions of these men, other than the information that they were younger pilots who had been flying in Southeast Asia.

Since learning of this information from General Vang Pao, and having been assured of his credence as a source, I have been acutely troubled as to how best to utilize this information. I hesitate to raise the hopes of the families of our missing men since we have no further substantiation of these reports at this time. Moreover, if these facts are corroborated the prospects of a repatriation are not encouraging. Recognizing, however, that these families have a right to this information, I have contacted Mr. Frank Sieverts of the State Department and Dr. Roger Shields of the Defense Department to further pursue and fully investigate this information. Both of these gentlemen have assured me that such an investigation is taking place.

Following my meeting with General Vang Pao, I traveled to the Nakhon Phanom Royal Thai Air Force Base in Thailand where officers of our rescue and search team reported on the current status of our search efforts.

I met our rescue crews who informed me that during their most recent investigation of a crash site in Viet Nam, their unarmed investigative team was fired upon in a premeditated ambush by the North Vietnamese. This abominable attack resulted in the death of an American military officer, Captain Reese, despite the fact that a two week notice of intention to investigate had been given to the North Vietnamese. Because the safety of the search teams cannot be guaranteed, the search effort has temporarily come to a halt.

Brigadier General J. R. Ulatoski, Commander of the Joint Casualty Resolution Center at Nakhom Phanom briefed me on the current results of their search efforts and provided me with the following information:

*Search Status Report*

| | |
|---|---|
| Crash sites | 1,077 |
| Ground sites | 434 |
| Grave sites | 49 |
| Total Sites | 1,560 |
| By country | |
| South Vietnam: | |
| Crash | 249 |
| Ground | 351 |
| Grave | 36 |
| Total | 636 |

*Search Status Report*—Continued

By county—Continued

| | |
|---|---|
| North Vietnam: | |
| Crash | 348 |
| Grave | 11 |
| Total | 359 |
| Laos: | |
| Crash | 262 |
| Ground | 46 |
| Grave | 1 |
| Total | 309 |
| Cambodia: | |
| Crash | 20 |
| Ground | 37 |
| Grave | 1 |
| Total | 58 |
| Over water | 198 |
| Missing | 1,156 |
| Bodies not recovered | 1,226 |
| Total | 2,382 |

These figures represent what our best sources feel is the most recent and definitive information concerning our MIAs. While we must certainly be realistic in our expectations, I feel that the information I received during this visit warrants an intensified Congressional investigation. Particularly in light of the information I received from General Vang Pao, our responsibility to the families of these missing men is apparent. We must renew our commitment to these unfortunate families, fully pursuing our investigative efforts to provide definitive information for those individuals who are so vitally concerned.

Accordingly, Mr. Chairman, I urge the Subcommittee on National Security Policy and Scientific Developments to continue its fine work on behalf of our missing men.

There are three provisions of the January Peace Treaty that the North Vietnamese have not fully complied with:

1) We have not received assistance in the exhumation of remains.

2) Our efforts at search and recovery have been hampered by the refusal of the North Vietnamese to accompany our joint search teams.

3) If the information I received is accurate, all of our prisoners of war have not been returned.

I respectfully suggest that we concentrate Congressional efforts in two areas:

1) We should refuse to assist or aid the North Vietnamese government in any manner until they fully comply with the provisions of the peace treaty.

2) We must focus the attention of all humanitarian nations on this issue, appealing to the North Vietnamese government on behalf of these men who are still unaccounted for.

Congress has a major responsibility in these endeavors. While we must be reasonable in our assessment of the situation, we cannot give up the search for remains, for grave sites, or for prisoners of war until we have satisfied ourselves that we have done everything within our power to fully resolve this issue. We can do no less for those who gave so much.

I am highly appreciative of the generous cooperation rendered by our officials in assisting me with the arrangements for this trip, including Frank Sieverts, Special Assistant for POW/MIA Matters at the Department of State, Charles S. Whitehouse, U.S. Ambassador to Laos and Col. Thomas Henry, Military Attache for the Joint Casualty Resolution Center to Laos.

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## COLLEGES TEST SCORES DOWN 10TH YEAR IN A ROW

### HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. HUBER. Mr. Speaker, earlier this month, a story appeared in the Washington Star-News of January 2, 1974, that the college entrance examination scores, as determined by the SAT—scholastic aptitude test—have declined for 10 years in a row. In my view, this reflects several things.

No. 1, Federal aid to education has had a largely negative impact on education. No. 2, our schools lack the discipline that is necessary for a good teaching and learning atmosphere. No. 3, our schools are neglecting the basic drills necessary to learning to read, write, and do simple arithmetic. Federal aid programs, in some cases, have enabled our educators to spend the taxpayers' time and money on all sorts of projects unrelated to education under the guise of improving the quality of education. Our children are neither the smartest nor the dumbest generation we have ever had, but they are neglected in the sense that we have not given them the basic education they deserve. I commend this article to the attention of my colleagues:

COLLEGE TEST SCORES DOWN 10TH YEAR IN ROW

Are today's college-bound students dumber than those of a decade ago? Has Women's Lib raised the career sights of teen-aged girls? What about the spiraling costs of college tuition? How will kids cope?

Some surprising answers appear in a profile of a million high school seniors, members of the class of 1972–73. They took the College Entrance Examination Board's Scholastic Aptitude Test (S.A.T.), the achievement test, and filled in the board's descriptive questionnaire.

The board reported that the mean (average) S.A.T. score declined for the 10th year in a row. The mean verbal score of 443 (scores range from 200 to 800) compared with 478 in 1963; the mean mathematical score dropped from 502 to 481. The decline is seen in some quarters as an indictment of the schools.

But other factors are involved, cautioned Dr. T. Anne Cleary, chief of the board's program services division. "The S.A.T. measures skills developed over a youngster's lifetime—both in and out of the school setting," she said, adding that most high-scoring juniors don't retake the test. Because their averages aren't figured in with the seniors', this also tends to drive the mean down.

Another major consideration is that only about a third of the nation's seniors take the S.A.T. (many colleges don't require it), so the test may not be representative.

The girls who took the test averaged higher than the boys, but most of the girls said they only wanted to complete the bachelor's degree, while the boys planned graduate work. More than twice as many girls as boys said they only would complete a two-year degree program.

There also was evidence of sex stereotyping in projected careers. Nearly half the girls chose education, nursing and social studies. Their male counterparts chose biological sciences (premedicine), business and engineering.

Well over half the students said they planned to live in dormitories, while 23 percent said they would stay at home. Only 5 percent of the males, and 4 percent of females, planned to live in a fraternity or sorority house.

More than 80 percent of the students said they would seek financial aid. Over half wanted assistance in finding a part-time job. The numbers were proportionately larger among minority students.

The students also were asked to estimate how much their parents would be able to contribute toward their education. On the average, black students estimated $511, those of Oriental descent $1,233, and white students, $1,580. About 27 percent of the students (the highest proportion) estimated their parents earned more than $18,000 a year. These students also had the highest mean grade on the S.A.T.

Few students would admit a need for advice about personal problems, but nearly 70 percent said they wanted college counseling about jobs and educational opportunities. This figure indicates to the board that the career plans reported may be quite tentative.

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## ARTHUR BOSWORTH McGINLEY RETIRES AFTER 68 YEARS AS NEWSPAPER JOURNALIST

### HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. COTTER. Mr. Speaker, on January 8, 1974, Arthur Bosworth McGinley, sports editor of the Hartford Times for more than half a century, and a newspaper journalist for 68 years, announced his retirement, effective immediately.

Art began working for the Hartford Times on September 20, 1920. As sports editor of the Times, Mr. McGinley was intimately associated with hundreds of professional athletes, from Babe Ruth to Mickey Mantle.

In 1940, Mr. McGinley was assigned the task of writing two columns a day. The first was his sports column and the second was a personal column which dealt with the people with whom he was acquainted and with whom he corresponded.

His close friendship with the playwright, Eugene O'Neill, was well known. O'Neill's play, "Ah Wilderness," is a biography of the McGinley family.

Art also serves as Hartford area chairman of the Arthritis Foundation, and he has held this position since 1962. He is quite familiar with this crippling disease, having suffered its agonizing discomfort for 39 years.

To describe Art McGinley as the friend of thousands would be an understatement. His warm wit and understanding nature have earned him a legion of admirers throughout his many years as a journalist.

I would like at this point to share with my colleagues the editorial and article about Mr. McGinley which appeared in the Hartford Times.

I join with thousands of Art's friends in wishing him health and happiness in retirement.

The items follow:

### AN ERA ENDS—MCGINLEY RETIRES

Arthur Bosworth McGinley, sports editor of The Hartford Times for more than half a century and a journalist for 68 years, is retiring, effective with his final columns today and Wednesday.

McGinley, 84, in his characteristic good humor, said, "It's about time."

His career in journalism began in 1905 as a 15-year-old part-time reporter for his father's newspaper, The New London Day. For 15 years, McGinley worked for almost a dozen newspapers including the Day, the Boston Post, Hartford Post, Hartford Courant and Providence Journal.

On Sept. 20, 1920, McGinley walked into the editorial offices of The Hartford Times, and he has been a fixture here ever since.

As sports editor of the Times, and as a sports writer before then, McGinley met and befriended almost every major league athlete from Babe Ruth and Ty Cobb to Mickey Mantle. He became a landmark at spring training sessions in Florida for more than 30 years.

McGinley estimates that he has addressed more than 5,000 banquets, luncheons and Bar Mitzvahs, telling his audiences the hundreds of humorous, ironic and tragic events of his time.

And in his 68 years on the newspaper beat, McGinley still considers two stories he covered while still in New London as the biggest.

One was the visit of the supersubmarine Deutschland which pulled into New London harbor in 1916 on a peace mission. Within a year, the Deutschland was prowling the Atlantic trying to sink American boats.

And there was the trial of an army colonel, accused of homosexuality, at Ft. Terry on Plum Island, across Long Island Sound from New London. The colonel was found guilty and banished from the armed forces.

Of course, there were other events and other personalities—he remembers when Babe Ruth began his baseball career on the old Providence Group, interviewing President William Howard Taft and industrialist Andrew Carnegie.

In 1940, McGinley was assigned the task of writing two columns a day—one for the sports page and one as a personal column of the people he knew and met and talked with or wrote letters to.

He wrote those columns six days a week for 25 years, before easing back to his recent pace of three sports columns and three "Good Afternoon" columns a week.

McGinley has received honors from almost every one of the lodges, churches and other organizations where he has spoken during his career.

McGinley was named sports editor of The Times in 1922 and retained that title until 1969 when he became sports editor emeritus—at the age of 80.

He was a close friend and confidant of playwright Eugene O'Neill, whose play "Ah, Wilderness" is a biography of the McGinley family.

McGinley and O'Neill were remembered by many in New London as two of the town's most notorious drinkers, until in 1929 when McGinley went on the wagon and never stepped off. His pal O'Neill took the same step a few months after McGinley, and except for a few tumbles, remained a teetotaler as his star as one of America's foremost dramatists ascended.

McGinley's friendship with O'Neill more recently led to an impassioned plea before New London officials to have a street named after the playwright in his home town and a trans-Atlantic telephone call from actor Sir Laurence Olivier who wanted McGinley's help in portraying O'Neill's father.

To the 100-year-old Crocodile Club, McGinley is still president, a post he has held in the organization for more than 15 years. (The club celebrates a monumental land grab in 1875 when Bristol added Lake Compounce to its acreage through the efforts of a well-fed General Assembly.)

McGinley also serves as the Hartford area chairman of the Arthritis Foundation, a position he has held since 1962. He knows firsthand the pain of arthritis, as he has learned to live with the crippling disease since Christmas Day 1938.

His column in today's paper will be his last, McGinley said. "Once I walk out of the office," he said, "I don't think I'll be back."

His plans for the future?

"I don't know," McGinley said. "But I don't think I'll run for governor."

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### IT WAS GOOD TO WORK BESIDE ART MCGINLEY

Today's issue of The Hartford Times carries Art McGinley's last column. This is Art's retirement day, after his 68 years as newspaperman. It is fair to say that every newspaperman who knows him, as colleague or competitor or reader, is proud of him.

The story of his retirement, beginning on Page One, tells the public facts about him. They're well known—his friendship with Eugene O'Neill when they were youthful brawlers in the saloons of New London, his popularity as a toastmaster and after-dinner speaker, the affection in which thousands of sports figures hold him.

To those who worked with him, there are other facts, not so well known but equally revealing of his character.

Art McGinley is the softest touch in the newspaper business. He is the panhandler's favorite target. He must have given away thousands of dollars, a half-dollar or dollar at a time, to men who walked shakily and with false confidence into The Times newsroom, unable to face the day without a shot of liquor and hoping Art would be at his desk.

Art's public couldn't see the pain that went into his writing. His hands have been badly crippled by arthritis for 39 years. Typing two daily signed columns, as he did for 25 years, was physically agonizing. He did it without a word of complaint.

It's understandable that he is a popular speaker. Mention a name—any name—and Art knows a pertinent anecdote. The stories stream from him like water from a spring. They're full of accurate, colorful detail, and most of them are funny.

For that matter, almost everything has something funny about it in Art's eyes. He thinks it's funny that he, one of whose brothers was an Episcopalian bishop, another a Travelers vice president, another a doctor, should have been a notorious pubcrawler and a sports columnist in the gaudy days when journalism was considered only a little short of shady.

Many of the foibles of human nature he has seen were published, well disguised, in occasional columns under the pen-name of Hetty Hobron, The Times' correspondent in the mythical village of Perkins Pastures. Embellished by Art's imagination and his recall of vaudeville routines, those items created a place with its own New England character, its own scandals and mythology.

Art is never too busy to answer a question from a young reporter to whom Babe Ruth, Jack Dempsey, Joe Louis, are only legendary names in the record books. He can remember in exact detail what happened in some obscure—but uproariously funny—prizefight in Foot Guard Hall a half-century ago. And he can salt the story with sidelights about the private lives of everybody from the referee to the loser's trainer.

It would be inadequate to describe Art McGinley as the friend of thousands. He has more friends than Santa Claus. Those friends who worked with him feel privileged by the experience.

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## MAJOR ISSUES OF CONCERN TO 11TH DISTRICT OF INDIANA

## HON. WILLIAM H. HUDNUT III

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. HUDNUT. Mr. Speaker, during the congressional recess, I visited with a number of businessmen, union leaders, workers, homemakers, students, and senior citizens to ascertain their views on issues and major concerns. At the same time, I circulated a questionnaire among them in which I asked their views on such national issues as the energy crisis, President Nixon, the news media coverage of the President, and voting habits, as well as the major problems close to home in the 11th District. About 650 questionnaires were tabulated.

I found that the No. 1 issue among the people of the 11th District is the cost of living. The dollar simply does not buy as much today as it did last year and people are feeling the pinch in their pocketbooks. Running a close second is the energy crisis. There is much confusion and considerable skepticism over the seriousness of the so-called "energy crisis." People cannot understand the conflict in information given by the Federal Energy Office and the major oil companies which leads to an understandable but dangerous cynicism on the part of consumers. The third issue of greatest importance on the questionnaire is forced busing of school children for the purpose of achieving racial balance. It is obvious that this issue is very much on people's minds as I visited in the community, and I hope that during this session of Congress we can move legislation presently bottle-necked in the Judiciary Committee.

On the energy crisis, people believe there is a real energy crisis, but also feel that the major oil companies are being unjustly enriched as a result, so I want to make sure that the final energy bill contains a specific provision that prohibits any "windfall profits." I also want to commend the American people for their determination to save fuel by turning down their thermostats and conserving gasoline.

On the matter of President Nixon, the survey indicates that most respondents feel he should be strongly supported—222; or be left alone—122; and 102 suggest he should resign, while only 69 feel he should be impeached.

One of the most gratifying things I found was that the overwhelming majority of people feel that voting in an election is more important now than ever before. I have contended for a long time that the American people are justly proud of our system of Government and this certainly helps prove the point. As Abraham Lincoln said:

> Our democracy is the last best hope of earth.

Believing it will be of interest to my colleagues, I am including as part of my remarks, a copy of the questionnaire and the responses on each issue.

HUDNUT QUESTIONNAIRE—JANUARY 1974

One of the responsibilities of a Congressman is to represent his fellow citizens by expressing their viewpoints to the Congress. You are the people—please give me the benefit of your thoughts.

MAJOR PROBLEMS

How would you rank the following problems? (greatest problem=1, 2nd greatest problem=2, etc.) Busing, 121; Cost of Living, 290; and Energy Crisis, 239.

ENERGY CRISIS

1. Do you believe we are facing a real crisis? Yes, 319; no, 180.

2. Do you believe the oil companies are being unjustly enriched? Yes, 346; no, 138.

3. Have you turned your thermostat down? Yes, 331; no, 91.

4. Do you believe the energy crisis has been cooked up by the Administration to take people's minds off of Watergate? Yes, 115; no, 374.

5. Have you taken any steps to conserve gasoline? Yes, 312; no, 84.

PRESIDENT NIXON

1. Based on what you have read and heard about recent events, do you believe the President should (check one or more). Be strongly supported, 222; Be left alone, 122; Resign, 102; Be impeached, 69; and Other, 40.

2. Based on what you have read and heard about recent events do you believe the President's ability to lead our country has been damaged (check one or more). Quite a lot, 219; Somewhat, 179; Not much, 236; none at all, 58.

3. Which of the following statements best reflects your views of the Watergate investigation being carried on by Congress? (check one or more). Congress is doing what the constitution requires it to do, 135; It's an honest effort to clean up government, 121; It is politically motivated to make the Republican Party look bad to effect the 1974 elections, 169; and It is an effort to undo the results of the 1972 election and to "get" the President, 122.

5. Which of the following statements best reflects your view of the news media coverage of the President? (check one or more). The news media is doing a fair and impartial job of reporting, 100; Some individuals and organizations in the media are biased, but most are being fair, 116; Most of the media is slanting the news against the President in an effort to make him look as bad as possible, 158; The media will not stop until the President resigns or is impeached, 82; and Other, 34.

GENERAL

To what extent has your interest in voting been influenced by the recent events? I consider voting more important now than ever before, 300; I expect to do as I always have, 130; and Events of the past year have turned me off, I'm not going to vote, 16.

OPTIONAL

I am registered, 366; not registered 20; as a Republican, 272; Democrat, 59; Independent, 44.

## SAVE FUEL BY CUTTING NOISIEST FLIGHTS FIRST

## HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. ROSENTHAL. Mr. Speaker, as the Nation's airlines cut back flights due to fuel shortages, the first flights stopped should be those during normal sleeping hours when the noise impact is greatest.

I have written to the Federal Energy Office, the Civil Aeronautics Board, and the Air Transport Association—the airline industry trade group—calling on them to take immediate steps to protect citizens against the excessive noise of nighttime jet flights over residential areas.

Such a move would not only mean a considerable fuel savings—possibly as much as 3.4 million gallons a day—but it would also give relief to millions of Americans who cannot get a decent night's sleep because of airport noise.

Airline cutbacks already have been announced because of the energy shortage, and several carriers have grounded some of their fuel gulping jumbo jetliners.

Thousands of people who live near airports are finding life increasingly unbearable because jet traffic has increased to a point of constant bombardment of noise. Thousands of my constituents live under the flight paths of La Guardia Airport, one of the Nation's busiest, and they know the true impact of noise pollution.

With the support of 32 of my colleagues, I have introduced H.R. 1073, the Airport Noise Curfew Commission Act. This antinoise legislation could result in establishing curfews on overnight aircraft operations.

Studies amply demonstrate the psychological and physical traumatic effects on people resulting from excessive jet noise. Experts say the noise impact is 10 times more distburbing during the normal sleeping hours. Since flight cutbacks are inevitable because of the fuel shortage, I urge the administration, the industry and the Congress to support this proposal.

The Federal Energy Office has estimated that U.S. commercial airlines will need 817,000 barrels of fuel per day during the first 3 months of 1974. Federal Aviation Administration figures indicate that up to 10 percent of airline traffic is scheduled between 10 p.m. and 7 a.m. Thus, flight cutbacks during these hours could save as much as 80,000 barrels—or 3,360,000 gallons—of fuel per day.

Millions of people would benefit from flight cutbacks during sleeping hours, while I believe the airlines would suffer only minor inconvenience. Not many passengers would be affected because so few choose to fly during those hours. Any inconvenience must be weighed against the public's right to domestic tranquillity and a good night's sleep.

I am inserting in the RECORD at this point the text of my letter to Mr. William Simon, Director, Federal Energy Office; Mr. Robert D. Timm, Chairman, Civil Aeronautics Board; and Mr. Stuart G. Tipton, Chairman of the Board, Air Transport Association.

HOUSE OF REPRESENTATIVES,
*Washington, D.C., January 7, 1974.*

DEAR SIR: The problem of excessive noise pollution from airline jet traffic has been of great concern to me for several years. Thousands of people who live near airports are finding life increasingly unbearable because jet traffic has increased to a point of constant bombardment of noise.

As the nation's airlines cut back flights due to fuel shortages, I urge that first priority be given to stopping those flights during the normal sleeping hours of 10 p.m. to 7 a.m., when the noise impact is the greatest.

Such a move would not only mean a considerable fuel savings—possibly as much as 3.4 million gallons a day—but it would also give long-needed relief to millions of Americans who cannot get a decent night's sleep because of airport noise.

The Federal Energy Office estimates that United States commercial airlines will need 817,000 barrels of fuel per day during the first three months of 1974. Federal Aviation Administration figures indicate that up to 10 per cent of airline traffic is scheduled between 10 p.m. and 7 a.m. Thus, flight cutbacks during these hours could have as much as 80,000 barrels—or 3,360,000 gallons—of fuel per day. This is a substantial savings which would help alleviate the fuel shortage.

Studies amply demonstrate the psychological and physical traumatic effects on people resulting from excessive jet noise. Experts say the noise impact is 10 times more disturbing during the normal sleeping hours. Since considerable flight cutbacks are being made because of the fuel shortage, I urge you to support my proposal.

Millions of people living near the nation's airports would benefit from such flight cutbacks, while the airlines would suffer only minor inconvenience. Not many passengers would be affected because so few choose to fly during those hours. Any inconvenience must be weighed against the public's right to domestic tranquillity and a good night's sleep.

Sincerely,

BENJAMIN S. ROSENTHAL.

## COMMENDING MARYLAND JUSTICE

## HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. STOKES. Mr. Speaker, at the time of former Vice President Spiro Agnew's resignation, I deplored the deal he received, and remarked how this even reinforced the conviction of many poor and minority Americans that there is a double standard of justice in America whereby they are sent to jail for crimes much less serious than those of the wealthy and powerful who are allowed to go scot free.

I find it very reassuring, then, that a three-judge panel in Maryland has recommended that Vice President Agnew be disbarred.

An editorial in the Cleveland Plain

Dealer of January 18 expresses a view identical to mine. I am happy to share it with my colleagues:

### Maryland Justice

Even before Spiro T. Agnew resigned in disgrace from the vice presidency of the United States, Maryland politicians and businessmen had a rather unsavory reputation for rumored governmental manipulation.

But so far the handling of the Agnew disbarment case in Maryland seems to be proceeding in a way that may earn the state some prestige for evenhanded justice.

The Maryland State Bar Association moved forthrightly for disbarment of the former vice president, rather than seeking some milder penalty for his admission of income tax evasion. Now a three-judge panel has made the same recommendation to the Maryland Court of Appeals, which will make the final decision.

The sight of the former vice president copping a plea to avoid more serious charges was shocking, especially because of the perhaps naive belief Americans have that men grow morally, spiritually and intellectually in the fulfillment of the nation's highest offices.

Though it was Maryland politics that led Agnew astray, it is heartening to see the Maryland judicial system responding to the Agnew case in a way that suggests that his wealthy and powerful friends this time cannot intervene to mitigate his circumstances.

## EXPORT-IMPORT BANK

## HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. ASPIN. Mr. Speaker, I am joining my distinguished colleague from Missouri (Mr. Ichord) and my distinguished colleague from Pennsylvania (Mr. Dent) in sponsoring a sense of the House resolution which instructs the Export-Import Bank not to approve any credits to the Soviet Union until the Senate has considered the Trade Reform Act of 1973.

Mr. Speaker, I am not only concerned about the Eximbank ignoring Congress will on the Mills-Jackson-Vanik but also with the price consumers will pay for gas imported to the United States.

At present, the U.S. companies involved in the North Star deal say that Russian gas will cost $1.25 per thousand cubic feet—Mcf. But, this calculation assumes that the Russians will charge nothing for the actual gas produced as part of the North Star project in western Siberia. The Russians will have to pay only for pipeline transportation and liquification.

Mr. Speaker, this present price estimate is a total fraud and hoax. The big companies, in cahoots with the Russians, are planning massive gouging of the American consumer. The price of $1.25 per Mcf is already outrageously high but now we learn the price could easily increase another $0.50.

As some of my colleagues may know, the current wellhead price in the United States averages a little more than $0.23 per Mcf and pipeline charges make the wholesale price of natural gas in New York City $0.54. Therefore, the Russian gas deal will result in as much as 700-percent increase in price compared to current wellhead prices.

At least five Government officials have confirmed that the current price estimate of $1.25 does not include a charge for the actual gas. With a worldwide energy crisis, it is at best doubtful that the Russians will give their gas away free.

In fact, the Russians hope to take natural gas prices to the price of crude oil on the world market which would increase the price tremendously. Assuming $11.50 per barrel crude oil prices, an equivalent price for natural gas per Mcf would be $2.

Frankly, Mr. Speaker, the Russian gas deal will make last year's fleecing on the wheat deal look like a Sunday school picnic.

Before the Government makes any loans, we must know exactly how much Russian gas will cost. At present, part of the problem is that at least five Federal agencies are involved in the Russian deal—the White House, State Department, Department of Commerce, Federal Power Commission, Export-Import Bank. Somebody in the bureaucracy better figure it out and figure out fast just exactly what this gas will cost.

In view of the probable acceptance by the Senate of the Jackson-Mills-Vanik amendment, I believe that the Bank should be instructed not to approve any credits for the Soviet gas deal.

## MASSACHUSETTS SENATE RESOLUTION SUPPORTS SIDS BILL

## HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. HARRINGTON. Mr. Speaker, yesterday the House of Representatives passed, by voice vote, legislation designed to provide Federal assistance in the fight against one of the most tragic diseases known to man—the sudden infant death syndrome, the mysterious disease that takes the lives of over 10,000 babies each year. This legislation, H.R. 11386, authorizes $2 million for each of the next 3 fiscal years for the purpose of research into the disease, and for a variety of information and counseling services. While this bill does not go as far as I would like—or as far as the preferable Senate passed legislation—it is an important first step toward eradicating this tragic affliction.

As I noted in my statement yesterday in support of H.R. 11386, the Massachusetts Legislature acted in 1973 to assist families struck by the sudden infant death syndrome. In addition, two Massachusetts State senators, Majority Leader Joseph J. C. DiCarlo and John J. Conte, have introduced in the Massachusetts Senate a resolution urging favorable action on the sudden infant death syndrome legislation now before this Congress. Specifically, the resolution urges swift and favorable action on the Senate-passed bill, S. 1745, and on legislation similar to that passed by the House yesterday and which I introduced last year, H.R. 10490.

This resolution is indicative of the kind of support which sudden infant death syndrome legislation is receiving at the State level across the Nation. Now that the House has passed H.R. 11386, I hope that a conference committee will be quickly appointed and that rapid and affirmative action will be taken on this legislation so that final congressional approval can be speedily accomplished.

Mr. Speaker, at this point I wish to include in the Record the text of the resolution introduced by Massachusetts State Senators DiCarlo and Conte:

### Resolutions Memorializing the Congress of the United States To Enact Legislation Providing Financial Assistance for Research Activities Relative to the Sudden Infant Death Syndrome

Whereas, Sudden infant death syndrome is the largest killer of infants between the age of one month and one year, and there is to date no known cause, preventive measures or cure for this affliction; and

Whereas, The commonwealth has in nineteen hundred and seventy-three enacted several statutes which aid in the detection and research relative to sudden infant death syndrome, but federal financial assistance is necessary to effectively eliminate sudden infant death syndrome; and

Whereas, The Congress of the United States is presently considering two proposals, S. 1745 and H.R. 10490, which provide funds for research activities and study of this syndrome; now therefore be it

Resolved, That the Massachusetts senate hereby respectfully and urgently memorializes the Congress of the United States to enact such legislation to identify and prevent sudden infant death syndrome; and be it further

Resolved, That copies of these resolutions be transmitted forthwith by the clerk of the senate to the presiding officer of each branch of the Congress and to each member thereof from the commonwealth.

## THE U.S. ECONOMY IN 1974

## HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. HAMILTON. Mr. Speaker, under leave to extend my remarks in the Record, I include the following:

### The U.S. Economy in 1974

1974 shapes up as a year of economic problems. The 1974 economic outlook was not rosy even without the fuel crisis. With it, a bleak economic picture emerges.

There will be little or no growth, rising unemployment, continuing price increases, a drop in corporate profits, and shortages. On the brighter side the nation's foreign trade will improve, moving from deficit to surplus, the dollar will strengthen in the international money markets, and the second half of the year should see some improvement.

It also needs to be said that economic

forecasts, including the ones above, are never an exact science, and, because of the new factor of the energy crisis, are less reliable than usual. Seldom have economic forecasters faced such a complex set of problems, with the nation confronting in 1974 recession, inflation, and shortages all at the same time.

The impact on the economy of the energy crisis has drawn an extraordinary range of predictions. The pessimists foresee a depression and 10% unemployment, but even the more optimistic talk of at least 6% unemployment and a period of no economic growth. It is generally agreed that the energy crisis will plague us with bottlenecks, resultant areas of inflation, and will imperil any success at moderating prices.

INFLATION

The 1973 record on inflation was dreary, with consumer prices rising 9% (the worst record in over 20 years), and 1974 does not look much better. Something over 7% is a reasonable guess for the 1974 inflation rate. Even the President's top advisers are saying that the rate of inflation "could be very high" in 1974. The economists have a word for it—"stagflation"—i.e., little or no economic growth accompanied by rapid inflation. Over the entire year the economy will be substantially flat. But even to achieve this level, we will have to manage the fuel shortage well, letting consumers absorb more of it and industry and commerce less.

EMPLOYMENT

With declining productivity and rapidly advancing prices, the fairly restrained labor scene of 1973 is not likely to be repeated in 1974. If, in addition, the energy shortage requires cutbacks in jobs and production, labor militancy could rise sharply.

The 5.5% general wage and salary guidelines will become history. Unemployment will certainly rise from the November 4.7% level. The President's economists say it will rise to about 6%, but many economists believe it will go even higher, with energy shortage-induced unemployment spreading unevenly across the economy, hitting certain industries, like petro-chemicals, especially hard.

SHORTAGES

1974 may well be the year of shortages. The energy crisis, combined with high demand and short supplies of primary materials (like metals, paper, petroleum), will give the entire economy a condition of shortage. A major concern is whether the shortages will result in a snowballing effect. We simply do not have much experience in dealing with, let alone forecasting shortages.

PROFITS

1973 was a good year for corporate profits, but profits for 1974 will be lower, accompanying the stagnation expected for 1974.

GOVERNMENT POLICY

The President's goal of a balanced budget by next June 30 is all but unreachable now, and the long-range forecast for the fiscal year beginning July 1, 1974, is for a very large deficit. The economic downturn in the first half of 1974 will reduce tax revenues, and spending will rise to cover more unemployment benefits, higher fuel prices and other things. The Administration has hinted at a more stimulative fiscal policy to keep the economy moving. A gradual downward drift in interest rates is also expected.

At a time when prices are rising at the fastest rate for peacetime in the modern era, the government is slowly dismantling wage and price controls. For several months now it has been clear that the President is phasing them out, as one economic sector after another is being released from them. The complex controls simply have not restrained prices, and they have caused disruption and dislocation in the market. Many people have been confused by them, none satisfied, and apparently most everyone would be happy to see them go. Even so, some power may be retained to restrain wage and price increases in basic industries.

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## WHAT WOULD LINCOLN HAVE THOUGHT TODAY?

## HON. BURT L. TALCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. TALCOTT. Mr. Speaker, last October a longtime friend visited me while in Washington. I thought at the time he was so ingrossed in his business that brought him to our Nation's capital that he would miss some sights and history that would please and impress him.

But this busy man took time—and the time he set aside from business so impressed him that he recalled his visit in his New Year's greetings.

His letter is worth reading by those who visit our Capital, those who live here and those who don't.

I insert the letter of John C. Cohan, of Salinas, Calif., at this point in the RECORD. I wish that all businessmen who visit Washington would set aside more time to see and savor the history here:

NEW YEAR 1974.

DEAR BURT: Thoughtful speculation filled my mind as I stood at the foot of the awe-inspiring Lincoln Monument in Washington, D.C., last October. "What would he have thought about the state of the nation today?"

A New Year dawned for Mr. Lincoln a century ago as the Republic agonized with its conscience over the dignity of man.

Startling changes have been wrought! Government investigations are the order of the day. The misdeeds of the few earn the scorn of the unknowledgeable millions in the white-hot glare of publicity. Character assassins are on the loose. Now entire professions and industries are being castigated. Indictment by inference is the national past-time.

Will a government of, by and for investigations serve to inspire greater achievement, or will we ENSLAVE the spirit responsible for our progress?

Dignity—Honor—Respect—must be sustained, regardless of the effort it takes. Can we return to the days of esteem for the commendable—understanding of the evil—and dispose of wanton, indiscriminate criticism? Can we turn the tide of destruction by innuendo?

In a few hours a New Year will begin. It looms large and challenging. As we receive this God-given opportunity to begin anew—let's make a promise to the future . . . "Never judge a man until you have walked in his moccasins for a moon."

It's so easy to tear down . . . so hard to build. "And the tongue is a fire, a world of iniquity." (James III:6)

As 1974 begins, let's renew our respect for our fellow man; let's say a good word; hold a good thought; build together. Yes, let's say a prayer for friendship!

I value yours—and I respect you as an honorable human being.

Warm good wishes for a prosperous and productive New Year.

Cordially yours,

JOHN C. COHAN.

Mr. Cohan died January 1, 1974, so his thoughts are even more meaningful now.

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## DISTRACTIONS MUST GO

## HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

[From the San Diego Union, Jan. 21, 1974]

CONGRESS RECONVENES: DISTRACTIONS MUST GO

All observers agreed that the first session of the 93rd Congress dissipated much of its momentum in the distraction of the Watergate affair. As the second session opens today a major question is whether Congress can finally make headway on its neglected agenda.

Watergate and the impeachment resolutions in the House Judiciary Committee continue to tick like timebombs, even though most members of Congress returning from their holiday recess reported they had detected no powerful sentiment for impeachment of the President at the grass roots. Their comments suggest that the public at large is being more fair-minded toward Mr. Nixon than many of his critics in Washington. Meanwhile, the energy crisis has emerged as an issue with potential for the kind of political hay-tossing that traditionally has pre-occupied the Congress.

Congress recessed before Christmas after a fruitless attempt to enact emergency legislation to help the Administration deal with fuel shortages. Since then charges have begun to fly that the energy shortage was deliberately aggravated if not largely contrived by oil companies to justify price increases and gain a relaxation of environmental restraints on their activities.

Election-year politics thrive on issues that can be put before voters in oversimplified terms of heroes and villains. A congressman or senator seeking re-election this year might relish being a St. George doing battle with an "oil lobby" dragon. Thus it is with some trepidation we can note the remark of Senate Majority Leader Mike Mansfield that Congress is returning with a "punitive" attitude toward the oil industry, even before hearings into the charges of an oil-price conspiracy had begun.

There is always the hope, of course, that Congress will try to move into the election season with a list of solid accomplishments from among the unfinished business of 1973—such as the trade bill, pension reform, a mass transit program and the kind of energy legislation which President Nixon said Saturday should be at the top of its 1974 agenda. It would not be punitive for Congress to insist, as Mr. Nixon has urged, that any "windfall" profits accruing to the oil industry from the fuel shortage be channeled into development of new sources of energy.

The $300 billion budget which President Nixon is preparing is probably more austere than that figure would suggest. Much of it consists of spending authorized by previous legislation, with only limited room for new spending programs. It is almost a certainty that the President will be faced again with using vetoes and impoundment to keep federal outlays within the limits of a deficit deemed adequate to help offset an anticipated period of recession.

The genuine problems in America which this session of Congress could address are legion. We might anticipate that by the end of the year good legislation will have started us toward the solution of some of them. Just how many depends on how well Congress avoids the muddy detours of election-year politics along the way.

## 1973 ANNUAL QUESTIONNAIRE RESULTS

### HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. YOUNG of Florida. Mr. Speaker, during the first week of December 1973, I mailed out more than 200,000 questionnaires to households of the Sixth Congressional District of Florida. This 1973 annual questionnaire contained 11 questions on subjects which I believe to be of central importance to the American people and to the deliberations of the 93d Congress.

More than 57,000 responses have been received to date. Each of these questionnaires was individually hand-tabulated by volunteers working out of my district office in order to obtain a completely accurate breakdown of the responses.

I would like to share with my colleagues the responses of my constituents to these questions, for I feel they are an excellent sampling of some of the more controversial issues before the Congress. The questions and tabulation of answers are as follows:

1973 ANNUAL QUESTIONNAIRE RESULTS

1. In our effort to eliminate dependence on foreign nations for oil should the use of nuclear energy be expanded? Yes 49,751 (86.9%). No 3,700 (6.4%). No opinion 3,811 (6.7%).

2. Would you support drilling for oil on the Outer Continental Shelf (in the Gulf of Mexico and the Atlantic Ocean? Yes 41,854 (74.6%). No 11,932 (21.3%). No Opinion 2,332 (4.1%).

3. Should the United States continue to support Israel through the sale of military equipment? Yes 27,694 (48.1%). No 24,813 (43.1%). No Opinion 5,093 (8.8%).

4. Do you believe that a woman and her doctor should have the legal right to make a decision regarding abortion? Yes 45,875 (79.9%). No 8,460 (14.7%). No Opinion 3,094 (5.4%).

5. Would you allow abortion to save the mother's life? Yes 53,277 (94.8%). No 1,703 (3.0%). No Opinion 1,246 (2.2%).

6. Do you believe that government-imposed wage and price controls should be continued? Yes 37,121 (65.1%). No 15,997 (28.1%). No Opinion 3,870 (6.8%).

7. Do you believe that the United States should give Russia and China the same beneficial trade status that non-communist countries are given? Yes 22,427 (38.9%). No 29,811 (51.7%). No Opinion 5,445 (9.4%).

8. Would you support an attempt to discontinue the independent status of the U.S. Postal Service and return it to congressional control? Yes 30,906 (55.2%). No 18,850 (33.7%). No Opinion 6,193 (11.1%).

9. Do you believe sufficient proof of wrongdoing by President Nixon has been presented to warrant impeachment? Yes 20,319 (35.3%). No 33,991 (59.0%). No Opinion 3,269 (5.7%).

10. Do you favor proposals to finance Presidential and Congressional election campaigns from tax money? Yes 23,657 (42%). No 29,877 (52.9%). No Opinion 2,858 (5.1%).

11. Would you favor my proposal for election reform which would substantially reduce the amount of money that can be contributed to a candidate and spent by a candidate in an election campaign? Yes 52,817 (93.1%). No 2,552 (4.5%). No Opinion 1,390 (2.4%).

The figures represent total responses for the questionnaires received. Each questionnaire was indiivdually counted by volunteers working out of the district office.

## THOUGHTS ON THE ENERGY CRISIS

### HON. JOSEPH E. KARTH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. KARTH. Mr. Speaker, as we begin the 2d session of the 93d Congress and deal with the crucial energy legislation before us, we should remember the importance of that legislation. Mr. Robert P. Knight of White Bear Lake, Minn., has written me on the energy crisis, expressing well the confusion over the situation that is shared by millions of Americans. One of the key points in his letter to me is that the American people, in this time of crisis, are looking to Congress for answers. Mr. Speaker this is a challenge to all of us in Congress. And it is a challenge I believe we are capable of meeting. I place on the RECORD the thoughts and experiences of Mr. Robert P. Knight:

WHITE BEAR LAKE, MINN.,
*January 10, 1974.*

Congressman JOSEPH KARTH,
*House Office Building,*
*Washington, D.C.*

DEAR CONGRESSMAN KARTH: Please let me describe a morning in the life of one of your loyal constituents and see if you can appreciate how confused all of us are.

I got up long before dawn "to conserve precious electricity, now in very short supply."

I had breakfast in a cold house; cold for two reasons—1 Our (?) President has told me it's my patriotic duty to save oil.—2 He has let Standard Oil increase fuel prices to where I couldn't afford to heat my house even though there were no shortage.

While dressing I listened to Johnny Cash sing about how if I just cooperate with Standard Oil we can "work out everything together" as his Grandpa always said.

Next I stopped at a station for gasoline, paying 51.9¢ per gallon for a product which a month ago was only 39.9¢. Only this time the filling station operator, while offering absolutely no service, told me how lucky I was to find him open.

Along 35-W I saw highway signs for such essentials as Cutty Sark, Old Gold, and Finns Camera Shop, each illuminated with enough electricity to supply my house with both heat and light for a year.

The parking lot of the K-Mart was lit up like the Super Bowl at half-time. Inside, every light was on, although the store didn't open for two hours.

On the car radio news I was told there was a distinct possibility some schools will close for the duration of the cold snap because there is no heat or electricity.

We all know the Executive branch of the Government is now totally incapable of rising to an emergency—if, indeed, we ever have such a branch anymore. Everyone is looking to Congress for help! The problem isn't local, State nor County. We need leadership now more than ever. Nobody believes one single thing he hears from Washington. Now is the time for Congress to take its rightful place and tell us what's going on and how we can help!!

Sincerely,

ROBERT P. KNIGHT.

## THE ENERGY CRISIS

### HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mrs. HOLT. Mr. Speaker, I am sure that all of us have had extensive constituent contact during the past few weeks; during my travels through Maryland in Prince Georges and Anne Arundel Counties. I have been constantly deluged with questions concerning the energy crisis.

There is a great deal of skepticism concerning the reality of this crisis and much concern over the skyrocketing cost of fuel resources including gasoline, home heating oil, and potential increases in electric rates. Energy consumption statistics from the month of December have amply displayed the willingness of the American people to band together and conserve scarce fuel resources. Their actions have significantly reduced the possibility of gas rationing and of a major shortage of fuel oil during the current cold months.

It is incumbent upon the Congress to protect the consumer, who has borne the burden of reduced driving and lowered thermostats, from being exploited by those who would attempt to profiteer from our current troubles. People are asking why gasoline prices have shot up at a time when preliminary inventory reports show reserves equal to or greater than, last year. They are asking why there are recurring reports of tankers being unable to unload their cargo due to filled storage tanks. And they are asking why oil industry profits seem to be increasing at record rates during this crisis period. These are legitimate questions.

Until we have answers to these, and reliable data on refinery capacity, production, and national consumption, we will be frustrated in our attempts to draft responsive and effective energy legislation.

I am indeed pleased that various committees of the House of Representatives and of the other body, as well as the Federal Energy Office, are vigorously investigating these areas of concern. With prompt and responsible action by the legislative branch, and continued cooperation of the American public, I am confident that we can overcome this crisis.

## COUNCILMAN AL DeFILIPPO

## HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. CHARLES H. WILSON of California. Mr. Speaker, it is my privilege today to honor Councilman Al Defilippo of the city of Gardena, Calif., who has worked untiringly for the benefit and welfare of all citizens in that fine city.

Councilman Defilippo, a native of Thompson, Conn., moved to California in 1951 and has lived in Gardena since September of 1957. He has been a driving, active force in the city and in the Gardena Valley Knights of Columbus, of which he has been a member almost since his city residency began.

In the summer of 1962 he was youth cochairman and staged a baseball clinic cosponsored by the city and the Los Angeles Angels for more than 700 local youngsters and their parents. That same year, he founded the first Labor Day Weekend Field Day for residents in an effort to help relieve traffic and cut traffic deaths. This event proved so successful that the field day has been repeated yearly and has been expanded to include the July 4 holiday weekend. Councilman Defilippo's efforts along these lines have been recognized and commended by many local levels of government in Los Angeles County.

He also helped found and was cochairman of the annual Knights of Columbus golf tournament which each year donates its proceeds to the Gardena Valley Training Center for Mentally Retarded Children and was coordinator for the Gardena Honors Supervisor Kenneth Hahn testimonial, later hailed as Gardena's largest and greatest success.

As a member of the North Gardena Kiwanis Club, Councilman Defilippo helped form Operation Help, to assist victims of the disastrous northern California floods of 1965. Also, for the same Kiwanis Club, he originated the Most Outstanding Radio Station in California Award.

Although the list of his accomplishments is nearly endless, we must not forget his appointment as United Nations Week chairman, his charitable work for St. Anthony of Padua Parish Guild Association, the Italian Sons and Daughters of America, the Gardena Teen Post, Gardena WMCA, Serra High School Booster Club, and the Gardena Rotary Club.

Councilman Defilippo is also a former Recreation and Parks Commissioner for Gardena and a Commissioner for the Los Angeles County Public Libraries. He has served as an officer with the Gardena Youth Counseling Service, Italian Catholic Federation, the Young Men's Institute, the Gardena Chamber of Commerce, and the Gardena Community Center Committee.

Since his election to the City Council, Mr. Defilippo has become a member of the following: Independent Cities of Los Angeles County, Intercity Highway Committee, Southwest Area Planning Committee, West Basin Water District, and the South Bay Corridor Committee. He was also a driving force in getting paramedic service for his city.

Mr. Speaker, it is my privilege to join with the citizens of the city of Gardena in saluting a fine man, Councilman Al Defilippo.

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## THE SUPREME COURT ABORTION DECISION: 1-YEAR LATER

## HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. RANGEL. Mr. Speaker, today, January 22, marks a year since the U.S. Supreme Court handed down its historic decisions on abortion.

It is my belief that the landmark decisions in the cases of Roe against Wade and Doe against Bolton furthered the cause of freedom and dignity for American women. Rather than upholding the patchwork series of State abortion laws that were, for the most part, harshly repressive, the Supreme Court simply said that the decision concerning abortion should be left up to the individual and her conscience.

One year later, we would do well to remember the words of the Supreme Court in its historic decision and to once again commend the members of the court for their courage amidst chaos and for their reason amidst emotionalism.

On this first anniversary of the Supreme Court decision on abortion, I place in the CONGRESSIONAL RECORD at this point an excerpt from the majority decision of the court in Roe against Wade written by Mr. Justice Blackmun. Mr. Blackmun's words, providing the central rationale for the court's decision in the case, are well worth a rereading by the Members of this body.

The excerpt follows:

### ROE AGAINST WADE—EXCERPTS

### X

In view of all this, we do not agree that, by adopting one theory of life, Texas may override the rights of the pregnant woman that are at stake. We repeat, however, that the State does have an important and legitimate interest in preserving and protecting the health of the pregnant woman, whether she be a resident of the State or a nonresident who seeks medical consultation and treatment there, and that it has still *another* important and legitimate interest in protecting the potentiality of human life. These interests are separate and distinct. Each grows in substantiality as the woman approaches term and, at a point during pregnancy, each becomes "compelling."

With respect to the State's important and legitimate interest in the health of the mother, the "compelling" point, in the light of present medical knowledge, is at approximately the end of the first trimester. This is so because of the now established medical fact, referred to above at p. 34, that until the end of the first trimester mortality in abortion is less than mortality in normal childbirth. It follows that, from and after this point, a State may regulate the abortion procedure to the extent that the regulation reasonably relates to the preservation and protection of maternal health. Examples of permissible state regulation in this area are requirements as to the qualifications of the person who is to perform the abortion; as to the licensure of that person; as to the facility in which the procedure is to be performed, that is, whether it must be a hospital or may be a clinic or some other place of less-than-hospital status; as to the licensing of the facility; and the like.

This means, on the other hand, that, for the period of pregnancy prior to this "compelling" point, the attending physician, in consultation with his patient, is free to determine, without regulation by the State, that in his medical judgment the patient's pregnancy should be terminated. If that decision is reached, the judgment may be effectuated by an abortion free of interference by the State.

With respect to the State's important and legitimate interest in potential life, the "compelling" point is at viability. This is so because the fetus then presumably has the capability of meaningful life outside the mother's womb. State regulation protective of fetal life after viability thus has both logical and biological justifications. If the State is interested in protecting fetal life after viability, it may go so far as to proscribe abortion during that period except when it is necessary to preserve the life or health of the mother.

Measured against these standards, Art. 1196 of the Texas Penal Code, in restricting legal abortions to those "procured or attempted by medical advice for the purpose of saving the life of the mother," sweeps too broadly. The statute makes no distinction between abortions performed early in pregnancy and those performed later, and it limits to a single reason, "saving" the mother's life, the legal justification for the procedure. The statute, therefore, cannot survive the constitutional attack made upon it here.

This conclusion makes it unnecessary for us to consider the additional challenge to the Texas statute asserted on grounds of vagueness. See *United States* v. *Vuitch*, 402 U.S. 62, 67–72 (1971)

### XI

To summarize and to repeat:

1. A state criminal abortion statute of the current Texas type, that excepts from criminality only a *life saving* procedure on behalf of the mother, without regard to pregnancy stage and without recognition of the other interests involved, is violative of the Due Process Clause of the Fourteenth Amendment.

(a) For the stage prior to approximately the end of the first trimester, the abortion decision and its effectuation must be left to the medical judgment of the pregnant woman's attending physician.

(b) For the stage subsequent to approximately the end of the first trimester, the State, in promoting its interest in the health of the mother, may, if it chooses, regulate the abortion procedure in ways that are reasonably related to maternal health.

(c) For the stage subsequent to viability the State, in promoting its interest in the potentiality of human life, may, if it chooses, regulate, and even proscribe, abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.

2. The State may define the term "physician," as it has been employed in the preceding numbered paragraphs of this Part XI of this opinion, to mean only a physician currently licensed by the State, and may proscribe any abortion by a person who is not a physician as so defined.

In *Doe* v. *Bolton, post*, procedural requirements contained in one of the modern abortion statutes are considered. That opinion and this one, of course, are to be read together.

This holding, we feel, is consistent with the relative weights of the respective interests involved, with the lessons and example of medical and legal history, with the

**lenity of the common law, and with the demands of the profound problems of the present day. The decision leaves the State free to place increasing restrictions on abortion as the period of pregnancy lengthens, so long as those restrictions are tailored to the recognized state interests. The decision vindicates the right of the physician to administer medical treatment according to his professional judgment up to the points where important state interests provide compelling justifications for intervention. Up to those points the abortion decision in all its aspects is inherently, and primarily, a medical decision, and basic responsibility for it must rest with the physician. If an individual practitioner abuses the privilege of exercising proper medical judgment, the usual remedies, judicial and intra-professional, are available.**

## LAURA X RECEIVES MADEMOISELLE AWARD

## HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. DELLUMS. Mr. Speaker, the Berkeley Gazette of Monday, January 14, 1974, carried an article by Pauline Metzia which announced the awarding of the annual "MLLE" awards by Mademoiselle magazine.

Ms. Laura X of Berkeley was among those chosen to receive the award. I am aware of the fine work Laura X has done and therefore call attention to the article:

### AWARDS GIVEN

**Laura X of Berkeley, organizer and founder of the unique Women's History Library, is among 11 young women from the nation chosen to receive "MLLE" awards for 1974 from Mademoiselle magazine in recognition of their "outstanding achievements."**

**The annual awards will be presented Jan. 23 in New York City by Editor-in Chief Edith Raymond Locke.**

**Laura X of Berkeley founded the Women's History Library in her home and has collected some 2,000 topical files of information relating to women. Also included in the library are documentaries on women's lives, women's films, tape recordings, and art. The staff answers about 50 telephone inquiries each day from feminists, libraries, writers and day care centers.**

**Last year she earned a commendation from the American Library Association, and Laura's ambition is to put her entire collection "in every house and every institution." Initially financed by Laura X herself, the library now is supported by contributions from women throughout the country.**

**Other award winners are:**

**Kathy Kahn of San Francisco, author of "Hillbilly Women," offering 19 self-portraits of Appalachian women; Kathryn Burkhart, who wrote "Women In Prison" after four years of research; Sharon Curtin, author of "Nobody Ever Died of Old Age," which demands that society regard old people as "human beings with a future as well as a past."**

**Lisa Connolly of Santa Monica and Karol Hope of Venice, are cofounders of MOMMA, organization for the nation's 7 million mothers who are divorced, separated or never have been married. "What we are is a place for people to come to break their isolation, to find out you aren't the only woman experiencing what it means to be a single mother," they explained.**

**Mary Emmons of Chicago, and Marty Beth Shea of San Francisco are cofounders of the Funding Sources Clearing House, Inc., a computerized data service which matches grant-seekers to grant-givers. With more than 500,000 grant-supported organizations and institutions in the United States and close to 75,000 government grant-making agencies, the service helps grant-seekers cut through red tape.**

**Anne Grant of New York is coordinator of the National Organization for Women's NOW National Task Force on Education. She is saluted for producing a multimedia documentary entitled "Our North American Foremothers."**

**Claudia Weill of New York, co-owner of Cyclops Films, carried her camera to the People's Republic of China. Many of her films are concerned with women's experience.**

**Bette Midler, a native of Hawaii, is a singer whose first album, "The Divine Miss M", Atlantic, released in November, already has sold over 100,000 copies.**

**Carol Ruckdeschel of Georgia, an ecologist, puts her knowledge and concern for preserving animals to work for the state.**

**The Boston Women's Health Book Collective gets a special group award for its publication—"Our Bodies, Ourselves, a Book By and For Women," Simon and Schuster. It was compiled and written by 12 women and sold 400,000 copies as of Dec. 1, with monthly reprint order of 50,000.**

## UKRAINIAN INDEPENDENCE DAY

## HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. ADDABBO. Mr. Speaker, I join with my colleagues in the House in support of the Ukrainian people and their hopes of freedom. As we recognize Ukrainian Independence Day by our remarks and as we review the history of Soviet domination of the Ukraine, our own freedom becomes more appreciated and our personal liberties less taken for granted.

The uncivilized and horrendous aspects of Soviet oppression of the Ukrainian people over the years include cultural, religious and spiritual genocide by premeditated actions. Those acts cannot be forgiven and the hopes of the Ukrainian people cannot be ignored. That is why we in the United States must respond to those hopes by reaffirming our faith in the basic rights of human beings everywhere in the world.

It is particularly appropriate for these remarks in support of the Ukrainian people to be made at a time when the tensions of the world seems to be at a low point. The U.S. military role in Southeast Asia has ended and peace talks in the Middle East have produced an optimistic atmosphere for the first time in many years. Détente with Russia is the publicized reason for much of the apparent successes of our world diplomacy.

These remarks in the House of Representatives should reawaken the conscience of America and warn us against a false sense of security. Oppression exists in different corners of the world. People are not allowed basic human rights everywhere but many, like the Ukrainians find their way of life dictated in an atmosphere of tyranny and economic exploitation. Let the plight of 48 million people in the Ukraine be a reminder to us that freedom carries with it the responsibility to be vigilant against those who deprive others of their freedom.

## THE AMAZING TREASURY NON-RESPONSE TO THE WASTE OIL CRISIS

## HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. VANIK. Mr. Speaker, today's energy mess reveals the stark inadequacies of the administration's past policies toward petroleum resources. Far from working to solve these problems in any coherent manner, the administration continues to waddle along with reorganization plans.

A revealing facet of the administration's energy nonpolicy came to light recently in a comment by the Treasury Department to my legislation to encourage the recycling of waste oil. Each year, we generate over 1 billion gallons of waste oil from our automobiles and industry. Less than one-tenth of this oil is effectively reused. The remainder—over 900 million gallons a year—is discarded in ways which seriously degrade our environment. What is more, in our time of acute energy shortage, this mindless waste is unconscionable.

Many actions can be taken to reinvigorate our oil recycling effort. One change—a simple change—would be to eliminate the tax discrimination to rerefined oil that presently exists in the "off highway" market. This is essentially what my legislation does.

For the interest of my colleagues, I am inserting in the RECORD a copy of the letter I recently sent to Mr. Frederic Hickman, Assistant Secretary of the Treasury. Mr. Hickman's rationale for not supporting this simple tax change manifests the shallow commitment and the shortsighted reasoning that have come to typify the administration's energy policy.

The letter follows:

CONGRESS OF THE UNITED STATES,
*Washington, D.C. December 14, 1973.*

MR. FREDERIC W. HICKMAN,
*Assistant Secretary, Department of Treasury, Washington, D.C.*

**DEAR MR. HICKMAN: Thank you for supplying your comments to the Ways and Means Committee concerning three bills I have introduced, H.R. 6194, H.R. 9859, and H.R. 5902.**

**Although your criticisms have been most helpful in developing this legislation, I am surprised at your Department's opposition to H.R. 5902, the National Oil Recycling Act. Briefly, this legislation improves the competitive position of rerefined oil in the critical off-highway market by eliminating the rebate of special subsidy now offered to off-highway users of new oil. Quoting from your letter to Chairman Mills, I would like to respond to your comments.**

**"The changes in the tax on lubricating oil proposed by H.R. 5902 assume that the recycling of used oil can be stimulated by re-**

peal of the provision enacted in 1965 which granted a rebate of the tax when new lubricating oil is used in other than a highway motor vehicle."

As you know, rerefining petroleum is a marginal industry populated by small, localized firms. Under present law, these rerefiners have a very small tax advantage over new oil in the highway market, but they suffer a tax disadvantage to new oil in the off-highway market. Because of the relative importance of the off-highway market to their economic viability, the rerefiners are being adversely affected by the present tax structure. Indeed, prior to 1965 there were 150 rerefiners in operation. Today there are only about 40. Although many factors are involved in this decline—such as the discriminatory labeling requirements of the FTC—the adverse impact on the industry of the 1965 Excise Tax Reduction Act is undoubtedly significant. In concluding their study of the matter in early 1972, the Defense Supply Agency concluded that the excise tax and the labeling requirements are the two principal government imposed deterrents to oil recycling.

"For many years, the reclaimed oil industry benefited from the fact that new lubricating oil was taxed even though the tax on new lubricating oil was not imposed to aid reclaimers. When the tax on new oil was made rebatable for off-highway use beginning in 1966, the reclaimers lost part of this tax advantage. While removal of the rebate provision would restore this advantage, we do not believe that the tax should be revised for this purpose."

This policy analysis is short-sighted and misleading. In discussing the relative tax advantages of new and reclaimed oil no mention is made of the tremendous subsidies to production of crude oil under present law. Through the depletion allowance we encourage lower crude oil prices through the stimulation of supply. Recent economic studies by Professor Edward Erickson estimate that crude oil prices would be 24% higher if depletion were eliminated. Because rerefined products compete directly with new petroleum products, through the depletion allowance we are in fact encouraging resource depletion and discouraging resource recovery.

I find your opposition to altering present law most discouraging. You acknowledge that a change such as I have proposed would be an advantage to the rerefining industry, but you state, "we do not believe the tax should be revised for this purpose." The fact is that waste oil disposal has become a monumental environmental hazard. With the serious decline in the rerefining industry, there is no alternative but to dispose of this oil in environmentally unacceptable ways.

Section 101(b)(6) of the National Environmental Policy Act, Public Law 91–190 states:

"In order to carry out the policy set forth in this Act, It is the continuing responsibility of the Federal Government to use all practicable means, consistent with other considerations of national policy, to improve and coordinate Federal plans, functions, programs and resources to the end that the nation may . . . *enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.*" (emphasis added)

Section 103 of the Act further states:

"All agencies of the Federal government shall review their present . . . Administrative regulations and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with . . . this Act . . ."

In view of the NEPA law, your reluctance to support a change in the present tax treatment of rerefined oil is, to say the least, confusing. Your reliance on the operation of the marketplace to encourage recycling fails to take into account, as I have pointed out, the impact of current tax subsidies which encourage petroleum depletion to the detriment of recycling.

Finally, you point to the need for a coherent energy policy. "What is needed is a coordinated and overall effort, rather than fragmented measures that may distort competitive relationships and prove counter productive in the long run."

I agree that a national energy policy must be organized and implemented. We must avoid falling into the pitfalls such as the depletion allowance which distort competitive relationships and have proven to be counter productive in the long run. At the same time, the goal of energy self-sufficiency has been set. If we are to meet this goal we must eliminate energy waste and encourage the maximum utilization of our domestic resources. For this reason, notwithstanding your specific objections to this legislation, I hope you will work closely with our committee to develop a sound fiscal policy to meet the demands of our energy shortages.

Sincerely yours,

CHARLES A. VANIK,
*Member of Congress.*

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## THE 56TH ANNIVERSARY OF UKRAINE INDEPENDENCE

## HON. MARK ANDREWS

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. ANDREWS of North Dakota. Mr. Speaker, January 22, 1974, marks the 56th anniversary of the proclamation of Ukraine's independence, and the 55th anniversary of the Act of Union, both of which took place in Kiev on January 22, 1918, and 1919, respectively. By these acts a Ukrainian independent state was officially established on all ethnographical Ukrainian territories.

After several years of continuous invasion and fighting, Ukraine, unaided, succumbed to the numerically superior forces of Communist Russia. The whole history of Soviet Russian dominated Ukraine is a ghastly record of inhumanity, outright persecution and genocide, Russification and violation of human rights.

For the past several years the Kremlin has engaged in a series of arrests, trials and convictions of hundreds of Ukrainian intellectuals, poets, writers, literary critics, playwrights, professors, students and others, charging them with anti-Soviet propaganda and agitation. Yet, in the United Nations Ukraine is a full-fledged member, and the Kremlin makes much of this fact in its massive propaganda drives throughout the world. The fact is that today Ukraine is a land of inhuman persecution and economic exploitation. Only outside of Ukraine can Ukrainians and their descendents throughout the world speak of freedom and independence.

On behalf of Americans of Ukrainian descent, I wish to call this date to the attention of my colleagues and urge them to lend their support of the Ukrainian people in their undaunted struggle for human rights and freedom, which are the basic tenets of our modern society.

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## THE HEALTH CARE CRISIS

## HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. LEHMAN. Mr. Speaker, the availability of health care is of vital concern to all Americans, simply because access to quality health care may literally mean the difference between life and death.

We hear a lot today about the "health crisis" in America, and how the United States ranks far behind other nations. Recent statistics show that the United States ranks 14th among industrial nations in infant mortality; 22d in life expectancy of males and 7th among females; and infant mortality among nonwhite infants is almost double the rate for whites—35.9 versus 19.7 per 1,000 births.

There is no doubt that there are major problems with the Nation's health care system, which exist despite the fact that we have the best educated and the most highly skilled doctors in the world, as well as the most advanced and sophisticated medical technology.

The health care crisis appears to be a result of our inability thus far to translate these achievements into realities of better health care at prices all our citizens can afford.

In the last 4 years alone, total health care expenditures have risen nearly 40 percent—from $60 billion a year to more than $83 billion.

The average American now spends 35 percent more on his health care—an increase from $292 to $394 per year.

Clearly, medical care is being priced out of the reach of millions. Fifteen years ago in the automobile industry, the average worker paid 5.6 cents an hour for health insurance. The cost today is 40 cents an hour.

In fact, private health insurance still covers only 26.4 percent of the private health costs. And 30 million people under the age of 65 have no health insurance at all—that is nearly 1 out of every 7 persons.

Persons in the lowest income brackets have it particularly hard. They are four times more likely to have an activity-limiting chronic condition as those earning $10,000 per year or more. The poor average 50 percent more disability days per year than the nonpoor.

For the elderly, the problem is even more severe. In fiscal year 1972, the Nation spent $71.9 billion for personal health care; 27 percent of this was for health care for the elderly. The average medical bill for an aged person reached nearly $1,000 in fiscal year 1972—almost three times as great as the bill for a person in the intermediate age group.

For an aged person, his bill for physician's services was nearly four times that for a youth, and double that for the intermediate age group.

Personal health care expenditures increased by an average of 9.4 percent in 1972 for all persons. But for the elderly, living on fixed incomes, the rise in expenditures increased by 11.6 percent.

Despite medicare's large outlays, its

portion of the health bill for the aged dropped in recent years from 46 percent in 1969 to 42 percent in 1971 and 1972. The most significant drop in medicare payments has been for extended care facilities, as a result of tightened controls on the use of such facilities. In 1969, medicare spent $367 for extended care—nearly 18 percent of the nursing home bill for those aged 65 and over. By 1972, the medicare outlay dropped to $216 million, and its share of the bill likewise dropped, to only 7 percent.

Medicare's share of expenditures for physicians' services for the aged has also dropped. In 1969, medicare's contribution was 61 percent; in 1972, it was 56 percent. Part of the reduction is the result of tighter regulations for reimbursement of charges for physicians' services. Another factor is the decrease in the proportion of claims for which physicians have accepted assignment.

When a physician accepts assignment, he or she accepts medicare's determination of a reasonable charge, and the patient is billed only for the unmet part of the annual $50 deductible plus 20 percent of the remaining amount. If the doctor does not accept assignment, he or she can charge more than medicare's "reasonable charge" and the patient must make up the difference. In fiscal year 1969, the net assignment rate, exclusive of hospital based physicians, was 61 percent. In 1971, it dropped slightly to 60 percent, but by 1972, the net assignment rate was only 56.4 percent.

One reason for these skyrocketing costs is that private carriers pay only the cost of hospital care, a situation which forces doctors and patients alike to resort to the expensive and inefficient use of hospital facilities. Unnecessary hospital stays drive up the total cost of health care.

Just as important as rising costs is the shortage of trained health personnel. We have health personnel shortages of nearly half a million, including 50,000 doctors, 20,000 dentists, and 150,000 nurses. By 1980, the shortages are expected to climb to 725,000.

Today, the number of doctors providing family care is only about 1 for 2,000 people, as compared to 3 doctors for 2,000 people in the 1930's.

Not only is there a nationwide shortage, but because of poor distribution, many rural and inner city areas suffer from an even more acute lack of available medical personnel.

The health crisis has been intensified by the failure of our health delivery system to encourage preventive care. Hopefully the recent passage of legislation to encourage the establishment of health maintenance organizations will help to alleviate this problem.

It is imperative that Congress now develop a system of national health insurance to help the individual consumer meet skyrocketing health care costs.

All the proposals before Congress vary considerably in scope and operational procedure, but they all have one common element—they would rely in some way on the Federal Government to contribute to medical insurance coverage for most, if not all American citizens.

I have cosponsored the Kennedy-Griffiths bill, which would provide for a health insurance system funded through a federally administered trust fund financed by payroll taxes and general Treasury funds.

I favor the Kennedy-Griffiths bill because it does not provide simply a system of national health insurance. It would also extend assistance to expand the number of trained health personnel, and expand health facilities. Further, it would provide incentives to reorganize the health delivery system to make it more efficient, and more evenly distribute health resources across the country.

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## A NATIONAL COMMITMENT TO COMBAT THE FAMILY HEARTACHE AND CRIPPLING TOLL OF HUNTINGTON'S DISEASE

## HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. ROE. Mr. Speaker, in response to the heart-rendering plea of members of my Eighth Congressional District. I am introducing legislation in the House today to amend the Public Health Services Act to be considered by our colleagues in order to establish a special comprehensive program to combat Huntington's Disease by providing Federal assistance for programs for the diagnosis, prevention and treatment of, and research in this most serious illness affecting many of the families of our Nation.

A national commitment in the fundamental health of our people is needed now. America's unprecedented strides in technology and science have achieved undreamed of horizons throughout the world over the past two decades. If we can harness these disciplines and concentrate America's technical expertise and scientific knowledge to alleviate the suffering of our people and achieve the finest health care through Federal assistance and grants-in-aid, then let us make that investment in the substantive health care needs of our people.

Considerable attention has been directed toward the hereditary nature of this disease which has been found in all races and nationalities. Both sexes are affected and the disease may be transmitted by either sex. The incidence in different families is subject to considerable variation. In some families, practically all of the offspring have the disease. In others, only one or two members may be affected. This chronic progressive degenerative disorder of the nervous system in which mental deterioration accompanies involuntary choreic movements of the body generally makes its first appearance in the very prime of life, between the ages of 30 and 50. It already affects great numbers of Americans and will begin to afflict an even greater number as our young adult population expands.

Mr. Speaker, I wish to commend the citizens of my congressional district and the State of New Jersey, and particularly the Garden State Chapter for the Committee to Combat Huntington's Disease for their forthright action in organizing and seeking a greater health care commitment to eliminate this debilitating genetic disease and I am pleased to join with them in a concentrated resolve to place the discovery of the cause of and cures and treatments for this dread disease in the highest national priority. I respectfully request favorable consideration of my bill which reads as follows:

H.R. 12215

A bill to amend the Public Health Service Act to provide assistance for programs for the diagnosis, prevention and treatment of, and research in, Huntington's disease

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

SECTION 1. This Act may be cited as the "National Huntington's Disease Control Act".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds and declares—

(1) that Huntington's disease is a chronic, progressive, degenerative disorder of the nervous system. It is described in medical journals as a hereditary disease of the basal ganglia and cerebral cortex characterized by the onset in adult life of choreiform movements and mental deterioration. The age of onset of the symptoms may be at any time from infancy but in the vast majority of cases it is first discerned between the ages of 30 and 50 years;

(2) that this debilitating inheritable disease which makes its first appearance in the very prime of life already affects great numbers of Americans and will begin to afflict an even greater number as our young adult population expands;

(3) that the exact cause of Huntington's disease is still unknown. Although severity of the choreiform movements may be reduced by the administration of certain medication or treatment that has been developed, there is no known treatment that will influence the course of the disease;

(4) that efforts to prevent Huntington's disease must be directed toward increased research in the cause and treatment of the disease, and the education, screening, and counseling of carriers of the trait;

(5) that programs to prevent Huntington's disease must be based entirely upon the voluntary cooperation of the individuals involved; and

(6) that the attainment of better methods of prevention, diagnosis, and treatment of Huntington's disease deserves the highest priority.

(b) In order to preserve and protect the health and welfare of all citizens, it is the purpose of this Act to establish a national program for the diagnosis, prevention, and treatment of, and research in Huntington's disease.

AMENDMENTS TO PUBLIC HEALTH SERVICE ACT

SEC. 3. (a) Section 1 of the Public Health Service Act is amended by striking out "titles I to X" and inserting in lieu thereof "titles I to XI".

(b) The Act of July 1, 1944 (58 Stat. 682), as amended, is amended by renumbering title XI (as in effect prior to the enactment of this Act) as title XII, and by renumbering sections 1101 through 1114 (as in effect prior to the enactment of this Act), and references thereto, as sections 1201 through 1214, respectively.

"TITLE XI—HUNTINGTON'S DISEASE PROGRAM

"PROGRAMS RELATING TO HUNTINGTON'S DISEASE

"SEC. 1101. (a)(1) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities, for projects for the establishment and operation, primarily through other existing health programs, of Huntington's disease screening, treatment, and counseling programs.

"(2) The Secretary may make grants to public and non-profit private entities, and may enter into contracts with public and private entities and individuals, for projects for research in the diagnosis, treatment, and prevention of Huntington's disease including projects for the development of effective tests which will identify those who have the disease or carry the trait.

"(3) The Secretary shall carry out a program to develop information and educational materials relating to Huntington's disease and to disseminate such information and materials to persons providing health care and to the public generally. The Secretary may carry out such program through grants to public and nonprofit private entities or contracts with public and private entities and individuals.

"(b)(1) for the purpose of making payments pursuant to grants and contracts under subsection (a)(1), there are authorized to be appropriated $500,000 for the fiscal year ending June 30, 1975, and for each of the next two fiscal years.

"(2) For the purpose of making payments pursuant to grants and contracts under subsection (a)(2), there are authorized to be appropriated $1,500,000 for the fiscal year ending June 30, 1975, and for each of the next two fiscal years.

"(3) For the purpose of carrying out subsection (a)(3), there are authorized to be appropriated $25,000 for the fiscal year ending June 30, 1975, and for each of the next two fiscal years.

"VOLUNTARY PARTICIPATION

"SEC. 1102. The participation by any individual in any program or portion thereof under this title shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program.

"APPLICATIONS; ADMINISTRATION OF GRANT AND CONTRACT PROGRAMS

"SEC. 1103. (a) A grant under this title may be made upon application to the Secretary at such time, in such manner, containing and accompanied by such information, as the Secretary deems necessary. Each applicant shall—

"(1) provide that the programs and activities for which assistance under this title is sought will be administered by or under the supervision of the applicant;

"(2) provide for strict confidentiality of all test results, medical records, and other information regarding screening, counseling, or treatment of any person treated, except for (A) such information as the patient (or his guardian) consents to be released; or (B) statistical data compiled without reference to the identity of any such patient;

"(3) provide for appropriate community representation in the development and operation of any program funded by a grant under this title;

"(4) set forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title; and

"(5) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

"(b) In making any grant or contract under this title, the Secretary shall (1) take into account the number of persons to be served by the program supported by such grant or contract and the extent to which rapid and effective use will be made of funds under the grant or contract; and (2) give priority to programs operating in areas which the Secretary determines have the greatest number of persons in need of the services provided under such programs.

"(c) The Secretary may make a grant under section 1111(a)(1) for a screening, treatment, and counseling program when he determines that the screening provided by such program will be done through an effective Huntington's Disease screening test.

"PUBLIC HEALTH SERVICE FACILITIES

"SEC. 1104. The Secretary shall establish a program within the Public Health Service to provide for voluntary Huntington's Disease screening, counseling, and treatment. Such program shall utilize effective Huntington's Disease screening tests and shall be made available through facilities of the Public Health Service to any person requesting screening, counseling, or treatment, and shall include appropriate publicity of the availability and voluntary nature of such programs.

"REPORTS

"SEC. 1105. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this title.

"(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary."

Mr. Speaker, thank you for the opportunity to present this vitally important health amendment on behalf of our people.

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## SUDDEN INFANT DEATH SYNDROME

## HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 21, 1974*

Mr. BYRON. Mr. Speaker, recently the House passed H.R. 11386, to provide assistance for information and education programs concerning sudden infant death syndrome. This is landmark legislation giving statutory recognition to a medical problem requiring additional research and counselling activities.

The Guild for Infant Survival was founded in 1964 to fight sudden infant death syndrome or "crib death." The guild has concentrated its efforts on counseling individuals and groups, providing information on sudden infant death syndrome, and cooperating with public and private research efforts in the field where possible. I commend the efforts of the guild over the years to bring this mysterious cause of infant death to the attention of private citizens, medical authorities, and the public in general.

H.R. 11386 would authorize $6 million over a 3-year period for grants and contracts. The Senate bill, S. 1745, would authorize $36 million—$24 million for research and $12 million for counseling and other purposes. It is obvious that there is a need for organized research into the causes of sudden infant death syndrome, and I would hope that the House and Senate can reach an agreement on final legislation that would provide adequate funding for both research and counseling.

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## JANUARY 21 STATEMENT ON NEED FOR OIL EXCESS PROFITS TAX

## HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. HEINZ. Mr. Speaker, as Congress reconvenes today, I am convinced it is imperative that we make the first order of business the passage of legislation imposing an excess profits tax on the oil industry.

We have heard considerable discussion in the last few months about the causes and dimensions of the energy shortage. But after visiting at home I can tell you that my constituents are tremendously skeptical about the existence of a shortage or our Government's ability to handle a real energy crisis. I am sure most of us received the same message.

And I believe the American people are making a valid point. For instance, who believes that Congress or the administration has sufficient information to make energy decisions that inspire public confidence? Yet, we should pass no additional legislation unless and until Congress first enacts an excess oil profits tax. Notwithstanding our failure to grasp all the problems, we may any day now be asked to vote on another energy bill.

While many in Congress may lament the loss of this energy legislation, I think it is extremely important for us to take the most controversial problem first—the question of the excess profits tax—before we begin reconsideration of a full blown energy bill. I say this because I believe that there is no public support for any congressional action which might further inconvenience the American people or might promote oil companies' interest in working closely with each other, unless the public is assured that companies do not stand to reap windfall profits growing out of the uncertainties of the energy situation.

The American people are willing to make any sacrifice in a real and just cause. But, despite the praiseworthy success of the voluntary program of lowering highway speeds and home thermostats, there is no assurance that the public will continue to tolerate long-term cutbacks and inconveniences. If people cannot reconcile fuel shortages with the sizable jump in precrisis oil profits or the high postcrisis level of oil inventories, if people become convinced that the higher prices they are now paying only mean even higher profits, there will be no support whatever for any Government programs, either from Congress or the administration. And quite frankly, most of the people I have met do not believe there is an energy crisis—but they do believe that someone is getting rich from actions taken in the name of a so-called crisis.

Part of the credibility problem stems from price controls. Why not? After all, price controls simply mean Government and business sitting down to decide how much to charge the public. If a price control is a ceiling, it is also going to be a floor. Is there not great reason for the public to believe that our price control policy is a complete failure?

More to the point, there is a significant energy credibility problem because people do not believe that an administration, whose campaign managers are alleged to have accepted $6 million in contributions from people in the oil industry, can be totally impartial in the setting of oil and gasoline prices.

For these reasons, I say it is imperative that Congress takes the initiative in putting public fears to rest. The first step must be to pass an excess profits tax whose purpose is to take the profit out of profiteering. Properly designed legislation will not drive energy producing firms out of business.

Because the oil industry is allowed to write off at once almost all of its oil exploration investments as "intangible drilling expenses," an excess profits tax on the oil industry will actually encourage investment in additional recovery and drilling new wells.

And hand in glove with Congress enacting this tax is the gathering of adequate information to give the American people a clear picture of reserves, storage, and other critical information necessary for intelligent decisionmaking at all levels of Government.

These are the protective steps we must take to assure the public that the Government does work in their behalf. The first step is the excess profits tax, and I am in the process of preparing and introducing such legislation.

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## OIL BLACKMAIL: A TWO-EDGED SWORD

## HON. BILL GUNTER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. GUNTER. Mr. Speaker, an excellent statement on counter measures which can be employed against those nations engaged in oil blackmail was written recently by Mr. Arthur H. Courshon, chairman of the board of Washington Federal Savings & Loan Association of Miami Beach.

Mr. Courshon suggests that an embargo can be a two-edged sword. I commend his statement for the consideration of the many readers of the Record.

### Has the Free World Lost Control of Its Destiny to the Blackmail of an Oil Embargo?

(By Arthur H. Courshon)

A group of small Arab nations, who through accidents of history and geology control a major part of the world's oil reserves, are denying access to this resource, vital to the economic and military security of nations of the free world.

The Arabs accomplished through collective action what they could not have accomplished singly. Without firing a shot, they now threaten the economies and the freedoms of England, countries of Western Europe, Japan, and to an extent, the United States.

Profiting from their lesson in collective action, they could realize further mutual objectives were they so inclined. Tyranny always begins with a first step. What's next? Disruption of free world productive and economic stability; repeated denials for whatever purpose of access to basic world energy sources?

Their lesson should be our lesson. I strongly urge that we, as Americans, assume the lead in creating an effective, collective counter-embargo and thus show the Arabs they are swinging a two-edged sword.

The Arab nations cannot survive without food, industrial products, transportation equipment, medicine, industrial services and other commodities available to them only from the free world.

The United States historically has taken the lead in protecting the integrity of sovereign nations against blackmail by military force. We should now take the lead against oil blackmail.

No one nation can succeed with such a course through unilateral action. The United States is not the only source, in many commodities not even the major source, of Arab supply. But the free world—England, Canada, Australia, Western Europe, Japan, Latin America and others—could succeed quickly through mutual solidarity in a collective counter-embargo.

Would a collective counter-embargo work? Examine the Arabs' alternatives as they push for their own objectives contrary to the peace and order of the rest of us. Without free world goods, they could look only to the Communist world for food and industrial products. Those nations, principally the Soviet Union and the People's Republic of China, produce only marginally for their own people. Moreover, the Arab countries have shown clearly that while they may accept Communist arms they fear and reject both dependency on and domination by the Communist powers.

The possible costs of inaction are high and are becoming more visible daily. The costs to the oil embargo victims could include economic disruption, weakened currencies, unemployment, severely lowered standards of living, reduced productivity, limited sources of fuel for defense purpose and further alienation of friendly nations as each moves for its own, rather than for mutual, interests.

Collective action now can prevent these problems. Through collective counter-embargo the nations of the free world can regain control over their own destinies.

Of all the free nations, the U.S. may be the most independent of outside energy sources and, in time, probably could survive alone if we had to. But as a world leader and as a bulwark of international moral force, we should take the initiative toward collective action against coercion and blackmail.

What's required? Only the will, the capacity to act in unison with other free nations whose products keep the Arab people alive. The Arabs can't eat or drink oil . . . or money! If suddenly no ships, no planes, no wheat, no spare parts, no industrial products reached the 8 nations that created the oil embargo, we would see an immediate change in attitude on their part.

We do not have to wait for political leaders to take the initiative. We can write our congressmen, our senators, our President. We can encourage our friends, business associates, suppliers and customers throughout the free world to insist that their leaders set aside fruitless rivalries and unite in this common, critical purpose.

We can urge that the U.N., though we recognize the difficulties of resolution in that body, certify oil and other major resources as world treasures open to the world marketplace in fair trade; resources not to be used to wage a war that, while absent of bullets, may be as catastrophic as arms to peace and tranquility.

Rather than supinely retreat and divided suffer losses we previously fought wars and spent fortunes to prevent, let us join together and fight fire with fire, collective embargo with collective embargo.

On October 17, 1973 at Kuwait eight nations created a joint policy aimed at bending the free world to their will. They were Saudi Arabia, Libya, Algeria, Kuwait, Abou Duran, Iraq, Sudan, Yemen.

Against that line up, the free world through collective counter-embargo could quickly regain control of its destiny, deal fairly with everyone and protect our mutual national interests. With courage and a strong will, it can be done.

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## WALDIE WALKS, TALKS IN MIDDLE CALIFORNIA

## HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. DELLUMS. Mr. Speaker, during the recent recess, our colleague from California (Mr. Waldie), made a 20-day walk to take the pulse of the people of California.

What he found in the opening days of that journey was quite interesting. The Los Angeles Times had a reporter along with Representative Waldie, and he filed this story:

[From the Los Angeles Times, Jan. 7, 1974]

### Waldie Walk Uncovers Fears of Hard Times

(By Bill Boyarsky)

Pumpkin Center, Calif.—Fear of hard times has emerged along old Highway 99, the historic route of the Okies and Arkies of the Depression, a road that has known pain and suffering.

Worried about their future, a dozen normally reticent men and women—Democrats of conservative Southern stock—were anxious to tell their troubles to a stranger Thursday.

The stranger turned out to be a liberal, anti-Nixon Democrat, Rep. Jerome R. Waldie of Antioch, a candidate for the Democratic gubernatorial nomination. Still, those interviewed were anxious to talk, seemingly pleased he had happened by.

Waldie, an advocate of President Nixon's impeachment, walked all day through the Kern County farmlands, talking to residents of a Democratic area that overwhelmingly supported the President in the 1972 election.

Starting from Pumpkin Center, a small community outside Bakersfield, Waldie began a 20-day walk to the Capitol in Sacramento to boost his uphill gubernatorial campaign.

The encounters were a surprise to reporters who had visited the same county in past elections and had found residents hesitant to share their feelings with outsiders. When they did talk in 1970 and '72, they spoke of law and order and their fears of radicals.

On Thursday, the dozen or so who spoke with Waldie generally discussed the energy crisis and their fears for their economic futures.

They appeared glad to stop their work and give him thoughts about the economy and politics—a contrast to earlier days when barnstorming liberal politicians received a chillier reception from the people on the street.

"I think it's wonderful," an elderly woman told Waldie outside the mobile home in which she lives on Highway 99. She said she thought it was a good thing that he was going out to talk to the people.

His filling station about to fold, Don Hallford, proprietor of Don's Mobil Service, told Waldie he believed he was a victim of a conspiracy by large oil companies trying to freeze independents like himself out of business.

"This shortage was created by the oil companies," he said.

"I think the fuel shortage is for the birds," said Ruth Buck, whose Pumpkin Center restaurant is patronized by farmers having trouble getting fuel to run their equipment.

"I have always been a Nixon fan until the oil shortage. But I read in the paper that he had too much oil in his campaign and it tied his hands," she said.

The people were not well informed in the academic sense of the word. They gleaned their information the way most people do, from bits of news on television and radio, from a glance at a newspaper story.

But everyone to whom Waldie spoke seemed united in a common belief—that the oil companies and other powerful forces out of their control were threatening their hard won economic security.

Mrs. Darleen Lemons, who operates a gift shop in Pumpkin Center and who has always voted Democratic, said, "I've got five children and two grandchildren and my husband Bill is a truck driver. We have a lot of mouths to feed and things have been very slow here for the past few months and I know we need a change."

Truck driving is important in this country, where the long-haul rigs take the produce to market and where the drivers and owners are worried about the fuel shortage and the 55-m.p.h. speed limit.

This is also middle America, one of the most politically important areas in the state because it is a bellwether of other blue-collar working-class white districts. When these conservative Democrats, who had prospered under the New Deal, abandoned their party for Republican Gov. Reagan and President Nixon, it was a sign the Democrats were in deep trouble in the late 1960s.

The story Don Thompson, a filling station operator, told Waldie had a Depression sound to it.

Gulf Oil, he said, was canceling the lease of his service station in Pumpkin Center because there was not enough gas. He, his wife and their small daughter had just moved into a home he had purchased a mile from his station. Now he will have to look for a new job.

"It's the little guy who suffers," he said.

Waldie received a hostile reception once, when he waved to two workers across the road. "Are you a Democrat?" he shouted. "No," one of them replied.

"You have time to repent," said Waldie.

"I go to church, I don't need to repent," the worker replied.

Waldie said he hopes to use the walk as a means for building enthusiasm for his candidacy, which he concedes is running behind some of the other Democratic candidates for governor.

As a theme for this first day, he quickly picked up the complaints of those he talked to and referred to them in a half-hour television interview in Bakersfield.

Speaking of the Gulf Station operator faced with loss of his business, Waldie said, "He's tossed out on his ear and the profits of the oil companies, including Gulf, are the highest in years . . . I don't see any sacrifice from the big oil companies."

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## FREE ENTERPRISE—NOT RATIONING OR HIGHER TAXES—BEST WAY TO SOLVE ENERGY CRISIS

## HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. ARCHER. Mr. Speaker, there have been proposals that gas rationing and/or higher taxes on gasoline will aid us to solve the energy shortage. A basic understanding of our free enterprise system and how it operates show the fallacy of this approach. An excellent article which discusses this entire question appeared in the Wall Street Journal. This article, written by two Texas University professors, is entitled "The Common Sense Way to More Oil."

The article follows:

### THE COMMON SENSE WAY TO MORE OIL

(By W. Philip Gramm and Richard R. Davison)

In the great debate about how to stretch the nation's crucially short available supplies of petroleum products to meet current and expected demand, many people in influential positions are trying to straddle the issue. They are proposing rationing or high federal fuel taxes as a short-term policy and free markets as a long-term policy.

On the surface this blend of controls and freedom seems to make sense. The exact magnitude of today's petroleum shortage is unknown but the quantity of excess demand has been estimated in the range of 10% to 20%. Until the forces of the marketplace can once again achieve equilibrium, it is proposed that high fuel taxes would serve to trim some of the excessive demand and rationing would make sure that everyone gets his fair share of the available supplies of gasoline and fuel oil.

In fact, almost nothing could be quite as disastrous for everyone concerned. Rationing and taxing will cause output to *fall* and the shortage will get worse. The explanation is simple. If these programs are introduced as temporary measures, it's true they will serve to hold down the price of oil of domestic producers, but at the same time they will also serve to introduce the expectation of higher prices after controls end. The producer, therefore, will have an incentive to restrict current supply and to maintain his capacity to produce under more profitable conditions.

We need only look back to last summer when beef prices were frozen to see what will happen. Since oil can be held indefinitely, while cattle quickly pass their prime market period and eventually die of old age, we can expect even more production holdovers in oil than we experienced in cattle.

Not only will rationing and taxing petroleum not eliminate the shortage, but under such programs the effective price of petroleum to the consumer *will be higher* than the price that would exist in a free market. There, as prices rise the quantity supplied would expand from both domestic production and increased importation; and the shortage would be partly eliminated by decreases in the quantity demanded and partly by increases in the quantity supplied. The taxing system, on the other hand, would produce no supply response and we would have to rely solely on decreases in the quantity demanded as the effective price rose—thus a higher price to the consumer than under a free market system.

Rationing, with a "white" market in coupons, though lowering the transaction costs that were incurred in the black market trading of World War II, will still produce a higher effective price to the consumer than the free market solution. The market price of ration tickets will be bid up to the point at which the ceiling price of gasoline, plus the price of the ration ticket are equal to the price at which the 10% to 20% of excess demand is choked off. But again there will be no stimulation of oil output, with the consequence that the effective price will rise above the level the free market would have produced.

THE ICEBERG IMAGE

What, then, could we expect of free market pricing by itself? Where would the additional supplies of oil come from if prices rise? Like an iceberg, 90% below the surface of the ocean, about 90% of the known oil in the U.S. is unrecoverable at present prices, existing in fields that are now considered largely depleted. But, as an iceberg floats higher when the sea becomes denser, so more oil reserve become available when the price rises.

To put this in perspective, in 1969, before the energy shortage developed and when there was little prospect of higher oil prices, cumulative production in the U.S. was 84 billion barrels, and recoverable reserves were about 31 billion barrels. (The Alaskan North Slope strike has increased this to about 39 billion barrels.) Yet there remained in these same reservoirs, in fairly well-defined locations and volumes, 285 billion barrels not recoverable at existing prices. The technology exists to recover much of this oil. Even now, over a fourth of the oil produced in this country comes from fields subject to artificial water floods, but even after successful water flood, about 50% of the original oil remains in place.

There are a large number of so-called "tertiary" recovery techniques that include steam and fire drives, dissolving the oil with miscible gases or liquids and methods employing detergents that literally wash the oil from the rock. The high temperature methods ore particularly effective with highly viscous oils. There are estimates that up to 50 billion barrels of low gravity, viscous oil are recoverable by these methods. On the other hand, miscible fluid recovery techniques with higher gravity oils are capable of recovering as much as 90% of the oil in place.

While in time, more and more of this hidden part of the iceberg will become available as improved technology brings down the cost and risk, a few dollars per barrel price increase would likely have the effect of *tripling* U.S. oil reserves. Just how fast this additional oil would become available as the price rises is impossible to answer with precision. However, between 1947 and 1972 the record indicates that every 1% increase in prices of refined petroleum products was on average associated with a 4% increase in the production of gasoline. This fact bears out what the bureaucrats have been saying: Oil men are greedy. If you raise the rewards for production, thy produce more to get it. If real prices fall, as they have under price ceilings, production falls off.

In a free market, all marginal or stripper wells that could produce profitably would soon be in operation. There are over 350,000 stripper wells in the U.S., producing 10 barrels per day or less and tens of thousands more shut down which could be made operational on short notice. Production from these wells could probably increase stripper production by 20% to 25%. Though some of these wells would require renovation, most could be on stream in six months to a year and could produce about 250,000 barrels per day. The even larger inputs from secondary and tertiary production and increased exploration would be felt more slowly. Within a 24-month time frame, new production approaching one million barrels per day might be expected and this source would gush forth in ever increasing quantities until stopped by declining prices.

The free market oil price is constant dollars would be below $8 per barrel. At $8, a vast amount of energy from other sources would cut deeply into the conventional oil market. Not only would coal and nuclear energy replace oil and gas for power generation, but gas from coal would supplement natural gas supplies; and methyl alcohol from coal could undersell gasoline. The U.S. has some of the best coal deposits in the world—at least 200 billion tons (equivalent to roughly 900 billion barrels of oil and significantly in excess of world crude reserves). There are also huge reserves of shale and tar sands that could make a significant contribution at these prices, and even solar energy could make inroads into the space heating market in many localities.

### A RETURN TO NORMALCY

Gaseous and liquid fuels from coal have a longer lag time than increased petroleum production, but the potential contribution is such that it places an absolute upper limit on ultimate fuel prices. For instance, methyl alcohol, produced from coal, can compete with gasoline at oil prices well below $8 per barrel. Furthermore, methyl alcohol is over 100 octane, lead-free, much cleaner burning than gasoline, and, as a by-product, it could save billions in pollution abatement. With these many energy alternatives, given the opportunity, the free market system would provide adequate fuel for rapid economic expansion.

One of the loudest objections raised against a free market solution to the energy crisis is that the petroleum industry will make excessive profits if prices are allowed to rise. Since the crisis was, in large part, engendered by various government regulations that disrupted the workings of competitive markets and by price ceilings that caused the real price of petroleum and natural gas to fall and lowered the return on investment, rising profit margins represent not so much a windfall gain as a return to normalcy. These profits are necessary if we are to revitalize the exploration and production process in the energy industry.

U.S. production of crude oil and natural gas liquids this year has been running close to 11 million barrels a day, while the latest figure for imports is about 6 million barrels a day. Imports, not covered by price controls, are selling for about $8 a barrel on average, although in extreme cases they have sold for twice that amount. Recently, new and stripper well production was freed from controls and is now selling for over $6.75 a barrel. Last week in a commendable move the price ceiling on "old oil" from existing wells was raised $1 a barrel, but this still leaves two thirds of America's oil selling for $5.25 or less and the other third ranging up to nearly $8 a barrel. The stated objective of these pricing policies is to encourage the finding of new oil and the maintenance of production from marginal wells, but under such a system there is a clear incentive to cut the production of non-strippers and wait for prices to rise when ceilings are removed. Such incentives explain why many wells have been capped under the present pricing system.

Without question, the government has held the price of oil and gas artificially low for many years. As a result, the return on invested capital in the petroleum industry has fallen from 9.4% in 1963 to 7.4% in 1972. Falling prices also have caused a drastic decline in drilling and hence curbed the growth of oil reserves. Twenty years ago, when crude production was only 60% of present production, there were about half again as many drilling rigs operating in the U.S. as there are now. But 20 years ago it cost less than half as much to find a dollar's worth of reserves as it did in 1972. Just from 1967 to 1972 the cost to drillers for oil field machinery, pipe and labor increased about 30% while the price of finished petroleum products rose less than 9%. This has caused a steady deline in the discovery ratio. At present, not including Alaska, we are depleting reserves about 20 times as fast as we are finding new oil.

In order to reverse this trend the oil companies must spend billions, but this they cannot do if their return on investment is less than the going interest rate. Under a free enterprise system the only way that the cash flow and incentives necessary for research and exploration can be provided is from profits. These profits cannot arise under the present system of controlled prices. The proposal that the government subsidize the oil industry for purposes of exploration and research will create a quasi-governmental cartel modeled on that paragon of efficiency—the U.S. Postal Service. It seems far better (and cheaper), therefore, to allow the oil companies to finance this exploration themselves through free competitive capital markets.

### TREASURY CONTRADICTIONS

The new proposal to institute a progressive "windfall profits" tax on crude oil that sells for over $4.25 a barrel will only lessen the profitability of marginal production, and short term output will increase by a smaller amount than it would in the absence of such a tax. By extracting $3 billion a year from oil company revenues, such a tax will make it more difficult to plow back the $200 billion necessary to maintain current production over the next 15 years or to get external financing for such a massive investment. Moreover, the Treasury's estimate that such a tax will not affect prices to consumers is based on the assumption that over the five year life span of the tax the quantity of oil supplied will be perfectly fixed, i.e. that no marginal production is possible. This flies in the face not only of every private estimate of the price responsiveness of crude oil supply but of previous estimates put out by the Treasury itself.

Somewhere along the line people have forgotten how the profit system works, that it it is to each producer's self interest to expand output and thereby expand profits. As each producer does this, excess profits are competed away. Excess profits vanish when their work is done and output has increased.

It is plain common sense that if government regulation and price controls have helped to cause the energy crisis, they are not likely to solve it. When government intervention does not solve a problem, the bureaucrat never thinks to end controls. He cries for more controls. Those who have no knowledge of free enterprise stampede to give him more power. In such cases, our problem is not an "energy crisis" but a "leadership crisis."

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## REPRESENTATIVE RONCALLO COVERS THIRD DISTRICT ON FOOT

### HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. LENT. Mr. Speaker, nearly all of us are looking for novel and effective ways of "feeling the pulse" of our districts. On January 7, my good friend and New York colleague, Angelo Roncallo, took an approach which certainly deserves our applause. Starting at his home in Massapequa, he walked 21 miles to his district office in Cold Spring Harbor, talking with constituents along the way.

For the benefit of my colleagues, I include a Newsday account of his hike in the Record at this point:

### ONE (HEAVY) STEP FOR MANKIND

(By Jack Altshul)

Roncallo for President! He's my candidate for 1976. I don't care about his voting record in the House as a freshman representative of the Third Congressional District. It doesn't matter that he's a Republican or an intimate of Joe Margiotta, the Nassau GOP boss. Angelo Roncallo made it in my book Monday when he walked his district, all 300 pounds of him, in freezing temperatures, from Massapequa to Cold Spring Harbor—a distance of 21 miles. I get the huffs and puffs walking my dog.

If it was a publicity stunt, more power to the congressman who expects to run for reelection in November. The least he ought to get out of it is a cabinet post. The President's yes men never came up with an idea to match it or to humanize him. That gambol through economy class on the way to San Clemente was a feeble exercise compared with the Roncallo trek over frozen tundra. And unlike the congressman, the President never bothered to inquire of the passengers what they thought of his administration.

Roncallo wasn't at all bashful. He serves a predominantly Republican district, and he asked all the people en route what they thought of the President. They gave it to him bluntly. They thought the aroma exuding from the White House smelled worse and polluted the environment more than the seepage from a damaged cesspool.

And Roncallo, a party loyalist in every other respect, did not hesitate to reveal the sentiment he encountered. He was honest enough to comment: "The President couldn't win in my district today. If he were running again, I'd tell him not to."

He also learned that the people who sent him to Congress don't believe there is an energy crisis. They think it is a ploy by the oil companies to get higher prices. They think the companies will use the crisis to tap the oil in the Atlantic, meanwhile charging all the traffic can bear. If that's what the people think, Roncallo says, he's going to pursue his own investigation when he gets back to Washington to determine whether the crisis is real or a hoax. In that respect, I don't know whether Roncallo is promising anything more than any other candidate.

Be that as it may, my admiration for the former Nassau County controller continues unabated. It takes some doing for a man of such imposing avoirdupois to consummate an eight-hour walk. The congressman started off from his home in Massapequa at 7 AM and by the time he got to his office in Cold Spring Harbor late in the afternoon, he was only one of three who survived the marathon. The rest, including newsmen, dropped by the wayside. The other survivors were Roncallo's wife, Priscille, who now qualifies as the most athletic wife in Congress, and John Deppert, a member of the Nassau Community College track team.

The way I look at it, Roncallo won more than just my vote Monday. Consider what he did for the unloved, overweight population of America, which is no longer a silent majority and which has been protesting discrimination in executive job opportunity almost as loudly as women, recently. Certainly the congressman from Massapequa has gained considerable weight among a constituency that reaches far beyond the borders of the Township of Oyster Bay. An awful lot of lightweights had to take to cars to complete the frosty congressional junket.

He could very well be the forerunner of a new trend in politics. It would emphasize a kind of give-the-people-what-they-want government. There must be a lot of voters who don't read diet books and who would want to be represented by someone who asks them what they want. Now I don't know whether Angelo Roncallo can give them all that. I don't know whether he can figure out the oil crisis which thus far has baffled not only those assigned to the problem in the White House, but also supposed experts in the field.

I don't know that my hero can beat inflation, divert munitions money for medical research, or solve the urban and suburban problems. All I know is a man who goes out asking is more apt to get solutions than this guy who hides in three White Houses and talks only to people who tell him what he wants to hear.

I'm casting my vote for Angelo Roncallo who asks his questions walking.

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## OUR MISSING IN ACTION

## HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. O'BRIEN. Mr. Speaker, we still have American citizens missing in action in Southeast Asia. Almost a year has passed since many of our POW's came home, and yet we still have no complete accounting of our missing.

Recently my constituent, Mrs. L. F. Bates, wrote a letter regarding our MIA's to her local newspaper. The Chicago Heights Star answered her letter with an editorial. Since both the letter and editorial express my feelings so eloquently, I am placing them in the Record for all to consider:

### Missing in Action

To the Editor:

I am writing out of my deep concern that newspapers of this area have given so little attention to the plight of the more than 1,200 Americans who were captured or reported missing in the Viet Nam war and who have not yet been accounted for. Surely this subject is one that merits both your editorial comment and continued news coverage.

Because several hundred of our former prisoners of war (POWs) and missing in action (MIAs) were returned to us, many Americans hold the mistaken impression that the POW-MIA problem no longer exists. Nothing could be further from the truth.

Here are some of the hard facts:

Few of our "missing" were included among those men who were returned.

More than 50 of those who were known to be prisoners of war also were not returned.

Sixty of our men that the other side claimed had "died in captivity" are still buried in alien soil. Not one body has yet been sent home to the man's family.

Our search and inspection teams which were supposed to be allowed entry into all areas of Southeast Asia where our men were last seen alive have so far been permitted to examine only a handful of such sites—all in South Viet Nam.

As the parent of one of those few "missing" who was returned home, I realize how very lucky we were, and can feel the desperation of those families who are trying to get an accounting of those still missing.

I hope that you will find enough of interest in this letter to prompt an editorial on the subject, and further and continued news coverage on the progress or lack of progress our government is making in its efforts to account for these missing men.

I feel sure that my fellow Americans would share this deep concern of the National League of Families, if only they knew the facts.

Mrs. L. F. Bates.

Park Forest South.

### Lest We Forget

A letter from a reader, which is reprinted elsewhere in this issue, calls attention to a tragic aftermath of the Viet Nam conflict—the fate of more than 1,200 American servicemen who were captured by the enemy or were reported missing in action and have not yet been accounted for.

When the United States signed the Paris Peace Conference agreement last January, 1,925 members of the U.S. armed forces and 52 U.S. civilians were being held as prisoners of war (POW) or were missing in action (MIA). Now, nearly a year later, two-thirds of these men are still missing, and there has been no word of any kind from Hanoi as to their whereabouts.

The question that continues to plague the families of these men—and indeed should be of concern to every American—is: Is it possible that some or all of these men are still alive and in Communist hands?

In the opinion of the National League of Families of American Prisoners and Missing in Southeast Asia, the answer is: "Yes, it is possible."

The league then goes on to point out:

Some of the missing men are known to have been alive and in Communist hands at one time.

Some of the missing were photographed in captivity, and the U.S. government has copies of the photographs.

In some instances, the enemy issued propaganda releases, including photographs of the official U.S. armed forces ID cards of certain men, stating that the men had been taken prisoner. The U.S. government also has this information in its files.

In still other instances, the enemy made radio broadcasts announcing the capture of U.S. servicemen. The U.S. monitored the broadcasts.

When the peace agreement was signed, however, and the North Vietnamese handed U.S. officials a list of Americans who were to be repatriated (together with a list of 60 men who "had died in captivity"), more than 50 men previously identified as POW's did not appear on either list. The Communists have since provided no information about these men.

Similarly, many Americans who had been listed as "missing in action," but who were never classified as POWs, disappeared in the combat zone under circumstances that point strongly to the possibility that they were taken prisoner. Yet, when the Communists listed the Americans who were to be repatriated, the lists included only 47 men (out of a total of 1,334 missing) slated for repatriation. Ten other men previously identified as missing were included on the list of those who died in captivity. This means that a total of 57 MIAs, or less than four per cent of all of the missing, were accounted for.

What happened to the others? What indeed? Only Hanoi knows. The U.S. government should step up efforts to get definitive answers. It owes it to these men and to their families. In a sense, it is a "war debt" that is long overdue in settling.

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## CANAL ZONE DUTY IS NICE

## HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. ASPIN. Mr. Speaker, on Thursday, January 10 the Wall Street Journal published an article entitled "The Good Life—in the Canal Zone, Duty is Nice for U.S. Military, But Criticism Mounts." Mr. Richard J. Levine, the Wall Street Journal's Pentagon correspondent presents a devastating case against the continuation of the so-called southern command. It is the smallest and most rank heavy of the Pentagon 7 unified commands and one that I think should be reexamined, and possibly abolished.

I commend Mr. Levine's article for my colleagues. The article follows:

### The Good Life: In Canal Zone Duty Is Nice for U.S. Military, But Criticism Mounts

(By Richard J. Levine)

Quarry Heights, Canal Zone.—Tall palm trees shade the stately old quarters of the generals and colonels clustered on this military post overlooking the Panama Canal. In the early-morning heat, Panamanian workers tend the neat lawns and lush flower beds. Two tennis courts await the day's first players.

The military people stationed here will devote much of their day to paperwork. The pace is hardly arduous, and there will be plenty of time to enjoy the serenity of the zone and its recreational delights, such as golf, fishing and boating. An army colonel says: "There's nothing like it in the world. A party every night and never a wait on the golf course."

This idyllic setting is home for the headquarters of the U.S. Southern Command—the smallest and most rank-heavy of the Defense Department's seven commands that comprise more than one service. Though it numbers only 10,500 military people and can muster little firepower, the command has no fewer than 10 generals—including the four-star commander, William B. Rosson—plus two admirals and four separate headquarters.

#### THE DIFFERING VIEWPOINTS

To its champions, the Southern Command is essential to the defense of the canal, the U.S. military-aid program in Latin America and the maintenance of close ties with military-oriented Latin governments. It is "performing a vital military mission," Gen. Rosson says.

But to its detractors in Washington, the Southern Command is a costly anachronism that symbolizes misuse of military manpower—mismanagement that in their view is unnecessarily driving up defense costs and producing a military establishment with too many high-ranking officers, too many headquarters, too many soft desk jobs and too few combat units.

"The grade structure has become so top-heavy with high-ranking officers that it's shaped not like a pyramid but like a balloon," Democratic Sen. Walter Mondale of Minnesota complains. "Colonels drawing well over $20,000 a year are used to carry around charts and hold pointers during Pentagon briefings on why the Defense Department needs additional manpower."

The Southern Command's critics, who are mainly in Congress and the State Department, contend that it lacks a major military mission and should be merged into other commands, reducing the number of brass hats. "I can't see any reason for the Southern Command," says a military analyst with long experience at the Pentagon and the National Security Council. "They have nothing to command except a few soldiers."

### A NAVY WITHOUT WARSHIPS

The fighting forces assigned here are slim. The Army has a 2,800-man infantry brigade. The Air Force has only 31 planes, and its four combat jets are borrowed from another outfit. The Navy, to its embarrassment, doesn't have a single warship here. Its "fleet" consists of two 45-foot fishing boats used by the brass, and Navy briefing officers are reduced to discussing the annual visit of a single landing ship for training exercises.

"The only reason the Navy is here is that this place is surrounded by water," says one of the few senior officers here who side with the critics. "They have no mission—not one. That headquarters is the sleepiest place I've ever seen."

What the Southern Command does best, critics insist, is provide pleasent pre-retirement jobs for the brass. "It's a make-work proposition," a congressional staffer says. "What better way to end a career than on Quarry Heights?" Gene La Rocque, a retired rear admiral turned Pentagon critic, goes further: "A tour in the Southern Command is most aptly described as a two-year vacation."

Indeed, some military men here complain of a lack of real work. At a dinner party, an ensign assigned to Navy headquarters says with a sigh: "We're just a skeleton force; it makes you feel so useless."

### THE PRESSURE FOR ECONOMY

In the future, military chiefs may have growing trouble in protecting the Southern Command from economizers. The mounting cost of defense manpower, which now accounts for 56% of the Pentagon's $79 billion spending budget, is increasing congressional pressure for eliminating various headquarters and reducing the number of high-ranking officers.

"Combat jobs tend to be undermanned while support jobs, particularly for headquarters staffs, tend to be overmanned," the Senate Armed Services Committee recently lectured the Pentagon. "The Department of Defense and each of the services should make substantial reductions in their headquarters staffs. . . ."

To bolster this view, lawmakers cite the fact that there are 44 more three- and four-star generals and admirals in uniform today than at the height of World War II in 1945. There are also more colonels and Navy captains today (15.847) than in 1945 (14,989).

The congressional message appears to be getting through to the Pentagon loud and clear. Defense Secretary James Schlesinger has ordered a major review aimed at "finding opportunities for eliminating and reducing headquarters staffs." Pentagon officials say moves could come shortly to eliminate up to 60,000 military and civilian jobs. The ultimate goal is an annual saving of some $300 million in the military-support structure.

As military pay has climbed in recent years, Congress has become increasingly critical of the traditional perquisites of rank: the chauffeured cars, the big houses, the elaborate recreational facilities.

Perhaps nowhere are these accouterments of American military life so abundant as in the Canal Zone—a strip 10 miles wide and 50 miles long in which most of the Southern Command's men and their 14,000 dependents work and live. Small and out of the military mainstream, the command has gained a reputation in the armed forces as a "hidden paradise."

Crammed into the zone are seven golf courses, six riding clubs, four beaches, 14 swimming pools, 14 movie theaters, four yacht clubs, five bowling alleys, nine craft shops, two roller-skating rinks, six gymnasiums and countless tennis courts, many of them lighted for night play.

Adding to the allure of an assignment here for the brass are the big, frame residences built by the French before the turn of the century. They have 40-foot living rooms with high ceilings and polished hardwood floors, four or five bedrooms, maid's rooms, modern kitchens and walk-in closets so large that many a suburban builder in the U.S. would label them bedrooms. One officer estimates that it costs the government several thousand dollars a year to maintain a big home on Quarry Heights.

Gen. Rosson readily concedes the life here is "attractive." But he insists that the Southern Command is carrying out an essential mission "in an area of prime importance to the national interests of the U.S." Still, the mission, like the command itself, is controversial.

While the command officially lists the primary mission as defense of the Panama Canal, staff officers concede that "it is difficult to define" any traditional military threat against the canal.

When pressed, military men reluctantly cite the Panamanians themselves. But State Department analysts contend that the Panamanians fully recognize that the canal is important to their economy. Despite the anti-American riots here in 1964 and occasional threats of violence voiced by the Panamanian government, a U.S. diplomat says: "The Panamanians' emotional thrust isn't against the canal. The problem is the nature of our presence."

### BEYOND THE TREATY

Panama vigorously objects to the Southern Command with its 13 military posts strung out through the zone. The government of strong man Omar Torrijos argues that this deployment goes far beyond the protection of the canal as permitted under a 1903 treaty.

"We believe that the Southern Command was never allowed by the treaty," a Panamanian diplomat says. "The defense of the canal is something else from the maintenance of an enormous military establishment. You have the constant feeling of the military boot being put on you."

Elimination of the Southern Command is one of Panama's aims in the decade-long negotiations with the U.S. on a new canal treaty. The negotiations resumed last November, with the U.S. delegation led by Ellsworth Bunker, the former ambassador to South Vietnam. Panama's basic objective is to regain sovereignty over the Canal Zone.

Diplomatic problems aside, the Southern Command's critics insist that the elaborate headquarters setup here isn't needed to support the zone's only sizable fighting force, the 193rd Infantry Brigade, or any reinforcements that might be brought in if serious trouble did erupt.

But Gen. Rosson and other officers here emphasized the Southern Command's noncombat missions; these include running military asistance to Latin America and directing disaster relief and search-and-rescue operations in this region, which is subject to earthquakes and hurricanes. "I wouldn't argue (with the view) that we are somewhat heavy in general and flag officers," Gen. Rosson says. "But the nature of the command is such as to place uncommon requirements on us for senior personnel in selected positions."

By this reasoning, a disproportionate number of high-ranking officers must be assigned here as a way of flattering status-conscious Latin officials with whom they deal. But some U.S. officials believe that the trend has gone too far. They note that eight Southern Command officers wear more stars than Brig Gen. Torrijos, who heads the Panamanian government. "There are indications that Torrijos doesn't appreciate it," a Western diplomat stationed in Panama says.

Moreover, some U.S. analysts feel that the shrinking arms-aid program could be run just as effectively from Washington as from the Canal Zone. Why, they ask, does it require 290 military men and 96 civilians to run a weapons-aid program that has declined to less than $5 million a year from $60 million in 1966?

The Southern Command says this field force is needed to spur weapons sales throughout Latin America. But a U.S. Foreign Service officer says, "It doesn't take all those people to tell the Latins what they want to have. The American aircraft industry is out selling."

The Southern Command is responsible for training Latin American military men at four schools in the zone. Since the first courses were established in 1943, some 45,000 students have graduated, many of whom now occupy seats of power. Among the alumni are Gen. Torrijos; Gen. Juan Velasco Alvarado, president of Peru; and Brig. Gen Guillermo Rodigue Lara, president of Ecuador.

The school system, forging strong ties between U.S. officers and many Latin leaders, has helped the American military perform what it has called its "representational role" in Latin America. But State Department officials want this job left to the professional diplomats. And congressional critics can't understand why, after three decades, the schools haven't worked themselves out of a job. "The military doesn't see any end to this (training)," a Senate staff member complains.

The command takes great pride in its humanitarian missions. In the past six years, it has provided assistance in 80 disasters; after the December 1972 earthquake in Nicaragua, Southern Command pilots flew in one million pounds of badly needed supplies. Yet Brig. Gen John Desmond, command operations officer, worries that "a lot of people lose sight of what we're doing down here."

His concern is shared by ambitious career officers here, who fear that a stigma is attached to a Canal Zone assignment. "As you progress in your career, assignment to this command hampers you," a young Air Force officer say. "Why? Because this command has declined in importance. There's a general lack of interest in Latin America in the U.S."

Gen. Rosson, a widely respected officer, is attempting to change the zone's image as an easygoing pre-retirement center by reaching out for officers on the way up. But stories poking fun at the command still circulate—about a former army commander here, known as "tire guage," who ran around the zone measuring the air pressure of tires on military vehicles and about a former Navy commander who once demanded that a logistics officer rush over to his quarters to fix his washing machine.

In 1970, a special defense panel composed of leading private citizens recommended that the Southern Command be abolished and that its functions be assigned to an enlarged Atlantic Command. Then-Defense Secretary Melvin Laird agreed. But the Joint Chiefs of Staff managed to persuade President Nixon to leave the Southern Command intact.

Now, as the Pentagon searches for savings in headquarters staffs, one blunt officer here suggests that the Southern Command is "the ripest fruit on the tree."

## THE PANAMA CANAL CRISIS

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## HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. RARICK. Mr. Speaker, the announcement that Dr. Kissinger is to meet with representatives of the rebel Panamanian government in negotiating a giveaway of U.S. sovereignty over the Panama Canal has drawn sharp retort from Mr. Phillips Harman, the grandson-in-law of the founder of the Republic of Panama.

I ask that Mr. Harman's wire to Dr. Kissinger, a letter to Maj. Gen. Franklin M. Davis, Jr., and correspondence to me, along with a pertinent news clipping follow:

Los Angeles,
*January 8, 1974.*

Hon. Henry A. Kissinger,
*Secretary of State,*
*Department of State,*
*Washington, D.C.:*

The Los Angeles Times today stated that you might go to Panama this month to sign a new treaty. Do take into serious consideration that the gagged and suppressed people of Panama will not acknowledge a treaty signed by you and Juan Tack, the de facto foreign minister, as this treaty by their law would be invalid. Article 2 of Panama's national Constitution clearly states the public power emanates solely and exclusively from the people and that it is exercised through legislative, executive and judicial agencies. Consequently any act by an organization, institution or group other than those authorized under the national Constitution to exercise the public power is illegal and a flagrant violation of the basic principles underlying the democratic system.

Phillip Harman.

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Los Angeles, Calif.,
*January 12, 1974.*

Maj. Gen. Franklin M. Davis, Jr.
*Commandant,*
*U.S. Army War College,*
*Washington, D.C.*

Dear General Davis: Being the grandson-in-law of the founder of the Republic of Panama, a former Honorary Panamanian Consul, and one who knows Panama well, I have for the past four years been exposing the leftist and illegal regime of Omar Torrijos, Juan Tack, and the Communist Party of Panama in their objectives of bringing Panama into the Marxist-Lenist camp and to gain control over the sovereignty of the U.S. Canal Zone through their worldwide anti-U.S. propaganda. I am sure that the DIA in the Zone and the CIA in Panama briefed you concerning Torrijos, Tack, and others in Panama.

I recently read that you were in Panama last month and that you had sent a letter of appreciation to Omar Torrijos for his presentation to the students of the war college during their visit to Panama. Concerning Omar Torrijos rank as an officer, it still is Lt. Col. as his rank as Brig. General has no validity as this is self-proclaimed. To become a Brig. General in Panama, this has to be approved by a constitutional president and a constitutional National Assembly. As Panama today has a de facto government, the illegality of Torrijos' self-proclaimed rank as Brig. General is made clear in the official statement made by the National Bar Association on Oct. 13, 1968, just two days after the gunpoint grab of the nation by Lt. Col. Torrijos and a few other leftist officers:

"When we Panamanians believed that our country had reached a stage in which the miltiary would no longer interfere in those affairs which our ntaion's Constitution and laws reserve to the people, who are the only sovereign power that may impose its will and determine its own rule, such men have suspended individual rights and guarantees and silenced, by dint of their bayonets, all public media, abolished the agencies of the State, and set up a military junta."

"These events must be evaluated in the light of Article 2 of the nation's Constitution which clearly provides that the public power emanates solely and exclusively from the people and that it is exercised through legislative, executive and judicial agencies. Consequently, any act by an organization, institution or group other than those authorized under the national Constitution to exercise the public power is illegal and a flagrant violation of the basic principles underlying the democratic system."

When the constitutional government of 1968 is restored by the suppressed people of Panama, and they are diligently trying to do so, Lt. Col. Omar Torrijos will be stripped of his Lt. Col. rank and tried for treason, murder, fraud, theft, and narcotics violations.

As you know, the Russians have long wanted to control all the main waterways in their maritime strategy of dominating the major canals of the world of which the most important is the Panama Canal. That is why they organized the Communist Party of Panama in 1930 with 2 primary objectives:

1. To gain control over the Republic of Panama from within with the help of the armed forces.

2. To gain control over the sovereignty of the U.S. Canal Zone through worldwide and anti-U.S. propaganda, treaty negotiations, or by force.

They accomplished their first objective on Oct. 11th, 1968, when they overthrew the anti-Communist President, Dr. Arnulfo Arias, a good friend of the United States and the free world. As for their second objective, the anti-U.S. propaganda was initiated immediately with the help of Major Manuel "Barba roja" Piñeiro, Castro's chief of intelligence and propaganda for overseas organizations, who arrived in Panama on January 18th, 1969. The treaty negotiations are being used by Tack and Torrijos solely for propaganda purposes as they know that the U.S. Senate would never ratify a treaty with their non-constitutional regime. Concerning the use of force, as you know Torrijos has publicly said many times that this will happen.

I cannot forget my meeting with Secretary Dulles when he came to Panama with President Eisenhower in July, 1956. On July 22nd, in the patio of the El Panama Hotel, I told him in detail the danger that faced the U.S. if steps were not immediately taken to counteract the subversive strategy of the Panamanian Communist Party in their primary objective of converting many of the officers and enlisted men into the Communist fold. I further told the Secretary that when the Communists felt they had control of the National Guard, they would then grab the nation. I explained to him that Ted Shannon, the CIA agent in Panama, and the intelligence agencies in the Zone, were aware of what the Communists were trying to do but I felt that more counter action and more intelligence should be formulated as I knew the strength of those who controlled the Communist Party in Panama. All of this unfortunately became history on Oct. 11th, 1968, when Panama fell to the Reds.

We should not forget what Secretary Dulles said publicly on June 30th, 1954, after the Guatemalan people with the help of the CIA, toppled their leftist head of government, Jacobo Arbenz, that could be applied to Panama today:

"Guatemala is a small country. But its power, standing alone, is not a measure of the threat. It was not the power of the Arbenz government that concerned us but the power behind it."

Ever sincerely,

Phillip Harman.

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Los Angeles, Calif.,
*January 14, 1974.*

My Dear Congressman: I am enclosing a copy of a telegram that I sent to Secretary of State Henry A. Kissinger concerning the news media report that he is about to sign a treaty with Panama.

Being the grandson-in-law of the founder of the Republic of Panama, a former Honorary Panamanian Consul, and one who knows Panama well, I have for the past four years been exposing the pro-Soviet and illegal regime in Panama who wants to bring Panama into the Marxist-Leninist camp and to gain control over the vital and strategic $5 billion dollar U.S. Canal Zone as the Kremlin's maritime strategy is to dominate all the main waterways of the world.

As Panama has a de facto government with no legality to sign a treaty with Secretary Kissinger, the suppressed people of Panama will never recognize a treaty signed by the pro-Soviet foreign minister, Juan Tack, as by their national Constitution only a constitutional foreign minister can sign a treaty with a foreign government.

If ever I can be of assistance or offer advice do let me know and also I would appreciate hearing from you concerning your comments about these de facto treaty negotiations that have no legality or validity.

With warmest regards.

Ever sincerely,

Phillip Harman.

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[From the Washington Star-News,
Jan. 17, 1974]

### Kissinger Plans Trip to Panama

(By Jeremiah O'Leary)

Secretary of State Henry A. Kissinger is planning a short visit to Panama early next month to show U.S. interest in diplomatic efforts to settle the Canal Zone question once and for all, according to informed sources.

Now on a peacemaking mission to the Middle East, Kissinger already is booked to meet with the Latin American foreign ministers in Mexico City Feb. 20 through 22. The trip to Panama comes as a surprise because it is described by informed sources as a one-country journey and because Kissinger is known to be planning a more extensive swing through Latin America in the spring.

The decision to go to Panama, according to insiders, emphasizes the new U.S. concern with reaching early agreement with the Panamanians on the future of the canal, the U.S.-controlled zone and the military bases agreement. There is also interest in possible future expansion of the canal facilities by addition of a third set of locks or excavation of a sea-level waterway.

It is believed that Kissinger will meet in Panama City with Demetrios Lakas, the figurehead president, Foreign Minister Juan Tack and Brig. Gen. Omar Torrijos, commander of the paramilitary Guardia Nacional and Panama's strongman.

Reports from Washington and Panama indicate Tack and Ellsworth Bunker, the roving U.S. ambassador who is in charge of canal treaty negotiations, now have agreed on a set of eight principles for accelerating the talks.

Kissinger's personal presence in Panama will tend to reinforce the idea that Panama and the United States have haggled long enough over the canal issues. Negotiations have been going on since 1967.

The United States has long recognized that Panama should and will recover control of the 10-mile-wide Canal Zone and eventually will be given control of the canal itself.

The White House, meanwhile, announced yesterday that a Kissinger aide in the National Security Council, William Jordan, will be nominated to be ambassador to Panama. Jordan, a former newspaperman, has been the NSC's resident expert on Latin America and liaison between the State Department's bureau of inter-American affairs and the White House. He succeeds Ambassador Robert Sayre.

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## NATION EYES KANSAS FOR FOOD

## HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. WINN. Mr. Speaker, since the pioneers crossed the prairies and settled in Kansas in the 19th century, our fine State has had an outstanding record in food production.

In recent years, Kansas, known to many who have traveled across the vast expanse of farmland as the "Wheat State," has taken on an even greater role in food production for our Nation, as well as for the world.

Not only does Kansas supply more wheat than any other State, but it also ranks high in the production of other feed grains and livestock.

I am proud of the record my State has achieved in this regard, and as the Nation eyes Kansas for food, I would like to commend to the attention of my colleagues, the following article from the Kansas City Star:

### NATION EYES KANSAS FOR FOOD

(By Ray Morgan)

TOPEKA.—Increasing emphasis on food production in the face of rising prices and the energy crisis has moved Kansas into center stage on the international economic scene with agricultural crops totaling $4 billion last year. Deposits of oil, gas and coal also make the economic future look brighter.

Statistics just released by the Kansas Department of Agriculture show that the $4-billion food production figure puts the state in fifth place behind California, Iowa, Texas and Illinois in farm production.

Figures by the Kansas Geological Survey show that the state still has an estimated 11.2 billion barrels of oil in place, 12 trillion cubic feet of natural gas in estimated reserves and an estimated 895 million tons of coal in the ground.

At the same time the rising prices on oil and natural gas resulting from the energy crunch are producing still higher returns for owners of the thousands of acres of leases.

The statistics also show that while crops are making new records in production and livestock is increasing dramatically on Kansas ranges, the prices also are at record levels to produce the high income, a combination seldom seen in the state.

"We think Kansas will continue to grow in importance economically as a result of our increasing farm production in this time of food shortages," Roy Freeland, secretary of the Kansas Department of Agriculture, said.

Dr. William Hambleton, director of the Kansas Geological Survey, which has its headquarters of the University of Kansas campus at Lawrence, sees increasing income for Kansas oil and gas producers from higher prices and new efforts at exploration for the first time in recent years.

"I must point out that any effort at attempting to pinpoint what we call reserves in oil, gas and coal is at best only the shakiest kind of an estimate," Dr. Hambleton said. "What we quote are statistics which we feel are accurate to a degree on the basis of current activity.

"This is not to say that there may not be other deposits which have yet to be discovered and which might raise these estimates. On the other hand any effort at trying to estimate reserves must not be taken at absolute value and some that we estimate at reserves may not be producible."

#### TOPS IN WHEAT

Dr. Hambleton pointed out that in some instances in recent years only about 40 per cent of reservoir pools have been estimated to be producible at the old prices. He said the new prices could make it economical to recover greater amounts of this oil and gas.

Right now Kansas is the leading producer of wheat in the nation. The state ranks far ahead of its nearest competitor state by more than 100 million bushels with a crop estimate at 384,000,000 bushels last year, Freeland said.

"One of the more interesting things is that the wheat production on Kansas land during the last year will average by all standards a tremendous 37 bushels to the acre," Freeland said. "This means that for each year in the 1970s we have averaged better than 30 bushels to the acre in Kansas.

"You can get some idea of the increased crop yield when you compare this with an average yield of just over 12 bushels to the acre in the 1930s and only about 17 bushels to the acre in the 1950s."

The estimated cash value of the wheat produced in 1973 in Kansas at prices that ranged up to more than $5 a bushel at the peak compared to a price of $2.43 a bushel average in December, 1972, and an average of $4.66 a bushel in mid-December '73, has been estimated at $1.4 billion by agricultural statisticians.

On the basis of actual cash statistics for the first 10 months of 1973, the last period for which actual figures are available. Kansas farmers were running nearly $1 billion ahead in receipts of cash for their crops when compared with the same period in 1972.

The total for the 10-month period the last year was $3.3 billion. It was $2.2 billion in the same period in 1972. according to Freeland.

Cash income in the other leading agricultural states for the first 10 months of 1973: California, $5.2 billion; Iowa $5.2 billion; Texas, $4.7 billion and Illinois, $3.9 billion.

The imposing position of Kansas in the wheat picture is shown by the fact that the state exceeded by more than 130 million bushels its nearest rival in the field. North Dakota, which had a production of 252 million bushels, and more than twice that of the third producer, Oklahoma, with 158 million bushels.

In the field of sorghum grain production increasingly vital because of its relation to livestock feed—Kansas moved up to second in the nation with 227 million bushels. The state set a record production for soybeans with 26.6 million bushels in the year and came in ninth in corn production with 151 million bushels.

The state's economic gain from the crops is obvious when the prices are compared with 1972. Corn at $2.36 a bushel was 81 cents a bushel higher than a year ago; sorghum grains $3.65 a bushel were up by $1, and soybeans, at $5.65 a bushel were $1.60 a bushel higher.

Agricultural department officials said beef prices in December were $1.40 a hundred weight above a year ago.

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## UKRAINIAN INDEPENDENCE DAY

## HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. ANNUNZIO. Mr. Speaker, the 22d of January is a day which has special meaning for more than 2 million of our fellow citizens. For those in America who are of Ukrainian descent, this day recalls the moment in 1918 when a group of patriots in Kiev, the capital of Ukraine, proclaimed the independence of their native land from Russia. The Ukrainian people now, as in the past, are determined to be free, and to guide their own destiny in their sovereign state.

In this spirit, in the year 1917, when the revolution broke out in Russia, Ukrainian leaders called a Ukrainian National Congress in March 1917, which elected a Ukrainian National Council—Ukrainian National Rada. The Ukrainian National Council was recognized as the Ukrainian Government by a majority of the people of Ukraine—by the Congress of Ukrainian Armed Forces, by the Congress of the Ukrainian Peasant Party, and by the Congress of the Ukrainian Labor Party. On January 22, 1918, the Ukrainian National Council proclaimed Ukraine as an independent state.

Russia immediately sent her armies into Ukraine and the Ukrainian Government faced a bloody war with Russia, completely unarmed and unprepared. At this time, the Ukrainian Government was recognized by approximately 35 foreign powers, England, and France being the first to grant recognition.

On February 9, 1918, a peace treaty of Brest-Litovsk was signed between the Ukrainian Government and the Central Powers. On September 10, 1918, in Kiev, the Russian Government under Lenin's leadership recognized Ukraine as a sovereign state and signed an armistice. Under this document, Russia agreed to withdraw her armies from Ukrainian territory and further agreed to respect the right of Ukrainian sovereignty. As in the past, Russia did not respect the Kiev agreement. The war continued. After 3 years of fighting and subversive activities, Russia conquered the Ukrainian armies and occupied the territory of the Ukrainian state, and forcibly incorporated Ukraine into the Soviet Union.

During the past 56 years millions of innocent people in Ukraine, for the "offense" of not accepting the Communist way of life, have been persecuted and imprisoned by the agents of the Government of the U.S.S.R. In 1932–33, Urkainian farmers were ordered by Stalin into collective farming. When they protested, Russia retaliated by confiscating most of the grain and imposing a famine which took the lives of 7 million Urkainians.

Arrests of Ukrainian intellectuals, writers, literary critics, professors, students, scientists, and representatives of every strata of society have been made in recent years for "anti-Soviet agitation and propaganda," and the arrests, torture, and internment continue.

In reality this "propaganda" consists of petitions, appeals, and letters submitted from concentration camps by prominent political prisoners and prominent Ukrainians at home to the Communist Party and government officials of Ukraine and U.S.S.R., bringing to their attention the questions of terror, Russification, and violations of constitutional and human rights. Since there is no free press in Ukraine, the abovementioned arrests and persecutions were published in the self-sponsored—samvydav—magazine, the Ukrainian Herald.

Many millions of Ukrainians are today under the harsh yoke of Communist rule. But the oppressions and the persecutions that these valiant people have endured has only strengthened their passionate desire for national independence.

It was for these pressing reasons that I introduced House Resolution 33, to establish in the House of Representatives a Special Committee on the Captive Nations, and House Resoultion 31, which resolves:

> That the President is authorized and requested to issue a proclamation designating January 22 of each year—the anniversary of the proclamation which declared Ukraine to be a free and independent republic—as Ukrainian Independence Day, and inviting the people of the United States to observe such day with appropriate ceremonies.

I have also introduced House Concurrent Resolution 46, which resolves:

> That it is the sense of Congress that the President, acting through the United States Ambassador to the United Nations Organization, take such steps as may be necessary to place the question of human rights violations in the Soviet-occupied Ukraine on the agenda of the United Nations Organization.

My distinguished colleagues, it is indeed appropriate for us here in the Congress to remember, on the 56th anniversary of the proclamation of the Ukrainian Republic, the millions of people still in the Ukraine, and their national compatriots in my own 11th District of Illinois, throughout our Nation, and all over the world who continue to cherish the hope of eventual independence and a free Ukraine. These dauntless people desire only that which is the right of all peoples—a nation of their own.

Let us, therefore, reaffirm our belief in freedom for all peoples and our hope that the valiant Ukrainians shall one day again enjoy the blessings of liberty in their own homeland for which they have courageously struggled for so long.

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## INDEPENDENCE OF UKRAINIANS

### HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. RHODES. Mr. Speaker, today the Ukrainians in the State of Arizona, as well as the world over, are celebrating the 56th anniversary of the Proclamation of Independence of Ukraine. I join them in recognizing this memorable event.

In 1917, as the tsarist regime crumbled and Russia was torn by internal forces; the non-Russian areas of the empire were afire with a struggle not only to attain social freedom but national independence as well.

Nowhere was the drive for independence more alive than in Ukraine. Amid the complex events of that year the Ukrainian masses created a movement that led to the Ukrain'ka Narodnia Respublika-Ukrainian National Republic.

However, as the new nation was hard at work establishing itself, its freedoms and its independence were snatched away. In 1922, the Bolsheviks, disregarding national boundaries and identities, seized Ukraine, clamping despotism over this nation of beauty, vast resources, and 50 million people. The result was, and is, that Ukraine is the largest non-Russian captive nation both in the U.S.S.R. and Eastern Europe.

In the last 50 years repression has been a way of life in Ukraine. Yet, hope and the will to be free has not been taken from the people. The belief in the Ukrainian will and national spirit remains alive.

I commend all Ukrainians on this 56th anniversary of their national independence for their national spirit and strength, and I look forward to a day when Ukraine will again freely stand among the nations of the world.

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## THE MALEK MEMOS

### HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. STOKES. Mr. Speaker, the revelation of the Malek Memos, on the one hand, merely corroborates what I, and many others, said throughout the summer of 1972: That cutbacks in the Cleveland summer recreational program and in such projects as the Neighborhood Youth Corps were politically motivated by a reelection conscious White House which felt it could easily afford "benign neglect" of the "black vote."

But the memos reveal more than this. They reveal more than callousness to the needs of minority and poor Americans throughout the country. They reveal a total bankruptcy not only of a philosophy of public service. But they further reveal a moral obtuseness of staggering dimensions.

The Washington Post of January 21 published an excellent editorial addressing precisely this point. I commend it to the attention of my colleagues:

EVERYBODY'S DONE IT?

A constant theme underlying the Nixon administration's justifications of almost all of the things it has been criticized for is, "Everybody's done it." At first blush, that would seem to be an appropriate response to the disclosure that Frederick V. Malek, then a member of the White House staff sent a memorandum to H. R. Haldeman on March 17, 1972, outlining a program designed to assure that the powers of the federal government to dole out grants and other beneficences were marshalled most effectively to assist in the President's reelection effort. Although officials of past administrations are naturally inclined to see operations during their own government days in a rosy light—especially when compared with those of a succeeding administration of the opposite party—there can be no doubt that from time immemorial everybody in the federal government was aware that an election year was an election year. And the process of rewarding or punishing certain members of the Congress, for example, with the award or withholding of post offices, Corps of Engineering projects or military bases is a time-honored, if not particularly honorable, one. It cannot be argued that the impact of that process on presidential politics has been minimal in the past. Nevertheless, the Malek memorandum is an instructive example of the Nixon administration's proclivity for taking something "everybody's done" and carrying it beyond recognizable—or tolerable—limits.

In his memorandum to Mr. Haldeman, Mr. Malek said that the program he was outlining was designed to "improve Executive Branch responsiveness to the voting public." The memorandum went on to outline the bureaucratic machinery which he had put into place to insure that there was both systematic initiative in the departments and centralized White House direction on "politically sensitive" operating matters. The first accomplishments he cited were (more or less) unexceptional. He noted that some 35 White House requests to the Department of Commerce had resulted in "expediting the normal grant reviewing process and securing the release of information."

Mr. Malek's program went farther. He cited, for example, some $1.4 billion of Department of Commerce funds which could be "redirected" over two fiscal years for the benefit of the President's reelection campaign. He reported that "during the recently completed budget cycle [White House aide William] Gifford worked closely with the budget examiners to ensure the budget was as supportive as possible for the President's reelection." He suggested in a later memorandum that the Committee for the Reelection of the President would identify "the most advantageous projects."

Mr. Malek also sought to keep the project secret and to give it what has come to be known as deniability by ordering that no communications to or from the White House with respect to the effort be put in writing. When it came to listing the drawbacks of the plan, Mr. Malek wrote, "The most significant drawback of the program is, of course, the risk of adverse publicity."

Mr. Malek apparently was not concerned that delegating some of the departmental programming functions to the Committee for the Reelection of the President might have an adverse effect on the programs themselves—not to mention what it does to the concept of responsible government by duly elected or appointed officials. In practice, it worked like this: Cleveland requested $354,000 for a recreational program. Only $164,000 was granted. The reason: "The program is *designed to impact inner city residents*, and thus does not fall within our political guidelines." So the expenditure of public funds was to be conducted not in terms of the design of a program in pursuance of a congressional mandate, but in pursuit of the reelection of a President.

To the extent that this is a departure from traditional pork barrel practices, a case can be made that the difference is only one of degree. And yet it strikes us that, in an important sense, it is something more than that—something more in keeping with a fundamental tendency we have observed in President Nixon's general approach to government and politics. Time after time, as the Watergate saga has unfolded, we have encountered evidence of excesses on the part of the President and/or his associates which, by their nature, have had the effect of transforming a difference in degree into a genuine difference in kind.

Thus, past Presidents have selectively tape recorded their official conversations. It remained for Mr. Nixon to pioneer—disastrously—with indiscriminate, continuous, voice-activated recording devices in his various offices. Thus, former administrations have leaned heavily on the business community or farmers for campaign contributions. But the Nixon way, one surmises, was to be a lot more explicit in making the connection between a particular corporate—or dairy farmer—contribution and a specific governmental favor. Thus almost all Presidents have reacted violently to news leaks—with telephone tapping used as a security enforcement process on occasions. But only Mr. Nixon, as far as we know, felt the need to establish his own, private parapolice unit to engage in illegal burglaries and electronic surveillance to plug the leaks. Other Presidents have raged at press criticism. None that we have heard about has been quite so blatant about it as to threaten Internal Revenue Service audits or antitrust actions, or to launch a calculated, sustained, nation wide campaign of vilification, for the express purpose of intimidation or discrediting the news media. Past Presidents have taken tax deductions for their official papers; but Lyndon Johnson did *not* scramble to beat the deadline when Congress was about to close this loophole—and Richard Nixon did. When it comes to political campaigning, for another example, it is the difference, you might say, between a Donald Segretti and a Dick Tuck.

In short, everybody *hasn't* done things the way Mr. Nixon has done them. And the Malek operation is only the latest illustration of why the indiscriminate use of this argument—even leaving aside its essential lameness in terms of morality or legal standing—is at best a weak defense.

## RANGEL CALLS FOR FULL ACCOUNTING OF ISRAELI POW'S IN SYRIA

## HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. RANGEL. Mr. Speaker, I have today called upon President Nixon to push for a full accounting of Israeli prisoners of war being held by Syria as a necessary part of any troop disengagement agreement negotiated by Secretary of State Henry Kissinger.

In my letter to the President, I have urged the President to use his good offices to insist that the International Red Cross be immediately permitted to visit the Israeli prisoners in Syria. This is vitally important because a report issued by the New York Jewish Labor Committee indicates that at least 42 Israeli POW's have been killed and many more tortured in Syria.

The refusal of Syria to fully account for Israeli POW's is a threat to peace in the Middle East. If Secretary Kissinger's efforts are to be the successful beginning of the process we all hope will lead to a lasting peace in the Middle East, the full and accurate truth regarding the fate of Israeli prisoners of war in Syria must be made known.

I place the full text of my letter to President Nixon in the CONGRESSIONAL RECORD for the information of my colleagues.

The letter follows:

HOUSE OF REPRESENTATIVES,
*Washington, D.C., January 21, 1974.*

Hon. RICHARD M. NIXON,
*The White House,*
*Washington, D.C.*

DEAR MR. PRESIDENT: As one who was deeply concerned with and moved by the plight of American prisoners of war held by North Vietnam, I know that the present news about Israeli prisoners of war held by Syria horrifies you as it does millions of citizens throughout the world.

The New York Jewish Labor Committee reports that at least forty-two Israeli prisoners have been killed and many more tortured. What has been reported, as well as what remains unknown threatens the possibility of achieving peace in the Middle East.

I urge you to use your good offices to insist that the International Red Cross be permitted to visit the Israeli prisoners in Syria. The full and accurate truth in this matter must be made known.

At the start of this new year, let us resolve to act decisively and compassionately in the quest for world peace.

Very truly yours,
CHARLES B. RANGEL,
*Member of Congress.*

## CARNEGIE HERO FUND HONORS JOHN R. TARRANT

## HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. CHARLES H. WILSON of California. Mr. Speaker, in the midst of today's troubling headlines, it is heartening to learn about an individual act of courage and selflessness. Such an act of extreme valor was performed by John R. Tarrant of Gardena, Calif., in March of 1972 when he rescued two neighbors from a perilous house trailer fire. For his heroism, he has recently been awarded a medal from the Carnegie Hero Fund Commission.

An electric heater started the blaze in the four-room aluminum trailer which Mary K. Jacob shared with Vaughn C. Dean. Catching onto an oil heater, the configuration raged in the living room and prevented Miss Jacob and Mr. Dean from making a safe exit. Both of them, after vainly trying to open windows, rapidly lost consciousness. Several neighbors then became aware of the disaster but retreated from the heat and smoke. Yet one neighbor fatefully ran to the trailer of John R. Tarrant who lived nearby.

Mr. Tarrant, pausing only long enough to put on trousers and shoes, rushed outside to give aid to his friends. Although he was physically sound—and a former Marine—he was greatly afraid of fire. Yet fear was overcome by friendship as he rushed into the burning trailer. Since he knew the layout of the trailer and the placement of the furniture, he quickly decided that the living room door was the only feasible exit. Yet, about 10 seconds after Tarrant had entered the trailer, the persons outside saw the living room filling with tongues of flame.

Weakened with smoke inhalation and the intense heat, Tarrant was further disoriented because of his failure to rouse Mr. Dean. Yet he managed to pull Miss Jacob over Mr. Dean and tried to put her over his shoulder. Twice she slipped from his grasp. When he finally had a hold on her, he panicked with the thought that he would not be able to get through the living room. But persons outside had managed to remove furniture and clear the opening to the bedroom door. Tarrant then dragged Miss Jacob 3 feet out the door.

After taking several deep breaths, Tarrant returned to get Dean who by then was partially revived. Tarrant emerged with Dean less than 1 minute after having entered the trailer. About 10 seconds later an explosion of flames filled the bedroom, and firemen arrived 3 minutes later.

The fire was brought under control in 2 minutes, but the trailer had been gutted. Miss Jacob, with first and second degree burns over 10 percent of her body, was hospitalized for 2 weeks while Dean required treatment for second-degree burns only.

These two people may well not be alive today were it not for the heroic efforts of John R. Tarrant. He is a very special person; for, as Laurence Sterne wrote, "The best hearts are ever the bravest."

## RURAL HOUSING THREATENED

## HON. BOB BERGLAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. BERGLAND. Mr. Speaker, the Farmers Home Administration Bulletin No. 4816(440) dated December 13, 1973 allocated fiscal year 1974 funds among the various housing programs. Both the allocation between "existing" and "new" dwellings and the very high reserves are without precedent. As a Member of Congress representing a congressional district which has much to gain or much to lose from the allocation of these funds for housing, I would like an explanation for the allocations and assurance that they will not result in slowing down the rural housing program or constitute a form of impoundment.

There has been a significant change in the Farmers Home Administration housing program and for a good summary of these changes and the problems these changes pose, I recommend the following article by Kenneth Harney. The article which appeared in the January 12 Washington Post and is entitled "Housing Policy Seen on New Tack" follows:

### EVEN SUBSIDIES POSSIBLE: HOUSING POLICY SEEN ON NEW TACK

(By Kenneth Harney)

The U.S. housing industry—in a depressed mood for months over high interest rates, a credit crunch, environmental restrictions and energy—is puzzled over some contradictory signals coming from the Nixon administration.

On the one hand there are indications that the White House finally is listening to builders' warnings that a serious slump in housing could speed the country towards a recession. In meetings with representatives of the National Association of Home Builders and other trade groups, White House budget and domestic policy leaders have begun putting out the word: We're concerned. We don't want to see you belly up.

On the other hand, builders have just been hit with a budget axe in an area they thought would be one of 1974's few bright spots: rural housing.

Without the usual public announcement that accompanies a significant policy change the Farmers Home Administration informed its 1,750 field offices before Christmas that most of the $1.1 billion Congress appropriated for low and moderate income single family housing this year won't be spent on construction of new units. $350 million of it, said an internal memorandum issued by the agency, is being placed in "reserve." Another $400 million is being set aside for rehabilitation and purchase of existing rural housing units one year or older. The remaining $350 million is for new housing. What upsets builders is that the Farmers Home Administration traditionally has spent the bulk of its available loan funds for construction of new units—and almost no one believes it can spend anywhere near $400 million on rehab and existing housing by the fiscal year-end deadline, June 30.

The combination of the $350 million "reserves" and the $400 million that can't all be spent amounts to a "1974-style impoundment of a big chunk of the subsidy appropriations," says the head of one rural housing group in Washington.

"It's much subtler than the 1973 moratorium," he added. "They give you a dead end rather that a stop sign. Maybe they've gotten a new lawyer."

Even James R. Neville, who was an Assistant Administration at Farmers Home from 1971 until his retirement Dec. 31, concedes that it will be difficult to spend all the subsidy money because "there simply isn't a rehab industry out there," and because the field offices aren't geared up for such a big switch.

What's going on here? Does the Nixon administration spokesman you can get hold of, say housing is high on the agenda. But housing on the administration's terms, not necessarily on the home builders'.

One of the White House Office of Management and budget's housing specialists, Ronald Landis, says for example that "no one should have been surprised" by FHA's new emphasis in existing housing and rehabilitation.

"Anyone who read the President's September (1973) housing message to Congress would have known that he said the policy henceforth would be to reach and serve more lower income families through better use of existing units."

"Look," said a high official at the Department of Housing and Urban Development (HUD), "we spent eight months last year (during the moratorium on subsidized programs) showing why the old construction-oriented programs were bad, and indicating where we should put our money from now on."

The Administration, he said, is really worried about the plight of home builders, especially during the first two quarters of 1974, when the annual housing starts rate may drop to 1.3 million units, 40 per cent below 1972's high rate.

"But we're not going to throw out our principles in trying to bail them out. They're going to have to do without gravy trains like (Section) 236."

The Section 236 program, which subsidized the mortgage interest rates paid by developers of lower-income apartment projects, was one of HUD's two largest programs between 1969–1972, accounting for as high as 200,000 new units a year. It was criticized as inordinately expensive and inefficient by HUD's housing policy review team last year because it allegedly provided windfall profits and tax shelters to everyone from architects to builders to the investors who bought syndicated shares in projects. The program's basic design was so poor, according to the HUD review team, that one out of five Section 236 projects will go into foreclosure before 1980.)

The Nixon administration's intended replacement program for Section 236—one of the ideas being worked on—is known as Section 23 leasing.

HUD's FHA chief, Sheldon Lubar, has his office pushing for funding of some 130,000 units of Section 23 in the next six months, and up to 300,000 units from July, 1974 to June 1975. Under the program housing units in a variety of building are leased by lower income families who pay one quarter of their monthly income to the building's owner. Through payments from a local housing authority to the building owner, the federal government provides the difference between the going market rent and the subsidized tenant's 25 per cent. Normally, no more than 20 percent of the units in a building can be covered by Section 23 contracts, thereby avoiding the concentration of low-income tenants in vertical ghettos that characterize many federal projects.

Because the leasing program permits families to choose their own housing and this resembles President Nixon's long-range preference for a housing allowance, it is likely to be the largest (if not the only) subsidized housing vehicle for the foreseeable future.

Some builders say they aren't enthusiastic about a program that can only fill up 20 per cent of a projects units. Also the U.S. pays only when a family actually moves in. But Lubar answers that the days of "the government getting ripped off" (paying developers for empty space in subsidized units) are over.

Other ideas being worked on within the Administration to boost housing market activity also follow the policy guidelines offered by the President last September:

A major new emphasis on rehabilitating existing housing units in urban and suburban areas including possible below market rate loans.

Stimulating home buying by pumping new mortgage funds into the market through some form of temporary or "emergency" mechanism.

Pushing HUD-FHA mobile home insurance volume from the present 21,000 units per year level to more than 80,000.

A dark horse possibility, according to some officials, might be limited resumption of a subsidized home-ownership program, the old Section 235. Although oriented towards new construction, it got a relatively good review in HUD's 1973 housing policy report. With an estimated $212 million in contract authority funds still impounded by the administration. Section 235's resumption could put between 150,000–170,000 new single family units on the market—and give some home builders what they really want.

(The writer, Kenneth Harney is managing editor of Housing and Development Reporter, an information service published by the Bureau of National Affairs Inc.)

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## A DECADE OF ASSASSINATIONS

## HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. STOKES. Mr. Speaker, a great number of Americans are not convinced that President John F. Kennedy was killed by a lone assassin. There has been lingering doubt among black Americans that the killer of Dr. Martin Luther King, Jr., acted without the collusion of others. The succession of assassinations and assassination attempts over the last 10 years has left all of us skeptical, I believe, whether each one of these crimes would have been solely the work of a single individual.

Over last Thanksgiving weekend a private group, the Committee to Investigate Assassinations, sponsored a conference on the subject at Georgetown University. I was represented at the conference by a member of my staff whose subsequent report I found revealing and disturbing.

A similar report appeared in the January 3, 1974, issue of Rolling Stone magazine, I commend it to the attention of my colleagues, particularly those parts of it dealing with the responsibilities of Congress in the whole sad affair:

[From Rolling Stone, Jan. 3, 1974]

### ASSASSINATION—MURDER IN THE CATHEDRAL

(By Robert Blair Raisin)

"That was a golden time for us back in the Sixties," said Sylvia Meagher, reminiscing over the early days when the critics of the Warren Commission Report were doing their homework, trading their arcane information with one another and writing their books on their conspiracy. "Then we started fighting among ourselves. . . ." Her voice trailed off, the violins came up there in the bar of the Colonial Inn in Georgetown and she pondered her drink (tomato juice, no vodka, on the rocks).

"Right," said Josiah (Ting) Thompson, stirring his whiskey sour. "In fact, all the critics have fought with one another so bitterly that many are still not speaking to this very day. I think that Sylvia and I are among the few who are still on friendly terms."

Thompson, a Haverford College philosophy professor, wrote *Six Seconds in Dallas*, a seminal work which demonstrated that one lone rifleman on the sixth floor of the Texas School Book Depository couldn't possibly have fired the bullets that killed President John F. Kennedy on November 22nd, 1963. No one has ever refuted that book, and it's one of the reasons why an overwhelming majority of Americans believe that President Kennedy was done in by a conspiracy.

Meagher is the UN official and independent researcher who indexed the Warren Commission's 26 volumes and then wrote *Accessories after the Fact*, an opus which gave the authorities reasons enough to reopen several investigations into JFK's murder, reasons, however, which they found themselves able to resist.

The two of them were relaxing over drinks after a full day's meeting at Georgetown University to commemorate the tenth anniversary of the President's death. But they would soon have to revise their views on the bickering critics, for if anything came out of the two-day meeting there in the frescoed auditorium of old Gaston Hall, it was this: The conference marked a real change for the buffs. Critics who hadn't spoken to each other for years now started talking: Popkin to Weisberg, Weisberg to Policoff, Policoff to Sprague. And, later that evening, at a party given by Bernard Fensterwald, the director of the Committee to Investigate Assassinations, everyone talked to everyone.

It was a time of renewal and reconciliation for all the old critics and, more importantly, a time when it was clear that many other new, respectable researchers had joined the club. "I'm encouraged," said Jerry Policoff, referring specifically to the climate newly established here in Georgetown, and adding, vis-a-vis a new national climate moderated by the winds of Watergate, "people don't call me a lunatic any more." Policoff, who is a media analyst in New York, had been working on the JFK assassination for years, but finally, out of sheer frustration, put all his materials in cartons and sealed them up and said the hell with it.

The years from November, 1963, to November, 1973, were an exhausting decade for the critics. They worked, they produced findings which were hard to ignore and yet public officials did ignore them, gave them so little of a hearing that the critics began to feel that maybe they *were* lunatics.

Norman Mailer, who keynoted the conference and hung around for the entire two days, focused right on the mark when he compared the obsessed critic to a jealous lover, who in his affliction careens between the two extremes of hating his unfaithful wife for her unspeakable conduct and hating himself for his unspeakable imaginings. "What has made this history unendurable," said Mailer, "were two opposed hypotheses: 1) that it was just an accident, which leads to a philosophy of the absurd, and 2) any one of the grand conspiracy themes. And anything in between."

But now it was obvious from what was happening here at the conference (and from the daily news reports about all the malfeasance and the misfeasance in government not so very far away from Georgetown) that the times are indeed changing.

Here at Georgetown, new critics came forward with evidence to create new doubts, old critics presented items which could trigger new tries for the truth.

Dr. Cyril Wecht, the coroner of Pittsburgh and one of the leading pathologists in the U.S., spent hours on the podium explaining why he does not believe that any single human being could have handled the shooting of JFK.

Wecht is a man whose looks and vigor reminded me of no one so much as Vince Lombardi. He has had the almost singular benefit of access to many medical and pathological reports on the JFK assassination which are still technically secret and he doesn't buy the Warren Commission's keystone theory of the single bullet, based on the evidence he has now. What more does he need? Among other things: a spectographic analysis of the bullet fragments removed from both Kennedy and Governor Connolly. The FBI, he says, has the evidence, but the FBI won't cough it up. (Harold Weisberg, author of *Frame Up*, told the conference that he has had a tip-off on that spectographic analysis: It, too, will destroy the single-bullet theory.)

Dr. Robert Foreman, a chinless anthropologist from Toledo, Ohio, presented his study of a simulated JFK "skeleton." According to all reports, the bullet that entered JFK's upper deck exited just below his Adam's apple, without striking any of the President's bones. Dr. Foreman showed on a series of elaborate photographic charts that such a shot, fired from the sixth floor of the book depository, couldn't have hit JFK at the angle it did and still have continued on to hit Governor Connolly.

Pete Noyes, a corpulent TV news producer from L.A. who is the model for the Edward Asner character on *The Mary Tyler Moore Show*, has been working for at least six years on the Mafia connections to the JFK assassination. Here, at last, after several publishers canceled their contracts to publish his conclusions, Noyes proudly presented his just-published account, *Legacy Of Doubt* (a Pinnacle paperback). Noyes doesn't solve the conspiracy in the book. But he names names, he tells how he knows what he knows and he points out the directions that authorities must take—if they really want to do their jobs.

Peter Dale Scott, a tall, ascetic and scholarly professor of medieval literature at the University of California at Berkeley, and the author of a book on the Vietnam War, *The War Conspiracy*, pointed out to the audience that there are ways we can all learn from Watergate some significant things about the methodology of a cover-up. "The physical evidence presented by Dr. Wecht is good" he said, "but that won't tell us who the real suspects are. Examining the cover-ups in the Dallas affair will help us find our suspects."

George O'Toole, a former CIA computer specialist who looks like Santa Claus with a black beard, showed the audience how he has used a new "truth machine" called the Psychological Stress Evaluator (PSE) to evaluate previously recorded statements about the assassination by former Chief Justice Earl Warren; James E. Humes, the chief autopsy surgeon at Bethesda Naval Hospital who burned his original notes on the autopsy; Howard Brennan, the man who told the Warren Commission he had seen Oswald shooting at President Kennedy from the window of the book depository, and several other Dallas officials who were involved in the initial investigation of the shooting. All these men showed great stress, said O'Toole (pointing to slide projections of their voice patterns as recorded by the PSE) which might mean they were not telling the truth. The PSE, he said, was 94% accurate in the hands of an expert. O'Toole said he has been working for a year on these analyses; sometime next year he will turn over his findings to the Justice Department and to members of Congress.

Congress. That may be where all these new investigations will wind up. Unofficially, this conference at Georgetown (which was sponsored by the *private* Committee to Investigate Assassinations) issued no white paper or set of conclusions. But almost every speaker implied that only a subcommittee of Congress could get to the bottom of things—because only Congress or the courts had the power to subpoena witnesses under oath or levy penalties on those who wouldn't talk. The Watergate committee is, of course, something of a model.

What chances that a congressional committee will take over from the lonely critics? Slim now, I think, but growing, as the consciousness of a wider public grows that there are some answers out there and that this nation needs them. While the so-called "straight press" has largely ignored the critics for years now, the Washington Post reported this Georgetown conference as soberly as it has reported anything on the Watergate scandal. And three staff members of Congressmen Morris Udall's office looked in on the discussions at Gaston Hall so they could report to Udall, a brother of Stewart, JFK's Secretary of the Interior and himself a key figure among the so-called "Kennedy Democrats" in Congress.

During the Sixties, before the Garrison charges against Clay Shaw in New Orleans, before the assassinations of Martin Luther King and Senator Robert F. Kennedy, before, in sum, the information overload short-circuited the critical faculties of those who liked their thinking neat and tidy, there was a measured receptivity among many to this, that or another theory on the conspiracy to kill JFK. But what good are theories that multiply as the years pass and lead nowhere? Did any of the conspiracy theories about the death of JFK, for instance, save the life of his brother?

Curious, strange, remarkable thing: It was only the amateurs, the philosophy profs and the private citizens who had the theories, who tried to map new avenues of investigation. But they had no resources to travel. What about the FBI and the CIA and the whole so-called intelligence community? Wasn't there a single agent who had theories of his own? Any of them asking questions? And if so, why weren't any of them given some kind of go-ahead to run down some answers?

Some conspiracy buffs said the reason was obvious: because the intelligence community itself was complicit in either the assassination or the coverup. But the events of the past year or two (the Pentagon Papers, the Watergate business and all the other inside stories about the way the secret government has worked) suggest another, less sinister answer: that the intelligence community was neither intelligent nor a community—i.e., that the patterns of secrecy within government precluded open exchanges of information, frequently not even among themselves, never with the public at large.

That kind of operational secrecy is changing (not nearly fast enough, but it is changing). The conference's media panel (of which I was a member) agreed that the press is putting on unprecedented pressures to blast open the secret government. A craggy character like Sherman Skolnick, the paraplegic from Chicago who successfully agitated for the conviction of Judge Otto Kerner, with that most subversive of all tools, information, could well be emulated by other information commandos.

Radical youth may take this kind of lead and run with it. Norman Mailer prophesies that a growing movement on the nation's campuses—gathering political intelligence—could become as big as the peace movement. That may help the assassination critics get an official reopening of the investigations into the assassinations of two Kennedys and a King.

Then again, no amount of agitation may win a public constituency large enough to demand that Congress do something very special (and without the public demand, Congress usually does nothing).

The reason: Assassinations are more ghastly than burglaries and assorted other political dirty tricks, and if many think that impeaching a President is obscene, what are they to think about dredging up thoughts of having his brains blown out? They don't want to think about it. And the very people who should think about it most—the Kennedy clan (and that includes the Salingers and the Schlesingers and the Mankiewiczes who refuse to even read my book on the Robert Kennedy assassination)—want to think about it least.

On this ground, apparently, the Washington, D.C. appeals courts have so far been denying the Committee to Investigate Assassinations access to key records the Committee and its members need. *"Requiescat in pace,"* wrote Judge John Anthony Danaher in a recent opinion denying Harold Weisberg a look at the FBI's spectographic analysis.

The Judge has a point. During the Georgetown conference, the experts spent a full afternoon on bullets, brains and ballistics and when they turned off the lights to show the audience their ghoulish slides and the afternoon rays shone in the high stained glass windows of Gaston Hall, I jotted in my notebook, "Murder in the Cathedral." It was too much for me and for many of the several hundred spectators who were there, unused to such a cool, scientific treatment of such a hot, emotional subject. Some became visibly uneasy, almost ill. I went for a walk.

And then that night at the Fensterwald party, Robert Grodin, a young filmmaker from New Jersey who is working with a group intending to do a documentary on the assassination of JFK, showed up with another generation of the film shot by Abraham Zapruder in Dallas. Grodin and an optic technician had spent exhaustive hours enlarging the central detail, i.e., the President and Mrs. Kennedy, of each frame of the Zapruder film and here, toward the end of the party, Grodin ran the enlarged version several times. It is clear from this film (which eliminates to a large extent the shaky effect of a hand-held camera) that the shot which took the top off President Kennedy's head came not from the direction of the book depository but from the grassy knoll.

The realization drove some of us to tears and then to whiskied inebriation. Later, about 3 AM at another gathering back in Georgetown, I almost got into a fistfight with an asshole who was claiming that Senator Robert Kennedy was also killed in a crossfire.

But irrationality is the easy way out. No matter how much it hurts, we have to consider any and all evidence which may be germane to the issue. Of course, we could withdraw from the issue entirely. But, as Mailer said at this conference, that would make us less interesting as human beings. And being mired in secrecy would make our society a frightful place.

## THE RULE OF LAW

## HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. HUNGATE. Mr. Speaker, the December 1973 issue of the American Bar Association Journal strongly supports the principle of independence of prosecution. Citing the chain of events surrounding the Watergate Special Prosecutor, the article reaffirmed the ABA's position that the Special Prosecutor must be wholly independent of the executive branch of Government:

### THE RULE OF LAW

The deep attachment of the American people to the principle of the rule of law and not of men could not have been exemplified better than by the outpouring of public disapproval that greeted President Nixon's action in late October when he declined to follow the adverse Watergate tapes decision of the court of appeals and then dismissed the special prosecutor for refusing to temper his investigation and to accept the president's alternative to turning over the tapes.

The public outrage, which political reporters have said was not expected by the president, demonstrated that the people have an ingrained trust in and respect for our system of justice as administered by fearless and independent judges and lawyers, and that they feel that the established judicial means for the settlement of disputes are to be preferred over methods grounded on political power and position. These events serve to point out again the awesome yet integral role the legal profession plays in our nation's life, and they should be the occasion for a reaffirmation of our determination to fulfill that role.

It is elementary that the investigation and prosecution of wrongdoing must be independent, free of conflicts of interest, and not subject to the influence of those who might fall under suspicion and investigation. This problem was present from the beginning in the investigation and prosecution of the events that comprise what has been called "Watergate," but it became more acute as higher officials were implicated last April. Robert W. Meserve, then president of the American Bar Association, told a National Press Club luncheon on April 30 that an "independent special prosecutor, having no connection with the government or any of the parties in the case, should be appointed to direct the grand jury inquiry and any criminal prosecution that might result." After referring to the Code of Professional Responsibility and the Standards Relating to the Prosecution and the Defense Functions, Mr. Meserve added that the "appointment of a special prosecutor of recognized professional stature and integrity would do much to clear the air and reassure the country that the facts will be brought out and those involved dealt with fully and fairly."

The special prosecutor's office as established was a part of the Justice Department, a circumstance that did not remove the inherent anomaly of investigatee having ultimate dismissal power over investigator. But the Senate was satisfied with the assurance of the new attorney general, Elliot L. Richardson, that the prosecutor would have an unusual degree of independence and could not be removed except for "extraordinary improprieties," which would be determined by the attorney general. These assurances were expressed in "guidelines" that became the foundation of the special prosecution force.

This compact between the executive branch and the people was abrogated by the president in late October when he directed Archibald Cox, who had been appointed special prosecutor, "to make no further attempts by judicial process to obtain tapes, notes, or memoranda of presidential conversations," discharged Mr. Cox when he refused to accept this interference in his prosecutorial function, and abolished the independent status of the prosecution force. Mr. Richardson did not find Mr. Cox guilty of "extraordinary improprieties." Indeed, he declined to discharge the special prosecutor and himself resigned. Neither President Nixon nor anyone for him has charged Mr. Cox with "extraordinary improprieties."

In a statement issued October 22, Chesterfield Smith, president of the Association, declared that President Nixon's actions were an "intolerable assault upon the courts, our first line of defense against tyranny and arbitrary power. . . . I express my hope and confidence that the judicial and legislative forces of this nation will act swiftly and decisively to challenge, repeal, and correct this damaging incursion . . . upon the system of justice and therefore upon the basic liberties of the citizens of this country." A few days later the Association's Board of Governors endorsed Mr. Smith's statement and went on record favoring the re-establishment of the office of the special prosecutor by appointment of the United States District Court for the District of Columbia. (For the text of the resolution and the statement, see the article on page 1389 of this issue.)

The principle of independence of prosecution is one that needs to be remembered and preserved. No better successor for Mr. Cox could have been selected than Leon Jaworski, the former president of the American Bar Association, whose appointment was announced on November 1. But the question is not one of men but of independence of the prosecutorial function. In the unusual circumstances of this situation, that principle requires a prosecutor not beholden in any way to the executive branch of government.

## HON. DOLPH BRISCOE, GOVERNOR OF TEXAS, ADDRESSES THE TEXAS AGRICULTURAL EXPERIMENT STATION STAFF

## HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. TEAGUE. Mr. Speaker, it was my pleasure to be in attendance at a staff conference of Texas Agricultural Experiment employees on Wednesday, January 9, 1974, at College Station, Tex. The Governor of Texas, the Honorable Dolph Briscoe, delivered the main address, and I am pleased to include the text of Governor Briscoe's remarks:

### REMARKS BY GOV. DOLPH BRISCOE

Thank you for a kind and generous introduction.

I know of no other place where I feel more at home than I do with you. For a great number of years I have worked closely with you and I know personally the great contribution the men and women of the Texas Agricultural Experiment Station have made to the progress of Texas. Working with your partners—the Texas Agricultural Extension Service—the many lasting benefits of research have been carried to the people of this State, and as a result of these efforts, all Texans have enjoyed a more abundant life.

President Williams, I would like to thank you, Dean H. O. Kunkel, Directors Miller and Hutchinson and the many dedicated members of this university staff both here and in the field for our favorable position in agriculture. Of course, many of you hold joint teaching appointments and I express appreciation also to those dedicated teachers who are training the young men and women who will lead agriculture and home economics in the future.

Dr. Williams, in my opinion the land grant university concept of teaching, research and extension is one of America's great achievements. I hope that the high priorities given to agriculture and rural life in the past will be accelerated in the future. You are assured of my continued support for your efforts.

You are aware that one of the goals of my administration is to make Texas Number One in Agriculture, not only in volume of sales but in profits to the farmers and ranchers of this State. If we achieve this goal then we all must accelerate our efforts. I believe no one could be engaged in a more exciting career than in today's dynamic agriculture.

Agriculture is really the great hope of our country. Not only does it feed and clothe our people but agriculture has become the one tool with which we can compete most efficiently in foreign markets.

Dean Kunkel, in his annual report message, said "an agronomist can no longer be concerned only with producing the seed, but he has to be part of the team concerned with the disposal of the straw." Yes, the agronomist has to be a team member. You are developing a team approach and I congratulate you on the strides you are making. The fourteen designated research and extension centers, one of which is located in my home town of Uvalde, provide truly effective multidisciplinary task forces, dedicating their efforts toward solution to the problems of the areas in which they are located. The conduct of research by the station is organized into projects which outline objectives. This provides for necessary coordination to insure that the most important priority problems are being investigated and prevents costly and unnecessary duplication. The Research and Extension Centers and dynamic area development programs such as B.E.T., B.I.G., P.E.P., South Plains, El Paso, Rolling Plains and the new one just recently organized at Uvalde can continue to make Texas agriculture a leading economic and social base for a more prosperous Texas. After all, the principle measure of research success is the impact that research has had on the economy and well being of the people of the State.

No one would deny that Texas agriculture and its associated supplying, processing and distributing industries have been transformed dramatically in recent years. And agricultural research has been the basis for every change—the new varieties of cotton, rice, vegetables and grain sorghums, the modern fertilization practices, the new equipment and processes, the new management and cultural practices, the new livestock rations and feeding systems. As only one measure of value of agricultural research in Texas, cash farm income increased almost 50 percent between 1962 and 1972. This increase was more than $1.1 billion.

Projects in rural economic development, cooperatives, financial institutions serving agriculture, foundation seed programs, insect and disease programs, poultry diagnostic services, water, livestock and crop programs and hundreds of other projects make the future exciting indeed.

We must see to it that the rural areas of Texas do not dry up and that they do not die; but that they offer to each Texan the opportunity to make that decision as to where he or she wants to live, to where they want to make a decent living, to where they want to have educational opportunities for their children. Rural Texas must provide medical services for families, library opportunities, and a way of life that is attractive to our citizens.

This we can do and I think nothing less will do.

We must work toward the attraction of job opportunities and economic development—the attraction of existing industry to rural areas—the orderly development and protection of our natural resources—the improvement of government services and facilities—more emphasis on vocational career-oriented education—a partnership between the business community, the agricultural community and our educational system. We must be sure that we are training the young people of today for the career opportunities and the job opportunities that will exist in the world in which they will live.

Our aim then must be to increase jobs, to increase economic activity.

Certainly agriculture alone, in the rural areas of this state, cannot do it. But today because of very fortunate circumstances that exist throughout this world, I believe that we are in a position to achieve within a very few years what I think to be a most important goal for all of Texas and that is to make Texas number one in agricultural production and profit in the United States.

With your help—the help and the leadership of those assembled in this room—we can make known to those engaged in agriculture throughout the state the potential for additional productivity that exists in practically every field of agricultural endeavor in Texas today.

Your distinctive service, and the support of the other state agencies working toward this goal, certainly makes our goal of becoming number one in agriculture an obtainable objective.

I am convinced that as we look to the future, Texas agriculture will become more important in many, many ways; one of which will be the worldwide demand for agricultural products.

In terms of world trade, agriculture is a major contributor to America's balance of payments and Texas plays a major role in this worldwide market. Our State is the leader in the export of beef breeding cattle, cotton and rice. In fact, during fiscal 1973, Texas' agriculture exports totaled $835 million—or about 21 percent of the State's total farm cash receipts.

Foreign trade is important to the Texas agricultural economy, and it will have an even greater impact—and greater potential—in the future.

America has at last faced the realization that the days of importing low cost petroleum from the Arab nations is past. If we are to continue importing oil to meet our energy demands of the future, the cost will likely continue its upward spiral.

To offset these growing deficits we must be in the position to export those products which the United States can produce more efficiently and more economically than any other country in the world.

These products, of course, are the crops and livestock of our farmers and ranchers. I think this gives us a great outlook, a great potential, of making Texas number one in agriculture in the United States.

I congratulate each of you on your profession and achievements. It was men and women of research and education who looked into test tubes and under the microscopes and built American agriculture into a success story unsurpassed anywhere else in the world.

We do not know what new worlds, what new frontiers of science, what new techniques, are as yet undiscovered. Some forecasts of developments before the year 2000 are: reliable weather forecasts and regional weather control, translation of language by computers, production of primitive artificial life, blanket immunizaticn against infectious disease, and the economic production of synthetic protein foods.

Expected in the succeeding quarter century—when children born this year will be only in their fifties are: direct links between the brain and the computer, chemicals to stimulate the growth of new organs and other drugs to increase intelligence, education by direct recording on the brain, and production of a fifth of the world's food from ocean farming.

The future will be exciting. I am confident that the men and women of the Texas Agricultural Experiment Station will, as ever, be in the forefront in service to their fellow man.

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## AMBASSADOR JOSEPH JOHN JOVA

## HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. BYRON. Mr. Speaker, now that Ambassador Joseph John Jova, of Hispanic, Cuban, and Puerto Rican ancestry, has been named and confirmed as Ambassador of the United States to Mexico, my distinguished colleagues may wish to read an editorial and news report featured in the Times of the Americas, Washington, D.C.

Among the many admirers of Ambassador Jova, his wife, Pamela, and his gifted children is my longtime friend, Father Joseph F. Thorning, known affectionately as El Padre of the Americas.

For many years, the Reverend Father Joseph F. Thorning has been observing the performance of Ambassador Jova and his devoted wife as envoys to the Republic of Honduras and as our representative with ambassadorial rank to the Organization of American States.

The articles I recommend follow:

### AMBASSADOR WITH CREDENTIALS

President Nixon's nomination of Joseph John Jova as ambassador designate to Mexico, reported on page one of this issue, is reassuring proof that capable, career diplomats do often get proper recognition. Simply put, Ambassador Jova is both "a good man" and "a nice guy." His language ability, diplomatic skills, and long experience will be put to good use at Mexico as they have been at Washington where he now serves as this country's OAS ambassador.

The OAS ambassadorship is not as routine an assignment as it might seem to an outsider. Since the United States cannot avoid being the dominating force in the OAS, it is often scolded by those Latin countries who say it does too little, and just as frequently by those who say it does too much. Mr. Jova has moved through this trelliswork of roses and thorns with consummate skill, winning the respect of his colleagues and the warm admiration of his many friends. Mexico's relations with the United States are of great importance, and it is hard to imagine a man better qualified for the job than Mr. Jova and, though he will be missed in Washington, we wish him well in his new post.

### CAREER DIPLOMAT JOVA NAMED TO MEXICO POST

WASHINGTON.—The White House last week announced the designation of three career diplomats to western hemisphere ambassadorial posts. The most significant assignment was that of present United States OAS Ambassador, Joseph John Jova, to replace retiring Robert H. McBride at Mexico.

Prior to having served as U.S. Ambassador to Honduras (1965–1969), and deputy chief of the mission in Chile (1961–1965), Jova had extensive experience in Europe and at headquarters in Washington. A graduate of Dartmouth, and a Navy lieutenant in World War II (1942–1946), Jova is highly regarded in Latin circles.

Ambassador-designate Francis E. Meloy, Jr., after Yale, also served as a World II Navy lieutenant (1942–1946). He now moves from Santo Domingo to Guatemala. Meloy joined the foreign service late in 1946 and spent most of his career before the Dominican Republic in Europe and on special tasks.

Going to Port-au-Prince is Hayward Isham, a third Ivy-leaguer also from Yale. He had army service (1945–1946), and his past assignments have included Moscow, Berlin, and Hong Kong.

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## GOVERNMENT PRINTING OFFICE MUST PROOFREAD MORE CAREFULLY

## HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. DINGELL. Mr. Speaker, I regret to report that a most grievous typographical error occurred in the Government Printing Office regarding my remarks in the Extension of Remarks of January 21, 1974, page 191, which I inserted calling the attention of the Members of the House to my strong objections to the proposal by the Select Committee on Committees to restructure the House Committee system.

I am most disturbed by the Government Printing Office error, due to the obvious lack of efficient proofreading in that Office and which resulted in, to say the least, a deplorable misleading statement in my Extension of Remarks of that date.

I will point out that my prepared Extension of Remarks on this matter were sent to the CONGRESSIONAL RECORD clerk and the Government Printing Office from my congressional office, letter-perfect, so the error is at this time inexplainable to me.

I refer the Government Printing Office, and the Members of the House, to page 191, column three, the fourth full paragraph, where the GPO dropped the letter "s" in a key word, "busy," in the first sentence of that paragraph which results in an embarrassing interpretation of the meaning of my remarks.

The sentence referred to should read, as my letter-perfect letter and remarks were sent to the CONGRESSIONAL RECORD clerk and to GPO, "It is undeniable that conflicts exist, and that this can be and often is inconvenient to busy Members."

Mr. Speaker, I respectfully ask that the Government Printing Office prepare an explanation for the Members of the House of this breakdown in its vital service and that the inaccurate spelling I have referred to be corrected immediately in the permanent history of the Extension of Remarks.

I also am writing the Government Printing Office requesting an explanation.

In addition, while I am pointing out proofreading errors, Mr. Speaker, there are three more instances of misspelling in my Extension of Remarks of the same date and those are located in the following paragraphs and sentences:

First. Page 191, third column, second full paragraph, first sentence, the word "Merchant" is inaccurately spelled "Mechant."

Second. Page 191, third column, second full paragraph, third sentence, the word "Endangered" is inaccurately spelled "Endangerd."

Third. Page 192, first column, fourth full paragraph, second sentence, the word "attempts" is inaccurately spelled "atempts."

## C. H. HOLGATE

## HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. ABDNOR. Mr. Speaker, last December marked the passing of one of South Dakota's most distinguished educators. Although his teaching and administrative career was centered in the Aberdeen area, his influence was felt throughout the State and was a large force in developing the strong educational system which is the pride of South Dakota. He was Clare H. "Cy" Holgate.

While his skill as a leader in education made him known throughout the State, his leadership was for many years a force throughout the city of Aberdeen and its various civic groups and organizations. In all of his many activities he gained the respect and esteem of his associates, and as part of their tribute to his work one of the city's junior high schools bears his name.

During memorial services for Cy Holgate, Dr. Donald E. Messer, president of Dakota Wesleyan University in Mitchell, S. Dak., made these comments:

> Truly, the gloom of the world is but a shadow—behind it, yet within reach, is joy. We affirm this truth in two ways. First, our memories of Cy Holgate are a source of joy. His life and work sustain us in a time of trouble and stimulate us to greater heights of service to others. As the eulogists have noted, the profound impact of his life shaped the educational history of Aberdeen and transformed the lives of countless people. Two years ago, it was my good pleasure to present on behalf of his alma mater, Dakota Wesleyan University's Distinguished Award for Outstanding Service to College and State. These tributes are but a portion of the chorus of thanskgiving that Cy deserved and earned by his faithful commitment to the cause of education.

Mr. Speaker, Dr. Messer spoke for all South Dakotans who knew and respected Cy Holgate.

## CALLING FOR AMNESTY DEBATE

## HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. CORMAN. Mr. Speaker, at this time the American people are confronted by enormous problems—the energy crisis and inflation are two which will affect the direction of our Nation for generations to come.

While we are looking forward and attempting to make the future better, we must also take stock on the impact of our past. Many of us would like to forget the Vietnam war because it was a period of great division for our country. But we should not forget the thousands of men who acted on the dictates of their conscience now exiled in other countries or languishing in American jails. There are over a hundred thousand men in the above categories alone. Hundreds of thousands more were court-martialed or received dishonorable discharges for actions related to controversial Vietnam war policy.

It is incumbent upon us to fully debate what is to be done with the lives of these Americans. The following sermon by the Rev. Richard S. Lippert, pastor of St. Matthew Lutheran Church, North Hollywood, Calif., can help to point the way for such an important debate.

The sermon follows:

### A SERMON PREACHED ON AMNESTY

I have agonized this past week trying to decide whether or not I should talk to you about this subject. I must admit that at this very moment I am feeling nervous, as I have been all week. I agonize because this is a touchy, emotionally charged issue that has only now begun to be talked about. And I agonize because this, as well as any subject that is controversial, always has the possibility of dividing rather than bringing together. I realize that and I understand that. It has never been easy for any religious community to come to grips with controversy. One needs only to look back into our own Judeic-Christian heritage, back to the days in early Israel in the time of the prophets when they had their running controversies with the Kings; back to Judaism in Jesus' day and their running feud and controversy with the Roman Government; and back into the entire history of our own Christian Church. In all of these instances, one finds that the time was pregnant with controversies with which Judaism and the Church were, on many occasions, unable to handle.

So I must tell you that I agonize and at this moment—at this very moment I have a pit in my stomach—and I am nervous—and my hands are literally shaking. And I must tell you, too, that any time I talk about this or any related subject, I am flooded with memories and I still hurt terribly inside. So before I embark on what I have to say, there are two things which constitute a preamble to my remarks and my feelings.

The first is this: I will own my feelings, I will own what I say, I will own my words, I will own my thoughts. I cannot and I will not demand that you accept what I have to say, or for that matter, reject what I have to say. I am telling you what I feel, what I believe, what I must deal with from the very depths of my own soul and experience. And as I understand the will of God and my subsequent responsibility as a Christian, I speak to you this morning. I sincerely believe that as I understand the will of God and as I believe that His spirit works in me, I am moved to say what I have to say. If you can relate to that, okay. And if you don't relate to what I have to say, that's okay, too. All I can give you is the depth of my feelings and my understanding. I do not lay that on you for you will have to come to your own understandings, your own conclusions and deal with your own feelings.

Secondly, I want to give you some of my background so that you can get a better picture of me and, hopefully, garner more credibility about my remarks. Perhaps most of you by now know that I came to this Parish from the Military. I was a Navy Chaplain for three and one-half years and during that time I spent three years with the United States Marine Corps.

Now first, in 1968, at the very height of our involvement in Southeast Asia, I went to Vietnam and served for a year. Upon arriving there, I served about two weeks with the First Reconnaissance Battalion, a highly trained and very skilled counter-insurgent force. But I didn't stay there long. I was transferred to the field with a regular infantry battalion because their Chaplain had been badly injured. So I remained for eight months with the Second Battalion of the Fifth Marine Regiment, First Marine Division. During that particular time of eight months, my battalion suffered among the highest casualties of killed and wounded of any battalion in the I Corps area of operation. I Corps ran from the DMZ South to Quang Nai City.

Second, I spent a whole year away from my family. For those of you who, either in the service, or for some other reason have had to spend long periods of time away from your family will understand what I am talking about. I spent a whole year away from my wife, away from my child, during the most formidable year of his life. And because of that, I missed out on an awfully large chunk of his life. I can never have that time back.

Third, I contracted illnesses the likes of which I hope I never have to go through again. I had falciprum malaria which has a much higher fatality rate than the normal vivax type of World War II. I had shigella dysentery so bad I was withered up like a prune. I had practically every kind of internal and external parasite—hookworm, roundworm and ringworm so bad that my skin broke open and began to pus. I was in so many fire fights and in so many shellings that it's like one big, bad nightmare. And I still pick small pieces of shrapnel out of the back of my neck and the back of my head. I have my medals, nine of them in all, to show where I've been. I say all of this not because I boast or am proud. On the contrary! I tell you this only to hopefully make my remarks more creditable. Also to talk or to think about any of this only brings on anxiety and sadness and a strong desire to withdraw. However, I have committed myself to this task and I choose to carry on. I must tell you also that I do so hesitantly, especially against the background of convulsion which is now going on in Washington, because I am sensitive to that also.

The issue or question simply put is this. What is to become of the thousands upon thousands of young men languishing in our jails right now; and what is to become of the thousands upon thousands of our young men across the world who have had to flee this country because of something they believed in, because they refused to participate in something which they felt was immoral and wrong? The war is now over between North Vietnam and us but it is not over for the majority of our sons who refused to fight, who refused to be caught up in something which they believed was wrong, and immoral, and indecent. So I ask—when will *this* war end?

Some people have suggested that what we need to do is to apply what the law says. They should be tried, convicted and put into prison. Others have advocated that these young people should be pardoned by the President. That is, what they have done should be recognized as a crime because they broke a law and it should be so recorded; but that the offenders should be relieved of any consequence of the offenses for which they have been convicted. Now others have suggested that what they need is amnesty. Now amnesty comes from a Greek word which means literally to not remember, or to overlook, or to not recognize. The proposition is that the whole matter of desertion, the refusal to fight, or the refusal to be drafted should be forgotten, that there would be no recognition of a crime having been committed and therefore no reason for pardon.

Now, I gave you all of that background on myself, on my feelings, on where I had been and what I have done because I wanted you to know exactly what I felt and what I went through. And I want you especially to know that during that year in Vietnam I died a hundred times, believe me I suffered! I suffered terribly and because I suffered I say to you this morning that I am completely and totally for *complete* and *total* amnesty! I say that as a human being and as one who recognized the basic tenets of my faith as being reconciliation, and peace, and love. Because I recognize these things I must, and I am moved, to ask our government to remove the penalties immediately from those who have suffered long enough in prisons, or have gone underground, or who are now in exile. I take very seriously my responsibility as a citizen of the United States and I take very seriously my responsibility as a Christian, and I am well aware of the arguments that might be raised against my position.

First, that I am neglecting my Christian responsibility to the State as set forth in the Thirteenth Chapter of Romans which states: 'Let every person be subject to the governing authorities, for there is no authority except from God and those that exist have been instituted by God." Now I accept that and I believe that, but I also must balance that with a statement in St. Matthew where Jesus in the Sixth Chapter said you cannot serve two masters. Now I understand that to mean, within the context of Church and State, that if the demands of the State and if the demands of your faith have come into conflict, you must choose between the two. I have that conflict and I have chosen between the two! I choose the demands of my conscience and my understanding of my faith as opposed to the demands made on me by the State. I cannot and I will not give complete, absolute, unconditional and unquestioned allegiance to the State. Nazi Germany is not that far behind for me to forget the ovens at Dachau and Auschwitz.

Another comment that people are making in regard to amnesty is that if we do give amnesty it is going to be destructive for our country and for those who served. Now I ask this question: who is to say who did the most for their country, whether it was he who answered his call to duty and went overseas, or whether it was he who answered his call to duty and refused to go? I'm not trying to say that all of those who refused to fight, who refused to be drafted and who refused to go to Vietnam were doing so for moral reasons because I know that isn't true. There are thieves and interlopers and hustlers and con-artists and murderers who at this very moment are in jail, who are across the sea, who deserted and refused to go to Southeast Asia.

But their number is small. That same line of reasoning could be applied also to those who served in the Armed Forces because I know that there are thieves and interlopers and hustlers and con-artists and murderers who went to Vietnam and came back and answered their "call to duty" to serve in the armed forces. There are bad people in both places who did their thing for bad reasons, just as there are good and honest men in both places who did their thing for what they believed were good reasons. Who therefore is to say who did the most for freedom and conscience? To me it really is amazing that most Americans continue to believe that these young men who refused to fight or be drafted still must be punished when over 70% of the American people now believe that the war was wrong from its inception to its conclusion. Doesn't it seem rather ironic then that even though we feel the war was wrong, and in many quarters immoral, we still demand our pound of flesh from our sons?

Third, it is argued that amnesty will contribute to a general breakdown of law and order. This is inaccurate. For the past one hundred and ninety-seven years of our country, we have had thirty-five instances of amnesty or pardon beginning with the whiskey rebellion in 1785 in the State of Pennsylvania. And mind you, these people in 1785 fought against their *own* and not a foreign government and received amnesty from President Washington. In all of these instances when amnesty or pardon was given, the general breakdown of law and order never occurred! Either to know or to hope that you will be forgiven, or that your act will be forgotten after a war, did not make it any easier to go to jail or flee your country during the war. Further, to speak of law and order, that one must obey the letter of the law or be punished, is rather hard to take when hypocrisy, double-talk, lying, deceit, and the breakdown of law and order emanates from the very highest positions in our land. What kind of a country is this when those who govern feel they can break laws with impunity while imposing laws and rules and judgments and regulations of their own liking on others? What kind of hypocrisy is that? President Nixon talks a lot about law and order, and though he gets pardon and amnesty mixed up, I think the following quote by Mr. Nixon valuable in terms of what I've been talking about. "Now amnesty means forgiveness. We cannot provide forgiveness for them. Those who served paid their price; those who deserted must pay their price and the price is not a junket in the Peace Corps or something like that as some have suggested. The price is criminal penalty for disobeying the laws of the United States. If they want to return to the United States, they must pay the penalty." In light of what is going on right now in Washington, I can only shake my head in disbelief.

Fourth, some argue that to grant amnesty is unfair to those who died and suffered in Southeast Asia because it robs them of their sacrificial meaning. I came back with my life, but I want you to know that I suffered there and that this line of reasoning, that it robs those who suffered and died of their sacrificial meaning, is absurd, illogical and irrational. Is putting these young men in prison and keeping them there because they believed in the rightness of their cause going to bring back the lives of any of those young men who were killed in Southeast Asia? Is putting into prison those who have fled the country because they refused to be drafted and participate in a war that they thought was immoral going to bring back or change any of the suffering that went on with the thousands and thousands of young men who served there? Is it going to change anything? What will the pound of flesh bring? What will our retribution bring? If we throw them in prison and keep them there, is that really going to make the death and suffering of so many Americans any more meaningful?

Today I speak to you as a veteran of the Southeast Asia War, as a Christian and as an American who tries and falls far short, but who tries to understand myself and my world in terms of forgiveness, restoration, reconciliation and healing. We teach our children from the time they are able to walk that they should forgive, learn to live with people, to seek peace and not to demand our pound of flesh. Now if this is so, how can I as a Christian and an American refuse to be reconciled to our exiled and imprisoned sons—how can I do that? We have taught them to honor their conscience, to listen to the voice of God in them, to forgive, to heal and to reconcile. What gross hypocrisy if we honor that inside the Church but not in the market place of the world. Is it no wonder then that so many of our youth regard the Church and our country with contempt and cynicism? Unless some of you accuse me of lack of allegiance to my country and an appreciation of what and who we are, I want to go on record right here that I very dearly love my country—and because I do, I say these words this morning. Just because I disagree with some of its policies does not mean I love her any less. And contrary to the intentionality of a well known bumper sticker, I do love my country and I will not leave!

In closing, I am going to quote a short, but eloquent thought that can best sum up exactly what I feel about amnesty. It was uttered during what I believe to be the most critical period of American history: "With malice towards none, with charity for all, let us strive to bind up the nation's wounds. To do all which may achieve and cherish a just and lasting peace among ourselves and with all nations." The man who said that did so on a bloodsoaked battlefield one hundred ten years ago and his name was Abraham Lincoln.

Finally then, I urge from my perspective and my feelings and experience as a Christain and an American: not malice, but forgiveness; not revenge, but charity; not more brokenness, but unity; not peace only in Viet Nam but here with our sons as well.

If what I have said here today has any relevancy, then I am forced to ask this question: Is the King God; or is God the King?

## PASSENGER TRAIN JOURNAL PRAISES "COAST STARLIGHT"

### HON. BROCK ADAMS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. ADAMS. Mr. Speaker, the present energy crisis has provided further reasons for improving intercity passenger service by rail. Already the gasoline shortage has produced a sharp increase in train ridership. One of the most encouraging developments has been the steady increase in ridership on the long-haul trains, traditionally those trains with the highest deficits and which rail management for years dismissed as a lost cause. Contrary to traditional wisdom, the long-haul trains have been between Seattle and San Francisco, via the "Coast Daylight" and the "Coast Starlight." In November of last year, the latest month for which figures are available, these trains carried a daily average of 750 people. In August of 1973, the ridership in terms of passenger miles was nearly double that of the preceding year. I was pleased to note that an excellent magazine, Passenger Train Journal, which is devoted to reporting on modern passenger service, featured the "Coast Starlight" in its monthly feature, Trains of Note. Passenger Train Journal comments that—

> The "Coast Starlight" has provided the most positive proof that long distance rail travel can be a growing institution.

I am happy that this success story has taken place on a rail route serving my own district in Seattle and I would like to include the article from Passenger Train Journal in the Record at this point:

### The "Coast Starlight"

*In the West, the long-distance passenger train is dead.* These words summed up the Southern Pacific funded, "The Future of Rail Passenger Service in the West," which became the cited reference for those who sought the end of passenger service on rails. However, seven years later finds the passenger train traversing the length of the west coast alive and thriving on the run between Seattle, Washington and Los Angeles, California.

Because the *Coast Starlight* has provided the most positive proof that long distance rail travel can be a growing institution and has done so on the tracks of a railroad that was most dedicated to the passenger trains' demise, PTJ has chosen this train to begin a new series, Trains of Note.

When Transportation Secretary Volpe announced the final basic system routes in January of 1971, the end point designation of Seattle and San Diego set the stage for the establishment of service that has never been available as a through train of any time prior to Amtrak's May 1, 1971 beginning. Before Amtrak, various ways were available at one time or the other for the traveler to go from Southern California to Seattle. From November, 1924 to October, 1949, Espee provided a through train from Los Angeles to Portland, but only some sleepers went on through to Seattle. The *West Coast*, as it was called from June, 1927, operated via the San Joaquin Valley and Sacramento to Portland. The train was discontinued north of Sacramento just after the inception of the *Shasta Daylight* although it continued to operate south of Sacramento until 1960. From October 3, 1949, one was required to make a train transfer at Martinez, California to complete the fastest Seattle-Los Angeles trip. Then, in 1965, even first class passengers had to change in Portland with the termination of through sleepers between Oakland and Seattle. Finally, in 1969, SP altered the schedules of the *Coast Daylight* and *Cascade* to provide better through transit time, but requiring an additional transfer (three altogether) and a bus ride across the San Francisco Bay Bridge, if one chose this routing. However, this schedule adjustment broke the key connection with the *Super Chief* in Los Angeles and was probably counter-productive on balance.

So, Amtrak's through train put four distinct segments together to provide the no-change-of-train service. Los Angeles-Santa Clara, *Coast Daylight;* Santa Clara-Oakland, a freight-only section that had not been a regular passenger train since October 2, 1960; Oakland-Portland, *Cascade;* and Portland-Seattle, pool train service of the Burlington Northern/Union Pacific.

The operation never did actually fulfill the role of a through *train* between the DOT-designated end-points. Service between L.A. and San Diego was maintained with a through coach and sleeper from Seattle that was switched to a *San Diegan* at Los Angeles. However, the expensive switching operation in Los Angeles and relative light usage moved Amtrak to terminate these cars in early 1972.

The name *Coast Starlight* came into being on November 14, 1971 upon issuance to Amtrak's first home-grown system timetable. From this time, the *Coast Starlight* generally referred to the tri-weekly operation north of Oakland, while the daily operation south of Oakland was called the *Coast Daylight*. Now that the entire route is operated daily, it does not make much sense to continue the dual nomenclature. So while Amtrak continues the double name, PTJ prefers to call the train *Coast Starlight* no matter where it may be between Seattle and Los Angeles. The *Coast Daylight* was a Los Angeles-San Francisco train, the likes of which, in the traditional sense, left the rails some time ago.

The resumption of the through train had little impact on ridership initially. By that time, SP had generally convinced most people that passenger trains were indeed gone. Amtrak was an unknown entity. However, as Amtrak's marketing program began to take effect in spring 1972, the train caught on, even with young people. By the end of 1972, demand built to the point that Amtrak decided to operate the Oakland-Seattle segment daily during the Christmas vacation period. Unlike most long-distance trains that carry their lightest loads during the winter and early spring months, the *Starlight* increased its average daily loads in each consecutive month in 1973 from January to June.

Almost without saying, the train was made daily over its entire route for the 1973 summer season, and in spite of 16 car consists every day, sellouts were more the rule than exception. This demand convinced Amtrak to retain full daily operation on a year round basis. At the present rate, the *Starlight* is carrying more passengers annually than the highly touted *Super Chief* and is earning enough to cover operating costs much of the time.

Why the *Starlight* is such a hit is not entirely clear. Beyond the attributes of train travel, there is little, competitively, to place it above other modes. From the speed viewpoint, even buses are faster between most city-pairs. The fare level is generally bus competitive, but between San Francisco/Oakland and Los Angeles, the train coach fare is $1 higher than the popular, cheap air service that has made this corridor the most highly traveled air route in the world.

But, whatever attracts several hundred passengers to the *Coast Starlight* each day, they are there, voting with their travel dollars that the long-haul passenger train is far from dead. Since Amtrak's fastest growing train is as far from the Northeast Corridor as possible, it has probably done more to reverse traditional thinking toward rail passenger service in the United States than any other post-Amtrak event.

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## MAJOR BREAKTHROUGH IN FUSION RESEARCH

### HON. IKE F. ANDREWS

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. ANDREWS of North Carolina. Mr. Speaker, each Sunday the Raleigh News and Observer honors an outstanding North Carolinian as its "Tar Heel of the Week," and on Sunday, January 20, this honor was accorded to Dr. Willard H. Bennett, head of the plasma research laboratories at North Carolina State University in Raleigh.

This feature story written by Mr. Brad Stuart was especially timely because Dr. Bennett recently made a major breakthrough in fusion research. He sees fusion as the source of our future energy supplies, and I am including this article in the Record to call attention both to his work and ideas:

### The Tar Heel of the Week: Fusion Is His Candidate for Our Future Energy Needs

(By Brad Stuart)

It's like putting a cold pack on a cancer! . . . Short-sighted . . . Ridiculous!"

Dr. Willard H. Bennett, an internationally-known physicist heading the Plasma Research Laboratories at N.C. State University, was talking about the government's efforts to ease the energy crisis. Instead of redoubling efforts to find new energy sources, Bennett complained, the government is seeking to prolong the life of energy sources which will soon expire no matter what is done.

With all the world's oil-reserves due for total depletion within a few decades, with uranium in short supply and nuclear power under attack of posing cataclysmic dangers, and with other energy sources unable to meet future demands, Bennett sees the present long-overdue reactions to the fuel crisis as paltry and pathetic.

Bennett believes a greater national effort should be made to bring about controlled "thermonuclear fusion," the reaction powering the sun and the hydrogen bomb.

Controlled for peaceful purposes, scientists interviewed by the N&O have said, the power of the H-bomb could provide all the energy man needs for millions of years.

The world's oceans are full of the fuel for fusion—nonradioactive hydrogen.

Bennett himself recently made headlines with a major breakthrough in fusion research.

By firing electron beams at solid objects, Bennett has achieved "fusionable temperatures" of nearly 200 million degrees Fahrenheit for the first time in history in a device other than a nuclear bomb.

Scientists have long said that achieving such temperatures is an essential step towards getting controlled fusion. Previous to Bennett's breakthrough, the highest temperatures reached in controlled fusion experiments were around 95 million degrees Fahrenheit, only half that needed, according to scientific journals.

If Bennett can achieve controlled fusion "within two years," as he has claimed, he would be years ahead of official government projections.

But it wouldn't be the first time Bennett has made scientific history.

Bennett was the first man to predict the earth's Van Allen radiation belts. He predicted them in 1953, five years before James A. Van Allen discovered the belts using information from our first satellite—and Bennett's research.

Bennett is now patenting his "superpinch" fusion reactor. It is called the "superpinch" because its electron beams create "the strongest magnetic fields ever created," Bennett said. This magnetism is designed to tightly contain the powerful fusion reaction in an area only a fraction of an inch across, a feat greater than holding a dynamite blast in a cigar box.

All controlled fusion experiments, except recently tried and so far unsuccessful laser beam experiments, use "magnetic bottles" in attempts to contain fusion.

Bennett invented the first "magnetic bottle" over 30 years ago in discovering the "Bennett pinch effect." He demonstrated that when high electrical currents are passed through gas "plasmas" (with both negatively and positively charged gas molecules), the gas is "pinched" down to a tiny fraction of its former volume. This heats the gas to very high temperatures.

Since Bennett's discovery, billions of dollars have been poured into research seeking to "pinch" and electrically heat hydrogen to fusionable temperatures.

Bennett himself, seeing continued failure in these gas experiments, went over to his new method of heating solids with electron beams. When frozen hydrogen or hydrogen-rich plastics are heated by his device, he expects the first controlled thermonuclear reaction in history which gives off more energy than it uses.

The great mass of federal money is still going into gas fusion experiments. Bennett decries a kind of scientific "inertia" which causes more and more efforts to be applied where efforts have already been made in the past.

The cause of much of this inertia is the dependence of sophisticated research on large grants from federal bureaucracies, he said. To get grants, scientists must show they are in the mainstream. Once research is under way, researchers justify their efforts to the bureaucrats, assuring them that success is inching ever closer.

Bennett's work is well funded. A grant from the U.S. Air Force supports his fusion research. The university provides the Plasma Research Labs, including shops and specialists to make the equipment he and his colleagues design. More equipment is provided by the Boeing Radiation Laboratories in Seattle, Washington, where the fusion experiments are carried out.

Bennett received his doctorate at the University of Michigan and did postdoctoral study at the California Institute of Technology.

During World War II, he served as officer-in-charge, research section, Aircraft Radio Laboratory at Wright Field, Ohio and as liaison officer to the radiation laboratory at MIT. He was chief of the physical electronics section at the National Bureau of Standards following the war.

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## SPEAKING UP FOR AMERICA

## HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. ASHBROOK. Mr. Speaker, when newspapers and news programs are constantly filled with the problems facing these United States, I think that it is worthwhile to stand back and take a look at those many things which are good about our great land. Mr. Gordon Sinclair, a Canadian radio commentator, has put the case well in his broadcast of November 30, 1973.

It is good to know that at least some residents of other lands do appreciate the works of the United States. The text of Mr. Sinclair's broadcast follows:

### CANADIAN OPINION

This Canadian thinks it is time to speak up for the Americans as the most generous and possibly the least-appreciated people in all the earth.

As long as sixty years ago, when I first started to read newspapers, I read of floods on the Yellow River and the Yangtse. Who rushed in with men and money to help? The Americans did.

They have helped control floods on the Nile, the Amazon, the Ganges and the Niger. Today, the rich bottom land of the Mississippi is under water and no foreign land has sent a dollar to help. Germany, Japan and to a lesser extent, Britain and Italy, were lifted out of the debris of war by the Americans who poured in billions of dollars and forgave other billions in debts. None of those countries is today paying even the interest on its remaining debts to the United States.

When the franc was in danger of collapsing in 1956, it was the Americans propped it up and their reward was to be insulted and swindled on the streets of Paris. I was there. I saw it.

When distant cities are hit by earthquake, it is the United States that hurries in to help . . . Managua Nicaragua is one of the most recent examples. So far, this spring 59 American communities have been flattened by tornadoes. Nobody has helped.

The Marshall Plan . . the Truman Policy . . all pumped billions upon billions of dollars into discouraged countries. Now newspapers in these countries are writing about the decadent warmongering Americans.

I'd like to see just one of those countries that is gloating over the erosion of the United States dollar build its own airplanes. Come on . . . let's hear it! Does any other country in the world have a plane to equal the Boeing Jumbo Jet, the Lockheed Tristar or the Douglas 10? If so, why don't they fly them? Why do all international lines except Russia fly American planes? Why does no other land on earth even *consider* putting a man or woman on the moon?

You talk about Japanese technocracy and you get radios. You talk about German technocracy and you get automobiles. You talk about American technocracy and you find men on the moon, not once, but several times . . . and safely home again. You talk about scandals and the American put theirs right in the store window for everybody to look at. Even the draft dodgers are not pursued and hounded. They are here on our streets, most of them . . . unless they are breaking Canadian laws . . . are getting American dollars from Ma and Pa at home to spend here.

When the Americans get out of this bind . . . as they will . . . who could blame them if they said 'the hell with the rest of the world'. Let someone *else* buy the bonds. Let someone else build or repair foreign dams or design foreign buildings that won't shake apart in earthquakes.

When the railways of France, Germany, and India were breaking down through age, it was the Americans who rebuilt them. When the Pennsylvania Railroad and the New York Central went broke, nobody loaned them an old caboose. Both are *still* broke. I can name to you 5.000 times when the Americans raced to the help of other people in trouble.

Can you name me even *one* time when someone else raced to the Americans in trouble? I don't think there was outside help even during the San Francisco earthquake.

Our neighbors have faced it alone and I'm one Canadian who is damned tired of hearing them kicked around. They will come out of this thing with their flag high. And when they do, they are entitled to thumb their nose at the lands that are gloating over their present troubles.

I hope Canada is not one of these.

GORDON SINCLAIR.

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## POLITICAL PRISONERS IN SOUTH VIETNAM

## HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. ARCHER. Mr. Speaker, there has been discussion in recent months in the media concerning the Government of South Vietnam and charges that this Government has detained large numbers of civilian prisoners. Unfortunately, these charges have been made against the Government of South Vietnam with very little investigation of the validity of the charges. In the cause of fair reporting, I would like to enter into the CONGRESSIONAL RECORD a statement issued by the information office of the Embassy of the Republic of Vietnam which discusses this issue in a forthright manner. I believe this statement will give us a better perspective on the entire question.

The statement follows:

### FACT SHEET: THE ISSUE OF CIVILIAN PRISONERS IN SOUTH VIET-NAM

While the Republic of Viet-Nam is making every effort to maintain peace, the communists and their friends are creating "phony issues" aimed at discrediting the Government of the Republic of Viet-Nam. The issue of "political prisoners" is the most persistent of these false issues.

The communists have launched a vigorous campaign charging that the Government of the Republic of Viet-Nam is holding hundreds of thousands of so-called "political prisoners." In the face of such outrageous and false charges, the Information Office of the Republic of Viet-Nam deems it necessary to make certain clarifications regarding this issue by presenting the following facts, facts, which, unlike the claims and charges of the communists, are well documented and can be substantiated:

Fact: In the Republic of Viet-Nam, no one is arrested and detained only because his political opinions are at variance with the government. The law of the Republic does not permit the arrest of a person merely because of his opposition to the policies of the government. The people can freely express their opinions and are constantly doing so in South Viet-Nam. In fact, some of our senators and representatives and, especially members of the press, are well-known for their criticisms of the government. The place to look for political prisoners, therefore, is not in South Viet-Nam but in the innumerable prisons, concentration camps, and mental institutions in North Viet-Nam.

Fact: From the juridical point of view as with regards to penal law, even within a democracy in time of peace, attempts against internal and external security of State such as vandalism, robbery, rebellion, spying, cooperating with the enemy, high treason, should be punished with extreme vigor. We have to take drastic measures against these elements, who cannot, in any sense of the word, be called "political prisoners." As in any nation in the world, the elected government has the duty to safeguard security and to enforce law and order. Any element, who through his actions, has endangered security and public order, must be classified as a criminal, in accordance with the legal practice of any country.

Therefore, in danger of being repetitious, we deny the charge that there are "political prisoners" in the Republic of Viet-Nam. The only people we hold in our prisons are either communist civilian personnel and/or common criminals.

Fact: The communists at first claimed that the Republic of Viet-Nam detained 200,000 of their civilian personnel. This ridiculous claim was not substantiated by any list of names or locations of capture. Obviously it was a conveniently round figure pulled out of the blue in order to discredit the Government of the Republic of Viet-Nam. When they are faced with the fact that all the prisons in South Viet-Nam combined would not contain more than 35,000, including communist civilian personnel and common criminals, the figure came down to 100,000, and finally, the communists admitted that perhaps the number of detainees held by the Government of the Republic of Viet-Nam is closer to 50,000. This inconsistency, along with the lack of any documents to back up their claims, clearly shows that the communists charges are absolutely false. The truth is that the Republic of Viet-Nam only held 5,081 communist civilians, a figure which we immediately released after the signing of the peace treaty.

Fact: Article 8C of the Paris Peace Agreement of January 27, 1973, deals with the return of Vietnamese civilian personnel captured and detained in South Viet-Nam. It reads as follows:

The questions of the return of Vietnamese civilian personnel captured and detained in South Viet-Nam will be resolved by the two South Vietnamese parties. . . . The two South Vietnamese parties will do so in a spirit of national reconciliation and concord with a view to ending hatred and enmity, in order to ease suffering and to reunite families. The two South Vietnamese parties will do their utmost to resolve this question within ninety days after the cease-fire comes into effect.

In respect of this provision, the Republic of Viet-Nam presented a list of the 5,081 civilian detainees it held within 15 days of the signing of the treaty. The communists, on the other hand, at first, said that they had only 142 civilian detainees. This ridiculous figure was later revised to 200, then to 400 and finally to 637. The inconsistency of these figures denotes the ill-will of the communists in implementing the provisions of the Paris Agreement and the Protocol concerning the return of detained Vietnamese civilian personnel and casts serious doubts on the real number of South Vietnamese prisoners still in communist hands.

Fact: From 1954 to April 14, 1973, the communists abducted and captured 68,621 South Vietnamese civilians of which 16,798 are government officials, social workers, and rural cadres. It must pointed out that even after the ceasefire, the communists continue their deliberate policy of terrorism. In the period from March 24, 1973, to April 12, 1973, alone, the communists abducted and captured 1,076 South Vietnamese civilians. The Republic of Viet-Nam has a complete list of those people with all the details concerning their identities and the times and locations of their abduction.

The most significant cases of capture and detention occurred in Hue during the 1968 Tet Offensive and in several hamlets north of Binh Dinh province during the 1972 Easter offensive. The number of captured personnel in these two places alone already exceed more than ten times the figure of 600 and some civilians that the communists claimed they held. This suggests the possibility that a great number of captured personnel could have been massacred or taken to the battlefields to provide forced labor or are still being detained in communist concentration camps.

Fact: The Republic of Viet-Nam has done its best to implement the provisions of Article 8C as well as all other provisions of the Paris Agreement. It has returned all the 26,750 communist POW's and 1,575 of the 5,081 communist civilian detainees. The Republic of Viet-Nam will release the rest of the civilian prisoners as soon as the communists show signs of their willingness to respect the Paris Agreement.

On the other hand, the communists have only returned 4,608 of the Republic of Viet-Nam's 31,818 POW's and 271 of the 69,839 civilians which they have kidnapped or captured during the war.

From these figures, it is obvious, then, that the communists have no intention of carrying out the provisions of the Peace Agreement which they themselves have signed and pledged to uphold.

It is the communists and not the Republic of Viet-Nam who are detaining thousands of civilians in their concentration camps. It is the communists and not the Republic of Viet-Nam who are violating the peace treaty. As is often the case, it is always the fellow who is doing the robbing who shouts the loudest that he is being robbed.

Closely related with this issue of "political prisoners" is the matter of the treatment of prisoners. Here again, the communists and their supporters have been strident in their charges of the "inhumane" treatment of prisoners in South Viet-Nam. Without fanfare, we would simply like to present what the eyes can see and the ears can hear and leave it up to your objective judgment as to who is the inhumane party in this all too human drama.

Fact: The American and the Republic of Viet-Nam's POW's released since the signing of the Peace Agreement looked as if they had all been to hell and back. Their mental and physical states were on the verge of collapse. The American POW's have repeatedly told their stories of the unimaginably inhumane treatment they received from communist hands that it is unnecessary for us to reiterate their charges. Suffice it to ask, "Who is calling whom inhumane?"

Fact: Since 1966, the International Red Cross and other international observers have visited the Republic of Viet-Nam prisoners' camps no less than 195 times. Question: How many times have the North Vietnamese allowed the International Red Cross or any other international organization to visit their jails? Answer: Never. Question: Which side has something to hide? The answer is obvious.

When the peace treaty was signed in Paris on January 27, the world breathed a sigh of relief. At last the protracted war in Indochina is going to stop and people can turn their minds and efforts to constructive endeavors. Unfortunately, from the very beginning, the communists have violated every provision of the treaty. They have continued their military build-up by infiltrating more men and better equipment from the North; they have built an oil pipe line from North Viet-Nam into Quang Nam province; they have constructed air fields; they have brought hundreds of tanks into South Viet-Nam in short, they have never stopped their war of aggression. They have violated the ceasefire more than 19,000 times causing close to 1,500 deaths, 3,300 injured and 14,000 missing among the innocent civilian population.

Furthermore, instead of contributing constructively to the rehabilitation of the country, in accordance with the aspirations of the people, the communists are actively manuvering to either take over all of South Viet-Nam or at least to carve out for themselves a piece of the territory south of the 17th parallel with the aim of creating a second state in South Viet-Nam. With this objective in mind, the "National Liberation Front" has evaded all attempts to negotiate seriously with the Government of the Republic of Viet-Nam at the conference of the two South Vietnamese parties. They have stubbornly rejected the constructive and concrete proposals put forth by the Government of the Republic of Viet-Nam and made hazy counter-proposals as well as inconsistent and unsubstantiated charges in order to intentionally delay a political solution and to avoid democratic and free general elections agreed upon in the Paris Agreement. For them, ending the war and restoring a lasting peace for the country are not ultimate goals. They want to gain time with the help of their big communist brothers in order to pursue their future political and military ventures.

Thus the propaganda campaign they have launched is one delaying tactic aimed at discrediting and alienating the duly elected Government of the Republic of Viet-Nam. Unfortunately, they have succeeded in convincing certain elements in the United States who are giving them support by publicizing all their lies. They have even sown seeds of doubts in the minds of some of our friends.

It is our hope that by presenting the above facts we will have convinced our friends and shown our foes that it is not the Government of the Republic of Viet-Nam that is guilty of the charges levelled against it by the communists but the communists themselves who are guilty of such crimes.

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## CONTRIBUTIONS OF OFFICERS, DIRECTORS, AND SOME STOCKHOLDERS OF OIL AND GAS COMPANIES TO PRESIDENT NIXON'S REELECTION EFFORT

### HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. ASPIN. Mr. Speaker, I want to take this opportunity to insert into the CONGRESSIONAL RECORD a study of campaign contributions made by officers, directors and some stockholders of oil and gas companies to President Nixon's reelection effort. I believe that the fact that 413 individuals directly involved in the oil industry contributed over $5.7 million dollars to the President's war chest goes a long way to explain the glaring inequities in this administration's handling of the energy situation.

The President is unable to control the oil cartel because they financed at least 10 percent of his campaign. The entire burden of solving the oil shortage has been thrown on the consumer with no sacrifices asked of the oil companies. In fact, the oil companies have been the biggest beneficiaries in this situation, their profits have skyrocketed and an effort has been made to undermine the environmental movement.

I suspect that this study only revealed the "tip of the iceberg" of big oil's activities on behalf of the President. I have asked the Senate Select Committee to investigate possible additional secret gifts by oil interests.

The list of contributions follow:

| | | |
|---|---|---|
| Ada Oil Exploration Co.: | | |
| Adam, K. S. Jr. (Pres.) | (? CC) | $ 1,000 |
| Aladdin Pet. Co.: Bruce, George H. (Pres.) | | 1,000 |
| Amarillo Oil Co.: | | |
| Quakenbush, W. W. (Exploration Man.) | | 880 |
| Walker, W. E. Jr | | 1,000 |
| An Car Oil Co. Inc.: Sterge, John C | | 5,000 |
| Anchor Prod. Co.: Blair, B. B. (Pres.) | (CC) | 1,000 |
| | (GAO) | 1,000 |
| | (GAO) | 1,500 |
| | (GAO) | 2,000 |
| Apache Corp.: | | |
| Plank, Raymond (Pres.) | | 500 |
| Sweatt, Charles B | | 1,000 |
| Armour Oil: Armour, Ogden B. (Pres.) | | 500 |
| Total | | $17,380 |
| Ballard & Conlell Corp.: | | |
| Munchak, Theodore J. (Dir.) | | $ 1,955 |
| | | 5,865 |
| Bass, H. W. & Sons: | | |
| Bass, Henry W. Jr. (Pres.) | | 2,000 |
| Bass, R. D. (VP) | | 3,500 |

| | |
|---|---|
| Bell Bros.: Pappageorge, S. Charles (Gen. Man.) | 500 |
| Belridge Oil Co.: Whittier, Leland K | 9,794 |
| Big Heat Pipeline Corp.: Zarrow, Henry (Pres.) | 7,000 |
| Bonded Oil Co.: Deer, Paul U. (Chrm. of Bd.) | 500 |
| Bond Operating Co.: Bond, Ronald S. Jr. (Pres.*) | (Jr.) 1,000 |
| | (Sr.) 1,000 |
| Bridwell Oil Co.: Bowdel, Margaret (Partner) | 2,500 |
| Total | $35,614 |
| Cul-Mon Oil Co.: Monaghan, Robert L., Midland, TX Pres. & Chmn of Bd | $3,207 |
| Calvert Exploration Co.: | |
| Calvert, F. A., Jr | 500 |
| Chmn. of Bd., Tulsa | 1,000 |
| *Nelson, Herman A., Frisco, Director | 1,500 |
| Canadian-American Resources Fund: McMahon, David A., Fort Worth, Director | 500 |
| Cardinal Petroleum Company: Palmer, Hugh E., President and Gen. Mangr | 1,000 |
| Caulkins Oil Company: Higbie, Harley G | 1,100 |
| Cayman Corporation: | |
| Coenen, Dale S., Director, 280 Park Ave. NY | 3,868 |
| Rentzel, Delos W., Dallas, Director | 1,000 |
| Central Kansas Petrol Co.: Scupins, Carl A., Abilene, VP | 1,000 |
| Champlin Exploration Inc.: Champlin, Douglas H., VP | 500 |
| Charter Oil Co.: | |
| Keaton, Darius N | 37,000 |
| Pres. & Dir. Charter Trading Co | 3,000 |
| | 6,000 |
| | 3,000 |
| Charter Trading Co.: | |
| Radic, Charles E | 500 |
| VP & Dir | 1,000 |
| | 1,500 |
| Chevron Chemical Co.: Kent, J. W., Pres | 500 |
| Total | $70,675 |
| C & K Petroleum Company, Inc.: | |
| Chambers, C. Fred, Pres | $1,000 |
| Kennedy, W. D., Exec VP | 500 |
| Cleary Petro Co.: Cleary, W. B., Pres | 2,000 |
| Clinton Oil: | |
| Avery, William H. Jr | 500 |
| Exec VP | 1,000 |
| Geo. H. Coates Co.: Coates, Geo. H | 3,000 |
| | 1,000 |
| Coastal States Gas: | |
| Wyatt, Oscar S., Jr | 3,000 |
| Chmn of Bd | 7,000 |
| | (son) 22,000 |
| | 1,000 |
| | 1,000 |
| | 4,000 |
| | 1,000 |
| | (CC) 25,512 |
| *Ware, Jack | 500 |
| Columbia Gas Transmission Corp.: Laird, W. F., Pres | 625 |
| Commonwealth Oil Refining Co., P.R.: Keith, Norman C., Pres | 2,000 |
| | 2,000 |
| Consolidated Natural Gas: | |
| Rose, H. Chapman | 1,000 |
| Director | 1,000 |
| | 10,000 |
| | 500 |
| Consumers Petro Co.: | |
| Aymond, A. H | 500 |
| Chmn & Pres | 900 |
| Cotton Petroleum Corp.: Cotton, Doyle W. Jr., Pres. Tulsa | 1,000 |
| Total | $93,037 |
| Edwin L. Cox Co.: | |
| Goggans, J. Lawson, Dallas | $1,000 |
| Cox, Edwin L | 4,183 |
| Owner—Large Independent | 6,366 |
| | 8,366 |
| | 4,013 |
| | 5,108 |
| Davis Oil Co.: Davis, Marvin, Gen. Manga | 1,000 |
| Delta Drilling Co.: Zenpa, Joseph, Pres | 1,000 |
| Digas Co. of Delaware: which is in LA, Spitzer, Arthur, Pres | 3,000 |
| Diamond Shamrock: Adams, Richard E., Asst. Mangr. (CC) | 525 |
| Dorchester Exploration, Inc.: | |
| Aikman, William H., Exec VP | 1,000 |
| Aikman, Robert E., Pres | 1,000 |
| Eddy Refining Co.: Blanton, J.S., Chmn of the Bd | 500 |
| East Ohio Gas Co.: Tankersley, G. J | 5,000 |
| Total | $19,150 |
| El Paso Natural Gas: | |
| Young, S. D., Director | $1,500 |
| Rockwell, Willard F., Jr., Director | 500 |
| (CC) | 1,000 |
| (GAO) | 1,500 |
| (Father) | 2,000 |
| Kayser, Paul F., Director | 1,000 |
| *Glassell, Alfred C. (Dir.) | 1,000 |
| Equitex Resources Corp.: Goldbaum, Stanley | 6,832 |
| | 22,683 |
| | 2,297 |
| Fair Oil Co.: | |
| Fair, Wilton H., Senior VP | 2,000 |
| | 550 |
| Falcon Seabord Inc.: | |
| Law, Theodore N. Chamn of Bd. (CC) | 14,000 |
| (GAO) | 2,000 |
| (GAO) | 2,000 |
| Forest Oil Co.: | |
| Casey, Martin F | 1,000 |
| Chmn, Exec. Com | 1,000 |
| Central American Oil Co. of Texas: | |
| Conley, Paul A | 1,000 |
| Meadows, Algur H | 3,000 |
| | 3,000 |
| GHK Co.: Hefner, Robert A., Jr | 2,000 |
| General Crude Oil: Montague, K. E | 1,000 |
| Global Marine, Inc.: | |
| Bauer, R. F | 1,000 |
| Chmn of Bd | 1,000 |
| Total | 73,862 |
| Goldston Oil Company: Goldston, Iris, Chmn. of Bd | $5,000 |
| Gt. Plains Natural Gas: Durham, C.W., Pres | (CC) 10,000 |
| Graham-Michaelis Corp.: Graham, William L., VP | (CC) 500 |
| Claude B. Hamill-Independent | 1,000 |
| Claude S | 1,000 |
| Petro Suppliers Equipment Assoc.: Harbin, J. P., 2nd VP | 2,000 |
| Hamilton Bros. Petro Corp.: Hamilton, Ferris F., Vice Chmn., Pres | 5,473 |
| Harkins & Co.: Harkins, H. B., Chmn. of Bd | 1,000 |
| Total | $25,973 |
| Heyser, Estill S.: Ind. Oil Co. Dallas | $1,000 |
| Hilliard, H. T.: Hilliard Oil & Gas | 1,000 |
| Highland Resources: Ralph O'Connor | 1,000 |
| HNG Oil Co.: Roden, William F | 1,000 |
| Herring, Robert R.: Houston Nat. Gas | 1,000 |
| Howell Corporation: Paul Howell | 1,000 |
| Hudson Oil Co.: Frank Vandergrift | 2,000 |
| T. L. James & Co.: Floyd B. James | 500 |
| Kansas Nebraska Nat Gas: Mc Dill Boyd, Dir | 500 |
| Kissinger Petrol Corp.: Clyde G. Kissinger, Pres | 500 |
| Koch Oil Co.: Robert L. Williams | 1,000 |
| Lafayette Funds, Inc.: J. C. Trahan | 1,000 |
| Ladd Petrol Co.: J. B. Ladd | 500 |
| Laketon Asphalt Ref. Co.: Samuel Bronstein, Pres | 1,000 |
| Longhorn Prod. Co.: Frank Pitts | 1,000 |
| Maguire Oil Co.: Cary Maguire, Pres | 12,000 |
| Total | $26,000 |
| McKnight Petroleum Trust: McKnight, W. L. (Trustee) (CC) | $100,191 |
| McMoRon Exploration Co.: Rankin, B. M., Jr. (President) | 500 |
| Medders Petroleum Co.: Medders, Tom B. (Chrm. of Bd.) | 500 |
| Mesa Petrol 166: Pickens, T. B. Jr. (President) | 1,000 |
| Michigan Oil Co.: | |
| McClure, Harold (Chrm. of Bd.) | 2,900 |
| | 2,900 |
| | 17,400 |
| | 5,800 |
| Michigan-Wisconsin Pipeline Co.: Fisher, John W. (Superintendent) | 2,500 |
| (CC) | 1,000 |
| Missouri Public Service Co.: Williams, Kelly (VP-Finance & Sales) | 2,000 |
| Murphy H. Baxter: Baxter, Murphy H. (Owner) | 2,000 |
| Total | $138,691 |
| Northern Pump Co.: | |
| Hawley, J. B. Jr. (President) | $1,000 |
| | 1,000 |
| North Penn Gas Co.: Ware, John H. III (Chrm. of Bd.) | 1,000 |
| Northwest Oil Co.: Brachman, S. (VP & Treasurer) | 1,000 |
| Total | $4,000 |
| Oasis Pipe Line Co.: Oreffice, Paul F. (VP & Dir.) | $500 |
| Ocean Drilling & Exploration Co.: Blanke, Albert G. Jr. (Dir.) | 1,896 |
| | 1,000 |
| O'Neill Oil Properties: | |
| O'Neill, Joseph I. Jr. (Owner) | 6,000 |
| | 1,000 |
| W. B. Osborn Co.: Osborn, W. B. Jr. (Manager) | 1,000 |
| Osceola Refining Co.: Hansen, Armond (President) | 2,000 |
| Total | $13,396 |
| Pacific Gas & Electric Co.: Gerdes, Robert H. (Chrm. of Exec. Comm.) | $1,000 |
| Patoil Corp.: Shield, Fred W. (President) | 500 |
| Patrick Petroleum Co.: Patrick, U. F. (President) | 500 |
| Pauley Petrol Inc.: Pauley, Edwin W. (Chrm. of Bd.) | 35,000 |
| Penrose Prod. Co.: Penrose, Neville G. (Chrm. of Bd.) | 1,000 |
| Petrol Exploration & Operating Co.: Franklin, James B. (Dir.) | 4,000 |
| | 3,000 |
| | 3,000 |
| | 15,000 |
| Kaplan, Stanford (Dir.) | 5,230 |
| | 2,615 |
| Portal Pipe Line Co.: Downing, Robert W. (President) (CC) | 500 |
| Total | $71,345 |
| Salmon Oil Co.: | |
| Salmon, Barton D. (VP) | $1,000 |
| | 500 |
| Saxon Oil Co.: Saxon, Bill D. (Chrm of Bd.) | 1,000 |

| | |
|---|---|
| Southwestern Oil & Refining: Seltzer, S. S. Jr. (Chrm of Bd.) | 2,000 |
| Southern Natural Gas Co.: Shaw, John S | 2,800 |
| Total | $7,300 |
| Shaheen Resources: John M. Shaheen | $104,000 |
| Tamarack Petroleum Co.: | |
| McKeithan, D. F. Jr. (VP) | $2,000 |
| Uihlien, Joseph | 500 |
| Uihlien, Joseph Jr | 700 |
| Tauber Oil Co.: Tauber, O. J | 2,000 |
| Teton Exploration Drilling Co.: Lisco, Richard K. (President) | 500 |
| | 500 |
| Texas Independent Producers: Mitchell, George P. (President) | 3,000 |
| Texapato Pipeline Co.: | |
| Killam, Radcliff (President) | 1,500 |
| | 2,000 |
| Tippepary Land & Exploration Corp.: Stoltz, Deane H | 1,500 |
| Triangle Refineries: Love, F. C. (Chrm of Bd.) | 3,000 |
| Total | $17,200 |
| Urich Oil Co.: Urich, George | $3,000 |
| Vaughn Petroleum Inc.: Vaughn, Jack C | 2,000 |
| Venus Oil Co.: Ames, Eugene L. (Jr.?) (Exec. VP) | 1,000 |
| Vickers (Sub. of Swift): Swift, Edward F. (Dir.) | 1,000 |
| Viersen Oil & Gas: | |
| Viersen, Sam | 700 |
| Viersen, Sam Jr | 1,000 |
| Total | 8,700 |
| Walker Manufacturing Co.: Rapp, Wayne E. (VP) | $625 |
| Washington Natural Gas Co.: Woods, William P. (Chrm. of Bd.) | 500 |
| Western Gas & Oil Assoc.: McMillan, John R. (Pres.) | 1,000 |
| White Eagle Overseas Oil Co.: Helmerick, W. H. (President) | 1,000 |
| Wood Oil Co.: Smith, Glenn J. (Chrm of Bd.) | 1,000 |
| Marshall R. Young Oil Co.: Young, Marshall R. (President) | 1,000 |
| Total | 5,125 |
| Husky: | |
| Eccles, G. S., Director | $1,000 |
| Nielson, Glenn E. (NPC), Director | 1,250 |
| | 500 |
| | 1,000 |
| Superior Oil Company: | |
| Howard Keck, Pres | 25,000 |
| Superior Oil Corp (Ad) | 10,000 |
| Pacific Gas and Electric: Walter Haas | 48,557 |
| Great Plains Natural Gas Co.: C. W. Durham, Pres. (CC) | 10,000 |
| East Ohio Gas Company: G. J. Tankersly, Pres | 5,000 |
| McCulloch Oil Co.: Ad | 10,000 |
| Nicholas Varvinoganis: (Oil Refining & Shipping, Athens, Greece) | 15,000 |
| Trans Union Corp.: J. W. Van Gorkom | 2,000 |
| Time Oil Co.: Employees | 16,000 |
| Western Crude Oil: Courtlandt Pres., Dietler | 3,500 |
| Arch Rowan & Co. Inc.: | |
| Arch Rowan | 1,000 |
| Estill Heyser | 1,000 |
| Texas Pacific Oil (subsidiary of Seagrams) (Distillers): John Loeb (Partner Loeb Rhoades) | $109,000 |
| Newmont Mining: Andre Meyer (Partner Lazard Freres) Director | 62,760 |
| Delhi Australian International Oil Co.: | |
| John Murchison, Chr. (Cash) | 50,000 |
| | 2,000 |
| Perry R. Bass, Dir. (Cash) | 20,000 |
| | 10,000 |
| | 82,000 |
| Midwest Oil Corporation: Arthur E. Johnson (Former Chr.) | 106,500 |
| Quintana Petroleum Corp: | |
| Roy H. Cullen, VP | 11,000 |
| Isaac Arnold, VP | 23,000 |
| Cullen, Harry | 14,000 |
| Belco Petro: Arthur B. Belfer, Ch. Bd | 13,250 |
| King Ranch (Crude & Nat. Gas): Robert Kleberg | 100,000 |
| Grant Oil Tool: Henry Salvatori | 99,415 |
| American Liberty Oil: Toddie Wynne, Pres | 50,000 |
| Jake Hamon: (Oil & Gas Prod.) (Cash) | 25,000 |
| Total | $695,925 |

## OMB DIRECTOR ASH ANNOUNCES NEW POLICY—IMPOUNDMENT OF FUNDS APPROPRIATED BY CONGRESS TO END

### HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. EVINS of Tennessee. Mr. Speaker, in a recent interview Budget Director Roy Ash announced that the Nixon administration is discontinuing its longstanding policy of impoundment of funds appropriated by the Congress.

In this connection, it is interesting to note that this decision came after some 25 Federal district courts had held that such impoundments are illegal and invalid.

Furthermore, this practice of impoundments has been under strong attack in the Congress for some 3 years—and I have personally denounced excessive and arbitrary impoundments and freezing of funds appropriated by the Congress for education, agricultural programs, highways, public works and other programs for the growth and development of America.

I am pleased with the recent statement by Mr. Ash indicating a reversal of policy. The OMB director indicated that one exception to the new policy will be the continued impoundment of a limited amount of funds for grants under the Water Pollution Act.

Although the Director apparently does not consider the withholding of several billions of dollars in contract authority as impoundments in the technical sense, the effect is the same—cities and counties throughout the Nation will be deprived of the benefits of this antipollution program concerning which the country and the Congress is concerned.

Mr. Speaker, because of the interest of the American people and my colleagues in this most important matter, I place in the RECORD herewith the article from the January 20 edition of the New York Times concerning the recent statement by OMB Director Ash.

The article follows:

#### DEVICE OF IMPOUNDING PROGRAM MONEYS TO BE DROPPED

(By Edwin L. Dale)

WASHINGTON, Jan. 19.—President Nixon's new budget will all but abandon last year's highly controversial device of "impounding" funds for programs approved by Congress.

This was disclosed in an interview by Roy L. Ash, director of the Office of Management and Budget, who was in charge of preparation of the budget.

"You can retire that word impoundment from your type," Mr. Ash said. "We may even forget how to spell it."

Mr. Ash made an exception for the program of grants for sewage treatment plants under the Water Pollution Act, where the President has already announced his decision to allot more money in the new budget than was allotted this fiscal year, but again to withhold part of the amount authorized. Mr. Ash called this "a totally different" item, in which "it was never intended" that all the authorized funds could be spent.

#### NO LIST OF CUTBACKS

The big change is that the new budget of slightly more than $300-billion will not contain, as the one a year ago did, a long list of more than 100 items in which the President decided to cut back on programs and eliminate some altogether.

His decisions sparked an immediate and intense battle with Congress and a flood of court suits. Eventually the President released funds for many of the programs in question, and some were changed by Congress in a manner acceptable to the President.

"We'll be talking about different things with Congress this year—not impoundment," Mr. Ash said.

The budget office, he said will revert to its normal practice of "reserving" appropriated funds for various programs, which includes doling them out to the various agencies on a schedule determined by ability to spend and other factors. This practice has led, for example, to "underspending" the money available for roadbuilding in the Highway Trust Fund for many years, mainly without controversy.

Congress in general has accepted the need for the "reserving" device, sometimes called "apportionment," as necessary for orderly spending, though there may continue to be some controversy this year over specific items.

The President's gradual retreat during 1973 on the impoundment issue has inevitably meant some increase in the budget. But Mr. Ash said the amount was less than $1-billion in the current fiscal year, 1974, and about $1-billion in the new fiscal year.

"Some of the things that caused the most controversy involved very little money," he remarked.

#### "UNCONTROLLABLE" PROGRAMS

One reason for the change in policy on impoundment is that the prospect of a slowdown in the economy this year has made possible a somewhat more relaxed budget policy in general, though Mr. Ash insisted that "restraint" had not been abandoned in wholesale fashion. Additional Government spending, without a corresponding tax increase, will help to stimulate the economy.

Mr. Ash had previously disclosed that the budget, which will go to Congress Feb. 4, would move a little above $300-billion, about a $30-billion increase from the current 1974 fiscal year. It will probably show an estimated deficit in the neighborhood of $10-billion.

Of the $30-billion increase in spending, he said in the interview, about $20-billion will be in "uncontrollable" programs such as Social Security and veterans benefits, where the scale of payments is fixed by law and the total spent depends on the number of persons on the rolls.

Of the remaining $10-billion he continued, nearly all is equally beyond the Administration's control. It includes such items as pay increases for both the military and civilian personnel of the Government to keep up with inflation, and the impact of inflation in increasing "unit costs" of other programs, meaning more dollar outlay for the same program level of activity.

The spending total in the new budget will not be swollen significantly by new programs except for the previously disclosed doubling of outlays for energy research. The expected new health insurance program, for example, will not affect spending until after the fiscal year 1975.

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## LAWNDALE, CALIF.'S MAN AND WOMAN OF THE YEAR; FRED KNIGHTON AND MABEL McCULLEY

### HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. CHARLES H. WILSON of California. Mr. Speaker, on Saturday, January 26, the city of Lawndale, Calif. will honor two fine citizens as its man and woman of the year. Both Mabel McCulley and Fred Knighton have truly deserved these accolades, for these people are examples of what an individual can do to make a difference.

Fred Knighton has the distinction of being the first non-Rotarian ever nominated by the Lawndale Rotary Club for this high honor. In fact, Fred is an Optimist—and a leader in this outstanding service organization. He has been president, vice president, director of programs, and chairman of the Optimist Club of Lawndale and now serves as vice president and director of the Optimist Home for Boys.

His energy is seemingly boundless and his achievements legion. He was president of the Lawndale Breakfast Club and chairman of the Jane Adams Memorial Wall project. He has been active in the Lawndale Chamber of Commerce, serving in every capacity from director to fundraiser for every conceivable civic event. His artistic talents were brought into play as he designed the chamber of commerce emblem and Lawndale's map.

Fred's philanthropy knows no bounds. Asked by the sheriff's department to assist during emergencies, Fred has pulled many a stranded motorist from flooded waters and serves as the official photographer and official witness for the law enforcement agency. To Fred, time is not money but value, and he has unstintingly devoted his energies to helping others achieve more happiness in their lives. He has donated the bird of paradise plants for Lawndale's main street areas and barbecues for the all city picnic; he has spent countless hours helping cheer senior citizens and the ill.

The Rotary Club, in nominating Fred Knighton for this award, said:

> No one is worthy enough to write about the contributions of another. The measure of life, after all, is not its duration, but its donation. Lawndale would be much less a place if it was not for Fred Knighton.

In nominating Mabel McCulley as Lawndale's Woman of the Year, the Rotary Club wrote:

> This wife and mother of two sons and two daughters moved to Lawndale nearly 27 years ago and our community hasn't been the same since.

For aside from the scouting and PTA activities in which Mabel serves so actively that she was given an honorary life membership and Continuing Service Award from two PTA's, Mabel's civic work has been far reaching and imaginative. Twenty-two years ago she joined the Monday Eves. Jr. Women's Club where she soon was elected president; under her leadership, "Operation Skyrocket," a free public fireworks display at Alondra Park, was initiated.

While continuing her active work with this organization, she directed her energies to youngsters. Besides here continuous work with the PTA over a 22-year period, she has served on the Centinela Valley High School Advisory Council for the last 3 years and as chaperone for Leuzinger High grad night celebration.

This last December, Mabel helped bake and deliver 78 birthday cakes for the lonely youngsters at Juvenile Hall. And she has chaired the Lawndale Angel Tree program during the last 4 years, a program which funds Christmas baskets for over 500 needy people each year. Were it not for Mabel McCulley, thousands of lives would be the poorer and, because of her selfless efforts, she has earned the respect of the community and the joyous love of children.

Ever generous with her time, Mabel has served on nearly every door-to-door campaign—from the United Way to the March of Dimes. Her husband, Howard, a successful and hard-working businessman beams with pride as he says:

> I don't care if Mabel is away sometimes at dinner. I would learn to cook if it meant some hungry kid could eat.

The Rotary Club calls Mabel "Lawndale's First Lady." By means of her commitment to others and sensitivity to their needs, she has well earned the honor of being named Lawndale's Woman of the Year.

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# HOUSE OF REPRESENTATIVES—*Wednesday, January 23, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*Acquaint now thyself with God and be at peace; therefore good shall come unto thee.*—Job 22: 21.

Almighty God, who art the Creator and the Sustainer of all mankind, without whose benediction our labor is in vain and with whose blessing our good efforts are crowned with success, we pray that our lives and the life of our Nation may be built upon the rock of truth and love and may this rock be the foundation upon which every American lives his life, molds his character, develops his faith, and increases his love for our beloved land.

Guide with Thy gracious spirit these Representatives of our people and all who work with them. May they now and ever look to Thee who art the source of all true wisdom and from Thee receive strength for daily duties, courage to do the right, and faith to live with love at the center of life.

Give to each one of us a mind open to the truth, a heart sensitive to human need, a spirit that seeks to be understanding, and a will ready to do what is noble and good.

In the spirit of Him who dared to live by His faith we pray. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

> H. Con. Res. 413. Concurrent resolution providing for a joint session of the House and Senate on Wednesday, January 30, 1974, to receive the President of the United States.

## ENERGY PROBLEM

(Mr. DORN asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. DORN. Mr. Speaker, on returning to Washington I can report that my people are demanding answers to the energy problem. They are shocked and alarmed by incredible inflation and scarcity. There is widespread skepticism as to the real extent of the shortage. Mr. Speaker, I propose that we establish a Special House Energy Investigation Committee. This special committee could look into every aspect of the situation, including whether or not a shortage has been manipulated and whether or not there has been hoarding, profiteering and blackmarketeering.

Our people will not stand for the present uncertainty and confusion. The elderly, the poor, and those in remote areas are most cruelly victimized by scarcity and outrageous prices. Service station operators and home heating fuel distributors bear the brunt of the uncertainty and are required to put into effect complicated allocation schemes. Tragically, many are forced out of business. Great industries are threatened.

Farmers have been promised high fuel priority, but these promises may turn out a hoax unless regulations are changed. Regulations base the farmer's allotment on the amount of fuel used the corresponding month last year. If he does not use it, he loses it. This completely ignores the realities of farming, where weather and other changes can completely alter farm activities from one year to the next. Severe fertilizer shortages aggravate the farmers' problems.

We receive reports that the price of butane and propane—used extensively for home heating in rural areas and for drying tobacco—has increased all out of proportion.

Before the Congress can act we need the right information. Mr. Speaker, we need the facts on the energy situation so that we can take the right remedial action and also prevent a similar crisis erupting with food and other basic commodities of life.

## PERSONAL EXPLANATION

Mr. ANNUNZIO. Mr. Speaker, on rollcall No. 5 on H.R. 11809 on yesterday, January 22, I was listed as not voting. However, I was present and voted "aye." I would ask that the RECORD reflect my statement of my "aye" vote.

## EDUCATION FUNDS

(Mr. PERKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PERKINS. Mr. Speaker, today I am introducing a bill which will permit local school districts to carry over into the next school year unused Federal funds from this school year and will also permit them to carry over funds which have been recently released by the administration pursuant to court decrees. Congressman AL QUIE, ranking Republican on the Education and Labor Committee, is cosponsoring this bill with me.

The reason that we have to allow school districts to spend some of the fiscal 1974 appropriations during the next school year is that the education appropriations bill was not finally signed into law until almost one-half the school year was over. And since this appropriations bill provided substantially increased funds for a number of programs, many school districts will not be able to wisely spend all those funds this year. Ordinarily they could carry those funds over into the next school year, but the provision of Federal law which permits this carryover expires this year.

The reason that we must also permit these school districts to carry over the recently released fiscal 1973 funds is that the administration only complied with the court decree ordering their release shortly before Christmas which was already well into the school year.

Therefore, it is only prudent that Congress allow school districts to carry over these funds into the next school year for the wisest expenditure of Federal funds.

It is my hope that the Education and Labor Committee will approve this bill next Tuesday and that we will have it before the House within 2 weeks.

## THE SUGAR BOWL GAME

(Mr. FLOWERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLOWERS. Mr. Speaker, earlier this week the gentleman from Indiana gave a stirring speech in tribute to the Notre Dame football team and its outstanding coach, Ara Parseghian. Let me take this opportunity to add my own congratulations to this fine team and entire coaching staff.

All my life, Mr. Speaker, I have heard about the "Luck of the Irish" but it is interesting to note that none was required in their convincing victory of New Year's Eve. With the consummate skill of a vastly superior team, they completely dominated the Sugar Bowl game from the opening whistle until the final gun when the scoreboard reflected their lopsided 24–23 margin of victory. Yes, Mr. Speaker, we at Alabama appreciate the condolences of the gentleman from South Bend, but moreover, we appreciate the spirit of sportsmanship displayed by Notre Dame in holding down the score against us.

In spite of the murderous treatment accorded us by the fierce "fighting Irish," our team seems to be eager for another chance. Maybe a bit of that Irish luck—no longer needed at Notre Dame—will find its way down to Tuscaloosa and help us improve over this year's record. And, if we're really lucky, Mr. Speaker, we will get another chance to play Notre Dame in one of next year's bowl games.

## TO EXTEND "TYDINGS AMENDMENT" THROUGH FISCAL 1974

(Mr. QUIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. QUIE. Mr. Speaker, today Chairman PERKINS of the Education and Labor Committee and I are introducing legislation to extend the so-called Tydings amendment through fiscal year 1974 and to make available for an additional year for obligation by local school districts those education funds impounded by the administration in fiscal 1973.

Both of these provisions are critically needed if we are to insure the wise and thoughtful expenditure of Federal funds for education. The problem this year is particularly critical since the administration released some $520 million in impounded education funds just last month. The release of those impounded funds rather late in the fiscal year, added to the funds made available in the regular appropriations process means that a great many school districts might be forced to spend Federal funds without adequate planning or face losing them by July 1, 1974. In order to prevent that situation from occurring, my bill insures that both fiscal 1974 funds and those fiscal 1973 funds released in December will be available for local district expenditure through the next fiscal year.

The basic Tydings amendment providing that education funds are available at the local level for obligation for an additional fiscal year has been a part of the law since 1968 and has worked quite well. I am told by school people wherever I go that this provision has done more to stop irresponsible expenditure of funds at the local level than any other administrative provision yet enacted. I concur with that view and urge rapid acceptance of my bill. It is my understanding that this action has the full support of the administration.

## COMMUNICATION FROM THE CLERK OF THE HOUSE—IN RE UNITED STATES OF AMERICA AGAINST PODELL, ET AL.

The SPEAKER. The Chair lays before the House the following communication from the Clerk of the House of Representatives, which the Clerk will read.

The Clerk read as follows:

WASHINGTON, D.C.,
*January 22, 1974.*

The Honorable CARL ALBERT,
*The Speaker, House of Representatives.*

DEAR MR. SPEAKER: On this date, I received by certified airmail No. 134812, a certified copy of the Determination and Designation by the Honorable Robert L. Carter, United States District Judge, Southern District of New York concerning the Subpoena Duces Tecum dated December 19, 1973 that was served on the Clerk of the House of Representatives on December 26, 1973 in the case of United States of America v. Bertram L. Podell, et. al., 73 Cr. 675 (RLC). The Determination and Designation was made in response to the attached Clerk's letter of December 26, 1973 to Judge Carter containing a copy of House Resolution 12 of January 3, 1973 as a reply to the aforementioned Subpoena.

The Determination and Designation declares the reports which are the subject of said subpoena "to be relevant and material to the trial of said case, 73 Cr. 675 (RLC)". The Determination and Designation is herewith attached for such action as the House in its wisdom may see fit to take.

With kind regards, I am,
Sincerely,
W. PAT JENNINGS,
*Clerk, House of Representatives.*

[U.S. District Court, Southern District of New York, 73 Cr. 675 (RLC)]

UNITED STATES OF AMERICA, v. BERTRAM L. PODELL, ET AL., DEFENDANTS

DETERMINATION AND DESIGNATION

In light of the subject matter of the above-captioned matter, such reports which were the subject of a Subpoena Duces Tecum, dated, December 19, 1973, duly served on the Clerk of the House of Representatives of the United States Congress, or his duly authorized representative, are determined and declared to be relevant and material to the trial of the above-captioned matter and it is further determined and declared that certified copies of such reports will serve as sufficient evidence of the originals and that said certified copies of said reports are needed for the proper adjudication of this pending action.

Now therefore, Theodore Katz, Law Clerk to the undersigned Judge is hereby designated and authorized to attend, together with counsel for the United States of America and counsel for the defendant Bertram L. Podell, at the office of the Clerk of the House of Representatives of the United States Congress, to obtain certified copies of said reports, the originals of which are in the possession and control of the said Clerk.

ROBERT L. CARTER,
*U.S. District Judge, Southern District of New York.*
Dated: New York, N.Y., January 8, 1974.

Mr. O'NEILL. Mr. Speaker, I offer a privileged resolution (H. Res. 781) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 781

Whereas in the case of the United States of America against Bertram L. Podell et al. (73 Cr. 675 (RLC)) pending in the United States District Court for the Southern District of New York, a subpena duces tecum was issued by the said Court and addressed to W. Pat Jennings, Clerk of the House of Representatives or his Duly Authorized Representative, directing him to appear as a witness before the said court at 10:00 antemeridian on the 14th day of January, 1974, and to bring with him certain documents in the possession and under the control of the House of Representatives; and

Whereas the Judge of the United States District Court for the Southern District of New York did, on January 8, 1974, sign a determination and designation that the documents called for in said subpena duces tecum are "relevant and material to the trial" of said case; Therefore be it

*Resolved,* That by the privileges of this House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; be it further

*Resolved,* That when it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that documentary evidence in the possession and under the control of the House is needful for use in any court of justice or before any judge or such legal officer, for the promotion of justice, this House will take such action thereon as will promote the ends of justice consistently with the privileges and rights of this House; be it further

*Resolved,* That W. Pat Jennings, Clerk of the House, or any officer or employee in his office whom he may designate, be authorized to appear at the place and before the court in the subpena duces tecum before-mentioned, but shall not take with him any papers or documents on file in his office or under his control or in possession of the House of Representatives; be it further

*Resolved,* That the said court, having determined that the documents called for in the subpena duces tecum are material and relevant to the trial of said case, are authorized to attend with all proper parties to the proceedings and then always at any place under the orders and control of this House, and take copies of those requested documents which are in possession or control of the said Clerk; and the Clerk is authorized to supply certified copies of such documents in his possession or control that the court has found to be material and relevant and which the court or other proper officer thereof shall desire, so as, however, the possession of said documents by the said Clerk shall not be disturbed, or the same shall not be removed from their place of file or custody under the said Clerk; and be it further

*Resolved,* That as a respectful answer to the subpena duces tecum a copy of these resolutions be submitted to the said court.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## PROVIDING FOR CONSIDERATION OF H.R. 11354, INCREASED U.S. PARTICIPATION IN THE INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 779 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 779

*Resolved,* That upon the adoption of this resolution it shall be in order to move, clause 27(d)(4) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11354) to provide for increased participation by the United States in the International Development Association. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

## CALL OF THE HOUSE

Mr. GROSS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 6]

Ashley
Blatnik
Burke, Calif.
Butler
Camp
Chisholm
Clark
Conyers
Dellums
Dickinson
Diggs
Dulski
Edwards, Ala.
Flood
Ford
Fraser
Giaimo
Gray
Green, Oreg.
Gubser
Hanna
Hébert
Holifield
Jarman
Karth
Lott
Macdonald
Mailliard
Mills
Obey
Passman
Podell
Powell, Ohio
Reid
Rinaldo
Rooney, N.Y.
Ryan
Sandman
Sikes
Steed
Stratton
Taylor, Mo.
Teague
Thompson, N.J.
Udall
Vander Jagt
Walsh
Wampler
Whalen
Wyatt

The SPEAKER. On this roll call 380 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

## PROVIDING FOR CONSIDERATION OF H.R. 11354, INCREASED U.S. PARTICIPATION IN THE INTERNATIONAL DEVELOPMENT ASSOCIATION

The SPEAKER. The gentleman from California is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 779 provides for an open rule with 1 hour of general debate on H.R. 11354, a bill to provide for continued participation by the United States in the International Development Association.

House Resolution 779 also provides for a waiver of points of order against clause 27(d)(4) of rule XI of the Rules of the House of Representatives—the 3-day rule.

H.R. 11354 amends the International Development Association Act of 1960 to authorize the appropriation of $1.5 billion for payment by the Secretary of the Treasury for the U.S. share of the increase in the resources of the IDA. The U.S. share would be 33 percent of the total, a reduction from our previous 40 percent share.

Mr. Speaker, I urge adoption of House Resolution 779 in order that we may discuss and debate H.R. 11354.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 779 provides for the consideration of H.R. 11354, to provide for increased participation by the United States in the International Development Association, under an open rule with 1 hour of general debate. This rule also provides for waiving the 3-day rule in order that the House may consider this legislation today, since the report was not filed until Monday, January 21.

The primary purpose of H.R. 11354 is to authorize $1,500,000,000 as the U.S. contribution to the fourth replenishment of the resources of the International Development Association—IDA. The U.S. share would be one-third of the total, which is a reduction from the previous U.S. share.

The International Development Association—IDA—provides credit on easy payment terms to finance high-priority development projects of the poorest of the developing countries.

By the end of June 1974 it is anticipated that IDA will fully commit all of its lendable funds. Replenishment of its resources is necessary if IDA is to continue its lending activities. The new resources are intended for commitment by IDA during the period up to June 30, 1977.

The committee notes that the developing countries are important to the United States because, as a group, they purchase more from us than we do from them. In addition, they provide us with one-third of our raw materials imports.

IDA's standardized credit terms involve a 50-year maturity period including a 10-year grace period. One percent of principal is repayable in each year of the second 10 years of the loan and 3 percent in each of the remaining 30 years. An annual service charge of three-fourths of 1 percent is charged to meet IDA's administrative costs.

The cost of carrying out this bill is $1,500,000,000.

Mr. Speaker, I urge the adoption of this rule.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Speaker, I would like to ask someone who is sponsoring this bill and supporting it where it is proposed to get the $1,500 million. Is this to be some more "printing press" money as the gentleman from Texas (Mr. PATMAN) so often advocates?

Where is it proposed to get the $1,500 million for this purpose?

Mr. SISK. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I am delighted to yield to the gentleman from California.

Mr. SISK. Mr. Speaker, that is the purpose of the rule which we have before us. We wish to provide an opportunity for the Committee on Banking and Currency to debate the issue on the floor, I might say to my colleague, the gentleman from Iowa, and to explain the provisions of the legislation.

Of course, as I understand it, this money will come from the Treasury of the United States.

First, going back of that, it comes out of the pockets of the taxpayers, as I would assume does most money authorized by the House for such purposes.

Mr. Speaker, I hope that we will adopt the rule and then permit the committee to explain the legislation.

Mr. GROSS. Of course, Mr. Speaker, there might be such convincing evidence that we would not want to adopt the rule—that we might not even wish to consider the matter of tossing another $1,500,000,000 to the four winds, thereby adding to the biggest foreign handout that has been approved by this House in a good many years. Bear in mind that the House, only a month ago, approved a $6 billion foreign giveaway bill for this fiscal year.

Mr. SISK. Mr. Speaker, if the gentleman will yield, the matter was recommended to the Committee on Rules as having come out of the Committee on Banking and Currency, I believe almost unanimously. In fact, as I recall, it was indicated that there was no opposition, and both the majority and minority, of course, supported it in the Committee on Rules.

Mr. GROSS. Mr. Speaker, I will say to the gentleman and respectfully to the House that perhaps that because it comes out of the Committee on Banking and Currency with a substantial margin of affirmative votes may be an excellent reason for voting against it.

Mr. SISK. Well, Mr. Speaker, if the gentleman will yield further, let me say that I think the Committee should be entitled to make its presentation, and that is all we seek to do by this rule, I say to my friend, the gentleman from Iowa. I hope that we will adopt this rule and permit the debate to proceed.

Mr. GROSS. Mr. Speaker, let the record show that I am opposed to this rule.

I am opposed to the gouging out of the pockets of the people of this country or using the printing presses of the Treasury to print another $1.5 billion to be broadcast to the four winds in foreign countries. Commonsense dictates that this is absolutely wrong.

I yield back the balance of my time.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time but reserve the balance of my time.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## PROVIDING FOR CONSIDERATION OF H.R. 11666, ASIAN DEVELOPMENT BANK

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 780 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 780

*Resolved*, That upon the adoption of this resolution it shall be in order to move, clause 27(d)(4) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11666) to provide for United States participation in increases in the ordinary capital and special funds resources of the Asian Development Bank. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from California is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 780 provides for an open rule with 1 hour of general debate on H.R. 11666, a bill to provide for United States participation in the ordinary capital and special funds resources of the Asian Development Bank.

House Resolution 780 also provides for a waiver of points of order against clause 27(d)(4) of rule XI of the Rules of the House of Representatives (the 3-day rule).

H.R. 11666 amends the Asian Development Bank Act of 1966 to authorize the U.S. Governor of the Asian Development Bank to subscribe on behalf of the United States to 30,000 shares of the capital stock of the Bank. The bill also authorizes the appropriation of $361,904,726 for payment by the Secretary of the Treasury for this increase in the U.S. subscription. H.R. 11666 also authorizes the U.S. Governor of the Bank to agree to contribute on behalf of the United States $50 million to the special funds of the Bank.

Mr. Speaker, I urge adoption of House Resolution 780 in order that we may discuss and debate H.R. 11666.

Mr. QUILLEN. Mr. Speaker, House Resolution 780 is the rule providing for the consideration of H.R. 11666, to provide for U.S. participation in increases in the ordinary capital and special funds resources of the Asian Development Bank. This rule is an open rule with 1 hour of general debate. In addition, the 3-day rule is waived because the committee report was not filed until Monday, January 21.

The primary purpose of H.R. 11666 is to provide additional funds for the Asian Development Bank.

First this bill authorizes $361,904,726 so that the United States can subscribe to 30,000 shares of the capital stock of the Bank. This money will be used to replenish the Bank's ordinary capital. It will provide the bank with additional resources for its hard-loan operations.

Second, this bill authorizes an additional $50 million for the Bank's Asian Development Fund, a soft-loan operation. The United States has previously authorized $100 million for this Asian Development Fund.

The total amount authorized in this bill is $411,904,726.

Mr. Speaker, I urge the adoption of this rule in order that the House may begin debate on this bill.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## INCREASED U.S. PARTICIPATION IN INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. PATMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11354) to provide for increased participation by the United States in the International Development Association.

The motion was agreed to.

### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11354, with Mr. BRADEMAS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Texas (Mr. PATMAN) will be recognized for 30 minutes, and the gentleman from New Jersey (Mr. WIDNALL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. PATMAN).

Mr. PATMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to urge

my colleagues in the House to join me in support of H.R. 11354, a bill to provide for increased participation by the United States in the International Development Association. Briefly, the bill authorizes the U.S. Governor to agree to contribute $1.5 billion to the association as the U.S. contribution to the fourth replenishment of IDA.

IDA has always received and fully deserves the active support of the United States. From the beginning, this support has been bipartisan in both the Congress and the executive branch. Four Presidents—Eisenhower, Kennedy, Johnson, and Nixon—have given IDA their strong endorsement. In October of last year, in a special message to the Congress on multilateral assistance, President Nixon gave firm support to the proposed fourth replenishment.

During its 13 years of operation, IDA has been a major force for the economic and social development of its least developed member nations. IDA credits are concentrated in countries with low per capita incomes, with serious debt service problems where concessionary assistance is essential if a satisfactory rate of growth is to be achieved. Through fiscal 1973, it had provided nearly $6 billion of development credits in almost 70 countries and it is anticipated that over $1 billion in additional credits will be authorized in fiscal 1974. These loans have been made on highly concessionary terms—IDA's standardized credit terms involve a 50-year maturity period, including a 10-year grace period. One percent of principal in repayment each year of the second decade of the loan and 3 percent in each year of the remaining 30 years. An annual service charge of three-fourths of 1 percent, but no interest, is levied and all credits must be repaid in convertible currency. These easy repayment terms are, however, accompanied by rigorous standards in the economic evaluation and selection of projects and programs. Benefiting from the same expert staff and the same competent leadership as the World Bank, IDA has thus used its funds prudently and efficiently to assist developing countries with those projects and programs most necessary to economic and social progress

IDA exemplifies the burden sharing advantages of the multilateral approach. As other countries have gained in responsibility for development assistance within IDA and have increased their contributions. Thus, there has been a substantial decline in the U.S. share—from 40 percent in the third replenishment to 33⅓ percent in the current one. Moreover, since all the economically advanced countries participate in making IDA, of its excellent record and of the United States does not find itself in the position of providing bilateral aid on soft terms while some donors provide aid on harder terms than our own. It has also been gratifying to note that the World Bank continues to make annual transfers from net earnings to its soft-loan affiliate. Beginning with $50 million from fiscal year 1964 income, these transfers had risen to $107 million from fiscal year 1973 income.

I have spoken today of the need for IDA, of its excellent record and of the financial contributions that other countries and the World Bank are making. However, I do not wish to minimize the budgetary and balance-of-payments costs associated with the proposal now before you.

We are being asked to contribute $1.5 billion over a 4-year period and this will eventually become a budgetary expenditure. However, we plan to make our contribution in noninterest-bearing letters of credit which will be drawn down only to meet disbursement needs. Therefore, the budgetary impact will be spread out over a period of 10 years or more with virtually no impact in the early years.

The balance-of-payments costs of the fourth replenishment will also be spread over the same extended period amounting to $50 million in fiscal year 1976 and about $75 million in subsequent years. However, if transactions with the World Bank are taken into account, total balance-of-payments inflows will substantially exceed outflows.

I am firmly convinced that we can afford the budgetary and balance-of-payments costs of participating in IDA's fourth replenishment and that we should undertake this obligation to help the poorer nations. Therefore, I urge prompt passage of H.R. 11354.

Mr. Chairman, I rise in support of H.R. 11354 and yield myself such time as I may require.

Chairman PATMAN has explained the basics of this bill and I will not repeat that. What I would like to note is that he has the honor of having served longer in this body than any other member of the majority and I am very close to that honor on this side. We have differed on many matters during our years here together. I think it is significant—extremely significant considering the very controversial nature of so many of our foreign aid efforts—that with these years of experience we and the younger members of our committee have all supported the bills we bring before you today.

With some 30 years' experience in providing various kinds of foreign aid you could say it's high time we found some satisfactory operating arrangement—and I think we have. The multilateral banks and their soft loan counterparts have demonstrated a remarkable capacity to both enlist the assistance of more fortunate people in behalf of less fortunate ones and, even more remarkably, have made concrete beginnings toward the development of cohesive economic entities in geographic areas composed of divergent national entities.

It would be misleading to suggest that these accomplishments have been the product of the one entity—IDA—treated in this bill but it is an essential part of the whole effort. In fact it is today the largest single source of development capital. The reason this bill comes before the House without a dissenting committee vote is that our committee members are convinced of the moral rewards and the economic wisdom of assisting underdeveloped nations; and are likewise convinced, as I am, that IDA and the related organizations are doing the job well.

In real plain language—we are convinced this is a profitable investment.

I know there is a lot of resentment about the oil crisis, wheat exports, the high price of scrap, and a host of other adjustments we are going through. To a very large degree these are reflections of the success of our past foreign aid efforts. These problems are a reflection of progress. In a way they remind me of our success in housing our own people in the postwar period. Unfortunately in the effort to create new housing we created a whole new world of suburbia and left our core cities to rot. The very success of our effort created new problems.

The United States is in this situation today. We have created a new world—a vital and growing world. If we are not to become the core city of that world we must move forward.

We must invest in sources of supply for our raw materials and in the development of markets for the productive capacity of our people.

I would like to call attention to an observation made by Secretary Shultz when he appeared before the committee expressing the administration's support of these bills. I quote from his statement.

> Our relations with developing countries are important to the United States economically and politically. The developing countries provided a $14.6 billion market in 1972 for U.S. goods and services. In fact, as a group, they purchase more from us than we do from them.
>
> Perhaps more important, they provide us with one-third of our raw materials imports, and that proportion will only grow in the future. All nations are facing today the problems of inflation. More raw materials and products from the developing countries will help abate that problem. It makes good sense for us to utilize proven vehicles, such as the international development lending institutions, for aiding the growth of nations that are at the same time such important sources and markets for us. Our benefits need not be at the expense of others' losses, for with growth all parties can be better off.

In the past we have tended to think of this assistance in terms of developing markets for ourselves and the other contributing countries as the underdeveloped countries increase their economic activity.

We have tended to overlook the importance of these underdeveloped countries as sources of raw materials for ourselves and the other developed nations of the world. I find important and impressive the statement made by Secretary Shultz that the developing countries provide us with one-third of our raw materials imports, and that proportion will only grow in the future.

Mr. Chairman, the plain fact is that we cannot afford not to invest in the development of the world because we are a part of it. To think that because we are big and powerful we can say the devil with the rest is ridiculous. The truth is we have more to lose than any others. Our freedom and our future depend on an enlightened recognition of the developing world economy. We recommend this bill in that light.

Mr. Chairman, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Chairman, I yield myself such time as I may require.

As chairman of the Subcommittee on International Finance, I undertook thorough hearings to assure that the International Development Association has been performing as Congress expects and hopes; I can assure my colleagues that it has and on that basis I solicit your support for this bill.

The only question we have before us is whether we want to continue participating in the International Development Association—the most important source of capital on feasible terms that is available to the poorest countries of the world.

We have an agreement with other countries that will cause them to contribute $2 for every $1 that we put up. If this bill passes the United States can become a part of that agreement. But if this bill fails to pass, the whole agreement will collapse. Moreover, if the amount recommended by the committee is reduced, the United States would have to seek a renegotiation of the entire agreement. There is not time for this to be done; IDA runs out of money for new commitments at the end of this fiscal year. Therefore, any reduction in this bill would effectively kill IDA. That is why I say that the only question we face is whether or not we want the good work of IDA to continue, and whether or not we want to be part of it.

This bill would provide a U.S. contribution to IDA totaling $1.5 billion, which would be one-third of the total resources being sought by IDA. This amount is substantially less than our previous share of IDA resources—33 percent as against the previous 41. This contribution would be paid out in 4 equal installments of $375 million each, starting in fiscal 1976.

If the United States makes its contribution, IDA will make commitments to developing countries of about $1.5 billion a year for 3 years, commencing on July 1.

I would like to emphasize that the replenishment of IDA cannot take place without the U.S. contribution. Unless we come in, IDA will not receive the amounts committed by other countries; and they have a right to withdraw, if we refuse to pay our share—which is, considering our resources, very modest.

The terms of IDA loans are soft—50 years for repayment, with a 10-year grace period. There is an administrative charge of three-quarters of 1 percent on these loans.

IDA operates in the poorest countries of the world, that is, countries with a per capita annual income of less than $375. There are a billion people living in countries much poorer than that—countries where the per capita annual income is less than $100.

In terms of budget impact, our outlays to IDA take place only as needed. When IDA makes a commitment, it draws down its resources only as required to make progress payments on the projects being financed. The rest is kept in the Treasury. We only make a full appropriation and authorization because it is required to make IDA commitments legal and binding. In other words, for this replenishment we would have to appropriate $375 million in fiscal 1976, but that money would not necessarily be expended for many years; it is simply made available. The outlay impact is very modest indeed, in any given year.

Once again, I emphasize that the only question we have before us is whether or not we will continue to support this organization, which was fostered at our initiative, and which has operated so successfully since 1960.

I think that the answer is "yes." In the first place, our share in these institutions is modest, compared to our economic strength. In the hardest business sense, our participation is a very good deal. In the case of the International Development Association, the share authorized in this bill would be one-third of the total—a substantial reduction from our previous share. Those countries that can contribute to these organizations are doing so, generally to the best of their ability.

Second, these institutions have a sound track record. They make loans, not gifts. They make loans based on solid plans for economic growth and achievement, and they reorient their lending policies to fit new knowledge in this complex and changing field.

But I want to point out something that is little appreciated, and what I think is the most important single argument for our continued participation in the International Development Association.

The world economy is not a one-way street. We are not talking about gifts from the rich to the have-nots. The fact is that our own welfare, our own progress and our own hopes for the future are linked with the economic realities of the rest of the world. The fact is that the developing world is important to us, not just politically, but economically.

The developing countries provide important markets to us—we sell them more than they sell us. The developing world is the market for $14.6 billion in American goods, and it is a growing market.

On the other side of the coin, we get badly needed resources from developing countries. If we expect them to sell freely to us, we have to be willing to help them achieve their own economic goals. One-third of all our raw materials imports come from developing countries.

Out of 13 basic raw materials needed for American industry, we import over half our supply of six of these. For example, such countries as Jamaica and Surinam provide us with two-thirds of our aluminum ore and metal. Every ounce of tin we consume comes from developing countries such as Malaysia, Thailand, and Bolivia. We import no less than 94 percent of the manganese we consume from countries like Gabon, Zaire, and Brazil. There are other examples, but my point is clear: we need these countries as much as they need us.

Providing development capital is clearly no guarantee that these countries will cooperate with us—but it assuredly is one way of showing that we want a world economic order that is based on cooperation and mutual self-respect.

Our assistance is needed by these countries. They have raw materials but little capital to meet their national needs. We can help them, and they can help us. The International Development Association offers us a sensible way to provide the assistance these countries require. Our participation, our continued demonstration of good faith, is positive evidence that we recognize the legitimate needs of these countries and are willing to help them. It is not, I emphasize, a one-way street from us to them. We very much need the markets and materials that so many of these countries provide, just as surely as they need our technical and capital help.

We have supported the International Development Association in the past. It is workable, it is efficient and it is effective. I wholeheartedly support this bill, and hope that my colleagues will join me in an affirmative vote.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Kentucky.

Mr. CARTER. How did the nations you mention vote in the United Nations concerning the censure of Israel; Zaire, for instance?

Mr. GONZALEZ. If my memory serves me right, and I may be wrong, I believe that when that vote came up in the U.N. adverse to Israel, many of the developing countries voted adversely.

Mr. CARTER. If the distinguished gentleman would continue to yield further, I would like to ask him, what are some of the good projects which have been developed in these countries that make this worthwhile? Could the gentleman list them?

"By their works ye shall know them." What are these works?

Mr. GONZALEZ. One reason I say that the track record is excellent in Zambia is that since the beginning, which I believe was 1961, the first loan I believe was made to Nicaragua. I can get the full record, but I think the track record shows that every one of these loans was based on careful studies, some of the most detailed, scientific and excellent studies that have been made as the economic potentialities and resources and problems of the developing nations have been by the staff of the World Bank.

These loans were made on the basis of the need to check the programs of these developing countries toward some type of economic betterment, and they revealed a variety and complex activity ranging from technical assistance to actual physical construction of material needs and resources.

Mr. CARTER. Mr. Chairman, if the distinguished gentleman will yield further, what are some of these physical structures which he mentions, which he alludes to in his remarks?

Mr. YOUNG of Georgia. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. Mr. Chairman, I will recognize the distinguished Member of the subcommittee because he has indicated that he would like to participate in answering the question. I will recognize the distinguished gentleman from Georgia so that he can offer a response.

Mr. YOUNG of Georgia. Mr. Chairman, I think one of the things we see in this kind of loan to developing nations is that it has really helped in the very thing we are desperately in need of, the gaining of natural resources for our country.

In many instances, when we have gone into countries to get natural resources that we need, a developing nation may request from the IDA funds for roadbuilding, for electric supply lines that really aid in a world business mechanism.

We also saw, as our committee visited some of these projects, the kinds of things that help ordinary farmers develop self-sustaining, self-feeding 1- and 2-acre plantations of food and teak.

In the Caribbean, there were chicken brooders, the raising of chickens which help feed people who had been hungry for many generations, and the humanitarian fallout on this is good and it has paid back.

Mr. CARTER. Mr. Chairman, I thank the distinguished gentleman for his answer, but I would like to say that we really have not seen visible effects of this except that we have lost billions of dollars. We do not even retain the friendship of many of these countries, and in the United Nations they vote against us while here at home we actually need the funds we are spending there.

For instance, in water development, in which I am extremely interested, there are no funds today for grants to rural communities, for poor areas which need it.

To my good friend, I just say, are we not going in the wrong direction? Should we not take care of our poor people first?

Mr. GONZALEZ. Mr. Chairman, my answer to the question of the gentleman is that I say this was paramount in our minds. After all, we confront vetoes of such things as our appropriations for rural farm projects and municipal resources. This is a question we considered, and I want the good gentleman from Kentucky to know that a person such as myself would not come before the House to ask for this vote unless this question could be reconciled in our own minds first.

Let me say that we have to face it as a matter of national policy. The Congress has provided funds for the very programs that the gentleman has mentioned.

Now, the administration and the President, for their own reasons, have taken a stand. In two or three instances, the President has vetoed these money bills. In other instances, the reason the funds are not available is that they have been impounded, as we use the term.

Mr. Chairman, that is not the central issue here confronting us. That is a matter of national policy. The same President is stating most emphatically that this expenditure is not only inflationary but is needed for the purposes of carrying out the prime national interests and the fundamental policies which he wishes to establish for the Nation.

Mr. CARTER. Mr. Chairman, I thank the distinguished gentleman for his explanation.

If the gentleman will yield further, I would say that if the administration or, if we wish, the President or whoever is responsible makes such a mistake in not providing funds for pure water in America, he can easily make the same mistake with regard to these other nations throughout the world, and I think he is making a mistake.

The people in our country, when they get loans for pure water, must pay more than these so-called developing nations at the present time are having to pay. I do not see how we can afford it; I do not see how our country can stand it.

Personally, I feel constrained to oppose the bill, as much as I admire the distinguished gentleman in the well.

Mr. GONZALEZ. Mr. Chairman, I sympathize with the good doctor, the gentleman from Kentucky. I think if he had been present at the hearings and had heard these questions answered and reconciled—and I refer the gentleman to the full copy of the record of the hearings—those questions would have been answered to his satisfaction, and the very problems that confront him, I think, would be reconciled in his mind.

Mr. WYLIE. Mr. Chairman, will the distinguished gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I thank the gentleman for yielding.

I would like to respond further to some of the questions the distinguished gentleman from Kentucky (Mr. CARTER) has raised, because I have had some of the same reservations about IDA that he has had and, indeed, I have voted against the unilateral foreign aid bills because I have not seen too much benefit derived from them.

However, it was my privilege to go to the International Monetary Fund and World Bank meeting in Nairobi, Kenya, in September, and on the way we stopped in Senegal. There we saw people coming from under the load of a 7-year drought. We saw a people whose greatest export resource is peanuts. If you could see the object poverty of the people of a country in a situation such as that, then you would realize the need for a loan or loans from a fund such as that of the International Development Association.

Mr. CARTER. Mr. Chairman, if the gentleman from Texas will yield further on a matter of personal privilege, since the gentleman from Ohio mentioned my name, I will say that certainly I would be the last Member in this House who would refuse to go to the aid of starving peoples in this world.

Mr. WYLIE. Mr. Chairman, will the gentleman yield further?

May I just proceed with what I was saying?

Mr. GONZALEZ. Certainly, I yield to the gentleman from Ohio.

Mr. WYLIE. In any event, Mr. Chairman, we had an opportunity to visit a tea plantation in Kenya which was financed through IDA. We had the opportunity to visit a railroad shop and a factory in Senegal which was financed through IDA. And I might add that as I went through the railroad shop, I noticed there were numerous pieces of equipment which had been purchased from the U.S. companies and placed in this railroad shop in Dakar, Senegal, made possible by IDA funds.

One of the projects which has been approved by the International Development Association this year is a $4.5 million project to provide technical assistance for farming to raise rice and vegetable products in Senegal. Another one is for $8.2 million to provide for a much-needed irrigation project for Senegal.

I could go on down the list. There are numerous projects of this kind which are made possible through these so-called soft loans.

And I use the term, "soft loans" advisedly. The terms are indeed unique. But, they are in the form of a loan, and there is an arrangement to pay them back. There is a management team which is provided for by the World Bank which goes to the scene to see that these funds are put to the uses for which they are intended.

Mr. Chairman, I am supporting the bill today because the International Development Association does have a good track record. As I say, I have seen some of the results of its work and some of the worthwhile projects which have been the result.

Mr. Chairman, I thank the gentleman for yielding.

Mr. GONZALEZ. Mr. Chairman, I wish to express the gratitude of the subcommittee to the distinguished gentleman from Ohio, who is a member of the committee.

I also took time to make this long trip to the Nairobi conference. I want to thank him for spelling out a few of the accomplishments of IDA.

Mr. J. WILLIAM STANTON. Will the gentleman yield?

Mr. GONZALEZ. I will be delighted to yield to the distinguished gentleman from Ohio.

Mr. J. WILLIAM STANTON. I wish to associate myself with the chairman of our subcommittee who has made an outstanding and excellent statement on the pending legislation.

There are several things that I would like to reemphasize.

First of all, we have been associated in this multilateral field for many years, I for the last 10 years and the gentleman for an equal number, I am sure. The gentleman stated properly that we have a problem today with regard to many of these countries. If we decide through the passage of this bill to allocate the money, for every dollar we put up somebody else is putting up almost $2. This is almost a complete reversal from the position that we have had in the past. This is true not only of the position in the House but the Senate's participation, which has gradually dropped from 42 percent down to one-third.

Mr. Chairman, I do not know of a more important time in the history of our country when we are at a crossroads in the world to pass this type of legislation. We do recognize by passing this that we do have a responsibility to the rest of the world. Certainly no country is an island, and as we stand at this crossroads we know that close economic cooperation is something that we need.

I urge my colleagues to support this legislation.

Mr. GONZALEZ. I thank the gentleman.

Mr. REUSS. Will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman.

Mr. REUSS. I thank the chairman for yielding.

I would simply commend the gentleman from Ohio (Mr. WYLIE) for what I thought was a very clearcut and realistic answer to the question: "What does IDA do that is any good?"

The gentleman from Ohio gave an example of a specific project in Senegal that he saw. He mentioned also the Kenya situation, because I know the gentleman from Ohio worked hard there and went out and looked at another very good project under IDA. There landless farmers were enabled to buy land. Due to a rural credit project associated with IDA, they have been enabled to buy seeds and grow tea. Under a related project a tea factory has been set up, with farm-to-market roads, and they are now independent farmers.

I know all those who accompanied the gentleman from Ohio (Mr. WYLIE) on that trip can testify to the fact that Americans were highly thought of there, and that the people of Kenya were very grateful for our helpfulness.

Knowing the generosity of spirit of the gentleman from Kentucky (Mr. CARTER) I wish he could have been with us on that day.

Mr. GONZALEZ. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The Chair will advise the gentleman from Texas that he has 5 minutes remaining.

Mr. CARTER. Will the gentleman yield that I might ask my friend from Wisconsin a question?

Mr. GONZALEZ. I will be delighted to yield briefly.

Mr. CARTER. Is not Kenya actually a very excellent agricultural country, and does it not have wonderful land in that area?

Mr. REUSS. It is at once one of the richest and the poorest countries agriculturally. The tea plantations are in the fertile plateau, and what has been wasteland is well used.

Mr. CARTER. I would beg to disagree with the gentleman. As I understand it and from my knowledge of Kenya or parts of it at least, they are very rich agriculturally and many thousands of English people lived there but were disenfranchised, as I understand it. Is that not the same country where the Asian minorities were thrown out?

Mr. REUSS. No; you are thinking of Uganda, where the rule was under General Amin.

Mr. CARTER. How much of these loans will go to Uganda, by the way?

Mr. REUSS. The Uganda program is slight or nonexistent, on the very good ground that a country so badly run is not a good economic risk.

Mr. CARTER. How much of these funds are we going to give to Uganda?

Mr. REUSS. I will get that for you. The net figures outstanding are $8 million for Uganda in Bank loans.

Mr. CARTER. To Uganda $8 million, a nation which throws its minorities out and has no regard for people who have lived there for years and years.

Mr. REUSS. There have been no loans since Uganda has been under an oppressive administration.

Mr. CARTER. I want to know what our country is coming to when it supports a nation that is throwing its minorities out. It is surprising to see the people who support that.

Mr. Chairman, the Chair stated a moment or so ago that I had 5 minutes remaining. Does that mean a total of 5 minutes remaining on our side?

The CHAIRMAN. The Chair will state, as the Chair advised the gentleman from Texas earlier, that the gentleman from Texas had 5 minutes remaining at that time, and the gentleman from Texas now has 3 minutes' time remaining.

Mr. GONZALEZ. That would be the total time available on our side?

The CHAIRMAN. The gentleman is correct.

Mr. GONZALEZ. Mr. Chairman, if that is the case, then I would like to comply with a promise I have made to recognize the gentleman from Wisconsin (Mr. REUSS) and the gentleman from California.

The CHAIRMAN. The Chair would ask the gentleman from Texas if the gentleman would prefer to reserve the balance of his time in order that the gentleman from Pennsylvania, who is handling the bill on the minority side, may now be recognized?

Mr. GONZALEZ. Mr. Chairman, I would like to do that. I reserve the balance of my time at this moment.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. JOHNSON).

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in support of H.R. 11354. I think it is important to point out that this bill was reported from both the International Finance Subcommittee and the full Banking Committee by unanimous voice vote. This is not to suggest that our Members do not have some reservations about the activities of the multinational banks and our participation in them. What it means is that after giving full consideration to all the pros and cons we are convinced that it is in our best interest to continue our participation.

Foreign aid, be it bilateral or multilateral, is a grand whipping boy and I will admit before the opponents rise to be heard, that results have not always equaled our hopes. But taken as a whole, I sincerely believe we should view the results with pride. In addition, I think it is most significant that the beneficiaries of our early largess are today shouldering a larger share of the burden of assisting the less developed countries than we are. We have encouraged their increased participation in the multinational lending institutions and they have responded generously.

Consideration of this bill—and H.R. 11666 dealing with the Asian Development Bank—which we also hope to bring up today—involves three kinds of considerations—moral, political, and economic. We believe these bills and the funds they authorize are justified on all three counts.

The moral issue involves the questions of whether we should try to help people who are less fortunate than ourselves and whether we should send funds abroad when we still have a multiplicity of social problems here at home. We believe the American people are still willing to lend a helping hand to those who would help themselves.

The funds we propose to expend under these bills are really very little when compared to our gross national product—GNP—or even the annual increase in GNP. The annual costs will be well below one percent of our GNP and are smaller both as a percentage of GNP and in actual dollar amounts than the sums being contributed by some of the other developed nations.

Mr. Chairman, having led the world to a new level of brotherhood, I do not think we should back away from our commitment because of some domestic concerns which, as difficult as they are, still result in a standard of living which is the envy of most people in the world.

Witness after witness appearing before us stressed the interrelationship between our political and economic goals and our relationships with the other nations of the world. People as diverse as Secretary Shultz, representatives of the State Department, Professor Bergsten of Brookings Institution, and David Rockefeller of Chase Bank all stressed that the United States is no longer capable of ignoring either the needs for raw materials from abroad nor the market potentials of foreign purchases. Enlightened self-interest demands that we awaken to the facts.

Figures supplied to us show that less developed countries presently supply us with: 99 percent of our imports of natural rubber; 37 percent of our imports of iron ore; 79 percent of our imports of copper ore; 98 percent of our imports of bauxite and some 62 percent of our oil imports.

The United States already depends on imports for over half of its supply of 6 of the 13 basic raw materials and every indication is that this dependency will increase.

We also sell abroad. Some 5 million American jobs depend on exports of our products. In 1972, our exports to the less developed countries amounted to some $14.6 billion, close to 30 percent of total exports. Interestingly enough, our trade balance with the less developed countries was positive even when we were suffering an overall $6 billion trade deficit. These markets can only grow as these nations develop.

Mr. Chairman, charity and good sense both dictate our continued participation and leadership in the multinational banking institutions. These are the best instrumentalities we know of to stimulate and encourage a cooperative world economy so essential to our own survival and growth.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I have promised to yield first to the gentleman from Ohio (Mr. WYLIE), and then I will be glad to yield to the gentleman from Kentucky.

I yield such time as he may consume to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding to me. I think the gentleman from Pennsylvania (Mr. JOHNSON), is making an excellent argument. I think that this is a viable way to help developing nations, the have-not nations in the world. We are a wealthy nation, and I do not believe that we can turn our backs on the poor people of the world most of them from nations where people have less than $60 per year per capita income.

Additionally, I think the gentleman from Pennsylvania (Mr. JOHNSON), has made another valid point which I believe should be reemphasized here, and that is that we are in the process of attempting to help American businessmen penetrate into new markets and enhance their current sales positions in numerous underdeveloped countries around the world. These underdeveloped countries have one-third of all of the raw materials that are used in industry in the United States. Much of our needed raw materials come from these developing countries. Generally they are very rich in raw materials. We in this country are beginning to experience shortages in raw materials. Yet we have the technology to handle these raw materials, and these developing countries do not have such technology.

So, Mr. Chairman, again I say that I do believe we can have a working and viable partnership with them. I think the gentleman from Pennsylvania (Mr. JOHNSON), has made an extraordinarily good point in this record.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Chairman, I urge the passage of H.R. 11354 today, even though the $1.5 billion contribution to the International Development Association provided by the bill was conceived under the old order that existed prior to what is now called the energy crisis.

That crisis has turned what looked like perennial balance-of-payments surpluses for most of the industrialized countries into perennial deficits. The new holders of excess reserves will be the oil-producing countries, mainly in the Middle East.

The proposed fourth replenishment fails to recognize this shift in world economic capacity and responsibility. With this in mind, I recently wrote Secretary of State Kissinger asking for a revamping of the World Bank family so as to permit vastly increased contributions and control by the oil-producing countries, in order to make the international economic effects of the oil crisis more manageable.

Specifically, I suggested that the oil-producing countries "buy-in" to the World Bank family and similar lending institutions by massive increases in their paid-in capital subscriptions, in their purchases of lending institution bonds, in their contributions to IDA and similar special concessional windows; and by massive financing of a new "third window" at the lending institutions, midway between the hard loan and the concessional credit.

The full text of my letter to Secretary Kissinger follows:

JANUARY 21, 1974.

Hon. HENRY A. KISSINGER,
*Secretary, Department of State, Washington, D.C.*

DEAR MR. SECRETARY: The world's economy is being shaken by the oil crisis. Knowledgeable petroleum experts are predicting that if the oil-consuming countries use oil at 1972 levels, their total cost of imports in 1974 will be around $100 billion, up from $22 billion in 1972.

Of course, we shall make every effort to cut back our consumption well below the 1972 level. We shall intensify the search for new sources of energy. No doubt the oil-producing countries will vastly increase their imports from the industrialized oil-consuming countries, and invest vastly more in those countries. But even with all these limiting factors, the oil-producing countries will still end up, say the experts, with some $40 billion of surplus reserves annually.

Troubling consequences may be seen in such a massive accumulation of reserves by the oil-producing countries at the expense of the oil-consuming countries. Some are concerned at the possible use of these huge reserves by their new possessors as an instrument of economic pressure. What *is* certain is that the industrialized oil-consuming countries will be tempted into disastrous competitive devaluations in order to shake off the effect of the higher oil prices on each country's economy. And the developing oil-consuming countries, already dangerously behind in their development schedules and faced with difficult debt burdens, will particularly suffer from the increased cost of their oil imports.

What is to be done?

Our Secretary of the Treasury has suggested that the oil-producing countries roll back their price increases. It is an admirable suggestion, even if open to the question why the Secretary of the Treasury does not request our own American oil producers to roll back *their* unjustified price increases. But it is plainly not enough.

May I respectfully suggest a proposal that would at least partially come to grips with the problems I outlined above, for possible presentation by the United States at upcoming meetings of the consuming and producing countries?

Let the producing countries "buy in" to the World Bank-IDA/Interamerican Development Bank/Asian Development Bank/African Bank family, and thus take over large portions of the developed oil-consuming world's aid burden, both bilateral and multilateral. The time-tested machinery of these institutions is vastly preferable to mere bilateral lending by the oil-producing countries which might largely result in unplanned luxury imports on the part of the beneficiary country. This "buying in" would be achieved by:

1. Massive increases in their paid-in capital subscriptions in the lending institutions and in their purchases of lending institution bonds (approximately 20-years, 7¼ percent).
2. Massive increases in their contributions to IDA and the other special concessional windows of the regional lending institutions (approximately 50-years, no interest charge).
3. Massive financing of a new "3d window" at the lending institutions, midway between the above hard loan and concessional credit (approximately 40-years, 4 percent).

The lending institutions, in effect, would be acting as intermediaries between the oil-producing countries and the poor countries.

In return, the oil-producing countries would get a vastly increased new stature in the international institutions, reflecting their increased quotas and voting power. In addition, the oil-producing countries should be given access at cost to the technical assistance available at the Bank to speed their own economic development.

This proposal attempts to recognize a new fact of life—the foreign-exchange strength of the oil-producing countries. It would enable those countries to stretch out the return from their oil over a long period—at least the 40 or 50-year life of the long-term concessional credits to which they would contribute. It would confer upon them a new and deserved status in the international institutions.

It would give the industrialized oil-consuming countries an assured export market, and thus minimize the temptation toward competitive devaluations by which each country might otherwise aim to secure for itself a larger share of a finite pie. It would also recognize their decreasing aid capability, perhaps by adjusting the current replenishment programs for IDA and ADB.

Most important, it would greatly help some 80 developing countries, which could readily absorb $10 billion annually. I believe that the oil-producing countries would see the advantages to them in such a proposal, advantages clearly superior to playing the role of richest man in a global graveyard.

I know that the members and staff of the Joint Economic Committee would be happy to work with the Executive Branch in formulating the details of such a proposal. Indeed, such an example of current cooperation might have independent values of its own.

Sincerely,

HENRY S. REUSS,
*Chairman, Joint Subcommittee on International Economics.*

Before the Congress completes action on H.R. 11354, I ask that action be taken to adjust the burden of the upcoming replenishment program. There will be plenty of time to do this before the Senate acts. Meanwhile, H.R. 11354 deserves support here today as general manifestation of the willingness of the United States to cooperate in world development.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. REES).

Mr. REES. Mr. Chairman, I appreciate the gentleman's yielding. I, too, want to point out some problems we are going to have to be facing in the next year or so because of the oil crisis, not so much the availability but the 400-percent increase of price of oil. We are going to be facing the situation probably beginning in about 6 months where many of the lesser-developed countries that do not produce their own energy and are dependent upon oil imports are going to go broke. They are going to go bankrupt, out monetary reserves, because they will not have the foreign exchange to purchase the oil.

In Bangladesh they finally came up with a decent rice crop, and then they found that in order to make their minimal oil purchases they were going to have to export a good part of that rice crop. Here is the irony of a country solving part of its agricultural problem and now they are going to have to export the crop, and then as a result they are going to have serious domestic food problems.

I think IDA is needed today more than ever because as time goes by, we are going to have underdeveloped country after underdeveloped country going under because of the excess cost of energy today.

Mr. Chairman, I would urge an "aye" vote on this legislation.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Pennsylvania. I yield 1 minute to the gentleman from Maryland.

Mr. LONG of Maryland. I thank the gentleman for yielding. I am a little troubled by some aspects of IDA and various multilateral lending institutions. One concerns interest rates. I wonder if the gentleman can tell me at what the rates of interest IDA is lending to these underdeveloped countries. Could the gentleman tell me what rate of interest IDA charges?

Mr. JOHNSON of Pennsylvania. No interest, but a three-quarter of 1 percent carrying charge.

Mr. LONG of Maryland. When the borrowing nations turn around and lend to farmers and others, at what rates do they lend? They lend at the prevailing rates of the country, is that not right, at between 12 and 20 percent?

Mr. JOHNSON of Pennsylvania. Yes.

Mr. LONG of Maryland. That is what troubles me. We are lending to these countries at what is virtually a giveaway, but when they turn around and lend to these poor people, the people have to pay through the nose. Consequently we get a bad name and most of the good will from the aid is dissipated. Is this not true?

Mr. CARTER. Mr. Chairman, if the distinguished gentleman will yield, I find that the answer was a little confusing and somewhat wrong. Actually the hard loans carry an interest rate of 1 percent for the first 10 years and 3 percent for the next 30 years. Actually most of the soft loans under which most of this is loaned have no interest rate whatever for 50 years, as it is stated here. It amounts not to a loan, but to a giveaway.

Mr. LONG of Maryland. I agree with the gentleman, but when these countries lend this money to their poor, they are charging interest rates far higher than what the poor would pay in this country. I am wondering whether we should not have some arrangement where they lend to their poor at the same concessionary rates as the international lending instrument does, or that we lend them the money, but at the same rate that the U.S. taxpayers have to pay on our national debt.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I yield 3 minutes to the distinguished chairman of our subcommittee, the gentleman from Texas (Mr. GONZALEZ), if he wishes to answer that.

I see the gentleman wants to take his own time.

Mr. Chairman, I yield to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES), such time as he may consume.

Mr. RHODES. Mr. Chairman, I want to take the opportunity to express my full support for both H.R. 11354 and H.R. 11666. We are considering H.R. 11354 today, and H.R. 11666 is scheduled for tomorrow. These bills would authorize the continuation of the International Development Association—IDA—and the Asian Development Bank—ADB.

As my colleagues know, these are multilateral development lending institutions which provide both soft and hard loans to developing nations. I favor our participation in these multilateral development lending institutions, and feel it is better than bilateral foreign aid in assisting developing nations within the world community. In addition, our participation in replenishment of IDA funds was negotiated down by Secretary Shultz from 40 percent to 33⅓ percent.

The continuance of our participation in these institutions allows developing nations the opportunity to receive economic assistance from a cooperative group of nations, rather than as a "handout" on a bilateral basis. In addition, it is in the national interest for us to support developing nations through these institutions. Our future markets and our future sources of raw materials will depend on the developing countries sharing adequately in progress in the world economy. Thus, we have a stake in their future, yet we can share the cost of assisting the underdeveloped countries.

I am pleased to note that the programs represented by these bills have been developed through consultation and cooperation between the Executive and Congress. We all feel it is important for Congress to exercise its legitimate prerogatives in the formulation of this kind of economic assistance.

My support for these programs stems from my personal observation of their useful results. Last fall I had the valuable opportunity to look at a number of IDA-financed projects. I urge my colleagues to support H.R. 11354 and H.R. 11666.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Pennsylvania. I yield the gentleman an additional minute.

Mr. LONG of Maryland. Mr. Chairman, I do not think an answer to my question has been given; namely, why is it that we lend money to multilateral institutions at giveaway interest rates and they in turn lend money at their low interest rates to the countries, but in those countries the money is loaned at very high interest rates to the very people we are trying to help?

Mr. JOHNSON of Pennsylvania. That is the very reason I wanted to yield to the gentleman from Texas, the chairman of the subcommittee, who has that information in his file.

Mr. GONZALEZ. Frankly, I think wrong answers have been given and there is confusion. I covered this in my statement. I think at this time no answer we could give the gentleman would serve. The gentleman is against the bill and he is not going to be for the legislation and he is not open to conviction, and I think we can wait for the answer as soon as we have our summing up. I would much prefer, rather than to exhaust our time on questions that will brook no answer, to have our distinguished minority leader state his position, which he was prepared to do, and I would be glad to yield the remaining time I have on this side to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES). I think we can get more from his statement than we can by answering questions that are really useless to attempt to answer.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Pennsylvania. I yield 2 minutes to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Chairman, I take this time to say that after all these years of supporting this type of legislation I have come to a conscientious resolve that I can no longer afford to do so.

Yes, we have developed a great many things, helpful things. We have developed mineral resources all over the world, and in so doing we have closed down our own mineral resources.

This Nation today thinks it is in trouble on account of energy. If tomorrow the producing countries decided not to send us any chrome, or would double the price of chromite, this country would come to a standstill in 90 days.

Giving this aid to these countries without some kind of a string attached puts us in the position of being suckers to the point that an American no longer knows where to stand or how to stand.

I was in Venezuela on my own. I took a tramp steamer trip recently during the holidays. I was there when they raised the price of oil twice what it previously was.

Who developed the fields? Who owned them?

I was also there when the announcement was made that by 1980 there would be no American ownership.

You know that Chile expropriated and took our properties.

I have seen it go on all over the world.

We are talking about $1.5 billion and we have plants closing down all over my area because they are paying 10 and 11 percent interest on their money. The amount they pay in interest is the difference between them being competitive with the very countries we have developed. Yet we are giving this money and billions more for 1 percent interest for 10 years and 3 percent for 30 years.

I have been here and I have voted for the bill all my political life, because I was brainwashed with the idea that it was a road to peace and a road to goodwill. Where is the goodwill today?

If tomorrow the mineral producing nations decided to close down, as they did recently on oil, the oil crisis would be a little Sunday school picnic compared to what it means to the economy of this Nation. We only have 2 years to get ourselves in a position to become free and independent for our Bicentennial birthday.

We will be solvent or insolvent, and what can we celebrate.

Our forefathers are turning over in their graves like the legendary whirling dervishes.

The CHAIRMAN. The time of the gentleman has expired.

Mr. JOHNSON of Pennsylvania. The gentleman's time has expired and we are going to yield back the balance of my time.

Mr. DENT. I thank the gentleman for giving me only 2 minutes on a $1.5 billion bill. At least I cost the taxpayers any money.

The CHAIRMAN. The gentleman from Pennsylvania yields back the balance of his time.

The gentleman from Texas (Mr. GONZALEZ) is recognized for the remaining 3 minutes.

Mr. GONZALEZ. Mr. Chairman, I wish to assure the chairman I will not take the 3 minutes.

There has been a lot of confusion and misstatements and some of the Members have their feelings hurt. They did not listen to my speech.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. Not at this time.

Mr. LONG of Maryland. The gentleman has had a chance to clear up some confusion and he did not take it.

Mr. GONZALEZ. I do not know that I have the capability to clear up that confusion.

The 50-year maturity period and the 10-year grace period that I mentioned in my speech was a service charge of three-quarters of 1 percent, but no interest charge.

Mr. Chairman, I urge the enactment of this needed legislation and our continued participation in this very important world organization.

I yield back the balance of my time.

Mr. FRENZEL. Mr. Chairman, I rise in support of both H.R. 11354 and H.R. 11666, authorizing funds for the International Development Association and the Asian Development Bank. As a member of the International Finance Subcommittee which heard testimony on these bills and prepared them for the full committee's approval, I would like to say that throughout their consideration, the effort was completely a bipartisan one. I do not believe that there is a single member of the committee who will deny the need for continued U.S. participation in the multilateral lending agencies.

As pointed out in the committee report, the U.S. contribution to the IDA, while larger in the total amount of funds, is a much smaller share than we have been asked to contribute in the past. It is only appropriate that as other nations gain economic strength, so should their responsibilities for funding the multilateral lending agencies. In recent years our contributions have been 40 percent of the total replenishment; this authorization calls on us for only a 33-percent share of the replenishment.

The record of the international financing institutions has been a good one. The concept of a multilateral lending operation as opposed to the bilateral programs, which we have tried to rely on for aid to other nations, is proving to be more effective and more worthwhile. When we operate on a bilateral basis, it costs us vast sums of money and we never really know if it is doing any good. Through the multilateral route, we are guaranteed hard-nosed banking decisions which will insure efficient use of available funds. And with a banking operation, you always know how well your loans are doing.

Mr. Chairman, one of my concerns with this legislation is that it is overdue. The other member nations of these lending institutions have already contributed their shares of the replenishment, and we are just beginning to meet our responsibilities. I hope that my colleagues will recognize the importance of at least keeping up with the funding needs of these banks, and vote in favor of these authorizations. The amounts are fair and considering our tardiness, the terms are generous. In this time of tremendous potential for energy shortage and economic disaster, these lending banks should not be left without their full amount of resources.

It is true that the international oil price crisis does limit the ability all lending institutions, including multilaterals, to functions effectively. The price basis, however, has to be viewed as a temporary aberration. The multinationals are surely better able to react swiftly to changing international market factors than our own national agencies whose policies are based on factors other than economic. Despite the price crisis, we need, and must support both IDA and ADA.

I urge an affirmative vote for H.R. 11354, and H.R. 11666.

Mr. BAUMAN. Mr. Chairman, I can see no other course left open to me as a responsible Representative of the people of my district except to oppose H.R. 11354 providing as it does $1.5 billion for further loans to be made by the International Development Association.

As has been pointed out by the gentleman from Iowa (Mr. GROSS), foreign aid in all its forms since its inception in 1947 now exceeds more than $200 billion, all of which has come from the inevitable source of all our Government financing—the taxpayers' pocket.

The gentleman from Kentucky (Mr. CARTER) has made a valid point, and made it well, that the terms on which these IDA loans are made are far easier than anything available to my constituents or other borrowers in this country and yet these very people are asked to finance such loans to foreign countries.

The line on such spending has to be drawn somewhere and today is as good a day as any to do it. I will accordingly vote "no" on this legislation.

Mr. VANIK. Mr. Chairman, earlier during this debate, I asked the gentleman from Texas (Mr. ECKHARDT) whether, under this legislation, a loan could be granted to Venezuela. I was, of course, gratified to learn that Venezuela does not qualify for loans, because of its level of income. My concern arose from the recent adjustment in taxes by Venezuela on oil. In December, Venezuela raised its tax export price from $7.74 a barrel to $14.08 a barrel. Under conditions operating in Venezuela, the oil producers pay 58 percent of the tax export price—now $8.17 a barrel—to the Venezuelan Government. In my judgment, tax increases of this dimension constitute expropriation by excessive and discriminatory tax.

It seems to me that no loans should be granted to nations which impose a harsh and discriminatory export tax on oil which is created through the investment of American enterprise and capital.

I expect to raise this same question with respect to taxes imposed by other oil-producing states.

Mr. MATHIS of Georgia. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Sixty-three Members are present, not a quorum. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 7]

Bowen
Burke, Calif.
Butler
Camp
Carey, N.Y.
Chappell
Clark
Conyers
Dickinson
Diggs
Foley
Fraser
Frenzel
Giaimo
Gibbons
Gilman
Gray
Green, Oreg.
Gubser
Hanna
Harsha
Hébert
Jarman
Jones, Ala.
Leggett
Litton
Macdonald
Mailliard
Meeds
Mills
Passman
Podell
Pritchard
Reid
Rinaldo
Rooney, N.Y.
Ryan
Satterfield
Steed
Stratton
Taylor, Mo.
Udall
Vander Jagt
Walsh
Whalen

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. BRADEMAS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 11354, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 385 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. When the Committee rose, all time had expired.

The Clerk will read.

The Clerk read as follows:

H.R. 11354

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the International Development Association Act (22 U.S.C. 284 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 14. (a) The United States Governor is hereby authorized to agree on behalf of the United States to pay to the Association $1,500,000,000 as the United States contribution to the Fourth Replenishment of the Resources of the Association.

"(b) In order to pay for the United States contribution, there is hereby authorized to be appropriated without fiscal year limitation $1,500,000,000 for payment by the Secretary of the Treasury."

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, when the rule was before the House I sought to obtain some information from the chairman of the committee, the gentleman from Texas (Mr. PATMAN). I regret that the gentleman has left the floor. I was told at that time by the gentleman in charge of the rule on the majority side that the time to ask questions concerning this bill would be under general debate or under the 5-minute rule. But the gentleman is not here.

My question to Mr. PATMAN was: Where is it proposed to get $1.5 billion for the International Development Association, otherwise known as IDA? Where is it proposed to get the $1.5 billion?

Now I invite the gentleman from Texas (Mr. GONZALEZ), the substitute for the chairman of the full committee, or anyone on the majority or minority side, to tell me where you are going to get $1.5 billion to dish out around the world, probably all of it soft loans, 40- or 50-year loans, with a 10-year grace period of no payment of any kind except a three-quarters of 1 percent carrying charge, and probably no true interest at any time. Please tell the House where you propose to get the $1.5 billion.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman who took a trip abroad a month or two ago apparently to investigate this situation, and who came back apparently a confirmed addict to spreading money around the world.

Mr. WYLIE. I thank the gentleman for yielding.

Mr. Chairman, believe me I am not a confirmed addict for spreading money around the world. As a matter of fact, I have voted against the foreign give-away program, the foreign aid bill, since coming to Congress in 1967. I support this legislation in theory that this is a viable alternative and that the money which I voted against spending through the foreign assistance bill some $5.8 billion can be put to better use in this program. This bill represents $500 million a year for the next 3 years, or $1.5 billion, as the gentleman suggested, which is a very small percentage of the $300 billion budget projected for next year.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I am glad to yield to my friend, the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Mr. Chairman, the concern that I have, along with the gentleman from Iowa, is that obviously the place where this money has to come from is that we have to go further into debt, because even though it is included in the budget, it is a deficit budget, so we will have to borrow probably at 6 or 7 percent, maybe 8 percent. Then we turn around—and this is known as the soft window loan in the international field—we loan it out for nothing more than a service charge. Then we ask our constituents and our taxpayers in effect to put up the money for this very soft position in the international field.

I am sure that we can find many worthwhile projects that have occurred under this program and that we would say were very excellent, but our own taxpayers at home have to pay anywhere from 8, 9, 10, and 11 percent, or more. Yet we turn around and ask our taxpayers to help finance this kind of activity in the international field.

I think it is a grave mistake. I appreciate the gentleman from Iowa's bringing up the point. It is, in fact, a soft window or no-interest-charge kind of loans that are made.

Second, we will probably have to go into debt to make it up.

Mr. GROSS. Of course, that is what we will have to do. We will use the Government's printing press and printing-press money, which the gentleman from Texas (Mr. PATMAN) advocates. No matwhat the source, it is a mortgage upon this country and it is a mortgage upon future generations.

Let me say to the Members that they are going to get President Nixon's budget next week, probably calling for a minimum of $300 billion—$300 billion for the next fiscal year. It will be the first time in the history of this country, so far as I know, that Congress has been confronted with a $300 billion budget and, of course, with a built-in deficit. Yet the Banking and Currency Committee has the gall to come here today and ask the House of Representatives to authorize $1,500,000,000, almost three times what any other country in the world contributes, to replenish the funds of the International Development Association.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. GROSS was allowed to proceed for 5 additional minutes.)

Mr. GROSS. Yes, the gall to come here under the circumstances confronting this country—which has more debt than all the rest of the nations of the world combined—and with the effrontery to ask Congress to dish out another $1,500,000,000—almost 3 times the contribution of any other one of the 24 other countries involved.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Texas.

Mr. GONZALEZ. I thank the gentleman for yielding.

The reason I asked the gentleman to yield is that a few minutes ago he addressed himself to the chairman of the overall committee, and in his absence then addressed himself to me as chairman of the subcommittee. In the meanwhile, the distinguished and very able member of the committee from Ohio sought recognition in order to answer the question. I think we should thank him. He did a good job.

However, I cannot agree with the gentleman's statement with respect to having the effrontery and having the gall, because we are sensitive. I think that every single member on this subcommittee and committee on both sides—this bill came out unanimously of the subcommittee and the full committee—is very sensitive to this very same question.

Mr. GROSS. Let me ask the gentleman a question. What did we spend $260 billion of foreign aid for if it was not, at least, in part, to build a climate in foreign countries favorable for private investors of this country to go in and invest their money in the production of raw materials in those countries? What have we accomplished with $260 billion of outright foreign aid already expended or in the expenditure pipeline?

Mr. GONZALEZ. The gentleman knows this is not foreign aid. We are not discussing foreign aid.

Mr. GROSS. What is this if it is not foreign aid? The gentleman from Texas (Mr. GONZALEZ) will not be around here 40 years from now when the due date on these so-called loans arrives.

Mr. GONZALEZ. Neither will the gentleman from Iowa.

Mr. GROSS. He will not be around here then to apologize to the House and neither will any of the other sponsors of this bill be here to apologize to the House for the mistake they are making today and which they have made in the past on this same subject.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(On request of Mr. FLYNT, and by unanimous consent, Mr. GROSS was allowed to proceed for 3 additional minutes.)

Mr. GROSS. It is about time that the House of Representatives practices some fiscal responsibility. It has been content to load upon the generations to come a burden of debt those generations can never repay by orderly means. How cowardly can we be, all of us here, to pass bills of this kind loading onto the backs of our children and their children this debt? It is time to display commonsense and a regard for the future of this country.

Mr. FLYNT. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Georgia.

Mr. FLYNT. Mr. Chairman, I subscribe to the statements which have been made in this debate on this bill by the distinguished gentleman from Iowa.

This bill like many others falls into the category of those things which would be nice to have if we had the money to pay for them and if the country could afford them.

There is nothing that is a bargain, there is nothing that does long-range effective good if we cannot afford it at the time we get it. I remember when I was a boy and saw something advertised in a wish book that looked to me like a pretty good bargain. I went to my father. I said: "Father, I would like very much to buy this. Think of the money we can save." He said: "No, you cannot save any money with it." He told me 50 years ago that nothing is a bargain if we cannot afford it. That same principle applies today to this bill and so many others we will be considering during the 2d session of the 93d Congress.

If we had the money in the budget, if we were operating at a surplus or at a near break-even point I would have no objection to legislation of this kind. I would want to do everything I could. But when I see legislation like this come up on the floor of this House time and time again, year in and year out, that is further plunging this country into a chaotic economic situation from which we may never recover, I think the gentleman from Iowa is eminently correct when he says that this bill should be defeated.

**Mr. GROSS.** Mr. Chairman, I thank my good friend from Georgia for his statement, and I do appeal for the defeat of this bill.

**Mr. MAHON.** Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have been amazed in previous years to see bills authorizing funds for such things as the International Development Association pass through the House by rather large margins and then when the money to pay for the bill is in the foreign aid appropriation bill, the Members wring their hands and say they are against giveaway programs and they are not going to vote for foreign aid. Then the vote is very close.

Here is the time to decide whether or not we are for increasing foreign aid, because that is what this is. I have voted for these programs in the past and I would vote for the existing level of commitment today, but I am not going to vote for the higher level of $1.5 billion.

I am not going to vote to increase our commitments at a time when we cannot take care of folks at home, when the dollar has been under heavy pressure, when the national debt has increased by about one-fifth in the last 4 years, and when we are going in debt this year another $15 billion.

I am not going to tell the people, on the first significant vote of this session, that I voted to go over the previous program by several hundred million dollars. I am not going to do it.

Under leave granted to revise and extend my remarks, I wish to provide certain clarification and amplification for my position with respect to the matter before the House today. I do not want to deal in oversimplifications. I want to be totally objective. I want to try to put this whole matter in perspective and share with you the factors which I have taken into consideration in reaching a judgment on this subject.

Our original contribution to the third IDA replenishment amounted to $320 million a year for a 3-year period, or a total of $960 million. Now, the President proposed and the Congress approved a devaluation of the dollar. Our agreements with the various international financial institutions contain so-called maintenance of value clauses which compel us to make additional payments to the international financial institutions in the event our currency is devalued.

So, in October, the appropriations bill for this purpose became law. Contained in this bill were funds for IDA attributable to the third replenishment amounting to $64 million for each of the 3 years involved. Therefore to compare the size of the third replenishment to the fourth replenishment which is proposed in the bill before the House today one must add the $64 million associated with dollar devaluation to the $320 million thus arriving at an annual level of $384 million.

Multiplying the $384 million by the 3 years involved yields a total for the third replenishment of $1.152 billion adjusted for dollar devaluation.

The total of the proposed fourth replenishment before us today is $1.5 billion or an increase of $348 million over the third replenishment.

Now the question of the stretchout of the fourth replenishment enters the picture. It is argued that by stretching out $1.5 billion payment from 3 years to 4 years—from $500 million per year to $375 million per year—we are not actually increasing our contributions to IDA.

I point out that we are already in arrears 1 year in our IDA payments. This proposal would place us 2 years in arrears. It merely postpones the payment of our commitment pursuant to the fourth replenishment. It does not alter the fact that our commitment to the fourth replenishment is $1.5 billion compared to $1.152 in the third replenishment.

The proposal before us just delays the day of reckoning. This is what we have been doing in many of our other programs in the budget and this is how we, to a considerable extent, tend to mortgage our future budgets.

In the budget we will receive early next month we will be asked to pay the bill for many commitments that we have made in years long gone by and there will be a lot of moaning and groaning about the size of the budget. This is one way we get into this position.

Before the Nairobi negotiations the Secretary of the Treasury visited with me about the serious problems confronting the U.S. delegation. After our meeting, I wrote him a letter and expressed my view that the proposed stretchout of the fourth replenishment would tend to veil the magnitude of the U.S. commitment and would place the United States in the position of lagging substantially behind in payments as compared with other nations at the time a fifth replenishment might be negotiated.

I went on to express some further reservations in the letter I wrote to the Secretary and I quote the following:

> In my judgment, our government should approach with a great deal of caution the proposition of making commitments which in fact represent an increased drain on future financial resources at a time when we are struggling to gain an improved fiscal position and grapple with many complex economic problems.
>
> It is also difficult to justify increasing our commitments to foreign governments at a time when we are finding it hard to fund our own existing domestic programs.
>
> During the forthcoming meetings in Nairobi, you and our other representatives will be engaged in very important negotiations which will have far-reaching ramifications in the foreign assistance field. I believe we must undertake to follow a course of caution and restraint.

I have a great deal of respect for my colleagues on the Banking and Currency Committee and I have a great deal of respect for the U.S. Representatives to the Nairobi meetings. As I stated earlier, they faced some tremendous problems. But I just feel it is time to say something about this matter and time for us to consider whether or not, in light of the fact that we have had to devalue the dollar twice, and have had to appropriate $2.2 billion for dollar devaluation for international financial institutions last year and $1.6 billion the year before, we should at this point in time commit ourselves to another increase in foreign aid. I just feel it is time to say no to an increase.

I regret very much to find myself at variance with the distinguished committee and with my distinguished colleagues, even from my own State, in connection with this matter; but I feel strongly about it.

I think we ought to be aware of what we are walking into in this first significant bill of the session.

**Mr. CARTER.** Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am certainly impressed by the remarks of the distinguished gentleman from Texas, who has served so worthily on the Committee on Appropriations of this House for many years. As he states, this bill costs our country $1.5 billion. At the present interest rates, this will cost our country in interest alone $90 million at 6 percent, if we are fortunate enough to get it at 6 percent.

We loan this to other countries—actually, we give it to them. We are supposed to charge 1 percent for the first 10 years. How are we going to go back to our districts and explain to the young people in these areas who want to build homes, "You are going to have to pay a minimum of 8¼ to 10 percent for your homes," while we are giving it to countries all around the world at 1 percent interest, mark this; while we ourselves are additionally compounding this by paying a minimum of 6 to 7 or even 8 percent on the money which we are spending, the $1.5 billion.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. CARTER. Mr. Chairman, I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I think the gentleman from Kentucky makes an excellent point. I have the privilege of serving on the Housing Subcommittee of the Committee on Banking and Currency. We have talked extensively about the shortage of mortgage money in this country, right now. Many of our constituents are concerned about this real problem.

Here we are in this bill turning around and providing in many cases noninterest loans for foreign countries, yet our own people are having a struggle to obtain mortgage money at home. In addition the U.S. Treasury is probably going to have to subsidize the $1.5 billion out of the U.S. coffers to do that.

Mr. Chairman, I think the gentleman makes an intelligent point. I appreciate his raising the idea. Everyone in this House who has been concerned about the problems of mortgage money will agree that this just takes that much more away from our U.S. Treasury and in turn the private money market.

Mr. CARTER. Mr. Chairman, I thank the distinguished gentleman from California for his contribution.

Mr. Chairman, if in our rural areas we want to build water systems, our communities, counties, water districts have to borrow that money now at 7½-percent interest while we are building water systems in Uganda, in Kenya, in Brazil, and other areas at a rate of 1 percent to them, which in turn is costing the taxpayers of this country at least 6-percent interest or more.

Mr. Chairman, I think it is time to call a halt to this. We have got to retrench. We have got to build our own country strong internally and eternally, and we are certainly not going to do this by spending ourselves poor.

Furthermore, how are we going to face the voters of our districts when they say to us, "You loan our money to foreign countries, but when we want to build our homes, we are paying 8¼-percent, 9½-percent interest."

How can we explain that? Every one of us this year will face our electors. How are we going to answer them? There is no answer. We must retrench.

Some of the people have talked to us today about the effectiveness of this program. I have had some acquaintanceship with people who serve with the AID. One University of Kentucky professor served 17 years with it, and when he returned he told me, "Cut out at least 90 percent of it."

I had another young man who was in Guatemala and had one of those famous water projects which they are talking about there. This man told me—and I can name names and I can give locations—he said they had a water project there and they had the pipes out on the ground. Three times these pipes were stolen.

So, where is the money really going? We are raiding Uncle Sugar. We are getting too soft. It is time for us to use good commonsense and save the taxpayers of this country $1.5 billion.

Mr. Chairman, I urge the Members to vote against the bill.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. CARTER. Mr. Chairman, I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, the gentleman from Texas, (Mr. MAHON) mentioned the cost to us of the devaluations of the dollar that have already taken place. I hesitate to ask the gentleman from Texas how many billions of dollars the two devaluations of the dollar have cost the people of this country in simply maintaining the value of dollars we have contributed to these international financing outfits. Of course, no one knows what the next devaluation will be—but unless things change, there will be another devaluation requiring an additional appropriation to take care of the shortfall in this $1,500,000,000 if the House is foolish enough to approve it.

Mr. LONG of Maryland. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think I can say that in the past I have been a friend of foreign aid where I possibly could, but as I examine this bill and think more and more about the colloquy that took place between myself and the manager of the bill, the gentleman from Texas (Mr. GONZALEZ) the more uneasy I become.

The first thing that troubles me about this is not just the $1,500 million that we do not have, but the three-quarters of 1 percent, 10-year grace period, 40-year repayment period. We are asking that money be loaned to the poor countries of the world at almost infinitesimally small interest rates.

This is happening in a part of the world where interest rates range from 10 to 20 percent and where the marginal productivity of capital, to use an economic term, should be very high in the sense that the tremendous number of available investment projects combined with the scarcity of capital, should make capital enormously productive. Yet somehow we are assuming that capital has no real productivity in poor countries and that, therefore, we have to lend it to them at almost nothing.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. Not at the present time.

Mr. WYLIE. I just wish the gentleman to yield for a question.

Mr. LONG of Maryland. Mr. Chairman, I do not wish to yield at this time.

Mr. Chairman, we in this country are lending money or trying to lend money to small business at rates that are astronomical compared to this.

The other day a small businessman came to me. He was trying to get a loan for a small business. The SBA was out of money. He wanted to pay the 5¾ percent, or whatever they charge. But there was no money for direct loans from the SBA.

I said to him, "The SBA is guaranteeing loans from banks, is it not?"

He said, "Yes. But a loan that a bank will make to me would cost 12 percent." "Even though it is Government guaranteed," I asked? "Yes," he said.

I called the bank up and asked them if this were true, and the bank said that it was.

I said, "Do you mean to say to me that with a Government guarantee that makes this an absolutely riskless loan, you will charge this man 12 percent?

He said, "That's right."

I said, "How in the world is that going to help a small businessman?"

I asked the bank that, and I asked that question of the Small Business Administration.

He said, "Without this, they wouldn't get the money at all."

I have asked for a long time why we cannot lend money out or ask the development institutions to lend money out at the rate we think is reasonable for a small businessman to pay in this country, or at the rate which we are paying on our national debt. Why does it have to be three-quarters of 1 percent? The answer is because, most people say, if we do not lend it at that rate, they cannot pay it back.

I say that the reason that developing countries cannot pay back these loans, is that they are investing the money in poor projects. Why? Because the money is so cheap that they do not value it.

I might point this out, Mr. Chairman: There have been 25 reschedulings since 1956 involving 12 developing countries and $5.9 billion. Since 1966, Ghana, Indonesia, and India have had 10 reschedulings, involving over $3 billion. Even when we lend them this money at almost zero rates of interest, they still find it impossible to pay it back, because the truth of the matter is that they do not put the money where it belongs; they put it in valueless projects—roads to airports, luxury hotels, and office buildings.

I feel very strongly that we ought to vote this bill down and ask the committee to come back with a bill which cuts the sum of money down to much more reasonable amounts, in view of the great troubles we are in in this country. We should insist that rates of interest on these loans be at least what our own small businessmen have to pay and what our Government has to pay when it borrows money.

Mr. Chairman, we cannot continue to tell the people of this country that we are lending money and we are giving money away to other countries when our own citizens cannot get money for good projects here.

It would be reasonable to tell Americans this and justify this if we were doing some good abroad; but when I listen to some of the gentlemen tell about their visitations to all the wonderful projects in these countries, I wonder who on earth took them. I have been to no less than 20 countries, and the first thing I say to our aid people when I get to any country is: "Show me something that helps the ordinary man, something that helps the poor man."

Almost never are they able to show me

anything that goes to help the poor man, the ordinary person.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. Long) has expired.

(On request of Mr. Wylie and by unanimous consent, Mr. Long of Maryland was allowed to proceed for 1 additional minute.)

Mr. WYLIE. I just wanted to ask the gentleman how he voted on the $2.2 billion aid for Israel bill.

Mr. LONG of Maryland. That is a national security matter.

Mr. WYLIE. But how did you vote on it?

Mr. LONG of Maryland. In that loan we were trying to preserve a country from Soviet-inspired aggression—that is all—just as we did in Southeast Asia.

I may point out to the gentleman from Ohio, if he will just listen to me, that when I voted money to provide weapons to Israel I did exactly the same thing as when I voted for money to provide weapons to Vietnam and Cambodia.

Mr. WYLIE. The gentleman, then, is in favor of providing military aid to other nations but not economic aid. Is that it?

Mr. LONG of Maryland. I am in favor of military aid when it is helping our friends fight their own wars for their own security instead of our sending American troops, and I am in favor of economic aid if it aids development for many instead of cushioning the well-off few.

Mr. BUCHANAN. Mr. Chairman, I move to strike the requisite number of words.

First, I would like to thank the distinguished chairman of the Committee on Appropriations for his remarks today. The gentleman has shown his typical statesmanship, in my judgment. His good judgment is one of the real assets of this House. I hope the Members were listening to what he said.

As a convert to foreign assistance and a proponent of the foreign assistance program, in fighting this hard battle for the AID program year after year in this body, I hope that everyone was listening when he underlined the fact that you are voting for foreign assistance when you vote for this bill.

Mr. Chairman, if there is a moral obligation involved, I would maintain it is not the obligation of the Committee on Appropriations to accept what we may authorize without question and without criticism. I would urge the chairman to continue the good policy of taking a hard look at what should be appropriated out of what we have authorized rather than accepting authorization as some kind of a mandate to appropriate.

However, there is an obligation, it seems to me, for a man who votes for this authorization to vote for the funding. I cannot understand the dichotomy between the votes for legislation like this and votes for the foreign aid appropriation legislation. This is the same thing. I think we ought to understand that if we vote for it today, if there is any kind of an obligation involved, we are committing ourselves to the support of something that we also ought to support when the appropriation comes up.

Second, Mr. Chairman, I would say that I do not know whether I can buy the idea that we ought not to pass this authorization. I would like to know something about what is going to be done with the money. My fellow convert from Ohio may be able to tell me something about where the money goes. Is any of it spent in this country?

Mr. WYLIE. Will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman.

Mr. WYLIE. The answer to that is yes. I mentioned during general debate that IDA money is used to buy products from companies in the United States. I would like to respond to another part of the gentleman's argument, if I may, about the fact that IDA loans are foreign aid.

Foreign aid is a unilateral arrangement. IDA is an affiliate of the World Bank and it has the benefit of the same management practices as the World Bank. IDA is a multilateral loan arrangement where many, many countries—42 all together, I think—are involved and all contribute some money to the fund. So IDA is not a direct grant or giveaway program, as I understand the gentleman to be saying, in my judgment.

Mr. BUCHANAN. I did not say anything about a giveaway program but, rather, said it is foreign aid. Not everything in the aid program is strictly a giveaway.

Mr. WYLIE. I got the impression from the gentleman's statement that he was making an analogy to the unilateral giveaway arrangement which we have come to know under the general foreign assistance program.

Mr. BUCHANAN. It is multilateral loan program, but we are appropriating U.S. funds to participate in that program.

Mr. WYLIE. This is a loan arrangement and there is a management and accounting operation of the loan fund which is not the case in the general foreign aid program.

Mr. BUCHANAN. There is a form of management here, but management by an agency is also available in foreign aid of other kinds. There is both loan money and grant money in the foreign assistance program generally.

Mr. Chairman, I will not take any further time except to say I am inclined to vote for this legislation, but I think the chairman of the Committee on Appropriations made a telling point.

I hope all of the Members were listening, and I hope that those who join me in voting for it will be prepared to vote for his appropriation when the time comes.

Mr. BURLISON of Missouri. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take the full 5 minutes, but I do want to remind the Members of the House that the latest estimate from the administration is that our national debt will be increased by $15 billion in fiscal year 1974. The distinguished chairman of the Committee on Appropriations has used the figure of $20 billion, and I believe that the gentleman is closer to accuracy than is the White House in this instance. I have not seen anything to indicate that fiscal year 1975 will be any better.

Contrary to the distinguished chairman of the Committee on Appropriations and some others who have spoken on this issue, I have always voted against foreign aid, and I think that many of the arguments presented today on the floor of the House just reinforce the wisdom and sagacity of my position in the past. I hope that the House today will make known in no uncertain terms that America is ready to start taking care of the problems in this country, and will not continue to provide support for the rest of the world.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. BURLISON of Missouri. I am happy to yield to the distinguised gentleman from Texas, the chairman of the Committee on Appropriations.

Mr. MAHON. Mr. Chairman, again may I say that this is not unilateral, but rather multilateral foreign aid. I think that it has done some good through the years.

But, here is one of the problems, as I pointed out: This bill is for the fourth replenishment. You see, we are moving out of the third replenishment, and now we are going into the fourth replenishment. Instead of the figure of $1.154 billion which I referred to earlier, it is for $1.5 billion. Although it is stretched out for a longer number of years, it is still a larger amount of money.

So that is the reason why I say that we should proceed with caution, and we should not, in my judgment, pass this bill over and above the amount which was in the previous bill at a time when we claim, and properly so, that the country is in bad fiscal condition, and we are confronted with very serious economic problems. Why should we vote for such a financial commitment as is represented in this bill?

Mr. BURLISON of Missouri. Mr. Chairman, I thank the distinguished gentleman from Texas for his remarks.

Mr. RHODES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I intend to support this legislation. I am not one of the great proponents of foreign aid, but to me this type of a bill does the things which I have always thought foreign aid should do. If I were going to attack foreign aid, I certainly would not start with this bill.

As a matter of fact, I think that most of the Members, when they first came to the Congress, had a mental picture of foreign aid which would help those countries that were trying to help themselves, which were developing, but who did not have the advantages that many of the industrial nations have. This is exactly the approach of this bill.

I also believe my colleagues have had the same feeling that I have had for years, that our unilateral aid was mainly "come a cropper," and it has. There is no doubt but that one of the best ways to make an enemy is to try to do him a favor, and we have made our share of enemies around the world by the wrong type of foreign aid.

But, as I say, this is a multilateral situation. We do not make any enemies, and we probably do not make very many friends, but we do use the American taxpayers' money to do some of the things which I think the American taxpayer wants to do.

I think that most of our people do want to help the underdeveloped countries, and do want to help them on a loan basis that those people can afford to repay. If we try to give these countries loans under the usual Export-Import Bank terms, which are mainly hard loans, they could not pay them back again; they would have to default.

They would suffer all of the indignities and all of the loss of pride which would come from having to default on a loan which they could not pay back in the first place. These loans are admittedly soft. There is no doubt about it. They are as soft as mush. There is not any likelihood at all that we are going to get back the same purchasing power that we put in, but at the same time we are giving these people a chance to develop their economy and perhaps—just perhaps—be able to get into a situation where they can return some of the purchasing power at some time in the future.

It was said by my good friend, the chairman of the Committee on Appropriations, the gentleman from Texas, for whom I have the highest respect, that this bill is too high, that this is a raise. Of course, it is. It is a raise mainly because the whole world is inflated. The purchasing power which is represented here by this bill, I am satisfied, is no more purchasing power than the third replenishment was.

Another point that I think must be made is that the people who negotiate on things like this have been able to negotiate a much smaller share of the total payment of the United States than previously had been the case. We have been in this business of cooperation with the other nations of the world trying to help the underdeveloped countries. I think it would be a very bad mistake if we were to pull the rug out from under what I think may well be the most successful part of our whole foreign aid program.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

I am very impressed by the gentleman's statement. I notice, to fortify that statement, on page 4 of the report it is shown that the United States put up about one-third of the money; Japan, Germany, and the United Kingdom another third; and other countries, including such countries as Luxembourg, Belgium, and Kuwait are putting up the other third. That impresses me tremendously. That is a great improvement over what existed in the past, as I understand.

Mr. RHODES. I agree with the gentleman from Texas. The whole world which can afford to do it has united in an effort to help that part of the world which has not developed. As I say, I have always thought this is what the best type of foreign aid is all about.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

I find it interesting that some of those who have gone into the well of the House and otherwise spoken in behalf of this bill today have opposed mushy foreign aid in the past. Now they are biting the sawdust trail. They have become converts.

Would the gentleman say that a citizen of Arizona or Iowa could borrow money and finance a mortgage on his home under the terms and conditions of the so-called loans that are to be made under this bill? If not, what logic is there—what business have we pouring out $1,500,000,000 around the world on these terms, and raiding our taxpayers to do it among them the workingmen and women who are trying to establish homes?

Mr. RHODES. The gentleman from Iowa has answered his own question. The answer is, of course, the people of Iowa and the people of Arizona cannot borrow money under these terms. If they needed to, we would be in a sad situation in this country. They do not need to; they are perfectly capable of borrowing money in the money market and paying back the people to whom these loans are owed. The people to whom these loans are going are not so capable.

The CHAIRMAN. The time of the gentleman has expired.

Mr. YOUNG of Georgia. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I hesitate to take the Members' time to discuss these questions with them, but there are three or four things I should just like to raise which those who plan to vote against this bill ought to think about.

One is I can understand all of those arguments that have been made about our taking care of our own, but I do not think we can take care of our own citizens if we divorce ourselves from the world. In order to take care of our own, we are right now dependent upon the rest of the world for 6 of the 13 natural resources that we need to take care of our own, and by the end of the decade, that number of natural resources will be up to 9.

We also find ourselves in a very vulnerable position already financially, because if we vote down this bill, we then send our representatives to the committee of 20, of the International Monetary Fund, who are negotiating on the value of the dollar and developing a system of monetary reform into those meetings with a severe handicap. Already we have a dollar overhang of almost 80 billion surplus dollars, which we cannot buy up or pay for, in the hands of the rest of these nations.

We send them into those negotiations really extremely vulnerable, saying we do not care about the rest of the world, and the world naturally will say, OK, we do not care about the United States on that question either.

We also send our negotiators into the GATT agreements on tariff and trade, sitting down with some of these same nations, and it is inconceivable for me to believe if we divorce ourselves from the rest of the world that the rest of the world will not gang up on us.

Finally, I think that all of us now who are speaking against and voting against this bill will come back in a month or so and vote for military aid. I think maybe we are too patriotic to see the folly of that act, but perhaps we can look at the results Russia has achieved in the Middle East as a result of its military aid to Egypt. There we see that because of the heavy-handed domination of military assistance by the military of another country. Inevitably military aid brings a kind of backlash and reaction that makes them want to kick out the people who are defending them because they think there is a desire to take them over—and that is exactly why Egypt is now leaning toward us rather than toward Russia to whom they have become so much indebted for military assistance.

I hope we do not make those same kinds of mistakes.

There is one other thing I want to observe. I have poor people in my district also and I really consider myself very much a friend of the poor in this Nation, but we do not have any poor in this Nation such as the poor people we are talking about. We are talking about here a distinction between relative poverty which we have in this Nation, where we have people with $1,000 to $3,000 a year income, and in aid to these developing nations we are talking about aid to countries where the per capita income is less than $100 a year.

I think that is a distinction which added to all these other questions I would just like to lay on the hearts of the Members before they vote against this legislation. I urge them to reconsider and to vote for this bill.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Georgia. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, the gentleman has made a very moving statement on behalf of helping the poor people of the world, and I could not agree with him more, except perhaps to observe that every person now studying and writing about foreign aid in the universities and elsewhere is pointing out that this foreign aid has not helped and is not helping poor people. It is going to the cities—to the bureaucrats and to the well-to-do of the world. The amount that trickles down to the poor is very tiny.

Mr. YOUNG of Georgia. If the gentleman will let me have back my time I would like to make an observation.

Mr. LONG of Maryland. Let me answer the military aid part of the question first because I think that is important.

Mr. YOUNG of Georgia. Will the gentleman request his own time for that, and let me speak to the first question. The gentleman was with me when we visited a poor farm in Jamaica and saw the shack there and what the people had done with a $10,000 loan from IDA in terms of developing their own independent resources in the chicken-producing operation.

Mr. LONG of Maryland. Mr. Chairman, if the gentleman will yield, we must not have visited the same place, although it certainly seemed to me we did. Wherever I have looked and seen the shacks of poor people, those people have not been getting the aid. The people in the two or three projects that we went to see in Jamaica were by the standards of those countries in the upper 10 percent of their populations.

Mr. HAYS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have never voted against this bill before but I am going to vote against it this time and I will tell the Members why.

The amount of money we are asking for today will not even soak up the amount of money that the Arab States are taking away from the underdeveloped nations in the price raises they have put on oil in the last 90 days. The billion and a half will not even touch the bill that these nations are going to have to pay for oil. We can talk about what we ought to do for the poor of the world and all that, but what this is going to be is another subsidy for Kuwait and Saudi Arabia and the rest of the oil producing nations who are striking not only our Nation but also mangling the poor of the underdeveloped nations of the world.

I had a chance, by coincidence, to come home from London back in November on the same plane with the Ambassador from Saudi Arabia, and since he had the only vacant seat on the plane beside him, I moved in and gave him some unsolicited advice. He had all the reasons in the world why they should do this to us. I think he knows or thought or believed that we did not have the guts to do anything in return. He is gliding around this city right now in his Cadillac limousine with a chauffeur using gasoline that Americans cannot get, at the same time they will not sell us any, not even at the inflated prices, because they are too busy squeezing the intestines out of the underdeveloped countries of the world. They can get it, because the world has to have the oil.

I think this might be a great place in the first week of the new session for the Congress to sort of serve notice that we are not going to be pushed around by these people; that we are going to be hard-nosed; that we are going to do a little bargaining and if they want to meet us half-way, we are willing to talk to them; but we ought not to give this to them willy-nilly.

I would like to say something to the Republicans. It has not been too long, just the administration before the present President, that a great many Republicans were bemoaning the fact that we were approaching a $200 billion budget and they were saying that we did not have the money to pay for it.

Now, in the tenure of the present President, we have never had a balanced budget. We have had the highest deficits in history and now we have a $300 billion budget, a 33-percent increase in 5 years.

Now, some of the Members can go home if they want to, and I hope they want to—and tell their constituents they voted for this $1.5 billion and at the same time tell them this money goes to these same countries that caused the price of gasoline to go up to 50 cents a gallon, the price of fuel oil to go up 100 percent.

The Republicans can just keep voting like that and talking like that and I probably will set the record straight, and we Democrats probably will take more seats in the House than any party since this Republic was founded.

I know some Members will not like this. I can say that my good friend on the committee, Mr. FRELINGHUYSEN, will not like it, and I do not want him to; but I am going to give it to him and it will not cost him anything. This vote may cost some Members very dearly and some of my friends on this side likewise.

Let me give you one further thought. Oil prices have gone up fantastically and every time oil prices go up, it means the oil companies can deduct those costs from the income tax they pay in this country.

The price of crude oil has averaged out worldwide to an increase of 21 percent in the last 60 days and the price of fuel to heat the homes of this country and the price of diesel fuel to power the tractors in this country has gone up 121 percent, or 100 percent more than the cost of crude oil; yet today some are asking me to vote $1.5 billion to take up the slack of the money that these Arab nations are squeezing out of the underdeveloped countries of the world.

I say that if we say no, we may help the underdeveloped nations a great deal more than if we say yes.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words.

I shall not take any time except to say I have looked at the table of all who are to receive funds under this act, and find not a single one of the great oil-producing nations receiving a dime from this.

I fail to see the means by which we get even with the Arab countries by denying aid to a country like India.

Mr. YOUNG of Georgia. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Georgia.

Mr. YOUNG of Georgia. I would like to associate myself with the gentleman's remarks and point out that the nations of Africa, where there are tremendous oil reserves, will have been forced into the hands of the Arab nations as the result of our turning our backs on them.

I think we are really not doing so much to help other nations in this authorization. We are really doing something to help ourselves in relation to the rest of the world.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. Mr. Chairman, I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I would like to ask the gentleman if Venezuela, which has imposed a tremendous import tax on oil coming into this country, would be eligible for apply for a loan under this act, because I think the tax that is imposed constitutes expropriation. I think we can expropriate by taxation.

I wonder whether the gentleman can tell me whether or not Venezuela, under these circumstances of $7.50 per barrel tax on oil coming into this country, is eligible for loan contributions in this bill?

Mr. ECKHARDT. Mr. Chairman, Venezuela gets no money.

Mr. VANIK. Mr. Chairman, my question is, is the country eligible or is it eligible through inter-American——

Mr. ECKHARDT. The income of citizens of that country is too high for it to qualify for a loan.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. Mr. Chairman, I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, the gentleman either was not listening or I did not make my point clear about the Arab countries. What I am saying is that the price that they have increased their oil to the underdeveloped nations will total more than the whole one and a half billion dollars in here that the underdeveloped nations would have to get to pay for that oil.

Mr. ECKHARDT. Mr. Chairman, I well understood the gentleman's point, but it seems to me still that we do not remedy that defect by denying loans to those countries which are developing. We merely exacerbate their difficulties.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to take a little time to associate myself with the remarks of the gentleman from Georgia (Mr. YOUNG). He made the points, which I wanted to make originally, very clearly, and very well. I want to be on record as supporting him strongly.

I would also like to comment a little bit on what happens to the money when it is given to IDA. I am going to read from the letter of Mr. George Schultz of October 1973.

The letter says:

> During the first 13 years of its existence—through June 30, 1973—U.S. payments to IDA totalled $824 million and IDA procurement in the U.S. totalled $426 million. In addition, IDA earned interest on cash contributions by certain members invested in the U.S. and incurred administrative expenses in the U.S. The average impact of the IDA on the U.S. balance of payments of these items has been less than $30 million per year.

As a matter of fact, in addition to the self-interest that we have of developing markets abroad, there is the additional self-interest that our payments to IDA come back to us in terms of procurement in this country. Those of us who are not satisfied with trying to bring the rest of the world up to a reasonable standard of living and human decency could well be satisfied with the idea that we are doing something to benefit ourselves, both in the short term and in the long term, through the development of these markets.

Mr. Chairman, I would like to comment further on a remark made here that foreign aid of this kind does not benefit the poor. Direct bilateral foreign aid which may go to the government and may affect military purposes may not benefit the poor. What we are talking about now are loans which are scrutinized by bankers for development within the country. The loans are not offered to the leaders of a country. They are made for specific development projects.

They are supervised by hard-nosed people, even though they are soft loans, and in most instances they do contribute to the development of the country and to the development of the disadvantaged people within those countries.

Mr. Chairman, the final point I would like to make is a comment on the question whether in making loans to underdeveloped countries we do not help the Arabs. None of us want to contribute to the oil price crisis or to line Arab pockets any further.

Nevertheless, to use the underdeveloped countries, the emerging Third World, as a means of negotiations with or punishment of the Arab emirates in the Persian Gulf seems to me to be the worst kind of cruelty to the nations we are trying to help develop. We would hope that through negotiations we can relieve the oil crisis, but we will not relieve it by putting more pressures on the underdeveloped nations of the world.

As a matter of fact, the more we do to improve the lot of the underdeveloped nations, to help them, the more we are going to encourage their support for the negotiations that must take place on a global basis to relieve the oil crisis.

Mr. Chairman, I strongly urge that this bill be passed by a resounding majority.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to my friend, the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Chairman, the gentleman proposes to take care of everyone in the world. Apparently he would raise every foreigner to the so-called standard of living of this country. I do not know just what his objective is, but let me say to the gentleman that with the appropriations voted through the House last December, this country will have spent at the end of this fiscal year $260 billion—and I said, "billion," b-i-l-l-i-o-n—on foreign aid since its inception in 1947.

How much more do the taxpayers of Minnesota want to spend on foreign aid under the circumstances?

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for his comments.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Chairman, I wonder if the gentleman realizes that, noble as are his purposes to help poor countries through the multilateral development banks, the Congress and its investigative arm, the GAO, does not have access to all the information the Treasury Department has on the projects of the multilateral banks.

In testimony before the House Committee on Government Operations, April 3, 1973, Mr. Paul Dembling, General Counsel of GAO, spoke of difficulties that the GAO encountered in reviewing the U.S. participation in 4 of the multilateral banks—the World Bank, the International Development Association, the Inter-American Development Bank, and the Asian Development Bank:

> We experienced long delays in obtaining certain information. . . . We were refused access to several categories of documents by Treasury Department officials. These included the recorded minutes of the meetings of the institutions' board of directors, periodic progress reports on the status of projects being financed by the institutions, and a consultant's report on management practices of one of the institutions.

When we provide funds to institutions like IDA, we are giving up all congressional control.

I have no objection to helping the poor. I want to help the poor. My only objection to this bill is that it does not help the poor. These funds will go to the well-to-do and to the big cities, and it is about time, after 20 years, that the Congress recognizes this fact.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

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## MESSAGE FROM THE PRESIDENT

The SPEAKER resumed the chair.

The SPEAKER. The Chair will receive a message.

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## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Heiting, one of his secretaries.

The SPEAKER. The Committee will resume its sitting.

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## INCREASED U.S. PARTICIPATION IN THE INTERNATIONAL DEVELOPMENT ASSOCIATION

The Committee resumed its sitting.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. MILLER).

Mr. MILLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hear a great deal today about foreign assistance. Last July 26, I offered an amendment to the foreign assistance bill that would establish a barter system whereby our foreign assistance would go to another country in exchange for fossil fuels and strategic raw materials that are either in short supply or are depleted in this country.

Today we have in our 50 States people desperately needing energy and needing the fossil fuels. Within just a couple of generations we are going to have those people on their knees begging for strategic metals such as copper, zinc, iron ore, and aluminum that may only be available from foreign sources.

It is estimated that by the year 2000 strategic metal mining in this country will be virtually nonexistent. Studies have shown that 12 of the 13 basic raw materials used by our industries will be supplied by foreign imports.

Hopefully, during this session Congress will have an opportunity to again consider any amendment to barter foreign aid. Last July 26 Mr. MORGAN, the chairman of the Committee on Foreign Affairs, stated he would hold hearings on the amendment.

We have to turn this foreign giveaway program around. The taxpayers of this country deserve to get something in return for the dollars spent under this program. The barter approach I suggest can offer the leverage to give us accessibility to the world's mineral resources that we can use to meet current requirements or stockpile for future demand. Let us barter this aid for bauxite, lead, chrome, cadmium, and all of those metals we need or will need to run our economy and maintain our lifestyles. If we do not act now to stockpile critical raw materials, we will soon face a mineral crisis and future generations of Americans will have to go begging for them.

Therefore, Mr. Chairman, I would urge we vote down H.R. 11354 and work out a barter system whereby the taxpayer will finally get something in return for the money the United States gives away.

The CHAIRMAN. If there are no amendments, under the rule the committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BRADEMAS, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee having had under consideration the bill (H.R. 11354) to provide for increased participation by the United States in the International Development Association, pursuant to House Resolution 779, he reported the bill back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

### MOTION TO RECOMMIT

Mr. ROUSSELOT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ROUSSELOT. I am, Mr. Speaker, absolutely and completely.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ROUSSELOT moves to recommit the bill H.R. 11354 to the Committee on Banking and Currency.

Mr. GONZALEZ. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. GROSS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 155, nays 248, not voting 27, as follows:

[Roll No. 8]

YEAS—155

Abzug
Adams
Anderson, Ill.
Ashley
Aspin
Badillo
Barrett
Bergland
Biester
Bingham
Boggs
Boland
Bolling
Brademas
Brasco
Breckinridge
Brotzman
Brown, Calif.
Brown, Mich.
Buchanan
Burke, Calif.
Burke, Mass.
Burton
Cederberg
Chamberlain
Clay
Collins, Ill.
Conable
Conte
Conyers
Corman
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, Wis.
Dellenback
Dellums
Diggs
Dingell
Donohue
Drinan
Eckhardt
Edwards, Calif.
Erlenborn
Esch
Evans, Colo.
Fascell
Findley
Flood
Foley
Forsythe
Frelinghuysen
Frenzel
Gettys
Gibbons
Gonzalez
Green, Pa.
Griffiths
Gude
Hamilton
Hansen, Idaho
Harrington
Harvey
Hawkins
Heckler, Mass.
Heinz
Helstoski
Hicks
Holifield
Holtzman
Horton
Howard
Jarman
Johnson, Calif.
Johnson, Pa.
Jordan
Kastenmeier
Koch
Kuykendall
Leggett
Lehman
McClory
McCloskey
McFall
McKay
McKinney
Madden
Mallary
Matsunaga
Mayne
Meeds
Metcalfe
Mezvinsky
Minish
Mink
Mitchell, Md.
Moakley
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, N.Y.
Nelsen
Nix
Obey
O'Hara
O'Neill
Patman
Patten
Pepper
Pike
Preyer
Price, Ill.
Pritchard
Quie
Rangel
Rees
Reuss
Rhodes
Riegle
Robison, N.Y.
Rodino
Rooney, Pa.
Rosenthal
Roybal
Sarbanes
Schneebeli
Schroeder
Seiberling
Sisk
Smith, Iowa
Smith, N.Y.
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Studds
Sullivan
Thompson, N.J.
Ullman
Vanik
Vigorito
Ware
Widnall
Wright
Wydler
Wylie
Yates
Young, Ga.
Young, Ill.
Zablocki

NAYS—248

Abdnor
Addabbo
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Bafalis
Baker
Bauman
Beard
Bell
Bennett
Bevill
Biaggi
Blackburn
Blatnik
Bowen
Bray
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carney, Ohio
Carter
Casey, Tex.
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collier
Collins, Tex.
Conlan
Cotter
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Denholm
Dennis
Dent
Derwinski
Devine
Dorn
Downing
Dulski
Duncan
du Pont
Edwards, Ala.
Eilberg
Eshleman
Evins, Tenn.
Fish
Fisher
Flowers
Flynt
Ford
Fountain
Frey
Froehlich
Fulton
Fuqua
Gaydos
Giaimo
Gilman
Ginn
Goldwater
Goodling
Grasso
Gross
Grover
Gunter
Guyer
Haley
Hammerschmidt
Hanley
Hanrahan
Hansen, Wash.
Harsha
Hastings
Hays
Hébert
Hechler, W. Va.
Henderson
Hillis
Hinshaw
Hogan
Holt
Hosmer
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kazen
Kemp
Ketchum
King
Kluczynski
Kyros
Landgrebe
Landrum
Latta
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McCollister
McCormack
McDade
McEwen
McSpadden
Madigan
Mahon
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mazzoli
Melcher
Michel
Milford
Miller
Minshall, Ohio
Mitchell, N.Y.
Mizell
Mollohan
Montgomery
Moorhead, Calif.
Murphy, Ill.
Myers
Natcher
Nedzi
Nichols
O'Brien
Owens
Parris
Perkins
Pettis
Peyser
Pickle
Poage
Powell, Ohio
Price, Tex.
Quillen
Railsback
Randall
Rarick
Regula
Roberts
Robinson, Va.
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rose
Rostenkowski
Roush
Rousselot
Roy
Runnels
Ruppe
Ruth
St Germain
Sandman
Sarasin
Satterfield
Scherle
Sebelius
Shipley
Shoup
Shriver
Shuster
Skubitz
Slack
Snyder
Spence
Staggers
Stanton, James V.
Steele
Steelman
Steiger, Ariz.
Stubblefield
Stuckey
Symington
Symms
Talcott
Taylor, N.C.
Teague
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Van Deerlin
Veysey
Waggonner
Waldie
Wampler
White
Whitehurst
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wyatt
Wyman
Yatron
Young, Fla.
Young, Tex.
Zion
Zwach

NOT VOTING—27

Camp
Carey, N.Y.
Dickinson
Fraser
Gray
Green, Oreg.
Gubser
Hanna
Macdonald
Mailliard
Mills
Passman
Podell
Reid
Rinaldo
Rooney, N.Y.
Ryan
Sikes
Stratton
Taylor, Mo.
Udall
Vander Jagt
Walsh
Whalen
Whitten
Young, Alaska
Young, S.C.

So the bill was not passed.

The Clerk announced the following pairs:

On this vote:

Mr. Fraser for, with Mr. Rooney of New York against.

Mr. Reid for, with Mr. Taylor of Missouri against.

Mr. Macdonald for, with Mr. Young of Alaska against.

Mr. Hanna for, with Mr. Dickinson against.

Mr. Gray for, with Mr. Camp against.

Until further notice:

Mr. Sikes with Mr. Whitten.

Mr. Mills with Mr. Gubser.

Mr. Rinaldo with Mr. Vander Jagt.

Mr. Podell with Mr. Ryan.

Mr. Carey of New York with Mr. Young of South Carolina.

Mrs. Green of Oregon with Mr. Walsh.

Mr. Mailliard with Mr. Whalen.

Mr. Udall with Mr. Stratton.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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## FIRST LEGISLATIVE MESSAGE OF 1974—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93-201)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee of the Whole House on the State of the Union and ordered to be printed :

*To the Congress of the United States:*

As the 93rd Congress reconvenes this week, it returns to an agenda that is piled high with vital legislative questions.

America is undergoing a period of rapid change and growth when decisions made in Washington could affect the patterns of our national life for the rest of this century. These decisions demand not only the collective wisdom of our national leadership but also a continuing spirit of cooperation between the executive and legislative branches of our Government. In this first legislative message of 1974, I want to renew my pledge that I stand ready and eager to work with the Members of the Congress in shaping the solutions that are best for America.

In the next few weeks, I will send to the Congress a series of messages requesting swift legislative action in the areas where I feel that progress is most keenly needed. In each of these areas—health, education, transportation, natural resources, and others—these proposals reflect the best efforts of my Administration to solve a wide range of difficult domestic problems.

No single legislative area is more critical or more challenging to us as a people, however, than the subject of this first message to the Congress: The energy crisis. It is because of its importance and because of the urgent need for action that I have chosen to break tradition, outlining to the Congress my legislative requests in energy before delivering my State of the Union Address.

I first warned of approaching energy shortages in a message to the Congress in 1971—the first energy message ever presented by an American President. In 1973, an embargo was suddenly imposed upon many of our foreign supplies of oil, the crisis broke upon us, and the entire country took the first steps toward coping with the emergency. We have made solid progress since then, but it is clear that our efforts in 1973 were just the beginning. As our first order of business in the new year, therefore, let us resolve that 1974 shall be the year that we build a permanent framework for overcoming the energy crisis.

In the initial portion of this message, I want to report to the Congress on our progress over the last three months. The remainder of the message addresses the legislative program on which I am urging Congressional action in 1974:

—*First,* the proposals that I believe are essential to meet the short-term emergency, including:

—A special energy act that would permit restrictions on the private and public consumption of energy and would temporarily relax certain Clean Air Act requirements for power plants and automotive emissions;

—A windfall profits tax that would prevent private profiteering at the expense of public sacrifice;

—Unemployment insurance to help those who lose their jobs because of the energy crisis;

—And establishment of a Federal Energy Administration.

—*Second,* the legislative proposals that I have previously submitted in order to meet our long-range goal of achieving self-sufficiency in energy, including proposals that would:

—Allow market pricing of new natural gas;

—Allow temporary oil production from the Elk Hills Naval Petroleum Reserve in California;

—Permit surface mining of coal in a manner that is environmentally safe;

—Permit the development of new deepwater port facilities offshore;

—Amend the tax laws regarding drilling investments;

—Modernize the laws regarding mineral leasing on Federal lands;

—And reorganize the executive branch so that it may deal more effectively with energy and natural resource problems.

—*Third,* proposals which are designed to help us achieve self-sufficiency in energy and which I am submitting to the Congress this year for the first time, including proposals that would:

—Eliminate depletion allowances for foreign oil and gas production;

—Accelerate the licensing and construction of nuclear facilities;

—Require labeling of products for energy efficiency;

—And streamline the site selection process for energy facilities.

In addition to these legislative proposals, the Administration is moving forward this year with a series of executive actions and studies relating to our long-term energy needs. The latter are addressed in the last section of the message.

### I. REPORT ON THE CURRENT EMERGENCY

Last year the United States consumed roughly 18 million barrels of petroleum, in one form or another, every day. This represented about one-half of our total energy consumption. The level of petroleum consumption was also rising, so that we expected demands to reach about 20 million barrels a day in 1974.

While the country is rich in natural resources, our production of petroleum resources is far less than our demands. Last year we were producing approximately 11 million barrels of petroleum a day, and the level of production was declining.

The difference between our demands and our domestic consumption must be made up, of course, by imports from abroad, reductions in demand, or increased domestic production. Even before the embargo on oil in the Middle East, our foreign supplies were barely adequate. Since the embargo, the shortage has become a good deal more serious. The Federal Energy Office has estimated that during the first three months of 1974, our imports will fall short of our normal demands by 2.7 million barrels a day. If the embargo continues, shortages could exceed three million barrels a day during the rest of the year. That shortfall is the major factor in our current emergency.

### ENCOURAGING PROGRESS

With the Nation confronting a severe energy shortage, I appealed to the public eleven weeks ago to undertake a major conservation effort on a personal, voluntary basis. My appeal was repeated by public servants across the land. The Congress acted quickly to pass laws putting the Nation on year-round daylight savings time and reducing the national highway speed limits to no more than 55 miles per hour. The Federal Government began moving swiftly to ensure that fuel supplies were allocated fairly and that conservation measures were undertaken within the Government. Most importantly, the people themselves responded positively, lowering the thermostats in their homes and offices, reducing their consumption of gasoline, cutting back on unnecessary lighting, and taking a number of other steps to save fuel.

Largely because of the favorable public response, I can report to the Congress today that we are making significant progress in conserving energy:

—Total consumption of gasoline in the United States during the month of December was nearly nine percent below expectations.

—Consumption of home heating oil has been reduced. A recent survey of 19,000 homes in New England showed they had reduced heating oil consumption by more than 16 percent under last year, after making adjustments for warmer weather.

—Utilities report that consumption of natural gas across the country has been reduced by approximately 6 percent over last year, while the consumption of electricity is down about 10 percent.

Beyond the progress we have made because of voluntary conservation, we have also been fortunate in two other respects. The weather in the last quarter of 1973 was warmer than usual, so that we did not consume as much fuel for heating as we expected. In addition, the oil embargo in the Middle East has not yet been totally effective, allowing us to import more oil than we first anticipated.

### ACTION AT THE FEDERAL LEVEL

The Federal Government clearly has a major responsibility in helping to overcome the energy crisis. To fulfill that responsibility, several steps have been taken in the last three months:

—A major conservation program has been established and has cut consumption of energy by Federal agencies by more than 20 percent below anticipated demands in the third quarter of 1973.

—A sweeping investigation of fuel prices charged at gasoline stations and truck stops has been launched, putting an end to price gouging wherever it is found.

—A Federal Energy Office has been created to serve as a focal point for energy actions taken by the Government.

—Finally, a fuel allocation program has been set up to assure that no area of the Nation is subjected to undue hardships and to assure that in allocating fuel, the protection of jobs comes ahead of the satisfaction of comforts. As part of this allocation effort, refiners are being encouraged to produce less gasoline and more of the products that are needed in homes and industry, such as heating oil, diesel oil, residual fuel oil, and petrochemical feedstocks. The Cost of Living Council has issued regulations to encourage the shift away from gasoline production. If necessary, additional steps will be taken to encourage shifts in refinery production.

The allocation program now underway will mean some cutbacks in travel, heating and other end uses of fuel, while uses which keep our economy operating at a high level will be permitted to remain at or above last year's levels.

Market forces are also at work allocating fuel. Due primarily to huge increases in prices for foreign oil, the price of gasoline has risen by 12 to 15 cents per gallon over last year. This obviously discourages the consumption of gasoline. Heating oil has also shown a comparable rise with similar effect.

There is a limit, however, to the amount of market allocation through higher prices which we will allow. We will not have consumers paying a dollar a gallon for gasoline. We must therefore seek to maximize the production of domestic oil at a price lower than the price of foreign oil. We will also carefully review requests for energy price increases, to ensure that they are genuinely needed.

All of the measures of conservation and allocation have greatly improved the Nation's chances of avoiding hardships this winter and gas rationing this spring. *Gas rationing, with its attendant bureaucracy and cost to the taxpayer, should be only a last resort.* Nevertheless, we are attempting to be prudent and therefore have developed a system of coupon rationing. The system is now on the record for public comment, and will be ready for use this spring should it prove necessary.

The system would provide for transferable coupons for all licensed drivers over 18 years old. The coupons, unlike the World War II coupons, would be freely transferable. Thus those who can economize and use less than their allotment would be given tangible incentive to do so, while those who seriously need larger amounts would be able to buy coupons legally.

The measures of allocation and conservation are, in the very short run, the only actions which will have an effect in lessening the crisis. However, in the slightly longer term, we can and we are making efforts to increase domestic supplies of petroleum very rapidly.

Increases in supplies of domestic crude oil are necessary not only to assure supplies, but to keep the prices for consumers at a reasonable level. The prices charged by a foreign cartel for crude oil have risen so dramatically that U.S. oil prices are now greatly below the world market price.

To ensure that domestic oil exploration continues and grows, the price of oil from new exploration and development has been removed from Economic Stabilization Act controls. Also, to compensate for increased production costs and to stimulate advanced techniques for recovering oil, we have permitted a $1 per barrel increase in the cost of petroleum under existing oil contracts.

As a result, domestic oil wells that had been abandoned because they were no longer profitable are being put back into production, and new American oil is now beginning to come into the market. We anticipate additional increases in the oil in the future.

As a greater domestic production fills more of our oil needs, we will be demanding less foreign oil, and the price for foreign oil will not be driven upwards by our demands. Our own domestic production will tend to put a cap on the prices foreign suppliers may charge.

To deal further with the world shortage of oil and its increasingly unrealistic price levels, I have invited major consuming nations to a conference in Washington on February 11. The conference will, I hope, eventually lead to greater international cooperation in the areas of energy conservation, research, pricing policy, oil exploration, and monetary policy.

## II. LEGISLATION TO MEET THE CURRENT EMERGENCY

**Although we have made significant progress over the last three months in reducing consumer demands for energy and in allocating fuel supplies, additional legislative measures must be enacted if we are to maintain our momentum. I am therefore asking that the Congress give its highest priority to five proposals which I have previously recommended for dealing with the short-term emergency:**

### 1. SPECIAL ENERGY ACT

**The principal purposes of this legislation are to grant the executive branch authority to restrict the public and private consumption of energy and to modify certain Clean Air Act requirements.**

**During the closing weeks of December, both Houses of Congress labored long and hard on this emergency bill. As presently drafted in the House-Senate conference, the bill is laden with so many extraneous provisions that I would have difficulty signing it. I urge the Congress to pass a basic bill dealing with mandatory conservation, fuel conversion, rationing, and changes to the Clean Air Act. I would also urge that the extraneous provisions be placed in separate legislation where they belong.**

### 2. WINDFALL PROFITS TAX

**The solution to the energy crisis must ultimately depend in large measure upon the response of the public, and their actions will in turn be based upon their recognition that an energy crisis actually exists and that it has not been contrived for the benefit of big business. For weeks, believing that the crisis is genuine, millions of Americans have made sacrifices in their comfort and convenience so that no Americans would have to suffer personal hardships. Those sacrifices are continuing today, and they will be needed in the future. It is up to the leaders of the Nation to ensure that the public trust is not abused.**

As President, I am deeply committed to a firm policy: *We must not permit private profiteering at the expense of public sacrifice.* The sacrifices made by the American people must be for the benefit of all the people, not just for the benefit of big business. *In equal measure, we must not permit the big oil companies or any other major domestic energy producers to manipulate the public by withholding information on their energy supplies.* That information must be made available to the public, and it must be accurate and complete.

The windfall profits tax that I outlined last December and am again asking the Congress to pass would serve this policy by preventing major domestic energy producers from making unconscionable profits as a result of the energy crisis. It would exact a tax of up to 85 percent on receipts from sales of crude oil above the ceiling set by the Cost of Living Council in December of 1973.

### 3. ENERGY-RELATED UNEMPLOYMENT INSURANCE

The energy emergency will undoubtedly result in some dislocation within the economy. Selected labor market areas may experience unusually large rises in unemployment despite our best efforts to minimize economic disruption. Jobs in those areas may become harder than usual to find. Therefore, as an integral part of the same philosophy which had led me to seek a windfall profits tax that prevents a few people from benefitting unduly from the energy emergency, I will also recommend new unemployment insurance measures to cushion American workers against the shocks of economic adjustment. Last April, I submitted legislation to improve the unemployment insurance program by increasing benefit levels and expanding coverage. I call again for the enactment of those measures. In addition, I will submit unemployment insurance amendments that would, on enactment, extend the duration of benefit entitlement and expand coverage in those labor market areas that experience significant increases in the level of unemployment. These provisions, coupled with the recently enacted Comprehensive Employment and Training Act will provide a solid foundation for the more rapid re-absorption of workers into the Nation's economy.

### 4. MANDATORY REPORTING OF INFORMATION BY PRIVATE INDUSTRY

The information now provided to the public and to the Government by the energy industry is insufficient for public planning purposes. This is a serious deficiency which has understandably become a matter of intense public interest. To correct it, I will shortly submit legislation requiring major energy producers to provide to the Government a full and constant accounting of their inventories, their production, and their reserves. Where required for national security or competitive purposes, confidentiality of the information will be protected. Most of this data, however, can and will be made available to the public.

To provide a focus for the collection and analysis of this data, I have directed the Federal Energy Office to establish an Energy Information Center. This center will coordinate energy data within the Government and provide the information to the public, the Congress and other Federal agencies.

### 5. FEDERAL ENERGY ADMINISTRATION

FEA would bring together and significantly expand programs to deal with the current energy emergency. It would also carry out major new activities in energy resource development, energy information and energy conservation. Included within this agency would be the functions of the Offices of Petroleum Allocation, Energy Data and Analysis, Oil and Gas, and Energy Conservation from the Department of the Interior and the Energy Division of the Cost of Living Council.

## III. OUR PROGRAM FOR THE FUTURE: PROJECT INDEPENDENCE

Energy demand in the United States will certainly continue to rise. Were domestic oil production to continue to decline and demand continue to grow at over 4 percent annually, as it did before the embargo, imports would increase from 35 percent of U.S. consumption in 1973 to roughly half of U.S. consumption by 1980.

We must also face the fact that when and if the oil embargo ends, the United States will be faced with a different but no less difficult problem. Foreign oil prices have risen dramatically in recent months. If we were to continue to increase our purchase of foreign oil, there would be a chronic balance of payments outflow which, over time, would create a severe problem in international monetary relations.

**Without alternative and competitive sources of energy here at home, we would thus continue to be vulnerable to interruptions of foreign imports and prices could remain at these cripplingly high levels. Clearly, these conditions are unacceptable.**

**To overcome this challenge, I announced last November 7 that the United States must embark upon a major effort to achieve self-sufficiency in energy, an effort I called Project Independence. If successful, Project Independence would by 1980 take us to a point where we are no longer dependent to any significant extent upon potentially insecure foreign supplies of energy.**

**Project Independence entails three essential concurrent tasks.**

**The first task is to rapidly increase energy supplies—maximizing the production of our oil, gas, coal and shale reserves by using existing technologies and accelerating the introduction of nuclear power. These important efforts should begin to pay off in the next 2 to 3 years. They will provide the major fraction of the increased supplies needed to achieve energy self-sufficiency.**

The second task is to conserve energy. We must reduce demand by eliminating nonessential energy use and improving the efficiency of energy utilization. This must be a continuing commitment in the years ahead.

The third task is to develop new technologies through a massive new energy research and development program that will enable us to remain self-sufficient for years to come.

We cannot accept part of the overall program and ignore the others. Within the Federal sector, success will depend on a wide range of actions by many agencies. As an important part of that effort, the head of the Federal Energy Office, William Simon, will mount a major effort this year to accelerate the development of new energy supplies for the future.

Our strategy for Project Independence is reflected in urgent measures now pending in the Congress as well as many new legislative proposals and administrative actions I now plan to take.

### A. LEGISLATION STILL AWAITING CONGRESSIONAL ACTION

Over the past three years, I have submitted a number of legislative proposals that are essential to our pursuit of energy self-sufficiency but are still awaiting final Congressional action. I ask that the 93rd Congress move ahead with these proposals, and I pledge the cooperation of this Administration in working out any differences. These proposals include the following:

#### NATURAL GAS SUPPLY ACT

The artificially low prices for natural gas created by Government regulations continue to create a double problem: consumers wish to purchase more of this cheap, clean fuel than is available, while suppliers have little incentive to develop it. I again ask the Congress to provide for competitive pricing of newly developed gas supplies in order to encourage new drilling and to direct available gas into the premium uses.

Although my deregulation proposal should not cause a significant rise in consumer prices for natural gas for some years, I recognize that there is a strong desire to provide added insurance that unreasonable price increases do not occur. This insurance can be provided by adding to the Administration's legislative proposal a provision authorizing the Federal Power Commission to establish limits on absolute price increases. We are prepared to work with the Congress on these changes.

#### NAVAL PETROLEUM RESERVES

The Nation has vast oil and oil shale reserves which years ago were set aside for national defense purposes by placing them under the control of the Secretary of the Navy. That action was taken at a time when naval petroleum requirements were an especially important share of total national petroleum consumption. Some of these oil reserves, principally those located in Wyoming and California, have been explored and developed to the point where limited production is possible. The largest reserve, located in Alaska, has not been significantly explored or developed and could not be available for production for several years, even in a grave national emergency. I have proposed legislation that would greatly improve the availability of the reserves for future needs and would permit limited production from the Elk Hills Reserve in California to assist in meeting our short-term energy problems.

In accordance with law, the Secretary of the Navy has issued and I have approved a finding that production of oil from Naval Petroleum Reserve #1 (Elk Hills) is necessary for national defense purposes. Approval of the Congress is also necessary and I have proposed legislation that would give such Congressional approval. It would also provide that funds from the sale or exchange of the oil could be used for further exploration and development of Elk Hills and for exploration of Naval Petroleum Reserve #4 in Alaska. I am pleased that the Senate has already passed this legislation, and I am hopeful that immediate action will now be taken by the House of Representatives.

#### MINED AREA PROTECTION

A Mined Area Protection Act is needed to encourage the development of State programs which permit the mining of coal and other minerals to go forward in a way that is environmentally safe. The absence of clear legislation in this area is inhibiting the development of our coal reserves. The Senate has passed a bill, but it deals only with surface mining of coal rather than all mining and it contains provisions which would actually impede production of coal.

The House Committee on Interior and Insular Affairs is scheduled to take up the matter soon and I am hopeful that it will act favorably on the Administration's proposal.

#### DEEPWATER PORT FACILITIES

Even though our policy is to achieve self-sufficiency, we will clearly continue to import oil as long as it is available at reasonable prices. To enable us to import fuel more economically, I have proposed Federal Government licensing of the construction and operation of deepwater port facilities three miles or more at sea on the Outer Continental Shelf. The main use of these facilities would be to import crude oil in ships that are economically and environmentally desirable, but are too deep of draft to permit their entry into our port facilities on the east and gulf coasts.

This legislation would also eliminate many of the legal uncertainties which now drive private investors away from American waters and to other nations of the Western Hemisphere. The present system only serves to create investments and jobs abroad and raises our costs of imported oil, already high, even further.

#### DRILLING INVESTMENT CREDIT

Last April I proposed that the investment credit provisions of present tax laws be extended to provide a credit for all exploratory drilling for new oil and gas fields. Approval of this provision would provide an essential incentive for new oil and gas exploration. At the same time, I am asking the Congress to eliminate the tax shelter that now exists for wealthy taxpayers who reduce their taxes by taking deductions for investments in oil drilling.

#### MINERAL LEASING ACT

The Mineral Leasing Act of 1920 governs the exploration and production of oil, gas, coal, and other minerals on Federal lands while the Mining Act of 1872, governs the exploration and mining for "hard-rock" (gold, silver, copper, etc.) minerals. Both acts have become obsolete. Last February, I proposed a bill that would place all mineral exploration and mining activities on Federal lands under a single Federal leasing system. The bill would assure that the persons who obtain the leases are those who have an interest in early exploration for oil, gas, and other minerals. It would also require that exploration meet the environmental standards of the Administration's proposed Mined Area Protection Act.

#### ORGANIZING THE FEDERAL ENERGY EFFORT

If the Federal Government is to achieve prompt and productive results in the energy field, its many energy programs and resources must be organized in the best possible manner. Toward this end, I have submitted several organizational proposals to the Congress and urged their prompt adoption. One calls for establishment of the Federal Energy Administration as discussed above. The others call for statutory establishment of the following:

#### (1) ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

This new organization would provide unified leadership and direction for energy technology programs at the Federal level. ERDA would include the research and development as well as the production functions of the Atomic Energy Commission, along with selected energy research and development functions of the Department of the Interior, the National Science Foundation, and the Environmental Protection Agency. Under this proposal, the five-member Atomic Energy Commission would be renamed the Nuclear Energy Commission and would carry out the vital task of licensing and regulating the rapidly growing use of nuclear power.

#### (2) DEPARTMENT OF ENERGY AND NATURAL RESOURCES

As the longer-run solution to the many interrelated problems in the energy and natural resources area, I have proposed the establishment of this new department. DENR would incorporate most of the responsibilities of the Department of the Interior; the activities of the Forest Service and certain water resource functions of the Department of Agriculture; the activities of the National Oceanic and Atmospheric Administration of the Department of Commerce; the water resource planning functions of the Corps of Engineers; the gas pipeline safety functions of the Department of Transportation, and the Water Resources Council. Drawn together, these responsibilities would form the basis of a modern department truly capable of providing a much needed balance between the wise utilization and careful conservation of our Nation's precious natural resources.

Because of the energy crisis, I urge that the Congress give priority attention to the creation of FEA and ERDA. Because of its comprehensive scope, DENR may require additional examination by the Congress, but I reaffirm the need for this modern Cabinet department. Once DENR is established, it should incorporate the functions of ERDA and FEA.

### B. NEW LEGISLATIVE INITIATIVES

In addition to the legislation now pending before the Congress still further steps must be taken if we are to progress at a proper pace toward self-sufficiency. Within the next several weeks, I will be sending to the Congress a number of legislative proposals to help us take those steps, including:

### CHANGES IN FOREIGN TAX TREATMENT

U.S. companies that produce oil overseas have been granted the same 22 percent depletion allowance abroad that is granted to U.S. companies producing oil in the United States. Both allowances provide an incentive for oil production.

As we move toward U.S. self-sufficiency in energy, however, we want to encourage greater development of U.S. energy resources rather than foreign resources. I am therefore asking the Congress to eliminate these foreign depletion allowances, while retaining the depletion allowance for domestic oil production.

Taxes paid to foreign governments by U.S. oil companies drilling abroad have increased dramatically. There is growing concern about the degree to which such increases should be allowed as credits against U.S. tax on other income. Under these circumstances, it is no longer realistic to treat these payments to foreign governments entirely as income taxes creditable against the U.S. tax. Obviously, however, the oil producing countries, like any other country, have the right to impose taxes and some reasonable portion of those taxes should be creditable. I have asked the Treasury Department to prepare proposals which would cause part of these amounts to be designated as a creditable tax and the balance to be allowed solely as a deduction.

### ACCELERATING THE LICENSING AND CONSTRUCTION OF NUCLEAR FACILITIES

Nuclear power, which lessens our dependence on foreign fuel, is an essential part of our program of achieving energy self-sufficiency. At present, however, it takes 9–10 years to complete the planning, licensing, and construction of nuclear power plants. In order to get vitally needed nuclear power on-line more rapidly, I have directed that steps be taken to reduce the licensing and construction cycle to 5–6 years, without compromising safety and environmental standards.

I will soon transmit a legislative proposal to expedite the completion of nuclear power plants by separating the approval process for plant sites from the reactor licensing process and by encouraging the use of standardized plant designs. These designs, once approved, would reduce the required licensing review time and would enhance safety. This legislation would also permit the establishment of an inventory of approved sites for nuclear plants.

### EFFICIENCY LABELS

Energy conservation must play a major role in achieving self-sufficiency, but few of the products we now purchase clearly indicate how much energy they require to operate. To assure that such information is available, I will shortly submit to the Congress legislation requiring that all major appliances and automobiles produced or imported into the United States be clearly labeled to indicate their energy use and energy efficiency.

### ENERGY FACILITIES SITING

The present multitude of Federal, State, and local approvals required for the construction of energy facilities has caused serious delays in their availability. There is also no provision for advanced approval of sites which will be needed in the future. In addition, the public has often been frustrated because public participation in the site approval process seldom occurs early enough to affect the basic siting decision.

In 1971 I requested legislation to overcome these problems for electrical power plants and transmission lines. I resubmitted similar legislation in February 1973, but the Congress has not acted on my proposal. I have now directed that new legislation be prepared, building upon my earlier proposals but covering additional critical energy facilities. This legislation will be directed toward:

—advanced approval of adequate sites for energy facilities on a regional basis;

—better coordination of the various approvals now required by all levels of Government;

—and improved long range planning of energy facility requirements.

### CHANGES IN THE CLEAN AIR ACT

The Clean Air Act has provided the basis for major improvements in air quality and we must continue our progress toward even greater improvement. However, during the current energy shortage, it has become clear that some changes in the act are needed to provide greater flexibility in deadlines and other requirements. The special energy legislation now before the Congress would permit temporary relaxation in some requirements applicable to power plants when an adequate supply of clean energy is not available. It would also extend the deadlines for the reduction of emissions from automobiles. I hope the Congress will move quickly to grant authority for temporary relaxation of requirements and freezing the standards for auto emissions—now applicable to 1975 model cars—for two additional years. This latter action will permit auto manufacturers to concentrate greater attention on improving fuel economy while retaining a fixed target for lower emissions. These changes can be made without significantly adverse effect on our progress in improving air quality.

The Congress has also been advised by the Environmental Protection Agency of evidence demonstrating that the reductions of nitrogen oxides from automobiles as required by the Clean Air Act are unnecessarily stringent and that technology to achieve the reductions is not yet practicable. In addition, the Congress has been advised by the Environmental Protection Agency that deadlines cannot be met for meeting air quality standards in some metropolitan areas without drastically curtailing the use of motor vehicles. For instance, these deadlines would require that motor vehicle usage in Los Angeles be reduced by as much as 87 percent.

An extensive review is now underway within the executive branch of the implications of court decisions which require that EPA act to prevent "significant deterioration" of air quality—a requirement that is not defined in either the law or court decisions. This matter has far-reaching implications for public policy regarding land use as well as air quality. Changes in the law may thus be required to deal with this problem, and we will consult with the Congress as appropriate.

We must continue to assess the impact of actions required by the Clean Air Act so that there will be a basis for sound decisions that provide an appropriate balance among our objectives for environmental quality, economic and social growth, energy supply and national security.

### IV. NEW ADMINISTRATIVE ACTIONS AND STUDIES

In addition to preparing the legislative proposals above, I have directed that a number of executive actions be taken and additional legislative studies be made which could help us to succeed with Project Independence. Among these actions are the following:

### OUTER CONTINENTAL SHELF DEVELOPMENT

The undiscovered oil and gas beneath our Outer Continental Shelf can provide a significant portion of the energy necessary to make us self-sufficient. I have already ordered leasing in that area to be stepped up. Today I am directing the Secretary of the Interior to increase the acreage leased on the Outer Continental Shelf to 10 million acres beginning in 1975, more than tripling what had originally been planned. In later years, the amount of acreage to be leased will be based on market needs and on industry's record of performance in exploring and developing leases. In contracting for leases, the Secretary of the Interior is also to ensure that the proper competitive bidding procedures are followed and that environmental safeguards are observed. He will, in addition, set up an interagency program for monitoring the environmental aspects of the new leasing program. There will be no decision on leasing on the Outer Continental Shelf in the Atlantic and in the Gulf of Alaska until the Council on Environmental Quality completes its current environmental study of those areas.

### ALASKA PIPELINES

In 1973, the Congress passed the Alaskan pipeline bill, allowing the construction of a vitally needed oil pipeline. The Secretary of the Interior plans to issue the construction permit for that pipeline this afternoon, and construction should begin this year.

It has long been clear that while an oil pipeline was needed, it alone would not be enough. In addition to the huge oil reserves in the North Slope of Alaska, there are also gas reserves there of at least 26 trillion cubic feet—enough to heat 10 million homes for 20 years. Construction of a gas pipeline should thus accompany the construction of the oil pipeline. What is now needed, and what I am directing, is prompt action by the Administration. Interior Secretary Morton expects to receive two competing applications for the gas pipeline in the near future, one proposing construction across Alaska and the other proposing construction across Canada. I have asked the Secretary to consider these proposals carefully but promptly and to deliver a recommendation to me as soon as possible. I have also asked the Secretary to undertake a further study of the need for future oil and gas pipeline capacity and the best routes for new pipelines should they prove necessary.

### STIMULATION OF SYNTHETIC FUEL PRODUCTION

At current rates of consumption, our coal reserves could supply our needs for 300 years while shale oil could satisfy an additional 150 years of demand. However, these resources are not easily recoverable, or usable in a manner that is environmentally acceptable. Therefore, the development of a domestic synthetic fuels industry—the production of oil from shale and the production of gas or oil from coal—can be an important element of our program for reducing our future dependence on energy imports.

The recent bidding for the first commercial oil shale lease indicates strong commercial interest in shale oil development. Five other lease offerings of Federal oil shale lands will be made this year. Several companies have also announced plans to construct plants for the production of commercially usable gas from coal. Nevertheless, a variety of factors including environmental, economic, technical, and regulatory problems impose constraints on any major increase in the commercial production and industrial use of synthetic fuels. I have therefore asked the Administrator of the Federal Energy Office to head up an interagency evaluation of financial or economic incentives or regulatory changes that may be needed to stimulate domestic production.

### EVALUATING ENERGY EFFICIENT PRODUCTS

There are now several products on the market which, if given wider use, might help us to use energy more efficiently and could conceivably reduce air pollution. Among them are chemical catalysts and additives, attachments for automobile engines and more efficient heat transfer devices for industrial and home furnaces. Previously, these products have not been commercially profitable because of the low price of fuel. With an increase in fuel prices, however, they have become more attractive. I have therefore directed the Federal Energy Office to collect information on these products and on their energy efficiency. As results are available, we will publicize them and, where appropriate, will purchase the products for use by the Government.

### IMPROVING URBAN TRANSPORTATION

It is widely recognized now that the development of better mass transit systems may be one of the key solutions to both our energy and environmental problems. My budget for fiscal year 1975, which will be sent to the Congress in the next two weeks, gives special priority to the improvement of urban transportation, especially transit bus fleets. In addition, I will soon propose legislation to increase the amount and flexibility of Federal transportation aid which is available to local communities.

### ENERGY RESEARCH AND DEVELOPMENT

Nowhere will the need for the combined efforts of industry and Government be greater than in energy research and development. If we are to see the successful culmination of Project Independence, the Federal Government must work in partnership with American industry.

For the last five years, I have provided for a continual expansion of our efforts in energy research and development. Federal funding increased almost 75 percent from $382 million in fiscal year 1970 to $672 million in fiscal year 1973 and was then raised to $1 billion for fiscal year 1974. Last June I announced my commitment to an even more rapid acceleration of this effort through a $10 billion Federal program over the next five years, and I asked the Chairman of the Atomic Energy Commission to develop recommendations for the expanded program.

Today I am announcing that in fiscal year 1975—the first year of my proposed five year, energy R&D program—total Federal commitment for direct energy research and development will be increased to $1.8 billion, almost double the level of a year ago. In addition, I will be requesting an increase of $216 million for essential supporting programs in basic and environmental effects research.

Regardless of short-term fluctuations in the energy supplies, our Nation must move swiftly and steadily on a course to self-sufficiency. The private sector clearly must provide most of the money and the work for this effort. We must also guard against Government expenditures which merely replace private sector investments. But the Federal Government does have a role to play in supplementing and accelerating private development and in filling major technological gaps where market incentives are lacking. The Federal expenditures which I am announcing today are designed to serve those purposes.

In pursuing our energy R&D program, we must maintain balance. We cannot afford to direct all our efforts to finding long-term solutions while ignoring our immediate problems, nor can we concentrate too strongly on finding short-range solutions. Our program must be structured to provide us with payoffs in the near, middle, and far term.

For the near term—the period before 1985—we must develop advanced technologies in mining and environmental control that will permit greater direct use of our coal reserve. We must speed the widespread introductions of nuclear power. And we must work to develop more efficient, energy-consuming devices, for use in both home and industry.

Beyond 1985, we can expect considerable payoffs from our programs in nuclear breeder reactors and in advanced technologies for the production of clean synthetic fuels from coal. By this time, we should also have explored the potential of other resources such as solar and geothermal energy.

For the far term, our programs in nuclear fusion, advanced breeder reactors, hydrogen generation and solar electric power appear to be the ultimate keys to our energy future.

### V. CONCLUSION

Although shortages were long in appearing, the energy crisis itself came suddenly, borne by a tragic war in the Middle East. It was a blow to American pride and prosperity, but it may well turn out to be a fortunate turning point in our history.

We learned, at a stage short of the truly critical, that we had allowed ourselves to become overly dependent upon foreign supplies of a vital good. We saw that the acts of foreign rulers, even far short of military action, could plunge us into an authentic crisis. The Arab oil embargo will temporarily close some gasoline stations, but it has opened our eyes to the short-sighted policy we had been pursuing.

The energy emergency has shown us that we must never again be caught so dependent upon uncertain supplies. It is a lesson the American people must and will take to heart. By 1980, if we move forward with the proposals I have outlined today, I believe we can place ourselves in a position where we can be essentially independent of foreign energy producers.

America has half the world's reserves of coal. It has billions of barrels of oil in the ground, as well as convertible oil shale. It has vast natural gas reserves. We have the world's largest installed nuclear capacity and half the world's hydroelectric plants. This represents a truly enormous store of energy.

The United States also has the largest pool of highly trained scientific talent in the world. Our managerial skills in the private sector are enormous. And our organized facilities for solving technical problems in universities, businesses, and government are unparalleled.

I have no doubt that the bringing together of these natural and human resources can propel us toward an era of energy independence.

It will take time. But along the way we will assure that no groups of Americans are better off because other groups are suffering. We will assure that the genius of the free enterprise system is maintained and not destroyed by its response to this crisis.

Years from now, let us look back upon the energy crisis of the 1970's as a time when the American spirit reasserted itself for the lasting benefit of America and the world.

RICHARD NIXON.

THE WHITE HOUSE, *January 23, 1974.*

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## PERSONAL EXPLANATION

**Mr. SARASIN.** Mr. Speaker, it was necessary for me to leave the floor of the House of Representatives at about 4 p.m., on Thursday, December 20, 1973. As a consequence, I missed a number of recorded votes, and I now state, for the RECORD, how I would have voted had I been present.

THURSDAY, DECEMBER 20, 1973

Rollcall No. 715. Adoption of House Resolution 754, agreeing to Senate amendments Nos. 1 and 2, and agreeing to Senate amendment No. 3 with an amendment, to H.R. 6186, regarding taxability of dividends received by a corporation from insurance companies, banks, and other savings institutions. I would have voted "yea."

Rollcall No. 716. Adoption of the conference report on H.R. 9142, to restore, support, and maintain modern, efficient rail service in the Northeast region of the United States. I would have voted "yea."

Rollcall No. 717. Adoption of the conference report on H.R. 11576, making supplemental appropriations for the fiscal year ending June 30, 1974. I would have voted "yea."

FRIDAY, DECEMBER 21, 1973

Rollcall No. 719. Agreement to the Senate amendment to H.R. 11333, to provide a 7-percent increase in social security benefits beginning with March 1974, and an additional 4-percent increase beginning with June 1974, and to provide increases in supplemental security income benefits. I would have voted "yea."

Rollcall No. 720. Ordering a second on a motion to suspend the rules and pass House Resolution 759, providing for agreeing to the Senate amendment to the Wild and Scenic Rivers Act and to provide for the levels of contingency plans for petroleum consumption—which included a "windfall profits" provision. I would have voted "yea."

Rollcall No. 721. Motion to suspend the rules and agree to House Resolution 759—which included a "windfall profits" provision. I would have voted "yea."

Rollcall No. 722. Adoption of House Resolution 760, providing for agreeing to the Senate amendment with an amendment—the text of H.R. 12129, not including "windfall profits" provision. I would have voted "nay."

Rollcall No. 723. Adoption of House Resolution 761, providing for agreeing to the Senate amendment to the amendment of the House to S. 921, to amend the Wild and Scenic Rivers Act and to provide for the levels of contingency plans for petroleum consumption—not including "windfall profits" provisions. I would have voted "nay."

Rollcall No. 724. Adoption of House Concurrent Resolution 411, providing for the sine die adjournment of the first session of the 93d Congress. I would have voted "nay."

SATURDAY, DECEMBER 22, 1973

Rollcall No. 725. Motion to adjourn. I would have voted "nay."

## GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered, H.R. 11354, and to include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## THE LATE HONORABLE HAROLD DUNBAR COOLEY

(Mr. FOUNTAIN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FOUNTAIN. Mr. Speaker, with deep regret I rise to announce the death on January 15, 1974, of one of North Carolina's foremost public servants—Harold Dunbar Cooley of Nashville, N.C., who served with distinction for more than three decades as a Representative in Congress of the United States of America.

No greater tribute can be paid to any man than for him to receive time and time again the esteem and trust of those who know him best. That tribute was paid many times to the late Harold D. Cooley.

He came to this House in 1934 during the 74th Congress and began his brilliant career, enjoying reelection to no less than 16 successive Congresses. In all, he served for 32 years, covering three of the most crucial and eventful decades in the history of the United States.

The repeated trust placed in the capable hands of Harold Cooley bears eloquent testimony to the considered judgment of the constituents of the Fourth Congressional District of the State of North Carolina. They had the measure of the man he was.

In the 81st Congress, Harold D. Cooley assumed the chairmanship of the House Agriculture Committee, one of the most significant posts in the Congress, and one of great importance to the people of North Carolina.

He held that office, except for the 83d Congress, for the remaining 16 years of his period of service in this House, providing outstandingly capable leadership during difficult days for our Nation.

During this time he became a truly national—even international—figure, deeply involved in all of the significant legislation of that time, especially legistion affecting agriculture, the most basic business of all. Harold D. Cooley knew that no civilization can advance, that no civilization can continue without a strong system of agriculture at its base.

Harold D. Cooley dedicated his life to public service and constantly worked to make sure that America would have the kind of agricultural system she needs and must have. The astounding progress—the great advances in productivity—our American farmers have made since World War II can be credited in no small measure to the work of Harold D. Cooley. He continually worked to lay the groundwork for Federal action which would benefit both the American farmer and the American consumer.

America is the best fed Nation in the world today and there are many in this House now who share my conviction that a sizable measure of the credit should go to Harold D. Cooley of Nashville, N.C. During his long career he sponsored or played a crucial part in the passage of major farm legislation, including soil conservation, rural electrification, price supports, crop insurance, and flood control. He provided essential leadership in passage of the flu-cured tobacco program. The American farmer has every reason to be grateful for his achievements in behalf of agriculture.

Never one to timidly turn away from controversy, he was a vigorous and forthright debater, one who fought tenaciously for the programs he supported. Harold Cooley was a doer, not a nay-sayer. In the same manner he was a tireless champion of his home State and its interests, one who rightfully believed that the well-being of his district was of prime importance.

A striking example of the authority he wielded occurred on April 1, 1964, when he piloted through the House three major pieces of legislation—the food stamp bill, the wheat bill, and the cotton bill, all in a single day.

He had a clear-sighted understanding of the need for economic and social interdependence in the modern world, and it gave strength and understanding to his everready willingness to take the long view, evident in his support of measures to restore world trade after World War II and thereafter, and measures to feed the world's hungry far from our own shores. In short, he was one of the architects of the post-war world. In recognition of his services in this area he was honored by the governments of France, Italy, Japan, and South Korea.

While an ardent and life-long Democrat—he once boasted, "I've never voted anything but a straight Democratic ticket in my life"—he was a personal friend of prominent leaders in both parties. He served in this House with two men who later became President, John F. Kennedy and Lyndon B. Johnson. He counted them among his friends, as well as President Franklin D. Roosevelt, President Harry S. Truman, and President Dwight D. Eisenhower.

Harold D. Cooley was a consultant and congressional adviser to the United Nations Educational, Scientific and Cultural Organization, and a member of the Select Committee on Economic Aid to European Countries in the 80th Congress.

He served as a delegate from the Congress to the Interparliamentary Conferences held at Cairo, Egypt, in 1947 and at Rome, Italy, in 1948. He also served as president of the group for two 4-year terms.

It was my privilege to serve in the House with Harold D. Cooley for some 14 years. I came to know him well both as a colleague and as a friend. I shared the respect with which he was universally regarded, and my respect was deepened by personal ties. I knew of his loyalty to principle, to his country and to his God, as well as his love for the South and its rich heritage.

May I note here that his home county—Nash—which was formerly in the Fourth District, represented so ably for so long by Congressman Cooley, is now a part of the Second Congressional District of North Carolina, which I have the honor to represent.

The close association which all members of the North Carolina delegation maintained with him over the years undoubtedly strengthened the quality of representation which the people of North Carolina have received. His dedication to right and to progress was a constant example to all of us.

Harold Dunbar Cooley was born in 1897 in Nashville, N.C., where he is today remembered with great affection and deep pride. He attended the public schools there and was graduated from the University of North Carolina at Chapel Hill. His law degree was earned at the Yale Law School. He was admitted to the bar of the State of North Carolina in 1918 and immediately established his law practice in Nashville, his hometown.

He responded to the call of his country during the first World War and was a member of the Naval Aviation Flying Corps, returning to his law practice after the war. He turned to public life in 1932 as a Presidential elector on the Franklin D. Roosevelt-John Garner ticket. Two years later, he first won election to the Congress of the United States, filling a vacancy caused by the death of Edward W. Pou.

These are troubled days for America, but in recalling the life and character of Harold D. Cooley, we can find inspiration in the example he set of steadfast dedication to public service and to the best interests of his district, his State, and his Nation.

He had unfailing loyalty to the lofty principles which guided his public judgments, and that unswerving loyalty gave him an assurance which was reflected in an inner confidence that never wavered.

Unquestionably, the passing of Harold D. Cooley marks the end of an era, both in North Carolina and in our Nation.

Tributes to him have emphasized—and rightly so—his concern for the welfare of his State. The master of the North Carolina Grange has spoken of him as "a real champion for the cause of agriculture for many years." "He was sensitive," declared Mrs. Harry B. Caldwell of Greensboro, "to the needs of farmers, understood them and worked for them during his years of service." The Honorable James Hunt, Lieutenant Governor of the State of North Carolina has observed:

> For years he (Cooley) was the protector and defender of our tobacco farmers.

Harold D. Cooley came into national office during the early days of the New Deal, while the impact of the Depression was still very real. He knew at first hand the problems and the needs of our farmers and he perceived, as I have already observed, that a strong, healthy rural economy is essential to the life and liberty of the Nation. Truly, in the words of the Honorable James Graham, North Carolina Commissioner of Agriculture, his death represents "a great loss to the industry of agriculture and to all of North Carolina."

An ancient Latin saying has it that "hope sustains the farmer." Harold D. Cooley sought to give sure foundations to that hope, mindful of Thomas Jefferson's counsel:

> Those who labor in the earth are the chosen people of God, if He ever had a chosen people, whose breasts He has made His peculiar deposit and for substantial and genuine virtue.

Harold D. Cooley believed in the value and the virtue of farming, and he further believed that in farming as in all of life "the laborer is worthy of his hire."

I know that many Members of this House will join with me in extending sincere condolences to Harold D. Cooley's dear wife, Madeline, to his son, Roger, his daughter, Harriet, and to all who hold his memory in great respect.

I know those dearest to him will find consolation and strength in the recollection of his life of great accomplishment and the many evidences of his outstanding record of public service.

In this House and in North Carolina his name will always be honored and his achievements esteemed. Of his devotion to the people he so ably represented for so many years, we may say with scripture:

> Well done, thou good and faithful servant. Enter thou into the joy of thy Lord.

Mr. Speaker, at this point I would like to read the text of a newspaper article published the day of Harold Cooley's funeral by his hometown newspaper, the Nashville Graphic, and two editorials written in commemoration of this champion of agriculture.

First, the article published by the Nashville Graphic on January 17, 1974:

### Cooley Funeral Set Here Today

Funeral services will be held at the Nashville United Methodist Church this afternoon at 3 o'clock for Harold Dunbar Cooley, 73, veteran lawmaker who died Tuesday in his sleep at Wilson Memorial Hospital after a year of declining health.

Rev. Sam Habel of Huntington, West Va., a former pastor of the Nashville Baptist Church, of which Cooley was a member, will conduct the services. He will be assisted by Rev. Don Phillips, pastor of the Nashville United Methodist Church, and Rev. Joe Lister, pastor of the Nashville Baptist Church.

Rev. Habel, now a professor at Marshall University in Huntington, is a cousin of Cooley.

Burial will be in Forest Hill Cemetery.

Cooley served in Congress from 1934 to 1966, representing the old Fourth Congressional District, and was chairman of the House Agriculture Commitee from 1949 to 1966.

During his political career he travelled to many states of America and to many countries of the world, but he often told friends that Nashville, the town in which he was born on July 26, 1897, was the dearest place on earth to him.

He was the son of the late Roger Atkinson Pryor Cooley and Hattie Davis Cooley. His father practiced law in Nashville.

Cooley followed in his father's footsteps and studied law at the University of North Carolina and at Yale University. He passed the bar examination at the age of 20 and had to wait until his 21st birthday to receive his license to practice law.

### MILITARY SERVICE

While waiting for his license to be issued, Cooley volunteered for service in the U.S. Navy Flying Corps and was assigned to Aviation Ground School at the Massachusetts Institute of Technology. When the Armistice was signed in November 1918, Cooley was placed on inactive duty but remained in Naval reserve for four years.

He returned to Nashville and opened a law office, later forming the law firm of Cooley and Bone with Walter J. Bone of Nashville, now a retired superior court judge. He was later associated with the late Hubert E. May in the practice of law.

In 1934, Cooley ran successfully for Congress, filling a vacancy created by the death of the late Edwin W. Pou of Smithfield. He was re-elected to each succeeding session until he was defeated in 1966 by Jim Gardner of Rocky Mount.

Following World War II, Cooley served as a member of the Herter Committee which was authorized to study the problems of war-torn areas of Europe. The report of the committee was the basis for the Marshall Plan which provided massive U.S. aid to countries devastated by the war.

Cooley was a leading architect of the nation's present farm program. He played a key role in the development of today's Farmers Home Administration and participated in the preparation and passage of soil conservation legislation, the rural electrification program, the Federal Crop Insurance Program and many other farm bills.

He was the author of the Food For Freedom Act of 1966.

### MAN OF THE YEAR

Cooley was named Man of the Year by the North Carolina Farm Bureau, the North Carolina State Grange and the Progressive Farmer.

He held decorations from the governments of Italy, Korea, France and Japan.

He was a member of the American Legion for more than 50 years, a past president of the Rocky Mountain-Nash County Bar Association and a member of the Elks Lodge.

Cooley was married to Madeline Strickland of Nashville on June 30, 1923, who survives. Also surviving are a son, Roger A. P. Cooley of Alexandria, Va.; a daughter, Harriett Davis Cooley Lawrence of Nashville; two sisters, Mrs. Mabel Downey of Nashville and Mrs. Mildred Sanders of Raleigh; and four grandchildren.

Now, I would like to direct the attention of my colleagues to an editorial from the Nashville Graphic of January 17, 1974:

### Harold Dunbar Cooley: Champion of Agriculture

Someone has said that every man should have an epitaph. If that is true, the inscription that marks the final resting place of Harold Dunbar Cooley should read: "He championed the cause of agriculture."

During 32 years of service in the Congress of the United States, including 17 years as chairman of the House Agriculture Committee, Harold Cooley waged unending battle for the farmer. Sometimes he lost, and almost always he fought against odds, because the nation's farm population was declining and farm representation in the halls of Congress, consequently, diminished too.

But sometimes he won. And the victories, in the form of legislation to benefit agriculture, carried him to national prominence as a friend of the farmer.

His argument was not only that farmers are entitled to a fair share of the nation's prosperity, but that other segments of the economy cannot prosper when agriculture is depressed.

Again and again, as often as anyone would listen, he recalled that agriculture went into a devastating decline in the late 1920s, while other segments of the economy were soaring. Then the ruin of agriculture ran its inevitable course, and the nation's economy plunged into the Great Depression.

More clearly than most, Harold Cooley understood that the business of agriculture and the business of industry are inseparably linked. He once called agriculture and industry "The Unbeatable American Team." It is a team, he said, that made America the envy of every other country on the face of the earth.

Many years ago, when there was an overabundant supply of almost everything, Harold Cooley was defending the nation's surpluses of farm products as a "safety margin against crop failures or other national or international emergencies." That position is now being vindicated almost daily as more and more commodities, including food, are marked up on the nation's growing list of shortages.

America's champion of agriculture died Tuesday at the age of 76. He counted among his friends the great and the near-great, including five Presidents of the United States. But he liked to think of himself as a "dirt farmer," and he never tired of talking with his farm friends about their problems, their hopes, their dreams.

Over the years, Harold Cooley was accorded many high honors. He was named "Man of the Year" by the North Carolina Farm Bureau, by the North Carolina State Grange, and by the Progressive Farmer. Among his proudest possessions were citations for his service to agriculture from the governments of four foreign nations—France, Italy, Japan and Korea.

But he held an unwavering affection for his home town of Nashville, the place of his birth, until the day he died. He once said, and if there is room enough on the epitaph, it would be fitting and proper to include this tribute that came from his heart: "I have sailed the seven seas, and I have travelled to the far corners of the earth, but the dearest place in all the world to me is my home town."

And, finally, Mr. Speaker, I would like to take note of an editorial, which appeared in the Henderson Daily Dispatch on January 15, 1974:

### GIANT IN HIS DAY

Former Congressman Harold D. Cooley was a giant in the House of Representatives in his day, where he served for 32 years prior to his loss some years ago to Jim Gardner, Republican. For a long time he was chairman of the House Agriculture Committee, and in that capacity was a leader in enactment of the flue-cured tobacco program, as well as other legislation affecting the farmer.

Mr. Cooley, who died in sleep in Wilson early Tuesday at the age of 76, had spent much of his time in Washington in recent years. He was a liaison spokesman for interests with which he was aligned. He always knew his way around in legislative circles and in the bureaucratic labyrinth of Federal departments. In his day, he had access to the White House during Democratic administrations, and was well known to those whose acquaintance was helpful in legislative affairs.

The former representative retired to law practice with an office in his home town. His interests claimed his attention to the extent that he was not often seen in his former official haunts. His name once was a household word in agricultural circles, and his familiarity with those in authority served to good advantage for farmers, and especially in the tobacco country, a large part of which was in his fourth district.

Mr. Cooley's death was a surprise to those who knew him. There had been no previous public intimation as to his health. Assumption was that he was active in his law practice and contacts on Capitol Hill in Washington.

He served actively his day and generation, and those who knew of his service to tobacco growers and farmers generally were grateful for the part he played in this vital segment of rural life in North Carolina and elsewhere in the country.

## GENERAL LEAVE

Mr. CRANE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

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## THE EMERGENCY ENERGY BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CRANE) is recognized for 60 minutes.

Mr. CRANE. Mr. Speaker, we will soon be asked to consider, for a third time, legislation which would accomplish the greatest peacetime transfer of power to the President in the history of the United States. The previous debates on the energy emergency bill have taken place in an atmosphere of crisis and pressure so great that few Members of this body even knew the content of the bills on which they were asked to vote. The proponents of this domestic Gulf of Tonkin bill forced it upon the Congress with no time for sober reflection on its grave implications for the rights of American citizens nor for the long-range effects which it is likely to have on the domestic economy.

Those same harbingers of doom have again set up a raucous chorus to try to reconstruct that hectic atmosphere of crisis in which we nearly gave away our birthrights without even the promise of a mess of pottage in exchange. But strangely enough, the Nation has survived for another month without that legislation which we were told was absolutely essential before Christmas. The oil supply shortage which spawned the hodgepodge of wrong answers which is supposed to pass for responsible legislation has not turned out to be as drastic as the pessimistic predictions of the Federal Energy Office had led us to believe it might be. We should take the time now to carefully examine the measures we are asked to adopt, to uncover their implications and to inquire whether they are even capable of solving the problem they are supposed to address.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. CRANE. Mr. Speaker, I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Speaker, the gentleman from Illinois should be complimented because his is truly the first profound statement I have heard on the floor since the Congress has returned on Monday.

At this time I would like to reemphasize my view that wage and price controls in peacetime are undesirable. I intend to vote against extending the Economic Control Act.

I also believe that the President should terminate the operations of the Cost of Living Council as soon as possible and permit the economy to adjust in natural fashion.

As a matter of principle, I am opposed to controls on the economy in peacetime. Therefore, I opposed the bill the Democrats rammed through Congress which, in turn, the President used to impose economic controls. I am convinced that after a normal readjustment period the economy would progress far better without Government manipulation. Congress could contribute in a positive fashion by producing a balanced budget rather than a huge deficit which automatically feeds the fires of inflation.

Mr. CRANE. Mr. Speaker, I thank the gentleman for that most gracious statement.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. CRANE. Yes, I will be happy to yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I would like to say that my good friend, the gentleman from Illinois (Mr. DERWINSKI) was one of those Members, along with me who wanted to see the House take an adjournment over Christmas, and I think that the fact that the Members have been home for the last month or so and visited with their constituents was reflected in the last vote that was taken on the question of back door foreign aid, in that it was voted down by a 2-to-1 vote.

So I applaud the gentleman from Illinois for his commentaries to the House right before Christmas when he said in effect, "Let us get out of here and get our thinking straightened out."

Mr. CRANE. Mr. Speaker, I would like to take a few minutes to explore this last point. I do not propose to trace the dismal history of Government control of economic activity from the time of Hammurabi. It will be equally instructive, and more germane, to look at some of the Government activities which have led us into the trap from which we are now struggling to escape.

It has been a long standing policy of the U.S. Government to encourage investment by American companies in foreign countries. Since the Revenue Act of 1918, for instance, taxes paid to foreign governments have been deductible, dollar for dollar, from taxes owed to the U.S. Government. A ruling of the Internal Revenue Service some 20 years ago had the effect of allowing the same treatment for royalty payments to Arab rulers. Other provisions of our tax laws certainly have not been designed to discourage development of foreign oil reserves. Drilling expenses abroad can be charged off against current income, and the same depletion allowance is applicable to production from foreign and domestic reserves.

Having set the sorcerer's apprentice in motion, our Government began to realize that the results were not all beneficial. The cost of getting the oil out of the ground in Arab fields was very low, and the tax provisions meant that our Government was paying the cost of getting it out of the Arab countries. The natural and predictable result was that large quantities of Arab oil became available in U.S. markets at prices below those at which it could be produced here. The response of our Government was equally predictable, if not as natural: it imposed oil import quotas, in the name of national security. Having encouraged development of foreign sources of oil, in part to slow the depletion of our own reserves, the Government then prohibited the use of that foreign oil in order to protect our domestic industry from its own success abroad.

Under this security blanket, American oil producers built the refineries and produced the oil needed to meet domestic demand during the last decade. But there was little incentive for them to search out new domestic sources of oil. In fact, there were real disincentives, including another government policy which some in this body consider to be nongermane to the energy emergency. Since oil and natural gas frequently occur together, the strict regulation of the price of natural gas has not only inhibited the supply of that commodity, but has had a parallel effect on oil supplies.

The net effect of government policies with respect to the oil and gas industries has been that new domestic discoveries peaked in 1956 and have been on a steep downcurve ever since.

The next piece in this tragic picture was provided by the Congress, almost as an afterthought. To a bill to extend the Defense Production Act of 1950 it added a new title giving the President authority "to stabilize prices, rents, wages and salaries." Although he neither requested nor wanted that authority, he used it within a year. It is no coincidence that our dependence on imported oil has skyrocketed since prices for oil products were fixed. The Federal Trade Commission recognized the basic economics of this situation in the report which provided the basis for their recent complaint against the major oil companies for anticompetitive practices. Although it was intended to make a different point, that report lists as one of the causes of the present shortage—

> The fact that major station gasoline prices have not been allowed to reach their natural level during the period of shortage in certain areas of the country. Incidentally, other causes which they also cite include the Oil Import Control program and Government induced barriers to entry which have inhibited nonintegrated firms from entering into refining.

I do not intend to discuss in detail the miserable results of the cost of living stabilization program. Not only has it failed to stabilize the cost of living, but it has created shortages which would never have occurred without it. One particularly germane example is in the petrochemical industry, where artificially low domestic prices have made it impossible for manufacturers to obtain the feedstocks for our plastics industry. The shortage of necessary materials has had a devastating effect on an industry made up largely of small businesses.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate very much the gentleman yielding. I wish to associate myself with my colleague, the gentleman from Illinois (Mr. CRANE) in his effort to try to encourage some kind of a rational discussion concerning the entire issue of the so-called energy crisis. It is my opinion that it really should be labeled the "energy challenge."

Mr. Speaker, I have contended since the beginning of this so-called "energy crisis" that the nature of the situation has been overplayed. What we are now facing is actually a regulation crisis. The actions taken by the Federal Government in the past have created this problem, and the recent Government mandates have tended to complicate rather than to alleviate the situation. I firmly believe that if the free market were permitted to operate, our country would be able to develop new sources of energy more efficiently than can be done through a Federally managed "crash" program; and, this would be without the oppressive interference with our personal liberty which the current program entails.

A recent article from the London Economist, reprinted in the Los Angeles Times of January 13, 1974, indicates that a "crash" Government program may result in an energy "glut" by the end of the decade. The article emphasizes that neither computers nor hundreds of Government economists can deal with the intricacies of energy planning and action as efficiently as the automatic mechanism of the free market. This same point was made in a recent Wall Street Journal editorial, January 11, 1974, which observed that while Federal energy czar William Simon is "probably the best man for the job," he still cannot "outperform the marketplace."

The price controls in all four phases have resulted in our scarce energy supplies being provided at artificially low prices. The low prices have only helped increase demand without providing the necessary capital to increase the supply. Only through the pressures of foreign supplies has the Government begun to recognize their mistake—the Government has not yet found a way to enforce price controls in the Mideast. In an ill-fated attempt to deal with a market they cannot control, the Government has lifted the price restrictions on new oil in the phase IV economic plans.

The decision by the administration to adopt the two-tiered price system for crude oil was made in spite of the fact that it has been tried and failed in the past. It was this very system that has been used as the method of pricing the sale of natural gas. Even the administration has recognized the failure of this method to provide sufficient gas energy. The Federal Government should immediately abandon the two-tiered system of crude oil pricing by removing all price controls from petroleum and petroleum products. The use of price controls on any item in short supply can only add to the problem, not solve it. As a matter of fact, price controls have actually been responsible for creating shortages where none existed before the controls were imposed.

If the supply of energy is to be increased, the price must be allowed to rise to levels which would attract the necessary capital to make possible the development of additional sources of energy. As Dr. Milton Friedman, professor of economics at the University of Chicago, observed in a column which appeared in Newsweek, November 19, 1973:

> The most effective way to cut consumption and encourage production is simply to let the prices of oil products rise to whatever level it takes to clear the market. The higher prices would give each of the 210 million residents of the U.S. a direct incentive to economize on oil, to find substitutes for oil, to increase the supply of oil.

Many of our problems with energy supplies have developed as a direct result of environmental pressure in the name of consumer protection. A large portion of our supply shortage is due to self-inflicted wounds, such as delays in the construction of the trans-Alaska pipeline which has added years to its completion date. There is no reason why the United States cannot add new domestic supplies without causing any great harm to our environment.

It is time that we take a reasonable position on the question of air quality. The administration of the provisions in the Clean Air Act of 1970 should be modified to some extent, especially in relatively unpopulated areas, to permit the burning of coal for a few years until the shortage abates.

Another constructive step would be to deregulate the price of natural gas at the wellhead in order to encourage the discovery of new sources of this low-sulfur fuel. According to information obtained by the American Enterprise Institute from the American Association of Petroleum Geologists, the number of productive wells drilled in 1972 was 1,285 which is less than 50 percent of the number of productive wells drilled in 1956. A similar decline has also taken place in the drilling of dry holes.

I am firmly convinced that one of the most detrimental actions the Federal Government could take would be to institute gas rationing. It should be self-evident that rationing cannot itself produce more gas. In fact, even the most ardent advocates of rationing admit that rationing is only an alternative to the price system as a means of allocating the supply.

In conclusion, if the Federal Government really wants to do something constructive about the "energy crisis," it should remove the impediments that it has placed in the way of the free market.

Mr. CRANE. Mr. Speaker, one particularly germane example of the negative impact of the cost of living stabilization program is in the petrochemical industry where artificially low domestic prices have made it impossible for many manufacturers to obtain the feedstocks for their plastic industries, and this shortage of such existing material has had a devastating effect on an industry made up largely of small businessmen.

Mr. SARASIN. Mr. Speaker, will the gentleman yield?

Mr. CRANE. I am happy to yield to the gentleman from Connecticut.

Mr. SARASIN. Mr. Speaker, I thank the gentleman from Illinois for yielding to me, and I would like to congratulate the gentleman on the attention the gentleman is bringing to the shortages as they exist in the petrochemical industry.

I would like to point out for the Members of the House, and for the purpose of the record, that the most efficient use of a barrel of oil is in the petrochemical industry, where the requirements of that industry are only 2.9 percent of that barrel, and yet this industry provides some $60 billion toward our gross national product. Also that a situation where a mere 15 percent reduction in the petrochemical plastic production would result in the loss of 1.6 to 1.8 million jobs in this country. I think that where so much of what we do here in the House of Representatives is directed toward the retention of jobs and for the creation of new jobs, that to see a situation develop, such as that which is now existing in the petrochemical industry, is indeed bad.

It would seem that sometimes allowing controls is a solution, but then they turn out to be long-range disasters because the price controls, as they have been applied to the plastic industries, have shown that they would have been better off with no controls whatsoever because the major producers—and there are only 18 of them in this country—are now exporting their products oversea because the market is more profitable for them there.

Thus the controls prevent these products from being available to the domestic processors, where the allocations that are made are not made at the processors' level, so that the processors, the users of the plastic materials, are not being fed allocations sufficient to keep them in business. And as long as we continue to allow price controls to exist we will see that happen. Because of that we have seen black markets develop and, while they may not be strictly illegal, they are certainly illegal and immoral insofar as motivating the producers to ship their materials, say, from where it leaves a gulf port, and then comes around the coast to New Jersey, where it is unloaded at a domestic port as an import, so that it can be sold at higher prices.

We have seen manufacturers moving out of the basic plastics industry, stop making whatever gadgets they might make, turn their inventory around and sell it to another company so that they can make a greater profit.

It does not take much of an imagination to see what effect the petrochemical industry has over our life style; all it takes is to merely look around and see all of the artificial products made from plastics—film, aspirin, just about everything you can think of—comes out of that barrel of oil.

So, Mr. Speaker, again I congratulate the gentleman from Illinois for bringing this to the attention of the Members of the House of Representatives.

At this time, Mr. Speaker, I would ask unanimous consent that I may insert the comments of the Organization of Plastics Processors in the Record at this point.

**The SPEAKER** pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

## Proposed Mandatory Fuel Allocation Regulations

### COMMENTS OF THE ORGANIZATION OF PLASTICS PROCESSORS

Pursuant to the notice of opportunity to comment on the Proposed Mandatory Fuel Allocation Regulations of the Federal Energy Office by filing said comments with said Office, The Organization of Plastics Processors (TOPP) files the following comments and proposed revisions of the regulations.

### I

The member companies of The Organization of Plastics Processors (TOPP) and primarily small independent companies (hereinafter, Independents)[1] that upgrade plastic feedstock[2] into innumerable and essential products.[3] The Independents cannot operate without plastic feedstock (there are no alternatives at any price) and are completely dependent upon a few major petro-chemical and petroleum corporations (hereinafter, Majors) which manufacture this feedstock from petroleum and natural gas hydrocarbons under the direct control of the Mandatory Fuel Allocation Program (MFPA).[4] However, the Majors are engaged in downstream plastics processing through their "captive" processors which directly compete for supplies and customers with the Independents.[5] This results in the Independent being in the position of competing with their suppliers for customers, as well as supplies.[6] It follows, that in a contest for supplies, the Independents will always lose to the Majors, unless fairness is imposed via mandatory allocation.

In fact, during the last four months, the Independents have experienced severe cut-offs of the plastic feedstocks necessary for their operation with several already going out of business.

The evidence points to accelerating cut-offs and business failures, i.e. a number of Independents have already been notified that, effective December 31, 1973, they will be cut off *entirely*. These cut-offs have been out of all proportion to the general shortage of petrochemical feedstocks and the level of plastic feedstock production.[7]

The following is advanced to shed light on the causes of these disproportionate cut-offs and the urgent need for plastic feedstocks to be included in the Mandatory Fuel Allocation Program:

1. Exports of plastic feedstocks are not only continuing at record levels, but are increasing. In fact, the October 1973 exports of plastic feedstock increased substantially over the corresponding levels for October 1972.[8]

2. Some cut-off Independents are being approached to sell-out to the Majors.[9]

3. Large numbers of the "captive" processors are operating at full capacity and accepting new customers.

4. When a cut-off Independent is unable to supply a large powerful customer, the customer is able to obtain the needed feedstocks. He then supplies these to the independent under the condition that they be used only for his account.[10]

5. A substantial black market for these feedstocks already exists and is growing.[11]

It is our hope that the demise of the Independent sector of the plastics processing industry, and all of those that depend upon it, is not the desire of the Federal Energy Office and Mandatory Fuel Allocation Regulations. It is certainly contra to the expressed intentions of *The Emergency Petroleum Allocation Act of 1973*. (Pub. L. 93–159), *The Preamble, The Proposed Mandatory Fuel Allocation Regulations,* and to published statements of officials at all levels of government.

The Independents are not asking for special treatment but, on the contrary, for equal treatment. They are asking that the shortages be fairly distributed and not used to dislocate markets, to force independent businesses to ruin and to lessen competition. They are asking that the Federal Energy Office use its authority to fulfill the goals set for it by the legislative and executive branches of the federal government.

Therefore, we urge and implore the Federal Energy Office to amend the Proposed Mandatory Fuel Allocation Regulations as outlined in our comments so that the high priorities for petrochemical feedstocks given to the Majors will be used equitably and fairly, rather than to the detriment of the Independents and the nation as a whole.

### II

TOPP proposes the following amendments to the proposed "Mandatory Fuel Allocation Regulations":

#### AMENDMENT NO. 1

Section 200.63 (C): Scope of Coverage amended to be read as follows:

For petrochemical feedstocks used in petrochemical processing facilities, such a wide variety of subsequent products result that it is felt that *equitable* supply patterns must be followed.

However, if industry supply patterns result in inequitable distribution of shortages, the Federal Energy Office *will* institute controls to balance those shortages of these products. *Therefore, plastic feedstocks used by the plastic processing industry and produced from petrochemical feedstocks are to be covered by this subpart.* [Italicized portions denote change].

#### AMENDMENT NO. 2

Section 200.64 (B), definitions amended to be read as follows:

"Petrochemical Feedstocks"—Petrochemical feedstocks include all refinery streams which can be sold or directed to operations for chemical conversion for petrochemicals or their precursors, *and all petrochemicals which have traditionally been sold or directed to plastic processing operations.* This definition includes, but is not limited to, Naptha, Benzene, Toluene, Butylene, Butadiene, Napthalene, Propylene, Xylene, *low density, Polyethylene, Polystyrene, high density Polyethylene, Polyvinly chloride (PVC), and Polypropylene.* This definition excludes Butane, Propane and Butane-Propane mixes as defined and regulated under subpart 'D' of this part, or excluded under subpart 'A' of this part. [Italicized portions denote change].

### III

TOPP also respectfully submits the following general comments:

Comment Number 1: Restrictions on the exports of all petrochemicals in which domestic shortages exist should be immediately enacted.

Comment Number 2: Price controls on petrochemicals should immediately be lifted or adjusted to allow suppliers to effectively compete for supplies with the export and black markets.

Comment Number 3: The Federal Energy Office should assume control over the price and export of petrochemicals since they are so intertwined with energy and the current shortages.

#### FOOTNOTES

[1] There are approximately five thousand independent plastic processors with annual sales ranging from approximately one hundred thousand dollars up to approximately fifteen million dollars and with each having from two to three hundred employees. (Over five hundred thousand people are employed in this industry).

[2] The term "plastic feedstock", as used herein, embraces petrochemicals and petrochemical derivatives used by plastic processors as raw material for their operations and

include, but are not limited to, polyethylene, polystyrene, and polyvinyl chloride.

[3] See Attachment A, *Basic Uses of Products of the Plastic Processing Industry.*

[4] See Attachment B, *Plastic Processing Industry Flow Chart;* Attachment C, *Typical Petrochemical Plant Flow Chart;* Attachment D, *General Description of Plastic Processors.*

[5] The Petrochemical Energy Group (PEG) in its comments on the Mandatory Fuel Allocation Program made the following observations and recommendations as to the competitive market structure existing between the Independent and "captive" segments of the petrochemical industry that are equally relevant to the plastics processing industry:

In any event, "competitive equity" should be one of the goals of any mandatory allocation program; and in order to ensure an equitable distribution of short supply products used for feedstocks, it may be necessary to place "captive" users on an equal allocation basis with independent users of the same product. (Comments of the Petrochemical Energy Group on the Mandatory Fuel Allocation Program; p. 16, Sept. 10. 1973.)

[6] Entry into the production of plastic feedstock is closed to the Independents due to the large capital and organizational requirements necessary for this production.

[7] Examples of these can be furnished if necessary with the condition that they be kept confidential.

[8] Attachment E, *Exports of Plastic Feedstock.*

[9] Examples of these can be furnished if necessary with the condition that they be kept confidential.

[10] Examples of these can be furnished if necessary with condition that they be kept confidential.

[11] Sworn affidavits based on personal knowledge can be furnished if necessary with the condition they be kept confidential.

### ATTACHMENT A

### BASIC USES OF PRODUCTS OF THE PLASTIC PROCESSING INDUSTRY

| | Plastics, 1972 | |
|---|---|---|
| | Billions of pounds | Percent |
| Packaging | 5.2 | 1 |
| Building and construction | 5.4 | 29 |
| Electrical | 1.4 | 16 |
| Transportation equipment | 1.3 | 5 |
| Housewares | 1.2 | 5 |
| Furniture | 1.0 | 4 |
| Appliances | .7 | 3 |
| Toys | .7 | 3 |
| Other uses [1] | 6.6 | 27 |
| Exports | 1.7 | 7 |
| Total | 24.3 | 100 |

[1] Includes marine, sportswear, medical, agriculture, signs luggage, textile, and disposable products.

Sources: Modern Plastics Magazine, January 1973.

### ATTACHMENT B

### PLASTIC PROCESSING INDUSTRY FLOW SHEET

| Petrochemical manufacture | Plastic feedstocks | Plastics processor | End product |
|---|---|---|---|
| Petrochemical feedstocks | Plastics—Polyethylene, polystyrene, and PVC | Packaging | Bottles, bags, tubes. |
| | | Building and construction | Pipe, siding. |
| | | Transportation | Seat cushions, upholstery. |
| | | Electrical | Wire coatings. |
| | | Housewares | Baskets, containers. |
| | | Coatings | Paints. |

### TABLE III.—MAJOR PLASTIC MATERIALS TRENDS IN PRODUCTION AND EXPORTS

[Quantities—Million pounds]

| Plastic material | Production (January–September) | | | Exports (January–September) | | | |
|---|---|---|---|---|---|---|---|
| | | | | 1972 | | 1973 | |
| | 1972, quantity | 1973, quantity | Change (percent), 1973 versus 1972 | Quantity | Percent of product | Quantity | Percent of product |
| Polyvinyl chloride (PVC) | 3,071.8 | 3,345.9 | +8.9 | 121.6 | 4.0 | 113.9 | 3.4 |
| Polystyrene (PS) | 2,742.4 | 3,050.5 | +11.2 | 103.4 | 3.8 | 134.8 | 4.4 |
| Low-density polyethylene (LDPE) | 3,863.8 | 4,280.5 | +10.8 | 289.7 | 7.5 | 361.8 | 8.5 |
| High-density polyethylene (HDPE) | 1,697.5 | 1,956.0 | +15.2 | 204.6 | 12.1 | 213.2 | 10.9 |
| Polypropylene (PP) | 1,246.9 | 1,584.5 | +27.1 | 115.2 | 9.2 | 224.7 | 14.2 |
| Phenolic | 1,092.2 | 1,445.2 | +32.3 | 16.0 | 1.5 | 21.0 | 1.5 |
| Total | 13,714.6 | 15,662.6 | +14.2 | 850.5 | | 1,069.4 | |

### ATTACHMENT D

### GENERAL DESCRIPTION OF PLASTIC PROCESSORS

Plastic Processors divide into several different classifications:

*Injection molders*

Produce products by forming the heated thermoplastics in a mold of desired shape.

*Extruders*

They produce sheets, film, sheeting, rods, tubing, special shapes, pipe and wire covering by forcing heated thermoplastics through a die in a continuous process.

*Blow molders*

They produce bottles, toys, tanks, drums, etc. by extruding a tube of thermoplastics into a mold and forcing the tube to take the form of the mold with air pressure from the inside.

*Vacuum formers*

They produce a variety of parts from thermoplastic sheets which they often extrude themselves by heating the sheet and drawing it into a mold of the desired shape with a vacuum.

*Thermosetting processing*

They produce products such as counter tops, electrical insulators, iron handles, dinnerware, etc., from thermoset plastics by compression molding and high-pressure laminating.

The above processors purchase their basic plastics materials in the form of granules, powder, pellets and flakes from materials companies who formulate the plastics from basic petrochemicals.

In addition to the above processors, there is a large plastics finishing industry that takes the products of the above processors and finishes them by painting, hot stamping, plating, vacuum metalizing, simulated wood finish, assembling, etc.

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### ATTACHMENT E

### FIGURES EXTRAPOLATED FROM DEPARTMENT OF COMMERCE REPORTS

[In millions of pounds]

| Material | October | | 1973 change | Percent changed |
|---|---|---|---|---|
| | 1972 | 1973 | | |
| Major plastic materials changes in export amounts: | | | | |
| P.V.C | 14.1 | 15.6 | +1.5 | +10.6 |
| Polystyrene | 9.6 | 29.2 | +19.6 | +204.0 |
| Low-density polyethylene | 40.6 | 50.1 | +9.5 | +23.4 |
| High-density polyethylene | 28.4 | 24.2 | −4.2 | −14.8 |
| Polypropylene | 18.6 | 37.4 | +18.8 | +101.0 |

| | Monthly production | Percent exported January to September 1973 | Percent exported October 1973 |
|---|---|---|---|
| Export trends (percentages of production): | | | |
| P.V.C | 37.18 | 3.4 | 4.2 |
| Polystyrene | 338.9 | 4.4 | 8.6 |
| Low density polyethylene | 475.6 | 8.5 | 10.5 |
| High density polyethylene | 217.3 | 10.9 | 11.1 |
| Polypropylene | 176.1 | 14.2 | 21.2 |

Note: The figures in "Attachment E" were extrapolated from the attached tables III and IV, supplied by the Department of Commerce by taking the 1972 January to September export figures of table III and subtracting them from the identical 1972 January to October figures of table IV, thus isolating the month of October. We anticipate receiving the relevant November export figures and believe those figures will show an even greater export trend. For purposes of clarification, the entire exercise is here charted using the Department of Commerce figures for polyvinyl chloride (PVC).

### TABLE IV.—MAJOR PLASTIC MATERIALS CHANGES IN EXPORT SHIPMENTS JANUARY TO OCTOBER: 1973 VERSUS 1972

| Plastic material | Exports (million pounds) | | |
|---|---|---|---|
| | 1972, January to October | 1973, January to October | Change: percent 1973 versus 1972 |
| Polyvinyl chloride (PVC) | 135.7 | 129.5 | −4.6 |
| Polystyrene (PS) | 113.0 | 164.0 | +45.1 |
| Low density polyethylene (LDPE) | 330.3 | 411.9 | 124.7 |
| High density polyethylene (HDPE) | 233.0 | 237.4 | +1.9 |
| Polypropylene (PP) | 133.8 | 262.1 | +95.9 |
| Phenolic | 18.4 | 23.1 | +25.5 |
| Total | 964.2 | 1,128.0 | +27.4 |

### POLYVINYL CHLORIDE

| | |
|---|---|
| 1972 January to October (table IV) | 135.7 |
| 1972 January to September (table III) | 121.6 |
| 1972 month of October | 14.1 |
| 1973 January to October (table IV) | 129.5 |
| 1973 January to September (table III) | 113.9 |
| 1973 month of October | 15.6 |
| October 1973 | 15.6 |
| October 1972 | 14.1 |
| Increase October 1973 versus October 1972 | 1.5 |
| Percent increase 1973 (1.5/14.1) | 10.6 |

Mr. CRANE. Mr. Speaker, I would like to take this opportunity to thank the distinguished gentleman from Connecticut (Mr. SARASIN) for his remarks, and to also congratulate the gentleman for directing the attention of the Members to an area in the Emergency Energy Act legislation that was so sorely neglected when we had that legislation before us; namely, the petrochemical industry.

I think that this stemmed from a lack of understanding on the part of Americans at large, as well as many of the Members here in the Congress, as to just exactly what the impact of that industry is on our economy.

I think with respect to the discussion on the imposition of controls, particularly export controls on the feed stocks for the petrochemical industry which are going out to find free market prices, that these controls in the long run are a very negative way to deal with this problem. And I think that one way, which I believe is favored by most of the industry, is simply the elimination of controls which have caused these vital feed stocks to find better markets abroad rather than staying here at home to provide the materials for this essential industry that maintains so many jobs in our country, as the gentleman from Connecticut (Mr. SARASIN) has so ably pointed out.

Of course, we have been able to solve some of the problems created by injecting the Government into the business of running the economy. The meat shortage was abated by the only means which would have prevented its occurence in the first place: allowing the price to rise so that suppliers and consumers adjusted their priorities. When they did, the shortage just disappeared. I wonder how many of the people who are now fervently begging for gasoline rationing were advocates of meat rationing last summer?

The Congress added its own phase II last November when it not only authorized but ordered the President to allocate oil supplies. That program is working about as well as could be expected. News reports this morning said that stations of one of the major oil companies in the Washington area are out of gasoline as a result of the new allocation system. And how did the Federal Energy Office persuade the oil companies to increase their production of fuel oil in relation to gasoline? They had the Cost of Living Council raise the ceiling price for fuel oil by 2 cents per gallon and reduce the price of gasoline by 1 cent. I hardly need to point out that this ingenious solution is one which would have occurred naturally in a free market if the demand justified it. We can get a clue as to the prospects for future success of the oil allocation program from the briefing given to representatives of the oil industry when the controls took effect. There, some eager young bureaucrats admitted they knew very little about the oil industry, told the representatives what they were going to have to do, and then tried to cajole them into helping to work it out together. What was their inducement to cooperate? They made it very clear that the oil industry would take the rap if the allocation system did not work.

And now, to these wonderful people who gave us phase I, II, III, and IV, we are being asked to give the authority to ration all petroleum products, to force individuals and businesses to conserve energy their way, to require production from oil wells at rates which will jeopardize ultimate recovery of the maximum oil in them, and to decide whether the oil companies are making windfall profits as a result of prices and allocations over which they have no control.

I do not intend to disparage the hard working bureaucrats who have been struggling to administer the programs which this Congress has already forced upon them. But the fact is that they have already proven, time and again, that the job cannot be done by ordinary mortals. You may poll the whole Federal bureaucracy, and the real King Solomon will not stand up.

In principle, the intent of gasoline rationing is to achieve an equitable distribution of a scarce commodity while keeping the price fixed. In practice, neither goal can be achieved. The price of gasoline is going to go up, rationing or no rationing. Disenchantment with the equity of any artificial system will follow quickly on its actual imposition. Worse yet, rationing does nothing to relieve the shortage. It only converts a temporary crisis into a chronic problem.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

I should like to commend the gentleman from Illinois for taking this time before the House today to bring attention of many Members, as well as to many other people in the country, the compoundment of solving the energy problem the Government is causing. I think that what the gentleman is talking about is allowing the invisible hand of the market, that Adam Smith so often talked about, to work, and which worked so well in the marketplace, instead of using force and coercion to solve problems of allocation of petroleum resources. There are only two ways to allocate these resources in this world, and we have found in our country that the volunteer system is the best way.

The other way, of course, being that of force—or political power—which ultimately comes from the barrel of a gun.

I think it is a typical example for us to intervene as a Government into trying to solve an economic problem by using a political solution to it, where we are only going to take massive amounts of the taxpayers' money and further compound the problem.

The gentleman cited the example of the gas stations in Washington, D.C. In my neighboring State of Oregon they are out of gas in Portland. The reason for this is that we have a bunch of young bureaucrats with no experience in the petroleum industry trying to do what the experience of highly trained technical people working for oil companies have been trying to do for years.

It seems strange to me that in America we have such a wonderful system and yet we work so hard to make socialism work, instead of letting free enterprise work, we could solve the problem.

Another example is where we have shortages in the petroleum industry now created by the Cost of Living Council and, as the gentleman so well pointed out, the regulation of the price of natural gas.

As the gentleman pointed out, the regulation of the price of natural gas is just the beginning. I represent a district that does a lot of mining and we are going to be involved in the mineral shortage a few years from now, with our present attitudes, that will make the present fuel shortage look like a Mother Goose rhyme. I think besides inflation, price controls are the most urgent problem facing the country today, and they must be abolished.

I do not think the gentleman has mentioned it so far, and maybe it is his intention to mention it, but we have massive amounts of low-sulfur coal in Montana and Wyoming. Recently the other body passed a strip mining bill which includes the so-called Mansfield amendment which prohibits strip mining of coal on public lands. This is about 37 percent of the coal reserves in the United States, enough to run the world economy for the next 200 or 300 years. Of course, we have enough reserves in the whole country to run the world for approximately 600 years. They would be locking up the supply which could help solve the world crisis.

Again I associate myself with the remarks made by the gentleman from Illinois (Mr. CRANE).

Mr. Speaker, serious proposals for the rationing of gasoline are now being considered. The World War II experience, however, clearly showed that there are great difficulties and inequities inherent in any rationing system.

First of all, the country has changed in many important ways since the Second World War. There are now nearly three times as many automobiles in the United States today as there were in 1940. In addition, today's cars have grown steadily bigger and less efficient and generally get to 30 to 40 percent less fuel mileage to the gallon. Perhaps even more important, the whole pattern of life has changed greatly; a majority of Americans now live in suburbs many of which are miles from public transportation, shops, or jobs. Whole new industries from resorts to roadside inns have grown up which depend for their survival on the automobile.

The chief argument used in favor of rationing is that it is the fairest method of allocating a scarce resource. Of course, all resources except air are limited and, therefore, scarce. We still allocate most resources in this country by the price mechanism; the burden of proof should be on the proponents of rationing to prove that gasoline is somehow different from beef or TV sets or education. Fairness is generally defined as treating everyone equally. The trouble is, everyone is simply not equal and to treat different people alike is, therefore, unfair. It would be absurd in a food shortage to give equal amounts of food to heavy working men and to small children; it would seem equally absurd to allocate everyone the same amount of gasoline.

Most proponents of gasoline realize the difficulty in insuring fairness and therefore are willing to allow unused gasoline coupons to be legally sold—they would be sold in any case through a black market.

This would be an improvement since it would allow more options and greater individual choice and it may well be the least of evils that we will have to settle for. However, if this is done, new difficulties will arise.

A vast and swollen bureaucracy will be necessary to preside over so complex a rationing system as is envisioned by the Federal Energy Office.

Our aim should be to have as simple and economical a system of allocation as possible. The free market, of course, requires the least Government expenditure. The principle objection to the free market, is that the poor will be forced to bear a heavy burden in higher gasoline prices which fall harder on them than on the affluent.

According to the research center of the University of Michigan, 20 percent of the population is below their definition of the poverty level. Of this group only 15 percent have jobs which require them to drive more than 10 miles a day. This means that only 3 percent of the working population are likely to be hurt by rising gasoline prices.

Instead of placing the entire Nation in a Federal straitjacket with coupons, distribution centers, coupon trading centers, and forms upon forms to be filled out by all of us why not simply concentrate our efforts on alleviating the hardship which might be caused to the needy by the present shortage?

The contingency plan of the Federal Energy Office does have some redeeming points. Their plan for a "white" market in salable coupons, as I have noted, is an improvement. They also have taken into account the different needs of people living in rural areas; they realize that farmers need more gasoline than city dwellers with ready access to public transportation.

The plan would be greatly improved, in my view, if the Federal Energy Office kept its eye on the ball and aimed directly at helping that small part of our population who will be hurt by rising gasoline prices—without imposing a vast bureaucracy on the rest of us, limiting our freedom of choice and prolonging the crisis.

We must face the unpleasant fact that in the real world we must often choose between the lesser of two undesirable alternatives. No one wants to fight, but sometimes we must to avoid worse evils. In exactly the same way, we must realize we have to choose between higher prices for the gasoline we need and lower prices but less gasoline. I am convinced that most people when they think about it would rather pay a little more for their gasoline and be able to obtain it without waiting in long lines for hours or paying black-market prices for coupons, and breaking the law. The time of our constituents is, after all, worth money to almost all of them.

Once we face this fact in a mature way we can then proceed to tackle the problem of our few less fortunate citizens who will have a difficult time paying higher prices.

**Mr. CRANE.** Mr. Speaker, I thank the gentleman for his remarks, particularly those dealing with the problems inevitably associated with Government involvement in market decisions.

One of the main bones of contention in the energy emergency bill, both last December and now, is the section intended to prohibit windfall profits by the oil companies. I am intrigued by the lack of faith shown by the proponents of the bill. The clear implication of their insistence on this provision is that, despite rationing, allocation, and Government price fixing, the oil companies will still manage to turn a pretty profit. If that is so, how come the union pension funds are not rushing to buy oil stocks at the bargain prices for which many are now selling? The zealots point out that oil company profits rose markedly last year. They fail to point out, however, that those increases barely brought the earnings of the oil industry up to the average for all manufacturing in this country.

I do not intend to take up the cudgels for the oil industry. Many of the policies adopted in the past have worked to their benefit, and I have no doubt that they used the tools provided within our democratic system to get those policies adopted. But this is precisely what they should be expected to do. It is the responsibility of corporate management to maximize the long-range return on the investment made by their stockholders, within the laws and regulations laid down by the Government.

As I have pointed out several times, those laws and policies are ultimately the product of the deliberations of the Congress. If they have proved to be shortsighted or ineffective, it only reflects our failure to work out the consequences of our actions. I sincerely hope that we shall not be guilty of another such failure in our action on the energy emergency bill.

Mr. Speaker, I have spoken to only one aspect of the energy emeregncy bill, the proven effect of Government interference in the workings of the economic system. There are many other issues raised by this bill, many of fundamental importance. I hope that my colleagues will speak to them. I cannot conclude, however, without raising one of them myself.

There has been considerable concern in recent years, both in this Chamber and the one at the other end of the Capitol, with the curious inversion of the roles of the Congress and the President from those which the framers of the Constitution clearly intended. I share that concern. Some of the provisions of the energy emergency bill complete that inversion, providing the President with the authority to make law and reserving only a veto power to the Congress. I find it difficult to understand how some people can advocate passage of such a bill and still wave the banner of constitutional crisis. Perhaps consistency is the hobgoblin of small minds. I hope that we are not expected to take hypocrisy as a mark of genius.

**Mr. ASHBROOK.** Mr. Speaker, there is some irony in President Nixon's bid for emergency powers to deal with the energy crisis. It is a classic case of Government intervention as a means of curing previous mistakes of Government.

Government regulations and Federal bungling have played a major role in creating our present energy shortage. Since 1955, for example, the Federal Power Commission has regulated the price of natural gas at the wellhead. The artificially low price discouraged exploration while encouraging consumption. Many industries converted from coal to "cheap" natural gas. The result is that demand has far outstripped supply. Paul MacAvoy of the Massachusetts Institute of Technology has estimated that without these controls new reserve findings would have been 40 percent higher. In summary, Government intervention distorted the market and, at the same time, discouraged attempts to increase supplies and to use other more plentiful fuels.

The impact of Government regulation of natural gas also contributed to the demise of the coal industry. The artificially low price of natural gas made it more economical to use than coal. Therefore coal was increasingly driven out as a source of energy. According to a report by Chase Manhattan Bank:

> The coal industry was dealt [a] devastating blow by the rapidly expanding invasion of its—markets by exceedingly low-priced natural gas—Unable to compete in terms of price, the coal industry experienced a large-scale loss of markets.

The use of coal has also been seriously reduced through arbitrary restrictions of the Clean Air Act of 1970. This act and other Government regulations have decreased industrial use of the one resource that the United States has a 200 to 400 year supply—coal.

The lesson to be learned from this is that Government actions and regulations should not be confused with solutions to our problems. Sometimes Government intervention does solve problems, but often it only makes them worse.

**Mr. GOLDWATER.** Mr. Speaker, I want to commend the distinguished gentleman from Illinois for taking this special order. The thrust of his remarks is very timely, and is aimed at the real problem underlying the energy crisis; namely, the attitude on the part of many that the Government alone can get us out of this mess. I submit that the Government through over-regulation and lack of planning got us into this fix in the first place.

Thus far, the overwhelming direction of bills in the Congress as well as Government pronouncements is that more regulation and more Federal expenditures will solve the energy problem. This is faulty thinking at best. It is the type of thinking that invariably leads to public acceptance of mandatory rationing.

Some public opinion polls indicate that a majority of Americans seem to favor rationing. Of course, I recall that prior to the imposition of the Economic Stabilization Act, the public also appeared to favor mandatory wage and price controls.

It did not take very long for the American people to tire of these artificial restraints on the free enterprise system. I can safely predict total opposition also to mandatory rationing within 6 months after such a screwball scheme is placed into effect, which hopefully will never occur.

The theory behind rationing is that demand for energy must be lowered and people cannot be expected to lower demand on a voluntary basis. But regardless of the rationale, we cannot expect people to accept this as a way of life, especially when they have no hope of energy supplies being increased. In reality, the supply question seems to be escaping everyone, including the Congress.

Frankly, I think rationing would be a failure in this administration or any other administration that attempted to implement it. We tried it in World War II when the American public was prepared for extreme sacrifice, and it did not work very well. Then too, we must remember that the amount of automobiles in the country in the war years was about one-eighth of those on the road today.

As I pointed out in separate views on the emergency energy bill last month, the alternative to bureaucratic control over the supply of energy is very simple. It is a good alternative. It is a proven alternative when the Federal Government does not interfere with it. It is the old fashioned free enterprise system. That is right, the very system that made us the greatest Nation on the face of the globe.

Mr. Speaker, we have huge reservoirs of energy resources, but they must be harnessed. The Government cannot possibly do this job without breaking the taxpayer. But the competitive marketplace can do the job if the Government will let it. In the case of refined petroleum the price should be allowed to find its level in the marketplace. In turn, the individual will discover that supply will be increased as a result of the profit motive, and as supply increases, prices should decline.

The tendency is to blame the oil companies. Some people even want to nationalize the oil companies. That is all we need to create economic disaster—nationalization of the oil companies. The Federal Government cannot even run a poverty program much less an industry as complicated as petroleum.

Just recently, the distinguished economist, John Winger, estimated that in order to meet the energy needs of this Nation for the period of 1970 to 1985, the energy production industry will have to achieve an average annual growth in net earnings of 18 percent. Such growth cannot be realized unless the marketplace is used as a gage to determine at what point supply catches up with demand. Sure the oil companies might show a profit, but the profit can be invested in more supply in addition to being returned to the Government in the form of corporate income taxes.

Free enterprise can do the job. Let us not abandon it after 200 years of proven worth. I thank the gentleman for yielding.

Mr. STEIGER of Arizona. Mr. Speaker, it is now popular in many circles to identify a "bad guy" who is responsible for any given problem. This is more convenient campaign fodder than an honest analysis of the real issues of the problem. Today there are those who have found the "bad guy" for all our energy problems—the oil companies. Over on the Senate side, we can hear Senators casually tossing out the sort of bald unsubstantiated accusations which would enrage the liberal media if this calamity were aimed at anyone else.

Some Senators have suddenly decided that the oil companies "have contrived" a crisis, and have "cheated the public." But this is only demogogic reaction. If these same Senators had heeded the prophets of the last 20 years—many of them spokesmen for the oil companies—they would today have to look for other campaign issues.

These conservatives were not Cassandras, warning of doom; they were farsighted men who made recommendations to avert the crisis which now has arrived because the recommendations were ignored.

Take, for example, the case of Senator Malone of Nevada, a conservative authority on minerals, metals, and fuels. Senator Malone's Interior Subcommittee released a report in 1954 which warned of an impending energy crisis. The Malone report warned that the vital security of this Nation is in serious jeopardy.

> We are dependent for many of our essential raw materials on sources in far-off lands, many under the control of possibly fickle allies or timid neutrals, some veritably under the guns of our potential enemies. And what is perhaps a more devasting conclusion . . . is that none of this vulnerability need exist. Long-overdue corrective measures should be undertaken at once.

Senator Malone declared that the Western Hemisphere could become completely self-sufficient in fuels and strategic materials. Now critics are clamoring for the goal which Senator Malone had figured out 19 years ago—self-sufficiency.

Senator Malone recommended immediate U.S. Government appropriation of research and development funds, and immediate encouragement to U.S. industry to "erect a large-scale oil-shale plant—to advance the production of petroleum fuel on a commercial basis." He urged "research and studies on the low-temperature carbonization of coal—and ways and means to revive the coal industry." Senator Malone also urged large-scale production of uranium "for tremendous development of nuclear power for industry and civilian use." He demanded immediate "improvement of our petroleum, gas and coal resources to assure maximum availability of domestic fuels for both the peacetime economy and national security."

How did the liberals react? Time magazine called this prophet of our present crisis the worst Senator in the Senate.

Another case in point: In September 1960, Michel Halbouty said to the American Association of Petroleum Geologists in Los Angeles:

> I can safely predict that between now and 1975 we will have an energy crisis in this country. Then the people will say the industry is to blame, why weren't we told? Well, I'm telling them now.

But America has ignored all such counsel stretching back as far as 1947. In that year, a detailed forecast of the overall energy fuel situation was prepared by the Senate Interior Committee in support of appropriation requests under the Liquid Synthetic Fuel Act of 1944. The long-range projections proved to be remarkably accurate through 1972 although they had been extended for a period of 53 years.

The energy crisis did not suddenly spring on us. A host of wise men saw it coming. To be privy to these public announcements, all of today's critics needed only to have read and listened. But conspiracy theories seem to make more interesting politics than the truth.

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## EXTENSION OF TYDINGS AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. FORD) is recognized for 5 minutes.

Mr. FORD. Mr. Speaker, I am today introducing legislation to extend for 2 additional years the language of the so-called Tydings amendment of the General Education Provisions Act. This language provides that, notwithstanding any other provision of law, any funds from appropriations to carry out elementary and secondary education programs during any fiscal year which are not obligated and expended prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure during such succeeding fiscal year.

In other words, this language would simply permit school districts to carry over unused funds from 1 fiscal year to the next.

Under the provisions of the current law, this language shall become "inoperative" on June 30, 1974, unless its expiration date is extended. Hopefully, by then we will have passed an Elementary and Secondary Education Act which would renew existing programs as well as extend the language of the Tydings amendment.

However, I am introducing this legislation today as a contingency measure only to provide a mechanism for school districts to carry over funds in the event that new legislation is not on the books by June 30.

Mr. Speaker, as you may recall, this language was first enacted back in 1968 in order to permit school districts to avoid facing the problem of having to expend all their Federal funds during a very short time period. This situation has occurred when we passed appropriations bills very late in a fiscal year, and school districts were faced with the prospect of either having to spend their entire year's allotment in a period of 2 or 3 months or forfeiting much of this entitlement because it was not spent by the end of the fiscal year.

This problem continues to exist today, and in addition the need for carryover authority is even more important now, since the Nixon administration has only recently released $466 million in illegally impounded education funds pursuant to a court order.

Mr. Speaker, as I have stated, this legislation is introduced only as a stopgap measure—to become effective only if no new education bill is signed into law by June 30, 1974. It is my hope and I fully expect that new legislation will be on the books prior to that date—and I am confident that our new legislation will provide for an extension of the language embodied in this bill.

## BREAST CANCER VICTIMS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Mrs. COLLINS) is recognized for 15 minutes.

Mrs. COLLINS of Illinois. Mr. Speaker, we, as a people and Nation, have long recognized cancer as a major killer in our total society. Cancer, unlike many diseases common to man, has no known sure cure—it kills indiscriminately.

One form of cancer is rather discriminatory, however, in that it affects, for the most part, only women. A malignant tumor in the mammary glands usually results in the removal of the breast. This in and of itself would not be too disheartening if we knew with some greater measure of certainty that the end result of the surgery would be longer life rather than impending death. This is all too often not the case. Rather, the woman views with forlorn hope her chances for a very long life; and, without her breast, the psychological cost of a radical mastectomy becomes great for many and unbearable for others.

In recent years, the radical mastectomy has become a widely used means of fighting the spread of this much-dreaded disease, and the breast prosthesis has been used by women to help them reduce the physical and mental effects of living with the absence of an important part of their body. This device has helped many women to live with a traumatic experience and to pull through what is sometimes a very tragic physical existence.

For most women, these devices are not deemed expensive; but for those who have negative financial means, the small cost of the breast prosthesis can be prohibitive. On January 21, I introduced legislation, H.R. 12154, which is designed to remedy that problem. This bill will amend section 1861(s)(9) to include postmastectomy breast prosthesis among the items and services for which payment may be made under the supplementary medical insurance program—medicaid. The cost to the American people would be practically infinitesimal, but the benefits would be great.

The breast prosthesis is not a cosmetic device. In my view, it is similar to any artificial limb, which serves a psychological, protective, and functional purpose for the amputee.

It is my sincere hope that this legislation can be acted upon swiftly. I know that the Members of Congress realize the importance of this legislation to the women of this country.

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## IN FAVOR OF MORE ASSISTANCE TO INTERNATIONAL DEVELOPMENT ASSOCIATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, I am saddened and disappointed by the decision of the House not to approve authorization of U.S. participation in the fourth replenishment of IDA. We have gained nothing by this; and, in fact, we may have lost a very great deal.

In the limited time for debate today it proved impossible to fully respond to all the misstatements and errors of fact that, in my view, may have influenced some of my colleagues to vote against the bill. Even the distinguished chairman of the Committee on Appropriations, for whom I have the highest esteem and regard, seems not to have had a clear grasp of the facts. If he had, I do not believe in my heart that he would have been constrained to vote against the bill, much less speak against it. Others opposed to the bill would never have voted for it; some who professed that they voted for similar legislation in the past had not done so, and were simply mistaken.

I hope that the House will reconsider this legislation, and when it does, that everyone will have clear possession of the facts.

The truth is that this bill would actually cost less in any given fiscal year than we are now paying to the International Development Association. Even though our commitment of $1.5 billion exceeds the previous amount of $960 million, the truth is that in any given year our payments would actually be $11 million less than they are today. And obviously our capability to pay will be much greater 2 or 3 years hence than it is today. We have a reduction in this bill of our absolute annual commitment to the International Development Association.

Not only would our absolute payment be less, our relative share of the burden would be less. In the last replenishment of IDA, we paid 41 percent of the total; in this bill that share is reduced to 33 percent—far less than our ability to pay, far less than might be reasonably expected of us. But that reduction shows that the rest of the contributing nations recognize that our past burdens might have been too great, that today the world can afford to shoulder some of the burden that we bore in the past. And it is difficult for me to accept any argument that this bill is a generous commitment. What costs us less is not more generous; what costs us less in terms of burden sharing is not generous. We have been given a good deal, and I believe that we should accept it. The rest of the world has demonstrated its good faith, its willingness to shoulder responsibility and burden, and we should recognize that and accept it for what it is—not turn our back on it.

And I want to remind my colleagues that we are in need of the developing world, as much as it is in need of us. We import more than half of the total amount of raw materials our industry needs in 6 out of 13 categories. No less than one-third of our total raw materials are imported from the developing world. Those countries provide us a market for more than $14 billion worth of American goods every year—and they buy more from us than we do from them, so we have a favorable trade balance with the developing world.

If we want our industry to grow and progress and prosper, it has to have raw materials that are available only in the developing world. We import 99 percent of our natural rubber. We import 20 percent of our oil, maybe more than that. We import every ounce of tin, and 94 percent of all our manganese. We import the great majority of our aluminum and aluminum ore—all of this, and more besides, from mostly developing countries. So if we want to grow and prosper and progress we need those countries. We need them for their markets and we need them for their raw materials.

If we need their help, they have a right to expect that we will recognize their legitimate needs and interests. They are not asking for handouts, but for loans. IDA is not in the gift business; it is in business. Soft loans, yes, but loans, not gifts. These countries put up more of their own capital than IDA gives, and what they do not raise on their own they will eventually repay. They want to help themselves. If we deny them what little they are seeking, if we deny them the means to help themselves, we have no real right to expect them to help us—and make no mistake about it, we need help. Like it or not, we are part of a world economy, and if we want to have others play the game with us, we are going to have to play the same game with them.

The only question we confronted today was whether the United States should contribute more to IDA. On every count, the answer is yes, if sober considerations are weighed.

If we expect the world to cooperate with us in establishing a sound international monetary system, in setting up sensible and fair trade policies, and in providing fair access to the markets of the world, we cannot refuse our own cooperation. For if we refuse to do our fair share, we cannot expect others to do so either. If we do not show our own good faith, we have no right to expect it of others.

Moreover, we cannot fail to recognize, if we are cognizant of the facts, that in this bill we are not being expected to do more than we have before—in fact we are asked to do less.

Recognition of the facts would compel us to recognize that we are not penalizing the wealthy states that would deny us oil by refusing to support IDA—far from it. Those states have never received a dime from IDA, and it is nonsense to think that any revenge is extracted from the rich by defeating this legislation.

The truth is that IDA extends help only to the very poorest countries of the world—not the nations of the Persian Gulf. And we cannot afford to overlook the fact that some nations that are poor today may have—and some are known to have—oil deposits that may be absolutely vital to us. They may have cause one day to wonder why they should supply our oil needs, when we would not help them with simple loans in their own time of need. For they will have other customers, customers who are more needy than we, and who moreover have demonstrated willingness to help with meeting the needs of developing countries. If that day should come, we would have no cause of complaint; we would only be receiving our just desserts.

The rich cannot be contemptuous of the poor. We may not want to recognize it, but we are dependent on many of the world's poor nations, maybe much more so than they are on us. We have to learn that lesson.

Finally, Mr. Speaker, a word on the clear and overwhelming majority of Republican votes against this bill.

This was an administration bill. It was supposed to have a high priority, and was supposed to have the support of the White House, the Treasury, and the State Department as well. Yet the President's party repudiated the bill and its own leadership by a margin of 3 to 1. On the Democratic side there was almost an even split, and had the President's party supported him by even a small margin, the bill would have passed.

I know that many of my colleagues on the Democratic side feel that they cannot support a bill to aid other nations when they have seen funds for urban redevelopment, for schools, for manpower training, for rural development projects—and many others besides—vetoed or impounded. How can they support legislation for other countries when they have been pilloried time and again by the President for supporting projects that are designed to meet desperate domestic needs? How can they be asked to say that this bill is not inflationary, when everything for domestic purposes is called inflationary? I know how my colleagues feel about this; last April and many times since then I propounded the same question to Secretary Schultz, and to everyone else in the administration, but the policy did not change. In that light I cannot blame anyone who reached the conclusion that they could not support this bill if much smaller requests they made for help at home were rejected or derided.

I cannot account for the votes on the Republican side. Despite the opportunities for making political hay, many of my Democratic friends supported the bill—nearly half. I commend them for this. I know that a few are not open to conviction on this issue, and I cannot open their eyes—nor could anyone else. Others I know made political judgments that I well understand—yet I hope that on reconsideration many of these will see that this issue goes far beyond politics and reaches into the heart of the outlook for future world progress and even peace.

I am disappointed, Mr. Speaker. I believe that this bill clearly warranted the support of the House.

I had been promised Republican support, but it did not come, save from a few, to whom I am grateful. If there was ever an indication of how little the administration is in touch with the people, and its own party, this vote is it. Now that the painful lesson is in, I hope that the time will come when we can reconsider this bill. Our own prosperity may depend on it. Certainly any hope that we may have for international economic cooperation depends on it.

Sober minds must know that we are not alone in this world. We are not separate and exempt from the needs of the rest of the planet. We cannot afford to pretend that we are.

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## TRIPLE PRICE HIKE IN LP GAS OVERBURDENING THE ELDERLY IN AMERICA

The SPEAKER. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 30 minutes.

Mr. ALEXANDER. Mr. Speaker, one of my constituents from Clover Bend, Ark., age 75, is a stroke victim and suffers from diabetes and cataracts. She lives on a widow's pension which amounts to $165 per month. Of that amount, this elderly woman paid $100 just to heat her home last month. And considering the cost of living, she will have trouble buying sufficient food with the amount that is left, much less other necessities. This is but one example of the hardship that a short-sighted regulation governing the price of propane has placed on a number of the American people who rely on propane gas for heating and cooking.

While I have maintained that it will take an equal sacrifice on the part of all of us to curb the present shortage, I feel this particular woman, and others like her, are sacrificing and suffering more than their fair share. And, what, one may ask, has caused such a state of affairs? This is a question which I have asked and for which I have been seeking an explanation.

The answer lies in the fact that the major oil companies have increased the wholesale price of Liquefied Petroleum Gas anywhere from 100 percent to 350 percent in the past year to the retail LP gas dealer in Arkansas. This increase, naturally, as passed through to the consumer.

L–P gas is a big part of the total energy picture in Arkansas. In fact, it affects approximately 30 percent of the people in our State. Oftentimes, these consumers of propane are on fixed incomes and cannot afford this high cost of propane.

The regulation governing the price of propane was admittedly intended to be flexible, yet this passthrough regulation has allowed producers to tack on the increased costs in producing gasoline and distillates to propane. Thus, prices of propane in Arkansas have risen as much as 350 percent in some instances.

What caused the Cost of Living Council and the Federal Energy Office to "overlook," or did they simply ignore, the effect of these passthrough regulations on the already overburdened elderly?

Hopefully, at worst, carelessness was at the base of this decision rather than the influence of the generous campaign contributions from the oil companies in the last Presidential election.

The mere stabilizing of the price of L–P gas will not get the job done. It certainly will not help the elderly citizen in Clover Bend and other Americans who rely on propane and who cannot afford to pay the exorbitant rates being charged now.

We must seek a rollback in price for L–P gas and insure a more equitable distribution of increased costs in production among the other petroleum products. We must also determine whether the violation of existing price regulations, notwithstanding the "flexible" provision governing propane, was intentional; and if so, whether the Federal Energy Office will seek civil or criminal penalties. And finally, we must pursue the matter of rebates for those who have been burdened with the disproportionately higher cost increase of propane.

We cannot let those in the administration and oil industry who are responsible for this injustice get by scot-free. We cannot let the people responsible "pass through" our scrutiny.

Mr. Speaker, as documentation of this case, I would like to share with my colleagues the following correspondence from Earl Tripp, a retail L–P dealer in Batesville and from the Arkansas L–P Association who is concerned about passing the cost increase in propane through to the consumer.

TRIPP GAS CO.,
*Batesville, Ark., December 10, 1973.*

Congressman BILL ALEXANDER,
*U.S. Capitol, Washington, D.C.*

DEAR CONGRESSMAN ALEXANDER: Thank you for returning my telephone call last Friday evening, December 7th when we discussed the increased price on propane gas.

On April 4, 1973 we were purchasing propane delivered to our Batesville plant at .07832 per gallon. This price included the freight which ran approximately .02832 per gallon and Atlantic Richfield received .05 per gallon for the propane. Four increases have been made as follows:

April 27, 1973 increased .03540.
August 20, 1973 increased .03047.
October 1, 1973 increased .03047.
December 1, 1973 increased .03.

We are enclosing copies of invoices reflecting these increases and a copy of the latest notice of price increase as we have not yet received a December invoice. These increases actually reflect a little more than 350 percent price increase.

We are told unofficially that propane does not come under the cost of living council and therefore is not included in the cost of living index. Approximately 35 percent of the Arkansas population uses propane instead of fuel oil which is included in the cost of living index. Increases in gasoline, diesel, and fuel oil have been very nominal and do not compare with the increased cost of propane.

Had the cost of living council let the refineries increase one cent per gallon on the above listed fuels, it would have amounted to ten times the dollar volume of the propane increase and certainly would not have placed a hardship on the citizens of this country as the increased cost of propane has placed a hardship on the citizens of Arkansas.

We certainly appreciate your interest in this problem and we need your advise and help.

Very truly yours,

EARL TRIPP.

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TRIPP GAS CO.,
*Batesville, Ark., January 19, 1974.*

BILL ALEXANDER,
*Member of Congress, U.S. Capitol,*
*Washington, D.C.*

DEAR CONGRESSMAN ALEXANDER: I am enclosing copies of invoices from Sun Oil Company as of March 1973 showing the Batesville delivered price at .08020 cents per gallon and the Hardy, Arkansas, delivered price at .08161 cents per gallon. Also, enclosed are invoices for December 1973 showing the Batesville price at .19726 cents per gallon and the Hardy delivered price at .19820 cents per gallon. We have been notified that the Sun Oil Company price advanced .04 cents per gallon January 11, 1974 but we have not yet received an invoice on a car shipped after that date. This will make their price .23726 cents per gallon delivered at Batesville and .23820 delivered at Hardy.

Our retail price in March 1973 was 17 cents per gallon and our retail price today is 31.6 cents per gallon. It is easy to see that the cost of heating a home with L–P Gas this winter compared with last winter has increased substantially.

I am enclosing a clipping from the January 11th issue of the Oil Daily showing where the Canadian Government requested propane producers to roll back propane prices at the wholesale level and it was done.

In the President's radio message on energy broadcast today, he stated that he was not going to allow the oil companies to increase their prices more than was necessary to take care of the increased cost of crude oil. Sun Oil Company's refinery at Tulsa, Oklahoma refines 2.4% of a barrel of crude into propane, about 56% into gasoline and about 25% into middle distillates. The refinery price increase on gasoline by Sun has been four cents per gallon. You can see that propane has had much more price increase than is fair. An increased wholesale price of 15.7 cents per gallon on propane indicates that propane users are paying more than their fair share of the increased cost of crude oil. Only 20% to 25% of the supply of propane comes from the refining of crude oil and 75% to 80% comes from natural gas plants. The price of crude oil should not effect the price of propane produced from natural gas plants.

I hope this is the information you wanted and need. If there is any additional information you need, please call me. We appreciate your interest and help in this matter.

Very truly yours,

EARL TRIPP.

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ARKANSAS L–P GAS ASSOCIATION, INC,
*Little Rock, Ark., January 14, 1974.*
The Honorable BILL ALEXANDER,
*House of Representatives,*
*Washington, D.C.*

SIR: The major oil companies have increased the wholesale price of Liquified Petroleum Gas anywhere from 100% to 300% in the past year to the retail LP Gas Dealer in Arkansas. This increase, naturally, is passed on to the consumer.

Since the retail dealer is only allowed to use his cents mark up as of May 15, 1973, he is not making any more profit now than he did a year ago.

LP Gas is a big part of the total energy picture in Arkansas. In fact, it affects approximately 30% of the people in the State.

It is used primarily in the suburbs and rural areas of the state for home heating, cooking, hot water heating, and agricultural use.

Often times, these consumers of propane, which live beyond the gas mains, are on fixed incomes, such as Social Security or Welfare Assistance and they cannot afford the high cost of propane.

The cost of propane per gallon to these people has more than doubled the past year, and something must be done.

The major oil companies say they are passing along the increased costs of crude oil and imports. In a barrel of crude, after refining, there are approximately 1.6 gallons of propane, the rest is gasoline, fuel oil, middle distillates and other products.

Better than 80% of the propane used today comes from stripping the gas liquids from natural gas.

According to the information available to us, propane wholesale costs have risen 200% to 300%, while the other products derived from a barrel of crude have risen less than 15%.

This is patently unfair. All increased costs should not be loaded on propane. Gasoline and the distillates have to bear their proportionate share of this cost increase.

We call on you at this time for assistance, and seek your active support as well as the influence of your office in getting the major oil companies to lower the cost of propane back to a more realistic level.

From all indications and reports, the supply of LP Gas is in relatively good shape compared to this time last year.

Please let us hear from you at your earliest convenience.

Sincerely yours,

ARKANSAS LP GAS ASSOCIATION,
DICKIE BUTLER, *President.*

Mr. RANDALL. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. Mr. Speaker, I yield to the gentleman from Missouri.

Mr. RANDALL. Mr. Speaker, I rise to commend the gentleman from Arkansas for his comments and for the objective of this special order today. Our attention was called to the problem he is discussing during the recess. A Member whose District adjoins the District of the gentleman in the well, the gentleman from Missouri (Mr. TAYLOR) has asked me to do anything we can to try to solve the problem of propane prices.

I will say to the gentleman in the well that we both serve together on the committee known as the House Government Operations Committee. There is a subcommittee known as the legal and monetary affairs subcommittee which it is my privilege to chair.

I announce at this time that we have some hearings set for the 5th, 6th and 7th of February. We could get some hearings before that date, but Dr. Dunlop, head of the Cost-of-Living Council over which our committee has aegis or legislative oversight could not appear prior to that date. We are going to ask the doctor to give his version of how or why there is any justification for these high cost pass throughs on propane and other fuels.

Mr. ALEXANDER. Mr. Speaker, is it true, if the gentleman from Missouri could answer the question, is it true that in the State of Missouri most of the people who consume liquefied petroleum gas are elderly people who live on fixed incomes and generally in rural areas, as is true in Arkansas?

Mr. RANDALL. That is a good characterization of the situation. Most of those who use propane do live in rural areas where there is no opportunity to tie into a natural gas line. Of course all propane users are not elderly; some are young people who are still not able to afford housing other than a house trailer. They certainly are in rural areas where there is no available natural gas.

One thing that seems to me which might be a contribution to the effort of the gentleman is that there should be an investigation of the wide disparity of prices of propane within an area of 30 to 40 miles. When I was home I found that prices vary all the way from 26 or 27 cents on up to 36 cents. Such a wide variance is almost unbelievable. There is no way this variance in price can be explained when the propane comes from the same source.

It appears to be something in the nature of charging what the traffic will bear. When there is only one distributor in an area, as the gentleman says, these elderly people have no other source and have to pay the price or be cold.

Mr. ALEXANDER. Mr. Speaker, in Arkansas most of the people who use liquefied petroleum are rural people, and it is the case in that State that they are generally in an income producing category which is less than the average. In many cases, they could be considered as poor. Would that be true in the State of Missouri?

Mr. RANDALL. Mr. Speaker, I believe that is true. If the gentleman will be gracious enough to yield for another moment, I will relate a matter which occurred New Year's Eve.

I received a call from a young mother with a family that included a retarded child. They were living in a trailer. They had changed propane distributors. The new distributor simply said, "We do not know anything about a new customer. We do not know whether your credit is good or not. In effect the answer to supply therefore is, if you change distributors, you are out."

Well, if you recall, all Federal offices closed Friday night and did not open until Wednesday, January 2, 1974. All the bureaucrats were off for 4 days. Frankly, we had quite a time to get that distributor to extend just a little bit of credit, when all the Federal energy offices were closed, the Regional office, and the oil and gas allocation office.

This lack of service to a family needing fuel and in distress convinced me that someone should serve at these offices on a standby basis at all times to help, with situations of this kind, holidays or no holidays. My subcommittee is going to see what we can do to avoid a repetition of situations of this kind in the future.

Mr. ALEXANDER. Mr. Speaker, I thank the gentleman for engaging in colloquy on that subject. I too have had a similar experience in Arkansas with a person who will remain unknown for the purposes of this discussion, but I asked what would happen in an instance where the price of propane was increased radically over the period of a year.

And in some cases it has increased as much as 350 percent, and the people who subscribe to propane service were unable to pay that much because of fixed income.

And with a chuckle, this particular individual said, "Now we will get rid of all the losers."

Mr. RANDALL. Mr. Speaker, we have not had an instance parallel to the one the gentleman just described but I will say to the gentleman from Arkansas, we have found people who have seen their fuel bills rise from about $30, triple to nearly $100 a month. That means that these folks are not going to have enough to buy food with or enough for anything else if they are paying that much for heat every month. Something has to be done to relieve this kind of a situation.

I do not know whether we can achieve a rollback of prices or not. I do not know whether we can successfully put a ceiling on these prices. I hear it suggested we are not going to have a phase V. Maybe wage and price controls are bitter medicine. But on the other hand, on behalf of the people we have been talking about if there is any hope, some kind of ceiling must be put on these prices.

Mr. **ALEXANDER.** It seems to me, Mr. Speaker, if the gentleman will listen for a minute longer, that this skyrocketing triple price hike in the price of liquefied petroleum affects the people who are least able to fight back.

Mr. Speaker, I thank the gentleman for his statements.

Mr. **RANDALL.** Mr. Speaker, the gentleman has made a valuable contribution toward the solution of a problem that needs attention. I thank the gentleman for permitting me to paricipate in this discussion.

## THE EFFECTIVE TAX RATES OF THE OIL INDUSTRY

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK), is recognized for 10 minutes.

Mr. **VANIK.** Mr. Speaker, a critical fact is now emerging from the congressional investigation into oil company profits: it now appears clear that our tax policy has induced an energy crisis by diverting American resources into foreign exploration, production and refining at a time when our own self-sufficiency in petroleum was eroding. Through the tax code, we actually rewarded foreign investment by offering the oil companies the opportunity to minimize or eliminate a U.S. tax liability.

In August of last year, I documented this fact with the publication of a study on corporate taxation. This study was completed by my staff in cooperation with the staff of the Joint Committee on Internal Revenue Taxation. The complete study appears in the CONGRESSIONAL RECORD, August 1, 1973, pages 27305 to 27328.

As the table below illustrates, the effective tax rates of the oil companies are uniformly far below the statutory corporate rate of tax of 48 percent. Three provisions of the tax code are responsible for these low effective rates:

First, the foreign tax credit reduces the effective rate of tax by 15 percent industrywide:

Second, the percentage depletion allowance cuts the effective rate another 14.7 percent, and

Third, the option to expense intangible drilling costs accounts for another 2.1 percent reduction.

These tax benefits combine to reduce the effective tax rate of the oil companies by approximately 32 percent.

The precipitous increase in world petroleum prices has multiplied the benefit of these provisions for the oil companies. The depletion deduction is computed as 22 percent of gross income from oil production. Gross income is computed by multiplying production—in barrels—by the price per barrel. As the price goes up, the value of the deduction increases.

A similar situation prevails with the operation of the foreign tax credit. The FTC offers a dollar-for-dollar credit against U.S. tax liabilities for taxes paid to foreign countries. The oil companies have manipulated this provision by making de facto royalty payments to the producing countries in the form of income taxes. Typically, these "taxes" are assessed as a percentage of a reference price for a barrel of crude oil. The total cost of a barrel of foreign crude, therefore, includes taxes paid to the producing country. As the price of crude increases, these tax payments increase. The credit benefit for the companies, of course, increases as well. The table below illustrates more clearly the impact of the foreign tax credit in minimizing oil company payments to the U.S. Treasury. The data is from the tax returns filed in 1970 by three multinational oil companies.

NET TAX BEFORE AND AFTER FOREIGN TAX CREDIT IN 3 MAJOR OIL COMPANIES IN 1970

[In millions]

| Oil corporations | Total income | Net tax before FTC | Foreign tax credit | Net tax after FTC |
|---|---|---|---|---|
| A | $2,798 | $168 | $133 | $35 |
| B | 2,651 | 231 | 215 | 18 |
| C | 2,135 | 114 | 101 | 13 |
| Total |  |  | [1] 447 |  |

[1] Total foreign tax credit for only 3 oil companies 1970.

The true windfall profits of the oil industry are flowing through these gaping holes in our tax code. The controversy over the enactment of a windfall profits tax is likely to result in a tax subterfuge. Certainly, the administration's proposal for a windfall profits tax is even more disastrous: It has nothing to do with profits. Instead, it is an excise tax on crude oil prices. It will represent an additional cost to be passed on to the consumer—nothing more.

The most direct answer to windfall profits in the oil industry is effective taxation which will come only through the elimination of the special package of irrational tax subsidies to the oil industry.

| Corporation | 1972<br>Adjusted net income before Federal income tax [1] (thousands) | 1972<br>Approximate current Federal income tax (thousands) | 1972<br>Effective rate (percent) | 1971<br>Adjusted net income before Federal income tax [1] (thousands) | 1971<br>Approximate current Federal income tax (thousands) | 1971<br>Effective rate (percent) | 1970<br>Adjusted net income before Federal income tax [1] (thousands) | 1970<br>Approximate current Federal income tax (thousands) | 1970<br>Effective rate (percent) |
|---|---|---|---|---|---|---|---|---|---|
| INDUSTRIAL CORPORATION LIST |  |  |  |  |  |  |  |  |  |
| Exxon Corp |  | (2) |  |  | (3) |  |  | (3) |  |
| Mobil Oil Corp | $589,413 | $17,300 | 2.9 | $590,405 | $85,700 | 14.5 | $570,395 | $95,600 | 16.8 |
| Texaco, Inc | 869,711 | 23,600 | 2.7 | 928,689 | [4] 30,000 | 3.2 | 921,247 | [4] 73,250 | 8.0 |
| Gulf Oil Corp | 233,000 | 12,000 | 5.2 | 628,558 | [4] 31,062 | 4.9 | 625,732 | [4] 11,892 | 1.9 |
| Standard Oil Co. of California | 334,207 | 19,400 | 5.8 | 356,115 | 17,600 | 4.9 | 185,411 | 29,700 | 16.0 |
| Standard Oil Co. (Indiana) | 390,096 | 74,682 | 19.1 | 423,140 | 63,462 | 15.0 | 417,768 | 56,018 | 13.4 |
| Shell Oil Co |  | (2) |  |  | [5] 2 |  | 305,298 | 34,285 | 11.2 |
| Atlantic Richfield Co | 211,901 | 16,141 | 7.6 | 218,268 | 5,815 | 2.7 | 211,845 | 10,622 | 5.0 |
| Continental Oil Co | 207,445 | 12,371 | 6.0 | 109,030 | [4](24,472) |  | 189,377 | [4] 9,962 | 5.3 |
| Phillips Petroleum Co | 164,650 | 39,221 | 23.8 | 161,050 | 22,984 | 14.3 | 146,371 | 37,687 | 25.8 |
| Occidental Petroleum Corp |  | (6) |  | (60,409) | [4] 5,553 |  | 178,059 | [4] 2,457 | 1.4 |
| Sun Oil Co | 182,291 | 9,044 | 5.0 | 189,265 | [4] 7,445 | 3.9 | 192,858 | [4] 27,569 | 14.3 |
| Union Oil Co. of California | 152,166 | 9,800 | 6.4 | 129,987 | 11,750 | 9.0 | 139,598 | 7,540 | 5.4 |
| Cities Service Co | 126,254 | 32,622 | 25.9 | 112,132 | 9,934 | 8.9 | 159,472 | 27,169 | 17.0 |
| Ashland Oil, Inc |  | (2) |  |  | (7) |  |  | (7) |  |
| Standard Oil Co. (Ohio) |  | (2) |  |  | (3) |  | 71,735 | (589) |  |
| Getty Oil Co | 129,525 | 18,367 | 14.2 | 138,140 | 17,062 | 12.4 | 121,462 | 19,725 | 16.2 |

[1] The adjusted net income before Federal income tax reported to shareholders is comprised of net income or loss from financial statements with appropriate adjustments made for Federal income tax expense or refund, income or loss attributable to minority interests, and income or loss from investments in affiliated companies whenever the equity method of accounting was used. In certain cases, the minority interest and or the income or loss reported under the equity method was not separately disclosed and in these cases those adjustments could not be made and the data, therefore, was omitted.

[2] The minority interest and/or the income or loss reported under the equity method was not separately disclosed. Data for this company, therefore, has been omitted.

[3] Possibly overstated significantly because foreign and/or State and local income taxes are combined with Federal income tax. Wherever this is believed to be extremely significant the data are omitted. These companies have not reported separately their Federal income tax expense. As stated elsewhere, this is an apparent violation of SEC requirements.

[4] The deferred income tax accounts (tax effect of timing differences) may contain State and local and/or foreign in addition to Federal income taxes. Thus, this might have a significant effect on the estimated current Federal income tax and percentage.

[5] The data for 1971 were not available when this information was being gathered.

[6] Footnote No. 9 to the consolidated financial statements for Occidental Petroleum Corp. for the calendar year ended Nov. 31, 1972, indicates: "Substantially all of the 1972 and 1971 provisions for income taxes relate to Occidental's Libyan operations. As a result of the utilization of the percentage depletion and foreign tax credits, no Federal taxes have been paid or provide for the 2 years ended Dec. 31, 1972, except for a tax on tax preference items as prescribed by the Tax Reform Act of 1969."

[7] The 1971 and 1970 data for Ashland Oil were not readily available in the SEC microfilm files.

## OIL COMPANY PROFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 30 minutes.

Ms. HOLTZMAN. Mr. Speaker, my constituents are very angry and discontented over having to pay enormous prices for scarce supplies of heating oil and for having to wait in long lines at gas stations. Furthermore, the level of mistrust and suspicion displayed toward big oil companies and the Government is now so high that almost no one in my district believes there is a true shortage.

Frankly, the unconscionably high profits reported by the big oil companies do nothing to build public confidence. Annual profits of Exxon and Gulf increased by 60 percent in 1973 over 1972. The figures for the rest of the oil giants are slightly lower but still exorbitant. Increases in quarterly profits reported during the height of the crisis late last year were even higher—80 percent for Exxon, for example.

Not surprisingly, these outrageous windfall profits are the result of the oil companies' jacking up the prices of their products. Prices of heating oil have gone up a whopping 11 percent in the last month alone, and an unbelievable 47 percent in the last year. Gasoline prices increased 4 percent in the last month and 20 percent in the last year.

My constituents feel the effects of these increases keenly, especially since they have to contend with the runaway inflation in other goods and services. For those living on fixed incomes, the burden of these oil price increases is very heavy. And when they see that the oil industry is profiting immensely from their painful situation, their anger is easy to understand.

This incredible inflation in energy prices and profits has created the suspicion in the public mind that the oil companies have artificially created this energy "crisis" to line their own pockets. Recent press reports indicating that fuel storage facilities are now full to overflowing, make it difficult to reassure the people that the so-called crisis was not merely an excuse for greedy and arrogant oil men to add to their already swollen stream of profits.

Compounding the suspicion and mistrust is the fact that no one in Government has the data necessary to tell the American people the truth about the energy crisis. No one, not even the officials of the Federal Energy Office who are supposed to take charge of the fight against the fuel shortages, has the information needed to determine whether we are the victims of "fuelishness" or fraud, and what to do about it.

I understand that the anger of my constituents is shared by many Americans around the country. It is, therefore, incumbent upon those of us in Congress to act immediately. First, we must get the facts. This Government has been attempting to make energy policy for 6 months without having the information it needs to separate truth from fiction. Legislation is needed to set up a fact-finding office in the administration to coordinate an investigation of the energy crisis over both the short and long term. This legislation should require the oil companies to disclose all the information they have which the new energy information office determines is necessary for an understanding of our national energy situation.

It is also time to freeze the price of oil and petroleum products and, to roll them back at least to the levels of November 1, 1973, when "old" domestic crude was selling at about $4.25 a barrel, and "new" crude at $5.75 a barrel. Those were the price levels which oil producers said at the time would be adequate to encourage huge new oil exploration and production. In contrast, new crude is now selling at $10 a barrel.

Finally, the revelation that the big oil companies gave almost $5 million in corporate and individual contributions to President Nixon's campaign—10 percent of his total campaign fund—compounds the public's suspicion about the willingness of the present administration to regulate the oil industry firmly and trim down their excessive profits.

We in Congress must, therefore, act quickly to get the facts, to control prices and to prevent the oil companies from reaping windfall profits at the expense of the people.

In the long run we will have to see that the monopolistic types of practices engaged in by oil companies are eliminated. We will also have to reform campaign financing so that we do not find the heavy hand of the oil interests in making Government policy.

The task before us is an enormous one, but if we do not discharge it we will add to the great cynicism that the country now feels about the ability of its Government to govern.

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## MAKE 1974 THE YEAR OF THE VETERAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 30 minutes.

Mr. DRINAN. Mr. Speaker, today's veterans know no hurrahs. Homecoming parades and tumultuous newsreel scenes of troopships landing have long stopped. The Congress and the country, despite recent ovations for returned POW's, have barely taken notice of the 6 million veterans returned from service in Vietnam and those who returned many years ago; 1.1 million from World War I, 14 million who served in World War II, and 5 million who are veterans of the Korean conflict. We have as a part of our heritage a tradition of gratitude to veterans of the armed services, yet today a nation that understandably wants badly to forget war is also forgetting the returning soldier.

I have the hope that in 1974 the Congress will move forward in enactment of measures to update and extend the programs to which it has committed itself on behalf of America's veterans, those left disabled as a result of service, those who were widowed, those children who lost a parent, and provide initiative in education, training, and other areas for those in need of this assistance.

Some 2.2 million veterans receive disability compensation. In addition there are 200,000 widows and children of veterans who receive some form of assistance. In 1973 there were 125 compensation bills pending in the House Veterans' Affairs Committee. I have the hope that the House will act early in 1974 to increase compensation which is received by veterans with service-connected disabilities and adjust the pension law to include a correction so that no person's benefits whether veteran or survivor or dependent of a veteran, should diminish if social security benefits are increased.

The GI bill must be updated. The monthly allotment for a single veteran should be increased from $220 to at least $250. Indeed, with total average charges of private education over $4,500 and public colleges over $2,700, according to an Office of Education report, the veteran faces rough going in stretching benefits of $1,980. Technical and vocational training as well reflects these higher costs. The requirement of 30-percent disability before a veteran can receive rehabilitation training should be reduced to a 10-percent disability. The period during which a veteran may claim his GI bill benefits should be extended from 8 to at least 10 years or, even better, be totally eliminated.

The home loan market is so highly priced at this time that most veterans cannot purchase a home. The Congress should make improvements in the loan program so that veterans, especially those of the Vietnam Era, may be able to have an interest rate that will permit them to obtain a home of at least moderate cost.

Further funding should be granted to the program entitled, "Veterans Cost of Instruction" which was authorized by the 92d Congress. The $25 million appropriated by the Congress to carry out this program was impounded by the administration. A Federal court ruled that the money must be made available. The program is designed to assist veterans interested in attending college who have special readjustment problems. Under this law, colleges which increase their veterans' enrollment by 10 percent over the previous year are entitled to payments of up to $450 for each of the certain categories of veterans attending the school full time. If adequately funded this particular program could act as an incentive to colleges and technical institutions to reach out for veterans while at the same time furnishing veterans adequate psychological and financial incentives to make full utilization of their GI bill.

The foregoing are but some of the areas that need legislative attention. Along with these is the continuing concern for appropriate medical care especially at veterans' hospitals, which has been a main topic of study of veterans' groups such as the Disabled American Veterans. Attention must also be given to the Veterans' Administration itself, which is overworked and has become an often uninspiring bureaucracy.

Pleading fiscal necessity and reflecting a general cutback in domestic programs, the administration has fought raising veterans benefits. It is my hope that the Congress will not be intimidated by the threat of presidential veto but will move quickly to reaffirm its commitment to this Nation's veterans.

## AT LONG LAST—IT FINALLY HAPPENED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. RANDALL) is recognized for 5 minutes.

Mr. RANDALL. Mr. Speaker, I shall not take all of the 5 minutes. I came back to the floor to be here at the conclusion of other speeches to be certain that these remarks would appear in the RECORD after the vote on the International Development Association authorization bill.

If I had chosen to take advantage of general leave granted all Members prior to the vote on the bill—my projection of possible defeat of the authorization would have been construed as a prediction. Now the defeat of this proposed extension of authority for appropriations is a fait accompli. The bill was defeated by an almost unbelievable vote of 248 to 155.

Mr. Speaker, H.R. 11354 is a bill that would authorize U.S. contributions to the International Development Association—IDA—which is the arm of the World Bank that makes loans. It should be noted that this bill authorizes $1.5 billion with no fiscal year limitation. The bill does provide that the United States shall make its contributions available at the rate of $375 million per year over the 4-year period from fiscal 1976 to fiscal 1979.

Note carefully that the word "contributions" is used and that is not by accident or mistake. What happens—and it has been going on for a long time—is the United States makes these funds available to IDA in the form of noninterest bearing letters of credit which are drawn to make disbursements to the various countries. No matter how you slice it, and whether you call it a loan or not, it is a contribution or gift.

The language used with the bill uses the words "concessional loans" which means soft loans, which are in many instances, noninterest bearing loans. All of these loans are made on such easy payment plans that there is no expectation that payment of these loans will ever be accomplished.

Proponents of the bill made quite a point of the fact that replenishments of funds provided for in this authorization bill will reduce the U.S. share from 40 percent as in prior replenishments to 33⅓ percent in this replenishment. And that for every dollar contributed by the United States, other countries will contribute $2.

Well, I must say, I cannot understand how this logic is of much consolation. If we agree that these contributions should not be called loans at all, concessional, soft, or otherwise, then it only confuses everyone to hold out any hope that any of these contributions will be repaid.

I asked for this time to put in the RECORD the statement that I thought I would never be here to see the day that an IDA authorization bill would be defeated. For years I have voted against these so-called loans, which are not really loans. In many instances there is no interest charged, but only a so-called service charge.

The people in our congressional district are paying 9 percent for construction loans. My constituents pay 3 percent when they are able to qualify for disaster loans, as a result of floods or tornado.

But as we witness the defeat of this replenishment today, it is encouraging to attribute the result to the fact that the membership of this House has at last received the message from back home that it is past time to stop giving money away around the world when we do not have funds for our own rural water districts or to build sewer pollution plants in small cities under mandate of the Environmental Protection Agency.

Maybe the message from home has at last been heard so loud and clear that we will take care of some of the needs in this country that should and must be met before we any longer pass out our money all over the world, in the form of soft, concessional loans.

## CONSUMER PRODUCT SAFETY COMMISSION AND THE SAFETY OF SYNTHETIC TURF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. MOSS) is recognized for 5 minutes.

Mr. MOSS. Mr. Speaker, just over a year ago, Congress enacted one of the most far-reaching consumer protection laws, the Consumer Product Safety Act—Public Law 92-573. The Consumer Product Safety Act is designed to protect consumers from injuries caused by unreasonably hazardous consumer products. The Congress in its wisdom has clothed the Commission with a series of powers which, judiciously used, will afford increased safety in the market place. The Commission has begun its consumer protection tasks with determination. I know that it is the hope of the sponsors of the legislation and the many Members who supported it that the Commission will in the long run prove itself to be a vigorous protector of the American consumer and also an agency imbued with fairness to the businesses and individuals subject to its jurisdiction.

One of the most important subjects currently before the Commission is the question of whether or not it should develop and promulgate a consumer product safety standard for synthetic turf. The issue is of significance to millions of professional and amateur athletes who may be competing on these surfaces in the years to come.

One of the groups that has taken a leading role in proposing such standards is the National Football Players Association. The NFPA obviously has a direct interest in the safety of its member players; yet it has undertaken to advocate consumer safety for all players, professional and amateur. Consumers are indebted to the NFPA for raising these serious safety questions before the Commission.

At this time, I am pleased to incorporate in the CONGRESSIONAL RECORD the remarks of our former colleague, the Honorable Emanuel Celler, counsel to the Players Association, with regard to the question of safety standards for synthetic turf. In addition, at Mr. Celler's request, I am incorporating letters from Mr. James R. Kirkpatrick, associate secretary for the American Association of School Administrators; Dwight F. Rettie, executive director of the National Recreation and Park Association; Mr. George F. Anderson, associate executive secretary of the American Association for Health, Physical Education, and Recreation; and Mr. August W. Steinhulber, assistant executive director of the National School Boards Association, evidencing concern with the safety of playing surfaces:

### REMARKS OF HON. EMANUEL CELLER ON NFLPA SYNTHETIC TURF PETITION BEFORE CONSUMER PRODUCT SAFETY COMMISSION

When the Congress created the Consumer Product Safety Commission, it made a number of findings, for example:

"That the public should be protected against unreasonable risks of injury associated with consumer products", and

"That existing federal authority to protect consumers from [risks of injury] is inadequate."

The purposes of the Consumer Product Safety Act, among other things, are—to protect the public against unreasonable risks of injury and to promote research and investigation into the causes and prevention of product-related deaths, illness and injuries.

Within ten days after (you gentlemen), the Product Safety Commission opened your doors, the National Football League Players Association (NFLPA) filed its petition. We asked that rules be issued with respect to the use of synthetic turf as a surface cover for athletic fields.

In the complex economy of ours with its multiplicity of products and services, you gentlemen perform a most important function. Your assignment involves great significance for which the nation must feel most grateful. We the applicants want to have faith and confidence in your judgment, despite the novelty of our application.

The legislative history of the Product Safety Act itself amply demonstrates the congressional awareness and concern over the hazards of synthetic turf. Indeed, as a consequence of the testimony before the Moss House Commerce Subcommittee by NFLPA Executive Director Ed Garvey, Washington Redskin players Roy Jefferson and John Wilbur, and of Dr. James Garrick of the University of Washington, the Product Safety Act was amended. The amendment made abundantly clear that products such as synthetic turf were to come within the regulatory jurisdiction of the Commission.

The legislative history also clearly demonstrates that manufacturers' claims of safety are not supported by experience or hard evidence.

Both Senator Magnuson and Representative Moss, the congressional sponsors of the Consumer Product Safety Act, expressed their interest and concern about synthetic turf by letter to the Product Safety Commission.

The Monsanto Company, the manufacturer of *AstroTurf*, filed a "counter petition" opposing federal action. The NFLPA responded to the Monsanto claim and supplied the Commission with a detailed refutation by Dr. James Garrick of the University of Washington Medical School. Much more evidence can be supplied.

It must be stressed that Monsanto's comments acknowledge that synthetic grass turf contributes to at least three types of injuries cited by the Players Association. For example, body burns, heat prostration, and torn cartilage and ligaments. The manufacturer asserts that these injuries can be reduced or eliminated simply by "proper training procedures", "wearing protective equipment", maintaining "proper" body fluid levels and wearing clean socks.

We suggest that once safety hazards are established it is the Commission rather than the manufacturer who must determine what steps are appropriate to eliminate or reduce unreasonable risks of injury.

Moreover, its argument of adverse economic impact, rather than supporting denial of relief, directly underscores the need for prompt, effective federal regulation lest the costs of turf installation and removal become the controlling considerations. The Commission's own *Product Hazard Index* ranks football among the ten most hazardous product categories. Its injury data collection system discloses the substantial volume and severity of football injuries. Indeed, all recent studies indicate a higher frequency of injury on synthetic as compared to natural turf surfaces.

On October 9, the Commission in an Executive Meeting apparently rejected the NFLPA petition. It did so on the basis that insufficient injury data exists. If the Commission needs greater injury documentation, then we can only conclude that it will act positively only *after* a greater number of athletes become injured and possibly crippled for life.

The Commission inaction is particularly regrettable in view of the growing numbers of non-professionals in high school and college who are playing on artificial turf and are exposed to serious injury hazards. Their salvation lies only in decisive federal regulation.

On October 30, I wrote to the Commission reminding them that as of that date no written decision containing the Commission's reasoning or rational had been published, as required by the Act. Because of the paramount issues of life and limb presented by the continuing use of synthetic turf, I urged, on behalf of the NFLPA, that the Commission conduct public hearings and receive testimony and other evidence firsthand about this product. *If the Commission lacks sufficient evidence, I would strongly suggest that it seek injury data records from the Occupational Safety and Health Administration in the Department of Labor*. Every employer, including the NFL member clubs, must keep careful records of injuries under the Act.

At present this information is not available to employees. *But examination of such injury data by the Product Safety Commission is essential if it is to fulfill its statutory responsibilities.*

Sec. 29 of the Consumer Product Safety Act specifically authorizes and directs the Commission to obtain from any federal department or agency such statistics, data, reports and other information as it requires to perform its statutory duty.

Thus, the Product Safety Commission is obligated to seek out from all possible available sources the data necessary to determine whether or not a particular product presents an unreasonable risk of injury.

It is quite understandable that synthetic turf manufacturers will do all and sundry to protect their product. The fact that their product is already in use should not be controlling. The danger signals are up. There are enough nettles in the sport of football, but the playing field should not exacerbate them. Delay in remedy makes the danger more pronounced. Cervantes said, "By the street of by and by, you come to the house of never." There are those who would consider the evil in a cavalier manner. This is so with the manufacturers of synthetic turf and the football owners and impresarios.

I understand that a number of organizations concerned with secondary school and collegiate athletic programs and safety have indicated their support for public hearings relating to the use of synthetic turf. These organizations include the American Association of School Administrators, the National School Boards Association, the American Association for Health, Physical Education and Recreation, the American College Health Association, and the National Recreation and Parks Association.

We believe that the generalized hearings on football hazards as apparently envisioned by the Commission are inadequate to its purpose. By the time an overall inquiry on football safety is completed, thousands of our youth and young adults will be injured or crippled by playing on synthetic turf surfaces. What is really needed is a public inquiry by the Commission which is focused on the important safety issues of playing surfaces. Such an inquiry will enable the Commission to obtain firsthand competent testimony, injury data and other evidence it needs to be fully informed in the premises. It is certainly reasonable to expect that the Commission would want to base a decision affecting so many of our children and youth on the most competent, thorough and complete record possible.

The Moss Hearings also reveal the type of serious physical injuries professional football players experience on the synthetic turf surface. These injuries include: aggravated knee and ankle injuries; cartilage and ligament tears from the friction-traction properties of the turf; serious body burns from slipping or sliding on the abrasive surface; staphylococcus infection due to toxic concentrations in the turf; severe fractures and concussions resulting from the non-shock absorbing or non-resilient quality of the turf; heat prostration and blistering due to the thermal qualities of the synthetic surface. Due to the absorption properties of synthetic turf—causing tremendous increase in heat—players, for example, in Miami this year—were compelled to participate in the sport at temperatures in excess of 110 degrees, causing numbers of heat prostrations.

We are ready to submit additional information.

We suggest that the hearing be given high priority.

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American Association
of School Administrators,
*Arlington, Va., December 26, 1973.*

Mr. Richard O. Simpson,
*Chairman, Consumer Product Safety Commission, Bethesda, Md.*

Dear Mr. Simpson: AASA, the national professional association of school superintendents, was pleased to note the recent news item indicating that your commission was favorably considering the holding of public hearings related to the use of synthetic grass surfaces for athletic events.

Being deeply concerned with the health and safety of secondary school athletes, AASA strongly believes that if such public hearings are held and the evidence derived thereof warrants it, safety standards relating to the composition, installation and maintenance of such surfaces should be developed by your commission.

Very truly yours,

James R. Kirkpatrick,
*Associate Secretary.*

January 3, 1974.

Hon. Richard O. Simpson,
*Chairman, Consumer Product Safety Commission, Washington, D.C.*

Dear Mr. Simpson: It is our understanding that the Commission will be conducting public hearings on safety standards for synthetic turf products. We would like to record our support for such hearings, and our interest in not only the athletic field application but also the use of synthetic turf for a wide variety of other recreation activities such as surfacing under playground apparatus.

The membership of the National Recreation and Park Association includes park and recreation officials responsible for purchasing, installing, and maintaining synthetic turf as well as citizen board and commission members who establish local policies. Two of the principal manufacturers of artificial turf products advertise in our monthly magazine and exhibit at our conventions.

We reiterate our interest in this subject and stand willing to assist the Commission in any way we can as you proceed with hearings and the evaluation of synthetic turf products.

Sincerely,

Dwight F. Rettie,
*Executive Director.*

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American Association for Health,
Physical Education, and Recreation,
*Washington, D.C., January 2, 1974.*

Hon. Richard O. Simpson,
*Chairman, Consumer Product Safety Commission, Washington, D.C.*

Dear Mr. Chairman: The American Association for Health, Physical Education, and Recreation is a non-profit professional association representing 50,000 physical education teachers and coaches in schools and colleges throughout the United States, Puerto Rico, Guam, and the Virgin Islands. Included in the AAHPER structure is the National Council of State High School Coaches Associations (NCHSCA), the National Council of Secondary School Athletic Directors (NCSSAD), the Association for Intercollegiate Athletics for Women (AIAW), and the National Intramural Sports Council (NISC). Among other matters, AAHPER is actively concerned with team sports and athletic activity at all educational levels throughout the United States.

We understand that the Consumer Product Safety Commission presently is considering the question of whether synthetic turf playing surfaces present unreasonable risks of injury. Although this issue was presented to the Commission by the National Football League Players Association, it is important to stress that the subject of athletic safety is of vital concern also to those of us who deal with school and college sports programs.

The safety and health of amateur athletes in colleges and secondary schools, as well as of professional players, is a matter of widespread public interest. We believe that every effort should be undertaken to provide our youth optimum safety when they engage in athletic contests.

According to press reports, the Commission soon will be meeting with representatives of the National Football League Players Association to discuss possible public hearings on synthetic turf safety. AAHPER fully endorses such public hearings and urges the Commission to thoroughly examine advantages and disadvantages relative to the safety aspects of synthetic surfaces. We would urge the Commission, consistent with its statutory responsibilities, to develop safety requirements governing the performance, composition and use of synthetic turf playing fields as is warranted by the hearing record, injury data and other information compiled by the Commission.

Synthetic grass turf is a relatively new product not yet installed on an extensive scale. If it presents excessive risk of injury, then the time to develop and implement safety standards is the present.

Cordially,

George F. Anderson,
*Associate Executive Secretary.*

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National School Boards Association,
*Washington, D.C., January 2, 1974.*

Mr. Richard O. Simpson,
*Chairman, Consumer Product Safety Commission, Bethesda, Md.*

Dear Mr. Chairman: It has come to the attention of the National School Boards Association that the Commission is considering the development of safety standards for synthetic turf.

Our association represents the 17,000 school districts in the United States which have the responsibility for purchasing all types of school equipment for our teachers and students to use. We have become very conscious of safety problems as they relate to two areas: 1) the operation of school buses, and 2) interscholastic sports. It is in this latter context that I would urge the commission to look at safety factors relating to synthetic turf and to keep our association notified of your findings.

Sincerely,

August W. Steinhilber,
*Assistant Executive Director,*
*Office of Federal Relations.*

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## DR. RONAN: MASS TRANSIT AND THE ENERGY CRISIS

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, the disturbing growth of air pollution and fuel shortages have underlined the importance of improving mass transit facilities. Dr. William Ronan, chairman of the Metropolitan Transportation Authority of the State of New York, and vice chairman of the Board of Commissioners, the Port Authorities of New York and New Jersey, in a December 11, 1973, presentation before the Subcommittee on Transportation, Senate Public Works Committee described the problems and prospects of urban transportation systems in the context of the energy crisis. His remarks are of interest to all of us as we search for solutions to the pressing problems of energy and the environment.

The remarks follow:

### Statement of Dr. William J. Ronan

Mr. Chairman and members of the Senate Subcommittee on Transportation, my name is William J. Ronan. I am the President of the Institute for Rapid Transit. Among the Institute's members are the public agencies which operate every urban rapid transit system existing in the United States, Canada and Mexico. Our membership also includes representation from metropolitan areas throughout the country that are constructing or planning to build new urban public transportation systems. The public agencies—local, State and Federal—who are members of the Institute for Rapid Transit also operate the nation's largest urban bus systems. Of the 60,700 city transit vehicles (exclusive of commuter railroad cars) which were in service in the United States at the end of 1972, nearly half were operated by members of the Institute. Thus, we are deeply interested in Federal actions and policies affecting energy as they will impact on local transit systems, both bus and rail.

I also am the Chairman and Chief Executive Officer of the State of the New York's Metropolitan Transportation Authority and its constituent agencies. The MTA serves a twelve-county area of the State of New York, encompassing 4,000 square miles and inhabited by some twelve million people. Within this area, about one-third the size of Belgium or The Netherlands, the MTA operates a network of urban rapid transit and bus lines, suburban railroads, two general purpose airports, several highway bridges and two vehicular tunnels. In the Metropolitan Transportation Authority, the State of New York has created a mechanism for coordinating the plans, construction, operations and finances for our metropolitan area‘s public transportation network.

In addition to my position with the Metropolitan Transportation Authority, I am the Vice Chairman of the Board of Commissioners of The Port Authority of New York and New Jersey. The Port Authority is a self-supporting corporate agency created in 1921 by treaty between the two States to plan and develop transportation and terminal facilities, and to promote the international and domestic commerce of the New York-New Jersey Port District. Within an area of approximately 25 miles radius of the Statue of Liberty, the Port Authority operates airports, toll bridges and tunnels, bus and truck terminals, seaports, The World Trade Center and the PATH rail rapid transit system. Under bi-state legislation enacted this year, the Port Authority will undertake a major program to link the area's two international airports with New York City by rail and to improve suburban rail service between New Jersey and New York.

Mr. Chairman and members of the subcommittee, your hearings today are most timely in view of the mobility crisis facing our nation. Transportation of people and freight is essential to the economic and social functioning of our complex society, and the outlook for transportation in view of mounting energy shortage is grim. In many prior appearances before your committee and others, I have cited statistics to show the condition of urban transportation and seek your aid in rebuilding it as a way towards better urban life. Today, we must look beyond statistics to consider the immediate and drastic impact of energy shortages on people and on their daily lives. The range of topics covered in your call for this hearing, including gasoline shortages, speed limit reductions, fuel allocations, movement of food and other essential goods, and other economic dislocations, shows the pervading influence of the energy crisis on the American population. My presentation will deal only with urban public transportation and its difficulties. Knowing the complexity of problems in just this one area, I can appreciate the vast job facing those, such as yourselves, who must confront the energy crisis in all its ramifications. Nevertheless, considering the particularly critical importance of moving our population to and from work, urban transportation's problems and potentials should be given high priority in the nation's overall efforts to conserve and make efficient use of our scarce energy resources.

As operators of public transportation facilities, we have been thrust abruptly into the midst of the energy crisis. Across the country, reports come in of transit lines facing curtailment of service because fuel and lubricant suppliers cannot guarantee deliveries sufficient to operate full schedules. Even with recent steps to give transit the highest priority in the use of available fuel, we find continuing difficulties. As it turns out, a fuel allocation, however high its priority, becomes virtually a hunting license in the market place of scarcity. Operators of rail rapid transit systems are also potentially affected by scarcity as proposals to lower electric voltages threaten to disrupt effective operating schedules.

Our steps to expand the transit industry's future capabilities to serve the public are also being severely impacted by energy shortages. Delivery of new equipment is being delayed as manufacturers report raw material shortages. Construction of new facilities will surely be delayed or made economically prohibitive by restricted availability of diesel fuel and by the rising costs of all materials and labor.

These problems would be of serious concern if public transit operators, like all vendors of goods or services, were merely trying to maintain their place in the nation's economic life. In the present context, where public transportation is being "rediscovered" by our citizens and our public officials as a means to address our problems of energy conservation and environmental improvement, inability to continue and expand our service becomes a matter of critical national importance. While this new emphasis fits with all we have said about the potential of public transportation, greater resources and priorities will be needed to turn our potential into a reality. With a concentrated national effort, transit service can contribute effectively to meeting both the short range mobility crisis and the longer range need for more effective and self-sufficient use of our natural resources.

Transit operating agencies are now doing whatever they can, within limits of financial constraints and resource availability, to contribute to these goals. In the short run, we are attempting to stimulate greater use of available public transportation as a substitute means of urban mobility. My own organization, the Metropolitan Transportation Authority, recently announced an experimental policy of half-fare transportation through our rail, bus and subway system on Sundays. Despite potential revenue losses, we felt this was a necessary contribution to peoples' ability to travel on so-called "gasless Sundays." This coming Sunday will be the first test of this new fare policy. While we cannot predict the results, we can hope that the only problem will be a shortage of space on our normally curtailed weekend services. If such a positive result is achieved, we will certainly move quickly to expand service to the degree necessary.

This MTA experiment is but one of many such steps around the nation to expand transit patronage through increased service, stabilized or lowered fares or combinations of these factors. Seemingly, these steps are having their effect. The relentless decline in public transport usage across the nation has clearly been abated in 1973. Year-end results, when they are available, will show, at worst, only a fractional decline and perhaps even a stabilization in national totals. Many cities are strongly countering the past trend of decline. Seattle, with its experimental free fare zone inside the boundaries of its central business district, has boosted traffic by 56 per cent. Fare reductions in Denver, Atlanta, San Diego and Cincinnati have also stimulated ridership. Over the past few years, newly instituted transit services such as the Boston South Shore extension, Philadelphia's Lindenwold Line, Washington's Shirley Highway bus service and the BART system in San Francisco have all proven the drawing power of good transit service in competition with the private automobile. Even without the powerful stimulus of gasoline shortages or rationing, we feel that the transit industry has begun to turn around.

Efforts to increase ridership have been paralleled by our concern for energy conservation. Transit systems around the country have quickly reviewed our operations and found means to reduce their consumption of power in ways that will not materially affect passenger service. Reductions in car heating levels, station lighting, shorter off-peak train lengths and the like, handled with careful explanations to the public will make transit an even more efficient user of energy. Longer range conservation efforts are also underway, including technological research to minimize energy consumption. My own agency, for example, is doing research and development on an energy recapture and storage system for subway cars. Our objective is to reduce power consumption and lower the heat levels in our tunnels by making use of the energy now dispatched through resistor grids during braking.

In fact, the existence of highly developed transit systems in a few of our metropolitan areas—such as Boston, Chicago, Cleveland, New York, Philadelphia and San Francisco—may prove over the next few years to be a national economic asset. These cities have, through their own investment of capital and through continuing operating assistance, preserved an important means of mobility. Hopefully, they will be joined in a few years by other cities—Washington, D.C., Atlanta, Baltimore and perhaps others—who have made such a commitment in partnership with the Federal government. Another group—including New Orleans, San Antonio and Seattle have extensive and well-run bus systems serving a significant portion of the local population.

Each of these cities will be better able to move their people—and keep alive economically—if curtailment of automobile traffic through gasoline rationing or to meet air quality standards becomes a reality. Because they kept their public transportation systems alive and improved or expanded them whenever possible, these communities have achieved at least some balance in transportation and reduced their dependencies on the private automobile. When the crunch comes, those cities and regions which have highly-developed public transportation systems are going to be in a very strong competitive position vis-a-vis those new and less fortunate areas which grew up in the automobile age. They will also be far ahead of unfortunate communities which lost their bus and rail systems in a search for a new model or urban development. While we all certainly hope that the energy crisis will not result in widespread economic slowdown, it seems obvious that those areas with presently adequate transit service will be better able to respond than those without. The Chicago elevated, the New York subway or the Boston trolley lines are often maligned as obsolete or inhuman or inefficient transportation facilities. While they obviously need much in the way of improvement, their availability in the possible crunch that is upon us should go a long way toward stilling these critics.

I would hope that these remarks do not indicate any complacency on our part as transit operators. The prospect of rapid and enforced order of magnitude changes in natural travel habits is, in fact, a frightening one in view of the slow pace of the progress we have made to date. In all honesty, we are far from ready, in terms of physical facilities, financial resources, or policy positions to assume a dominant role in moving urban America. With the seriousness of the energy crisis now before us, I believe it is time to marshall all these factors and make the kind of bold commitments that will assure a major role for public transport in achieving energy self-sufficiency for this country.

Our recent experience with attempts to meet environmental goals which parallel the need to conserve energy suggests the areas in which these commitments must be focused. In seeking to fulfill air quality standards, Federal and State environmental officials have tested the nation's readiness to accept massive reductions in auto traffic similar to those which gasoline shortages would enforce. Outraged citizen reactions, an obvious lack of policy and program coordination, and the gap between demands on transit services and willingness to share in their financing all attest to a lack of preparedness to accept automobile restraints without offsetting transit improvements.

Another matter of serious concern has been our inability to resolve the demands of what we used to call "progress" with the new needs of the environmental emergency and the energy crisis. While protecting the basic qualities of the environment which are essential to the survival of mankind, we must be ready to use the resources needed for the enhancement of life in a responsible manner. We cannot permit the ecological argument to be twisted into a means for delay or denial of those projects which, in fact, will contribute to a better life and a better environment.

A particularly pointed example of such a conflict lies in the search for electrical energy to power local transit systems. My agency, the MTA, places a peak demand on the Consolidated Edison system which is equivalent to eleven per cent (11%) of Con Ed's generating capacity. By 1980, when all our subway and commuter cars will be air-conditioned and when forty miles of new rapid transit lines and electrified suburban rail facilities will be operational, the MTA's peak energy requirement will be more than doubled. Yet, it is well known that the Con Ed system is unable, even at present, to meet its full system demands from its own generators. The utility must search throughout the Northeast to buy additional power. Yet its efforts to expand generating capacity to meet present and projected increases in demand have been blocked for more than a decade over environmental objections. Leaders of this small group of opponents frankly admit that their strategy is aimed at delaying key projects until the pressures of inflation make them economically inviable. The impact of fuel shortage on its stop-gap use of gas turbine generators will only aggravate Con Ed's capacity problems. Accordingly, in an attempt to secure the additional energy which we will need to keep the transit system running, the State of New York has authorized the MTA to develop new generating facilities in cooperation with the New York State Power Authority. One way or another, we must get this energy if we are to provide the public transit services which are called for by both environmental and energy planners as an alternative to the automobile.

Considering what is at stake in terms of potential economic and social impact, is it not timely that we mobilize all our efforts towards enhancing transit's ability to meet the coming challenge? I can assure you that transit operating agencies and the State and local governments they represent are ready to participate and I hope that the Federal government is ready to do its part in key areas that I will outline shortly.

Public transportation can contribute not only to resolution of the environmental/energy situation, but is of considerable importance in terms of reducing congestion, contributing to more efficient land use patterns and meeting the mobility needs of all elements of society. Stepping up our efforts in the short run may involve substantial improvisation of measures to meet the demands of the energy crisis. Staggering of work hours, special bus services, car pooling and the like will no doubt have to be used to meet immediate needs. It is particularly important to note that much of the potential transit demand which will be brought on by gasoline shortages will come from travellers not now oriented to the core areas of our regions where transit lines now operate. Meeting these needs mean not just the addition of incremental service to existing lines, but the creation of entire new routes and services to substitute for the automobile in suburbia and exurbia. All of these short-term measures need to be placed in the longer run context of efficient transportation systems to meet regional mobility and development needs.

States and cities across the country have given their commitment to transit operation and development. There is a strong popular base for an expanded transit program. For example, it is reported that a majority of California voters not only support public transportation but expressed willingness to contribute significantly through taxation toward this end. During the past decade, voters in Atlanta, Chicago, Cincinnati, Dayton, Denver, Miami, Seattle and the States of California, New Jersey and New York have approved referenda for self-taxation to provide for the capital or operating costs of transit services. Elected representatives at the state and local level have taken similar action in other areas.

The Federal role in providing for public transportation has undergone substantial increase over the last decade, and legislation now pending would expand this role in important ways. Without denying the significance of what has been accomplished to date, the magnitude of need suggests that incremental progress is no longer sufficient. Using the tools and programs that are now in existence, and additional programs that we feel will be legislated soon, it is time for the Federal government to give leadership and direction in a major national effort.

The Federal government is uniquely capable of addressing the problem of fuel and energy availability and must continue its efforts to provide the necessary wherewithal for present and expanded transit operations. Along these lines, too, it is important that timely decisions be made on critical matters such as gasoline rationing. Alternative transit service cannot be put in place overnight. Adequate lead time will be necessary to plan maximum service utilizing existing bus and rail capacity. The transit industry is not in a financial position which would permit this kind of preparation as a speculative exercise. In the event that longer range expansion of service is required, government intervention to assure that production capacity and manpower available for and devoted to the expansion of the transit industry will be needed. In order that full services can be offered, government action to assign construction priorities to buses and rail equipment will probably be needed to overcome existing problems of shortage.

Regulatory policies and procedures of the Federal government will need review in the context of a new commitment to preservation and expansion of public transportation. Environmental officials, for example, have suggested the use of automobile tolls to reduce traffic and regulatory agencies have suggested toll increases as a means of avoiding higher transit fare. Yet the Federal statutes continue to encourage a toll free highway system and the Federal Highway Administration has disapproved modest toll increases, which would have contributed to the support of parallel public transportation service. In many areas, Federal and State regulatory agencies have permitted not only the disappearance of rail service under economic pressures, but the dismemberment of irreplaceable rights-of-way despite the public interest in these vital assets.

Federal procedures embodied in the Urban Mass Transportation Act and elsewhere must be reviewed to determine whether unnecessary roadblocks are being created to stand in the way of progress in developing the new transit systems we need. Provisions designed to protect the interests of special groups may have their place, but these interests must be weighed against the national interest in achieving viable transit service.

Procedural delays in the processing of vitally-needed urban transportation projects are also counter-productive. Continual weighing of multiple alternatives to satisfy environmental planners and budget officials is not contributing towards achieving our goals. Once a program has been developed out of conflicting alternative plans, it must move forward without a constant process of second-, third- and fourth-guessing.

Of paramount importance, however, is the matter of Federal funding, both for capital and operating expense. The national stakes involved in the energy crisis and the national reliance on public transit service as a means for overcoming potential mobility restrictions underscores the need for Federal action.

With the recent passage of the Federal Aid Highway Act, substantial new resources were made available for the capital program. That Act provided for $3 billion in new contract authority for the program, as well as permitting the latitude of local and state option to use certain highway funds for transit purposes. These sums, if made available to States and localities, are sufficient for the immediate needs of the next year or two, considering the pace at which capital projects are progressed. But our experience to date with the workings of the capital grant program using contract authority suggests the need for reviewing the basic concept of the program. With the limitations placed on annual usage of contract authority, the Federal government is unable to commit itself in any meaningful way to the completion of major multi-year construction projects. If the Urban Mass Transportation program is ever to achieve significant results in all the ways hoped for, such long-term commitments are a necessity. In addition, an increased flow of funds is needed to offset the higher Federal share legislated to give equity with the Highway program. To date, the Administration has used this higher share only within fixed program totals, thus reducing the number of grants which can be made. The current crisis offers the opportunity to re-evaluate this program and new ways in which its goals can be achieved on an accelerated basis. The Federal Aid Highway Act called for such a study of public transportation needs and the means whereby they could be met. This study should be completed quickly and in parallel with Congressional consideration of the problems by all the committees involved.

Finally, and most importantly, I raise the subject of Federal operating assistance. Since both houses of Congress have passed legislation to provide for such aid, I feel that I am among friends in entering into this discussion. It must be clear to all concerned that the major expansion of transit services at reasonable fare levels that will be needed to substitute for the automobile will in no way restore economic well being to transit operators. The operation of these expanded transit services, fanning out into the areas which grew on the basis of automobile access, will probably add to our economic burden, as will the provision of expanded peak period runs on existing lines. In evaluating such prospects, an official of your new bus operation in the Washington area recently summed up the WMATA position by saying that they were in business to carry people, not to make money. This is, in general, the position and the priority that any responsible public transportation operator would take. Particularly in view of the consequences in reduced mobility that gasoline shortages would cause, we could take no other position as public officials charged with meeting public needs. But this does not provide the needed cash. State and local contributions toward the stabilization of transit finances are significant and growing—even though it requires increasing levels of fiscal sophistication each year to find these local resources. The potential economic impact of fare increases is such that we must find means of stabilization. For example, calculations in the New York area show that a 20-cent increase in subway fares would directly add 1½ per cent to the regional cost-of-living increase and would cause further inflationary impact as wages, welfare payments and the like reflected this increase.

The hope of Federal participation in this important program has been long in development. The Congress directed the Administration in 1970 to review the condition of transit finance and make appropriate recommendations. In their report, the Department of Transportation carefully analyzed the problem, admitted to its drastic nature, but fell short of recommending Federal participation on the grounds that a perfect mechanism for administering the funds could not be found. Recent statements by some Administration officials suggest that a re-evaluation is underway, but it is not clear when this re-evaluation will be completed. The time is now absolutely at hand when the Federal government must reflect its significant interests and begin to participate as well. Past decisions and analyses must be reconsidered in light of a critical energy shortage. Federal action in meeting the financial needs of surface transportation is already well established in the area of intercity movements. Legislation adopted by Congress and signed by the President authorizes an annual subsidy of $154 million to maintain AMTRAK service, which serves 54,000 riders a day. Substantial Federal resources will be devoted to resolving the problems of the Northeast railroads in whatever form that program finally takes. Action in these intercity areas was predicated in large part on energy concerns. Similar action to preserve and expand our urban transportation systems, which now serve some 20 million passengers a day and have the potential of serving many more is well warranted in terms of the implications for energy conservation.

Without Federal participation in the daily operating costs of transit service there can be no assurance that our transit systems will meet the demands that a severe energy shortage will place upon them. Transit assistance legislation is energy conservation legislation and must be treated in the same accelerated fashion. If the crisis is real, and it appears to us that it certainly is real, our needs are immediate.

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## THE NEED FOR FEDERAL PRIVACY LEGISLATION

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, since 1969 I have introduced in each session a bill dealing with the right of privacy which I hope will be considered during this session of Congress.

The bill to which I refer and which will shortly be the subject of hearings initiates safeguards against abuses of privacy by Federal agencies collecting data on individuals. The bill requires that all Federal agencies, upon request and subject to reasonable safeguards, inform an individual of the contents of any file maintained on him and allows such an individual to inspect his file and to supplement the information and remove erroneous information.

With today's unregulated amassment of dossiers that probe deeper and deeper into the personal lives of our citizens, we are courting permanent erosion of privacy in this country. We must see to it by the enactment of appropriate legislation that Federal agencies be responsible in any data collecting activities that they undertake.

In today's Washington Post, the lead editorial addresses itself to this very issue and I am appending it for the information of our colleagues.

[From the Washington Post, Jan. 23, 1974]

### Privacy: The Issue and the Agenda

One good gauge of the potency of an issue is the number of politicians who decide to get involved. By this standard, the so-called "privacy issue" is finally picking up strength. Sen. Sam J. Ervin (D.-N.C.) and a few other stalwarts are no longer fighting alone. Largely because of Watergate, more and more elected officials have begun to talk about, look into and suggest remedies for a host of actual and potential intrusions into individuals' private lives, from political surveillance to computerized data banks and the expanding use of social security numbers. Now, it is said, the issue has gained so much momentum that President Nixon is planning to include something on the subject in his legislative program for this year.

A sudden spurt of presidential interest in this area is bound to generate some caustic comments because to date Mr. Nixon has shown little concern for anybody's privacy except his own. But if he now regards the subject as a problem to be dealt with, rather than merely an issue to be defused, there are several specific matters—aside from the abuses involved in Watergate—which the administration could usefully address.

First on the agenda should be the enactment of a law to control the contents and uses of computerized files of criminal histories. Although federal funds have fueled a vast expansion of such networks since 1968, Congress until last summer left the chore of regulation entirely to the Justice Department, which in this context largely means the FBI. The FBI in turn has consistently maintained that its National Crime Information Center is under tight control. In fact, under the NCIC system, many fundamental matters—such as insuring that records are accurate and complete, correcting errors and limiting access to the files—are left to the participating states. It is entirely too easy for wrong information to get into the wrong hands, seriously hurting an individual's reputation or job prospects. Under pressure from Congress and the State of Massachusetts, former Attorney General Richardson did start to draft real controls for the NCIC and all federally-funded criminal justice data banks. Attorney General Saxbe has recently expressed his commitment to pursue this project, improving the likelihood that solid legislation can be passed this year.

The second item of business should be the enactment of some basic rules to govern all kinds of automated files on individuals. Last summer, in an important report, a HEW advisory committee proposed a code of elementary safeguard or "fair information practices." That code, sponsored in the House by Rep. Barry Goldwater Jr. (R.-Calif.), would give every citizen more control over who knows how much about his private life and how that knowledge may be used. Rep. Edward I. Koch (D.-N.Y.) and a few other legislators have proposed more stringent curbs and disclosure requirements for federal data systems. Again, formal recommendations from the executive branch might encourage Congress to act. If Mr. Nixon wants to achieve immediate reforms, he could even open many federal systems to public scrutiny by executive order right now.

Third, there are several other areas in which specific laws are needed to combat specific threats to individual liberties. Major improvements in the Fair Credit Reporting

Act have been proposed by Sen. William Proxmire (D.-Wis.) and the Federal Trade Commission, which administers that act. Bills to protect the privacy of bank records are awaiting action. It is also about time for Congress to come to grips with the privacy problems raised by official efforts to learn more about the lives of welfare recipients, drug users, and others who participate in federally-funded programs.

The fourth item on the agenda is the toughest one. That is the problem of official investigations and intelligence—the problem raised by illegal and improper wiretaps, political surveillance, domestic spying plans, infiltration and harassment of dissident groups, and the whole raft of related abuses and excesses which have come to public attention in the past few years. There has been no shortage of congressional complaints about such incursions on the Bill of Rights. The Senate permanent investigations subcommittee has just launched a fresh probe of official surveillance efforts. So far, however, Congress as a whole has generally shied away from the hard question of how the government's enormous police powers ought to be used, and what kinds of investigations, by what agencies, are necessary and legitimate. Yet if legislators are finally serious about grappling with basic issues of liberty and governance, such problems of surveillance and law enforcement will have to be faced. Just making speeches about privacy is not enough.

## MORE ON IMPEACHMENT

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, this week we returned to Washington after spending several weeks in our districts meeting with constituents. Many of our colleagues have shared with us their observations about the temperament of the public—I would like to advise the House that I found that the most prevalent issue on the minds of my constituents is the President's impeachment.

Every weekday during the recess I stood for an hour at the subway stations in my district talking with constituents. Every day I was confronted by the same exclamations: "Impeach him." "When will Congress do its job?" "How long will the Judiciary Committee take?" The frustrations of my constituency were particularly manifest at a public meeting I conducted on Thursday, January 20, a couple of days after the tape experts testified before Judge Sirica that a White House Watergate tape had been altered by five erasures. At that meeting you could sense the rage at the President and the total lack of trust resulting from the revelations relating to the Houston Plan, the Plumbers, the break-in of the office of Ellsberg's doctor, the refusals to provide requested tapes, attempted influence of a Federal judge, and now the erasure of 18½ minutes of the recording of the conversation between President Nixon and H. R. Haldeman.

I believe the President has committed impeachable acts. If he is to be impeached and removed from office, however, it is imperative that the House Judiciary Committee establish the President's role in the various matters including the Watergate related activities. Philosophically and pragmatically it is essential for the Judiciary Committee to complete its investigation if one believes in due process and if a case is to be developed defining and substantiating the grounds for impeachment. The President is entitled to the same due process that we would provide any alleged common criminal; to deny him a full hearing at the "indictment" or impeachment stage would violate that fundamental concept. To deny a full inquiry would also mean that the President would probably escape either impeachment in the House or removal from office by the Senate because the case for impeachment had not been sufficiently prepared.

The frustration felt by many people, however, is so great that there are some individuals who simply cannot accept the need for a hearing and say that each day that the President continues to be in office is an outrage against democracy. There also is a great deal of bitterness felt toward the President. When the question was asked of me, "Which do you prefer, impeachment or resignation," I responded, "Whichever comes sooner." While the principal concern of most is that the President be removed from office, there were those at my public meeting who said, "Don't let him resign, he must be impeached."

There are those who feel that if the President were to resign he would escape possible criminal prosecution for alleged criminal acts. They remember the plea bargaining of Vice President Agnew which resulted in a suspended sentence. Again, by own feeling is that the national interest is better served by Richard Nixon being removed from office as soon as possible.

There are some who ask how a Member of Congress can have an opinion on impeachment in advance of the Judiciary Committee's hearings and the actual vote in the House. My response is that not to have an opinion after all the revelations before the Ervin committee, admissions by those involved and the press reports would require a Member to live in a space shuttle and commute to the Halls of Congress without contact with the Earth and reality. As Members of Congress who are Republicans have said, the burden of proof now has shifted in the court of public opinion. Each day prolongs the agony for this country. The President should either provide the evidence necessary to clear himself or resign; if this does not happen, he must be impeached—and that process must not be delayed or protracted.

## PHASE III HEARINGS BY FOREIGN OPERATIONS AND GOVERNMENT INFORMATION SUBCOMMITTEE ON FEDERAL INFORMATION SYSTEMS AND PLANS—IMPLICATIONS AND ISSUES

(Mr. MOORHEAD of Pennsylvania asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, on several occasions last year I reported to the House on the progress of investigatory hearings of the Foreign Operations and Government Information Subcommittee into Federal information systems and plans involving the use and development of advanced information and communications technology—see RECORD, January 23, 1973, page 1809; April 3, 1973, page 10648; June 18, 1973, page 20141.

Thus far, the subcommittee has held hearings on two aspects of Federal information and communications technology—part 1 on April 10 and 17, 1973—expert technical witnesses—and part 2 on June 19 and 26 and July 17 and 31, 1973—Federal agency witnesses. These hearings are in print and available from the subcommittee office—room B-371B—ext. 5-3741.

The final phase of these hearings is scheduled to begin next week and will deal with the broad implications of such technology on Federal information and communications systems, the individual citizen's right of privacy, and other important issues raised during the first two parts of our investigation. Among these issues to be dealt with by witnesses who will testify during our concluding hearings are:

First. Extent of use of information and communications technology by the Federal Government;

Second. Kinds of applications of information and communications technology by Federal agencies;

Third. Research and development of information and communications technology by the Federal Government;

Fourth. Planning and design responsibilities for Federal information and communications systems;

Fifth. Policy and regulatory responsibilities for Federal information and communications systems;

Sixth. Separate management of information and communications systems in the Federal Government;

Seventh. Safeguards for private information in Federal information and communications systems;

Eighth. Policy and regulatory responsibilities for private information in Federal information and communications systems;

Ninth. Extent of public access to information in Federal information and communications systems; and

Tenth. Policy management and regulation of access to information in Federal information and communications systems.

This listing of issues is not all inclusive; other issues of significant importance in our investigation relate to such problems as the misuse of such technology for purposes of governmental propaganda, surveillance, and other invasions of constitutional liberties and matters involving information overload, information integrity, and similar technical problem areas.

These hearings will be held on Tuesday, January 29; Thursday, January 31; and Tuesday, February 5, beginning at 10 a.m. each day, in room 2203 of the Rayburn House Office Building. A number of outstanding witnesses are scheduled to testify, representing all parts of the information systems industry, academic institutions, and public interest organizations.

## COAL SEEN AS RECESSION KEY

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, as you know I am sponsoring with a number of my colleagues legislation which would establish an Emergency Coal Administration to launch a high-priority program to develop the vast coal resources of this country.

I was struck by an article in the January 19, 1974, issue of Business Week magazine which cited the marked difference between two economic forecasts—both based on the same input-output system of analysis, but one showing no decline in the 1974 gross national product as a result of the oil shortage and the other indication a 3-percent cut in GNP and an additional 3-percent unemployment as a consequence of the shortage.

The difference in these analyses is attributable almost entirely to the assumption of one economist that coal will be substituted for oil very extensively throughout the economy and the assumption of the other economist that there will be no appreciable substitution of coal for oil this year.

I am told that the 14-percent increase in coal production assumed by the economist forecasting no GNP decline is within the capacity of our domestic coal industry, if we make a national effort to maximize coal production. But, I am also advised, there will not be an increase of the magnitude necessary to avoid economic recession if we do not make a national commitment to coal utilization and do not take the steps necessary to remove the serious obstacles to increased production, transportation and use of coal.

My H.R. 12045 and companion bills H.R. 12121 and H.R. 12252 would embody such a national commitment in an Emergency Coal Administration Act. It would empower the head of such an administration, who would be the head of the Federal Energy Office, to utilize emergency powers to maximize the production, transportation and use of coal with the same urgency we used to stimulate war production in World War II. And, while the greatest impact would be in the years ahead, when we hope to move toward self-sufficiency in energy, the commitment to increase our use of coal would have a decisive effect on the plans of coal producers and potential coal users in the current year.

The enactment of the Emergency Coal Administration Act of 1974 could be the decisive act which would enable the country to avoid an economic recession this year. I believe we can move forward with early hearings in the Interstate and Foreign Commerce Committee and through early enactment of this legislation demonstrate our national commitment to coal, and thereby save the country from the consequences of the high unemployment and significant loss of production indicated in the second of these input-output studies.

I believe the entire Business Week article will be of interest to our colleagues and I insert it in the RECORD at this point:

### INPUT-OUTPUT: SIZING UP THE SQUEEZE ON ENERGY

For many years, input-output was a neglected byway in economics, which concentrated on the use of macroeconomic models to forecast gross national products. But with the nearly across-the-board shortages that have plagued the economy, further aggravated by the energy crunch, there is a tremendous increase in interest in what I–O analysis—the concept developed by 1973 Nobel Prize winner Wassily Leontief—says about the economic outlook. And some of what it says is startling.

The huge 180-sector I–O model at the University of Maryland is giving surprisingly optimistic results. It shows real GNP up 1.7% this year from last, virtually the same as without an Arab oil embargo. It shows the unemployment rate topping out at a little more than 5%, well in line with pre-embargo predictions of a "growth recession." Says economist Clopper Almon, Jr., director of the project: "A drop of as much as 1.8-million bbl. per day in oil imports will have no impact on either real output growth or unemployment."

But there is sharp disagreement from other economists using I–O analysis. Brandeis University Professor Anne P. Carter, one of Almon's former colleagues, has run the numbers through her own I–O model and come up with strikingly different figures. With a shortfall of 12%, which is about what Almon uses, her model yields an additional 3% unemployment this year from the oil crisis alone, which would add about 2.7-million more workers to the unemployment rolls. That would go on top of a jobless level of approximately 5% that the business slowdown by itself would have produced. Although there is no explicit GNP forecast in her model, she estimates at least a 3% decrease in real output just from the oil crisis, which is probably enough to send the economy into a recession.

#### COMPLEX MAZE

Given the uncertainties over both the size of the oil shortage and the degree of resilience and flexibility of the U.S. economy, it is clear why Almon and Carter disagree. Both I–O models may contain part of the truth. As Carter puts it: "It may be that my model is applicable to the first six months of this year and Almon's to the next six months."

In any case, I–O has certainly come into its own in the new shortage economy that businessmen must now live with. Says another Leontief student, Otto Eckstein of Data Resources, Inc.: "There is new emphasis on input-output and industry analysis. Because of supply constraints, businessmen and economists have discovered that the economy is not only demand determined. It is not a Keynesian world alone." In a world of supply shortages, I–O can be a powerful tool for tracing the effects of a specific shortage through the complex maze of interrelationships that characterizes an industrial economy.

In addition to private analyses like those of Almon and Carter, extensive work is being done by analysts in the Commerce Dept.'s Inter-Industry Economics Div. They are providing material to the Treasury, the Federal Energy Office, and several high-level task forces on the economic impact of the embargo.

In assuming a shortfall of 1.8-million bbl. per day, Almon agrees with many informed oil economists that leakages and diversions of crude petroleum have made the 2.7-million-bbl. shortfall estimate of Federal energy czar William E. Simon unrealistically high. But that is only part of it. The model's upbeat forecast is based on a number of assumptions. In Almon's view:

The domestic coal industry will reverse the declines of the past three years and produce about 14% more coal this year, bringing the mines back to 1970 levels.

Crude oil will cost about twice as much in 1974 as a year earlier and business will respond by economizing on energy and substituting coal for oil wherever technology allows. Almon sees the main adjustment coming from electric power companies, which will use 27% more coal this year while cutting their consumption of fuel oil by a whopping 58%.

Major industrial energy users, like the steel, paper, and chemical industries, will cut oil use by an average of 30%. Says Almon: "Where the oil is used for space heating, there is no reduction in output but simply a lower thermostat. In process heating, the entire drop in many cases is offset dollar for dollar by the shift to coal."

Higher gasoline prices will cut the personal use of petroleum by about 15%, freeing crude for refinement into fuel oil and distillates.

Almon sees all of these adjustments as free-market decisions based on price changes. He maintains that his results show the pricing system needs no help from government and believes that a fuel allocation program will only make things worse.

Carter's model, on the other hand, assumes a fuel allocation program similar to the one announced by the President late in November, which included cutbacks in space heating and gasoline for private automobiles. If these cuts in consumption fall short of expectations, then the employment impact would be even more severe. Indeed, she believes that her estimates are on the conservative side since they do not take energy-induced bottlenecks fully into consideration, and ignore the secondary impact of decreasing employment on consumer spending.

#### DIFFERENCES

Although their results are divergent, Almon and Carter both start from Leontief's basic framework. Leontief explained in one of his earliest writings that, "The central concept of I-O analysis is the idea that there is a fundamental relationship between the volume of output of an industry and the size of the inputs going into it." Coefficients are calculated showing, for example, how much glass, paint, plastic, and rubber are needed for every $1,000 worth of automobile produced. With a table of these coefficients showing how each product depends on all the others, much more complex calculations can be made.

In fact, the amount of flexibility in the coefficients—the possibility of substitution between inputs—is the main source of difference between the Almon and Carter models. Carter builds in "cushion factors," like the running-down of inventories at a faster pace, or the reorganization of processes to conserve energy without reducing output. "This fat in the system," she says, "makes the over-all impact on the economy smaller than it would otherwise be." But she has absolutely no shift to coal taking place and therefore industry is not sheltered from the full impact of residual fuel oil shortages, unlike the Almon scenario, where electric utilities make the primary adjustment. By contrast, she feels that the assumption of a movement from oil to coal is unrealistic.

Almon grants that there are "serious obstacles to the increased coal usage that has been built into the model," but he feels that the economic incentive, in terms of relative price changes, is great enough to overcome them. The main obstacle to the shift, Almon says, is in the anti-pollution regulations. Expansion of coal production in the shortrun will require greater use of highsulfur soft coals, which, if extensively used by electric utilities, will lead to violation of the primary clean-air standards in urban areas. Strip mining, already under heavy fire for its environmental effects, will have to be the main source of the greater coal output. Moreover, many power plants are not conveniently located to receive coal shipments and expansion of the rail network is a time-consuming process. Nevertheless, Almon believes that his assumptions can be met and the shift made.

### FORECASTING DISASTER

Carter's model can be interpreted as showing what will happen if present estimates of the shortfall are in the right range, and if there is no great shift to coal. The additional 3% unemployment that results is serious enough, but it is interesting to note what her model does when fed the initial government estimate of a deficit of 3.4-million bbl. per day. The result is a forecast of economic disaster. In her words: "The energy shortage now reaches beyond all cushion factors and every sector is forced to reduce employment. Initial layoffs vary from 14% in heavily oil-dependent industries to much smaller percentages in those using other energy sources. The average unemployment rate due strictly to the oil shortage reaches about 8%." But this is not the end, she explains. Bottlenecks become a serious problem and reduction in employment and output can easily occur even in those industries that are non-oil intensive.

In testimony last month before the Joint Economic Committee, Carter called for strong government action should the oil shortfall reach 20%. She proposed not only a fuel allocation program, but also a reduction in final demand for energy-intensive products and a favoring of labor-intensive industries. "What we would be facing," she told Business Week, "is not a recession but a depression. In such a case I have to opt for a program that maximizes employment and not output."

But many economists now feel that things simply will not be that bad. Oil expert M. A. Adelman, of the Massachusetts Institute of Technology, says that the embargo has been basically broken and expects a shortage of less than 1-million bbl. per day. Robert Stobaugh of the Harvard Business School Energy Project recently estimated that the deficit would fall in the 1-million-to-1.5 million range.

Neither Almon nor Carter have run such low-shortage estimates through their computers. It is clear, however, that Almon's results could only be made more optimistic, and that the serious impact Carter sees would be very much blunted or even eliminated, to the extent that the embargo does prove ineffective. No matter who wins the Almon-Carter debate, through, it is clear that I–O models will play an increasing role in economic forecasting as oil-centered fears are succeeded by concern over shortages of metals and other primary materials just now coming over the horizon.

## CUBAN DECLARATION OF FREEDOM

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, we have recently been made aware of an effort by American automobile companies to obtain licenses to export automobiles from Argentina to Cuba in contravention of the embargo which has been maintained by the United States and most of the other countries of the hemisphere.

I believe the granting of such licenses would be inexcusable, whatever pressures may be applied to these companies by the Peron government, as long as the Castro regime remains in power in Cuba.

We must not allow our embargo against Cuba to be dissolved by the device of third country export. On the contrary, I think we should take this occasion to reiterate our support of the embargo and to declare our support for the aspirations of the freedom-loving Cuban people.

This is the eighth anniversary of the issuance by a representative group of Cuban exiles of a ringing "Declaration of Freedom" which I have brought to the attention of the House on previous occasions. It is an excellent occasion for us to reiterate our stand against the oppressive regime of Fidel Castro to affirm what I believe is the concern of the overwhelming majority of the American people about the presence of a hostile, antidemocratic regime in the Western Hemisphere.

The Congress should reflect the sentiment of the American people and, in doing so, affirm our Nation's historic devotion to freedom, not only for ourselves but for all men everywhere. We can do this by endorsing the Cuban Declaration of Freedom, as I have proposed in my House Concurrent Resolution 94.

I again urge the adoption of this resolution and I insert the resolution in the Record at this point:

### H. Con. Res. 94

### Joint resolution commending the Cuban "Declaration of Freedom"

Whereas on January 23, 1966, a "Declaration of Freedom" was adopted by one thousand five hundred Cubans in exile meeting in Key West, Florida; and

Whereas this declaration was written at the San Carlos Club from which the great Cuban patriot, Jose Marti in 1898, turned the course of history by proclaiming the ideological basis of a free Cuba; and

Whereas Cuba once again has fallen victim to a totalitarian regime as embodied by Castro communism; and

Whereas the "Declaration of Freedom" reads as follows:

"In the city of Key West, Monroe County, State of Florida, United States of America, we, the Cuban exiles in the United States, in the name of God Almighty, and speaking both for ourselves and the oppressed people in Cuba, the martyr island, do say:

"That on January 1, 1959, the slavery yoke that came from Europe and was extinguished in Cuba at the end of the nineteenth century, was resumed.

"That those responsible for this high treason to our fatherland and to our people are just a score of traitors who, usurping the government of the country have been acting as mercenary agents for the Sino-Soviet imperialism, and have surrendered to that imperialism our freedom and our dignity, also betraying the American hemisphere.

"That as a consequence of this high treason, those who are usurping the power in Cuba (as they were never elected by the people), are imposing a regime of bloodshed, terror and hate without any respect or consideration to the dignity of the human being of the most elementary human rights.

"That in their hunger for power, these traitors, following the pattern of totalitarian regimes are trying, within Cuba, to separate the family, which is the cornerstone of actual society, and at the same time, are poisoning the minds of the Cuban children and youth, in their hope of extending the length of time for this abominable system.

"That the rule of the law has been wiped out in Cuba, and it has been replaced by the evil will of this score of traitors, who are acting under orders from their masters, the Sino-Soviet imperialists.

"In view of the aforegoing, we declare:

"First, That the actual Cuban regime is guilty of high treason to our fatherland and to the ideals of the freedom revolution which was started on October 10, 1868.

"Second, That this score of traitors who have committed treason against our fatherland, in case they survive the downfall of their regime, will have to respond, even with their lives before the ordinary courts of justice of Cuba.

"Third. That as the noble Cuban people will not ever surrender, because that nation was not born to be slave, we, the Cuban people, hereby make the present declaration of freedom.

"We hereby swear before God Almighty to fight constantly, until death comes to us, to free Cuba from communism.

"The fundamentals of this resolution for freedom are:

"First. God Almighty, above all things, in whom we believe as the essence of life.

"Second. The fatherland, with all of its laws, traditions, customs, and history as a spiritual value, only surpassed by the concept of God.

"Third. The family, as the cornerstone of the human society.

"Fourth. Human rights, for each and every citizen, regardless of race or creed.

"Fifth. The law, as the foundation for the proper development of the human society.

"Sixth. Democratic government, with its three independent branches: Legislative, executive, and judicial.

"Seventh. Representative democracy, through the exercise of universal suffrage, periodically, free, and secretive, as the expression of popular sovereignty.

"Eighth. Freedom of worship, freedom of teaching, freedom of the press and free enterprise.

"Ninth. Private property and ownership, as the basic expression of liberty.

"Tenth. The improvement of living conditions for both rural and city working masses, with the just and necessary measures, keeping in mind the legitimate interests of both labor and capital.

"Eleventh. The derogation and eradication of anything which is opposed to the political and religious fundamentals aforementioned, and specifically, the abolition of communism and any other form of totalitarian manifestation.

"Signed and sealed in Key West, Fla., on the 23d day of January, 1966."

Now, therefore, be it *Resolved by the House of Representatives (the Senate concurring)*, That it is the sense of the House of Representatives that this inspiring declaration should be patriotically considered by all Cubans in exile and by all who wish to end the tyranny of Castroism and communism in Cuba and that the "Declaration of Freedom" should serve to unite those pledged to restoring Cuban liberty and independence, and that it should be the objective of the United States to commend and encourage recognition and respect for the declaration.

## AKRON, OHIO, CITY COUNCIL URGES IMPEACHMENT OF PRESIDENT NIXON

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, yesterday, the City Council of Akron, Ohio, adopted, by a vote of 12 to 1, a resolution urging the House of Representatives "to proceed with the impeachment of Richard M. Nixon at the earliest possible moment consistent with thoroughness, fairness and justice so that his guilt or innocence can be properly adjudicated in the Senate of the United States according to the terms of the United States Constitution." I believe that this is the first time the legislative body of any city council in the country has taken such action.

The city council's resolution is of particular interest to me, not only because I am a member of the Judiciary Committee but because Akron is my "hometown" and the principal city in the district which I represent.

The council's resolution points out that the failure to resolve the question of President Nixon's guilt or innocence of various offenses has severely impaired his effectiveness, credibility and authority as President and that such impairment has limited the effectiveness of elected officials at all levels of government.

I think the members of the Akron City Council who voted for this resolution should be commended for their leadership in bringing to the attention of the House of Representatives the damage to all levels of government when the President has lost the ability to govern effectively. They are also to be commended for their clear recognition that impeachment of the President does not constitute a conviction but is merely a means whereby the innocence or guilt of the President can be finally determined by a trial in the Senate.

As a member of the Judiciary Committee, I am particularly aware of the fact that we cannot and should not even impeach the President except to the extent that we have presented to us evidence from which we have probable cause to believe that the President has committed a high crime or misdemeanor within the meaning of the impeachment clause of the Constitution. It is my intention as a member of the committee to expedite a decision by the committee "at the earliest possible moment consistent with thoroughness, fairness and justice." The interest and initiative shown by the members of the Akron City Council in this matter will help us move ahead with that task.

The text of the Akron City Council resolution follows:

RESOLUTION No. 33

Resolution No. 33, 1974, urging the House of Representatives of the United States to proceed with the impeachment of President Richard M. Nixon at the earliest possible moment consistent with thoroughness, fairness and justice so that his guilt or innocence can be properly adjudicated in the Senate of the United States according to the terms of the United States Constitution; and declaring an emergency.

Whereas, there are now substantial grounds for believing that Richard M. Nixon may be guilty of the following offenses:

1. Obstruction of justice;

2. Gross failure to control the actions of his subordinates in the Executive Department resulting in their commission of numerous illegal, immoral, and unconstitutional acts;

3. Violating the Constitution of the United States;

4. Subverting the Presidential electoral process;

5. Bringing his office into scandal and disrepute; and

Whereas, the failure to resolve the question of Richard M. Nixon's guilt or innocence of said offenses has severely impaired his effectiveness, credibility and authority as President of the United States; and

Whereas, such impairment of Richard M. Nixon as President has, by process of association, limited the effectiveness of elected officials at all levels of government in performing their functions and maintaining the faith of their constituents; and

Whereas, the proper functioning of government at the state and local levels is now dependent to a great extent on the effectiveness and unimpaired leadership of the executive branch of the federal government; and

Whereas, the impeachment process is the only method provided in the Constitution and laws of the United States by which Richard M. Nixon's guilt or innocence of said offenses may be finally determined.

Now, therefore, be it resolved by the Council of the City of Akron;

Section 1. That the House of Representatives of the United States be urged to proceed with the impeachment of Richard M. Nixon at the earliest possible moment consistent with thoroughness, fairness and justice so that his guilt or innocence can be properly adjudicated in the Senate of the United States according to the terms of the United States Constitution.

Section 2. That a copy of this resolution, certified by the Clerk of the Council, be forthwith transmitted to the Speaker of the House of Representatives, the Chairman of the Committee on the Judiciary of the House of Representatives and the Representative of the Fourteenth Congressional District.

Section 3. That this resolution is hereby declared to be an emergency measure for the reason that the Congressional urging contained herein should become effective at the earliest possible moment because of the timing of the action contemplated hereby is such a crucial part of the problem, and provided this resolution receives the affirmative vote of two-thirds of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

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## SIERRA CLUB SUPPORTS CUYAHOGA VALLEY PARK BILL

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, I am delighted to bring to your attention a resolution passed by the Sierra Club endorsing proposed legislation to establish the Cuyahoga Valley National Historical Park and Recreation Area in Ohio. Support from the Sierra Club emphasizes the national significance of the Cuyahoga Valley and the need to preserve its magnificent natural and historical resources for future generations.

The Cuyahoga Valley is the last major open space left between the heavily industrialized cities of Akron and Cleveland. It is within an hour's drive of 4 million people. Preserving the valley would be a great step in meeting the Nation's critical shortage of open space near our metropolitan areas. And with the growing demands on our Nation's energy supplies and the increasing costs of fuel, it will become even more difficult in the future for people to drive long distances to our national parks in the West. Certainly now is the time to put our parks where the people are.

Last April I was pleased to join our distinguished colleagues, CHARLES VANIK and RALPH REGULA as coauthors of a bill to establish the Cuyahoga Valley National Historical Park and Recreation Area. Fifty Members of the House have cosponsored the legislation. Hearings are expected to be held early in this session by the House Interior Subcommittee on National Parks and Recreation.

Support for the proposal has been tremendous. Some 46 State and local organizations in Ohio have endorsed the park, including city councils, major newspapers, park and recreation boards, labor unions, historical and conservation groups and planning commissions.

Mr. Speaker, I would like to enter in the RECORD at this point the letters and resolutions of endorsement I have received recently from the Sierra Club, the city of Akron and the United Steelworkers of America.

SIERRA CLUB,
*Madison, Wisc., January 15, 1974.*

Congressman JOHN F. SEIBERLING,
*House of Representatives,*
*House Office Building,*
*Washington, D.C.*

DEAR CONGRESSMAN SEIBERLING: At its most recent meeting, held in San Francisco the weekend of January 12–13, the Sierra Club's Board of Directors passed the following resolution:

"The Sierra Club supports the establishment of a Cuyahoga Valley National Historical Park and Recreation Area of approximately 20,000 acres in the State of Ohio, and opposes major new non-compatible development, such as transmission lines and highways, in that portion of the Cuyahoga Valley that has retained its natural character and historical interest."

We are, of course, aware of your leadership on this project, and we deeply appreciate your work. We intend to help in whatever way we can to implement the foregoing resolution, and look forward to continued close cooperation with you and your staff.

Please keep us informed of plans for hearings before the Parks and Recreation Subcommittee, and be in touch with us regarding any additional ways in which our action can be useful.

Sincerely yours,

JONATHAN P. ELA,
*Midwest Representative.*

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RESOLUTION No. 629

Resolution No. 629, 1973, urging the Congress of the United States to take necessary steps with respect to the passage of the Cuyahoga Valley National Historical Park and Recreation Area Bill introduced in the House of Representatives, i.e., H.R. 7077, which will provide for the preservation of the scenic and historic open space known as the Cuyahoga Valley; and declaring an emergency.

Whereas, the House of Representatives is now considering H.R. 7077, which would provide for the establishment of the Cuyahoga Valley National Historical Park and Recreation Area; and

Whereas, the primary purpose of this bill is to preserve for present and future generations the magnificent scenic and historic open space that is known as the Cuyahoga Valley; and

Whereas, this area is the only major open space remaining between the Cities of Cleveland and Akron; and

Whereas, there presently exists in this

country a critical need for open space and recreational facilities in urban areas; and

Whereas, the preservation of the Cuyahoga Valley in its present condition would provide highly desirable open space and recreation facilities for the entire northeastern Ohio area.

Now, therefore, be it resolved by the Council of The City of Akron:

Section 1. That this Council hereby urges the Congress of the United States to take the necessary steps with respect to the passage of the Cuyahoga Valley National Historical Park and Recreation Area Bill introduced in the House of Representatives, i.e., H.R. 7077, which will provide for the preservation of the scenic and historic open space known as the Cuyahoga Valley.

Section 2. That the Clerk is hereby authorized and directed to send copies of this resolution to Representative John Seiberling, Senator Robert Taft, Senator William B. Saxbe, and presiding officers of the Senate and House of Representatives of the United States, and to President Richard Nixon. That additional copies of this resolution be sent to Secretary of the Interior, Rogers B. Morton; Roy A. Taylor, Chairman and Ranking Member of the National Parks and Recreation Sub-Committee of the House Committee on Interior and Insular Affairs; Joe Skubitz, Ranking Minority Member of the National Parks and Recreation Sub-Committee of the House Committee on Interior and Insular Affairs.

Section 3. That this resolution is hereby declared to be an emergency measure for the reason that this legislation should be effective at the earliest possible moment, in order that the position herein expressed may be made available in sufficient time for it to be taken into consideration by the appropriate Federal officials, and provided this resolution receives the affirmative vote of two-thirds of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

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Golden Lodge L. U. 1123,
United Steelworkers of America,
*Canton, Ohio, November 26, 1973.*

Hon. John Seiberling,
*House of Representatives,*
*Washington, D.C.*

Dear Sir: Golden Lodge, Local #1123, United Steelworkers of America, at its regular meeting on November 21, 1973, voted unanimously to support H.R. 7077.

Thank you for your consideration.

Very truly yours,
J. R. Mroczkowski,
*President.*

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Mailliard (at the request of Mr. Rhodes) for the week of January 21, 1974, on account of recuperation from surgery.

Mr. Fraser (at the request of Mr. O'Neill) for January 21 through 24 on account of official business—attending the Consultative Assembly of Europe at Strasbourg.

Mr. Walsh (at the request of Mr. Rhodes), on account of recuperation.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Cochran) to revise and extend their remarks and include extraneous matter:)

Mr. Crane, for 60 minutes, today.

Mr. Quie, for 30 minutes, on January 24.

Mr. Kemp, for 15 minutes, today.

(The following Members (at the request of Mr. Moakley) to revise and extend their remarks and include extraneous material:)

Mr. Ford, for 5 minutes, today.

Mrs. Collins of Illinois, for 15 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Alexander, for 30 minutes, today.

Mr. Vanik, for 10 minutes, today.

Ms. Holtzman, for 30 minutes, today.

Mr. Drinan, for 20 minutes, today.

Mr. Moss (at the request of Mr. Alexander), to address the House for 5 minutes, and to revise and extend his remarks and to include extraneous matter.

Mr. Randall, to address the House for 5 minutes.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Perkins, and to include extraneous matter.

Mr. Milford, in five instances, and to include extraneous matter.

Mr. Dellums, and to include extraneous matter notwithstanding the fact that it exceeds seven pages of the Congressional Record and is estimated by the Public Printer to cost $1,515.25.

Mr. Mahon, and to insert extraneous material to his remarks during debate in the Committee of the Whole today on the bill H.R. 11354.

(The following Member (at the request of Mr. Alexander) and to include extraneous matter:)

Mr. Bingham in 10 instances.

(The following Members (at the request of Mr. Cochran) and to include extraneous matter:)

Mr. Burke of Florida in two instances.
Mr. Hansen of Idaho.
Mr. Derwinski in three instances.
Mr. Hinshaw.
Mr. Erlenborn.
Mr. Don H. Clausen.
Mr. Huber.
Mr. Robinson of Virginia.
Mr. Findley.
Mr. Walsh.
Mr. Winn.
Mr. Shoup in two instances.
Mr. Wyman in two instances.
Mr. Parris in three instances.
Mr. Goldwater.
Mr. Kemp in two instances.
Mr. Archer.
Mr. Ashbrook in five instances.

(The following Members (at the request of Mr. Moakley) and to include extraneous material:)

Mr. Harrington in six instances.
Mr. Gonzalez in three instances.
Mr. Rarick in three instances.
Mr. James V. Stanton in two instances.
Mrs. Chisholm.
Mr. Wolff in four instances.
Mr. Gibbons in three instances.
Mr. Murphy of New York.
Mr. Delaney.
Mr. Brademas in six instances.
Mr. Rodino.
Mr. Dulski in 10 instances.
Mr. Rangel in 10 instances.
Mr. Melcher.
Mr. Litton in three instances.

## ADJOURNMENT

Mr. ALEXANDER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 4 minutes p.m.), the House adjourned until Thursday, January 24, 1974, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1759. A letter from the Chairman, Federal Trade Commission, transmitting a report on the effectiveness of cigarette labeling and current practices and methods of cigarette advertising and promotion, pursuant to section 8(b) of Public Law 91–222; to the Committee on Interstate and Foreign Commerce.

1760. A letter from the Clerk, U.S. Court of Claims, transmitting a report on judgments rendered by the Court of Claims during the year ended September 30, 1973, pursuant to 28 U.S.C. 791(c); to the Committee on the Judiciary.

1761. A letter from the national secretary-treasurer, Sons of Union Veterans of the Civil War, transmitting the proceedings of the 92d annual encampment of the organization, together with an audit of its accounts for the year ended June 30, 1973, pursuant to Public Law 83–605; to the Committee on the Judiciary.

1762. A letter from the Assistant Secretary of Commerce for Maritime Affairs, transmitting a report on the meeting of the Board of Visitors to the U.S. Maritime Academy held December 28, 1973; to the Committee on Merchant Marine and Fisheries.

1763. A letter from the Chairman, U.S. Civil Service Commission, transmitting a report on positions in grade GS–18 and established by Public Law at the maximum rate payable under the general schedule, pursuant to 5 U.S.C. 5114; to the Committee on Post Office and Civil Service.

### Received From the Comptroller General

1764. A letter from the Comptroller General of the United States, transmitting a report on issues related to foreign sources of oil for the United States and the Department of State's involvement in the international petroleum situation; to the Committee on Government Operations.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BAKER:

H.R. 12223. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. BEVILL:

H.R. 12224. A bill to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. BLATNIK:

H.R. 12225. A bill to provide for payments to compensate county governments for the tax immunity of Federal lands within their boundaries; to the Committee on Interior and Insular Affairs.

By Mr. BURKE of Massachusetts:

H.R. 12226. A bill to terminate the coverage of police officers of the Massachusetts Bay Transportation Authority under the old age, survivors, and disability insurance program; to the Committee on Ways and Means.

By Mr. BURTON:

H.R. 12227. A bill to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. BYRON:

H.R. 12228. A bill to amend the Internal Revenue Code of 1954 to provide that amounts not in excess of $500 a year received by volunteer firemen shall not be subject to income tax; to the Committee on Ways and Means.

By Mr. CLARK:

H.R. 12229. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. CONABLE:

H.R. 12230. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. CONTE:

H.R. 12231. A bill to amend the Internal Revenue Code of 1954 with respect to certain charitable contributions; to the Committee on Ways and Means.

By Mr. DANIELSON:

H.R. 12232. A bill to amend title 10 of the United States Code to require the presentation of full military honors at the burial of veterans; to the Committee on Armed Services.

By Mr. DOWNING (for himself, Mrs. Sullivan, Mr. Mosher, Mr. Anderson of California, Mr. Bray, Mr. Breaux, Mr. Ginn, Mr. Jones of North Carolina, Mr. Rogers, Mr. Stubblefield, Mr. Treen, Mr. Bob Wilson, and Mr. Young of Alaska):

H.R. 12233. A bill to promote the conservation and orderly development of hard mineral resources of the deep seabed, pending adoption of an international regime relating thereto; to the Committee on Merchant Marine and Fisheries.

By Mr. DRINAN:

H.R. 12234. A bill to amend the Internal Revenue Code of 1954 to deny the deduction of any expenditure of any oil company for advertising not directly related to the sale of products or services; to the Committee on Ways and Means.

By Mr. FINDLEY:

H.R. 12235. A bill to amend title 18 of the United States Code to permit the mailing, broadcasting, or televising of lottery information and the transportation, mailing, and advertising of lottery tickets in interstate commerce but only concerning lotteries which are lawful; to the Committee on the Judiciary.

By Mr. FORD:

H.R. 12236. A bill to amend the General Education Provisions Act to provide funds from appropriations for applicable programs during any fiscal year ending prior to July 1, 1975, may remain available for obligation and expenditure during the succeeding fiscal year; to the Committee on Education and Labor.

By Mr. FULTON (for himself, Mr. Broyhill of Virginia, Mr. Jarman, and Mr. McSpadden):

H.R. 12237. A bill to amend the Social Security Act to provide for medical, hospital, and dental care through a system of voluntary health insurance including protection against the catastrophic expenses of illness, financed in whole for low-income groups through issuance of certificates, and in part for all other persons through allowance of tax credits; and to provide effective utilization of available financial resources, health manpower, and facilities; to the Committee on Ways and Means.

By Mr. GAYDOS:

H.R. 12238. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

H.R. 12239. A bill to require oil producers, refiners, and distributors to provide certain information as requested by the Federal Energy Administration, to authorize auditing of such information by the General Accounting Office, and to provide for enforcement; to the Committee on Interstate and Foreign Commerce.

By Mr. GINN:

H.R. 12240. A bill to enable egg producers to establish, finance, and carry out a coordinated program of research, producer and consumer education, and promotion to improve, maintain, and develop markets for eggs, egg products, spent fowl, and products of spent fowl; to the Committee on Agriculture.

By Mr. GOODLING:

H.R. 12241. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. GUYER:

H.R. 12242. A bill to enable egg producers to establish, finance, and carry out a coordinated program of research, producer and consumer education, and promotion to improve, maintain, and develop markets for eggs, egg products, spent fowl, and products of spent fowl; to the Committee on Agriculture.

H.R. 12243. A bill to provide that all letters, memorandums, and other papers produced or acquired by any officer or employee of the United States in connection with the performance of his duties shall be the property of the United States, and to prohibit the sale or use for personal gain of such property; to the Committee on the Judiciary.

By Mr. HELSTOSKI:

H.R. 12244. A bill to amend the Public Health Service Act to assure an adequate supply of chlorine and certain other chemicals and substances which are necessary for safe drinking water and for waste water treatment; to the Committee on Interstate and Foreign Commerce.

By Ms. JORDAN:

H.R. 12245. A bill to require any person engaged in exploring, developing, refining, or transporting by pipeline, any petroleum product, natural gas or coal to provide certain information to the Comptroller, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. LEGGETT:

H.R. 12246. A bill to amend title II of the Social Security Act to provide that an individual who is entitled both to an old-age or disability insurance benefit and to a dependent's or survivor's benefit may simultaneously receive the larger of such benefits plus one-half of the smaller; to the Committee on Ways and Means.

By Mr. LITTON:

H.R. 12247. A bill to prohibit the use of U.S. fuel to train commercial airline and military pilots who are nationals of any foreign country which places an embargo on its shipment of petroleum products to the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. McCORMACK (for himself, Mr. Teague, Mr. Mosher, Mr. Goldwater, Mr. McClory, and Mr. Benitez):

H.R. 12248. A bill to provide for the early commercial demonstration of the technology of solar heating by the National Aeronautics and Space Administration and the Department of Housing and Urban Development, in cooperation with the National Bureau of Standards, the National Science Foundation, the General Services Administration, and other Federal agencies, and for the early development and commercial demonstration of technology for combined solar heating and cooling; to the Committee on Science and Astronautics.

By Mr. MOAKLEY:

H.R. 12249. A bill to amend the Export Administration Act of 1969 (Public Law 91–184), as amended, to control the export of iron and steel scrap during periods of shortage; to the Committee on Banking and Currency.

H.R. 12250. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MONTGOMERY:

H.R. 12251. A bill to amend title 10, United States Code, to provide for the presentation of a flag of the United States for deceased members of the Reserve who die after completing 20 years of service, but before becoming entitled to retired pay; to the Committee on Armed Services.

By Mr. PEPPER (for himself, Mr. Schneebeli, Mr. Eilberg, Mrs. Collins of Illinois, Mr. Madden, Mr. Hawkins, Mr. Young of Alaska, Mr. Roberts, Mr. Mitchell of New York, Mr. Rodino, Mr. Helstoski, Mr. Flood, Mr. Roe, Mr. Wright, Mr. Hanrahan, Mr. Nedzi, Mr. Broyhill of Virginia, Mr. Randall, Mr. Charles H. Wilson of California, Mr. Duncan, Mr. Riegle, Mr. Waldie, and Mr. Wolff):

H.R. 12252. A bill to increase the production, transportation, and conversion of coal as a source of energy; to the Committee on Interstate and Foreign Commerce.

By Mr. PERKINS (for himself and Mr. Quie):

H.R. 12253. A bill to amend the General Education Provisions Act to provide that funds appropriated for applicable programs for fiscal year 1974 shall remain available during the succeeding fiscal year and that such funds for fiscal year 1973 shall remain available during fiscal years 1974 and 1975; to the Committee on Education and Labor.

By Mr. PETTIS (for himself, Mr. Anderson of California, Mr. Bell, Mr. Cleveland, Mr. Collins of Texas, Mr. Conte, Mr. Davis of Georgia, Mr. Derwinski, Mr. Edwards of California, Mrs. Green of Oregon, Mr. Hansen of Idaho, Mr. Helstoski, Mr. McCloskey, Mr. Mailliard, Mr. Mathis of Georgia, Mr. Mayne, Mr. Moakley, Mr. Mollohan, Mr. Murphy of New York, Mr. Preyer, Mr. Rhodes, Mr. Seiberling, Mr. Shoup, Mr. Stark, and Mr. Udall):

H.R. 12254. A bill to provide for the establishment of the National Conservation Area of the California Desert and to provide for the immediate and future protection, development, and administration of such public lands; to the Committee on Interior and Insular Affairs.

By Mr. PETTIS (for himself, Mr. Wiggins, Mr. Charles H. Wilson of California, Mr. Winn, Mr. Fulton, and Mr. Yates):

H.R. 12255. A bill to provide for the establishment of the National Conservation Area of the California Desert and to provide for the immediate and future protection, development, and administration of such lands; to the Committee on Interior and Insular Affairs.

By Mr. RARICK (for himself, Mr. Parris, Mr. Lott, and Mr. Flynt):

H.R. 12256. A bill to amend title XI of the Social Security Act to repeal the recently added provision for the establishment of Professional Standards Review Organizations to review services covered under the medicare and medicaid programs; to the Committee on Ways and Means.

By Mr. ROYBAL (for himself, Mr. Ford, Ms. Abzug, Mr. Badillo, Mr. Brown of California, Mrs. Chisholm, Ms. Collins of Illinois, Mr. Davis of South Carolina, Mr. Dellums, Mr. Eckhardt, Mr. Edwards of California, Mr. Fascell, Mr. Fraser, Mr. Harrington, Mr. Helstoski, Mr. Leggett, Mr. Lehman, Ms. Mink, Mr. Moakley, Mr. Mollohan, Mr. Moss, Mr. Rangel, Mr. Rees, Mr. Riegle, and Mr. Roe):

H.R. 12257. A bill to provide for the establishment of National Office for Migrant and Seasonal Farmworkers within the Department of Health, Education, and Welfare, with responsibility for the coordinated administration of all of the programs of that Department serving migrant and seasonal farmworkers; to the Committee on Education and Labor.

By Mr. ROYBAL (for himself, Mr. Ford, Mr. Rooney of Pennsylvania, Mr. Roy, Mr. Sarbanes, Mr. Sebelius, Mr. Stark, Mr. Thompson of New Jersey, and Mr. Waldie):

H.R. 12258. A bill to provide for the establishment of a National Office for Migrant and Seasonal Farmworkers within the Department of Health, Education, and Welfare, with responsibility for the coordinated administration of all of the programs of that Department serving migrant and seasonal farmworkers; to the Committee on Education and Labor.

By Mr. SCHERLE:

H.R. 12259. A bill to amend title XI of the Social Security Act to repeal the recently added provision for the establishment of Professional Standards Review Organizations to review services covered under the medicare and medicaid programs; to the Committee on Ways and Means.

By Mr. SHOUP:

H.R. 12260. A bill to provide for the suspension of annual assessment work on mining claims held by location in the United States; to the Committee on Interior and Insular Affairs.

By Mr. STEELE:

H.R. 12261. A bill to amend the Federal-Aid Highway Act of 1970; to the Committee on Public Works.

By Mr. STEIGER of Wisconsin:

H.R. 12262. A bill to amend the Internal Revenue Code of 1954 and title II of the Social Security Act to provide a full exception (through credit or refund) from the employees' tax under the Federal Insurance Contributions Act, and an equivalent reduction in the self employment tax, in the case of individuals who have attained age 65; to the Committee on Ways and Means.

By Mr. TEAGUE:

H.R. 12263. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. THOMPSON of New Jersey:

H.R. 12264. A bill to grant a Federal charter to the Pearl Harbor Survivors Association, Inc., to the Committee on the Judiciary.

By Mr. VEYSEY:

H.R. 12265. A bill to organize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration for research development and demonstration in fuels and energy, making the United States self-sufficient in energy needs by 1980; to the Committee on Government Operations.

By Mr. WILLIAMS:

H.R. 12266. A bill to amend the Food Stamp Act of 1964 to provide food stamps to certain households which include an able-bodied adult person who is a member of a labor union and is refusing to work at a plant or site subject to strike or lockout; to the Committee on Agriculture.

By Mr. CHARLES H. WILSON of California:

H.R. 12267. A bill to prohibit discrimination by any party to a federally related mortgage transaction on the basis of sex or marital status, and to require all parties to any such transaction to submit appropriate reports thereon for public inspection; to the Committee on Banking and Currency.

H.R. 12268. A bill to carry out the recommendations of the Presidential Task Force on Women's Rights and Responsibilities, and for other purposes; to the Committee on the Judiciary.

By Mr. YATRON (for himself, Mr. Stark, Mr. Pike, Mr. Preyer, Mr. Gude, Mr. Frenzel, Mr. Conlan, Mr. Morgan, Mr. Fascell, Mr. Martin of North Carolina, Mr. Anderson of Illinois, Mr. Mann, Mr. Studds, Mr. Charles Wilson of Texas, Mr. Helstoski, Mr. Hamilton, Mr. Gaydos, Mr. Dent, Mr. Ford, Mr. Butler, Mr. Henderson, Mr. Thomson of Wisconsin, Mr. Sarbanes, Mr. Bell, and Mr. Foley):

H.R. 12269. A bill to direct the Comptroller General of the United States to conduct a study of the burden of reporting requirements of Federal regulatory programs on independent business establishments, and for other purposes; to the Committee on Government Operations.

By Mr. RHODES:

H.J. Res. 876. Joint resolution authorizing the Secretary of the Army to receive for instruction at the United States Military Academy one citizen of the Kingdom of Laos; to the Committee on Armed Services.

By Mr. SCHERLE:

H.J. Res. 877. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. ICHORD (for himself, Mr. Aspin, Mr. Dent, Mr. Randall, Mr. Mathis of Georgia, Mr. Bauman, Mr. Rousselot, Mr. Duncan, Mr. Maraziti, Mr. Fuqua, Mr. Pepper, Mr. Lujan, Mr. Sisk, Mr. Ashbrook, Mr. Dickinson, Mr. Lott, Mr. Bevill, Mr. Burke of Massachusetts, Mr. Fountain, Mr. Runnels, Mr. Koch, Mr. Edwards of California, Mr. Denholm, Mrs. Burke of California, and Mr. Yatron):

H. Res. 782. Resolution declaring the sense of the House with respect to a prohibition of extension of credit by the Export-Import Bank of the United States; to the Committee on Banking and Currency.

By Mr. PERKINS (for himself and Mr. Quie):

H. Res. 783. Resolution to provide funds for the expenses of the investigations and studies authorized by House Resolution 175; to the Committee on House Administration.

By Mr. ROUSSELOT:

H. Res. 784. Resolution declaring the sense of the House with respect to prohibition of extension of credit by the Export-Import Bank of the United States; to the Committee on Banking and Currency.

## MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

334. By the SPEAKER: A memorial of the Legislature of the State of Oklahoma, relative to exempting Oklahoma from the provisions of the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

335. Also, memorial of the House of Representatives of the State of Oklahoma, relative to requiring able welfare recipients to meet certain work requirements; to the Committee on Ways and Means.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. EILBERG:

H.R. 12270. A bill for the relief of Ho Thi Thu Nga; to the Committee on the Judiciary.

By Mr. MEZVINSKY:

H.R. 12271. A bill for the relief of Carmichael C. Peters; to the Committee on the Judiciary.

By Mr. STEELE:

H.R. 12272. A bill for the relief of Rafael Strochlitz Wurzel; to the Committee on the Judiciary.

## PETITIONS, ETC.

Under clause 1 of rule XXII,

385. The SPEAKER presented a petition of Estelle M. Kay, Cleveland, Ohio, relative to redress of grievances; to the Committee on the Judiciary.

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# SENATE—*Wednesday, January 23, 1974*

The Senate met at 12 o'clock noon and was called to order by the President pro tempore (Mr. Eastland).

### PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal God, who art Truth, show us the truth about Thyself and ourselves. Teach us the truth about man, his nature and his destiny. Make known to us the truth for this Nation and for all mankind. Keep us from falsehood and from half-truths. Make us apostles of the whole truth that we may serve this Nation and advance Thy kingdom. And when we are uncertain, give us the humility to turn to Him who said "I am the Way, the Truth, and the Life."

In Thy holy name, we pray. Amen.

### MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 6120. An act to permit the vessel *Manatra II* to be inspected, licensed, and operated as a passenger-carrying vessel, and for other purposes;

H.R. 10309. An act to amend the act of June 13, 1933 (Public Law 73–40), concerning safety standards for boilers and pressure vessels, and for other purposes;

H.R. 11295. An act to amend the Anadromous Fish Conservation Act in order to extend the authorization for appropriations to carry out such act, and for other purposes;

H.R. 11537. An act to extend and expand the authority for carrying out conservation and rehabilitation programs on military reservations, and to authorize the implementation of such programs on certain public lands;

H.R. 11541. An act to amend the National Wildlife Refuge System Administration Act of 1966 in order to strengthen the standards under which the Secretary of the Interior may permit certain uses to be made of areas within the system and to require payment of the fair market value of rights-of-way or other interests granted in such areas in connection with such uses; and

H.R. 11809. An act to amend the act entitled "An act to establish a contiguous fishery zone beyond the territorial sea of the United States", approved October 14, 1966, to require that the method of straight baselines shall be employed for the purposes of determining the boundaries of such fishery zone, and for other purposes.

## HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred to the Committee on Commerce:

H.R. 6120. An act to permit the vessel *Manatra II* to be inspected, licensed, and operated as a passenger-carrying vessel, and for other purposes;

H.R. 10309. An act to amend the act of June 13, 1933 (Public Law 73–40), concerning safety standards for boilers and pressure vessels, and for other purposes;

H.R. 11295. An act to amend the Anadromous Fish Conservation Act in order to extend the authorization for appropriations to carry out such act, and for other purposes;

H.R. 11537. An act to extend and expand the authority for carrying out conservation and rehabilitation programs on military reservations, and to authorize the implementation of such programs on certain public lands;

H.R. 11541. An act to amend the National Wildlife Refuge System Administration Act of 1966 in order to strengthen the standards under which the Secretary of the Interior may permit certain uses to be made of areas within the system and to require payment of the fair market value of rights-of-way or other interests granted in such areas in connection with such uses; and

H.R. 11809. An act to amend the act entitled "An act to establish a contiguous fishery zone beyond the territorial sea of the United States", approved October 14, 1966, to require that the method of straight baselines shall be employed for the purposes of determining the boundaries of such fishery zone, and for other purposes.

## THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, January 22, 1974, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## ATTENDANCE OF SENATORS

Hon. DEWEY F. BARTLETT, a Senator from the State of Oklahoma, Hon. PAUL J. FANNIN, a Senator from the State of Arizona, and Hon. CLIFFORD P. HANSEN, a Senator from the State of Wyoming, attended the session of the Senate today.

## THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 605 and 638.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## AMENDMENT OF FLOOD CONTROL ACT OF 1938

The bill (S. 1961) to amend the Flood Control Act of 1938, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the part of the plan for flood control on the Mississippi River and tributaries authorized by the Flood Control Act of 1938, as amended, providing for the authorization of the Lone Rock Lake, Buffalo River, Arkansas, be and is hereby modified.

SEC. 2. The authorized plan for flood control and other purposes for the White River Basin, Missouri and Arkansas, as described in House Document Numbered 499, Eighty-third Congress, second session, is hereby modified by the deauthorization of the Lone Rock Lake, Buffalo River, Arkansas, in recognition of the designation of the Buffalo River as a national river by Public Law 92–237 and the environmental concern and values expressed by the people of the State and Nation concerning the preservation of the Buffalo River as a national stream.

## MILITARY ASSISTANCE TO GREECE

The Senate proceeded to consider the bill (S. 2754) to prohibit all military assistance to Greece until it is determined that Greece is fulfilling its obligations under the North Atlantic Treaty, which had been reported from the Committee on Foreign Relations with amendments, on page 2, at the end of line 3, strike out "the law", and insert in lieu thereof "this or any other Act after the date of enactment of this Act".

On page 2, at the beginning of line 6, insert "after such date,".

On page 2, in line 11, after the period, insert:

If the President proposes any such military assistance, sales, credit sales, or guaranties, notice shall be given to the Speaker of the House of Representatives and the President of the Senate thirty days in advance thereof, stating that such military assistance, sales, credit sales, or guaranties are to be given, the terms thereof, and the overriding national interest which justifies it, notwithstanding any other provision of this Act.

So as to make the bill read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress declares that it is the policy of the United States Government to provide military assistance and military sales, credit sales, and guaranties to or for the Government of Greece only when that Government fulfills its obligations under the North Atlantic Treaty, including both adherence to the political principles stated in the preamble to the treaty and the maintenance of its capability to perform common defense functions assigned under the current North Atlantic Treaty Organization defense plans. Therefore, no military assistance and no sales, credit sales, or guaranties shall be provided to or for the Government of Greece under this or any other Act after the date of enactment of this Act until the President (1) undertakes a comprehensive review, after such date, of United States policy toward Greece, (2) has made a full report with respect to such review to Congress, and (3) finds and reports to Congress that, as a result of such review, the Government of Greece is in full compliance with its political and military obligations under the North Atlantic Treaty. If the President proposes any such military assistance, sales, credit sales, or guaranties, notice shall be given to the Speaker of the House of Representatives and the President of the Senate thirty days in advance thereof, stating that such military assistance, sales, credit sales, or guaranties are to be given, the terms thereof, and the overriding national interest which justifies it, notwithstanding any other provision of this Act. The provisions of this section shall not apply to funds obligated prior to such date of enactment.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I send to the desk two resolutions, and ask that they be considered in sequence.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## SENATE RESOLUTION 234—RELATING TO THE NUMBER OF MEMBERS OF CERTAIN SENATE COMMITTEES

The PRESIDENT pro tempore. The resolution submitted by the Senator from Montana (Mr. MANSFIELD) will be stated.

The assistant legislative clerk read as follows:

S. Res. 234

*Resolved*, That paragraph 2 of Rule XXV of the Standing Rules of the Senate is amended—

(1) by striking out of the item relating to Aeronautical and Space Sciences, the number "13" and inserting in lieu thereof "14";

(2) by striking out of the item relating to Banking, Housing, and Urban Affairs, the number "16" and inserting in lieu thereof "15";

(3) by striking out of the item relating to Government Operations, the number "16" and inserting in lieu thereof "15"; and

(4) by striking out of the item relating to Interior and Insular Affairs, the number "14" and inserting in lieu thereof "15".

The PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

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## SENATE RESOLUTION 235—RELATING TO THE COMMITTEE ASSIGNMENTS OF SENATORS METZENBAUM AND TAFT

The PRESIDENT pro tempore. The resolution submitted by the Senator from Pennsylvania (Mr. Hugh Scott) and the Senator from Montana (Mr. Mansfield) will be stated.

The assistant legislative clerk read as follows:

S. Res. 235

*Resolved*, That Mr. Metzenbaum of Ohio be, and he is hereby, assigned to service on the Committee on Aeronautical and Space Sciences and the Committee on Interior and Insular Affairs, to fill vacancies on those committees.

Sec. 2. Mr. Taft of Ohio be, and he is hereby, assigned to service on the Committee on Armed Services, to fill a vacancy on that Committee, and that he be relieved of his service on the Committee on Banking, Housing and Urban Affairs.

The PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

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## QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Nunn). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TAFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator, acting as minority leader, desire to be heard on the time of the minority leader?

Mr. TAFT. Yes; I ask that I may be heard on the time of the minority leader.

The PRESIDING OFFICER. The Senator is recognized.

## LEWIS L. STRAUSS

Mr. TAFT. Mr. President, I wish to note the passing of Lewis L. Strauss. I speak today not because of the great accomplishments of this man, although they are certainly worthy of recognition. Rather, I speak as a close personal friend who had the privilege of knowing Admiral Strauss and, at times, working with him in his various endeavors.

It is interesting to note, I think, that his public service goes back to the early days, when the United States had just come out of World War I, and when, as a very young man, he became associated with Herbert Hoover in the Food Administration.

At that time, another young man working for the Food Administration was my father, later Senator Taft, who served in this body. He had a life-long friendship, admiration, and great warmth for Lewis Strauss, and the feeling was mutual.

Then I was privileged, really, throughout my life to know Admiral Strauss as a close personal friend of my father, and later of myself, and to have the benefit of his very sound judgment, advice, and wisdom, as well as his warm support and friendship throughout the entire period of our association.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. TAFT. I am glad to yield to the distinguished Senator from Nebraska.

Mr. CURTIS. I thank my distinguished friend from Ohio. I should like to have the record show my very high regard for Admiral Strauss. He was one of the outstanding men of our time. He had an excellent mind. He was a man of broad knowledge, devoted to the public good, a sponsor of many worthwhile activities, and was truly a great citizen and a splendid public servant. The country owes a great deal to Lewis Strauss.

Mr. TAFT. I thank the distinguished Senator from Nebraska for his very appropriate remarks.

I had indicated that Admiral Strauss had many fine attributes, as the distinguished deputy minority floor leader remarked yesterday in commenting on the passing of Admiral Strauss.

One of his rebuffs came at the action of this body in refusing to confirm his nomination to be a member of the Cabinet, a capacity in which I know he would have been proud to have acted officially, although as an acting Secretary of Commerce for quite a period of time he did serve effectively in that capacity.

Perhaps his close friendship with my father might be attributed to the fact that they were both very direct men and sometimes a little blunt in the way they responded to inquiries and to posititons that were put to them with which they were not in agreement. But under it all, what should be noted is that, even with his brilliant mind, with his great achievements, and with the acerbity that existed at times in his relations with some on the public scene, he was a warm man, a great family man. He has a fine family. I talked with his wife, Alice, this morning and expressed to her my deep sympathy and the deep sympathy of many of the Admiral's friends. We shall miss him tremendously.

The New York Times yesterday, January 22, contained an article by Mr. Alden Whitman that gave a very excellent summary of the life and attainments of Lewis L. Strauss. I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Lewis Strauss Dies: Ex-Head of AEC

(By Alden Whitman)

Rear Adm. Lewis L. Strauss, U.S.N., retired, former chairman of the Atomic Energy Commission, died yesterday of cancer at his home, Brandy Rock Farm, in Brandy Station, Va. He was 77 years old.

For about a dozen years at the outset of the atomic age Lewis Strauss, an urbane but sometimes thorny former banker with a gifted amateur's knowledge of physics, was a key figure in the shaping of United States thermonuclear policy. He was a member of the Atomic Energy Commission from 1946 to 1950, and its chairman from 1953 to 1958.

In the often-acrimonious debates within the Government and the atomic community in 1949 and 1950 following the explosion of a Soviet atomic bomb in 1949, Mr. Strauss was a powerful advocate of immediate American development of a hydrogen bomb. His view, which had the support of a leading atomic scientist, Dr. Edward Teller, but not that of another, Dr. J. Robert Oppenheimer, prevailed with President Harry S. Truman. The first American hydrogen device was exploded Nov. 1, 1952, followed in 10 months by the detonation of a Soviet device.

In his dealings with Congress as commission chairman, Mr. Strauss—pronounced to rhyme with traws—was sometimes less than tactful. "For the first time in my life I have enemies," he remarked after an especially arduous experience on Capitol Hill. One result of these tussles was that the Senate, in June, 1959, rejected his nomination by President Dwight D. Eisenhower to be Secretary of Commerce. He had been acting Secretary since the previous October. Privately bitter over this rebuff, Mr. Strauss returned to private life.

#### PUZZLED OBSERVERS

In the years of his mightiest influence in Washington, the owlish-faced Mr. Strauss puzzled most observers. He was, on the one hand, a sociable person who enjoyed dinner parties and who was adept at prestidigitation; and, on the other hand, he gave the impression of intellectual arrogance. He could be warm-hearted yet seem at times like a stuffed shirt. He could make friends yet create antagonisms.

"He has more elbows than an octopus," one associate said after citing his affable qualities.

Assessing Mr. Strauss' settos with members of Congress, one observer suggested that he was "seemingly driven by an overwhelming desire to prove that he has been correct on every major and minor point in every major and minor battle in which he has been engaged for the last decade." An air of infallibility, this observer went on, affronted many Congressmen who preferred public servants willing to display a modicum of humility.

Mr. Strauss exercised enormous power as chief of the A.E.C. His job was to make certain that the United States produced more nuclear weaponry than the Soviet Union. In addition, he was special adviser on atomic matters to President Eisenhower, and all Federal agencies were obliged to clear their atomic-related activities with him. The strictest secrecy about the atomic effort then prevailed, with the result that Mr. Strauss was laden with a stupendous amount of top-classified information. It was a burden he felt keenly.

### COLD WAR ASSUMPTION

At the same time, Mr. Strauss accepted the basic assumption of the cold war—that the Soviet Union was bent on world conquest. "Honesty, truth and solemn covenants appear to be abstractions which have existence for them only as bait for those of other nations naive enough to believe in them," he wrote in "Men and Decisions," an autobiographical memoir. To thwart what he saw as the Soviet goal, he advocated both the amassing of nuclear weapons and hermetic security.

His beliefs underlay his role in the Oppenheimer loyalty-security hearing of 1954 in which the physicist's loyalty was upheld, but not his security clearance. Mr. Strauss maintained that he did not initiate the hearing, but his critics argued that he did not defend Dr. Oppenheimer, then a contract consultant to the A.E.C. The charges against the man often called "the father of the atomic bomb" dated at least to 1947—these charges had to do with Communist associations—and their appearance in 1954 seemed to many scientists to be a form of retribution for Dr. Oppenheimer's opposition to the hydrogen bomb.

"Physicists who regard Strauss as the master architect of the case against Oppenheimer believe that in the last analysis Strauss was sincere," Nuel Pharr Davis wrote in "Lawrence and Oppenheimer," a detailed account of differences between Dr. Oppenheimer and Dr. Ernest Lawrence over atomic policy. Dr. Lawrence, the Berkeley physicist, along with Dr. Teller, was a Strauss mentor in science. Both men also had strong reservations about Dr. Oppenheimer.

### "DEROGATORY INFORMATION"

Paradoxically, Mr. Strauss, a trustee of the Institute for Advanced Study at Princeton, N.J., was responsible for Dr. Oppenheimer's appointment as director in 1947. At the time, the scientist informed Mr. Strauss that the Federal Bureau of Investigation file contained "derogatory information about me." Mr. Strauss, according to the Davis book, was familiar with the material and regarded it as trivial. The parting of ways seemingly came over Dr. Oppenheimer's reluctance to press on with a superbomb.

Mr. Strauss's early life had a touch of the Horatio Alger theme. Born on Jan. 31, 1896, in Charleston, W. Va., he was the son of a shoe merchant. He grew up in Richmond and became a traveling salesman for his father's shoes after he was graduated from high school. He had developed meantime a textbook interest in physics as well as a layman's concern with Judaism.

By his 20th birthday, Mr. Strauss had saved $20,000 and was thinking about attending college. In his memoir, he recalled that he was attracted instead by a desire to work for Herbert Hoover, appointed in the wartime year 1917 to manage food production in the United States. He went to Washington, searched out Mr. Hoover and sat down in his hotel suite.

"In a short while, Mr. Hoover entered from his adjoining office. He was wearing a hat and overcoat and was on his way to an appointment," Mr. Strauss recounted in after years, adding:

"I recognized him from his photographs, and, seeing that his secretary did not intend to introduce me, I stepped up and gave my name and said that I would like to work for him, adding that I had understood that he was accepting no salary for his services and that I would be happy to work for two months under the same arrangement.

"As I completed that long sentence, he looked at me with a puzzled smile and asked, 'When do you want to start?' 'Right now,' I replied. 'Take off your coat,' he said and left. These 12 words were the only exchange I had with him for a matter of weeks."

### CONFIDANT OF HOOVER

Ultimately, Mr. Strauss became Mr. Hoover's assistant, confidant and close friend. It was through Mr. Hoover that he met Mortimer Schiff, a partner in Kuhn, Loeb & Co., the investment bankers. He joined the Wall Street concern in 1919 and spent about a quarter-century with it, accumulating vast wealth, impeccable respectability and a wardrobe that included a derby and a fur-collared overcoat.

Making at least $1-million a year as a Kuhn, Loeb partner, Mr. Strauss helped to market Kodachrome film for Eastman Kodak and the Polaroid camera for Edwin Land. Meantime, he maintained his interest in physics, becoming absorbed in cancer research. After his mother died of a malignancy in 1935, he helped finance a generator at the California Institute of Technology with the aim of producing radioactive isotopes for cancer therapy. He also sought out physicists fleeing from Nazism and befriended them. From them and other sources he learned in 1939 that uranium had been fissioned in Germany.

In 1941, Mr. Strauss, who held a Reserve commission as a lieutenant commander in the Navy, joined the Navy Department's Bureau of Ordinance and helped to coordinate its inspection of weapons production. He was also co-opted by Secretary James V. Forrestal, a fellow Wall Street banker, as his special assistant, and he represented the Navy on the Interdepartmental Committee on Atomic Energy.

Mr. Strauss left the department after four years with the rank of rear admiral in the Reserve, an honorific of which he was exceedingly proud. Indeed, he liked afterward to be addressed as Admiral Strauss, which upset some regular officers who looked upon him as a civilian.

After a brief return to Kuhn, Loeb, Mr. Strauss was back in Washington as a member of the first Atomic Energy Commission, which was headed by David E. Lilienthal, the former chairman of the Tennessee Valley Authority. An admitted "black Republican" of pronounced conservative attitudes, Mr. Strauss got along well with President Truman and, initially, with members of Congress.

On the commission, Mr. Strauss was often at odds with the chairman. One issue had to do with monitoring atomic explosions outside the United States. Mr. Strauss ultimately persuaded the Pentagon to set up detection stations, which picked up the first Soviet atomic explosion in 1949, a few days before Moscow made its official announcement.

Another issue was the hydrogen bomb, on which Mr. Strauss was insistent. The decision to proceed with the project caused profound reverberations in the scientific community. Many agreed with Dr. Oppenheimer in his opposition while others backed Dr. Teller. Mr. Strauss saw the issue as a military one, and he appeared never to have regretted his stand. "The atom is amoral," he contended.

After leaving the commission in 1950, Mr. Strauss worked for the Rockefeller family as a financial adviser and indulged his interest in farming at Brandy Rock, a 1,500-acre spread near Culpeper, Va., where he bred cattle and raised corn.

Returning to the Atomic Energy Commission in 1953 for a five-year term as chairman, he earned a reputation for operating a tight ship. He also became embroiled in the so-called Dixon-Yates controversy, which involved a contract for privately financed electrical power to compensate the T.V.A. for electricity used for atomic purposes. The contract, canceled in the end, hurt Mr. Strauss politically—he supported it—and it contributed to the campaign against him when he was nominated as Commerce Secretary.

Surviving are his widow, the former Alice Henauer; a son, Lewis H. Strauss, and three grandchildren, Louis C., Jeremy and Jacqueline Strauss.

The funeral will be at 2 p.m. on Thursday in Temple Emanuel, Fifth Avenue at 65th Street. There will also be a memorial service at 3 p.m. on Friday in the Washington Hebrew Congregation, Washington.

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## TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes.

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## ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

### Report on Operations Under the Food Stamp Act

A letter from the Assistant Secretary of Agriculture transmitting, pursuant to law, the annual report on operations under the Food Stamp Act of 1964 (with an accompanying report). Referred to the Committee on Agriculture and Forestry.

### Judgments of the U.S. Court of Claims

(S. Doc. —)

A letter from the Clerk of the United States Court of Claims transmitting, pursuant to law, a statement setting forth all the judgments rendered by the United States Court of Claims for the year ended September 30, 1973 (with accompanying papers). Ordered to be printed as a Senate document and referred to the Committee on Appropriations.

### Report of the Export-Import Bank on Loans to Certain Foreign Countries

A letter from the First Vice President of the Export-Import Bank of the United States reporting, pursuant to law, on loan, guarantee and insurance transactions supported by Eximbank to Yugoslavia, Romania, the Union of Soviet Socialist Republics, and Poland during December 1973. Referred to the Committee on Banking, Housing and Urban Affairs.

### Report on Cigarette Labeling

A letter from the Chairman of the Federal Trade Commission transmitting, pursuant to law, a report on the effectiveness of cigarette labeling, current practices and methods of cigarette advertising and promotion, and recommendations for legislation deemed appropriate (with accompanying report). Referred to the Committee on Commerce.

### Report of the Potomac Electric Power Co.

A letter from the vice president of the Potomac Electric Power Co. transmitting, pursuant to law, a copy of a balance sheet of Potomac Electric Power Co. as of December 31, 1973 (with accompanying papers). Referred to the Committee on the District of Columbia.

### Liabilities and Financial Commitments of the United States

A letter from the Assistant Secretary of the Treasury transmitting, pursuant to law, the statement of liabilities and other financial commitments of the U.S. Government as of June 30, 1973 (with accompanying papers). Referred to the Committee on Finance.

### Report of the Agency for International Development

A letter from the Administrator of the Agency for International Development in the nature of a report, pursuant to law, on the plans and programs for the utilization of funds made available pursuant to the terms of the Foreign Assistance Act of 1973. Referred to the Committee on Foreign Relations.

### Disposal of Foreign Excess Property

A letter from the Assistant Secretary of Agriculture transmitting, pursuant to law, a report on the activities of the Department of Agriculture for the fiscal year ending June 30, 1973, regarding the disposal of foreign excess property (with an accompanying report). Referred to the Committee on Government Operations.

### Proposed Legislation by the Indian Claims Commission

A letter from the Chairman of the Indian Claims Commission transmitting a draft of proposed legislation to authorize appropriations for the Indian Claims Commission for fiscal year 1975 (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

### Report of the Federal Metal and Nonmetallic Mine Safety Board of Review

A letter from the Executive Secretary of the Federal Metal and Nonmetallic Mine Safety Board of Review transmitting, pursuant to law, the report of the activities of the Board for the calendar year 1973 (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

### Proposed Legislation by the Veterans' Administration

A letter from the Administrator of Veterans' Affairs transmitting a draft of proposed legislation to permit interest on loans under section 1810 of chapter 37, title 38, U.S.C., to be as agreed upon by the lender and borrower, and for other purposes (with accompanying papers). Referred to the Committee on Veterans' Affairs.

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## PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A resolution of the General Assembly of the State of New Jersey. Referred to the Committee on Foreign Relations:

"Assembly Resolution

"Whereas, The actions and threats of action by certain oil-producing nations to interrupt or restrict the flow of petroleum supplies to this nation have resulted in, and may hereafter exacerbate, critical shortages of necessary fuels, resulting in numerous instances of human hardship and economic dislocation; and,

"Whereas, It is not consonant with either the interests or the dignity of this nation to tolerate such high-handed attempts by oil-producing nations to dictate American policy through the use of such threats and acts of embargo; and,

"Whereas, It is inconsistent with decent and usual international practice that normal commercial arrangements should be deranged and distorted for the purposes of economic blackmail by any nation or group of nations against any other nation or group of nations; now, therefore,

*"Be It Resolved by the General Assembly of the State of New Jersey:*

"That this House hereby calls upon the President of the United States to make perfectly clear to any and all nations taking, or threatening to take, measures to curtail or interrupt the supply of essential fuels to the United States that any such action is, and will be deemed by this nation to be, an unfriendly act, with such consequences as may necessarily flow therefrom; and ,

*"Be It Further Resolved,* That duly authenticated copies of this resolution be transmitted to the President of the United States, to the President pro-tempore of the United States Senate, the Speaker of the United States House of Representatives, the Chairman of the Senate and House Foreign Relations Committees and each of the members of the Congress elected from this State."

A resolution of the Senate of the Commonwealth of Massachusetts. Referred to the Committee on Interior and Insular Affairs:

"Resolutions Memorializing Congress to Enact Legislation Nationalizing the Crude Oil and Petroleum Industries

"Whereas, The natural resources of the United States are fast becoming exhausted, resulting in reliance upon foreign supplies of such critical imports as fuel, gas and oil; and

"Whereas, Corrective measures which have been attempted to date to curb the rapidly increasing shortage of all resources have been short-range and ineffective; and

"Whereas, Courageous action on the part of the Congress of the United States is necessary to preserve our natural resources for the coming decades and essential to avoid skyrocketing prices and monopolistic control of such resources by a very few companies; and

"Whereas, The energy and fuel problems of the United States has demonstrated to its citizens the need for better government controls and regulation on the crude oil and petroleum industries, whether the present crisis is real or fabricated and whether short-term or long lasting; now, therefore, be it

"Resolved, That the Massachusetts Senate hereby respectfully urges the Congress of the United States to enact legislation immediately which would nationalize the crude oil and petroleum industries of the United States; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Clerk of the Senate to the President of the United States, to the presiding officer of each branch of Congress and to each member thereof from the Commonwealth."

A resolution of the Springville-Griffith Institute Central School District (New York) opposing foreign aid and supporting the promotion of education. Referred to the Committee on Foreign Relations.

A letter from the House of Commons, London SWIA OAA, opposing the importation of Rhodesian chrome. Referred to the Committee on Foreign Relations.

A resolution of the Legislative Council of the State of Arkansas pertaining to busing of school children to obtain racial balance and the impact thereof on the energy crisis. Referred to the Committee on the Judiciary.

A petition by sundry citizens seeking a redress of grievances. Ordered to lie on the table.

A resolution of the San Diego County Federation of Republican Women's Clubs relating to the program for Congress. Ordered to lie on the table.

A resolution of the Greater Daytona Beach Republican Men's Club in tribute to President Nixon. Ordered to lie on the table.

A resolution of the Sangamon County (Springfield, Illinois) Teen-Age Republican Club in support of President Nixon. Ordered to lie on the table.

A resolution of the Republican State Central Committee of California in support of Vice President Ford. Ordered to lie on the table.

A resolution of the Louisiana Baptist Convention relating to tax support of nonpublic schools. Ordered to lie on the table.

A resolution of the West Bloomfield Township (Michigan) in tribute to Vice President Ford. Ordered to lie on the table.

### PRESENTATION OF A RESOLUTION

Mr. NUNN. Mr. President, on January 14, 1974, the House of Representatives of the State of Georgia passed a resolution expressing its opposition to the Secretary of Agriculture's proposed changes in the flu-cured tobacco program.

I share the opinion of these Georgia legislators that any change in the present flue-cured tobacco production quotas and price support system would destroy the existing tobacco program and would have a disastrous effect on the small farmers of this Nation.

I ask unanimous consent that this resolution be printed in the RECORD.

There being no objection, the resolution was referred to the Committee on Agriculture and Forestry, was ordered to be printed in the RECORD, as follows:

"A Resolution

"A resolution expressing opposition to the proposal of Secretary of Agriculture Earl Butz to increase or terminate flue-cured tobacco quotas for 1974; and for other purposes.

"Whereas, the Honorable Earl Butz, Secretary of Agriculture of the United States, has proposed the increase or termination of flue-cured tobacco quotas for 1974; and

"Whereas, there is a potential flue-cured tobacco crop in Georgia and Florida of nearly 200 million pounds of tobacco; and

"Whereas, tobacco farmers in Georgia and Florida cannot produce their present quotas for 1974, much less an additional allocation; and

"Whereas, Georgia tobacco farmers have

neither the curing facilities nor the labor to produce an extra quota amount of tobacco; and

"Whereas, the tobacco farmers of Georgia are keenly aware of the scarcity and the high cost of fertilizer and curing fuels, as well as the rising cost of labor, equipment and supplies; and

"Whereas, the total national flue-cured tobacco production in 1973 amounted to 1 billion 185 million pounds, while disappearance for the same period was just under 1 billion 200 million pounds, thus making supply and demand only about one percent apart; and

"Whereas, production costs, supplies, labor, interest rates and taxes rose between 15 and 20 percent during the production of the 1973 crop while tobacco farmers received only about three percent in prices above the 1972 price levels; and

"Whereas, if prices are reduced by the 11 cents per pound received above support prices in 1973, the tobacco farmers of Georgia and Florida would suffer losses of 18 to 20 million dollars and the farmers of the entire flue-cured tobacco belt would lose between 135 and 150 million dollars; and

"Whereas, it has been suggested that the purpose of increasing or terminating quotas is to force farmers into complete mechanization, but it should be recognized that complete mechanization cannot be rapidly undertaken since necessary equipment is not readily available; and

"Whereas, an increase in quotas at this time would be bad for the flue-cured tobacco farmers, but the termination of quotas would be tragic and would bring disaster not only to tobacco farmers, but would also seriously affect the entire economies of several States; and

"Whereas, the proposals of the Secretary of Agriculture, if adopted, will cheapen tobacco farm lands, will reduce the income of many elderly people who have leased their small quotas, and would seriously affect the solvency of tobacco farmers, many of whom are heavily in debt for equipment, farm land and other necessities.

"Now, therefore, be it resolved by the House of Representatives that the members of this body hereby express their opposition to the proposals of Secretary of Agriculture Earl Butz to increase or terminate flue-cured tobacco quotas for 1974, and hereby urge the Secretary of Agriculture to withdraw his proposals.

"'Be it further resolved that the Clerk of the House of Representatives is hereby authorized and directed to transmit appropriate copies of this Resolution to the Honorable Earl Butz, Secretary of Agriculture of the United States; the Honorable Phil Campbell, Undersecretary of Agriculture of the United States; the Honorable Herman E. Talmadge and the Honorable Sam Nunn, United States Senators; and to each member of the Georgia Congressional Delegation."

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HUGHES (for himself and Mr. Clark):

S. 2876. A bill for the relief of Carmichael C. Peters. Referred to the Committee on the Judiciary.

By Mr. TOWER (for himself, Mr. Hugh Scott, Mr. Metcalf, Mr. Eastland, Mr. McIntyre, Mr. Johnston, Mr. Young, Mr. Nunn, Mr. Gravel, Mr. Domenici, Mr. Percy, and Mr. Hughes):

S. 2877. A bill to commemorate the American Revolutionary Bicentennial by establishing a "Meeting House" program, by making grants available to each of the several States for the purpose of acquiring and restoring certain historic sites with a view to designating and preserving such sites for use as meeting houses in connection with such Bicentennial, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. METCALF (for himself, Mr. Jackson, Mr. Bible, Mr. Fannin, Mr. Hansen, and Mr. Stevens):

S. 2878. A bill to promote the conservation and orderly development of hard mineral resources of the deep seabed, pending adoption of an international regime relating thereto. Referred to the Committee on Commerce.

By Mr. JAVITS:

S. 2879. A bill to establish in the Department of Health, Education, and Welfare the positions of Deputy Secretary of Health, Education, and Welfare and an additional Assistant Secretary of Health, Education, and Welfare in lieu of the Under Secretary and the Assistant Secretary for Administration. Referred to the Committee on Labor and Public Welfare.

By Mr. McGOVERN (for himself, Mr. Abourezk, and Mr. Burdick):

S. 2880. A bill to amend the Agriculture and Consumer Protection Act of 1973 to provide additional incentives for farmers to produce wheat, feed grains, and cotton, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. FANNIN:

S. 2881. A bill to amend section 1951, title 18, United States Code, Act of July 3, 1946. Referred to the Committee on the Judiciary.

By Mr. MONTOYA:

S. 2882. A bill to designate May 30 of each year as Memorial Day and to designate November 11 of each year as Veterans Day and to make such days legal public holidays. Referred to the Committee on the Judiciary.

By Mr. BIDEN:

S. 2883. A bill to amend the Fair Credit Reporting Act. Referred to the Committee on Banking, Housing and Urban Affairs.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TOWER (for himself, Mr. Hugh Scott, Mr. Metcalf, Mr. Eastland, Mr. McIntyre, Mr. Johnston, Mr. Young, Mr. Nunn, Mr. Gravel, Mr. Domenici, Mr. Percy, and Mr. Hughes):

S. 2877. A bill to commemorate the American Revolutionary Bicentennial by establishing a meeting house program, by making grants available to each of the several States for the purpose of acquiring and restoring certain historic sites with a view to designating and preserving such sites for use as meeting houses in connection with such Bicentennial, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

### MEETING HOUSE PRESERVATION ACT

Mr. TOWER. Mr. President, in 1976, this country will celebrate its Bicentennial. Hopefully, this will be a meaningful and lasting experience for every citizen.

When we were schoolchildren we were taught about the American Revolution—the Boston Tea Party, General Washington, Valley Forge, Cornwallis and Yorktown. But there was more to the Revolution than a one time event that occurred on the eastern seaboard. The American Revolution was also a revolution of ideas that has continued for almost 200 years. Our ability as a country to grow and change is our strength. This revolution of ideas has taken place in every State in the Union. Consequently, our Bicentennial has to include all ethnic groups and regions if it is to truly represent the essence of America and its people.

I have been concerned for some time that our celebration might be limited to place and to the people involved. I was concerned that, in many States, there was no regional focus for the celebration. It was my desire, therefore, to draft a proposal which would provide a meeting place in each of the States which would be a regional focus and impetus to the preservation of our physical and cultural heritage and would bring citizens together to plan the preservation of the quality of our total environment for the present and for the future.

Today, I am introducing the Meeting House Preservation Act. This act would set up a meeting house program and would make grants available to each of the States for the purpose of acquiring and restoring certain historic sites to use as meeting houses to carry out the goals and purposes of this act. Approximately two-thirds of the States have already acknowledged approval of the meeting house proposal and have expressed their wish to participate. Some fascinating sites have already been proposed: a few examples, an opera house in Texas, a fort in North Dakota, a tavern in Connecticut, a royal brewery in Hawaii, a theater in North Carolina, and a casino in Puerto Rico.

I hope that this bill will have the support of the Senate and that action will be taken on it as soon as possible—1974 is already here and the celebration is almost upon us. If the States are to have a meaningful meeting house program, then the Senate must take action and initiate this program quickly.

At this point, I shall read excerpts of correspondence from some of the various States which favor this proposal:

### RHODE ISLAND

In conclusion, strong interest and enthusiasm for the Heritage '76 Meeting House program has been evidenced by all participants in the preparation of this proposal. There is no doubt that the announcement of the Heritage '76 Meeting House program would generate additional public and private support for future restoration and programs. The Rhode Island Historical Preservation Commission and the Rhode Island Bicentennial Committee recognize that the realization of the American Revolution Bicentennial Commission's goal in terms of "brick and mortar" restorations and the establishment of the Heritage '76 Meeting House program would be a major contribution to the cause of historic preservation in America.

### WYOMING

Governor Stanley K. Hathaway: Here in Wyoming our enthusiasm has been aroused for the Heritage '76 Meeting House Program proposing "a permanent legacy to the American people of fifty-five historic sites that will be saved, restored and used as a meeting house for all citizens concerned with the preservation of our cultural heritage and the quality of our physical environment." Today, with tremendous industrial and commercial needs bringing greater pressure than ever upon the nation's natural resources, and with the manifestation of a corresponding pressure to protect the aesthetic, cultural and recreational values of our environment . . . (preservation of this site) becomes more important than ever before. . . .

### HAWAII

The prime aspect of Heritage House involves facilities for the headquarters of historical, cultural, educational, and ethnic organizations concerned with the preservation of historic materials and sites, with "town hall" type discussions of problems relevant to our time, and with the charting of our future. In addition to office space, there would be conference rooms and an auditorium equipped for the use of audio-visual techniques, in which to conduct meetings.

The need for such facilities is great in that many groups that would benefit from the availability of them are at present housed in temporary, makeshift, and inadequate quarters or have no place to call their own.

### WASHINGTON

The Heritage '76 Meeting House program, as envisioned by the American Bicentennial Commission, has a great appeal to a broad spectrum of the nation's population who share a concern for the preservation of their cultural heritage and the quality of their physical environment. Millions of Americans are proud of their nation's history and are eager to join in the celebration of its founding.

### MAINE

The potential use of such a Meeting House is almost limitless if the funds were made available to give it birth. Such a concept which places all of these groups under one roof would not only provide the public with access to the latest thinking in historic and environmental concepts but would enhance internal communication between these groups whose responsibilities, talents and resources, which may at present overlap, would compliment each other with more efficient and accessible results.

Mr. President, I ask unanimous consent that the full text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### S. 2877

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Meeting House Preservation Act."

SEC. 2. (a) The Congress hereby finds and declares that—

(1) if the Bicentennial celebration of the United States in 1976 is to be a meaningful celebration, there is a need for each citizen to become aware of his historical, cultural, and physical heritage in order that we may carry out one of the major themes of the Bicentennial, namely, "A Past to Honor: A Future to Mold";

(2) in order to encourage participation in preserving our heritage and in actively planning the direction this country will take in the future, our citizens need a focal point, a meeting place where they can come to discuss, to learn, and to participate;

(3) because this country is so diverse and rich in varied cultures, it is not possible to establish a single meeting place which would be accessible and responsive to the majority of the citizens;

several States of an historic site which might be utilized as a Meeting House would provide an easily accessible meeting place for a majority of the citizens and would further provide a regional focus and impetus to the preservation of our physical and cultural heritage and a meeting place to bring citizens together to plan the preservation of the quality of our total environment.

(b) The Congress further declares that it is the purpose of this Act—

(1) to celebrate the Bicentennial of this country through the preservation within each of the several States of an historic site that might otherwise be lost;

(2) to provide a meeting place in each of the several States for those citizens interested in retaining their tangible, indigenous heritage, whether historic, cultural, or natural, and in planning for future changes and developments, and

(3) to give existing State programs involved with preserving historic and architecturally important structures an illustration of the best possible techniques used in the preservation of such historic sites and structures, and the multiple, significant ways in which such sites and structures can be used.

SEC. 3. In carrying out the purposes of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to make grants to each of the several States for the specific purpose of enabling such State to acquire and restore an historic site within such State for use as a Meeting House in accordance with the provisions of this Act, and to initiate and carry out programs in connection therewith, except that no grant to any one such State shall exceed $1,000,000. No grant shall be made to any State pursuant to this Act except pursuant to an application submitted by such State and approved by the Secretary in accordance with the provisions of this Act.

SEC. 4. (a) Any application for a grant under this Act shall contain an estimated budget of the following:

(1) acquisition costs of such historic site to be acquired;

(2) restoration planning costs for such historic site;

(3) restoration work costs for such historic site;

(4) maintenance costs of such historic site;

(5) expenses involving use of such historic site as it applies to the Meeting House concept provided for by this Act;

(6) staffing costs; and

(7) costs of publishing a report to Congress, by January 1, 1976, on the restoration of the historic site for use as a Meeting House and the program for its use.

(b) No application shall be approved by the Secretary pursuant to this Act unless such application is filed with the Secretary within one year following the date of the enactment of this Act, is filed in accordance with regulations and procedures prescribed by the Secretary, and contains provisions, satisfactory to the Secretary, assuring that—

(1) any historic site covered by such application will provide an atmosphere conducive to exploring new and innovative ways to make the citizens of the United States more aware of the need to protect their natural and other heritage;

(2) such historic site is a documented historic or architecturally significant building, group of buildings, or site that is listed on the National Register and suitable for the purposes of this Act;

(3) such historic site, together with other Meeting Houses authorized by this Act, illustrates a characteristic of the applicant's heritage and helps to reflect the diverse cultural and geographic background of the United States;

(4) the historic site covered by such application is in need of rescuing from neglect, demolition, or because it is functionally obsolete for its original purpose; and

(5) such historic site is located so as to insure its ongoing uses as a public meeting place.

(c) Each State submitting an application pursuant to this Act shall designate one or more historic sites which it desires to acquire, restore, and utilize or preferences with respect thereto. The designation of such site or sites shall be based on nominations made by the applicant's Bicentennial Commission, in cooperation with such applicant's State Preservation Officer, in accordance with an approved State Historic Preservation Plan. In making such nominations, the applicant's Bicentennial Commission shall consult with such other professional sources within the affected State as such Commission determines necessary.

(d) Upon the approval by him of any application submitted in accordance with the provisions of this Act, the Secretary is authorized to make a grant (not to exceed $1,000,000) to the applicant for the purpose of enabling such applicant to acquire and restore an historic site for use as a Meeting House in accordance with the provisions of this Act, including the carrying out of programs in connection therewith, except that in no case shall the Secretary approve the acquisition or restoration of any such historic site except on the basis of recommendations of the Meeting House Coordinating Board in accordance with the provisions of section 5 of this Act. In no case shall the Secretary make grants for the acquisition and restoration of more than one historic site in any one State pursuant to this Act.

SEC. 5. (a) There is hereby established a Meeting House Coordinating Board, which shall consist of the Keeper of the National Register, the Chairman of the Heritage '76 Committee of the American Revolutionary Bicentennial Administration, a repersentative of the National Trust for Historic Preservation in the United States designated by the Chairman thereof, a representative of the Advisory Council on Historic Preservation designated by the Chairman thereof, and a representative of the President's Council on Environmental Quality designated by the Chairman thereof.

(b) It shall be the function of the Meeting House Coordinating Board to review each application made in accordance with the provisions of this Act for the purpose of making recommendations to the Secretary as to which of the historic site or sites contained in such application should be approved by the Secretary for purposes of this Act, and to provide a national overview of site selections for purposes of this Act.

(c) Members of the Board shall receive no compensation as such, but shall be reimbursed for expenses incurred by them in carrying out their duties under this Act.

(d) The members of the Board shall elect one of their members as Chairman. The Secretary shall call the first meeting of the Board.

SEC. 6. The Secretary, acting through the grants division of the National Register within the Office of Archeology and Historic Preservation, National Park Service, shall administer this Act in accordance with the provisions thereof.

SEC. 7. As used in this Act, the term—

(1) "State" means each of the several States, possessions, and territories of the United States; and

(2) "historic site" means any property which is a documented historic or architecturally significant building, group of buildings, or site that is listed on the National Register and which is in need of rescuing from neglect, demolition, or because it has become functionally obsolete for its original purpose, but in no event shall such term be construed as including any Federally owned property.

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. HUGH SCOTT. Mr. President, I am pleased to join my distinguished colleague from Texas (Mr. TOWER) in sponsoring this bill to select and preserve one historic site in each State as a focal point during the Bicentennial observance. Under this proposal, the Secretary of the Interior would make grants available to each State for the purpose of acquiring and restoring one historic site in that State to be used as a "Meeting House." This site would be the meeting place for citizens concerned with the preservation of cultural heritage and environmental quality.

The Commonwealth of Pennsylvania is among those States which have made prospective site selections—and none would be more appropriate than the Valley Forge area, site of George Washington's encampment of 1777–78, a turning point in the Revolutionary War. Lafayette's Headquarters, the proposed "Meeting House," is located on the Lafayette Farm adjacent to Valley Forge State Park in Tredyffrin Township, Chester County. The 34-acre site served as Maj. Gen. Marquis de Lafayette's residence during the famous encampment.

An estimated $500,000 will be necessary to complete the acquisition and restoration of Lafayette's Headquarters. Senator TOWER's bill is designed to assist in this effort, and in similar projects throughout the Nation, and I hope that Congress does not let too much time pass before giving it favorable consideration. I commend the Senator for his active interests in an endeavor which will be of lasting benefit to our cultural heritage.

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By Mr. METCALF (for himself, Mr. JACKSON, Mr. BIBLE, Mr. FANNIN, Mr. HANSEN, and Mr. STEVENS):

S. 2878. A bill to promote the conservation and orderly development of hard mineral resources of the deep seabed, pending adoption of an international regime relating thereto. Referred to the Committee on Commerce.

### DEEP SEABED HARD MINERALS ACT

Mr. METCALF. Mr. President, as much of the world today stands gaping at the power which is being so effectively wielded by the developing oil nations of the Middle East in the midst of an unprecedented fuel crisis, there continues to develop a similar situation regarding minerals of strategic importance to the industrialized nations. I refer to the limited supplies of manganese, cobalt, nickel and, to some extent, copper, and to the fact that much of the world's suppliers of these key minerals are now located in a number of the developing nations of Africa and South America.

It has become apparent that a strategy valued by the nations that comprise what has come to be called the third world is to effect maximum economic and political clout through the controlled distribution of the natural resources indigenous to these nations. In a development ominous to the industrialized nations dependent on these key minerals, we now are advised, as in the Journal of Commerce edition of December 27, 1973, that developed nations are concerned about "an Arab-led movement to organize developing countries to raise prices not only of oil, but of aluminum, iron ore, copper, and other strategic materials."

The article identifies an anxiety common not only to western industrialists. On January 6 of this year, Federal Energy Director William E. Simon said that even after the Arab States embargo on oil shipments to the United States has been lifted there will be serious supply problems. In an account published in the Washington Post, Simon predicted that his most difficult task will be "to keep the American people awake to the fact that we are going to have shortages, and thereby subject ourselves to the economic and political blackmail of any foreign nation, both on the supply side and the price side." Mr. Simon was talking about oil. But he could well have been talking about other key industrial materials for which domestic sources are limited or nonexistent.

There also have been indications that the copper-producing countries of Africa and South America have been moving recently to consolidate their relations with groups such as the Arab-dominated Organization of Petroleum Exporting Countries—OPEC. A proposed joint statement from the OPEC and the Council of Copper Exporting Countries proclaims "mutual solidarity and their right to a fair price for and control of their natural resources."

Mr. Simon also suggested in a recent newsmagazine interview that the United States eventually should resume its trading relationships with the Arabs "and at the same time seek long-run self-sufficiency. When it becomes apparent to them that we are dead serious about self-sufficiency that is when the price of their oil is going to come down."

The cosponsors of S. 2878 believe this bill will contribute to our self-sufficiency in these vital minerals before we and other nations are forced to endure the strictures of supply dependence on the developing third world nations, and hopefully before the prices of these minerals, like oil, have been twice doubled over a few months.

The identical bill is being introduced today in the other body by Chairman DOWNING of the Subcommittee on Oceanography of the House Committee on Merchant Marine and Fisheries. We anticipate that we will be able to hold hearings on this legislation within 2 months.

S. 2878, authorizing the Secretary of the Interior to promote the conservation and orderly commercial recovery of the hard mineral resources of the deep seabed, pending the adoption of an international regime therefor, incorporates substantial alterations from its predecessor bills—S. 2801 in the 92d Congress and S. 1134 in the 1st session of the 93d Congress. Basically, it would permit U.S. operators to seek, recover, and distribute the valuable manganese nodules which are scattered over much of the Earth's ocean floors—nearly three-fourths of the Earth's surface.

In light of a comprehensive report prepared recently by John R. Justus and Nancy P. Peterson of the Science Policy Research Division of the Congressional Research Service, it has become clear that the U.S. technological advantage in recovering the five vital minerals contained in these nodules is fading while our dependence on the developing nations increases.

The manganese nodules, described by the Wall Street Journal as resembling burned potatoes, are rich in iron, copper, nickel, and cobalt. They were discovered about a century ago during the Challenger expedition. By obtaining our supplies of these minerals largely from foreign terrestrial sources instead of resorting to the seabeds of the Atlantic and Pacific Oceans, we have contributed substantially to the economies—and economic clout—of a number of developing nations.

The small African nation of Zaire, for example, produces 14,800 tons or 57 percent of the world's annual supply of cobalt while the United States, which imports about 5,500 tons of cobalt annually, produces only negligible amounts of this mineral critical to the production of superalloys for electronic equipment and spacecraft components, as well as having medical uses.

The remaining principal producers of cobalt in the world are Zambia—9 percent; Cuba—7 percent; and Morocco—4 percent—nations which in 1971 combined with Zaire to produce nearly 26,000 tons of cobalt.

By 1985, according to projections by the U.S. Bureau of Mines, the United States will be consuming as much cobalt every year as is now produced annually by Zaire, which also has joined in coalition with other nations outside of North America and Europe which export copper and tin.

Domestic copper mines are able to supply roughly three-fourths of the U.S. requirements for production of electrical equipment, transportation components, home appliances, and numerous other uses.

Of the 331,000 tons of copper which the United States imported in 1971, 37 percent came from Canada, 29 percent from Peru, 15 percent from Chile, and 19 percent from other foreign nations. These figures represent a significant shift from the 4 years prior to 1971 in which 27 percent of our copper imports came from Chile, 23 percent from Canada, 21 percent from Peru, and 29 percent from other countries.

Considering current resources, the Bureau of Mines projects that by 1985 all but 15 percent of the 400,000 tons of nickel which we will consume annually will have to be imported, mostly from New Caledonia and Canada. Petroleum refiners and chemical producers are the primary users of nickel in metals which resist corrosion. Nickel also is vital to production of stainless steel and a number of alloy steels.

Maganese is the principal metal to be obtained from these nodules. It is vital to the continued production in America of a wide variety of commodities, ranging from machinery and equipment used in transportation, agriculture, and industry to home appliances, glass, and numerous chemicals.

The known minable reserves of manganese are quite large in comparison to world consumption, but these reserves are irregularly distributed around the world. In recent years, for example, the U.S. requirements of about 1,127,000 tons of manganese annually have been supplied about 40 percent by Zaire and another African nation, Gabon, while the remaining 60 percent has been satisfied by the Republic of South Africa, India, and Brazil. There is no domestic production of manganese, an essential commodity to current steel technology, in the United States.

More detailed figures on the worldwide production of these minerals and the present and projected consumption of them by the United States are available in the charts prepared by the Congressional Research Service which I attach to this statement for insertion in the RECORD.

As we discuss the situation today, there are those who already have acted to exploit these minerals at their own risk—and probable profit. One such individual, the obscure but celebrated Mr. Howard Hughes, has worked through his Hughes Tool Co. and Global Marine Inc. to initiate this exploitation. On January 6, 1974, the United Press International reported that "a huge underwater mystery barge—as big as an airplane hangar" constructed for Hughes under tight security in Redwood City, Calif., was towed under the Golden Gate Bridge and south into the Pacific. The barge, according to this report and other observations, was constructed at great cost to mine the ocean floor at an undetermined location.

As far back as 26 months ago there were 19 organizations in five nations actively engaged in the development of technology associated with the recovery and processing of deep seabed minerals. Already, the Japanese have developed a recovery method employing a continuous rope and dredge buckets, an alternative method to the process of hydraulic dredging using an airlift pump.

S. 2878 would allow U.S. operators to mine portions of the seabed in the absence of an international agreement, pending the creation—with the participation of the United States—of an international regime to license, monitor, and govern the mining processes. There are few indications that such an agreement will be forthcoming in the near future, and it may be as long as 15 years before such a regime can take over the regulation of deep seabed mining.

In the meantime, I do not see how Congress can responsibly refrain from regulating the deep ocean mining activities of U.S. firms.

In a letter to the Wall Street Journal, published on January 7, 1974, and which I read into the RECORD of Monday, January 21, Ambassador John R. Stevenson, Special Representative of the President for the Law of the Sea Conference, said:

> U.S. policy is predicated on completion of the conference's work on schedule—preferably next summer but in any event by 1975 at the latest.

Not in any way wishing to interfere with world agreement in this vital area, the cosponsors of this legislation have agreed no permit for commercial recovery of seabed minerals should be issued prior to January 1, 1976. If the world community can agree by that time, fine; the international community takes over. If they cannot agree, at least someone will be looking over the shoulder of our nationals as they go out to get the minerals we need—pending international agreement.

During the much-heralded Law of the Sea Conference scheduled to open in June in Caracas, Venezuela, it is anticipated that there will be substantial attempts by the developing countries to block any final agreement to permit seabed mining until, perhaps, these nations are at less of a disadvantage technologically and more able to actively participate in commercial mineral recovery themselves. Apparently, they fear that if seabed minerals prove to be competitive with those mined on land, the new supplies could have a depressing effect on the market prices of these five minerals—to the benefit of manufacturers and consumers, and to the detriment of nations such as Zaire—cobalt and copper; Brazil, Gabon, and India—manganese; Zambia and Chile—copper; and New Calendonia and Cuba—nickel.

As there are now only about 10 delegations to the conference whose nations have the current capability, either singly or in group efforts, to mine the seabeds, they are expected to be outvoted on substantive issues. But we will continue to watch with sincere interest the progress being made in the Law of the Sea Conference and in the United Nations as the coastal and noncoastal nations seek to resolve the issues revolving around the equitable distribution of the mineral wealth of nearly three-fourths of the Earth's surface.

The security of future supplies from current sources of these vital minerals is fairly solid in the cases of copper and nickel, but is at best uncertain regarding cobalt and manganese, according to the Congressional Research Service report. Almost all of our cobalt and manganese, upon which the aircraft and electronics industries rely heavily, come from nations with which there is a genuine potential for the development of unfavorable political atmospheres.

A further crucial consideration is the fact that we are now in continual competition with the developed countries of Western Europe and Japan for these minerals and a number of them have obtained long-term contracts for these resources, which eventually may put the United States in a very disadvantages position—possibly making us reliant on Japan or West Germany, for example, for refined metals or the actual goods fabricated from these metals.

As far as the national stockpiles of these minerals at the end of 1972 is concerned, we are not today in serious trouble, although copper stockpiles of 258,659 tons are only about one-third of the national objective of 775,000 tons. Manganese stockpiles of 11.6 million tons are three times the national objective, cobalt stockpiles of 35,750 tons are nearly twice the objective, and the United States has 47,731 tons of nickel in storage although there was no national stockpile objective in 1972.

Mining industry spokesmen have consistently pointed out that any commitments to deep seabed mining should be preceded by some form of protection of their sizable investments and security of their tenure. Estimated research and development costs borne by U.S. companies to date amounts to $90 million, and these expenditures represent only a small portion of the total investment required for the successful recovery of deep ocean minerals. The estimated costs for one operation which would recover 1 to 3 million dry tons of nodules annually range from $200 million to $300 million for a complete venture, extending from prospecting through mining, processing and distribution of the metals.

The minimum expenses required by law under this legislation for each company will amount to $5,900,000 over a 10-year period. These economic factors and other facets of the legislation should eliminate seabed mineral speculation.

The cosponsors of this legislation also feel that it satisfactorily responds to concerns over the effect of seabed mining on the environment and does not conflict with important considerations of national defense, fishing rights and international law.

As is evident in the Congressional Research Service tables, by the year 2000 the projected U.S. demands for cobalt, nickel, and copper will either exceed or nearly equal the world production levels of 1971. And it is expected that our industries will continue to be totally reliant on imports for their annual projected minimum need of 2,265,000 tons of manganese.

Should we start even today to recover that portion of the seabed mineral content that is rightfully part of our national heritage, it is improbable that returns on the massive investments could be realized before 1980—Mr. Hughes' intentions and activities notwithstanding.

In introducing this legislation, its cosponsors and I are responding to the incontrovertible need at this time for the United States to reinforce its rights to mine the deep seabed, to encourage the continuation of the U.S. leadership in deep sea technology and to provide a climate conducive to domestic investment in deep seabed exploration and commercial recovery of the minerals essential to our industrialized economy.

Mr. President, I ask unanimous consent to insert in the RECORD following my remarks, the text of the bill; of the article in the December 27, 1973, editions of the Journal of Commerce; the article in the Washington Post of November 25, 1973 entitled "Globe Gobbling: The World Scarcities Ahead"; eight tables prepared by the Science Policy Research Division of the Congressional Research Service, the Library of Congress; an excerpt from "The Threat From the Third World," a Brookings Institution publication—reprint No. 268—authored by C. Fred Bergsten; an article headlined "Crisis in Minerals Is Feared" from the January 14, 1974 edition of the Washington Post, and an article headlined "Raw Materials: U.S. Grows More Vulnerable to Third World Cartels" in the January 18, 1974 issue of Science magazine.

There being no objection, the bill and related materials were ordered to be printed in the Record, as follows:

### S. 2878

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Deep Seabed Hard Minerals Act".

### DECLARATION OF POLICY

Sec. 2 (a). FINDINGS.—The Congress finds—

(1) that the Nation's hard mineral resource requirements will continue to expand in order to supply national industrial needs and that the demand for certain hard minerals will increasingly exceed available domestic sources of supply;

(2) that, in the case of some minerals, the Nation is totally dependent upon foreign sources of supply and that the acquisition of mineral resources from foreign sources is a substantial factor in the national balance of payments position;

(3) that the national security interests of the United States require the availability of mineral resources which are independent of the export policies of foreign nations;

(4) that there is an alternate source of supply of certain minerals which are significant in relation to national needs contained in the manganese nodules which exist in great abundance on the ocean floor;

(5) that, to the extent that such nodules are located outside the territorial limits and beyond the Continental Shelf of any nation, the nodules are available for utilization by any nation with the ability to develop them;

(6) that United States mining companies have developed the technology necessary for the development and processing of deep seabed nodules and, given the necessary security of tenure, are prepared to make the necessary capital investment for such development and processing; and

(7) that it is in the national interest of the United States to utilize existing technology and capabilities of United States mining companies by providing for interim legislation which will encourage further efforts to insure national access to available deep seabed hard minerals and to provide the means whereby the national program may be merged into an international program which evolves from negotiations on the Law of the Sea and is subsequently ratified by the United States.

(b) Purposes.—The Congress declares that the purposes of this Act are—

(1) to establish a national program to insure the orderly development of certain hard mineral resources of the deep seabed, pending the establishment of an international regime for that purpose; and

(2) to insure the establishment of all practicable requirements necessary to maintain and enhance the quality of the marine environment to the extent that that environment may be affected by deep seabed hard mineral mining development.

### DEFINITIONS

Sec. 3. For the purposes of this Act—

(a) "Secretary" means, except where its usage indicates otherwise, the Secretary of the Interior;

(b) "Deep seabed" means the seabed, and the subsoil thereof, lying seaward and outside the Continental Shelf of any nation;

(c) "Continental Shelf" refers to the seabed and subsoil of the submarine areas adjacent to the coast of any nation (including the coasts of islands), but outside the area of the territorial sea, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas;

(d) "Block" means an area of the deep seabed having four boundary lines which are lines of longitude and latitude, the width of which may not be less than one-sixth the length, comprising not more than 40,000 square kilometers, and extending downward from the seabed to a depth of ten meters;

(e) "Hard mineral" or "hard mineral resources" refers to nodules or accretions containing, but not limited to, iron, manganese, nickel, cobalt, and copper;

(f) "Development" means any operation of exploration and commercial recovery, other than prospecting, having the purpose of discovery, recovery, or delivery of hard minerals from the deep seabed;

(g) "Prospecting" means any operation conducted for the purpose of making geophysical or geochemical measurements, bottom sampling, or comparable activities so long as such operation is carried on in a manner that does not significantly alter the surface or subsurface of the deep seabed;

(h) "Person" includes private individuals, associations, corporations, or other entities, and any officer, employee, agent, department, agency, or instrumentality of the Federal Government, of any State or local unit of government, or of any foreign government;

(i) "Eligible applicant" means a citizen of the United States or a corporation or other juridical entity organized under the laws of the United States, or its States, territories, or possessions, and possessing such technical and financial capabilities as may be prescribed by the Secretary in order to assure effective and orderly development of hard mineral resources pursuant to a license issued under this Act;

(j) "Investment" includes any contribution of funds, commodities, services, patents, processes, or techniques in the form of (1) a loan or loans, (2) the purchase of a share or shares of ownership, (3) participation in royalties, earnings, or profits, and (4) the furnishing of commodities or services pursuant to a lease or other contract;

(k) "Exploration" means that activity involving observation and evaluation, following the location and selection of a hard mineral deposit of potential economic interest, which has, as its objective, the establishment and documentation of the nature, shape, concentration, and tenor of an ore deposit, and the nature of the environmental factors which will affect its susceptibility of being developed, including the sampling of the deposit necessary for the design, fabrication, installation, and testing of equipment, and the development of recovery techniques; and

(l) "Commercial recovery" means that activity following exploration, which has, as its immediate objective, the removal or conversion of ores from the selected hard mineral deposit at a substantial rate (without regard to profit or loss), for the primary purpose of processing the ore for marketing or commercial use.

### ACTIVITIES PROHIBITED

Sec. 4. (a) Except as authorized pursuant to the provisions of this Act, including subsection (b) hereof, or as may be authorized under a treaty, Convention, or other international agreement, which is ratified by the United States, no person subject to the jurisdiction of the United States shall engage directly or indirectly in the development of hard mineral resources of the deep seabed. The prohibition of this subsection does not apply to prospecting or scientific research.

(b) In any case in which an eligible applicant is already engaged in the exploration of a block, on the date on which this Act takes effect, that eligible applicant may file an application for a license to develop that block and may continue any exploration activities until such time as the Secretary acts upon the application, with any activity subsequent to the action of the Secretary to be determined by the decision of the Secretary under the provisions of section 5 hereof.

### LICENSE TO DEVELOP

Sec. 5. (a) General.—Pursuant to the provisions of this Act, the Secretary shall accept application from, and issue licenses to, eligible applicants for the development of hard mineral resources of the deep seabed. Any license issued pursuant to this section shall be issued to the first eligible applicant who makes written application therefor, and tenders a fee of $50,000 for the block specified in the application and available for licensing. Such fee shall be deposited into an appropriate fund to be established by the Secretary, which fund shall be utilized for administrative and other costs incurred in the processing of applications for licenses under this Act. No such license may be issued until the Secretary determines—

(1) that the applicant is financially responsible and has demonstrated the ability to comply with applicable laws, regulations, and license conditions;

(2) that the operations under the license will not unreasonably interfere with other reasonable uses of the high seas, as defined by any treaty or Convention to which the United States is signatory, or by customary international law;

(3) that the issuance of a license does not conflict with any obligations of the United States, established by treaty or other international agreement; and

(4) that operations under the license will not pose an unreasonable threat to the integrity of the marine environment and that all reasonable precautions will be taken to minimize any adverse impact on that environment.

(b) Nature and Duration of License.—(1) Any license issued pursuant to this Act shall be exclusive as against all persons subject to the jurisdiction of the United States, and shall authorize development of the hard mineral resources of the deep seabed for specified blocks thereof, pending adoption, and ratification by the United States, of an international agreement covering the same activity: *Provided,* That in no event shall any license issued under this Act authorize the commercial recovery of such resources prior to January 1, 1976: and *Provided further,* That, except to the extent that such licenses are authorized pursuant to the provisions of an international agreement establishing a regime for the development of mineral resources of the international seabed area beyond the limits of coastal State territorial or resource jurisdiction, on licenses shall be issued under this Act subsequent to the ratification by the United States of any such international agreement.

(2) Priority of right for the issuance of a license shall be created and maintained by receipt by the Secretary of a license application from an eligible applicant: *Provided,* That the application is submitted in conformity with the provisions of this Act and the regulations promulgated by the Secretary pursuant to section 6 hereof.

(3) An application, submitted in accordance with subsection (b) of section 4 hereof and prior to the effective date of the regulations promulgated pursuant to section 6 of this Act, shall be entitled to priority of right as established in paragraph (2) of this subsection: *Provided,* That the eligible applicant complies with the provisions of this Act, including, but not limited to, the tender of the fee required by section 5, the furnishing of information required by subsection (b) of section 6, and the minimum expenditures required by section 8: *Provided further,*

That the eligible applicant brings his application and his other activities into compliance with all applicable regulations issued by the Secretary, as soon as such regulations become effective.

(4) Every license issued under this Act shall remain in force for ten years and, where commercial recovery of the hard mineral resources has begun from a licensed block within the ten year period, such license shall remain in force for as long as commercial recovery from the block continues or until the end of the twentieth year subsequent to the beginning of the commercial recovery, whichever occurs first.

(c) TRANSFER OR SURRENDER OF LICENSE.—Any license issued under this Act may be surrendered at will or, upon written request of the licensee, may be transferred by the Secretary to any other eligible applicant. Such license, as issued or as transferred, may be revoked for willful, substantial failure to comply with the provisions of this Act, with any regulation promulgated thereunder, or with any license restriction or condition, in a proceeding in an appropriate United States District Court: *Provided*, That the Secretary has first given the licensee written notice of such violation and the licensee has failed to remedy the violation within a reasonable period of time.

(d) LICENSE CONDITIONS.—The Secretary is authorized to include in any license issued, or transferred, under this Act, any reasonable conditions which he finds necessary to carry out the purposes of this Act: Such conditions shall include, but need not be limited to—

(1) such measures as the Secretary may prescribe to prevent or minimize any adverse impact of development operations on the marine environment;

(2) such measures as the Secretary may prescribe to prevent unreasonable interference with other ocean uses in the area, including navigation and scientific research;

(3) such requirements as the Secretary may find necessary to insure that the minerals which are processed from the deep seabed development are available to supply industrial demands in the United States; and

(4) provisions necessary to implement the provisions of section 8 as to required minimum annual expenditures.

### LICENSING PROCEDURES

SEC. 6. (a) GENERAL.—The Secretary is authorized to issue reasonable rules and regulations prescribing procedures governing the application for, and the issuance of, licenses pursuant to this Act. Such rules and regulations shall contain an adequate mechanism for full consultation with all other interested Federal agencies and departments, and for the full consideration of the views of any interested members of the general public.

(b) LICENSE APPLICATION.—Each application shall contain such financial, technical, and other information as the Secretary may find necessary to evaluate the application. Such information shall include, but is not, limited to—

(1) the specific block for which the license is sought;

(2 the equipment and facilities which will be utilized at the licensed block for the development of the hard mineral resources;

(3) the financial and technical capabilities of the applicant;

(4) the qualifications of the applicant to receive a license under this Act; and

(5) an agreement that the applicant, upon acceptance of the license, will comply with all conditions attached thereto.

(c) PUBLIC ACCESS TO INFORMATION.—(1) Copies of any communications, documents, reports, or information received from any applicant shall be made available to the public upon identifiable request, and at reasonable cost, unless such information may not be publicly released under the terms of paragraph (2) of this subsection.

(2) The Secretary shall not disclose information obtained by him under this section which concerns or relates to trade secrets or other confidential matter referred to in section 1905 of title 18, United States Code.

(3) Nothing contained in this subsection shall be construed to require the release to the public of any information described by subsection (b) of section 552 of title 5, United States Code, or which is otherwise protected by law from such release.

(d) NOTICE, HEARINGS, AND REVIEW.—(1) Within thirty days after receipt of an application, and prior to granting a license, the Secretary shall publish in the Federal Register a notice containing a summary of the application and information as to where the application and supporting data may be examined allowing interested persons at least sixty days for the submission of written data, views, or arguments to the granting of the license, with or without opportunity for oral presentation. The Secretary shall utilize such additional methods as he deems reasonable to inform interested persons and groups about the proceeding and to invite their comments thereon. Each such publication of notice shall provide for a hearing or hearings on the issuance of the license. After the completion of all hearings, the presiding officer shall submit to the Secretary a report of his findings and recommendations, and the participants in the hearings shall have an opportunity to comment thereon.

(2) The Secretary's decision granting or denying a license shall be in writing and shall be made within one hundred and twenty days following conclusion of all hearings. The decision shall include a discussion of the issues raised in the proceeding and the Secretary's conclusions thereon, as well as findings on the issues of fact considered. The Secretary shall grant the license applied for when he finds that the application, as submitted, or as modified, meets the requirements of this Act and the regulations and criteria applicable thereto, and further finds that the issuance of the license is otherwise in the national interest.

(3) Judicial review of the Secretary's decision shall be in accordance with sections 701–706 of title 5, United States Code.

(4) The Secretary shall maintain a registry in which is recorded the filing or withdrawal of an application for a license under this Act, the issuance, denial, expiration, surrender, transfer, or revocation of such license, or the relinquishment of any licensed portion of the deep seabed. Registry records shall be available for public inspection during the business hours of every working day.

### ENVIRONMENTAL CRITERIA

SEC. 7. Prior to the issuance of any license under this Act, the Secretary, after consultation with other appropriate Federal agencies and departments, shall establish and apply, and may from time to time, revise criteria for evaluating the potential impact on the marine environment of deep seabed hard mineral mining operations.

### MINIMUM ANNUAL EXPENDITURES

SEC. 8. In connection with the development of hard mineral resources from each licensed block, the licensee shall make or cause to be made minimum expenditures in the following amounts per block until commercial recovery from such block is first initiated:

| Year: | |
|---|---|
| 1 | $100,000 |
| 2–5 | 200,000 |
| 6–10 | 1,000,000 |

The minimum annual expenditures required under this section shall consist of expenditures for operations, facilities, and equipment as required or utilized at the site for which the development license is issued. Such expenditures in any year in excess of the required minimum may be credited to requirements for later years.

### AUTHORIZATION TO BEGIN COMMERCIAL RECOVERY

SEC. 9. Upon completion of its exploration activities at any licensed block, the licensee shall so notify the Secretary and request from the Secretary an authorization to begin commercial recovery. Upon receipt of such request, the Secretary shall grant such authorization provided that the licensee is in compliance with all conditions of the license and has furnished the Secretary with copies of all raw data relating directly to the documentation of the nature, shape, concentration, and tenor of the ore deposit of the licensed block and the nature of the physical environmental factors which will affect such commercial recovery.

### AREAS WITHDRAWN FROM LICENSING: DENSITY LIMITATION

SEC. 10. (a) No license shall be issued under this Act for any portion of the deep seabed—

(1) which has been relinquished by the applicant under a license issued under this Act within the prior three years;

(2) which is subject either to a prior application for a license, or an outstanding license, under this Act;

(3) which, if licensed, would result in the applicant's holding more than five licensed blocks at any one time during the first five years after the effective date of this Act; and

(4) which if licensed, would result in a holding by licensees under this Act of more than thirty percentum of an area of the deep seabed which is within a circle with a diameter of 1,250 kilometers.

(b) No license shall be issued or transferred under this Act, and no person subject to the jurisdiction of the United States shall have a substantial interest in a license issued under this Act, which would result in any person directly or indirectly holding, controlling, or having a substantial interest in licenses for development of any portion of the deep seabed which that person could not hold directly under this Act in accordance with the limitations of this section.

### RELINQUISHMENT OF LICENSED AREAS

SEC. 11. Within ten years of the license date for any block, and not later than the request for authorization to exploit as required by section 9 hereof, the licensee shall, by written notice to the Secretary, relinquish seventy-five percentum of such block measured laterally. The relinquishment shall be such that the unrelinquished area or areas shall conform to the shape of a block as defined in section 3 hereof. The licensee shall select the area of the block to be relinquished and as many as four contiguous blocks of the same type held by the licensee may be treated as a single unit for selecting the area to be relinquished.

### INTERNATIONAL REGIME

SEC. 12. At such time as an international agreement, providing for the establishment of an international regime for the development of the hard mineral resources of the deep seabed, shall become binding upon the United States, licenses issued under this Act shall become subject to the provisions of that agreement. To the extent that they may be consistent with the international regime, licenses issued under this Act shall continue in effect, and, to the extent possible under the international agreement, the United States shall exercise its rights and responsibilities under the agreement to insure such continuation.

### INVESTMENT GUARANTY

Sec. 13. To the extent that an international agreement, binding upon the United States, shall differ from the requirements of this Act, the United States shall be responsible for complying with all fees and other payments required under the regime and shall provide the licensee with compensation in an effectively realizable form representing the value of the investment taken or impaired by virtue of the differing requirements: *Provided*, That the liability for fees and payments under the international regime shall commence January 1, 1976: *Provided further*, That the liability for compensation shall, until after an authorization for commercial recovery has been granted, be limited to compensation in relation to equipment and facilities utilized for exploration purposes at a licensed block: *And provided further*, That the Secretary of Commerce shall determine in the first instance the amount owing on the claims for compensation under this section.

### INVESTMENT INSURANCE

Sec. 14. On annual payment by any licensee of a premium to be determined by the Secretary of Commerce, utilizing standard insurance practices and based upon the relative risks involved, the United States shall insure the licensee, in an amount not exceeding the value of the investment, and for a period not extending beyond twenty years after the initiation of commercial recovery pursuant to a license issued under this Act, for any damages suffered through the impairment of the insured investment, or through the removal of hard minerals from the licensed block, by any other person against whom a legal remedy either does not exist or is unavailable in any legal forum to which the licensee has access. The Secretary of Commerce shall determine the amount owing on any claim for reimbursement under this section.

### NONDISCRIMINATORY TREATMENT

Sec. 15. All hard minerals recovered from the deep seabed under a license issued pursuant to this Act shall be deemed to have been recovered within the United States for purposes of the import and tax laws and regulations of the United States, and such laws and regulations shall be administered so that there will be no discrimination between hard minerals recovered from the deep seabed and similar hard minerals recovered within the United States.

### REGULATORY AUTHORITY

Sec. 16. In order to carry out his responsibilities under this Act, the Secretary is authorized to issue such reasonable rules and regulations as he may deem necessary and appropriate.

### JURISDICTION OF UNITED STATES DISTRICT COURTS

Sec. 17. United States district courts shall have original jurisdiction of cases and controversies arising out of, or in connection with, development activities conducted in any area of the deep seabed under the authority of this Act, and proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the State nearest the place where the cause of action arose.

### PENALTIES

Sec. 18. (a) Civil Penalties.—Any person subject to the jurisdiction of the United States who violates any provision of this Act, or any rule or regulation issued pursuant to section 16 hereof, shall be liable to a civil penalty of $10,000 for each day during which the violation continues. The penalty shall be assessed by the Secretary, who, in determining the amount of the penalty, shall consider the gravity of the violation, any prior violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of the violation. No penalty may be assessed until the person charged shall have been given notice of the violation involved, and an opportunity for a hearing. For good cause shown, the Secretary may remit or mitigate any penalty assessed. Upon failure of the person charged to pay an assessed penalty, the Secretary may request the Attorney General to commence an action in the appropriate district court of the United States for collection of the penalty without regard to the amount involved, together with such other relief as may be appropriate.

(b) Criminal Penalties.—In addition to any other penalty, any person who willfully and knowingly violates any provision of this Act, or any rule or regulation issued pursuant to section 16 hereof, shall be punished by a fine of not more than $25,000 for each day during which such violation continues.

(c) Liability of Vessels.—Any vessel, except a public vessel engaged in noncommercial activities, used in a violation of this Act, or of any rule or regulation issued pursuant to section 16 hereof, shall be liable *in rem* for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the United States having jurisdiction thereof; but no vessel shall be liable unless it shall appear that one or more of the owners, or bareboat charterers, was, at the time of the violation, a consenting party, or privy to such violation.

### AUTHORIZATION FOR APPROPRIATIONS

Sec. 19. (a) There are authorized to be appropriated for the current fiscal year and for each of the two succeeding fiscal years such sums as may be necessary for the administration of this Act.

(b) There are authorized to be appropriated for fiscal year 1976, and for each of the two succeeding fiscal years, such sums as may be necessary for the implementation of section 13 of this Act.

### EFFECTIVE DATE; SEPARABILITY

Sec. 20. This Act shall take effect on the date of its enactment. If any provision of this Act or any application thereof is held invalid, the validity of the remainder of the Act, or of any other application, shall not be affected thereby.

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[From the (New York) Journal of Commerce and Commercial, Dec. 27, 1973]

## Third World Goods Price Rise Feared

(By Sidney Fish)

An Arab-led movement to organize developing countries to raise prices not only of oil, but of aluminum, iron ore, copper and other strategic materials is feared by industrialists.

Such a program was hinted at by Shah Mohammed Pahlevi of Iran, at a press conference in Teheran Monday, when he announced the new posted price for Mideast oil would be more than doubled Jan. 1 to $11.05 a barrel, equivalent to a market price of $7.11 a barrel.

Shah Pahlevi said the oil-producing nations, now emerging among the wealthy countries of the world, might assist the poorer countries in the "exploration and mining of iron ore." This role, he said, would have to be taken up by the new wealthy oil producing nations.

While he did not mention why these countries would assume this task, he is believed to have in mind the balance of payments problems arising for the industrial countries, including the U.S., Western Europe and Japan, as a result of sharply higher prices of imported oil. Such problems would make it more difficult for the developed countries to play an active role in the third world areas.

If the Arab nations finance iron ore, bauxite, and copper mines, it is believed that they will bring to third world countries the same monopolistic tactics in metals that have enabled the Arabs to boost their oil prices fourfold in recent months.

Such a program would pose a distinct threat to the military security of the United States, which is increasingly dependent on imports of strategic metals.

Any cartelization of the ore-mining third world countries would widen the unfavorable balance of trade of the industrialized nations, including the U.S., European countries and Japan. Balance of trade deficits will initially be created or intensified by the new record prices for Mideast oil, which will cost the Western countries many billions of dollars a year.

A similar boost in ore prices, engineered through threats of embargoes on shipments, would increase the trade deficits of the Western countries, until such time as the third world countries could become substantial consumers of Western industrial products.

Third-world countries are already organizing to strengthen their bargaining position. The United States, for example, is heavily dependent on bauxite imports needed by our aluminum industry. This country may soon have to deal with the leading bauxite producers. The latter are planning to hold a meeting early next year to discuss the formation of a group similar to the Organization of Petroleum Exporting Countries.

In copper, the Inter-governmental Council of Copper Exporting Countries (Chile, Peru, Zambia and Zaire) is already in existence. An international tin council, producing members of which are: Malaysia, Bolivia, Indonesia, Nigeria, Zaire, and Australia, is also in being.

Any move of these councils to restrict production to boost prices through joint action would have to be offset by increased exports of the U.S. The U.S. in recent months has achieved a favorable balance of trade, but it has done so by exporting in large volume such scarce commodities as chemicals, copper, steel, scrap, etc. This trend has had direct inflationary effects, by increasing shortages of these commodities.

The Arab countries have disclaimed any desire to wage economic warfare against the industrialized countries of the West. But their moves in oil, and possibly in metals, point to efforts to reduce the Western world's influence in world affairs.

Shah Pahlevi, for example, said a "new equilibrium was emerging," among the rich nations, those rapidly turning wealthy through their oil reserves, and the poor countries.

The United States, faced with threats to its supply of strategic war materials, may have to give new attention to its stockpiles of these metals. Unless steps are taken to assure adequate stockpiles, the United States could face a mineral crisis, according to Interior Secretary Rogers Morton. In recent years, the stockpiles have been reduced to fight inflation.

Two-thirds of bauxite used by U.S. aluminum plants comes from Jamaica and Surinam. Nearly all of the rest comes from Canada and Australia. The U.S. has low grade bauxite in Georgia and Alabama, but no efforts have been made to develop this ore, since imported ore is cheaper.

Aluminum is vital to the U.S. aircraft producing industry, and as such is an irreplaceable material in national defense.

Iron ore, similarly, is imported from third world countries, including Venezuela, Liberia, and Brazil, although Canada and U.S. taconite mines have become important sources.

The Arab countries, encouraged by the success of their embargo, appear to be eager to extend their influence to other commodities. In this way, they hope to influence the foreign policies of the West, and also gain an economic foothold in the developing countries.

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### CIPEC IGNORES ZAMBIA-CHILE TROUBLES

CIPEC countries laid down the foundation for a more active organization last week in Paris, and moved to consolidate its ties with OPEC. Chile, Peru, Zaire, and Zambia—which formed the Intergovernmental Council of Copper Exporting Countries (CIPEC) six years ago—held the annual meeting of their governing board in Paris on Nov. 15–16.

Avoiding political difficulties—the breaking of diplomatic relations by Zambia as a protest to the military coup in Chile—they reaffirmed their goal to "continue aid and assistance to each other in the face of all emergencies."

When Kennecott started litigation with the Chilean government in the European courts over El Teniente copper, Zambia, Zaire, and Peru pledged not to compete in the affected markets against Chile. Likewise they stood behind Zambia in its border problems with Rhodesia.

Ineffective as these measures may have been, the unity of economic purpose among the CIPEC countries has been preserved and may be cemented further when they carry out their recent three-point agreement. The first point calls for turning CIPEC's working panel of experts into a permanent committee, which will align policies in trade and in the relationships between producers and consumers. This committee will meet for the first time in January. The second and third points call for setting up a new production and investment committee to coordinate action of the member countries and for setting up a new documentation and information office.

The chairmanship of the governing body of CIPEC fell this year to Jaime Velasco of Chile.

CIPEC represented around 40% of world production last year and about 80% of world copper exports. Following is a breakdown of 1972 production in short tons, according to the American Bureau of Metal Statistics:

| | |
|---|---|
| Chile | 794, 700 |
| Zambia | 769, 841 |
| Zaire | 463, 000 |
| Peru | 194, 281 |
| Total | 2, 221, 822 |

A proposed declaration of CIPEC and OPEC, the Organization of Petroleum-Exporting Countries, is also in the works. A joint statement would proclaim "mutual solidarity and their right to a fair price for and control of their natural resources." Officials of both groups held working sessions in September and October.

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[From the Washington Post, Nov. 25, 1973]

### GLOBE GOBBLING: THE WORLD SCARCITIES AHEAD

(By Lester R. Brown)

(NOTE.—Brown, a senior fellow at the private Overseas Development Council here, is a former Agriculture Department official and the author of "Seeds of Change" and "World Without Borders.")

As we approach the final quarter of this century, global scarcity of many important resources is emerging. While the energy crisis has been occupying the headlines, scarcity of other resources is now apparent.

Global consumption of every important mineral required by a modern industrial economy is increasing dramatically. Having already depleted their own reserves of critical raw materials, industrial countries are turning increasingly to non-industrial countries for supplies. As global economic growth continues we can only anticipate growing international competition and rising prices for supplies of many key resources.

Accelerating world price rises and frequent shortages of forest products—lumber, fuel and newsprint—are arising from the fact that the earth is gradually being deforested.

Shortages of natural fibers, principally cotton and wool, are helping to drive up clothing prices. In the past, scarcity of natural fibers has been offset easily by increased production of man-made fibers. However, the rising cost of petroleum—a basic raw material for the synthesis of fibers—has severely reduced that possibility

Skyrocketing food prices in 1973 resulted in part from a disturbing long-term trend: the global demand for foodstuffs generated both by population growth and affluence is gradually outrunning the productive capacity of the world's farmers and fishermen.

Food scarcity is being accentuated by energy scarcity. Energy is an important cost in the manufacture of chemical fertilizers, and the primary raw material for the production of crucial nitrogen fertilizer is natural gas. High yield agriculture in Western Europe, Japan and the midwestern United States depends upon the intensive use of energy.

In many nations, population growth and economic growth are rapidly increasing the demand for land suitable for living space and commercial purposes. The result has been soaring land prices. Recreational, industrial and residential uses are reducing the land available for food production—a dangerous trend in a food-short world which has little unused arable land.

One essential resource which is beginning to constrain the expansion of both agricultural and industrial activity in substantial areas of the world is the availability of fresh water. Within agriculture it is now the principal constraint on the spread of the new high-yielding dwarf wheats in countries ranging from Mexico to Afghanistan. It is hamstringing Soviet efforts to meet expanding consumer demand for livestock products.

In many nations we are seeing growing pressures on another resource on which economic activity depends: waste absorptive capacity. Increases in the incidence of environmentally induced illnesses, the change in oxygen content of lakes and a lengthening list of species threatened with extinction are among the symptoms.

#### A DOMINO EFFECT

The scarcity characterizing the world market for many important commodities in the early 1970s must not be viewed as a historical accident or a temporary situation which will shortly vanish. It is the product of continuing exponental economic growth within the physical constraints of a finite, rather small planet. And if we are to deal with this problem we must create new mechanisms of global cooperation, such as a world food reserve and international management of ocean fisheries.

We are, in fact, seeing a domino effect of resource scarcity in operation. A shortage of fresh water with which to restore strip-mined areas holds down the level of coal extraction, adding pressures not only on available coal supplies but on all other energy resources as well. A fall-off in the growth of the world fish catch raises global demand for soybeans in order to produce substitute protein products such as poultry. Scarcity of cotton pulls cropland needed for soybean production into cotton production, intensifying the protein shortage. The list of such extended chains or networks of resource interdependence is long.

Economists traditionally have regarded substitution as the panacea for scarcity of a particular resource. In today's world, however, the opportunities for substitution frequently ensure only that scarcity is contagious.

Scarcities are not merely national scarcities affecting a particular country or group of countries; they are global scarcities. Countries throughout the world are dependent on common supplies of petroleum, soybeans, marine protein, copper and natural fibers. As the global economy has become more integrated, as a result of growing monetary interdependence and rapidly expanding international trade, it has become exceedingly difficult for individual countries to isolate themselves from scarcities elsewhere.

The United States, historically blessed with relative resource self-sufficiency, is experiencing a growing dependence on imported minerals, closely paralleling that for energy. Of the 13 basic raw materials required by a modern economy, the United States in 1970 was dependent on imports for more than half of its supplies of six. By 1985 it is projected to be primarily dependent on imports for supplies of nine of the 13 basic raw materials, including three major ones: bauxite, iron ore and tin.

In no areas has American interdependence with the world been demonstrated more dramatically than with food. If there is any area in which the U.S. economy was believed to be invulnerable, it was in its capacity to provide an adequate supply of low-cost food for American consumers. But at present, American consumers find that they must share food scarcity with consumers in other countries, most importantly those in the Soviet Union. The United States could have avoided the politically painful food price rises of early 1973 by restricting farm exports, but unfortunately an adequate U.S. energy supply is dependent on expanded farm exports to pay the rapidly rising import bill.

The international consequences of the growing common dependence on geographically concentrated, and often increasingly scarce, global resources deserve far more attention than they have thus far received. Resource scarcities are altering the economic and political relationships among countries, changing the relative position and influence of countries in the international hierarchy. A given country may find its position abruptly strengthened in one sector of economic activity and weakened in another. World food scarcity has greatly improved the terms on which the United States makes foodstuffs available to the rest of the world, but its negotiating position in the world energy economy has deteriorated sharply. The converse is true for the Soviet Union, which is highly vulnerable in food but in a much better position with energy, which it produces in surplus.

Efforts by individual countries to expand their share of global output, employment and wealth are taking new forms. Linkage between global scarcities and internal policies affecting economic growth, inflation and employment are becoming both more direct. Stresses on the international political fabric are increasing. Cooperation among countries is needed in spheres of activity where none was needed before.

#### THE COIN'S OTHER SIDE

Since World War II, the overriding objective of national trade policies has been that of expanded access to markets abroad for exports. The General Agreement on Tariffs and Trade (GATT) was created specifically with this in mind. Five successive rounds of GATT negotiations since World War II have steadily reduced tariff barriers, as evidenced by the healthy growth in world trade throughout the postwar period.

Scarcity is now bringing the other side of the international trade coin, the question of access to supplies, to the fore. Highlighting this question is the disturbing tendency for countries to limit exports of raw materials. Countries are limiting exports to cope better with internal inflationary pressures, to extend the foreign exchange earning lifetime of a nonrenewable resource, to increase the share of indigenous processing, to improve export terms and to take advantage of anticipated future price rises.

Countries with nonrenewable resources such as petroleum and minerals are beginning to ask themselves at what rate they want to exploit their resources. Historically, when potential supplies almost always exceeded prospective demand, and supplier countries were eager to maximize exports, this issue was seldom raised. But today it is a much more complex issue.

Should the growth in world demand determine the rate at which a given resource is exploited or should it be determined by some longer-term internal development strategy, which might argue for a much slower rate of exploitation and lower level of exports?

What should determine the rate at which Venezuela's remaining oil reserves are exploited—its own longer-term foreign exchange needs or the short-term consumption needs of the United States? The former may argue for a much lower level of petroleum production and export than the latter.

Exports of scarce commodities are being banned or restricted by a number of countries in order to cope with internal inflationary pressures. Brazil has limited the export of beef in 1973 to levels 30 per cent below the corresponding month in 1972. Thailand, a leading world supplier of rice, has banned exports in order to prevent inordinate price rises in its national food staple. The United States severely limited the export of soybeans this summer (the controls subsequently were lifted) and it is virtually the sole supplier of this critical protein resources to the rest of the world.

As lumber prices soar within the United States, a leading exporter of forest products, it is attempting to negotiate a voluntary quota for Japan on its imports of U.S. forest products. This represents a dramatic turnabout in the U.S.-Japan trade relationships, where the focus over the past decade has been on the negotiation of voluntary quotas with the Japanese to limit their exports of textiles and steel to the United States. Under what conditions should a country be permitted to use trade policy to, in effect, export inflation?

Should a country be permitted to deny others access to an indigenous raw material of which it is the principal global supplier? We must begin to at least ask the question of how to cope with export limitations on raw materials which directly affect the well-being of people throughout the world. Guidelines governing terms of access to external markets and penalties for those countries which fail to comply have evolved within the framework of GATT, but there are no such guidelines on whether or when a country should be permitted to withhold a given resource from the rest of the world.

### EXPORTING PROCESSED GOODS

Many developing countries see the improved market outlook for raw materials as an opportunity to substitute exports of semi-processed or processed raw materials for those of raw materials *per se*. They wish to abandon the "hewers of wood, drawers of water" role they have traditionally occupied in the world economy. Perhaps the best single example to date of the exercise of newly acquired bargaining power is an agreement between Japan and Turkey, wherein Japan has agreed to build a 50,000-ton-per-year ferro-chrome ore alloy plant in Turkey in exchange for agreement to supply a million tons of chrome ore over the next 11 years.

If the Shah of Iran gets his way, more and more of the oil leaving Iran will be refined rather than crude oil. Argentina, Brazil, and India are taking advantage of the global scarcity of cattle hides by restricting or banning exports, thus furthering development of their domestic leather goods industry. In effect, they hope to shift the geographic focus of the leather goods export industry from Italy and Japan to the southern hemisphere. Indonesia is combining its favorable resource situation with mounting Japanese fears of pollution at home to persuade Japanese firms investing in mineral extraction to ship processed ore rather than crude ore to Japan.

Poor countries eager to acquire smokestacks and the jobs which they bring are likely to view their unused or underused waste absorptive capacities as a resource to be exploited in international economic competition, much like mineral reserves or fertile farm land.

The response of investors to pollution differentials among countries in some ways parallels that to wage differentials. In effect, firms are beginning to locate pollution-intensive phases of their operation in countries with low pollution levels much as they have located labor-intensive aspects of their operations in low-wage countries, most prominently Mexico, Taiwan, Hong Kong, Singapore and South Korea over the past decade.

### COLLECTIVE BARGAINING

As the industrial countries turn increasingly to non-industrial countries for raw materials, their negotiating position is likely to weaken over time, altering the terms on which these raw materials are made available.

In the wake of the extraordinarily successful, highly visible collective bargaining by petroleum exporters over the past few years, the possibility of collective bargaining by suppliers of other raw materials is being viewed with more than ordinary interest. For them it is a tantalizing model. The prospects for successful collective negotiation by raw material exporters are influenced by a number of factors, including the number of suppliers, the ability and willingness to restrict supply, the availability of possible substitutes, alternative sources of foreign exchange earnings for the supplier and the possibility for collective bargaining by importing countries.

Efforts to bargain collectively fail far more often than they succeed but oftentimes a convergence of special circumstances can give the exporting countries the leverage to alter the terms on which a given raw material is made available. A prolonged strike in the mining or transport sector and interference with global transport arteries, such as blockage of the Suez Canal or the severing of a strategic rail or pipeline linking a major supplier with world markets, are but two of the events which can combine to strengthen inadvertently the hands of exporting countries.

One of the necessary, though far from sufficient, requisites for effective collective bargaining is that a relatively small number of countries control most of the exportable supplies. Four poor countries—Chile, Peru, Zambia and Zaire—supply most of the world's exportable surplus of copper. Three others—Malaysia, Bolivia and Thailand—account for 70 per cent of all tin entering international trade channels. Australia, Mexico and Peru account for 60 per cent of the exportable supply of lead. Cuba and New Caledonia have well over half of the world's known reserves of nickel. Known reserves of cobalt are concentrated in Zaire, Cuba, New Caledonia and parts of Asia.

Exportable protein feedstuffs are concentrated in even fewer countries. One country, Peru, supplies most of the fish meal entering the world market.

Exportable supplies of cereals are controlled by a few countries. North American dominance of cereal exports, both foodgrains and feedgrains, is even greater than Middle Eastern dominance in energy. Not only is the United States the leading supplier of wheat and feedgrains, but it is now the leading exporter of rice as well. The world is more dependent on North American food supplies than ever.

Suppliers of some raw materials are certain to attempt to emulate the Organization of Petroleum Exporting Countries. The four copper exporting countries are already doing so. There is concern within the aluminum industry that the politics of petroleum are becoming the politics of bauxite. Coffee exporters are now beginning to bargain collectively as a group where as in the past they were dependent on the willingness of the importing countries to support prices of coffee.

While some poorer nations may be benefiting handsomely from resource shortages, others may suffer greatly. Global resource scarcity could threaten future economic progress in those countries which are densely populated and not blessed with any of the critical raw materials the rest of the world needs.

For example, a 40 per cent rise in the world market price of petroleum and cereals could bring economic development to a near standstill in those poor countries dependent on imports of both. The foreign assistance needs of resource-rich Indonesia, Algeria or Brazil no longer can be considered in the same light as those of Bangladesh, India or Colombia.

### AFFECTING LIFESTYLES

Global resource scarcities impact heavily on economic and political relationships among countries, in part because they affect so directly the living conditions within a given country. They affect the very lifestyles of people, their dietary habits, their mode of transportation. The level of protein intake in the Soviet Union and Japan are directly affected by U.S. farm export policy. The size of automobiles in the United States is inevitably affected by production decisions of Middle Eastern oil countries. It is this dimension of global resource scarcity that makes the terms of access to needed resources such a politically sensitive issue.

As global resource scarcity makes itself felt within the United States, it is generating a need to modify lifestyles. As long as the resources consumed within the United States were largely indigenous, how much was consumed was largely an internal matter, but as these resources come more and more from abroad, others will have some say over the rate and terms on which they are consumed.

Many of the technologies embodied in the U.S. economy evolved in a situation of resource abundance, of seemingly unlimited supplies of energy, land and water. The time has now come to re-examine these technologies in light of the growing resource scarcity. For example, the time may have come to redesign the transportation system, imposing limits on the size of automobiles and investing more in urban mass transit and less in interstate highways and urban throughways.

A similar situation exists with food. Claims on world food resources by the average American are nearly five times as great as those of the average Indian, Nigerian or Colombian. Whether Americans can continue to consume ever more animal protein, as existing economic projections indicate, in a protein scarce world s now problematic. It may become necessary for both economic and ecological reasons to begin to substitute high-quality vegetable protein for animal protein much as vegetable oils have been substituted for animal fats over the past generation.

### NEEDED: GLOBAL COOPERATION

Coping with scarcity of some resources calls for specific new modes of international cooperation. Growing food scarcity is one such need. With world grain reserves now far below the desirable working level, and idled cropland in the United States rapidly disappearing, a major stabilizing influence on world food prices has been lost. Under these circumstances, an internationally managed world food reserve becomes highly desirable as counter to the threat of famine and as a source of assurance and security to consumers everywhere, including the United States.

In some instances, such as in world fisheries the failure to cooperate could leave all involved worse off. Unless an institutional framework can be created within which to cooperatively manage oceanic fisheries, we must face the prospect of depleted stocks, declining catches and soaring seafood prices. It is in this context that consumers have a direct stake in the forthcoming U.N.-sponsored Law of the Sea Conference.

Advancing technology has brought us to the point where national efforts to expand the supply of fresh water through river diversion or alteration of rainfall patterns may have international if not global consequences. Under these circumstances we need to think seriously of creating a supranational institution to regulate national interventions in the hydrological cycle. When should a country be permitted to increase its rainfall at the expense of another, if at all? Should individual countries be permitted to divert river flows or deforest on a scale which will affect the global climatic system?

Scarcity manifested in rising prices and intensified competition among countries for access to and control of resources may make continuing global population growth a much more obvious threat to the future well-being and security of people everywhere than it is today.

One of the inevitable consequences of scarcity and, more importantly, the realization that it may not be temporary, is a growing doubt as to whether the currently projected world population of 6.5 billion by the end of the century will be considered tolerable. This in turn may impart a new urgency for putting on the demographic brakes, highlighting the importance of the U.N.-sponsored world population conference, now scheduled for Bucharest in August, 1974, and the World Population Plan of Action it is intended to produce.

### TROUBLED YEARS AHEAD

The supply position of some raw materials will undoubtedly improve from time to time in the years ahead, but overall the prospect is for continuing scarcity. Over the longer term, technological breakthroughs may dramatically improve the supply situation. The energy crisis may one day disappear, but a technological breakthrough which might permit this, such as the harnessing of fusion power, is not likely to have an impact before 1990 at best. Advances in the technology of fish farming may some day permit growth in the supply of cultivated fish to offset the inevitable decline in growth in the oceanic catch. But progress on this scale almost certainly will be reserved for some point beyond the current decade, if it comes at all. And so it is with all too many resources plagued by global scarcity.

How to cope with global scarcity must be recognized as a global problem. The temptation at the governmental level will always be to act in the national interest, narrowly defined, and against a short-term time horizon. Political leaders often will be tempted to blame other countries for inflation, economic stagnation, rising unemployment or other ills deriving from scarcity. All too often, they will be tempted to use trade and monetary policy to export inflation and unemployment.

We delude ourselves if we think the years ahead will be an easy period in international relations. At best, they will be troubled ones. The complex resource issues which must be resolved, one way or another, will place great stress on the international political fabric. At issue is whether we can create a workable world order for an increasingly interdependent world.

TABLE 1.—MANGANESE NODULES: COMMERCIALLY ATTRACTIVE CONSTITUTENTS, U.S. STATISTICS FOR 1971

| Commodity (short tons) | U.S. production | U.S. consumption | Imports for consumption | Import value (1971 prices) | Major foreign sources | Current metal prices (per pound) | Estimated reserves[1] |
|---|---|---|---|---|---|---|---|
| Manganese | 0 | 1,127,382 (Mn content) | 1,127,382[2] (Mn content) | $74,576,000 | Brazil, Gabon, South Africa, Zaire. | $0.33 | Insignificant. |
| Cobalt | Negligible | 6,250 (contained Co) | 5,456 (Co content) | 23,740,000 | Zaire, Belgium, Luxembourg, Finland, Canada, Norway. | 3.30 | 28,000 (0.06 percent cobalt). |
| Nickel | 15,654[3] (Ni content) | 128,816[4] | 142,183 (Ni content) | 376,599,000 | Canada, Norway | 1.40–1.53 | 1,000,000 (0.4 to 1.5 percent nickel ore). |
| Copper | 1,522,183 (recoverable) | 2,019,507[5] | 330,738 (Cu content) | 321,071,000 | Canada, Peru, Chile | .68 | 81,000,000. |

[1] Reserves—Those resources whose extent is measured or estimated and which are currently extractible at a profit at current prices and technology.

[2] Includes Mn ore and ferromanganese (average grade of imported Mn ore was 49 percent Mn in 1971).

[3] Includes 2,581 short tons recovered as byproduct of metal refining.

[4] Exclusive of scrap.

[5] Refined copper.

Sources: (1) Final Report of the National Commission on Materials Policy. Washington: June 1973, pp. 2.25, 4B.8. (2) Minerals Yearbook, 1971, vol. I. U.S. Bureau of Mines. Washington: 1973, pp. 407, 408, 485, 491, 722, 818, 819, 821. (3) Summary Petroleum and Selected Mineral Statistics for 120 Countries, Including Offshore Areas. U.S. Geological Survey Professional Paper 817. Washington: 1973, p. 116.

TABLE 2.—1971 PRODUCTION OF MANGANESE ORE FROM DEVELOPING COUNTRIES

| Country | Production (short tons) | Percent of world production[1] |
|---|---|---|
| Brazil | 2,868,000 | 12.58 |
| Gabon | 2,059,753 | 9.03 |
| India | 1,961,000 | 8.60 |
| People's Republic of China | 1,100,000 | 4.83 |
| Ghana | 659,801 | 2.90 |
| Zaire | 427,000 | 1.87 |
| Mexico | 294,198 | 1.29 |
| Indonesia | 13,181 | .06 |

[1] Total 1971 production was 22,792,130 short tons. (Figures given in gross weight manganese ore—35 percent or more Mn content).

Source: U.S. Bureau of Mines. Minerals Yearbook, 1971; vol. I: Metals, Minerals, and Fuels. Washington: U.S. Govt. Print. Off., 1973. (92d Cong., 2d sess. House Document No. 92-222, vol. I) p. 724.

TABLE 3.—1971 PRODUCTION OF COPPER FROM DEVELOPING COUNTRIES

| Country | Production (short tons) | Percent of world production[1] |
|---|---|---|
| Zambia | 718,300 | 10.78 |
| Chile | 790,910 | 11.87 |
| Zaire | 449,000 | 6.74 |
| Peru | 234,665 | 3.52 |
| Philippines | 229,600 | 3.44 |
| People's Republic of China | 110,000 | 1.65 |
| Mexico | 69,611 | 1.04 |
| Bulgaria | 50,000 | 0.75 |
| Southwest Africa | 35,317 | 0.53 |
| Southern Rhodesia | 32,338 | 0.48 |
| Uganda | 18,802 | 0.28 |

[1] Total 1971 production was 6,664,079 short tons. (Mine production, Cu content).

Source: U.S. Bureau of Mines, Minerals Yearbook, 1971; vol. I: Metals, Minerals, and Fuels. Washington: U.S. Govt. Print. Off., 1973. (92d Cong., 2d sess. House Document No. 92-222, vol. I) pp. 491-492.

TABLE 4.—1971 PRODUCTION OF COBALT FROM DEVELOPING COUNTRIES

| Country | Production (short tons) | Percent of world production[1] |
|---|---|---|
| Zaire | 14,800 | 57.22 |
| Zambia | 2,293 | 8.86 |
| Cuba | 1,700 | 6.57 |
| Morocco | 1,078 | 4.17 |

[1] Total 1971 production was 25,867 short tons. (Mine output, Co content).

Source: U.S. Bureau of Mines. Minerals Yearbook, 1971; vol. I: Metals, Minerals, and Fuels. Washington: U.S. Govt. Print. Off., 1973. (92d Cong., 2d sess. House Document No. 92-222, vol. I) p. 409.

TABLE 5.—1971 PRODUCTION OF NICKEL FROM DEVELOPING COUNTRIES

| Country | Production (short tons) | Percent of world production[1] |
|---|---|---|
| New Caldonia | 112,751 | 15.97 |
| Cuba | 40,000 | 5.66 |
| Indonesia | 29,762 | 4.22 |
| Southern Rhodesia | 13,000 | 1.84 |
| Greece | 11,600 | 1.64 |
| Brazil | 3,500 | 0.50 |

[1] Total 1971 production was 706,069 short tons. (Mine production, Ni content).

Source: U.S. Bureau of Mines. Minerals Yearbook, 1971; vol. I: Metals, Minerals, and Fuels. Washington: U.S. Govt. Print. Off., 1973. (92d Cong., 2d sess. House Document No. 92-222, vol. I) p. 825.

TABLE 6.—CHANGING IMPORT REQUIREMENTS OF THE UNITED STATES

[Net imports as a percent of domestic use[1]]

| Commodity | 1950 | 1960 | 1970 | 1971 |
|---|---|---|---|---|
| Manganese | 77 | 92 | 94 | 96 |
| Cobalt | 92 | 75 | 96 | 75 |
| Nickel | 99 | 88 | 91 | 66 |
| Copper | 35 | 9 | 8 | 6 |

[1] Net imports include semi-refined forms.

Sources:( 1) Final Report of the National Commission on Materials Policy. Washington: June 1973. p. 2.23. (2) The Stockpile Problem. American Mining Congress. Washington: June 1973. p. 4.

TABLE 7.—MINERAL STOCKPILE HOLDINGS AND OBJECTIVES

| Commodity and unit | Amount in storage Dec. 31, 1972 | Value as of Dec. 31, 1972 | Objective Dec. 31, 1972 | Apparent excess Dec. 31, 1972 |
|---|---|---|---|---|
| Manganese (short dry[1] ton) | 11, 568, 481 | $420, 432, 100 | 4, 000, 000 | 7, 568, 481 |
| Cobalt (pounds) | 71, 499, 318 | 173, 716, 200 | 38, 200, 000 | 33, 299, 318 |
| Nickel (short ton) | 47, 731 | 145, 219, 400 | 0 | 47, 731 |
| Copper (short ton) | 258, 659 | 266, 054, 600 | 775, 000 | −516, 341 |

[1] Manganese ore, metallurgical grade.

Source: July–December 1972 Statistical Supplement, Stockpile Report to the Congress. Executive Office of the President, Office of Emergency Preparedness. Prepared by the General Services Administration. pp. 14, 18, 30, 39.

TABLE 8.—MANGANESE NODULES: COMMERCIALLY ATTRACTIVE CONSTITUENTS PROJECTIONS FOR FUTURE DEMAND

| Commodity (short tons) | U.S. production 1971 | World production 1971 | United States, 1985 |  | Total world, 1985 |  | United States, 2000 |  | Total world, 2000 |  |
|---|---|---|---|---|---|---|---|---|---|---|
|  |  |  | Low estimate | High estimate | Low estimate | High estimate | Low estimate | High estimate | Low estimate | High estimate |
| Manganese | 0 | 22,792,130[1] | 1, 700, 000 | 1, 950, 000 | 13, 700, 000 | 17, 950, 000 | 2, 265, 000 | 2, 900, 000 | 18, 265, 000 | 23, 900, 000 |
| Cobalt | Negligible | 25, 867 (Co content) | 14, 650 | 17, 050 | 25, 850 | 28, 250 | 26, 000 | 34, 300 | 40, 550 | 48, 850 |
| Nickel | 15,654[2] (Ni content) | 706,069 (Ni content) | 356, 000 | 414, 000 | 960, 000 | 1, 018, 000 | 632, 000 | 833, 000 | 1, 464, 000 | 1, 665, 000 |
| Copper | 1,522,183 (recoverable) | 6,664,079 (Cu content) | 3, 600, 000 | 4, 200, 000 | 11, 200, 000 | 13, 500, 000 | 6, 000, 000 | 7, 800, 000 | 15, 700, 000 | 20, 600, 000 |

[1] Figure given is gross weight manganese ore (35 percent or more Mn content).

[2] Includes 2,581 s. tons recovered as a byproduct of metal refining.

Sources: (1) Marine Resources and Legal-Political Arrangements for Their Development. U.S. Commission on Marine Science, Engineering and Resources. Washington: 1969, pp. VII–133, 134, 140, 142. (2) Minerals Yearbook, 1971, vol. I, U.S. Bureau of Mines. Washington: 1973, pp. 409, 91–492, 724, 825.

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### THE THREAT FROM THE THIRD WORLD

(By C. Fred Bergsten)

#### NATURAL RESOURCES

First, the United States is rapidly joining the rest of the industrialized countries in depending on the Third World for a critical share of its energy supplies and other natural resources. For oil alone, annual U.S. imports are expected to rise by $20 billion by the end of the decade. But it is not only much-publicized oil; accelerating imports of other raw materials will raise these figures significantly.

Four countries control more than 80 percent of the exportable supply of world copper, have already organized, and have already begun to use their oligopoly power. Two countries account for more than 70 percent of world tin exports, and four countries raise the total close to 95 percent. Four countries combine for more than 50 percent of the world supply of natural rubber. Four countries possess over one-half the world supply of bauxite, and the inclusion of Australia (which might well join the "Third World" for such purposes) brings the total above 90 percent. In coffee, the four major suppliers have begun to collude (even within the framework of the International Coffee Agreement, which includes the main consuming countries) to boost prices. A few countries are coming to dominate each of the regional markets for timber, the closest present approximation to a truly vanishing resource. The percentages are less, but still quite impressive, for several other key raw materials and agricultural products. And the United States already meets an overwhelming share of its needs for most of these commodities from imports, or will soon be doing so.

A wide range of Third World countries thus have sizeable potential for strategic market power. They could use that power against differential pricing or supply conditions—for example, to avoid higher costs to other DLC's or against the United States alone to favor Europe or Japan.

Supplying countries could exercise maximum leverage through withholding supplies altogether, at least from a single customer such as the United States. Withholding is a feasible policy when there are no substitute products available on short notice, and when the foreign exchange reserves of the suppliers become sizeable enough that they have no need for current earnings.

The suppliers would be even more likely to use their monopoly power to charge higher prices for their raw materials, directly or through such techniques as insisting that they process the materials themselves. Either withholding or price-gouging could hurt U.S. security. The threat of either could pressure the United States to compromise its positions on international political and economic issues. Either would hurt U.S. efforts to combat domestic inflation and restore equilibrium in our international balance of payments.

The price and balance-of-payments effects on the United States of withholding or price-gouging by suppliers of raw materials could not be attacked through conventional policy instruments. Domestic demand for raw materials could be dampened only at the cost of additional unemployment. Foreign suppliers are outside the jurisdiction of U.S. price controls. Substitution of domestic resources would also raise costs significantly. Stockpile sales help only for a short time. Devaluations make resource imports more costly without much dampening their volume. Such actions could thus cause major new problems for the U.S. economy and international position.

Such Third World leverage could have a double bite on the United States if used discriminatorily against it, thereby benefiting the competitive positions of Europe and Japan. Such discriminatory action, triggered either by the suppliers or by our industrialized competitors, is by no means impossible. It was attempted in oil by some Arab countries in 1967 and has been actively sought at least by Italy and France in the recent past. The spectre of "cannibalistic competition" among the rich for natural resources is unfortunately a real possibility which suggests that the owners of those resources have tremendous clout.

The Third World suppliers could also cause major problems by the way in which they use their huge export earnings. Oil earnings alone could rise to at least $50 billion per year by the end of the decade. It is hard to see how more than $20 billion of the total can be spent on imports. These countries could thus add $30 billion per year to their portfolios seeking profitable (or mischievous) outlets. They could use the money to disrupt international money markets overtly, and we have already seen that they generate great monetary instability, perhaps without consciously trying, by pushing the world toward a multiple reserve currency system. Aimed specifically at particular currencies, they could seek to force the United States (or anyone else) to adopt policies which clashed with its national objectives of the moment—as a few Arab countries, from a much weaker financial base, attacked the United Kingdom by converting sterling balances in June 1967 and again in 1971.[1] At a minimum, the uncertain destination of these huge resources will add to the already formidable problems faced by the international monetary system, which can affect the United States quite adversely.

The oil situation is, of course, the prototype. The concerted action of the OPEC countries in raising oil prices has raised energy costs throughout the world and dramatically increased their revenues. Such extortion by the oil producers—including such "normal" LDC's as Nigeria, Indonesia, Iran, and Venezuela—is likely to continue. This economic pressure is unlikely to be reduced as a result of the takeover of the production facilities by the OPEC countries from the international companies,[2] because the countries themselves—including "opposition" politicians in each—have well learned from the companies that *each* benefits from getting the highest possible price for *all*, and that price-cutting by one would be counterproductive because it would quickly be emulated by the others to preserve existing market shares. Equally important is the fact that OPEC has shown other countries how to do it. Oil may be merely the start.

To be sure, each of the specific commodity situations presents different and complex problems. There are serious obstacles to concerted supplier action: the economic option of using substitutes for some of the commodities, the political problem of achieving adequate cooperation among the suppliers, and the risk of overt retaliation by the industralized world (or just the United States).

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[1] Feeling no responsibility for the system, they hold their assets in whichever national currency appears most likely to appreciate in value and/or has the highest yield at the moment—switching rapidly among currencies (and even buying gold in the free market) as the situation changes. Some of those oil countries which are members of the IMF have even opted out of the SDR scheme, which was a first step toward reducing such problems. For the problems involved, see C. Fred Bergsten, "Reforming the Dollar: An International Monetary Policy for the United States," Council on Foreign Relations Paper on International Affairs No. 2 (New York: Council on Foreign Relations, September 1972), esp. pp. 9–13.

[2] As argued by Theodore H. Moran, "Coups and Costs," Foreign Policy 8 (Fall 1972).

But the two obstacles specific to commodity action can be largely overcome within the Third World itself. Subtle pricing and marketing strategies could boost consumer costs and producer gains significantly without pushing consuming countries to the development of substitutes, which requires heavy initial investments and start-up costs. Concerted action by copper, tin, and bauxite producers would sharply reduce the risk to each that cheaper aluminum or tin would substitute for higher priced copper, or vice versa. An alliance among the producers of coffee, cocoa, and tea could preempt substitution by drinkers around the world. Objective calculations of the benefits to all producers could provide a basis for "equitable" division of the spoils.

All that is needed to permit political cooperation is increased knowledge of the market and the potential gains from concerted action, self-confidence and leadership. Whether such action actually eventuates would seem to depend quite importantly on the policy milieu of the future. The countries involved will certainly be more likely to act if the industrialized world frustrates their efforts to achieve their goals more constructively, and if they are barred from participating effectively in global decisions which vitally affect their own destinies. They are more likely to act against the United States alone if the United States is the most obstinate or neglectful of all. Even a perception of such obstinacy or neglect, sufficiently plausible to be widely believed in both the Third World and the industrialized countries themselves, could trigger action. It would seem far better for the United States, and for all the industrialized countries, to try to preempt such risks by taking initiatives to help these countries fulfill their aspirations by more stable means.

Second, a number of Third World countries exercise major leverage over U.S. investments. The book value of U.S. direct investment in the Third World exceeded $23 billion at the end of 1971 (about $14 billion excluding oil), and the real market value is at least twice as large. About 5 percent of U.S. corporate profits now derive from these investments. Many jobs relate directly to them. Even excluding oil, they provide over $1 billion annually for the U.S. balance of payments.

Earnings on foreign investment are particularly important to the United States because of their strategic importance for its balance of payments. Many observers expect the United States to move into a structural trade deficit of growing size by the end of the decade, with the huge flow of investment earnings paying (in foreign exchange terms) for its net imports, overseas government expenditures, and continued net outflows of private capital. Any significant cutback in investment earnings would thus require new measures to compensate elsewhere in the balance of payments, levying new costs on us. Cutbacks in imports or subsidies of exports, perhaps by further devaluations, would again raise U.S. prices and costs. New constraints might emerge for U.S. foreign policy, perhaps far more costly than the actions suggested here to avoid negative Third World action. Effective controls on capital exports to help the balance of payments in the short run would cut future income from abroad, including income on investments already made, and hence produce the same constraints in the future.

Confiscation of its investments in the Third World could thus create major costs for the United States. Much of this investment is in the same raw materials just discussed, so Third World action could affect the United States doubly (as it already has in oil) by both raising our costs and reducing our earnings. It is often argued that any foreign confiscations would eliminate new U.S. investments in the confiscating countries, along with the return on old investments, so there would be no net cost to our balance of payments. This argument of course ignores the negative effects of such action on domestic jobs, profits, and perhaps even prices.

But it is also almost certainly wrong for the balance of payments over the longer run, since virtually all foreign investments return more income to the United States—and hence provide financing for net imports of goods, etc.—than they cost us capital at the outset. In the short run, it is not clear that takeover of one U.S. investment places a halt on new U.S. investment even in the same country; major U.S. endeavors have continued in Peru despite the take-over of the International Petroleum Company. Given the focus of multinational firms on growth and market shares, it is quite likely that investments in alternative foreign locations would supplant investments which would have taken place otherwise in the expropriating country—perhaps a little less efficiently, with lower eventual returns to the United States. It is thus highly likely that the net effect of foreign confiscation on the U.S. balance of payments would almost always be negative.

Third World countries could also adopt a variety of measures against U.S. investment, far short of confiscation, which would hurt U.S. economic interests. Expropriation with compensation would of course eliminate future earnings, and could cut U.S. exports and jobs. Requirements that the local subsidiaries of U.S. firms export enough of their output to meet targets determined by the host government, reinvest some sizable share of their earnings, or limit their imports, could all reduce the value of the investment to the United States. The investment area provides unique opportunities for Third World action geared specifically to the United States, in view of our dominant share of foreign investment.

Third, Third World countries could undertake massive repudiation of their debts to the industrialized world if it became unwilling to negotiate "fair rescheduling" thereof. U.S. government claims on LDC's totaled about $25 billion at the end of 1971, and private claims other than direct investment added another $15 billion. Foreign payments of principal and interest on these U.S. assets were well over $2 billion in 1971. In the wrong policy milieu, the severity of the debt burden faced by many of these countries—many of which have become net capital exporters—could propel them to action to evade it. The effects on individual U.S. financial institutions, on our over-all money markets, and on the U.S. balance of payments, could all be severe. Repudiation has already been threatened by a number of countries, and has been avoided only because each one has succeeded in getting its debts rescheduled as a result.

Fourth, Third World countries could create additional economic difficulties in the industrialized world by deliberately cutting the prices of their manufactured exports. The United States is already seriously concerned about the effect of imports, particularly from "low wage countries," on U.S. jobs. But these countries might feel forced to compete even more vigorously if they were unable to receive cooperative treatment for their output in major international markets, or otherwise meet their needs for jobs and foreign exchange. They would of course do so subtly enough to avoid early detection and clear "blame," and only in instances where they could expand output sufficiently to take advantage of the price cuts in the short run and where foreign demand was adequate to make the strategy pay over the long run.

Again, the United States might not be able to respond through conventional measures. Anti-dumping duties might be inapplicable, because the foreign market would so dominate internal demand in the Third World that the suppliers would simply use the export price at home as well. Suppliers could also avoid countervailing duties, even under the elastic definition of "export subsidies" now applied by the Treasury, by using devaluations (including multiple exchange rates) to effect the price cuts. The United States could always react with import quotas, but quotas would almost certainly levy high costs on the United States by limiting trade with "innocent" countries, as well as the aggressive price-cutters, and in turn trigger retaliation or simply market-induced cutbacks in U.S. exports.

Fifth, LDC's could expand their exports by becoming "pollution havens." They could ignore pollution concerns in their production processes, and perhaps even foul the world environment in the process. Some major LDC's (Brazil, for example) are in fact already inviting those industries most heavily restricted by new anti-pollution standards in the United States to come to their countries with a promise that they will be free from the anti-pollution measures that are raising production costs in the United States.

These are some of the negative steps through which countries in the Third World can seriously hurt the United States. Each of these steps has already been tried and, in particular cases, has succeeded. The United States can always adjust—but the costs of doing so will become increasingly significant.

The United States also has numerous theoretical means to retaliate against such moves. Many have already been mentioned: import quotas, denial of new private investments or foreign aid, including blockage of loans by international financial institutions in which the United States has effective veto power, even overt military intervention in cases of blatant withholding of energy supplies for purposes of political blackmail. But most of these responses are only theoretical. Any LDC which undertook such actions would do so with sufficient subtlety so that tough U.S. responses would be difficult to mobilize, especially since some domestic interests (importers, consumers, exporters, other private investors) would be hurt as a result. The thought of military intervention seems remote after the domestic divisiveness of Vietnam. And, perhaps most importantly, other industrialized countries will usually be waiting in the wings with money and long-term purchase contracts—in the same way that Japanese and European companies wasted no time entering Chile in the wake of its nationalization of U.S. firms. Neither gunboat nor dollar diplomacy will work very well for the United States in the 1970's.

Thus it is no longer likely that the United States would emerge "the winner" in confrontation with the Third World. Even if it were economically irrational for other countries to trigger such confrontations, however, this by no means rules them out. Individual LDC governments might be forced into such a posture by internal political imperatives even if the outcome was unfavorable to their "true" national interest. But the main point is that the United States would suffer significant costs even if, in some sense, it "won" a confrontation—by substituting high-cost shale oil for lower-cost Persian Gulf crude, or South Carolina cotton goods for Korean synthetics. In the long run, there will be no winners. Since the policy framework of U.S. relations with the Third World is likely to go far in determining whether such events occur, or even threaten to occur, U.S. interests would be greatly served by creating a framework in which they will not occur.

### Arab Example Worries Officials: Crisis in Minerals Is Feared

(By Carroll Kilpatrick)

With the energy shortage as the first lesson, Americans must now turn their attention to what one official has called a "global minerals shortage."

"We are not in a minerals crisis at the moment," John D. Morgan Jr., acting director of the Bureau of Mines, said in an interview, "but we must take cautionary action to avoid being in one a short distance down the road."

What worries many officials here is that a handful of nations that have the bulk of supplies of a given mineral may follow the example of the Arab oil countries and try to blackmail the rest of the world.

Bauxite is an example. It is the basic ingredient for the manufacture of aluminum. The chief suppliers are Guinea, Australia, Guyana, Jamaica and Surinam. If they got together and said that there would be no more exports of bauxite unless the consuming countries paid twice the price they have been paying, aluminum factories all over the world would be threatened.

Last week, Guinea invited the other principal bauxite producers to a meeting in February. U.S. officials don't like the looks of it.

On Dec. 18, Secretary of the Interior Rogers C. B. Morton told a press conference that he was concerned that bauxite producers might "get together" to form some kind of cartel.

Ten days later, Morton announced that he was ordering officials "to evaluate our minerals positions and to take all action available to assure U.S. supplies."

The United States has been a net importer of minerals since World War II, with a deficit now of about $6 billion a year. Elburt F. Osborn, until last year director of the Bureau of Mines, warned shortly before leaving office that if the present trends in the use of minerals continue, which they obviously cannot, the U.S. deficit could approach a rate of $100 billion a year.

In the meantime, he predicted "cutthroat competition on a global scale."

C. Fred Bergsten, a senior fellow at the Brookings Institution, has said that four countries control more than 80 per cent of the world supply of copper; two countries account for more than 70 per cent of tin exports; four countries control half the supply of natural rubber and four countries possess over half the reserves of bauxite.

Peter M. Flanigan, President Nixon's adviser on international economic policy, said that the United States must develop alternative sources of supplies for oil and other minerals. For example; there are bauxite substitutes in the United States in great supply, but, like extracting oil from shale, they are much more expensive to use.

Flanigan said it is not enough to argue that because a mineral is imported it is insecure. It is also important to know the reliability of governments this country must deal with and the reliability of transportation.

At present, Flanigan is more concerned about the prices of mineral products than about collusion among suppliers to cut off supplies. But he recognizes that cartels can be organized by others than Arab oil producers.

Other experts believe that the supply problem, in the short run, is secondary to the price problem as supplies become scarcer and harder to obtain.

Walter W. Heller, chairman of the Council of Economic Advisers under Presidents Kennedy and Johnson, estimated the other day that the "oil factor" will add about three percentage points to the rise in the cost of living for the average American this year.

As alarming as that prediction is, the results of a serious short-fall in the supply or of an artificial increase in the price of bauxite, iron ore, nickel, zinc, manganese, chromium, tin, lead, platinum or any other imported metals would be similarly inflationary.

The United States now imports all or nearly all of its platinum (used to make jewelry, laboratory containers and as a catalyst in chemical processes), mica (electrical equipment, insulation), chromium (metallurgy), strontium (flares and fireworks), cobalt (tool steel, magnets), tantalum (electronic equipment), manganese (metallurgy) and bauxite.

It imports more than half its fluorine (refrigerants), titanium (paint, rubber, aircraft parts), asbestos (insulation), tin (metallurgy), bismuth, (drugs, cosmetics, metallurgy), nickel (metallurgy), columbium (stainless steel, other metallurgy processes), and antimony (metallurgy, certain plastics).

The nation also imports more than a third of its iron ore, up from 8 percent in 1960.

Bureau of Mines chief Morgan said that the major American objective should be "stable and strong domestic production."

To strengthen reliance on America's own resources, he advocates more research, increased geological searches for minerals, better metallurgical work, improved methods of recycling used metals, larger inventories by industries and studies to determine whether tax and other incentives should be provided to encourage greater utilization of domestic supplies.

Morgan doubts that inventories and government stockpiles in themselves can provide any degree of security against the loss of foreign supplies. Yet he is pleased that the government has 250,000 tons of tin in stockpile—a five-year supply.

The existence of that stockpile would discourage foreign producers from starting an embargo or imposing artificial price increases on exports.

Secretary of State Henry A. Kissinger said at a news conference Thursday that "if anything was needed to illustrate the interdependence of nations in this world, it is what has happened in the field of energy." The same can be said of other scarce commodities.

"No single country is capable of solving the problem by itself," Kissinger said, adding that "unrestricted bilateral competition will be ruinous for all of the countries concerned."

The President has invited foreign ministers of eight oil-consuming nations to meet in Washington Feb. 11 as a preliminary to a meeting of oil exporters and importers.

If successful the meeting could lead to cooperation between producers and consumers in other fields.

Bergsten maintains that it is essential for the industrial countries to cooperate to a greater extent with Third World countries, which possess many of the minerals the advanced countries require.

"In addition to its efforts to improve overall U.S.-Third World relations, the United States is going to have to pinpoint its policies on those particular developing countries which can most affect our national interests," Bergsten testified last month before the Senate Banking Committee.

"For example, when we awaken to an oil crisis we realize how vital to us are Nigeria, Indonesia and Ecuador," Bergsten said.

The most critical problem now, according to Morgan, is the supply of iron ore, which comes principally from Canada, Venezeula, Japan and Western Europe. There are no political obstacles, but the imports are substantial and the supply is limited.

Forty million tons of iron ore are imported annually as well as 16 million tons of iron and steel.

Some officials doubt that the poor countries will ever be able to get together to control the shipment of important minerals the way the Arab states have banded together to hold the flow of oil. Bergsten disagrees. He says that the very fact that the Arabs have been able to defy most of the industrial world has given the producing states an incentive to organize to control their own wealth.

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### Raw Materials: U.S. Grows More Vulnerable to Third World Cartels

By putting the rest of the world over a barrel the Arab oil sheikhs have managed in a very brief time to force a fourfold increase in the posted price of oil. Will the success of their concerted action encourage other producers of scarce raw materials to try their hand at the same game?

Pessimists argue that America's growing dependence on imports for a number of key industrial minerals is making the threat of producer cartels more and more likely. Others believe that as far as nonfuel minerals are concerned, there is at present no commodity whose producers have the right combination of economic strength and political hostility to form a cartel against the United States. Whichever view is correct, the nation's position on nonfuel minerals is an intricate amalgam of diplomacy, economics, and technology, whose importance has gone largely unrecognized until the present oil crisis.

The basic facts of the case are, on the one hand, that the United States is more autonomous in nonfuel minerals than any other country except the Soviet Union and would probably be less affected than any other by an embargo. But, although rich in minerals, America began in the 1920's to be a net importer. According to the Department of the Interior, U.S. imports of all nonfuel minerals cost $6 billion in 1971 and are estimated to rise to $20 billion by 1985 and $52 billion by the turn of the century.

For 20 nonfuel minerals, including such key metals as chromium, aluminum, nickel, and zinc, the United States already derives more than half of its supply from abroad (see Table 1), and the extent of this dependence seems certain to increase. Because of the uneven distribution of minerals in the earth's crust, a handful of countries have dominating positions in several metals. Four countries control more than four-fifths of the world's exportable supply of copper. Malaysia. Thailand, and Bolivia together provide 98 percent of U.S. imports of tin.

Even before the oil crisis broke, people were expressing concern about America's vulnerability to group action by producing countries. Collective bargaining by raw materials producers is a "real possibility" in the case of copper, tin, and lead, wrote Lester R. Brown of the Overseas Development Council in an article in 1972. More recently, C. Fred Bergsten, a former assistant to Henry Kissinger on the National Security Council and now with Brookings Institution, has argued that the United States' neglect of the third world is dangerously myopic in view of the nation's growing dependence on the raw materials controlled by third world countries. "A wide range of Third World countries . . . have sizeable potential for strategic market power," Bergsten noted in an article last summer in *Foreign Policy*. Third world leverage might be exercised against all industrialized countries, or discriminatorily against the United States, thus benefiting Europe and Japan. "The spectre of 'cannibalistic competition' among the rich for natural resources is unfortunately a real possibility which suggests that the owners of those resources have tremendous clout," Bergsten presciently opined.

TABLE 1.—PERCENTAGE OF U.S. MINERAL REQUIREMENTS IMPORTED DURING 1972[1]

| Mineral | Percentage imported | Major foreign sources |
|---|---|---|
| Platinum group metals | 100 | United Kingdom, U.S.S.R., South Africa, Canada, Japan, Norway. |
| Mica (sheet) | 100 | India, Brazil, Malagasy. |
| Chromium | 100 | U.S.S.R., South Africa, Turkey. |
| Strontium | 100 | Mexico, Spain. |
| Cobalt | 98 | Zaire, Belgium, Luxembourg, Finland, Canada, Norway. |
| Tantalum | 97 | Nigeria, Canada, Zaire. |
| Aluminum (ores and metal) | 96 | Jamaica, Surinam, Canada, Australia. |
| Manganese | 95 | Brazil, Gabon, South Africa, Zaire. |
| Fluorine | 87 | Mexico, Spain, Italy, South Africa. |
| Titanium (rutile) | 86 | Australia. |
| Asbestos | 85 | Canada, South Africa. |
| Tin | 77 | Malaysia, Thailand, Bolivia. |
| Bismuth | 75 | Mexico, Japan, Peru, United Kingdom, Korea. |
| Nickel | 74 | Canada, Norway. |
| Columbium | 67 | Brazil, Nigeria, Malagasy, Thailand. |
| Antimony | 65 | South Africa, Mexico, United Kingdom, Bolivia. |
| Gold | 61 | Canada, Switzerland, U.S.S.R. |
| Potassium | 60 | Canada. |
| Mercury | 58 | Canada, Mexico. |
| Zinc | 52 | Canada, Mexico, Peru. |
| Silver | 44 | Canada, Peru, Mexico, Honduras, Australia. |
| Barium | 43 | Peru, Ireland, Mexico, Greece. |
| Gypsum | 39 | Canada, Mexico, Jamaica. |
| Selenium | 37 | Canada, Japan, Mexico, United Kingdom. |
| Tellurium | 36 | Peru, Canada. |
| Vanadium | 32 | South Africa, Chile, U.S.S.R. |
| Petroleum (includes liquid natural gas). | 29 | Central and South America, Canada, Middle East. |
| Iron | 28 | Canada, Venezuela, Japan, Common Market (EEC). |
| Lead | 26 | Canada, Australia, Peru, Mexico. |
| Cadmium | 25 | Mexico, Australia, Belgium, Luxembourg, Canada, Peru. |
| Copper | 18 | Canada, Peru, Chile. |
| Titanium (ilmenite) | 18 | Canada, Australia. |
| Rare earths | 14 | Australia, Malaysia, India. |
| Pumice | 12 | Greece, Italy. |
| Salt | 7 | Canada, Mexico, Bahamas. |
| Cement | 5 | Canada, Bahamas, Norway. |
| Magnesium (nonmetallic) | 8 | Greece, Ireland. |
| Natural gas | 9 | Canada. |
| Rhenium | 4 | West Germany, France. |
| Stone | 2 | Canada, Mexico, Italy, Portugal. |

[1] Data derived from Mining and Minerals Policy 1973, a report by the Secretary of the Interior to the Congress.

Whether other countries have the same clout as the oil producers is a matter of some debate. Contrary to the opinions of Bergsten and Brown, the National Commission on Materials Policy, a heavyweight group that included as members the Secretaries of Commerce and the Interior, concluded in a report last June: "As to the possibility that countries might form effective cartels to deny supplies to major importers or to raise prices, with the exception of petroleum the Commission has not isolated any commodities for which the economic and political basis for such action exists."

What the commission is saying in so many words is that only the Arab oil producers have enough reserves to withhold production; most third world countries need to sell as much as they can produce. Second, the political hues of most potential members of a cartel make such an arrangement unlikely. Southern Rhodesia, South Africa, Turkey, and the Soviet Union have a fairly complete corner on the world supply of exportable chromium, but a coalition of such nations against the United States is not particularly likely.

This is not to say that there have been no attempts at collective bargaining, but none has achieved anything like the success of the oil producers' cartel, the Organization of Petroleum Exporting States (OPEC). The International Tin Council, which includes both producers and the major consumers, has so far had little effect on prices. Chile, Peru, Zambia, and Zaire are the members of the Intergovernmental Council of Copper Exporting Countries (CIPEC), but the United States, which is a major producer as well as a consumer of copper, does not belong. Copper prices have risen recently, but because of production problems in Chile, not through any action by CIPEC.

If producers lack clout now, that does not mean they will always do so. Third world countries expect a rise in their standards of living but, while their per capita gross national product has increased somewhat, so has the gap between rich countries and poor. Growth in both affluence and population cannot but intensify the competition between industrial nations for a finite quantity of natural resources. In 1970 the United States possessed 5 percent of the world's population but consumed 27 percent of its raw materials, a share that will be difficult to maintain in an increasingly competitive world. "As countries become increasingly interdependent, we face the prospect of a single global society in which the glaring inequalities of world income distribution may not be sustainable," notes the generally unradical report of the National Commission on Materials Policy.

But American dependence on imports is not in all cases as heavy as it may appear. The United States imported a third of its requirements of iron ore in 1971, but only because imports were cheaper. There are sufficient iron ore reserves to last at least a century at current rates of consumption. According to the Department of the Interior, the nation will consume 370 million short tons of aluminum between 1971 and 2000. Reserves were only 13 million tons—but on the assumption of 1971 prices. There are "very large" identified resources of aluminum that could be mined if the world price goes higher. According to Vincent E. McKelvey, chief of the U.S. Geological Survey, the country is in fair shape to supply its needs of most key metals out of its own reserves, if necessary, until the end of the century and beyond. Surveys of the country's mineral resources are far from complete, and there is still the chance that important deposits remain to be discovered. For some commodities, such as manganese, tin, and chromite, the United States must look to foreign sources for future supplies, McKelvey concludes. For others, such as vanadium and tungsten, the ores are there and could be profitably mined with suitable advances in technology and rises in world price. Resources of materials such as iron, molybdenum, copper, lead, zinc, and aluminum are "nearly equivalent to potential demand over the next few decades, and the prospects for new discoveries are reasonably good."

### CHANGE IN AMERICAN LIFESTYLE

Improving domestic supply is one major approach to increasing self-sufficiency. Others are recycling and substitution. With each of these strategies the room for maneuver appears to be if anything shrinking as new constraints emerge, such as environmental protection and the rising cost of energy. Increasing production is of course not the only way to achieve a balance, but there is an evident reluctance in government reports to consider the alternative of reducing demand. This gap has been filled by a committee of the National Materials Advisory Board of the National Academy of Sciences. In a report of 1972 entitled *Elements of a National Materials Policy* the board criticizes the entire existing system for materials decision-making as "so biased in favor of production and consumption that one can hardly overstress the need for temperance and foresight in monitoring and controlling wasteful and nonessential uses." Composed mostly of scientists rather than the economists who provide most of the conventional wisdom on this issue, the academy committee makes some comparatively bold statements about the future of the materials situation. "The American lifestyle, insofar as it depends upon materials, is changing and will continue to change in the near future as the nation pays the deferred social costs of past consumption and inequities in distribution and begins to calculate the costs of depletion, replacement of nonrenewable resources, and environmental restoration and protection." Besides improving domestic supplies and reducing waste, the academy committee recommends that technology should be adapted to depend on widespread and abundant basic commodities such as iron, aluminum, magnesium, and the silicates. Failure to adapt will lead, within decades, to the erosion of the mineral position of the United States, "growing economic colonialism, international frictions, steadily deteriorating balance of trade, and a tarnished global image of the nation."

Until a few weeks ago, this kind of prognostication would probably have been dismissed as wild-eyed. But then the experts in these matters were predicting a year ago that the cost of oil would not reach the $4 to $5 a barrel range until 1985; last month it hit $11.65 a barrel. For the immediate future, however, oil seems to be a special case. With the nonfuel minerals the producers do not have the clout to hold consumers to ransom. Moreover, the U.S. government has a powerful weapon against cartels in the form of a massive, $6 billion stockpile of strategic minerals. In the longer term, however, the nonenergy mineral position of the United States seems certain to weaken. Just how much will depend in large part upon continued technological advances to offset increasing scarcity and other constraints. Yet however well the U.S. looks after itself, the global need is to control per capita consumption of materials while allowing more people to approach the Western standard of living.

—NICHOLAS WADE.

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By Mr. JAVITS:

S. 2879. A bill to establish in the Department of Health, Education, and Welfare the positions of Deputy Secretary of Health, Education, and Welfare and an additional Assistant Secretary of Health, Education, and Welfare in lieu of the Under Secretary and the Assistant Secretary for Administration. Referred to the Committee on Labor and Public Welfare.

### TOP HEW POSITIONS

Mr. JAVITS. Mr. President, I introduce for the administration today a bill to replace present executive level III Under Secretary of the Department of Health, Education, and Welfare with an executive level II Deputy Secretary, to replace the existing executive level V career Assistant HEW Secretary for the Administration with an Assistant Secretary at the executive level IV, and establish a small pool of executive level IV and level V positions for use within HEW.

HEW, Mr. President, has the largest employment of any Government department except for the Department of Defense, and the largest budget of any Cabinet department. Its employment at the end of fiscal year 1975 is expected to be 126,000 and its fiscal year 1975 budget will probably be well over $100 billion. The Department operates over 300 programs, which together affect virtually every aspect of human need, from prenatal care to assistance for the aged, from vocational education to bio-medical research. It is the size, complexity, and importance of HEW which has led the administration to propose the bill which I am here introducing, and which I should like to describe briefly.

First, the bill would upgrade the present No. 2 man in the Department from an executive level III to an executive level II and change the title of the position from Under Secretary to Deputy Secretary. Although, as I have just noted, the Department of Health, Education, and Welfare is the largest Government agency in terms of budget and the second largest in terms of employment, five other Government agencies already have an executive level II Deputy Secretary position. In fact, the Department of Defense has two Deputy Secretaries authorized at the executive level II, and the Department of Transportation has three officials, including the Under Secretary, whose compensation is set at the executive level II.

I include as part of my remarks a table which sets forth the relative employment and budget for these five other Cabinet departments as compared to that of HEW. The No. 2 man in a department like HEW must have a strong role in managing and organizing its activities. In view of the size of that undertaking as well as its complexity and its direct relevance to the lives of so many of our citizens, I believe, Mr. President, that it is a long overdue improvement to upgrade the rank of the position. Managing our human resources programs is no less important than managing the activities of the Department of State, Treasury, Transportation, or Justice, yet the HEW No. 2 man now ranks and is paid at a lower rate than the No. 2 officials in each of these Departments. When viewed against the perspective of what has already been done for the management capacity of other Government agencies, the proposed upgrading of the second ranking official at the Department of Health, Education, and Welfare is appropriate.

Second, this bill would upgrade the existing executive level V Assistant Secretary for Administration and Management to an executive level IV position. Most positions of the Assistant Secretary rank at HEW are already executive level IV positions. In addition, the top management Assistant Secretaryship in the Departments of Commerce, Interior, State, and Treasury are already ranked at the executive level IV. This change would replace the existing Career Assistant Secretary for Administration at HEW with a Presidentially appointed Assistant Secretary, thus enhancing the prestige and visibility of this position. Here again, in view of the practice in other agencies and of the need for strong leadership in organizing and managing the Department of Health, Education, and Welfare the administration thinks that this upgrading is badly needed and long overdue.

Third, the bill would establish a pool of nine executive level IV or V positions for the use of the HEW Secretary. At the present time, the Department's executive level positions are in part authorized by statute and in part drawn from the very limited pool of executive level positions which are available to the President. The Presidential pool has been drawn upon heavily by various executive departments, including HEW. Mr. President, I believe that a department of the size and importance of HEW should not be dependent upon competing for a small Presidential pool for the executive level positions needed for its top management. Moreover, if the HEW Secretary is to manage the Department properly and assure its responsiveness to changing and developing human needs, he must have the flexibility to assign top management as he decides is demanded by new circumstances; hence, the rationale of the proposal to create a pool of executive level IV and V positions which would be available solely to the Secretary of Health, Education, and Welfare.

I should note that such a proposal was made in the four executive reorganization bills which were submitted by the President to Congress on March 25, 1971. The proposal for a Department of Community Development, which was reported favorably by the House Government Operations Committee in the last Congress, did include such a pool for that new Department. Moreover, the Secretary of Housing and Urban Development, who heads a much smaller department than HEW, has already been given the authority by law to assign seven executive level V positions within the Department of Housing and Urban Development at his discretion.

In conclusion, the purpose of this legislation is to make the Department of Health, Education, and Welfare equal to other Government agencies, in terms of top management capacity and flexibility. This bill should receive expeditious consideration based on its merits.

Mr. President, I ask unanimous consent that the table to which I have referred previously, together with the bill, be printed at this point in the RECORD.

There being no objection, the table and bill were ordered to be printed in the RECORD, as follows:

FEDERAL AGENCIES WITH ASSISTANT SECRETARY FOR ADMINISTRATION POSITIONS AUTHORIZED AT EXECUTIVE LEVEL IV

| Position and department | 1973 | |
|---|---|---|
| | Employees | Budget (millions of dollars) |
| Assistant Secretary for Administration, State | 23,200 | 683 |
| Assistant Secretary for Administration, Treasury | 103,000 | 32,744 |
| Assistant Secretary for Management and Budget, Interior | 57,000 | 1,652 |
| Assistant Secretary for Administration, Commerce | 28,200 | 1,242 |
| DHEW (proposed) | 110,200 | 87,859 |

## S. 2879

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### ESTABLISHMENT OF POSITIONS

SECTION 1. There shall be in the Department of Health, Education, and Welfare, in addition to the Assistant Secretaries now provided for by law, a Deputy Secretary of Health, Education, and Welfare and an additional Assistant Secretary each of whom shall be appointed by the President, by and with the advice and consent of the Senate, and shall perform such functions as the Secretary may prescribe.

### ABOLITION OF OFFICES OF UNDER SECRETARY AND ASSISTANT SECRETARY FOR ADMINISTRATION

SEC. 2. (a) The Office of Under Secretary of Health, Education, and Welfare created by section 2 of Reorganization Plan Numbered 1 of 1953 (5 U.S.C., App.) is abolished.

(b) The order in which officials of the Department of Health, Education, and Welfare act pursuant to law as Secretary during the absence or disability of, or in the event of a vacancy in the office of, the Secretary is modified by substituting in such order the Deputy Secretary of Health, Education, and Welfare for the Under Secretary of Health, Education, and Welfare.

(c) The office of Assistant Secretary for Administration created by section 202 of the Act of July 1, 1960 (42 U.S.C. 3502) is abolished.

(d) The provisions of subsections (a) and (b) shall not apply until such time as the office of Deputy Secretary of Health, Education, and Welfare is filled as provided in section 1 or 5 of this Act. The provisions of subsection (c) shall not apply until such time as the additional office of Assistant Secretary provided for by section 1 is filled as provided therein.

### COMPENSATION OF OFFICIALS

SEC. 3. (a) Section 5313 of title 5, United States Code, is amended by inserting after clause (21) the following new clause:

"(22) Deputy Secretary of Health, Education, and Welfare."

(b) Clause (17) of section 5315 of title 5, United States Code, is amended to read:

"(17) Assistant Secretaries of Health, Education, and Welfare (6), in addition to the Assistant Secretary for Education."

(c) Clause (7) of section 5314 of title 5, United States Code, is repealed effective upon appointment of the Deputy Secretary provided for by section 1.

(d) Clause (24) of section 5316 of title 5, United States Code, is repealed effective upon appointment of the additional Assistant Secretary provided for by section 1.

### ADDITIONAL EXECUTIVE LEVEL POSITIONS

SEC. 4. There shall be in the Department, in addition to any other officers appointed and compensated at the levels provided herein by or pursuant to other laws or by other means, not more than nine additional officers appointed by the Secretary who shall receive compensation at the rate now or hereafter prescribed for offices and positions at level IV or level V of the Executive Schedule (5 U.S.C. 5315 and 5316, respectively), as the Secretary may specify, and who shall perform such functions as the Secretary may specify.

### TRANSITIONAL PROVISION

Sec. 5. The President may authorize the person who immediately prior to the date of enactment of this Act occupies the office of Under Secretary of Health, Education, and Welfare to act as Deputy Secretary of Health, Education, and Welfare until that office is filled by appointment in the manner provided by section 1.

While so acting, such person shall receive compensation at the rate now or hereafter provided by law for the Deputy Secretary of Health, Education, and Welfare.

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By Mr. McGOVERN (for himself, Mr. Abourezk, and Mr. Burdick):

S. 2880. A bill to amend the Agriculture and Consumer Protection Act of 1973 to provide additional incentives for farmers to produce wheat, feed grains, and cotton, and for other purposes. Referred to the Committee on Agriculture and Forestry.

### THE FOOD AND FIBER PRODUCTION INCENTIVE ACT OF 1974

Mr. McGOVERN. Mr. President, events of the past year created major disruptions in our farm and food economy. We saw farm prices take a long overdue sharp increase to a point at which income to farmers could approximate the income of other sectors of the economy.

As a result, not unexpected, consumers protested, especially about meat prices. The administration responded to consumer unrest with an unwise, counterproductive freeze on retail meat prices.

At the same time, other costs increased rapidly—especially costs of fuel, fertilizer, farm machinery, and other production items required for farmers to grow food and fiber.

Congress responded with an Agriculture and Consumer Protection Act of 1973 which, at the time of its passage in August, appeared to be a reasonable approach to satisfying the twin goals of adequate food supplies at reasonable prices. It did so by providing the incentives necessary for farmers to produce the supplies of basic commodities needed to maintain a steady flow of products to market without serious disruptions in market prices.

But inflation has cut heavily into incentives intended by the 1973 farm bill. The cost of propane for crop drying has more than doubled since that bill was enacted. The price of diesel fuel and gasoline for tractors and other farm equipment has nearly doubled and shows every sign of increasing yet further. The price of nitrogen fertilizer is up more than 50 percent when it is available at all.

In the aggregate, the farmer's cost of production, interest, taxes and wages has increased 19 percent from December 15 of 1972 to December 15 of 1973.

The effect is that the target prices established in the 1973 farm act are no longer adequate to assure producers the incentive to produce the volume of food and fiber which our growing population demands.

Should market prices fall to the target levels in the 1973 act, many wheat and feed grain producers would lose substantial amounts of money.

Present law provides a target price of $2.05 per bushel on wheat, $1.38 per bushel on feed grain, and 38 cents a pound for cotton. But research by South Dakota State University shows that cost of production for spring wheat in southeastern South Dakota is $2.25 per bushel, and the cost of production of corn in south-central South Dakota is $1.52 per bushel. And these estimates are based on 1973 average prices for what the farmer buys; they do not reflect the latest, sharp increases in prices of fuel and fertilizer.

Accordingly, I introduce today the Food and Fiber Production Incentive Act of 1974, to amend a generally favorable farm bill enacted less than a year ago, in an effort to provide greater incentive for production of food and fiber.

My bill is relatively simple.

It would increase the established prices for the three basic commodities—feed grain, wheat, and cotton—to the level in the bill reported by the Committee on Agriculture and Forestry and passed by the Senate last year.

If enacted, my bill would provide that a farmer will receive not less than $2.49 per bushel of wheat, not less than $1.67 per bushel of corn or its equivalent in other feed grains, and not less than 47 cents per pound of cotton, on the production of his allotted acreage. If the market price in 1974 should fall below the established price, a direct payment would make up the difference to the farmer.

In addition, my bill would adjust the established price in 1975, to reflect any increase or decrease in the cost of production. While it is likely that production costs will increase rather than decrease, it is essential that a cost-of-production adjustment be built into the law for the 1975 crop year.

The law presently does not provide for adjustment in the established price before 1976. Given the present rate of inflation in production costs, one can conclude reasonably that the established prices will be entirely inadequate by that time.

The Senate passed a bill with target prices the equivalent of 70 percent of parity, with adjustment by the cost-of-production index in each subsequent crop year.

Spirited opposition from the administration led the House and the conference committee to reduce the established price and give up the cost-of-production adjustment for the 1975 crop year.

But supply and demand conditions have changed so drastically in the intervening months that the administration should now support this bill. Certainly it is fully consistent with the administration's announced policy of stimulating production to meet record demand.

So this bill would do just as the Committee on Agriculture and Forestry sought to do last April—provide an established price equal to 70 percent of parity, and permit an annual adjustment in that price to reflect the cost of production.

Finally, my bill would provide that the national acreage allotment for feed grain be set at not less than 100 million acres. For the 1974 crop year, the Secretary of Agriculture has established a national acreage allotment of 89 million acres, which is wholly inadequate to reflect the Nation's real needs for feed grains.

An allotment which is too low creates an addel disincentive for production inasmuch as it substantially reduces the guarantee to farmers of disaster payments in the event of inability to plant or harvest a crop and the acreage on which deficiency payments would be made if market prices fell below target prices.

I do not pretend that my bill is the final answer to the problem of providing adequate production incentives. It cannot assure that farmers will get adequate supplies of fuel and fertilizer, two major question marks which will bear directly on how much food and fiber is planted and harvested in 1974 and in later years.

But it can provide that in the unforeseen event that prices drop below established prices that the farmer will be assured of recovering the sharply increased costs of these and other production items, and realizing a modest profit.

Taken in the context of today's cash market prices for wheat, feed grains and cotton, it cannot be said that this bill is inflationary. The established prices I suggest compare with January corn prices near $3, wheat prices near $6, and cotton prices in the 90-cent range.

And given the outlook for market prices in the years ahead it cannot be said that my bill would significantly add to the costs to the Treasury, inasmuch as it is not immediately likely that market prices would drop to the target levels.

So what it does is to add that extra bit of insurance—so important to farmers and consumers alike—to help assure a continuing supply of food and fiber at reasonable prices.

Mr. President, I ask unanimous consent that the text of the bill and a short explanation thereof be printed in the Record at the conclusion of my remarks.

There being no objection, the bill and explanation were ordered to be printed in the Record, as follows:

### S. 2880

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Food and Fiber Production Incentive Act of 1974".

Sec. 2. Paragraph (8)(D) of the Agriculture and Consumer Protection Act of 1973 (amending section 107 of the Agricultural Act of 1970) is amended by striking out that portion of subsection (c) beginning with clause (2) and ending with the colon preceding the proviso, and inserting in lieu thereof the following:

"(2) the loan level determined under subsection (a) for such crop is less than the established price per bushel determined by the Secretary for such crop, but such established price shall not be less than $2.49 per bushel in the case of the 1974 crop, $2.49 per bushel adjusted to reflect any change during the calendar year 1974 in the index of prices paid by farmers for production items, interest, taxes, and wage rates in the case of the 1975 crop, and the established prices for the 1975 and 1976 crops adjusted to reflect any changes during the calendar years 1975 and 1976, respectively, in such index in the case of the 1976 and 1977 crops."

SEC. 3. (a) Paragraph (18) (B) of the Agriculture and Consumer Protection Act of 1973 (amending section 501 of the Agricultural Act of 1970) is amended by striking out that portion of the second sentence of subsection (b) (1) beginning with clause (2) and ending with the colon preceding the proviso, and inserting in lieu thereof the following:

"(2) the loan level determined under subsection (a) for such crop is less than the established price per bushel determined by the Secretary for such crop, but such established price shall not be less than $1.67 per bushel in the case of the 1974 crop, $1.67 per bushel adjusted to reflect any change during the calendar year 1974 in the index of prices paid by farmers for production items, interest, taxes, and wage rates in the case of the 1975 crop, and the established prices for the 1975 and 1976 crops adjusted to reflect any changes during the calendar years 1975 and 1976, respectively, in such index in the case of the 1976 and 1977 crops, times in each case (ii) the allotment for the farm for each crop, times (iii) the projected yield established for the farm with such adjustments as the Secretary determines necessary to provide a fair and equitable yield:"

(b) Such paragraph (18) (B) is further amended by adding at the end of the double quoted paragraph (2) of subsection (b) a new sentence as follows: "In no event shall the national acreage allotment for feed grains for the 1974, 1975, or 1976 crop year be less than 100 million acres."

SEC. 4. Paragraph (20) (C) of the Agriculture and Consumer Protection Act of 1973 (amending section 602 of the Agricultural Act of 1970) is amended by striking out that portion of paragraph (2) beginning with clause (2) and ending with the colon preceding the proviso, and inserting in lieu thereof the following:

"(2) the loan level determined under paragraph (1) for such crop is less than the established price per pound determined by the Secretary for such crop, but such established price shall not be less than 47 cents per pound in the case of the 1974 crop, 47 cents per pound adjusted to reflect any change during the calendar year 1974 in the index of prices paid by farmers for production items, interest, taxes, and wage rates in the case of the 1975 crop, and the established prices for the 1975 and 1976 crops adjusted to reflect any changes during the calendar years 1975 and 1976, respectively, in such index in the case of the 1976 and 1977 crops:".

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## SHORT EXPLANATION—THE FOOD AND FIBER PRODUCTION INCENTIVE ACT OF 1974

### BACKGROUND

Congress last year enacted the Agriculture and Consumer Protection Act of 1973 (P.L. 93–86) which provided a new price support mechanism. The bill set "established prices" for the 1974 and 1975 crops of $2.05 per bushel for wheat, $1.38 per bushel for corn or an equivalent price for other feed grains, and 38 cents a pound for cotton. It provided that, in the event the average market price for a crop year fell below the established price, the farmer would receive a direct payment from the government to make up the difference.

The bill also provided that, for the 1976 and 1977 crops the established prices would be adjusted to reflect any change in the index of cost of production items, taxes, interest and wage rates.

The bill originated in the Senate Committee on Agriculture and Forestry. As reported by the Committee and approved by the Senate, the established prices were $2.28 for wheat, and $1.53 for corn and 43 cents for cotton—equal at that time to 70 per cent of parity. Veto threats from the Administration, however, caused reductions in the Senate version of the established prices and elimination of the cost-of-production adjustment for the 1975 crop year. It was also cut from a 5-year to a 4-year bill.

### PRESENT SITUATION

In the six months following enactment of the farm bill, market prices for all three basic commodities have advanced steadily, showing an even greater contrast with the low established prices in the bill.

At the same time, the cost of production items, especially fuel and fertilizer, has increased enormously. From December 15, 1972 to December 15, 1973, the USDA's index for cost of production items, taxes, interest and wage rates increased nearly 19 per cent.

### PROPOSED AMENDMENT

The Food and Fiber Production Incentive Act of 1974 would amend the 1973 farm bill in an effort to improve the incentives for farmers to produce an abundant supply of food and fiber at prices which are reasonable to consumers.

The bill would:

1. Increase established prices for the 1974 crop to $2.49 per bushel for wheat, $1.67 per bushel for corn, and 47 cents per pound for cotton.
2. Restore the cost-of-production adjustment for the target price for the 1975 crop year.
3. Give the Secretary of Agriculture authority to set an established price which may be higher than the minimum provided in the act.
4. Require that the national acreage allotment for feed grain, established annually by the Secretary, be not less than 100 million acres.

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By Mr. FANNIN:

S. 2881. A bill to amend section 1951, title 18, United States Code, act of July 3, 1946. Referred to the Committee on the Judiciary.

### HOBBS ACT AMENDMENT OF 1973

Mr. FANNIN. Mr. President, my bill is prompted by a growing number of news stories of violence in the construction industry. In four 1973 issues of the Reader's Digest there appeared articles by Charles Stevenson, which graphically described many instances of violence in the construction industry. Reader's Digest should be commended for the public service it has rendered in the publication of these four articles and the country is indebted to Mr. Stevenson for the many days of investigation and research that must have preceded their preparation. I ask unanimous consent that the articles be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. FANNIN. Mr. President, I have always believed that police matters are best left to the States. However, when it has been demonstrated that the State and local police have been almost completely unable to handle crimes of this nature, we have to seek a Federal law. Violence in the construction industry is growing rapidly and it is not confined to any State or section of the country. I would be the last to attempt to create a Federal police force.

It is true that most of the acts of violence would be unfair labor practices under the Taft-Hartley Act. However, it can be no comfort to the owner of extremely expensive construction machinery to obtain enforcement of a cease and desist order some 2 years after his equipment has been destroyed beyond repair and his business bankrupt.

Mr. President, my bill seeks to amend section 1951, title 18, United States Code, act of July 3, 1946. This law is commonly known as the Hobbs Anti-Racketeering Act. It is a one sentence law which reads as follows:

> Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspired so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of his section shall be fined not more than $10,000 or imprisoned not more than twenty years or both.

Mr. President, the mere reading of this law gives one the impression that it already covers the subject and provides a remedy for violence in the construction industry. However, the original anti-racketeering laws were primarily designed for the purpose of deterring professional gangsterism. While the law has been on the books for a quarter century, it has had little use in labor union violence. Congressman Hobbs, speaking on the floor of the House during debate upon his bill, denied that it would apply to force or violence used in support of legitimate wage demands. He argued that it was designed to correct the deficiencies in the Anti-Racketeering Act which allowed violence and threats of violence to be used to exact payment for services which were neither wanted nor needed. In other words he was trying to stop featherbedding.

In February 1972, a divided Supreme Court in U.S. against Emmons ruled that while blowing up transformers and committing other acts of sabotage might have been Federal crimes under other circumstances, such acts were not Federal crimes if the employees were on strike for legitimate demands. If that is the law it badly needs changing.

Mr. President, I suppose the outbreaks of violence in the construction industry should have been anticipated. It has been a highly unionized industry. Even labor leaders in other industries agreed that wages in construction were excessive. These excessive wages were perpetuated by the Federal Davis-Bacon Act. It was inevitable that nonunion contractors would grow and obtain greater and greater portions of the business. Competition is the American way of life. When union construction workers lost jobs to nonunion workers their reaction was violence. That is not the American way, and it should be stopped.

Congressman ANDERSON of Illinois introduced a similar bill in the House last year and it is pending in the Judiciary Committee.

### EXHIBIT 1

[A special report that will shock the nation—Installment No. 1]

## THE TYRANNY OF TERRORISM IN THE BUILDING TRADES

(By Charles Stevenson)

At 6:40 p.m. last September 20, in suburban Miami, a fusillade of bullets splintered the doorway to the Upthegrove family's heavy-construction business. "Oh, God, don't move, anybody!" screamed office manager Yvonne Upthegrove. Under fire were her husband, Lingo, and his brother Howard.

The family had been victims of a campaign of terror for nearly a year, ever since setting up their operation independent of the union. On Thanksgiving Day, 1971, the brakes of a huge crane were mysteriously tampered with, and its 3000-pound boom dropped 30 feet, fracturing Lingo's skull. He was unconscious for a week. Next month the boom fell again, requiring costly repairs. Someone had poured acid on its brake bands. One incident followed another. Shortly after the family borrowed to buy a used $85,000 truck crane, a grinding compound was poured into one of its engines. Damage, nearly $6000. The same thing was done to the firm's floating pile driver. Another crane was firebombed and a security guard's car burned up. Threatening phone calls have come night after night.

After the office was shot up, local police called the FBI, but federal officials decided it was outside their jurisdiction. So life goes on, precariously. "We're not giving in," says Yvonne Upthegrove. "We work hard and pray we'll survive."

The chilling fact is that case histories of similar terrorism are being recorded in city after city across our land. Today, many building-trade unions are getting away with wholesale shakedowns of contractors, while stealing from and cheating their own members. And as these labor bosses carry out a cost-kiting methodology of featherbedding, slowdown, strike and more-pay-for-less-work, they are pricing their unions out of business. Yet companies who offer workers open-shop competition are subjected to strongarm treatment.

It is often difficult to know where the drive for closed-shop unionism ends and the shakedowns begin. In either case, hidden costs are added to the construction industry's already unconscionable cost inflation.

The violence has reached epidemic proportions because our laws—both unenforced and inadequate—allow terrorists and racketeers to hide out in unions, engaging in "legitimate" labor disputes.

Look what has transpired in this one state of Florida.

### GET THE WORD

Five years ago, Joseph Georgianni, a college student, died after a bomb exploded under a crane he was guarding at a Miami Beach building site where non-union men were working. But to date, the case remains an "open homicide" and no one has been charged with the crime. In fact, through all the years of intensifying violence, seldom has any culprit gone to jail.

Across Florida, at Marco Island on the west coast, 75 to 100 union hoodlums ganged up on seven non-union men digging trenches at a condominium construction site in May 1972. They grabbed a deputy sheriff's gun and struck him on the head with a foot-long pipe wrench. They also beat the workers, injuring one man severely. They broke three of his ribs, poured steel shavings into his eyes, and made threats to "cut off his hands and put them in his back pockets." His name was withheld from news accounts for fear of reprisal.

Twenty-six attackers were arrested, but none has been prosecuted, and only 12 will be brought to trial. According to one law-enforcement officer, it is just another incident in a continuous stream of violence at Marco Island. The union "claims" the island and, in the past two years, there have been 15 to 20 instances of non-union-construction equipment being damaged or destroyed.

Why such brutality? Simply "to give the man the world," say federal investigators. Some contractors "get the word" in a hurry.

In Miami, for example, builder Maurice G. Bellows basked in labor peace without employing a single union worker—after he agreed to contribute $150 a week to Joseph John Fischetti, who, with Teamster big shot Donald F. Gillette, arranged to obtain a $12,000 payoff from him.

It is quite another matter for those who fail "to get the word."

In 1969, R. Pete Mathews, president of Mathews Corporation, tried to have his own non-union crew erect a hangar at the Fort Lauderdale International Airport. A gang of 30 to 40 men pulled Mathews' crane operator from his machine, injuring him. When Mathews went to the operator's aid, he was himself beaten up. John W. Lloyd, a trade-association director who photographed the action, was also beaten and had to be hospitalized. Only by hiring his own guards and equipping them with dogs was Mathews able to complete the job.

"Despite witnesses, photographs of assailants and a list of their auto licenses," he says, "I could get no action out of local authorities. They shrugged it off as just another labor dispute in which they did not want to become involved."

All too often, officials throughout Florida are reluctant to tangle with powerful union bosses. And federal lawmen find it extremely difficult to halt violence, even when they are sure it is being used as a device to extort.

"Our problem is that violence alone, however heinous, is not now a federal offense," says Dougald D. McMillan, chief of the U.S. Department of Justice Strike Force against organized crime in Florida. "To make a federal case we must prove an actual payoff or payoff demand—and the labor racketeers are smart enough to seldom demand; they just lay on the pressure until the contractor comes across. Of course, some contractors are as willing to buy 'sweetheart deals' as union racketeers are to sell them."

Even when extortion and bribery are proved, penalties may be light. After convictions were brought in in the case of Bellows, the Miami apartment builder the federal court fined the men only $4,000, and sentenced them to six months. In another case the judge imposed a one-year sentence, then immediately suspended it. Many contractors thus find it more expedient to pay off than to fight. Those who resist do so at grave risk.

### TRAVELING STRONG-ARMS

In Broward County, Fla., Richard Nell, a twice-convicted felon, operates Local 675 of the International Union of Operating Engineers. Its 2000 members average $15,000 a year. Nell receives a salary and allowances of more than $50,000, a Cadillac, a European vacation for himself and his wife. In addition, for $2, he got union real estate currently valued at more than $20,000.

None of the union rank-and-filers can solicit his own work or even change jobs without Nell's permission, and those who fail to do Nell's bidding may find living hard. Sworn testimony attests to cruel beatings, threatening phone calls, shotgun blasts fired into one worker's home, physical attacks on employees of nonunion companies, and damage and destruction of expensive equipment. When the wife of one of Nell's thugs agreed to tell a grand jury what she knew about beatings and sabotage, a savage pummeling changed her mind.

At least five times in two years, judges across the state have ordered Local 675 to abstain from violence—ineffectually. On Lincoln's Birthday in 1970, several hundred of Nell's strong-arm men squared off against employes of L. E. Meyers & Co. at a construction site in Hallandale, just south of Fort Lauderdale. Nell insisted that *his* men—not Meyers' men, members of another local—should be digging the trenches for electrical conduits. A guard was holding the intruders at bay with a gun when four policemen arrived and ordered him to put his gun away. Whereupon the job superintendent was beaten, rocks were showered on workmen and police alike, equipment was set afire and autos were overturned. Before police reinforcements arrived, the crowd had dispersed but the contractor had suffered some $50,000 worth of damages.

Thirteen persons were injured, including four severely beaten policemen. Yet not one arrest was made by the local police despite the fact that injured officers were able to clearly describe some of their assailants. A state attorney's investigation resulted in indictments against five persons, but no convictions were obtained.

As the mob quit Hallandale, further instructions sent them racing that same day over to Fort Meyers. There at the site of a $1.4 million public-housing apartment project, they staged a repeat performance. They wrecked the construction office, firebombed a crane, and lashed the construction superintendent with a chain so that he ended up a hospital case. Amid threats of further violence, Nell brought in pickets. The purpose was to force the local open-shop prime contractor, Cassius Peacock, to fire his own steadily employed workers and hire union men instead.

The labor boss warned everyone away from the Peacock job so no one, union or non-union, dared touch it. But Paul Prendergast, a union-shop engineering contractor headquartered in Fort Lauderdale who had been driving the pilings for these apartments, was determined to complete his subcontract. So he asked his own field superintendent, 44-year-old Earl Lassitter, to operate the machinery and finish the work. Result: when Lassitter showed up at his next work site—on the Fort Lauderdale beach—one of Nell's goons gave him such a going-over with leather gloves that he suffered a permanent hearing loss, and since has had to wear a hearing aid. When Edward Deeson, a member of Nell's union for 19 years, was subpoenaed to give eyewitness testimony of the beating, he was fined $450 by the local (later rescinded by the International Union of Operating Engineers) for not "cooperating" in discussing his testimony beforehand with Nell and the union.

"What do I have to do for some labor peace?" Prendergast implored Nell. The answer: fire Lassitter and Deeson. When Prendergast refused to, he was so harassed and sabotaged that he had to close his main yard at Fort Lauderdale, hide his machinery, and stop contracting in any area where Nell's thugs are in control.

These facts are on record, from a civil suit brought last year against Nell's union by Lassitter. The jury awarded Lassitter $1.25 million damages, but none of this has fazed Nell. His local has appealed the decision.

### AX AND TORCH

One of the most flagrant cases of terrorism involves Richard Spreen. He wanted to construct a large new facility adjacent to his Volkswagen dealership in West Palm Beach, but when union bids far exceeded his budget, he went ahead with mostly non-union men. In retaliation, union bosses mobilized some 1500 men to march on his project. Although warned of a planned confrontation, the sheriff and his deputies were unprepared for a mob of that size.

As one wave of men flattened a high chain fence, another poured onto the metal room of the new structure and ripped it with axes seized from construction equipment. Other platoons used heavy girders as battering rams against concrete walls. Bands of men set fire to construction trailers and trucks. Then they swept into the enclosure, where Spreen had parked rows of brand-new VWs and Audis to protect them when he had learned of the demonstration. They used sledge hammers first, then gasoline, then the torch. An hour and a half later nothing was left but the smoking remains of 60 automobiles—12 of them destroyed completely.

When a grand jury began looking into the holocaust, intimidation and threats were so blatant that the National Guard was called up. The boss of a union involved, Joey Giardiello, was indicted for conspiracy to bring about the riot. As witnesses were subpoenaed for pre-trial examination, Giardiello and other union men sat outside the prosecutor's courthouse office and intercepted them. "Where the hell you think you're going?" he called. "Come over here and sit down a minute."

At his trial, Giardiello was acquitted by the jury. Of some 50 people arrested, many were freed because witnesses failed to make identification. Others pleaded guilty to lesser charges and were given fines or probation. Of the 12 convictions in the hard-core cases, all are free pending appeal.

There was an uproar in the press. Businessmen, contractors and non-union workers journeyed to the state capital to plead for laws to make such violence a criminal act, and to enforce the clause in the state constitution which guarantees the right of a man to work whether he belongs to a union or not. But the legislature, in the face of a powerful union lobby—in one instance 300 labor officials at a hearing—refused to act, as it has time and again.

This mockery of law and order is a death knell to the cause of free men—union members or not—who are trying to earn a living. "For three months after the riot, customers were afraid even to bring a car in for repairs," Spreen says. "My working capital was so reduced that I felt it best to sell the business and get out."

Florida is not the only state affected. How many businessmen and contractors will be forced to sell out in cities across the country? How much more property must be destroyed in Ohio and Michigan and Colorado? How many more people shot at, beaten or maimed, before public outrage demands that union terrorists be brought to justice?

Clearly, in the face of weak and ineffective state law and local enforcement, the federal government must be permitted to step in and protect contractors and their employes from the abuses of unbridled union power. Declares Florida Sen. Edward Gurney: "What has happened in my state and elsewhere indicates a need for protection from hoodlums, arsonists and killers. It is time for Congress to consider legislation which will stop such actions, so as to help responsible union leaders, and to preserve the rights of contractors and their employes, both union and non-union."

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[A special report that will shock the Nation—Installment No. 2]

## THE CONSTRUCTION UNIONS DECLARE WAR

(By Charles Stevenson)

Some 150 men sweep down on the $1-million Pointe North professional building, under construction in Lansing, Mich. They knock down walls and destroy machinery, leaving an estimated $50,000 damage in their wake. No arrests are made.

Three weeks later, about 400 more men, many of whom have been drinking heavily, block traffic at the main intersection of little Kallkaska, some 200 miles north of Detroit. The county prosecutor tries to persuade them to leave, and they do—after overturning his automobile. Unchecked, they move three miles down the road to the construction site of a $20-million Shell Oil processing project, where they set fires, wreck equipment, smash vehicles and demolish walls. Outnumbered, state troops seize two of the rioters, but when the mob moves in on them, injuring two officers, the two rioters are released.

The guerrillas depart, and about 150 of them drive 50 miles south to Roscommon, where a school is under construction. After fires are set and some $50,000 damage is done to machinery, tools and supplies, six arrests are made and state police are called in to assist the local sheriff and his deputies in controlling the mob of rampaging men.

Scenes from a grade-B bandit movies? No. These ugly incidents erupted for real last January and February. They opened the 1973 campaign of the AFL–CIO building-trades unions to retain their grip on the construction industry, the nation's biggest. Across the country, the word seems to have gone out: punish those who dare let anyone but union men construct buildings.

### MATTER OF MUSCLE

"Those who dare" are becoming numerous. Squeezed by skyrocketing construction costs, wage increases, work slowdowns, featherbedding, jurisdictional disputes and outright corruption, builders in search of a full day's work for a full day's pay are increasingly turning from closed union shops to open, independent shops. Some 5500 contractors, together with their 250,000 workers, have formed the Associated Builders and Contractors, Inc. (ABC), which currently gets at least 35 percent of the nation's construction work. Instead of bucking ABC by making their own services competitive, certain union chieftains are resorting to terrorism—in the belief that their political muscle will discourage any steps to halt the lawlessness. And why shouldn't they think this way?

*Item*: In two weeks last year, in Baltimore, Md., more than 200 members of building- and construction-trades unions stormed three separate projects, toppling office trailers, beating up the vice president of a contracting firm, setting fires. Twenty-one people were arrested—most of them for "disorderly conduct." A similar attack involved 250 pickets from Ironworkers Local 16 at another site. Union members formed a human wall to block firemen from a burning crane and trailer. One group of firefighters broke through, but found their hose had been axed. Only seven arrests were made. Fire department officials confirmed allegations of arson.

*Item*: For two weeks during May 1972, building and construction workers in Memphis, Tenn., went on strike and, at one point, virtually paralyzed all the city's construction work. Police reported 70 to 80 separate acts of vandalism, and made 59 arrests. Work was resumed only after a number of contractors submitted to union demands.

*Item*: During June 1972, union goons in Michigan dynamited shopping-center sites, storage areas and an asphalt plant in one eight-day rampage. More than $250,000 damage was done to a single W. T. Grant shopping plaza under construction in Lapeer. On October 25, 200 construction workers set fires, tipped over a mobile office trailer and tore down a 20-foot cement block wall at a second W. T. Grant site in Grand Blanc. Before enforcements arrived to aid badly outnumbered police, the vandals were speeding to Lapeer, where they attacked the now almost-completed Grant site for the second time. No arrests were made at Grand Blanc; one arrest was made at Lapeer, but the charge was later dropped.

*Item*: In Rochester, Mich., some 300 building-trades men stormed the construction site of the Walter P. Reuther Junior High School last December 18. They spent about two hours ripping out electric wiring and setting fires. Damage: some $30,000. Arrests: none.

### BATTING PRACTICE

Now consider this modern-day "Philadelphia story." Although unions in the City of Brotherly Love once received 100 percent of the work, non-union or open-shop contractors have been steadily winning large contracts in suburban Montgomery, Bucks, Delaware and Chester counties, where most craftsmen do not belong to unions. Displeased, union toughs have been attempting to scare them off by brute force.

At 10:30 a.m. on June 29, 1971, four cars screeched to a halt at a shopping center in Springfield, Delaware County. An estimated 16 men piled out, ran into a building under construction and began hitting the six non-union workers there with softball bats. Several minutes later, they roared off, leaving five men a mass of bloody flesh, broken arms and fractured skulls. One was nearly blinded. In their haste, the union goons left behind some of their bloody bats, several emblazoned with symbol, Local 30 (a Philadelphia roofers' union).

The victims managed to take down one license number, and made positive identification of three assailants. But, at the preliminary hearings, they would not identify the suspects, who were subsequently released. "I think the union got to them." Lt. T. W. Ward, of the Springfield police department, told newsmen. One assailant protested over drinks in a bar that he disapproved of the vicious attacks. Next morning, he was found dead in a ditch, shot through the head.

On February 11, 1972, employes of Kitson Brothers, an open-shop roofing contractor in Montgomery County voted to reject membership in Local 30 (the roofers' union). The following May 7, eight Kitson trucks were set afire. Ten days later, a construction site where Kitson had been hired to do a job was picketed by Local 30. Roofing material was burned, and non-union workers were beaten. The management of the company that had hired Kitson received threatening phone calls, found its own tires slashed and delivery of materials blocked. Finally, Kitson was asked to give up the job, which went to a union firm. Kitson Brothers has since lost several other jobs under similar circumstances.

### OPERATION ALTEMOSE

But these chapters in the Philadelphia story have been mere prelude. J. Leon Altemose, an aggressive young contractor engaged in big-time construction in the suburbs, farmed out the bulk of his work to subcontractors who came up with the best prices. But, beginning in 1971, the Building and Construction Trades Council demanded that he sign a contract turning over every job to union-dominated subcontractors—no matter how high their charges.

To soften him up, goons set fires at a school he was constructing, burned five of his trucks and began a campaign of repeated phone threats on his life. Although Altemose offered to assign 70 percent of his work to union contractors, this did not satisfy the Council. Forewarned that big trouble was on the way, he strung nearly a mile of chain-link fence, topped with barb wire, around a $15-million Sheraton Hotel and office complex he was building adjacent to Valley Forge Park, about 20 miles west of Philadelphia. When a demonstration was scheduled against him on June 5, 1972, he told all employes and subcontractors to stay away and requested protection from Upper Merion Township police chief Donald Beacraft. The chief said a show of force would only be provocative.

At 7:30 a.m. on June 5, some 1000 men in automobiles and chartered buses arrived at the Valley Forge site carrying wrecking bars. Molotov cocktails and hand grenades. As 18 local police and state troopers looked on the "demonstrators" rushed screaming at the fence and tore it down. Directed by colored smoke bombs to designated targets they laid waste everything in sight.

"I felt like a war correspondent," reported Al Haas, a Philadelphia *Inquirer* writer. "The scene was right out of Vietnam." More than $300,000 damage was done in 45 minutes. Unable to restrain the rioters, police turned fire trucks away in fear for the firemen's safety.

Suddenly, at a signal from a command group of men in business suits, it was over. Sandwiches and soft drinks appeared, and the rioters wandered around quietly. Although state troopers finally arrived in force, not one arrest was made.

Fearing worse to come, Altemose and his attorneys prevailed upon Common Pleas Judge Vincent A. Cirillo to enjoin the Philadelphia Building Trades Council from picketing or congregating within a mile of any Altemose building site or his general headquarters at Center Square. Nevertheless, the next morning 200 marched upon his office, shouting that they would burn the building. This time large police forces were on hand. When 129 persons refused to disperse, they were arrested; most were fined $100 each for contempt of court. One of those arrested vowed that he would "get" Altemose and that the contractor should watch out for his wife. (Five months later, the Pennsylvania Supreme Court ruled that the pickets could be enjoined, but changed the one-mile limitation to "200 yards." Declaring that the arrested pickets had not been given their full constitutional rights, the court required all fines to be returned.)

### FIRE NEXT TIME

On June 13, local members of the Associated Builders and Contractors, Inc., met at the downtown Philadelphia Sheraton Hotel. That same day, a group of men checked into the hotel under aliases and, once inside, smashed the furniture of eight rooms to kindling, ripped mattresses and pillows, clogged toilets with cement, then fled after inscribing the walls with this message in red: "This is for Altemose. This time water, next time fire."

Two months later, Altemose and his wife emerged from a bank in the heart of Philadelphia's business district to be confronted by a throng of pickets. "Scab!" they screamed. "We'll teach you to show your face in Philadelphia." Fists flew, and Altemose slumped to the ground. "They kicked him in the face viciously," said one eyewitness. Three union hoodlums, identified both by Altemose and by police at the scene, were arrested and charged with assault. Yet a local judge dismissed the three for lack of evidence.

Although Altemose remains determined to complete his project, it is a desperate struggle. The only three ready-mix concrete firms logically situated to serve the Sheraton project have refused to do so; phone calls threatened the lives of their executives if they dared do business with Altemose. When a distant firm did begin to help him, 58 of its trucks' tires were slashed or punctured in the company's own parking lot. "Three informers have told me I am supposed to be dead," says Altemose. "But I can't change the way I live. I'm not giving in." (His company has since joined in filing an anti-trust suit against over 50 Philadelphia building-trades unions.)

### ACQUIESCENCE?

In his determination to remain free of union dictatorship, Altemose reflects the feelings of thousands of other open-shop contractors and workers. But the price of their independence is unrelenting, unchecked terror and sabotage. Labor bosses piously disclaim responsibility, explaining that they cannot control those who become unruly when their "rights" are challenged. Yet word has been spread among the unionists that this year, 1973, will bring extermination of the enemy.

The question is: Why does a free society permit such storm-trooper tactics? Obviously, there is an urgent need for new federal legislation. Yet most of our politicians in Washington dare not move against the enormous power of the labor lobby and its millions of dollars in potential campaign contributions. The story of this shameful acquiescence in the face of union terror should arouse every law-abiding American.

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[A special report that will shock the Nation—Installment No. 3]

## LABOR VIOLENCE—A NATIONAL SCANDAL

(By Charles Stevenson)

In their third show of force there within six weeks, hundreds of AFL–CIO construction men went on an organized rampage of wrack and ruin in Columbus, Ohio, last October 24. Using walkie-talkies, they tied up millions of dollars' worth of building jobs, laying waste four big projects scattered over the city. They battered in walls, cut electric wiring, smashed windows, yanked out plumbing fixtures, set fires.

The excuse? One victim, the developer of a $50-million complex of office buildings, apartments, shopping mall, theaters and restaurants, had refused to shut out nonunion contractors. He offered his jobs in open, competitive bidding. Though half his work went to union people, they demanded all of it. When he refused, union spoilers inflicted $500,000 in damage. Nevertheless, city officials declined to condemn the union havoc. Days afterward, the *Citizen-Journal* noted that the public-safety director was still at a loss to explain why police allowed crowds to damage the property. There were only six arrests.

In Pittsburgh, it is worse. George Tomasky's construction firm has gone out of business, unable to complete $30,000 to $40,000 contracts. Last October 23, two gangs of 30 or so plug-uglies closed in on Tomasky and four of his workmen while they were erecting steel in a Pittsburgh suburb. The thugs beat them viciously with steel bars. "There have been no arrests," says an embittered Tomasky, who is still nursing serious injuries. "My pleas for state police to come in have been turned down on the ground that local police have jurisdiction. As if the two patrolmen in that township could cope with those gangs!"

Examples such as these have been piling up in city after city. Many labor bosses, having priced their unions out of the economy by their practices of featherbedding, slowdowns, loafing and jurisdictional hang-ups, are responding to the resultant open-shop competition with the terror tactics of the racketeer. Rank-and-file members often must go along or find themselves out of jobs.

Here is a national scandal that begs for federal action. Yet Washington looks the other way and next to nothing has been done about it. Why?

### COWARDLY CONGRESS

I put the question to many government officials. I asked it in behalf of the Columbus builders and their workers, and of the badly beaten contractor of Pittsburgh. I asked in behalf of Leon Altemose, a Philadelphian whose $15-million hotel project was wrecked and who was himself beaten by union goons. I asked in behalf of Florida's rank-and-file members who have been slugged or barred from work because they displeased a so-called union leader. I asked in behalf of Richard Spreen, a West Palm Beach Volkswagen dealer whose new showroom was wrecked because he dared hire non-union workers after he found union prices beyond his reach.

I got many different answers to my question, but behind all of them was a stark recognition: that labor now wields such power in Congress as to prevent any stern action against union violence.

The last federal law aimed at union violence, the Hobbs Act, passed in 1946, made it a felony for anyone, including a labor union, to obstruct, delay or block the movement of goods in interstate commerce by means of robbery and extortion, and also made threats of violence as well as actual robbery and extortion illegal. Last February, however, the Supreme Court ruled that Congress had intended that this particular statute should *not* punish violence if its purpose is to gain higher pay or a union contract from a company or to achieve other "legitimate union ends." Hard to believe—but true.

Justice Harry A. Blackmun did declare that such acts of violence "deserved to be dignified as federal crimes" and pointed out that Congress has the constitutional power to effect that result. Charles F. Ruff, formerly top attorney for the Justice Department's labor-racket prosecutions, puts it more bluntly: "There is an urgent need to put teeth in our labor laws. Outrages against both builders and workers, union or not, will continue until Congress finds the courage to make labor violence a crime no matter the motive."

But nothing happens.

### MONEY VOTES

"The fact is," explains Sen. Peter Dominick (R., Colo.) of the Senate's Labor and Public Welfare Committee, "it will be a rugged, uphill fight to enact any labor-reform legislation so long as union chiefs are permitted to use their members' money for so-called 'campaign contributions' to buy up Congressmen and thus dictate what bills shall be passed or killed."

This is no exaggeration. The labor lobby does influence enough of our legislators to get what they want.

The servility of these beneficiaries of union handouts is underscored by a Washington *Post* description of a hotel meeting at which Big Labor's political-fund dispensers handed Sen. Lee Metcalf (D., Mont.) $10,000 prior to pouring $38,999 into his successful re-election drive last November. "I'm grateful to you fellows," Metcalf was quoted. ". . . they can say Metcalf's campaigns are financed by organized labor, that I'm too close to organized labor. Well, I'm as close to organized labor as I can get, and if I can get any closer or if I start straying away, you guys had better come around and tell me." This, the *Post* states, was not an unusual incident but only "one of countless examples." Indeed, total reported union spending for political purposes amounted to $6 million in 1972, all of it taken one way or another from the pockets of the members.

Most labor legislation ordinarily must clear through the Senate Labor and Public Welfare Committee before the Senate considers it. However, as Sen. Russell B. Long (D., La.) explains, the committee "is oriented toward organized labor." It is not hard to understand why few bills come out of committee which labor doesn't want, even if they would improve the lot of the worker.

For example, Senator Dominick co-sponsored a bill seeking to bar certain criminals convicted of crimes against their membership from returning to union offices. His bill went into the committee's "file-and-forget" basket. He also sought legislation to make it an unfair labor practice for a union to discriminate against its own or potential membership on account of race, religion or national origin. He introduced a bill to prevent sanctions from being imposed on union workers for exceeding production quotas. *These and other kindred measures, 15 in all, were pigeonholed during the last two Congresses without even a hearing.*

Any wonder? It is a matter of public record that the dispensers of union handouts presented the committee chairman, Sen. Harrison A. Williams (D., N.J.), with $150,966 for his 1970 campaign.

The unions have also contributed heavily to the recent fund drives of Senators: Birch Bayh (D., Ind.)—$79,645; John V. Tunney (R., Calif.)—$104,150; Stuart Symington

(D., Mo.)—$103,060; Philip A. Hart (D., Mich.)—$81,521; Adlai E. Stevenson III (D., Ill.)—$70,844.* And these are just samples. In 1971 the Senate defeated, 61–31, a plan to deny tax-exempt status to organizations making political use of mandatory dues or assessments. Why such a vote against the interests of the rank-and-file? It turned out that only nine of the 61 Senators who voted against the plan had failed to receive labor largess in their last campaigns. The rest—more than half of the U.S. Senate—had been labor-financed to the tune of $2,009,686. In some cases the gifts dwarfed what these men received from their own party!

### TIME TO INVESTIGATE

Such is the bought-and-paid-for control which union masters exert over Congress. However, there are persons who are challenging this to-hell-with-the-public authority. The Associated Builders and Contractors, Inc. (ABC), consisting of some 5,500 contractors who employ 250,000 workers, union and non-union, joined Altemose Construction Co. and the U.S. Chamber of Commerce in a federal anti-trust suit filed in April against the Philadelphia Building and Construction Trades Council and more than 50 of its affiliated local unions. The suit lists more than 17 instances of violence.

In addition, on May 16, the ABC filed one of the largest suits in recent times with the National Labor Relations Board, accusing 17 building-trades unions and their local affiliates of waging a campaign of violence in an attempt to force them out of business. And since January, ABC members have been making pilgrimages to Washington to buttonhole legislators in behalf of an act specifically making serious willful damage to property during a labor dispute a federal felony. Introduced in June by Rep. John B. Anderson (R., Ill.), this legislation would plug the loophole the Supreme Court found in the Hobbs Act (see page 154). During the last year the White House has been actively courting the political support of organized labor, but that should not now stand in the way of strong executive-branch support of legislation to reform union abuses.

"With 172 separate instances of violence, vandalism and similar harassment reported in 26 states during last year alone, and with nothing much done by local and state authorities, it is inconceivable that Congress has not taken action," complains ABC's executive vice president John P. Trimmer. "We need to make this kind of violence a federal crime so that the FBI can come in with its full resources. Such a law would in no way interfere with legitimate union activities."

Adds Senator Dominick: "Our struggle to bring about any legislation can succeed, but only if all Americans who rebel at tyranny will join in a campaign to bring the full weight of public opinion to bear on Congress. This means not just every contractor. It means every open-shop worker, union or non-union, who lives in fear of being mauled for trying to work as his own man. It means every honest labor leader whose effort to have the unions serve their members and the public is being besmirched by the plunderers. If everyone will bring local abuses to the attention of the press and make plain to our legislators that they'd better get with it or lose their jobs come next election, their loyalty to union subsidizers will evaporate; we'll be able to work for a public investigation and a resulting legislative package that will at last give every American, union and non-union, an opportunity to rejoice."

[A further report, based on reader response to a recent, controversial series of articles]

## YES, CONSTRUCTION-UNION TERRORISM IS REAL

(By Charles Stevenson)

After three articles on the current wave of labor-union violence appeared in the June, July and August issues of The Reader's Digest, readers by the hundreds wrote in. A few were critical. The violence and terrorism, they said, have been committed by only a minority among generally law-abiding workmen, and are therefore not significant. But the overwhelming majority confirmed the facts as reported, or called attention to similar cases.

Delivered by mail, telephone or in person, these accounts come from contractors forced out of business, from rank-and-file union members victimized themselves by strong-arm dictatorship. In broad outline and in detail, they corroborate the story of union bosses who, having priced construction labor out of the market, now find themselves facing open-shop competition—and seek to crush it by guerrilla warfare.

The result is human misery. Imagine how a Southern contractor felt when recently told over the phone: "I am in the union but I want to tip you off as a friend. There's a contract out to kill you." Or an Evansville, Ind., electrical contractor and the manager of his trade association's local chapter—and their families—when shotgun blasts riddled their homes in the middle of the night. Or Houston carpenters, threatened and kept from jobs because they want to know what became of $137,000 missing from their union treasury. Or a member of the International Brotherhood of Electrical Workers who was savagely beaten after he accused union officials of wrongdoing. He sends along photos of himself in the hospital: eyes swollen shut, mouth puffed grotesquely, his jaw and skull torn.

A California businessman writes about the death of Joe Koboski. Koboski and his two sons were working as cleanup men on a residential tract in Anaheim, Calif., when a union representative showed up, demanding that they join the union or get off the tract. Koboski refused and there was a fight. Badly beaten, he was taken to the hospital in a coma, and died the following morning after a four-hour brain operation. The coroner's report, however, listed it as a death from natural causes—"a non-traumatic brain hemorrhage [stroke]"—and police investigation was dropped. (The union man had filed charges against Koboski.)

A New York State builders-supply man who has done business with open-shop contractors reports: "I have received threats on my children's lives, and one son had a near-miss by a hit-and-run driver. Luckily, he got only bruises. They told me next time they wouldn't miss."

Today, when labor thugs are involved, judges and politicians scarcely go through the motions of enforcing the law. Legislators, too, are fearful of offending the unions. Rep. John B. Anderson (R., Ill.) has proposed a bill to set up long-overdue federal penalties against labor violence, and 40 out of 435 members of the U.S. House of Representatives have co-sponsored it. Still, so pervasive is union influence that the measure is far from becoming law. Meanwhile, the crimes of terrorism and intimidation increase.

As detailed in the July Digest article, a thousand hard hats went on a rampage in Philadelphia in June 1972, causing $300,000 damage at the site of a hotel being built by open-shop contractor J. Leon Altemose. Incidents of union violence have continued in the area. There was an injunction forbidding additional picketing at the Altemose jobs. Recently the unions went into court in an effort to lift the injunction—but rather than answer questions about their roles in the more recent terrorism, six of the local bosses took the Fifth Amendment a total of more than 200 times.

On July 27, Altemose, a cousin and two attorneys approached the Federal Building in Philadelphia for a hearing. They had asked that police security be provided but, on approaching, they saw a gang (not pickets, but thugs) screaming obscenities. When a mob of 40 rushed them, they ran in front of a passing police car to stop it, then jumped inside, as a couple of the goons reached the car and pounded the side of it. Thereafter, to attend the hearing, they had to enter the building through an underground area, escorted by federal officers.

Last spring the goon squad from Roofers Local 30 of Philadelphia even invaded an industrial-park construction site in Mt. Laurel Township, N.J., and stopped the work of non-union subcontractor William Hargrove. Windows were smashed, truck tires punctured. Four days later, bricks were thrown through the windows of Hargrove's garage-office in Camden. Two tear-gas canisters were hurled in, then lighted cigarettes, which started a blaze that drove Hargrove and four employes out of the building. Firemen had to wear masks and airpacks to enter the building and extinguish the fire.

In July, other terrorists zeroed in on a Lancaster, Pa., open-shop steel-structures firm. At one of its job sites (in Delaware) they used sledgehammer and gasoline to destroy heavy crane equipment. At another site (in Maryland) they attacked workers with iron bars and heavy copper wires as the crew left a restaurant. Prosecution? Forget it. Witnesses in the Maryland incident, expected to testify, failed to appear.

### "CYCLE OF FEAR"

In Kalkaska, Mich. (population 1500), Delta Engineering Co. has been constructing a $20-million Shell Oil natural-gas processing plant. From January to mid-July, men trying to work for Delta were terrorized by mobs of hard hats, brought in—on at least one occasion from 200 miles away—by the Michigan State Building and Construction Trades Council. Last June, 400 state police were dispatched to the area. (This cost Michigan taxpayers well over $300,000.) But despite two court orders to stop mass picketing by the invaders, it was permitted to continue, and virtually all work halted. Union thugs slashed car tires of local people not even employed at the project. Windshields were smashed, businesses vandalized.

Ronald D. Maloney, who said the Shell project gave him the best job he'd had since moving to the area three years ago, writes that union men doctored his auto so it stalled on a country road. Then two carloads of them swarmed around, slashed his tires and warned that if he went back to work, "it would be him the next time." And, he was asked, "Who will take care of your family after you are gone?"

Another Kalkaska resident, when all else failed, wrote President Nixon begging for protection. "Delta got me off welfare," he said. "Now my job, the thing I wanted most for me and my family, is being taken away. Our lives are becoming a cycle of fear. They damaged my car, they told me they would kill me, they threaten my wife on the phone and threaten to burn my house down."

What did the courts do about all this? Incredibly, federal district judge Noel P. Fox ordered the contractor and Shell to appear in his court to "negotiate" with the union—even though neither company was a party to the particular suit pending. The result: a

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*Republican Senators, too, have benefited from labor contributions but in far lesser amounts. Top recipient in 1970, for example, was Hugh Scott of Pennsylvania—$21,150.

"vountary settlement." The Building Trades Council called off the picketing and violence but only when the two companies agreed to put up $250,000 pay for the marauders' damage and disruption in the community.

But that was not the end of the destructiveness. In late July, swarms of union goons armed with axes, clubs and knives—some of them the same men who had been at Kalkaska—caused $75,000 damage to a $1-million ice arena under construction in Lansing, Mich.

### DYNAMITERS

Following strikes and massive vandalism in Memphis last year (see the July article), a sabotage campaign seems to have been mounted against some Tennessee contractors. Among other things, on a Memphis job site which had been picketed by a union for some time,, unknown persons blew apart a $1.6-million Ramada Inn, then nearing completion, with damages of almost $500,000. The most recent "coincidence," Memphis newspapers report, was the discovery, in Mississippi, of the mud-caked, drowned body of the only person suspected to have known the identity of the parties who dynamited the inn.

Last January, Sen. William Brock (R., Tenn.) asked the Justice Department to take action against the Memphis union terrorists who had also dynamited a contractor's home, burned down an elementary school and committed other acts of violence. He further requested the Department "to investigate information that out-of-state professional bombers are being hired to conduct a campaign of terror in the Memphis district. If this is not done, I feel we will see a spread of violence and organized crime into other areas."

But nothing was done. Official response to union violence is lackadaisical.

"It is a standing phrase in construction work that the Mafia has taken over, thus the violence—and the kickback and bullying systems so obvious to the workers," volunteers an Eastern union worker.

As Senator Brock predicted, the destructive crimes are spreading. In recent months, steel cables, bulldozers and wrecking tools have reduced building structures to rubble in Bellingham, Wash., and West Warwick, R.I. Union shortage in Maryland amounts to $500,000 in 1973 alone, the Baltimore *Sun* reports. Yet, when two Maryland saboteurs were convicted of trying to destroy two cranes, Judge John E. Raine of the Baltimore County circuit court fined them just the $3200 actual cost of their damage, and suspended jail sentences.

What is the reaction of the AFL–CIO leadership to all this? In a Labor Day message, president Frank Bonadio of the AFL–CIO Building and Construction Trades Department labels the Digest's documented facts of terrorism "baseless," "absurd," and a "huge distortion of fact." Still, in the same message he finds it necessary to warn members about "the problem of growth of the non-union contractor," to which, he says, "organization" is the best answer. For six years, violence has accompanied the Building Trades Unions' official campaign to stop open-shop contractors. Yet rarely have the leaders of organized labor condemned the violence—or even acknowledged it.

### MILK THE MEMBERS

What is needed are union leaders willing to compete for business, to modernize operations and so attract jobs, to open up their unions, and to work *for the benefit of the membership*. Too many today seem to be run for the benefit of the bosses.

*The Wall Street Journal* details a nationwide "multiple-pay trend" among union bosses. A number are "quietly getting rich" by juggling many jobs. The newspaper reports that Bernard G. Rubin of the Laborers Union, for instance, pulls in $22,000 a year as business manager of the Miami, Fla., Local 478, $51,167 as president of the neighboring Miami Beach Local 666, another $51,167 as president of their southeast Florida Laborers District Council, and an additional $5000 as special representative of the international union—plus a free automobile and $50,000 for expenses.

In addition to their compulsory, but legitimate, dues, readers write of being forced to pay, in cash, for "work permits," "working assessments," "special assessments" and "voluntary contributions" in order to get a job. In Rhode Island, five union officials are indicted for loading contractors' payrolls with nonexistent and no-show workers, then pocketing the resulting $164,570. Who suffers? The rank-and-file union member, because this cost inflation sends more builders to the open shop, and makes union jobs scarcer.

Pension gypping is another major complaint. "Legal larcency," a Columbus, Ohio, brick mason calls it. "You have to pay in so much. Yet, when a 72-year-old member asked for his pension, they turned down his request because at one time he had transferred his card to work in California for three months. I'd like to see employers prohibited from deducting anything out of an employee's paycheck concerning health and welfare or pension funds, unless the employe specifically authorizes it by his signature."

One of the agencies investigating criminal violations of labor-related laws, the U.S. Department of Labor—in spite of inadequate investigating forces—reported 73 convictions for such crimes as embezzlement from union treasuries, welfare and pension funds in fiscal 1972. However, federal judges promptly let 61 of the 73 go free with fines, probation or suspended sentences.

A Michigan policeman says he has locked up his share of union terrorists but is "discouraged because the judges turn loose good arrests without fines or sentences." He sums up with an indictment that recurs in letter after letter: "The unions and their vicious tactics are tolerated by judges, politicians and high government officials because of (1) money in the form of kickbacks, and (2) ultra-legalism, finding loopholes for dismissal of court cases."

### HEAD HIGH

Last May, the 5500-member Associated Builders and Contractors (ABC)—who employ a quarter of a million workers, union and non-union alike, on an open-shop basis—filed suit with the National Labor Relations Board. Their charge: that the building-trades unions have conspired to force them out of business and intimidate their employes. If the NLRB finds the charges justified, then the nation's major craft unions could be held liable for acts of violence by their locals. This might be the element needed to bring the terrorism under control.

As the Detroit *Free Press* said, commenting on Kalkaska, "Whatever the merits of arguments against non-union construction work, the unionists' violence is inexcusable. The unions are not only losing public support, but the support of the workers themselves. Getting their public image back up to zero is going to be a difficult task, and must begin now."

Meanwhile, the courage of those who have defied the labor bosses—employer and employe alike—is proof that the battle is not lost. The first article in this series told of Edward Deeson, a member of the Fort Lauderdale, Fla., operating engineers, who shrugged off the threats of his local's boss and told a jury how a union goon had beaten a fellow worker. Since the trial, Deeson has been badgered out of work.

"But I'm holding my head very high." writes Deeson's wife, "to be married to a man that feels 'right is right.' If more people stood up and said, 'Don't let our union leaders get this much of a stranglehold on us,' more justice would be done. Men have got to learn not to be sheep. Let us act like humans."

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By Mr. MONTOYA:

S. 2882. A bill to designate May 30 of each year as Memorial Day and to designate November 11 of each year as Veterans Day and to make such days legal public holidays. Referred to the Committee on the Judiciary.

Mr. MONTOYA. Mr. President, during the recent recess, several veterans' groups in New Mexico requested that I submit legislation to designate May 30 as Memorial Day and November 11 as Veterans Day.

The State Legislature in New Mexico passed a bill during the 1973 session designating May 30 as Memorial Day and November 11 as Veterans Day effective upon the passage of similar legislation by the Congress of the United States.

As you know, November 11 was originally selected as Veterans Day, to commemorate the day in 1918 when the Armistice was signed which ended World War I. Memorial Day has been celebrated on May 30 since 1868, when Gen. John A. Logan, first Commander in Chief of the Grand Army of the Republic issued the general order providing for a nationwide observance.

It is my pleasure to introduce this legislation in behalf of veterans in New Mexico and I am hopeful that Congress will act quickly to restore the meaning to these days of tribute to men and women who have served this Nation as members of our Armed Forces in the past.

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By Mr. BIDEN:

S. 2883. A bill to amend the Fair Credit Reporting Act. Referred to the Committee on Banking, Housing and Urban Affairs.

### FAIR CREDIT REPORTING ACT AMENDMENTS OF 1974

Mr. BIDEN. Mr. President, on November 26, 1973, I introduced an amendment to S. 2360, Fair Credit Reporting Act amendments. The bill I am introducing today is substantially similar to that amendment, No. 703, but it contains a technical change to conform to a revision of the definition of "medical information" made by the Subcommittee on Consumer Credit.

The purpose of this bill is to require, in clearly defined circumstances, automatic disclosure of investigative consumer reports to the individuals on whom they were prepared. This bill is intended to extend the explicit protections of the Fair Credit Reporting Act which I think are necessary both to insure the correction of inaccurate or misleading information in investigative reports and to guarantee the fundamental right of privacy of the individual.

The bill would apply only to "investigative consumer reports," which are written by consumer reporting agencies on the basis of personal interviews with the subject's neighbors, or acquaintances or anyone "who may have knowledge" of the consumer's "character, general reputation, personal characteristics, or mode of living." These reports are prepared unsystematically, and may contain allegations about the most personal aspects of an individual's life. The veracity of the person interviewed or the accuracy of the information supplied may never be doublechecked.

I have copies of actual reports that were randomly selected from the files of the Federal Trade Commission and forwarded to me with the names of the reporting agency and all individuals deleted. While I do not know the purpose for which any of these reports was prepared, knowledge of that purpose is not necessary. Once a report is drafted, it can be, and is, used for any of the purposes for which information may be requested. I expect that you will find these documents as startling and revealing as I did. Indeed, I believe that the structure of the reports, the questions they ask, and the responses they permit, vividly illustrate the need for my amendment.

Unfortunately, because such unverified and unverifiable reports may contain false allegations, they may cause a specific individual substantial harm. More generally, events of recent years have convinced me that our fundamental freedoms are ever more seriously jeopardized by secret invasions of personal privacy, however accomplished. I profoundly believe that individuals have the right to control their own destinies. That right is meaningless, however, if a person can lose a job because of false information that he had no chance to correct. As a nation we value the integrity of the individual; our laws must safeguard that integrity.

The best way to correct the injustice that may result from the investigative procedures I have described is to provide citizens with a practical means to protect themselves. To do this, I propose to give everyone the opportunity to correct any misinformation in his consumer report before it is sent to a third party, before the damage is done. Requiring the investigative agency to make prior disclosure to the consumer is the ounce of prevention that will be worth infinitely more than a cure that will frequently, if not always, come too late.

Although no hard data is available to chart the use of these reports, I understand substantial numbers of them are prepared each year. I have taken into account the burden that providing this protection will impose, and have, therefore, called for disclosure only in those cases where misinformation is most likely to cause irreparable harm. The most acute problems arise in employment situations, which represent a small minority of the cases for which these reports are prepared. According to the testimony on S. 2360 given by the Nation's largest investigative reporting company, which furnishes approximately 20 million investigative consumer reports annually, only 9 percent, or 1.8 million, are furnished for employment purposes.

While investigative reports are most commonly used for credit and insurance purposes, in those cases the consumer is given an adequate chance to correct misinformation in the present legislation and in the additional procedures in S. 2360. Although credit and insurance may be subsequently reinstated when the misinformation is corrected, once a job is lost because an employer relied on false statements, it is almost certainly gone forever. Another job might be secured at a later date, but each position is unique and no one should be denied a unique opportunity because of false reports. Because few things are more important than a person's job, I believe that consumers are entitled to the additional protection that my bill would provide.

However, to further focus the bill, I have limited the applicability of its disclosure procedure to cases of "adverse" information. This term is presently incorporated in the Fair Credit Reporting Act and I intend that it be broadly construed in the context of this bill in order to give individuals the maximum possible protection. The procedural requirements of the bill might be superfluous if a report reflected favorably on a person's character, but I strongly believe that when the information is potentially damaging to an individual's chances for employment, the harm that may result from misinformation is so great that the need for added protection clearly outweighs any burden that might result from disclosure.

I believe that the Subcommittee on Consumer Credit is going to hold further hearings on amending the Fair Credit Reporting Act this session. I hope this bill can be taken up and examined at that time.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### S. 2883

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SHORT TITLE

SECTION 1. This Act may be cited as the "Fair Credit Reporting Act Amendments of 1974."

#### DISCLOSURE OF INVESTIGATIVE CONSUMER REPORTS

SEC. 2. Section 606 of the Fair Credit Reporting Act is amended—

(1) By adding a new subsection (c) to read as follows:

"(c) If an investigative consumer report contains information which may be adverse to the consumer to whom it relates, a consumer reporting agency may not furnish that investigative consumer report to any third party for employment purposes unless, at least five business days prior thereto, such agency mails or otherwise delivers without charge a copy of such report to the consumer to whom it relates, except that any third-party medical information contained in the report shall be deleted and the consumer shall be advised of the existence of such information and of his right to have such information furnished to a licensed physician of his choice.".

(2) By changing the present subsection (c) to subsection (d).

## ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

### S. 1218

At the request of Mr. GRAVEL, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 1218, a bill to amend title II of the Communications Act of 1934 to authorize common carriers subject to such title to provide certain free or reduced rate service for individuals who are deaf or hard of hearing.

### S. 2121

At the request of Mr. MONTOYA, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2121, a bill to authorize the Secretary of the Interior to carry out a program to provide road systems within Indian reservations or provide access to an Indian reservation or Indian trust lands or restricted trust land, for health, education, and the development of industry.

### S. 2347

At the request of Mr. BEALL, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 2347, the Historical Structure Tax Act.

### S. 2506

At the request of Mr. MAGNUSON, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2506, a bill to amend the Natural Gas Act, to secure adequate and reliable natural gas and oil at the lowest reasonable cost to the consumer, and for other purposes.

### S. 2678

At the request of Mr. HATHAWAY, the Senator from Iowa (Mr. HUGHES) and the Senator from South Dakota (Mr. ABOUREZK) were added as cosponsors of S. 2678, a bill to provide for a special election for the Offices of President and Vice President when the Offices of President and Vice President are both vacant.

### S. 2861

At the request of Mr. BEALL, the Senator from Rhode Island (Mr. PASTORE) was added as a cosponsor of S. 2861, to authorize the Administrator of the Federal Energy Office to obtain certain information with respect to current supplies of crude oil and petroleum products.

### SENATE JOINT RESOLUTION 84

At the request of Mr. SCHWEIKER, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of Senate Joint Resolution 84, the school prayer amendment.

## SENATE RESOLUTION 236—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON AGRICULTURE AND FORESTRY

(Referred to the Committee on Rules and Administration.)

Mr. TALMADGE (from the Committee on Agriculture and Forestry) reported the following resolution:

### S. RES. 236

*Resolved*, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Agriculture and Forestry, or any subcommittee, thereof, is authorized from March 1, 1974, through February 28, 1975, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $220,000, of which amount (1) not to exceed $16,900 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1975.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the Committee.

## SENATE RESOLUTION 237—ORIGINAL RESOLUTION REPORTED AUTHORIZING CERTAIN EXPENDITURES FOR THE COMMITTEE ON FINANCE FOR MATTERS AFFECTING FOREIGN COUNTRIES

(Referred to the Committee on Rules and Administration.)

Mr. LONG (from the Committee on Finance) reported the following resolution:

S. RES. 237

*Resolved*, That effective February 1, 1974, and until otherwise provided by law, the Committee on Finance is authorized to expend not to exceed $3,000 each fiscal year for purposes which assist the committee properly to discharge its legislative activities and oversight responsibilities in matters affecting foreign countries and which facilitate the interchange of views with and reception of members of foreign legislative bodies and prominent officials of foreign governments and international and regional organizations. Expenditures under this resolution shall be approved in advance by the chairman of the Committee on Finance and shall be paid from the contingent fund of the Senate upon vouchers certified by the member of the committee incurring such expenses and approved by the chairman of the committee.

## SENATE RESOLUTION 238—ORIGINAL RESOLUTION REPORTED CONTINUING THE AUTHORIZATION FOR CERTAIN ADDITIONAL PERSONNEL

(Referred to the Committee on Rules and Administration.)

Mr. LONG (from the Committee on Finance) reported the following resolution:

S. RES. 238

*Resolved*, That the Committee on Finance is authorized, from March 1, 1974, through February 28, 1975, to employ two additional professional staff members and two additional clerical assistants, to be paid from the contingent fund of the Senate at rates of compensation to be fixed by the chairman in accordance with the provisions of section 105(e) of the Legislative Branch Appropriation Act, 1958, as amended.

## SENATE RESOLUTION 239—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON FINANCE FOR ROUTINE PURPOSES

(Referred to the Committee on Rules and Administration.)

Mr. LONG (from the Committee on Finance) reported the following resolution:

S. RES. 239

*Resolved*, That the Committee on Finance is authorized to expend from the contingent fund of the Senate, during the Ninety-third Congress, $20,000 in addition to the amounts, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946, and in Senate Resolution 148, Ninety-third Congress, agreed to August 2, 1973.

## SENATE RESOLUTION 240—SUBMISSION OF A RESOLUTION AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

(Referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. TOWER (for himself and Mr. SPARKMAN) submitted the following resolution:

S. RES. 240

*Resolved*, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Banking, Housing and Urban Affairs, or any subcommittee thereof, is authorized from March 1, 1974, through February 28, 1975, for the purposes stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The Committee on Banking, Housing and Urban Affairs, or any subcommittee thereof, is authorized from March 1, 1974, through February 28, 1975, to expend not to exceed $700,000 to examine, investigate, and make a complete study of any and all matters pertaining to each of the subjects set forth below in succeeding sections of this resolution, said funds to be allocated to the respective specific inquiries in accordance with such succeeding sections of this resolution.

SEC. 3. Not to exceed $340,000 shall be available for a study or investigation of—

(1) banking and currency generally;

(2) financial aid to commerce and industry;

(3) deposit insurance;

(4) the Federal Reserve System, including monetary and credit policies;

(5) economic stabilization, production, and mobilization;

(6) valuation and revaluation of the dollar;

(7) prices of commodities, rents, and services;

(8) securities and exchange regulations;

(9) credit problems of small business; and

(10) international finance through agencies within legislative jurisdiction of the committee.

SEC. 4. Not to exceed $230,000 shall be available for a study or investigation of public and private housing and urban affairs generally.

SEC. 5. Not to exceed $130,000 shall be available for an inquiry and investigation pertaining to the securities industry.

SEC. 6. The committee shall report its findings, together with such recommendations for legislation as it deems advisable with respect to each study or investigation for which expenditure is authorized by this resolution, to the Senate at the earliest practicable date, but not later than February 28, 1975.

SEC. 7. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

## SENATE RESOLUTION 241—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON FOREIGN RELATIONS

(Referred to the Committee on Rules and Administration.)

Mr. FULBRIGHT (from the Committee on Foreign Relations) reported the following resolution:

S. RES. 241

*Resolved*, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Foreign Relations, or any subcommittee thereof, is authorized from March 1, 1974, through February 28, 1975, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed 840,000 of which amount not to exceed $75,000 shall be available for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202 (i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1975.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

## SENATE RESOLUTION 242—SUBMISSION OF A RESOLUTION RELATING TO THE SPECIAL COMMITTEE ON THE TERMINATION OF THE NATIONAL EMERGENCY

(Referred to the Committee on Rules and Administration.)

Mr. CHURCH. Mr. President, on behalf of the distinguished Senator from Maryland (Mr. MATHIAS) and myself, I submit a resolution relating to the Special Committee on the Termination of the National Emergency, and I ask unanimous consent that it be referred to the Committee on Rules and Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution reads as follows:

S. RES. 242

*Resolved,* That the Special Committee on the Termination of the National Emergency, established by Senate Resolution 9, 93d Congress, agreed to January 6, 1973, is continued for the period from March 1, 1974, through February 28, 1975, except that, commencing on March 1, 1974—

(1) such special committee shall thereafter be known as the Special Committee on National Emergencies and Delegated Emergency Powers; and

(2) it shall be the function of such special committee, in accordance with the provisions of that Senate Resolution 9 not inconsistent with this resolution, to conduct a study and investigation with respect to the termination of existing states of national emergencies proclaimed by Presidents of the United States in 1933, 1950, 1970, and 1971, and with respect to delegated emergency powers.

SEC. 2. In carrying out such functions, the special committee is authorized from March 1, 1974, through February 28, 1975, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) to hold hearings, (4) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (5) to require by subpena or otherwise, the attendance of witnesses and the production of correspondence, books, papers and documents, (6) to take depositions and other testimony, (7) to procure the service of individual consultants or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946, as amended, and (8) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 3. For the period from March 1, 1974, through February 28, 1975, the expenses of the special committee under this resolution shall not exceed $166,000, of which amount not to exceed $25,000 shall be available for the procurement of the services of individual consultants, or organizations thereof, as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended.

SEC. 4. The special committee shall make the final report required by section 5 of that Senate Resolution 9 not later than February 28, 1975, instead of February 28, 1974.

SEC. 5. Expenses of the special committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the two co-chairmen of the special committee.

## LEGAL SERVICES CORPORATION ACT—AMENDMENT

### AMENDMENT NO. 938

(Ordered to be printed and to lie on the table.)

Mr. FANNIN submitted an amendment intended to be proposed by him to the bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation.

## EASTERN WILDERNESS AREAS ACT—AMENDMENT

### AMENDMENT NO. 939

(Ordered to be printed and to lie on the table.)

Mr. HUGH SCOTT. Mr. President, on behalf of myself and Senator SCHWEIKER, I am today submitting an amendment, to the proposed Eastern Wilderness Act, which expands the acreage under study and adds a new study for three areas in Pennsylvania's Allegheny National Forest. The forest is located in four of Pennsylvania's northwest counties—Warren, McKean, Forest, and Elk.

The Senate Committee on Interior and Insular Affairs, in the reported version of S. 316, designates Hickory Creek in Warren County and Tracy Ridge in Warren and McKean counties as wilderness study areas. Unfortunately, the committee recommended reducing the acreage to be studied—from 11,200 to 8,200 in the case of Hickory Creek and from 10,000 to 7,900 in the case of Tracy Ridge. The first part of my amendment would restore the higher acreage figures in both areas.

Under section 4 of the bill, each wilderness study area will be subjected to review by the Secretary of Agriculture "as to its suitability or nonsuitability for preservation as wilderness." The Secretary will make his recommendations to the President following such studies and the President, in turn, will forward his own recommendations to the Congress.

In my view, reducing the acreage to be studied in Hickory Creek and Tracy Ridge prior to such studies is prejudicial to those studies. The final recommendations to the Congress can state whether or not the acreage studied should be preserved as a wilderness area. But it is wrong to set an arbitrary limitation on the studies before the studies are made.

The second part of my amendment adds one more area for study—Allegheny Front, also a part of the Allegheny National Forest, located entirely in Warren County. This area, comprising approximately 10,000 acres, has recently been the subject of a preliminary, but still comprehensive, study prepared by the Sierra Club's Pennsylvania Chapter. This excellent study was completed too late for consideration by the committee, but I am advised that the staff has received a copy and is reviewing it. The study indicates that the Allegheny Front area has very high wilderness qualities and thus should be subject to further study by the Secretary of Agriculture.

Senator SCHWEIKER and I previously urged the committee to include a fourth study area, also in the Allegheny National Forest, called Minister Creek which is located in Warren and Forest Counties. However, we have seen no preliminary studies on this area and, as such, we will not pursue it further at this time.

Mr. President, when the Senate proceeds to consider S. 316, I intend to call up this amendment, and I hope that I will have the cooperation of the managers of the bill in seeking to protect some of Pennsylvania's most precious natural resources.

## PRISONER OF WAR AND MISSING IN ACTION TAX ACT—AMENDMENT

### AMENDMENT NO. 940

(Ordered to be printed and to lie on the table.)

Mr. BENNETT submitted an amendment intended to be proposed by him to the bill (H.R. 8214) to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes.

### AMENDMENT NO. 941

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY. Mr. President, the amendment I am introducing together with Senator HATHAWAY to H.R. 8214 is designed to set a deadline for congressional action on the preferential tax treatment of oil companies.

Today, the President sent a message to the Congress recommending action in this area. In the past, I and other Senators and Congressmen have introduced legislation on this subject. Yet there has been no conclusive action by the Congress.

This year, we must act to limit the preferential tax treatment which has produced results antithetical to the national interest. We have seen vast investments made abroad as a result of the incentive provided by the foreign tax credit treatment of oil company payments to foreign governments and as a result of the depletion allowance being applicable to foreign production. At home, we have a highly questionable depreciation procedure, the intangible drilling costs allowance, which result in far more savings to oil companies and losses to the Treasury than in the value of new wells attributable to that incentive.

The effect of all of these provisions is to significantly subsidize the operations of the major oil companies and questions as to their relevance and desirability today are being heard from virtually every source outside the oil industry. Even certain of the oil corporation executives have recognized the need to revise the current preferential treatment.

The cost to the Treasury has been estimated in past years at several billion dollars. The cost in the future, as a result of the recent price increases for crude oil, both here and abroad, has been estimated at more than $5 billion by independent analysts.

In order to provide a deadline for congressional action, a deadline that will insure the enactment into law of more equitable tax code provisions, I have introduced this amendment to repeal the foreign tax credits as they apply to oil companies, the percentage depletion allowance and the intangible drilling costs allowance, as of January 1, 1975.

This will set a specific deadline for action, forcing the President to submit specific legislation in keeping with his message today and force the Congress to act on his proposals and on the alternatives that various Senators and Congressmen have introduced dealing with the tax treatment of the oil industry.

AMENDMENT NO. 942

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON submitted an amendment intended to be proposed by him to the bill (H.R. 8214), supra.

AMENDMENT NO. 943

(Ordered to be printed and to lie on the table.)

Mr. RIBICOFF (for himself, Mr. DOMINICK, Mr. HOLLINGS, Mr. THURMOND, Mr. GRAVEL, and Mr. CASE) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 8214), supra.

AMENDMENT NO. 944

(Ordered to be printed and to lie on the table.)

Mr. DOMINICK submitted an amendment intended to be proposed by him to the bill (H.R. 8214), supra.

AMENDMENT NO. 945

(Ordered to be printed and to lie on the table.)

Mr. BUCKLEY (for himself, Mr. RIBICOFF, and Mr. JAVITS) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 8214), supra.

## ADDITIONAL COSPONSORS OF AN AMENDMENT

At the request of Mr. MUSKIE, the Senator from Colorado (Mr. HASKELL), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Wisconsin (Mr. NELSEN) were added as cosponsors of amendment No. 920 intended to be proposed to the bill (H.R. 8214) to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes.

## COMMITTEE ON AERONAUTICAL AND SPACE SCIENCES HEARING NOTICE

Mr. MOSS. Mr. President, in view of the Democratic conference at 10 a.m., tomorrow, January 24, 1974, the Committee on Aeronautical and Space Sciences will recess the hearing on the NASA equal employment opportunity program at 10 a.m., and resume at 2 p.m

The hearing will begin at 9:30 a.m., as previously scheduled.

## NOTICE OF HEARINGS ON INTERNATIONAL PETROLEUM INDUSTRY

Mr. CHURCH. Mr. President, I ask unanimous consent that the press release giving notification of the hearings to be held by the Senate Foreign Relations Subcommittee on Multinational Corporations commencing next week may be printed in the RECORD.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

SUBCOMMITTEE ON MULTINATIONAL CORPORATIONS

Senator Frank Church, Chairman of the Senate Foreign Relations Subcommittee on Multinational Corporations, announced today that the Subcommittee will begin a major series of hearings next week on the international petroleum industry.

"These hearings," Church said, "will give the American people their first comprehensive explanation of how we got into today's energy crisis. Hitherto secret arrangements among the major oil companies will be discussed. The hearings will examine major U.S. foreign policy decisions made at the highest levels of government which made these secret agreements possible.

"Unless these arrangements are understood," added the Senator, "it will be impossible for Congress to formulate a rational energy policy."

The first phase of the Subcommittee's oil hearings, beginning January 30 and continuing on January 31 and February 1, will examine the inner workings of the industry's little known London Policy Group and the role of this non-governmental agency as the negotiator for the United States and the consuming countries since 1971. Top industry representatives and senior U.S. government officials will be questioned by the Subcommittee on the foreign policy rationale behind the anti-trust protection given by the Justice Department to U.S.-based oil companies. The industry's failure to stand up to the Organization of Petroleum Exporting Countries will be analyzed against the background of the conference of consuming countries, now scheduled to meet in Washington on February 11 to develop a joint approach to the international oil crisis.

The Subcommittee is expected to resume its hearings in late February to explore U.S. foreign policy decisions that sanctioned key inter-corporate production-limiting agreements in the Middle East.

"The evidence produced by these hearings will show that American energy policy abroad has been mainly of, by and for the big oil companies, not the American people," Church said.

## NOTICE OF HEARINGS ON BILINGUAL COURTS ACT

Mr. BURDICK. Mr. President, as chairman of the Judiciary Subcommittee on Improvements in Judicial Machinery, I wish to announce a hearing for the consideration of S. 1724, the Bilingual Courts Act. This will be the second day of hearings originally scheduled for last October 11. The purpose of the bill is to implement the right of non-English-speaking persons to have effective oral translation of court proceedings, both civil and criminal, to which they are a party. This legislation also require consideration of the effect of the proposed bill upon judicial proceedings in the U.S. District Court for the District of Puerto Rico, where Spanish is the language most commonly spoken. This latter subject is the principal matter to be considered at this hearing.

The hearing will be held on February 5, 1974, beginning at 10 a.m. in room 1318, Dirksen Office Building.

Those who wish to submit a statement for inclusion in the hearing record should communicate as soon as possible with the subcommittee staff, room 6306, Dirksen Office Building, extension 5-3618.

## NOTICE OF HEARING ON INTEGRATED OIL OPERATIONS

Mr. HASKELL. Mr. President, the Special Subcommittee on Integrated Oil Operations of the Committee on Interior and Insular Affairs will resume hearings this session on Tuesday, January 29, 1974.

The specific issue for discussion will be the proposed sale of stock of Signal Oil & Gas Co. to Burmah, Inc., a corporation headquartered in Scotland and owned in part by the British Government.

The hearing will address oil company mergers and their effect on competition and market performance in the petroleum industry.

Spokesmen from Signal Oil & Gas Co., Burmah, Inc., Standard Oil of Ohio, and the U.S. Department of Justice will appear.

The hearing will convene at 10 a.m. in room 3110 of the Dirksen Office Building. The public is invited to attend.

## IN SUPPORT OF STEPS TO EASE THE TIGHT MORTGAGE MONEY SITUATION

Mr. TAFT. Mr. President, I was delighted to be informed of the steps taken yesterday by the Department of Housing and Urban Development to ease the tight mortgage money situation which is causing such tremendous damage to the housing sector of our economy.

Although the reduction of one-fourth percent in the maximum allowable interest rate for mortgages insured by the Federal Housing Administration may not provide consumers with much relief in itself, I am hopeful that the reduced FHA rate will serve as a leader for interest on conventional mortgages. New housing starts have fallen so drastically in the past several months largely because mortgage money has been either completely unavailable or available only at unprecedented interest rates. If the downturn in the FHA rate is followed by the conventional mortgage market, and I believe the conditions in that market may be such that this is possible, not only will the housing needs of our citizens be served but the economy will receive a needed stimulus at a crucial time.

The expansion of the tandem plan of the Government National Mortgage Association to provide mortgage interest rate assistance for mortgages totaling up to $6.6 billion could have even a more direct effect than the lowering of the FHA rate, by supporting the construction of 200,000 new housing units. This is an extremely significant commitment to the housing market by the Government and it should be recognized as such.

These new initiatives are not the total answer to the problem of tight mortgage money. Most of all, the Government needs to adopt and abide by an anti-inflation policy that does not rely excessively upon the interest rate structure to stop rising prices. However, I am aware that there are also several specific proposals before the Banking, Housing, and Urban Affairs Committee which are designed to alleviate the situation, mostly by changing some of the laws which constrain the financial institutions providing mortgage money. While I do not agree with every aspect of the proposed legislation, I believe that the bill is very important and that the Banking Committee should consider it fully as soon as possible. Both the Congress and the administration should be willing to take every reasonable step to restore the ability of Americans with modest incomes to afford their own home.

## THE NATIONAL ENERGY EMERGENCY ACT OF 1973

**Mr. STENNIS.** Mr. President, I rise to emphasize very strongly the need for prompt action by the Congress on the National Energy Emergency Act. By prompt, I mean with the absolute minimum of delays. The request of the Finance Committee for 2 days of hearings I consider very reasonable. Then we should act within a very few days.

We have an energy emergency, and it is national in nature. The people are responding to it, but the Congress is not. That is a strong criticism, but I think it is justified by present circumstances.

The Energy Emergency Act was passed by the Senate over 2 months ago. For a month now we have been at an impase over the conference report. There is at present no basis under law by which the administration can put into effect emergency measures—measures which may be necessary for the Nation to meet in an orderly way the difficulties our citizens face in their daily lives as a result of shortages of energy.

The American people have responded. They know they fave a drastic change in their way of life. The voluntary response they have given to what they know will be demanded of them has resulted in economies in electricity and fuel that have exceeded expectations.

Small children are standing at the side of the road in the dark and cold, with their coats pulled up over their ears, waiting for the bus to take them to school. Their mothers and fathers have turned down their thermostats, reduced their driving, adjusted their working hours to car pool, and wait in line for gasoline. This has been done with a spirit of cooperation and resolution. It has been done with a degree of grace and cheerfulness that is a great credit to the American people.

In the meantime the Congress has yet to establish the statutes under which emergency measures can be administered so as to provide for the equitable distribution of the fuel we have, so that shortages can be shared in a way that is as fair to all as can be devised. I say let us get on with it.

There is just one main point at issue that has held up this bill—the matter of windfall profits for oil companies. This is an issue that needs to be met, but is it an emergency in the same sense as the other provisions of the bill?

I come from an oil producing State, but I am prepared to accept a bill that either contains the windfall profits provision or deletes it—just so we get on with the rest of the bill. If given a choice I would like to see the profit question handled as a separate bill. But if it means delaying further the Energy Emergency Act, then I do not want a choice. I will take it either way we can pass it, just so we do it now.

The matter of profits can be handled by Congress in the near future, in another bill. If the profit provision is included in the Energy Emergency Act, and further hearings and deliberations demonstrate that the provision should be changed, then it can be changed. If the provision is not included in the emergency bill, then it can be handled in separate legislation.

Mr. President, the American people are responding to the energy situation. They are setting a good example. They are making sacrifices. They are entitled to action on this National Energy Emergency Act. I urge that this body act, and act promptly.

## TRAVELING BY RAIL

**Mr. HUGH SCOTT.** Mr. President, Mr. Lawrence M. O'Rourke, Washington bureau chief of the Evening Bulletin, shared with us in a recent column the "pleasant surprise" of a holiday rail trip he and his family made from Philadelphia to Chicago, and back. His report recalled for me those days when traveling by rail was convenient, comfortable, and relaxing. And, his account indicated that Amtrak is, indeed, trying to achieve that quality of service at a time when it is also essential, so that passengers will be attracted to travel by rail as an energy conservation measure.

Mr. President, Mr. O'Rourke has a message for those of us who want to save our railroads so that they may best serve our people. I ask unanimous consent that his column be printed in the Record.

There being no objection, the column was ordered to be printed in the Record, as follows:

[From the Evening Bulletin, Jan. 4, 1974]

### All Aboard for Chicago! A Pleasant Surprise

(By Lawrence M. O'Rourke)

Washington.—An elderly porter in Philadelphia's 30th Street Station warned me in October that I should not travel to Chicago over the Christmas holidays in an Amtrak slumbercoach.

"The beds are as narrow as ironing boards, and just as hard," he said.

The children, he warned, would become stir-crazy in the small room. Trains were frequently canceled at the last minute and customarily late, he said. Go by plane or car, he advised, or stay home.

We decided to reject the porter's advice. Perhaps, we reasoned, he was merely echoing what we understood to be the railroads' dedication to the proposition that passengers are a nuisance, an interference with freight, and a commodity to be deterred.

So we went aboard an Amtrak train a few days before Christmas for Chicago.

Back now, we have concluded that it was a very pleasant experience, easily defeating the car for comfort and the airplane for price. With three kids who hate to sit still, we never considered the bus.

We found that the porter in Philadelphia was not representative of the Amtrak employes on the Broadway Limited. They acknowledged the decline of their service, regretted it, but overcame it. Take Matthew the porter who welcomed us in Chicago (on our return trip) with a big smile, amused our infant while we stowed away luggage, and then between Gary and Fort Wayne shifted about the passengers in the slumbercoaches so that families were together. I heard no complaints, even from the single travelers.

Matthew poked his head into our cabins a few times during the night to ask if we were comfortable. He talked to our children about his children, far away in time and space as the train rolled through snow-covered fields and past small towns of Indiana and Ohio.

We were anxious about the arrival at Harrisburg early the next morning. There the New York and Washington sections of the Broadway Limited split. We had to leave our slumbercoaches before 7 a.m., and somehow get three sleepy children and a mountain of luggage onto Washington-bound coaches.

Matthew guided us to the train onto the icy platform at Harrisburg. He had removed our luggage as soon as the train stopped. Making sure that all moved cautiously, he made two trips down a long platform and up a high flight of stairs with heavy suitcases. Then Matthew wished us a Happy New Year and turned back down the stairs to head for home and his children. He had to be called back to accept a tip.

None of this is to say that Amtrak is perfect. The sandwiches in the snack coaches tasted like cardboard and the attendant seemed in no rush to give service. We resented being shuffled onto a side track on the east side of Susquehanna River south of Columbia, Pa., to let a freight train pass. We were late at both ends, but we were prepared for that by horror stories from others.

For about $93 to Chicago and $103 coming back the price difference for exactly the same accommodations remains a mystery), we had transportation free of worry about motel reservations, gasoline shortages and snow storms.

There is the happy memory of sitting in a lower berth with the family, looking through the window at the driven snow, seeing the lights of farmhouses and towns, studying the maps and geography of Eastern America. For that while at least, we were ready to endorse Amtrak's slogan: Tracks are back.

## A HELPFUL CHECKLIST: OLDER AMERICANS AND INCOME TAXES

**Mr. CLARK.** Mr. President, before the deadline date of April 15, millions of Americans will prepare their Federal income tax returns.

For many, it may be a painful process because of the complexities in the tax law, the intricacies of form 1040 with its accompanying schedules, and the numerous calculations.

Others may unwittingly overpay their taxes simply because they are unaware of helpful deductions, credits, and exemptions.

This is especially true in the case of the elderly. Hearings conducted by the Senate Committee on Aging have provided very convincing and alarming evidence that large numbers of older Americans overpay their taxes each year.

Complicating everything else, the elderly are oftentimes faced with a new set of tax rules upon reaching age 65. And these rules are usually far more intricate than the tax relief measures available during their working years.

It is essential that the Internal Revenue Code be simplified if we are to restore complete sanity to the tax preparation process for the average taxpayer. Unfortunately the complexities of tax preparation can have the effect of imposing a new form of surtax for millions of frustrated Americans—this one being paid to tax accountants and others who are called in to prepare their form 1040.

For these reasons, I am hopeful that effective measures will be adopted this year during the consideration of tax reform legislation not only to simplify tax preparation but also to restore greater equity to the Internal Revenue Code.

Because of the tax problems that often face senior citizens, I also have joined Senator CHURCH, Senator CHILES, and Senator WILLIAMS in introducing the Older Americans Tax Counseling Assistance Act (S. 2868). Through volunteers, the legislation would provide a tax assistance program that would be available to people over 65 across the country.

The program would not be a tax preparation service. But it would enable senior citizens to fill out their tax returns with accuracy and confidence because they will have someone to turn to for help if they need it.

There is a volunteer tax assistance program already in operation under the direction of the Institute of Lifetime Learning of the National Retired Teachers Association-American Association of Retired Persons. Last year alone, the project helped more than 100,000 aged taxpayers. It is staffed by older Americans, trained by the Internal Revenue Service, and it is a program that works well. The legislation that we have offered would build and expand on that foundation. I hope it receives prompt and favorable consideration by the Congress.

Until then there are other things that we can do to alert taxpayers to tax relief measures which can provide major savings. In this regard, the Senate Committee on Aging has provided a very valuable service by publishing a useful checklist of possible itemized deductions to protect older Americans from overpaying their income taxes. This listing is also quite valuable for younger taxpayers as well because many of the tax relief measures apply with equal force to all age groups.

Mr. President, because this summary can be enormously helpful for many taxpayers—whether they be young or old—I ask unanimous consent that the Senate Committee on Aging's checklist of allowable deductions for schedule A be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

## CHECKLIST OF ITEMIZED DEDUCTIONS FOR SCHEDULE A (FORM 1040)

### MEDICAL AND DENTAL EXPENSES

Medical and dental expenses are deductible to the extent that they exceed 3% of a taxpayer's adjusted gross income (line 15, Form 1040).

### INSURANCE PREMIUMS

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3% limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3% rule.

### DRUGS AND MEDICINES

Included in medical expenses (subject to 3% rule) but only to extent exceeding 1% of adjusted gross income (line 15, Form 1040).

### OTHER MEDICAL EXPENSES

Other allowable medical and dental expense (subject to 3% limitation):

Abdominal supports, ambulance hire, anesthetist, arch supports, artificial limbs and teeth, back supports, and braces.

Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. Taxpayer should have an independent appraisal made to reflect clearly the increase in value.

Cardiographs, chiropodist, chiropractor, Christian science practitioner, authorized, convalescent home (for medical treatment only) crutches, dental services (e.g., cleaning teeth, X-rays, filling teeth) dentures, dermatologist, eyeglasses, gynecologist, hearing aids and batteries.

Hospital expenses, insulin treatment, invalid chair, lab tests, lip reading lessons (designed to overcome a handicap), neurologist, nursing services (for medical care) ophthalmologist, optician, optometrist, oral surgery, osteopath, licensed, pediatrician, physical examinations.

Physician, physiotherapist, podiatrist, psychiatrist, psychoanalyst, psychologist, psychotherapy, radium therapy, sacroiliac belt, seeing-eye dog and maintenance, and splints.

Supplementary Medical Insurance (Part B) under Medicare.

Surgeon.

Transportation expenses for medical purposes (6¢ per mile plus parking and tolls or actual fares for taxi, buses, etc.).

Vaccines.

Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health).

Wheelchairs, whirlpool baths for medical purposes, and X-rays.

### TAXES

Real estate, State and local gasoline, general sales, State and local income, and personal property.

If sales tax tables are used in arriving at your deduction, you may add to the amount shown in the tax tables only the sales tax paid on the purchase of 5 classes of items: automobiles, airplanes, boats, mobile homes and materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income (e.g., Social Security or Railroad Retirement Annuities).

### CONTRIBUTIONS

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 15, Form 1040). However, contributions to certain private nonprofit foundations, veterans organizations, or fraternal societies are limited to 20 percent of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals, or (3) Federal, state or local governmental units (tuition for children attending parochial schools is not deductible). Fair market value of property (e.g. clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 6¢ per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g., scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g. postage, stationery, phone calls) while rendering services for charitable organizations.

Care of unrelated student in taxpayer's home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

### INTEREST

Home mortgage and auto loan.

Installment purchases (television, washer, dryer, etc.). Bank credit card—can deduct the finance charge as interest if no part is for service charges or loan fees, credit investigation reports. If classified as service charge, may still deduct 6 percent of the average monthly balance (average monthly balance equals the total of the unpaid balances for all 12 months, divided by 12) limited to the portion of the total fee or service charge allocable to the year.

Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money. Not deductible if points represent charges for services rendered by the lending institution (e.g. VA loan points are service charges and are not deductible as interest). Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized).

Penalty for repayment of a mortgage—deductible as interest.

Revolving charge accounts—may deduct the "finance charge" if the charges are based on your unpaid balance and computed monthly.

### CASUALTY OR THEFT LOSSES

Casualty (e.g. tornado, flood, storm, fire, or auto accident provided not caused by a willful act or willful negligence) or theft losses to nonbusiness property—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. You may use Form 4684 for computing your personal casualty loss.

### CHILD AND DISABLED DEPENDENT CARE EXPENSES

The deduction for child dependent care expenses for employment related purposes has been expanded substantially. Now a taxpayer who maintains a household may claim a deduction for employment-related expenses incurred in obtaining care for a (1) dependent who is under 15, (2) physically or mentally disabled dependent, or (3) disabled spouse. The maximum allowable deduction is $400 a month ($4,800 a year). As a general rule, employment-related expenses are deductible only if incurred for services for a qualifying individual in the taxpayer's household. However, an exception exists for child care expenses (as distinguished from a disabled dependent or a disabled spouse). In this case, expenses outside the household (e.g., day care expenditures) are deductible, but the maximum deduction is $200 per month for one child, $300 per month for 2 children, and $400 per month for 3 or more children.

When a taxpayer's adjusted gross income (line 15, Form 1040) exceeds $18,000, his deduction is reduced by $1 for each $2 of income above this amount. For further information about child and dependent care deductions, see Publication 503, Child Care and Disabled Dependent Care, available free at Internal Revenue offices.

MISCELLANEOUS

Alimony and separate maintenance (periodic payments).

Appraisal fees for casualty loss or to determine the fair market value of charitable contributions.

Campaign contributions (up to $100 for joint returns and $50 for single persons).

Union dues.

Cost of preparation of income tax return.

Cost of tools for employee (depreciated over the useful life of the tools).

Dues for Chamber of Commerce (if as a business expense).

Rental cost of a safe-deposit box for income producing property.

Fees paid to investment counselors.

Subscriptions to business publications.

Telephone and postage in connection with investments.

Uniforms required for employment and not generally wearable off the job.

Maintenance of uniforms required for employment.

Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).

Business entertainment expenses.

Business gift expenses not exceeding $25 per recipient.

Employment agency fees for securing employment.

Cost of a periodic physical examination if required by employer.

Cost of installation and maintenance of a telephone required by the taxpayer's employment (deduction based on business use).

Cost of bond if required for employment.

Expenses of an office in your home if employment requires it.

Payments made by a teacher to a substitute.

Educational expenses required by your employer to maintain your position or for maintaining or sharpening your skills for your employment.

*Political Campaign Contributions:* Taxpayer may now claim either a deduction (line 33, Schedule A, Form 1040) or a credit (line 52, form 1040), for campaign contributions to an individual who is a candidate for nomination or election to any Federal, State or local office in any primary, general or special election. The deduction or credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a national political party, (3) state committee of a national political party, or (4) local committee of a national political party. The maximum deduction is $50 ($100 for couples filing jointly). The amount of the tax credit is one-half of the political contribution, with a $12.50 ceiling ($25 for couples filing jointly).

*Presidential Election Campaign Fund:* Additionally, taxpayers may voluntarily earmark $1 of their taxes ($2 on joint returns), to help defray the costs of the 1976 presidential election campaign. If you failed to earmark $1 of your 1972 taxes ($2 on joint returns) to help defray the cost of the 1976 presidential election campaign, you may do so in the space provided above the signature line on your 1973 tax return.

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contacting your local IRS office.

OTHER TAX RELIEF MEASURES FOR OLDER AMERICANS

| *Filing status* | *Required to file a tax return if gross income is at least* |
|---|---|
| Single (under age 65) | $2,050 |
| Single (age 65 or older) | 2,800 |
| Married couple (both spouses under 65) filing jointly | 2,800 |
| Married couple (1 spouse 65 or older) filing jointly | 3,550 |
| Married couple (both spouses 65 or older) filing jointly | 4,300 |
| Married filing separately | 750 |

*Additional Personal Exemption for Age:* In addition to the regular $750 exemption allowed a taxpayer, a husband and wife who are 65 or older on the last day of the taxable year are each entitled to an additional exemption of $750 because of age. You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1974, you will be entitled to the additional $750 personal exemption because of age for your 1973 Federal income tax return.

*Multiple Support Agreement:* In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met: (1) Support, (2) Gross Income, (3) Member of Household or Relationship, (4) Citizenship, and (5) Separate Return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support.

However, it still may be possible for one of the individuals to be entitled to a $750 dependency deduction if the following requirements are met for multiple support:

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10 percent of the mutual dependent's support, but only one of them, may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

*Sale of Personal Residence by Elderly Taxpayers:* A taxpayer may elect to exclude from gross income part, or, under certain circumstances, all of the gain from the sale of his personal residence, provided:

1. He was 65 or older before the date of the sale, and

2. He owned and occupied the property as his personal residence for a period totaling at least five years within the eight-year period ending on the date of the sale.

Taxpayers meeting these two requirements may elect to exclude the entire gain from gross income if the adjusted sales price of their residence is $20,000 or less. (This election can only be made once during a taxpayer's lifetime.) If the adjusted sales price exceeds $20,000, an election may be made to exclude part of the gain based on a ratio of $20,000 over the adjusted sales price of the residence. Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded by an elderly taxpayer when he sells his home.

Additionally, a taxpayer may elect to defer reporting the gain on the sale of his personal residence if within one year before or one year after the sale he buys and occupies another residence, the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence or (2) you were on active duty in the U.S. Armed Forces. Publication 523 (Tax Information on Selling Your Home) may also be helpful.

*Retirement Income Credit:* To qualify for the retirement income credit, you must (a) be a U.S. citizen or resident, (b) have received earned income in excess of $600 in each of any 10 calendar years before 1973, and (c) have certain types of qualifying "retirement income". Five types of income—pensions, annuities, interest, and dividends included on line 15, Form 1040, and gross rents from Schedule E, Part II, column (b)—qualify for the retirement income credit.

The credit is 15 percent of the lesser of:

1. A taxpayer's qualifying retirement income, or

2. $1,524 ($2,286 for a joint return where both taxpayers are 65 or older) minus the total of nontaxable pensions (such as Social Security benefits or Railroad Retirement annuities) and earned income (depending upon the taxpayer's age and the amount of any earnings he may have).

If the taxpayer is under 62, he must reduce the $1,524 figure by the amount of earned income in excess of $900. For persons at least 62 years old but less than 72, this amount is reduced by one-half of the earned income in excess of $1,200 up to $1,700, plus the total amount over $1,700. Persons 72 and over are not subject to the earned income limitation.

Schedule R is used for taxpayers who claim the retirement income credit.

The Internal Revenue Service will also compute the retirement income credit for a taxpayer if he has requested that IRS compute his tax and he answers the questions for Columns A and B and completes lines 2 and 5 on Schedule R—relating to the amount of his Social Security benefits, Railroad Retirement annuities, earned income, and qualifying retirement income (pensions, annuities, interest, dividends, and rents). The taxpayer should also write "RIC" on line 17, Form 1040.

## SUING THE APPROPRIATE PARTIES IN LITIGATION AGAINST FEDERAL DEFENDANTS

Mr. TOWER. Mr. President, a number of us have alleged for some time that legal services attorneys with guaranteed annual salaries have often frivolously resorted to the use of class actions and suits against the Government to advance their personal views. In support of this contention, I wish to insert into the RECORD at the conclusion of these remarks an article entitled "Suing the Appropriate Parties in Litigation Against Federal Defendants," which was published in April 1973 by a legal services backup center and made available to legal services attorneys across the Nation. It seems to me that the publication of this article makes clear that suits against the Government are a matter of regular concern to attorneys employed with legal services projects.

I respectfully ask unanimous consent that the full text of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### SUING THE APPROPRIATE PARTIES IN LITIGATION AGAINST FEDERAL DEFENDANTS

(By Robert L. Bergstrom, Attorney at Law)

### I. INTRODUCTION

One of the first questions facing a public interest attorney in contemplated litigation against federal defendants is the decision exactly who to name as defendant. Hours are often spent agonizing over whether the suit should be directed against the United States of America, one of its departments, a bureau or agency in the department, the secretary of the department, the bureau head, lower officials, a commission or the members of the commission. Do you name the officer, just his official title or both? Finally, what is the meaning and significance of that elusive dichotomy usually seen in suits against federal officers "individually and in his official capacity?"

One noted reference work in this area suggests as a general rule of litigation that the plaintiff simply sue everybody.[1] Regardless of the prudence of this rule in other types of litigation, I think it is unwise in actions against federal defendants for four reasons. First, it costs more money to serve the summons and complaint on each of the defendants as required by FED. R. CIV. P. 4. Second, it expands the plaintiff's attorney's work since he has to frame in his complaint, and later brief, causes of action against every defendant. Third, it increases the possibility of motions to dismiss because of lack of jurisdiction, sovereign immunity, failure to state a claim, and joinder of improper parties under FED. R. CIV. P. 20. This delays getting to the merits of the case. Finally, if you use the shotgun approach the court may think you really do not know what you are doing—which you probably don't.

A lawsuit in federal court[2] should be made as simple as possible concerning the number of issues and defendants. Toward that end the suit should name as few defendants as possible to get the relief sought. The decision exactly who to sue is often a difficult problem. Issues of federal jurisdiction, sovereign immunity, indispensible, necessary and proper parties abound. It is my general theory throughout that an attorney should frame his lawsuit and select his defendants in a way which best avoids these barriers. Let others tear down or remodel the barriers in situations where they absolutely have to. You have an obligation to your clients to try to get right to the merits of the case and should do so.

## II. FIVE GENERAL TYPES OF CASES

In the federal courts there are five general types of cases against federal defendants: (1) statutory review of the orders of regulatory agencies in the circuit courts of appeals; (2) statutory suits against the United States of America; (3) suits in form against a department or bureau head, provided for by statute as a means of reviewing an agency order; (4) statutory review of the actions of agencies and officers under the federal Administrative Procedure Act and the Mandamus and Venue Act of 1952; and (5) common law suits against an individual government officer based upon his action as an officer, seeking a declaratory judgment, injunction, or money damages for his wrongful conduct.[3]

The defendants in the first two actions are clear; the third causes some confusion while the fourth and fifth are an enigma. This article examines who the proper party defendant is for each of the first three types of cases separately, and then deals with issues four and five. This will entail an examination of issues of jurisdiction, sovereign immunity, and requirements of the Federal Rules of Civil Procedure. Questions of joinder of parties and claims, substitution and service of process will be considered where relevant to the main subject.[4]

### *A. Statutory review of the orders of regulatory agencies*

Numerous statutes provide for review of agency action by a petition for review filed in the court of Appeals for the District of Columbia or in another appropriate court of appeals, rather than by suit in a district court. The Federal Trade Commission Act of 1914 is the prototype. It provides that a copy of a petition for review "shall be forthwith served upon the Commission."[5] This provision has been substantially copied in statutes affecting most of the regulatory agencies—the SEC, NLRB, FPC, CAB, FCC, FMB and ICC. Problems of party defendant do not arise—each *agency* is the defendant. The agency's administrative head or the members of the board or commission should *not* be sued, either by name or official title. (For the proper form in common law suits or actions under the Administrative Procedure Act and the Mandamus and Venue Act of 1962 against a board or commission, see page 736 *infra*.)

### *B. Statutory suits against the United States*

A second group of statutes allows suits against the United States itself, usually for money damages. The two principle statutes are the Tucker Act,[6] which allows suits founded upon the Constitution, acts of Congress or regulations of executive departments or express or implied contracts with the government; and the Federal Tort Claims Act,[7] which makes the United States liable for the negligence of government employees if a private person would be liable under like circumstances. Although recovery in both actions is against the United States Treasury, the proper defendant is not the Department of the Treasury or the Secretary, nor is it the agency or officials whose conduct brought about the suit. Rather, it is simply the United States of America.

In addition to these two statutes, there are numerous others of lesser importance by which the United States of America has consented to be sued. These include (1) actions to recover internal revenue taxes;[8] (2) partition actions where the United States is a co-tenant;[9] (3) Indian allotment claims;[10] (4) suits for adjudication of water rights;[11] (5) patent claims;[12] (6) suits in admiralty;[13] and (7) the Public Vessels Act.[14] The consent to suit and the jurisdictional statute may be incorporated in the same statute[15] or they may be found in separate sections of the Code. If in doubt whether an action is in fact against the United States an attorney should read the language of the statute carefully and look at the cases construing it.

### *C. Statutory suits against certain specified Federal officers*

There are a large number of special federal statutory provisions authorizing suits against federal officers to review particular types of administrative action. These statutes provide for review of the agency action by a regular civil suit brought in the district court. An example of this is review of final orders under the social security laws pursuant to 42 U.S.C. § 405(g).[16] Under this statute, the dissatisfied petitioner for a social security award may bring suit in the proper district court for review of the administrative record by filing suit against the Secretary of Health, Education, and Welfare. This all-encompassing statute constitutes a waiver of sovereign immunity, vests jurisdiction of the suit in a particular court, and sets out specifically the nature and scope of review which can be secured. Statutes of this sort eliminate, for the type of suit to which they apply, many problems which otherwise attend suits against the sovereign.

Other statutory provisions for suits against officers appear in miscellaneous federal statutes. The Longshoremen's and Harbor Workers' Act provides for review of workmen's compensation decisions "through injunction proceedings . . . against the deputy commissioner making the order."[17] A statute concerning rulings of the Secretary of Agriculture provides: "The District Courts . . . are vested with jurisdiction in equity to review such rulings. . . . Service of process . . . may be had upon the Secretary. . . ."[18] The Food and Drug Act contains a similar provision for service upon the Secretary of Health, Education, and Welfare.[19] A provision concerning labelling of intoxicating liquors permits "suits to enjoin . . . any final action by the Secretary. . . .[20] A banking association may "enjoin the Comptroller of the Currency, or any receiver acting under his direction."[21]

These statutes present some problem in that they do not clearly indicate whether the suit must be against the officer by name or against the office. Under the Food and Drug Act, for instance, should a suit be *Fox* v. *Gardner, Secretary of HEW*, or *Ament* v. *Secretary of HEW?* The usual practice seems to be to name the particular officer. But the lack of any sovereign immunity problems[22] and the future possibility of successor officials lead me to recommend that you sue the *office* named in the statute, *e.g., Gant* v. *Secretary of Agriculture*. If there is more than one person with the same title, you should also indicate the officer's name, *e.g., Greenfield* v. *Crowell, Deputy Commissioner*.

### *D. Statutory review of the actions of agencies and officers under the Administrative Procedure Act and the Mandamus and Venue Act of 1962*

The fourth type of action under the APA and the Nature of Mandamus statute is difficult because of the many unresolved issues surrounding the statutes. The Administrative Procedure Act provides for judicial review. Section 10 provides that except to the extent that statutes preclude judicial review or agency action is committed to agency discretion by law:

(a) Any person suffering legal wrong because of any *agency action*, or adversely affected or aggrieved by such action within the meaning of any relevant statute, shall be entitled to judicial review thereof.

(b) The form of proceeding for judicial review shall be any special statutory review proceeding relevant to the subject matter in any court specified by statute, or, in the absence or inadequacy thereof, any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus, in a court of competent jurisdiction. Except to the extent that prior, adequate and exclusive opportunity for judicial review is provided by law, *agency action* is subject to judicial review in civil or criminal proceedings for judicial enforcement.

* * * * *

*Agency action* made reviewable by statute and final *agency action* for which there is no other adequate remedy in a court are subject to judicial review. [Emphasis added.][23]

The language of this section suggests that the defendant should be the agency (*e.g.*, Department of Health, Education and Welfare) since it consistently refers to *agency action*. Numerous cases permit an agency to be named as defendant in APA cases.[24] But the majority of the cases under the APA are brought against officers and the Supreme Court has allowed this.[25]

On the surface then, the APA seems to allow a great deal of flexibility in the choice of defendant parties. But the use of the APA is complicated by major unresolved issues. It is clear the APA creates a right of action against federal agencies and officials. It is not yet firmly resolved whether the APA vests jurisdiction in the federal courts,[26] and waives sovereign immunity for cases within its purview.[27] Those arguing that the APA is not a jurisdictional statute say that one must find jurisdiction under one of the traditional jurisdictional sections in Title 28 of the United States Code. If there is $10,000 in controversy or the suit is under an act of Congress regulating commerce, no problem exists since 28 U.S.C. §§ 1331, 1332, and 1337

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Footnotes at end of article.

do not restrict the defendant parties in any way. However, if you intend to rely on 28 U.S.C. § 1361 [28] as a jurisdictional statute for the ARA then you should sue officers and *not* the agency because Section 1361 speaks only of actions against officers.[29] If you intend to rely upon some other special jurisdictional statute, look at the language of that statute and the cases construing it for a guide to the appropriate defendant. The general problem of sovereign immunity and the APA will be discussed in its entirety below.

The Mandamus and Venue Act of 1962 added 28 U.S.C. § 1361 which provides that:

"The district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff."

The writ of mandamus has long existed at common law. Early in the judicial history of the United States, however, it was established that the Judiciary Act did not confer upon a lower federal court outside of the District of Columbia the power of entertaining original writs of mandamus.[30] But the District Court of the District of Columbia had such power because that court inherited the general common law jurisdictional power of the courts of the states from which the District of Columbia was carved.[31]

Rule 81(b) abolished the use of the procedural form of the writ of mandamus, but expressly provided that "Relief heretofore available by mandamus . . . may be obtained by appropriate action or by appropriate motion under the practice prescribed in these rules." The 1962 Act extended this nature of mandamus jurisdiction of the District of Columbia courts to all of the federal district courts.[32]

The language of Section 1361 is somewhat ambiguous regarding appropriate defendants. I believe the key word is "thereof." This indicates that the phrase "of the United States or any agency thereof" is read together and refers to "officer or employee." If it was intended to be read to include mandamus against agencies it would have read "officer or employee or any agency of the United States." Yet at least one commentator reads Section 1361 this way [33] and the District of Columbia Circuit has recently assumed that Section 1361 applies to agencies.[34] However, almost all of the cases based on Section 1361 are against officers and the Tenth Circuit has stated firmly that mandamus runs only against an officer and not against the United States or its departments and agencies.[35] Section 1361 creates a right of action and grants jurisdiction to the federal district courts. But like the APA it is still unresolved whether it constitutes a waiver of sovereign immunity for cases within its purview. If it does not, the choice of party is dictated by sovereign immunity considerations, which are discussed in Section III *infra*.

#### *E. Common law actions against Government officials*

The fifth type of suit against federal defendants—actions against individual officials not based upon the APA or Section 1361—needs little extended discussion. If the suit is for an injunction, or declaratory judgment to secure judicial review of some alleged wrongfully failing or refusing to perform, you sue the defendant in his capacity as an officer. Whether you name the official and his official title or just the title will be discussed in Section III C *infra*.

If the action is against the official for damages for his personal acts outside the scope of his authority (even though they may be committed while in the course of his employment) the proper procedure is simply to name the officer and omit any reference to the official title. This type of action is based upon the *personal* tort liability of a federal officer and must be distinguished from the liability of the United States under the Tucker Act [36] or Federal Tort Claims Acts. Because of the ever present possibility of a defense based upon the judicially created doctrine of privilege [37] or an argument that the officer has been clothed with the sovereign's immunity to suit, by statute, on the occasion of an assumption of liability by the sovereign,[38] you should carefully avoid any reference to his official status and force the government to prove this as part of the defense.

### III. SOVEREIGN IMMUNITY

Although the Constitution does not suggest that the federal government was to be immune from suit, and indeed article III [39] gives the Supreme Court jurisdiction for actions against the United States, very early in American history the immunity of the sovereign from unconsented suit was "derived by implication" by the Supreme Court.[40] The exact source of that implication has remained unresolved,[41] but the doctrine has become strongly established that the United States, its departments and agencies and its officials are immune from suit unless Congress has consented to suit or, in the case of an official, he has acted ultra vires of his constitutional or statutory authority.[42]

#### *A. Sue-and-be-sued statutes*

The doctrine of sovereign immunity as it relates to the United States of America was discussed *supra*. In addition, Congress has enacted specific statutes with respect to various federal agencies and federal corporations exercising governmental functions allowing these bodies to *sue-and-be-sued*.

A "sue and be sued" statute constitutes a waiver of sovereign immunity and thus permits suits against the agency or corporation within the limitations set by the statute. It may also specify the courts which have jurisdiction of suits brought under it. The careful pleader must note whether the statute provides that suit should be brought against the agency by name or against its governing board or chief administrative official. Of the cabinet level departments only the Department of Housing and Urban Development has a statute authorizing the Secretary to sue and be sued in his official capacity.[43] Except in the very special circumstances discussed in Section IV B *infra*, the plaintiff should always sue the party named in the sue-and-be-sued statute, if one exists.

#### *B. APA and section 1361 as waivers of sovereign immunity*

If no sue-and-be-sued statute exists, you must look elsewhere for consent to sue. Arguments that the Declaratory Judgments Act [44] and the general federal question jurisdictional statute,[45] constitute waiver of sovereign immunity for suits against federal defendants have been rejected.[46] But it is still an open issue whether the Administrative Procedure Act [47] and the Nature of Mandamus Act [48] constitute waivers of sovereign immunity for cases within their purview.[49] The Fourth Circuit says that sovereign immunity and judicial review under Section 10 of the APA are independent issues,[50] while several circuit courts have said that Section 10 waives sovereign immunity for the six grounds for review specified in Section 10(e), 5 U.S.C. § 706.[51] Different panels on the Ninth Circuit appear to have taken different sides on the issue.[52]

A similar issue exists under Section 1361, although most courts have ignored the question of sovereign immunity when a writ in the nature of mandamus seemed to be otherwise appropriate. Several decisions state that Section 1361 is not a consent to sue the United States, its departments,[53] or officials,[54] and in others this principle is assumed.[55] A similar issue arose regarding the writ in the nature of mandamus issued by the District of Columbia federal courts prior to the 1962 statute which added Section 1361 to the Judicial Code. But the question was finally clarified in an exhaustive opinion in *Clackamas County, Oregon v. McKay*,[56] in which the court held that its mandamus jurisdiction was unaffected by the rules set forth by *Larson v. Domestic & Foreign Commerce Corp.*,[57] for injunction suits against officers which may affect government funds or property.[58] If you practice in a jurisdiction such as the Ninth Circuit where sovereign immunity under Section 1361 is a problem, you should definitely avoid attempting to sue an agency or commission under Section 1361 as was done in the *Peoples* [59] litigation in the District of Columbia Circuit. If you lose on the argument that Section 1361 constitutes a waiver of sovereign immunity you can still fall back on the ultra vires argument if the defendant is an official.

#### *C. The ultra vires doctrine*

Since early in the history of the Republic the courts have allowed suits for specific relief against federal agents on the theory that they could not be and thus are not authorized to engage in wrongful conduct. Their action was therefore not the action of the sovereign and could be enjoined without encroaching on the immunity of the sovereign to suit. This exception to sovereign immunity is an extremely complex one and very careful research is required in any case where it is involved.[60] The leading case is *Larson v. Domestic & Foreign Commerce Corp.*,[61] where the court reasoned that sovereign immunity was not a bar to a suit for specific relief against an officer where the officer acted (a) in violation of statutory authority or (b) in which the statute or order relied upon by the officer is alleged to be unconstitutional. In order to invoke this rule the suit must be against an officer, not a department or agency, and the rule applies to department heads and all subordinate officers and employees. If you have potential sovereign immunity problems you should always sue officers and not agencies so that you can argue both waiver and ultra vires theories to avoid sovereign immunity.

### IV. IMPACT OF THE FEDERAL RULES

#### *A. Pleading under rule 10*

Fed. R. Civ. P. 10(a) provides in pertinent part:

In the complaint the title of the action shall include the names of all the parties, but in other pleadings it is sufficient to state the name of the first party on each side with an appropriate indication of other parties.

Moore states:

"Equity Rule 25 required that the parties' *full* name be stated, when known. The omission of such an express requirement from Rule 10(a) indicates a more flexible handling. Nevertheless, it is desireable [*sic*] for purposes of certainty to state the full name when known." [62]

The summons also must state the names of all the parties.[63] In a damage action, a person's full name should be stated, if known, so that the judgment will identify the judgment debtor with certainty.

#### *B. Necessary and proper parties under rules 19-20*

The rules regarding necessary and proper parties are found in FED. R. CIV. P. 19–20. Basically, these rules provide that a party need not be named as a defendant if he is not a necessary party under Rule 19(a). However, under Rule 20(a) he may be made a defendant if the plaintiff can state a claim for relief against him. If a necessary party is unavailable for joinder in the lawsuit for some reason, the case will have to be dismissed if he is found to be indispensable under Rule 19(b).[64]

Rule 19 does not contain any specific criteria for determining whether a federal official is a necessary or indispensable party,[65]

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**Footnotes at end of article.**

and the law developed by the courts is complex and confused.[66] The principle reason for this was that prior to the passage of 28 U.S.C. § 1391 (e) in 1962 a federal district court could not issue process for service beyond its territorial limits. The result was that suits against department secretaries and agency *heads* would only lie in the District of Columbia District Court, an intolerable financial burden and inconvenience to most litigants. The courts were often sympathetic to this difficulty and bent the necessary and indispensable parties doctrine in order that aggrieved persons could sue lower federal officials in their local district court. The Supreme Court offered little leadership, shifting back and forth from cases requiring joinder whenever the suit sought to *review* or control the activities of the superior official [67] to cases requiring joinder only if the decree would *"require him to take action*, either by exercising directly a power lodged in him or having a subordinate exercise it for him." [68] (Emphasis added.)

The passage of Section 1391(e) should eliminate much of the problem in this area. Questions of joinder of necessary parties should be resolved solely through a clear analysis of the relief sought. Cases since 1962 point this way.[69]

If you are challenging a regulation of a federal cabinet level department, find out who signed the regulation when it was published in the Federal Register. Determine whom the statute authorizes to promulgate such regulations. Normally it is only the secretary. If he has delegated the power to someone else who actually promulgated the regulation, you should sue both of them.

If the regulation is valid but a local official violates it, you need sue only the local official. But look at this carefully to be sure that the regulation really is valid, and is being enforced. A department may have a regulation which complies with the statute and favors your clients, but the secretary may have sent letters containing statements of policy or issued interoffce directives that contradict the regulations, or he may have knowingly tolerated a violation of the regulations. Here the Secretary should be made a defendant, since he is also violating the statute.

A sensitive attorney should look for the possibility of different attitudes within the department of agency itself. The federal bureaucracy is not a monolithic whole and should not be so treated. The department head may have promulgated decent regulations and policies which are being subverted or twisted by a particular subdivision, or vice versa. In this situation your lawsuit may add support to the agency faction which leans your way. Omitting them from the suit relieves them of responsibility for the alleged illegal acts, allows them to put more pressure on the defendants, and focuses community and possibly congressional attention on the real culprit(s). The above analysis applies also to situations where it is regional or local federal officials who are creating the difficulties for your clients in derogation of national agency rules or policies. Avoid joining the secretary or commissioner in this situation.

Actions seeking to enjoin the implementation or enforcement of a federal statute because it is alleged to be unconstitutional must name the person charged with implementing or enforcing the law.[70] This is normally the department or agency head.

### *C. Substitution under rule 25*

The problem of substitution arising in suits against officers on changes in office or resignation or death, was simplified by a 1961 amendment to the Federal Rules.[71] Prior to the amendment a plaintiff suffered an abatement of his action in six months if he did not watch for the appointment of a new official and substitute him as a defendant.[72] Under FED. R. CIV. P. 25(d) (1) the successor officer is automatically substituted, and abatement cannot take place.[73] Under Rule 25(d) (2) the entire problem may be avoided by describing the officer by his official title rather than by name.[74] Both subsections of Rule 25 apply to suits against officers in their "official capacity." The Notes of the Advisory Committee state the intended effect of the rule:

"The expression in his official capacity is to be interpreted in its context as part of a simple procedural rule for substitution; care should be taken not to distort its meaning by mistaken analogies to the doctrine of sovereign immunity from suit or the Eleventh Amendment. The amendment rule will apply to all actions brought by public officers for the government, and to any action brought in form against a named officer, but intrinsically against the government or the office or the incumbent thereof whoever he may be from time to time during the action. Thus the amended rule will apply to actions against officers to compel performance of official duties or to obtain judicial review of their orders. It will also apply to actions to prevent officers from acting in excess of their authority or under authority not validly conferred, *cf. Philadelphia Co. v. Stimson*, 223 U.S. 605 (1912), or from enforcing unconstitutional enactments, *cf. Ex parte Young*, 209 U.S. 223 U.S. 123 (1908); *Ex parte La Prade*, 289 U.S. 444 (1933). . . . This provision will encourage the use of the official title without any mention of the officer individually, thereby recognizing the intrinsic character of the action and helping to eliminate concern with the problem of substitution."

The comments to Rule 25(d) (2) do not resolve two potential problems. First, if you sue the office will you increase your sovereign immunity problem? One commentator states that the Rule 25(d) (2) form will probably cause some cases to fall without the *Larson* [75] ultra vires exception to sovereign immunity.[76] Yet his conclusion that it is best to sue an official individually to invoke *Larson* is not supported by the cases he relies upon.[77] Second, if you are suing the members of a board or commission, is the proper form *Allen v. Civil Service Commissioners*, or must you name each individual board or commission member? Because of the possible confusion by the court between an action against a board and an action against the individual board members, I recommend that you name each individual board or commission member. *E.g., Sennhauser v. Clark, Civil Service Commissioner; Davis, Civil Service Commissioner; etc.*

### *D. "Individually and in his official capacity"*

The form for suits against officers allowed in Rule 25(d) (2) is very different from the common practice among litigators of suing named officials "individually and in their official capacity." Why has this practice developed? There are several possible explanations. First, this allows suits against officials individually for money damages. Yet in most actions against federal defendants, this is not one of the causes of action. Second, the official capacity language avoids the rule that where an official was sued individually, his successor may not be substituted—even if timely motion was made.[78] Rule 25(d) (1) should ameliorate some of the problem here.

Third, and most likely, the language probably was developed in response to apparent contradictions in the reasoning of *Larson* [79] and some of the other ultra vires exceptions to sovereign immunity cases. In *Larson* the Court said that the suit was against the officer because of his *official function* as chief of the War Assets Administration. But the Court found that when he acted in excess of his authority, he was acting *individually* and therefore subject to suit. I have been *unable* to find *one* case which was dismissed under *Larson* because the official was sued solely in his official capacity, *or* solely in his individual capacity. That line of cases has been more concerned with the substance of the action rather than the form of pleading. I recommend that the "individually and in his official capacity" language no longer be used in actions for specific relief against federal officials. The better practice is the form allowed by Rule 25(d) (2). There is one situation where a party might allege individual and official liability. This is a damage action against the defendant individually and an action for an injunction against him in his capacity as a government official. FED. R. CIV. P. 18 allows joinder of these different claims. I recommend that you sue the officer individually by his name only and in addition sue him by his official title for specific relief.

### V. CONCLUSION

I recommend that you do not name a department, agency, board, or commission as an institutional defendant unless you are appealing under a judicial review statute which specifically refers to the agency, or you rely upon a sue-and-be-sued clause naming the department or agency. In all other situations you should name officials. Actions for judicial review of agency decisions under the APA should be against the official who made the decision. Officials should be sued not by name but by the name of their office, unless you are seeking to hold them individually liable for damages. Where there are several officials with the same title, they should be sued by name and title. Your lawsuit should be carefully planned to avoid the preliminary jurisdiction and sovereign immunity barriers and to get to the merits. Careful attention to the proper defendant parties will greatly facilitate this goal.

### FOOTNOTES

[1] M. Voltz, West's Federal Practice Manual § 7330 (2d ed. 1970).

[2] In the article I assume that the action is to be brought in federal court. Actions against the United States of America under the Tucker Act, 28 U.S.C. §§ 1346(a), 1491 (1970) and the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 *et seq.* (1970), are required by statute to be brought in federal court.

There is considerable doubt whether state courts possess the power to enjoin the acts of federal officials for acts done under color of federal authority. *See, e.g.*, Alabama *ex rel.* Gallion v. Rogers, 187 F. Supp. 848, 852 (M.D. Ala. 196), *aff'd sub nom.* Dinkens v. Attorney General 285 F. 2d 430 (5th Cir. 1961). *See also* H. M. Hart & H. Wechsler, the Federal Courts and the Federal System, 388–91 (1953); J. Moore, Federal Practice, 247–48 (2d ed. 1966); C. Warren, *Federal and State Court Interference*, 43 Harv. L. Rev. 345, 357–58 (1930); R. Arnold, *The Power of State Courts to Enjoin Federal Officers*, 73 Yale L. J. 1385 (1964).

[3] Because this is a complex area the reader is urged to scrutinize carefully the pertinent statutes and cases and to use the more exhaustive texts or articles which deal with this area of the law. *See*, e.g., L. Jaffe, Judicial Control of Administrative Action (1965); D. Swartz & S. Jacoby, Litigation With the Federal Government (1970); *Developments in the Law—Remedies Against the United States and Its Officials*, 70 Harv. L. Rev. 827 (1957); H. M. Hart & H. Wechsler, the Federal Courts and the Federal System, 1107–1232; K. Davis, Administrative Law Treatise (1958); J. Moore, Federal Practice (2d ed. 1966).

I do not deal with actions against government corporations in this article. This is a special problem area that a public interest lawyer normally will never be involved in.

[4] In this article I will not deal with third party practice, interpleader, class actions, intervention and problems of joining federal defendants with state or private defendants.

[5] 15 U.S.C. §§ 21(c), 45(c).

[6] 28 U.S.C. §§ 1346(a) (2), 1491.

[7] 28 U.S.C. §§ 1346(b), 2671 *et seq. See also*

28 U.S.C. §§ 1402(b), 1504, 2110, 2401, 2411, 2412, 2671–80.

[8] 28 U.S.C. § 1346(a)(1).

[9] 28 U.S.C. §§ 1347, 2409.

[10] 25 U.S.C. § 345; 28 U.S.C. § 1353.

[11] 43 U.S.C. § 666(a).

[12] 35 U.S.C. § 183; 28 U.S.C. § 1498(a).

[13] 46 U.S.C. §§ 741 *et seq.*

[14] 46 U.S.C. §§ 781 *et seq.*

Other statutes waiving the sovereign immunity of the United States are collected in Callaghan & Co., Cyclopedia of Federal Procedure, §§ 2.32–2.33 (3d ed. 1966, Supp. 1972).

[15] An action against the United States under the Tucker Act may *not* be filed in the court of claims if there is a suit arising out of the same transaction pending in another court against the United States or a federal official. *See* 28 U.S.C. § 1500. An action in the Court of Claims may not be joined with actions against individual officials. *See* United States v. Sherwood, 312 U.S. 589 (1941). But this does not bar such joinder in the federal district courts and the cases allow it. *See, e.g.,* Bees v. Federal Sec. Adm'r, 172 F. 2d 34 (2d Cir. 1949). *See also* Fed. R. Civ. P. 20(a), 21.

[16] The Social Security Act provides that a claimant "may obtain a review . . . in the district court. . . . As part of its answer the Administrator shall file a certified copy of the transcript of the record. . . ." 42 U.S.C. § 405(g) (1970).

[17] 33 U.S.C. § 921(b) (1970).

[18] 7 U.S.C. § 608(c)(15) (1970).

[19] 21 U.S.C. § 355(h) (1970).

[20] 27 U.S.C. § 205(e) 1970).

[21] 28 U.S.C. § 1348 (1970).

[22] For a discussion of the sovereign immunity ramifications, see text at p. 737 *infra.* For a discussion of the successor official problems, see text at p. 740 *supra.*

[23] 5 U.S.C. § 7024 (1970).

[24] Peoples v. Department of Agriculture, 427 F. 2d 561 (D.C. Cir. 1970); Shannon v. HUD, 436 F. 2d 809 (3d Cir. 1970); Stanisic v. United States Immigration & Naturalization Serv., 393 U.S. 62 (1969); Powelton v. HUD, 284 F. Supp. 809 (E.D. Pa. 1968); Environmental Defense Fund v. United States Army Corps of Engineers, 324 F. Supp. 878 (D. D.C. 1971).

[25] Abbott Laboratories v. Gardner, 387 U.S. 136 (1967); Barlow v. Collins, 397 U.S. 159 (1971).

[26] For discussion of this issue *see* C. Byse & J. Fiocca, *Section 1361 of the Mandamus and Venue Act of 1962,* 81 HARV. L. REV. 308, 328 (1967); H. Wechsler, *Federal Jurisdiction and the Revision of the Judicial Code,* 13 LAW & CONTEMP. PROB. 216, 220 (1948); L. JAFFE, JUDICIAL CONTROL OF ADMINISTRATIVE ACTION 165 (1965). Several of the Circuits have directly held that the APA is jurisdictional, *See, e.g.,* Washington v. Udall, 417 F. 2d 1310, 1319 (9th Cir. 1969); Toilet Goods Ass'n v. Gardner, 360 F. 2d 677, 679 n. 1 (2d Cir. 1966). The Supreme Court appears to have assumed this on at least one occasion, Rusk v. Cort, 369 U.S. 367 (1962).

[27] *See discussion infra* in text at p. 738.

[28] "The district courts shall have original jurisdiction of any action in the nature of mandams to compel an officer or employee of the United States or any agency thereof to perform a duty to the plaintiff." 28 U.S.C. § 1361.

[29] *But see* Peoples v. Department of Agriculture, 427 F. 2d 561 (D.C. Cir. 1970) where the court utilized the nature of mandamus statute as a jurisdictional statute for a suit against a department under the APA.

[30] McIntire v. Wood, 11 U.S. (7 Cranch) 504 (1813).

[31] United States v. Schurz, 102 U.S. 378 (1880).

For a discussion of the federal mandamus remedy *see* Marbury v. Madison, 5 U.S. (1 Cranch 137, 166–171 (1803); H. M. HART & H. WECHSLER, the FEDERAL COURTS AND THE FEDERAL SYSTEM, 1180 (1953); D. SWARTZ & S. JACOBY, GOVERNMENT LITIGATION 581 (1963); *Developments in the Law—Remedies Against the United States and its Officials,* 70 HARV. L. REV. 829, 846–851 (1957).

[32] For a discussion of this act *see* S. Jacoby, *The Effect of Recent Changes in the Law of "Nonstatutory" Judicial Review,* 53 GEO. L.J. 19 (1964); C. Byse and J. Fiocca, *Section 1361 of the Mandamus and Venue Act of 1962 and "Nonstatutory" Judicial Reveiw of Federal Administrative Action,* 81 HARV. L. REV. 308 (1967).

[33] *See* 2 CALLAGHAN & CO., CYCLOPEDIA OF FEDERAL PROCEDURE, § 2.395(a) (3d ed. 1965, Supp. 1972).

[34] Peoples v. Department of Agriculture, 427 F.2d 561 (D.C. Cir. 1970).

[35] Chournus v. United States, 335 F.2d 918 (10th Cir. 1964). *See also* the cases cited in the text and footnotes at p. 738 *infra* which hold that 28 U.S.C. § 1361 does not constitute a waiver of sovereign immunity by the United States, its departments and agencies, which in effect accomplish the same thing as the *Chournus* case.

[36] It is almost impossible to bring a damage action against the United States under the Tucker Act, and if the individual action is based on 28 U.S.C. §§ 1331 or 1332 you must plead and prove a jurisdictional amount of $10,000 *or more.* However, to sue the United States under 28 U.S.C. § 1346 (a) (2) in a district court, you must plead and prove that *less* than $10,000 is in controversy. If you take the claim against the United States to the court of claims where no limitation in amount exists, you will be confronted with 28 U.S.C. § 1500 which bars dual actions. *See* note 15 *supra.* The result is that you must elect which remedy to pursue or attempt to base your tort action against the individual official on some jurisdictional statute other than Sections 1331 or 1332. But, none come readily to mind.

[37] The doctrine of privilege for actions within the officer's legal authority or committed by law to their discretion is related to the doctrine of sovereign immunity. This doctrine is a complex one with many nuances and exceptions and should be carefully considered in framing a lawsuit of this type. *See, e.g.,* Barr v. Matteo, 360 U.S. 564 (1950); Howard v. Lyons, 360 U.S. 593 (1959); 3 DAVIS, ADMINISTRATIVE LAW TREATISE, § 26.01 (1958); D. SWARTZ & S. JACOBY, LITIGATION WITH THE FEDERAL GOVERNMENT, §§ 16.115–16.116 (1970); H. M. HART & H. WECHSLER, THE FEDERAL COURTS AND THE FEDERAL SYSTEM, 1212–1224 (1953).

[38] *See, e.g.,* Federal Tort Claims Act, 28 U.S.C. § 2679.

[39] U.S. CONST. art. III § 2.

[40] Monaco v. Mississippi, 292 U.S. 313, 321 (1934).

[41] In Keifer & Keifer v. Reconstruction Fin. Corp., 306 U.S. 381, 388 (1938), Mr. Justice Frankfurter wrote:

"For present purposes it is academic to consider whether this exceptional freedom from legal responsibility rests on the theory that the United States is deemed the institutional descendant of the Crown, enjoying its immunity but not its historic prerogatives, *cf. Langford v. United States,* 101 U.S. 341, 343, or on a metaphysical doctrine "that there can be no legal right as against the authority that makes the law on which the right depends." Kawananakoa v. Polyblank, 205 U.S. 349, 353."

The doctrine was also grounded upon the political theory of "Separation of Powers" which underlies our Constitution. *See* Decatur v. Paulding, 39 U.S. (14 Pet.) 497, 516 (1840).

[42] For a general analysis of the sovereign immunity defense *see* D. SWARTZ & S. JACOBY, LITIGATION WITH THE FEDERAL GOVERMENT, § 16.101 (1970); L. JAFFE, JUDICIAL CONTROL OF ADMINISTRATIVE ACTION, 155–188, 176–192, 194–196, 222–231, 232–247 (1965); H.M. HART & H. WECHSLER, THE FEDERAL COURTS AND THE FEDERAL SYSTEM, 1140–1163, 1189–1193, 1203–1212, 1215–1224 (1953); 3 K. DAVIS, ADMINISTRATIVE LAW TREATISE, §§ 27.01–27.10 (1958); Note, *Sovereign Immunity and Specific Relief Against Federal Officers,* 55 COLUM. L. REV. 73 (1955); *Developments in the Law—Remedies Against the United States and Its Officials,* 70 HARV. L. REV. 829, 829–863 (1957); K. DAVIS, *Sovereign Immunity in Suits Against Officers For Relief Other Than Damages,* 40 CORN. L.Q. 3 (1934); K. Davis, *Government Officers as Defendants: Two Troublesome Problems,* 104 U. PA. L. REV. 69 (1955).

[43] *See* Federal Housing Administration v. Burr, 309 U.S. 242 (1940); Sarner v. Mason, 228 F.2d 176 (3d Cir. 1955). In *Burr* the court wrote that in order to limit a sue-and-be-sued clause:

"[I]t must be clearly shown that certain types of suits are not consistent with the statutory or constitutional scheme, that an implied restriction of the general authority is necessary to avoid grave interference with the performance of a governmental function 309 U.S. at 245."

The sue-and-be-sued statutes are collected in Callaghan & Co., Cyclopedia of Federal procedure § 2.28 (3d ed. 1966, Supp. 1972); Keifer & Keifer v. Reconstruction Fin. Corp., 306 U.S. 381, 390–391 n. 3 (1938); and United States Code Annotated index heading "Actions and Proceedings."

[44] 28 U.S.C. § 2201–2.

[45] *Id.* § 1331.

[46] Anderson v. United States, 229 F.2d 675 (5th Cir. 1956).

[47] 5 U.S.C. § 701–7–6 (1970).

[48] 28 U.S.C. § 1361.

[49] *See* 3 K. Davis, Administrative Law Treatise, § 27.07 (1958); S. Jacoby & D. Swartz, litigation with the Federal Government, § 16.109 (1970).

[50] Littell v. Morton, 445 F.2d 1207 (4th Cir. 1971).

[51] Stanwell Laboratories, Inc. v. Shaffer, 424 F.2d 859 (D.C. Cir. 1970); Kletchka v. Diver, 411 F.2d 436 (2d Cir. 1969); Estrada v. Ahrens, 296 F.2d 690 (5th Cir. 1961).

[52] *Compare* Washington v. Udall, 417 F.2d 1310 (9th Cir. 1969), *with* Adams v. Witmer, 271 F.2d 29 (9th Cir. 1959).

[53] M.G. Davis & Co. v. Securities & Exch. Comm'n, 252 F. Supp. 402 (S.D. N.Y. 1966).

[54] White v. Administrator of Gen. Serv. Adm'n, 343 F.2d 444 (9th Cir. 1965).

[55] Scholder v. United States, 428 F.2d 1123 (9th Cir. 1970).

[56] 219 F.2d 479 (D.C. Cir. 1954).

[57] 337 U.S. 682 (1949).

[58] For a discussion of the history of this problem *see Developments in the Law—Remedies Against the United States and Its Officials,* 70 Harv. L. Rev. 827, 847–849 (1957).

[59] 427 F.2d 561 (D.C. Cir. 1970).

[60] *See, e.g.,* 3 K. Davis, Administrative Law Treatise, §§ 27.01–27.05 (1958); D. Swartz & S. Jacoby, Litigation with the Federal Government (1970); H. M. Hart & H. Wechsler, The Federal Courts and the Federal System, 1169, 1179 (1953); J. Block, *Suits Against Government Officers and the Sovereign Immunity Doctrine,* 59 Harv. L. Rev. 1060 (1946).

[61] 337 U.S. 682 (1949).

[62] J. Moore, Federal Practice, § 10.02 (2d ed. 1958). Where a name is unknown such specification as circumstances permit is allowed. *See, e.g.,* Fehr Baking Co. v. Bakers Union, 20 F. Supp. 691 (W.D. La. 1937) *See also* Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971).

[63] *See* Fed. R. Civ. P. 4(b). *See also* J. Moore, Federal Practice, § 4.07 (2d ed. 1958).

[64] Under Fed. R. Civ. P 19(b), when an officer not named as defendant is found to be an indispensable party, the solution is not to dismiss but to add the officer as a defendant by amendment to the complaint, and serve him by mail. Coughlin v. Ryder, 341 F.2d 291 (3d Cir. 1965); McEachern v. United States, 321 F.2d 31 (4th Cir. 1963).

[65] In an action to recover damages, obtain money from a specific fund or recover property from the United States, the United States may be considered to be an indispensable party, and if it has not consented to be sued, then the action must be dismissed. *See* Larson v. Domestic & Foreign Commerce Corp., 337 U.S. 682 (1949).

[66] For a survey of this problem *see* 3A J. Moore, Federal Practice, § 19.16 (2d ed. 1958). *See also* H. M. Hart, & H. Wechsler, the Federal Courts and the Federal System, 1187–93 (1953); Note, Williams v. Fanning Revisited, 53 Colum. L. Rev. 1128 (1954).

[67] Grierich v. Rutter, 265 U.S. 388 (1924); Webster v. Fall, 266 U.S. 507 (1925).

[68] Williams v. Fanning, 332 U.S. 490, 493 (1947).

[69] Gager & Goldberg, Inc. v. United States, 44 F.R.D. 477 (D. Conn. 1968).

[70] Carr v. Desjardines, 16 F. Supp. 346 (W.D. Okla. 1936); Massachusetts Farmers Defense Comm. v. United States, 26 F. Supp. 941 (D. Mass. 1939); Stroud v. Benson, 254 F.2d 448 (4th Cir. 1958).

[71] *See* Wright, *Substitution of Public Officers: The 1961 Amendment to Rule 25(d)*, 27 F.R.D. 221 (1961).

[72] Snider v. Buck, 340 U.S. 15 (1950).

[73] FED. R. CIV. P. 25(d).

Public Officers; Death or Separation from Office.

(1) When a public officer is a party to an action in his official capacity and during its pendency dies, resigns, or otherwise ceases to hold office, the action does not abate and his successor is automatically substituted as a party. Proceedings following the substitution shall be in the name of the substituted party, but any misnomer not affecting the substantial rights of the parties shall be disregarded. An order of substitution may be entered at any time, but the omission to enter such an order shall not affect the substitution.

[74] FED. R. CIV. P. 25(d).

(2) When a public officer sues or is sued in his official capacity, he may be described as a party by his official title rather than by name; but the court may require his name to be added.

[75] Larson v. Domestic & Foreign Commerce Corp., 337 U.S. 682 (1949).

[76] 3 K. DAVIS, ADMINISTRATIVE LAW TREATISE, § 27.09 (1958).

[77] *Id.* n. 29–30.

[78] McGrath v. National Ass'n of Mfrs., 344 U.S. 804 (1952).

[79] Larson v. Domestic & Foreign Commerce Corp., 337 U.S. 682 (1949).

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## MOST-FAVORED-NATION TREATMENT FOR ROMANIA

**Mr. ROBERT C. BYRD.** Mr. President, on behalf of the Senator from Indiana (Mr. HARTKE), I ask unanimous consent that the following statement and newspaper article be printed in the RECORD.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

### MOST-FAVORED-NATION TREATMENT FOR ROMANIA

Mr. President, we as legislators should refrain from viewing all of the Eastern European countries as a bloc whose actions and foreign policies are orchestrated by their big neighbor, the Soviet Union. It was some time, however, before our own experts in the field of international affairs recognized the concept of polycentrism. Polycentrism in Eastern Europe is the pursuance of a persistent and carefully independent policy from the Soviet Union by the various nation-states in Eastern Europe.

Since the Soviet invasion of Czechoslovakia, Ceausescu's Romania and Tito's Yugoslavia have been the leaders in the policentristic movement. Their endeavors toward independence should not go unregarded. Yugoslavia was granted MFN treatment in 1881 and has had it ever since. Even Poland received MFN status in 1960.

It certainly seems to me that the political and economic climate between Romania and the United States justifies equal commerical treatment and thus the granting of MFN status to this Republic. Ceausescu as head of the government of Romania condemned the Soviet invasion of Czechoslovakia. He has maintained diplomatic relations with the state of Israel and has encouraged good relations between Romania and Western countries.

We should not let our conceptions of the Soviet Union shade our view of Romania or the other more independent Eastern European countries. I am a cosponsor of the Jackson amendment, and I am convinced that sponsoring most favored nation status for Romania is consistent with my stand on the Jackson proposal. The establishment of closer trading and political ties with Romania can be of enormous benefit to both our countries.

By not granting equal tariff treatment to Romania we are aiding the Soviet Union in its continued economic and political domination of Eastern Europe and promoting the economic policies of our western business competitors in these countries. The West Germans have already signed trade agreements with the Ceausescu government strengthening their trading position there.

We, of course, have not been altogether idle in promoting industrial and technological cooperation between the United States and Romania. On December 5, 1973, a Joint American-Romanian Economic Commission was established which will function to facilitate commercial relations.

Romania also has drawing rights from the Export-Import Bank. Romania has been eligible for Export-Import Bank credits since a Presidential determination was made in November, 1971. Their credits now total $78.3 million. These credit transactions help finance U.S. exports of equipment to Romania which aid our own balance of payments position.

**Mr. ROBERT C. BYRD.** The following editorial, which appeared in the Baltimore Sun on December 3, 1973, succinctly describes the major issues involved in granting most-favored-nation status to the Republic of Romania:

### VOICE OF A NONSUPERPOWER

President Nicolae Ceausescu's state visit to the United States this week will serve more than a ceremonial purpose if it reminds Americans that this is a world not just of two or three or five superpowers but of 150 nations, large and small, rich and poor, each protective of its sovereignty and zealous for its economic betterment. Among modern leaders, the Romanian president has been a visible and creative advocate of these nation-state concepts.

Prickly, persistent and carefully independent, Mr. Ceausescu has done much to loosen the stifling ties that bind in the Soviet bloc. Alone among Warsaw Pact government chiefs he condemned the Soviet invasion of Czechoslovakia, maintained diplomatic ties with Israel and encouraged good atmospherics with Communist China. He was in the vanguard in economic openings to the West. At recent meetings of the European Conference on Security and Co-operation, his representatives vehemently demanded protection for all nations against outside interference and the use of force.

Despite his maverick role in the Warsaw Pact, Mr. Ceausescu has been far from a patsy for Washington. He condemned the U.S. involvement in Vietnam. He denounced Israel's presence on Arab territories. He successfully opposed U.S. efforts to keep Romania and other "flank" nations out of negotiations on troop reductions in Central Europe. His voice was consistently with nations trying to avoid domination by the superpowers—a role that often seemed to parallel France's conduct in NATO.

In sum, however, President Ceausescu's course has been highly useful to the United States. And this country, to its credit, has often responded in a manner beneficial to Romania's interest. President Johnson publicly protested Soviet troop movements near the Romanian border after the Czechoslovak tragedy. President Nixon selected Romania as the first Communist country to be visited by an American chief of state. Romania was favored with U.S. credits and technological assistance early in the detente era.

And yet there is a sticking point that underscores Romania's concern about having its national interests overriden by the big-stakes diplomacy of the big powers. The sticking point is the continuing denial of most-favored-nation trading arrangements that would help Romania correct its current 3 to 1 negative trading balance with the United States. The political-economic climate between our two countries certainly justifies equal commercial treatment. But because the administration is seeking power to grant most-favored-nation treatment to all Communist countries, Romania has become an innocent victim of congressional resentment toward the Soviet Union. It is a classic example of a small nation falling afoul of superpower politics.

President Nixon is expected to sign civil aviation, fishing and dual-taxation agreements with President Ceausescu during this week's visit. Such steps will be in line with his enlightened record in dealing with Eastern Europe. But Mr. Nixon would be making a bigger gesture, and showing sensitivity to the needs of a friendly nation below superpower status, by seeking equal tariff treatment specifically for Romania.

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## DR. MARTIN LUTHER KING, JR.

**Mr. HUGH SCOTT.** Mr. President, in an eloquent column of January 15 in Philadelphia's the Evening Bulletin, Claude Lewis assessed the remarkable and enduring legacy of the late Rev. Dr. Martin Luther King, Jr. Had he lived, Dr. King would have been 45 years old on January 15. In the short time he was with us he gave so much to America and to the world.

Mr. Lewis says of Dr. King:

> We blacks tried to claim him for our own—But while Dr. King was fashioned out of the black experience and the black community, his heart belonged to the whole world. He would never let anyone put limits on his love.

Mr. President, I believe—as columnist Claude Lewis so aptly expressed it—that Dr. King belonged to all of us. He is still missed, and he will always be remembered where there is anywhere a lack of love among any peoples. And I hope that memory will guide us in filling that void.

I would like to share Mr. Lewis' column with my colleagues, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD as follows:

### DR. KING—LEGEND LIVES ON

(By Claude Lewis)

If Dr. Martin Luther King had lived, he would have been 45 years old today.

He marched out of the South to enthrall nearly the whole nation with his extravagant and eloquent colloquies dealing with peace and love and human decency.

In 13 short years, Dr. King became one of the best-known men in modern history. That might sound like an exaggeration but the printing press and the television tube combined to make his name a household world in homes around the world.

Nearly six years have passed since that mournful day in Memphis when his throat was blown apart in an orgy of violence and death. The bullet which took his life also stole the life of the civil rights movement. Though present leaders often deny that the movement has given way to other causes, it is obvious that with the death of Dr. King went the bloodstream of many causes that came out of the strident '60s.

Martin Luther King Jr. was never a consensus leader. He was a man who settled upon an idea, examined it, dissected it, discussed it with Dr. Abernathy and his other aides, took a position and then offered it without equivocation to the world.

Once in a private interview he told me: "If I become the only man on earth wedded to the idea that peace is preferable to war, that nonviolence is acceptable and violence is not, that truth is superior to the lie, I will remain loyal to these concepts to the end because I believe in my heart and my soul that they are just and right."

### RISKED HIS LIFE

The words came out of his mouth; not out of a book, or out of a speech. Martin Luther King Jr. talked this way because he believed this way. He believed so strongly in the human potential that he continued to risk his life to get his messages across.

His last 13 years were marked by threats and attempts on his life. They became most real just before he was murdered in Memphis. Indeed, on the eve of his death, at age 39, he offered a grim prophecy that was to briefly haunt his adherents:

"I don't know what will happen now," he said in that famous and final sermon. "We have got difficult days ahead, but it doesn't matter with me because I've been to the mountain top. Like anyone else I would like to live a long life. But I'm not concerned with that. I just want to do God's will.

"I may not get there with you, but I want you to know tonight that we as people will get to the promised land. I am happy tonight that I am not worried about anything. I'm not fearing any man. Mine eyes have seen the glory of the coming of the Lord."

Soon the bullet was in the air and the whole thing became part of history. He had come to Memphis to help the trashmen gain a better wage and a better life. Dr. King wasn't a man who simply went around to preach in the big churches and to help the powerful. Hypocrisy played no part in his life.

### NOT JUST BLACK

He never thought that the only cause was the black cause. He was so much bigger than that. He was for women's liberation, and for help for the aged long before these became controversial causes. His was a simple philosophy. He believed that every man, woman, and child was worthy. That's what made him so terribly acceptable all over the world. He convinced the greater part of the human population that love and human decency recognized no political or physical boundaries.

Russia and China were never Dr. King's enemies. Hunger and violence were. He never hated Germans or Arabs or Jews. He hated bloodshed, inadequate housing and discrimination.

We blacks tried to claim him for our own. As someone eulogized at his funeral in Atlanta, he was "our very own Prince of Peace." But while Dr. King was fashioned out of the black experience and the black community, his heart belonged to the whole world. He would never let anyone put limits on his love.

He was as committed to peace in Bangkok as he was to peace in Birmingham. Nonviolence was as important to him in the Middle East as it was to him in America's Middle West, and love was as necessary in North Philadelphia as it was for him in North Africa. Peace was his basic principle and truth was as significant a part of his personal trilogy as was religion and love.

Martin Luther King didn't mind Bull Connors or Sheriff Jim Clark all that much. And he didn't care about the dogs the police used against him, or the cattle prods, the jail cells, and the fire hoses in Birmingham. He didn't mind all of these things, because he was a selfless man.

For all of his pain and trouble, he only sought one thing in return.

"When I die," he asked, "don't build monuments to me. Don't engrave my name. Just say Martin Luther King tried to help somebody. Don't say I won a Nobel Prize for Peace. Just say Martin Luther King was a drum major for justice, and that Martin Luther King tried to love . . ."

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## H. R. GROSS, OF IOWA

Mr. CLARK. Mr. President, last week, Congressman H. R. Gross announced that he will retire at the end of the year after representing Iowa's Third Congressional District for more than 25 years. When he leaves Washington, D.C., and returns to Iowa, the Congress will lose one of its most respected and hardworking Members.

The Congressman and I do not share the same political party and our positions on national issues are not always the same, but as the Des Moines Register said in an editorial 2 days ago:

> Whether people agreed with H. R. (for Harold Royce) on policy issues or not, they came to respect him as a man of incorruptible integrity and independence.

He will be remembered for that integrity and independence and the remarkable, unique record of public service that he compiled in 13 terms in the House of Representatives. For all of those years, he has been interested in economy and value. He always has wanted to be sure that the American taxpayer was not being cheated, that the public's tax dollar was not being wasted or squandered. H. R. Gross has been a tenacious watchdog in the House, and when he leaves, he will be missed.

Several years ago, the Washington Monthly carried an article on the Congressman: "H. R. Gross: Conscience in the House." It provides an excellent summary of his record and his work, and I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### H. R. Gross: Conscience in the House

(By Jacques Leslie)

The front room of his office gives fair warning of what lies within. One sign on the wall says, "Nothing is easier than the expenditure of public money. It does not appear to belong to anybody. The temptation is overwhelming to bestow it on somebody." Another says, "There is always free cheese in a mousetrap."

Called by some the "watchdog of the federal treasury" and by others the "abominable no-man of the House," Harold Royce (H.R.) Gross, Republican Congressman from Iowa, has built his reputation on uncompromising integrity, a rough-hewn sense of humor and an unquestioning belief in the wisdom of a balanced budget. Estimates of the amount Gross has pared from the federal budget and has therefore "saved" taxpayers during his 23 years as Congressman range from millions to billions of dollars.

Gross cultivates the idea that he is a principled loner, an exception among men who have taken to heart Sam Rayburn's maxim, "To get along, go along." In the 91st Congress, for example, he voted against President Nixon more often than all other Congressmen serving a full two-year term, opposing him on 58 percent of roll-call votes. (The average House member opposed the President 29 percent of the time.) "If I'm convinced that a bill is bad, or enough of it is bad to overbalance the good in it, why I'll vote against it," Gross says. "It doesn't bother me to be in the minority."

Among the programs Gross has unsuccessfully opposed are foreign aid, Peace Corps, all salary increases for Congressmen from the time they received $12,500 a year (they now get $42,500) and the United Nations. Occasionally, when he loses, Gross resorts to sarcasm. When a bill passed to reimburse New York City for its expenses during Khrushchev's 1960 visit to the U.N., Gross said on the floor. "I swear I think that what we ought to do is pass a bill to remove the torch from the hand of the Statue of Liberty and insert a tin cup."

Gross is a slight man with a booming voice. Born on a farm in Arispe, Iowa, in 1899, he never finished high school. After serving in the Army at the Mexican border and in France in World War I, he studied at the University of Missouri School of Journalism but did not receive a degree. For the next 15 years he worked as a reporter and editor, than as a newscaster for radio station WHO in Des Moines. Known as the "fastest tongue in radio," he could speak 200 words a minute in a clear, solid tone.

Gross first ran unsuccessfully in the Republican primary for governor in 1940, then in 1948 was elected to Congress from Iowa's Third District. He has been there ever since.

Some observers think of Gross as a clown, who "has exploited and profited from every rigid prejudice in Iowa." A look at the newsletter he sends out weekly to 9000 Iowa subscribers does not dispel that notion. In it, the United States is referred to as "Uncle Sap," "Uncle Sucker" and "Uncle Handout"; the Pentagon is "Fort Fumble." After mentioning a news account about President Johnson tossing beer cans out of his car as he sped around his Texas ranch, Gross suggested that "Home on the Range," be changed to "Foam on the Range."

Gross himself is the frequent object of barbs from other Congressmen. Observing that he has not left the United States since World War I and is opposed to Congressional junkets, Reps. John Ashbrook (R., Ohio) and Frank Thompson (D., N.J.) sponsored a resolution in 1970 to create a committee, consisting only of Gross, with the task of inspecting U.S. economic and military-aid expenditures throughout the world. Junketing Congressmen often send Gross postcards from the countries they visit. "Paris is great! Wish you were here!" Yet for all the kidding he receives, Gross is praised by a large number of Congressmen on both sides of the aisle.

The conventional wisdom among Representatives is that it is important to have one person like Gross in Congress, but that if Grosses filled the House, it would be unworkable. He introduces few bills and does not play an active role in the shaping of legislation. Instead, his function is essentially negative.

Gross is the only Congressman who makes a concerted effort to read the entire contents of every bill that reaches the House floor. (This is no mean feat; in the 91st Congress, for example, 1415 bills, many several hundred pages long, were reported to the floor.) He is constantly on the lookout for wasteful appropriations, self-serving arrangements among members and ambiguous legislation. When he is unclear about some bill, he asks a question, and the response is then a matter of record. If the answer does not satisfy him, he may turn to procedural gimmicks to delay or prevent the bill's passage. He is well prepared, a good debater and expert parliamentarian.

The most famous of Gross's techniques is the quorum call—it takes half an hour to read the list of Representatives' names. Gross believes that a Congressman's first responsibility is to be on the floor when the House is in session, and he may well have called for quorum more often than any other Congressman in history. Once, Rep. Tom Rees (D., Calif), angered by two calls (one by Gross), made a speech on the House floor against "capricious and senseless use of quorum calls which have little or no relationship to the important matters which this Congress has at hand." As soon as Rees finished, Gross made a point of order that a quorum was not present.

Another weapon is objecting to unanimous-consent requests. The House handles much of its business by this means, and the objection of one member is enough to defeat a unanimous-consent motion. Gross employs this technique to combat the "Tuesday-Thursday Club"—Congressmen who arrange to have unimportant business scheduled on Friday and Monday so that they can go home four days at a stretch.

Gross has made himself an expert on House procedure, which is codified in four sources: the Constitution, the House rules, Thomas Jefferson's *Manual* and the 11 volumes of *Precedents of the House of Representatives*. "Some Congressmen who've been here for several terms don't even know the working rules of the House," he says. "Some of these people are pitiful. Nobody can tell me that the country wouldn't be better served if more of them knew what the hell was going on."

Because of his willingness to use all the parliamentary procedures at his disposal, many committee chairmen try to iron out possible differences with Gross by notifying him of their intentions in advance. Some Congressmen have changed legislation in committee to anticipate Gross's objections on the floor. Thus, though Gross rarely has the votes to back up his convictions, he does have a veto power over some aspects of legislation.

The basic article of Gross's faith is summed up in his bill, H.R. 144 (a gross equals 12 dozen), which he has introduced annually for more than a decade. It calls for a balanced budget and the gradual retirement of the national debt. (The bill is invariably assigned to the Ways and Means Committee and never heard from again.) Not only is deficit spending responsible for the nation's present economic difficulties, Gross says, but also, "We're plastering the generations to come with mortgages that will never be paid off. And this is having its effect on the moral fiber of the country. The main reason why we will go into a crisis will be financial."

Certainly some of Gross's proposed economies are reasonable. One example is a bill he introduced last year to prohibit junkets by lame-duck Congressmen. In the past such trips have been authorized as a kind of farewell present to non-returning Congressmen. In 1969, Gross blocked a unanimous-consent request to skip a House session on the day of the Apollo 11 launching so that Congressmen could accept free government transportation to Cape Kennedy. Gross said he was "unable to find any reason at all why a substantial amount of money should be spent" to transport Congressmen and their families to Florida. Consequently, the House was forced to meet on the day of the launching.

Gross is also concerned with bigger sums. In 1971, he voted against the appropriation bills for the Department of Commerce, Housing and Urban Development, Interior, Justice, Labor, Post Office, State, Transportation, Treasury, and Health, Education, and Welfare. He voted against appropriations for the Office of Education, foreign aid, the National Foundation on the Arts and Humanities, and the Smithsonian Institution. But he did vote in favor of the largest appropriation bill of all, $71 billion for the Department of Defense. "In this business," he said, "I would prefer to make an error on the side of what I conceive to be national security."

Gross gives the impression of a gruff, hard-bitten, no-nonsense curmudgeon, but this is to some extent a self-protective device. He is known among friends as a gentle, gracious man. By Washington standards he leads a spartan existence. While he labors on Capitol Hill, his wife is at home reading and underlining. By the time he returns home, she has put the material she thinks he should read next to his easy chair. At the end of the evening, if there is time, the couple plays a game of cribbage, then goes to bed. Gross has boasted that he does not own a tuxedo, nor his wife an evening gown.

Rep. Otto Passman, one of Gross's admirers, accurately describes the thrust of Gross's efforts in Congress: "I came out of the free-enterprise system," he says, "but it seems that now we are on the road to socialism. Gross has slowed down the trend to socialism from a run to a walk."

With his constant attendance on the House floor, his careful consideration of every bill, and his desire to truly debate legislation on the floor, Gross probably comes closer to embodying the grade-school textbook's concept of a Congressman than any other member. A literalist, Gross believes he is doing what the framers of the Constitution had in mind. We have gone wrong, he thinks, in allowing an all-encompassing federal bureaucracy to control our lives and diminish our freedoms.

### GROSS AT HIS GRANDEST

While much of H.R. Gross's fame comes from his role as Congressional gadfly, his record is replete with solid legislative accomplishments.

Last October, for instance, Democrats were confident they had the votes to override a White House plan to delay for six months a $2.6-billion government pay hike. But Gross forced the vote on a day when large numbers of Democrats were junketing in Europe. The result was a narrow but crucial victory for the President's new economic program.

In 1968, what appeared to be a non-controversial bill boosting State Department retirement benefits actually contained a hidden provision calling for a 33-percent increase in Congressional retirement benefits. Only when Gross exposed the retirement boondoggle was it killed.

During the debate over the elevation of Associate Justice Abe Fortas to Chief Justice, Gross detailed examples on the House floor of the jurist's alleged conflicts of interest. Even after the Fortas nomination was withdrawn, Gross kept up his attack and threatened impeachment proceedings. Finally, Fortas resigned rather than face the Congressional inquiry.

For years the late Rep. Mike Kirwan (D., Ohio), chairman of the pork-barreling Public Works Appropriations Subcommittee, sought $10 million for a huge aquarium in the nation's capital. Despite Kirwan's political clout, it was never built—thanks to constant ridicule by Gross.

Asserts Pulitzer Prize-winning journalist Clark Mollenhoff: "No House member in the last 20 years has exposed more waste and corruption in government than H.R. Gross. Time and again his mere presence on the floor has caused others to stand firm."—THE EDITORS.

## LAW REFORM AND THE GAO REPORT

Mr. TOWER. Mr. President, some of my colleagues have in recent months referred to a report of the General Accounting Office to cite supposed advantages of the legal services program. A closer perusal of that GAO report, I believe, will show that instead of doing what Congress has mandated the legal services program to do, namely, represent individual clients, the programs are heavily involved in law reform activities. For the information of my colleagues, I would like to place in the RECORD a statement by Mr. J. Laurence McCarthy, former Acting Associate Director of the Office of Economic Opportunity, and presently consultant to the Director of OEO, Mr. Alvin Arnett. Mr. McCarty's comments and report clearly indicate the degree to which legal services has been improperly involved in law reform.

I respectfully ask unanimous consent that the full text of the statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

### STATEMENT OF THE ACTING ASSOCIATE DIRECTOR, OFFICE OF LEGAL SERVICES, CONCERNING LAW REFORM AND THE GAO REPORT

On March 21, 1973, the GAO issued a report on the Legal Services program, stating that legal services attorneys were not adequately involved in law reform because they were devoting themselves to individual casework. Many persons have used the GAO report as conclusive proof of the lack of law reform activity and I have observed that those who have criticized the Legal Services program for excessive law reform activities, have been confronted with the GAO report as proof that their charges are unfounded.

When this report was issued, I had been Acting Associate Director for Legal Services for a few days and was not able to contradict factually the interpretation placed on the GAO Report.[1] Such proof is now available, thanks to an exhaustive study by the staff at OLS. That study "Law Reform and The GAO Report" is attached for your information. It is my opinion that the GAO report does not sustain the conclusion that legal services attorneys are not actively involved in law reform. Rather, emphasis on law reform has been a hallmark of the Legal Services program.

I call your attention, in particular, to the following points in the study:

A. GAO pointed out that OLS had a miserable management information system and that adequate data on law reform was not available at Headquarters OLS. It follows, obviously, that there was no evidence available at a central place to prove or disprove any point about the adequacy or inadequacy of law reform. (I have, incidentally, actively promoted an excellent MIS system to meet this objection.)

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Footnotes at end of article.

B. To gather data, GAO visited only seven projects out of a total of 265. No inference of any kind can be drawn from such a sampling. Any conclusion based on the experience of seven out of 265 is logically invalid and must be dismissed by those who care about the reasoning process.

C. *The Seven Projects Studied by GAO:*

The data produced by the GAO concerning three of the projects was stale. Specifically, GAO considered evaluations in 1969 and 1970, to support its conclusions of March 1973, that there was inadequate involvement in law reform. Later independent evaluations of these three projects—done in 1970, 71, and 72—established a significant involvement by them in law reform activities. Therefore, more contemporary data flatly contradict GAO's conclusion and support a finding of significant law reform activity in three projects where GAO found inadequate involvement.

GAO found law reform being actively pursued in three other projects, a conclusion supported by independent evaluations. The seventh project, it is agreed by all, did not engage in much, if any law reform.

*The facts require the conclusion that six of the seven projects studied by GAO were and are engaged in active law reform activities.*

D. GAO also looked at nineteen project evaluation reports which are on file at Headquarters OLS and found ten of the projects adequately involved in law reform. The only conclusion warranted from this GAO review of the nineteen evaluations is that more than 50% of them were active in law reform activities. The GAO report in the area does not support the position that law reform is an insignificant aspect of legal services work.

E. The OLS has analyzed 93 other evaluation reports on file and finds, by the criteria applied by GAO, one-half are *"adequately"* involved in law reform and one-third are *"heavily"* involved. It is my considered opinion that had time permitted an analysis of all legal services projects, the additional data would yield the inescapable conclusion that the vast majority of these projects are extensively involved in law reform activity.

F. The GAO Report did not evaluate back-up centers. Those who argue that there is no emphasis on law reform in the legal services program omit reference to the twelve national back-up centers and eight state back-up centers, spending over six-million dollars a year. *The back-up centers are almost exclusively involved in law reform activities.* Any conclusion drawn about law reform in the legal services program which omits the back-up center activity must be dismissed as patently invalid.

I bring this study and my comments to your attention in the hope that it will correct the record in important matters and contribute to an accurate and constructive discussion of the legal services program.

Respectfully submitted,

J. LAURENCE MCCARTY,
*Acting Associate Director for Legal Services.*

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## LAW REFORM AND THE GAO REPORT

A report of a Study Group chaired by Marshall Boarman, Director of Evaluation, Office of Legal Services, OEO.

### MEMBERS OF THE STUDY GROUP

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On March 21, 1973, the General Accounting Office (GAO) issued a Report on the Legal Services Program which has been grossly misused in a number of ways by critics of the current effort to restructure the Program. The portion of the Report which has been exploited the most is the finding that Legal Services line attorneys—those working in the 900 neighborhood law offices—were by and large not adequately involved in law reform. A principal reason for this "failure", according to GAO, is the decision on the part of many projects (the 900 neighborhood law offices feed into 265 projects) to give priority in allocating their scarce resources to individual casework. The GAO assessment has been greeted by the Program's liberal sympathizers as a conclusive refutation of the charge that law reform was being overemphasized to the detriment of service to individual clients.

Against this view, this paper contends that (a) the findings of the GAO Report on law reform are totally unsupported by hard data (a point conceded by GAO) and in reality simply impressions which were never intended to be used as a basis for any firm generalizations; (b) a more exhaustive analysis of more recent evaluations reverses the findings of the GAO Report and (c) excessive law reform in the Legal Services Program taken as a whole is, contrary to the inferences drawn by many from the GAO Report, not a myth but a disturbing reality.[2]

The Report defines law reform as "seeking reform of statutes, regulations and administrative practices that unfairly affect the poor" (p. 11). The Report accepts law reform as a principal if not primary goal of the Program:

"One of the principal missions of OEO's Legal Program is to have Program grantees challenge—by class action or test case—that portion of the statutory, regulatory and administrative base of the existing order considered to discriminate against the poor; to research conflicting and discriminating applications or laws or administrative rules; and to propose administrative and legislative changes."

The Report's finding on the extent to which the law reform goal was being realized reads as follows:

"There were indications that most program grantees had not been adequately involved in the program area . . . of law reform" (p. 10, GAO Report).

The question which occurs immediately, of course, is: what was GAO's criterion for adequate involvement? In the words of a member of the GAO team which evaluated the Legal Services Program: "We talked with the people at the Office of Legal Services and they told us they had no criterion for adequacy. They said they had never really attempted to define how much was enough in each goal area." This shortcoming on the part of the Office of Legal Services was covered by GAO in its general criticism that the Office had "neither clearly defined program objectives and priorities nor provided the essential direction and guidance to program grantees on how to engage in activities directed toward law reform" (p. 17, GAO Report).

Although GAO was unable to obtain a criterion of adequacy from the Office of Legal Services, it is obvious that some criterion however crude must have been used by GAO to arrive at its finding of inadequate involvement. The best source for such a criterion is the series of project evaluations performed for the Office of Legal Services by various outside firms, evaluations on which GAO relied heavily in forming its own conclusions. A recent review of 112 such evaluations yielded the following rule of thumb: all things being equal, law reform involvement, from the point of view of quantity at least, can be considered adequate if roughly 25% of the project's resources are allocated to law reform. For example, in a typical medium-sized project manned by four attorneys, adequate involvement might mean one attorney assigned full-time to law reform. Alternatively each of the four attorneys might devote several hours a day to law reform.

The next question is: what was the criterion for settling on this particular criterion of adequacy? How were the evaluators able to determine that 25% of the total available attorney time was not too much or too little time to consecrate to law reform? The GAO Report furnishes a clue to a partial answer when it notes that in the projects which were deficient in law reform, "attorneys were fully occupied with meeting individuals' day-to-day needs and that they were therefore unable to devote more time to law reform."

In other words the attorney's (or project director's) gauge for fixing the limits of his law reform investment was based partly at least on his personal judgment on the extent to which he could, in conscience and in prudence, resist the pressures from potential clients for individual service. He might decide a 10% investment of his time would be sufficient while a team evaluating his project might think 50% to be optimal but 25% sufficient, given the inexorable individual caseload. In short, although opinions as to what is sufficient differ considerably, it seems indisputable that client satisfaction/dissatisfaction is one of the arbiters of adequacy when it comes to law reform.

It is curious therefore that the Office of Legal Services, in developing procedures and criteria for evaluating its projects in the past, never provided for a meaningful client input. Evaluators have been warned away from clients on the grounds that interviewing them might impinge on the attorney-client relationship, although effective procedures for interviewing clients have been worked out elsewhere within the limits of the ethical canons.[3] Possibly the reason for the Office of Legal Services' reluctance in the past to sound out client opinion is the fact that the average client is likely to be much more interested in the satisfaction of his immediate legal needs than in the establishment of a legal principle. If this is the case, the heavier the contribution of clients to the assessment of projects, the lower the adequacy index for law reform involvement could be expected to be.

GAO, it is true, did interview 115 clients of the seven projects to which on-site visits were made. According to the Report: "Most of the 115 . . . stated that they were satisfied with the services they had received." But this can hardly be cited as evidence that clients are pleased with the emphasis on law reform. For one thing, by GAO's own count, four of the seven projects visited were deficient in law reform activity. GAO was told that the reason for this was that the projects were paying more attention to individual clients than to law reform. Hence one would expect the clients to be satisfied. On the other hand, some of the 115 clients who were satisfied must have patronized the three projects which were given high marks for law reform. Unfortunately, the GAO Report does not break down client reaction by projects, nor are we given a glimpse of the interview format, the kinds of questions asked and the manner in which the clients interviewed were selected.

However, even if the clients served by the law-reform-oriented projects were happy, this tells us nothing about the feelings of potential clients who were turned away. As the GAO Report points out elsewhere: If a grantee is concentrating on law reform.

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Footnotes at end of article.

the MIS reports would probably show a decreasing caseload" (p. 27, GAO Report). A project in Connecticut, for example, recently decided to take no more cases involving divorce and other family matters so that it could carry on a more extensive program of law reform. It stands to reason that a poor person whose plea for help in obtaining a divorce was turned down would have quite a different opinion of the project than a client who was successfully defended in a landlord-tenant case. One surmises that the GAO sampling of client opinion did not cover those indigent persons who were never allowed to become clients.

It should be noted by the way that discontent over attorney preoccupation with law reform surfaces from time to time even among those persons who have received service. A reference to this problem is found in an article in the *Yale Law Journal* in December 1971 by a staunch defender of the Legal Services Program. He wrote:

"Legal Services attorneys have been known to place a higher priority on some issues . . . that are of less consequence to the client community. Moreover on certain issues the interests of the poor and the attorneys may be in direct conflict . . . Recently for example, there have been increasing complaints from clients about attorneys who 'exploit' clients to launch sweeping law reform actions when the individuals may be seeking much more limited solutions to their problems within existing laws. The clients accuse the attorneys of taking law reform 'ego trips' at their expense. The National Clients Council has begun compiling documentation on this problem and plans to make it a major issue".[4]

The argument is frequently exhumed, of course, that service to clients cannot be separated from law reform since the time and money spent on a test case or class action may pay rich dividends in terms of benefits to many more hundreds of individual indigent persons and at far less cost than would have been the case had the project been restricted to serving clients on a one-by-one basis. There are signs that this facile argument—the short-circuit justification for law reform—is beginning to grow a little threadbare. A number of observers have begun to underline a little-recognized point: that the alleged benefits of so-called "impact litigation" are frequently illusory.[5]

According to one of these observers, Harry Brill, former Director of Research for the San Francisco Neighborhood Legal Assistance Foundation, a very large part of the Foundation's litigative activity—class action suits—produced not only "hollow victories" with no real social or economic gains but were even harmful in diverting scarce resources away from the direct needs of the poor. Brill's article suggests that the time has come for thorough longitudinal research by the Office of Legal Services into the alleged economic benefits of many of the "landmark" decisions resulting from test cases brought by poverty lawyers in the past. Such research ought to greatly facilitate the effort to develop a criterion for "adequate" law reform involvement.

Finally, the question "When is law reform excessive?" requires that the catch-all expression "law reform" be broken down into its various components (i.e. legislative advocacy, administrative advocacy and high impact litigative advocacy), and that each be subjected not only to a cost-benefit analysis but equally important, each be weighed in the scales of political costs in the highest sense of the word "political", the sense in which the term is associated with constitutional issues and questions of public policy. Some elements of law reform (for example lobbying by a special interest group at public expense) have become extremely controversial. Consequently any judgment on a criterion for adequate involvement by legal services attorneys in law reform must take into account the resolution of the issue of the propriety of the various kinds of law reform.[6]

The point of the above digression is simply this: the GAO evaluation of the Legal Services Program was severely hampered by the fact that an acceptable criterion of adequacy in respect to the law reform goal of the Program was nowhere to be found, and that GAO was therefore, in order to make any judgments at all, forced to rely on the fluctuating and subjective perspectives of OEO's contract evaluators who in turn depended, for their view of adequacy, on the personal views of officials who were operating the Program. What was "too little" for these officials, might be criticized as "too much" by others, on grounds equally solid (or equally weak).

To make matters worse, not only are GAO's findings based largely on a kind of hearsay, but, by GAO's own admission, there was no possibility of substantiating the findings with any hard data. For one thing, GAO found the Office of Legal Services' Management Information System (MIS)—the source of hard data—to be in disastrous shape. Not only were many grantees not adhering to reporting requirements (according to one source less than 75% of the grantees were submitting regular reports) but much of the data in the reports that were submitted was incomplete and inaccurate. Secondly, the MIS report format contained, incredibly, no provisions to show the accumulation of grantee accomplishments in law reform! According to the GAO Report:

"The MIS report does not reflect the amount of effort and results obtained by grantees in law reform (p. 27) . . . (Therefore) adequate data was not available . . . to measure achievements in law reform . . . and to compute the average cost for cases handled" (p. 10, GAO Report).

The non-existence of a system for reporting hard data in the area of law reform, combined with the non-existence of any generally acceptable criterion for determining when law reform involvement was adequate should cool the ardor of those who think the GAO Report has settled the factual issue of the degree of law reform in the Legal Services Program. Nonetheless GAO did come up with an estimate based on what it called "indications". These indications consisted of (a) opinions found in previous OEO evaluations of 26 out of a total of 265 Legal Services line projects and (b) opinions elicited directly by GAO from attorneys and project directors working at the seven sites visited.

Of these seven projects, four were found by GAO to be insufficiently engaged in law reform. The following excerpts from the GAO Report cite the "indications" on which GAO based its judgment in each of the four cases:

1. *Project A:* "A 1970 evaluation reported that law reform activities needed strengthening. A grantee official informed us that a heavy caseload in the area of individual services precluded the grantee from emphasizing law reform" (p. 13, GAO Report).

*Comment:* As noted above, GAO is relying here not on hard data (statistics, records, etc.) but on a 1970 evaluation and on the subjective assessment of a grantee official. It is not unthinkable that a grantee official's self-evaluation might be motivated in part by a desire for increased funding. More importantly, a later evaluation of this same project conducted in March 1971 mentions "considerable law reform work", estimating that about 25% of the project's time is given over to law reform. The GAO assessment is simply obsolete.

2. *Project B:* "A 1969 OEO evaluation reported that grantee corporations had not markedly implemented the national goal. As of October 1971, only four of the eight law reform units required under its grant were in operation." (p. 15, GAO Report).

*Comment:* Again, how relevant is a 1969 evaluation to a Report issued in March 1973? An evaluation of Project B conducted for OEO by an outside firm in November 1970 indicated that staff attorneys "were heavily involved in community organizing, often at the expense of their caseloads". Community organizing is an activity which is central to such law reform activities as grassroots lobbying. To be sure, in October 1971 someone found that only 4 out of 8 law reform units required by the national Office were operational. But by what yardstick was GAO able to determine that 8 would not have been excessive? Not only is the question of the propriety of law reform begged, but the question of how much is enough. Besides, if it is possible that 4 vigorous and activist units could accomplish more than 8 mediocre ones, ought not a judgment on the effectiveness of law reform to focus on the quality and extent of the activity of the 4 units? No description of Project B's law reform activity is provided, and so the issue is resolved mechanically by the number of law reform units in operation.

3. *Project C:* "The grantee's 1970 self-evaluation report stated that a substantial, effective and organized law reform program was lacking. The grantee's executive director reported in May and August 1971 that the law reform unit was in a state of flux and not able to produce as much as had been anticipated."

*Comment:* Again (a) a self-evaluation can either exaggerate law reform activity to win praise or underestimate it to win dollars and (b) self-evaluations conducted in 1970 and in August 1971 could hardly be expected to be current as of March 1973, the date of the GAO Report. In December 1972, OEO had an evaluation of a significant portion of Project C performed by an outside evaluator who found that fully one fourth of the attorney staff (3 out of 12 attorneys) were devoting themselves full-time to law reform, with a caseload of approximately 45 current open cases. In addition the project was active in organizing the local Welfare Rights Organization and was serving as house counsel for the National Tenants Union. These latter activities are characteristic of projects which are activist and law-reform oriented.

4. *Project D:* "A grantee official informed us that the project had not been involved in any significant law reform activities."

*Comment:* Here again there is no reference to a mutually agreed upon criterion of what constitutes "significant" law reform activity, and there is no indication GAO used any additional information, such as an OEO evaluation, as a check on the grantee official's opinion. It happens that an OEO evaluation conducted in November 1970 agrees with what GAO was told: there was little or no law reform. The reason given by OEO's evaluators is that the director wished to run his program like a regular law office with service to indigent clients being the top priority.

The GAO Report concedes that each of the three remaining programs was adequately involved in law reform, and this judgment is borne out by self evaluations and by evaluations conducted by outsiders for OEO.

Project E, the Legal Services Program's second largest, was not only adequately involved in law reform but heavily involved, so heavily that the Project was recently the subject of an article in a national journal of opinion faulting it for excessive involvement.

Project F is credited by a 1971 OEO evaluation with devoting at least 20% of its resources to law reform, in addition to serving as group organizer and house counsel to such

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organizations as the National Welfare Rights Organization.

Finally the seventh program, Project G, is lauded in an OEO evaluation dated June 1971 as follows: "Law reform is the most impressive aspect of the project. The number and variety of the cases mounted by this project in its short life is exceptional. The ways in which the Director has developed class actions and legislative reform shows an imaginative approach to poverty law. The project director and the director of litigation provided the basis for their reform program by inviting a number of statewide poverty groups to take permanent seats on the project's board. This has enabled the project to develop cases cooperatively with these groups on broad issues and has provided a feed-in mechanism whenever clients have been needed to bring clients action. It has also greatly facilitated legislative activity and the results to date are documented in the case summary."[7]

In sum, an independent review of the seven projects visited by GAO shows that three were not only adequately but in some cases rather deeply involved in law reform (thus far the GAO Report is accurate), while of the remaining four, only one was clearly lagging, Project D. The GAO judgment on Project A is rendered obsolete by a later OEO evaluation which shows, by GAO standards, adequate involvement. The GAO judgments on the remaining two projects, Projects B and C, are at best equivocal in view of contrary "indications" provided by OEO evaluations.

If GAO's evaluation of the seven programs were intended to serve as a basis for making a generalization about the whole Program, one could infer that 57% of the 265 projects were not doing enough law reform. This would mean that a healthy 43% were meeting the test of adequacy (whatever that is) in the area of law reform. However, due to the limited and ambivalent nature of the evidence, any generalization about the whole program, even apart from the problem of a valid criterion of adequacy, would be unwarranted. The GAO finding, originally put forward as a tentative conclusion, that "there were indications that most programs had not been adequately involved in . . . law reform", has been undermined to a point where it is totally unable to support the inferences drawn from the Report that the charge of excessive law reform has been buried.

In respect to the 19 grantees (of the 27 evaluated by GAO) which were looked at by GAO second hand, i.e. through the medium of evaluations conducted in the past by OEO's contract evaluators, GAO wrote as follows:

"Our analysis of 19 grantee evaluation reports showed that only 10 grantees were reportedly adequately engaged in law reform activities and that 8 grantees were deficient in this goal area. We were unable to determine the extent to which one grantee was involved in law reform because of the limited information in the evaluation report."

If this assessment is accurate and can support a generalization, then "most" program grantees, that is more than 50% of them, contrary to the GAO finding based on their evaluation of the seven grantees discussed previously, are adequately involved in law reform. This is a far cry from the inferences the GAO Report has given rise to that only an insignificant portion of the activity of legal services attorneys is devoted to law reform. The same evaluation reports used by the GAO team in judging the 19 grantees were recently reviewed by the Office of Legal Services and a similar conclusion was reached: more than 50% of the projects were engaged in "adequate" and in many instances, extensive law reform activity.[8]

In addition to surveying the 19 evaluations used by GAO, the Office of Legal Services, employing roughly the same rule of thumb used by evaluators in the past reviewed two other sets of evaluation reports. The first set, evaluations of 29 projects in Region IX, were analyzed to determine the number of projects found to be heavily engaged in law reform—"heavy engagement" defined as an investment of well over 25% of one's resources. Fully one third of the projects were found to be so engaged. A review of the second set of evaluations showed that of 64 randomly selected projects, 33—or approximately 52% of the number reviewed—were involved in law reform and related activities (e.g. group representation and group organizing) to a degree ranging from adequate to very heavy. The following comments taken from the reviewers' summaries are suggestive:

*Project A:* "42 of 62 cases of impact litigation had been initiated by the specialist involved rather than by the neighborhood attorney or his clients. 'Aggressive, committed and experienced' attorneys spend 25 to 60% of their effort on law reform and representation of poverty groups."

*Project B:* "This is not a typical legal services program. . . . No individual representation is provided except in those few cases where it will have some impact beyond the individual parties involved, i.e. test cases or class actions. This program, then, is *exclusively* devoted to law reform and the other Office of Legal Services goals are not applicable."

*Project C:* "The project has a strong law reform unit and acts as house counsel to the Welfare Rights Organization. The project has drawn up a packet of proposed legislation for the state legislature."

*Project D:* "Seven attorneys are assigned full-time to impact litigation and four are assigned to service work. However 20% of the time of each of the four is to be devoted to impact litigation. The priorities for impact work are: appellate litigation, legislative change, innovative actions at the trial level, group representation and development, and economic development."

*Project E:* "Approximately 25% of this program's time is devoted to law reform activity. One staff attorney lobbied for two full mopths to get a bill passed. . . . The program organizes lobbying groups and serves as their house counsel."

*Project F:* " 'Our law reform activity is so extensive that a full description is difficult'. Evaluators report that almost every attorney participates in law reform. The project even has a Deputy Director for Law Reform."

*Project G:* "This project is heavily involved in organizing welfare rights groups and tenant unions. Out of 3 lawyers, one devotes himself full-time to law reform."

*Project H:* "The emhasis on law reform and other impact activity is very heavy and is considered at least as important as individual casework. The program has a law reform unit of two attorneys, while several others consider impact litigation their specialty . . . The project has an ongoing legislative advocacy program and organizes many tenant unions and welfare groups."

*Project I:* "This project is wholly devoted to law reform activities."

*Project J:* "The project has allied itself with the ACLU and the NAACP to test various law reform issues . . . The project director has assigned one attorney as a full-time law reform specialist."

*Project K:* "This program has concentrated its efforts on group representation and applied law reform (i.e. ensuring that results of prior test case litigation are enforced)."

*Project L:* "This program has a specialised law reform unit, known as the Law Research Unit because of fear of adverse criticism of law reform . . . It feels law reform is the proper approach for a legal services project."

*Project M:* "Of 5 attorneys, one specialises in law reform and handles no individual casework . . ."

*Project N:* "This project has engaged in a consistent program of drafting legislative reforms and testifying on same before the state legislature."

The results of all the above analyses can be summarized as follows:

(1) Given the defective character of the data supplied to GAO and the failure of the national Office to produce any evaluation criteria, the finding by GAO that "there were indications that most program grantees had not been adequately involved in law reform" hardly justifies the inference that the ghost of the law reform issue has been laid. GAO never intended its "finding" to be the basis for a firm generalization about all Legal Services line projects. The Report, relying as it does on mere "indications" is at best suggestive only, inviting further research based on harder data and sharper criteria. In fact the real message of the Report is that the Office of Legal Services has been inexcusably remiss in the past and should undertake without delay (a) the development of a system to provide comprehensive and reliable data and (b) the construction of a set of clearly defined criteria for measuring project performance. The Office of Legal Services has finally accepted the challenge, aware that GAO could not care less what goals are selected so long as these goals are in conformity with the Statute, are clearly enunciated and are accompanied by usable performance yardsticks.

(2) In view of the critique which has been made above of GAO's seven on-site evaluations, and in view of the Office of Legal Services' own survey of 93 evaluations over and above the 19 used by GAO, the latter's "finding" is rendered even less capable of sustaining the generalization that most line projects are not adequately involved in law reform. As a matter of fact the evidence points in the other direction: while nearly all of the Legal Services Program's 265 line projects are involved in law reform to some degree, at least one-half are "adequately" involved (i.e. they devote at least 25% of their resources to law reform) and at least one-third are "heavily" involved (i.e. they devote 50% or more of their resources to law reform).

(3) To infer from the GAO Report, as many have done, that there is inadequate involvement in law reform not only among the line projects but throughout the Program as a whole is to commit a flagrant nonsequitur. For one thing, the GAO Report dealt only with line projects and did not touch on any of the other components of the Legal Services Program. Secondly, one of these components is the network of twelve national "backup centers" each specializing in some area of poverty law and each providing (in theory at least) research and litigative help to the Program's 265 line projects and 900 neighborhood law offices. In addition, the Office of Legal Services funds eight State backup centers. The backup center component alone has generated more poverty law reform during the six years this component has been active than all of the nation's legal aid programs combined during the past 50 years. The role of the backup centers was summarized succinctly by David Kirp who wrote in the *Christian Science Monitor* recently: "The heart of the Legal Services law reform efforts is in the backup center program." Hence to talk about the law reform in the Legal Services Program without adverting to the scope and intensity of law reform activity in the backup centers is simply absurd. (This is no reflection on GAO.)

Anyone who takes the time to study the evaluations and work statements of the backup centers is forced to the following conclusions:

1. Backup centers collectively spend the majority of their time and resources in areas properly defined as "law reform" areas.

2. The centers, in general, do very little work for line attorneys which is outside the scope of law reform.

3. There has been a distinct trend among the backup centers taken as a group to provide less and less backup service to line attorneys and to engage more and more in self-generated activity or activity which is in response to private and public individuals and institutions outside the Legal Services Program. In respect to their self-generated litigating and lobbying, the backup centers have become, in varying degrees and imperceptibly to the public at large, federally-subsidized public interest law firms which, as such, have no Congressional mandate.

4. The backup centers' public interest law firm activity is not only in the area of litigation and amicus briefs. They also are heavily involved in legislative advocacy, i.e. in drafting and lobbying legislation at the state and federal level. Such advocacy is in most cases not initiated in response to requests from line attorneys but is usually self-generated and then offered to whomever might be interested, e.g. local, state and federal legislators who, of course, often request such help.

5. A good portion of the activity of backup centers is only indirectly related to the Legal Services Program. For example, many of the backup centers' publications and projects are poverty-related but not relevant to the legal component of the anti-poverty program. Conversely, many other backup center activities, though related to legal programs, are not poverty-related.

The Office of Legal Services is spending approximately $73 million a year on all of its programs: line projects, backup centers and research, technical assistance, evaluation and training activities. Just what portion of the annual budget goes for law reform and related activities carried on by the line projects is difficult to estimate. As the GAO Report notes, not only were no records kept of the performance in any of the major goal areas including law reform, but there is no data available through the Management Information System to compute costs. Assuming that at least one-half of the line projects devote at least one-fourth of their effort to law reform, the price tag for law reform activities in the line projects alone must be considerable. In the case of the backup centers, whose activity is almost entirely law-reform oriented, it may be possible to arrive at a fairly reliable dollar figure. The eight state backup centers are currently spending around $2 million a year while the fifteen national support units (including 12 backup centers properly so-called) are spending $4.2 million. Inferences drawn from the GAO Report to the contrary, the above figures indicate that law reform, from the point of view of both the allocation of resources and the potential impact of this allocation on the nation's institutions, is unquestionably a very major feature of the present Legal Services Program.

The case has been made elsewhere that much of the law reform activity in the Program is either excessive and counterproductive—improper or at least very questionable—and beyond the limits of the Congressional mandate (see p. 24 below). Let it be noted, however, that to maintain that there has been a disproportionate emphasis on law reform (especially of the non-client-initiated variety) in the Program in general, and in the backup centers in particular, is not to impugn the motives or integrity of any of the attorneys engaged in law reform, nor is it to overlook the labors of those hundreds of line attorneys for whom the needs and desires of their clients take precedence over the attorneys' ideological prepossessions. The involvement of these attorneys in law reform has been permitted and even encouraged ("required" might be a better word: see p. 19 below) by previous directors of the Legal Services Program.

Secondly, the opposition of the incumbent leadership in the national Office to excessive or improper law reform should not be construed as a rejection of the need for some law reform activity. As the Acting Director of Legal Services, J. Laurence McCarty, in his reply to the GAO Report, stated:

> "Lest my position be misconstrued, let me say immediately that I am not in principle opposed to class actions, suits against the government, test case litigation, legislative advocacy or any other kind of law reform. Properly considered, they are simply some of the tools which the conscientious attorney must employ on occasion in serving a particular client. What I do strongly object to, however, is the elevation of these tools to the status of ends, separated from the goal of service to individual clients and subordinated in turn to some transcendent goal such as social change."

In the same reply, McCarty raised an issue quite separate from the theoretical issue of the propriety of law reform, or the factual issue of the degree to which law reform is carried on by line attorneys. The new issue is a distinctly ethical one, ethical in the sense that it relates to some of the American Bar Association's canons of ethics. The issue is relevant to a discussion of the GAO Report inasmuch as one might be tempted to conclude from GAO's complaint over the failure of the national Office to spell out its policies that the Office was permissive on the amount of law reform attorneys ought to engage in. The facts are quite otherwise. Wrote McCarty:

> Equally objectionable as the separation made in the past between the goal of service to individual clients and the goal of "law reform" is the pressure which has been brought to bear on attorneys to divide their time between these two goals and indeed to treat law reform as the primary goal. I happen to believe, as do many others in and outside the legal profession, that it is bad public policy to pressure legal services attorneys to engage in non-client-initiated advocacy on behalf of legislative proposals which may run counter to the preferences of large numbers (and in many cases the majority) of those whose taxes are being used to pay the attorney salaries. I also believe that it is not only bad public policy but a violation of the Canons of Ethics to *push an attorney who is representing a client* to do something in the way of law reform which he might not otherwise have done. This is just as bad, it seems to me, as an attempt to *inhibit* the attorney from doing what his professional judgment tells him ought to be done once he is engaged with his client. In both cases, there is an unwarranted interference with the attorney-client relationship. Yet some of the material (grant conditions, evaluation handbooks etc.) which I have read since assuming my new duties has convinced me that the application of such pressure on attorneys has been a studied policy of the Office of Legal Services for a number of years.

This issue cannot be dismissed by anyone who examines the documents McCarty refers to: the conditions attached to grants, the project evaluation reports and the guidelines issued to evaluators in the past by the Office of Legal Services. There is also some reason to suspect a correlation between a project's record in law reform and the degree to which it was underfunded or overfunded in relation to other projects. There are of course other factors to be considered in accounting for variations in the funding pattern, but the subject merits further study. For the present suffice it to say that there appears to have been a concerted effort on the part of the Office of Legal Services to upgrade law reform activity to a point where the only reasonable interpretation is that law reform had become the principal goal of the program with no amount of law reform being too much. This is perfectly consistent with the rhetoric of some of the past directors such as Earl Johnson who assigned, in no uncertain terms, primacy to law reform.

One of the ways in which this primacy was calculated was through the use of a point system in rating projects and project attorneys. A project was rated on the amount and intensity of its law reform efforts, as contrasted with its involvement in "routine" or "conventional" legal work, i.e. work (to put it in less sneering terms) which focused on the immediate and pressing problems of individual poor persons. Under the present evaluation procedure, the point system has been abandoned but the pressure is still there—or was until recently.

A prime device for exerting this pressure was the *Law Reform Issues List*—a checklist devised by the backup centers for each of the areas of poverty law and furnished routinely by the Office of Legal Services to members of evaluating teams. The following is a sampling of some of the questions on the list (N.B. The comments in parentheses have been added):

*Has the Legal Services Program been active in utilizing class actions for consumer relief?* (What if a lawyer like Harry Brill had his doubts about overuse of class actions? This would be a point against him.)

*Have any of the attorneys in the Program drafted legislation or offered testimony in support of reform legislation?* (What if the attorney were too busy trying to do right by his individual clients? What if he were trying to abide by the statutory requirements of Section 501(c)(3) of the Internal Revenue Code? Again it would be a point against him.)

*Is the program challenging the segregation of children between and within schools on the basis of race?* (What if the attorney deemed this to be a civil rights rather than a poverty issue? Will he be marked down?)

*Is the program bringing litigation to compel nondiscriminatory employment practices?* (Same question as above. Also, suppose the attorney's philosophy is: litigate only as a last resort?)

*Is the program working on dismissal of employees for exercise of political rights?* (What if the attorney does not want to trespass on the area monitored by the Equal Employment Opportunity Commission or by the Department of Justice? What if he wants to remain within the limits of the statute he is operating under?)

*Is the program working on litigation of constitutional questions of compulsory work requirements?* (Again, what if the attorney wants to keep litigation to a minimum—which is the purpose by the way of preventive education so often and so piously invoked in legal services rhetoric? What if the attorney wants to abide by the statutes dealing with work requirements? Are work requirements per se—no matter how defined and no matter what the circumstances—to be deemed always unconstitutional? What if the attorney has a different view of their constitutionality? Must he align himself with the views of the person or persons who drafted the Law Reform Issues List under pain of receiving a demerit?)

*Is the program working on litigation to insure that training is actually provided in manpower training programs?* (Again, the push for litigation, and a demerit for the lawyer who tries to follow the ethical tradition of keeping litigation to a minimum.)

***Has a special unit been established to im-***

*plement impact strategies on housing?* (Suppose the attorney believes this is not a problem in the area he serves, or suppose he believes there are other ways of addressing the problem without establishing a special law reform unit for this one problem? Will this mean a point against him for lack of commitment?)

*Are the program attorneys assisting in the formation and development of local tenants organizations and unions?* (What if the lawyer should follow the more traditional view that it is not the lawyer's function to organize groups, except for doing such things as assisting a credit union or small business to file papers of incorporation, etc. Why should a legal services attorney who is more traditionally oriented be forced into the activist role in respect to group organizing? Why isn't the lawyer allowed to exercise his own professional judgment on these matters?)

*Are the Legal Services attorneys aware of the National Tenants Organization and the possible help he can provide?* (Suppose he disagrees with the tactics espoused by the NTO and the NWRO? Reasonable men can differ on these matters. Why should he be forced to get in step with the author of the *Law Reform Issues List* on things of this nature?)

*Are the attorneys familiar with the procedures of the local welfare rights organization (WRO) . . . and with legal issues which should be brought to the attention of the WRO as useful for organizing?* (What if the attorney thinks it improper to become the house counsel for an organization which can hire secretaries, accountants and other staff? What if he views this—his free services as house counsel—as a diversion of resources? Another demerit?)

*Are the attorneys familiar with the procedures for challenging welfare agency action in court? How many cases have they brought?* (Suppose an attorney is able to obtain satisfaction for his clients through negotiation? Suppose he doesn't believe the welfare bureaucracy is always wrong in a dispute? Is his competence to be gauged by the number of suits he brings against the government? Surely a legal services attorney ought to be able to bring such suits when his professional judgment dictates. But is it good public policy to urge the attorney to bring as many such suits as he possibly can? Is it fair to assign him demerits if he resists this questionable policy?)

*Are the attorneys seeking to correct such problems as (a) requirements that recipients pick up their checks at state employment offices and (b) denial of welfare rights groups access to welfare offices for advocacy and organization?* (Suppose the attorney sees nothing wrong with welfare recipients picking up their checks in person? Suppose he has experience with local welfare rights groups which engage regularly in destructive sit-ins and thrashings? Is he not to be allowed to exercise his own discretion in these matters? Must he align his judgment with that of the person who wrote the checklist? What if he doesn't? What if he asserts his lawyer's right to consult his own lights on these things?)

The above are but a few of some 200 questions used by evaluators in the past to assess the quality of a legal services project and the competence of its attorneys. Many of the questions are as slanted and as packed with value-judgments as are those just quoted. Woe the poor attorney who has a different point of view and who believes there are better ways to serve the poor than to stir up litigation and encourage militancy and hostility. Clearly there is a serious ethical problem here. According to Ethical Canons 5-21 and 5-23:

"The obligation of a lawyer to exercise professional judgment solely on behalf of his client requires that he disregard the desires of others that might impair his free judgment. The desires of a third person will seldom adversely affect a lawyer unless that person is in a position to exert strong economic, political or social pressures upon the lawyer. . . . A person or organization that pays or furnishes lawyers to represent others possesses a potential power to exert strong pressures against the independent judgment of those lawyers. *Some employers may be interested in furthering their own economic, political or social goals without regard to the professional responsibility of the lawyer to his individual client. Others may be far more concerned with the establishment or extension of legal principles than in the immediate protection of the rights of the lawyer's individual client.*" (Emphasis added.)

The italicized sentences in particular would seem to be applicable to the case at hand: the use of the *Law Reform Issues List* by the Office of Legal Services' evaluators. It was for expressing, in the ABA Journal, sentiments similar to those found in the above-quoted canons that Vice President Agnew was derided. Wrote Agnew:

"The law reform aspect of legal services, however, threatens to turn the relationship upside down. If a client with a problem comes to a legal services lawyer who is imbued with law reforming zeal, the lawyer sees a great deal more than the client's problem in the matter and often expands the case into the broadest legal principle supportive to his social philosophy it will sustain—a sort of Parkinsonian corollary. Instead of resolving the case at the lowest level and earliest opportunity satisfactory to the client, this legal services lawyer is inclined to take it to the highest level possible to win the legal issue and implant the empathic legal principle he has perceived to be involved. In certain circumstances, this zeal is not only acceptable but commendable. However, it is naive not to consider the attendant consequences of this practice."

If it is objectionable for an attorney to put his own agenda ahead of the needs of his clients, it is doubly objectionable for the organization which pays the attorney's salary to pressure him to manipulate clients in order to carry out the organization's agenda. The Canons are a double-edged sword. They strike at those who would prohibit suits against the government but they also strike at those in the national Office of Legal Services who have in the past goaded attorneys to engage in law reform.

Finally there is another way (alluded to at the beginning of this paper) in which the GAO Report has been misused. The argument runs as follows: GAO, in conducting its evaluation of the Legal Services Program, accepted as one of the criteria for evaluation the law reform goal of the Program. But GAO is an arm of the Congress. Therefore the GAO's acceptance of the law reform goal—or rather the primacy and separateness of that goal as reflected in the GAO finding of inadequacy—implies that Congress has accepted and approved same. This puerile argument has been seriously advanced by a number of law reform advocates. The fallacy should be obvious. GAO, as an arm of Congress, could be expected to approve any statutory goals set by Congress. But in the case of goals set by the administrative agency carrying out the statute, GAO simply accepts these as a given and evaluates accordingly. If the administrative agency subsequently changes the goals, GAO, in its next evaluation will "accept" these changed goals as readily as it accepted the previous goals, unless of course they are in conflict with the broader statutory goals. Consequently, GAO's acceptance of the law reform goal and other goals—in addition to the priority assigned these goals by the Legal Services Program—cannot possibly be construed to imply Congressional sanction and intent.

Another text frequently adduced by those who claim a Congressional mandate for law reform is the following passage from a 1970 report of the Senate Committee on Labor and Public Welfare:

"Yet, the legal services program can scarcely keep up with the volume of cases in the communities where it is active, not to speak of places waiting for funds to start the program. The committee concludes, therefore, *that more attention should be given to test cases and law reform.*" (Emphasis added.)

Now the present leadership at the Office of Legal Services has no difficulty in accepting the proposition that there is a significant place for law reform in the Legal Services Program, nor that more attention should be given to law reform by projects that habitually engage in little or no law reform when representing individual clients. A lawyer who is in principle opposed to any kind of law reform activity on behalf of an individual client is as wrong-headed as a lawyer who systematically seeks opportunities to engage in law reform even if it means reducing his caseload and turning away clients with little law reform potential. The present leadership at the national Office does not agree, however, that "paying more attention to law reform" entails or justifies any of the following:

(a) The *privacy* of law reform (and of related activities such as group representation) as a goal separate and distinct from the goal of service to individual clients.

(b) The carrying on of *non-client-initiated and non-client-centered* law reform activities by Federally-subsidized public interest law firms (misnamed "backup centers").

(c) The *pressure* exerted on line attorneys, through the backup center network but in particular by the national Office through its policies and funding preferences, to put law reform ahead of service to individual clients.

Whatever about the propriety or impropriety of the activity mentioned in (b) above, whether considered in itself or in the context of Federal funding, there is as yet no Congressional "mandate" for it. The impasse in the 92nd Congress over the issue of the powers to be assigned the proposed Consumer Protection Agency is proof positive that the concept of a Federally-subsidized public interest law firm is an innovation which has not yet been sanctioned by Congress. If Congress could not agree on an agency which would litigate and lobby on behalf of such a large and politically potent interest group as consumers, how can it be asserted that Congress has already mandated the existence of 20 public interest law firms (the 12 national and 8 State backup centers) for the smaller class of the poor?

To claim that the Economic Opportunity Act authorizes such entities is really to twist that much-abused piece of legislation to the point of absurdity. The terms "law reform" and "backup centers" appear nowhere in the Act, nor, with the one exception noted above, do they occur in any of the documents comprising the legislative history of the Act. The terms were first introduced (as were the activities they describe) by the early directors of the Legal Services Program. Curiously neither term ever found its way into an OEO Instruction or into the Code of Federal Regulations. The fact that the whole case for holding that law reform, in the full-blown sense, has been "mandated" by Congress rests on the single, almost casual reference which appeared in the Senate report is a sign of the extreme weakness of the law reform rationale. When the sentence in the Senate report and the GAO Report of March 1973 are so desperately seized upon to bolster the case for Congressional intent, one can be forgiven for suspecting that there is no case at all and that Philip Hannon was entirely right when he wrote:

"Congress as yet has not been forced to face the kind of law reform oriented program which OEO now envisions. Some liberal members of Congress have spoken out in favor of this more liberal approach but Congress as a whole has not yet spoken".[9]

### FOOTNOTES

[1] In fairness to the GAO they never intended to pass any judgment on the adequacy or legitimacy of the Office of Legal Services' entire law reform effort. They were concerned rather with pointing to certain improvements that could be made in individual grantee operations, given the desire of the national office to emphasize law reform. The improvements recommended by GAO were a more precise definition of goals and priorities and and more specific plans for implementing these goals. Neither did GAO intend their report to present an up-to-date picture of the status of law reform among the line projects. They were simply flagging what appeared to be a problem in 1970–71 and suggesting that the national office address it now, if it had not already done so.

[2] This paper distinguishes between the law reform activities of Legal Services attorneys and their political activities. Politicization of the Legal Services operation, in the narrower and proper sense of the term "political", the sense intended by the Hatch Act, refers to attorney and project involvement in activity on behalf of or against the candidacy of persons running for elective office. Such involvement raises a number of serious issues. The documentation of the charge of improper political activity by legal services projects will be treated in a separate paper. The GAO Report does not touch on the problem of political activity in the sense just indicated.

[3] The Office of Legal Services is presently attempting to overhaul evaluation procedures so as to insure a much greater client role in the construction of a formula for the right mix of law reform and individual service.

[4] "The Legal Services Corporation: Curtailing Political Influence" by Richard Blumenthal, 81 Yale LJ 245 note 49.

[5] See "Social Justice Through Civil Justice" by Geoffrey Hazard, 36 *U of Chic LR* 707, and "The Uses and Abuses of Legal Assistance" by Harry Brill, p. 38, *The Public Interest*.

[6] See Geoffrey Hazard's four articles on poverty law (26 Jour Soc Issues 48; 36 U of Chic LR 699; 37 U of Chic LR 242 and 8 Jour of Law & Econ 1) and Marshall Boarman's two papers "Issues Concerning Legal Services" (Cong Rec March 1, 1973, vol. 119, pt. 5, p. 6013) and "The Problem of the Backup Centers" (Cong. Rec. April 3, 1973. vol. 119 ,pt. 9, p. 11748).

[7] The reference to the "feed-in mechanism" is illuminating. The evaluators do not view this as carrying law reform to an excess but there is an Informal Opinion of the ABA's Committee on Ethics (Opinion 1234 dated July 19, 1972) which specifically prohibits the seeking out of potential litigants for the purpose of establishing a point of law.

[8] It should be remarked that the GAO Report is seriously vitiated by the fact that it offers a picture of what was happening on the law reform front in 1970 and 1971, but tells us nothing of project activity in 1972. Yet involvement in law reform has been moving on a sharply ascending curve ever since the Legal Services Program was initiated. The GAO Report notes that "in our August 7, 1969 report . . . (on the Legal Services Program) we reported there was little activity in law reform . . . (and that) apparently . . . only 6 out of the 34 grantees evaluated were effectively engaged in law reform activities" (p. 17, GAO Report). The Report adds: "We recognize that OEO has increased the degree of grantee involvement in . . . law reform since our 1969 review" (p. 18, GAO Report). As a matter of fact the involvement increased from 6 out of 34 to 3 out of 7 (if one accepts GAO's estimate) and 10 out of 19. If this rate of increase were sustained through February 1973 (the month the new Director, Mr. J. Lawrence McCarty took over), from ⅔ to ¾ of all projects would now be adequately involved in terms of standards used by GAO.

[9] Legal Services and the Local Bars: How Strong is the Bond" by Philip Hannon 6 Cal West Law Review 51

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## REPLY TO SPECIFIC RECOMMENDATIONS CONTAINED IN GAO REPORT

### RECOMMEND

"We recommend that the Director of OEO require program grantees to include in their grant applications statements defining objectives and priorities and indicating how economic development and law reform objectives are to be achieved."

### REPLY

The criteria listed [on page 2 of the GAO report] as goals of the OEO Legal Services program, which were used in evaluating program effectiveness, were never questioned by GAO as proper or appropriate goals. The GAO report further indicated the "goals" that were existent were not precise. The report stated, ". . . it is essential for program grantees to have clearly defined objectives and priorities and a plan for achieving these objectives."

After review of the legal services program, OEO has enunciated precise objectives and priorities for legal services programs. The primary objective of the Legal Services program and of all line attorneys and backup attorneys employed in the program is to provide quality legal services in non-criminal matters to eligible individuals. (A complete set of regulations issued by OEO to achieve that objective are attached in the appendix to this reply).

### RECOMMEND

"We recommend that the Director of OEO:

"Require program grantees to comply with the reporting requirements of MIS;

"Take steps to insure that revisions in the Legal Services program MIS report are made;

"In improving MIS, insure that consideration is given to including revisions in the report format which provide management with selective meaningful data on grantee accomplishments; and

"Require OEO Legal Services program officials to use the MIS reports in monitoring grantee activities."

### REPLY

The purpose of the GAO report as to program data was to review seven grantees' submission of MIS reports in order to 1) test the accuracy of the reported data, 2) evaluate the accomplishment of the grantees, and 3) evaluate the usefulness of the data to OEO. The findings by GAO were in four general areas: a) program grantees were not adhering to the MIS reporting requirements; b) MIS statistical reports on grantee activities were inaccurate and incomplete; c) MIS had not provided management with data needed for monitoring grantee operations, e.g., data on grantee accomplishments in the program goal areas of economic development, law reform and education; and d) OEO had made little use of the MIS reports.

Since its inception the Management Information System (MIS), as established by OEO and applied to the Legal Services Program, has been beset by changes with respect to both the data required from the Legal Services Projects (LSPs) and the diligence of enforcing compliance on the part of National Headquarters.

When OEO terminated MIS as a national reporting requirement, the Legal Services Program was excepted from the termination. By this exception OEO and its Office of Legal Services lost one of its most powerful instrumentalities, viz., the Community Action Agencies, for requiring its delegate agencies to report through OEO grantees. Another difficulty in effecting compliance with the MIS report was the expiration of the OMB approved MIS form in October, 1968. Thus there was no longer a certain legal obligation upon any of the grantees or delegate agencies of the Office of Legal Services to respond in any significant manner. The Office of Legal Services thereupon convened a Task Force which revised the MIS reporting requirements system, but delayed the implementation of that revision pending the results of a feasibility study and pilot computer project scheduled for completion by June 1, 1973.

This computerized system will substitute for the present hand-tallying method of compiling the necessary statistics, a system that captures the information at the first instance, vis., the intake interview. It is believed that by using the pre-existing interview process to capture the MIS reporting information there will be no additional effort (as was necessary with the prior MIS system) and compliance will be thereby significantly improved. After completion of the feasibility study OMB form approval will be sought and the data capture and retrieval system (DCRS) implemented on a nationwide basis in accordance with GSA requirements.

The revised MIS reporting requirement will: a) capture precise client and case characteristics; b) identify trends in the caseload; and c) enable Legal Servies management to use caseload information to provide assistance to management at all levels of the program.

This management tool will not provide a cost per individual case but rather serve as a first step in fully satisfying the Office of Legal Services informational needs. DCRS will accurately portray the number of cases of a particular program for any period of time. From this figure the average cost per case for each program can be calculated. More specifically DCRS will furnish a percentage of total cases allocated to a particular substantive area of the law as selected and identified on the intake document. To assure GAO of our future desires to obtain a per client cost would be premature and would unnecessarily obligate staff time and other resources to a task which will be satisfactorily accomplished by the DCRS.

In summary, then, the GAO recommendations to the Director of OEO will be satisfied by the revised MIS system using the DCRS. The recommendations concerning compliance with the MIS reporting requirement and the revisions to the MIS reports have already been fully discussed and these recommendations are already well on the way to being implemented. The management report format which will provide selective meaningful data has been fully considered. These reports will not only show trends in caseload but will aid in the development of other management techniques for using data.

The recommendations that Legal Services Program officials use the MIS reports in monitoring grantee activities is currently being effected through the implementation of DCRS.

### RECOMMEND

"We recommend that the Director of OEO:

"Emphasize to Legal Services program grantees the need to comply with established eligibility income limitations and to obtain and record complete data supporting person's eligibility for legal assistance particularly in cases involving law reform issues, groups of individuals, and nearly poor persons and

"Require that the propriety of grantee attorneys' eligibility determinations be reviewed by grantee officials and be closely monitored by OEO through the annual grantee evaluation and spot checks by OEO regional office personnel."

REPLY

A new regulation concerning eligibility income limitations is being drafted. Present plans are to issue standardized eligibility limitations, the use of which shall be mandatory for local legal services programs (as opposed to the discretionary use of the current income poverty guidelines).

OEO is also preparing a regulation on mandatory recordation of complete data supporting a person's eligibility for legal assistance. Such data shall be open to GAO inspection as well as to frequent monitoring by OEO officials.

RECOMMEND

"We recommend that the Director of OEO require program grantees to comply with OEO Instructions on the allowability and documentation requirements of non-Federal contributions. We also recommend that OEO closely monitor grantee efforts to bring about the needed compliance."

REPLY

OEO plans to more carefully monitor the allowability and documentation of non-Federal contributions so as to insure grantee compliance with OEO Instructions.

RECOMMEND

"We recommend that the Director of OEO require that OEO's accounting requirements for Legal Services program grantees be revised to provide for the maintenance of adequate records and the establishment of procedures for handling client deposits."

REPLY

OEO is currently drafting a regulation on the recording and handling of client deposits.

RECOMMEND

"We recommend that the Director of OEO require that:

"Wisconsin Judicare accumulate accurate and complete MIS data on its operations, including data on its activities in the program goal areas of law reform, economic development, and education.

"A data collection system be established for a standard program grantee for comparison with Wisconsin Judicare.

"Private attorneys become more involved in law reform and economic development.

"The services provided in education, advocacy, and economic development be extended to include diverse segments of the intended beneficiaries.

"Wisconsin Judicare include appellate actions by private attorneys in its legal services."

REPLY

OEO is in the process of setting up a $2.5 million experiment in California to test the Judicare system. This experiment is designed to meet GAO objections by setting up a standard program and system of record-keeping so that Judicare can be effectively evaluated and compared with the staff attorney method of legal services.

In addition, OEO plans to send a representative to Wisconsin to make an on-site inspection as to the type of records which are now being kept and how best to make these records accurate and usable for effective evaluation and comparison with the staff attorney method.

Several similarly situated grantees using the staff attorney approach will be selected (and a standard data collection system established) for comparison with the California and Wisconsin Judicare experiments.

RECOMMEND

"We recommend that the Director of OEO require that:

"Wisconsin Judicare payments to private attorneys be supported by evidence showing that legal services had been furnished to clients.

"Wisconsin Judicare obtain and record complete data supporting client eligibility.

"OEO officials follow up on Wisconsin Judicare's efforts to improve the handling of non-Federal contributions."

REPLY

As to supportive evidence that legal services have been furnished to clients, OEO is planning to consult with private attorneys in Wisconsin and, based on these consultations, establish procedures which are not unduly burdensome or time-consuming.

As to obtaining and recording complete client eligibility data, see earlier comments.

As to non-Federal contributions, OEO plans to more carefully monitor the documentation and allowability of these contributions.

## ST. LOUIS ALDERMEN SUPPORT EXPANDED AMTRAK SERVICE

**Mr. SYMINGTON.** Mr. President, the St. Louis Board of Aldermen has proposed in a resolution that Amtrak establish additional routes which would link Missouri with cities in the West, Southwest and Southeast.

For some time, I have urged upgraded passenger train service to assure an efficient and economical means of travel in this country. In that regard, I supported the efforts in the Senate last year to increase funding for Amtrak to permit the continuation of the important National Limited train between Missouri and the east coast.

We are now confronted with a serious energy shortage, which has caused reductions in commercial airline flights and discouraged many Americans from relying on their cars for transportation, particularly for vacation or weekend travel. With proper management and adequate service, passenger trains can offer Americans an alternative mode of transportation which is reliable and helps conserve energy.

The board of aldermen recommendations for additional rail service between the Midwest and other parts of the country are realistic; and I have written Amtrak President, Roger Lewis, to request his consideration of the board's suggestions.

In addition, I join the board in commending the accomplishments made thus far in improving Amtrak services and hope that Missourians soon will be offered expanded opportunities to travel by train.

Mr. President, I request that the board of aldermen resolution and my letter to Mr. Lewis be printed in the RECORD.

There being no objection, the resolution and letter were ordered to be printed in the RECORD, as follows:

RESOLUTION No. 62

Whereas, this country is suffering from a severe energy shortage which promises to continue for the foreseeable future,

Whereas, the creation and operation of the National Railroad Passenger Corporation (Amtrak) has evoked a response from the general traveling public to the degree that empty seats on trains have become as scarce as occupied seats once were, and

Whereas, Amtrak has announced the institution of additional service from St. Louis to Dallas in the near future,

Now, therefore, be it resolved that this Board of Aldermen commend Amtrak for its service improvements and service extensions and requests Amtrak to consider service on the Dallas train to San Antonio and Houston, additional service between St. Louis and Kansas City, between St. Louis and Denver, between St. Louis, Kansas City, and the southeast, including Florida, and urges Amtrak to proceed quickly to acquire new equipment, improve the service of its trains, and answer the demands for additional service from the general riding public.

Be it further resolved that the State of Missouri enter into negotiations with Amtrak to support additional service between St. Louis and Kansas City and other points within the confines of the State.

U.S. SENATE,
*Washington, D.C., January 16, 1974.*

Mr. ROGER LEWIS,
*President, National Railroad Passenger Corporation, Washington, D.C.*

DEAR MR. LEWIS: Enclosed for your consideration is a copy of a resolution approved by the St. Louis Board of Aldermen urging increased rail service for St. Louis.

This resolution corresponds with our efforts last year to assure adequate funds for continued and upgraded rail passenger service between Kansas City, St. Louis and the East Coast. Now that the country is confronted with serious energy shortages, it is important that we further expand and improve passenger train routes. With proper scheduling and good service, it is possible the routes proposed by the Board of Aldermen could develop into important and self-sustaining links between Missouri and the West, Southwestern, and Southeastern United States.

Your consideration of the Board of Aldermen resolution, as well as your comments, would be appreciated.

Sincerely,

STUART SYMINGTON.

## SAYLOR'S SEAT

**Mr. HUGH SCOTT.** Mr. President, a recent editorial in the Patriot of Harrisburg, Pa., assessed with wisdom the upcoming election to fill the State's 12th Congressional District vacancy caused by the untimely death of Congressman John Saylor.

The Patriot noted that:

> Americans ... generally demonstrate a great deal of common sense when they go to the polls and . . . Watergate falls far down on the list of issues for two candidates totally untainted by the sordid affair.

Mr. President, I say amen to that, and I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Harrisburg (Pa.) Patriot, Jan. 4, 1974]

SAYLOR'S SEAT—DON'T READ TOO MUCH INTO RACE

Next month's election in Pennsylvania's 12th Congressional District should be interpreted as nothing more than a vote to determine the successor to the late U.S. Rep. John Saylor. It pits two able men, both politically astute and familiar to voters throughout the district.

Saylor's long-time administrative aide Harry Fox, nominated by district Republicans, will oppose State Rep. John Murtha, nominated by the State Democratic Executive Committee. There are several legitimate issues and it would be disservice to the democratic system to allow the impression that the outcome merely will reflect district voters' views of Watergate.

It is a safe assumption that if voters linked all Republicans with the Watergate burglary and cover-up the GOP would be out of business. Americans, however, generally demonstrate a great deal of common sense when they go to the polls and we suspect that most elections—even this year—will turn on local issues and the personal qualities of the candidates.

One of the most important local factors is a 7,000-voter registration edge held by the Democrats. Saylor, who held his seat in Congress from 1949 until his death last October, overcame this disadvantage by serving the best interests of his Democratic constituents, often to the chagrin of Republican purists in the district.

As Saylor's administrative aide, Fox has fallen heir to many close ties with Democrats in the district. But these will be severely strained by the candidacy of Murtha, who is popular in his own right and has the full support of the State Committee. In addition, State Democratic Chairman Dennis Thiemann has said he believes the Democratic National Committee will take an active role in the campaign.

He suggests as well that the Republican National Committee might take part, but Fox's efforts to get an agreement to limit campaign spending indicates he isn't expecting much outside help.

In the end, the result will depend on party organization, the personal appeal of the two candidates and local issues, particularly economic. And, of course, money. Watergate falls far down on the list of issues for two candidates totally untainted by the sordid affair. It will influence few voters and will be of little importance unless the election is so close that it could have been turned around by the few disgruntled Republicans who may stay home. Going against a popular opponent with active and financial aid coming from State and National committees in a Democratic district, Fox is going to be hard-pressed to hold his own. If he wins it won't be a victory for the Watergate philosophy and if he loses it won't mean that all Republicans everywhere face disaster in this fall's congressional elections.

The 12th District election is very important to residents of the district and to the candidates. It is of interest statewide because it may alter the composition of our congressional delegation. Naturally, only one of 435 members of the House of Representatives will be elected. Let's keep it in perspective.

## INFORMING THE MEDICAL CONSUMER

Mr. BIDEN. Mr. President, an article in the Washington Post on January 18 describes Ralph Nader's efforts to publish a "medical consumer directory," which would include information on doctors' specialties, office hours, and fees.

Mr. Nader and his colleague, Dr. Sidney Wolfe, who heads the health research group, met with resistance from medical groups who maintained that any directory including such information would constitute illegal advertising. In spite of this opposition, 115 physicians did cooperate.

The medical consumer directory reveals that over half of the participating physicians require a cash fee at the time of the first appointment, that there is a wide variance in fees for this first visit and in charges for the same laboratory tests, and that less than half of the physicians in general practice make house calls.

According to Dr. Wolfe,

> The difference in fees for tests that cost a dollar or two to do . . . and the demand for a fee in advance of service, show the degree to which medicine is a business rather than a human service.

Dr. Wolfe contends that consumers are denied access to basic information about the fundamental aspects of a doctor's practice. Dr. Wolfe said in the Post interview:

> They are locked out of any information that would allow them to pick one doctor over another. We think this is a conspiracy against the public.

Mr. President, I commend these efforts to inform the consumer of his medical options. Since most of us are not physicians, we can hardly make intelligent decisions about our own health needs. But in areas where options do exist, such as in the initial selection of a physician, we ought to at least know what we are paying for.

I would like to share with my colleagues this informative article in the Washington Post, "Doctors' Fees Publicized." Therefore, I ask unanimous consent that the text of this article be printed in the RECORD at this point in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### NADER DIRECTORY RELEASED—DOCTORS' FEES PUBLICIZED

(By Victor Cohn)

A drive to publicize the widely varying fees and qualifications of every doctor in the nation was started by Ralph Nader yesterday, with release of the country's first "medical consumer directory," which provides information on doctors in Prince George's County.

Because of what two Nader groups called "massive resistance" from state and county medical groups and the advice of Prince George's County Medical Society that doctors not cooperate, only 115 of the county's 463 physicians were willing to furnish any facts for the publication.

The directory shows that:

54 per cent of the 115 doctors who cooperated demanded a cash fee at the time of the first appointment.

Fees of general practitioners—GPs—for a first visit range from $5 to $35. Pediatricians get from $10 to $20; obstetricians, $15 to $30.

Some doctors charge far more for the same lab tests than others—from $2 to $8 for a urinalysis and $3 to $16 for a throat culture, for example.

No pediatricians and less than half of the GPs and internists will make house calls.

Sixty-five per cent of the self-styled specialists in internal medicine, 38 per cent of the obstetricians and 30 per cent of the pediatricians lack certification as qualified specialists by national examining boards.

Sixty-seven per cent of GPs also lacked certification, but a "family practice" certifying board has existed for only a few years.

This information was included in what is primarily a 116-page directory with 115 names of doctors who gave at least some information, followed by a list of the 348 who would not.

Starting with "Dermatology—Schacat, David A.," who would not disclose his fees but listed his office hours, the directory ends with "Urology—Hazig, Mohammed," who gets $22 for an initial visit, $10 for a routine visit, $3 for a urinalysis and does not require a fee at the time of appointment.

Dr. Sidney Wolfe, Nader's health colleague, called the cooperating doctors "a group to be admired for their civil disobedience in respect for their patients."

The directory's publishers, Nader's Public Citizen Inc., and the Health Research Group that Wolfe heads, jointly sued the Maryland Commission on Medical Discipline and the state and Prince George's county medical societies yesterday.

They did so in an effort to force the groups to permit doctors to cooperate in providing information. This will be only the first of a series of attempts, it was indicated, to batter down laws in more than 30 states that forbid doctors to "advertise." Those laws are used by the medical societies, Wolfe charged, to keep information of almost all kinds hidden from the public.

State and county medical society officials said that they must be guided by state law and regulations that forbid most medical advertising. "We aren't really against a directory," said Robert Helfridge, executive director of the Prince George's County Medical Society. "But we don't like publication of fees or prescription practices."

What the citizens' groups are starting, Nader predicted, is "a movement I believe will sweep the country" to publicize information not only on doctors but also on plumbers, electricians, painters, auto repairmen and others. These groups, said Nader, "give billions of dollars in local services but get very little surveillance."

More than 150 groups in 32 states have already told the Health Research Group that they want to compile consumers' medical directories, Wolfe said.

"Doctors who are well trained, accessible to patients, charge reasonable fees and practice good quality medicine are not likely to want these facts hidden," he said. "In contrast, the information we have on Prince George's County—the difference in fees for tests that cost a dollar or two to do, for example, and the demand for a fee in advance of service—these show the degree to which medicine is a business rather than a human service."

This new Nader campaign started with the idea that "consumers pay their doctors, and they ought to have some information on what they're paying for," Wolfe said.

He and lawyers Robert McGarrah and Raymond Bonner told of unsuccessfully trying to get a list of doctors from the Prince George's County Medical Society, after picking Prince George's as "a typical American county."

Getting no list and few facts, they conducted telephone interviews with doctors listed in the yellow pages and other sources, then sent the doctors a copy of their listing for review.

More than 100 doctors asked that their listings be omitted, Wolfe said. What had happened, he said, is that the Prince George's Medical Society sent doctors two letters telling them that "information on fees . . . and some other information is considered indirect advertising and is prohibited in Maryland."

McGarrah also charged that the state medical society—formally called the Maryland Medical and Chirugical Faculty—said that doctors who flouted the law might face revocation of their state licenses.

"Many doctors," he said, "told us they felt consumers should have this information and they had nothing to hide, but they were afraid of getting into trouble."

Both John Sargeant, executive director of the state group, and Helfridge, of the county medical society, denied threatening any loss of medical licenses.

But the state group cited the opinion of its legal counsel, John F. King of Baltimore, that much of the information sought "would constitute advertising," and Dr. William Gunther, Prince George's president, wrote fellow doctors that "apparently publication of information relating to fees or drug prescription is unethical."

The Health Research Group questionnaire also sought some information on drug-prescribing information "as a guide," Wolfe said, **"to what doctors do."** The results showed that 40 per cent of the 115 doctors who cooperated prescribe erythromycin, which Wolfe said "often damages the liver." Forty per cent prescribe Ritalin as an anti-depressant which Wolfe called "useless for that purpose." Fifty-three per cent prescribe the pain-killer Darvon, which he said "is no better than a placebo" (or sugar pill).

The Maryland law on information about doctors is only one sentence: "No physician shall advertise except as provided by regulations" of the Maryland State Board of Medical Examiners.

This board permits doctors to list their names, phone numbers and specialties in yellow pages and other types of announcements. Some medical societies—the District of Columbia Medical Society, for example—do not even permit that. Maryland and Virginia doctors, but not D.C. doctors, may include their specialties in the telephone book.

"These rules," Wolfe maintained, "are used to keep consumers in ignorance."

"Consumers cannot get information about the most basic, fundamental aspects of a doctor's practice. They are locked out of any information that would allow them to pick one doctor over another. We think this is a conspiracy against the public."

"This country tolerates the very worst along with the best quality of medical care and those who overcharge along with those who charge reasonable fees. This can best be explained by the total lack of information consumers have."

The Nader campaign was backed by Frank Kratovil, president of the Prince George's County Health and Welfare Council, who appeared at a news conference to announce that the group will sell the directory for $1.50 at its headquarters at Hampton Mall in Capitol Heights.

## LEGAL SERVICES CORPORATION

**Mr. TOWER.** Mr. President, I am delighted today to call the attention of my colleagues to a column from the Orlando Sentinel of December 26, 1973, entitled "It's Good News Again From Dixie Filibuster." The astute columnist, John D. Lofton, Jr., pinpoints the real issues involved in Senate consideration of S. 2686, the Legal Services Corporation proposal, and gives much-deserved credit to the distinguished junior Senator from North Carolina (Mr. HELMS) for his outstanding leadership in opposition to this bill.

Mr. President, I respectfully ask unanimous consent that full text of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows.

### IT'S GOOD NEWS AGAIN FROM DIXIE FILIBUSTER

(By John D. Lofton, Jr.)

WASHINGTON.—More good news from the nation's capital. Another courageous Southern senator has filibustered and delayed a horrendous piece of legislation.

First, it was Sen. James Allen, D-Ala. He talked to death, until next at least, a multimillion-dollar screwball scheme to finance presidential elections out of your pocket and mine. Now, it's Sen. Jesse Helms, R-N.C. He has been verbally victorious in putting off until late January of next year S. 2686, a bill to establish a Legal Services Corporation.

The critical question, Sen. Helms emphasizes, is not whether the poor should or should not have access to legal services. Most surely they should. The question is whether the resources of the federal government should be used to set up para-governmental instituions to effect social change without the usual social change without the usual checks and balances of representatives government.

The proponents of S. 2686 in attempting to write such a revolutionary concept into law, are obviously not bothered by the question. The answer for Sen. Helms, however, is a resounding "No!"

"By using the judicial system and the administrative process to effect social reform, you are making an end run around the constitutional system of our country, and you destroy the popular concensus that is necessary for long-term reform," Helms says.

Any federally funded social program must be responsible and accountable to the public. Once a lawyer goes on the public payroll, he necessarily accepts different standards of independence than if he were economically independent of government money.

"Without the normal economic restraints, the federally funded poverty lawyer faces enormous temptations to raid the federal treasury to support the causes which he espouses."

The record supports what the senator says. The following are examples of abuses under under the present federally funded legal services program, a program less liberal than S. 2686:

In St. Louis, Democratic Gov. Warren Hearnes vetoed a $390,359 legal aid society grant charging that the project had represented rent strikers in a public housing project, black militants in a church confrontation, and black students accused of mutilating an American flag. An investigation proved that a number of the clients were clearly ineligible for aid.

An active Communist party member, found guilty of larceny before he was hired, was found to have improperly provided legal aid to persons associated with the Weatherman faction of Students for a Democratic Society in connection with an interstate dynamite shipping case.

Stephen Bingham, a legal services fellow assigned to the Berkeley program, was paid for a period of eight months although he performed no official work. During his fellowship, he worked closely with a Communist law firm heavily involved in agitating for prisoner rights. Subsequently, Bingham was identified as the man who delivered the gun to Soledad "brother" George Jackson, immediately prior to Jackson's attempted escape from San Quentin.

In at least one case, Sen. Helms' charge of unaccountable legal service lawyers raiding the U.S. Treasury is literally right on the nose. One of Communist Angela Davis' attorneys-to-be embezzled $10,000 from a legal services program he was supervising in Redwood City, Calif.

Sen. Helms also opposes S.2686 because it has received very little debate in the Senate, no hearings have been held on it, there has been no consideration of the measure by the Judiciary Committee and there has been no discussion of the nearly 100 amendments that opponents of the bill have to offer.

Speaking in opposition to the foolishly risky White House strategy of waiting to alter S. 2686 in a House-Senate conference rather than fighting it on the Senate floor, Helms declares:

"Why do we not earn our pay in this Senate of the United States? Were we not elected to help establish national policy? If we're going to let White House staffers and Senate staffers solve our problems for us and just let us ratify their deals, we should go home now."

The job of deciding what government-financed lawyers should or should not be allowed to do is a job the Senate should have a say in, Helms believes.

"Let us decide whether we want local grantees controlled by the ACLU (American Civil Liberties Union) and Common Cause, rather than elected officials. Let us decide whether we want them to draft model abortion statutes or organize prisoner rights groups. Let us decide whether they should represent children without parental consent on issues like abortion and school discipline."

Sen. Helms is correct. The Senate should decide and the White House should help it decide. And the White House can do this by devoting as much energy next year to backing the legal services reform bill sponsored by Helms and Sen. William Brock III, R-Tenn., S. 1990, as it did to suppressing debate on the subject this year.

## NATIONAL GROWTH POLICY: DEVELOPMENTS IN 1973

**Mr. ROBERT C. BYRD.** Mr. President, on behalf of the Senator from Indiana, I ask unanimous consent that the following statement and paper be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

### NATIONAL GROWTH POLICY: DEVELOPMENTS IN 1973

(By SENATOR HARTKE)

Mr. President, there is increasing attention being focused on the need for a national growth policy. The energy crisis provides further impetus in this direction. We must take stock in our human and material resources and plan for their best use in the future.

This far-sightedness is the thrust of S. 1857, the National Growth Policy Planning Act, which I introduced during the first session of this Congress.

Mr. President, I ask unanimous consent that a paper prepared by a former member of my staff, Bruce Johnson, on recent developments in achieving a national growth policy be printed in the RECORD.

### NATIONAL GROWTH POLICY DEVELOPMENTS IN 1973

(By Bruce Johnson, attorney with the Office of General Counsel, Federal Home Loan Bank Board, former legislative counsel to U.S. Senator Vance Hartke, author of various proposals on national growth policy.)

#### INTRODUCTION

1973 saw the most constructive developments yet in the effort to construct a national growth policy. A consensus started to emerge that such a policy would be built around seven components dealing with domestic affairs—disparities of race and income in metropolitan areas, population growth, environmental quality, employment location and economic growth, housing, land use, and greater governmental efforts to re-organize inefficient institutions and plan for the future. This article intends to be a supplement to "Toward a National Growth Policy" by Senator Vance Hartke, which appeared in the Catholic University Law Review, Winter 1973. The article summarized historical trends and developments up to the end of 1972, which might provide for the development of such a policy.

#### THE CONGRESS

To better comprehend the recent events in the Congress moving toward a national growth policy in 1973, a compilation of congressional actions in related areas was necessary. It was done by the publication in January, of a summary of the Congress' accomplishments in the environmental and natural resources areas during 1972.[1]

In February, the first comprehensive proposal in the 93rd Congress for achieving balanced national growth was presented to the Senate by Senator Hubert Humphrey.[2] The proposal took the form of draft legislation to be circulated and commented upon with the hope that it would become "a national working document for the entire nation to reflect its concerns and desires concerning national goals, priorities and policies." Title I stated the bill's purpose. Title II created an Office of Balanced National Growth and Development in the White House. Title III provided for the transfer of certain functions from the Office of Management and Budget with respect to review of Federal projects and liaison with state and local governments. Title IV created multi-state regional planning and development commissions. A program of comprehensive planning assistance is provided for in Title V. Title VI provides for Federal requirements for the receipt of such grants. A National Citizens Council on the American Future is embodied in the seventh title of the Act. Title VIII creates a Joint Congressional Committee on Balanced National Growth and Development and a Congressional Office of Policy and Planning. Title IX lays down requirements with respect to the locational impact of Federal facilities, activities, and procurement. Title X creates a Foundation on the American Future. The eleventh title establishes an agency for population and demographic analysis without the Bureau of the Census of the Department of Commerce.

On March 19, 1973, the remarks and legislation of Senator Vance Hartke provided the high water mark of the year for the development of a national growth policy. In introducing the National Growth Policy Planning Act of 1973, S. 1286, the Senator criticized the Administration's domestic policy, and offered a new alternative for guiding domestic growth.[3]

The comprehensive Hartke bill provides grants to states and metropolitan agencies to plan for growth in their areas. It establishes a National Growth Policy Council in the Executive Office of the President, abolishes the inept Domestic Council and joins several executive agencies into one concise agency to plan and coordinate a national growth policy. The bill also provides for the consolidation of some federal comprehensive planning and planning assistance programs and provides for possible study of other programs. The bill would transfer Office of Management and Budget Circular A-95 functions to the Council. The bill also provides for regional multi-state commissions as a link between planning and development initiatives. It would offer incentives for the development of regional planning development agencies. The bill endorses with certain conditions, the principle of community development block grants for more flexible urban funding. It establishes a national development bank to underwrite the financial needs of the underdeveloped and overdeveloped areas of our country. The concept of the bill later received the support of the American Institute of Architects, the American Institute of Planners and the Advisory Commission on Intergovernmental Relations.[4]

On March 20, one day later, Senator Adlai Stevenson, with words endorsing the concept of a national growth policy for America, placed in the record a copy of a comprehensive law review article on National Growth policy by Senator Vance Hartke.[5]

In the early months of 1973, the Library of Congress' Congressional Research Service, at the request of the Subcommittee on Housing and Urban Affairs of the Senate Committee on Banking, Housing and Urban Affairs, conducted a seminar on national growth policy issues. The seminar was developed in cooperation with the National Planning Association and Resources for the Future.

In April, Senator Muskie's Subcommittee on Air and Water Pollution of the Senate Public Works Committee held hearings on the impact of the nation's growth on the environment and on S. 792 relative to the granting of environmental protection permits.[6]

On May 9 and 10, a Congressional Conference was held on "Rural and Urban America—Conflicts and Common Ground." The conference focused on several propositions: 1) The central cities continue to decline physically, fiscally and in the quality of life . . .; 2) The present forces of urban development are helping to create an apartheid society; 3) present forms of urban development are squandering our natural resources and contributing to environmental pollution and inflation; 4) the city dweller—laboring person and consumer—has a long standing psychological conflict of interest with the rural citizen—food and fiber producer; 5) rural areas have economic, social and physical problems comparable to those of the cities; and 6) at the present time, we have neither a national urban policy nor a national rural policy. In the Congress, in the state legislatures and in the public arena, we simply have a hodge-podge of rural and urban interests.

Also, in May, hearings were held by the Special Subcommittee on Human Resources of the Senate Committee on Labor and Public Welfare on S. 1708, the proposed Family Planning Services and Population Research Amendments of 1973.[7]

On May 21, Senator Vance Hartke introduced S. 1857, the National Growth Policy Employment Act of 1973.[7a] Title I provides for full public employment opportunities as a priority in developing a national growth policy. Title II is identical to H.R. 5808, the Urban Employment Act of 1973 introduced by Congressman James Stanton of Ohio. Title II provides for a land banking program to assist communities in attracting and maintaining an industrial base by amending the Public Works and Economic Development Act of 1965. The land banking approach would entail land being purchased by municipalities for resale to manufacturing plants and business enterprises that otherwise might move from central cities leaving their working force behind.[8]

Land use legislation was probably the most important component of a national growth policy considered in the last session of Congress.[9] Most of the action in the Senate began and finished early in the session.

S. 268 as reported out of committee, authorizes the Secretary of the Interior Department to make grants to assist states in development and execution of land use programs and to coordinate land use planning in interstate areas. The bill also directs the Interior Secretary to coordinate Federal programs that have a land use impact. Under the bill's provisions each state would be required to develop an adequate statewide land use planning process as a condition of continued eligibility for grants. The process would have to include an inventory of land and natural resources as well as compilation of basic economic social and population data. State plans would also have to include, among other things: projections of areas of critical environmental concern; the nature, quality and compatibility of land needed for recreation and open space; and consideration of urban development, including the revitalization of existing communities and the development of new towns. In addition, states would have to develop an adequate land use program after five years to continue to receive Federal funds and would have to show good faith efforts to carry out the plan.

A provision inserted in the bill by Senator Gaylord Nelson required the state land use planning process to include a program for regulating land sales and development projects. The bill requires that such a program include measures for identifying projects subject to control, a procedure for considering each proposed project, and an evaluation of the consistency of the project with statewide land use goals. Under the Nelson amendment, states would have to include procedures in their plans to issue cease and desist orders and other appropriate remedies for violations. Projects subject to the provisions of the Nelson amendment would have to consist of 50 or more lots or contain more than 50 dwelling units and be located ten miles or more beyond the boundaries of a standard metropolitan statistical area (SMSA). S. 268 would make $100 million available to states to implement planning processes over a period of eight years. For the first five years, the Federal government would pay 90 percent of the cost of such programs and for the last three years would share two-thirds of the cost.

The bill would also make $15 million available for eight years of interstate planning efforts and $10 million over the same period to Indian reservations for planning and management. In addition, S. 268 would establish an office of Land Policy in the Interior Department to be administered by the Secretary of the Interior. However the Executive Office of the President would be responsible for issuing policy guidelines to carry out the act.

Both the administrator of the Environmental Protection Agency and the Secretary of the Department of Housing and Urban Development would have sign off rights in all state plans. To be eligible for funding under the Act, states would have to participate in HUD's 701 comprehensive planning program and HUD would have to so certify. S. 268 also authorizes the Council on Environmental Quality to conduct a national feasibility study on the appropriateness of a set of national land use standards. The study would be submitted to Congress within three years with a view toward developing legislation in this area.

Final Senate action on the bill took place on June 21. Defeated by only eight votes was an amendment introduced by Senator Henry Jackson which would have withheld Federal funds for airports, highways, and land-water conservation programs from states that did not adequately implement their land use planning laws. Among the key amendments included in the bill as a result of Senate floor action are an amendment by Senator Edmund Muskie to insure that state land use programs are coordinated with the regulatory activities of all state agencies enforcing air, water, noise and other pollution standards, and three amendments by Senator John Sparkman. One requires states to include land needed for housing in their development of a state land use plan. A second directs states to make any land use planning activities consistent with plans developed under the HUD Section 701 program for comprehensive planning. A third, described by Sparkman as an amendment of a conforming nature, requires states to include housing in planning programs for public facilities.[10]

In the House, action on the land use bill was more judicious. There was excessive debate on several proposals.[11] While the legislation in the House was basically the same as the Senate version, its final form would be much watered down. However, one key benefit of the House Interior Committee debate was the proposal of some interesting amendments. In the "Findings" section of Title I of the bill, subcommittee members voted overwhelmingly to include language that land use planning should advance "social and economic well being." This was interpreted

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by staff members as reflecting the concern of the committee that the legislation not be solely a "natural resource" bill.

Representative Thomas Ashley, proposed an amendment to create a Joint Committee on National Growth and Land Use Policy.[12] He was supported by the American Institute of Planners, the National Association of Counties, the American Institute of Architects, and the Advisory Commission on Intergovernmental Relations. The Committee was to be modeled on the present Joint Economic Committee. It would have four major functions: make a continuing study on matters relating to the biennial reports required by both the land use bill and the Urban Growth and New Communities Act of 1970; file an annual report on its findings as a guide to the standing Committees of Congress; provide oversight for all major Federal and Federally financed programs dealing with land use and urban growth—the Council on Environmental Quality and the Domestic Council would be directed to report to the Joint Committee each year on the extent to which Federal policies in these areas were coordinated; and conduct special studies to improve land use policies, allocation of natural resources, environmental protection and promote balanced growth.

Similar language was suggested by Senator Humphrey in his proposal for a national growth and development policy. A senate Select Committee on National Growth Policy has also been proposed behind the scenes.[13]

Language was proposed by Rep. Yvonne Burke that "the comprehensive land use planning process provide for a full range of housing opportunities on a regional basis." Language was also proposed to provide for national growth policy considerations. However, the House bill did not get out of Committee and land use legislation died with House adjournment.

In November the House Public Works Committee held hearings on National Growth Policy. The focus of the hearings was the development of a national public works investment policy as a blueprint for national growth. The Committee heard four witnesses describe demographic and land use trends and recommendations for Federal policy in response to them.[14]

Late in November, the Office of Management and Budget (OMB) released a revised Circular A–95, defining evaluation, review and coordination procedures for Federal and Federally assisted programs and projects.[15]

In December, the movement for development of a National Growth Policy received another push from the Senate side as Senator Edmund Muskie, in a speech before the Planning and Conservation League in California, called for "a national growth policy and a Federal land use policy that would guide the management of our land resources in conforming with the national growth policy." Muskie said state land use plans should meet Federal criteria, including prohibition of development in flood plains; a requirement that major development provide open space for recreation; prohibition against a development which violates either federal or water pollution laws; and exclusion of industrial, residential or commercial development that would exceed the capacity of existing systems for power and water supply; waste water collection and treatment; solid waste disposal; and transportation.

The revised circular extends A–95 coverage to HUD–FHA and FMHA programs involving subdivisions of 25 or more lots, multifamily projects having 50 or more units and mobile home courts with 50 or more spaces. These limits are provided for urban locales. Another revision adds clearinghouse review for so called "multi-source" programs including EPA program grants.[16]

The housing and community development component of a national growth policy received extensive attention during the last year. On September 19, President Nixon unveiled the Administration's new housing proposals, the product of six months of study and nine months of moratorium; shortly thereafter they were translated into legislative form in the Housing Act of 1973 (S. 2507). Two weeks earlier William A. Barrett (D-Pa) and Thomas L. Ashley (D-Ohio), respectively the chairman and key member of the Housing Subcommittee, introduced in the House their housing proposal. In July, Senator John J. Sparkman (D-Ala) had presented to the Senate his ideas as to the future shape of housing in America. The three major proposals boil down as follows:

Senate Proposal (S. 2182).—The Senate proposal is the most traditional, although it has several innovative aspects. Like the aborted housing legislation introduced since 1970, the Senate bill would simplify and consolidate the HUD-FHA insurance and subsidy programs into four basic sections. (Section 401-insured, non-subsidized homeownership; Section 402-insured and subsidized homeownership; Section 501-insured multifamily; Section 502-insured and subsidized multifamily). Basically, Sections 235 and 236, although renumbered as 402 and 502, would remain the same in concept.

However, the Senate bill contains a significant new feature allocating 60 percent of the Section 402 and 502 funds to standard metropolitan areas pursuant to a population, poverty, and housing overcrowding formula. The Barrett-Ashley House Proposal (H.R. 10036) is the most far-reaching of the three; indeed, some observers term it the most novel piece of housing legislation of the last 25 years. The House bill would scrap all three existing housing programs—Section 235 and 236, and Public Housing—and substitute a housing block grant similar in concept to the community development block grant proposal. $2.2 billion (over three years) in housing block grants would be divided between metropolitan and non-metropolitan areas (75 percent and 25 percent respectively) taking into account population, poverty, and housing overcrowding.

Communities would make an application based on a thorough survey of housing needs. They could utilize funds for rehabilitation loans, interest reduction payments on owner occupied units, rent supplements for multifamily units, seed money loans, and rehab grants and loans. Long-term projects could be financed from federally guaranteed state or local bonds. Although new public housing units would not be allowed under the proposal, $45 million of contract authority would be made available for modernization and renovation of existing public housing units.

The Administration's Proposal.—In reality, the Administration has made two sets of proposals—short term and long term. Short term, the Administration proposes to revive the Section 236 Program, greatly expand the Section 23 Leasing in both its existing and new construction aspects, and introduce a new type leasing program whereby HUD would deal directly with the developer.

Long term, the Administration, at least tentatively, asks for a drastic change in the way low income housing needs are met. Production oriented programs would end, and be replaced by a modified housing allowance. Under that concept, low income families would receive direct cash payments with which they would secure their own decent, safe, and sanitary housing. Under the proposal, in its ultimate form, there would be universal entitlement—every needy family would get such an allowance, in contrast to the present system where only a relatively small percentage live in federally subsidized units. Although the President has stated that housing allowances are the most "promising" alternatives avaliable, his endorsement is well hedged by references to "unforeseen factors" that could rule out the program on a permanent basis.[17]

The Congress sought this year to separate community development legislation from housing legislation.[18] The three major community development proposals are: 1) the Better Communities Act, H.R. 7277, the Administrations' special revenue sharing plans for community development; 2) Community Development Assistance Act of 1973, S. 1744—block grants for Community development; and 3) H.R. 10036 the combined package of housing and development legislation proposed by Congressmen Ashley and Barrett. The last proposal also would encourage the formation of state development corporations similar to New York's successful Urban Development Corporation.

Two bills were also introduced this past year to revamp the Federal government's 701 comprehensive planning program. The most extensive bill, S. 854, was proposed by Senator Adlai Stevenson. The other less adequate proposal was the Administration's S. 2490, the Responsive Governments Act.[19]

Other miscellaneous bills were introduced this year have to do with the elements of a National Growth Policy. They include:

S. 792 (national system of environmental protection—Muskie)

S. 10 (unique rural development bill—McClellan)

H.R. 4767 (population control—Esch)

S. 834 (Intergovernmental Cooperation Act. of 1973—Muskie)

S. 1708 (population control—Cranston)

H.R. 7481 (housing discrimination and dispersal of low and moderate income 7836 housing—Rangel)

S. 232 (national development program—Montoya)

H.R. 7735 (population control—Ashley)

H.R. 3220 (rural development—Alexander)

S 2414 (Demonstration Housing Location bill of 1973—fair share housing effort—Taft)

The Federal Executive.—In 1972, the Task Force on Land Use and Urban Growth was created by the Citizen's Advisory Committee on Environmental Quality, a body established by presidential executive order in May, 1969. In 1973, the task force issued its report.[20] The report evaluated the current American scene, made conclusions and recommendations. Its major conclusions: "A new move in American attitudes has emerged that questions traditional assumption about the desirability of urban development. The motivation is not primarily economic. It appears to be a part of a rising emphasis on human values, on the preservation of natural and cultural characteristics which make for a humanly satisfying living environment."

It's major recommendations: 1) In newly urbanizing areas, both recreation and social needs will best be served by establishing a public policy that the limited natural supply of prime recreational open spaces, particularly coastal and waterfront areas, should, to the maximum feasible extent, be acquired by government, preserved and made publicly accessible; 2) Federal estate tax laws should be amended to permit the transfer to the Federal government of land determined by the secretary of the Interior to be of national significance with the fair market value of the land offset against Federal tax liabilities; 3) State as well as local governments should establish protective regulations to prevent incompatible development of critical agricultural and environmental areas; 4) Where protected areas are carefully selected as the result of a comprehensive planning process, states should authorize and encourage, in appropriate cases, very low density zoning, including for example, requirements for 50 or more acres per dwelling unit permitted; 5) Enactment of a national land use policy is urgently recommended as a means to encourage state and local regulations in a framework that adequately recognizes both

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regional environmental protection and development priorities; 6) The Federal government should encourage open space protection by formulating mapping and publicizing a set of advisory national open space classifications for consultation by Federal agencies in the planning of development projects for use in support of state and rural plans and regulations, and for consultation by private land buyers and sellers; 7) Decisions to construct sewers and to provide other public services should be taken only after carefully considering whether these decisions will stimulate or discourage the development of designated open spaces; 8) Plans for the location of Federally assisted sewers should conform to a comprehensive land use plan; 9) We see the need for a National Lands Trust to be established either within the Interior Department or by Federal charter and with Federal funding of $200 million annually to be made available in a matching basis with a 75 percent Federal share to assist public bodies, particularly state land use agencies, in the designation, planning and conservation of extensive green spaces in and around major urbanizing areas. The National Lands Trust would advise on regulatory and acquisition measures and make funds available for acquisition of strategically located lands and partial interests in lands within the green spaces; 10) To reduce conflicts of interest, state and local laws should disqualify local and state officials from voting or otherwise participating in any regulatory decision whose outcome could confer financial benefit, or could appear to the public to confer financial benefit, to themselves, their families, or their business or professional associates. All persons having any responsibility for land use regulation, including elected and appointed officials and employees, should also be required to make periodic public disclosures of their financial interests and real estate holdings within the jurisdiction over which they exercise responsibility; 11) Governments should use all acceptable means to channel as much development as possible into new communities or to the extent that these are unachievable, to channel as much development as possible into "growth units" as recommended by the American Institute of Architects. It should be recognized that the success of this policy will be contingent upon the effectiveness of the implementing measures in overcoming the several obstacles that now deter developers from operating on larger scales; 12) Loan guarantees now available under Title VII of the Urban Growth and New Community Development bill of 1970 should be expanded and made available also for development of "growth units"; 13) The states should establish government entities, comparable to New York's Urban Development Corporation, responsible for assisting and when necessary, directly undertaking large-scale projects. These entities should have the full range of powers including the power of eminent domain, the power to override local land use regulations and the power to control the provision of public utilities whenever necessary to overcome the barriers that now prevent most developers from operating on the larger scales the public interest requires; 14) States should enact legislation requiring environmental impact analysis in connection with major actions of state and local governments which significantly affect the environment; and 15) The congress should amend Federal securities legislation so that the sale of lots (in any project containing more than 50 lots) will, unless all obligations of the seller are performed before any payments by the buyer, be regarded as a securities transaction subject to the prospectus and other requirements of the Securities and Exchange Commission.

This last year saw the development, by the Federal government's Department of Housing and Urban Development, of a $1.5 million community development research program aimed largely at how to control growth. One major effort being funded by HUD is an Urban Institute project to enable local municipalities to develop tools to evaluate the local import of land use decisions. The Urban Institute will be looking at cost-revenue implications of land use decisions as well as social employment, and environmental saves. Six other HUD funded research projects will examine development and growth in different situations. HUD also engaged in other studies, dealing with growth to a lesser extent. One concerns tax policy and its impact on community development; the other looks at a broad area of land use controls and land banking in particular. HUD will fund other projects, most probably, in the areas of capital improvements policy as a guide to growth and advanced land acquisition.[21]

1973 saw a drastic cut-back in Federal planning programs and at the same time the development of some new ones. Congress reduced the spending for HUD's section 701 comprehensive planning program by 25 percent because of the Administration's failure to use the money in prior years. Meanwhile, a program which would give participating states the responsibility for administering grant allocations to metropolitan area wide planning agencies and large cities with populations exceeding 50,000, handled in the past directly by HUD, is being developed by HUD's office of Planning and Management Assistance.[22]

In September, we saw the release of the Council of Environmental Quality's fourth annual report which focused on land use and growth policy. However, the issuance of the report did reveal that three major land use reports were being done by the Council to be completed early in 1974. One is a study of the environmental and social costs of sprawl, another deals with the environmental import of the boom in second homes, and the last examines the land use effects of deep-water ports.

One key area of executive responsibility which developed in the last year was the development of air and water quality standards to limit growth in areas with excessive air and/or water pollution. The Environmental Protection Agency issued final regulations to help states and localities in identifying areas with water quality problems requiring an area-wide approach for corrective action. The new regulations provide guidelines for identifying areas with need for regional planning and procedures as well as for designating the agency responsible for such activities. Such water quality management programs according to the regulations, should provide for cost effective point source and non-point source treatment and control for areas of urban industrial concentrations and for coordinated waste treatment management in these areas. Non-point sources in particular can involve housing construction activities.[23]

A most important debate that will effect how the development of a national growth policy will proceed ensued this past year over the Environmental Protection Agency's proposed air quality regulations. The proposed regulations would require states to review local construction plans to determine if activities associated with the completed facility, mainly auto traffic, would have an impact on air quality standards. If the review, to be made prior to construction, shows that the associated activity will not permit air quality standards to be maintained, the regulations will require that the state must have the authority to prevent such construction.

Such facilities are generally designated "complex sources" by EPA. A complex source is defined as "a facility that has or leads to secondary or adjunctive activity which emits or may emit a pollutant for which there is a national standard". These sources include, but are not limited to: shopping centers; sport complexes; drive-in theaters; parking lots and garages; residential, commercial, or institutional developments; recreational areas; highways; and sewer, water, power and gas lines.[24]

The week after the proposed regulations were published, President Nixon in his energy message, asked Congress to grant him authority to exempt stationary sources from Federal and state air quality laws and regulations if such a waiver is warranted by the energy crisis. The Congress failed, as of the end of the first Session, to grant the President's request, but the regulations may yet become stillborn ones.

1973 saw the myriad of amorphous growth policy ideas developed into a basic framework by the nation's courts and court commentators.

In the Supreme Court case of *Ruckelshaus* v. *Sierra Club*, U.S. Law Week 4825 June 11, 1973, it was held that the Environmental Protection Agency administrator's authority under the Clean Air Act would require state implementation plans to prevent any substantial degradation of existing air quality even if present air quality exceeds Federal standards. As a result of this area residential and commercial projects will be seen as air pollution sources much like industrial developments. Any project which would allow "significant deterioration" of air quality would become a victim of what has now become a slow growth measure as interpreted by the court.

Two analyses of Federal and state court decisions also give us insight into the role courts will play in developing growth policy. After evaluating a decision of *Golden* v. *Planning Board of Ramapo*—30 N.Y. 2d. 359, 285 N. C. 2d. 291 (1972) which upheld the legality of a "development timing" or "controlled growth" ordinance passed by the New York town of Ramapo—a recent publication made the following conclusions of recommendations as a result of that case.[25] They were: 1) Strengthening public control over the timing of development of vacant land is highly desirable; 2) the essential element of development timing control is a plan and commitment for public investment to assimilate growth; 3) development timing controls should solidify plans for regulating the spatial character of growth; 4) regulating development timing control at regional or metropolitan levels of government is preferable to allowing its exercise by localities; 5) local development timing ordinances should be considered exclusionary devices unless the locality can demonstrate responsiveness to regional housing needs; 6) a local development timing ordinance should be considered exclusionary if it does not provide for housing for employee households with existing or anticipated jogs in the jurisdiction; 7) development timing ordinances that apply only to residential development are inherently suspect as selective growth policies; and 8) local development timing ordinances should be considered exclusionary if the resulting tax effort is reduced below the average for the metropolitan area.

Another recent commentary on court decisions outlined the various forms of anti-growth policies that have been the subject of court decisions in the last few years.[26] Examined were the undeclared moratorium,[27] the temporary but indeterminate moratorium,[28] the environmental moratorium,[29] population caps,[30] transfer of "spillover" of costs to subdividers,[31] and development timing.[32]

### PRIVATE CONTRIBUTIONS

This year saw much substantive work done in the area of growth policy by private groups and individuals as private citizens. The most monumental new effort is Governor Rockefeller's National Commission on the Future

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of America in its Third Century,[33] which just got off the ground this year. The commission will focus on broad social goals.[34]

Among its 35 or so working members are Ivan Allen, the former Mayor of Atlanta; William Goher, the president of Bell Labs; Clare Boothe Luce; Daniel Patrick Moynihan, now Ambassador to India; Sol Linowitz, former head of the National Urban Coalition; and Bess Meyerson, formerly New York City's advisor on consumer affairs.[35]

In May of 1973, a most exciting development occurred in the field of measuring the effect of a national growth policy. For the first time a quality of life index in the United States was set up to measure a large assortment of factors that help evaluate how good a life can be had depending on which state one lives in.[36]

In the same month the National Association of Homebuilders (NAHB) created a $200,000 legal defense fund to fight "no growth" ordinances and laws in courts throughout the country.[37] The fund is being used to assist state and local homebuilders association in legal suits having "national impact". The NAHB specifically earmarked funds to assist the homebuilders contesting a California growth control ordinance, to challenge to state environmental laws in Maine and Massachusetts and to set up a computer data bank on court decisions relating to growth control.

In September, some 400 planners and local officials attended a National Conference on Managed Growth sponsored by the Urban Research Corporation. The emerging theme of the conference seemed to be that slow-growth policies must consider both environmental and social issues. Specific discussion focused on land banks, state land use legislation, environemntal impact statements, and local initiatives. The conference also heard the results of a poll taken by George Gallup which indicated that 55 percent of Americans think their communities have done only a fair or poor job in planning for future growth.[38]

The past year also saw a new assortment of private publications in growth policy.[39]

### STATE AND LOCAL DEVELOPMENTS

In 1973 many states and localities responded to the congressional impetus to control growth and land use by action that sometimes went beyond what was even envisioned as possible by Congressional pragmatists.

Almost every state in the union saw some of its localities enact measures of some kind to restrict growth, including moratoriums in sewer line tap-ins, building permits, zoning applications, and multi-family construction.[40]

Several states either enacted statewide land use legislation, debated it in their legislatures or had statewide commissions set up to develop possible legislative alternatives to control growth.[41]

During 1973, the Office of Policy Planning of the U.S. Department of Housing and Urban Development requested the Academy for Contemporary problems and the Council of State Governments to make a major effort to explore the linking of state and local approaches to controlling growth with a national growth policy.[42]

To give states, counties and cities more clout in developing priorities in our nation's Federal domestic programs, a coalition of state and local leaders was formed. Under the leadership of Governor Daniel Evans of Washington, who is Chairman of the National Governors Conference, Mayor Norman Gribbs, head of the National League of Cities, and Gil Barrett, President of the National Association of Counties, the organization will lobby Congress on matters that concern national growth policy.[43]

### CONCLUSION

In 1974, the Nixon Administration will submit the second report to the nation on urban growth policy under the mandate of the Housing and Urban Development Act of 1970. But constructive alternatives most be found elsewhere. They must, for growth policy is the key to the nation's domestic future.

### FOOTNOTES

[1] Committee Print, Senate Committee on Interior and Insular Affairs, Congress and the Nation's Environment—Environmental and Natural Resources Affairs of the 92nd Congress, 93rd Cong., 1st Sess., January 20, 1973.

[2] Committee Print, Joint Economic Committee, A Proposal for Achieving Balanced National Growth and Development. 93rd Cong., 1st Sess., February 26, 1973.

[3] 119 Cong. Rec., 8376–8389, March 19, 1973.

[4] See correspondence file in Office of Senator Vance Hartke.

[5] 119 Cong. Rec. 8785–8797, March 20, 1973.

[6] 119 Cong. Rec., D181, daily ed., April 2, 1973.

[7] 119 Cong. Rec., D281, daily ed., May 9, 1973.

[7a] 119 Cong. Rec., D329, daily ed., May 23, 1973.

[8] 119 Cong. Rec., 16260–16211, May 21, 1973.

[9] See generally J. Noone, "Congress Considers Bills Increasing, State, Federal Role in Land Use Decisions," National Journal, May 5, 1973; Committee Print, Senate Committee on Interior and Insular Affairs, National Land Use Policy Legislation, 93rd Congress, and Analysis of Legislative Proposals and State Laws, 93rd. Cong., 1st Sess., April 1973.

[10] See Bureau of National Affairs (BNA), Housing and Development Reports, June 27, 1973.

[11] See generally Hearings on Land Use Planning Act of 1973, before the Subcommittee on the Environment of the House Committee on Interior and Insular Affairs, 83rd Cong., 1st Sess., 1973. See also various land use bills—H.R. 2942, H.R. 4862, H.R. 6460, H.R. 7233, H.R. 10294, 93rd Cong, 1st Sess. See BNA, Housing and Development Reporter July 25, 1973, August 8, 1973, September 19, 1973, October 3, 1973, November 14, 1973, and December 12, 1973

[12] See 119 Cong. Rec., 32113–32119, October 1, 1973.

[13] Memorandum from Bruce Johnson, Legislative Counsel to Sen. Vance Hartke to Jim Thornton, Senate Agriculture Committee staff dated May 18, 1973, concerning proposed Senate Select Committee on National Growth Policy.

[14] BNA, Housing and Development Reporter, November 14, 1973.

[15] Federal Register, November 25, 1973.

[16] BNA, Housing and Development Reporter December 12. 1973.

[17] See J. Phillips, "HUD proposes cash allowance system as link to broad plan for welfare reform," National Journal, August 25, 1973.

[18] Not supplied by author.

[19] BNA, Housing and Development Reporter, October 3, 1973.

[20] Task Force on Land Use and Urban Growth, The Use of Land: A Citizen's Policy Guide to Urban Growth—A Task Force Report Sponsored by the Rockefeller Brothers Fund.

[21] BNA, Housing and Development Reporter, November 28, 1973.

[22] BNA, Housing and Development Reporter, November 14, 1973, and December 12, 1973.

[23] 38 Federal Register 25681, September, 1973.

[24] 38 Federal Register 29893, November, 1973.

[25] 25 The Potomac Institute, Controlling Urban Growth—But for Whom?, March, 1973.

[26] H. Franklin, "Slow-Growth and the Law," BNA, Housing and Development Reporter, June 27, 1973.

[27] Under conventional zoning practice, many localities will zone areas of vacant land into what are in fact holding zones even though they may be called zones for agricultural use or very low densities. These zones enable the land owner to obtain some beneficial use of the property—thereby avoiding a claim of unconstitutional "taking" under the due process clause. But in reality such zones at the urban fringe are "wait and see" zones that enable local authorities to permit rezoning for development proposals that they approve of turning down all others. The ad hoc nature of this process and the tenuous connection with any plan make an unannounced slowdown of approvals practically unchallengeable as a legal matter. If some approvals are granted as time passes—slowly—it is virtually impossible under the system legally to accelerate the rate of approvals.

[28] In these situations, a locality may announce a "temporary suspension" of rezoning or subdivision approvals or the issuance of building permits. Usually this is accompanied by declared initiatives to "re-evaluate" existing policy or to draw up "new plans."

[29] Where development has been allowed without regard to environmental impact, ecological damage to land and water has without question, resulted. The public failure to provide sewers or sewage treatment plants to support private development has contributed to the deterioration of ground or surface water quality.

[30] It would appear that a purported population cap or limit unsupported by planning rationale cannot stand the test of reasonability. Zoning and other development control are not contraceptives. Their proper role is to channel and guide growth to avoid undesirable and discordant relationships flowing from the use of land.

[31] Although it is common under subdivision statutes to require the dedication of land for streets and utilities, as well as the improvement of such land for these purposes, some communities are adopting policies that transfer additional costs to subdivider for facilities that benefit more than the land being subdivided.

[32] The most sophisticated anti-growth technique that has emerged is sequential development controls or development timing—these add the new dimension of time to the spatial controls associated with zoning.

[33] Press Release, State of New York, Executive Chamber, Nelson A. Rockefeller, Governor, May 14, 1973.

[34] "(1) A review of fundamental philosphical and moral considerations as to the nature of man and his institutions; the impact of his natural and man-made environment; and the development of goals to improve the quality of life of mankind. (2) A projection of present trends in the United States and other major nations and areas of the world to the years 1976 and 1989. These projections would include political, economic, social and military developments and the problems they would create if nothing were done to shape these emergency forces. (3) An evaluation of the impact of these problems on our security and our political, economic and social life, and in the Judeo-Christian moral and ethical values in which this country was founded. (4) In the light of these findings it will be possible to develop alternative conceptual approaches necessary to deal with these emerging forces. From this we can develop a clearer sense of national purpose for the United States, both at home and abroad. (5) Within the framework of this clearer sense of national purpose—it will then be possible to develop new concepts relating to the structure of our federal system and our domestic and international institutions. (6) Only then can we as a nation make a realistic reappraisal and reshape specific policies and programs to make them more effective in meeting human needs."

[36] Ben-Chieh Liai, Midwest Research Institute, The Quality of Life in the United States—Index, Rating and Statistic. 1973.

[37] See BNA, Housing and Development Reporter, May 30, 1973, and October 3, 1973.

[38] BNA, Housing and Development Reporter, September 19, 1973.

[39] Anthony Downs, *Opening Up the Suburbs—An Urban Strategy for America* (1973); "The No-Growth Society", Daedalus, Journal of the American Academy of Arts and Sciences, Fall 1973; Clawson and Hall, *Planning and Urban Growth—An Anglo-American Comparison* (1973): "National Growth Policy," 1973, Urban L. Ann. 59; Tweeten, unpublished paper on Emerging Issues for Sparsely Populated Areas and Regions Under a National Growth Policy, (1973); Moguluf, "Federally Encouraged Multi-jurisdictional Agencies," Urban Affairs Quarterly, September, 1973; Cahn, "Where Do We Grow From Here," series of six articles in Christian Science Monitor, May 21, May 23, May 25, May 29, June 1 and June 8, 1973; Clark, unpublished paper on population redistribution and urban water supply, (1973).

[40] See generally, BNA, Housing and Development Reporter—Growth Control Monitor, May 30, 1973, June 27, 1973, July 25, 1973, August 22, 1973, September 19, 1973, October 17, 1973, November 14, 1973, and December 12, 1973.

[41] Washington Post, June 24, 1973, Page C–1.

[42] Hartley Patton, Widner, unpublished study entitled "Experiments in Growth Policy." A Reconnaisance of State and Local approach to the Problems of Growth", 1973.

[43] BNA, Housing and Development Reporter, September 5, 1973.

## A MINISTER SPEAKS OUT ON WATERGATE

Mr. CURTIS. Mr. President, there is a constant flow of thoughtful letters in support of President Nixon coming to my office. On January 16, 1974, a Methodist minister from the Eastern Seaboard wrote me a letter which I would like to share with my colleagues. I ask unanimous consent to have the letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JANUARY 16, 1974.

Hon. CARL T. CURTIS,
*U.S. Senator,*
*Senate Office Building,*
*Washington, D.C.*

MY DEAR SENATOR: After hearing you over the T.V. on the "Today" Program I want to send you this word of thanks for speaking honestly and cautiously about the President and the troubles we are experiencing.

For months it has been so apparent that the enemies of the President who never wanted him in the White House, don't want him there now, and will do anything and everything to get him out have waged an all out effort to this end. So blatantly partisan is it that even the stupidist person must surely see what is taking place.

Unfortunately those who should be trying to honestly help the President, and our Country, have either kept quiet or have added fuel to the enemies fire.

We all know that many things have happened that are very seriously wrong. Men we felt were very strong and above reproach have failed us. High office has been abused along with the trusted occupants who have failed in their serious responsibilities. But we cannot let these who have been discovered be the cause of the downfall of our Nation. I feel we have a question to answer. Should we destroy the President of the United States, the Presidency as a whole and with it our Nation? Or shall we do all we can to correct the shortcomings and go on and assure our continued standing as a leader of free people. If we permit the liberals in Congress and out, the Nixon haters, and the misled people to destroy our leadership we will surely be guilty of destroying our world. I feel a little like the Disciple who asked the Lord "To Whom shall we go?". The World has no other place to go but to the U.S. Why do we allow the U.S. to be destroyed?

Surely it is time for the Republican members of Congress to rally and say we will not destroy the President and thereby the Presidency and the Nation.

I have never felt the old saw, attributed to the late Peter Marshall one time Chaplain of the Senate," that Dr. Marshall took one look at the Congress and then prayed for the Nation." My respect for our Congress is great. I appreciate the constant stress and pressure brought upon them. The honesty and sincere compromises are needed. Still they do not resort to dishonesty. My prayers for the Congress in these troublesome times.

Sincerely,

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## GUTZON BORGLUM AND MOUNT RUSHMORE

Mr. McGOVERN. Mr. President, the January issue of the American Legion magazine contains an article which I think will interest and even amaze many people. The article chronicles the construction of the Mount Rushmore National Memorial located in the Black Hills of South Dakota. Most particularly it pays tribute to Gutzon Borglum, the man who made the mountain into a monument.

While many millions of people have visited the monument, and many millions more around the world know of its existence, the man who made it all possible seems to have faded into relative obscurity over the years. For that reason, I was pleased to see an article that recognizes the tremendous amount of individual initiative and courage that went into what can only be described as one of the wonders of the world. I ask unanimous consent that this excellent article, superbly written by Lynwood Mark Rhodes, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### GUTZON BORGLUM AND HIS COLOSSAL STATUARY

(By Lynwood Mark Rhodes)

In describing South Dakota, the current World Almanac notes that "Mt. Rushmore in the Black Hills has an altitude of 6,200 ft. Sculptured in its granite face are the heads of Washington, Jefferson, Lincoln and Theodore Roosevelt. These busts by Gutzon Borglum are proportionate to men 465 feet tall. Rushmore is visited by about 2,000,000 persons annually."

The Encyclopaedia Britannica notes that the Rushmore statuary comprises the "most colossal sculptures ever attempted by man."

Most Americans have forgotten the sculptor's name today, but those who annually gaze up at Borglum's monumental work are only increasing. In 1972, about 2½ million people looked up at Rushmore and most of them counted it among the high points of their travels. Geologists estimate that nature will not smooth the works away for at least a half million years, or for more than 100 times the present age of the oldest great works of the Pharaohs of Egypt.

It is a pity that Borglum's name is beginning to be forgotten. The story of Rushmore only adds to the appreciation of looking at it. In his time, Borglum's name was probably as widely known as Michelangelo's was in his. In the 1920's and 1930's every American schoolchild was involved in contributing pennies to his project, while to raise money Borglum exercised a flair for publicity which made certain that news of himself and his work was on everyone's lips.

Borglum was first involved in what became the Mt. Rushmore monument in 1924. Until 1927, the most he got for his pains was $250. He then estimated that the work would take four years, and cost "between $400,000 and $800,000." Timewise, he was seriously off, but largely because of financial delays. The last bit of stone was cut away in October 1941 by his son, Lincoln, a few months after Gutzon Borglum died at the age of 74, having devoted most of his energy to Rushmore since he was 57.

His cost estimates weren't bad. He set $800,000 as the top figure, and Rushmore actually cost $989,992.32. Borglum himself received about an even $170,000. As he had given the monument his almost undivided attention from 1925 to 1941, his reward averages out to about $10,000 a year for prodigious, creative labors. There was one period of a year and a half (and many shorter periods) when no work was done at all because the money had run out. During such delays Borglum worked on fund raising as hard as any of his sponsors.

The builders of the Egyptian wonders commanded the artisans and the laborers of a nation. After two years of planning, Borglum began with a 16-man crew in 1927, and—as he told a crowd of 5,000 come to see Lincoln's face unveiled in 1937—his project was being executed "without proper tools, without adequate power, without funds, without any trained assistants. . . ." His chief source of manpower was unemployed Depression-time miners. "I have been compelled," he once said, when criticized for the slowness of the project, "to take the forgotten men in the mining camps, acquainted with rough drilling for mines, and train them as best I could." This was a slight exaggeration, since he had great use for those skills. All told, 450,000 tons of rock were removed from Mt. Rushmore. If Borglum was the only true artist on the scene, the skills of those "forgotten men" with their drilling and dynamiting techniques were the perfect complement to his own artistry in turning a mountain into a work of art.

Gutzon Borglum was the only living man who knew anything about carving mountains, and he was one of only two competent sculptors of his time who had any great interest in making Americana a subject for statuary. The other was his brother, Solon Borglum.

Born in Utah and Idaho in the decade after the Civil War, the sons of Danish immigrants, by 1910 Solon and Gutzon were famous for their statues of great Americans, of horses, Indians and other American themes. Though Paris trained, they disdained the usual "schools" of sculpture—especially the imitation of classic forms in modern works. To this day, their works grace many an American park, public building, cathedral, memorial and museum.

Gutzon early turned to large works whenever he could, including the head of President Lincoln (Borglum's favorite subject) in the National Capitol, cut from a six-ton block of marble.

In 1915, he was invited to Georgia to carve a Confederate memorial on the side of Stone Mountain, the great piece of granite 16 miles from Atlanta. Stone Mountain is a story in itself. By 1924, Borglum had completed an enormous head of Lee, as part of a much larger work he had conceived across the face of the mountain. An unfortunate and bitter quarrel broke out that year between Borglum and his Atlanta sponsors. It ended in Borglum being fired in 1925 and stalking off, after destroying his models. The Stone Mountain project petered out in a few years as a result, and nothing further was done on it until 1958. But Borglum had gained experience and worked out original techniques by trial and error, whereby workmen with dynamite and pneumatic drills could—under his direction—turn mountains into duplicates of his models. He was the only man with such experience when he moved on to Rushmore.

Stone Mountain was also, beyond doubt, what had by 1923 inspired Doane Robinson, state historian of South Dakota, to conceive some sort of gigantic statuary on one of the granite masses of the Black Hills. Robinson imagined great figures of western American history—mountain men, Indians, explorers—peering out of the mountains.

Robinson interested South Dakota U.S. Senator Peter Norbeck in the idea, and in the end it was Robinson, Norbeck and Borglum who schemed and toiled to get the money that made Mt. Rushmore possible. It did not occur to Robinson to contact Borglum at first, as it was known he was busy in Georgia. He first queried Lorado Taft, who had carved The Fountains of Columbus in front of Union Station in Washington, D.C. But Taft was too ill to consider Robinson's epic proposal. On Aug. 20, 1924, Robinson invited Borglum, who had not yet broken with the Stone Mountain project, to come and look at the Black Hills and see if he could devise something appropriate for a massive sculpture.

Borglum made a quick trip in September and looked at several mountains from the summit of Harney Peak (a visit which added fuel to the Stone Mountain quarrel). On his return to Georgia the acrimony increased and, in February 1925, Borglum was fired, to the tune of nationwide headlines.

Borglum's temperamental part in the breakup didn't upset any of the Dakotans. You can expect that great artists are temperamental, they said. But plenty of the folks thought the Black Hills project itself was preposterous. The Rapid City Daily Journal said the Black Hills could sell themselves "without any alteration in nature's handiwork." Another paper had called the whole project ludicrous, bunk, incongruous. And it asked: Where is the money coming from?

Where, indeed? In March 1925, Senator Norbeck had no trouble getting Congress to approve the carving of a memorial in the Harney National Forest, but with no mention of money.

Robinson had told Borglum that he "was sure" they could raise the money, though there was exactly none in the till and nobody could estimate the cost. Perhaps it was the money, perhaps not, that persuaded Borglum that the sculpture should be a *national* memorial, not simply a western one. By mail, he persuaded Robinson that the project should personify the whole sweep of American history, and include the men who had given the most to the "nation's creation and preservation." Without this decision, the money would probably never have been forthcoming. With it, Borglum returned to the Black Hills on Aug. 25, 1925, to select a mountain. On the second day of a horseback tour, guide Theodore Shoemaker told him to close his eyes as he led him to a certain spot. "Now open your eyes," said Shoemaker.

There stood Mt. Rushmore, capped with a granite head almost 1,000 feet long and 400 feet wide, its east side presenting a 300-foot perpendicular slab. Borglum was breathless. After scaling the mountain several times he felt it was ideal. Rushmore is one of the oldest granite outcroppings in the world, smooth-grained and swept clean of the rocks that once overlaid the Black Hills. The bold chunk of granite on the southeast shoulder was especially perfect, for it caught sunlight most of the day. The area was still wild. The nearest settlement was Keystone, a tiny mining village three miles away. Borglum bubbled with enthusiasm. "No mountain of granite in the United States is comparable to Rushmore," he exclaimed, as he boarded the evening train east. Robinson handed him a check for $250 from the Rapid City Commercial Club—the first money he'd been able to raise for the memorial.

Borglum returned, and by September 25 had established a camp at Rushmore's base. He and his assistant measured and tested the granite, he dangling in a chair in midair, 250 feet over the cliff, shouting instructions to the tackle operator above, moving up and down the mountainside like a human fly while waiving to photographers. "The dimensions are highly satisfactory," he predicted, "there being twice as much face space as will be needed for the heroic figures."

He had long since decided who the figures would be. "Washington represents our independence," he explained to his son, Lincoln, during a driving trip through Texas. "Jefferson personifies 'government by the people' and also by his purchase of the Louisiana Territory portrays the growth and expansion of our country. Lincoln preserved the Union for us. And Theodore Roosevelt saw, in the building of the Panama Canal, the completion of the dream of Columbus and he knew the value of the West in the development of our nation."

Lincoln Borglum remembered that his father was silent for several miles, then pounded the steering wheel with his fists and vowed in a voice as firm as it was unmistakingly sincere, "Nothing but the hand of the Almighty can stop me from completing this monument."

The way to parlay the $250 investment into the needed hundreds of thousands, he decided, was to end all debate about whether there *should* be such a monument by going right ahead with it. On Oct. 1, 1925, he and his friends boldly held a public dedication of the penniless project. More than 3,000 people came out from Rapid City. Bands blared. Cavalry fired salutes. Politicians made patriotic speeches, Huge historic flags out of the nation's past, ending with Old Glory, were hoisted atop the mountain. The enthusiasm was infectious. Newsmen rushed to their desks to hail "the most stupendous undertaking of its kind in history"—in the words of the once antagonistic Rapid City Daily Journal.

But when Borglum said that $50,000 would be needed just to get started, the new warmth chilled off. One South Dakotan said that $50,000 might be a molehill to Borglum, but it was a mountain to most Rapid Citians.

The sculptor went right ahead. He moved his family to Keystone in 1926, while he and engineer Maj. Jesse G. Tucker busied themselves with preliminary work. Borglum then told the small handful of the faithful in the Mt. Harney Memorial Ass'n that four faces, five stories high, could be scaled to men 465 feet tall with faces about 60 feet long. The total cost he said, as he left on a nationwide tour at his own expense to publicize the project, should be between $400,000 and $800,000.

For the better part of a year, those figures simply stunned most of the local supporters. But in May 1927, President Calvin Coolidge announced that he would open a summer White House in the Black Hills. Senator Norbeck promptly spread the word in the right circles that if they would just get the project going he would get the President to dedicate it—which could result in easier fund raising and possibly federal aid. From several corporations and a group of local businessmen he raised the whole $50,000 Borglum said he must have to get started. The Association then plunged ahead and gave Borglum a contract to get to work and finish the job in about four years. Borglum well understood that his sponsors might be close to a million dollars short of being able to keep the agreement, but it was just what he was after.

By the time Coolidge arrived in Custer State Park in June, the monument was a going thing in the eyes of a world which little suspected that only $50,000 was on hand.

Soon, Borglum arrived with a 16-man crew. From a plane he dropped a welcoming wreath on the summer White House lawn. He and his crew went into a flurry of camp construction, road-building and material assembly. Some 1,400 feet of air line were run up the mountain to operate jackhammers, and Coolidge was invited to dedicate the first drilling on Aug. 10.

There weren't enough horses to carry all the people up the trail on this second dedication day. Thousands, including Gov. William J. Bulow, walked it. Coolidge, looking ill-at-ease in cowboy boots and a ten-gallon hat, arrived on horseback to a "21-gun salute"—the blasting of 21 stumps to help clear a road to Mt. Rushmore.

Calvin Coolidge was always a man of few words. "We have come here to dedicate a cornerstone that was laid by the hand of the Almighty," he said, "a memorial [in which] the people of the future will see history and art combined to portray the spirit of patriotism." Then he added the welcome words: "This great monument deserves the sympathy and support of the national government."

Coolidge handed Borglum a set of drills. As he took them, Borglum said: "As the first President who has taken part, please write an inscription to go on that mountain." He shrewdly added: "We want your connection known in some way other than by your presence." Then, as rapidly as he could go up the mountain and be lowered in a saddle seat over the cliff by Major Tucker, he began boring out the first master points for the face of Washington. Returning to the platform, amidst enormous cheers, he gave one of the four drills he'd used to Coolidge, one to Norbeck, one to Robinson and kept one himself.

Actual sculpting on the mountain began two months later. In three months time, the job consumed the first $50,000. On Dec. 7, work stopped and was not resumed for a year and a half. There was little more than a gash on Mt. Rushmore, where workers had drilled 25 feet into the rock from the top of Washington's proposed forehead to the point where his eyes would be.

But the sponsors had sold the project to the nation very well and were (correctly) certain that once started the country couldn't bear to have it go unfinished.

Senator Norbeck's bill to get federal help died in committee in 1928. But there was little opposition to the monument *per se*. Opponents preferred Democrat Woodrow Wilson's face to that of Republican Teddy Roosevelt—a matter of partisan politics. But in 1929, Democrats agreed to Borglum's plan, provided that no admission fee would ever be charged to see the monument. On Washington's birthday, Feb. 22, 1929, Congress passed Public Law 805. It replaced the private Mt. Harney Association with the federal Mt. Rushmore National Monument Commission, and provided $250,000 in federal money on a matching fund basis. By then, the old association had in hand another $50,000 raised by public subscription. It was turned over to the new Commission, freeing $50,000 of the federal money. Now $100,000 was immediately available to resume work, while to get the remaining $200,000 in federal funds, an equal amount would have to be raised elsewhere. The way to get it was to keep working and keep begging.

By far the hungriest years of the project were those from 1929 to 1934, when a dollar had to be found elsewhere in order to get a government dollar.

In 1929. Borglum proceeded on Washington's head. His plaster models were five feet high. On the model, the "most protruding points" were expressed in mathematical descriptions of three-dimensional space derived by dropping plumb bobs from the level of the top of the head to brows, nose-tip, etc. The measurements describing these points were then expanded on paper to the scale of the actual monument. The points of most protrusion were then located on and within the mountain by dropping a similar plumb line from a huge boom. The point of the nose was first located, and the rock drilled and dynamited away until this rough work was close to the actual tip of the nose within the mountain. Slowly, keeping shy of the final surface, an oval somewhat bigger than the face was cut away with key points marked in paint. The big ovals allowed room within the rock to alter the final face, if need be, and imperfections discovered in the rock continually changed the final sculpture from the plaster models. In the end, several heads were even relocated.

Much of the "pointing" and crude cutting had been done on Washington in 1927. Now the sculptor began the more careful work of having the rock chipped away from Washington's forehead to his chin. By November 1929, the forehead was nearly done, while the brows, nose, eyelids and eyeballs were drilled within a few inches of the intended final surface. The face, though still crude, was suddenly recognizable. Borglum liked to tell people that the faces were always there in the mountain, he was just getting the excess rock off of them.

At year's end there was not $9,000 in the kitty. And to jump ahead, at the end of 1931 there was less than $11 on hand when winter shut down the work. But Norbeck and a growing army of friends worked like mad on money. South Dakota school-children chipped in small change. Many people bought $100 memberships in the Mt. Rushmore Memorial Society. Thousands of handsome booklets describing the project were peddled by the commission. And, in 1932, Gov. Warren Green and Norbeck between them found a way to apply $50,000 of Depression relief money to the monument. It could only be used to hire the unemployed. By spending it on drillers' pay, another $50,000 was freed from the matching funds. The work continued each year by the skin of its teeth until 1934, when President Franklin D. Roosevelt put Rushmore under the National Park Service. Congress then rescinded the matching funds provision and gave the commission all that remained of the 1929 appropriation. A little arithmetic will show that even with this, the project was still short of what it would finally need by almost half a million.

There is no doubt that the money kept coming in because Borglum kept hard at work as long as there was a cent available, thus creating faith and credibility in his work. It was the same philosophy that had led to the two dedications when nobody knew where the money was coming from. America never doubted that Borglum and his friends were for real.

On July 4, 1930, a crowd of 2,500 people, including President Herbert Hoover, gathered to see a huge flag draped over Washington's face slowly pulled aside while rifles fired salutes and planes zoomed overhead. Spectators gasped, radio commentators described the scene to the nation with genuine awe and newsreels recorded it for posterity. The Father of Our Country loomed out of the mountain, with a nose 20 feet long, eyes 11 feet across and a mouth 18 feet wide.

For several years, Borglum did more work on Washington—he intended to carve down to the waist and finish the coat lapels—while eight drillers roughed out Jefferson's face.

Borglum's first plan was to place Washington, Jefferson and Lincoln together from left to right as seen by a viewer. But after he placed Washington's head, he decided to put Jefferson and Lincoln on either side of Washington, with Jefferson on the viewer's left. In 1933, drillers started cutting away to place Jefferson on the viewer's left of Washington, and reported that there wasn't enough granite there for a head. So Borglum had them start over to the right of Washington, as originally planned. To his horror, the rock was imperfect here. The only solution was to cut deeper into the mountain. The crew drilled 90 feet into Rushmore before finding solid rock. It turned out to be a blessing. The entire appearance was improved by setting Jefferson, and later the other figures, deeper, though the farther in they went the higher the cost and the slower the progress. The abandoned Jefferson face was dynamited away in 1934, kissing off $10,000 worth of work and materials.

The second Jefferson was a time and labor consumer. A natural crack showed up in the stone where one nostril was to be, which, said Borglum, might have left a head without a nose in 500 to 5,000 years. He reset the head five degrees to the north, tilted it about 18 inches and moved it back into the mountain another four feet. The crack is still there, but misses the nose. To this day, it and any other cracks that form are scouted by National Park "beauty squads" and filled against frost with special caulking.

By the time Jefferson began to look like himself in 1935, rough work was under way on Lincoln, while Borglum continued to refine Washington. With the project well into its third American Presidency, the time for another unveiling approached. On Aug. 23, 1936, Franklin D. Roosevelt attended a typical piece of Borglum showmanship. A great flag was pulled aside again, this time to reveal Jefferson, while a small plane dropped tiny parachutes carrying souvenir bits of granite chipped from Rushmore.

It was 12 years since Borglum first surveyed the Black Hills from Harney Peak. He was now 69 years old. Lincoln was under way but unfinished. Teddy Roosevelt hadn't been started. The plans called for much more work on Washington and Jefferson below their shoulders. The monument had gone through $402,659, including the whole 1929 grant and $152,000 besides.

More than $500,000 was still needed—much more if Borglum's entire plan were to be fulfilled. But there was increasing hope that the thoroughly committed federal government would see it through, lest the whole world be disappointed. More than 197,000 visitors had come to watch the work in 1935. They came from every state and 22 foreign lands. At first, visitors were allowed to climb 500 steps to the top, amidst the sheds, shelters, scaffold supports and dynamite, but the Park Service finally barred this as too dangerous. Visitors were amazed at such sights as pygmy figures of workers walking across Washington's lower lip. In fact, the full sense of the grand scale of the monument was more obvious back then when men were working on its face than it is now. Some visitors didn't correctly understand what they saw. An old lady asked Borglum what paint he used to make Jefferson's eyes so blue. "There is no paint," he said, "I just sprinkled a little bit of sun in each eye."

One day, Borglum talked to a man who rented out a telescope that let people view the mountain from four miles away. "What question is asked the most by visitors?" the sculptor asked. The man hesitated, but when Borglum pressed him he said the commonest question was: "How much concrete did it take?" Borglum laughed and asked how the telescope man answered the question.

"I tell 'em I don't know," he said, and added, "how much did it take?"

Congress considered an additional money grant in 1936, though there was growing impatience at how long the work was taking. "When is this thing going to stop?" asked Rep. Marion A. Zioncheck, of Washington. A Congresswoman was trying to get the head of Susan B. Anthony added to the monument as a condition for further grants, and Zioncheck feared demands for more heads to satisfy various interests. A. E. Demaray, of the National Park Service, assured the House appropriations committee that Borglum had told him that there was no more room for another face in the Rushmore group. "Well, I hope so," Zioncheck sighed—and in 1936 Congress approved an additional $200,000.

By 1938, more was needed. When Congressmen asked the total cost or how long the work would go on, Demaray said the answer was "difficult." But Borglum retorted: "Was God a creative artist or a bureau engineer? A million years from now, who is going to care how many hours it took to carve Teddy Roosevelt's mustache?" He did appear before a Congressional committee and outlined the difficulties. His rhetoric and his detailed descriptions of past difficulties and future problems never failed to leave listeners with a sense of the daring and immensity of the work, and in 1938 Congress voted $300,000 more to finish the job.

Always temperamental, Borglum slowly became involved in conflict with the commission. By 1936, several members offered to resign, and in 1938 they did. Rep. Francis Case, of South Dakota, was anxious to prevent a replay of the Stone Mountain quarrel. He decided that temperament went with genius, and Case was instrumental in creating a new commission setup, hand-picked by Borglum. It made the sculptor virtual dictator of every aspect of the monument at the same time the last $300,000 was approved.

A small canyon to the right of Lincoln made it almost impossible to locate Teddy Roosevelt anywhere but between Jefferson and Lincoln. Borglum had left space between the two for TR, which would have him boxed in if trouble should arise in actually placing Roosevelt there. By 1936, trouble did arise. There didn't seem to be enough suitable rock for Roosevelt in the niche saved for him. The sculptor had to think of leaving Roosevelt out "for a time." But he took a chance and put 50 men to work. They penetrated 120 feet to find reliable stone, and at that point there was only a 30-foot depth of granite left behind the planned finished face, which was cutting Roosevelt pretty thin. But the gamble paid off and work began on pointing up Roosevelt's face. Further refinements on Washington and Jefferson continued, while in 1936 and 1937 Lincoln was pushed ahead for another dedication. Practically no work was done below the necks of any of the figures, but much rock was removed.

As Lincoln progressed while Roosevelt was being roughed out, Borglum had moved down from Abe's forehead, but hadn't decided whether to put a beard on him. Norbeck felt that Borglum's beardless Lincoln in the Capitol rotunda was his finest work, and urged a clean-shaven rail-splitter for Rushmore. The sculptor never explained why, but he finally decided on a beard.

Lincoln was dedicated on Sept. 17, 1937—the 150th anniversary of the adoption of the Constitution. "What we have accomplished in this cracked cliff, as a purely mechanical feat, is little short of phenomenal," Borglum informed the 5,000 spectators. "To even dare to do this work at all lifted it forever into the realm of great pioneer and cultural adventure. In its execution—without proper tools, without adequate power, without funds, without any trained assistant—it is an accomplishment without parallel in this or the old world. . . ." He then ordered a dynamite blast. A cloud of gray granite dust rose lazily across the mountain, and the flag slipped from Lincoln's face.

During the 1938 season, Borglum concentrated most of his carvers on the Roosevelt face. He also began hewing out stone on a new idea, a Hall of Records located deep inside the north wall of the mountain which would house "all the important records of our civilization" and contain 25 large busts of the nation's great men and women. (His long-time friend, Frank Lloyd Wright, agreed to help with the design.) "I will even give Susan B. Anthony a place with the gods in the Great Hall," he declared. "Her friends should be happy." The commission persuaded Borglum to halt those operations in July 1939, after he'd already blasted a 14-by-20 foot tunnel some 75 feet into the solid mountain. It was time, they said, to dedicate Theodore Roosevelt, the fourth and last figure.

Nothing appealed to Borglum more than dedicating his handiwork. On the night of July 2, 1939, in conjunction with South Dakota's 50th anniversary of statehood, Sioux Indians in full regalia entertained 12,000 guests with singing and dancing while silent-picture cowboy star William S. Hart rode circles around the performers. Suddenly, the music stopped. Fireworks and aerial bombs began bursting in the clear night sky and just as the glittering sparklers faded away, the beams from a battery of powerful searchlights homed in on the mountain wall. There, in a vivid profile under a bright moon, gleamed the four majestic faces that Borglum had worked on for 12 long years.

The pressure of world affairs, on the eve of WW2, cooled Congress' interest in the project—except to provide funds for finishing and refining the faces. It was just as well. Borglum was tired and unhappy for, shortly before the last dedication, FDR had ordered Mt. Rushmore returned to the administration of the National Park Service under a governmental reorganization program.

"You are a sorry old warrier—all scarred and bleeding grandly," architect Frank Lloyd Wright touchingly wrote his friend. He wasn't far from wrong. On the morning of March 6, 1941, following an operation in Chicago, the 74-year-old sculptor unexpectedly died of a heart attack. He was laid to rest in Forest Lawn cemetery in Glendale, Calif., beneath a memorial plaque inscribed by writer Rupert Hughes that reads in part: "He made a mountain chant."

Lincoln Borglum did the final work on the mountain following notes and instructions left by his father. Nothing more was ever done on the Hall of Records. Nor was an inscription ever carved on the west wall of Rushmore. Coolidge did write one, but the sculptor blue-penciled it because, in his opinion, "it wasn't beautiful English." The face of Roosevelt was never completely finished. Lincoln's head was refined and brought out more fully. Jefferson's collar was blocked out, but no work on his hand was undertaken because of the poor quality of the rock. Washington's collar and lapels were finished, however.

The last bit of work—a final drill blast—was done on Oct. 31, 1941.

"I do not think any more should be done on the figures," the younger Borglum wrote in his final report. He believed that the memorial as it stood was just as effective as if it had been carried down to the waists as shown in the models.

The elder Borglum, however, had never been really satisfied with the faces during his lifetime. He went over Washington's features constantly, refining and retouching them. "Nobody ever knows the difference," he admitted, "except that they say it is more wonderful." Often, he viewed the faces at different times of the day through powerful binoculars from atop Iron Mt. four miles away. Then he would view them from his studio and, swinging over one of the faces, he'd note what small piece of rock needed to be removed and mark the spot with paint. The pupils in Lincoln's eyes are jutting pieces of granite about 22 inches long, for example. At close range they do not look like pupils, but by studying the effect of light and shadow from a distance, Borglum gave them life and vitality instead of making them appear unnatural and cold.

No final dedication of the whole memorial was ever held. (This was due to the coming of WW2.) But under the National Park Service, the grounds around the monument have been cleared of rock and landscaped, and in 1950 floodlights were installed to illuminate the faces at night. The steps up the mountain rotted away years ago, so visitors can no longer climb to the top.

"My dream has come true," Borglum wrote in his memoirs in 1940. "There, on the mountain top, as near to Heaven as we could make it, we have carved portraits of our leaders, that posterity and civilization may see hundreds of thousands of years hence what manner of men our leaders were, with a prayer and a belief that there among the clouds they may stand forever, where wind and rain alone shall wear them away."

As Borglum also once said, "I want to create a monument so inspiring that people from all over America will be drawn to come and look and go home better citizens." One wonders if he dared imagine more than 2 million awed visitors a year three decades later, coming to view heroic stone faces visible from 60 miles away—faces on the scale of living men who would stand 15 feet taller than the Great Pyramid of Cheops.

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## THE USES AND ABUSES OF LEGAL ASSISTANCE

Mr. TOWER. Mr. President, for the information of my colleagues who have had doubts about the accuracy of charges that legal services offices have engaged in efforts to use class action suits in a manner which most often serves their own objectives rather than those of their clients, I commend to their attention a recent article from the Public Interest, entitled "The Uses and Abuses of Legal Assistance." The author is Harry Brill, associate professor of sociology at the University of Massachusetts, Boston, and former research director of the San Francisco Neighborhood Legal Assistance Foundation—OEO's second largest legal service agency.

Mr. President, I respectfully ask unanimous consent that the full text of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### THE USES AND ABUSES OF LEGAL ASSISTANCE

(By Harry Brill)

Those of us who subscribe to the ideal of equal treatment under law for all citizens must agree that public money is well spent when it effectively reduces the disadvantages that the poor suffer under our present legal arrangements. Judged by this standard, the legal assistance program sponsored by the Office of Economic Opportunity (OEO)—whose uncertain fate will soon be determined in Washington—has been a success. By providing free legal services, its 265 agencies with their more than 900 neighborhood offices have improved the ability of poor people to defend their interests. Whether as defendants or as plaintiffs, the poor can now have highly dedicated and skilled lawyers to represent them.

In their role as tenants, many poor people can for the first time confront their landlords with dignity. As consumers, they are in a position to challenge unreasonable overcharges and other unscrupulous business practices; in fact, their chances of winning consumer cases have multiplied tenfold. Moreover, welfare departments and housing authorities—to cite just two kinds of public agencies that the poor encounter—can no longer anticipate that their practices will be passively accepted. Almost unheard of a decade ago, it is now quite common for a poor person to exclaim, "I will see my lawyer."

OEO lawyers are handling more than a million individual cases each year and winning the overwhelming majority of them. Their actual achievements, though, are even greater than the record shows, for pouring legal services into low-income communities does not merely win individual cases, it also has a deterrent effect. Faced with the possibility of legal action, people have begun to think second thoughts about mistreating the poor. Of course, the availability of legal services alone by no means eliminates the legal disadvantages of being poor. Other institutional sources of inequality persist—not least, certain characteristics of the laws themselves. Nevertheless, there does exist considerable law on the books to protect the poor, and by providing them with legal services, OEO has appreciably reduced a major source of inequality.

Not only is the program successful; it has also attracted wide support. And its supporters are by no means all liberal reformers or the poor themselves. Conservatives who believe the poor should have access to legal and peaceful means to cope with their individual problems consider it a worthwhile public investment. And the American Bar Association has also given the program a hearty endorsement—though, to be sure, the Association speaks partly from self-interest, since it realizes that under an adversary system the provision of legal assistance to those who are unable to pay also creates business for lawyers who serve paying clients. But however diverse the motives of the various endorsers, it remains a noteworthy fact that the program is approved by most of its attentive publics.

#### THE QUESTION OF CLASS ACTIONS

The legal assistance program, then, might seem to be that rare and heartwarming case of a public program that does good, does good well, and does good without arousing fierce opposition. Yet since its uncertain beginning the program has in fact been embroiled in controversy. The controversy has not centered on the "traditional" individual case services which aid clients on a one-to-one basis, which are intended to resolve the legal problems only of the clients who are actually represented, and which make up the bulk of the program's work. Instead, almost all the debate has focused on the program's support of class action suits, which challenge general practices and policies of both private and public institutions. The few clients directly represented in these class action cases are said to be only a "legal sample" of larger numbers of people who are similarly situated. The few, then, may win major reforms on behalf of many others as well as themselves. OEO's class action cases have been instrumental—or so it is said—in righting a long series of wrongs: in overturning welfare residency requirements, restoring Medicaid cuts, and forcing business establishments to change consumer practices.

On the face of it, the controversy about the class action aspect of the OEO program hardly seems surprising. Conservatives, so the logic goes, and those with vested interests in our current political arrangements might well support a program providing legal aid only in individual cases of no broad impact; but that support would surely evaporate if OEO ever attempted changes posing a fundamental threat to the Establishment. And conservatives have indeed complained loudly about OEO's sponsorship of class action suits. Even those who have supported or learned to live with the idea of federally subsidized legal services find the use of public funds for large-scale attacks against any arm of the government itself a bitter pill to swallow. Moreover, some public officials whose agencies are threatened by class action have been outspoken in their opposition to such suits. The discomfort on the part of the Establishment has alone been sufficient to win class action a high repute among liberals, and to make its list of accomplishments seem especially significant. In addition, even apart from the howls of conservatives, many legal-minded reformers view class action as a quick and powerful tool for peaceful change in the system. So the class action controversy would seem a fairly straightforward debate between those who are willing to change the system for the benefit of the poor and those who are not.

But neither the moral outrage of the Establishment nor the vigorous defense of class action by liberals should in itself be taken as evidence of the success of this part of the program or of its benefits to the poor. The Establishment, for good reason, has by no means always criticized class actions so vehemently in private as it does in public. And liberals have ignored the various direct and indirect costs to the poor that class action suits have entailed. The activities of the San Francisco Neighborhood Legal Assistance Foundation—OEO's second largest legal service agency—are a case in point. Since the beginning of the poverty program, the Foundation has been a favorite child of the city's liberal constituency. To raise a serious criticism of any of the Foundation's activities has been taboo for anyone who does not wish to be labeled an arch-conservative. In this atmosphere—the atmosphere of many other cities as well—it has been virtually impossible for reform-minded citizens to consider the dark side of class action suits.

While serving as the Foundation's research director, I learned first-hand how great the disparity can be between an organization's reputation and its actual accomplishments. What the Foundation has done poorly, unsuccessfully, or not at all must be tallied along-side its real accomplishments. And such an accounting unfortunately reveals that the effects of the San Francisco Foundation's class action suits have been minimal or even harmful. It may be instructive to explore how this is so and why the organization has pursued these actions nonetheless.

### THE NEIGHBORHOODS VERSUS THE MAIN OFFICE

The Foundation, like other man-made entities, operates on limited resources. An organizational commitment to pursue certain approaches must necessarily entail some sacrifice of other approaches. Since the Foundation is serving clients whose low income makes it virtually impossible for them to obtain legal services elsewhere, it is appropriate to weigh the costs to the poor of the services that are sacrificed.

The Foundation is composed of five neighborhood offices and a main office. The main office in San Francisco might have adopted any one of several notions of its proper role. It might, for instance, have served as a source of *ad hoc* and supplementary staff for the neighborhood offices. But instead, the main office chose to become a branch specializing in organizational advocacy. Its lawyers would devote their expertise to helping community organizations solve their problems and become stronger politically. Whether these organizations needed to be incorporated, advised on the legal implications of their actions, assisted in negotiations, provided with legal representation on behalf of their individual members, or rendered any other service that the Foundation could appropriately perform, the lawyers would be ready and willing. As time went on, and for reasons we will explore later, the range of functions that the main office lawyers actually performed for their organizations narrowed sharply. "Organizational advocacy" became a euphemism for class actions.

The neighborhood lawyers were not unaware of the implications these main office decisions had for the allocation of legal service benefits; indeed, this issue was a major source of conflict within the Foundation. The neighborhood offices, handling conventional individual cases, are deluged with clients. Anxious to give sufficient attention to each client while maximizing the number of cases they could process, these local branches consistently urged the main office to provide them with staff assistance—assistance which, because of main office preoccupation with class actions, was not forthcoming.

The local branches' obvious lack of interest in class actions convinced main office staff that their colleagues were legally provincial and that a few might even be committed to the status quo. Conversely, the neighborhood lawyers were irritated by this main office concentration on class action. Not only did the main office lawyers refuse to relieve the pressures on the local branches; they also attempted to persuade the neighborhood offices to assist *them* in generating class action suits. To their outrage, the branch offices were advised to cut or limit their caseloads and to develop antennae that might alert them to opportunities presented by their own clients for innovative class action cases.

The neighborhood lawyers considered their main office colleagues opportunists and publicity hunters. They were troubled that the pace of the main office was leisurely while their own was often frantic. Nor could they understand why the main office devoted so much time and energy to public relations. Most irksome of all was the great discrepancy between the number of cases they handled and the number handled by the main office. While a community-based office would process a few hundred in a given month, the main office might still be in the midst of preparing a single class action suit.

The main office repeatedly argued that even though in the short run resources were being shifted away from direct benefits to the poor, and even though fewer cases were handled than might have been otherwise, the class action suits justified themselves in the long run through the widespread benefits they conferred. But in fact this argument is by no means a conclusive justification. As the neighborhood lawyers realized, at least several hundred cases were being traded off for each class action suit. The investment in time and resources for a class action suit, particularly for research, is considerable. A single case may wholly occupy a few lawyers for an entire year. And just as important, the Foundation, like other legal assistance agencies, won extremely few of its class action suits but well over 75 per cent of its individual cases. Thus in terms of the likelihood of winning a legal victory, a single class action suit is equivalent to at least several thousand individual cases. These numbers alone leave a heavy burden of proof on the proponents of class action.

Moreover, it is not so clear that the objectives of class action suits are necessarily of greater value than, say, taking a landlord to court to rectify a dangerous safety hazard. And even the strongest argument in favor of class action—the wider nature of its benefits—is seriously open to question. Even in a conventional individual case, the client himself is not the only beneficiary. Word travels fast, and the legal activity of the neighborhood offices has already had a considerable deterrent effect. Still greater penetration of neighborhood legal services into the community through more individual cases would further sensitize the poor to their legal rights and also serve to warn others that the poor have legal protection. For these reasons the high costs of class action to the individual poor cannot be justified by any abstract argument; they must instead be justified by a showing of the actual social and economic gains that these large cases produce.

### HOLLOW VICTORIES

Unfortunately, a very large proportion of class action legal victories do not in fact lead to actual social and economic gains. Unlike individual cases, in which favorable legal decisions are readily translated into real gains, class action involves more difficult hurdles—often insurmountable ones. The Foundation won several paper victories in which court orders were ignored because of an inability to comply. For example, the Foundation obtained a favorable decision against the Welfare Department's low rent allotment to recipients. The court ruled that it must be increased to a more realistic figure. The Department, however, was unable to comply without receiving assurances of additional funds from the state legislature. Though the Foundation made legal headway, no concrete gains were achieved for the people on welfare.

There were even instances when favorable decisions *were* enforced but still yielded little or no net gains for the poor. Take, for example, the Foundation's very important and celebrated participation in the defeat of the one-year residency requirement for welfare. This "victory," along with other developments in California, triggered austerity measures by the legislative and executive branches. Eligibility requirements were more vigorously enforced and tightened to exclude many poor people who had formerly been eligible; the new restrictions were so severe that, despite an increase in unemployment, the total number collecting welfare in California actually dropped. So the victory for the recently arrived poor in California simply came at the expense of those poor who had lived there longer.

The main office lawyers responsible for these welfare cases had followed a plan of action that backfired. They had argued that inundating the courts with class action suits was the best route to achieving welfare reforms. The idea was to force a crisis situation that would prompt the legislature and governor to liberalize welfare and provide more funds; the actual consequence was the opposite. Curiously, the lawyers had never considered this possibility.

### *A one-track commitment*

Their preoccupation with class action has also led the lawyers to divert resources from other, probably superior ways of attacking the problems at hand. In general, the main office lawyers proceeded as if class action were always the best vehicle and sometimes the only one for improving the social and economic conditions of the poor. In a highly publicized case, one which was eventually lost, the Foundation brought a class action suit against the San Francisco Housing Authority to compel it to physically upgrade one of its projects. The liberal public applauded this action because it had been unhappy about the inadequate physical conditions of these projects. But its enthusiasm would have soured had it understood that the suit could not have changed these conditions one iota.

The operation of public housing is financed mainly out of collected rents. (Though some federal subsidies are available for project rehabilitation, they are woefully inadequate for the purpose.) Because the costs of operating the projects have been rising more rapidly than rents, the Housing Authority has been thrown into a financial crisis. Like many other public housing agencies, it has been in the red. Its debt has been growing largely because the soaring costs of material and labor for maintenance and repair have been rising without comparable increases in rent. It was not likely that the Housing Authority could free substantial additional funds for rehabilitation by streamlining its operation: the agency is considered among the more efficient ones in San Francisco. Nor was the agency wasting money as a result of corrupt practices. Not even the lawyers believed that the Housing Authority was guilty of such excesses. What then could a court order to the Housing Authority accomplish? To rule that it spend even more, and thus further increase its debt, would be like ordering its executive director to jump out of a window and fly.

The response of the lawyers to such criticism of their activities is that to do nothing changes nothing. But to point out that the Housing Authority alone is financially incapable of the massive rehabilitation and maintenance needed is not to argue for inaction. Rather it poses the issue of where energies might be more appropriately directed and whose energies should be primarily involved. Since San Francisco's public housing, like that of most other cities, is a federal program, Congress could appropriate funds for it. In fact, the lobbying activities of tenant organizations and their allies have been somewhat successful in this regard. The judicial route, on the other hand, is an ineffective one because the courts have no legal power to compel Congress to spend millions of dollars against its will. Instead of filing a class action suit, the main office lawyers could have assisted community groups to prepare a bill and advised them on lobbying strategies. This plan would have been consistent with the commitment they expressed to organizational advocacy; but it was not a plan that they chose.

The general question of whether to pursue the legislative or the judicial route to reforms is of course a subject of legitimate debate. The point here is simply that the Foundation tended to channel organizational clients toward the courts even when—as in the public housing case—there was nothing to gain, and, by diverting resources, a great deal to lose. There were other occassions when the judicial route was more appropriate but still less expedient than other actions would have been. Issues were translated into class action suits even when there were strong indications that a bill introduced into the state legislature and supported by a minimal amount of lobbying would have accomplished the same end more directly and swiftly. The lawyers on several occasions convinced community organizations to drop their lobbying plans in favor of court action. Yet it is almost axiomatic that legislative action offers a more enduring basis for reforms, since they are written into the law and marked with a clear stamp of public acceptance, rather than left to court interpretation.

The lawyers pursued this strategy even where it jeopardized the specific goals and the autonomy of the community organizations they presumed to serve. One community organization that was attempting to halt a major redevelopment project finally had to threaten the Foundation to get it to withhold legal action in the matter. Against the advice of one of the main office lawyers, the Western Addition Community Organization (WACO) was trying to pressure the Board of Supervisors to stop the project. WACO feared that a legal suit filed at this time would thwart its attempts to win a political victory. It argued that if the courts refused to hear the case, the Supervisors would be under less pressure to support WACO's demands.

The lawyers nevertheless insisted that the suit be filed immediately. Many difficult months had been consumed in preparing it, and they wanted to bring it to court as soon as possible. They were not moved by WACO's argument that a political strategy at the moment made better sense. Tempers were high. The lawyers seriously contemplated filing the case without WACO's permission; they would argue that WACO had already assented to the suit. WACO prevailed—but only by threatening to drop the services of the Foundation. Subsequent events justified WACO's strategy. The Board of Supervisors voted to stop the project. Though this decision was later vetoed by a lame duck mayor, the battle greatly strengthened WACO as an organization. Consequently, it was eventually able to force a considerable number of concessions from the redevelopment agency.

This episode was typical of Foundation behavior. The one-track commitment to class action, even when it might harm organizational clients, was characteristic of the main office lawyers. In a way, then, the Foundation itself became a barrier to social change.

### MAIN OFFICE MOTIVES: THE PROBLEM OF AUDIENCE

Why did the main office pursue this strategy, a course of action that was certainly not forced upon it by any obvious external constraints? It was not that they were indifferent to the fate of the poor; indeed, one reason for their persistence was that they were genuinely committed to reforming the Establishment and believed that class action was an all-purpose tool to achieve their goals. In fact, class action was eulogized and idealized by them with as much enthusiasm as direct action evokes among militants. The lawyers believed that, whatever its short-run limitations, the long-range consequence of continually battering the courts and the system would be to force changes favorable to the poor. This perspective made them much less prone to consider the various problems each particular suit presented, and made their faith in class action largely immune to defeat or criticism.

This ideological commitment to class action suits led the lawyers to go beyond their role as organzational advocates providing technical assistance in support of policies set by their clients. Community organizations did not normally propose class action. The services that they did demand more often than not seemed either self-defeating or inconsequential to the lawyers who thought that change was too crucial to leave to the inexperienced. Rather than acceding to their clients' wishes, they believed that they had a responsibility to educate them. In practice, this meant taking the lead and persuading community organizers of the merits of class action. The lawyers themselves had faith in the tool; changing their clients' minds, therefore, was justified.

But an ideological belief in the merits of class action does not explain everything the lawyers did. It is hard to imagine the simple belief in one legal tool causing them to be so indiscriminating in their choice of cases, so willing to rescind their immediate commitment to the organizations and the individual poor that class actions are supposed to serve. So it is not surprising that a further explanation for the lawyers' behavior lies in the way it enabled them to meet the various expectations of four different audiences—their client organizations, the Establishment, their professional colleagues, and the liberal middle-class public.

### LAWYERS AND CLIENTS

These lawyers and their clients, first of all, were each other's captives. The lawyers were obligated to serve all clients that they could who were classified as poor. And since the Foundation had committed itself to serving organizational clients, the main office lawyers had to assist all poor peoples' organizations that sought legal aid. Moreover, the lawyers' special interest in class action made community organizations even more important to them. Though individuals directly represented in class action cases need not have organizational links, community organizations serve as a natural vehicle for developing these suits. They provide ideas and leads, they are able to produce the individual clients and assure their availability, and they can be actively enlisted in collecting data for cases. Moreover, to bypass community organizations on issues that directly concern them involves very serious risks.

Conversely, because they were generally unable to afford fees, organizational clients often had no choice but to deal with the Foundation. So although clients enjoyed the advantage of receiving free legal assistance, and the lawyers were able to earn a reasonably good income doing work they regarded as both socially important and professionally productive, neither side enjoyed free market relations and each side paid heavily for this. There were no easy ways of disposing of one another if they wanted to—and they often did want to.

A great many organizations that approached the Foundation were militant, and the relations that developed between their organizers and the lawyers ranged from the tense to the explosive. The militants had very definite ideas on how lawyers should behave. When illegal activities were planned, they admonished the lawyers about their responsibility to keep them out of jail. If the organizers were seeking more time, perhaps to organize their forces for battle, they wanted the lawyers to deter the Establishment from acting before they were ready. If they wanted the lawyers to assist in harassing public agencies for various political reasons, the lawyers were expected to conform. And no matter what the organizers demanded, they insisted that the lawyers respond right away. This was not at all a minor matter to the lawyers, as various militant organizations would sometimes contact their office several times per day.

The organizers expected conformity in style as well. If they walked out of public meetings they would be furious if the lawyers did not tag behind. If the organizers wished to impress their members in court they demanded that the lawyers behave dramatically. Similarly, if they chose to ignore their enemies, they insisted that the lawyers do likewise; organizers were frequently angry with the lawyers for being on friendly terms with those who represented their opponents. To the organizers the city was a battlefield, and the lawyers were almost always expected to prove in one way or another that they were on the right side.

The lawyers who without except were more moderate politically, had very different aims in mind—aims that brought them into serious conflict with their clients. The lawyers were anxious to help militant organizations which they believed had legitimate grievances by reducing tensions between them and their opponents. Their strategy was to provide militant organizations, with access to the system by way of the courts. By translating social and economic issues into legal ones they would make possible the peaceful settlement of potentially volatile disputes. All sides would gain: Both disruptive activities and the stern countenances often resorted to by the Establishment could be avoided. The lawyers frequently boasted to public officials and others about how they intervened to prevent disruptive and illegal activities as sit-ins and even riots. To the militants, the lawyers proudly recounted how they were able to convince various Establishment representatives to listen, negotiate, and be more conciliatory. This incidentally was characteristic of how the lawyers believed. They always attempted to show each side how successfully they were able to deal with with the other.

### ADVOCATES OR MEDIATORS?

The lawyers, then, defined their role primarily as that of mediators. Rather than representing only their organizational clients, they took a middle-ground position by acknowledging the legitimacy of some of their opponents' concerns and demands. Instead of seeking compromises only when they represented the best their clients could expect, they often sought compromises in order to be fair to both sides. At negotiating sessions they articulated the demands not only of their clients, but also of the adversary parties, and in the interest of reaching an agreement they were quick to call to their clients' attention what they felt were reasonable proposals from the opposition. Organizers frequently interpreted this behavior as a betrayal. It seemed to them that without prior permission the lawyers were diluting their demands, and that as a result they would eventually have to settle for much less than a firmer strategy would have won.

The mediating stance of the lawyers also came into conflict with the expectations of the organizers when the lawyers would offer their own separate formulas for settling disputes. To break a stalemate they often met among themselves to develop a program that they believed might be acceptable to both parties. Instead of first consulting with their clients, they occasionally met initially with the opposition to present their ideas. The lawyers naively believed that if they extracted and agreement from the Establishment first, they would be in a better position to persuade their clients. Also, they wished to communicate a message to public officials, many of whom wondered whether the lawyers would permit themselves to be controlled by the militants. Aware of these suspicions, the lawyers wanted to show that they had ideas of their own, and that these ideas represented efforts to settle rather than polarize disputes.

The organizers objected so strongly to the way the lawyers proceeded that they often rejected proposals they might otherwise have found acceptable. The organizers always resented the lawyers for initiating proposals, and they were usually horrified whenever they learned that the lawyers had first met with the opposition, without the organization's prior knowledge and approval. The good intentions behind the lawyers' attempt to absorb the militants into the legitimate political arena would backfire, and the organizers would have their worst fears about liberals confirmed. Many of them accused the lawyers of belonging to the enemy camp, and it became almost routine for the lawyers to have to defend their integrity as well as their actions.

The lawyers adopted a variety of strategies to cope with the differing expectations of these two audiences, but they did not have much success. They regularly spoke very differently to different people. They attempted to reestablish their credibility with their clients by expressing in strong language, both publicly and privately their outrage over Establishment abuses. At the same time, they attempted to maintain their links with the Establishment by privately reassuring public officials of their conciliatory intentions. Also privately, they would on occasion make derogatory comments about their clients and decry their extremism. They believed that to be effective mediators they had to indicate to each side their sympathies for its position.

When their militant clients wanted to initiate legal actions that were highly charged politically, the lawyers sometimes refused to go along. They felt that suing the mayor for dereliction of duty, subpoenaing official documents to show evidence of corruption, and other extremely sensitive legal activities would impede rather than promote social change by increasing tension and possibly inviting retaliation. But not believing that community organizers would respond favorably to these considerations, the lawyers tried to convince them by means of their technical legal expertise. In other words, they gave their clients professional rationales for decisions that were really made on political grounds.

None of this stopped the organizers from accusing them of being tools of the Establishment—a label the lawyers appreciated no more than they enjoyed being viewed by the Establishment as lackeys of the militants. The absence of a true market relationship had created this dilemma. It permitted an unusual diversity of view and action between lawyer and client, by encouraging the organizers to make extravagant demands upon their lawyers, by giving the lawyers considerable independence in dealing with their clients, and by preventing either party from withdrawing from the relationship. If the lawyers were to build a workable relationship with their organizational clients while bound by these constraints, they had to find their way out of what seemed like an impossible dilemma: how to be militant and moderate simultaneously.

### THE CLASS ACTION STRATEGY

Class action was the perfect strategy. It eventually won over many of the militants because it seemed to challenge basic practices and policies of Establishment institutions. They began to see parallels between what the lawyers were attempting to accomplish in court and their own activities in the street. The lawyers did what they could to reinforce this impression. Class action provided the lawyers with a politically militant language that justified their bypassing other legal alternatives, yet could still persuade the organizers that they were serious about their anti-Establishment convictions. Though the lawyers almost always initiated the idea of class action, the organizers tended to believe that in so doing the lawyers were responding favorably to their pressure for radical action. This made class action even more palatable to them.

What is more surprising is that—despite the public outcries of some officials—the local Establishment was not antagonized by the lawyers' class action strategy. Of course, public officials preferred not being attacked at all; but if being on the firing line seemed inevitable, they viewed class action as the least undesirable way to be attacked. In fact, there were numerous officials who, though publicly criticizing the Foundation, privately praised it. They thought that class action suits provided militants with a legitimate outlet for their dissatisfactions and frustrations. Many San Francisco institutions had been the object of direct action assaults, and to the extent that the Foundation was believed to be diverting the volatile energies of the militants into legitimate legal battles, it was regarded highly for playing a constructive role.

Many of those in power found class action relatively benign compared to the traditional case approach for two reasons. First, while the strategy favored by many militant organizers was to batter their various enemies with one case after another, class action was generally a one-shot affair. Even when the outcome was appealed, there was a considerable time lapse before the next trial. Public agencies did not have to be forever devoting their resources to litigation, nor were they as vulnerable to the bad publicity that a continuous barrage of individual cases could have precipitated. Furthermore, class action suits were less likely than a rapid-fire succession of individual cases to agitate a whole community, and thus build up the strength of militant organizations.

A second advantage of class action to the local Establishment was the Foundation's tendency to use it in ways that either avoided or minimized political pressures on the city. Community organizers tended to believe that a broad cross-section of the city's officials, agencies, and private interests held responsibility for almost any abuse the poor suffered. As they saw it, the failure to enforce housing codes, for example, reflected not only landlord negligence but also malpractice in the Department of Public Health, Fire Department, District Attorney's office, and the office of the Mayor as well. They thought that if the lawyers would legally pester these agencies with the individual complaints of community residents, the political motion these activities would stir could then be used to change conditions. The lawyers, who for good reason believed this approach would be a fruitless one from a legal point of view, generally attributed responsibility for abuses more narrowly. Thus the class action cases cited far fewer culprits than organizers originally identified. As a rule, then, the local Establishment was relieved by the decision of the lawyers to pursue a class action strategy.

### THE OTHER AUDIENCES

Two other audiences—their professional colleagues throughout the country, and the liberal middle-class public—exerted a considerable influence on the actions of the main office lawyers. Side by side with their idealism, the lawyers possessed a great desire to develop their reputations. Class action was a powerful tool that could win them the respect and admiration of these audiences. To other lawyers they were able to display their legal acumen by skillfully preparing and presenting innovative and potentially precedent-shattering cases to the higher courts. And to the liberals, the highly dramatic anti-Establishment aspect of class action had great appeal. It offered the potential of bringing about major reforms without engaging in political excesses.

But these audiences are not reliable judges of the real merits and benefits of class action. The middle-class public, who were neither directly affected by the outcome of the Foundation's class action suits nor knowledgeable about legal issues, were readily impressed by the visible and superficial. The mere fact that the Foundation filed a class action suit on behalf of the poor, along with the strong tone and content of its public statements, was sufficient to win their enthusiasm and unqualified support. Lawyers across the country, on the other hand, understood the various legal issues involved in the class action suits. But, perhaps for reasons related to their training, the actual social and economic implications of these cases were often not clear to them.

Yet these were audiences the lawyers chose to act for, and this choice had serious consequences. For the main office lawyers, image making had a top priority, and it consumed a disproportionate amount of their energies. During the aftermath of press conferences, meetings, and other public encounters, the lawyers talked among themselves not about the issues they had addressed but almost solely about the impressions they had created. Whether they believed each other to be persuasive, sufficiently dramatic, or clever—these were more often the topics of discussion than the substantive issues they were being persuasive, dramatic, or clever about. In fact, their vanity was so routinized that the lawyers were unaware of anything unusual about their behavior.

This concern with image was also manifested in their highly competitive spirit, which in turn produced its share of envy, anger, and anxiety. On several occasions the competition grew so fierce that it provoked a great deal of verbal abuse. In one instance, a lawyer physically attacked a colleague who accused him of deliberately omitting his name from a press release. It is not that warm relations were absent among the lawyers; but along with their collegiality there was considerable tension. Mutual distrust was rampant. They readily suspected each other of seeking personal advantage—for example, by not sharing credit fairly.

Even the attention received by other OEO legal service programs provoked their jealousy. Publicly they praised the accomplishments of OEO's largest legal assistance agency, Cal-Rural, but among themselves they were indignant about Cal-Rural's better reputation, which in their view reflected only its superior public relations efforts. Amazingly, they claimed that Cal-Rural was too obsessed with public image. They seemed to be unaware of how image-oriented their own behavior was.

### IDEALISM AND DECEPTION

The lawyers' absorption in image-building might have been merely amusing and of no great consequence, except that it frequently conflicted with the best interests of their clients. Clients needed services that were custom-made. Image building promoted class action on an assembly-line basis. The specific needs of clients and the question of whether or not they really could gain from class action were incidental to the lawyers. They were concerned only with filing as many dramatic class action cases as possible. Among other things, this meant that they were constantly seeking out interesting issues and organizations that might help generate them. So they had little time or patience for community organizations that sought other, less dramatic kinds of legal service.

As might be expected, community organizations that were already mature and independent often refused to deal with the Foundation. The Mission Coalition, a powerful Alinsky-influenced grass roots organization in the Latin community, carefully defined the terms under which it would be willing to accept the Foundation's offer of legal assistance. Knowing the Foundation's reputation, it insisted that the Foundation provide whatever technical aid it needed without ever intruding on policy matters. Predictably, the Foundation lost its interest in working with the Coalition.

But a great many organizations that were neither strong nor sophisticated tended to become enveloped by the Foundation's activities. Whether they were battling against the lawyers, or assisting them in numerous ways (such as gathering material for class action suits), or doing almost nothing pending the disposition of a case, these community organizations were caught up in a process that was stunting their development and eroding their autonomy.

Corollary to this process, and perhaps as important, was the miseducation foisted on community organizers and their followers. Rather than assisting their clients to overcome their ignorance about the law, the lawyers were continually reinforcing it. No matter how irrelevant their clients' needs were to their choice of a legal strategy, the lawyers always tried to show how their actions or inactions were in the clients' best interest. So the lawyers developed an expertise in presenting distorted and falsified explanations to account for their behavior.

Miseducating the organizers about their legal options was fundamental to the selling of the class action strategy. Organizers were generally interested in improving conditions primarily for their own neighborhoods. The primary concern of the lawyers, however, was not the poor in a specific community but the poor who shared a common legal problem no matter where they resided. To sell the organizers on class action, the lawyers, for reasons they regarded as idealistic, misled them into believing that these suits were aimed primarily toward improving conditions in their own community, and that the suits offered the best possible means for doing so.

The lawyers believed that they had a mission—to devote themselves to bettering the conditions of the poor not only locally but across the state and nation. So if in service to their idealistic aims they breached professional standards of conduct, they experienced no remorse. Though they often felt unappreciated, the lawyers also felt proud of their efforts. They seemed unaware that in the process of doing what they did—falsifying, distorting, and withholding information—these idealists were becoming cynical operators who paid little attention to the means they employed. So the class action strategy the lawyers pursued victimized not only the poor and the organizations that served them; ultimately, the strategy also made casualties of the lawyers themselves.

It is important for those who debate the fate of legal assistance to separate in their minds class action from more conventional legal services. It would be tragic for those who are outraged at government-funded class action to assess and determine the future of the program as a whole on the basis of one of its weakest components. On the other hand, the poor and their representatives, who often tend to regard any attack on existing social programs as an attack on themselves, should realize that, just because something describes itself as a service to the poor, it doesn't follow that, in actuality, it is.

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## DROUGHT IN WEST AFRICA

Mr. BIDEN. Mr. President, one matter that all of my colleagues here in the Senate would join me in lamenting is the tragedy to human life of natural disaster. I would like to take this opportunity to call attention to the continuing problem of the severe drought in West Africa. The area affected by this drought is home to about 25 million people. Not only have humans lost their lives to the drought, but, it has also had the effect of devastating the nations' economies. I support the continued and increased extension of aid to this region to support a recovery program. I have recently read an article by Jeffrey L. Hodes that provides some hindsight into the problem as well as poses some questions that we might all consider.

Mr. President. I ask unanimous consent that an article from the New York Times of January 9, 1974, discussing West Africa be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### WEST AFRICA: NEITHER RAIN NOR FAST RELIEF

(By Jeffrey L. Hodes)

After five disastrous years of declining rainfall that culminated in drought, desolation and death, the tragedy of the sun-scorched region of former French West Africa has come to public attention. It is a tragedy that could have been avoided.

The region is losing its struggle against the environment to maintain self-sufficiency. Its fragile ecological balance is being devastated by the encroaching Sahara Desert at the rate of thirty miles per year; the livestock, on which the economy is based, are dead or dying, and unknown thousands of people have died of starvation of diseases resulting from malnutrition.

About 25 million people live in the drought area, which covers six of the world's poorest and perhaps least-known countries—Chad, Mali, Mauritania, Niger, Senegal and Upper Volta. Together they cover an area in a semiarid zone south of the Sahara the size of the continental United States.

Large-scale death was averted in 1973. But the crisis demonstrated that there was no international mechanism for effectively responding to natural disasters when simple humanitarian considerations were more immediate than those of political advantage.

Indeed, the international response to the region's needs offers a distressing example of the low premium placed on life in black Africa, the slowness of the United Nations in mobilizing itself to respond to a natural disaster, and Washington's stinginess when there is no immediate political gain in giving sustenance to the "humanitarian" aspects of United States foreign policy. Uncertainty now remains whether the international community will find the political will to deal with the region's long-range rehabilitation problems.

Unlike a flood or earthquake, drought does not immediately capture the attention. Much of the public awareness about the West African crisis dissipated last fall when newspapers reported that the crisis had passed its peak with the monsoons' arrival. Nothing could be further from the truth. In October the summer rains ceased. What rain fell was late and totally inadequate to overcome the drought's effect on crops and cattle. Despite desperate attempts to spare the crops, they withered, necessitating a continued emergency relief operation in 1974.

How extensive was the threat to human life? Statistics are hard to come by in such a desperately poor region. Last month there were reports that the drought took 50,000 lives in nearby Ethiopia. The countries of West Africa said that six million people faced starvation last summer, but some aid experts said that the figure was inflated. Shortly afterward, the League of Red Cross Societies estimated that perhaps 10 million nomads and farmers could starve in the near future.

As the drought came to public attention, there were charges in Washigton that the affected countries had not heeded disaster warnings and had been slow in reacting. When the governments recognized the gravity of the situation, they did seek outside help. Diplomats representing the affected countries in Washington have said that the United States was approached for aid as early as September, 1972. They were displeased by the reception given to their requests and then by the size of aid shipments that first started arriving in early 1973.

However, the Africans' major appeal was to France, since they were former French colonies, and the European Economic Community, which is tied economically to West Africa through the Yaounde Convention, a commercial treaty.

The United Nations assumed responsibility for coordinating the global response to the drought. But its Food and Agriculture Organization did not treat the disaster as an emergency until it was well-advanced, and it failed to marshal international support at an early stage.

The F.A.O. was a poor choice to coordinate the emergency relief, because it had had little experience in dealing with emergency operations. Headquartered in Rome and primarily a technical agency, it does not have the managerial expertise necessary for such an operation.

The organization had been working in West Africa since the brief rainfalls in the late nineteen-sixties. Yet when its own early-warning system reported "an acute emergency" in September, 1972, nothing significant was done to mobilize the international community until February, 1973. And a major appeal was not made until May!

By the time of the appeal, the United Nations agency's mishandling of relief operations had so alienated the major donors, especially the United States and France, that for all practical purposes, the appeal was an embarrassing failure. The agency asked for $15 million in a month; only a $2.6 million was pledged.

Lacking confidence in the F.A.O., the major donors chose to give their aid bilaterally—France via the Common Market, and the United States through the Agency for International Development.

That agency, which usually supplies 70 per cent of the world's food assistance under the Food for Peace program, provided only about 42 per cent of the emergency food contribution. By midsummer, the most severe period of the famine, the United States had contributed only 156,000 metric tons of grain, and by October, 100,000 more metric tons had been delivered, out of a total 625,000 donated by the international community.

In addition, over $38.5 million was given in cash and services by the community, of which the United States share was $4.6 million.

Could the United States have done more? Last year, Washington gave black Africa $307.5 million in aid, of which West Africa received $11.9 million, mostly in food. The emergency drought-relief funds came from a separate source, an Agency for International Development contingency fund that covers catastrophes. But in fiscal 1973 only half of the fund was spent on disaster relief. Among its grants were $10 million for livestock research in the Bahamas.

Under political pressure in the last quarter of the fiscal year, the Agency for International Development shifted $2 million from $10 million in funds that had been set aside for Nicaraguan relief and found another $2.6 million in reserves for West Africa.

In Congress, the black legislator Charles C. Diggs Jr. argued that if the United States committed $318 million to fight famine in Bangladesh, no less could be done to assist 26 million black Africans.

Last month, Mr. Diggs, working with Senators Edward M. Kennedy and Hubert H. Humphrey, won his point. The new foreign aid bill contains $25 million for continued emergency relief and a $50-million supplemental grant for a medium-term recovery program.

## FEDERAL SPENDING

Mr. HUGH SCOTT. Mr. President, in a news story on January 5, the New York Times pointed out the need for Congress to hold down Federal spending. I have said time and time again that we have got to act—and act quickly—to accomplish those fiscal reforms that would set reasonable boundaries on spending by the Federal Government.

On March 22 of last year, 33 Republicans, a third of the Members of the Senate, adopted a policy position pledging support for a spending ceiling and fiscal prudence. Five Democrats voted with the Republican Senators in the first test of the declaration shortly afterward—by voting to sustain President Nixon's veto of the $2.6 billion vocational rehabilitation bill, a bill that would have been not only overly expensive but duplicatory of existing programs.

In the Times article, written by Mr. Edwin L. Dale, Jr., the views of a budget expert, Mr. Eugene F. Rinta, are spelled out on the job—as he sees it—that needs to be done, if we seriously want to prove our commitment to fiscal integrity.

Mr. President, I think all of us could be reminded of the need to become budget experts ourselves for the sake of the economy, and therefore I ask unanimous consent that Mr. Dale's articles be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### CONGRESS FOUND TO ERR IN CLAIMS

(By Edwin L. Dale, Jr.)

WASHINGTON, January 6.—Although Congress claimed to have cut the President's proposed appropriation total by a net $3-billion in the session just ended, it actually added $4-billion to total Government spending, a well-known budget analyst concluded today.

The analysis was made by Eugene F. Rinta, research director of the Council of State Chambers of Commerce, who has examined budgetary details for many years.

The single most important reason for the massive $7-billion discrepancy—which is not understood by many members of Congress itself—is that Congress passed various bills adding $3.2-billion to spending that is essentially outside the appropriations process.

Good examples are the increased Social Security benefits just signed by the President and bills increasing veterans benefits and food-stamp availability, for which the subsequent appropriations are automatic.

#### DISCREPANCY SOURCES

Other explanations found by Mr. Rinta for the discrepancy between what Congress did and what it thought it did include the following:

About $1.3-billion of the claimed appropriation reduction was of a purely "bookkeeping" type, in that it had no effect on Government program levels or spending.

Another $1.2-billion of the reduction is "real" but will not affect spending until future fiscal years. Much of the sizable defense reduction is in this category.

Congress declined to act on Presidential proposals aimed at saving $1.4-billion. An example was a proposal to make Medicare patients pay a higher portion of hospital costs for short stays.

On the opposite side, Congress declined to act on some Presidential proposals that would have increased spending. Mr. Rinta estimated "inaction savings" in this category at $600-million.

#### CURE IN PROGRESS

Proposals for Congressional budgetary reform—a bill has passed the House and a similar one has been approved in committee in the Senate—are aimed at curing much of the problem identified by Mr. Rinta.

The bills would establish early each year a spending total and new mechanisms by which Congress would be enabled to keep within the ceiling. All "back-door" measures that increase spending while bypassing appropriations control would be covered.

There is no chance that these new procedures can be effective in 1974. But an agreed-on version of the legislation may pass this year to take effect in 1975.

## SKYJACKING

Mr. BIDEN. Mr. President, due to the vigilant efforts of individuals like Gen. Benjamin O. Davis and his colleagues in charge of safety at the Department of Transportation, the United States has not been the setting for one skyjacking attempt in almost 2 full years. Americans in particular and travelers in general regardless of nationality who pass through any of our airports appreciate these efforts. Our thanks extend to all individuals locally who help to screen passengers and luggage. I think that the United States might try to extend its influence and techniques to other countries that still risk terrorist attacks and hijacking attempts.

Mr. President, I ask unanimous consent that an editorial from the Washington Post of January 12, 1974, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### DOUBLE STANDARD ON HIJACKING

In 1970, more than 30 airplanes were hijacked in American skies. In 1971, the same. In 1972, the same. In 1973, none. Indeed, last year only one American skyjacking was attempted, on Jan. 2. It failed. Three days later, Gen. Benjamin O. Davis, who is the Department of Transportation official in charge of safety, put into effect rigorous procedures to screen the half-million passengers (and their luggage) who take commercial flights every day. This was the first move, taken to prevent potential skyjackers from bringing aboard the weapons which alone emboldened them to attempt their crimes. The second key move, taken a month later, in February 1973, was to block off the likeliest remaining haven for skyjackers. This was done by an American-Cuban agreement requiring each country to prosecute or extradite individuals who commit violence in order to reach the other country. Thus was the prospect of a successful skyjacking diminished at both ends.

One hastens to add that crossed fingers and continued vigilance remain essential. But the fact is that, in American skies at least, aerial hijacking has been completely snuffed out for a year. This is an accomplishment which does credit not only to Gen. Davis and those involved in carrying out his programs, but to the American air industry and the flying public. At first, many in the industry and public were slow to give safety its due. It took two especially frightening skyjackings in the fall of 1972 to break the final resistance to sensible screening. But there are no arguments any more.

Given the irregular procedures in effect in some foreign airports, however, flying can still be hazardous. Only last month, five Palestinians flew from Spain to Rome, there grabbed up pre-positioned weapons, and set off on a murderous spree which left 32 people dead and the five killers safe in an Arab haven. With few exceptions—Greece, which refused to yield two previously arrested terrorists to the "Rome five," is one—Europeans are unwilling to employ consistently tough police and legal measures against Arabs. Indeed, rather than make life tough for Arab terrorists, Germany and Italy reportedly paid some of them off a year or more—an arrangement that the terrorists eventually, of course, betrayed.

In the Arab world, it goes without saying, no American plane or passenger can be considered safe. In Europe, American planes and passengers are constantly exposed to the Europeans' negligence. For instance, shoulder-mounted Soviet anti-aircraft missiles, evidently meant to be fired at Israeli or American aircraft, are reported to have been brought into a number of European countries; this is why the British Army put tanks at the ready at London's Heathrow Airport earlier this week.

Just what further inducement the United States could offer Europeans to observe reasonable safety standards is uncertain. But suppose the United States said it would not allow any plane to land on its soil if the passengers and cargo had not cleared a weapon screen fully as tight as the screen in use at American airfields. Suppose, in other words, a lax double standard on safety was no longer permitted to foreign planes using American facilities. Thus the United States could use its influence—and its particular experience—to promote a higher standard everywhere while making service to and from this country safer. After all, the plane on which the "Rome five" began their journey started from Spain and went from there to Rome. It could as easily have been bound for New York.

## MAJORITY OF SKILLED NURSING HOMES DO NOT COMPLY WITH GOVERNMENT'S LIFE SAFETY CODE

Mr. TAFT. Mr. President, I was quite disturbed by two newspaper articles which appeared last week in the Washington Post. One of the articles notes that in a study yet to be published, the Department of Health, Education, and Welfare has determined that 59 percent of the skilled nursing homes in our country do not comply with the Government's Life Safety Code—27.8 percent of these had incomplete or no plans to correct their deficiencies, but nevertheless were State-certified to receive Federal medicare and medicaid money. Nearly 50 percent needed better sprinkler protection systems and 36.5 percent had no sprinklers.

The human aspect of these figures is that the very safety of a considerable portion of the million patients in our Nation's 8,000 nursing homes is presently imperiled. Although the Government has decided to give nursing home operators another 2 years in which to make the required safety improvements, these operators must recognize their responsibility to the public and to our elderly citizens by making these improvements as soon as possible.

In that respect, I urge our Nation's nursing home operators to take advantage of a new Federal law, which I cosponsored, to facilitate the elimination of fire hazards in their facilities. The new law, signed by the President December 28, 1973, would allow HUD to guarantee loans to be used to provide fire safety equipment for nursing homes and intermediate care facilities. The provision of the Federal guarantee would result in a lower rate of interest for these loans than the nursing home operators could otherwise obtain.

If these operators will use the tool which has now been created, the safety of their patients could be assured to a much greater extent than it is today.

I ask unanimous consent that the articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

### Most Nursing Homes Still Break Fire Law

More than half the nation's 7,318 certified skilled nursing homes failed to meet fire safety requirements two years after President Nixon declared war on "warehouses for the unwanted . . . dumping grounds for the dying," according to an unpublished federal survey.

The Department of Health, Education and Welfare examination of the skilled nursing homes between June and September, 1973, found that 59 per cent did not comply with the Life Safety Code adopted by the Government.

Faye G. Abdellah, assistant surgeon general and director of HEW's Office of Nursing Home Affairs, wrote the report. She said in an interview that she presumes non-compliance is even more widespread among the nation's 8,500 intermediate care facilities.

Among the 59 per cent of the 7,318 homes found out of compliance, HEW discovered that 1,199, or 27.8 per cent, had incomplete or no plans to correct their deficiencies, but were state certified to receive federal Medicaid and Medicare money.

Waivers of six months to one year were approved for 2,120 homes, but 450, or 21 percent, had incomplete or no justification for waivers, HEW said.

In addition, 3,694, or nearly 50 per cent, needed better sprinkler protection systems; 1,347, or 36.5 per cent, had no sprinklers.

"The data indicates that there are serious administrative problems in the survey and certification process," concluded Dr. Abdellah's report.

Skilled nursing homes and intermediate care facilities receive more than $2 billion a year in federal funds—about two-thirds of their total revenue. They have the capacity to care for nearly 1 million patients.

Dr. Adbellah said HEW must continue to rely on enforcement and technical assistance programs to upgrade the quality of nursing home care rather than cutting off funds.

"Obviously, we couldn't close 59 per cent of them," she said. "Where would you put the patients?"

Alarmed by the survey's findings, HEW Under Secretary Frank C. Carlucci told his regional directors in a memorandum earlier this month to "initiate immediately appropriate measures" to assure that all skilled nursing homes are certified or have corrective plans by March 15.

Those in violation should be notified of the department's intention to terminate contracts under Medicare and Medicaid, his memo said.

## CYNICISM AND THE COUNTRY

Mr. MOSS. Mr. President, with the beginning of a new session and having just returned from my State, I feel compelled to advise the Senate of the feeling of cynicism I encountered among many of my constituents.

There is distrust and lack of belief in Government and its institutions and these feelings are relatively new to the state of mind of a U.S. citizen.

There is a very thought provoking note and comment on this subject in the January 21 issue of the New Yorker magazine, and I am asking unanimous consent that it be printed in the Record for the use of the Senate, calling particular attention to the last sentence.

There being no objection, the article was ordered to be printed in the Record, as follows:

### The Talk of the Town: Notes and Comment

Over the last decade or so, two standard reactions to bad news seem to have developed in our country. One reaction is "It didn't happen," and the other is "They all do it." In the early Vietnam years, when the bad news about the war was just starting to come in, the tendency was to react in the first way. In those days, since the citizenry still had what politicians often call "faith" in our institutions, we tended simply to reject the bad news. It was not until about five years ago that the second reaction began to emerge. The historical moment when "They all do it" eclipsed the theme of denial may have been the indictment and conviction of William Calley. On that occasion, the public tended to believe, simultaneously, that there had been no massacre of innocents at My Lai and that there were massacres of innocents in all wars. In the press of the day, the theme "They all do it" took the form of the statement that all wars are equally brutal. A modish pessimism about human nature itself was revived for the occasion. Now the Watergate disclosures appear to have buried the inclination to believe "It didn't happen," and "They all do it" reigns supreme. (The President, who seems to grasp such changes instinctively, has gone to considerable lengths to spread the idea that Presidents before him engaged in illegal wiretapping, took questionable tax deductions, and secretly taped conversations. He seems to be saying that all Presidents did what he has done.)

The two standard responses—the one denying abuses, the other seeing them as universal and probably eternal—seem to be at opposite poles, but the fact that they often crop up at the same time and on the lips of the same people (for instance, the President's "I didn't do it"/"They all do it" defense) is a clue that the public, in its heart of hearts, means the same thing by both of them. Rendered roughly, the meaning is something like "Go away!" The man who sees no massacre and no Watergate and the man who sees massacres and Watergates as the inevitable lot of all societies in all times have one thing in common: neither of them can be expected to take any action. If "they all do it," only a fool would exert himself to stop them. There would be no need even to take the trouble to try to distinguish between people who did it and people who didn't. What's more, one might reason, "If they all do it, maybe I can do it, too." And if "they all do it," that leads on to a still more attractive idea: that "they" are responsible for everything, and "we" are responsible for nothing. The conviction that the energy crisis (which is going to change our lives for the indefinite future no matter what games the oil companies may be playing with the present shortage) is the product of a corporate or governmental conspiracy is only the latest example of the spreading half-baked shrewdness that sees the conspiracy of an omnipotent "them" behind every headline.

The world of undiscriminating cynicism, where no one is trusted and nothing is believed, is in many ways a comfortable one. Every citizen enjoys the automatic right to a sly, knowing, and superior attitude toward all authorities but has no obligation to do anything about them. What is the use of changing one for another when they are all the same? In this world of cynicism, the people complain about the authorities the way they complain about the weather. Everyone grumbles, but it leads to nothing. Politics is everyone's cross and no one's responsibility. "They're all crooks," the people say to one another, and go about their business. This state of mind is new to us in the United States. But it is all too familiar to anyone who has spent some time in Eastern Europe or in South America, or in any of the countless other places in the world where people have lost the bold, sometimes innocent spirit of the free and adopted the easy sophistication of the powerless.

## CURTIS SISCO

Mr. HUGH SCOTT. Mr. President, Columnist Peter H. Binzen, who reports on the "Human Side of Business" for Philadelphia's Evening Bulletin, wrote of the remarkable career of Mr. Curtis Sisco in an article January 10. Mr. Sisco, a much decorated police officer for the city of Philadelphia, was injured in the line of duty and retired from the force in 1969. He is today the owner of the Nation's largest black-owned department store.

Mr. President, it is inspiring to read of the efforts of a man to whom a personal tragedy, because of his deep faith, was the beginning of a highly successful new career. "If you trust in God and work hard the opportunity will come," Columnist Binzen quoted Mr. Sisco as saying.

I salute Mr. Sisco for his fortitude, and all who helped him establish his new career. It is my hope—and one that I feel certain my colleagues share—that we are always diligent in helping individuals, especially those of our minorities, in opening up the kind of "opportunity" that changed Mr. Sisco's life.

I ask unanimous consent that Mr. Binzen's column be printed in the Record.

There being no objection, the column was ordered to be printed in the Record, as follows:

### Ex-Policeman's Career Soars in Department Store Field

(By Peter H. Binzen)

Ten years ago, a Philadelphia policeman named Curtis Sisco patrolled the Germantown business district on traffic duty.

Now and then, Officer Sisco would park his motorcycle at Germantown and Chelten Aves. and catch his breath in the shadow of Rowell's department store.

Sisco, 43, works that corner now but he's swapped his police uniform for a business suit. He's got an office on Rowell's seventh floor. In fact, he owns Rowell's.

His purchase of 70-year-old Rowell's for an undisclosed sum last week puts the ex-Cop in a class by himself, according to the U.S. Department of Commerce's Office of Minority Business Enterprise.

#### FROM BIRDSNEST, VA.

OMBE says that Rowell's, with annual sales of about $2.5 million, is now the nation's largest black-owned department store. Sisco's rise in retailing has been meteoric. He talked about it—and about an accident that changed his life.

The youngest of 12 children of a Birdsnest, Va., sharecropper, he came to Philadelphia at 19 after graduating from high school. He spent four years in the Army, attended a tailoring and design school in North Philadelphia and then, in 1962, joined the city police department.

He was picked for the highly regarded highway patrol and won two official commendations, one a hero award for rescuing a woman from a burning building. He expected to make a career of police work.

While on highway patrol in September 1968, however, he was injured in a motorcycle mishap. A cartilage was removed from his knee. In 1969 he retired on pension from Frank Rizzo's force. (Of the police-chief-turned-mayor, Sisco now says: "He was a very fine boss. I worked for several police commissioners. I feel he was the strongest.")

Sisco terms the motorcycle accident "a turning point in my life. It forced me out on my own."

While on the force, Sisco had done some moonlighting as a clerk in a menswear store at 134 S. 52d st. The store came up for sale. Sisco had only modest savings but the police pension guaranteed him a small income.

His solid record as a policeman, his determination and promise in retailing helped him get a loan from Philadelphia National Bank to buy the store. The loan was guaranteed by the Small Business Administration.

Sisco's Menswear did well. Morton Barish, a former employe, stayed on and helped the new owner. "He was a key person," Sisco says of Barish.

Nineteen months later, Sisco bought a second store at 7 S. 60th st. That one also prospered. He persuaded a former red-car partner, David Johnson, to quit the police department after 14 years and join him as general manager.

In 1972, Provident Mutual Life Insurance Co. foreclosed on a group of four stores at 5701–07 Germantown ave., directly across Chelten ave. from Rowell's. It looked for a purchaser and found Sisco.

In July 1972, he bought the four stores plus second-floor office space for $160,000, with the insurance company granting a mortgage for half that amount. Sisco opened his third menswear store at 5703 Germantown ave. and rented out the other facilities.

Last August, he sold his S. 60th st. store at a profit. And then came the Rowell's deal. He purchased the name and inventory from Wanger Bros, a Chicago retail chain. He rents the building from the Rowell Estate.

Rowell's has about 100 full- and part-time employes. Sisco said he plans to keep them all except those already scheduled for retirement.

#### TURN AROUND

Germantown's shopping district has slipped in recent years and so, says Sisco, has Rowell's. But he believes the turnaround has already begun.

He said Rowell's will continue to attract whites and blacks. "We're not going to emphasize 'white-oriented merchandise' or 'black-oriented merchandise,'" he said. "We're stocking quality merchandise.

"Blacks want quality merchandise that is in step with the times. Whites do, too. A few years ago there were black fashions, but a dramatic change has occurred. All men's fashions are coming back to the middle ground."

Sisco has four buyers and all of them are white. But he hired three new buyers and retained one not because of their pigmentation but because he thinks they are talented buyers.

Sisco plans to make Rowell's a community hub, with space for public meetings. He plans to involve himself in Germantown affairs. He thinks the section has stabilized and now has an unlimited future.

The former policeman has been honored by the Menswear Retailers of America as its minority businessman of 1972. He's solidly built with graying hair and a mustache.

He and his wife have three children and live in West Philadelphia. Sisco, an Episcopalian, had this advice for young people: "Trust in God, work hard and think big. All three are very important to succeed. If you trust in God and work hard the opportunity will come. But if you don't think big it'll go right over your head."

## SUPPORT FOR ADOPTION OF S. 2754

Mr. PELL. Mr. President, reports of deteriorating political stability in Greece and the continued disregard of the Greek military junta for human rights and a rule of law demand swift passage of S. 2754. This bill which I introduced with the distinguished junior Senator from Washington (Mr. Jackson) calls for cutting off military assistance to the Greek Government pending a Presidential determination that Greece is able to fulfill its military obligations to NATO and is complying with its politcal obligations under the preamble of the North Atlantic Treaty.

That preamble calls for each member of the NATO Alliance "to safeguard the freedom, common heritage and civilization of their peoples, founded on the principles of democracy, individual liberty and the rule of law."

I am sad to note continuing indications of the failure of the Greek Government to abide by these commitments. It is, in any case, only prudent to study the situation thoroughly before we make further military assistance available to a regime that may use it for purposes contrary to NATO objectives.

This bill, with one exception, is identical to the amendment to the foreign military assistance bill, which the Senate adopted last June by a vote of 46 to 41. That amendment, however, was deleted in conference committee just prior to the November uprising in Greece and the coup d'etat.

The exception is a Presidential waiver authority contained in S. 2754, which would permit the President to continue aid, despite a negative review, if justified by overriding national interests as reported to Congress.

I am convinced that the Senate has all the more reason for adopting S. 2754 now than it had in July.

Subsequent events, including the bloody suppression of the student-worker uprising and the toppling of the Papadopoulos regime by a group even more opposed to the restoration of constitutional government, make the bill all the more relevant and necessary.

The strong popular reaction in Greece against these tragic events has further undermined the ability of the Greek armed forces, especially the Navy and the Air Force, to play an effective role in the defense of NATO's strategic southern Mediterranean flank.

There has been growing bitter anti-American feeling in Greece because of U.S. identification with the oppressive Greek junta.

Greece did not respond positively to help us cope with the situation arising out of the recent Israeli-Arab hostilities.

The report of the Committee of Nine for Improving NATO has stated that the failure of any NATO member to abide by the democratic principles in the NATO Treaty preamble inevitably weakens the moral and political position of the alliance as a whole. This is a situation which exists in Greece where the government uses force of arms to suppress its people, having denied them time and again the promised opportunity to express themselves in democratic elections.

Our position in Greece has been substantially weakened in a situation where the cries of the Greek people are, "Out with the Americans."

The reasons for the adoption of S. 2754 are compelling. I urge the Senate to approve the bill.

## UKRAINIAN INDEPENDENCE DAY

Mr. BEALL. Mr. President, yesterday, January 22, marked the 56th anniversary of Ukrainian independence, as well as the 55th anniversary of the Act of Union, the two acts which officially established the Ukrainian National Republic. Certainly, these milestones encourage us to reflect for a moment on the value of freedom and what it means not only to Americans, but to all the peoples of the world.

The life of the Ukrainian Republic was unfortunately short-lived, but the flame of liberty which was kindled in the hearts of Ukrainians everywhere was not extinguished. They continue their untiring efforts for human rights and for independence, in spite of overwhelming odds.

Mr. President, I commend the brave spirit of Ukrainians, and offer my deep hope that freedom will someday return to their land.

## SENATOR ROBERT C. BYRD REVISITS STATE LEGISLATURE WHERE HIS CAREER STARTED; DISCUSSES NEED FOR RESTORING GOVERNMENT CREDIBILITY

Mr. RANDOLPH. Mr. President, when my esteemed West Virginia colleague, Senator ROBERT C. BYRD—our distinguished assistant majority leader—returns to the halls and the chambers of the West Virginia Legislature it makes for a significant occasion. It was in the West Virginia House of Delegates in 1947 that ROBERT C. BYRD had his official beginning in politics and public affairs, followed by election to the West Virginia State Senate in 1950.

BOB BYRD is admired by the legislators of West Virginia, not only because he was one of them but also of his achievements in having been elected and reelected to the U.S. House of Representatives in 1952, 1954, and 1956, and then to the U.S. Senate in 1958, 1964, and 1970.

Thus, our diligent colleague has proved himself to be so competent as a legislator that he has the record of having campaigned without a single defeat through two elections to the house of delegates from his home county—Raleigh—one to the State senate, three to the U.S. House of Representatives, and three to the U.S. Senate—over a span of 24 years—and, I reiterate, without a defeat. When Senator BYRD presents himself to the electorate in 1976, he will have extended his legislative service record to embrace a period of 30 consecutive years during which he has progressed to achievement of the significant leadership role of majority whip in this body.

On Thursday, January 17, 1974, Senator BYRD spent most of the day at the West Virginia capitol building and spoke to both houses of the State legislature.

In his speeches, he spoke, as reported by the Associated Press and United Press International from Charleston, on the need for credibility restoration, urging that Government officials must work to restore credibility in the face of a multitude of national problems.

Mr. President, I request unanimous consent to have printed in the RECORD portions of a UPI wire service story by Karl C. Lilly for Friday morning, January 18, 1974, media.

There being no objection, portions of the wire service article were ordered to be printed in the RECORD, as follows:

### CREDIBILITY RESTORATION IS TOPIC OF BYRD'S TALK

(By Karl C. Lilly)

CHARLESTON, W. VA., January 18.—Government officials must work to restore credibility in the face of a multitude of national problems, Sen. Robert C. Byrd declared Thursday.

The U.S. Senate assistant majority leader spoke to both houses of the West Virginia Legislature, where he served as a delegate beginning in 1947 and later was elected to the State Senate before moving up to Congress.

He was introduced by Senate Majority Leader Lafe Ward, D-Mingo, as "West Virginia's brightest star on the political horizon."

Senate President W. T. Brotherton, D-Kanawha, pointing to Byrd's humble beginnings, made reference to recent speculation in some circles that the senator may be a presidential contender in 1976.

Brotherton said Byrd was an example of the old adage that every mother believes her son might "some day be President of the United States."

Byrd later termed it "an overgenerous introduction."

Asked about the reports concerning his presidential potential, his only comment was, "I am very flattered."

House Speaker Lewis McManus, a Democrat from Byrd's home area of Raleigh County, introduced the guest as a man both parties admire.

In his speeches to both houses, where he received standing ovations, Byrd said:

"It is no secret that the art of politics and those of us who practice it are now going through a period in which we are being subjected to some rather harsh criticism.

"I believe that a major task that confronts all of us, whether we serve in Charleston or in Washington, is to conduct ourselves and our affairs, that we make a visible contribution toward the re-establishment of political credibility in the eyes of the American people."

## RETIREMENT OF MARK TRICE

Mr. JAVITS. Mr. President, at the end of 1973, Mark Trice announced his retirement as secretary to the minority, a post he had held with distinction since 1950. His retirement marked the end of a 53-year career in the Senate in various posts starting as a page in 1916.

All of us on the Republican side of the aisle will miss him. He was always patient, helpful and dedicated to serving the Republicans, the Senate, and the country in the highest manner.

Mark has indicated that he will be active in his retirement and he may even practice law on a part-time basis. I wish him and his lovely wife Margaret the best of everything and know he will continue to lead an active and productive life.

## DR. RONALD BERMAN, CHAIRMAN, NATIONAL ENDOWMENT FOR THE HUMANITIES, HONORED

Mr. PELL. Mr. President, the job of the public servant is very often a thankless one. It seems that the only time we hear of a civil servant is when he has done something questionable or when programs which he is responsible for have gone awry. How often does one pick up the paper and read of the accomplishments or of an award given to a government official?

Therefore, it was with great pleasure that I learned that Dr. Ronald Berman, Chairman of the National Endowment for the Humanities, received the Distinguished Service Award from the Phi Beta Kappa Association of Chicago.

Dr. Berman has been Chairman of the Endowment for 2 years. As Chairman of the Special Subcommittee on the Arts and the Humanities, I have noted with delight the forceful and dynamic manner in which he has directed the ongoing activities of the Endowment. Even more impressive is his innovative approach and his willingness to question and, where necessary, go against the popular vein of scholarship.

The honor accorded to Dr. Berman is one which has also been received by individuals such as the late Carl Sandberg. It was given to him in recognition both for his administrative abilities, as well as his intellectual distinction as a professor of the humanities, and an author of books ranging from Shakespeare to the contemporary social scene.

My congratulations to Dr. Berman.

## THE OPPOSITION TO COMPULSORY BUSING

Mr. TOWER. Mr. President, polls show that over 80 percent of the American people are opposed to compulsory busing of public school children to achieve racial balance. Nevertheless, our Federal courts continue to impose busing orders on local school districts across the Nation, and the Congress refuses to act. I find this situation intolerable; however, what is more unconscionable is the fact that in many instances the American people are not only defending themselves against such suits, but are also financing, through their taxes, the prosecution of their school districts.

Congressman WILMER D. MIZELL of North Carolina has provided me with evidence obtained from the Office of Economic Opportunity which shows that an OEO grantee for legal services, the Harvard Center for Law and Education, has participated extensively in the prosecution of at least eight cases over the last few years, including the landmark Detroit case, Bradley versus Milliken, now pending before the Supreme Court. Furthermore, an average of $500,000 a year has been awarded by OEO Legal Services to the Harvard Center over the last 3 years to help finance these activities.

The eight cases I refer to specifically here today involve the school systems of Indianapolis, Ind.; Boston, Mass.; Stamford, Conn.; Dayton, Ohio; suburban Pittsburgh, Pa.; Stockton, Calif.; El Paso, Tex.; and Detroit, Mich.

Mr. President, I am exceedingly curious to know whether the citizens of Indiana, Massachusetts, Connecticut, Ohio, Pennsylvania, California, Texas, and Michigan are aware of the fact that their tax dollars are being used to impose compulsory busing on their children. If they were in fact aware of this situation, there is little doubt in my mind how they would expect their elected representatives to vote on the Legal Services Corporation proposal, S. 2686, which would provide for continued funding of this kind of activity.

OEO files contain a status report on several of these cases, indicating beyond doubt the extent of the involvement of legal services attorneys in these cases.

Mr. President, as a taxpayer as well as a Member of this distinguished body attempting to represent the 82 percent of the American public opposed to compulsory busing of school children, I object most strenuously to Federal funding of this litigation and I shall do whatever is necessary to see that this practice is stopped.

For the information of my colleagues, I respectfully ask unanimous consent that the status report I referred to earlier be printed in full in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

(f) *United States and Bradley* v. *Indianapolis School Commr's* (V.A.No. IP 68–C–225, S.D. Ind.)

This is a school desegregation case which was brought by the government in 1968 and culminated in a favorable judgment, looking toward desegregation on a metropolitan basis, in August of 1971. When it appeared that the government was not going to push for effective relief, we assisted the NAACP to intervene on behalf of local black plaintiffs. We have completed substantial investigative work, primarily involving adjacent and suburban school districts. Further district court proceedings are awaiting decision on the defendants' appeal of the original judgment (argued in the 7th Circuit this month) and decision on defendants' motion for a three-judge court, which they assert is required because a metropolitan desegregation order would conflict with Indiana's statewide redistricting arrangements. We expect to participate actively in further discovery and the trial of this case. (Dimond)

(g) *Bradley* v. *Milliken* (C.A.No. 35257, E.D. Mich.)

This is the Detroit metropolitan school desegregation case in which we are co-counsel with the NAACP on behalf of black and white children. The case was begun in August of 1970, and after 50 days of trial and two trips to the courts of appeals the district court found, in September of 1971, that Detroit is as alleged an illegally segregated school system. Further hearings were held this spring as to relief, and on June 14 the district court held that a plan limited to Detroit proper would be constitutionally inadequate and educationally impracticable—thus necessitating metropolitan relief affecting approximately 780,000 pupils in Detroit and 52 neighboring districts. The court of appeals stayed implementation of the district court's order in July (but directed that planning as prescribed should proceed), and the appeal on the entire case was argued on August 24 pursuant to an expedited schedule. In our view, the state is constitutionally responsible for providing equality of educational opportunity, including "just schools" in place of racially identifiable schools, and certain educationally justified state policies contributed to rendering Detroit a racially identifiable system (65 percent black) compared to its neighbors (98 percent white). Therefore, the state, which has no compelling interest in existing school district lines, is obliged to provide just schools for disestablishing the inter-district segregation. The state and suburban defendants contend that such relief is unauthorized unless it can be shown that suburban districts themselves have actively discriminated. To note that this is a landmark case on these issues is to labor the obvious. Cert. petitions are virtually inevitable following decision by the court of appeals. It should be noted that the NAACP is paying the litigation costs and out-of-pocket expenses in this case (as in Boston and Indianapolis), enabling the Center to engage in important work without quickly expending our modest litigation budget, which otherwise would be a consequence of this case alone.

(h) *Moss* v. *Stamford (Conn.) Board of Education* (C.A. No. B–586, D. Conn.)

We are assisting Norwalk-Stamford Legal Services (primarily Steve Hershey) with his action which was filed earlier this month. Our role so far has been to consult on the theory of the case and to advise on discovery and trial strategy. Stamford adopted and has largely implemented a pupil racial desegregation plan which imposes the burden of desegregation (in terms of pupils transported and schools closed) almost exclusively upon black and Spanish-speaking families. The plaintiffs are supportive of desegregation but they view it as illegally discriminatory to adopt a plan—in the presence of equally effective, more equitable alternatives—that is one-way in accommodating majority community convenience at the expense of the minority. More than a year ago, when Stamford was weighing its options, the federal (HEW) authorities expressed similar reservations to Stamford about this plan. School authorities have tended widely to adopt one-way plans, usually to gain white acceptance of desegregation itself. Although some courts have disapproved such plans, the issue is relatively underdeveloped and important in that the objectives of desegregation are not fulfilled where the plan is perceived by the minority community as the latest manifestation of "white is right." (Van Loon)

(i) *Brinkman* v. *Gilligan* (C.A. No. 72–137, E.D. Ohio)

We are cooperating with the NAACP and local counsel in this case which challenges alleged de jure segregation in Dayton, including that system's rescission of its own voluntary desegregation plan for reasons related not to education but to white community opposition. We have been assisting with discovery and will participate in the trial, which is tentatively scheduled for the 3rd week in November. The rescission of voluntary plans in districts not previously found to be illegally segregated is recurring and presents relatively novel issues warranting our attention. (Dimond)

(j) *Greenhouse* v. *Greco* (C.A. No. 17741, W.D. La.)

We are cooperating with University Legal Services, Washington, D.C., in this action which challenges racial segregation of parochial schools in the Roman Catholic diocese of Alexandria, Louisiana. We have participated in the preparation of pleadings and discovery and we shall help at trial, which is scheduled for December 1. The case involves some 10,000 children in 35 schools, of which all but two are practically all-white or all-black. The case is novel (a previous one like it in Louisiana ended when the schools desegregated before trial) and significant in that the schools receive substantial federal support and are segregated despite Title VI of the 1964 Civil Rights Act, and the parochial system is impairing public school desegregation by accommodating fleeing whites. (McClung)

(k) *Hoots* v. *Commonwealth of Pennsylvania* (C.A. No. 71–538, W.D. Pa.)

This case, filed in 1971 by Pittsburgh Legal Services, challenges the school consolidation process in suburban Pittsburgh. It is alleged that racially identifiable districts were created, despite the availability of feasible, less segregatory alternatives. It is also alleged that the district in which the plaintiffs reside is not viable economically or educationally. Upon request of the director of the Pittsburgh Legal Services Office, we have, on several occasions, given advice on the case. In July 1972, we met here with local counsel to discuss a proposed pretrial statement. (Pressman)

### 2. DEVELOPING CASES AND MATTERS

(a) *Hernandez* v. *Stockton Unified School District* (No. 3 Civ. 13621, Sup. Ct. Calif.)

We have been asked by California Rural Legal Assistance to file an amicus curiae brief in the California Supreme Court. The appeal urges that the lower courts erred, under California law, in denying desegregation relief, and we are asked to address certain broader desegregation considerations. We are considering participation.

### 3. CLOSED OR INACTIVE CASES AND MATTERS

(a) *Alvarado* v. *El Paso Independent School District* (C.A. No. EP–70–CA–279, W.D. Texas)

This case was brought by El Paso Legal Services on behalf of Mexican-American children and involves the inadequacy of desegregation and educational programs in that system. The bilingual-bicultural programs have been substantially improved for 1972–73, and the local office is not pressing for an early trial date. We have consulted here and in El Paso concerning discovery and trial preparation. The district may go farther voluntarily on the basis of the 5th Circuit's recent *Austin* and *Corpus Christi* decisions; if not trial will be necessary.

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## WHO REPRESENTS THE PEOPLE ON THE ENERGY PROBLEM?

Mr. MONTOYA. Mr. President, more than 175,000 men and women are "laid off" due to the energy crisis.

An elderly couple dies in an unheated home because their fuel is cut off.

A gallon of gas costs 59 cents in one station and 36 cents in another—in the same city.

The National Petroleum Council says in November that "inventories will be depleted" early in 1974, but the oil companies who are part of that council admit that their reserves are higher now than they were last year.

The same administration who promised to cure inflation with higher unemployment, and delivered instead both unemployment and an 18 percent rise in the wholesale price index last year, now tells us they plan to cure the oil crisis with higher prices. We get the higher prices, but we get the oil shortage too—and promises of worse to come.

Is it any wonder that the American people are angry? They are demanding to know what is going on, and they are asking for some action from the men and women who represent them.

There seems to be an information gap which we cannot close. I have received, as I am sure each of my colleagues has, facts and figures from lobbyists, from various Government agencies, from the administration, from the Cost of Living Council, from the office of Energy Czar Simon. The figures are not always the same, but the interesting thing to me is that when I search out the root source of all this information, I always arrive back at the same place—the oil industry itself.

Mr. President, as I listened to the hearings begun yesterday by Senator Jackson and his committee, I was struck by one thing. The Government of the United States is in the uncomfortable position of having to ask these questions.

No other government seems to be. How did we come to this situation?

There are governments in the world who know the oil answers. They are oil producing nations, of course—but the United States is one of the great oil producing nations. Men in the governments of the Persian Gulf nations know the oil facts. They know how much oil they have in the ground. They know how much they have in reserves. They know—to the drop—how much is pumped daily. They know how much is exported, how much is produced. They know because they are part of the decisionmaking process in this vitally important business.

Their actions in cutting off oil to us or raising prices to the world are taken in what those governments believe to be in the interest of their people. They have the facts to work with, and they acted.

The great international companies who produce, transport, refine and sell oil all over the world—they know the facts, too. They represent their stockholders—as they should—and take the actions they believe to be in the best interest of their companies. High profits, low costs, future expansion, good business practices are all part of their goals. We should not be foolish enough to be surprised when we discover that fact. Whatever the truth of the oil crisis today, these international businessmen were not elected to represent the interests of the American people.

We were.

We represent the American taxpayer. That taxpayer is the man who has supported the exploration for oil all over the world. He is the man who has subsidized the oil industry in every new venture. He is the man who has, by his industry and ingenuity, created the great market for oil which exists today in the industrial world.

The question which faces us today is whether this man—the American taxpayer—has someone who is acting in his interest. He is demanding fast and immediate action now, and he should be. He wants the facts, and he wants to know they are the facts.

Mr. President, I am convinced that we face a serious energy crisis. I am not yet convinced that we have all the information we need to solve that crisis.

We know that windfall profits in the last half of 1973 were as high as 80 and 90 percent more than the same period in 1972. Yet during the same period independent dealers were being forced to close down because of limitations on the gasoline they could purchase.

We know that more gasoline was sold last year than in 1972—and more in 1972 than in 1971. Yet we are told that "voluntary" cutbacks by the consumer have made rationing unnecessary and oil reserves are high again.

We know that the oil inflation is severe and is sparking another serious rise in prices of other commodities. Yet there seems to be no valid explanation for higher prices for domestic oil—the large bulk of what we consume in this country.

We must have the facts. If the recent price hikes are not justified and the profits have been exorbitant, as now seems possible, then we must roll back prices in the United States to a fair and reasonable level.

If it is necessary to freeze prices immediately in order to control the gasoline price spiral, as has been suggested by Senator JACKSON and others, then let us do it.

If we must spend taxpayers' money through tax credits and other subsidies to explore for new energy sources, then let us find out first which energy source subsidy will be most sensible for the American people in the long run.

The Chase National Bank estimated in 1970 that the oil industry would require $1 trillion between that year and 1985. Six hundred billion of that money would go for capital investment and exploration expenses. The industry figured they could generate $200 billion of that exploration and investment money. You and I know that the American taxpayer would, either through tax subsidies or higher prices, be expected to come up with the other $400 billion.

This body is now trying to decide if we can afford $20 billion for research and development of coal gasification, solar energy, gas exploration, other forms of energy for our use.

Mr. President, I think we need some hard answers from the oil producers before we encourage them to plan on help from the American taxpayer in providing that $400 billion.

And surely, Mr. President, we must not hesitate to spend the small comparative amount needed to search for additional energy sources immediately. We must enact legislation to create the long-term energy solutions the American people are entitled to expect. We must enact legislation to control the excess profits resulting from immediate short-term shortages. We must enact legislation to provide this Government with the true information we need to make decisions about supply and demand of an essential commodity—oil.

We must stop being the supplicant of special interests, begging for facts from an industry the taxpayer has subsidized. We represent only one group of people—the American people. Let us start acting for them.

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## LEGAL SERVICES

Mr. BROCK. Mr. President, I wish to offer for the consideration of my colleagues a letter which I received from the Chief of the Exempt Organizations Branch of the Internal Revenue Service, dated July 31, 1972. In that letter, I was advised by the Internal Revenue Service that an organization which envisaged the possibility of lobbying activities of the sort permitted in S. 2686 would not likely qualify for recognition of exemption for Federal income tax as an organization described in section 501(c)(3) of the code.

Mr. President, for the information of my colleagues I ask unanimous consent to have printed in the RECORD the full text of the letter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

INTERNAL REVENUE SERVICE,
*Washington, D.C., July 31, 1972.*

Hon. BILL BROCK,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR BROCK: This is in response to your letter of July 12, 1972, requesting information concerning the tax status of the National Legal Services Corporation. We apologize for our delay in replying, and hope that it has not inconvenienced you.

You state that the Corporation will be established as a private non-profit federally-funded organization under the Economic Opportunity Amendments of 1972. The proposed charter of the Corporation contains a provision relating to lobbying or legislative activities, which you have asked us to review to determine whether the Corporation meets the requirements of section 501(c)(3) of the Internal Revenue Code.

The lobbying provision provides that neither the funds nor the personnel of the Corporation can be used to promote lobbying or legislative activities except where an attorney is acting on behalf of a client, and the activity is conducted in a manner that does not identify the Corporation with such activity, or where the activity is being conducted at the request of a legislative body. In both instances in which the charter permits legislative activity, it requires that it be conducted in a manner consistent with the Code of Professional Responsibilities and Canons of Ethics of the American Bar Association.

Section 501(c)(3) of the Code describes organizations organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation.

The Income Tax Regulations, section 1.501(c)(3)–1(b)(3), provide that an organization is not organized exclusively for one or more exempt purposes if its articles expressly empower it to devote more than an insubstantial part of its activities to attempting to influence legislation.

The Code and the regulations provides that an organization which otherwise qualifies for exemption from Federal income tax as an organization described in section 501(c)(3) of the Code, will not be entitled to recognition of exemption if it engages in or is empowered to engage in more than an insubstantial amount of legislative activities. Therefore, it appears unlikely that the Corporation could qualify for recognition of exemption from Federal income tax as an organization described in section 501(c)(3) of the Code, if its charter contained the proposed lobbying provision.

This letter should not be considered a ruling of the Internal Revenue Service, since we can rule only when a request for ruling is made by the organization affected, or its legal representative.

We appreciate the interest and concern that prompted you to write Commissioner Walters in this matter, and hope that we have been helpful to you. If we can be of further assistance in this matter, please let us know.

Sincerely yours,

—. —. ————,
*Acting Chief, Exempt Organizations Branch.*

Mr. BROCK. Mr. President, it seems to me that if legal services concentrates on delivering high quality representation to individual poor clients, it will be better able to maximize its resources, inasmuch as it will then clearly qualify for tax-exempt status from the Internal Revenue Service. By engaging in lobbying and working for law reform, legal services' attorneys would be shortchanging the poor.

## TRICOLOR TAILLIGHTS

Mr. MOSS. Mr. President, many recent new issues are before the Congress which are critical to the economic health and well-being of the Nation. The urgency of some of these matters has tended to thrust active and pending issues into the background that have previously enjoyed high priorities.

Particularly vulnerable have been matters dealing with motor vehicle transportation. Already we have seen postponement of effective dates for emission control standards. New and stricter safety requirements may also be imperiled due to pressures for improved technology in areas such as fuel economy.

We must not make it easy for authorities in Government and industry conveniently to neglect previously established objectives by brandishing new diversions.

I call specific attention to Senate bill 1166 which I introduced in March 1973. This bill calls for amendment of the National Traffic and Motor Vehicle Safety Act of 1966 to require establishment of a Federal Motor Vehicle Safety Standard with respect to rear lighting.

I am informed that authorities at the NHTSA who are responsible for taillighting are favorably disposed, in fact enthusiastic, about such legislation and that proposed rulemaking consistent with S. 1166, though prepared and ready and thoroughly reviewed, has been suffocating in the redtape of the endorsement system at NHTSA for nearly a year.

I suggest that since the merits of this traffic safety measure have been validated, and that since approximately 50 percent of our traffic accidents and 10 percent of traffic fatalities are associated with rear-end collisions, that these delays are not in the best interests of the American public.

I further call attention to this report published in the Detroit Free Press on November 9, 1973, to wit:

> Rear-end collisions on Michigan legs of the interstate highway system have gone up dramatically. State police won't blame that rise on more slow drivers, but accidents on a whole rose about five percent in the last year, while rear-end collisions went up 18 percent.

In view of these compelling considerations, I urge NHTSA to cease its neglectful treatment of this matter and publish its notice of proposed rulemaking forthwith.

## THE CASE FOR JUDICARE

Mr. TOWER. Mr. President, I am delighted today to call to the attention of my colleagues a recent article by Samuel J. Brakel, entitled "The Case for Judicare," which appeared in the December 1973 edition of the American Bar Association Journal. As is made clear in Mr. Brakel's article, client choice is a far preferable system for the delivery of legal services than is the discredited salaried staff attorney system. What a mistake it would be to lock in, as S. 2686 would do, the unfortunate staff attorney system before the judicare approach has been given the chance it deserves. The Brock-Helms substitute proposal, which I am supporting, would allow a choice between judicare and the staff attorney system, with preference given to approaches for the delivery of legal services which vest the power of purchase in the low income "consumer" rather than in the salaried "provider" of legal services.

Mr. President, I respectfully ask unanimous consent that this excellent article be printed in full in the RECORD, in order that my colleagues may have the benefit of an explanation of the advantages of alternative delivery systems.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### THE CASE FOR JUDICARE

(By Samuel J. Brakel)

(The reliance of the national legal services program on the staffed office for the delivery of legal services is misplaced, an American Bar Foundation study has concluded. Instead of playing a secondary role, the judicare system, which uses private lawyers to deliver legal services, should become the primary vehicle of the national program, with staffed offices supplementing it.)

The American Bar Foundation recently completed a two-year study of the judicare method of delivering legal services to poor people. The study compared programs in Wisconsin and Montana (the only judicare programs of significant duration in existence) with the staffed office system in the Upper Peninsula of Michigan, an area very similar to northern Wisconsin in geography, demography, economy, and culture.

Wisconsin Judicare operates in the twenty-eight northernmost counties of that state. Montana judicare covers only five northwestern counties. The Upper Michigan program covers all fifteen counties of the peninsula by way of six regional offices. The Montana judicare area, despite some obvious differences, still shares many characteristics—especially demographic and economic ones—with northern Wisconsin and Upper Michigan.

The method of study was a combination of field work—personal interviews with program participants such as clients, lawyers, and eligibility certifiers—and an examination of the existing literature on legal services, evaluative material, theoretical pieces, position papers, and proposals, and the official program information forms and statistics.

Judicare seeks to deliver legal services by using private lawyers who practice in areas where the poor clients live. Eligible clients select lawyers of their choice and go to their private offices for service. The lawyers, if they accept and complete the cases, are compensated by the government via the program's administration on a per case basis. Judicare activity is usually only a small fraction of each lawyer's total practice.

The staffed office model, by contrast, employs salaried attorneys to work full time on the delivery of service to poor clients from strategically located special poverty law offices.

Since the mid-1960s, when as part of the general war on poverty effort, the federal government committed itself significantly to the problem of providing legal services to poor people through the Office of Economic Opportunity, the staffed office model has been the dominant approach, the prototype. Judicare has been in the position of a weak challenger, to put it in competitive terms. For example, in 1972 there were some three hundred legal services programs of the staffed office variety drawing roughly $60 million in federal funds, but only two judicare programs (Wisconsin and Montana) receiving about $300,000 combined. Other, less tangible indications of the national commitment to the staffed office approach over judicare have been apparent. Reports, speeches, and resolutions to the effect that judicare is less effective or more costly than the staffed office model, or both, have issued with regularity from the legal and legal services establishments.

The thrust of the conclusions reached by the American Bar Foundation study is that the national legal services program preference for the staffed office system is neither well founded nor well conceived, and that a precise reversal of roles allocated between the private and public legal sectors is called for, with the private bar assuming the dominant part in the delivery of legal services to poor people and staffed office lawyers playing an ancillary and specialized work.

#### THEORETICAL POINTS NEED CONSIDERATION

Some nonempirical issues merit discussion first.

#### *Oversimplification*

It has become commonplace to hear persons speak of "changing the condition of the poor through law" or even of "eradicating the causes of poverty." The theory has emerged that one cannot leave the job to the average practicing lawyer; instead one needs a corps of idealistic, professional, poverty law experts to work in neighborhood or regional offices and use novel legal strategies. The private bar, often mistrusted and viewed as incomplement or at the least thought to be inefficient and insufficiently committed to this cause, is to be relegated to an incidental and negligible role.

The trouble with this theory is that it is based on an oversimplification of what poverty is and underestimation of its complexity, resulting in an undue optimism of what can be done about it. And just as the goals are unrealistic, the means—the staffed officers and their specialists—are less than apposite to the real problems of providing legal service to the poor. In fact, the unreality of goals and means has made a degree and sense of failure inevitable. The staffed office system has not been able to meet its own goals and standards or the expectations of those who never shared the institutional optimism.

While the national legal services program has done much good and received due recognition for it, it has at the same time been open to serious criticism from all parts of the ideological spectrum. It has been faulted on the one side for having grandiose goals and for attempting to attain them and on the other for failure to attain them. It has been accused of wasting public funds in some areas and of being too efficient in others.

#### *History*

Another reason for the staffed office dominance in the national legal services effort is the historical one that private legal aid to the poor in the decades preceding the national governmental effort had come to rely primarily on the legal aid society model, which closely resembled the staffed office system. Perpetuation of the "traditional" was a motive. O.E.O. simply adopted the existing system. Other than its prevalence, there was little in the evolution or the level of performance of the legal aid society model that supported its adoption as the national model for government-financed legal services to the poor. To the contrary, it can be argued that the model was necessitated by the lack of a firm and unified financial or philosophical commitment to serve the poor, and that once that commitment was made through the Economic Opportunity Act of 1964, the legal aid society model became obsolete.

While private legal aid did provide worthwhile services, one cannot ignore its serious quantitative and qualitative shortcomings, and the automatic adoption of that model is the kind of mystery for which there is no simple explanation.

### *Other analogies*

Analogous experiences with delivery of other services to the poor hardly provided a better basis for favoring the staffed office approach for civil legal services. Several studies of the public defender system have been made, but none presents any evidence, let alone persuasive support, for the proposition that it is preferable to methods using private lawyers. Experiences with medical services programs for the poor and the aged have brought the problem of cost to public attention and have created public alarm. Inferences have been drawn that services of any type are delivered uneconomically by the private sector.

There are some serious problems with that reasoning, however. In the first place, it is debatable whether easy analogies between medical and legal services can be drawn safely. It appears doubtful, moreover, that the cost problems of the medicare-medicaid programs are attributable to inherent or even latent properties of private sector participation. More likely, they resulted from the lack of cost controls and were destined to result, under any circumstances, in the face of spiraling costs.

Various other assumptions and arguments must have played a role. The fact that the national legal services movement came at a time when many persons seeking reform had an unduly optimistic view of the assured success and economic advantages of direct federal intervention where local resources had proved deficient—amounting to a perception of imperative need for interventions—probably figured heavily. This posture of Washington omniscience is also characterized by a profound cynicism about private lawyers (especially rural lawyers), who often are viewed as incompetent and as little more than reactionary bigots out to rob the poor. This provides the justification for creation of the new order of professional problem solvers, pure of motive, without prejudice, and free from the pull of personal ambition or other human weaknesses.

The sum of it all is that it is difficult to find either historically comprehensible or normatively valid reasons for the national program's overwhelming commitment to the staffed office model.

### *Matters of logic*

The fundamental perspective from which the entire legal services controversy must be examined can be stated as a procedural rule, although it has crucial substantive implications. It is that the burden of proof should be on those who advocate the inherently astounding position that poor persons, perhaps a quarter of this country's population, should receive legal services by way of a system that virtually precludes participation of the existing private bar. If the discredited analogy between legal and medical services be made, one is tempted to make it in this context to bring home the full force of the point. Imagine a system that attempts to meet the medical needs of the poor by extending private medical practitioners!

There are many dimensions to this intuitive perspective, including questions about volume of legal need, manpower resources, quality of service, expertise, specialization, and so forth—in sum, the problems that were dealt with concretely in the American Bar Foundation study. But one proposition is clear. The proponents of the staffed office model have not met this burden of proof, or even recognized its existence, in framing their arguments or presenting their explanations of the present order. The performance of the staffed office has not met, and cannot meet, this burden. The empirical conclusions of the study demonstate that point.

## EMPIRICAL CONCLUSIONS REINFORCE THE THEORETICAL

The empirical data from the Foundation study reinforce the theoretical arguments that the judicare system is more responsive to the problems of delivering legal services to the poor than the staffed office.

### *Reaching the poor*

Judicare, through its use of existing lawyers distributed throughout counties and local communities and its use of social service agencies as eligibility certifiers, is well designed to reach the poor. Under a judicare system, poor people are likely to become aware of the services available earlier, easier, and at less expense of attorney time that under the staffed office model. The disadvantages of involving social service agencies in eligibility determination are minimal and are offset by concrete and psychological advantages of judicare card distribution.

### *The lawyers*

The choice of lawyer that clients have under judicare is a very significant advantage over the choiceless staffed office. Judicare clients in many instances exercise that choice intelligently and effectively. Private lawyers—even in the comparatively small and homogeneous areas of rural northern Wisconsin or western Montana—are a diverse group in terms of legal and philosophic habits and attitudes. These characteristics and the reputations of private lawyers—especially in rural areas—are well known among the target population and enable clients to make meaningful choices.

Private lawyers in the judicare areas studied were well distributed on the whole, although a few counties had problems in this regard. Few lawyers in a given county meant limited choice and access for clients. More significantly, it increased the likelihood that no lawyer with adequate commitment to serving the poor could be found. The attitudinal commitment of the bar to the judicare program is one of the crucial elements in the performance of the judicare system. That commitment translates directly into the volume (and the type and probably the quality) of service provided and influences the total shape of—including client demand for—legal services. In a few counties, even some with a good number of lawyers, adequate commitment is lacking and the judicare performance suffers.

The staffed office, however, is hardly preferable in this respect. Since there is no other recourse for clients under the staffed office model, any flaw in staff attorney attitude or practice—even if only subjectively valid—is essentially fatal from the individual client's standpoint. That being the case, staff attorney inexperience and the pressures of caseload, time, and money caused by the typically massive geographical and substantive problem areas to be covered by one or two staff attorneys assume a special seriousness. Staffed office statistics showing very large volumes' of cases handled and balanced geographical distribution of clients bringing cases are largely illusory. These statistics do little more than reflect insufficiency of analysis or differences in recording practices between staffed office and judicare programs, rather than disparities in substantive accomplishment.

### *The cases*

Often criticized for failing to provide an adequate range of legal services, judicare in fact—from examining the performance of both the private lawyers and the central office—compares favorably to the staffed office. A high proportion of domestic relations cases appears to characterize all legal services programs for the poor, regardless of model or location. Beyond that, the private attorneys under judicare as a group are involved in as diverse a range of services, whether measured by impact or by the standard type of case categories, as the group of regular staffed office attorneys we studied. High turnover of and the consequent lack of experience among staffed office attorneys negate any advantages of "expertise" and "commitment" sought in staffed offices.

Under both models, much of the obvious impact work, by definition perhaps, is left to the central office. Centralization has an undesirable aspect because it means remoteness from local perceptions of local problems and resolutions. The staffed office model is more susceptible of the criticism of central remoteness than the judicare model, which has the local private attorneys distributed throughout the communities as a buffer against overcentralization.

Neither model comes close in practice to living up to the more excessive rhetorical demands for impact work. The concrete experience of attempting to meet the legal needs of real, individual clients does much to undermine the validity of the substantive, strategic, or evaluative emphasis on "law reform."

### *Quality of service*

Poor clients themselves exhibit a pronounced preference for judicare over the staffed office. They are more satisfied as a group with judicare experiences than with staffed office service, and in addition they show a strong nonempirical preference for judicare when asked which of the two they favor. The individual's choice of lawyers plays a large part in the judicare preference, but the clients' favorable attitudes toward and experiences with local private lawyers are also crucial. The clients' views on these issues are important not only because clients are the central participants, the beneficiaries, in legal services programs, but also because their views are often objectively persuasive and cogent. The quality of judicare services and the emphasis on individual, local problem perceptions and responses are also supported by the high rate of favorable outcomes of individual clients' cases.

### *Cost of service*

There is no credible evidence that judicare is more costly than the staffed office. Wisconsin Judicare operates on a budget that is considerably lower in dollars per eligible family than the budgets of comparable rural staffed office programs. An item-by-item examination of the Wisconsin Judicare and the Upper Michigan staffed office budgets shows that while judicare professional services are somewhat more costly than staffed office professional services, this is more than offset by judicare savings in nonprofessional service and management (space and equipment rental, travel, and various miscellaneous items), the costs of which are typically absorbed in a large part by private lawyers under judicare but fully charged against the staffed office program.

## WHY IGNORE THE OBVIOUS

Throughout the course of this study we often were struck by the obviousness of the case for judicare. The case for the staffed office model was essentially one of objection to the obvious, although this was not perceived by the staffed office proponents themselves. As it turned out, the objections to the obvious were projections about the deficiencies of the nonobvious: that is, most of the criticisms of the judicare model applied as much, and sometimes more, to the staffed office model. This was true whether one judged by "reasonable" and "realistic" standards and expectations or whether the more grandiose and unrealistic criteria (the O.E.O. institutional standards) were applied.

We are convinced that the judicare method for delivering legal services is sound and should be the basis for the national attempt to help the poor use legal resources. The central office, the staffed office, and the staff attorney should function to supplement judicare, fill in the gaps, supervise, co-ordinate, and in exceptional circumstances perhaps intervene in (by prohibiting or activating) local judicare problem resolution. The role of the central offices and staff should vary with the performance of the primary judicare component. Perhaps in some areas no office would be warranted or necessary, and a staff attorney would ride circuit, whereas in regions with different geographic or demographic characteristics, offices manned by several staff attorneys would be desirable. The functional scope and activism of central offices also will vary. The fundamental change from the prevailing situation is that the staffed central offices would be ancillary to the primary role played by private lawyers under the judicare system.

### DETAILS IN URBAN AREAS ARE CRUCIAL

The implementation of this reversal will involve details beyond the scope of the Foundation study. Some staffed offices can be eliminated, others reduced in staff, some relocated, others left on location. There will have to be drastic reallocation of funds. There will be a need for far fewer staff attorneys per area than now, and those that remain will do entirely different work. They no longer will be dealing with massive caseloads of routine problems or dabbling in self-generated "law reform." Instead their roles will be largely administrative and supervisory, with perhaps an occasional foray into "impact work" when local conditions dictate it. This, incidentally, does not downgrade the staff lawyer's role.

Today continued experimentation with judicare—especially in California, which is about to embark on several years of large-scale experimentation—provides the opportunity for supplying the detailed data required to implement the fundamental reversal advocated here. This opportunity should not be squandered through politics or thoughtlessness. Details on judicare in the large urban centers, where nonempirical doubts about the feasibility of judicare are strongest and empirical data the thinnest, are especially crucial.

Note, however, the word "details." That judicare should be operative in the big cities is beyond question. The involvement of private urban lawyers, especially minority lawyers, is essential to the success of legal services in the urban areas.[1] Only a question of degree remains: How large, where, and how active should the supplemental staffed offices be in urban areas?

Judicare is fully consistent with poor people's entitlement to and need for legal services. In fact, in terms of political strategy, judicare is advantageous in that it undercuts those who use opposition to the staffed office system as a guise for opposition to the concept of providing full legal services to the poor. That opposition and its implementation in the form of drastic curtailment or emasculation of the concept of legal services is not an imaginary prospect, as is attested, for example, by the form of the legal services corporation bill passed by the House. That bill includes prohibitions on providing legal assistance in school desegregation cases, abortion cases, selective service matters, and in cases of desertion from the Armed Forces.

A recent *American Bar Association Journal* editorial (May, page 522) stated—with good reason—that these limitations "would impair professional responsibility . . . [and] . . . run counter to the general principle that the poor should have the same right to resort to the courts as the well-to-do and also raise problems of professional ethics." The advocates of these limitations frequently have raised the largely imaginary specter of "radical, irresponsible" O.E.O. lawyers to support these prohibitions. Under judicare, the private bar will be engaged in these activities. It becomes somewhat more difficult to support the prohibitions under that circumstance.

### NEW BOOK ON LAW OFFICE EFFICIENCY

The American Bar Association has recently published *Law Office Efficiency*, which contains edited speeches presented at the first Joint American-Canadian Economics Conference held in Toronto on June 1–4, 1972. It features noted experts from the United States and Canada discussing new developments and changing needs in the area of law office administration. Subjects included are: "Law Firm Growth"; "Practical Training for Young Lawyers"; "The Legal Assistant Concept"; "Legal Assistants in Specific Fields"; "Structuring for Efficient Management"; "Time Utilization and Management"; "Financial Management for Law Firms"; and "Commentary on a Technological Society."

Copies may be obtained for $10.00 each from Circulation Department 3025, American Bar Association, 1155 East Sixtieth Street, Chicago, Illinois 60637.

### NEW BOOKS ON ENVIRONMENTAL LITIGATION

The section of Insurance, Negligence, and Compensation Law of the American Bar Association is publishing a three-volume series entitled *Environmental Litigation*. The first volume, which costs ten dollars, is now available.

Volume I, II, and III will be subtitled, respectively, "Planning, Environmental Science and Aviation," "Environmental Systems Science," and "Toxic Substances and the Environment."

Copies of volume I are available from Circulation Department 6066, American Bar Center, 1155 East Sixtieth Street, Chicago, Illinois 60637.

The final product of the American Bar Foundation's judicare study is a book "Judicare: Public Funds, Private Lawyers and Poor People," which is scheduled for publication in February of 1974. Other publications growing out of the study, both by Samuel J. Brakel, are "Wisconsin Judicare: A Preliminary Appraisal" (1972, $2.50), and "Free Legal Services for the Poor: Staffed Office vs. Judicare: The Client's Evaluation," 1973 Wisconsin Law Review 532, reprinted as American Bar Foundation Research Contribution No. 3 (1973, 50c), both of which are available from Publications, American Bar Foundation, 1155 East Sixtieth Street, Chicago, Illinois 60637.

(Mr Brakel also is the author of "The Trouble with Judicare Evaluations," 50 A.B.A.J. 704 (1972).)

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## INCREASED BENEFITS FOR VIETNAM VETERANS

Mr. BENTSEN. Mr. President, in this morning's New York Times there appears an article by the senior Senator from Hawaii, DANIEL INOUYE. Senator INOUYE makes an eloquent appeal for congressional action this year to provide increased benefits for Vietnam veterans.

He makes a clear case that veterans of this war are in danger of being forgotten. Vietnam era veterans are being short-changed in their efforts to get a college education or technical training and we in the Congress have a special duty to remember the sacrifices that the Government demanded of these young men, and to make sure that those sacrifices do not go unrewarded. Senator INOUYE points out that Vietnam veterans are receiving less than $2,000 each academic year to pay for their tuition, books, and living expenses and that this figure often falls $700 to $2,000 short of the actual cost of their education.

That, Mr. President, is unconscionable and we owe a debt to the illustrious Senator from Hawaii for reminding us of this shameful situation and for proposing legislation to deal with the problem.

The Vietnam veteran could have no more effective supporter than the Senator from Hawaii. He is a man who shares their cause in a special way. He served his country valiantly in World War II and, as he points out, he benefited greatly from the programs initiated for veterans of that conflict.

I hope that my colleagues will give special heed to this statement by Senator INOUYE and that the second session will be the time that the Congress moves to treat the Vietnam veteran with fairness, compassion, and the equity due those who have carried the burden of war.

I ask unanimous consent that the article by the senior Senator from Hawaii be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 23, 1974]

### A FAIR DEAL FOR VIETNAM VETERANS

(By DANIEL K. INOUYE)

WASHINGTON.—One year ago today, President Nixon announced we had achieved "peace with honor" in Vietnam as a cease-fire agreement was reached. He called on us to be proud of the two and a half million young Americans who served in Vietnam. Later in his State of the Union message the President asserted: "A grateful nation owes its servicemen and women every opportunity it can open to them when they return to civilian life. The nation may be weary of war, but we dare not grow weary of doing right by those who have borne its heaviest burdens."

When I returned home from World War II, like millions of other veterans, I was able to go to the college of my choice under the G.I. bill of rights. A "grateful nation" provided for my tuition, books and fees at the University of Hawaii and George Washington University Law School and a monthly subsistence allowance of $115. With my disability pension of about $200 and my wife's salary, our income was about $800 a month. I don't think many students could have matched that, and such high living was a new experience for us.

Seven million World War II veterans used the G.I. bill. The lives of each of us were changed by the opportunities provided to us. I do not believe I would be in the Senate today without having been a beneficiary of the bill.

Unfortunately, the homecoming of the Vietnam veterans is far different. President Nixon's words ring hollow in the ears of hundreds of thousands of Vietnam veterans who can't find work and can't afford to go to school. These brave young soldiers who gave up the comfort of peaceful homes and years of economic and educational advancement to answer a call to duty are denied benefits or receive benefits not at all comparable to those received by veterans of World War II and Korea.

The Administration has fostered the illusion that today's veteran is as well-treated as his father was. He is not. Presidential impoundment of funds designed to aid student veterans and Administration opposition to increased educational benefits despite misleading rhetoric, has caused the Vietnam veteran to feel that he fought the wrong war at the wrong time.

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[1] Clark, *The Minority Lawyer, Link to the Ghettos*, 55 A.B.A.J. 61 (1969).

Today's veteran is eligible for a lump sum of $220 per month or $1,980 for each academic year. Out of this he must pay for tuition, fees, books and living expenses. Two separate studies, by the prestigious Educational Testing Service for the Veterans Administration and by the Special Veterans Opportunity Committee for the National League of Cities and the United States Conference of Mayors, have documented that present benefits are inadequate.

The Vietnam veteran has less purchasing power for four years in college than did the veteran of World War II after adjustments are made for cost-of-living increases. He is priced out of the private-college and graduate-school market. Unless he lives in a state with a large number of community colleges or inexpensive four-year public colleges, it is unlikely he can afford a college education. A young veteran attending an average four-year public institution falls $700 to $2,000 short of the amount needed to pay for tuition, books, fees and living expenses each year.

The unemployment rate among Vietnam veterans, especially minority and undereducated veterans, remains consistently high. The veteran is squeezed from both ends: Because he lacks education and training he cannot get a job; yet without a job to supplement inadequate G.I. benefits, he cannot get training or an education. Part-time jobs are not available. And as the energy-crisis job cutbacks have begun, the Vietnam veteran who lacks training and seniority has been the first to be fired. Present state and Federal job programs for ex-servicemen just don't do enough to offset depressed job markets.

All the men who fought in World War II and Korea returned as heroes. But Vietnam was the war nobody liked, and everybody now wants to forget. Yet although we disagreed over the motives, methods, and purpose of American involvement in that tragic war, I believe the great majority of Americans agree that the Vietnam veterans deserve something better than what they are getting.

Over a fourth of the Senate has joined in co-sponsoring the proposed comprehensive Vietnam era veterans education benefits act. The legislation would bring educational, job and monetary benefits for Vietnam veterans to a level more equal to the benefits enjoyed by veterans of previous wars.

"All we want is the chance that the guys got who didn't have to go," said a returned veteran. It will be a national tragedy if those young Americans who did go to Vietnam, many as involuntary draftees, are now denied the opportunity to be trained and educated to their fullest capabilities because this nation has grown weary of doing right by those who did its fighting.

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## FAA ADMINISTRATOR BUTTERFIELD SPEAKS ON ENERGY CRISIS IMPACT ON AVIATION

Mr. PEARSON. Mr. President, the American people and the National economy depend upon mobility. The unique capacity of our integrated national transportation system has been of singular importance in our successful efforts to promote a balanced, vigorous economy.

The American aviation community is vital to our transportation system, as it has developed in the marketplace over the past quarter-century. Aviation, considered as a single industry, is the Nation's largest employer and a major factor in our balance-of-payments position. The airlines are, by far, the most important public carriers. In 1973 the airlines carried more than 200 million Americans intercity and abroad. The general aviation community, including about 140,000 utility and personal aircraft, transported another 70 million persons. General aviation made incalculable contributions to our agricultural production, and moved freight and people to less populated points not served by the scheduled air carriers.

Mr. President, the energy crisis has posed a particularly challenging problem for aviation. I am pleased to note, however, that Government officials and representatives of the aviation community, under the leadership of FAA Administrator Alexander P. Butterfield, have been meeting and exchanging ideas and information in a common, and mutually rewarding, effort to meet the challenge.

At the Wings Club in New York, on January 16, Mr. Butterfield outlined the FAA's efforts to work with the aviation community, and the successes which have been recorded. The goals of Government and the industry include maximum fuel economy. But they also include survival of the aviation community upon which all of us depend for personal services and economic progress in the difficult years ahead.

Mr. President, I ask unanimous consent that the text of Mr. Butterfield's remarks to the Wings Club be printed in the Record immediately following this statement.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

### REMARKS PREPARED FOR DELIVERY BY ALEXANDER P. BUTTERFIELD, ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION TO MEMBERS OF THE WINGS CLUB, NEW YORK, N.Y., JANUARY 16, 1974

I was delighted to accept Harding Lawrence's invitation to meet with you today. It gives me the unusual opportunity of talking about the business of aviation with aviation businessmen. Of interest to you all, I'm sure, are the prospects for our industry in this new year and the steps government and industry jointly are taking to lessen the impact of fuel shortages on aviation transportation.

Events of the past year have bordered on the paradoxical for all segments comprising aviation, the largest of American industries. It has not been, by any means, a vintage year, yet business has never been better.

According to the Aerospace Industries Association, 1973 manufacturing sales climbed to $24.9 billion—more than ten percent greater than 1972 sales. And, looking toward the future, industry's authoritative publication, data marketing service (DMS), following an exhaustive analysis of business indicators, is confident that aircraft production will rise by 41 percent during the next ten years. In its world forecast for the period 1973–1982, the DMS estimate is that some $134 billion worth of military, commercial and general aviation aircraft will be built.

As for the airlines during the year past, the Nation's scheduled carriers boarded more than 200 million passengers, and the switch to air travel over other public transportation modes continues to climb.

Air freight movements are growing dramatically, too. During 1973, the airlines set a record of more than $1 billion in freight revenues for a single year. Last, but by no means the least, general aviation manufacturing—industry's belwether—has also boasted dramatic increases in units sold as well as net billings. During 1973, the industry sold 13,645 aircraft with wholesale factory billings exceeding $826 million. This represents a 40 percent increase in sales and a 48 percent increase in billings over 1972. Especially noteworthy is the fact that more than one-fourth of these sales, a quarter-of-a-billion dollars, were sold abroad—in the face of an increasingly stiffening international market.

Right now, the Soviet Union is greatly interested in our air traffic control system equipment and procedures.

In July, I travelled to Moscow to discuss this. They're interested, and if they buy, their purchase of U.S. air traffic equipment during the next ten years might well top a billion dollars.

So prospects for 1974 are good. But as the aviation industry has moved into the economic climate of the New Year's first quarter, the incursive threat of petroleum shortages, unless we plan carefully, may disrupt this most vital aspect of transportation, slow the nation's business dangerously, and impact the entire economy. To give perspective to the economic impact of the fuel shortage and its associated increase in fuel prices, each one-cent rise in the price of fuel costs the airline industry $100 million annually.

Needless to say, the Federal Aviation Administration, acting as the catalyst with industry, is planning carefully—perhaps as never before—to avert an aviation crisis in both private and commercial transportation. And, we are, I am confident, succeeding.

It's a challenge. It affects everyone in the nation, all 210 million of us. No one can escape it, and each of us has an important role in meeting it. Much of our energy has been used wisely to make our lives more comfortable and to improve our standard of living. Nothing wrong in that. But we Americans over the years have looked upon energy, petroleum supplies in particular, as an unlimited economic resource almost like air.

For some time, President Nixon has been determined that we change our habits and attitudes to conform with energy realities. In April 1973, he launched a major program to deal with our energy problems as they then existed. At that time marginal shortages were predicted but they could have been handled with minimum impact. The middle east war, of course, changed all that. The war turned a petroleum problem into a full-fledged crisis. I won't recite the statistics of fuel shortfalls since Arab embargoes became effective. You are as familiar with them as I am.

Some of what you've heard about shortage of petroleum products for the aviation industry is accurate; some is exaggerated; some misleading; and much of it simply not true.

Admittedly, there remains considerable confusion as to the exact nature, depth and extent of the petroleum shortage for all users, including aviation. Bill Simon's office is working hard at this moment to obtain better data on the problem. FAA is working with the Federal Energy Office, with the department of the Interior, other agencies of the Department of Transportation, and with industry trade organizations to develop workable, practicable fuel conservation allocations, flight procedures, and air system management techniques.

In late October, and again last Friday, January 11, FAA held consultative conferences with major elements of the industry to seek solutions to the energy problem.

The meetings were invaluable because they placed FAA and the transportation industry somewhat ahead of the power curve in meeting both short and long-range effects of fuel shortages now emerging. Follow-on action responsibilities for industry, the FAA, and mutual FAA/industry actions to meet the emergency have been identified.

As a result of these meetings, a number of very significant fuel saving programs and activities were determined. The use of aircraft simulators for pilot training and flight checks is both a good and a typical example. At the time of our October conference, FAA had already taken steps to increase the use of simulators as a conservation measure.

Spurred on by conference suggestions, FAA finished processing comments and published the final rule 22 days after the comment period closed on December 6. This single step will save 3,300 barrels of fuel daily. What's more, we anticipate that the increased use of flight simulators will result in a considerable improvement in training efficiency without the slightest derogation of safety.

Taxiing with fewer engines is also a promising fuel conservation measure. This procedure is currently under study by FAA, the Air Transport Association and the Environmental Protection Agency. If safety and environmental considerations of taxiing on reduced engines prove acceptable, voluntary compliance will be launched this month.

We're also moving along as quickly as possible to improve our current area navigation system (RNAV). For those of you not entirely familiar with RNAV, this is a technique that permits more direct routings with a resultant saving in fuel. We are now running a complete cost-benefit analysis to determine the payoffs stemming from RNAV use. For your information, as of January 1, 1974, there were 164 RNAV jet routes and about 150 RNAV instrument approach procedures.

On November 20, again as a result of intelligence developed during FAA's October 24 consultative conferences with industry, I announced a seven-point program for increasing aircraft operational efficiency and designed to save up to 20,000 barrels of jet fuel per day.

The savings, incidentally, would amount to 2.7 percent of the total amount of jet fuel consumed daily in the United States and, moreover, will be accomplished without compromising aviation safety. Some of these actions include: Revision of gate-hold procedures; revision of air traffic flow procedures; the increased use of optimum aircraft cruising speeds; holding aircraft at higher altitudes to effect greater fuel savings; and taxiing aircraft with fewer engines.

On November 21 air traffic controllers throughout the system were issued the following instructions:

1. Relax the requirements for preferential routings, which frequently impose fuel penalties, during periods when there is no valid operational need.

2. Assign the most economical altitude.

3. Approve direct routes through use of direct radar vectors whenever possible.

4. Discontinue standard terminal arrival routes and standard instrument departure routings when not warranted.

5. Honor requests for direct radar vectors to reduce time and distance flown. Also, volunteer this kind of service when the opportunity presents itself.

As the result of these instructions, FAA traffic flow control procedures have been streamlined and the airlines have achieved substantial improvements in optimizing cruise speeds. We are hopeful of still more improvement in flow control with FAA, air carriers and the Air Line Pilots Association working together.

To be candid we're not winning them all. For example, we worked very hard on studies to accelerate runway and taxiway improvements as a further means of fuel conservation by improving ground movement procedures. We found that little could be accomplished this winter. Indeed, our analysis determined more fuel would be used in speeding some few projects over a 90-day period than would be saved. So, in this project as with several others I won't bother detailing here, we shifted our attention to conservation efforts that could be achieved over the next two years.

Among these intermediate term programs is the towing of aircraft from gate to takeoff point. The description of the plan presents no obstacle. Actual accomplishment, however, is quite another matter.

For one thing, there is very little equipment available at most airports to accomplish this task. Whether development and introduction of such equipment will prove to be a cost effective conservation item is now under study and will be decided upon within the next thirty days. Another project under intensive study is the problem of mechanically/electronically sensing and predicting dangerous wake vortices caused by larger jet aircraft.

Hopefully, a system of sensing and predicting the wake vortex of large jets, eliminating thereby the threat to smaller aircraft on the same flight path, will see the development of computerized metering and spacing of air traffic. This development, inevitably, will conserve fuel since it will increase system capacity.

At the present time, the FAA is holding to a first-come first-served arrival at airports. We believe that the fuel conservation efforts of *all users* of the system are best served by this method. However, an exhaustive analysis of a possible priority system for large, heavy fuel-using transports versus small aircraft is under study. As you can readily understand, fuel conservation is as important to, say, a business aviation pilot flying a single engine aircraft as it is to the pilot of a 747. In this connection, I am pleased to say, all elements of the aviation community, the air carriers, business aviation and the private pilots alike, are working in harmony toward solving the problem.

We have also taken specific action within the FAA to conserve fuel.

In FAA's aircraft operations program, we have reduced training and proficiency flight hours for an annual fuel savings estimated at 220,000 gallons (5,300 barrels). We are using visual simulators. We have considerably tightened up on our in-house flight training requirements. We are modifying the frequency of our flight inspections. Overall, we estimate this will save, on an annual basis, approximately 2,000,000 gallons of fuel (48,000 barrels).

FAA is also deeply involved in the mandatory fuel allocation program, particularly the notice of proposed rule making issued on December 13, 1973, by the Federal Energy Office. The FAA and the other modal administrations of the Department of Transportation conducted a comprehensive analysis of the NPRM.

Especially gratifying to me during this period were the extensive and important contributions all segments of aviation made to provide workable conservation solutions. This is not rhetoric. The FAA and, I know, other Government agencies involved in the fuel allocations process were gratified at industry's constructive inputs.

As some of you know, the Federal Energy Office accepted, and incorporated to some extent, practically all the recommendations. The adopted mandatory fuel allocation regulations were issued by FEO on January 2, 1974. Shortly thereafter, the changing fuel crisis impelled FEO to amend the rule, increasing allocations, where possible, and revising procedures to minimize the impact on industry.

FAA's principal objection to the proposed new fuel allocations was that aviation was not being treated equitably compared to other transportation modes. For example, the proposed regulations for public surface transportation of passengers allocated 100 percent of current requirements, up to 150 percent of base period fuel consumption, and 110 percent of 1972 consumption freight, cargo, and mail transportation. By contrast, air carriers would have received only 85 percent of base period consumption. Naturally, we strongly recommended increasing the air carrier allocation. We also pointed out, for example, the economic penalties resulting from cutbacks in agricultural aviation and the disruption to communities presently served by air taxis.

The fuel allocation regulations printed only yesterday in the Federal Register admirably reflect the successful joint efforts of the FAA and the aviation industry in achieving some measure of equity.

For example, the allocation proposed for agricultural flying, emergency activities, manufacturing and test flight was originally 90 percent of the 1972 base. This has been raised to 100 percent of current requirements. Air taxi, commuter and local service operations which would have been allocated 90 percent were also raised to 100 percent of the base period. Air carriers have been raised from 90 percent to 95 percent of base. Business flying, which would have been allocated only 80 percent of base, was raised to 90 percent.

Fuel for public flying, both Federal and State, was raised from 75 percent to 85 percent; and fuel allocations for personal and instructional use and travel clubs, too, were raised from a proposed 70 percent of base to 75 percent.

As you can see, the final allocations are significantly larger than those proposed in almost every case. In addition, the FAA asked that the definitions section be revised and expanded to include aviation segments previously excluded, such as air travel clubs and scheduled helicopter service. Other aviation segments were also shifted to higher percentage figures.

Throughout all phases of the development of the mandatory fuel allocation program, FAA has served as an effective catalyst.

By consulting with the aviation industry and pooling our talents and resources, we have been able to convey an accurate assessment of what aviation could sensibly absorb in fuel cutbacks.

The new regulation, I believe, is sensible and provides a more equitable distribution of available fuel supplies. Many complexities, of course, remain. Allocation regulations cannot guarantee deliveries at the pump. Undoubtedly, there may be a measure of uncertainty as the new regulations take hold across the Nation. But be assured, all of us in Government—FAA in particular—are working to solve the problem. As I said earlier, industry and Government are planning carefully and working in closest harmony as never before to avert a crisis in transportation in both commercial and private aviation transportation. We are succeeding.

In closing, I would like to pay particular tribute to the mature understanding and judgment displayed by all elements of aviation—particularly, private aviation. The private aviation fleet, as well as the fixed base operators serving them, are the heart of this Nation's aviation industry. The most succinct definition I've heard in describing private aviation is quite simple: air transportation on demand. The fleet comprises some 140,000 business, commercial and personal planes. They serve all of the Nation's 12,000 airports. They carry the benefits and mobility of air transportation to virtually everyone, including the millions of Americans who live outside of the metropolitan areas which the airlines serve through less than 800 airports.

The energy crisis has struck hard at this segment of aviation. For the most part, their reply has not been one of resentment but a concerted effort to devise workable solutions. They've planned their work and are working their plan. Their attitude is right on. They deserve a special commendation. This segment of industry has mine. I'm sure it also has yours.

In this regard, I might add, one of the complexities for the Federal Aviation Administration has been in trying to deal fairly with the many disparate elements comprising private aviation. What is good for the AG pilot and his industry is not necessarily appropriate for, say, the commuter industry, corporate aviation, or personal aircraft use.

I pledge that no longer is FAA going to treat private aviation as a single segment. We are now carefully considering the specialized needs of each as a separate entity, as we have with the air carrier industry.

In the future, aviation in all its varied dimension will be assured of careful assessment tailored to their needs so as to create a viable industry able to make a continuing contribution to this Nation.

Thank you.

## A NEW PANAMA CANAL TREATY

Mr. BIDEN. Mr. President, the issue of the negotiation of a new Panama Canal treaty once again occupies our attention following negotiations resulting in a preliminary agreement between Ambassador at Large Ellsworth Bunker and Panama's Foreign Minister, Juan Antonio Tack. This agreement is regarded as "a very important step" to the eventual negotiation of a treaty to replace the 1903 treaty. The possible negotiation and subsequent ratification of a new treaty have vociferous opponents and advocates. Some support Panamanians in their quest for a new treaty representing U.S. good will and the sense of partnership and cooperation. Others insist that maintenance of the present treaty is essential to the protection of U.S. strategic—defensive—and commercial interests. I have had the opportunity to read an article by Richard Hudson that affords valuable historical perspective as well as an investigation of some opposing viewpoints in the treaty issue.

Mr. President, I ask unanimous consent that an article from the New York Times of January 6, 1974, discussing the canal issue be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### A GATHERING STORM OVER THAT OTHER CANAL

(By Richard Hudson)

The Panama Canal is part of the coastline of the United States. Its protection is just as important in the defense of the Western Hemisphere as is that of the Chesapeake or San Francisco Bays.—Representative Daniel Flood, Pennsylvania Democrat, on the floor of the House of Representatives.

Let the ambassadors of the friendly republics and the members of the foreign press here present answer: What nation of the world can withstand the humiliation of a foreign flag piercing its own heart? Brig. Gen. Omar Torrijos, Panama's strong man, in a statement in the five official U.N. languages on a huge signboard across the street from the meeting place of the Security Council sessions in Panama City in March, 1973.

These two quotations illustrate the poles of opinion in a conflict that is simmering slowly but which could boil over into violence if new negotiations on the Panama Canal now under way do not succeed. To complicate the problem further, the Nixon Administration finds itself becalmed in the middle, with a position that will satisfy neither the Panamanians nor the Congress-Pentagon alliance represented by Congressman Flood.

Into the imbroglio has stepped—who else?—Ellsworth Bunker. The Panama Canal situation seems made to order for him, since he has long specialized in problems apparently without solutions. At 79, Mr. Bunker has perhaps been directly involved with more intractable international issues than any man alive, having been concerned with strained U.S.-Peron relations as Ambassador to Argentina in 1951, with the Trieste dispute as Ambassador to Italy in 1952–53, with the West New Guinea conflict between the Netherlands and Indonesia as U.N. mediator in 1962, with the U.N. effort to get Nasser to withdraw Egyptian troops from the Yemen in 1963, with the Panamanian riots and rupture of U.S.-Panama relations in 1964 (when he was Ambassador to the Organization of American States), with the messy aftermath of the U.S. invasion of the Dominician Republic in 1965–66, and, of course, with the Vietnam war, having served as Ambassador to South Vietnam from 1967 until last year.

The rule seems to be if it's hopeless, give it to Bunker. The outcome of his involvement usually seems to be a partial success, with the eventual emergence of a solution, or semisolution, that is far from perfect. Now it's Panama's turn—or at least half-turn. For no sooner had Mr. Bunker immersed himself in the Panama Canal question and made a trip to Panama for talks with high officials there than President Nixon named him to head the U.S. team at the current Middle East talks in Geneva. No doubt Mr. Bunker will have to give priority to the Middle East, but since he feels that the Canal negotiations are at a sensitive point, he will press ahead with them at the same time.

The impetus for the current negotiations came 10 years ago this month, when students sought to raise the Panamanian flag over the Canal Zone. American forces killed about two dozen of them and wounded more than 200 others. Panama broke relations with the U.S., and after the patching-up process, in which Mr. Bunker took part, President Johnson named Robert Anderson, an international banker who had been Secretary of the Treasury and Navy under Eisenhower, to head a team of negotiators to draft a replacement for the 1903 treaty under which the U.S. runs the Canal. Mr. Anderson tried until last year, when he resigned to be succeeded by Mr. Bunker.

To understand the present situation it is necessary to go back to that treaty of seven decades ago and see how it came about, for that is still the heart of the argument. The Americans entered the Panamanian picture after the French effort to build the Canal had collapsed. Having started construction in 1881, the French ran into insuperable medical, engineering and financial problems. More than 20,000 workers died, mostly from yellow fever. In one stretch of the Canal, the walls kept caving in as fast as they were dug. Besides the tremendous actual costs of construction, the company building the Canal was rocked by charges of high-level corruption.

Then in 1898 during the Spanish-American War, the battleship Oregon had to sail almost 13,000 miles around Cape Horn to get from the Pacific to the Atlantic; had there been a canal, the ship would have had to travel only 4,600 miles. This prompted Congress to set up a commission to study various canal routes. At first, the commission seemed to favor Nicaragua, where a route would have required less digging than in Panama. But Panama became more attractive when the successor to the original French company put up for sale its Panama rights and property and the transisthmus Panama Railroad, which had been operating since 1855, at a bargain-basement price of $40-million.

In 1903, when Panama was still part of Colombia, Secretary of State John Hay signed a treaty with Colombia under which the U.S. would pay Colombia $10-million plus $250,000 a year for use of the canal zone. But the Colombian Legislature turned down the treaty; not enough money.

Some curious events followed shortly. On Nov. 3, 1903, Panama revolted and proclaimed its independence. Colombian troops set out to put down the revolt but found their way blocked by U.S. Marines dispatched to the scene by Teddy Roosevelt. Three days later, Washington recognized the Republic of Panama, and less than two weeks after that, the U.S. and the new nation of Panama had signed the Hay-Bunau-Varilla Treaty authorizing the U.S. to construct the canal. Later, Roosevelt bragged that he "took" Panama.

Philippe J. Bunau-Varilla, who negotiated the treaty on behalf of Panama, was a worldly Frenchman with a waxed mustache, who by 1903 owned most of the shares of the company holding the Panama Canal rights. Like Teddy Roosevelt, Bunau-Varilla as well as many Panamanians had a special interest in wanting Panama to secede from Colombia. To the Panamanians, secession was an opportunity to develop their only resource, their strategic geographic location; Bunau-Varilla wanted to get his $40-million sale price.

It seems odd that, once independent, Panama chose not one of its own people but Bunau-Varilla to be its negotiator with Washington on the canal treaty. But presumably they were impressed by his smooth manner and good connections in Washington as well as his own preference to have the canal built in Panama instead of Nicaragua. They also believed he would produce a treaty along the lines of the earlier one Hay had signed with Colombia.

That's not what happened, and 70 years afterward Panamanians still call Bunau-Varilla a traitor, the prime cause of their present problem. On Nov. 15, 1903, Hay transmitted to Bunau-Varilla a draft treaty that indeed was similar to the earlier one with Colombia, but in some ways it was tougher on Panama. Two days later Bunau-Varilla sent a counterdraft to Hay that was *even more disadvantageous* to Panama. The reason, apparently, was that he wanted the treaty to be appealing enough to win U.S. Senate ratification without difficulty. Hay, happily surprised, invited Bunau-Varilla to his home the next day and the two men signed the French promoter's counterdraft. When a few hours later a three-man Panamanian advisory committee arrived on the scene, Bunau-Varilla presented the treaty to them as a *fait accompli*.

In Panama, there was talk of turning down the treaty. However, a letter arrived from Bunau-Varilla, stating: "If the Government is thinking about not adopting this little resolution, I do not want to be responsible for the calamities that could follow." Meanwhile Colombia suggested that if it could get back its lost territory of Panama, it would be content with the old treaty after all. Then Bunau-Varilla intimated that if Panama refused to ratify the treaty he had negotiated, the U.S. Marines would not be there if Colombia marched to regain its loss. Subsequently the Panamanians learned that two Colombian gunboats were headed their way. Weighing their unhappy options, they decided to approve the treaty, and it was officially ratified in February, 1904. Thus the Panamanians maintain that the treaty was imposed on them, and they have been complaining about it ever since.

There were two basic changes made by Bunau-Varilla from the earlier treaty with Colombia and both are central to the U.S.-Panama confrontation today. First, the Panama treaty provides that "Panama grants to the United States in perpetuity" rights in a 10-mile-wide, ocean-to-ocean strip of land through which the Canal was dug. The Colombia treaty had provided for an American departure in a century—by 2003. Although the Panamanians are asking for a U.S.

departure by 1994, it is clear that they would now cheerfully accept 2003—so that problem would not exist today if Bunau-Varilla hadn't changed the date.

The other seriously disputed point in Bunau-Varilla's treaty is a provision by which Panama gives to the U.S. powers in the Canal Zone "which the United States would possess if it were the sovereign of the territory." And the U.S. does indeed exercise full, effective sovereignty over the 500-square-mile zone.

Thus, although there are many other points at issue, the primary questions are who is sovereign and for how long?

In building the Canal, the Americans profited from the mistakes of the French in three ways: first, they decided against a sea-level route and constructed a lock system instead, with an elevated lake in the middle; then they found ways to wipe out the mosquitoes that transmit malaria and yellow fever, and last, they used Government instead of private financing.

What they produced remains a romantic marvel, essentially unchanged from the day the first official transit was made on Aug. 14, 1914. It works this way: a ship comes in at one end—Atlantic or Pacific—is hoisted through three locks, travels across the man-made lake 85 feet above sea level and then is lowered through three locks to the level of the other ocean. The locks are fed by water from the lake, which in turn is replenished by the heavy tropical rainfall. An oddity of the canal is that, because of the S shape of the isthmus, a ship going from the Atlantic to the Pacific actually moves east instead of west while in the Canal.

Should the United States relinquish control of the Canal as Panama demands?

Economically, the Canal is still important even though the big new supertankers can't go through it. The number of transits runs more than 14,000 a year and the income from tolls is over $100-million. Seventy per cent of the Canal's traffic either originates or terminates at a U.S. port, yet this represents only 14 percent of total U.S. foreign trade—and foreign trade in turn makes up less than 10 per cent of the American G.N.P. Only 2 per cent of our coast-to-coast trade moves through the Canal; the rest goes by truck, rail or air.

As for Panama, the question of whether American operation of the Canal is in its interest has been vehemently debated. New York's Representative John M. Murphy, one of the small but dedicated band of Congressmen against any negotiations at all with Panama, puts it this way:

"One hundred sixty million dollars goes into Panama's economy annually as a result of U.S. Canal operations. One-third of Panama's gross national product, 45 per cent of its foreign exchange earnings and one-third of its national employment are a result of the U.S. presence."

The Panamanians see the matter altogether differently. One reason, although they are reluctant to talk about it, is that if they had full control over the Canal, they would probably jack up the tolls. A descriptive pamphlet put out by the Panama Canal Company states: "A ship which would otherwise have to sail around the Horn can easily save 10 times the amount of her toll by using the Canal." With toll income running $100-million a year, one can imagine the effect of the small Panamanian economy were it to have the revenue resulting from a doubling or tripling of the tolls.

Amazingly, the tolls have never been raised since the Canal opened 70 years ago, although just last month the Panama Canal Company asked President Nixon to raise the basic transit rate by 20 per cent. Income has steadily risen over the years, however, because more and bigger ships have been using the Canal. (Tolls are based on tonnage.) This revenue has paid not only for the Canal's operation but has financed the Canal Zone government and provided savings for U.S. military installations there—one of the better deals for the American taxpayer.

The Panamanians argue that the net effect of all of this is that one of the weakest countries of the world is giving a large subsidy to the strongest. The United Nations Economic Commission for Latin America, in a 200-page study, "The Economy of Panama and the Canal Zone," gave its estimate that if the tolls had been slightly more than tripled, this "would provide additional income calculated at $1,845,000,000 during the nineteen-sixties and would result in a hypothetical reduction in traffic of barely 14 per cent." It concluded: "To sum up, the Canal Company's rate policy amounts to an implied and substantial subsidy of international traffic, a sizable proportion of which accrues to the United States economy, since it is the major user of its services."

Another question that is basically economic is whether, in order to accommodate more and bigger ships, a third set of locks or a completely new sea-level canal should be built. A study made under Robert Anderson's supervision and presented to President Nixon in 1970 reported that a sea-level canal would be feasible and suggested a site 10 miles west of the existing Canal. It advised against the use of nuclear explosions in the excavation and said the job would require about 15 years and $3-billion. The transit capacity of the present Canal, it estimated, would be reached about the end of this century.

The Panama Canal buffs in Congress led by Pennsylvania's Representative Flood oppose the sea-level canal on the grounds that it would be too expensive and would require negotiations with Panama. They also argue that it would be ecologically dangerous because differing forms of marine life exist on opposite sides of the isthmus; these could easily swim through a sea-level canal from one ocean to another, and in such an intermingling, some species might attack and wipe out others. Particularly exotic is the fear of a deadly poisonous sea snake which is native to the Pacific and which could cause havoc in the tourist industry if it migrated to the Caribbean and Atlantic resort areas.

Congressman Flood and his colleagues advocate what is called the Terminal Lake-Third Locks plan. This would move the site of one of the locks at the Pacific end of the present canal and create a third and wider channel.

Militarily, the Panama Canal and the Canal Zone have a variety of uses for the United States, all of which the Panamanians say, are quite dispensable. To get the military viewpoint on Panama, this writer asked for and received briefings both in the Canal Zone and in the Pentagon. In both places a feeling of defensiveness seemed evident in the response to the questions: "Is the Panama Canal vital to the security of the United States? Or is it only a convenience?" No one would say flat out that it is vital. One major general put it this way: "Vital. Of tremendous importance. These are subjective terms."

The primary mission of the U.S. Southern Command headquartered in Panama is the defense of the Panama Canal, according to U.S. military spokesmen. (Panamanians joke that the U.S. military is there only to defend the Canal against the Panamanians.) Other responsibilities are to oversee U.S. military-assistance groups currently stationed in Latin American countries, carry out combined military exercises with Latin American forces, represent the U.S. military in Latin America, and engage in disaster relief. All told there are now 13 major U.S. military installations in the Canal Zone, at which are based some 10,000 members of the U.S. Army, Navy, Air Force and Marines and about 6,000 Department of Defense civilians.

The most controversial military installation in the Canal Zone is the School of the Americas, where Latin Americans get training in counterinsurgency warfare. Although most of the courses are on mundane subjects like office procedures and vehicle maintenance, two are devoted to operations against urban guerrillas and one to tactics for use against rural guerrillas. There are also Special Forces ("Green Berets") in the Canal Zone, although a military spokesman there insisted that they are employed only in training programs. At the request of Latin American Governments, he said, the Special Forces are sent to various countries, but they do not act as advisers to, or participate in, specific operations. "The Special Forces did not take part in zapping Che," he said, referring to the manhunt in Bolivia that led to the death of guerrilla leader Che Guevara. The inference seemed clear that those who had zapped Che had profited from Green Beret training.

The Pentagon makes no secret of its preoccupation with counterinsurgency warfare. A paper provided to this writer and dealing with the mission of the United States Southern Command states: "While not discounting the possibility of general war, inter-American defense planners consider the most urgent military need of Latin American countries to be internal security. The armed forces of each Latin American country should be able to cope with Communist-supported insurgency and guerrilla infiltration with our assistance but without our direct participation. In recent years most of the military efforts have been toward this end. Successes in meeting the threat of guerrilla bands in such countries as Bolivia, Colombia, Guatemala, Peru and Venezuela illustrate that these efforts are bearing fruit."

The results of the policy of giving U.S. support to Latin American military establishments are sometimes bizarre. The Peruvian military used American tanks to oust a Government friendly to the U.S. and replace it with the present regime, which has nationalized American companies. On the other hand, in Chile the U.S. cut off economic aid to the recently deposed Allende Government while continuing aid uninterrupted to the military—so presumably the generals have some good friends now at the highest levels there. In fact, some high officers in the Panama Canal Zone were recently quoted in The New York Times to the effect that the military, because of its common background with those who are now running so many Latin American Governments, may be able to exert more influence on these Governments than civilian diplomats. The ultimate irony may come if Panama's boss, Brig. Gen. Omar Torrijos, who himself is a graduate of the School of the Americas, achieves his aim of eliminating the headquarters for the entire U.S. military operation in Latin America.

On the strategic level, the military spokesmen did not dispute that the Panama Canal would be irrelevant in a nuclear war, since one well-placed warhead would put the waterway out of commission for the duration. One colonel, however, did raise this novel theory: that the real winner in a nuclear war would be the nation that could recover fastest, and that the Panama Canal, if not knocked out, could be of importance in the reconstruction phase.

On the conventional side, the military is caught in a dilemma of logic. Having argued that a two-ocean navy is necessary because the Canal is so vulnerable in time of war, it is now difficult to sustain the case that the Canal is vital to U.S. security. Aircraft carriers can't, and don't need to, pass through the Canal, since the U.S. has a two-ocean fleet with carriers in both the Atlantic and Pacific.

The Panamanian position is that the U.S. Southern Command should be folded down completely, with the Canal area neutralized and "not to be used for military activities unrelated to the strict protection of the Canal." The Panamanian armed forces would assume responsibility for security of the Canal, and "in case of international conflagration or a real threat of aggression to the permanent neutrality of the Canal . . . both countries shall agree, without delay, to take the necessary measures. . . ."

Politically, the Panama Canal issue centers around national pride—for both parties. The U.S., as a great power, can look out from its heartland at a kind of protective arc for its soft underbelly, an arc running from Panama to Guantanamo in Cuba and Puerto Rico—even though this vision seems based on pre-World War II geopolitics. The national honor of Panama, on the other hand, is offended by a 10-mile-wide belt across the country over which a foreign power is sovereign.

Time, it would seem, is on Panama's side. The way the wind is blowing was evident at the U.N. Security Council meeting in Panama City last March. Taking advantage of its term of membership on the Council and its turn at the presidency, Panama invited the Council to an on-the-spot discussion of the Canal issue. The meeting was long and bitter, with many delegates developing the theme that U.S. control of the Canal was an anachronism. Finally came the vote on a resolution that called on the parties to "conclude a new, just treaty concerning the present Panama Canal which would fulfill Panama's legitimate aspirations and guarantee respect for Panama's effective sovereignty over all its territory." Australia, Austria, China, France, Guinea, India, Indonesia, Kenya, Peru, Sudan, the U.S.S.R. and Yugoslavia all joined Panama voting in favor, while Britain abstained and the U.S. cast its third veto in U.N. history.

Panama could have put a similar resolution on the agenda of the U.N. General Assembly last fall and undoubtedly would have seen it pass by a heavy majority. But having turned the propaganda screws on the U.S. early in 1973, it has now changed its tactics in the hope that the new negotiations with Mr. Bunker will produce an acceptable result. When Henry Kissinger came to the United Nations immediately after assuming his new post as Secretary of State, he, Mr. Bunker and other U.S. concerned officials met with a Panamanian group headed by Foreign Minister Juan Antonio Tack, and by all accounts it was very cordial. Noting that negotiations had already been under way for nearly a decade, Mr. Kissinger quipped that "Ambassador Bunker is interested in job security" and got a good laugh. On the serious side, he praised Mr. Bunker lavishly and called for early progress toward an agreement. He seemed to give Mr. Bunker wide leeway with the problem, yet he also told Mr. Tack to feel free to approach him personally at any time.

Mr. Bunker, now sworn in as Ambassador at Large and settled into a handsome wood-paneled office on the seventh floor of the State Department, says of his new assignment: "It's difficult and complicated, but I am hopeful." So far he has formed no definite opinions and says he is "learning, getting the views of the Pentagon, the State Department, Congress and also views of interests other than the Government, such as labor."

He plans to spend some time in Panama (he has made two trips there since late November)—but not too much. "My wife and I have lived apart for six years, and we are not about to do it again," he said in a recent interview with this writer. He was referring to the time he was in Saigon and his career-diplomat wife, Carol C. Laise, was Ambassador to Nepal. Recently she assumed the post of Assistant Secretary of State for Public Affairs, so both are in Washington. Mr. Bunker has made a deal with Mr. Tack that negotiations on the Canal will alternate between Washington and Panama, thus keeping the disruption of the Bunker home life to a minimum. But now, wearing his Middle East hat as well as his Panama hat, he may find it difficult to keep his resolve.

Mr. Bunker is conducting the Panama negotiations "quietly and secretly," as he always has done. "Once the parties take public positions, they can't recede," he says. "There must be private give and take." In the present case, he is going to need plenty of give and take, for he is in the middle and there is a lot of distance around him on all sides. The Panama Canalists in Congress and probably the Pentagon don't think he should be negotiating at all; to them the 1903 treaty is fine and the hell with the Panamanians. The Administration, so embattled at this point that it may not even remember where Panama is, has up to now taken a position that the U.S. is willing to give Panama the Canal in 50 years, although the period would be 85 years if the U.S. were to build a third lock and 90 years if a new sea-level canal were constructed. The Panamanians want the U.S. out in 20 years.

So the tall, patrician, white-haired gentleman has his work cut out for him. If he fails, Panama's strongman Omar Torrijos and the 1½ million Panamanians, virtually all of whom share his passion to take title to the Canal, may cause trouble. As it stands today, his well-trained, 8,000-man National Guard might well be able to storm the 2,400 U.S. ground troops there and capture the Canal, although they probably couldn't hang on to it when the U.S. Marines started landing. And the Panamanians understand this. Nevertheless, Torrijos is talking tough. As Mr. Bunker was en route by jet to Panama on Nov. 26, the Government-controlled evening newspaper in Panama ran a long headline: "If the negotiation fails, we will be left with no other recourse but the battle." The Panamanians are determined to reclaim the Canal, and there will surely be some kind of explosion—big or small, sooner or later—if they don't.

## SENATOR BENNETT'S ADDRESS TO THE AMERICAN COLLEGE OF RADIOLOGY

Mr. BENNETT. Mr. President, I ask unanimous consent to have printed in the Record the remarks I made before the American College of Radiology on January 11.

There being no objection, the address was ordered to be printed in the Record, as follows:

### Remarks of the Honorable Wallace F. Bennett

It's a pleasure to visit with you this morning to discuss the Professional Standards Review Organization provision of Public Law 92–603. I won't bore you this morning with all of the events leading to enactment of the PSRO Amendment, which as you may know, I sponsored.

I would like to briefly summarize the reasons why the Amendment was enacted and then to focus on the reaction of various segments of organized medicine to the PSRO provision. Since this is the first opportunity I have had to talk with an important medical group since the American Medical Association's Anaheim convention in December, I thought this might be an appropriate forum in which to respond to the resolutions passed by the AMA House of Delegates at that meeting.

As you may know, in 1969, the Senate Finance Committee, of which I am the ranking Republican member, began a detailed study of the Medicare and Medicaid programs as they had operated up to that time. The staff of the Committee prepared an extensive report on the programs in 1969, and in 1970, the Committee held an extensive series of oversight hearings with respect to Medicare and Medicaid.

That report and other information developed in subsequent hearings, led to the preparation of a series of amendments to be offered to the Medicare and Medicaid programs. These amendments were first considered in 1970, and then reconsidered and revised in the next Congress in 1971 and 1972. Finally, a number of major Medicare and Medicaid amendments, including the PSRO Amendment, became law as part of Public Law 92–603, the Social Security Amendments of 1972.

Perhaps the most important of these Medicare and Medicaid amendments was the PSRO provision. The Committee's work from 1969 through 1972 had indicated clearly that there was a need for improved review and audit of the quality of the medical care purchased by the Government through the Medicare and Medicaid programs. It was clear that the skyrocketing costs of the Medicare and Medicaid programs were due, in large part, to the lack of effective utilization controls. But perhaps more importantly, it was clear from our studies that too many of the services reimbursed under the programs were failing to meet quality standards which you gentlemen would find acceptable in your own practice. Although the original Medicare law contained a requirement for hospital utilization review committees, it was obvious that, for a number of reasons, these committees were largely ineffective. Additionally, these committees focused primarily on facility utilization and there was really no formal mechanism in the original program to review the overall quality of the services rendered to the patient.

My colleagues on the Finance Committee and I were not alone in seeing the need for an effective quality and utilization review mechanism. The AMA also recognized a need for improved professional or peer review. In fact, the AMA had developed a proposal of its own for a peer review organization to deal with the problems I have just described.

Working from that proposal and consulting extensively with a number of medical groups and many individual physicians, the PSRO Amendment was drafted in 1970. The amendment was drafted with one major thought in mind. With Government spending more than $20 billion to purchase medical care—a sum which will only increase in the future—it was clear that we, as responsible legislators, would have to develop some mechanisms to audit and review the quality and necessity of the medical services our tax dollars purchased.

This, then, was the fundamental issue: would this review be carried out by Social Security and insurance company personnel, or would the review be carried out by physicians themselves, working through local organizations composed solely of practicing physicians in their area? The entire thrust of the PSRO Amendment was to establish local physician-operated review mechanisms. I believe that this basic concept was then, and remains today, the best way for American medicine to continue to control its own destiny. If any of you were sitting on the Finance Committee, I believe that you too would recognize, first, that expenditures as great as $20 billion must be reviewed, and, secondly, that where such review and audit involves medical judgment and decisions, it should be conducted only by physicians rather than Government or insurance company personnel.

After extensive hearings and consideration in two Congresses—the 91st and 92nd—the PSRO provision was passed and signed into law in October, 1972.

The physician-review concept was developed, as I said, in consultation with many, many physicians and medical organizations. Since it has taken a definite shape in the law, a number of state medical societies went on record in support of the PSRO Amendment. Similarly, a number of large national medical organizations such as the American Association of Foundations for Medical Care, and such specialty societies as the American Society of Internal Medicine and the American College of Surgeons have become supporters of the PSRO concept.

Unfortunately, the American Medical Association's position, especially as enunciated by its House of Delegates, has not been as supportive. I think this is due, in large part, to two factors. First, a lack of understanding of the amendment itself, and secondly, a lack of full understanding of the social and political realities surrounding health care in the times in which we live.

The apparent lack of understanding by the majority of the AMA Delegates at the Disneyland meeting is not difficult to explain. With respect to the purpose and substance of the amendment itself, I have rarely seen a situation in which any single feature of any law has been as distorted and misrepresented as this piece of legislation has. This has been due in large part to the active efforts of a group of extreme right-wing physicians, many of whom are opposed not only to peer review, but to Medicare and Medicaid themselves. An example of the kind of distortion and misinformation stimulated by these gentlemen was a recent Wall Street Journal editorial in opposition to the PSRO program. I have responded to this editorial in full, and presumably that response will be printed by the Journal in the near future. The point here is that it is hard to blame the House of Delegates of the AMA for being opposed to the PSRO law when much of the information available to them on the law has been so grossly distorted.

Similarly, the Delegates' lack of full understanding of the social and political realities surrounding health care in these times is understandable. As I mentioned before, I am certain that the vast majority of you and the vast majority of the AMA Delegates would, if they had ever served on the Senate Finance Committee or House Ways and Means Committee, recognize the need for review and audit of any and every kind of massive Government expenditure. Obviously, all of the Delegates have not had this kind of exposure to the problems of health care as a federal program, as opposed to private medical service to the individual.

In any event, fueled by these twins of misinformation and misunderstanding, the AMA House of Delegates, meeting at Anaheim last month, adopted an amended report on PSRO. That report declared that the best interests of the American people would be served by the outright repeal of the whole PSRO section of the law. Having done that, however, rather than instructing the organization's officers to work solely for repeal, the report asks for efforts to inform the public and legislators of what it termed the law's potential deleterious effects on the quality and cost of medical care. Secondly, the report called for the AMA to seek amendments to the program. Finally, the report instructed officers of the organization to continue to exert leadership in implementing the PSRO law.

I think the confusion which created this self-contradictory tripartite policy speaks for itself. One AMA official was quoted in the AMA News as saying, "I know the new policy may seem like some sort of multiheaded hydramonster."

Because of the confusion revealed by the House of Delegates' resolution, I think it would be worthwhile to analyze each of the three courses of action encompassed within the resolution, briefly because I am hopeful that the officers, the trustees, and particularly the Delegates of the AMA, as they grow more familiar both with the substance of the legislation and the social and political realities surrounding health care, will tend to put more emphasis on exerting leadership in implementing the PSRO law, while working for constructive amendment rather than putting forth any major effort for repeal.

Let us then analyze the three aspects of the AMA House of Delegates' resolution. First, let us look at that part of the resolution which called upon the AMA officials and members to continue to exert leadership in implementing the PSRO law. I think that this represents a very constructive position. I have been pleased during the last year by the constructive action taken by many AMA members in working toward implementation of the PSRO activities. As you may know, the AMA established an advisory committee on PSRO's, chaired by Dr. Robert Hunter from the State of Washington. This advisory committee and a number of subcommittees which they established have worked diligently throughout the year and they have developed a great deal of material which will be helpful in the implementation of the PSRO program. I think it is a very positive sign that the AMA advisory committee on PSRO has not only not been abandoned since Anaheim, and that, indeed, that it's work has been specifically continued.

Another aspect of the resolution adopted by the House of Delegates called for the AMA to seek amendments to the PSRO law As I have said on numerous occasions previously, my colleagues and I on the Finance and Ways and Means Committee are open-minded about future amendments to the PSRO legislation. None of us pretend to have all the answers nor are we set in concrete against any changes in any of the various features of the amendments I do think it is fair to say, however, that it would seem to make sense to wait until at least a small number of PSRO's are operational so that any proposed amendments can be viewed in the light of their actual experience with the effects of the law

I recently received from the AMA a list of 18 possible amendments to the PSRO law which have been drafted in a preliminary fashion by the AMA staff A number of these amendments may well prove to have merit although, frankly, a number of others seem somewhat self-serving in that they call either for reduced review responsibilities or increased control of the review process by the medical societies themselves as opposed to the amendment's basic concept that the review process should be undertaken by all physicians in an area regardless of their affiliation with any medical organization

Interestingly enough, one of the amendments suggested by the AMA staff has already been approved by the Finance Committee and the full Senate, and if finally adopted by a conference committee would become a part of the law. This amendment would call for the creation of statewide PSRO councils in all states. Also, it is interesting to discover that a few of the amendments suggested by the AMA staff merely reiterate what is in the law already. For example, the fact that any norms or criteria utilized by the PSRO's are to be used only as guidelines or checkpoints for review and not as barriers to further care is already clearly stated in the law and committee report.

Yet another amendment suggested by the AMA staff suggests the PSRO review be applied to other federally-financed health care programs such as the Veterans Administration and Public Health Service programs. I have already stated by support for this proposal and would be glad to assist in getting such legislation through the appropriate Congressional committees.

In summary, I think that the work of the AMA and its staff in beginning to consider possible amendments to the legislation can be very worthwhile in focusing attention on the substance of the legislation itself. This work will be increasingly valuable in the future when a number of PSRO's are operational and amendments can be considered in the light of their experience.

Finally, and in spite of the AMA's willingness to try to help make the law work, the House of Delegates made a declaration that the best interests of the American people would be served by the repeal of the PSRO law. This, although not a clear directive to the officers of the organization, is an obvious acknowledgement that a good deal of negative sentiment still exists in the minds of some AMA Delegates. As I mentioned previously, I can understand the reasons for this negative sentiment, but I am convinced it will decrease as both the legislation itself and the social and political considerations surrounding federally-financed health care become better understood. However, I do not think we can afford to ignore these continuing calls for repeal. Even though I am confident that efforts to repeal the PSRO provision will not succeed, I think we would be remiss if we failed to stop and consider the consequences of repealing the provision. As I stressed earlier, although some physicians may want to do so, the Medicare and Medicaid programs cannot be wished away. In fact, within the next few years, it seems clear that the overall federal participation in all health programs will expand. With federal expenditures of ever-increasing magnitude, there will be a parallel increase in the public demand for an effective audit and review mechanism. The issue is not whether there will be review, but how that review will be structured.

Even if physician-based PSRO were eliminated, some kind of review would have to be used. Two other mechanisms suggest themselves immediately. One might be a strengthened version of the type of review we have already had with Medicare and Medicaid in the past. This would be review after the fact carried out in the main, by non-physicians working for the Social Security Administration and for the insurance companies which serve as carriers and intermediaries. This type of review, because it is carried out by non-physicians, is bound to involve the use of increasingly more rigid guidelines and parameters which could not be susceptible to modification and adaption by the application of personal medical experience as is the case with the PSRO concept of rotating physician participation.

The other alternative would seem to be the type of review mechanism which has already been approved by the full Senate in connection with another bill. Although it did not become law, Senator Kennedy's HMO Bill would provide for the establishment of some sort of a National Quality Care Commission, a monolithic federal commission which could, conceivably, consist entirely of consumers. It would operate from Washington and be given broad responsibility for monitoring and regulating the health care delivered throughout the country. I cannot think that either of these alternatives would be more to your liking than the PSRO provision. However, it would be naive to think that were the PSRO provision repealed, there would be no review at all.

Well, that's off my chest.

We who believe in the PSRO concept look forward, in the future, to enlisting the professionalism and expertise of the American College of Radiology in developing and refining, on a continuing basis, appropriate parameters for radiologic services for the use and guidance of all radiologists who may serve as PSRO reviewers in their own localities.

Thank you again for giving me this opportunity to share these thoughts.

## CHARLES E. BOHLEN

Mr. PELL. Mr. President, on January 2, during the recess period, a singularly competent and able public servant died, Charles E Bohlen.

His service to our Nation in the field of diplomacy and international affairs spanned 40 years. He served as our Ambassador to the Soviet Union from 1952 to 1957, and our Ambassador to France from 1963 to 1968. He also served as Ambassador to the Philippines and as Special Assistant to Secretary of State Dean Rusk in Washington.

Perhaps he was most noted for his ability to inspire respect and understanding for our policies among Russian leaders in the decade following World War II. In large measure this achievement stemmed from the respect "Chip" Bolen engendered as a person, and as a personality, among these same leaders. It stemmed as well from his dedication to his career in Foreign Service and from his early mastery of the Russian language, which he spoke with such fluency that he could explain American baseball in Russian to Joseph Stalin or engage in complex linguistic innuendo and debate in Russian with Nikita Khrushchev.

He first rose to prominence in 1943, when both Ambassador Averell Harriman and Harry Hopkins, Special Adviser to President Franklin Roosevelt, sought to utilize his talents. Both were impressed by his breadth of understanding and knowledge of Russian affairs.

In his book, "Roosevelt and Hopkins," Robert Sherwood describes that period in world history and he writes—

> From then on Bohlen's star was very much in the ascendant.

That star radiated great brilliance, and it reflected both the wit and the wisdom which Chip Bohlen possessed in such marked degrees.

Despite the heights to which he rose in the world affairs and diplomacy, he always remained a human and down-to-earth man. And the same mix of acumen and intuition that made him a winner at the negotiating table served him likewise at the poker table.

He represented, too, the very best of those ideas and ideals that made our Foreign Service the excellent one that it is. His subordinates both loved and respected him. And I recall his interest and friendship for one young Foreign Service officer who was contemplating resigning—that Foreign Service officer being me. I consider myself fortunate to have had Chip Bohlen's advice and friendship.

I regret his passing from us. I join with so many others in expressing my sympathy and my condolences to his wonderful family.

But we will remember him with abiding affection and high regard; and in the annals of our history, when we think of an individual epitomizing the best in diplomacy, we will think of Charles Bohlen and of the distinguished contributions he made to international understanding in our times.

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## THE LEGAL SERVICES PROGRAM

Mr. TOWER. Mr. President, I have repeatedly stated my most strenuous objections to the provision of legal assistance under the federally funded Legal Services program in any proceeding arising from a violation of the Selective Service Act or of desertion from the Armed Forces of the United States. Section 222(a)3 of the Economic Opportunity Act of 1964 specifically prohibits representation in any criminal proceeding.

Nevertheless, inspection reports indicate that staff-attorneys in a number of local offices ignored the needs of the poverty community they were designated to serve in order that they might spend the majority of their time and resources in counseling draft evaders and deserters on ways of avoiding military service and encouraging anti-war activities.

An article which appeared in the May 28, 1972 issue of the Chicago Tribune entitled "Legal Aid Foundation Opens Office for Draft Counseling," calls particular attention to this blatant disregard of a congressional mandate, and underscores the critical need for major reform of our legal services delivery system.

This fact is further emphasized by the practice of awarding Reginald Heber Smith Community Lawyer fellowships to individuals who have previously served in university or community-based draft counseling programs. It is clear that draft counseling activities were not only tolerated in Legal Services projects, but, in fact, were encouraged through the "Reggie" program. I feel this is in direct contravention of the will of Congress and it reenforces my commitment to work for a program which will be responsibly administered and will be accountable to the public.

Mr. President, for the information of my colleagues, I respectfully ask unanimous consent that the full text of the article "Legal Aid Foundation Opens Office for Draft Counseling" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, May 28, 1972]

### LEGAL AID FOUNDATION OPENS OFFICE FOR DRAFT COUNSELING

A new draft counseling service has been opened by the North Shore office of the Cook County Legal Assistance Foundation, 828 Davis St., Evanston.

George Martin, communications coordinator for the foundation, said the service is the most complete yet offered. "The foundation not only will offer advice but will follow each man's case until it is ultimately resolved," he said. Lawyers also will be found for men who need them.

The program, which is directed by Jerry Olsen, a member of the federal Volunteers In Service To America, also will conduct draft education sessions in North Shore high schools, according to Martin.

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## AGNEW SCANDAL SHOULD CAUSE SECOND LOOK AT BIDDING ON ARCHITECT-ENGINEERING DESIGN CONTRACTS

Mr. PROXMIRE. Mr. President, former Vice President Agnew's decision to plead guilty to income tax evasion and to permit the release of a statement linking him with widespread political corruption has brought to light the potential for shady political maneuverings implicit in the current system of bidding on architectural and engineering—A–E—design contracts.

As a column by Richard Wilson that appeared in the Washington Star points out so well, the current system of A–E contracting made the sort of corruption involved in the Agnew case not only possible but likely. This system, which some of us have opposed strenuously over the years, virtually eliminates price competition as a factor in awarding contracts. As a result firms are judged, by and large, simply on their ability to do the job. When 5, 10, or 15 firms can all do a particular piece of work it is logical to suppose that the firm which greases a few palms or tips the balance in some other questionable way will get the inside track.

This is exactly what happened in the Agnew case. And this is why the Congress should take another look at the current law. In my estimation we should reinstate a competitive pricing standard in accordance with Comptroller General Staats' views. He has strenuously fought against congressional efforts to water down the law over the years. I have been pleased to join him in that fight.

Legislation to correct these abuses by injecting true price competition into the picture would not only reduce the chances of influencing peddling in the future. It would also reassure the public that the Congress is concerned over political corruption at a time when public confidence in our political institutions is at a low ebb.

I ask unanimous consent that the excellent Wilson column be printed in the RECORD so that my colleagues can consider the points made:

There being no objection, the column was ordered to be printed in the RECORD, as follows:

### THE A–E FIRMS AND CORRUPTION

(By Richard Wilson)

Spiro T. Agnew, according to the government's case against him, was on the take for 10 years. But the resigned vice president thinks he did no wrong, at least by accepted standards.

There is a point in following through on this contradiction because it leads in a direction suggesting that accepted standards create conditions for graft, payoff and collusion on a much grander scale.

Not just in corrupt state capitals, either. The U.S. government has been letting out hundreds of millions in contracts on the same general basis that led to Agnew's disgrace.

According to the evidence against him, Agnew as governor of Maryland solicited and received continuing financial support from officers of architectural and engineering firms (called "A–E's") in consideration of their favorable treatment on state contracts. The classical function of an A–E firm is to act for the government in creating plans, drawings, designs and specifications for construction projects.

An established A–E firm considers itself a creative force, a professional group whose services should not be bargained for in the marketplace. Would you put an advertisement in the medical journal asking sealed bids on your needed appendectomy? Until very recently, the professional societies in this field held themselves equal to doctors and lawyers in denouncing as unethical the offering of their services for competitive bidding.

The way it worked in Maryland, a half

dozen or so A–E firms were considerered of equal professional ability. Agnew's agents picked them for specific jobs on a basis which took into consideration their cooperative attitude on political financing. Agnew, according to the government's case, got a 50 percent cut of the proceeds.

The federal system makes that kind of thing harder, but not much. Comptroller General Elmer B. Staats has been fighting a losing battle since 1967 to get Congress to tighten up the system so that there will be real price competition and a federal agency head can't select an A–E merely because of its reputation, popularity or coziness with government officials.

With sympathetic regard for the proud professionalism of the A-E's, Rep. Jack Brooks, D-Tex., shepherded through in 1972 a bill making favoritism and arbitrariness a little harder. But since then a heavyweight commission on government procurement procedure has said the new law is far from enough and does not provide for adequate competition.

Theoretically, agency heads are required to negotiate with more than one A-E. The way it has worked most of the time, it wasn't necessary to go beyond the first firm selected.

Many people in the profession wring their hands in shame over the vices the Agnew incident exposed. It was all the more embarrassing that so-called "ethical" considerations covered up corrupt practices in financing politics and politicians.

Comptroller General Staats cites no examples of corruption but speaks of rumors of payoff and political corruption. He notes the $25- and $50-per-plate fundraising dinners for politicians while the inadequate changes in the law were under consideration. The 6 percent arbitrary fee for A-E firms is ready-made for collusion.

Nothing in the whole process increases confidence that A-E firms are being selected solely because, in contrast to their competitors, they are best fitted to do a particular job at the least cost and with the greatest utility, longest life and aesthetic value.

Take for example, the new FBI building, a monstrous construction on Pennsylvania Avenue. In its present unfinished stage it represents a 100 percent cost overrun from original estimates. Now it will cost well over $100 million to put a roof over the late J. Edgar Hoover's G-men, complete with morgue and gymnasium.

There are some 200,000 A-E firms in the big professional societies. They have been a powerful lobby against the comptroller general's insistence on more competition on both price and qualifications. But the stink which has arisen from the Agnew affair has been nauseating enough to change the mind of any true professional.

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## ANNE ARMSTRONG DESCRIBES BICENTENNIAL PLANS

**Mr. HRUSKA.** Mr. President, earlier today it was my privilege to be a special guest of the National Press Club to hear Presidential Counselor Anne Armstrong present a progress report on the planning for America's celebration of its Bicentennial.

As one who has been directly involved in the legislation concerning the celebration of our 200th anniversary, I was gratified at the sound, yet imaginative approach, Mrs. Armstrong has taken in the fulfillment of the assignment the President has given her in this field.

As Sam Fogg, of United Press International, pointed out in his introductory remarks, Mrs. Armstrong is the first woman to serve as cochairman of a national political committee and she was the first woman to deliver a keynote speech to a national political convention, as she did at Miami Beach in 1972.

Among her many and varied duties as White House counselor, Mrs. Armstrong heads a Cabinet-level task force on the Bicentennial. The report she gave today is typical of the energy and drive she brings to that assignment. She is witty, charming, and thoroughly gracious. I wish there were more Government officials like her.

Although born in New Orleans, Anne Armstrong considers Texas her home. It was there that she began her career in the Republican Party serving as State vice chairman and National Committee woman. Her abilities, charm, and energy brought her to the attention of the National Committee. In January 1971, she was elected cochairman of the Republican National Committee. In January 1973, President Nixon appointed her counselor to the President, again the first woman to ever receive such an appointment.

In her remarks, there are two points which deserve special mention. To those skeptics of the Bicentennial Mrs. Armstrong stated unequivocally:

> I can tell you what the Bicentennial is *not* going to be. It is not going to be invented in Washington, printed in triplicate by the Government Printing Office, mailed to you by the U.S. Postal Service and filed away in your public library. The Bicentennial is human, it is alive, and everyone will have an opportunity to be part of it.

Her second point is even more appropriate.

> One of the questions I am most often asked is, "Where is the Bicentennial going to be?"; and my answer is, "The Bicentennial is where you live. It will be in your own backyards, your neighborhoods, on every Main Street and every rural route in the country." It isn't going to be one big splash, a single central celebration where a few people do the work and the rest have no part. It is a combination of tens of thousands of smaller celebrations planned and executed by people across the country.

Mr. President, I ask unanimous consent that Anne Armstrong's speech be printed in full in the CONGRESSIONAL RECORD. While it will lack the charming and effective delivery by its speaker, it is certainly worth the reading of every Member of this body.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

### SPEECH BY THE HONORABLE ANNE ARMSTRONG

President LaMotte, officers, members and honored guests of the National Press Club, I want to thank you for this opportunity to appear before your time-honored organization to present my first major progress report on the American Revolution Bicentennial celebration.

I was particularly honored when President Nixon asked me several months ago to head Bicentennial coordination in the White House. I don't know how George Washington would have taken the President's move, but I am sure that Martha would have approved.

In early 1974, we began a new and hopeful Bicentennial era. Yes, the Bicentennial has had its problems in the past. It's had big problems such as an organizational structure that allowed for only part-time volunteers to perform a gigantic task that really called for time and a half. It's had some not-so-big problems such as a tempest in a tea party in Boston last month. But now I am convinced the big problems are behind us.

New legislation has given us a sound structure with a full-time Administrator whom the President will announce within a few weeks. Senator Hruska and my other friends in the Senate assure me that the Administrator's confirmation hearings will be given top priority.

At this point, let me take the opportunity to thank the Members of Congress I worked so closely with for the many hours of hard work and effort that went into structuring the new American Revolution Bicentennial Administration. And I am most pleased and highly honored that some of them are with me here today.

Under the ARBA we will have a new, streamlined eleven-member Board of Directors and a twenty-five member Public Advisory Council.

The old Commission has left us some fine legacies: The three Bicentennial themes allow for both focus and flexibility:

(1) Heritage—reaffirmation of the principles of our Founding Fathers.

(2) Festival—a celebration of the present, of the goodness of America.

(3) Horizons—a continuation of our revolution, to make America better in the future.

The Commission also left us a Bicentennial which is national in scope rather than limited to a single city or the thirteen original colonies. We now have Bicentennial Commissions in all fifty States, the District of Columbia, Puerto Rico, Guam, American Samoa and the Virgin Islands.

The basic planning is behind us, it's sound, and now we are at the takeoff era for the Bicentennial.

It seems particularly appropriate that we should gather here to talk about the 200th anniversary of the American Revolution since it was the early media—the newsmen and pamphleteers—just as much as the politicians, soldiers and philosophers, who fomented, fought and won that revolution.

In celebrating the Bicentennial, we want to give full recognition to the importance of the free press in America. Today I express the hope that you, for your part, will do all you can to recognize and publicize the importance of the Bicentennial itself as a major milestone in America's proud history and as an instrument of enormous potential for bringing out the best in our vast, fortunate, but sometimes perplexed and troubled country.

I can tell you the story, but only you can tell it to America. I realize that you will be busy with many important issues that will come before Congress this year, and I also realize that the fall elections will take up a great deal of your time. But I hope that you will report on the Bicentennial as well, because it is important, too. I pledge the full cooperation of my office and that of the Bicentennial Administration in helping you to get out this important story.

And I have no doubt that you can get the story to the people. If Paul Revere could do the job with a horse and a couple of lanterns, think what you can do in the next months with the full resources of modern printed and electronic journalism. The more people know about what we are doing—and the part that they can play—the more completely our 200th birthday will reflect the fullness and variety of American life.

How we celebrate and commemorate America's 200th birthday will have a large influence on the manner and the spirit in which we enter our third century as a nation. It can have a profound impact on our future. The Bicentennial offers us a unique opportunity—a time to rekindle the spirit that in 200 years built thirteen small dependent colonies into the strongest nation in the world.

The spirit is still there—the energy crisis offers us one example. Total consumption of gasoline in the United States during the month of December was nearly 9 percent below expectations. A remarkable response by a Nation of more than 200 million people. A few could not have done this. It required mass participation.

And that is what the Bicentennial celebration is really all about—a rediscovery of our spirit, as well as a rediscovery of our strength and potential as a free people working together.

I can tell you what the Bicentennial is *not* going to be. It is not going to be invented in Washington, printed in triplicate by the Government Printing Office, mailed to you by the U.S. Postal Service and filed away in your public library. The Bicentennial is human, it is alive, and everyone will have an opportunity to be part of it.

The Bicentennial Commission has been in touch with more than a thousand national organizations and associations of every imaginable kind. Hundreds of cities, towns, counties and Indian tribes have been invited to join the Bicentennial Communities Program since it was inaugurated last summer. As of today, 370 communities have been designated as Bicentennial communities. Applications from another 600 communities are currently under review, and more designations will be announced shortly.

While hometown America was catching the Bicentennial spirit, progress was accelerating at the Federal level. A Domestic Council Cabinet-level Committee, which I chair, has approved the Goals for Federal Participation in the Bicentennial, established an Interagency Bicentennial Task Force and approved 277 Bicentennial projects of the Departments and Agencies.

These Federal programs range from the Department of the Interior's dramatically successful "Johnny Horizons '76" with its slogan "Let's Clean Up America For Our 200th Birthday", to the Smithsonian's Folklife Festival, to the Department of Commerce's world weather watch with its goal of precise long-range weather forecasting and modification.

Our 200th birthday observance could not possibly realize its full potential or meet the high expectations we all have without the support of the private sector, of the free-enterprise system which has made our country what it is today—the best and strongest nation in history.

Interest among private groups and organizations is quickening, and we welcome their involvement. Let me give you some examples of what they are doing:

I am pleased to announce today that as of this week plans have been concluded for one of the major private sector projects. The Freedom Train is on the track. It will be powered by a steam locomotive pulling twenty-five decorated cars which will take the basic treasures of America, such as the Liberty Bell and the Declaration of Independence, or replicas of them, to all fifty states and at least seventy-six cities in a twenty-one-month, 26,000-mile journey beginning in the spring of 1975. Its stops will be within easy reach of 90 percent of the American people.

The Public Broadcasting System is beginning a distinguished lecture series on the Bicentennial, sponsored by the American Enterprise Institute, in which sixteen scholars from our great universities will take an intellectual look at our revolution.

A hopefully major private sector initiative which is still in the planning stage is that of the John D. Rockefeller III Foundation. Mr. Rockefeller came to talk to me last spring about his desire to spearhead a Bicentennial project to support and enhance the ARBC. Since then, we have discussed his plans, and I am hopeful that in the near future he will announce an outstanding Bicentennial program.

I am particularly proud of the role women will play in the Bicentennial; 48 national women's organizations, including leaders of minority women's groups, organized labor, business and civic organizations, and churches, have bound together to complete three major tasks: a Women's History Research Center, Community Resource Centers, and International Women's Arts Festival.

One of the questions I am most often asked is, "Where is the Bicentennial going to be?"; and my answer is, "The Bicentennial is where you live. It will be in your own backyards, your neighborhoods, on every Main Street and every rural route in the country." It isn't going to be one big splash, a single central celebration where a few people do the work and the rest have no part. It is a combination of tens of thousands of smaller celebrations planned and executed by people across the country. To me, this is by far the most exciting part of the Bicentennial, and I'd like to tell you about some of the plans in progress in our cities, towns and crossroad junctions.

Inevitably, the big urban centers of the East that played a major role during America's early history will play a major role in the Bicentennial.

New York City, New York, is concentrating on the redevelopment of the South Street Seaport, one of the nation's oldest ports and the restoration of several historic ships; a Showboat Children's Theater will tour waterfront areas with entertainment and instruction by drama and dance. In July of 1976, New York and its South Street Seaport will play host to "Operation Sail '76" with more than thirty tall, full-rigged sailing vessels arriving from around the world to honor the United States on her 200th Anniversary.

Philadelphia, Pennsylvania, will have several focal points, including Independence Hall and the Liberty Bell, restoration of historic buildings in Fairmount Park, new programs for the city's cultural institutions, and looking to the future as well as the past, the development of a model system for providing health care.

Boston, Massachusetts, is creating a network of paths, freedom trails and walking tours throughout the historic city, developing a Center for Urban Action, and restoring such historic structures as Faneuil Hall, Quincy Market and the Old State House.

Washington, D.C., as befits the Nation's Capital, is preparing for unprecedented influx of foreign and domestic visitors with such projects as a new National Visitor Center, Constitution Gardens on the Mall, the Eisenhower Civic Center and the National Air and Space Museum of the Smithsonian.

Miami, Florida, is constructing a 1,700 acre Inter-American Trade and Cultural Center, including the opening on New Year's Day, 1976, of the new 4,000 student Florida International University. That area's own Bicentennial organization, Third Century USA, in addition to the Bicentennial activities at Interama is sponsoring a 1976 Hemisphere Conference for 10,000 to 12,000 women, a national youth conference and the renovation of Martin Luther King Boulevard through the city's primarily black neighborhoods.

Charleston, South Carolina, with one out of every dozen citizens actively participating, has scheduled hundreds of projects and events, including the construction of a naval museum complete with an aircraft carrier, development of a Bicentennial park, and extensive and continuing restoration of the city's many buildings going back to pre-Revolutionary days.

Denver, Colorado, which celebrates its own Centennial in 1976, is driving to complete a 2,400-seat Performing Arts Center, a new sports arena and $9.3 million worth of residential units for its low income families and its elderly. $87 million in bonds has been raised to finance these projects.

Tucson Arizona, is going forward with a ten-year, $350 million public transportation system, a permanent Arizona-Mexico institute, the restoration of historic monuments and structures, and publication of documents tracing the city's history from its founding in 1775.

Sparks, Nevada, in a massive community effort, is restoring the city center to its original character as a railroad town which helped to build the West.

In California, plans include separate programs depicting the Spanish-American, Black, Chinese and Japanese contributions to California's ways of life. California is also creating a program entitled "The Creative Americans: Two Centuries of American Culture, 1776–1976." This program will be presented in San Francisco, San Diego and Los Angeles and will include mini-exhibitions in a bazaar-like atmosphere which will illustrate both the historical and modern aspects of California living.

Iowa is planning a World Food exposition and is restoring its old State Capitol. Kansas is restoring Fort Scott, and Nebraska the Old Oregon Trail sites. The state of Texas is commissioning an opera, and in Arizona, Indians are developing projects highlighting their role in our Nation's history.

Dorset, Vermont, a community of 300, is compiling and publishing the papers that led to Vermont's statehood.

Clarendon, Texas, is building an amphitheater with bricks made by school children and signed with their names.

Thus we see that the Bicentennial will be as diverse, as colorful, and as varied as America itself. It can be a banner under which all Americans can march, however disparate their views on other subjects. It will be a reaffirmation of the enduring principles that have made this country unique and great. And, most important of all, I believe that it will be a continuing revolution that will be remembered years from now not only as a birthday party but an actual rebirth. It will be festivals and fun—sparklers and fireworks—but even more important, it will be ideas that will not sputter and die, but whose glow will last and improve our quality of life as we enter our third century.

## GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, today I want to discuss the meaning of the word "genocide" and the significance of that crime throughout history.

The term "genocide"—formed from the roots geno—meaning race and cide meaning to kill—is relatively new, but the phenomenon itself has been present since the beginning of mankind's history.

The history of the world is replete with examples of wars of annihilation and extermination. From the genocide committed by the Assyrian hordes to the massacre of 6 million Jews in this century, the heinous crime of genocide has been an ever-present occurrence.

Prof. Raphael Lemkin coined the term "genocide" in a report to the fifth international conference for the Unification of Penal Law in 1933. Lemkin maintained that this crime against humanity actually involved two separate acts of terror. The first was barbarity, which he said involved attacks against the lives or economic existence of individuals in a religious, racial, or social group. The second was vandalism, which involved the destruction of a group's cultural values.

Professor Lemkin continued his discussion of genocide by explaining that the crime had two phases. Phase 1 involved the destruction of the national pattern of an oppressed group. This was followed by the second phase in which the national pattern of the oppressor was imposed upon the conquered group.

The scholarly work done by Lemkin and other concerned individuals as well as the painful memory of Hitler's atrocities against the Jews prompted the United Nations to act.

In 1946 that international body adopted the following resolution against genocide:

> Genocide is a denial of the right of existence of entire human groups as homicide is the denial of the right to live of individual human beings; such denial of the right of existence shocks the conscience of mankind, results in great losses of humanity in the form of cultural and other contributions represented by these human groups, and is contrary to moral law and to the spirit and aims of the United Nations . . . the punishment of genocide is a crime of international concern.

In 1948 this resolution was followed by the drafting of the Genocide Convention. U.S. delegates were instrumental in producing this important human rights document and in securing unanimous approval for it in the General Assembly, where it was adopted by a vote of 55 to 0.

Mr. President, we have delayed far too long in securing ratification of the treaty outlawing this heinous crime. Next week this body will take up the Genocide Convention. It is of the utmost national importance that this treaty be adopted.

## LEGAL SERVICES

Mr. McCLURE. Mr. President, I have been reading some materials put forth by legal services lawyers entitled, "How To Be an Effective Legislative Advocate." The source is the National Legal Services Colloquim held at Vail, Colo., in August of 1969. The title is innocuous enough, but the content does not bear scrutiny, not at least, if the reader is interested in any really effective legal services for the poor. Those who favor the corporation proposed by the Labor and Public Works Committee's version of the bill have often defended their legislation by saying that a majority of legal services cases in the past have dealt with individual divorce cases. Apparently we are expected to infer from this happenstance that future efforts will be proportionately the same. But section V of the legal services' advice to its practitioners specifically enjoins them to "act on behalf of a client group rather than an individual client." Unless people are now getting divorced in groups there is an obvious disparity between what is said and what is done.

The lobbying procedures used by legal services lawyers in relation both to the press and to legislators are exposed here in all their cynicism. At a time in the Nation's history when good faith and probity are sorely needed, the poor who have legitimate individual needs will be interested to note that unless they fit into an arbitrary subcultural catchall, their needs will be ignored.

Mr. President, I ask unanimous consent that the attached notes from the National Legal Services Colloquim be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Notes on Legislative Advocacy—How To Be an Effective Legislative Advocate

### I. LEGAL IMPLICATIONS OF LSP LEGISLATIVE WORK

#### *Registration*

A great many state laws require that lobbyists register as such, and submit reports. It would seem advisable, in the absence of any OEO policy guidance, to register any LS attorney whose work in legislative advocacy will fall within the scope of your state's law. In doing this sort of work, LS lawyers will be visible in any case, and it would be best to remove this as a possible charge by opponents or unfriendly legislators.

LSP's should also consider whether you wish to have just one man doing your lobbying work, or have several, each expert in his own area. If all else is equal, you ought to opt for the one man, since he will then have an opportunity to build invaluable relationships with legislators.

### II. THE LEGISLATURE AS A FORUM

While LS lawyers are well qualified to be effective lobbyists, there are two major adjustments necessary.

First, legislative efforts are much less amenable to control and direction than are normal court-related efforts. An LS lawyer operating in the legislative arena:

1. Is not the principal actor,
2. Is acting through others, and
3. Is subject to the vagaries and whims and scheduling of other bills, other legislators, and other lobbyists.

Second, selling and public relations are vastly more important in legislative advocacy.

Lobbyists, are, in general, selling two points:

1. That there is political good in the proposal or at the least no harm.

The particular legislator will want to understand in this connection whom you speak for, what really is at stake, and most important, what the "sanctions" broadly speaking are the possible gain or loss in votes, the possible gain or loss in campaign contributions, and the possible gain or loss in the esteem of people whose judgment he values or whose judgment shapes public opinion. These "sanctions" are to be inferred from your description of the group you represent, their vigor, and interest in the proposal you are urging. It is good form to state that your group will value the particular legislator in question very highly if he goes along with them on the proposal.

2. That there is social good to be achieved by supporting the proposal.

Your proposal must be a serious one, supported by sufficient facts and data, which will reasonably achieve the good results you claim for it. Most legislators want to do the right thing and are sincerely concerned about problems they know about.

The lobbyist's job is to show them that on balance the combination of political good and social good will be a plus for them. Few legislators will incur what they conceive to be political liabilities in support of hopeless proposals.

These generalizations approach the outer limit of what can be definitely stated about legislators as a class. In each particular case, it is essential to know the man and on what basis he operates as a legislator.

### III. LSP EFFORTS IN LEGISLATIVE ADVOCACY

It is clear that the potential for law reform through legislative advocacy is great, both in blocking detrimental legislation and in passing favorable or corrective legislation. It might be worthwhile to consider the institution of a National Center for Legislative Advocacy to help LS attorneys to develop these skills, and provide backup research and support. If inadequate time and manpower were the only factors responsible for minimal legislative efforts by LSP's perhaps such a center would be only marginally effective. But I suspect that many LS attorneys are hampered both by lack of familiarity with the ground rules of legislative work, and by variations of the incorrect notion that money is also the mother's milk of successful lobbying.

Legislative advocacy is no more difficult or demanding than test case law reform. It is merely different. It carries potentially greater rewards, potentially greater frustrations, and sometimes potentially greater risks than courtroom work.

At a minimum, every LSP can seek out a friendly legislator, and urge him to introduce a bill or bills for them, and provide him with back-up work needed.

I think a modest enough resolution for every program director would be that the LSP's in his state would attempt to pass one bill of benefit to the poor through that state legislature next year.

### IV. KNOWLEDGE OF THE LEGISLATURE

No other factor is quite as important in legislative technique as knowing everything there is to know about a given legislature, the men in it, and what makes it tick. Some of the successful private lobbyists maintain extensive and exhaustive card files on every legislature in the United States. In some cases, the files will cover only the committee chairmen and the two or three legislators on both sides of the table next in line for that post. Information will include the strong and weak points about each man, including notations about the friends most likely to be able to influence his position, whether in or out of the legislature.

It is obvious that such files are not available to the average LSP. However, a reasonably good cross-section of information is not difficult to obtain, by talks with legislators willing to help you, reporters who have covered the legislature, politicians, personal contact, staff men (where they exist), and people in the districts of particularly important legislators.

It is particularly important that you get to know where the power in the legislature exists, and to what extent it is used. The normal power centers in any legislature are found in:

1. Those who control the procedure and rules, including the debate and the legislative agenda.
2. Those who control assignments of legislators to committees.
3. Those who control the reference of bills to committees.
4. Committee chairmen.
5. Legislators on the appropriations committees.
6. Natural leaders having influence for whatever reason.
7. Staff persons, normally on committees in state legislatures.

You should know, generally speaking, something of the following about each legislator with whom you deal: his political stance generally; his voting record; voting peculiarities based on special interests or unusual quirks; and what supporters and backers are influential with him.

Vote or position peculiarities prove the newly-coined maxim that "legislative gold is where you find it". It does turn up unexpectedly at times. Good legislative advocates will not make assumptions about the position likely to be taken by a given legislator unless they have some pretty clear indications that he is hopeless.

The conservative, with a "liberal" blind spot, also makes an impressive ally in rounding up support of those who might not otherwise listen to you.

### V. FORCES YOU CAN BRING TO BEAR ON LEGISLATORS

### *Groups of the poor*

Whenever possible, a Legal Services attorney should act on behalf of a client group rather than an individual client. This brings involvement of the poor; some education about the processes that control their lives and how to deal with them; provides a vehicle for resort to the news media; more credibility in dealing with legislators; and a mechanism for the involvement of groups made up of non-poor persons.

General community representation can be successful in some cases, especially if you happen to command instant attention from the press as is the case with Ralph Nader. Many of the bills that LS lawyers will push are not, however, earth-shattering news stories. In such the news angle may initially be in the group and in its activities.

### *Other allies*

You can find other allies, preferably already organized in some form or another, wherever you can find some sort of similarity of interest, or parallelism, between the two in the particular legislation. (It would not be unheard of, either, to put in "sweeteners" desirable to other groups you wish to enlist.)

You ought to look to church groups; labor unions; women's clubs and groups, such as the League of Women Voters; partisan political groups; bar associations; university and law faculties; editorial writers; state executive agency officials concerned about the problem; close friends of a key legislator; and "allies of opportunity".

In the last category, for example, there is no earthly reason why modifications of garnishment laws shouldn't be supported by businessmen and industrials whose bookkeeping life is made miserable by the practice.

Bar associations ought to be particularly useful in achieving procedural, or in statutory reforms to keep state laws current with recent Supreme Court decisions.

In any event, if you are serious about legislative law reform, you will get as much going for you as possible on any given issue.

### *Media*

The working press is normally liberal and sympathetic to the poor, and hostile to the "establishment". At the same time, good reporters value the virtue of objectivity. You should never ask a reporter to write a story solely on the basis of personal friendship, or on an issue where there is little hard news value.

But you can provide a new peg around which a favorable story can be written, without any loss of integrity on your part or the reporter's part. For example, the formation of a group, passing a resolution, debates, announcements of intent to do something in the future, are all likely to provide the news peg for a story dealing at least in part with the background material you were interested in getting into print in the first place.

### *Factual information*

It is not sufficient in most cases to present what your proposal does, and who it would help. You must first strongly establish *why* it is needed, and the specific instances of abuse which require some legislative action. While, for example, statistical analyses of caloric intake and protein levels would more soundly base a bill to remedy hunger among the poor, the facts which "sell" such a bill are graphic portrayals of disease, bad eating habits, garbage can rummaging, stunted IQ, squalor, and the like.

### VI. COMPROMISE—NEGOTIATION—POLICY

### *Policy determinations*

It is elementary that the broad policy framework of legislative proposals be decided by the poor, or by the group you represent. This is true for several reasons, some of which are mentioned in the preceding Section V. In addition, the most damaging thing that can happen to you as a legislative advocate is to be undercut and repudiated by the group you purport to represent. No legislator in his right mind will incur political liability, or deal with any legislative package, if he suspects that the poor or the group it attempts to help regard it as worthless, or will change their position.

To the extent possible, you ought to hammer out the policy outlines of a bill ahead of time, or at least the order of priority among a list of bills that are being proposed. This may pose difficulties in states with a number of LSP's, but these could certainly be ironed out in joint discussions or meetings.

### *Compromise*

The question here is not whether, but *when* or *to what extent*. Few bills pass exactly as written, if for no other reason than the fact that legislative draftsmen have different styles and ways of achieving the same objective. Therefore, it is necessary that the legislative advocate be allowed some room to compromise within the policy laid down by the poor.

Hopefully the policy will guide him in determining at what point compromise becomes "corrupt", or at what point they're getting less than a half loaf.

A serious question occurs in cases where you anticipate the necessity of substantial compromise, and policy dictates that substantial compromise would be permissible. Do you introduce the strongest bill possible, in the hopes that more of the strength will stick through the compromise and negotiation process? Or do you introduce a bill that is close to the version you anticipate will be passed? There is not a pat answer to this dilemma, but suffice it to say that whatever version of a bill is introduced, it will serve as takeoff point for compromise.

Beware of agreeing to compromise without obtaining specific commitments of supports in return. Compromise is useless unless you pick up additional support in the process.

### VII. CONCLUSION

Every legislator is pulled by a host of competing forces and demands: his desire not to offend those he deals with in the legislature now and in the future, especially those having the power to determine his fate in committee assignments and general effectiveness; his apprehension of opposition from business and trade groups; his perceptions of the voter impact any given stand will cause; and his desire to do the right thing. He must feel that he has some room to settle for something less than total victory—he must not feel that he is being presented with absolute demands, and therefore by his lights an impossible task.

### SAMPLE LEGISLATIVE CHECKLIST

1. Policy outlined by poor.

2. Information, materials, and case developed.

3. Bill drafted.

4. All possible bases of support and potential allies explored.

5. The legislative sponsor of the measure chosen.

N.B.—This is one of your key choices. The legislator you choose to handle your bill should preferably be on the committee to which the bill will be referred, and in good enough standing in that committee to be effective. If he is personally committed, and a hard worker, your chances are excellent.

6. Legislative sponsor, or his staff if he has one, provided with information on the bill.

7. Other members of the committee visited to gather support.

8. Other members of the legislature visited to gather support.

9. Appropriate civil servants in state executive agencies visited.

N.B.—In some states, bills are routinely sent to the Executive agencies for reports and recommendations. In states where these reports are considered important, you ought to have seen the man likely to be concerned with the subject of your legislation much earlier in the game. It is not unknown that a man who has been asked to help you with a problem may, a few months later, be in a position to help you with a sympathetic report on a bill solving the problem.

10. If the bill should be the subject of hearings, you should be able to suggest witnesses to the committee staff, or your legislative sponsor. Obviously the witnesses should have been checked out earlier, both for willingness to testify and for contents of views.

1. Hearings attended.

2. Participate to the extent possible in redrafting, compromises, report-writing, and other work.

3. Watch the bill pass.

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## DIVERSE GROUPS OPPOSE NUCLEAR POWER

Mr. GRAVEL. Mr. President, some rather diverse groups have recently endorsed a moratorium on nuclear power plants in this country.

In July, I am told, the Wood County Chapter—Wisconsin—of the National Farmers' Organization passed a moratorium resolution.

In August, Chapter 727 of the American Association of Retired Persons, 84–18 Cala Breeze Way, Tukerton, N.J. 08087, endorsed S. 1217, which would phase out the operation of all civilian nuclear powerplants by 1980.

Also in August, the U.S. Women's International League for Peace and Freedom, 1213 Race St., Philadelphia 19107, unanimously affirmed its demand for "an immediate moratorium on licensing, siting, building, selling, and operating nuclear power plants."

In October, the executive board of Local 5503 of the Communications Workers of America, 3510 W. St. Paul Ave., Milwaukee, Wis. 53208, declared its "support of a national moratorium on the construction of nuclear powerplants, as the only sane avenue open to the United States."

In November, 90 delegates of the UAW Community Action program of 1440 Bellefontaine Ave., Lima, Ohio 45804, unanimously resolved that Congress should enact legislation "to declare a moratorium on the licensing, construction, and operation of civilian nuclear powerplants"; the 90 delegates were representing 14,000 UAW members from 20 locals.

The CWA and UAW groups both endorsed faster introduction of solar and geothermal energy.

While Congress continues deferring to "experts" in the AEC and the Joint Committee on Atomic Energy, the public is consulting its own decency and commonsense, and discovering that nuclear power means a high probability of irreversible radioactive contamination.

### WE CANNOT SOLVE THE ENERGY PROBLEM BY CREATING A RADIATION PROBLEM

The core of the whole nuclear controversy has been well summarized in the following leaflet published by the Committee for Nuclear Responsibility:

If we let nuclear fission plants provide 30 percent of our energy by the end of the century, they would necessarily create more long-term radioactivity than the explosion of about a million Hiroshima atom-bombs every year. There is no disagreement about that. Atomic bombs and atomic power plants make exactly the same poisons.

The disagreement begins over the likelihood that people will manage to keep all the poison contained. There is no room in nuclear power for the normal level of human error and corner-cutting. Even 99 percent success is not good enough when you have to contain as much radioactivity as a million Hiroshima bombs every year. It's not honest to pretend that nuclear hazards are like ordinary hazards in everything we do.

Containment of radioactivity depends on near-perfection in the people who design, manufacture, construct and operate nuclear power plants, and who transport, process, and store their radioactive poisons. Successful containment also depends on business constantly rejecting the temptation to cut safety corners in order to increase profits. Because of human nature, the probability is high (not low) that nuclear power will mean radioactive pollution.

If we could "clean up" nuclear poisons when they get out, we could treat them like other pollution problems. But we can't. Radioactive plutonium-239 won't "go away" in 25 years like some other pollutants; it takes 24,000 years for just half of plutonium to decay. Nuclear mistakes could poison earth and water forever, at least in human timescales. It violates minimum morality for our generation to endanger the future for all the generations which hope to follow us, in exchange for a little electric power today—Who gave your permission to use nuclear fission?

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## LEGAL SERVICES

Mr. McCLURE. Mr. President, as I have stated before on introducing materials related to the legal services bill, I have found that one of the best ways of gaging a group is to read what it says about itself. In descriptions that would be suspect from any mouths but their own, these lawyers tell use how they are trying to break down individualism in the United States and how they are learning and teaching others how to function "in a collective way." In order to allow the lawyers practicing legal services in this country to give a picture of their own aims and ideals, I ask unanimous consent to print in the RECORD chapter 11 of "The People's Lawyers" by Marlise James.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

### LOS ANGELES, CALIF.

Los Angeles may well turn out to be the archetypal American city of the post-World War II period. With its sun, smog, super-super highways, continuous suburbs, with a population on wheels shopping in its multitudinous shopping centers, eating from its seemingly infinite variety of drive-in plastic food places, going home to amazingly alike garden apartments, it seems to embody most of the current silent majority values of this country. There are ghettos, but the good folk only see them from car windows at twenty or sixty miles per hour. The downtown section, where it is not being renewed, is run-down, but, with all the shopping centers, who but the people from the central city see it. The city is a myth, really, that only those stuck in it are forced to believe. For the rest, the city is a series of neat little suburbs.

In such a city, establishing a community of any kind is a difficult task. Everything is so spread out, that it is hard to know where one should begin. Given these conditions it is not surprising that the predominant radical political form in the city is the collective, nor is it surprising that the radical legal community is closely knit. The National Lawyers Guild chapter has around five hundred people on its mailing list, and many of the approximately one hundred and twenty active members attend some or all of the Guild's weekly luncheon meetings. With the Guild's decision at its 1971 Boulder, Colorado, convention to admit legal workers, it is likely that both of these figures are now higher.

In the 1930s and 1940s Los Angeles was a center of union organizing. In the late forties it was the first city out of which came a blacklist (the Hollywood Ten).

Because of this early organizing activity the Guild chapter is composed of both lawyers from that period and the "new breed" radical lawyers who came out of law school in the sixties. Although there are differences of opinion between these two groups, they seem willing to learn from each other.

The firm of Jean Kidwell and Frank Pestana is composed of two lawyers who are husband and wife, are both in their fifties, and, as lawyers, date back to the early organizing period. Pestana is the son of working people who immigrated here from the Portuguese Islands in 1916 and settled in Oakland. He dropped out of high school and traveled the country on freight trains for three years before the labor struggle impressed him enough to send him back to school with the intention of becoming a labor lawyer. He went to Berkeley as an undergraduate, and then to Boalt Law School at Berkeley, graduating in 1940. He immediately joined the firm of Gladstein, Grossman, Margolis & Sawyer in San Francisco, opening an Oakland office for them.

When the war came he went into the army's judge advocate corps. Following that he became an attorney for the Federal Employment Practices Commission, which was trying to work against discrimination against the Black manpower that was coming from the South to help in northern defense industries.

After he left the Commission he went back to the Gladstein firm for a time, then came to Los Angeles to work in the law office that represented the motion picture studio unions.

"There was a terrific labor dispute in those unions from 1945 until 1949 when they were destroyed. In the strikes that accompanied the disputes, real repression came down. As many as fifteen hundred people would end up in jail at the same time for picketing, or allegedly violating court injunctions limiting the number of pickets in front of the studios. Jeannie and I were both arrested for taking the messages of people arrested to their families.

"In 1949 when the unions were destroyed by McCarthyism, we had to build up a whole new practice. We did some labor work, but, in that period, the unions would not take lawyers who had had any sort of leftist political careers. During the early organizing period all the CIO unions had had left-leaning Guild lawyers, while all of the AFL unions had had old hacks. But in the McCarthy period, left lawyers were fired right and left by unions, and the lawyers who went with the unions then were the ones who had been on the outs with the CIO unions before. So I went into straight work—whatever labor I could get, civil rights, police brutality, immigration, and work that stopped deportations."

Kidwell, who did not become Pestana's legal partner until 1950, had come to the legal profession in a roundabout way. She was born in San Francisco in 1917 and was brought up by her father, who was a trade unionist. She went to the University of California at Berkeley majoring in mathematics because she felt, because of the pressure of the times, that that field or teaching were the only occupations open to her. She met Pestana in 1938, when she was still an undergraduate, and they ultimately married. When he went into the army she worked for the army. On their return to Oakland, she worked for the government as a statistician, but found that she was bothered because of her own, her father's, and Pestana's politics.

"I knew it would continue if I was in statistics, so I decided to go to law school. I had thought of going to medical school but I was twenty-nine and there were undergraduate courses I would have had to complete first. So it was law school; I don't even know how."

She began attending Boalt, but, after six months, Pestana moved to Los Angeles and, after six months of a long-distance, commuting marriage, Kidwell went there too, completing her law courses at the University of Southern California.

"Originally, we had thought we'd go to the San Joaquin Valley and establish a legal service for the farm workers, but we ended up working here. My first partnership was with Stanley Fleishman, but eventually he had an accident and, at about the same time, I became pregnant. I had my first child when I was thirty-two and two others after that. I tried to work, but we had no money to have someone watch the kids. After the unions collapsed we were lucky if we made twenty-five dollars a week from legal work for the next few years. We did a lot of free work—all of our immigration cases were free—and we had no people giving us financial backing.

"I was a member of the Communist party from 1938 until 1962, but my relationship to it was strange in that I was never considered one of the lawyers who should be compensated for doing political work. I ultimately left the party because of a disagreement over their saying not to engage in the movements of the sixties because we could hurt those movements if we did. I went to the Mississippi Freedom Rides anyway. A friend from CORE had come to me and told me that they needed publicity because of the number of young people disappearing into the prison system down there. They wanted doctors and lawyers to go there to get them publicity.

"I tried to get other lawyers from Los Angeles to go there but none of them would. So I went with another female attorney. We got arrested and they wanted to bail us out right away, but we decided to stay in and go through the state penitentiary so we could see where people were and what the conditions were. From Mississippi the two of us went, by invitation, to Cuba. We had discussions there about the international Communist movement and a lot fell into place.

"When I returned to L.A. I went back to the group and, in the proper way, started asking questions, but got no response so I left the party."

It was in the late forties and early fifties that Kidwell was involved in a serious struggle within the local chapter of the Guild.

"Frank and I had always been Guild members and I felt that the Guild should not be a mass organization. At that point of time there was a faction who wanted to turn the Guild into that. It was a protective thing that they wanted. But I felt that we had to be a group of radical lawyers that had the right to take a political position without being a political organization, or else the organization would have been pointless. We eventually won, if only by default. The Guild was placed on the attorney general's list and that killed any chance of its being massive then. It moved even more to a bar association orientation and a lot of energy was expended getting it off of that list.

"Actually I think the Guild was practically gone by the sixties. If the southern thing hadn't started, if young people hadn't entered, forcing it to change its direction, it probably would have folded. It really wasn't until the Santa Monica convention in 1968 that I felt it definitely would survive.

"By that time the old Guild lawyers were getting old. I believe that lawyers for the most part come from a bourgeois background and, if they don't, law schools do a good job inculcating this into them. The system generally doesn't have to worry much about lawyers when they've done their education and then become part of the arm of government. So, if they manage to fight all of this and get to be fifty or sixty and are still involved in struggle, that's pretty good. As it happens, it also seems to be pretty rare, so the Guild needed some new blood."

Occupying the second floor of the same run-down, but comfortable, pink house in West Los Angeles that holds the Kidwell and Pestana firm is the Bar Sinister (BS), a collective entirely composed of the new breed of lawyer and legal worker.

The Bar Sinister, which can be taken to mean the literal "left bar" or the "evil bar" (since that is how they feel they are viewed by the establishment) or, from its initials, the "bastard of the system," opened in June of 1970. By the end of that summer ten of the people who now compose the Bar Sinister were working there. The political atmosphere form the ideas of these young people also led them to choose the collective firm. Looking at their backgrounds helps one to understand why collectives came about when they did, and the types of lawyers attracted to them.

Joan Anderson was born in Los Angeles in 1942. Since her father was stationed overseas she spent her childhood with her mother and her father's relatives in a suburb of Chicago.

"I always felt separate from the people in the suburb. My parents were working-class and had given me a different attitude than that around me to things like racism. Eventually we moved to California because my parents didn't want me to go to a ruling-class high school. We settled in the San Fernando Valley and I went to a white, working-class high school where I was a cheerleader and interested in my image but never did things like join a social club because I didn't like the elitist attitudes they had.

"I spent my first year of college at the University of Oregon and again felt out of place because it was a party school and I basically just studied. Then I transferred to UCLA and there I realized that I was a radical. I had an Indian professor who was a Socialist or Communist and who was able to voice the opinions I had always had.

I decided to become a lawyer because a lot was happening in the South, and I wanted to be there yet I wanted to continue with school, and law seemed a way to relate to people on a practical basis. I went to Yale Law School, with most of my thoughts on civil rights, although it seemed that I was becoming more radical than the civil rights movement, and left after three weeks. I spent the next year as a social worker here in Los Angeles, but I realized I was no more than a policeman administering money so I went back to law school thinking again that that would let me relate to people in a more meaningful way even though, at that time, I did not have much faith in the court system as a way of changing things. My two years at Yale were the time when I most consciously became a Marxist-Leninist-Maoist.

"I spent most of the first year doing community work in a Black ghetto near Yale. I became involved in a police brutality case which kind of clinched it in my mind about the absurdities of American justice—the Black people I had seen beaten up were convicted of assault. That summer I went to work for CRLA and began to see how the court system treated Chicanos and those organizing among farm workers. The next summer I worked for Truhalf, Walker & Bernstein in Oakland and did some work for the Black Panther Party which was just beginning to emerge, and some free speech cases. I saw then that classical political cases were the only thing that interested me if I decided I wanted to be a lawyer at all. I spent my last year of law school at UCLA doing a lot of political work.

"After I graduated I spent a year working for the Guild as a student and lawyer organizer. Then I came here and worked for some Los Angeles lawyers for a while before spending three months in Cuba with a *Venceremos* Brigade. When I came back, the Bar Sinister was beginning."

David Epstein is also a native of L.A. He was born into a middle-class Jewish family that moved to Venice, California, when he was twelve.

"Moving from a solid middle-class community to a mixed one really had an effect on me. By the end of high school I had real questions about the institutions and values all around me. I went to Berkeley and was there for the free speech movement which began my radicalization. But I think that I am in the generation that tailed right on the beginning of the whole thing.

"I came down to UCLA Law School in 1966 and found it very traditional and quiet. I had decided to become a lawyer because of the momentum of my background and history, and because it was also the time of the civil rights movement when there wasn't a contradiction between being a lawyer and being in the movement. Between my entering and finishing law school my radicalization really occurred. I became involved with people who wanted to do community work in Venice and with people who were working on the formation of a student conduct committee which wound up being almost an advocacy procedure. Then, in my last year of law school, about a half-dozen of us who saw we wouldn't be comfortable going into a straight law office began to have discussions, and these were the seeds of the BS."

Carla Forteney was born in West Virginia and her family then moved around ending up in California in "a typical middle-class situation."

"I went to high school in Sunnyvale, then I went to the Art Institute in Chicago, I started to change there, got into the beatnik thing, then I went to the University of Illinois where I became involved in their free speech movement, antiwar stuff, S.D.S. It was a typical student involvement.

"Then I moved to Los Angeles with a guy who was going to law school at UCLA, and that is how I began to get involved in legal stuff. That's how a lot of the women legal workers get involved. I was involved with the Guild student chapter and some college politics, while I was going into and out of school. Eventually I broke up with that guy but, by that time, I knew David Epstein who was then working in the Guild office and I began working there doing legal defense work, getting lawyers, putting out publicity, going to meetings.

"I went on the Third *Venceremos* Brigade and that was a real turning point. It gave me faith that the things I wanted were necessary, and that there is a worldwide movement trying to get the same things. When I came back the people here, who I'd known from the Guild work, wanted me to join them. I thought, after Cuba, that I wanted to be in a direct organizing role so I felt some contradictions about working here but the needs of the movement are so broad, and I had had a lot of experience doing legal things, plus I had built a relationship with the people here, and so I decided to join them."

Karen Jo Koonan was born in Savannah, Georgia, then raised in New York until she was fifteen when her family moved to Venice. She was a dance major at UCLA and into the bohemian scene until the summer of 1964 when she went to Mississippi.

"Some friends told me about their experiences there the previous summer so I went down and became a Freedom School teacher and worked on voter registration. Needless to say it was a radicalizing experience. The school was burned out after I had been there for seven months so I went to New York, deciding I wanted to be a dancer and ending up working in a bank. Eventually I came back to UCLA and stayed there for two and a half years. Then I realized that being a dance major was politically irrelevant, and I moved to San Francisco where I worked for a movement newspaper for two years and did organizing for draft legal defense work. I got to know the lawyers in the Bay Area and one of them, Dick Hodge, trained me to be a legal secretary and I worked for him parttime for a year. Then I became a secretary at the Guild regional office in 1969, and I stayed there for six months.

"During this time I had been involved in other political things—I went on the first SDS trip that was supposed to go to Hanoi in 1967, but we ended up going around the world in a month and meeting with NLF representatives in Cambodia; I was involved in the Oakland Seven case; I was on the streets for People's Park and then Joan and I organized that defense committee. In December of 1969, when I was still working around the San Francisco Guild office and doing temporary legal secretarial work, I wanted a vacation so I came here and spent some time with Joan and Dan. They talked about the BS and I got turned on by the idea so I moved to L.A. Then I went on the same *Venceremos* Brigade that Joan did and, when we came back, the BS was beginning. I went to Cuba again in December of that year on a special lawyer and legal worker trip."

Barry Litt, a native of Pittsburgh, moved, with his "upper middle-class Jewish family," to Los Angeles when he was fifteen.

"The notion of success in monetary and scholastic terms was stressed heavily in my family. In high school I had a teacher who could get people to think in political terms, and I started doing so. Paula [now his wife] and I met in high school.

"I went to UCLA for a semester, then I finished up college at Berkeley, where the free speech movement was going on. I defined myself as a fringe radical, which meant that my ideology was undefined. My wanting to be a lawyer goes back to all kinds of Jewish things like being articulate, not wanting to be a doctor, and still having a strong sense of wanting to be a professional. So, after Berkeley, Paula and I and our first child moved back here and I went to UCLA Law School.

"My main focus during both undergraduate and law school was reading, especially fiction with an unclear notion of whether I wanted to be a lawyer or writer. After I took the bar exam I wrote for three months but I wasn't pleased with the results. I had known Dan and David in law school, and I knew about the idea of a law commune so I decided to try that. I started going to meetings in January of 1970 and continued going. In those first six months of meetings I found that I had to define myself politically, and I came to the idea of being a Marxist-Leninist, although I am still defining."

Paula Litt was born in Chicago and raised in Los Angeles.

"I came from a wealthy family, but we did not have the trappings of wealth. I went to University High School where I met Barry. By my last year there, I was alienated and my grades started to slump. I was interested then in social action related to my religion but, by the first year of college, I'd lost that interest too. I went to UCLA for a year, then dropped out and went to Berkeley where I went to secretarial school and worked for the University.

"Barry and I got married after his second year there. I worked for a while, went to school for a while, kept bouncing back and forth. I had a child and that gave me some feeling of definition, but it was a disastrous one although I related positively to having children. While Barry was in law school we had two more. Then, when Barry started going to the meetings for the BS, I began going too. I had always had an intuitive sense about politics which crystallized at this time.

"When the BS began I started working with it. We had sitters come in for the children, and we each stayed home with them one day a week until the collective where we now live, which is based upon freeing parents to work while giving children adequate care, came into being."

Beth Livezey is a midwesterner.

"I was born in Oklahoma and grew up there, in Norman where my father was a history professor at the University of Oklahoma. I went to the public schools there and then went to Pembroke College in Providence, Rhode Island. While I was there I became involved in tutoring and in some of the recreational programs in the poorer sections of the city. I was also involved in such issues as open housing, which was before the Rhode Island legislature while I was in school.

"When I was a senior it seemed like lots of people were either getting married or going to graduate school, neither of which was appealing to me. I had gotten increasingly interested in the civil rights movement so, upon graduation, I went South and did civil rights work for two years. During that period I decided that more movement lawyers would be helpful, since there were very few at the time. So I went to Vanderbilt Law School in Nashville because I felt it would be more important to stay in the South than to go to a northern school where there would be people who thought and acted more as I did.

"While I was there I helped to start the Law Students Civil Rights Research Council group and I did some community work. After my first year I worked for C. B. King in Albany, Georgia; and, after my second year, I worked for the Center for Constitutional Rights which was then in Newark. During my last year of law school—from August through January—I worked in New Mexico on some of Reies Tijerina's earlier cases and also took some courses at the University of New Mexico.

"When I graduated I took the New York bar and began working for the Center. I both worked in New York and traveled around doing case work in Ohio, in Chicago for the conspiracy trial, and in other places. After a year of that I felt the need to work in more of a collective form, and in one geographical area. Through the Guild I met the BS people and discussed their hopes of establishing a collective. It seemed like many of our plans and needs meshed. I came out here during the summer of 1970 to see how it was working, and I decided to stay."

Dan Lund is a North Dakotan. At the Guild's 1971 convention he was elected national vice-president of that organization.

"I was raised on a farm near a small town in a parochial atmosphere. I never saw anyone who wasn't a Norwegian or a Swede until I was fourteen years old. But, in spite of that, there were some radicalizing influences. My grandfather was an old world progressive who hated the banks and Wall Street; my great uncle was a lumberjack and a Wobblie; and my mother and grandmother were very active in the Presbyterian Church which was then strongly influenced by a social gospel notion.

"We moved to Culver City, a working-class suburb of L.A., in the early fifties and, while I was in high school, I began to define myself as a socialist because I knew it was sure to terrify and offend everyone around me. I took some kind of perverse satisfaction out of doing typical things well—like sports and getting good grades—and still having a self-defined notion as an iconoclast.

"I went to Pomona College in Southern California where I met some people active in the civil rights movement. I never did go South though. During the summers of my last two years at college I was a grape worker around Fresno and did some work with the California Migrant Ministry and with the pre-Chavez agricultural workers' organizing committee.

"I saw there the conditions under which people worked and the power of the bosses in labor. The strikes were viciously broken and the organizers were helpless, so the workers' solidarity broke and fragmented. It had a great effect on me. I wanted to go out and organize yet, at the same time, I felt cynical about the nature of labor organizing. Finally I decided to be an academic because I thought it was pretentious and paternalistic for me to try to organize farm workers. I went to Yale in graduate work in radical church history for a while but I choked on the cloying atmosphere of the East.

"I quit and came back to California in 1964 and began to do parttime support work for Chavez's union which was then beginning. In the fall of 1965 the grape strike began and I spent a good part of the next year working for the Emergency Committee to Aid Farm Workers, which was trying to mobilize middle-class political and financial support for Chavez. That was a critical time between the beginning of the strike and the time that the UAW gave its support to the organizing work. But, when they got the UAW support, they had to go along with the liberal anticommunism that went with Reuther's money, so I became more cynical about the process of organizing workers in this country.

"So I decided again to retreat from organizing but, this time, I decided to become a labor lawyer so I could work with groups like Chavez's and give them the kind of assistance they needed so that perhaps they wouldn't be forced to make the kind of unholy bargains they had had to with the UAW to get their lawyers and their money. I went to UCLA Law for a year then I began to work with Jim Lorenz on the proposal for CRLA. I was inspired to do this from what I understood the history of the thirties to be when young, radical bureaucrats were able to creatively use many of the government agencies. I thought that OEO might give us an opportunity to do that if we were really serious and if it were done on a big scale.

"I took a year off from law school and served as one of the administrators of CRLA, and I fought for a radical approach to support local organizers and organizations, particularly those that tied themselves to the farm workers' union even though I was somewhat cynical about their tie to the UAW and what that protended. It was a concrete, day-to-day education in bureaucracy and radicalism. While the radical spirit in CRLA was predominant at first, it soon became the minority view. CRLA took a sophisticated turn and became what it is today—the most effective, well-organized legal services program in the country. They are technically probably doing the best legal job in terms of law reform, class action, and sophisticated advocacy for rural poor people, but they have no feeling for supporting local political organizing or mass organizing. In fact, they have a fear of it. Instead of building a base among the people, they've built a base among the liberals and the young creative bureaucrats of Washington who liked the idea of that program and who took a great deal of their own identity as bureaucrats from the fact that programs like that exist.

"After a year I left them to return to law school, sobered and determined that it didn't make much sense to be a labor lawyer and that I didn't know what I was going to do. That was 1967 when there was an intensification of the peace movement. I became active in SDS, and was arrested at the Dow demonstrations at UCLA.

"In the summer of 1968 I was introduced to lawyers and law students who were with the Guild and, while this didn't provide all of the answers, for the first time I felt that I had found a community of people who were good to work with, who could combine being a professional with a revolutionary perspective. My last year in law school I spent a lot of time working with the Guild and, when I graduated, I took over the regional office here and worked at that for a year organizing law students and lawyers and trying on many things for size in terms of what kind of legal work made sense in terms of serving the movement. At the end of that year, the discussions about the Bar Sinister began and I decided I wanted to join in."

Carson Taylor was born in Pennsylvania and raised in Rhode Island.

"My family was upper-middle-class. I went to private schools after the fifth grade. I went to Governor Dummer, a boarding school, for my high school years and then to Amherst College. Ever since I was a kid I had wanted to be a lawyer so I went to Duke Law School.

"While I was there I began to get more radical. Going down to the South, a lot of the contradictions in the society became clearer to me. I thought of staying in Durham after I finished. There were discussions about starting a law commune there, but it didn't look like it would come off.

"It was June of 1970 when I graduated, and my wife, Gwen, and I decided to come out here for a vacation. I knew some of the people from the BS from the Guild so I talked to them when we got here. We never left."

Earle Tockman, a Chicagoan, went to the University of Illinois in Champaign/Urbana.

"I'd always wanted to be a lawyer because of the glorification of lawyers in society and because I had a talent to articulate. However, I took up accounting in college because I thought I wanted to be really rich. Then I decided I could be even richer if I became a tax lawyer so I went to Northwestern Law School. I was a liberal through college and thought I was in the vanguard of the struggle even though I was playing the game. After my second year I worked for a corporate law firm and hated it, but I still couldn't break my bourgeois hangup about money.

"I had this unsophisticated hangup about capitalism and what it did to people, including me, and I really felt the frustration of the contradictions in my life. The last year of law school I decided I wanted to be a poverty lawyer. I got a Reggie and came out here to Los Angeles. I was sent to Compton, a Black area of the city. I began to enter an identity crisis about what it meant to be a lawyer. I joined a group called Lawyers of the People where I met a lot of the people who are now with the BS. Eventually I decided to join them."

Joining the Bar Sinister is one way for Earle, or anyone, to get over their bourgeois hangups about money since the salary scale at this collective is so low it is nonexistent. When the collective has money, people take what they need to pay their bills and to subsist, but there is no minimum or maximum draw as there was at the other collectives discussed thus far. Part of this is by choice and part is because the Bar Sinister began with people who were, for the most part, inexperienced. No one had a client list they could bring with them to the collective as has happened in the others. And, because of their inexperience, the collective is very careful in the cases they undertake. When they take a case they study all of the areas of law involved and consult with more experienced lawyers like those in the Kidwell firm, Michael Tigar, Oliver Wendall Holmes, Jr., and Ben Margolis. So, as of this writing, it takes them a good deal of time to handle their cases.

To cut down on expenses, five of the people from the collective live in a big house in Venice in a working-class, Chicano neighborhood, three others live in the child care collective of which Paula spoke, and the remaining two, at the time of writing, lived alone.

From its beginnings, the Bar Sinister has viewed itself as a political collective first, and a legal collective second. Instead of being the legal arm of the movement, as the Guild tries to be, it wants to be a legal arm *within* the movement.

"Especially in the white left here, we are considered a political collective, just like a collective that does organizing or runs a bookstore."

From their beginnings this attitude has given them a unique set of problems. Following the six months of discussions when it was decided that those interested would give the idea a try, they got an offer of free office space and decided to take it.

"Suddenly, there was the Bar Sinister. Then problems began, like whether people should have individual offices and right on down the line. Then came the question of secretaries. Not all the men could type then, although they all can now. Then we came to the question of collective responsibility for child care which led to the question of efficiency. What is it? What is efficient in terms of a lawyer's time? All of those were important discussions that led us to challenge ourselves with the notion that we were a collective of people all of whom were equal.

"There were monumental struggles about things like whether to have secretaries. One woman was going to come here and be a semi-legal worker and a semi-secretary. But some of the other women pushed that idea aside. Some of the men, however, had expected to set up a commune like any law commune in the country which has secretaries even if they do have equal pay. To get the women to not go along with that, they had to struggle through their own slave mentalities. It's rarer now that outward chauvinistic acts will happen, but they still do and we will stop a meeting to deal with a chauvinistic remark. The struggle against chauvinism is the very foundation of our existence, but we deal with it as it happens.

"In the beginning the women met separately, then we realized it wasn't necessary because that struggle was so incorporated into our existence that those meetings seemed artificial. That isn't to say that the women don't have separate things to talk about, but we do that every day and, if a separate meeting is necessary, we meet. And four of us attend weekly women's meetings with women from other collectives in the city."

The legal workers in the Bar Sinister do a good deal of legal work—interviewing, researching, preparing witnesses for examination—but they don't feel that they are doing it to become lawyers themselves. They are doing it because they feel it is politically important, because they feel that their own understanding of it leads to a better understanding on the part of their clients.

"At one point we had to deal with whether we felt that political work was just like legal work. If it isn't, we would have been saying that lawyering is the only work and the rest is a luxury. So we came to the point where, in defining priorities, it's all work—that goes across the board from child care to legal work."

To emphasize this attitude the collective tries to spend one full day each week on collective studying. On this day called "Dare to Struggle, Dare to Win Day," they discuss books that they have all read on their own time. The reading is done in sections—one month they might study racism; another, the Russian revolution. Because of this practice, they often find themselves criticized by other members of the radical legal community for spending too much time in self-analysis.

"We're always in the position of defending ourselves from criticism. You're damned if you do and damned if you don't. We never said we had all of the answers, but we want to struggle with things and trying to make them different.

"It can be true that collectives spend so much time on self-criticism that they don't get much law work done but I don't think this is necessarily a criticism. I don't think of myself as primarily a lawyer. There are more important things, and one of these is political development. We spend time in things like self-criticism because it is necessary, and one of the results is that we react pretty much the same toward things. It helps to have your heads together to have a good working collective. It's difficult to function collectively instead of individualistically.

"That sort of criticism is an easy one that can best be made by those who don't know what goes on in a law commune. If anything, we spend too much time working on trials and litigating because that is absolutely necessary, and too little time in self-criticism and developing ourselves as political people—although the time we spend is probably more time than most lawyers do, because, with a very few exceptions, most lawyers never develop as political people, although they occasionally develop as legal technicians. It's the lawyers who are defensive about their own lifestyles or economic needs or lack of political development who are quick to say, 'Well, they're just into developing some kind of self-satisfying hippie practice; and not into becoming good lawyers.'

"But, any person I've ever met in a law commune recognizes that, because of the people we represent, and because of who we are and how we are seen, we have to be better than anybody else just to hold our own in court. We recognize that we have to be as good as we possibly can. It's important to note, though, that we don't try to be good or great in every area. We try to discipline ourselves and limit the areas of law that we know and know well. I think, even now, that we've brought a seriousness and a thoroughness to our legal work which has already resulted in some significant courtroom victories as well as a good fight in every case we've undertaken.

"The frustrating thing is that we have received almost no support and very little interest from practicing lawyers. The people mentioned before who help us are the exceptions. Other lawyers either have a curious interest or are kind of waiting for us to fold so that they can say 'I told you so.'

"The most excitement we've encountered comes from brand-new lawyers who are baffled by what they can do, or from law students who are looking for ways to be both radicals and lawyers. So not only are we struggling for ourselves and for the movement to prove we can work, we are also struggling because we feel that we have a real obligation to those people who we hope we can help to stimulate.

"In a capitalist country when you're tending to break down individualism and trying to learn to function in a collective way, a great deal of time is necessary because it's been so drilled into us by the system that one competes with other people, that a lawyer has knowledge he keeps to himself. Breaking all of that down is difficult but it seems, if there is going to be change in this country, that is the kind of thing that people should put time into. It won't do much good to have a power change in this country if the people who take over haven't tried to change themselves beforehand, and haven't learned that it is a constant struggle."

The Venice Legal Collective (VLC), in Venice, California, is different from the Bar Sinister. It is, in fact, different from most of the collectives in the country in that the people who compose this collective see themselves as people first, and political people second. They also seem to have a greater sense of the irony and humor in their own lives and work than do most collectivists. This is reflected in their office, which is disordered, chaotic, and, as likely as not, ringing with laughter or the sounds of five different conversations all taking place at the same time.

The idea for the collective began to germinate in 1970, when some of the people now in the collective were working for a legal health program of OEO that operated out of UCLA. The original plan had been to have a medical/legal collective; but, when the legal people were ready to begin, the medical people were finishing their education and/or in the planning stage, and so the two groups split off. The collective formally began in November 1970, although some of the lawyers did keep working with other projects through the beginning of 1971, largely because the collective needed the money.

"We decided to form the collective because life is short and dull; and we had great expectations and optimism that it would give us a chance for a new way to work and use the law, as well as deep depression about what we were going to do with our lives, and real alienation since the thought of going into the straight world really began to feel as alien as it looked. So, actually, we got together for both personal and political reasons.

"We had four goals when we began, and we continue to have those same goals. First, we wanted to perform legal work for the Venice community and other people in the Los Angeles area who would require the services of a low-income law office, and we wanted to do so at fees that would not rip off the people. We wanted to relate to the community, which is another one of those glorious and nearly indefinable words. Our first problem was in defining the community since it is made up of Browns, Blacks, Indians, working people, freaks, college people, old people, and just plain people. It is a highly disorganized community—of the attempts to organize it, most have resulted in failure—with multitudinous political beliefs, as well as social and cultural differences. Since we have had a hard time finding 'the community' we relate to the various communities with varying degrees of success. We do not feel that we have really become a part of the community, although we feel, with time, we will blend into it. It is only right that we become a part of the community just as everyone else does, by working and living in it.

"We are an office in the community, and we handle many clients from the community. We often handle quick 'freebies' involving phone calls, short paper work, advice, et cetera, for people who live here. Often these are people who just wander in from the street. And, often, they bring us cases which are for small amounts of money or property or small something else. Few lawyers will take these cases and the people are often stuck. In some instances we help them; in others, we direct them to the proper place for them to get help."

In the time that they have been together, the people in the collective have done just about enough orthodox legal work to support themselves, plus a minimal amount of political cases.

"There haven't been enough resources to do much political case work. We're learning, and it takes us sixty hours a week to get the work done because when we do something usually it is for the first or second time. It takes us a day to do something it would take another lawyer five minutes to do. But that has been a personally enriching kind of experience, and we think it will help us end up as a good law office. Our cases now are political in that people shouldn't be arrested for dope. They should not have to pay money to lawyers for a divorce and they shouldn't have to put up with a quota system on the highway that makes them get picked up for a traffic ticket.

"We feel that the legal profession and the system of law weigh heavily on the poor, the minorities, freaks, women, and other groups of people. While we realize that this is not a shocking revelation we wanted to approach the law with that in mind, and to deal with judges, court personnel, other lawyers, and even the clients in a way that would erode the traditional notions of the legal system. We dress as we feel comfortable, cut our hair as we like, talk to the people as persons to the extent that that is possible. Some clients, we've found, do feel the need to have a heavy-handed, authoritarian lawyer handling their case, but we try to change that when we can. We are trying to alter the mystique which the law contains for most people."

"We try to have a basic respect for people and the directions that they grow in. We don't see talking about being respectful and humane and then putting numbers on people to organize them. We seek to do these things on a daily basis. It is not glamorous, and the effects are generally only as far-reaching as the people we touch, but it is exciting to see the difference in some people when they leave here. Some seem to have a new feeling about casual people, or people with long hair. We believe as more people organize their working lives on this level, more and more people will be touched. Doing it the way we are is often painful and it is possible because, and so long as, the personal benefits are involved."

"Generally, we do not find legal work pleasant, and since we keep fighting the very kinds of ego-tripping it could afford one, we pay a price for our political view of the law. But we are paying that price, in part, because of some of our other goals.

"A second goal we have is that we are seeking to learn about and develop our personal selves. Since work is a large part of life, and since most of us feel we ended up in the law by accident, finding a nonoppressive place and way in which to do our work is very important in allowing each person to find his or her own way. Working, as we are, with friends, where the people are important and profit is secondary, we have the chance to let things out, to reflect, to question. Although it sounds trite, we feel that working in a collective can make it easier to 'know thyself.' We feel that life in our times seems to reinforce the difficulties in dealing with oneself. In our collective we are trying to set the conditions so that people can have a go at it. This is a difficult goal to work on, let alone achieve. Yet, we feel that we have all grown as people to a greater or lesser extent."

The third goal of the eight people in the collective—Mark Edelstein, Susan Edelstein, Dave "the Rave" Grabill, Peter Horstman, Chip Kurtzman, Sandy Nathan, Carl Schwartz, Barbara Young—is closely related to the second. They hope to build honest, productive, creative, understanding relationships among themselves, and then among others.

"We feel to do this it is important to work among friends and to help each other. We have built relationships, but not to the extent that we should have. In many ways this relates to the extent to which people have dealt with themselves. We need to love ourselves in order to love each other. These kinds of love are obviously difficult, but we have profited from our struggles. We feel that our size is important because, in a large group, your ability to have choice is cut down so far that it becomes a threatening thing, and your ability to see yourself is hampered because you're trying to deny yourself.

"While doing all of this, our other goal is to make a contribution to the political development and needs of that vague and difficult animal, 'the movement.' We are bound by a desire for radical change. We hope to have an entity that can do political work aside from the politicalness of being what we are. There are problems, in case you haven't noticed, with politics. We are not bound together as Maoists, Marxists, anarchists, or anything else. This poses problems because we do not unite behind any dogma. Rather, we are forced to unite on the bases that we've already discussed. We are trying to do things because they are right for us, not because they are 'politically right.' Some of us feel more attraction to political activism than others. Some of us are more skeptical. Some of us are very anti-intellectual and cynical of people who are deeply committed to rhetoric, of people who are very working-class-analysis and have to be 'right on' in everything they do and say. Those of us who share that opinion are cynical for two reasons. One, we don't enjoy it and we want to enjoy ourselves; and, two, it's bullshit, and most people aren't able to live up to the shit that comes out of their mouths."

"Yet, we all share the basic disdain for the quality of life nurtured by our society, and by the various forms of domestic and foreign oppression perpetrated by our government.

"In our work we are struggling to break down the oppressive attitudes we sometimes have toward each other. Male chauvinism, sexism, professionalism all represent attitudes with which most of us have been raised, and which we are now seeking to overcome. We feel that we must find new ways to relate, rather than lawyer to secretary or professional to nonprofessional. Obviously, this equally applies to the way in which the office relates to clients. There are many aspects of the law which can be dealt with not only by a lawyer, but by anyone who is knowledgeable in that area. We are attempting to expand those areas by study and practice, thereby helping the lawyers to struggle with their professional attitudes, and helping the legal workers to overcome their feelings of ignorance of the law. The jobs of typing, answering phones, et cetera, are spread out as much as possible so that when shit work is done, at least it is equally divided.

"Obviously, breaking down attitudes and gut feelings that have been built up for many years is difficult, and our office has had its share of difficulties in these areas. At times the tensions are almost overwhelming, and the pressures seem unbearable. Too often we store up our grievances only to explode at a collective meeting instead of discussing our feelings, if possible, at the time of the incident. Recently though, private discussions are becoming more frequent and, if nothing else, this keeps the lines of communication open, which is the only real chance we have to continue to develop as people and as a collective."

"Taken all together, what we have said should indicate that we care about our own lives, that we seek to participate in a radical change of the society, and that we are trying to create our own small community within the larger one. We are part of the movement, although we don't have an interest, necessarily, in leading it. We feel that our lives reflect that we are just part of the small kernel of dissatisfaction festering in the corn fields of America. We hope to join with other kernels to create a better field for us all. Above all else—the politics, the rhetoric, the movement—we are people, with all of the strengths and weaknesses that people have. Some of us are afraid to open ourselves too completely. Others at times need help that the rest of us feel unable to give. But we continue to attempt to relate, and, to love each other."

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## NO-FAULT AUTOMOBILE INSURANCE

Mr. MOSS. Mr. President, for the past several years, the Senate Commerce Committee has been considering legislation to establish a nationwide system of State no-fault automobile insurance plans. I have been an active supporter of this effort, and have had occasion to involve myself in many of the details of the legislation.

As I have studied the subject of no-fault automobile insurance reform, I have come to the conclusion that very little has been written which is intelligible to the ordinary person. As important as the issue of subrogation is, for example, it can befuddle the smartest housewife, banker, or legislator.

It is with great enthusiasm, then, that I read the Consumer Action Now newsletter entitled, "I'm At Fault, You're At Fault." In a series of short, snappy articles written by lay people for lay people, the whole subject of automobile insurance reform comes into sharp focus.

In the next few months, the issue of no-fault automobile insurance reform will be considered and voted upon in the U.S. Senate. I urge each of my colleagues to read the series of articles in the Consumer Action Now issue entitled "I'm at Fault, You're at Fault," and I ask unanimous consent that the article be reprinted in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MOSS. Mr. President, I wish to pay special tribute to the members of Consumer Action Now, who have made an important contribution to the literature on no-fault automobile insurance reform. I am particularly proud because a significant contributor to the issue was Mrs. Lola Redford, whom I claim as a constituent of mine.

### EXHIBIT 1

### I'M AT FAULT, YOU'RE AT FAULT

Insurance. Somehow it just turns me off. It's one of those words that immediately brings to mind some impending disaster, and I have enough little disasters to deal with daily without spending any spare time preparing for them. I would rather embrace the "let well enough alone" philosophy.

Who wants to think about insurance? After all, the reason we insure anything is because it means a lot to us, and who wants to ponder losing something we care about? In fact, I try (if in vain) not to think about "what would happen if?" Added to the trauma the word connotes, it also conjures up images of bureaucratic red tape, premiums, forms to fill out (or worse yet, forms to figure out), and the endless, exasperating vernacular of lawyers and insurance men.

No, I don't want to be in Allstate's hands, or anyone else's hands for that matter. I'd like to believe that I could handle any disaster that could possibly arise . . . but I don't live where I can breathe clean air and I don't live where the best things in life are free, nor do I live in a society that allows me to be totally self-reliant.

Today we have to build in self-protection because our neighbor may step on the rake the kids left in the driveway, because illness or accidents can require prolonged medical care, or because we may commit an error in judgment while driving. It's not exactly a love/hate relationship.

Now, if to the perplexing word "insurance" you add the preface "no-fault," everyone is confused. Or practically everyone. The only people who don't seem to be are the insurance companies and the trial lawyers, who have something to gain by the confusion. While it's easy to rationalize our ignorance or indifference, it's also easy to see that we are the victims of it.

Since CAN is not a group of trial lawyers or insurance representatives, why the interest in the subject? Isn't CAN, after all, an environmental-consumer organization? Where does no-fault insurance fit in? Why a whole issue devoted to the complex, sometimes confusing and rather unglamorous subject?

### NO-FAULT OR DOUBLE FAULT

It's really very simple. No-fault is, in the first place, one of the most vital consumer issues of the day. We get less return on our automobile insurance dollar than from practically anything else we buy today—as little as 44 cents on each dollar spent. The present system of insurance also only compensates 15% of all fatally or seriously injured accident victims. Add to that delays in final payments on an average of 16 months to seriously injured victims or their survivors. The present system also adds more than 200,000 cases a year to the nation's already overburdened courts tying up more than 17% of all judicial resources.

### AUTO CRITICISM

The automobile is as integral a part of our environment as the solid waste crisis. They both represent very different problems and solutions, but both issues must be addressed now. While we wish to discourage the use of private automobiles and to encourage mass transit, we must admit that the automobile is the dominant mode of transportation today . . . and in some places the only one available. Every driver has a better than even chance of having an accident every *three years*. Just about every driver will have an accident at some point in time. In 1972, motor vehicle accident deaths hit a record high of 56,300. There were an estimated 2,000,000 disabling injuries in the same year as a result of motor vehicle accidents. Clearly, no-fault is an environmental issue, even if we have to redefine the literal definition of environment: all the surrounding conditions and influences that affect the development of living things. The automobile devastatingly affects the development of living things and those living things are we. Its emissions pollute the air. It congests our cities and crowds our highways. It kills, maims and disfigures. How can we not be concerned?

No-fault insurance can't prevent accidents but it can do a lot better by accident victims—which all of us stand a chance of being at some time or another. Federal standards for no-fault auto insurance are a major step in consumer-environmental protection. Most people start thinking about it from a hospital bed. We'd prefer to do it now.

"In other words, the no-fault benefits are subrogable only against the tort feasor's $50,000 no-fault coverage and the liability coverage is preserved for recovery of general damage, i.e., for pain and suffering."

This quotation is about as decipherable as the lyrics to "The Star Spangled Banner." If you were able to breeze through it, you are probably a lawyer or an insurance agent and you don't have to read any further. The following is only for those of us who find this kind of legalese intimidating. What we will try to present here is a "Dick and Jane" primer—an admittedly simplified, digest version of some of the very complex issues that form the background of no-fault insurance. No-fault affects the pocketbooks and peace of mind of people from more unrelated backgrounds than any other issue currently before Congress. So stay with us, because what follows is not just a matter of dollars and cents, but dollars and sense.

### A PARABLE

Dick and Jane are out driving in separate cars. Dick runs a red light and creams Jane's new Porsche Who is at fault?

a) Dick;
b) Jane;
c) The Porsche dealer; and
d) Women drivers.

Answer: Dick is obviously at fault. Before we can even begin to understand what no-fault insurance is, we have to make a stab at understanding our present system which we will simply call "fault insurance." Fault insurance is the method we currently use to handle personal injuries and property damage that result from automobile accidents. It is the product of two major ingredients—the first being the long standing principle of fault law, which came into existence long before the automobile and pertains to many other situations. In its simplest terms it goes something like this: If I do something stupid that ends up costing you money (or something worse), I should pay for it. Fault law specifically requires that we adhere to this principle. The legal standard by which fault is determined is "what a reasonable man would have done under the circumstances of the accident." Dick was, in the eyes of the law, no longer a reasonable man when he ran the red light, and he is therefore at fault. Now that sounds simple enough, doesn't it? Wrong. Before Dick can be proven obviously at fault, Jane is going to have the hassle of her life and when she finishes she just might need reminding that she was originally the victim.

### ANOTHER PARABLE

Dick and Jane are out driving in their separate cars. Dick makes a left turn on an icy street and runs directly into Jane who, in the excitement of driving her new Porsche, has passed out cold over the natural wood wheel. Who is at fault?

a) Dick;
b) Jane;
c) Puff; and
d) Dick and Jane.

Answer: Only the jury has the answer.

The process of determining fault quickly becomes a subtle and perplexing matter, and it is the point at which lawyers, juries and insurance companies collide. Traditionally, insurance companies serve two functions for automobile policy holders: 1) to pay for any accident the policy holder has, and 2) to defend the policy holder against suits based on the fault law and to initiate suits when they feel they have a case. (If *we* can prove the other guy was at fault then *his* company will have to pay for damages.)

### YET ANOTHER PARABLE

Dick and Jane have a head-on collision. Dick sustains a fractured tibia, Jane a broken nose. While Dick's and Jane's respective lawyers and insurance agents talk to each other, who

a) pays the doctor's bills?
b) earns a salary while Dick is out of work?
c) provides the cash for Jane's nose job?

Answer: Nobody—at least not right away.

When two parties are implicated in an accident, the process of proving fault becomes very time-consuming, expensive and difficult. Often so difficult that a victim is not compensated because he cannot prove fault . . . and justice in this country holds that one is innocent until *proven* guilty.

Most of us are pretty limited in our knowledge of fault laws and in the interpretation of our own insurance policies, so in order to protect our right, prove our case and obtain the recompense we deserve, we pay for the services of the technician who understands the meaning and application of the kind of jargon that begins this article—the trial lawyer. The deliberations of lawyers, insurance companies and the courts have a way of taking time—sometimes as much as three or four years. The main reason for the extended time is the number of cases that floods the courts. The insurance companies demand you go to court—so go to court you must.

The wait is tolerable for those of us who can pay the doctor bills, compensate for lost wages or afford the immediate rehabilitation that may be necessary. But, how many of us can afford the luxury of waiting? What happens in many cases (and especially to those whose income is less than $15,000) is a settlement for appreciably less than the true cost of the accident. After a long wait, anything can seem better than nothing at all. It's this kind of process that starts one thinking about the essential fairness of the fault law as it applies to auto insurance.

### SO WHERE DOES MY INSURANCE MONEY GO ANYWAY?

There do seem to be some inherent inequities in the current tort liability (you are responsible for your own wrongdoing) system of automobile insurance. A 1971 Department of Transportation study indicated that the total economic loss incurred yearly by badly or fatally injured auto accident victims was $5.1 billion. BUT, as a group, these victims got only $813 million in returned benefits. That's only 15.9% of your dollar, folks. The remaining $4 billion plus goes into lawyers' fees, insurance agents' commissions and overhead. We'd like to see more of that premium money coming our way; the lawyers who handle insurance claims and our friendly insurance agents would like to keep it going theirs. We can make it even more graphic. (To see how things shape up in New York, see illustration, page 4.)

It's not hard to see who's getting the very short end of the dollar. If you are in the average or lower-than-average income bracket, your chances of recovering a return on your premium dollar are even less because the return on premium dollars invested appears to decrease with the amount of wages earned. What's more, if you happen to have an accent, or a limited education or an appearance that doesn't appeal to the run of juries, you might have difficulty in getting an insurance policy in the first place.

On top of all of this, the present fault system encourages dishonesty and overreaching by both accident victims and insurers. Claimants often exaggerate losses, and outrageous courtroom tactics are employed to distort or magnify injuries so that when the settlement is made (even though it may be less than demanded), it's more than rightfully earned. This applies especially to cases where the damages involved are not major—in 1970, accident victims in the $1000 and under loss category whose average losses were $635 received back $1408 (which is unfair). In the case of major and often fatal accidents when average damages were as high as $52,000, the average received back by the accident victim was only $9000 (which is not only unfair but unjust).

There must be a better way. And we must

begin by re-evaluating the whole notion of automobile insurance and classsifying it in the same category with life insurance, fire insurance and homeowner's insurance. All are essentially no-fault. If your house burns down, or your T.V. is stolen, you are paid for the loss under the terms of your policy. A comprehensive study and investigation of the existing compensation system for auto accident losses by the Department of Transportation (DOT) concluded with this statement on our current auto insurance system: "The existing system ill serves the accident victim, the insuring public and society. It is inefficient, overly costly, incomplete and slow. It allocates benefits poorly, discourages rehabilition and overburdens the courts and the legal system." With fault insurance like this, who needs no-fault? We do.

At present, there are several bills before Congress that concern no-fault. None as good, in our opinion, as the Magnuson-Hart Bill (S354), entitled "The National No-Fault Automobile Insurance Act," recently passed by the Senate Commerce Committee. Enormous pressure was exerted on the Committee by some insurance companies and the Association of Trial Lawyers of America to keep the bill from reaching the floor. This bill creates an auto insurance system which will pay economic loss to *all* people injured in auto accidents *without regard to fault*. For your loss your insurance company pays you (just as your theft, fire and life insurance companies do), and his insurance company pays him.

The Senate bill requires every motor vehicle owner and operator to take out a basic no-fault policy. The key provisions of the bill are the following:

1) Swift compensation for all medical and rehabilitative costs, including vocational rehabilitation, for as long as those costs continue to accrue.

2) All wage losses (after income tax reduction) until injured party can resume available and appropriate employment, to the limit of $1,000 per month up to $25,000. (The state may lower that ceiling to $15,000 but *not* below.)

3) Payments for loss of future anticipated earnings, or for estimated value of earning ability impairment caused by an auto accident.

4) Payments of a reasonable amount for any services that the injured or decreased person would have performed for his own or his family's benefit, had the injury not occurred.

5) Funeral expenses (up to $1,000).

6) Attorney's fees would be paid for instances in which cost exceed total allowable benefits. (This may be rare, as benefits are erous). The right to sue is retained principally for the most serious injury or death.

7) State plans must offer *optional* coverage added to that described above. And for a higher premium price you can obtain additional coverage which would provide benefits for property and collision damage, general damages (i.e. pain and suffering), economic loss in excess of basic amounts, and additional coverage for losses resulting from injury or death.

All payments for economic loss would be made as that loss accrues. If payments are *not* made within 30 days after the insurance company receives reasonable proof of fact and amount of the loss, plus demand for payment, interest on the unpaid amount would accrue at 1½-2% per month. If a suit to recover against the insurance company becomes necessary, the policy-holder's attorney's fees would be paid by the insurance company, unless the court determines the claim to be fraudulent, frivolous or excessive.

Lawsuits to recover economic loss are permitted only when that loss exceeds total allowable benefits. Lawsuits for pain and suffering are not permitted (optional coverage is offered), unless serious permanent disfigurement or injury occurs, or victim suffers total disability for more than six months.

S354 also requires that an assigned claims plan be established by each state, which would enable a person to recover for injuries or death caused by an uninsured vehicle. It would also prohibit policy cancellation for any reason other than failure to pay premiums or revocation of driver's license.

If this bill is passed, the Secretary of Transportation will determine whether or not an individual state plan meets all the basic requirements. If not, then a more stringent alternative plan goes into effect until the state acts to meet the national standards. However, each state is left free to develop its own no-fault plan beyond the national standards set by S354, and is free to administer, operate, tax and regulate auto insurance within its borders without the interference of the Federal Government.

For all of those who do see that the present fault insurance is certainly not all one would wish it to be, there is a variety of expert and not-so-expert opinions as to what changes would be best. Let's just address ourselves to all those who believe that the no-fault system is the best answer to the problems present in the fault system. Among no-fault supporters are those who believe that no-fault should be tried on a state-by-state basis and those who believe there should be Federal standards.

### STATEWIDE

The most frequent argument used by those who favor the state-by-state approach is that it permits needed experimentation to discover no-fault's best features. This argument is based on the assumption that the no-fault systems is new, but as we have already seen, it is the most common form of insurance today. Three problems with the experimentation argument are (1) that a patchwork plan of state-by-state insurance would develop, leading to confusion for the number of people who frequently travel interstate; (2) that states experimenting with no-fault may not set up their plans to permit the exchange of information concerning the performance of the no-fault experiment, or that the state may not have good information on its previous system from which to make comparisons, and (3) since some states would develop true no-fault and some develop only so-called no-fault, the public will be incapable of making a true evaluation of the system.

Puerto Rico has had a no-fault law for many years. Only eleven states have true no-fault laws (Massachusetts, Florida, Connecticut, New Jersey, Michigan, New York, Utah, Kansas, Nevada, Colorado and Hawaii). Out of those eleven, only Michigan has a no-fault law which is on a par with the proposed Federal standards. Other states (Minnesota, Delaware, Oregon, South Dakota, Wisconsin, Virginia, Maryland, Texas and Arkansas) have what we can call phony no-fault plans, because what they have done is attach no-fault policies to existing insurance plans without limitation on lawsuits. Since they don't eliminate the fault concept, they can't be considered true no-fault policies.

A good indication of the problems that face the passage of statewide no-fault legislation is the situation in Pennsylvania. In 1972, the Pennsylvania General Assembly closed without passing the Governor's heart's desire, a state no-fault program. The proposal for such a program was said to have died of natural causes. The causes were described as "partisan politics, the power of the legal profession within the legislature, and the sheer weight of its own complexities." These reasons so well sum up the problems with the passage of any no-fault legislation. Multiply this problem by fifty states and we see why hope for passage of statewide no-fault seems so remote. It is also a good indication of why even on a Federal level the battle for no-fault standards will be so difficult.

After the Department of Transportation completed its extensive study, former Secretary of Transportation John Volpe stated that he believed the states should be given two years to enact their own no-fault programs. But here it is two years later and a disgruntled Senator Frank Moss predicts that without Federal initiative it might take 40 years to achieve true no-fault on a state-by-state basis. (Considering the number of trial lawyers who have control of the state legislatures, 40 years may be optimistic). The DOT has shown growing impatience with the slow pace with which the states are adopting no-fault plans, and now appears to be leaning towards Federal standards.

### NATIONWIDE

The proponents of the nationwide standards over statewide are quick to list the number of obstacles facing the adoption of no-fault on a state-by-state basis. They fear that state-by-state passage is strictly a fantasy. But more importantly, it is their conviction that the Federal Government has a direct responsibility to see Federal standards are passed. This conviction stems from the fact that most of the people injured or killed in motor vehicle accidents each year were traveling on highways built with 50% to 90% Federal funds. For example, in 1970, 70% of the fatal accidents and 51.3% of those injured were on Federal-aid highways. $60 billion of the $83.7 billion it cost to construct these highways was paid by the Federal Government from funds raised by taxes paid on gasoline, tires, parts and accessories, lubricating oil and trucks. In fact, under the Constitution, Congress is responsible for "the regulation of commerce among the states and the promotion of the general welfare." As a result, no-fault proponents believe that because of the degree of interstate travel today, it is the duty of the Congress to promote a uniform and compatible system which will act to simplify the present automobile insurance system, rather than add to the confusion that differing state-by-state laws and regulations could produce.

The state and Federal governments have formed a powerful partnership which has produced our massive highway system. It is now time for that same partnership to produce a system of automobile insurance in order to provide accident victims on these highways with an efficient, fair and humane compensation system.

A cynic might say that the people who are most opposed to a specific social change are those who have the most to lose, and those who support that same social change are those who have something to gain (which can usually be measured in dollars). Well, let's not be cynical right off the bat about the friends and foes of no-fault. Let's assume that all this arguing for and against no-fault is based on ideological conviction, not dollars.

### FOES

The most vociferous group against no-fault has been the Association of Trial Lawyers of America. This national association is composed of 27,000 members and has a good deal of influence in both the state and Federal legislatures. The most frequent arguments the trial lawyers put forth are the following:

Under no-fault the individual will lose the right to sue, which is contrary to the long standing fault law.

As we have already seen, this is only partly true. The right to sue is reserved for those cases which are considered major; when a person dies, sustains serious and permanent disfigurement, or more than six months of permanent injury or disability. The suits which are barred are those which are considered nuisance suits.

Under no-fault the negligent driver goes unpunished.

In the first place, auto accidents today are handled in civil, not criminal courts of justice. Therefore, the prime objective is to make amends or compensation, not to punish. In the second place, the negligent automobile driver today does not, in fact, pay his victim. He doesn't even pay for his own attorney, in most cases. His insurance company does. The negligent driver will be punished (if that is the objective) under the fault or no-fault system in the same manner. He will lose his driver's license or even be jailed if the offense warrants it.

No-fault encourages reckless driving since it allows compensation regardless of fault to all the parties involved.

There are no figures to substantiate this argument. In fact, in Massachusetts the accident rate has gone down since the state adopted no-fault. Furthermore, it is possible that a good driving record or certified car inspection will result in a reduction of premiums under no-fault.

Under no-fault the insurance premiums will go up.

In Massachusetts, which has had a no-fault law in operation for three years, a premium savings for motorists has been effected. In 1971, the premium for coverage was $94. It was $115 under the old system. The savings to the motorist were expected to increase even further in 1972.

No-fault insurance will encourage more claims, burden the court system.

Using Massachusetts as a example, the opposite is indicated under the new system. Automobile accident cases in court were actually reduced by 50 to 60%. And contrary to all expectations, the Massachusetts no-fault law did not encourage more claims. Instead, the number actually fell 38% in the first eleven months of 1971.

Since these then are the arguments which are most often voiced in opposition to no-fault, and they appear to be on very shaky ground, we must look from the ideological arguments to the practical (financial) ramifications of the adoption of no-fault.

Each year more than $1.1 billion goes to plaintiffs' lawyers, and $300 million goes to defendants' lawyers. This sum of money is seriously threatened by the passage of strong Federal no-fault standards. Senator Magnuson has stated that these sums paid to the trial lawyers "will not happen under a nationwide no-fault." And they're not going to let *that* happen without putting up a fight. However, Attorney Robert W. Meserve, president of the American Bar Association, told the Senate Commerce Committee that only a small minority of trial lawyers have based their practices on automobile accident cases. Meserve was convinced by preliminary data that 75% of the lawyers in his state of Massachusetts had been almost unaffected by the state's no-fault law, 25% were moderately affected, and an estimated 7 to 10% would have to make dramatic changes. If those figures can be extended on a national basis, then, the real opposition to no-fault comes only from a fraction of trial lawyers. But if that fraction has to divide a billion dollars, it's not hard to see why they are so vociferous. Some of the trial lawyers don't seem to be against the theory of no-fault but fear that some areas of their practice will be taken away by those lawyers who will now be thrust into competition for clients in other trial situations.

We spoke to a New York trial lawyer who had been active in trying to defeat the New York no-fault legislation to find out what his main objections were. Philosophically, he says he hates to see the legal system lose the auto negligence cases because they are the only cases in the system in which the individual's representation in court does not depend on his wealth. A lawyer is assigned to an injured party and the lawyer's expenses are paid by the losing insurance company when the suit is settled. Since this gentleman's learnings were verbally sympathetic to the poor person, we asked if he knew of people who had had trouble obtaining a lawyer because the court settlement would not be high enough to warrant their time. He did admit that it had to be "a good case, (high stakes) for a good lawyer to accept a negligence case. The only other way one could obtain the best possible representation in small claims cases is if one had a personal lawyer. This would generally include people who were in the financial position to maintain a lawyer.

### THE CAMELBACK MEETINGS

Other major opposition to Federal standards for no-fault has come from some of the most powerful insurance companies in the country. And they are not a passive group. When they began to fear that the Magnuson-Hart bill was gaining support on Capitol Hill, they made plans to launch a counter attack with a bill of their own. In December of 1972, the top executives of nine of the largest and most powerful insurance companies met at the Camelback Inn in Phoenix, Arizona to map out an acceptable alternate plan. The companies represented were Allstate, Firemens' Fund, Hartford Insurance Company of North America, Kemper, Liberty Mutual, Nationwide, State Farm and Travelers. After two days of secret meetings (although this secrecy was later denied) the group came up with an "industry" plan of attack. It was called the "Treaty of Camelback" and later more snidely called the "Camelback Paper." These papers were sent to the three major trade associations. They also found their way to Senators Magnuson and Hart who promptly forwarded the documents to the Justice Department to see if the companies were in violation of the anti-trust laws.

The main objective to emerge from the Camelback meetings was to pick ten target states (now the number is 20) and lobby in those state legislatures for a modified no-fault "joint industry" bill. If state legislation was passed, it would undermine the need for a Federal bill and still keep open the possibility of lawsuits. The Camelback bill had a $1,000 limit (or threshold) for payments with the acceptance of suits for medical expenses over this stated amount. Considering the fact that it's the people with expenses over $1,000 who are most unfairly compensated, the Camelback bill appears to help eliminate only overpayment of small suits, not underpayment of large claims. The threshold amount is one of the major differences between the industry and the proposed Federal standards. With a low threshold such as $1,000 more cases could still be open to litigation, thus wasting money on lawyers' fees and the cost of litigation. In addition, a $1,000 threshold might cause over-utilization of medical facilities. The State of Florida is presently investigating the communion of attorney and doctor in keeping patients longer than necessary to use up the $1,000 threshold.

The first attempt to introduce the Camelback bill was in the Virginia General Assembly. The insurance lobby introduced the bill and the trial lawyers lobby ripped it apart and rewrote it to favor their point of view. One insurance man said the lawyers "gutted the no-fault provisions and opened it up to the skies on legal liability." In a sense, the Camelback treaty proved to be a terrific standing target for the trial lawyers. Even some of the insurance industry people who had hoped that statewide passage would bypass the need for Federal standards became pessimistic after watching the Virginia fiasco.

### FRIENDS

Support for Federal standards for no-fault insurance is both broad in scope and impressive in the numbers represented. Heading the lobbying effort in Washington has been the NACENT: National Committee for Effective No-Fault, a non-profit corporation charted in Washington, D.C. Cooperating or affiliated with NACENT for the enactment into law of a nationwide no-fault auto insurance system are the following: the AFL–CIO, the American Federation of Government Employees, the Car and Truck Rental and Leasing Association, the Consumer Federation of America, the United Auto Workers, the International Brotherhood of Teamsters, Common Cause, the United Steelworkers Union, the American Trucking Association, Consumers Union and the American Insurance Association.

The question, however, that is more interesting than *who* are the major groups that support Federal no-fault standards is *why* these organizations are endorsing Federal standards. (Remember our cynic: What do these groups have to gain?)

Support from the Consumer Federation of America, Common Cause and other consumer groups clearly reflects their interest in consumer protection. The Consumer Federation stated that the three factors that interest them in the passage of Federal no-fault standards are that no-fault cuts costs to the consumer, no-fault makes it possible for a consumer to collect immedately after an accident and avoids lengthy court cases that prolong collection, and no-fault will greatly benefit low income automobile insurance carriers. The only concern about the dollar here seems to be in saving the consumer's money, or in seeing that he is fairly compensated.

The AFL-CIO endorses Federal standards for no-fault because it feels the arbitrary cancellations, inordinately high premiums, unfair eligibility requirements and insufficient claims compensation that characterize the present system will be rectified under a system that requires compliance with Federal no-fault standards. The COPE MEMO published by the international labor press of the AFL-CIO cited the "under-compensation of seriously injured accident victims, while small, often artificially inflated minor claims are often over-compensated" as the "most inhumane aspect" of the present auto insurance system.

However, a long time no-fault advocate in the insurance industry also stated that organized labor's long-range goal is for automobile insurance to be converted into group insurance policies such as accident and health. These could later be used as a "bargaining chip." (In other words, the gains for union members might have a financial implication but not in terms of income.)

The American Insurance Association, an organization of 126 insurance companies writing approximately 30% of the nation's automobile insurance business, has worked actively for no-fault insurance standards for four and one-half years. After completing an eighteen month study of the fault insurance system in October 1968, the association concluded that the "old method was in complete disrepute and that there was an urgent need for major reform. Since that time they have worked with all 50 state legislatures to press for some degree of uniformity in state no-fault laws. However, because the no-fault laws enacted so far are anything but uniform, the association is now endorsing Federal standards which "may be the only way to achieve a genuine no-fault system for all the people of our country."

Our cynic might say that the insurance companies who are supporting no-fault are behind it because they will make more money. Well, it's not so much a matter of their making more money, but of reducing the costs. This would be done by eliminating the expense of accident investigation, and costly litigation (except for the major accident). These companies could also eliminate the overpayment of grossly inflated, trivial and often fraudulent small claims.

A lawyer in favor of Federal no-fault

voiced the concern that these savings will be taken in as increased profits and not passed on to the consumer. However when questioned about this fear, a spokesman for the AIA stated that on a state-to-state basis the insurance industry is one of the most closely regulated industries. If profits were in excess of the allotted amounts, the state insurance commissioner would order a reduction in premiums for the company concerned. So we spoke to still another lawyer who believed that state legislation is farcical and the possibility of insurance companies pocketing no-fault savings is genuine and should be dealt with in specific language in the proposed no-fault law.

### FRIEND OR FOE?

Where does the Nixon Administration stand with regard to Federal standards for no-fault insurance? During the Senate no-fault fight the President preached the merits of the no-fault principle. However, at the same time Administration lobbyists actively worked against the passage of Federal standards, believing that the state-by-state plan was preferable.

The eventual position of the Nixon Administration will probably be tied directly to what the American public demands. Those who have worked closest to the no-fault insurance battle believe that if support for Federal no-fault insurance standards becomes a ground swell, the administration will be reluctant to buck a popular trend.

A recent Gallup poll indicated that people who understood "fault" versus "no-fault" favored "no-fault" four to one. The problem word is "understood." Hopefully we've made the issues of no-fault clear, because consumer participation in this area is absolutely vital. There are few issues of national importance in which the final outcome will very likely be determined by public pressure and opinion.

### MEDICAL IMPLICATIONS OF NO-FAULT INSURANCE

"We find repugnant the spector of the medieval custom, in which the beggar inflicts a greater deformity upon himself in order to more effectively stir the sympathy of passers-by. We must not perpetuate a system of restitution of injury based upon the competence of an attorney and the sympathy of a jury. Citizens injured in motor vehicle accidents cannot delay medical care for those injuries; neither can we delay providing a proper mechanism to assure that such care is promptly available, of the highest quality, and at reasonable cost."

James D. Mills, M.D., President of the American College of Emergency Physicians, testifying before the Senate Commerce Committee.

By focusing its attention on the injured party rather than the trial to come, no-fault insurance will have the eventual result of upgrading emergency medical care.

There is now the potential to provide emergency service every bit as good as that in Vietnam, but to do so would be costly. Medical care suffers under the present system because those that provide the service are, at best, delayed payment because of long court battles or, at worst, not paid at all if the victim is unable to prove he was not at fault.

Long court battles often prevent the patient from entering into a rehabilitation program. Moreover, the present legal system encourages him not to improve too rapidly as it might weaken his case. An injured party's ability to regain his health isn't improved much anyway with the added burden of a legal battle to worry about. According to the Insurance Counsel Journal, "there is the known medical fact that patients who become plaintiffs in any type of litigation seeking money damages for their injuries simply do not recover as completely or as quickly as similar patients not embroiled in litigation."

The overuse of X-rays was cited by one doctor we interviewed as an example of the need to "legalize" injuries. This practice (a necessary one under our present system) leads to a waste of medical personnel and equipment.

As it is now, there is no economic incentive for a person to buy a safe automobile. With no-fault those owning safe vehicles would pay less for their insurance than those who do not. This, in turn, will put some much needed pressure from consumers on the automobile industry to manufacture safe cars.

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## RISING GOVERNMENT COSTS

Mr. NELSON. Mr. President, my distinguished Wisconsin colleague, Senator PROXMIRE, has introduced an excellent proposal in our constant struggle against rising Government costs. He proposes that the Senate adopt a tool used long and quite successfully in the Wisconsin State Legislature. It consists of simply attaching to each bill brought before the legislative body an easily understood estimate of how much it likely will cost, boldly stated on the very first page. The purpose, of course, is to impart a precise awareness of cost. Recently, the New York Daily News underscored the worth of this proposal in an editorial.

Mr. President, I ask unanimous consent that this editorial from the January 4 edition of the Daily News be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### SCORE ONE FOR PROXY

Sen. William Proxmire (D-Wis.) has proposed that any Senate bills requiring federal outlays carry price tags prominently displayed so that members will become "more conscious of the cost of government."

That, we think, is a dandy idea. And if the taxpaying public had a say, it would carry by acclamation.

The suggestion is particularly attractive because it would mandate disclosure not only of initial, start-up expenses, but projections of costs over a five-year period as well.

Advance funding estimates should have been adopted by Congress years ago. Had the rule been in effect, we have a hunch that a great many loan, aid, grant and giveaway programs that were adopted without Congress having the haziest notion of their eventual expense would never have seen the light of day.

In itself, Proxmire's fiscal early warning notion would do a lot to promote sounder budget management, and we hope he will push it with the utmost vigor.

There are also a couple of other measures Congress ought to consider in the same area.

Congress should establish a system for dealing with appropriation measures as a whole rather than on a piecemeal basis. Furthermore, it should bar the practice of attaching spending "riders" to non-money bills.

It is time, too, that the lawmakers awakened to the realization that many of the laws they enact—in the antipollution area, for example—often obligate industry to make huge and largely non-productive investments.

Since the public, as consumers, eventually foots the bill for the added costs, Congress has a duty to determine beforehand what the tab will be so it and the people can properly weigh estimated expenses against expected benefits.

Another blow for sounder public money management.

## BICENTENNIAL

Mr. HOLLINGS. Mr. President, today, I would like to call to the attention of my colleagues a report on the first major Bicentennial observance in the Nation which took place in Charleston, S.C., in December 1973. The Charleston County Bicentennial Committee was in charge of this event—and I am proud of this committee's effort.

I ask unanimous consent that this report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

### CHARLESTON LEADS PARADE INTO PAST

While communities across the nation begin implementing plans for their first Bicentennial observances, Charleston can proudly boast the first major Bicentennial observance in the nation, successfully staged in December 1973.

But then, Charleston has always been a city of firsts. And Charleston County Bicentennial Committee officials intend for the nation to finally realize the importance of Charleston's role in the colonial history of our country. Long-ignored in history books, Charleston was the site of the first major victory of the Revolutionary War, as well as the first shot of the Civil War.

And now, Charleston has heralded the first true "spark" of the nation's Bicentennial observance.

On Dec. 3, 1973, church bells throughout the port city rang as the members of the S.C. General Assembly gathered in St. Michaels Church for a special patriotic service.

Then a colorful parade from the church to the old Exchange Building (c. 1771) took the members of the General Assembly, the state's constitutional officers and highest judiciary members between ranks of a Citadel Cadet guard. The parade was led by the Citadel Bagpipers and Color Guard, followed by the Washington Light Infantry and Citadel Cadets bearing flags of the 13 original states.

Gov. John C. West and Charleston Mayor J. Palmer Gaillard Jr. followed in a horse-drawn carriage. The sergeant-at-arms of the Senate bearing the Sword of State was followed by Lt. Gov. Earl E. Morris Jr. and members of the Senate. The sergeant-at-arms of the House with the Mace was followed by members of the House of Representatives. Others in the parade were costumed actors who participated in a re-enactment, uniformed British soldiers and Citadel Cadets bearing the flags of the remaining 37 states.

The members of the General Assembly then met in formal session in the Exchange Building. Historians claim there is a direct link between the present-day Legislature and a patriot's protest meeting in that building on Dec. 3, 1773. The event marked the first meeting of the state government in Charleston since the capitol was moved to Columbia in 1790.

The final event of the three-day celebration was the staging of a re-enactment of the 1773 patriot's meeting protesting the British tax imposed on tea. The re-enactment was presented on stage in front of the Exchange Building.

A state-wide television audience watched the historic session and re-enactment.

Prior to the final day of events, about 700 persons attended a Sunday night dinner and reception sponsored by Gov. and Mrs. West at the Municipal Auditorium where special guests appeared in costume as South Carolina's four signers of the Declaration of Independence and six other Revolutionary War figures.

Other events of the three-day celebration included the presentation of the official American Revolution Bicentennial Committee flag to the community of Charleston and the dedication of Ft. Moultrie on Sullivans Island as a Bicentennial Focal Point. The battle of Sullivan's Island at the fort on June 28, 1776, was the first major victory of the Revolutionary War.

The day also included Revolutionary War exhibits at the Charleston Museum.

According to Dr. Gordan B. Stine, chairman of the Charleston County Bicentennial Committee, committee members are working on many other exciting activities for the next three years. But the first event has been accomplished successfully—and stands, unprotested, as the nation's first major Bicentennial observance.

## CHEMISTS EXPRESS DOUBTS ABOUT NUCLEAR POWER

Mr. GRAVEL. Mr. President, in a recent poll, the 850 members and alternates of the Council of the American Chemical Society were asked if they were satisfied with the safety aspects of nuclear powerplants. About 20 percent of them said they were not.

If the survey had been taken 4 years ago, the doubters might have been around 1 percent. However, 4 years ago, no one would even have asked the question, because in 1969, there was only one-sided propaganda about "clean safe nuclear power."

When a handful of courageous scientists, at great personal sacrifice, began to point out the undeniable hazards of nuclear power, the nuclear promoters were correct in claiming that "the overwhelming majority" of the scientific community had confidence in nuclear power. Everybody did, though few had studied it at all.

Dogma is dogma, and of course it is never spontaneously challenged by a majority. Whether a new insight is in science, medicine, philosophy, or government, a few mavericks, a tiny minority, always have to pull the rest of humanity along little by little. Apparently 20 percent of chemists are stirring on the nuclear controversy now, if the ACS Council is representative.

Among some physicians, also, concern is increasing. According to the December 1 Charlotte, N.C., Observer, 20 percent of the members of the Mecklenburg Medical Society support a moratorium on nuclear powerplant construction.

While dissatisfaction with nuclear fission is growing nationwide, the always lavish efforts to promote the peaceful atom are escalating even faster.

The Pennsylvania Power & Light Co. is even distributing a 15-page custom comic book whose back cover declares that nuclear power is not only "safe" and "clean," but also "good looking."

## ECONOMIC PLANNING AND DEVELOPMENT

Mr. FULBRIGHT. Mr. President, as a cosponsor of the legislation which established the Economic Development Administration in 1965, I have a strong and long-standing interest in the work of this agency.

The EDA has been and, I hope, will continue to be an effective means of aiding in the orderly development of our communities. It has significantly bolstered economic development and employment opportunities in Arkansas.

The EDA has played an important role in planning development projects in the State through the regional development districts and then helping to obtain funds to assist in carrying out such projects. A major emphasis, for example, has been on developing adequate water systems and industrial parks to serve potential industries. This has resulted in the location of industries in many of our communities, but many more could benefit from such assistance. EDA has also aided in the construction of vocational-technical schools and EDA funds have frequently been used to supplement State or local funding.

The Southwest Times Record of Fort Smith, in its edition of January 6, contained an article by Jane Ann Morrison on the work of the Western Arkansas Planning and Development District.

The article reports on some of the current projects of the WAPDD such as an area-wide study for water supply distribution; a model for central purchasing by municipalities; and a proposed mass transit study.

Areas in which the WAPDD carries out planning and programs include economic development, open space, transportation, housing, manpower training, water and sewer systems, solid waste disposal, health, local government assistance and improvement, drug abuse control, alcoholic treatment, exceptional children education, environmental and outdoor recreation planning.

The WAPDD covers 4,300 square miles in Crawford, Franklin, Logan, Polk, Scott, and Sebastian Counties. Its staff is under the direction of a 39-member board of directors, composed of county judges, mayors, and business, civic, and social community representatives. As the article points out:

> WAPDD is no ivory tower group of planners; it is an organization founded on citizen involvement.

The executive branch has in recent years attempted to discontinue the EDA program and I have strongly opposed this effort. I believe that EDA and the development districts such as the WAPDD will continue to make a valuable contribution in Arkansas and elsewhere.

Mr. President, I ask unanimous consent to have printed in the RECORD the article by Jane Ann Morrison from the Southwest Times Record of January 6, as well as an accompanying chart listing federally assisted projects in the Western Arkansas Planning and Development District.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### WAPDD MORE THAN AN AMUSING TITLE

(By Jane Ann Morrison)

The Western Arkansas Planning and Development District (WAPDD) is a variety of things to a variety of people. To initial lovers it's an organization whose initials form a Bugs Bunny-Batman type word resulting in a smile when said.

For secretaries, it is one of those too-long titles which require taking a breath before saying it all at once.

To some local officials, WAPDD is the place to go to get help in obtaining federal funding for projects. To one of its directors it is an organization trying to take a bite out of an elephant (more about that later).

Statistically, WAPDD is a group of 17 employees (eight clerical-technical, nine professional) working with over 800 citizens on councils, committees and task forces who aim at regional thinking.

Covering the 4,300 square miles of Crawford, Franklin, Logan, Polk, Scott and Sebastian counties, WAPDD is currently conducting programs and activities in the various fields of economic development planning, open space planning, transportation planning, housing planning, manpower planning and training, water and sewer planning, solid waste disposal planning, area-wide comprehensive health planning, local government assistance and improvement planning, drug abuse control planning, alcoholic treatment planning, exceptional children education, environmental planning and outdoor recreation planning.

Before you conclude that nine people are sitting in offices coming out only to tell the rest of the 155,000 people in the six-county district the secret of success, remember the 800 citizens who work with WAPDD. Plus the Board of Directors which directs the policy of WAPDD. The 39-member board consists of county judges, mayors, and business, civic and social community representatives. WAPDD is no ivory tower group of planners; it is an organization founded on citizen involvement.

WAPDD Executive Director Lon Hardin discussed the change in types of planning since WAPDD was organized seven years ago. "At the beginning we were very project oriented. We had to gain credibility and catch the public eye by being able to get the job done—with federal funds. We had to break down the initial resistance to regional thinking and talking together. Now we are more program oriented, less project oriented. We have gained the credibility and can afford to act rather than react."

The chart in the lower right hand of this page shows just how much federal money WAPDD obtained for various activities. Over the years you can see the change from meeting the immediate needs, such as water and sewer plants, to planning for far reaching needs via programs such as the one for alcoholic treatment.

Hardin pointed out the weaknesses of revenue sharing as opposed to the grant system. "With revenue sharing the money tends to go to what is seen as an immediate problem—the sore thumb—and it doesn't really result in planning. When you are applying for a grant there is a tendency to do more thinking. And rural areas can get more using the grant system than from revenue sharing. An example is Mena which, I believe, got around $30,000 a year through revenue sharing, yet obtained $4,756,618 in grants during the last couple of years for their various programs (including parks, gas, sewer, water supply, water improvement, and airport development). Of course, they wouldn't be able to get that much every year, but it does point out the flexibility of a grant system."

"Agency survival," Hardin went on, "is another problem which sometimes hinders community planning. The Corps of Engineers must keep building, so may approach a community with a plan which might not really be necessary as a top priority. Some with an organization like the Soil Conservation Service. Soil management is what they have to sell, but it may not be the community's most important need."

During a brief meeting with Director of Planning Lin Godwin, he quickly went over three of the projects of immediate concern to WAPDD planners. "First we are filing an application for funds to make an area-wide study for Arkansas Soil and Water Resources for water supply distribution. We are also forming a municipal fiscal model for central purchasing which pools the purchasing powers for the cities. Right now they don't shop around for things like office supplies, water and sewer pipes and paving contractors—they just select what is at hand. And we are also trying for funding for a mass transit study."

When asked about interstate cooperation and coordination Godwin said, "They are good at coordinating for things like transportation studies, but the answer is 'no' for things like water distribution and land use planning."

Transportation Planner Rex Eads went into further detail about the mass transit study. "Our transportation district includes LeFlore and Sequoyah counties; right now because of the gas shortage we are working on an emergency public transportation plan which will be presented at the Fort Smith Chamber of Commerce on Jan. 11. The energy crunch is the result for the emergency plan, but we'll have to be certain that any immediate plans will serve both the short term and the long term needs."

At last we come to the man whose understanding of the magnitude of the job sometimes makes him feel like he is taking a bite out of the side of an elephant—Director of Comprehensive Health Planning Bill Powell.

To Powell, health is not just the numbers of beds in a hospital, or how many doctors or nurses are available. Personal incomes, environment, health hazards, housing, product abuse, nutrition, attitudes, technology, education and psychiatry all join together to influence the prevention, restoration and maintenance of physical, mental and environmental health.

"An example of the interrelations involved," pointed out Powell "is the hepatitis outbreak in Scott County a while back. It was not fixed through the doctor-nurse syndrome. It was solved with engineers and a modern water system to replace the septic tanks which were infecting the wells."

Powell mentioned that he saw WAPDD as "serving as a representative of the individual; to speak and work for the person who can't do it himself and may be overawed by the professionals."

"Yet, you can't stand up and just take over and get anything done, we must remain in the background," said Richard Shewmaker, Assistant Director of WAPDD. "You might be able to get the physical things done, but you wouldn't accomplish the things that carry it on—like the sense of unity in the town or the personal instances of growth in its citizens."

"The Federal cutbacks of a couple of years ago actually strengthened us as planners," said Shewmaker. "It resulted in more digging, searching for more than one way to solve a problem, It also instigated more state interest in local problems. They re-thought what their role should be."

Shewmaker brought up one of the contradictions in planning that he had run across. "Everyone is presently putting in new sewer systems, using EPA money to meet EPA requirements. The legislation insists that by 1977, communities be set up for the secondary treatment level. There should be no problem for that deadline. But the legislation also has written in that, by 1983, communities be able to treat waste with the technological best method at that time. To me this is idiotic. EPA is not taking into account that the towns are financing a 20-year debt for their new systems and in 1983 will be involved again in a new system, yet will have an 11-year debt hanging over their heads. In my opinion. EPA is encouraging you to make a financial mistake."

"A few years ago the EPA wanted to clean up everything at once; we would like to plan without waiting for everything to fall apart at once", says Shewmaker.

There's a difference.

FEDERAL GRANTS APPROVED THROUGH WAPDD ASSISTANCE

| Location | Year | Project description | Total project cost | Total grant | Federal agency |
|---|---|---|---|---|---|
| Alma | 1966 | Water and sewer facilities | $648,000 | $518,000 | EDA. |
| | | | | 129,000 | FHA loan- |
| Do | 1966 | Water impoundment dam | 1,296,514 | 564,500 | EDA. |
| Do | 1966 | Sewage treatment facility | 105,000 | 73,500 | EDA. |
| Altus | 1967 | Water transmission line | 89,000 | 71,200 | EDA. |
| Mulberry | 1967 | Water extension industrial park. | 140,000 | 112,000 | EDA. |
| Booneville | 1967 | Water and sewer facilities to industrial park. | 82,000 | 49,000 | EDA. |
| Van Buren | 1967 | Water, sewer, access road to industrial park. | 598,000 | 478,400 | EDA. |
| | | | ---------- | 119,600 | EDA loan. |
| Ozark | 1967 | Technical assistance study for industrial park site. | 3,000 | 3,000 | EDA. |
| Fort Smith | 1967 | Regional scientific technically oriented library. | 1,253,200 | 626,600 | EDA. |
| Sebastian County | 1967 | Purchase of 800-acre recreational area. | 240,000 | 120,000 | BOR. |
| Paris | 1967 | Overrun on previously approved swimming pool | 12,183 | 6,091 | BOR. |
| Do | 1967 | Water treatment plant and water line to industrial park. | 363,000 | 217,000 | EDA. |
| Ozark | 1968 | Surface water supply, treatment plant, transmission line. | 1,625,000 | 1,300,000 | EDA. |
| Do | 1968 | Overrun on transmission line. | 150,000 | 120,000 | EDA. |
| Fort Smith | 1968 | New water treatment plant | 634,000 | 380,400 | EDA. |
| Do | 1968 | Water line and access road to industrial area. | 1,750,000 | 875,000 | EDA. |
| Booneville | 1968 | Industrial water line | 19,000 | 13,000 | EDA. |
| Fort Smith | 1968 | Pump stations for industrial area. | 795,000 | 258,570 | EDA. |
| Do | 1969 | Multi-purpose day care center. | 500,000 | 250,000 | EDA. |
| Sebastian County | 1969 | Regional park development | 863,646 | 431,823 | BOR. |
| Scott County | 1969 | Scott Davidson Park Development. | 216,878 | 108,439 | BOR. |
| Booneville | 1969 | Industrial Development Corp. | 253,350 | 164,677 | SBA. |
| Fort Smith | 1969 | Bost School staffing grant | 96,000 | 40,800 | HEW. |
| Do | 1970 | Westark Community College, technical school expansion. | 1,530,000 | 1,224,000 | EDA. |
| Do | 1970 | Industrial Development Corp. | 300,000 | 195,000 | EDA. Business loan |
| Do | 1970 | Girls' Shelter staffing grant | 13,333 | 10,000 | HEW. |
| Mena | 1971 | Emergency propane system | 260,000 | 130,000 | EDA. |
| | | | | 78,000 | ORC. |
| Fort Smith | 1971 | Industrial River Port | 785,000 | 392,500 | EDA. |
| Van Buren | 1971 | Municipal complex | 400,000 | 320,000 | EDA. |
| Sebastain County | 1971 | Park development—Phase II. | 783,273 | 391,636 | BOR. |
| Fort Smith | 1971 | Girls' Club staffing grant | 13,288 | 9,920 | HEW. |
| Do | 1972 | Regional mental health treatment center. | 612,000 | 459,000 | HEW. |
| Gray Rock | 1972 | Water distribution system | 124,000 | 86,800 | HEW. |
| Mena | 1972 | Wastewater treatment works | 448,291 | 246,560 | EPA. |
| Booneville | 1972 | do | 132,000 | 72,600 | EPA. |
| Fort Smith | 1972 | Suburban fire stations | 480,000 | 384,000 | EDA. |
| Do | 1972 | Harbor House alcoholic program staffing grant. | 15,000 | 15,000 | HEW. |
| Do | 1972 | Community cancer research | 15,000 | 15,000 | HEW. |
| Mena | 1973 | Park land acquisition | 26,500 | 13,750 | BOR. |
| Ozark | 1973 | Wastewater treatment works | 362,493 | 271,870 | EPA. |
| Van Buren | 1973 | Wastewater treatment and sewer interceptor replacement. | 625,000 | 418,750 | EPA ORC. |
| Mena | 1973 | Park development | 221,370 | 110,685 | BOR. |
| Do | 1973 | Industrial airport expansion | 343,000 | 274,400 | EDA., ORC. |
| Ozark | 1973 | Airport expansion | 300,000 | 250,000 | FHA, ORC, AAC. |
| Fort Smith | 1973 | Waste water treatment | 4,029,546 | 3,022,160 | EPA. |
| Do | 1973 | Westark Community College Area Health Education Center. | 482,224 | 482,224 | HEW. |
| Do | 1973 | Voluntary Action Center | 23,880 | 10,000 | ACTION. |
| Do | 1973 | Regional drug education program. | 13,333 | 10,000 | LEAA. |
| Do | 1973 | Sebastian County Youth Service Bureau, Lincoln Center. | 109,076 | 92,715 | LEAA. |
| Do | 1973 | Girls' club creative arts program. | 6,195 | 3,000 | AAHC. |
| Do | 1973 | Harbor House alcoholic program operations grant. | 17,500 | 17,500 | ACAAB. |
| Do | 1973 | Counseling and guidance regional alcoholic treatment program. | 10,000 | 10,000 | ACAAB. |
| Do | 1973 | Counseling and guidance regional alcoholic treatment program. | 10,000 | 10,000 | ACAAB. |
| Do | 1973 | Gateway house alcoholic women program operations grant. | 12,500 | 12,500 | ACAAB. |
| Do | 1973 | West. Ark. Counseling and Guidance Center staffing grant. | 330,213 | 300,194 | HEW. |
| Do | 1973 | Retired senior volunteers program. | 26,208 | 21,763 | ACTION. |
| Do | 1973 | Opening of beauty shop | | 2,800 | SBA loa |
| Do | 1973 | Purchase of clothing store | | 17,800 | Do. |
| Do | 1973 | Initiation of sewer service | | 17,000 | Do. |
| Do | 1973 | Furniture and automobile upholstering. | | 17,800 | Do. |

## THE ENERGY CRISIS

Mr. HOLLINGS. Mr. President, today I am calling on the White House to match its energy rhetoric with solid energy proposals.

The White House is calling for project independence to make this country self-sufficient by 1980 yet the Federal Energy Office under William Simon will be set up as a temporary, stop-gap measure with an authorization for only 18 months.

What we need is a National Energy Policy Council capable of long-range planning and collation of energy statistics. We are in the present crisis because no one was minding the store and the supplies ran out. We cannot solve our present problems without all the facts and we certainly cannot become self-sufficient without long-range planning.

On May 10, 1973, the Senate approved S. 70, my Energy Policy Council bill. It was again passed as an amendment to S. 2176, the Energy Conservation Act, and S. 2276, the Federal Energy Administration Act.

A coalition of administration officials and big oil groups has kept the bill from being considered in the House. I first put this proposal forward 2 years ago and the White House has opposed it on the grounds that the job was already being done. But we all know too well that the job was not and is not being done. Since I first proposed the Energy Policy Council, seven energy czars have come and gone. Now we have Mr. Simon who is doing a fine job but he is so tied down by the day-to-day decisions involved in the present crisis he does not have the time to oversee the gathering of needed statistics. Nor does he have the time to do the long-range planning for this Nation's energy needs.

Both economic and environmental problems are handled by White House level councils with the power and resources to make policy. We need to take this same approach to our energy problems and we need it now.

Mr. Simon admits we need to have all the facts to deal with the crisis at hand and he knows we do not have them. The President, the oil companies, and the Members of Congress most knowledgeable on energy all admit they do not have all the facts and they do not have any one place to go to obtain them. Before we rush headlong into a billion dollar program for energy independence, we have to know what we have and what we need. An Energy Policy Council would guarantee a single place for Congress, the administration, and the American people to get the facts and the overall energy picture.

We must remove the suspicion and confusion from everyone's minds by dealing with the crisis realistically and honestly.

## NATIONAL SECURITY AND NUCLEAR POWER: ANOTHER ARROGANCE

Mr. GRAVEL. Mr. President, some profoundly important questions about the probable incompatibility of nuclear power plants and national security were placed in the Record September 20, 1973, by the Senate assistant majority leader, Robert C. Byrd.

He asked the AEC Chairman if the proliferation of surface nuclear reactor plants, each loaded with enough radioactivity to kill at least 100,000 people, makes this country vulnerable to devastation—or blackmail—by saboteurs or by enemies with just conventional weapons.

It turns out that Dr. Dixy Lee Ray, who sent me her response, is counting on such a contingency never occurring:

> The first step in assessing vulnerability is to determine the attractiveness of the target to potential enemies. An attractive target is one which enables the enemy to inflict a great amount of damage with only a small amount of effort or risk.
>
> Viewed in this light, nuclear power plants make very unattractive targets for either a saboteur or a foreign enemy. They are massive physical structures which are not easily damaged by conventional methods. Moreover, even if seriously damaged, a nuclear power plant would constitute far less of a threat to the public's health and safety than would a number of other possibilities which do not need to be mentioned.
>
> A nuclear plant, therefore, is likely to rank quite low on a saboteur's list of priorities.
>
> The situation is much the same when we consider vulnerablity to enemy attack. A surprise attack on U.S. nuclear power plants with conventional weapons is simply not a credible threat . . .
>
> Notwithstanding the above, applicants for operating licenses have . . . industrial security measures to protect against industrial sabotage in the proposed plants . . .
>
> Nuclear power plants simply do not offer an especially attractive target for attack. As such, it can hardly be alleged that their existence poses some new and significant threat to our national security.

### THE PRICE OF SMUGNESS IN HIGH PLACES

Are we actually being asked by Dr. Ray to gamble our lives and our freedom on her smug assumption that no one will ever want to do it? Can we feel confident that Dr. Ray knows how to think like all existing and potential terrorist groups for the next two generations?

For years, Americans held the assumption that the Arabs would never use their oil weapon because it might hurt them, too. We are paying for our smugness now.

Although I doubt that Dr. Ray would dare predict what will happen to our Middle East relations during the coming months, or even next week, she does not hesitate to predict what will happen about the obvious vulnerability of nuclear powerplants during the next 40 years.

As for her assertion that nuclear powerplants are difficult to sabotage, it seems that some vulnerabilities are so obvious that citizen intervenors in license hearings on the Indian Point No. 2 plant were able to write a set of security "findings" which were deleted from the open record for the sake of public safety. See AEC docket 50–247, "Citizens Committee for the Protection of the Environment, proposed findings of fact, January 1972."

With regard to Dr. Ray's claim that a surprise attack on plants with conventional weapons "is simply not a credible threat," I recall that the AEC evacuated employees from its Oak Ridge installation on November 11, 1972, when a skyjacker, demanding $10 million ransom, threatened to crash the airliner into the Oak Ridge nuclear reactors.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

## PRISONER OF WAR AND MISSING IN ACTION TAX ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume the consideration of the unfinished business, H.R. 8214, which the clerk will report.

The assistant legislative clerk read as follows:

> **A bill (H.R. 8214) to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes.**

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the first committee amendment.

Mr. PROXMIRE. Mr. President, I did not hear the Senator's request.

Mr. TALMADGE. I asked unanimous consent that further proceedings under the quorum call be dispensed with.

Mr. President, I ask unanimous consent that during Senate consideration of H.R. 8214, including votes, the following persons be permitted on the floor: From the Finance Committee staff: Michael Stern, Robert Willan, William Morris, and Joseph Humphreys. From the Joint Committee on Internal Revenue Taxation staff: Laurence Woodworth, Bobby Shapiro, Mike Bird, Howie Silverstone, and Mark McConaghy.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the first committee amendment.

Mr. TALMADGE. Mr. President, H.R. 8214 as it passed the House amends the tax laws in several ways to provide relief for military and civilian personnel returning from the Vietnam conflict, and for the families of those listed as missing in action and who are subsequently determined to have died in earlier years. The committee accepted these provisions as passed by the House, with minor technical changes. In addition, however, the committee has added a number of tax amendments relating to other subjects. Let me briefly describe the House-passed provisions and then summarize the committee amendments.

Under present law, military personnel hospitalized as a result of service in a combat zone may exclude the pay they receive while in the hospital. The first House provision extends this provision to cover, for a period of time, the pay they receive while hospitalized after all combatant activities have terminated.

Second, present law forgives Federal income taxes on income other than combat pay in the case of a member of the Armed Forces who dies while serving in a combat zone, or as a result of an injury incurred while serving in a combat zone. The bill extends this provision to cover income received during the period he is in a missing status, even though it is subsequently determined that he died at an earlier time.

Third, the House bill deals with the question of when the lower tax rates available to a surviving wife are to be available for one whose husband was in military service, is reported in missing status and is subsequently determined to have died in an earlier year. The bill provides in such a case that the widow is to be eligible for surviving spouse tax treatment for the 2 years following the year in which her husband's missing status is terminated, rather than the 2 years following the year of actual death.

The House bill also clarifies existing law in two respects. First, it makes it clear that the spouse of a serviceman in a combat zone is to have the same extension of time for such acts as filing tax returns, paying taxes, or filing a claim for credit or refund of tax, as is available to her husband. Second, the bill also makes it clear that the wife of an individual who is missing in action may file a joint return during the period he is in this missing status even if it is subsequently learned that he was killed in an earlier year.

The bill provides that the special benefits for military personnel during the period there are combatant activities in a combat zone, generally are not to continue to be available for more than 2 years after the termination of combatant activities. In the case of the Vietnam conflict, however, these benefits will be available for 2 years after this bill is enacted.

The House bill also deals with the tax treatment of individuals illegally detained when the *U.S.S. Pueblo* was seized in 1968 by North Korea. In this case, the bill provides an exclusion from income for compensation received by the members of the crew who were not military personnel to conform to the treatment available for nonmilitary prisoners of war taken in a combat zone.

Finally, the House bill removes the requirement that a serviceman serve during an "induction preiod" to receive the special tax benefits I have referred to. This change is necessary since with the expiration of the draft there is no longer an induction period.

As I have said, the committee agrees with the provisions of the House-passed bill with minor technical corrections. The committee, however, also added a number of other amendments to the bill, which the committee believes represent desirable changes in the tax laws.

The first committee amendment provides that cooperative arrangements for the investment of funds formed by educational organizations, and organizations supporting educational organizations, are to be exempt from Federal income taxation.

A second amendment deals with the treatment processes which are treated as mining in computing the percentage depletion allowance for trona. The committee's amendment provides that the decarbonation of trona is to be treated as an ordinary treatment process. The effect of this is to continue, as provided prior to 1971, to allow percentage depletion on trona based on the value of soda ash extracted from it.

The committee also added two other amendments relating to members of the uniformed services. The first extends the moratorium on the application of the moving expense rules provided in the Tax Reform Act of 1969 for members of the armed services until 1975, pending the development of a legislative solution to problems in the application of these new rules for military personnel. Second, a problem has arisen as to the application of the exclusion under present law for scholarship and fellowship grants to payments made by the Government for the tuition and other related educational expenses of a member of the uniformed services under a scholarship program. The amendment continues the application of the exclusion which has been available in the past, until 1975, pending a review by the staff of the effect of the application of this provision.

A fifth committee amendment extends to distilled spirits brought into the United States from Puerto Rico and the Virgin Islands the same abatement or refund provisions in the case of loss or destruction that are presently applicable to imported or domestic spirits.

The committee also added an amendment to the provision relating to the use of appreciated property by corporations to redeem their own stock. This amendment applies the same constructive ownership rules for purposes of determining whether the shareholder has a 10 percent interest in the corporation as apply for purposes of determining whether a redemption of a shareholder's stock is in complete termination of his interest.

A seventh committee amendment repeals the tax and other regulatory provisions on filled cheese in the Internal Revenue Code. These provisions serve no Internal Revenue purposes and regulations as to the wholesomeness and purity of filled cheese products are enforced by the Food and Drug Administration outside of the provisions of the Internal Revenue Code.

Another committee amendment continues for 1 more year, until 1974, the treatment which has been available for taxable years ending before 1973, with respect to the deduction for accrued vacation pay.

A ninth committee amendment deals with certain disaster losses where taxpayers were allowed casualty loss deductions and subsequently were compensated for those losses based on claims of tort. The committee amendment provides that in these circumstances in lieu of taking the compensation into income immediately, the taxpayers may reduce the basis of their damaged property, or replacement property, by the amount of compensation they received up to a maximum of $5,000 of tax benefits. Excess benefits over this level are to be included in the income of a taxpayer over a 5-year period.

A 10th committee amendment provides an exclusion under the unemployment compensation program, similar to the exclusion that exists under the social security program, for the services of students performed in the employ of an auxiliary nonprofit organization which is organized and operated exclusively for the benefit of, and supervised or controlled by, the school, college, or university in which the student is enrolled.

The committee also added an amendment to permit certain private foundations whose assets are largely invested in the stock of a multistate regulated company, described in section 101(l)(4) of the Tax Reform Act of 1969, to exclude the value of this stock in computing the amount of their required charitable distributions under the private foundation provisions. This amendment is designed to effectuate the intent of Congress in the 1969 Act by preventing the charitable distribution provisions from resulting in a forced divestiture of stock that Congress determined certain types of foundations should be permitted to retain.

The 12th, and last, committee amendment makes a change in the tax deferral DISC provisions relating to export sales. The amendment provides that a corporation would not be prevented from qualifying as a DISC if it holds accounts receivable which arose by reason of export-related transactions of a related DISC.

Mr. President, I ask unanimous consent that all committee amendments be agreed to en bloc, and that the bill as thus amended be considered as original text for the purpose of further amendment.

**Mr. PROXMIRE.** Mr. President, I object.

**The PRESIDING OFFICER.** Objection is heard.

**Mr. ROBERT C. BYRD.** Mr. President, I have an amendment which I have discussed with the distinguished acting manager of the bill (Mr. TALMADGE) and the distinguished Senator from Wisconsin (Mr. PROXMIRE). I ask unanimous consent that I may be permitted to offer the amendment even though the committee amendments have not yet been agreed to en bloc. I realize that the distinguished Senator from Wisconsin is not only opposed to this amendment, but also to an amendment of mine which the committee has already adopted some days ago, and which would be further amended by the amendment I hold in my hand. I wonder if the Senator would allow me to offer my amendment at this time and get Senate action on it, and then, if he wishes to attack my basic amendment, he may retain that privilege.

**Mr. PROXMIRE.** Mr. President, if the Senator will yield, as I understand, the Senator from West Virginia would amend one of the committee amendments.

**Mr. ROBERT C. BYRD.** The Senator is correct.

**Mr. PROXMIRE.** I simply want to protect my rights. I want to be sure I will be in a position to get a rollcall on the substantive committee amendment at a later time, or even to amend that amendment further. If this perfecting amendment by the Senator from West Virginia is adopted, would I be able to do that?

**The PRESIDING OFFICER.** The Senator will be so protected.

**Mr. ROBERT C. BYRD.** Mr. President, before the Chair puts the request, if I may explain my perfecting amendment while awaiting the arrival of another Senator, the committee recently accepted an amendment which I offered which would give relief to the people who lived in the Buffalo Creek Valley in Logan County, W. Va., and who suffered great losses as a result of the breaking of the slag heap impoundment there a couple of years ago.

Under present law, a taxpayer can elect to claim a disaster loss deduction for a disaster that occurs in 1 year on an amended return for the previous year, and get an immediate refund on the previous year's taxes. The law further provides that where there is subsequent compensation for the loss, the taxpayer is not entitled to keep the refund, because he would not have suffered the loss which would otherwise justify him in receiving a refund. He is then required to repay the refund to IRS with interest. My amendment which the committee has already agreed to, would allow the West Virginia citizens who suffered losses in the Buffalo Creek disaster to retain their refunds notwithstanding the fact that, subsequently the coal company which was responsible for the impoundment paid compensation to some of the various families; hence, they had received, then, both the refund from IRS and the compensation from the coal company.

These are generally low to middle income taxpayers. The amounts of the refunds from Internal Revenue Service were small and in most instances the taxpayers had already spent their refunds before they were informed they would also receive compensation for their losses, so that it would be considered a hardship to require them now to repay the refunds. Ergo, the committee accepted my amendment, thus relieving these taxpayers of repayment of the refunds.

But, Mr. President, the interest on the refunds would still be required to be paid to the IRS by those who had received the refunds.

The amendment I now offer would relieve these people of having to pay the interest on the refunds which they have already received and which under my substantive amendment they would be allowed to retain. This is the purpose of the perfecting amendment which I now offer.

Mr. PROXMIRE. Mr. President, at a later time, when the amendment comes up in order, I want to explain the reason why I am opposed to it. But I think this perfecting proposal by the Senator from West Virginia would undoubtedly be proper and I would have no objection to that part of it.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Wisconsin. I understand that later he will raise an objection to the basic amendment which I am now seeking to perfect.

Mr. GRIFFIN. Mr. President, will the Senator from West Virginia yield for an observation?

Mr. ROBERT C. BYRD. I yield.

Mr. GRIFFIN. As the Senator knows, I am not on the Finance Committee. I am waiting for the ranking member, the distinguished Senator from Utah (Mr. BENNETT) to arrive on the floor. From what little bit I have learned about the amendment of the Senator from West Virginia, it seems to be in order and equitable, but if he would permit holding up his amendment for just a moment until the Senator is here in the Chamber, I would greatly appreciate it.

Mr. ROBERT C. BYRD. Very well. Of course, I shall do so. I understand and appreciate the request of the distinguished minority whip.

Mr. President, I would ask unanimous consent at this time that the name of my colleague (Mr. RANDOLPH) be added as a cosponsor of the perfecting amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, it is a privilege to join my able colleague from West Virginia (Mr. ROBERT C. BYRD) in sponsoring this amendment. As he explained, this amendment applies to taxpayers covered by the casualty loss provisions contained in the bill, H.R. 8214, as reported by the Finance Committee. The committee amendment covers certain situations where disaster losses resulting from floods have produced severe hardships on the part of the people affected by them. One of these situations was the Buffalo Creek tragedy in West Virginia.

In these cases of hardships the taxpayers were either not covered by insurance or their losses were in excess of their coverage and they claimed disaster losses with the result that they usually received tax refunds. In these situations, the taxpayers in many cases subsequently were compensated for their losses based on claims of tort. In the cases where the compensation for losses occurred in a different year from the one in which the deduction was taken, the taxpayers often were still in a severe hardship situation and in many cases had already spent not only the tax refund but also the reimbursements before they were aware of the tax consequences. The committee amendment covers the problems resulting from the tax consequences by not requiring these individuals to repay the tax refunds but instead requiring them to reduce the basis of their property by the amount of the refund.

There are certain cases, however, where the taxpayers had revoked their election to deduct casualty losses in the year prior to the casualty and consequently found themselves in the position of not only having to pay refunds to the Treasury Department but also were told by the Treasury Department that they owed the Government substantial interest payments because of these refunds.

Our amendment provides that any taxpayer covered by the committee amendment will not be liable for the repayment of any interest received on a refund of tax resulting from his election of the disaster loss provisions and also will not be liable for the payment of any interest with respect to a deficiency on account of the revocation of the election. It has the effect of placing these taxpayers in the same position with respect to interest charges and payments as if they had not revoked their original election. This is consistent with the purpose of the amendment as reported by the committee.

The Internal Revenue Service has advised me that most of the 1,800 Buffalo Creek taxpayers affected by the tragic flood will benefit by this amendment. It is only fair that these taxpayers not be held liable for these interest payments.

If the provision in the committee bill and this amendment become law, I understand that perhaps the District Internal Revenue Service office will notify those taxpayers involved of the revocation of election and will handle these problems in an efficient and expeditious fashion, possibly using newspaper or radio media. I hope the amendment will be accepted.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and, if I may——

Mr. PROXMIRE. If the Senator would defer that, I have a statement to make on the overall bill, and if I could make it now, it would save some time. When the Senator from Utah comes in, I will probably be through anyway.

Mr. ROBERT C. BYRD. When the Senator from Utah comes in, may the Chair then propound my request?

Mr. PROXMIRE. Fine.

Mr. ROBERT C. BYRD. I thank the Senator very much.

Mr. PROXMIRE. Mr. President, we have before us today, H.R. 8214, what is called the Christmas tree tax bill. This bill, in its first incarnation, was a simple, straightforward bill in the public interest designed to do tax justice to combat veterans, soldiers missing in action and declared dead, certain valiant members of the *Pueblo* ship, and their families.

But in its reincarnation—the reincarnation brought about by the Finance Committee, this bill can scarcely be recognized in its original form.

### HISTORY OF CHRISTMAS TREE BILLS

What is a Christmas tree bill? The answer is that it is one of the institutionalized kinds of bills in the House and Senate which is trotted out about once a year and to which is attached almost every kind of tax amendment—good and bad, big dollar amounts and small dollar amounts—that men can think up.

It is difficult and often impossible, to find out who is behind the provisions and who benefits, or to use an inelegant phrase "who gets the gravy." There is a paucity of information, little written explanation, and little detail on costs, ramifications for the tax code, or the views of public interest groups.

If you want to know why some very wealthy people and corporations in the United States—oil companies, foundations, and even Presidents—pay little or no taxes on very big incomes, one must look at the way our tax bills are written including the Members' bills and the bobtail bills and the Christmas tree bills.

If my recollection is correct, it was just such a minor amendment to a tax bill which originally opened up the so-called "unlimited charitable deduction" which along with oil depletion, capital gains, and a few other choice tax provisions, was the major reason why a few years ago several hundred taxpayers with very large incomes—in fact, incomes over $100,000 back in the late 1960's, and there was one year in which it was revealed there were well over 100 taxpayers with incomes of over $1 million—who paid no taxes at all.

And the reason the bills pass is that they combine a coalition of interests, some good and some bad, who are around lobbying to get it through. In the past several weeks my office has been called or visited by a half dozen lobbyists on this bill telling us not to object to bad provision A or terrible provision B or the bill as a whole on grounds that their provision is worthwhile and a must.

That is how it is done.

### THIS BILL IS A MODEL

Now the bill we have before us is a model of a Christmas tree bill. It borders on pure genius. Look what was done.

They took a minor bill entitled "The Prisoner of War and Missing In Action Tax Act" and added a dozen amendments to it.

How can anyone be against tax justice of prisoners of war and the families of the missing in action? If they had called the bill a bill for the relief of widows, orphans, and gold star mothers they could have done no better.

So first of all, in the name of wounded combat veterans and the families of the missing in action we will be pressed to give tax relief to some of the biggest corporations in the United States, a famous rum firm, and several yet unnamed private foundations.

This year the committee outdid itself. The use of the prisoner of war and missing in action tax act as a vehicle for a dozen or so rag tag, nongermane, good, bad, and indifferent tax bills.

To a bill which rightly allows hospitalized combat veterans to exclude their military pay while in a hospital outside a combat zone, and a bill which forgives Federal income taxes on the income of those who die while serving in a combat zone to cover the period while they were in a MIA status, they have added a dozen other amendments, none of them having anything to do with wounded combat veterans, winners of purple hearts, or those who died in the defense of their country.

Just what does it do? The amendments allow an extension of depletion for trona ore based on the value of soda ash extracted from it, allows refunds on rum and spirits lost or destroyed, repeals the tax on certain filled cheese products, affects private foundations whose assets are largely invested in the stock of multistate corporations, and makes changes in the tax deferral of DISC provisions relating to export sales, among other things.

There are no combat veterans there.

### MAJOR OBJECTIONS PROCEDURAL

My major objection to many of the amendments in this bill is procedural. We have no record and no testimony about most of them. The language is obscure. We have no "printed" reports from the Treasury. Sometimes the costs are given and sometimes not. I am told that in the House there are another 50 to 100 Members' bills just waiting to see how things go on this Christmas tree bill.

Congress has passed a Freedom of Information Act in order to get needed information from the executive branch. We may need a truth in information act for tax bills proposed in the House and Senate.

In view of the obscurity of the provisions, the lack of a record, and the possible precedents that these bills set, I believe we need to put the onus and the test on the committee to justify these bills and to provide us with a full and complete record.

Therefore starting on page 13, line 14, I will object to each of the proposed committee amendments. I will object to adopting them en bloc and treating them as original text.

Mr. President, I have objected to the request of the distinguished Senator from Georgia (Mr. TALMADGE), who is managing this bill, to have all of the committee amendments treated en bloc.

Now, Mr. President, I am prepared to proceed on the amendments, but before I do so, let me read an article published in the December 12, 1973, Washington Post which tells more about this bill than we can get from the committee report in terms of who actually benefits.

On Nov. 27, the Senate Finance Committee approved an innocent-sounding bill easing federal tax burdens for American prisoners of war.

Nowhere in the bill or the 25-page committee report was there any mention of Allied Chemical and Dye, Texas Gulf Corp., FMC, Stauffer Chemical, McDonnell-Douglas Aircraft, Bacardi Rum, Kerr-McGee Chemical Corp., the Win Schuler restaurant chain of Michigan, or several thousand residents of Logan County, W. Va.

Yet these firms and persons are among the major beneficiaries of a dozen special tax benefit provisions added by the Finance Committee on readying the House-passed bill for expected floor action this week or next.

The additions have turned the POW tax bill into this year's "Christmas Tree," the title traditionally given to the annual "minor" tax measure, usually passed hurriedly just before Christmas recess, that carries a fat sack of gifts for a handful of taxpayers having powerful friends on Capitol Hill.

The committee bill may be only a start. Several special provisions are being readied by various Senators as floor amendments. And in the House, 30 to 40 more such provisions, sponsored chiefly by members of the tax-writing Ways and Means Committee, reportedly are being gathered into one package for quick approval either as a separate bill or a giant amendment to the Senate measure.

Some of these special tax provisions are justified; they merely correct inequities or technical faults in the law. Others are much more questionable, benefiting only one or two taxpayers. However, it is the stealth and concealment that raise the most questions.

As is customary, the Senate bill and report don't identify the congressional sponsors or the immediate beneficiaries.

Mr. President, I ask unanimous consent that the remainder of the article be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the remainder of the article was ordered to be printed in the RECORD, as follows:

Interviews with tax experts, staff members and Senate aides, however, revealed the beneficiaries and some key sponsors: Sens. Clifford P. Hansen (R-Wyo.), John V. Tunney (D-Calif.), Gale McGee (D-Wyo), Robert P. Griffin (R-Mich.) and Robert C. Byrd (D-W. Va.).

House members pushing provisions that got into the Senate bill were Reps. Charles Chamberlain (R-Mich.), Teno Roncalio (D-Wyo.), James Corman (D-Calif.) and Puerto Rican Resident Commissioner Jaime Benitez.

Hansen, a Finance Committee member, offered a proposal that will mean an annual saving of $2 million for a large number of chemical and mining firms that mine the ore trona, a raw material that yields soda ash for soap and other products.

McGee and Roncalio backed this amendment. About half the nation's trona is produced in Wyoming by Kerr-McGee, Allied Chemical and Dye, Texas Gulf, FMC and Stauffer.

The Hansen amendment would reverse a 1971 Treasury ruling and permit the trona mining firms to continue taking the mineral depletion allowance on the value added to trona by conversion into soda ash. The Treasury strongly opposes the amendment.

The powerful Senate Democratic Whip, Robert Byrd, won committee approval for his amendment saving Logan County taxpayers an estimated $3 million in taxes over fiscal years 1972 to 1974.

On Feb. 26, 1972, a dam owned by Buffalo Mining, a subsidiary of the Pittston Co., burst, killing 116, destroying 700 homes with 4,000 to 5,000 residents. The Byrd amendment specifies that these taxpayers' first $5,000 in reimbursements from the mining company would be exempt from taxes even if they have already taken a tax deduction for the loss. Normally, such reimbursement is taxable when a deduction has already been taken.

The Benitez amendment, backed by the Puerto Rican rum industry as well as the commonwealth government, was pressed by Maurice Fillius, a semi-retired lawyer representing Bacardi, who says he spoke to every member of the Finance Committee on the matter.

It provides that when spirits imported from Puerto Rico and the Virgin Islands to the United States are destroyed by accident, or are lost, while in bonded warehouses or immediately after removal from bonded warehouses, the U.S. whiskey tax shall be refunded.

Whisky produced in the United States already enjoys this tax rebate, and Fillius said its extension to the imported Puerto Rican whisky is merely correction of a tax inequity—a point with which the Treasury agreed. He said Bacardi was interested because it bottles imported rum in a plant in Jacksonville, Fla. There isn't any loss to the U.S. Treasury, since the whisky tax on such rum ordinarily goes to the commonwealth government.

Corman and Tunney sponsored a special benefit enabling McDonnell-Douglas, which has a California plant near Corman's district, to take advantage of the law that says the profits of an overseas trading corporation organized under the DISC (Domestic International Sales Corp.) laws aren't taxable as ordinary business income; they remain untaxed until distributed to shareholders.

The Corman-Tunney amendment would allow McDonnell-Douglas to shift income from its overseas trading corporation to a special financial subsidiary without losing the special tax status. Tunney said he agreed to cosponsor this only after receiving assurance that the Treasury didn't object. There isn't any tax impact, but the amendment bends the existing law slightly for the convenience of McDonnell-Douglas or anyone else who wants to do this.

Schuler, who owns seven restaurants in Michigan and Ohio, had been selling a filled cheese spread called "Win Schuler's Bar-Scheeze." A competitor told the IRS he wasn't complying completely with the labeling requirement. Facing severe loss, the Schuler restaurant chain turned to Congress. The committee said the Food and Drug Administration separately regulates food cleanliness, purity and labeling, and so the 1896 law is really obsolete. The Treasury will lose only a trifle: about $10,000 a year in licensing taxes. The Treasury didn't oppose the amendment.

Tax experts and sponsors of the provisions contend that most of these provisions are completely legitimate: although they are brought up on behalf of a special interest, they usually aren't approved unless they have broad, fair future applicability.

Mr. PROXMIRE. Mr. President, I yield the floor. It is my understanding that the first amendment will be called up.

Mr. TALMADGE. Mr. President, if it is agreeable to the Senator at this point, we can either proceed to the amendment of the Senator from West Virginia or the first committee amendment.

Mr. PROXMIRE. It is fine with me. Would the Senator from Georgia prefer that we handle the amendment by the Senator from West Virginia in toto or simply the sugestion he is making now?

Mr. TALMADGE. I have no objection. Either way is agreeable to me. I think the better way would be to proceed with the committee amendments one at a time. The Senator requested that his amendment be considered at this time, and I have no objection to that procedure.

Mr. ROBERT C. BYRD. May I suggest that we merely proceed with my perfecting amendment at this time and then let the committee amendment come along in its proper sequence with the other committee amendments?

Mr. TALMADGE. And then consider that as amended. That is agreeable to me. It is agreeable to the Senator from Wisconsin?

Mr. PROXMIRE. Yes.

Mr. TALMADGE. Mr. President, as I understand it, the question is on the first committee amendment.

The PRESIDING OFFICER. That is the pending question.

Mr. TALMADGE. I beg the Chair's pardon. I think we ought to proceed with the Senator from West Virginia's amendment to the committee amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the committee amendment which begins on page 13, section 8, be temporarily laid before the Senate, in order that I may offer a perfecting amendment to that amendment, and that after Senate action on my amendment to the amendment is taken, then the amendment, as amended, if amended, take its proper order in the sequence of committee amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask that the clerk state my amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 22, line 9, after the period insert the following:

"No taxpayer who enters into an agreement with the Secretary of the Treasury under subsection (a) shall be liable for the repayment of any interest received under section 6611 of such Code on a refund of tax resulting from an election under section 165 (h) of such Code with respect to a loss attributable to a disaster described in this section, nor shall he be liable for the payment of any interest with respect to any deficiency (as defined in section 6211(a) of such Code) arising out of the revocation of such an election.".

Mr. PROXMIRE. Mr. President, as I understand it, the Chair informed the Senate a few minutes ago that in the event this modification is accepted, it would still be in order at a later time to consider the entire amendment beginning on page 19, line 19, relating to the West Virginia problem.

Mr. ROBERT C. BYRD. I was advised at the desk that the amendment begins on line 14, page 13, section 8.

Mr. PROXMIRE. I say to the Senator from West Virginia that I have H.R. 8214, and on page 19, line 19, there are certain losses; and it seems to refer to the substance of the amendment of the Senator.

Mr. ROBERT C. BYRD. There seems to be some indecision at the desk, at the moment.

The PRESIDING OFFICER. The committee amendment begins on page 13, line 14.

Mr. PROXMIRE. That committee amendment is entitled "Cooperative Investment Activities of Educational Institutions" and "Cooperative Service Organizations of Operating Educational Organizations."

Is that the amendment which the Senator from West Virginia wishes to adopt, or do I have the wrong amendment?

Mr. ROBERT C. BYRD. The one I want to amend is the so-called Buffalo Creek Disaster amendment.

The PRESIDING OFFICER. The committee amendment continues from that point to the end of the bill and includes sections 8 through 19.

Mr. PROXMIRE. I see. The Senator from West Virginia is talking about all the committee amendments together. That was the problem.

The PRESIDING OFFICER. It is one single amendment.

Mr. ROBERT C. BYRD. But the only provision I wish to amend deals with Buffalo Creek tax refunds.

Mr. PROXMIRE. I object to taking up the committee amendments en bloc. I ask that they be taken up separately.

Mr. TALMADGE. Is there any objection to the amendment of the Senator from West Virginia? I would have no objection of taking it up.

Mr. GRIFFIN. In view of the earlier recommendations, I have had an opportunity to discuss this proposal with the ranking minority member of the committee, and I understand there is no objection.

Mr. BENNETT. I have no objection.

Mr. TALMADGE. As I understand the procedure now, the Senate will vote on the committee amendments in their order of sequence. I believe the first amendment is in order.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia. Is there objection? The Chair hears none, and the amendment is agreed to.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Georgia, the distinguished Senator from Wisconsin, and the distinguished assistant Republican leader.

Mr. TALMADGE. If the procedure is to take up the amendments separately, I move the adoption of the first committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the first committee amendment.

Mr. PROXMIRE. I want to make sure that I understand this amendment. Is this the amendment which was originally submitted by the Senator from Georgia (Mr. TALMADGE)?

Mr. TALMADGE. No; this is a technical amendment.

Mr. PROXMIRE. I have no objection to amendments prior to line 13, page 13.

Mr. TALMADGE. Mr. President, I ask unanimous consent that amendments prior to line 13, page 13, be agreed to en bloc.

The PRESIDING OFFICER. Without objection, all amendments up to that point are agreed to en bloc.

The question is on agreeing to the next committee amendment.

The amendment is as follows:

SEC. 8. COOPERATIVE INVESTMENT ACTIVITIES OF EDUCATIONAL INSTITUTIONS

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, etc.), is amended by redesignating subsection (f) as (g), and by inserting after subsection (e) the following new subsection:

"(f) COOPERATIVE SERVICE ORGANIZATIONS OF OPERATING EDUCATIONAL ORGANIZATIONS.—For purposes of this title, if an organization is—

"(1) organized and operated solely to hold, commingle, and collectively invest and reinvest (including arranging for and supervising the performance by independent contractors of investment services related thereto) in stocks and securities, the moneys contributed thereto by each of the members of such organization, and to collect income therefrom and turn over the entire amount thereof, less expense, to such members.

"(2) organized and controlled by one or more such members, and

"(3) comprised solely of members that are organizations described in clause (ii) or (iv) of section 170(b)(1)(A)—

"(A) which are exempt from taxation under subsection (a), or

"(B) the income of which is excluded from taxation under section 115(a),

then such organization shall be treated as an organization organized and operated exclusively for charitable purposes.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1973.

SEC. 9. ORDINARY TREATMENT PROCESSES FOR TRONA.

(a) IN GENERAL.—Section 613(c)(4)(E) (relating to treatment processes considered as mining) is amended by inserting after "phosphate rock," the following: "the decarbonation of trona.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1970.

SEC. 10. APPLICATION OF SECTION 82 AND SECTION 217 TO MEMBERS OF UNIFORMED SERVICES.

(a) IN GENERAL.—Notwithstanding the provisions of section 82 (relating to reimbursement for expenses of moving) and section 217 (relating to moving expenses), of the Internal Revenue Code of 1954, the Secretary of the Treasury, in the administration of those sections, is authorized—

(1) to enter into an agreement with the Secretary of Defense under which the Secretary of Defense will not be required to withhold tax on, or to report, moving expense reimbursements made to members of the uniformed services;

(2) to permit any taxpayer who is a member of the uniformed services not to include in adjusted gross income the amount of any reimbursement in kind of moving expenses made by the Secretary of Defense; and

(3) to permit any taxpayer who is a member of the uniformed services to deduct any amount paid by him as moving expenses in connection with any move required by the Secretary of Defense, in excess of any reimbursement received for such expenses, without regard to the provisions of section 217(c) (relating to conditions), to the extent it is otherwise deductible under section 217.

(b) Definitions.—For purposes of this section, the term "uniformed service" has the meaning given it by section 101(3) of title 37, United States Code, and the terms "adjusted gross income" and "moving expense" have the meanings given them by sections 62 and 217(b), respectively, of the Internal Revenue Code of 1954.

(c) Effective Date.—The provisions of this section shall apply with respect to taxable years ending before January 1, 1975.

### Sec. 11. Distilled Spirits From Puerto Rico or the Virgin Islands

(a) In General.—Section 5008 (relating to abatement, remission, refund, and allowance for loss or destruction of distilled spirits) is amended by—

(1) inserting "or section 7652" in subsection (b)(1) after "the tax imposed by this chapter";

(2) striking out "under section 5001(a)(1) or under subpart B of this part" in subsection (b)(2), and inserting in lieu thereof the following: "under section 5001(a)(1), subpart B, this part, or section 7652";

(3) inserting "or section 7652" in subsection (c)(1) after "section 5001(a)(1)"; and

(4) inserting "or section 7652" in subsection (d)(1) after "section 5001(a)(1)".

(b) Effective Date.—The amendments made by this section shall apply with respect to the loss or destruction of distilled spirits occurring after the date of enactment of this Act.

### Sec. 12. Redemption of Stock With Appreciated Property.

(a) In General.—Section 311(d)(2)(A) (relating to appreciated property used to redeem stock) is amended by inserting after "owns" the following: "(directly or constructively under the rules of section 318(a), which shall apply in determining ownership of stock for purposes of this subparagraph to the same extent and in the same manner as such rules apply for purposes of section 302(b)(3)".

(b) Conforming Amendment.—Section 318 (b) (relating to cross-references) is amended by redesignating paragraphs (4), (5), (6), (7), and (8) as paragraphs (5), (6), (7), (8), and (9), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) section 311(d)(2)(A) (relating to taxability of corporations on distributions of appreciated property in redemptions of stock);".

(c) Effective Date.—The amendment made by this section shall apply with respect to distributions made after the date of enactment of this Act.

### Sec. 13. Repeal of Regulatory Taxes on Filled Cheese.

(a) In General.—

(1) Part II of subchapter C of chapter 39 (relating to regulatory provisions affecting filled cheese) is repealed.

(2) The table of parts of such subchapter is amended by striking out the item relating to part II.

(b) Technical and Conforming Changes—

(1) Section 7236 (relating to false branding, etc.) is repealed.

(2) The table of sections of part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7236.

(3) Section 7266 (relating to offenses relating to filled cheese) is repealed.

(4) The table of sections of subchapter B of chapter 75 is amended by striking out the item relating to section 7266.

(5) Section 7303 (relating to property subject to forfeiture) is amended by striking out paragraphs (4) and (5) and inserting in lieu thereof the following:

"(4) Purchase or Receipt of Adulterated Butter.—All articles of adulterated butter (or the full value thereof) knowingly purchased or received by any person from any manufacturer or importer who has not paid the special tax provided in section 4821.

"(5) Packages of Oleomargarine.—All packages of oleomargarine subject to the tax under subchapter F of chapter 38 that shall be found without the stamps or marks provided for in that chapter.".

(6) Section 6808 (relating to cross references) is amended by striking out paragraph (5).

(7) Section 7103(d)(3) (relating to cross references) is amended by striking out subparagraph (C).

(c) Effective Date.—The repeals and amendments made by this section shall apply to filled cheese manufactured, imported, or sold after the date of enactment of this Act.

### Sec. 14. Accrued Vacation Pay.

Section 97 of the Technical Amendments Act of 1958 is amended by striking out "January 1, 1973" and inserting in lieu thereof "January 1, 1974".

### Sec. 15. Certain Casualty Losses.

(a) In General.—Notwithstanding the provisions of section 61 (relating to gross income), section 165 (relating to losses), or any other provision of the Internal Revenue Code of 1954, any taxpayer who was allowed a deduction under section 165 of such Code for a loss attributable to a disaster described in section 165(h) occurring during calendar year 1972, and who received compensation (not taken into account in computing the amount of the deduction) for such loss in settlement of any claim of the taxpayer against a person for that person's liability in tort for the damage or destruction of that taxpayer's property in connection with the disaster, may elect, at such time and in such manner as the Secretary of the Treasury may prescribe, to exclude from gross income the amount of such compensation if the taxpayer enters into an agreement with the Secretary or his delegate under which—

(1) the basis of any property of the taxpayer which was damaged in such disaster, or which is replacement property of like kind for property destroyed in such disaster (acquired within 36 months after such destruction), is reduced (but not below zero) by the amount of any part of such compensation, the exclusion of which does not result in a tax benefit in excess of $5,000, allocable to such damage or destruction, and

(2) the taxpayer will include in his gross income, in equal installments over not more than 5 consecutive taxable years (beginning with the taxable year in which such compensation was received), any amount of such compensation the exclusion of which would result in a tax benefit in excess of $5,000.

(b) Definitions.—For purposes of this section, the term—

(1) "tax benefit" means an amount equal to the amount of the difference between—

(A) the liability of a taxpayer under chapter 1 of the Internal Revenue Code of 1954 for tax for the taxable year in which the compensation was received, computed without regard to the provisions of this section, and

(B) the liability of that taxpayer for such tax for that taxable year computed after the application of the provisions of this section (without regard to the requirements of paragraphs (1) and (2) of subsection (a));

(2) "gross income" means gross income as defined in section 61 of the Internal Revenue Code of 1954; and

(3) "basis" means the basis of property determined in accordance with the provisions of part II of subchapter O of chapter 1 of such Code (relating to basis rules of general application).

(c) Rules.—In applying the provisions of paragraph (1) of subsection (a) to his property, a taxpayer shall reduce the basis of any depreciable property to which that paragraph applies before he reduces the basis of any of his other property, then he shall reduce the basis of any trade or business property (other than depreciable property) to which that paragraph applies, and finally he shall reduce the basis of any other property to which that paragraph applies. For purposes of this subsection, the term "trade or business property" means property which is not described in section 1221 of the Internal Revenue Code of 1954 (relating to the definition of capital assets), and the term "depreciable property" means property of the taxpayer with respect to which a deduction is allowable under section 167 of such Code (relating to depreciation).

### Sec. 16. Application of Federal Unemployment Tax Act to Certain Employees of School-Related Organizations.

(a) In General.—Subparagraph (B) of section 3306(c)(10) (relating to definition of "employment" for purposes of the Federal Unemployment Tax Act) is amended by striking out so much of such subparagraph (B) as precedes "(i)" and inserting in lieu thereof the following:

"(B) service performed in the employ of a school, college, or university, and service performed in the employ of an organization described in section 509(a)(3) (but only if such organization is organized, and at all times thereafter is operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of a school, college, or university and is operated, supervised, or controlled by or in connection with such school, college, or university), if such service is performed".

(b) Effective Date.—The amendment made by this section shall apply to remuneration paid after December 31, 1973.

### Sec. 17. Application of Section 4942 Tax on Failure to Distribute Income.

(a) In General.—Section 101(l)(3) of the Tax Reform Act of 1969 (relating to savings provisions under section 4942 of the Internal Revenue Code of 1954) is amended by—

(1) striking out "and" in subparagraph (D),

(2) striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; and", and

(3) adding after subparagraph (E) the following new subparagraph:

"(F) apply, in the case of an organization described in paragraph (4)(A) of this subsection,

"(i) by applying section 4942(e) without regard to the stock to which paragraph (4)(A)(ii) of this subsection applies,

"(ii) by applying section 4942(f) without regard to dividend income for such stock, and

"(iii) by defining the distributable amount as the sum of the amount determined under section 4942(d) (after the application of clauses (i) and (ii)), and the amount of the dividend income from such stock.".

(b) The amendment made by this section shall apply to taxable years beginning after December 31, 1971.

Sec. 18. Application of Section 117 to Certain Education Programs for Members of the Uniformed Services.

(a) In General.—Any amount received from appropriated funds as a scholarship, including the value of contributed services and accommodations, by a member of a uniformed service who is receiving training under the Armed Forces Health Professions Scholarship Program (or any other program determined by the Secretary of the Treasury or his delegate to have substantially similar objectives) from an educational institution (as defined in section 151(e)(4) of the Internal Revenue Code of 1954) shall be treated as a scholarship under section 117 of such Code, whether that member is receiving training while on active duty or in an off-duty or inactive status, and without regard to whether a period of active duty is required of the member as a condition of receiving those payments.

(b) Definitions.—For purposes of this section, the term "uniformed service" has the meaning given it by section 101(3) of title 37, United States Code.

(c) Effective Date.—The provisions of this section shall apply with respect to amounts received during calendar years 1973 and 1974.

Sec. 19. Domestic International Sales Corporation Amendment.

(a) In General.—Section 993(b)(3) (relating to qualified export assets) is amended by striking out "such corporation" and inserting in lieu thereof "such corporation or of another corporation which is a DISC and which is a member of a controlled group which includes such corporation".

(b) Effective Date.—The amendment made by this section shall apply with respect to taxable years beginning after December 31, 1973. Such amendment shall, at the election of the taxpayer made within ninety days after the date of the enactment of this Act, also apply to any taxable year beginning after December 31, 1971, and before January 1, 1974.

Mr. TALMADGE. Mr. President, this is the so-called Common Fund amendment.

Mr. PROXMIRE. Yes. I should like to make sure we understand that. This amendment was proposed by the Senator from Georgia.

Mr. TALMADGE. That is correct. There are a number of private colleges in the United States that have formed a cooperative arrangement for the collective investment of their funds. During the formative years, its management and administrative expenses were met by start-up grants from the Ford Foundation. However, since the start-up grants have now been terminated, the fund must depend solely upon its member colleges for payment of continued operational costs. In 1970, the Internal Revenue Service issued a ruling to the fund that provided that the fund's exempt status would continue only so long as the investment services of the fund are provided to members at a charge substantially below cost. Since the start-up grants have terminated, the fund is apparently in danger of losing its exempt status. This amendment would make it clear that cooperative arrangements for the investment of the type represented by the "Common Fund" will be exempt from taxation.

Mr. PROXMIRE. Is there any loss to the Treasury?

Mr. TALMADGE. None whatever.

Mr. PROXMIRE. Has the Senator received a letter or letters from the Treasury supporting the amendment?

Mr. TALMADGE. The Treasury supports the amendment.

Mr. PROXMIRE. Has the Treasury written to the committee to that effect?

Mr. TALMADGE. Counsel to the committee informs me that they have. When I proposed the amendment it was agreed to unanimously. The committee supports the amendment.

Mr. PROXMIRE. Am I correct in the view that this amendment simply allows these colleges with a common fund to do collectively what they do separately?

Mr. TALMADGE. What they each do individually. The Senator is correct.

Mr. PROXMIRE. I have no objection.

Mr. TALMADGE. Will the Chair put the question?

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The next committee amendment will be stated.

The legislative clerk read as follows:

On page 14, beginning on line 20, insert language down to line 2 on page 15.

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, it is my understanding that the rest of this bill deals with a group of subjects as different as one could imagine. They are considered as one amendment. There is no indication as to how these weird and strange doings came about.

The PRESIDING OFFICER. The Senator is correct. It is considered as one committee amendment.

Mr. PROXMIRE. There is one part that deals with the depletion allowance on trona, a second with unemployment compensation of students, another with distilled spirits from Puerto Rico or the Virgin Islands, and another with filled cheese.

I understand I can ask for a division by section so that each item will be treated separately and come up for a separate vote.

The PRESIDING OFFICER. Under rule XVIII the Senator has the right to ask for a division.

Mr. PROXMIRE. I do so at this point. I ask for a division on all sections of this bill from this point on.

The PRESIDING OFFICER. The bill will be divided by section, if it is susceptible to division on that basis, and it appears to be.

Mr. PROXMIRE. I thank the Chair.

I see the distinguished Senator from Wyoming, my good friend (Mr. Hansen) has arrived.

The next amendment deals with trona. I think the orderly way to proceed would be to ask the Senator if he would justify this amendment and answer some questions on it.

Mr. HANSEN. I wish to express my appreciation to my good friend, the Senator from Wisconsin, for his courtesy in seeing to it that I was alerted to the fact that he was going to oppose this amendment. I will be happy, indeed, to respond to his request to justify the amendment.

First, I suspect it might be asked why the amendment was proposed. The reason is that the most significant trona deposits in the United States are, for the most part, located in Wyoming. They were found quite by accident several years ago—more than two or three decades ago, as I recall—when the Mountain Fuel Supply Co., a gas company, was drilling for gas wells. It was then discovered that Wyoming contained these enormous deposits of trona.

In the interest of time and in the interest of trying to save my voice, which is a little weak due to a cold I picked up during a tour of the Middle East, which I just returned from last night, I will not read the committee report.

Mr. BENNETT. Mr. President, will the Senator yield?

Mr. HANSEN. I yield.

Mr. BENNETT. In the interest of saving the Senator's voice, I will be happy to read the report.

Mr. HANSEN. I will be most grateful to my good friend, the Senator from Utah, who is the ranking minority member of the Committee on Finance.

The PRESIDING OFFICER. The clerk will report the next committee amendment, which is section 9.

The legislative clerk read as follows:

On page 14, beginning at line 20, insert language down to line 2 on page 15.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, the Senator from Wyoming, I am sure, from the sound of his voice, would be without a voice by the time he got to the bottom of the page. My voice is in a little better shape so I am happy to act in his stead.

Wyoming is next door to the State of Utah so we have an interest in their well-being.

The language on page 12 of the committee report reads:

Under existing law, percentage depletion is allowed for certain minerals at specified rates. In computing the percentage depletion deduction, the rate of the depletion allowance is applied to the "gross income from the property." In the case of depletion on property other than oil or gas wells, present law provides (sec. 613(c)(1)) that the term "gross income" means "gross income from mining." Present law further provides that the term "mining" for this purpose (sec. 613(c)(2)), in general, includes not only the extraction of the ores or minerals from the ground, but also certain "ordinary treatment processes" (specified in sec. 613(c)(4)).

In the case of trona, percentage depletion is allowed at the rate of 14 percent. Trona ore, however, is not sold in its crude form as extracted from the ground. The valuable mineral in the ore is sodium carbonate, commonly known as soda ash, and treatment processes must be applied to separate the waste materials from the soda ash. One of the processes applied is a calcining process which separates the unwanted water and carbon dioxide from the soda ash. A controversy now exists as to whether the process of calcining to achieve the decarbonation is an ordinary treatment process in the case of trona (as it has been treated prior to 1971) so that percentage depletion will be allowed on the value added by that process.

Obviously, if we include in the value of the product the worthless waste part of it coming out with the soda ash when it is mined, then the net value to which depletion is applied is much lower—

The controversy which now has arisen with respect to the tax treatment of trona relates to the application in its case of the term "ordinary treatment processes" of extracted ores or minerals. Prior to 1961, the term "ordinary treatment processes" was described in the code as processes normally applied by mine owners or operators to extracted ores or minerals in order to obtain the commercially marketable product. In the case of trona, the first commercially marketable product is soda ash. Thus, it was held under this description that the calcining of trona to produce soda ash qualified as an ordinary treatment process. In 1960, however, this description of treatment processes was eliminated (in P.L. 86–564) and instead an exclusive specific list of the ordinary treatment processes which are to be considered as mining was substituted. This list did not specifically contain the process used in the case of trona which resulted in its marketable product "soda ash." In addition, the 1960 amendment contained a provision which set forth the treatment processes not considered as mining (unless specifically provided for or necessary or incidental to processes as provided for) and calcining was among the list.

The problem that exists relates to statements made during the hearings in 1959 before the Committee on Ways and Means with respect to the Treasury Department proposal which specified the treatment processes which would be considered mining for purposes of computing percentage depletion. (Essentially, this same proposal was contained in the Senate amendment which was enacted in 1960, as described above.) The Treasury representative in response to the question of whether the Treasury proposal would prohibit the present practice of allowing decarbonation of soda ash said that it was not intended.

In 1971, the Treasury Department announced, while finalizing regulations dealing with the new code provision relating to ordinary treatment process, that for the future it will disallow the so-called "decarbonation" or "calcining" process as an ordinary treatment process with respect to trona; in effect, this would treat it as a nonmining process. This means that percentage depletion would not be based on the market value of soda ash extracted from trona, but rather on the value of trona, as mined including certain other mining processes attributable to trona. Although the Treasury Department concedes there is some justification for the argument that there were assurances given in 1959 that in the case of trona no change was intended, the Treasury states that the 1959 representations were in error and based on mistaken assumptions. However, in view of these representations the Treasury has indicated that it will allow the calcining as an ordinary treatment process for all years through 1970, the year it announced its intention not to treat the "decarbonation" process of trona as a mining process.

The committee has concluded that the trona miners should be allowed to compute percentage depletion in the same manner as was allowed in the past and in the manner in which it was represented by the Treasury in 1959 would be the result under the new provision. The committee's decision is based on its belief that the decarbonation of the trona ore to eliminate water and carbon dioxide is essentially a concentration process which should be treated as an allowable mining process.

And is so treated with respect to other ores—

To assure this result, the amendment provides that the decarbonation of trona is to be treated as an ordinary treatment process.

It is understood that in some cases customers want a higher bulk density soda ash, and to meet that need soda ash which has already been decarbonated is placed in a second calciner to produce a denser product. This densification step was not treated as an ordinary treatment process under the past practice, and is not to be treated as an allowable process under the committee's amendment.

This provision,

If adopted—

is to apply to taxable years beginning after December 31, 1970. This will provide the continued treatment of the decarbonation process of trona as mining since the Treasury Department is allowing this treatment for all taxable years beginning before 1971.

With respect to its effect on revenues, the committee does not believe that this amendment should be viewed as resulting in a revenue loss, since the amendment continues the treatment of trona to the same extent as in the past. However, based on the position the Treasury Department is taking as to the treatment of trona for the future, it can be argued that the amendment will reduce revenues by about $2 million annually.

Mr. President, we have here a situation that has some minor international implications. If this vast trona deposit cannot be developed commercially, then most of the soda ash we buy will be bought outside the United States.

Is that right?

Mr. HANSEN. That is my understanding.

Mr. BENNETT. It is my understanding.

So what we may save in terms of potential additional tax may in fact prevent the development of this trona deposit, or in effect will close it down, because it cannot compete with offshore soda ash without this depletion allowance.

I think it is for that reason, among others, that the committee felt that, looking at the minor amount of potential income which the Treasury has never had, and realizing that this could result in the continued operation of a valuable deposit unique in the United States, which could make it possible for us to supply our needs domestically without having to go abroad for our soda ash, in all these circumstances the committee decided that this was a wise move.

I know the Treasury has taken an official position against it, but I also have the impression, having discussed it just today, that the Treasury will not bleed if the amendment remains in the bill.

Therefore, Mr. President, I hope the Members of the Senate will stand with the committee and reject the amendment proposed by the Senator from Wisconsin, which would undoubtedly result in closing down this property which, as I say, as far as I know is unique in the United States.

Mr. PROXMIRE. There is no amendment pending that has been offered by me. It is a committee amendment. And I propose that the Senate not agree to it. I do this because it magnifies the inequity of the depletion allowance and does it in a discriminatory way.

The purpose behind the committee amendment is to permit this particular mineral, and those who mine it, a higher depletion allowance than would normally be allowed.

The percentage depletion allowance granted by section 613 is a deduction from income for part of the costs of mining an ore. And this is the same process that applies to petroleum. It is vital, if we are to limit the depletion allowance at all, that we specify that it be applied to the cost of mining it from the ground.

The whole issue is how far we should go with that. It could be defined to apply it to the transportation of oil through a pipeline or some other cost which comes after the oil or mineral is extracted.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. ABOUREZK. I wonder whether it would be appropriate if a depletion allowance of this kind would go for the purchase of a circus, as we see that Gulf Oil has done in the last day or two?

Mr. PROXMIRE. Does the Senator mean that this might be applied to an individual person?

Mr. ABOUREZK. No; I am talking about the depletion allowance for these oil companies.

Mr. PROXMIRE. The point I was making is that the depletion allowance has always applied to the mining itself, to the extraction of the mineral from the ground, the idea being that it is depletable. And after one takes it out, there is nothing more left.

What the Senator is getting at is that if this is applied to the calcining process that the Senator from Utah and the Senator from Wyoming suggest, we might apply it to any purpose, including service.

Mr. ABOUREZK. What I am suggesting is that the argument which we have heard over the years that a depletion allowance is awarded to encourage the drilling of oil or, as in this case, the depletion allowance is needed for some other purpose in this particular industry.

There was an announcement in the last day or two that Gulf Oil is going to buy a circus out of their profits. That would seem to me to indicate that it could be used for anything.

Mr. PROXMIRE. I am sorry, I misunderstood the Senator. The Senator said circus, and I thought he had said service.

Yes, I suppose that one might deplete a circus, and I suppose that that is what this tax bill is getting to. I thank the Senator.

The companies can deduct a statutory percentage of the income they receive from mining and from that income alone. Since many companies process the ore from the ground through to the finished product, one of the problems in applying these provisions has been to define how much of their work is actually mining and how much is refining and manufacturing.

As the Senator from South Dakota has indicated, if Gulf Oil is going to buy a circus, they could apply it to that. There does not seem to be any end to it.

Generally, the cutoff point for determining the base is when the ore first reaches a marketable form. Any process which changes the chemical composition of the ore beyond that point is considered part of the refining and not mining.

Once a cutoff point is determined, the depletion allowance is computed on the income from the product as if it had been sold at the point, that is, the market price. Companies try to include under "mining" as much of the processing as possible because as each step is performed, the market price of the product at that point is increased. This increases the base value upon which the allowance is computed and results in a higher deduction.

Trona ore is decarbonated by a heating process called calcining which is used in the refining of several products, of which soda ash is just one, and is not generally considered part of the mining process. Trona miners are now trying to have 613 amended so that calcining will be considered part of the mining process of soda ash—even though it is not so expanded for other minerals—resulting in a higher depletion allowance than they would otherwise be able to claim.

Estimates of the revenue cost of this amendment are about $2 million per year currently which will increase accordingly with the industry's projected expansion to double the present output by 1980.

As I understand it—and I ask the Senator from Wyoming and the Senator from Utah to correct me if I am wrong—the specific beneficiaries of this would be the Allied Chemical Corp., Gulf, FMC, Stauffer, and Texas Gulf Sulphur.

As the Senator from Utah has pointed out, if this would increase the use of this particular resource, the country might benefit. I might also point out that the companies have been expecting termination of this treatment for many years. Gulf Oil invested $75 million in equipment knowing that this special depletion treatment would be terminated.

I might also point out that the Government was not evasive about this matter. They came down loud and clear in this matter. It is further my understanding that the Treasury states that on November 4, 1971, they sent a more detailed letter which I was unable to get on short notice.

Mr. President, I wonder if the chairman of the Finance Committee, the Senator from Louisiana (Mr. LONG), would be able to provide that letter for the RECORD so that we could see in detail the Treasury Department's argument.

Mr. LONG. Mr. President, I do not have it at the moment. However, I can get it for the Senator.

Mr. PROXMIRE. I believe that letter is even more emphatic and specific in indicating why this would be a mistake.

Texas Gulf is investing $75 million in the plant. So there is no loss of jobs involved if this bill fails since the industry is expanding.

Apparently the depletable base will rise to $22.28, the final sales price under the bill, although it costs only $3 to $4 to mine the trona. They already have a higher depletable base than the $3 to $4.

Incidentally, what is the depletable base on trona at the present time? Does the Senator from Wyoming have that figure?

Mr. HANSEN. Mr. President, does the Senator from Wisconsin inquire as to the tax effect?

Mr. PROXMIRE. No; I am talking about the value of the trona. It was my understanding that it cost about $3 to $4 per ton to mine the trona. The effect of the amendment would be to raise the price to $22.28, which would become six times or so more than the cost of mining the trona.

Mr. HANSEN. Mr. President, in response to the Senator from Wisconsin let me say that I will be glad to supply the specifics but I do not have them with me. As I mentioned earlier, I have just returned and I have not had a chance to get everything together as well as I might have done.

Mr. PROXMIRE. I would appreciate receiving that information.

Mr. HANSEN. I would be glad to supply that information. I would also like to say that the base which we seek to have enacted into law by the committee amendment simply continues the tax treatment that has been afforded the industry for some 15 years or more and continued all through taxable year 1971.

So, really it is a little farfetched to say what might happen to the industry or that it makes no difference whether we change the depletion allowance or not. I would point out to my friend, the Senator from Wisconsin, that trona is not something that is easily moved. It is heavy and at the present time it does not go much beyond the product made from the bicarbonate of soda.

Two satellite industries have evolved out there. Church & Dwight has a soda plant there, and I was talking with their representative at Green River, Wyo., asking him how far east they expected to be able to market their product. He said because of the freight differential, it was pretty difficult to go back east of St. Louis.

There are about 12,000 jobs at stake, Mr. President, and certainly these are important to Wyoming. I should think they are important to the United States. As we have found out rather painfully in the past weeks and months, we can tax industries so as to discourage development and, indeed, so as to discourage further expansion of activities, and that is precisely what has happened in the domestic oil industry.

We gave them little incentive because of the different tax treatment that we placed on them to continue the increasingly costly search for oil and gas in this country; and behind that effort to bring about those tax cases were a number of people who were saying, "Let us forget about the domestic industry; let us not worry a bit about the oil in the ground in the stripper wells. Let us go to the Middle East, where there is lots of it, it is in plentiful supply, it is cheap, and we can save the taxpayers and consumers of America literally billions of dollars each year. We can put a tax on that oil when we import it into this country, and make a positive impact on the Federal Treasury through the tariff that people a few years ago were proposing we levy on that foreign oil that we could import so cheaply and so securely from the Middle East."

It seems strange to me that some of those people now, today, are criticizing the oil industry. They are saying we ought to cut the depletion allowance on foreign oil, we ought to outlaw the foreign tax credit, we ought to do everything, practically, to strip the oil industry.

The only reason I make this point is to suggest that it is typical of the very logic being employed right now by the Senator from Wisconsin in saying that we ought to take these four or five major companies—and, as I say, there are some satellite companies also involved—and change the tax treatment.

The Treasury admits that the tax laws that were enacted and the plans and projects made by the companies were based upon the tax treatment they were then being accorded, and I do not think it is fair at all to imply that nothing will happen, that there will be no adverse effect on management and no adverse effect on our economy if we change this around. I think the facts are all on the other side, and despite the fact that the Treasury Department had to issue an adverse report because their net tax take would be increased by some $2 million annually if this amendment were to be stricken, I think we ought to consider the larger tax picture, including the contribution these 12,000 people being employed are making through the payment of individual income taxes, and the taxes that the company has paid. I think it is high time now, in this crucial year of 1974, to recognize at long last the importance of keeping a domestic industry viable.

Mr. PROXMIRE. Mr. President, the argument by the Senator from Wyoming is that this should pass, because otherwise the industry would suffer, and without the depletion allowance, the incentive for employment and production would be equally diminished.

The fact is that this amounts to only $2 million. You cannot have it both ways; either this is a whale of a big giveaway, or a small amount, and I think we can settle on the fact that the Treasury found the loss would be $2 million. Two million dollars in an industry this large cannot be construed as a large incentive.

Let us look at the total picture:

The U.S. industry consumes about 8 million tons of soda ash per year. Wyoming produces about 4 million tons per year, or 50 percent of the total. Soda ash is used in making glass and cement. The demand on the Wyoming miners has increased since those chemical companies in the East who produced synthetic soda ash have been closing down for environmental reasons. So the demand for natural soda ash has increased and the industry projects great expansion.

It is not based on whether or not they can get this particular relatively modest depletion allowance. The expansion is based on the fact that the demand is there, and of course this is the principal ingredient in any business, as to whether it expands or not.

There are two more processing plants being built now—Allied Chemical and Texas Gulf Sulphur—and the Wyoming production is expected to double by 1980.

And all of that construction, I might point out, was with the firm understanding that the Treasury was opposed to the depletion allowance as presently applied, and that they would do their best to end it, and end it as of now.

Not all the mined trona was processed. Some was stockpiled for processing later when the processing capacity increases—or perhaps when the depletion bill goes through FMC was the first in the field, starting with 300,000 tons in 1951, so their production alone has increased more than 7½ times over. Stauffer is expanding and estimated their production will be 3.75 million tons as soon as possible. TGS is building a $75 million plant. By 1980, the Wyoming producers will be producing approximately 8 million tons per year—1½ tons trona=1 ton soda ash.

The Wyoming industry estimates that there is a $200 million original investment. They need at least another $120 million for new capital as the industry stands now. Another $300 million is required for the expansion that they estimate they will need; and they surely feel, on the basis of their return on investment, on the basis of the price they can expect because of the estimated demand, that this is warranted, or they would not put this amount of money in.

Soda ash now sells for $22.28 per ton. The industry estimates that the price should go to $42 to $56 per ton to finance expansion. Without the increased depletion allowance, they will have to raise the price another $3 or $4 per ton. Current sales—1972—are $100 million per year from Wyoming alone. It costs $3 to $4 a ton to mine trona.

### QUESTIONS AND OBJECTIONS

With such great expansion predicted, the incentive of a greater depletion allowance is not justified.

If the bill passes, the depletable base on this will be the $22.28 final sales price. It only costs $3 or $4 to mine it, but they already have a higher depletable base than that. The process they want to add is called calcining and is a chemical process, used in other industries—cement—and not allowed to them as part of the depletable base. Note that bill does not include the process generally, but only for the trona miners.

The trona miners in Wyoming control the market in natural soda ash. They claim that the industry could not bear the increased price if they do not get the depletion allowance, but note the price increase they already predict.

Mr. President, the Treasury opposes this bill. As I say, I am waiting and hoping we can get the later letter, which is even more unsatisfactory, but they answer specifically the points raised by the Senator from Wyoming. They say:

> For example, Texasgulf, Inc., announced in its quarterly report for the period ended March 31, 1973, that its board of directors approved on April 5, 1973, the construction of facilities to produce one million tons of soda ash per year from Texasgulf's Wyoming trona deposits. The processing facilities would be constructed at a cost estimated at $75 million. Completion is scheduled for 1976. It seems highly unlikely that a major member of the industry would undertake the construction of such a substantial facility if it did not anticipate that its investment would produce a worthwhile rate of return.

I am sure that that kind of money is not invested unless there is public knowledge, and the clearest and most satisfactory kind of knowledge, in the Treasury Department that this particular tax advantage is going to be lost, and be lost this year. That was the intention of the Treasury, and certainly the expectation of the industry would have influenced, I am sure, their action.

The strongest argument put forth by the industry in support of this amendment is contained in the committee report. It consists of the fact that, historically, calcining was allowed as part of the mining process.

In 1960 Treasury promulgated a set of rules setting out exactly what was an allowable process and calcining was not among those listed. In the 1959 hearings before the Ways and Means Committee, a Treasury Department representative was asked whether they intended to disallow the decarbonation or soda ash and he replied that they did not intend to. Since then, Treasury has allowed it—decarbonation is achieved by the calcining process—but in 1970 they finally said that the whole thing was a mistake and they were not bound by the statements of a Treasury official made in a hearing when those statements are in direct conflict with the law—not just the regulations, but the code itself. So, now the industry wants the law changed.

I would hope, under the circumstances, that the Senate would vote against the pending committee amendment and would not provide this kind of discriminatory application of the depletion allowance which could provide a serious precedent for us. We are doing our best now to try to hold the oil depletion allowance within reason—or maybe to reduce it; but this precedent would open up the depletion allowance to further abuse. So, I would hope that the Senate would vote nay on the committee amendment.

## THE 10 BEST AND WORST DRESSED SENATORS

Mr. COTTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. William L. Scott). The Senator from New Hampshire will state it.

Mr. COTTON. Is it in order to interrupt this discussion on a point of personal privilege that might take 10 minutes?

The PRESIDING OFFICER. Any Senator has the right to interrupt on a point of personal privilege.

Mr. COTTON. I thank the Chair.

Mr. President, I do not know how many Senators realize how they look to an audience of visitors in the galleries, but I think it is interesting for us to know how we do appear to them and what kind of impression we make, in view of the fact that, for my part, I fear that we have made about one of the worst impressions possible.

Mr. President, I invite the attention of the Senate to a syndicated article published in newspapers in Boston and Washington, written by Vera Glaser, entitled "The 10 Best and Worst Dressed U.S. Senators."

It reads as follows:

> A group of aides who work around the cloakrooms and see the Senators with their hair down, so to speak, drew up a list of 1973's ten best—and worst-dressed.
>
> Number One on the dapper scale is John Tower. The Texas Republican, a former teacher, wears detachable collars and has his suits tailored in London.
>
> By contrast, socially prominent Democrat Claiborne Pell tops the frump list. He once wore the same seersucker suit five days running—

[Laughter.]

> and, according to a colleague, "looked like he was born in it."
>
> The wild garb of Wyoming's Gale McGee and Nebraska's Carl Curtis titillates the galleries, but neither made the lists.
>
> McGee's lurid orange shirt, wide-lapelled, brown-striped suit and electric tie stuck out like a sore thumb at the recent swearing-in of Vice President Gerald Ford.
>
> When McGee switched to a "subdued" outfit—navy blue with a psychedelic jungle-patterned shirt—for the White House Christmas prayer service, he disappointed his fans.
>
> "I expected him to look like Santa Claus," a senator complained.
>
> Curtis was known as a dour type until a year ago, when he married for the second time. His new wife, the former Mildred Genier, said she wants "Carl to be noticed on the Senate floor"—and he is.
>
> Wreathed in smiles these days, Curtis has blossomed out in mod finery. He drapes his stocky form in geometric double-knits, pointed yokes, back pleats, flared pants and ascot ties.
>
> Such trends are revolutionary for the Senate, which not too long ago had the sergeant-at-arms evict an aide in a loud plaid suit.
>
> By and large, the ten "best-dressed" are conservative, neat dressers.
>
> The "judges" professed to be offended when Illinois' Adlai Stevenson wore a turtle neck sweater on the floor, and Michigan's Philip Hart and Arkansas' William Fulbright showed up in "Hush Puppies."

[Laughter.]

> Tower says he doesn't "make a fetish" of clothes, that "anybody can dress tastefully by putting in a few minutes' thought."
>
> Following him in the peacock parade are Connecticut's Abe Ribicoff, who goes in for pin stripes and expensive shoes, and South Dakota's George McGovern, who went, "Ivy League" in the 1972 campaign, aided by fashion advice from his wealthy finance chairman, Henry Kimelman.
>
> Flashiest and handsomest on the list are Oregon's Mark Hatfield and Massachusetts' Edward Brooke.
>
> Hatfield was one of the first to wear a Nehru jacket and ruffled evening shirts.
>
> Brooke is less innovative, but recently appeared in a large, racy Glen Plaid. He brightens somber suits with loud ties, a favorite being a zigzag red-white-and-blue print. Brooke's staff had tried in vain to steer him away from it for television appearances.
>
> Around the Capitol Brooke looks every inch a senator, but at Martha's Vineyard, where he summers, he loafs in windbreaker, sneakers and floppy hat.

Other "best-dressed" senators are South Carolina's Fritz Hollings (mostly gray suits to match his prematurely gray hair), Hawaii's Daniel Inouye (a daily shoe shine), Virginia's Harry Byrd (coat always buttoned), Delaware's Joseph Biden, and Ohio's William Saxbe, newly confirmed Attorney General.

When Pell was informed he tops the "slob" list, he recalled the advice given him by a senior senator: "There are two kinds of people around here, work horses and show horses."

"I'm not a show horse," Pell said.

Next on the "worst-dressed" list is North Dakota's Quentin Burdick, whom the "judges" tagged "always rumpled, with dandruff and soup stains on his tie."

[Laughter.]

Add to the frumps: Washington's paunchy Warren Magnuson, who wears costly suits but is usually sloppy and flushed; majority leader Mike Mansfield, described as "uncoordinated;" New Jersey's Clifford Case; Iowa's Harold Hughes; New Hampshire's Norris Cotton ("he looks like an oversized gunny sack").

[Laughter.]

California's Alan Cranston, Michigan's Hart and Mississippi's John Stennis.

For those who want to look like a senator in 1974, Tower revealed his London tailors are Anderson and Shepard. For stay-at-homes, Brooke's haberdasher is Mr. Sid in Newton, Mass.

Mr. President, I believe it is excellent for us to know how we look to other people. I want to congratulate the 10 best-dressed men in the Senate. I see some of them thus designated seated here now.

Certainly the distinguished Senator from Virginia (Mr. Harry F. Byrd, Jr.) is always neat and dapper.

I am sorry that the distinguished Senator from Texas (Mr. Tower), at the top of the list of the best-dressed Senators, is not in the Chamber, but I understand that he will be here in a moment.

I am sorry that the distinguished assistant majority leader, Mr. Robert C. Byrd, did not make either list, because there has been some discussion that it would not be too bad to be on the worst-dressed list.

I am sorry that the Senate as a whole cannot enjoy the vision of how it looks to our visitors in the galleries.

I am happy to note that the distinguished Senator from Texas (Mr. Tower) has just entered the Chamber and has taken his seat. Let me congratulate him on having been designated as the best dressed Senator in the U.S. Senate—[laughter]—who gets his clothes from a London tailor.

Mr. President, I, of course, am talking on a point of personal privilege at this moment because I think it is rather unkind to pick on an old man like myself and say "Norris Cotton—'he looks like an oversized gunny sack.'" [Laughter.] My feelings are a bit hurt, but on the whole, I believe an attempt has been made to be fair and just.

I do not mind being listed along with the distinguished majority leader, Mike Mansfield, and with my friend Warren Magnuson and with men like John Stennis. I do not think we are such horrible looking objects, considering our age, weight, size, and the life we have led.

I ask unanimous consent to have this fine article printed in the Record at this point. I hope that Senators will read it carefully and enjoy their position, whatever it is.

There being no objection, the article was ordered to be printed in the Record, as follows:

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(By Vera Glaser)

Washington.—A group of aides who work around the cloakrooms and see the Senators with their hair down, so to speak, drew up a list of 1973's ten best—and worst-dressed.

No. 1 on the dapper scale is John Tower. The Texas Republican, a former teacher, wears detachable collars and has his suits tailored in London.

By contrast, socially prominent Democrat Claiborne Pell tops the frump list. He once wore the same seersucker suit five days running and, according to a colleague, "looked like he was born in it."

The wild garb of Wyoming's Gale McGee and Nebraska's Carl Curtis titillates the galleries, but neither made the lists.

McGee's lurid orange shirt, wide-lapelled, brown-striped suit and electric tie stuck out like a sore thumb at the recent swearing-in of Vice President Gerald Ford.

When McGee switched to a "subdued" outfit—navy blue with a psychedelic jungle-patterned shirt—for the White House Christmas prayer service, he disappointed his fans.

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Curtis was known as a dour type until a year ago, when he married for the second time. His new wife, the former Mildred Genier, said she wants "Carl to be noticed on the Senate floor"—and he is.

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The "judges" professed to be offended when Illinois' Adlai Stevenson wore a turtle neck sweater on the floor, and Michigan's Philip Hart and Arkansas' William Fulbright showed up in "Hush Puppies."

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Following him in the peacock parade are Connecticut's Abe Ribicoff, who goes in for pin stripes and expensive shoes, and South Dakota's George McGovern, who went "Ivy League" in the 1972 campaign, aided by fashion chairman, Henry Kimelman.

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Hatfield was one of the first to wear a Nehru jacket and ruffled evening shirts.

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For those who want to look like a senator in 1974, Tower revealed his London tailors are Anderson and Shepard. For stay-at-homes, Brooke's haberdasher is Mr. Sid in Newton, Mass.

The PRESIDING OFFICER (Mr. William L. Scott). In his capacity as a Senator from Virginia, the Chair thanks the distinguished Senator for enlightening the Senate.

Mr. COTTON. I will not take any more time on such a frivolous matter.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield?

Mr. COTTON. I am happy to yield.

Mr. ROBERT C. BYRD. Mr. President, I join my colleagues in recognizing the appropriateness of the Senator's rising at this time on a point of personal privilege. I think we all share his great indignation—affected though it is—at the remarks that were carried in the column.

Let the record show, Mr. President, that it was only after several Senators had retired in high dudgeon to the cloakroom, and after lengthy and heated discussion, that they were persuaded finally by the magnanimous Senator from New Hampshire (Mr. Cotton), and others of us, not to offer a resolution expressing their great and justifiable umbrage at the distinguished senior Senator from New Hampshire's attire's having been characterized in such a way as to make him appear oversized, gunny, or sacky. Fortunately, those of us who are acquainted with the very capable, charming, and lovely author of the column were able to prevail, by wise arguments, on our highly agitated colleagues to restrain their feigned anger and refrain from pressing any such resolution—at least temporarily until tempers could cool and reason be restored. One crisis at a time is enough.

But, in doing so, the able senior Senator from New Hampshire and others of us, quite artfully used the pretext, I must admit, in arguing against the offering of such a resolution, that to include the words "oversized gunny sack" in such a legislative vehicle might provoke a spate of gun legislation. [Laughter.]

Mr. PROXMIRE. "Gunny" legislation.

Mr. ROBERT C. BYRD. Indeed, yes, "gunny" legislation.

Mr. COTTON. The Senator from New Hampshire inserted this in the Record in the pure spirit of good-natured fun. He is not offended in the least. I have never met the lady who passed judgment. I am sure that she has good judgment, and I am sure that if I had the pleasure of her acquaintance, there would be no question of any resolution being offered.

I do not want to say anything that would embarrass my distinguished friend from Texas; but, after serving 20 long years in this body, it is a little humiliating to get up and put on a reasonably clean shirt every morning and come over and try to act dignified and then be told that you look like an oversized gunny sack and that the really dapper fellow in the Senate is the distinguished Senator from Texas. [Laughter.]

**Mr. TOWER.** Mr. President, will the Senator yield?

**Mr. COTTON.** I yield.

**Mr. TOWER.** Mr. President, I find myself somewhat in a state of embarrassment about all this. I had absolutely nothing to do with all this, and I was very surprised to read this column. It has probably done me irreparable political damage in my State, because people in Texas do not necessarily cotton to people who patronize London tailors; and the Senator from New Hampshire has already announced that he is not going to run again. [Laughter.]

**Mr. COTTON.** I apologize to the Senator.

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## PRISONER OF WAR AND MISSING IN ACTION TAX ACT

The Senate continued with the consideration of the bill (H.R. 8214) to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes.

**Mr. PROXMIRE.** Mr. President, I hesitate to bring the Senate back to the prosaic problem of trona from the delightful visit to the Senate's haberdashery. [Laughter.]

I have in my mind the latest letter from the Treasury Department on the trona issue, and it is very emphatic and clear. It is so important that I should like to read the letter to the Senate. We know that the Treasury Department is under the same kind of pressure from interested taxpayers who would like relief of one kind or another as are Members of Congress are. This is what the Treasury Department had to say:

> We are aware of the efforts being made to amend section 613 to treat the calcining of trona ore as a "treatment process considered as mining." The importance of this issue to the entire matter of percentage depletion for hard minerals persuades me to put our views in writing for you.

This is exactly what I think is a crucial issue here. The amount involved here can be great, but the precedent can be serious; because if we permit the depletion to be applied to something other than the extraction of the mineral, from the soil, then we get into difficulties, because there can be no end to it.

> The process involved here is "calcining"—the process referred to in section 613(c) (5)—although in this specific industry it is sometimes also called "decarbonization." It involves heating the recrystallized pure trona to drive off water of crystallization and chemically bound carbon dioxide. It involves both a chemical change and thermal action, also as referred to in section 613(c) (5).
>
> We have labored long and hard over the past two years to rewrite the section 613 regulations to carry out the intent of Congress in 1960 and to honor our commitments to both taxwriting committees both when the legislation was under consideration and since then. I believe we have satisfied both objectives. We have attempted to provide a permanent workable framework for resolving future depletion issues without the controversy of the past, the need for repeated legislative changes, and the uncertainty that heretofore existed. As much as possible, we have sought to provide general standards or principles for resolution of specific cases.
>
> Perhaps the most important distinction in our regulations is the differentiation for all minerals, except as noted below, between mining and manufacturing based on whether there are chemical changes as a result of special forces such as heat treatment—precisely what is involved in "calcining." We made no exceptions, except as clearly ordered by Congress in the law for specified minerals. If this distinction is not maintained, it is difficult to resist claims by other taxpayers that similar processes should be allowed for cement, gypsum, certain limestones, lightweight aggregates, and certain other minerals. All are treated with a similar heating process which we have consistently refused to treat as mining.

So if we open up the loophole here, it means that we are establishing a precedent for the Treasury. It will make it even harder for us in Congress to resist extending the depletion allowance further and making it less vulnerable in the future.

> We acknowledge that treatment processes similar to calcining were allowed by statute to producers of magnesite, phosphate rock, and quicksilver ores. Those processes, however, were allowed on an ad hoc basis at a time prior to the final development and acceptance of the present basis for distinguishing mining processes from manufacturing processes. Accordingly, those individual examples do not provide appropriate precedents for this particular change.
>
> When the Treasury's proposals were being considered by the Ways and Means Committee in 1959, the cement industry argued that it should be allowed calcining because the statute specifically allowed the treatment for these minerals. Their argument concluded:
>
> "Is there any logical basis which justified the exclusion from the mining category of a thermal action process—burning in a rotary kiln—in the cement industry, and the inclusion of essentially identical processes—burning, furnacing, and nodulizing in rotary kilns—in the magnesite, quicksilver and phosphate rock industries." Mineral Treatment Processes for Percentage Depletion Purposes, Hearings before the Committee on Ways and Means, 86th Cong. 1st Sess., 1959, at p. 164.
>
> Congress rejected this argument by the cement producers at that time and allowed only those processes up to the kiln. Any broadening of the exception to the general prohibition against calcining can only have the effect of providing other mineral producers with an argument that they also should be allowed to calcine, just as the ment producers argued in 1959.
>
> We are aware of the trona producers' argument that they have an equitable basis for being allowed this benefit because of representations that they feel they received during congressional hearings in 1959. We have examined the record carefully on this point, including the treatment of trona prior to 1959 and discussions between trona representatives and IRS officials in Washington. We have concluded that while they may have hoped they had the matter resolved in their favor, they had no sound basis for relying on that treatment.
>
> Thus, it seems reasonably clear that the Treasury Department's response to Congressman Utt's question was not based upon a complete understanding of the process being described by Mr. Utt. Mr. Utt asked if there was "anything in the bill that would prohibit the present practice of allowing decarbonization on soda ash." Mr. Lindsay inquired if that was an established process, to which Mr. Utt replied that it was. Mr. Lindsay stated that no change in established practices was intended.
>
> It is apparent that Mr. Lindsay was relying on Mr. Utt's characterization of the decarbonization process as one which was currently being allowed. He was not aware, however, that the process was being allowed *only* because it was necessary to obtain the "commercially marketable product," soda ash, under the exact language of this amendment proposed to strike from the statute. In other words, this was not a process that was being allowed as a recognized concentration process.
>
> To illustrate this point more clearly, consider the situation at that time concerning cement. At that particular time the Service had issued a TIR stating that it would no longer litigate the cement cases in view of the denial of certiorari in *Merry Brothers* and *Dragon Cement* cases. Thus, the Service administrative practice at this time was clearly to allow calcining of cement, but the legislative proposal clearly would prohibit that result. Other examples along these same lines are also available.
>
> We have attempted to deal fairly with the trona producers by making our policy of refusing to treat decarbonization as mining prospectively only. Far too much is involved here in principle to base a policy on such a slender support as that 1959 exchange.

That is, all the advocates of this amendment are basing their argument on. I go back to the letter, which states:

> Finally, allowing this process to trona producers will discriminate against other producers of soda ash who manufacture their product through the use of admittedly nonmining processes, and consequently will not receive a similar tax benefit. Thus, incorporation of this provision in the statute will give trona producers a competitive advantage over those companies which, at the present time, produce over half of the soda ash sold in the country. Such a competitive advantage is not appropriate.
>
> You will understand why we in Treasury feel very strongly we must resist any amendment to the Code that will allow calcining, other heat treatment, or other processes resulting in a chemical change as mining except as the statute *specifically* requires it. These distinctions are the basis of our new "general standards" regulations. Our regulations, we believe are sound; they are well accepted by all involved and have elicited no serious protests (except in the present matter) from any side. I repeat that they adhere to all prior Treasury assurances to the tax writing committees; in our view, the trona representatives had no reasonable basis for such an assurance from the exchange in the 1959 hearings.

Then, the letter concludes with this sentence:

> The clear line between mining and manufacturing which we have attempted to elaborate must be preserved. Any exceptions for specific minerals will undermine the integrity of the statutory concept and our regulations.

Mr. President, I do not know how the Treasury Department could be more emphatic or clear than they are here. They say this goes to the integrity of the tax code. They are very specific in opposing it. They point out it would result in unfair discrimination.

Mr. President, I yield the floor.

Mr. HATHAWAY. Mr. President, I agree with the excellent statement made by the Senator from Wisconsin. I would like to say that we are currently spending through the "back door" anywhere from $60 to $80 billion a year through our Internal Revenue Code. What I mean by this is that through various deductions that are allowed for economic or social reasons the Federal Government does not collect anywhere from $60 to $80 billion. I am not including in this amount deductions that are allowed to businessmen for the cost of doing business. Many of these deductions are designed to provide incentives to industries, such as the oil industry and the mining industry to help them defray the cost incurred in the risk of exploring for oil or other minerals. I am not against tax incentives per se. I will probably support some of them that will be offered today when we finish the committee amendments. I think that in many instances these incentives are warranted and are very useful for social or economic purposes.

But over the years, many of the so-called tax incentives no longer serve the social or economic purposes for which they were originally designed. Unfortunately, in view of the fact that Congress does not reexamine the Internal Revenue Code on a regular and frequent basis, many of the deductions remain in the code long after their usefulness has expired. It is at that stage that we commonly refer to the erstwhile tax incentives as loopholes. One of the alleged loopholes is the depletion allowance, which has come under a great deal of attack over the past few years.

I think it was back in 1969 that Congress reduced the oil depletion allowance from some 27 percent to some 22 percent, and the debate which was recorded at that time clearly reflects that there was a great deal of sentiment against this allowance and a great deal of questioning as to whether the allowance should be continued at all.

Although I feel hesitant to hurt the industry which the distinguished Senator from Wyoming (Mr. HANSEN) seeks to protect, it seems to me that at this stage, when we are reexamining the depletion allowance as it applies not only to mining but also to oil, to timber, and to other industries as well, we certainly should not be expanding the depletion allowance, but rather be in the position of seeing what we can do to contract it and even, perhaps, to provide an alternative tax incentive to cover the risks of this particular industry.

I know that the Senator from Wisconsin (Mr. PROXMIRE) suggested, back in 1969, that there be a tax credit for the oil industry for new exploration because it was shown in the course of the debate at that time, as I am sure it would be shown in the course of debate today, and probably today to a greater extent because the price of oil, as we all know, has gone up considerably, that the oil depletion allowance had not really resulted in being a great incentive for the exploration for new sources of oil.

So I shall oppose this amendment on the ground that we should reexamine the depletion allowance at this time and certainly should not be voting for an amendment that will expand that allowance, especially when it does not really fit within the rationale of allowing a depletion allowance in the first place, namely, to compensate the miner for the risk he was taking in extracting the ore.

This amendment is going to cover the subsequent treatment of the ore, in which process I do not imagine there is the risk that Congress originally conceived should be compensated for by allowing the depletion allowance for mining in and of itself.

I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HATHAWAY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the pending amendment be laid aside temporarily and that the Senate proceed to the consideration of other committee amendments.

The PRESIDING OFFICER. Is there objection?

Mr. PROXMIRE. Mr. President, I understand the request is to lay this amendment aside, with the understanding that we will go to it a little later?

Mr. HARRY F. BYRD, JR. Yes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will state the next division of the last committee amendment.

The assistant legislative clerk read the division of the committee amendment as follows:

SEC. 10. APPLICATION OF SECTION 82 AND SECTION 217 TO MEMBERS OF UNIFORMED SERVICES.

(a) IN GENERAL.—Notwithstanding the provisions of section 82 (relating to reimbursement for expenses of moving) and section 217 (relating to moving expenses), of the Internal Revenue Code of 1954, the Secretary of the Treasury, in the administration of those sections, is authorized—

(1) to enter into an agreement with the Secretary of Defense under which the Secretary of Defense will not be required to withhold tax on, or to report, moving expense reimbursements made to members of the uniformed services;

(2) to permit any taxpayer who is a member of the uniformed services not to include in adjusted gross income the amount of any reimbursement in kind of moving expenses made by the Secretary of Defense; and

(3) to permit any taxpayer who is a member of the uniformed services to deduct any amount paid by him as moving expenses in connection with any move required by the Secretary of Defense, in excess of any reimbursement received for such expenses, without regard to the provisions of section 217(c) (relating to conditions), to the extent it is otherwise deductible under section 217.

(b) DEFINITIONS.—For purposes of this section, the term "uniformed service" has the meaning given it by section 101(3) of title 37, United States Code, and the terms "adjusted gross income" and "moving expense" have the meanings given them by sections 62 and 217(b), respectively, of the Internal Revenue Code of 1954.

(c) EFFECTIVE DATE.—The provisions of this section shall apply with respect to taxable years ending before January 1, 1975.

Mr. PROXMIRE. Mr. President, I understand the last amendment has application to moving expense provisions for members of the uniformed services. Is that correct?

Mr. HARRY F. BYRD, JR. The Senator is correct.

Mr. PROXMIRE. May I ask the manager of the bill, if I may, what effect, if any, it would have on the Treasury? It is my understanding the effect is minimal or none.

Mr. HARRY F. BYRD, JR. The amendment will not have any effect on revenues. It continues existing regulations for 1 more year.

Mr. PROXMIRE. And the Treasury does not oppose this amendment?

Mr. HARRY F. BYRD, JR. So far as I know, the Treasury does not oppose the amendment.

Mr. PROXMIRE. Would this be any kind of precedent that might apply in other areas which might cause revenue loss? Is there any evidence on that?

Mr. HARRY F. BYRD, JR. I do not think it would, for the reason that it merely continues a moratorium that has already been put into effect by the Internal Revenue Service. It would continue the moratorium for 1 more year, that is, until the end of calendar year 1974, and during that interim the Finance Committee has instructed the staff of the Joint Committee on Internal Revenue Taxation to make a study of the matters under question and report back to the committee.

Mr. PROXMIRE. It is my understanding that was the purpose, and I certainly have no objection to that. The understanding would be, then, that the committee would be in a position, and the Senate and the Congress would be in a position, to act in the coming year, so that this moratorium would not go on indefinitely, and preferably would be able to act on it before the end of 1974. Is that right?

Mr. HARRY F. BYRD, JR. The Senator is quite right. As a member of the committee, I hope the staff of the Joint Committee on Internal Revenue Taxation will render a report to the committee at an early date, and then that the Finance Committee will act, one way or another, on the matters under discussion.

As the Senator from Wisconsin knows, the Tax Reform Act of 1969 made a series of revisions in the tax provisions with respect to the moving expenses of those in the armed services. Some of the changes broadened the act as it affected military personnel, and some added restrictions. Those who work in the armed services and the Defense Department say the changes will create hardship, so that the Internal Revenue Service has decreed a moratorium. The purpose of the amendment now pending is to continue the moratorium until the end of the calendar year, so that the staff of the Joint Committee on Internal Revenue Taxation may study the matter.

Mr. PROXMIRE. I thank the Senator. I have no objection.

Mr. HARRY F. BYRD, JR. If there is no further comment, Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the division of the committee amendment.

The division was agreed to.

The PRESIDING OFFICER. The clerk will state the next division of the committee amendment.

The assistant legislative clerk read the next division, as follows:

SEC. 11. DISTILLED SPIRITS FROM PUERTO RICO OR THE VIRGIN ISLANDS.

(a) IN GENERAL.—Section 5008 (relating to abatement, remission, refund, and allowance for loss or destruction of distilled spirits) is amended by—

(1) inserting "or section 7652" in subsection (b)(1) after "the tax imposed by this chapter";

(2) striking out "under section 5001(a)(1) or under subpart B of this part" in subsection (b)(2), and inserting in lieu thereof the following: "under section 5001(a)(1), subpart B, this part, or section 7652";

(3) inserting "or section 7652" in subsection (c)(1) after "section 5001(a)(1)"; and

(4) inserting "or section 7652" in subsection (d)(1) after "section 5001(a)(1)".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the loss or destruction of distilled spirits occurring after the date of enactment of this Act.

The PRESIDING OFFICER. The question is on the division of the committee amendment.

Mr. PROXMIRE. Mr. President, I understand that this amendment is an attempt to correct a situation which adversely affects parts of this country, Puerto Rico, and the Virgin Islands, and simply puts their industry on the same basis as the industry within the 50 States. Is that correct?

Mr. HARRY F. BYRD, JR. The Senator is correct. The Treasury does not oppose the amendment. There will be no loss of revenue.

Mr. PROXMIRE. There is no cost to the Treasury. Whatever cost there is, it is minimal, and it is to Puerto Rico and the Virgin Islands, and they have indicated their support. Is that correct?

Mr. HARRY F. BYRD, JR. That is correct.

Mr. PROXMIRE. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the division of the amendment.

The division was agreed to.

The PRESIDING OFFICER. The clerk will state the next division of the committee amendment.

Mr. HANSEN. Mr. President, I ask unanimous consent that my staff assistant, Mike Shoumaker, may be permitted on the floor during debate on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

The assistant legislative clerk read the next division of the committee amendment, as follows:

SEC. 12. REDEMPTION OF STOCK WITH APPRECIATED PROPERTY.

(a) IN GENERAL.—Section 311(d)(2)(A) (relating to appreciated property used to redeem stock) is amended by inserting after "owns" the following: "(directly or constructively under the rules of section 318(a), which shall apply in determining ownership of stock for purposes of this subparagraph to the same extent and in the same manner as such rules apply for purposes of section 320(b)(3))".

(b) CONFORMING AMENDMENT.—Section 318(b) (relating to cross-references) is amended by redesignating paragraphs (4), (5), (6), (7), and (8) as paragraphs (5), (6), (7), (8), and (9), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) section 311(d)(2)(A) (relating to taxability of corporations on distributions of appreciated property in redemptions of stock);".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to distributions made after the date of enactment of this Act.

The PRESIDING OFFICER. The question is on agreeing to the division of the amendment.

Mr. HATHAWAY. Mr. President, I would like to ask a question with regard to this amendment. This is the one with respect to using appreciated property of a corporation to redeem its own stock. Is that correct?

Mr. HARRY F. BYRD, JR. That is the pending amendment.

Mr. HATHAWAY. I understand the purpose of section 311 of the code which allows a corporation to give property in exchange for stock to a stockholder who has a 10-percent interest without the corporation paying any tax on the appreciated value of the property is for effecting reorganization, because it is assumed that with a person with a 10-percent or more interest this would be the situation.

Mr. HARRY F. BYRD, JR. That is generally correct.

Mr. HATHAWAY. Is there any other purpose connected with this allowance for a shareholder who has a 10-percent or more interest?

Mr. HARRY F. BYRD, JR. I do not know of any.

Mr. HATHAWAY. It seems to me that that purpose in and of itself is not the best one for making the allowance. The corporation gets off without paying any tax whatever on the appreciated value of the property it exchanges for the individual stock.

The amendment proposed by the committee would put that purpose on even more shaky ground by, in effect, reducing the percentage share that the individual has to have in order to qualify for the exemption from the tax on the appreciated property. An individual under the committee amendment, if he had only 1 percent share in the corporation but if there was 9 percent additional that was distributed to people over whom he is deemed to have control under the Internal Revenue Code, such as his wife, his issue, et cetera, would be covered. In that situation where he, in effect, has only 1 percent of the stock, we are going to allow the same tax break. It seems to me that is extending the tax break far beyond where it ought to be.

I am really not in favor of extending it to where it is now, at 10 percent.

Mr. HARRY F. BYRD, JR. May I say that under the present law the restrictive ownership rules apply for purposes of determining if the redemption of the shareholder's stock is in complete termination of his interest.

This amendment applies the same restrictive ownership rules for the purpose of determining whether the shareholder has a 10-percent interest in the corporation.

Mr. HATHAWAY. I understand that. However, under the rule as it is now, an individual has to have 10 percent on his own, and then he has to give up all of his holdings plus those others where he has constrictive ownership.

Mr. HARRY F. BYRD, JR. The Senator is correct.

Mr. HATHAWAY. But under the proposal of the committee, the individual could have 1 percent and an additional 9 percent could be under constrictive ownership, and that would qualify him for the exemption.

Mr. HARRY F. BYRD, JR. The additional 9 percent would have to be redeemed as well as the individual's 1 percent.

Mr. HATHAWAY. I understand that. However, it expands the loophole even greater than it is at the present time. I think that even with the 10 percent, it is on shaky ground. To expand it further, I think, is unjustified.

Mr. PROXMIRE. Mr. President, will the Senator yield.

Mr. HATHAWAY. I yield.

Mr. PROXMIRE. The critical question here is, Who is this for? Why are we doing it? Let me see if I understand the amendment. The Senator from Virginia and the Senator from Maine obviously understand the amendment.

This amendment would expand the definition of a major shareholder to include a person who owns of a total of 10 percent directly or indirectly through close relatives, partnerships, and corporations which are related to the shareholder. These attribution rules are defined in section 318 which attributes ownership by individuals and entities related to one another for the purposes of certain transactions. The effect of this is to increase the number of these tax-free redemptions for corporations by making it easier to qualify for the special treatment.

As the law is presently written, the corporation must completely redeem the major shareholder's interest in the corporation, including his indirectly held interests under the 318 attribution rules. This was intended to insure that the shareholder did not retain control of the corporation by indirect means.

The proposed amendment to section 311 would make section 318 attribution apply to both definitions of ownership, ostensibly to make the rules more equitable. However, it is not really a question of equity since there are no shareholders currently under any obligation to meet the complete termination test of 311 and 318 for any other reason except to allow the corporation to benefit from this loophole. Thus, as it stands, 311 does not work a hardship on any redeeming shareholders. It merely provides a tax break to a corporation when it does certain defined shareholder redemptions.

The amendment, by expanding the definition of a major shareholder, would allow a corporation to take advantage of a loophole that is not now available to it. I presume that the amendment would have a revenue effect, because it would lose money. And it would offer an opportunity for some obviously well-to-do stockholders and taxpayers to gain from it.

It would seem to me that before we act favorably on the amendment, we ought to have some notion of who benefits from it.

I understand the author of the amendment has said that only two or three people would benefit. We ought to know who they are and how much benefit they will receive before we act.

Mr. HARRY F. BYRD, JR. Mr. President, as far as could be determined, this amendment would have a negative effect. As far as knowing who would benefit, I do not know.

Mr. PROXMIRE. Mr. President, I understand that Mr. Dale Wickham testified in 1973 on behalf of several Illinois people who are stockholders of closed corporations.

I wonder if we could get a list of them and how much they would benefit.

Does the Treasury have a position on this matter?

Mr. HANSEN. The Treasury says the application of the constructive ownership rules is inconsistent in this case.

Mr. PROXMIRE. Mr. President, does the Senator have a letter from the Treasury?

Mr. HANSEN. I do have a letter. I would be glad to supply that for the RECORD, but I do not have it with me.

Mr. PROXMIRE. The Senator is the author of the amendment. Would the Senator enlighten the Senate as to who would benefit from it?

Mr. HANSEN. I cannot give specific names. I would be happy to try to get such information as I can. However, I really question this. I do not doubt at all the right of the Senator to ask the question. However, it would seem to me that the principle of taxation is what we should be considering here and not the names of the persons who may be affected one way or the other.

Mr. PROXMIRE. Except that if there are only two or three beneficiaries in the country, the effect on the Treasury would not be enormous. However, the benefit to the individuals could be very great indeed. And I think that might be a proper question to look into.

Mr. HANSEN. Mr. President, if the Senator from Wisconsin would be inclined to be persuaded one way or the other by this information, I could understand the importance of that question.

Mr. PROXMIRE. Perhaps it ought to come in through the private bill route, if it does not have a uniform or useful application.

Mr. HANSEN. I am sorry that I do not have the exact information which the Senator desires.

Mr. PROXMIRE. What would be the effect of this?

Mr. HANSEN. It has a negligible effect on the Treasury.

Mr. PROXMIRE. What does that mean?

Mr. HANSEN. Those are the words of the Treasury. They would have to interpret them. I suppose it is minimal.

Mr. PROXMIRE. One provision of this amendment, I think the next amendment, No. 6, would have a cost of $10,000 in total. Would this amendment have a lesser effect? If it is less than $10,000, I think we might not have so much objection. However, we would still be opposed to it.

Mr. HANSEN. I think it would also be fair to say that with respect to the individuals that could be affected by it, there is no way for me to know. I do not think I can respond to the Senator's inquiry with the names of people who might be affected. I have no possible way of knowing.

Mr. PROXMIRE. I do not think I can understand the equity involved here. Is the equity that he would not be able to take a capital gain when he makes a sale?

Mr. HANSEN. The equity is that if the present provisions are right, this amendment further clarifies that position, and is entirely consistent with it. If you object to the present law, that is another matter; but if the present law remains as it is, it is my contention that this amendment should be enacted in order to treat everyone fairly.

Mr. PROXMIRE. It may be a matter of objecting to widening the present law, and this amendment would seem to widen it and open it up to additional persons, so there would not be any point in it.

As I understand, Mr. Wickham, the witness who appeared before the House, said it would apply in Illinois to several Illinois trusts, and I assume in a country of this size and this variety it would apply in other States, too. I do not know, but it might very well.

Therefore, obviously it would cost some revenue to the Treasury, and we do not know how much that would be.

Mr. HANSEN. I think it would be helpful to point out to the Senator from Wisconsin that in the original drafting of the rule, this precise situation was overlooked in the attribution rule; it was just an error on the part of Treasury, and this is simply an effort to correct that situation.

Mr. PROXMIRE. Is Treasury requesting this, or is it requested by the private witnesses who appeared before us?

Mr. HANSEN. Treasury does not oppose the amendment.

Mr. PROXMIRE. But they are not requesting it?

Mr. HANSEN. I think the Senator is correct. The Treasury has not requested it. If they were requesting it, they would request it as a part of a technical amendment which would encompass many things.

Mr. PROXMIRE. Here is the difficult position we are in: The Treasury did not ask for this. The Senator assures us that the Treasury has no objection to it, but at any rate, counsel appears for unknown persons, it has an unknown effect; it has unknown ramifications, perhaps, in other States. We know it has some effect in Chicago, and we are asked simply to act on the basis of very, very limited information on something that may be costly, but we do not know how costly.

Mr. HANSEN. I could point out how it happened that I proposed this amendment.

The PRESIDING OFFICER (Mr. WILLIAM L. SCOTT). The Chair requests the Senator from Wyoming to use his microphone.

Mr. HANSEN. The reason that I did indeed introduce the amendment is that as a member of the Finance Committee, we have a number of people come to members of that committee seeking redress from situations in the tax law which may be unfair or inequitable.

Mr. PROXMIRE. I do not question that at all, and the Senator is absolutely right in doing that. I am sure he does it because he feels it is a bad provision.

Mr. HANSEN. Yes.

Mr. PROXMIRE. I have no question about that.

Mr. HANSEN. Then I was going to add further that if all of the defects in the law that might be pointed out by some of however many millions of taxpayers there are in the United States were to be embodied in this same bill, it would probably amount to 400 or 500 more technical amendments. But we put this amendment in, and it was considered by the Finance Committee, and in the opinion of the Finance Committee was equitable. It addressed a specific problem that was of concern to a number of taxpayers.

It goes beyond those who were represented before the Finance Committee and at one time or another it could be that innumerable people would run into the same situation.

Mr. BENNETT. Mr. President, will the Senator yield?

Mr. HANSEN. I am happy to yield.

Mr. BENNETT. The way this appeals to the Senator from Utah is that if we are going to include all the ownership held by other members of a man's family in determining whether he has in fact terminated his interest in a company, in equity we ought to use the same measure to find out whether in fact he had 10 percent to start with. It seems to me if we are going to apply this constructive rule on one side of the equation, we ought to be prepared to apply it on the other side of the equation. That is the effect of the amendment.

Mr. HATHAWAY. Mr. President, will the Senator yield for a question?

Mr. BENNETT. Yes.

Mr. HATHAWAY. I suppose the effect is going to be that an individual who now has to have 10 percent-plus may include not only all of his own, but all of his constructive ownership; that is, the effect will be that an individual can have far less than 10 percent, as long as what he owns plus what he constructively owns amounts to 10 percent.

Mr. BENNETT. Yes.

Mr. HATHAWAY. Whereas before we had a floor of 10 percent on the individual, now it can be 1 percent or less.

Mr. BENNETT. If we are going to use the constructive relationship on one side of the equation we ought to use it on the other side of the equation.

Mr. HATHAWAY. But the effect is to expand a loophole, or whatever you want to call it.

Mr. BENNETT. The effect is that you do equity to the man involved, and in the course of it, in some cases—I do not think it is necessarily a loophole. I do not think it should be in the law at all, if it were a loophole.

Mr. HATHAWAY. That is the next question I wanted to ask the Senator from Utah. What, exactly, is the purpose of having the 10-percent provision in section 311 at all?

Mr. BENNETT. It could be 5 percent, or 20 percent. The 10-percent figure is intended to insure that the stockholder who is going to get the property is a substantial stockholder of the corporation. This generally applies to closely held corporations.

Mr. HATHAWAY. I understand that.

Mr. BENNETT. In order to make sure that a man with one one-thousandth of the stock value cannot come in and say, "Well, give me that parking lot over there, and I will take it in exchange for my stock."

Mr. HATHAWAY. But because he is a substantial stockholder, is there some reason why the corporation should not pay a tax on the increase in value of the property which they give him for his share?

Mr. BENNETT. Apparently that decision was made in an earlier decision, and we are now talking about definitions, as far as I am concerned.

If the definition of what is to prove that he has actually gotten rid of his property is going to make sure that not only he, but his wife, children, uncles, aunts, and cousins got rid of theirs, too, I think they should have a share in determining whether he is a substantial stockholder.

Mr. HATHAWAY. What I am getting at is, in the one one-thousandth deal that the Senator mentioned, if the one one-thousandth shareholder gets property in exchange for his stock, then the corporation has to pay income tax on the appreciated value of the property it gives him. Now, what reason is there, when he holds 10 percent, that the corporation does not have to pay that tax?

Mr. BENNETT. I think the reason is that when he holds 10 percent or more, his identity and that of the corporation is substantially greater than when he holds only 1 percent. So, in effect, there is not so definite an example of possible—I do not want to say conflict of interests—but there is a more obvious identity when a stockholder holds 10 percent or more. If a stockholder holds 100 percent, there is obvious, complete identity between the corporation and the stockholder.

Mr. HATHAWAY. In fact, we tax him twice, so they have gone down to 10 percent.

Mr. BENNETT. They have gone down to 10 percent for the purpose of establishing where that break is.

Mr. HATHAWAY. This would go down even further, to make it clear.

Mr. BENNETT. This would then say, if we are going to judge him as a 10-percent stockholder and require him to get rid of the excess over 10 percent in order for him to qualify, then we have to count in whatever his relatives own to prove he is a stockholder at 10 percent.

Mr. PROXMIRE. Does this not clearly broaden some opportunities to eliminate the necessity for the corporation to pay a capital gains tax? For example, if I have a 2-percent ownership in a corporation and I have an interest in a trust, that is 8 percent—altogether 10 percent—under this new rule, I would qualify. Then if my stock is redeemed by the corporation, and in order to redeem it they pay me in property that has appreciated, and they paid $100,000 for the property, they pay me for the $1 million in stock in their appreciated property. Under this new amendment, they would not have to pay a capital gains tax on that appreciation. They would get stock worth $1 million paid for by appreciated property upon which they would not suffer an obligation to pay a tax on the $900,000 gain. So, this is a new loophole for the corporation; or, to put it another way, another advantage for the corporation—right or wrong?

Mr. BENNETT. The basic rule in the law is that the corporation does not realize income when it distributes its property other than inventory. That is the basic rule in the law. The Senator is saying that when they redeem a 10-percent stockholder, they are not allowed to go under the basic rule.

Mr. PROXMIRE. What I am saying is that any time a new 10-percent stockholder could qualify as a 10-percent stockholder, under this new amendment, the gain the corporation made on the sale of the property would not be considered as a gain and taxed as a gain. But ordinarily, it would be. It would be a redemptive cost and they would not have to pay the capital gains tax; otherwise, it would be considered the sale of that property, and they would have to pay a capital gains tax on the $900,000 in the example I gave; is that right?

Mr. BENNETT. The Senator and I disagree on this basic point. I think this is basically a question of equity. If we are going to judge one-half of the transaction on the basis of attribution, we should judge both halves of the transaction on the basis of attribution. That is what the committee decided.

Mr. PROXMIRE. If the corporation would benefit in the example I gave, under any circumstances, rather than the individual, and as I say, we have no information on how much this would cost. The Treasury indicates they do not think it would cost very much, but we do not know. There is a strong indication that it would cost a great deal—it could cost a great deal—several million dollars.

Mr. BENNETT. We could never amend a tax provision that does not create a benefit for someone and a loss for someone else on the transaction. In this case, it is probably fair to say that if there is a benefit, it is transferred to the individual from the corporation. It is interesting to me to find the Senator from Wisconsin fighting for the corporation against the individual.

Mr. PROXMIRE. No. It is the other way around. I am objecting to the fact that the corporation would be allowed to avoid a capital gains tax under the circumstances, in that they redeem the stock in a far larger group of stockholders. If the stockholder from whom they redeem the stock has an effective 10 percent, as will be more broadly defined here, then they can avoid a capital gains tax.

Mr. BENNETT. Because he is more nearly identified with the ownership of the business. As I understand, this applies largely to closely held businesses.

Mr. PROXMIRE. It would be less closely held if we pass this amendment. It would then apply to larger corporations less closely held, with 1-percent, 2-percent, or 3-percent stockholders rather than 10-percent stockholders. Therefore it would be opening it up to the bigger corporations.

Mr. BENNETT. We come to the question of, what is a stockholder? In half the definition, we say the stockholder is the individual and his wife and children and anyone else covered by the attribution rule. I fully believe that if we are going to say that on one side of the equation, we have to say it on both sides of the equation.

Mr. HATHAWAY. This sort of encourages, if we adopt this amendment, the shareholder's distributing shares to those who would be in constructive ownership and who would have to pay, presumably, less taxes on sales than the owner, because he would be in a higher income tax bracket. So the Federal Government would lose additional revenue as a result of that. Is that not true?

Mr. BENNETT. If we operated to try to change the tax laws on the theory that we reject every amendment that costs the Federal Government money, we could never eliminate an inequity. This is an inequity.

Mr. HATHAWAY. People relieve themselves of some taxes on the sale of stock by putting some shares in their children's name who are paying a much lower bracket than the father, for example.

Mr. BENNETT. We would take it out of both sides. If we want to take it out of both sides, then we can talk about equity. But it is not fair to count in the stock of the children, in making sure that they actually got rid of the 10 percent without counting in the 10 percent to determine that he qualifies.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the pending amendment be laid aside temporarily and that the Senate resume the consideration of the previous amendment.

Mr. BENNETT. Mr. President, if the Senator will withhold that for a moment, I should like to talk for just 1 minute to this particular subject.

I want to say that the corporation's basis goes over with the property. The taxpayer who gets it from the corporation has it at the corporation basis and he will have to pay the tax for himself. So the opportunity to collect the tax is still there.

Mr. KENNEDY. Mr. President, reserving the right to object, I should like to get some indication as to when this legislation might be further considered.

Mr. HARRY F. BYRD, JR. Is the Senator talking about the pending amendment?

Mr. KENNEDY. Yes.

Mr. HARRY F. BYRD, JR. My unanimous-consent request was this——

The PRESIDING OFFICER. The Senate will please be in order.

Mr. HARRY F. BYRD, JR. My unanimous-consent request was to lay the pending amendment aside temporarily and consider the previous amendment which had been laid aside temporarily and on which the yeas and nays have been ordered and that we vote on that amendment and then return to this amendment.

Mr. KENNEDY. I thank the Senator from Virginia for his explanation. I have no objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Virginia? The Chair hears none, and it is so ordered.

The question is on agreeing to the committee amendment, section 9.

On this question the yeas and nays have been ordered and the clerk will call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRY F. BYRD, JR. The question is on the adoption of the committee amendment. Is that correct?

The PRESIDING OFFICER. The question is on the adoption of the committee amendment to section 9.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from California (Mr. TUNNEY) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from North Carolina (Mr. HELMS), the Senator from Illinois (Mr. PERCY), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 50, nays 38, as follows:

[No. 9 Leg.]

YEAS—50

Aiken
Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Bentsen
Bible
Brock
Buckley
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fong
Fulbright
Gravel
Griffin
Hansen
Hatfield
Hollings
Hruska
Inouye
Johnston
Long
Magnuson
McClellan
McClure
McGee
Montoya
Moss
Pearson
Randolph
Roth
Scott, Hugh
Scott,
William L.
Stafford
Stevens
Talmadge
Thurmond
Tower

NAYS—38

Abourezk
Biden
Brooke
Case
Chiles
Church
Clark
Cranston
Eagleton
Gurney
Hart
Haskell
Hathaway
Huddleston
Hughes
Jackson
Javits
Kennedy
Mansfield
Mathias
McGovern
Metcalf
Metzenbaum
Mondale
Muskie
Nelson
Nunn
Packwood
Pastore
Pell
Proxmire
Ribicoff
Schweiker
Stevenson
Symington
Taft
Weicker
Williams

NOT VOTING—12

Bayh
Cannon
Goldwater
Hartke
Helms
Humphrey
McIntyre
Percy
Sparkman
Stennis
Tunney
Young

So the committee amendment to section 9 was agreed to.

Mr. ABOUREZK. Mr. President, with the recent disclosures about President Nixon's income tax problems, we are going to have our hands full convincing the public that the tax system works fairly.

They are already skeptical of the fairness of the tax system.

Too many taxpayers are convinced that the Federal income tax system is rigged in favor of special interests, huge corporations, and the super-rich.

Some of the provisions in this bill, if enacted, would add weight to that conviction and cost us even further erosion of public confidence.

On the other hand, some of these amendments are good and fair and decent.

The amendment dealing with tax treatment of POW's and MIA's deserves passage. The country owes these people and their families compassionate consideration for all that they have sacrificed and suffered.

Likewise the amendment to extend tax exemption to the Common Fund deserves passage. As I understand it, the Common Fund is an investment organization formed to provide professional investment advice and investment pooling to over 300 educational institutions who are individually tax exempt already.

I have serious questions about the rest of the amendments reported by the Finance Committee.

Foremost among them is the amendment dealing with the treatment process of decarbonation of trona ore. The question, as I understand it, is one of arriving at a determination of the point at which mining ceases to be mining for purposes of the mineral depletion allowance for trona ore, a raw material that is converted into soda ash.

I understand that the Department of the Treasury is strongly opposed to this amendment.

I understand that the amendment would reverse a 1971 Treasury ruling in order to permit trona mining firms to resume taking the mineral depletion allowance on the value added to trona by its conversion into soda ash.

The Washington Post reported last month that this amendment will mean an annual savings of $2 million in taxes for the trona mining firms.

The Tax Reform Research Group, a Nader-sponsored organization, has branded this amendment as blatant special-interest legislation.

I understand that there were no hearings on this. I understand also that although its initial Treasury drain is a modest $2 million annually, the industry plans to double its present output by 1980.

Decarbonization of trona for profit by private corporations may perhaps be a process worthy of public subsidy. Perhaps there are important reasons why the public purse should help pay for it.

I have not seen any such reason. The committee report fails to list an urgent, compelling reason of national priority for this amendment.

Even if it did, I would argue that the subsidy, if justified, ought to be aboveboard. If this process is worthy of public subsidy, then let us fund it through the normal authorization and appropriations process instead of burying it deep in the tax code where the public cannot find it.

If open public hearings show this subsidy to be justified, if they demonstrate that there is a compelling national reason to subsidize these companies, whoever they are, then fine, let us do it. But let us put that subsidy regularly on an annual appropriations basis.

I maintain the same position for all aspects and applications of the depletion allowance, and for most of our other tax subsidies to industry and private business. If they are worthy of public subsidy, they ought to weather the same appropriations process to which we subject funds for the war on poverty, for subsidized low-income housing and a host of other social programs.

We are slowly beginning to learn that depletion allowances do not work as advertised. If it is necessary to subsidize the giant oil companies in order to persuade them to pump oil out of the ground for profit, then let us make it an appropriated subsidy instead of a back-door hidden tax subsidy.

I also have some serious questions about the amendment to permit certain corporations to use appreciated property to redeem their own stock.

I understand that this amendment, because of the very narrow way it is written, would apply to only two or three companies.

We do not know who they are, and we do not know how much this amendment will cost.

Likewise we do not know whether there is a reason these few companies should be afforded a special break by the rest of their fellow taxpayers under the special circumstances which the amendment describes.

Until these facts are put on the public record, we should withhold this subsidy. And then we should begin to consider whether it belongs in the tax code or in the appropriations process.

The amendment to provide flood disaster relief tax considerations to certain victims may be a worthy idea. As you know, we had quite a tragedy in Rapid City, S. Dak., my hometown, in 1972. We were very grateful for the generous assistance which the Congress and the Federal Government afforded.

One lesson we learned in that experience is that it is very hard to administer disaster relief on a fair and equitable basis. It is very difficult to do. Exceptions will always arise, and it is impossible to write legislation which will deal with all of them in a perfectly fair manner.

Having advocated maximum generosity in response to natural disasters, I support the intent of this amendment, but retain strong reservations about whether it will work fairly in its application.

My understanding of the preliminary language of this amendment was that it raised some questions of fairness. I understand that as originally written, the amendment would benefit mainly those with relatively high incomes, and would apply only in the case of the Buffalo Creek flood in West Virginia.

The question raised by this amendment is properly addressed in the tax code, since it deals with the treatment of casualty loss deductions which have already been taken on losses for which there was subsequent compensation as the result of a lawsuit.

My questions are these:

Is the amendment written to include other or future disasters in which the same circumstance might arise?

Is it written in a manner which provides equal consideration for all affected victims, no matter what their income?

This latter point will be the most difficult to resolve. Obviously families with low or moderate incomes did not benefit as much from the initial deduction as did those higher on the income scale, and thus the casualty loss deduction meant less to them in the first place.

My question is what safeguards have been built into this amendment to overcome the initial maldistribution of the casualty loss writeoffs.

Mr. President, my general conviction on the issue of tax reform is that it is hard enough to write legislation which accomplishes the first task of taxation: Raising revenue in a fair and equitable manner so as to engender the trust and cooperation of the taxpayers.

The difficulty of that task is greatly compounded when, in addition, we use tax deductions, credits, allowances and shelters to subsidize various functions, activities and groups of people, for whatever purpose.

Moreover, the use of the tax code to accomplish those subsidies removes them from routine public scrutiny. It diminishes our control of the amounts of those subsidies and their actual application.

If we are ever going to make our tax codes as fair as they could possibly be, we must begin by resisting the temptation of the back door subsidy.

### H.R. 8214—TAX REFORM OR CHRISTMAS TREE?

Mr. McGOVERN. Mr. President, the Senate is now considering a House-passed measure that would be difficult for anyone to oppose. It came to the Senate as a relatively simple amendment designed to benefit the families of our POW's and MIA's. As one who introduced a tax measure for their benefit early last year, I am gratified that the Congress is taking action. Certainly the sacrifices these people have made more than justifies special compassion and sympathetic treatment.

Unfortunately, the bill now under consideration—H.R. 8214—is not in the same simple form it was when it passed the House. It has become what many have referred to over the years as a "Christmas tree" bill. Further amendments have been added to the basic provision that bear no relationship with the tax problems of our POW's and MIA's. Their obvious intent is to provide some new tax loopholes for a special few—including a wider depletions allowance for the oil interests.

Having been made aware of some of the inequities in our tax system, many Americans are probably wondering just how all the loopholes came into being. It seems we have a classic example of one of the methods used here before us today.

Given the uncertainty of the times we are living in and particularly the growing distrust among people toward their elected leaders, it seems to me we face a greater issue today than a few simple tax amendments. The credibility of the Congress is again being put to a test. At a time when comprehensive tax reform is badly needed, we find ourselves faced with the possible choice of voting against a needed and worthwhile provision to aid some of the most deserving citizens in the country in order to stave off still another attempt to riddle our tax codes with new loopholes.

Not only is it unfair to the families of our POW's and our MIA's, it is grossly unfair to every taxpayer in the country who does not have the benefit of a Washington based lobbyist or a high-powered tax lawyer. It is out of his or her pocket that must come the tax money to make up the difference between what so many moneyed interests do pay and what they should pay.

Mr. President, I want to associate myself with the effort undertaken by my distinguished colleague from Wisconsin. Senator PROXMIRE, as he has done so often in the past, has chosen to take the time to object to each specific new loophole as it is brought before the Senate. I want it to be known that his objections are mine as well.

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## TRANS-ALASKA PIPE LINE RIGHT-OF-WAY CONSTRUCTION TO BEGIN IMMEDIATELY

Mr. STEVENS. Mr. President, I should like to inform the Senate that the Secretary of the Interior has signed the permit for the right-of-way for the trans-Alaska pipeline.

Construction will begin immediately.

I am most grateful to Members of this body who worked so hard with me and my colleague from Alaska in order to secure a termination of the litigation which so long prevented the construction of the pipeline, which will ultimately mean that we will be able to bring down to what we call the South Forty-eight, 2 million barrels of oil per day. If we had it now, we would not have a crisis.

I thought the announcement should be made now and again I express my appreciation to all the Members of this body for their consideration during the long debate that took place last July in this body on the subject.

Mr. GRAVEL. Mr. President, I rise to make note of the fact that not 20 minutes ago I and other members of the delegation from Alaska were in the office of the Secretary of the Interior, and he signed before us the Alaska pipeline permit and received from the consortium that will build the pipeline a check in excess of $12 million to pay for the environmental studies that were done by the Government on a reimbursement basis.

This is probably the most concrete step to give heart to the American people that something can and will be done with respect to the energy crisis. This step is the only type action that can be meaningful to increase the supply of oil and to increase the energy to the American people.

I hope this action heralds additional activity by Congress to deal with the scarcities that we have, to provide a policy to bring about an increase in supply. That is the issue that will face Congress this year.

I think if we understand the complexities of the situation we can bring about a solution to this vexing problem which is certainly the most vexing problem we have had since the war.

Again, I think it is a great day for the State of Alaska. More important, it is a day that will go down in history for the American people, because a pipe is going to be laid down. There is a light at the end of the pipe. We hope that by 1977 that light will be closed and oil will be shipped to the people of this country.

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## MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

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## EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. NUNN) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

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## ORDER FOR PRINTING OF WATER RESOURCES BILL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the water resources bill, H.R. 10203, passed yesterday be printed as it passed the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRISONER OF WAR AND MISSING IN ACTION TAX ACT

The Senate continued with the consideration of the bill (H.R. 8214) to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes.

Mr. HARRY F. BYRD, JR. Mr. President, I move to reconsider the vote by which the last amendment was adopted.

Mr. HANSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, I yield to the Senator from Colorado.

Mr. HASKELL. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on section 19 of the pending measure.

The PRESIDING OFFICER. Without objection, it will be in order to order the yeas and nays.

Mr. HARRY F. BYRD, JR. Mr. President, does the Senator ask for the yeas and nays?

Mr. HASKELL. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I would like to make a general inquiry of the floor manager or the ranking minority Member with respect to the various provisions that are being considered. Can they give us some idea as to the number of days of hearings that were held on these various provisions and the number of witnesses who were called?

Mr. BENNETT. Mr. President, I have no specific memory.

Mr. KENNEDY. We are considering a bill today which involves a number of provisions. I think the Senate has learned and the American people have learned that there has been special legislation affecting the tax code in which special provisions have provided extraordinary loopholes that have only been paid for by the taxes of others.

I understand the Senator from Wisconsin and the Senator from Maine have gone into some of these provisions in detail. I did not have an opportunity to be on the floor when they did that. I do not want the RECORD to repeat the points they have brought up, but what I am interested in is the number of days of hearings that were held, the witnesses who were called, whether these matters are contained in the reports that were prepared, and whether we in the Senate have an idea of who is going to benefit from these provisions.

Obviously, some of the provisions, such as the flood disaster relief and some of the other programs, are easier to understand as to who will be the beneficiaries, but I am interested in these other matters, so that we can have some idea as to what procedures were followed and what precedents are being established and who is going to be the specific beneficiary of each provision.

Mr. HARRY F. BYRD, JR. If the Senator will yield, the bill itself is a House-passed bill, and, so far as I can recollect—and I will have the staff check it again—there were no hearings on the bill or on the amendments.

Mr. PROXMIRE. Mr. President, will the Senator yield at that point?

Mr. KENNEDY. I yield.

Mr. PROXMIRE. I am delighted that the Senator from Massachusetts has made this point. I think it is the most significant point made with respect to this bill. The fact is that we have had a series of amendments that had absolutely nothing to do with the substance of the bill itself, which is helping prisoners of war and their relatives and giving them some tax consideration. We have a whole series of provisions on which there were no hearings or record. All we have is a committee report which says very little about the substance of these far-reaching amendments before us that establish precedents.

For instance, in the action just taken by the Senate approving special depletion for trona, the Treasury itself says that the proposed tax exemption is precedent-breaking and is going to make it very hard for Congress not to act in the same way with respect to other minerals. And this has all been done on the basis of having no hearings on these amendments. I think the Senator from Massachusetts has made a vital point concerning the reasons for my objection to the bill.

Mr. KENNEDY. I appreciate the comment of the Senator from Wisconsin, who time and again has provided oversight, individually and as a member of the committees, on so many pieces of legislation.

May I ask the members of the committee whether they are willing to accept special provisions in the tax code as a matter of practice? Was it not of concern to members of the committee as to exactly who was going to benefit from many of these amendments? Were such questions asked? If they were, what responses were made? If they were not asked, can the members of the committee give the Senate some reason why they were not?

Were they relying on the record of the House? If they were relying on the record of the House, can the members of the committee tell Senators, on the basis of the House record, who the beneficiaries are going to be with respect to these particular provisions? Can they tell us the number of days of hearings that were held in the House of Representatives and who were called as witnesses in the House hearings?

I am one who likes to feel, in relationship to the committee system, in which I participate, that all members of committees on which I serve require that we have a complete record before the Senate; that we are obviously willing to take, evaluate, and consider the record that is made in the House of Representatives.

How many days of hearings were held in the House of Representatives on these provisions? How many witnesses were called? What does the record say about this? Can the able manager of the bill or the ranking member of the committee inform us as to these provisions?

Mr. HARRY F. BYRD, JR. I cannot give any specific information at this time as to the amount of time the bill itself was under consideration by the House of Representatives or by the committee in the House of Representatives.

Mr. KENNEDY. Is it the response of the Senator from Virginia that there have been no hearings—that the Senate committee has had no hearings; and that the floor manager cannot tell us the number of days of hearings that were held in the House of Representatives and the number of witnesses who were called? Can he tell us whether there were substantial points made by those who offered provisions or those who expressed reservations?

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. KENNEDY. I should like to give the Senator from Virginia a chance to respond to the comments I have made; then I will yield to the Senator from Wisconsin.

Mr. HARRY F. BYRD, JR. The Senator understands, of course, that the bill as passed by the House of Representatives deals with prisoners of war and those missing in action. The amendments which are being attacked on the floor of the Senate by the Senator from Wisconsin and other Senators were not a part of the House bill.

Mr. KENNEDY. The Senator is quite correct. We are all aware of the procedures that are followed by the Senate in attaching amendments to various pieces of legislation. The Senator from Virginia has pointed this out; and certainly some of us who sought to attach a campaign financing amendment to the debt limit bill remember the clear, soaring rhetoric of the Senator from Utah, who opposed attaching our proposal in that way.

I wonder why, if these particular measures are sufficiently meritorious, we would not have either a private bill introduced and considered and reported for the beneficiaries alone, rather than just tack them on to legislation dealing with prisoners of war, and have them become part of the tax code, capable of having unintended and unforeseen effects in the future.

Mr. HARRY F. BYRD, JR. Mr. President, I think none of these are major amendments insofar as their effect on the Treasury is concerned.

Mr. KENNEDY. Do we know that?

Mr. HARRY F. BYRD, JR. Yes; I think we can state that we know that so far as the information is concerned that has been submitted to us by the Treasury Department.

Mr. KENNEDY. Does the Senator have some response from the Treasury which indicates either what the loss would be from the committee amendments, or which particular corporations and companies would benefit from them?

Mr. HARRY F. BYRD, JR. Mr. President, if the Senator will refer to the report, each section ends with a statement as to the effect that each amendment would be presumed to have on the revenues of the Treasury. The Senator might refer to that, or I would be glad to do it. I have gone over it hurriedly, and I want to check before making a categorical statement. However, I do not know of any amendment that would have substituted effect on the Treasury.

Mr. KENNEDY. Does the Senator not

agree with me that at the time the Philadelphia Nun amendment was passed, Congress opened up an unintended loophole for the unlimited deduction for charitable contributions. I suppose we would have had approximately the same response then, that it was special legislation to look after a particular charity.

I suppose the Treasury response was that it would have a negligible effect on revenues. However, we all know that it had a tremendous effect and meant the loss of millions of dollars, which were eventually made up by the taxpayers in other ways.

I suppose that when the special provision for Louis B. Mayer was considered, we would have been told that this would have a negligible effect. We perhaps would have been told the same thing with regard to the special provision to provide a tax benefit for General Eisenhower on "Crusade in Europe." We know from past experience that Congress cannot write a tax fingerprint, limited to one individual or corporation. If the loophole is there, taxpayers will use it, sometimes totally rearranging their affairs to get the benefit, unintended though it may be.

Does the Senator find any place in the report where it mentions other companies or individuals who can benefit today, or the number of people who can benefit in the future under these provisions? Is that mentioned at any place? If it were, we would have a better idea and would have more complete information as to the real impact of these provisions, other than merely the general descriptions given in the explanation.

Mr. HARRY F. BYRD, JR. Mr. President, first of all, I want to disassociate myself with any of the cases the Senator from Massachusetts has mentioned. I am not familiar with the details of those cases. I am not even sure that I was in the Senate when some of them were enacted into law. I do not know. I do not want to become involved in those cases.

In this particular bill, the legislation as passed by the House was expected to result in a decrease in revenues of approximately $4 million spread over the next several fiscal years. The fact that the induction period requirement for certain prisoner-of-war benefits has been allowed to lapse as of June 30 means that there would have been an increase in receipts of approximately $12.5 million, primarily for 1974. With the changes made in the bill, this would not occur.

The Department of the Treasury agrees with the statement.

So, insofar as the bill passed by the House is concerned, the loss of revenue would be $4 million and the presumed increase of $12.5 million will not occur.

Now we come to the amendments that the Finance Committee included in the bill.

The committee amendments either have no effect, or a small or negligible effect, on existing revenues—as described in each case in the explanation of the provisions above—except in the case of the amendment dealing with the exclusion from the unemployment compensation program—less than $5 million—the amendment dealing with the tax treatment of tuition and educational expenses paid on behalf of members of the uniformed services—less than $10 million—and the amendment dealing with the treatment process of trona. Based upon the Treasury Department regulations this amendment is estimated to reduce revenues by about $2 million. However, the committee believes the treatment provided is a clarification of present law and therefore that this provision should not be viewed as resulting in a revenue loss.

So, that is the best information that I could give to the Senator as to the cost of the amendments.

Mr. PROXMIRE. Mr. President, would the Senator yield at that point?

Mr. KENNEDY. I yield.

Mr. PROXMIRE. The Senator from Massachusetts was correct when he indicated that the difficulty with this kind of tax action is that it may have consequences on the Treasury that we cannot foresee. The Treasury in considering the trona amendment said that it could be a precedent in many other areas. Obviously that could have an effect of $10 million or $20 million or more. The vacation deferral amendment will defer $25 million, lose that much in revenue for 1 year.

Furthermore, we have the unemployment compensation amendment. That is said to cost $5 million.

So, there is a substantial amount involved here. I wonder whether the Senator from Massachusetts would consider the possibility of moving to send the bill back to committee so that we could have hearings and develop a record and could have some basis for dealing with these measures, which could be very costly.

Mr. KENNEDY. Mr. President, I ask the Senator from Virginia and the Senator from Utah why it would not be a satisfactory resolution of the problem we are confronting here to provide at least a Senate hearing on these various provisions, so that we would have our own record in the Senate and have a thorough overall understanding of the short- and long-range implication of each of these provisions.

I wonder why this would not make sense as far as the Finance Committee was concerned and as far as the Senate is concerned.

Mr. HARRY F. BYRD, JR. Mr. President, I would say to the Senator from Massachusetts that certainly I would not want to agree to such a proposal in the absence of the chairman of the committee. The chairman of the committee is necessarily absent from the floor at the present time and will not be able to be on the floor for the remainder of the afternoon.

I would hope that the Senator would not make that motion while the chairman of the committee is absent.

I think that if the Senator will review the committee report, he will find that there are no major matters involved here insofar as large sums of tax funds are concerned.

The Senator may disagree with some of the principles involved.

Of course, that is the Senator's right. I am not sure that I am in agreement with all of the principles involved. I do not think that the revenue loss to the Treasury by virtue of these amendments would be very substantial.

Mr. KENNEDY. It seems to me that if we recommit this bill, the Finance Committee could resolve the issues quickly, in a day or two of hearings. The members of the committee could ask the Treasury Department about each particular provision, what the cost would be, what the long-range implications would be, and who the beneficiaries would be. Perhaps the beneficiaries themselves would have a chance to speak and make their own case. We would also have an opportunity for the representatives of public interest groups in the tax field to comment.

I do not think it would take a great deal of time. I think it could include a Treasury spokesman talking to each one of these points. Others familiar with the particular needs of the beneficiaries could justify the benefit and describe the particular exigencies they may be facing. In this way, the Members would have the kind of information to make a balanced judgment as to whether we think each or all of these matters are worthy of support.

I just wonder if this is a reasonable request. I would think the members of the Finance Committee themselves would like to have this type of information.

Mr. PROXMIRE. Mr. President, the Senator from Massachusetts is absolutely right. There is no evidence of any great urgency. If this measure is delayed for 1 or 2 weeks, I cannot see that it would hurt anybody. Certainly it would serve the public interest better if we had a record on which to make a judgment, so that we would have some sensible guidance. Obviously, we do not know who is going to benefit or is not going to benefit. We do not know what the ramifications of these amendments are. The further we go along the more we find there are just no answers available, and it seems to me that a recommittal would be more satisfactory to all, because the objections I have made and the objections the Senator from Massachusetts and the Senator from Maine have made have all been the same, that we simply do not have adequate information. I think this matter could be handled in a short time on the floor if the hearings as suggested by the Senator from Massachusetts could be held, and we could have some notion in detail of where the Treasury stands, and the other information indicated.

Mr. HARRY F. BYRD, JR. The Treasury has been consulted on all of the revenue effects, and concurs with the statements made in the report as to the potential loss of revenue. That is not to say that the Treasury agrees with every amendment.

Mr. KENNEDY. With which amendments does Treasury agree, and with which do they disagree? Can the Senator tell us why they disagree with some of the amendments?

Mr. BENNETT. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. BENNETT. The Senator from Utah is very much intrigued by this debate, because when we bring a bill to the floor, the same charges could be made against Senators who offer amendments from the floor, without ever giving the Senate Finance Committee a chance to look at them. If the Senator's logic prevails, then there should be no amendments to a Finance Committee bill on the floor, because he is arguing that we should not even consider them until after the Senate Finance Committee has held hearings on them.

Mr. KENNEDY. Mr. President, I am amazed at the statement of the Senator from Utah. How he can possibly compare the responsibility of a standing committee of the U.S. Senate, set up under the rules of the Senate and charged with the responsibility delegated by the Members of this body to conduct full and open hearings on legislative matters which come before it, with the opportunity which has been established under the rules of the Senate to permit a Member to propose an amendment from the floor? It does not make sense to say that because we do not have hearing on floor amendments—in many instances we do—it is therefore not necessary for us to have hearings in any of the full committees. Surely, that does not follow.

Mr. BENNETT. That is not my argument. The Senator is turning my argument around against me.

Mr. KENNEDY. Then, if the Senator will respond to my particular question, what amendments does Treasury object to, and for what reasons?

Mr. HARRY F. BYRD, JR. If the Senator will yield, I am instructing the committee staff to bring to the floor the Treasury Department's position on each amendment.

Mr. KENNEDY. Does the Senator mean we do not have the information right here before us?

Mr. HARRY F. BYRD, JR. It is not a part of the printed report, and I do not carry it around in my head, but we will get it.

Mr. KENNEDY. The acting floor manager has indicated that in some instances they disapprove and in some they do not disapprove. Of which amendments do they disapprove and of which do they approve, and what are the reasons?

Mr. HARRY F. BYRD, JR. If the Senator will delay just a few minutes, I will get that information for him.

Mr. KENNEDY. Mr. President, I would be interested in the response, but I would like to give an opportunity for any others who may wish to make comments about it. But at an appropriate time, I have the intention of making a motion to recommit to the Finance Committee, with instructions to report back in 30 days.

Mr. BENNETT. Mr. President, the chairman of the Finance Committee is necessarily absent. He has gone to New York to raise finances for the Democratic Party. I wonder if his colleagues on the Democratic side want to force action by the committee in the absence of the chairman. I think the chairman should be here to defend his committee, and, to answer the charges of the Senator from Massachusetts. I think if the Senator has any such program in mind, at least common courtesy would suggest that it might be deferred until the chairman returns.

Mr. KENNEDY. The Senator is absolutely correct. I would be only too happy to have this matter temporarily set aside. There are a number of Senators who intend to continue to discuss it, so I would be more than glad to support any motion to set the matter aside, and then make any appropriate motion at a time when the chairman of the Finance Committee is here, and give other Senators an opportunity to make any expressions they wish. But I am indicating now that it is my intention to so move at the appropriate time. If the leadership wants to set this measure aside and work those particular time factors out, I would be more than glad to accommodate them.

Mr. BENNETT. There is no member of the leadership on the floor at this particular time.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I think it would be best to dispose of the pending amendment before we get to the——

The PRESIDING OFFICER. The question is on agreeing to division No. 12 of the committee amendment.

Mr. HATHAWAY. Mr. President, I have an amendment to the amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The assistant legislative clerk read as follows:

On page 17, line 12, insert the following at the end thereof: "Provided that before the application of the rule of 318(a) one distributer owns 10% of the stock."

Mr. HATHAWAY. Mr. President, I have introduced this amendment to take care of the problem which I mentioned earlier, about what effect the committee amendment would have with respect to the shares that an individual would have to have in order for the corporation to qualify for not paying a tax on the increase in value of the property exchanged for the stock.

As I mentioned, this would allow a 1 percent shareholder to qualify, provided he had attributes that totaled 9 more percent to make the total 10 percent. My amendment would require at least one of the attributes—that is, the stockholder and all of the others who owned shares, the ownership of which under the code is attributed to the stockholder to own 10 percent.

I understand, in consultation with the members of the Finance Committee, that this is an acceptable amendment.

Mr. BENNETT. Mr. President, it is acceptable to the ranking minority member.

Mr. HARRY F. BYRD, JR. Mr. President, I have no objection to the proposal of the Senator from Maine.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to division 12 of the committee amendment as amended.

The committee amendment as amended was agreed to.

Mr. FANNIN. Mr. President, I ask unanimous consent that a staff member, George Prince, have the privilege of the floor during the discussion of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS addressed the Chair.

The VICE PRESIDENT. The Chair recognizes the Senator from Nebraska.

Mr. CURTIS. Mr. President, I rise for the purpose of making a short statement in reference to the procedure followed by the Committee on Finance.

Some people who read the RECORD of today might get the impression that the Committee on Finance moves without adequate information and without ample advice from the Treasury Department and from our own staff. Such is not the case. Senator LONG, as chairman of the committee, like all his predecessors, has presided over one of the best operated committees in Congress.

The question has been raised here as to whether any hearings have been held. Actually, there are items in this bill that are the result of weeks and weeks of hearings. They are isolated items pertaining to matters on which the committee has spent a great deal of time. I can cite one as an illustration. I will not take very much time.

In 1969, the Committee on Finance held public hearings on foundations for weeks and weeks. The proposal was before us that private foundations owning more than a certain percentage of the stock of a business corporation should be compelled to divest itself of some of this stock. It happened that in Atlanta, Ga., there was a foundation named the Herndon Foundation, that owned the majority of the stock in a life insurance company operated primarily by blacks. The Committee on Finance at that time wrote a rule excluding the Herndon Foundation from the divestiture provisions that were placed in the law.

It now develops that another section of the same 1969 act requires an annual payout by the foundation whether income is earned or not. The effect of this provision would result in compelling this foundation to divest its majority interest even though Congress had already written into the law that they could always retain the 51 percent.

The hearings have been held—weeks of hearings. Everyone in the committee was familiar with it, as were the staff members. No purpose would be served by having public hearings and having those people journey here from Georgia and state this proposition, which had been gone over and over in public hearings in the consideration of the original measure. I cite that as just one illustration.

I think I am in a position to speak a

word of defense concerning Chairman LONG and the operation of his committee. I say that because it happens that of all these Senate amendments, none was offered by the junior Senator from Nebraska. I have no personal interest in it whatever. As a matter of fact, at the time this measure was reported by the committee, the junior Senator from Nebraska was out of the country on official business, representing this body in conjunction with the Food and Agricultural Organization. So I can speak without any personal concern about this matter.

I can cite another illustration of a situation in which no public purpose would have been served at all by compelling these citizens to come in and appear at a public hearing.

One section of the bill makes a change in the law in reference to filled cheese. That was a provision in the Internal Revenue Code that was never intended to raise revenue—never for that purpose at all.

One of the original purposes of this provision was to insure food purity. But we have gone a long way in recent years in other aspects of inspection and sanitation, and all cheese as well as other foods are subject to the law of the Food and Drug Administration.

There was no reason to continue that section of the Internal Revenue Code. It hampered an industry, a rather small one. We could have gone through the motions and had a public hearing, inconvenienced these citizens, and imposed upon the taxpayers to print hearings where there was no necessity for it.

I believe that the course followed by the Committee on Finance over the years has been very reasonable and prudent. They have been diligent in protecting the revenue. They have also been sensitive to the need to do justice to everyone. If a taxpayer suffered an injustice, relief should not be denied merely because he was a taxpayer.

I hope that upon reflection, the effort and the attempt to recommit this bill will be abandoned. I believe it would be most unfair to the committee; I think it would be a mistake in procedure. I believe that the chairman of the Committee on Finance, throughout the months and years, has conducted the business of that committee in the public interest and in a forward and open manner, and no good purpose would be served by recommitting the bill.

I am sure that there are many who might insist that we have hearings, and the hearings go unread. I would not be surprised that if more Members had time to read all the reports issued by the various committees, we would find that it would be most helpful and informative, and it would add to the available information we have when we come here to vote on measures from the many committees of the Senate.

I yield the floor.

Mr. HARRY F. BYRD, JR. Mr. President, I concur in the views just expressed by the able Senator from Nebraska.

In that connection. I want to submit for the Record information which was sought by the distinguished senior Senator from Massachusetts (Mr. KENNEDY). The Senator from Massachusetts was anxious to know how the Department of the Treasury viewed each of the 12 committee amendments. I will go through this very quickly.

With respect to the amendment dealing with cooperative investment activities of educational institutions, the Treasury Department supports this proposal.

As to the amendment dealing with the treatment processes for trona and the decarbonation of trona to be considered as mining, the Treasury Department opposes that amendment.

The Treasury Department supports the amendment dealing with application of moving expense provisions to members of U.S. military services.

With respect to the amendment dealing with the treatment of distilled spirits brought into the United States from Puerto Rico and the Virgin Islands, the Treasury supports that amendment.

In connection with the amendment dealing with use of appreciated property by corporations to redeem their own stock, the Treasury Department supports that proposal.

The Treasury supports the amendment dealing with taxation and regulation on the manufacture and sale of filled cheese.

The Treasury Department supports the amendment dealing with accrued vacation pay.

The Treasury Department opposes the amendment dealing with treatment of certain disaster losses.

In connection with the amendment dealing with exclusion from unemployment compensation coverage of students employed by nonprofit organizations auxiliary to schools, colleges, and universities, the Treasury Department defers to the Labor Department and the Labor Department opposes that amendment.

With respect to the exception to charitable distribution requirements for certain private foundations, there is no objection on the part of the Treasury Department.

In connection with tax treatment of tuition and educational expenses paid on behalf of members of the armed services, the Treasury Department opposes that amendment.

With respect to the committee amendment dealing with the transfer of accounts receivable to related DISC's, there is no objection on the part of the Treasury Department.

The Treasury Department was previously consulted and was consulted again today, and I was informed by the Treasury again as to which amendments the Treasury opposes and to which it has no objection or supports.

Mr. President, I yield to the Senator from Georgia.

The VICE PRESIDENT. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I send to the desk an amendment and I ask unanimous consent that it may be considered out of order.

The VICE PRESIDENT. Is there objection?

Mr. PROXMIRE. Reserving the right to object, would the Senator inform the Senate how long he expects to take? I would prefer to proceed on the amendments as the Senate agreed to do, but if it is only 5 minutes I will be glad to accommodate the Senator.

Mr. NUNN. I think at the most it will be 4 or 5 minutes for the amendment.

Mr. PROXMIRE. I have no objection.

The VICE PRESIDENT. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. NUNN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

At the end of the bill, add the following new section:

### COMBINED OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE-INCOME TAX REPORTING AMENDMENTS

SEC.—(a) This section may be cited as the "Combined Old-Age, Survivors, and Disability Insurance-Income Tax Reporting Amendments of 1973".

(b) Title II of the Social Security Act is amended by adding after section 231 the following section:

"PROCESSING OF TAX DATA

"SEC. 232. The Secretary of the Treasury shall make available information returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F of the Internal Revenue Code of 1954, to the Secretary for the purposes of this title and title XI. The Secretary and the Secretary of the Treasury are authorized to enter into an agreement for the processing by the Secretary of information contained in returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F of the Internal Revenue Code of 1954. Notwithstanding the provisions of section 6103(a) of the Internal Revenue Code of 1954, the Secretary of the Treasury shall make available to the Secretary such documents as may be agreed upon as being necessary for purposes of such processing. The Secretary shall process any withholding tax statements or other documents made available to him by the Secretary of the Treasury pursuant to this section. Any agreement made pursuant to this section shall remain in full force and effect until modified or otherwise changed by mutual agreement of the Secretary and the Secretary of the Treasury.".

(c) Section 232 of the Social Security Act, as added by subsection (b) of this section, shall be effective with respect to statements reporting income received after 1973.

(d)(1) Section 201(g)(1) of such Act is amended to read as follows:

"(g)(1)(A) The Managing Trustee of the Trust Funds (which for purposes of this paragraph shall include also the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established by title XVIII) is directed to pay from the Trust Funds into the Treasury—

"(i) the amounts estimated by him and the Secretary of Health, Education, and Welfare which will be expended, out of moneys appropriated from the general fund in the Treasury, during a three-month period by the Department of Health, Education, and Welfare and the Treasury Department for the administration of titles II, XVI, and XVIII of this Act and subchapter

E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, and chapters 2 and 21 of the Internal Revenue Code of 1954, less.

"(ii) the amounts estimated (pursuant to the method prescribed by the Board of Trustees under paragraph (4) of this subsection) by the Secretary of Health, Education, and Welfare which will be expended, out of moneys made available for expenditures from the Trust Funds, during such three-month period to cover the cost of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 other than those referred to in clause (i).

Such payments shall be carried into the Treasury as the net amount of repayments due the general fund account for reimbursement of expenses incurred in connection with the administration of titles II, XVI, and XVIII of this Act and subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, and chapters 2 and 21 of the Internal Revenue Code of 1954. A final accounting of such payments for any fiscal year shall be made at the earliest practicable date after the close thereof. There are hereby authorized to be made available for expenditure, out of any or all of the Trust Funds, such amounts as the Congress may deem appropriate to pay the costs of administration of this title and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 other than those referred to in clause (i) of the first sentence of this subparagraph.

"(B) After the close of each fiscal year the Secretary of Health, Education, and Welfare shall determine the portion of the costs, incurred during such fiscal year, of administration of this title, title XVI, and title XVIII and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clauses (i) of the first sentence of subparagraph (A)), which should have been borne by the general fund in the Treasury and the portion of such costs which should have been borne by each of the Trust Funds: except that the determination of the amounts to be borne by the general fund in the Treasury with respect to expenditures incurred in carrying out such functions specified in section 232 shall be made pursuant to the method prescribed by the Board of Trustes under paragraph (4) of this subsection. After such determination has been made, the Secretary of Health, Education, and Welfare shall certify to the Managing Trustee the amounts, if any, which should be transferred from one to any of the other of such Trust Funds, and the amounts, if any, which should be transferred between the Trust Funds (or one of the Trust Funds) and the general fund in the Treasury, in order to insure that each of the Trust Funds and the general fund in the Treasury have borne their proper share of the costs, incurred during such fiscal year, of administration of this title and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of subparagraph (A)). The Managing Trustee is authorized and directed to transfer any such amounts in accordance with any certification so made.".

(2) Subsection (g) of such section is further amended by adding at the end thereof the following new paragraph:

"(4) The Board of Trustees shall prescribe before January 1, 1977, the method of determining the costs which should be borne by the general fund in the Treasury of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of paragraph (1)(A)). If at any time or times thereafter the Boards of Trustees of such Trust Funds deem such action advisable they may modify the method so determined.".

(e) Any persons the Board of Trustees finds necessary to employ to assist it in performing its functions under section 201(g)(4) of the Social Security Act may be appointed without regard to the civil service or classification laws, shall be compensated, while so employed at rates fixed by the Board of Trustees, but not exceeding $100 per day, and, while away from their homes or regular places of business, they may be allowed traveling expenses, including per diem in lieu of subsistence, as authorized by law for persons in the Government service employed intermittently.

(f) The Secretary shall not make any estimates pursuant to section 201(g)(1)(A)(ii) of the Social Security Act before the Board of Trustees prescribes the method of determining costs as provided in section 201(g)(4) of such Act. The determinations pursuant to section 201(g)(1)(B) of the Social Security Act with respect to the carrying out of the functions of the Department of Health, Education, and Welfare, specified in section 232 of such Act, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of section 201(g)(1)(A) of the Social Security Act), during fiscal years ending before the Board of Trustees prescribes the method of making such determinations, shall be made after the Board of Trustees has prescribed such method. The Secretary of Health, Education, and Welfare shall certify to the Managing Trustee the amounts that should be transferred from the general fund in the Treasury to the Trust Funds (as referred to in section 201(g)(1)(A) of the Social Security Act) to insure that the general fund in the Treasury bears its proper share of the costs of carrying out such functions in such fiscal years. The Managing Trustee is authorized and directed to transfer any such amounts in accordance with any certification so made.

(g) Section 6103 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"(g) Disclosure of Information to Secretary of Health, Education, and Welfare.—The Secretary or his delegate is authorized to make available to the Secretary of Health, Education, and Welfare information returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F for the purpose of carrying out, in accordance with an agreement entered into pursuant to section 232 of the Social Security Act, an effective information return processing program".

(h)(1) Section 230(b)(2) of the Social Security Act is amended to read as follows:

"(2) the ratio of (A) the average of the wages (as defined in section 209, but without regard to subsection (a) thereof) of all employees as reported to the Secretary for the calendar year preceding the calendar year in which the determination under subsection (a) with respect to such particular calendar year was made to the latest of (B) the average of the wages (as defined in section 209, but without regard to subsection (a) therof) of all employees as reported to the Secretary for the calendar year 1972 or the calendar year preceding the most recent calendar year in which an increase in the contribution and benefit base was enacted or a determination resulting in such an increase was made under subsection (a),".

(2) Section 230(b) of such Act is further amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the average of the wages (as defined in section 209, but without regard to subsection (a) thereof) for the calendar year 1976 (or any prior calendar year) shall, in the case of determinations made under subsection (a) prior to December 31, 1977, be deemed to be an amount equal to 400 per centum of the amount of the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such calendar year."

(i)(1) Section 203(f)(8)(B)(ii) of the Social Security Act is amended—

(A) in clause (I) thereof, by striking out "taxable wages of all employees as reported to the Secretary for the first calendar quarter of the calendar year", and inserting in lieu thereof "wages (as defined in section 209, but without regard to subsection (a) thereof) of all employees as reported to the Secretary for the calendar year preceding the calendar year", and

(B) in clause (II) thereof, by striking out "taxable wages of all employees as reported to the Secretary for the first calendar quarter of 1973, or, if later, the first calendar quarter of the most recent calendar year", and inserting in lieu thereof "wages (as defined in section 209, but without regard to subsection (a) thereof) of all employees as reported to the Secretary for the calendar year 1972, or, if later, the calendar year preceding the most recent calendar year".

(2) Section 203(f)(8)(B)(ii) of such Act is further amended by adding at the end thereof the following new sentence: "For purpose of this clause (ii), the average of the wages (as defined in section 209, but without regard to subsection (a) thereof) for the calendar year 1976 (or any prior calendar year) shall, in the case of determinations made under subparagraph (A) prior to December 31, 1977, be deemed to be an amount equal to 400 per centum of the amount of the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such calendar.

**Mr. NUNN.** Mr. President, I ask unanimous consent that the name of the Senator from Maine (Mr. Hathaway) and the name of the Senator from Lousiana (Mr. Johnston) be added as cosponsors of the amendment.

**The VICE PRESIDENT.** Without objection, it is so ordered.

**Mr. NUNN.** Mr. President, this amendment is the work of the Senator from New Hampshire (Mr. McIntyre). I join with him as a prime sponsor of the amendment. In his absence today he asked me to present the amendment.

The amendment which we propose would amend the provisions of the Social Security Act to consolidate the reporting of wages by employers for income tax withholding and old-age, survivors, and disability insurance purposes, and for other purposes.

The amendment would change the present quarterly wage reporting system for social security purposes—IRS form 941—to an annual system utilizing a modified IRS Form W2.

In other words, it would change the number of reports from four during a year to two.

The main objective which we seek in this amendment is to reduce part of the most difficult and costly Federal paperwork burden on small business: the Internal Revenue Service Form 941. This form, which falls most heavily on small- and medium-sized businesses, costs employers $235 million per year in clerical and accounting costs, according to the President's Advisory Council on Management Improvement. This particular form has been singled out by the National Federation of Independent Business as one of the most onerous of the paperwork forms imposed by the Federal Government. In an NFIB survey it was estimated by 64.9 percent of the businesses contacted that their overhead costs could be significantly reduced if this form were changed from a quarterly to an annual report.

The Federal Small Business Administration surveyed 1,200 other businesses. The SBA survey determined that 8 out of every 10 respondents favored eliminating form 941 and using IRS Form W2 to obtain data for social security purposes. The vast majority of the businessmen surveyed said that the changeover of the reporting system from a quarterly to an annual one would significantly reduce their expenses.

On September 11, 1971, the President's Advisory Council on Management Improvement submitted a report which urged the President to consider establishing a system of annual reporting, and had this to say:

> A system of a single annual wage report, technically feasible and administratively adequate, would result in savings to business estimated in excess of $200 million annually; and in substantial net savings within the Internal Revenue Service and the Social Security Administration.

The President's Council in the conclusion of its report, went on to state:

> A study of the advantages of a single annual report against objections raised over the past twenty years indicates that:
>
> 1. Data processing systems have made tremendous strides since the initial proposal that a single reporting system is not only technically feasible but also administratively adequate.
>
> 2. The objections raised in the past are no longer of sufficient weight to continue the now obsolescent system.
>
> 3. The annual reduction in the number of reports submitted by business is estimated at approximately 18 million, with a savings in excess of 200 million dollars. Savings to the Federal Government would be reflected in a reduction in operating costs and increased compliance income, but accurate estimates of dollar savings will have to wait on the development of the system.

Mr. President, it is impossible to judge how many employees of the Federal Government could be reduced over a period of time by the amendment being proposed, but it is fair to say it would make a significant difference not only to the small businessmen of the Nation but also to the Federal Government in terms of employees.

According to our information, we do not have any objection from the Treasury Department.

This amendment is primarily the work of the Senator from New Hampshire (Mr. McIntyre). He and his capable staff worked long and hard on it. The Committee on Finance has taken the original amendment and made substantial changes without obscuring the original purposes of the amendment. As I stated, the Senator from New Hampshire is entitled to credit for the proposal. I have discussed the matter with the Senator from Virginia (Mr. Harry F. Byrd, Jr.) and the Senator from Utah (Mr. Bennett).

Mr. HARRY F. BYRD, JR. Mr. President, I commend the able Senator from Georgia for the amendment he has just proposed.

As he pointed out, the Senator from New Hampshire late last year offered an amendment with a similar purpose, namely, to require annual rather than quarterly reporting of income to the Internal Revenue Service for social security earnings record purposes. The McIntyre amendment included a provision attributing social security quarters of coverage on the basis of annual income. This provision was quite costly and the amendment in that form could not be accepted by the manager of the bill.

The pending amendment would achieve the same purpose but would not include the costly provision in last year's amendment.

Mr. President, I again commend the Senator from Georgia. I am glad to accept the amendment.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. NUNN. I yield.

Mr. PROXMIRE. As I understand the amendment it would mean that firms would report annually on their social security tax payments instead of quarterly.

Mr. NUNN. That is correct. At the request of the staff and members of the Committee on Finance the proposal was changed so that the annual report would be divided into quarterly segments so that the essential part of the social security law would not be affected.

Mr. PROXMIRE. Would this affect the timing of the payments of the corporations to the Treasury?

Mr. NUNN. No, it would not. The only thing it would affect is the paperwork.

Mr. PROXMIRE. Does the Social Security Administration have any objection?

Mr. NUNN. We have no formal opinion from the Social Security Administration.

Mr. PROXMIRE. Does the Senator know whether the Treasury Department supports the amendment? The Senator has consulted with them informally and they do not object. Is that correct?

Mr. NUNN. As I understand it, the Internal Revenue Service is in favor of the amendment, although I cannot give the Senator formal notification on that point. I understand they are in favor of it.

Mr. PROXMIRE. There is no effect on the timing of the payments of the amount to be paid. Is that correct?

Mr. NUNN. It has no revenue effect whatsoever.

Mr. PROXMIRE. I thank the Senator.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The VICE PRESIDENT. The clerk will report the next section of the committee amendment.

The assistant legislative clerk read as follows:

> Sec. 13. Repeal of Regulatory Taxes on Filled Cheese.
>
> (a) In General.—
>
> (1) Part II of subchapter C of chapter 39 (relating to regulatory provisions affecting filled cheese) is repealed.
>
> (2) The table of parts of such subchapter is amended by striking out the item relating to part II.
>
> (b) Technical and Conforming Changes.
>
> (1) Section 7236 (relating to false branding, etc.) is repealed.
>
> (2) The table of sections of part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7236.
>
> (3) Section 7266 (relating to offenses relating to filled cheese) is repealed.
>
> (4) The table of sections of subchapter B of chapter 75 is amended by striking out the item relating to section 7266.
>
> (5) Section 7303 (relating to property subject to forfeiture) is amended by striking out paragraphs (4) and (5) and inserting in lieu thereof the following:
>
> "(4) Purchase or receipt of adulterated butter.—All articles of adulterated butter (or the full value thereof) knowingly purchased or received by any person from any manufacturer or importer who has not paid the special tax provided in section 4821.
>
> "(5) Packages of oleomargarine.—All packages of oleomargarine subject to the tax under subchapter F of chapter 38 that shall be found without the stamps or marks provided for in that chapter.".
>
> (6) Section 6808 (relating to cross references) is amended by striking out paragraph (5).
>
> (7) Section 7103(d)(3) (relating to cross references) is amended by striking out subparagraph (C).
>
> (c) Effective Date.—The repeals and amendments made by this section shall apply to filled cheese manufactured, imported, or sold after the date of enactment of this Act.

Mr. BENNETT. Mr. President, I have an amendment at the desk, and ask unanimous consent, out of order, that it may be taken up at this time.

The PRESIDING OFFICER (Mr. William L. Scott). Is there objection? Without objection, it is so ordered, and the clerk will read the amendment.

The assistant legislative clerk read the amendment as follows:

At the end of the bill, insert the following:

> "Certain dividend income received from a nonincludable life insurance company.—In the case of an affiliated group for corporations filing or required to file a consolidated return under section 1501 for any taxable year, there shall be excluded from consolidated personal holding company income and consolidated adjusted ordinary gross income for purposes of this part dividends received by a member of the affiliated group from a life insurance company taxable under section 802 that is not a member of the affiliated group solely by reason of the application of paragraph (2) of subsection (b) of section 1504."
>
> Sec. 2. The amendment made by the first section of this Act shall apply to taxable years beginning after December 31, 1973.

Mr. BENNETT. Mr. President, the purpose of the amendment is to deal with the treatment of dividends received by a member of an affiliated group from a subsidiary which is not permitted to file a consolidated return with the other members of the group because it is a life insurance company.

Under present law, a personal holding company may be subject to a special tax of 70 percent of its undistributed personal holding company income. Generally, dividends are included within the term personal holding company income. In the case where an affiliated group of corporations files a consolidated return, it calculates its personal holding company income on a consolidated basis, and any dividends that may pass between members of this group are not treated as personal holding company income. Life insurance companies, however, are not eligible to participate in the filing of a consolidated return even if they meet all the requirements. In this case, dividends that pass from a life insurance subsidiary to a member of an affiliated group filing a consolidated return are treated as personal holding company income.

My amendment simply provides that in this case where an affiliated group of corporations files a consolidated return, a dividend that is received by a member of the group from a life insurance company which is a subsidiary is not to be taken into account in determining whether the group is to be treated as a personal holding company. The amendment applies for tax year beginning after 1972.

I have discussed the amendment with the Treasury this afternoon. They consider it to be a desirable technical improvement of the law and they have no objection to it.

Mr. PROXMIRE. Mr. President, the distinguished Senator from Utah courteously discussed the amendment with me a few minutes ago, and, on the basis of the discussion, it seems to be logical; but the difficulty, as I understand, is that life insurance companies are generally treated differently than other corporations. In this case they would be given the same privilege that other corporations are given. Is that not the case?

Mr. BENNETT. Let us turn it the other way around. At the present time a consolidated group of corporations that does not contain a life insurance company is allowed to consolidate all of its income, and none of that is considered to affect the question of whether or not the holding company becomes a personal holding company.

Mr. PROXMIRE. If the Senator will permit, I want to suggest that he follow this procedure. It would be very useful to this Senator, and I think to the Senate. This is a complicated proposal. I have discussed it with some members of the staff. Although they are very aware of the tax code and they are skilled in interpreting it, they say they are confused with this amendment. They say it is complicated. I think we would be well served if we could have it printed in the RECORD and let it go over until tomorrow to give us a chance to look it over.

Mr. BENNETT. I will be very happy to do that.

Mr. President, I withdraw my request for immediate consideration of the amendment.

The PRESIDING OFFICER. Is there objection to the request to withdraw the amendment and have it printed in the RECORD? Without objection, it is so ordered.

The question now is on the division involving section 13 of the committee amendment.

Mr. PROXMIRE. Mr. President, I would like to ask a question of the Senator from Virginia. As I understand this amendment, it would cost $10,000. This provision in the law was not designed for revenue purposes. It still provides that the Food and Drug Administration would have jurisdiction, because it is the principal responsible agent with respect to the product and the supervision of that product. Is that correct?

Mr. HARRY F. BYRD, JR. The Senator is correct.

Mr. PROXMIRE. And the Treasury has no objection?

Mr. HARRY F. BYRD, JR. The Treasury has no objection.

Mr. PROXMIRE. How about the precedents? Would this have any effect on other similarly situated taxpayers that might be beneficiaries?

Mr. HARRY F. BYRD, JR. At the present time they are not regulated by the IRS, so the Food and Drug Administration now has full authority and would also have full authority under the proposal.

The Senator from Virginia has no idea who would be affected by it, either adversely or beneficially.

Mr. GRIFFIN. Mr. President, I want to acknowledge that the junior Senator from Michigan does have an interest in this amendment, and among those who will be affected would be a constituent in my State.

I ask unanimous consent that there be printed in the RECORD at this point a letter from the Department of the Treasury to the chairman of the Senate Finance Committee, as well as an earlier letter from the Assistant Secretary of the Treasury which was addressed to Representative CHAMBERLAIN, of Michigan, on this subject.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE DEPARTMENT OF THE TREASURY,
*Washington, D.C., September 25, 1973.*

Hon. WILBUR D. MILLS,
*Chairman, Committee on Ways and Means, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Treasury Department on H.R. 8676 introduced by Mr. Chamberlain. H.R. 8676 would repeal the tax on filled cheese imposed by Part II of Subchapter C of Chapter 39 of the Internal Revenue Code.

Section 4831 of the Code imposes a tax of one cent a pound on filled cheese manufactured in the United States. On imported filled cheese, the rate is eight cents a pound. In addition, there is a system of occupational taxes: $400 a year for each factory; $250 a year for wholesale dealers; $12 a year for retail detalers.

Filled cheese is defined in section 4846 of the Code as meaning

"All substances made of milk or skimmed milk, with the admixture of butter, animal oils or fats, vegetable or any other oils, or compounds foreign to such milk, and made in imitation or semblance of cheese. Substances and compounds, consisting principally of cheese with added edible oils, which are not sold as cheese or as substitutes for cheese but are primarily useful for imparting a natural cheese flavor to other foods shall not be considered 'filled cheese' within the meaning of this part."

The tax on filled cheese was imposed by the Act of June 6, 1896. It was one of a number of taxes imposed during the period before World War I designed to prevent the sale of factory prepared food compounds in competition with natural products. Other taxes of a similar nature were those on adulterated and renovated butter, oleomargarine, and mixed flour.[1] In addition to restricting competition, the laws also were advanced as preventing the sale of mislabeled and deleterious products.

Prevention of the sale of these products was not achieved by the tax rates, which generally were quite low, as in the case of the one cent a pound tax on domestically produced filled cheese, but by requirements as to the packaging, labeling, and the posting of signs. In the case of filled cheese the requirements of the law and regulations that are most effective in preventing the distribution of the product are those that must be met by retail dealers. Section 4834 of the Code states that:

"Retail dealers in filled cheese shall sell only from original stamped packages, and shall pack the filled cheese when sold in suitable wooden or paper packages, which shall be marked and branded in accordance with rules and regulations to be prescribed by the Secretary or his delegate."

The regulations expand on this requirement by saying, "Wooden or paper packages similar to those usually employed in selling butter or lard at retail may be used by the retailer in filled cheese." In addition the packages must have the dealer's name and address imprinted thereon plus the legend, "— pound(s) Filled Cheese." The words "pound" and "Filled Cheese" must be in letters not less than one-quarter inch square. A further requirement set forth in section 4834 of the Code provides that:

"Every wholesale dealer and every retail dealer in filled cheese shall display in a conspicuous place in his salesroom a sign bearing the words 'Filled cheese sold here' in black-faced letters not less than six inches in length, upon a white ground, with the name and number of the revenue district in which his business is conducted."

The net effect of these restrictions has been to prevent all but a small amount of filled cheese from being sold. Our statistics on this product are consolidated with those for the taxes on adulterated and renovated butter, so that we are not entirely certain as to how much we collect from filled cheese alone. The combined figure for poundage taxes for the fiscal year 1972 was about $4,000. In addition there were 59 occupational tax stamps purchased. In the first nine months of the 1973 fiscal year, poundage tax revenues increased to $10,000. This increase may be due in large part to the interest of consumers in reducing their intake of saturated fats. Incorporation of vegetable oils in natural cheese is considered to be helpful in this respect through reducing the portion of the final product derived from milk.

The Treasury Department favors repeal of the tax on filled cheese. Repeal would have minimal revenue significance. While, up until now, the tax has not been an administrative problem, questions have arisen recently as to whether cheese spreads and cheese toppings qualify for exemption from the tax under the terms of the second sentence quoted from section 4846 of the Code which provides that "Substances and compounds, consisting principally of cheese and added edible oils, which are not sold as cheese or as a substitute for cheese but are primarily useful for imparting a natural cheese flavor to other foods shall not be considered 'filled cheese' within the meaning of this part."

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[1] The tax on domestic oleomargarine was repealed in 1950, on mixed flour in 1942.

For many years, cheese spreads and toppings have been exempt under this provision, which was added to the law in 1938, but we have doubts as to whether they should be. Certainly, there is considerable question as to whether cheese spreads should be considered as not being "'substitute(s) for cheese." The 1938 amendment was really addressed to a mixture of cheese and vegetable oil which was sprayed on products such as popcorn. Repeal of the tax would obviate any difficulties in this area.

This was one of the taxes that would have been repealed by H.R. 25, 92d Congress, the so-called "Deadwood Bill." The explanation of the bill prepared by the Staff of the Joint Committee on Internal Revenue Taxation, dated October 13, 1971, pointed out (page 34) that any requirements as to the wholesomeness and purity of products falling within the filled cheese category are enforced by the Food and Drug Administration outside the provisions of the Internal Revenue Code. In view of this, and the fact that practically no other factory prepared food compounds are taxed, we believe that there is no reason why production and sale of this particular product should be restricted by the tax law. Instead, it should be treated the same as other manufactured foods.

I might add that there is a similar restrictive tax provision in Chapter 39 relating to adulterated and renovated butter. If your Committee should decide to support repeal of the tax on filled cheese, we believe it would be appropriate to repeal the butter tax at the same time.

The Department has been advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,
FREDERIC W. HICKMAN,
*Assistant Secretary.*

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THE DEPARTMENT OF THE TREASURY,
*Washington, D.C.*

HON. CHARLES E. CHAMBERLAIN,
*House of Representatives,*
*Washington, D.C.*

DEAR MR. CHAMBERLAIN: This is in reply to your letter of June 20 requesting my comments on H.R. 8676 which you introduced.

The Treasury Department has no objection to repeal of the tax on filled cheese as proposed by H.R. 8676. As you point out, the tax serves no revenue purpose, dating from the time when excises were used to restrict marketing of products considered unwholesome or deceptive. We concur in the analysis of this tax and that on adulterated butter by the Staff of the Joint Committee on Internal Revenue Taxation in its explanation of H.R. 25, 92nd Congress (the so-called "deadwood bill"). This analysis states:

"Sec. 522 (amends ch. 39 of the Code)—regulatory taxes

Subsection (b) repeals provisions relating to taxes on adulterated butter and filled cheese. Requirements as to wholesomeness and purity of these products are enforced by the Food and Drug Administration outside the provisions of the Code. No taxes are collected as to adulterated butter; the filled cheese tax collections have ranged in recent years between $2,000 and $5,000 per year. These taxes date from the 1890's, when they served the dual functions of restricting trade in these items and insuring purity (e.g., restricting the use of rancid butter). At present, they serve no internal revenue purpose. Appropriate regulation of commerce can be accomplished in other provisions of law."

Sincerely yours,
MARTIN J. BAILEY,
FREDERIC W. HICKMAN.

Mr. GRIFFIN. Mr. President, in addition to the other points that have been made in the colloquy between the Senator from Wisconsin and the Senator from Virginia, let me call attention to the fact that the staff of the Joint Committee on Internal Revenue Taxation has been engaged in what I understand is called the "deadwood" bill—cleaning out the deadwood in the Internal Revenue Code.

Last year there was a bill, referred to generally as the "deadwood" bill, which actually passed the House of Representatives, but did not receive attention in the Senate. But among the provisions that the staff of the Joint Committee on Internal Revenue Taxation recommended be included in the so-called "deadwood" bill was a provision repealing this tax, which has been on the books since 1896, and which was put on the books more to discourage imports and to impose labeling requirements than it was to raise revenues.

While in the last year the revenue went as high as $10,000, in the typical year over the last decade the revenues have ranged between $2,000 a year and $4,000 a year. So there is no revenue interest in this, and the original purpose of the act in 1896 is now being fulfilled by the Food and Drug Administration.

I want to point out that this particular amendment is approved not only by the Department of the Treasury but by the Agriculture Department and by the Food and Drug Administration, which is now regulating the matters that were originally intended.

This is an amendment which deserves to be adopted. There is not any purpose other than a worthy purpose involved here, and I hope the Senate will adopt the amendment.

The PRESIDING OFFICER. The question is on agreeing to the division of the committee amendment referring to section 13.

The division was agreed to.

The clerk will state the next section of the committee amendment.

The assistant legislative clerk read as follows:

On page 19, lines 14 through 17, insert a new section as follows:

SEC. 14. ACCRUED VACATION PAY.

Section 97 of the Technical Amendments Act of 1958 is amended by striking out "January 1, 1973" and inserting in lieu thereof "January 1, 1974".

The PRESIDING OFFICER. The question is on agreeing to the amendment, as amended.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to section 14 of the committee amendment.

Mr. PROXMIRE. Mr. President, I understand that this amendment refers to accrued vacation pay.

The PRESIDING OFFICER. The Senator is correct.

Mr. PROXMIRE. Mr. President, this amendment involves the timing of deductions for accrued vacation pay—that is, the pay given to employees while on vacation or in lieu of vacation. Prior to 1954, the Internal Revenue Service held that a deduction for vacation pay could be taken in a given year—year 1—even though the specific amount to be paid to particular individuals could not be ascertained until the following year—year 2.

Obviously, when we have that situation, they take the deduction, even though they have not made the payment. So they get the use of the money on a tax-free basis for 1 year. In 1954, for a variety of reasons, the Service revised its position and ruled that vacation pay deductions could not be taken until "year 2" because it was not until that year that the vacation pay liability to specific employees was clearly determined.

Many firms would have been unable to deduct anything on account of vacation pay in the year this ruling became effective, because that year's vacation pay had already been deducted in the prior year under the old rules, while the following year's pay would not be deductible until a later year under the new rules. The prospect of a one-time loss of this deduction reportedly led large auto companies and others to request repeated postponements of the effective date of the proposed revenue ruling. These were granted by the Internal Revenue Service. In 1958, Congress took over the job of postponing the new rules; the last of seven statutory postponements expired on January 1, 1973. This amendment would postpone the new rules yet again, this time to January 1, 1974.

Mr. President, it seems to me that we ought to draw the line somewhere. It seems obvious to me that it is inequitable to permit the taxpayer to take a deduction even though he has not made the payment.

Like prior, similar legislation, this amendment is accompanied by a promise that the problem of accounting for accrued vacation pay will be studied and that "permanent legislation" will then be prepared. Similar promises in the past have not borne fruit. The basic problem for the Treasury is to devise a transitional rule which will permit firms to adopt the Service's new vacation pay accrual rules without passing through a year in which they are not entitled to claim any vacation pay deductions at all. But the real question is why should these companies get a special tax break by continuing to receive a deduction in the year before they actually incur the expense.

It is estimated that if this amendment

is enacted, Federal revenues during the current year will be approximately $25 million lower than they would otherwise be.

There does not seem to be any justification in the committee report or elsewhere as to why a firm should be allowed to take a deduction in a year when they do not actually make the payment; they do not make it until the following year.

I would hope that the Senate will decide to deny this amendment and, at long last, require that this arrangement be put on a pay-as-you-go basis, the way every other taxpayer is required to do.

Mr. HARRY F. BYRD, JR. Mr. President, I am very much inclined to the view expressed by the Senator from Wisconsin. I think the arrangement should be placed on a pay-as-you-go basis. The fact is that Congress, on several different occasions, has postponed doing that. We are now into another year. We are in the latter part of January 1974. I do not see how, as a matter of propriety or fairness, we can fail to enact this amendment and carry it over until January 1 of 1975, as it does. We are already into 1974. So I would hope that the Senate will approve the amendment for this particular year. So far as the Senator from Virginia is concerned, I would vote to put the arrangement on a pay-as-you-go basis when the law next expires, which will be January 1, 1975.

Mr. PROXMIRE. It is already past time this year. The Senator from Virginia makes a very good point. I would like to see if we could not get some commitment from the Committee on Finance to do its very best to give assurance such as we have received from the Senator from Virginia. I would like to see this arrangement on a pay-as-you-go basis from now on. However, as the Senator from Virginia has pointed out, we are already into 1974. But we shall get into the same argument next year.

Mr. HARRY F. BYRD, JR. Mr. President, as the Senator from Wisconsin knows, I can speak only for myself. I can make no commitment for the Committee on Finance, particularly on a matter as to which Congress, on seven different occasions, has postponed the time. So far as my one vote is concerned, I plan to vote, at the appropriate time, to put the arrangement on the appropriate basis; but not now, because to do so would be very unfair.

Mr. PROXMIRE. The acting manager of the bill (Mr. HARRY F. BYRD, JR.) agrees that any system to permit taxpayers to take a deduction in the year prior to the year for the payment of vacation pay is not right. He says that in the future he will do his best to see that the payment is made on a pay-as-you-go basis. The Senator states that it cannot be done this year, and I think he is correct.

I should like to ask the Senator from Utah if he supports the position of the Senator from Virginia.

Mr. BENNETT. I certainly support the objectives. I am not aware of the technical problems that may make the change difficult. I think we would like to clear it out of the way, so far as we can. I agree that we ought to be on a current-year basis, both with income and with deductions. I will certainly, gladly, with the Senator from Virginia, see if that cannot be worked out.

Mr. PROXMIRE. I should like to request that the Senator consider the possibility of discussing with the chairman of the committee (Mr. LONG) writing to the Treasury Department to see if they can work out a system of putting this arrangement on a regular basis from now on.

Mr. BENNETT. I am sure that the two of us will be glad to request that of the Senator from Louisiana.

Mr. HARRY F. BYRD, JR. I think I should make it clear that I cannot guarantee what the Committee on Finance will do. All I can do is to guarantee my one vote.

Mr. PROXMIRE. I appreciate that very much, but the Senator from Virginia has influence on that committee, and all I ask is that he take the position he has already taken here. The Senator from Utah has indicated that he supports that principle, too, and if the chairman of the committee will agree, then I think we have made some progress today.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment section or division.

The assistant legislative clerk read as follows:

> On page 19, line 18, over to and including line 9 on page 22, insert a new section 15, as amended, entitled "Certain casualty losses."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, this committee amendment is an amendment that I certainly have mixed feelings about. In the first place, it is an amendment offered by the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) who is so courteous, so helpful, and so concerned about the problems of all of us in the Senate. He has been especially helpful to me. I know of his deep personal interest in this matter. But there are problems with this amendment. It provides for special tax treatment for victims of certain flood disasters. Essentially, it is a special interest bill to aid those who suffered property losses in the Buffalo Creek flood. The benefits are limited to a very narrowly defined class of disaster victims. To qualify a taxpayer must have been the victim of a flood in 1972 which was declared to be a national disaster by the President, claimed a casualty loss, and then later was compensated for the loss through a negligence claim. This does not include any compensation received from insurance policies which is the more usual case in disaster losses. Apparently the residents of Buffalo Creek, W. Va., who were flooded when the Pittston Coal Co. dam broke and who subsequently sued and collected for negligence are the only taxpayers who fit into this category.

Normally, if a taxpayer takes a casualty loss deduction and then is later compensated for the loss, that compensation must be considered income and taxed as such. Obviously, if he is compensated under those circumstances, that seems to be logical and proper. Since the taxpayer has been restored to the financial position he was in before the casualty, he repays the tax benefit in this way. Instead, this amendment allows a taxpayer who has been restored financially through the proceeds of a law suit to receive special tax treatment on that compensation. Instead of including it in income in the year it was received, the taxpayer can obtain permission from IRS to reduce the basis of the replacement property with part of the compensation; and then take the remainder as income over a 5-year period.

The basis of the property is reduced by that amount which, by excluding it from income, saves the taxpayer $5,000 in taxes. Obviously, this will vary from taxpayer to taxpayer, depending on other earnings, marginal rates, and other deductions.

Hypothetically, the amount deducted will eventually be taxed at capital gains rates since it will have the effect of increasing the gain realized when the taxpayer sells the property. There are two major benefits to the taxpayer. First, the tax is delayed so that instead of being paid in the year the income is received, it is paid when the taxpayer sells the property. Second, the gain will be taxed at capital gains rates which are half the rates paid on income. Furthermore, the more usual case will occur if the taxpayer dies and leaves the property to an heir, completely avoiding taxation of the gain.

The rest of the compensation is treated as ordinary income spread over 5 years and then taxed accordingly. By spreading out the remainder over 5 years, the taxpayer will be taxed on that money at a lower marginal rate than would apply to the entire amount if reported in 1 year.

Aside from the extraordinary tax advantages, this amendment has two more serious deficiencies. The average taxpayer who is the presumed beneficiary of the amendment, in practice, will not benefit from its provisions. First of all, the benefit will only apply to taxpayers who on their own initiative receive permission for this alternative treatment from the Treasury Secretary. Only taxpayers sophisticated enough and with the means to pursue such an administrative ruling will be able to benefit.

The second problem is that it is very complicated, and requires some sophisticated computations. The taxpayer will have to compute what his income tax would be without counting the compensation and then compute how much compensation he would have to add to taxable income that year in order to increase his taxes by $5,000. The difference between those sums of taxable income is the amount by which the basis of the property can be reduced. Since this amendment is supposed to be designed to help the average taxpayer whose property was destroyed by the flood, it should be written in terms comprehensive to the average taxpayer and not limited to those with the means and ability to pursue such an administrative remedy.

Furthermore, there are no limits on the amount of benefits which can be claimed by any taxpayer. In addition to helping the average taxpayer through a period of financial hardship, this amendment would provide a windfall to the wealthy or corporate taxpayer for whom a postponement of tax liability can mean a large tax savings.

We have not been able to find any actual statistics on who will be affected by this amendment or what the revenue cost is.

Mr. President, I understand that losses by victims of this flood disaster are great. All of us who have ever been associated with floods and who have been aware of the losses of those who suffered from them, know that no compensation can possibly be adequate.

The problem, however, is that where we have a situation which seems to provide a great deal of benefit and a great deal of gain more than the actual loss when we calculate all the taxes involved. It seems to be inequitable. Of course, it is hard to prevent that from becoming a dangerous precedent.

The Treasury opposes the amendment, I think, on the ground primarily of precedent.

There seems to be no estimate of how much this will cost the Treasury but the cost might be fairly substantial.

Frankly, Mr. President, the principal objection I have to the amendment is the fact that it would permit, as I said, a wealthy taxpayer or a corporate taxpayer to obtain a large windfall, to be compensated to the extent that he actually came out ahead because of the flood. I think none of us would accept that as being fair or reasonable.

For that reason, I have suggested a compromise and I am hopeful that the Senator from West Virginia will be able to accept it because it gives complete coverage to the overwhelming majority of modest-income people who would suffer substantial coverage, and virtually everyone else—because wealthy people would be fully taken care of but will not receive any of his compensation——

Mr. ROBERT C. BYRD. Would the Senator briefly state the modification which he is suggesting, please?

Mr. PROXMIRE. The modification I am suggesting is that the taxpayer whose income is $15,000 or less would receive the full and complete benefit of the amendment. To the extent that his income exceeded $15,000, there would be a proportionate reduction in the amount he could benefit. In other words, if he had an income of $20,000 he would receive three-quarters of this additional benefit above full compensation.

Mr. ROBERT C. BYRD. May I interrupt the Senator—in other words, if the victim's income is $20,000 annually, he would not be penalized for the $15,000—anything on the first $15,000?

Mr. PROXMIRE. He would not be penalized at all.

Mr. ROBERT C. BYRD. He would be required, then, to repay only one-quarter of the IRS refund.

Mr. PROXMIRE. That is correct. I want to make it clear that I am referring to income, not loss. In other words, if a taxpayer has an income of $12,000 and suffers a $50,000 loss, which could well occur, he would receive full compensation and he would not have to make any refund whatsoever. He would receive the full refund.

Mr. ROBERT C. BYRD. The Senator's modification does not go to the loss.

Mr. PROXMIRE. That is correct.

Mr. ROBERT C. BYRD. It is based on the income of the party.

Mr. PROXMIRE. That is correct.

Mr. ROBERT C. BYRD. And if the party's income is $15,000 or less, his refund of the Internal Revenue Service repayment is fully waived. Is that correct?

Mr. PROXMIRE. That is correct. The provisions of this amendment would apply.

Mr. ROBERT C. BYRD. And as his income is increased over $15,000, then the amount of the repayment is prorated accordingly.

Mr. PROXMIRE. The Senator is correct. He states it much better than I did.

Mr. ROBERT C. BYRD. It is to be refunded, dollar for dollar on a pro rata basis, once his income is over $15,000.

Mr. PROXMIRE. He would only get a portion as much as he would otherwise get for the amount over that.

Mr. ROBERT C. BYRD. I see. So the person whose income was $20,000 would repay only one-fourth of the Internal Revenue Service refund?

Mr. PROXMIRE. It would depend, of course, on the size of his loss. He would take everything up to $15,000, and after that it would be prorated, depending upon the relationship between the $15,000 and his full income. If it were $20,000, it would be three-quarters that would be forgiven; if it were $45,000, it would be a third. It would relate to the size of his income, so far as the additional compensation is concerned. Under no circumstances would he refund the entire compensation. But it would limit the amount that a wealthy taxpayer would receive in that manner. We would not want to wipe out anybody completely.

What I am saying is that this would apply to the first $15,000 of income, and above that he would get a dollar-for-dollar deduction.

Mr. ROBERT C. BYRD. May I ask this question: If the victim's income is $10,000, it makes no difference what his losses were. He does not have to repay to the Internal Revenue Service any of its refund. Is that correct?

Mr. PROXMIRE. Yes. The full provisions of this amendment—no question about that.

Mr. ROBERT C. BYRD. If his income is $15,000 and he happened to receive a refund from the Internal Revenue Service of $200, he does not have to pay any of that back.

Mr. PROXMIRE. That is correct.

Mr. ROBERT C. BYRD. If his income is $20,000 and he received a refund from the Internal Revenue Service of $200, he would repay $50?

Mr. PROXMIRE. That is my understanding, yes. That is certainly the intent of the amendment, exactly.

Mr. ROBERT C. BYRD. If his income were $25,000—and not many coal miners living in Buffalo Creek have that kind of income. I dare say that the Senator's modification would not affect more than 5 percent, if that much, of those who suffered losses.

Mr. PROXMIRE. That is correct. That is why we designed it that way.

Mr. ROBERT C. BYRD. But if his income were $25,000 and he had received a refund of $500——

Mr. PROXMIRE. He would then repay two-fifths.

Mr. ROBERT C. BYRD. He would repay $200. And the Senator's amendment does not go to the payment of interest.

Mr. PROXMIRE. The payment of interest is taken care of by the perfecting amendment offered by the Senator from West Virginia earlier today.

Mr. ROBERT C. BYRD. Mr. President, I do understand the Senator's amendment.

I believe it was estimated that perhaps 500 persons would be affected by my amendment which the committee accepted some days ago before reporting the bill to the floor. I was also advised that the total cost would be something like a million dollars. We are really talking about chicken feed here. We are talking about poor families who have spent their IRS refunds and who would probably have to borrow the money to restore the refunds to IRS.

But the Senator feels that we may be setting a questionable precedent here, and I understand why he wants to modify the amendment. I do not believe it would affect 90 percent of these people—perhaps only a very small percentage.

I am willing to accept the modification, if the Senator is willing to support my amendment as modified.

Mr. PROXMIRE. I thank the Senator. I am happy to support the committee amendment under those circumstances.

The PRESIDING OFFICER. Will the Senator send his modification to the desk?

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BIDEN). Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

On page 20, line 23, insert the following:

After the number "$5,000" delete the period and add ", or"

On page 20, line 24, insert the following:

(3) If the adjusted gross income of the taxpayer does not exceed $15,000 for the taxable years to which this section may be applicable, such taxpayer shall be entitled to the full benefits of this section. Where the adjusted gross income of the taxpayer exceeds $15,000 for the taxable years to which this section may be applicable, the amount of the casualty loss deduction shall be reduced by an amount equal to a percentage, the numerator of which is the taxpayer's adjusted gross income in excess of $15,000, and the denominator of which is the taxpayer's total adjusted gross income for such year.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent at this point to have printed in the RECORD a letter which I wrote to the distinguished chairman of the Committee on Finance (Mr. LONG) on October 17, 1973, and a letter which the distinguished chairman of the Committee on Finance (Mr. LONG) wrote to me in response thereto on November 6, 1973.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OCTOBER 17, 1973.

Hon. RUSSELL B. LONG,
*Chairman, Senate Finance Committee, Washington, D.C.*

DEAR MR. CHAIRMAN: During the recent Senate floor debate on the Pension Reform Bill, I discussed with the staff of the Senate Finance Committee the amendment which I wanted to offer to that bill, to provide favorable tax treatment for the victims of the Buffalo Creek flood disaster in West Virginia.

The staff of the Committee suggested several changes in my amendment which, they thought, would make it more acceptable to the Committee, and incorporated those suggested changes in my amendment. However, in discussing this amendment with the Committee staff and the Floor Manager of the Pension Reform Bill, they strongly urged that I not offer my amendment since they wanted to keep the bill free of all non-germane amendments. Therefore, I withheld offering my amendment, in the hope that the Finance Committee would favorably consider incorporating it into the next appropriate piece of legislation reported from the Committee.

I am enclosing two copies of the revised amendment, and I will greatly appreciate your incorporating it into legislation which is expected to be acted upon this session, in order that these very unfortunate victims of Buffalo Creek disaster may obtain this much needed relief.

Sincerely yours,

ROBERT C. BYRD,
*U.S. Senator.*

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NOVEMBER 6, 1973.

Hon. ROBERT C. BYRD,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR BYRD: Thank you for your letter of October 17, 1973 in which you discussed a proposed amendment to provide favorable tax treatment for the victims of the Buffalo Creek flood disaster in West Virginia. An amendment along these lines has been adopted by the Committee on Finance and has been added to H.R. 8214, a House passed bill containing tax changes applicable to military and civilian personnel involved in the Vietnam conflict.

The committee amendment provides that taxpayers receiving income tax refunds on account of flood casualties and who are subsequently compensated for those losses due to claims of negligence, shall be entitled to special tax treatment. Due to the hardships already suffered, the Committee believes it is appropriate, where both a tax refund and other compensation are received, that taxpayers should not be required to pay back the tax refund or include compensation for such losses in gross income. Rather, the basis of the taxpayer's property or replacement property should be reduced in accordance with the receipt of any such funds. The Committee amendment provides, however, that the amount of tax deferred through an adjustment to basis is not to exceed $5,000. Any tax benefit in excess of $5,000 shall be included in the taxpayer's income, pro rated over a five year period.

I trust this Committee amendment adopted at your suggestion, will provide substantial relief to the very unfortunate victims of the Buffalo Creek disaster as well as the many additional taxpayers who have suffered similar hardships.

With every good wish, I am,

Sincerely,

RUSSELL B. LONG,
*Chairman.*

Mr. ROBERT C. BYRD. Mr. President, I believe that the language of the modification carries out the intent of the author of the modification and also meets with my understanding of the modification. As I stated earlier, I am willing to accept on my part the modification, if the Senator is willing then to support the committee amendment. Any technical changes that are necessary to fully implement the intent as expressed here by way of legislative history, by the Senator from Wisconsin and me can be made by the Secretary or in conference.

Mr. PROXMIRE. Mr. President, with that understanding I withdraw by objection to this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to section 15 of the committee amendment, as amended.

Mr. PROXMIRE. Mr. President, is that the amendment dealing with disaster flood relief?

The PRESIDING OFFICER. That has been agreed to already.

Mr. PROXMIRE. What is section 15? Is that student unemployment compensation?

The PRESIDING OFFICER. The amendment begins on page 19, line 18, entitled "Certain Casualty Losses," as amended.

Mr. PROXMIRE. That is the West Virginia flood disaster provision?

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The next section of the committee amendment will be stated.

The legislative clerk read as follows:

On page 22, line 10, insert new section 16.

Mr. PROXMIRE. Mr. President, this amendment is of great concern to the Senator from New York (Mr. JAVITS). He wants to be here. I suggest the absence of a quorum until he arrives.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## THE ENERGY CRISIS—MESSAGE FROM THE PRESIDENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President's message at the desk on energy be jointly referred to the Committees on Armed Services, Banking, Housing and Urban Affairs, Commerce, Finance, Government Operations, Interior and Insular Affairs, Public Works, and the Joint Committee on Atomic Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message is as follows:

*To the Congress of the United States:*

As the 93rd Congress reconvenes this week, it returns to an agenda that is piled high with vital legislative questions.

America is undergoing a period of rapid change and growth when decisions made in Washington could affect the patterns of our national life for the rest of this century. These decisions demand not only the collective wisdom of our national leadership but also a continuing spirit of cooperation between the executive and legislative branches of our Government. In this first legislative message of 1974, I want to renew my pledge that I stand ready and eager to work with the Members of the Congress in shaping the solutions that are best for America.

In the next few weeks, I will send to the Congress a series of messages requesting swift legislative action in the areas where I feel that progress is most keenly needed. In each of these areas—health, education, transportation, natural resources, and others—these proposals reflect the best efforts of my Administration to solve a wide range of difficult domestic problems.

No single legislative area is more critical or more challenging to us as a people, however, than the subject of this first message to the Congress: The energy crisis. It is because of its importance and because of the urgent need for action that I have chosen to break tradition, outlining to the Congress my legislative requests in energy before delivering my State of the Union Address.

I first warned of approaching energy shortages in a message to the Congress in 1971—the first energy message ever presented by an American President. In 1973, an embargo was suddenly imposed upon many of our foreign supplies of oil, the crisis broke upon us, and the entire country took the first steps toward coping with the emergency. We have made solid progress since then, but it is clear that our efforts in 1973 were just the beginning. As our first order of business in the new year, therefore, let us resolve that 1974 shall be the year that we build a permanent framework for overcoming the energy crisis.

In the initial portion of this message, I want to report to the Congress on our progress over the last three months. The remainder of the message addresses the legislative program on which I am urging Congressional action in 1974:

—*First*, the proposals that I believe

are essential to meet the short-term emergency, including:

—A special energy act that would permit restrictions on the private and public consumption of energy and would temporarily relax certain Clean Air Act requirements for power plants and automotive emissions;

—A windfall profits tax that would prevent private profiteering at the expense of public sacrifice;

—Unemployment insurance to help those who lose their jobs because of the energy crisis;

—And establishment of a Federal Energy Administration.

—*Second,* the legislative proposals that I have previously submitted in order to meet our long-range goal of achieving self-sufficiency in energy, including proposals that would:

—Allow market pricing of new natural gas;

—Allow temporary oil production from the Elk Hills Naval Petroleum Reserve in California;

—Permit surface mining of coal in a manner that is environmentally safe;

—Permit the development of new deepwater port facilities offshore;

—Amend the tax laws regarding drilling investments;

—Modernize the laws regarding mineral leasing on Federal lands;

—And reorganize the executive branch so that it may deal more effectively with energy and natural resource problems.

—*Third,* proposals which are designed to help us achieve self-sufficiency in energy and which I am submitting to the Congress this year for the first time, including proposals that would:

—Eliminate depletion allowances for foreign oil and gas production;

—Accelerate the licensing and construction of nuclear facilities;

—Require labeling of products for energy efficiency;

—And streamline the site selection process for energy facilities.

In addition to these legislative proposals, the Administration is moving forward this year with a series of executive actions and studies relating to our long-term energy needs. The latter are addressed in the last section of the message.

### I. REPORT ON THE CURRENT EMERGENCY

Last year the United States consumed roughly 18 million barrels of petroleum, in one form or another, every day. This represented about one-half of our total energy consumption. The level of petroleum consumption was also rising, so that we expected demands to reach about 20 million barrels a day in 1974.

While the country is rich in natural resources, our production of petroleum resources is far less than our demands. Last year we were producing approximately 11 million barrels of petroleum a day, and the level of production was declining.

The difference between our demands and our domestic consumption must be made up, of course, by imports from abroad, reductions in demand, or increased domestic production. Even before the embargo on oil in the Middle East, our foreign supplies were barely adequate. Since the embargo, the shortage has become a good deal more serious. The Federal Energy Office has estimated that during the first three months of 1974, our imports will fall short of our normal demands by 2.7 million barrels a day. If the embargo continues, shortages could exceed three million barrels a day during the rest of the year. That shortfall is the major factor in our current emergency.

### ENCOURAGING PROGRESS

With the Nation confronting a severe energy shortage, I appealed to the public eleven weeks ago to undertake a major conservation effort on a personal, voluntary basis. My appeal was repeated by public servants across the land. The Congress acted quickly to pass laws putting the Nation on year-round daylight savings time and reducing the national highway speed limits to no more than 55 miles per hour. The Federal Government began moving swiftly to ensure that fuel supplies were allocated fairly and that conservation measures were undertaken within the Government. Most importantly, the people themselves responded positively, lowering the thermostats in their homes and offices, reducing their consumption of gasoline, cutting back on unnecessary lighting, and taking a number of other steps to save fuel.

Largely because of the favorable public response, I can report to the Congress today that we are making significant progress in conserving energy:

—Total consumption of gasoline in the United States during the month of December was nearly nine percent below expectations.

—Consumption of home heating oil has been reduced. A recent survey of 19,000 homes in New England showed they had reduced heating oil consumption by more than 16 percent under last year, after making adjustments for warmer weather.

—Utilities report that consumption of natural gas across the country has been reduced by approximately 6 percent over last year, while the consumption of electricity is down about 10 percent.

Beyond the progress we have made because of voluntary conservation, we have also been fortunate in two other respects. The weather in the last quarter of 1973 was warmer than usual, so that we did not consume as much fuel for heating as we expected. In addition, the oil embargo in the Middle East has not yet been totally effective, allowing us to import more oil than we first anticipated.

### ACTION AT THE FEDERAL LEVEL

The Federal Government clearly has a major responsibility in helping to overcome the energy crisis. To fulfill that responsibility, several steps have been taken in the last three months:

—A major conservation program has been established and has cut consumption of energy by Federal agencies by more than 20 percent below anticipated demands in the third quarter of 1973.

—A sweeping investigation of fuel prices charged at gasoline stations and truck stops has been launched, putting an end to price gouging wherever it is found.

—A Federal Energy Office has been created to serve as a focal point for energy actions taken by the Government.

—Finally, a fuel allocation program has been set up to assure that no area of the Nation is subjected to undue hardships and to assure that in allocating fuel, the protection of jobs comes ahead of the satisfaction of comforts. As part of this allocation effort, refiners are being encouraged to produce less gasoline and more of the products that are needed in homes and industry, such as heating oil, diesel oil, residual fuel oil, and petrochemical feed-stocks. The Cost of Living Council has issued regulations to encourage the shift away from gasoline production. If necessary, additional steps will be taken to encourage shifts in refinery production.

The allocation program now underway will mean some cutbacks in travel, heating and other end uses of fuel, while uses which keep our economy operating at a high level will be permitted to remain at or above last year's levels.

Market forces are also at work allocating fuel. Due primarily to huge increases in prices for foreign oil, the price of gasoline has risen by 12 to 15 cents per gallon over last year. This obviously discourages the consumption of gasoline. Heating oil has also shown a comparable rise with similar effect.

There is a limit, however, to the amount of market allocation through higher prices which we will allow. We will not have consumers paying a dollar a gallon for gasoline. We must therefore seek to maximize the production of domestic oil at a price lower than the price of foreign oil. We will also carefully review requests for energy price increases, to ensure that they are genuinely needed.

All of the measures of conservation and allocation have greatly improved the Nation's chances of avoiding hardships this winter and gas rationing this spring. *Gas rationing, with its attendant bureaucracy and cost to the taxpayer, should be only a last resort.* Nevertheless, we are attempting to be prudent and therefore have developed a system of coupon rationing. The system is now on the record for public comment, and will be ready for use this spring should it prove necessary.

The system would provide for transferable coupons for all licensed drivers over 18 years old. The coupons, unlike the World War II coupons, would be freely transferable. Thus those who can economize and use less than their allotment would be given tangible incentive to do so, while those who seriously need larger amounts would be able to buy coupons legally.

The measures of allocation and conservation are, in the very short-run, the only actions which will have an effect in lessening the crisis. However, in the slightly longer term, we can and we are making efforts to increase domestic supplies of petroleum very rapidly.

Increases in supplies of domestic crude oil are necessary not only to assure supplies, but to keep the prices for consumers at a reasonable level. The prices charged by a foreign cartel for crude oil have risen so dramatically that U.S. oil prices are now greatly below the world market price

To ensure that domestic oil exploration continues and grows, the price of oil from new exploration and development has been removed from Economic Stabilization Act controls. Also, to compensate for increased production costs and to stimulate advanced techniques for recovering oil, we have permitted a $1 per barrel increase in the cost of petroleum under existing oil contracts.

As a result, domestic oil wells that had been abandoned because they were no longer profitable are being put back into production, and new American oil is now beginning to come into the market. We anticipate additional increases in the oil in the future.

As a greater domestic production fills more of our oil needs, we will be demanding less foreign oil, and the price for foreign oil will not be driven upwards by our demands. Our own domestic production will tend to put a cap on the prices foreign suppliers may charge.

To deal further with the world shortage of oil and its increasingly unrealistic price levels, I have invited major consuming nations to a conference in Washington on February 11. The conference will, I hope, eventually lead to greater international cooperation in the areas of energy conservation, research, pricing policy, oil exploration, and monetary policy.

### II. LEGISLATION TO MEET THE CURRENT EMERGENCY

Although we have made significant progress over the last three months in reducing consumer demands for energy and in allocating fuel supplies, additional legislative measures must be enacted if we are to maintain our momentum. I am therefore asking that the Congress give its highest priority to five proposals which I have previously recommended for dealing with the short-term emergency:

#### 1. SPECIAL ENERGY ACT

The principal purposes of this legislation are to grant the executive branch authority to restrict the public and private consumption of energy and to modify certain Clean Air Act requirements.

During the closing weeks of December, both Houses of Congress labored long and hard on this emergency bill. As presently drafted in the House-Senate conference, the bill is laden with so many extraneous provisions that I would have difficulty signing it. I urge the Congress to pass a basic bill dealing with mandatory conservation, fuel conversion, rationing, and changes to the Clean Air Act. I would also urge that the extraneous provisions be placed in separate legislation where they belong.

#### 2. WINDFALL PROFITS TAX

The solution to the energy crisis must ultimately depend in large measure upon the response of the public, and their actions will in turn be based upon their recognition that an energy crisis actually exists and that it has not been contrived for the benefit of big business. For weeks, believing that the crisis is genuine, millions of Americans have made sacrifices in their comfort and convenience so that no Americans would have to suffer personal hardships. Those sacrifices are continuing today, and they will be needed in the future. It is up to the leaders of the Nation to ensure that the public trust is not abused.

As President, I am deeply committed to a firm policy: *We must not permit private profiteering at the expense of public sacrifice.* The sacrifices made by the American people must be for the benefit of all the people, not just for the benefit of big business. *In equal measure, we must not permit the big oil companies or any other major domestic energy producers to manipulate the public by withholding information on their energy supplies.* That information must be made available to the public, and it must be accurate and complete.

The windfall profits tax that I outlined last December and am again asking the Congress to pass would serve this policy by preventing major domestic energy producers from making unconscionable profits as a result of the energy crisis. It would exact a tax of up to 85 percent on receipts from sales of crude oil above the ceiling set by the Cost of Living Council in December of 1973.

#### 3. ENERGY-RELATED UNEMPLOYMENT INSURANCE

The energy emergency will undoubtedly result in some dislocation within the economy. Selected labor market areas may experience unusually large rises in unemployment despite our best efforts to minimize economic disruption. Jobs in those areas may become harder than usual to find. Therefore, as an integral part of the same philosophy which had led me to seek a windfall profits tax that prevents a few people from benefiting unduly from the energy emergency, I will also recommend new unemployment insurance measures to cushion American workers against the shocks of economic adjustment. Last April, I submitted legislation to improve the unemployment insurance program by increasing benefit levels and expanding coverage. I call again for the enactment of those measures. In addition, I will submit unemployment insurance amendments that would, on enactment, extend the duration of benefit entitlement and expand coverage in those labor market areas that experience significant increases in the level of unemployment. These provisions, coupled with the recently enacted Comprehensive Employment and Training Act will provide a solid foundation for the more rapid re-absorption of workers into the Nation's economy.

#### 4. MANDATORY REPORTING ON INFORMATION BY PRIVATE INDUSTRY

The information now provided to the public and to the Government by the energy industry is insufficient for public planning purposes. This is a serious deficiency which has understandably become a matter of intense public interest. To correct it, I will shortly submit legislation requiring major energy producers to provide to the Government a full and constant accounting of their inventories, their production and their reserves. Where required for national security or competitive purposes, confidentiality of the information will be protected. Most of this data, however, can and will be made available to the public.

To provide a focus for the collection and analysis of this data, I have directed the Federal Energy Office to establish an Energy Information Center. This center will coordinate energy data within the Government and provide the information to the public, the Congress, and other Federal agencies.

#### 5. FEDERAL ENERGY ADMINISTRATION

FEA would bring together and significantly expand programs to deal with the current energy emergency. It would also carry out major new activities in energy resource development, energy information and energy conservation. Included within this agency would be the functions of the Offices of Petroleum Allocation, Energy Data and Analysis, Oil and Gas, and Energy Conservation from the Department of the Interior and the Energy Division of the Cost of Living Council.

### III. OUR PROGRAM FOR THE FUTURE: PROJECT INDEPENDENCE

Energy demand in the United States will certainly continue to rise. Were domestic oil production to continue to decline and demand continue to grow at over 4 percent annually, as it did before the embargo, imports would increase from 35 percent of U.S. consumption in 1973 to roughly half of U.S. consumption by 1980.

We must also face the fact that when and if the oil embargo ends, the United States will be faced with a different but no less difficult problem. Foreign oil prices have risen dramatically in recent months. If we were to continue to increase our purchase of foreign oil, there would be a chronic balance of payments outflow which, over time, would create a severe problem in international monetary relations.

Without alternative and competitive sources of energy here at home, we would thus continue to be vulnerable to interruptions of foreign imports and prices could remain at these cripplingly high levels. Clearly, these conditions are unacceptable.

To overcome this challenge, I announced last November 7 that the United States must embark upon a major effort to achieve self-sufficiency in energy, an effort I called Project Independence. If successful, Project Independence would by 1980 take us to a point where we are no longer dependent to any significant extent upon potentially insecure foreign supplies of enegry.

Project Independence entails three essential concurrent tasks.

The first task is to rapidly increase energy supplies—maximizing the production of our oil, gas, coal and shale reserves by using existing technologies and accelerating the introduction of nuclear power. These important efforts should begin to pay off in the next 2 to 3 years. They will provide the major fraction of the increased supplies needed to achieve energy self-sufficiency.

The second task is to conserve energy. We must reduce demand by eliminating non-essential energy use and improving the efficiency of energy utilization. This must be a continuing commitment in the years ahead.

The third task is to develop new technologies through a massive new energy research and development program that will enable us to remain self-sufficient for years to come.

We cannot accept part of the overall program and ignore the others. Within the Federal sector, success will depend on a wide range of actions by many agencies. As an important part of that effort, the head of the Federal Energy Office, William Simon, will mount a major effort this year to accelerate the development of new energy supplies for the future.

Our strategy for Project Independence is reflected in urgent measures now pending in the Congress as well as many new legislative proposals and administrative actions I now plan to take.

### A. LEGISLATION STILL AWAITING CONGRESSIONAL ACTION

Over the past three years, I have submitted a number of legislative proposals that are essential to our pursuit of energy self-sufficiency but are still awaiting final Congressional action. I ask that the 93rd Congress move ahead with these proposals, and I pledge the cooperation of this Administration in working out any differences. These proposals include the following:

### NATURAL GAS SUPPLY ACT

The artificially low prices for natural gas created by Government regulations continue to create a double problem: consumers wish to purchase more of this cheap, clean fuel than is available, while suppliers have little incentive to develop it. I again ask the Congress to provide for competitive pricing of newly developed gas supplies in order to encourage new drilling and to direct available gas into the premium uses.

Although my deregulation proposal should not cause a significant rise in consumer prices for natural gas for some years, I recognize that there is a strong desire to provide added insurance that unreasonable price increases do not occur. This insurance can be provided by adding to the Administration's legislative proposal a provision authorizing the Federal Power Commission to establish limits on absolute price increases. We are prepared to work with the Congress on these changes.

### NAVAL PETROLEUM RESERVES

The Nation has vast oil and oil shale reserves which years ago were set aside for national defense purposes by placing them under the control of the Secretary of the Navy. That action was taken at a time when naval petroleum requirements were an especially important share of total national petroleum consumption. Some of these oil reserves, principally those located in Wyoming and California, have been explored and developed to the point where limited production is possible. The largest reserve, located in Alaska, has not been significantly explored or developed and could not be available for production for several years, even in a grave national emergency. I have proposed legislation that would greatly improve the availability of the reserves for future needs and would permit limited production from the Elk Hills Reserve in California to assist in meeting our short-term energy problems.

In accordance with law, the Secretary of the Navy has issued and I have approved a finding that production of oil from Naval Petroleum Reserve No. 1 (Elk Hills) is necessary for national defense purposes. Approval of the Congress is also necessary and I have proposed legislation that would give such congressional approval. It would also provide that funds from the sale or exchange of the oil could be used for further exploration and development of Elk Hills and for exploration of Naval Petroleum Reserve No. 4 in Alaska. I am pleased that the Senate has already passed this legislation, and I am hopeful that immediate action will now be taken by the House of Representatives.

### MINED AREA PROTECTION

A Mined Area Protection Act is needed to encourage the development of State programs which permit the mining of coal and other minerals to go forward in a way that is environmentally safe. The absence of clear legislation in this area is inhibiting the development of our coal reserves. The Senate has passed a bill, but it deals only with surface mining of coal rather than all mining and it contains provisions which would actually impede production of coal.

The House Committee on Interior and Insular Affairs is scheduled to take up the matter soon and I am hopeful that it will act favorably on the Administration's proposal.

### DEEPWATER PORT FACILITIES

Even though our policy is to achieve self-sufficiency, we will clearly continue to import oil as long as it is available at reasonable prices. To enable us to import fuel more economically, I have proposed Federal Government licensing of the construction and operation of deepwater port facilities three miles or more at sea on the Outer Continental Shelf. The main use of these facilities would be to import crude oil in ships that are economically and environmentally desirable, but are too deep of draft to permit their entry into our port facilities on the East and Gulf Coasts.

This legislation would also eliminate many of the legal uncertainties which now drive private investors away from American waters and to other nations of the Western Hemisphere. The present system only serves to create investments and jobs abroad and raises our costs of imported oil, already high, even further.

### DRILLING INVESTMENT CREDIT

Last April I proposed that the investment credit provisions of present tax laws be extended to provide a credit for all exploratory drilling for new oil and gas fields. Approval of this provision would provide an essential incentive for new oil and gas exploration. At the same time, I am asking the Congress to eliminate the tax shelter that now exists for wealthy taxpayers who reduce their taxes by taking deductions for investments in oil drilling.

### MINERAL LEASING ACT

The Mineral Leasing Act of 1920 governs the exploration and production of oil, gas, coal, and other minerals on Federal lands while the Mining Act of 1872, governs the exploration and mining for "hard-rock" (gold, silver, copper, etc.) minerals. Both acts have become obsolete. Last February, I proposed a bill that would place all mineral exploration and mining activities on Federal lands under a single Federal leasing system. The bill would assure that the persons who obtain the leases are those who have an interest in early exploration for oil, gas, and other minerals. It would also require that exploration meet the environmental standards of the Administration's proposed Mined Area Protection Act.

### ORGANIZING THE FEDERAL ENERGY EFFORT

If the Federal Government is to achieve prompt and productive results in the energy field, its many energy programs and resources must be organized in the best possible manner. Toward this end, I have submitted several organizational proposals to the Congress and urged their prompt adoption. One calls for establishment of the Federal Energy Administration as discussed above. The others call for statutory establishment of the following:

### (1) ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

This new organization would provide unified leadership and direction for energy technology programs at the Federal level. ERDA would include the research and development as well as the production functions of the Atomic Energy Commission, along with selected energy research and development functions of the Department of the Interior, the National Science Foundation, and the Environmental Protection Agency. Under this proposal, the five-member Atomic Energy Commission would be renamed the Nuclear Energy Commission and would carry out the vital task of licensing and regulating the rapidly growing use of nuclear power.

### (2) DEPARTMENT OF ENERGY AND NATURAL RESOURCES

As the longer-run solution to the many interrelated problems in the energy and natural resources area, I have proposed the establishment of this new department. DENR would incorporate most of the responsibilities of the Department of the Interior; the activities of the Forest Service and certain water resource functions of the Department of Agriculture; the activities of the National Oceanic and Atmospheric Administration of the Department of Commerce; the water resource planning functions of the Corps of Engineers; the gas pipeline safety functions of the Department of Transportation, and the Water Resources Council. Drawn together, these responsibilities would form the basis of a modern department truly capable of providing a much needed balance between the wise utilization and careful conservation of our Nation's precious natural resources.

Because of the energy crisis, I urge that the Congress give priority attention to the creation of FEA and ERDA. Because of its comprehensive scope, DENR may require additional examination by the Congress, but I reaffirm the need for this modern Cabinet department. Once DENR is established, it should incorporate the functions of ERDA and FEA.

### B. NEW LEGISLATIVE INITIATIVES

In addition to the legislation now pending before the Congress still further steps must be taken if we are to progress at a proper pace toward self-sufficiency. Within the next several weeks, I will be sending to the Congress a number of legislative proposals to help us take those steps, including:

### CHANGES IN FOREIGN TAX TREATMENT

U.S. companies that produce oil overseas have been granted the same 22 percent depletion allowance abroad that is granted to U.S. companies producing oil in the United States. Both allowances provide an incentive for oil production.

As we move toward U.S. self-sufficiency in energy, however, we want to encourage greater development of U.S. energy resources rather than foreign resources. I am therefore asking the Congress to eliminate these foreign depletion allowances, while retaining the depletion allowance for domestic oil production.

Taxes paid to foreign governments by U.S. oil companies drilling abroad have increased dramatically. There is growing concern about the degree to which such increases should be allowed as credits against U.S. tax on other income. Under these circumstances, it is no longer realistic to treat these payments to foreign governments entirely as income taxes creditable against the U.S. tax. Obviously, however, the oil producing countries, like any other country, have the right to impose taxes and some reasonable portion of those taxes should be creditable. I have asked the Treasury Department to prepare proposals which would cause part of these amounts to be designated as a creditable tax and the balance to be allowed solely as a deduction.

### ACCELERATING THE LICENSING AND CONSTRUCTION OF NUCLEAR FACILITIES

Nuclear power, which lessens our dependence on foreign fuel, is an essential part of our program of achieving energy self-sufficiency. At present, however, it takes 9–10 years to complete the planning, licensing, and construction of nuclear power plants. In order to get vitally needed nuclear power on-line more rapidly, I have directed that steps be taken to reduce the licensing and construction cycle to 5–6 years, without compromising safety and environmental standards.

I will soon transmit a legislative proposal to expedite the completion of nuclear power plants by separating the approval process for plant sites from the reactor licensing process and by encouraging the use of standardized plant designs. These designs, once approved, would reduce the required licensing review time and would enhance safety. This legislation would also permit the establishment of an inventory of approved sites for nuclear plants.

### EFFICIENCY LABELS

Energy conservation must play a major role in achieving self-sufficiency, but few of the products we now purchase clearly indicate how much energy they require to operate. To assure that such informaton is available, I will shortly submit to the Congress legislation requiring that all major appliances and automobiles produced or imported into the United States be clearly labeled to indicate their energy use and energy efficiency.

### ENERGY FACILITIES SITING

The present multitude of Federal, State, and local approvals required for the construction of energy facilities has caused serious delays in their availability. There is also no provision for advanced approval of sites which will be needed in the future. In addition, the public has often been frustrated because public participation in the site approval process seldom occurs early enough to affect the basic siting decision.

In 1971 I requested legislation to overcome these problems for electrical power plants and transmission lines. I resubmitted similar legislation in February 1973, but the Congress has not acted on my proposal. I have now directed that new legislation be prepared, building upon my earlier proposals but covering additional critical energy facilities. This legislation will be directed toward:

—advanced approval of adequate sites for energy facilities on a regional basis;

—better coordination of the various approvals now required by all levels of Government;

—and improved long range planning of energy facility requirements.

### CHANGES IN THE CLEAN AIR ACT

The Clean Air Act has provided the basis for major improvements in air quality and we must continue our progress toward even greater improvement. However, during the current energy shortage, it has become clear that some changes in the act are needed to provide greater flexibility in deadlines and other requirements. The special energy legislation now before the Congress would permit temporary relaxation in some requirements applicable to power plants when an adequate supply of clean energy is not available. It would also extend the deadlines for the reduction of emissions from automobiles. I hope the Congress will move quickly to grant authority for temporary relaxation of requirements and freezing the standards for auto emissions—now applicable to 1975 model cars—for two additional years. This latter action will permit auto manufacturers to concentrate greater attention on improving fuel economy while retaining a fixed target for lower emissions. These changes can be made without significantly adverse effect on our progress in improving air quality.

The Congress has also been advised by the Environmental Protection Agency of evidence demonstrating that the reductions of nitrogen oxides from automobiles as required by the Clean Air Act are unnecessarily stringent and that technology to achieve the reductions is not yet practicable. In addition, the Congress has been advised by the Environmental Protection Agency that deadlines cannot be met for meeting air quality standards in some metropolitan areas without drastically curtailing the use of motor vehicles. For instance, these deadlines would require that motor vehicle usage in Los Angeles be reduced by as much as 87 percent.

An extensive review is now underway within the executive branch of the implications of court decisions which require that EPA act to prevent "significant deterioration" of air quality—a requirement that is not defined in either the law or court decisions. This matter has far-reaching implications for public policy regarding land use as well as air quality. Changes in the law may thus be required to deal with this problem, and we will consult with the Congress as appropriate.

We must continue to assess the impact of actions required by the Clean Air Act so that there will be a basis for sound decisions that provide an appropriate balance among our objectives for environmental quality, economic and social growth, energy supply and national security.

### IV. NEW ADMINISTRATIVE ACTIONS AND STUDIES

In addition to preparing the legislative proposals above, I have directed that a number of executive actions be taken and additional legislative studies be made which could help us to succeed with Project Independence. Among these actions are the following:

### OUTER CONTINENTAL SHELF DEVELOPMENT

The undiscovered oil and gas beneath our Outer Continental Shelf can provide a significant portion of the energy necessary to make us self-sufficient. I have already ordered leasing in that area to be stepped up. Today I am directing the Secretary of the Interior to increase the acreage leased on the Outer Continental Shelf to 10 million acres beginning in 1975, more than tripling what had originally been planned. In later years, the amount of acreage to be leased will be based on market needs and on industry's record of performance in exploring and developing leases. In contracting for leases, the Secretary of the Interior is also to insure that the proper competitive bidding procedures are followed and that environmental safeguards are observed. He will, in addition, set up an interagency program for monitoring the environmental aspects of the new leasing program. There will be no decision on leasing on the Outer Continental Shelf in the Atlantic and in the Gulf of Alaska until the Council on Environmental Quality completes its current environmental study of those areas.

### ALASKA PIPELINES

In 1973, the Congress passed the Alaskan pipeline bill, allowing the construction of a vitally needed oil pipeline. The Secretary of the Interior plans to issue the construction permit for that pipeline this afternoon, and construction should begin this year.

It has long been clear that while an oil pipeline was needed, it alone would not be enough. In addition to the huge oil reserves in the North Slope of Alaska, there are also gas reserves there of at least 26 trillion cubic feet—enough to heat 10 million homes for 20 years. Construction of a gas pipeline should thus accompany the construction of the oil pipeline. What is now needed, and what I am directing, is prompt action by the Administration. Interior Secretary Morton expects to receive two competing applications for the gas pipeline in the near future, one proposing construction across Alaska and the other proposing construction across Canada. I have asked the Secretary to consider these proposals carefully but promptly and to deliver a recommendation to me as soon as possible. I have also asked the Secretary to undertake a further study of the need for future oil and gas pipeline capacity and the best routes for new pipelines should they prove necessary.

### STIMULATION OF SYNTHETIC FUEL PRODUCTION

At current rates of consumption, our coal reserves could supply our needs for 300 years while shale oil could satisfy an additional 150 years of demand. However, these resources are not easily recoverable, or usable in a manner that is environmentally acceptable. Therefore, the development of a domestic synthetic fuels industry—the production of oil from shale and the production of gas or oil from coal—can be an important element of our program for reducing our future dependence on energy imports.

The recent bidding for the first commercial oil shale lease indicates strong commercial interest in shale oil development. Five other lease offerings of Federal oil shale lands will be made this year. Several companies have also announced plans to construct plants for the production of commercially usable gas from coal. Nevertheless, a variety of factors including environmental, economic, technical, and regulatory problems impose constraints on any major increase in the commercial production and industrial use of synthetic fuels. I have therefore asked the Administrator of the Federal Energy Office to head up an interagency evaluation of financial or economic incentives or regulatory changes that may be needed to stimulate domestic production.

### EVALUATING ENERGY EFFICIENT PRODUCTS

There are now several products on the market which, if given wider use, might help us to use energy more efficiently and could conceivably reduce air pollution. Among them are chemical catalysts and additives, attachments for automobile engines and more efficient heat transfer devices for industrial and home furnaces. Previously, these products have not been commercially profitable because of the low price of fuel. With an increase in fuel prices, however, they have become more attractive. I have therefore directed the Federal Energy Office to collect information on these products and on their energy efficiency. As results are available, we will publicize them and, where appropriate, will purchase the products for use by the Government.

### IMPROVING URBAN TRANSPORTATION

It is widely recognized now that the development of better mass transit systems may be one of the key solutions to both our energy and environmental problems. My budget for fiscal year 1975, which will be sent to the Congress in the next two weeks, gives special priority to the improvement of urban transportation, especially transit bus fleets. In addition, I will soon propose legislation to increase the amount and flexibility of Federal transportation aid which is available to local communities.

### ENERGY RESEARCH AND DEVELOPMENT

Nowhere will the need for the combined efforts of industry and Government be greater than in energy research and development. If we are to see the successful culmination of Project Independence, the Federal Government must work in partnership with American industry.

For the last five years, I have provided for a continual expansion of our efforts in energy research and development. Federal funding increased almost 75 percent from $382 million in fiscal year 1970 to $672 million in fiscal year 1973 and was then raised to $1 billion for fiscal year 1974. Last June I announced my commitment to an even more rapid acceleration of this effort through a $10 billion Federal program over the next five years, and I asked the Chairman of the Atomic Energy Commission to develop recommendations for the expanded program.

Today I am announcing that in fiscal year 1975—the first year of my proposed five years, energy R&D program—total Federal commitment for direct energy research and development will be increased to $1.8 billion, almost double the level of a year ago. In addition, I will be requesting an increase of $216 million for essential supporting programs in basic and environmental effects research.

Regardless of short-term fluctuations in the energy supplies, our Nation must move swiftly and steadily on a course to self-sufficiency. The private sector clearly must provide most of the money and the work for this effort. We must also guard against Government expenditures which merely replace private sector investments. But the Federal Government does have a role to play in supplementing and accelerating private development and in filling major technological gaps where market incentives are lacking. The Federal expenditures which I am announcing today are designed to serve those purposes.

In pursuing our energy R&D program, we must maintain balance. We cannot afford to direct all our efforts to finding long-term solutions while ignoring our immediate problems, nor can we concentrate too strongly on finding short-range solutions. Our program must be structured to provide us with payoffs in the near, middle, and far term.

For the near term—the period before 1985—we must develop advanced technologies in mining and environmental control that will permit greater direct use of our coal reserves. We must speed the widespread introduction of nuclear power. And we must work to develop more efficient, energy-consuming devices, for use in both home and industry.

Beyond 1985, we can expect considerable payoffs from our programs in nuclear breeder reactors and in advanced technologies for the production of clean synthetic fuels from coal. By this time, we should also have explored the potential of other resources such as solar and geothermal energy.

For the far term, our programs in nuclear fusion, advanced breeder reactors, hydrogen generation and solar electric power appear to be the ultimate keys to our energy future.

### V. CONCLUSION

Although shortages were long in appearing, the energy crisis itself came suddenly, borne by a tragic war in the Middle East. It was a blow to American pride and prosperity, but it may well turn out to be a fortunate turning point in our history.

We learned at a stage short of the truly critical, that we had allowed ourselves to become overly dependent upon foreign supplies of a vital good. We saw that the acts of foreign rulers, even far short of military action, could plunge us into an authentic crisis. The Arab oil embargo will temporarily close some gasoline stations, but it has opened our eyes to the shortsighted policy we had been pursuing.

The energy emergency has shown us that we must never again be caught so dependent upon uncertain supplies. It is a lesson the American people must and will take to heart. By 1980, if we move forward with the proposals I have outlined today, I believe we can place ourselves in a position where we can be essentially independent of foreign energy producers.

America has half the world's reserves of coal. It has billions of barrels of oil in the ground, as well as convertible oil shale. It has vast natural gas reserves. We have the world's largest installed nuclear capacity and half the world's hydroelectric plants. This represents a truly enormous store of energy.

The United States also has the largest pool of highly trained scientific talent in the world. Our managerial skills in the private sector are enormous. And our organized facilities for solving technical problems in universities, businesses, and government are unparalleled.

I have no doubt that the bringing together of these natural and human resources can propel us toward an era of energy independence.

It will take time. But along the way we will assure that no groups of Americans are better off because other groups are suffering. We will assure that the genius of the free enterprise system is maintained and not destroyed by its response to this crisis.

Years from now, let us look back upon the energy crisis of the 1970s as a time when the American spirit reasserted itself for the lasting benefit of America and the world.

RICHARD NIXON.

THE WHITE HOUSE, *January 23, 1974.*

## PRISONER OF WAR AND MISSING IN ACTION TAX ACT

The Senate continued with the consideration of the bill (H.R. 8214) to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes.

Mr. JAVITS. Mr. President, I oppose this committee amendment. I hope we will have a rollcall vote on it.

My reason for opposition already has been indicated by the manager of the bill. The Treasury Department, I am advised by my assistant who has been in the Chamber, defers to the Labor Department, and the Labor Department opposes the amendment. It opposes the amendment because it creates a class of employees respecting work which is not particularly tailored to students. I feel I must oppose it on that ground.

Insofar as work particularly tailored to students, like work study or work for a college or a university work directly, there is no issue with respect to the amendment, but this relates to students who work in programs, cafeterias, dormitories, book stores, parking lots, radio and television stations, and other types of work which are auxiliary or collateral to the given educational institution and in which many nonstudents are employed. Nonstudents, under this amendment, if they were so employed, would receive the benefit of unemployment compensation.

Therefore, the position needs to be that there is that kind of competitive situation which exists in terms of the type of work which is done; there is no reason why there should be this distinction made respecting unemployment compensation.

Another factor which needs to be mentioned, although I do not put it forward as the basic factor, is that there is a problem of defining students. It will be noted that the particular section relates to students as a generic term. So taking a course or two incidental to employment would perhaps meet that definition, though the person might simply be taking those courses for the purpose of qualifying without really being a student in the sense of the term as we understand it.

But that, I think, is not a major point. I think the major point is the discouragement which would result from hiring members of the local labor force, because on this basis it is somewhat cheaper to hire those who are called students, and it sets up the kind of competition which obviously it is departmental policy to oppose.

In addition, the AFL–CIO has stated its opposition on this ground.

For all of those reasons, Mr. President, I hope that the amendment will be rejected.

Mr. HARRY F. BYRD, JR. Mr. President, the amendment now pending conforms the unemployment compensation coverage to social security. Under the legislation enacted last year, students similarly situated were exempt from social security. This amendment would exempt schools, colleges, and universities from the unemployment compensation tax which would have to be paid on those students employed by nonprofit organizations which are operated to carry out certain functions of these schools.

This provision would decrease annual tax liability by less than $5 million, according to the Treasury. The committee felt that it was fair and appropriate to conform the unemployment compensation to social security.

The Senator from New York is correct when he asserts the Labor Department objects to this amendment.

The Internal Revenue Service did not express an opinion, deferring to the wishes of the Department of Labor.

Mr. BENNETT. Mr. President, I would like to ask a question of the Senator from New York.

Mr. JAVITS. Surely.

Mr. BENNETT. How many of these students to whom unemployment compensation would be paid, if this amendment were defeated, would actually qualify for workmen's compensation benefits? Is this a tax in order to conform to a pattern which the students for whose benefit it was intended could not actually collect the benefits?

Mr. JAVITS. In the first place, it is unemployment compensation which is involved, or workmen's compensation which is involved, and the fundamental requirement depends upon State law, but as I recall it, it is normally a year.

Mr. BENNETT. And a student goes to school for 9 months. The college would be required to pay this unemployment compensation tax, but he could not qualify for benefits, because the next time he came back it would be for 9 months more. He could never qualify.

Mr. JAVITS. Much of this employment does not end in the summer. Last year I had a child involved in it. Most of those operations continue throughout the year. Also, the fact is that local workers were hired. This represents an unemployment compensation which would be paid so that the argument respecting discrimination in terms of discouraging the hiring of local workers is a valid one. There would be no exemption for local workers at all.

Mr. BENNETT. Some institutions can simply organize themselves so that parents who cannot pay the full costs can have their children continue in school. I had a granddaughter who served as a janitor from 9 to 5 in order to stay in school, when her parents found things tough. Obviously, she would never qualify for unemployment compensation.

Mr. JAVITS. May I point out to my colleague that this amendment does not involve those engaged in work-study programs or who work directly for the university. It is, rather, concerned with collateral services, where there is direct competition with local workers.

Mr. BENNETT. But if a university has a university cafeteria, is that a collateral operation?

Mr. JAVITS. If that university actually runs the cafeteria as the university cafeteria, then it would not be a collateral operation. If it is a cafeteria that is run by a corporation or a student co-op, or something like that, then it would be, in my judgment, a collateral operation. This is the way most of it is done, because the institutions themselves do not wish to assume liabilities, for example, suits for accidents, and many things like that, that are inherent in what are normal commercial operations.

As a matter of fact, the amendment itself, in a negative sense, defines it by saying: "to perform the functions of, or to carry out the purposes of a school, college, or university."

That would be the universe, and outside of that universe is the ambit of the amendment to which I am addressing myself.

Mr. BENNETT. Which is saying to me that if the university itself operates the cafeteria or the book store or any of these other operations, it is outside the amendment.

Mr. JAVITS. If it is organized to carry out the purposes of that school, college, or university, it is within this definition. "operated, supervised, or controlled by or in connection with such school, college, or university" itself.

I point out that that is the specification which is made in the law. What they are trying to reach is the auxiliary activities which are operated that way. They include, as I have said, cafeterias, dormitories, book stores, parking lots, and so forth. That is my understanding of the reach of this amendment. It is a rather numerous class of workers who do compete with the local work force.

Mr. President, if I may just complete the argument so that the Senate has a clear understanding of the situation, the fundamental thrust of the opposition to this amendment—and where it is distinguished from social security, which I think is what the Senator from Virginia (Mr. HARRY F. BYRD, Jr.) properly raised—is, first, if we made a mistake in the first place on social security, we should not compound it; but, secondly, because it is very much more pertinent and direct, we are dealing essentially with young people who are much more likely at that stage of their lives to have a need for unemployment compensation than the rather deferred time for which they might be eligible for social security, with the rest of their employable life thereafter, long after they have ceased in any way being on a college campus, the opportunity to earn social security qualifications, whereas the unemployment compensation is a very direct and practical thing and is immediately related to their unemployment in respect of the normal conduct of their life at that stage.

So I can see a distinction, although in my judgment they should not have been exempted from the social security or, now that we have the opportunity to consider it, the unemployment insurance compensation.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? (Putting the question.) There is not a sufficient second.

Mr. JAVITS. Mr. President, I now ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? (Putting the question.) There is a sufficient second.

The yeas and nays were ordered.

Mr. HANSEN. Mr. President, let me say to the distinguished Senator from New York that there is a great deal that is unique insofar as employment is concerned in the matter of on-campus work or campus-related work.

The fact is that in a number of institutions it is the common practice for management purposes to have nonprofit operations set up and managed somewhat independently of the university or college or school administration simply because experience has proven that it works better in that way.

Most of these operations do things that are important for the overall running of the institution. At the same time they provide employment that is important to a lot of young people. I think we ought not to lose sight of the fact that the thrust, in my opinion, must always be to maximize the opportunity for employment.

I do not believe that most people look upon college, university, and school-related work as being the kind of work that would engage one through a very long period of his life. It is an opportunity to earn while one learns.

The reason that I would object to the position taken by the Senator from New York is that any time we add to the cost of providing that kind of employment, inevitably we would reduce the amount of remuneration that otherwise would be available to the work recipient.

As has been pointed out by the distinguished Senator from Virginia, colleges, universities, and schools were exempted from the application of the social security law. And that tax at the present time, I think, is between 5 and 6 percent, 5.6 percent or something like that. I think that says something about the desirability of exempting educational institutions from those requirements normally imposed upon employers generally. And, in my judgment, if we do not agree to this amendment what, in effect, we will be doing is to lessen the amount of funds, lessen the number of jobs, lessen the chances for students who want to help earn their way through school, and lessen their chance to go to school.

I would hope that the Senate would not delete the amendment. I think it is meritorious.

I understand full well that it has the opposition of the AFL–CIO. And I think that I can probably understand why that very important labor organization takes the position it does. It is trying to follow a principle and see that every employer comes under the set of standards that are imposed upon most employers. However, in this instance it occurs to me that were we to delete this amendment, we would simply insure that fewer Americans had a chance to achieve their aspirations and goals in life to which they are so firmly committed and dedicated than would otherwise be the case.

I hope that the Senate will approve the amendment.

Mr. HATHAWAY. Mr. President, if the Senator would yield, I would like to point out to the Senator from Wyoming, one of the proponents of the amendment, that first of all I agree with the remarks of the Senator from New York. Also, I would point out that the low rate of tax is because the experience rate is fairly good. An employer could pay as little as 1 percent, unlike the social security tax, which as the Senator from Wyoming pointed out is almost 6 percent. The money saved for the educational institutions by eliminating students from coverage for unemployment is quite small compared to the benefits the students get if we leave the provision in.

Mr. HANSEN. Mr. President, I appreciate the observations made by the distinguished Senator from Maine. Let me respond to that by saying that really his argument does not refute the principle I stated. It simply says that it has a minimal impact. I grant the Senator that 2 percent or 2-point-plus percent is not as much as 5 or 5-point-plus percent. Nevertheless, the fact remains that if we impose this sort of obligation and this sort of requirement on the operations associated with institutions of learning, we will inevitably lessen the chances for young people to acquire an education.

I recall very well that at the time I went to school back in the thirties, there were a number of people on the campus who earned only $1 a day. That does not sound like very much. However, it meant the difference between being able to stay in school and not being able to stay in school.

I know that on the University of Wyoming campus there were a number of young men who wore either their military shirt or cap. At that time we had compulsory ROTC training. They wore them on days of the week when they were not required to attend classes in ROTC.

So, I say simply, let us not knock out this tax on the basis that it does not take in very much money. Maybe 2 percent is not very much to some people. However, it means a lot to a person when it means that he will not be able to stay in school.

Mr. BENNETT. Mr. President, if the Senator will yield, I come back to the realization that even if that were the case, these people would never qualify for unemployment compensation. Most of them just work through the school year. So, it is putting a tax on a school for which nobody will receive benefits.

Mr. HATHAWAY. Mr. President, I would point out that that situation would enhance the experience rating of the employer, and consequently he would pay a lower percentage into the fund. If the experience rating was good, it could be as little as 1 percent.

Mr. BENNETT. It seems to me that it is a subterfuge. If this is intended to protect students for whom the tax is paid and they cannot be protected, then to me it is dishonest to collect the tax.

Mr. HATHAWAY. If the Senator will yield further, perhaps we should also change the law to permit the students to qualify easier. However, I do not think it will hurt to let the tax stay in effect.

Mr. HANSEN. Let us keep in mind, Mr. President, what institutions of learning are established for. Are they established to provide sources of employment, as seems to be implied by the Senator from Maine, or are they set up to educate people?

I think it is just that simple. If we want to keep our eyes on the prime goal of any educational institution, it seems to me that it ought to be twofold: First, it ought to keep in mind always, as I suspect most if not all of them do, the importance of improving the minds and abilities of those persons attending the institution; and second, it ought to keep in mind the continuing opportunity that each institution has of expanding as greatly as it can the numbers of people who are permitted and privileged to attend the institution.

I thank my distinguished friend.

Mr. HATHAWAY. Mr. President, do I have the floor? If not, I would like to be recognized.

The PRESIDING OFFICER. The Senator from Maine has the floor.

Mr. HATHAWAY. In response to the statement just made by the Senator from Wyoming, I would like to point out that it may be the purpose of schools to educate people, but it is also the purpose of those who are receiving the education, and oftentimes the purpose of their spouses, and often the necessity, for them to work to provide tuition and other costs to the university. It seems to me it is unjust to deprive the spouse of a student or the student himself, when he is unemployed, from receiving unemployment benefits just as every other worker would receive.

I would like to make the point also, when anyone makes the point that we took away the social security benefits from these individuals, why can we not take the unemployment benefits away also, that we should keep in mind that when we took away the social security benefits, we were allowing the students a little more money in their paychecks, because the social security taxes are on a matching basis, with the employer paying 5.85 percent and the employee also paying 5.85 percent, and the student would probably rather have his money at that time, when he is young and needs the money more; whereas the unemployment tax is paid wholly by the employer, and as a matter of law cannot be passed on to the employee.

Mr. HANSEN. I would say to my good friend from Maine, that is all the more reason not to reject this amendment.

Actually, I would say when we are taking away from people in exempt educational institutions the obligation for payment of social security taxes, I think it is perfectly clear that what we have done is recognize what the primary mission of an educational institution is, and that is to educate young people. Anything that adds to the cost per capita of doing that lessens the opportunity of that institution to achieve its twin objectives of providing a good education and providing a good education for as many people as possible.

I think that the arguments that have been propounded by the AFL–CIO miss the point. If we want to bring these institutions under the same concept of law, then we are going to destroy the very quality that has made American labor so outstanding, and that is its ability to perform sophisticated programs or processes, handle complicated machinery, and do all sorts of things that set American labor apart from labor elsewhere with fewer merchantable skills.

Mr. JAVITS. Mr. President, I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, Senators may be ready to vote now, but in any event, I ask unanimous consent that the Senate vote on the pending amendment not later than 6 p.m.

Mr. JAVITS. And that the time be equally divided?

Mr. ROBERT C. BYRD. And that the intervening time be equally divided, in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield myself 1 minute, so that we may have one fact clear.

I would like to get, for the record, some definition of the qualification for unemployment compensation. The best I am able to get, in the short time we have, is that the number of States that have approved is 13. I do not wish to vouch for the accuracy of this number in the imperfect state of the information I have, based on the qualifications of earnings, which is between $300 and $800 earned in more than one quarter. A number of States—our number is 12—have approved, as the number of weeks of employment, as a prerequisite, ranging from 14 to 26.

I state these facts only as an order of magnitude rather than in great specificity, and as throwing some light on the point which was raised.

I am prepared to yield back the remainder of my time.

Mr. HARRY F. BYRD, JR. Mr. President, this amendment would exempt colleges, schools, and universities from the unemployment compensation tax on students who are employed by nonprofit organizations which are auxiliary to the schools. It would conform the unemployment compensation to the social security amendments adopted by Congress last year.

I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. BIDEN). All time has been yielded back. The question is on agreeing to the amendment designated "Section 16. Application of Federal Unemployment Tax Act to Certain Employees of School-Related Organizations." The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from California (Mr. TUNNEY), the Senator from Texas (Mr. BENTSEN), the Senator from Louisiana (Mr. LONG), the Senator from Rhode Island (Mr. PASTORE), the Senator from Mississippi (Mr. EASTLAND), the Senator from Montana (Mr. METCALF), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE), and the Senator from Minnesota (Mr. MONDALE) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from North Carolina (Mr. HELMS), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 35, nays 45, as follows:

[No. 10 Leg.]

YEAS—35

Aiken
Allen
Bartlett
Beall
Bellmon
Bennett
Brock
Byrd, Harry F., Jr.
Cotton
Curtis
Dole
Dominick
Ervin
Fannin
Fong
Fulbright
Gravel
Griffin
Gurney
Hansen
Haskell
Hruska
Huddleston
Johnston
McClellan
McClure
McGee
Nunn
Roth
Scott, William L.
Stafford
Stevens
Taft
Tower
Young

NAYS—45

Abourezk
Baker
Bible
Biden
Brooke
Buckley
Burdick
Byrd, Robert C.
Case
Chiles
Church
Clark
Cook
Cranston
Domenici
Eagleton
Hart
Hatfield
Hathaway
Hollings
Hughes
Inouye
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGovern
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stevenson
Weicker
Williams

NOT VOTING—20

Bayh
Bentsen
Cannon
Eastland
Goldwater
Hartke
Helms
Humphrey
Long
McIntyre
Metcalf
Pastore
Pearson
Percy
Sparkman
Stennis
Symington
Talmadge
Thurmond
Tunney

So the committee amendment division, section 16, on page 22 of the bill, was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. HART). The clerk will now report the next committee amendment.

Mr. BELLMON addressed the Chair.

The PRESIDING OFFICER. The Chair is advised that the procedure requires that the clerk now state the next committee amendment.

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate, there will be no more rollcall votes tonight. It is my understanding that there may be a voice vote on an amendment which may be accepted by the committee, but there will be no more rollcall votes tonight. If such are ordered, the leadership will attempt to put them over until tomorrow.

The PRESIDING OFFICER. The clerk will now state the next committee amendment.

The assistant legislative clerk read as follows:

On page 23, after line 5, insert a new section, as follows:

SEC. 17. APPLICATION OF SECTION 4942 TAX ON FAILURE TO DISTRIBUTE INCOME.

(a) IN GENERAL.—Section 101(l)(3) of the Tax Reform Act of 1969 (relating to savings provisions under section 4942 of the Internal Revenue Code of 1954) is amended by—

(1) striking out "and" in subparagraph (D),

(2) striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; and ", and

(3) adding after subparagraph (E) the following new subparagraph:

"(F) apply, in the case of an organization described in paragraph (4)(A) of this subsection,

"(i) by applying section 4942(e) without regard to the stock to which paragraph (4)(A)(ii) of this subsection applies,

"(ii) by applying section 4942(f) without regard to dividend income for such stock, and

"(iii) by defining the distributable amount as the sum of the amount determined under section 4942(d) (after the application of clauses (i) and (ii), and the amount of the dividend income from such stock.".

(d) The amendment made by this section shall apply to taxable years beginning after December 31, 1971.

Mr. BELLMON. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BELLMON. Mr. President, I ask unanimous consent that the pending amendment be laid aside so that I may bring up an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the bill, insert the following new section:

SEC. —. That (a) part II of subchapter C of chapter 76 of the Internal Revenue Code of 1954 (relating to Tax Court procedure) is amended by adding at the end thereof the following new section:

"SEC. 7465. RECOVERY OF COSTS.

"(a) IN GENERAL.—In any proceeding before the Tax Court for the redetermination of a deficiency, the prevailing party may be awarded a judgment of costs to the same extent as is provided in section 2412 of title 28, United States Code, for civil actions brought against the United States if in the opinion of the Tax Court the actions taken by the Internal Revenue Service represents an unreasonable exercise of discretion.

"(b) Judgment.—A judgment of costs entered by the Tax Court shall be treated, for purposes of this subtitle, in the same manner—

"(1) as an overpayment of tax, in the case of a judgment of costs in favor of the petitioner, and

"(2) as an underpayment of tax in the case of a judgment of costs against the petititioner.

No interest or penalty shall be allowed or assessed with respect to any judgment of costs."

(b) Clerical and Conforming Amendments.—

(1) The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 7465. Recovery of costs.".

(2) Section 2412 of title 28, United States Code, is amended—

(A) by inserting "(a)" before "Except", and

(B) by adding at the end thereof the following new subsection:

"(b) In any civil action which is brought by or against the United States for the collection or recovery of any internal revenue tax, or of any penalty or other sum under the internal revenue laws, and in which the United States is not the prevailing party, a judgment for costs may include reasonable attorney's fees if in the opinion of the Tax Court the actions taken by the Internal Revenue Service are an unreasonable exercise of discretion."

(c) Effective Date.—The amendments made by this Act shall apply only with respect to civil actions and proceedings for the redetermination of deficiencies commenced after the date of the enactment of this Act.

Mr. BELLMON. Mr. President, this is an amendment to H.R. 8214, which would permit a taxpayer to recover reasonable court costs including attorney fees when he successfully challenges an adverse Internal Revenue Service ruling in court.

The language of this amendment is identical to S. 1535, which was introduced on April 11, 1973. It has generated wide support in the Senate. At present, S. 1535 is cosponsored by Senators Abourezk, Bartlett, Beall, Bible, Cannon, Dole, Domenici, Gurney, Goldwater, McGovern, Stafford, Williams, and Helms.

On June 27, 1973, S. 1535 was called up as an amendment to H.R. 8410, the temporary debt ceiling bill. It was withdrawn when the distinguished chairman of the Senate Finance Committee, Mr. Long, stated his approval of this proposal and indicated his feelings that it should be included as a part of an appropriate tax reform proposal sent from the House. It is my conviction that H.R. 8214 represents such a proposal. Furthermore, it is extremely important that the Congress not delay any longer and act now on this proposal while the country is undergoing the arduous process of filing its income tax returns for this year. Any action which the Congress can take to convince the citizens of this country that they are getting a fair shake in their dealings with the IRS is certainly in the national interest.

This legislation, when passed, will correct one of the main complaints taxpayers have against the income tax laws—namely that the IRS can, at its discretion, use the IRS laws and Federal funds to oppress and to harass taxpayers and that the taxpayer must pay dearly with his own funds to defend himself.

Let me explain. Our tax laws and the regulations governing their implementation have become so complex that they are rarely understood by the average citizen. Thus, expensive professional services become an absolute necessity when differences between taxpayers and the IRS arise. Often taxpayers who are innocent of wrongdoing find it more expedient and less expensive to give in to the demands of the IRS than to contest the alleged shortage in an appropriate court. Obviously, a system which promotes this result is in dire need of reform. Because of the built-in inequities of the present system even if the taxpayer prevails in court, he frequently loses due to the great expense of contesting the claim.

By enacting this proposal, the Senate would accomplish several objectives.

First, it will strengthen the backbone of an innocent taxpayer and reassure him that he can defend his position without paying for costly professional services.

Second, it will discipline the IRS agents against issuing punitive rulings.

The mail received by my office has indicated overwhelming support for the enactment of this proposal from many States. In addition, the National Federation of Independent Business, with more than 300,000 members representing all 50 States, included a question on this proposal in a news survey of its members. The results were 86 percent for the bill, 10 percent opposed, and 4 percent with no opinion.

In evaluating the proposal which I have just introduced, the organization stated:

> The present system works to the disadvantage of the taxpayer. This bill would correct a great inequity and make the IRS more cautious in its claims.

Further, the Chief Judge of the U.S. Tax Court, W. M. Drennen, has stated both the need and fairness of this proposal in hearings on May 10, 1973, before the subcommittee of the Committee on Appropriations. In response to a question on whether or not a taxpayer should be permitted to recover the reasonable costs he expends in challenging the IRS, Judge Drennen stated:

> Yes, I think it would be more equitable. I think in a lot of courts the costs are assessed that way. We just don't have any authority to do it.

When asked if this would greatly increase the case load of the tax court, the judge stated that,

> It would to some extent, but nonetheless it still seems to me to be a fair thing to do.

Also, the judge indicated that this increased expense might make the Internal Revenue Service think twice before forcing a taxpayer to go to court.

It should be noted that this proposal was previously passed by the Senate when offered as a floor amendment to the Senate version of the 1969 Tax Reform Act.

I urge favorable Senate action on this proposal which rectifies an injustice of the present system and forces the IRS to be more cautious in its demands.

The matter has been discussed with the author of the bill. I believe he finds it acceptable, and if so, I will yield to him at this time.

Mr. HARRY F. BYRD, JR. As I understand, the amendment offered by the Senator from Oklahoma has been amended, and the amended language now makes the amendment satisfactory from the point of view of the Senator from Virginia.

Mr. BELLMON. Mr. President, I appreciate the Senator's comments.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was agreed to.

### AMENDMENT NO. 746

Mr. TAFT. Mr. President, I ask unanimous consent that the pending business be laid aside and that it be in order to bring up amendment No. 746.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment is as follows:

At the proper place in the bill insert the following new section:

Sec.   . (a) Section 5517 of title 5 of the United States Code is amended—

(1) by inserting "or city" after "State" each place it appears in subsections (a) and (b), and

(2) by inserting before the period at the end of subsection (c) the following: ", and 'city' means only a city which is incorporated under the law of a State and which had a population (according to the last decennial census before the request under subsection (a)) of sixty thousand or more individuals".

(b) Section 5517 of such title is further amended by adding at the end of subsection (a) the following sentence: "The agreement may not permit withholding of a city tax from the pay of an employee who is not a resident of the State in which that city is located unless he consents to such withholding.".

(c) The heading for such section 5517 is amended to read as follows:

"§ 5517. Withholding State and city income taxes".

(d) The analysis for subchapter II of chapter 55 of title 5 of the United States Code is amended by striking out the item relating to section 5517 and inserting in lieu thereof the following:

"5517. Withholding State and city income taxes".

(e) The amendments made by this section shall apply only in respect of agreements entered into after the date of the enactment of this Act.

Mr. TAFT. Mr. President, I send a modification of this amendment to the desk.

The PRESIDING OFFICER. The clerk will state the modification.

The assistant legislative clerk read as follows:

At the proper place in the bill insert the following new section:

SEC. . (a) Section 5517 of title 5 of the United States Code is amended—

(1) by inserting "or city" after "State" each place it appears in subsections (a) and (b), and

(2) by inserting before the period at the end of subsection (c) the following: ", 'agency of the United States' includes the United States Postal Service and the Postal Rate Commission, and 'city' means only a city which is incorporated under the law of a State and which had a population (according to the last decennial census before the request under subsection (a)) of sixty thousand or more individuals".

(b) Section 5517 of such title is further amended by adding at the end of subsection (a) the following sentence: "The agreement may not permit withholding of a city tax from the pay of an employee who is not a resident of the State in which that city is located unless he consents to such withholding.".

(c) The heading for such section 5517 is amended to read as follows:

"§ 5517. Withholding State and city income taxes".

(d) The analysis for subchapter II of chapter 55 of title 5 of the United States Code is amended by striking out the item relating to section 5517 and inserting in lieu thereof the following:

"5517. Withholding State and city income taxes.".

(e) The amendments made by this section shall apply only in respect of agreements entered into after the date of the enactment of this Act.

Mr. TAFT. Mr. President, this amendment, which was passed by the Senate as part of a bill dealing with miscellaneous tax provisions near the end of the last Congress, would require the Federal Government to withhold city income taxes from its employees. Such a requirement would benefit directly hundreds of thousands of Federal workers.

Because local income taxes are not withheld from the wages of Federal employees, these workers are forced to pay the taxes in lump sums on a quarterly or annual basis. The obligation to pay a substantial amount in local taxes at one time presents a serious hardship to many Federal workers. As of early 1972, one-third of Cleveland's postal workers had not been able to meet this obligation, and owed the city hundreds of dollars per person in back taxes.

This amendment would allow Federal workers to pay their city taxes in the same convenient manner as other workers, by making the payments in even installments throughout the year.

The amendment would also provide some extra money for the cities. Because the cities' tax collection departments will no longer have to devote extra attention to Federal workers, administrative costs will decrease. In my own State of Ohio, the cities of Akron, Columbus, and Toledo expect that they could each save $20,000 to $35,000 in this manner. The major new source of income, however, would occur as a result of a reduction in tax delinquencies and an increase in the cities' ability to collect delinquent taxes. Cleveland's tax department has estimated that because of fewer losses in uncollected taxes, the city's income could be increased by $300,000 to $400,000 annually. The city of Cincinnati has estimated that the enactment of this legislation would save its taxpayers about $100,000.

My amendment would apply to cities with populations of 60,000 or more. When legislation pertaining to this subject was debated on the Senate floor during the last Congress, an amendment was added to exempt residents of States other than that in which the taxing city is located from the withholding requirement unless they consent to withholding. In the interest of making my legislation acceptable to all concerned and thus facilitating its passage, I have included this amendment in today's proposal.

The major organizations representing groups which my amendment would affect strongly support it. These organizations include the National League of Cities—U.S. Conference of Mayors, The National Postal Union and other major Federal employees' associations. The Treasury Department and the Office of Management and Budget have historically supported legislation along these lines, and I have been informed that their positions have not changed.

As I have mentioned, legislation identical to this amendment was passed by the Senate during the 92d Congress, but the House of Representatives did not have time to act on the measure. The House passed similar legislation several years ago.

I hope that this time both houses of Congress will seize the opportunity to provide equal treatment for our Federal workers and additional assistance for our cities.

I should like to emphasize, that, as has been discussed with the senior Senator from New Jersey, who is on the floor at this time, the measure would make it optional for the individual. If the individual did not wish to have a withholding of his city income tax, he could so indicate and take himself out from the application of the amendment.

Mr. CASE. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr. CASE. Mr. President, the Senator from Ohio has correctly stated our understanding about this matter.

I am pleased to see that Senator TAFT has included in his amendment language identical to an amendment I offered on October 16, 1972, on a bill to amend section 3306 of the Internal Revenue Code of 1954. Without my amendment, the bill at that time would have allowed the Federal Government to collect the Philadelphia wage tax from Federal employees who live in New Jersey.

I said at that time:

> While residents of New Jersey do not object to paying taxes to out of State municipalities in proportion to the services provided to them, they deeply resent double taxation, both where they work and where they reside, when they have no voice whatever in the utilization of the taxes paid by them, and receive no benefit from the municipality of their workplace.

The amendment that I offered, then, required—as does Senator TAFT's amendment today—that "the agreement may not permit withholding of a city tax from the pay of an employee who is not a resident of the State in which that city is located unless he consents to such withholding." I am pleased to support Senator TAFT's effort today because it contains this important consent clause.

Mr. TAFT. I thank the distinguished Senator.

I might say I understand the amendment is agreeable to the distinguished manager of the bill and the ranking minority member as well, with whom I have discussed the matter.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr. HARRY F. BYRD, JR. I wish to ask the Senator from Ohio if it is optional, only on nonresident employees or all employees.

Mr. TAFT. Nonresident employees only. I appreciate the correction.

Mr. HARRY F. BYRD, JR. Mr. President, the amendment offered by the Senator is one which previously has been approved by the Committee on Finance of the Senate and, I see, with a small technical change. I have no objection to it, and on behalf of the committee I am glad to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. CASE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TAFT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be no further consideration of the pending measure today.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RESUMPTION OF TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a resumption of morning business for 5 minutes with statements therein limited to 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

## REFERRAL OF A BILL TO COMMITTEE ON AGRICULTURE AND FORESTRY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 316, Calendar Order No. 636, dealing with the Wilderness Act, be referred to the Committee on Agriculture.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER OF BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the distinguished minority whip, the Senator from Michigan (Mr. GRIFFIN), be recognized for not to exceed 10 minutes, and that the junior Senator from West Virginia (Mr. ROBERT C. BYRD) be recognized for not to exceed 10 minutes; that there then be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 3 minutes, at the conclusion of which the Senate return to the consideration of the unfinished business, H.R. 8214.

The PRESIDING OFFICER. Without objection, it is so ordered.

### QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at the hour of 12 o'clock noon. After the two leaders or their designees have been recognized under the standing order, the distinguished Senator from Michigan (Mr. GRIFFIN) will be recognized for not to exceed 10 minutes, after which the junior Senator from West Virginia (Mr. ROBERT C. BYRD) will be recognized for not to exceed 10 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with the usual 3-minute limitation on statements therein.

At the conclusion of routine morning business the Senate will resume consideration of H.R. 8214, an act to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes. Yea-and-nay votes will be conducted on amendments thereto and on final passage.

The conference report on the National Emergency Energy Act is still pending and action could be taken thereon likewise, that being a highly privileged matter.

### ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 noon tomorrow.

The motion was agreed to; and, at 6:25 p.m., the Senate adjourned until tomorrow, Thursday, January 24, 1974, at 12 noon.

### NOMINATIONS

Executive nominations received by the Senate January 23, 1974:

#### DEPARTMENT OF STATE

Nancy V. Rawls, of Georgia, a Foreign Service Officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Togo.

#### DEPARTMENT OF JUSTICE

Sidney I. Lezak, or Oregon, to be U.S. attorney for the district of Oregon for the term of 4 years. (Reappointment)

William J. Mulligan, of Wisconsin, to be U.S. attorney for the eastern district of Wisconsin for the term of 4 years, vice David J. Cannon, resigned.

#### IN THE COAST GUARD

The following named commanders of the Coast Guard Reserve to be permanent commissioned officers in the Coast Guard Reserve in the grade of captain:

Herbert A. Johnson
Charles W. Koburger, Jr.
Joseph N. Shrader
Frederic C. Sponholz
Dean A. Ridyard
Dan H. Briganti
Eugene F. Trainor
William B. Korth
Morris O. Parker
Nils E. Hansen
Bill C. Vendl
Winfield H. Adam
William T. Sheppard
James L. Howard

# EXTENSIONS OF REMARKS

## BLACK MAYORS: MESSAGE FROM THE VOTERS

### HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. STOKES. Mr. Speaker, a few days ago it was my honor and great pleasure to attend the inauguration of young Maynard Jackson as the first black mayor of Atlanta, Ga.

With Mr. Jackson's installment in office, Americans may now count 101 cities through the Nation with black mayors.

The Washington Post of January 14, noting this fact, pays tribute in an editorial to the growing political sophistication of blacks in America. Our achievements at the ballot box belie the supposed loss of new power which many have claimed to detect in the evolution of the black struggle. Far from losing power, by building on the successes of the civil rights movements of the 1960's, black Americans have launched campaigns for community empowerment in the 1970's. The success of the new movement in many places is already very clear not only in election results but also in voting patterns. I find it highly significant that Deep South whites cast a huge vote against racism as they elected a mayor and city council pledged to work from a basis of biracial harmony for the health, prosperity, and development of all Atlantans.

I commend the Post's fine editorial to the attention of all my colleagues:

[From the Washington Post, Jan. 14, 1974]

BLACK MAYORS: MESSAGE FROM THE VOTERS

In Atlanta, the other day, the inauguration of a 300-pound 35-year old black lawyer as mayor was closed by a chorus based on Schiller's "Ode to Joy." Just a week earlier a 55-year-old black former state senator declared at his inaugural as mayor of Detroit that it was time for racial harmony to replace the distrust and divisiveness that have touched that city so often in the past.

In a ceremony marked by a delighted outpouring of his enormous family, Atlanta's new mayor, Maynard Jackson, said, "Are we a city too busy to love? . . . Love must be strong economic growth and prosperity for all . . . Love must be a balanced diet for all our children . . . Love must be an open door to opportunity instead of a closed door of despair . . . Love must be a chance for everybody to be somebody." Those are uncommonly powerful words from a black mayor in the capital city of Georgia which gave us some of the ugliest evidence of rampant racism not too many years ago.

The symbols of Detroit and Atlanta are monumental. But, there was similar news from all over the country. Earlier in 1973, Thomas Bradley was elected mayor of Los Angeles. In Raleigh, Clarence Lightner became the North Carolina capital city's first black mayor. Blacks were elected to city halls in Chapel Hill, N.C.; College Park Md.; Grand Rapids, Mich.; Dayton, Ohio; East Orange, N.J. and Greenville, Ga., as well. In all, there are 101 black mayors around the country.

It is fashionable to bemoan the loss of the civil rights momentum generated in the 1960s. Much of the high intensity and the highly visible activity have subsided; some of the legislative initatives generated in those days have been blunted. But the country has clearly come a long way from 1966 when Carl Stokes was elected as the first black mayor of a major American city and 1967 when Richard Hatcher became the second.

One of the major developments shown by the Atlanta and Detroit elections is the growing political sophistication of blacks and the growing political strength generated by black precincts. Interestingly enough, the voting divided more sharply along racial lines in Detroit than it did in Atlanta. There, despite a last minute appeal to white racism by Mr. Jackson's opponent, 20 percent of the white voters cast ballots for the black candidate. The Atlanta voters went farther and elected a city council where Mayor Jackson can count on 10 of the 18 council votes on racial issues and on 6 to 8 on many others. When he was vice mayor, Jackson could only count on one or two.

The fact that voters in Georgia can't be stampeded by predictions of white flight from the city and that blacks are participating ever more significantly in the political process are good omens. America has much more to do in healing its racial wounds. But the sounds from the voters in a lot of America's municipalities in 1973 were the healthy grounds of recovery.

## STANLEY CLEMENTS—A CHAMPION FOR BOXERS

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. ANDERSON of California. Mr. Speaker, when one thinks of boxing one tends to think of the champions—those who have demonstrated their marked superiority.

I was recently privileged to attend a testimonial dinner given by the Golden State Boxing Association to honor such an outstanding individual—Stanley Clements.

Although Stanley Clements is not a professional boxer, this fine Los Angeles-based organization chose to honor him for another quality of a champion—one who does battle for others.

Stanley Clements has indeed been very generous in helping others throughout his life. As the youngest of 10 children, he helped his widowed mother by earning money during the Depression singing and dancing in the streets of New York. Later, after winning first place on the Major Bowes Amateur Hour, he chose to remain with the show to assist others to get a start.

Since those early difficult days, Stanley has achieved quite a career for himself in show business. He now has 40 motion picture credits, including his classic role of the tough kid in "Going My Way" and his academy award nomination for best supporting actor in "Salty O'Rourke."

Yet Stanley Clements is not content to sit back and ride on his success. He is active helping others. During World War II he chose to suspend his film career and fight for his country. After the war, encouraged by a war-buddie, Frank Gill, he began to take a more active role in the boxing world. Not only is Stanley an avid fan and former manager, but his love of the sport and his concern for the boxers has made him one of the leaders in the Golden State Boxing Association.

Under the guidance of men like Ray Owens, Frankie Garcia, Hugh Sublett, George Levine, and others; the Golden State Boxing Association began in 1968 a crusade to promote not only the well-being of former boxers, but also the boxing profession. Today the dedicated organization is made up of many of our Nation's most outstanding boxing personalities. These fine athletes represent the best of the boxing world of both present and yesteryears.

Unfortunately, times have not always been favorable for many of these boxers since retiring from the ring. Although some may be down, they definitely are not out. The Golden State Boxing Association—with men like Stanley Clements—is there to help. They personify the adage, "A friend in need is a friend indeed."

Stanley Clements has been with this organization since its beginning, generously giving both his time and talents drawing the public's attention to the needs of these former boxers.

Mr. Speaker, I was deeply touched by the warmth I felt from this outstanding gathering honoring "Stash"—as the president of the Golden State Boxing Association, Nobel "Kid" Chissell, and his buddies call him. These former boxers were there to show their appreciation for the contributions which he has made in their behalf.

We are indeed fortunate to have leaders in our community who are willing to give of themselves to help others. I am certain that his wife, Marie, and his son, Sylvester, share in the pride we in Southern California have for Stanley Clements.

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## RESOLUTIONS OF THE DEMOCRATIC WOMAN'S CLUB OF KENTUCKY

## HON. CARL D. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. PERKINS. Mr. Speaker, recently, the Democratic Woman's Club of Kentucky adopted two resolutions honoring our late Presidents, Harry S. Truman and Lyndon B. Johnson. I would like to call these resolutions of respect to the attention of the Congress, and include them in the RECORD at this point:

### RESOLUTION OF RESPECT—HARRY S. TRUMAN

(May 8, 1884 to December 27, 1972)

Whereas, during the year since this body last met in convention, the people of the Commonwealth of Kentucky, the United States of America, and the Democratic Party have suffered a grievious loss in the person of a great man, a great president, and a great leader of our party, the Honorable Harry S. Truman, who departed this life December 27, 1972, at the age of 88; and

Whereas, Harry S. Truman, as President from April, 1945, until January, 1953, showed great strength, courage, and the ability to determine and to take action in an era of war-time crisis, seeing this country through the surrender of Germany and Japan in World War II, difficult post-war problems in Berlin the cold war, and military actions in Korea; and

Whereas, during his Presidency, which began with the explosion of the atomic bomb, the future of all mankind at many times rested on the decisions he was called upon to make, a fact which he faced squarely and publicly, by proclaiming through the sign on his desk, "The buck stops here;" and

Whereas, Harry S. Truman showed himself a true citizen of the world through his efforts to help create the United Nations; his Truman Doctrine, which stopped Communist encroachment in Turkey and Greece; his espousal of the Marshall Plan for reconstruction efforts in war-torn Europe; and the granting of Independence to the Philippines; and

Whereas, Harry S. Truman showed himself as a strong President at home, urging measures to protect the post-war economy, federal aid to education, increases in minimum wages, civil rights legislation, and the recommendation of statehood for Alaska and Hawaii; and

Whereas, throughout his career as a public servant, from 1922 as a Judge of the County Court for the Eastern District, Jackson County, Missouri, ten years as a United States Senator from Missouri, and his years in the White House, Harry S. Truman was at all times a Man of the People and an eloquent spokesman, defender and champion of the Democratic Party, who could and did "give 'em hell," and who was the living embodiment of the party's ideals; and

Whereas, Harry S. Truman, in his private life, was a devoted husband and father to his wife, Bess Wallace Truman, and daughter, Margaret Truman Daniel, and doting grandfather to his grandsons, thus demonstrating to the world the American ideal of a warm, happy, and loving family;

Now therefore, be it resolved that the Democratic Woman's Club of Kentucky, meeting in full convention, does mourn the loss to our country, our state, and our party, of the Honorable Harry S. Truman, and that it is the will of this convention that this document shall attest to that fact and shall be recorded for posterity in the minutes and archives of this body, and that further, a copy of this Resolution shall be transmitted to Mrs. Bess Wallace Truman, the Truman Memorial Library, Independence, Missouri, and to the Congress of the United States of America.

In witness whereof, the President of the Democratic Woman's Club of Kentucky and the Resolutions Committee, have hereunto set their hands this sixth day of October, 1973.

Mrs. F. GLENN BOCK,
*President.*
Mrs. CLIFFORD B. LATTA,
*Chairman.*

### RESOLUTION OF RESPECT—LYNDON BAINES JOHNSON

(August 27, 1908 to January 22, 1973)

Whereas, during the year since this body last met in convention, the people of the Commonwealth of Kentucky, the United States of America, and the Democratic Party have suffered a grievous loss in the person of a great man, a great President, and a great leader of our party, the Honorable Lyndon Baines Johnson, who departed this life January 22, 1973, at the age of 64; and

Whereas, Lyndon Baines Johnson, who proudly claimed his Kentucky heritage, stood at or near the center of power in our nation's capital for all of the great political events of more than a third of a century, assuming with dignity and assurance the role of advisor and leader in matters of national and international interest, while at the same time guiding, directing and then standing at the helm of the Democratic Party; and

Whereas, he entered the public role that was to become his life's work in 1931 at the age of 23 as a legislative aide in Congress, rapidly earning the respect of those who knew him, and initiating a career that would come to include eleven years in the House of Representatives, twelve years in the Senate, three years as Vice President, and five years in the highest office of the land, the Presidency; and

Whereas, Lyndon B. Johnson at all times upheld the traditional beliefs of the Democratic Party, as the party of the common man, and guided by said beliefs, declared "unconditional war on poverty in America," instituted the Job Corps; and drove to passage by Congress such outstanding achievements as medicare, massive federal aid to elementary and secondary schools, and the Economic Opportunity Act; and

Whereas, in the same tradition of government for all people, Lyndon B. Johnson was a champion of minority rights, personally guiding the nation's first civil rights in eighty-two years through Congress in 1957 as Majority Leader, and as President, bringing about the historic Civil Rights Act of 1964, including public accommodations and fair employment practices sections, and the Voting Rights Act of 1965; and

Whereas, Lyndon B. Johnson stood as a political genius without parallel in American history, whom Adlai Stevenson cited as "a master of the art of the possible in politics," and of whom it was said by former Democratic leader James A. Farley, "we never had a finer leader"; and

Whereas, Lyndon B. Johnson, through his devotion to his wife, Lady Bird, and his two daughters, Lynda and Luci, and to his grandchildren, demonstrated to all his belief and joy in a close and loving family;

Now therefore, be it resolved that the Democratic Woman's Club of Kentucky, meeting in full convention, does mourn the loss to our country, our state, and our party, of the Honorable Lyndon Baines Johnson, and that it is the will of this convention that this document shall attest to that fact and shall be recorded for posterity in the minutes and archives of this body and that, further, a copy of this resolution shall be transmitted to Mrs. Lady Bird Johnson, the Johnson Library at Austin, Texas, and the Congress of the United States of America.

In witness whereof, the President of the Democratic Woman's Club of Kentucky and the Resolutions Committee, have hereunto set their hands this sixth day of October, 1973.

Mrs. F. Glenn Bock,
*President.*
Mrs. Clifford B. Latta,
*Chairman.*

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## OIL DEPLETION ALLOWANCE

## HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. GIBBONS. Mr. Speaker, I would like to call to the attention of Members two statements which advocate the removal of the controversial oil depletion allowance. One is by Atlantic-Richfield Oil Co., the Nation's fourth largest producer of domestic oil, the other is by Roy L. Ash, Director of the White House Office of Management and Budget.

For a long time I have urged the reduction or removal of the oil depletion allowance. Mr. Bradshaw, president of ARCO, says that the oil depletion allowance is "an albatross around our necks." I agree. It is also an albatross around the necks of consumers who foot the bill for the gigantic tax breaks of the oil companies.

There is a great deal of support in Congress for changes in tax treatment of the oil industry. I hope a thorough study will be undertaken soon.

The articles follow:

[From the Washington Post, Dec. 25, 1973]

### Big Oil Firm Asks for Elimination of Depletion Benefit

(By Robert Meyers)

Los Angeles.—Atlantic-Richfield, the nation's fourth largest producer of domestic oil, will shortly begin a concerted campaign to eliminate the controversial oil depletion allowance.

Atlantic-Richfield (ARCO) will thus become the first oil producer to come out against the nearly 50-year-old tax write-off, which currently permits oil producers to deduct 22½ per cent of their gross income from taxes.

"The oil depletion allowance once had validity and good purpose," ARCO board chairman Robert O. Anderson told this reporter, "but unfortunately it has become an absolute battlefield for the industry.

"It's hard to advocate giving up a financial resource, but the domestic oil producers have recently had a low rate of return on invested capital, and I have a strong feeling that we have to reintroduce the dynamics of the marketplace back into the industry."

ARCO president Thornton Bradshaw called the oil depletion allowance "an albatross around our necks."

"The so-called tax breaks it provided with its enactment in the 1920s did provide a good way of compensating for a depleted resource. But since that time it has ceased to be needed and there is no way of explaining to the public that the oil depletion allowance is a subsidy to the consumer, not to the companies. Why should we go on taking the rap?"

The oil depletion allowance tax statute originally allowed oil producers to deduct 27½ per cent of their gross revenues from their taxes. The theory was that once taken from the ground and sold, that oil could never benefit the company again. Money saved through the tax write-off could then be used to explore for more oil reserves.

ARCO claims that the write-off also functions as a consumer subsidy, keeping the price down. A spokesman says that the write-off is now worth about a penny a gallon, and for competitive reasons, the oil companies charge consumers a penny a gallon less at the pump than they would otherwise. The lower price, he said, thus encourages consumption.

If the oil depletion allowance is abolished, executives hope that the Cost of Living Council will then let the oil companies raise prices by the same amount previously covered by the depletion allowance—about a penny a gallon. The higher price will then help discourage consumption, they reason, as well as bringing in new capital for refineries and exploration.

Ending the allowance, these executives feel, will also be a public relations plus in their upcoming battle on Capitol Hill over new, possibly restrictive, legislation.

Critics have long charged that the depletion allowance was a billion dollar advantage not enjoyed by other taxpayers, and that it allowed oilmen to become inordinately rich.

"Perhaps there were a few individuals who abused the privilege," Bradshaw says. "But by and large the companies did use the money for more drilling. The problem, now, however, is that the oil industry, in part, has a poor public image" partly because of pollution and partly because of profits.

"The public thinks all oil companies make much too much money. They read that Atlantic-Richfield made $200 million last year, and they think that's too much. But in fact it's only 9 per cent return on our capital investment, whereas the average for all other American industries is 12 per cent. That means that the domestic oil industry has roughly a return on investment of 30 per cent less than other industries.

"We have got to get some credibility with the public, or else the public might decide it doesn't need the private oil industry anymore."

Eliminating the oil depletion allowance, Bradshaw says, is one way of restoring credibility.

Senior ARCO officials say they don't care how long it takes to eliminate the oil depletion allowance, but they want to see some government controls on price kept in effect in the meantime.

"The administration seems to be of the disposition that energy is going to be high-priced," Bradshaw said. "We agree. What we want to do now is clear out the underbrush—the oil depletion allowance."

Gaining a better public relations image for the oil industry is more than a concern about appearances. In its current "anti-oil industry mood," says ARCO executive vice president W. F. Kieschnick Jr., "the Congress might enact legislation that, however well-intentioned, could harm the industry."

Doing away with the oil depletion allowance—even though some price controls would be retained—would signal the end of the "era of cheap and abundant energy," Kieschnick says. "The oil depletion allowance in effect is a government subsidy to the consumer.

"But we are in a new era now."

ARCO chairman Anderson, thinks that ending the oil depletion allowance might help make this country self-sufficient in terms of oil supplies. "If we permitted the dynamics of the marketplace to operate, and realize that energy is not cheap, then in three to seven years we might move towards self-sufficiency."

Bradshaw says that ARCO's campaign to end the oil depletion allowance "will be conducted primarily in Washington, in talks with congressmen, and with the press. If we ran an advertising campaign, it might look a little self-serving."

Atlantic-Richfield is headquartered in Los Angeles. It reported sales last year of $3.32 billion, and is ranked 25th of all U.S. corporations. It is the ninth largest of all U.S. companies producing oil around the world, and the fourth largest among those U.S. companies dealing primarily with domestic production and consumption.

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[From the Wall Street Journal, Jan. 21, 1974]

### Nixon Aide Urges Oil-Depletion Allowance Be Restudied and Possibly Cut or Eliminated

Washington.—The oil industry's 22% depletion allowance, long a major tax advantage for oilmen, should be "reconsidered" in light of the energy crisis and possibly abolished, a top White House official said.

Roy L. Ash, director of the White House Office of Management and Budget, told a television interviewer that it's "quite possible" that President Nixon will recommend a reduction or elimination of the oil-depletion allowance soon. "This is certainly the time to look at it and therefore if there's to be any action taken, it should be one taken early rather than later," Mr. Ash said in an interview in the Public Broadcasting Service's program, Washington Straight Talk.

The depletion allowance permits oil and gas producers to deduct from their taxable income 22% of the gross income from oil and gas production, up to a maximum of half their taxable net income. Many years a target for liberal tax "reformers," the depletion allowance was cut from 27.5% to its current level in 1969.

The White House official observed that the depletion allowance was written into tax laws for "the purpose of generating additional oil out of our land so that we would have an available supply." But he added: "Now I think it is a good and fair question as to whether that should be continued. Maybe that isn't a tax (sic) that now should be continued, given the wholly changed circumstances we have at this time." Mr. Ash didn't say so, but some economists and others contend that the oil industry doesn't need the depletion tax-incentive any longer because crude-oil prices have risen enough to provide incentive for all-out production.

Mr. Ash said the government should study whether the depletion allowance "continues to serve the purpose that it originally served," adding that he isn't "convinced" it does. Asked if the Nixon administration would recommend outright elimination or just a reduction of the provision, he responded, "Either of those are possibilities."

Previously, some administration officials publicly talked of recommending that oil companies be required to invest money saved through the depletion allowance in new efforts, such as research and exploration, to expand the oil supply. Mr. Ash didn't refer to this so-called "plowback" idea in discussing possible changes.

There's considerable sentiment in Congress for some changes in tax treatment of the oil industry, including possible reduction or elimination of the depletion provision. In addition, numerous lawmakers have proposed other ideas, such as an excess-profits tax on oil companies, and the administration has proposed a crude-oil excise tax that it calls a "windfall profits tax."

The House Ways and Means Committee is expected to take up the matter of energy-related taxes soon after Congress reconvenes this week.

## PUBLIC SUPPORTS RIGHT TO ABORTION

### HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. DELLUMS. Mr. Speaker, 1 year ago today the Supreme Court affirmed the right of all women to elect abortion without restriction by State law. This right was written into law in a 7 to 2 decision, which stated in part that the right to privacy "is broad enough to encompass a woman's decision whether or not to terminate her pregnancy."

And, contrary to a lot of mere demagoguery, I believe evidence has been growing in recent years to demonstrate that most Americans welcome such a policy and such a decision.

Further, evidence shows clearly that the Court's decision has brought great benefit to our society—as well as to individual women and families. I would like to call attention to some of this evidence here today and also to warn my colleagues of some ill-advised attempts to circumvent this law of the land as enunciated by our Highest Court.

#### PUBLIC ATTITUDE TOWARD ABORTION

From every indication, a majority of Americans believe in the principles that lie behind the Court decision. A June 1972 Gallup poll showed that 64 percent of the sample agreed that the decision to have an abortion "should be made solely by a woman and her physician." And 56 percent of the Catholics polled in that survey agreed with the statement.

When the Journal of Modern Medicine surveyed doctors after the Court decision, 65 percent were in favor of the ruling.

As recently as November 1973, the National Catholic Reporter commissioned and published a poll directed by Father Andrew Greeley of the National Opinion Research Center. These data showed that Americans of all religions believe that abortion is justified if there is danger to a woman's health—91 percent of Protestants, 88 percent of Catholics, and 100 percent of Jewish people polled agreed.

Mr. Speaker, I am also aware of several polls done by my own colleagues here in the House of Representatives in their own districts, that also show definitive approval by striking majorities of the decision of the High Court.

Although we are hearing from those who oppose any abortions at all, it seems clear to me that we should heed the views of the far greater number of Americans who have reached the opposite conclusion in their own consciences. That conclusion is that no law or doctrine imposed by others can or should interfere with a woman's decision whether or not to continue a pregnancy. The Court has agreed with this view, and I hope my colleagues would do the same.

#### MEDICAL BENEFITS OF NEW ABORTION LAW

I wish each of my colleagues could join me in a tour of emergency room facilities in our Nation's cities, to hear the views of those who had to deal firsthand with the tragedy of illegal abortion. And to hear, as well, how the Supreme Court has changed that medical nightmare. We know that where there were laws against abortion in the past, women who, for whatever reason, did not wish to continue a pregnancy subjected themselves to all manner of unsafe and even self-induced procedures. And flooded emergency rooms when complications arose.

Fortunately, those days are at an end. Medical staff tell me that the incidence of these visits to emergency rooms for incomplete abortions or postoperative complications has dropped dramatically. Dr. Christopher Tietze, Associate Director, Biomedical Division of the Population Council, tells me that 1 million illegal abortions were ,being done each year before States or the Supreme Court changed the law. Thus, 1 million women lived through the personal trauma of seeking an illegal procedure, and underwent the uncertainties of back-alley medicine. Furthermore, we have seen no great increase in this number as the laws have eased, perhaps 1,250,000 abortions in 1972, of which half were by then legal and medically sound. I hope soon we will see the day of no illegal abortions, if only on medical grounds.

We can be encouraged, also, by viewing the effect of enlightened abortion laws and the Court ruling on maternal and child health, both physical and mental. As I have pointed out, deaths due to complications of abortion have dropped, as has the incidence of complications themselves. But I would like to say that health departments have noted a decline in infant mortality rates, and there appears to be well-grounded reason to think that women who really did not want a child, and who might not have sought adequate prenatal care or nutrition, are in lesser numbers carrying through to full-term pregnancies. With abortions more difficult to procure in past years, such unwanted children might have died in the early months of life.

I should like to observe, too, that an enlightened abortion policy seems to benefit the mental health of women. While even prior to the new law, abortion appeared to be accompanied by few, if any, negative psychological consequences in itself, the added burden of breaking the law was heavy. Thus feelings of guilt were associated with lawbreaking, where there would have been no need for such thoughts. The decision to terminate a pregnancy is rarely an easy one, but it appears that the reaction of most women who elect abortion is relief, and I am pleased that the new ruling and laws no longer add other burdens of seeing oneself as a criminal. There even seems to be some evidence that there are more psychological problems associated with giving up a child for adoption or keeping a child after abortion was requested and denied.

#### STILL TOO MANY UNWANTED BIRTHS

Even though effective contraception is increasingly available, the 1970 National Fertility Study by Norman B. Ryder and Charles B. Westoff of the Princeton University Office of Population Research found that 15 percent of births to married couples are unwanted, and that between 1966 and 1970, almost half—44 percent—of reported births were unplanned. It was also learned in the study that a quarter of couples who use contraceptives get pregnant sooner than intended and more than a third who use birth control because they want no more children become pregnant within 5 years. I believe these findings underscore the need for programs of education in family planning, to lower the incidence of misuse or misunderstanding of effective contraception. And in this connection I hope I will be able to vote funds or otherwise support the excellent work begun by the National Center for Family Planning Services. But certainly we should not in any way restrict the right of couples to seek abortion if other methods of family planning are unsuccesful.

#### ABORTIONS ARE AVAILABLE IN MANY MORE STATES

I am gratified to see the leadership exerted by a number of the States in changing their laws to reflect the High Court decision during the last year. Before the Court action, only four States—Alaska, Hawaii, New York, and Washington—made abortion available to most women who requested it. In each of these there has been a decline in abortions performed, as it has become easier to obtain the procedure in other States. We have seen clinics opening, and hospitals offering the service immediately, in some places; elsewhere, it has taken court challenges to force compliance with the Court ruling. I hope in another year, we will no longer force women of any State to travel very far from home to exercise a right enunciated by our Supreme Court.

#### CHALLENGES AHEAD TO MAINTAIN THE LAW

I am encouraged by the events I have reviewed today in my remarks. But I am discouraged by some other actions in the past year, as measures have come before us in the Congress that would weaken or overthrow the Court decision which is meaning so much to women in my own State of California and elsewhere.

I am particularly distressed by amendments on this subject that have been attached to unrelated legislation. I refer to an amendment to the Legal Services bill (H.R. 7824) that restricted Legal Service attorneys from giving counsel to poor women with any abortion-related problems. I refer also to an amendment to the omnibus health bill (S. 1136, Public Law 93-45) that in effect allows hospitals to turn away patients seeking abortions and physicians who wish to perform abortions in these facilities. While no individual should be forced to participate in an abortion if he or she chooses not to, a facility that receives Federal dollars surely must be available for abortions, as they have been declared legal by our highest Court.

I am discouraged also by two additions to the Social Security Amendments of 1973 (H.R. 3153) adopted by the Senate just before the end of the session. One is a further attempt to allow hospitals to turn away abortion patients—as well as those seeking sterilization—and the other would forbid the use of medicaid funds for payment of abortion costs. The conferees from both houses will continue their work on these amendments this year, and I urge them to look again at the facts that are available before they report to us these particular provisions. A majority of our constituents would wish us to protect women's rights to privacy and dignity in determining the course of a pregnancy. And, as I have tried to point out, where we restrict abortion, women simply seek illegal abortions, with large attendant risks and medical consequences.

Most fundamentally, Mr. Speaker, I urge all my colleagues to consider the gross discrimination of any statute restricting abortion. For the effect of such measures as we have before us does not fall equally on all women, but chiefly on the poor, on minority groups, and on the young people—on all groups of women who unlike the rich cannot afford a quick jet trip to another country, or who cannot afford the easy purchase of signatures on a consent form from three high-priced psychiatrists. It is the poor who suffer at the hands of the illegal abortionist, and who, without decent medical knowledge, try the most tragic self-induced methods. I am convinced that it is only a minority of Americans who would wish us to revoke the decision of our Supreme Court, who wish to remove a woman's constitutional and human right to determine when to have her own children, who wish to send so many of our young, poor, and minority women once again into the hands of unskilled and illegal quacks. I encourage my colleagues to seek the views of all Americans on this vital subject, before accepting the minority view.

Finally, I would like to insert into the Record a selection of materials supporting my views on this issue:

[From the New York Times, Dec. 30, 1973]

### Abortions, Legal for Year, Performed for Thousands

A 30-year-old divorcee, who was eight weeks pregnant entered the brightly colored office of Women's Health Services, an abortion clinic in downtown Pittsburgh, and within three hours had had an abortion, rested in the clinic's recovery room, paid the $150 fee and gone home.

A year ago the procedure would have been illegal in Pennsylvania and in every other state, but today, almost a year after the Supreme Court ruled that abortions are legal, similar scenes are being played out in clinics and hospitals in virtually every part of the country.

The sweeping change that has resulted from the court decision has removed much of the social stigma associated with the operation and has taken abortions out of the backrooms of the illegal abortionist and brought them into the mainstream of modern medical care.

While there are few official figures on the number of legal abortions performed since the court decision, interviews conducted by The New York Times in a dozen major cities disclose that tens of thousands of abortions are being performed in cities where a year ago it was impossible to obtain the operation.

#### USED FALSE NAMES

"Before the decision, women would come begging for abortions," said Marilyn Cringer, a counselor for Arkansas Woman's Rights, an abortion referral agency. "Many used false names, and most were extraordinarily concerned over our confidentiality."

"Now, when women call, they feel that an abortion is their right," she added. "We don't have to assuage their guilt. Women just want the facts—where they can go for the best and least expensive abortion."

The Times survey also indicates that in some states roadblocks, such as restrictive state laws and high prices, still exist for women seeking the operation. However, in most cases, legal abortion facilities can be found in a neighboring state, only a few hours' drive away.

The Supreme Court ruled last Jan. 22 that all state laws that prohibit or restrict a woman's right to obtain an abortion during the first three months of pregnancy are unconstitutional. The Court also ruled that abortions after the first three months are also legal but are subject to limited state regulations.

#### FOR ALL BUT FOUR STATES

The decision, in effect, overruled laws in all but four states—Alaska, Hawaii, New York and Washington, which already had liberalized laws. Since the decision, there has been a decline in the number of abortions performed in these states.

New York City, where the operation has been legal under a liberalized law since 1970, recently released a report that showed that more than a half million abortions had been performed since the law was enacted. In the year from July 1, 1971, to June 30, 1972, before the Supreme Court ruling, 228,094 abortions were performed in the city. In the following year, when the decision was handed down, the number of abortions declined by 15 per cent to 196,224.

#### 22 CLINICS IN DETROIT

According to the city's Health Services Administration, the decline resulted in part from a decrease in the number of out-of-state residents who sought abortions in New York.

Atlanta, which until January was subject to Georgia's stringent anti-abortion law, now has seven abortion clinics, some of which are performing 100 cases a week. Almost all of the city's hospitals, except for the Roman Catholic ones, are also performing them.

Detroit, which serves as an abortion center for much of the middle West, has 22 abortion clinics and referral agencies listed in the telephone directory. The average cost for a first trimester abortion at the clinics is $150, while the hospitals charge an average of $350. Second trimester cases can run as high as $1,400 at the hospitals.

#### NOT CHALLENGED

Until the Massachusetts anti-abortion law was struck down by the Supreme Court most women from the state seeking abortion would come to New York. This year, the Massachusetts Department of Public Health estimates that * * * in Massachusetts. Most of these abortions will be performed during the first three months of pregnancy, the agency says.

In some states, however, the situation has not changed despite the court decision. Arkansas, for example, enforces a state law specifying that abortions may be performed only if the pregnancy "threatens the life or health" of a woman. A pro-abortion group in Little Rock refers its clients to clinics in Dallas or Kansas City, Mo.

To date, the Arkansas law has not been challenged in court, but an attorney general's ruling has declared it unconstitutional.

"It's just easier for a person to go out of state than it is to go through the legal hassles involved in a court case," an abortion counselor in Little Rock explained.

#### HALF DO NOT COMPLY

In Virginia, the 1973 session of the state legislature refused to make the Virginia law conform wth the Supreme Court ruling. Instead, the General Assembly passed a resolution requesting the court to reconsider its decision.

"The General Assembly's action had a chilling effect on doctors and hospitals around the state," said Mrs. Shalom DuBow, director of the Virginia Civil Liberties Union. "In Virginia, there is still the attitude that abortion is immoral. The General Assembly reinforced that."

After the Court ruling was issued, Virginia's attorney general, Andrew P. Miller, issued an advisory opinion that the state's medical profession should be guided by the Supreme Court ruling rather than by the state's restrictive law.

As a result of the conflicting rulings by the state legislature and the attorney general, about 50 per cent of Virginia hospitals still do not comply with the Court ruling.

Mrs. DuBow said the state's Civil Liberties Union was seeking a test case to attack the state law.

In almost all of the states in which such suits have been filed and ruled upon, the courts have ordered compliance with the Supreme Court ruling.

#### HASN'T HEARD OF ONE

In Pennsylvania, a Federal judge ordered the state Department of Social Welfare to pay abortion costs for those on public assistance. And in Florida, a judge ruled unconstitutional a provision of the state law that required the consent of the patient's parent or spouse before an abortion could be performed.

Another apparent effect of the ruling has been to put the illegal abortionists out of business. In Dayton, Ohio, which has a clinic that performs 200 abortions a month, law enforcement officials could not remember the last time an illegal abortionist was apprehended.

In Tacoma, Wash., where a liberal law was approved in 1970, a state health official said she had not heard of an illegal abortion in several years.

"They probably would be less expensive legally," she said.

National organizations that have taken major stands on the abortion law have redirected their efforts in the year since the Court decision.

The National Association for Repeal of Abortion Laws, known as N.A.R.A.L., has preserved its acronym but has changed its name because the laws have already been repealed. The organization, which was in the forefront of the fight to legalize abortion, is now called the National Abortion Rights Action League. It now concentrates on preserving and enforcing the new laws.

The National Right to Life Committee, which for many years supported the status quo, is now seeking to change the law. The group plans to push for a constitutional amendment, in Congress and in the state legislatures, to guarantee the rights of a fetus, thereby nullifying the Supreme Court decision.

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YWCA, December 1, 1973.

Hon. Ronald V. Dellums,
*House of Representatives,*
*Washington, D.C.*

Dear Member of Congress: The YWCA, an organization with a Christian purpose and a long history of thoughtful concern for the ethical implications of Legislative action, is deeply disturbed about the present threat to the Supreme Court ruling that abortion is a private matter between a woman and her physician.

Our long study of the abortion issue resulted in a unanimous vote by the delegates from 48 states to the 1970 Convention of the YWCA of the U.S.A. that called for an emphasis on the repeal of all laws restricting or prohibiting abortions performed by a duly licensed physician, and in its 1973 Convention for the support of efforts to provide safe, low-cost abortions to all women who desire them.

The majority of our more than a million members had been convinced that Federal or state laws in the area of abortion that permit one group of people to impose their views on another are unconstitutional and an invasion of privacy. We believe that any woman should be able to have access to safe medical abortions if this seems the solution that she and her physician decide upon in her best interest.

The issue of moral and ethical values related to abortion must be considered from many perspectives in a nation of such religious, cultural and racial diversity as exists in the U.S.A. A highly ethical stance must also concern itself with the quality of life for the living as well as for the potential of life. The coercive effects of laws which limit a woman's right to decide in this area are also of paramount ethical concern. In the matter of abortion we believe the lawmaker's greatest responsibility is to safeguard the individual rights and liberties of all citizens and the right of privacy guaranteed by the Constitution.

We urge you to resist efforts towards a constitutional amendment to make abortions illegal, which would prevent women from making a responsible decision about private matters.

We urge you to support the decision of the Supreme Court so that the poor as well as the wealthy can secure good health care and physicians will be able to act in the best interests of their patients.

Sincerely,

ELIZABETH S. GENNE,
*President.*

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POSITION STATEMENT OF THE YWCA OF THE U.S.A.

In the 24th National Convention of the YWCA of the U.S.A. in Boston, Mass., April, 1967, the delegates voted to work to liberalize the abortion laws, and in the following three year period many YWCAs studied the issues, attended hearings in their State Capitals, and kept in touch with the results of liberalization. Across the country members became convinced that repeal of abortion laws was the answer because laws with specifications can discriminate against the poor who cannot afford to travel to places where legal, safe abortions are available. These women are at the mercy of unskilled abortionists working under unsanitary facilities.

The decision to give emphasis to the repeal of all laws restricting or prohibiting abortions performed by a duly licensed physician was voted in the 25th National Convention of the YWCA of the U.S.A. in Houston, Texas, in April 1970. Delegates representing 48 states were selected by their local Associations, and voting delegates were empowered to cast their votes, keeping in mind the best interests of the total YWCA. The decision to support repeal of restrictive abortion laws was passed unanimously.

In the 26th National Convention in San Diego in March 1973, delegates voted to "support efforts to provide safe, low-cost abortions to all women who desire them."

In line with our Christian Purpose we, in the YWCA, affirm that a highly ethical stance is one that has concern for the quality of life of the living as well as for the potential for life. We believe that a woman also has a fundamental, constitutional right to determine, along with her personal physician, the number and spacing of her children. Our decision does not mean that we advocate abortion as the most desirable solution to the problem, but rather that a woman should have the right to make the decision. Along with the YWCA many religious, social work and medical groups have endorsed repeal of laws because this makes it possible for a woman to have access to safe medical service if this seems the solution that she and her physician decide upon. This point of view is taken by many woman who themselves would not seek an abortion.

Because the YWCA voted as its overall imperative to work to eliminate racism wherever it occurs in institutions, it has a concern that no woman should be deprived of services that others can have, but it also is concerned that no women be pressured into decisions which are not in their best personal interest.

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UNITED CHURCH BOARD FOR
HOMELAND MINISTRIES,
*New York, N.Y., September 24, 1973.*

TO ALL MEMBERS OF CONGRESS: The Eighth General Synod of the United Church of Christ supported the position of freedom of choice for all women facing problem pregnancy. A statement referred from the Ninth General Synod to the Board for Homeland Ministries reaffirms this position. In this statement, the constituency of the church and the Congress are urged to "resist attempts to erode or negate the recent Supreme Court decision (on abortion)".

The issue, as we have interpreted it, is not whether a fetus is a human being from time of conception but whether those who so believe should impose their views and the personal consequences they entail on those who do not share that belief. Certainly those who so believe are entitled to their opinions and are not to be condemned for them. It is quite a different matter to demand by law that others should believe likewise, and in any event, submit to the consequences of those views.

It should be a matter of deep concern to observe persons with differing religious backgrounds divided within their own communions. This has indeed occurred already in some areas of the country. Congressional submission to the proposed constitutional amendments that would undercut the present separation of church and state relating to the issue of abortion would expand this confrontation to national proportions. Surely this would not be in the public interest.

Enclosed are position papers on abortion developed in the United Church of Christ. We hope you will consider this position carefully and respond by letting us know your opinion on this issue and your feelings about our particular position.

Sincerely,

LOUISE M. WALLACE,
*Cochairwoman, Task Force on Women in Church and Society.*

HOWARD E. SPRAGG,
*Executive Vice President, Board for Homeland Ministries.*

TILDA A. NORBERG,
*Cochairwoman, Task Force on Women in Church and Society.*

LAROLD K. SCHULZ,
*Executive Director, Center for Social Action.*

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BACKGROUND STATEMENT FOR THE VOTE OF THE UNITED CHURCH BOARD FOR HOMELAND MINISTRIES ON ABORTION, APRIL 1970

THE RIGHT TO CHOOSE

The abortion problem in the United States is of such enormity that the church cannot ignore it but must deal with it seriously. Doctors, lawyers, ministers, social workers, and women generally are seeking guidance and support in the search for resolutions to this problem, which affects the physical and spiritual well-being of so many millions of persons. Until very recently, the thinking on the subject has been hindered by lack of information, fear, misconceptions, prudery, and a general unwillingness to discuss the problem. Now public pressure for reform or repeal of the present laws against abortion is growing. In order to deal responsibly with the issue, the legal, medical, and moral aspects should be examined.

*The legal aspects*

Our United States abortion laws were introduced during the last century in an effort to reduce the high number of maternal deaths accompanying abortion in the days before sterile operating procedures were standardized. Now, the laws are not retained to protect the mother's life and health but rather in order that the fetal life may be protected. The present laws reflect the strong feeling among many individuals and religious groups, particularly the Roman Catholic Church, that any termination of a pregnancy constitutes the taking of a human life. However, the fetus is not legally considered as a human being. The view that the fetus is a fully human person can no longer be considered normative in our society. It is challenged by a large body of legal, medical, and theological opinion that considers the fetus as potential, not actual human person. According to this view, the fetus cannot be considered as a person until it is viable: that is, sufficiently developed to live should it be born.

Today, forty of the fifty states consider it a serious crime to terminate a pregnancy before birth unless it is necessary to preserve the mother's life. Thirteen states have more liberal laws, most of them passed within the last two or three years. Hawaii has repealed all legal restriction on licensed physicians or osteopaths performing abortions in a hospital licensed by the state or Federal government. On April 11, 1970, Governor Rockefeller signed the new New York State law which took effect on July 1, which makes abortion a matter of choice between a woman and her doctor up to the 24th week of pregnancy. On April 30, the legislature in Alaska overrode Governor Keith Miller's veto of a liberalized abortion law which leaves abortion up to a woman and her doctor for reasons of personal conviction.

It is obvious that the trend in almost all of the states is toward more liberal abortion laws and toward consideration in many of the states of repeal of all laws which prohibit women and doctors from freedom of choice in decisions concerning the termination of pregnancies.

Of the 1,000,000 abortions performed each year in the United States, 99% are illegal. (Abortion in America, Beacon paperback, originally entitled Therapeutic Abortion, 1968. The editor, Harold Bosen, recently raised the estimate to 1,500,000. The Planned Parenthood Federation reports in its statistical studies an estimate of 1,200,000). Women are continually being refused the abortions they so desperately need: the 14- or 15-year old girl, the poor 45 to 50 year-old woman, and the college student who desires to continue her education. Most women have no choice except through illegal channels.

The sentiment against these laws is widespread, and the pressure to evade them is so great that they cannot in fact be enforced. If a woman has financial resources and sufficient educational background to obtain the information she needs, she finds that abortions are available. Law enforcement agents, doctors, ministers, and social workers are willing to turn their backs on the law in the effort to make abortions available. The state will find it increasingly difficult to uphold these laws in this new age of women's liberation when control over the reproductive life is being viewed more and more as human right.

The constitutionality of the present laws is presently being tested in the court. Last November, Washington, D.C.'s anti-abortion statute was declared unconstitutional by Federal District Judge Gerhard Gesell, who held that it was so vague that physicians could not be certain that they would not be prosecuted if they decided in good faith that an abortion was justified. The most recent decision was by the United States Supreme Court on February 25, 1970, citing the California abortion laws as unconstitutional. Some of the charges being upheld are: violation of individual rights, violation of class rights in that the laws are oppressive of women, "vagueness," and that they discriminate against the poor and minority groups in favor of the affluent. It is also charged that the laws have the effect of favoring the married woman as against the very young and the unmarried.

The public outcry has led to a continuing liberalization of the laws. However, "reforming" of the law can hardly meet all the justifiable categories for an abortion. These include allowing abortions in such cases as: ones in which the woman's physical or mental health is endangered, if the woman is pregnant because of rape or incest, if there is a strong possibility that the child will be seriously deformed or retarded, or if there is a strong possibility that the woman will be unable to care for the child for mental, physical, or social reasons. The present reform measures, although making legitimate abortions available to a wider group of women, still remain inadequate in providing for countless other women who feel they have a right to control the quality of their own lives as well as that of the children they bear. Reform measures may in fact make matters worse, since there appears to be a tendency to interpret the liberalized laws narrowly and to try to apply them rigorously; whereas laws that are more comprehensive in their prohibition of abortion often lend themselves to relatively broad interpretation. Father Drinan, the eminent Catholic lawyer and theologian, has stated that if change is necessary he would prefer the law being silent on the subject of abortion rather than specifying instances in which abortions may be performed. The state should not be in the business of trying to determine who shall or shall not be born. Cardinal Cushing recently stated that Catholics do not need the support of civil laws in order to be faithful to their religious convictions.

Finally, the inadequacies of our sex and family planning education, the lack of availability and out and out refusal of contraceptives to minors, the inadequate instruction—especially to the poorly educated on the use of contraceptive devices and their present rate of failure—coupled with simple human error or carelessness mean that women will still be forced outside the law to obtain abortions. It should be noted that the panic created by the Senate inquiry on the birth control pill has already led to obstetricians and gynecologists across the country reporting an upsurge in the number of pregnant patients. Suffering and misery will continue both for those denied an abortion and for those who obtain medically unsafe ones. It seems apparent that halfway measures which fall short of removing all legal restraints in physician-performed abortions only perpetuate many of the present injustices.

### *The medical aspects*

Abortion is a major health problem in America. The late Dr. Kinsey's research reported that one in five women who had ever been married had had a criminal abortion and among pregnancies conceived and ending outside marriage, nine out of ten ended in induced abortions. It is estimated that as many as 8,000 women, 90% of them nonwhite, die each year from illegal abortions. (Public Affairs Pamphlet No. 429, "When Should Abortion Be Legal?"). Countless others are impaired or made sterile as a result of the bungling of non-professional practitioners. Yet abortion in the first trimester can be safe, quick, and simple an operation in which the medical risks are, according to Dr. Christopher Tietze in his studies on abortion $\frac{1}{6}$ to $\frac{1}{10}$ as dangerous as those of pregnancy and childbirth. (American Journal of Obstetrics and Gynecology, Vol. 101, No. 6, July 15, 1968, "Therapeutic Abortions in the United States"). Ironically, the simple, safe, hospital abortion is becoming harder and harder to obtain. Even in those states where repeal of the abortion laws has taken place, concern is being voiced that medical conservatism, foot-dragging and institutional reluctance to get involved will continue to be a grave hindrance in achieving the goal of safe abortions for all women who need them. Hospital boards are set up to determine the eligibility of individual cases but unfortunately quota systems and lack of uniform standards in a geographic area prevent doctors from offering the medical help they feel their patients should have.

Most physicians and psychiatrists would agree that a woman's health and well-being are impaired by the bearing of unwanted children, and it is also well established that being wanted is essential to emotional stability. Unwanted children, as Lawrence Lader points out in his book on Abortion, contribute to the problems of poverty, family instability, and personal emotional damage. Studies have also shown that an unwanted child's own health and well-being may be similarly affected. A follow-up study done in Sweden by Drs. Forssman and Thume of children born to women who were refused legal abortions between 1939–1941 showed that the unwanted children were worse off in every respect to the control group. More were delinquent, more were declared unfit for military service, more were educationally subnormal, fewer proceeded to higher education, and more were divorced. This study is reported in the Cambridge University Press book on Contraceptive Practice by John Peel and Malcolm Potts.

The present abortion laws do in fact constrain the physician to the point that he is unable to serve the best medical interests of his patients. Modern Medicine, November 6, 1969, reported a poll of 27,000 doctors who were asked whether abortion should be available to a woman on consultation with her doctor. 73.3% of all doctors answered in the affirmative. The board of trustees of the American Medical Association proposed a liberalized abortion policy to the House of Delegates in June. It is clear that the removal of all legal restrictions on physician-performed abortions would enable a doctor to do something which is at present denied him; he could practice medicine which in his opinion would best serve his patient, without fear of entanglement with the law.

### *The moral aspects*

The moral dilemma surrounding the question of abortion calls on Christians to use all resources of wisdom and compassion to clarify the issue and learn to deal with it. Human lives and potentially-human lives are involved. The Christian tenet of respect for life must be weighed heavily in the discussion. Understanding and respect for differing views must also be upheld. These include the official stand of the Catholic Church that human life begins at conception, as well as the view expressed by the United Methodist Church adopted by its Board of Christian Social Concerns on October 8, 1969, which states "Since personhood is more than physical being, we affirm that the fetus is not a person, but rather tissue with potentiality in most cases for becoming a person." There is a wide range of views which fall somewhere between these two extremes. Some of these were: the American Baptist Convention adopted a resolution on June 2, 1968 affirming the belief that abortion be a matter of responsible personal decision; on October 31, 1969, the Board of Directors of the American Friends Service Committee endorsed the report *Who Shall Live? Man's Control over Birth and Death*, prepared by their working party. This report held up the fact that in the matter of abortion, the immediate concern for the welfare of individuals, the family, and the society as a whole may conflict with what seems otherwise a desirable absolute standard; and the accompanying program of the United Church of Christ which calls for a program of Freedom of Choice in the area of Abortion. The argument has lasted for centuries and will no doubt continue well into the future.

The most pressing moral issue centers around the question as to when a human life begins and whether it is permissible to terminate a life, whether it be termed potential or fully human. Both scientists and theologians hold widely disparate views, some emphasizing the decisiveness of a certain point in the developmental process: fertilization, implantation, quickening, viability; while others emphasize the continuity and hesitate to name a decisive point at which the fetus can be thought of as a person. This wide disagreement about which moment is sufficiently decisive to be used as the point of marking human life from not-yet human life is the crux of the debate for most scientists and theologians. And yet while the debate continues, we must weigh carefully the circumstances surrounding the lives of those individuals who are now facing decisions about abortion. A responsible position concerning abortion should be based not just on the rights of fetus but also on a consideration of the whole quality of life, a consideration of the rights of the individual woman, her potential child, her family and society, as well as the rights of the fetus. James Gustafson, a professor of Christian Ethics at Yale University, has written a treatise on a *Christian Approach to Ethics of Abortion* in which he tries to point out the importance which so many theologians give to sanctity of life. However, he also states that all the circumstances of the life of the individuals concerned should be weighed before moral judgments are made about the person's actions. He writes, "God wills the creation, preservation, reconciliation and redemption of human life. Thus, one can infer, it is better to prevent its coming into being than to destroy it when it has come into being".

However, it is hardly an intellectual and scientific debate for that woman who knows in every fibre of her being that she does not want to bear the fetus she carries within her. She is willing to be confronted by all the moral issues as long as the deepest moral question of all is confronted. Must she be forced to bear the child she carries whether she wants it or not? Not only is this the vital issue for her but it is also vital to the child yet to be born. A pregnant woman who does not want to bear the child is the one who has to wrestle with the moral issues involved in abortion. She is the only person who can determine what is the most responsible action to take under the circumstances. She must deal with the fact that the fetus growing within her is potentially-human life. She must honestly deal with her own feelings about the pregnancy and her own best predictions about the feelings she will have toward the child if the pregnancy is allowed to go to term. She must deal with the relation of these feelings to the kind of life the child will have, and of her own eighteen-year commitment to the nurture of that child. She must deal with her own convictions about the rightness or wrongness of the abortion. Although consultation with a clergyman, social worker, or doctor will help her to raise the questions with which she must deal—and her every effort should be made to provide this kind of support—ultimately only she can determine her own position on these questions.

Also involved is the whole matter of the way our society injects its norms to enforce moral behavior. The sex mores of our cultures must be questioned. Most women and some men are well aware of the subtle and sometimes not so subtle victimization under which a woman lives her life in a male-dominated society. As it is the woman who bears the inescapable consequences of the sexual act, the present abortion laws may indeed be termed "oppressive" of her rights. In addition, the notion that the abortion laws should be kept in order to deter or control behavior—for their moral or pedagogical effect—is offensive and should be rejected. Again it is the woman who must bear the consequences. It should be remembered that the consequence is a human being, who may very well have to suffer not only from being unwanted by his mother but, if he is born out of wedlock, of being rejected by the very society that forced his mother to bear him. The society and the community need to be continually reminded that every living person within that society and community should be its concern. The question of the morality of a society which perpetuates laws causing this situation is to be questioned.

Finally, there are few who would not question the morality of bringing more unwanted children into a world already threatened by its overpopulation. Many ministers and doctors who are counselling the young are advising that after two children of their own, couples should consider adoption if they desire more children. Obviously, contraception is the best means of birth control and abortions cannot be considered a substitute. However, enabling a woman to make a choice as to the termination of an unwanted pregnancy does in fact work toward checking the population explosion which is becoming a threat to us all.

Perhaps for many women an abortion in the early stage of pregnancy is not the "terrible choice" some theologians hold it is. (*The Terrible Choice*: A Colloquium on Abortion held at the Harvard Divinity School, Fall 1969.) Rather, women would like to hope that the birth of each child might in every sense be a cause for joy and celebration for all. Only by removing all legal restrictions on physician-performed abortions will this begin to be possible.

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## Resolution Adopted by the Eighth General Synod, June 1971

### FREEDOM OF CHOICE CONCERNING ABORTION

A responsible position concerning abortion should be based on a consideration of the rights of the individual woman, her potential child, her family and society, as well as the rights of the fetus.

### *Theological and ethical factors*

Standing in the Hebrew-Christian tradition, we affirm God as the Source of life—our life, all life, life to the full. He has called us to share the work of creation with him, giving us the privileges and responsibilities of fellowship in the family and in the wider unities of society. Thus we affirm the freedom with which God endowed men and women, but we affirm and receive this as freedom bound to responsibility. At its best our Western legal tradition, too has served the dual purpose of protecting human freedom and helping human beings to discharge their responsibilities to one another.

Our religious heritage has also stressed reverence for human life. Accordingly, the enhancement of human life and the protection of the rights of persons, particularly the weak and defenseless, has become an important element in our legal system. It has found expression in laws intended to protect those who cannot protect themselves, such as children, including the unborn. It is neither likely nor desirable that organized society would disavow its responsibility in this regard.

Inevitably, therefore, a judgment will be made or assumed as to when personal human life begins and at what point society has an interest in it and affirms an obligation toward it. Although a form of life exists in the sperm and the unfertilized ovum, a new kind of life emerges at the moment of their union. Many regard conception (up to 72 hours after coitus), other implantation (7 days), as the beginning of an inviolable life. But while such life is human in origin and potentially human in character, the integration of bodily functions and the possibility of social interaction do not appear until later. Alternative candidates for the beginning of significantly human life are the final fixing of the genetic code (3 weeks), the first central nervous system activity (8 weeks), brain development and cardiac activity (12 weeks). Some time after the twelfth week "quickening" occurs; that is, the mother can feel the arm and leg movements of the fetus. "Viability" in the present stage of technology begins between the 20th and 28th week, and the fetus has a chance for survival outside the womb. At some point in the process from conception to birth there comes "a period when a life contains that which is essentially valued as significantly human and should be vested with a sanctity uncompromisable to the interest of lesser claims" (Robert M. Veatch in Social Action, March 1971).

An ethical view does not require an undifferentiated concern for life. It places peculiar value upon personal life and upon the quality of life, both actual and potential. In that light it is understandable that today an increasing number of persons find it difficult, if not impossible, to attribute anything more than the potentiality of human personhood to the embryo in its early stages. The implication is that factors other than its existence may appropriately be given equal or greater weight at this time—the welfare of the whole family, its economic condition, the age of the parents, their view of the optimum number of children consonant with their resources and the pressures of population, their vocational and social objectives, for example.

On the other hand, many would agree that during the later months of a normal pregnancy life should not be interrupted except for the most serious reasons (such as the physical or mental health of the mother, abnormality or disease of the fetus, incest, or rape).

This distinction is of the greatest importance. Individuals contemplating an abortion should make a responsible decision early, certainly within the first two or three months.

### *Legislative policy*

The theological and scientific views on when human life begins are so numerous and varied that one particular view should not be forced on society through its legal system.

Present laws prohibiting abortion are neither just nor enforceable. They compel women either to bear unwanted children or to seek illegal abortions regardless of the medical hazards and suffering involved. By severely limiting access to safe abortions, these laws have the effect of discriminating against the poor.

The mere liberalization of the laws has not proven to be a viable solution to the problem of illegal abortions. The liberalized laws tend to cause more rigidity and narrowness of interpretation, and in any case, cannot cover all circumstances in which an abortion may be appropriate.

For these reasons, the Eighth General Synod of the United Church of Christ calls for the repeal of all legal prohibitions of physician-performed abortions. This would take abortion out of the realm of penal law and make voluntary and medically safe abortions legally available to all women. Simultaneously we ask that adequate protection be given to "conscientious objectors" against abortion, including physicians, nurses, and prospective mothers.

### *Call to action*

In order to give effect to its concern for freedom with responsibility, and acknowledging the church's obligation to aid in the resolution of the problem of unwanted pregnancies, the General Synod of the United Church of Christ takes the following action:

1. The General Synod calls upon the churches of the United Church of Christ and their members to involve themselves extensively in programs which would support repeal of present abortion legislation and to expand their ministries of counsel and concern to all women who have problems related to unwanted pregnancies.

2. The General Synod calls upon pastors, members, local churches, Conferences, and Instrumentalities to provide programs of counseling and education as to the meaning and nature of human life, sexuality, responsible parenthood, population control, and family life.

3. The General Synod calls on pastors, members, local churches, Conferences, and Instrumentalities to support and expand programs of family life and sex education in schools, agencies for adult education, communications media, and other public institutions; and to encourage the extension of information and services related to contraception as instrumental to the prevention of undesirable pregnancies and the achievement of wholesome family life.

4. The General Synod calls on pastors, members, and local churches to offer counseling opportunities and supporting fellowship for persons facing problems of unwanted or ill-advised pregnancies; to assist such persons in making wise ethical decisions regarding their problems; and to help them find professional assistance if necessary, as through existing noncommercial consultative services.

5. The General Synod urges the Council for Health and Welfare and its member agencies to work for the expansion of family planning services in the communities they serve and to initiate new programs that can serve as models to other hospitals and institutions.

6. The General Synod requests the Division of Health and Welfare and the Division of Christian Education to provide educational resources, consultative services and training for constituents who wish to sponsor programs which are consistent with this General Synod position.

7. The General Synod calls on pastors, members, health and welfare committees, The Division of Health and Welfare, and other agencies to develop ministries on behalf of disadvantaged and minority groups which would give them freedom of choice in the area of family planning and in the termination of unwanted pregnancies in keeping with this statement.

8. The General Synod calls the above action to the attention of Conferences and Instrumentalities and urges their appropriate staffs to cooperate closely in the implementation of the purposes of this statement.

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## Vote of the Board for Homeland Ministries, April 1970

### FREEDOM OF CHOICE IN THE AREA OF ABORTION

The Board of Directors of the United Church Board for Homeland Ministries, in recognition of the urgency and seriousness of the abortion problem in the United States, adopts the following:

A reasonable position concerning abortion should be based on a consideration of the rights of the individual woman, her potential child, her family and society, as well as the rights of the fetus.

The theological and scientific views on when human life begins are so numerous and varied that one particular view should not be forced on society through its legal system.

The present abortion laws are neither just nor enforceable. They compel women either to bear unwanted children or to seek illegal abortions regardless of the medical hazards and suffering involved. By severely limiting access to safe abortions these laws have the effect of discriminating against the poor.

The mere liberalization of the laws has not proven to be a viable solution to the problem of illegal abortions. The liberalized laws tend to cause more rigidity and narrowness of interpretation, and, in any case, cannot cover all circumstances in which an abortion may be appropriate.

For these reasons, the United Church Board for Homeland Ministries calls for the repeal of all legal prohibitions of physician-performed abortions. This would take abortion out of the realm of penal law and make voluntary and medically safe abortions legally available to all women.

The Board calls upon the churches of the United Church of Christ and their members to involve themselves extensively in programs which would support repeal of present abortion legislation and to expand their ministries of counsel and concern to all women who have problems related to unwanted pregnancies.

To implement the foregoing policy statement, the Board of Directors:

(1) Calls the foregoing action to the attention of the Health and Welfare Committees of the several conferences of the United Church of Christ and urges the Division of Health and Welfare to work closely with the Conference Committees to promote new programs and strengthen existing ones in support of legislative change in the area of abortion.

(2) Notes the variety of interdenominational and non-church programs now being sponsored in many communities which enable clergy to provide consultative services on problem pregnancies, and urges the Conference Health and Welfare Committees to expand existing work and set up new counselling services where none now exist.

(3) Requests the General Secretary of the Division of Health and Welfare to call this action to the attention of the Council for Health and Welfare Services and to urge that Council work closely with its constituent members to the end that family planning services to the various communities may be expanded and new programs initiated which can serve as models to other hospitals and institutions.

(4) Requests the Division of Health and Welfare and the Division of Christian Education to assume responsibility for providing educational resources, consultative services and training for constituents who wish to sponsor programs which are consistent with the Board's policy position.

(5) Requests the Division of Health and Welfare, in cooperation with the other divisions, to develop ministries in behalf of disadvantaged and minority groups which would give them freedom of choice in the area of family planning and the termination of unwanted pregnancies.

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## FREEDOM OF CHOICE IN THE AREA OF ABORTION, NINTH GENERAL SYNOD, JUNE 1973

The Ninth General Synod affirms the Supreme Court decisions of January 22, 1973, removing the legal restrictions on medical termination of pregnancy through the second trimester. We further commend the Instrumentalities of the General Synod that have influenced abortion reform.

While respecting the rights of individuals of various convictions on medical termination of pregnancy and family planning, we re-affirm the Eighth General Synod call to action for freedom of choice with responsibility in the area of abortion.

We direct the Executive Council to implement the following actions (through appropriate Instrumentalities' cooperation):

1. To urge pastors, members, local churches, Conferences and Instrumentalities to resist attempts to erode or negate the recent Supreme Court decision as well as to strengthen state and local efforts in this regard.

2. To urge pastors, members, local churches, Conferences and Instrumentalities to support and expand programs in the understanding and responsibility for human sexuality in the schools, agencies for adult education, communications media, and other public institutions; and to encourage the extension of information and services related to contraception as instrumental to the prevention of undesirable pregnancies and the achievement of wholesome family life.

3. To urge pastors, members, local churches, Conferences and Instrumentalities to provide new and better counseling services to all persons who have problems related to unwanted pregnancies. Training and facilities for these services must be expanded.

4. To provide educational resources, consultative services, and training for conferences, associations and local churches who wish to sponsor programs concerned with human sexuality and family planning.

5. To urge the Division of Health and Welfare to work for the expansion of family planning services in the communities they serve and to help to initiate new programs.

6. To develop ministries on behalf of disadvantaged and minority groups of the young and the poor, which would give them choice in the area of family planning and in the termination of unwanted pregnancies.

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JANUARY 15, 1974.

Representative RONALD V. DELLUMS,
*House Office Building,*
*Washington, D.C.*

DEAR MR. DELLUMS: The statement enclosed is sent to you for its pertinence to various topics of proposed legislation you will be called on to consider in the coming Session of the Congress.

The topics all relate to excessive population growth and what can be done about it.

Sincerely yours,

ELIZABETH P. DUNN.

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## PEOPLE MULTIPLICATION

(By Mrs. Elizabeth P. Dunn)

Why we must be for abortion—

(a) Supporting the January 1973 favorable decision of the U. S. Supreme Court;

(b) Opposing a constitutional amendment on the subject of abortion;

(c) Effectuating the recommendations of the U.S. commission on population growth, relative to abortion.

### THE SPACESHIP EARTH

Paul Ehrlich has likened the planet Earth to a spaceship of limited carrying capacity and has stressed the need to arrive at a consensus on the ideal size of the human crew. "Saying that the population explosion is a problem of the underdeveloped countries is like telling a fellow passenger 'Your end of the boat is sinking.'" (8)

### THE UNITED STATES IS A PART OF THE WORLD

The U.S.A. *is* a part of the World, though our behaviour would often indicate that we think otherwise. Although the U.S. population represents less than 6% (or 209 million) of the total world population (estimated at 3,782 million), it consumes annually a far higher proportion of the world's non-renewable resources than any other country of the world (estimates have run as high as 50%). The U.S. has been appallingly profligate not only with its own national resources, but also with those of other countries. (2) (9)

### NATURE'S BALANCE

The World is horribly over-populated today—a condition for which the U.S. can take much of the credit, or blame, depending on the point of view. Our motives were good, but we forgot about "Nature's Balance," which requires an approximate balance between births and deaths *in order for the species to survive.* Through the medical and health sciences, we took a leading role in reducing deaths and saving lives throughout the World *without at the same time teaching the essential element of birth control.* Thereafter, births and deaths became woefully out of balance.

### BIRTH RATES VERSUS DEATH RATES

The "War Baby Boom" in the U.S. following World War II "peaked" in 1957, when the birth rate reached 25.3 babies per 1,000 population—the highest rate since the 1929 stock market crash and the ensuing Depression. The U.S. death rate for 1957, on the other hand, was only 9.6. For every 1 death in that year, there were 2.5 births. Even as late as 1972, there was still gross imbalance in the U.S., with a birth rate of 15.6 and a death rate of 9.4. (3)

Averaged out on a *world basis,* for the year 1972 the annual *birth rate was 33* per 1,000 population, while the annual *death rate* was only 13 persons per 1,000. (3)

### NATIONAL POLICY—INACTION

In the face of runaway multiplication of human numbers, the majority of governments—often under severe pressures from the wealthier and more ossified religious hierarchies—instead of advocating and stimulating *birth control for man* on a universal basis, took the position (through inaction or inadequate action) that *all other life forms must be destroyed* to make room for man's burgeoning numbers. Too late came the admonition:

"In this day of automation, we must also learn to view each new baby as a potential member of the unemployed, an additional polluter, a user of irreplaceable resources, an increaser of crowds . . ." (8)

Today, we are seeing the fruits of national inaction.

### MAN, THE DESTROYER

Lack of responsible guardianship of the other life forms (animal and plant) essential to man's own survival are today imperiling the whole planet as a "livable" place for human habitation. Today we are seeing the results of an era of "man the predator," marked by the destruction of wildlife—animals, birdlife, fish and other sealife; and of wilderness areas, forest areas, mountain slopes and canyons once lush with natural vegetation.

"Our national symbol, the bulldozer, flattens the hills, fills the ponds, and smooths our path to man-made monotony . . . We are altering to a common way the planet's holy heterodoxy." (12)

Whence comes man's distorted "compulsion" to change the whole configuration of the planet *for the convenience of man,* ignoring the needs of the other life forms—animal and plant?

We are faced today with a plethora of man-made problems left in the wake of too many people: Area after area of one-time woodlands and meadowlands stripped to make space for more houses to shelter more people who will consume more non-renewable resources, and who will require more shopping centers and parking lots, and an endless procession of more paved roads for more polluting automobiles.

Perhaps most important of all, the continuing destruction of the natural environment has meant the loss to man of not only beauty, but also of certain spiritual values which he has heretofore been able to renew periodically through communion with that universal which is unspoiled nature.

"Only within our lifetime has technology and population reached the point where absolute control—or, more accurately, absolute destruction—of the world's remaining wilderness becomes a real possibility." (12), p. 216.

Some will ask: What about all those "national public lands" that are on the books—the National Parklands, the National Forests, the Wilderness Areas, and the like? According to some of those who know and report back (11), the quality of these is being steadily pulled down, in many cases:

By sheep ranchers and cattlemen who lease the lands from the Government and then put in more stock than is allowable, maximizing their financial "take" but resulting in overgrazing and erosion by water and wind, of the land stripped of vegetation.

By lumbermen who are permitted to "clear-cut" magnificent stands of trees in *our* national forests—trees which have survived the centuries but not man—a heritage which those yet to come will never get to see.

By roads, roads, roads cut into our earlier "Wilderness Areas" which were to be reserved for "hikers" and "backpackers."

### QUALITY VERSUS QUANTITY

We have seen the steadily *decreasing quality* of life as the *quantity* increases; ever-increasing numbers of inmates in institutions for the hopelessly defective (mentally and physically); increased crime, violence, brutality, and other forms of social destruction. We see more unethical behaviour, more flagrant dishonesty, more greed for money "by hook or crook." We see the prospects that without more effective fertility controls, the World is well on its way to becoming one big human ant colony, with the individual counting for less and less. Such a world is not a "livable world."

### ABORTION AND "THE ETHIC OF TWO," TO SAVE NATIONS AND HUMANITY

Two countries in particular come to mind, which faced up to catastrophic population growth and brought the situation under control rapidly and effectively: *Japan*, following World War II, through *legalized* abortion with good medical care available to all; and France, a Catholic nation, through large-scale permissive *illegal* abortion.

Throughout the world, *abortion* has been the oldest and the most universal method of controlling births. Estimates today are that, on a world basis, one pregnancy in three is deliberately terminated by abortion. (6) It is also estimated that only one-third of the world's population has enough knowledge of contraception to regulate family growth. Thus, whether we like it or not, until effective, safe and convenient contraceptives are universally available, *abortion* will continue, with or without official encouragement or prohibition. (5) So, it is just a question of *who* will have access to good, safe medical care for termination of pregnancy.

### *Report of the commission on population growth and the American future (1)*

This Report, released in the Spring of 1972, was described as "The most definitive investigation ever made into the problems of population growth—and the consideration of the legal and moral complexities they pose." The prestigious Commission of 24 members under the chairmanship of John D. Rockefeller III, was established jointly by the President and the Congress of the U.S. in 1969. It operated with a nucleus staff, aided by some 80 consultants of high professional repute and knowledgeability in the pertinent fields of the Report.

Of particular and immediate interest to those of us who perceive man as destroying the planet by over-breeding, were the following findings of the Commission's Report: (1)

Page 115. The conclusion that regardless of what happens to the birthrate from now on, "At a minimum, we will probably add 50 million more Americans by the end of the century [from future parents already born], and the figure could easily be much higher than that."

Pages 177–178, *Specifically Respecting Abortion Policy:*

"The majority of the Commission believes that women should be free to determine their own fertility, that the matter of abortion should be left to the conscience of the individual concerned, in consultation with her physician, and that states should be encouraged to enact affirmative statutes creating a clear and positive framework for the practice of abortion on request.

"Therefore, with the admonition that abortion not be considered a primary means of fertility control, the Commission recommends that present state laws restricting abortion be liberalized along the lines of the New York State statute, such abortions to be performed on request by duly licensed physicians under conditions of medical safety.

"In carrying out this policy, the Commission recommends: . . . That abortion be specifically included in comprehensive health insurance benefits, both public and private."

The 1972 Report of the Commission on Population Growth provided a firm base for the subsequent favorable abortion ruling by the Supreme Court in 1973. Ironically enough, the Report was brushed aside by the same President who had asked for it, and little or nothing has been done to implement its recommendations, partly because attention was diverted by "The Watergate Mess." The Report will be an invaluable "blueprint" now and for many years to come.

### *Supreme Court's 1973 decision on abortion*

In January 1973 came the Supreme Court's decision on abortion. This represented a major step in eliminating oppressively restrictive laws on abortion, and in beginning to develop a safe and accessible program of abortion services. The ruling provided, among other things, that: (14)

(a) During the first trimester of pregnancy, decisions regarding abortion may be made solely by a woman and her physician.

(b) After the first 13 weeks, such decisions can be subject to state regulation, but only "to the extent that the regulation reasonably relates to the preservation and protection of maternal health."

(c) "The word 'persons' as used in the 14th Amendment, does not include the unborn," nor had the unborn ever "been recognized in the law as persons in the whole sense."

Incidentally, the American Public Health Association (with a membership of more than 27,000) served as an *amicus curiae* in this Supreme Court case. (14) Many hailed the decision as providing, for the first time, some measures of *common basic standards* from one State to another. Further protective guidelines for abortion services could then be set through the respective State Medical Boards.

At present, efforts are underway to nullify the Court's decision, through amendment to the U.S. Constitution, and through threats to office holders of removal from office at the next election if they fail to "vote right." These efforts would appear to stem principally from such organizations as "Right-to-Lifers," "Birthrighters," and like groups of myopic perception, who are unfamiliar with or disregardful of, the "Dynamics of Population" and the destructive effects *on all life forms* and on the total environment, of too many people.

*Morality* cannot be legislated, because it is dependent on the individual's conscience, and varies greatly. What is viewed by one person as moral may appear immoral to another. For example, the edict of the Catholic Church forbidding the use of (preventive) contraceptives in the sexual act has long been regarded by many as *immoral* because it has impeded efforts to halt population growth and poverty, and has actually *promoted greater human misery.*

The idea of *legislating* prohibition of abortion through amendment to the U.S. Constitution or through State Laws would be short-sighted indeed. Until the 100%-effective contraceptive is universally available, abortion must continue to be an essential "stop-gap."

### STABILIZATION OF POPULATION IN THE UNITED STATES—WHEN AND HOW

Long gone are the days when "It is nobody's business how many children I have!" Today, the number of children *anyone* has—rich and poor alike—is everybody's business. Why? Because it is unfair to the ethical, responsible parents who are restricting their family size to replacement only (i.e., 2 children) to be required to pay for the "excess children" of irresponsible parents in terms of roads, schools, hospitals, consumption of non-replaceable resources, clean air, clean water, and the destruction of the natural environment—a heritage which is fast shrinking in the face of mounting numbers of users.

We must try to agree on an *optimum level* of population; then work toward *stabilization* (i.e., the 2-child family); and thereafter *reduction* of our population to a figure not exceeding, say, 200 million. (The present U.S. population already exceeds 209 million, and by the year 2000 is expected to reach 271 million as a minimum *if* families average *only 2 children* in the interim period.)

Far too little attention and resources have been devoted, either nationally or worldwide, to *research in fertility control* and the evolvement of "the perfect contraceptive." To our everlasting discredit, we have failed miserably both our country and the world—to channel adequate sums of money into research for *this most important need of all people*—to hold human numbers in check. Wars, exploration of outer space, jumbo jets—you name it, we provide the astronomical funds requested; but *not* the relatively minor funds needed to implement population limitation efforts. A recent 5-year study of women under contraceptive programs indicated failure of effectiveness in ⅓ of these women.(7) Recently, the President signed a *$73 billion+* Military Appropriations Bill; but a *$39 million+* appropriation for population research has been "frozen." The $39 million appropriation represents considerably less than one-tenth of 1% of the military appropriation.

It is noted, for example, that HR 11511, as now written "would abandon the priority which was given in the Family Planning Services and Population Research Act to population research (fundamental and applied biological research in human reproduction, assessment of the safety of current fertility control methods, development of new methods and research in population dynamics)." (13)

Of one thing we may be sure: Unless positive, vigorous, and widespread actions are taken to encourage the restriction of population growth, all of our ills will continue to worsen rather than improve. We must provide the means for people to keep their families small. We must make it easy, rather than difficult, to be *responsible* parents.

### GOALS DEPENDENT ON POPULATION GROWTH RESTRICTION

(a) *Optimum level of population.* In 1969, an AAAS Symposium, after much struggle, defined the *optimum level* of population as: "The situation in which the population as a whole enjoys the highest quality of life."

(b) *Health for all.* In 1946, the World Health Organization in its Constitution defined "health" as: "Health is a state of complete physical, mental, and social well-being, and not merely the absence of disease and infirmity."

U.S. initiative, leadership, and example in the area of population limitation could lead to a better world for all.

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(4) The Population Council, 245 Park

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(9) *Birth Rate and Birth Right.* Edited by Marian Maury. A Macfadden book, 1963. See especially the article, "United States Population Growth—An Appraisal," by Lincoln and Alice Day.

(10) *The Frail Ocean.* By Wesley Marx. Ballantine Books, 1970.

(11) William O. Douglas. *My Wilderness: The Pacific West,* Pyramid Books, 1968; also *My Wilderness: East to Katahdin,* Pyramid Books, 1968.

(12) *Roadless Area.* By Paul Brooks. Ballantine Books, 1971.

(13) Planned Parenthood—World Population Washington Memo, Jan. 7, 1974.

(14) "Abortion: Supreme Court Meets New Challenges," *Nation's Health,* Sept. 1973.

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### Population Growth—Control It—Here's Why

1. Population of U.S. reached, in *1968,* 200 million,[1] p. 19.

2a. If families average *2 children,* population by *year 2000* (just 32 yrs. later) would reach 271 million,[1] p. 19–20.

In Dec. 1972, revised by Census Bureau to 251 million,[4] p. 26.

2b. If families average *3 children,* population by *year 2000* (just 32 yrs. later) would reach 322 million,[1] p. 19–20.

In Dec. 1972, revised by Census Bureau to 300 million,[4] p. 4.

3. One hundred years later (i.e., *around 2068*):

a. The 2-child family would result in a population of around 350 million,[1] p. 20–21.

b. The 3-child family would produce a population of around one billion,[1] p. 20–21.

4. Population for U.S., 1970 Census (April 1) 205 million,[1] p. 20.

5. Population for U.S., mid-1972 (est.) 208 million,[3] p. 2.

6. Median age of the population, 1970 Census, 28 years,[1] p. 11.

7. Vital statistics, *12-mo. period* ending 6/30: (8/29/72)[5]

a. Gen. *birth rate* (per 1000 tot. pop.) 1970, 17.9 added, 3,635,000.

b. Gen. *birth rate* (per 1000 tot. pop.) 1972, 16.4 added, 3,408,000.

c. Gen. *death rate* (per 1000 tot. pop.) 1970, 9.5 deducted, 1,920,000.

d. Gen. *death rate* (per 1000 tot. pop.) 1972, 9.4 deducted, 1,947,000.

e. *Fertility rate* (No. of women in population aged 15–44 yrs. divided by total No. of births, rate reported per 1000 women in this age span):

1970 (calendar year), 87.6,[5] 9/21/71.

1972 (calendar year), 73.4,[5] 3/1/73.

8. The *all time high* of U.S. births occurred in *1957,* when a birth rate of 23.3 (and a fertility rate of 122.9) produced: (1968,[5] p. I–4) 4,308,000 babies.

9. *Numbers and ages* of the population already here, as well as *rates* must enter the forecasts of population changes. For example: (1968,[5] p. I–4)

In *1940,* the birth rate of *19.4* produced 2,559,000 babies.

In *1965,* a quarter of a century later, the *same* birth rate (19.4) produced 3,760,000 babies.

This represented an increase approaching 50% in the *number* of births, or 1,201,000 babies.

10. It would be a serious error to conclude that our problems of over-population would be resolved immediately or in the very near future, even if all parents decided to have no more than two children. The baby "boom" is still with us; the babies have only grown older and are now having babies of their own. An average of two children per completed family from now on would *slow* population growth, but would not stop it soon because the *number* of persons of child-bearing age is increasing. In the words of the recent Population Commission Report:[1]

11. ". . . Our past rapid growth has given us so many young couples that, to bring population growth to an immediate halt, *the birthrate would have to drop by almost 50 percent,* and today's young generation of parents would have to limit themselves to an average of about one child. That is just not going to happen." (p. 15,[1] italics is mine.)

12. "Regardless of what happens to the birthrate from now on, our past growth commits us to substantial additional growth in the future. *At a minimum, we will probably add 50 million more Americans by the end of the century,* and the figure could easily be much higher than that." (p. 115,[1] italics is mine.)

13. "It takes a long time to affect population growth rates in a democratically and ethically acceptable manner. Even with a two-child average from now on, *it would take 60 years or so to achieve a non-growing population.*" (p. 11,[2] italics is mine.)

FOOTNOTES

[1] *Population and the American Future.* Report of the Commission on Population Growth and the American Future, established by the President and the Congress of U.S. New American Library, Inc., 1301 Ave. of the Americas, New York, N.Y. 10019. March 1972 ed., 362 pp., price $1.50. Also published by U.S. Government Printing Office.

[2] *Themes and Highlights* of the Final Report of the Commission on Population Growth and the American Future. 16 pp. U.S. Government Printing Office, Washington, D.C.

[3] U.S. Bureau of the Census. Current Pop. Reports. *Pop. Estimates and Projections.* July 1, 1971 and 1972, Series P–25, No. 488, Sept. 1972, p. 2.

[4] ———, ———. *Projections of the Population . . . 1972 to 2020.* Series P–25, No. 493, Dec. 1972, pp. 26 and 4.

[5] HEW. PHS. National Center for Health Statistics. *Monthly Vital Statistics Reports; Annual Summaries; Vital Statistics of U.S., 1968, Vol. I, Natality,* p. I–4.

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[From the New York Times, Sept. 19, 1973]

### One in Three Women Fail on Contraception

(By Nancy Hicks)

Despite advances in birth control techniques that have sharply lowered the nation's birth rate, more than a third of the women in a national study of couples practicing birth control over a five-year period became pregnant anyway, according to a report made public yesterday.

The study, an evaluation of birth control effectiveness, was extrapolated from the authoritative 1970 National Fertility Study, directed by Dr. Norman Ryder and Dr. Charles Westoff, sociologists at Princeton University.

This portion of the study, conducted by Dr. Ryder, showed that even though birth control devices such as the pill and the intrauterine device (IUD) had cut the risk of contraceptive failure in half in the last 10 years, that over a five-year period, a third of the women who wanted to delay or prevent conception failed to do so.

#### 6,762 WOMEN INVOLVED

"The implication of this is that we have a substantial number of people in the United States using ineffective methods of contraception or using effective methods carelessly," Dr. Ryder said, adding that Americans did not as yet have adequate control over their reproduction.

The findings released yesterday were reported in the latest issue of Family Planning Perspectives, the quarterly journal of the Planned Parenthood Center for Family Planning Program Development, and were based on a national sample of 6,752 married or previously married women.

The data showed that within a year's time, 14 per cent of the women studied had an unwanted pregnancy and that 26 per cent get pregnant sooner than they planned.

"People have to get used to the fact that there is an awful lot of contraceptive failure in a society even as sophisticated as ours," Dr. Ryder said in an interview. "It is nonsense to say that Americans are now having the number of children that they want." . . .

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[From Parade, Dec. 16, 1973]

### Abortion Is Birth Control

Abortion is the world's most widespread method of birth control. Nearly one pregnancy in three is deliberately terminated. More than half the money spent on birth control goes for abortions. Only one-third of the world's population has enough knowledge of contraception to regulate family growth.

These are some of the more startling revelations recently reported by Dr. J. Corbett McDonald at a conference of the International Planned Parenthood Association.

A survey that covers 209 countries shows that less than one fertile couple in three throughout the world practices any birth control, thereby placing 500 million women in danger of unwanted pregnancies.

The major need, according to Dr. McDonald, is to create a social, cultural, and educational climate throughout the world in which contraception is acceptable. This is particularly necessary in developing countries where the death rate is going down and the birth rate going up.

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[From the Washington Star-News, Nov. 4, 1973]

### Worried About Population Growth Rate

(By Abigail Van Buren)

Dear Abby: Someone signed "father of six daughters" wanted to know if there was a foolproof way for him to get a son, and you replied, "Yes. Adopt!"

I can't resist sending you this. We received it following the birth of a son—after having had four girls:

Dear Helen and Bill:

So you finally had a boy?

The only thing you can be congratulated on is your perseverance.

You can't be congratulated on your morality or unselfishness. Adding three "extra" children to a world already reeling under its population load can't be called either moral or unselfish.

You can't be congratulated on your fertility. After all, any clam, chicken, or small furry animal can beat you at that.

You can't be congratulated on your fine family. A fine family is one which sets an example, and your example may kill us all in a few generations.

You can't even be congratulated on being able to afford five children because you're not paying for them. Oh, you provide their food and clothing and shelter, but the rest of the world pays for their roads, schools, hospitals, air, water.

You can't be congratulated on being a patriotic citizen, for if anything destroys the United States it will be our "growthmania" spiral through which this country even now gulps over 50 percent of the world's resources.

You can't be congratulated for carrying on the family name. Family names mean little unless people mean much and your kind of growth rate guarantees that people mean less and less.

Unless, of course, three of those children are adopted. . . .?

In that case, Congratulations.

RICK AND SUE.

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## EIGHTH ANNIVERSARY OF THE SIGNING OF THE CUBAN EXILES' DECLARATION OF FREEDOM

### HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. FASCELL. Mr. Speaker, today marks the eighth anniversary of the signing on January 23, 1966 in Key West, Fla., of the Declaration of Freedom by Cuban exiles in the United States.

The 1,500 Cubans who had been forced to flee their country gathered in Key West to affirm their commitment to establishing once again freedom and human rights in their country that had fallen under the oppression of the Castro regime.

The principles outlined in the Declaration of Freedom are those which have been the foundation of our own Nation. Perhaps we in the Congress should reflect on the importance of these principles which many in the United States may take for granted. The Cubans in exile can remind us dramatically of the consequences of our failure to strengthen and defend the freedoms which U.S. citizens enjoy.

Mr. Speaker, I call to the attention of our colleagues the full text of the Declaration of Freedom:

DECLARATION OF FREEDOM

In the City of Key West, Monroe County, State of Florida, United States of America, we, the Cuban exiles in the United States, in the name of God Almighty, and speaking both for ourselves and the oppressed people in Cuba, the Martyr Island, do say:

That on January 1st, 1959, the slavery yoke that came from Europe and was extinguished in Cuba at the end of the 19th century, was resumed.

That those responsible for this high treason to our Fatherland and to our People are just a score of traitors who, usurpating the Government of the Country have been acting as mercenary agents for the Sino-Soviet imperialism, and have surrendered to that imperialism our Freedom and our Dignity, also betraying the American Hemisphere.

That as a consequence of this high treason, those who are usurpating the Power in Cuba (as they were never elected by the People), are imposing a regime of bloodshed, terror and hate without any respect or consideration to the dignity of the human being or the most elementary human rights.

That in their hunger for Power, these traitors, following the pattern of totalitarian regimes, are trying, within Cuba, to separate the Family, which is the cornerstone of actual society, and at the same time, are poisoning the minds of the Cuban children and youth, in their hope of extending the length of time for this abominable system.

That the rule of the Law has been wiped out in Cuba, and it has been replaced by the evil will of this score of traitors, who are acting under orders from their masters, the Sino-Soviet imperialists.

In view of the aforegoing, we declare:

First: That the actual Cuban regime is guilty of high treason to our Fatherland and to the ideals of the Freedom Revolution which was started on October 10th, 1868.

Second: That this score of traitors who have committed treason against our Fatherland, in case they survive the downfall of their regime, will have to respond, even with their lives before the Ordinary Courts of Justice of Cuba.

Third: That as the Noble Cuban People will not ever surrender, because that Nation was not born to be slave, we, the Cuban People, hereby make the present declaration of freedom.

We hereby swear before God Almighty to fight constantly, until death comes to us, to free Cuba from communism.

The fundamentals of this Revolution for Freedom are:

First: God Almighty, above all things, in Whom we believe as the essence of Life.

Second: The Fatherland, with all of its Laws, traditions, customs and history as a spiritual value, only surpassed by the concept of God.

Third: The Family, as the cornerstone of the Human Society.

Fourth: Human Rights, for each and every citizen, regardless of race or creed.

Fifth: The Law, as the foundation for the proper development of the Human Society.

Sixth: Democratic Government, with its three independent branches: Legislative, Executive and Judicial.

Seventh: Representative Democracy, through the exercise of Universal Suffrage, Periodically, Free and Secretive, as the expression of Popular Sovereignty.

Eighth: Freedom of Worship, Freedom of Teaching, Freedom of the Press and Free Enterprise.

Ninth: Private Property and Ownership, as the basic expression of Liberty.

Tenth: The improvement of living conditions for both rural and city working masses, with the just and necessary measures, keeping in mind the legitimate interests of both Labor and Capital.

Eleventh: The derogation and eradication of anything which is opposed to the political and religious fundamentals aforementioned, and specifically, the abolition of Communism and any other form of totalitarian manifestation.

Signed and sealed in Key West, Florida, on the 23rd day of January, 1966.

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## "E" AWARD PRESENTED TO SLANT/FIN CORP.

### HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. WOLFF. Mr. Speaker, on January 19, I had the honor of presenting the Slant/Fin Corp. of Long Island with the President's "E" Award for Excellence in Export Promotion. Present to receive the award were Mel Dubin, president and Herbert Fahr, director of international division, Slant/Fin Corp. Slant/Fin is the largest manufacturer in the country of hot water baseboard heating equipment and a leading producer of packaged terminal heating and air-conditioning units for multiunit buildings. They are also a major manufacturer of other kinds of heating systems.

The "E" award is presented to U.S. companies and business organizations for successful efforts to increase sales overseas. This special award goes to fewer than 100 companies each year, and Slant/Fin is only the second company based on Long Island to ever receive the "E." Now, in a time when our balance of payments are so important, it was an especially great honor for me to be able to present Slant/Fin with the award.

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## LEGALIZE LOTTERY ADVERTISING AND INFORMATION PUBLICATION AND BROADCASTING

### HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. FINDLEY. Mr. Speaker, laws currently make it illegal to mail newspapers. letters, packages, postcards and other material bearing lottery information. even in States which have legal lotteries. It is also illegal to broadcast lottery information in any State.

Frankly, a Government-supported lottery strikes me as an undesirable way to raise revenue, but the issue is settled in Illinois and eight other States where lotteries are legal. The Commission on the Review of the National Policy Toward Gambling estimates that 30 States will have legal lotteries within 2 years.

Newspapers and the broadcasting industry are placed in an absurd position. Most papers are trying to serve the public by offering information on all subjects of general interest, but if they attempt to do so for lotteries, they are breaking the law.

The answer to this dilemma must come at the Federal level.

The Washington Star-News and the Washington Post periodically carry advertisements which appear to violate the law. A newspaper with the legal resources of the Star-News or the Post might be willing to risk this posture, but they, as well as small country media with fewer legal advisors, would be in a more comfortable position if such advertisements were legal.

Some of the other bills which have been introduced concerning this situation would permit publication or broadcast of lottery information only by the media in the States in which the legal lottery is located. This would needlessly hinder the Post or Star-News, as well as other papers whose circulation area lies largely within a State with a legal lottery, but is not, itself, located in that State. Broadcasting radii, also, seldom respect State boundaries.

The other bills restrict publication and broadcasting advantages to State-conducted lotteries. I believe this would not be fair to charitable organizations and other groups which run lotteries which have been authorized by the State.

The bill I am introducing today would eliminate this confusion and would permit the broadcasting, televising or publishing by any newspaper, radio, or television station of information concerning any lawful lottery.

## OIL SUPPLY AND CONSERVATION OF ENERGY

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. DERWINSKI. Mr. Speaker, I insert into the Record two very pertinent articles on the subject of oil supply and conservation of energy. One is from the editorial page of the January 16 issue of the Chicago Tribune which discusses the need for conservation of our energy sources. The other article discusses the charges of conspiracy involving the oil supply, which appeared in the Wall Street Journal of January 15.

I found both articles to be very enlightening, objective reports on the conflicts involved in the energy crisis.

The articles follow:

[From the Chicago Tribune, Jan. 16, 1974]

A Crusade for Conservation

Since the energy crisis began affecting the lifestyle of many Americans, the nation has been subjected to conflicting and often contradictory statements about the severity of the shortages or whether a crisis exists at all.

A case in point was the testimony on Monday before the joint Senate-House Economic Subcommittee by William E. Simon, federal energy administrator and Consumer Advocate Ralph Nader. While Mr. Simon stated that the United States is threatened with dangerously low levels of petroleum products, Mr. Nader asserted that "the world is literally drowning in oil." He suggested that the shortages are due to "unarmed robbery by oil companies in collusion with government."

While no one can or should absolve government or the oil industry from all blame for the current shortages, Mr. Nader's remarks smack more of demagogery and sheer sophistry than of informed opinion. Both government and the oil companies failed adequately to communicate the fact that the United States was facing an energy crisis long before the Arabs placed their embargo on petroleum exports. Moreover, there is a growing body of opinion which holds that this country will fact energy shortages, particularly in petroleum products, beyond the 20th Century.

If these forecasters are correct, it is essential that the American people begin a long-term program of energy conservation even if it means a change in our lifestyle.

It has taken a petroleum crunch to make both the government and the oil companies see the wisdom in having accurate statistics on energy supply and demand. We are just beginning to get these facts and figures. According to Mr. Simon, the energy czar, the nation's inventory of major petroleum products amounts to slightly more than a 30-day supply.

It is not the short-term crisis, however, that should concern us most. It is the long-term, to 1990 and beyond. Oil and coal, like iron ore and bauxite, are finite natural resources. Once these resources are depleted, there will be no more. To be sure, we have not discovered all the oil in the world or all the metals and mineral lodes. Demand for these resources, however, is growing faster than new sources are being found. This is true not only in the United States but thruout the world.

Production of oil and natural gas in the United States has peaked. New discoveries, new technology, and new sources of energy must be found, of course, but can they meet the growing demand for energy, which is expected to double in this country alone by 1990?

While we are searching out the new oil and gas pools and developing the new technology and new energy sources, we must conserve what energy we can so that our grandchildren and their children will not blame us for squandering their energy inheritance. We must avoid what the conservationists so eloquently warned us against a few years ago, "a plundered planet."

Instead of suggesting in demagogic terms that the energy crisis does not exist, Mr. Nader and others should help mount a crusade for conservation of our energy. If we expect to maintain our standard of living at anywhere near its present level, energy conservation and brisk development of new energy sources are absolutely necessary.

[From the Wall Street Journal, Jan. 15, 1974]

The Great Oil Conspiracy

At cocktail parties, on railroad platforms, and in elevators, we have encountered an astonishing number of people who know all there is to know about the energy industry and how it conspired to cook up the energy crisis. They tell us the oil tycoons acted on an opportunity they contrived to push up prices, get the Alaska pipeline approved, and squeeze those pesky little independents out of business.

Conspiracy theories, of course, are inherently appealing in that they can be understood without regard to any messy little details. It's hard to understand the fall of China to the Communists in the sweep of Chinese civilization, but easy to understand "57 Communists in the State Department." It's hard to understand what went wrong in Vietnam, but easy to understand "the military-industrial complex."

Conspiracy theories, too, have a marvelous capacity to embrace contradictory notions. Apparently the same individual who believes the oil companies are running roughshod over the environment to get the 2 million-barrel-a-day output of Alaska can also believe they have contrived to boost prices by withholding 2 million barrels a day from unknown sources. And at one time the companies are accused of (a) keeping their prices predatorily low to destroy independents and (b) hoisting the prices unreasonably high to gouge consumers. From our perspective, finally, the hardest thing of all to believe is that oil executives would do anything so nicely designed to bring about what they fear most, which is the political destruction of their companies.

To the extent that the oil conspiracy theory has any intellectual foundation whatever; it is found in the November 8 staff report by Senator Jackson's Permanent Subcommittee on Investigations. In [more], a professed arbiter of journalistic performance, James Ridgeway writes that the report "explicitly demonstrates" that the oil companies, among other sins, "refused at government urging to import more crude oil from abroad." Mr. Ridgeway demonstrates that media critics have insights denied us ordinary journalists, for search the report as we may we can find no such statement.

The Jackson report was also cited in a CBS television special, "The Energy Crisis: How We Got There." The special reported that in late 1972 there was a shortage of fuel oil because the refineries did not operate at a high enough percentage of capacity. Walter Cronkite told viewers, "Senate investigators have not yet received an answer to why the refineries were operating at such a low level." Now, we revere Mr. Cronkite and every sentence he utters must be strictly true. Still, since the answer was readily available, we wonder whether the Senate investigators ever asked.

The report says that the industry ought to be able to use 92% of its refining capacity over a sustained period of time, and that the government estimated there would be no shortages in the winter of 1972–73 if that rate were maintained. However, in the final quarter of 1972, refineries "east of the Rocky Mountains" operated at only 89% of capacity. The report does not exactly say this 3% drop was the result of a conspiracy to raise prices, but, judging from the emphasis on this particular statistic, we suspect this was the impression its authors wanted to leave.

Now, "east of the Rocky Mountains" is a bit slippery, since the report shows that nationwide the 10 largest companies operated at 93% of capacity in the fourth quarter, and the next 15 operated at 95%. So apparently the companies conspired east of the Rockies but not in California.

These utilization figures did drop from third-quarter levels of 95.5% for the top 10 and 96.3% for the next 15. But four of the top 10 actually increased their utilization, so apparently the conspirators failed to get word to Amoco, Gulf, Sun and Sohio. Indeed, the only companies in the top 10 to show sharp drops were Texaco and Mobil. So if anyone wants to find out why utilization was down, he can start by calling Texaco and Mobil.

Texaco said it was forced to take the crude units of two of its largest refineries out of production for maintenance scheduled two years earlier. It adds that refinery units often go down for maintenance simultaneously if they have been built or improved in the same capital expansion program. We suppose this explanation will be discounted by those who prefer to believe that Texaco was somehow named to take a bath for the industry.

Mobil says its percentages dropped because it kicked in a new refinery at Joliet, Ill. The capacity figures went into its total immediately, but you do not start off running a refinery at full capacity. So its percentage utilization went sharply down while its actual production went up, as fine print in the Senate report shows.

To us, all of this looks a good deal less like a conspiracy than like each company trying to cope on its own. Yet the conspiracy theory will no doubt thrive, nudging Congress to take all manner of punitive action against the companies, action that will prolong, not shorten, the energy crisis. We only hope that enough people can conceive that just as a nation's foreign policy can be distorted by believing in bogeymen in pinstripes, so energy policy can be warped by visions of bandits in the boardrooms.

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## SUPPORT OF H.R. 4861

### HON. DICK SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. SHOUP. Mr. Speaker, today I would like to express support for H.R. 4861, and not just because it would be a fitting memorial to the late John Saylor, distinguished Congressman from Pennsylvania since 1949.

Certainly, completion of the Piscataway Park on the Potomac River would be a very honorable tribute to a man such as Mr. Saylor who had worked very hard on this measure, as well as hundreds of other projects dealing with our Nation's natural wonders.

I need not extoll the virtues of this late Representative of the 12th District of Pennsylvania. We are aware of his work which won him many conservationist awards, of his work to do with our park system, and as the ranking Republican member of the Committee on Interior and Insular affairs. And I hardly need to point out that it is a very fitting time since he was a former member of the

American Revolution Bicentennial Commission, and we are rapidly nearing the Bicentennial anniversary.

But, as my colleague, JOE SKUBITZ of Kansas, has pointed out, John would not want the bill passed simply as a memorial, that just was not his way. He felt the bill had high merit despite strong opposition from the Department of Interior, and he would want our votes to be cast for the bill, not just in memory of him.

This bill not only completes the park, but also removes serious hazards to its scenic resources and provides greater access for recreation.

In closing, I urge other Members of Congress to issue approval of this bill.

## A CHALLENGE TO LIBERALS

### HON. BOB BERGLAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. BERGLAND. Mr. Speaker, the November issue of National Right to Life News contains an editorial by Associate Editor Janet Grant. The title, "Will the Real Liberals Please Stand Up?" is a challenge to all of us who in this body and in our lives find ourselves more identified with those called liberals than with those called conservative. I do not suggest that the particular philosophy advocated or opposed by the sponsoring body is determinative of issues which must govern our colleagues in the pending legislation in the House. I do say, however, that the substance and the manner of expression of this editorial does compel each of us to search our consciences and our own ideologies as we confront this legislation. The editorial follows:

#### WILL THE REAL LIBERALS PLEASE STAND UP?

(By Janet Grant)

How it happened is a mystery, but there is little doubt that, in the minds of many, being pro-abortion is equated with espousing a "liberal" cause.

Intelligent people, perhaps associates from rallies long past, ask: "You're against abortion? Why, I thought you were a liberal." The question usually is asked in a semi-state of shock.

Indeed, to many of us, liberal thought demands a pro-life position, for several reasons.

Great liberals have been men and women of vision and faith in the future who have fought their entire lives, without cynicism, to overcome tremendous obstacles.

Albert Schweitzer, whose respect for life is legendary, did not abandon his people; Martin Luther King did not let despair dim his dream.

Why, then, are so many professed liberals giving up hope? Are they getting cynical about efforts to make the world a better place? Are they, in fact, giving up?

Essentially, they are when they support abortion, for abortion is based on the principles of cynicism and despair.

Certainly those who presume to judge that a person's life is hopeless because he may be born into poverty, may be handicapped, may be abused and unloved—those who make these judgments are copping out.

They are admitting either that they cannot find solutions or that they do not want to be bothered. Either admission is a denial of the liberal tradition.

It is the liberal position to remember, as John Donne wrote, that "No man is an island;" to plan for the future, to work for unborn generations, to sacrifice that men may live better lives.

In this way, we are involved with the unborn. Every child who is conceived is a member of mankind, and all of mankind is involved.

Liberals, too, should recognize that abortion on demand allows the much-feared concentration of power in one individual . . . the mother. Other anti-life decisions may give this power to the doctor.

They must see the arrogance of power in those who decide to terminate a life because they believe there is no hope or because they are selfish.

It is the same arrogance of power used by the air force general who decides to wipe out a village of poor peasants because the destruction provides a convenient solution to his problem and, besides, the peasants might be better off dead anyway—the "destroying the village to save it" mentality.

Thomas Jefferson said that "no man has a natural right to commit aggression on the equal rights of another." Another liberal, Henry Demarest Lloyd (who began his career by exposing the Standard Oil monopoly in 1881) had this to say about self-interest:

"Where the self interest of the individual is allowed to be the rule both of social and personal action, the level of all is forced down to that of the lowest."

The consciences of liberal men and women were aroused when the entrepreneur said, "It is my factory; I can work my people—until they drop," or when the bigots shouted, "It is my apartment building; I don't have to rent to niggers!"

Do their consciences react now when they hear, "It is my body; I can kill my baby," or "It is my deformed child; I can let him starve!"

It is very strange and a perversion of genuine liberal thought to attempt to solve the problems of human rights by denying the most fundamental human right of all . . . the right to live.

## TRIBUTE TO THE LATE HONORABLE CHARLES M. TEAGUE OF CALIFORNIA

### HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. EVINS of Tennessee. Mr. Speaker, it was with great regret and a deep sense of loss that I learned while Congress was in recess of the passing of our genial colleague and friend, Representative Charles M. "Chuck" Teague of California.

I want to take this means of paying a brief but sincere tribute to Congressman Teague, who served so ably and so well for some 17 years in the Congress. He served effectively and capably as a member of the Committee on Agriculture, and the Committee on Veterans' Affairs.

At the time of his unfortunate passing, he was ranking minority member of the Committee on Agriculture and second ranking minority member of the Committee on Veterans' Affairs. In those vital and important positions, "Chuck" Teague played a crucial role in the drafting of farm and veterans' legislation. He deserves our commendation and the thanks of the Nation for his good works. He served his district, State, and Nation faithfully and well.

Mrs. Evins joins me in conveying our deepest and most sincere sympathy to Mrs. Teague and the members of the family in their loss and bereavement.

## DECK BEING STACKED AGAINST PRESIDENT

### HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. HUBER. Mr. Speaker, while everyone can hope, and I certainly do, that the House Committee on the Judiciary will do a thorough and impartial job in evaluating whether or not the President should be impeached, there is reason to believe that the undertaking may not be so impartial. In this connection, I feel that the recent column by Mr. William Safire that appeared in the Richmond Times-Dispatch of January 17, 1974, is illustrative in that respect. The column follows:

#### DECK BEING STACKED AGAINST PRESIDENT

(By William Safire)

WASHINGTON.—By its choice of counsel, the House Judiciary Committee has made it plain that it intends to look busy for a few months and then recommend the impeachment of the President.

The minority counsel, Albert Jenner, was represented to be a Republican conservative. But after he had been chosen, word leaked out that Jenner had been a fund raiser for Democrat Sen. Adlai Stevenson III or Illinois, certainly a material fact of his political background that he had concealed from the Republicans who chose him.

Jenner tried to brush the Stevenson connection off as some token activity because he was an old friend of the Stevenson family; now it develops that this sturdy Republican was one of the five sponsors of a breakfast to plan a fundraising dinner on Oct. 26, at which Stevenson announced his candidacy for re-election. The dinner, with Jenner proudly on the dais, raised $165,000, his personal contribution was $1,000. Every family should have such a friend.

This wrongheaded effort to conceal and then minimize his active support of a liberal Democratic senator—who has publicly predicted that Nixon would not "survive three more years in office"—indicates how much Jenner wanted the job as minority counsel.

Then along came his astounding appearance on a Chicago television show. If nothing else, counsel to the House committee deliberating about whether to recommend impeachment of the President should maintain a judicious silence.

But there was publicity-hungry Jenner popping off at the first opportunity with his opinion that the President should be "responsible for the action of aides," breezily commenting on matters that the House of Representatives will be called upon to decide in the most solemn proceeding of the democratic process.

What gets into some lawyers when they get into political cases? They ignore lifetimes of deference to legal procedure and safeguards, in order to emblazon their presence on the public consciousness. Few have the good sense to shut up and do their job.

Turning to Democrats, the selection of John Doar to be majority counsel also clearly telegraphs the Judiciary Committee's forthcoming punch.

Rarely, in the praise for Doar's record as a lawyer and as assistant attorney general for civil rights enforcement, has anyone mentioned a central fact about the man chosen to head the staff that will get the impeachment ball rolling:

In his most recent public job, Doar proved to be an unqualified flop.

As president of the New York City Board of Education in 1969, Doar permitted his fiercely held views and lifelong dedication to the cause of civil rights (which he held, to his credit, before and after they were fashionably liberal) to get in the way of providing good public education to all the children of New York.

Granted, it was a hot seat, but Doar's leadership fell far short of the challenge. He could not bear to fire extremist teachers who made anti-Semitic remarks in class; the Anti-Defamation League scorched Doar for his one-sided passivity "when forceful action is the only appropriate response."

Doar, whose ideology made him inflexible, presided over a calamitous teachers' strike; reporters on the scene say his rigidity lengthened and embittered it. He's hardly a man to look to for even-handedness.

Can such a man, who allowed his all-out commitment to the civil rights of one minority to affect seriously and adversely his judgment in his last public assignment, not be an implacable enemy of Richard Nixon, who obviously does not share the totality of Doar's commitment?

Both in terms of his motivation and past performance, Doar is the perfect choice to head the million-dollar legion of lawyers hired by the Judiciary Committee, if the ultimate advice desired is a firm recommendation to impeach.

Conscience or politics may cause members of the committee to set aside the stacked-deck staff recommendations in the end, but spare us the hypocrisy of protestations of staff objectivity.

With ideologue Doar and publicity-hungry Jenner in command, no fair hearing or dispassionate study is in the cards, a profound mistake in a procedure that should guard its ethics with infinite care.

Welcome to Washington, gentlemen.

## STATE OF VIRGINIA MOURNS PASSING OF BURR P. HARRISON

## HON. THOMAS N. DOWNING

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. DOWNING. Mr. Speaker, the entire State of Virginia mourns the passing of our former colleague, Burr P. Harrison.

I had the pleasure of knowing Burr Harrison for many years and I treasured his friendship. He was a gentleman in the finest sense of the word, and was one of the most admired and respected men in the Congress of the United States. His ability to bring complex and controversial matters into sharp, clear focus was a matter of common knowledge to his colleagues. And when he spoke on the floor of the House all the Members of the House knew he was speaking the truth, based on knowledge and they listened in respectful silence. He was one of the most influential Members ever to serve in the Congress and his performance on the House Ways and Means Committee resulted in much of the significant legislation that was passed by this body during his tenure of office.

Coupled with ability, integrity, and character was a wonderful sense of humor which I found irresistible. He could literally charm the birds out of the trees with his wit and warmth and it was always pleasurable to be in his company.

Our State and our Nation have lost a valuable asset. But the contributions which he made during his lifetime will be remembered for a long time.

I know that my memories of him will not soon fade.

## AMNESTY MUST NOT BE FORGOTTEN

## HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. DELLUMS. Mr. Speaker, I would like to submit two excellent analyses of the amnesty question. The first is contained in a sermon preached on November 11, 1973, in the United Methodist Church in Peoria, Ill. The sermon was given by Rev. Robert Newton Barger, who is chairman of the church law committee of the priests' senate of the presbytery of Peoria.

The point I was most interested in was the demonstration that in Biblical terms the amnesty dilemma cannot be shown as of Old Testament versus New Testament. Reverend Barger points to a unity underlying the whole Bible. Whatever else this message implies, it should not make us hasty to condemn others.

I am also including the results of a survery conducted among delegates to the annual Convention of the California Diocese of the Episcopal Church. The conclusion drawn by Mr. Dwite Brown of the diocesan world without war program is that there is a wider basis of support for amnesty legislation than is commonly realized. I believe my colleagues would be interested in these data.

The material follows:

### SERMON BY REV. ROBERT NEWTON BARGER

Today the United States of America, our homeland is a Nation divided, and as President Abraham Lincoln has reminded us, a house divided against itself cannot long stand. We have wounds, and they need to be healed, we are not at one, and so we stand in *urgent* need of reconciliation. The Vietnam war, whose decade-long duration was responsible for much of the division which we experience, has not left us totally at peace, even tho it is now over. There is still the question before us: . . . what to do with the war resisters. This question involves a *tension* between justice on the one hand, and mercy on the other. The resolution that we make of this tension between justice and mercy will provide the answer to what kind of reconciliation we can reasonably expect. In other words, how we treat those who have conscientiously evaded the draft or deserted from the war will determine in large part whether we will, or will not, have that domestic tranquility of which our Constitution speaks.

I am going to make here some theological observations on the *political* question of amnesty. I would like to say at the outset that I am well aware of the danger of attempting to take concepts from the *spiritual* realm and apply them in the *political* order. The brilliant protestant theologian, Reinhold Niebuhr, in his classic study entitled "Moral Man and Immoral Society," has expressed a healthy pessimism about the possibility of making an individualistic ethic apply to a collective such as a nation-state. But even such a realist as Niebuhr goes on to say: "Every genuine passion for social justice will always contain a religious element within it. Religion will always leaven the idea of justice with the ideal of love. It will prevent the idea of justice, which is a politco-ethical ideal, from becoming a purely political one, with the ethical element washed out." (p. 80, MM&IS) so, theology can and must supply ideals for the reflection of the national sovereign . . . and in the case of a democracy such as ours, the sovereign is *us*. The government is responsible to us, and that is why, ultimately, we the people, will get the kind of justice or mercy that we earnestly seek—or, . . . we won't get it, if we grow indifferent. The question of *amnesty* for the Vietnam war resisters illustrates the tension between justice and mercy which is troubling our society today, I should like to turn to sacred scripture for some insight toward a solution of this problem. But, before I do, I think it is necessary to point out that there are *three* possible motivations for the granting of an amnesty. First, we may believe that the war resisters were morally wrong, that their actions encouraged the North Vietnamese and thus prolonged the war, increasing the loss of life on both sides, but that by means of an amnesty we should *forgive* them. Secondly, we may believe that the war resisters were morally right, that the war *had* gone on for nearly a decade and might have continued much longer were it not for their dissent, and hence by means of an amnesty we should exonerate them. Or thirdly, we may not make a judgement about the war resisters, refraining from either condemning *or* condoning them, but simply repatriating them, bringing them back, *forgetting* about the guilt or innocence aspect. This is literally the meaning of the word amnesty: That is, "forgetfulness", or "oblivion."

For purposes of reflecting on the problem in the light of scripture, I wil be dealing at various points in my scriptural examples with one or another of these three motivations to see if there might be a theological basis for amnesty, before I start, I'll give you my own personal opinion, as a former political science instructor and a current Christian morals instructor, and that is that the war resisters were in fact morally correct. . . . But I will go on to give you a preview of my ultimate conclusion: Which is, that we should avoid judgement on the morality of the war resisters actions and follow the third motivation for amnesty: Namely, that we take amnesty in its literal sense and not make a judgement one way or the other, but simply put the Vietnam war behind us and be reconciled to one another. Now, what does the Bible have to say about all this?

Let's look first at the Old Testament, we usually think of Old Testament morality as very harsh: "An eye for an eye and a tooth for a tooth." In fact, however, when we take the Old Testament as a whole and don't just draw out one-liners like the one I just quoted, we see that mercy is one of the most prominent features of the Old Testament. Beginning on the first pages of the Bible, where humankind messes up God's gift of life by sinning, we see the gracious mercy of God offering man another chance. As often as man sins—and according to salvation history, that's pretty often!—God calls him back again. . . . God is not only a *giving* God, he is a *forgiving* God. And he tells us in the Jewish law, in what Jesus was later to join to love of God as the greatest commandment, that we must be giving and forgiving too. This is the way it's stated in the Book of Leviticus: "You shall not hate your brother in your heart, but you shall reason with your neighbor, lest you bear sin because of him. *You shall not take vengeance or bear any grudge against the sons of your own people,* but you shall love your neighbor as yourself," (Lv 19. 17-18). The reading about the cities of refuge from the Book of Joshua (20. 1-6) reminds us of God's instruction that those who have killed thru accident should be allowed a place of refuge and then free return to their homeland. Of course the question before us today does not concern those who *killed* without premeditation, but rather those who, with premeditation, *refused* to kill. The cases are not the same, certainly, but I suggest that there may be a parallel. How God provided for the solution of this case in the Bible may provide a clue for the solution of our amnesty problem today.

The illustration of God's mercy and loving faithfulness of His people, despite *their* unfaithfulness, is spread upon almost every page of the Old Testament. But it is even more abundantly evident in the New Testament. It is in the New Testament that Jesus gives us the most amazing revelation from God, namely, that God is *community*. God is *three* persons in one being: Father, Son, and Holy Spirit. St. John defines this unity in community with one word: *Love*. The first letter of John says quite simply: "God is love" (1 Jn 4.8). Jesus came to tell us that if we are to live the life of God, if we are to have the spirit of God in us, we must be *loving* people. To quote a little more from the first letter of John: "Beloved, let us love one another; for love is of God, and he who loves is born of God and knows God. He who does not love does not know God; for God is love" (1 Jn 4. 7-8).

But of course this leads us to ask the same question that the lawyer asked upon hearing the command of love from Jesus, and that is: "Who *is* my neighbor?" (Lk 10.29). It's not without relevance to our topic to note that the person that Jesus described as neighbor in his parable-answer was a Samaritan . . . one who had broken off from the land of Israel and who adopted an alternate form of the Jewish religion. He was a dissenter, yes, even a *resister* as far as the Jews were concerned. They hated Him, and *He* was the person that Jesus chose to exemplify the idea of neighbor!

In making mention of a parable, I would like to point out that Jesus gave neither specific commands nor ready answers for problems. The gospel records Him as giving only one directive, and that is to love. Beyond that He simply told stories. The parables of Jesus are meant to show the *quality* of love that He asks of us.

Let's take a brief look at two of them. First, the parable of the laborers in the vineyard. The householder in the parable represents God. He sends people out to work at the first hour, promising to give them a denarius. *Later* He sends other people out into the vineyard, promising to give them "what is right." Finally, *at the eleventh hour,* He goes out and finds some men still standing idle and He sends these in too. When it comes time to settle accounts, *He treats all of them the same!* They all get a denarius. And those who had been working all day long started to grumble. They said it *wasn't fair!* They said they had borne the heat of the day and here these malingers came in after the real work was done and they were rewarded the same as the people who had responded to the original call!

And what does Jesus say? I think the reply he has the householder give is really instructive for our handling of the amnesty question. He says to the one who bore the heat of the day: "Friend, I do *you* no wrong. I choose to give this last person as much as I give you. Am I not allowed to do what I choose with what belongs to me? Or do you begrudge me my generosity?" Translated into present terms, the teaching of Jesus seems to say that magnanimity to the war resisters would not be unfair to those who served. The question before us, then, is whether we care to make God's logic our own.

I might remark in passing, that this fairness consideration can cut both ways, Russell Baker, a columnist for *The New York Times,* has suggested that it was really the American public who dodged the war issue, sending its young men off to fight and die and, to this day, not being able to tell them what it was all about. It is perhaps kinder to us all if we do not try to enter into judgement now.

I'd like to consider now the parable of the prodigal son, or, as I think it should be better named, the parable of the forgiving father. The younger son in the story took his part of the inheritance and went off to a far-away country. And after awhile, the memory of his homeland and his father's house awakened in him the desire to return. So he started back, thinking of the words he would say to ask for readmission to the family. He really didn't get a chance to get halfway thru what he had decided to say. The father, who represents God the Father in the parable, ran out to meet the son before he had even gotten back home. There was no knocking at the door or begging to come in necessary by the son. The father threw his arms around the son and invested him with all the signs of full membership in the household: The ring, the shoes, the robe. Then he decreed a feast to celebrate the return.

Now comes the most interesting part of the story, the older brother, the *older* one, comes along. When he finds out what's happened he is upset. He won't go in. Now he refuses to be part of the family. The father comes out to him and the elder son says: "These many years I have served you, *and I never disobeyed your command;* but when this *son of yours* came, who has devoured your living with harlots, you killed for him the fatted calf." The father responds: 'Son, you are always with me, and all that is mine is yours. But it was fitting to make merry and be glad, for this *your brother,"* (not *"that son of yours"* but *"your brother"*) was dead and is alive; he was lost and is found."

This parable, as the former one, tells us that reconciliation, for God, isn't based in strict justice, but rather on generosity.

Now I'd like to look briefly at *Paul's* teaching, in his letter to the Ephesians (4: 30-5.2). He asks us not to grieve the holy spirit—God's spirit in us. He says: don't be unfaithful to it. He asks us to put all bitterness and wrath and anger and clamor and malice away from us, He asks us to be tenderhearted and forgiving, as God has forgiven us. We are called upon to be imitators of God. We have to *pass along* forgiveness.. Thus in the Lord's prayer we pray: "Forgive us *our* trespasses, *as we forgive* those who trespass against us." I submit that that's a very *risky prayer* for someone to say who takes a hard line on amnesty!

Permit me to return, now to one final quote from the gospel (LK 6.36-38): Jesus says: "Be merciful, even as your father is merciful. Judge not, and you will not be judged; condemn not, and you will not be condemned, forgive, and you will be forgiven . . . the measure you give will be the measure you get back."

It is perhaps thoughts such as these that inspired the late Richard Cardinal Cushing to ask the following question in his last Easter message: "Would it be too much to ask that we empty our jails of all the protesters—the guilty and the innocent—without judging them, call back over the border and around the world the young men called "deserters," drop the cases that are still awaiting judgment on our college youth? . . . Could we not do all this in the name of life, and with life, hope?"

The Cardinal puts that as a *question*—and that is the way it must be treated, as a question put to each of us.

I personally believe that it would not be too much to ask because I believe that we as a nation currently need reconciliation more than we need vindictive prosecution of illegal activity.

The best conclusion to these remarks might well be a prayer. The one I choose is attributed to a man from several hundred years ago named Francis of Assisi. I hope it comes more and more to express a majority sentiment:

Lord, make us instruments of your peace. Where there is hatred, let us sow love. Where there is injury, pardon. Where there is doubt, faith. Where there is despair, hope. Where there is darkness, light, and where there is sadness, joy.

Divine master, grant that we may not so much seek to be consoled as to console; to be understood as to understand; to be loved as to love. For it is in giving that we receive. It is in *pardoning* that *we* are pardoned. And it is in dying that we are born to eternal life. Amen.

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BERKELEY, CALIF., *December 21, 1973.*

DEAR CONGRESSMAN DELLUMS: The World Without War Program of the Episcopal Diocese of California is a peace education and action program working at the grass roots level in parishes and missions of the Diocese. (The Diocese extends from Marin and Contra Costa Counties in the north to San Luis Obispo County in the south.) Sponsored by the Diocese, and drawing on the resource help of our consultant, the World Without War Council, the program addresses public policy questions with the goal of building agreement on alternatives to the mass violence of war.

I am writing to bring to your attention the program's work for the past year on the question of amnesty for draft evaders and deserters. The question was approached not as an issue of where one stood on the Vietnam War, but as a question of such competing moral values as a society governed by law, individual conscience, a citizen's responsibility, the nation's need for reconciliation, and the virtue of forgiveness.

The year's study was done pursuant to a resolution of the annual Diocesan Convention in October, 1972, and commended by the same body in 1973. I enclose the resolutions for your interest, along with the table of contents of our amnesty study kit.

In order to bring an informed view to the 1973 Convention, some thirty parishes, the Cathedral and three deaneries (which are roughly county convocations) had special events on amnesty during the year. A panel on amnesty was presented to the 1973 Convention, and a vote was taken on delegates' views, with these results:

The 124th Convention of the Diocese of California, October 19-20, 1973, Vote of Delegates on the Question of Amnesty.

| | | *Percent* |
|---|---|---|
| No amnesty | 93 | 18 |
| Amnesty on condition of performing civilian alternate service | 289 | 55 |
| General amnesty with no conditions | 120 | 23 |
| Other | 18 | 4 |
| Total | 520 | 100 |

Of those favoring amnesty, 62% indicated they would include deserters.

Although amnesty with alternate service has been commended—and denounced—as a compromise, some advocates say it is the right solution on its own merits, especially if it is done with imaginative and flexible assignments and in a spirit of reconciliation. The Hon. Charles B. Renfrew, Judge of the United States Fifth District Court, speaking on the Diocesan Convention panel, held that alternate service would honor men who refused to be drafted for reasons of conscience, by permititng them to take responsibility for their actions.

Put forth as a positive, third option, amnesty with alternate service is intended to give due credit to legitimate, competing values: to the obligations of citizenship and to respect for conscience, to equity for all young men caught in the tragedy of the Vietnam War, and to the goal of a reconciled country.

As a staff person for this project, I want to report how heartening it has been to find that members of this church could deal with this controversial issue and reach a substantial measure of agreement. Some parish polls showed greater agreement than did the Diocesan Convention, generally on amnesty with alternate service.

I would appreciate your reaction to this report of our year's work on the amnesty question. The results indicate—at the least—that the all-or-nothing extremes should not be left to dominate the amnesty debate, and that amnesty with alternate service can be a more viable position than Congress has supposed.

May I express my personal concern that the real attention paid to this problem a year ago seems to have abated.

Sincerely yours,
DWITE BROWN, *Peace Interne.*

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## ANNIVERSARY OF UKRAINE INDEPENDENCE

### HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. DULSKI. Mr. Speaker, 56 years ago a bright new beginning was envisioned when Ukrainian independence was established January 22, 1918. Only a few years later those hopes were crushed under ruthless Soviet military might and political tyranny.

On December 4, 1973, a petition with 5,000 signatures was sent to Ambassador Scali by the Women's Association for the Defense of Four Freedoms for Ukraine, Inc. It is an appeal to our Government to bring to the attention of the United Nations and world opinion the oppression and indignities suffered by the Ukrainians and other captive peoples despite the 25 years which have elapsed since the UN Proclamation of the Universal Declaration of Human Rights.

The case for action by the free nations is movingly stated in a letter I received from the Buffalo Chapter of the Ukrainian Congress Committee of America, Inc., and I include the text of that letter as part of my remarks:

UKRAINIAN CONGRESS COMMITTEE
OF AMERICA, INC.,
*Buffalo, N.Y., January 5, 1974.*

Hon. THADDEUS DULSKI,
*House of Representatives,*
*Washington, D.C.*

DEAR CONGRESSMAN DULSKI: January 22, 1974 will mark the 56th Anniversary of the proclamation of Ukraine's Independence, and the 55th Anniversary of the Act of Union, both of which took place in Kiev on January 22, 1918, and January 22, 1919, respectively. By these acts a Ukrainian independent state was officially established on all the ethnographical Ukrainian territories.

The young Ukrainian democratic republic was shortlived as Communist Russia attacked it almost immediately, despite the fact that the new Soviet Russian government had officially recognized Ukraine as an independent and sovereign state. The same recognition to Ukraine was granted by the Central Powers, and a number of the countries of the Entente, including Great Britain and France.

After almost four years of continuous invasions and fighting, Ukraine, alone and unaided, succumbed to the numerically superior military forces of Communist Russia, which eventually destroyed the Ukrainian National Republic, created a Communist puppet government in Ukraine known as the "Ukrainian Soviet Socialist Republic", and incorporated it in 1922 into the "Union of Soviet Socialist Republics" (USSR).

The whole history of Soviet Russian-dominated Ukraine is a ghastly record in inhumanity, outright persecution and genocide, Russification and violation of human rights. Under Stalin Ukraine was marked for physical extinction; under Khrushchev, and now under Brezhnev-Kosygin outright terror has been replaced by the subtle process of destroying the Ukrainian national consciousness and identity through Russification, mass arrests and illegal trials and by other oppressive methods.

In the course of its rule over captive Ukraine, Communist Russia destroyed millions of Ukrainians through man-made famines, and forced deportations; it abolished the Ukrainian Autocephalic Orthodox Church; it subordinated all aspects of Ukrainian life to the rigid control of Moscow, including Ukrainian economy, education, the press, the arts and literature, trade unions, and so forth.

For the past several years the Kremlin has engaged in a series of arrests, trials and convictions of hundreds of young Ukrainian intellectuals—poets, writers, literary critics, playwrights, professors, students and others—charging them with "anti-Soviet propaganda and agitation". Yet, in the United Nations Ukraine is a full-fledged member, and the Kremlin makes much of this fact in its massive propaganda drives throughout the world.

The fact is that today Ukraine, with its 48,000,000 people, is more than ever a colony of Communist Russia; it is a land of in-United Nations Ukraine is a full-fledged human persecution and economic exploitation.

Many a Western statesman may be lulled into a sense of false security by the spurious *detente;* but there is no detente in the relentless persecution of the Ukrainian people by Communist Russia.

Only outside Ukraine can Ukrainians and their descendants scattered throughout the world speak of the freedom and independence of Ukraine.

Therefore, Sir, we kindly request you to make an appropriate statement in support of the Ukrainian people on the anniversary of their independence in the House of Representatives in paying tribute to the Ukrainian people for their undaunted and valiant struggle for human rights, independence and freedom with justice, which are the basic tenets of our modern civilized society.

Sincerely yours,
MARTA HAWRYLUK,
*Secretary.*
WASYL SHARVAN,
*President.*

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## THE NATION'S GREATEST NEED

### HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. GOLDWATER. Mr. Speaker, in recent months the subject of ethics and values has been receiving more and more attention in the news media. This is a very hopeful sign. As I have pointed out in a number of speeches and public appearances in the past year, unless the American people rededicate themselves to our traditional value system which stresses faith in God, fidelity, courage, and love of fellow man, then we can continue to expect such things as the Watergate caper in the future. The columnist, Roscoe Drummond, recently wrote an excellent column on this subject, and I commend it to the attention of my colleagues in the Congress and the American people.

[From the Christian Science Monitor,
Jan. 16, 1974]

THE NATION'S GREATEST NEED

(By Roscoe Drummond)

WASHINGTON.—The No. 1 problem in the United States is not the energy crisis nor health nor housing nor unemployment—urgent as these matters are.

It's something else.

It's sleazy ethics and pervasive dishonesty in just about everything—in government, in politics, in business, in labor, and to some extent in the media. They all suffer from widespread public distrust.

The truth is that a lack of faith is dangerously eroding the resources of the nation.

Here is one verdict which is blunt and to the point:

"People are fed up, disillusioned by the liars. Sick of the exploiters.

"People want faith instead of anxiety. Faith in themselves, faith in their unions their schools, their government. Faith in each other.

"They are ready to believe in ethics and honesty. But to improve our system, we must improve ourselves. That's the challenge."

But just how important is it to confront this challenge and begin to do something about it? Is it something just nice to do or is it imperative? I submit that corrupt politics, shabby ethics, and widespread dishonesty are death-dealing to human freedom and to democratic government. To reverse the downward drift we have been witnessing for a decade of lawless violence and lawless government will be life-giving.

One organization, which is setting out to do something about declining ethics in the U.S., is called American Viewpoint, Inc., and its premise goes to the heart of the matter. It is: "Let's Make America Honest Enough to Stay Free."

This is not mere rhetoric. History makes it amply clear that the alternative to a decent and workable standard of honor and honesty in any society is not disorder; it is enforced discipline; it is repression; it is the authoritarian state and, in the end, dictatorship.

That is why the theme, "Let's Make America Honest Enough to Stay Free," means what it says. That's why it is crucial to do something about it now. It may sound idealistic. So what? It may sound Utopian. It isn't, it's practical. Healthy ethics is no more Utopian than a healthy democracy. Neglect one and you kill the other.

The danger is plain to see. It is not an overstatement to say that it is as great a challenge to America freedom as World War II. We either face it or run away from it and suffer the consequences.

Much can be done individually to restore higher ethical conduct to all our relations. But collective efforts will be needed. I make this suggestion:

Shouldn't every major civic organization in the U.S.—like the League of Women Voters, the Junior Chambers of Commerce, Rotary, Kiwanis—every labor union, every business organization, every professional group, make it a first priority in 1974 to study codes of ethics to find out how well they work and find ways to make them work better?

I'm not talking about ethics you frame and hang on the wall. I am not talking about ethics with which to measure others, but ethics to measure ourselves and to live by.

The leaders of these and other organizations can do much to stir and stimulate a genuine revival of ethics-at-work in the U.S. and one way to begin would be to consult with American Viewpoint, Inc. whose sole non-profit concern is to help "make honesty a working social principle, rather than a moral issue apart from our daily lives."

The address is: Irvan Hill, president, University Square, Chapel Hill, North Carolina 27514. From first-hand experience I can vouch for American Viewpoint. It is sound and sane.

The American people can have any kind of government, any kind of politics, any kind of society they want. But it won't come from wishing; only from doing.

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## UNITED STATES TRAINS ARAB PILOTS

### HON. JERRY LITTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. LITTON. Mr. Speaker, on December 18, 1973, I discovered that Trans World Airlines was providing fuel for the training of Saudi Arabian pilot trainees in my State while the Saudi Arabian Government was participating in an embargo of petroleum exports to the United States. Since then I have learned that a second American commercial airline, Pacific Southwest Airlines, has also been training pilots for Saudia Arabia.

The real shocker came, however, this week when the U.S. Air Force admitted to me that it was currently training four Saudi Arabian pilots at Williams Air Force Base, Ariz. I also understand that one of the Saudi pilot trainees is the nephew of King Faisal of Saudi Arabia.

The confirmation on December 18 concerning the training of Saudi pilots with American fuel caused me to send a telegram to the Civil Aeronautics Board requesting that they reexamine and, if necessary, revoke their previous support of a management training contract between TWA and the Saudi Government. That telegram was not answered until January 21, and then the CAB informed me they were passing the buck to the State Department. The letter I received from CAB Chairman Robert D. Timm read in part:

> The management agreement was filed pursuant to Section 412 of the Federal Aviation Act which provides that such agreements shall be approved if the Board does not find them to be adverse to the public interest or in violation of the Act.

The Chairman then informed me that the matter was being referred to the State Department "as a matter affecting the current foreign policy initiatives of the Government".

Mr. Speaker, I maintain that it is not in the public interest to use fuel to train pilots from a country partly responsible for our fuel shortage. I regret that the CAB has chosen to sidestep this issue and to let me know by their action that they feel it is in the public interest to allow the usage of American fuel in this manner.

Mr. Speaker, every American, including every Member of Congress, recognizes the severity of the Arab oil embargo and they recognize that negotiations are underway regarding the Middle East problem and the embargo itself. I also recognize that the volume of fuel consumed in the training of both commercial and military pilots for the Government of Saudi Arabia is very small compared to the daily consumption of refined petroleum products in the United States. But, Mr. Speaker, I submit to you and to the other Members of the House of Representatives that there is a matter of principle involved which should possess equal, if not superseding, attention. When the Arabs do not appear to care about the health and security of the American people, and when, as a result, our own Government does not have the backbone or nerve to disallow the use of American fuel for the direct benefit of the Arabs, then I think it is time that the Government of this great land take a hard look at itself and decide whether it believes in or rejects a doctrine of fair and just treatment.

I am not suggesting that this matter be reversed in retaliation for the Arabs' decision to use their greatly demanded oil resources as a political tool, nor am I attempting to take sides in the Arab-Israeli conflict by taking this stand. I recognize the great difficulties in taking any retaliatory steps. But I do feel that the leaders of America must stand for what is fair and just for the American people in cases such as this, and it is certainly not fair and just that we be deprived of oil which we so badly need when our own Government condones the use of American fuel for the training of pilots from an embargoing nation.

Such activities as this only lead to further doubt and suspicion among the American people that the Government is involved in a conspiracy with the oil industry to create an artificial and false shortage of energy. We can begin to lick our energy problems only when the American people are satisfied that the shortage is real and support energy conservation measures.

It is unthinkable that our Government would ask Americans to turn down their thermostats, drive their automobiles less, understand their jobs may be terminated, and, in general, sacrifice in part their prior habits and customs in order to lick the energy crisis, when the Government itself is providing a portion of critically short supplies to train pilots from countries which are partly responsible for the American shortage. If King Faisal wants us to teach his nephew to fly a jet, he should send along enough fuel to provide the training. The mood of the thousands of my constituents who have written to me, expressing almost without exception their suspicion that the energy crisis has been contrived, tells me that they do not—as indicated by the many who have written in support of my stand—and will not tolerate this type of activity.

In addition I have received letters of support concerning this matter from all parts of the United States, which leads me to believe that the administration is going to have to present all the facts and give unshielded and factual answers to every question being raised about the shortage before it can expect the American people to buy the reality of the shortage.

Mr. Speaker, I have today introduced a bill in the House of Representatives which would prohibit the use of American fuel for the training of pilots from foreign countries which are embargoing the export of their petroleum to the United States in the manner described by the current Arab embargo. My bill would require the Director of the Federal Energy Office to determine when an embargo of petroleum exists against the United States and then to require all units of government and all citizens and corporate entities who are providing American fuel for the training of pilots from embargoing countries to cease such activities for the duration of the embargo.

Mr. Speaker, I am cautiously and guardedly optimistic that the Arab embargo against the United States will be lifted within a short time. But if there is one thing that the Arab embargo has, or should have, taught us, it is that their action stands every chance of being reimposed at some future date at the total and immediate discretion of the Arab nations. We will not be given the access to foreign petroleum which has been granted us in the past no matter what the underlying causes of this or future embargos may be.

The American people cannot simply buckle under to an embargo every time it occurs because to do so is to reject and disown all the principles of fairness and pride which have directed our land from the founding of the colonies to the year 1974. I feel it imperative that the United States negotiate, not retaliate against, the oil embargo, but I also feel that our Government owes it to the American people to let the Arabs, and any countries which might later follow such actions, know that we expect such actions to be taken without efforts to humiliate and degrade the American people.

## REACTIONS TO WATERGATE: THREATS TO JUSTICE

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## HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. GIBBONS. Mr. Speaker, Chesterfield Smith of Lakeland, Fla., a distinguished lawyer and currently president of the American Bar Association, recently delivered an address entitled, "Reactions to Watergate: Threats to Justice." This is one of the most well-reasoned statements I have seen on the matter of impeachment.

I would like to take this opportunity to bring the entire text of this speech to the attention of my colleagues. Chesterfield Smith details the history of the Watergate matter and presents his arguments in a logical, sound manner. Let me highlight some of the most important points he raises. The subtitles below are my own additions which may help capsulize this important speech.

### HISTORICAL IMPACT

There are those—and I am one of them—who believe that the historical impact of current events on our nation's future will be second only to that of the Civil War. . . . Certainly the picture can be painted too dismally and I do not mean to do so—I firmly believe—given even the seemingly inexhaustible chain of terrible events that we now lump under the umbrella title of Watergate—that we—as a country—and our government—as a structure—can and will meet the challenges now posed.

### EXECUTIVE PRIVILEGE

The presumption of innocence as a rule of evidence in court has never been absolute, and the evidentiary rule of executive privilege likewise has never been held in our history to be absolute. . . . The presumption of innocence has never meant that we as a people could not look at the totality of the facts as we perceive them and then arrive at a conclusion, and the executive privilege has never meant that the President could use it to conceal crime.

### IMPEACHMENT OR RESIGNATION?

If President Nixon is to leave office before his term expires, I believe that he should only do so as a result of the constitutional impeachment process, the process designated in the constitution as the only way to determine whether a sitting President should continue in office. His ouster should not be through resignation brought on by public clamor. . . . A forced resignation of the President could only leave within the breasts of many of our people a feeling that perhaps evidence sufficient to justify impeachment was not really there and that the whole affair was nothing more than a political assassination. . . . We must give to him (the President) as to all ciitzens the due process rights to which he is entitled.

### INVESTIGATION BY HOUSE JUDICIARY COMMITTEE

I do not feel it proper that the American Bar Association ever take a position on impeachment . . . the views I now express are my own and do not represent policies or positions of the Association.

I am personally acquainted with Congressman Peter Rodino, the Chairman of the House Judiciary Committee, which will conduct the investigation, and it seems to me that he will oversee a competent, complete, non-partisan yet fair investigation. I also know many other members of the House Judiciary Committee, both Republicans and Democrats, and as a group I find them to be superior.

### CONCLUSION

In essence, I believe firmly that we in America who love liberty must be continually aware that due process and fairness are two-edge swords which cut just as properly for the accused as the accusors. We must never permit judicial, legislative or executive ends to justify judicial, legislative or executive means. . . . We must all—lawyers and non-lawyers alike—contribute in all reasonable ways to a prompt but proper disposition of the national dilemma we style "Watergate". Our people are sick and tired of it and are disgusted with the circumstances which created it. If I know anything, I know that it is in the interest of our nation that the mess be promptly resolved and put behind us.

Mr. Speaker, the full text of Chesterfield Smith's address follows:

### REACTIONS TO WATERGATE: THREATS TO JUSTICE

(Address by Chesterfield Smith)

As this most sturdy of all nations begins its one hundred and ninety-eighth year, it is embroiled in one of the grave political crises of its history. The presidency, for many months now, has been under severe and sustained attack from all quarters. Certainly it is true to say that the leadership of our nation is not currently able to direct its full attention to either our domestic or foreign affairs. We recently witnessed the bitter, tragic and unprecedented resignation of the Vice-President during a criminal investigation, and for the first time, the selection and seating of a new Vice-President, Gerald Ford, without the use of the electoral process. There are those—and I am one of them—who believe that the historical impact of current events on our nation's future will be second only to that of the Civil War.

Unquestionably, widespread distrust of the federal government at all levels is pervasive among our people. A substantial majority of the people of this nation distrust almost all governmental officials—they have lost much of their trust and respect for the high office-holders in our National, State and local governments, whether those officials are members of the Republican or Democratic parties.

Certainly the picture can be painted too dismally and I do not mean to do so—I do firmly believe—given even the seemingly inexhaustible chain of terrible events that we now lump under the umbrella title of Watergate—that we—as a country—and our government—as a structure—can and will meet the challenges now posed.

Despite that admitted optimism—as a national spokesman for the legal profession—I must express my very real concern about the long-range impact of the revelations that politics has played a dominant role in the decision-making processes of those who traditionally have been entrusted with national law enforcement. In so using the word "politics", I mean it in the classical sense—that is—"The art or science concerned with winning and holding control over a government". It seems clear that everyone will agree that—so used—politics has no place in either law enforcement—or in the administration of justice.

But, as never before in our nation's history, many of our citizens suspect that a large portion of the acts of national law enforcement officials are politically motivated. Watergate and other sordid events surrounding the presidential election of 1972 have emphasized that all federal law enforcement agencies must be depoliticized if they are to fully regain public acceptance. Political motivations directed toward winning elections have no place in our justice system, even though admittedly it is true as an evolutionary matter that the bringing of politics into the justice system has been a bipartisan mistake involving both Republican and Democratic administrations.

As a lawyer—as an officer of the courts—I become most apprehensive about this major entry of politics into the administration of justice. A substantial amount of the evils of that entry—though far from all—has been revealed by Watergate. The creation of those evils has been demonstrated again and again to be all encompassing—in that contributions thereto have been made by both political parties—by all three branches of the national government—by the press—and above all, by we the people. As Pogo so pungently stated—"We have met the enemy, and he is us."

Let me try to develop these generalizations into something more specific. The beauty of our justice system as it has evolved over the last several hundred years is that in a very real sense it has worked. The fundamental basis of the system is due process. We have over the years found that in an adversary proceeding involving equal advocates in which due process is observed—the truth can be ascertained—the verity of evidence can be determined. Through the contending forces of balanced opponents in a proceeding presided over by an impartial judge, we have found that justice is obtainable. One of the significant developments in the current governmental mess was the very substantial reaction of the majority of the people of this nation when it appeared to them that the President of the United States was not going to comply with court orders—that he really did not intend that those accused of being involved in Watergate be subjected to our normal criminal justice procedures. Whether justified or not, there are very large numbers in this country who continue to doubt that our federal criminal courts can arrive at the truth and determine the guilt or innocence of the suspected wrongdoers. That doubt is, of course, occasioned in large part by the suspicion of a great mass of our people that Richard Nixon himself may be in some way involved—that Richard Nixon will in some way block a full investigation of the White House—and of his close friends and associates. They believe—or at least fear—that his powers as President are such that the adversary system will fail—that he can and may use presidential authority to prevent the court proceedings from being effective.

This belief on the part of so many—whether true or false—has caused emotional reactions which—in the long run—may be just as dangerous to our system of justice as the particular actions of those under investigation.

For—even given the misdeeds of others—we must remain true to the basic principles of justice. Regardless of the depth of our own personal inclinations, we must at all times reserve to those who have been accused the constitutional rights guaranteed to all citizens. While Watergate is admittedly a unique situation without parallel, due process is not a principle to be thrown out the window in special or even emergency situations. Due process requires that no one be convicted on hearsay—innuendo—speculation—or assumed transgressions—no matter how ostensibly apparent.

Let me elaborate on some of the misgivings I have. First, it seems to me that the constitutional issues which have been raised by President Nixon in this crisis are very real and very significant. Certainly, executive privilege as it rises out of our cherished separation of powers has proven its worth in our constitutional history. But at most, executive privilege is only a privilege personal to the President which is treated in the courts as a rule of evidence. The President can without the permission of his communicant waive the privilege, and historically he has usually done so. President Nixon in my judgment originally raised the issue of executive privilege in a proper way. I further believe that he should have done so. The fact that later the courts ruled against the President's contentions should not prejudice anyone against the President because he raised them. But many persons have so reacted. They have articulated an opinion that there must be something in those tapes incriminating to the President or else he would not try to keep them secret. On the other hand, there are those who support the President by suggesting that such a reaction does violent abuse to our traditional presumption of innocence. It seems to me that both positions are wrong.

The presumption of innocence as a rule of evidence in court has never been absolute, and the evidentiary rule of executive privilege likewise has never been held in our history to be absolute. The purpose of the presumption of innocence has been to require that those prosecuting a criminal charge discharge the initial burden of presenting proof of guilt, and the purpose of executive privilege has been to protect the presidency in the discharge of its responsibilities. The presumption of innocence has never meant that we as a people could not look at the totality of the facts as we perceive them and then arrive a a conclusion, and the executive privilege has never meant that the President could use it to conceal crime. The presumption of innocence is a rebuttable one which can be quickly overcome by conclusive evidence of guilt, and executive privilege is not operable when the evidence sought for a criminal investigation should be revealed in the national interest. We do not yet have the totality of the evidence—the evidence of guilt as yet presented is far from conclusive, and Judge John Sirica after an in camera inspection of the disputed evidence has not yet indicated how far the claim of executive privilege of relevant evidence in the possession of Richard Nixon will be sustained.

Believing in both the presumption of evidence and in a qualified executive privilege, I am greatly alarmed that such a large group of our people have apparently finally concluded that the real reason the issue of executive privilege was raised in court by Richard Nixon was to conceal evidence or to obstruct justice rather than his announced concerns for protecting the historical precedent. It seems to me that the President was right in his original approach to executive privilege, and that regardless of the presumption of innocence, fairness dictates that we give him the benefit of doubt until all the evidence is available. The prevailing attitude of our people is of much concern to me in that grave constitutional issues are decided not on the merits but on the basis of suspicions of the motives of the one who asserts them.

As a lawyer, it seems further to me that the proposal made by President Nixon—that Senator John Stennis of Mississippi hear the controversial presidential tapes and certify summaries thereof might well have been a proper and acceptable compromise to resolve the conflicting constitutional contentions. But, it also seems to me that—despite the possible merit of his suggestion, the President—or his advisors—then made a horrible mistake. In a most inept way, the President by unilateral fiat, insisted that the compromise device be accepted without a court decision as to whether that procedure would meet minimum evidentiary standards in criminal proceedings. He simply told Archibald Cox that he could not go to court seeking any evidence of crime which might be in the White House. It was my personal opinion then—and it is my personal opinion now—that Richard Nixon—by mandating instructions to Special Prosecutor Cox not to seek a court decision on the tapes, the summaries, or on other evidence which might be material to the investigation, engaged in an unbelievable flouting of the rule of law.

I am so very glad that he upon further reflection, and perhaps after hearing the very substantial outcry from throughout the nation, is now apparently willing to permit Leon Jaworski, the new Special Prosecutor, to seek a court test of any contention he makes on whether particular evidence in the White House can be withheld from grand jury consideration. While I think that Richard Nixon was very wrong in attempting to control the actions of the Special Prosecutor in seeking evidence of crime from the White House, I think too that it is equally wrong for we the people to conclude that the presidential action in discharging Archibald Cox—or even Elliot Richardson or William Ruckelshaus—was designed by him to keep concealed matters criminally incriminating to the President or his associates.

I think this even though I also strongly feel the methods utilized heretofore of having a Special Prosecutor who is part of the Department of Justice investigate the President who controls the Department of Justice is also a gross mistake. I admire and respect Leon Jaworski, who has been a dear friend of mine for years, but I very much regret that he had to go to the White House to be interviewed by General Haig before Acting Attorney General Bob Bork could appoint him. The firing of Archibald Cox was not the tragedy—probably Leon Jaworski will do a better job—the tragedy was that the Congress—the President—and we the people—by creating a situation where the investigator was under the dominion of the investigated—were sidetracked or diverted from a definitive Supreme Court resolution of the conflicting constitutional contentions.

All of this is a prelude to stating my own personal conclusion that those who are suggesting that Richard Nixon resign as President of the United States at this time are ignoring basic elements of due process which in the end could set a very bad precedent—a precedent which I believe could ultimately cause tremendous mischief to governmental stability. If President Nixon is to leave office before his term expires, I believe that he should only do so as a result of the constitutional impeachment process, the process designated in the constitution as the only way to determine whether a sitting president should continue in office. His ouster should not be through resignation brought on by public clamor. It was only a few short months ago that an overwhelming number of voters gave an endorsement to the policies and positions he advocated as a candidate.

I submit that those people who in good faith supported his cause are entitled to have all of the available evidence—which shows whether the President has or has not violated that public trust—revealed for open inspection by the Congress, by the courts, by the media, and, through the media, by the general public. A forced resignation of the President could only leave within the breasts of many of our people a feeling that perhaps evidence sufficient to justify impeachment was not really there and that the whole affair was nothing more than a political assassination. Whatever the rebuttable presumption of innocence does or does not mean, it certainly encompasses the necessity that the totality of all available evidence be considered by the people of this country before a conclusive determination of either the guilt or innocence of President Nixon is finally reached. We must give to him as to all citizens the due process rights to which he is entitled.

We must keep in mind that the courts are not and will not be in a position to either acquit or convict Richard Nixon while he is in office. It was only recently that I reluctantly became convinced that it is in the best interest of this nation that the continued right to the presidency of Richard Nixon be decided in the Congress through an impeachment proceeding, the only due process forum in which the issue can be concluded.

So, as an individual citizen, I hope that the House of Representatives, through its Judiciary Committee, will push ahead vigorously with its pending investigation of whether or not the President should be impeached and tried for removal from office.

I want to reiterate that I as an individual am suggesting only that the impeachment investigation by the House Judiciary Committee go ahead—I am not taking a position on the merits of impeachment nor will I—at least until that investigation is complete. Since I consider impeachment primarily political in nature, I want also to clarify that as President of the American Bar Association—I do not feel it proper that the American Bar Association ever take a position on impeachment, or if the House does impeach, whether the Senate should vote conviction thereon—the views I now express are my own and do not represent policies or positions of the Association. I do reiterate that it is my personal position that there can be no matter more important to us on the domestic scene—nor none more detrimental to our foreign relations—than this political never-never land where a majority of our citizens continue to suspect the motives of the leader of the country in every move he makes. If after full investigation by the House of Representatives the President is not impeached—or if he is impeached but not convicted by the Senate—I for one will permanently put Watergate behind me and I believe that most others will too.

I am personally acquainted with Congressman Peter Rodino, the Chairman of the House Judiciary Committee, which will conduct the investigation, and it seems to me that he will oversee a competent, complete, nonpartisan yet fair investigation. I also know many other members of the House Judiciary Committee, both Republicans and Democrats, and as a group I find them to be superior. All of them are lawyers, and I feel that the committee, through its processes, will now be able to secure all available evidence so that a final and conclusive consensus of the guilt or innocence of Richard Nixon can be reached by the American public. The credentials of John Doar the new Republican General Counsel of the committee, are most impressive, and the overall approach of the committee to date to the compelling task it faces has left me with a feeling of satisfaction that the task will be properly and expeditiously handled.

I believe that the House Judiciary Committee will in either late April or early May file its report with the House of Representatives, and that in either June or July we in this nation through a vote of the entire House of Representatives will know whether or not Richard Nixon's continued right to office will be tried by the United States Senate in July and August. I do not predict what the House Judiciary Committee will do—or what the House of Representatives will do—or what the Senate will do—nor do I express either a prediction or a personal conviction of what any of them should do. I only know and hope that the entire matter may be finally resolved in one of what I believe to be the only two possible ways—that is—by either a restoration of confidence and credibility of our people in the leadership of President Nixon or failing that—by his removal from office.

But Watergate has occasioned me much concern in multiple other areas and I submit that these matters should also concern others who value our system of justice. Reliance on immunity to encourage and sometimes possibly even to demand what might be at best questionable testimony certainly to the extent practical should be eliminated from our judicial processes. Grand jury manipulation, and grand jury and prosecutorial leaks, have also appeared as burgeoning problems of monumental proportions to the fair administration of justice and to the civil rights of those under criminal investigation.

Lawyers and non-lawyers alike should be continually concerned with problems of this sort. These matters of justice are too precious to be left to Congress—or to lawyers. We must be as adamant in damning grand jury leaks in Spiro Agnew's case as we are in defending Justice Lewis Powell from personal attack. We must be as zealous in condemning statements made inappropriately by public officials—including specifically—statements made by Archibald Cox concerning matters he had learned from Richard Kleindienst in his investigation—as we are about viewing the income tax returns of Richard Nixon. We must be as legally indignant at the playing of presidential tapes at a cocktail party by William Dobrovir as we are at campaign contributions made by large national corporations. We must be as concerned about the political use of the office of United States Attorneys—or the Attorney General—as we are about the surreptitious entry of a doctor's office to steal his records for use against Daniel Ellsberg in then pending criminal trial.

We must be as concerned about Federal Judge John Sirica—no matter how worthy his motives or how much we may applaud his results—using the criminal sentencing process against the Watergate burglars as a tool for the further criminal investigation of others, as we are about Spiro Agnew committing income tax fraud. We must be as conerned about a John Ehrlichman and Richard Nixon offering Judge Matthew Byrne, then presiding over the criminal trial of Daniel Ellsberg, the directorship of the FBI, as we are about huge campaign contributions made by those who are simultaneously seeking massive governmental favors. Of monumental concern should be the nationwide televising day after day of the testimony of those who may or may not have engaged in criminal activities and who have been neither indicted nor tried.

It appears to me that many innocent people have been irreparably damaged with little beneficial result. While certainly the public's right to know is of paramount significance, and while the Ervin Committee has on the whole conducted itself with admirable restraint and fairness, it seems to me that the ex-parte nature of a publicly-televised Senate hearing in which only one side is presented, in which there is no right by the person testifying to confront other witnesses, to cross-examine opposing statements, to refute testimony damaging to his own position, is a growing cancer to the fair administration of justice. Frankly, I can see no justification for a witness being compelled by congressional subpoena—against his will—to go before a national television audience. I believe that whether the witness himself is or is not under criminal investigation, and whether or not the investigation is being conducted by fair men like Sam Ervin, Howard Baker, and Herman Talmadge. While I acknowledge that the Congress is entitled to all useful testimony, it seems equally demonstrable to me that Congress can draft legislation and otherwise discharge its legitimate functions without the destruction of personal privacy necessarily inherent in the compulsory televising of testimony against the will of the witness.

In essence, I believe firmly that we in America who love liberty must be continually aware that due process and fairness are two-edged swords which cut just as properly for the accused as the accusors. We must never permit judicial, legislative or executive ends to justify judicial, legislative or executive means.

Perhaps it is proper that I comment on the lawyer's role here. I believe that the reactions of lawyers to the issue of due process through the organized bar is essential—because lawyers in my opinion comprise the group which collectively can exert the maximum beneficial impact upon all elements of the government insofar as due process and fairness is concerned. Because we have that impact—lawyers also bear the most responsibility. Put more bluntly, lawyers bear the largest part of the blame when the system of justice fails. This is as it should be and I don't believe that our profession should deny that responsibility. On the contrary, we should be honored by it. Lawyers should lead the way in making it fashionable to be honest and fair—and to be hardnosed about moral standards—and proud of it—damn proud of it.

To be able to exert this moral influence and to provide the leadership in preserving and protecting our basic principles, lawyers must keep their own house in order. It is incumbent upon lawyers to see that those practitioners who bring discredit upon the legal profession by their actions in public life—and in private practice—are promptly and vigorously challenged and removed from the legal profession. That is so whether the lawyer be named Agnew or Cox, Dobrovir or John Dean, Mitchell or Ehrlichman, Pat Gray or Egil Krogh, Howard Hunt or Gordon Liddy. Strong disciplinary bodies at all levels must be a reality. Further, we must let every branch of government—executive, legislative and judicial—know that we expect absolute integrity and service of the highest quality from public officials who are lawyers.

We can and will not permit lawyers in government service to engage in acts involving moral turpitude and get away with it, regardless of whether they are acting as lawyers—or as government officials—or in any other capacity. Finally, lawyers—as well as all citizens—must readily acknowledge and reward integrity and excellence in public service. We must encourage honest and solid politicians in public service. While we can be very satisfied that the overwhelming majority of our public servants do now fall within that category, we must support those fine public servants in both their elections and in their service.

We should work for improvements in campaign spending regulations and conflict of interest laws at the National, State and local levels. We cannot become pessimists about integrity or apologists for our political system. We—instead—must be as quick to defend, promote and support integrity as we are to speak out against immorality—as quick to speak up for fairness as we are to condemn transgressions.

But lawyers above all share one over-riding task with all other citizens who love our land. We must all—lawyers and nonlawyers alike—contribute in all reasonable ways to a prompt but proper disposition of the national dilemma we style "Watergate". Our people are sick and tired of it and are disgusted with the circumstances which created it. If I know anything, I know that it is in the interest of our nation that the mess be promptly resolved and put behind us.

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## WE NEED A NEW MINIMUM WAGE BILL

### HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. ERLENBORN. Mr. Speaker, when this House sustained the veto of the minimum wage bill last September, President George Meany of the AFL–CIO apparently decided that there would not be another minimum wage bill during the 93d Congress.

That was 4 months and almost 4 percentage points of inflation ago. Workers at the bottom of the pay scale deserve better pay. They have waited patiently.

Every one of us in this House knows that there is a way to meet their need, a way that is veto-proof. A veto-proof bill is a product of compromise, and President Meany has done all that he can to discourage compromise. Many Members await only his assent to help pass such a bill. I urge President Meany to get off the backs of the low-paid workers and take a load from the shoulders of the Members who are oriented toward organized labor.

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## STRENGTHENED ENDANGERED SPECIES ACT BECOMES PUBLIC LAW

### HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. DINGELL. Mr. Speaker, by permission previously granted, I am including in the Congressional Record the statement by the Honorable Rogers C. B. Morton, Secretary of the Interior, regarding the Secretary's comments relative to the public law regarding the Endangered Species Act of 1973, which Congress prudently enacted in the 1st session of the 93d Congress.

Secretary Morton's statement to the public includes his comments relative to the authority granted the Secretary of the Interior in the public law and the provisions of that public law which he and the Department of the Interior shall implement.

I include the Secretary's statement of January 3, 1974, on the Endangered Species Act of 1973:

#### Secretary Morton Commends Congress for Passage of Endangered Species Act

Secretary of the Interior Rogers C. B. Morton today commended the Congress for its prompt passage of the Endangered Species Act of 1973 signed by President Nixon on December 28.

"This new legislation will assure a higher degree of protection for those species of animals which are in jeopardy in the United States and around the world," Secretary Morton said.

Among its provisions, the Act establishes two categories of species subject to Federal protection—"threatened species" and "endangered species"—creates a Federal-State partnership to conserve such species, and authorizes a matching grant-in-aid program to assist the States in carrying out this objective.

Secretary Morton indicated that he will make full use of the authorities provided by the legislation "in order that present and future generations of Americans may continue to enjoy the wildlife resources which are such an important element of our natural heritage. I have directed the Fish and Wildlife Service to prepare for prompt, effective implementation of the statute."

In greater detail, the Endangered Species Act of 1973 does the following:

Addresses the need to identify those species which, though not yet in danger of extinction, are likely within the foreseeable future to become endangered by creating a new list of "threatened species" subject to Federal protection in addition to the "endangered species" category established by the 1969 Act. These lists will be maintained by the Interior Department.

Extends protection to species that are in trouble in any significant portion of their range, not just to those that are threatened with worldwide extinction.

Eliminates existing dollar ceilings under the Land and Water Conservation Fund Act (166 U.S.C. 4601-4) on the acquisition of critical habitat for endangered and threatened species of animals or plants.

Permits the Federal Government to share, up to two-thirds, in the costs of State programs for the conservation of endangered and threatened species which have been approved by the Secretary of the Interior. An appropriation of $10 million is authorized for such financial assistance over an initial three-year period.

Implements the Nation's obligations under the "Convention on International Trade in Endangered Species of Wild Fauna and Flora" signed in Washington, D.C., on March 3, 1973, when the ratification process is completed.

Prohibits the unauthorized import or export, taking, possession, sale, delivery and transport of endangered species. The Secretary of the Interior may extend such prohibitions to threatened species by separate regulation.

Requires all importers and exporters of wildlife to obtain a permit from the Secretary of the Interior and maintain certain records.

Continues requirement that all wildlife be imported through officially designated ports of entry.

Permits the Secretary of Commerce to make additions to the endangered and threatened species lists for marine species which come under his jurisdiction.

Directs the Secretary of the Smithsonian Institution to review species of plants which are now or may become endangered or threatened and to devise methods for their conservation. A report is to be made to Congress within one year.

Directs all Federal departments and agencies to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of endangered or threatened species or result in the destruction or modification of habitat critical to such species.

Provides for criminal penalties up to a $20,000 fine and/or one year imprisonment for willful violations of certain provisions of the Act and up to a $10,000 fine and/or six months imprisonment for less serious violations. Civil penalties up to $10,000 also are authorized by the statute. In all cases, authority is provided for subjecting to forfeiture any wildlife or plants connected with violations of the Act.

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## BURR P. HARRISON

## HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. WHITEHURST. Mr. Speaker, I am pleased to rise on behalf of the memory of the Honorable Burr P. Harrison, who served the Commonwealth of Virginia so effectively during his tenure here.

I was not a Member of the House during his years of service, nor did I ever have the pleasure of meeting him in person. However, I do remember that he was the first Congressman I ever wrote to. It was in 1949, when I was a student at Washington and Lee University in Lexington, Va. In the 25 years that have passed, I have forgotten the subject, but I do recall that I was pleased with the answer I got, and even though I did not vote in Burr Harrison's district, I appreciated his promptness in responding to a student who was just a transient constituent of his.

I think that this eposode is an example of the kind of Congressman Burr Harrison was, and the memories of my colleagues here confirm his service. I therefore salute a distinguished public servant, who left a record that all of us can aspire to emulate, and I send my deepest sympathy to his widow.

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## CONGRESSMAN FRANK THOMPSON'S PREDICTIONS FOR THE NEW YEAR

## HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. BRADEMAS. Mr. Speaker, it has for many years been the custom of our distinguished colleague, the gentleman from New Jersey (Mr. THOMPSON) to offer predictions for the New Year.

As a contribution to the reflection of Members of the House, I ask unanimous consent to insert at this point in the RECORD the text of Mr. THOMPSON's statement of predictions for 1974:

### CONGRESSMAN FRANK THOMPSON'S PREDICTIONS FOR THE NEW YEAR

For a number of years now I have been foolish enough to issue predictions of events to come in the New Year. My batting average has been very low—but, after all, who could have predicted the wacky events of the last few years.

During 1973 the Nixon Administration treated us to some moments of high—and low—comedy. At the top of my list is Rose Mary Woods' performance—certainly the classiest toe-dancing since Nijinsky. The question of the year is how she could stretch for the telephone while keeping her foot down on that pedal. Only her chiropractor knows for sure.

My well-informed sources tell me that we can expect more of the same in 1974.

*January.*—White House claims that gap on tape was caused by radiation from Comet Kohoutek; Energy Chief William Simon announces nationwide shortage of hair oil; H.R. Haldeman returns to crew cut.

*February.*—Comet Kohoutek fizzles; White House blames Arab oil producers; David Eisenhower and Eddie Cox form rock group called "Sons-in-Law"; Fiat announces new sports car powered by olive oil.

*March.*—Howard Hughes books "Sons-in-Law" for three-year engagement at Las Vegas hotel; White House admits President considered offering Vice Presidency to Judge Sirica; Datsun announces new sedan powered by soy sauce.

*April.*—President invites Members of Congress, Supreme Court and Billy Graham to White House party celebrating signing of his 1973 tax returns; entertains guests by playing Watergate tapes to music of Lawrence Welk.

*May.*—Volkswagen announces new "bug" powered by Rhine wine; White House admits break-in of Daniel Ellsberg's chiropodist.

*June.*—Energy Chief Simon announces critical shortages of olive oil, soy sauce and Rhine wine; White House scientific advisor discloses plans for new car fueled by old vice-presidential papers.

*July.*—Howard Hughes and Robert Vesco form rock group called the "Peekaboos"; California students announce new car powered by "grass"; it doesn't run, but nobody cares.

*August.*—Republican National Committee announces it has booked the "Sons-in-Law" and the "Peekaboos" to play at 1976 Convention; President applauds Committee's taste.

*September.*—William Simon holds press conference to announce end of energy crisis; TV lights cause brownout on East Coast; Secretary Butz announces plans to export ragweed to Russia.

*October.*—Secretary Kissinger announces end of Arab-Israel conflict; celebrates settlement by downing BLT on bagel.

*November.*—Secretary Butz announces plans to export hayfever remedies to Russia; President Nixon discloses he voted Democrat.

*December.*—Energy Czar William Simon declares energy crisis operative again; orders S. Claus to hold sled speed to 55. Claus goes on strike. "I couldn't cover Brooklyn at that speed" he says. Nation's truck drivers go out in sympathy.

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## BETTER LISTENING, THINKING, AND SPEAKING

## HON. ANDREW J. HINSHAW

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. HINSHAW. Mr. Speaker, it is with a great deal of pleasure that I announce the 50th anniversary of the Toastmasters International which will occur in the year 1974. This organization, which has its worldwide headquarters in my district in Santa Ana, Calif., has a current membership of over 60,000.

Members of Toastmasters from over 40 countries will be attending the 50th anniversary meeting which is to be held in Orange County, Calif., later this year.

In recognition of the contribution Toastmasters International has made, the U.S. Postal Service has agreed to provide for a special stamp cancellation.

Because of the success of Toastmasters International throughout the world, I am taking the opportunity of its 50th anniversary year to explain some of the background and purposes for which this organization was founded.

### BETTER LISTENING, THINKING AND SPEAKING . . .

This is the basic idea behind Toastmasters—a concept that has become a part of America and its people for half a century—culminating in this, the 50th Anniversary of Toastmasters.

It all began on a rainy Wednesday evening in October of 1924. Two dozen men gathered together in the basement of the YMCA in Santa Ana, California, to "afford practice and training in the art of public speaking and in presiding over meetings and to promote sociability and good fellowship among its members."

The group included the editor and publisher of the local newspaper, several teachers, a junior high school principal, a few businessmen, a merchant or two, a contractor and a lawyer. They ranged in age from their early 20's to their late 40's and differed widely in personality, financial status and educational attainment. These men were brought together by the general secretary of the "Y," Dr. Ralph C. Smedley—to form what was to be the first Toastmasters Club.

Little did Dr. Smedley, or anyone else, realize that this informal meeting would someday grow into an organization with more than 60,000 members in more than 40 countries.

To speak is generally accepted as a God-given talent; to speak well is another matter.

For 50 years, Toastmasters has helped to fill a void in this ever-changing world of ours, a world that depends so much on communication.

Toastmasters has offered the opportunity for individuals to learn effective communication, not by rules alone, but by actually speaking to groups in an atmosphere of understanding and helpful fellowship, building not only better communicators, but better leaders.

Through these weekly or semi-weekly meetings, the individual finds a newborn confidence in his ability to communicate and, in light of this discovery, finds more reason for confidence. Their ability to communicate ideas is improved along with their increased understanding of others, a vital aspect in the Toastmasters program.

This idea of helping and understanding others has also helped the communities in which we live. Toastmasters have often found that their training has enabled them to develop unique abilities to serve and grow with their communities.

Thousands of Toastmasters have used the leadership abilities they have developed in the program to assume positions of responsibility in their businesses, churches, fraternal and service oragnizations and charity groups. They are often the only members of these groups who have had experience in organizing activities and conducting meetings properly. Many times, they are the only people within their organization who can speak effectively in public.

Toastmasters Clubs often present special programs and activities for the benefit of their communities. The Youth Leadership Program teaches young men and women the basic techniques of communication and helps prepare them for taking postions of leadership in tomorrow's society. Speechcraft is an eight-week program presented to the public at minimal cost and teaches the fundamentals of public speaking. In this way, the individuals that have benefited from Toastmasters training can now share it with others, helping to create a stronger and greater community.

Besides helping members develop their communicative abilities, Toastmasters also help provide their people with the quality of leadership. In the Toastmasters program, they learn how to follow parliamentary procedure, how to take responsibility, how to plan and they exercise the basic fundamentals of leadership by holding club offices.

Today, the shortage of people with leadership ability threatens not only our nation's, but also the world's, business, industry and government.

As a solution to this urgent problem, many businesses have organized and financed training programs at colleges and universities, concentrating not so much on technical subjects, but rather on the humanities, literature, the arts and history.

Although the Toastmasters program is not a course, as such, it does offer a practical laboratory which supplements formal education. Through the Toastmasters experience, the individual is given the opportunity to meet and join in self-improvement efforts with other conscientious people from a wide variety of professions and vocations. He has a chance to hear interesting talks on an unlimited variety of subjects, which often inspire further study. Confidence is gained and ability to organize and present ideas and thoughts is increased, along with the ability to analyze words and deeds of others and to join in evaluations of them.

All contribute to the development of the qualities of leadership and will prove valuable in everyday life, regardless of the vocation, age or goals.

Since its founding, Toastmasters has been praised by scores of industry leaders—a compliment the organization has not sought, but one of which it is understandably proud. Wallace Jamie, Director of Public Relations of The Carnation Company, once described the people who become active in the club, saying that ". . . the very fact of their participation indicates that they have a strong motivation to succeed . . . Most Toastmasters have accepted the idea that they need to develop. The Toastmaster is making a contribution of his time and money toward his own development. Thus, a company has reason to believe it is building on a solid base in such a man when it makes an additional investment."

Such comments reflect a widespread industry in the worth of the Toastmasters experience. The person who has learned to get along with his fellow Toastmasters also tends to get along with his fellow workers, and is usually a more mature, better adjusted individual and one who will be a good influence in his job and community.

Because they are aware of the value of Toastmasters training, hundreds of firms, institutions, churches, fraternal and national organizations and associations, as well as branches of the armed forces, have encouraged and even sponsored the formations of Toastmasters clubs.

In the 50 years of its existence, Toastmasters and its participants have not changed all that much. The participants, much like the men who gathered together in the basement of the YMCA in 1924, still share one goal. They have a driving ambition to improve their ability to communicate, to express themselves easily and forcefully, to become more effective group workers and leaders, and to meet the demands of daily life with confidence.

This, then, is the finalized concept behind this non-profit, educational organization—Toastmasters.

Won't you join me in "better listening, thinking and speaking" in this, the 50th Anniversary of Toastmasters?

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## INDEPENDENCE OF UKRAINE

## HON. JAMES J. DELANEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. DELANEY. Mr. Speaker, the 22d of January is a very significant date in modern history. It marks the 56th anniversary of Ukraine's Proclamation of Independence from Russia. The roots of this bitter freedom struggle can be traced back more than two and a half centuries. It was not until the end of World War I, when the Russian Czar was overthrown during the Soviet's internal revolution, did the Ukrainians realize freedom.

Unfortunately this cherished independence was very brief. The following year Russia officially recognized the young democratic republic, but at the same time began formulating plans to conquer the new Ukrainian government. It took 3 years of continuous assaults to finally bring the sovereign state under Communist control. The Soviets went quickly to work depriving these brave people of all basic human rights. Those who retaliated were persecuted, imprisoned, and murdered. But despite these severe hardships the Ukrainians have refused to relinquish their cultural ties with the past and hope for eventual self-determination.

I am proud to join my colleagues in this commemoration and ask that we pledge ourselves to help Ukraine in her fight for liberation so that she may stand tall together with the other free nations of the world.

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## AVIATION IS DOING ITS PART

## HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. MILFORD. Mr. Speaker, in a speech before the Wings Club in New York, Alexander Butterfield factually dealt with the energy shortage as applied to the aircraft industry.

He discussed conservation programs—both those that work which have been implemented by the Federal Aviation Administration which he directs—and those which could not be immediately implemented.

His programs are designed to encourage the vital airplane industry, both commercial and general, yet decrease fuel requirements.

Mr. Butterfield's speech is timely. It is rational. I should like for my colleagues in the Congress to know about this facet of our current energy crunch.

The speech follows:

### REMARKS BY ALEXANDER P. BUTTERFIELD, ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION

I was delighted to accept Harding Lawrence's invitation to meet with you today. It gives me the unusual opportunity of talking about the business of aviation with aviation businessmen. Of interest to you all, I'm sure, are the prospects for our industry in this new year and the steps Government and industry jointly are taking to lessen the impact of fuel shortages on aviation transportation.

Events of the past year have bordered on the paradoxical for all segments comprising aviation, the largest of American industries. It has not been, by any means, a vintage year, yet business has never been better.

According to the Aerospace Industries Association, 1973 manufacturing sales climbed to $24.9 billion—more than ten percent greater than 1972 sales. And, looking toward the future, industry's authoritatve publication, Data Marketing Service (DMS), following an exhaustive analysis of business indicators, is confident that aircraft production will rise by 41 percent during the next ten years. In its world forecast for the period 1973–1982, the DMS estimate is that some $134 billion worth of military, commercial and general aviation aircraft will be built.

As for the airlines during the year past, the Nation's scheduled carriers boarded more than 200 million passengers, and the switch to air travel over other public transportation modes continues to climb.

Air freight movements are growing dramatically, too. During 1973, the airlines set a record of more than a billion dollars in freight revenues for a single year. Last, but by no means the least, general aviation manufacturing—industry's bellwether—has also boasted dramatic increases in units sold as well as net billings. During 1973, the industry sold 13,645 aircraft with wholesale factory billings exceeding $826 million. This represents a 40 percent increase in sales and a

48 percent increase in billings over 1972. Especially noteworthy is the fact that more than one-fourth of these sales, a quarter-of-a-billion dollars, were sold abroad—in the face of an increasingly stiffening international market.

Right now, the Soviet Union is greatly interested in our air traffic control system equipment and procedures.

In July, I travelled to Moscow to discuss this. They're interested, and if they buy, their purchase of U.S. air traffic equipment during the next ten years might well top a billion dollars.

So prospects for 1974 are good. But as the aviation industry has moved into the economic climate of the new year's first quarter, the incursive threat of petroleum shortages, unless we plan carefully, may disrupt this most vital aspect of transportation, slow the Nation's business dangerously, and impact the entire economy. To give perspective to the economic impact of the fuel shortage and its associated increase in fuel prices, each one-cent rise in the price of fuel costs the airline industry $100 million annually.

Needless to say, the Federal Aviation Administration, acting as the catalyst with industry, is planning carefully—perhaps as never before—to avert an aviation crisis in both private and commercial transportation. And, we are, I am confident, succeeding.

It's a challenge. It affects everyone in the Nation, all 210 million of us. No one can escape it, and each of us has an important role in meeting it. Much of our energy has been used wisely to make our lives more comfortable and to improve our standard of living. Nothing wrong in that. But we Americans over the years have looked upon energy, petroleum supplies in particular, as an unlimited economic resource almost like air.

For some time, President Nixon has been determined that we change our habits and attitudes to conform with energy realities. In April 1973, he launched a major program to deal with our energy problems as they then existed. At that time marginal shortages were predicted but they could have been handled with minimum impact. The Middle East war, of course, changed all that. The war turned a petroleum problem into a full-fledged crisis. I won't recite the statistics of fuel shortfalls since Arab embargoes became effective. You are as familiar with them as I am.

Some of what you've heard about shortage of petroleum products for the aviation industry is accurate; some is exaggerated; some misleading; and much of it simply not true.

Admittedly, there remains considerable confusion as to the exact nature, depth and extent of the petroleum shortage for all users, including aviation. Bill Simon's office is working hard at this moment to obtain better data on the problem. FAA is working with the Federal Energy Office, with the Department of the Interior, other agencies of the Department of Transportation, and with industry trade organizations to develop workable, practicable fuel conservation allocations, flight procedures, and air system management techniques.

In late October, and again last Friday, January 11, FAA held consultative conferences with major elements of the industry to seek solutions to the energy problem.

The meetings were invaluable because they placed FAA and the transportation industry somewhat ahead of the power curve in meeting both short and long-range effects of fuel shortages now emerging. Follow-on action responsibilities for industry, the FAA, and mutual FAA/industry actions to meet the emergency have been identified.

As a result of these meetings, a number of very significant fuel saving programs and activities were determined. The use of aircraft simulators for pilot training and flight checks is both a good and a typical example. At the time of our October conference, FAA had already taken steps to increase the use of simulators as a conservation measure.

Spurred on by conference suggestions, FAA finished processing comments and published the final rule 22 days after the comment period closed on December 6. This single step will save 3,300 barrels of fuel daily. What's more, we anticipate that the increased use of flight simulators will result in a considerable improvement in training efficiency wthout the slightest derogation of safety.

Taxiing with fewer engines is also a promising fuel conservation measure. This procedure is currently under study by FAA, the Air Transport Association and the Environmental Protection Agency. If safety and environmental considerations of taxiing on reduced engines prove acceptable, voluntary compliance will be launched this month.

We're also moving along as quickly as possible to improve our current area navigation system (RNAV). For those of you not entirely familiar with RNAV, this is a technique that permits more direct routings with a resultant saving in fuel. We are now running a complete cost-benefit analysis to determine the payoffs stemming from RNAV use. For your information, as of January 1, 1974, there were 164 RNAV jet routes and about 150 RNAV instrument approach procedures.

On November 20, again as a result of intelligence developed during FAA's October 24 consultative conferences with industry, I announced a seven-point program for increasing aircraft operational efficiency and designed to save up to 20,000 barrels of jet fuel per day.

The savings, incidentally, would amount to 2.7 percent of the total amount of jet fuel consumed daily in the United States and, moreover, will be accomplished without compromising aviation safety. Some of these actions include: revision of gate-hold procedures; revision of air traffic flow procedures; the increased use of optimum aircraft cruising speeds; holding aircraft at higher altitudes to effect greater fuel savings; and taxiing aircraft with fewer engines.

On November 21 air traffic controllers throughout the system were issued the following instructions:

1. Relax the requirements for preferential routings, which frequently impose fuel penalties, during periods when there is no valid operational need.
2. Assign the most economical altitude.
3. Approve direct routes through use of direct radar vectors whenever possible.
4. Discontinue standard terminal arrival routes and standard instrument departure routings when not warranted.
5. Honor requests for direct radar vectors to reduce time and distance flown. Also, volunteer this kind of service when the opportunity presents itself.

As the result of these instructions, FAA traffic flow control procedures have been streamlined and the airlines have achieved substantial improvements in optimizing cruise speeds. We are hopeful of still more improvement in flow control with FAA, air carriers and the Air Line Pilots Association working together.

To be candid, we're not winning them all. For example, we worked very hard on studies to accelerate runway and taxiway improvements as a further means of fuel conservation by improving ground movement procedures. We found that little could be accomplished this winter. Indeed, our analysis determined more fuel would be used in speeding some few projects over a 90-day period than would be saved. So, in this project as with several others I won't bother detailing here, we shifted our attention to conservation efforts that could be achieved over the next two years.

Among these intermediate term programs is the towing of aircraft from gate to take-off point. The description of the plan presents no obstacle. Actual accomplishment, however, is quite another matter.

For one thing, there is very little equipment available at most airports to accomplish this task. Whether development and introduction of such equipment will prove to be a cost effective conservation item is now under study and will be decided upon within the next thirty days. Another project under intensive study is the problem of mechanically/electronically sensing and predicting dangerous wake vortices causd by larger jet aircraft. Hopefully, a system of sensing and predicting the wake vortex of large jets, eliminating thereby the threat to smaller aircraft on the same flight path, will see the development of computerized metering and spacing of air traffic. This development, inevitably, will conserve fuel since it will increase system capacity.

At the present time, the FAA is holding to a first-come first-served arrival at airports. We believe that the fuel conservation efforts of *all users* of the system are best served by this method. However, an exhaustive analysis of a possible priority system for large, heavy fuel-using transports versus small aircraft is under study. As you can readily understand, fuel conservation is as important to, say, a business aviation pilot flying a single engine aircraft as it is to the pilot of a 747. In this connection, I am pleased to say, all elements of the aviation community, the air carriers, business aviation and the private pilots alike, are working in harmony toward solving the problem.

We have also taken specific action within the FAA to conserve fuel.

In FAA's aircraft operations program, we have reduced training and proficiency flight hours for an annual fuel savings estimated at 220,000 gallons (5,300 barrels). We are using visual simulators. We have considerably tightened up on our in-house flight training requirements. We are modifying the frequency of our flight inspections. Overall, we estimate this will save, on an annual basis, approximately 2,000,000 gallons of fuel (48,000 barrels).

FAA is also deeply involved in the mandatory fuel allocation program, particularly the notice of proposed rule making issued on December 13, 1973, by the Federal energy office. The FAA and the other modal administrations of the department of transportation conducted a comprehensive analysis of the NPRM.

Especially gratifying to me during this period were the extensive and important contributions all segments of aviation made to provide workable conservation solutions This is not rhetoric. The FAA and, I know other government agencies involved in the fuel allocations process were gratified at industry's constructive inputs.

As some of you know, the Federal energy office accepted, and incorporated to some extent, practically all the recommendations. The adopted mandatory fuel allocation regulations were issued by FEO on January 2, 1974. Shortly thereafter, the changing fuel crisis impelled FEO to amend the rule, increasing allocations, where possible, and revising procedures to minimize the impact on industry.

FAA's principal objection to the proposed new fuel allocations was that aviation was not being treated equitably compared to other transportation modes. For example, the proposed regulations for public surface transportation of passengers allocation 100% of current requirements, up to 150% of base period fuel consumption, and 110% for 1972 consumption for freight, cargo, and mail transportation. By contrast, air carriers would have received only 85% of base period consumption. Naturally, we strongly recommended increasing the air carrier allocation. We also pointed out, for example, the economic penalties resulting from cutbacks in

**agricultural aviation and the disruption to communities presently served by air taxis.**

**The fuel allocation regulations printed only yesterday in the Federal Register admirably reflect the successful joint efforts of the FAA and the Aviation Industry in achieving some measure of equity.**

**For example, the allocation proposed for agricultural flying, emergency activities, manufacturing and test flight was originally 90 percent of the 1972 base. This has been raised to 100 percent of current requirements. Air taxi, commuter and local service operations which would have been allocated 90 percent were also raised to 100 percent of the base period. Air carriers have been raised from 90 percent to 95 percent of base. Business flying, which would have been allocated only 80 percent of base, was raised to 90 percent.**

**Fuel for public flying, both Federal and State, was raised from 75 percent to 85 percent; and fuel allocations for personal and instructional use and travel clubs, too, were raised from a proposed 70 percent of base to 75 percent.**

**As you can see, the final allocations are significantly larger than those proposed in almost every case. In addition, the FAA asked that the definitions section be revised and expanded to include aviation segments previously excluded, such as air travel clubs and scheduled helicopter service. Other aviation segments were also shifted to higher percentage figures.**

**Throughout all phases of the development of the mandatory fuel allocation program, FAA has served as an effective catalyst.**

By consulting with the aviation industry and pooling our talents and resources, we have been able to convey an accurate assessment of what aviation could sensibly absorb in fuel cutbacks.

The new regulation, I believe, is sensible and provides a more equitable distribution of available fuel supplies. Many complexities, of course, remain. Allocation regulations cannot guarantee deliveries at the pump. Undoubtedly, there may be a measure of uncertainty as the new regulations take hold across the Nation. But be assured, all of us in Government—FAA in particular—are working to solve the problem. As I said earlier, industry and Government are planning carefully and working in closest harmony as never before to avert a crisis in transportation in both commercial and private aviation transportation. We are succeeding.

In closing, I would like to pay particular tribute to the mature understanding and judgment displayed by all elements of aviation—particularly, private aviation. The private aviation fleet, as well as the fixed base operators serving them, are the heart of this Nation's aviation industry. The most succinct definition I've heard in describing private aviation is quite simple: air transportation on demand. The fleet comprises some 140,000 business, commercial and personal planes. They serve all of the Nation's 12,000 airports. They carry the benefits and mobility of air transportation to virtually everyone, including the millions of Americans who live outside of the metropolitan areas which the airlines serve through less than 800 airports.

The energy crisis has struck hard at this segment of aviation. For the most part, their reply has not been one of resentment but a concerted effort to devise workable solutions. They've planned their work and are working their plan. Their attitude is right on. They deserve a special commendation. This segment of industry has mine. I'm sure it also has yours.

In this regard, I might add, one of the complexities for the Federal Aviation Administration has been in trying to deal fairly with the many disparate elements comprising private aviation. What is good for the AG pilot and his industry is not necessarily appropriate for, say, the commuter industry, corporate aviation, or personal aircraft use. I pledge that no longer is FAA going to treat private aviation as a single segment. We are now carefully considering the specialized needs of each as a separate entity, as we have with the air carrier industry.

In the future, aviation in all its varied dimension will be assured of careful assessment tailored to their needs so as to create a viable industry able to make a continuing contribution to this Nation.

Thank you.

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## FUEL CONSUMPTION

### HON. DICK SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. SHOUP. Mr. Speaker, a substantial saving in gasoline and diesel fuel could be realized very quickly and easily by suspending the requirement that $100's worth of work be done annually on unpatented mining claims. In support of this proposition, I submit for your consideration the following letter by a Montana engineer:

DECEMBER 19, 1973.

Hon. DICK SHOUP,
*Longworth House Office Building,*
*Washington, D.C.*

DEAR MR. SHOUP: Pursuant to a request by your Mr. Chester Dreher I am submitting herewith an estimate of fuel consumption involved with the performance of required annual labor of $100.00 per claim on unpatented mining properties in the United States. Due to the seriousness of the energy crisis the investigational time factor of this estimate was limited, therefore the totals in fairness have been somewhat conservative. In actual practice the gallonage figures both diesel and gasoline could run million wise very much higher.

Several major companies were approached and the problem was time. The Anaconda Company was able through consolidation to furnish a set of figures within the deadline and the figures are factual. The information furnished to me was based on a group of 494 claims which had involved a 3 month program on the Stillwater area in Montana. Seventy percent of the work was validated by diamond drill and bulldozer work; thirty percent by hand methods. Portable equipment included drill rigs and bulldozers; accessory equipment included mud pumps, water pumps, water truck to rigs, trucks used in hauling equipment, gasoline for trucks for crews and supervisory personnel. (Included was avoidance of new road construction for environmental reasons.) Fuel consumption per claim averaged 22.8 gallons of which 15.2 gallons was diesel fuel and 7.6 gallons gasoline. Inasmuch as the vast majority of claims in the United States are held by individuals or small companies they in most instances seldom exceed 10 in number per locator and very frequently much less. On these properties where earth moving equipment is employed the total overall figure can run as high as 60 or more gallons of fuel per claim.

**The Montana Department of State Lands informs me that there are at least 45,000 to 50,000 unpatented mining claims held on an annual labor basis in Montana. Therefore a figure approximating 2 million gallons of diesel and gasoline fuel consumed per year for just the State of Montana for annual labor on mining properties is by no means an exaggeration. In Alaska, for example, where much of the access routes are airborne the fuel figure per individual property understandably could go very much higher. It is not illogical therefore that a projection nationally of the figures submitted should conclude an annual fuel consumption for mining assessment work in the United States to involve the use of at least 30 million gallons per year.**

**A moratorium on annual labor for mining properties should effect a tremendous saving of needed fuels in this continuing energy crisis.**

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## MARTIN LUTHER KING, JR.

### HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

"Some of you have knives, and I ask you
to put them up.
Some of you may have arms and I ask
you to put them up.
Get the weapon of nonviolence, the
breastplate of righteousness, the
armor or truth, and just keep
marching".

MARTIN LUTHER KING,
*Gadsden, Ala., 1964.*

Mr. RODINO. Mr. Speaker, On January 15, the Reverend Martin Luther King, Jr. would have been 45 years old. Those of us in this Chamber, and the majority of the men, women and children in this Nation who were old enough to listen to his words and to see his actions are indeed fortunate. Those who live after us shall surely read and discuss his speeches and contributions. But they will never know and understand as well as we that rare blend of spiritual power, integrity and genuine humility which so pervaded Dr. King's presence.

The word "charisma" cannot adequately define Martin Luther King's ability to touch people in his uniquely special way. Leaders have moved crowds, have excited the hearts and minds of our people before. But not in the same way as Dr. King. By deed and by creed he inspired in the hearts of all who believed in him a religious forbearance that nourished hope and smothered injustice. "Could it be", wrote Vernon Jarrett in the Chicago Tribune last April, "that deep in the hearts of all of us is that readiness to welcome an honest individual who, though willing to resist oppression, yet refuses to succumb to hate."

Years have passed since Montgomery, Birmingham, and the march on Washington. Years have passed and we and our nation have grown older. "Maybe it is too early to evaluate the legacy of Dr. Martin Luther King, Jr.," Vernon Jarrett concluded in his article. Moreover, it may be wrong to confine his legacy to one left only to black people. There is ample evidence that he left a soulful note to the entire world. It could be that Dr. King tried to remind the world that life is about people, real live people, all people and that any society—however prosperous—that does not give people a priority on its agenda will never enjoy fully its affluence. There can be no such thing as an affluent human society without love for all people—that was the summary of his message".

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## SOVIET OIL AND U.S. TECHNOLOGY—PART II

### HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. ASHBROOK. Mr. Speaker, I have previously discussed the problems of a proposed United States-U.S.S.R. oil and gas deal. Such a deal to develop Siberian gas and oil reserves would seem to benefit the Soviet Union greatly while providing little in return to the United States.

A recent analysis by Dr. Fred Smith further confirms what I have previously stated. Dr. Smith points out that the United States and Canada are both much further advanced in pipeline and other petroleum extracting technology than the Soviet Union is. As he states:

> The rewards for the United States in such a trade are minuscule, but the dangers appear to be overwhelming.

The text of the article "Who Wins in U.S.-U.S.S.R. Deal?" from the December 29, 1973, issue of Human Events follows:

#### WHO WINS IN U.S.-USSR DEAL?

(By Fred Smith)

A great deal of attention in the press and business magazines in the United States has been given to a proposed oil and gas deal with the Soviet Union. The arrangement is billed as a sign of continuing detente and also is touted as being of assistance in solving our energy crisis.

However, the whole proposal would be incredibly complex and there are many factors to consider. It should first be noted that all this oil and gas is concentrated in Siberia. Outside of the Arctic and Antarctic, one could hardly conceive of a more inhospitable climate and territory in which to drill and lay pipelines. It is also the home base of the world's best set of forced labor camps.

Frozen for about nine months of the year and heavily dependent upon river transport during the summer months, the technical problems would be immense. The Soviet government has spoken of permitting the United States to develop the whole package, including tankers to haul the fuel, in return for a guaranteed supply of the oil and gas for a number of years.

Let's look at the proposal from the Soviet point of view. Up until recently, the USSR has had a sufficient supply of oil and gas for her needs. However, following World War II her deposits in the Baku area and to a lesser extent in the Urals, began to give out. New deposits were found deeper and deeper into Siberia. The transportation problem forced costs rapidly upward. Soviet consumption also went up. Therefore, in recent years the Soviets have been telling their satellites in Eastern Europe that they can no longer count on the USSR as a supplier.

Just this year Finland asked for an increased amount of crude oil for her refinery and was turned down. This is ironic, as the refinery was built with Soviet assistance, and she insisted that the Finns take nearly all Soviet crude oil and the Finns had to welsh on agreements with the Western oil concerns who had been promised a larger share in return for their technological expertise in assisting in the construction of the refinery.

There are additional indications that the Soviets are now beginning to have their own energy shortage and evidence of this is their failure to deliver the promised amount of oil to West Germany last year. Also, Soviet petroleum exports have dropped for the first time since World War II, and she is now importing gas from Iran and Afghanistan as well as oil from Algeria and Iraq. Given this evidence, this proposal is very important indeed to the Soviet Union.

One would naturally think that the Soviet Union would have solved all the problems of oil and gas exploration in the Arctic by now, but the indications are otherwise.

A Canadian team that visited the Soviet Union in 1971 found their cross-country pipeline construction crude. Machinery and vehicles for this type of work in the Arctic have been slow in coming in the USSR. Canada and the U.S. are well ahead in many aspects of such work. The Soviet Union has a great deal of difficulty in maintaining a labor force in Siberia and workers live in railroad cars and sheds. This causes them to leave the area as soon as they are able.

One can just imagine the problems an American or even a joint American-Japanese team would encounter in such a venture. Proposed pipelines would stretch from Yakutsk to Nakhodka on the Pacific or from Irkutsk to Nakhoka. Each is a distance of several thousand miles over extremely inhospitable terrain. It is conceivable that the energy crisis in the United States would have been long solved by the time any of this gas or oil reached our shores.

The Nixon Administration has taken a somewhat strange approach in support of our assistance in developing Soviet oil and gas deposits.

On one hand, Administration spokesmen stress our need for Soviet oil and gas, while at the same time Secretary of Commerce Dent admits that such supplies would only be significant to several of our western states.

Even stranger was the proposal by former Secretary of Commerce Stans, that we import Soviet natural gas at $1.50 a thousand cubic feet when well-head prices in the United States at that time—1973—ranged from 2c to 16c a thousand cubic feet. Thus, this fuel would be awfully expensive "for a product they certainly cannot guarantee will be delivered when needed if at all."[1] Furthermore, as some visitors have found in the Soviet Union, the figures on "proven" as opposed to "possible" reserves show a wide variation.[2]

However, planners in the Nixon Administration are told not to look at the hard economics of the matter, but to take into consideration the "overriding political benefits" that will accrue to the United States. If the wheat sale was any sample, the American public will be up in arms if we lose our shirts again.

Now who stands to gain from this venture aside from the Soviet Union, which an expert on the Soviet gas and oil industry, Robert Campbell, has called "a desperate gamble."[3] Certainly, if this is such a potentially profitable venture, why haven't the Japanese jumped in long ago? They have passed up two offers that we know of.[4]

Obviously, some American companies stand to gain. David Rockefeller of Chase Manhattan may be able to help finance the deal. Armand Hammer of Occidental Petroleum may be able to get his company out of debt if the venture succeeds and further enhance his already nefarious influence with the American government. El Paso Natural Gas, which co-signed a letter of intent with Occidental Petroleum to develop the gas fields, might also join.

In an evident effort to keep the project alive a meeting, sponsored by the *Oil Daily* on Soviet oil and gas took place in New York on December 3. Armand Hammer played a prominent part in the meeting and pushed hard for immediate energy trade with the U.S.S.R. Our oil equipment dealers have been to Moscow this year to show their wares, so hope still springs eternal.

Needless to say, the Nixon Administration is very desirous of getting the project moving in order to keep up the illusion of détente, however badly it may be limping.

The last and most important factor is why we should make a large capital investment in the sagging economy of the Soviet Union so that they can develop their energy resources and not have to dip into their $80-billion defense budget and continue to build more and better weapons than the United States. The rewards for the United States in such a trade are miniscule, but the dangers appear to be overwhelming.

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## IN MEMORY OF THE HONORABLE CHARLES TEAGUE

### HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. BURKE of Florida. Mr. Speaker, it was with deep personal regret that I learned of the death of our colleague Congressman during our recent Christmas recess. I had the great pleasure, when first elected to the Congress, of serving with Mr. Teague on the House Committee on Agriculture. He was a friendly, courteous person and one whom I considered a real gentleman Congressman—kind, understanding, and considerate.

During his 19 years he served in the House, he was a member of the House Agriculture Committee. He was best known for his efforts to maintain free, as opposed to subsidized, agriculture. He was a diligent and hard worker.

The death of Charles Teague is truly a great loss to the Members of the U.S. Congress, to the people of the State of California, and to his constituents whom he served so long and so well. He will be missed by those engaged in American agriculture for his understanding of the need of independence for small farmers.

Despite the population growth of California, there are still some parts of the State that are reminiscent of the California of 30, 40, or even 50 years ago; parts with the soft climate, the mountains rolling to the sea, the small towns, and the smogless cities; and, there are some people who remember and exemplify the easier more settled times of those years who remind us that the passage of time does not measure progress as much as the quality of our lives.

Congressman Teague was progressive, yet I will miss the gentle ways and courteous patience of Charlie Teague.

Since he was one of the more senior Republicans in the Congress, he had the choice at the beginning of the 93d Congress of either remaining as ranking minority member of the Veterans' Affairs

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[1] As quoted in the *Oil Daily*, Jan. 17, 1973.

[2] John P. Hardt, "West Siberia: The Quest for Energy." *Problems of Communism*, May–June, 1973, page 27.

[3] As quoted in John P. Hardt, "West Siberia: The Quest for Energy," page 26.

[4] *Ibid*, page 27.

Committee, or assuming the same position on the Agriculture Committee. He chose to be the ranking member on the Agriculture Committee, even though he was himself a veteran of World War II and active in helping to improve veterans' legislation.

As a Republican, I will miss his fellowship and guidance, as I am sure will all who knew him will.

Mrs. Burke and I were proud to know him and we extend our sincere sympathy to his family.

## HUMAN RIGHTS

## HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. WOLFF. Mr. Speaker, December 10 was Human Rights Day, and I would like to insert in the RECORD a statement and poem about human rights and the plight of Soviet Jewry for the attention of my colleagues. The statement was written by Lydia Korenfeld, and the poem was written by her daughter, Natasha Korenfeld. The Korenfelds applied for a visa to Israel for the first time in March of 1971, and, since then, they have received four refusals for such a visa. After applying for the visa, both Lydia Korenfeld and her husband lost their jobs, and their eldest daughter, Ludmilla Korenfeld, has been barred from her studies in math.

The tragedy of the Korenfelds is typical of that faced by thousands of citizens of the Soviet Union. And the denial of basic human rights is the concern of all mankind. The statement and poem follows:

### MESSAGE FROM LYDIA KORENFELD

To women who are gathering across the United States in their various cities on Human Rights Day, Monday December 10, 1973:

Today is Human Rights Day. It is the day when people all over the world express their will to support those who are fighting for their basic rights. As any other woman in any other country I want very simple but very essential rights: The right to work for my husband and myself; but I am unemployed and my husband is not allowed to work in his own profession. The right to study for my children; but my daughter was thrown out of the college. The right to be safe in my house; but the police keeps coming there. And above all, the right to be a Jew, to practice Judaism and to live in the Jewish State. But for over three years we are refused these rights. Today, Human Rights Day, is my daughter's birthday. She is 22 today. The year she was 20 she spent her birthday in prison for having demonstrated for Jewish rights. Today I believe the best birthday present for her is the knowledge that American women and mothers do their best so that she and other Jews will be permitted to go to the only country they want to live—Israel. I am very happy to have the opportunity to tell you all how much we appreciate everything you have been doing for the cause of Soviet Jewry. I hope the day will come when I will be able to thank you personally. Hashanah hazot b'yerushalayim. Love to you all.

LYDIA KORENFELD.

### THE POEM OF MY LAND

At Passover there is a matzo
In every Jewish home.
There are in my Israel,
Fortresses and palaces,

There are schools, stadiums,
Automobiles, homes . . .
This is my beloved country.

Matzo is what our forefathers ate.
They were baked in the sun, in the hot desert,
They were going home, relieved from slavery.

And a miracle happened,
Moses went up the mountain
And brought down the Ten Commandments
For the people of Israel.

He accomplished his mission,
He brought his people home.
But Moses did not live to see his native land.

Oh Israel! I promise you
That I shall come to you.
But not now; we have to wait until
God will hear our prayers.

NATASHA KORENFELD (age ten).

## GROUNDS FOR IMPEACHMENT

## HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. DELLUMS. Mr. Speaker, a few days ago I put in the RECORD some discouraging material concerning American citizens who believe the President to have forfeited his right to office but who either from personal cynicism or from lack of faith in the resiliency of the constitutional system do not believe he should be impeached.

I am glad to report that this attitude is not completely typical. I am submitting for the RECORD a resolution passed by Local 21 of the East Ray Typographers Union concerning impeachment. I am also including an introductory letter which sets forth the unusual circumstances of this resolution.

I am also submitting a Los Angeles Times article by Donald Horowitz on the meaning of "high crimes and misdemeanors." He shows that there are tensions and contradictions between the political and legal aspects of this phrase, and that they are meant to be there. I think his perceptions form a much more satisfactory basis for discussion than the hasty and sometimes self-serving assumptions that "high crimes and misdemeanors" must be interpreted either as exclusively legal—although the qualification "high" implies a political judgment—or exclusively political even when quoting so relevant an authority as the Vice President or Mr. Kleindienst.

The material follows:

LOCAL 21 BAY AREA
TYPOGRAPHICAL UNION,
*San Francisco, Calif., January 17, 1974.*

Congressman RONALD V. DELLUMS,
*House Office Building,*
*Washington, D.C.*

DEAR CONGRESSMAN DELLUMS: This is to advise you that Bay Area Typographical Union No. 21 at its regular monthly meeting *unanimously* went on record favoring the impeachment of President Nixon.

The action is significant for two reasons: First, it was a *well-attended* meeting.

Second, a unanimous vote is almost unprecedented in what can be considered a controversial political issue.

The action came on the enclosed report and recommendation of the Executive Board.

Our Union represents 3,200 members in Alameda as well as the below-listed counties.

We respectfully solicit your support for the impeachment moves now under way in the House.

Very truly yours,

LEON OLSON, *President.*

### ENDORSE IMPEACHMENT OF RICHARD NIXON

On October 22, 1973, the AFL–CIO Convention unanimously adopted a resolution calling for the resignation or impeachment of President Richard Nixon.

Since then Mr. Nixon has given clear evidence that he does not intend to resign and has remained adamant in his position to continue to deny the people of the United States of any effective leadership.

He has consistently lied to the American people.

He has used the office of the presidency to put himself above the law.

He has created a special and personal secret police answering only to himself.

He has instituted in the name of national security, a plan which includes violation of civil liberties through wiretapping, burglary and political surveillance.

He has used his office for personal enrichment.

He has intervened in anti-trust suits against giant corporations in return for contributions to the Republican Party.

Unless Richard Nixon is removed from office, we will not be able to achieve constructive solutions to our economic and social problems at home or abroad. His continuation in office is a threat to the well being of every working man and woman in this country.

Our Union therefore supports the efforts of the labor movement by going on record as endorsing the action to impeach President Richard Nixon, and directs the action be conveyed to the U.S. Senators from California and all Congressmen from our Area.

### WHAT ARE "HIGH CRIMES AND MISDEMEANORS"?

(By Donald L. Horowitz)

With a new Vice President and a new special counsel to the House Judiciary Committee now firmly in place—coupled with new disclosures on the tapes—we are likely to hear more insistent demands that the House proceed with the unpleasant business of presidential impeachment. Now, then, is the time to consider the standards and the process by which impeachment should be conducted.

For proceed it must—not merely because of the present case, but because the vitality of the impeachment device itself is at stake. If impeachment were not to reach a vote in the House in the face of what is now on record, impeachment as a weapon against executive wrongdoing might lapse into desuetude, discredited as cumbersome, slow, and unworkable.

The present public cynicism might harden. Some of the deterrence against misconduct already gained as a result of Watergate might be lost. And politicians might seek shortcut ways to bring down incumbent Presidents—ways like forced resignation and votes of no-confidence that are not consistent with the presidential independence that our Constitution provides. For all these reasons, the impeachment machinery must begin to work, and work conspicuously and well.

What constitutes an impeachable offense? The Constitution requires a charge of "treason, bribery, or other high crimes and misdemeanors."

Some in and out of Congress, have said the "high crimes and misdemeanors" means there can be no impeachment without proof of an indictable crime. Others, including at one time Gerald Ford—who was then taking aim at Justice William O. Douglas—have maintained that Congress may define "high crimes and misdemeanors" in whatever way it sees fit.

Both of these views go back to the impeachment of Justice Samuel Chase in 1805. The first was held by his Federalist defenders, the second by his Jeffersonian accusers. In my judgment, neither of them expresses the proper interpretation of the impeachment clause.

Some versions of the indictable crime standard would have us impeach a President for passing a bad check but not for violating his oath of office. We have, of course, no criminal law specifically applicable to the Presidency, though it is at that office that the impeachment clause was originally (and must still be) aimed.

Criminal laws often forbid conduct that is trivial in contrast to the serious but nonetheless noncriminal misdeeds of officeholders. Some crimes, on the other hand, are of such severity that it is fair to ask whether we must wait until a President murders someone before we can remove him. Either way, too trivial or too severe, the criminal law is too constricting, specific, and inapt to be a measure of impeachability.

As Raoul Berger has shown in a recent book on impeachment, the framers of the Constitution had no intention of making criminality the standard when they wrote the impeachment clause. Impeachment was a weapon to prevent tyranny, corruption, and faithlessness to office. Sometimes these abuses might be criminal, sometimes not.

Hamilton wrote in The Federalist that an impeachment trial "can never be tied down by such strict rules, either in the delineation of the offense by the prosecutors, or in the construction of it by the judges."

If there are no strict rules, are there no rules at all? Does it follow that the House can impeach and the Senate convict whenever the spirit moves them? Clearly not. The presumption in favor of an elected official cannot be discarded lightly.

In fact, a draft version of the clause would have allowed impeachment for "treason, bribery, and maladministration." Madison objected to "maladministration" because it would have provided the President with "tenure during the pleasure of Senate." In other words, it would have undercut the presidential independence that was a central feature of the Constutition.

To meet this objection, the words "other high crimes and misdemeanors" were substituted for "maladministration." Impeachment was to be a remedy against abuse of the presidential office—it was not to cut the office down to something less.

The framers did not want legislative supremacy any more than they wanted the President to be a monarch. They feared both. They did not make the President a creature of Congress. He is separately elected, with a constituency of his own, and he is expected to have a vision of the public good different from the one that prevails in Congress. On occasion, he may actually compete with Congress and run against Congress' record, as President Truman ran against "the do-nothing 80th Congress" in 1948.

If impeachment and removal were intended to be the equivalent of a parliamentary vote of no confidence, the provision in the Constitution for a "trial" in the Senate, with the senators "on oath or affirmation," and the chief justice presiding when the President is the defendant would make no sense. How can one be "convicted" of inspiring no confidence?

Here, then, is the paradox of impeachment. Not precisely criminal, not precisely political, impeachment is in fact a hybrid form. The popularly elected House was expected to be somewhat impulsive, perhaps partisan; the Senate, indirectly elected, was to be judicial and restrained.

On the other hand, the weapon invites extemporizing—for impeachment is, said Hamilton, "a bridle in the hands of the legislative body upon the executive servants of the government." On the other hand, the Constitution contemplates a judicial trial, and that means there must be a coherently framed charge to answer.

It comes down, I think, to this: Congress must evolve something like a common law of presidential offenses that would embrace, for example, serious or repeated violations of the Constitution or laws, especially those that might upset the balance among the three branches of government; corruption, whether technically criminal or not (Madison thought that a President who tried to shield someone with whom he was connected "in any suspicious manner" would be impeachable); and certainly a concerted attempt to taint the electoral process.

What is more, a President should be removable if the totality of his offenses constitutes a breach of the mores of his office, even if each offense, considered separately, might not be enough. Here, too, impeachment departs from the criminal law. Impeachment, said Hamilton, is for "those offenses which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust."

These standards say something about how to proceed, as well as when to proceed. The House is permitted to do some narrowing of the charges, some abbreviating of the evidence, making judgments of what is more and what is less important. Its investigation should be exhaustive enough to satisfy itself whether the President should be put to a defense, but it need not charge every last infraction.

There is another consideration that weighs heavily here: time. Henry Kissinger is right that the nation cannot afford continuing crises of authority without paying a price. But the way out is not to ratify assaults on the political system but to determine with certainty whether the holders of authority continue to warrant it.

Speed is important also because the public must not conclude that impeachment is so protracted a process that a wrongdoer has a chance of serving out his term and having the matter forgotten. A sensible way of reconciling speed with thoroughness would be to have the House Judiciary Committee, a large committee, divide into several subcommittees, each to hear and report to the whole committee on an area of alleged wrongdoing.

If speed has the importance I have attached to it, it argues strongly for the conclusiveness of the Senate judgment. Raoul Berger has constructed an argument for court review of presidential removals by the Senate, and at least one senator seems to agree. This, despite the constitutional language giving the Senate "the sole power to try all impeachments" and making the chief justice presiding officer at the trial, despite the complete absence of historical support for judicial review and the fact that the framers explicitly rejected proposals that the Supreme Court be the court of impeachment.

The case for judicial involvement in impeachment rests on Adam Clayton Powell's success in invoking the aid of the courts to overturn Congress' decision to exclude him. The case is a weak one. If a congressman's seat remains in doubt for months or years, the nation's business will go on. But if the President has been removed by the Senate and has sued to challenge his removal, is he in power or not?

If he is, he may effectively nullify the removal by serving out his term while his case is pending. If not, can the courts reinstate him once his successor has taken office? Can they remand the case to the Senate for a new trial, creating an indefinite vacuum of authority?

And *which* court? Can a single district judge reverse a removal decided after trial by 100 senators? Powell's case went first to the district court, and that is where such cases must now go if they go to court at all.

In Powell's case, if a court order were not obeyed, the matter would have ended there. But a judgment reversing the removal of a President might invite disobedience, yield competing claims to the office, and turn a national trauma into a dangerous crisis.

There is every reason to put the mischievous notion of judicial review to rest at an early stage of the proceedings, and encourage Congress to do its part responsibly, in the knowledge that—whatever it does—no court stands ready to undo its mistakes.

## COMMITTEE ON PRODUCTIVITY FACES EXTINCTION

### HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. HARRINGTON. Mr. Speaker, a few days ago, I received a press release from Senator WILLIAM PROXMIRE concerning the plight of the National Commission on Productivity.

Industrial countries around the world are already working to improve productivity and the quality of the work environment. It is indeed unfortunate that the sole agency in the field of work productivity in the United States faces extinction because of congressional inaction.

It is important, and indeed critical, that the Commission's life be extended and that its work be fully funded by the Congress. Administration efforts to provide temporary funding are laudable but this is not enough. Congress must act now to fund the Commission. In order to impress my colleagues with the vital importance of this funding, I would like to insert the Senator's press release in the RECORD at this time:

PRESS RELEASE OF SENATOR WILLIAM PROXMIRE

With the Congress now in recess, funding has been cut off by the failure of Congress to act on the Commission's appropriation. The Administration is trying to provide temporary funding. I strongly support that effort. Meanwhile the life of a vital anti-inflationary agency hangs by a thread.

This is a shameful situation. When Congress reconvenes it must provide for the renewal of the Commission's budget with provision for back pay of those loyal government workers who are still working to help this government improve the productivity of the American worker.

What a travesty! At a time when the nation is plagued with the worst inflation in twenty years, and when wage price controls will soon expire, we kill the only agency in this huge bureaucracy whose function it is to hold down prices and taxes by increasing efficiency. The Productivity Commission is essential if the fight against inflation is to have any coherent, long term leadership.

Just about a week ago, I chaired hearings of the Joint Economic Committee's Subcommittee on Priorities and Economy in Government. Cost of Living Director John Dunlop pleaded for a continued life for the Productivity Commission. These hearings also dealt with efforts made by the Federal Government to measure and enhance productivity at all levels, within Government and in private industry as well. At those hearings, the Comptroller General, Elmer Staats, reviewed the breakthrough effort he has headed to measure Federal workers' productivity—an area which had not been covered hitherto.

Just imagine, it has been just assumed that Federal workers had *zero* productivity gain, when in fact they were working just as productively as others in similar lines of private industry activity.

But more important, this effort relied on the National Commission on Productivity. This reliance will be lost if the Congress does not support the reconstitution of a National Commission to deal with improvements in this Nation's productivity at the Federal and state and local government levels and in private industry as well. The amount of money involved in the Commission's work is miniscule—$2.5 million a year—and, indeed, the sum should be increased in the light of the prospective multiplied reward in potential saving to the American taxpayer and increased reward to the Nation's workers. Here's an investment that could easily return 100 to 1 on the taxpayers' investment.

We should work to join the Commission's effort with that of "The American Productivity Center," a private organization recently proposed by the former Chairman of the Price Commission, C. Jackson Grayson. The "Center," made up of businessmen and labor leaders, would concentrate on ways to improve private productivity.

Working together, the Commission and the "Center" can create an environment which will enhance output everywhere and help control the inflationary fires which threaten to beset the economy in the years ahead.

As Grayson points out, such major industrial countries as Japan and Germany already have large institutions operating in the field, developing new ideas and techniques, and improving national understanding of the importance of productivity.

There is absolutely no reason why this greatest nation in the world cannot be in the forefront of the effort to enhance productivity.

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## JOSEPH ERAZO, NEW YORK CITY'S TOP TROUBLESHOOTER

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. RANGEL. Mr. Speaker, Joseph Erazo was recently sworn in as assistant to the mayor and director of special programs for the city of New York. What the fancy title means is that Joe Erazo has become the top troubleshooter for New York City's new administration.

Joe Erazo was born in East Harlem and later returned there to become a Democratic district leader and community affairs activist.

Before being appointed to his new post, Joe Erazo was manpower and career development administrator in the human resources administration and first deputy city administrator.

It has been my privilege to work closely with Joe Erazo in the past on issues and problems affecting Harlem and East Harlem. I am looking forward to continuing the type of working relationship which is necessary for both the local and Federal governments to deal with the problems of the inner city.

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## CONGRESSIONAL ACTION ESSENTIAL TO WARD OFF A LOOMING CRISIS OF CHLORINE SHORTAGES FOR TREATMENT OF OUR NATION'S WATER SUPPLY

### HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. ROE. Mr. Speaker, in response to the deepening concern of our North Jersey District Water Supply Commission, Passaic Valley Water Commission, Passaic Valley Sewerage Commission, and many of our municipal officials with the difficulties being encountered in obtaining adequate amounts of chlorine for treatment of drinking water and wastewater effluent, I joined with our most distinguished colleague Congressman ROGERS of Florida, et al. in introducing the Emergency Chlorine Allocation Act (my bill H.R. 11975) proposing an amendment to the Public Health Services Act to assure an adequate supply of chlorine and certain other chemicals and substances which are necessary for safe drinking water and for wastewater treatment.

The North Jersey District Water Supply Commission supplies over 100 million gallons of potable water per day to the northeastern metropolitan region of our State and the shortage of chlorine is mushrooming throughout our Nation encroaching upon the health protection measures so vital to our country's water supply.

We are all aware of the essential need to chlorinate drinking water and wastewater treatment to safeguard the health of our people against diseases such as typhoid, chlorea, and dysentery. The bulk, or approximately 95 percent, of the chlorine processed in the United States is utilized by industrial markets, primarily producers of plastics and the pulp and paper industries. The remaining 5 percent of the annual chlorine production has been sold to meet the needs of water supply and sewage treatment facilities. The increasing demands of industrial users throughout our Nation for chlorine are receiving priority consideration over the potable water suppliers and sewage treatment facilities, thus encroaching upon and seriously shrinking the availability of the 5 percent of the chlorine deliveries to water and sewer utilities. A serious curtailment in total current chlorine production is also being encountered because of plant closings and energy shortages.

This bill requires the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Commerce, to promulgate regulations establishing a mandatory allocation system for the sale and distribution of chlorine for drinking water and wastewater treatment purposes.

The allocations prescribed by EPA would enable all publicly, cooperatively, and investor-owned utilities, as well as private companies and unincorporated cities, to indicate their chlorine and other water and waste treatment substances needs and receive priority in filling their orders over industrial users. EPA regulations will require each company to equitably allocate a portion of their processed inventory to these users. If the user still cannot obtain chlorine in the open market, it can notify EPA or the Department of Commerce of its needs and they will assist in locating other sources, or investigate any violations of the allocation regulations and seek compliance. If voluntary compliance of violations of the regulations cannot be obtained, the Administrator of the Environment Protection Agency is authorized to issue orders to the violator and obtain injunctive relief in the courts through the Department of Justice, if necessary.

Violators can be subject to criminal fines up to $5,000 for each offense if they violate a rule or order "knowingly" or civil fines up to $2,500 for each offense for "malum prohibitum" violations where knowledge of the violation cannot be proved in court.

Due to the short term nature of the chlorine emergency the bill provides that the legal authority of the proposed allocation system shall terminate on June 30, 1975.

Mr. Speaker, I wholeheartedly support Congressman ROGERS' efforts as a member of the House Committee on Interstate and Foreign Commerce, which has jurisdiction of this legislation, in pursuing the adoption of this measure. I cannot overemphasize the extreme import and essential need for expeditious action on this highly important measure.

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## MILLS-VANIK BILL

### HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. WOLFF. Mr. Speaker, 19 Long Island Christian leaders have publicly supported the adoption of the Mills-Vanik bill. This bill, which denies trade concessions to the Soviet Union until the Soviet Government allows free emigration, has received widespread support from many different religious groups across the country. Among those endorsing the statement were the Rt. Rev. Jonathan G. Sherman, bishop of the Episcopal Diocese of Long Island, Rev. William Rambo, Presbyter for the Presbytery of Long Island, the Most Rev. John R. McGann, auxiliary bishop of the Diocese of Rockville Centre, Sister Janet Fitzgerald, president of Molloy College, and Rev. Clayton L. Williams, executive director of the Long Island Council of Churches. The statement follows:

STATEMENT ON MILLS-VANIK BILL

The recent effort by Soviet authorities to intimidate Andrei Sakharov, Alexander Solzhenitsyn and other liberal dissenters demonstrates that the anguish of Soviet Jewry is shared by all citizens of the USSR who aspire to religious, cultural and intellectual freedom.

Congress is presently being asked to approve the extension of "most favored nation" trade status to the Soviet Union. We note Academician Sakharov's urgent appeal that the United States should desist from liberalizing commercial ties until the Soviet government liberalizes its repressive policies.

Legislation has been introduced in the Congress by Senator Henry Jackson and Representatives Wilbur Mills and Charles Vanik denying "most favored nation" status to states which arbitrarily restrict freedom of emigration. If adopted by the Congress, this measure would confront leaders of the Soviet Union with a powerful incentive to enter into a detente with millions of its own citizens. It would, hopefully, encourage the USSR to comply with the Universal Declaration on Human Rights, through which it has already pledged itself to recognize freedom of emigration as a basic human right.

We note that every Congressman from the Nassau-Suffolk area has joined in cosponsoring the Mills-Vanik Bill. We applaud their position in the belief that the government of the United States should withhold tariff concessions and commercial credits until the government of the USSR offers concessions in the field of human rights. We endorse the Mills-Vanik Bill and urge Long Island area congressmen to stand fast in support of this humane and moral proposal.

## RHODESIA DEBATE ILLUSTRATES NEED FOR BRICKER AMENDMENT

## HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. ASHBROOK. Mr. Speaker, on May 30 I reintroduced the Bricker amendment, which would prevent treaties and executive agreements from overriding the freedoms and safeguards found in the Constitution. Although originally introduced in the early 1950's, the Bricker amendment is even more necessary today than it was two decades ago. This fact is clearly illustrated by the recent Senate debate on whether to reimpose a United Nations-sponsored embargo on Rhodesian chrome and other strategic materials.

Chief sponsor of the move to reinstate the embargo, Senator Hubert Humphrey, argued that the embargo imposed by the United Nations is the law of the Government of the United States. Provisions of the United Nations Charter are as valid and binding in law as any other part of our Constitution.

To quote Senator Humphrey, "the United Nations Charter as adopted by the Congress of the United States and ratified by the Senate, has the same standing as a provision of our Constitution. It is the supreme law of the land." Since—under article 25 of the United Nations Charter—"All member States are legally bound to comply with sanctions," the "United States is thus in violation of international law and international treaty which we ratified and in its obligations to the United Nations in violating sanctions against Rhodesia."

I find it incredible that actions of the United Nations Security Council could in any way legally bind the Government of the United States. Is Congress going to allow the United Nations to legislate for the American people? Is an international organization to have more power than the Congress, the President and the courts?

An affirmative answer means that our Nation is subservient to the United Nations. I do not believe that this is the wish of the American people.

Almost all Americans would agree that Congress must have the right to enact legislation to protect our national security and our economy. We simply cannot allow the United Nations to deny our Nation access to strategic materials, whether from Rhodesia or any other country. Passage of the Bricker amendment will establish once and for all that the U.S. Constitution and not the United Nations Charter or some United Nations resolution is the supreme law of the land.

## U.S.A. IN MINIATURE

## HON. STANFORD E. PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. PARRIS. Mr. Speaker, under my leave to revise and extend my remarks, I wish to include the following letter from my constituent, Mr. John R. Kanline, of Alexandria, Va., concerning "U.S.A. in Miniature":

ALEXANDRIA, VA.,
*January 8, 1974.*

Congressman STANFORD E. PARRIS,
*House of Representatives,*
*Congress of the United States.*

DEAR CONGRESSMAN PARRIS: Please insert the following information in the CONGRESSIONAL RECORD as you so kindly have in the past year:

[From the Alexandria Gazette, Jan. 8, 1974]

### MINIATURE CAMPAIGN FOR PARK

(By Shirley Johnson and Ken Berents)

Visions of Mt. Rushmore, the Grand Canyon, the White House, the New York skyline and the Golden Gate bridge dance in John Kanline's head.

But only in miniature.

Kanline, a resident of Alexandria for 28 years, has been conducting a one-man campaign for the past year—trying to interest government and industry in building a miniature United States for the 1976 Bicentennial.

But so far he's had no luck. No one seems to be as enthusiastic about the idea as Kanline, a 55-year-old retired State Department official.

His idea is to build a scale model of America's most historic sights and achievements in a park in the Washington area.

"How many people have seen a steel mill?", he asked. "Maybe only people in Pittsburgh and Gary, Ind.

"I think such a park would be an equal attraction to the Lincoln Memorial or the Kennedy Center.

"It's an American tradition at Christmas to set up villages, trains and pretend," Kanline added. "It's part of our heritage for liking something like this."

Kanline's idea, as he readily admits, isn't an original. He adopted the idea while visiting Madurodam, a five-acre park in the Netherlands, in 1970.

Madurodam, built with funds from a wealthy Netherlands family in memory of their son who died while in a Nazi concentration camp, features scenes from the past and present Netherlands on a 1-to-25 representational scale.

According to Kanline, proceeds from admission to the park are used not only for daily maintenance of the park but to help needy youth.

And when Kanline returned home with this dream to find stories of the approaching bicennential in the news media, he decided the time for his idea to become a reality is now.

#### HELP IS SOUGHT

So he began writing letters to the editor column and as each letter appeared, had it placed in the Congressional Record. He then contacted major businesses and trade associations located in the metropolitan area.

He's sought help from 125 corporations, private foundations, various trade associations, government agencies, even the White House. But he said he's received no firm response other than expressions of interest.

Unlike many individuals with ideas they want to see become reality, Kanline admits he hasn't developed a proposal or found a site for his dream.

"I first thought I'd get the public's support," he said. "That's all I've done. I expect the land would be purchased or donated or come from the National Park Service.

"I'm sure there are many sites around here—we'd probably want four to five acres for the actual park with a total of 20 acres to be used for parking and restaurants and buildings surrounding the park.

"But I haven't gone looking for a site. That's premature. I first need to find the backing."

#### LIST IS NOT ESTABLISHED

Kanline's visions include scaled-down factories and natural phenomena such as the Grand Canyon, Old Faithful geyser and Mount Rushmore.

But the man hasn't formulated a list of potential exhibits. What he keeps speaking of is getting someone else to do the planning.

"So far I haven't been asking for money, I've been asking for interest. Now I'm going to push for participation.

"I'm going to begin telling firms and philanthropic organizations what they might be expected to do.

"In the beginning we need general funds. I don't know if they'll (organizations contacted) give money without some concrete ideas, but you know, it's a good way to build up their public image, it's tasteful advertising and I think it's in their own interest to participate."

As Kanline speaks, he sounds eternally optimistic. He has the idea, without any poured foundation, but he believes someone, or some business or some foundation will take the idea and develop it.

"It's a good project," he insists, "from all angles.

"I'm not going to quit. I don't want anything out of this, I just want it to happen."

#### MORE ON METHODS OF PARTICIPATION

Earlier inserts in the Congressional Record on "USA in Miniature" suggested how specific industries (industry, transportation, agricultural and service industries) might wish to "blow their own horn" by sponsoring a miniaturization of their own plants or activities in the Park as a means of advertising, education and image building. But there are many industries, other organizations and individuals who may wish thier participation to take the form of supporting historical or civic oriented exhibits not necessarily related to their own particiular operations or self interests. This type of involvement would fill a needed vacuum in the proposal as a means of providing the public sector type of display which would normally depend on the support of philanthropic organizations or individuals. These industries may wish to select some famous landmark near their home base. Such might include items like the Statue of Liberty, Niagara Falls, the St Louis Arch, Mount Vernon, the Washington Monument, the Lincoln Memorial, the Alamo etc. These would be ideal projects for banks, insurance companies and certain service industries. They would provide a maximum of patriotic appeal and public interest.

My role to date has been limited to promoting an idea to the point where potential participants and supporters would declare interest. If this results in a positive response then those who believe and so demonstrate their interest in the creation of "USA in Miniature" and wish the means of implementation. I, as an inexperienced layman, am not in position to collect funds or take on the total project. My role has been necessarily limited to gathering interest and support and developing a desire for the creation of a most worthwhile project in the National Capital Area. If enough support develops there will be a need to develop a cooperative mechanism, to search out capable organizations, to make the necessary economic and marketing assessments, settle the question of the location and acquisition of the site, design the Park, and build the miniature exhibits.

With the new Bicentennial Administration scheduled to take form later this month, I am hopeful that it will read these items in the "Record" and get involved in further promotional efforts and constructive support for the proposal.

The continued support of the media is necessary to make this proposal go. To drop it at this stage would be a serious mistake.

Any one of the many large corporations in this Country could take on this project single handedly, an option which is still open. On the other hand and despite the problem of cooperation and coordination, a combined effort would make it less expensive per participant, with each financing his own particular island of interest in the Park.

I again express my deepest thanks for all you have done for me and what I believe to be a worthwhile cause. When I think of the time and cooperation extended by you and your staff I chuckle a little at the lead caption in the Alexandria Gazette "Miniature Campaign for Park". Nevertheless the Gazette article was one of the best on the subject so far and their cooperation and faith is appreciated.

Sincerely,

John R Kanline.

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## TRIBUTE TO JOHN W. McCORMACK

### HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. CARTER. Mr. Speaker, Ambassador Daniel Patrick Moynihan recently authored a heartfelt tribute to former Speaker John W. McCormack in appreciation of his assistance in strengthening Indo-American relations. I find this tribute most meaningful, and I recommend it to the attention of my colleagues:

### Tribute to Former Speaker John W. McCormack

That John W. McCormack is a great statesman and a great American is news to no one. What may be less well known are the services he has rendered the people of India and the future of Indo-American relations.

Nearing completion on the campus of the St. John's Medical College in the great city of Bangalore is a seven hundred bed hospital known in those parts as the John W. McCormack Indo-American Peace Hospital. It is a major center of medical education and research, as well as one of the largest and most modern hospital facilities in Asia.

This hospital is being built in large part with the help of a grant of nearly 50 million rupees from the United States Agency for International Development. These funds accrued to the United States in the course of food sales and other aid undertakings during the 1950's and 1960's and, with the concurrence of the Government of India, have been committed to worthy projects such as this throughout the country.

"Where is there a better work to show the world how American surplus farm commodities can be used to feed the hungry and at the same time help to care for the sick and the poor?" asked Speaker McCormack.

The hospital is a symbol of the vision, the humanity and the compassion that have animated John McCormack in his decades of service to the people of the United States and of the world. Its existence owes much to his peerless skills at navigating among the legislative and bureaucratic shoals that lurk throughout the Government, and to his persistence in ensuring that large purposes and noble conceptions do not fail to be realized.

The hospital is tangible. Its purposes, inevitably more abstract, are suggested by the inscription on its cornerstone and well reflected the Speaker's own philosophy:

"Dedicated to the Glory of God
And to the well-being of mankind
Through brotherly love and sacrifice
By the people of America
And the people of India."

Speaker McCormack's interest did not cease with the laying of the cornerstone, with the construction of the hospital itself, nor even with his own retirement from Capitol Hill. He has persisted in myriad ways to enhance the relations and activities that rise to this project.

If I may add a personal vignette, soon after I arrived in New Delhi we undertook negotiations with the Government of India that sought a permanent end to the accumulation of "U.S. rupees". As these words are written, the two governments are about to initial such an agreement, one which I believe is both fully cognizant of the needs of the United States and also gracious in its granting back to the Government of India the bulk of these funds, while simultaneously removing forever the obstacle to happy relations that this mounting debt presented. It is one of the few negotiations in my experience of which it can truly be said both sides were generous and understanding.

John W. McCormack has been one of the strongest voices in support of such an agreement and has walked the corridors of Washington on its behalf. In person and through his many friends and admirers—labor, religious and political leaders prominent among them—he has sought to remove obstacles from the path of an agreement that, as was instantly obvious to a man of his vision, sustained the spirit that gave rise to the Bangalore hospital project and its many activities while recognizing the further needs of both India and the United States.

I salute him for his compassion, I thank him for his actions, and I hope that those reading this modest tribute will join me in paying their respects to a great man and to the splendid medical center that will be among his legacies.

Daniel P. Moynihan.

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## PSRO'S THREAT TO THE PRIVATE PRACTICE OF MEDICINE

### HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. ASHBROOK. Mr. Speaker, on November 13 I introduced a bill to repeal those sections of the social security act dealing with Professional Standards Review Organizations—PSRO's. The legislation mandating PSRO's constitutes an arbitrary and unwarranted interference by the Government in the private practice of medicine. It makes physicians handling medicare and medicaid cases dependent on following federally approved standards. These official guidelines could very easily take the place of a physician's judgment.

The following article by Allan C. Brownfeld in the January issue of Private Practice discusses in depth the threat of PSRO's to the private practice of medicine.

The article follows:

### PSRO's Threat to the Private Practice of Medicine

(By Allan C. Brownfeld)

It has always been true that when government involves itself in a particular area of human activity—whether it be education, housing, agriculture, or the myriad of other fields it considers to be within the scope of its authority—before too long it becomes the arbiter of right and wrong in those fields.

In education, federal aid has brought with it compulsory busing for racial balance and, in higher education, the imposition of racial, sexual, and ethnic quotas in faculty hiring. In agriculture, government has told farmers what to produce, what land must lay fallow, and what prices may be charged. In housing, government programs have, through policies of eminent domain, disposed of private property in the name of urban renewal only, in the end, to produce windfalls for contractors with appropriate political connections. The story, as we know so well from the recent revelations in Washington, goes on and on.

Many physicians who initially opposed the Medicare and Medicaid programs argued that such programs would, before long, bring government control over the practice of medicine. Nevertheless, organized medicine decided to accommodate itself to these programs, arguing that it was better to participate in their organization and, thus, mold them in as favorable a manner as possible, than to permit others to do so.

Now, the government has taken a further step towards total control of the medical care provided to those receiving Medicare and Medicaid assistance. It has instituted the Professional Standards Review Organizations (PSROs), and organized medicine once again tells us that it is better to participate in this program of government regimentation and control than to oppose it.

Beginning this month—January 1974—a new federal bureaucracy will come into being, with its basic goal the direct control of medical care to all who receive Federal funds. The law under which this will be done, a part of the Social Security Act, was initially presented to the Congress as a measure "to promote the effective, efficient, and economical delivery of health care."

While doctors have traditionally considered it their professional prerogative to prescribe the necessary care for their patients, to determine whether a patient does or does not need to be hospitalized, and to decide what manner of medication would prove most effective, the new PSRO program takes much of this decisionmaking process out of their hands, that is, if they want to be paid for their Medicaid and Medicare patients.

Local PSROs will have the responsibility of seeing that doctors practice according to norms that, though formulated by local groups, will be subject to the approval of a national council, which will include representatives of consumer groups and other non-physicians. A PSRO examiner, who may not be a medical doctor, will be able to challenge a doctor's professional judgment. The doctor may be penalized for making what the examiner considers to be an unnecessary treatment by denying payment for the services rendered. PSRO bureaucrats will have the power to order him not to perform an operation he feels to be necessary, to change medicines he has prescribed, or to hospitalize or not hospitalize a patient, and, if he fails to comply, withhold compensation. The lay government bureaucrats have, in effect, been given the power to practice medicine.

Under this program, the principle of the confidentiality of the doctor-patient relationship will be seriously challenged. The doctor will be forced to reveal his records to PSRO inspectors and if he is to be paid for the services he performs, he will have to abide by HEW guidelines. The doctor will, in effect, be little more than a government bureaucrat.

Even patients who do not receive Federal aid in any form, will be subject to having their confidential records examined by government agents in an effort to establish "norms" of medical care. The PSRO examiner will be able to search through a doctor's files and records without any court order or search warrant. The result will clearly be the destruction of the doctor-patient relationship. It is reminiscent of the thought expressed by Professor Murray Rothbard in his recent volume, *For A New Liberty*: "We have the police to protect us against the criminals, but who is there to protect us against the government?"

The stiff penalties for failure to comply with the PSRO regulations have caused some doctors to decide that after January 1, they will no longer treat patients whose fees are paid directly or indirectly by the government.

Of equal importance is the fact that PSRO regulations would deny patients the best possible medical care, and would substitute for the best judgment of the individual medical practitioner the statistical "norms" determined by government bureaucrats.

Discussing this aspect of the PSRO legislation, Willadean Vance, writing in the *National Health Federation Bulletin*, notes that, "The PSRO law provides for the standardization of treatment of every disease. One of the responsibilities of each regional PSRO is to prepare a schedule of 'norms' covering the care, diagnosis, and treatment based on typical patterns of practice in its region, including typical lengths of stay for institutional care by age and diagnosis. For example, if you were suffering from a cold, you may be permitted to see the doctor only once or perhaps twice, the drugs he may use must be selected from the 'approved' list, the doctor possibly will not be permitted to x-ray your chest unless he is prepared to furnish justifiable evidence of why he suspects you may be developing a complication such as bronchopneumonia, and the schedule of 'norms' may limit your professional care to a period not to exceed five days."

The question of whether or not PSRO would actually serve its stated purpose of reducing hospital costs has been answered in the negative by many doctors. Dr. Donald W. Hastings, Chief of Staff of the University of Minnesota Hospital, notes that, "The purpose of PSRO is, of course, containment of hospitalization costs. As we have been tooling up to implement PSRO provisions, I am afraid that it is going to add to hospital costs, not reduce them. First of all, from a practical standpoint; the amount of committee work, consulting with others and the like has seen my time cut in half and I have had to give up the acceptance of any new patients. This is costing me [about] $10-15,000 per year; and, at age 63, it simply is not prudent for me to continue as Chief of Staff . . ."

Dr. Hastings also noted that, "I formally requested that (1) my salary be augmented accordingly and, (2) that I be furnished with a secretary, file cabinets, etc. and (3) a modest support budget . . . the point of this is that these requests will result in increased costs and they can only come from hospital charges to patients. In addition, members of the medical staff . . . are spending literally hundreds of hours in committee meetings to plan and implement the PSRO requirements. I cannot estimate the dollar cost of this but it is substantial."

To those doctors who believe that they themselves can become the PSRO organization in their area and, as a result, avoid government interference in their medical practice, Dr. R. S. Jaggard declares that, "Such physicians have not studied their history lessons. It is painfully clear to any student that government money brings government control. A PSRO clerk is a PSRO clerk. A PSRO clerk follows rules and regulations, prescribed by the Secretary of Health, Education, and Welfare, period. A physician is an intelligent and skilled individual, who exercises his own independent intelligent judgment and skill on behalf of his patient in accordance with his own decisions as to what is best for that specific person in those specific circumstances at that specific time and place. The PSRO clerk deals with regulations and averages. The physician deals with patients and specific problems. The two are not compatible and neither one can function as the other."

The planners for the PSRO program have virtually ignored the private practicing physician. Dr. Henry E. Simmons, acting head of the Office of Professional Standards Review, concedes that, "We don't know whether we're getting an accurate reading of physician opinion." Those in HEW who have been planning the implementation of the PSRO program have been working with and talking to only those organized medical groups which support it. The mounting evidence is that the majority of private practicing physicians take a far different view.

Dr. John P. Heard, a general practitioner in Decatur, Georgia, and president of the Dekalb County Medical Society, urges the repeal of the PSRO legislation. He states that, "First, it is bad law by anyone's standards, and we would be negligent to stand idly by and see it implemented. Second, the survival of the AMA is at stake. If PSRO is implemented, we won't have any need for an AMA."

Criticizing the AMA for its position of conciliation toward government regulations, Dr. Heard noted that, "The truth about PSRO is becoming known. . . . Our patients, even the few unhappy ones, do not want bureaucrats, even MD bureaucrats, telling their doctor when his patient can enter a hospital, how they will be treated, and when they must go home. Nor do they want to be taxed for having him told. Ask them; I have. My patients are astonished to learn that such a law has been passed."

To those who argue that fighting PSRO is futile—an unusual approach in the face of the mounting criticism of it—Dr. Robert T. Pottenger, Jr., of Pasadena, California, replies: ". . . if I am going to be raped, no congressman or senator is going to tell me that I must lie down quietly while he does it. Even if it is a lost battle, which it may well be, it behooves medicine to fight for private medical care or else it behooves organized medicine to inform their membership to line up to form a union. Perhaps, the AMA had best take this kind of leadership or bow out altogether, because once the PSROs and the HMOs are the rule, we won't need you."

While the leaders of organized medicine continue to work hand in hand with government bureaucrats in adjusting a straightjacket to American medicine, private practitioners—and those outside of the medical field who believe in freedom—have been mounting an effective attack upon the PSRO program. There *is* something doctors can do about it, and it is not too late.

There is one way for doctors to avoid becoming agents of the government and maintain their independent professional role. That is simply to refuse to participate in the PSRO program. Fortunately, doctors throughout the country have been expressing their vocal opposition to this program. Now, we need to translate that opposition into action.

The Indiana State Medical Association, for example, adopted two resolutions concerning PSRO at its convention in Indianapolis in October. It declared that HEW be notified that the ISMA membership will be encouraged not to participate in PSRO activities and established an independent corporation to accomplish peer-review and quality-control only at the request of the local reviewing board.

The Kentucky Medical Association in September adopted a resolution urging repeal of PSRO. The Louisiana Society passed a similar resolution, declaring that, "It will best serve the public interest for physicians and their organizations to remain free from control of politicians and their assigns."

The Association of American Physicians and Surgeons has stated that, "PSRO would destroy the freedom of physicians to exercise independent judgment in caring for Medicare and Medicaid patients by forcing them to conform to government imposed 'norms' of diagnosis and treatment," and has challenged the PSRO program in the courts.

In Congress, bills have been introduced to repeal the PSRO program by Rep. John Ashbrook (R-Ohio), Rep. Earl Landgrebe (R-Indiana), Rep. John Rarick (D-La.), and Rep. Steve Symms (R-Idaho).

Discussing his own bill to repeal the PSRO program, Rep. Symms noted that the PSRO law "will impose on the medical professional and his patients a system of care standardized at the level of the lowest-common denominator. The law will, in addition, practically remove those guarantees of privacy which have been so important a part of the close relationship which enables doctors to provide their patients with highly personal and highly efficient care."

An open letter was sent to the House of Delegates of the AMA on November 28 and was signed by more than thirty members of Congress, including Rep. Philip M. Crane (R-Ill.), Rep. G. V. Montgomery (D-Miss.), Rep. Jack Brinkley (D-Ga.), and Rep. Louis Wyman (R-N.H.).

The letter cautioned those who believe that by participating in the PSRO program, doctors could control its administration. The letter declared: "Even if you help implement the law, you will not control it. The only way to avoid the law's bad effects is to repeal it. The PSRO section is bad law. It will be bad for the doctor and bad for the patient. It should be repealed."

The Members of Congress were critical of the AMA, noting that, "Unfortunately, although many of us in Congress want to work for the repeal of PSRO, we have been handicapped by the AMA's failure to continue its active opposition to the law . . . if we are to be successful, we need your help."

The AMA, as a result of overwhelming pressure from its own members, was forced to take a stand in opposition to PSRO at its December 1973 annual meeting in Anaheim, California.

Delegates, however, heeded the pleas of the AMA leadership and stopped short of mounting a national campaign to repeal the PSRO law.

In approving a statement that "the best interests of the American people, our patients, would be served by the repeal" of the law, the delegates directed the Association to work toward amending the legislation, so as to remove the most objectionable provisions.

A number of 244 members of the AMA's policy-making House of Delegates argued that the monitoring system is an unnecessary and unconstitutional intrusion into medical practice. Dr. Thomas Parker of Greenville, South Carolina said that physicians were "at war with the Federal Government" and that if they lost, doctors would hear "a clank of chains from Washington."

Even those doctors who urged compliance with the law agreed that it would interfere with providing patients with the best possible medical care. Dr. Rex Greene of Los Angeles, for example, said that it was "bad law," but then urged that "the AMA not commit political suicide—not mount a kamikaze attack on the Federal Government."

Rep. Philip M. Crane (R-Illinois) addressed the House of Delegates and urged physicians to defend themselves and the private practice of medicine against government intervention. He received a standing ovation when he declared that a free society could only be maintained if citizens were zealous in defending their rights. If doctors will not speak up in their own behalf, Rep. Crane stated, their freedom will surely be lost, and this will damage not only their own careers, but the quality of medical care received by all Americans.

Dr. Russell B. Roth of Erie, Pennsylvania, the AMA's president, said "nothing would please me more" than the repeal of PSRO. He then burst into song, adapting freely from "It Ain't Necessarily So":

"There's nothing but misery and woe,  
"To expect from PSRO  
"But thanks to the amendment and Senator Bennett  
"There's no other way to go."

His attempt to mollify angry delegates was only partially successful. If anything, this AMA meeting showed clearly that the willingness of the AMA leadership to accept government control and interference in private medical practice was not an expression of the views of the AMA membership.

If doctors do not wish to have the practice of medicine controlled by a huge, new government bureaucracy, they must make their decision now. The representatives of organized medicine have decided to go along. It is now time for the voice of the independent medical practitioner to be heard, for it is only the individual doctor who can save the private practice of medicine.

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## CONSTRUCTION INDUSTRY IN DANGER

### HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. WINN. Mr. Speaker, we are all painfully cognizant of the pervasive and deleterious influence of the current energy crisis. However, I wish to draw particular attention to the serious situation facing the construction industry, an industry which is essential, in a very real sense, to the healthy growth of our Nation. I believe the following short article from the Modern Builder of December 12, 1973, a respected periodical published by the Builders' Association of Kansas City, is an eloquent statement of this critical situation.

I would like to recommend this article to my colleagues:

CONSTRUCTION INDUSTRY IN DANGER—WARNS CONTRACTOR PRESIDENT

WASHINGTON, D.C.—The nation's largest industry is in danger of coming to a standstill because of present federal fuel allocation programs, according to a nationwide survey conducted by the Associated General Contractors of America.

"Construction activity in this country is already down 20%," said Nello L. Teer, Jr., president of the national association representing 9500 construction firms throughout the country. "If present fuel allocation programs are not altered quickly, the economic impact on the construction industry may reach catastrophic proportions before the end of winter. Our survey indicates that thousands of construction workers are now out of work and the situation is worsening daily," he said.

"The general contractor is not asking for more than his rightful share of fuel," Mr. Teer continued. "He is more than willing to do his share to help alleviate this program; all he is asking for is a better system of fuel allocation to keep his industry going," the highway contractor from Durham, North Carolina added. He said present monthly fuel allocations are made on the basis of fuel consumed during the corresponding month in 1972. He said this type of approach "may be equitable for the majority of fuel users in the nation (whose needs are relatively stable) but has no validity for the construction industry because the fuel requirements on a particular job in a given month in 1972 may be vastly different than the fuel requirements on the same or a new project in the same month of 1973."

He said that weather and the availability of labor and materials could also vastly affect fuel requirements from one month to the next and from one year to the next.

Mr. Teer said he has asked White House Energy Advisor John A. Love to allocate fuel on a project basis so that each job will be assured adequate fuel before it is advertised for bid. "I have also asked that propane for interior heating of buildings under construction be allocated on a priority basis."

Responses to AGC's survey of its chapters representing construction firms, which perform 80 percent of all contract construction, read in part:

"We have had 22 construction jobs shut down this week because of gas, diesel and propane shortage . . . amounts to $66 million in construction, and a direct layoff of 2200 employees . . . situation will snowball through the winter months if government stays on '72 base period allocations. I foresee a layoff of 10 to 15 thousand construction workers in Ohio in second quarter of 1974 if present federal program is continued." . . . *Ohio Contractors Association.*

"Diesel fuel situation critical . . . $7 million in highway and utilities shut down . . . 150 employees affected. Additional $10 million in heavy, highway, utilities work operating on day-to-day basis. Construction firms will be unable to continue full production using present allocation procedures . . . unless there is release. Project 800 to 1,000 construction tradesmen become unemployed." . . . *Louisville Chapter.*

"Diesel situation becoming extremely critical in southern California. Increasing number of reports of contractors having to stop entire projects because of lack of fuel . . . if situation does not improve, layoffs could approach 3000 to 5000 men before end of year." . . . *AGC of California.*

"Effect of fuel shortage in Missouri catastrophic. Without relief, all work will cease. A number of projects already shut down." . . . *AGC of Missouri.*

"Fuel shortage getting critical . . . engineer dam project was completely stopped for 5–8 days, putting 3000 on-site workers out of a job. Other projects stop-and-go as fuel is available. Black market fuel available on increased price basis." . . . *Heavy Constructors Association of the Greater Kansas City Area.*

"Fuel allocation on the base period usage system is not a workable system for the construction industry . . . already beginning to show its effects on some projects in this area . . . in the near future, will severely cut back most construction operations." . . . *Oregon-Columbia Chapter.*

"Unless a more realistic base period is used for diesel fuel and construction is given a priority for use of propane, construction will be reduced by 50% in the metropolitan Detroit area . . . employment of building tradesmen would be reduced by 50% . . . such a reduction would have a great impact on the overall economy in this area." . . . *Detroit Chapter.*

"Propane shortages and nonavailability considered severe threat . . . winter construction employment levels down 50%." . . . *Chicago Builders Chapter.*

"Highway and heavy engineering industry in Arizona will have to completely curtail operations if present base period system of fuel allocation is continued . . . extremely unusual weather conditions in 1972 shut down practically all outside work during last months of the year, (therefore) most contractors have very small fuel allocations available . . . 12,000 employees are directly involved with additional thousands indirectly involved." . . . *Arizona Chapter.*

"Approximately 25% of our 125 contractors experiencing severe diesel fuel shortages . . . if situation does not improve, nearly 1,000 men will be out of work within a few weeks with payroll economic impact of nearly $750,000 per month." . . . *Kansas Contractors Association.*

"Under present propane and diesel program, 50% of all construction will be stopped by Jan. 1 . . . up to 70–80% by March 1 . . . stoppages will affect 30–50,000 people." . . . *Greater Lexington Chapter.*

"Diesel fuel allocations critical . . . unless relief or priorities granted, utilities construction statewide will be reduced, minimum of industry employment 10–20% with some contractors forced out of business." . . . *Texas Highway, Heavy and Utilities Branch.*

Teer said the energy crisis is the "greatest calamity to hit this nation since 1929."

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## VIRGINIA'S SENATOR SCOTT EXAMINES COST FACTORS IN GOVERNMENT, ENERGY, AND ENVIRONMENT

### HON. J. KENNETH ROBINSON

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. ROBINSON of Virginia. Mr. Speaker, because I share his faith in the ability of the free enterprise system to meet and deal with the challenges of the times, I take the liberty of bringing to the notice of the House an address by the junior Senator from Virginia, the Honorable WILLIAM L. SCOTT, at the annual meeting of Virginia Forests, Inc., in Richmond, Va., on January 21, 1974.

In these remarks, he emphasized his conviction that the energy crisis could be overcome most effectively through restraint in governmental actions, in order that free enterprise ingenuity might be encouraged to develop new energy resources to meet the great and ever-growing demand.

Senator SCOTT also urged a realistic balancing of energy requirements and environmental protection.

There is plain talk in his address which points up the economic realities which confront us in the energy situation; in over-reaction to environmental dangers and in excessive resort to governmental regulation of the marketplace.

The text of Senator SCOTT's speech follows:

### ADDRESS BY SENATOR WILLIAM L. SCOTT OF VIRGINIA BEFORE THE ANNUAL MEETING OF THE VIRGINIA FORESTS, INC., RICHMOND, VA.

Virginia is basically a conservative state and it is natural for it to have a conservative Congressional delegation. Certainly labor leaders have no monopoly on criticism but we take comfort in the fact that all were elected to our seats by a majority of the voters of Virginia and in some instances, by a substantial majority. You can be assured that regardless of party affiliation, we are attempting to do what's best for Virginia, and the country.

Congress has reconvened after being in recess for about a month. Last year's session commenced on January 3rd and ended on December 21. Today the Senate has been considering the Rivers and Habors Bill. As the ranking member of the subcommittee which considered the measure, I handled the bill on behalf of the Republican side. We will probably go in a trot for most of the year but our Capitol physician has obtained a new tranquilizer. It doesn't relax a Senator but it makes him enjoy being tense.

Seriously, I do enjoy serving in the Senate and I am pleased to speak to groups such as Foresters and their guests. I note from last year's program that Governor Godwin was scheduled to be your speaker and talked with you on a subject entitled "What Lies Ahead." Of course, I cannot forecast the future, but do suggest that Virginia Foresters, businessmen, and citizens generally by their involvement in the affairs of government, or lack of involvement, will play a major role in determining the future development of our country. Lack of development means that you will permit others, perhaps those who have different views and philosophies than yours, to make the decisions.

Last January we undoubtedly would have considered the most serious problem confronting the country to be our involvement in Vietnam and obtaining the return of our prisoners of war. More recently, we may have considered the most vital issue to be Watergate and the Crisis of Confidence. Confidence in our government, in its institutions and in its leadership is essential to the public welfare and proper functioning of government. Therefore, it seems time to refrain from nitpicking and from repetition of hearsay and innuendo. The primary concern of most Americans today, in my opinion, is the high cost of government, the economy, and the energy crisis. Reasonable people may differ on the solutions to these problems but just let me comment on the Conservative philosophy Clifford Miller talked about in his introduction.

I am told of a newspaper colum regarding a welfare recipient who borrowed a ham from the farm where he worked part-time. He didn't tell the farmer that he borrowed it but he took it to a grocery store and sold it for $27.00. Then the man, because of his welfare status, was able to use $20.00 of the $27.00 to buy $80.00 worth of food stamps. Using the stamps, he repurchased the ham for $29.00, then he returned it to the smokehouse. Now according to the columnist, the grocer made a profit, the farmer got his ham back, and the welfare man wound up with $7.00 in cash and $51.00 in food stamps with no one being the loser. No one unless you raise the question as to who paid for the food stamps. Now I don't vouch for the accuracy of this particular story but I do believe it illustrates that it is the taxpayer who pays and also illustrates one reason why people are concerned about the high cost of government.

Undoubtedly the members of the General Assembly here tonight hear the same demands for greater services. Incidentally, you probably heard of the woman who said she had no use for politicians and when asked if she voted, she replied, "No, it only encourages them." Oftentimes, the taxpayer fails to distinguish between the taxes imposed by the Board of Supervisors of City Council, by the State Legislature or by the Congress; he just knows that taxes are too high and he wants us to do something about it. A great Virginian, Thomas Jefferson, indicated that government was best which governed least. But, over the years, government has played an increasing role in the lift of all Americans. New federal agencies have proliferated in recent years. The Environmental Protection Agency, the Occupational Health and Safety Administration, the Consumers' Product Safety Commission; new boards are created and rules and regulations are adopted which increasingly affect the lives of citizens.

Most of us find it difficult to be against a measure which purports to provide for safe working conditions, for protection of our environment, for safe products, for secure pensions. Yet the U.S. Chamber of Commerce has indicated that one pharmaceutical company, applying to the Pure Food and Drug Administration for approval of a new drug, had to submit sixty-four volumes of data, making a stack 10½ feet high. This may be an extreme case but businessmen contact our office continuously complaining that they do not know the regulations they are supposed to follow under the Occupational Health and Safety Act. When the first session of the 93rd Congress adjourned last month, we were considering the creation of a Legal Services Corporation to have government lawyers protect the rights of people unable to pay the cost of legal services. This may sound like a fair thing to do, but we know that over the years similar lawyers in the Office of Economic Opportunity were activists who encouraged litigation by private citizens against government agencies, who became involved in political issues and oftentimes participated in demonstrations against the government which was paying their salaries.

The Senate has passed a Land Use Policy and Planning Assistance Act. It would establish a National Land Use Policy to help states and localities make the best use of their land resources. Yet, planning and zoning is a field that heretofore has been reserved to the state and local governments. It would even have the Federal Government approve the size of septic tanks under the threat of withholding federal funds unless the state submitted land use plans for the approval of the Secretary of the Interior. Let me assure you ladies and gentlemen that I make no apologies whatsoever about being a fiscal conservative. Let me also assure you of my belief that the individual should look after his own interests to the extent that he is able and when public services are needed, they should be approved at the local level where possible, then the State and lastly by the Federal Government.

Oftentimes people who are considered conservatives are criticized for living in the past. However, our National Archives Building in Washington has carved in stone the admonition "What is past is prologue; if you would know the future, study the past." It was good to hear Governor Godwin in his Inaugural Address speak of the need to return to the traditional values which characterized our nation's greatness. Many ideas must change as circumstances change but I believe we have a great legacy of individual initiative, of local effort, of free enterprise, and that the conservative philosophy is healthy for our nation. Some of the criticism you hear of conservatism today is made by those who are trying ot pump new life into a philosophy that was overwhelmingly rejected in the last federal election. I don't believe the American businessman wants a government to tell him the race and sex of workers who may or must be employed, or to tell him exactly what conditions must be provided for them. I even doubt the average citizen wants an automobile he cannot start without first buckling his seat belt.

Someone has said that during World War II the then Vice President Henry Wallace was asked why we were fighting and he replied, "So every American can have two bottles of milk on his doorstep." But the inquirer disagreed and stated, "Two bottles of milk on his doorstep only if he wants it."

I realize that this meeting is sponsored by a group whose purpose is to conserve, develop, protect and promote forests and related resources in Virginia for the best interests of this and succeeding generations. Yet, whether you are tree farmers or processors, I believe you are interested in and affected by many of the same government activities that affect other members of the business community. You are a part of the American Free Enterprise System that has made our nation the envy to the world. In my opinion, this standard of living is threatened today by the energy crisis. Without sufficient energy not only will we have less comfort and conveniences but energy shortages can reduce production and adversely affect our economy. Some industries wholly reliant on oil may even be forced to close.

People frequently ask whether there is a real shortage of energy and even suggest that it is a conspiracy within the petroleum industry to obtain higher prices. I am convinced that there is a real shortage but do not know that the Federal Energy Office is requesting an inventory of the supply of energy on hand by the producers and that the Department of Justice is investigating the possibility that energy is being withheld from the market to obtain higher prices. We may be contributing to the shortage by unwittingly hoarding gasoline. Before the shortage developed, didn't we ordinarily let the fuel gauge in our automobile go down to quarter full, of even almost empty before we would refill the tank and now aren't we more than likely to have the tank refilled when it approaches the half full mark? Suppose for example, that there are 100 million automobiles in the country and that each has an average of ten gallons more gasoline than it had a few months ago. This amounts to one billion gallons of gasoline that we are hoarding within our automobiles, not counting what some citizens take home with them in extra cans.

There is no need for us to speculate as to who is responsible for our present deficiency. Certainly the Middle East embargo brought it to a head, but we know the delay in the start of the construction of the Trans-Alaskan Pipeline also played a part. We know that over the years there have been increased demands for energy; emission control standards on new automobiles have played a part as has the moratorium on drilling in the Santa Barbara channel; the delay in granting permits for construction and operation of nuclear energy plants; the control of the price of natural gas at the well head; the inability of the oil driller to profitably reach oil at deeper levels; or to obtain oil off the Continental Shelf.

It appears to me that the stress in recent years on ecology has hastened the scarcity of energy and that we need to take another look at our environmental laws. Fortunately many of these laws can be periodically reviewed because of the need for further authorizations and appropriations. I believe we need to stress, to give greater attention to the maintenance of a strong economy and an adequate supply of energy to meet both domestic and defense needs. While we are undertaking this, we can consider the constancy of our goal with that of maintaining a clean environment. The economy needs to grow, industry to prosper, to maintain our standard of living. This means new plants, new machinery, new roads, bridges and dams. It means research and development. Under the guise of protecting the environment, we cannot permit this nation to stagnate. Some would nationalize our national resources. Some would install rigid wage and price controls. I believe we need to increase production and, operating under a free economy, let prices seek their own level. When more energy is obtained, more competition will result and when supply exceeds demand, prices will come down. There appears to be a challenge facing industry. Either it must find a way to satisfy the energy needs of the people of the country at reasonable prices or more power will be concentrated in federal bureaus. The needs of the people can be expected to be met either by the business community or by a strong national government.

Congress has now removed the restrictions on the Alaskan Pipeline; passed the National Daylight Saving Time Bill which, whether we like it or not, should save energy. The Senate has authorized the use of the Naval Reserve in California to the extent of providing up to 160,000 barrels of oil per day. The President has urged that we insulate our homes better, that we turn down our thermostats, that we drive our cars at lower speeds, that gas not be sold on Sunday. Frankly, I am burning wood in my fireplace even though we do have central heating. You know better than most that we have a lot of fallen trees or scrap lumber within our forests which otherwise would be wasted if not used for fuel purposes. I have cosponsored legislation to deregulate the natural gas prices at the well head and believe we need to expedite the granting of licenses for nuclear power, to construct deep water port facilities, to encourage additions to our domestic refining capacity, to utilize the deposits of oil shale in our western states, and ultimately to turn to the so-called "exotic" sources of energy from the sun, the tides, the wind, and geothermal steam. We hope that the regular importation of oil from the Middle East will soon be resumed but the increasing demands for energy will still not be met without a substantial research and development program. That is why I voted in favor of a $20 billion measure in the Senate to be spent over a ten-year period to seek and develop new sources of energy. I would certainly hope that private industry will participate to the fullest possible extent in finding new sources of energy and best utilizing what we now have.

An editorial in Lynchburg News a few days ago indicated we had reached a point where for millions of families the cost of heating their homes, even at reduced levels, and getting to and from work had forced a sharp curtailment in their already marginal living standards, including curtailment of food, clothing, medical care and other necessities. It is understandable that the President suggested and the Ways and Means Committee is considering an excess profits tax. The editor indicated that we had better take another look before we price fuel oil and gasoline beyond the point of no return, beyond the reach of more than half of the American families who already exist on the edge of a financial cliff. He suggested it would take mightly little to cause them to support any program, even a socialistic one, which promised to provide them with heat, light and transportation at a price they could afford, that every plan yet proposed for coping with the crisis increased the power of the federal government over the oil industry and its distribution system.

Some of our activists in the ecology field have presumed that we can have a Garden of Eden, have zero pollution of our environment and still meet the domestic and military needs of our country. However, a rule of reason and a proper balance between maintaining a clean and wholesome environment and maintaining a high standard of living must exist. Business cannot expand and prosper, factories cannot be constructed or operated, roads and dams built; the material things needed to retain our standard of living be retained without some degree of pollution. My vote will continue to be in favor of expanding our economy, maintaining and attempting to increase our standard of living but at the same time attempting to keep our total environment clean enough that there will be no damage to the health of our citizens. I am satisfied that the necessary adjustment can be made but do urge all of you to let your views be known so that when your elected officials, at all levels of government, listen they will hear the true voice of the people and not just that of a small vocal minority.

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## UKRAINE INDEPENDENCE—56TH ANNIVERSARY

### HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. WOLFF. Mr. Speaker, January 22 marks the 56th anniversary of Ukraine's Independence. National independence, first proclaimed in 1918, lasted only until 1920, when the Soviet Union overran the country.

Now, the 48 million Ukrainians, who make up the largest captive non-Russian nation in Eastern Europe and the U.S.S.R., are still struggling to regain their freedom. While all countries applaud the easing of hostilities between the Soviet Union and the United States and most support increased trade between our nations with free emigration, we in the United States must not forget the Ukrainians and others who are not able to worship as they please or speak out about the policies of their governments. It was these freedoms upon which this country was founded, and we must put these freedoms, for us and for others, ahead of mere economic gains.

With the great debates going on in our country over the right of privacy, I believe it is important for us to remember, especially on occasions such as Ukranian Independence Day, that any infringements on our rights pale in comparison to the lack of freedom in Soviet occupied countries.

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## JACK BRIDGES DISCUSSES THE ENERGY CRISIS

### HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. ARCHER. Mr. Speaker, Mr. Jack Bridges, of the Center for Strategic and International Studies at Georgetown University, recently appeared as a guest on a special energy program which I hosted. The program was sponsored by television station KPRC in the Houston area. Mr. Bridges is a top expert on the energy situation. He has traveled widely throughout our country discussing the problem and has briefed Members of the U.S. House of Representatives and Senate on this crucial issue. A very informative interview with Mr. Bridges appeared recently in the Houston Chronicle:

[From the Houston Chronicle, Dec. 30, 1973]

ENERGY SHORTAGE

(By Arthur Hill)

Around Washington's Capitol Hill, what you are about to read is known as "Jack Bridges' dog and pony scare show."

Bridges, who spearheaded a team effort sponsored by the Joint Congressional Committee on Atomic Energy to analyze where the energy crisis came from and where it appears to be going, has been trooping from one legislator's office to another since last spring, long before the cutoff of Arab oil, attempting to explain the magnitude of the mess the nation is in.

Bridges departed from his Potomac routine long enough to appear at an energy symposium sponsored by the newly formed Energy Institute at the University of Houston.

The thrust of his message was that the future survival of the United States could well be in jeopardy in another 10 or 15 years.

"Basically, we see the energy crisis in three phases," Bridges said.

"The first phase, of course, is the 'I don't believe it' phase. The second one—the one we are in right now—is the 'scapegoat' phase, where Congress blames the administration, the administration blames Congress, the environmentalists blame the oil companies and the oil companies blame the environmentalists.

"Maybe sooner or later we can get into phase three, bow our back, and go about solving the thing. But we have been concentrating on phase one because we believe that if the public and the business community, etc., does not understand the magnitude of the problem, we will have a very difficult time ever getting into phase three," Bridges said.

For the analysis, Bridges and staffers from the Center for Strategic and International Studies at Georgetown University collected everything they could find on where the country has gotten its energy since 1950 and how it has used that energy.

In order to make the comparison easier, the energy from coal, gas, hydroelectric, etc., was converted into oil equivalents of millions of barrels a day.

For example, in 1960, coal supplied the equivalent of 5.3 million barrels of oil flowing into the energy network each day. At the other end of the stream, 3.4 million barrels were used to generate electricity, 5 million to heat or cool homes and businesses, 5.3 million for cars and trucks, and 7.1 million for heavy industry.

The data shows the enormous inefficiency of energy consumption. For example, 80 percent of the energy going into transportation was wasted in 1960. Only 20 percent actually was converted into mobility, the remainder going out the tailpipe.

The years 1950, 1960 and 1970 were all pretty good years. Bridges said, when the nation came close to using, or actually did use, as much energy as was lost.

The projections for 1980 and 1990 show lost energy greatly exceeding used energy. This is including new sources such as geothermal (tapping the internal heat of the Earth), nuclear and oil shale.

What's happening is that demand is increasing at a fantastic rate.

From 1960 to 1970, the nation doubled its electric generating capacity, the use of natural gas doubled, coal was up about 25 percent, oil about 40 percent.

How good is the 1980 projection?

"We basically have already started on every rail-based system that will be operating in 1980 in the mass transit area. About 90-odd percent of the cars we bought last year will still be on the road, and the 100 million or so that we had at the beginning of 1973 were averaging 13.5 miles per gallon," Bridges noted.

"The largest single seller last year was either the Malibu or the Impala with the big engine averaging about 10.5 m.p.g. The Chevrolet Vega which is being sold now, comparably equipped with air conditioning, automatic transmission, etc., consistently gets about the same gas mileage as the 1966 Cadillac.

"Again, we are not projecting anything; we are trying to get the mule's attention as to the basic pattern we have been following," he said.

If the U.S. can get the energy, it will come close to using more oil and gas from 1970 to 1990 than has been used by the nation in all the years before 1970.

The nation's current energy appetite requires the equivalent of 36 million barrels of oil a day. By 1985, total domestic sources are projected as being able to produce about 40 million barrels, but demand will be closer to 60 million.

This gap between supply and demand continue on into the next century, even with the country going all out to produce more energy.

Most congressmen look at this picture and see it as an impending disaster, wherein the country will tear up its balance of payments by paying the Arabs $70 billion in 1985 for imported oil, or the world powers will have to agree on the dissolution of Israel, Bridges said.

"In any case, they (the congressmen) seem to be quite concerned. So we point out a few things. This is the end result of a national energy strategy we have been following since the Depression, right or wrong, and I am glad we did personally. I have enjoyed the fruits of it. It worked fine as long as we had our surplus oil or something like that so we could back up our systems," he said.

The question is whether the nation wants to decrease demand to more closely match what can be produced domestically, and Bridges emphasized that this has nothing to do with the short-term gyrations the administration is going through now because of the Arab oil boycott. He assumes the boycott eventually will be lifted, but it is not going to help much.

"I can report to you that there's not too much real interest in that (bringing down the demand) on the Hill. They read: Energy demand—gross national product—jobs—VOTES.

"One of the upstate New Yorkers was looking at this thing several months ago and he said 'Good heavens (he used stronger words than that), I'm going to have to start making decisions now and my constituents are not going to realize for seven elections (1988) how smart I was.' Then his voice trailed off, he slid down in the chair, and said 'And I will have sit out the last six'," Bridges said.

"So you can be pretty well assured," he continued, "that until you out here in the great American public start pushing them real hard, you'll hear quite a few speeches, but they are not really going to start biting bullets until they think they have got some company out here."

Bridges notes that President Nixon is talking about energy self-sufficiency seven years from now, which means no imported oil.

He is skeptical that the magnitude of this step is understood.

"Look at the way we are heading, in which by the early 1980s we will need about 40 million barrels of oil equivalent from domestic systems.

"Let's say we try to hold demand fairly close to where it is, and we keep imports to only double what they are today (before the Arab boycott). That one move requires another 10 or 15 million barrels of oil equivalents. In other words, we have to find 10 more Prudhoe Bays, or go somewhere and discover four more states of Texas and produce them at capacity," Bridges explained.

The way energy consumption is increasing, the U.S. will be gulping about 115-120 million barrels a day in the year 2000. But suppose, said Bridges, the nation goes all out to hold down demand.

This means things like immediate banning of all new cars larger than 40 horsepower so that by 1985 half the cars on the road would be that size; forcing airplanes to be at least 85 percent full or they can't take off; forcing a 20 percent improvement in the heating systems for buildings.

"Try to force a 15 percent improvement in energy efficiency by industry, and we don't particularly know how to do that; try to force a 15 percent improvement in the efficiency of converting our electric power, and we sure don't know how to do that," Bridges said.

"Add all of those savings together and then I threw a 50 percent safety factor on top of that, and it brings us down to around 83 to 87 million barrels per day of oil equivalent," he said.

Where will it come from? To make it easier, Bridges still assumes double the present import rate. Then his script calls for total offshore oil development as far as the outer continental shelf off both the East and West coasts, a 270 percent increase in coal, which he gets by tripling the present rate of strip mining and expanding underground mining by 50 to 75 percent, converting all of California, Montana and Idaho to geothermal steam electric power, which would be like building 110 Hoover Dams and take maybe $40 billion to develop; getting the Alaska pipeline going plus finding a couple more Prudhoe Bays and doubling the present rate of hydroelectric power.

But when you start adding hydroelectric power, 85 percent of the potential sites, Bridges said "are in parks, wilderness areas and scenic areas.

"Three of the better known are in Grand Canyon. I do not recommend damming Grand Canyon. I'm trying to underscore the political magnitude of the kind of bullet that someone is going to have to start biting if they want to double the system."

Bridges also assumes two million barrels of oil a day from oil shale by the year 2000, which literally involves squeezing petroleum from rocks in the Rocky Mountain area.

"There's a minor detail or two. Only 6 or 7 percent is useful by weight. In order to get even the two million barrels, using the technology we probably will have, you dig the Panama Canal once each afternoon in western Colorado and you basically commit the total minimum water flow of the Colorado and White rivers.

"Again, I'm not saying we are not going to have a lot of shovels going in western Colorado, but that by itself is not going to solve the problem either. We should start leveling with each other on what we can accomplish with these things," Bridges said.

Solar energy? He assumes that all of the houses in New Mexico, Arizona, Nevada, Montana, Idaho, Wyoming, western Colorado and southeast California will be heated and cooled by the Sun.

Nuclear fusion? Harnessing the power of the hydrogen bomb theoretically will allow energy to be extracted from sea water, but Bridges said the nation will be lucky to see its first commercial plant by the turn of the century. Meanwhile, he assumes one conventional atomic power plant being added every three weeks from now to 1985, and one each week thereafter to the year 2000.

Do all this, and Bridges charts still indicate a shortage of several million barrels a day in the year 2000.

"So you are right when you mistrust your neighborhood oil company because the situation probably is not as bad as he is telling; the fact is, it is probably worse," he said.

"The lead times involved and the complexity in this situation are something that is really going to challenge the United States. We now are going to find out how good we really are," Bridges said.

"We are going to find out how good our political system is, how good our business system is, how good our media, our education and the general public, because we have to make a whole series of decisions, every one unpopular, and we are going to have to do them five, seven, or eight years before the facts, or we won't get the job done.

"Our demand curve has exploded at such an angle that we are going to have to scramble. We'll be moving into solar, geothermal, wind, nuclear fusion and fission faster than we had anticipated a couple of years ago.

"We are going to be doing balancing acts in the imports that we haven't dreamed of, and we are going to have to pay the price—in dollars, inconvenience, job problems and tradeouts with the environment. We have had a few minor heart attacks, and we are in the middle of a major one now. We are at the end of this era (of easy energy) and off into the other one, ready or not. That's the dilemma we are in," Bridges said.

## HUDSON'S ENERGY CONSERVATION PROGRAM

### HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. DIGGS. Mr. Speaker, the H. L. Hudson Co., Detroit's leading retail department store, has instituted a comprehensive program designed to conserve energy and provide maximum customer services for minimum output of energy resources. I believe this program is an example of progressive management and responsible citizenship on the part of Hudson's chairman and executive officers. I would like to share with my colleagues, and retail businesses across the country, the measures taken by Hudson's.

The program follows:

#### Hudson's Energy Conservation Program

Energy conservation has become a most important problem that can impact our business, the communities we serve, and the daily lives of our employees and customers. As a responsible member of the communities we serve, Hudson's is committed to implement energy conservation measures in all of its facilities.

Frank A. Colombo, Executive Vice President, Environmental Development, has been charged with the responsibility of working with those executives who have the primary responsibility for implementing the action programs to assure that there is total coordination of the project. John W. Perles, Vice President, Operations, has been assigned the responsibility of coordinating the plans for the stores and operating facilities. Each store Manager has the responsibility of implementing the company-wide plan and of initiating specific action for his own unit. The Officers in charge of Finance, Personnel, and Publicity will assist to implement company-wide programs.

Every employee must be made aware of our current programs and we ask that each fully support conservation efforts. Hudson's Management is fully supportive of these programs and the Dayton Hudson Corporation is taking a leadership position nationally in the conservation effort.

We have in place a short range action program and are developing a long range program. These are as follows.

### SHORT RANGE PROGRAM

#### *I. Action applicable to all facilities: heating*

1. Set daytime temperatures at 68 degrees.

2. Set night temperatures in stores at 60 degrees.

3. Set night temperatures in warehouses at 55 degrees.

4. Insure that optimum use of outside air is maintained in the air circulation system based on the outside temperature and season. During the heating season the outside air should be increased as the outside temperature increases and vice versa. During the cooling season the outside air should be reduced as the outside temperature increases and vice versa.

#### *I. Action applicable to all facilities: lighting*

1. Turn off interior lights in each area when not required, particularly in offices and stock areas.

2. Reduce lighting in hallways, stock areas, and offices by at least 25%.

3. Offices with both overhead lights and desk lamps should use only one, either overhead lights or desk lamps, not both.

4. Reduce all outside lighting as much as possible except for security reasons and protection of the facility.

5. Outside lights to be turned on at dusk and turned off one half hour after store closing.

6. The "Hudson's" sign on top of the Downtown Store will be permanently off until further notice.

7. Branch Stores identification signs will be permanently off until further notice except for Pylon identification signs such as at Oakland and Southland.

#### *I. Action applicable to all facilities: equipment*

1. Turn off electrically and other energy operated equipment when not in use.

2. Discontinue the use of unauthorized heaters, fans, and other energy using equipment.

3. Follow prescribed maintenance schedules on all electrical and mechanical equipment.

4. All company vehicles will adhere to the speed limit as currently recommended by the President (currently 50 miles per hour) except for over-the-road trucks where the speed limit is 55 miles per hour.

#### *II. Action for store units: lighting*

1. All TV sets, lamps, and other appliances are to be turned off except when required for demonstration to the customer.

2. There will be no outside Christmas display lighting.

3. All display cases are to be turned on ten minutes before store opening and turned off at store closing.

#### *II. Action for store units: escalators*

1. *Multi-escalator stores* (Downtown, Northland, Eastland):

Store opening

(a) On one escalator start "up" bank only one and one half hours before store opening. The "down" bank is to be turned on one half hour before store opening.

(b) Second escalator, both up and down, will be turned on fifteen minutes prior to store opening.

Store closing

(a) One escalator turned off half hour after store closing.

(b) Second escalator turned off one hour after store closing.

2. Single escalator stores:

Store opening

(a) Turn "up" bank on only one and one half hours before store opening.

(b) Turn "down" bank on one half hour before store opening.

Store closing

(a) Turn escalator "off" half hour after store closing.

#### *III. Action for distribution units*

1. Insure that shipping and receiving doors are closed when not being used.

2. Check for proper maintenance of gasoline and battery powered equipment.

3. All heat will be shut off at night at the Warren Warehouse, Warren Warehouse Store, and the Beacon-Beaubien Warehouses.

4. All delivery trucks will operate on a "full load" basis as much as possible.

5. Instruct drivers to turn off engine at every stop.

#### *IV. Company-wide programs*

1. Maintain "take with" program.

2. Employee services programs:

(a) Car pools: Each store will establish a system for coordinating car pools through the Personnel Office. Bulletin boards and door handouts have been and will continue to be used to publicize the service.

(b) Transportation: Support public transportation by publicizing schedules and urging employees to use available transportation. (1) Bus schedule display is on the Fourteenth Floor—Downtown Store. (2) Bus schedule program being developed for Branch Stores.

3. Employee communications:

(a) "Open line." "Open line" will be utilized to answer questions of employees relating to energy shortage problems. Employees will also be encouraged to submit suggestions for energy conservation at work.

(b) "The Hudsonian." The December Hudsonian will feature a story on what Hudson's is doing on the energy problem. Other articles will be included throughout the year.

(c) Payroll Envelopes: A series of employee messages which have reader interest and energy saving suggestions will be considered as inserts.

4. External Communications:

(a) The public, federal, state and local governmental officials will be kept posted on Hudson's programs through press releases, media interviews, and letters to specific individuals.

5. Publicity Department Programs:

(a) Develop lists of merchandise which can be specifically promoted for energy conservation either by advertising, in-store promotion, or both.

(b) Develop specific signing for energy conserving items.

(c) Develop in-store public information signs calling our customers' attention to Hudson's conservation efforts.

(d) Develop store signs encouraging "take withs".

6. Energy Usage Report:

(a) Energy usage by type and unit and cost will be recorded in a monthly summary fcr Management review.

7. Action Checklist:

(a) An immediate action checklist has been developed for leased departments, restaurants, and bakery.

8. Gasoline and Oil Storage:

(a) Review necessity of additional gasoline and oil storage capacity.

9. Hot Water:

(a) Reduce hot water temperatures to lowest acceptable levels.

### LONG RANGE ACTION PROGRAM UNDER STUDY

#### *I. Heating*

1. Lower daytime temperatures to 65 degrees.

2. Lower night temperatures to 50 degrees in all non-selling areas.

#### *II. Air conditioning and ventilation*

1. Plan now to establish limits for the cooling season.

#### *III. Lighting*

1. Audit all lighting on selling floors and establish reduction guidelines . . . either number of lights or reduced wattage . . . or a combination of both.

2. Reduce usage of overhead spot lights on the selling floors.

3. Turn off show case and all special display lights.

4. Remove all unauthorized heaters, fans, unessential desk and floor lamps from offices and other work areas.

5. Code light switches to avoid non-essential lights being put on during non-selling hours.

6. Review selling floor cleaning schedules to minimize lighting needs.

#### *IV. Escalators and elevators*

1. Review escalator and elevator service to determine optimum reduction of usage.

#### *V. Delivery*

1. Review delivery and transfer schedules and programs.

#### *VI. Telephone order board*

1. Reprogram TOB to encourage telephone shopping of higher markup, low return potential merchandise.

#### *VII. Store hours*

1. Establish alternative store hour programs designed to meet energy conservation demands. Our current posture is that there will be no drastic changes in hours unless mandated by Federal or State legislation. Our effort will concentrate on meeting any established conservation objectives by continuing to implement energy saving ideas. However, alternative programs must be developed for (a) Downtown Store; (b) Branch Stores . . . and priorities for action established.

#### *VIII. Construction and interior design*

1. Review construction and interior design for new units to facilitate energy conservation.

#### *IX. Heating energy*

1. Study alternatives for heating energy.

#### *X. Employee ideas and suggestions*

1. Consider the possibility of an employee contest for additional ideas on how individuals can help minimize the energy crisis at work, at home, in the community.

#### *XI. Energy saving tip pamphlets*

1. Investigate the placement of energy saving tip pamphlets in employee areas.

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## TAX BREAK FOR VICTIMS OF PLANT CLOSINGS EXPLAINED

### HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. JAMES V. STANTON. Mr. Speaker, as you know, Congressman ROSTENKOWSKI and I are reintroducing legislation concerning "Downside" income tax averaging. Due to the many requests we have received for information on this bill we feel the following testimony would be valuable to those who would like to join the growing list of cosponsors for the reintroduction of this bill.

The testimony follows:

### Statement of Hon. James V. Stanton, a Representative in Congress From the State of Ohio, Accompanied by Sanford Watzman, Administrative Assistant

Mr. Stanton. Thank you, Mr. Chairman.

I would like to introduce to the members of the Ways and Means Committee my administrative assistant, Mr. Sanford Watzman.

Mr. Chairman and members of the Ways and Means Committee, on behalf of myself and of our distinguished colleague, Hon. Dan Rostenkowski of Illinois, I want to thank you for the opportunity to appear before you today on the so-called "income averaging" legislation that Mr. Rostenkowski and I are cosponsoring. As you know, we are urgently recommending to you that you consider two bills—H.R. 2416 and H.R. 3860.

This legislation seeks to correct a gross inequity in the tax laws. It does this by extending the benefits of "income averaging" to those who most need this special tax break—families whose incomes falls off precipitously in a given year.

For example, the legislation would help taxpayers who are thrown out of work when a manufacturing plant closes down, or who are laid off for other reasons relating to the economy, beyond their personal control. It would help, too, to cite another example, families where a wife must quit work to give birth to a child, thereby sharply reducing income of the household.

In other words, H.R. 2416 would impart a reverse twist to "income averaging." This tax-saving device has long been ensconced in the Internal Revenue Code, but heretofore it has had a thrust solely in one direction. It is available exclusively to those fortunate enough suddenly to enjoy a very good year—for example, movie stars and athletes who make it big, and ordinary persons whose income soars upward in a given year because of promotion to a much higher paying job.

What we are trying to do here, Mr. Chairman, is to achieve a measure of symmetry in the laws dealing with "income averaging." The underlying principle of a progressive tax system is that the more a person earns, the more he pays. The obvious corollary is that the less a person earns, the less he should pay.

It doesn't make sense to Congressman Rostenkowski or to me that all the benefits of "averaging" should go to people who really ought to be paying a higher, not a lower, tax. They have had a good year, and they can well afford to do this.

At the same time, others who have had a disastrous year financially get no consideration at all from the Internal Revenue Service.

Mr. Chairman, so far as we know, H.R. 2416 is the first legislative proposal submitted to the Congress that would authorize what we might term "downside averaging." As to "upside averaging," Congress in the Tax Reform Act of 1969 took action to greatly increase the number of taxpayers who would take advantage of this provision in the law. It is time now to show some consideration for less fortunate persons.

The rationale for both "upside" and "downside averaging" has been succinctly stated by Prof. Roger F. Miller, a tax expert who is known to the members of this committee. Mr. Miller has written:

"The purpose of averaging is to provide relief for persons with unusual fluctuations in income that are taxed at progressive rates. For an upward fluctuation averaging treats an excessive rise in income as if it were spread over a number of years and taxes it at a lower marginal rate than would apply without averaging. It is relief from excessive taxation in the current year.

"We believe this reasoning applies equally to negative fluctuations. An excessive fall in income implies that income in prior years was taxed at an excessive rate, and that some rebate of the prior years' taxes should be allowed to offset the current year's tax.

"This also provides relief when it is most needed, in the current year. Given a sufficient income decline, it might result in a net refund, operating at an income supplement."

Unfortunately, Mr. Chairman—obviously I take no pleasure in saying this—"downside averaging" would come as a boon to many of my constituents if it were made part of the tax law. In 1971, the average annual unemployment rate in Cleveland, Ohio, was 11.8 percent—the highest among the 20 largest cities of the United States.

Since 1963, 69 major manufacturing firms have closed down or have moved from the city. These plants had employed more than 21,000 persons, many of whom had a difficult time securing alternative employment before their savings—if they had any—ran out.

Moreover, Mr. Chairman, one-third of this job loss has occurred within only the last 2 years. And further, the Regional Planning Commission in Cleveland estimates conservatively that an additional 5,000 jobs will be lost by 1976.

I think you can see, then, why I feel so strongly that "downside averaging" should occupy a high place on your agenda as you proceed to consider proposals for tax reform.

H.R. 2416, if enacted, would result in a revenue loss of $355 million a year, according to an estimate made for us by the staff of the Joint Committee on Internal Revenue Taxation. While this might seem like a large sum, we ask you to take into account the fact that "upside averaging" already is costing the Treasury in excess of $650 million a year.

Therefore, we have submitted to you, in addition to H.R. 2416, the alternative bill H.R. 3860, which simply repeals the "upside averaging" provisions of the tax code. Members of Congress whose primary concern is revenue loss, and who decide against H.R. 2416 for this reason alone, perhaps will want to give favorable consideration to H.R. 3860, since it provides an opportunity not only to head off new losses to the Treasury but also to retrieve revenues that already are being waived.

We sincerely believe, Mr. Chairman, that if we are to continue to have "upside averaging," we should provide also for "downside averaging"—and that, if we cannot afford the latter, then there is no good reason in all fairness to retain the former in the tax code.

Therefore, we are asking you to report H.R. 2416 favorably or, in the alternative, to report H.R. 3860 favorably.

Mr. Chairman, what follows in the submission of our text to the committee is a technical summary of H.R. 2416 showing how, in many respects, this proposal runs parallel to "upside averaging" provisions extent in the tax code. We prepared this technical explanation with the assistance of Mr. Chabot, with whom this committee is well versed and who is familiar to this committee. I would be glad to submit it.

Mr. Rostenkowski [presiding]. Without objection, so ordered.

[The summary of H.R. 2416 follows:]

"H.R. 2416 would permit a taxpayer who suffers a reduction of income to, in effect, average his income for that year with his income from a four-year base period. Such a taxpayer may be said to have overpaid his taxes during the four-year base period. Under the bill, he would recover this "overpayment" through reduced taxes in the current year, and in some instances he might even be entitled to a refund. It is estimated that, if this bill had been in effect for calendar year 1971, Federal individual income tax liabilities would have been decreased by $335 million, assuming everyone eligible for downside averaging under the bill would have elected to use this procedure.

"The tax is computed by (1) determining the average income for the base period; (2) computing the tax on 80 percent of that amount; (3) subtracting the current year's income from 80 percent of the average base period income to determine the amount of the reduction in income; (4) computing the marginal tax on one-fifth of the reduction in income and multiplying that tax by 5; and (5) subtracting the final figure in step (4) from the tax computed in step (2).

"To be eligible to use these averaging provisions, the taxpayer would have to suffer a reduction in income of at least $3,000, as compared to 80 percent of the four-year base period average. Also, he would have to include in income unemployment benefits not otherwise taxable.

"For example, if a worker with an average base period income of $18,000 were laid off for part of the year and his taxable income plus unemployment compensation amounted to $10,000, his savings under the bill would be $60. If he had no income (and no unemployment compensation), his tax savings under the bill would rise to $668.

"The following table illustrates the effect of the bill:

ASSUME TAXPAYER, FILING JOINT RETURN, WITH $18,000 AVERAGE BASE PERIOD INCOME

| Current year taxable income plus unemployment compensation | Tax under the bill | Regular tax | Tax saving from the bill |
|---|---|---|---|
| $10,000 | $1,760 | $1,820 | $60 |
| $8,000 | 1,260 | 1,380 | 120 |
| $6,000 | 760 | 1,000 | 240 |
| $4,000 | 260 | 620 | 360 |
| $2,000 | [1] 228 | 290 | 518 |
| 0 | [1] 668 | 0 | 668 |

[1] Credit.

"Persons who have a reduction in income due to retirement would not be eligible to use these provisions. Retired persons already receive a number of substantial tax breaks under the revenue laws, such as the exclusion of social security benefits and the retirement income credit. Also, retired persons generally have diminished family responsibilities and an opportunity to plan for retirement.

"The primary purpose of this bill is to help persons who have no opportunity to plan—for example; those persons out of work because of a plant shutdown; workers who are laid off; and families where a wife quits work in a given year to give birth to a child.

"Persons who elect to take advantage of downside averaging would have to forego certain other tax benefits, for example, the alternative capital gains tax and the exclusion of tax exempt interest on bonds. In most cases these provisions will not effect persons whose primary source of income is wages from employment.

"On the whole, the result of this bill would be to allow individuals who suffer a reduction in income to receive credit for taxes paid in years in which income was higher, thus lowering their taxes in the current year."

Mr. Stanton. I would be glad to answer any questions, and I appreciate this opportunity to appear.

Mr. Rostenkowski. Let the Chair congratulate you on the genius with which you put this proposal together.

The Chair will recognize Mr. Vanik.

Mr. Vanik. Mr. Chairman, I think I understand the basic importance of this legislation in our industrial areas. We have cyclical industries—steel, automobile manufacturing, machine tools; these have their great swings up and their great swings down.

Am I correct in understanding that this legislation would have a special significance to communities where the employment figures are cyclical and vary upwards and downwards?

Mr. Stanton. That is correct, Congressman Vanik. The impact of this legislation, of course, is to try to relieve a situation in which many of the workers in the Greater Cleveland area and other areas throughout this Nation in the great industrial complexes have suffered—where they might be realizing an income of $20,000 a year and then be unexpectedly laid off and have an income of $5,000 a year.

They ought to have the same prerogatives that somebody in the past under the code as adopted in 1969 had when they went from an income level of $20,000 to $200,000. That was the intent, to average it on the upside. We are attempting to try to protect the rights of those who have paid a tax and are now in a position where they cannot pay on the amount and are, in fact, entitled to some return.

Mr. Vanik. If the committee were to adopt both recommendations, it would be a net savings to the Treasury, am I correct? How much would it be?

Mr. Stanton. No, if they adopted the income averaging legislation which Congressman Rostenkowski and I propose, H.R. 2416, it would cost the Treasury, according to the Joint Committee on Internal Revenue Taxation, $355 million. But in the event that the members of this committee feel that this loss is too great a loss for the Treasury, we have recommended—Congressman Rostenkowski and myself—in H.R. 3860, eliminating the upside averaging, because if you are going to treat one part of the economy one way, you ought to treat both parts, you ought to treat them equally. The tax structure ought to be equal in its application. Frankly, the technical experts of the Joint Committee agree.

Mr. Vanik. If your bill was adopted and the second proposal was adopted to eliminate the upswing advantage, there would be a Treasury gain, wouldn't there, because as I understand it, the income averaging upward costs $660 million, whereas the income averaging downward would cost $330 million?

So, if we adopted the downside averaging and eliminated the upside averaging, we would have a net gain of about $330 million, is that correct?

Mr. Stanton. That is correct, but I think that would be a rather inadvisable thing for the Committee on Ways and Means to do, because as a very practical matter the committee recognized a problem in 1969 in terms of people who gained excessive income. That is why they instituted upside averaging.

But they did not go far enough in 1969, and what Congressman Rostenkowski and I are asking is that they go a step farther and do it on the downside. We are not asking that they abolish upside averaging. We are asking that they treat all of the taxpayers alike. But the fact is that if they want to treat them symmetrically correct and do not want any further loss to the Treasury, then abolish upside averaging and do not institute H.R. 2416, but just abolish it under H.R. 3860.

Mr. Vanik. I think you have made a fine recommendation. I think it is especially good for all of the industrial centers of America, particularly were cyclical industries are involved.

Mr. Stanton. It could have applications to the farmer of America, very seriously. I think it affects every citizen. A farmer who has an income of $60,000 or $70,000 and has a really bad year on income could have just as much advantage as an industrial worker.

Mr. Rostenkowski. Mr. Conable.

Mr. Conable. Thank you, Mr. Chairman.

I would like to say that I think it is a fine contribution, too, Congressman Stanton. Symmetry is something we should seek in our tax laws. Obviously, a device like income averaging shouldn't be available only to the rich. So I think it is a good, solid suggestion. I am surprised that it amounts only to a revenue loss such as you describe, because it sounds to me as though it would be employed by a great many people. I think most people don't have very stable incomes, and the result is that it would be used more than you indicate.

I assume those statistics have been carefully checked, have they?

Mr. Stanton. Well, we got these figures from the Joint Committee on Internal Revenue Taxation through their technical assistants.

There is one class of people who might cause an increase in the loss to the Treasury that are not computed in it. It was done after we prepared this material. The people who are mandatorily forced off of employment by disability, if they are included as a group, the estimate is an additional $100 million to cover that class of people.

Mr. Conable. But it still is a very small price to pay for adding symmetry to our tax laws. I think it is something we ought to consider seriously.

Thank you for your suggestion.

Mr. Stanton. I agree, Congressman.

Mr. Rostenkowski. Mr. Corman.

Mr. Corman. I appreciate your bringing this to our attention. I imagine that there are a tremendous number of engineers working in defense and space who have really the most cyclical of incomes. Their income is good when they are working, but because of the cutbacks in Government programs they find themselves working at reasonably good salaries for 2 years and nothing for the third year.

Mr. Stanton. Thank you very much, Congressman.

Mr. Rostenkowski. Mr. Clancy.

Mr. Clancy. Thank you, Mr. Chairman.

Mr. Stanton, you have made a fine presentation. There is much merit to it, and I hope this committee will consider your recommendations.

Mr. Stanton. Thank you, Congressman Clancy.

Mr. Rostenkowski. Mr. Archer.

Mr. Archer. Congressman Stanton, thank you for coming before our committee with an excellent presentation. It seems to make a lot more sense to average on the downside rather than the upside, because on the upside the income earner has the money to pay the taxes.

I would be inclined to believe that there is far more equity in what you have presented than there was in the existing law. Thank you very much.

Mr. Stanton. Thank you very much.

Mr. Rostenkowski. Mr. Stanton, I want to congratulate you and thank you for your appearance.

I would like to make the observation that you have had six favorable comments on the legislation. All you have to have in this committee is 13. You are almost halfway there.

Mr. Stanton. Mr. Chairman, since you and I have worked on this legislation for almost a year, that is your responsibility. I pass the ball to you.

Mr. Rostenkowski. Thank you again, Mr. Stanton.

Mr. Stanton. Thank you.

Mr. Rostenkowski. Our next witness is the Representative from Mississippi, the Honorable Trent Lott.

Mr. Lott, we would like to welcome you to the committee and thank you for your patience. We look forward to hearing your testimony. If you will identify yourself, please proceed.

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## "MURDER BY HANDGUN" THE CASE FOR GUN CONTROL: JANUARY 23, 1974

## HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. HARRINGTON. Mr. Speaker, in a recent article in the Boston Globe, it was observed that between 1967 and 1972 the number of murders in this country has risen by 53 percent. At the same time, the production of handguns in the United States has risen by 50 percent. This and other similar statistics have prompted a Massachusetts sheriff to prepare a petition calling for the banning of handguns for private citizens.

But statistics do not tell the story of human suffering that handgun deaths are responsible for. A recent article in the Washington Star-News by Gloria Borger portrays the tragedy that surrounds the surviving family of the victim of a senseless handgun murder.

These personal tragedies and embarrassing statistics can be changed and reduced by strong handgun control legislation. It is the responsibility of this Congress to pass strong laws; and like all responsibility it cannot be accepted lightly.

The articles from the January 6 Boston Globe, and the January 18 Star-News are included below:

[From the Boston Globe]

### Let's Ban the Handgun

What is behind the American fascination with violence? Why is it that today most of the television dramas that flicker in our living rooms revolve around a bloody cop vs. crook formula? Why should one full page of theater advertisements in The Globe include five separate pictures of brandished firearms as a come-on for movies?

Why have the numbers of murders risen by 53 percent in this country between 1967 and 1972, according to the FBI's Uniform Crime Statistics? Why has the manufacture (for civilian use alone) of handguns in the United States risen by 50 percent between 1968 and 1972? What is the connection between such facts and figures?

Surely there is some connection although many gun owners don't like to admit it. Middlesex County Sheriff John J. Buckley has suggested that it is the gun manufacturers who are behind the sportsmen's groups and the National Rife Assn. when they pack State House hearings on gun legislation. He told Globe reporter Nathan Cobb that the legislative route has failed because "we just didn't seem to be able to break the hold that gun manufacturers have on the Legislature."

So the sheriff is going to try something new. He is preparing a petition calling for a ban on the sale, possession and ownership of handguns in Massachusetts. If he can get enough certified signatures (56,038) by fall, the proposal will appear on the 1976 state ballot. If the people vote for the proposal, only the military, police, sportsmen and collectors under controlled conditions will be able to buy, sell or own handguns of any type.

It is important that the exceptions to the proposed law be made clear, practical and fair and that owners of rifles and shotguns remain unaffected. It does not seem unfair to deprive other owners of their weapons. The handgun is designed to kill people, on purpose or by accident, and it often does. It is the chief weapon used in homicides, three out of four of which are tragedies involving people who knew each other—typically friends and relatives in the heat of argument. In 1972, 60 percent more Americans died from accidental shootings than from plane crashes, according to the National Safety Council, and firearms are the third leading cause of death among persons 15 to 24 years old. The National Advisory Commission on Criminal Justice Standards reports that "a handgun in the home is more likely to kill a member of the family than it is to provide lifesaving protection from burglars and robbers."

Sheriff Buckley's proposal would not wipe out the handgun in Massachusetts overnight. It still would be easy to bring in weapons from out of state. However, passing such a law could set an example for the other 49 states and bring pressure to bear on Congress to pass similar Federal legislation so that the United States could join civilized nations like Britain and Japan which have banned handguns for decades. Finally, at the very least the Buckley petition should call attention to the violence which has become almost an accepted part of life in America. The handgun has become the symbol of that violence. It may also be the key.

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[From the Washington Star-News]

### A CABBIE WHO LOVED PEOPLE

(By Gloria Borger)

A well-kept yellow and black taxi stands in the 4000 block of 1st Street in Southeast Washington, gas tank filled, chrome polished, doors locked.

James Julian Cook, who was buried yesterday (he died Monday after losing an eight day struggle against multiple gunshot wounds he received from three passengers), had asked his brother to move it there.

"Just put it in front of the house," he told Wilbert Cook. "I'll be out of the hospital and on the road again soon."

As a long line of cars, including two taxis, drove in the funeral procession at Arlington Cemetery yesterday, Mr. Cook's Consolidated Cab remained in front of his apartment. Nellie May Cook clutched her purse containing her husband's car keys throughout the military service and finally carried a folded flag and a rose back to 1st Street.

"All he was trying to do was make some extra money after Christmas," his wife said, "so he worked on Sunday. But he didn't hate work—he was a cab driver because he loved people." Cook was one of the best known drivers in the city and one of the oldest in terms of service.

But when three youths assaulted James Cook, who was 59, on Sunday, Jan. 6—after they directed him to drive toward a nonexistent address—his 35-year career ended abruptly. He was shot once in the cab and twice more when he tried to escape. The three youths have not yet been arrested. After taking shelter on the front porch of a home on the 1800 block of S Street SE, he was taken to D.C. General Hospital.

"I don't know why they would shoot me," the wounded driver later told his brother. "I didn't do anything to those men or to any others. I didn't even give them any argument."

In a small, neat living room with a few comfortable pieces of furniture, Mrs. Cook rocked the other day in a well-worn chair, trying to describe her husband's life.

"We had to live from day to day and, of course, without any pension," she explained, mentioning that her husband had been a cab driver most of his life, except during World War II, when he was an Army Air Corps gunner.

She motioned to the cab parked outside the apartment, saying "he tried so hard to keep the taxi clean. But some people would litter and curse at him. And all he could say was that he was there to take them where they wanted to go."

Wilbert Cook, 60, James Cook's older brother who drives a Yellow Cab, explained that "my brother was just the way I am. It seems like you get into this business and you can't get out. But when Jim was in the hospital, he did admit it was getting harder and harder all the time," he added. "He would tell me, 'It's beating me—It's getting so I'm tired of taking it.' "

Before Wilbert Cook left his sister-in-law's to begin cruising in his cab the day before the funeral, he paused to say: "Although driving may frighten me more now, I can't let myself be scared. After all," he added, "what else am I going to do? I'm an old man, I'm uneducated and I have to eat. At least this job keeps me moving all the time."

About a dozen of Cook's fellow drivers stopped moving long enough yesterday to attend his funeral. After driving up to the Ft. Meyer Chapel in two cabs, they paused to reflect on their friend and their business, while watching synchronized soldiers prepare for the service.

"I don't know if anybody has a solution to a problem like this," said Harry Fellman, president of the Consolidated Cab Co. "What happened is pitiful," he said later.

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## A SCIENTIST TAKES A CALM LOOK AT ENVIRONMENTAL PROBLEMS

## HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. ASHBROOK. Mr. Speaker, the subject of our environment often evokes heated debate and emotional arguments. Rarely do we hear a calm discussion of our environmental problems. Therefore the following article by Dr. A. L. Jones of Solon, Ohio, a research chemist, seems especially valuable. A scientist, he approaches the subject in a rational and analytical fashion.

The following is the text of the article from the December 30, 1973 edition of the Columbus Dispatch magazine:

### WE'LL SURVIVE

For several years I have been deeply concerned about reports of the destruction of our environment as a result of technological recklessness, overpopulation and a philosophical outlook that gives little consideration to the preservation of nature.

Three years ago I started to evaluate the premises upon which some of our major environmental concerns are based. The evidence that I have been able to find has proved quite encouraging to me. My findings have changed my attitude from one of pessimism for the future of mankind to one of confidence that we can solve our major environmental problems if we are willing to use rational approaches and pay the cost.

I speak as a scientist, and not as an emotional supporter of any particular "side" of ecology. Useful science is based on reproducible evidence or principles that can be repeated and verified by others. Our success as scientists depends on finding the truth and relating it to the needs and interests of man. Some of the facts may surprise you.

My first surprise concerns the air we breathe. Throughout my formal education I have been taught that the oxygen in our atmosphere is supplied by green plants using the process of photosynthesis. It is known that plants take in carbon dioxide and, through activation by sunlight, combine it with water to make starches and cellulose and give off oxygen. In this way the whole chain of plant and animal life is sustained by energy from the sun. When the vegetable or animal materials thus produced are eaten, burned, or allowed to decay they combine with oxygen and return to the carbon dioxide and water from which they came. We all know this.

The surprise is that most of the oxygen in the atmosphere doesn't come from photosynthesis. The evidence is now overwhelming that photosynthesis is quite inadequate to have produced the amount of oxygen present in our atmosphere. It had to come from another source, and a most likely possibility involves the photodissociation of water vapor in the upper atmosphere by high energy rays from the sun and by cosmic rays. This process alone could have produced, over the history of the earth, about seven times the present mass of oxygen in the atmosphere.

Some scientists predict that man is bringing disaster upon himself in depleting atmospheric oxygen by burning fossil fuels and poisoning the oceans with pesticides. Dr. Paul Ehrlich of Stanford predicts on oxygen shortage by 1979.

Fortunately, accurate measurements of the oxygen content of the air have been made and recorded routinely since 1910. The National Bureau of Standards has made an abundance of measurements over the years. In 1910, the oxygen content of the air was found to be 20.946 per cent by volume. In 1973, the percentage of oxygen is still 20.946. There is no change, even in the third decimal place. Dr. R. C. Robbins of the Stanford Research Institute has found that ancient trapped air samples from ice cores removed from the Antarctic ice cap and Greenland glaciers, dating back to 500 BC, show no change from modern air samples. This is direct evidence that the industrial activities of man have produced no measurable change in the oxygen content of the atmosphere.

The significance of this information is that the supply of oxygen in the atmosphere is virtually unlimited. It is not threatened by man's activities in any significant way either now or in the unforeseeable future. If all of the organic material on earth were oxidized it would reduce the atmospheric concentration of oxygen by less than one per cent. We can forget the depletion of oxygen of the atmosphere and get on with the solution of more serious problems.

We have heard much in recent years about the death of Lake Erie. It is true that the beaches are no longer swimmable in the Cleveland area and that the oxygen content of the bottom of the lake is decreasing. This is called eutrophication. Heavy blame has been placed on phosphates as the cause of this situation. Housewives have been urged to curb their use of phosphate detergents. The state of New York has signed into law a measure to forbid the sale of detergents containing phosphates. Many other areas of the country have similar regulations.

The scientific evidence I have been able to acquire on this subject shows that the cause of the eutrophication of Lake Erie has not been properly defined. This evidence suggests that if we totally stopped using phosphate detergents it would have no effect whatever on the eutrophication of Lake Erie. Many experiments have now been carried out which show that it is the organic carbon content from sewage that is using up the oxygen in the lake and not the phosphate in detergents.

The reason the Cleveland area beaches are not swimmable is that the coliform bacterial count from feces is too high, not that there is too much detergent in the water. Enlarged and improved sewage treatment facilities by Detroit, Toledo and Cleveland will be required to correct this situation. Our garbage disposal units do far more to pollute Lake Erie than do the phosphate detergents. If we put in the proper sewage treatment facilities, the lake will sparkle blue again in a very few years.

As many of you know, the most toxic component of automobile exhaust is carbon monoxide. Each year mankind adds over two hundred million tons of carbon monoxide to the atmosphere, and most of this comes from automobiles. Until recently I had been concerned about the accumulation of this toxic material because I use it daily in my research and know that it has a life in dry air of about three years in the laboratory.

For the past several years, monitoring stations on land and sea have been measuring the carbon monoxide content of the atmosphere. Since the ratio of automobiles in the northern and southern hemispheres is nine to one, it was expected that the northern hemisphere would have a much higher concentration of atmospheric CO. But measurements show that there is no difference in CO amounts between the hemispheres, and that the overall concentration in the air is not increasing at all.

Early in 1971, scientists at the Stanford Research Institute in Palo Alto disclosed that they had run some experiments in smog chambers containing soil. They reported that carbon monoxide rapidly disappeared from the chamber. They next used sterilized soil and found that now the carbon monoxide did not disappear. They quickly identified the organisms responsible for CO removal to be fungi of the aspergillus (bread mold) and penicillium types. These organisms, on a worldwide basis, are using all of the 200 million tons of man-made CO for their own metabolism, thus enriching the soils of the forests and the fields. More recently, scientists at Queens University in Canada have found that green plants, such as beans, use CO in their metabolism and that they consume as much atmospheric CO as do the fungi in the soils.

This does not say that carbon monoxide is any less toxic to man. It does say that in spite of man's activities, this material will never build up in the atmosphere to dangerous levels except on a localized basis. To put things in perspective, let me point out that the average concentration of carbon monoxide in the open air is less than one part per million. In downtown Cleveland, in heavy traffic, it sometimes builds up to 15 or 20 parts per million. In Los Angeles it gets to be 35 parts per million. In parking garages and tunnels it is sometimes 50 parts per million. These are the worst conditions.

Here is another surprise for many of you. Do you know that the carbon monoxide content of cigaret smoke is 42,000 parts per million? The CO concentration is practically any smoke-filled room grossly exceeds the safety standards we permit in our laboratories (10 parts per million). I do not mean to imply that 35 or 50 parts per million of carbon monoxide should be ignored. I do mean to say that many of us subject ourselves to CO concentrations that are greater than those of our worst polluted cities, including those in the Holland Tunnel in New York, without any catastrophic effects. It is not at all unusual for CO concentrations to reach to the 100–200 parts per million range in poorly ventilated smoke-filled rooms. If a heavy smoker spends several hours without smoking in polluted city air containing 35 parts per million CO, the concentration of CO in his blood will actually decrease! In the broad expanse of our natural air, CO levels are totally safe for human beings.

No one in his right mind would condone air pollution. But we must think of things in their proper perspective. We need to ask the question about whether the air in our living rooms presents a greater hazard to health than does the outside city air. I think we should strive to clean up both of them.

The general public has been led to believe that there is a serious health hazard resulting from increased dispersion of lead into the biosphere by man. The principal sources of lead in the atmosphere are the combustion of gasoline and the burning of coal. The contributions from both of these sources are now of the same order of magnitude, but in the past the greater contribution was from coal. During the past 100 years, over one hundred million tons of lead have been dispersed by man into the biosphere.

Careful studies of possible health effects of airborne lead have been carried out by the National Academy of Sciences, the World Health Organization (WHO) and the American Medical Association (AMA). They have found no evidence of a single case of lead poisoning that can be attributed to breathing air polluted with lead. The WHO reports that "there has been no increase in lead levels in the population in the last two decades."

Other studies show that there has been no increase in lead concentration in either blood or urine in the U.S. population during the last 50 years. The lead levels in the blood of New Guinea aborigines are higher than those in the blood of either urban or rural Californians. The lead levels in the bones of present-day man are not significantly different from those found in human bones from the third century.

Scientists at Michigan Technological University have reported that analyses of human hair for lead show that in the period from 1871 to 1923, before lead tetraethyl was introduced into gasoline, the lead in the hair was 10 times greater than in the period from 1923–1971. They attribute the higher amount in the earlier period to the ingestion of lead from collection of water from lead roofing, storage of water in leaded jugs, lead-glazed earthenware, pewter utensils, leaded paints and cosmetics.

It is hard to imagine that airborne lead is not a serious hazard to human health, but the evidence is overwhelming that the lead levels in the population have not increased in recent years in spite of increased dispersion of airborne lead. It would appear that the most important reason for removing lead from gasoline at this time is that lead poisons the catalysts in catalytic afterburners for automotive exhaust emission control. There is such a thing as lead poisoning, but people usually get it by swallowing rather than breathing.

The world supply of fossil fuels (oil, gas, coal) is limited. Fossil fuels are composed primarily of hydrocarbons. Each year the activities of man result in 17 million tons of hydrocarbons escaping into the atmosphere. The sources of most of this escape are partially burned fossil fuels and the direct evaporation of fuels and solvents. For the most part, it is advantageous to minimize this loss for reasons of efficiency, fuel conservation and reduction of air pollution.

It is well established that in sunny places where the air is stagnant certain hydrocarbons, when oxidized, produce photochemical smog. This results in the growth of aerosol particles which produce a haze. The color and odor of the haze is influenced by the kind of hydrocarbon involved.

It is not so well known that on a global basis, nature releases at least five times more volatile hydrocarbons into the air than man does. Practically all types of forest trees emit substantial quantities of terpene hydrocarbons. In addition to pine trees, from which hydrocarbon turpentine is obtained, trees such as aspen, locust, cottonwood, willow, oak, sweetgum, sycamore, yellow wood, mulberry, buckthorn and Oregon grape emit substantial quantities of isoprene and ethylene. The Blue Ridge and Great Smoky mountains of the eastern United States are so named because of the characteristic haze generated by photochemical reactions involving hydrocarbons emitted by the trees. Nature releases an estimated 175 million tons of hydrocarbons each year in this way.

In addition to volatile ones, practically all plants contain hydrocarbons such as waxes and resins that do not evaporate. Did you know that the red color in watermelons, tomatoes and pink grapefruit is a nonvolatile hydrocarbon? The wax in your ears is also.

In the Middle East there is a bush, with the botanical name of Dictamnus Fraxinella, which gives off so much terpene hydrocarbons that explosive mixtures are generated in the air surrounding the plant. Man has been accused of being a major polluter of the air and the water with hydrocarbons but we must also recognize the greater amounts emitted by nature.

Many of us are alarmed by the dire announcements made by technically untrained people and by scientists who have not bothered to check their assumptions against the evidence. These alarms have made us go off half-cocked with expensive measures in some cases to solve problems that are sometimes more imaginary than real.

For example, the construction of some nuclear power plants has been held up because of the fear of thermal pollution by the effluent cooling water. In some cases, multi-million-dollar cooling towers have been required before construction could proceed. The evidence I can find is that when the plants are located on large bodies of water, such as Lake Erie, cooling towers represent expensive monuments to misinformation. The public will have to pay for these and will receive no measurable benefit from the expenditure.

My investigation of the thermal pollution problem reveals that, beyond any question of doubt, the sun is by far the greatest thermal polluter of Lake Erie. Governor Gilligan announced that he would "back legislation making it unlawful to increase the temperature of the (effluent) water by more than one degree over the natural temperature." As we all know, the natural temperature of the lake is changed by the sun more than 40 degrees fahrenheit every year between winter (33 degrees) and summer (75-plus degrees). The natural life in the lake accommodates this drastic change in great fashion, as it has for many thousands of years.

I have determined that if we could store up all of the electricity produced in Ohio in a whole year and use it exclusively for heating Lake Erie all at one time, it would heat the entire lake less than three-tenths of one degree.

In terms of localized heating, we must remember that we already have many hundreds of power plants pouring warm water into streams and lakes. Twenty-five of these are nuclear power plants. Evaluation of the effect of these from an ecological point of view is that "thermal pollution" is a less descriptive and less appropriate term than is "thermal enrichment." There are no species disappearing. No ecological catastrophes or problems have appeared. Some of the best fishing locations in the country are near the warm water outlets of power plants. An excellent scientific report on this subject may be found in the March 1972 issue of *Environmental Science and Technology*.

In every age we have people practicing witchcraft in one form or another. I used to think that the people of New England were particularly irrational in accusing certain women of being witches without evidence to prove it. So suppose someone accused you of being a witch. How could you prove you were not? It is impossible to prove negative evidence. Yet this very tactic is being used to deter the construction of nuclear power plants. The opponents are saying, in effect, that these plants are witches and it is up to the builders to prove that they are not.

The positive scientific evidence is that the nuclear power plants constructed to ths date are the cleanest and least polluting devices for generating electricity so far developed by man. Lightning and snakebite have proven to be greater hazards to the health and safety of the public than nuclear power plants. The amount of radiation escaping from a well designed nuclear plant is less than that from the cosmic rays to which one is exposed on a jet aircraft flight.

The energy crisis in the United States is quite real. If we are to maintain our standard of living we must construct nuclear power plants with the greatest of urgency. They are the only demonstrated and economically feasible alternative we have for electric power generation. We cannot afford to let fear and superstition impede the attainment of the improved quality of living which we can achieve.

From what we read and hear it would seem that we are on the edge of impending doom. A scientific evaluation of the evidence does not support this conclusion. We clearly have some undesirable problems attributed to technological activities. The solution of these problems will require a technical understanding of their nature. The problems cannot be solved unless they are properly identified. This will require more technically trained people, not less. These problems cannot be solved by legislation unless the legislators understand the technical nature of the problems.

In my estimation, the most serious problem we face is the rapidly increasing human population on a worldwide basis. The pollution of our natural waters with sewage and chemicals is perhaps the second most serious one. Nothing good has been found for either sulfur oxides or particulate matter in our air. Hydrocarbon emissions from our automobiles can be hazardous, especially in poorly ventilated locations. I have not been able to identify any problems that we do not already know how to solve. It is strictly a question of economics. The back-to-nature approach of withdrawing from reality will accomplish nothing.

I believe, as Thomas Jefferson did, that if the public is properly informed, the people will make wise decisions. I know that the public has not been getting all of the scientific facts on many matters relating to ecology. That is why I am speaking out on this subject as a scientist and as a citizen. Some of the information I have given you may be contrary to the things you are being led to believe, but I am willing to support my conclusions on evidence good enough for me to urge any of you to evaluate it for yourselves.

We are all familiar with the Aesop fable about the shepherd boy and the wolf. The moral of the fable is: Those who are found to misrepresent facts are not believed even when they speak the truth.

In recent months, we have heard cries of wolf with respect to our oxygen supply, the buildup of carbon monoxide, phosphates in the lake, thermal pollution, radiation effects on health from nuclear power plants, nuclear tests, lead in gasoline and mercury in fish, to name a few. For the most part these cries have not been malicious but have been based largely on fear, ignorance or misinformation. The people have listened to these cries and have come running to the rescue, but they are not finding many wolves.

Let us not cry wolf until we are reasonably certain that we have done enough homework to know what a wolf looks like. Otherwise we may undermine our credibility and not be believed by the people when we warn them of the real wolves that do exist. We cannot solve our recognized problems unless we attack them on the basis of what we know rather than what we don't know. We must use our knowledge and not our fears to solve the real problems of our environment. Our future can be better than most of our past if we choose it so.

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## YVONNE BURKE: "POLITICS GIVES LIFE A NEW DIRECTION"

### HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. YOUNG of Georgia. Mr. Speaker, the Members of the House would be interested in a recent article about one of our colleagues. The December 1973 issue of Youth magazine, which is published for young high school people by United Church Press, published the article by Bob Fitch on Congresswoman YVONNE BRAITHWAITE BURKE.

This is an informative account of the experience, insights and skills Ms. BURKE brought to Congress. The article concludes with the observation that "YVONNE BRAITHWAITE BURKE is a person who gets the job done." And that is why she has earned the respect of the House of Representatives.

The full text of the article follows:

YVONNE BURKE—"POLITICS GIVES LIFE A NEW DIRECTION"

(Interview by Bob Fitch)

"People are withdrawing their energies from the greater social issues and becoming preoccupied with themselves, only because they do not have the leadership in this country to give them the direction that is needed." These words are spoken firmly with the concern of someone who cares and with the authority of someone who speaks from more-than-average experience.

"The black community has generally taken the position that this Administration is not favorable to blacks, minorities, and the disadvantaged, and, consequently, whatever they get in the way of fundings and support from this Administration is a surprise." The speaker is a stunning, young woman who is California's first Congresswoman in 20 years and the state's first black woman elected to the U.S. House of Representatives.

Although serving her first term in Congress, Yvonne Braithwaite Burke is no newcomer to the legislative process. An attorney by profession, she served as California State Assemblywoman for six years before running for Congress in November 1972. She won that election easily, bringing in 73 percent of the vote in California's 37th District, an area that includes Los Angeles and some surrounding suburbs and is about equally divided racially. For many TV viewers, she first won national recognition in the summer of 1972 when she was co-chairperson of the Democratic National Convention in Miami.

"I had no idea that Congress moved so slowly," observes Ms. Burke, comparing state and federal legislative procedures, "and it has been very frustrating to deal with. State legislatures move much faster, mostly because of bigger staffs and better facilities."

As is every member of Congress, she is faced with the implications of Watergate. Her response?

"I believe we should initially proceed with an independent and impartial investigation of the facts. The recent Watergate disclosures indicate that there is more at stake than the political espionage and sabotage, or the corruption of money, or the obvious attempts at cover-up.

"There is the larger impression that at the highest level of power in this country, there are men who reject the historic American premise of government under law. If this contempt for law is licensed, then no system of law can exist. Selective law enforcement can only lead to general contempt for law and order, and thereby undermine the very foundations upon which our government rests.

"If the President is found to be directly connected with breaking the law, I would vote for impeachment."

How then does she feel about politics as a place for young people to put their energies?

"I encourage young people to participate in politics, if they have a sense of commitment. I say this because I find that many young people considering this kind of decision come from families where they've never really had to depend on government. They come from middle-class families where they could go to private or public school, where their parents provide them with adequate medical care. Government to these people makes very little difference. But if they can become familiar with social issues, they'll find that poor people never had these various alternatives.

"I had no idea that Congress moved so slowly and it has been very frustrating. State legislatures move much faster."

"A person who is poor can't decide whether or not he or she is going to a public or a private school—he has to take the school that's there. A poor person doesn't have an alternative in terms of health care. If he or she has a medicaid plan, and if it's adequate, then that person has health insurance and is able to survive. The amount of welfare often determines a person's standard of living. And that person is the one who most often has to come before a court system. The court system determines his or her future. So you see, for the person who's at the bottom of the totem pole, that person is totally dependent on government for the quality of life—whether or not he or she will survive.

"A young person who's interested in that person at the bottom of the totem pole should get to where the decisions are made. A person who is committed to try to raise the quality of life of the people who have been deprived by our society, that person has a responsibility to get into government, pressure that government, make sure that social programs are developed by that government which will provide facilities and alternatives for those people who cannot exist independently."

Yvonne Burke made her own decision to get involved at an early age. When she was only 13, she had the opportunity to meet a famous, precedent-setting attorney who later became a judge.

"Loren Miller was a black man who had just been successful before the Supreme Court in a case which set aside and invalidated racial covenants," she recalls. "I knew the impact in my community. Black people had to live in a very small area. We had no choice; prices were very, very high. No matter how much money you had—a person could be a very famous movie star and he'd just have to have a mansion in the slums. So I was very aware of when this legal decision came, because, all of a sudden, it meant that black people could move into many other areas. Not all areas, but at least it changed the living environment for us.

"I went to his house for a birthday party—an outside birthday party. He was up working in his library and I could look up and see all of his books. And I thought, 'Gee, if I could be an attorney and go before the court and win famous cases, it would really be fun.' There's no question that that experience was the deciding moment, when I said I would like to have all those books in my house and work in a study like that.

"I encourage the young to participate in politics if they are committed to raising the quality of life for those people who have been deprived by our society."

"Then when I was in high school, I was a Latin major. This was my own little way of trying to work at it. I did all kinds of things—I ran for offices. The high school I attended was a self-government school, where the students ran the school themselves and elected the people who ran them. Discipline was put out by a judge, so I ran for and became girls' judge. Then I ran for vice-president of the student body. I was a debater in a lot of speech contests. Later I made the decision that would be a political science major in college, based upon the plan I had to go on to law school."

The thing which made these dreams seem obtainable to young Yvonne Burke was the humility and the approachability of Loren Miller.

"He was a very humble kind of person—very reachable. I often find that the experience that discourages a person is where the person he comes in contact with is so pompous that there's no communication. That can be discouraging, especially to a young person."

But Yvonne Burke overcame whatever discouragements came her way and went on to become a very committed person. By the 60's she was involved with the civil rights movement.

When asked what effect the civil rights movement has had on politics and vice versa, Ms. Burke responded, "There's a kind of national network of people who have been involved with civil rights and now, more and more in politics. What has happened is that the people who were active in the civil rights movement were drained off into appointed positions. At the time when opportunities were opened up for blacks, they were the people who had the experience. They were also drained off in terms of political positions—after all, the people who run for office are the people who are known, and the people who are known are the people who were in the civil rights movement and who were at the forefront. This is one reason why you really have very little indigenous leadership in the black community—it's very difficult for those people now to be there making a nucleus."

But are there any groups, any causes around which to rally today? Can young people put their energy into something and still get the same kind of long-range growth and results?

Ms. Burke sees difficulties with that. "Unfortunately, I don't see the kind of movement existing today that was available when many of us were coming along. I think this is one of the reasons you find young people so disillusioned—they don't really have a strong, national force which they can identify with, a force that gives direction and that they can participate in. There's no experience like taking part in some of the large marches of the 60's. But there are small groups today that are very effective, that are working and getting participation. For instance, in the Los Angeles area we have the Brotherhood Crusade. It's charity-oriented, based on the idea of a black United Way. The Brotherhood Crusade operates in such a way that they're able to bring young people into a large organization.

"Operation Breadbasket has a great deal of appeal to young people today. And I think Operation Push can provide this kind of incentive. I find that many of the issues are environmental, so that the Sierra Club provides a political force. Many girls would probably enjoy working in some of the women's organizations.

"Selective law enforcement can only lead to general contempt for law and order, and thereby undermine the very foundations of our government."

"But none of these groups are quite as exciting as the NAACP and SCLC were. Things are not the same today. It's probably not as motivating and self-fulfilling, nor nearly as attractive as the civil rights movement was. But there's a need for people who are interested to get together and make sure these organizations are put together."

Yvonne Burke has been making sure things are put together for a long time now, and she speaks with wisdom and experience when she says, "It's very frustrating. But, you know, I think a person has to have some reason to exist. To me, one reason is to believe you're affecting other people's lives. One thing that politics can offer is an opportunity to affect, constructively, the lives of many, many people. It gives your life a new direction."

If being a woman or a wife has hindered her in her work, Ms. Burke is the last to say it. In fact, she is the first Congresswoman ever to be pregnant while in office, and the public response has been supportive.

"I was very happy with the way I was treated in the California state legislature," she recalls. "I found that my colleagues were willing to accept me for my ability, for the contribution I made. I felt that I got my legislation passed because of this.

"There's no question that legislative bodies operate basically as male clubs. Socially, such bodies are oriented to men because they are composed of men. When the time comes that there are more women, I suppose they'll become oriented to women.

"Most important to me in the California Assembly was that I had an opportunity for my legislative programs to become a reality, and I feel I got an equitable, excellent shake. I held leadership positions in spite of the fact that there were other people who had been there much longer. Throughout my whole experience I had input and participation."

The freedom to participate and to effect changes has been very precious to Yvonne Burke. She often tells groups to whom she speaks that politics is a mission which can be accomplished. Contrary to those who feel that politics is a dirty business of which they want no part, Ms. Burke feels that if you can educate your colleagues to far-reaching issues and the importance of those issues, you gain a great sense of accomplishment.

"For instance, in the California State Legislature, one of the things I was interested in was the garnishment of wages—taking a person's wages without court action. Most people I spoke to initially felt, 'Well, if you owe a bill, you should pay it.' But because I was there, I had an opportunity to explain to other legislators that often that person who was subject to the credit system might not even have access to an attorney who could explain legal benefits available to him. In California at that time, often half a person's wages could be taken, which meant that person didn't have rent or food for his children, and he had no access to a legal system. So when I went into the California Legislature, I was eventually able to get a strong bill through to eliminate prejudgment garnishment.

"Another thing I was able to do was to provide for the establishment of child care centers in our universities and state colleges. Many people used to tell me, 'If they're going to college, they're kids. They don't have any children—they don't need to have a child care center.' But then I explained that the age of many students in our state colleges was 26 and over. Many were married and have children. I also explained that many women on welfare, if they had a chance to go to a community college, which is a junior college, they could learn to be a nurse or a secretary and to work themselves off of welfare. In other words, this need for child care on campus was really not a matter of students running wild and leaving their children in a child care center; it was a matter of giving someone something to look forward to. I was able to sell this, but it wasn't an easy thing to do."

### THE DECIDING MOMENT IN HER LIFE CAME WHEN AT 13 SHE MET A JUDGE WHOSE WORK INSPIRED HER TO ENTER LAW

Ms. Burke is a firm believer in working for change through others. While pushing for unemployment insurance for farm workers, she belonged to a committee chaired by a young Democrat. She began hearings to which she brought articulate farmworkers and their families who explained that their children were never able to stay in the same school for more than two months, and how it was necessary to go on welfare between each season because they had no unemployment insurance. This became an educational experience for the young Democratic committee chairman, who subsequently became the leading spokesman for unemployment insurance for farmworkers. As Ms. Burke puts it, "The whole impetus had been changed by just this educational experience. When the committee chairman was so solid on it, it caught fire. It almost became a Democratic program after that."

Yvonne Burke, with the diplomacy born of her California experience, has managed to apply these insights to her new work on Capitol Hill.

"I've received a lot of advice," she says, "but one bit of advice that's impressed me more than anything else was that you can do a lot of things here in Washington, D.C., if you're not worried about your name being attached—about getting credit for it. I believe this. I think perhaps one of the things you have to master here is the art of convincing others that maybe they should accept your ideas. Then they can get credit for it, and it will be something that will assist them, and a lot of other people too, of course.

"But you know, the interesting thing is that the people that you're carrying bills for and the individuals back home who are affected—they usually know who has pushed things through. It may not be headlines, but the person who's affected usually has an idea."

It may not be headlines, but one thing is certain—Yvonne Braithwaite Burke is a person who gets the job done.

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## THE MIAMI DOLPHINS ARE NO. 1

## HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. BURKE of Florida. Mr. Speaker, on Sunday, January 13, 1974, in Houston, Tex., the Miami Dolphins insured for themselves a place in football history. They did so by soundly beating the Minnesota Vikings by a score of 24–7, and thereby became the second team to win back to back Super Bowl victories. However, they did this after becoming the first team to make it to the Super Bowl three times in succession. Perhaps now the American sporting public and particularly the sports writers will accept the Miami Dolphins for the football team it is and their players for the outstanding players they are.

Because the Dolphins were members of the American Football Conference, it was initially presumed that they did not have the ability or even the right to play in a championship game with the National Football Conference champions. Presumably, no team could ever approach the so-called ability of the old Green Bay Packers. It must have been extremely difficult for the Miami Dolphins to win game after game, to be in the playoffs on four different occasions, to win and appear in the Super Bowl on three successive occasions, and, at the same time, hear how lucky they were to be in the same field with their opponents.

The thing that most people did not recognize was that the Miami Dolphins played as a team and not as individual prima donnas. As individuals on the team, they were proud of each other, but yet recognized that, in order to be champions, each had to undertake his assigned task to help the other players on the team if they were to be classed as champions.

The same thing is applicable to Don Shula, the coach of the Miami Dolphins, who, in my opinion, has proved himself to be one of the greatest coaches, if not the greatest coach in professional football. It would seem to me that his record in the period of time in which he has been coaching should now speak for itself.

The thing that I am surprised about is that now the Dolphins won their last two Super Bowl victories in such easy fashion over the National Football Conference rivals, that those who peddle the sour grapes try to indicate that the Dolphins are a machine wholly devoid of personal feeling. This, again, is not only unfair, but it is untrue. Those who are players of the Miami Dolphins recognize the outstanding ability of Coach Shula and take pride not by reason of saying I am an individual star, but, instead, by accepting their greatness as a team of which they are a part.

If it appeared that the games lacked color, it was not because of the Miami Dolphins, but because of the inability of the other teams that they played to match them in their respective football skills. True, there have been many comparisons insofar as the abilities of Coach Vince Lombardi and Coach Don Shula and with respect to the Green Bay Packers of the 1960's and the Miami Dolphins of the 1970's, it is difficult to be accurate when comparisons of this sort are made.

In fact, I remember when there were those who laughed at the American Football Conference and presumed that they could never be on a par with the senior conference, namely the National Football Conference. One thing I do know is that the Miami Dolphins are champions; and, individually, they carry themselves as champions.

The Miami Dolphins are a young team, and I am sure when next year comes that every team in both conferences will make an attempt to emulate them and become a team equal to the standard of excellence that is the Miami Dolphins.

I wish to extend my heartiest congratulations also to Joe Robbie and to Mrs. Robbie whose confidence in the Miami Dolphins as principal owners thereof has never wavered. I extend, also, my congratulations to Coach Don Shula and to Larry Csonka for his outstanding performance on that memorable Sunday, January 13, when the Dolphins defeated the Minnesota Vikings. I congratulate each and every player who contributed so much as players, as athletes, as members of the Dolphins, as family men, and Americans.

I know that I speak for the people in the State of Florida and throughout other parts of the country when I say to you, Miami Dolphins, that you have made yourselves proud and you have made your boosters proud that they were your supporters.

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## NEWSLETTERS TO CONSTITUENTS

## HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. HAMILTON. Mr. Speaker, I include the following reports to constituents on actions taken in the first session of the 93d Congress:

House of Representatives,
*Washington, D.C.*

Dear Friend: In 1973 the Congress enacted several bills of interest to labor, including measures to:

Permit strikers to obtain food stamps.

Permit employer contributions to funds for financing legal services for employees.

Extend benefit increases in railroad workers' retirement annuities through 1974.

Extend community manpower programs with public employment in areas of high unemployment.

Authorize construction of the Alaskan oil pipeline.

The Congress was unable to override the President's veto of a bill which would have raised the minimum wage to $2.20 after June 30, 1974.

In 1974 the Congress will work on several major bills of interest to labor, including bills to establish standards for private pensions, to raise the minimum wage, and to increase public service employment.

Your views are important to me, and I welcome your comments on any legislation before the Congress. Please let me know if I can be helpful to you.

Sincerely,

Lee H. Hamilton,
*Member of Congress.*

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House of Representatives,
*Washington, D.C.*

Dear Friend: In 1973 the Congress took several steps to improve the quality of American education. After Congressional pressure $1.5 billion impounded by the President were released, and funds for libraries were continued. Other steps involved bills to:

Extend for two years programs of job training and rehabilitation of the handicapped.

Expand the National Foundation for the Arts and the Humanities.

Concentrate Basic Opportunity Grants on first-year, full-time college students.

Increase the federal contribution to school breakfast and lunch programs, and provide for semi-annual cost-of-living adjustments.

Provide cash for commodities that could not be supplied for school meals because of food shortages.

Provide support for environmental and drug abuse education.

1974 will be a major year for education legislation because the Elementary and Secondary Education Act expires June 30, 1974, and must be renewed. Other legislation to be considered would estabilsh an advisory council on women's education.

I appreciate your interest in education. Your views on legislation are important to me, and I welcome your comments. Please let me know if I can be helpful to you.

Sincerely,

Lee H. Hamilton,
*Member of Congress.*

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House of Representatives,
*Washington, D.C.*

Dear Friend: In 1973 the Congress took several steps to help federal employees, including legislation to:

Liberalize eligibility for cost-of-living increases in Civil Service annuities.

Improve the annual leave system by allowing greater accumulation of unused leave or payment in lieu of accumulated leave.

Increase the government's contribution to federal employees' health premiums to 60% by early 1975. (This bill will be sent to the President for his signature soon.)

Because one of the scheduled pay raises in 1972 was delayed by Presidential action, federal employees in 1973 received two cost-of-living increases.

Some other important measures awaiting action in the Congress are bills to:

Establish a federal labor relations authority, which would regulate labor-management relations for the entire executive branch.

Decrease the employee share and increase the federal share of contributions to federal retirement funds.

Make minimum Civil Service retirement annuities equal to the minimum Social Security benefit.

Liberalize retirement benefits for federal law enforcement officers and firemen.

I appreciate the work you do for the federal government. Your views on legislation are important to me, and I welcome your comments. Please let me know if I can be helpful to you.

Sincerely,

Lee H. Hamilton,
*Member of Congress.*

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House of Representatives,
*Washington, D.C.*

Dear Friend: In 1973 the Congress enacted several pieces of legislation of interest to low-income individuals.

On January 1, 1974, public service programs for the aged, blind and disabled, previously administered by the States, were replaced by a new Federal program of Supplemental Security Income. Congress has already acted to raise SSI benefits beginning in mid-1974. Congress also kept alive the Office of Economic Opportunity, including community action agencies.

Some other important bills enacted in 1973:

Provide for a distribution of cash to States for school food service programs in place of commodities.

Extend community manpower programs with public employment in areas of high unemployment.

Improve the Food Stamp program by providing for semi-annual adjustments of food stamp allotments to reflect inflation and extending the program to virtually all areas currently operating commodity distribution programs.

Much more needs to be done. I am hopeful that in 1974 the Congress will act to permit SSI recipients to receive food stamps, raise the minimum wage, require all public schools with needy children to offer a school lunch program by 1975, and provide legal services to low-income persons.

I appreciate your interest in legislation for low-income persons. Your views on legislation are important to me, and I welcome your comments. Please let me know if I can be helpful to you.

Sincerely,

Lee H. Hamilton,
*Member of Congress.*

House of Representatives,
*Washington, D.C.*

Dear Friend: In 1973 the Congress enacted several measures of interest to small businessmen, including bills to:

Establish a new disaster relief program giving the Small Business Administration and the FHA authority to grant 5% no-forgiveness disaster loans to persons who cannot obtain loans elsewhere.

Authorize the SBA to make loans to assist small businesses in meeting Federal regulatory standards.

The President vetoed another bill which would have expanded SBA loan programs and raised the SBA loan ceiling.

I am aware that much remains to be done before the Congress will have fulfilled its obligation to small businessmen. In 1974, I hope that the Congress will direct more of its attention to the critical problems of small business, including a bill I support to reduce the federal paperwork burden for small businessmen, and that it will revise the tax structure so that the tax burden will be distributed more equitably between large and small businesses.

Your views are important to me, and I welcome your comments on legislation before the Congress. Please let me know if I can be helpful to you.

Sincerely,

Lee H. Hamilton,
*Member of Congress.*

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House of Representatives,
*Washington, D.C.*

Dear Friend: In 1973 the Congress enacted several pieces of legislation of interest to veterans. Chief among them were bills to:

Provide a 10% increase in non-service-connected pension rates and increase the rates for hospitalized veterans and the children of deceased veterans.

Establish within the Veterans' Administration a National Cemeteries System, with a special $150 burial plot allowance, in addition to the present allowance of $250, in cases where a veteran is not buried in a federal cemetery.

Widen the scope of treatment VA hospitals may provide, and expand medical services to veterans' dependents.

Establish a Veterans Loan Guaranty Program, with flexible interest rates to be set by the Administrator of the VA.

Several measures await Congressional action in 1974. These include bills to:

Improve veterans' educational benefits and increase service-connected compensation.

Provide care for disabled veterans suffering from alcoholism or other drug problems.

Extend full Servicemen's Group Life Insurance to members of the Reserves and National Guard.

Grant tax relief for civilian or military personnel returning from Vietnam, including prisoners of war and the families of personnel missing in action.

I appreciate your interest in legislation for veterans. Your views on legislation are important to me, and I welcome your comments. Please let me know if I can be helpful to you.

Sincerely,

Lee H. Hamilton,
*Member of Congress.*

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House of Representatives,
*Washington, D.C.*

Dear Friend: In 1973 the Congress enacted several pieces of legislation of interest to farmers and rural residents:

(1) A new omnibus farm bill encourages production, establishes target levels on basic crops, increases dairy price support levels, and establishes a new rural conservation program, featuring long-term contracts in dealing with conservation problems. It requires export reporting to monitor foreign grain sales and extends the Food Stamp and Food for Peace programs.

(2) A new disaster relief program permits 5%, no-forgiveness emergency farm loans to persons who cannot obtain loans elsewhere.

(3) A restructuring of the Rural Electrification Administration converts it into an insured and guaranteed loan program, with 2% loans for rural electrification and telephone systems in sparsely populated areas.

(4) The federal share of funds for school breakfast and lunch programs was increased, and the USDA was required to make up in cash for the commodities it cannot supply to schools because of food shortages.

There may be action in 1974 to strengthen federal regulation of futures trading and to deny the President the authority to impound agriculture and rural development funds.

I appreciate your interest in agricultural and rural America. Your views on legislaton are important to me, and I welcome your comments. Please let me know if I can be helpful to you.

Sincerely,

Lee H. Hamilton,
*Member of Congress.*

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House of Representatives,
*Washington, D.C.*

Dear Friend: In 1973 the Congress enacted several pieces of legislation of interest to older persons.

It increased Social Security benefits by 11% in 1974 in two steps—7% in March and 4% in June. It increased to $2,400 the amount a Social Security beneficiary under 72 may earn in a year and still receive full benefits.

On January 1, 1974, public service programs for the aged, blind and disabled, previously administered by the states, were replaced by a new federal program of Supplemental Security Income. Congress acted to increase these SSI benefits bgeinning in July, 1974.

Some other important bills enacted in 1973:

Protected needy persons from losing Medicare coverage when the SSI program went into effect.

Permitted elderly persons to use food stamps to purchase meals at community centers.

Extended benefit increases in railroad workers' retirement annuities.

Provided part-time work opportunities in community service activities for low-income people over 55.

Provided funds to develop educational and library programs for the elderly.

Provided for further research on the problems of older Americans and funds for a variety of services for them.

I am hopeful that in 1974 the Congress will act to: allow SSI recipients to receive food stamps, protect private pensions, extend Medicare coverage to prescription drugs used at home, and further improve Social Security.

I appreciate your interest in legislation for older persons. Your views on legislation are important to me, and I welcome your comments. Please let me know if I can be helpful to you.

Lee H. Hamilton,
*Member of Congress.*

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## ENVIRONMENTALISTS: AIMS OF ANGELS, TOOLS OF TYRANTS

### HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. CRANE. Mr. Speaker, there are a number of causes of the energy problems we face at this time. One, clearly, is the Arab embargo upon oil shipments to the United States. Yet, long before the latest Middle East war began, gasoline was scarce.

The scarcity of gasoline during the past summer was directly caused by unwarranted governmental intervention in the economy. This was done in several ways. One was strict controls upon the price of natural gas, which eliminated any incentive to produce additional natural gas. This transferred demand to petroleum products and here we observe a second governmental interference in the economy, import quotas which prevented us from obtaining necessary oil supplies from abroad.

Thus, long before the Arab embargo, our own Government had created a minor crisis all by itself.

While Government planners deserve a share of the responsibility for our present plight, an equal, if not greater, share belongs to those self-appointed environmentalists who, in pursuit of a worthy cause, have made it almost impossible for our economy to function properly.

Discussing this situation, Shirley Scheibla, Washington editor of Barron's, noted that—

> If court action by environmentalists had not blocked construction of the Alaskan pipeline, today we already would be receiving over a million barrels a day from that one source. . . . Another tremendous source of domestic oil and natural gas lies offshore. According to the Interior Department, about 3 million acres a year in prime prospective tracts should be made available for exploration. But back in 1971 when the Department started a five year program calling for general lease sales, the Natural Resources Defense Council obtained a court injunction which held up the sale of 346,000 acres from December, 1971 to September 1972.

The roadblocks which environmentalists have placed in the path of any effort to achieve energy self-sufficiency have been notable. Mrs. Scheibla reports that—

> To help encourage exploration for natural gas, the Administration has called for ending price regulation by the Federal Power Commission. But FPC Chairman John Nassikas told me, "If we just de-regulate all gas, that wouldn't solve the problem because, without opening up the federal offshore leases, it would only run up the price and not bring out enought gas." Thus, the environmentalists are discouraging exploration for one of the cleanest and most environmentally acceptable fuels.

In her recent talk to the security subcommittee of the National Security Industrial Association, Mrs. Scheibla discusses the maze of rules and regulations which have made it almost impossible for American business and industry to meet the demands of today's complex world. She concludes that—

> . . . the environmental and allied movements are using the aims of angels to fashion the tools of tyrants.

I wish to share with my colleagues the address of Mrs. Shirley Scheibla, presented October 10, 1973, in Washington, D.C., and insert it into the Record at this time:

#### REMARKS OF MRS. SHIRLEY SCHEIBLA, WASHINGTON EDITOR OF BARRON'S

#### AIMS OF ANGELS, TOOLS OF TYRANTS

Scientists probably won't know for years the full significance of the astronauts' proven ability to live in space for 59 days.

But one bad fallout from the space program already is readily apparent—the widespread belief that the United States government can do just about anything if it devotes enough resources to it.

The War on Poverty already has proven that this is not true. Instead of ending poverty, it has created monumental problems. Now the government has embarked on a crash program to stop pollution and make everything safe and beautiful. Like the elimination of poverty, it's a hard goal for politicians to quarrel with.

### BEYOND GOAL-SETTING

This newest crash program, however, now has gone beyond the goal-setting stage. In addition to your activities of looking for those who would overthrow the grovernment by force, it would be well worth your while to examine what this program has done so far and where it is leading. It has waked the nation up to the need to control pollution, and that is indeed laudable. But the hysteria and insistence on a crash program to end pollution at all costs already has made serious inroads on the profit system and actually has been counter-productive in several important instances. Unguided by common sense and the art of the possible, it can lead to totalitarianism and the end of capitalism.

### ENERGY SHORTAGE

Since nothing can disrupt industry or bring a nation to its knees faster than an energy shortage, let's take a look first at what the environmental movement has done in that field. The fuel shortage is forcing the United States to currently import oil at a record rate of over a million barrels a day from the unstable, unfriendly Middle East. Yet if court action by environmentalists had not blocked construction of the Alaskan pipeline, today we already would be receiving over a million barrels a day from that one source.

Even if Congress passes pending legislation during this session to enable construction to go forward, we could not receive oil from that pipeline for four years since that is the minimum time required for construction. Meantime, the estimated cost of the pipeline has escalated from $1.5 billion to $3.6 billion, and a large part of one of the richest oil fields in the world lies unexplored because of lack of means to transport new discoveries. (The planned capacity of the pipeline is 2 million barrels a day, while already discovered oil would mean 1.2 million barrels a day.) Let us all pause for a moment and give thought to Alaska's caribou and permafrost and the price we are paying for their comfort and preservation.

### OFFSHORE OIL AND GAS

Another tremendous source of domestic oil and natural gas lies offshore According to the Interior Department, about 3 million acres a year in prime prospective tracts should be made available for exploration. But back in 1971 when the Department started a five-year program calling for general lease sales, the Natural Resources Council obtained a court injunction which held up the sale of 346,000 acres from December 1971 to September 1972. Environmentalists have protested the sales of more than a million acres of leases since then and are threatening to take the Interior Department to court over the first lease sale in the Florida Gulf Coast, scheduled for December of this year. Also taking in parts of Mississippi and Alabama, it is expected to involve 800,000 acres.

### NASSIKAS WARNING

To help encourage exploration for natural gas, the Administration has called for ending price regulation by the Federal Power Commission. But FPC Chairman John Nassikas told me, "If we just de-regulated all gas, that wouldn't solve the problem, without opening up the federal offshore leases, it would only run up the price and not bring out enough gas."

Thus, the environmentalists are discouraging exploration for one of the cleanest and most environmentally acceptable fuels.

### SANTA BARBARA

Because of pressure from environmentalists, the Interior Department, in apparent violation of sanctity of contract and due process of law, indefinitely suspended 35 oil leases in the Santa Barbara channel. They are located in the vicinity of a blowout which several years ago poured oil over 400 square miles of ocean surface and 100 miles of coastline. However, production at the blowout site is continuing because capping would increase the risk of another disaster. As for the area comprising the 35 leases, the Geological Survey has concluded it is no more prone than any other to blowouts and that the potential benefits outweigh the slight risk involved in drilling.

### OIL IMPORT QUOTAS

Back in 1959 the Interior Department imposed oil import quotas on grounds of national security. It said the quotas were essential to encourage domestic exploration and development. The idea very clearly was to bring about high enough prices for such encouragement. Prices never got that high, however, and the hoped for production boost did not occur. Because of pressure from the consumer movement, the Interior Department let the oil companies know it would increase imports if prices got too high. Now, of course, regardless of prices, the situation is too desperate to continue the import quotas.

### DEEPWATER PORTS

The most efficient way to handle the increasing imports is to build deepwater ports, and several groups of companies are interested in spending the hundreds of millions of dollars each one would cost. Such ports would require legislation, however, and naturally, the environmentalists are opposing it.

### REFINERIES

They already have blocked construction of several refineries in the U.S. Let me just tick off a few: A Stuart Petroleum refinery at Piney Point, Md., to operate in conjunction with a bulk plant it already has there; a 100,000 barrel a day facility by Supermarine Inc. at Hoboken, N.J. on the site of the old Todd Shipyard; a 65,000 barrel a day refinery by North East Petroleum at Tiverton, R.I.; expansion of the Amerada Hess plant at Port Reading, N.J. and expansion by Chevron East at Perth Amboy, N.J.

Shell Oil Co. tried to build a 150,000 barrel a day refinery on Delaware Bay but ran into a state law obtained by the environmentalists which prohibits refineries and other heavy industry within 10 miles of the coast. McClean Fuels Co. wanted to build a 200,000 barrel a day refinery at three different locations, South Portland, Me., Searsport, Me. and Riverhead, L.I., but failed to get environmental approval.

### FUEL PENALTIES

Discouragement for obtaining petroleum would seem to dictate stringent use of it, but environmentalism is resulting in just the opposite. At the beginning of this year when he was head of the Office of Emergency Preparedness, General George Lincoln said that cleaning up auto exhausts already has cost 300,000 barrels a day of extra gasoline and will cost about two million barrels a day by 1980. Additional safety equipment means more fuel penalties because of the extra weight. Also, taking the lead out to please environmentalists means a 15% to 20% decrease in fuel efficiency.

### BOILER FUEL

Because of the natural gas scarcity, the Federal Power Commission has been trying to discourage wasteful use of it as a boiler fuel. But here again environmental demands are causing trouble. The Commission is finding that many firms feel forced to use clean natural gas for boiler fuel because of anti-pollution requirements. Incidentally, some who converted their facilities to use oil because of FPC pressure and natural gas scarcity now are having trouble getting oil.

### COAL IS BLACK

Coal, of course, is the only domestic fuel in plentiful supply. But it's name is black with environmentalists because it is dirty. Filters have not yet been perfected. Neither has liquefied coal. Meantime reliance on limited supplies of low-sulphur coal is creating much economic hardship.

Since there are inadequate resources for extensive hydro-power, and technology is still evolving for oil shale, thermal, solar, tidal and other exotic sources of power, that leaves only the atom. But that's anathema to environmentalists.

### NUCLEAR POWER PLANTS

In a massive fuel study released early this year, the National Petroleum Council said that 23 nuclear power plants with a capacity of 20,000 megawatts will be delayed six months to three years by environmental obstacles. Let me stop here to translate for you the meaning of 20,000 megawatts. That's 20 million kilowatts, and a kilowatt is equal to 1,000 watts. I have a good-sized home covering 3,000 square feet, and it has 50 kilowatts. The next time we have a brown-out or black-out, you might consider how many homes, offices and factories those 20 million kilowatts would power (The Council also said each year's delay could cost the electric utility industry between $5 billion and $6 billion.) For 17 months following the Calvert Cliffs decision by the Court of Appeals the Atomic Energy Commission licensed no plants at all while it took time to do the environmental studies required.

Now Ralph Nader and Friends of the Earth have gone to court to force closure of 20 of the 31 operating plants but have failed to obtain an immediate injunction, and the issue of whether they should be closed is still pending before a court of appeals.

### AUTOS

A new game plan is to penalize use of private autos and compel greater travel by public transportation. This, so the reasoning goes, not only would mean purer air, but less use of gasoline, thus leaving more petroleum for other purposes. So far as I can determine, however, no one has figured out how the nation's cities, already strapped financially, are going to be able to afford the big outlays for public transportation this will require. The tendency is to look to the federal government, but I suggest that those who do so also take a look at the current size of the federal budget. Also ignored is how greater public transport would affect the private auto market and, in turn, the nation's economy since the auto industry makes up such a large part of it.

### CLEAN AIR ACT

The transportation edicts are framed by the Environmental Protection Agency under authority of the Clean Air Act which is one of the greatest instruments of tyranny ever fashioned by Congress. Although EPA itself admits that some of its orders under it lack scientific validity and that it is having trouble equating economic costs with health benefits, woe be to anyone who doesn't obey EPA. The Act calls for fines of up to $25,000 a day and imprisonment up to a year for a first violation of EPA rules and $50,000 a day and two years for a second offense. In some instances compliance requires passage of state laws. Yet, the Bill of Rights notwithstanding, the penalties for non-compliance apply to state and local officials as well as ordinary citizens.

Under the Act, EPA also is struggling with what one official calls the "biggest challenge in the air program" by trying to nail down specific requirements for about 50,000 individual stationery sources.

### NON-DEGRADATION OF CLEAN AIR

But that's only one facet of the Clean Air Act. Last June, in a case brought by the Sierra Club, the U.S. Supreme Court upheld the ruling of a lower court that there must be no significant degradation of air quality, even for areas which presently have cleaner air than required by federal standards. This could throttle industrial development for clean areas. In a stab at defining "significant" in a way that would allow some development, EPA held hearings in August on four rules it suggested. The Sierra Club, however, has notified EPA that it doesn't like any of the ideas and will take the agency to court if it tries to implement any of them.

### LAND USE CONTROLS

The draconian Clean Air Act notwithstanding, EPA officials still aren't satisfied with their tools for forcing purity in the air and elsewhere. They are advocating legislation which would require an EPA okay for any use to which land might be put. Thus, a buyer who paid a handsome sum for a choice site with a specific use in mind might find that use vetoed by EPA—if the land use planning legislation goes through. If it does, kiss property rights good-bye in the name of purity.

### WATER POLLUTION

Agency action under the Water Pollution Act is not so far along since the measure was enacted only last year. Here too, however, it appears that EPA is using it to impose expensive controls on industry. They are expected to cost billions of dollars and cause some plant closings. Nevertheless, in a study for EPA not yet made public, the National Academy of Sciences has found that many of EPA's criteria are faulty and lack adequate scientific justification.

### DDT

EPA also administers the nationwide ban on DDT. The depradations of the Gypsy Moth in the east as a result are well known. Now the Tussock Moth is devastating northwest forests and worsening the shortage of timber. Consequently, some of the original Senate sponsors of the DDT ban are trying to get it rescinded.

### OSHA

The Occupational Safety and Health Act, administered by the Labor Department, is providing just as potent anti-business weapons as the environmental and consumer movements. A year ago George C. Guenther, then Assistant Secretary of Labor for Occupational Safety, told me that under OSHA, the Labor Department commands enough power to put everybody out of business. That is not hard to understand. Senator Carl Curtis (R., Neb.) told the Senate that regulations implementing the law make up a stack 17 feet high. Virtually every employer is in violation of OSHA one way or another, and the Labor Department has authority under the law to assess fines without court review. Critics of the law are legion and even include some of its original Congressional sponsors. One of the main complaints is that it is inflating the cost of doing business without corresponding gains in safety and health.

As this cursory glance shows, the environmental and allied movements are using the aims of angels to fashion the tools of tyrants. Let us hope that the hysterical crash program soon succumbs to the rule of reason so that we can get on with the job of cleaning up under the system which affords the greatest freedom, efficiency and general well-being of any yet devised by man.

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## REPRESENTATIVE ANDREW YOUNG ON MARTIN LUTHER KING

## HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mrs. CHISHOLM. Mr. Speaker, we hear a lot of talk about "beautiful people." I would like to share with my colleagues in Congress an article written by Congressman ANDREW YOUNG about Martin Luther King—two truly beautiful people. ANDY YOUNG was an intimate associate of Dr. King in the Southern Christian Leadership Conference throughout the years of struggle and victory for the cause of human freedom and equality. This article appeared in the New York Times on January 15, the anniversary of Dr. King's birth.

### KING'S LEGACY TO AMERICA

(By Andrew Young)

WASHINGTON.—He would have been 45 years old today but he never reached his 40th birthday. So much could have been different had not the Rev. Dr. Martin Luther King Jr.'s heart been stilled by an assassin on that infamous day in Memphis, April 4, 1968.

He would have never allowed this nation to forget its calling nor to delude itself into thinking that there was little or no difference between Richard M. Nixon and Hubert H. Humphrey in 1968. He would have refused to interpret the death of more than 45,000 American sons in an immoral war as "achieving peace." The years of revolutionary rhetoric and frustrating politics might have been spent better, and perhaps we would be much further down the road toward realization of his dream of only ten short years past.

But even in death Martin bequeathed his humble contributions. He gave more to this nation in 39 years than many men of equal talent would ever envision. In Montgomery, Ala., in 1955 he broke the terror of silence and gave voice to the plaintive longing for justice in the hearts of ten million Southern black Americans. He taught us how to live and pointed us in the direction of equality without ever giving in to hatred.

He advocated a method of change that thrived on an organized aggressive good-will that confronted evil and refused to be drawn into its web of complicity. He demonstrated that "truth"—a deep understanding of man's conflicts—and "love"—a systematic attack on specific injustice while forgiving all those involved by tradition or weakness—can be mobilized into beautiful, world-changing forces.

He never despaired of his commitment to nonviolence, but he would despair of his inability to overcome the violence to which this society is prone. He dared to confront a nation whose total orientation had been programed toward violence—cops and robbers, cowboys and gunslingers, a $70-billion Pentagon budget—with the notion that soul and mind were more powerful than even atomic weapons.

His organization and message never had more than a few hundred thousand dollars yet in Birmingham he turned around an entire nation with only a staff of 14. Had it not been for those efforts, the Southern states might have been a bitter and bloody battlefield that would have made violence in Northern Ireland pale by comparison.

Today his thought cries out to us. His warning, "nonviolence or nonexistence," has been heard by millions who are now ready to say, "I ain't gonna study war no more."

One would think that such a man would have been unanimously acclaimed by his fellow men, yet his life and works were constantly harassed by those who veiled themselves in the authority of Government. The F.B.I. spread malicious gossip, tapped his phones and bugged his places of residence and work long before such acts became fashionable. He was informed of this surveillance by both President Kennedy and Attorney General Robert F. Kennedy, but he did not protest, and seemed more concerned about their fear than his own vulnerability.

The Internal Revenue Service had him indicted for tax evasion, only to see his case rejected by an all-white jury in Alabama. However, Marin's tax problems were with him until his death. His difficulty was that he gave away too much of his earnings. His Nobel Peace Prize in 1964, about $54,000, was divided among movement organizations—with the Southern Christian Leadership Conference receiving the smallest portion. He had to borrow money to pay taxes on money he had given away. No tax-shelter or charity-depletion allowances were available to him, and he donated his early papers to Boston University with no consideration of a deduction.

Through all the trials and tribulations, his was a beautiful life, the life of a man who belonged to others, the "least of these" in our society.

He would have been proud of the progress we have made politically. The election of black mayors in Atlanta, Los Angeles, Detroit, Raleigh, and more than a thousand elected black officials in the South alone are a fulfillment of an important part of his dream.

It is not generally realized that his movement stressed gaining the vote: "Give me the ballot." Martin spent more time marching on behalf of voting rights than any other issue. The most important civil-rights legislation of the century was the product of his 1965 movement in Selma, Ala. The election of those of us in white-majority districts indicates not only a growth of new black voting strength but also white progress beyond the heritage of racism.

The big question, the economic question, that he raised in the Poor People's Campaign on the eve of his murder, is still confronting America. Martin knew that it did little good to open up public accommodations if a man had not means of paying for goods and services.

Before the campaign, few acknowledged that widespread hunger existed, and even fewer discussed the notion of some form of guaranteed income. Today, many more Americans have experienced unemployment and declining purchasing power. Sometime in the not-too-distant future, we have got to face squarely the questions of income distribution and United States economic policy, for the fabric of our society is being torn asunder by the corruption and greed of a few.

"The people who sat in darkness have seen a great light," Martin said. "Our only hope today lies in our ability to recapture the revolutionary spirit and go out into a sometimes hostile world declaring eternal hostility to poverty, racism and militarism. With this powerful commitment we shall boldly challenge the status quo and unjust mores and thereby speed the day when "every valley shall be exalted, and every mountain and hill shall be made low, and the crooked shall be made straight and the rough places plain."

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## ADVANCES IN PARAPLEGIA RESEARCH

## HON. ORVAL HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. HANSEN of Idaho. Mr. Speaker, in a continuing effort to keep my colleagues apprised of current efforts aimed at eventually finding a cure for paraplegia, I would like to share with them some interesting trends concerning research in this vital area that have been compiled by Mr. Richard Veraa, a noted and distinguished leader in this field.

In an article published in the December 1973 issue of Paraplegia News magazine, Mr. Veraa points out the following:

In 1966, only 9 scientific papers were published throughout the world relating to regeneration of the central nervous system; in 1972, there were 71.

In 1966, only 17 research projects in this field were underway in the United States. Now there are 189.

And, while the National Institute of Neurological Diseased and Stroke—NINDS—funded only 10 regeneration-oriented projects in 1966 for a total of $277,000, in 1972 it supported 97 for a total of $4.3 million. This is nearly a tenfold increase in the number of projects and is more than a fifteenfold increase in dollars involved. This is truly progress.

However, Mr. Veraa also notes that by last September there were already 23 projects totaling $875,000 that were approved on merit but not funded due to lack of funds. This clearly illustrates a situation, unlike others, where the amount of well-thought-out ideas, carefully evaluated and approved, exceeds the dollars available to fund them. So often it is the other way around—the dollars are appropriated with only a vague idea of what the money will be specifically used for. As we know so well, that is when a program or project has a greater chance of failure.

To provide my colleagues with more information, Mr. Speaker, and as a call to future action in finding a cure to paraplegia—which until a few short years ago we thought impossible. I insert the complete text of Mr. Veraa's article in the RECORD at this point:

### RESEARCH NOTES

(By Richard Veraa)

### ROCKY ROAD

This column has often alluded to the increased interest and activity among scientists in the repair of damage to the spinal cord and the central nervous system in general. Although it's difficult to place numbers on the painstaking progress of science, a few relevant figures might be of interest.

In 1967, the National Paraplegia Foundation commissioned a study of research at that time. It included a bibliography prepared by the UCLA Brain Information Service, a tabulation of relevant projects sponsored by the National Institute of Neurological Diseases and Blindness (now the National Institute of Neurological Diseases and Stroke, NINDS), and abstracts of *all* relevant ongoing projects prepared by the Smithsonian Institution Science Information Exchange.

Recently this writer has requested searches of similar updated information from the same sources (with the addition of a bibliographic search by the MEDLINE computer system of the National Library of Medicine).

### GRATIFYING INCREASE

The comparison between the years 1966 and 1972 is startling and very gratifying. In 1966, throughout the world, only 9 scientific papers were published reporting findings applicable to the problem of CNS regeneration. In 1972, there were 71.

In 1966 there were only 17 research projects under way at various institutions in the United States dealing with this problem. This number has risen to 189.

Scientific interest and optimism has been recognized by the government—to a great extent through NPF's efforts—so that while NINDS funded only 10 regeneration-oriented projects for a total of $276,722 in 1966, in 1972 a total of 97 projects were supported, for $4,313,107. An additional 92 projects were supported by other government agencies and private sources.

### NOT READY

All this activity represents an extraordinary change in thinking. In the 60s the thought of repairing a damaged human spinal cord seemed utterly impossible—and the few who held a belief that it *might* be possible were hampered both by lack of support and also by the fact that in many ways biological science at that time was not yet ready to tackle the problem in new and meaningful ways.

But the double advent of the "biological revolution" in science and the "space age" in technology was just then opening a multitude of avenues of significant investigation and providing scientists with a sophisticated new arsenal of instruments and techniques.

With scientific interest finally catching on and significant progress finally being made, as reported in the journals, a disturbing economic fact has emerged with the most recent update of NINDS grants, dated September 28, 1973.

### SAD CATEGORY

Grant applications to NINDS are carefully reviewed for merit by a council of eminent scientists, who thoroughly evaluate each proposal to assure that grant funds will be used wisely. Recently, however, in these days of tight budgets and funds frozen or withheld by the Administration, a sad category appears among the grant listings: "Meritorious Proposals Approved But Not Funded."

In 1972 these comprised eight proposals totalling $185,262. By last September this number had swollen to 23 proposals totalling $875,192.

In 1972, shortly after the tabulation for that year had been released, a NINDS official responded to a call for additional research with the observation that money alone could not solve the problem unless there were enough qualified scientists willing and able to engage in meaningful research in this area. "We need ideas," he said, "not just dollars."

When we pointed out that there were at that time at least eight qualified scientists whose ideas had been approved by a council of their peers, and who did indeed need 185,262 dollars, he agreed that this was regrettably true, but that it was a temporary condition caused by the Administration's anti-inflationary fund holdbacks.

These matters are truly beyond the control of the Institute, which is fully committed to the fullest support of regeneration research. He expressed the hope shared by all of us that the remaining funds would soon be available.

### A VICTIM

The most recent grant summary, however, indicates that although the total amount of funds released has increased to $5,632,985, the number of projects supported has dropped from 97 to 94. Thus, the increased money has not even kept up with the increased costs of laboratory equipment and supplies.

It is strange that the Administration justifies its austerity in research funding with the spectre of inflation. Research—far from being a "cause" of inflation—is one of its greatest victims.

The 23 grant proposals currently unfunded—23 valuable ideas—represent a tremendous loss in man-and-mind power for the cause of paraplegia. Our greatest need for the long run is the continuing interest of active able scientists. That interest is alive and growing, but it is still young and small compared to that in other fields, such as cancer and heart disease. And it needs more than any to be encouraged.

### DETAILED DOCUMENT

A Federal research grant application is a massive book-length document. It must describe exactly what the applicant plans to do and how he will do it. It must cite the work of others, showing what is presently known or theorized, explaining how the applicant's work will add to man's knowledge. It must show in considerable detail not only what techniques will be used and what data they may be expected to yield, but also to justify the expense of every aspect of the project almost to the penny.

The preparation of one of these applications is a formidable research project in itself, sometimes taking more than a year of preliminary experiments and study of the literature. There can, then, be hardly anything more frustrating, disheartening, and discouraging than to have such a proposal judged meritorious by a council of one's most learned fellow scientists, and then to learn that no funds are available for the project. Nothing could be better calculated to turn a person off.

And it is not just a matter of 23 investigators. Each project involves a team of some ten scientists—any one of whom just might hold the key we seek. Further, the "junior partners" of each team are usually students whose entire life's work is very likely to continue the work begun as a student. We are thus losing not only 23 worthy projects, but possibly many more brilliant lifetimes.

### NO OTHER SOURCE

In recent months the National Paraplegia Foundation has received grant requests from Laval University (Quebec), The University of Lund (Sweden), Rutgers University, the University of Pittsburgh, Colorado State University, the University of Chicago, the University of Washington, Northwestern University, and the University of Indiana.

Most were among those approved by the NINDS Council, and many indicated that they realized that NPF's capacity for research support is extremely limited. But no other sources were available. It is clear that the needs of worthy and profitable research are not being met either by public or by private sources.

In June a petition distributed by the Federation of American Scientists under the sponsorship of three Nobel prize winners in the National Institutes of Health was signed by 2,000 scientists protesting the Administration's research funding policies. Also mentioned in the petition and commented on by members of NPF's Scientific Advisory Committee was an additional factor not reflected in the figures on project grants. Scientific educational funds—specifically, postdoctoral fellowships to outstanding young scientists—have been even more stringently curtailed. This can have a devastating effect on scientific progress in the future.

### NEED GREAT

NPF does maintain a fund allocated for support of research, to be disbursed on recommendation of the Scientific Advisory Committee. Unfortunately, the money presently remaining in this fund is now hardly enough to purchase a good microscope or support a postdoctoral fellow through a semester! The generosity that established the fund permitted the awarding of a few small emergency grants that were important in tiding over a small bit of the valuable work that might otherwise have perished. But the need is great—at least $875,192 this year.

Recently, new fund-raising efforts have been initiated by NPF chapters to help meet some of this need. These will be described in a later column. Anyone interested in helping to raise funds may contact the NPF National Office, 333 North Michigan Avenue, Chicago, Illinois 60601, or Richard Veraa, 3397 N.W. 33 Court, Fort Lauderdale, Fla. 33309.

It is also most important to write to your Congressmen and to the White House requesting higher priorities and a more productive policy for support of basic neurological research. If others won't do it, it's up to us.

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## HIGH SCHOOL METEOROLOGIST

## HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. WALSH. Mr. Speaker, very often today's young people complain about not being allowed to participate in the mainstream of society. Many times those complaints are justified, but in the case of an Auburn, N.Y., high school student, no such statement can be made. A recent article in the Syracuse Herald-American details how 17-year-old Michael Speck of Auburn has picked a career and a profession and made himself an active part of that profession while still in high school. I would like to share that article with my colleagues:

If there's one subject that dominates the conversations of Upstaters, it's the weather. And while we still don't seem to be able to do much about it, there is a select group who are doing a little more than talking about it.

One individual is Michael J. Speck, a senior at Auburn High, who's been operating a substation for the National Weather Service for the past four years. Though his official duties are restricted to precipitation and temperature recording, Mike's interest in meteorology has expanded far beyond the simple readings of thermometers and rain gauges. Packed into a tiny basement room in the Speck home at 32 South Hurd Circle are two ceiling-high racks of atmospheric monitoring devices reminiscent of a control board for a NASA moon shot.

Pulsating beams of light skitter across oscilloscopes, drum recorders plot the fluctuations of air pressure and temperature and a vintage World War II teletype machine spews meteorological information from other stations around the country.

The amazing thing about Mike's operation is that he bought, restored and installed almost all the equipment himself, beginning with a few simple instruments and gradually adding devices which measure and record wind speed and direction, solar intensity and duration, sferic activity (electrical activity, enables Mike to locate thunderstorms as far away as 600 miles), humidity, rain and snowfall and accumulation, air pressure and temperature.

Much of Speck's equipment was purchased from government and industrial surplus or from a recent radio station auction. And some, including the racks which house the devices, was scavenged at the city dump.

The main reason for such frugality is that the weather service doesn't provide funds for equipment or services for the more than 12,000 observers around the country. The almost 50 observers in Central New York are volunteers who, with the exceptions of a few thermometers, provide all their own equipment and who share an abiding interest in weather.

Mike's monthly temperature and precipitation readings are sent to Dr. B. A. Pack, senior research associate with the Department of Atmospheric Sciences at Cornell, one of the schools Mike favors for continuing his education next fall.

If he does decide on Cornell, he'll be following his brother, David, a junior majoring in chemistry, who helped Mike with some of the electronics problems he ran into when installing his station.

With college less than a year away, Mike's been planning for his months away from home. He recently installed a digital recorder which automatically prints a permanent record of nearly all meteorological data, eliminating the need for laborious copying of charts and leaving more time for analysis of climatological trends.

Meteorology is becoming more and more of an exact science, says Mike, who contemplates a career in the field. "Ultimately we may even be able to control it to some extent. Until then, we'll have to be content to talk about it."

Michael Speck is to be congratulated for his initiative and resourcefulness and should serve as a shining example to other young people that if they have enough interest in a goal and are willing to work hard, that goal can be accomplished.

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## CONTRIBUTIONS TO PRESIDENT NIXON'S CAMPAIGN

## HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. ASPIN. Mr. Speaker, for the past several days executives of the major oil companies have been testifying before the Senate Committee on Investigations. So that my colleagues will have a better idea of the activities of these individuals, I am taking the liberty of inserting into the CONGRESSIONAL RECORD a record of their contributions to the reelection campaign of President Nixon.

The officers of the "big seven" may have had a slightly cool reception here on Capitol Hill, but from all indications very much the opposite has been taking place at the White House. After financing almost 10 percent of Mr. Nixon's last campaign the oil barons seem to have been assured of smooth sailing by the administration. Mr. Simon's reluctance to proceed with the implementation of an excess profits tax only reinforces my belief that Mr. Nixon is so beholden to the oil interests that he will never direct that they share in the sacrifices being made by the American people.

The material follows:

CONTRIBUTORS—PART III

TENNECO

| | |
|---|---|
| Askin, S | $1,350 |
| Ackerman, L. C., Newport | 1,250 |
| Allison, S. F., Sen. VP | 1,000 |
| Allen, Herbert, Dir | 2,200 |
| Biaggini, B. F., Dir | 5,000 |
| Broadman, A. R., VP | 500 |
| Brogdon, J. S., Tennessee Gas Trans., VP | 500 |
| Buxton, J. T | 500 |
| Bonfield, G. B., Jr | 600 |
| Bayly, G. V., Pack | 600 |
| Campbell, L. W. A., Tennessee Gas Trans | 625 |
| Cook, Thomas G., Walker | 1,500 |
| Dugger, R. W., VP | 550 |
| Diesel, J. P., Newport News | 1,000 |
| Ellis, S. T | 1,190 |
| Freeman, N. W | 2,000 |
| Fitzgerald, G. M | 600 |
| Fox, Jack L | 500 |
| Harris, Henry, Dir | 10,000 |
| Hancock, Thomas | $500 |
| Ketelsen, J. L., JI | 500 |
| Lee, Leonard, VP | 500 |
| Lyman, John C., Chem VP | 500 |
| McGee, R. E., Exec VP | 1,500 |
| Mark, Dewey, T Oil | 500 |
| Meason, G. H., T Oil | 1,000 |
| Marguleas, MGT | 2,500 |
| McCollum, S. V., T Oil | 800 |
| Parrish, J. L., Jr., TG Pipeline | 600 |
| Perrine, George R., Tenncssee Gas Trans | 1,000 |
| Reid, Morris, JI | 500 |
| Rackley, C. W., T Oil | 600 |
| Robertson, J. M., Mid Gas | 2,000 |
| Scott, W. E | 1,250 |
| Sherran, Stanley, T Chem | 550 |
| Simonds, V. H., Sr. VP | 1,000 |
| Thomas, J. A., Jr., HMT | 600 |
| Wilson, Christopher | 1,796 |
| Walsher, W. D | 1,000 |
| Wells, S | 500 |
| Webb, C. C | 500 |
| Wilson, W. F., Newport | 500 |
| Wakefield, W. G | 500 |
| Total | 52,711 |

KERR-M'GEE

| | |
|---|---|
| Jorgensen, Earle M., Director: | |
| GAO | 2,500 |
| GAO | 7,500 |
| CC | 25,000 |
| Saunders, J. B., Director | 2,000 |
| McGee, D. A. (NPC), Chairman of the Board | 1,000 |
| | 3,000 |
| Harris, Grady D., Director | 1,000 |
| Love, Frank (Pres. & Dir.) | 3,000 |
| Total | 45,000 |

MURPHY OIL

| | |
|---|---|
| Deming, John W., Director | 1,000 |
| Nolan, William C., Director | 1,000 |
| Owen, Ralph, Director | 1,000 |
| F. B. Ingram, Director | 2,000 |
| Total | 5,000 |

PENNZOIL

| | |
|---|---|
| Kerr, Baine P. (Gen. Comm. & Dir.): | |
| GAO | 500 |
| CC | 1,000 |
| Liedtke, William C. (Pres.): | |
| CC | 23,348 |
| GAO | 1,000 |
| Winchester, R. J. (VP) | 500 |
| Leland F. Johnson Dir) | 1,000 |
| J. D. Coleman (Dir) | 3,000 |
| Cockrell, E., Jr. (Dir) | 4,000 |
| McLaughlin, Arthur A. (Officer) | 1,000 |
| Total | 30,348 |

SEDCO

| | |
|---|---|
| Clements, W. P., Jr., (Chrm.) | 20,923 |
| Clements Loan (Forgiven) | 6,000 |
| Spencer L. Taylor (Pres.) | 5,924 |
| B. G. Clements (Treas.) | 500 |
| J. P. Cunningham (VP) | 5,924 |
| T. B. Rhodes (VP) | 5,924 |
| Total | 45,195 |

NORTHERN NATURAL GAS

| | |
|---|---|
| Strauss, W. A., National Petroleum Council, Chairman and President, Northern Natural Gas Co. (CC) | 974 |
| Cummings, Tilden | 3,000 |
| Chicago Director | 2,000 |
| Total | 5,974 |

TEXAS GAS TRANSMISSION CORP.

| | |
|---|---|
| Blaske, Floyd H. (VP) | 500 |
| Brown, George R. (Dir.) (CC) | 9,889 |
| Butcher, E. D. (VP) | 1,000 |

| | |
|---|---|
| Hershey, J. W. (VP) | $1,000 |
| Thurston B. Morton (Dir) | 5,000 |
| Henry Hillman (Dir) | 11,300 |
| Total | 28,689 |

**HUNT PETROLEUM**

| | |
|---|---|
| Hunt, N. B., Inter. Mang | 6,000 |
| | 3,000 |
| Hill, Al G., Sec/Treas | 2,500 |
| Total | 11,500 |

**SIGNAL**

| | |
|---|---|
| Thomas, G | 1,000 |
| Walkup, William E. (CHB) (CC) | 5,000 |
| Harry H. Wetzel (Dir) | 7,000 |
| Belton K. Johnson (Dir) | 52,000 |
| Shumway, Forrest N. (Pres.) | 5,000 |
| Agnes M. Shumway | 7,000 |
| Total | 77,000 |

**CELANESE**

| | |
|---|---|
| Brooks, John W. (Pres.) | 5,000 |
| Murphy, Grayson M. P. (Dir.) | 2,000 |
| Place, John B. M. (Dir.) (CC) | 1,000 |
| Total | 8,000 |

**PAN OCEAN OIL**

| | |
|---|---|
| McConnell, Neil A., (Director), Pan Ocean Oil Corp | 3,000 |
| | 2,540 |
| | 2,540 |
| | 7,625 |
| | 1,000 |
| | 2,545 |
| | 21,255 |
| | 5,085 |
| | 2,540 |
| | 19,620 |
| | 3,000 |
| | 2,545 |
| | 2,545 |
| | 3,000 |
| | 3,000 |
| | 2,540 |
| | 2,540 |
| | 2,540 |
| | 2,545 |
| | 12,710 |
| | 5,080 |
| | 5,080 |
| | 7,625 |
| | 2,540 |
| | 2,540 |
| | 2,545 |
| Louis Marx, Jr. (CEO & Dir.) | 8,000 |
| Dan Lufkin | 10,000 |
| Total | 137,035 |

**CONTINENTAL OIL**

| | |
|---|---|
| Norstad, Louis (Dir) | 1,000 |
| McLean, John G. (NPC) (Chrm.) | 2,500 |
| | 500 |
| Kircher, J. E., (Pres. E. Hemis.) | 2,000 |
| Royds, James S. (Sen. VP) | 2,000 |
| Brown, W. F | 1,000 |
| Blauvelt, Howard W. (Exec VP) | 2,000 |
| John Corcoran (Pres. Consol Coal Pitts.) | 2,000 |
| W. A. Hewitt (Dir) | 3,000 |
| C. Howard Hardesty (Sen. VP) | 2,500 |
| Glenn, Wayne E. (Officer) | 2,000 |
| McCollum, L. F. (Chrm of Bd.) | 1,000 |
| Son | 1,000 |
| Robinson, James E. (Dir) | 3,000 |
| Total | 23,000 |

**STANDARD OIL OF INDIANA**

| | |
|---|---|
| Brice, John W | 2,200 |
| Bugas, John S | 22,000 |
| | 3,000 |
| Myers, George V. (Exec. VP) | |
| CC | 1,000 |
| GAO | 2,950 |
| Patterson, Herbert P. (Dir.) | |
| CC | $3,000 |
| GAO (wife) | 2,200 |
| Swearingen, John (Chrm.) (CC) | 2,065 |
| | 500 |
| Yost, F. Randolph (Dir.) (CC) | 500 |
| Bugas, John S. (Dir.) | 25,000 |
| Wright, Joseph S | 3,000 |
| Gunness, Robert C. (Dir.) | 2,000 |
| Total | 69,415 |

**AMOCO**

| | |
|---|---|
| Stockton, James R | 1,000 |
| Advertisement | 10,000 |
| Total | 11,000 |

**UNION**

| | |
|---|---|
| Bailey, J. W | 2,000 |
| Call, Richard | 1,000 |
| Hartley, Fred L. (Pres.) | 3,000 |
| Mudd, Henry T. (Dir.) | 3,000 |
| | 3,000 |
| | 2,000 |
| Stewart, A. C | 500 |
| Thornton, Charles B. (Dir) +Family | 51,096 |
| Doheny, William H. (Dir.) +Family (Timothy, E. L. III, and Patrick) | 15,500 |
| Total | 81,096 |

**INDEPENDENTS**

| | |
|---|---|
| Mosbacher, Robert (NPC) (CC) | 24,675 |

**GETTY**

| | |
|---|---|
| Larkin, Frederick G., Director | 1,000 |
| Medberry, C. J. III, Director: | |
| CC | 2,500 |
| GAO | 2,000 |
| Schiff, John M., Director | 1,000 |
| Sons: David T., Peter G | 6,000 |
| | 8,200 |
| | 2,000 |
| CC | 15,000 |
| Getty, J. Paul, Pres. & Director: | |
| CC | 50,000 |
| CC | 25,000 |
| GAO | 3,000 |
| GAO | 44,000 |
| GAO | 3,000 |
| Getty, George F. II (NPC), Exec VP | 2,000 |
| Boothby, Willard S., Director | 9,000 |
| | 1,092 |
| Berg, Harold, VP & Gen. Mang | 500 |
| Thomas, Joseph A. (Dir) | 4,000 |
| Total | 179,292 |

**MARATHON**

| | |
|---|---|
| Boyer, W. B. (Dir): | |
| GAO | 1,000 |
| GAO | 2,000 |
| CC | 1,000 |
| Churchwell, R. M. (VP) (CC) | 1,000 |
| Clark, G. A. (VP-Research) (CC) | 1,000 |
| Donnell J. C. II (Chrm. of Bd.) | 1,000 |
| GAO | 1,000 |
| CC | 14,000 |
| CC | 3,000 |
| Dumbros, N. G. (VP. Public Aff.) (CC) | 1,000 |
| Graham, E. A. (VP, Fin.) (CC) | 1,000 |
| Grant, E. R | 1,000 |
| Herring, J. H. (VP, Marketing) (CC) | 1,000 |
| Jetton, G. R. (Asst. to Pres.) (CC) | 1,000 |
| Moriarity, F. C. (VP) (CC) | 1,000 |
| Milford, R. H. (Dir) | 1,000 |
| Rhea, R. E. (VP) (CC) | 1,000 |
| Young, Grant (Chrm. Exec. Comm.) (CC) | 3,000 |
| G. R. Schoonmaker (VP) (CC) | 1,000 |
| Anderson, James D. (Sr. VP) (CC) | 1,000 |
| J. R. Donnell (Sr. VP) | 3,000 |
| | 1,000 |
| Mrs. Glen M. Donnell (mother of J. R. & J. C.) | $5,000 |
| Total | 46,000 |

**OCCIDENTAL**

| | |
|---|---|
| Babcock, Tim (Pres.) | 5,000 |
| Hammer, Armand (Chrm. of Bd) | 2,000 |
| Cash | 46,000 |
| Horace, Chaler C. (VP) | 500 |
| Vail, Herman L | 750 |
| Reid, E. F. (Officer) | 2,000 |
| Total | 54,250 |

## THE INDOCHINA PEACE PLEDGE LEGISLATION

### HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. DELLUMS. Mr. Speaker, almost 1 year ago the Paris Peace Agreement ostensibly ended America's tragic military involvement in Indochina. However, it is increasingly evident that the United States still plays an active role in Southeast Asian military affairs.

The Nixon administration has continued to pour billions of dollars into Thieu's corrupt dictatorship. Recently, administration spokesmen have hinted they might resume bombing. Given the vague conditions of the War Powers Act, it would take little stimulus upon the administration to order massive murderous bombings upon the peoples of Indochina.

However he might frame it, such an action by President Nixon would be clearly repugnant to the will of the American people. Future American involvement in Indochina can only further divide a nation already weary from the struggles and costs of a decade of illegal, immoral, and insane adventurism.

And it is out of this revulsion that the Coalition to Stop Funding the War drew up the 1974 Indochina Peace Pledge. The Pledge reads:

1974 INDOCHINA PEACE PLEDGE

I will vote for legislation to:

1. Preclude Direct U.S. Military Involvement—by positively prohibiting the renewal of United States air, sea or land combat operations and the use of United States military or paramilitary advisors in Indochina.

2. Encourage a political settlement based on the Peace Agreement signed by the U.S.—by withholding nonhumanitarian aid to either party in South Vietnam which does not comply with Agreement which provides for a cease-fire and for the restoration of the basic freedoms of press, speech, meeting, political belief and movement for the people of South Vietnam.

3. End United States police aid—by opposing all direct and indirect United States funding of police and prison systems for Indochina, particularly those funds used in South Vietnam for the continued imprisonment and torture of political prisoners whose release is called for by the Peace Agreement.

OPTIONAL POINT

I will also vote for legislation which prohibits funding of the police, prison and internal security systems of all other countries which imprison their citizens for political reasons.

Since my election to Congress, I have dedicated myself to the principles of the Indochina peace pledge, and as a strong believer in these concepts, I have translated these goals into legislation this week as H.R. 12156.

This bill would: First, effectively prevent U.S. military involvement in Indochina; by prohibiting renewal of U.S. air, sea or land combat operations and the use of American military or paramilitary advisers in Indochina, we could finally cure a disease that has been plaguing us for more than a decade; second, to encourage a political settlement based on the peace agreement signed by the United States, prevent U.S. aid to any party which fails to comply with the peace accords or fails to restore the basic freedoms of press, speech, meeting, political belief, and movement.

American funding still props up the sagging Thieu regime. However Thieu's continued imprisonment of virtually his entire political opposition and his blatant disregard of the Paris agreements continue to undermine any chance of political settlement in South Vietnam. Such disregard calls for strong, punitive action on the part of Congress.

Third, likewise, it is imperative that we eliminate American funding of the police and prison systems of South Vietnam, especially those funds that are employed for the continued imprisonment and torture of political prisoners whose release was called for by the peace agreement. Recently the Senate Appropriations Committee substantiated accounts of mistreatment and torture among political prisoners in South Vietnam—H.R. 12156 would end U.S. subsidization of such programs in Indochina and other foreign nations which imprison their citizens for political reasons.

As this country continues to support—directly and indirectly—the unjustified, devastating, and inhumanitarian conduct perpetrated by Thieu and his friends, not only will thousands of South Vietnamese suffer but growing outraged American masses will demand a full explanation why U.S. dollars are pumped into a dictator's war budget.

This is why throughout the country thousands of conscientious citizens are signing the Indochina peace pledge. My personal integrity just will not permit me to passively watch the Nixon administration allow flourishing fascism in South Vietnam. All conditions of the peace agreement must be met now.

I am totally dedicated to a world peace—and to promote true peace in Southeast Asia I would hope that my colleagues will join me in supporting this legislation.

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## COMMENTS ON FUEL OIL CRISIS

### HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. LEHMAN. Mr. Speaker, while south Florida's winter sun protects us from the effects of the fuel oil crisis, we will clearly be a part of any gasoline shortage. There are essentially three ways we can deal with this problem: total rationing, a free market approach, and modified rationing.

Those old enough can recall the troubles caused by total rationing during World War II, such as discrimination, black marketing, and coupon counterfeiting.

The free market approach is advocated by Secretary of the Treasury Shultz. In his major premise, he assumes that oil companies in this country function under a competitive system based on supply and demand. There is, however, serious question as to the individuality of the oil companies, and likely outcome would be the same amount of fuel being sold at double the price. This will produce windfall profits for the oil companies, and further enrich oil exporting countries. Those most adversely affected in this country will be people of low and moderate incomes.

While in the long run, I believe that our energy shortfall can be met by such means as solar energy, which is not subject to foreign policy considerations and is clean energy, I realize that in the near future, restrictive measures may have to be taken to conserve petroleum.

In the event the administration determines that total gasoline rationing is the solution, it has submitted for public comment its rationing contingency plan. I would like to share with my colleagues my remarks to William Simon, Administrator of the Federal Energy Commission, on his plan, as well as my letter to him regarding the impact of the energy crisis on businesses in the immediate future.

The items follow:

House of Representatives,
*Washington, D.C., January 22, 1974.*

Mr. William E. Simon,
*Administrator, Federal Energy Office, Washington, D.C.*

Dear Mr. Simon: I am submitting herewith my comments on the gasoline rationing contingency plan which appeared in the Federal Register on January 16, 1974.

First, let me point out that the population of the 13th District has increased by 35.1 percent since the 1960 census. Almost half of the available housing units in my District now lie outside central Miami. Within the entire District, certain areas have seen even greater growth. North Miami Beach has had a 43.5 percent increase in population; Hialeah, 52.7 percent; Hallandale, 127.5 percent; Hollywood 203.3 percent; and Miramar, 337.1 percent.

A significant portion of the work areas in Dade and Broward Counties are located far outside the central metropolitan area, to which public transportation does not extend. In the past two years, since 1972, these population centers which have sprung up have not been able to keep pace with the transportation demands placed upon them. Industrial parks have suddenly appeared along stretches of highway in the western part of my District which used to be empty for miles upon miles. It is here where many of my constituents now work, and for the most part, they must commute for some distance. According to the 1970 census, 152, 712 persons in my District get to work by private car. Only 12,396 are able to use public transportation.

A transit factor, while laudable in theory, does not take into account several items. While a particular metropolitan area may have a transit factor of less than 0.018, nonetheless, the public transportation available may not reach a person's place of work. This is most certainly a common situation in my District. If these two counties are so rated that persons in the area would be permitted only 80 percent of the maximum number of rationing coupons, the economic results would be disastrous.

I would also like to suggest that a transit factor should take into consideration the amount of time needed, and the number of transfers necessary for persons to get from their homes to work places. If it would take a worker three or four times as long to get to work via public transportation, clearly public transportation is not a viable alternative, and that person's needs should be considered. I am enclosing a copy of an article which appeared in the Community Newspapers which further explains this.

A second problem with the gas rationing contingency plan is its restrictions on the ability to save coupons for more than two months at a time. This will have an enormously adverse effect on the recreation and tourist industry in Florida, which is my District's bread and butter. When the tourist trade declines, as the attached tables indicate, so do the wages of my constituents, while unemployment increases.

In another area, I note that no provision is made for handicapped persons. Obviously, these people who are able to use public transportation only with great difficulty, or not at all, should be permitted to obtain sufficient gasoline to meet their needs. As one of my constituents put it, "For we handicapped people, our cars are our legs."

There also seems to be some ambiguity as to whether a traveling salesperson would be included in the private users or commercial users category. Clearly, it should be the latter.

Finally, I would also like to submit some comments on total gasoline rationing in general. I believe the need is for a program which would guarantee required gasoline while also permitting access to greater supplies. I feel the solution to this is a limited rationing formula, which would allocate about ten gallons of gasoline per week at a price under fifty cents per gallon, and beyond that, all fuel would be subject to an open market price. For a driver presently using one tank per week—about twenty gallons—it would result in forcing him to restrict about five gallons' worth of driving. In most cases, he would still have enough gas to get to and from work without sustaining too great a financial burden. For those who wanted more, there would be still an expensive, but available, supply for other uses.

A limited rationing plan would also alleviate some of the difficult problems that a total rationing plan would bring on Florida's tourist industry.

With best wishes, I am,
Sincerely,
William Lehman,
*Member of Congress.*

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State of Florida,
Department of Commerce,
*Tallahassee, Fla., January 21, 1974.*

Energy Crisis Update

Each Friday during the energy crisis, the Florida Department of Commerce will provide concise, accurate and up-to-date information and analyses concerning the effects of the crisis upon the State of Florida. Please disseminate the contents of this document as you deem appropriate.

CAMPING FACILITIES UTILIZATION—37 PARKS

JANUARY 18, 1974.

November 1972, 60,163; 1973, 69,789; Change 1972–1973—16 percent increase.

December 1972, 92,209; 1973, 65,533; Change 1972–1973—29 percent decrease.

TOTAL STATE PARK ADMISSIONS—73 PARKS

November 1972, 461,934; 1973, 541,418; Change 1972–1973—17 percent increase.

December 1972, 573,191; 1973, 538,604; Change 1972–1973—06 percent decrease.

WELCOME STATION TOURIST DATA

| Welcome station | This week, Jan. 10–16, 1974 | Last week, Jan. 3–9, 1974 | Year ago, Jan. 11–17, 1973 | Sunday, Jan. 13, 1974 | Sunday, Jan. 14, 1973 |
|---|---|---|---|---|---|
| I–75, Jennings: | | | | | |
| Cars | 6,430 | 7,231 | 8,877 | 303 | 1,557 |
| People | 16,389 | 18,139 | 22,344 | 819 | 4,298 |
| U.S. 301, Hilliard: | | | | | |
| Cars | 1,208 | 1,426 | 2,400 | 54 | 390 |
| People | 2,882 | 3,546 | 5,946 | 146 | 983 |
| U.S. 17, Yulee: | | | | | |
| Cars | 188 | 169 | 258 | 15 | 33 |
| People | 495 | 447 | 637 | 75 | 84 |
| U.S. 231, Campbellton: | | | | | |
| Cars | 261 | 269 | 348 | 24 | 51 |
| People | 681 | 720 | 910 | 64 | 136 |
| I–10, Pensacola: | | | | | |
| Cars | 666 | 644 | 1,140 | 51 | 171 |
| People | 1,572 | 1,621 | 2,663 | 130 | 464 |
| Marina, Fernandina: | | | | | |
| Cars | 63 | 87 | 60 | (1) | (1) |
| People | 199 | 261 | 160 | (1) | (1) |
| Total: | | | | | |
| Cars | 8,816 | 9,826 | 13,083 | 447 | 2,202 |
| People | 22,218 | 24,734 | 32,660 | 1,234 | 5,965 |

(1) Closed.

### POOR BUS SERVICE ONE REASON MORE PEOPLE DON'T RIDE THEM

(By Sylvia Ash)

Has the energy crisis made you aware? How aware are you? What are you doing about saving gasoline? How are you getting to work these days?

Have you ever thought about taking a bus? I am a bus rider. I refuse to drive. Now, with the energy crisis I have the perfect excuse for not driving. Best of all . . . it's such a pleasure for a change not to have this idiosyncrasy of mine interpreted for table talk conversation . . .

This past week I went to Ft. Lauderdale. I had missed a Greyhound bus by minutes . . . I waited to be exact . . . two full hours for another bus to arrive (which was late).

I was given incorrect information by the Greyhound clerk who told me to change in Miami to Coral Gables.

Arriving in Miami one hour and a half later, I attempted to get a refund on my ticket.

Forget it! The clerk told me to go upstairs to have the manager approve a refund.

There was no manager . . . a locked door . . . and . . . unbelievable looking people loitering around.

At this point . . . I was an angry sight. I ran to Flagler Street to catch a Coral Gables bus . . . again a miss. It was now dark. The waiting game again . . . just a half hour this time.

I arrived in the Gables . . . only to wait again for the Dadeland Bus which leaves the terminal twice an hour. All told this trip from Ft. Lauderdale to Dadeland consumed six hours of my time.

I have waited on Biscayne Boulevard and Third Street as long as an hour and a half for a bus to take me to 40th Street and the Boulevard. The energy crisis is just * * * what to transportation of the public nature . . . I wonder!

We get some impressive talks on "How to Save Gasoline" . . . yet . . . please note there are no buses running to and from Dadeland on a Sunday and . . . other parts of our fair city. You are actually stranded if you do not drive and . . . or if . . . you choose to conserve.

New York I understand offers half price on all public transportation on weekends to encourage people to conserve. (This information is hearsay, however I do hope it's true). According to some in public transportation . . . not enough people ride buses . . . therefore the slow schedules. I don't buy this at all.

People just don't ride buses because of far out schedules.

There are so many, many advantages to riding buses . . . one of which . . . the bus offers an opportunity to relax, read and unwind. How nice this experience could be if only we weren't so darn mad by the time we board the bus . . . only because we waited too long.

Are you aware? Are you genuinely concerned? Don't gripe . . . don't snipe . . . do something about it!! Do your "involvement thing," get petitions going . . . to give us here in Dade County better public transportation during this energy crisis. Will you decide to do something when the cost of gasoline goes up to $1 a gallon or . . . will you do it now?

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HOUSE OF REPRESENTATIVES,
*Washington, D.C., January 24, 1974.*
Hon. WILLIAM SIMON,
*Administrator, Federal Energy Office, Treasury Building, Washington, D.C.*

DEAR MR. SIMON: We, the undersigned, are extremely concerned about the potential effect of the alleged fuel shortage during the upcoming summer months, when citizen travel and vacation activities are traditionally at their peak and when so many people and businesses depend upon the commerce that is generated during this season.

The one glaring failure of the Federal government in the past has been the lack of advanced planning in the energy realm, but we feel that, with some prudent pre-planning, severe personal and economic hardships can be averted this summer, but the "blueprinting" must begin now.

Thousands of businesses and millions of citizens who vacation during the summer have no idea at present what to expect. Will there be mandatory gasoline rationing? Will there be fuel for pleasure boating? How much will we have to cut back air conditioner use? What other mandatory economies are likely to be imposed?

While we fully appreciate the fact that the summer outlook depends in part on whether or not the Arab oil embargo is lifted, it seems that contingency plans can be developed now for either extreme and the shades between a total resumption of imports and no lifting of the embargo.

We strongly urge you to issue a set of "preliminary summer guidelines" for citizen fuel use before the end of February so an 11th hour chaotic situation can be averted. We hope you will agree with us that a general outline of what citizens can expect this summer would go a long way toward adding stability to our economy and personal lives.

Sincerely,

NORMAN F. LENT,
WILLIAM LEHMAN,
*Members of Congress.*

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## SATURDAY NIGHT SPECIALS

## HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. MURPHY of New York. Mr. Speaker, I am calling attention of Members to the results of a recent Treasury Department study of thousands of criminal handguns seized by police in the four cities of New York, Detroit, Atlanta, and New Orleans. In my own city of New York the handgun problem is aggravated by the smuggling of thousands of small arms from other States, 66 percent of which were "Saturday night specials."

The Bureau of Alcohol, Tobacco, and Firearms report identified as project I—for identification—defines three classes of handguns used by criminals which were studied. Class C guns were identified as inexpensive handguns of low quality used primarily for nonsporting purposes and commonly referred to as "Saturday night specials." Sixty-six percent of the 2,546 guns studied in New York were in this category.

The "nonsporting purposes" for which the guns were used in New York City included armed robbery, aggravated assault, homicide, suicide, and other high crimes and misdemeanors.

The situation is as bad or worse in some of our other "crime capitals." The percentage of Saturday night specials that made up the crime gun in the three other cities studied were as follows:

New Orleans—63 percent;

Detroit—called "Kill City" by its own residents because it leads the Nation in homicides and the city that gave the Saturday night special its name—71 percent; and Atlanta—72 percent.

Guns smuggled into New York prior to the passage of the 1968 Gun Control Act—which banned the importation of Saturday night specials—came from nearby States. This pattern has changed and we now find them flooding into that city from far away places. The six States providing the greatest number were South Carolina, Florida, Georgia, Virginia, North Carolina, and Texas.

Twenty-five percent of the crime guns studied were originally purchased in South Carolina for $20 each in large lots and transported to New York. Fortunately, the dealers who supplied a large number of these weapons have been convicted of Federal firearms violations. However, the study emphasized the fact that guns dispersed by unscrupulous dealers or illegal firearms dealers will be in the hands fo criminals for years to come. Current investigations in South Carolina turned up an additional 40,000 firearms either destined for New York or surrounding areas.

Evidence such as this makes it abundantly clear that the Federal Government must outlaw the manufacture and sale of the Saturday night special. The law that I plan to reintroduce in this session of Congress will accomplish this by plugging the loophole in the 1968 Gun Control Act which allows the domestic production of the very same cheap handgun that we barred from overseas in 1968.

Two and one-half years ago at my request the New York Police Department studied weapons seized from criminals the previous year. Twenty-five percent were Saturday night specials. This means the new Treasury Department study shows an alarming trend. New York has a strong gun control law. But the availability of guns from other States has increasingly detracted from the effectiveness of the Sullivan law. It is impossible to seal State borders and State lines against the traffic in deadly weapons. The only effective solution to controlling the major crime weapon of this decade is a ban on their production.

The Treasury study proves that a total ban on these guns will have a dramatic effect on the overall firearms problem, and my bill will accomplish just that.

I have spoken to Chairman RODINO of the House Judiciary Committee and he is in agreement that something has to be done and done fast. I hope Members will agree that this legislation should receive priority treatment early in the new session.

I urge Members interested in the reduction of violent crime in this country to read the following study and support my legislation to ban the production and sale of the Saturday night special:

DEPARTMENT OF THE TREASURY, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

The Bureau of Alcohol, Tobacco and Firearms announced today that its pilot study of handguns used in crimes in four selected major cities showed 71 per cent of the weapons were the small, easily concealed "Saturday Night Specials".

ATF Director Rex D. Davis reported that of a total of 4,537 handguns which the Bureau traced through its National Gun Tracing Center, 3,083, or 70 per cent, were Saturday Night Specials.

The cities which provided handguns found in street crimes after July 1, 1973, were New York, Atlanta, Detroit and New Orleans.

"There has been a growing awareness by police officers throughout the nation that more and more of these small handguns are being used in street crimes," Davis said.

"However, statistics from this ATF generic study show concretely for the first time that a majority of guns used in crimes in these cities are Saturday Night Specials," Davis reported.

"It is likely that this use of the small handgun in crime represents a growing pattern throughout the United States. We hope soon to expand this gun tracing project to other cities, particularly in the Western United States, depending upon the availability of Bureau funds."

Davis said the study, called by the Bureau Project I (Identification), was carried out in connection with the police departments of each city. The figures showed that overall 10 per cent of the guns recovered in crimes were stolen, and that there is a high rate of traffic in guns across state lines.

The initial phase of Project I was to identify the kind of guns being used in crime, and then begin the often difficult job of tracing the guns back to their source.

The second phase of the project is for ATF to close these sources of guns which find their way into criminal channels.

Davis said as a result of the pilot study, which was completed for New York City but which is continuing in Detroit, Atlanta and New Orleans, ATF either has made, or is preparing to make, 78 cases for firearms violations. These include 40 cases in New York, 22 in Atlanta, 12 in Detroit and four in New Orleans.

In addition, ATF turned over to the police departments in the cities involved considerable information as leads to other possible cases.

ATF arbitrarily placed the handguns in three categories. These were:

Class A—More expensive guns costing more than $100 and more commonly used for law enforcement, collecting, sporting and target shooting.

Class B—Handguns costing $50 to $100 and used for sporting, personal protection, hunting and other purposes.

Class C—Those guns costing $50 or less, of low quality with a barrel three inches or less in length. Most Saturday Night Specials fell under Class C.

For the purpose of the study, ATF defined a Saturday Night Special as a small, cheaply made handgun with a barrel three inches or less and easily concealed in the palm of the hand or in a coat pocket.

The number of Saturday Night Specials found in the New York study was 1,692, or 66 per cent. For Atlanta, the number of Saturday Night Specials was 592, or 72 percent; for Detroit, there were 595 Saturday Night Specials, or 71 per cent; and the New Orleans study showed 204 Saturday Night Specials made up 63 percent of the total.

Of the total 4,537 handguns, the ratio of revolvers to automatics was about 3 to 1. There were 3,499 revolvers traced compared to 1,038 automatics.

New York City, which requires a police permit to possess a gun, is considered to have the strictest gun law in the United States. The major gun tracing effort came in the New York City study which involved 2,546 handguns recovered in street crimes there. ATF's gun tracers revealed that 1,966 of these handguns were brought into New York City from 46 states and nine foreign countries and involved guns of 89 different manufacturers.

Davis reported that a major source of this influx into New York City was six states—South Carolina 500; Florida 273; Georgia 214; Virginia 169; Texas 83 and North Carolina 80.

The report noted that as a result of 17 ATF investigations or cases made in South Carolina, the Bureau determined that 39,517 firearms were either actually involved in interstate violations or destined for disposition in New York or surrounding areas.

These 17 cases, which cover a period from 1968 to the present, are being handled with increasing severity by courts, Davis reported.

Of the 500 South Carolina handguns in the New York study, the report noted that two South Carolina dealers provided 124 of these firearms. Both of these dealers were arrested and convicted prior to the inception of the New York study, the report noted.

The study showed 29 states contributed to the number of guns found in Atlanta, although the majority, 537, originated in Georgia. Next in line were Florida with 19 and South Carolina with 14. Both of these states are contiguous to Georgia.

Of the handguns which originated in Georgia, ATF traced most of these to 12 licensed dealers in Atlanta. ATF found that one of the dealers was no longer in business. The license of a second dealer is being revoked. The other dealers are under investigation.

Of the Detroit guns, 157 were brought to the city from Ohio. Kentucky contributed 75, Georgia 74, Mississippi 49, Alabama 46, Florida 37 and South Carolina 34.

The state of origin of only 126 of the total number of handguns was determined in the New Orleans study. Seventy-nine guns, or 62 per cent, came from Louisiana. There were nine from Texas and eight from Mississippi. Sixteen other states contributed four guns or less.

The overall figures showed 10 per cent of the 4,537 was stolen. The New York City study showed 263 handguns of its study were stolen, or 10 per cent. For Atlanta there were 50 stolen guns, or 6 per cent; for Detroit there were 109 stolen guns, or 13 per cent; and in New Orleans, there were 5 stolen guns, or 2 per cent.

All of the traces were made through ATF's National Gun Tracing Center in Washington. Traces are made through firearms manufacturers, wholesalers and retailers. The tracing for Project I was made to the last retail seller. Further tracing must then be made by investigating agents who go into the field for their work.

The Bureau of Alcohol, Tobacco and Firearms enforces all federal firearms laws, licenses dealers and manufacturers, and is the nation's only law enforcement agency empowered to trace firearms and explosives.

PROJECT I

| | New York City | Atlanta | Detroit | New Orleans | Total |
|---|---|---|---|---|---|
| HANDGUNS | | | | | |
| Number of guns traced | 2,546 | 827 | 840 | 324 | 4,537 |
| Number of class A guns ($100 or more) | 628 | 130 | 84 | 8 | 850 |
| Number of class B guns ($50 to $100) | 417 | 152 | 210 | 97 | 871 |
| Number of class C guns (less than $50) | 1,501 | 545 | 546 | 219 | 2,816 |
| Number of automatics | 628 | 137 | 176 | 97 | 1,038 |
| Number of revolvers | 1,918 | 690 | 664 | 227 | 3,499 |
| Number of guns with barrels of 3 in. or less | 1,938 | 671 | 568 | 227 | 3,404 |
| Number of guns with barrels over 3 in. | 608 | 156 | 272 | 97 | 1,133 |
| Number of guns with .32 caliber or less | 1,636 | 561 | 672 | 166 | 3,035 |
| Number of guns with .38 caliber or over | 910 | 266 | 168 | 158 | 1,502 |
| Number of stolen guns | 263 | 50 | 109 | 5 | 427 |
| "SATURDAY NIGHT SPECIALS" | | | | | |
| Number of class C guns | 1,501 | 545 | 546 | 219 | 2,811 |
| Number of guns with barrels 3 in. or less | 1,938 | 671 | 568 | 227 | 3,404 |
| Number of guns with .32 caliber or less | 1,636 | 561 | 672 | 166 | 3,505 |
| Composite average | 1,692 | 592 | 595 | 204 | 3,083 |
| Percent of total guns traced | 66 | 71 | 71 | 63 | 70 |

# HOUSE OF REPRESENTATIVES—*Thursday, January 24, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*Let the words of my mouth, and the meditation of my heart, be acceptable in Thy sight, O Lord, my strength and my redeemer.*—Psalms 19: 14.

Almighty God, out of the fullness of Thy grace grant unto us who need so much, who want so much, and who lack so much, strength, wisdom, and courage for the facing of these hours and the living of these days.

Thou hast given us bodies; help us to keep them as strong and as healthy to keep them as strong and as healthy as we can that we may render better

Thou hast given us minds; help us to keep them clean, our thoughts clear, and our mental processes creative that our thinking may be wholesome and our decision wise.

Thou hast given us wills; help us to use this gift of free choice that we may will to do Thy will and will that Thy will be done in us and through us for the good of our country.

As we serve our Nation in these hallowed Halls of Congress may we grow in wisdom and stature and in favor with Thee and man.

In the spirit of Christ we pray. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

## MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Marks, one of his secretaries.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1961. An act to amend the Flood Control Act of 1938.

S. 2754. An act to prohibit all military assistance to Greece until it is determined that Greece is fulfilling its obligations under the North Atlantic Treaty.

The message also announced that the Senate had passed with an amendment, in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 10203. An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 10203) entitled "An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. GRAVEL, Mr. RANDOLPH, Mr. BENTSEN, Mr. BURDICK, Mr. WILLIAM L. SCOTT, Mr. BAKER, and Mr. STAFFORD to be the conferees on the part of the Senate.

## PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

## THE D.C. BICENTENNIAL BUILDING IS AN INSULT TO AMERICA

(Mr. SIKES asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SIKES. Mr. Speaker, the D.C. Bicentennial Building is disgusting and an affront to this Nation and its people.

While we were in recess, the building was opened with a great deal of hoopla. The Mayor of Washington dedicated the office. A representative of the White House was there.

Apparently the officials didn't see, or ignored, one of the principal features of the room: a mural painted around its ceiling. This disgusting piece of trash glorifies Karl Marx, Friedrich Engels, Joseph Stalin, and Mao Tse-tung.

For good measure, the President of the United States is depicted wearing a mustache and clad in the costume of a movie gangster. His daughter has an Afro hairdo, and a portrait of avowed Communist Angela Davis is thrown in for no understandable reason.

It is my understanding that nothing is being done to paint over this obscene affront to the dignity and traditions of our Nation and the spirit of the Bicentennial.

The Bicentennial is to celebrate 200 years of a nation that was built by men and women who longed to be free. Down through the ages there have been men like Washington, Jefferson, Franklin, Lincoln, Roosevelt, and Truman who built on that dream. Women like Betsy Ross, Florence Nightingale, and Clara Barton dreamed of a land where every person could live good and productive lives.

Certainly our country and its people have made mistakes. The War Between the States was one of the worst. The thing that sets us aside is that our mistakes are made known in our current journals and in the history books. We tell it like it is.

Under Communist domination, history is constantly being rewritten. Joe Stalin was idolized as a god during his lifetime, a period in history when he murdered tens of thousands of innocent Russians. History was rewritten when it was decided he should be revealed as a tyrant by another regime. His portrait is one of those looking down on the Bicentennial headquarters here, cleverly disguised with mutton chops.

Mr. Speaker, Washington, D.C., is not just another city. It is the Capital City of the greatest nation on the face of the Earth.

The spirit of the Bicentennial is disgraced by a hideous mural from the brush of a man who apparently feels that it is clever to insult the flag that allows him to be free. His mural defames the names of the tens of thousands of men who have given their lives in the service of this Nation for the cause of freedom.

America allows this man freedom from fear and freedom to work. His distorted sense of right and wrong is an insult to the traditions, hopes, and beliefs of every right-thinking citizen.

What is worse is that nothing is being done about removing this bathroom graffiti from the walls of an office that should serve as a model as America prepares to celebrate its Bicentennial.

I wonder at the thinking, the sensibilities, of those responsible for the building.

Mr. Speaker, action should be taken to remove this offensive garbage from the D.C. Bicentennial Building, along with any official who is responsible for its presence.

The subject has been well described in the Washington Star-News of January 15, 1974, and in an editorial in the U.S. News & World Report of January 28, 1974. I submit both for reprinting at this point in the RECORD:

[From the Washington Star-News, Jan. 15, 1974]

### STRANGE SPIRIT OF '76

(By Betty James)

The D.C. Bicentennial Building opened yesterday under the gaze of Mao Tse-tung in a business suit, Joseph Stalin in muttonchop whiskers, Richard Nixon in gangster garb and Tricia Nixon Cox in a bush hairdo, all the work of a pixieish artist.

Officials at yesterday's dedication, including a White House representative and Mayor Walter E. Washington, were blissfully unaware of the joke the artist, H. H. Booker II, admitted he had played on them and on leaders of the 200th anniversary observance of the American Revolution in the Nation's Capital.

True, the black and white murals at ceiling height in the red, white and blue walk-in office at 13th and G Streets NW take a little interpretation by the artist. But only a little.

Booker, who runs the Graffiti Sign Co., Ltd., said the contractor handling redecoration of the old Jordan Building, Herbert Banham of the Fountown Sign Shop, subcontracted some of the work to him at the rate of $2.75 an hour. He said he worked 19 hours and is owed $52.25.

"It was a whole lot of fun," he recalled exuberantly as he gazed at his creations through the plate glass window yesterday.

Nobody told Booker what to draw, however. "They just said make faces," he reported.

So, in the tradition of cathedral carvers expressing themselves in gargoyles, Booker followed his whim and sketched the people who interested him.

As his work progressed some one noticed that one of the faces looked like "old Papa Joe," Booker said, so he disguised his sketch of Stalin with mutton chop whiskers.

President Nixon also is more or less disguised behind a moustache, although there's a suggestion of the famous 5 o'clock shadow. Booker expressed his opinion of the President by dressing him "like a gangster" in a dark shirt and light tie.

Although the representation of Tricia Nixon Cox in an Afro hairdo does not leap to the eye, Booker points to the Nixon nose as identification. The sketch of Mrs. Cox shares wall space with one of Angela Davis.

Booker included Frederick Douglass, the black leader, who is depicted wearing a button that says "University of Hard Knocks." He also said it reflected Karl Marx and included Friedrich Engels, the closest associate of Marx, the father of communism.

And just to show that he's not hung up on politics, Booker said, he threw in sketches of show business greats like Laurel and Hardy, Greta Garbo and Gracie Allen.

Is he a Marxist? "I guess so," Booker replied after giving the question a little thought.

Although he is being paid, Booker said he feels "the people" could and should have done the redecorating themselves.

Bicentennial workers handed out flyers on the sidewalk announcing the opening and inviting the public in for coffee, doughnuts and entertainment. But Booker said the noon hour dedication was a farce as far as working people were concerned.

"Who can come at noon?" he asked. "They don't represent the people," he said, surveying officials milling inside. "It's just like the crowd they had under George III."

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[From the U.S. News & World Report, Jan. 28, 1974]

### Worst Joke in 200 Years

(By Howard Flieger)

With varying degrees of originality, communities all across the nation are getting ready to celebrate the 200th anniversary of the United States in 1976.

In 1776, when the country was born, the population was 2.5 million.

Now it exceeds 210 million.

If you are one of those millions of American citizens, you have just been insulted.

The Bicentennial Center for the District of Columbia, the nation's capital, was dedicated on January 14 by the Mayor of Washington. A representative of the White House was there. So were other dignitaries.

Looking down on the occasion was a new mural, done for the Bicentennial office by an artist named H. H. Booker II.

Among the personages depicted—

Karl Marx, the father of Communism.

Friedrich Engels, Marx's associate.

Joseph Stalin of the Soviet Union.

Mao Tse-tung of the Chinese Communists.

For extra measure, the muralist included a caricature of President Nixon wearing a mustache and clad in the costume of a movie gangster. He sketched the President's daughter, Tricia Nixon Cox, with an Afro hairdo. He included a portrait of Angela Davis.

This is Americana?

Where are Washington, Jefferson, Tom Paine, Ben Franklin and the Adams family?

Where are such symbols of American culture and uniqueness as Washington Irving, Mark Twain and Carl Sandburg? Winslow Homer, Frederic Remington and Thomas Hart Benton? Francis Scott Key and George M. Cohan? John Philip Sousa and Louis Armstrong? Samuel Gompers and Andrew Carnegie? Thomas A. Edison and Mary Bethune? Where are the pathfinders—Lewis and Clark, Charles Lindbergh and Neil Armstrong, to name a few?

The list is endless. If portraits are needed to dramatize two centuries, you can take your pick from within our own borders, including many immigrants from other lands.

Granted, the planning for the Bicentennial observance has been uneven, often halting and short of real achievement on a national scale. But hundreds of communities, many States and regions have pitched in with their own projects and are moving ahead to the anniversary with enthusiasm and pride.

Granted, too, there has been honest disagreement. One group, for example, feels that the basic aims of the American Revolution are being overlooked. But such things are legitimate dissent—which is the American way.

The mural in Washington is something else.

A member of the staff of this magazine asked an official of the District of Columbia Bicentennial Commission about the inclusion of the Communist figures. The explanation was that those people are a valid part of the American scene because "all were involved in some way with the United States over the past 200 years."

When asked what Marx, Engels, Stalin and Mao had to do with the U.S., the official, irritated, broke off the conversation.

The muralist explained to a reporter for "The Washington Star-News" that his employer told him to "make faces" on the walls, so he sketched those he considers interesting. He called it a "lot of fun" and seemed to regard the whole affair as a very clever joke.

Marx, Stalin and Mao as characters in an American panorama—this is a joke?

It is a coarse insult to the very word, a desecration of everything truly American from 1776 to today. It is high jinks of the lowest order, done in the poorest taste.

Those who had anything to do with it—whether through deliberate participation, irresponsibility, arrogance or plain ignorance—should hang their heads in shame.

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## NO TIME FOR LOANS TO THE SOVIETS

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the Soviet Union has asked the Export-Import Bank for a $49 million loan for exploratory work in eastern Siberia for natural gas. The Export-Import Bank is not controlled by the Congress. It is an independent, federally supported institution. Nevertheless, it depends upon Congress for its existence and I consider that it would be totally irresponsible for the Bank to make such a commitment until the Congress has had an opportunity to debate and act on the question of credit to the Soviet Union.

Credit or guaranties by the Federal Government or any agency of the Federal Government to the Soviet Union for exploration or development of their oil and gas fields raises questions vital to our national security. We have problems of our own—very real problems—on energy. Our efforts and our money should be directed to development of American energy resources to the point where we will not ever again be caught dependent upon other nations for energy. Russia has consistently been a troublemaker in the family of nations, and even today in the Middle East there is no Russian participation in the work to bring a permanent peace to that troubled area. The development of Russia's resources cannot be considered a step toward world peace and understanding and should not be done at American expense.

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## THE "UPSTART" WHO ANNOYS THE PENTAGON

(Mr. VAN DEERLIN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. VAN DEERLIN. Mr. Speaker, our colleague LES ASPIN has gained much attention during his relatively short service in Congress. Not all of it has been favorable—and this could be expected for one who regularly exposes waste in the Defense Department.

This week, however, Mr. ASPIN received friendly attention from a possibly unexpected source—the staunchly pro-military Copley Press. John Pinkerman, editor of the Copley News Service, wrote a comprehensive report on the young Congressman appearing in the San Diego Evening Tribune Monday, January 21.

Mr. Pinkerman's column, entitled "A Changing World," carried a headline describing Mr. ASPIN as "The 'Upstart' Who Annoys the Pentagon." The column follows:

> A new congressional voice has risen to haunt those in the Pentagon who are generous in spending taxpayer funds and the situation is a reminder of earlier times before Congress was so derelict in fulfilling its responsibilities.
>
> This new voice belongs to sophomore Democratic Congressman Les Aspin of Wisconsin. Aspin has been particularly noisy in the last few weeks, charging up to $21 billion in defense spending excesses, but some of his critics call him self-serving and one who goes on reckless "fishing expeditions" or "fires a shotgun" in quest of publicity.
>
> Whatever his motives, he has an impressive background in the task he has set for himself as a member of the Armed Services Committee and a look at his biography might persuade an impartial observer that he might know "where the bodies are buried" in the Pentagon, at least so far as spending money is concerned. But, is he anti-military and are his charges of military procurement and operational waste mostly in the interest of getting himself national publicity?
>
> "Not at all," he told me in response to questioning. "I think our over-all defense budget could be reduced by billions of dollars without adversely affecting the national security. The chief responsibility of any member of the Armed Services Committee is to assure an adequate and sufficient defense at the lowest reasonable cost. It is particularly important that the Congress exercise its oversight function to insure that every taxpayer's dollar spent on national defense is used in the most cost effective and efficient manner possible."
>
> Although only in his second term, Aspin is particularly critical of what he calls Congress' failure to fulfill the "oversight" function it was given in a 1946 act and which presumably requires it to monitor carefully all agency expenditures. A few days ago he was quoted in a news story as denouncing his own committee with these words: "The committee is not interested in anything;

it's in the pocket of the Pentagon." The committee's performance, he said, "is awful miserable."

To overcome his frustration inside the committee Aspin has issued statement after statement on his own findings. He charges a $4 billion overrun on the F-111 plane, $2.5 billion on the B-1 bomber, $2 billion on the Safeguard antimissile system, $1 billion on the Navy's A-7E jet fighter—and lots of other cost excesses.

He chastised the Navy for buying $16 million in buoys that were no good, but the Navy replied that he was wrong.

He has demanded an end to free worldwide rides on military planes by high ranking officers and retirees. He even has denounced the Air Force for not permitting one-star (brigadier) generals to eat in its "generals" dining room. And, he has gone beyond strictly military affairs in hitting at oil leaders' donations to President Nixon's political campaign and at the much criticized cheap trade loans to Russia. In the last named attack he was joined by a group of conservative congressmen, perhaps strange company for him in his generally liberal approach to government affairs.

Aspin, although only 35, has impressive credentials. He is a 1960 Yale graduate, won his master's at Oxford and his Ph.D. at Massachusetts Institute of Technology. He has worked on the staff of Sen. William Proxmire (and perhaps learned the tricks of being a bureaucratic critic there) and was a staff assistant on President Kennedy's Council of Economic Advisers.

He served in the Army from 1966 to 1968 and learned firsthand of Pentagon spending experiences as an economic adviser in the office of Defense Secretary Robert McNamara, Next, before going to Congress in 1970, he was professor of economics at Marquette University.

He is relatively "clean" as a congressman critic, not having joined his spendthrift colleagues in trips abroad at taxpayers' expense.

It is early to assess his full impact, even his true motives, or whether he will attain the stature of other spending critics like Sen. John Williams of Delaware, Sen. Harry F. Byrd Jr. of Virginia, Sen. Henry Jackson of Washington, Rep. John P. Saylor of Pennsylvania and Rep. John Moss of California.

Whatever the future holds for Aspin, he will be an interesting congressman to watch. He isn't popular in the Pentagon and many in the House call him an "upstart." Those are pretty fair credentials, from a taxpayer's standpoint.

## A BIG PLUS FOR THE OIL INDUSTRY

(Mr. VANIK asked and was given permission to address the House for 1 minute, and to revise and extend his remarks and include extraneous matter.)

Mr. VANIK. Mr. Speaker, the President's oil tax recommendations attack oil projects with a feather duster where a big stick is needed.

The elimination of the foreign depletion allowance will produce no new tax revenue. The foreign production and refining of oil has more credits than it can use under the foreign tax credit—which should be the real target.

Recent price escalations of imported oil result substantially from taxes paid to producing countries, which multiplies the value of the foreign tax credit. For example, the Venezuelan tax of $8.17 per barrel for 100 million barrels of oil destined to the United States will provide American companies with a total tax credit of $817 million annually.

We are shocked today to learn of the tremendous profits of the oil companies which are now coming to light. The real shocker will come later this year when the American taxpayer discovers that these swollen profits of 1973 will pay Federal taxes at a lower effective rate than they did in 1972. In the oil business, there is very little relationship between high profits and taxes paid.

## TO EXEMPT TEXAS FROM EMERGENCY DAYLIGHT SAVING TIME

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LA GARZA. Mr. Speaker, I have today introduced a bill to exempt the State of Texas from provisions of the Emergency Daylight Saving Time Energy Conservation Act of 1973.

Having spent most of the last month in my district, the 15th Congressional District of Texas, I can report that the people in that south Texas area want no part of the year-round daylight saving time.

Their complaints are varied and specific.

Children are forced to leave home for school not by dawn's early light but in the black of night. This is both inconvenient and unsafe.

Working mothers are forced to drop off their children at school long before they are due there or to leave them alone at home until the schoolbus arrives.

Farmers must start their morning chores in Stygian darkness, for dairy cows and other farm animals continue to operate on their own time schedule no matter what the clock says.

In homes everywhere lights must be turned on in every room so that family members can meet the stepped-up schedule enforced by artificial time.

Daylight saving time in winter is disrupting family life, threatening the safety of our children, and inconveniencing nearly everybody, and it is the same in the summer—there is too long a period of daylight in the evening and it disrupts the whole economy.

No proof has been brought forward that daylight saving time results in any worthwhile conservation of energy. Even some officials of the Federal Energy Office concede that DST is not much more than a symbol. It is a public relations gimmick.

Bills have been introduced for outright repeal of the Emergency Daylight Saving Time Energy Conservation Act, and I will gladly support them. Meanwhile, as I have said, I have introduced my own bill, one simply exempting Texas from provisions of this law.

If other States of the Nation wish to cling to year-round daylight saving time—which I doubt—that is their right. But Texas wants out of this futile, at best, and harmful, at worst, undertaking. I hope my colleagues will support our wish in this connection.

## PERSONAL EXPLANATION

Mr. KUYKENDALL. Mr. Speaker, on rollcall No. 8, on passage of H.R. 11354 providing for increased participation by the United States in the International Development Association, I voted "yea" under the mistaken impression that I was voting to recommit. I was in favor of recommitting the bill and meant to vote against its passage. I ask unanimous consent that this statement appear in the RECORD following the rollcall in question.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

## BUSING A MOOT ISSUE? OIL CRISIS VOIDS IT

(Mr. HUBER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HUBER. Mr. Speaker, as will be recalled, this House voted for an amendment to prohibit the use of gasoline for forced busing in order to save the millions of gasoline gallons that are daily used so wastefully. The Detroit News on January 7, 1974, ran an editorial in general support of this position. It went even a little further, however, and pointed out the probable difficulty of securing the requisite number of school buses if cross-district busing is ever put into effect in the Detroit area. The editorial follows:

### BUSING A MOOT ISSUE? OIL CRISIS VOIDS IT

> As the state of Michigan and numerous Detroit-area suburban school districts argue in the U.S. Supreme Court against cross-district school bussing, the energy crisis seems to be turning the question of bussing into a moot issue.
>
> Assume that the court approved the concept of massive bussing in the tri-county metropolitan area of Detroit. Assume that the necessary buses were available. How could the courts or any public official possibly justify the use of precarious fuel to carry students away from their neighborhood schools to schools in distant places?
>
> Unless we're living at last in Wonderland, it just won't happen.
>
> The first assumption, that the court would approve, is by no means a strong one. In view of the trend of moderation in the Supreme Court in recent years, the foes of cross-district bussing have an excellent chance of winning this case.
>
> The second assumption, that the buses would be available, is also very much in doubt. According to rough estimates, the tri-county area affected by U.S. District Judge Stephen Roth's sweeping integration order would need 3,000 buses to transport an estimated 300,000 students away from their local schools.
>
> Because of the backlog of orders at the few existing assembly lines, delivery of a bus to the purchaser takes from 10 to 18 months. Competition for buses is obviously keen. When this problem was mentioned in the first throes of the busing madness, someone made the airy suggestion that the schools could always charter some of those unused DSR buses. It seems, however, that there aren't going to be any extra DSR buses lying around.
>
> But let's suppose the schools managed by some stroke of magic to obtain the necessary buses for the cross-district bussing madness. Getting the gasoline would be quite another matter.
>
> Amid talk of curtailing school programs because of the fuel shortage, how could schools obtain fuel for unnecessary bus trips? If such an incredible allocation were made,

there would still be the obstacle of public opinion. Any effort to pour gasoline into school buses for racial integration, while ordinary citizens scratched for a tank of gasoline or a seat on the DSR, would produce a deafening public uproar.

Massive cross-district bussing was an impractical suggestion at conception. The energy crisis underscores the impossibility of this costly and disruptive approach to the problem of school segregation.

## LEGISLATIVE PROGRAM

(Mr. ARENDS asked and was given permission to address the House for 1 minute.)

Mr. ARENDS. Mr. Speaker, I have taken this time in order to ask the distinguished majority leader, the gentleman from Massachusetts (Mr. O'Neill), if he will kindly advise the Members of the House as to the program for next week.

Mr. O'NEILL. Mr. Speaker, if the distinguished acting minority leader will yield, I will be happy to reply to the request of the gentleman.

Mr. Speaker, the program for the House of Representatives for the week of January 28, 1974, is as follows:

On Monday there will be District Day, but there are no bills.

On Tuesday we may have S. 2589, the National Energy Emergency Act conference report, subject to its passage in the Senate.

Then also on Tuesday there will be H.R. 11793, the Federal Energy Administration, under an open rule with 2 hours of debate.

For Wednesday and the balance of the week we will have H.R. 2, the Pension Reform Act, subject to a rule being granted, and H.R. 5463, Federal rules of evidence, under a modified closed rule, with 4 hours of debate. We are hopeful that the 4 hours of debate can be concluded on Thursday so that the Members may have over that weekend to submit amendments so that the amendments can be printed, and that then we may consider amendments the following week.

The state of the Union address will take place on Wednesday evening at 9 o'clock, when the President will be here in a joint session.

Mr. Speaker, I take this time to announce to the Members that the leadership from both sides of the aisle met and after extensive consultation agreed that during February we will adjourn at the close of business on Thursday, February 7 until noon Wednesday, February 13 in honor of Lincoln's Birthday, which falls on Tuesday, February 12.

We agreed that on Washington's Birthday, Monday, February 18, the only business of the House will be the reading of Washington's Farewell Address.

As all the Members know, this is an election year and all Members should be on notice that we will conduct business as usual on the 16 primary days during the year. There will be no attempts to postpone votes on those days.

We also agreed that the House will work 5-day weeks if legislation is available to be scheduled. We are into the second session and we feel that we should schedule bills for Fridays when bills are ready.

If there are any other recesses we will announce them at a later time.

Concerning the Easter recess, no decision has yet been made due to the matter now pending before the Committee on the Judiciary.

## APPOINTMENT OF CONFEREES ON H.R. 10203 AUTHORIZING CONSTRUCTION, REPAIR, AND PRESERVATION OF CERTAIN PUBLIC WORKS ON RIVERS AND HARBORS

Mr. BLATNIK. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 10203) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota? The Chair hears none, and appoints the following conferees: Messrs. Roberts, Johnson of California, Anderson of California, Roe, Harsha, Snyder, and Don H. Clausen.

## WILD AND SCENIC RIVERS ACT

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 921) to amend the Wild and Scenic Rivers Act, with a Senate amendment to the House amendment thereto, and disagree to the Senate amendment.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. TAYLOR of North Carolina. Mr. Speaker, S. 921 made some needed amendments to the Wild and Scenic Rivers Act. This bill passed the House without opposition on December 2, 1973.

The other body chose this bill as a vehicle to attach the so-called Energy Emergency Act, which the House rejected during the waning hours of the last session.

By disagreeing to the Senate amendment, we will in effect approve the text of the Wild and Scenic Rivers Act amendment as it originally passed the House and send it back to the Senate for final disposition.

My purpose is to preserve the wild and scenic rivers bill which became an innocent victim of the energy legislation controversy.

## IMPORTANCE OF FARM EXPORTS

(Mr. MAYNE asked and was given permission to address the House for 1 minute, and to revise and extend his remarks and include extraneous matter.)

Mr. MAYNE. Mr. Speaker, last December 11 the House very wisely passed the Trade Reform Act of 1973. This bill is vital if our Nation is to have any chance of maintaining the favorable balance of international trade which has been achieved for the first time since 1970. If passed by the Senate and signed by the President, the Trade Reform Act will give our representatives in the GATT negotiations, currently underway in Geneva, valuable tools to achieve a more open trading world. It will give them a much better chance to correct the unfair discriminations against American agricultural exports which unfortunately came out of the Kennedy round. I therefore urge our colleagues in the Senate to complete favorable action on this bill as expeditiously as possible.

Our country's balance of payments would be very bleak indeed were it not for the amazing productivity of American farmers resulting in a dramatic increase in American agricultural exports in recent years. For the 11 months January through November, U.S. agricultural trade resulted in a positive balance of $8.1 billion. This more than offset the $7.5 billion deficit incurred by trade in nonagricultural products, so that the total U.S. international trade account for 11 months stood at over a half billion dollars on the positive side.

If we are to remain in the black, we must be on guard against all attempts to embargo or limit farm exports. I refer to the recent $1 a loaf bread rhetoric bouncing through our air waves and appearing in various trade publications. The Nation's housewives must not be misled by propaganda that, if export embargos are not implemented on wheat, then they will be faced with $1 a loaf bread.

Secretary Butz has effectively answered this canard by pointing out that the price of wheat would have to rise from the present $5.70 to $33 per bushel before increased wheat costs would justify a dollar a loaf for bread. Wheat used for food in the United States is a little over 500 million bushels a year. Consider also that our 1974 production of wheat is expected to top 2 billion bushels, only a little over 500 million bushels of which will be used for U.S. food consumption. And wheat supplies will be strengthened by the Soviet Union's recently announced agreement to defer taking delivery of 18.4 million bushels already contracted for until after next summer's harvest.

There is no need or justification for curbing our exports of wheat or any other agricultural product. Certainly ill-advised and short-lived, the soybean embargo of last summer serves as a vivid reminder that any such export controls will seriously damage our hard-won reputation as a reliable world supplier. The Senate can help our farmers enhance that reputation by promptly passing the Trade Reform Act of 1973. This will encourage even greater agricultural exports, improve our balance of payments, strengthen our dollar and go a long way toward meeting even the escalating cost of our foreign fuel requirements and other necessary imports.

## ADJOURNMENT OVER TO MONDAY, JANUARY 28, 1974

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet on Monday next.

The SPEAKER pro tempore (Mr. McFall). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

## DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday Rule be dispensed with on Wednesday of next week.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

## A TRIBUTE TO THE LATE HONORABLE DR. ANTONIO FERNÓS-ISERN

The SPEAKER pro tempore. Under previous order of the House, the Resident Commissioner, the gentleman from Puerto Rico (Mr. Benitez) is recognized for 60 minutes.

Mr. BENITEZ. Mr. Speaker, many friends in this illustrious body have expressed already their sadness for the death of their well-remembered colleague of years passed, our former Resident Commissioner, Dr. Antonio Fernós-Isern. He died on the evening of Saturday, January 19, at the age of 79, in San Juan. I can well appreciate their affectionate remembrances. Dr. Antonio Fernós-Isern was an exceptional man.

He came to the House of Representatives in 1946 to fill the unexpired term of Jesús T. Piñero, who was designated by President Truman to substitute the last and the best continental chief executive, Gov. Rexford G. Tugwell. Jesús T. Piñero in turn was to be Puerto Rico's first and last appointed Governor. For 1 year later, in 1947, in part due to the efforts of Resident Commissioner Fernós, the Organic Act of Puerto Rico was amended to provide for an elective governor. Luis Muñoz Marín, the great Puerto Rican leader, was chosen to that post on November 1948. In the same general election Fernós was elected Resident Commissioner and continued as Puerto Rico's elected representative in the United States successively until 1964 when he decided not to seek reelection, after serving in nine consecutive Congresses.

Our former Resident Commissioner was a scholar, a politician, a man of letters, a public servant with over half a century of unflinching dedication to principles of government and of mankind which today, everywhere are very much in need of defense and of exemplification.

Born on May 10, 1895, in San Lorenzo, P.R., Antonio Fernós-Isern went through elementary school in the city of Caguas and then came to the mainland to finish high school in Bloomsburg, Pa.; normal school, medical preparatory course; and finally graduated as a physician from the College of Physicians and Surgeons, University of Maryland. Fernós later attended public health postgraduate courses at the School of Public Health, Columbia University, in New York.

As a physician, he had a distinguished career, not only in the private practice of his profession, but also in public office, having been appointed twice a member of the Governor's cabinet as the head of the health department. Also as a physician, he devoted part of his effort to teaching, becoming a professor at the school of tropical medicine, a joint project sponsored by the University of Puerto Rico and Columbia University.

Already by 1920, Dr. Fernós held the post of under secretary of health in Puerto Rico. I remember seeing him almost daily as he would walk to his office in Santurce and I to my grammar school, nearby. A tall, lanky, freckled-face, blond and distinguished young physician in white linens directing Puerto Rico's public struggle against tropical diseases, undernourishment and insufficient medical attention, at the age of 25. At the time, over 50 years ago, he proposed a program for universal compulsory medical attention. He was committed also to other social services programs regarded even today as too daring by the medical profession.

Later in the twenties while I was a student at Georgetown, I had occasion to see Dr. Fernós once more coming to Washington in diverse commissions to plead the cause of the ill fed, ill clothed, and ill housed. With his record of service and his deep insatisfaction with immediate reality it was only natural that Fernós would become most active in the denunciation of and the struggle against social, economic, political injustices prevalent in Puerto Rico.

In the thirties he joined forces with Luis Muñoz Marín and other men of goodwill who despite multiple adversities retained their faith in the democratic process and their determination to use it as the basic instrument of social justice in Puerto Rico. The general elections of 1940 provided the takeoff stage for our collective movement of reconstruction. Luis Muñzo Marín and his recently created Popular Democratic Party achieved a one-vote majority in the legislature.

President Franklin D. Roosevelt at long last made a good apopintment to the governorship, the brilliant economist and administrator Rexford G. Tugwell. Under the joint and felicitous leadership of these two outstanding men Luis Muñoz Marín and Rexford G. Tugwell, supported in their common goals by men and women well trained and deeply motivated, the creative years in Puerto Rico's social transformation were initiated. A social revolution as yet incomplete with ups and downs, in many ways imperfect but nonetheless courageous, farsighted, pragmatic and idealistic at the same time was launched. As one of its leaders, Dr. Fernós was appointed secretary of health and was responsible for a wide expansion of our health services. It was, however, in the House of Representatives of the United States where he performed his most significant services for Puerto Rico and for the United States.

As Resident Commissioner, Dr. Fernós was very active in supporting the extension of beneficial social legislation. At the same time, with the support of his friend Wayne Aspinall and others in the House of Representatives and in the Senate, Dr. Fernós was effective in the modification of the Organic Act of 1917. Later, throughout the period 1950 to 1952, Fernós was a leading figure in the drafting,supporting, and final approval of Public Law 81–600 and other pertinent legislation I am referring to the laws which authorized the creation of the Commonwealth status in the nature of a compact between Puerto Rico and the United States. He presided, morover, at Puerto Rico's Constitutional Convention, where it was also my privilege—as well as that of the principal leaders of Puerto Rico, including former Governors Luis Muñoz Marin and Luis A. Ferre—to participate.

Commonwealth status is outstandingly a form of government which by its very nature reflects a process of permanent, voluntary continuously improving relationship of interdependence with the United States as well as of self government and autonomic relations of Puerto Rico.

The task of improving Commonwealth is still very much with us. The last significant piece of Federal legislation in which Commissioner Fernós participated was the law of 1964 creating the Joint United States-Puerto Rico Commission on the Status of Puerto Rico. That Commission made voluminous studies and conducted extensive hearings over a period of 2 years and recommended as follows:

> The Commission's major conclusion is that all three forms of political status—The Commonwealth, Statehood, and Independence—are valid and confer upon the people of Puerto Rico equal dignity with equality of status and of national citizenship. Any choice among them is to be made by the people of Puerto Rico, and the economic, social, cultural, and security arrangements which would need to be made under each of the three status alternatives will require the mutual agreement and full cooperation of the Government of the United States. A first step toward any change in political status must be taken by the Puerto Rican people acting through constitutional processes.

The Commission further recommended a plebiscite which was held in July 1967 where the Puerto Rican electorate overwhelmingly supported the continuation of the improvement of Commonwealth status.

We are now in the midst of a renewed effort to implement and carry out those recommendaitons. Last September a Joint Advisory Group was appointed by President Nixon and by Governor Hernández-Colón charged to recommend how best to develop our present status in accordance with its fundamental principles to a maximum of self-government and self-determination within the framework of Commonwealth. This is our unfinished business and one which I trust it will be possible to achieve within the terms of my own electoral mandate.

Mr. Speaker, my tribute to Dr. Fernós has been presented in the perspective of our history which includes not only the immediate past and present but also the basic trend of events and of leadership signaling toward the future. In closing may I indicate the paradoxical nature of the office which I now occupy. Its title, Resident Commissioner, breaks with tradition and was used for the first time in 1900 to refer to the elected representative from Puerto Rico as well as from the Philippines and to distinguish both in title and implications from the designation accorded to the delegates from other territories.

It was not until this Congress that the Resident Commissioner was accorded full-fledged membership in the committee. He does not have now and probably would require a constitutional amendment to accord the right of vote on the floor. Yet in spite of this and other limitations the people of Puerto Rico have also attributed exceptional importance to the post and selected its representatives with the highest care. This is because even in our darkest moments we have believed profoundly in the value and effectiveness of moral authority holding steadfastly to the principle that given the right to speak and to do so outspokenly and fearlessly, strengthen, by right and by reason, the halls of the Congress of the United States will be responsive to the democratic aspirations and the spiritual commitments of their fellow-citizens from Puerto Rico.

Puerto Rico's outstanding patriot of the 19th century Luis Muñoz Rivera, who himself was successful in achieving in the last days of the Spanish relationship our Charter of Autonomy in 1897, was elected also as Puerto Rico's Resident Commissioner in 1912 and the work he did in two successive Congresses was continued here by all his followers, outstandingly Dr. Fernós Isern.

No greater tribute could we pay to the memory of the past outstanding representatives of Puerto Rico in Congress than contributing to effect the free, voluntary permanent association of both Puerto Rico and the United States which they so signally helped to foster.

**Mr. HOSMER.** Mr. Speaker, will the gentleman yield?

**Mr. BENITEZ.** I yield to the gentleman from California.

**Mr. HOSMER.** Mr. Speaker, on Saturday, January 19, 1974, Dr. Antonio Fernós-Isern, one of the fathers of the Puerto Rican Commonwealth, passed away. I share the great feeling of loss at his passing.

Dr. Fernós was one of the giants of his time. A superb legislator and diplomat, he devoted the better part of his lifetime to serve the people of Puerto Rico. He, together with Munoz Marin, our colleague Jaime Benitez, and a dedicated group of patriots, worked ardently to shape the status of the commonwealth concept which evolved into the present day compact of free and permanent association with the United States.

I recall with clear sentiment his distinguished presence as a member of the House Committee on Interior and Insular Affairs on which he and I served together for many years. Dr. Fernos was greatly admired by myself and all his colleagues for his statesmanship and political acumen which seemed to come naturally for him.

A man of great warmth and personality, he won the respect of his fellow legislators for his knowledge of, devotion to, and effectiveness in serving the needs of the people of Puerto Rico.

The aspirations of the people of Puerto Rico were Dr. Fernós' aspirations. He served them well and he will be sorely missed. I am pleased to place in the Record some of the thoughts of his friends in his native Puerto Rico which are succinctly expressed in the following editorials which appeared in El Mundo and the San Juan Star:

### Editorial in El Mundo, San Juan, Puerto Rico, Monday, January 21, 1974

With the death of Dr. Antonio Fernós Isern, occurred on Saturday, at the age of 78, decimation goes on of our mature civic leadership of today, that professional and political leadership which constituted, two generations back, an avant guard guiding group of our public undertakings then, and up to the present time.

Born in San Lorenzo, Fernós Isern was proud of being a true "jíbaro" (hillbilly) and knowing well the idiosyncrasy of the rural man, who was during Fernós' juvenile years more numerous and representative of our country than the vanishing peasant of today.

Like many of his contemporaries, Fernós excelled in many disciplines. He was a scientist, a physician by profession, but was irresistibly attracted by literature, the social sciences, the art of conversation and politics. He was outstanding in all those areas by the depth of his convictions, his natural ability to express himelf and his impeccable manners, not only with his friends, but with his political adversaries and dissenting professionals as well.

After leaving public service, during the decade of the thirties, Dr. Fernós was, together with Jesús Piñero, Elmer Ellsworth, Ramos Antonini, Andrés Grillasca, Father Rivera and others, one of the most ardent collaborators of Mr. Muñoz Marín in founding the Popular Democratic Party.

The position of Resident Commissioner was vacant in 1946, because the incumbent Mr. Jesús T. Piñero was appointed as the first Puerto Rican born governor of the island. He in turn made his first important designation by appointing Dr. Fernós to be his successor. Since that date—and by popular election until 1964—Dr. Frenós remained in Washington, fulfilling with great ability his duties for the political development of Puerto Rico.

During the incumbency of Dr. Fernós as Resident Commissioner, Puerto Rico attained the most notable political reforms ever achieved in the United States Congress. His great diplomatic ability was instrumental in passing in 1947 an amendment to the Jones Act, to authorize the Puerto Ricans to elect their own governor in the elections of 1948.

From then on, Dr. Fernós sought and obtained approval of Law 600, by which the Congress acknowledges the right of the Puerto Rican people to organize their government on the basis of their own constitution.

Dr. Fernós presided over the Constitutional Convention which deliberated during 50 days to draft and approve the Constitution of the Commonwealth of Puerto Rico, a political instrument which once ratified by popular vote was approved by the Congress on time to be proclaimed as the supreme law of the land on July 25, 1952. Dr. Fernós' participation was efficient, opportune, almost decisive, in all the related administrative and political proceedings.

After voluntarily stepping out as Resident Commissioner in 1964, Dr. Fernós was elected a Senator in the Puerto Rican Legislative Assembly; and when his term expired in 1968 he decided to retire from active politics.

Dr. Fernós was an aristocrat of both written and verbal expression, and the clarity of his reasoning ran parallel to the pulchritude of his personal manners. He was a gentleman and a diplomat in the true sense of these concepts. His achievements made him one of our authentic leaders during the last half century of our history. Puerto Rico is indebted to Antonio Fernós-Isern.

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### Dr. Fernos

Dr. Antonio Fernos Isern, who died late Saturday night at the age of 78, helped write the Puerto Rican history of the 1940s and 1950s that changed Puerto Rico from an agrarian society struggling for survival into one of the foremost developing societies in the world.

A physician who left his profession to labor within the ranks of the blooming Popular Democratic Party, he was for long years (1946–64) Puerto Rico's resident commissioner in Washington and, as such, Luis Munoz Marin's right arm in spreading understanding of commonwealth status in Washington and in securing federal aid programs.

His tenure in Washington was marked by many accomplishments and few failures. Among the latter was the so-called Fernos-Murray Bill, which died in Congress in 1960. This bill called for a series of changes in U.S.-Puerto Rican relations designed to give the island more autonomy.

Fernos left the post of resident commissioner in 1964 but that did not end his public service. He was elected to the Senate that same year and until 1968 he served outstandingly as an elder statesman in that branch of the Legislature.

Antonio Fernos Isern was a charming. knowledgeable man who put his wisdom and diplomacy at Puerto Rico's call for his adult life. All of Puerto Rico owes a debt of gratitude and an honored place in its memories to Dr. Fernos.

**Mr. BADILLO.** Mr. Speaker, will the gentleman yield?

**Mr. BENITEZ.** I yield to the gentleman from New York.

**Mr. BADILLO.** Mr. Speaker, during the congressional adjournment, while on a brief visit to Puerto Rico, I had the sad duty of paying my last respects to one of the island's most distinguished leaders. Dr. Antonio Fernós-Isern lived for 78 years, during which he distinguished himself in many different fields.

The title of "doctor," which is often used in Latin American countries to refer to an individual who has distinguished himself in one field or another through training and/or accomplishments, was more literally applied to Fernós-Isern, for he was a medical doctor. He graduated from the College of Physicians and Surgeons in Baltimore, Md., in 1915 and practiced medicine in Caguas, Puerto Rico, my own birthplace, for 2 years before entering the field of public health. He continued in that field for many years, although his service was interrupted once in 1933 when he went back to private practice as a cardiologist for about 9 years. From 1942 to 1946 he was Commissioner of Health of Puerto Rico.

While it is obvious from these details that Dr. Fernós-Isern had a lengthy career and a great deal of devotion to the very important field of medicine, it was in the political realm that he will be most remembered. He was the author of Public Law 600, under which the Commonwealth of Puerto Rico was created and of Public Law 447, to ratify the constitution of the commonwealth. He was a true friend and close associate of the island's first popularly elected Governor, Luis Muñoz Marín, and collaborated with him in founding the popular democratic party in Puerto Rico.

In 1946 Dr. Fernós-Isern was appointed Resident Commissioner of Puerto Rico and served in that post until 1964, having been selected by popular vote to serve the terms which came subsequent to his initial appointment. He was a popular and competent person in Washington, working at all times for the political and social development of the island. In 1968 he finally retired from public life, having given long and devoted service to the people of Puerto Rico.

Like many great men, Antonio Fernós-Isern was skilled at many things—a scientist and physician, a student of literature and the social sciences, a politician, an eloquent speaker, as well as an individual of great depth and charm. Like the late Pablo Casals, he was noted for his impeccable manners and fine sense of humor. He was born in a rural area and took great pride in referring to himself as a "jibaro," one who was familiar with the rural ways of life and who was able to laugh at such humble beginnings as he rose to a position of prominence, loved and esteemed by all of his people.

We are deeply saddened at the loss of one of Puerto Rico's great patriots, but will remember with pride and gratitude his many years of service and his devotion to the cause of political and economic independence for Puerto Ricans.

Mr. DE LUGO. Mr. Speaker, will the gentleman yield?

Mr. BENITEZ. I yield to the delegate from the Virgin Islands.

Mr. DE LUGO. Mr. Speaker, it was with great sorrow that I learned of the death on Saturday of Dr. Antonio Fernós-Isern, the distinguished former Resident Commissioner of Puerto Rico. During his most remarkable career, Dr. Fernós was a physician author, professor, Resident Commissioner and always a statesman of uncommon abilities.

In 1946, after service in a variety of important public and private positions, Dr. Fernós was sent to Washington to fill the unexpired term of Resident Commissioner Jesus Pinero, whom President Harry S. Truman had appointed as Governor of the Commonwealth. Dr. Fernós served on the House Committee on Interior and Insular Affairs for the entire 18 years he was in the Congress, and in that time was successful in securing the passage of more than 80 bills which serves the interests of his constituency.

The Commonwealth of Puerto Rico was indeed fortunate to have the leadership of Dr. Fernós during the critical decades of 1940 and 1950 when it evolved from a largely agrarian society to one of the major developing areas in the world. He presided over the Constitutional Assembly that created Puerto Rico's Commonwealth status, and was the author of legislation in the Congress which ratified this change in the relationship with the United States.

I had the pleasure of meeting Dr. Fernós when he was Resident Commissioner, and I was a member of the Virgin Islands Legislature, and will always recall his warm friendship and deep commitment to the needs of the people of the Virgin Islands. As we honor the memory of this truly great statesman, let us also draw inspiration from his humanitarian spirit and many accomplishments in the service of the Commonwealth of Puerto Rico.

Mr. BENNETT. Will the gentleman yield?

Mr. BENITEZ. I am glad to yield to the distinguished gentleman from Florida.

Mr. BENNETT. It is certainly with great sadness that I learned of the passing of this distinguished statesman.

In his service in the House of Representatives representing the Commonwealth of Puerto Rico he always demonstrated a warm-hearted, considerate approach to even the most difficult of problems. His ability to discern the heart of the problem and come right to it and his fine personal attributes of friendship and understanding made it impossible to turn him down on the many things he did for America and Puerto Rico.

I came in close contact with this gentleman on many matters that came before the Congress during the years we served here together. I never found him to be other than a complete gentleman and an exponent of those things which were best for mankind and the people he represented.

It is indeed a great although a sorrowful honor to pay this tribute to this magnificent person.

Mr. VANIK. Will the gentleman yield?

Mr. BENITEZ. I am glad to yield to the distinguished gentleman from Ohio.

Mr. VANIK. Mr. Speaker, I would like to join with my colleagues today in paying tribute to the contribution of Dr. Antonio Fernós-Isern, former Commissioner of Puerto Rico and creator of the Commonwealth government.

Dr. Fernós-Isern was one of the warmest, most compassionate, most socially involved men it has ever been my privilege to know. His service, his labor of love for the people of Puerto Rico was unending and unflagging. His long and rich life was a continual gift of love to the people of his island home, to all the peoples of the Caribbean, and to the United States.

As health commissioner, as chairman of the child welfare board, and Puerto Rican Red Cross, Acting Governor of Puerto Rico, president of the Puerto Rican Constitutional Convention, and Resident Commissioner for 8 years, Dr. Fernós-Isern has done more than any other single person to help improve the life of the people of Puerto Rico.

His life has set an example for all those in public service. He will long be remembered and loved by the people of his beautiful island. He was dedicated to the Commonwealth and its relationship to America.

Mr. BENITEZ. Mr. Speaker, I wish to express my gratitude to all the gentlemen who have been kind enough to take the occasion to remain on the floor and to express their sadness and their sorrow and their solidarity with all of us.

Mr. Speaker, I would likewise ask unanimous consent to include editorials from the Spanish paper El Mundo and from the English newspaper the San Juan Star which on the dates of January 21 and 22 expressed the sentiments of the community of Puerto Rico with regard to this great man.

The SPEAKER. Without objection it is so ordered.

There was no objection.

### Editorial in the Spanish Newspaper El Mundo

With the death of Dr. Antonio Fernós Isern, occurred on Saturday, at the age of 78, decimation goes on of our mature civic leadership of today, that professional and political leadership which constituted, two generations back, an avant guard guiding group of our public undertakings then, and up to the present time.

Born in San Lorenzo, Fernós Isern was proud of being a true "jibaro" (hillbilly) and knowing well the idiosyncrasy of the rural man, who was during Fernós' juvenile years more numerous and representative of our country than the vanishing peasant of today.

Like many of his contemporaries, Fernós excelled in many disciplines. He was a scientist, a physician by profession, but was irresistibly attracted by literature, the social sciences, the art of conversation and politics. He was outstanding in all those areas by the depth of his convictions, his natural ability to express himself and his impeccable manners, not only with his friends, but with his political adversaries and dissenting professionals as well.

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### EDITORIAL IN THE ENGLISH NEWSPAPER THE SAN JUAN STAR

Dr. Antonio Fernós Isern, who died late Saturday night at the age of 78, helped write the Puerto Rican history of the 1940s and 1950s that changed Puerto Rico from an agrarian society struggling for survival into one of the foremost developing societies in the world.

A physician who left his profession to labor within the ranks of the blooming Popular Democratic Party he was for long years (1946–64) Puerto Rico's Resident Commissioner in Washington and, as such, Luis Munoz Marin's right arms in spreading understanding of Commonwealth status in Washington and in securing federal aid programs.

His tenure in Washington was marked by many accomplishments and few failures. Among the latter was the so-called Fernós-Murray Bill, which died in Congress in 1960. This bill called for a series of changes in U.S.-Puerto Rican relations designed to give the island more autonomy.

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Antonio Fernós Isern was a charming, knowledgeable man who put his wisdom and diplomacy at Puerto Rico's call for his adult life. All of Puerto Rico owes a debt of gratitude and an honored place in its memories to Dr. Fernós.

**Mr. JOHNSON of California.** Mr. Speaker, it was with much sadness that I learned of the recent passing of my friend and former colleague, Dr. Antonio Fernós-Isern, a former Resident Commissioner of Puerto Rico.

Together we served as members of the House Interior and Insular Affairs Committee during the consideration of many significant bills in the early 1960's. I could always count on the counsel of Dr. Fernós to be valuable and informed. We have missed his presence in these halls, and are sorry to learn that he is no longer with us.

Dr. Fernós was a legend in his own time. It was he who tirelessly worked for the legislation which granted his homeland the status it enjoys today. With many hours of hard work and determined effort, Dr. Fernós gained the approval of his colleagues for the legislation creating the Commonwealth of Puerto Rico.

It was always a pleasure for me to work with him, for he was a man who enjoyed his work and shared this enthusiasm with others. He was always very much concerned with the legislation before the committee and contributed greatly to its consideration.

In nearly 20 years of service in the Congress, Dr. Fernós made many friends for his native land as well as for himself. We will miss his advice and counsel. Mrs. Johnson joins me in expressing our deep sympathy to his family and friends.

**Mr. WON PAT.** Mr. Speaker, it was with great sadness that I recently learned of the death of a former Member of this body and a personal friend, Dr. Antonio Fernós-Isern, who passed away in Puerto Rico on Saturday, January 19.

Dr. Fernós left behind him a remarkable legacy of public service and compassion for his fellow Puerto Ricans. A physician who left his profession to work in politics, Dr. Fernós served as Puerto Rico's Resident Commissioner in Washington from 1946 to 1964 with outstanding distinction.

As the San Juan Star noted in its editorial marking the passing of this great man:

> His tenure in Washington was marked by many accomplishments and few failures.

Among his many accomplishments was, of course, the passage of Public Law 81–600, which authorized the creation of the Commonwealth status between Puerto Rico and the United States.

During those days, Guam, too, was working hard to improve its status within the American system. As a member of the team of Guam officials who came to Washington to work for the passage of an organic act establishing a civil government and granting U.S. citizenship to the people of Guam, I had the privilege of working closely with Dr. Fernós. His counsel and astute understanding of the congressional system and his sympathy for our cause contributed in no small way to our ultimate success.

Upon his completion of two terms as Resident Commissioner, Dr. Fernós returned to the island he so deeply loved and was elected to the Puerto Rico Senate in which he served until 1968.

All Americans, and especially those of us from the territories, owe a great deal to the efforts of Dr. Fernós to create a better understanding between his people and their fellow citizens in the States. Understanding mutual problems is the key to successful relations between all peoples, and Dr. Fernós' significant contribution to this end paved the way for increased involvement in the American way of life for all territorial Americans.

**Mr. DENT.** Mr. Speaker, it was with deep personal regret that I received the news of the death of our former colleague and friend, the delegate from Puerto Rico, Dr. Antonio Fernós-Isern.

Through the years that we were colleagues in the House, I came to know and respect this very "gentle" man who, though a physician by profession, excelled in many other areas as well. All of us who worked with him were impressed with his efforts on behalf of the people of Puerto Rico, whom he served for over 50 years. It was he who authored the law creating the Commonwealth of Puerto Rico and the law ratifying the constitution of that Commonwealth after presiding over the Puerto Rican Constitutional Convention. All of the important legislation affecting Puerto Rico bore his handprint.

I share the sadness the people of Puerto Rico must feel and extend my sympathy to the members of his family.

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## GENERAL LEAVE

**Mr. BENITEZ.** Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the life of our late colleague, the Honorable Antonio Fernós-Isern.

**The SPEAKER.** Is there objection to the request of the gentleman from Puerto Rico?

There was no objection.

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## OWNER-OPERATOR TRUCKERS' PROBLEMS

(Mr. MILFORD asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

**Mr. MILFORD.** Mr. Speaker, during our yearend break I had meetings with several owner-operator truckers in my district.

These people have some very serious problems that deserve the immediate attention of the Interstate and Foreign Commerce Committee.

Very typical of the problems of our owner-operator truckers are outlined by this letter from Mrs. Margaret Brown of Fort Worth, Tex. I would like to include her letter in the Record:

FORT WORTH, TEX., *January 5, 1974.*

DEAR MR. MILFORD: Would you please let me know if it is possible for me to speak before the Congress of the U.S. on the plight of the Independent Truckers situation.

Six months ago my husband was paying from 21¢ to 32¢ per gallon. The freight rates have not increased at this time. We are slowly going broke simply because we cannot continue to drive our truck.

I would like to go to Washington and present the facts to the whole senate in person.

The Independent Truckers are going to be in Washington on the 21st of January and we are going to be heard.

One man with one truck cannot make a living any more.

Hoping to hear from you.

MARGARET BROWN.

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## ALLIED SERVICES ACT OF 1974

**The SPEAKER.** Under a previous order of the House, the gentleman from Minnesota (Mr. QUIE) is recognized for 30 minutes.

**Mr. QUIE.** Mr. Speaker, I am introducing today the Allied Services Act of 1974 with the cosponsorship of Representatives **Perkins**, **Eshleman**, and **Brademas**.

I believe the concept of the bill is laudable and deserves the full support of all Members. Quite simply put, the act seeks to find better ways to deliver human service programs to the people who need them most. Although I fully expect the bill to be modified by the Congress, I feel that the basic concepts are excellent. My only significant reservation is with that section which permits the transfer of up to 30 percent of funds between programs.

Generally speaking, sections of bills which state findings and a declaration of purpose are usually dry and not very descriptive. As drafted by HEW, the opening section of this bill is quite unique in telling the story of why Allied Services is important. I should like to quote from section 2 of the bill:

> The Congress hereby finds that—
>
> (1) there is a great and a growing need in the Nation today to better relate our human services programs in order to improve their effectiveness in restoring dependent individuals to a status of personal independence. dignity, and economic self-sufficiency;
>
> (2) while much progress has been made in developing categorical service programs which can assist in achieving these goals, there are inherent, and increasingly irreconcilable, obstacles in our present approach to the effective management and provision of these services on a coordinated basis;
>
> (3) these obstacles typically take the form of: (i) fragmentation among many service agencies and units of government of the responsibility for serving dependent individuals and families, (ii) the lack, at State and local levels, of any single locus of accountability for the effective management and delivery of services, (iii) excessive structural and fiscal rigidity within arbitrary categories of Federal, State and local service programs, (iv) conflicting sets of administrative and geographical jurisdictions across service programs, (v) inadequate means by which to match needs with available resources, (vi) only informal and ad hoc means of coordination and communication among agencies and units of government providing human services, (vii) the absence of any commonly accepted and measurable set of service goals towards which human service programs should be directed, and (viii) costly duplication of support service functions across service agencies.
>
> (b) It is therefore the purpose of this Act to provide a program to develop, demonstrate, and evaluate the utility of coordinating human services delivery through such means as new cooperative arrangements and reorganization and reassignment of functions at all levels in the system of planning, management, and provision of human services, in order to—
>
> (1) provide appropriate institutional care for individuals for whom independent living is not feasible and for whom a high degree of care and protection is necessary;
>
> (2) secure adequate community-based care for individuals capable of noninstitutional living but for whom self-care is not feasible;
>
> (3) secure and maintain maximum independence and dignity in a home environment for those capable of self-care with appropriate supportive services and for whom economic independence is not feasible; and
>
> (4) remove individual and social barriers to economic and personal independence for all individuals capable of self-support, and assist children and youth in achieving their maximum potential for eventual personal independence and self-support.

## TO ENABLE SPECIAL PROSECUTOR TO SUPPLY COMMITTEE ON JUDICIARY WITH EVIDENCE AND INFORMATION

(Mr. RAILSBACK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAILSBACK. Mr. Speaker, when Special Prosecutor Leon Jaworski recently announced that he would be unable to provide evidence and information to the House Judiciary Committee, he effectively placed a roadblock in the path of that committee's inquiry into impeachment. No one doubts that Mr. Jaworski's motives for this action are founded on weighted legal considerations, but the initial need for an objective and expeditious investigation by the Judiciary Committee must not be ignored. Our constituents are clamoring for an immediate and responsible answer to the numerous allegations, questions, and doubts surrounding the Presidency. Only prompt congressional action in the form of an impeachment inquiry can provide that answer in the case of the President of the United States.

Mr. Jaworski's statements of last week indicated that his decision to withhold evidence was based primarily on his concern for the secrecy of pending grand jury proceedings. In my opinion, this concern was justified since rule 6E of the Rules of Criminal Procedure prohibits disclosure of matters pending before a grand jury. However, the urgent necessity for an exception on this rule in the case of a congressional inquiry into the impeachment of a President is clear. Since legitimate congressional doubts exist concerning the indictability of a President while in office, withholding vital evidence from an impeachment inquiry slows the possibility of impeachment and, in effect, places the President "above the law" until his term of office is concluded or until an additional lengthy investigation is conducted by a committee staff.

Today, therefore, I am introducing legislation which will enable the Special Prosecutor to supply the Judiciary Committee with all the evidence and information needed to conduct a fair and thorough inquiry into whether or not grounds for impeachment actually exist. In taking this action, I have no intentions of blocking any informal negotiations or judicial actions for an early release of evidence, but of insuring that such a transfer does not in fact take place. Time will not permit us to assume a position of "wait and see," when an issue as crucial to our Nation as impeachment hangs in the balance.

If implemented, this legislation will apply to all congressional inquiries into the impeachment of a President or Vice President and will make any relevant information in the possession of Federal prosecutors and investigators available to that committee of Congress having jursdiction over such inquiries. Second, it will require that such Federal officers provide a report describing the information or evidence in his possession if so requested by the chairman and ranking minority member. This measure is similar in intent to an amendment which I offered to the Special Prosecutor bill several weeks ago and which was approved by the Judiciary Committee at that time.

Events of the past several months have visibly shaken public confidence in the American governmental structure and it is our responsibility to attempt to "clear the air" and restore our constituents' confidence as quickly and fairly as possible. Without the Special Prosecutor's evidence and information, justice will be delayed and the doubts surrounding the President will be allowed to linger. The legislation I am introducing today will allow Mr. Jaworski to supply requested evidence without concern of legal restraint and the inquiry will be allowed to proceed immediately. I, therefore, respectfully urge adoption of this legislation.

## SEVENTEENTH AND EIGHTEENTH ANNUAL REPORTS OF THE HEALTH RESEARCH FACILITIES CONSTRUCTION PROGRAM DURING FISCAL YEARS 1972 AND 1973—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93–203)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce and ordered to be printed:

*To the Congress of the United States:*

I transmit herewith the Seventeenth and Eighteenth Annual Reports of the Health Research Facilities Construction Program for activities during fiscal years 1972 and 1973.

Richard Nixon.

The White House, *January 24, 1974.*

## ANNUAL REPORT OF THE OFFICE OF ALIEN PROPERTY, DEPARTMENT OF JUSTICE, FOR FISCAL YEAR ENDED JUNE 30, 1972—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce:

*To the Congress of the United States:*

I herewith transmit the annual report of the Office of Alien Property, Department of Justice, for the fiscal year ended June 30, 1972, in accordance with section 6 of the Trading With the Enemy Act, as amended.

Richard Nixon.

The White House, *January 24, 1974.*

## SEVENTH ANNUAL REPORT ON THE IMPLEMENTATION OF THE AUTOMOTIVE PRODUCTS TRADE ACT OF 1965—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President

dent of the United States; which was read and, together with the accompanying papers, referred to the Committee on Ways and Means:

*To the Congress of the United States:*

I hereby transmit the seventh annual report on the implementation of the Automotive Products Trade Act of 1965. The report contains information with respect to the United States-Canada Automotive Products Agreement, including information concerning automotive trade, production, prices, and employment in 1972. Also included is other information relating to activities under the act.

RICHARD NIXON.

THE WHITE HOUSE, *January 24, 1974.*

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## TO PROVIDE OUR CHILDREN WITH A SOUND BASIC EDUCATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93–202)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee on Education and Labor and ordered to be printed:

*To the Congress of the United States:*

The Congress returns to Washington this week at a time when America faces many difficult challenges. Each of them will spark honest differences of opinion and generate spirited debates during the coming year.

But one goal which unites all of our people is to provide each of our children with a sound basic education. No matter what race, faith or family circumstance, each child should have equal access to a good education.

We have made substantial progress toward this goal, but we can maintain that momentum only if we commit ourselves to a continuing renewal of the educational process. During the coming legislative year, there are many proposals which I believe the Congress should enact to improve our educational system. Among the highest priorities which I would urge upon the 93rd Congress are these:

—Consolidating major grant programs for elementary and secondary, vocational and adult education and increasing decision-making authority for State and local education agencies.

—Providing advanced funding so that State and local school authorities can plan their programs with greater certainty—a new and important concept in the financing of education.

—Targeting Federal funds so that students who have the greatest need—the truly disadvantaged—are the major recipients of funds.

—Expanding the grant and loan programs for students faced with the rapidly increasing costs of postsecondary education.

—And increasing support for organizations such as the National Institute of Education, which are searching for better ways to educate more than 60 million students in the United States.

### I. A RECORD OF PROGRESS

This Administration has worked hard to expand educational opportunity for every child and we have made substantial progress:

—We have established a new program of Basic Educational Opportunity Grants to further our goal that no qualified student be denied access to postsecondary education for lack of money.

—We have provided special aid for local school districts to help them deal with the problems of desegregation.

—We have created a National Institute of Education to marshal our research skill systematically so that we can better understand how students learn and how they can be taught more effectively.

—We have provided support to develop new ways of helping children learn to read.

—We have substantially increased support to colleges serving minorities and students from economically disadvantaged backgrounds.

In taking these and other steps over the past five years, we have increased Federal spending for education from $5.1 billion in fiscal year 1970 to an estimated $7.6 billion in the budget I will propose next month for fiscal year 1975.

This support has helped enrich the diverse educational system and has contributed greatly to our national strength and vitality.

### II. PRINCIPLES FOR THE FUTURE

While real progress has been made, there are additional problems which must be addressed if we are to make the promise of a quality education a reality for all Americans. Americans have never been complacent about their educational system, but today they are increasingly concerned—and with reason.

—Parents of children who are not learning to read know it is becoming more difficult to lead a satisfying and productive life without this basic skill.

—Parents often see their children moving through elementary and high school without acquiring an understanding of what careers are open to them and what skills will enable them to obtain a rewarding job.

—Many families do not see how they will be able to meet the rising costs of their children's college education.

—Teachers who want to try something new or make old methods work better too often have no place to turn for reliable information about what works and why.

—Local school administrators must plan their budgets without knowing, until the last moment, what Federal aid will be available.

We all want to commit our energies to solving these problems and to making our schools better. We must now find ways to focus these energies.

To do so, I believe, we should adhere to five basic principles of constructive action:

—*First, the Federal Government should continue to support national priorities in education without seeking to control and direct State and local responses to those priorities.* Schools which must respond to detailed and elaborate Federal red tape will be hindered in responding to the demands of students, teachers and parents. A concrete application of this principle is the consolidated education grants legislation which the Congress is now considering. I again urge that this legislation be framed to achieve the maximum possible consolidation of funding authorities, so that State and local agencies can use Federal funds to meet national priorities in their own ways.

—*Second, the Federal Government must make it possible for citizens, students, parents and administrators to plan ahead.* The request I will be making in my budget for advanced funding of the consolidated education grants reflects this principle.

—*Third, to the maximum extent possible we should put the important choices in the hands of students and parents themselves.* A concrete example of this principle is the Basic Opportunity grant program which permits students to apply funds toward an education at the school of their choice.

—*Fourth, the Federal Government must play a more responsive role in funding research to find out what works in education.* My proposal for the establishment of a National Institute of Education in 1970, and the funding for the institute I will recommend in my new budget show how I believe this principle can be carried out.

—*Fifth, we must firmly insist that all Americans have an equal opportunity for education.* The legislation I am supporting, the new budget, and the enforcement of non-discrimination to which I am committed all reflect this principle.

### III. ELEMENTARY AND SECONDARY EDUCATION

Traditionally State and local governments have exercised primary responsibility for education in this country. States and localities provide more than 90 percent of the money for elementary and secondary education while the Federal Government provides less than 10 percent. But in the last decade the tail has wagged the dog. Federal laws, rules, and regulations have imposed an elaborate set of "do's" and "don'ts." They often prevent State and local agencies from using Federal funds to best meet their needs.

#### FORWARD FUNDING

As if the Federal red tape were not confusing enough, the Federal funding process has created a situation in which school districts develop future budgets with a diminished degree of confidence or accuracy. School districts, for instance, have been faced with three entirely different allocations of funds just since July of 1973. As one school board member put it: "When we put our budget together, we don't know what we'll get from the Federal Government, so we have to be gamblers." School districts across the Nation will begin putting their annual budgets together next month, but unless we soon enact reforms they will not know how much their Federal funds will be until late fall.

To overcome this deficiency, which has plagued school boards in recent years, I plan to ask for supplemental appropriations for the current fiscal year of $2.85 billion. The money will be used by schools in the school year beginning this fall. If the Congress acts on this request swiftly, those who run our elementary and secondary schools as well as vocational and adult education programs would for the first time know how much Federal money they would have before the school year begins, not several months after the year has begun.

The supplemental appropriations request will be formally transmitted to the Congress as soon as acceptable authorizing legislation is enacted. It is therefore important for that authorizing legislation to be passed early this spring, so that we can provide forward funding at the earliest possible date.

### CONSOLIDATING FUNDS FOR ELEMENTARY AND SECONDARY EDUCATION

In 1971 I asked the Congress to consolidate and simplify numerous Federal aid programs for education. I again urged this in 1972.

Last year, I proposed this reform under the label of the Better Schools Act. The label itself, unfortunately, became a controversial matter within the Congress. It is not the label that should concern us, however, but the children and the structure of the programs designed to help them. I am pleased that during the last session of the Congress, the executive branch and the appropriate authorizing committees began to deal more seriously with an improved program structure, and I am persuaded that with hard work and careful thought, a bill acceptable to both branches can result.

The appropriate committees of both Houses have written steps to simplify existing programs for innovation and support services into the measures they are now considering. The Senate Subcommittee on Education has initiated a further consolidation of various discretionary and categorical programs into a special projects authority, with provisions for gifted and talented children. But further consolidation is still needed. I am therefore proposing consolidation of present programs of vocational education and a merger of existing authorities in adult education.

### FAIRER DISTRIBUTION OF FUNDS FOR THE DISADVANTAGED

Another issue of continuing concern is the development of a better way to distribute Federal funds for disadvantaged children. The current system of reimbursement often results in school districts being paid for children who are no longer there.

A new formula for distribution of these vital funds must be adopted, targeting the available money on the greatest concentrations of disadvantaged children and on the development of basic skills. That formula should also take into account the differing costs for education in different locales. We must also adopt a definition of poverty which more accurately reflects today's conditions.

### AIDING HANDICAPPED CHILDREN

There is growing awareness in the Nation of the special educational needs of handicapped children. In 90 demonstration projects we are seeking to learn how to identify handicapped children earlier and give them the help they need to enter regular school when other children do.

I am now proposing that eight discretionary authorities be consolidated into four broad programs for the education of the handicapped. One of these new programs, Resource Implementation, would help teachers identify learning problems; the Professional Development program would provide teachers with special skills to overcome barriers to learning; Innovation and Development would provide new methods and materials for teaching; and Special Centers and Services would accelerate progress in aiding severely handicapped children.

### PHASING OUT IMPACT AID

Another program affecting many school districts throughout the Nation is School Assistance in Federally Affected Areas—aid to districts where Federal installations bring significant enrollment increases. I am proposing 100 percent Federal funding of the program for school districts where enrollment consists of 25 percent or more of children whose parents both live and work on Federal property, and 90 percent funding for school districts where these children comprise less than 25 percent.

In the past we have also funded programs for children whose parents work on Federal property but do not live on Federal installations. Since parents of such children already contribute substantially to State and local governments to help pay educational costs, I see no reason for all American taxpayers to continue subsidizing this special group of school districts. However, a transition period is needed for districts which have depended heavily on these Federal funds. I will therefore propose that no local school district whose subsidy is being terminated will lose more than 5 percent of its total operating budget in the first year that we phase out the program. It is only fair to give school districts as much notice as possible to plan and conform their budgets to Federal financing policies.

### TARGETING AID FOR DESEGREGATION

In coming weeks, I will send to the Congress a proposal for a new project grant program to aid school districts undergoing voluntary or court-ordered desegregation. This program should replace the current Emergency School Aid Act when the act expires this June.

A national formula program is no longer needed to handle this problem. What is needed is a targeted approach to solve specific problems.

As opposed to the national formula now employed under the Emergency School Aid Act, the new project grant program would target desegregation aid to solve specific programs. In addition, we will continue to provide technical assistance to local districts, helping them to meet problems relating to desegregation.

### PROVIDING FOR INDIAN CHILDREN

A targeted approach is also needed to deal more effectively with the needs of Indian children. There is a special Federal responsibility to provide educational services to Indian tribes and communities, and we propose to place emphasis on project grants for this purpose.

### BILINGUAL EDUCATION

Because of the great diversity of our Nation, we must also provide special assistance to children of families whose native language is other than English. I ask the Congress to continue support for demonstration projects which help develop better ways to provide bilingual education.

## IV. POSTSECONDARY EDUCATION

This Administration is committed to the goal that no qualified student should be denied a college education because of a lack of funds. Today we are in a position to accomplish a major expansion of student opportunities and choice.

An education beyond high school is a major goal of many young Americans today. In recent years, however, the cost of college or other training has threatened to price this dream beyond the means of many families.

Since 1970 I have been urging the Congress to enact and fund student aid programs that would reduce to manageable size the problem of financing higher education for all families.

### EXPANDING AID TO NEEDY STUDENTS

In 1972 the Congress responded by enacting the Basic Educational Opportunity Grant program, the primary vehicle for reaching the neediest students. The current program provides for an average grant of only $260 and limits eligibility to entering freshmen. The program I propose for FY 1975—totaling $1.3 billion—would provide a grant of up to $1,400 depending on need.

Supplementing this Basic Grant program is a Guaranteed Student Loan program designed to increase access to loans. This program is both for needy students receiving Basic Grants, and for students who are not eligible for Basic Grants but who need or wish to spread the costs of postsecondary education over time.

Over the past year, some students who have sought loans have found it difficult or impossible to locate lenders willing to make federally guaranteed loans.

To remedy this problem I have instructed the Department of Health, Education, and Welfare and the Treasury Department to contact the major lending institutions and to request that they reaffirm their commitment to our Nation's educational needs by making adequate funds available for student loans. If, as the progress of this program is reviewed, additional changes appear to be necessary, I will propose them.

The Basic Grant and Guaranteed Student Loan programs, supplemented by the College Work Study program, expand opportunities for postsecondary education. My budget request for these programs would provide more such opportunities than ever before. Building on Basic Grants, students can rely on work, loans, and family resources, plus State, local and private forms of assistance to meet the remainder of their financial needs.

### DEVELOPING INSTITUTIONS

I will request funding of the full authorization for the Developing Institutions program—an authorization that is four times the funding level when I took office. This program helps to strengthen the capabilities of colleges which are serving Black, Spanish-American, and American Indian students as well as students from economically disadvantaged backgrounds—a special concern of my Administration.

### V. INNOVATION AND REFORM

### NATIONAL INSTITUTE OF EDUCATION

An essential element in our effort to provide every American an equal and increasing opportunity for education is the development and dissemination of alternative educational approaches through research. For too long we threw money at educational problems, feeling that bigger would mean better.

To strengthen support for education research and development, the National Institute of Education was created with strong bipartisan support. The institute is now beginning to provide the leadership in educational research and development that is needed.

In 1975 it will continue to concentrate on several major tasks:

—finding answers to the problems that students have in learning essential skills such as reading and mathematics;

—improving State and local capability to solve the educational problems of their youth;

—increasing the educational benefits to students through improving the productivity of our schools;

—and assisting students to better understand the relationship between the school and the world of work.

Through this latter activity, the National Institute of Education has taken on the responsibility to carry out the Career Education objectives I set forth in my 1972 message. The institute is developing new ways to introduce young people to various career opportunities and is experimenting with new methods of preparing them to get and keep jobs that pay well and offer opportunities for advancement.

Education research is not a luxury but a necessity if Americans are to get the education they want for their children at a sensible cost. Accordingly, I would like to emphasize most strongly the need for adequate funding of the institute.

### FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

The Fund for the Improvement of Postsecondary Education constitutes another important new Federal initiative to achieve needed innovation and reform. The fund was created to support exemplary activities and new directions which promise to increase the quality, effectiveness, and diversity of postsecondary educational opportunities. The fund is now providing support for the development and demonstration of more effective approaches to college education.

### RIGHT TO READ

The Right to Read effort is well on its way to becoming a prime example of the way that a Federal, State and local partnership can achieve positive results. Under this program, we are now on the way toward achieving a 1980 goal of eliminating functional illiteracy among 90 percent of those 16 years and older and 99 percent of the youth of America. I ask the Congress to continue giving this program its full support.

### LIBRARY PARTNERSHIP ACT

While I continue to believe that State and local authorities bear the primary responsibility for the maintenance of public libraries, I also believe that the Federal Government has a responsible role to play. One of my new initiatives for 1975 is the Library Partnership Act. This legislation would encourage the establishment of reference and information services on a demonstration basis and could lead to significant improvements in public library services across the United States.

### HEAD START

During 1975, the Head Start program will reach 282,000 children on a year-round basis and some 78,000 pre-schoolers in the summer. It will also extend its activities to include handicapped students. My 1975 budget will increase operating funds for this program and will provide funds to ensure that all children participating in Head Start can obtain a nourishing breakfast and lunch.

### VI. THE NEED FOR COMMITMENT

The proposals I have outlined above are designed to address the educational challenges of tomorrow. They are designed to enhance the effectiveness of the Federal dollar. They are designed to facilitate the operations of our State and local school systems.

For the necessary reforms and rejuvenation of our schools to occur, however, it will take more than Federal programs and more than Federal money. It will require that each of us commit ourselves, with money, time and attention, to that process. Only with individual commitment, with the commitment of State and local school administrators and teachers, with the commitment of parents and students, and with the commitment of the Federal Government, can we obtain a revitalized and rewarding American educational system.

RICHARD NIXON.

THE WHITE HOUSE, *January 24, 1974.*

## SPEAKING UP FOR AMERICA

The **SPEAKER**. Under a previous order of the House, the gentleman from Texas (Mr. PATMAN) is recognized for 30 minutes.

Mr. **PATMAN**. Mr. Speaker, we Americans have received more than our fair share of criticism in recent years—from sources both here and abroad. Despite our very real and pressing problems, however, the overwhelming majority of Americans recognize that, as one east Texan put it, "There's a whole lot more right about America than there is wrong." It took a stirring editorial by a Canadian, Mr. Gordon Sinclair, to crystallize this widespread pride in our own history and in our continuing record of free, democratic government and commitment to humanitarian principles. Mr. Sinclair's editorial "A Canadian Talks About Americans" has generated an immensely enthusiastic response from millions of Americans.

Mr. Speaker, the eloquent presentation by Mr. Sinclair has given us a lift when it was sorely needed and has helped maintain public confidence in basic American principles. In recognition of this contribution, the Texas Legislature has approved House Concurrent Resolution 10 which well expresses the appreciation of the people of Texas for our able friend and defender in Toronto.

Let me express my firm hope that 1974 will see more Americans speaking up for our great Nation. Certainly, we have our problems and shortcomings, and it is only by facing up to them squarely that we can hope to change things for the better. Frank and honest self-appraisal is essential to self-improvement, but when carried to an extreme it can sometimes produce corrosive and crippling self-doubt. We should never forget that we have good cause to be proud of America—that we can hold our heads high among the nations of the world.

Mr. Speaker, I agree with the members of our Texas Legislature that Gordon Sinclair has performed a great service to our Nation by giving us the courage and inspiration to continue on our way. He richly deserves our sincere thanks.

The text of Texas House Concurrent Resolution 10 follows:

Whereas, Texas is always anxious to find and recognize a new friend and the state is especially delighted to name as a special friend, Mr. Gordon Sinclair of Toronto, Canada. Mr. Sinclair, by speaking his mind, has without a doubt won innumerable friends throughout Texas and the nation; and

Whereas, On June 5, 1973, on Radio Station CFRB, Toronto, Canada Mr. Gordon Sinclair presented an editorial entitled "A Canadian Talks About Americans." His words described a perspective of the United States that is often overlooked or forgotten in troubled times; and

Whereas Mr. Sinclair, in his editorial, essentially, listed many of the good things America and its people have done for other countries in their times of need and hardship. He then pointed out that no other country has come to the aid of the United States when it has faced significant national disasters and internal turbulence; and

Whereas, Rather, he described the other nation's tendencies to criticize and vilify the United States during its troubles, such as the dollar devaluation and war difficulties. American citizens are aware of all that Mr. Sinclair said, for he did not announce anything new, it was his point of view and the combination of his facts that were enlightening; and

Whereas, What is remarkable is that it took a Canadian, a man from another country, to remind us of the positive in America that is so often neglected in this day of self-doubt and self-criticism. What is even more remarkable is that he took the time and trouble to do it; and

Whereas, Americans are quite capable of praising themselves as well as finding fault with their country. But when a neighbor speaks out and stands up for the good that we have done and defends us in the face of popular international criticism, then he honestly embodies all the many qualities of a true friend and neighbor; and

Whereas, His words on our behalf mean infinitely more, coming from him and his country than they would coming from our own frequently biased editorialists. It is a sincerely heartwarming experience to look beyond national boundaries and find a friend and defender, someone who is willing to recognize our strong points in spite of our weaknesses. Friends such as Mr. Sinclair give us the courage and inspiration to continue on our way; and

Whereas, Mr. Sinclair honestly deserves our gratitude and appreciation, not just for his complimentary remarks, but also for reminding us of the value of good neighbors and especially of our good and great neighbor to the north, Canada; now, therefore, be it

Resolved by the House of Representatives of the 63rd Legislature, the Senate concurring, That Texas recognize, commend and sincerely thank Mr. Gordon Sinclair of Toronto, Canada, for his editorial on behalf of the United States; and that the 63rd Legislature officially deem it appropriate that Mr. Gordon Sinclair be named an honorary citizen of the great state of Texas; and, be it further

Resolved, That an official copy of this Resolution be prepared for Mr. Gordon Sinclair as an expression of sincerest regard and closest friendship by the 63rd Legislature of the State of Texas; and, be it further

Resolved, That official copies of this Resolution be prepared and forwarded to the President of the United States and to members of the Texas delegation in the Congress, with the request that this Resolution be printed in full in the CONGRESSIONAL RECORD.

Daniel, Adams, Agnich, Allen of Harris, Allen of Gregg, Allred, Atwell, Bailey, Baker, Bales, Barnhart, Bigham.

Bird, Blake, Blythe, Bock, Boone, Bowers, Bynum, Caldwell, Calhoun, Canales, Cates, Clark, Clayton.

Cobb, Cole, Coleman, Coody, Cooke, Craddick, Davis, Denson, Denton, Donaldson, Doran, Doyle.

Dramberger, Earle, Edwards, Evans, Finnell, Finney, Foreman, Fox, Garcia, Gaston, Geiger, Grant, Green of Navarro.

Green of Harris, Hale, Hall of Harris, Hall of Webb, Hanna, Harris, Head, Heatly, Henderson, Hendricks, Hernandez, Hilliard.

Hoestenbach, Hollowell, Howard, Hubenak, Hudson, Hutchison, Johnson, Jones of Harris, Jones of El Paso, Kaster, Korioth, Kubiak, Laney.

Lary, Lee, Leland, Lewis, Lombardino, McAlister, McDonald of Hidalgo, McDonald of Dallas, Madla, Maloney, Martin, Massey.

Mattox, Menefee, Miller, Montoya, Munson, Murray, Nabers, Newton, Nichols, Nowlin, Nugent, Olson, Parker of Jefferson.

Parker of Denton, Pentony, Peveto, Poerner, Poff, Powers, Presnal, Preston, Ragsdale, Reyes, Reynolds, Rodriguez.

Rosson, Russell, Sage, Salem, Sanchez, Schieffer, Scoggins, Semos, Sherman, Short, Simmons, Slack.

Spurlock, Sullivant, Sutton, Tarbox, Temple, Thompson, Truan, Tupper, Uher, Vale, Vecchio, Vick.

Von Dohlen, Washington, Waters, Watson, Weddington, Whitehead, Whitmire, Wieting, Williams, Williamson, Willis, Wilson, Wyatt.

W. P. HOBBY,
*President of the Senate.*
PRICE DANIEL, Jr.,
*Speaker of the House.*

Mr. COLLINS of Texas. Mr. Speaker, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, I commend the chairman on that excellent statement rendered by our legislature in Texas, and I associate myself with him and commend the gentleman from Texas on behalf of all of us in the Texas delegation for placing that in the RECORD.

Mr. PATMAN. I thank the gentleman from Texas (Mr. COLLINS), from Dallas.

## FOREIGN AIR CARRIER SECURITY

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, the massacre of innocent civilians at the Rome Airport on December 17, 1973, will be remembered as the worst of a long chain of terrorist attacks on U.S. civil air commerce. Thirty-one people were killed when Arab terrorists threw grenades into a Pan Am jet and then killed hostages and innocent bystanders. It is all too likely that such terrorist acts will continue to occur, despite the improved prospects for a Middle East peace settlement, and the need for decisive action continues.

On December 18, 1973, I urged Secretary of State Henry Kissinger to direct the U.S. Ambassador to the United Nations to put the question of combating Arab terrorism before the U.N. General Assembly at the earliest possible time, even if this should require a special session of the Assembly early this year. Mr. Marshall Wright, Assistant Secretary of State for Congressional Relations responded to that letter on January 2, 1974, by rejecting the suggestion and emphasizing our Government's efforts to use other international channels, such as the International Civil Aviation Organization—ICAO—to combat terrorism.

I am not convinced that these other channels will produce effective protection for air travelers in the near future. Instead, I foresee continuing delay in implementing international air security precautions.

In September 1972 the DOT had issued a notice of proposed rulemaking in response to the rash of air piracies that year, but later reversed itself and chose instead to work toward worldwide security standards through the ICAO channels. While I firmly believe that multilateral cooperative efforts are necessary to achieve worldwide air security, the prospects for prompt and effective action are not good. The U.S. representative to the ICAO is currently pressing for passage of an agreement requiring all member nations to adopt some security provisions for international air carriers and passengers, and to identify some authority responsible for setting that nation's security standards. This proposal was defeated by the ICAO council last month, and if reproposed will not be considered by the ICAO again until February. Even if the council passes it, this is a weak measure. The security measures are to be set by the country from which the plane is departing, but there are no provisions in the ICAO proposal requiring any screening of passengers. Unfortunately, the normal rulemaking procedure is equally slow and ponderous. An emergency regulation, such as I have suggested, could go into effect immediately while protecting affected persons by allowing the submission of comments for consideration by the DOT in determining whether modification of the rule is justified.

The present situation is unacceptable. The terrorists who shot up Rome airport reached their target by commercial airliner from Madrid, Spain, where security precautions are nonexistent. If the security measures called for in my bill are not adopted, it would be possible for any number of Arab terrorists to fly from Madrid, for example, to JFK International Airport butchering many innocent Americans.

The world community has an obligation to protect civilian air travelers, and the ICAO is not the only body empowered to achieve the desired goal. The Congress has the constitutional authority to act in this matter, therefore, I am today introducing legislation to amend the Federal Aviation Act of 1958 to direct the Administrator of the Federal Aviation Administration to require each foreign air carrier landing in the United States to implement an air security program. Foreign air carriers would be required to screen passengers and check baggage prior to embarkation aboard flights destined for U.S. ports of entry. The screening system employed would not be acceptable if it were less stringent than that which is in use at U.S. airports.

My bill would go a long way to stop future massacres of innocent international air travelers. However, if we are to reach international accord on the treatment of pirates and saboteurs, the House should also act favorably on H.R. 3858, the Antihijacking Act of 1973, introduced by Chairman STAGGERS of the House Interstate and Foreign Commerce Committee, which would fully implement the Hague and Montreal Conventions. The Hague Convention obliges signatory nations to: First, establish jurisdiction over hijackers; second, make hijacking an offense punishable by severe penalties; and third, submit any hijacker found in their territory to the competent authorities for prosecution or extradition. The Montreal Convention deals with sabotage and armed attacks against international civil aviation facilities and generally would create similar obligations with respect to saboteurs as the Hague Convention would create for hijacking. This legislation has already received Senate approval. I believe these two bills would provide the changes to Federal law necessary to satisfy not only U.S. obligations under these treaties but also our responsibility to provide the safest possible environment for Americans traveling abroad.

## GUN WAR AGAINST THE PEOPLE

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, Americans are no longer dying in Indochina, but everyday dozens of Americans are dying in another war that has been going on for decades. Robert Kennedy, Martin Luther King, and President John Kennedy have been some of the most famous casualties of this war. But tens of thousands of lesser known but no less important Americans have been attacked, wounded, or killed in a relentless procession of accidents, murders, and suicides committed with firearms.

The Library of Congress has just reported that in 1972, firearms were used to commit 12,257 murders, 93,328 aggravated assaults and 155,815 robberies. These latest figures show a constant increase in the rate per 100,000 population of crimes committed with firearms. Based on the appalling but reasonable assumption that this trend will continue unchecked, the Library of Congress has projected the number of these crimes which will be committed with firearms in the years 1980 and 2000.

The results are astounding. In the year 2000, as many Americans will be murdered in 12 months by firearms as were killed in all the years of the Indochina war—45,239.

We cannot allow this carnage to continue. Strict gun control is an indispensable part of the response to these statistics of death. Without it, hundreds of thousands of American citizens will be wounded or killed by firearms in the years ahead.

I include the complete projections by the Library of Congress at this point in my remarks:

During the period 1963–1972 (latest year for which figures are available) there has been a relatively constant increase in the rate per 100,000 population of certain crimes (murder, aggravated assault, robbery) committed with firearms. Based on the assumption that this trend will continue in the future as it has in the past, we have projected the rate of these crimes committed with guns for the years 1980 and 2000. Using these projected rates and Bureau of Census population projections for those years, we have arrived at the following:

| Crime | Projected rate (per 100,000 population) | Projected number |
|---|---|---|
| Year: 1980 (estimated population 224,132,000): | | |
| Murder | 9.10 | 20,393 |
| Aggravated assault | 81.92 | 183,582 |
| Robbery | 137.64 | 308,451 |
| Year: 2000 (estimated population 264,435,000): | | |
| Murder | 17.11 | 45,239 |
| Aggravated assault | 166.35 | 439,829 |
| Robbery | 284.93 | 753,355 |

By way of comparison these same figures for 1972, based on a population of 208,232,000, are as follows:

| Crime | Rate (per 100,000 population) | Number |
|---|---|---|
| Murder | 5.88 | 12,257 |
| Aggravated assault | 47.22 | 98,328 |
| Robbery | 74.83 | 155,815 |

## PERSONAL STATEMENT

Mr. DULSKI. Mr. Speaker, when Congress reconvened this week, I was absent on official business, and so missed three rollcall votes. I would like the Record to show that had I been present and voting I would have voted "yea" on the following three bills:

January 21, 1974, roll No. 2, passage of H.R. 11387.

January 22, 1974, roll No. 4, passage of H.R. 11537.

January 22, 1974, roll No. 5, passage of H.R. 11809.

## FIGHTING GASOLINE SHORTAGES—A SENSIBLE APPROACH

The SPEAKER pro tempore (Mr. Davis of South Carolina). Under a previous order of the House, the gentleman from New Hampshire (Mr. Wyman) is recognized for 30 minutes.

Mr. WYMAN. Mr. Speaker, there is no sense in going to rationing or queuing up at gasoline stations across the land, if there is a responsible way to find additional billions of gallons of gasoline. There is such a way and this Congress owes it to the American people to adopt a sensible approach on automobile emissions controls without another day's delay.

The ripple effect of gasoline shortages is an economic catastophe in the automobile industry from manufacturer to dealer. It is the same for tourism and recreation and related enterprises. If the gasoline shortage is said to be in the vicinity of 20 percent of 1973 availabilities, removal of emissions controls requirements on automobiles registered to persons who live in those parts of the United States that have no air pollution problem from automobile exhausts would—to quote no less an authority than the president of General Motors—produce a savings on the order of 6 billion gallons of gasoline per year.

What is the sense of requiring emissions controls on cars except in those parts of the country having a genuine auto emissions related air pollution problem? Not only do such controls cost car buyers money, but they result in lower gasoline mileage and rapid engine deterioration. It is a fact that in better than 90 percent of the geographical area of this country there is no real need for automobile emissions controls for clean air. Most of the separate States in their entirety have no air pollution problem from cars that adversely impacts on the health of the residents of that State. New Hampshire is one such area. Similarly Florida, Maine, Vermont, North Dakota, Wyoming, and so forth for most of the Nation. It is asinine to persist in requiring emissions controls on cars in these areas at the expense of millions of gallons of gasoline wasted each and every day—materially contributing to the gasoline shortages that cause suffering and inconvenience to millions of Americans at this time.

Responsible studies show present emissions controls—1974 standards—impair gas mileage on the order of 17 to 20 percent on a weight-adjusted basis. The computation of gasoline losses in this extra consumption is simple arithmetic in terms of multiplying out the number of miles driven in an average year times the gas mileage available, to say nothing of the mounting cost of a gallon of gasoline at the pump.

On Monday next, January 28, I shall introduce a bill to suspend emissions requirements for cars registered to residents of those parts of this country that have no significant auto-related air pollution. The bill will provide such a suspension until June 30, 1977, or until the President declares that petroleum shortages no longer exist, whichever occurs later. It will permit the removal or modification of emissions controls on existing vehicles by competent mechanics including dealer-furnished services, in the interest of improving the efficiency and mileage capability of the cars he services and sells. It will permit from this an immediate and startling improvement in gas mileage at the option of individual owners on cars of model 1970 forward. It will save millions of dollars in costs for new models and in their operation.

Persons who reside in air quality control regions, so designated by EPA Administrator under the bill, will continue to be required to operate emissions controlled vehicles, but these areas are significantly restricted in size, and are specified in the bill.

Now, one asks, "What happens if I have a car that is registered to me in, say, Nevada, and I want to drive into Los Angeles where there is an auto pollution problem?"

Office of Science and Technology studies show that the in-and-out migration of automobiles not owned by residents of the problem areas varies to the order of 1.5 to 5 percent, and conclude that this would not materially adversely impact on the ambient air quality of those areas.

Enactment of this proposal would establish a "two-car policy" more closely tailored to the country's environmental needs than the present wasteful, "shotgun" approach. This approach is not new. The State of California has had more stringent auto emission standards since the mid-1960's, and Detroit has altered the production lines to produce cars to meet those tougher standards with little or no difficulty. The plain truth of the matter is that there is simply no need to require that the entire country adopt emissions standards designed to solve air pollution problems of a New York City or Washington, D.C.

Placing auto emission standards on a two-tier basis would neither emasculate the Clean Air Act, nor would it materially increase pollution levels in impacted areas. A dual standard merely recognizes that only a few parts of the country have a serious air quality problem. It would make no sense to quarantine residents of all 50 States because of the outbreak of a contagious disease in Los Angeles or Chicago. Neither does it make sense for drivers in rural areas to be required to purchase cars designed to clean the air over urban areas.

Nor will lifting the auto emissions standards in the less populous areas cause a marked deterrent to the ambient air quality in densely populated areas. While there is evidence of some drift by pollutants, the inherent ability of the atmoswhere to cleanse itself should prevent a marked addition to the pollution in impacted areas except under extraordinary meteorological conditions. Vegetation, water bodies, rainfall, and normal air turbulance, all act to filter out and break down pollutants. A buildup occurs only when this natural cleansing ability is saturated, as in the case in the 13 areas designated as significantly polluted by this legislation, and for which emissions controls would be required. Pollution levels over the bulk of the Nation are low enough to allow the atmosphere to cleanse itself of most pollutants before drift would significantly impact on heavily polluted areas.

Further protection against the remote possibility of fringe areas suffering from drift is provided through an annual review of air quality levels. This will provide early warning of any increase in pollutants for whatever reason.

We have undertaken Sunday gas station closings, reduced speed limits, voluntary driving restraints, and even contemplate the specter of rationing, but if we want to do something to really help meet the oil and gasoline shortage in this country, we should end the overkill in the current clean air act requirements by ending, at least during the shortage, automobile emissions controls that defy both commonsense and responsibility. The hard fact of the matter, Mr. Speaker, is that we overdid it a few years back, and the overdoing of it is now beginning to show—at a cost that is far too dear.

Claims of a 16-percent fuel saving by requiring catalytic converters are misleading—even if the converters perform as expected. The anticipated "saving" is but 16 percent of the impairment of gasoline mileage existing on 1974 model cars as a result of required emissions controls. The impairment is said to vary between 13 to 20 percent. Thus, the actual saving due to converters—with a unit cost in excess of $200—would amount to slightly over 1 percent. Chances are this would be further reduced or eliminated through fouling of the converter under normal use. Moreover, catalytic converters require unleaded gasoline and you get markedly less gallonage of unleaded gas from a barrel of crude. This helps make matters worse rather than better.

Make no mistake about it, the people back home are up in arms about this gas situation, and about the lack of need for automobile emissions controls in most of this country. They are angry. They are asking what is the sense of imposing a 20-percent fuel penalty on residents of the nine-tenths of the country lacking a significant air pollution problem at a time of acute gasoline shortage?

I shall reintroduce this legislation next month and will urge my colleagues to join with me in restoring balance to Federal energy policy during the energy crunch. To do less is to ignore the needs and desires of our constituents.

The text of my bill and a related table follow:

H.R. —

A bill to temporarily suspend required emissions controls on automobiles registered in certain parts of the United States, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. It is the purpose of the amendments made by this Act to suspend emissions controls on certain motor vehicles and engines in continental United States except vehicles registered to residents of certain designated air quality regions, until June 30, 1977, or sixty days after the President determines there is no significant shortage of petroleum fuels, whichever is later.

SEC. 2. Section 203 of the Clean Air Act (42 U.S.C. 1857f–2) is amended by adding at the end thereof the following new subsection:

"(d)(1) During and after the period of partial suspension of emission standards (as defined in paragraph (3)(A)—

"(A) it shall be unlawful for any person to register within an area designated in paragraph (3)(B) a motor vehicle which is manufactured during the period of partial suspension of emission standards and which is not labelled or tagged as covered by a certificate of conformity under this part, and

"(B) no State shall permit any person to register a motor vehicle in violation of subparagraph (A).

"(d)(2) During the period of partial suspension of emission standards

"(A) subsections (a)(1) and (4) of this section shall be inapplicable;

"(B) it shall be unlawful for any manufacturer to sell, offer to sell, or introduce or deliver for introduction into commerce (or for any person except as provided in regulations of the Administrator, to import into the United States), and vehicle which is labeled or tagged as covered by a certificate of compliance unless such vehicle is covered by a certificate of compliance issued (and in effect) under this part;

"(C) subsection (a)(3) shall not apply to any motor vehicle or engine attached thereto which is registered outside an area described in paragraph (2)(B) of this subsection;

"(D) it shall be unlawful for any manufacturer (i) to sell or lease any new motor vehicle or new motor vehicle engine which is labelled or tagged as covered by a certificate of compliance unless such manufacturer has complied with the requirements of sections 207 (a) and (b), or (ii) to fail to comply with subsection (c) or (d) of section 207 insofar as such sections apply to motor vehicles or motor vehicle engines to which subsection (a)(1) of this section applies or applied or which are labelled or tagged as covered by a certificate of conformity;

"(E) it shall be unlawful for any dealer to sell any new motor vehicle or new motor vehicle engine to an ultimate purchaser unless such purchaser provides such dealer with a signed statement that such purchaser will not register such vehicle in an area designated under paragraph (3)(B), and

"(F) it shall be unlawful for any ultimate purchaser to provide a statement described in subparagraph (E) knowing such statement to be false.

"(d)(3) (A) For purposes of this subsection and section 209(C) the term 'period of partial suspension of emission standards' means the period beginning sixty days after enactment and ending on the later of June 30, 1977, or 60 days after the date on which the President determines that there is no longer any significant shortage of petroleum fuels in the United States. Any such determination shall be published in the Federal Register.

"(B) Within 60 days after the date of enactment of this subsection and annually thereafter, the Administrator shall designate, subject to the limitations set forth in this subparagraph, geographic areas of the United States in which there is significant auto emissions related air pollution. The Administrator shall not designate as such area without subsequent legislative authorization, any part of the United States outside the following air quality control regions as defined by the Administrator as of the date of enactment of this paragraph:

"(i) Phoenix-Tucson, intrastate.

"(ii) Metropolitan Los Angeles, intrastate.

"(iii) San Francisco Bay Area, intrastate.

"(iv) Sacramento Valley, intrastate.

"(v) San Diego, intrastate.

"(vi) San Joaquin Valley (Calif.), intrastate.

"(vii) Hartford-New Haven (Conn.)-Springfield (Mass.), interstate.

"(viii) National Capital (D.C.-Md.-Va.), interstate.

"(ix) Metropolitan Baltimore, intrastate.

"(x) New Jersey-New York-Connecticut, interstate.

"(xi) Metropolitan Philadelphia (Penn.-N.J.-Del.), interstate.

"(xii) Metropolitan Chicago (Ill. & Ind.), interstate.

"(xiii) Metropolitan Boston, intrastate.

"For purposes of this subparagraph, the term 'significant air pollution' means the presence of air pollutants from automobile emissions at such levels and for such durations as to cause a demonstrable and substantial adverse impact upon public health.

"(C) For purposes of this subsection and Section 209(c) a motor vehicle shall be considered to be registered in a geographic area—

"(i) in the case of a motor vehicle registered by an individual if the individual's principal place of abode is in that area, or

"(ii) in the case of a motor vehicle registered by a person other than an individual, if the State of registration determines that such vehicle will be principally operated in such area.

"(D) Each State shall not later than 60 days following enactment of this Act, submit to the Administrator a plan for implementing subsection (d) (1) (B) of this section. Such plan shall contain provisions which give assurance that such State has one or more adequately financed agencies with sufficient legal authority to enforce such subsection (d)(1)(B) as determined in accordance with regulations of the Administrator."

SEC. 3. (a) Section 202(a) of the Clean Air Act is amended by inserting "and section 203(d)" after "subsection (b)".

(b)(1) Section 203(a) of such Act is amended by striking out "The following" and inserting in lieu thereof "Except as otherwise provided in subsection (d) of this section, the following.".

(2) Section 203(b)(2) of such Act is amended by inserting "or (d)(2)(A)" after "subsection (a)".

(c) Section 204(a) of such Act is amended by inserting before the period the following: "or section 203(d)".

(d) Section 205 of such Act is amended

by inserting "(a)" after "sec. 205.", by inserting "or paragraph (1)(A) or (2) of section 203(d)" after "section 203(a)", and by adding at the end of such section the following new subsection:

"(b) If a State fails to submit a plan under section 203(d) or if the Administrator determines (after notice and opportunity for hearing) that such State is not adequately enforcing such a plan, then such State (including any political subdivision thereof) shall lose its entitlement to and may not thereafter receive any Federal grant or loan assistance under this Act or under the Federal Water Pollution Control Act."

(e) Section 206(b)(1) of such Act is amended by striking out "being manufactured by a manufacturer" and inserting in lieu thereof "which are being manufactured by a manufacturer and which are covered by a certificate of conformity."

(f) The second sentence of section 209(a) of such Act is amended by striking out "No State" and inserting in lieu thereof "Except as provided in sections 203(d)(1)(B) and 203(a), no State".

(g) Section 209(c) of such Act is amended by striking out "Nothing" and inserting in lieu thereof "(1) Except as provided in paragraph (2) of this subsection, nothing"; and by adding at the end thereof the following new paragraph: "(d) During the period of partial suspension of emission standards (as defined in section 203(d)(3)(A)—

"(1) no State may (in an applicable implementation plan or otherwise) adopt or attempt to enforce any standard relating to the control of emissions of motor vehicles (including engines attached thereto) registered outside of any area designated under section 203(d)(3)(B), and

"(2) no State may (in an applicable implementation plan or otherwise) adopt or attempt to enforce any law or regulation prohibiting any person from removing or rendering inoperative any device or element of design installed in compliance with regulations under this title in or on a motor vehicle (including any engine attached thereto) which is registered outside of any area designated under section 203(d)(3)(B), and

"(3) the Administrator may not promulgate any implementation plan which contains a provision prohibited by paragraph (1) or (2)."

SEC. 4. Willful and deliberate violation of any provision of this Act shall be punishable by a fine of up to one thousand ($1,000.00) dollars, or imprisonment up to one year, or both.

SEC. 5. Motor vehicles registered in areas other than those designated in Paragraph 3 (B) herein on the date of expiration of this Act shall not be required to be retrofitted with emissions control devices nor to comply with emissions control standards or regulations issued pursuant to the Act of 1970 (42 U.S.C. 1857f) as amended, as long as said vehicle remains registered in such areas.

SEC. 6. This Act shall take effect 60 days after passage.

EXCERPT FROM "FINAL REPORT EXAMINATION OF ISSUES RELATED TO 2-CAR REGIONAL EMISSION CONTROL STRATEGIES," AEROSPACE CORP.

CAR MOVEMENT SUMMARY

| Air quality control region | Daily car miles per capita | Percent of daily trips external | Percent of car in migration [1] |
|---|---|---|---|
| California | 17.1 | | 2.2 |
| South coast (Los Angeles) | 15.0 | 0.67 | 2.5 |
| Houston | 16.5 | 1.5 | 3.7 |
| Phoenix-Tucson | 13.5 | 2.7 | 5.1 |
| St. Louis-Texas | 6.1 | | 2.7 |
| San Francisco | 13.8 | 1.7 | 3.0 |
| Boston | 11.1 | 8.5 | 2.3 |
| San Diego | 13.8 | 5.0 | 5.0 |
| Philadelphia | 8.2 | 10.0 | 1.5 |
| Portland | 8.2 | 9.0 | 4.0 |
| Sacramento | 15.1 | 7.5 | 3.2 |
| Fairbanks | | | |
| Baltimore | 9.5 | <10.0 | 2.7 |
| New York | 7.4 | 5.0 | 2.5 |
| Spokane | 12.0 | <9.0 | 5.4 |
| Denver | 11.3 | 6.4 | 4.0 |
| Washington | 12.0 | 8.0 | 2.3 |
| Pittsburgh | 8.8 | <9.0 | 1.6 |
| Seattle | 13.5 | 7.0 | 5.0 |
| Minneapolis-St. Paul | 14.0 | 3.8 | 2.4 |
| Salt Lake City | 15.8 | 8.5 | 5.1 |

[1] Out-of-State registrations.

## ANNUAL CONVENTION OF NATIONAL ASSOCIATION OF HOMEBUILDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BLACKBURN) is recognized for 10 minutes.

Mr. BLACKBURN. Mr. Speaker, new hopes and help for homebuilder and home buyer alike; more housing and substantially better opportunities to buy it; plus thousands of new jobs generated from a healthy housing market.

These are the predictable benefits of the administration's new initiatives in the housing field, announced in Houston by HUD Secretary James Lynn at the homebuilders' convention.

Reduced interest rates on federally insured or guaranteed loans, coupled with a revised and expanded tandem plan answer many problems faced by the lagging housing industry: the money situation, inflation generally, the suspended housing subsidy programs, "no-growth" problems, and most of all, economic uncertainty. They recognize, and are designed to fulfill, the dream of a new home for other millions of Americans now unable to find housing they can afford.

I herewith enclose a copy of Secretary Lynn's remarks before the annual convention of the National Association of Home Builders in Houston. I urge all of my colleagues to review this statement.

The statement follows:

REMARKS OF JAMES T. LYNN, SECRETARY, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

I welcome this opportunity to be with you. Still, I am reminded of Al Capp's reaction when he was invited to speak at a Harvard commencement in the heyday of campus unrest. The politically conservative cartoonist agreed to appear—but only if the university would give him an extra thousand dollars "combat pay" to face the dissident students.

For a great many of you, these are rough times. I could try to console you by making something of the fact that, in the decade of the 1960s, average housing starts did not even reach the one-and-a-half million mark. But it would just recall to your minds that old division of statisticians into three categories: liars, damned liars, and statisticians. You might even be tempted to add a fourth category—government officials with rose-tinted vision.

I don't want to play that game. It wouldn't be honest, and it wouldn't be productive. It wouldn't win me any new friends; it might even cost me those I have. And it would not help the home builders or the home buyers, two groups whose well-being is of great concern to me.

You have certainly done your part. Over the past few years, especially, you have proved again the capacity of the private sector to respond to the needs and demands of our people. Your flexibility and resourcefulness were shown in a spectacular way when you boosted residential construction from the 1970 level of 1,469,000 starts to the 1972 record of 2,378,500, a 62-percent increase in just two years.

And it wasn't easy. To cite just two examples, first-rate craftsmen in sufficient numbers aren't easy to come by, and materials are sometimes impossible to buy at any price. But, to quote Colonel Pickering in *My Fair Lady*, "By George, you did it!"

On January 21, 1974, however—that's today—no one could fault many of you for asking yourself, "How did a nice guy like me get into a business like this? Here I am" (you might say) "with organization, people and investment geared to a market of two million-plus units a year, and suddenly the bottom drops out. What happened? And even more important, what will happen next?"

Before getting into a discussion of the problems and what can be done about them, I want to make something very clear: I do give a damn. I care about providing housing that will realize the dreams as well as meet the basic needs of our people. I care about the thousands upon thousands of jobs a healthy housing market can generate, both directly and indirectly. And I care about the fate of the home builders who make all this possible.

This isn't just my feeling. Let me read the message the President gave me last Thursday to deliver to you personally:

"It is the firm belief of my Administration that the housing industry is a key factor in our national economy and the essential element in the ultimate attainment of the goal first established in the Housing Act of 1949: a decent home and a suitable living environment for every American family. In this spirit I greet the members of the National Association of Home Builders at your annual convention.

"I am pleased that Secretary Lynn will be with you on this occasion to reaffirm first hand our sustained commitment to the objectives of my housing message of last September 19. We are more determined than ever to increase the availability of mortgage credit in the current market, to improve the overall credit picture for the long term and to find a sensible way to help meet the housing needs of families with low incomes.

"The constant new developments affecting the housing situation make it imperative that we have the flexibility to deal with each new change. This flexibility will surely be most effectively achieved if we have a healthy housing industry. May your deliberations provide useful direction and incentive for your members to meet their challenge in this critical task."

He—and, in fact, everyone in the Administration who is involved in housing—recognizes that you face a host of problems. Among these most surely are: the money situation; inflation generally; for some, the suspension of the subsidy programs; environmental problems; "no-growth" policies; the energy crisis, my friend Bill Simon's domain; and last but not least, economic uncertainty. Now I can't cover all of these extensively today, but I will spend a fair amount of time on some and at least touch on the others.

First and foremost among your problems has been money. For a while, the problem of the shortage of construction and mortgage loan money at practically any price. Money flowed out of the savings and loan associations. Now that it's flowing back in—for example, S&Ls gained $3.1 billion in deposits in December—the shortage of funds for lending has been easing, but interest rates on home loans are still considerably above those of a year ago—in most cases more than 100 basis points.

The economic gurus look into their crystal balls or computers and predict that although interest rates on long-term debt (which includes mortgages, of course) may come down somewhat in the months ahead, they will not come down much. So be it—I don't envy those who have to make their livings making such predictions—but I am firmly convinced that HUD should set an example for the rest of the market wherever it can.

Accordingly, I am pleased to announce, on behalf of myself and Don Johnson, the head of the Veterans Administration that effective tomorrow the maximum interest rate for FHA-insured and VA-guaranteed loans is being reduced from 8½ percent to 8¼ percent. And I assure you that if market adjustments to the new 8¼ percent ceiling and the interest rate outlook in the period ahead appear to make further reduction feasible, we'll do it without hesitation. My objective is to have FHA "lead a little."

Frankly, as the President points out in his September message on housing, the law should be amended to let the FHA and VA rates float and eliminate "points," the prepaid interest that actually hurts the buyer and certainly doesn't benefit the seller. But as long as we must operate under the present archaic system requiring the FHA and the VA to guess constantly as to what markets will do and peg an interest rate, I'll do my best to make it work.

Let me move on to Tandem. You will recall that in his message last Fall President Nixon announced a revived GNMA Tandem Plan to provide assured financing on FHA and VA insured loans bearing an 8½ percent stated interest rate for up to 100,000 units of new residential construction. We haven't done much business under that program. But the slow response proved an important point: the then shortage of funds for residential lending was only a part of the problem. Tandem assured the funds. But at the 8½ percent rate, there were relatively few takers. This says to me that through Tandem we've got to offer a better interest rate—substantially better.

Therefore, I am even more pleased to announce that effective tomorrow a revised and expanded Tandem Plan will authorize GNMA to commit up to $6.6 billion to purchase at 96 FHA and VA-insured mortgages on 200,000 units of newly-constructed single and multifamily dwellings, bearing a stated interest rate of 7¾ percent.

I don't have to tell you what a significant commitment this is . . . There will be real punishment on resale of these mortgages by GNMA if the mortgage money trends are the wrong way. Given the present slump in the housing market, however, we have little choice. It makes sense, and it must be done, both to help the home builder and the home buyer alike.

How effective will this new program be? I hope, I expect, indeed I am convinced that it will do substantial good. If Congress were to act promptly to remove some related constraints on the statute books, the new Tandem Plan could be assured of success. I am referring to the FHA ceiling on mortgage amounts and the loan-to-equity ratio limits. These provisions, however well advised they were when the law was last changed in 1968, just aren't realistic in 1974. As the President's September housing message states, these limits must be increased immediately.

What else can be done on this interest problem? For the months immediately ahead, I think the answer is "not much," but over the long term, "a lot." The key is to give housing funds a competitive edge against other demands for long-term money.

How do we do it?

One proposal would give depositors in savings and loan associations a tax break on interest earned. But this would only increase the reliance of housing on one sector of the financial market.

Don't get me wrong. Over the years, the S&Ls have done a good job of providing funds for housing; their health and growth are vital to the home buyer and the housing industry. And the President's proposals for financial institution reform aim to ensure that health and growth, including certain needed flexibility in making construction loans and achieving financial balance.

But what I want to see—and what I know all of you want to see—are effective ways of tapping every long-term credit source available, particularly when money is tight. That means opening a competitive wedge in all markets, not just with the savings and loan depositor.

The mortgage interest tax credit proposed to the Congress by the President would do just that. Under this proposal, the larger the proportion of total assets invested in residential mortgages, the higher the tax credit, up to 3½ percent when the mortgage proportion of the assets reaches 70 percent. If, for example, a bank already holds 8 percent of its total assets in residential mortgages, an increase of only 2 percent will give the bank a 1½ percent tax credit on the entire 10 percent, which results in a significantly higher yield on the incremental investment. That's quite an incentive.

Such a tax credit would also apply to pools of mortgages put together in the private sector. With the credit, such pools would have a substantial advantage in issuing their notes in the secondary market.

I know it sounds complicated. But it should work. Incidentally, it's not cheap. Preliminary estimates indicate that even if mortgages do not rise above the level, of, say, 1972, the subsidy involved, in lost revenues to the Treasury would be near $200 million, and the potential revenue loss is much more.

Moreover, the whole scheme would function without government bureaucrats. I can't say the same for other proposals I've heard—like the one that the Federal Government should restrict consumer credit for purchases other than housing, or restrict business credit, both for the purpose of forcing investment into housing. Who is the genius in Washington who would fine-tune such regulation? Is it really fair to the consumer to say Uncle Sam knows best? To say you really shouldn't buy as many home appliances or vacation trips, so enough money will be freed for housing?

Is it really in the best interest of the housing industry to restrict the credit needed by our industrial sector to conduct research or to improve productivity by investment in new plants and equipment? These things are vital to the better jobs and higher real incomes necessary to pay for better housing.

This brings me to the second problem I mentioned at the outset: inflation. Lenders feel they need higher interest rates to compensate for expected diminished purchasing power of the dollar when the principal comes back years later. Yet inflation affects not only interest rates but everything else too—land, materials and labor.

Equally important, inflation saps the demand for better housing when the potential home buyer has to spend more of his pay check for food, gasoline and practically everything else. We can and we must get inflation under better control. How?

As you know, food costs have been the biggest single culprit. The Administration has taken a number of steps that we expect to increase supply and moderate price hikes.

The soaring cost of fuel is another, newer culprit.

To hold down inflation, Federal spending must conform to reasonable limits. Easy to say yet almost five years in government have taught me how hard it is.

Every group, it seems, has its own cause—very often a perfectly legitimate one. But there is simply no way to give all groups the money they want without raising taxes or printing money, which simply means more inflation.

So we must establish priorities and set limits. That's what this annual budget battle is all about.

Incidentally, I just can't buy the proposition that an easy way out is available to us—that all we have to do is cut defense.

Without a strong defense, mutual reduction of arms is a pipe dream. Without a strong defense position the free community of nations will not endure. Freedom, liberty, can too easily be taken for granted, especially when we have had it as long as we have. And I've sat in enough Cabinet meetings to know that we have whacked as much out of the defense budget as possible in favor of domestic program priorities. It's not a pleasant prospect—particularly when you have the job I have or Cap Weinberger's job at HEW—but we will need more money for defense than Congress appropriated last year, not less.

While we are on the subject of budget allocations, I would like to talk a little on the issue of subsidized housing for lower-income families. Whether we look at the decade of the '60s or go back to the '50s, it is clear that as a nation we have made remarkable progress toward the goal—first articulated by the Congress in 1949 and reconfirmed in the President's September housing message—of a decent home and a suitable living environment for every American family. The main reason for our success is the growth in jobs—higher real incomes—coupled with a strong housing industry and credit availability.

Notwithstanding this progress, however, many families still live in housing that by any standard is substandard.

The issue is how to overcome this problem. This is what the housing study we completed in September is all about.

I'm not going to try to explain in detail here why we concluded that we don't stand a chance of achieving our national housing goal for substantially all those still without decent shelter through the old programs. Chapter Four of the book incorporating the results of the study, a volume called *Housing in the Seventies*, does that better than I could here.

Suffice it to say that even if all the other negative factors were ignored, solving the housing problems of all those eligible under the old subsidy programs for lower-income families would cost, we estimate, some $34 billion a year. Allocating that much of the Federal budget to these needs just isn't possible. New approaches are necessary.

The Administration is committing some $200 million to the housing allowance—direct cash assistance—experiments. In this and other ways, we are attempting to devise a practical program to get at the basic problem—lack of sufficient income to pay for decent, safe and sanitary existing housing.

Even though this cash assistance approach would make maximum use of existing housing, the expenditure involved would be far greater than anything this Nation has seen before—an estimated $1½ billion for the first phase, covering the elderly poor, and an estimated $9 to $11 billion annually when the program is fully operative. But the difference is we would be helping the vast majority of the poor get better housing rather than helping a relatively small proportion get new housing while the rest are left to wait and wait.

This doesn't mean that we are standing dead in the water pending final decision on direct cash assistance, a decision scheduled for the end of this year or maybe early next year.

In addition to the 100 thousand-plus units under the old programs that are still being processed, another 200,000 units of subsidized housing were announced in the President's September housing message.

Approximately 70,000 of this 200,000 are allocated to meet bona fide commitments under the old programs. The balance, about 130,000, are earmarked for our revised Section 23 leasing program—50,000 units of existing housing and 80,000 of new construction.

In devising these new Section 23 programs, Assistant Secretary and FHA Commissioner Lubar and his people have been in contact with developers and others knowledgeable about subsidized housing.

And the regulations will be published for comment tomorrow. These new programs, refined as we gain experience, and hopefully improved by the legislation we seek from Congress to modify them further, should avoid many of the flaws in the old programs and provide a sound interim approach while the work on better long-term approaches proceeds.

The budget for fiscal 1975, to be published shortly, will seek authority for an additional number of units for these new Section 23 programs. But the programs simply won't work without you. We need your help.

I have discussed tight money, high interest rates, inflation and helping the poor. Before I close, just a few words on the other problems I mentioned.

FHA processing. Once and for all, let me state it flatly: There will be a need for FHA for a long, long time. The private mortgage insurers perform an important function, and I will do all I can to foster the service they give. But for the foreseeable future, there will always be good mortgage risks that require FHA assistance.

One of my top priorities for the period immediately ahead is once again to provide timely FHA processing service in the offices that fail to do so. We know from the good performance of some offices that FHA can provide prompt service without sacrificing the important social goals built into the law, such as equal opportunity and environmental protection. Accordingly, on direct authority from me signed last Friday, Shel Lubar is putting together teams of experts—including representation from better offices—who, in coordination with the regional offices, will, in the weeks ahead, go directly into the area and insuring offices that appear to need the help and do what needs to be done.

For the longer term, Congressional adoption of some of the President's other proposals will also greatly assist and help streamline FHA operations. Co-insurance, the practicability of which was proved by VA long ago, will help. And it goes almost without saying that the greater your own sense of responsibility in selecting the projects you offer, the better your own work in the application process and in meeting your commitments, the easier it will be for us to streamline our own procedures.

The environment. We have been working closely with the Environmental Protection Agency to get a better handle on the facts, to separate the real problems from the illusions and address them. And as expected, the NAHB staff has welcomed our overture to work with your organization along the same lines.

No growth. Some of the communities moving toward growth restriction have legitimate reasons. But others don't. Whether they like it or not, the baby boom of the post-World War II period is now becoming the family formation boom of the Seventies and early Eighties. These people must have homes where the jobs are, and we at HUD will work with you toward achievement of that goal.

Energy. I know the problems you face—the effect of the energy crisis on availability of materials, on fuel for construction, on Sunday driving to inspect homes, on the willingness of customers to buy while question marks hang over such things as heating and gasoline supply.

That's why I have brought Doug Parker on board to be my Assistant for Energy Affairs. I hope as many of you as possible get to meet and know him while we are here in Houston. Doug will work closely with Bill Simon's shop, with you and with others to reduce as much as possible the impact of the energy crisis on housing.

Let me close with what I said in my first line. I welcome the opportunity to be with you. I chose those words carefully. I didn't say the usual "It's a great pleasure to be with you." In the sense of satisfaction with the current state of housing affairs, it cannot be a pleasure—surely not for you and certainly not for me.

But I do welcome the opportunity to be with you.

I wanted to hear about your concerns at first hand. I wanted to discuss specific problems and predictions with you directly. And I wanted to present in person a partial solution at least to one of your principal current difficulties—interest rates.

There are, amidst the serious problems, some good signs. When I look at those family formations on the charts, at the basic strength of our economy, at its capacity to create more and better jobs (with all that means to the prospects for better housing) and at your demonstrated ability to provide that housing, I perceive promise for a high level of housing construction, not just for the balance of this decade, but also into the 1980s. And I pledge to the people of this country, and to you today, that as Secretary of HUD, I will do my utmost to help.

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## REPORT OF THE NATIONAL COMMISSION ON THE FINANCING OF POSTSECONDARY EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, I take this time to call to the attention of my colleagues a report which promises to have, in my estimation, a significant effect on how decisions are made with respect to the financing of postsecondary education in the United States.

I refer, Mr. Speaker, to the final report of the National Commission on the Financing of Postsecondary Education, "Financing Postsecondary Education in the United States," which was made public today.

Mr. Speaker, the work of the National Commission, on which I was privileged to serve, will, I believe, be of immense help to all of those with responsibility for making decisions about financing our institutions of postsecondary education and assisting the students who attend them.

Before I comment on the report, I should like to pay tribute to our distinguished colleague from Oregon, the Honorable JOHN DELLENBACK, who also served on the Commission. For he brought to the Commission's deliberations a wealth of experience with respect to the problems of postsecondary education and provided many constructive suggestions for the consideration of the Commission.

I should also, in this regard, pay tribute to the work of our distinguished colleagues from the other body, the Senator from Maine, the Honorable WILLIAM D. HATHAWAY, and the Senator from Maryland, the Honorable J. GLENN BEALL, Jr., who labored long and hard to help complete the Commission's work.

Let me also, Mr. Speaker, cite particularly Donald E. Leonard, of Lincoln, Nebr., who worked diligently and tirelessly as Chairman of the Commission over the past 14 months.

Each of the other members of the Commission, also, Mr. Speaker, contributed invaluable suggestions during the progress of our work.

The other Commissioners, Mr. Speaker, included Vice Chairman Marian W. LaFollette, a member of the board of trustees of Los Angeles Community Colleges; Ernest L. Boyer, chancellor of the State University of New York; and Winfield Dunn, the Governor of Tennessee.

Also members of the Commission were Tim R. Engen, student body president of Bradley University; George Kaludis, vice chancellor of Vanderbilt University; Dan M. Martin, president of the Associated Colleges of the Midwest; Walter C. Mercer, president of the Ohio Bank of Columbus; and Peter P. Muirhead, Deputy U.S. Commissioner of Education for Higher Education.

Other Commissioners, Mr. Speaker, were John W. Porter, Michigan superintendent of public instruction; Louis P. Rodriguez, administrative assistant, Phoenix Elementary School District, Ariz.; Sister Jane Scully, president of Carlow College; and Ruth C. Silva, professor of political science at Pennsylvania State University.

Obviously, Mr. Speaker, a Commission such as ours cannot accomplish its work effectively without the assistance of a dedicated and talented staff.

We were fortunate to have such a staff under the remarkable leadership of Executive Director Dr. Ben Lawrence of Boulder, Colo., and Research Director Dr. George Weathersby.

I want also, Mr. Speaker, to pay tribute to our former colleague in the House of Representatives, a member of the Education and Labor Committee, Mr. James Scheuer of New York, who first proposed the legislative provision which resulted in the National Commission on the Financing of Postsecondary Education.

Finally, Mr. Speaker, let me pay a special word of commendation to two members of the staff of the House Committee on Education and Labor whose diligence and ability contributed significantly to the report of the Commission—Mr. James Harvey, assistant staff director of the Select Education Subcommittee, and Dr. Robert Andringa, minority staff director of the committee.

### CONGRESSIONAL CHARGE

Mr. Speaker, the National Commission on the Financing of Postsecondary Education was created by the 92d Congress as part of the Education Amendments of 1972—Public Law 92-318—and was charged with analyzing existing programs of aid to postsecondary institutions; the costs, advantages, and disadvantages of alternative financial proposals; as well as the extent to which various financial proposals would advance the national goal of making postsecondary education accessible to all individuals with the desire and ability to continue their education.

This clearly was a challenging responsibility. For postsecondary education in the United States is a large enterprise including more than 2,900 traditional collegiate institutions serving 9.3 million students, and an additional 7,000 noncollegiate technical, vocational, and proprietary institutions serving approximately 1.6 million students.

To support this complex enterprise, Mr. Speaker, postsecondary education institutions received income in fiscal year 1972 of $30 billion from students and parents, local, State, and national governments, and other private and public sources.

To repeat, Mr. Speaker, the Commission was faced with a difficult charge, to which, I believe, the Commissioners have responded imaginatively and well.

### ANALYTICAL FRAMEWORK

For the Commission, Mr. Speaker, has provided a tool which decisionmakers concerned with postsecondary education have long needed: a comprehensive analytical framework with which to evaluate the benefits and disadvantages of a variety of alternative programs for financing postsecondary education.

At the outset of our discussions, Mr. Speaker, the Commission decided against trying to draw up a laundry list of bills Congress should pass to aid postsecondary education. Rather we decided that the development of a comprehensive analytical framework would be our primary contribution to solving the complex issues involved in financing postsecondary education.

For we felt that Senators, Congressmen, Governors, State legislators, university administrators, and other policymakers did not need a new financial prescription aimed at curing the ills of postsecondary education—for we do not lack thoughtful proposals in this regard.

What policymakers needed was an appropriate methodology, a framework, for analyzing the potential benefits and disadvantages of the variety of plans offered to finance postsecondary education.

Indeed, in the absence of such a framework, policymakers have simply been unable to determine whether or not various financing plans could actually achieve the results which their sponsors claimed.

The Commission has provided the first such framework developed, although we are, of course, aware that the framework we have produced is, at this state of its development, in many respects limited and requires further development.

### DEVELOPMENT OF THE ANALYTICAL FRAMEWORK

Mr. Speaker, let me take a moment to tell my colleagues of the process we followed in developing this analytical framework, for I believe we pursued our task in a most logical manner.

We first agreed upon a number of national objectives, such as student access and institutional diversity, which we believed represent the broad goals toward which the postsecondary education enterprise in the United States should strive.

We then developed several measures to assess the extent to which we have achieved these objectives. For example, the number of students from low-income families attending postsecondary education institutions was one measure of accomplishing the objective of student access.

Then, Mr. Speaker, with the help of the most complete data base ever compiled on postsecondary education, and utilizing a mathematical construct—described in the final report as an "analytical model"—to simulate the impact of various financing plans, we evaluated a large number of alternative plans in terms of how each of them would help achieve the national objectives we had selected.

Mr. Speaker, I consider the development of this analytical framework to be of profound consequence for the work of all those with responsibility—whether at local, State, or National levels, in public or private institutions—concerned with the financing of postsecondary education.

Such a framework means that, for the first time, it will be possible, subject to the limitations the report sets forth, objectively to assess the likely results of implementing various proposals for financing postsecondary education.

But in addition to the development of this framework, Mr. Speaker, the Commission has also, as a result of its research, been able to make worthwhile contributions in a number of other areas.

Briefly, Mr. Speaker, I should mention the following aspects of the Commission's work:

An analysis of the degree to which we are, today, accomplishing national objectives for postsecondary education;

An analysis of the nature and causes of "financial distress" in institutions of higher education; and

The development of interim national uniform standards for developing annual per-student costs.

Let me, Mr. Speaker, say just a word about each of these areas.

### ACCOMPLISHMENT OF NATIONAL OBJECTIVES

Mr. Speaker, data alone cannot, of course, assure us that national objectives with respect to postsecondary education are, or are not, being met.

But the data indicating how much we have accomplished with respect to national objectives, left several of the members of the Commission, including me, deeply troubled.

With regard to student access, for example, Mr. Speaker, we found that the objective of making postsecondary education available to all who have the ability and the desire to continue their education has not been accomplished.

Consider:

That the participation rates of students in the 18–24 year age bracket from families with incomes above $10,000 annually, is twice that of students in the same age bracket from families with incomes below $10,000;

That the participation rates of students from several racial and ethnic minorities are far below the participation rates of other Americans; and

That rigid high school tracking—which is to say the curriculum students begin to follow when they are 14 or 15 years old—is the most significant determinant of whether those students will enroll in college-level study.

### FINANCIAL DISTRESS

Or let us turn, Mr. Speaker, to the Commission's findings with respect to financial distress in institutions of higher education.

Although the Commission found that the financial status of the postsecondary education enterprise is not, insofar as we were able to determine, jeopardizing the achievement of postsecondary education objectives, we also discovered that several postsecondary institutions are already in financial distress.

Indeed, the Commission concluded:

> If present patterns and conditions of financing continue, there is a high probability that such distress will occur in several sectors of postsecondary education.

### UNIFORM STANDARDS FOR PER-STUDENT COSTS

Finally, Mr. Speaker, let me just touch on what was one of the most troublesome and vexing of the questions to which the Commission addressed itself.

I refer to the difficulties involved in determining accurately the costs of educating each individual student within a college or university setting.

Let me first explain that the determination of per-student costs cannot rest solely upon dividing an institution's operating budget by the number of students enrolled at the institution.

For some of the students are enrolled full-time and some of them are enrolled on a part-time basis.

Still another complication is that a significant number of activities in education result in what is termed a "joint product." That is to say, the costs of supporting one activity, for example, research, might justifiably be assigned to several other outcomes, such as improved teaching, or public service.

Clearly, Mr. Speaker, complicated technical matters are at issue in discussing the question of per-student costs.

Nevertheless, the Commission has produced a set of interim national uniform standards for developing per-student costs and the Commissioner of Education is required to comment on these standards within 60 days. I believe the Commission has broken new ground in this important area.

Mr. Speaker, the accomplishments of the National Commission on Postsecondary Education are, in my estimation, important contributions which will help to shape the debate about the financing of postsecondary education in the years to come.

The contributions, to reiterate, will be important not only to Congress and the executive branch of the Federal Government, but also to policymakers concerned with postsecondary education at all levels—in State and local government—and to educators.

Let me also point out, Mr. Speaker, that the problems identified by the Commission will, if we are to be able responsibly to address them, require the most thoughtful consideration, based upon the best data and analytical techniques available.

And while our efforts with respect to gathering and organizing the necessary data as well as developing useful analytical tools with which to make policy for financing postsecondary education are not the final word, they are, in my opinion, an indispensable beginning in this crucial task.

## SUMMARY OF TAX RECORDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. CULVER) is recognized for 5 minutes.

Mr. CULVER. Mr. Speaker, I am today releasing a personal financial statement and a summary of my tax records for the years that I have been in Congress, and I ask that these documents be inserted in the RECORD at this point.

***Financial statement of Congressman John C. Culver, December 31, 1973***

| | |
|---|---|
| Assets: | |
| Demand and saving deposits | $4,250.15 |
| Real property* | 210,500.00 |
| Personal property | 25,000.00 |
| Personal contribution to the Federal retirement fund | 25,334.64 |
| Cash value, life insurance policies | 3,481.09 |
| Less policy loans outstanding | (3,481.09) |
| Total assets | 265,084.79 |
| Liabilities: | |
| Mortgages, real property | 149,960.00 |
| Total liabilities | 149,960.00 |
| Net worth | 115,124.79 |

*Includes Cedar Rapids commercial property (inherited one-tenth interest), McGregor Home, McGregor Building Restoration, and Washington residence.

### SUMMARY OF TAXES PAID DURING PREVIOUS YEARS AS PUBLIC OFFICIAL, THE HONORABLE JOHN CULVER

1972. Mr. Culver's gross income was $43,313.60, of which $42,500.00 was his salary as a Member of Congress and the remainder was income from dividends, interest and sale of securities. He was eligible for $6,863.99 in itemized deductions on his federal income tax return and $5,053.76 on his Iowa income tax return. He paid $7,470.34 in federal income tax and $1,365.81 in Iowa state income tax. He paid $626.16 in Clayton county, Iowa property taxes.

1971. Mr. Culver's gross income was $46,400.72, including $3,900.72 in income from dividends, interest and the sale of securities. He was eligible for $6,687.85 in itemized deductions on his federal income tax return and $5,407.64 on his Iowa income tax return. He paid $9,278.62 in federal income tax and $1.410.23 in Iowa state income tax. He paid $479.89 in Clayton county, Iowa property taxes.

1970. Mr. Culver's gross income was $60,610.56, including $18,110.56 in income from interest, the sale of securities and a trust created family partnership. He was eligible for $10,597.36 in itemized deductions on his federal income tax and $8,583.13 on his Iowa income tax return. He paid $15,043.28 in federal income tax and $1,632.21 in Iowa state income tax. He paid $178.68 in Clayton county, Iowa property taxes.

1969. Mr. Culver's gross income was $57,442.66, including $18,067.68 in income from interest, the sale of securities, and a small amount of miscellaneous income. He was eligible for $10,650.94 in itemized deductions on his federal income tax return and $9,205.99 on his Iowa income tax return. He paid $15,039.23 in federal income tax and $1,762.23 in Iowa state income tax.

1968. Mr. Culver's gross income was $34,659.91, of which $30,000 was his salary as a Member of Congress and the remainder was income from interest, sale of securities, and small miscellaneous sources. He was eligible for $4,516.87 in itemized deductions on his federal income tax return and $3,683.-48 on his Iowa income tax return. He paid $5,799.22 in federal income tax and $892.95 in Iowa state income tax.

1967. Mr. Culver's gross income was $33,808.49, including $3,808.49 in income from interest, sale of securities and miscellaneous small sources. He was eligible for $7,616.38 in itemized deductions on his federal income tax return and $6,796.87 on his Iowa income tax return. He paid $5,209.48 in federal income tax and $833.39 in Iowa state income tax.

1966. Mr. Culver's gross income was $34,564.99, including $4,564.99 in income from dividends, interest, a trust created partnership, and sale of securities. He was eligible for $3,768.43 in itemized deductions on his federal income tax returns and $6,327.07 on his Iowa income tax return, (the larger amount resulting from a difference in computation of deductions for state and federal returns that year). He paid $5,407.43 in federal income tax and $810.25 in Iowa state income tax.

1965. A copy of Mr. Culver's 1965 Tax Returns was being obtained at the time of preparation of this summary and will be available later. After 1965, Mr. Culver's tax returns were prepared by his attorney in Cedar Rapids and facts presented here were provided by the attorney.

Mr. Culver, an attorney, discontinued the practice of law following his first election to Congress in 1964. He has not been an officer or director in any business corporation.

## NEEDED: A NATIONAL FOOD POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 5 minutes.

Mr. ALEXANDER. Mr. Speaker, the American dinner table is set today in an atmosphere of bountiful bliss. While in transit on January 21, 1974, I read an article in the New York Times by Tony Dechant, national president of the Farmers Union, who argues for a national food policy. In answering the question: do we have a food policy, whatever we find will be controversial. Is what we have now a controversial nonpolicy, or a healthy political controversy?

I submit a copy of the article for the consideration of my colleagues.

### NEEDED: A NATIONAL FOOD POLICY

(By Tony Dechant)

Our country desperately needs a national food policy. The United States today is dangerously short of food. What is worse, we are dangerously short even of farmers. We are dangerously short of farming capacity—of machinery and breeding stock and production supplies. We are dangerously short, above all, of morale among our farm people. All this portends that our danger will grow worse unless we correct its cause.

In just a few short years, the regime of President Nixon and Secretary of Agriculture Butz has wrecked our national farm programs, built with bipartisan support and leadership during the past forty years. This has brought the nation, and farmers and consumers together, to the food crisis.

The first major blow was enactment of the 1970 Farm Act after a bitter fight in Congress. This legislation was engineered by the White House with ruthless use of the veto threat. It empowered the Administration to further erode farm prices and to complete the wrecking of two indispensable features of an adequate farm program:

It wrecked the "ever-normal-granary" machinery for building and managing reserves of basic farm commodities, by forcing commodity-loan rates far below the level of viable returns to producers, and by "dumping" the last remaining Commodity Credit Corporation-owned stocks onto the market in a ruthless effort to break farm prices.

It wrecked the Government's capability to manage supplies of storable commodities so as to keep reserves at reasonable levels at costs that would be reasonable and acceptable.

The next step was the recruitment by President Nixon of Earl L. Butz, a long-time agribusiness politician, as Secretary of Agriculture.

Mr. Butz set out with flamboyant vigor to exploit the programs of the Department of Agriculture to further the Nixon election campaign.

It is fair to wonder what a long-time enemy of farm programs, as Mr. Butz has been, would find to do during an election year that would be helpful to the Administration's cause among farmers who overwhelmingly believe in farm programs. But Earl Butz showed that he is not a man to be swayed by principle when he has a political motive to satisfy.

In the 1972 election year, Mr. Butz spent more money than any Secretary of Agriculture in history to pay farmers to idle the biggest acreage of land ever kept out of production under Government programs.

The extent of today's food shortage is being understated and covered up by the Department of Agriculture.

The department continues in public to uphold its estimate of 250 million bushels as the total amount of wheat that will be left over at the end of this marketing year next July 1. This would be the smallest reserve since the world food emergency at the end of World War II. But then America's and the world's populations were far smaller.

A careful search and review of the Government's own reports on wheat production, wheat stocks, domestic consumption estimates, shipments already made overseas, and reports of overseas sales shows that the total wheat supply in the United States will be down to the vanishing point by the end of this marketing year. Indeed, these detailed reports show that the entire United States supply of three of the five major types of wheat have already been oversold, and this includes our main bread-wheat type.

The total carry-over that is indicated by these Government figures is around fifty million bushels. This would be by far the smallest ever recorded in the United States. It is less than the practical minimum, beyond the point at which the trade and processors' "pipelines" can really be cleaned out.

A short grain crop anywhere on earth—or a natural disaster anywhere on earth—or an international military crisis anywhere on earth—would catch America short of one of its most valuable resources. A world grain crop like that of 1972 would doom millions to starvation.

## ENERGY CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Mrs. COLLINS of Illinois) is recognized for 10 minutes.

Mrs. COLLINS of Illinois. Mr. Speaker, the American people have been told by their President that he is unable to do anything about the current energy crisis until the Congress gives him the necessary authority. For over 2 years Senators JACKSON and STEVENSON have been trying to give the President the necessary authority to deal with this matter, but have been thwarted at every turn. Now that the crisis is an actuality, numerous bills have been introduced in both the House and Senate in attempts to alleviate its most serious effects. One suggestion has been an increase in coal production.

A month and a half ago, the Department of the Interior's Mine Enforcement and Safety Administration reported that 11 coal mines had been forced to decrease production, because of a lack of steel roof bolt plates and bolts. Last week Governor Schapp of Pennsylvania wrote to the President asking him to have amended the Defense Production Act of 1950 in order to expedite the domestic production of these items; the shortage of which is due to the low profit margin that steel companies make from the manufacture of these products. Yesterday, three mines in Ohio closed, because they no longer have any steel roof bolt plates and bolts.

To help remedy this situation I have, today, introduced legislation which would amend the Defense Production Act of 1950 (50 App. U.S.C. 2091–2094) authorizing and directing the President to use his authority for the purpose of expediting the domestic production and delivery of steel roof bolt plates and bolts. I hope that this legislation will be taken under consideration immediately.

## TAX REFORM—1974

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, on February 4, 1974, my Committee on Ways and Means will begin what undoubtedly will be many months devoted to the revision of the Internal Revenue Code. While the hearings on February 4 will be directed to the various proposals related to windfall profits, the majority of our time this spring will be devoted to a more broad-based effort at general tax revision.

As a result of the 45 days of public hearings held during the first session of this Congress, the committee is quite well prepared to tackle the most complex issues of tax reform. I personally feel that the first session's hearings clearly demonstrated a need for substantive reform in at least two areas, and the need for redirection in a third. It is for this reason that I have today introduced three separate pieces of legislation designed to alter the taxation of single taxpayers, small businesses, and certain businesses in the recycling industry.

The treatment of single persons in the Internal Revenue Code has been increasingly criticized in recent years. There is much justification to this criticism. In the past, I have advocated reform in this area and now I am convinced that this is the year that legislation will finally be enacted. The legislation that I am introducing is not new to Members of this body. Its introduction today, however, is a positive commitment on my part to insure that tax equity for single persons is one of the key elements of any tax legislation reported by my committee to the full House.

A second area where there was demonstrated much need for reform during our tax hearings was in the area of small business taxation. There is need for much simplification and elimination of discrimination in this area of the code. While broad reform has been embodied in legislation introduced by the chairman of the House Select Committee on Small Business, Mr. EVINS of Tennessee, and by the chairman of the Senate Select Committee on Small Business, Senator BIBLE, my bill deals solely with the treatment of small business corporations that qualify for subchapter S of the code.

My legislation is derived from a joint U.S. Treasury-American Bar Association study from 1966–69. While this proposal was transmitted to the Congress in narrative form in 1969, it has not been formally considered by the Congress.

As my colleagues know, subchapter "S" of the code contained provisions which allow small businesses to operate in the corporate form, with all its nontax advantages, without the burden of being double-taxed as are most corporations. This section of the code, while having done much to encourage the growth of small independent businesses, is replete with hazards of the unwary—and even at times to those extremely knowledgeable in the complexities of our tax system. My legislation would expand the applicability of the subchapter "S" provisions and remove some of their harsher technical traps.

The third bill that I am introducing today would go a long way to stimulate the use of recycled material in an industry that has most recently been plagued by shortages—the paper industry. My legislation would provide a tax credit of $10 for each ton of postconsumer wastepaper a company processes into new commercially marketable pulp paper, paperboard, or other similar product.

Cities, towns, and counties are struggling to cope with a mountain of solid waste and many are running out of landfill and incinerator capacity. It is a problem that is national in scope and covers communities of all sizes.

National policy is to conserve vital natural resources, to encourage recycling of products that can be converted into useful new products and to assist communities in their struggle with solid waste. Encouraging greater use of paper and paper products that have gone to the consumer and been used once, offers the easiest and least expensive way of meeting these national goals.

Yet, recycling of paper is a declining enterprise. Thirty years ago, 36 percent of the paper and paperboard used in the United States came from recycled materials. Last year, 21 percent came from these sources. By 1985, unless new production facilities are developed, Midwest Research Institute estimates the recycling percentage will drop to 17.

To reverse this trend, I believe that it is necessary to provide an adequate financial incentive to promote the use of recycled material in this area. When the tax credits have served their purpose and the recycling of paper is again a growing and viable industry, they can be phased out. The credit would be a flat amount in order to encourage the greater use of cheaper grades of paper that now only clog municipal waste systems. Also, the credit would only be applied to postconsumer waste, because this is the hardest type to recycle and is what is creating most of our national solid waste problem.

The use of such an incentive will help plants in the industry get more waste, expand capacity, and be more competitive with increasingly scarce virgin paper products.

This legislation would, in my opinion, help reverse a long standing trend in our tax system. It would reward those who worked to preserve our resources rather than reward those who work to deplete them.

## MADISON, WIS., COMMON COUNCIL FIRST IN URGING HOUSE OF REPRESENTATIVES TO BEGIN IMPEACHMENT PROCEEDINGS AGAINST THE PRESIDENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 5 minutes.

Mr. KASTENMEIER. Mr. Speaker, the news media has credited the Akron, Ohio, City Council, in its adoption this week of a resolution urging the House of Representatives "to proceed with the impeachment of Richard M. Nixon at the earliest possible moment" with being the first legislative body of any city in the country to take such action.

Just to set the record straight, to the best of my knowledge, the first city council in the Nation to adopt a resolution recommending that impeachment proceedings against the President be commenced was the Common Council of the City of Madison, Wis., the largest city in my congressional district, which passed its resolution on October 23, 1973, 3 months before the Akron, Ohio, City Council acted on this issue. As in other instances, the Madison, Wis., Common Council has taken the leadership on questions of national importance.

Mr. Speaker, the Madison Common Council resolution follows:

### RESOLUTION

Be it resolved, that the Madison Common Council recommends to the members of the House of Representatives from the State of Wisconsin that impeachment proceedings against President Richard Milhous Nixon be commenced.

Be it further resolved, that the action of the Madison Common Council be forwarded to members of the House of Representatives from the State of Wisconsin.

Be it further resolved, that Congressman Kastenmeier and Senators Nelson and Proxmire are requested to immediately convene a public hearing in Madison, Wisconsin, to receive public input.

Be it still further resolved, that the Common Council memorializes Madison residents to petition their federal representatives in support of this resolution.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

Mrs. Green of Oregon, this week, on account of illness.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Patman, for 30 minutes, today, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. Cochran) and to revise and extend their remarks and include extraneous matter:)

Mr. Wyman, for 30 minutes, today.

Mr. Blackburn, for 10 minutes, today.

Mr. Railsback, for 5 minutes, today.

(The following Members (at the request of Mr. Davis of South Carolina), to revise and extend their remarks, and to include extraneous matter:)

Mr. Brademas, for 5 minutes, today.

Mr. Culver, for 5 minutes, today.

Mr. Alexander, for 5 minutes, today.

Mrs. Collins of Illinois, for 10 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Rostenkowski, for 5 minutes, today.

Mr. Kastenmeier, for 5 minutes, today.

Mr. Young of Alaska (at the request of Mr. Cochran), for 10 minutes today, and to revise and extend his remarks.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Roush in three instances and to include extraneous material.

Mr. Gross, and to include extraneous material.

(The following Members (at the request of Mr. Cochran), and to include extraneous matter:)

Mr. Hansen of Idaho.

Mr. Landgrebe in two instances.

Mr. Kemp in three instances.

Mr. Roncallo of New York in three instances.

Mr. Bell.

Mr. Railsback in two instances.

Mr. Quie.

Mr. Ashbrook in four instances.

Mr. Baker.

(The following Members (at the request of Mr. Davis of South Carolina), and to include extraneous matter:)

Mr. Rose in two instances.

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Aspin in 10 instances.

Mr. Owens in 10 instances.

Mr. Roy.

Mr. Moorhead of Pennsylvania in 10 instances.

Mrs. Boggs.

Mr. Carney of Ohio in three instances.

Mr. Rangel in five instances.

Mr. Brasco in six instances.

Mr. Nichols.

Mr. Corman.

Mr. Badillo.

(The following Members (at the request of Mr. Milford) *and* to include extraneous matter:)

Mr. Van Deerlin.

Mr. Evins of Tennessee.

Mr. Mathis of Georgia.

Mr. Pickle in two instances.

Mr. Fulton.

Mr. Vanik in three instances.

Mr. Kastenmeier.

Mr. Harrington in three instances.

Mr. Wolff in two instances.

Mr. Melcher.

## SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1961. An act to amend the Flood Control Act of 1938; to the Committee on Public Works.

S. 2754. An act to prohibit all military assistance to Greece until it is determined that Greece is fulfilling its obligations under the North Atlantic Treaty; to the Committee on Foreign Affairs.

## SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1070. An act to implement the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969.

## ADJOURNMENT

Mr. MILFORD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 58 minutes p.m.), under its previous order, the House adjourned until Monday, January 28, 1974, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1765. A letter from the Secretary of Labor, transmitting a report on the number of cases reviewed and the number of exemplary rehabilitation certificates issued during calendar year 1973, pursuant to 29 U.S.C. 606; to the Committee on Armed Services.

1766. A letter from the Director, District of Columbia Bail Agency, transmitting the annual report of the agency, covering the period ended May 31, 1973, pursuant to 23 District of Columbia Code 1307; to the Committee on the District of Columbia.

1767. A letter from the Chairman, National Commission on the Financing of Postsecondary Education, transmitting the final report of the Commission, pursuant to section 140 (d) of Public Law 92–318; to the Committee on Education and Labor.

1768. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a copy of Presidential Determination No. 74–10 authorizing the provision to Spain of military and security supporting assistance in fiscal year 1974 without regard to the requirements of section 620(m) of the Foreign Assistance Act of 1961, as amended, pursuant to section 614(a) of the act; to the Committee on Foreign Affairs.

1769. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on deliveries of excess defense articles during the first quarter of fiscal year 1974, pursuant to 22 U.S.C. 2321b (d); to the Committee on Foreign Affairs.

1770. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend chapter 37 of title 38, United States Code, to permit interest on loans under section 1810 of the chapter to be as agreed upon by the lender and borrower, and for other purposes; to the Committee on Veterans Affairs.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. POAGE: Committee on Agriculture. H.R. 11873. A bill to authorize the Secretary of Agriculture to encourage and assist the several States in carrying out a program of animal health research (Rept. No. 93–766). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. House Resolution 787. Resolution providing for the consideration of H.R. 5463. A bill to establish rules of evidence for certain courts and proceedings. (Rept. No. 93–767). Referred to the House Calendar.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 788. Resolution providing for the consideration of H.R. 11793. A bill to reorganize and consolidate certain functions of the Federal Government in a new Federal Energy Administration in order to promote more efficient management of such functions (Rept. No. 93–768). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BINGHAM:

H.R. 12273. A bill to amend title XII of the Federal Aviation Act of 1958 to provide that each foreign air carrier shall maintain and administer security measures with respect to foreign air transportation equal to security measures applicable to air carriers operating in interstate air transportation and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BINGHAM (for himself and Mr. Moakley):

H.R. 12274. A bill to amend title 38 of the United States Code to make more equitable the procedures for determining eligibility for benefits under the laws administered by the Veterans' Administration, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BROWN of California:

H.R. 12275. A bill to reform the present system of escrow accounts used in connection with some real estate mortgages by requiring lenders to offer a plan under which escrow payments are applied to the balance due on the mortgage loan; to the Committee on Banking and Currency.

By Mrs. COLLINS of Illinois:

H.R. 12276. A bill to expedite the domestic production of steel roof bolts and steel roof bolt plates used in coal mining operations; to the Committee on Banking and Currency.

By Mr. ROBERT W. DANIEL, JR. (for himself and Mr. Whitehurst):

H.R. 12277. A bill to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. de la GARZA:

H.R. 12278. A bill to provide that the State of Texas shall be exempt from the provisions of the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. FLYNT (for himself, Mr. Stephens, Mr. Mathis of Georgia, and Mr. Young of Georgia):

H.R. 12279. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. FRASER (for himself and Mr. Diggs):

H.R. 12280. A bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome; to the Committee on Foreign Affairs.

By Mrs. GRIFFITHS:

H.R. 12281. A bill to continue until the close of June 30, 1975, the suspension of duties on certain forms of copper; to the Committee on Ways and Means.

By Mr. KASTENMEIER:

H.R. 12282. A bill to establish a Federal Oil and Gas Corporation; to the Committee on Interior and Insular Affairs.

H.R. 12283. A bill to establish a National Energy Information System, to authorize the Department of the Interior to undertake an inventory of U.S. energy resources on public lands and elsewhere, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. LATTA (for himself and Mr. Guyer):

H.R. 12284. A bill to permit the legislature or Governor of any State to exempt the State from daylight saving time on a year-round basis; to the Committee on Interstate and Foreign Commerce.

By Mr. QUIE (for himself, Mr. Perkins, Mr. Eshleman, and Mr. Brademas):

H.R. 12285. A bill to encourage and assist States and localities to develop, demonstrate, and evaluate means of improving the utilization and effectiveness of human services through integrated planning, management, and delivery of those services in order to achieve the objectives of personal independence and individual and family economic self-sufficiency; to the Committee on Education and Labor.

By Mr. RAILSBACK (for himself, Mr. Biester, Mr. Butler, Mr. Cohen, and Mr. Fish):

H.R. 12286. A bill to provide for appropriate access by the Congress to information required in connection with proceedings relating to the impeachment of the President or the Vice President; to the Committee on the Judiciary.

By Mr. ROSTENKOWSKI:

H.R. 12287. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification and reform of the provisions relating to subchapter S corporations; to the Committee on Ways and Means.

H.R. 12288. A bill to amend the Internal Revenue Code of 1954 to provide income tax incentives to improve the economics of recycling waste paper; to the Committee on Ways and Means.

H.R. 12289. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by unmarried individuals filing joint returns; to the Committee on Ways and Means.

By Mr. SIKES (for himself and Mr. Fuqua):

H.R. 12290. A bill to declare a portion of the Wakulla River, Fla., as a non-navigable water of the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. SHRIVER (for himself, Mr. Hudnut, Mr. Wyman, and Mr. Wright):

H.R. 12291. A bill to amend the Community Mental Health Centers Act to provide for the extension thereof, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. VANDER JAGT (for himself, Mr. Breaux, and Mr. Roncalio of Wyoming):

H.R. 12292. A bill to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance the national attack on diabetes; to the Committee on Interstate and Foreign Commerce.

By Mr. WILLIAMS:

H.R. 12293. A bill to prohibit for a temporary period the exportation of ferrous scrap, and for other purposes; to the Committee on Banking and Currency.

By Mr. LEHMAN (for himself, Mr. Gunter, Mr. Addabbo, Mr. Andrews of North Carolina, Mr. Badillo, Mr. Biaggi, Ms. Chisholm, Ms. Collins of Illinois, Mr. Dent, Mr. Derwinski, Mr. Edwards of California, Mr. Fulton, Mr. Giaimo, Mr. Green of Pennsylvania, Mrs. Hansen of Washington, Mr. Hungate, and Mr. Ketchum):

H. Res. 785. A resolution creating a select committee to conduct an investigation and study of the role of the oil and gas industry in contributing to the current energy crisis; to the Committee on Rules.

By Mr. MILLS (for himself and Mr. Schneebeli):

H. Res. 786. A resolution providing funds for the expenses of the Committee on Ways and Means in the second session of the 93d Congress; to the Committee on House Administration.

# SENATE—*Thursday, January 24, 1974*

The Senate met at 12 o'clock noon and was called to order by the Vice President.

## PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, we lift our noonday prayer to Thee for strength and wisdom sufficient for our duties, great or small, seen or unseen. Equip us that we may be Thy ministers in the service of the Nation. Keep us clean and true. Spare us from being surprised by sin or trapped by unexpected evil. Give us stout hearts to bear our own burdens, willing hearts to bear the burdens of others, and believing hearts to cast our burden upon Thee. Guide us through all the stresses and strains of our troubled times to the time of Thy coming kingdom.

We pray in the name of the great Burden Bearer. Amen.

## THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, January 23, 1974, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

## ATTENDANCE OF A SENATOR

Hon. Hubert H. Humphrey, a Senator from the State of Minnesota, attended the session of the Senate today.

## COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The VICE PRESIDENT. Without objection, it is so ordered.

## ORDER WITH RESPECT TO YEA-AND-NAY VOTES TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no rollcall votes occur today on the unfinished business, H.R. 8214, or on any other matter prior to the hour of 2:30 p.m.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that any rollcall votes that are ordered today on any matter prior to the hour of 2:30 p.m. begin at the hour of 2:30 p.m., and that the votes, then, if more than one is indicated, occur in sequence on the basis on which they were ordered.

The VICE PRESIDENT. Without objection, it is so ordered.

## ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, following the execution of the two orders that were entered on yesterday for the recognition of Senators Griffin and Robert C. Byrd, there be a period for the transaction of routine morning business today for not to exceed 45 minutes, with statements therein limited to 5 minutes each.

The VICE PRESIDENT. Without objection, it is so ordered.

## SENATE RESOLUTION 243—ELECTION OF WILLIAM F. HILDENBRAND AS SECRETARY FOR THE MINORITY OF THE SENATE

Mr. HUGH SCOTT. Mr. President, I submit a resolution which I send to the desk, and ask for its immediate consideration.

The VICE PRESIDENT. The resolution will be stated.

The assistant legislative clerk read as follows:

*Resolved*, That William F. Hildenbrand, of the District of Columbia, be, and he is hereby, elected secretary for the minority of the Senate.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

Mr. ROBERT C. BYRD. Mr. President, may I just take 3 of the minutes which ordinarily are allotted to the distinguished majority leader or his designee. I wish to congratulate Mr. Bill Hildenbrand on his having been selected the new secretary for the minority.

I also want to commend Mr. Mark Trice who has served so well and so long in that position in the Senate.

I want also to express my own personal gratification that the Republican conference has elected Bill Hildenbrand to fill that position. Over the past few years, it has been my privilege to assist in securing unanimous-consent agreements on various and sundry measures, and I have found Bill Hildenbrand to be always most cooperative and most effective in assisting in reaching those agreements. I want to express my personal appreciation to him publicly.

In addition, I wish him well in his new duties. I know that he will continue in his fine and effective way to do a splendid job as secretary for the minority.

I believe that I state the situation correctly when I say that the offices of the Senate which require election by the Senate as a whole are as follows: Under current Senate practice, the Vice President, if I am correct; the President pro tempore; the Acting President pro tempore; the Secretary of the Senate, the Sergeant at Arms; the secretary for the majority; the secretary for the minority; and the Chaplain are elected by the Senate.

The VICE PRESIDENT. The Chair is advised that resolutions are adopted by the Senate for the election of those officials.

Mr. ROBERT C. BYRD. The Congressional Handbook, prepared by the Joint Committee on Congressional Operations, shows that the positions of Secretary of the Senate and Sergeant at Arms are elected by the membership of the Senate; while the secretaries for the majority and the minority are elected by the majority and minority membership, respectively, of the Senate. It would seem to me that that has been demonstrated to be in error. I think the record ought to be clear that the secretary for the majority and the secretary for the minority are also elected by the Senate.

The VICE PRESIDENT. That is correct; the Chair is so advised.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I am glad to yield.

Mr. COTTON. As the chairman of the minority conference, I should like to join in congratulating Bill Hildenbrand upon his unanimous election to fill—if it can be filled—the place vacated by the retirement of J. Mark Trice. I am sure that the minority was unanimous in its decision.

I look forward to continued cooperation with Bill Hildenbrand and the cooperation he has given on the minority side, and on the majority side, as well, I am sure.

I should like also to serve notice that shortly the Republican conference will be formally in session so as to adopt a resolution in regard to the more than half century of service of J. Mark Trice in this body. The resolutions adopted by the minority conference perhaps could be appropriately amended, so that they would be more appropriate.

I would hope that either the minority leader or I, as chairman of the conference, would be permitted later to bring into the Senate those resolutions honoring Mark Trice on his retirement after nearly 60 years—much more than 50 years—of service to the Senate of the United States.

Mr. HUGH SCOTT. I would suggest that that be done, and that it be done by the distinguished chairman of the minority conference.

Mr. President, may I be recognized on my own time?

The VICE PRESIDENT. The Senator from Pennsylvania is recognized.

Mr. HUGH SCOTT. It is quite true that the secretary to the majority and the secretary of the minority are elected by the entire Senate. I believe it has been the unbroken custom that the secretary to the majority is selected by the members of the majority party in the first instance, and the secretary to the minority is selected by the members of the minority party in the first instance. But the final act of ratification of their authority to hold office occurs when the Senate, by proper resolution, acts favorably.

I am very happy to report that the minority conference acted not only favorably on Mr. Hildenbrand but unanimously as well, and we will now have the benefit of his talents in a larger area of responsibility. He has drafted many a resolution which I had the opportunity to submit. I think this is the first resolution that bears his name. His talents have been many and his skill very great in legislative matters, and his helpfulness will continue in these matters.

I think the Senator from West Virginia and I have reference to the need for working out unanimous-consent agreements. It is about the only way the Senate can function efficiently. These often take a great deal of patience, a great deal of time, and the involvement of a large number of interested Senators.

I am glad that we have Mr. Hildenbrand in a position in which he can continue to be helpful.

I think that for the record I should announce that on Monday, he will be succeeded as administrative assistant to the minority leader, in my office within the Senate wing, by Mr. Kenneth Davis, of Montgomery County, Pa., who is already a member of my legislative staff and has had much familiarity with the operations of the Senate, including his appearance on the floor in support of the minority leader or of my activities as the Senator from Pennsylvania in the past.

I join in congratulating Bill Hildenbrand. I know that he can do an excellent job. He has performed many other services in the executive branch as well as the legislative, the most recent being as legislative assistant to our beloved former colleague, the Senator from Delaware, Mr. Boggs. Delaware is a small State, but it produces great people.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished minority leader will yield, I wish to express congratulations again to Mr. Hildenbrand.

I express appreciation to the minority leader for substantiating what I have attempted to have the Chair do, and that is to clarify the precedents here with respect to the elected officers of the Senate. The majority and minority secretaries, respectively, are selected, as the distinguished minority leader has just stated, by their respective membership, but that selection is ratified by a later election by the Senate in approving the resolution.

Mr. HUGH SCOTT. That is quite correct, and I believe the Chair has so held.

Mr. ROBERT C. BYRD. So we all join in welcoming Mr. Hildenbrand to that select group of elected Senate officers.

Mr. HUGH SCOTT. That is right.

## SENATE RESOLUTION 244—COMMITTEE ASSIGNMENT OF SENATOR DOLE

Mr. HUGH SCOTT. Mr. President, I submit a resolution which I send to the desk and ask for its immediate consideration.

The VICE PRESIDENT. The resolution will be stated.

The assistant legislative clerk read as follows:

S. RES. 244

*Resolved*, That Mr. Dole, of Kansas, be, and he is hereby, assigned to service on the Committee on Post Office and Civil Service, to fill a vacancy on that committee, and that he be relieved from his service on the Select Committee on Small Business.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being on objection, the resolution was considered and agreed to.

## APPOINTMENT OF SENATOR BROCK TO THE SPECIAL COMMITTEE ON AGING

The VICE PRESIDENT. The Chair, pursuant to Senate Resolution 33, 87th Congress, as amended and supplemented, appoints the Senator from Tennessee (Mr. BROCK) to the Special Committee on Aging, in lieu of the Senator from Ohio Mr. Saxbe, resigned.

## ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may now be recognized under the order entered yesterday, prior to the recognition of Mr.

GRIFFIN and without prejudice to Mr. GRIFFIN.

The VICE PRESIDENT. Without objection, it is so ordered.

The Senator is recognized for not to exceed 10 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may be permitted to yield as much of my time as he may require to the distinguished Senator from Wisconsin (Mr. NELSON).

The PRESIDING OFFICER (Mr. HUDDLESTON). Without objection, it is so ordered.

(The remarks Senator NELSON made at this point on the introduction of S. 2884, dealing with the repeal of the depletion allowance, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

## ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining under the order?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from New Hampshire allot to me 2 minutes from Mr. GRIFFIN's time?

Mr. STAFFORD. Mr. President, on behalf of the Senator from Michigan, I am happy to yield whatever time the Senator from West Virginia wishes at this time.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Vermont.

## KHARTOUM MURDERERS REMAIN UNPUNISHED

Mr. ROBERT C. BYRD. Mr. President, on March 2, 1973, Arab terrorists invaded the American Embassy in Khartoum and, before they eventually surrendered to Sudanese officials, they murdered the U.S. Ambassador to Sudan Cleo A. Noel, Jr., and the embassy's Charge d'Affaires George C. Moore.

The cold-blooded murders shocked the world, but what I find almost equally shocking is the fact that, as of this date, the murderers have not been brought to justice.

On September 12, 1973, I wrote to the State Department for a status on the case. I was informed that the presiding magistrate had postponed the hearings until November 13. I made a second inquiry on November 20; and, in its reply to my letter of that date, the State Department informed me that the proceedings had been adjourned until December 2.

I am today sending a third letter to the State Department, again inquiring as to the status of the case.

I have been continually disturbed by the fact that, ever since stories of the brutal murders vanished from the front pages of our newspapers, very little official information on the legal proceedings has been made public. It is important, I believe, that we not consign this case to the "out-of-sight, out-of-mind" category.

We should, instead, do what is diplomatically feasible to assure that the murderers answer for their crime. To do less would be to dishonor Messrs. Noel and Moore, two Americans who very literally gave their lives in the service of their country.

Mr. President, I ask unanimous consent that my three letters to the State Department, along with the Department's letters replying to my first two inquiries, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SEPTEMBER 12, 1973.

Hon. HENRY KISSINGER,
*Secretary of State-Designate.*
*Department of State,*
*Washington, D.C.*

DEAR MR. SECRETARY: I would be obliged if you would provide me with a report on the current status of actions being taken, or contemplated to be taken, by the Sudanese Government in bringing to justice the murderers of U.S. Ambassador Noel and Charge d'Affaires Moore.

I am aware that the United States Government has proceeded formally and guardedly in this matter, and has assumed that the government of the Sudan will act properly and decisively to punish the assassins. I am disturbed, however, that there has been no official information released to the American people recently, as to what steps are being taken by the Government of the Sudan to bring the killers to trial.

I would appreciate an early reply.

Sincerely yours,

ROBERT C. BYRD,
*U.S. Senator.*

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OCTOBER 3, 1973.

Hon. ROBERT C. BYRD,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR BYRD: The Secretary has asked me to reply to your letter of September 12, 1973 requesting information as to the steps being taken by the Government of Sudan to bring the murderers of U.S. Ambassador Noel and Charge d'Affaires Moore to trial. The magisterial inquiry into the crimes, a step analogous to our Grand Jury proceedings, began on September 25. The defendants requested a postponement in view of the fact that a substantial proportion of the attorneys on their Defense Committee were in prison as a result of alleged involvement in recent civil disturbances. The presiding magistrate agreed to postpone further hearings until November 13.

Under the circumstances, a request for postponement was to be expected. We think it should be emphasized that the inquiry did begin and that the postponement was not indefinite, but to a fixed date in the relatively near future, after the conclusion of the Muslim holy month of Ramadan which begins on September 28.

I trust that this information has been responsive to your inquiry. However, if you have any further questions, please let us know.

Sincerely,

MARSHALL WRIGHT,
*Assistant Secretary for Congressional Relations.*

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NOVEMBER 20, 1973.

Hon. HENRY KISSINGER,
*Secretary of State,*
*Department of State,*
*Washington, D.C.*

DEAR MR. SECRETARY: On September 12, 1973, I wrote to you and asked for a report on the status of actions being taken by the Sudanese Government to bring to justice the murderers of Ambassador Noel and Charge d'Affaires Moore.

On October 3, 1973, I received a reply from the Assistant Secretary for Congressional Relations, to the effect that administrative delays in Khartoum necessitated a postponement of further hearings till November 13, 1973.

While I am not unmindful of your other preoccupations in the Middle East, might I enquire whether the postponed hearings have begun, or otherwise be advised of the current status of the case?

Sincerely yours,

ROBERT C. BYRD,
*U.S. Senator.*

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DECEMBER 4, 1973.

Hon. ROBERT C. BYRD,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR BYRD: Your letter to the Secretary of November 20, 1973, requested a report on the status of actions being taken by the Sudanese Government to bring to justice the murders of Ambassador Noel and Charge d'Affaires Moore.

The magisterial inquiry into the crimes, a step similar to our Grand Jury proceedings, resumed on November 15. Lawyers for the defense have raised a number of technical questions, including a claim that the Sudan lacks jurisdiction to try the terrorists. On November 24, the magistrate adjourned the hearings until December 2 to study the contentions of the defense and to allow the prosecution time to prepare a rebuttal. There is every indication that the Sudanese judicial authorities are handling this sensitive case in a careful and deliberate manner.

I hope that this information is helpful and will be glad to respond to any further questions which you may have.

Sincerely yours,

MARSHALL WRIGHT,
*Assistant Secretary for Congressional Relations.*

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JANUARY 23, 1974.

Hon. HENRY KISSINGER,
*Secretary of State,*
*Department of State,*
*Washington, D.C.*

DEAR MR. SECRETARY: On September 12, 1973, and again on November 20, 1973, I wrote to you and asked for a status report of actions being taken by the Sudanese Government to bring to justice the murderers of United States Ambassador Noel and Charge d'Affaires Moore.

In your reply to my November 20 enquiry, you advised me that "there is every indication that the Sudanese judicial authorities are handling this sensitive case in a careful and deliberate manner." You further noted that hearings on the case would resume on December 2, 1973, after a delay for the purpose of settling certain procedural questions.

If, in fact, the hearings were resumed on or about December 2, I would appreciate being advised as to the course they have taken, or otherwise being informed of the current status of the case. I am cognizant of the fact that other developments of great magnitude have occurred in the Middle East since the Khartoum murders, but I am disturbed lest this heinous crime against American diplomats overseas be consigned to the "out-of-sight, out-of-mind" category.

I would appreciate an early reply.

Sincerely yours,

ROBERT C. BYRD,
*U.S. Senator.*

## QUORUM CALL

Mr. STAFFORD. Mr. President, I am prepared to yield back the remainder of the time of the assistant minority leader.

Mr. ROBERT C. BYRD. Mr. President, would the distinguished Senator reserve that time and use it for a quorum instead?

Mr STAFFORD. I would be very glad to do so.

Mr. President, I withdraw my request to yield back the remainder of the time of the assistant minority leader, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

## SEVENTH ANNUAL REPORT ON IMPLEMENTATION OF AUTOMOTIVE PRODUCTS TRADE ACT OF 1965—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. HUDDLESTON) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Finance. The message is as follows:

*To the Congress of the United States:*

I hereby transmit the seventh annual report on the implementation of the Automotive Products Trade Act of 1965. The report contains information with respect to the United States-Canada Automotive Products Agreement, including information concerning automotive trade, production, prices, and employment in 1972. Also included is other information relating to activities under the act.

THE WHITE HOUSE, *January 24, 1974.*

## ANNUAL REPORT OF THE OFFICE OF ALIEN PROPERTY—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. HUDDLESTON) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on the Judiciary. The message is as follows:

*To the Congress of the United States:*

I herewith transmit the annual report of the Office of Alien Property, Department of Justice, for the fiscal year ended June 30, 1972, in accordance with section 6 of the Trading With the Enemy Act, as amended.

RICHARD NIXON.

THE WHITE HOUSE, *January 24, 1974.*

## SEVENTEENTH AND EIGHTEENTH ANNUAL REPORTS OF THE HEALTH RESEARCH FACILITIES CONSTRUCTION PROGRAM—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. HUDDLESTON) laid before the Senate a message from the President of the United States, which, with the accompanying reports, were referred to the Committee on Labor and Public Welfare.

*To the Congress of the United States:*

I transmit herewith the Seventeenth and Eighteenth Annual Reports of the Health Research Facilities Construction Program for activities during fiscal years 1972 and 1973.

RICHARD NIXON.

THE WHITE HOUSE, *January 24, 1974.*

## EDUCATION OF CHILDREN—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. HUDDLESTON) laid before the Senate a message from the President of the United States, which was referred to the Committee on Labor and Public Welfare. The message is as follows:

*To the Congress of the United States:*

The Congress returns to Washington this week at a time when America faces many difficult challenges. Each of them will spark honest differences of opinion and generate spirited debates during the coming year.

But one goal which unites all of our people is to provide each of our children with a sound basic education. No matter what race, faith or family circumstance, each child should have equal access to a good education.

We have made substantial progress toward this goal, but we can maintain that momentum only if we commit ourselves to a continuing renewal of the educational process. During the coming legislative year, there are many proposals which I believe the Congress should enact to improve our educational system. Among the highest priorities which I would urge upon the 93d Congress are these:

—Consolidating major grant programs for elementary and secondary, vocational and adult education and increasing decision-making authority for State and local education agencies.

—Providing advanced funding so that State and local school authorities can plan their programs with greater certainty—a new and important concept in the financing of education.

—Targeting Federal funds so that students who have the greatest need—the truly disadvantaged—are the major recipients of funds.

—Expanding the grant and loan programs for students faced with the rapidly increasing costs of postsecondary education.

—And increasing support for organizations such as the National Institute of Education, which are searching for better ways to educate more than 60 million students in the United States.

### I. A RECORD OF PROGRESS

This Administration has worked hard to expand educational opportunities for every child and we have made substantial progress:

—We have established a new program of Basic Educational Opportunity Grants to further our goal that no qualified student be denied access to postsecondary education for lack of money.

—We have provided special aid for local school districts to help them deal with the problems of desegregation.

—We have created a National Institute of Education to marshall our research skill systematically so that we can better understand how students learn and how they can be taught more effectively.

—We have provided support to develop new ways of helping children learn to read.

—We have substantially increased support to colleges serving minorities and students from economically disadvantaged backgrounds.

In taking these and other steps over the past five years, we have increased Federal spending for education from $5.1 billion in fiscal year 1970 to an estimated $7.6 billion in the budget I will propose next month for fiscal year 1975.

This support has helped enrich the diverse educational system and has contributed greatly to our national strength and vitality.

### II. PRINCIPLES FOR THE FUTURE

While real progress has been made, there are additional problems which must be addressed if we are to make the promise of a quality education a reality for all Americans. Americans have never been complacent about their educational system, but today they are increasingly concerned—and with reason.

—Parents of children who are not learning to read know it is becoming more difficult to lead a satisfying and productive life without this basic skill.

—Parents often see their children moving through elementary and high school without acquiring an understanding of what careers are open to them and what skills will enable them to obtain a rewarding job.

—Many families do not see how they will be able to meet the rising costs of their children's college education.

—Teachers who want to try something new or make old methods work better too often have no place to turn for reliable information about what works and why.

—Local school administrators must plan their budgets without knowing, until the last moment, what Federal aid will be available.

We all want to commit our energies to solving these problems and to making our schools better. We must now find ways to focus these energies.

To do so, I believe, we should adhere to five basic principles of constructive action:

—*First, the Federal Government should continue to support national priorities in education without seeking to control and direct State and local responses to those priorities.* Schools which must respond to detailed and elaborate Federal red tape will be hindered in responding to the demands of students, teachers and parents. A concrete application of this principle is the consolidated education grants legislation which the Congress is now considering. I again urge that this legislation be framed to achieve the maximum possible consolidation of funding authorities, so that State and local agencies can use Federal funds to meet national priorities in their own ways.

—*Second, the Federal Government must make it possible for citizens, students, parents and administrators to plan ahead.* The request I will be making in my budget for advanced funding of the consolidated education grants reflects this principle.

—*Third, to the maximum extent possible we should put the important choices in the hands of students and parents themselves.* A concrete example of this principle is the Basic Opportunity grant program which permits students to apply funds toward an education at the school of their choice.

—*Fourth, the Federal Government must play a more responsible role in funding research to find out what works in education.* My proposal for the establishment of a National Institute of Education in 1970, and the funding for the institute I will recommend in my new budget show how I believe this principle can be carried out.

—*Fifth, we must firmly insist that all Americans have an equal opportunity for education.* The legislation I am supporting, the new budget, and the enforcement of non-discrimination to which I am committed all reflect this principle.

### III. ELEMENTARY AND SECONDARY EDUCATION

Traditionally State and local governments have exercised primary responsibility for education in this country. States and localities provide more than 90 percent of the money for elementary and secondary education while the Federal Government provides less than 10 percent. But in the last decade the tail has wagged the dog. Federal laws, rules and regulations have imposed an elaborate set of "do's" and "don'ts." They often prevent State and local agencies from using Federal funds to best meet their needs.

### FORWARD FUNDING

As if the Federal red tape were not confusing enough, the Federal funding process has created a situation in which school districts develop future budgets with a diminished degree of confidence or accuracy. School districts, for instance, have been faced with three entirely different allocations of funds just since July of 1973. As one school board member put it: "When we put our budget together, we don't know what we'll get from the Federal Government, so we *have* to be *gamblers*." School districts across the Nation will begin putting their annual budgets together next month, but unless we soon enact reforms they will not know how much their Federal funds will be until late fall.

To overcome this deficiency, which has plagued school boards in recent years, I plan to ask for supplemental appropriations for the current fiscal year of $2.85 billion. The money will be used by schools in the school year beginning this fall. If the Congress acts on this request swiftly, those who run our elementary and secondary schools as well as vocational and adult education programs would for the first time know how much Federal money they would have *before* the school year begins, not several months *after* the year has begun.

The supplemental appropriations request will be formally transmitted to the Congress as soon as acceptable authorizing legislation is enacted. It is therefore important for that authorizing legislation to be passed early this spring, so that we can provide forward funding at the earliest possible date.

### CONSOLIDATING FUNDS FOR ELEMENTARY AND SECONDARY EDUCATION

In 1971 I asked the Congress to consolidate and simplify numerous Federal aid programs for education. I again urged this in 1972.

Last year, I proposed this reform under the label of the Better Schools Act. The label itself, unfortunately, became a controversial matter within the Congress. It is not the label that should concern us, however, but the children and the structure of the programs designed to help them. I am pleased that during the last session of the Congress, the executive branch and the appropriate authorizing committees began to deal more seriously with an improved program structure, and I am persuaded that with hard work and careful thought, a bill acceptable to both branches can result.

The appropriate committees of both Houses have written steps to simplify existing programs for innovation and support services into the measures they are now considering. The Senate Subcommittee on Education has initiated a further consolidation of various discretionary and categorical programs into a special projects authority, with provisions for gifted and talented children. But further consolidation is still needed. I am therefore proposing consolidation of present programs of vocational education and a merger of existing authorities in adult education.

### FAIRER DISTRIBUTION OF FUNDS FOR THE DISADVANTAGED

Another issue of continuing concern is the development of a better way to distribute Federal funds for disadvantaged children. The current system of reimbursement often results in school districts being paid for children who are no longer there.

A new formula for distribution of these vital funds must be adopted, targeting the available money on the greatest concentrations of disadvantaged children and on the development of basic skills. That formula should also take into account the differing costs for education in different locales. We must also adopt a definition of poverty which more accurately reflects today's conditions.

### AIDING HANDICAPPED CHILDREN

There is growing awareness in the Nation of the special educational needs of handicapped children. In 90 demonstration projects we are seeking to learn how to identify handicapped children earlier and give them the help they need to enter regular school when other children do.

I am now proposing that eight discretionary authorities be consolidated into four broad programs for the education of the handicapped. One of these new programs, Resource Implementation, would help teachers identify learning problems; the Professional Development program would provide teachers with special skills to overcome barriers to learning; Innovation and Development would provide new methods and materials for teaching; and Special Centers and Services would accelerate progress in aiding severely handicapped children.

### PHASING OUT IMPACT AID

Another program affecting many school districts throughout the Nation is School Assistance in Federally Affected Areas—aid to districts where Federal installations bring significant enrollment increases. I am proposing 100 percent Federal funding of the program for school districts where enrollment consists of 25 percent or more of children whose parents both live and work on Federal property, and 90 percent funding for school districts where these children comprise less than 25 percent.

In the past we have also funded programs for children whose parents work on Federal property but do not live on Federal installations. Since parents of such children already contribute substantially to State and local governments to help pay educational costs, I see no reason for all American taxpayers to continue subsidizing this special group of school districts. However, a transition period is needed for districts which have depended heavily on these Federal funds. I will therefore propose that no local school district whose subsidy is being terminated will lose more than 5 percent of its total operating budget in the first year that we phase out the program. It is only fair to give school districts as much notice as possible to plan and conform their budgets to Federal financing policies.

### TARGETING AID FOR DESEGREGATION

In coming weeks, I will send to the Congress a proposal for a new project grant program to aid school districts undergoing voluntary or court-ordered desegregation. This program should replace the current Emergency School Aid Act when the act expires this June.

A national formula program is no longer needed to handle this problem. What is needed is a targeted approach to solve specific problems.

As opposed to the national formula now employed under the Emergency School Aid Act, the new project grant program would target desegregation aid to solve specific programs. In addition, we will continue to provide technical assistance to local districts, helping them to meet problems relating to desegregation.

### PROVIDING FOR INDIAN CHILDREN

A targeted approach is also needed to deal more effectively with the needs of Indian children. There is a special Federal responsibility to provide educational services to Indian tribes and communities, and we propose to place emphasis on project grants for this purpose.

### BILINGUAL EDUCATION

Because of the great diversity of our Nation, we must also provide special assistance to children of families whose native language is other than English. I ask the Congress to continue support for demonstration projects which help develop better ways to provide bilingual education.

### IV. POSTSECONDARY EDUCATION

This Administration is committed to the goal that no qualified student should be denied a college education because of a lack of funds. Today we are in a position to accomplish a major expansion of student opportunities and choice.

An education beyond high school is a major goal of many young Americans today. In recent years, however, the cost of college or other training has threatened to price this dream beyond the means of many families.

Since 1970 I have been urging the Congress to enact and fund student aid programs that would reduce to manageable size the problem of financing higher education for all families.

### EXPANDING AID TO NEEDY STUDENTS

In 1972 the Congress responded by enacting the Basic Educational Opportunity Grant program, the primary vehicle for reaching the neediest students. The current program provides for an average grant of only $260 and limits eligibility to entering freshmen. The program I propose for FY 1975—totaling $1.3 billion—would provide a grant of up to $1,400 depending on need.

Supplementing this Basic Grant program is a Guaranteed Student Loan program designed to increase access to loans. This program is both for needy students receiving Basic Grants, and for students who are not eligible for Basic Grants but who need or wish to spread the costs of postsecondary education over time.

Over the past year, some students who have sought loans have found it difficult or impossible to locate lenders willing to make federally guaranteed loans.

To remedy this problem I have instructed the Department of Health, Education, and Welfare and the Treasury Department to contact the major lending institutions and to request that they reaffirm their commitment to our Nation's educational needs by making adequate funds available for student loans. If, as the progress of this program is reviewed, additional changes appear to be necessary, I will propose them.

The Basic Grant and Guaranteed Student Loan programs, supplemented by the College Work Study program, expand opportunities for postsecondary education. My budget request for these programs would provide more such opportunities than ever before. Building on Basic Grants, students can rely on work, loans, and family resources, plus State, local and private forms of assistance to meet the remainder of their financial needs.

### DEVELOPING INSTITUTIONS

I will request funding of the full authorization for the Developing Institutions program—an authorization that is four times the funding level when I took office. This program helps to strengthen the capabilities of colleges which are serving Black, Spanish-American, and American Indian students as well as students from economically disadvantaged backgrounds—a special concern of my Administration.

## V. INNOVATION AND REFORM

### NATIONAL INSTITUTE OF EDUCATION

An essential element in our effort to provide every American an equal and increasing opportunity for education is the development and dissemination of alternative educational approaches through research. For too long we threw money at educational problems, feeling that bigger would mean better.

To strengthen support for education research and development, the National Institute of Education was created with strong bipartisan support. The institute is now beginning to provide the leadership in educational research and development that is needed.

In 1975 it will continue to concentrate on several major tasks:

—finding answers to the problems that students have in learning essential skills such as reading and mathematics;

—improving State and local capability to solve the educational problems of their youth;

—increasing the educational benefits to students through improving the productivity of our schools;

—and assisting students to better understand the relationship between the school and the world of work. Through this latter activity, the National Institute of Education has taken on the responsibility to carry out the Career Education objectives I set forth in my 1972 message. The institute is developing new ways to introduce young people to various career opportunities and is experimenting with new methods of preparing them to get and keep jobs that pay well and offer opportunities for advancement.

Education research is not a luxury but a necessity if Americans are to get the education they want for their children at a sensible cost. Accordingly, I would like to emphasize most strongly the need for adequate funding of the institute.

### FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

The Fund for the Improvement of Postsecondary Education constitutes another important new Federal initiative to achieve needed innovation and reform. The fund was created to support exemplary activities and new directions which promise to increase the quality, effectiveness, and diversity of postsecondary educational opportunities. The fund is now providing support for the development and demonstration of more effective approaches to college education.

### RIGHT TO READ

The Right to Read effort is well on its way to becoming a prime example of the way that a Federal, State and local partnership can achieve positive results. Under this program, we are now on the way toward achieving a 1980 goal of eliminating functional illiteracy among 90 percent of those 16 years and older and 99 percent of the youth of America. I ask the Congress to continue giving this program its full support.

### LIBRARY PARTNERSHIP ACT

While I continue to believe that State and local authorities bear the primary responsibility for the maintenance of public libraries, I also believe that the Federal Government has a responsible role to play. One of my new initiatives for 1975 is the Library Partnership Act. This legislation would encourage the establishment of reference and information services on a demonstration basis and could lead to significant improvements in public library services across the United States.

### HEAD START

During 1975, the Head Start program will reach 282,000 children on a year-round basis and some 78,000 pre-schoolers in the summer. It will also extend its activities to include handicapped students. My 1975 budget will increase operating funds for this program and will provide funds to ensure that all children participating in Head Start can obtain a nourishing breakfast and lunch.

## VI. THE NEED FOR COMMITMENT

The proposals I have outlined above are designed to address the educational challenges of tomorrow. They are designed to enhance the effectiveness of the Federal dollar. They are designed to facilitate the operations of our State and local school systems.

For the necessary reforms and rejuvenation of our schools to occur, however, it will take more than Federal programs and more than Federal money. It will require that each of us commit ourselves, with money, time and attention, to that process. Only with individual commitment, with the commitment of State and local school administrators and teachers, with the commitment of parents and students, and with the commitment of the Federal Government, can we obtain a revitalized and rewarding American educational system.

RICHARD NIXON.

THE WHITE HOUSE, *January 24, 1974.*

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## EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. HUDDLESTON) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

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## ORDER OF BUSINESS

Mr. STAFFORD. Mr. President, I ask unanimous consent that I may yield back the remainder of my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a period for the transaction of routine morning business of not to exceed 45 minutes, with statements therein limited to 5 minutes.

## ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, there be a period for the transaction of routine morning business of not to exceed 45 minutes, with statements limited therein to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## NATIONAL ENERGY EMERGENCY ACT OF 1973—CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order at this time to proceed to the consideration of the conference report on S. 2589.

The PRESIDING OFFICER. The clerk will report the conference report by title.

The assistant legislative clerk read as follows:

> The report of the committee of conference on S. 2589, to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Montana? The Chair hears none, and it is so ordered.

The Senate resumed the consideration of the conference report.

## CLOTURE MOTION

Mr. MANSFIELD. Mr. President, I send to the desk a cloture motion and ask that it be read.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read the cloture motion as follows:

### Cloture Motion

> We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the pending report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.
>
> William D. Hathaway,
> Harold E. Hughes,
> John O. Pastore,
> Walter F. Mondale,
> Alan Cranston,
> Abraham Ribicoff,
> Mike Mansfield,
> Edmund S. Muskie,
> Floyd K. Haskell,
> Joe Biden,
> Henry M. Jackson,
> Jennings Randolph,
> Gaylord Nelson,
> Thomas F. Eagleton,
> Daniel K. Inouye,
> Philip A. Hart,
> George McGovern,
> Howard M. Metzenbaum,
> Dick Clark,
> Adlai E. Stevenson III,
> Lawton Chiles.

## RESUMPTION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Clark). Without objection, it is so ordered.

## REFERRAL OF S. 2869 TO COMMITTEE ON PUBLIC WORKS

Mr. RIBICOFF. Mr. President, the bill S. 2869, to amend section 322 of title 23 of the United States Code, relating to demonstration projects for rail crossings, in order to authorize certain public rail crossings, was referred to the Committee on Commerce in error. I therefore ask unanimous consent that the Committee on Commerce be discharged from further consideration of the bill and that it be referred to the Committee on Public Works. This request has been cleared with the Committee on Commerce.

The PRESIDING OFFICER. Without objection, it is so ordered.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. NELSON (for himself and Mr. Hathaway):

S. 2884. A bill to amend the Internal Revenue Code of 1954 to disallow the percentage depletion method of computing the deduction for depletion of oil and gas wells and oil shale deposits. Referred to the Committee on Finance.

By Mr. JACKSON (for himself, Mr. Magnuson, Mr. Bible, Mr. Biden, Mr. Inouye, Mr. Chiles, Mr. Ribicoff, Mr. Metzenbaum, Mr. McGovern, Mr. Eagleton, and Mr. Mondale):

S. 2885. A bill to amend section 4 of the Emergency Petroleum Allocation Act of 1973 to direct the President to establish ceiling prices on petroleum and related goods. Referred to the Committee on Interior and Insular Affairs.

By Mr. BENTSEN:

S. 2886. A bill to amend the Internal Revenue Code of 1954 to provide that the percentage depletion method may be used only for oil and gas wells located in the United States or adjacent to the North American continent. Referred to the Committee on Finance.

By Mr. BARTLETT:

S. 2887. A bill to terminate the Emergency Daylight Saving Time Energy Conservation Act of 1973 on the last Sunday of October 1974. Referred to the Committee on Commerce.

S. 2888. A bill to convey certain land of the United States to the Inter-Tribal Council, Incorporated, Miami, Oklahoma. Referred to the Committee on Interior and Insular Affairs.

By Mr. MAGNUSON (by request):

S. 2889. A bill to amend the Federal Aviation Act of 1958 to make it clear that the civil penalty provisions of the Act are applicable to ticket agents who grant rebates, and to authorize the Civil Aeronautics Board to inspect the records of ticket agents. Referred to the Committee on Commerce.

By Mr. BEALL (for himself and Mr. Dominick):

S. 2890. A bill to amend the General Education Provisions Act to provide that funds appropriated for applicable programs for fiscal year 1974 shall remain available during the succeeding fiscal year and that such funds for fiscal year 1973 shall remain available during fiscal year 1974 and 1975. Referred to the Committee on Labor and Public Welfare.

By Mr. McCLURE:

S. 2891. A bill to amend the Internal Revenue Code of 1954 in order to tax excess petroleum industry profits, to encourage investments in the expansion of domestic energy supplies, and to create an incentive tax credit for research and development of new or expanded energy sources. Referred to the Committe on Finance.

By Mr. MONDALE:

S. 2892. A bill to amend the Economic Stabilization Act of 1970. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. KENNEDY (for himself, Mr. Javits, Mr. Cranston, Mr. Eagleton, Mr. Hathaway, Mr. Hughes, Mr. Mondale, Mr. Pell, Mr. Randolph, Mr. Schweiker, Mr. Stafford, and Mr. Williams):

S. 2893. A bill to amend the Public Health Service Act to improve the national cancer program and to authorize appropriations for such program for the next 3 fiscal years. Referred to the Committee on Labor and Public Welfare.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON (for himself and Mr. HATHAWAY):

S. 2884. A bill to amend the Internal Revenue Code of 1954 to disallow the percentage depletion method of computing the deduction for depletion of oil and gas wells and oil shale deposits. Referred to the Committee on Finance.

Mr. NELSON. Mr. President, I send to the desk a bill to amend the Internal Revenue Code of 1954 to disallow the percentage depletion method of computing the deduction for depletion of oil, gas, and oil shale deposits. I ask that the bill be appropriately referred.

The PRESIDING OFFICER (Mr. HUDDLESTON). The bill will be received and appropriately referred.

Mr. NELSON. Mr. President, this bill would repeal the percentage depletion allowance. Its repeal would increase the tax on windfall profits of oil companies and close one of the most notorious loopholes in the tax code. This tax preference, costing the American taxpayer over $1.5 billion a year, has totally failed to provide America a secure source of energy or to encourage domestic production. In fact, it, among other things, has made it more profitable for the American oil industry to explore and drill in Arabian countries.

A 1969 Treasury Department study showed that although $1.4 billion in Federal revenue was being lost annually than through the depletion allowance, it had little influence on exploration and resulted in additional oil reserves valued at only $150 million. If the depletion allowance is not changed, this tax gift to the oil companies could soar to $3 billion this year.

The administration proposal announced yesterday is cosmetic and probably will not raise an additional dollar in taxes nor discourage production abroad. This is because the oil companies will still have plenty of foreign tax credits left and will end up paying only minimal taxes on their foreign earnings.

The oil industry is faced with embarrassment of riches. The energy shortage which has meant to most Americans, increasing prices and lowering thermostats, has meant to the oil companies a bonanza of profits. While private initiative and industry should be rewarded, these profits do not reflect increased productivity or production, but rather reflects the oil companies position as beneficiaries of monopolistic pricing decisions of a few Arabian shieks. As Federal Energy Chief William Simon testified before the Senate Finance Committee yesterday:

> **There is no doubt that some windfall profits have been made during the past few months and have contributed to the sharply increased overall reported profits of oil companies.**

In discussing oil companies' profits, it should be understood that even under normal circumstances, oil industry's profits are larger than for any other industry. In 1972, for example, oil company earnings were twice as large as those of U.S. automobile companies and more than seven times as great as the profits of the iron and steel industry.

What is occurring now is hardly normal. The year 1973 has been a golden year for the oil industry.

Mr. President, I ask unanimous consent to have printed in the RECORD a table showing the profits of the eight major oil companies for the first 9 months of 1973 compared to those of the same period in 1972.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—PROFITS OF MAJOR OIL COMPANIES

| | January–September, 1972 (millions) | January–September, 1973 (millions) | Change (percent) |
|---|---|---|---|
| Exxon | $1,039 | $1,656 | Up 59 |
| Texaco | 622 | 839 | Up 39 |
| Gulf Oil | 356 | 570 | Up 60 |
| Mobil Oil | 413 | 571 | Up 38 |
| Standard Oil (California) | 401 | 560 | Up 40 |
| Standard Oil (Indiana) | 295 | 390 | Up 32 |
| Shell | 190 | 253 | Up 33 |
| Atlantic Richfield | 130 | 178 | Up 37 |

Note: Excludes all nonrecurring profits and losses reported separately.

Source: Standard & Poor's Corp.

Mr. NELSON. For the total industry, profits for the first 9 months of 1973 were up by 47 percent to over $6 billion after taxes. In the third quarter of last year, profits of the oil industry were greater than the combined profits of the airline, automobile, beverage, container, food, machine tool, metal, paper, steel, textile, tire and rubber, and trucking industries. Oil company profits compared both as a percentage of sales and as a percentage of net worth are better than the average for all industries. For the entire year of 1973, two oil industry analysts, Sterling McKittrick, Jr., and Stanley Wojkowski analyzed the profits for 16 of the top oil companies in terms of earnings per share. Once again, we see a shocking picture of fantastic percentage increases in profits.

Mr. President, I ask unanimous consent that a table showing this analysis be printed in the RECORD at this time.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 2.—INCREASE IN PROFITS REFLECTED IN EARNINGS PER SHARES OF 16 OIL COMPANIES

| | 1972 | 1973 | Percentage increase |
|---|---|---|---|
| Exxon | $6.83 | $10.00 | 46.4 |
| Gulf | 2.15 | 4.00 | 86.0 |
| Mobil | 5.65 | 7.50 | 32.7 |
| Standard of California | 3.22 | 4.50 | 39.8 |
| Texaco | 3.27 | 4.25 | 30.0 |
| Atlantic Richfield | 3.40 | 4.50 | 32.4 |
| Cities Service | 3.84 | 4.80 | 25.0 |
| Continental | 3.38 | 4.50 | 33.1 |
| Getty | 3.98 | 5.85 | 47.0 |
| Marathon | 2.67 | 3.90 | 46.1 |
| Phillips | 1.98 | 2.55 | 28.8 |
| Shell | 3.86 | 5.25 | 36.0 |
| Standard (Indiana) | 5.37 | 6.90 | 28.5 |
| Standard (Ohio) | 1.63 | 2.25 | 38.0 |
| Sun | 3.02 | 4.15 | 37.4 |
| Union | 2.98 | 4.25 | 42.6 |

Mr. NELSON. Much of this increased profit is due to the skyrocketing price of foreign oil, but there has been substantial increases in the price of domestic oil. On May 15, 1972, the price for old domestic oil—oil either already flowing or readily available—was about $3.62 a barrel. Since then, the Cost of Living Council has allowed its price to rise to $5.25, amounting to a $4.75 billion a year bonanza for the oil companies. Officials of the Federal Energy Office admitted in congressional testimony that they lacked evidence showing that the resulting higher profits are being invested in increase production.

While 1973 profits are spectacular, 1974 profits will be unbelievable. According to estimates by Walter Heller, former Chairman of the Council of Economic Advisers under President Kennedy, and George L. Perry, the recent 50-percent increase in oil prices will result in approximately $24 billion in additional profits. There windfall profits have led Congress to consider various forms of additional taxes on the oil industry.

If we are concerned with windfall profits, it makes more sense as a matter of logic, taxpayers' attitudes toward our tax system, and administrative ease as a first step to end immediately the existing depletion allowances allowed for oil and gas. If Congress enacts an excess profit tax without repealing the depletion allowance, it would be like stepping on a car's brakes and accelerator at the same time. The tax benefit to the oil companies from the current percentage depletion allowance for oil and gas was about 1.5 billion in 1972. The oil depletion allowance has been a costly failure. It has not provided secure sources of supply or significantly increased domestic production.

Percentage depletion allows a standard tax deduction of 22 percent of gross income from oil and gas production and results in a reduced effective tax rate for the industry. This is an extraordinary tax benefit because it permits the tax-free recovery of dollar amounts which are far greater than the taxpayer's original investment in the depletable property. This is why the depletion deduction is a subsidy and not just a simple mechanism for depreciating the taxpayer's capital investment. In addition, that portion of the percentage depletion deduction which represents ordinary tax-free recovery of capital investments is usually recovered more rapidly than would be the case if computations were made analogously to the computation of depreciation in nonextractive industries. Thus, percentage depletion confers a double benefit:

First. Deductions in excess of initial costs; and

Second. Deductions of initial costs that are usually accelerated relative to nonextractive industries.

Since the depletion allowance is calculated at 22 percent of the price of crude oil increases in price automatically result in a rise in the depletion deduction. In other words, the higher the price the higher the tax writeoff. If the current percentage depletion is left unchanged, increases in price will result in substantial additional tax benefits. For example, if price doubles, the tax revenues lost because of the percentage depletion will double to about $3 billion a year.

Although since 1913, the oil industry

has enjoyed special tax provisions, there has been very little study on the effect of these provisions. The only major attempt to estimate the effect of the special tax provisions for income earned in oil and gas production on the reserve holding behavior of the domestic petroleum industry was a study done by CONSAD Research Corp. under commission from the U.S. Treasury—CONSAD 1969. This study concluded that—

> Percentage depletion is a relatively inefficient method of encouraging exploration and the resultant discovery of new domestic reserves of liquid petroleum. This is in part due to the low sensitivity of desired reserve levels to the price subsidy represented by percentage depletion, and in part to the inefficiency of the allowance for this purpose since over 40 percent of it is paid for foreign production and non-operating interests in domestic production.*

It found that U.S. Treasury was losing about $1.4 billion in Federal revenue to achieve $150 million in additional reserves.

The CONSAD study remains the best evaluation of this issue. The most recent partial study of the problem by the Joint Economic Committee completed in July 1972 says that the CONSAD study "is the best report available," and notes that most economists agree generally with its conclusions.

The JEC study concludes, however, that the oil depletion allowance may be more important than CONSAD implies, but it notes that the oil companies have never effectively refuted the CONSAD conclusion on this point.

Other CONSAD points concerning the depletion allowance are:

The allowance is an inefficient way to encourage exploration, because more than 40 percent of all depletion goes to foreign properties or nonoperating interests. Overseas drilling is very profitable and needs no incentives. Nonoperating interests do not drill for oil.

Less than 20 percent of depletion goes to small explorers for oil. Sixty percent of the tax break goes to the 35 largest companies.

The depletion allowance encourages wasteful drilling of unnecessary wells in already known fields because depletion can only be taken on producing wells. It does not encourage new "risky" drilling.

Twenty-three percent of depletion went to foreign properties.

Economists have long argued that price would be a much more effective and efficient incentive for exploration and production than tax breaks. Recent price increases are not only more than adequate incentives for oil companies to increase production but have already made up the difference in increased profits for oil companies if the depletion allowance were to be repealed.

On November 28, before the Finance Subcommittee on Energy, Prof. Edward Erickson of the State University of North Carolina and associates—who criticize the CONSAD study as understating the value of the depletion allowance—testified that present price increases more than adequately compensate for the elimination of the oil depletion allowance.

Mr. President, I ask unanimous consent to insert in the Record at this time pertinent parts of Professor Erickson's testimony on this matter.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

### Professor Erickson's Testimony

> Assume that contracts were negotiated on the expectation of $4.00 a barrel of oil. Then, to maintain the profitability of long-run contracts, the following prices would have to be realized:
>
> In the absence of percentage depletion alone, $4.70 a barrel oil.
>
> Moreover, most current production was not developed on the basis of expectations of $5.00 a barrel oil. Much of it was developed on price expectations more in the neighborhood of $3.00 a barrel oil. Therefore, even if some properties were to experience capital losses on the basis of sunk costs incurred on the basis of $5.00 a barrel oil it is more than likely that on average, these losses would be made up on gains from other oil.
>
> Prices can compensate for the elimination of the special tax provisions the industry now enjoys.[1]

Mr. NELSON. Professor Erickson calculates that $4.70 for a barrel of oil would compensate oil companies for the loss of the depletion allowance assuming an expected price of $4 a barrel. Today, the price for old oil is $5.25 and the price for a barrel of new oil has reached as high as $12 with the current average domestic price for a barrel of oil being $6.50. Moreover, it should be noted that Professor Erickson calculates the price expectation for most existing oil contracts is probably in the neighborhood of $3 a barrel, resulting in even greater gains for the oil companies than his figures would indicate.

The repeal of the depletion allowance, as demonstrated by the CONSAD study, would have no affect on the production and exploration of the oil industry. This conclusion was confirmed by William Simon, Director of the Federal Energy Administration, in answer to a series of questions by Senator Jackson. Mr. Simon's answers acknowledged that the changes in the depletion deduction will have little effect on the rate of discovery efforts and no effect on the rate of production or addition to reserves. Mr. Simon writes:

> In the short run, changes in percentage depletion rates should have little effect on the rate of expenditure of discovery effort. This is due to the fact that in undertaking a discovery effort where the probability of success is 10 percent or less, the present value of a future stream of depletion deductions attainable in the event a new reservoir is found is necessarily low.
>
> In the long-run, a change in percentage depletion should have no effect, per se, on the rate of production or additions to reserves. A reduction in the depletion percentage means, "simply, that less of the cost of finding and developing reserves is borne by Federal taxpayers. Compensatory oil and gas price changes would therefore occur, their magnitude depending on the sensitivity of demand to differences in oil and gas prices. If demand is insensitive to price, a reduction in percentage depletion will cause a compensatory rise in the price of oil; the same quantity will be produced, but it will be more fully paid for by consumers than is presently the case. However, there is reason to believe that, even in this extreme case of price-insensitive demand, the necessary price increase to offset a reduction in percentage depletion will be less than is implied by the average reduction in depletion allowance per unit of oil and gas. That is, if the total cost of eliciting a supply of oil and gas were completely covered by market prices paid by consumers, the total outlay would be less than that which would be paid by taxpayers and consumers with the present tax incentives. This follows from the consideration that the existence of percentage depletion causes the total investment in oil and gas reserves to include excessive numbers of development wells, as noted above, and more rapid exhaustion of underlying reserves."[2]

Because of its lack of merit the oil depletion allowance has been the center of extensive criticism and controversy. President Harry Truman in 1950 asserted that "no loophole in the tax law is so inequitable." Around the same time Republican Senator Robert Taft protested that the oil depletion allowance was "to a large extent a gift, a special privilege beyond what anyone else can get." President John Kennedy pledged to close loopholes in the tax laws and added that "among the most conspicuous loopholes are depletion allowances which are inequitable."

The conspicuous lack of merit in the oil depletion allowance has recently caused even some of its supporters to have second thoughts. On Christmas Day there was a startling announcement that Atlantic Richfield, the country's fourth largest domestic oil producer, will shortly begin a concerted campaign to end the oil depletion allowance. It is time to end this anachronistic incentive which has failed to achieve any of its stated purposes, costing taxpayers billions of dollars and giving the oil industry a bad name.

By Mr. JACKSON (for himself, Mr. Magnuson, Mr. Bible, Mr. Biden, Mr. Inouye, Mr. Chiles, Mr. Ribicoff, Mr. Metzenbaum, Mr. McGovern, Mr. Eagleton, and Mr. Mondale):

S. 2885. A bill to amend section 4 of the Emergency Petroleum Allocation Act of 1973 to direct the President to establish ceiling prices on petroleum and related goods. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, in December 1972, the National Petroleum Council, an advisory body composed of representatives of the major oil companies, presented to the Secretary of the Interior and the Congress a report on U.S. energy policy. The NPC report esti-

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*CONSAD Research Corporation, *The Economic Factors affecting the level of Domestic Petroleum Reserves*, Part 4 of the Ways and Means Committee and the Senate Finance Committee, Tax Reform Studies and Proposals, U.S. Treasury. Government Printing Office, 1969.

[1] Professor Edward Erickson, testimony before the Senate Finance Committee subcommittee on Energy, November 28th, 1973. Part I, page 213.

[2] Answers submitted by William Simon to questions asked him by Senator Jackson on behalf of the Senate Interior and Insular Affairs Committee as part of hearings on the Nation's Energy Industries, March 6, 1973.

mated that to achieve the greatest feasible level of domestic self-sufficiency, the domestic price of crude oil would have to rise from $3.18 per barrel in 1970 to $3.65 in 1975. In August 1972, the Independent Petroleum Association of America testified before the Committee on Interior and Insular Affairs that a domestic price of $4.10 per barrel would be adequate to assure the United States 100 percent self-sufficiency by 1980.

These projections were in constant dollars so to be fair and to take account of inflation, the NPC price would have to be increased to $4.35 and the IPAA price would have to be $4.55 today.

These were the prices domestic industry said it needed only a little over a year ago to achieve the maximum level of domestic self-sufficiency.

In his statement to the Finance Committee on January 23, 1974, Deputy Secretary Simon estimated that the long term supply price of crude oil—the level needed to bring supply and demand into balance, that is, to eliminate the shortage—is "in the neighborhood of $7 per barrel within the next few years." Any price higher than that creates, in Secretary Simon's words:

> A "windfall"—a price to producers which is more than producers could have anticipated when investments were made and more than that required to produce all that we can in fact expect to be supplied.

Notwithstanding Mr. Simon's insight in this matter, the Federal Energy Office and the Cost of Living Council have allowed a price for "old" oil of $5.25—a level for flowing oil wells which is far in excess of the industry's own estimate of the long-run supply price, and well in excess of what producers could have anticipated. More important, this price increase on old or flowing oil cannot have a significant impact upon the supply of oil or even provide any increased incentive for the production of new oil.

Mr. Simon's office has totally decontrolled the prices of the so-called "new oil," together with an equivalent amount of old oil, so-called "released" oil. This from stripper well, is now selling at an average of $10.35 per barrel—more than twice the level industry estimated a year ago to be necessary for maximum self-sufficiency, and about 50 percent higher than the level Mr. Simon himself believes could be useful in eliciting new supply.

Profits of the seven largest oil companies increased by 46 percent in the first three quarters of 1973 over the same period in 1972, on a sales volume that increased only 6 percent. There is every indication that oil company profits are now running at nearly twice the level of a year ago. Top company officials, in testimony this week before the Permanent Investigations Subcommittee, acknowledged that the main reason for the surge in profits was the increase in prices of the crude oil that is exempt from price control.

No one in the administration has offered any serious justification for either the jump in old oil prices or for decontrolling new oil. What seems to be at work is a continuing conviction that the way to eliminate the fuel shortage is to increase prices- by taxes or otherwise—high enough to limit demand by pricing gasoline and fuel oil beyond the reach of many Americans. This philosophy is apparent in the administration's so-called windfall profits tax proposal, which is not a profits tax at all, but an "excise" tax on crude oil that would be passed directly on to consumers.

I am today introducing a bill which would amend the Emergency Petroleum Allocation Act to require ceiling prices on all crude oil, refined petroleum products, and related goods. These ceilings would prevent price increases in excess of those that would actually increase long-run supply and diminish long-run demand.

Ceiling prices would be limited to a dollar-for-dollar cost passthrough, except for the sole purpose of encouraging increased domestic exploration and production of crude oil or investment in new refining and transportation capacity. Any such increase would have to be accompanied by a detailed statement of the extent and the means by which any price increases which are greater than a passthrough of cost can be reasonably expected to increase supply.

My intention and expectation in submitting this amendment is to roll back the price of domestic crude oil and to establish a ceiling for any crude, no higher than Mr. Simon's $7 per barrel. Moreover, I would expect that, under this legislation, any price above $4.50 per barrel would have to be justified in close detail as providing a significant increase in long-term supply.

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By Mr. BENTSEN:

S. 2886. A bill to amend the Internal Revenue Code of 1954 to provide that the percentage depletion method may be used only for oil and gas wells located in the United States or adjacent to the North American Continent. Referred to the Committee on Finance.

Mr. BENTSEN. Mr. President, today I am introducing a bill to limit the percentage depletion allowance on oil and gas production to North America. I announced this measure in a speech on the Senate floor on December 14 of last year.

Under present law, our tax code allows oil companies the same depletion allowance for production in the Middle East as it does for domestic production. If our Nation is to move toward the goal of energy independence, then a depletion allowance that encourages oil exploration and production outside North America only works against that goal.

I believe we should work with our immediate neighbors to both the North and South to develop our energy resources in areas where our relations are friendly and where delivery channels are relatively secure.

My bill would allow the percentage depletion allowance on production from the area between the North Pole and the Panama Canal and from the outer edge of the Aleutian Islands to a line including Newfoundland and the Caribbean Islands.

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By Mr. BARTLETT:

S. 2887. A bill to terminate the Emergency Daylight Saving Time Energy Conservation Act of 1973 on the last Sunday of October 1974. Referred to the Committee on Commerce.

Mr. BARTLETT. Mr. President, today I am introducing a bill to limit the experiment in year-round daylight savings time to 1 year.[1]

Although we have been under the year-round plan for only 3 weeks, already, the disadvantages I anticipated have become real and the advantages hoped for are not being realized. Moreover, our people are dissatisfied.

As I warned during the debate on the daylight saving time bill, parents are particularly concerned about their young children forced to wait before dawn on streetcorners for their schoolbus. There is evidence that the lives of our schoolchildren are being endangered.

Also, it has added inconvenience to those persons such as farmers who must begin their work day at an early hour.

These inconveniences and sacrifices could be tolerated if any real benefit were apparent. However, the early indications are that we are not saving energy by converting to year-round daylight savings.

Certainly it is too early for final figures but Oklahoma Gas & Electric Co. in Oklahoma City has advised us they are using more electricity now than prior to the conversion to the new time. They believe it is partially attributable to daylight savings time.

The daylight saving time bill as enacted by the Congress provides for a 2-year trial period with a study after the first year. The bill I have introduced will limit the duration of year-round daylight savings to 1 year. Then, if the study yields positive results the Congress can then extend it. Otherwise under my bill we will revert to normal time next October.

I ask unanimous consent that a resolution passed by the Oklahoma legislature requesting an exemption to daylight saving time be included in full in the RECORD at the conclusion of these remarks.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, the beginning of a work day or school day one hour earlier, in winter's darkness of night, is inconvenient to the population and inappropriate for commerce in the State of Oklahoma and the western part of the Central Standard Time Zone; and

Whereas, the act, and the implementation required by the Secretary of Transportation in the Emergency Daylight Saving Time Energy Conservation Act of 1973, does not, in said area, operate to the convenience of commerce or the population. To the contrary, the act and implementation required makes necessary a greater use of energy by broadening necessity for early morning consumption of electricity and fuel in homes, factories, shops, offices and motor vehicles. Rather than requiring their children to stand waiting at school bus stops in the cold darkness of early morn, numerous parents throughout the entire area will transport them to school in the family gasoline burner.

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[1] On Dec. 4, during the debate on the Daylight Savings Time Bill, I introduced this same bill as an amendment but it failed by a margin of 51-31.

Now, therefore, be it resolved by the House of Representatives of the 2nd Session of the 34th Oklahoma Legislature, the Senate concurring therein:

That the Congress of the United States be, and hereby is, memorialized to amend the Emergency Daylight Saving Time Energy Conservation Act of 1973 (Public Law 93-182) to a result that Oklahoma be exempt from the provisions of said act.

That an authenticated copy of this Concurrent Resolution shall be distributed to each member of the Oklahoma Congressional Delegation.

Adopted by the House of Representatives the 14th day of January, 1974.

James E. Hamilton,
*President Pro Tempore of the Senate.*

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By Mr. BARTLETT:

S. 2888. A bill to convey certain land of the United States to the Inter-Tribal Council, Inc., Miami, Okla. Referred to the Committee on Interior and Insular Affairs.

Mr. BARTLETT. Mr. President, I am today introducing legislation which would convey certain lands of the United States in fee title to the Inter-Tribal Council, Inc., of Miami, Okla. For some years now the Inter-Tribal Council of Miami, Okla., a nonprofit State corporation, has tried to have legislation enacted to convey to them 114 acres of land, located in Ottawa County, Okla., which are excess to the needs of the Bureau of Indian Affairs. The land which the council desire to obtain was purchased by the Federal Government and used for farming and dairying operations in connection with the Seneca Indian School until these operations were discontinued some 9 years ago. The land is excess to the needs of the Bureau of Indian Affairs, and at present is not being used for any purposes.

The purpose for which the Inter-Tribal Council was created is to promote the general health and welfare of the tribal members. Member tribes of the corporation or the Seneca, Quapaw, Peoria, Modoc, Ottawa, Shawnee, Miami, and Wyandotte. The principal objective of the council in seeking to have this land conveyed to them is to raise the socio-economic level of the tribal members residing in the area through the creation of jobs. The council does not own other land. The 114 acres they wish to acquire is favorably located for industrial development purposes, and having it conveyed to them would put them in an excellent position to negotiate with representatives of industries interested in locating in the area.

The donation of this land to a group of small selected tribes is an effective means for furthering the purposes for which industrial development funds are appropriated to the Bureau of Indian Affairs. The location of industrial enterprises on the land would fulfill a real need and the individual Indians in the area stand to benefit immeasurably by the enactment of this legislation.

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By Mr. MAGNUSON (by request):

S. 2889. A bill to amend the Federal Aviation Act of 1958 to make it clear that the civil penalty provisions of the act are applicable to ticket agents who grant rebates, and to authorize the Civil Aeronautics Board to inspect the records of ticket agents. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend the Federal Aviation Act of 1958 to make it clear that the civil penalty provisions of the act are applicable to ticket agents who grant rebates, and to authorize the Civil Aeronautics Board to inspect the records of ticket agents, and ask unanimous consent that the letter of transmittal and statement of purpose and need be printed in the Record with the text of the bill.

There being no objection, the material and bill were ordered to be printed in the Record, as follows:

Civil Aeronautics Board,
*Washington, D.C., November 28, 1973.*

Hon. Francis R. Valeo,
*Secretary of the Senate,*
*Washington, D.C.*

Dear Mr. Valeo: The Civil Aeronautics Board recommends to the Senate for its consideration the enclosed draft of a proposed bill "To amend the Federal Aviation Act of 1958 to make it clear that the civil penalty provisions of the Act are applicable to ticket agents who grant rebates, and to authorize the Civil Aeronautics Board to inspect the records of ticket agents."

The Board has been advised by the Office of Management and Budget that there is no objection to the transmission of the draft bill to the Senate from the standpoint of the Administration's program.

Sincerely,

Robert D. Timm,
*Chairman.*

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### Statement of Purpose and Need for A Draft Bill To Amend the Federal Aviation Act of 1958 To Make It Clear That the Civil Penalty Provisions of the Act Are Applicable to Ticket Agents Who Grant Rebates, and To Authorize the Civil Aeronautics Board To Inspect The Records of Ticket Agents

Both air carriers and ticket agents are subject to the criminal penalties of section 902(d) of the Federal Aviation Act (49 U.S.C. 1472(d)) for knowing and willful grants of rebates. However, while air carriers are also subject to civil penalties for rebating under section 901(a) of the Act (49 U.S.C. 1471(a)), it is at least arguable that ticket agents are not. The problem is that at the time Congress determined to subject ticket agents to penalties for various kinds of actions relating to air transportation, rebating was subject to monetary penalties only pursuant to section 902 ("Criminal Penalties") of the Act. Accordingly, Congress dealt with the possibility of rebating by ticket agents by subjecting ticket agents in 1952 to section 902 (P.L. 538, 66 Stat. 629). Ten years later, the Act was amended to provide for civil penalties for violations of title IV of the Act (P.L. 87-528, 76 Stat. 149). Thus, a violation of section 403(b) of the Act (49 U.S.C. 1373 (b)), which prohibits air carriers from charging more than the amount specified in the pertinent tariff and from granting rebates, thereby became a ground for the imposition of a civil penalty. However, since neither section 403 nor any other substantive provision of the Act prohibits ticket agents from rebating, the anomaly arose whereby ticket agents are arguably immune from civil penalties for the same actions that would subject them to criminal penalties.

The difficulties in proof and procedural complexities involved in respect to making a criminal case against a ticket agent under section 902 render that approach highly impracticable. Accordingly, the bill amends section 403(b) to make it clear that ticket agents are prohibited from charging their customers either more or less than the tariff amount.

As to Board authority to inspect the records of ticket agents, air carriers are required by section 407(e) of the Act (49 U.S.C. 1377(e)) to give the Board access "to all lands, buildings, and equipment of any air carrier and to all accounts, records, and memoranda * * * kept by air carriers." No such explicit authority exists with respect to ticket agents. Since section 407(e) is applicable only to air carriers, the Board must rely on the cooperation of the ticket agents in enforcement problems involving them or upon the time-consuming subpoena procedure. This has resulted in serious difficulties. In many instances ticket agents have refused to make their records available, which has resulted in delayed enforcement action and lost opportunities to obtain important documentary evidence of violations of the Act.

The bill amends section 407(e) so as to subject ticket agents to the requirements of the section.

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S. 2889

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the first sentence of section 403(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1373 (b)) is amended to read as follows: "No air carrier or foreign air carrier or any ticket agent shall charge or demand or collect or receive a greater or less or different compensation for air transportation, or for any service in connection therewith, than the rates, fares, and charges specified in then currently effective tariffs of such air carrier or foreign air carrier; and no air carrier or foreign air carrier or ticket agent shall, in any manner or by any device, directly or indirectly, or through any agent or broker, or otherwise, refund or remit any portion of the rates, fares, or charges so specified, or extend to any person any privileges or facilities, with respect to matters required by the Board to be specified in such tariffs, except those specified therein."

Sec. 2. The first sentence of section 407(e) of such Act (49 U.S.C. 1377(e)) is amended to read as follows: "The Board shall at all times have access to all lands, buildings, and equipment of any carrier and to all accounts, records, and memoranda, including all documents, papers, and correspondence, now or hereafter existing, and kept or required to be kept by air carriers or ticket agents; and it may employ special agents or auditors, who shall have authority under the orders of the Board to inspect and examine any and all such lands, buildings, equipment, accounts, records, and memoranda."

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By Mr. BEALL (for himself and Mr. Dominick):

S. 2890. A bill to amend the General Education Provisions Act to provide that funds appropriated for applicable programs for fiscal year 1974 shall remain available during the succeeding fiscal year and that such funds for fiscal year 1973 shall remain available during fiscal year 1974 and 1975. Referred to the Committee on Labor and Public Welfare.

Mr. BEALL. Mr. President, in 1963 the Congress enacted a provision in the education laws allowing education agencies to carry over funds appropriated in one year to the succeeding year. This provision has been invaluable to school districts and has done much to prevent unwise and often wasteful spending. Without this provision school districts would be forced to spend the funds in the fiscal year in which they were appropriated or lose them. Given this alternative, school districts naturally rushed to spend the funds. As the old adage goes "haste makes waste."

Obviously this is not conducive to good planning and effective use of educational funds. The need for the continuation of this provision is even more important this year since the administration recently released $466 million in impounded education funds. Without the continuation of this amendment all of these funds would have to be spent by June 30, 1974, or revert to the Treasury.

I am introducing today, along with Senator Dominick, a bill identical to that introduced by Congressmen Quie and Perkins yesterday. This bill would extend the 1968 provision and also make available for an additional year for obligations by local school districts those educational funds impounded by the administration in fiscal year 1973.

S. 1539, which has been ordered reported by the Education Subcommittee to the full committee, extends the 1968 provisions for 5 years and would also allow the carrying over of the impounded aid funds for an additional year. I am, however, introducing this separate bill today because it is going to take us a while to complete our action on S. 1539 and because of the great uneasiness among local school districts. In the meantime without the assurance that they will be able to carry over appropriated funds, school districts will likely hurry to spend the funds. We should remove this fear from them so that they may employ the educational funds wisely.

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By Mr. McCLURE:

S. 2891. A bill to amend the Internal Revenue Code of 1954 in order to tax excess petroleum industry profits, to encourage investments in the expansion of domestic energy supplies, and to create an incentive tax credit for research and development of new or expanded energy sources. Referred to the Committee on Finance.

Mr. McCLURE. Mr. President, we find ourselves as a Nation in a dilemma. On the one hand we have vast untapped domestic fuel sources and the capability to develop the technology necessary to unleash numerous forms of new energy sources. Yet on the other hand we are bound by a critical energy shortage. Prices for fuel and related products have shot upward. We know from past experience that in such situations some individuals and segments of industries have not been able to resist the temptation to increase prices more rapidly than costs during a period of shortage. The American people can be caught in two ways: By higher prices and by the shortage of fuels.

Meeting our Nation's future energy needs is going to require a tremendous capital investment. The Chase Manhattan Bank has reported that the financial needs of the petroleum industry for the 15-year period of 1970 to 1985 will be $1 trillion, $350 billion. Such a capital expenditure is staggering, even by congressional standards. And where is this money to come from? From the Government? From private industry?

It is all too obvious what the differences between private enterprise and governmental programs are. I refer to efficiency in the use of funds, speed in arriving at the objectives, ability to shift programs, and desire for a more competitive product. It is not in our country's best interest to federalize this program of energy expansion. Instead we should stimulate the skills and efforts of private enterprise to develop for us a new era—one of sufficient energy through expanded technology. Thus we need to encourage vast sums of investment into expanding our present energy supplies and developing the advanced technology necessary to unlock new forms of energy and energy sources. And there is no better way to start than by utilizing the profits of the petroleum industry. That is precisely what my bill is designed to do.

My bill will levy a 90-percent tax on that income of the petroleum industry which is above an average rate of return for all industries. All corporations with an invested capital structure exceeding $2.5 million are covered by the bill, if theirs is a business primarily involved in any level of the petroleum industry, from exploration and extraction to retail sales. The first taxable year will be 1973.

The index to determine what is a fair rate of return would come from the Federal Trade Commission. It would be based on the average percentage rate of return on invested capital for all manufacturing corporations. The FTC is directed to include this information in its quarterly financial reports for manufacturing corporations. Thus the rate of return available to the petroleum industry, without penalty, would float with the economy and at the same time be readily discernable. In this manner they would remain competitive in their search for new and additional funds.

A special deducation will be allowed when figuring taxable income applicable to the excess profits tax. This deduction will be for new investments made in an effort to increase our domestic energy supply—research, exploration, and development. A 5-year set-aside program is allowed during which these investments must be made, to be free of the excess profits tax.

The opportunity for constructive, and perhaps dramatic, action is numerous. Without attempting to list them all, my bill points to the areas of location, production, transportation, conversion, processing, utilization pollution abatement, and conservation. Progress can be and must be made in each of these fields having important impact on our total energy supply.

This proposal also expands the present 7 percent investment tax credit to include investments made for domestic research and development facilities for new or expanded energy sources.

I ask unanimous consent to have the bill I introduced printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2891

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Excess Petroleum Profits Tax Act of 1974."

Sec. 1. Part II of subchapter A of Chapter 1 of the Internal Revenue Code of 1954, as amended (relating to corporation income taxes), is amended by adding after section 12 a new section as follows:

"Section.—Excess Petroleum Profits Tax."

"(a) In general.—Notwithstanding other taxes imposed by this subtitle, an excess profits surtax is hereby imposed on the taxable income of all petroleum industry corporations for each taxable year beginning after December 31, 1972. The surtax shall be equal to the surcharge as computed under subsection (b)."

"(b) Surcharge.—The surcharge is equal to 90 percent of the amount by which the taxable income exceeds the surcharge exemption for the taxable year. Section 11 shall only apply to that amount of taxable income which does not exceed the surcharge exemption for the taxable year."

"(c) Surcharge exemption.—For purposes of this section, the surcharge exemption for any taxable year shall be the percentage rate of return, on the capital investment of a petroleum industry corporation, equal to the average rate of return on capital investment for all manufacturing corporations for that taxable year. Determination of the average rate of return on capital investment, by industry and for all manufacturing corporations, shall be made by the Federal Trade Commission and submitted in its Quarterly Financial Reports for manufacturing corporations, beginning with the quarter following enactment of this bill. The Commissioner is further directed to compile and publish the rate of return on capital investment, by industry and for all manufacturing corporations, starting with the first quarter of 1973 and extending through the quarter in which this bill is enacted."

"(d) Exceptions.—"

"(1) Small corporations.—This section shall apply to all petroleum industry corporations having an invested capital structure exceeding $2,500,000."

"(2) Set-aside fund.—The corporation may establish a special fund to be used according to subsection (f) in which yearly income, subject to the surcharge, may be set aside without surcharge consequence. However, such set aside funds which are not properly invested within 5 years of the taxable year in which they were earned shall be subject to the surcharge with no further exceptions."

"(e) Definitions.—"

"(1) Petroleum industry corporation.—For purposes of this section the term petroleum industry corporation means any corporation engaged in the exploration, extraction, refining, transportation, distribution, manufacture, production, and/or sale of any petroleum or petroleum product as its principal business."

"(2) Taxable income. — For purposes of computation of the surcharge imposed by this section, taxable income shall be computed without regard to any deductions allowed by reason of the carryback or carryover of any loss."

"(f) Special deduction.—In computing the surcharge imposed by this section, there shall be excluded from income, subject to the surcharge, an amount equal to the investment made in the same taxable year or as authorized under subsection (d)(2), for the following purposes:"

"(1) exploration or development of new domestic fuel;"

"(2) increased domestic productive capacity;"

"(3) research and development of new domestic energy sources, fuels, or uses;"

"(4) research and development of energy technology affecting"

"(A) location,"

"(B) production,"

"(C) transportation,"

"(D) conversion,"

"(E) processing,"

"(F) utilization,"

"(G) pollution abatement, or"

"(H) conservation; or"

"(5) other investment reasonably calculated to increase the domestic energy supply or the more efficient use of such energy supply."

SEC. 2. (a) Section 48(a) of the Internal Revenue Code of 1954, as amended (relating to investment tax credits), is amended by inserting at the end of clause (1) (B) (ii) the following:

"(iii) constitutes a domestic research and development facility for new or expanded energy sources, or"

"(iv) constitutes tangible property specifically invested in to increase the domestic energy supply or its more efficient use, or"

(b) Section 48 of such Code is amended by redesignating subsection (k) as (1), and by inserting after subsection (j) the following:

"(k) NEW OR EXPANDED ENERGY SOURCES.—"

"(1) NEW ENERGY SOURCES.—This term shall include (but not be restricted to) oil shale, tar sand, coal liquefaction, coal gasification, geothermal, solar, hydrogen, and magneto-hydrodynamics energy."

"(2) EXPANDED ENERGY SOURCES.—This term shall include (but not be restricted to) the energy sources in (1), plus petroleum, coal, hydroelectric, and atomic energy sources."

SEC. 3. (a) The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this Act, except as provided for in section 3(b).

(b) The Commissioner of the Federal Trade Commission shall prescribe such regulations and procedures as are necessary to carry out the compilation and publication of rate of return data as directed in section 1(c) of this Act.

SEC. 4. The amendments made by this Act shall become effective with respect to taxable years beginning after December 31, 1972.

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By Mr. MONDALE:

S. 2892. A bill to amend the Economic Stabilization Act of 1970. Referred to the Committee on Banking, Housing, and Urban Affairs.

Mr. MONDALE. Mr. President, this week the December Consumer Price Index figures were released, and they made for their usual sad reading. Once again, paced by increases of 11 percent for home heating oil and 4.4 percent for gasoline, inflation took its toll on the Nation's economy. Once again, the American working family had to absorb another decline in purchasing power, a decline which last year reached 3 percent.

There are, obviously, a variety of causes for this inflation. Food prices continue to rise, and the cost of industrial commodities shows no sign of slowing their rapid advance. The Nixon administration, nevertheless, seems intent on phasing out or eliminating controls by the expiration of the Economic Stabilization Act at the end of April.

Yet there is little doubt that in a least one area, controls on prices are desperately needed. Since the beginning of November, the Wholesale Price Index for refined petroleum products has jumped an astounding 60.9 percent. For all of 1973, crude oil prices on the wholesale level rose by 27.5 percent, while refined product prices were up by 125 percent.

I believe that there is no question as to the need for an immediate freeze and rollback in domestic crude oil and refined petroleum product prices. Since the beginning of 1973, the price of "old"—price controlled—crude petroleum has risen from about $3.50 per barrel to $5.25 per barrel. Included in this increase was an increase of $1 per barrel, allowed by the Cost of Living Council on December 19, 1973, which resulted in an increase of revenue to the oil companies of $3 billion per year without any promise of increased domestic production.

In the same time period, the price of "new"—decontrolled—domestic crude oil has more than tripled, to a current level of about $10 per barrel. These increases have resulted in additional revenues to the oil companies of this country of approximately $6½ billion per year.

In each instance—both for new and old domestic crude oil—the bulk of the increases have occurred since the beginning of the Arab oil embargo. In spite of the fact that production costs for domestic crude oil have risen only slightly in the period since the embargo began, prices of old oil have been allowed to rise by $1 per barrel and prices of new oil have shot up from levels of about $5.75 just before the embargo began to the current $10 per barrel figure.

There simply is no justification for price increases of this magnitude. They are costing consumers in this country tens of billions of dollars in higher prices, and are resulting in windfall profits to the oil producers of this country.

And, significantly, many within the oil business itself over the past year have indicated that they regarded prices of $5 to $6 per barrel as adequate to stimulate the new domestic exploration of oil in which we are all interested.

In July of 1972, Business Week reported that:

> Higher prices, of course, are what the oil industry has been seeking in its efforts to tap "secure" but often marginal domestic energy sources. "If the price of domestic crude moves up a bit more," says John G. McLean, chairman of Continental Oil Co., "we can get at some additional reserves and produce them economically." He calculates that deeper drilling in older oil fields—tertiary recovery—will be economical when domestic crude rises to $4 a barrel, from its present average of $3.40. Rising oil prices will also bring "synthetic" fuels into economic range. McLean figures that Alberta's big deposits of Athabasca tar sands could be processed into crude oil at a commercial rate when the price of regular crude reaches about $5 per barrel—McLean believes, too, that vast shale oil deposits in the Western States could be tapped economically at prices of $5 to $6 per barrel.

On October 24, 1973—when the price of old crude was $4.25 per barrel and the price of new crude was about $5.50—John E. Swearingen, chairman of the Standard Oil Co. of Indiana, stated that:

> Recent increases in the prices of domestic crude oil and natural gas have provided additional incentives and additional funds for intensified exploration for new supplies of oil and gas. Our company has embarked upon the most extensive exploration and development program in its history with particular emphasis on the U.S.

The Petroleum Independent, the magazine published by the Independent Petroleum Association of America, in its November 1973 issue quoted a Houston producer-geologist as saying:

> There's no doubt that prospects are for increased drilling. Everybody I know is planning on it. With new oil prices from $5.30 to $6.00 per barrel, there's incentive now to go looking for oil.

And the same issue of that magazine quotes another producer-geologist:

> The oil price rise is definitely a healthy sign. I've never seen so much outside investor money available for drilling. It wouldn't be difficult for one geologist to raise more money than he can intelligently spend.

All of these statements point to the fact that while the oil industry stated that they needed higher prices in order to encourage domestic exploration, even they consistently indicated that prices for "new" oil of $5 to $6 per barrel would be most sufficient to encourage additional domestic exploration and development of our oil resources.

These prices for "new" oil were the prices prevailing on or about November 1, 1973, before the Arab embargo began to exert its effects on domestic oil prices.

Quite simply, there is no reason why unconscionable increases in prices abroad—prices not set in response to free market forces—should be used as the excuse to raise prices on domestic oil production to embargo-induced levels.

I am therefore introducing legislation today to direct the President to implement an immediate price freeze on all domestic crude petroleum and petroleum products, and, within 30 days thereafter, a rollback of such prices to the levels in existence on November 1, 1973.

This legislation attempts to retain the vitally needed price incentive on "new" oil necessary to induce increased domestic oil production, while at the same time removing the windfall price increases which have resulted from increased domestic prices induced by the Arab oil embargo.

In addition, it would roll back the inexcusable $1 per barrel increase which the Cost of Living Council allowed on "old" oil on December 19, 1973. This increase—from $4.25 per barrel to $5.25 per barrel—represented an added cost for American consumers of $3 billion per year. And yet the oil industry made no promises for increased production resulting from this price increase on the same oil on which they were making handsome profits 1 year ago at $3.50 per barrel.

The legislation also allows the President to make exceptions necessary to prevent gross inequities and hardships, and to encourage and preserve the competitive viability of the independent sector of the oil industry.

Finally, it would require that the President issue rules to insure that all sales of crude petroleum at the refinery level or petroleum products at the wholesale level reflect, in sales to any purchaser, the average costs of its foreign and domestic crude oil and petroleum products.

This is designed to cope with a number of current problems.

First, it should prove of substantial benefit to the independent sector of the industry—particularly in the area of heating oil. At present, the major oil companies—which have both domestic and foreign crude oil sources—are selling the higher priced foreign oil to independent refiners and are selling refined products produced from foreign oil to independent wholesalers and marketers. This results in a competitive disadvantage to independents, who are now forced to sell their products at much higher prices than wholesale and retail outlets of the major companies, which are using their own supplies of lower-priced domestic oil to supply their own outlets. The resolution would put an end to this practice.

And second, it should provide relief to those geographic sectors of the country—in particular, the New England and Middle Atlantic States, the Upper Midwest and the west coast—which are more heavily dependent on foreign oil for their supplies, by requiring the producing companies to average foreign and domestic prices in all sales to spread price increases equitably throughout the Nation.

Mr. President, I believe that this legislation would enable us to increase the vital domestic oil supplies we all want to encourage, while insuring the American consumer a fair price for these products.

As compared to current prices, the rollback envisioned in this legislation would save American consumers $7 billion per year, while still providing a fair rate of return and profitability to the oil industry.

It is my expectation that this legislation, along with other similar legislation, will receive a speedy hearing in a number of Senate committees. Out of those hearings will hopefully emerge a strong congressional directive to roll back the exorbitant price increases on domestic oil and petroleum products and to ease the threat of soaring inflation, rising unemployment and a severe recession this year.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2892

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* "The Economic Stabilization Act of 1970 is amended by inserting in section 203 the following new subsections:

(k) Immediately upon the enactment of this section, the President shall issue an order to establish a ceiling on prices of crude oil and petroleum products at levels not greater than the highest levels pertaining to a substantial volume of actual transactions by each business enterprise or other person during the fourteen day period ending January 19, 1974, for like or similar commodities, or if no transactions occurred during such period, then the highest applicable level in the nearest preceding fourteen day period.

(l) The ceiling on prices required under subsection (k) shall be applicable to all retail prices and to wholesale prices for unfinished, finished or processed goods.

(m) As soon practicable, but not later than 30 days after the date of enactment of this section, the President shall by written order stating in full the considerations for his actions, roll back prices for crude oil and petroleum products to levels no higher than those prevailing in the seven-day period ending November 1, 1973, in order to reduce inflation. Price increases announced after November 1, 1973, and made retroactive to dates prior to November 1, 1973, shall not be considered as having been in effect prior to such date for purposes of this subsection. The President may make specific exceptions from the rollback by written order to compensate for increased costs for crude oil and petroleum products produced or refined outside the United States, but in no event shall such exceptions allow more than a passthrough for increases in the costs of such commodities. Such orders shall state procedures and adequate public notice of any price exceptions and shall disallow any profit margins on any crude petroleum or petroleum products in excess of the margin applicable in the seven-day period ending November 1, 1973.

(n) The President may, by written order stating in full the considerations for his actions, make such additional exceptions and variations to the orders required under this section as may be necessary to prevent gross inequities and hardships, and to encourage and preserve the competitive viability of branded independent marketers, small refiners, nonbranded independent marketers, and independent refiners, as defined in the Emergency Peroleum Allocation Act of 1973 (Public Law 93–159).

(o) The President shall, by written order, issue rules to insure that all corporations or other entities engaging in sales of crude petroleum at the refinery level or petroleum products at the wholesale level reflect, in sales to any purchaser, the average costs of its foreign and domestic crude oil and petroleum products.

(p) Section 406 of Public Law 93–153 is hereby repealed.

(q) For purposes of this section, "petroleum product" means gasoline, kerosene, distillates (including Number 2 fuel oil), LPG, refined lubricating oils, or diesel fuel."

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By Mr. KENNEDY (for himself, Mr. JAVITS, Mr. CRANSTON, Mr. EAGLETON, Mr. HATHAWAY, Mr. HUGHES, Mr. MONDALE, Mr. PELL, Mr. RANDOLPH, Mr. SCHWEIKER, Mr. STAFFORD, and Mr. WILLIAMS):

S. 2893. A bill to amend the Public Health Service Act to improve the national cancer program and to authorize appropriations for such program for the next 3 fiscal years. Referred to the Committee on Labor and Public Welfare.

### NATIONAL CANCER ACT OF 1974

Mr. KENNEDY. Mr President, today I am introducing the National Cancer Act of 1974. This bill, upon which the Senate Health Subcommittee will conduct hearings next Wednesday morning, January 30, 1974, is a 3-year extension of the National Cancer Act, which is set to expire this June.

The provisions of this bill are modeled after the recommendations of the President's Cancer Panel and the National Cancer Advisory Board. At the conclusion of my remarks I will briefly describe the specific amendments the bill includes. I understand that an identical bill is also being introduced today in the House of Representatives by my friend and colleague, Congressman PAUL ROGERS.

"Cancer" is a term applied to more than 100 clinically distinct diseases which kill someone in the United States every one-and-a-half minutes. In 1973, it was estimated that 642,000 Americans would become new cancer cases, 1,310,000 Americans would be cancer patients, and 350,000 Americans would die of cancer. The annual cost of cancer is about $18 billion, which can not measure the incalculable suffering of victims, their friends and families.

Cancer is a widespread biological phenomenon with different incidences, appearances, and functioning. It is induced by widely different chemical, physical, and biological agents, most of which are unknown. Cancers have many similarities to the host tissues from which they originate. This makes early diagnosis more difficult than with infectious diseases caused by organisms which the body recognizes as foreign to the host tissue. A major effort of the national cancer program is to develop tests which can identify the presence of small numbers of cancer cells with a reliability similar to that of well known serologic tests for bacterial diseases.

In the early stages of cancer there may be relatively few cancer cells among billions of normal cells. The best chances for curative treatment are at this stage because the balance of forces is in favor of the patient and a skilled therapist. Unfortunately, however, most patients do not seek medical attention until their initial cancer has progressed by abnormal growth and destructive invasiveness to establish new cancerous growths—metastases. If untreated, cancers usually are fatal. However research supported by the National Cancer Institute has developed effective therapies for curing or controlling 10 forms of advanced cancer that were invariably fatal a decade ago.

Cancer causation involves many interrelated factors: Heredity, exposure to a variety of agents, singly or in combination and at various doses and routes of administration; host factors that produce different resistances to different agents and different means of handling the many agents—host metabolism, hormonal patterns, immunological response of the host. Epidemiological data, particularly in occupational settings, have clearly implicated approximately 22 chemical agents in human cancer causation; about a thousand chemicals are now known to induce cancer in animals.

In the early 1900's few cancer patients had any hope of cure. The 5-year survival rate in the late 1930's was about 1 in 5. Ten years later it was 1 in 4 and today the figure is about 1 in 3. This means that roughly 55,000 patients are being saved each year. The immediate goal of cancer control in this country is to save 321,000 lives a year, or half of those who develop cancer. On the basis of 5-year survival, about 224,000 Americans will be saved from cancer this year. About 1,500,000 Americans are alive and free of cancer 5 years after treatment. An additional 1 million cancer patients diagnosed and treated within the last 5 years will live to join these ranks.

Although these improvements in cure rates are impressive and gratifying, the vastly complex nature of cancer requires a coordinated biomedical research effort of unprecedented dimensions. Many methodologies and approaches must be used to solve problems and gain significant new knowledge. Cancer is a chronic disease process, with causation and development extending over several years in most patients. In fact, with several occupational cancers, the period of exposure to the causative agent occurs about a decade prior to the diagnosis. This long time span makes it difficult to evaluate research findings and new methods of prevention, diagnosis, and treatment.

Since its creation in 1937 the National Cancer Institute has been the primary agency through which the Federal Government has sought to marshal biomedical research toward the goal of controlling cancer. The activities of the Institute have been directed toward providing, through research, improved means for the prevention and diagnosis of cancers in man, and the cure and rehabilitation of those cancers that have not been prevented.

The National Cancer Act of 1971 rested on the conviction that medical and scientific understanding of cancer had reached a level where sustained pursuit of new scientific leads could advance national capacies to prevent, diagnose, and treat cancer. The act stipulated that an intensified and coordinated national program would be needed to quicken the pace for developing the means to bring cancer under control.

The National Cancer Act gives the National Cancer Institute the responsibility for organizing this complex undertaking and for channeling the resources needed for this program. The act specifically directs the Director of the Institute to "plan and develop an expanded, intensified, and coordinated cancer research program encompassing the programs of the National Cancer Institute, related programs of the research institutes, and other Federal and non-Federal programs." This mandate includes support for cancer research in industry and in other countries outside the United States.

To speed the translation of research results in widespread applications, the act directs the establishment of a cancer control program to demonstrate to both the medical community and general public the applications of the latest advances in cancer prevention and control.

The act further directed the Institute to provide supporting resources for the national cancer program. These include:

Collection, analysis, and dissemination of all data useful in the prevention, diagnosis, and treatment of cancer, including establishment of an international cancer research data bank.

Continuing support of appropriate manpower training programs in fundamental sciences and clinical disciplines

Support of the large-scale production and distribution of specialized biological materials and other chemicals and drugs for research.

An overall strategy for the national cancer program has been developed, based on a consensus among Federal and non-Federal clinicians and laboratory scientists about the direction, content and pace of the research program. The strategy and plan for the national program will be revised regularly as new information and concepts flow from the laboratory and clinic. The overall strategy involves the systematic sharing of cancer information by public and private agencies throughout this country and abroad. It requires continued assessment of resource needs and logistical planning to meet those needs. In some cases, it necessitates the redeployment of existing facilities, the rapid evolution of new kinds and combinations of research support, the reassignment of science management responsibilities, and the development of new mechanisms of technological transfer and information retrieval and application.

The national cancer program plan includes a strategic plan and an operational plan. The strategic plan, developed with a broad spectrum of advice from the scientific and medical communities, presents the major national goal, objectives, program strategy, implementation strategy, and estimated resources necessary to achieve the objectives. The operational plan, which is nearing completion, will include more detailed information concerning plans for specific research programs to implement the strategic plan.

A preliminary outline of the national cancer program plan and the research strategy was developed by the National Cancer Institute with the advice of the National Advisory Cancer Council. Then, in a unique event in the history of biology and medicine in this country, 250 laboratory and clinical scientists met in a series of 40 planning sessions between October 1971 and March 1972 to develop a scientific and operational fundation for the national cancer program. The resulting strategic plan was reviewed by the President's Cancer Panel, the National Cancer Advisory Board, the Director and staff of the National Institutes of Health, National Cancer Institute staff, the Association of American Cancer Institutes, the American Association for Cancer Research and the Institute of Medicine of the National Academy of Sciences.

The goal of the national cancer program is to develop means to significantly reduce the incidence of cancer in man and the suffering and death from cancer. The general strategy of the program is to provide for a balanced effort covering the entire spectrum of basic applied and developmental research. The strategy will be implemented through laboratory, field, and clinical programs that are judged most likely to produce the information and technology that can be transferred rapidly to medical practice. The program will be "balanced" in the sense that all promising options will be pursued, taking into account the current state of research knowledge, the probability of success of the option, and the impact of the successful completion of the option.

The national cancer program has a mandate that goes beyond the traditional NIH research mission. Simply stated, the program must build effective bridges from laboratory and clinical research to those who can benefit from the results of research—to physicians, their cancer patients, and all at risk to cancer.

### CENTERS

The most visible manifestation of bridgebuilding during the past year has been the establishment of a national network of cancer centers demonstrating optimum cancer care at locations selected to provide maximum public and professional access.

In 1971, when the National Cancer Act granted NCI authority to establish new clinical cancer research and demonstration centers, there were three preexisting comprehensive cancer centers: The M. D. Anderson Hospital and Tumor Institute, Houston; Memorial Sloan-Kettering Cancer Center, New York; and Roswell Park Memorial Institute, Buffalo.

Some 20.6 million people were within 60 miles of these three centers and 33.7 million people were within 120 miles.

Within the past year, nine additional medical institutions have established comprehensive cancer centers with assistance from the National Cancer Institute. These institutions are:

University of Alabama School of Medicine, Birmingham.

Children's Cancer Research Foundation, Boston.

Duke University Medical Center, Durham, N.C.

Fred Hutchinson Cancer Research Center affiliated with the University of Washington, Seattle.

The Johns Hopkins Medical Institutions, Baltimore.

University of Miami School of Medicine, Miami.

Mayo Foundation, Rochester, Minn.

University of Southern California—with the Los Angeles County Department of Hospitals—Los Angeles.

University of Wisconsin Medical Center, Madison.

As a result, today, 53 million Americans are within 60 miles of a compresensive cancer center and 98 million are within 120 miles.

The distances 60 miles and 120 miles are not arbitrary. Studies show that 60 miles is generally the greatest distance a patient can reasonably drive for daily therapy, and 120 miles is the greatest distance a patient might be expected to travel for consultation without requiring an overnight stay.

By July 1974, at least six additional comprehensive centers will be underway. At that time, well over one-half the population should be close enough for a patient to visit a comprehensive cancer center for a consultation and return home the same day by surface transportation. The country will need 30 to 35 comprehensive cancer centers to serve adequately the entire U.S. population.

Now, Mr. President, I want to describe the particular aspects of my bill. First of all, it is a 3-year extension of the act through June 30, 1977. The bill proposes substantial increases in the two sets of authorization levels for the program. For the basic research and training program the bill authorizes $750 million, $830 million, and $985 million for the fiscal years 1975, 1976, and 1977 respectively. For the prevention and control program the bill authorizes $50 million, $65 million, and $85 million for those same fiscal years. The bill also removes the limitation in the act which prohibits the creation of not more than 15 comprehensive cancer centers. I believe the Nation requires 30 to 35 such centers in order to bring high quality comprehensive cancer care within the reach of everyone. I can see no reason why any family should be denied the best possible cancer diagnosis and treatment simply because of where they live. Finally, Mr. President, the bill makes a number of minor, though important technical amendments to the Cancer Act.

In conclusion, I am delighted that this bill has the bipartisan cosponsorship of so many member of my Health Subcommittee. As I indicated a moment ago, I will chair hearings of the Health Subcommittee on this bill next Wednesday, during which testimony will be received from the President's Cancer Panel, the administration, the American Cancer Society, the Candlelighters, the Association of American Medical Colleges, and a panel of Comprehensive Cancer Center directors. It is my intention to have the committee report this bill back to the Senate with whatever amendments it deems desirable as promptly as possible, so that there will be no disruption in the continuation of this Nation's cancer program.

## ADDITIONAL COSPONSORS OF BILLS

### S. 1708

At the request of Mr. CRANSTON, the Senator from Texas (Mr. BENTSEN), was added as a cosponsor of S. 1708, to amend title X of the Public Health Service Act to extend appropriations authorizations for 3 fiscal years and to revise and improve authorities in such title for family planning services programs, planning, training and public information activities, and population research.

### S. 2422

At the request of Mr. MATHIAS, the Senator from New Jersey (Mr. CASE) was added as a cosponsor of S. 2422, to establish a National Center for the Prevention and Control of Rape and provide financial assistance for a research and demonstration program into the causes, consequences, prevention, treatment, and control of rape.

### S. 2528

Mr. MONDALE. Mr. President, I ask unanimous consent that the Senator from Maine (Mr. HATHAWAY) may be added as a cosponsor of S. 2528, the Social Services Amendments of 1973. I regret that due to clerical error Mr. HATHAWAY was not listed as a cosponsor of my bill when he made the request last October.

The PRESIDING OFFICER. Without objection, it is so ordered.

### S. 2822

At the request of Mr. MATHIAS, the Senator from New Hampshire (Mr. MCINTYRE) was added as a cosponsor to S. 2822, to encourage the preservation of open lands in or near urban areas by amending the Internal Revenue Code of 1954 to provide that real property which is farmland, woodland, or open scenic land and forms part of an estate shall be valued, for estate tax purposes, at its value as farmland, woodland, or open scenic land—rather than at its fair market value—if it continues to be used as such for at least 5 years after the date on which the estate tax return is filed.

## SENATE CONCURRENT RESOLUTION 64—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING THE PRINTING OF AS A SENATE DOCUMENT CONGRESSIONAL EULOGIES AND OTHER TRIBUTES TO THE LATE J. EDGAR HOOVER

(Referred to the Committee on Rules and Administration.)

Mr. EASTLAND submitted the following concurrent resolution:

### S. CON. RES. 64

*Resolved by the Senate (the House of Representatives concurring)*, That there be printed with an illustration as a Senate document a compilation of materials eulogizing the late J. Edgar Hoover, including: Memorial tributes in the Congress; the eulogy by Warren E. Burger, Chief Justice of the United States, in the Rotunda of the United States Capitol, on May 3, 1972; the funeral services for Mr. Hoover at the National Presbyterian Church, Washington, D.C., including the eulogy by President Richard M. Nixon and the tribute by the Reverend Edward L. R. Elson, Chaplain of the United States Senate; and various articles and editorials relating to the life and work of J. Edgar Hoover and his contributions to the well being of the American people.

SEC. 2. There shall be printed five thousand five hundred fifty additional copies of the document authorized by section 1 of this concurrent resolution, of which four thousand four hundred twenty shall be for the use of the House of Representatives, one thousand thirty shall be for the use of the United States Senate, and one hundred shall be for the use of the Senate Committee on the Judiciary.

SEC. 3. The copy for such document shall be prepared under the direction of the Joint Committee on Printing, and the document shall be printed and bound in the format currently used for memorial tributes to deceased Members of Congress.

## SENATE RESOLUTION 245—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS FOR INQUIRIES AND INVESTIGATIONS

(Referred to the Committee on Rules and Administration.)

Mr. ROBERT C. BYRD (for Mr. JACKSON), from the Committee on Interior and Insular Affairs, reported the following resolution:

### S. RES. 245

*Resolved*, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Interior and Insular Affairs, or any subcommittee thereof, is authorized from March 1, 1974, through February 28, 1975, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency, and (4) to consent to the assignment of personnel of other committees of the Senate to assist in carrying out the purposes of section 3 of this resolution. Travel and other expenses, other than salary, of any personnel from other committees assigned to the committee pursuant to this paragraph for the purposes of section 3 of this resolution may be paid under this resolution.

SEC. 2. The expenses of the committee under this resolution shall not exceed $475,000, of which amount (1) not to exceed $25,000 shall be available for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. To assist the committee in a study of national fuels and energy policy pursuant to Senate Resolution 45, agreed to May 3, 1971, the chairman and ranking minority member of each of the Committees on Commerce and Public Works, or members of such committees designated by such chairmen and ranking minority members to serve in their places, and the ranking majority and minority Senate members of the Joint Committee on Atomic Energy, or Senate members of that committee designated by such ranking majority and minority Senate members to serve in their places, shall participate and shall serve as ex officio members of the committee for the purpose of conducting the fuels and energy policy study.

SEC. 4. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1975.

SEC. 5. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the committee.

## SENATE RESOLUTION 246—SUBMISSION OF A RESOLUTION RELATING TO EX OFFICIO MEMBERSHIP OF THE COMMITTEE ON APPROPRIATIONS

(Referred to the Committee on Rules and Administration.)

Mr. HATHAWAY submitted the following resolution:

### S. RES. 246

*Resolved*, That the table in paragraph 6 (a) of rule XVI of the Standing Rules of the Senate is amended by adding at the end thereof the following:

"Committee on Labor and Public Welfare. For the Departments of Labor and Health, Education, and Welfare."

## ADDITIONAL COSPONSORS OF A RESOLUTION

### SENATE RESOLUTION 222

At the request of Mr. MAGNUSON, the Senator from Hawaii (Mr. FONG), the Senator from Nebraska (Mr. HRUSKA), and the Senator from Minnesota (Mr. MONDALE) were added as cosponsors of the resolution (S. Res. 222), to authorize a national ocean policy study.

## FEDERAL ADVISORY COMMITTEE ACT OVERSIGHT HEARINGS TO CONTINUE

Mr. METCALF. Mr. President, during the 1st session of the 93d Congress, the Subcommittee on Budgeting, Management, and Expenditures began its oversight hearings and investigations into the operation and effectiveness of the

Federal Advisory Committee Act, Public Law 93–463. That law has been in effect since January 5, 1973.

The act places certain responsibilities on the Director of the Office of Management and Budget. The OMB has issued draft guidelines implementing the act. I feel it is important to bring a witness from OMB before the subcommittee to explain its procedures and experiences under the act. On February 5, 1974, at 10:30 a.m., in room 1114, OMB Deputy Director Fred Malek will testify. Further information concerning the hearing may be obtained from the Subcommittee on Budgeting, Management, and Expenditures, 225–1474.

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## LEGAL SERVICES CORPORATION

Mr. FANNIN. Mr. President, the debate on S. 2686 during the closing days of the last session and the impending consideration of this bill has to some extent awakened the media to the serious consequences of this bill.

I ask unanimous consent to have printed in the Record a recent commentary on the CBS radio network on the "Spectrum" program by Phyllis Schlafly, and Robert S. Allen's column on the same subject which was released on January 12, 1974.

There being no objection, the material was ordered to be printed in the Record, as follows:

### "Spectrum" Varying Shades of Personal Opinion on Current Issues

I'm Phyllis Schlafly.

One of the strangest anomalies in the Nixon Administration is the way it violates all rules of politics by repeatedly offending its friends in a vain attempt to placate its enemies. Take, for example, the case of Governor Meldrim Thomson of New Hampshire, who was the one who organized support for President Nixon at the last Governor's Conference. Governor Thomson recently vetoed the Federal Legal Services program within his state, but he was promptly overruled by the OEO bureaucrats in Washington who are determined that no one shall interfere with their programs designed to bring about revolutionary social change.

Legal Services is now a branch of the Office of Economic Opportunity. It was set up as a means of providing free legal aid to the poor, but it was quickly turned into a vehicle by which thousands of government lawyers could spend their time, at our expense, working to change our laws by litigation through the courts and by organizing pressure groups, instead of by the orderly, constitutional process of legislation. Legal Services lawyers, whose salaries are paid by federal taxes, have been in the forefront of all kinds of radical activities from busing to abortion.

Now, these radical government lawyers are asking Congress to expand their powers. If the new Legal Services bill—called the Nelson-Javits bill—passes Congress, all governors will be deprived of their right to veto the Legal Services program within their states. This new bill will give some 2500 government lawyers $71 million to spend to promote radical change through test-case litigation, lobbying, the organization of pressure groups and propaganda.

Unfortunately, the staffers who purport to speak for the White House on the Legal Services bill have been pursuing a policy which can best be described as "how to lose friends and alienate people." They have been lining up with the proponents of the Nelson-Javits bill and, at the same time, riding roughshod over the President's supporters who believe that the time has come to put a stop to the way this federally-funded agency has become a shelter for radical legal agitators to advance their personal notions on questions of public policy.

I'm Phyllis Schlafly for Spectrum.

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### Hectored Through Senate

Washington, January 12.—Ominous tip-off on the likely militant New Left nature of the impending session of Congress is a backstage scheme to speedily ram through legislation setting up a far-reaching so-called "legal aid for the poor" program.

To be financed initially with $71.5 million in federal funds, this hefty ante would be raised to $100 million next year.

In addition, the hundreds of activist local legal services that would be created throughout the country would have virtually unlimited access to the facilities and equipment of the General Services Administration—such as automobiles, business machines, office supplies, etc.—at a cost of more millions to taxpayers.

Extraordinary feature of this affair is that legal services probably has the worst scandal-smeared record in the federal government—second only to the Office of Economic Opportunity (OEO), which administers the malodorous and bedraggled so-called "anti-poverty program" that has cost taxpayers around $20 billion in the nine years of its tawdry existence.

Yet despite legal services' nauseous record, liberal militants of both parties have strenuously maneuvered and pressured for several years to make it a permanent independent federal operation.

They set the stage for another blitz drive to do that in the hectic closing hours of last year's session.

With the powerful connivance of Senate Democratic Leader Mike Mansfield, Mont., they succeeded in making an extremist legal services bill the Senate's pending business on Jan. 28. By that time, they hope to have mustered sufficient bipartisan backing to impose cloture and thus force an early vote.

Sponsors of this far-out measure are two of the Senate's foremost activists—Republican Jacob Javits, N.Y., and Democrat Gaylord Nelson, Wis.

Both are up for election this year, and both are running "high, wide and handsome." They are either sponsoring or loudly supporting just about every reform or leftist cause on the horizon.

### ANYTHING GOES

The liberals' furious efforts to pile-drive a legal services measure through Congress strikingly resemble the malodorous record of the legal services program.

The self-righteous and lofty-burbling do-gooders have repeatedly flouted and disregarded proper and specified parliamentary procedure and practices, and baldly pursued a crass "anything goes" policy to get their way.

Example: A liberal-packed House Education and Labor subcommittee, wholly without holding public hearings, rushed through in three days a bill establishing a "National Legal Services Corporation" for the unctuously proclaimed purpose of providing "legal services to the poor"—with a price tag to taxpayers of $71.5 million, as a starter.

Then with the unabashed collusion of House Democratic leaders, this drastic measure was steamrolled through that chamber—despite vehement protests and opposition by both Democrats and Republicans.

Rep. Earl Landgrebe, R.-Ind., Education and Labor committeeman, bluntly characterized the bill as "leftist activism," and charged, "Its primary purpose is to promote leftist causes and movements, and not to serve the poor."

Landgrebe's scathing accusation went unchallenged and unanswered.

### MORE PIOUS TWO-TIMING

This shocking parliamentary skulduggery continued in the Senate.

There, instead of the House-passed bill being referred to the Judiciary Committee which has jurisdiction over legal legislation, it was "ordered held at the desk of the Senate"—a shabby procedural maneuver to bypass the requirement that the measure be sent to the Judiciary Committee.

With the legislation thus in effect pigeonholed on the "desk of the Senate," the liberal militants then got busy in the Labor and Public Welfare Committee which they completely dominate.

Members of this rigged panel include—Nelson, Javits, Edward Kennedy, D.-Mass., Walter Mondale, D.-Minn., William Hathaway, D.-Me., Thomas Eagleton, D.-Mo., Harold Hughes, D.-Iowa, Alan Cranston, D.-Calif., Claiborne Pell, D.-R.I., Richard Schweiker, R.-Pa., Robert Taft, R.-O., J. Glenn Beall, R.-Md.—whose brother, U.S. Attorney in Maryland, prosecuted former Vice President Agnew.

To no one's surprise, within a few days and without hearings or anything else, the activist cabal produced a new (so-called "clean") bill and had it made the order of business before the Senate.

The stage seemed all set for a repetition of what happened in the House—blitz enactment of the New Left measure.

That neat scheme was effectively scuttled by a small bipartisan group of determined opponents—headed by Sens. Jesse Helms, R.-N.C., James Allen, D.-Ala., Strom Thurmond, R.-S.C.

They launched a series of vehement verbal attacks on the measure and scandal-blackened legal services record, and stopped the New Left drive dead in its tracks.

Twice the militants sought to strangle the counter-attack by imposing cloture. But they couldn't muster the required two-thirds, and in the end the Helms-Allen-Thurmond bloc had their way. The bill had to be laid over until Jan. 28—when this significant struggle will be resumed.

What the outcome will be is a toss-up.

To some extent, it depends on how much impact legal services' shocking record will have on the Senate—a record of which the following are typical scandalous instances:

In San Francisco, last August, the local legal service agency brought a case against a bank for refusing to hire individuals with criminal records, charging that violated civil rights laws because "minorities have a disproportionate number of arrests, convictions and other contacts with the law."

In St. Louis, legal services brought suit against the Missouri-Pacific Railroad on the ground it was denying employment to persons with records of criminal convictions. That was deemed violation of their civil rights.

In Atlanta and Baltimore, in August last year, very similar cases were filed challenging the refusal to grant a cab driver a license because of conviction for marijuana smuggling.

In Ohio, a class action suit was filed against a leading company on the ground it was "discriminating" against individuals with criminal arrest records. It was contended their civil rights were being violated.

In Miami, legal services initiated a suit contending that seizure of an automobile by the U.S. Bureau of Customs in connection with alleged possession of drugs violated the plaintiff's right to due process.

In West Virginia, a case was instituted against a prison warden to show cause why a prisoner should be denied his liberty before being assigned to solitary confinement.

Legal services, now under OEO, was set up by the latter in 1965 as an experiment with a $600,000 allocation. OEO, established as an electioneering gimmick by President Johnson in 1964, has cost taxpayers around

$20 billion. Last year, President Nixon marked it for junking, and appointed Howard Phillips to do that long-needed job.

But Nixon backed down under a stormy fusillade of liberal and leftist agitation and propaganda, and OEO is still functioning, but not under Phillips.

He left when his forceful dismantling was halted.

## GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, next week the Senate will be faced with a rare opportunity to reassert our national dedication to the furtherance of human rights on a global scale. The occasion will be our consideration of the Genocide Convention, the first human rights treaty ever to be adopted by the United Nations General Assembly.

It has always seemed to me a cruel paradox, Mr. President, that the Nation which fought so hard to develop and expand international law in the human rights field, should let this treaty languish before the Senate for nearly a quarter-century. It is long past time for the United States to carry forward its own pronounced principles in support of human rights. This step is not only in the national interest but in the interest of men everywhere.

The United States must regain the position of moral leadership that it has lost by default. We can no longer tolerate inaction. Today, as we examine and reexamine the perquisites of a sound foreign policy, we are finally perceiving the interconnection between the promotion of human rights and the attainment of global peace. Mr. President, we have long since dedicated ourselves to bringing our grandchildren into a world that was cleaner and safer than the turbulent one all of us entered. I firmly believe that a vote in favor of ratification of the Genocide Convention is a small step in that direction.

## FINAL REPORT, COMMITTEE OF NINE ON NATO

Mr. JAVITS. Mr. President, in September 1971, by order of the North Atlantic Assembly, I was appointed to serve as chairman of the Committe of Nine which was established by the Assembly to study and make recommendations on the future of the North Atlantic Alliance and the role therein of the North Atlantic Assembly. The original members joining me on the Committee of Nine were: Lester Pearson of Canada, Manlio Brosio of Italy, Lord Harlech of the United Kingdom, Prof. Walter Hallstein of Germany, M. Michael Habib-Deloncle of France, Max van der Stoel of the Netherlands, Halfdan Hegtun of Norway, and Congressman WAYNE L. HAYS. Senator John Aird succeeded Mr. Pearson upon his death. Dr. Ivo Samkalden, mayor of Amsterdam, succeeded Mr. van der Stoel upon his appointment as Foreign Minister of the Netherlands. In addition, Senator Ihsan Sabri Caglayangil, former Foreign Minister of Turkey, Ambassador Alberto Franco Nogueira, former Foreign Minister of Portugal, and Dr. Karl Mommer, former Vice President of the Bundestag of the Federal Republic of Germany, served as advisers to the committee.

The committee submitted its Final Report to the North Atlantic Assembly in its 18th annual session in Ankara, Turkey on October 27. After being reviewed by the Political, Economic and Military Committees of the North Atlantic Assembly, the Final Report was received and accepted by the full Assembly which referred the report to the various NATO parliaments and the heads of numerous intergovernmental organizations in Europe.

Favorable comments respecting the Committee of Nine's Final Report have been issued by Secretary of State Kissinger, Secretary-General of NATO Joseph Luns, Foreign Minister Scheel of the German Federal Republic, the Foreign Minister Van der Stoel of the Netherlands, and others. To provide information to all Senators respecting this effort, I ask unanimous consent to have printed in the RECORD extracts from the Final Report of the Committee of Nine, the comments of various statesmen respecting the Final Report of the Committee of Nine and various articles commenting on the committee's Final Report. For those who wish to read the full text of the Final Report of the Committee of Nine, copies are available to Senators and Representatives.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### DEPARTMENT OF STATE—TELEGRAM

(Unclassified)

The Secretary has asked me to say that he welcomes the contribution to the thinking on Atlantic relations made by the distinguished parliamentarians of the North Atlantic Assembly's Committee of Nine, under the chairmanship of Senator Javits, which is being released today.

The Secretary shares the committee's view that Atlantic partnership remains vital in this period of transition in world affairs, especially its strong belief that the relationship must be strengthened through more equitable defense burden-sharing and a sounder understanding of the interplay between our security, political and economic relations.

The Secretary congratulates the committee for its thorough and constructive assessment. He looks forward to the discussion among the members of the assembly and their views on the recommendations of the committee of nine at the assembly's plenary session later this month in Ankara.

KISSINGER.

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NATO–OTAN,
PRESS SERVICE,
*Brussels, October 2, 1973.*

On the occasion of the public release of the final report of the Committee of Nine, concerning the future of Atlantic relations, the Secretary General of NATO, Dr. Joseph M. A. H. Luns, has added his voice to those commending the work of this distinguished group.

In his opinion the report will no doubt be considered as an important contribution to understanding this topical issue. He is particularly gratified to see the emphasis which the report places on the great need for continued strength and unity in the Alliance as it enters a period of negotiations and apparent detente.

The Secretary General has conveyed to the Committee of Nine his thanks for undertaking and completing with such distinction this study.

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THE GERMAN AMBASSADOR,
*Washington, D.C., October 4, 1973.*

Hon. JACOB K. JAVITS,
*U.S. Senate,*
*Washington, D.C.:*

Minister Scheel has asked me to convey to you the statement that the German Foreign Ministry spokesman made October 2, 1973, on the occasion of the publication of the Committee on Nine report to the North Atlantic Assembly.

Translation of this statement reads as follows:

"The German Foreign Ministry has just received the final report of the Committee of Nine to the NATO Parliamentarians Assembly. With great interest, it will study this important report which contains many valuable suggestions for the future development of the Alliance. The report certainly will not only be an issue at the next meeting of the North Atlantic Assembly, it will also enrich the discussions in the Atlantic Alliance. This is clearly indicated by the composition of the Committee of Nine.

On inquiry, the German Foreign Ministry added following illustrations.

Last year, the Committee of Nine was established by the NATO Parliamentarians Assembly to provide a report on the future development of the Atlantic relationship. This report will be published today in Brussels, Washington and Ottawa. Chairman of the Committee of Nine was the well-known US Senator Jacob K. Javits. Members of the committee are prominent political personalities from the NATO countries (e.g. former NATO Secretary General Manlio Brosio, Professor Hallstein, the late former Canadian Prime Minister Lester Pearson)."

Very truly yours,

BERNDT VON STADEN.

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### STATEMENT OF MINISTRY OF FOREIGN AFFAIRS OF THE NETHERLANDS

The Committee of Nine was set up by the North-Atlantic Assembly in September 1971. Mr. Van der Stoel was one of the members of the committee until he was appointed Minister for Foreign Affairs.

The report published today, in the preparation of which Mr. Van der Stoel accordingly did not take part, contains, so he believes, a number of interesting ideas and may therefore certainly be regarded as a useful contribution towards the thinking that is going on elsewhere and that is directed towards moulding Atlantic relations so that they may meet the needs of the future.

Mr. Van der Stoel would not wish to endorse some of the statements and recommendations contained in the report, particularly not the passages on European and nuclear cooperation that would seem to support the idea of a European nuclear force. He also queries the observations on mini-nuclear weapons (what are called "mini-nukes").

On the other hand, the report contains many positive points. The Minister applauds the Committee's conviction that the NATO countries should consider earnestly the matter of the application of the principles of individual liberty and democracy. The explicit reference to the obligations of the industrialized NATO countries to further the well-being of the Third World also accords entirely with Dutch views on the subject. Lastly, there are the recommendations in the report that are conducive to the strengthening of the position of the North Atlantic Assembly. It is common knowledge that such recommendations are in complete accord with Dutch views on the democratic supervision of international organizations.

### EUROPE AND AMERICA—THE COMMON DEFENSE

(Are European-American relations in a crucial state? David Reese reviews the final report of the Committee of Nine of the North Atlantic Assembly)

During the nineteenth annual session of the North Atlantic Assembly, held in Ankara, Turkey, in late October 1973, the Javits Report, or to be precise, the Final Report of the Committee of Nine, was presented to the meeting of the North Atlantic parliamentarians. This Committee was established by the seventh annual session of the Assembly, meeting in Ottawa in September 1971, and it was asked "to conduct a thorough study of the future of the Atlantic Alliance and of the most appropriate and desirable role to be played by the Assembly."

The Committee of Nine, meeting in the past two years, interpreted its terms of reference as requiring it to make "a major reassessment" of the security, economic and political relations between Western Europe and North American during the next decade, and also to make recommendations for strengthening European-American relations "in view of the challenges and opportunities" of the next ten years. The Javits Report thus appears at a time when the international system which led to the creation of the Atlantic Alliance has undergone, in the Report's words, "profound changes".

Some of these changes are noted in the Report's introduction. The sense of imminent military aggression against the West, prevalent in the 1950s, has receded, tensions have abated, and "in preventing war and promoting *détente,* the Alliance has been a major success". But the Report considers that the North Atlantic countries must conduct their political affairs in such a manner that the contrast with the totalitarian systems of Russia and China "is striking and abundantly clear to the entire word."

In this general political context, the Javits Report also considers that the treaties between the Federal German Republic and Poland, the USSR and East Germany, together with the Four-Power agreement on Berlin, have significantly improved European stability and East-West relations, largely due to a close coordination of Western policies.

But the main thrust of the Report, which comprehensively considers with impressive historical perspective the interrelated problems of both North America and Western Europe, is to stress the danger of unilateralism, whether in security policy or in foreign economic policy: "Given the strategic importance of Western Europe, European security is as important to North America as it is to the West European countries. An intensive involvement of the United States in the common security of Europe—supported by a strong and credible nuclear deterrent and by sufficient troop deployments—remains essential for stability and peace." The Javits Report goes on: "The Committee is convinced that the common interests which brought North America and Western Europe into military alliance and intimate political and economic association remain compelling".

The Report discusses in some detail the factors which have altered the original security and economic relationships between the American and Western European members of NATO.

These include the partial rapprochement between the US and the Soviet Union and the new possibilities of achieving *détente;* the complete recovery of Western Europe and creation of an enlarged Nine-power Community; and such negotiations as the Conference on Security and Cooperation in Europe (CSCE). But at the same time the Report notes the advent of Soviet nuclear parity with the US; 'the increasing threat in military capabilities which face the Northern and Southern flanks of the Alliance'; and, in the economic field, the new problems of trade and monetary relations which have arisen between the US and the Western European countries.

Thus while the Javits Report welcomes the lowering of international tensions, it considers that the *détente* should respect the rights of all peoples to choose their own regimes and ideologies and advocates 'the greatest possible degree of interchange of persons, ideas, and goods between the countries concerned.' Special attention, meanwhile, should be given to the problem of security in Europe, as the Report notes the 'continued build-up' of massive and well-equipped Warsaw Pact forces on the borders of Western Europe. In view of this build-up, the Committee of Nine states that 'during East-West negotiations, the countries of the Alliance must maintain their military capacity and military cohesion'.

In addition, the Report considers the US, in the final analysis, must provide the strategic nuclear capability which protects Western Europe and North America. But, just as the European Community has expanded its objectives to include European Union by 1980, so common European defence policies 'may be developed in the wake of common economic policies.' The Committee believes that an increase in intra-European defence cooperation is 'essential' and that 'the European and North American members of the Alliance should begin to plan now for the systematic coalescence of Western Europe's defence capabilities—including nuclear arms—in order that Western Europe can serve as an equal partner allied with the United States and Canada by the North Atlantic Treaty in the continued commitment to common defense in the 1980s . . .'

In short, the Javits Report calls for the systematic development of a European Defence Force, armed with both conventional and nuclear capability, and formed in the closest possible co-operation with the US and Canada, under the aegis of NATO.

Similarly, the Javits Committee considers measures to prevent the breakup of the postwar monetary and trading system of the West which has brought unparalleled prosperity to its member countries in the last twenty-five years.

The Committee therefore recommends a reformed monetary system based on stable parities, and on an internationally-agreed unit of account. The overseas dollar balances should be consolidated, and a return to dollar convertibility should be facilitated. But at the same time, reform of the international monetary system will accompany the movement towards European monetary and economic union. Comprehensive multilateral trading agreements should be developed within the framework of GATT. These negotiations, the Javits Report considers, are absolutely necessary to forestall the spread of protectionism and to remove progressively existing restraints and distortions in international trade.

But success in these forthcoming negotiations on trade and monetary reform also hinge, it may be noted, on whether individual governments can master inflation. And whether the recent U.S. balance of payments surplus can be maintained, for a strong dollar still remains the best *de facto* linchpin of the Western community.

In conclusion, it should be emphasized that the Report of the Committee of Nine is a truly creative document as it deals with the future defence and economic policies of the Atlantic World. It emphasizes the inherent strength of that world, as well as the continuing Soviet military build-up in Eastern Europe. But as the Report notes, there should be no contradiction between defence and *détene*. Perhaps the underlying political problem that faces the re-structuring of the Alliance, on the lines suggested by this Report, is the difficulty of communicating the shifts of power in world politics in the last decade to the grass roots.

It is fitting, therefore, that the Javits Report ends with a suggestion that the role of the North Atlantic Assembly should be expanded with greater official recognition. For ultimately, as this Report concludes, "a new sense of political direction in European-American relations must be established."

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[From the Wall Street Journal, Oct. 3, 1973]

### WHAT'S NEWS

A review of the NATO alliance by nine Western statesmen recommended that Western Europe move toward military self-reliance, but cautioned that U.S. ground troops are still necessary. Sen. Jacob Javits (R., N.Y.), who headed the Committee of Nine, said continuation of conventional NATO forces is essential because of "the political pressure which the Soviet Union is in a position to exert on Europe." The report also said Japan's participation is needed to stabilize economic arrangements.

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[From the New York Times, Oct. 3, 1973]

### NATO SECURITY IS LINKED TO U.S. TROOP PRESENCE

WASHINGTON, October 2.—An American-European study panel headed by Senator Jacob K. Javits declared today that it was necessary to keep United States ground troops in Europe to guarantee the security of the Western allies.

"Dependence on strategic nuclear forces alone is not sufficient to deter local hostilities," the panel said in a report issued after a two-year study of the North Atlantic Treaty Organization.

The panel, known as the Committee of Nine, was created two years ago by the North Atlantic Assembly, an association of Members of Parliaments of the 15 nations in NATO.

Senator Javits, Republican of New York, said at a news conference that the maintenance of a strong alliance was as important now as ever even though the character of the threat might have changed since NATO was formed in 1949.

NATO is essential, he said "not so much because of a threat of armed aggression as because of the political pressure which the Soviet Union is in a position to exert on Europe."

The study group, on which the United States was represented also by Representative Wayne L. Hays, Democrat of Ohio, completed its report before the Senate passed yesterday a military procurement bill with an amendment calling for United States troop withdrawals. The amendment said 110,000 of the 564,000 United States troops abroad should be brought home by the end of 1975.

The Committee of Nine recommended that alliance members "begin to plan now for the systematic coalescence of Western Europe's defense capabilities—including nuclear arms—in order that Western Europe can serve as an equal partner allied with the United States and Canada by NATO."

The report said this implied "an increase in West European self-reliance" and a gradual reduction of American troops in Europe but not until the nineteen-eighties.

Alluding to the impact on the United States' balance of payments from the stationing of large numbers of troops abroad and to United States demands for burden-sharing, the committee said:

"A solution of this problem, which bears importantly on the level of the United States troops to be maintained in Western Europe, can and should be negotiated through existing institutions."

Other recommendations in the committee report were for "gradual reduction and elimination of tariff and nontariff barriers to trade," adjustment of agricultural production to demand and a reformed international monetary system.

The committee also called for closer cooperation with Japan, Latin America, Australia and New Zealand.

Besides the two United States members, the Committee of Nine included Senator John Aird of Canada, Lord Harlech of Britain, Manlio Brosio of Italy, Michael Habib-Deloncle of France, Walter Hallstein of West Germany, Halfdan Hegtun of Norway and Dr. Ivo Samkalden of the Netherlands.

Senator Javits said the Brookings Institution of Washington and the Institute for Strategic Studies in London assisted the committee in its study, which was largely financed by foundation funds.

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[From the Washington Post, Oct. 3, 1973]

### A-Force Proposed for Europe

(By Murrey Marder)

Creation of a unified Western European nuclear arms force to help spread the burden of defense inside the Atlantic Alliance was recommended yesterday by a NATO study group.

The proposed nuclear force, which would pool the existing French and British nuclear weapons systems, was proposed as part of a long-range plan in a study that took two years to complete.

This long-discussed and politically sensitive European nuclear projection was coupled with emphasis on maintaining American nuclear power for overall protection of the North Atlantic Alliance, plus "sufficient North American conventional forces in Western Europe" to supply "credible deterrence" now that the Soviet Union has achieved strategic nuclear parity with the United States.

The recommendations were made by the Committee of Nine, representing the North Atlantic Assembly, composed of parliamentarians from the 15 NATO countries. Sen. Jacob K. Javits (R-N.Y.), chairman of the committee, and Rep. Wayne L. Hays (D-Ohio) discussed the report at a press conference here yesterday. The assembly will consider the report at its next meeting in Ankara, Oct. 21–27.

Secretary of State Henry A. Kissinger, in a statement, welcomed the general theme of the report without explicitly endorsing its specific proposals, such as the call for a European nuclear force.

Through a State Department spokesman, Kissinger used the occasion to revive the Nixon administration's emphasis on the linkage of defense, political and economic issues in Atlantic Alliance strategy and cost-sharing.

The United States was outmaneuvered on its linkage concept earlier this month when the nine European Common Market countries produced their unified declaration on future relations with the United States, with no mention of the overlapping interests. Bargaining is now underway to try to compromise the differences, with the next meeting set for Copenhagen on Oct. 18.

President Nixon's projected European trip awaits the outcome of these negotiations and another set of negotiations with NATO.

Kissinger, in his comments on the Committee of Nine report, said he "shares the committee's strong beliefs that the (Atlantic) relationships must be strengthened through more equitable defense burden sharing and a sounder understanding of the interplay between our security, political and economic relations."

Javits told newsmen that if Europe wants "a nuclear deterrent of its own, that is fine with us." But Javits also pointedly noted that U.S. support for nuclear forces in Europe first has to overcome "the falling away of France" from participation in the NATO defense system, which, he said, "we most severely deplore."

For long-range objectives, the reports said: "The European and North American members of the alliance should begin to plan now for the systematic coalescence of Western Europe's defense capabilities—including nuclear arms—in order that Western Europe can serve as an equal partner allied with the United States and Canada by the North Atlantic Treaty in the continued commitment to common defense in the 1980s.

"This implies," the report continued, "an increase in West European military self-reliance; and it calls for the gradual and orderly devaluation of certain defense responsibilities from the United States to the Western European countries—particularly to the countries of the emerging European union—or to institutions they coud use or develop."

The report said that "in the meantime" action should be taken "to bring about additional coordination and mutual technical aid between the nuclear forces of France, Great Britain and the United States."

On this key issue, however, the French participant in the study, Michael Habib-Deloncle, pointedly stated in one of his many reservations or dissents:

"The withdrawal of France from the integrated commands of the Atlantic Alliance has been an accomplished fact since 1966, and that fact is irreversible."

In addition to Javits, Hays and Habib-Deloncle, members of the committee included John Aird of Canada, Manlio Brosio of Italy, Walter Hallstein of Germany, Lord Harlech of Britain, Halfdan Hegtun of Norway and Ivo Samkalden of the Netherlands.

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[From the Baltimore Sun, Oct. 13, 1973]

### Europe Urged To Boost Defense Share

(By Charles W. Corddry)

Washington.—Western Europe should start planning immediately to take over some of the defense responsibilities shouldered by the United States and to increase its "military self-reliance" in nuclear as well as conventional arms, a prestigious international panel declared yesterday.

Headed by Senator Jacob K. Javits (R., N.Y.), the North Atlantic Assembly's so-called Committee of Nine said a quarter-century of political and economic change since the North Atlantic Treaty was signed has not lessened the need for the alliance but now requires a realignment of American-European security relationships.

The North Atlantic Assembly is an association of parliamentarians representing the 15 nations of the Atlantic Alliance. The report issued yesterday by its Committee of Nine was the product of two years of study on alliance prospects for the 1970's and 1980's and will be presented to the assembly at its 19th annual session, to be held in Ankara later this month.

Coming at a time of intense negotiations both within the alliance and between East and West, the document drew immediate plaudits from the secretary of state, Henry A. Kissinger, for its general thrust although he refrained from comment on specific passages, notably those dealing with separate European nuclear forces.

A statement issued in Secretary Kissinger's behalf said he "shares the committee's strong belief that the [Atlantic] relationship must be strengthened through more equitable defense burden-sharing and a sounder understanding of the interplay between our security, political and economic relations."

The latter part of the statement was a plain reference to the linkage seen here—and somewhat resisted in Europe, especially in France—between solutions to defense problems and to the range of economic issues that exacerbate American-European relations.

Although the Javits panel put forth proposals on economic and political issues, its major initiatives were in the defense arena.

#### CALL FOR MERGED FORCES

The committee of North Americans and Europeans steadfastly rejected the thought of American troop withdrawals from Europe at present, as was to be expected. Such a development could propel Western Europe into the Soviet orbit, Mr. Javits told a press conference.

But, the committee plainly saw, as well, that Western Europe faces a new situation in the coming decade and it admonished European nations to start preparing now.

They should begin planning for "the systematic coalescence" of Western Europe's defense capabilities "including nuclear arms," the panel said, in what seemed a clear call for merged European military forces.

"This implies an increase in West European military self-reliance," the report said, "and it calls for the gradual and orderly devolution of certain defense responsibilities from the United States to the Western European countries . . ."

While the committee offered no outline of responsibilities that Europe should take over from America, a larger nuclear role for the European forces clearly was envisioned. This would be based on the nuclear arms of Britain and France, and the panel proposed that steps be taken toward greater coordination and technical aid between American and European nuclear forces.

It also referred to technological developments in the nuclear field—smaller warheads and greater accuracy—that could bring changes in the size and make-up of military forces in Europe and presumably reductions in manpower.

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[From the Montreal Gazette, Oct. 3, 1973]

### NATO Study Urges Coordinated Oil Policy

Ottawa.—A committee of legislators from eight of the 15 NATO countries has proposed co-ordination of energy and foreign investment policies by Europe, North America and Japan, and a review of NATO's defense strategy in Europe.

The so-called Committee of Nine—the United States has two members: Canada and six others one each—says in its report released yesterday that continued NATO strength is necessary to win relaxed relations with the Soviet Union and the Warsaw Pact.

The report, two years in the making, was submitted to Sir John Peel, president of the North Atlantic Assembly. That grouping of legislators from the NATO countries will debate the report when it meets in Ankara, Turkey, Oct. 21 to 27.

Senator John Aird (L-Ontario), Canadian member on the committee, said he expects the report to influence future policies of the alliance.

The report cites the growing demand for oil in all the countries of the North Atlantic Treaty Organization, as well as Japan. And it notes their dependence on supplies from the Middle East and Persian Gulf.

"In light of these considerations, the committee believes that it is imperative for the European Community, the other countries of Western Europe, Japan and North America to bring together their individual energy policies and strategies."

It says that could include stockpiling programs, maintaining a reserve tanker fleet, standby production facilities and provision for emergency sharing of imports.

#### CO-ORDINATE RESEARCH

It would also include co-ordinated research and development.

The committee says that "an understanding should be reached among the industrialized countries on foreign investment policies.

Multinational firms had brought great benefits, along with problems for governments involved.

"The international system is lacking in agreed rules and principles in this important area. Steps should be taken promptly to remedy this lack."

In this and other issues, the Committee of Nine stressed the need for co-operation between NATO and Japan, the biggest non-communist industrial power outside the alliance.

The committee, chaired by U.S. Senator Jacob Javits, says improved relations between NATO and the Warsaw Pact countries "lessen in no way the need for continuing the Atlantic Alliance."

"Indeed, the relaxation of international tensions increases the necessity for a grouping of democratic states which provides an element of continuity and stability in a changing political environment."

Now that the Soviet Union equals the United States in nuclear power, NATO's strategy of flexible response should be reviewed, the committee says.

Flexible response, developed in the early 1960s, involves choosing at NATO reaction to military aggression depending on the form of that aggression, ranging from small incursions to all-out nuclear war.

Senator Aird, chairman of the Senate foreign affairs committee, said in an interview that NATO should particularly examine the use of tactical nuclear weapons—relatively small weapons in the battlefield.

He said the development of new kinds of non-nuclear weapons—including lasers and remote-controlled missiles—may have made tactical nuclear weapons obsolete.

The report says the major threat to Western Europe has shifted from massive aggression "to types of threat in which external political pressure is likely to be more frequent than the overt use of military force."

It says that makes a co-ordinated security policy for NATO even more imperative.

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[From the Toronto Star, Oct. 3, 1973]

### NATO COUNTRIES TOLD TO CONSULT ON ENERGY ISSUE

OTTAWA.—Canada, the United States, Europe and Japan should act together on energy matters because of their dependence on oil supplies from the Middle East and Persian Gulf, a report by a committee representing eight North Atlantic Treaty Organization (NATO) countries said yesterday.

The report, written by a committee of legislators from the eight countries, cites the growing demand for oil in all NATO countries, as well as Japan.

#### OTHER COUNTRIES

"In light of these considerations, the committee believes that it is imperative for the European community, the other countries of western Europe, Japan and North America to bring together their individual energy policies and strategies," the report said.

The report says this could include stockpiling programs, maintaining a reserve tanker fleet, standby production facilities, provision for emergency sharing of imports and co-ordinated research and development.

The committee's report also proposed co-ordination of foreign investment policies by Canada, the U.S., Europe and Japan and a review of NATO's defence strategy in Europe.

#### RELAXED RELATIONS

The report says that continued NATO strength is necessary to win relaxed relations with the Soviet Union and Warsaw Pact countries.

The committee says that "an understanding should be reached among the industrialized countries on foreign investment policies."

It says multi-national firms had brought great benefits—along with problems—to governments involved.

The report, two years in the making, was submitted to Sir John Peel, president of the North Atlantic Assembly, and will be debated at a NATO meeting in Ankara, Turkey, Oct. 21 to 27.

Senator John Aird (L-Ontario), Canadian member on the committee, said he expects the report to influence future policies of the 15-member alliance.

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### THE COMMITTEE OF NINE COMPLETES MAJOR RE-ASSESSMENT OF EUROPEAN-AMERICAN RELATIONS

The Committee of Nine, a group of prominent statesmen and parliamentarians from Western Europe and North America, has completed a two-year major reassessment of the security, economic, political, and inter-parliamentary relations between Western Europe and North America during the next ten years.

Senator Jacob K. Javits (United States) is the Committee's Chairman; and its members are Senator John Aird (Canada), Senator Manlio Brosio (Italy), M. Michael Habib-Deloncle (France), Professor Walter Hallstein (Germany), Lord Harlech (United Kingdom), Congressman Wayne Hays (United States), Mr. Halfdan Hegtun (Norway), and Dr. Ivo Samkalden (Netherlands). Lester Pearson, former Prime Minister of Canada and recipient of the Nobel Prize for Peace, was a member of the Committee until his death in late-December 1972. Max van der Stoel (Netherlands) was also a member until he was appointed Minister for Foreign Affairs in May 1973. Senator Qhsan Sabri Caglayangil (Turkey), Dr. Karl Momer (Germany), and Ambassador Alberto Franco Nogueira (Portugal) were advisors to the Committee; and Darnell Whitt (United States) and Anthony Hartley (United Kingdom) were Executive Directors of the Committee of Nine.

The Committee was established in September 1971 by the North Atlantic Assembly, an association of official parliamentary representatives from the fifteen member-nations of the Atlantic Alliance. The Committee's Report will be officially presented to North Atlantic Assembly President Sir John Peel at the Assembly's International Secretariat in Brussels on Tuesday, October 2nd. The Committee has unanimously recommended that its Report be adopted by the North Atlantic Assembly at its Nineteenth Annual Session to be held in Ankara October 21st through 27th.

### Significant extracts from the final report of the Committee of Nine are:

European-American security policy during the next decade means in essence to pursue simultaneously two seemingly contradictory objectives: maintaining an adequate military balance and promoting a detente with an adversary. On the eve of the twenty-fifth anniversary of the North Atlantic Treaty in 1974, the problem is no longer one of simply responding to a military threat which clearly exists, but of reconciling the requirements for military security with the long-awaited improvement in East-West relations.

The probability of security crises has shifted from all-out aggression to types of threat in which external political pressure is likely to be more frequent than the overt use of military force. Contrary to growing beliefs, these developments make a coordinated security policy more, and not less, imperative. Indeed, the role of the Atlantic Alliance in European-American affairs is essential for providing the degree of political cohesion which is the necessary condition for detente diplomacy, including specifically the current series of discussions with the Soviet Union and its allies on European security and cooperation.

While welcoming the lowering of international tensions implied by recent East-West agreements and current negotiations, the Committee stresses that detente is a lengthy and uncertain process involving national policies directed toward an accommodation of conflicting interests. Undoubtedly, certain common interests between the Soviet Union and the members of the Atlantic Alliance (the avoidance of mutual destruction by nuclear weapons is an obvious example) can lead to further cooperation. But it is a fact that the expansion of free communication and East-West movement of information and individuals will be an essential part of any real and lasting detente. Member-nations should continue to impress upon the Soviet Union the importance they attach to democratic values. They should use the forum provided by the CSCE to emphasize those values and to give very serious attention to the freer movement of information and individuals and to human rights guaranteed by law—not only because of the intrinsic importance of these values, but also because of their relationship to European political stability.

The Soviet-American Agreement on the Prevention of Nuclear War confirms the intention of the United States to maintain the credibility of its nuclear deterrent. Dependence on strategic nuclear forces alone, however, is not sufficient to deter local hostilities, especially now that the Soviet Union has achieved strategic nuclear parity with the United States. Credible deterrence is closely connected with the continued presence of sufficient North American conventional forces in Western Europe as part of a substantial military force composed of West European and North American components. This deployment is also related to the issue of an equitable system of national contributions (both military and economic) to the common defense—a matter which remains a problem. The Committee believes that no member-nation stationing troops abroad in the common defense should suffer significantly in its balance of payments due to the foreign-exchange costs of such deployments. The West European allies currently do more in the field of cost-sharing than is generally realized in the United States. The European Community has expanded, and the decision of the European summit meeting at Paris in October 1972 to transform Community relations into a European union by 1980 suggests that among its members common foreign and defense policies may be developed in the wake of common economic policies.

Noting that significant West European defense cooperation on strategy and force levels is being undertaken in the EUROGROUP of NATO by the countries which belong to that group, the Committee of Nine recommends that the European and North American members of the Alliance should begin to plan now for the systematic coalescence of Western Europe's defense capabilities—including nuclear arms—in order that Western Europe can serve as an equal partner allied with the United States and Canada by the North Atlantic Treaty in the continued commitment to common defense in the 1980s. This implies an increase in West European military self-reliance; and it calls for the gradual and orderly devolution of certain defense responsibilities from the United States to the Western European countries—particularly to the countries of the emerging European union—or to institutions they could use or develop. Such an adjustment in European-American policies should promote the future prospects for the Alliance.

In that regard, members of the Atlantic Alliance must develop a coherent perception of the new configuration of European security and political relationships which they wish to see emerge from CSCE, MBFR, SALT, and other negotiations which affect intra-Alliance institutions as well as East-West relations. If the case for transatlantic security cooperation during the next decade is based entirely on expectation of all-out aggression, then the credibility of that cooperation will be diminished because this type of aggression has become improbable (to a large extent due to the Atlantic Alliance).

The strains caused by disagreements over economic arrangements, as well as by political and military issues, may lead to weakening seriously American-European relations and to eroding public support for close ties between Western Europe and North America. Japan is a necessary partner, along with North America and the European Community, in developing a strong and adaptable international economic order. As part of its analysis and recommendations, the Committee calls for a reformed international monetary system that should provide for stable parities, based on an internationally-agreed unit of account, and suitable adjustments in such parities as frequently as necessary. The Committee advocates a consolidation of the large volume of American dollars held in foreign central-bank reserves and a return to dollar convertibility. Reform of the international monetary system will accompany the movement toward economic and monetary union within the European Community, with a single currency in one form or another. There is no conflict between these parallel developments.

In evaluating trade negotiations, the Committee calls for the gradual reduction and elimination of tariff and nontariff barriers to trade, and the improvement of policies in order to adjust agricultural production to demand. The Committee notes the expansion of East-West trade, calls for alignment of individual energy policies, and stresses that an understanding should be reached among the industrialized countries on foreign investment policies. In discussing the economic health of the less-developed countries, the Committee advocates generalized tariff-preference arrangements on a greatly liberalized basis, and recommends that the industrialized states should reaffirm their foreign-aid commitments to contribute annually one percent of their respective gross national products.

A majority of Committee members believes that the present very serious situation in European-American relations may require summit meetings in order to generate the political will required to coordinate national policies and carry the weight of authority sufficient to motivate public opinion. European-American summit meetings, if carefully prepared, are decisive; and, until the present serious situation is overcome, they would give the greatest impetus to solving current European-American problems. Such special meetings are compatible with West European summit meetings and would not diminish their importance or authority, either in intention or effect. The methods of the European Community have proved that the setting of objectives and times by which they must be achieved has a beneficial effect in creating a sense of urgency among national and international officials.

The Committee notes that the North Atlantic Assembly is the essential transatlantic interparliamentary forum which provides official links between North American legislators and West European parliamentary bodies. The North Atlantic Assembly should be the primary institution for interparliamentary cooperation on a broad range of problems and issues—political, security, economic, and social—which is necessary for improving relations between North America and Western Europe in the years ahead.

Regarding the Assembly's response to the Report, the Committee believes that a small group of distinguished European and North American delegates from the Assembly could visit major capitals—including Tokyo, in so far as Japan is affected—in order to convey the substance of these resolutions personally to appropriate committees of national legislatures—as well as to heads of governments, appropriate ministers, the Secretaries General of NATO and OECD, and the Commissioners of the European Community. The Committee also recommends that a "high-level contact body" be set up to watch over and report on emerging European-American differences. The proposed group might consist of one or two North Americans and a similar number of West European members of the Assembly; it could report each year to the Assembly and its appropriate committees on the state of political, economic, and security aspects of European-American relations. In a third recommendation to the Assembly, the Committee suggests that the Assembly might achieve a more established status by proposing a formal protocol for subscription by the nations of Western Europe and North America or by suggesting where appropriate a suitable declaration for the same general purpose. The protocol or declaration would put directly to member-nations the issue of official status for the Assembly.

In conclusion, the Committee urges that a new sense of political direction in European-American relations must be established. The challenge in political relations between the nations of Western Europe and North America during the next decade is to foresee the necessary adjustment of policies to new challenges, and to manage the transition required by changing internal and international conditions.

The Committee of Nine held eight meetings in 1972 and 1973. Meetings took place in Italy, the United Kingdom, Canada, Germany, France and Belgium.

To assist members of the Committee in forming their opinions and recommendations on European-American relations during the next ten years, the Committee organized a research program composed of a number of research organizations and international experts in Western Europe and North America. Nearly eight hundred pages of specialized papers on political, security, social, and economic affairs were prepared by thirty authors fom nine nations—including two nonaligned states, Sweden and Switzerland.

The work of the Committee of Nine has been financed entirely from funds made available by a number of private institutions and interested individuals in Western Europe and North America. Tax-exempt contributions for research and operating expenses of the Committee amounted to several hundred thousand dollars during 1972 and 1973. The Governmental Affairs Institute—a private, nonprofit professional organization in Washington—received and disbursed funds for the Committee and provided administrative services.

## THE NATIONAL COMMISSION ON THE FINANCING OF POSTSECONDARY EDUCATION

Mr. HATHAWAY. Mr. President, the National Commission on the Financing of Postsecondary Education on which my distinguished colleague from Maryland, Mr. Beall, and I have the privilege to serve, made public today its report after more than a year of study and deliberation. The Commission was authorized by the education amendments of 1972.

It is my belief that this Commission has made an unique and valuable contribution in providing a systematic approach to an extremely difficult problem. Faced with a broad congressional mandate, a myriad of plans and proposals, and heated debate generated by the reports of other study groups, the Commission could have simply added to the existing confusion by suggesting still another set of solutions for the complex problems of financing postsecondary education. The Commission chose not to take this course. Instead it devoted much of its time and effort to establishing a foundation in fact and an orderly, reasoned approach to thinking about financing post-secondary education. The comprehensive data base on institution, students and sources of financial support, and the analytical framework established in the report should be invaluable tools to all those, including the committees of Congress, who have the responsibility for choosing among policy alternatives.

The Commission report, then, represents not a final answer to the problems of financing postsecondary education but a beginning to an orderly process toward reaching such answers. The Commission work will be of great assistance to the Senate as it begins work next year on amendments to the higher education legislation which expires at the end of 1975.

I would like to take this opportunity to express appreciation to Mr. Donald E. Leonard who served ably and tirelessly as the Commission chairman, and to the outstanding Commission staff especially Dr. Ben Lawrence, Executive Director and Dr. George Weathersby, Research Director.

I respectfully ask unanimous consent that the Conclusions and Recommendations of the Commission be printed in the Record.

There being no objection, the conclusions and recommendations were ordered to be printed in the Record, as follows:

### CONCLUSIONS AND RECOMMENDATIONS

Postsecondary education, like the entire American society, has changed significantly during the past twenty years. To respond to this change, the first tasks of those charged with the financing of postsecondary education are to put aside outdated perceptions, look anew at the objectives of postsecondary education, and examine the methods by which those objectives may be accomplished. Those who propose changes in financing must be able to offer reasonable assurances that what they propose will produce the intended results.

For this reason, the Commission and its staff have placed the highest priority on assembling pertinent data and using them to analyze alternative policy proposals in a systematic way. Thus, while the Commission believes its recommendations to be important, so too are the substantive findings on which they are based and on which others may base their own recommendations. Therefore, this chapter includes not only the Commission's recommendations, but also those of its conclusions that it believes to be important considerations for the resolution of policy issues in the future.

### POSTSECONDARY EDUCATION IN A CHANGING SOCIETY

#### *Conclusions*

1. Postsecondary education in the United States is a large enterprise including more than 2,900 traditional collegiate institutions serving some 9.3 million students and an additional 7,000 noncollegiate technical, vocational, and proprietary institutions serving approximately 1.6 million students. Postsecondary education also includes an estimated 3,500 additional institutions and organizations (serving an unknown number of students) as well as a great many other noninstitutional learning opportunities (in which as many as 32 million people may participate).

2. Recognizing the broad scope of postsecondary education, the Commission has adopted for the purposes of its study the following definition, encompassing the 2,900 traditional collegiate institutions and 7,000 noncollegiate institutions:

Postsecondary education consists of formal instruction, research, public service, and other learning opportunities offered by educational institutions that primarily serve persons who have completed secondary education or who are beyond the compulsory school attendance age and that are accredited by agencies officially recognized for that purpose by the U.S. Office of Education or are otherwise eligible to participate in federal programs.

3. Total enrollment of students from the traditional college-age group (18–21) in the collegiate sector will continue to increase during the 1970s but at a rate reduced from that of the 1960s. During the 1980s, however, total enrollment of such students is likely to decline, although some sectors may experience enrollment growth. Data necessary to project enrollment from other age groups and in the noncollegiate senior are not available.

4. Ethnic and racial minorities, persons from low-income families, women, and individuals of all ages seeking continuing professional development or retraining will make up an increasing proportion of total enrollment in postsecondary education.

5. The new 18-year-old "age of majority" and emerging changes in high school programs are likely to affect postsecondary education in major ways that are not yet easily determined.

6. Institutions of postsecondary education will be under strong pressure to increase their productivity to match rising costs.

7. A number of other important changes are taking place in the society and among the institutions of postsecondary education that will have an important bearing on the level and structure of financial support necessary to serve the interests of society and individuals. These changes are described in Chapter 1.

*Recommendations*

1. The Commission recommends that data should be collected on those sectors of postsecondary education other than those identified herein as the collegiate and noncollegiate sectors.

### OBJECTIVES FOR POSTSECONDARY EDUCATION

*Conclusions*

1. A set of objectives for postsecondary education in the United States is necessary for evaluating alternative proposals for financing postsecondary education.

2. A set of criteria for each objective is needed to measure the degree of achievement of the objective.

*Recommendations*

1. The Commission recommends the adoption of the following eight objectives:

a. Each individual should be able to enroll in some form of postsecondary education appropriate to that person's needs, capability, and motivation.

b. Each individual should have a reasonable choice among those institutions of postsecondary education that have accepted him or her.

c. Postsecondary education should make available academic assistance and counseling that will enable each individual, according to his or her needs, capability, and motivation to achieve his or her educational objectives.

d. Postsecondary education should offer programs of formal instruction and other learning opportunities and engage in research and public service of sufficient diversity to be responsive to the changing needs of individuals and society.

e. Postsecondary education should strive for excellence in all instruction, research, public service, and other learning opportunities.

f. Institutions of postsecondary education should have sufficient freedom and flexibility to maintain institutional and professional integrity and to meet, creatively and responsibly, their educational goals.

g. Institutions of postsecondary education should use financial and other resources both efficiently and effectively and employ procedures sufficient to enable those who provide the resources to determine whether those resources are achieving desired outcomes.

h. Adequate financial resources should be made available to permit the accomplishment of the foregoing objectives. This is a responsibility that should be shared by a combination of public and private sources, including federal, state, and local government, and by students, parents, and other concerned individuals an organizations.

2. The criteria used by the Commission in measuring the achievement of these objectives have been helpful in the analysis of alternative financing plans, but additional effort should be directed toward improving these criteria.

### CURRENT FINANCING PATTERNS

*Conclusions*

1. In fiscal year 1972, the income of postsecondary educational institutions was about $30 billion. Of this $30 billion:

21 percent was received from students and parents;

31 percent was received from state and local governments;

27 percent was received from the federal government;

9 percent was received from gifts and endowment income; and

12 percent was received from auxiliary enterprises and other activities.

2. The level and character of financial support varies greatly from state to state and institution to institution, and this variation must be taken into account in developing effective national programs and policies.

3. In 1972, public financing for postsecondary educational expenditures at institutions amounted to $17.2 billion. Of this amount, $4.2 billion, or 26 percent, was provided through students and $13.0 billion, or 74 percent, was provided through institutions. An additional $1.1 billion in public support was provided to students for living costs and education-related expenditures.

*Recommendations*

1. The Commission recommends that comparable financial information for the entire postsecondary education enterprise be collected and reported in a timely and systematic fashion.

2. The Commission further recommends that financial information associated with institutions of postsecondary education be collected and reported in close cooperation with the states.

### ASSESSING THE ACHIEVEMENT OF THE NATIONAL OBJECTIVES

*Conclusions*

1. The postsecondary education objective of student access, when measured in terms of income, race, ethnic group, sex, and geographic location, is not yet accomplished.

a. The participation in postsecondary education of individuals 18–24 years of age from families earning less than $10,000 per year is 17.3 percent while the corresponding participation rate of families earning more than $10,000 per year is 38 percent.

b. The rates of participation in postsecondary education for individuals from certain racial and ethnic minorities are far below the participation rates of other Americans.

c. Women are also underrepresented in postsecondary institutions, constituting 51 percent of the 18–24 year age group but only 44 percent of undergraduate enrollment and 39 percent of graduate enrollment.

d. The location of collegiate institutions best serves those individuals who live in small metropolitan areas. Those who live in large metropolitan areas are only somewhat better served than those who live in rural areas. Lack of data on noncollegiate institutions does not permit us to draw corresponding conclusions for the noncollegiate sector.

2. Family income alone is not the only important variable in determining an individual's decision to seek postsecondary education. Parental education and occupation may be even more important in affecting postsecondary enrollment and access measures. Among other factors, rigid high school tracking is the single most significant controllable factor.

3. There is inadequate information to enable the Commission to make a firm judgment concerning the degree of student choice. Further research could provide a more complete understanding of the interactive processes of admission, financial aid, and enrollment. Aggregate data from both the public and private sectors would suggest, however, that those students who do obtain access to some institution of postsecondary education are distributed proportionately according to income level within both sectors.

4. The extent to which students are assured an opportunity to achieve their educational objectives, once enrolled, is particularly difficult to measure. Program completion rates have been examined as one limited measure for this objective, and the cost of attendance does not appear to be a controlling variable in program completion. For many students, however, program completion is an inappropriate measure of opportunity, particularly for those enrolled in any occupationally-oriented institutions, where students may be more concerned with receiving particular instructional services than with completion of a degree or certificate program.

5. There are many program offerings available in a variety of different sizes and types of institutions. Nevertheless, the existence of a multiplicity of programs does not necessarily provide diversity, because the programs of many institutions are very similar. To the extent that individuals may wish to enroll in programs with different characteristics, diversity may well be limited.

6. Although the Commission is aware of a variety of efforts to support and measure excellence in postsecondary education, it finds excellence difficult to evaluate and finds no adequate measures to fully asess the level of achievement of the objectives of excellence. in postsecondary education, it finds excellence difficult to evaluate and finds no adequate measures to fully assess the level of achievement of the objective of excellence.

7. Current evidence indicates that institutions that receive substantial financial support from a variety of public or private sources are neither more independent nor better able to achieve their educational objectives than those primarily dependent on a single source of support. The relative availability or scarcity of financial resources is probably the most significant factor affecting institutional independence.

8. Historically, institutions have attempted to meet their responsibilities for financial accountability to their major sources of financial support through a variety of techniques. Many of the information and analytical procedures now required for the efficient and effective allocation of resources in increasingly complex institutions and for the determination of postsecondary education policy are not readily available, and those that are available are not widely used.

9. Although the financing of postsecondary education is a responsibility shared by many sources, the total amount of resources currently made available is not adequate to accomplish fully each of the objectives identified by the Commission.

### THE INCIDENCE OF FINANCIAL DISTRESS AMONG INSTITUTIONS OF POSTSECONDARY EDUCATION

#### *Conclusions*

1. There is no generally accepted definition of financial distress used in the postsecondary education enterprise. For the purposes of the Commission's analysis, however, "financial distress would exist in the postsecondary education enterprise or in one of its major sectors when the lack of money and other resources prevented the desired degree of achievement of national postsecondary objectives."

2. No generally accepted standards or uniform criteria are available to ascertain the existence or extent of financial distress in postsecondary education.

3. The Commission concludes that an evaluation of financial distress in postsecondary education should incorporate at least three sets of indicators: factors concerning institutional financial status, factors related to the financing of the total postsecondary education enterprise, and factors external to postsecondary education.

4. Based on an analysis of selected statistical evidence, the financial status of the post secondary education *enterprise* is not substantially jeopardizing the achievement of postsecondary education objectives. Some postsecondary *institutions,* however, are already in financial distress; and if present patterns and conditions of financing continue, there is a high probability that such distress will occur in several *sectors* of postsecondary education as well.

#### *Recommendations*

1. National standard indicators should be developed to determine the relative financial status of the different types of postsecondary educational institutions. The Commission report suggests a number of such indicators for consideration.

2. When there are substantial shifts in public financing of specific programs, they should be effected over a reasonable period of time. Appropriating funds for all education programs one year in advance of spending would be especially helpful.

3. The programmatic interrelationships among research programs, graduate education, and undergraduate education should be studied so as to understand better the induced financial effects of individual program financing decisions on an institution.

4. Grants and contracts with institutions of postsecondary education either should include long-term programmatic support that recognizes the interrelationships among the various functions of the institution or should cover the costs associated with purchasing the service as if it were provided separately from other functions within the institution.

### A FRAMEWORK FOR ANALYZING NATIONAL POLICIES OR FINANCING POSTSECONDARY EDUCATION

#### *Conclusions*

1. Because the arrangements for financing postsecondary education are complex, the Commission believes that policy makers will find a comprehensive analytical framework useful in developing financing proposals that will accomplish the objectives they seek.

2. The Commission found useful one such analytical framework employing the following ten major elements: objectives, criteria to measure the achievement of objectives, a series of assumptions about the society and the institutions of post secondary education, a set of general policies to accomplish the objectives, financing mechanisms to carry out the policies, specific financing programs, an extensive data base for postsecondary education, a method for estimating student and institutional responses to changes in financing, a set of measurements to describe the achievement of the objectives, and, finally, a judgmental review of the financing mechanisms and programs in relation to the objectives.

#### *Recommendation*

The Commission recommends that federal, state, and other policy makers for postsecondary education use an analytical framework similar to that described in this report for considering financing proposals.

### AN ANALYSIS OF ALTERNATIVE FINANCING PLANS

#### *Conclusions*

The Commission concludes that an analytical framework, similar to that described in Chapter 6, provides an instrument that can significantly improve the capacity of policy makers to make decisions about the financing of postsecondary education.

However, such frameworks are difficult to develop, as demonstrated by the limitations of the analytical model, one element of the framework. For although the analytical model provides useful estimates with respect to student response to pricing decisions, the model does not, because of deficiencies, estimate institutional responses to a variety of financing mechanisms designed to aid institutions.

#### *Recommendation*

The Commission strongly recommends further research on, and development of, analytical frameworks and models similar to those used by the Commission. The Commission also recommends further collection and analysis of data which, although currently not available, would be useful for the evaluation of the impact of major financing alternatives on the achievement of national objectives, particularly objectives related to institutions, such as diversity and excellence.

### NATIONAL STANDARD PROCEDURES FOR INSTITUTIONAL COSTING AND DATA REPORTING

#### *Conclusions*

1. The most useful unit cost data for administrators and policy makers are the direct, indirect, and full (direct plus indirect equals full) annual per-student costs of instruction for each major field of study, level of instruction, and type of institution.

2. Cost-per-student calculations are technically possible for most instructional programs at most institutions; however, the currently available procedures do not fully reflect the complexities of those institutions that offer a combination of instruction, research, and public service programs or a combination of vocational and academic programs.

3. Policy makers should not rely solely on annual per-student costs of instruction for the development of policy in postsecondary education.

#### *Recommendations*

1. The Federal government should provide continuing leadership in encouraging and developing national standard procedures, appropriate to each type of institution, for calculating the direct, indirect, and full annual cost of instruction per student by level and field of study.

2. Interim national standard procedures for calculating those costs per student should be adopted by the federal government to be implemented by institutions on a voluntary basis. Cooperating institutions should receive financial assistance to cover costs related to implementation of the interim procedures and reporting their cost information. (The Commission has suggested interim national standard procedures, which are described in a separate staff document.)

3. Federal support should be provided for the development and reporting of financial and program data to supplement and extend the cost-per-student data. Examples of suggested additional financial data may be found in Chapter 8 of this report.

4. The federal government should ensure that the data base assembled by this Commission is updated, maintained, and made available to appropriate public and private agencies.

5. The federal government should support a national center for educational information with the responsibilities and characteristics listed in the text of Chapter 8.

The primary purpose of the efforts of the Commission has been to set the context for debate on the financing of postsecondary education. In this regard, we have neither selected nor recommended any single financing plan; nor by presenting and analyzing several alternatives do we imply that the alternatives are all equally acceptable or that these are preferable to other plans not analyzed. These alternatives were examined for analytical purposes only.

It is the hope of this Commission, however, that the data and analytical framework developed by the Commission will improve the policy decisions of institutions, governments, and private organizations. There are many additional topics that the Commission would like to have addressed—and would have addressed had it had available a data base and analytical capacity at the beginning of its work. Nor is this report intended to be a definitive product. It is a beginning for those who will continue working in this critical area of public policy.

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## ALEXANDER SOLZHENITSYN

**Mr. BIDEN.** Mr. President, in the past few weeks, the Soviet author, Alexander Solzhenitsyn has been the subject of numerous articles in newspapers and magazines. He is assailed and accused of treason and sedition, both grave crimes with stiff punishments under Soviet law. Specifically, he is being attacked for having written the controversial book, "The Gulag Archipelago."

This book is primarily a study and exposition of the Soviet prison system and secret police from Lenin through Khrushchev. It reveals through Solzhenitsyn's personal experiences in the archipelago—where Soviet prison camps are located—and accounts, letters, and memoirs of some 227 victims and of the terrifying and horrible fates of the accused. Two of the most gripping suggestions of the book is that no one including Solzhenitsyn knows how many people perished under this repression. The number might well be in the millions. The worst implication is that this police system still functions today. Robert Kaiser of the Washington Post reports from Moscow reaction to the book that heap still more condemnation on Solzhenitsyn.

> Solzhenitsyn's preoccupation is the history of modern Russia. This is a dangerous subject because history is not just a branch of academic learning here, it is a tool of political ideology. In the official view, what happened is not so important as what should have happened.

Mr. President, I ask unanimous consent that an article from the Washington Post of January 17, 1974, discussing Solzhenitsyn's latest book be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Jan. 17, 1974]

### Solzhenitsyn Too Frank for Soviets To Take

(By Robert G. Kaiser)

Moscow.—In the last few days, Alexander I. Solzhenitsyn has been officially abused and castigated as has no Soviet citizen in recent memory. He has been accused of crimes and transgressions that have sent many lesser-known men to Soviet prisons for long terms. He has been dismissed as a literary traitor.

Every newspaper, it seems, has joined in the chorus of condemnation. Soviet radio and television echo it. Solzhenitsyn is the big news of the day, not only in the West where his new book "The Gulag Archipelago" is the subject of unprecedented publicity, but in his own country, too.

What is the importance of this man and his books? Does the furor reveal something new about the Soviet Union—its history or its present?

Any answers must be tentative, but there are some. The Solzhenitsyn furor is not a revelation of something new. Rather it is a vehicle for revealing—in unusually clear detail—many old facts.

Solzhenitsyn is a unique figure—"our only living classic," as the poet Yevgeni Yevtushenko (now an orthodox spokesman for the status quo) once described him. Solzhenitsyn is not representative of Soviet literature or even of the disaffected intelligentsia. He is more outspoken, bitter, and courageous in his convictions, than any other talent in the modern Soviet Union.

Many Soviet writers and officials would accept that characterization without regarding it as a compliment to Solzhenitsyn. He is not universally loved and admired in the way, for instance, Boris Pasternak was. He is too bold and self-confident, too abrasive and frank for that.

Moreover, he is an unremitting pessimist about the Soviet Union, a posture that sets him against those with a normal quotient of optimism. He seems to see no ray of hope. He thinks that literature must preserve what politics has destroyed. Solzhenitsyn believes that only literature—not least his own literature—can preserve the Russia he loves and believes is real.

Solzhenitsyn is unique in another important respect. He is the most famous contemporary writer in the world. His name is better known than most political leaders. His fame and his Nobel Prize for literature give him a special form of protection here.

Solzhenitsyn's preoccupation is the history of modern Russia. This is a dangerous subject because history is not just a branch of academic learning here, it is a tool of political ideology in the official view, what happened is not so important as what should have happened. Official historians blithely write that what should have happened actually did happen.

Solzhenitsyn replies that this a fraud. He challenges the orthodox Soviet view of history on its most sensitive points. He writes with sympathy about Soviet soldiers who joined the Nazis to fight against their homeland. He challenges the idea that Lenin was a faultless saint in men's clothing. He demands that the Soviet Union admit the entire truth about Stalin's dictatorship and call to account those who helped perpetrate Stalin's crimes.

In all this, Solzhenitsyn is fighting against a deeply embued conventional wisdom which—it seems fair to estimate—at least 90 per cent of the Soviet population accepts unquestioningly.

There is no argument here about Lenin's qualities, about the country's heroic struggle in World War II or about the official contention that Stalin was just an aberration in the glorious history of Soviet communism.

Yet Solzhenitsyn wants to argue all these points and more in a society with no tolerance for malcontents, troublemakers or freethinkers. He wants to argue about the existence of God with the Pope. The Pope isn't interested.

The official reaction to "The Gulag Archipelago" suggests what a sensitive nerve Solzhenitsyn has touched. The unprecedented vitriol directed against him seems an indication of the strength of conformity. The propagandists who have answered Solzhenitsyn this week have paid scant attention to facts. Their quotes from his book are generally distorted or taken out of context, their accounts of the Western publicity for the book are more emotional than accurate.

The flavor of the attacks is bitter. Private comments by Soviet journalists and officials are the same. "I have always hated traitors," a journalist said this week. Could a man be called a traitor for writing a controversial book? This journalist had no doubt that he could.

"It was said a long time ago, and correctly: He who isn't with us is against us." So wrote an ordinary citizen about Solzhenitsyn in a letter to Pravda, the official newspaper. Yuri Zhukov, Pravda's chief commentator, told Western journalists last week that he had received hundreds of letters from the general public demanding that Solzhenitsyn be harshly punished.

Generalizations are never entirely accurate. But it does seem fair to say that the Soviet people are a single-minded and tough-minded lot. Their sources of information are meager. Their patriotism is almost boundless. Their appetite for revenge and retribution is substantial. The Anglo-Saxon, Judeo-Christian notion of tolerance has little resonance in this society. Nor is there a widespread respect for what Westerners would regard as objective truth. Unswerving loyalty is most admired.

Solzhenitsyn himself is not immune to these Russian traits. He is not a liberal in the Western sense, and not an admirer of pluralism for its own sake. In a recent letter, he lambasted American politicians for making such a furor over the Watergate:

"What did they expect from a democracy that has no built-in ethical foundation, a democracy that constitutes a clash of interests, and no more than interests, a clash regulated only by the constitution without any all embracing ethical edifice?"

Yet Solzhenitsyn is different from the mass of his countrymen not least because he rejects the "all-embracing ethical edifice" that they accept. He challenges its foundations.

His international reputation and the periodic storms of controversy he has created are, ironically, not of his own making. If the Soviet authorities had published all his books, ignored them and gone on about their business, it is inconceivable that Solzhenitsyn would have become the renowned figure he is today. Nor could he have caused the authorities such serious trouble.

Again this week the authorities are insuring even more notoriety for this unique man by their attacks. The publicity that follows will sell yet more copies of "The Gulag Archipelago," and of any subsequent book by Solzhenitsyn.

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## PROJECT POWER IN TUCSON, ARIZ.

Mr. FANNIN. Mr. President, the energy crisis has caused many people to wring their hands in anguish and to seek scapegoats for the shortages. Wiser men and women are looking upon the energy crisis as a challenge which can and will be overcome through constructive thought and cooperative action.

It is especially gratifying to me that one of the most innovative and ambitious community-wide attacks on the energy crisis is being carried out in Tucson, Ariz.

Project POWER was launched formally on December 20, 1973. POWER stand for Prevent Our Waste of Energy Resources. It is a program which involves the Environmenttal Research Laboratory of the University of Arizona, the public utilities and industry in the area, labor, commercial enterprises, and governmental units.

The objective is to encourage community conservation of our energy resources, to provide better measurements of how effective the community is performing in its conservation effort, and to establish how many jobs are being preserved through this effort.

This past weekend Dr. James J. Riley, hydrologist for the Environmental Research Laboratory, came to Washington to confer with our Federal energy officials concerning the POWER project. His purpose was two-fold, to inform Federal officials of this outstanding program which might serve as a model for others around the country, and to seek Federal encouragement to continue and expand the Tucson experiment.

One problem is that currently there is no way for a community such as Tucson to assure its own industry of the full benefits of a conservation program. When Tucson residents turn down thermostats to save natural gas, for example, the savings benefit not just Tucson but the entire system served by El Paso Natural Gas. It may be that sacrifice in one community only goes to feed waste in another community.

What the people of Tucson would like to do, perhaps as a demonstration project, is to establish a program whereby measurements would be made of the energy savings by the community, and that this energy be fully reallocated to industry in that community. Anyone saving energy in his home would have a real sense of saving his own job, or that of his friends and neighbors.

Mr. President, I commend the Environmental Research Laboratory, the many Tucson officials, industry leaders, union officials, and others who are participating in Project POWER. This program should be encouraged, and it might well be emulated by other communities around the Nation. I ask unanimous consent that the news release which was published December 20, 1973, describing Project POWER be printed in the Record at this time for the guidance of other officials and individuals who might be interested in carrying out such a program in their hometowns.

There being no objection, the news release was ordered to be printed in the Record, as follows:

### Project Power

Project Power, a new broadly based community organization, today announced a plan intended to guide the city through the energy crisis with a minimum of damage.

The Environmental Research Laboratory of the University of Arizona is the primary technical agency. Also represented are many other segments of the community including industry, labor, commercial and government.

Power is composed of Prevent Our Waste of Energy Resources. "We think it terribly critical to the future of the nation that we respond correctly to the energy crisis," said Carl N. Hodges, director of ERL and also director of the energy crisis project.

"There are technical solutions available to solve it. But the psychological reaction to the crisis could do much damage before technology is geared up. Accordingly, the price could be much more than it should be.

"We want to respond as a community with the necessary conservation measures required by the situation and yet not hurt the economy.

"We believe that an informed community can adjust the life styles of its citizens consistent with all the requirements and not reduce the quality of life."

Project Power is designed to give Tucsonians specific targets at which to direct their energies.

Engineers and scientists associated with the project have analyzed Tucson's use of energy—electricity, natural gas and gasoline. Their picture of this use is then related directly to the highest priority set by the Council—the saving of jobs.

The technicians have identified non-essential uses of energy where the most reasonable cuts can be made to provide the energy necessary to support employment and the economy.

The Project Power plan is then to give the public a regular "feedback" as to how well the community is meeting the specific goals.

In addition to solving the Tucson situation, the Council also hopes its system will serve as a national model of a "correct reaction to the energy crisis."

And beyond this, the Council intends to put before the community the information people will need to adjust to a new pattern of living.

"We are entering a new era in our use of energy," said Hodges. "There is no escaping it. We shall either learn to adjust voluntarily or we shall be forced to accept guidelines somebody else sets for us."

The Project Power goal is, then, to save jobs now and at the same time lay out a long term program, making information available to citizens so they can educate themselves.

"It will take quite a bit of community concern to solve this problem," said Hodges. "And, of course, it will be impossible to solve a problem of this magnitude without some suffering. But there is a solution. And if we do respond intelligently with voluntary curtailments, we can prevent significant economic disruptions."

The project technical staff has analyzed Tucson energy use in terms of:

1. Natural gas—used primarily for space heating.
2. Electricity—used for operating appliances and lighting.
3. Gasoline—for transportation.

The situation is complicated by the fact that all three forms of energy are interrelated and, to some extent, interchangeable.

The home owner uses natural gas primarily for heating.

Industry and commerce are somewhat more flexible. They can use either natural gas or oil for heating.

The local utility, Tucson Gas & Electric Company, uses both natural gas and oil to generate electrity.

Industry uses oil for transportation as well as heating.

The scheme developed by PROJECT POWER looks at the overall energy budget of the Metropolitan Area and analyzes where the various forms of energy can be interchanged and rechannelled.

For example, gasoline saved by the public, could then be made available to industry in that form, or, more likely, as oil.

Reductions in non-essential uses of electricity would save oil needed by Tucson Gas & Electric generators. This oil would then be available to generate electricity for essential uses required by industry to save jobs.

The natural gas situation is somewhat more complicated. To meet the crisis on a national basis, the federal government has established a natural gas allotment program. Since all industry is now curtailed on a regional basis, saving by the public here would not directly be available in Tucson although it would be a saving in the national energy pool.

PROJECT POWER has asked the President's office in Washington to use Tucson as a model in that savings in natural gas would be returned to the community in increased oil allotments for industry.

"Even if this isn't possible, we could still be successful in that if all communities follow our model, we could still accomplish the same thing by saving the energy we need for essential purposes on a broader geographical scale," said Hodges.

Hodges pointed out that Tucson is already beginning to feel the pinch of the energy crisis.

Industries under curtailment in natural gas have oil for stand-by use. But as the crisis deepens, they may not be able to get the oil. Then they may have to cut employment.

Other industries are finding it difficult to buy the oil they need, particularly for transportation. This could lead to serious layoffs.

While figures are difficult to find, the Tucson group is accepting the White House estimate of a present national energy shortage of approximately 17 percent, assuming a given weather pattern for the winter.

Although the technicians are refining the data to fit the Tucson economy, the operating practice presently is to initially accept the national pattern of energy use.

It is calculated that industry uses 37.3 percent of energy; powering transportation, 24.8 percent (including driving of cars, 13.2 percent); Heating of Homes and Offices 17.9 percent; Providing raw materials for industry 5.5 percent; Water heating, 4 percent; Air-conditioning, 2.5 percent; Refrigerating food, 2.2 percent; Lighting homes and offices, 1.5 percent; Cooking food, 1.3 percent; Other uses, 3 percent.

These percentages will vary for Tucson because of its particular economic structure and its climate.

In Tucson, most of the nonessential energy savings will be recommended to be made in the areas of driving cars, space heating and lighting.

After the fat is cut out of the energy budgets, the Council engineers found that a 30 percent or more cut in the use of gasoline for private driving in Tucson is needed if we are to meet the national demand.

Project Power staff has the use of large computers. And it is considering a community wide carpool project with their use.

Beyond that, it is presently working with individual groups around the city which are presently setting up carpools.

And it is working with other technicians in the community to analyze possible mass-transit systems.

"Anticipating the energy crisis, we began our own carpool system at Environmental Research Laboratory in May," said Hodges. "And it has been very successful. It is encouraging how many businesses and other groups have begun setting up carpools recently."

Much attention will be given to advising people on how to make energy savings in the home.

"By simply insulating our homes, we can make a very large saving in our energy," said Hodges. "And by reducing the thermostat to 68 degrees, we can cut by about 30% our energy use for home heating."

A detailed analysis has been made of one typical family's use of energy for one month.

It was found that the equivalent of 49.3 gallons of fuel oil was expended to operate a natural gas furnace, a water heater and a clothes dryer.

An almost identical amount was used for lighting and cooking.

This is a two-car family. One car, a diesel, used 36.7 gallons of fuel oil. The other used 54.2 gallons of gasoline.

"We are certainly not asking people to give up their cars," said Hodges. "But on the other hand, we suggest that they be imaginative.

"For example, if they have two cars, they should use the lighter car that operates on less gasoline the most.

"There is much waste in the American lifestyle that we can change without reducing our quality of life.

"People don't need to give up heated pools. But this is one place where solar energy can be very effective to replace natural gas. And people can make great savings by covering their pools.

"There are a great many things that people can do to save energy. And we will try to make as many suggestions as we can with a sound technical basis.

"We also would like to help people learn to make their own analysis of their energy budgets. And we suggest they begin by getting a thermometer to measure the actual temperatures in their houses."

In the analysis of the overall community, the bulk of the work has been done by engineers from the Environmental Research Laboratory and Tucson Gas & Electric Company.

Calculations on the city are based on the following figures:

Average Electrical Consumption: Residentital, 25%; Commercial, 20%; Industrial (without mines, 14%; Mining, 36%; Public streets and highway lighting, 0.4%; Other sales to public authorities, 4.6% (70% to the University of Arizona).

Average Natural Gas Consumption: Industrial, 27%; Residential, 44%; Commercial, 23%; Irrigation, 6%.

"I think it take a lot of courage for Tucson Gas to cooperate with a group that essentially wants to cut their sales," said Hodges.

Project Power will make regular reports to the community as it changes its analysis of the Tucson energy budget.

It will make regular suggestions as to where new savings may be made or new adjustments can be effective.

The hope is that the project will give the community a calm, rational estimate of the challenge now before America.

At the same time, there will be regular estimates of how well Tucson is meeting the goals. For example, charts will be released indicating what percentage of the targets are met in electrical conservation or in gasoline.

"The stage was set for the energy crisis partly when a shotgun approach to improving the quality of life and the environment was applied to environmental and energy decisions," said Hodges.

"Unfortunately, many of those decisions were made hastily and promoted by people who were not technically well informed.

"For example, there were numerous campaigns which resulted in a reduction in the supply of energy without parallel efforts to reduce consumption. Partly this could have come about by such things as building smaller cars that required less gasoline.

"Also, at the same time there were restrictions on the building of automobiles that led to reduced gasoline mileage.

"There was also a crisis in understanding and a failure of the Administration in Washington, the Congress and the technologists to meet the challenge of the critics.

"The result of all these failures coupled with the Arab boycott led to our being caught in the energy shortage.

"This is a crisis that should not have happened.

"The way to get out of the crisis and to put the country on a sensible foundation for the future is to base our decisions on good technical information and to make this available to the public."

The business of the Environmental Research Laboratory is energy.

In its earlier days, it was known as the Solar Energy Laboratory of the Institute of Atmospheric Physics. At one time it built and tested a solar and heated house in Tucson.

Later it experimented with solar distillation of salt water at Puerto Penasco, Mexico. This was then combined with new types of greenhouses and environmental control systems. Out of this experience, the Laboratory established a $3 million combination desalting plant and greenhouse in the shiekdom of Abu Dhabi.

The name was changed to the Environmental Research Laboratory in 1967. Today, the Laboratory is a specialized bioenvironmental-engineering group with operations in the deserts of Arizona, California, the Arabian Peninsula and the Persian Gulf as well as in Mexico.

Dr. James J. Riley, hydrologist for the Laboratory and director of the operation in Abu Dhabi for three years, is coordinator of the energy crisis project.

Members of the Advisory Council for the Project Power are Mayor Lewis Murphy; Joe Castillo, chairman of the Pima County Bd. of Sup., Joseph Wilcox, vice president of Tucson Gas & Electric; Robert Lynn, president of the Anamax Mining Co.; Col. Raymond L. Horvath, base commander of Davis-Monthan AFB; William Page, president of the Tucson Chamber of Commerce; Albert H. J. Mueller, plant manager of the Hughes Aircraft Company; Mort Weisband, business manager of the Southern Arizona Building and Construction Trades Council; William Reeves, marketing manager for Exxon; Dr. John P. Schaeffer, president of the University of Arizona; Dr. Irwin L. Spector, president of Pima College, Gary R. Barnes, chairman of the board of United Dealers of Arizona and Dan Eckstrom, mayor of South Tucson.

## AN AGE OF ADOLESCENCE

**Mr. CHURCH.** Mr. President, poet and playwright Archibald MacLeish once said in a speech to a crowd:

> The world was always yours; you would not take it.

His was an appeal to responsibility; we who live in a society are responsible for its shortcomings as well as its achievements. Our way of life was made by us, not forced upon us.

Mr. MacLeish, in an article originally copyrighted by the Boston Globe and reprinted in the January 21 issue of the Washington Post, has focused on one particular aspect of the life we have fashioned for ourselves in the United States.

He describes what he calls "An Age of Adolescence." He refers to the people "who want to stay as young as they can as long as they can and thereafter go on dressing and talking and behaving as though they still were what they can never be again."

He contrasts this state of mind to the thought expressed by Edgar in "King Lear:"

> "Men must endure
> Their going hence even as their coming
> hither.
> Ripeness is all."

As chairman of the Senate Special Committee on Aging, I must concur with the point Mr. MacLeish makes so vividly.

Daily, I hear of older persons hard-pressed by economic pressures and social unconcern or outright rejection. I have encountered individuals who are almost apologetic because they are old. I work on legislation intended to deal with one problem or the other, and usually Congress sees the need for the action at hand.

But even as we fashion legislation, I cannot help but concede that changes in the general attitude toward aging are more essential than changes in legislation about aging.

As Mr. MacLeish says in his article:

> For certainly, until we are willing to accept our lives, including the last years of our lives, including our deaths which are part of our lives, old age will continue to be what it now is, regardless of improvements in our hospitals and nursing homes and pensions.

One of the surest ways to change attitudes about aging, it seems to me, would be to know what our older people are doing and saying. At meetings in Idaho and elsewhere, I talk with elderly individuals who are living life to the full even after retirement is forced upon them and even though they are concerned about such immediate issues as medicare and social security.

Some have formed organizations to help one another. Some are caring for orphans in the retired senior volunteer program and in community service projects. Others are finding talents they never knew they had while still others are finding the time to engage talents they never could display before.

Not everyone in their later years, to be sure, has found a new life after retirement. Many are alone; many are withdrawn. But strong new currents are stirring among our older population. They have much to communicate with others; they should be heard not only for their own satisfaction, but for the good of all.

Mr. MacLeish's indignant statement on adolescent attitudes is an important message for all Americans. I ask unanimous consent to have it printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### AN AGE OF ADOLESCENCE

(By Archibald MacLeish)

CONWAY, MASSACHUSETTS.—There is an epigraph in George Eliot's "Middlemarch" which no contemporary novelist would put at the head of a chapter—a marriage prayer from the Book of Tobit: "Mercifully grant we may grow aged together." People who buy novels these days don't care for aging either together or separately. They want to stay as young as they can as long as they can and thereafter go on dressing and talking and behaving as though they still were what they can never be again. If the British bathwagon was the seaside symbol of the Victorian psyche, ours is obesity in a maiden bra.

The point is—and it is an important point for those who propose to examine old age in the contemporary world—that it is the *idea* of the thing which has gone wrong. Old age itself is no worse now than it ever was. On the contrary, its physical and mental ills are easier to bear in this medically sophisticated century than they used to be when New England farms had barred windows on the back of the house and a padlocked door with a slot for feeding. What is hard to put up with now is not the thing but our conception of the thing.

In natural societies like Confucian China and Homeric Greece an old man respected his years because the rest of mankind thought them respectable. Youth was beautiful and was loved but what mattered was living—knowing how to live—and the old who had lived longest were assumed to know most. Nestor was a great man not in spite of his age but because of it. With us, however, the order of admiration is reversed. Knowledge of life is less important than sexual proficiency and it is youth that is honored. With the logical result that it is youth which is emulated. Adolescence, which ended with the same Chinese and the self-respecting Greeks at the age of 18 or 20, is protracted to include the 30s and 40s and 50s and even the years beyond. We live, in fact, in what might well be called an Age of Adolescence. And such an age, to borrow Yeat's poignant phrase in 'Sailing to Byzantium," is "no country for old men." Old women either.

What has happened is not that we have achieved what we keep describing as a new and healthier attitude toward sex. What has happened is that we have fallen back into an old and retrogressive attitude toward life. Where Shakespeare's contemporaries were capable of understanding the great conception which lifts Lear out of misery and madness—"Ripeness is all"—we in our time have returned to an infantile obsession with the pudenda which locks us into a retarded childhood.

The latest intellectual controversy in New York has divided those who think a particularly explicit movie is a "breakthrough," comparable with Stravinsky's "Sacre," from those who object that the film is not explicit enough because it doesn't exhibit the copulative organs in action. And the latest achievement of the Supreme Court, or its new majority, is a decision that the supression of hardcore pornography (journalese for the exploitation of the pudenda in images or words) must take precedence over the guarantees of the Constitution. So dangerous is hardcore pornography to the republic, in the opinion of the new majority, that we must sacrifice yet a little more of our rapidly vanishing liberty to control it, submitting to the worst and most tyrannical of censorships—censorship by local pressure groups and institutions and cranks and professional vigilantes who will tell us what we may look at and what we can read.

Future generations, if the republic outlives the Age of Adolescence, will find all this hard to credit. That serious intellectuals should apply the criteria of the adolescent itch to discussions of art, and that high court judges should put the punishment of sellers of filthy pictures above preservation of the most fundamental of human liberties, will simply not be believed. Free men, if they are really free, really men, rule themselves, meaning that they rule their own minds.

Mencius (Men-tse), though he lived 2,000 years before Thomas Jefferson and John Adams, put that simple but essential proposition in words Revolutionary Virginia and New England would have accepted and approved. "The men of old," says Mencius (Pound's version), "wanting to clarify and diffuse throughout the empire that light which comes from looking straight into the heart and then acting, first set up good government in their own states; wanting good government in their own states they first established order in their families; wanting order in their families they first disciplined themselves; desiring discipline in themselves they first rectified their hearts."

It was not their trousers Mencius citizens looked into but their hearts. And it was they, not their neighbors or the county commissioners or the state legislature, who decided what they should think and believe.

But what chance have we of outliving the Age of Adolescence and restoring a mature society in which the human heart will be consulted at least as often as the somatic yearnings? A mature society in which men will govern themselves by governing their hearts first? A mature society in which those who used to be respected because they had lived longest themselves, and learned most from that difficult encounter, will no longer be exiled as "irrelevant"? It is hard to say but not impossible. A few facts are visible.

First of all, we won't get rid of sexual obsession by blue laws and prohibitions. Watergate is an enlightening moral tale for those who want to believe that something called "law and order" will settle everything. We now know what we should have realized when the slogan was first flown, that "law and order" will never work because those who are returned to power to do the ordering will not, once they possess the power, obey the law. The cure will be far worse than the disease.

The second fact is the first turned inside out. If we can't recover from the Age of Adolescence by censorship and negations and prohibition—by substituting official childishness for the childishness of the streets—we may perhaps be able to shake off the incubus by affirmation. By an act of belief. By an act of belief which puts the living of life above the obsession with sex and replaces adolescent mechanics with the humanity of love. For certainly, until we are willing to accept our lives, including the last years of our lives, including our deaths which are part of our lives, old age will continue to be what it now is regardless of improvements in our hospitals and nursing homes and pensions. Only those who can say with Edgar in "Lear":

"Men must endure
Their going hence even as their coming
hither.
Ripeness is all".

Those who can say these words accepting them, will come to understand what old age really is: the farthest human journey, the journey toward the meaning of our lives.

## THE BALING WIRE SHORTAGE

Mr. DOLE. Mr. President, the baling wire shortage in Kansas probably reflects similar situations throughout the Midwest and West. The lack of baling wire is causing tremendous difficulties for the haying industry all over the State of Kansas. The shortage is threatening to lead to an inadequate supply of baled hay for commercial livestock operations.

We have a small crisis on our hands in Kansas, and in other States too, I am sure, because of the baling wire shortage. We have got hay farmers who cannot buy wire anywhere because of steel companies pulling out of wire production. We have businessmen suffering from unfilled orders on baling wire.

The secondary effect of the baling wire shortage on the beef industry may have even more serious consequences. To begin with, cattlemen have enough problems already. Due to recent low prices for fed cattle, losses have ranged from $100 to $200 or higher on each steer. A shortage of hay could be a contributing factor leading a lot of cattle operations to bankruptcy.

The end result would be higher prices for meat. Over in the Nutrition Committee, recently, we have heard about numerous cases of near starvation due to high food prices. Further increases in the price of food is one thing consumers could do without.

So it is appropriate that something be done to increase the supply of baling wire. I trust the Cost of Living Council will therefore respond with appropriate action.

I have become increasingly alarmed over the current shortage of baling wire which if not remedied will cause many problems for American farmers and ranchers. Today, I chaired a meeting of concerned Senators with representatives of the steel industry, Cost of Living Council, and the Departments of Agriculture and Commerce regarding this problem. I was impressed with the statement presented by my colleague from New Mexico (Mr. DOMENICI) outlining the possible economic consequences to New Mexico hay producers of the current baling wire shortage. I feel that his statement merits the attention of all Members of this body. Therefore, I request unanimous consent that Senator DOMENICI's statement be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

### STATEMENT BY SENATOR DOMENICI

Gentlemen: Farmers and ranchers in New Mexico are vitally concerned about the current shortage of baling wire and justifiably so. In 1973, a total of 205,000 acres of alfalfa were planted in New Mexico with an average yield of 4.4 tons per acre for a total production of 902,000 tons. At an average price of $45.00 per ton, this production brought New Mexico alfalfa growers approximately $40,590,000. Most of this alfalfa was baled with steel wire and the remainder was cubed for feed lot use. The potential economic loss to New Mexico alfalfa farmers if no baling wire is available could exceed 25 million dollars.

Additionally, 71,000 acres of other varieties of hay produced 99,400 tons last year which brought an average price of $35.00 per ton. New Mexico farmers received approximately $3,479,000 for this hay which was almost all baled with steel wire. Loss potential here exceeds 3 million dollars.

These are only the potential losses to producers of hay. They do not include losses to cattle ranchers and feed lot operators. If a rancher cannot get sufficient hay to winter his brood stock, he must either divest himself of that part of his herd which his winter range will not support or purchase higher cost feeds. Either choice will ultimately result in higher consumer costs of beef. The dairyman is in a similar situation. When the feed cost to milk price ratio becomes unfavorable, he will find it advantageous to slaughter part or all of his herd. Milk supplies will drop, and prices must go up or milk shortages will develop.

I cannot stress too strongly the importance of baling wire to all New Mexicans—rural and urban. As we have seen graphically demonstrated in economic history, the agricultural production problems of today are the consumer supply and price problems of tomorrow. Our hay producers must be supplied with baling wire. They have indicated to me through their correspondence that they are willing to pay a reasonable price for it. Many are aware of the combination of factors which have led to the current shortage, but this knowledge avails them little. Their need for wire becomes more urgent daily as baling season steadily approaches and suppliers have no wire in inventory.

Gentlemen, we must take the necessary action to insure that baling wire is available to our farmers and ranchers. And we must do this now. Baling begins in southern New Mexico in early spring. Most of our hay comes from southern New Mexico. It is too late for most of our hay producers to convert to twine. Machine changes cost from $150 to $450 per bailer, but the cost is not the pertinent fact. Twine knotters are just not available in time for this cutting season according to our agriculture information sources in the State.

Thank you, Chairman Dole, for this opportunity to present the problems facing New Mexico hay producers because of the current baling wire shortage.

## REMARKS OF SENATOR MANSFIELD AT THE SENATE DEMOCRATIC CONFERENCE

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD certain remarks I made at the meeting of the Democratic Conference today.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

### REMARKS OF SENATOR MIKE MANSFIELD

First, I want to welcome the Senator from Ohio, Mr. Metzenbaum, to the Democratic Conference and to state, in his behalf, how happy he was that he had the unanimous support of the Democrats on Monday last.

Second, I would like to report that the Democratic Policy Committee met yesterday with Dr. Walter Heller, one of the great economists of the nation, and we were very much impressed with what he had to say and his thesis that, if conditions continued as they are, we would face the possibility of a recession. It was interesting to note that speaking economically, the United States had an 8.8 percent rate of inflation last year, while wages increased by only 7.3 percent. Another interesting factor Dr. Heller brought to our attention was that there has now been a 38 percent decline in auto production.

Twelve months ago the Majority Conference met at the opening of the 93d Congress. The Conference convened in the aftermath of a sweeping victory for a Republican President in the 1972 elections. From the same elections, there also came an increase in the Democratic Majority in the Senate. Some chose to note the first event and to ignore the second.

While recognizing the President's electoral mandate, this Conference concluded that there was also a mandate to the Congress. It was a mandate to exercise fully our separate constitutional role in the government of the United States. As we saw it, the people had continued the President in office but, at the same time, the people had rejected government by one party or one branch.

On that premise, we moved to reinforce the nation's system of checks and balances which had been eroded by an accumulation of power, administration after administration, in the Executive Branch. As it confronted us last year, the problem was to contain this long-time trend toward Executive unilateralism in regard to the policies, programs and priorities of the Federal government. In my judgment, that trend was checked in the year 1973. It was checked by a concerted effort of the Senate and the House.

To the excessive curtailment of public information, to the arbitrary impoundment of appropriated funds, and to the pre-emption of authority over spending priorities and budget appraisals, legislative objectives and institutional changes—to these evidences of Executive unilateralism, this Conference and its Policy Committee and the Senate as a whole reacted with a high degree of unity. Before the 1st Session of the 93d Congress was out, the Senate Majority had adopted 18 resolutions as Leadership positions on various constitutional and public issues. Before the session was out, the impact of virtually all of these resolutions was felt in policy and legislation.

Of the highest priority last January was the extrication of this nation forthwith from Vietnam. The urgency was to translate years of pious words into effective action to restore the nation's peace. That was done in 1973 and, in so doing, the Senate provided a major contribution to national policy and the nation's welfare. In the end, the withdrawal of our military forces was achieved and the gate to reinvolvement was closed by legislation.

That the bitter and tragic lesson of Vietnam might not be lost, moreover, the Senate moved to curb future arbitrary use of U.S. Forces abroad by the Executive Branch. The Congress acted to condition any military intrusions into other nations—and, hopefully, we have seen the last of them—on the express consent of Congress as prescribed in the War Powers Act.

On this point, if I may digress for a moment, it is to express the gravest concern over what can only be described as certain off-hand, widely publicized comments which were made recently by the Secretary of Defense. These comments suggested the possibility of U.S. military incursions into the Middle East to bring out the oil and a reinvolvement of our forces in the still unsettled conflict of Vietnam.

It seems to me that appointed officers of this government, especially those with responsibilities for the management of the nation's enormous military power, ought to mark their public words carefully—most carefully—with regard to highly volatile international situations. What this nation may or may not find it necessary to do abroad is a question best left for the consideration of the President with his Secretary of State and with the elected representatives of the people in the Congress. The Secretary of Defense would do well to concentrate his concern on holding down the costs of his Department which place an enormous tax burden on the people of the nation and on keeping the armed forces in a state of sufficient readiness to respond to the lawful directions of the President and the Congress. Off-hand comments on questions of foreign policy are not in the compass of that responsibility and I would suggest, most respectfully, therefore, that the Senate's Armed Services Committee which has oversight of the Defense Department should examine into any tendencies to stray beyond that compass.

In reviewing the work of the first session, I would note, not only the role of the Senate in curbing our military involvement in Indochina and the war powers resolution but also major farm legislation, a Social Security benefits increase, the Alaska pipeline, mandatory fuel allocation, flood disaster protection, vocational rehabilitation, Federal aid to highways, mass transit, reorganization of the railroads, veterans' health care and benefits increase, campaign financing and private pension reform. Some of these measures were suggested by the President. Others had their origins in Congress and were co-opted readily by the President. Still others were advanced by the Congress notwithstanding the reluctances of the Executive Branch. In any event, the entire session in my judgment was an expression of a vigorous, cooperative and creative independence on the part of the Senate and the House. Every member of the Senate—Republican and Democrat alike—has reason to be gratified personally for having been a part of it.

This session begins, then, on that base. It is my hope and expectation that the Congress will maintain the tempo of the past year and move deliberately and steadily through such major issues as national health insurance, housing aid, private pension reform, no-fault insurance, Congressional budget control, adjustments in the tax structure and any other matters of importance and urgency which may arise.

Looking ahead, I would also note that the Senate and the House, ten months from now, will face the people in an election. We should not dread that prospect. We should look forward to it. We should look forward to it not only on the basis of the record but as an affirmation of the democratic process. I say that, notwithstanding the widespread public cynicism, pessimism and doubt which the Watergate syndrome has sown with regard to all government. Before the coming election, it seems to me that there is time to rebuild the Federal electoral structure in a manner which will again engage the public trust.

The people have a right to an electoral system capable of yielding honest, responsible and responsive government, open to all and shaped to meet the needs of all. In my judgment, existing political campaign laws grope toward that goal but are some distance from it. Indeed, in some ways, they act to discourage general and modest participation in the process. Revisions are necessary and should be forthcoming in this session.

It is not the transitory political lives of each of us that are at stake. It is the political life of the nation that is at stake. To excuse Watergate and what it implies from our political life before it becomes fatal to freedom is a fundamental responsibility of the elected officials of this government.

Even as the people did not ask for government by a single party or a single branch in the last election, neither did they ask for government by the will or whim of the richest or the most powerful and influential. That is the nub of the problem. To foreclose an excessive intrusion of great wealth, whether of corporations, unions, individuals or whatever into the electoral process, is a solemn obligation, an urgent obligation.

Thirteen years ago, almost to the day, I made this statement on the floor of the Senate:

"I do not think that it serves the interests of the entire nation when elections can be influenced significantly or even decided by the question of which candidate can raise the most money. I do not think it serves the national interest when the expenses for those who campaign to serve all the people must be financed by a relative handful of people and organizations which make large contributions directly or indirectly. I do not think it adds to the dignity and vitality of the nation's political life when a major source of political finance is the patently unsatisfactory practice of selling two-dollar steaks at one-hundred-dollar-a-plate dinners."

The price of the steak has gone up to five dollars and the dinners to five hundred or more. Except for this factor of inflation, however, I see no reason to alter the observations.

In my judgment, we shall not come finally to grips with the problem except as we are prepared to pay for the public business of elections largely with public funds. I would hope, therefore, that this is the Congress in which proposals along these lines advocated over the years by Senators Long, Scott, Kennedy, Mondale, Cranston, Mathias and others, finally see the light of day. If it was in 1972 that Watergate arose, and in 1973 that it was revealed and investigated, may it be said it was in 1974 that it was finally resolved in a new system of open elections openly paid for.

What Watergate did to public confidence with regard to the nation's electoral process, the energy crisis has done in the realm of the nation's economy. Grave uncertainties have arisen, as the ramifications of the petroleum shortage have suddenly been seen to extend beyond the gas tank into every other aspect of our society.

It is no wonder that the supply and price of fuel has dominated national discussion during the past ten weeks. Even at this late date there are more questions than answers. All that we have really learned is that we were not equipped to understand the problem, let alone to deal with it. To be sure, shortages had been forecast for years. Yet, somehow the message was apparently never received or merely ignored in the responsible Executive agencies.

The consumption of ever-increasing amounts of energy and, in particular, of petroleum-derived energy was stimulated as basic to our culture. Now, we have shifted gears and the watchword is curtailment of consumption. May I say that the people of the nation, as usual, in their wisdom have recognized the need and have displayed a remarkable degree of self-discipline in meeting the problem. That has been the single most important element in preventing a national catastrophe.

The agreement between Egypt and Israel is also of significance in this connection. The President and Secretary of State, Mr. Kissinger, are to be commended for the part which they have played in that situation. Indeed, they have understood and acted with great astuteness on the interplay of the Middle East conflict and other aspects of the international situation and the energy question. While I am on this subject, I would like to commend the peripatetic Secretary of State, Mr. Kissinger, not merely for his achievements in regard to the Middle East but elsewhere in the world, notably in the improvement of relationships with China and the Soviet Union.

Mr. Kissinger has the confidence of the Senate, as indicated by the overwhelming vote for his confirmation last year. It would be my hope that the rapport between the Secretary and the Senate will grow closer in the months ahead. Under the strains of the energy shortage which affects other nations far more drastically than our own, and the stress of other economic difficulties, there is the danger of the crumbling of international cooperation, notably as it involves our relations with Western Europe and Japan. That, indeed, would be the final straw. The consequences of a devil-take-the-hindmost division would be disastrous to all concerned. It must be avoided at all costs. In this connection, I am delighted that the President expects to meet next month with the representatives of several European nations and Japan.

To return to the matter of the energy crisis at home, it is clear that plentiful cheap energy is not again on the horizons of life in the United States. We cannot undo what has been done, nor do what has not been done. The principal responsibilities of government, now, are to see to it that the impact of this crisis does not devastate the economy and that the price of past neglect and indifference is borne equitably by all Americans. To that end, it is no longer acceptable that the facts on the production and distribution of energy be closeted in the executive offices of private corporations, which, wherever they may operate, are chartered in this country and receive the benefits and protection extended by the government of the United States. It is essential that the facts—all the facts—be uncovered and laid before the nation. We must be fair in the process.

I would expect, therefore, that the inquiries which have already begun in committees of the Senate will proceed rapidly but deliberately. We do not need scapegoats. We need a foundation of fact on which to build an effective national policy on energy and a whole range of related questions. We have got to know far more than we know now if we are to meet the threat to the nation's well-being which is inherent in the petroleum situation—the threat of widespread business shutdowns, transportation paralysis, vast unemployment, runaway inflation, culminating, to say the least, in a severe recession. If there are those who still doubt the seriousness of the threat, I would suggest an examination of the appalling situation now confronting the United Kingdom.

The energy crisis has shocked this nation. In so doing, it has also illuminated suddenly the precarious manner in which our national economic life has come to be organized. Shortages of petroleum have admonished us to note that there are other essential resources which are also not available in limitless supply inside our national borders. As Senator Muskie has pointed out, in our sudden concern over the exhaustibility of petroleum, we ought not to forget that pure air and water are also exhaustible resources. What of aluminum, nickel, tin, iron and copper, and many other materials? Where will the supplies of these and other essentials come from in the years ahead? What of food?

To say that we have been extravagant, even profligate, is to put it mildly. We spend nearly $3 billion a year on air-conditioning and less than $150 million on air pollution control. We throw away 60 billion beverage containers a year, yet spend only $5 million to research recycling techniques. Pollution is building dead seas off the coast of New York and New Jersey and elsewhere. Yet, during the recent recess the President chose to impound $3 billion that had been appropriated for the treatment of waste.

It would be my hope, therefore, that we will go beyond the energy crisis in the coming session of Congress. The need is to take a careful look not only at the immediate flashing of this or that danger signal but at the whole integrated switchboard of our national existence. It may be that it is time to consider setting up some organization for coordinating our thinking as to what is more important and what is less important to the nation and its future, for delineating the durable needs of a decent national survival. Perhaps, some new and continuing machinery which brings together the Executive Branch and the Legislative Branch for this purpose and couples both with a cross-section of industry and labor and other areas of our life will enable us to see the forest and not merely the trees. Perhaps, the juxtaposition of ideas and interests from these sources might help us to learn to curb the ingrained tendencies of government to spend vast sums out of force of habit or force exotic and wasteful endeavors—whether military or civilian. Perhaps, then, the budget can be better framed to meet the over-all requirements of the nation for today and tomorrow.

I do not anticipate we shall make a great dent in this question. Nevertheless, I would hope that, notwithstanding our preoccupation with the energy crisis and its impact on the economy, the appropriate committees would find some time to look beyond it. The responsibilities of elected incumbents—whether the President or Members of Congress—are not confined to the immediate. We owe the nation not only a decent present but the preservation of a viable hope for a decent future. I expect that in the session, the Senate will do its part fully in meeting responsibility.

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## A CATALOG OF LEGAL AID HORRORS

Mr. FANNIN. Mr. President, for the benefit of my colleagues, I ask unanimous consent to have printed in the Record 25 examples of questionable activity which have been carried on under the OEO legal services program. These examples indicate, far more eloquently than any words I could express, the need to substantially close the loopholes which exist in the present legal services law and in S. 2686, the Labor and Public Welfare proposal for Legal Services Corporation. This kind of loophole, this kind of abuse, clearly demonstrates the need for thoroughgoing review of the entire legal services issue by the Committee on the Judiciary.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Twenty-Five Examples of Questionable Activity Carried on Under the OEO Legal Services Program

1. Legal Services attorneys are officially encouraged to challenge welfare compulsory work requirements, assist the National Welfare Rights Organization, and help organize tenant unions.

2. The OEO western regional Legal Services Director has been representing a government employee in a suit against ACTION, charging that the employee was discriminated against because of her Democratic party activities.

3. OEO funds a national student rights center in Dayton, Ohio, to provide legal assistance to students in matters of school discipline and dress codes.

4. Legal Services attorneys are encouraged to provide advice to welfare demonstrators and legal counsel during rent strikes.

5. Employees of the Northern Mississippi Rural Legal Services Program have used program facilities to support candidates for public office and have represented ineligible clients on political matters.

6. Legal Services attorneys are encouraged to provide assistance to the National Tenant Organization, which has been active in lobbying against Administration positions on Capitol Hill.

7. Dan Siegel, an OEO Reginald Heber Smith Fellow, served, during his fellowship, as a campaign coordinator for the radical April Coalition in Berkeley. A self-described revolutionary, Siegel has been convicted for inciting to riot prior to his fellowship. He is most recently reported as working on a Maoist anti-military project in the Philippines.

8. Sheldon Otis, who has served as an attorney for Angela Davis, embezzled $10,000 from a legal services program he was supervising in Redwood City, California.

9. Staff members of the New Orleans Legal Assistance Corporation were found to be improperly representing members of a Black Panther front called the National Committee to Combat Fascism.

10. Kenneth Cloke, a Reginald Heber Smith Fellow and active member of the Communist party USA, who had been found guilty of larceny before being hired, improperly provided legal assistance in connection with an interstate dynamite case to persons associated with the Weathermen faction of the SDS.

11. Stephen Bingham, a legal services fellow assigned to the Berkeley program, was paid for a period of 8 months although he performed no official work. During the period of his fellowship, he worked closely with a Communist law firm heavily involved in prison agitation. Subsequently, he was identified as the man who delivered the gun to Soledad Brother George Jackson, immediately prior to the latter's escape attempt from San Quentin.

12. David Kirkpatrick, an attorney with California Rural Legal Services, has also worked closely with Peace and Freedom party leader Fay Stender in furnishing prisoners with Communist and revolutionary literature.

13. Governor Meskill of Connecticut claims that the Tolland-Windham Legal Assistance program played a key role in the defeat of a local Republican official who was critical of two welfare applicants.

14. Legal Services funds a program in Yakima, Washington which is run indirectly by Cesar Chavez' United Farm Workers Organizing Committee. Among other things, the program is involved in "ensuring that existing legal rights are enforced, for example in the area of voter registration. . ."

15. The Legal Aid Society of Union City, California was, until recently, used as an official voter registration office.

16. Attorneys with the Monterey Legal Aid Society handled 104 military related cases, many resulting from association with the Movement for a Democratic Military and the Pacific Counseling Service, which provides assistance to conscientious objectors. At least one legal services fellow with the program had been identified as an organizer of local anti-war rallies. Staff members have also worked closely with *Unity Now*, an underground newspaper which urges soldiers to create disturbances and foment resistance within the Army.

17. An attorney with Colorado Rural Legal Services admitted preparing articles for a local underground newspaper and soliciting, on CRLS stationery, a juvenile client to serve as a distributor for the newspaper. The paper advocated, among other things, draft evasion.

18. Staff members of the Lawyers Committee for Civil Rights under Law, an OEO grantee in Cairo, Illinois, have been active in picketing and demonstrations conducted by the Black United Front, a militant civil rights organization, in a racially explosive community.

19. John Brittain, who served as an attorney with Northern Mississippi Rural Legal Services, was closely associated with the Republic of New Africa, characterized by the FBI as a "violence-prone" organization.

20. The National Legal Aid and Defender Association, which is represented on the boards of directors of numerous legal services grantees, is currently headed by Clinton Bamberger, a partisan liberal Democrat, who was a Director of Legal Services under Sargent Shriver and an active ally of Joseph Tydings. Bamberger succeeded John Douglas, Co-Chairman of Citizens for McGovern. One of the Vice Presidents of NLADA is Terry Lenzner, who together with Frank Jones, was fired from OEO by Don Rumsfeld. Jones is Executive Director of NLADA.

21. The Camden Regional Legal Services program has acknowledged representing non-poor clients on grounds that such clients were "unable to obtain private counsel because of their personal unpopularity or the unpopularity of their causes." The Director of CRLS believes that legal services should act "as a sort of ombudsman to the poor as a class, to represent them with respect to political and economic repressions." CRLS was also active in seeking support in the poverty community for the impeachment of a former Mayor of Camden.

22. OEO has funded a $220,000 program in Washington, D.C. to provide attorneys who will handle inmate complaints against the corrections system. Announcement of the grant to the Center for Correctional Justice was made by Delegate Walter Fauntroy and Democratic National Committeewoman Flaxie Pinkett.

23. Florida Rural Legal Services used Federal funds to publish an underground newspaper which provoked friction by referring to policemen as "pigs" and displaying cartoons with white policemen beating young Blacks.

24. A former Director of the Dallas Legal Services Project used the program to represent the publisher of an underground newspaper who was being prosecuted for the paper's pornographic content.

25. The Director of a Legal Aid Society in Illinois was a Democratic candidate for State's Attorney of Marion County.

## SHORTAGE OF REINFORCING STEEL BARS

Mr. STEVENSON. Mr. President, on December 4, 1972, I and 27 other Senators wrote Dr. John Dunlop, Director of the Cost of Living Council, to express our concern about the shortage of reinforcing steel bars, and to request that the Cost of Living Council survey the steel industry to obtain better information about the shortage. The Cost of Living Council conducted a survey, the results of which are summarized in a letter to me from Dr. Dunlop dated January 22, 1974.

The results are ominous. Although demand for reinforcing bars is expected to increase sharply in 1974, production is likely to be off, imports down and exports up. Already contractors throughout the country are reporting delays and stoppages on major construction jobs; further deterioration of the situation will mean layoffs for hundreds of thousands of construction workers and declines in GNP.

We cannot permit that to happen. I have therefore telegraphed Dr. Dunlop and urged him to take all necessary action within his power to assure that an adequate supply of reinforcing bars is available to U.S. purchasers, and to advise the Congress in the event he concludes that he does not have adequate statutory authority to deal with the problem.

I ask unanimous consent that the December 4 letter, Dr. Dunlop's response, and my telegram be printed in the RECORD.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, D.C., December 4, 1973.*

DR. JOHN T. DUNLOP,
*Director, Cost of Living Council,*
*Washington, D.C.*

DEAR DR. DUNLOP: We are very concerned about the growing indications that non-residential construction activity will be severely curtailed during the first half of 1974 because of a shortage of reinforcing steel bars.

Some but not all the facts are known. During the first nine months of 1973, reinforcing bars accounted for 4.5% of the tonnage shipped from domestic steel mills, down 15% from the 1970–1972 average. In the same period, reinforcing bar exports increased 332% over the first nine months of 1972, while imports declined 30%.

What we do not know is how much reinforcing bar our steel mills intend to produce during the first six months of 1974, and how much of what is produced will be exported.

In order to decide whether and how to act, we need answers to those questions.

We therefore request that the Cost of Living Council conduct an immediate survey of the steel industry and prepare aggregated estimates of reinforcing bar production and exports for the first half of 1974. We further request that the results be released to the Congress and the public not later than December 14, 1973.

Sincerely,

Adlai E. Stevenson, John Sparkman, Hiram L. Fong, Harrison A. Williams, Jr., Gale W. McGee, Robert Taft, Jr., William Proxmire, William D. Hathaway.
Bill Brock, Bob Packwood, John Tower, Lloyd Bentsen, Edward M. Kennedy, Edward W. Brooke, Edmund S. Muskie, Thomas J. McIntyre.
Thomas F. Eagleton, Dick Clark, Harold E. Hughes, Pete V. Domenici, J. Bennett Johnston, Jr., Hubert H. Humphrey.
Clifford P. Case, Gaylord Nelson, John O. Pastore, Claiborne Pell, Jennings Randolph, William V. Roth, Jr.

ADLAI STEVENSON III.

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ECONOMIC STABILIZATION PROGRAM,
COST OF LIVING COUNCIL,
*Washington, D.C., January 22, 1974.*

Hon. ADLAI E. STEVENSON,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR STEVENSON: Thank you for your recent letter in which you and your colleagues bring to my attention your concern with current shortages in reinforcing bars.

The Council shares your concern about the shortage of reinforcing steel bars and its effect on the construction industry. We have held numerous fact-finding meetings with representatives of the steel and construction industries on this problem, and we are continuing to meet with industry representatives on this and related problems in the steel area.

Our fact-finding efforts indicate that the principal causes of the shortage of reinforcing bars are as follows:

*Strong demand.* The demand for rebars increased significantly from 1972 to 1973 and is projected to increase still further in 1974.

*High levels of capacity utilization in the steel industry.* Available statistics indicate that the domestic steel industry was operating at 101 percent of capacity in the third quarter of 1973. Moreover, the high level of capacity utilization is a worldwide phenomenon, which has contributed to the decline in U.S. imports of reinforcing bars.

*Cost-price relations.* Profit margins have traditionally been lower on reinforcing bars than for most other steel products; and, in addition, increases in input costs, especially for scrap, have put pressure on margins. Lower domestic prices of reinforcing bars compared to international prices have also contributed to the supply problem.

On the supply side, available statistics for the first 11 months of 1973 show shipments of reinforcing bars by domestic producers to have increased 14 percent over the same period for 1972. For these same periods, imports of reinforcing bars showed a substantial decline of 33 percent. Starting from a relatively low base in 1972, exports of reinforcing bars increased by approximately 400 percent. The total supply of reinforcing bars (shipments plus imports minus exports) for the first 11 months of 1973 increased 9 percent compared with the first 11 months of 1972. These figures are summarized in Table 1 which follows.

The Cost of Living Council, in early December, requested information from some 23 large steel producers concerning their intended shipments for 1974 of certain steel products including reinforcing bars. All of the firms responded; and, of these, 10 stated that they produced reinforcing bars in 1973 and 9 stated that they intended to produce reinforcing bars in 1974. These firms accounted for the production of 2,242,800 tons in 1973, approximately half of U.S. industry shipments in 1973, and project their production for 1974 to be 2,218,800 tons—a decrease of 1.1 percent. The data obtained did not pertain to exports and it would, therefore, be difficult to make useful projections at this time.

A more pessimistic outlook has been indicated by a survey conducted by the Concrete Reinforcing Steel Institute. From its survey of firms in the midwest and eastern United States the association estimates that shipments of reinforcing bars by domestic firms will be down approximately 11 to 12 percent in the first half of 1974 compared to the first half of 1973.

The situation offers no simple solution. When operating at such capacity levels, firms generally reduce or drop their less profitable items. Thus, it is questionable whether even substantially higher margins for reinforcing bars would cause the major producers to alter their product mixes and produce more bars, at least in the near future. However, prenotification of price increases for reinforcing steel have been submitted to the Council, and we are committed to responding to them by January 25.

On December 21, after the public steel hearings on December 19 and 20, the Council announced that as of December 21, 1973 steel firms would be permitted to increase immediately their adjusted freeze prices of those items which have not had Phase IV price increases. These increases are limited to a dollar-for-dollar pass-through of purchased ferrous scrap cost increases incurred from June 1, 1973 through December 31, 1973.

Although that action should ease the reinforcing bar situation to a degree, the problem remains serious. The reinforcing bar problem is not unrelated to problems which exist for a wide range of steel products, and we are exploring what further actions, if any, the Council might take in this area.

If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

JOHN T. DUNLOP, *Director.*

TABLE I.—U.S. SUPPLY OF REINFORCING STEEL BARS, 1968–73

[In thousands of tons]

| | U.S. industry shipments | Imports | Exports | New supply[1] | Exports as percent of shipments |
|---|---|---|---|---|---|
| 1968 | 3, 241 | 740 | 26 | 3, 955 | 0. 8 |
| 1969 | 3, 658 | 471 | 87 | 4, 042 | 2. 4 |
| 1970 | 4, 891 | 212 | 80 | 5, 023 | 1. 6 |
| 1971 | 4, 521 | 515 | 41 | 4, 995 | . 9 |
| 1972 | 4, 454 | 358 | 22 | 4, 790 | . 5 |
| 1972 (11 mo) | 4, 116 | 322 | 20 | 4, 418 | . 5 |
| 1973 (11 mo) | 4, 691 | 216 | 100 | 4, 807 | 2. 1 |
| Change:[2] | | | | | |
| 1972–73 (tons) | 575 | −106 | 80 | 389 | |
| 1972–73 (percent) | 14 | −33 | 400 | 9 | |

[1] Shipments, plus imports, minus exports.
[2] 11 mo 1972 to 11 mo 1973.

Source: American Iron & Steel Institute.

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[TELEGRAM]

U.S. SENATE,
*Washington, D.C.*

Mr. JOHN T. DUNLOP,
*Director, Cost of Living Council,*
*Washington, D.C.:*

Your January 22 letter concerning the shortage of reinforcing steel bars convinces me that the situation cannot be permitted to deteriorate further. I urge you to take all necessary action within your power to assure that an adequate supply of reinforcing bars is available to U.S. purchasers. In the event that you conclude that the powers vested in you are not sufficient to enable you to deal with the problem effectively, I urge you to apprise the Congress of what additional authority is needed to deal with this shortage.

## HOW SMALL BUSINESSMEN IN NEW MEXICO VIEW FEDERAL GOVERNMENT ACTIONS

Mr. DOMENICI. Mr. President, on October 25, 1973, I sent a letter to many small businessmen in New Mexico to determine what problems Federal Government actions or inactions had created for them in the operations of their businesses and to solicit any suggestions they might have for constructive Government actions which would benefit the small businessman. Careful analysis of the responses to my letter reveals one main theme—that there is strong objection to the ever-increasing Government interference in the economy of this country.

One small businessman suggested that all of us serving in the Congress be required to read Adam Smith's "Wealth of Nations." His suggestion was prompted by his feeling that wage-and-price controls had resulted in his business being adversely affected by inability to get raw materials at any price. Many responses pointed out specific economic dislocations and diseconomies which are direct results of Government economic interference. One action that received strong criticism was the Cost of Living Council's original plan for controlling the cost of gasoline through the service station operators. Thankfully, those plans were changed after much effort.

Another extremely important effect of price controls was to encourage the exportation of materials vital to many businesses. One graphic illustration of a detrimental effect in this area was the shortage of petrochemicals to treat raw natural gas which was a side result of chemical price controls. If this dilemma can be solved simply by making a choice between two courses of action—lifting the price controls or further regulation by imposition of export controls—the responses to my letter indicate overwhelming sentiment for lifting the controls and letting the market price-setting mechanism function freely.

A second main problem which concerns my constituents is what a great many of them perceive as fiscal irresponsibility on the part of Congress. Their responses show a strong sentiment for congressional budgetary reform, coupled with equally strong desires for a balanced budget and reduction in the national debt. Most of these people seem to feel that deficit spending has contributed to our current unacceptable rate of domestic inflation. Many are aware that even if we have the will to attempt to control overall spending, we do not have the mechanism to do an effective job.

A substantial number of people also suggested that we get on with the business of governing. Many responses also favored the strengthening of private pension plans.

Mr. President, all these concerns are valid and should be heeded by those of us who make policies affecting lives and businesses across this country. The problems which prompt these concerns are complex and none of the solutions to these problems can be easily accomplished. All too often, what appear to be solutions to complex problems cause many more problems. The institution of wage and price controls seemed a necessary step to control an accelerating rate of inflation. They seemed to be necessary because there seemed to be no other available fiscal policy to adequately reduce Government spending enough to slow the rate of inflation. This was virtually impossible, because we in Congress lacked the necessary overall budgeting control mechanisms to deal effectively with the problem.

The result is that we all strive for more money for the programs for which we have committee responsibilities while realizing that Keynesian fiscal policy dictated that Government expenditures should be reduced to ease inflationary pressures—a classic case of whose ox should be gored. We knew we needed reductions but did not want them in our programs. Each of us, lacking an overall budgeting mechanism for priority setting, assumed that our committee priorities should be among the most important and that cuts should come in other areas. With budgeting reform, which would have allowed us to be involved in establishing overall priorities, it is entirely conceivable that the conditions causing the need for wage and price controls could have been responded to effectively without their imposition. Alas, this was not the case and wage and price controls were imposed.

I receive many letters daily citing economic dislocations which are the direct result of wage and price controls. A current scarcity of baling wire, disastrous to farmers and ranchers, can be traced directly to price controls. Similarly, price controls on chemicals have resulted in a shortage of those needed to treat raw natural gas. In this time of energy shortages no one would knowingly plan a chemical shortage which would cause possible further shortages, yet this is a result of domestic price controls which create a market situation that allows chemicals to be exported at higher prices than they are allowed to command domestically. Should we then institute export controls with the resulting reductions in exports and increases in the balance-of-payments deficits? I think not.

Sometime, hopefully in the near future, I am convinced we must lessen Government interference in the marketplace. The obvious first step is the elimination of wage and price controls. But when this is accomplished, it must be coupled with budgeting reforms which allow appropriate fiscal policy actions to be taken as soon as their necessity becomes known. If those actions are not taken simultaneously, the deferred inflationary pressures which will be released with the elimination of wage and price controls will cause a disastrously rapid inflationary spiral. This has occurred in other democracies which have instituted wage and price controls and attempted to remove them in the recent past.

I request unanimous consent that the letter I sent to these small businessmen be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

October 25, 1973.

Dear Fellow New Mexican: This letter is to give you some information about activities in the Senate I think will be of interest to you. But frankly, it also has a second purpose: to ask you to help me represent you better in the U.S. Senate.

I'm always concerned about action—or inaction—by the federal government which hurts small businessmen, particularly if they're in New Mexico. I have gotten more concerned since I have been in Washington and have seen how government activities have far-reaching and sometimes unanticipated results.

For example, take the Cost of Living Council's plans to control the cost of gasoline. Their regulations put almost all the burden on the service-station operator, typically small and independent businessman. I thought that system was unfair and should be changed. On October 15, we got the system changed, after much effort.

I enclose a copy of my remarks in the Senate on the subject so you can share some of my concern about government actions which hurt private businessmen.

I also enclose a copy of my most recent speech on one of the things which disturbs me most—Congress' total disregard of logic in connection with the way it budgets and spends the people's money.

You may also be interested in my remarks on why I supported the Retirement Income Security for Employees Act.

I would be glad to have your observations about any of these positions.

But I also need something more.

Will you, as an independent businessman, tell me about problems the government has created in your business or about problems the government could solve, but hasn't?

If you would take time to answer that question, it would be a service to me. I still think business is the place from which Americans can best participate in our system. I don't want the government diminishing or destroying that opportunity.

Any help you can provide in this matter will be greatly appreciated.

Very truly yours,

Pete V. Domenici,
*U.S. Senator.*

## "GIANT PATRIOT"—MINUTEMAN II OPERATIONAL BASE LAUNCH

Mr. MANSFIELD. Mr. President, during the congressional recess the Department of the Air Force announced that they were proceeding with their plans to conduct demonstration launches of the Minuteman II missile system during the winter, 1974–75. The program is designed to demonstrate the effectiveness of the deterrent represented by Minuteman II. In the past, Minuteman missile testing has been conducted at Vandenberg Air Force Base in California. To date no tests have been held at the operational bases located throughout the Nation.

The Minuteman II missile complex is deployed at three locations—Wing I at Malmstrom Air Force Base in Montana and the other two wings at Ellsworth and Whiteman Air Force Bases. Wing I has been selected for the initial operational launches under this proposed testing program. The testing of these missile sites in my State gives pause to consider several aspects of the program including what effect there will be in the immediate area and what potential hazards exist in the western part of Montana and our neighboring States. These launches, as I understand it, will be launched from

Montana and routed over northern Idaho and the State of Oregon into the Pacific. Assuming 100 percent efficiency, there would be no fallout in Montana and the falling debris would be encountered over national forest lands in northern Idaho.

The Minuteman II missile system is one of the more sophisicated and successful weapon systems in our program. It is my understanding that the testing at Vandenberg has been highly successful. The risk involved is likely to be negligible, but it is a matter of sincere concern to many. Should a missile misfire at the launching site, the immediate damage would, of course, be tremendous. Also, there is considerable apprehension on the part of our neighboring States of Idaho and Oregon should the flight pattern or operation of the missile malfunction.

The safety question is not the only area of concern. Primarily I question whether the appropriation of $26.9 million is necessary at a time when the Nation is faced with an unusual number of budget requests of competing priority. Information available to me indicates that the Minuteman II system is a highly successful and sophisticated one and the testing at Vandenberg supports this premise.

At a time when we are endeavoring to bring about international peace, the inland testing of such missiles seems to be entirely unnecessary. While the administration has not said so in so many words, I get the distinct impression that one of the compelling reasons for these tests is the flexing of our muscles in the ongoing debate on international arms control. The use of this weapons system in our international negotiations is untimely and unnecessary in my estimation.

The announcement has generated some concern in my State through the newspapers, radio and television and a number of letters from individual constituents. The outcry has not been tremendous, but it is sincere and has come from many different walks of life—businessmen, ranchers, farmers, legislators, and even miiltary personnel.

The Department has had the authority to proceed, but I strongly urge Congress to take a stand in opposition through the appropriation process, to further consideration of any testing from operational bases within the continental United States. I do not believe that it is necessary and it would be an unwise expenditure of Federal funds.

I ask unanimous consent that an editorial in the Montana Standard of Butte under date of January 10, 1974, be printed in the Record

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### Better Reason Needed for Missile Tests

We wonder if the Cascade County commissioners would favor ICBM tests if the missiles were being fired over, instead of from, Great Falls.

We wonder if Missoula would object to the tests if the Minuteman missiles were to fly over Butte instead of the Garden City.

We wonder if Dick Shoup would support the tests if he were still mayor over there in Missoula.

Mostly, though, we just wonder if the tests are necessary. If it's determined that they are necessary, and we can get a guarantee from the secretary of defense himself (say at the risk of his job) that no injuries or property damage will result, then go ahead. However . . .

The Pentagon wants to shoot a few missiles downrange from an operational base—Malmstrom—to impress the Soviets, we're told. (It would be in the spirit of détente if the Russian ambassador would send a note to the Pentagon assuring us that they're already impressed with our capabilities and that no shot is needed. Of course, it would be in the spirit of detente not to want to impress the Soviets with a nuclear missile in the first place, so maybe the spirit really isn't there.)

The Minuteman missiles to be fired, we understand, are soon to be replaced by advanced models. Why test an obsolete weapons system, especially at a cost of close to $30 million? Why weren't they tested before they became obsolete?

And, if the Pentagon is so sure the firings can be carried off successfully, where is the need to test?

Rep. Shoup may be right about the relative absence of danger involved in the proposed tests, but that isn't the same as saying the tests are needed.

We hope Gov. Judge and Sen. Mansfield get some good reasons from the defense people before they give their approval to the shots.

## SENATOR HUGH SCOTT—CIVIL RIGHTS LEADER

Mr. SCHWEIKER. Mr. President, Senate Minority Leader Hugh Scott will be honored Saturday night for his leadership in the area of civil rights. Proceeds from the National Black Salute will be used to establish the Hugh Scott Foundation, which will provide scholarships for black students interested in political science and government.

This new commitment to black America is in keeping with Hugh Scott's long line of accomplishments in this area. Particularly in the field of civil rights legislation, Senator Scott has been instrumental in toppling barriers of racial discrimination and intolerance. As Senator Brooke, national honorary chairman of the salute to Hugh Scott, has said:

> He Hugh Scott will continue his fight to remove all the stains of inequality from American life, be they through law or custom.

Mr. President, I ask unanimous consent that two news releases issued by organizers of the National Black Salute to Hugh Scott be printed in the Record.

There being no objection, the releases were ordered to be printed in the Record, as follows:

### A National Black Salute to Hugh Scott Night of Honors

A gala national black salute—believed to be the first of its type ever held—is being planned to honor U.S. Senator Hugh Scott of Pennsylvania, Senate Minority Leader.

Burrell L. Haselrig of Johnstown, a black Pennsylvania businessman who formulated plans for the national salute, said, "The purpose of the Salute to Scott is to honor a man who has worked for three decades in the field of civil rights. It is our way of paying a sincere tribute to someone who helped us back when it wasn't popular to be for civil rights."

The salute will be in the form of a dinner January 26 at the Washington Hilton Hotel, with Clarence Mitchell, the Washington Director of the NAACP, as the main speaker.

U.S. Senator Edward W. Brooke is serving as National Honorary Chairman.

The proceeds from the $100 a plate dinner will be used to establish a Hugh Scott Foundation, with proceeds going for scholarships for black students who are interested in political science or government and to black organizations interested in government.

The main ballroom at the Washington Hilton has been reserved and it is expected that more than 2,000 persons will attend. Haselrig said the affair is bipartisan and he announced that a host of black and white citizens will serve on the Advisory Committee.

He listed those names as:

Frank E. Fitzsimmons, General President of International Brotherhood of Teamsters, Washington, D.C.; Vernon E. Jordan, Jr., Executive Director of National Urban League, New York, New York; James A. Hamilton, Assistant General Secretary, Washington, D.C.; Lucy Benson, President of the National League of Women Voters, Washington, D.C.; Berkley G. Burrell, President of the National Business League, Washington, D.C.

Rev. Theodore Hesburg, President of the University of Notre Dame, Notre Dame, Indiana; William T. Coleman, Jr., Esquire, Dilworth, Paxson, Kalish, Levy and Coleman, Philadelphia, Pa.; Mayor Robert B. Blackwell, Mayor of Highland Park, Highland Park, Michigan; Mayor Charles Evers, Mayor of Fayette, Fayette, Mississippi; Mayor Ken Gibson, Mayor of Newark, Newark, New Jersey; Andrew Gleason of Johnstown, Pa.

Dr. Ethel D. Allen, Councilwoman, Philadelphia, Pa.; Rachel Robinson, President of Jackie Robinson Development Corp., New York, New York; Dr. Ralph David Abernathy, SCLC, Atlanta, Georgia; Rev. Jessie L. Jackson, President of Operation PUSH, Chicago, Ill.; Bishop Roy C. Nichols, Pittsburgh, Pa.; Frank Pasquerilla, Pres. of Crown American, Johnstown, Pa.

Dr. Benjamin Mays, Atlanta, Georgia, Arthur Fletcher National Consultant of the Republican National Committee, Washington, D.C., Robert J. Brown, BC Consultants, Washington, D.C.; Honorable Robert N. C. Nix, Congressman, Washington, D.C.; Joseph L. Rauh, National Vice President, ADA, Washington, D.C.; Colston A. Lewis, Commissioner of the Equal Employment Opportunity Commission, Washington, D.C.; Drew Lewis, Jr., President of Snelling and Snelling, Schwenksville, Pa.; Clifford L. Jones, State Chairman of the Republican State Committee of Pennsylvania, Harrisburg, Pa.

Gov. William W. Scranton, Chairman of the Board, Northeastern National Bank of Penna., Scranton, Pa.; Gov. Raymond P. Shafer, Tele-Prompter, New York, New York; John K. Tabor, Undersecretary, U.S. Department of Commerce, Washington, D.C.; Mrs. Henry Hillman, Pittsburg, Pa.; Dean Ronald R. Davenport, Dean of Duquesne University School of Law, Pittsburg, Pa.; Honorable Hardie Williams, State Representative of Pennsylvania, Philadelphia, Pa.; Arlen Spector, District Attorney, Philadelphia, Pa.; Sam Sparks, Little Rock, Arkansas; Senator Richard S. Schweiker Washington, D.C.; Paul R. Jones, Regional Director of ACTION, Atlanta, Georgia; Mayor Edward Bivens, Mayor of Inkster, Mich.; Mayor Johnny Ford, Mayor of Tuskegee, Tuskegee, Alabama; William Walker, Publishing Editor of the Cleveland Call-Post, Cleveland, Ohio, Mayor Tom Bradley, Los Angeles, Cal., and Roy Wilkens, Executive Director of NAACP, New York, New York.

Additional members of the Advisory Committee will be announced later along with a program for the evening.

### U.S. Senator Hugh Scott

The record of U.S. Senator Hugh Scott in civil rights was lauded today as the reason for a National Black Salute to the minority leader of the U.S. Senate.

Senator Scott is being honored at a dinner, January 26, at the Washington Hilton Hotel. The affair is in recognition of Senator Scott's support of civil rights legislation for more than three decades.

The proceeds for the non-profit dinner will be used to establish the Hugh Scott Foundation, designed to provide scholarships for worthy Black students who are studying political science or government.

Burrell Haselrig, of Johnstown, Pa., a Black businessman, is serving as executive director for dinner arrangements. Haselrig cited a speech in the Congressional Record by Senator Edward Brooke of Massachusetts which outlined Senator Scott's record in the field of civil rights.

Senator Brooke is serving as honorary chairman for the dinner, and Clarence Mitchell, Washington Director of the NAACP, is the main speaker.

## DEATH OF LEWIS L. STRAUSS

Mr. BAKER. Mr. President, I join with my colleagues in mourning the death of a brilliant public servant, Adm. Lewis L. Strauss. I had the privilege and honor of knowing Admiral Strauss personally both before and after my election to the Senate. He was a man of deep conviction whose determination to make the right decision, no matter how difficult, often made him the center of bitter controversy. However, he almost always succeeded in winning the respect and admiration of even his staunchest opponents and a brief look at his career will show why.

In 1917, at the age of 21, he served as secretary to President Herbert Hoover, then head of the Belgian Relief Commission. During the Second World War, he became top assistant to then Secretary of the Navy, and later Secretary of Defense, James V. Forrestal.

In 1946, President Truman named him one of the first members of the Atomic Energy Commission; and it was at that time that Admiral Strauss made his famous recommendation regarding the development of the hydrogen bomb. President Truman accepted that advice in 1950, and Admiral Strauss retired from the Commission convinced that our national security was in good, capable hands.

However, in 1953, he returned to Government duty at the insistence of President Eisenhower. Serving first as a special assistant to the President on atomic energy matters, he was nominated a year later to serve as Chairman of the Atomic Energy Commission. In that capacity, he was influential in formulating Eisenhower's atoms for peace program aimed at assisting nations of the world in their efforts to use atomic energy for peaceful purposes.

This great contribution, as well as others, won him the Medal of Freedom in 1958, and led Eisenhower to nominate him as Secretary of Commerce in 1959. But the controversy which had surrounded him throughout most of his life climaxed in the Senate and resulted in the narrow defeat of his nomination.

In 1962, Admiral Strauss published a book entitled "Men and Decisions," in which he described his service in the field of atomic energy, his concern for adequate national security, and his hope that the atom might become a symbol of peace rather than a weapon of war.

In 1965, he was elected the first chairman of Eisenhower College in Seneca, N.Y., adding but another academic award to his more than 20 honorary degrees from colleges and universities in the United States and abroad.

Shortly after the Six-Day War in 1967, he made headlines again with an imaginative proposal for stabilizing the peace in the Middle East. That proposal called for the construction of three huge nuclear desalting plants, one on Israel's Mediterranean coast, another in the Gaza Strip, and a third in Jordan on the Gulf of Aqaba. It was this proposal, strongly endorsed by President Eisenhower, which served as the basis for my close friendship with Admiral Strauss. I was so impressed by this attempt to end the chronic suffering due to lack of fresh water, food, and useful work in the Middle East, that I offered a sense-of-the-Senate resolution in support of his proposal.

In that instance, as well as future dealings with the admiral, I never ceased to be amazed by the perception of this remarkable man; and I am sure I speak for all when I say that his contributions to this country and to the world will not be forgotten.

## STATEMENT OF SENATOR CLAIBORNE PELL ON THE PRESIDENT'S EDUCATION MESSAGE OF 1974

Mr. PELL. Mr. President, today President Nixon submitted his message on education for 1974. On its surface, there is little in the President's statement with which one can disagree. We all share a commitment to sound basic education and to equal access to a good education for all of the schoolchildren in the Nation. We all understand the necessity for early appropriations for education, so that State and local school officials have the necessary time to plan their programs. We are all committed to the goal that no qualified student should be denied a college education because of a lack of funds.

However, when the message is analyzed more closely, other facets appear.

After vetoing four appropriations acts in 5 years, the President takes credit for substantial increases in Federal funding for education. The administration takes credit for establishment of a new program of basic educational opportunity grants—a program which was the initiative of the Senate and agreed to by the House. And it claims to have created a National Institute of Education, when only the strong insistent support of a few key House and Senate Members led to enactment of the necessary enabling legislation.

The message looks to the future without acknowledging the past actions of this administration concerning education. Appropriated funds have routinely been illegally impounded, until court decisions have forced their release.

No budget requests have been made for library programs for several years; yet the message proposes a new Library Partnership Act. One of the prime legislative goals of the administration was the Emergency School Aid Act, to assist school districts across the country in meeting the costs of desegregation. Now, less than 2 years and $500 million later, the President proposed scrapping his own program and substituting a small discretionary grant program strangely reminiscent of the ill-fated emergency school assistance program of 1970 and 1971.

I do applaud the President's decision to fund the basic educational opportunity grant program at $1.3 billion, thereby assuring significant levels of grant assistance to students in postsecondary education. However, it appears from the message that he intends to fund this important program at the expense of other traditional college-based student aid programs such as the supplemental educational opportunity grant program and the national defense student loan program. Such a substitution of resources is specifically prohibited by the Education Amendments of 1972.

I agree with the President that of utmost urgency is the early passage of extensions of existing elementary and secondary education programs, before they expire this July. To that end, the Subcommittee on Education, on December 19, 1973, ordered reported to the full Committee on Labor and Public Welfare S. 1539, the education amendments of 1974. It is my hope that this legislation will be considered by the Senate early in this session.

I am pleased that the President gives his support to the proposed consolidation of discretionary grant authority, the Special Projects Act, contained in S. 1539. I would hope that this proposal, in conjunction with the other consolidations and reforms contained in the bill, would constitute the "acceptable authorizing legislation" the President believes necessary to fulfill his promise of early and advance funding of elementary and secondary education programs. Through such cooperation, we can assure that the best interest of our Nation's schoolchildren will be served.

## A FEDERAL CHARTER FOR LEGAL SERVICES

Mr. FANNIN. Mr. President, one of the important advantages to be found in the Brock-Helms Proposal for a Legal Services Corporation as opposed to S. 2686, the bill reported by the Committee on Labor and Public Welfare, is that the Brock-Helms bill is based on a Federal corporation chartered by the Congress; whereas, S. 2686, is based on a nonprofit private corporation subject to the jurisdiction of the District of Columbia. It would seem that changes in the law of the District of Columbia could have an impact on the direction of the Corporation. Particularly with the coming of Home Rule, this should be an important factor in our deliberations. For the information of my colleagues, I am submitting a comparison of relevant factors operative under a Federal Corporation as opposed to those operative under a District of Columbia nonprofit Corporation. The comparison reflects one theory of preference for the Federal charter concept. Other views as to the advantages and disadvantages of the two approaches have also been expressed.

Mr. President, I ask unanimous consent to have this comparison printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

| FEDERAL CORPORATION | D.C. CORPORATION |
|---|---|
| (1) Created by Congress solely for the purpose of effectually executing the powers conferred upon Congress by the Constitution. | (1) Corporation is chartered under D.C. corporation law to engage in the activities permitted thereunder. |
| (2) Definition is one of enumeration. | (2) Definition is any corporation chartered under D.C. Corporation law. |
| (3) The powers, duties, and character of a corporation incorporated under an act of Congress are to be measured solely by the charter under which alone it has any legal existence. | (3) The powers, duties and character of a D.C. Corporation are those specified under D.C. corporation law and allowed under that corporation's charter. (Any future enactment of D.C. corporation law would also effect the functioning of the D.C. Legal Services Corporation, unless specifically stated to the contrary). |
| (4) Nothing to the contrary appearing in its charter, the corporation may be said to have a legal existence in every one of the United States. | (4) The corporation has only a legal existence in D.C. and has the same status as any corporation existing in one of the 50 sister states. |
| (5) Government Corporation Control Act requires annual budgets and audits. Purpose of Act: "bring Governmental corporations and their transactions and operations under annual scrutiny by Congress and provide current financial control thereof." | (5) D.C. Corporations are obviously not covered by this Act. |
| (6) Application of ultra vives doctrine is a matter of Federal law (i.e., only Federal Government can raise ultra vives objections). | (6) Application of ultra vives doctrine is a matter of D.C. corporation law. |
| (7) Is a corporate entity separate and distinct from the Federal Government itself? | No difference. |
| (8) Domicile is place where principal office is located, unless stated to be elsewhere by the Act. | (8) Domicile is D.C. |
| (9) Amenability to State Laws: Unless the contrary is expressed in, or must be implied from, controlling legislation by Congress, a federal corporation is, as to its business and property within a particular state, ordinarily subject to the valid laws of the state insofar as they do not, when applied, conflict with the lawful control and supervision by the Federal Government or with the performance by the corporation of legitimate functions as an agency of such government. Constitution protects a federal agency only from state legislation which tends to impair its utility as an instrumentality of the Federal government. Where is conflict, authority of Federal government, properly exercised, is paramount. (When state law incapacities them from discharging their duties to the national government then state law becomes unconstitutional). | (9) Is under D.C. law and is amenable to the laws of other states regarding transactions within those states on the same basis as any other foreign corporation. *Hadley v. Freedman's Savings and Trust Co.* 2 Tenn Ch 122. Such forfeiture statutes *do* apply. |
| (10) A state statute regulatory or restricting the exercise within the state of powers possessed by foreign or domestic corp., prescribing as a penalty for noncompliance forfeiture of right to do business in the state does *not* apply. | |

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## PROGRAM FOR EDUCATING SPANISH-AMERICAN CHILDREN

Mr. MONTOYA. Mr. President, today I would like to direct the Senate's attention to a remarkably effective get-ahead program for educating Spanish-American children. This innovative learning procedure is called the Responsive Environment Program for Spanish-American Children—REPSAC.

The REPSAC program serves as early educational intervention for 3-, 4-, and 5-year-olds high-risk—low-birth weight with handicap—Spanish-American children in Clovis, N. Mex. Its very able director, Mrs. Gay Alford Herman, reports that the program is aimed at providing successful experiences for bilingual children in the areas of language learning in both English and Spanish and in improving cognitive and affective development.

The children in this effort are considered educationally handicapped. One major goal of the procedure has been to provide early intervention to prevent placement of children in classes for the retarded or other types of special education.

Evaluation of the REPSAC program was conducted by Adobe Educational Services, unit E, in May 1973. Evaluation focused on three components: instructional, staff development, and community-parental involvement. The findings were extremely encouraging. After comparison of the REPSAC students with a control group of similar children, the evaluation team scored the REPSAC group significantly ahead of the control group in several of six categories. REPSAC students were largely in front in language development in Spanish, and in general speech development, and measurably ahead in language development in English, and sensory and perceptual discrimination. Moreover, the evaluation report points out that the REPSAC students developed and maintained a favorable self-image while participating in the program.

Mr. President, I heartily recommend the responsive environment program for Spanish American children for the accolade it justly deserves. Spinoff from this farseeing and necessary attempt to deal with educationally handicapped children has led to another excellent program, the bilingual early childhood program—BECP. Perhaps most important, the young students in the REPSAC program gain a chance to come up to, or exceed, the national achievement average. They will go on to face life with increased powers and hopes.

I would very much like to thank Mr. Bill McDaniels, director of Federal programs for Clovis Public School District, who, with Mrs. Herman, and the intelligent, caring staff and students in Clovis, continue to give so much to our children.

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## REPORT ON FINANCING OF POSTSECONDARY EDUCATION

Mr. BEALL. Mr. President, the National Commission on the Financing of Postsecondary Education today issued its report to the Congress and the country.

The Congress mandated the study undertaken by the Commission because we were unable to resolve all of the issues that were presented during the consideration of the Education Amendments of 1972 and also because of the general lack of hard information which we found was available at that time.

This was a 17-member Commission, 13 of whom were appointed by the President. I had the pleasure of serving on this Commission along with Senator WILLIAM D. HATHAWAY of Maine, Congressman JOHN DELLENBACK of Oregon, and Congressman JOHN BRADEMAS of Indiana.

In addition, I ask unanimous consent that the names of the noncongressional members and the staff who contributed so much to the success of the Commission, be printed in the RECORD.

The Commission was ably assisted by its Executive Director, Dr. Ben Lawrence and Dr. George Weathersby and more than 2 dozen full-time and part-time staff members who worked many hard and long hours in helping to shape and complete the final report. I personally want to congratulate all of the Commission members and the staff for this effort which I believe will be of great significance.

Now Members of Congress may be surprised that the Commission did not make specific recommendations regarding new proposals. If this is the case, one might ask how could the report be so significant?

First, the Commission developed a comprehensive analytical framework and accumulated the most complete data base ever assembled on higher education. I am pleased that the Office of Education plans to continue this data base and even more pleased that this information will be available to all who are willing to pay for the use of the computer.

Other education study groups have recommended specific financing programs for secondary education. We felt, however, that it was more significant that we construct an analytical framework that will enable decisionmakers and the education community at the local, State and Federal levels to analyze the advantages and disadvantages of the various financial proposals that have been advanced, and will be advanced in the future.

It should be made clear, however, that the Commissioners do not consider the analytical framework developed as the final answer. Yet, considering the primitive state-of-the-art and the dearth of information and data available, the Commission has taken a giant step. We call on the academic community and others to continue to sharpen this tool and to move toward the degree of sophistication that is needed.

Incidentally, these are the very tools which the academic community rightfully prides itself in using. Yet, I believe that they have employed these same tools inadequately in the past in looking at the postsecondary education enterprise.

It should be noted that the Commission's report extended beyond the traditional concept of higher education, which includes approximately 3,000 institutions and 9.3 million students, and also embraced what we refer to as the noncollegiate sector which encompasses over 7,000 institutions and 1.6 million students. These are basically vocational and proprietary institutions which play a critical role in educating and equipping citizens with needed skills to meet the manpower needs of our country. There are today and there will remain, many good jobs which do not require a college education and I believe that the Commission's broadened definition will help to acquaint the Nation on the variety of opportunities that exist in the postsecondary enterprise.

The Commission did respond directly to two of the specific mandates of the 1972 legislation; namely, an examination into the important issue of financial distress among institutions of higher education and secondly, the development of standards procedures for determining the annual percentage cost of postsecondary education.

With respect to the financial distress question, we found there was not financial distress that substantially jeopardize national objectives although we did find that there are some individual institutions in serious financial difficulty. The report also raises some warning flags indicating that other institutions may face distress in view of some of the trends which we see, such as enrollment decreases, and the problems associated with institutions offering discount prices to lower-income students.

Regarding the national standards for institutional costing, we found that they were feasible and desirable, althought we did raise some important caveats. While there are some problems, I am convinced that the advantages clearly outweigh the disadvantages. I am also convinced that the recommendations of the Commission for the use of interim national standards by a number of institutions on a voluntary basis, with Federal support for the additional cost involved, makes sense and will help us to avoid some of the "bugs" and work out some of the problems associated with the application of uniform standards to such institutions as the community colleges and the research universities.

I am hopeful that the higher education community, which has been somewhat uneasy about this provision, will not view these national standards with fear. Rather, I urge them to embrace the concept and work to see that comparable and useful data be developed and collected. I am convinced that this will be a useful management tool for the institutions and also invaluable for policymakers and funders.

Finally, at a time when we hear so much that is bad and not working, I believe that we should take pride in the fact that the Commission found that current financial aid programs have improved access in the past several years.

Specifically, we found as result of financial aid programs, 1.4 million students, who otherwise would not have attended, are doing so. We produced evidence showing improved participation rates with students from families below $3,000 and with students families in the income range of $3,000 to $6,000. We found that their percentage of total postsecondary education enrollment closely approximated the percentage of their total age bracket. Nevertheless, we also found that the participation rate for 18 to 24 year olds whose family income was $10,000 or more, is twice the rate of those with family income of less than $10,000.

Particularly disturbing was the participation rate of the group with family incomes between $6,000 and $7,500. It may be that this group is just above the income category for financial assistance. We should be exploring the reason for the fact that although having 16.7 percent of the 18 to 24 age group, their percentage distribution in college enrollment is only 6.9 percent.

Mr. President, I want to make it clear that the Commission members do not regard the report released today as representing an end, but rather it represents a beginning.

The real value of the Commission's work will depend on the extent to which others—the postsecondary education community, State legislatures, Congress, and the administration pick up the "ball." I am hopeful, for example, that the Congress and State legislatures throughout the country will continue the momentum that has been gained by the work of the Commission. I was encouraged to hear today that Congressman O'Hara, chairman of the Special Education Subcommittee of the House Education and Labor Committee, contemplates holding hearings on the Commission's report in the near future. I urge the Senate Labor and Public Welfare Subcommittee on Education do likewise.

Mr. President, as a result of the 14-month study, I am impressed with the strength and diversity of postsecondary education. It is a $30 billion enterprise and it is of utmost importance to all of our citizens and to the Nation. Because of the importance of the Commission's report and of the interest in it, I ask unanimous consent that a summary of its recommendations be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

### CONCLUSIONS AND RECOMMENDATIONS

Postsecondary education, like the entire American society, has changed significantly during the past twenty years. To respond to this change, the first tasks of those charged with the financing of postsecondary education are to put aside outdated perceptions, look anew at the objectives of postsecondary education, and examine the methods by which those objectives may be accomplished. Those who propose changes in financing must be able to offer reasonable assurances that what they propose will produce the intended results.

For this reason, the Commission and its staff have placed the highest priority on assembling pertinent data and using them to analyze alternative policy proposals in a systematic way. Thus, while the Commission believes its recommendations to be important, so too are the substantive findings on which they are based and on which others may base their own recommendations. Therefore, this chapter includes not only the Commission's recommendations, but also those of its conclusions that it believes to be important considerations for the resolution of policy issues in the future.

### POSTSECONDARY EDUCATION IN A CHANGING SOCIETY

#### *Conclusions*

1. Postsecondary education in the United States is a large enterprise including more than 2,900 traditional collegiate institutions serving some 9.3 million students and an additional 7,000 noncollegiate technical, vocational, and proprietary institutions serving approximately 1.6 million students. Postsecondary education also includes an estimated 3,500 additional institutions and organizations (serving an unknown number of students) as well as a great many other noninstitutional learning opportunities (in which as many as 32 million people may participate).

2. Recognizing the broad scope of postsecondary education, the Commission has adopted for the purposes of its study the following definition, encompasing the 2,900 traditional collegiate institutions and 7,000 noncollegiate institutions:

Postsecondary education consists of formal instruction, research, public service, and other learning opportunities offered by educational institutions that primarily serve persons who have completed secondary education or who are beyond the compulsory school attendance age and that are accredited by agencies officially recognized for that purpose by the U.S. Office of Education or are otherwise eligible to participate in federal programs.

3. Total enrollment of students from the traditional college-age group (18–21) in the collegiate sector will continue to increase during the 1970s but at a rate reduced from that of the 1960s. During the 1980s, however, total enrollment of such students is likely to decline, although some sectors may experience enrollment growth. Data necessary to project enrollment from other age groups and in the noncollegiate sector are not available.

4. Ethnic and racial minorities, persons from low-income families, women, and individuals of all ages seeking continuing professional development or retraining will make up an increasing proportion of total enrollment in postsecondary education.

5. The new 18-year-old "age of majority" and emerging changes in high school programs are likely to affect postsecondary education in major ways that are not yet easily determined.

6. Institutions of postsecondary education will be under strong pressure to increase their productivity to match rising costs.

7. A number of other important changes are taking place in the society and among the institutions of postsecondary education that will have an important bearing on the level and structure of financial support necessary to serve the interests of society and individuals. These changes are described in Chapter 1.

### RECOMMENDATIONS

1. The Commission recommends that data should be collected on those sectors of postsecondary education other than those identified herein as the collegiate and noncollegiate sectors.

### OBJECTIVES FOR POSTSECONDARY EDUCATION

#### *Conclusions*

1. A set of objectives for postsecondary education in the United States is necessary for evaluating alternative proposals for financing postsecondary education.

2. A set of criteria for each objective is needed to measure the degree of achievement of the objective.

#### *Recommendations*

1. The Commission recommends the adoption of the following eight objectives:

a. Each individual should be able to enroll in some form of postsecondary education appropriate to that person's needs, capability, and motivation.

b. Each individual should have a reasonable choice among those institutions of postsecondary education that have accepted him or her.

c. Postsecondary education should make available academic assistance and counseling that will enable each individual, according to his or her needs, capability, and motivation, to achieve his or her educational objectives.

d. Postsecondary education should offer programs of formal instruction and other learning opportunities and engage in research and public service of sufficient diversity to be responsive to the changing needs of individuals and society.

e. Postsecondary education should strive for excellence in all instruction, research, public service, and other learning opportunities.

f. Institutions of postsecondary education should have sufficient freedom and flexibility to maintain institutional and professional integrity and to meet, creatively and responsibly, their educational goals.

g. Institutions of postsecondary education should use financial and other resources both efficiently and effectively and employ procedures sufficient to enable those who provide the resources to determine whether those resources are achieving desired outcomes.

h. Adequate financial resources should be made available to permit the accomplishment of the foregoing objectives. This is a responsibility that should be shared by a combination of public and private sources, including federal, state, and local government, and by students, parents, and other concerned individuals and organizations.

2. The criteria used by the Commission in measuring the achievement of these objectives have been helpful in the analysis of alternative financing plans, but additional effort should be directed toward improving these criteria.

### CURRENT FINANCING PATTERNS

#### *Conclusions*

1. In fiscal year 1972, the income of postsecondary educational institutions was about $30 billion. Of this $30 billion: 21 percent was received from students and parents; 31 percent was received from state and local governments; 27 percent was received from the federal government; 9 percent was received from gifts and endowment income; and 12 percent was received from auxiliary enterprises and other activities.

2. The level and character of financial support varies greatly from state to state and institution to institution, and this variation must be taken into account in developing effective national programs and policies.

3. In 1972, public financing for postsecondary educational expenditures at institutions amounted to $17.2 billion. Of this amount $4.2 billion, or 26 percent, was provided through students and $13.0 billion, or 74 percent, was provided through institutions. An additional $1.1 billion in public support was provided to students for living costs and education-related expenditures.

#### *Recommendations*

1. The Commission recommends that comparable financial information for the entire postsecondary education enterprise be collected and reported in a timely and systematic fashion.

2. The Commission further recommends that financial information associated with institutions of postsecondary education be collected and reported in close cooperation with the states.

#### *Conclusions*

1. The postsecondary education objective of student access, when measured in terms of income, race, ethnic group, sex, and geographic location, is not yet accomplished.

a. The participation in postsecondary education of individuals 18–24 years of age from families earning less than $10,000 per year is 17.3 percent while the corresponding participation rate of families earning more than $10,000 per year is 38 percent.

b. The rates of participation in postsecondary education for individuals from certain racial and ethnic minorities are far below the participation rates of other Americans.

c. Women are also underrepresented in postsecondary institutions, constituting 51 percent of the 18–24 year age group but only 44 percent of undergraduate enrollment and 39 percent of graduate enrollment.

d. The location of collegiate institutions best serves those individuals who live in small metropolitan areas. Those who live in large metropolitan areas are only somewhat better served than those who live in rural areas. Lack of data on noncollegiate institutions does not permit us to draw corresponding conclusions for the noncollegiate sector.

2. Family income alone is not the only important variable in determining an individual's decision to seek postsecondary education. Parental education and occupation may be even more important in affecting postsecondary enrollment and access measures. Among other factors, rigid high school tracking is the single most significant controllable factor.

3. There is inadequate information to enable the Commission to make a firm judgment concerning the degree of student choice. Further research could provide a more complete understanding of the interactive processes of admission, financial aid, and enrollment. Aggregate data from both the public and private sectors would suggest, however, that those students who do obtain access to some institution of postsecondary education are distributed proportionately according to income level within both sectors.

4. The extent to which students are assured an opportunity to achieve their educational objectives, once enrolled, is particularly difficult to measure. Program completion rates have been examined as one limited measure for this objective, and the cost of attendance does not appear to be a controlling variable in program completion. For many students, however, program completion is an inappropriate measure of opportunity, particularly for those enrolled in any occupationally-oriented institutions, where students may be more concerned with receiving particular instructional services than with completion of a degree or certificate program.

5. There are many program offerings available in a variety of different sizes and types of institutions. Nevertheless, the existence of a multiplicity of programs does not necessarily provide diversity, because the programs of many institutions are very similar. To the extent that individuals may wish to enroll in programs with different characteristics, diversity may well be limited.

6. Although the Commission is aware of a variety of efforts to support and measure excellence in postsecondary education, it finds excellence difficult to evaluate and finds no adequate measures to fully assess the level of achievement of the objective of excellence.

7. Current evidence indicates that institutions that receive substantial financial support from a variety of public or private sources are neither more independent nor better able to achieve their educational objectives than those primarily dependent on a single source of support. The relative availability or scarcity of financial resources is probably the most significant factor affecting institutional independence.

8. Historically, institutions have attempted to meet their responsibilities for financial accountability to their major sources of financial support through a variety of techniques. Many of the information and analytical procedures now required for the efficient and effective allocation of resources in increasingly complex institutions and for the determination of postsecondary education policy are not readily available, and those that are available are not widely used.

9. Although the financing of postsecondary education is a responsibility shared by many sources, the total amount of resources currently made available is not adequate to accomplish fully each of the objectives identified by the Commission.

### THE INCIDENCE OF FINANCIAL DISTRESS AMONG INSTITUTIONS OF POSTSECONDARY EDUCATION

#### *Conclusions*

1. There is no generally accepted definition of financial distress used in the postsecondary education enterprise. For the purposes of the Commission's analysis, however, "financial distress would exist in the postsecondary education enterprise or in one of its major sectors when the lack of money and other resources prevented the desired degree of achievement of national postsecondary objectives."

2. No generally accepted standards or uniform criteria are available to ascertain the existence or extent of financial distress in postsecondary education.

3. The Commission concludes that an

evaluation of financial distress in postsecondary education should incorporate at least three sets of indicators: factors concerning institutional financial status, factors related to the financing of the total postsecondary education enterprise, and factors external to postsecondary education.

4. Based on an analysis of selected statistical evidence, the financial status of the postsecondary education enterprise is not substantially jeopardizing the achievement of postsecondary education objectives. Some postsecondary institutions, however, are already in financial distress; and, if present patterns and conditions of financing continue, there is a high probability that such distress will occur in several sectors of postsecondary education as well.

#### *Recommendations*

1. National standard indicators should be developed to determine the relative financial status of the different types of postsecondary educational institutions. The Commission report suggests a number of such indicators for consideration.

2. When there are substantial shifts in public financing of specific programs, they should be effected over a reasonable period of time. Appropriating funds for all education programs one year in advance of spending would be especially helpful.

3. The programmatic interrelationships among research programs, graduate education, and undergraduate education should be studied so as to understand better the induced financial effects of individual program financing decisions on an institution.

4. Grants and contracts with institutions of postsecondary education either should include long-term programmatic support that recognizes the interrelationships among the various functions of the institution or should cover the costs associated with purchasing the service as if it were provided separately from other functions within the institution.

### A FRAMEWORK FOR ANALYZING NATIONAL POLICIES FOR FINANCING POSTSECONDARY EDUCATION

#### CONCLUSIONS

1. Because the arrangements for financing postsecondary education are complex, the Commission believes that policy makers will find a comprehensive analytical framework useful in developing financing proposals that will accomplish the objectives they seek.

2. The Commission found useful one such analytical framework employing the following ten major elements: objectives, criteria to measure the achievement of objectives, a series of assumptions about the society and the institutions of postsecondary education, a set of general policies to accomplish the objectives, financing mechanisms to carry out the policies, specific financing programs, an extensive data base for postsecondary education, a method for estimating student and institutional responses to changes in financing, a set of measurements to describe the achievement of the objectives, and, finally, a judgmental review of the financing mechanisms and programs in relation to the objectives.

#### *Recommendation*

The Commission recommends that federal, state, and other policy makers for postsecondary education use an analytical framework similar to that described in this report for considering financing proposals.

### AN ANALYSIS OF ALTERNATIVE FINANCING PLANS

#### *Conclusions*

The Commission concludes that an analytical framework, similar to that described in Chapter 6, provides an instrument that can significantly improve the capacity of policy makers to make decisions about the financing of postsecondary education.

However, such frameworks are difficult to develop, as demonstrated by the limitations of the analytical model, one element of the framework. For although the analytical model provides useful estimates with respect to student response to pricing decisions, the model does not, because of deficiencies, estimate institutional responses to a variety of financing mechanisms designed to aid institutions.

#### *Recommendation*

The Commission strongly recommends further research on, and development of, analytical frameworks and models similar to those used by the Commission. The Commission also recommends further collection and analysis of data which, although currently not available, would be useful for the evaluation of the impact of major financing alternatives on the achievement of national objectives, particularly objectives related to institutions, such as diversity and excellence.

### NATIONAL STANDARD PROCEDURES FOR INSTITUTIONAL COSTING AND DATA REPORTING

#### *Conclusions*

1. The most useful unit cost data for administrators and policy makers are the direct, indirect, and full (direct plus indirect equals full) annual per-student costs of instruction for each major field of study, level of instruction, and type of institution.

2. Cost-per-student calculations are technically possible for most instructional programs at most institutions; however, the currently available procedures do not fully reflect the complexities of those institutions that offer a combination of instruction, research, and public service programs or a combination of vocational and academic programs.

3. Policy makers should not rely solely on annual per-student costs of instruction for the development of policy in postsecondary education.

#### *Recommendation*

1. The federal government should provide continuing leadership in encouraging and developing national standard procedures, appropriate to each type of institution, for calculating the direct, indirect, and full annual cost of instruction per student by level and field of study.

2. Interim national standard procedures for calculating those costs per student should be adopted by the federal government to be implemented by institutions on a voluntary basis. Cooperating institutions should receive financial assistance to cover costs related to implementation of the interim procedures and reporting their cost information. (The Commission has suggested interim national standard procedures, which are described in a separate staff document.)

3. Federal support should be provided for the development and reporting of financial and program data to supplement and extend the cost-per-student data. Examples of suggested additional financial data may be found in Chapter 8 of this report.

4. The federal government should ensure that the data base assembled by this Commission is updated, maintained, and made available to appropriate public and private agencies.

5. The federal government should support a national center for educational information with the responsibilities and characteristics listed in the text of Chapter 8.

The primary purpose of the efforts of the Commission has been to set the context for debate on the financing of postsecondary education. In this regard, we have neither selected nor recommended any single financing plan; nor by presenting and analyzing several alternatives do we imply that the alternatives are all equally acceptable or that these are preferable to other plans not analyzed. These alternatives were examined for analytical purposes only.

It is the hope of this Commission, however, that the data and analytical framework developed by the Commission will improve the policy decisions of institutions, governments, and private organizations. There are many additional topics that the Commission would like to have addressed—and would have addressed had it had available a data base and analytical capacity at the beginning of its work. Nor is this report intended to be a definitive product. It is a beginning for those who will continue working in this critical area of public policy.

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## VIETNAM CEASE-FIRE

Mr. FULBRIGHT. Mr. President, as we approach the first anniversary of the signing of the Vietnam cease-fire agreements it is appropriate to review the status of their implementation.

It was clear from the outset that the Paris agreements would not resolve the basic points at issue between North and South Vietnam. The agreements were quite specific, however, with regard to those matters which were of most direct concern to the majority of the American people: We promised to withdraw our forces from South Vietnam and the Democratic Republic of Vietnam and the Provisional Revolutionary Government promised to return our prisoners of war, to facilitate an accounting for those missing and to repatriate the remains of those who had died in areas under their control.

As we all know, the U.S. Forces were withdrawn on schedule and the North Vietnamese returned nearly 600 American military and civilian prisoners. Since then, unfortunately, the North Vietnamese and their allies in the south have refused to cooperate with our efforts to account for some 1,300 Americans still missing, to explain the more than 50 discrepancies in their earlier accounting, or to permit the recovery of the remains of any of our known dead form North Vietnam.

It has been said with increasing frequency in recent months that the United States has tried by all the means available to it to secure an accounting for our missing. Quite understandably, the families of these men do not accept this. At its hearing on the MIA question on January 28 the Committee on Foreign Relations expects to receive the views of a number of family members regarding what has been done and what more could be done. There obviously are no easy answers to these questions but I believe that we owe it to the missing men and their families to explore every possibility.

Hanoi's commitment to cooperate under article 8(b) of the cease-fire agreement appears unambiguous and unconditional. Those who have followed the discussion concerning our MIA's which have taken place in the Four Party Joint Military Team meetings in Saigon are aware, however, that the representatives of Hanoi and the Provisional Revolutionary Government have consistently responded to U.S. demands for an accounting with charges that the United States and South Vietnam have failed to implement fully their obligations under the Paris agreement.

Given the ambiguities of the accords themselves and the confusing military and political situation in South Vietnam, it is difficult to assess the validity of their arguments. There can be no doubt, however, about the failure of the North Vietnamese to live up their obligations as regards an accounting for the missing.

It may be that the only way the United States could break the deadlock in the Four Party Joint Military Team talks about accounting would be by agreeing to discuss Hanoi's concerns about the overall implementation of the cease-fire agreement. This appears to be the message which Hanoi is seeking to convey. The pitfalls in such an approach are obvious but in the apparent absence of military or other political leverage on the North Vietnamese, it is a possibility which should be considered.

I, for one, have little enthusiasm for a course of action which would require a continued American involvement in the internal affairs of the Vietnamese, notwithstanding my disapproval of certain actions of the Thieu regime since the accords were signed. Having said this, however, I would also want the leaders in Hanoi to understand that they would be making a serious mistake if they were to believe that those who hold such views have any sympathy whatsoever for their apparent efforts to make American families the pawns of their political ambitions.

One of the consistent concerns of those who have opposed the war in Vietnam has been that the basic requirements of humanity and morality not be lost sight of in the quest for military and political advantage. The behavior to date of the North Vietnamese regarding our missing in action clearly does violence to this principle. The North Vietnamese are in an indefensible position in refusing to facilitate the accounting which we desire. Hanoi should recognize that the inhumanity of this attitude only serves to lower its standing in the eyes of the rest of the world.

In my view, the leaders in Hanoi are mistaken if they believe they can bargain cooperation in accounting for the MIA's for American pressure on the Thieu government. For one thing few Americans are able to see any legitimate connection between what is essentially a Vietnamese political matter and Hanoi's preexisting contractual and humanitarian obligation to facilitate the accounting for the missing in action. Hanoi's present intransigence may even be self-defeating for it could serve to strengthen the argument for a continuing American involvement in Vietnam. Finally, it should be apparent by now that President Thieu is not susceptible to American pressure on issues which he considers crucial to the survival of his regime.

The cooperation which we are asking of the North Vietnamese would involve no political or military concessions on their part. Their agreement to cooperate in this unfinished business would indeed be recognized through the world as a mark of humanity and good faith.

Over the last few years I have written to the leaders in Hanoi several times urging their cooperation in matters having to do with American prisoners of war and missing in action. The most recent of these was a letter which I addressed to Premier Pham Van Dong in June 1973. That request concerned a missing American pilot who, according to North Vietnamese broadcasts, was captured in November 1967, but who was neither returned following the cease-fire nor subsequently accounted for in any other manner. To date I have had no response to that letter.

Today I would like to suggest a number of practical steps which I, as a Member of the Senate concerned about our missing servicemen, would urge on Hanoi. These are:

First. The North Vietnamese surely must have at their disposition information regarding the few individuals who are known or can be presumed to have been taken prisoner in North Vietnam but who were neither returned nor reported as having died. The United States has provided Hanoi with all of the information we have on such cases. It should be a simple matter for the North Vietnamese to check their information against ours and provide a response.

Second. The repatriation of the remains of those already identified by Hanoi as having died in North Vietnam should also be a simple matter for Hanoi to arrange. What possible advantage can Hanoi find in holding the dead as hostages?

Third. The North Vietnamese reluctance to allow access by U.S. military search teams to its territory is perhaps understandable. But if they do not like the proposed composition and procedures of such teams, they should propose an alternate approach which would be acceptable to them. In many instances precise crash sites have already been identified and these could easily be visited by neutral investigators.

While on this point I must also express my dismay over the attack on December 15, on a clearly marked, unarmed American helicopter engaged in a search mission in South Vietnam. Despite the fact that the North Vietnamese and Provisional Revolutionary Government authorities had been advised in advance of this flight, the helicopter was attacked and two persons, including one American, were killed. Incidents such as this must not be repeated.

Fourth. Whatever the complexities of the North Vietnamese role in Laos, they certainly are in position to urge the Lao Patriotic Front to provide whatever information it has regarding any of the more than 300 Americans missing in that country. As a first step Hanoi might recommend the release of Emmet Kay, the one American who is definitely known to be alive and a prisoner today in Laos.

None of the actions which I have suggested should be difficult or awkward for the North Vietnamese. If they were taken, a significant number of cases could be resolved although unfortunately, hundreds of our missing will doubtless remain forever unaccounted for. Still the families of these men would have the comfort—as scant as it may be—of knowing that at least the minimum reasonable steps had been taken. In the absence of even the simple cooperative efforts which I have suggested, hundreds of families seem doomed to a future of flickering hope and cruel uncertainty.

Finally, in closing I would add a word about Cambodia. We know very little about the possible missing American servicemen and civilians in that country. We do know that some of those prisoners who have been returned were held in Cambodia at one time or another. There are continuing reports that other persons, including missing American, European and Asian journalists, may still be alive in captivity there. It would be enormously gratifying if the parties who may be holding such prisoners or who have information regarding the fate of others, could account for any such individuals.

## TRIBUTE TO JOE PATERNO—COACH OF THE YEAR

Mr. HUGH SCOTT. Mr. President, the other night I was scheduled to present the Timmie Award of the Washington Touchdown Club to Penn State's outstanding football coach, Joe Paterno. Unfortunately, the flu bug had different plans for me and kept me in bed. But may I share with you the words I intended to speak in behalf of Joe Paterno.

And, Mr. President, to support the contention that he builds men and their character, I ask unanimous consent that the Philadelphia Inquirer column by Bill Lyon, "Faith of Millions Renewed by Cappy," be printed in today's Record. This moving column contrasts Heisman Trophy winner John Cappelletti, the football player and John Cappelletti, the human being whom people are still talking about, following his acceptance speech in New York when he was recognized as college football's outstanding player of the year.

There being no objection, the material was ordered to be printed in the Record, as follows:

### REMARKS BY SENATOR HUGH SCOTT

General Chairman Sharigan, honored guests and friends:

I am delighted to be here for the presentation of the Touchdown Club's *Timmie Award* to a fellow Pennsylvanian. Coach of the Year Joe Paterno has been at the helm of the Nittany Lions for seven years and in that time his teams have won 64 games, lost 13 and tied one. This impressive record figures out to a win percentage of .831.

I wish Pennsylvania's Republican Party could boast similar victory percentages.

Reflecting on President Nixon's armchair coaching record with the Washington Redskins, I have rarely advised Coach Paterno on his game plans—and it shows! Winning 12 games and the Orange Bowl against rival Louisiana State, Joe's team has brought not only distinction to Pennsylvania's largest university but a sense of pride to the entire Keystone State.

Citing his percentage record, many have encouraged Joe to run as a candidate for the United States Congress. If I may make an exception to my rule and pass along a piece of advice to the coach . . . it would be to stay in a profession where the opposing teams rarely throw blind tackles and *are* penalized for personal fouls.

I must admit, however, that being a coach of sorts for 42 Republicans in the Senate I am very interested in instituting a few of your more successful rules into our game plan on Capitol Hill.

Perhaps we might institute curfews and also maintain study hours during the training season.

If I may be serious for a moment . . . Grantland Rice said it better than I in writing: "When the Great Scorer comes to write against your name. He marks not that you won or lost, but how you played the game."

I know Joe Paterno follows this as a creed for success. He builds great football teams, but more importantly he builds great character. He builds men. He builds *into* them the moral values on which our democracy was founded.

As Polybius said in the second century B.C.: "Those who know how to win are much more numerous than those who know how to make proper use of their victories."

I am deeply moved to have been asked to speak in behalf of such a winner, an outstanding coach and exceptional human being. Let's watch Joe and his team in action before the presentation.

### FAITH OF MILLIONS RENEWED BY CAPPY

(By Bill Lyon)

On the campus of Penn State, in the office that was the headquarters for the low key campaign pushing him for the Heisman Trophy, the jumble and clutter of mail spills out over the boxes, more than 2,000 letters, and fresh batches tumble onto the growing pile each day.

In the big stone house where he grew up, on a quiet street in Upper Darby, the tables in the living room and the kitchen are piled thick with more mail. It stacks up and overflows in shopping bags.

The postmarks are from Verona, Miss., and Brooklyn, from Inglewood, Calif., and Revere, Mass. From Jacksonville, Fla., and Flagstaff, Ariz., from Atlanta and Chicago and Birmingham, from New Haven and Jonesboro, Ark., and Ruidoso Downs, N.M. And from Japan and South America.

There are messages penned in the shaky scrawl of the elderly and the sick, and printed in the heavy, thick blocking of a grade schooler just learning how to put his thoughts onto paper. There are telegrams from entertainers and United States Senators. There are poems and religious medals. And there are books . . . "I Believe in Miracles."

It has been more than a month now and still the mail, the emotion, swells and builds, the response to that rainy December night in New York City where he stood up there in the grand ballroom of the New York Hilton and wept while he accepted the most coveted award in sports.

John Cappelletti stood there that night, a tall, muscular, darkly handsome young man in his tuxedo, and he cried, openly and unashamedly, and he talked not about what he had done on a football field. He talked instead about the quiet dignity and the unconquerable spirit with which his 11-year-old brother, Joey, is living out his all-too-brief life in a struggle against leukemia.

#### SPEECH FROM THE HEART

Joey, he said, slowly, brokenly, was his inspiration. Joey, he said, had taught him that "no matter how bad things get, if you stick with something longer than you think you can, something good will happen in the end."

And in Joey's name, John Cappelletti accepted the Heisman trophy.

Four thousand people rose to their feet to applaud that night. Men and women cried and they kept clapping wildly and they looked at each other to say with their eyes what they could not choke out in words.

Archbishop Fulton J. Sheen said it for everybody, and there was a new sunburst of emotion:

"For perhaps the first time in your life, you have heard tonight a speech not from the lips but from the heart. Part of John's triumph was made possible by Joseph's sorrow. There is no need for a benediction tonight, for God has blessed you with John Cappelletti."

Since that night John Cappelletti has played in—and helped win—three more football games, the Orange Bowl and two postseason All-Star charity affairs. And Joey Cappelletti has resumed his quiet battle against the unseen force to which he is, ultimately, fated to succumb.

But from the ashes of sorrow and tragedy, John Cappelletti's ringing expression of love, his fiery, fierce tribute to the human spirit has fanned a flame that has burned across the country and leaped oceans to spread to other lands.

"I've never," said John Morris, the sports information director at Penn State, "seen such a response to a speech, such an outpouring of love, so many people touched by what John said.

"People are still sending Christmas cards. It's as though he renewed their faith, remined them of something we tend to forget.

#### 'INSPIRED TO KEEP ON TRYING'

"People send in checks and money to be donated to leukemia foundations. One man sent in a hundred dollar bill. He said he wouldn't sign his last name or give his address because he didn't want the money returned, he wanted it used to help find a cure for leukemia.

"And inside, he sent a short note to Joey. It said, 'Be good to people, Joey, and God will be good to you.'

"Frankly," John Morris added, "I end up crying when the mail comes in each day."

Bob Hope wrote John Cappelletti simply: "What you did was a great moment of compassion . . . and a great lesson for our country."

Sen. Hugh Scott congratulated him "first for being a great human being, second for being a great athlete."

And a woman who teaches junior high in Texas wrote: "I am not a sports fan, but I read what you said about sticking with something longer than you think you can. I have a student who is involved with drugs. I had given up on him. But after rereading what you said, I've been inspired to keep on trying. We are going to lick this thing together."

On Saturday afternoons, John Cappelletti brought thousands screaming to their feet when he touched a football. But on one wet winter night, when he wasn't afraid to weep and express his love, he touched a hundred million hearts and people who thought maybe the world was going mad suddenly remembered that man still has something noble and enduring to offer.

"I have always said people were good, better than maybe they thought they were," said John Cappelletti's mother. "This just reaffirms my faith more than ever. I don't know if we'll ever be able to thank them all. Perhaps it is enough if they know that it really is true after all, that you really can be your brother's keeper."

## INCOME TAXES AND OLDER AMERICANS

Mr. FONG. Mr. President, within the next several weeks millions of older Americans will, along with other citizens, be filing their income tax returns for 1973.

In 1972, the latest year for which figures are available, persons over 65 filed 6,768,995 returns. The total number of persons over 65 covered by these returns were 8,687,236. Spouses under 65 filing through joint returns would make the total number of persons represented by the returns even higher.

These figures show how important a factor the income tax law is in the lives of older Americans despite efforts in recent years to simplify tax collecting procedures and reduce the number of persons required to make returns. It emphasizes that when we who are members of the Special Committee on Aging concern ourselves with the tax problems of older persons, it is a matter of some consequence.

Information gathered by the Committee on Aging over the year indicates that sometimes as many as half of the over-65 taxpayers may have overpaid their Federal income taxes. In part this comes from the inevitable complication of tax return forms when Congress tries to give equitable tax treatment to older persons through the retirement income tax credit, special treatment on capital gains through sale of a home, and other tax relief provisions of the Internal Revenue Code.

Despite persistent efforts by the Internal Revenue Service to simplify tax returns, with strong encouragement from the Special Committee on Aging, there is no doubt that persons over 65 face an individual tax return problem more complicated than that of younger taxpayers.

It is most commendable, therefore, that the Committee on Aging staff has prepared a checklist of itemized deductions and other tax relief provisions for older Americans.

The Internal Revenue Service does have a booklet available, Publication 554, entitled "Tax Benefits for Older Americans", which can be obtained at IRS offices, and is of great value to those who make use of it. The shorter, but pointed, summary developed by the Committee on Aging staff, is most desirable however, because it may permit a wider distribution of this important information.

It has been my observation that no group in America has been more responsive to their citizenship duties than persons past 65. This includes their honest and forthright payment of income taxes. I fear they often lean over backwards to be sure they meet these tax obligations.

This very willingness to meet their responsibilities, make it important that we do all we can to see that they do not pay more taxes than the law requires. Every effort should be made to inform older Americans as fully as possible regarding tax relief provisions available to them under the law.

## WHEN FREE PRESS BECOMES FREE LOAD

Mr. HUGH SCOTT. Mr. President, the CBS network on its weekly "60 Minutes" show presented a very timely and most meaningful segment of television journalism. Mike Wallace talked about a free press. He interviewed a number of journalists who had various opinions on whether members of the media should accept expense-paid junkets. In yesterday's Washington Post, a preview of the show by Jean M. White asked the question when does a free press become a free load.

Mr. President, I ask unanimous consent that the transcript of the CBS Show, "60 Minutes," and the Washington Post article be printed in today's Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

### When Free Press Becomes Free Load

(By Jean M. White)

For the free press, this has been a year of vindication and praise for courageous performance in exposing shoddy practices and selfish philosophies in politics, business, government, public and private life alike.

And at this time, the media is being sharply reminded—by one of its own in another act of some courage and dedication to the principle of fairness—that it cannot assume a self-righteous stance with absolute immunity.

The reminder comes in a digging piece of investigatory journalism on a segment of the CBS "60 Minutes" show, seen on WTOP-TV (Channel 9) at 6 p.m. today.

"But what about the press itself?" asks Mike Wallace, a persistent reporter never noted for skipping the hard questions. Too often, as Wallace's reporting shows, the answer is that free press also means free load. The 20-minute segment focuses on expense-paid press junkets and free-bies, asking this sticking question:

Even if reporters are professionals who can't be bought and can resist even subliminal influence on free-loading junkets, hasn't the credibility of the press been tainted?

To Paul Poorman, managing editor of the Detroit News and head of an Associated Press managing editors group studying the junket problem, the answer is a simple "yes."

"We're in a fairly cynical, almost hostile, public environment," Poorman tells Wallace. "Nobody believes anything anymore, to generalize. And it's very important that they believe us. And if they don't believe us, we're useless."

Poorman estimates that in just one year "courtesies," as Wallace calls them, offered to his staff amounted to more than $100,000.

Reporting on the media—television, newspapers, magazines—itself, Wallace doesn't soften his punches. CBS, the show's parent network, is shown in a schizophrenic role as both a seducer and moral puritan: While CBS news employees are forbidden to go on junkets, CBS public relations people are setting up junkets for some TV critics, with free trips to New York or Los Angeles to preview new television shows to tell the public what to watch.

At Los Angeles last year, the camera catches one critic opening his envelope at the hotel and finding, along with his schedule, two $10 bills to cover taxies and miscellaneous expenses.

Nor does Wallace spare NBC competitors or even the full sponsor of "60 Minutes."

Ford Motor Co. is mentioned among the auto firms that lavishly entertain reporters while unveiling new models. When NBC's "Today" show travels overseas, Wallace points out, expenses above the regular budget are paid by the host country. Wallace said at a preview last week NBC confirmed this and agreed to loan "60 Minutes" some tapes of a week spent in Ireland for use on the show.

As for the Ford Company, Don Hewitt, executive producer of "60 Minutes," replied to the obvious question. "I never tell the sponsors anything."

During the show, Wallace runs over a list of press junkets including a Walt Disney production for entertainment reporters, an IBM demonstration of a new computerized check-out for women's editors, airline trips for travel editors, and a Sabena Airlines-Belgium government touring art show. And there is attention paid to the case of sportcasters who not only have their travel bills paid by the teams they cover but also their salaries.

Even beyond the more vulnerable areas of sport, travel, entertainment, and fashion, Wallace points out, the junket also is aimed at page one news. Foreign embassies offer expense-paid trips to reporters who want to do stories on their countries.

The attitude of some of the reporters questioned by Wallace seems a bit naive for professionals who are supposed to be hard-nosed in the pursuit of truth.

"When the manufacturer is doing this, he's making it easier to report on the vehicle," replied one of the reporters on a press junket introducing the Cherokee Jeep by American Motors.

"They never pressure me," says another. "I always turn up with something on it. But . . ."

Win Fanning, television critic of the Pittsburgh Post Gazette, interviewed on a CBS junket, is asked by Wallace whether the air fare, meals, hotel, expenses aren't "buying your opinion?"

Fanning replies with great force of sincerity and some indignation:

"Well, you just have to be in the business to know that isn't true, that's all. It just plain isn't true."

And most of the reporters interviewed on junkets protested the same way.

Wallace, who admits that he used to take some junkets himself, surveyed 20 well-known print and broadcast journalists on how they felt. Among those who won't accept junket invitations is columnist Joseph Kraft, who explained: "Because I think it would look bad to a public that depends on you and could be used against you by people who are . . . prepared, I would say even eager, to discredit people in the press."

Martin Agronsky, who acknowledged making recent expense-paid trips to England, Canada and the European economic community for his public television program, emphasized that he insisted on written assurances from donors that he would have editorial control over the programs.

Then Wallace asked Agronsky how he felt about a politician or general taking the plane of a private company to go for a weekend of quail shooting.

"It's a mistake for him to do it," Agronsky replied. "Again, not because necessarily he would favor that company, but because even the appearance of impropriety should be something of great concern to him."

Agronsky added, "we concerned ourselves very profoundly" before going on the trips. Kraft, although opposing junketeering, emphasized that he doesn't regard the question as "the acid test of reliability in general."

Wallace points out that certain newspapers, magazines, television stations and networks do have a firm rule against accepting junket offers and insist on paying their own way. But he also notes that a study by the Associated Press Managing Editors last year showed that two of every three managing editors say they will accept free trips.

"I think this whole issue is greeted with tightly controlled apathy on the part of many newspapermen," Poorman observes while detecting a growing concern about the problem.

Poorman says it is "a firing offense" for any member of his staff to accept discounts on cars. He admits that he himself did several years ago but adds: "I won't do it again and no one on my staff will."

"If we are going to be the critics, and this is part of our role in society as the American society is set up, then we better make sure that there's either a mechanism for criticizing us, which is a whole different subject . . . or that there isn't anything to criticize," the Detroit News managing editor concludes.

This evening's "60 Minutes" show also has a digging story on the oil business, for the change of pace that has marked its newsmagazine format, a sequence on Woody Allen. It is a pure delight.

### CBS Television Network: "60 Minutes"

Mike Wallace. The press, especially the last year, has spent a lot of time and focused a lot of attention on conflict of interest, corruption, shoddy practices—among politicians, businessmen, lawyers, the military. But what about the press itself? What about our own ethics? 60 MINUTES has taken a look at one press practice that worries many journalists.

[Motor sounds] Autumn in the Smoky Mountains of North Carolina. Thirty automotive news reporters from across the U.S. and Canada, the reporters who write about the cars we buy, are setting out to test the new Cherokee jeep on the Cherokee Indian reservation. What reporters like these write about a car can make a million dollar difference in sales. Some of you may have read their reports. But what you probably didn't read is that almost all these reporters had their air fare and their hotel bills paid for by American Motors, the company that makes the jeep about which they're reporting.

Man. Backwards, though, because you're supposed to put the—the "American Motors" in the front. All right?

Reporter. Okay.

Wallace. [Drums beating, Indians chanting] This is what is known as a press junket. Only two or three hours of the time the reporters spent in North Carolina were devoted to testing the Cherokee. The rest went to drinking, eating and being entertained. [Applause] There was even a song about the jeep. [Singing of Cherokee song]

Next morning, a two-hour tour of an old Cherokee village. Finally, the jarring test drive along backwoods fire trails.

Reporter. I'll probably be doing a story for *Mechanics Illustrated* on general off-roading. And of course, the Cherokee is the newest thing that's happened to off-road recreational vheicles in a long time, so it's big news.

Wallace. [Banjo music] Lunch by a trout stream, and time off for fishing. A pleasant day, a pleasant trip, and as most of the reporters saw it there was nothing wrong with American Motors picking up their tabs.

Reporter. What the manufacturer is doing is he's making it easier for the journalist to report on—on the vehicle. That's what his—his idea is. He's trying to get ink. He doesn't care how he gets the ink.

Question. You don't feel indebted to American Motors or anyone else for having brought you down here?

Reporter. I've been in the business too long.

Question. You don't feel obliged to American Motors, or any—

Reporter. Right.

Reporter 2. That 's right.

Reporter 3. Oh, no, no. They never pressure me. I always turn up with something on it, but . . .

Reporter 4. I think the rules are pretty well recognized by both the companies and the writers.

Question. You get a lot of trips like this?

Reporter 3. This will be about the fourth this year.

Paul Poorman. I don't think that newspapers should do this.

Wallace. Why?

Poorman. Well, because it's dishonest, for one thing. And it—it is expecting someone else to pick up our tab.

Wallace. Paul Poorman is Managing Editor of *The Detroit News*. He is one of a growing number of journalists who insist that junkets taint the credibility of the press.

Poorman. We're supposed to be as objective as possible about it, and you can't be objective when you're being entertained by someone else.

Wallace. Well now, wait. A lot of reporters that we've spoken to who have been on junkets say there's nothing wrong. They are professionals who cannot and will not be bought off.

Poorman. They—It doesn't really matter if you know that you're implicitly honest and doing the right thing if somebody else is convinced you're not, because that perception becomes the reality. We're in a fairly cynical, almost hostile, public environment. Nobody believes anything any more, to generalize, and it's very important that they believe us. And if they don't believe us, we're useless.

Frank Hedge. I don't believe for one minute that taking the newsmen on a press demonstration causes any tarnishing of their image.

Wallace. Frank Hedge, American Motors Vice President for Public Relations. He was in charge of the Cherokee junket. As Hedge sees it, press junkets are legitimate and routine.

Hedge. A year ago we went to Reno and drove around Lake Tahoe and the surrounding mountains. Before that we went to Catalina. This time we took them up in these mountains on the Cherokee reservation; they were tough and rough; these people were pretty tired out.

Wallace. Okay, now wait. You say you went to Catalina, Lake Tahoe, Cherokee Indian reservation. You and I know what we're talking about. We're talking about two, three hours of demonstration of the car—because that's what the demonstration down in North Carolina took, to demonstrate the Cherokee and the four-wheel drive—and the rest is fun, and you know that as well as I. And if you can establish a climate in which these reporters are having a good time, you hope—and it's perfectly sensible for you to hope—that they're going to look kindly on you and write pleasantly about you.

Hedge. You're absolutely right.

Wallace. The Los Angeles Times, you say, pays its way, and The New York Times, and Time magazine, and Newsweek, and U.S. News; and I know right here in Detroit, for instance, The Detroit News has a strict rule about it. Well then, why can't other profit-making operations do the same thing? Newspapers, magazines.

Hedge. They could, but they haven't reached that point yet. As it is, we feel that we get our money's worth and they get their money's worth; and there's no attempt made to force them to write anything because we're too sophisticated to think you can force a writer to write against his better judgment.

Wallace. I'm not suggesting forcing anything. I'm just saying there is a quid pro quo; and if you weren't getting your money's worth, you'd cut those junkets like that.

Hedge. We're getting our money's worth. We get a lot of publicity for this corporation.

Wallace. Like most automobile companies, American Motors offers hefty discounts—18 percent off the sticker price—to reporters and editors who want to buy a new car.

Hedge. Yes.

Wallace. Why do you do that for reporters?

Hedge. Because we want the publicity that comes——

Wallace. Okay, it's a bribe. It's a bribe.

Hedge (continuing.) As a result. We don't regard it that way.

Wallace. Well, I— By any other name, it's a bribe.

Hedge. It's a discount.

Wallace. The fact is, press junkets are standard practice in most of the automobile industry. Last August, for example, the Ford Motor Company flew more than a hundred reporters to San Diego and entertained them there at the unveiling of Ford's 1974 models.

[Band music] The press junket is big business. With enough stamina, an enterprising reporter just might be able to keep traveling and eating on someone else's charge account forever. A few months ago, Walt Disney Productions flew 24 entertainment reporters to Disney World in Florida, put them up in $46-a-day rooms. Writers like these cover the country's multi-billion dollar entertainment business, and suggest to us how we should spend our entertainment dollar. So, the public relations people at Disney World wanted to make life comfortable for them. The reporters were there on a free ride. [Band music] That same week, IBM flew 13 women's editors to Washington, D.C. to watch a demonstration of a new computerized check-out counter. Most of the top local baseball sportscasters in this country not only have their travel bills paid for them by the teams they cover, but also their salaries—a fact the local stations rarely make clear. [Music] This art show, "The Golden Age of Antwerp", now touring the U.S., had its public relations kickoff last summer when ten American reporters spent a comfortable week in Belgium. Sabena Airlines and the Belgian government paid their bill. Last fall, while National Airlines was flying a group of travel writers to London free of charge, Pan American and the Yugoslav government were whisking another group to a week in Yugoslavia. [Band music] Expensive junkets are only the most spectacular lures offered the press. Other freebees run the gamut from football tickets to lavish Christmas gifts to just seeing to it that a reporter has himself a good time. Chrysler Motors, for instance, last fall chartered a boat, provided drinks and a band, and hosted about a hundred news directors from radio and television stations across the country on a salmon bake-out while those news directors were holding their annual convention in Seattle. [Applause] The last two years the Associated Press managing editors—that's the group before whom President Nixon held his news conference at Disney World—have been studying the junket problem. The man who ran this year's study was Paul Poorman, Managing Editor of The Detroit News. Poorman says that in just one year courtesies offered to his staff amounted to over a hundred thousand dollars.

You and many other editors prohibit gifts, prohibit junkets, but you're way in the minority. Your own Associated Press managing editors study last year showed that two out of every three managing editors say that they will accept free trips; that one out of two managing editors will accept expense-paid trips overseas; and three out of every four managing editors will not rule out all gifts. Now, that doesn't seem to show a good deal of concern about this whole issue among your colleagues, Mr. Poorman.

Poorman. No, that's true. I—I think that this whole issue is greeted with tightly controlled apathy on the part of many newspapermen. But it—there is a growing concern.

Wallace. Your paper has outlawed all gifts, right?

Poorman. Uh-huh.

Wallace. Okay. What about discount prices for the press, your reporters and yourself, from automobile manufacturers?

Poorman. Yeah, that—

Wallace. Is that out?

Poorman. That's out, and—

Wallace. Now, I understand from somebody on your own paper that you got a new car, and that you yourself fairly recently saved several hundred dollars on the purchase of a new car—

Poorman. Yeah, three years ago.

Wallace. Okay, three years ago—and got a discount.

Poorman. Got a discount of several hundred dollars. I think that this is wrong to do. I think it's just something that shouldn't be done, and I won't do it again and no one on my staff will.

Wallace. Well, I understand that some people on your staff still do, still get discounts—

Poorman. It's possible. It's a firing offense, and they know that.

Wallace. But the game goes on, junketing goes on. It is part of the weaponry employed by the high-powered public relations departments of many of our major corporations, including the television networks—including CBS.

Win Fanning. Take an extra dollar for yourself, and give me back, what would that be, seventeen . . .

Wallace. Ironically, while employees of CBS News are forbidden to go on junkets, the public relations people in another CBS division are busy setting up such junkets for television critics like Win Fanning of The Pittsburgh Post-Gazette. He was one of 15 TV critics flown to New York a few months back by CBS. Reporters like Fanning suggest to us in our newspapers what TV programs we ought to watch. Like the other networks, CBS regularly flies television reviewers to New York or California on expense-paid trips to look at new network productions and to meet network personalities. I was sent to Los Angeles last year to talk to the television critics gathered there on such a junket. Inside the CBS envelope waiting for Fanning at his hotel were his schedule and two $10 bills to cover, said the letter, taxis and miscellaneous.

The inference that some people would draw would be this: that CBS, by paying for your air fare, meals, hotel room, a little entertainment, expenses, in buying your paper, buying your opinion.

Fanning. Well, you just have to be in the business to know that that isn't true, that's all. It just plain isn't true. In the first place, all the networks do it. So, therefore, you'd say each of them is trying to buy it.

Wallace. The junket doesn't belong just to the entertainment reporter or the sports writer; it's aimed at the front page, too. Along Washington's Embassy Row there are scores of foreign press attaches who give expense-paid trips to reporters who want to do stories on one or another country. Israel does it, South Africa, Rhodesia, Mexico, Brazil, Saudi Arabia, Greece—lots of them. When NBC's TODAY shows spent a week in Romania and one in Ireland, air fares and hotel bills were picked up by the Irish, the Romanians and Pan American Airways. When TODAY travels overseas, all their expenses over and above their normal budget are paid for by the host country.

In times past, a lot of us used to go on junkets, myself included. But how prominent are the journalists who still accept such trips? To find out, we surveyed some well-known print and broadcast journalists. Among those who said they do not and would not accept junket trips, either for reasons of principle or because they wanted to avoid the appearance of being bought, were Joseph Alsop, Evans and Novak, Joseph Kraft, Shana Alexander, Mary McGrory, David Brinkley, John Chancellor, Howard K. Smith, Harry Reasoner, Carl Rowan and Eric Sevareid.

Those who acknowledge having been on junkets in recent years were Martin Agronsky, Milton Viorst, Bob Considine, Charles Bartlett, Walter Cronkite and William Buckley—all of whom scoff at the notion that their reporting can be bought.

In Washington I talked about junkets with Public Television Correspondent Martin Agronsky, and with two nationally syndicated columnists, Joseph Kraft and Robert Novak of Evans and Novak. Both Novak and Kraft say they never accept the junkets frequently offered them.

Kraft. Because I think it would look bad.

Wallace. Look bad to whom?

Kraft. Look bad. Look bad to a public that depends on you, look—and could be used against you by people who are prepared, I would say even eager, to discredit people in the press. I don't need it, and so I don't do it.

Novak. Why—Why is a foreign investment offering you several thousands of dollars, giving you several thou—Because they like me? They think I'm a nice fellow? They feel there's going to be some subconscious impact on what I write if I know that the people I'm writing about have made me several thousand dollars richer.

Agronsky. When we were in these countries to do . . .

Wallace. For his Public Television program, Agronsky has made recent trips to England, Canada and the European Economic Community—expenses paid. But Agronsky argues that before accepting such help he received written assurance from the donors that he would retain editorial control of the programs involved.

Agronsky. I covered this with the representatives of the governments with whom I dealt. They accepted it completely.

Wallace. How do you feel when you feel, when you see or hear about a politician or a general getting on the plane of a private company to go to Sea Island, Georgia, for a weekend of quail shooting, or whatever? Do you regard that as perfectly—perfectly sensible and . . .

Agronsky. It's a mistake for him to do it. Again, not because necessarily he would favor that company, but because even the appearance of impropriety should be something of great concern to him . . .

Wallace. And that's what I put to you, Martin. Isn't the appearance of impropriety in your going to England or the EEC or Canada, shouldn't that perhaps be countervailing in the current climate?

Agronsky. Well, I told you, we—we concerned ourselves very profoundly with that before we ever went ahead with any of these things.

Kraft. I think it is bad. I think one oughtn't do it. I'm glad that I'm not in a position where it's even very seriously tempting. But I do not regard this as the acid test of reliability in journalists.

Wallace. How important is this whole business?

Poorman. Well, it's terribly important. If we are going to be the critics—and this is part of our role in society as—as the American society is set up—then we'd better make sure that there's either a mechanism for criticizing us—which is a whole different subject and you don't want to get involved in here—or that there isn't anything to criticize.

Wallace. Sigma Delta Chi, the society of professional journalists, two months ago finally adopted a Code of Ethics for journalists. It is a goal, not a reality. "Gifts, favors, free travel or privileges," the Code says, "can compromise the integrity of journalists and their employers. Nothing of value should be accepted."

## RETIREMENT INCOME TAX CREDIT INCREASE

Mr. GURNEY. Mr. President, I want to express in the strongest possible terms my support for the amendment offered by my colleague, Senator Church, to increase the retirement income tax credit.

Frankly, I would prefer to see an increase in the credit to a more reasonable level of about $3,000 for individuals and $4,500 for couples, but I realize that without hearings, and in this time of economic crisis, an increase like this may be too much to ask. I see no reason, however, why we cannot increase the tax credit along the modest lines suggested in the Church amendment—$2,500 for individuals and $3,750 for couples—particularly since retirees are harder hit by inflation than most other groups because they live on fixed incomes. I might add at this point that the retirement incomes of most non-social-security recipients are very fixed, since these groups—Federal retirees, teachers, firemen and policemen—have been far behind social security recipients in receiving benefit increases.

Another point in favor of this amendment, of course, is that the Senate has already passed legislation along these lines as part of the social security bill enacted during the 92d Congress—Public Law 92–603. Unfortunately, like many other parts of that bill, the increase in the retirement income tax credit was lost in conference.

Mr. President, on behalf of the thousands of retirees who benefit only slightly from the social security program, I urge that we pass this amendment. Certainly its time has come.

## REPORT OF THE AMNESTY DELEGATION TO CHILE

Mr. KENNEDY. Mr. President, a week ago, Amnesty International filed is report on the human rights situation in Chile with the United Nations following a trip there by three investigators.

The investigators were Frank C. Newman, professor of law at the University of California at Berkeley; Bruce W. Summer, presiding judge of the Supreme Court of Orange County, Calif.; and Roger Plant, a researcher in the Latin American Department of Amnesty International.

Their report represents a clear indictment of the junta as it applies to the protection and respect for human rights in Chile.

At this time, I would like to quote from the report some of the findings which took the form of introductory questions, whose answers are tremendously disturbing since they conclude that torture has been used, that execution occur, and that international law was violated.

### Some Introductory Questions

1. *In Chile are there prisoners of conscience?* The answer is Yes.

*Because of their beliefs are people threatened with detention, though they have neither used nor advocated violence?* The answer is Yes.

In our opinion the statement in the UN General Assembly on October 9, 1973, that "We do not persecute anyone for political reasons in Chile", was not accurate.

2. *Are prisoners treated humanely?* The answer is No.

Far too many detainees have been kept incommunicado, their families advised as to neither the fact of arrest nor the place of detention. How cruel it was, at the infamous stadium, to deny visits prior to Sunday, November 4.

3. *Is torture used?*

In our opinion the 2d statement in the UN General Assembly on October 9, 1973, that "We have no tortures in Chile", also was not accurate.

Yet as of November 8, when we left, we believe that, in the Santiago area, at least, the use of torture had decreased. The Minister of Interior told us that torturers proved guilty would be punished. (This problem will be discussed further infra.)

4. *Are people being executed?* The answer is Yes.

In our opinion the 3d statement in the

General Assembly on October 9, that "We do not murder anyone in Chile", was inaccurate if Ambassador Bazan meant to imply that since September 11 the Government forces have killed no one without just cause, without trial. (Cf. to his letter of September 25 to the UN Secretary General, SG/SM/1893, p. 2: "(H)uman rights will be faithfully observed in Chile . . . Regarding the insidious rumors about tortures and mass or arbitrary executions in Chile, my Government denies them with its utmost vigor . . .")

Near the end of October the government decreed that summary executions should cease. Since then executions are said to be pursuant to sentence of the courts martial. Often at night we heard gunfire; no one suggested to us during our stay that people thus were executed. Many people believe, though that killings of "fleeing prisoners" have not in fact been justified.

5. *Do Chilean laws authorize the thousands of arrests, detentions, interrogations, and killings that have taken place since September 11?*

Many high-placed government officials and respected lawyers think so. We are uncertain (and our views appear in the letter to the *Colegio de Abogados*) (the Bar Association).

6. *Was international law violated by the arrests, detentions, interrogations, and killings that have taken place since September 11?*

The answer is Yes.

In our opinion there has NOT been full compliance with the assurances given (1) by the Junta, that acts of their government would be *"el concierto de la comunidad internacional"* (Operative No. 1 of Decree No. (1), and (2) by the Foreign Minister, that the government "will maintain the traditional and unrestricted respect for international legal norms" (see UN P.R. SG/SM/1893, 28 Sept. 1973).

Chile has ratified the International Covenant on Civil and Political Rights. (Our views as to its relevance appear *infra*).

7. What have international observers concluded as to alleged violation of human rights in Chile? In our opinion the pertinent passages in the following statement, by Chile in the UN General Assembly's Third Committee, during October, were not accurate.

"The Norwegian Minister for Foreign Affairs had spoken in the general debate in the General Assembly on September 24, but his words had just been repeated as if they had been uttered 24 hours ago. In the meantime, representatives of the International Red Cross and the United Nations High Commissioner for Refugees had visited Chile, as had the Executive Secretary of the Inter-American Commission on Human Rights and parliamentary delegations from several European countries. In their reports they had all indicated that Chile was abiding by the international commitments in the matter of human rights and had expressed appreciation for the facilities the Government had afforded them in fulfilling their missions. (Italics added.) A delegation from Amnesty International would shortly visit Chile in response to an invitation issued by the Chilean Foreign Minister when he was in New York. . . .

"The reports of the authorities and associations he had mentioned were valuable and important testimony. Proper examination of them would have obviated ill-considered assessments, which were particularly serious because they had been made by the representative of a friendly and respected country, which had violated Article 2 of the United Nations Charter."

It is, of course, clear informed that criticism of the situation in Chile does not violate article 2.7 of the UN Charter.

It is clear to us that reports of the International Red Cross, the UN High Commissioner for Refugees, the Executive Secretary of the Inter-American Commission on Human Rights, and parliamentary delegations do NOT indicate that "Chile was abiding by its international commitments in the matter of human rights". (We asked the Government for copies of the reports and were advised that none could be made available. Our conclusion here is based on communications from Red Cross, High Commissioner, and Inter-American Commission representatives.)

It is my understanding that the Government of Chile has not replied in detail to the report or to the recommendations.

Mr. President because of the interest that has been shown here in the Senate on this matter, including the adoption of two amendments I offered on this matter, I ask unanimous consent that the entire report be printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

Amnesty International,
International Secretariat,
*January 10, 1974.*

Subject: Report of the Amnesty Delegation to Chile.

We are enclosing here the copy of the report that was sent to the Government of Chile after the Amnesty mission to Santiago. We also enclose the copy of the letter from Martin Ennals which accompanied the report, and the three annexes that were sent as part of the report.

The report has been embargoed for January 20th, in order to give the Chilean Government time for comment, in accordance with the customary practice of Amnesty International. After January 20th National Sections are free to use the report in whatever way they wish. They are free to translate and distribute it if they should wish.

Future policy on Chile will be discussed at the National Sections meeting on Chile which will be held in London on February 2–3, 1974, at the invitation of the Swedish and German sections.

We shall be publishing a longer and more detailed report on the Human Rights situation in Chile since the coup, in the late spring or early summer. This second report will be similar in presentation to the Vietnam report and the report on Political Imprisonment in Spain.

[Letter sent by the Secretary General of Amnesty International to General Augusto Pinochet on Dec. 31st, 1973]

General Augusto Pinochet,
*Edificio Diego Portales,*
*Santiago, Chile.*

December 31, 1973.

Dear General Pinochet: I enclose the report of the Amnesty delegation that visited Santiago from 1st to 8th November, 1973.

The Amnesty delegation was composed of two distinguished American lawyers, one a judge and the other an expert in Human Rights Laws. They visited Santiago without preconceived ideas. They were well received and able to carry out their enquiries with considerable freedom. I thank the Chilean Government for its decision to permit our organisation to visit Chile. I feel however obliged to say that, contrary to some statements issued by Chilean Governmental officials abroad, there is substantial evidence of a persistent and gross violation of the most fundamental human rights.

The International Executive Committee at Amnesty International, at its meeting in Paris on 11th December, studied this report and has asked me to make the following recommendations to the Government of Chile.

1. Amnesty International, always opposed to the death penalty in any form, has been appalled by the many summary executions which continued even while the Amnesty delegation was in Chile. We have also been extremely disturbed to hear reports of continuing executions since the return of the delegation from Santiago. As indicated in the report, we are equally concerned by the many reports of prisoners killed "while trying to escape". Executions, always repugnant, are most so when there has been no trial and no appeal in a civil court. Again we urge that all executions cease including those pursuant to the judgement of the Courts Martial. We urge too that Article 6.4 of the U.N. Covenant on Civil and Political Rights, assuring the right to seek pardon or commutation of the sentence, be respected, and that lists of those executed be published.

2. The report of our delegation has convinced us that torture has taken place on a large scale, and was still continuing at the beginning of November. (Subsequent reports indicate that it continues even now). Chile has ratified the International Covenant on Civil and Political Rights, 1966, Article 7 of which states that:— "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment". The use of torture cannot be justified. It must be stopped, and torturers punished. Your Government has declared that this is their intention but there is no evidence of such action. We therefore recommend that immediate steps be taken and proclaimed to establish tribunals of enquiry into allegations of torture and that international observers be invited to participate.

3. International law, as noted, outlaws not only torture, but also "cruel, inhuman, and degrading treatment or punishment". In this context we therefore recommend that prisoners should no longer be held incommunicado, that families and others concerned (for example, El Comité para la Paz) be advised as to the place of detention as well as appropriate facilities provided for visits. We also recommend that lists of detainees be published forthwith, in order to assuage the fears of people who do not know where relatives and friends are detained, or even whether they are detained.

4. Article 14 of the 1966 Covenant clearly requires that the right to counsel must be respected. That means that lawyers should have access to prisoners, even before charges are filed, and that there be an opportunity to talk confidentially to the client, as well as ample time and facilities for preparation of the defence. Further, prisoners must be able to choose counsel of their choice, not merely those recommended by the military of the Colegio de Abogados. Funds should be available for those who cannot finance their own case.

Retroactive legislation which creates crimes of actions which were not criminal when committed is an affront to any system of justice, especially one of long-standing high standards such as that of Chile. In conformity with this principle Amnesty International recommends that the decision to try former ministers of the Allende Government should be rescinded.

5. Continuing preventive detention, as that of the many hundreds of prisoners in the camp of Chacabuco, is a further violation of international law (see Article 9 of the same Covenant). Amnesty International accordingly recommends that prisoners against whom charges are not filed, preparatory to trial, be released immediately. The statements made to our mission that preventive detention would continue are deplorable, against the declared policy of your Government, and should be withdrawn.

6. In my original letter of 11th October 1973 addressed to Foreign Minister Huerta Diaz outlining the purposes of the mission, I made special reference to the need for financial help for purposes of relief for families and legal representation for prisoners. While various agencies at national and international levels may be able to assist in

this, there is a need for subtantial funds which should come in part from official sources.

7. Following the recent expulsion of the Swedish Ambassador from Santiago, it would be highly desirable for the Chilean Government to renew its assurances to respect the right of asylum, and it should be re-affirmed that governmental obligations extend to the many foreigners who, under classical definitions, may technically not be "refugees" but nonetheless are protected by modern Human Rights Law.

Finally, we enclose with our report the copy of my original letter of 11th October to Foreign Minister Huerta Diaz, spelling out the terms of reference of the mission the copy of a letter from Professor Newman to the Colegio de Abogados of Santiago, in which he declared many of his major concerns to the Colegio and the copy of a letter from several Chilean lawyers to the Colegio de Abogados (2nd November 1973). We feel that the recommendations at the end of this letter admirably spell our own concerns, most of which were requests made by me in New York in the initial discussions with Foreign Minister Huerta Diaz and Ambassador Bernstein. I trust, Your Excellency, that such recommendations will be heeded, and that the coming months will witness a real attempt to respect the Rule of Law that has been so much professed by the Chilean authorities.

Respectfully yours,

MARTIN ENNALS,
*Secretary General.*

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## REPORT OF MISSION TO SANTIAGO, CHILE, NOVEMBER 1–8, 1973

(By Frank C. Newman, Professor of Law, University of California, Berkeley; Bruce W. Sumner, Presiding Judge of the Supreme Court of Orange County, California; Roger Plant, Researcher, Latin American Department, Amnesty International)

### INTRODUCTION

The mission took place with the agreement of the Chilean Government and was arranged during discussions in New York between Martin Ennals, Amnesty's Secretary-General, and the Chilean Foreign Minister, Admiral Ismael Huerta Diaz.

In a letter to the Foreign Minister, written on October the 11th, the mission's main objectives were stated as being.

(1) To make representations to the Chilean Government concerning the executions being carried out;

(2) To enquire into and report upon the procedures of interrogation, detention, charge and trial of those who are in custody;

(3) To enquire into allegations of torture;

(4) To meet with those responsible for representation of prisoners before the courts and tribunals, and to advise on financial and other assistance which can be given to prisoners and their families.

In discussion, the Foreign Minister, and later his political ambassador, Mr. Bernstein, gave these verbal assurances.

"That all those in custody would be either released without trial after interrogation or given the right to legal defence at a public trial with the right to appeal.

"That no one was being executed unless found in flagrante delicto using firearms against civilian or military personnel.

"That torture was against the principles of the Chilean Government."

### SOME INTRODUCTORY QUESTIONS

1. In Chile are there prisoners of conscience? The answer is Yes.

Because of their beliefs are people threatened with detention, though they have neither used nor advocated violence? The answer is Yes.

In our opinion the statement in the UN General Assembly on October 9, 1973, that "We do not persecute anyone for political reasons in Chile," was not accurate.

2. Are prisoners treated humanely? The answer is No.

Far too many detainees have been kept incommunicado, their families advised as to neither the fact of arrest nor the place of detention. How cruel it was, at the infamous stadium, to deny visits prior to Sunday, November 4.

3. Is torture used?

In our opinion the 2d statement in the UN General Assembly on October 9, 1973, that "We have no tortures in Chile," also was not accurate.

Yet as of November 8, when we left, we believe that, in the Santiago area, at least, the use of torture had decreased. The Minister of Interior told us that torturers proved guilty would be punished. (This problem will be discussed further infra.)

4. Are people being executed? The answer is Yes.

In our opinion the 3d statement in the General Assembly on October 9, that "We do not murder anyone in Chile", was inaccurate if Ambassador Bazan meant to imply that since September 11 the Government forces have killed no one without just cause, without trial. (Cf. to his letter of September 25 to the UN Secretary General, SG/SM/1893, p. 2: "(H)uman rights will be faithfully observed in Chile. . . . Regarding the insidious rumours about tortures and mass or arbitrary executions in Chile, my Government denies them with its utmost vigor . . .")

Near the end of October the government decreed that summary executions should cease. Since then executions are said to be pursuant to sentence of the courts martial. Often at night we heard gunfire; no one suggested to us during our stay that people thus were executed. Many people believe, though that killings of "fleeing prisoners" have not in fact been justified.

5. Do Chilean laws authorize the thousands of arrests, detentions, interrogations, and killings that have taken place since September 11?

Many high-placed government officials and respected lawyers think so. We are uncertain (and our views appear in the letter to the Colegio de Abogados) (the Bar Association).

6. Was international law violated by the arrests, detentions, interrogations, and killings that have taken place since September 11?

The answer is Yes.

In our opinion there has NOT been full compliance with the assurances given (1) by the Junta, that acts of their government would be "el concierto de la comunidad internacional" (Operative No. 1 of Decree No. (1), and (2) by the Foreign Minister, that the government "will maintain the traditional and unrestricted respect for international legal norms" (see UN P.R. SG/SM/1893, 28 Sept. 1973).

Chile has ratified the International Covenant on Civil and Political Rights. (Our views as to its relevance appear infra).

7. What have international observers concluded as to alleged violation of human rights in Chile? In our opinion the pertinent passages in the following statement, by Chile in the UN General Assembly's Third Committee, during October, were not accurate.

"The Norwegian Minister for Foreign Affairs had spoken in the general debate in the General Assembly on 24 September, but his words had just been repeated as if they had been uttered 24 hours ago. In the meantime, representatives of the International Red Cross and the United Nations High Commissioner for Refugees had visited Chile, as had the Executive Secretary of the Inter-American Commission on Human Rights and parliamentary delegations from several European countries. In their reports they had all indicated that Chile was abiding by the international commitments in the matter of human rights and had expressed appreciation for the facilities the Government had afforded them in fulfilling their missions. (Italics added.) A delegation from Amnesty International would shortly visit Chile in response to an invitation issued by the Chilean Foreign Minister when he was in New York. . .

"The reports of the authorities and associations he had mentioned were valuable and important testimony. Proper examination of them would have obviated ill-considered assessments, which were particularly serious because they had been made by the representative of a friendly and respected country, which had violated Article 2 of the United Nations Charter."

It is, of course, clear informed that criticism of the situation in Chile does not violate article 2.7 of the UN Charter.

It is clear to us that reports of the International Red Cross, the U.N. High Commissioner for Refugees, the Executive Secretary of the Inter-American Commission on Human Rights, and parliamentary delegations do NOT indicate that "Chile was abiding by its international commitments in the matter of human rights". (We asked the Government for copies of the reports and were advised that none could be made available. Our conclusion here is based on communications from Red Cross, High Commissioner, and Inter-American Commission representatives.)

8. What can be done to protect and assist prisoners of conscience in Chile?

We will discuss that question throughout the report.

### OUR OWN PROCEDURES

We arrived in the afternoon of November 1—Professor Newman and Judge Sumner from California, Mr. Plant from London. We were met officially. A car and driver were made available at the Foreign Ministry; but we were not required to use the car, and occasionally we did not. We stayed at the Hotel El Conquistador. We left on November 8 at 8.00 p.m.

At their offices and elsewhere we interviewed (sometimes more than once) the Foreign Minister (and aides), the Minister of Interior (and aides), the Minister of Justice (and aide), a former Minister of Justice, the Chief Justice of the Supreme Court, the Juridical Advisor of the Minister of Defence (and aides), and the Juridical Advisor of the Foreign Ministry. We also met officially with the President of the Chilean Colegio de Abrogados and his Council (approximately 15 lawyers). We were formally advised that no member of the Junta was able to see us.

We talked with the Indian, West German and Swiss Ambassadors, the Swedish Primer Secretario (and aide), the U.S. Charge d'Affairs (and aide), representatives of the UN High Commissioner for Refugees and other UN officials, officials of the International Red Cross, of the Comité Nacional de Ayuda a los Refugiados, of the Comite de Cooperacion Para la Paz.

In the hotel and elsewhere (e.g. at homes, the stadium, refugee centres) we had innumerable discussions with lawyers, prisoners, and ex-prisoners, priests, professors and students, research and welfare workers, journalists, relatives and friends of prisoners, others too.

Questions as to whether or not the golpe of September 11 was justified were not within our assignment. We did hear many statements and were given much material regarding that issue, particularly from government officials and pro-Junta lawyers.

We remind readers that our time was short and our facilities sometimes inadequate. Even though we were unable to visit the vast areas outside of Santiago, where more than two-thirds of the citizens reside, we learned enough to be persuaded that prisoners and detainees are less protected there than in the capital city.

On October 18 we were advised by the Secretary General of Amnesty International "(t)he main emphasis of the mission . . . is on the stopping of executions and the protection of those in custody regardless of nationality". We also were guided by the pronouncement of the Universal Declaration of Human Rights, that "it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law."

### STATISTICS

The Amnesty mission attempted to gather statistics that would give an accurate picture of the present situation in Chile. Unfortunately, in most areas no figures are available. This encourages speculation on how many people are in detention, where they are in detention and how many will be brought to trial or are awaiting charges, not to mention the much discussed question of how many people have died from government action since September 11.

An estimate of one international organisation is that 15,000 persons were taken into custody from September 11 to October 29, with many having been executed or released. According to Admiral Huerta, the Foreign Minister, approximately 10,900 had been in custody up through the latter part of October. According to officers at the Ministry of Defence, 994 persons died as a result of combat or execution up to October 29, with no breakdown as to how many were killed by warfare, death sentences after trial, or summary execution. According to the Minister of the Interior on November 3 in Santiago alone approximately 550 persons were awaiting trial and approximately 1,000 were held in "preventive detention". It was estimated by the Ministry of Defense that at least 550 outside Santiago are awaiting trial and that an additional 1,000 are in preventive detention.

These scattered statistics illustrate the problem of accurate reporting. No lists are published of those in preventive detention. We are not convinced that complete information is available even to high officials in cognizant ministries. Every day people are taken into custody to be held indefinitely without charge, every day people are released. There is no hearing procedure for one who feels there is no ground for detention. We learned of cases where the family is convinced that the wrong person is being detained. Until the Government cooperates fully, all statistics are open to question and suspicion.

### THE PROBLEM OF FOREIGNERS

We are told that xenophobia is a recent phenomenon in Santiago. Yet there were individuals of repute who complained to us about the "13,000 enemies of Chile who were sent home from abroad." Cf. The Foreign Minister's statement on 9 Oct. 1972, A/PV. 2146, p. 53 "(M)ore than 13,000 known foreigners, most of them extremists, were known to be in the country in an illegal manner. Their sole mission was to set up a parallel army to oppose the regular armed forces."

On 18 October the Chilean delegate to the 3d Committee stated (A/C 3/SR. 2001, p. 28) "3,000 foreigners who had been in Chile irregularly for three years had been engaging in activities which were in fact nothing more than preparations for guerilla warfare. Chile in no way wished to prevent them from leaving the country." The cognizant lawyers predicted that only 30 aliens would be prosecuted criminally. The Minister of Interior told us that the figure might be reduced to 15.

We will not recount the tales of terror regarding foreigners that inspired the UN, concerns which are reflected in Press Releases SG/SM 1893 and REF/690 of 25 September, WS/627 of 5 October, and REF/697 of 17 October. See also Decreto No. 1308, Santiago, of 3 October, which officially established the Comite Nacional de Ayuda a los Refugiados.

In general, because of the exhausting and sometimes heroic assignments that were undertaken by UN officials, embassy officials, church officials, and many, many dedicated individuals, the refugees who were not killed but were (and are) in jeopardy have been given asylum, many forms of aid, and travel assistance. Serious practical difficulties (e.g., regarding exit documents) still confront hundreds of those people, perhaps even more.

At first we thought that the refugees' problem was in good hands and under control. During the final two days, however, the crisis involving the Swedish Ambassador demonstrated that the government's representatives may continue to flout international law even as to refugees.

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Unfortunately, the welfare of the foreigners who are not refugees has received little attention. Many of them have had close ties with Chileans who were or are pro-Allende. Some already are imprisoned or in asylum. Most of the international law that governs clearly applies to foreigners as well as citizens (e.g., the proscription of torture and of cruel, inhumane, and degrading treatment). UN, embassy, and church officials must be urged to pursue this whole problem with much more vigor. They will need support from the UN and from foreign ministries.

### THE PROBLEMS OF CHILEAN CITIZENS

A. *Asylum*

Very many Chilean citizens have sought asylum in embassies and elsewhere. As with non-refugee foreigners, to protect those individuals will require UN, embassy and church actions that are imaginative and bold.

It can forcefully be argued that via temporary residence in a hospitable embassy, "(e)veryone has the right to seek . . . in other countries asylum from persecution". That is what Article 14(1) of the Universal Declaration of Human Rights may well imply.

B. *Right-to-counsel, arrest, detention, trial*

Many concerns regarding these four topics are set forth in the copy of our letter to the Colegios de Abogados that is annexed here. It should be read carefully.

It notes that current Chilean law seems weak and that those who manage the Colegio seem shockingly unconcerned. Three critical paragraphs on page 2 raise issues as to technical problems regarding right-to-counsel. Page 3 and 4 stress the relevance of international law and the need for its enforcement.

Most importantly, the letter reports the statement of the Minister of Interior that, in Santiago, whereas approximately 550 detainees would be charged with military crimes, approximately 1,000 would be kept in detention without charges, perhaps for eight months. That is a damning admission (and the figures apparently are at least doubled when detainees outside Santiago are included). The photos we saw of the mine in the desert that is to serve as one of the detention camps by no means reassured us as to the intent of the government to treat those detainees humanely.

In general, after our initial days we became persuaded that our most unique contribution might be tenacious insistence that the Rule of Law not be violated. By no means can laws and lawyers solve all problems. (And we remind readers that Amnesty International often achieves remarkable victories with letter writing and other nonlegal tactics.) Nonetheless we concluded that our main assignment ("the stopping of executions and the protection of those in custody", could not be effected unless we exploited our own expertise, which for two of us is judicial.*

The juridical traditions of Chile are laudable. They are not, though, honoured by many actions of the Junta that effect fear and affect prisoners, or by the reply of the Minister of Justice to the Colegio de Abogados, that we identify in our letter to the Colegio.

Fortunately, the legal profession as a whole is not moribund. A few lawyers have been killed; several still are imprisoned; many, for good reason, feel intimidated. (Others, however, have responded well, with varying degrees of skill, imagination, aggressiveness, and courage.) (See for example the annexed letter by a group of lawyers to the Colegio de Abogados of November 2.)

We indeed were impressed by the achievements and aspirations of the Comite de Cooperacion Para la Paz and a few other groups (less formally organised). Unlike the Council of the Colegio they seemed aware that lawyers truly can help when people have been detained. They sense that for many prisoners the Hobson's Choice of a lawyer who has been recommended by (1) the Council of the Colegio, or (2) the military is often not a choice which will help inure justice. They believe that lawyers must have access to prisoners, with facilities for confidential talks and with ample time for adequate preparation of the case. A few of them proudly affirm that the civil judges of the land still sit and that a resuscitated amparo (habeas corpus), fearless enquiry into state-of-siege law, and modern international law still might have an impact.

Our view is that the UN itself, Amnesty International, and many other organisations—governmental and non-governmental—could aid immensely by activities that would seek out, encourage, embolden and help finance those kind of Chilean lawyers.

* * * * *

How, briefly, does one describe fear and its chilling effect? During our week the harshly inviolable curfew was set for two nights at 8.00, other nights at 9.00, 10.00, 11.00. There were armed police in our hotel. Soldiers with automatic weapons patroled the streets and guarded entrances to countless buildings. At the stadium and during some nights we heard automatic gunfire.

To visit the Minister of Interior required that we be body searched. From many people we learned of homes and autos searched, of books and papers seized. An informer's tale recently sent two untrained soldiers into the downtown offices of the UN. From a priest we learned that the mere threat of such tales had created a mind racket whereby employers force resignations of their "leftist" employees, thus saving the severance pay that firing could require. It appears that the government has nurtured citizens' desires to denounce, and there are many sad stories (e.g., of five professionals in one institution against whom the charges resultingly were changed from simply "administrative" to more dangerously "political").

Regarding the trials by courts martial, several defendant's lawyers and relatives told us they would welcome observers from abroad. Even as to "famous" defendants, however, (e.g., several of those on Dawson Island), there is no assurance yet that the span of time between the date of filing charges and the date of trial will be sufficient to allow for travel and other preparations by observers.

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*We were deeply concerned too about many named prisoners. Mr. Plant particularly worked with church, refugee, and Red Cross officials regarding lists, letters, and messages that has been entrusted to us.

### TORTURE

One of the purposes of the Amnesty mission was "to enquire into allegations of torture". We made the following findings

1. Force was used as recently as November 1st in the interrogation process. This force can be characterised only as torture, since it involved electric shock and beating. Our finding is in direct contradiction to statements of the Government that force was not used in interrogation.

2. We personally saw several persons who claimed to have been tortured. The wounds displayed were not those one would expect from ordinary interrogation procedures and certainly did not appear to be self-inflicted. Independent medical examination by international non-political organisations substantiated the claims of torture.

3. In our interview General Bonilla, the Minister of Interior, stated that acts of excess on the part of troops in events such as Chile had experienced were something that might be expected. Though this might be true such instances could be kept to a minimum. We found that contrary to attempts to minimize excesses, foreign experts were brought into Chile to teach "interrogation methods". The presence of Brazilian police at any time was vigorously denied by the Foreign Ministry; however those charged with handling prisoners at the national stadium readily admitted that Brazilian police had been present at interrogations and that they were there to teach the Chilean interrogators their methods. In fact, reference was made specifically to a four-day course given by Brazilian police at the Ministry of Defence. The representation to Amnesty was that the methods taught by the Brazilian police did not involve force. When we asked why it was necessary to bring in outside persons to teach the Chilean interrogators how to ask questions, the answer given was that the prisoners were sophisticated and that only with knowledgeable, experienced interrogators could it be learned whether answers given were truthful. With Spanish the language of Chile and Portuguese the national language of Brazil, we found the importance of Brazilians to teach Chileans "how to ask questions" particularly revealing. Brazilians in Chile told us in detail about six of their countrymen who had been tortured by Brazilian police. The main effect of the presence of those police, however, seems to have been the "sophisticated" treatment of Chileans by Chilean interrogators.

4. During the time of our visit we saw no evidence that torture was presently being used in the interrogation process on other than a selected basis. Unfortunately, we cannot report a negative finding on the recent use of torture because persons are held in detention throughout the country, without charge, without communication with their relatives; and no group outside of the government knows the number and treatment of the persons so held. As long as the government holds persons in detention without notification, it will be almost impossible to authenticate charges of torture but also, more importantly for the government, impossible to refute such claims. (For this reason we have recommended that access to all detention centres be granted to independent investigators so that the true situation can be known.

The question whether torture was used as a scare or terror tactic was raised on several occasions. The contention is made that, after September 11, persons chosen almost capriciously were tortured for the purpose of scaring others into submission. These persons were then released to tell their tales of horror in hopes that others would not engage in acts against the government, for fear of suffering a similar fate. Even if this was not done purposefully, the release of persons who have been tortured adds to the problems created by secret detention without charge. When people are afraid that they may be held without charge and perhaps be tortured they may be reluctant even to enquire of officials about the whereabouts of relatives or friends.

Authorities at the Ministry of Defence admitted that at least one allegation of torture had been brought to their attention and was being investigated. They stated that, if there were proof, the person who did the torturing would be severely punished. Yet, so far as we could tell, no torturers had been prosecuted.

5. Finally, it is our finding that the worldwide outcry against torture is influential with some officials of the present government. The members of the mission also believe that if all the excesses committed were generally known to the government, there might be a more effective attempt to curb torture. We are concerned that the true state of prisoners in camps throughout the country may not be known to many government officials. The only way that actual conditions can be made known is by allowing representatives of non-governmental organizations, such as church groups, to have access to the prisoners so that an honest report can be made and publicised.

### CONCLUDING COMMENTS

Thus we have summarised the facts that helped supply answers to the eight questions we set forth at the beginning of this report.

Among many immediate problems that distressed us—arbitrary arrest, holding prisoners anonymously and incommunicado, torture, restrictions on the right-to-counsel, etc.—we single out preventive detention (described in our letter to the Colegio) as perhaps the worst. Cynical observers might conclude that the government's plans, to prosecute only one of every three detainees, reflect cruelly its decision that only one of every three can be proved guilty. In our opinion, the motivations are more complex. Who, though, will speak up for those hundreds who are to be denied trial though they languish in prison? Amnesty International and its allies must make every effort to halt the grave injustices that thus are wrought.

Some weeks after September 11, killings were fewer, torture seemed less used. Thousands of prisoners had been freed, though other people were then imprisoned. As to the future, we make no predictions.

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## Annex I

[Letter written by Professor Frank C. Newman to the Colegio de Abogados]

November 16, 1973.

Mr. Alejandro Silva Bascuñán,
*Presidente del Colegio de Abogados,*
*Santiago, Chile.*

Dear Mr. President: Judge Bruce Sumner, Mr. Roger Plant, and I again wish to thank you for arranging our meeting with your Colegio's Council on November 5.

You suggested at the close of the spirited discussion that considerable benefit might result from a "minute" prepared by us, to which you could reply. Accordingly this letter sets forth observations and questions that we believe are pertinent.

You will recall that primary concerns of Amnesty International, whom we represent, relate to prisoners of conscience and people who are threatened with detention because of their beliefs, though they do not use or advocate violence.

### QUESTIONS AS TO CHILEAN LAW

How can one define the law of arrest in Chile, and the role of lawyers in helping to enforce that law? It seemed to us that the recent TV speech by the Minister of Interior, explaining citizens' rights during searches and seizures, was highly relevant. Yet he could give us no copy. Even more surprising was the consensus of members of your Council that no lawyer would need a copy. Who then, we wonder, will protect citizens who could be arrested because they complain that rights "granted" in the Minister's speech in fact were violated?

Also surprising was the Council's seeming lack of concern regarding the need for a public listing of detainees' names. We know from the Comite de Cooperacion para la Paz how difficult it is to identify who are detained and where. Prisoners of conscience can hardly be aided when the names and places are unknown. If lawyers care not, who will be able to help expose errors such as mistaken identity and over-zealous policing?

In a letter of October 24, 1973 the Chilean Embassy in London advised Amnesty International in part as follows:

I take pleasure in giving you below the text of the Chilean Foreign Minister's reply to your cable sent on 20th October.

"In Chile, only the competent Courts can impose penalties on those citizens who have broken the law. The Government has never deviated from this criterion . . ."

We have never regarded "penalties" as a work that is limited to sentences imposed after trial. We think that summary loss of employment, seizure of books and papers, arrest, torture, detention without trial, and related hardships are penalties too. Do you disagree?

As was stressed at our meeting, we were much disturbed by the statement of the Minister of Interior that, whereas approximately 550 detainees would be charged with military crimes, approximately 1,000 would be kept in detention without charges, perhaps for eight months. We understood that his figures were for Santiago only. Is it the view of your Council that lawyers are going to be impotent regarding such people? Is there no traditional Chilean law that accords those kinds of detainees any rights?

### QUESTIONS ON RIGHT-TO-COUNSEL

We would be very interested in background information and comment re (1) Mr. Jaime Yrarrazaval's letter in the November 5th *El Mercurio*; (2) views of the Colegio on the various advertisements that have been published by, and activities of, the Comite de Cooperacion Para la Paz; (3) the statement of November 2, 1973, submitted to your Council by concerned Chilean lawyers, that concludes (on its page 2) with nine *"peticiones concretas"*. (That statement highlights several problems regarding lawyers that seems to us to be critical indeed. Was it answered?)

Also, have you raised further questions as to the letter addressed to you by the Minister of Justice that appears in the October 29th *El Mercurio*? And if any of the other officials to who you addressed your minuta replied, we would much appreciate receiving a copy.

The basic issue is, will there be facilities that will enable many hundred detainees to choose and communicate with lawyers whom they trust? Will the right-to-council thus assured include ALL detainees, not merely those against whom charges are filed? And will the assurances, in practice protect too those detainees who are not in the Santiago area?

### A QUESTION AS TO JUDGES

We were told that only one judge has been detained. Does that include judges of the Labor Courts, the Juvenile Courts, and the Local Courts?

### DOES INTERNATIONAL LAW GOVERN?

Chile has ratified the three most important treaties that affect human rights. The first is the UN Charter. The second and third are the UN Covenants on economic, social, cultural, civil, and political rights.*

The covenants are not yet "in force". As is well known, however, *first*, the World Court in 1971 declared that the UN Charter itself imposes direct obligations as to human rights; *second*, the Covenants, like the Universal Declaration of Human Rights, contain authoritative interpretations of the Charter's human rights clauses. (See recent writings of Egon Schwelb, Louis Sohm, other renowned jurists). In addition, as was noted on November 7 during our discussion with the Juridical Advisor of the Foreign Ministry, it would be unconscionable for Chile to declare an intent to violate basic norms of the Covenants, after ratifying them, while waiting for them to become operative technically.

Do some clauses of the Covenant on Civil and Political Rights affect the State-of-Siege provisions of Chilean military law? The answer is Yes.

Article 6 regulates the death penalty. Article 7 proscribes torture and cruel, inhumane, or degrading treatment. Article 10 states, "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person." Article 9 grants many rights to those arrested and detained. Article 14 requires "a fair and public hearing" and prescribes criminal procedures. Article 15 concerns retroactivity. Article 17 reads.

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence . . .

2. Everyone has the right to the protection of the law against such interference . . .

In time of crisis can those kinds of clauses truly mean what they say? The answer is Yes. The draftsmen of the Covenant were knowledgeable government officials, including men of military experience. That is why the first two paragraphs of Article 4 read:

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the State Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation . . .

2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision. In other words, Mr. President, the Covenant on Civil and Political Rights contemplates that there will be *situaciones excepcionales*. Yet there can be no derogation whatsoever from Article 6, 7, and 15; and, regarding other pertinent articles, the test is, "to the extent strictly required by the exigencies of the situation".

That is an international test. By no means does it tolerate the granting of arbitrary and unconfined discretion to the Junta. Do you agree? If so, you will understand why we were incredulous when members of your Council argued that State of Siege means the total denegration of lawyers' responsibilities, except after the formal filing of charges in the military courts.

Our hope is that this currently binding international law will be applied by Chilean tribunals (where, you will recall, I reported that cases involving Greece, Brazil, and other countries are now pending). It seems that the most pertinent rules are those set forth in ECOSOC Res. 1235 (1967). We would be much interested in your comments on the relevance of that resolution.

Do you recall that one Council member complained about having received no acknowledgement from the United Nations of a letter that alleged mistreatment of lawyers by the Allende government? If a copy could be forwarded to me, I would endeavour in New York to ascertain what happened. You may know that Amnesty International did express its concern as to comparable allegations. (See, e.g. "Flagelaciones Ve Experto de Unesco" of the April 19th *El Sur*.)

* * * * *

I realise, Mr. President, that several of the questions set forth here are complex. Yet I know you are aware that they are being asked by jurists of many countries. Amnesty has distinct aims, but its concerns are broadly shared.

Because I believe that they may be specially interested, I am sending copies of this letter to the Minister of Foreign Affairs (our host) and also to the Minister of Justice and other lawyers with whom we talked in Santiago.

Again with many thanks for your cooperation, I remain,

Yours respectfully,

FRANK C. NEWMAN.

## ANNEX 2A

[Translation of Annex 2]

SANTIAGO, *November 2, 1973.*

We appreciate the activity of the Bar Association, in demanding respect for the legal rights of the detainees, and a serious defence of these persons on trial.

We are aware that the Association has only obtained very precarious gains, but we ask it to continue its defence of lawyers before the authorities, and likewise to continue demanding the rights of all Chileans and residents in the country, because law and justice cannot and should not limit itself to a verbal declaration without translating it into the genuine and effective defence of human life, of the dignity of individuals, of the right to work, to education at all levels, to live in peace and security and without fear in the home.

It is maintained that a "state of war" ("estado de guerra") or "time of war" ("tiempo de guerra") exists. If this is so, treatment of prisoners should be in accordance with the Geneva Conventions of August 12th, 1942, which were ratified by our country by the Supreme Decree No. 752 of December 5, 1950. We ask that the same treatment should be applied as today in Israel, Egypt, Syria and the other countries which are involved in the Middle East war, in the treatment of their prisoners.

Many lawyers have been shot. We know that an appeal will not return their lives to them, but it will save (at least, we hope) persons in danger and will be a contributory step toward justice and peace. Therefore we hope there will be an investigation into the causes of death, and into those responsible for giving the orders of death, of our colleagues Carlos Berger, Litré Quiroga, Arnoldo Camá, Julio Cabeza, Roberto Guzmán, Carlos Salabar, Arsenio Poupin, Socrates Ponce Pacheco.

The following colleagues, among others, have been deprived of their liberty, for exercising their profession: Carlos Naudon, Santiago Cavieres, Laureano León, Kurt Dreckman, Héctor Benavides, Ana E. Ugalde, Gustavo Rojas. We are certain that the Association will demand their freedom and the guarantees that permit them to exercise their profession without danger of arbitrary detention and illegitimate pressures.

Every day we are aware that in different parts of the country citizens have been killed by mans of the *"Lay de Fuga"*. Chile is a country that remembers with sorrow the "flight" and death of Manuel Rodriguez and condemns it until today. We hope that those laws that guarantee the transportation of prisoners from one site to the other, or in the camps, and other places of detention are respected and that the life of suspects, detainees or prisoners is guaranteed.

In the exchange of correspondence with you, the Minister of Justice says in his last letter: "All offences committed before the declaration of internal war will be judged and investigated by the Ordinary Tribunals of Justice, in accordance with Article 11 of the Political Constitution, must be applied immediately.

Likewise, to conduct the trials according to the standards demanded by the Association, free access must be permitted to the defendants and all guarantees must be given to them of a public trial, in conformity with the law and before a competent tribunal, and not by people who though of very high rank nevertheless usurp judicial authority, in accordance with the guarantees of Articles 12 and 13 of the Constitution.

In his answer, the Minister of Justice says that the Bar Association will have no problem paying visits to the camps of prisoners. We acknowledge the urgency of doing so, inviting lawyers, social assistants and doctors to take part in the visits.

We regard your suggestion of "rotas of lawyers" for the defence of the legal rights of the detainees, as a very plausible one. Yet, for a better effect, we consider it indispensable that these lists be added to the names of the colleagues who offer their services, without any limitations, or without their political, religious or philosophical ideas being of any hindrance, the only limitation being their professional capacity and the ethical aspect that goes with it. Along the same lines, we maintain that the defence must be conducted within the jurisdiction of the place of detention or where the crime or the punishable act that is being investigated is supposed to have been committed and that the detainee must not be removed from the place of trial before verdict has been passed.

In summary, these are our concrete petitions to you:

(1) Request the Military Junta that it put an immediate end to the state of "war" and that all the prosecuted be tried according to the legislation that was applicable during peace time, respecting the principle that the non-retroactive character of the Penal Code be respected as well as the guarantees pertaining to legal procedures under the present legislation;

(2) To demand the freedom of the lawyers detained in the National Stadium in Santiago, in the Penitentiary, Jails, Regiments, and other places;

(3) To demand guarantees for the lawyers in the exercise of their profession, especially in the defence of the detainees;

(4) To demand guarantees that the life of all prisoners be respected, during the transfer of detainees;

(5) To demand that the trials be public, before competent tribunals, permitting lawyers' access to prisoners without obstacle;

(6) To demand that detainees no longer be held incommunicado;

(7) To designate commissions of the Council of the Bar Association made up of lawyers, social assistants and doctors to visit the places of detention;

(8) To establish a "rota of lawyers", including in the list the largest possible number of lawyers, who will be asked by the Bar Association to attend without payment to the defence of the detainees, without any discrimination of political, philosophical, religious or any other beliefs; and,

(9) That there be serious and immediate investigation of the causes of the tragic deaths of lawyers Carlos Berger, Litre Quiroga, Arnoldo Camá, Julio Cabezas, Roberto Guzmán, Carlos Salazar, Arsenio Poupin, Socrates Ponce Pacheco.

We are sure that the Bar Association will adopt the necessary measures to reestablish the State of Law for which it has always fought.

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* We were advised by the Foreign Ministry that Chile has ratified the Covenant on Civil and Political Rights but not the Covenant on Economic, Social and Cultural Rights. Our authority to the contrary is E/CN.4/Sub.2/338, 6 Aug. 1973, p. 2.

### Annex 3

[Letter of October 11, 1973, from Martin Ennals to the Chilean Foreign Minister, spelling out the terms of reference of the mission]

October 11, 1973.

His Excellency, Vice-Admiral Ismael Huerta Diaz,
*Foreign Minister,*
*Chilean Mission to the United Nations.*

Your Excellency: I am writing to confirm the outcome of the conversations which have taken place during the past few days including our own talk on Saturday 6th October and the subsequent meetings which Dr. Augustus and I had with Ambassador Bernstein on Monday October 8th.

It is now agreed that an Amnesty International mission will visit Chile commencing 22nd October and will be granted the facilities to fulfill its purposes. I very much hope that it will be possible for the mission to meet with His Excellency, General Augusto Pinochet and that the date and time of the appointment can be notified to the mission before they leave for Chile.

The purposes of the mission will include the matters which I raised with General Pinochet in my letter and which have been further discussed with you and with Ambassador Bernstein:

1. to make representations to the Chilean Government concerning the executions being carried out.
2. to enquire into and report upon the procedures of interrogation, detention, charge and trial of those who are in custody.
3. to enquire into allegations of torture.
4. to meet with those responsible for representation of prisoners before the courts and tribunals and to advise on financial and other assistance which can be given to prisoners and their families.

We have been most appreciative of the courtesy and co-operation extended to Amnesty International and have welcomed the assurances given regarding the right to an open trial with legal defence and appeal. We also welcome the readiness with which you agreed to accept our mission and to ensure them the freedom to conduct their enquiries including visits to places of detention, meetings with prisoners, lawyers and members of the judiciary.

As is our custom in such situations, no report will be published until after it has been submitted for comment to your Government and the International Executive Committee (the governing body) of Amnesty International.

The Composition of the Amnesty International Mission on this occasion has already been notified to you as follows:

Mrs. Rita Hauser.* Lawyer, former representative of the United States Government on the Human Rights Commission and Third Committee of the United Nations, founder member and trustee of the International Institute for Human Rights in Strasbourg, member of the Executive Board of the International League for the Rights of Man and of the Advisory Council of Amnesty International U.S.A.

Mr. Frank Newman. Lawyer, Professor and former Dean of the Law Faculty at the University of California, Berkeley, Chairman of the Committee on international respects of the individual rights of the American Bar Association, Vice Chairman of the International Institute for Human Rights (Strasbourg), member of the study panel on the implementation of International Counsellor to the International Commission of Jurists and Amnesty International.

Mr. Roger Plant. Latin America Department of the International Secretariat of Amnesty International in London who will act as Secretary to the mission.

In view of the limited time available to the two principals it may be necessary for Mr. Plant to remain a few days longer in Chile in order to discuss arrangements for distribution of relief and legal aid funds to families of prisoners in Santiago and elsewhere.

If there are any further points which you or Ambassador Bernstein wish to discuss with me then I am at your disposal until I leave for London on the afternoon of Friday 12th October. It would be most helpful if I could receive confirmation of these plans before that time.

Once again, Your Excellency, may I express my appreciation of your personal courtesy and understanding of the situation and your co-operation with us at this difficult time.

I am, Sir, Yours respectfully and sincerely,

Martin Ennals,
*Secretary General,*
*Amnesty International.*

## TRICE IS TOPS

Mr. HRUSKA. Mr. President, I should like to take a few minutes today to pay tribute to a man all of us in this body will miss, but particularly those of us on this side of the aisle. I refer to Mark Trice who recently retired from his position as secretary to the minority.

Those of us who have been here for many years simply grew accustomed to Mark Trice. He was always there with his keen understanding of what makes the Senate tick.

Very few of us know the Senate as did Mark Trice. A native of the District of Columbia, he came to the Senate at the early age of 14 serving as a page. He continued to work on Capitol Hill while attending night school to earn a law degree at Georgetown University. From 1929 to 1932 he practiced law in the District. Then he returned to his first love: the U.S. Senate. And, it was here that he stayed until his retirement last December 30.

Mark Trice was here when I first came to the Senate over 19 years ago. This Chamber will never be the same without him. We fought many battles together over those years. When you are in the minority as we have been for most of those years, you become accustomed to losing quite a few battles. But, my association with Mark Trice always made me feel the winner.

We shall miss Mark Trice. His wisdom, advice, and support were relied upon by all of us on the minority side. He was in so many ways our colleague, and he was always a trusted and loyal friend. We wish him well as he now returns to a more leisurely life of retirement.

At this time, I should also like to welcome Bill Hildenbrand who was today named by the Republican Conference Committee as Mark Trice's successor. I look forward to a continuation of the good working relationship with him I have enjoyed and extend him every best wish as he assumes his new assignment.

## PROBLEMS OF THE PLASTICS INDUSTRY

Mr. KENNEDY. Mr. President, one of the industries most severely affected by the current energy shortage is the plastics industry. Manufacturers of plastic products have pointed out that the shortage of plastic raw materials is encouraged by current petrochemical allocations, an increase in exports, and ineffective price controls.

Unless action is taken immediately to alleviate the crisis in the manufacture of plastic products, the future will be bleak for American consumers. The Arthur D. Little firm forecasts that as many as 1.8 million workers may be out of jobs as a result of the decline in petrochemical production. In Leominster, Mass., a center of plastic manufacturing, 50 or 75 plastic plants surveyed said that one-third of the plants will face closing within the next few months. The shoe industry in Massachusetts, already jeopardized by increases in imports, is further devastated by a shortage of plastic heel and toe parts.

Mr. President, I would like to print in the Record a copy of the report and survey of the plastics companies in the Leominster, Mass., area.

There being no objection, the material was ordered to be printed in the Record, as follows:

### The Plight of the Plastics Industry

#### SUMMARY HIGHLIGHTS

1. Of the fifty plastics companies surveyed, 34 reported that shortages of supplies such as polystyrene and polyethylene have already forced them to operate below capacity. Seven firms are 50 percent or more below capacity, and one has been forced to shut down completely. (Three did not respond.)

2. If the supply outlook doesn't change quickly, one-third of the local plastics firms expect to be shut down by February, and all the others except two or three expect to be forced to operate below capacity by that time.

3. The companies surveyed have already lost about $15,000,000 in sales, and their projected losses by February are expected to more than double that figure.

4. The companies surveyed normally employ a work force of about 2,875 people. Of these, 10 percent have been laid off already, and the expectation is that about half of the total workforce will be laid off by February if the supply situation is not improved.

5. Curtailment of operations of plastics companies has a heavy impact on the economy of the area, not alone from the direct loss of jobs and payroll within the industry, but even more from the fact that support industries such as the tool and die companies that make molds and paper companies that supply packaging also are forced to reduce operations.

6. The most significant impact, however, is on the customers of the plastics companies, since plastic parts (nylon gears, for example) are critical to many other industrial processes. (The situation is even beginning to turn on itself: chemical suppliers are finding that drums needed for shipping supplies to the plastics companies are difficult to obtain because of a shortage of plastic liners.)

7. A black market has developed in resin powders, and some local suppliers report that they are using it. They don't like it, and they are not sure it profits them, but they like the alternative of shutting down even less.

8. Plastics represents one of the last stands of old fashioned free enterprise in which owners grow their own companies. The industry has some giants, but the typical firm is small. (In our survey, the average number of employees was 58.)

9. Heads of local plastics companies have definite ideas about what they would like to see done to ease the situation:

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* Mrs. Rita Hauser was subsequently replaced by Hon. Bruce W. Sumner, Presiding Judge of the Superior Court of Orange County, California.

(a) Government enforcement of fair allocations of supplies to all size companies.

(b) Stop exporting supplies needed domestically.

(c) Or, as an alternative to (b), lift Phase Four price restrictions on plastic products so that companies can afford to bid for supplies against foreign buyers.

(d) Lift all price ceilings and let competitive forces stabilize the market.

10. Heads of plastics companies in the Leominster area believe that the Federal Government in Washington does not appreciate the enormous impact on the economy that severe cutbacks in plastics will have. To supply plastics companies with materials required only about six percent of the output of the petroleum industry, and unless that allocation is made, they say, almost every other industry will be adversely affected.

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## The Plight of the Plastics Industry—A Report

In early November, 1973, the Pioneer Valley Section of the Society of Plastics Engineers arranged with the Leominster Chamber of Commerce to prepare and circulate a questionnaire on plastic materials shortages. Questionnaires were mailed to more than 100 plastics companies in the immediate Leominster area, as well as to additional companies in the surrounding region.

After the returns on the mail survey were in, the local community action agency, Montachusett Opportunity Council, offered to conduct a telephone follow-up in order to increase the percentage of responses. As a result, responses were obtained and tabulated from fifty companies. Not all firms responded to all questions, however.

By and large, the respondents were eager to help develop facts that might be used to help the industry. Some were concerned, however, about revealing proprietary information and, for that reason, some chose to respond to questions only in percentages, while others refused to give percentages and would respond only in absolute numbers. This explains why the answers to some questions are given both in percentages and in actual numbers.

### RESPONSES TO DIRECTED QUESTIONS

1. *Please name the supply materials in which you are in short supply?*

Thirty four Firms said polystyrene

Twenty said polyethylene

Nine said polypropylene

Six named other plastics, including acrylic, nylon, ABS and SAM

(NOTE: Some firms gave multiple answers.)

2. *What is your current inventory of supplies as compared with 1972?*

The current mean average inventory supply reported by 35 responding companies was 10 days supply, compared with 35 days supply in 1972. Six companies reported having to live from day to day without supply inventories.

3. *What is your current percent of idle capacity?*

One Firm had to shut down.

Two Firms reported 60% Idle Capacity.

Five Firms reported 50% Idle Capacity.

Six Firms reported 30% Idle Capacity.

Fourteen Firms reported 20% Idle Capacity.

Five Firms reported 15% Idle Capacity.

Two Firms reported 10% Idle Capacity.

Twelve Firms reported no Idle Capacity.

4. *What percent of Idle Capacity do you project by February, 1974?*

16 Firms project complete shut down.

4 Firms project 60% Idle Capacity.

6 Firms project 50% Idle Capacity.

5 Firms project 40% Idle Capacity.

7 Firms project 30% Idle Capacity.

4 Firms project 20% Idle Capacity.

1 Firm projects 15% Idle Capacity.

2 Firms project No Idle Capacity.

5. *How much are you losing in current sales?*

27 Firms reported current sales lost of $6,065,000.

11 Additional Firms reported sales losses ranging from 15 to 50 percent.

6 reported no current sales loss.

6. *What sales losses do you project for 1974?*

29 Firms projected their sales loss as $14,600,000.

7 additional firms projected their losses as percentages ranging from 15 to 50.

5 said they were unable to project future losses.

2 Firms said they projected no likely sales loss.

7. *How many employees do you currently have to lay off?*

37 Firms reported a total of 281 people laid off (estimated to be approximately 13 percent of the total employment of those firms).

1 Firm replied that it had laid off 15 percent of its work force.

8. *How many employees do you project will be laid off in near future?*

3 Firms project all employees will be laid off.

1 Firm projects 33⅓% of Labor Force will be laid off.

1 Firm projects 40% of Labor Force will be laid off.

1 Firm projects 10% of Labor Force will be laid off.

1 Firm projects Severe Cutbacks.

1 Firm projects if situation continues will lay off some.

4 Firms said lay off figures unknown at this time.

9. *What is the current number of employees on short work week?*

33 Firms reported a total of 320 people on short work week (estimated to be approximately 16 percent of the work force of those firms).

1 Firm replied that 15 percent of its work force was on short work weeks.

10. *What number of employees do you project will go on short work weeks in near future?*

24 Firms projected a total of 522 people on short work weeks in near future.

2 Firms reported by percentages of 10 and 40 percent.

7 Firms projected an increase in shorter work weeks by indeterminate amounts.

11. *What is your current loss of payroll resulting from short supplies?*

33 Firms reported payroll losses of $29,150 weekly (approximately $1,500,000 annually).

12. *What payroll loss do you project in 1974 assuming shortages of supplies continue?*

21 Firms projected a total annual payroll loss of $4,529,800.

### UNDIRECTED RESPONSES

In addition to answering directed questions, respondents were asked to comment on any aspect of the situation they chose. Here is a sampling of the resulting comments. Since the interviewee in most cases was the president of the firm in question, these comments may be taken as representing top management thinking. Each quotation below represents a different firm.

"Situation is desperate with no relief in sight. Customers supplied materials with molds, heretofore. Now only molds available."—President

"Country should stop exporting supplies or take Phase Four restrictions off, thus allowing us to raise prices and pass on increased cost of powder."—President

"If shortage continues for 3 more months, we will have to shut down our plant and lay off 100 people and take a loss of $2 million."—President

"A black market is flourishing. Price controls should be lifted."—President

"Legislation is needed for fair allocations of supplies."—Sales Manager

"We can only guess about 1974. If it tightens even more than today, we may have to close up entirely, putting over 50 employees out of work."—President

"Discouraging."—President

"Things look bleak. Black market powder is available."—President

"Scarce buying is affecting market supply. Expect demand to fall and supply to become more available. Auto industry uses 120 pounds of plastics per car, but 1,000,000 fewer cars are to be made in 1974, according to report."—President

"We need to get some legislation to make fair allocations to small buyers."—President

"Stop exporting for six to eight weeks and let U.S. manufacturers catch up."—President

"Suppliers are shipping overseas, and we cannot meet the price under Phase Four."—Controller

"There is no doubt about the seriousness of this problem. It appears this could be the worst disaster to ever hit the plastics industry. I also believe that investigations should be made into the reasons why some companies will be completely cut off in their supply of resin, while others receive resin."—President

"I don't believe Washington realized the impact on the entire economy that will be affected if allocations are not straightened out."—President.

"I've been in plastics industry all my life. Never thought this condition would exist. I may be out of a job myself in the near future."—Assistant Plant Manager.

"We have shut down 3 of our 9 machines due to shortage of materials. We are custom molders and rely on our customers for the material to run their molds."—President.

"Stop exporting and let American firms buy the powder. Small companies are hurting because of reduced cash flow."—Treasurer.

"Who is he to say who gets off easy in this energy crisis?"—President.

"No doubt about it, all plastic materials are in short supply and getting worse. The price spiral continues, and black markets are popping up. No one predicts a short term solution."—Plant Manager.

"Although material is in short supply and we have to work a little harder to get the kinds of material we need, we have not been forced to make any significant cutbacks in people or production."—Executive Vice President.

"Although we have not had lost hours, end user is suffering a loss of major product lines. Could cause shut down with as many as 45 people laid off. This is just one of many possible cases over next 6 months."—President.

"If shortage continues, my operation will have to be cut back drastically."—

"We are manufacturers of plastic processing equipment and have had a slow down in orders due to the shortage of plastic resin. Many of our customers cannot buy machinery because they cannot get materials to process."—Treasurer.

"The overseas price and black market price for general purpose styrene is such (40c) that our regular supply could disappear or dwindle to the point that we could be forced out of business. We have a new plant, SBA financed. We must have export controls or we will be bankrupt!"—President.

"With price controls, how do the major suppliers show large sales increases and still have shortage of supply? Increased foreign sales is the only answer."—President.

"Big business is not having the same problem that we face. Where is the American justice that history books talk about?"—President.

"Remove all price controls and market would even out."—Treasurer.

"Lift Phase Four allocations of feed stock and limit exports."—President

"We do not use powder as our business is making new dies and repairing dies. However, due to the cutback of production and the uncertainty of the future, our business is suffering."—President

"Would like to know when the bottom is reached and be kept informed of the true situation. Everyone, at present, is afraid to invest in new molds."—Treasurer

"It would help if oversea shipments were stopped. The energy crisis helped bring this on."—General Manager

### CONCLUSIONS

The survey has clearly established that materials shortages in the plastics industry are already having a severe impact in the Leominster area. Plastic companies are losing sales and profits. Employees are losing jobs and full weeks. And the supporting industries are losing business.

The findings of this survey are in accord with a larger study of the plastics industry conducted nationally by Arthur D. Little, a research firm. That study estimated that a 15 percent cutback in petrochemical feedstocks to plastics producers would have a domino effect through the numerous industries that utilize plastics components. The net result, according to that study, could be 562,000 workers laid off and a loss in production of finished products of nearly $23 billion.

Our survey has also established that officers of plastics companies are, with few exceptions, highly agitated by the situation. Some express anger and some express dispair or resignation. Some clearly are frightened of losing the investments they have made of their money and their lives in the small companies they run.

The heads of these companies want help. They look primarily to legislators for that help. They suggest curbing exports, lifting price controls, and improving allocations of supplies. Whether or not these are, in fact, the best of most available solutions, is a matter for further study for those responsible for taking action.

In any case, action clearly is needed. It is needed now!

Mr. KENNEDY. Mr. President, the outlook for the plastics industry has not improved since that report was written. During the recess I had the opportunity to talk to many of the workers and their families who are affected by the shortage of plastic raw materials, and the situation continues to deteriorate.

On October 9, I contacted the Department of Commerce regarding the export of plastic raw materials in recent months. I ask unanimous consent that a copy of that telegram be printed in the Record.

There being no objection, the telegram was ordered to be printed in the Record, as follows:

Hon. Frederick B. Dent,
*Secretary of Commerce,*
*Washington, D.C.*

I have been alerted by finished plastic manufacturers in Massachusetts that they have been unable to obtain plastic resins and feed stocks sufficient to support the industry due to the heavy export of these items from the United States. Manufacturers in Leominster, Fitchburg, and Worcester, Massachusetts, have all expressed their concern that an adjustment is needed if they are to continue to employ large numbers of Massachusetts residents. I would appreciate any information which your office might obtain in regard to this situation. Thank you for your personal attention to this.

Mr. KENNEDY. The response from the Department of Commerce indicated that there was "no important increase" in the exports of plastic materials and I would like to print that response in the Record.

There being no objection, the response was ordered to be printed in the Record, as follows:

U.S. Department of Commerce,
*Washington, D.C.*

Hon. Edward M. Kennedy,
*U.S. Senate,*
*Washington, D.C.*

Dear Senator Kennedy: This is in reply to your telegram of October 9 reporting a shortage of plastics raw materials affecting Massachusetts' plastics manufacturers and citing the need for the national energy program to give deserved priority to the feed stocks requirements of the petrochemical industry.

For the next several years, U.S. chemical companies—including those manufacturing plastics raw materials—will face difficulties in obtaining their requirements of feed stocks. They must compete with electric and gas utilities, motorists and other buying interests for hydrocarbon commodities already in short supply. Whereas the industry believes that it will succeed in maintaining without major disruption its overall petrochemicals production and sales during this period, it cannot undertake new and major additional supply commitments.

In terms of domestic production, exports of plastic materials show no important increase. For example, ABS (acrylonitrile butadiene styrene) and PVC (polyvinyl chloride) exports have actually declined in the first 8 months of 1973 versus the comparable period in 1972. The current shortage of petrochemical feed stocks plus increasing demand for plastic materials and products account principally for the reported short supply position of the resins. For the long run, solution lies only in increased availability of feed stocks plus some expansion of production facilities by the materials manufacturers.

It is our understanding that plastics raw materials manufacturers are making a serious and continuing effort to supply all of their regular customers. Usually, each customer—consumer or distributor—receives an allocation equal to a percentage of its 1972 offtake with special treatment often accorded plastics' processors whose continued operations depend upon the supply of these raw materials. Under the circumstances, we recommend that your constituents follow up regularly with all of their 1972 suppliers to insure obtaining maximum allowable allocations of plastics raw materials.

As you know, the Department of Commerce has consistently supported the petrochemical industry in its efforts to obtain a supply of feed stocks commensurate with its needs. As we participate in policy matters with the Office of Energy Policy and other interested agencies, we shall continue this support not only for the petrochemical industry but for all other essential energy needs arising from industry.

Your constituents may not know that a mechanism exists under the Voluntary Petroleum Allocation Program for processing complaints about supply interruptions. If they wish to avail themselves of this service, they should provide specific details of each such supply interruption to:

Mr. Robert Plett, Administrator, Voluntary Petroleum Allocation Program, Winder Building, Washington, D.C. 20240.

Sincerely,

Gary M. Cook,
*Acting Deputy Assistant Secretary for Competitive Assessment and Business Policy.*

Mr. KENNEDY. I asked those plastic manufacturers who had contacted me for detailed data on the availability of plastic raw materials for their current production and conveyed that information to the Secretary of Commerce and asked that statistical data on exports for 1972 and 1973 be made available. I ask unanimous consent that that request and the Secretary's response be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

TELEGRAM

Hon. Frederick B. Dent,
*Secretary of Commerce,*
*Washington, D.C.*

In response of my telegram of October 9, the Department of Commerce indicated that the crucial shortages of plastic raw materials affecting Massachusetts plastic manufacturers was not due to increased exports of these materials. After relaying your response to the manufacturers in the Commonwealth, several companies have pointed out that the export of benzene increased from 6,600 gallons in August, 1973 to 3,900,000 gallons in September, 1973 and that ethyl benzene exports increased from 16.5 million pounds in August 1973 to 33.8 pounds in September, 1973. Also it is my understanding that John A. Love, former Assistant to the President wrote a Massachusetts organization on 11/26/73: "One major factor in difficulties faced by the petrochemical industry has been exports encouraged by differences in domestic and foreign prices. As prices rise, the situation should be alleviated to some degree." Currently, as you are aware, Phase IV controls prevent that rise in prices. In light of the figures supplied by Massachusetts based firms and the repeated suggestion that under the Export Administration Act remedies are available to alleviate this crisis, I would appreciate the statistical information which your office has on exports of plastic raw materials in 1972 and 1973 and any action the Department of Commerce expects to take in light of those figures. Thank you for your personal attention to this matter of such urgency to so many workers and companies in Massachusetts.

Edward M. Kennedy,
*U.S. Senator.*

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The Secretary of Commerce,
*Washington, D.C., January 9, 1974.*

Hon. Edward M. Kennedy,
*U.S. Senate,*
*Washington, D.C.*

Dear Senator: Thank you for your telegram of December 4 in which you note specific problems with respect to shortages of both benzene and ethyl benzene and attribute the shortage, in part, to the export of these materials. The delay in answering was necessitated by the accumulation of the October export figures which are felt to be significant.

Through October, our records indicate that our total exports of benzene were 189.8 million pounds, substantially the same level as in the comparable period of 1972 when we had exported 183.3 million pounds. It should be noted, Senator Kennedy, that the monthly figures fluctuate greatly and that month-to-month comparisons tend to be misleading. The enclosed table shows the monthly figures for 1972 and 1973 (in gallons, which is the normal mode of reporting—one gallon equals 7.3 pounds).

It is important to note that during the first ten months of 1973 we *imported* 386.9 million pounds of benzene. We were net gainers of benzene to the amount of 197 million pounds.

The figures for ethyl benzene show that we exported 166 million pounds through October 1973, and in the case of this commodity imported virtually none. Records on ethyl benzene are usually kept on the basis of value and we note that the value of exports in 1973 is 1.6 times those in 1972. Also enclosed is a summary of data on other plastics raw materials.

On December 13 we issued revised export controls on petroleum and selected petroleum derivatives. A copy of the Export Control Bulletin (No. 106) is enclosed.

We appreciate the impact of price controls on your situation and we have advised the Cost of Living Council of your problem.

Sincerely,

FREDERICK B. DENT,
*Secretary of Commerce.*

*Monthly exports of benzene*

[In thousands of gallons]

| | | |
|---|---|---|
| January | 642 | 496 |
| February | 2,372 | 3,471 |
| March | 2,082 | 2,091 |
| April | 903 | 721 |
| May | 1,523 | 4,241 |
| June | 5,872 | 3,158 |
| July | 3,510 | 5,031 |
| August | 3,409 | 974 |
| September | 2,990 | 3,909 |
| October | 1,815 | 1,911 |
| Total | 25,118 | 26,003 |

PLASTICS RAW MATERIALS—PRODUCTION/EXPORTS JANUARY-SEPTEMBER 1972 AND 1973

| | Production | | Exports | | Export value (cents per pound) |
|---|---|---|---|---|---|
| | Million pounds | Percent increase 1973-72 | Million pounds | As percent of production | |
| Polystyrene:[1] | | | | | |
| 1972 | 2,742 | | 103.5 | 3.8 | 12.6 |
| 1973 | 3,061 | 11.6 | 134.8 | 4.4 | 22.4 |
| Polyvinyl chloride: | | | | | |
| 1972 | 3,072 | | 121.6 | 4.0 | 23.6 |
| 1973 | 4,280 | 8.9 | 113.9 | 3.4 | 24.6 |
| LD polyethylene: | | | | | |
| 1972 | 3,864 | | 289.8 | 7.5 | 11.9 |
| 1973 | 4,280 | 10.8 | 361.8 | 8.5 | 18.3 |
| HD polyethylene: | | | | | |
| 1972 | 1,697 | | 204.6 | 12.1 | 11.1 |
| 1973 | 1,956 | 15.2 | 213.2 | 10.9 | 17.3 |

[1] Polystyrene production includes acrilonitrile butadiene styrene (ABS) and styrene acrilonitrile (SAN).

Source: Office of the Ombudsman for Business Bureau of Domestic Commerce, Department of Commerce, Nov. 15, 1973

**Mr. KENNEDY.** Mr. President, plastic companies in Massachusetts have also strongly urged the adjustment of phase IV price controls to alleviate the shortage and provide more equitable management of raw material prices for domestic production. I would like to print in the RECORD my telegram to Director Dunlop and the response from the Cost of Living Council regarding the price control adjustment.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

TELEGRAM

JOHN T. DUNLOP,
*Director, Cost of Living Council,*
*Washington, D.C.:*

I am contacting you regarding the crisis faced by the plastics manufacturers of Massachusetts and across the country. As you know they face a severe shortage of plastic raw materials. John A. Love, former Assistant to the President wrote a Massachusetts organization on 11/26/73: "One major factor in difficulties faced by the petrochemical industry has been exports encouraged by differences in domestic and foreign prices. As prices rise, the situation should be alleviated to some degree." I urge the Council to adjust its price control regulations on petrochemicals in order that hundreds of companies employing thousands of workers might be able to obtain raw materials for plastic manufacturing. Thank you for your personal attention to this situation so urgent for so many families in Massachusetts.

EDWARD M. KENNEDY,
*U.S. Senator.*

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COST OF LIVING COUNCIL,
*Washington, D.C., September 20, 1973.*

Hon. EDWARD M. KENNEDY,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR KENNEDY: Thank you for your recent correspondence concerning the unavailability of petrochemical feedstocks and problems caused to various industries as a result of this shortage. Your views on matters such as this are always welcome.

The Cost of Living Council has become increasingly aware of the supply problems currently confronting manufacturers who utilize petrochemical products as basic materials in production. The shortages of all products dependent upon the petroleum industry are due to the ever-increasing demand, and the stable, if not decreasing supply of crude oil.

Our Economic Policy division is, at the present time, closely scrutinizing this entire industry, its interdependence on the crude oil and chemical industries, and the effect of the Stabilization Program on this segment of the petroleum industry. You may rest assured that the petrochemical supply situation is of prime interest to the Council. We are now actively reviewing alternate courses of action with a view to our overall anti-inflationary goals and our desire to minimize disruptions in the supply situation in this critical industry.

We will, of course, be in touch with your office again when further information is available on this subject. Please feel free to contact us again if we may be of further assistance.

Sincerely,

ROBERT E. BRADFORD,
*Associate Director for Congressional Affairs.*

**Mr. KENNEDY.** Mr. President, the Department of Commerce statistics suggest that there is no significant increase in exports of plastic raw materials and the Cost of Living Council is continuing their active review of the supply situation. But meanwhile, plastic manufacturers face a decline in production and closing; and plastic company workers and their families face shorter shifts and layoffs.

Time is long past due for action to assure the future of the plastics industry; time has run out for 300 workers and their families laid off in Massachusetts. Once again, I urge that the Cost of Living Council move quickly to alleviate the shortage of plastic raw materials.

## CONCLUSION OF MORNING BUSINESS

The **PRESIDING OFFICER.** Is there further morning business? If not, morning business is concluded.

## PRISONER OF WAR AND MISSING IN ACTION TAX ACT

The **PRESIDING OFFICER.** Under the previous order, the Senate will resume the consideration of the unfinished business, H.R. 8214, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 8214) to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes.

The **PRESIDING OFFICER.** The question is on the next division of the committee amendment.

**Mr. HARRY F. BYRD, JR.** Mr. President, a parliamentary inquiry.

The **PRESIDING OFFICER.** The Senator will state it.

**Mr. HARRY F. BYRD, JR.** Will the Chair identify the pending amendment?

The **PRESIDING OFFICER.** The pending amendment is section 17 beginning on page 23.

The question is on agreeing to the committee amendment.

**Mr. BENNETT.** Mr. President, will the Senator yield?

**Mr. HARRY F. BYRD, JR.** I yield.

**Mr. BENNETT.** The Senator from Utah was just about to make the point that the Senator from Nebraska (Mr. CURTIS) is particularly interested in this amendment, but if there is not going to be any attempt to knock it out of the bill, I see no reason for alerting the Senator from Nebraska. I do notice that the Senator from Maine (Mr. HATHAWAY) has entered the Chamber.

**Mr. HARRY F. BYRD, JR.** I have talked to the distinguished Senator from Maine (Mr. HATHAWAY) and he has no objection to this particular amendment.

**Mr. BENNETT.** Certainly, I see no reason for not adopting the amendment immediately.

**Mr. HARRY F. BYRD, JR.** Mr. President, I move the adoption of the amendment.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment.

The amendment was agreed to.

The **PRESIDING OFFICER.** The clerk will report the next division.

The legislative clerk read as follows:

On page 24, beginning at line 6, insert language down to and including line 3 on page 25.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment.

**Mr. HARRY F. BYRD, JR.** Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

**Mr. HARRY F. BYRD, JR.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. HARRY F. BYRD, JR.** I yield to the distinguished Senator from Maine.

The **PRESIDING OFFICER.** The Senator from Maine is recognized.

**Mr. HATHAWAY.** I thank the Senator for yielding. I just wanted to ask a few questions in regard to this section.

Can the Senator from Virginia tell me who introduced this provision or sponsored it?

**Mr. HARRY F. BYRD, JR.** This provision was added to the bill at the request of the Department of Defense. The Department of Defense sought from the committee an exclusion for this income, but the committee would not agree to that. What the committee did agree to and thought was reasonable and thorough was that the Department of Defense proposal deserved detailed consideration and the committee adopted the pending amendment which would permit time for this consideration; and the committee decided to postpone the application of the effect of the Internal Revenue Service ruling until January 1, 1975, not only with respect to the Armed Forces health professions scholarship program—that is the basic one—but also substantially similar programs of the uniformed services.

Mr. HATHAWAY. The committee recognizes that this is a discriminatory practice, and I understand the committee is going to take the matter under consideration and have some remedial legislation prior to January 1, next year.

Mr. HARRY F. BYRD, JR. That is the committee's desire and it is the committee's intention to do just that. As I mentioned earlier, the committee would not go along with the Defense Department in its overall request, but it did feel that there is enough merit in the proposal of the Defense Department to give it detailed consideration, and in order to do that it is necessary to adopt legislation postponing the effective date.

Mr. HATHAWAY. I understand. Well, with the assurance that the committee is going to take the matter under active consideration, I shall not object to the amendment.

Mr. HARRY F. BYRD, JR. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the division of the committee amendment.

The division of the amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next division of the committee amendment.

The legislative clerk read the next division, as follows:

SEC. 19. DOMESTIC INTERNATIONAL SALES CORPORATION AMENDMENT.

(a) IN GENERAL.—Section 993(b)(3) (relating to qualified export assets) is amended by striking out "such corporation" and inserting in lieu thereof "such corporation or of another corporation which is a DISC and which is a member of a controlled group which includes such corporation".

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I yield to the distinguished Senator from Colorado.

Mr. HASKELL. Mr. President, I would like to speak against the section 19 division of the committee bill, which is designed to give additional flexibility in corporate planning to the so-called DISC.

The DISC provisions of the Internal Revenue Code, as the Presiding Officer knows and as the distinguished floor manager of the bill, the Senator from Virginia, and the Senator from California also know, are a device through which certain qualified export transactions enable corporations to defer their income tax liability.

The proposed committee amendment would give additional flexibility to a corporation engaged in the export business so as to qualify its transactions for this special tax treatment. The amendment would make it more convenient for a corporation to so structure itself as to avoid certain tax liabilities.

I object to this committee amendment on three grounds.

In the first place, I think there is a substantial question as to the wisdom of the entire concept underlying DISC provisions. I understand that the revenue loss is estimated at $240 million for the DISC provision already in the law. The provision is designed to stimulate exporting: however, the devaluation of the dollar and high inflation abroad, it seems to me, are sufficient incentives to the business of exporting.

Second, I would object to this particular amendment, because it makes it much easier for a corporation to take advantage of this particular tax provision, which is, at best, questionable and, at worst, an unjustified drain on the Federal Treasury.

Third, and most important, I would object to this because I think that, at this time—when people are about to receive the income tax forms that remind them of the injustice of our tax system and when inflation continues to far outdistance wage hikes—we should be considering tax reform as a whole, rather than taking care of what might be the desire of a few corporate taxpayers in this country.

There is no need to elaborate any further on this matter. I will now yield the floor, Mr. President, to the distinguished floor manager of the bill.

Mr. HARRY F. BYRD, JR. Mr. President, I would say that this amendment enables a DISC to treat as qualified export assets the accounts receivable and evidences of indebtedness acquired as a result of the export related transactions, whether as principal or agent, of a related DISC.

As the Senator from Colorado points out, it does expand the opportunities in this field. I would say that this matter was called to the attention of the committee by the junior Senator from California (Mr. TUNNEY). He is unavoidably absent from the Senate and will not be able to be present at the session today. However, I understand that the distinguished senior Senator from California (Mr. CRANSTON) would like to be heard on this matter. So at this point I yield to the Senator from California.

Mr. CRANSTON. Mr. President, I appreciate the opportunity to speak in regard to this amendment.

I would like to say at the outset that there are questions about the soundness of the DISC problem that should be considered. However, I think that is a matter quite separate from the amendment which is being considered at this time. There is equity under the present DISC program and certain companies do not face an unfair handicap because of the present provisions.

The committee amendment does not, therefore, go to the heart of the DISC program. The purpose of the amendment is to simply propose that under the present program there be full equity for all companies and corporations that wish to participate in it.

Mr. President, this amendment is of particular interest to my colleague, Senator TUNNEY, who is unavoidably absent today. It parallels legislation introduced in the House of Representatives by Representative CORMAN of California.

The purpose of the amendment is to permit a Domestic International Sales Corporation—DISC—in a controlled group to transfer the accounts receivable arising from its export transactions to a related financing subsidiary in that group and allow the financing subsidiary to qualify as a DISC even though it holds the transferred accounts receivable as its only assets.

Present law allows a DISC to hold its accounts receivable even where the accounts receivable are the only assets of the selling corporation. But if the accounts receivable are transferred to a related financing corporation, they lose their DISC status. This presents problems in cases where a corporation may want to have its sales operations in one DISC and have its financing operations separate without losing the benefit of DISC status.

This amendment would allow the second, related financing corporation to hold such accounts receivable and qualify as a DISC.

The Treasury Department has indicated that it does not object to enactment of the amendment and has stated that the tax consequences will be "insignificant."

This amendment will not expand the net amount of tax benefits available to exporters. It allows accounts receivable which otherwise would be held by a sales DISC to be held by a related financing subsidiary DISC which is a member of the same group as the sales DISC.

Such transfers are not done for tax purposes but to strengthen the exporter's borrowing ability in money markets. The amendment would preserve the benefits of DISC-status which under the present law would be lost if the transfer were made.

By handling financing through a separate finance corporation and a related finance DISC, a manufacturer who exports will be able to obtain greater borrowing leverage than might be possible otherwise. The greater borrowing leverage results from the superior liquidity of accounts receivable.

This legislation will enable any manufacturing exporter who believes it necessary or advantageous to have a separate financing corporation for its international sales to do so. Rather than there being a loss to the Treasury, the expanded borrowing ability of the exporting manufacturer should promote more sales abroad and therefore more revenue for the Treasury.

Mr. HASKELL. Mr. President, I concur thoroughly with the distinguished Senator from California that it facilitates the separation of sales and financing for certain large DISC corporations.

If that were all, I would have no particular objection. However, the amendment is so broad that it allows the transfer of accounts receivable, as the distinguished Senator has said, from one corporation to another, regardless of the nature of the transferee corporation.

One can postulate a situation where there are four subsidiaries, three of whom are more than sufficiently qualified as DISC's and the other not qualifying as a DISC under the 95-percent "qualified assets" provision. By the simple expediency of the transfer of receivables between corporations they could theoretically qualify all four subsidiaries as DISC's. Transfers of this nature are, in my judgment, contrary to the intent of this body when it passed the original DISC legislation. And, this is the type of unneeded planning mechanism in the hands of the exporters to which I object.

I certainly have no objection to the concept of separating the sales and financing aspects of a single business concern. That is very proper. It is well recognized in the business community.

But the language of this amendment is so broad that it could have, in my opinion, a very deleterious effect on the administration of our revenue laws.

Mr. President, I yield the floor.

**Mr. HARRY F. BYRD, JR.** I would say the committee was influenced to some extent by the fact that the Treasury Department entered no objection to this amendment. The committee felt that this ought to be allowed, that it was an appropriate extension.

Mr. President, as I understand it, and I make this in the form of a parliamentary inquiry—is it not correct that this is the last of the committee amendments which will need to be acted upon in this bill?

**The PRESIDING OFFICER.** This is the last section of the last committee amendment.

**Mr. HARRY F. BYRD, JR.** One additional parliamentary inquiry.

**The PRESIDING OFFICER.** The Senator will state it.

**Mr. HARRY F. BYRD, JR.** Have the yeas and nays been ordered on this amendment?

**The PRESIDING OFFICER.** That is correct.

**Mr. HARRY F. BYRD, JR.** Mr. President, I point out that the bill as brought to the floor by the Committee on Finance had 12 amendments which were added to the bill by the Finance Committee. The Senate has now acted upon 11 of those 12 amendments. It has approved 10 of the 11.

At a later hour, not before 2:30, a vote will be taken on the 12th amendment, the one which is now pending.

Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside, that the distinguished Senator from Nebraska (Mr. CURTIS) be granted the floor, and that if the Senator from Nebraska concludes his remarks before the hour of 2:30 p.m. the Senate then stand in recess until 2:30.

**The PRESIDING OFFICER.** Is there objection? The Chair hears none, and it is so ordered.

**Mr. CRANSTON.** Mr. President, will the Senator yield for a unanimous consent request?

**Mr. CURTIS.** I yield.

**Mr. CRANSTON.** I ask unanimous consent that Win Farin, of my staff, have the privilege of the floor during the consideration and vote on this amendment.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

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## HAPPY 1974

**Mr. CURTIS.** Mr. President, today I rise on the floor of the Senate to extend my best wishes to all Americans for 1974, with my profound belief that this will be the best year yet.

A lot of jokes, a lot of serious remarks, have been made about 1973 being the worst year ever. It is said that when Father Time of 1973 tried to turn over his scepter to the Infant of 1974 on New Year's Eve, the Child pouted and said, "Forget it. I don't want it," and left Old Father Time standing alone in dismay; 1973 did see its share of problems, but it just was not all that bad. The prophets of doom are not going to get me down.

The Watergate affair has dampened everyone's spirits. But it is being investigated in the freest country in the world, perhaps the only country where citizens have such public access to disclosures being made daily.

The energy crisis is burdening all of us, but it will lead to self-sufficiency for the future.

Inflation affects us all, mostly those living on fixed incomes. But the American standard of living remains by far the highest on Earth. Total financial assets of individuals in the United States exceed $2 trillion. Median family income—having more than doubled in the last 10 years—is now $13,000, and still climbing. And 1974 will see increases in benefits for those on social security.

The taste of war in Vietnam is slow to die. But who can forget the joy, the unbelievable joy, of seeing POW's reunited with their families? And reunited before our very eyes through the achievements of modern communications?

And now, our boys are not being drafted into the Armed Forces, and Bob Hope was home for Christmas for the first time in 23 years because there were no American boys in combat zones anywhere in the world for him to entertain.

A lot of things have changed. And we have a lot to be grateful for.

More people are working in this country than ever before—about 86 million. Savings accounts total close to $600 billion. Food supplies are costly, but plentiful.

Campus militance is almost a memory, replaced, for the most part, by constructive activism. There is an ongoing revolution in race relations, marked in the past year by the election of black mayors in Los Angeles, Detroit, Atlanta, and Raleigh, N.C.

Women have made great strides, gaining recognition as politicians, as athletes, as human beings.

The past year has seen remarkable progress in the early detection and treatment of cancer, heart disease and arteriosclerosis—the Nation's three prime killers. Advances in health care may be aided by health care legislation that could emerge from this session of Congress.

The list of good things about America could go on endlessly, and could long outlast a list of the problems. This is a country made stronger by crises, and greater through endurance.

Canadian, Toronto radio commentator, Gordon Sinclair finds reason for a surge of pride in America. And it is with pride at this time that I read the editorial first broadcast by Sinclair in Canada last summer, and now being broadcast in this country as an inspiration to all of us.

The editorial is entitled "In Praise of America," and reads as follows:

### IN PRAISE OF AMERICA

> This Canadian thinks it is time to speak up for the Americans as the most generous and possibly the least appreciated people on all the earth.
>
> Germany, Japan and, to a lesser extent, Britain and Italy were lifted out of the debris of war by the Americans who poured in billions of dollars and forgave other billions in debts. None of these countries is today paying even the interest on its remaining debts to the United States.
>
> When the franc was in danger of collapsing in 1956, it was the Americans who propped it up, and their reward was to be insulted and swindled on the streets of Paris.
>
> I was there. I saw it.
>
> When distant cities are hit by earthquakes, it is the United States that hurries in to help. . . . This spring, 59 American communities (were) flattened by tornadoes. Nobody helped.
>
> The Marshall Plan and the Truman Policy pumped billions upon billions of dollars into discouraged countries. Now newspapers in those countries are writing about the decadent, war-mongering Americans. . .
>
> Why does no other land on earth even consider putting a man or woman on the moon?
>
> You talk about Japanese technocracy, and you get radios. You talk about German technocracy, and you get automobiles.
>
> You talk about American technocracy, and you find men on the moon—not once but several times—and safely home again.
>
> You talk about scandals, and the Americans put theirs right in the store window for everybody to look at. . .
>
> When the railways of France, Germany and India were breaking down through age, it was the Americans who rebuilt them. When the Pennsylvania Railroad and the New York Central went broke, nobody loaned them an old caboose. Both are still broke.
>
> I can name you 5,000 times when the Americans raced to the help of other people in trouble. Can you name me even one time when someone else raced to the Americans in trouble? I don't think there was outside help even during the San Francisco earthquake.
>
> Our neighbors have faced it alone, and I'm one Canadian who is damned tired of hearing them kicked around. They will come out of this thing with their flag high. And when, they do, they are entitled to thumb their noses at the lands that are gloating over their present troubles.
>
> I hope Canada is not one of these.

Like the great chief of the Hearst newspapers, William Randolph Hearst, Jr., I, too—

> Have tremendous faith in the collective power of the American people and believe we have both the brawn and the brains to do the job.

In a recent speech before students at the California Polytechnic State University, Hearst listed many of the accomplishments of past years, and concluded:

I submit that my generation has not done as badly as some charge. We may not have moved as far or as fast as we had hoped. But the record is clear, we have moved further and faster and higher than ever before.

I ask unanimous consent to have printed in the RECORD the full remarks of Mr. Hearst.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

### TODAY'S CHALLENGES—FUTURE'S OPPORTUNITIES

(By William Randolph Hearst, Jr.)

Readers of this column will recall that last week I reported I was going to speak at California Polytechnic State University at San Luis Obispo, just over the craggy, snow-covered Santa Lucia mountains from my father's ranch at San Simeon. As part of that talk, I noted, I intended to impress upon my student friends and their elders of the faculty that Russia, through carefully planned, devious methods, has moved to a position where it has the potential to dominate the world, militarily and economically.

Well, I did emphasize that point and I think my audience was duly impressed. The reaction from students and faculty alike was favorable.

But I also made some remarks about our own country and its potential that seemed to impress them. Consequently, I'm going to pass those thoughts along to you this week.

Speaking directly to the young people in my audience, I made clear that the problems confronting us today, including the energy crisis, are both our problems and their problems. Then, in the following manner, I explained some of my own philosophy about America, its achievements and its future.

I have tremendous faith in the collective power of the American people and believe we have both the brawn and the brains to do any job.

Therefore, I believe we will move quickly and decisively to find new deposits of fossil fuels within our 50 states and also develop practical, pollution-free methods of using our vast coal supplies as well as the shale oil deposits of our mid-western states.

Before this decade is over I believe we will have made tremendous advances in tapping the limitless energy of the sun. In one hour the sun discharges more power than the world has used in 1,000 years.

Work is now being rushed on methods of extracting hydrogen from sea water. If the process is perfected, we will have sufficient pollution-free power to serve our needs forevermore.

Before practical programs come to fruition for harnessing solar energy or sea power, I believe we will see a breakthrough in the creation of breeder nuclear plants. When this comes to pass, we will have a system that rivals man's age old dream of developing a machine that unlocks the door to perpetual power.

In short, our search for alternate power sources can offset or counter-balance many of the cutbacks anticipated as a result of the oil shortage.

It is my conviction that students in today's colleges and universities together with the millions who have poured from our great educational institutions during the past decade face one of the most challenging, stimulating and rewarding periods in the history of man.

I make these statements of faith not alone because I am an eternal optimist but also because I know the power of willpower—of people power—when it is properly harnessed. I have witnessed fantastic achievements and progress in my lifetime.

In 1943, President Roosevelt called upon the industrial and scientific geniuses of this nation to join forces in unlocking the monumental power of the atom. The call was answered and the mystery of nuclear fission helped bring World War II to an early end.

In 1957, President Eisenhower made a similar call for resolute action in meeting the challenge posed by the Soviets when they launched Sputnik, the first man-made satellite. Again, science and industry responded. Within months we had placed a tiny instrument-packed globe into orbit about the earth.

In 1961, President Kennedy put words to a dream and asked Congress to commit itself to the believable challenge of placing a man on the moon before the decade was over. Again, the tremendous power structure of this nation joined forces and in 1969 the world witnessed "one small step for man; one giant leap for mankind" as Neil Armstrong stepped onto the surface of the moon.

When I was born, the life expectancy of a child was 50 years for a boy and 53 years for a girl. A boy born in the United States in 1973 can expect to live to 70 years and a girl to 75 years.

How was this miracle accomplished? By improving food and water and health care of our people.

During World War I, the world was hit by a massive flu epidemic that killed more than a half million people in the United States in a single, tragic winter and took an estimated 20 million lives around the globe.

We still have outbreaks of the flu, but to a large extent modern science has been able to prevent the kind of devastation from this and other dread diseases that once swept the world.

When I was a boy, few families escaped the terrible tortures of diphtheria, smallpox, typhoid, polio, measles, tuberculosis or pneumonia. No longer do these ancient scourges sweep across our land, leaving death and tortured limbs and minds and hearts in their wake.

During my boyhood, literally hundreds of thousands of children 12 years of age and younger worked in factories, farms, mines and sweatshops—for ten or 12 hours a day or longer.

The average work week for all men employed in industry was then 57 hours and the average hourly wage 25 cents. The average annual earnings of all workers in all industries was then $543.

Today, the average work week is 37 hours, the average hourly wage $4 and the average annual family income more than $10,000.

The automobile, the radio, the telephone, the airplane, the computer, the motion picture, television, antibiotics and a hundred other miracles have come to flower in my lifetime.

We have trained and graduated more scientists, doctors, surgeons, dentists, lawyers, teachers and engineers than did our forebears for a thousand generations.

I submit that my generation has not done as badly as some charge. We may not have moved as far or as fast as we had hoped. But the record is clear, we have moved further and faster and higher than ever before.

I am not ready to turn in my suit. However, today's and tomorrow's challenges are your challenges. They are also your opportunities.

That marks the end of my speech to the students at California Polytechnic State University. I hope you like it as much as they seemed to.

Mr. CURTIS. Mr. President, the noted CBS commentator Lowell Thomas echoed these sentiments:

Is there any older saying—or cliche—than "necessity is the mother of invention"? We split the atom didn't we? So now may be the time for us once more to go all-out and find a way to solve our energy problems with atomic power. Also this is the time for us to discover some less expensive way to transform both coal and shale into oil of which we are told we have enough to last for centuries. What about steam for propelling our automobiles? Inventor Bill Lear insists he can do it. Surely this year we'll hear much more about the use of steam. . . .

In the end, it's all of us working together that will most shape the coming year—and all the years to follow. From this you will surmise that I am an optimist. That indeed I am. After roaming the world for more than six decades I am more convinced than ever that ours is the grandest country on earth, and so far as I know this is the best of all worlds.

And so, Mr. President, I think my feelings have been fairly well summed up. We have a lot of work ahead of us, but the tasks are not impossible.

When all is said and done, I think when Father Time of 1974 looks back on this year, he may say, "It could have been better." But with the grace of God and the enduring strength and resourcefulness of the American people, it may even have been the best year yet.

## ORDER OF BUSINESS

Mr. HASKELL. Mr. President, if the distinguished Senator from Nebraska would yield for an observation, before the Senator sits down I would ask that I be recognized so that the floor is not lost until the recess, as we may be able to make a compromise on the last amendment.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had disagreed to the amendment of the Senate to the amendment of the House to the bill (S. 921) to amend the Wild and Scenic Rivers Act.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 10203) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. ROBERTS, Mr. JOHNSON of California, Mr. ANDERSON of California, Mr. ROE, Mr. HARSHA, Mr. SNYDER, and Mr. DON H. CLAUSEN were appointed managers on the part of the House at the conference.

## ENROLLED BILL SIGNED

The message further announced that the Speaker of the House had affixed his signature to the bill (S. 1070) to implement the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969.

(The above bill was subsequently signed by the Vice President.)

## QUORUM CALL

The PRESIDING OFFICER (Mr. FANNIN). What is the pleasure of the Senate?

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRISONER OF WAR AND MISSING IN ACTION TAX ACT

The Senate continued with the consideration of the bill (H.R. 8214) to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes.

Mr. HUGH SCOTT. Mr. President, I would like to propound a question to the senior Senator from Georgia (Mr. Talmadge). I note that H.R. 8214 has one provision that limits the required distribution of a private foundation. As I understand it, in the particular case the Senator's committee was considering, the foundation would have been required to dispose of stock received by gift in order to meet the minimum distribution requirement, whereas the rules relating to excess business holdings would not require such a disposition. Other family foundations that are being forced to dispose of principal seem to me to be caught in the same conflict in the operation of the minimum payout rules and the excess business holding rules. What are the implications of the inclusion of the provision in the present bill as to future legislation relating to other family foundations?

Mr. TALMADGE. I have the same understanding of the scope of section 17 of the bill as the distinguished minority leader, the Senator from Pennsylvania. The Finance Committee's Subcommittee on Foundations, of which the Senator from Indiana (Mr. Hartke) is chairman, held hearings last fall and the situations of a substantial number of family foundations were brought to the subcommittee's attention. I understand that informal meetings have been held with the staff of the Joint Committee on Internal Revenue Taxation and that efforts are being made to develop legislation that will meet the problem of these family foundations while not disturbing one of the basic philosophies of the 1969 act which was that charity should receive a fair current benefit because the donor received a tax benefit at the time of gift. While I can in no way speak for or bind my colleagues on the Committee on Finance, I would expect these matters will be considered in connection with future tax revision legislation of a more general nature.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the pending committee amendment be laid aside temporarily, that the Senate proceed to the consideration of an amendment to be proposed by the distinguished Senator from Idaho (Mr. Church), that there be a time limitation on the Church amendment of 30 minutes, to be equally divided between Mr. Church and the distinguished manager of the bill or the distinguished acting manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. And that upon the disposition of the Church amendment, the Senate return to the consideration of the committee amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, on behalf of the Senator from Connecticut (Mr. Ribicoff), the Senator from Florida (Mr. Gurney), and myself, I send to the desk an amendment to the pending bill.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. CHURCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and I will explain it.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

SEC. 20. INCREASE OF RETIREMENT INCOME CREDIT.

(a) In General.—Section 37 of the Internal Revenue Code of 1954 (relating to retirement income) is amended to read as follows:

"SEC. 37. RETIREMENT INCOME.

"(a) GENERAL RULES.—

"(1) JOINT RETURNS.—In the case of a joint return—

"(A) if either spouse has attained the age of 65 before the close of the taxable year, or

"(B) if neither spouse has attained the age of 65 before the close of the taxable year but one or both spouses have public retirement system pension income for the taxable year,

there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the retirement income (as limited by subsection (b)) received by the husband and wife during the taxable year.

"(2) OTHER RETURNS.—In the case of a return by an unmarried individual and of a separate return by a married individual—

"(A) if the individual has attained the age of 65 before the close of the taxable year, or

"(B) if the individual has not attained the age of 65 before the close of the taxable year but has public retirement system pension income for the taxable year,

there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the retirement income (as limited by subsection (b)) received by the individual during the taxable year.

"(b) LIMITATION OF RETIREMENT INCOME.—

"(1) IN GENERAL.—The amount of retirement income which may be taken into account for purposes of subsection (a) shall not exceed the following amounts (reduced as provided in paragraph (2)):

"(A) $2,500, in the case of an unmarried individual,

"(B) $2,500, in the case of a joint return where only one spouse is an eligible individual,

"(C) $3,750, in the case of a joint return where both spouses are eligible individuals, or

"(D) $1,875, in the case of separate return by a married individual.

"(2) REDUCTION.—Except as provided in paragraphs (3) and (4), the reduction under this paragraph in the case of any individual is—

"(A) any amount received by such individual as a pension or annuity—

"(i) under title II of the Social Security Act,

"(ii) under the Railroad Retirement Act of 1935 or 1937, or

"(iii) otherwise excluded from gross income, plus

"(B) in the case of any individual who has not attained age 72 before the close of the taxable year—

"(i) except as provided in clause (ii), one-half the amount of earned income received by such individual in the taxable year in excess of $2,100, or

"(ii) if such individual has not attained age 62 before the close of the taxable year, and if such individual (or his spouse under age 62) is an eligible individual as defined in subsection (d)(4)(B), any amount of earned income in excess of $1,200 received by such individual in the taxable year.

"(3) SPECIAL RULES FOR DETERMINING THE REDUCTION PROVIDED IN PARAGRAPH (2).—

"(A) JOINT RETURNS.—In the case of a joint return, the reduction under paragraph (2) shall be the aggregate of the amounts resulting from applying paragraph (2) separately to each spouse.

"(B) SEPARATE RETURNS OF MARRIED INDIVIDUALS.—In the case of a separate return of a married individual, paragraph (2)(B)(i) shall be applied by substituting '$1,050' for '$2,100', and paragraph (2)(B)(ii) shall be applied by substituting '$600' for '$1,200'.

"(C) NO REDUCTION FOR CERTAIN AMOUNTS EXCLUDED FROM GROSS INCOME.—No reduction shall be made under paragraph (2)(A) for any amount excluded from gross income under section 72 (relating to annuities), 101 (relating to life insurance proceeds), 104 (relating to compensation for injuries or sickness), 105 (relating to amounts received under accident and health plans), 402 (relating to taxability of beneficiary of employees' trust), or 403 (relating to taxation of employee annuities).

"(4) SPECIAL RULE FOR CERTAIN INDIVIDUALS RECEIVING PUBLIC RETIREMENT SYSTEM PENSION INCOME.—In the case of a joint return where one spouse is an eligible individual as defined in subsection (d)(4)(A) and the other spouse is an eligible individual as defined in subsection (d)(4)(B), there shall be an additional reduction under paragraph (2) in an amount equal to the excess (if any) of $1,250 over the amount of the public retirement system pension income of the spouse who is an eligible individual as defined in subsection (d)(4)(B).

"(c) RETIREMENT INCOME.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'retirement income' means income from—

"(A) pensions and annuities (including public retirement system pension income and including, in the case of an individual who is, or has been, an employee within the meaning of section 401(c)(1), distributions by a trust described in section 401(a) which is exempt from tax under section 501(a),

"(B) interest,

"(C) rents,

"(D) dividends, and

"(E) bonds described in section 405(b)(1) which are received under a qualified bond purchase plan described in section 405(a) or in a distribution from a trust described in section 401(a) which is exempt from tax under section 501(a),

to the extent included in gross income without reference to this section, but only to the extent such income does not represent compensation for personal services rendered during the taxable year.

"(2) CERTAIN INDIVIDUALS UNDER AGE 65.—In the case of—

"(A) a return by an unmarried individual who has not attained the age of 65 before the close of the taxable year,

"(B) a separate return by a married individual who has not attained the age of 65 before the close of the taxable year, and

"(C) a joint return if neither spouse has attained the age of 65 before the close of the taxable year,

the term 'retirement income' means only public retirement system pension income, and only so much of such income received by an individual during the taxable year as does not exceed $2,500.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PUBLIC RETIREMENT SYSTEM PENSION INCOME.—The term 'public retirement system pension income' means income from pensions and annuities under a public retirement system for personal services performed by the taxpayer or his spouse, to the extent included in gross income without reference to this section, but only to the extent such income does not represent compensation for personal services rendered during the taxable year. For purposes of this paragraph, 'public retirement system' means a pension, annuity, retirement, or similar fund or system established by the United States, a State, a possession of the United States, any political subdivision of any of the foregoing, or the District of Columbia.

"(2) EARNED INCOME.—The term 'earned income' has the meaning assigned to such term in section 911(b) except that such term does not include any amount received as a pension or annuity.

"(3) COMMUNITY PROPERTY LAWS DISREGARDED.—The determination of whether—

"(A) earned income, or

"(B) income from pensions and annuities for personal services (including public retirement system pension income and distributions to which subsection (c)(1)(A) applies),

is the income of a husband or wife shall be made without regard to community property laws.

"(4) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual who—

"(A) has attained the age of 65 before the close of the taxable year; or

"(B) has not attained such age but has public retirement system pension income for the taxable year.

"(5) MARITAL STATUS.—Marital status shall be determined under section 153.

"(6) JOINT RETURN.—The term 'joint return' means the joint return of a husband and wife made under section 6013.

"(e) NONRESIDENT ALIEN INELIGIBLE FOR CREDIT.—No credit shall be allowed under this section to any nonresident alien."

### Technical Amendments

(b)(1) Section 904 of the Internal Revenue Code of 1954 (relating to limitation on foreign tax credit) is amended by redesignating subsection (g) as subsection (h), and by inserting after subsection (f) the following new subsection:

"(g) COORDINATION WITH CREDIT FOR RETIREMENT INCOME.—In the case of an individual, for purposes of subsection (a) the tax against which the credit is taken is such tax reduced by the amount of the credit (if any) for the taxable year allowable under section 37 (relating to retirement income)."

(2) Section 6014(a) of such Code (relating to tax not computed by taxpayer) is amended by striking out the last sentence thereof.

(3) Section 6014(b) of such Code is amended—

(A) by striking out paragraph (4),

(B) by redesignating paragraph (5) as paragraph (4), and

(C) by inserting "or" at the end of paragraph (3).

### Effective Date

(c) The amendments made by this section shall apply to taxable years beginning after December 31, 1973.

Mr. CHURCH. Mr. President, fair and equitable tax treatment for all Americans has long been one of my foremost goals. As chairman of the Senate Committee on Aging, I have been especially committed to tax justice for older Americans.

During the past few years several constructive measures, including a number I have advanced, were approved to provide urgently needed tax relief for overburdened moderate and low-income taxpayers. Some of these measures include:

A new low-income allowance to exempt persons with poverty incomes from paying Federal income tax;

An increase in the personal exemption deduction from $600 to $750;

Liberalization of the child care expense provisions; and

An increase in the standard deduction for persons who do not itemize their expenditures.

But there is still a compelling need to improve or update other provisions of the Internal Revenue Code. One clear-cut example is the retirement income credit. It was adopted in 1954 to provide retired teachers, policemen, firemen, and other government annuitants with comparable tax relief as social security beneficiaries.

Payments under the social security program are, of course, exempt from Federal income tax. Government pensioners and others with little or no social security benefits can receive similar tax relief by claiming a 15-percent credit on their qualifying retirement income—pensions, annuities, interest, dividends, and rent.

The maximum amount for computing this 15-percent credit is now $1,524 for single aged persons and $2,286 for elderly couples. These amounts must, however, be reduced by:

First, tax-exempt pensions, such as social security benefits and railroad retirement annuities; and

Second, earned income, depending upon the individual's age and extent of earnings.

In the case of persons aged 62 to 71 the maximum base for computing the credit is decreased by $1 for each $2 of earnings between $1,200 and $1,700. And thereafter, it is reduced on a dollar-for-dollar basis for earned income above $1,700.

For public pensioners or annuitants under 62, their maximum base is reduced for each dollar of earnings above $900.

The retirement income credit, however, has not been updated since 1962 for single elderly persons and 1964 for aged couples. As a consequence, it no longer provides equivalent tax relief for retired persons with little or no social security. On the other hand, social security benefits have been adjusted six times during this period to protect older Americans from the cruel effects of inflation. And, these benefit increases have aggregated 104 percent.

Quite clearly, the need to update the retirement income credit is long overdue.

As a first step toward this goal, my amendment would increase the maximum amount for computing the 15-percent credit from $1,524 to $2,500 for single aged persons, and from $2,286 to $3,750 for elderly couples.

In terms of dollars and cents, this change alone could produce a tax savings of $146 for single older Americans. And for an aged couple, this measure could provide an additional $220 in tax relief.

For older Americans struggling on low or moderate incomes this relief would certainly be most welcome, especially since their purchasing power has been eroded substantially by the staggering increase in the cost of living in recent months.

Second, my proposal would raise the exempt earnings limitation before the maximum base for computing the retirement income credit would be reduced. For retired persons aged 62 to 71, the earnings ceiling would be increased from $1,200 to $2,100. Moreover, the $1 for $2 reduction would apply to all earnings above $2,100, instead of just a $500 band—from $1,200 to $1,700—as under present law. For public pensioners under age 62, the exempt earnings ceiling would be boosted from $900 to $1,200.

This proposal, I am pleased to say, was adopted by the Finance Committee as an amendment to the 1972 Social Security Amendments, H.R. 1. Shortly thereafter, the Senate approved this urgently needed change. Unfortunately though, this measure was later removed in conference committee—as were several other House and Senate amendments—to reduce costs for the overall social security package, and thus enhance the likelihood for enactment.

Consequently, the Senate is not acting on a new proposal now. What we are doing in effect is to expedite consideration of a measure upon which there is widespread bipartisan support.

The need to update the retirement income credit is urgently required, particularly in view of the fact that no adjustment has been made since 1962 for single elderly persons, nor since 1964 for elderly couples.

This amendment would bring it into line with the changes that Congress has made during the interval in social security payments.

I would hope that the committee might see fit to accept the amendment.

Mr. HARRY F. BYRD, JR. Mr. President, as the Senator from Idaho pointed out, this matter was previously approved by the Finance Committee and by the Senate. However, in connection with the pending bill, it was not considered by the committee.

For that reason, the acting manager of the bill does not feel that he can make a commitment on behalf of the committee. If the Senator from Idaho wants to put the question to a vote, then the Senate can decide it.

Mr. CHURCH. I would like to bring this matter to a vote.

Mr. BENNETT. Mr. President, will the Senator yield for a question?

Mr. CHURCH. I yield.

Mr. BENNETT. Mr. President, could the Senator from Idaho supply for the Record, either now or later, the total revenues loss of his amendment?

Mr. CHURCH. I am informed that the revenue loss anticipated would be about $200 million. However, I will seek to confirm that figure and have it placed in the Record.

That is the figure that has been related to me from conversations between a member of my staff and a member of the Finance Committee staff.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. PASTORE. Mr. President, is it not a fact that unless this adjustment is made, these increases that have been granted over the years because of the inflationary spiral will in some ways be deleted for the simple reason that what we give out in benefits will be taken back in taxes?

Mr. CHURCH. The Senator is correct. And all that this would do would be to make an adjustment to provide for the inflation and see to it that those people who do not receive social security or who receive very little social securiity will get the same tax treatment that we afford to all others.

Mr. PASTORE. In other words, the $1,524 is predicated upon the fact that the $1,524 is constant and now that the celling has been raised, we have to increase the figure.

Mr. CHURCH. Exactly so.

Mr. President, I urge the approval of the amendment.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. HARRY F. BYRD, JR. Mr. President, I yield back my time.

Mr. CHURCH. Mr. President, I yield back my time, and in yielding back the time, I reserve time in which to ask for a yea and nay vote should that be necessary.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho (putting the question).

The amendment was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the last division of the last committee amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HASKELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HASKELL. Mr. President, I offer an amendment to the committee amendment as follows: On page 25, line 8, at the end of the line, add the words "which is a DISC."

I ask if that is satisfactory to the Senator from California.

Mr. CRANSTON. That is satisfactory to me.

Mr. HARRY F. BYRD, JR. Mr. President, I have no objection to the proposal of the Senator from Colorado.

The PRESIDING OFFICER. Will the Senator from Virginia restate his objection?

Mr. HARRY F. BYRD, JR. I have no objection to the amendment offered to the pending amendment by the Senator from Colorado. As I understand, the vote now will occur on the amendment offered by the Senator from Colorado, and then a yea and nay vote has been ordered on the pending amendment, and the Senator from Colorado might want to ask to vacate it.

The PRESIDING OFFICER. A yea-and-nay vote has been ordered on the last division of the committee amendment.

Mr. HASKELL. Mr. President, I ask unanimous consent that, with the adoption of my amendment to the committee amendment, the order for the yeas and nays on section 19 of the committee amendment, which we are discussing, be vacated.

The PRESIDING OFFICER. Is there objection? Without objection, the order for the yeas and nays on the committee amendment is vacated.

Mr. HARRY F. BYRD, JR. The pending question is on the adoption of the amendment to the amendment by the Senator from Colorado?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum, so that I can discuss this matter with the Senator for one moment further.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Carey Parker be given the privilege of the floor during consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I make the same request on behalf of Jon Fleming.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HASKELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HASKELL. Mr. President, I ask unanimous consent that my previous amendment to line 8, page 25 of the committee amendment be withdrawn.

The PRESIDING OFFICER. The Senator has that right, and the amendment is withdrawn.

Mr. HASKELL. Mr. President, I send to the desk an amendment to the committee amendment which I ask be read.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The legislative clerk read as follows:

> Line 9, after "or" insert the following: "if such corporation is a financing corporation and a member of a controlled group," and delete "a" on lint 10 and substitute in lieu thereof "the".

Mr. HASKELL. Mr. President, I ask that my amendment be agreed to.

Mr. CRANSTON. Mr. President, let me say that the language is fine and I want to thank the Senator from Colorado for his effort to make the language acceptable to us. I am very grateful to him.

Mr. HASKELL. I thank the distinguished Senator from California.

Mr. HARRY F. BYRD, JR. Mr. President, the committee has no objection to the amendment of the Senator from Colorado.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado to the committee amendment.

The amendment to the committee amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment as amended.

The committee amendment, as amended, was agreed to.

Mr. HASKELL. Mr. President, I wish to thank the floor manager of the bill for his patience and the distinguished Senator from California for his cooperation.

Mr. HARRY F. BYRD, JR. Mr. President, as I understand it, that completes the consideration of the committee amendments.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARRY F. BYRD, JR. Mr. President, this bill had 12 amendments put on it by the Finance Committee. They were all considered by the Senate and the Senate approved 11 of the 12. The Senate refused to accept 1 of the 12.

It is well to point out that neither the acting manager of the bill nor the chairman of the committee had any interest in the amendments. The amendments must be, on the whole, therefore, satisfactory, because they were considered by the Senate. There were able legislators on the floor who were making points in regard to many of the amendments. I think that those Senators rendered the Senate and the Finance Committee a valuable service by doing so.

I believe that the more discussion we can have on complicated and important legislation, the better off the Senate is, and the better off the American people will be.

I yield to the Senator from Utah (Mr. BENNETT).

Mr. BENNETT. Mr. President, will the acting manager of the bill kindly include the Senator from Utah among those who have no interest in any of the amendments that we have considered?

Mr. HARRY F. BYRD, JR. I think that applies to most of the members of the Finance Committee.

Mr. LONG. Mr. President, will the Senator from Virginia yield?

Mr. HARRY F. BYRD, JR. I am glad to yield to the Senator from Louisiana.

Mr. LONG. Mr. President, I want to congratulate the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) because of the very fine way in which he has managed the bill before the Senate. I had to call on him on short notice yesterday because I found that I had a longstanding commitment to make, which I had to fulfill. I really believe that the Senator from Virginia has handled this bill with ability and distinction, which is traditional in the Byrd family, dating back to the days when his father spoke for the Finance Committee on this floor.

As one member of the Finance Committee, I am extremely grateful to the Senator from Virginia for the fine way he has managed the bill for the committee.

I should like to point out with regard to the action of the Senate in adding 12 amendments, that we would have much preferred to put 1 amendment on each of 12 bills, but we had little choice about the matter because the House, for reasons of its own, had not seen fit to send us more than a very few revenue bills, about the number one could count on his hand.

So far as I know, we do not have a tax bill in the committee at this moment, so that in order to give Senators the opportunity to propose revenue amendments, in some cases to meet pressing needs with regard to various situations existing in their States, we had no option but to add 12 amendments onto this bill.

The distinguished Senator from Idaho (Mr. CHURCH) has proposed an amendment, to which the Senate agreed, which will cost a lot more than all the committee amendments put together, but it is something the committee studied in years gone by and it is something which I think the Senate would want to do by an overwhelming vote, if the Senate wants to vote on it. Rather than delay action on the matter, we thought it would be best to permit the Senate to vote on it and take the matter to conference.

It is not the desire of the Finance Committee to add a great number of amendments to a single bill. We were simply confronted with a situation where we did not have much choice. Revenue bills have to originate in the House of Representatives, of course, and if the House sees fit to send us only one bill, then every Senator who wants to offer a revenue measure is compelled to offer it to a single bill. Senators have been most helpful. I did not have the opportunity to hear the statement of the Senator from Wisconsin (Mr. PROXMIRE), but I noticed that he had a subheading in his remarks "History of Christmas Tree Bills." I recall very well, Mr. President, how that situation first developed, and how a bill first came to be called a "Christmas tree" bill.

The Senator from Louisiana had been trying to help President Johnson get through a vast number of important revenue bills to further the Great Society program. He had been asking every Senator not to press his amendment, but to try to respond to President Johnson's plea for urgency on many matters, but that there would be a bill that would give every Senator a chance to offer an amendment and which the President would sign.

So we saved the foreign investors tax bill for last.

When that bill came up, those of us on the committee knew it was going to be the last bill that we would vote on, and it was getting near Christmastime, so every Senator yielded to the plea to hold up his particular amendment and had no choice but to offer it to that last bill when it came to the floor. Every Senator on the floor who had been patient in yielding to the committee to withhold offering his amendment until a subsequent date, had no choice but to offer his amendment on that last bill.

The Senate had the chance to work its will on each individual amendment on that bill, and someone in the press said that the bill lit up like a Christmas tree when it hit the floor. I can understand how that would be the case.

It was a bill we had held back in order to fulfill our commitment to every Senator that his amendment would be considered.

Really, we have very little choice sometimes, when the Senate is in an adjournment mood and we are at the end of a session, but to offer Senators a chance to offer their amendments on something which can no longer be postponed. That is what happened on that occasion. I do not believe that was a case of irresponsible legislation. It was just a case that we had to act as we could to meet the pressing needs to move on with legislation and be responsible as best we could during that session of the Senate.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the appropriate place insert the following:

SEC. —. IMPOSITION AND RATE OF TAX.

(a) IN GENERAL.—The last sentence of section 5041(a) of the Internal Revenue Code of 1954 (relating to tax on wines) is amended by striking out "0.277" and inserting in lieu thereof "0.392."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the first day of the first calendar month which begins more than 10 days after the date of enactment of this Act.

Mr. CRANSTON. Mr. President, this is an amendment which has been accepted by the Committee on Finance in prior times but for some reason never reached the floor. I think the simplest way for me to explain it is to read a very brief statement by the Department of the Treasury in regard to this matter. The purpose is to provide for an increase in the amount of carbon dioxide that may be contained in still wines. The Treasury Department's letter, which was written to the chairman of the committee, reads as follows:

> Currently, wines are divided into two categories for tax purposes: still wines, and champagne and other sparkling wines. The rates on still wines are: 17 cents a gallon if containing not more than 14 percent of alcohol by volume; 67 cents a gallon if containing more than 14 percent and not more than 21 percent of alcohol by volume; and $2.25 a gallon if containing more than 21 percent and not more than 24 percent of alcohol by volume. Champagnes and other sparkling wines are taxed at $3.40 a gallon if naturally carbonated and $2.40 per gallon if artificially carbonated.
>
> Prior to the Excise Tax Technical Changes Act of 1958, the law and regulations regarding still wines provided no tolerance as to carbon dioxide content. This resulted in compliance and administrative difficulties because a certain amount of carbonation is a normal consequence of the fermentation process by which wine is produced. Furthermore, the addition to, or retention in, still wine of small quantities of carbon dioxide improves its character and flavor.
>
> The aforementioned 1958 legislation provided that still wines could contain not more than 0.256 gram of carbon dioxide per hundred milliliters of wine. The tolerance level for carbon dioxide was accepted with the understanding that it did not include effervescent wine. As a matter of fact, the 0.256 gram level definitely achieved this objective because the first 0.196 gram of carbon dioxide dissolves in the wine without a pressure increase and is quite slowly released when the wine is poured.
>
> The permissible carbon dioxide content of still wine was increased to 0.277 gram per hundred milliliters of wine by the Excise Tax Reduction Act of 1965. The change was supported by the argument "that the present definition is too restrictive to serve adequately the purpose intended." What the statement meant was that the degree of carbonation then permitted was so low that there were technical difficulties in determining when the limit was reached.
>
> This proposal would further increase the amount of carbon dioxide permitted in still wine to 0.392 gram per hundred milliliters of wine.
>
> The objective of the proposed increase is to improve the shelf life of wines of low alcoholic content, say below 10 percent of alcohol by volume. Still wines today generally do not contain less than 11–12 percent of alcohol by volume, but certain producers are working to expand the market for wines by producing wines with less than 10 percent of alcohol by volume. However, as the alcoholic content of a wine decreases, it tends to deteriorate more quickly because there is less alcohol to act as a preservative. If low alcohol content still wines were produced with a greater volume of carbon dioxide than now permitted, this would help preserve the color and flavor by displacing some of the

oxygen which reacts with the bacteria in the product. Certain chemical additives provide an alternative to increased carbon dioxide for stabilizing wine.

Wine containing carbon dioxide at a level of 0.392 gram per hundred milliliters would have some appearance of effervescence, i.e., there would be a very modest amount of bubbles released during the period the product was in the consumer's glass. But the effervescence would in no manner be comparable to that of champagne or similar wines which customarily have a carbon dioxide content of 0.980–1.176 grams per hundred milliliters. Consequently, we do not feel that wines carbonated to the 0.392 gram level would be purchased in lieu of champagne, or sparkling wines with a similar level of carbonation. In addition, it should be noted that labeling and packaging of still wine to misrepresent it as an effervescent wine is prohibited by regulations implementing the Federal Alcohol Administraiton Act and by section 5662 of the Internal Revenue Code.

There is a small amount of carbonated and sparkling wine marketed which was a level of carbonation not greatly in excess of the 0.392 gram level, e.g., some imported hard ciders, which could be affected by liberalizing the carbon dioxide content of still wine. It might be possible for producers to reformulate some of these products to come within the 0.392 gram limit, or some consumers thereof might transfer their purchases to still wines produced in accordance with the liberalized carbon dioxide levels proposed by H.R. 9716. These moderately carbonated wines enjoy an extremely limited market, however, and the revenue from them is not significant.

Since practically all the revenue from carbonated and sparkling wines come from champagne and wines with a similar high level of carbonation and we do not believe champagne sales would be affected by the proposed liberalization of the carbon dioxide content of still wines, the revenue effect of this proposal should be minimal.

The Treasury Department has no objection to the enactment of this provision.

For these rather complicated reasons. Mr. President, which make plain that this amendment should not be considered controversial—it should simplify life for producers of wine and produce better wine for some people—I urge its adoption.

Mr. HARRY F. BYRD, JR. Mr. President, this proposal passed the Senate in late 1972 as a part of H.R. 7577. The bill was passed late in the session. It did not go to conference and of course was not enacted. Since then, the House Ways and Means Committee has approved a proposal similar to the one offered by the distinguished senior Senator from California. That being the case, I see no objection to the proposal of the Senator from California.

Mr. CRANSTON. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the bill insert the following new section:

SEC. —. REFUND OF MANUFACTURERS' EXCISE TAX PAID BY TRUCK DEALERS ON PARTS AND ACCESSORIES INSTALLED ON OR IN CONNECTION WITH THE FIRST RETAIL SALE OF LIGHT-DUTY TRUCKS.

(a) IN GENERAL.—(1) Section 6416 (b) (2) (relating to special cases in which tax payments are considered overpayments) is amended by—

(1) striking "or" at the end of subparagraph (R);

(2) striking the period at the end of subparagraph (S) and inserting in lieu thereof "; or"; and

(3) adding at the end thereof the following new subparagraph: "(T) in the case of any article taxable under section 4061 (B), sold on or in connection with the first retail sale of a light-duty truck, as described in section 4061 (a) (2), if credit or refund of such tax is not available under any other provision of law.".

(2) Section 6416) (i) (relating to meaning of terms) is amended by adding at the end thereof the following: "For purposes of subsection (b) (2) (T) the term 'sold on or in connection with the first retail sale' includes any article sold within 30 days after the first retail sale of a light-duty truck.".

(b) Effective Date.—The amendments made by this subsection shall apply to parts and accessories sold after the last day of the month in which this Act is enacted.

Mr. CRANSTON. Mr. President, this amendment would correct an unfair situation arising out of Congress repeal in 1971 of the automobile excise tax. Along with automobiles, the tax was lifted on light-duty trucks and buses. At the same time, parts and accessories sold by the vehicle manufacturer as part of the truck were relieved of the separate 8-percent excise tax on truck parts and accessories.

However, parts and accessories sold separately by another manufacturer to be used on the new truck are still subject to the 8-percent tax, because they are not part of the original equipment coming from the vehicle manufacturer.

So if a customer buys a new truck, it comes with tax-exempt parts and accessories. But if he wants to purchase a separate bumper or other accessory to be installed on the new truck, he has to pay an 8-percent excise tax on that bumper; even though it is sold to him at the same time he buys the truck.

My distinguished colleague from Georgia, Senator TALMADGE, brought this inequity to the attention of the Finance Committee, I believe toward the end of the 92d Congress. As I understand it, the committee adopted a proposal at that time to lift the tax and accessories and parts sold in connection with the first retail sale of a light-duty truck. But it was never brought to a vote in the Senate.

So my amendment, Mr. President, is substantially the same as the measure accepted by the Finance Committee in the last Congress. It provides that the 8-percent manufacturer's excise tax on truck parts and accessories is not to apply in the case of any part or accessory sold on or in connection with the first retail sale of a light-duty truck. It provides a refund or credit where the parts and accessories tax has already been paid by the manufacturer and it is thereafter determined that the sale of the part or accessory is tax free.

I am told, Mr. President, that the Treasury Department has no objection to this amendment. In fact, the amendment was drafted with the assistance of Treasury officials.

The revenue loss is estimated to be under $3 million per year.

Mr. President, this amendment would be very fair to small manufacturers who are discriminated against in a way that gives an advantage to the Big Three automobile manufacturers.

Mr. HARRY F. BYRD, JR. Mr. President, this amendment was approved by the Committee on Finance in the closing days of the last session. We have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CRANSTON. I thank the Senator very much.

Mr. BENNETT. Mr. President, yesterday the Senator from Utah offered an amendment and the Senator from Wisconsin requested it lie over until today.

I ask that the clerk report the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

(c) CERTAIN DIVIDEND INCOME RECEIVED FROM A NONINCLUDABLE LIFE INSURANCE COMPANY.—In the case of an affiliated group of corporations filing or required to file a consolidated return under section 1501 for any taxable year, there shall be excluded from consolidated personal holding company income and consolidated adjusted ordinary gross income for purposes of this part dividends received by a member of the affiliated group from a life insurance company taxable under section 802 that is not a member of the affiliated group solely by reason of the application of paragraph (2) of subsection (b) of section 1504.

SEC. 2. The amendment made by the first section of this Act shall apply to taxable years beginning after December 31, 1973.

Mr. BENNETT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, the Senator from Wisconsin is in the Chamber now, and I would be very happy to respond to any questions he may have about the amendment.

Mr. PROXMIRE. Mr. President, yesterday we had a discussion about this amendment, and because it was an amendment that had not been offered before and because it was a somewhat complicated amendment, I discussed it with some members of the staff of the committee and others. It was suggested that we defer until today the consideration of the amendment and the Senator from Utah very graciously did so.

Since then we have had an opportunity

to examine the amendment. It is a good amendment. It does remove an inequity for a company. There is no Treasury loss; there is no objection on the part of the Treasury Department. No precedent is established for the future. It is a good proposal, and I am happy to support it.

Mr. BENNETT. Mr. President, I ask for a vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I call up an unprinted amendment relating to personal tax exemptions.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

At the end of the bill insert the following new section:

SEC. 20. INCREASE IN PERSONAL EXEMPTIONS TO $850

(a) Effective with respect to taxable years beginning after December 31, 1972—

(1) section 151 (relating to allowance of personal exemptions) is amended by striking out "$750" wherever it appears, and inserting in lieu thereof "$850";

(2) section 6012(a)(1) (relating to persons required to make returns of income) is amended by striking out "$750" wherever it appears and inserting in lieu thereof "$850", by striking out "$2,050" wherever it appears and inserting in lieu thereof "$2,150", and by striking out "$2,800" wherever it appears and inserting in lieu thereof "$2,900"; and

(3) section 6013(b)(3)(A) (relating to assessment and collection in the case of certain returns of husband and wife) is amended by striking out "$750" wherever it appears and inserting in lieu thereof "$850" and by striking out "$1,500" wherever it appears and inserting in lieu thereof "$1,700".

(b) Effective with respect to wages paid on or after the 30th day after the date of enactment of this Act, the table contained in section 3402(b) (relating to percentage method of withholding) is amended to read as follows:

*"Percentage Method Withholding Table*

| "Payroll period: | *Amount of one withholding exemption* |
|---|---|
| Weekly | $16.33 |
| Biweekly | 32.67 |
| Semimonthly | 35.42 |
| Monthly | 70.83 |
| Quarterly | 212.50 |
| Semiannual | 425.00 |
| Annual | 850.00 |
| Daily or miscellaneous (per day of such period) | 2.26." |

Mr. KENNEDY. Mr. President, the purpose of this amendment is to increase the personal exemption under the Federal income tax law from its present level of $750 to a new level of $850, retroactive to the tax year 1973.

The biggest danger facing the Nation today is an energy-induced recession in 1974. The problem was clear before the Arab oil embargo last October, but it became a crisis as the oil shortage worsened. Early last fall, the administration was already talking of a "soft landing" for the economy in 1974, but the sudden new crisis over energy has made a "crash landing" much more likely. Economists are virtually unanimous now in predicting a recession, with 6 to 8 percent unemployment, in 1974. Already, the unemployment rate is creeping up. And the fourth quarter figures for 1973 show that the Nation's real economic growth has slowed substantially; the first two quarters of 1974 are likely to show zero or negative growth. If that happens, the Nation will be in recession once again.

The classical economic remedy for a recession is a tax cut, to stimulate the economy. It worked brilliantly to get the economy moving again in the early 1960's, and it can work well again today. If we can get more purchasing power into the hands of consumers to stimulate the economy, we can blunt the recession before it takes hold. And at the same time, we can help offset the impact of high food and fuel costs in every family's budget.

The best prompt dose of fiscal stimulus is through the Tax Code, and that is the purpose of the amendment I am proposing. A $100 increase in the personal exemption, from $750 to $850, would provide $3.5 billion in new consumer purchasing power, as a badly needed shot in the arm for our sick economy. Its impact will be felt immediately. By adding it to the tax bill now on the Senate floor, and by making it retroactive to tax year 1973, people filing their returns between now and April 15 will benefit immediately, and the Nation will be the winner.

At the same time, such a fiscal stimulus to blunt the impact of recession will in no substantial way retard our fight against inflation. To a large extent, the inflation that exists today is already locked in by pressures of the past, and it is confined largely to the areas of food and fuel. Fiscal policy by Congress cannot do anything to curb that inflation now. What fiscal policy can do is to prevent a recession on top of inflation.

The bulk of the increment in consumer spending produced by this amendment will go into areas where the economy is already sagging, and where recession is now an imminent threat. In fact, the proposal means extra employment for workers, extra income for families, and extra profits for business, in all of the areas of the economy now facing serious dangers of layoffs, economic hardship, idle plant capacity, and all the other distressing consequences of recession.

To be sure, a small portion of this new consumer spending will find its way into food and gasoline, the only two important areas where inflation today is a serious problem. But the real advantage of a tax cut in so many other areas of the economy where recession, not inflation, is the problem, far outweighs the disadvantage of increased spending in these areas. The administration has other tools to control inflation here, if only it will use them. Congress may not be able to legislate economic competence in the administration's management of the economy, but at least Congress can act now to try to prevent a serious recession in 1974, especially when the warning signs are so obvious.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a fact sheet describing the amendment.

There being no objection, the fact sheet was ordered to be printed in the RECORD, as follows:

### KENNEDY AMENDMENT—RAISE PERSONAL TAX EXEMPTION TO $850

#### TERMS

Raise the allowance for personal exemptions in the Federal income tax law from its current level of $750 to a new level of $850.

#### PURPOSE

(1) offset the increase in the cost of living since the personal extension was last increased in 1971.

(2) provide a needed one-shot fiscal stimulus to the economy to avert the imminent danger of a recession in 1974.

#### REVENUE EFFECT

$3.5 billion loss to the Treasury; $3.5 billion stimulus to the economy.

#### LEGISLATIVE HISTORY

In the Tax Reform Act of 1969, Congress enacted progressive increases in the personal exemption, raising it from the preexisting level of $600, as follows:

| | |
|---|---|
| 1970 | $625 |
| 1971 | 650 |
| 1972 | 700 |
| 1973 | 750 |

In the Revenue Act of 1971, Congress accelerated the increases and established a level of $675 for 1971 and $750 for 1972, where it remains today.

#### CONSUMER PRICE INCREASED

Since December 1971, the Consumer Price Index has risen from 123.1 to 138.5, for an overall two-year gain of nearly 13%. The increase in 1973 alone was nearly 9%. A rise in the personal exemption from $750 to $850 is an increase of slightly over 13%, which almost exactly offsets the rise in the cost of living since Congress last acted. To offset anticipated inflation in 1974, the personal exemption would have to exceed $850.

#### ECONOMIC (FISCAL) POLICY

Economic experts are virtually unanimous in their predictions of an energy-induced recession in 1974. Growth is already slowing, the economy is sagging in many areas, and unemployment is rising.

A fiscal stimulus is the now classical response of economic policy to economic downturns and recessions. The well-known general tax cut of the early 1960's ended a period of recession and stagnation and launched the longest uninterrupted period of growth and price stability in our history.

The most rapid fiscal stimulus is a tax cut. The pending bill, retroactive to the 1973 tax year, will pump the stimulus into the economy now, when it is needed most, when action by Congress can ward off a recession, or at least blunt its impact.

The stimulus will not seriously impede the fight against inflation. Apart from food and fuel, where inflation is serious, Phase IV has worked reasonably well. Fiscal policy can't be used against today's inflation, but at least it can be used to soften the burden of the looming recession.

#### SUPPORT OF ECONOMISTS

The proposal for a fiscal stimulus has the strong support of economic experts, including Walter W. Heller and Arthur M. Okun, past Chairmen of the Council of Economic Advisers.

Mr. KENNEDY. Mr. President, the precedent for this amendment goes back to 1969, when Senator Albert Gore offered amendments to increase the personal exemption. At that time, it was felt to be essentially a move to provide some kind of equity in the exemption provision of the Tax Code. In 1969, Congress made increases in the personal exemption to $625 in 1970, to $650 in 1971, and to $750 in 1973, where it remains today.

The Consumer Price Index since 1971 has raised from 123.1 to 138.5, for an overall gain of nearly 13 percent. If this amendment is accepted, the impact is exactly enough—the same 13 percent—to offset that inflation.

In effect, what we are doing with the personal exemption is offsetting the Consumer Price Index increases for inflation we have seen over the period from 1971 to 1973. The people who obviously will be most assisted by this measure will be those who have been hardest hit in the cost of food, fuel, and other increases.

Economic experts are almost unanimous in their opinion that there will be an energy-induced recession in 1974. They point out the anomalous situation in 1974 that we are going to have both inflation and a recession-inflation because of the pressures that are being added to the economy in the fuel and food areas, and a recession because of the energy crisis and the generally slack economy.

Now, we are coming into the period where the taxpayers of this country will be filling out their tax forms. This amendment will increase their personal exemption to the same extent that their cost of living has been increased by the Consumer Price Index rise; namely, 13 percent. It makes up for that inflation.

In addition, as I have indicated, this measure makes sense economically. It has the support of some of our leading economists. It provides a fiscal stimulus to the economy, which is necessary and essential if we are to offset the recession and unemployment and hardship on many parts of our economy. It will also provide some degree of assistance to the many people around this country who have been paying highly inflated prices for fuel and food this year.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. PASTORE. I merely want to congratulate the Senator from Massachusetts. I realize what the opposition is going to be. The opposition is going to be that the Treasury is going to lose about $3 billion with the rise in exemption from $750 to $850.

We had Walter Heller, who is a renowned economist, come before the Policy Committee only yesterday. He made the very same prediction that the Senator from Massachusetts is making now. Unless we are very careful, we are going to steer ourselves into a recession in this year of 1974.

His argument was that the only way to alleviate or eliminate this happening is to raise the personal exemption. That was the best way to do it, because it would put the money in the pockets of the people who spend it, in the pockets of people who have families.

When the question was asked as to how much money we are going to lose, he said about $3 billion; but he said it is well worth while because if we can avoid a recession and bringing our economy to a stop, it is worth $3 billion to keep the wheels of our economy going.

I want to congratulate the Senator from Massachusetts. This proposal has not been picked out of thin air. There is nothing frivolous about it. It has tremendous merit. I realize the problems that might confront the members of the committee. By raising the exemption, there might be a loss of income of about $3½ billion. But I repeat, again, it might be well worth that amount to avoid a recession in the year 1974.

Mr. KENNEDY. I appreciate the comments of the Senator from Rhode Island. I do hope that it might be possible to gain acceptance of the amendment. I agree with what the Senator has said. I think it is sound economic policy and also sound social policy.

From 1948 until 1969, the personal exemption was $600. It was only in 1969 that the amount was adjusted. A phased increase was made from $600 to $750 in 1969, to redress the imbalance caused by the failure of Congress to adjust the level in the two preceding decades.

We have found that the increase in the rate of inflation has been approximately 13 percent during the past 2 years. This additional $100 would offset that increase for a great number of taxpaying families throughout the country. It would provide needed stimulation and a sense of equity. Also, it is a very concrete and direct way for Congress to assist the millions of homeowners and citizens of the country who have been so severely harassed because of the increase in fuel and food prices.

I would hope that the amendment would be accepted.

Mr. HARRY F. BYRD, JR. Mr. President, the committee is opposed to this amendment. It is a very expensive amendment. It will reduce revenues by $3.5 billion.

Already, without this amendment, it is projected that the deficit will be very high during the coming fiscal year, somewhere around $10 billion, unless we go on the theory that we can get something for nothing.

This amendment, if adopted, will lead to more inflation. It will further increase inflation. I do not agree that we can increase the deficit and pile up more and more deficit with no more money to pay for it; that we can just add to the deficit and pile up the inflation. But that is what this amendment would do.

More than that, the amendment is unworkable. The amendment at the desk provides for an effective date of December 1972, to be applied to the tax in 1973. The tax forms have already been printed and distributed, and many taxpayers have already paid their taxes and sent in their forms. So it seems to me, considering the amendment from a number of angles, that this would be a very undesirable amendment for the Senate to approve.

When we talk about an additional deficit or adding to the deficit—which we already have done—adding $3.5 billion, it seems to me, is something that needs careful consideration.

Mr. LONG. Mr. President, will the Senator from Virginia yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. LONG. Are we to understand that this amendment proposes a retroactive tax cut; proposes a tax cut on income of last year?

Mr. HARRY F. BYRD, JR. That is what the proposal says. It would be effective with respect to the taxable year beginning after December 31, 1972.

Mr. LONG. So this would give a $3.5 billion tax cut for taxes that have already accrued and been paid to the Treasury on withholding? Is that correct?

Mr. HARRY F. BYRD, JR. The Senator is correct.

Mr. LONG. So where the employees and the employers have made out their withholding statements based on what the tax law was up to this point, this, in effect, would give a refund on taxes that they paid during the last year, 1973. Is that correct?

Mr. HARRY F. BYRD, JR. The taxpayers would be entitled to refunds. It would not be every taxpayer, but many of them would be.

Mr. LONG. So many of those who have already paid their taxes would be reimbursed the taxes that they have paid all during the last year, 1973, under this amendment. Do I understand that to be correct?

Mr. HARRY F. BYRD, JR. The Senator is correct. This amendment would become effective after the taxable year 1972. So, it would be effective for the calendar year 1973. We are now in 1974.

Mr. LONG. Even though the forms have already been printed and distributed to the taxpayers and the withholding has been occurring during all four quarters of last year, and it is to late now to print new forms?

Mr. HARRY F. BYRD, JR. The Senator is correct. The forms have gone out. The Senator from Louisiana is quite correct.

I want to state again our financial situation. I doubt if some Members of the Congress are aware that for the last 5 years, ending this coming June 30, we will have a Federal funds deficit, an accumulated Federal deficit, of $116 billion in that 5-year period. And that represents 25 percent of the total national debt. That will have occurred during that 5-year period.

This would add approximately an additional $4.7 billion in fiscal year 1974 and an additional $3.5 billion in fiscal year 1975 as far as the new budget which the President will send to the Congress this month. And that will have a built-in deficit of something around $10 billion.

Even without this amendment, I think it would be a tremendous mistake from the point of view of the people of our Nation to pass this legislation. It will further increase the inflation. That inflation will eat deeper into every housewife's grocery dollar and into every wage earner's check.

The committee opposes the amendment.

Mr. KENNEDY. Mr. President, I hoped that we would have a better argument in opposition than the technical argument raised about the complications and the paperwork for the Treasury Department. It would not be difficult to set up some kind of system for refunding the amounts that would accrue under the amendment. Most taxpayers have not even totaled their tax returns for 1973 yet.

The argument in opposition to this amendment is basically a technical argument and is perhaps the weakest argument that could be made.

We also hear the argument that it will cost too much. But let us think what it will cost if we do not pass it. For every percentage point increase in unemployment, there will be another 1 million men and women unemployed. And if we assume that they each pay $1,000 in taxes, that would be $1 billion right away. If the unemployment rate rises from 5 percent today to 8 percent this year, the loss will be $3 billion in lost taxes.

Nor do I hear any discussion from the manager of the bill, if we have 8 percent unemployment, how many billions of dollars we will have in increased welfare costs and increased social services costs for the people of this Nation.

Are we only going to consider the cost around here of adding $3 billion to the Federal deficit?

We have a trillion dollar economy. It ought to be growing at the rate of 3 percent a year. That is a $30 billion increase in real growth each year. Think what a recession means to business—zero growth or worse, a loss of $30 billion or more a year. The country simply cannot afford that sort of loss, especially when we could avoid it by spending $3 billion now.

And are we also going to think in the terms of the human cost, the thousands of people who will be unable to make a decent living and pay their own taxes and keep the American economy going?

This is sound economic policy. This idea and this concept are supported by two former Chairmen of the Council of Economic Advisers to the President, Walter W. Heller and Arthur M. Okun.

This makes sense from a fiscal point of view. It makes sense from an economic point of view.

When we were home during the recess we heard questions concerning what the Congress is going to do to provide relief to the people from the extraordinary increases in the prices of food and fuel. We can do something and we can do something this afternoon.

It makes sense from the fiscal point of view and from the economic point of view. It is the kind of measure that can afford considerable relief to millions of taxpayers in this country at a time when they need it.

I will say to the floor manager of the bill that after we dispose of this measure, I will offer a program to reform the minimum tax that will provide close to $900 million, as a way to recoup some of the revenue loss. However, that program would take the money from the people who are earning over $100,000 a year and who are not paying their fair share of the taxes. But it will still offset the cost.

Mr. LONG. Mr. President, I would have the Senator realize that, notwithstanding all of the very fine intentions that the Senator from Massachusetts has in this area, this is not the only thing that we can do to help the poor. For example, we voted for and have in conference with the House now a low income tax credit proposal for the poor who have a family of 4 and make $4,000 a year in income. That measure would increase their income by the amount of income tax credit which applies against the social security tax and all other taxes they pay. That would be worth $400 a year to each of those poor families. We have that measure in conference with the House, and we hope that they will agree to it.

The proposal to increase the personal exemption would not be worth 1 cent to people who are in that situation. Unfortunately, their income is so low that they do not pay any income tax.

In addition to that, we have in conference right now a proposal by the Senator from Maine (Mr. MUSKIE) which has great appeal to the Senate. That would freeze, and I believe that it could be used to roll back, the increased medicare cost that the poor and the aged pay when they go into the hospital. That would save them the first $6 of what they pay for medical expenses when they apply for help.

In addition, I have a measure and the Senator from Massachusetts has a measure which we are pressing because we want to pay additional health expenses of people who have very heavy health expenses.

The proposal I have sponsored would cost the Government about $10 billion a year, out of which we would raise $3.5 billion approximately in taxes to pay for it. The other $5.5 billion would have to come from general revenues.

It would cost a great deal more than that, although in both proposals it could be argued that it will be coming out of the family budget one way or the other. A great deal of this money that people are spending is from personal income and we would substitute tax income to pay for it. The net expense on the citizens might not be a great deal each year. However, it would cost the Government a great deal of revenue. It would put us in greater debt.

I have only covered two very costly and very good proposals that have been added to a bill that we are trying to get the House to agree to.

The Senator from Indiana (Mr. HARTKE) had a proposal to help the blind. We had a proposal to help the disabled. All of those welfare proposals would not be funded, even though we proposed a tax increase to fund most of the social security benefits we proposed.

I submit that with all of the merit that is addressed to the Senator's amendment—and there is a great deal of merit—we could find ways in which to spend every dollar of this, ways that would have a higher priority in helping the poor, the sick, the disabled, and each one of those for whom we hope to find employment so that they might improve their position in better way than with an increase in the personal exemption.

Mr. President, it has great appeal to people to say that we ought to increase the personal exemption, because every income taxpayer could benefit from it. But no one knows any better than Walter Heller, and no one knew any better than John F. Kennedy, who appointed Walter Heller to be his economic adviser, that you can find other ways to cut taxes to help the poor a lot better than just to raise the personal exemption.

For example, it was John F. Kennedy who proposed—and I was proud to stand here on this floor and help pass it—the proposal which caused a person in a lower income bracket to get a much higher tax deduction and much more tax help. It is the increase in the minimum standard deduction to which I am referring, which caused those in the lower income brackets to get much more tax advantage than those in the upper brackets.

In terms of dollars, as we all know, if a person is in the 70-percent bracket, when you increase this personal exemption by $100, it is worth $70 to him. But when you increase the poor man's exemption by $100, it is only worth $14. So a wealthy person would get a $70 tax benefit, while a poor person would get only a $14 benefit.

You could do the same thing, if you wanted to, by increasing that minimum standard deduction to make it worth $100 to a poor man and not worth 5 cents to a man already making $1 million a year. So there are other ways to provide tax relief that would do more for the poor.

In terms of doing something to stimulate the economy, I just happen to think there is nothing that can be done right now to stimulate the economy more than to press through an effective way of reducing the interest payments that little people, and particularly young couples, have to pay when they buy a home and sign a mortgage where they are committed to pay twice as much money for their interest as they pay for the house itself. There is no reason why to do something about that should cost this Federal Government anything.

It would seem to me that if we will ever break away from this thing of rationing credit on the basis of who can pay the most for it, and instead direct a certain portion of our credit into the housing field and certain other areas where people are going to need it for the good of this great Nation, to build their families and do that which we would expect to be the aspiration of every American citizen, we could do a great deal to move this economy ahead in ways that will not cost us anything.

As a matter of fact, if we can prevail on the Federal Reserve Board to bring the interest rates down—and I have tried to do something about that without much success, but I have made a little effort—we could do a great deal to save the Government money, because the Government is one of the greatest borrowers and payers of interest of them all, and it would also help every little family.

So, much as I applaud the Senator for proposing this tax relief and being concerned about this matter, I believe, Mr. President, that if we give it more study, we can find ways where we can even more effectively meet the purposes the Senator has in mind.

Mr. President, $3.5 billion is a great deal of money. As a matter of fact, I am led to believe that in this fiscal year impact on the budget would be 50 percent greater than that, because it involves a refund of $3.5 billion for all of calendar year 1973 which would be paid in this fiscal year, plus the first half of calendar year 1974 which is in this fiscal year, assuming withholding could be changed in time. So there would be a first-year tax loss in this fiscal year of over $5 billion.

Those things are very important matters that we have to take into account. I do hope, Mr. President, that we can effectively meet whatever is necessary to prevent this Nation from having a recession, but I do think that we have other alternatives, and we should explore them before we move headlong into one proposal, when I think that there are others that might meet the purpose better.

Mr. KENNEDY. Mr. President, just very briefly, I want to commend the distinguished Senator from Louisiana for the work that he has done in providing for the work-bonus amendments to the social security program—I supported those amendments here on the Senate floor, and commended him for doing so—and I also commend him for the minimum standard deduction. The Senator is to be commended for the strong leadership that he has provided in these areas, by providing a better system of tax justice.

But, Mr. President, much as the Senator is concerned about interest rates, and about some kind of help and assistance to young families that are trying to buy a house, that is a question of monetary policy and will be decided by the Federal Reserve, not by the U.S. Senate.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. KENNEDY. I yield.

Mr. LONG. As the Senator knows, the power of the Federal Reserve is something that Congress delegated it. I feel, however, as long as we have the present membership we have on the Federal Reserve Board, we may be wishing in vain.

Mr. KENNEDY. I think the Senator is quite correct. But what we are talking about at the present time, Mr. President, is the particular economic situation that we find ourselves in, and the predictions and projections that we are going into a serious economic downturn, probably a recession, in the first 6 months of this year.

What this amendment would do is provide an economic stimulation for this particular time. It is a fiscal policy measure.

Just as President Kennedy stood for the minimum standard deduction, he also stood for a general tax cut in the early 1960's which also provided a stimulation to the economy. And, as a result, we had the longest period of economic growth and price stability in the history of the country.

I am interested in the tax reform measures which the Senator from Louisiana has referred to, and additional tax reform measures providing a better system of tax justice. I know the Finance Committee is going to be considering such proposals during the course of this year. The Ways and Means Committee is going to be considering tax reform and tax justice, and we will be debating those measures.

But this is an important economic measure that demands action now. It is supported by two of the most distinguished former members of the Council of Economic Advisers, who feel that it is essential to meet the economic demands and needs of this country at the present time. It also has the additional attraction of providing some degree of equity and a sense of justice and fairness to people who are hard hit by the fuel shortage and the increase in food prices. It is something that can be done immediately, and provide the stimulation which is so essential and so necessary if we are going to avoid the dire predictions and projections that have been made by economists and bankers.

Mr. BUCKLEY. Mr. President, while sympathetic to the concept of a more realistic personal exemption for tax purposes, I am concerned that no hearings have been held on the special proposal made in this unprinted amendment. One thing that we do know, based on the information supplied by the Senator from Massachusetts, is that it will cost the Treasury $3.5 million at a time when we are already facing substantial deficits. It will, therefore, help fuel the inflationary process that today constitutes our greatest domestic economic problem—one that is particularly cruel to the poor and the aged. I, therefore, feel that the Kennedy proposal should be scheduled by the Committee on Finance before the Senate is asked to vote on it. I shall, therefore, vote against its adoption at this time.

Mr. KENNEDY. Mr. President, I am prepared to vote. I intend to ask for the yeas and nays. Until we get a sufficient number of Senators present to do that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts (Mr. KENNEDY).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from North Carolina (Mr. ERVIN), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alabama (Mr. SPARKMAN), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) and the Senator from New Jersey (Mr. WILLIAMS) are absent on official business.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The result was announced—yeas 53, nays 27, as follows:

[No. 11 Leg.]

YEAS—53

Abourezk
Aiken
Allen
Bible
Brock
Brooke
Burdick
Byrd, Robert C.
Case
Chiles
Church
Clark
Cook
Cranston
Dole
Domenici
Fulbright
Gravel
Hart
Haskell
Hatfield
Hathaway
Huddleston
Hughes
Jackson
Johnston
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Weicker
Young

NAYS—27

Baker
Bartlett
Beall
Bennett
Bentsen
Buckley
Byrd, Harry F., Jr.
Cotton
Curtis
Eastland
Fannin
Fong
Griffin
Gurney
Hruska
Javits
Long
McClellan
McClure
Percy
Proxmire
Roth
Scott, William L.
Stennis
Taft
Thurmond
Tower

NOT VOTING—20

Bayh
Bellmon
Biden
Cannon
Dominick
Eagleton
Ervin
Goldwater
Hansen
Hartke
Helms
Hollings
Humphrey
Inouye
McIntyre
Randolph
Sparkman
Talmadge
Tunney
Williams

So Mr. KENNEDY's amendment was agreed to.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was areed to.

Mr. HUGHES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 920

Mr. KENNEDY. Mr. President, I call up amendment No. 920, on behalf of Senators NELSON, MUSKIE, BAYH, and myself, as well as Senators STEVENSON, INOUYE, HUMPHREY, HASKELL, and MCINTYRE.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the appropriate place in the bill insert the following new section:

SEC. . (a) Section 56 of the Internal Revenue Code of 1954 (relating to imposition of minimum tax for tax preferences) is amended—

(1) by striking out subsection (c);

(2) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) IN GENERAL.—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to income of every person, a tax equal to 10 percent of the amount (if any) by which the sum of the items of tax preference exceeds the excludable amount.";

(3) by striking out "$30,000" in subsection (b)(1)(B) and inserting in lieu thereof "$10,000"; and

(4) by inserting a new subsection (c) as follows:

"(c) For the purpose of subsection (a) of this subsection, the excludable amount shall be $10,000."

(b) The amendments made by this section shall apply to taxable years beginning after December 31, 1973.

Mr. KENNEDY. The purpose of the amendment is to close two of the most serious loopholes in the minimum tax; the so-called "deduction for taxes paid" and the $30,000 exemption. On the basis of figures for calendar year 1972, the amendment will generate increased tax revenues totaling $860 million.

The minimum tax is the imaginative technique enacted by Congress as part of the Tax Reform Act of 1969, in an effort to insure that all citizens with substantial income would pay at least some tax on their income, thereby ending the gross tax inequity by which thousands of wealthy taxpayers were able to use the loopholes in existing law to avoid large amounts of taxes they ought to pay, or even to avoid taxes altogether.

In effect, the minimum tax is supposed to be a "bucket under a sieve." It is designed to impose a modest tax on all income that slips otherwise untaxed through the many loopholes in the existing Revenue Code. If the minimum tax fulfills its function, no one with substantial income would be able to avoid paying a fair share of taxes on his income.

Under the present minimum tax, a person is taxed at the rate of 10 percent on the sum of his income from tax preferences, which include most, but not all, of the major tax loopholes, less a $30,000 exemption and less the amount of regular income taxes owed.

Unfortunately, the minimum tax does not adequately fulfill its function. In 1970, for example, the first full year of operation, the revenue yield was a paltry $117 million from individuals, compared to an anticipated yield of $290 million when it was enacted in 1969. In 1971, the yield was little better, only $163 million from individuals.

Because of the loopholes in the minimum tax—principally the deduction for taxes paid and the $30,000 exemption—its effective rate in 1971 on individuals was only 2.6 percent, compared to the statutory rate of 10 percent, and the effective rate on corporations was only 4.8 percent. And, as a result of the loopholes in the minimum tax, 74,000 individuals, reporting tax loophole income totaling $2.2 billion, paid no minimum tax at all. Similarly, 75,000 corporations, reporting tax loophole income totaling $1.6 billion, paid no minimum tax at all.

Because of the exemptions and deductions written in at the beginning and in subsequent years, the minimum tax is itself a loophole-ridden tax—minimum in impact as well as name. As such, the minimum tax is the most aptly named provision in the tax laws. Instead of being a "bucket under a sieve," it is, instead, simply another sieve under the existing sieve.

The first of the two reforms I propose would eliminate the deduction for taxes paid. This deduction entered the revenue laws as an 11th hour Senate floor amendment to the Tax Reform Act of 1969. I opposed the amendment on the floor, but it was approved by a majority vote of the Senate.

In effect, this particular deduction has become an "executive suite" loophole, because it allows highly paid executives to use their large salaries to shelter large amounts of tax preference income against the minimum tax. But simply because a wealthy individual pays taxes on his salary just like everybody else, it does not follow that the taxes he pays should give him free entry to the "loophole club," by allowing him to amass large amounts of sheltered income, free not only from the regular tax, but free from the minimum tax as well.

Thus, the minimum tax works reasonably well in the case of individuals who pay little or no regular taxes, but it contains a gaping loophole in the case of individuals who pay substantial regular taxes. To me, there is no justification for allowing this loophole in the minimum tax to remain open. Simple tax justice requires that the minimum tax be applied even-handedly to all tax preference income. The amendment I am proposing today will achieve that result by eliminating the deduction for taxes paid.

The second reform would reduce the current $30,000 exemption from the minimum tax to $10,000. The existing exemption allows the first $30,000 in tax loophole income to escape the minimum tax altogether. I believe the current exemption is excessive, and that a level of $10,000 would eliminate much of the tax avoidance feature of the current law while insuring that the minimum tax comes into play at a reasonable level of tax preference income.

The $30,000 exemption appears to be the loophole used by President Nixon to reduce his minimum tax to zero in 1971 and 1972, and to near-zero in 1970.

According to the information available, the President filed the required IRS form 4625 for the minimum tax in all 3 years since the tax was enacted—1970, 1971, and 1972—since he had many thousands of dollars in tax preference income derived from preferences such as excess investment interest, accelerated depreciation, and capital gains. Yet in only 1 of those years, 1970, did the President actually pay any minimum tax, and the amount paid that year was extremely small, $792.81. In the other 2 years, in spite of his sizable tax preference income, the President was able to use the $30,000 exemption in the law to reduce his minimum tax to zero.

The attachment explains the operation of the amendment in greater detail. As noted, I believe that the arguments against minimum tax reform based on the impact on capital gains and the depletion allowance have been grossly exaggerated in the past, and are far outweighed by the importance of the reforms involved. Wall Street did not blink and the oil industry did not miss a stride when Congress enacted far more substantial changes in capital gains and oil depletion in 1969.

In sum, the recent disclosures on President Nixon's tax returns and on the low rate of taxes paid by the large oil companies make a clear and compelling case for tax reform. The most obvious place to begin is with the minimum tax.

Mr. President, this amendment is offered on behalf of myself and the Senator from Maine (Mr. MUSKIE), who has been most interested in this whole concept, the Senator from Indiana (Mr. BAYH), who has also been an extremely effective advocate of tax reform, especially in this area, and the Senator from Wisconsin (Mr. NELSON), who fought for this program in the Committee on Finance, who has offered it in the committee and on the Senate floor on other occasions, and who has worked closely with us to gain its acceptance today.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a fact sheet prepared on the amendment.

There being no objection the fact sheet prepared on the amendment was ordered to be printed in the RECORD, as follows:

### AMENDMENT 920 TO H.R. 8214, KENNEDY-NELSON-BAYH-MUSKIE MINIMUM TAX AMENDMENT

#### PURPOSE

1. Repeal the step in the calculation of the minimum tax which currently allows a deduction for other taxes paid.

2. Reduce the current $30,000 exemption from the minimum tax to $10,000.

The proposed amendment makes no change in the tax preferences subject to the minimum tax, and no change in the current 10% rate of the minimum tax. It affects only the deduction for taxes paid and the $30,000 exemption, the most obvious loopholes in the current minimum tax. The revenue gain from both provisions would be $860 million.

#### CURRENT LAW

The minimum tax was enacted by Congress as part of the Tax Reform Act of 1969, in an effort to insure that persons with substantial amounts of untaxed income would pay at least a modest tax on such income. Under the present minimum tax, a person is taxed at the flat rate of 10% on the sum of his income from certain tax preferences, which include most, but not all, of the major preferences in the tax code.

But before the minimum tax is applied, a taxpayer gets two important deductions from his preference income: *First*, an automatic $30,000 deduction; *Second*, a deduction for the regular income taxes he pays. These two deductions are largely responsible for the failure of the minimum tax to fulfill its promise.

DEDUCTION FOR TAXES PAID

This deduction allows substantial numbers of taxpayers to avoid the minimum tax completely, even though they have large amounts of income from their tax loopholes. In practice, the deduction is an "Executive Suite" loophole, since one of its principal effects is to allow highly paid executives to use the large amount of regular taxes they pay on their salaries as an offset against income they receive from tax loopholes. The following examples illustrate this point:

| | A | B |
|---|---|---|
| Loophole income | $100,000 | $100,000 |
| Regular tax on salary | 100,000 | 100,000 |
| Base for minimum tax | 0 | 100,000 |
| Minimum tax | 0 | 10,000 |

Individual A, who has $100,000 in income from tax preferences but pays $100,000 in regular taxes on his salary, owes no minimum tax. Individual B, who has $100,000 in income from the same tax preferences, but who pays no regular taxes, owes a minimum tax of $10,000. The minimum tax should operate equally on individuals A and B, yet the deduction for taxes paid lets A escape the minimum tax altogether. By closing the loophole for this deduction, the proposed amendment would insure that A pays a minimum tax on his preference income.

Contrary to arguments raised in the past against the proposal to repeal the deduction for taxes paid, this reform would have only a marginal impact on capital gains or on the percentage depletion allowance.

The effect of the change would be to increase the effective tax rate on capital gains in the highest bracket from its present level of 36.5% to 40%. But the 40% rate would apply only to that portion of capital gains over $460,000, and it is still a bargain rate compared to the 70% tax rate on ordinary income at such levels.

The change would also have the effect of reducing the oil depletion allowance from its present "effective" level of approximately 18%, but the reduction would be less than a single percentage point. At a time of rising concern over excess profits on oil, the change is obviously *de minimis*.

In the Tax Reform Act of 1969, the maximum effective tax rate on capital gains was increased from 25% to 36.5%, with no measurable effect on Wall Street or the flow of capital to business. And the same Act reduced the effective rate of the oil depletion allowance from 27½% to 18%, with no measurable effect on oil company profits. If Wall Street and the oil industry could take these far more substantial reforms in stride in 1969, they can easily do the same with respect to the modest reforms now proposed in the minimum tax.

THE $30,000 EXEMPTION

The second part of the amendment would reduce the existing $30,000 exemption to $10,000. The present level was set far too high by the 1969 Act. It enables wealthy taxpayers to enjoy their first $30,000 in tax loophole income, completely free of the minimum tax. This was the provision used by President Nixon to reduce his minimum tax to zero in 1971 and 1972, and to near-zero in 1970.

By reducing the level to $10,000, substantial amounts of income that are currently tax-free will become subject to the minimum tax. At the same time, the $10,000 level will be high enough to prevent any substantial deleterious impact on middle-income taxpayers with modest tax preference income such as a capital gain on the sale of a home. In addition, the $10,000 level will avoid any unnecessary inconvenience in the administration of the minimum tax, since it will not require the forms to be filed or the tax to be paid on modest amounts of tax preference income.

MAJOR TAX PREFERENCES SUBJECT TO MINIMUM TAX

Accelerated depreciation on real property, accelerated depreciation on personal property subject to a net lease, amortization of certified pollution control facilities, amortization of railroad rolling stock, stock options, reserves for losses on bad debts of financial institutions, depletion, capital gains, and amortization of on-the-job training and child care facilities.

MAJOR TAX PREFERENCES NOT SUBJECT TO MINIMUM TAX

Interest on state and local government bonds, intangible drilling and development expenses, interest and taxes during construction period of real estate, investment credit, gain on property transferred at death, gain on appreciated property given to charity.

EFFECT OF CURRENT LOOPHOLES

Individuals.—In 1971, 24,000 individuals paid $163 million in minimum tax on loophole income of $3.9 billion, for an effective tax rate of 4.1%.

But, 74,000 other individuals paid no minimum tax at all on loophole income of $2.2 billion. Thus, the overall effective rate of the minimum tax on individuals is 2.0%, compared to the statutory rate of 10%.

Corporations.—In 1970, 6,000 corporations paid $280 million in minimum tax on loophole income of $4.1 billion, for an effective rate of 6.7%.

But, 75,000 corporations paid no minimum tax at all on loophole income of $1.6 billion. Thus, the overall effective rate of the minimum tax on corporations is about 4.8%.

REVENUE GAIN FROM PROPOSED AMENDMENT

1. Elimination of deduction for taxes paid:

[In millions]

| | |
|---|---|
| Individuals | $330 |
| Corporations | 250 |
| Total | 580 |

2. Reduction of exemption to $10,000:

[In millions]

| | |
|---|---|
| Individuals | $131 |
| Corporations | 20 |
| Total | 151 |

3. Combined amendments (because the two provisions interact, the total gain is greater than the sum of the separate gains from each):

[In millions]

| | |
|---|---|
| Individuals (80% from individuals over $100,000) | $585 |
| Corporations | 275 |
| Total | 860 |

Mr. MUSKIE addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, I am delighted to join again with the distinguished Senator from Massachusetts in support of this amendment, also cosponsored by Senators BAYH, NELSON, STEVENSON, INOUYE, HUMPHREY, HASKELL, and MCINTYRE. Twice last year we presented a similar amendment and we were defeated on both occasions by narrow margins. Since then a great deal has happened to emphasize the burdens of taxation on important segments of our society, so I hope that today we will have the support of the majority of the Senate for this important needed reform of minimum tax.

The Senator from Massachusetts has given us some of the background for this so-called minimum tax. I would like to reemphasize some points he has made and add a few more.

Many tax shelters and tax preferences now serve to protect those with high incomes from paying their fair share of our tax burdens. Complicated tax dodges beyond the reach of most Americans give esoteric relief to the wealthy—gimmicky investments sold for their ability to defer and decrease normal taxes.

Unjustified shelters and preferences create a tax system which is fundamentally unfair. Preferences and shelters allow some of the richest Americans to pay little or no tax.

Unfair preferences and shelters create a tax system which is deceptive, transforming what were intended to be fair and reasonable progressive tax rates for the high income into an effective rate of about 30 percent for individuals with incomes of $100,000 and more.

And unfair preferences and shelters add insult to the tax burden of low and middle income Americans: Those with incomes under $20,000, who pay the majority of personal income taxes to the Federal Treasury.

Taxes are a weighty burden on the vast majority of Americans whose only source of income is their weekly wage, or the earnings of their stores, workshops, or farms. Americans saw their livelihood eaten away last year by a 9-percent overall cost-of-living increase, including a 22-percent increase in food prices, and now astronomical rises in gasoline and heating bills. The result last year was a 3-percent reduction in real income for the average working American. Most Americans caught in this squeeze are rightly demanding that the burden of Federal income taxes must be borne fairly.

Solution of tax injustice will require thorough tax reform. I have proposed a comprehensive Tax Reform Act, S. 1439, with the cosponsorship of Senators BAYH, HASKELL, HUGHES, PASTORE, and TUNNEY. My bill would produce $18 billion in new Federal revenues, without increasing the burdens on low- and middle-income Americans. I am hopeful that Congress will devote the attention necessary to produce comprehensive tax reform along these lines before the end of 1974. Today is not the time to take that comprehensive step but we can take the first step toward that goal by strengthening the minimum tax, which goes to the heart of existing tax inequities.

Under current law, the minimum tax applies to nine items of tax preference: first, accelerated depreciation on real property; second, accelerated depreciation on net leased personal property; third, stock options; fourth, depletion allowances; fifth, capital gains; sixth, special amortization of pollution control facilities; seventh, special amortization of railroad rolling stock; eighth, bad debt reserves for financial institutions; and ninth, special amortization for job training and child care facilities.

A reading of these nine items includes some which are designed to achieve some worthy objectives, and some which are less deserving. But the existence of these preferences makes it possible for many wealthy Americans to escape substantial taxation—or any taxation at all. The purpose of the minimum tax is to achieve a reasonable balance between the objectives to be served, and fair taxation.

The minimum tax, at a rate of 10 percent, is imposed on these items of preferential income, with three deductions allowed: a $30,000 exclusion; the deduction of all Federal taxes paid in the current year; and the carryforward of any excess of the Federal tax deductions from the 7 previous years.

Our amendment would strengthen the minimum tax by applying it to preference income now protected by the deduction for regular Federal taxes paid, and by a large part of the $30,000 exemption. By making these two changes, the amendment would raise a total of $855 million in revenue at 1972 income levels.

The first part of our amendment would repeal the deduction allowed for "regular" Federal taxes paid, and thus also repeal the carryover of that deduction.

By taking advantage of this deduction, taxpayers can shelter tax preference income to the extent that they pay Federal taxes on nonpreference income. Although this provision has no basis in logic, it effectively shields many taxpayers, such as those with high salaries and thus high regular income taxes, from paying the minimum tax.

Our amendment would further strengthen the minimum tax by reducing from $30,000 to $10,000 the exemption allowed before the minimum tax takes effect. A $10,000 exemption would suffice to minimize any extra administrative burden of the minimum tax, as well as any burden it might impose on middle- or low-income taxpayers. But it would impose the moderate minimum tax on millions of dollars of tax preference income which goes primarily to the wealthy.

The object—and effect—of this amendment is to put us back on the road toward fairness in taxation. It would not perfect the tax code. Retrieving the bulk of the revenue lost through unjustified specific preferences can only be accomplished in a comprehensive tax reform measure. But strengthening the minimum tax would bring us closer to tax equality by narrowing the escape hatches for the wealthy.

The effect of the amendment on all but the very rich would be minuscule. The average individual taxpayer with income of $50,000 or less now receives tax benefits from the depletion allowance, for instance, of only $1.81, and from the capital gains provision of only $31.62. It would be those taxpayers with incomes over $100,000—who now reap the majority of benefits under these provisions—whose tax bills would be increased to reflect their fair share.

Our minimum tax reform amendment would be a first step toward tax justice.

I think it is appropriate to make another observation on the basic principle of fairness, with which this amendment is concerned. I had the privilege in Boston recently of conducting hearings, with the distinguished Senator from Massachusetts, on the impact of the rapidly escalating costs of energy upon various segments of our society.

It was clear from the testimony we received that the burden of the shortage has descended the economic ladder to the bottom rungs in three important ways.

First of all, with respect to supply: Those who are least able to pay for energy, who are least able to afford it, are most restricted by the shortage.

Second, with respect to price——

Mr. KENNEDY. Mr. President, will the Senator yield without losing his right to the floor?

Mr. MUSKIE. I yield.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MUSKIE. Mr. President, second, with respect to price, New England has done a good job of conserving energy this winter. Overall, I think in addition to what has been saved because of a warmer winter, we have saved 17 percent in the consumption of energy. But interestingly, in the relatively high-income areas of southern New England, that saving is on the order of 12 percent. In the relatively low-income areas of northern New England, the saving is on the order of 18 percent.

In other words, we are in effect imposing rationing by income levels because of the enormously escalating price of energy. And so, in a second way, the burden of the shortage has descended the economic ladder to those who are least able to bear it.

And third, with respect to credit, enormously increasing costs have imposed working capital problems upon the small distributor and the small businessman who serves the home heating needs of the average citizen. Because credit terms made available to him have been restricted at the top of the ladder of distribution, he has had to restrict the credit terms that he traditionally gives to the poorest consumers.

So in those three ways, the burden of the present shortage has dropped to the bottom of the ladder.

Mr. President, and I detect—and I suspect all of my colleagues do—the feeling among our people that the whole system is inequitable, unfair, that it discriminates against those at the bottom of the ladder, and that it is exploited by those at the top of the ladder for their own benefit. This feeling is more pervasive than at any time I can recall in my political life of 25 years. And it is directed to the unfairness of the tax code as well.

Now, our amendment is a concrete way in which we can begin to redress the injustice of the tax system. I urge my colleagues to support this amendment.

I yield the floor.

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Stanley Hackett, a member of my staff, be allowed on the floor during the discussion of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, there is no question that there is a problem with our present minimum tax proposal. We have been forced to listen to horrible examples of people with very high income who have escaped taxation completely. One could make a great demagogic charge of that, realizing that those people are using the same deductions that are available, in most cases, to everybody else. And I think we should give very careful consideration to an amendment of our present minimum tax law.

But in the spirit of the debate of yesterday, suggesting that it was unfair to come in here and present committee amendments that had not had hearings, we are now asked to make a tremendous change, a basic change, in our income tax system without even having had the opportunity in the committee to consider this change.

Mr. KENNEDY. Mr. President, will the Senator yield at that point?

Mr. BENNETT. I yield.

Mr. KENNEDY. What the Senator has said is really not accurate. This question of the minimum tax was considered by the Finance Committee and accepted by the Finance Committee in 1969. Extensive hearings were held. Then the committee acquiesced in the 11th hour change on the Senate floor, an amendment by the former Senator from Iowa, Mr. Miller, which opened up this serious loophole. This loophole was not created in the Finance Committee; it was created here on the floor, over the opposition of myself and a few other Members of the Senate.

All we are trying to do is go back to what the Finance Committee did in principle in 1969. What we are doing is conforming the bill to what the Finance Committee did in 1969. The only difference is that in 1969 the tax rate was 5 percent. It was changed to 10 percent on the Senate floor.

Mr. BENNETT. Mr. President, I think the Senator has given me a perfect example of what I am trying to say. We legislated on the floor in 1969 and made an error because we did not have the opportunity to examine all the possibilities. This is not the 1969 proposal. It has been changed again, a little here and a little there. I think the Finance Committee should have the opportunity again, in view of the difference in the economic situation between 1969 and 1974, about which much was made when we were discussing the last amendment, to look at the basic problem, and not again legislate on the floor, with the chance of again making a very serious mistake.

This amendment does not solve the problem of a high income taxpayer who avoids taxes. Under this amendment, he would continue to avoid taxes. However, it puts an additional tax on the back of the income taxpayer whose tax preference income is higher than $10,000.

It would get right down into the income of the ordinary taxpayer who is already paying most of the burden.

The principal effect of the amendment would not at all affect the high income persons who are not now paying any taxes. And they are the people we are trying to get at with a minimum income tax.

The amendment would not increase the income tax liability of anyone who pays no tax. However, it would very substantially affect a large number of middle and lower income people who are already paying a substantial income tax.

The so-called minimum tax would become a disguised surcharge on certain items of income and deductions. It would increase the top effective rate of tax on individuals' capital gains from 36.5 to 40 percent.

About 85 percent of the present tax paid by individuals is on capital gains. That is now being paid by individuals, and not all of them are rich individuals.

For corporations, it reduces the rate of percentage of depletion on oil from 22 to 17.4 percent. Over half of the present minimum tax paid by corporations is attributable to depletion. Similar or greater reductions would be for individuals.

We are in the middle, as everyone in the country knows, of an oil crisis. We are all suffering because there is not enough oil to provide the energy that we need to run our cars, heat our homes, and supply feed stock and our manufacturing plants.

Maybe in the end it would be wise to reduce or to eliminate the oil depletion. That seems to be an easy answer, to punish the oil companies who suddenly find themselves in a better profit position than they did a year of two ago.

However, if we are going to solve the problem, we have to increase production. We have to have some kind of incentives to increase production. If we are going to do that, perhaps, the depletion allowance ought to be reduced. Maybe we should have an alternative suggestion. The President has made a recommendation and other Members of the Senate have made recommendations for shifting the tax burden to the oil industry and hopefully to increase the incentives. But to take this singlehanded action without any hearings or without consideration of other alternatives at this time when half a dozen committees of the Senate are studying the oil problem seems to me to be very shortsighted.

And I think that solving the energy crisis should be considered as part of the overall program.

As I have said, both Houses are now actively examining this question. I do not think that this shot in the dark will aid in its thoughtful solution.

In a time of inflation and rising costs changes in the taxation of capital investment should reflect congressional consideration of their impact on the availability of capital and savings.

The administration has proposed a new form of minimum tax which it hopes will solve the high income tax problem, which this amendment does not address directly.

This and other solutions should be carefully considered instead of handling them on the floor with no real consideration by any member of the committee or of the Congress.

The amendment would introduce unwarranted complexity for low and middle income families. For example:

(i) 15% of the individuals affected would have adjusted gross incomes of less than $15,000.

(ii) 29% of the individuals affected would have adjusted gross incomes of less than $20,000.

(iii) 65% of the individuals affected would have adjusted gross incomes of less than $50,000.

Mr. KENNEDY. Mr. President, will the Senator yield at that point?

Mr. BENNETT. I yield.

Mr. KENNEDY. Mr. President, I listened to the Senator earlier describe the figures concerning who would be affected. I do not recognize the amendment that the Senator described.

Who are the low-income people who have accelerated depreciation on real property? Who are the ones who have accelerated depreciation on personal property subject to a net lease, or amortization of certified pollution control facilities, or amortization of railroad rolling stock, or stock options? Do they sound like low-income people? They do not. It is the low-income people who are suffering from the unfair tax burden the law requires today. The Senator from Utah has the responsibility to use figures that tell the story fairly.

Mr. BENNETT. The figures I have cited were given by the Treasury. I cannot think of any fairer source of figures.

The figures the Senator from Massachusetts is using are apparently based on the theory that those kinds of deductions are the only ones involved. There are many individuals in the low-income range who are involved in percentage depletion. The Treasury says that of the individuals affected by this amendment, 15 percent have incomes under $15,000; 29 percent have incomes under $20,000; and 65 percent, or approximatley two-thirds, have adjusted gross incomes of less than $50,000.

So this is not the way to handle the problem. This amendment does not reach the man who pays no taxes, but it puts a surcharge on many of the individuals in tax brackets from $15,000 to $50,000. They are the ones who are carrying the heaviest burden now.

I think the amendment should be rejected. It should be rejected with the understanding, which, as a member of the Committee on Finance, I am sure I can give to the Senator from Massachusetts, that the whole question of the impact of taxation on our present problems is going to be given the most serious consideration by the Committee on Ways and Means and the Committee on Finance.

I think that if the Senator from Massachusetts would like to have hearings on his proposal, the Committee on Finance would be very glad to oblige him. I do not think we should be legislating a major change of this kind on the floor of the Senate without having had a chance, really, to explore other possibilities. The very fact that the Senator from Utah has one set of figures and the Senator from Massachusetts has another is ample evidence to the Senator from Utah that we need reasoned hearings, based on prepared studies of the problem. We should not attempt to legislate this kind of program at this time in the afternoon when most Senators are not in the Chamber. Most Senators are unaware of the depth of the problem or its extent or its effect on middle-income taxpayers.

Mr. KENNEDY. The figures I am using are also Treasury figures. The point the Senator from Utah cannot get around is that in order to be required to pay a minimum tax, it is necessary for a taxpayer today to have more than $30,000 in tax preference income.

I wonder how many low-income elderly or blue-collar workers are going to have more than $30,000 in preference income in areas like accelerated depreciation on real property or personal property, or amortization of railroad rolling stock. They will have to have tax preferences in those areas, and the preferences will have to exceed $30,000, before they may be required to pay a minimum tax.

Let me point out one final thing. When we are talking about adjusted gross income levels, we are not telling the whole story either. You can be sure that a taxpayer whose adjusted gross income is $5,000 and who is paying a minimum tax today is using loopholes in the tax laws to keep his adjusted gross income down, so he pays less in regular taxes. Adjusted gross income figures can be extremely misleading, because they may conceal enormous tax preferences, especially in oil tax area.

Mr. President, for the record, I ask unanimous consent that a breakdown of the amendment by income groups may be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

DISTRIBUTION OF GAIN FROM INDIVIDUALS (1972 INCOME LEVELS)

1. Current Law:

| Adjusted gross income | Number of returns affected | Minimum tax |
|---|---|---|
| 0 to $3,000 | 1,000 | $11,000,000 |
| $3,000 to $5,000 | | |
| $5,000 to $7,000 | | |
| $7,000 to $10,000 | | |
| $10,000 to $15,000 | | |
| $15,000 to $20,000 | | |
| $20,000 to $50,000 | 6,000 | 7,000,000 |
| $50,000 to $100,000 | 8,000 | 18,000,000 |
| $100,000 and over | 17,000 | 154,000,000 |
| Total | 32,000 | 192,000,000 |

2. Elimination of deduction for taxes paid (note: 90% of the revenue gain from this provision would come from individuals with adjusted gross incomes of $100,000 or more):

| Adjusted gross income | Number of returns affected | Additional minimum tax |
|---|---|---|
| 0 to $3,000 | 1,000 | |
| $3,000 to $5,000 | | |
| $5,000 to $7,000 | | |
| $7,000 to $10,000 | | |
| $10,000 tc $15,000 | | |
| $15,000 to $20,000 | | |
| $20,000 to $50,000 | 11,000 | $4,000,000 |
| $50,000 to $100,000 | 22,000 | 28,000,000 |
| $100,000 and over | 30,000 | 299,000,000 |
| Total | 65,000 | 330,000,000 |

3. Reduction of exemption to $10,000:

| Adjusted gross income | Number of returns (affected) | Additional tax |
|---|---|---|
| $0 to $3,000 | 3,000 | $4,000,000 |
| $3,000 to $5,000 | 1,000 | 1,000,000 |
| $5,000 to $7,000 | | |
| $7,000 to $10,000 | 17,000 | 4,000,000 |
| $10,000 to $15,000 | 5,000 | 3,000,000 |
| $15,000 to $20,000 | 9,000 | 4,000,000 |
| $20,000 to $50,000 | 61,000 | 49,000,000 |
| $50,000 to $100,000 | 25,000 | 29,000,000 |
| $100,000 and over | 21,000 | 38,000,000 |
| Total | 142,000 | 132,000,000 |

4. Elimination of deduction for taxes paid and reduction of exemption to $10,000 (because the provisions interest, the effect of the two provisions combined is greater than the sum of the effect of the provisions taken separately):

| Adjusted gross income | Number of returns affected | Additional minimum tax |
|---|---|---|
| 0 to $3,000 | 3,000 | $4,000,000 |
| $3,000 to $5,000 | 1,000 | 1,000,000 |
| $5,000 to $7,000 | | |
| $7,000 to $10,000 | 17,000 | 4,000,000 |
| $10,000 to $15,000 | 19,000 | 5,000,000 |
| $15,000 to $20,000 | 39,000 | 11,000,000 |
| $20,000 to $50,000 | 98,000 | 92,000,000 |
| $50,000 to $100,000 | 56,000 | 100,000,000 |
| $100,000 and over | 40,000 | 368,000,000 |
| Total | 273,000 | 585,000,000 |

Mr. BENNETT. The Senator from Utah is confused. I carefully checked with the desk, and understand the Senator's amendment reduces that preference income from $30,000 to $10,000.

Mr. KENNEDY. The Senator is correct.

Mr. BENNETT. All right.

Mr. KENNEDY. The Senator is quite correct.

Mr. BENNETT. The Senator from Massachusetts says that in order to get involved in this, the taxpayer has to have——

Mr. KENNEDY. Under this amendment we would reduce the exemption in the minimum tax from $30,000 to $10,000. What it means is that the blue collar worker has to have $10,000 in tax preference income before he could even start to owe a minimum tax.

Mr. BENNETT. I wanted the Senator to say that because in his previous statement, made about 5 minutes ago, he talked about $30,000.

Mr. KENNEDY. That is the way it is now. That is the way it is at the present time, and we want to change it.

Mr. BENNETT. Then you cannot—well, there is no use arguing the misunderstanding between us, but it is perfectly clear to me that as the Senator talked, he was talking about his amendment and not the present law, and I am glad to straighten it out that the Senator's amendment reduces the amount of tax preference income necessary to qualify from $30,000 to $10,000.

Mr. MUSKIE. Mr. President, just a moment or two to cover several points raised by the Senator from Utah in a different way.

First of all, I am curious that the Senator says he had no warning as to this amendment, and yet he has given us Treasury figures as to its impact. He obviously had enough time to get the Treasury's evaluation of the impact of this amendment, and that puts his complaint in some perspective.

Second, the Senator from Massachusetts and I sent every Member of the Senate a letter dated December 14 of last year, putting every Senator on notice that we would offer this amendment to this very bill. So there has been at least 5 weeks' notice, to all Senators. If the Senator from Utah reads his mail from Democratic Senators, he has been aware of this since December 14.

With respect to the impact on low-income groups, I think it is ridiculous to suggest, from reading the preferences that are covered, that there is any significant impact from this amendment on the low-income taxpayer in this country.

I am not going to belabor that point, but let me read from the table placed in this RECORD last year of the benefits in each adjusted gross income class of the preferences about which we are talking.

Let us take the oil depletion allowance, which the Senator from Utah would now have us believe protects the low-income taxpayer in this country. I read from the table on page 41563 of the CONGRESSIONAL RECORD for last year, which is based on figures prepared by the Treasury Department and the Joint Committee on Internal Revenue Taxation.

For those who have an income up to $3,000, the benefit is 6 cents per person. From $3,000 to $5,000, the benefit is 50 cents. From $5,000 to $7,000, 45 cents. From $7,000 to $10,000, 87 cents.

When you get up to $10,000 and over, the benefit rises to $1,150.23.

The argument, I think, is ridiculous on its face. I would enjoy hearing the reaction of any group of citizens in my State to the Senator from Utah, if he were to make the argument anywhere in my State, that the average citizen, who is now paying exorbitant prices for heating oil, could offset against the oil depletion allowance benefits he receives. I am surprised that the Senator would make such an argument.

Mr. BENNETT. The Senator from Maine should realize that, when you argue national averages, you get the kind of figure he gets. But buried in that national average is a substantial number—I do not know how many, because we do not have that kind of people in Utah; we do not have private holders of oil lands——

Mr. MUSKIE. Let me say to the Senator, I understand what——

Mr. BENNETT. Will the Senator let me finish? I have the floor.

Mr. MUSKIE. When you take a penny or two from each taxpayer——

Mr. BENNETT. Mr. President, who has the floor?

Mr. MUSKIE. Well, it is on my time, but I will be glad to let the Senator finish.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Buried in that figure are various individuals of fairly low income who are going to be hurt. We have heard a lot in the last few days about the value of opening up the stripper wells which are producing only 10 to 18 barrels of oil a day. Some of those are owned by people of fairly low income. But, of course, when you bury them in 100 million people, you get a figure like 5 or 6 cents. That is the weakness of arguing from averages.

Mr. MUSKIE. Let me try another one on the Senator. The impact of this amendment on the oil depletion allowance is a decrease of at most 1 percent. Is that the group the Senator has in mind?

Mr. BENNETT. That is still arguing the average, and I am concerned about the individual taxpayers.

Mr. MUSKIE. May I say to the Senator, I prefer my generalization, which assumes that the bulk of the benefit of these preferences goes to taxpayers with incomes of $100,000 or more, to the Senator's generalization, which says the benefit is to those at the bottom of the ladder. As between those two generalizations, I think the record supports that of the Senator from Maine.

Mr. BUCKLEY. Mr. President, once again, Mr. President, I find myself compelled to vote against an amendment of which I generally favor because it has not been subjected to the scrutiny of the Finance Committee. It is my understanding, after discussion with two members of that committee, that the Kennedy-Muskie amendment has a significant indirect impact on other tax provisions that requires more study than is possible in a few moments of debate before a largely empty Chamber.

The PRESIDING OFFICER (Mr. DOMENICI). The question is on agreeing to the amendment of the Senator from Massachusetts. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from North Carolina (Mr. ERVIN), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alabama (Mr. SPARKMAN), and the Senator from California (Mr. TUNNEY), are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) and the Senator from New Jersey (Mr. WILLIAMS) are absent on official business.

I further announce that, if present and voting, the Senator from Indiana (Mr. HARTKE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Indiana (Mr. BAYH), would each vote "yea."

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Colorado (Mr. DOM-

NICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

I also announce that the Senator from New York (Mr. JAVITS) is absent on official business.

I further announce that, if present and voting, the Senator from New York (Mr. JAVITS) would vote "yea."

The result was announced—yeas 47, nays 32, as follows:

[No. 12 Leg.]

YEAS—47

Abourezk
Aiken
Allen
Baker
Bible
Brock
Brooke
Byrd, Robert C.
Case
Chiles
Church
Clark
Cook
Cranston
Domenici
Fulbright
Hart
Haskell
Hatfield
Hathaway
Huddleston
Hughes
Jackson
Kennedy
Magnuson
Mansfield
Mathias
McGovern
Metcalf
Metzenbaum
Mondale
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Ribicoff
Schweiker
Stafford
Stevenson
Symington
Taft
Weicker

NAYS—32

Bartlett
Beall
Bennett
Bentsen
Buckley
Burdick
Byrd,
Harry F., Jr.
Cotton
Curtis
Dole
Eastland
Fannin
Fong
Gravel
Griffin
Gurney
Hruska
Johnston
Long
McClellan
McClure
McGee
Montoya
Percy
Roth
Scott, Hugh
Scott,
William L.
Stennis
Stevens
Thurmond
Tower
Young

NOT VOTING—21

Bayh
Bellmon
Biden
Cannon
Dominick
Eagleton
Ervin
Goldwater
Hansen
Hartke
Helms
Hollings
Humphrey
Inouye
Javits
McIntyre
Randolph
Sparkman
Talmadge
Tunney
Williams

So Mr. KENNEDY'S amendment (No. 920) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MUSKIE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, last year, the Committee on Finance reported to the Senate H.R. 8214, a revenue measure involving a revenue loss from present low of approximately $22 million.

The way this bill stands now, the Government would lose about $6 billion net this calendar year. It would gain about $900 million and would lose about $7 billion.

It is obvious that the Senate is in a mood that it wants to think in terms of a tax reform bill. We have other amendments to be offered, involving billions of dollars. Those matters should at least be dignified by some consideration in hearings, where those in favor of them as well as those who oppose them could make their views known.

Therefore, I move that the bill be recommitted to the Committee on Finance.

Mr. KENNEDY. Mr. President, I indicated yesterday that there were a number of provisions giving special tax benefits that were added to this measure. I felt they had not been adequately considered. I think a number of other Members—the distinguished Senator from Wisconsin and the distinguished Senator from Maine (Mr. HATHAWAY), raised a number of very valid and worthwhile questions on these various provisions. Many of us felt these provisions could establish a very dangerous precedent in the tax code. We were unable to find out who the beneficiaries of these special provisions were. Although we received some information as to the impact on the Treasury, I thought it was quite incomplete.

At the beginning, I was prepared myself to offer a motion to recommit. Since that time, a number of changes have been made in the bill. One objection provision was deleted. This afternoon, the Senate has approved two extremely important and vital policy matters, in increasing the personal tax exemption to $850, to provide some relief to millions of taxpayers and to stimulate the economy; and now we have just taken an extremely important step in providing tax equity, by reforming the minimum tax and closing perhaps the largest loophole in the Federal Tax Code.

There has been very strong support by the Senate for both of these amendments. If held in the conference—and I believe the overwhelming majority of the Members of the House of Representatives would support these programs—they could mean some dramatic relief to the middle-income people and those who are paying heavy taxes at this time. And it would make an extremely important contribution toward our economic policy, hopefully by staving off a recession.

So I am extremely hopeful, Mr. President, that the motion by the distinguished chairman of the Committee on Finance will not be adopted. I realize the prerogative of the chairman of a committee to make this motion. I hope the strong actions we have taken on these matters, which are of vital importance to the people of this country, will not be sidetracked by recommitting the bill to the committee. I will not make a motion to table. I think the chairman is entitled to make this motion, but I hope it will be defeated.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

The question is on agreeing to the motion of the Senator from Louisiana (Mr. LONG) to recommit. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from North Carolina (Mr. ERVIN), the Senator from Indiana (Mr. HARKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Rhode Island (Mr. PASTORE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alabama (Mr. SPARKMAN), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE), and the Senator from New Jersey, (Mr. WILLIAMS) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) and the Senator from West Virginia (Mr. RANDOLPH) would each vote "yea."

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. AIKEN), the Senator from Oklahoma (Mr. BELLMON), the Senator from Kentucky (Mr. COOK), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

I also announce that the Senator from New York (Mr. JAVITS) is absent on official business.

I further announce that, if present and voting, the Senator from New York (Mr. JAVITS) would vote "yea."

The result was announced—yeas 48, nays 27, as follows:

[No. 13 Leg.]

YEAS—48

Allen
Baker
Bartlett
Beall
Bennett
Bentsen
Bible
Brock
Buckley
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Chiles
Clark
Cotton
Curtis
Dole
Domenici
Eastland
Fannin
Fong
Fulbright
Gravel
Griffin
Gurney
Hruska
Hughes
Long
McClellan
McClure
McGee
Moss
Nunn
Packwood
Pearson
Percy
Proxmire
Roth
Scott, Hugh
Scott,
William L.
Stafford
Stennis
Stevens
Taft
Thurmond
Tower
Weicker
Young

NAYS—27

Abourezk
Brooke
Case
Church
Cranston
Hart
Haskell
Hatfield
Hathaway
Huddleston
Jackson
Kennedy
Magnuson
Mansfield
Mathias
McGovern
Metcalf
Metzenbaum
Mondale
Montoya
Muskie
Nelson
Pell
Ribicoff
Schweiker
Stevenson
Symington

NOT VOTING—25

Aiken
Bayh
Bellmon
Biden
Cannon
Cook
Dominick
Eagleton
Ervin
Goldwater
Hansen
Hartke
Helms
Hollings
Humphrey
Inouye
Javits
Johnston
McIntyre
Pastore
Randolph
Sparkman
Talmadge
Tunney
Williams

So Mr. Long's motion to recommit was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. GRIFFIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## ORDER FOR ADJOURNMENT

Mr. MANSFIELD. At this time, Mr. President, I ask unanimous consent when the Senate adjourns today, it adjourn to the hour of 10:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Later in the day this order was changed to provide for the Senate to adjourn until Monday, January 28, at 12 noon.)

## LEGISLATIVE PROGRAM

Mr. GRIFFIN. Mr. President, if we may have order, after spending 2 days considering the very meritorious bill to grant needed tax relief to prisoners of war and then recommitting it to committee, I wonder if I might ask the distinguished majority leader whether he expects that there will be any more votes today and about the program for the rest of the day and hopefully for the rest of the week.

Mr. MANSFIELD. Mr. President, I will be delighted to answer the Senator's question.

May I say that there will be no further votes today because there is no pending business except the energy emergency bill, S. 2589.

Mr. President, it is anticipated that at approximately 11 o'clock tomorrow morning the Senate will take up the conference report on S. 2589. I understand that the distinguished chairman of the committee, the Senator from Washington (Mr. Jackson) will have some remarks to make at that time. There may be others.

A cloture motion will be filed tomorrow which will become effective on Tuesday if conditions warrant it.

Under the agreement entered into last year, Calendar No. 471, S. 2686, the so-called Legal Services bill will be laid before the Senate as the first order of business after the vote on cloture on Monday next. That was the will of the Senate at that time. It will be honored.

Then, depending upon circumstances, it is hoped that it will be possible to at least start debate on the so-called Genocide Treaty late Monday afternoon. That will entail considerable discussion.

That is about it as far as I can see at this time.

Mr. BENNETT. Mr. President, will the Senator yield for a question?

Mr. MANSFIELD. I yield.

Mr. BENNETT. Does that mean then that there is no prospect of a vote on tomorrow?

Mr. MANSFIELD. I do not think there is, barring unforeseen circumstances. I know of no one who desires to do anything other than talk. And the only one that I know at this time who wishes to talk is the distinguished Senator from Washington (Mr. Jackson). Perhaps the ranking minority member of the committee, the Senator from Arizona (Mr. Fannin), can give us some indication on that matter.

Mr. FANNIN. I would say to the distinguished majority leader that I am surprised about the cloture motion because I do not know of any reason for a cloture motion.

I do not know what the objective would be. As far as I know, there has not been any discussion yet, and here we are talking about a cloture motion before we even discuss the matter, and as far as I know, I can only speak for myself, but I have inquired as to whether or not we had others who intended to have lengthy debate or filibuster, or whatever you want to call it on the matter, and I do not know of anyone. We have one Senator whom the distinguished majority leader mentioned, and as soon as we can clear that, I would not see any reason for filing a cloture motion.

Mr. MANSFIELD. I would hope it would be possible to bring this matter to a conclusion on Monday. We cannot do it this week. The cloture motion was made by the Senator from Montana at the request of another Senator who is absent.

Mr. LONG. Mr. President, I am sure the majority leader will do whatever his conscience dictates, but I wish he would reconsider his desire to file a cloture motion, because when Senators hear that a cloture motion has been filed, they get the impression there will not be any votes for 2 days, and that they can come back in 2 days, vote on the cloture motion, and if it carries, they vote on the bill. So when a cloture motion is filed, Senators leave town and come back 2 days later.

I hope we will be able to finish with the conference report tomorrow, but to file a cloture motion means everyone will take off for 2 days. For my part, I would like to see us just talk about the matter briefly and vote on it tomorrow, one way or the other, up or down.

Mr. MANSFIELD. Would the Senate consider this possibility—and I am doing it on my own initiative; I would like to check with the distinguished Senator from Washington, Mr. Jackson——

Mr. President, I ask unanimous consent to vote on the conference report at 2 p.m. on Monday next.

Mr. LONG. Mr. President, reserving the right to object, would the Senator be so kind as to make some kind of unanimous-consent request to give Senators a right to make motions—for example, a motion to recommit—or do something other than just vote on the conference report? Because there are some who might want to move to recommit with instructions, or do something other than just vote on the conference report, and after having a chance to vote on a motion or two, I think most Senators would be willing to vote on the conference report.

Might I suggest to the Senator that he might say, if we are coming in tomorrow at 10 o'clock——

Mr. MANSFIELD. 10:30.

Mr. LONG. That he make his hour 4 o'clock?

Mr. MANSFIELD. Four o'clock Monday?

Mr. LONG. And that would give those who wish to make motions time to vote, and if any motion has not been disposed of, we can vote on the motion before we vote on the conference report.

Mr. MANSFIELD. Four o'clock Monday.

Mr. ALLEN. Four o'clock Friday.

Mr. MANSFIELD. No, 4 o'clock Monday, because we have given our word to Senators on both sides who have left, and once we do that, we have to honor it.

Mr. FANNIN. Mr. President, if the Senator will yield, the Senator from Washington, the chairman of the Committee on Interior and Insular Affairs, I think, has a commitment. I think he wanted to vote about 4 o'clock. Is that the understanding?

Mr. MANSFIELD. That is what the Senator from Louisiana indicated, 4 o'clock.

Mr. LONG. As long as you set any time for a vote, you can always move it forward, if there is no one who wants to talk.

Mr. MANSFIELD. Would the Senator allow me to put in a brief quorum call, so that we can get this matter cleared up once and for all, maybe?

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Haskell). Without objection, it is so ordered.

## ORDER FOR VOTE ON ENERGY EMERGENCY CONFERENCE REPORT TO OCCUR AT 4:30 P.M. ON TUESDAY, JANUARY 29, 1974

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on the energy emergency conference report, S. 2589, occur at the hour of 4:30 p.m. on Tuesday next, and I ask unanimous consent that rule XII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR VACATING OF CLOTURE MOTION NOW PENDING

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the cloture motion now pending be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR ADJOURNMENT TO MONDAY NEXT

Mr. MANSFIELD. Mr. President, for the information of the Senate, I wish to change at this time the agreement to come in tomorrow and I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 12 o'clock noon on Monday next.

The PRESIDING OFFICER (Mr. METZENBAUM). Does the Senator wish to include in the motion that he made in his unanimous consent, the agreement that other motions be in order?

Mr. MANSFIELD. Yes; that other motions be in order; and that the final vote occur at 4:30 which, if there is a desire to recommit, that can be offered ahead of that time.

The PRESIDING OFFICER. That is the understanding.

Without objection, and it is so ordered.

## THE ENERGY EMERGENCY ACT CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on Tuesday next the time be equally divided, beginning at 12 o'clock noon, between the distinguished Senator from Washington (Mr. JACKSON), the chairman of the committee, and the distinguished Senator from Arizona (Mr. FANNIN), the ranking Republican member of the committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the unanimous consent agreement is as follows:

*Ordered,* That the vote on the conference report on S. 2589, the "National Energy Emergency Act of 1973," occur at 4:30 p.m. on Tuesday, January 29, 1974, unless some disposition is made of the conference report by the adoption of some other motion.

*Ordered further,* That the time between 12 noon and 4:30 p.m. on that day will be equally divided and controlled by the Senator from Washington (Mr. JACKSON) and the Senator from Arizona (Mr. FANNIN), respectively.

Mr. LONG. Mr. President, during the past several days, the Finance Committee has been conducting hearings on the windfall profits aspect of the Energy Emergency Act. It demonstrates what some of us have feared, that the proposal would do a great deal more harm than good. It would be impossible to administer. It would create uncertainty on behalf of all those who wish to invest their money in helping to provide more energy for the country in the area of oil and gas. It would either be repealed before it went into effect or else it would be declared unconstitutional by the Supreme Court of the United States.

Because of the many problems that this matter creates, Mr. President, I believe the Senate should be on notice that it places itself in a very difficult situation for which it will necessarily find a compelling requirement to extricate itself at some future point, if it votes the conference report through with the so-called renegotiation or windfall aspects of the bill as it comes to us.

I ask unanimous consent, Mr. President, to have printed in the RECORD excerpts from statements from former Commissioners of Internal Revenue, and from men who have served as Under Secretaries in charge of Treasury tax policy, and as counsel for the IRS, as well as a member of the Renegotiation Board.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

### WINDFALL PROFITS HEARINGS EXCERPTS

The Committee on Finance invited former high officials of the Treasury Department, concerned with the administration of tax laws, to testify on a windfall profits tax proposal based on the definition of windfall profits in S. 2589. These former officials were asked to comment on the administrative problems which would be created if such a vague standard were enacted, and they were asked, as tax practitioners, what kind of advice they would give a company to which the tax would apply. Excerpts from the testimony of these witnesses are set forth below.

#### GENERAL COMMENTS

"For reasons discussed before, the proposed 'windfall profits' tax is not a suitable solution: it is erratic and inequitable in application, and complex and costly to manage."—Mortimer Caplin, former Commissioner of IRS.

"I do not believe it feasible to give adequate guidance to administrative officials, taxpayers or the courts on a subject of such complexity in a statute that is as brief and vague as the one proposed."—Edwin S. Cohen, former Undersecretary of the Treasury for Tax Policy.

"While it is possible to develop a reasonable windfall or excess profits tax applicable to energy companies which preserves and even increases the incentive for development of new energy sources, the form of tax under consideration today is wholly unsatisfactory. Similarly, the recapture of windfall profits by the renegotiation process, as contemplated in section 110 of S. 2589, the proposed Energy Emergency Act, would be an equally poor system. These particular proposals are probably unconstitutional because of their uncertain application. They would greatly discourage new capital investment in energy development because of this extraordinary uncertainty that they would create. Finally, they are totally unadministrable, either through our tax administration structure or the renegotiation process."—John S. Nolan, former Deputy Assistant Secretary of the Treasury.

"In addition to the administrative and litigation problems, enactment of a 'windfall' profits tax presents other serious problems. It seems clear today that we ought to be finding and developing new and greater sources of energy, in other words, encouraging development, exploration, and research. A 'windfall' profits tax certainly will not do this. Instead, it will discourage investment of dollars, effort, and time. Those who otherwise might make significant investments to improve our energy supplies without doubt will be dissuaded to some extent by the 'windfall' profits tax. Even if an energy corporation is willing to do what patriotism suggests, i.e., live with non-windfall profits, the necessity to justify actions will have a chilling effect on corporations. Unquestionably, this will delay needed action—just the opposite of the Nation's critical need."—Johnnie M. Walters, former Commissioner of IRS.

"Finally, the difficulties foreseen in the administration of the proposed excess profits tax pale into insignificance compared with the renegotiation provisions of S. 2589. The excess profits tax would be applied in the first instance by the taxpayer in filing his return. Thereafter, it would be audited by the Internal Revenue Service. Unresolvable differences could end in litigation. Under the renegotiation provisions, however, any purchase of petroleum products could initiate an appeal directly to the Renegotiation Board with no screening processes whatsoever. The Board could be swamped. Its decisions would be subject to judicial review. It seems probable that issues raised in this manner would be tied up in litigation long after the present crisis had subsided and little but confusion would have been contributed to the resolution of the crisis."—Randolph W. Thrower, former Commissioner of IRS.

"In my view, this proposed statute unhappily combines the vagueness of the Renegotiation Act of 1951 (from which the factors enumerated in determining a 'reasonable profit' were derived) with the basic unfairness of a base period income excess profits tax.

"One need only consult the Tax Court reports on renegotiation cases to see that a 'reasonable profit' is simply a matter of opinion, regardless of how many underlying factors are enumerated."—Crane C. Hauser, former Chief Counsel, IRS.

#### ADMINISTRATIVE PROBLEMS

"As indicated earlier, what is 'a reasonable profit'? What are reasonable costs? And who can determine satisfactorily the true efficiency of an energy corporation at any time, and particularly during a period of crisis?"

* * * * *

"The determination of 'windfall' profits in many cases will not be easy. In fact, only in the simplest of cases will it be easy. For instance, where an 'energy corporation' derives some income from sale of energy products and some from production or sale of other products, it may be difficult, or even impossible, to ascertain what profits, if any, should be subjected to the 'windfall' profits tax. While the accounting profession has developed the specialty of cost accounting, the profession does not acclaim the specialty as a science. At best it is an art, and certainly not one on which to base an 85% tax!

"The kinds of subjective questions the proposed tax will raise (reasonable profit, extent of risk, efficiency, etc.) can only result in serious problems of administration and litigation. * * * Does the provision apply where the corporation generates and uses energy or energy products, without sales to others? And does the restriction of profits to 'reasonable profits' raise a constitutional question? It may."—Johnnie M. Walters, former Commissioner of IRS.

"Such a tax would call for income determinations by product lines, since the products of energy corporations extend far beyond the usual concept of 'energy products', particularly in petrochemicals and chemical and plastic products. Our tax system has never been required to determine taxable income by product lines, and it cannot readily be done. Few, if any, companies have product accounting which would provide profit data according to product lines which coincide with the concept of 'energy products'. Product accounting requires proper *intra*-company pricing between one division and another, as where the oil refining division sells refined products as raw materials to the chemical division, a determination which may be extremely difficult to make and is beyond the present scope of our section 482 *inter*-company pricing regulations.

"Since the proposed tax would require such determinations for the past period 1967–1971, both on an industry-wide basis and for each particular taxpayer, as well as for future years, and since such data could not be developed, the tax would not be administrable."—John S. Nolan, former Assistant Secretary of the Treasury.

"In determining a 'reasonable profit' of a particular seller, consideration would have to be given to 'the reasonableness of its costs and profits, with particular regard to the amount and source of capital employed,' 'extent of risk assumed,' 'efficiency and productivity, particularly with regard to cost reduction techniques and economics of operation,' and 'other factors the consideration of which the public interest and fair and equitable dealing may require.' What an awe-inspiring responsibility! Whereas today we have an energy administrator, tomorrow under this proposal the Commissioner of Internal Revenue would become an 'energy industry czar.' "—Mortimer Caplin, former Commissioner of IRS.

"The formula provided in S. 2589 and incorporated in the excess profits tax provision in the press release would seem deficient in several respects including the following:

"1. It is unprecedented in establishing profits of a base period as a maximum standard for current profits. It authorizes the administrator, by referring to a number of vague generalities, to reduce the standard of normalcy provided by the base period. Excess profits tax provisions traditionally have established the base period as a minimum standard, with a possible upward adjustment due to equitable considerations peculiar to the taxpayer or the segment of his particular industry. The factors listed in Paragraph (b) (7) of the proposed windfall profit tax are of the type which should be referred to as a justification, in the public interest or in the interest of treating equitably the taxpayer or seller, for increasing the base period standard rather than reducing it.

"2. The proposed formula is vague and uncertain in referring to 'average profit' of the base period. Does this mean average profit in terms of absolute dollars? This would be determinable for a single operator but not for the entire industry which has a wide range in the size of sellers. Does it then refer to a margin of profit as related to gross sales or units produced or sold or does it refer to return on investment? If all measures are referred to, which would control, the one most favorable to the taxpayer or the least favorable one?"—Randolph Thrower, former Commissioner of IRS.

"As contrasted with the brief 'windfall profits' tax provision being considered by the Committee today, the Korean War excess profits tax—which was drafted with care in the light of the experiences with the World War I and II taxes—contained 35 lengthy sections that were necessitated by the complexity of the subject matter. While the Korean War excess profits tax dealt with substantially all business corporations, whereas the proposed tax would deal only with sales of 'energy products' by 'energy corporations,' it would seem that most of the same problems would exist in this narrower segment; and they would be compounded by the necessity of determining separately the profits on energy products sold by corporations which are also engaged in the sale of other goods and services. I do not believe it feasible to give adequate guidance to administrative officials, taxpayers or the courts on a subject of such complexity in a statute that is as brief and vague as the one proposed."—Edwin Cohen, former Under Secretary of the Treasury.

"While I do not intend for a minute to deprecate the efforts of the Renegotiation Board, which must, of course, administer the law as it finds it, the lack of any precise rules as to how the various factors enumerated—such as reasonableness of cost and profits, volume of production, net worth, risk, and efficiency—are to be taken into account, make any objective determination of excessiveness of profits virtually impossible to attain. The lack of adequate guidelines for applying and weighting the statutory factors was the subject of criticism in a report by the Comptroller General to the Congress on the Renegotiation Board last May. The Comptroller General said that as a result it was unable to evaluate the reasonableness of the Board's determinations. Even if authority were to be granted to the Renegotiation Board, with its familiarity with such standards to determine excessiveness of profits, it is quite apparent that extended litigation would ensue—just as it has under the Renegotiation Act—before the amount of excessive profits of many companies would finally be determined."—K. Martin Worthy, former Chief Counsel, IRS.

"The single most important element of such a system is a law which a taxpayer can understand and apply to his own affairs—sufficiently clear and well defined to give him distinct pause at the thought of noncompliance. Stated somewhat differently, if the system is to work, a taxpayer ought to be on notice of what would constitute noncompliance. The proposed Windfall Profits Tax is utterly deficient in this respect. It fails to provide a workable premise for self-assessment, even by the most sophisticated corporate taxpayers. By failing to prescribe adequate standards by which even major corporate taxpayers can compute and report their liability, it erodes the very foundation of our tax system, by courting—and perhaps even inviting—massive noncompliance."—Charles W. Davis, former Chief Counsel of IRS.

### ADVICE TO ENERGY CLIENTS

"With a 'windfall' profits tax, we can expect two basic approaches by those subject to the tax:

"(1) *Longrun:* To the extent feasible delay actions requiring investments necessary to meet and resolve the energy crisis until the 'windfall' profits tax expires.

"(2) *Shortrun:* Bill and charge conservatively in order to avoid the 'windfall' profits tax in order to avoid controversy and to avoid adverse public relations. (This means investors will keep their funds out of the very corporations needing them to meet and solve the crisis, i.e., the energy corporations will be weakened.)

"Thus, both the short-run and the long-run effect of a 'windfall' profits tax are counter to what the Nation needs, i.e., a great enthusiastic charge to discover and develop new and greater energy sources for the decades ahead."—Johnnie M. Walters, former Commissioner of IRS

"I would feel obligated to counsel my clients to challenge in court the constitutionality of the statute; to challenge in court the validity of regulations and rulings interpreting its scope and attempting to amplify the statutory factors; and to challenge in court any determination of windfall profits. I would advise my clients that no reliable estimates of profitability or rate of return on investment for new capital expenditures could be made, at least for a number of years until the application of the statute in operation could be determined. In my judgment, this would greatly inhibit new capital investment for the purpose of expanding energy reserves—particularly in such vital projects as recovery of oil reserves from tar sands and oil shale, gasification of coal, use of thermal and steam energy resources, and similar projects."—John E. Nolan, former Assistant Secretary of the Treasury

"In each instance, judgments would then have to be made on the possible existence of 'windfall profits' and the prudence of making commitments notwithstanding the threat of the 85% penalty tax. Differences of interpretation, and potential controversy and litigation, would always be lurking in the background.

"Until final Treasury regulations were adopted, therefore, lawyers would tend to proceed with extreme caution and would normally prefer to give only tentative advice. Even with final regulations, the statute would not lend itself to clearcut decisions, and advice to clients would in all probability have to contain numerous qualifications.

"In these circumstances, management would undoubtedly proceed with similar caution in making final investment decisions."—Mortimer Caplin, former Commissioner of IRS.

"One must assume that the client has the choice whether or not to risk his investment in an area covered by the excess profits provisions. Additional investment will be determined by the return (perhaps, depending on the definition of 'profits,' including cash throw-off from percentage depletion) on marginal capital invested, not by the overall average return. The 85% tax rate may be too high to leave sufficient capital for reinvestment by petroleum producers. Moreover, the use of base period profits as a maximum return, without regard to inflation, impact of the devaluation of the dollar, extent of new investment or marginal risks in the present emergency, combined with the vast uncertainties of the language, might constitute too great a disincentive to new investment. Ultimately these are questions for economists rather than lawyers, but one would tend to advise a client to look elsewhere for investment opportunities."—Randolph W. Thrower, former Commissioner of IRS.

"At least until appropriate guidelines had been developed and published, it would be most difficult to advise an energy corporation with respect to proposed capital investments. Inability of the companies to ascertain the effect of capital investments under an 85 percent rate would seem to provide a serious deterrent to development of additional production and capacity, which is a prime objective in the energy program."—Edwin Cohen, former Under Secretary of the Treasury.

### CONSTITUTIONAL AND OTHER COMMENTS

"Against this background, several conclusions may be drawn. If implemented through the renegotiation process, such a system would probably be unconstitutional. The renegotiation statutes have traditionally provided for recapture of excessive profits on contracts with the Government, principally defense-related. They have not applied to affect dealings wholly between private parties. Their constitutionality was upheld on the basis of the war powers of Congress. *Lichter* v. *United States*, 334 U.S. 742 (1948). Where the Government's interest is far less direct, as where the transactions are wholly between private parties, the proposed system would involve an unconstitutional delegation of Congressional power, or a taking of property without due process of law, because of the vagueness of the statutory standards and concepts."—John S. Nolan, former Assistant Secretary of the Treasury.

"For reasons discussed before, the proposed 'windfall profits' tax is not a suitable solution: it is erratic and inequitable in application, and complex and costly to manage. An alternative approach is called for—either through different new methods of taxation or, perhaps through modification, reduction or elimination of existing tax benefits available today to various elements of the energy industry. In making its decision, Congress clearly will want to procure and consider data on energy inventories, production, costs, reserves, sources of supply, and quantities sold. Undue haste could lead to unwise layering of the Internal Revenue Code with additional complexity."—Mortimer Caplin, former Commissioner of IRS.

"It would seem clear, Mr. Chairman, that the enactment of legislation determining excessive profits in the manner set forth in the proposed legislation before the Committee today would create not only great inequity to many companies—and by the same token, windfalls to others—but also tremendous administrative problems and almost endless litigation. which could be expected to ensue for a long period to come."—K. Martin Worthy, former Chief Counsel, IRS.

"An eminent authority in the field of Federal taxation has observed that the 'the excess profits tax is an excrescence of crisis. Typically it has been one element in an emergency fiscal program designed for a mobilizing economy." (Mertens, Law of Fed-

> eral Income Taxation, Introd. V. 6A.) Judges who have been required to consider the provisions of the Excess Profits Tax Act of 1960 have observed that it is perhaps the most intricate and baffling enactment ever to receive Congressional approval. Accordingly, it may be appropriate to evaluate the current proposed windfall profits tax in the light of the most recent experience of the Congress in the imposition of the Excess Profits Tax Act of 1950.
>
> "Although that law was enacted during a period of approximately 6 weeks, from the beginning of hearings in the House Committee on Ways and Means to its signature by the President, there was a consistent tneme expressed by witnesses before the tax writing committees and by committee membership that the standards for computation of excess profits subject to the excess profits tax should be explicitly stated in the statute, with much less reliance upon vague generalities than had been the case under the World War II Excess Profits Tax."—Charles W. Davis, former Chief Counsel of IRS.

Mr. LONG. Mr. President, it would seem to me that the Senate would want to think long and hard about passing into law a provision which has so many defects and so many shortcomings that the best argument that can be made for it is that if it is passed, it will be so bad that the Senate will find it necessary to act again in this area.

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## IN OPPOSITION TO SECTION 110 OF THE ENERGY EMERGENCY BILL

Mr. BENTSEN. Mr. President, earlier this week I stated my opposition to section 110, the so-called windfall profits provision, of this bill. I oppose it not because I favor windfall profits for any industry. No industry, no company, no individual should be allowed to make unconscionable profits from the troubles of this country.

But I do not want to see the Congress pass a provision which would fail to accomplish its purpose and would further aggravate the fuel shortage during 1974.

The Finance Committee has just completed 2 days of hearings where former Commissioners of the Internal Revenue Service, former Treasury officials, and the present Deputy Secretary of Treasury and Administrator of the Federal Energy Office told us that whatever the intentions of section 110, it is administratively unworkable.

In addition to those very expert witnesses in the tax field, a former general counsel of the Renegotiation Board, which would be responsible for enforcing the provision, testified that the procedure established under section 110 "defies understanding" and that the windfall profits definition is "impossible." As a former general counsel, who still practices before the Board, he testified the Board has never attempted anything like the determinations contemplated in this provision and has no expertise to do so. He said, and I will quote him directly:

> I would hope, Mr. Chairman, that you personally and the Committee generally would prevail upon the Congress and the Senate *not* to accept this, because I think it would be a terrible burden on the Renegotiation Board.

We heard some very harsh judgments on the enforceability of section 110 of this bill, but frankly those judgments should be obvious to anyone who has read the legislation. Section 110 provides for separate price determinations for every seller of petroleum products whose profits are challenged by an interested party. I asked the Library of Congress to compile some figures on the number of sellers of petroleum in this country.

There are between 10,000 to 12,000 companies involved in crude oil production, 129 firms managing about 250 refineries, 14,000 petroleum jobbers, 26,000 bulk storage facilities, and 220,000 gas stations, 70 to 80 percent of which are independently owned and operated.

Now I believe we will be doing the citizens of this country and ourselves a great disservice if we pass a provision which calls for one board in Washington to determine individual prices for every one of 278,000 sellers of petroleum which an "interested party" believes is reaping windfall profits. The Board would be buried in cases. Complaints would go unheard. And litigation would be endless.

And not only would the windfall profits provision be rendered meaningless, Secretary Simon testified in response to my question, that individually set prices for petroleum sellers would make the whole energy allocation program upon which the entire health of our economy depends impossible to administer.

Too many Americans already believe their Government is unable to deal effectively with the problems we must confront. I believe passing a provision which purports to deal with windfall profits but which even some of the proponents recognize poses problems of this magnitude can only contribute to the current lack of confidence.

In addition to section 110 failing to accomplish its intended purpose, I am very concerned about the adverse impact of the provision on petroleum production and investment during 1974. The provision is not effective until 1975 but if it does go into effect it will be retroactive to 1974 profits.

As a result of higher crude oil prices, domestic producers are receiving more today for their present level of production than they were during the base period provided in section 110. To the extent their costs have not increased as fast as oil prices they are already over the profit margin allowed and for every barrel of increased production they sell this year they will be that much more over the allowed margin. This provision actually prohibits increased production during 1974 for most producers.

While some may argue this provision is so bad that it should be obvious to anyone that it must be repealed and replaced by a more reasonable provision, the companies and individuals involved cannot make that kind of assumption. The former IRS and Treasury officials now in private practice, who testified before our committee, said that no act of Congress can be taken that lightly. A former Commissioner of Internal Revenue testified that he would feel obligated to advise a client not to make any additional investments to increase petroleum production during 1974 which would subject the client to this provision.

Now I believe all of us would have to describe that as a very adverse and unintended result.

And the existence of this provision would not just affect the decision of the companies directly covered by section 110. Investors would have to take it into consideration as well.

Independent producers of crude oil drill 75 percent of the wells in unproven areas. A substantial amount of the funds for these new wells are raised from investors outside the petroleum business. The existence of this provision will dry up those outside funds at a time when we need them the most.

I strongly urge that this provision be removed from the bill and that the tax writing committees be allowed the opportunity to draft a reasonable provision which will accomplish the purpose of preventing windfall profits and yet avoid throwing an essential industry into complete turmoil.

I would remind the Senate that the petroleum industry in this country is not all corporate management and investors. There are thousands of independent businessmen operating production companies, distribution companies, and service stations. There are also over 1 million wage earners employed in this industry. The men and women engaged in crude oil production, refining, and transportation of petroleum products receive over $4½ billion in wages annually and that is not even counting the 600,000 employees of service stations.

Before we pass legislation to punish a whole industry in our frustration over the energy crisis, I believe we should remember that man working in the oil field for an average wage of $190 a week or in the refinery for $230 a week. These are people whose whole livelihoods depend upon a healthy petroleum industry. And we certainly cannot afford to forget that we all depend upon a healthy petroleum industry for over 70 percent of the energy consumed in this country.

Once again, I urge the Senate to reconsider this provision.

Mr. BELLMON. Mr. President, I rise in opposition to section 110 of S. 2589, the so-called windfall-or-excess-profits provision of the Energy Emergency Act.

My opposition stems from my belief that the current energy crisis has been caused by unwise governmental policies and practices and that it will best be solved by the privately owned energy industry. Passage of section 110 will only prolong the current shortages of energy and delay the day when this Nation will again be substantially self-sufficient in energy and free from the danger of international energy blackmail.

In order for the United States to become self-sufficient in energy, it will be necessary for huge sums of money to be invested searching for and developing new oil and gas reserves, opening of new mines, constructing coal liquefaction and gasification plants, and developing new types of energy sources. Imposition of an excess profits tax would only further impede the development of new sources of fuel by the private sector.

Two questions the country and the Congress must face and solve are: Where does this huge sum of money come from?

And will the private sector or the Government be in charge of developing the new energy sources and operating the plants once they are in place?

The adoption of section 110 of S. 2589 is the first long step down the trail toward the nationalization of the Nation's energy industry. I make this statement because the impact of section 110 is to make it difficult, if not impossible, for the private energy industry to accumulate the funds and to attract the investments that will be necessary for developing the abundant natural energy resources which this Nation fortunately possess.

The energy companies are public companies. Any citizen who wants to may buy and own a share in whichever company he feels is most likely to be a good investment. Without these funds, the private sector's ability to develop a solution to the Nation's energy shortage will be seriously and permanently damaged. Lacking new supplies of energy, the consumer will naturally blame the energy industry and sooner or later will begin to insist that the Government move into the vacuum.

When this happens, the American taxpayer will begin to pay the bill and Federal bureaucrats will begin to make the decisions as to where to drill oil and gas wells, where and when to open coal mines and where to build the energy processing plants.

If experience in other countries means anything at all, the American taxpayer can expect the bureaucracy to fumble the ball as is done in so many other areas. Also the energy consumer can expect to pay a far higher price for his energy than he is now paying or will pay if private investors and private operators continue to be in charge of the energy industry.

Attractive as it may sound to soak the energy companies because of an increased profit due to the Arab embargo of oil, the fact is that this section is totally counterproductive. Someone, either the energy consumer or the taxpayer, must put up the funds needed for a vast expansion of the Nation's energy industry. Section 110 will not keep this investment from being made. Rather, the impact of this section is to deny to the private sector the funds necessary to expand the Nation's energy output and put the Government in position of beginning to take over this large and vital section of the Nation's economy.

There is no question that the energy industry, and especially oil companies, suffers from an image problem. Many Americans are skeptical about the present shortages of gasoline and other fuels. Even in Oklahoma, a State where thousands of citizens work actively in the petroleum industry, I found during the recent recess that a number of my constituents were not convinced that the energy crisis is real. If Oklahomans who live next door to oil workers and in the shadow of oil and gas wells do not fully understand the energy crisis, it is easy to appreciate the difficulty other Americans have in understanding the complex energy shortage which now faces the country.

There is a widely held belief that the oil industry is a high-profit business. This concept reflects a basic misunderstanding of the industry and an inadequate grasp of the facts about its operations and economics. It confuses total profits with profitability, that is, the rate of return on investment.

Looking at profit in terms of the relationship of earnings to capital invested, oil companies over the last 20 years come in below the average of all manufacturing companies. According to data compiled by the First National City Bank of New York for a large group of oil companies over a 20½ year period—1952–71—the average rate of return on net worth was 11.9 percent, which compares to 12.2 percent for all other manufacturing companies. This so-so record has discouraged investors from making needed capital available for new energy development. Unless the profit picture improves, investors will continue to stay away from the hazardous petroleum business in droves.

Exploration for new oil and gas reserves has declined in recent years primarily because of inadequate incentives. Recently, as profits have increased, this pattern has begun to improve. This improvement will continue so long as the funds for development are available.

Mr. President, during the last decade, the average price of a barrel of crude oil at the wellhead rose about 50 cents, or just over 17 percent. During the same period prices of oil field machinery rose 35 percent, well casing by 46 percent, and the average hourly wages in petroleum production rose 57 percent. In addition, the 1969 tax reform bill included a major disincentive to investors when it raised the industry's taxes by more than $500 million a year.

In the case of natural gas, interstate prices are regulated at the wellhead by the Federal Power Commission. This regulation has led to artificially low prices, encouraged overutilization of gas, demoralized the coal industry, and discouraged the search for new supplies of other energy.

Another objection to section 110 is the vast Government bureaucracy that would be required to administer the complex rules that would be necessary to determine whether windfall profits have been made and then to redistribute those profits. In addition, the recordkeeping which would have to be done by the industry and the inevitable lawsuits that would result would add further to the regulatory nightmare.

In short, the "excess profits" restriction would produce results just the opposite of what is needed to get this country out of its energy mess. It would dampen the incentive of private companies to seek new fuel sources and dry up the capital they need to build new refineries, coal liquification and gasification and oil shale conversion plants.

Fuel prices will not remain high forever if the energy companies are allowed to increase supplies by plowing back profits into developing new energy sources. The free market will quickly increase the supply and bring costs lower.

In many respects, the fuel crisis is similar to the beef shortages of last summer. In that situation, when beef prices rose, consumption eased, the supply increased, and prices dropped. The same thing will happen if energy companies are left unfettered by excessive Government regulations. The price adjustment may take longer because new energy sources cannot be developed overnight. Without attractive profit incentives or under a governmental bureaucracy, these increased supplies will not be forthcoming at all.

Mr. President, the administration and the Congress have the opportunity to take action which will permanently solve the Nation's energy shortage. The course we choose now will have an immense impact upon the economic health and the security of our Nation. I urge that we not choose a short-sighted punitive course but rather that we give the private sector the time and the incentive to do the job. Section 110 would be totally counterproductive, and I urge its defeat.

Mr. President, I ask unanimous consent that the following items be printed in full in the RECORD at the conclusion of my remarks:

A Mobil Oil Co. ad printed in The Oil Daily, Monday, January 14, 1974, titled "We just spent three months' profits in one morning."

An editorial taken from the January 15, 1974, Wall Street Journal, "The Great Oil Conspiracy."

A letter from Mr. W. F. Martin, chairman of the board, Phillips Petroleum Co., Bartlesville, Okla.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Oil Daily, Jan. 14, 1974]

### WE JUST SPENT 3 MONTHS' PROFITS IN ONE MORNING

Last month, at the first federal lease sale of exploratory acreage in the eastern Gulf of Mexico, Mobil spent $271,100,000.

Can anyone relate to $271,100,000? We can. It's $40 million more than our profits in the third quarter of 1973—the best in Mobil's history.

What we bought was the right to look for oil. A down payment.

Actual drilling in the Gulf acreage will cost millions more, of course. And there's no assurance that we'll earn even one dollar on that investment. Our geologists think we made a good buy, but this is still wildcat acreage where no one has ever drilled before. The nearest oil well is 45 miles away.

If we're fortunate enough to find oil in commercial quantities, we expect to earn a good profit on it. In that case, we would first have to invest hundreds of millions more to produce it and bring it ashore.

High as the cost is, we must go on spending big in order to find the new reserves that will keep us in business and keep you supplied with fuel.

Because the risk is high, a large part of the money we invest in this search has got to come from profits—the money we earn in our own business. We can't take risks like these entirely on borrowed funds. People who lend money like to sleep nights.

What we earn in three months—or a year—sounds like a lot.

Until you hear how much we can spend in a day. MOBIL.

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[From the Wall Street Journal, Jan. 15, 1974]

### THE GREAT OIL CONSPIRACY

At cocktail parties, on railroad platforms, and in elevators, we have encountered an astonishing number of people who know all there is to know about the energy industry and how it conspired to cook up the energy crisis. They tell us the oil tycoons acted on an opportunity they contrived to push up prices, get the Alaska pipeline approved, and squeeze those pesky little independents out of business.

Conspiracy theories, of course, are inherently appealing in that they can be understood without regard to any messy little details. It's hard to understand the fall of China to the Communists in the sweep of Chinese civilization, but easy to understand "57 Communists in the State Department." It's hard to understand what went wrong in Vietnam, but easy to understand "the military-industrial complex."

Conspiracy theories, too, have a marvelous capacity to embrace contradictory notions. Apparently the same individual who believes the oil companies are running roughshod over the environment to get the 2 million-barrel-a-day output of Alaska can also believe they have contrived to boost prices by withholding 2 million barrels a day from unknown sources. And at one time the companies are accused of (a) keeping their prices predatorily low to destroy independents and (b) hoisting the prices unreasonably high to gouge consumers. From our perspective, finally, the hardest thing of all to believe is that oil executives would do anything so nicely designed to bring about what they fear most, which is the political destruction of their companies.

To the extent the oil conspiracy theory has any intellectual foundation whatever, it is found in the November 8 staff report by Senator Jackson's Permanent Subcommittee on Investigations. In [*MORE*], a professed arbiter of journalistic performance, James Ridgeway writes that the report "explicitly demonstrates" that the oil companies, among other sins, "refused at government urging to import more crude oil from abroad." Mr. Ridgeway demonstrates that media critics have insights denied us ordinary journalists, for search the report as we may we can find no such statement.

The Jackson report was also cited in a CBS television special, "The Energy Crisis: How We Got There." The special reported that in late 1972 there was a shortage of fuel oil because the refineries did not operate at a high enough percentage of capacity. Walter Cronkite told viewers, "Senate investigators have not yet received an answer to why the refineries were operating at such a low level." Now, we revere Mr. Cronkite and every sentence he utters must be strictly true. Still since the answer was readily available, we wonder whether the Senate investigators ever asked.

The report says that the industry ought to be able to use 92% of its refining capacity over a sustained period of time, and that the government estimated there would be no shortages in the winter of 1972–73 if that rate were maintained. However, in the final quarter of 1972, refineries "east of the Rocky Mountains" operated at only 89% of capacity. The report does not exactly say this 3% drop was the result of a conspiracy to raise prices, but, judging from the emphasis on this particular statistic, we suspect this was the impression its authors wanted to leave.

Now, "east of the Rocky Mountains" is a bit slippery, since the report shows that nationwide the 10 largest companies operated at 93% of capacity in the fourth quarter, and the next 15 operated at 95%. So apparently the companies conspired east of the Rockies but not in California.

These utilization figures did drop from third-quarter levels of 95.5% for the top 10 and 96.3% for the next 15. But four of the top 10 actually increased their utilization, so apparently the conspirators failed to get word to Amoco, Gulf, Sun and Sohio. Indeed, the only companies in the top 10 to show sharp drops were Texaco and Mobil. So if anyone wants to find out why utilization was down, he can start by calling Texaco and Mobil.

Texaco said it was forced to take the crude units of two of its largest refineries out of production for maintenance scheduled two years earlier. It adds that refinery units often go down for maintenance simultaneously if they have been built or improved in the same capital expansion program. We suppose this explanation will be discounted by those who prefer to believe that Texaco was somehow named to take a bath for the industry.

Mobil says its percentages dropped because it kicked in a new refinery at Joliet, Ill. The capacity figures went into its total immediately, but you do not start off running a refinery at full capacity. So its percentage utilization went sharply down while its actual production went up, as fine print in the Senate report shows.

To us, all of this looks a good deal less like a conspiracy than like each company trying to cope on its own. Yet the conspiracy theory will no doubt thrive, nudging Congress to take all manner of punitive action against the companies, action that will prolong, not shorten, the energy crisis. We only hope that enough people can conceive that just as a nation's foreign policy can be distorted by believing in bogeymen in pinstripes, so energy policy can be warped by visions of bandits in the boardrooms.

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Phillips Petroleum Co.,
*Bartlesville, Okla., January 18, 1974.*
Hon. Henry Bellmon,
*U.S. Senate,*
*Washington, D.C.*

Dear Henry: With Congress reconvening this month, I am sure further consideration will be given to an additional tax on earnings of oil companies. While I believe such legislation would prove adverse to the energy objectives of the nation, I can understand why it would have support among some members of the Congress based on the feelings "back home" in their districts where the energy shortage has brought an intense response from constituents. This response appears to derive from certain misconceptions or myths concerning the shortage, one of which is the claim that the oil industry has been making excessive profits. This just simply is not true and to act upon such misinformation in a matter that would have dire consequences to the economic welfare of the country and to consumers generally would be most unfortunate.

I wish to give you certain information about Phillips Petroleum Company as follows:

1. Our earnings for 1973 will be up substantially. Our books for 1973 have not been closed, but based on estimates and unaudited figures, we would guess that about 25% of our earnings increase will come from domestic operations and 75% from international operations. The primary causes of our increased profits from abroad are increased production of crude oil and higher crude oil prices. The major portion of our known future earnings growth is expected to come from production from three areas: (1) Norwegian North Sea, where oil was discovered in 1969, and where we have been and are investing substantial sums to bring this oil to market. Not until late 1974 or early 1975 will it be possible to produce any sizable volume of oil from this source; (2) Nigeria, where the large immediate increase in Phillips production is occurring; and (3) North Slope of Alaska, where production is expected after the Alyeska pipeline is completed.

2. For 1973, return on total assets for Phillips domestic operations will approximate 6%.

3. In the United States, 1973 exploration and production, refining, transportation and marketing of crude oil and natural gas, natural gas liquids and petroleum products are estimated to result in a return on assets of about 5%, less than inflation.

4. Of our capital expenditures worldwide for the five years through 1972, 77% was for exploration and production, refining, transportation and marketing of crude oil and natural gas, natural gas liquids, and petroleum products. Of total capital expenditures during the period, 67% was spent in the United States and 33% in other countries.

5. During the five-year period 1968 through 1972, our cash flow available for capital expenditures and investments totaled $594 million, whereas our expenditures for these purposes totaled $1,462,000,000, leaving a difference of $868 million which was made up by funds from other sources, such as borrowings, sale of assets and stock.

6. Our capital budget for 1974 totals $650 million, of which $536 million, or 82% has been allocated to exploration and production, refining, transportation and marketing of crude oil and natural gas, natural gas liquids and petroleum products. Over 60% of this amount is allocated to domestic operation.

7. In 1973, we processed approximately 144,000,000 barrels of crude oil through our domestic refineries, compared with 141,400,000 barrels in 1972. Our total sales of petroleum products were less in 1973, because the products we normally purchased from others and resold to our customers were largely unavailable in 1973. Beginning in December 1973, we have had to reduce our refinery runs because of shortage of crude oil.

Recent price increases in the cost of fuels primarily reflect the "pass-through" of our rising cost of crude oil as permitted by the Cost of Living Council. A substantial portion of our increasingly expensive crude oil is imported from abroad. World crude oil prices are set by OPEC nations selling their own crude oil in world markets. With shortages existing in many nations, competition for this oil is very strong. For example, the price of oil posted by OPEC nations has been set as high as $14 to $16 per barrel f.o.b., which is equal to about 36 cents per gallon f.o.b. their shores.

Phillips Petroleum Company profits graphically illustrate why no discriminatory legislation limiting the profits of the oil industry is justified. Our Company's return on total assets averaged only 4.35% for the years 1968 through 1972. This is a very low return, especially in a high-risk industry. In 1973, we estimate our overall Company return to be 7% on total assets. Even so, cash flow from operations will not be sufficient to meet cash requirements.

The attachment shows that the oil industry return on total assets fell sharply between 1967 and 1972. This information is taken from a report by John S. Herold, Inc. Although the industry's earnings have improved substantially in 1973, the increase is from a 1972 base which was the lowest in 10 years.

I can say to you without any qualification whatsoever that Phillips Petroleum Company has not contrived to create the energy shortage. Further, I have no knowledge of any contrivance on the part of any other oil companies to create the energy shortage. I make no claim that Phillips and other oil companies should not share some of the blame for the situation in which we find ourselves; but I am amazed, perplexed and frustrated by the criticisms of the oil industry which have been developed, not the least of which is the general accusation that because of a high percentage increase in profits, Phillips and other oil companies are making windfall profits. I am against windfall profits, but the question is what constitutes windfall profits. Merely a large percentage increase in profits compared to a low level of profits in the past should not per se be regarded as windfall profits.

Consideration should be given to return or what one might expect to make on risk investments. I truly wonder if any thoughtful person really believes that oil company executives would do all those things they are accused of doing, knowing most certainly that such actions would not only destroy their industry but also would support a move against the free enterprise system.

I hope you will consider the information I have presented. Assuming that Congress will pursue the possibility of additional taxation legislation, I trust it will be done in an orderly manner and with full hearings before appropriate committees so the consequences to our country can be fully assessed. It has been demonstrated many times in the past throughout all industry that controls and disincentives enhance shortages.

Respectfully yours,

W. F. MARTIN.

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### OIL INDUSTRY RETURN

Oil industry return on total assets has fallen sharply since 1967, averaging approximately 6% in 1972.

Only six of the 60 companies in the following tabulation posted a 10%, or better, return on total assets last year. These were Cardinal Petroleum, General Crude Oil, Louisiana Land & Exploration, Quaker State Refining, Southland Royalty and Texaco Canada.

Texaco continued to maintain its leadership among the international companies with a 7.4% return. British Petroleum's return was a mere 2.1% and Royal Dutch's 3.2%. Group's overall average of 5.4% is 18% below the 1967 return of 6.6%.

Three integrated companies, Murphy Oil Ltd., Pacific Petroleums and Texaco Canada, have countered the industry trend by posting higher returns on total assets in each of the past six years. Murphy Oil Corp., however, has a consistent record of a low return on assets.

Refining companies have suffered the greatest shrinkage, with a 1972 return on total assets of only 4.6%, down 47% since 1967. Year-to-year performance by the various refining companies has been very erratic and indicates the problems associated with the down-stream end of the oil business.

The producing companies continue to provide the best profit on total assets, 7% in 1972. Approximately 40% of the producing companies' return exceeded the group's average. However, none of the companies have been able to provide continued increases since 1967.

PROFIT AS A PERCENT OF TOTAL ASSETS

| | 1972 | 1971 | 1970 | 1969 | 1968 | 1967 |
|---|---|---|---|---|---|---|
| International companies: | | | | | | |
| British Petroleum | 2.1 | 4.6 | 3.5 | 4.0 | 4.8 | 3.9 |
| Burmah Oil | (1) | 3.8 | 4.0 | 3.6 | 3.1 | 5.6 |
| Compagnie Francaise | (1) | 3.9 | 3.7 | 5.4 | 5.2 | 5.3 |
| Exxon Corp | 7.1 | 7.4 | 7.2 | 7.1 | 7.6 | 7.5 |
| Gulf Oil | 4.8 | 5.9 | 6.3 | 7.5 | 8.4 | 8.8 |
| Mobil Oil | 6.2 | 6.3 | 6.1 | 6.4 | 6.2 | 6.2 |
| Royal Dutch | 3.2 | 4.8 | 4.9 | 5.8 | 5.6 | 5.2 |
| Standard Oil of California | 6.8 | 6.8 | 7.0 | 7.4 | 7.8 | 7.6 |
| Texaco | 7.4 | 8.3 | 8.3 | 8.3 | 9.2 | 9.3 |
| Average | 5.4 | 5.7 | 5.8 | 6.2 | 6.4 | 6.6 |
| Integrated companies: | | | | | | |
| Amerada Hess | 3.4 | 10.0 | 10.3 | 8.8 | 10.5 | 10.1 |
| Atlantic Richfield | 4.2 | 4.5 | 4.7 | 5.4 | 5.1 | 5.2 |
| Cities Service | 4.1 | 4.5 | 5.4 | 6.1 | 6.5 | 7.0 |
| Continental Oil | 5.3 | 4.7 | 5.3 | 5.1 | 5.9 | 5.7 |
| Getty Oil | 3.5 | 5.9 | 5.2 | 5.7 | 5.5 | 6.9 |
| Gulf Oil Canada | 5.3 | 4.6 | 3.5 | 4.6 | 5.2 | 5.2 |
| Husky Oil Ltd | 4.4 | 3.6 | 3.1 | 2.9 | 3.3 | 4.6 |
| Imperial Oil | 8.4 | 8.3 | 6.8 | 6.4 | 7.3 | 7.7 |
| Kerr-McKee | 6.3 | 5.3 | 4.9 | 5.0 | 5.7 | 5.3 |
| Marathon Oil | 5.3 | 6.4 | 6.5 | 6.9 | 7.2 | 7.5 |
| Murphy Oil Corp | 2.5 | 2.3 | 2.3 | 1.8 | 2.5 | 3.3 |
| Murphy Oil Ltd | 7.6 | 6.5 | 5.0 | 3.6 | 3.6 | 4.0 |
| Pacific Petroleums | 5.8 | 5.2 | 4.1 | 3.7 | 3.4 | 3.2 |
| Petrofina Canada | 5.2 | 5.7 | 5.0 | 4.9 | 5.3 | 4.4 |
| Phillips Petroleum | 4.5 | 4.2 | 3.9 | 4.2 | 4.4 | 5.8 |
| Shell Oil Co | 5.0 | 5.2 | 5.1 | 6.7 | 7.4 | 7.8 |
| Shell Canada | 7.5 | 6.1 | 5.3 | 5.3 | 6.7 | 6.7 |
| Skelly Oil | 5.0 | 5.3 | 5.1 | 6.0 | 6.4 | 7.0 |
| Standard Oil of Indiana | 6.1 | 6.1 | 5.8 | 6.2 | 6.5 | 6.7 |
| Standard Oil of Ohio | 3.3 | 3.2 | 3.7 | 3.3 | 9.1 | 9.8 |
| Sun Oil | 5.2 | 5.4 | 5.0 | 6.1 | 7.0 | 7.0 |
| Tesoro Petroleum | 8.3 | 6.4 | 5.3 | 4.5 | 6.1 | 7.1 |
| Texaco Canada | 10.3 | 7.9 | 6.7 | 6.7 | 6.3 | 5.7 |
| Union Oil of California | 4.5 | 4.5 | 4.5 | 5.6 | 6.5 | 7.1 |
| Average | 5.5 | 5.5 | 5.1 | 5.2 | 6.0 | 6.3 |
| Refining companies: | | | | | | |
| American Petroleum | 6.9 | 5.5 | 9.7 | 10.9 | 8.9 | 9.3 |
| Apco Oil | 4.1 | 3.9 | 7.9 | 5.7 | 7.9 | 6.6 |
| Ashland Oil | 5.3 | 3.8 | 5.1 | 6.3 | 6.8 | 7.7 |
| Clark Oil & Refining | 4.1 | 2.0 | 6.3 | 10.0 | 10.7 | 11.7 |
| Commonwealth Oil | .8 | 4.5 | 5.2 | 7.4 | 7.5 | 8.7 |
| Crown Central Petroleum | 1.1 | .7 | 2.7 | .6 | 2.5 | 5.9 |
| Quaker State Oil | 10.3 | 10.6 | 10.5 | 13.1 | 11.8 | 10.7 |
| Average | 4.6 | 4.4 | 6.8 | 7.6 | 8.0 | 8.7 |
| Producing companies: | | | | | | |
| Adobe Corp | 8.2 | 6.9 | 3.7 | 6.3 | 6.4 | (1) |
| Alminex | 4.7 | 3.7 | 2.8 | 2.7 | 2.2 | 2.6 |
| Austral Oil | 7.3 | 5.5 | 5.6 | 6.7 | 5.0 | (1) |
| Aztec Oil & Gas | 2.4 | 3.1 | 4.8 | 4.4 | 5.4 | 5.4 |
| Belco Petroleum | 4.1 | 4.8 | 6.2 | 6.3 | 6.0 | 6.9 |
| Buttes Gas & Oil | 3.3 | 2.6 | .8 | 3.1 | 2.9 | 3.7 |
| Canadian Industrial Gas | 7.8 | 7.9 | 8.0 | 9.3 | 10.9 | 8.6 |
| Canadian Superior | 4.5 | 7.6 | 2.4 | 3.9 | 7.4 | 4.1 |
| Cardinal Petroleum | 11.1 | 9.7 | 7.0 | 5.5 | 5.2 | 9.2 |
| Coastal States Gas | 5.1 | 5.5 | 5.7 | 5.7 | 6.0 | 5.7 |
| Dome Petroleum | 4.8 | 5.0 | 4.3 | 5.9 | 8.7 | 8.3 |
| Eason Oil | 9.9 | 8.1 | 6.7 | 12.1 | 13.2 | 11.2 |
| Equity Oil | 4.3 | 2.8 | 3.7 | 3.4 | 6.3 | 11.7 |
| Felmont Oil | 8.6 | 8.0 | 6.8 | 6.9 | 4.6 | 3.2 |
| General American Oil | 6.5 | 3.8 | 8.8 | 9.2 | 9.3 | 8.2 |
| General Crude Oil | 18.1 | 17.2 | 11.8 | 13.3 | 14.4 | 13.7 |
| Helmerich & Payne | 5.4 | 4.5 | 3.9 | 3.9 | 2.5 | 4.7 |
| Hudson's Bay Oil & Gas | 7.8 | 7.0 | 6.3 | 6.0 | 6.4 | 5.6 |
| Inexco Oil | 6.5 | 7.1 | 9.9 | 9.5 | 8.4 | (1) |
| Kewanee Oil | 6.6 | 6.8 | 6.0 | 7.7 | 6.5 | 5.4 |
| Louisiana Land | 15.5 | 25.0 | 24.0 | 25.8 | 30.4 | 32.0 |
| Mesa Petroleum | 8.1 | 12.2 | 8.3 | 10.6 | 17.6 | 18.6 |
| Mountain Fuel Supply | 4.4 | 4.6 | 4.3 | 4.2 | 3.5 | 3.3 |
| Ocean Drilling & Exploration | 6.3 | 5.4 | 5.6 | 6.8 | 7.9 | 7.1 |
| Reading & Bates | 3.1 | 2.9 | 5.0 | 3.3 | 5.8 | 4.9 |
| Sabine Royalty | 9.4 | 12.9 | 12.1 | 9.8 | 10.7 | 10.6 |
| Southland Royalty | 10.9 | 12.9 | 13.1 | 15.6 | 15.1 | 15.8 |
| Superior Oil | .9 | .8 | 2.2 | 3.2 | 3.4 | 5.6 |
| Texas Oil & Gas | 7.1 | 6.5 | 6.7 | 6.2 | 5.6 | 6.5 |
| Average | 7.0 | 7.3 | 6.8 | 7.5 | 8.2 | 8.6 |
| Total, industry | 6.0 | 6.1 | 6.1 | 6.6 | 7.2 | 7.5 |

[1] Not available.

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## UNANIMOUS-CONSENT REQUESTS

Mr. MANSFIELD. Mr. President, as indicated under the order laid down by the Senate, calendar No. 471, S. 2686, a bill to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, will be laid before the Senate on Monday next.

At this time, I am going to propose a series of unanimous-consent requests, seeking to bring about a limitation of time.

I ask unanimous consent that when the Senate takes up the legal services bill (S. 2686) on Monday, January 28, there be an additional 4 hours of general debate, divided between the proponents and opponents—between the majority leader or his designee and the junior Senator from North Carolina or his designee)—followed by 2 hours of debate, divided evenly as above, on a motion to recommit or commit to any committee, if such motion is offered, followed by a vote on such motion, followed by 1 hour of debate, evenly divided as above, and a vote on each amendment in the nature of a substitute now pending if called up by its sponsor, followed by one-half hour of debate, evenly divided as above, and a vote, on each other amendment now pending if called up by its sponsor, followed by an additional 4 hours debate on the bill, evenly divided as above, and a vote on the bill, it being understood that any Senator controlling time may choose to use less than his allotted time, and that motions to table remain in order under the usual rules.

Mr. ALLEN. Mr. President, reserving the right to object, as the Senator from Alabama recalls the situation that existed last year when this measure was pending in the Senate, it was not the unfinished business or even the pending business that was in the Senate and on the calendar. An agreement was made, I understand, not on the bill, but, as the Senator from Alabama recalls, an agreement was made with the distinguished junior Senator from North Carolina (Mr. HELMS), that this matter would be laid down on January 28. Unless this request has been cleared with the Senator from North Carolina, the Senator from Alabama would feel that the Senator from North Carolina, who is out of the country at this time as I understand it, unless he has returned, would have felt that no action would be taken on the bill until January 28, inasmuch as it was going to be withdrawn from the Senate until January 28.

So I respectfully inquire of the distinguished majority leader whether such request has been cleared with the distinguished junior Senator from North Carolina.

Mr. MANSFIELD. No. May I say that I made inquiries, but, as the Senator has indicated, the Senator from North Carolina is absent from the Senate on official business.

Mr. ALLEN. If the Senator from North Carolina were on the floor and agreed to this, the Senator from Alabama would raise no objection. I am wondering whether the distinguished majority leader recalls that this matter was to be laid down on the 28th, and would not that give rise to the supposition that nothing would come up with respect to the bill until it was pending before the Senate?

Mr. MANSFIELD. That is correct, but that is the only piece of business on the calendar, excluding the genocide treaty, which is just as controversial, if not more so. The intention of the Senator from Montana was to make this request at this time, to see if we could work out some sort of modus operandi on a time limitation basis in the consideration of this most important bill.

Mr. ALLEN. I thank the distinguished Senator for his explanation. However, inasmuch as the Senator from North Carolina did discuss this matter from time to time with the Senator from Alabama, the Senator from Alabama would feel that, in order to protect the interests of the Senator from North Carolina, he would have to object to the unanimous-consent request.

Mr. MANSFIELD. I understand.

Mr. GRIFFIN. Mr. President, if the majority leader will yield for a moment, I should like to say that if the Senator from Alabama had not objected, I would feel constrained, in my responsibility as the acting minority leader at this time, to object on behalf of the Senator from North Carolina, because I also have not had an opportunity to check with him. I would not object in my own personal capacity, but in my capacity as the acting minority leader, I would.

Mr. MANSFIELD. Even though I am in favor of the bill, had I been in the position of the distinguished acting Republican leader, I would have done the same. Certain obligations are imposed upon us which we must observe and cannot avoid.

Mr. President, I ask unanimous consent that, when the legal services bill, S. 2686, becomes the pending business on Monday, January 28, there be 6 hours of additional debate on the bill, 4 hours to be controlled by the junior Senator from North Carolina or his designee, and 2 hours to be controlled by the majority leader or his designee, followed by 2 hours debate divided evenly, on a motion to recommit or commit to any committee, if such motion is offered.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Mr. President, reserving the right to object, is this not just a similar request, possibly giving more time? Does it not apply to the same bill?

Mr. MANSFIELD. Yes.

Mr. ALLEN. I would have to interpose an objection, or I will yield to the distinguished Senator from Michigan to object.

Mr. GRIFFIN. I will object, for the same reason.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, when the legal services bill (S. 2686) becomes the pending business on Monday, January 28, the junior Senator from North Carolina or his designees be recognized for the entire period of time during which the Senate remains in session on that day, except that the majority leader or his designee shall be entitled to be recognized for 1 hour; and that at the end of the morning hour on Tuesday, January 29, the legal services bill (S. 2686) remain the pending business, or, if it is not the pending business at that time, become the pending business; and that there be 2 hours of debate, divided evenly, on a motion to recommit or commit to any committee, if such motion is offered.

Mr. GRIFFIN. Mr. President, I would have to object, for the same reasons.

However, I invite the majority leader to propound these or other requests at such time as the junior Senator from North Carolina is on the floor to speak for himself.

Mr. MANSFIELD. I understand, and again I must say that I appreciate the position of the Senator.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. I have one more unanimous-consent request.

I ask unanimous consent that when the legal services bill, S. 2686, becomes the pending business on Monday, January 28, the junior Senator from North Carolina or his designees be recognized for the entire period of time during which the Senate remains in session on that day, and for the entire period of time available for debate on Tuesday, January 29, except that the majority leader or his designee shall be allotted 1 hour on each day; and that at the end of the morning hour on Wednesday, January 30, the legal services bill (S. 2686) remain the pending business, or become the pending business, depending on the situation, and that there be 2 hours of debate on a motion to recommit, 1 hour on each substitute, and one-half hour of debate, evenly divided, on each other amendment.

Mr. GRIFFIN. Mr. President, these are very ingeniously worded and drafted proposals, and they have great appeal to the junior Senator from Michigan, especially since he supports the administration's position on this bill; but for the same reasons that were indicated before, I will object, on behalf of the Senator from North Carolina.

The PRESIDING OFFICER. Objection is heard.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. ALLEN. I wonder whether one of the legal services attorneys might possibly have prepared these unanimous-consent requests the majority leader has been reeling off.

Mr. MANSFIELD. May I say to the distinguished Senator from Alabama that the majority leader has done his duty. [Laughter.]

Mr. ALLEN. I understand.

Mr. CRANSTON. Mr. President, I thank the majority leader for his effort to expedite the business of the Senate and to work out agreements whereby we could come to a vote and dispose, one way or another, of the various amendments and the legal services bill.

I understand the reasons for the objections, since the Senator from North Carolina is not here, but presumably he will be here on Monday. I trust that another attempt will be made at that time to determine whether or not we will be permitted to come to a vote on this measure and various motions relating to it.

We have already had 4 days of debate in the Senate. This matter has been explored over a number of years, and I trust that another effort will be made on Monday to come to grips with it. If not, it seems to me that cloture motions would be in order. Since we had two cloture motions when there was an effort to obstruct and prevent action on the measure in December and the final cloture vote came within one vote of passage. Rather plainly, a strong majority in this body wants to proceed with expedition. The proponents did not seem particularly willing to debate its merits in December.

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## ORDERS FOR RECOGNITION OF SENATORS BIDEN AND WILLIAM L. SCOTT ON MONDAY, FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS, AND FOR CONSIDERATION OF THE ECONOMIC OPPORTUNITY ACT OF 1964

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, the distinguished Senator from Delaware (Mr. BIDEN) be recognized for not to exceed 15 minutes; that he be followed by the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT) for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 5 minutes, at the conclusion of which morning business the Senate proceed to the consideration of the legal services bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

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## ORDER FOR ADJOURNMENT FROM MONDAY UNTIL TUESDAY, JANUARY 29, 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Monday next, it stand in adjournment until 11 a.m. on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD subsequently said: Mr. President, for the moment, I will revise the meeting time for Tuesday; and, of course, that can be changed again on Monday.

I ask unanimous consent that when the Senate completes its business on

Monday, next, it stand in adjournment until 11:30 a.m. on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

### ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON TUESDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 12 two leaders or their designees have been recognized under the standing order on Tuesday next, there be a period for the transaction of routine morning business, not to extend beyond 12 o'clock noon, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

### ORDER FOR CONSIDERATION OF THE CONFERENCE REPORT ON THE NATIONAL EMERGENCY ENERGY ACT ON TUESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 12 o'clock noon on Tuesday next, the Senate resume the consideration of the conference report on the National Emergency Energy Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

### QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, January 24, 1974, he presented to the President of the United States the enrolled bill (S. 1070) to implement the international convention relating to intervention on the high seas in cases of oil pollution casualties, 1969.

### PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will not be in session tomorrow. On Monday the Senate will convene at the hour of 12 o'clock noon. After the two leaders or their designees have been recognized under the standing order, the distinguished junior Senator from Delaware (Mr. BIDEN) will be recognized for not to exceed 15 minutes, after which the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT) will be recognized for not to exceed 15 minutes, following which there will be a period for the transaction of routine morning business with statements limited therein to 5 minutes each, the period to extend not beyond 30 minutes. At the conclusion of routine morning business the Senate will resume its consideration of calendar order No. 471, S. 2686, the so-called Legal Services Act. Yea-and-nay votes are expected to occur thereon. The distinguished majority leader has indicated that sometime in the afternoon there may be a disposition to move to go into executive session to begin debate on the Genocide Convention.

### ADJOURNMENT TO MONDAY, JANUARY 28, 1974

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon on Monday next.

The motion was agreed to; and at 6:25 p.m., the Senate adjourned until Monday, January 28, 1974, at 12 noon.

### NOMINATIONS

Executive nominations received by the Senate January 24, 1974:

#### DEPARTMENT OF STATE

Thomas O. Enders, of Connecticut, a Foreign Service Officer of Class one, to be an Assistant Secretary of State.

#### DEPARTMENT OF DEFENSE

James R. Cowan, of New Jersey, to be an Assistant Secretary of Defense, vice Richard S. Wilbur, resigned.

#### DEPARTMENT OF COMMERCE

Curtis Marshall Dann, of Delaware, to be Commissioner of Patents, vice Robert Gottschalk, resigned.

#### COMMISSION ON CIVIL RIGHTS

Arthur S. Flemming, of Virginia, to be a Member of the Commission on Civil Rights, vice Maurice B. Mitchell, resigned.

#### OFFICE OF TELECOMMUNICATIONS POLICY

John Eger, of Virginia, to be Deputy Director of the Office of Telecommunications Policy, vice George Frank Mansur, Jr., resigned.

#### DEPARTMENT OF TRANSPORTATION

Louis M. Thayer, of Florida, to be a Member of the National Transportation Safety Board for the term expiring December 31, 1978. (Reappointment.)

# EXTENSIONS OF REMARKS

## LIKE FATHER LIKE SON

## HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. HELSTOSKI. Mr. Speaker, throughout the years, Bergen County, N.J., has produced many fine athletes. Citizens of the county have been continually afforded the opportunity to witness an outstanding brand of interscholastic sports. Today, however, I would like to focus our attention on the achievements of one family in particular—the Calabrese family, of Cliffside Park.

Presently, high school senior Tom Calabrese is enjoying a splendid season on the basketball courts, leading Cliffside Park High School's attack. Tom is presently considered to be one of the finest scholastic basketball players in the country and his sensational shooting has caught the attention of many college coaches.

However, Tom is not the first Calabrese to shine on the courts. His older brother Gerry was also an outstanding basketball player at Cliffside Park. And his father, Gerard, Sr., now mayor of Cliffside Park with a record of dedicated service to his community, county, and State, was an all-America basketball selection at New York City's St. John's University before playing with the Syracuse Nationals of the National Basketball Association.

An interesting article highlighting the achievements of the Calabrese family appeared January 8 in the New York Times. I would like to take this opportunity to share this article with my colleagues as it is a fine tribute to the dedication and community commitment of one individual family:

NEW JERSEY SPORTS: IN FAMILY TRADITION

The name Calabrese has had a familiar ring in Bergen County for many years. A few years back, it appeared with regularity in the box scores of college and then professional basketball games.

Today, that name is drawing much attention even from points beyond Bergen County, where young Tom Calabrese is performing brilliantly on the court for Cliffside Park High.

College scouts are eager to land the 6-foot senior for a career starting in September. One basketball magazine has rated Tom among the 15 best players in the nation.

The young guard is scoring about 33 points a game, his rate for last year, on a wide assortment of moves and a rather accurate jump shot from up to 22 feet. He has worked hard and long to achieve his success—and he has had quite an impressive crew to follow.

His father, Gerard Sr., is the mayor of Cliffside Park. He was quite an athlete, too.

STRONG TIES TO BASKETBALL

The senior Calabrese gained all-America honors at St. John's University in New York City before joining the Syracuse Nationals of the National Basketball Association. Tom's older brother, Gerry, also played three years at Cliffside Park, the last one with a 20-point average. And an uncle used to coach high school basketball.

"It's something he just naturally fell into," said Bart Talamini, the Cliffside coach, of Tom. "Hard work and determination have made him excel. If he grew a little, I feel he could be a professional."

Tom is the shooting guard in Cliffside's offense, a role which has allowed him to score more than 1,500 points and become the school's career scoring leader. Last season, he connected on 284 of 316 attempts from the foul line. This season he's shooting 50 per cent from the floor.

With all the glory, Tom has continued his quiet mannerism. "Sometimes he's so quiet, you would not know he's there," said Talamini. "And he shies away from publicity."

TOM'S FINEST MOMENT

A recent game Cliffside played with its rival, Englewood, was not completed because of a problem with the court floor, Tom scored 35 points before play was suspended with nearly two minutes remaining.

In one sense it was an individual battle between Calabrese and Englewood's superstar, 6-8 Tom Willoughby, who eventually fouled out. Calabrese guarded the taller boy, who plays a guard-forward spot, holding him to 10 points in the first half.

And Englewood, rated the best in the county, was trailing by 3 points when time was called.

Tom drives well and has the body control to get off shots while in the air. His leaping brings him above the rim. He'll be missed when he graduates, but, like the other Calabreses, not forgotten.

## WHAT THEY PREACH, BUT DON'T PRACTICE

### HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. SIKES. Mr. Speaker, a highly interesting editorial was carried in the January issue of the American Rifleman. It accurately portrays the extreme partisanship shown by the Washington Post for leftist causes and for accompanying issues such as depriving law-abiding citizens of the right to own weapons, even for their own defense in crime-ridden Washington.

Interestingly, it portrays the different attitude shown by the Post when its own representatives defy the myriad antigun laws which have been imposed on Washington by the city government. It all depends on whose ox is being gored.

The editorial is worth reading. It is entitled "What They Preach, But Don't Practice," and I submit it for printing in the CONGRESSIONAL RECORD:

WHAT THEY PREACH, BUT DON'T PRACTICE

Violence in America takes its strongest news media form in *The Washington Post* Company's outbursts against firearms. Few media can match the virulence of this organization's anti-gun campaigning on the air and in print.

So it is interesting to note in passing that not all of its newsmen practice what *The Washington Post* and its anti-gun television station, WTOP, constantly preach.

A *Washington Post* reporter was arrested some time ago on a charge of carrying a concealed firearm "within a few blocks of the White House," as the *Post* is fond of saying sinisterly in other gun connections. He got off with a small fine, his newspaper published a very small news item about it, and that presumably was that.

More recently, Washington, D.C., police responded to a midnight call about gunfire in the 1500-unit Van Ness Apartments and arrested a newswoman from the *Post's* WTOP-TV. As the *Post* reported it, the newsman fired a .357 Magnum revolver "several times" in his backyard. As another Washington paper reported it, neighbors counted "up to 18 rounds." That's a lot of shooting in a dense residential area.

The TV newsman explained that he was upset by the death of his father three weeks earlier, "had never owned a gun and never wanted one," but brought the .357 revolver back from Richmond, Va., because it had belonged to his dad. He apologized on a TV newscast that evening. Washington police allowed him to forfeit $25 collateral and, though the revolver was unregistered, marked the case closed. Federal authorities said they were "looking into the matter," as it involved acquiring a firearm in another State and transporting it across State lines.

## USING OVER-THE-COUNTER INTELLIGENCE MAKES GOOD SENSE

### HON. WILLIAM R. ROY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. ROY. Mr. Speaker, I have been pleased this week to observe on television and in the newspapers the leading edge of a long overdue drug education campaign.

Using National Pharmacy Week as the kickoff time, the American Pharmaceutical Association has begun a year long program urging the public to consult the pharmacist before selecting nonprescription drugs. APhA offers the "over-the-counter intelligence" of its membership to help people avoid the health hazards of drug interactions and improper use.

As a physician, I understand the need for caution in selecting and using many of the hundreds of thousands of nonprescription medications on the market today. Many members of the general public do not know, for example, that certain common antacids block the effect of a frequently prescribed antibiotic; or that aspirin or aspirin containing compounds can be harmful to the patient with an ulcer. There are many other situations in which an existing condition or the use of a prescription drug can make the use of a drug obtained over-the-counter a threat to the patient's health.

Also as a physician, I am pleased that the pharmacists have accepted the responsibility of helping to safeguard patients by freely offering their time and expert knowledge to patients wanting to self-medicate. I believe that a person has the right to get rid of his headaches, try to relieve his upset stomach or treat other minor ailments without rushing to his physician. However, I also believe that he has a right to expert counsel in selecting self-medication.

The label is not big enough to tell everything a patient needs to know about nonprescription drugs. It does not list, as a rule, prescription/nonprescription drug interactions or all chronic conditions for which the drug is contraindicated, nor does it explain the need to vary dosage in connection with age, weight, sex, or general condition of health. These are things that the pharmacist understands and can explain to the patient.

I have long admired the work of pharmacists like my good friend from Topeka, Jake Miller. Jake understands, as I do, that the pharmacist plays an important role in the health care delivery system of this country and is a valuable link between the physician and his patient. The patient may not inform his physician of treatment by another physician, probably a specialist. He may not tell of medication prescribed by his dentist. More likely still, the patient will not call his physician before purchasing a nonprescription drug.

It is the community pharmacist who sees the patient when he enters the pharmacy each time and who, when consulted, can ask the right questions and provide the right cautions.

I wish Jake Miller, his colleagues in the Kansas Pharmaceutical Association and the APhA every success in getting their message across in the coming year. Using over-the-counter intelligence makes good sense.

## A POEM IN HONOR OF PRESIDENT JOHN F. KENNEDY BY MR. GEORGE VICTOR, POET LAUREATE OF THE 19TH OHIO CONGRESSIONAL DISTRICT

### HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. CARNEY of Ohio. Mr. Speaker, in these times of crisis, Americans are looking to the future with doubt and pessimism. But it was only a dozen years ago that a spirit of optimism and hope was sweeping across America. The man largely responsible for this mood was our idealistic young President, John F. Kennedy.

If we stop and reflect upon some of the goals that President Kennedy stood for, the clouds of gloom that hang over this great land of ours may begin to lift.

I would like to take this opportunity, therefore, to insert in the RECORD a poem written by one of my constituents, Mr. George Victor, which speaks of the goals of our late President, John F. Kennedy:

HIS GOAL

As time and tide have passed the last decade—
Many, Many changes have been made—
But still the memory of the great J.F.K.
Is here as if the past were here today.

He held the hopes of all in highest esteem—
And we as humans should prevail to prove his dream—
The world to have peace—Liberty—freedom from fear—
Were some of the goals he held so dear—
So as the decade has raced through our life—
We as people should take up a knife—

Not to kill or maim or slay
But to cut all strings that hold human life at bay—
Yes at this hallowed time of the year
We should strive to eliminate fear.
Strive with all the power we can as humans collect—
To build in his memory—a memorial erect.
All countries—all folks—should as unity can—
Bring to this earth—the goal of that man.

Our President, yes—but also the world's son—
Who only wanted health and freedom for everyone—
Who as he strived to bring humanity to face
The pitfalls and recessions of the human race
Was slain by the act of an inane fool—
Using an arm of foolish wars tool.

Now as I sit on this day a decade past—I myself will try to help bring a love—that will forever last—
Dedicate myself to achieve all goals in his name
Please, oh please world won't you join me in his wonderful game—
Called Brotherly Love

## BUCKLEY SPEAKS OUT FOR LIFE

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## HON. ANGELO D. RONCALLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. RONCALLO of New York. Mr. Speaker, as I noted on the floor 2 days ago, the thousands of Americans who marched on the Capitol to demonstrate their concern for all human life were only a small representative sample of the millions more throughout the Nation. Rallies and demonstrations against last year's Supreme Court decision on abortion were held throughout the land.

After speaking to those assembled here in Washington on Tuesday, Senator BUCKLEY, who has emerged as the Senate leader in the fight for the unborn, left for Philadelphia, where he addressed the Pennsylvanians United for Life. I would like to share some of his remarks with my colleagues and I include them at this point in the RECORD:

EXCERPTS FROM SENATOR JAMES L. BUCKLEY'S RIGHT TO LIFE SPEECH

At the heart of this issue lies a fundamental choice between two wholly opposed understandings of what it means to be truly human. On the one side we confront the so-called "new medical ethic" in which the dignity and sanctity of the person is sacrificed upon the altar of social utility; and on the other hand we behold more than two thousand years of humane wisdom and a tradition which teaches that every child conceived in his mother's womb has the right to be born.

I am often asked: Senator, what is it that we can do, *now?* What can we do that will best advance our cause? That is not quite so easy to answer as you might at first think, for there is so much to be done, and all of us, I know, feel that most of it ought to have been last week, or last month, or last year.

First, as the old radio pitchmen used to say, keep those cards and letters coming. I can report to you that in the immediate aftermath of the Court's decisions in January of 1973, mail to my colleagues in the House and Senate was very heavy and overwhelmingly pro-life. . . . I am sure you realize how important a factor it is in political making. A substantial flow of individually-written letters is one of the most sensitive political barometers as to the intensity and breadth of public feeling on any given issue. I would suggest to you, therefore, that you write to your Senators and Congressmen, not just once, but often; make it a habit to sit down every week and write a note to one or the other expressing your concern and urging him to support the Human Life Amendments. By such action you will be informing him that this is no ordinary issue, that his actions are being observed, that his letters are being read, and that you expect him to be frank and forthright in stating his views.

If he agrees, welcome him warmly to the ranks; if he disagrees, seek to convince him again and again and again by reasoned argument. But whatever his views, you must remind him that you are out there, that you are vigilant, that you intend to see this thing through, that the defense of the unborn is more important to you than taxes or inflation or a host of other problems that impinge upon our daily lives.

Secondly, let me charge you with another simple duty. Not so simple as the first, and yet well within the reach of most of you. The charge is simply this: that each of you leave here tonight with the firm resolve during the next month to bring just one other person into active involvement with the pro-life movement. As all of you are aware, there are many, many millions of persons who are no less shocked by the Court's ruling, no less horrified by the toleration of easy abortion than you are. And yet, many millions of these same people have not yet been activated, have not yet been encouraged to take that *extra* step, not yet aware that what they do can make all the difference in the world. Plan, then, to go back to your neighborhoods and towns and select just one other person—more if you have the time and talent and try during the next month to get him or her actively involved on behalf of life. And urge each recruit in turn to enlist another, so that the ranks of those actively involved in the struggle to protect life will truly reflect the vast public opposition to the abortion-on-demand mandated by a transient majority on the Supreme Court.

In a larger, more political sense, there is another undertaking that can and must be pursued. This is the effort to get your state legislatures to petition Congress for the enactment of a Human Life Amendment. This, of necessity, will require a larger-scale enterprise than the first two suggestions I have made. But it is an effort that will have a powerful influence upon those in Congress who will be making the ultimate decisions. Fifteen states, as you know, have already memorialized Congress, and the effort is underway in a number of other states. Where that effort is in progress, join it, encourage others to support it; and where it is not yet underway, work with your state and local leaders in the movement and in political office to formulate a plan of attack. What we are asking, is that we the people be entitled to judge so important a matter, that the matter of life and death is too important to be left to the arbitrary discretion of doctors and judges. The disastrous Supreme Court decisions nullified the abortion laws of all fifty states, and the ethical heritage of more than twenty centuries of Western enlightenment. Surely the *people* are entitled through the cumbersome political process of a constitutional amendment to determine for themselves whether the country shall in fact repudiate its historic commitment to the sanctity of human life. I have every hope that your legislators will listen, just as I know that those in Congress will be impressed by the voice of the people as expressed through their elected state representatives.

Fourth, it is vitally important that you learn to be as persuasive as possible in presenting our cause to your friends and neighbors, in letters-to-the-editor, in letters to your representatives. Master the facts, and you will puncture the myth and dispel the fears spread by the abortionists. A truly informed public will rally in defense of life. In November of 1972, after months of debate, the voters of Michigan and North Dakota overwhelmingly rejected proposals for liberalizing their abortion laws, by majorities of 3-to-2 in Michigan and 3-to-1 in North Dakota.

Perhaps the most flamboyantly vicious myth of them all is the one that says that the concern for unborn life is somehow the unique preoccupation of the 21% of Americans who are Roman Catholic, and who are intent on imposing their narrowly-sectarian moral standards on a helpless American majority. The relentless attempt to tag opposition to abortion as a uniquely Catholic issue is as vicious as it is false; vicious because it plays on hidden fears and latent prejudice; and false because every fact belies the assertion. Those who make the charge ignore the findings of the University of Michigan study which demonstrates that a clear majority of each Protestant denomination opposes abortion-on-demand. They ignore the referenda of 1972 in Michigan and North Dakota. They ignore the fact that of the nine Senate sponsors of my Human Life Amendment, seven are Protestant. They ignore the fact that many of the most dedicated and articulate defenders of life are Protestants and Jews. No, the commitment to life is not narrowly sectarian; it is as broad as this land, and as deep as our nation's historic commitment to human dignity.

In the weeks ahead, we will, I pray, be moving toward hearings in the Senate. Your efforts in your states and communities will have a great bearing on the work of Congress. In the Senate we will continue to do our part—and let me take this opportunity before this gathering to thank my colleagues in the Senate who have so courageously and selflessly dedicated themselves to this great effort. Let me mention them by name, for I want you to remember them, and, as occasion permits, to thank them for their moral courage. First, my distinguished friend and colleague from Oregon, Senator Mark O. Hatfield. From Iowa, Senator Harold Hughes. From Utah, Senator Wallace Bennett. From Oklahoma, Senator Dewey Bartlett. From Nebraska, Senator Carl Curtis. From North Dakota, Senator Milton Young. From North Carolina, Senator Jesse Helms. And from Mississippi, the distinguished Chairman of the Committee on the Judiciary and the President Pro Tempore of the United States Senate, Senator James O. Eastland.

These men have stood forth. They have borne witness for life. And they will ever stand for life. For yours, for mine, for our children's, for the very life of this nation. But their efforts will come to nought, unless you resolve to see this thing through, unless you and your friends and neighbors join together to undo the damage that has been done and will be done to the moral fiber of this country.

And let us not deceive ourselves. What is called the "abortion issue" transcends those evils associated with abortion. We are indeed concerned with the moral fiber of the country.

Do I exaggerate? It would not seem so, judging from articles that have appeared in newspapers in recent months. There would appear to be a totally different attitude toward the sacredness of life among growing sections of the medical world, an attitude best summed up by the term "the new medical ethic," but best understood by reading and hearing what that ethic means in human terms.

We read of the Director of Newborn Services in a large hospital in the Eastern United States stating that "There are babies . . . who have severe deformities noncompatible with human life" and that therefore he and his colleagues must make life-death decisions for these babies every two or three weeks, by either granting or withholding life-sustaining treatment. "Noncompatible with human life" is a term so grotesque in its blend of antiseptic scientism and ethical idiocy that it sounds as if it were taken from Orwell's *1984*.

Then there is the Pediatric surgeon at Johns Hopkins University who says that "there are many things worse than death" for deformed babies and therefore he and his colleagues should be given the right to decide for the baby whether or not death is preferable.

It should not be surprising, given such attitudes as I have just described, that last year a University of Maryland professor informed a meeting of the Eastern Psychological Association that the federal government should issue or withhold, depending upon its judgment, licenses to those who wish to become parents. I want to quote this gentleman's attitude toward the sacredness of life: "We cannot afford the luxury of any fool adding to our numbers at any time."

Over thirty years ago Winston Churchill spoke of the monstrous evils that would result from the totalitarian application of a "perverted science." It seems clear that advocates of such a science, devoid of ethical standards, possessed of immense power and prestige and to a large extent supported by taxpayers' dollars are succeeding beyond the dreams of those enemies of civilization of whom Churchill spoke during the dark years of World War II. The voice of the new medical ethic is the voice of science; but the message is the message of philosophical barbarism.

Let it be said that because of you, at an hour of great peril to the nation's moral life, the American people rededicated themselves to the proposition that all men are created equal and that they are endowed by the Creator with inalienable rights, the greatest of which is the right to life.

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## MUTUAL BROADCASTING'S BILL GREENWOOD PRESS CLUB VICE PRESIDENT

### HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. FUQUA. Mr. Speaker, the National Press Club is known and respected as one of the most prestigious press clubs in the world. Its membership reads like a "Who's Who" of American journalism.

Little doubt then that those of us from Florida are proud of the honor conferred upon one of our own in being elected vice president of the National Press Club for the coming year.

He is Bill Greenwood, 31, chief congressional correspondent for the Mutual Broadcasting System. It is interesting to note that he has also been named vice president of the Radio-TV Correspondents' Association, the first to hold both positions simultaneously.

Serving his fourth term as a member of the standing committee of correspondents of the House and Senate Radio-TV Galleries, he is a native of Jacksonville, Fla. He attended Florida State University and then American University in Washington where he received his B.A. degree.

Bill began his broadcasting career at 13 in Jacksonville Beach, Fla. He was a television anchorman while attending FSU, Station WFSU-TV, and worked in radio stations in Tallahassee and Jacksonville before moving to Washington in 1966.

Since arriving in the Capital City, he has become a familiar figure on the Hill, covering the Congress for the national educational radio network, UPI, and now Mutual Broadcasting.

His daily newscast is originated live from the House Radio Gallery and is heard on more than 600 radio stations. His is the only regularly scheduled live program from Capitol Hill.

He has covered the past two Presidential campaigns, national nominating conventions, and inaugurations and was the only broadcaster to provide live coverage of the funeral services for President Harry Truman. As the network pool reporter, his broadcasts were carried on all of the Nation's networks—ABC, CBS, NBC, and Mutual.

Greenwood's family lives in Jacksonville, Fla. He is married to the former Marsha Sheppard.

Bill Greenwood is a respected newsman and a credit to his profession. I value his friendship and admire his professionalism.

All of us who know Bill are delighted that the National Press Club membership has decided to confer this leadership role upon him. I know from past experience that he will do an outstanding job.

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## A POSITIVE APPROACH

### HON. ORVAL HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. HANSEN of Idaho. Mr. Speaker, in the present era of change and challenge, we are again reminded that men and women of sound vision, possessing a firm faith in the ultimate goodness of mankind, indeed, constitute our country's greatest asset.

Such a man is William H. McMurren, the president and chief executive officer of Morrison-Knudsen Co., one of the Nation's largest corporations, with home offices in my own State of Idaho.

In his company's monthly publication, the M-Kayan, Bill McMurren recently devoted a few well-chosen words to the energy crisis and related events. His remarks evidence the kind of thinking that has made him one of America's most successful executives. I am inserting his remarks in the RECORD today so my colleagues and others may have the opportunity to read this most timely and important message:

REMARKS BY WILLIAM H. MCMURREN

Some Americans seemingly have become so obsessed with the energy crisis and other disquieting headlines of the times that they are wallowing in gloom, if not predicting some sort of economic Armageddon. Such thinking is unreasonable.

There is no denying that we, as a nation, are confronted by problems.

There is no denying that a serious shortage of fuels and of certain materials and supplies does exist, and may continue for some time to come.

There is no denying that this nation, and others, have enjoyed an era of affluence that often has bordered on the profligate.

So we change our ways, even if it hurts.

What is wrong with adapting to realities? What is wrong with working harder, and doing more with less? What is wrong with applying a full measure of the resourcefulness, the technology and the versatility that have brought us this far and will carry us through again?

Any individual, any nation, is far better off when lean and self-sufficient than when fat, comfortable and dependent on others.

As construction contractors, we often are accused of being hopeless optimists (all the pessimists eventually go out of business). We readily admit to such optimism—based on realistic appraisals at this time of our company's situation both at home and abroad. In our view, what is needed right now is a massive infusion of national confidence—confidence in our country, in our system of government, in our future, and in ourselves.

## THE PUBLIC'S RIGHT TO KNOW

### HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. RAILSBACK. Mr. Speaker, many believe that any legislation enacted by the Congress must preserve the traditional role of the press in bringing vital information to the attention of the public. An article which recently appeared in the Boston Globe, on January 20, addresses itself to this point, and for the review of my colleagues, I include the article:

[From the Boston Globe, Jan. 20, 1974]

A BILL FOR THE RIGHT TO KNOW

A long and hard battle is still going on in the courts and legislatures to make secure the right of the American people to know. That right, so basic in a democracy, had been thought to be protected under the First Amendment until the US Supreme Court, in June, 1972, ruled in the Caldwell case that there was no absolute protection against the disclosure of confidential information when it was subpoenaed.

A number of cases since then have shown the great need for legislation: Last September a Federal court allowed lawyers for former Vice President Spiro Agnew to subpoena newsmen in an effort to track down news leaks about his legal problems. They could have gone to jail for refusing to disclose their news sources, and probably would have if Mr. Agnew had not nullified the effort by resigning on Oct. 10.

In another case, the highest court refused last October to hear the appeals of two Baton Rouge, La., newsmen from their convictions for defying a judge's gag order by saying it "could not withstand the faintest breeze emanating from the Constitution," but nevertheless let the convictions stand. Solicitor General Robert H. Bork agreed that reporters must obey a judge's gag order, even an illegal one. And Justice William O. Douglas was the only one of the nine Supreme Court Justices who thought the case was worthy of review.

In a third case, the highest court did agree recently to hear an appeal from a Florida Supreme Court ruling holding, 7-to-1, that a 1913 law which allows a politician free space for "any reply" to newspaper criticism of him was constitutional. A county judge had held the state cannot "assume the editorial function and direct a newspaper what to print."

But if the people's right to know has taken a pounding in some courts, some encouraging progress has been made in Congress. Recently a majority of the news media organizations, led by the American Newspaper Publishers Association, reached general agreement with a House Judiciary Subcommittee on a bill to protect newsmen and the people's right to know against forced disclosure of confidential information. In reaching it, subcommittee chairman Robert W. Kastenmeier (D-Wis.) and Cong. William S. Cohen (R-Me.) were particularly effective.

The agreement, which will be incorporated in amendments to be considered by the full Judiciary Committee, will result in considerable improvement of the so-called shield law proposal originally approved by the subcommittee last June.

First and foremost, the bill would provide that no newsman could be required to disclose confidential information or its source to a Federal or state grand jury or in any pre-trial proceeding. In a trial itself, disclosure could be required only if the court were satisfied that the information was indispensable to either side in the case, could not be obtained from any other source, and a compelling public interest was involved.

This follows, in general, the new guidelines laid down on the subject last year by then Atty. Gen. Elliot Richardson before he resigned in protest against the firing of Prof. Archibald Cox.

Instead of calling it "The Newsmen's Privilege Act" and thus emphasizing the protection of newsmen rather than of the public's right to obtain information, the bill would be entitled "The News Source and Information Protection Act." And that is all to the good.

The definition of "newsmen" would be broadened to include the electronic media and executives and corporate entities. And the privilege against disclosing a newsman's source would not apply when the newsman is a defendant in a civil defamation case.

The bill, we strongly believe, is a most necessary one for Congress to pass this year. We would have preferred to stand on the protection afforded by the First Amendment, but the US Supreme Court itself has made such a stand risky. And in the Caldwell-Branzburg cases, that court explicitly invited such Congressional legislation.

The question now is what course Congress will follow. If it heeds public opinion it will pass the bill, for a Gallup poll taken last October and published last Jan. 4 reported than 62 percent of those questioned agreed that newsmen should be protected from being forced to disclose confidential sources—a five percent increase over a similar poll in December, 1972, before most of the Watergate disclosures.

But while the public interest in knowing what goes on in government is tied directly to the freedom of the press to report what goes on, there are those in government, at both high and low levels of it, who do not want it reported. Hence the battle in Congress may be a hard one. But if the people let their Congressmen and Senators know how they feel, there is now an excellent prospect of enacting this necessary legislation.

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## "MURDER BY HANDGUN: THE CASE FOR GUN CONTROL"—NO. 63

### HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. HARRINGTON. Mr. Speaker, in a recent letter to Members of Congress, former Mayor John Lindsay said:

> Police Commissioner Donald F. Cawley and I believe that nothing the Congress does in the coming year could be more important to the safety of our nation's police and law-abiding citizens than the enactment of stringent federal firearms control.

The report that Mr. Lindsay attached is a fairly complete documentation of the facts and figures involving handgun crimes. The report indicated that in 1972, more than 600 handgun crimes, including murder, robbery, and assault were committed each day.

I urge my colleagues to review their copy of Mr. Lindsay's study. It demonstrates conclusively that strong handgun control legislation must be passed by Congress as speedily as possible in this session.

Included below is an account of a handgun murder. The death of Tyrone Johnson, as reported in the January 12 Washington Post, could have been avoided if strong gun control legislation was a fact instead of a dream:

YOUTH, 16, SLAIN AT DANCE IN NE

A 16-year-old Northeast Washington youth was shot through the heart and killed about midnight last night during an altercation at a dance at a Florida Avenue NE community center, police reported.

They said that Tyrone Johnson, of 1421 West Virginia Ave. NE was shot in or near the Martin Luther King Center in the 1300 block of Florida Ave. NE, as a dance there was letting out. He was pronounced dead on arrival at D.C. General Hospital at 12:40 a.m. today.

Police said that no arrests had been made as of early today.

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## WAGE AND PRICE CONTROLS: BUREAUCRATS GAIN, CITIZENS NIGHTMARE

### HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. ASHBROOK. Mr. Speaker, I was opposed from the beginning to the imposition of wage and price controls on the American people. I warned then that such controls would lead to shortages and more regulation and intervention in the lives of every individual American. My warnings have now been fulfilled. We find ourselves with shortages not only of fuel but also such commodities as paper bags and numerous other materials. The Government is unable to fix prices and to maximize production. Once the Government does get involved in these areas, production goes down, shortages results, and gray and black markets begin to make their appearance.

In the December 31, 1973 issue of Newsweek the well known and respected economist, Milton Friedman, had an article entitled "Why Now?" Dr. Friedman presents some of the problems that have resulted from the numerous attempts at controlling prices. I urge my colleagues to give attention to this article. The text follows:

WHY NOW?

(By Milton Friedman)

"Running Out of Everything" was Newsweek's cover headline some weeks back. It dramatized the fact that, for the first time since World War II, the U.S. has begun to experience major shortages not only of petroleum products, but of a wide range of other items.

Of the many attempts to explain this state of affairs that I have seen in the media, not one faces up to the crucial question: Why now? Why did shortages not emerge in 1968 at the height of the Vietnam war, or in 1958, or for that matter in 1938 or 1928? What is different about 1973?

THE MIDEAST WAR, NO

The Mideast war is one obvious answer. The Arab boycott it unleashed has exacerbated the shortage of crude oil. But an energy shortage was well on its way before the Mideast war broke out. Government allocation of fuel was already on the way. And none of the other shortages owes anything to the Mideast war.

One popular answer—particularly for the energy crisis—is that consumption of energy has been increasing rapidly. But that has been going on for decades. Why should it have produced shortages only now?

The response is typically that we are running short of reserves of fossil fuel—that there are only ten or fifteen years of proven oil reserves, for example. But that too has been true for decades. In the 1920s, scare stories were being written about the danger that we would run out of oil because the then proven reserves would last for only ten or fifteen years. In the interim, consumption of crude oil has multiplied manyfold—and so have proven oil reserves. The fact is that it does not pay to find and prove more than about fifteen years' oil reserves at any time.

But this time, it is said, we are short of refining capacity' Perhaps so, but why now? How is it that until now, refining capacity was able to keep up with demand, but in the years 1971 to 1973 it was not?

The greedy, selfish oil interests? If, as is frequently charged, they have conspired to create a shortage profitable to themselves, why have they been so slow? They are no more powerful now than they have been for many years. Why did they wait so long before squeezing the hapless consumer? And how do they make profits by having no oil to sell? By full-page advertisements urging consumers to economize on fuel? This is simply the irrational search for a devil.

The answer to "Why now?" is straightforward—yet I know from bitter experience how hard it is to persuade anyone other than an economist that so simple an answer can be correct. Nineteen seventy-three is different from other peacetime years because, for the first time since World War II, the U.S. has had extensive price and wage controls. The key to today's shortages is the price freeze ordered by President Nixon on Aug. 15, 1971.

Has fuel oil been especially short? Aug. 15, 1971, was summertime. It will surprise no one that fuel-oil prices are generally lower in the summer than in the winter. The result of freezing prices at summertime levels was to make gasoline more profitable to produce than fuel oil. Has pipe been hard to get for drilling new wells? As it happened, the controlled prices for pipe and flat steel made it more profitable to produce flat steel.

PRICE CONTROLS, YES

I am not enough of an expert—no one is—to know the million and one places where prices fixed by bureaucrats on the basis of arbitrary rules and accidental starting points have created distortions and shortages. Some have been dramatic, like the beef shortage and the destruction of baby chickens. But most have not been. They are hidden in the interstices of an incredibly complex production system that cannot operate without the enormous efficiency of a market-price system to adapt changing demands to changing supplies. And many have been overcome by millions of citizens who found ways to avoid or evade the price controls.

I know that it is hard for you to believe that so seemingly simple a matter as price fixing can produce so complex a phenomenon as widespread shortages. But then, I find it hard to believe that an automobile engine is a complex matter until I start probing around in its innards when it stops functioning on a dark road in the early hours of the morning.

At any rate, if this is not the answer, what is? In what other respect—pervasive enough to produce the pervasive effect we see—is 1973 different from earlier peacetime years?

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## ST. JUDE HOUSE

### HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. MOAKLEY. Mr. Speaker, St. Jude House in Jamaica Plain, Mass., has served many Boston residents who suffer from alcoholism. Their fine work was recently singled out for particular praise by the U.S. Jaycees Foundation. I am pleased to share their letter with my colleagues:

PROJECT UPLIFT,
U.S. JAYCEES FOUNDATION,
*Washington, D.C., January 10, 1974.*

Mr. THOMAS W. DINEEN,
*St. Jude House,*
*Jamaica Plain, Mass.*

DEAR MR. DINEEN: It is with great pleasure that I am able to inform you, on behalf of the U.S. Jaycee Foundation, that the Saint Jude House has been selected as one of the country's most outstanding self-help programs.

You were chosen as a part of a four month nationwide study, administered as Project UPLIFT for the U.S. Jaycee Foundation. Entries came from over 900 self-help programs, many pointing the way to new kinds of community-initiated, community-run activities, and illustrative of "what people themselves can do."

The final selection was a difficult one. However, the Board of Review, research analysts and Project UPLIFT staff were impressed with your initiative and success in bringing positive change to the low income community you serve.

It is the belief of Project UPLIFT that if this kind of innovative program can be brought to other economically and socially isolated communities, the devastating effects of poverty may be more readily overcome.

On behalf of the U.S. Jaycee Foundation, I congratulate the Saint Jude House and hope that through the recognition of your success other low income communities will benefit from your experiences.

Wishing you continued success, I remain

Sincerely,
SUSAN DAVIS, *Project Director*.

## A SALUTE TO THE NATIONAL ATHLETIC HEALTH INSTITUTE

### HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. DON H. CLAUSEN. Mr. Speaker, I would like to take this opportunity to bring to the attention of the House a new, nonprofit organization dedicated to the research and development of new techniques and equipment in the area of sports medicine and recreation health.

One of the primary goals of the National Athletic Health Institute, Inc., is a thorough and objective nationwide study of the status of young athletes from sandlot to campus; the quality of their equipment, playing conditions, medical care, injury records, and rehabilitation. An average of 14 American boys died each year between 1931 and 1965 in sandlot and high school football. In Little League, some estimate that up to 100,000 boys develop chronic elbow strain in a single year and physicians have often traced crippling deformities to injuries incurred while playing high school sports. In my judgment, these figures certainly point out a need for concern and for making athletics safer for young people.

With the growing awareness of the relationship between good health and physical exercise, and with a growing participation in sports by Americans, there is a growing need for research and education in the area of sports medicine. For example, last year there were over 17 million Americans injured in sports and recreation and all too many of these injuries—some of which are permanent and severe disablements—could have been prevented. We have learned, for instance, that very personal factors determine both the kind and amount of exercise that one should take, and the capability for exercise varies widely among individuals because of genetic and adaptive factors. With weekend athletes multiplying, it is time to make available the means of testing individual needs for exercise and individual limits beyond which it can be dangerous.

Among the board of directors, which includes Vice President FORD and the distinguished gentlewoman from California (Mrs. BURKE), is Mr. Keizo Saji, chairman of Suntory Ltd., Osaka, Japan, who expressed the hope that this program could also become international in scope, which aside from the benefits in the area of health, would certainly enhance our understanding and communications with other nations through a common and worthwhile effort.

I commend the goals of the National Athletic Health Institute and I wish them every success in their effort to improve the health and safety of every American who participates in sports or physical activity.

## QUIE LAUDS FINAL REPORT OF THE NATIONAL COMMISSION ON THE FINANCING OF POSTSECONDARY EDUCATION

### HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. QUIE. Mr. Speaker, today, after 14 months of hard work, the National Commission on the Financing of Postsecondary Education made its final report to the President and the Congress.

We created this Commission in the Education Amendments of 1972. If one thing was clear from 2 years of effort on that legislation, it was the shockingly low quality of information about the financing of secondary education—institutional as well as general industrywide information. This report goes a long way toward filling the gap.

It was a good decision on our part to require the appointment of four Members of Congress to serve with 13 others appointed by the President. I commend the work of Representatives JOHN DELLENBACK and JOHN BRADEMAS and Senators J. GLENN BEALL and WILLIAM D. HATHAWAY. They will add a new dimension of expertise to the work of the committees which must now scrutinize the report and begin a thorough evaluation of present and proposed Federal programs.

Mr. Speaker, although none of us has had the time to digest this 400-page report, I would like to point out a few highlights:

First. The report has the most concise presentation of current sources of revenue and expenditures for postsecondary education that I have seen. This in itself will help local, State, and Federal policymakers better understand the big and complex picture.

Second. This Commission has done the hard development work on a rather sophisticated analytical model to evaluate all the many financing schemes we hear about in a way that allows some meaningful comparison. I hope researchers in education will begin at once to further refine this most useful tool.

Third. The Commission concluded that the national objectives it identified are not now seriously jeopardized because of the financial difficulties of many individual institutions. But it identified warning signs and made significant suggestions on how we might measure the financial health of postsecondary education in the future.

Fourth. Guidelines are presented that should move us toward the day when we can develop meaningful cost-per-student data for various segments of postsecondary education.

Fifth. After analyzing a wide variety of funding strategies, the Commission concluded that targeting Federal assistance on needy students is the best strategy to achieve the goal of equal access to further education and to maintain a viable private sector—two of our highest objectives. In other words, the Commission's analysis seems strongly to confirm the high priority many of us have placed on fully funding the basic education opportunity grant program.

Sixth. Finally, the Commission left us the fruits of its efforts to collect the most complete data files possible on over 10,000 institutions of postsecondary education. Government agencies, researchers, educational institutions, and the Congress should have easy access by remote terminals to this computerized information.

Mr. Speaker, I am sure all of us in Congress congratulate the members of this Commission for a job well done. We must now move forward, in cooperation with local and State governments and representatives of all segments of postsecondary education to develop a more cohesive long-range policy of financing postsecondary education, one that identifies the different roles to be played by each major source of funding this $30 billion and growing enterprise.

## LEGISLATION TO REPEAL DAYLIGHT SAVING TIME

### HON. LAMAR BAKER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. BAKER. Mr. Speaker, on January 23 I introduced legislation which would repeal Public Law 93–148 which established year round daylight saving time. I did so because the large majority of the people in the Third Congressional District of Tennessee are profoundly disturbed at the effect this legislation has had on their lives.

Many students have written me that they have been forced to abandon part time jobs after school because of later opening hours for classes. The family transportation schedule is completely disrupted in other cases. One family wrote that the father had to be at work at 8 a.m. while the children did not go to school until 10 a.m. Classes then dismissed at a time which threw the children into the evening rush hour of traffic.

School athletes write they no longer have time for regular after school practice sessions. Many other extra curricular activities have had to be curtailed. Teachers complain because they also have families. They have to get meals for those who leave home early in the morning and try to have some semblance of schedule late afternoon and early night. With the change in school schedules there is no time to relax in many instances. Children have no time for lessons in piano and dancing is another complaint. One teacher complains that her husband goes to work at 7 a.m. and gets off at 3:30 p.m., while she must be at school at 10 a.m. and gets out at 5:15 p.m.

Another parent says she feeds her child at 7 a.m. in the morning with the rest of the family but the child does not have lunch period until 2 p.m. and is famished by that time. Other children who eat just before they leave for school have lunch at 12 which makes the two meals too close together. Schoolbus schedules have become most complicated. The superintendent of schools decided the time change was absolutely necessary for the safety of the children. Even so, they have to pick up a few children in the dark in order to get the high school students there by 10 a.m. This information all came from city schools. Out in the rural areas it is even worse where bus routes are much longer.

I find this difficult to justify. It has not been demonstrated to my satisfaction that all this inconvenience is balanced by a significant savings in energy. My bill simply proposes a return to time as it has been over the past years.

## NATIONAL APATHY ON LAW ENFORCEMENT

## HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. BIAGGI. Mr. Speaker, the year 1973 was one of great turbulence and tragedy for this Nation. The erratic state of our economy drove thousands of Americans to the brink of poverty; Watergate and its related scandals have left an indelible mark on this administration and its ability to govern. Yet for one particular group in this Nation, the hundreds of widows and family members of our law enforcement personnel killed in action, 1973 was an especially tragic year.

Recent end-of-year statistics issued by the Federal Bureau of Investigation confirm the true extent of this tragedy. During this past year, 131 police and other law enforcement personnel were killed in the line of duty. This figure represents the highest total ever recorded in the time the FBI has maintained these records.

What do these figures represent beyond mere statistics? In a very human sense they are translated into hundreds of women and children becoming premature widows and orphans as the result of the depraved acts on the part of sick and desperate criminals. Yet these figures signify even more. They show that 131 gallant and dedicated individuals met violent and untimely deaths as a result of merely trying to uphold law and order in the United States.

These killings are further symptoms of a disease which continues to infest this Nation, namely a disregard and disrespect for the police. While it is true that the actual killings are done by a small group of people, the lack of response on the part of the overall nation to these outrages is indicative of a deeper malaise.

Ironically, this national apathy is balanced against polls which show that most Americans are in support of the police due to the recognition that crime is the No. 1 problem facing us today. In a recent poll conducted in New York City, an overwhelming 63 percent of all persons questioned indicated that crime was the issue of greatest concern to them. In contrast the high cost of living was chosen by only 20 percent.

During this past year, I have spoken out repeatedly against the senseless and brutal killing of policemen. Let me cite for you a vivid example of a police murder. In late December, an undercover policeman working in Silver Spring, Md., was shot to death as he attempted to make a cocaine buy from an alleged major dealer. The slain officer, 25-year-old William Conroy was shot repeatedly in the abdomen, despite the fact that he was unarmed. He died in a matter of minutes. Conroy's partner was also shot but fortunately recovered.

As a 23-year veteran of the New York City Police Department, I am particularly appalled at the killing of policemen. What can we as a nation do? First it is time to respond to the needs of the police, they need better protection from the lunatic fringe of the society.

We, as a nation, must realize that the inherent strength of a strong democracy rests with a strong and vibrant law enforcement system. One way to register this belief is through a nationwide reestablishment and revitalization of respect for the man in blue, as well as the understanding that they are serving our interests as well as those of our neighbors and families.

Already in 1974 policemen have been murdered. Yet despite this unfortunate beginning there are signs that 1974 will be a better year for law enforcement in this country. For one thing there is the recent Supreme Court decision which expanded the policeman's right to search suspected criminals. This will be its first full year of implementation, and it should aid both police efficiency, as well as police safety.

A further aid to the cause of law enforcement is contained in legislation languishing in the House which will provide $50,000 in death benefits for the widows and survivors of police killed in action. We must not compound the tragedies which those grieved widows and families of slain policemen face. Instead, we should act to insure their financial security.

Before 1973 passes on entirely, let us take its hard lessons. Law enforcement is essential for this Nation. The system was dealt a severe blow with the loss of 131 of its members. We must prevent this tragedy from happening again in 1974.

## REMEMBER OUR MIA'S

## HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. PEYSER. Mr. Speaker, Sunday, January 27, 1974, marks the first anniversary of the signing of the Vietnamese peace agreement in Paris. On that date we were finally able to bring about a settlement in Southeast Asia and secure the release of our prisoners of war. I believe that I speak for the majority of Americans when I say I am glad that our military involvement in Vietnam finally ended.

Yet while we reflect upon our success let us not forget our servicemen who are still reported missing in action. There are approximately 1,138 MIA's, and we must continue our efforts to force the Hanoi government to tell us the truth about the lives of our servicemen.

On August 28, 1973, I wrote a letter to Henry Kissinger, then Secretary of State-designate, urging that it should be the highest diplomatic priority of this country to effect a complete accounting of all those servicemen who have served in Southeast Asia. I also wrote a letter to Le Duc Tho of North Vietnam in which I urged his government to reconsider its policy toward American servicemen missing in action and to allow search teams to make the necessary accounting.

Maj. Anthony Shine, the son of Mr. and Mrs. George W. Shine from Pleasantville, N.Y., is one of those who has been reported missing in action after being shot down over Laos in December 1972. I recently spoke to his mother and reassured her that I would do whatever I could on her son's behalf.

The wives, mothers, and friends of the MIA's are looking to us for action regarding their loved ones. The peace treaty is empty for those families of men missing in action. These families have not lost faith and we in Congress must keep faith with them. I urge the State and Defense Departments and my colleagues in both Houses to take the necessary action to effect a full accounting of the servicemen missing in action.

The letters follow:

HOUSE OF REPRESENTATIVES,
*Washington, D.C., August 28, 1973.*

Dr. HENRY KISSINGER,
*Secretary of State Designate, National Security Council, Old Executive Office Building, Washington, D.C.*

DEAR HENRY: I would like to take this opportunity to congratulate you on your appointment to become Secretary of State. This is certainly a reflection on your outstanding diplomatic achievements of the past four and a half years, and I have every confidence that the Senate will swiftly confirm your appointment.

I hope that one of your initial concerns as Secretary of State will be the men who are still missing in action in Southeast Asia. Hanoi has yet to live up to Article 8B of the cease-fire agreement and, as a result, the families of those missing in action exist in limbo. They do not know whether the men are dead or alive. No American search teams have been allowed to go into Communist held territory.

It is inhumane to allow this situation to exist. The peace treaty is empty for those families of men missing in action. I believe that it should be the highest diplomatic priority of this country to effect a complete accounting of all those who have served in Southeast Asia. It is my firm hope that as Secretary of State you will pledge to make this commitment to the families of those men missing in action.

Again, congratulations on your appointment.

Sincerely,

PETER A. PEYSER,
*Member of Congress.*

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HOUSE OF REPRESENTATIVES,
*Washington, D.C., August 28, 1973.*

Mr. LE DUC THO,
*Secretariat of the Central Committee of the Lao Dong Party, Hanoi, Democratic Republic of Vietnam*

DEAR MR. THO: I am writing you on a matter of deep urgency to the people of the United States, and a matter which threatens to jeopardize the Paris Accord signed by our respective countries. Specifically, this is the issue of Amercan servicemen who are missing in action in Southeast Asia and who are not accounted for by your country.

Your government has not abided by Article 8B of the cease-fire agreement, and has not allowed any American search teams to go into territory which you possess. This is an inhumane situation, and one which could be easily alleviated by your government. Surely your government has nothing to gain by continuing to prolong the agony and heartbreak of the families involved.

I can personally assure you that the United States Congress is deeply concerned about this situation and that much of its future actions concerning your country will be guided by what you do concernng these missing servicemen.

Sincerely,

PETER A. PEYSER,
*Member of Congress.*

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THE WHITE HOUSE,
*Washington, D.C., September 7, 1973.*

Hon. PETER A. PEYSER,
*House of Representatives,*
*Washington, D.C.*

DEAR PETE: Thank you for your good wishes on my nomination.

You have my assurance that the men missing in action have not been forgotten. The President is determined that all of them will be accounted for to the degree that is humanly possible. The service of these men and the courage, devotion and sacrifice shown by them and their families, make it clear we can do no less.

Warm regards,

HENRY A. KISSINGER.

## INTERLOCKING DIRECTORSHIPS

### HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. ASPIN. Mr. Speaker, there has been a lot of speculation lately as to why the oil companies behave in such a monopolistic manner. I believe that a large part of the answer lies in the fact that a number of interlocking directorships exist among the oil and gas firms. These interlocking directorates have the effect of eliminating competition since common directors tend to monopolize a market and provide the opportunity for exchange of information.

I have asked Attorney General Saxbe to investigate the apparent violation of the Clayton Act, which bans interlocking directorates in competing companies, by 19 individuals. The various Attorney Generals who have served in the current administration have avoided offering a precise definition of what constitutes an interlocking directorate.

We have all become very concerned about the energy shortage and how it has come about. I would like to suggest that this problem, like so many others, is a result of the activities of individuals. For far too long the oilmen in this country have been allowed a free hand. They have created an international cartel beyond the reach of most governments. If there is to be any good to come out of our present uncomfortable circumstances, it is that we should never again allow the control of our resources to be vested in the hands of a few men.

A list of the 19 interlocking directors follow:

INTERLOCKING OIL COMPANY DIRECTORS—SOURCE: SEC COMPUTER SEARCH OF OIL & GAS EXECUTIVES

F. A. CALVERT, JR.

Halliburton Co., Director.
Mapco, Inc., Director.
Calvert Exploration, Chairman of the Board.

EDWIN L. COX

Sedco, Director.
Plateau Natural Gas Co., Director.
Edwin L. Cox Co., Owner.

PAUL A. CONLEY

Pauley Petroleum Inc., Director.
General American Oil Co., Director.
Wilshire Oil Co. of Texas, Director.

J. B. LADD

Ladd Petroleum Corp., Officer.
KRM Petroleum Corp., Director.

J. B. RANKIN, JR.

McMoran Exploration Co., Director.
Sundance Oil Company, Director.

T. B. PICKENS, JR.

Mesa Petroleum Co., Director.
Wainco Oil Ltd., Director.

JOHN SHAW, JR.

Offshore Company, Officer and Director.
Southern Natural Resources, Director.

JOSEPH A. THOMAS

Halliburton Co., Director.
Getty Oil Company, Director.

EARL M. JORGENSEN

Christiana Oil Corp., Director.
Kerr-McGee Oil Industries, Inc., Director.

LOUIS MARX, JR.

Pan Ocean Oil, Director.
Marline Oil Corp., Director.

L. F. M'COLLUM, JR.

Apco Oil Corp., Director.
Rowan Drilling Co., Director.

DONALD M. KENDALL

Atlantic Richfield, Director.
McCullouch Oil Corp., Former Director (Apr. 3, 1967–February 1972).
Investors Diversified Services,* Board Member—4 Mutual Funds of which I.D.S. is an affiliate.

CLIFFORD W. MICHEL

Cities Service Co., Director.
Dome Petroleum Ltd., Director.

JOHN B. M. PLACE

Marathon Oil Company, Director.
Celanese Corporation, Director.

TODDIE L. WYNNE, JR.

American Liberty Oil, President.
New Zealand Petroleum Co. Ltd., Director.

GEORGE H. BRUCE

Halliburton Co., Director.
Western Oil Fields, Inc., Director.

ROBERT E. AIKMAN

Dorchester Exploration, Inc., President.
Mana Resources Gas Exploration Fund, Chairman, Board.

STEPHEN A. WELLS

Pyramid Petroleum Inc., Officer.
Amarex Drilling Program, Officer.

ALGUR H. MEADOWS

Fargo Oils, Director.
General American Oil Co. of Texas, Owner.

## A BILL AUTHORIZING PARTITION OF JOINTLY HELD HOPI AND NAVAJO TRIBAL LANDS

### HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. OWENS. Mr. Speaker, in September of last year I introduced a bill intended as a compromise solution to the tragic and costly land dispute between the Hopi and Navajo Indian Tribes in northeastern Arizona. At the same time, an identical bill was introduced in the Senate jointly by the two Senators from Arizona, Mr. FANNIN and Mr. GOLDWATER.

The purpose of this proposed legislation is to resolve a dispute which began more than a century ago, and in recent times has resulted in bitter and sometimes violent intertribal conflict and has allowed tribal lands to become desolate and unproductive.

Prior efforts by the Federal Government and courts to resolve this dispute have been unsuccessful because Congress has never granted authority to the courts to define the territorial boundaries of the two tribes in a partition proceeding. Enabling legislation must be passed by Congress in order to bring about a lasting settlement.

It is a matter of history that President Chester A. Arthur in 1882 directed that 2,500,000 acres of public domain land be set aside for the use and occupancy of the Hopi, and for such other Indians as the Secretary of the Interior may see fit to settle thereon. Over the years many Navajos have moved from their adjoining reservation onto the original Hopi lands, and conflict and mutual distrust has grown between the two tribes.

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* Not listed in SEC report—information obtained from SEC and IDS officials.

In 1958, Congress authorized the U.S. District Court of Arizona to determine the respective interests of the Hopi and Navajo Tribes in the disputed area. The Hopis contended that the lands in question belonged solely to the Hopi people, while the Navajos asserted that the land upon which they had settled had become their own.

The district court ruled that 600,000 acres were exclusively Hopi and that the balance of 1,900,000 acres was owned jointly between the Hopi and Navajo Tribes, share and share alike. This ruling was affirmed by the Supreme Court of the United States.

The district court also ruled that it was without express congressional authorization to partition the jointly held lands. Thus, the dispute was not completely resolved. The two tribes have been unable to jointly administer their common reservation. In fact, in supplementary proceedings, the district court has found that the Navajos, who number about 120,000, and the U.S. Government, as trustee, have prevented the Hopis, who number about 6,500, from using any significant portion of their one-half interest in the joint-use area. In addition, the absence of proper land management has created a situation which has nearly destroyed the productivity of the area.

The district court stated in December of 1973, that unless the unregulated overgrazing of Navajo livestock on the joint-use area is promptly controlled and the area restored, neither the Hopis nor the Navajos will be able to make any use of this land.

Although there have been efforts by the two tribes to reach a negotiated settlement of this problem, those efforts have been totally fruitless concerning even such basic issues as the control of grazing. The Bureau of Indian Affairs has also been ineffective in establishing and enforcing measures which will protect the valuable resources of these Indian peoples. Continued failure to cope with even these basic conservation issues, will result in the further impoverishment of the Indians living in this area and the swelling of the public welfare roles. As Congressman LLOYD MEEDS, chairman of the Subcommittee on Indian Affairs, has said:

> If we fail to make a decision at this time, it will only tend to exacerbate an already complicated situation.

Numerous hearings have been held over the last 2 years before the House and Senate subcommittees, both here in Washington, D.C., and also in the field. The tribes and the Government have expended a great amount of time and money in presenting and examining all sides of these issues. The time for action is now upon us.

The bill as approved by the subcommittee is a compromise effort to reach a final settlement of this situation which will recognize what has already been determined by the court and will resolve remaining issues in an equitable manner for all concerned. The bill authorizes the district court to partition equally the surface of the joint-use area between the Hopi and Navajo Tribes, giving consideration to present population densities and locations and thereby avoiding undue social, economic, and cultural disruption. The bill further implements the court's previous decision by providing that each tribe will receive an equal share in the quantity and quality of land.

Under the bill the equal partition of this land will be made by the court after both tribes and the United States have had a full and fair opportunity to present all relevant facts. The bill also provides funds to assist in the relocation and reestablishment of any Indian families which are displaced by reason of the partition.

If we do not squarely face the issues in this matter, the sometimes brutal forces of nature will cause the mass reduction of livestock through drought, starvation, and disease which in turn will result in the forced displacement of many more Indians without the assistance provided in this bill.

I strongly urge that we take swift action to adopt the bill as favorably reported by the subcommittee.

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## OIL COMPANIES' PROPAGANDA RESENTED

## HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. ROUSH. Mr. Speaker, today I wish to insert in the CONGRESSIONAL RECORD a letter that appeared in the January 13, 1974, Fort Wayne Journal-Gazette, one of the most widely circulated newspapers in my district. Although I cannot vouch for the accuracy of the information, for few of us can honestly say we have all the facts, and accurate ones, surrounding the energy crisis, I feel that what this constituent reflects is a general lack of trust felt by many Americans toward the oil companies, as well as a loss of confidence in the administration, not only by the effects of Watergate, but by their hesitancy in copying with the emergency at hand. Hopefully, through the investigations of several congressional committees, we will have sufficient information to determine whether or not an oil shortage does exist, and the extent of it if it does exist, and whether or not the various allegations made against the oil companies are indeed factual.

The letter follows:

### OIL COMPANIES PROPAGANDA RESENTED

To the Editor:

An interesting postscript to the energy crisis and the accompanying emphasis on conservation has been the realization that for years the U.S. has possessed the technical potential to produce better, more efficient forms of energy. Ever since our forebearers constructed this country with integrity and adaptability Americans have searched for and found a better way of doing everything. Now however, big business prefers to channel creative genius into increasing profit margins at the expense of improving product quality and efficiency. If someone should by chance express an original idea, the patent rights are immediately bought and filed away in some corporate tomb.

Times have been good and it has gone virtually unnoticed that corporate giants have made planned obsolescence the American way of life. "Everything for everyone—cheap" was the basis for all the soft-sell slogans. If it wears out just buy another. So we did.

Now the same commodities are expensive and we are hard-pressed to find a product we can afford that won't self-destruct in five seconds. The advertising tune has changed, of course. "Don't buy that super-power, 15-cylinder, gas guzzler we shamed you into buying last year. You must heretofore live your lives in total frugality because there is an energy crisis and you, the public are to blame."

If indeed there is an energy crisis the public must accept responsibility to a certain extent. The Federal Energy Office via William Simon never misses an opportunity to reprimand the improvident public for its avarice. Why then do we hear so little about corporate culpability? Because the long arms of big business are too busy scratching governmental backs with the left hand and patting themselves on the back with the right.

### BETTER GAUGE NEEDED

Mr. Simon suggests we measure the urgency of the crisis by the lines at the service stations and the spiraling price increases. Using this barometer the oil companies can regulate the severity themselves by controlling the flow of oil from the refineries. The simple act of omission, in this case non-distribution, would indeed create a shortage. Not real but contrived. That this places our domestic companies on a parallel with the Arab blackmailers which he so vociferously condemns apparently does not disturb Mr. Simon. If he can offer us no better gauge than this as proof that a crisis exists then he is in the wrong position.

The oil corporations bombard the public daily with promotional claptrap and statistical rhetoric intended to convince us that they are doing their best for America and are working to keep our trust. Meanwhile we hear of widespread price-gouging, windfall profits and domestic oil shipped out a few miles and returned to be sold as "imported" at an inflated price. Their reaction to public outrage is wounded bewilderment, as though they thought us too stupid to embrace any opinion but their own.

Besides enabling them to implement a 200 per cent or more price increase, this "crisis" assures occlusion of the independents, immediate action on the Alaska pipeline legislation, and relaxation of environmental standards controlling offshore drilling, etc. A convenient Mideast oil embargo and a President with an obvious affection for campaign-fund potential combine to make an ideal climate for cultivation of the crisis atmosphere. Best of all, the liability for the entire problem could be shifted to the public and the environmentalists. With this in mind it is difficult to dispel the vision of a gaggle of oil magnates and PR men milling about an executive board room, intent on conjuring up an energy crisis.

### THE NEED TO WORRY

Americans are obsessed with the need to worry about something. A few years ago the "in" thing was concern over the environment. We passed laws, issued directives and generally scrubbed up everything whether it needed it or not. Possibly in their zeal to improve our surroundings the environmentalists supported legislation that was unreasonable and/or unnecessary. Certainly, though, their hearts were in the right place, since they had nothing whatsoever to gain except a cleaner country which could be enjoyed by everyone.

The anatomy of a corporation places its heart in the immediate vicinity of its pocketbook, and the public be damned.

To immediately repeal every law pertaining to conservation would serve no purpose except to cancel out any good done for the country by such legislation and would facilitate fattening of the corporate till. Surely realistic conservation measures can gel smoothly or even complement corporation objectives. In fact it is imperative that industry and environment come to terms, for do they not sustain one another? Compromise is a business byword. Why should they make an exception when it concerns our natural resources?

We realize business must make a profit. Our economy relies on industry. Millions of us are employed by and have benefited from our association with corporations. Most of us are middle-class, non-executive, unsophisticated people who ask for adequate pay for our work and a modicum of respect from our employers. This energy crisis is a thinly veiled violation of the public trust. We emphatically resent the oil companies' pious protestations and condescending assurances of good will when their actions so obviously belie any such intentions.

### POOR "EXPENDABLE"

As always, the fullest impact will be felt by the poor and the elderly, always expendable pawns in any economic chess game. They get the full clout only because they are so far removed from executive consciousness that they represent little more than a statistical afterthought.

Oil corporation promotion consultants (what a supposedly indigent industry needs with a promotion consultant is an enigma) have written volumes of statistical summaries in defense of the corporations. They never refer to people, only percentage points, which coincidentally never total 100 per cent. Most of us are tired of being statistics. How long before we become this headline: Spokesman Says Only 4 Per Cent of Population to Freeze this Winter: Country Can Live With This Figure? All their facts and figures may impress them, but they bore us beyond belief.

As they have in the face of every crisis the American people will tighten their belts and stoically do whatever is necessary to weather the storm. We will play "energy crisis" because we have no choice. We implore the perpetrators not to insult our intelligence by demanding that we gullibly accept their imperious propaganda as well. It leaves us, well, cold.

C. A. JONASCH.

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## GAMBLING AND THE GOVERNMENT

### HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. KEMP. Mr. Speaker, with the prospect of legalized gambling spreading to professional sports, the Wall Street Journal saw fit to enumerate the several arguments against it in an editorial on January 4, 1974.

The success of offtrack gambling on parimutuel horseracing in New York State expectedly has caused a rush to cash in on the gambling sweepstakes. But certain fundamental differences between horseracing and professional sports cannot be passed over. Horseracing appeals primarily to gamblers; professional sports appeal primarily to devotees of competition and athletic skill. NFL Commissioner Pete Rozelle is dead set against legalized bets on pro football knowing of the increased security problems the league would face and the increased fan suspicion of rigged games.

Before the momentum for legalized gambling on professional sports becomes irreversible, I suggest we consider the arguments against it.

The Wall Street Journal editorial follows:

[From the Wall Street Journal, Jan. 4, 1974]

### GAMBLING AND THE GOVERNMENT

An old story tells of the confirmed gambler who dutifully sat in on a weekly poker game even though he knew it was rigged, because "it's the only game in town." Not all gamblers are that addicted, of course, but you might not know it from looking around. Cities and states, searching for new ways to raise money, are busily setting up lotteries, sanctioning off-track betting and laying the spadework for casino gambling.

It is considered a foregone conclusion, for example, that the New Jersey legislature and electorate soon will endorse casino gambling. This reflects the assumption that "controlled" gambling is preferable to the freelance variety. It also reflects the hope that gambling revenues will give a renewed lease to the state's rundown resort towns and such economically depressed cities as Newark. And the potential rake-off from gambling is regarded as a painless alternative to a state income tax.

Off-track gambling on parimutuel horse racing is already legal in New York. But some legislators and spokesmen for the off-track betting agency (OTB) hope to broaden this mandate to include legalized betting on other professional sports. Their cause received renewed impetus in the wake of a recent scandal at Roosevelt and Yonkers Raceways, where rigged races supposedly netted a crime syndicate $3 million. Irregularities in betting patterns at the tracks were discovered by OTB officials, therefore the agency looks to some like a special force for honesty.

There would seem to be an inconsistency in demands for consumer protection agencies, coupled with demands for legalized gambling. As Professor Irving Kristol pointed out on this page several months ago, gambling is "technically a swindle: the payoffs on bets *must* be less than fair, and the overwhelming majority of the 'investors' *must* eventually lose their money, if the gambling enterprise is to survive and prosper." Therefore, he noted, the case for legalized gambling is "simply an argument in favor of the government raising revenues by swindling its citizens rather than by taxing them."

Supporters of legalized gambling don't see it quite that way. They contend that people are always going to gamble, therefore why not build schools and hospitals with some of the money that would otherwise go to bookmakers and crime syndicates? There is some truth in that appeal, at least as it applies to horse racing, whose attraction overwhelmingly is to bettors rather than to those attracted by its pageantry. But professional sports, despite the millions of dollars wagered on important contests, still primarily appeal to the emotions and loyalties of non-gamblers. That is one reason why NFL Commissioner Pete Rozelle is dead-set against every proposal to legalize bets on pro football. He also knows the higher stakes would compound the league's security problems, and would plant seeds of suspicion and doubt every time a game didn't go according to form.

The rush to broaden and extend legalized gambling is unlikely to abate any time soon, yet it might be well to ask some fundamental questions. Do we really want the Super Bowl, World Series and pro basketball playoffs to become little more than exercises in wagering? Do we want state governments, many of which permit parimutuel wagering at race tracks under controlled conditions, to lend themselves wholeheartedly to a vice that trades on cupidity and exploits those who can least afford it? Morals aside, do we really want governments acting as shills for gambling by undertaking slick advertising campaigns, a la OTB, that go beyond appealing to committed gamblers by implying that losing one's money to government bookmakers not only can be fun but may even be considered a charitable act?

The arguments against legalized gambling and against broadening its scope are not really new. But because of the way they are being glossed over in the rush to cash in on the gambling sweepstakes, sometimes it's a bit hard to remember that they exist at all.

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## ON SCHEDULE, WITHIN BUDGET

### HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. VAN DEERLIN. Mr. Speaker, in these days when we have become accustomed, if not hardened, to the idea that defense supply contracts, particularly in aviation, invariably exceed original cost estimates and appropriations, it is pleasant indeed to note the development of a new plane which was completed on schedule and within the contract budget.

I had the privilege of attending the "roll-out" of just such a plane, the Compass Cope R, designated by the Air Force as the YQM-98A. This is a prototype, high altitude, long endurance, remotely piloted vehicle developed and produced by Teledyne Ryan Aeronautical in San Diego.

Ryan's president is Barry J. Shillito, well remembered by many in Congress as a former Assistant Secretary of Defense for Installations and Logistics. Addressing the roll-out ceremonies on January 4, Mr. Shillito reviewed the development of a plane which is aimed at removing the human peril from certain risky military air missions. He also took the opportunity to emphasize how a little judicious extra spending by Congress could hasten their future appearance in a combat-ready capacity.

By unanimous consent, I offer a copy of Mr. Shillito's remarks for the RECORD:

### REMARKS OF BARRY J. SHILLITO

First of all, I would like to welcome our many visitors to Teledyne Ryan. This is a potentially rather significant occasion in that you are participating in the "roll out" of one of the major advancements as regard unmanned vehicles. In months and years to come, you are going to hear much more about these vehicles, and I hope particularly much more about this program which is identified as Compass Cope.

On 13 June, 1972, Teledyne Ryan received its cost-plus-fixed-fee contract for the Compass Cope program. Roy Fields and Bob Reichardt assure me this was really a no-fee type contract. This was about 12 months after a similar award was received by Boeing. On June 9, 1972, Teledyne Ryan received a letter relative to this program from Lieutenant General James Stewart, Commander of the Air Force Aeronautical Systems Division. It states in part:

"The program objective is to demonstrate the feasibility of a high altitude, long endurance remotely piloted prototype vehicle. Under the prototype concept, this demonstration must be accomplished within the limits imposed by the funds to be placed on contract. If this funding control cannot be accomplished, the program will automatically be terminated. Admittedly, the funding constraints being imposed on this program are severe. However, I am confident that highly skilled engineering and management personnel exist within the Ryan Company who can bring this program through to success."

From the inception of this award, TRA put together a team, under the superb leadership of Messrs. Arthur J. Sullivan and Norman S. Sakamoto, that was determined to meet or beat the stipulations contained in the Stewart letter. Rather early in the program, particularly early this past year, we decided that total cost could be minimized by delivering both of our "roll out" models concurrently.

### FAMOUS FIRSTS

It is my understanding that this dual "roll out" is a first. Ryan, as you know, has a history of "firsts" in aviation. These range from major aircraft developments almost a half century ago, to unmanned vehicles today. A few of these sometimes forgotten "firsts" are:

In 1926 Ryan produced its M-1 passenger/mail plane—the first monoplane to be produced in volume in the United States.

The "Spirit of St. Louis," built by Ryan Airlines, was rolled out on April 28, 1927 and made its first flight the same day. Lindbergh actually arrived in San Diego to discuss the aircraft on February 23, 1927. Work was begun five days later. This, of course, was the first aircraft to cross the Atlantic, from New York to Paris, non-stop, on May 20 and 21, 1927. I am told that there could have been a few minor overruns on the "Spirit" but that these costs on this historic aircraft were absorbed very simply by employees working in a dedicated, partially non-compensated manner. This spirit still exists.

The Ryan ST, produced in 1939, was used during World War II. It was the first low wing mono plane, primary military trainer.

The Ryan FR-1 Fireball of 1944 was the world's first combination jet-propeller powered aircraft. It was really our Navy's first jet aircraft.

The Ryan X-13 verti-jet pioneered V/STOL research planes. It was the world's first jet-powered aircraft capable of vertical takeoffs and landings. It was built in 1957, and I understand Claude Ryan considers it to be among our company's greatest technical achievements. All other later V/STOLS profited significantly from this development.

Ryan built the first jet powered drone aircraft in 1948. The latest standard sub-sonic Firebee I has been in production in Ryan since 1950—longer than any other manned or unmanned aircraft produced in the United States—and probably elsewhere in the world.

Every U.S. space vehicle, manned or unmanned, which has landed on the moon has done so with the guidance of a Ryan Landing Radar (and we will be providing the same support for the Viking Lander when it lands on the surface of Mars on July 4th, 1976). The first U.S. unmanned soft landing on the moon, Surveyor 1 with Ryan Landing Radar aboard, was on June 2, 1966. The historic first manned landing was made on July 20, 1969 aboard an Apollo Lunar Module guided by Ryan radar.

The BGM-34, rolled out in February 1973, was the first unmanned strike aircraft with a capability to launch Maverick, Hobo and Shrike missiles.

So the Compass Cope aircraft represents another first for Ryan in the very advanced unmanned vehicle field and, again, to my knowledge this is the first time any company has built two roll-out aircraft, side by side, and delivered them, ready for flight, at the same time.

Let me assure you, this is a major complex system. It will fly at a very high altitude. It has long endurance and a very long range. It has a 4,050-pound thrust turbo fan engine, made by the Garrett Corporation. This engine itself is truly unique and a highly sophisticated advancement in engine technology.

The Friday before Christmas, 21 December, we had a "button up" ceremony for our people—our team—who had been dedicated to the accomplishment of this program. My primary purpose at that get together was to congratulate our Teledyne Ryan truly dedicated group of people. On the 21st of December, as many of them know, we received a wire from the Air Force Program Director, Colonel Hemenway, a portion of which reads as follows:

"Congratulations on meeting this important milestone on time and within cost. The Air Force recognizes this achievement as a significant step forward in the development and furthering of the Drone/RPV concept in the application of aerospace power. I recognize that your people, under the leadership of Mr. Sullivan, have worked long and hard. Please convey my personal appreciation for all the dedicated effort in accomplishing this task under very difficult time and budget constraints. I am looking forward to an exciting, challenging, and successful flight demonstration program. Again, congratulations on a job well done, and I wish you all a Happy Holiday Season."

### RELATIONS WITH CONGRESS

Without fear of contradiction, I can state that I have had more experience than anyone in this audience in explaining individual and collective weapons systems, cost growth, overruns, etc. to the Congress and the American public. These experiences have not been among my more enjoyable experiences.

I know that all of us at various times have been exposed to the significant amount of publicity given to the various instances of DOD weapons cost growth. Seldom do we hear of programs that met their milestones and were developed within the planned dollars. For some reason, good news often doesn't seem to make news. It may not in this instance, I would hope, however, that our distinguished Congressman and the members of the press take note of this fact, and that this truly outstanding accomplishment on the part of the Air Force and the contractor receives just a little recognition. Both our military and our aerospace industry are too often criticized and too seldom complimented.

The Compass Cope Program can and should become a major step forward in the further acquisition and utilization of Remotely Piloted Vehicles. Unfortunately, the immediate flight test program for these two vehicles is somewhat uncertain as to schedule due to a very recent $1.7 million cut in the Air Force's FY 1974 program by the Congress. These aircraft could have flown by the first of February, 1974. Interestingly, practically every member of Congress is completely sold on the future and, most importantly, the economic need for these type vehicles. Any delay in moving ahead with vehicles of this type will have an adverse economic and operational impact on our country. Up to very recently, remotely piloted vehicles (RPVs) performed a number of missions in different places under a cloak of secrecy.

The public was unaware of their role and only a very few persons in government were permitted to know of their activities. Their comparatively insignificant funding, plus this very recent awareness of their capabilities, undoubtedly is the reason Congress has not been able to give too much of their attention to this very small segment of the DOD budget. I know enough about the budget process and our Congress to firmly believe that sound programs such as this will be approved and, in fact, accelerated. I am sure that the $1.7 million decrease does not reflect any negative attitude on the part of the Congress relative to RVPs, and undoubtedly is a correctable, unintended fallout resulting from the complexity of putting together a $74 billion budget. In other words, this $1.7 million, relating to a program that is meeting all its milestones, literally "slipped through the cracks."

I would leave you with one other point. I used the word "team" in defining our Teledyne Ryan effort on Cope. I want to emphasize that this has really been an Air Force/TRA team effort. Every step of the way there has been complete and open communications and a desire, above all else, to get the job done within the very tight constraints.

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## WHY NOW?

## HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. LANDGREBE. Mr. Speaker, during the Christmas recess of Congress, Prof. Milton Friedman published an excellent essay on the causes of the current economic disruptions which appeared in the December 31 issue of Newsweek magazine.

Professor Friedman's arguments point the blame for the present shortages of vital materials directly at the chief culprit—the wage and price controls that have unnaturally restrained the operation of the free enterprise system. He answers the key question "Why now—the energy crisis?" by responding:

> Nineteen seventy-three is different from other peacetime years because, for the first time since World War II, the U.S. has had extensive price and wage controls. The key to today's shortages is the price freeze ordered by President Nixon on August 15, 1971.

Milton Friedman's ideas make a lot of sense, and I commend his essay to the attention of my colleagues. The full text is printed hereinbelow:

### WHY NOW?

(By Milton Friedman)

"Running Out of Everything" was Newsweek's cover headline some weeks back. It dramatized the fact that, for the first time since World War II, the U.S. has begun to experience major shortages not only of petroleum products, but of a wide range of other items.

Of the many attempts to explain this state of affairs that I have seen in the media, not one faces up to the crucial question: Why now? Why did shortages not emerge in 1968 at the height of the Vietnam war, or in 1958, or for that matter in 1938 or 1928? What is different about 1973?

### THE MIDEAST WAR, NO

The Mideast war is one obvious answer. The Arab boycott it unleashed has exacerbated the shortage of crude oil. But an energy shortage was well on its way before the Mideast war broke out. Government allocation of fuel was already on the way. And none of the other shortages owes anything to the Mideast war.

One popular answer—particularly for the energy crisis—is that consumption of energy has been increasing rapidly. But that has been going on for decades. Why should it have produced shortages only now?

The response is typically that we are running short of reserves of fossil fuel—that there are only ten or fifteen years of proven oil reserves, for example. But that too has been true for decades. In the 1920s, scare stories were being written about the danger that we would run out of oil because the then proven reserves would last for only ten or fifteen years. In the interim, consumption of crude oil has multiplied manyfold—and so have proven oil reserves. The fact is that it does not pay to find and prove more than about fifteen years' oil reserves at any time.

But this time, it is said, we are short of refining capacity. Perhaps so, but why now? How is it that until now, refining capacity was able to keep up with demand, but in the years 1971 to 1973 it was not?

The greedy, selfish oil interests? If, as is frequently charged, they have conspired to create a shortage profitable to themselves, why have they been so slow? They are no more powerful now than they have been for many years. Why did they wait so long before squeezing the hapless consumer? And how do they make profits by having no oil to sell? By full-page advertisements urging consumers to economize on fuel? This is simply the irrational search for a devil.

The answer to "Why now?" is straightforward—yet I know from bitter experience how hard it is to persuade anyone other than an economist that so simple an answer can be correct. Nineteen seventy-three is different from other peacetime years because, for the first time since World War II, the U.S. has had extensive price and wage controls. The key to today's shortages is the price freeze ordered by President Nixon on Aug. 15, 1971.

Has fuel oil been especially short? Aug. 15, 1971, was summertime. It will surprise no one that fuel-oil prices are generally lower in the summer than in the winter. The result of freezing prices at summertime levels was to make gasoline more profitable to produce than fuel oil. Has pipe been hard to get for drilling new wells? As it happened, the controlled prices for pipe and flat steel made it more profitable to produce flat steel.

PRICE CONTROLS, YES

I am not enough of an expert—no one is—to know the million and one places where prices fixed by bureaucrats on the basis of arbitrary rules and accidental starting points have created distortions and shortages. Some have been dramatic, like the beef storage and the destruction of baby chickens. But most have not been. They are hidden in the interstices of an incredibly complex production system that cannot operate without the enormous efficiency of a market-price system to adapt changing demands to changing supplies. And many have been overcome by millions of citizens who found ways to avoid or evade the price controls.

I know that it is hard for you to believe that so seemingly simple a matter as price fixing can produce so complex a phenomenon as widespread shortages. But then, I find it hard to believe that an automobile engine is a complex matter until I start probing around in its innards when it stops functioning on a dark road in the early hours of the morning.

At any rate, if this is not the answer, what is? In what other respect—pervasive enough to produce the pervasive effect we see—is 1973 different from earlier peacetime years?

## EMERGENCY ENERGY LEGISLATION

### HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. YOUNG of Georgia. Mr. Speaker, as another attempt to enact emergency energy legislation comes before us next week, I would like to share with my colleagues a letter I received recently from Mr. J. W. Pinkston, Jr., the executive director of Grady Memorial Hospital in Atlanta:

JANUARY 16, 1974.

Hon. ANDREW YOUNG,
*House of Representatives,*
*Washington, D.C.*

DEAR MR. YOUNG: As Executive Director of one of the largest non-profit, general hospitals in the Southeast, I feel that you need to be aware of what is happening to the price of fuel oil that we burn in our steam plant for heating and other related requirements necessary for the operation of our facility.

Last July 1, 1973, we entered into a contract with Exxon Company, U.S.A., for 750,000 gallons of #5 fuel oil at a delivered price of 0.13113 per gallon. As of December 1973 our price had increased to 0.20075 per gallon. We have just been notified that effective January 12, 1974, our price has been increased to 0.29217 per gallon, over 100% increase in 7 months.

We have had no problem in getting the oil that we need from Exxon, but we do feel that you need to see what is happening to the price, if you are not already aware of the situation.

Your interest and any comments you may have regarding this critical situation will be appreciated.

Sincerely yours,
J. W. PINKSTON, Jr.,
*Secretary-Treasurer.*

Mr. Speaker, this morning's newspapers inform us that Exxon's profits rose 59 percent in the fourth quarter of 1973. We also know that these oil industry executives contributed at least $5.7 million to President Nixon's reelection campaign. We are all too aware that while the American people send their children to school in the dark, wait in long lines to pay more for less and, even in the face of runaway inflation and rising unemployment, pay a disproportionately large share of Federal taxes, these oil executives profit immensely, unthreatened by an administration which is so beholden to them that it cannot accept a stiff tax on their benefactors' excess profits.

Grady Memorial Hospital is a nonprofit institution. Thus, every dollar that goes to further swell the profits of Exxon comes out of much-needed resources for healing our sick and injured citizens.

I urge my colleagues to bear this example in mind as we are once again asked to forget these perversions while we gut hard-won environmental safeguards and grant still more power to an administration which has mismanaged so much so monumentally.

It is now clear who is sacrificing and who is profiting from this so-called "crisis." Our responsibility as representatives of the people should be equally clear.

## FAIR PRICING WILL PRODUCE MORE OIL

### HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. COLLINS of Texas. Mr. Speaker, one of my constituents sent me an excellent editorial that he has saved from the December 26, 1973, Wall Street Journal. With all of the wild statements coming from Washington, he thought it was time we again establish some commonsense in our reasoning.

This was a long article. It was written by Dr. W. Philip Gramm, professor of economics, and Dr. Richard R. Davison, professor of chemical engineering at Texas A. & M. University. The following sections highlight some of the basic logic.

Let us have more commonsense and solve the energy crisis before it causes more cutbacks in industry.

The article follows:

FAIR PRICING WILL PRODUCE MORE OIL

What, then, could we expect of free market pricing by itself? Where would the additional supplies of oil come from if prices rise? Like an iceberg, 90% below the surface of the ocean, about 90% of the known oil in the U.S. is unrecoverable at present prices, existing in fields that are now considered largely depleted. But, as an iceberg floats higher when the sea becomes denser, so more oil reserves become available when the price rises.

To put this in perspective, in 1969, before the energy shortage developed and when there was little prospect of higher oil prices, cumulative production in the U.S. was 84 billion barrels, and recoverable reserves were about 31 billion barrels. (The Alaskan North Slope strike has increased this to about 39 billion barrels.) Yet there remained in these same reservoirs, in fairly well-defined locations and volumes, 285 billion barrels not recoverable at existing prices. The technology exists to recover much of this oil. Even now, over a fourth of the oil produced in this country comes from fields subject to artificial water floods, but even after successful water flood, about 50% of the original oil remains in place.

There are a large number of so-called "tertiary" recovery techniques that include steam and fire drives, dissolving the oil with miscible gases or liquids and methods employing detergents that literally wash the oil from the rock. The high temperature methods are particularly effective with highly viscous oils. There are estimates that up to 50 billion barrels of low gravity, viscous oil are recoverable by these methods. On the other hand, miscible fluid recovery techniques with higher gravity oils are capable of recovering as much as 90% of the oil in place.

While in time, more and more of this hidden part of the iceberg will become available as improved technology brings down the cost and risk, a few dollars per barrel price increase would likely have the effect of *tripling* U.S. oil reserves. Just how fast this additional oil would become available as the price rises is impossible to answer with precision. However, between 1947 and 1972 the record indicates that every 1% increase in prices of refined petroleum products was on average associated with a 4% increase in the production of gasoline. This fact bears out what the bureaucrats have been saying: Oil men are greedy. If you raise the rewards for production, they produce more to get it. If real prices fall, as they have under price ceilings, production falls off.

In a free market, all marginal or stripper wells that could produce profitably would soon be in operation. There are over 350,000 stripper wells in the U.S., producing 10 barrels per day or less and tens of thousands more shut down which could be made operational on short notice. Production from these wells could probably increase stripper production by 20% to 25%. Though some of these wells would require renovation, most could be on stream in six months to a year and could produce about 250,000 barrels per day. The even larger inputs from secondary and tertiary production and increased exploration would be felt more slowly. Within a 24-month time frame, new production approaching one million barrels per day might be expected and this source would gush forth in ever increasing quantities until stopped by declining prices.

The free market oil price in constant dollars would be below $8 per barrel. At $8, a vast amount of energy from other sources would cut deeply into the conventional oil market. Not only would coal and nuclear energy replace oil and gas for power generation, but gas from coal would supplement natural gas supplies; and methyl alcohol from coal could undersell gasoline. The U.S. has some of the best coal deposits in the world—at least 200 billion tons (equivalent to roughly 900 billion barrels of oil and significantly in excess of world crude reserves). There are also huge reserves of shale and tar sands that could make a significant contribution at these prices, and even solar energy could make inroads into the space heating market in many localities.

Gaseous and liquid fuels from coal have a longer lag time than increased petroleum production, but the potential contribution is such that it places an absolute upper limit on ultimate fuel prices. For instance, methyl alcohol, produced from coal, can compete with gasoline at oil prices well below $8 per barrel. Furthermore, methyl alcohol is over 100 octane, lead-free, much cleaner burning than gasoline, and, as a by-product, it could save billions in pollution abatement. With these many energy alternatives, given the opportunity, the free market system would provide adequate fuel for rapid economic expansion.

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## GILMAN URGES A HALT TO WHEAT EXPORTS

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. GILMAN. Mr. Speaker, I am introducing legislation on January 28, 1974, amending the Export Administration Act of 1969 to place a temporary embargo on the exportation of wheat from the United States.

Along with current shortages of fuel oil and gasoline, we are now being told by both the Agriculture and Commerce Departments and industry spokesmen that there exists an imminent shortage of wheat prior to the first spring harvests in late May and early June.

At a time when a shortage of many commodities exists, the possibility of not having enough wheat to meet our domestic demands is an outrage to all our citizens, particularly in light of the large quantity of wheat now being exported. Last year, our Nation exported over 1,400,000,000 bushels of wheat with the highest percentage going to Red China, the Soviet Union, and Japan. Because of these exports and the failure to learn the lessons of the disastrous wheat deal with the Soviet Union, the price of bread in my congressional district has already jumped an average of 3 cents a loaf in the past few weeks and threatens to go even higher. We should not ask the American consumer to endure such a severe penalty in order to enhance foreign trade.

Under the provisions of this bill, all wheat exports would be halted for a 6-month period, a period of time that will allow the results of the spring harvest to be duly evaluated. During this time, our Commerce and Agriculture Department officials should be able to develop proper planning to make certain that we do not run short of wheat as a result of any excessive exports so that our consumers will not be faced with any drastic price increases.

Mr. Speaker, I invite my colleagues to join me in support of this wheat embargo and I respectfully request that the full text of this measure be printed as follows:

A bill to amend the Export Administration Act of 1969 by establishing a temporary embargo on the exportation of wheat

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Export Administration Act of 1969 (Public Law 91-184), as amended, is further amended by:

Section 1. That during the one hundred and eighty-day period, beginning on the tenth day after the date of the enactment of this Act, no person, corporation, association, cooperative, or similar group shall export from the United States any wheat.

Sec. 2. Any person, corporation, association, cooperative, or similar group who violates the first section of this Act shall be fined not more than $5 per bushel of wheat exported or be imprisoned for not more than one year, or both.

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## TVA RATE HIKE ENGENDERS PROTESTS

### HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. EVINS of Tennessee. Mr. Speaker, for the seventh time in 6 years, the Tennessee Valley Authority has announced a power rate increase, which I feel is unjustified and unwarranted.

In an effort to strengthen TVA's financial position and hopefully to prevent further rate increases, I have been pleased to join with Congressman Bob Jones of Alabama other Tennessee Valley congressmen in introducing H.R. 11929, a bill which would permit TVA to credit against its annual repayments to the U.S. Treasury the costs of pollution control measures.

The Nashville Banner, in a recent editorial, supported my position in opposition to escalating rate increases.

In this connection and because of the interest of my colleagues and the American people, I place in the Record herewith the editorial from the Nashville Banner and an article from The Tennessean concerning the bill recently introduced to assist the Tennessee Valley Authority.

The editorial and article follows:

[From the Nashville Banner, Dec. 18, 1973]

#### TVA Rate Hikes Raise Questions With Consumers

Rep. Joe L. Evins of Smithville has spoken for thousands of Tennesseans in expressing concern and wonder over the latest increase in power rates by the Tennessee Valley Authority.

In the heartland of public power and, presumably, low rates, the cost of heating and lighting has gone up again, this time 14 per cent. The higher price—TVA's seventh rate increase in six years—will show up on next month's bill.

The average consumer can figure on spending an extra $2 a month to accommodate the increase. The total bill, with these annual increases, is about 90 percent more than it was six years ago.

The higher rates concern Rep. Evins, one of the biggest friends TVA has ever had.

"I deplore the recent rate increases announced by TVA—I fear that TVA is destroying its image as the low-cost power yardstick of the nation," he said.

Rep. Evins thinks there may be some collusion between the Office of Management and Budget and TVA. If TVA raises its rates, some may reason, then private power companies can use TVA as an example to justify their rates increases.

The gist of Rep. Evin's argument is that TVA seems headed toward a high-rate yardstick, rather than a low-rate one.

Certainly, the TVA has experienced increased costs of operation, just as all Americans have, but the ability of TVA to generate revenue from congressional appropriations, bond sales and operating revenues causes some to wonder why TVA shouldn't be one power company able to hold down its rates.

Cheap power is and always has been the chief reason for TVA's existence. That shouldn't change now.

In this area of public power rates there is plenty of room for political demagoguery and no doubt there will be efforts by some to tie TVA shortcomings, if that's what they are, to President Nixon's coattails.

But Rep. Evins generally steers clear of solely partisan prater. The questions he has raised are ones that Tennesseans have a stake in. The TVA, if it is to continue in the role for which it was created, should fully explain why users must bear this increase.

[From the Tennessean, Dec. 18, 1973]

#### Bill Would Allow TVA To Deduct Pollution Costs

Washington.—A bill giving TVA the right to charge off against its U.S. Treasury payments $100 million to $150 million in annual pollution control spending was announced yesterday by Rep. Joe L. Evins.

Evins and the Tennessee Valley's other senior congressman, Rep. Robert Jones of North Alabama, are the bill's principal sponsors. All 18 of the Tennessee Valley's congressmen are cosponsors.

If the bill could receive early committee hearings and pass Congress quickly, it might eliminate the need for another 20% TVA rate increase anticipated for June or October 1974.

But there is no possibility that it could become law in time to head off or alter the 16 to 23% rate increase just announced by the TVA board for January.

The bill simply would give to TVA the privilege long enjoyed by private power companies of federal taxpayer assumption of their costs of meeting federal environmental requirements. All of the companies, as far as could be learned yesterday, are passing these benefits, on to their stockholders—not their rate payers.

The Evins-Jones proposal simply credits certified TVA expenditures for pollution control to the interest payment the TVA makes each year to the U.S. Treasury, according to Evins. This interest payment now ranges from $55 million to $65 million each year.

"The credits for TVA would be somewhat similar to those already provided by the Congress for pollution control equipment and other investments by private industry," Evins added.

"Through enactment of various measures, the Congress has recognized that relief should be granted to private industry for investments which were required for the benefit of the general public, such as facilities to enhance the environment.

"The consumers of TVA power are required to make similar investments for the benefit of the general public yet there has been no acknowledgement of this vast expenditure."

## THE RUSSIANS ARE STILL COMING

### HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. ASHBROOK. Mr. Speaker, in a number of speeches I have been pointing out the Soviet need for advanced U.S. technology in a number of areas. Soviet reliance on Western technology has been well documented by Anthony Sutton in his works.

Although the Soviets require Western technology, they would rather be able to obtain it through "arrangements" rather than by paying cash. The United States Export-Import Bank and the Commodity Credit Corporation, both financed in large part by the American taxpayer, have helped provide credits to the Soviet Union. Wall Street is also becoming a place that the Soviets may turn to for financing of their various "deals."

The following article from the Los Angeles Times of Wednesday, December 19, 1973, entitled "Russians Turn To Wall Street 'Comrades' " provides an interesting commentary on the Soviets' efforts to gain financing in this country and their views of those who are opposed to the increasing giveaway programs to the Soviet Union. I think that it is time that the United States stop their welfare program to the Soviets. The text of the article follows:

#### RUSSIANS TURN TO WALL STREET "COMRADES"

Moscow.—Wall Street is becoming the Soviet Union's best friend in America.

Hardly a day goes by without some Soviet newspaper praising the stronghold of world capitalism for sweet reason and realism.

The issue is Soviet-American trade, and Moscow's interest in gaining advantages without concessions on free emigration is the touchstone for telling the good guys from the bad.

Right after the U.S. House of Representatives voted to deny credits and most-favored-nation status unless the Russians changed their emigration procedures, Izvestia called on the Wall Street Journal—"the organ of American business circles"—for support.

Pravda Tuesday chose the views of Business Week—"the organ of American business circles"—to reinforce its view that the conditions Congress wants to impose on wider trade are "no good."

Pravda added on its own that Wall Street is standing firm against a motley alliance of labor leaders, right-wing social democrats, zionists and various ultra-right fascist groups.

Pravda has not disclosed what the congressional conditions are. It has only condemned them as inadmissible interference in Russia's internal affairs.

Soviet propagandists have also not attempted to explain how it is that American capitalists have not been able to impose their will.

For more than five decades, the Soviets have been taught that big business runs America, riding roughshod over the working class and the labor unions.

## WORST JOKE IN 200 YEARS

### HON. H. R. GROSS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. GROSS. Mr. Speaker, from the beginning I have been a critic of the preposterous waste of the American taxpayers' money that is represented in the American Revolution Bicentennial Commission, recently promoted to full bureaucratic glory by being converted into an agency—one which, incidentally, will undoubtedly be in existence for years after 1976 has faded into history.

I am not opposed to a celebration of the birth of this Nation, but I do not believe the muddled plans developed by this outfit are either meaningful or proper. They are already far afield in some instances.

Typical of the boondoggles fostered and paid for by these bureaucrats is the disgusting project sponsored by officials of the District of Columbia which resulted in a hate-America mural on the walls of this city's so-called Bicentennial Center.

U.S. News & World Report Editor, Howard Flieger, comments in the January 28, 1974 issue of the magazine and I believe he expresses the feeling of the vast majority of Americans who have heard of this farce.

I commend Mr. Flieger for this article and include it for insertion in the RECORD at this point:

#### WORST JOKE IN 200 YEARS

(By Howard Flieger)

With varying degrees of originality, communities all across the nation are getting ready to celebrate the 200th anniversary of the United States in 1976.

In 1776, when the country was born, the population was 2.5 million.

Now it exceeds 210 million.

If you are one of those millions of American citizens, you have just been insulted.

The Bicentennial Center for the District of Columbia, the nation's capital, was dedicated on January 14 by the Mayor of Washington. A representative of the White House was there. So were other dignitaries.

Looking down on the occasion was a new mural, done for the Bicentennial office by an artist named H. H. Booker II.

Among the personages depicted—

Karl Marx, the father of Communism.

Friedrich Engels, Marx's associate.

Joseph Stalin of the Soviet Union.

Mao Tse-tung of the Chinese Communists.

For extra measure, the muralist included a caricature of President Nixon wearing a mustache and clad in the costume of a movie gangster. He sketched the President's daughter, Tricia Nixon Cox, with an Afro hairdo. He included a portrait of Angela Davis.

This is Americana?

Where are Washington, Jefferson, Tom Paine, Ben Franklin and the Adams family?

Where are such symbols of American culture and uniqueness as Washington Irving, Mark Twain and Carl Sandburg? Winslow Homer, Frederic Remington and Thomas Hart Benton? Francis Scott Key and George M. Cohan? John Philip Sousa and Louis Armstrong? Samuel Gompers and Andrew Carnegie? Thomas A. Edison and Mary Bethune? Where are the pathfinders—Lewis and Clark, Charles Lindbergh and Neil Armstrong, to name a few?

The list is endless. If portraits are needed to dramatize two centuries, you can take your pick from within our own borders, including many immigrants from other lands.

Granted, the planning for the Bicentennial observance has been uneven, often halting and short of real achievement on a national scale. But hundreds of communities, many States and regions have pitched in with their own projects and are moving ahead to the anniversary with enthusiasm and pride.

Granted, too, there has been honest disagreement. One group, for example, feels that the basic aims of the American Revolution are being overlooked. But such things are legitimate dissent—which is the American way.

The mural in Washington is something else.

A member of the staff of this magazine asked an official of the District of Columbia Bicentennial Commission about the inclusion of the Communist figures. The explanation was that those people are a valid part of the American scene because "all were involved in some way with the United States over the past 200 years."

When asked what Marx, Engels, Stalin and Mao had to do with the U.S., the official, irritated, broke off the conversation.

The muralist explained to a reporter for "The Washington Star-News" that his employer told him to "make faces" on the walls, so he sketched those he considers interesting. He called it a "lot of fun" and seemed to regard the whole affair as a very clever joke.

Marx, Stalin and Mao as characters in an American panorama—this is a joke?

It is a coarse insult to the very word, a desecration of everything truly American from 1776 to today. It is high jinks of the lowest order, done in the poorest taste.

Those who had anything to do with it—whether through deliberate participation, irresponsibility, arrogance or plain ignorance—should hang their heads in shame.

## BILLIE JEAN CARSON OF NEWTON FALLS, OHIO, RECEIVES RED CROSS CERTIFICATE OF MERIT

### HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. CARNEY of Ohio. Mr. Speaker, I would like to pay tribute to a very brave young lady, Miss Billie Jean Carson. Miss Carson, who is the daughter of Mr. and Mrs. William C. Carson, of Newton Falls, Ohio, was named to receive the Red Cross Certificate of Merit.

Billie Jean received this award for her meritorius action of October 14, 1973. On this day, she was walking near a river when she heard cries for help. She ran to the river and saw a young man struggling weakly in the water. Immediately she dived into the water and swam to the helpless person. In spite of the size and weight of the struggling person and his heavy water-soaked clothing, she succeeded in bringing him to safety.

The Red Cross Certificate of Merit is the highest award given by the American National Red Cross to a person who saves or sustains a life by using skills learned in a Red Cross first aid, small craft, or water safety course.

Without a doubt, Billie Jean Carson's use of her skills and knowledge saved the life of another human being, and I commend her for this heroic deed.

## THE L.B.J. YOUNG DEMOCRATIC CLUB OF NORTH CAROLINA

### HON. CHARLES ROSE III

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. ROSE. Mr. Speaker, President Lyndon Baines Johnson died 1 year ago this week. As one who admired President Johnson and as a former president of the Young Democratic Clubs of North Carolina, I am especially proud that he and Mrs. Johnson were jointly honored when the Orange County Young Democratic Club became the first unit of the Democratic Party in the Nation to name itself as the LBJ Young Democratic Club.

In November 1973, Mrs. Johnson visited Orange County to accept a hand lettered scroll copy of the resolution naming the club. This resolution now hangs with the permanent collection at the LBJ Library in Austin, Tex.

Among the many newspaper articles concerning this evening of tribute to a President and First Lady was an article in the Carolina Times by Mr. Clifton P. Jones, a prominent black North Carolina leader who is president of the American Arthritis Association, Inc. The late editor-publisher of the Times, Mr. Louis E. Austin, was a personal friend of President Johnson. I feel it especially appropriate that an article from the Times should be included in the RECORD.

The article follows:

MRS. LYNDON B. JOHNSON GUEST OF LBJ YOUNG DEMOCRATIC CLUB

(By Clifton P. Jones)

It could have been the fall of 1964, the flags were all flying and Chapel Hill was in a festive mood—Mrs. Lyndon B. Johnson was in town as guest of The LBJ Young Democratic Club of Orange County.

Acting jointly Mayor Howard Lee of Chapel Hill, Mayor Robert Wells, Jr. of Carrboro, Mayor Fred Cates of Hilsborough and County Commissioner's Chairman Norman Walker proclaimed Thursday, November 8, as LBJ Day throughout Orange County and "ordered and extended the Freedom of our Precincts and our Towns to Mrs. Lady Bird Johnson."

The former First Lady visited the Carrboro Town Hall where she was given a rousing welcome by Mayor Wells and a large number of school children. She spoke briefly and signed autographs for the children. Chief John Blackwood and the entire Carrboro police force formed a saluting guard of honor as Mrs. Johnson arrived in Carrboro. She departed having won the hearts of all present.

The Chapel Hill Public Library was the next official stop for Mrs. Johnson. She was welcomed by Mrs. Howard Lee, officials of the library, a number of excited school children, and a host of newsmen. She autographed copies of Vantage Point by President Johnson and White House Diary by herself and presented them to Mrs. Richmond Bond and Mrs. William Geer for the Library. Chatting and sipping hot coffee, she met most of those present. As she left, one lady remarked "she really is as gracious as everyone says she is."

The main event of the day was "A tribute to a President and First Lady" at 7:30 P.M. at the American Legion Building. Air Force R.O.T.C. Cadets from Cummings High School in Burlington sharply and with precision presented the American and North Carolina Colors. Henry Muldrow, Jr., a talented young black UNC–CH student, sang the National Anthem. Father Harry J. Sutcliffe of New York, blind since birth and Director of the Episcopal Guild for the Blind, gave The Invocation.

Following a meal of barbeque, brunswick stew, hush puppies and coffee, Lieutenant Governor James B. Hunt, Jr., extended official greetings on behalf of the State of North Carolina.

Mayor Howard Lee presented the key to the city on behalf of Chapel Hill. Mayor Robert Wells, Jr., and Mayor Fred Cates extended official greetings on behalf of Carrboro and Hillsborough. Colonel Robert M. Pace, former Orange County Y.D.C. President introduced special guests and Mrs. Howard Lee read letters and telegrams from Carl Albert, Hubert Humphrey, Henry Jackson, Howard Baker, George Meany, Howard K. Smith, Roy Wilkins, and others.

Former Governors Terry Sanford and Robert W. Scott and former Senator B. Everett Jordan spoke of their associations with President and Mrs. Johnson. Former governor Luther H. Hodges gave the main speech, A Tribute to the LBJ's. He spoke of the warmth and compassion of President Johnson and cited the 1964 Civil Rights Act as perhaps the greatest achievement of the Johnson administration. He called Mrs. Johnson "the most outstanding First Lady of modern times" ranking her even ahead of Mrs. Franklin D. Roosevelt.

Club President John W. Hamilton and Secretary Mrs. Charles Attardi, Jr. presented Mrs. Johnson with a hand lettered scroll copy of the resolution which named the club in honor jointly of President and Mrs. Johnson. The LBJ Young Democratic Club is the first unit of the Democratic Party in the nation to so honor President and Mrs. Johnson. Joining the club officers in signing the resolution were former governors Luther H. Hodges, Terry Sanford, Dan K. Moore, and Robert W. Scott; former Senator B. Everett Jordan, Senator Sam J. Ervin, Jr., former Congressman Nick Galifianakis, former Y.D.C. President Robert M. Pace, Mrs. Howard Lee, wife of Mayor Lee, and Mrs. Samuel Selden, childhood friend and college roommate of the former First Lady who lives in Chapel Hill.

Mrs. Johnson spoke briefly of her affection for North Carolina, of her memories of the "Lady Bird Special" and of her appreciation for the evening of tribute and memories of her husband. She received standing ovations as she entered the hall, when she was introduced, and when she concluded. Mrs. Howard Lee summed up the evening perhaps best "This is the nicest event in Chapel Hill since Howard has been mayor. Mrs. Johnson carries all our hearts back to Texas with her."

## BICENTENNIAL CELEBRATION OF BIRTH OF MOTHER SETON

### HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. BYRON. Mr. Speaker, it was my pleasure to attend on Saturday, January 5 at St. Joseph's Provincial House in Emmitsburg, Md., the commemoration of the 200th anniversary of the birth of Blessed Elizabeth Ann Seton. Mother Seton was born August 28, 1774, and is the first native-born American to attain the honor of beatification. She arrived in St. Joseph's Valley near Emmitsburg in 1809 where she founded the American Sisters of Charity.

I would like to share with my colleagues an article from the Frederick News describing the commemorative service:

SETON CELEBRATION SCENES: SUN SHOWS A LITTLE MIRACLE

EMMITSBURG.—The brilliant rays of winter sun burst through heavily overcast skies here Saturday afternoon, turning the ice-covered outdoors of this northern-most Frederick County community into a jeweled wonderland of sparkling beauty.

A sudden freeze Thursday night had encased in icy glass all the trees, bushes, benches, fences, utility wires and statuary. As the dark clouds pulled apart about 1 o'clock to let the sun shine through, St. Joseph's Valley glistened like a beautiful lady robed in diamonds.

This phenomenon of nature is not unusual in Emmitsburg nor is it peculiar to this region, but it can be seen as having a special significance on this particular Saturday afternoon, Jan. 5, 1974. For on this day, some 1,400 persons were gathered here—from Rome, from Paris, from all over—to participate in a Mass or Eucharistic Celebration to mark the beginning of the bicentennial year of Blessed Elizabeth Ann Seton and to pray for the canonization of Mother Seton into Sainthood.

As though it were part of the Mass, the sun broke through the foreboding skies, and the full radiance of the sun filled the Sanctuary of the Church at Saint Joseph's Provincial House at precisely the high point of the Pontifical Blessing in the concluding rite.

The Celebrant had intoned the words: "Go in peace to love and serve the Lord."

The rays of the sun poured into the church as the audience responded, "Thanks be to God," and as the 100-voice Seton Bicentennial Chorus resounded with the beautiful "Hallelujah," from Handel's "The Messiah."

It was no little miracle that Mother Nature provided here for the world-wide Mother Seton Bicentennial observance that began Saturday in this small town where this someday-soon Saint-to-be worked her own miracle in founding America's parochial school system almost 165 years ago.

## TRIBUTE TO THE 30TH ANNIVERSARY OF THE SANTA MONICA HOSPITAL CLINIC

### HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. BELL. Mr. Speaker, during this month of January, the outstanding clinic of the Santa Monica Hospital Medical Center is celebrating its 30th anniversary of operations.

Founded on December 12, 1943, the Santa Monica Hospital clinic has served for 30 years as a harbor for those troubled by sickness. It was established by the Lutheran Hospital Society of Charitable Corporation.

Although the clinic began as a free wartime health service for low-income families, it now functions as a part-pay comprehensive medical program for hard-working, well deserving families whose incomes are too low to afford comparable services on an individual basis.

Originally, the clinic was located in a 1,000 square foot, old wooden house on the corner of 15th and Arizona in Santa Monica. Today, at the same location stands a modern out-patient facility with 16,000 square feet of space.

Thirty years ago the clinic served 750 people and handled 1,000 outpatient visits. Presently there are 900 families totaling 3,200 patients enlisted in the clinic program.

In 1943, 25 volunteer physicians and 21 dentists staffed 9 specialty clinics. Today, 19 full-time, family practice residents and 150 volunteer physicians staff 28 specialty clinics.

In 1969 the Santa Monica Hospital Clinic instituted a training program for family practice residents. The program has grown from 1 resident when it started to 19 residents and is presently considered to be one of the most outstanding training programs in the country.

The clinic currently serves more than 30 percent of the medically indigent families in the Santa Monica-West Los Angeles area. It maintains the highest standard of therapeutic and preventative medical services for patients of all ages, races, and creeds.

For these reasons, Mr. Speaker, it is with pride and pleasure that I call attention to the 30-year anniversary of the clinic of the Santa Monica Hospital Medical Center.

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## UKRAINIAN INDEPENDENCE

### HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. PEYSER. Mr. Speaker, the week of January 27 marks the 56th anniversary of Ukraine's independence proclaimed on January 22, 1918. This national independence was destroyed by the first wave of Soviet Russian imperio-colonialism in 1920 and ever since, the 48 million Ukrainians—the largest captive non-Russian nation have been struggling to regain it. It is a time for the Ukrainian people to recall and to preserve what they have, in the hope that one day Ukraine will become a free and independent country once again.

I would like to take this opportunity to praise the people of Ukraine who have kept the spirit alive under the adverse conditions under which they suffer today. The nation of Ukraine is imprisoned and those who purport to represent Ukraine in the United Nations, in international, external and internal affairs are enemies of the people of Ukraine and cannot possibly represent their welfare and best interests. The present government of the so-called Ukrainian Soviet Socialist Republic does not truly represent the people of Ukraine but the said government would in fact prevent them from appealing to the United Nations in behalf of their fundamental human rights.

In commemorating the 56th anniversary of Ukraine's independence, I find it essential to the dignity of the human race that an oppressed nation of 48 million people such as Ukraine should have a voice in the United Nations. A petition on the subject of human rights for Ukraine by the Women's Association for the Defense of Four Freedoms for Ukraine, Inc., was presented to the U.S. Ambassador to the United Nations on December 4, 1973. This petition appeals to our Ambassador and to the U.S. Government to bring to the attention of the world opinion and to the member delegates of the United Nations, the secret trials, arrests, and conditions of intolerable terror in Ukraine. And therefore, I support the petition on the subject of human rights for Ukraine on the floor of Congress, and I hope the Russians will take note of it.

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## BINARY WEAPONS

### HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mrs. SCHROEDER. Mr. Speaker, in view of the fact that the Army intends to ask for funds for the development of binary chemical weapons—a move that could jeopardize any hope of an international agreement on the control of chemical weapons—I would like to share with my colleagues three recent articles that examine the history of chemical warfare, the negotiations at the conference of the Committee on Disarmament in Geneva where nerve gas is on the continuing agenda, and the steps that led to the development of the binary weapons concept:

[From the Los Angeles Times, Jan. 6, 1974]

### United States Must Join Gas Warfare Ban

(By Alan C. Nixon)

The long and unsavory recorded history of chemical warfare began more than 2,500 years ago. From "Greek fire," a mixture of burning pitch and sulfur catapulted onto attacking ships or over the walls of cities, it has come to include poison gases, herbicides, tear gas, liquid fire and similar unpleasant compounds.

During the evolution of chemical warfare, man has made attempts to restrict or prohibit its use. There has been the general feeling that somehow chemicals are not cricket in warfare—that they lack the clean, sporting thrust of the dagger, the sword, the arrow, the blunderbuss, the bullet or even high explosives. So it was natural to look for ways to bar chemicals from the sporting business of war.

Both peace conferences at The Hague in 1899 and 1907 issued declarations forbidding the use of poisonous gases on the grounds, the 1899 resolution read, that this kind of warfare was inhumane.

The reasons given for the United States withholding its support from the 1899 resolution were that the inhumane aspects of gases had not been clearly established and that restrictions to inventiveness were not conducive to world peace.

The League of Nations, as part of an effort to outlaw war in general, attempted to ban biological and chemical warfare during the 1920s. The Geneva protocol of 1925 binds its signers "to abstain from the use in war of asphyxiating, poisoning or similar gases." The United States did not sign the treaty.

In 1970, President Nixon resubmitted the treaty to the Senate with his interpretation that "riot control agents and chemical herbicides" were not covered. The Senate refused to accept the interpretation. (It is my personal opinion that the Army's recent plan to create a safer-to-handle binary "nerve gas" would be prohibited even under President Nixon's interpretation of the treaty.)

The American Chemical Society, the world's largest society of professional chemists, had opposed the 1925 protocol "on the grounds of humanity" because the conference "showed . . . a lamentable lack of understanding of chemical warfare . . ." and "it was against national safety to try to outlaw chemical warfare." In 1970, we supported the Administration's interpretation.

But last fall, the society's council endorsed Senate Resolution 48 for "approval without qualification of the Geneva protocol." It is interesting to speculate on what brought about the society's reversal from its 1925 stand.

The general feeling at that time was best expressed by something Ida M. Tarbell wrote in the Washington Herald in December, 1921:

"The fact about chemical warfare seems to be that it is at once the most effective weapon of attack and defense ever devised by man and at the same time, it is the most humane—ironical as it is to use the word with the infernal business of war . . . You cannot outlaw chemical warfare unless you are willing to destroy the chemist and all his work. We cannot do that."

The most extensive military use of poison gases occurred during World War I. The Germans, ignoring both the 1899 and 1907 resolutions, had used gas against the Russians in Poland early in 1915, but the winds did not cooperate and it was not particularly successful.

However, chlorine, released from cylinders under favorable wind conditions, had a devastating effect against the British, French, Canadians and Portuguese on the western front of Ypres. This led to the development of protective masks and retaliatory capabilties. (It is interesting to note that in 1862 the U.S. government rejected the idea of using chlorine in artillery shells fired in the Civil War.)

After Ypres, both sides used chlorine gas until July, 1917, when the Germans introduced mustard gas, which caused the greatest poison gas casualties of the war. In the Somme offensive against the British and French in March, 1918, the Germans fired 500,000 mustard gas shells.

Both sides had planned extensive use of chemical warfare during 1919, but, of course, this was prevented by the signing of the armistice in November, 1918.

Poison gas, as such, was not used during World War II although all soldiers and many civilians were equipped with gas masks, both sides built up large stocks of gases and research was accelerated to develop new chemical warfare agents.

The reason it was not used probably stemmed from the belief of each side that its opponent was equally prepared, so that no strategic advantage would result from its use.

Since World War II, the tide of public opinion has been running strongly against the use of chemical and biological agents in warfare, stimulated, no doubt, by Chinese propaganda during the Korean war and the effects of accidental spillages and misadventures with industrial chemicals and chemical warfare agents.

The antiwar feeling that swept the country as a result of the Vietnam war has undoubtedly affected the attitudes of the American Chemical Society's membership. So have adverse publicity on the use of herbicides in Vietnam and reports on their deleterious and long-range effects. Student protests against the production of napalm helped change chemists' views. So did alleged excessive use of tear gas and Mace by police to control crowds.

Although no referendum was held among the society's membership, there has been little opposition to the stance taken by the board of directors and council. In the main, protests I have received are based on the old argument that since all modern warfare is chemical in nature, if chemistry were not used, warfare could not be conducted.

I agree. But it also so happens that what we can do at this moment to work toward ending war is to encourage our government to endorse the Geneva protocol. It is really not terribly important that the possibility is small of reducing either the likelihood or the horror of war by endorsement of the Geneva protocol.

What is important is that every move made to limit warfare, every commission working for disarmament, every conference called to reduce armaments, is beneficial in that they move world public opinion further in the direction of our ultimate goal: the complete end to all warfare.

[From the Long Island Newsday, Dec. 13, 1973]

### Getting Rid of Nerve Gas

One item on the continuing agenda of the 26-nation Conference of the Committee on Disarmament is nerve gas. The Russians have introduced proposals for banning its use in warfare, but the U.S. isn't satisfied with the safeguards against stockpiling. The U.S. has presented no proposal of its own, but the international community is looking for us to do so when the conference meets again in Geneva next spring.

Meanwhile, the U.S. Army has come up with an idea for developing a new binary nerve gas weapon and wants $200,000,000 from Congress for research and development—and production if it proves feasible. The advantage of the new gas is that it consists of two chemicals which are harmless when kept apart, as they would be in the new weapons. This makes them much safer to transport and store than existing nerve gas shells, which caused a furor when some of them got out of control in 1968, killing more than 6,000 sheep in Utah.

But does it makes sense to spend $200,000,000 on a deadly new compound that should and probably will be banned before long? The President has announced that the U.S. would not be the first country to use nerve gas and that our stockpiles are primarily a deterrent. As long as we have an adequate—though admittedly more dangerous—deterrent now, we'd be better advised to forget about expensive refinements and redouble our efforts to offer a workable plan for banning nerve gas altogether. That would be easier on both our pocketbooks and our nerves.

[From the Nation, Jan. 5, 1974]

### The Nerve of It

Faced with a public relations problem, the Army is never at a loss for a gimmick. In this instance the difficulty centers on public concern over storage of mustard gas, phosgene and other lethal chemical warfare weapons at Rocky Mountain Arsenal just 10 miles from the center of Denver. Another source of embarrassment is Sen. Frank E. Moss' reminder that 6,400 sheep were killed in his state—Utah—a few years ago when some VX-type nerve gas was released from a military airplane in an experiment that miscarried. The Army, consequently, has been faced with the problem of showing that poison gas could be produced in some relatively harmless form. It need not be quite as harmless as, say, nitrous oxide—"laughing gas"—used as an anesthetic in dentistry, but apprehensive civilians had to be assured that, if accidentally released, it would not kill them outright.

A happy solution was found in the binary concept of chemical munitions. Two different gases would be stored in, say, an artillery shell, with a membrane separating them. While neither of the gases would be recommended for breathing, as long as the membrane was tight there would be no serious reason for alarm. Only when the shell was fired and the membrane ruptured would the mixture become lethal, to the discomfiture of the enemy (whether military or civilian does not really matter).

Even so, accidental mixing is readily conceivable; but the Army regards this as a minor risk and certainly, from a public relations standpoint, it is placed in a more defensible position. The question that is not readily answered goes to the heart of the matter: why do we need chemical munitions at all? The Army's answer is that the Russians might use gas in some future war, so we must have gas to counter their gas. Even if war does not come, our gas will deter their gas. An editorial in the December 13, 1973, *Washington Post* derides this view. "This," the *Post* says, "is like saying that in order to deter the Russians from trampling us with elephant herds, we must raise our own elephant herds. It is, in a word, ridiculous. No canon of war requires the United States to respond with the same weapons used by a foe. We would still retain a broad range of other choices if we relinquished nerve gas and like chemical agents. By relinquishing chemicals, however, the United States would be making a modest but real contribution to a more civilized international society."

This is hardly an argument that will appeal to military men or the learned civilians who serve them and have been converted to the military way of thinking. Nor is it merely a question of weapons: the question is rather the extent to which reason can be brought to bear on problems of "defense." Senator Moss and Sen. Floyd K. Haskell (D., Colo.) tried, last September, to get an amendment adopted that would come up with an answer to a related question—the most effective means of eliminating all existing supplies of nerve gas. The amendment became part of the defense authorization bill but was dropped in conference. Thus a sane, sensible suggestion went by the board.

Second, in this matter of chemical warfare we are not as virtuous as we like to proclaim ourselves. In his first term President Nixon renounced "first use" of lethal and incapacitating chemicals but he was not moved to sign the Geneva Protocol which outlaws first use. He submitted the protocol to the Senate in 1970 but explicitly excluded "riot control agents and chemical herbicides," obviously to keep himself free to carry on his wars in Indochina without impediment, and to use gas against the ferocious young people who were protesting vehemently against the associated policies. The Senate Foreign Relations Committee thereupon sent the treaty back to him, probably not to Mr. Nixon's displeasure, and there the matter rests.

A third point involves the almost forgotten Arms Control and Disarmament Agency, which subsists on a starvation budget of $7 million annually and has nothing to do with major arms control negotiations. The agency is consistently ignored by the Pentagon, which in the case of the binary nerve gas insisted that this was strictly a military question of "modernizing" the Army chemical warfare weapons. Instead of knuckling under to the Pentagon, Dr. Fred C. Ikle, who took over as director of the failing agency in July 1973, protested that the binary nerve gas was militarily unnecessary and would further thwart international efforts to control chemical warfare. Another argument offered by the Arms Control Agency is that semi-industrialized nations might resort to the binary gas technique in their wars with one another, or to quell domestic opposition. If it does nothing else, the controversy has brought the agency into public notice, and perhaps henceforth the Pentagon will be less contemptuous of it.

The Army says it will cost $200 million to convert to binary nerve gases. *The Washington Post* says $500 million. On the basis of past experience, *The Nation* is willing to bet on the *Post's* figure. The key question, however, is whether the vested interest of the Army's chemical warfare service is to prevail, or whether common sense and the best scientific intelligence are to be paramount in this and many other military projects.

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## OUR NEXT SHORTAGE: RED MEAT

### HON. JOHN MELCHER

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. MELCHER. Mr. Speaker, I have just reviewed the cattle-on-feed report in which the Department of Agriculture tells us how many cattle there are in the feedlots of America being fattened for slaughter.

Thanks for the Cost of Living Council with its beef price freezes and thaws of several months ago, cattle feeders have been reluctant to get caught out on a limb with too many cattle. The uncertainty of Cost of Living Council policy coupled with rising feed costs has caused them since mid-1973 to be cautious and reluctant to keep their feedlots full.

The report shows that as of January 1 there were 6 percent less cattle in the feedlots, 13,673,000 compared to 14,432,000 on January 1, 1973, a decline of 795,000 head. The report, however, shows that for the next few weeks a lot of overfat cattle will leave the feed lots to be processed for America's meat counters. There are more heavy cattle, 1,100 pounds or over, ready for market—about 19 percent more which ought to be marketed within 30 days. Most of these cattle are really too fat to suit the average housewife and some of the excessive fat will have to be trimmed—a real waste.

These animals were obviously held by feeders in the hope that prices would get up somewhere close to cost of production. The Department of Agriculture published a study in December which showed that feeders had to have $55.25 per hundredweight for feed steers just to break even. Actual prices were down around $40 in the markets then, so feeders were losing about $150 a head on animals marketed. Some obviously held their fed animals in the hope of saving their economic hides and cattle prices did come up close to $50 per hundredweight early this year, but still not enough to pay costs only to cut losses from $150 to $50 per head.

Beyond these cattle that have been held back but will shortly be gone—and this is the real glimpse at the future—we are looking at some very steep declines in fed cattle supply. There were only 78 percent as many calves under 500 pounds and only 77 percent as many weighing 500 to 700 pounds in the lots January 1 as the year before.

Those figures mean a real beef shortage in April–May–June, when the animals should be reaching market weight. They point to a decline of 20 percent or more in fed cattle coming to market and in beef at the meat counters.

I have no doubt that Director Dunlop of the Cost of Living Council and others will shortly be reassuring us that there are a lot of feeder animals that can be rushed into the lots to augment meat supplies, and there are more than normal around. But it takes 4 or 5 months at best to get them up to market weight and condition, and there is absolutely no sign that feedlot owners are rushing out to fill up their pens again so they can lose a lot more money. On the contrary, the figures indicate that more and more of the pens are being left empty until there is some hope that cattle will bring what they cost to produce.

Placements on feed in December were down 15 percent under a year ago in the last quarter of 1973. They were off 24 percent in December in the seven big feeding States on which reports are compiled monthly.

Unless something happens mighty quickly, the prospect is that cattle placed on feed during the entire first half of 1974 will be less than 10 million head—about 1½ million—compared to 11,736 in the first 6 months last year.

Over the past 5 years, feeders have placed between 56 and 59 percent of all cattle going on feed during the marketing year in the feedlots in the 6 months from July through December. The average has been 57.4 percent. The other 42.6 percent has gone in during January–June. If patterns are normal this year our placements on feed to supply beafsteak and roasts for tables starting in June and July will be down 2.3 million head, or over 20 percent.

If this is allowed to come to pass, the red meat shortage may very well displace the energy crisis in the headlines.

There is not going to be any upsurge in pork production to replace the beef. The December 1 pigs and hogs on farms report showed 3 percent more on farms than the year before, but the Department's estimates on the pork outlook have become so notoriously misleading—slaughter hasn't come close to the indicated level for a couple of years—that no one really expects pork output to exceed last year's low levels even by the 3 percent indicated. If you want to know how low last year's pork production levels were, let me tell you that in 1971 we slaughtered 94 million head of hogs, in 1972 that dropped to 84 million head, and last year, with the encouragement of Mr. Dunlop's Cost of Living Council, hog producers cut their marketings back to 1965 levels at only 76 million head—18 million or about 20 percent below 1971.

The lamb and mutton outlook parallels beef.

Sheep and lambs on feed January 1 were 7 percent under the year before. Placements were up a little—2 percent—probably because a great many sheep growers are liquidating altogether. Losses to predators since the ban on toxic baits, and the failure of the administration to control coyotes by other means as the President promised, are causing many sheepmen to give up. A further reduction in red meat supplies, to add to the beef shortage, is just one side effect. The price of wool, wool fabrics and wool clothing will, of course, start mounting too.

The big, serious shortage we confront which will effect nearly every American, is red meat supply.

We are about to reap the harvest of the administration's unwise meat price ceilings of last year. The administration cannot meet or even ameliorate the red meat shortage as it has tried to do it in the dairy line—by letting in hundreds of millions of pounds of foreign products. We are already getting all the foreign red meat there is available. Meat import restrictions were pulled off 3 years ago to keep our domestic cattle producers from making any money, if possible, at that time.

It is not going to solve the situation for the Agriculture Department to come out in the next few days with a big inventory of cattle in the United States, an inventory overstuffed with the phantom calves of phantom cows to make it appear like the pastures and prairies of America are crowded with beef on the hoof.

Phantom feeders are no substitute for steaks and roasts and hamburger in the meat counter.

I am making these remarks today to avoid, if possible, consumers or colleagues who represent consumers, misunderstanding the cause of the meat shortage. Farmers and ranchers simply cannot pay out $55.25 per hundredweight to produce beef and stay in business with $40 return.

The mess we are in is very unfortunate for it is unnecessary. It was not only predictable, it was predicted last year when the meat price tampering started. For the benefit of members interested, I include in the Record a table of cattle on feed January 1, by weight groups, which tells the story statistically.

We slaughter about 2.2 million head of fed cattle monthly—more when meat is abundant. Steers are normally marketed around 1,050 pounds and heifers at 950 to 1,000 pounds. The weights are as of January 1, of course. The animals under 700 pounds should supply markets in May and June.

The table follows:

|  | Jan. 1, 1973 | Jan. 1, 1974 | 1974 as percent of 1973 |
|---|---|---|---|
| All cattle and calves: |  |  |  |
| Less than 500 pounds | 1,946,000 | 1,516,000 | 78 |
| 500 to 699 pounds | 3,847,000 | 2,977,000 | 77 |
| 700 to 899 pounds | 4,346,000 | 4,161,000 | 96 |
| 900 to 1,099 pounds | 3,076,000 | 3,404,000 | 111 |
| 1,100 pounds and over | 646,000 | 1,004,000 | 155 |
| Total | 13,861,000 | 13,062,000 | 94 |

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## RESOLUTION ON HUMAN RIGHTS

### HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. CORMAN. Mr. Speaker, the board of directors of the Institute of Electrical and Electronics Engineers has passed a resolution on the human rights, particularly immigration rights, for their Soviet colleagues. Surely, this resolution expresses the hopes of Americans in every work of life that individual freedom must grow in the Soviet Union and throughout the world.

The resolution reads as follows:

RESOLUTION

The Board of Directors of the Institute of Electrical and Electronics Engineers, having learned with dismay the serious penalties imposed on engineers and scientists who desire to emigrate from the Soviet Union, requested that the following resolution be respectfully forwarded to President Siforov of the Popov Society, and to President M. Keldysh and Vice President V. A. Kotelnikov of the Soviet Academy of Sciences, with an urgent request to render assistance:

"The Board of Directors of the Institute of Electrical and Electronics Engineers, an organization of approximately 160,000 electrical engineers all over the world, is keenly interested in the welfare of engineers and scientists everywhere.

"This Board views with great concern the infringement on basic freedoms wherever they occur, particularly when engineers and scientists are singled out as victims because of their profession.

"This Board regrets that many engineers and scientists and their families have been denied their right to emigrate in violation of recognized international practices, often solely because of their professional qualifications in Science and Engineering.

"These practices seriously endanger the spirit of transnational friendship and cooperation on which the operation of this Institute is based. The Board of Directors of the Institute of Electrical and Electronics Engineers appeals to its sister organizations, and to the National Academies of Science and Engineering in every country, to join in support of equal human rights for engineers and scientists."

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## SOLZHENITSYN: A HERO FOR OUR TIME

### HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. CRANE. Mr. Speaker, despite the fact that many, in the alleged spirit of "détente," are attempting to set forth the thesis that communism has changed and that the Soviet Union should receive trade and other concessions from the West, the real facts about communism persist in reappearing.

The latest description of the real nature of the Soviet system is to be found in the recent book, "The Gulag Archipelago," by Nobel laureate author, Alexander Solzhenitsyn.

Unlike his earlier works, "The Gulag Archipelago" is not a novel, and it makes serious charges not only against Stalin, but against others both before and after him, from 1918 to 1956.

Lenin, still a hero in the Soviet Union, is pictured not as a near saint, but as a man who established a police state under Marxist auspices, one far worse in terms of mass executions and deportations than the Okhrana of Czarist days.

Also cited, along with a demand for

their punishment, are such leaders as Vyacheslav Molotov, Foreign Minister under Stalin who, argues Solzhenitsyn, has reached an honorable old age "stained with our blood."

Mr. Solzhenitsyn's charges embrace many of the older members of today's hierarchy who either supported Stalin or failed to intervene. He notes that only 2 dozen Soviet officials have been convicted of terroristic crimes—compared with 78,000 former Nazi officials convicted in West Germany.

By writing this important book, the author has placed his life in jeopardy. He has shown great courage and a large part of his desire to share this story with the world is found in his interest in correcting the false illusions in the West about the real nature of communism.

Mr. Solzhenitsyn is truly a hero in a world with too few men who are willing to stand alone for the truth. Discussing his courage, American Author Saul Bellow notes that—

> The word "hero," long in disrepute, has been redeemed by Solzhenitsyn. He has had the courage, the power of mind and the strength of spirit to speak the truth to the entire world.

Mr. Bellow stated that Americans "should make it clear that they stand by Solzhenitsyn. It would be the completest betrayal of principle to fail him."

Following is the letter by Saul Bellow which appeared in the New York Times of January 15, 1974:

### Solzhenitsyn's Truth

> To the Editor:
>
> Andrei Sakharov and four other Soviet intellectuals have appealed to "decent people throughout the world" to try to protect Aleksander Solzhenitsyn from persecution.
>
> The word "hero," long in disrepute, has been redeemed by Solzhenitsyn. He has had the courage, the power of mind and the strength of spirit to speak the truth to the entire world. He is a man of perfect intellectual honor and, in his moral strength, he is peculiarly Russian. To the best Russian writers of this hellish century it has been perfectly clear that only the power of truth is equal to the power of the state.
>
> It is to be hoped that the Brezhnevs and the Kosygins will be capable of grasping what the behavior of such a man means to the civilized world. Persecution of Solzhenitsyn, deportation, confinement in a madhouse or exile will be taken as final evidence of complete moral degeneracy in the Soviet regime.
>
> We cannot expect our diplomats to abandon their policy of détente (whatever that may mean) or our great corporations to break their business contracts with Russia, but physicists and mathematicians, biologists, engineers, artists and intellectuals should make it clear that they stand by Solzhenitsyn. It would be the completest betrayal of principle to fail him. Since America is the Soviet Government's partner in détente, Americans have a special responsibility in this matter.
>
> What Solzhenitsyn has done in revealing the unchecked brutality of Stalinism, he has done also for us. He has reminded every one of us what we owe to truth.
>
> SAUL BELLOW.
>
> CHICAGO, January 7, 1974.

It is Mr. Solzhenitsyn's contention that up to 12 million people at any one time have occupied forced labor camps in the Soviet Union, enduring incredible cruelty and hardships and dying in large numbers. It was not the aberration of Stalin which produced this system of terror, he believes, but the very nature of communism itself.

Discussing the courage displayed by Alexander Solzhenitsyn, the Wall Street Journal noted editorially that—

> One of the Nobel laureate's recurrent themes has been that those in the West who enjoy liberty do not recognize that the Soviet system is the chief menace to it today. In this he is certainly right; many who profess to protect liberty apply one standard to South Vietnam and another to North Vietnam, one standard to Greece and another to Russia.

How freedom is to be preserved by enriching through trade and subsidization, as was the case with the wheat deal, a society which has systematically deprived its citizens of every vestige of freedom and dignity, is impossible to say. Unfortunately, many in our own country seem willing to sacrifice the long-range interests of freedom for what they consider to be the short-range interests of financial gain.

Following is the editorial, "Perspective on Freedom," which appeared in the Wall Street Journal of January 9, 1974:

### Perspective on Freedom

> Alexander Solzhenitsyn has once again called the world's attention to the inhumanity of the Government under which he lives. As Western readers digest his account of the Stalinist slave labor camps in "The Gulag Archipelago, 1918–1956," they can gain a new perspective on their own freedom.
>
> For it is hard for anyone nurtured in the Western democracies to understand that life under repression has historically been the fate of the bulk of mankind. Even today repression prevails. About the time Mr. Solzhenitsyn was releasing his new book, Freedom House in New York was completing its annual survey of political and civil freedom in the nations of the world. It found that 1.3 billion people were "free," 1.6 billion "not free" and 0.8 billion "partly free."
>
> A great deal of the repression in the world today finds its historical roots in Mr. Solzhenitsyn's "gulag archipelago"—the prison camps stretching across the Soviet Union like a string of islands. He describes a kind of repression unrelieved by the least trace of human feeling; police arrest someone whose child has just died, overturn the coffin and throw the corpse on the floor.
>
> The publication of this new book in the West puts the present commissars on the spot. They have been talking about using the international copyright convention to prevent such publication, and with consummate courage, Mr. Solzhenitsyn has called their bluff. Now what will they do? Will they really try to go into Western courts to suppress the work? Will they really arrest Mr. Solzhenitsyn and throw him back in the labor camps of which he writes, thus confirming the thrust of his charges?
>
> Mr. Solzhenitsyn and physicist Andrei Sakharov gain some protection from their fame in the West, but the Soviets remain quite capable of packing dissenters off to labor camps or insane asylums. They have in fact been picking off dissenters one by one, and are now succeeding in suppressing the *samidzat*, or underground publications. Mr. Solzhenitsyn apparently has other volumes to release if arrested, recounting how repression continues today.
>
> One of the Nobel laureate's recurrent themes has been that those in the West who enjoys liberty do not recognize that the Soviet system is the chief menace to it today. In this he is certainly right; many who profess to protect liberty apply one standard to South Vietnam and another to North Vietnam, one standard to Greece and another to Russia.
>
> In this respect the Freedom House survey is particularly revealing. Freedom and repression are very much matters of historical inheritance. The free nations are those of Western Europe and the North Atlantic littoral, a few in South America and a few, notably India and Japan, who have benefited from an injection of Anglo-Saxon constitutionalism. Liberty is found only within this broad Western tradition.
>
> Freedom House's "not free" nations come in more cloaks, but the main thrust is clear. Of the 1.6 billion people living under repression, 1.2 billion live in Communist nations. Nowhere is there a Communist nation that is also free or even "partly free." The tradition of Marx, Lenin and Stalin is the most powerful force for repression in the world today.
>
> Now, these observations need be no call to holy war. Americans should not embark on the fool's errand of bringing democracy to, say, China. There are sharp limitations on what the United States can do to aid Mr. Solzhenitsyn's campaign for a more liberal Russia. But the Western world can insure that his message is heard and remembered.
>
> Most important of all, the Western world can take care to protect and nurture its own traditions. Externally, it needs to keep itself strong enough that it cannot be bullied by the opposing tradition. And internally it needs to keep in mind that despite all its faults, Western culture provides the only source of freedom mankind is likely to find in today's world.

What the future holds for Solzhenitsyn is impossible to tell. Attacks upon him are mounting in the Soviet press, and real fear exists for his life.

This is the time for those in the West who are sincere in their espousal of freedom to make it clear that we will not sit idly by and permit the destruction of this courageous man.

Columnist William F. Buckley, Jr., declared that—

> This is the moment not for bureaucratic response, but for gallant response.

Mr. Buckley urged that—

> If a hair of the head of Solzhenitsyn is harmed: One. The United States of America will suspend all cultural exchange with the Soviet Union beginning immediately. Two. An absolute embargo, for a mourning period of one year, will be imposed on commerce of any kind with the Soviet Union, and against any purchase of goods of any kind from the Soviet Union.

In his column appearing in the New York Post of January 15, 1974, Mr. Buckley concluded that—

> Perhaps Solzhenitsyn requires martyrdom, fully to anneal his work to the service of humanity. Perhaps, even, he desires it. But we cannot willingly play the role of Pontius Pilate.

I wish to share this column with my colleagues, and insert it into the RECORD at this time:

### Solzhenitsyn at Bay

(By William F. Buckley, Jr.)

> The new volume of Aleksandr Solzhenitsyn raises policy questions for the West which, if we answer them wrongly, will bring down upon us that curse of history reserved for those despicable men who, though knowing everything they needed to know, declined to act, thus contributing to a crucifixion. Solzhenitsyn is only an individual, but there was

never in human history a clearer identification of an individual and a class.

Martin Luther King as representative of the American Negro pales alongside the authority of Aleksandr Solzhenitsyn as representative of the 200 million people of Russia who have suffered, and continue to suffer, at the hands of the creed-ridden tormentors of that wretched country.

The Soviet government does not disguise its feelings about Solzhenitsyn, any more than the establishmentarians disguised theirs toward Jesus. Now, on the publication of "The Gulag Archipelago," they have begun their offensive. It is clearly launched with a certain tentativeness—else they'd have simply yanked him from the streets and shipped him off directly to Siberia, or to a convenient warren in the cellar of the Lubyanka, there to receive a little lead in his stupefying, or inspiring mind.

Though Solzhenitsyn is only one man, his elimination would amount to an act of genocide. It is now as if, 35 years ago, Adolph Hitler had released, for the convenience of the next few editions of the World Almanac, the projections on the diminishing percentage of Jews alive and well in Germany. Would the West, in such circumstances, do anything about it? Or would that be to interrupt the rhythm of detente?

Permit a drastic truncation—in just a few sentences—of the experience of just one Soviet victim. This one an American citizen who, incredibly, has been living in Maryland since 1971. It required that we should learn of his existence from Aleksandr Solzhenitsyn. His name is Alexander Dolgun. He was a clerk with the American Embassy. In 1948 he was seized on the streets of Moscow and would spend eight years in Soviet camps, and another 15 years in civilian detention. A cheerful representative of the Workers' Paradise, second in charge of Soviet security, called Ryumin, called in young Dolgun, who had declined to confess to crimes he had not committed.

"'And so,' said Ryumin politely, stroking his rubber truncheon which was an inch and a half thick, 'you have survived trial by sleeplessness with honor. So now we will try the club. Prisoners don't last more than two or three sessions of this. Let down your trousers and lie on the runner.'

"The colonel sat down on the prisoner's back. Dolgun had intended to count the blows. He didn't know yet what a blow with a rubber truncheon is on the sciatic nerve. The effect is not in the place where the blow is delivered—it blows up inside the head. After the first blow the victim was insane with pain and broke his nails on the carpet. Ryumin beat away.

"After the beating the prisoner could not walk, and of course, he was not carried. They just dragged him along the floor . . . [then] Ryumin went wild, and started to beat him in the stomach and broke through the intestinal wall, in the form of an enormous hernia where his intestines protruded. And the prisoner was taken off to the Butyrka hospital with a case of peritonitis, and, for the time being the attempts to compel him to commit a foul deed were broken off."

The reason Brezhnev, *et al*, are so much afraid of Solzhenitsyn is that his indictment isn't of the man Stalin, or even of the man Lenin, whose atrocities figure greatly in this book. His indictment is universal: an indictment of totalitarian society. Brezhnev can no more convincingly denounce Stalin than he can denounce his own aorta. The governors of the Soviet Union cannot break with their own past without walking, unmanacled, to Red Square, to set a torch upon themselves.

This is the moment not for bureaucratic response, but for gallant response, and those of us who know Henry Kissinger pray that he will take the initiative—no one could do it better.

If a hair of the head of Solzhenitsyn is harmed:

One. The United States of America will suspend all cultural exchange with the Soviet Union beginning immediately.

Two. An absolute embargo, for a mourning period of one year, will be imposed on commerce of any kind with the Soviet Union, and against any purchase of goods of any kind from the Soviet Union.

Perhaps Solzhenitsyn requires martyrdom, fully to anneal his work to the service of humanity. Perhaps, even, he desires it. But we cannot willingly play the role of Pontius Pilate.

## SEATBELT INTERLOCKS MUST GO

## HON. ANGELO D. RONCALLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. RONCALLO of New York. Mr. Speaker, the so-called safety standard which requires new cars to be equipped with an interlock between the seatbelts and the ignition system is expensive, an invasion of privacy and, ironically, dangerous.

Not only do cars cost more because of this system, but they will be more expensive to repair, as well. Mechanics are either going to have to jump-start the car, put a weight on the front seat, or hire someone to sit in the car while it is being repaired.

I agree that seatbelts can often save lives, although there are some cases where they can trap an occupant during or after an accident. But I do not think it is any more the Government's right to invade a person's privacy and tell him how he must protect himself in this way than it is to tell him to wear his rubbers when it rains.

Can you imagine what thoughts would go through your mind if your car stalled in a short-cycle left turn lane at a busy intersection. Try this: the car jumps ahead a foot or two and stalls; you try to restart it; nothing happens. Then you remember. You turn off the ignition, open your seatbelt, close it again, and try to start the car. If it has not flooded, maybe you can catch the green light next time around. Meanwhile, traffic has backed up, horns are honking, and three cars back someone has tried to pull out and go around, causing an accident. This is not safety—it's foolishness.

I recently received several petitions in support of my bill. The 79 signatures were gathered in a short period of time by only one of the many repair shops in my district. Their customers were very rightly concerned at the prospects of even higher repair costs in the days to come. When the cost of living is rising all around us, Congress has a duty to remove this added and unwelcome burden on our citizens. I am proud to be a cosponsor of H.R. 10664, which would repeal the interlock requirement, and urge my colleagues to join in passing this much-needed bill.

The text of the petition is short and to the point, and I include it at this point in the record:

PETITION

*To the Congressmen, Senators and Auto Manufacturers:*

We, the undersigned, urge you to support the bill HR 10277 requiring the removal of the interlock system from all vehicles.

1. The systems will be far too costly to repair;
2. The systems will be most inconvenient for those of us who have a pet or put packages on the seat;
3. The systems create a dangerous situation if the car stalls and the system fails to start properly;
4. The requirement that the system be in a car is an unconstitutional infringement of our personal rights to select what we shall wear and how we shall protect our persons from injury or disease.

Your support of the above bill to repeal the requirement of the interlock system will be appreciated.

## THE ENERGY FACT BLACKOUT

## HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. BRASCO. Mr. Speaker, in the last few months we have come to realize that the energy monopoly in this country, for such it is, has a vested interest in preventing the average American from knowing any basic facts regarding the real state of our resources. For a number of years now, all energy facts have been concentrated in the hands of the eight major oil companies which dominate the market so effectively.

Today, we know little about how much refinery capacity is at any one time because the oil industry will not tell the public. We know little about what use pipelines are being put to in terms of transporting adequate supplies of fuel. Why? Because the large oil companies see fit to withhold the information.

Today's energy crisis, many Americans believe, is a contrived thing arranged by the major oil companies, with the acquiescence of the Federal Government. Today, the American consumer, is paying a permium price for all forms of energy because the energy monopoly has been allowed to operate almost totally in the dark.

The Federal Government has allowed itself to be placed in the disgraceful position of accepting all energy facts from these companies and offering them to the people and media as gospel. No Federal agency of any kind, except the Federal Trade Commission, has sought energy facts from the companies. That is why they have been able to tell any and all critics that they know nothing and cannot be allowed. Following such successful attempts to discredit any critics, they come forward with their own versions and ask for public belief. Government agencies, disgracefully depend upon them for facts, have in the past only been able to agree dumbly with the specious arguments advanced by the private interests the agencies are supposed to police.

The Federal Power Commission, for example, takes what figures the oil and gas interests offer it, and puts them out as Government gospel. No outside interests operating on behalf of the public is allowed access to these figures, because the agency claims business confidentiality is vital. Other Federal agencies seeking such figures in the public interest are denied such information, as has been the case with the Federal Trade Commission. When the FTC sought industry data from the FPC, a sister agency, the FPC did all it could to block FTC access to this information. At one point, it asked FTC to submit an application for the data. Other events, including attempts to destroy public documents, have also characterized the FPC's actions. And because we know nothing about the true state of energy reserves, the FPC, operating behind closed doors, has been able to effectively deregulate the price of natural gas at the wellhead through the optional pricing procedure. By granting individual price hikes of huge proportions, the normal procedures have been evaded.

The U.S. Geological Survey and the Bureau of Land Management of the Department of the Interior also bear a large part of the blame for this Government ignorance of energy facts. Both these agencies play massive roles in the administration of public lands. Yet neither of them conducts an annual census of publicly owned energy resources. Neither of them publishes any annual report on such resources or on what has been extracted by private interests from public lands. In fact, the activities of these agencies give observers reason to believe that they are on the side of the oil companies in almost every aspect of the energy crisis. In no way have these agencies done anything to alleviate the situation. And when we turn to them for data, all they have to offer is again what the oil and gas monopolies have thrown to them as a pittance. So once again, as the questions grow in number and complexity, the Federal Government is operating without effective and definitive information.

Because of this situation, the oil companies have been allowed to plead any excuse for their incredible policies, which have driven their minimal competition to the economic wall. Because we have not taken the trouble to find out what they are doing and how they are doing it, they have been able to half convince the public that there are actual shortages, when in fact they are manipulating the situation to their ultimate financial advantage. Why, for example, were they able to construct numerous cutrate gas stations for their secondary brands this summer while pleading a gasoline shortage which drove 1,500 small gas station operators out of business?

Now we are confronted with the heating fuel shortage, which has effectively allowed them to raise their prices on home fuel and gasoline to unheard of levels. Yet when confronted with a threat of congressional action if they did not reveal what their actual stocks of reserves were, they told the Nation their stocks of vital fuels were higher than at this time last year. Some observers might construe this as a contrived attempt by the oil companies to frighten the public into acquiescing in stratospheric price hikes, which have, of course, become the norm.

Recent hearings into oil company profits and taxes have revealed devastating facts. Walter Heller, former Chairman of the Council of Economic Advisers, estimates that these major oil companies will coin $13 billion in excess profits in 1973, above and beyond what they made in 1972. Further, the taxes they will end up paying the Federal Government on this may well be nil because of the foreign tax credit, allowing them to write off what they pay the Arabs dollar for dollar against their American Federal income tax. That loss to the Federal Treasury means that the average American will have to make up the Federal tax deficit out of what he pays. Calmly, dispassionately, and with hurt tone, the oil executives admit that this in fact is the case, and offer the excuse that they are multinational in their operations.

This in turn brings out another point. These companies are so multinational and are devoted so singlemindedly to the profits they earn, that national interests of the United States and the wellbeing of the American people come far down the list of their priorities. We come last, and shall continue to come last. Which points out the true evil of the huge multinational conglomerate. If they will gain economically by harming the United States, even though they are ostensibly an American company, to make the big dollar, they will efficiently and without hesitation pursue a policy that will hurt America. No greater illustration of this can be offered than the energy embroglio we are presently wrestling with.

The United States has to act in self-defense against these companies, and the first steps can and must be taken at home and within the Federal Government. An independent source of statistics must be brought into being, to gather information for the Congress on energy.

Therefore, I am joining in cosponsorship of the measure to create a Bureau of Energy Information to conduct surveys, gather facts, supply Congress with answers to current questions, and insure that we shall not have a repetition of the present situation.

The public and the Congress have a right to know all pertinent facts about pipelines, refineries, and tanker fleets, including who owns them, the scheduling, contents, and marketing procedures. If the oil companies do not like sharing this information with the people and the Congress, that is simply too bad. Much of our present difficulty can be traced to the indulgence we have traditionally offered to the domestic oil industry, which emerges as a parasitic middleman, devoted to making money out of our present crisis, rather than devoted to alleviating it. And this is merely a beginning.

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## FAMILY ASSISTANCE PLAN IS NO SOLUTION TO WELFARE MESS

## HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. ASHBROOK. Mr. Speaker, rumors have been circulating to the effect that the administration may introduce a revised version of the family assistance plan. This welfare reform or guaranteed annual income measure was strenuously pushed by the President during his first term in office and then dropped during the 1972 campaign.

It would be a serious mistake for the President to resurrect this radical and thoroughly discredited program. In the 1972 elections, the American people voiced their support for a reduction, not an increase, in welfare spending. McGovern and his $1,000-for-everyone giveaway welfare proposal were overwhelmingly repudiated. It is ironic that after criticizing McGovern for his $1,000 giveaway scheme, the administration is now supposedly considering one which is almost equally ridiculous. Would the President really have us believe that the American people who one year ago overwhelmingly rejected $4,000 for a family of four would now accept a program guaranteeing a minimum payment of $3,200 for a family of four?

I am quick to agree that we need a major overhaul of our chaotic, costly and inefficient welfare system. Even more disturbing than the staggering cost, the present system tends to foster dependency on the Government as a way of life. Many recipients now view welfare payments as a lifetime right, rather than a temporary measure to assist them through difficult times.

The family assistance plan, however, will only further expand the welfare mess. More, not less, people will be on the welfare rolls. More, not less, money will be spent on welfare benefits. More, not less, people will be dependent on the Government for their food, shelter, and clothing.

Once the idea of a guaranteed annual income is accepted, the Government will have gone perpetually into the charity business. Our Nation will have taken a giant step toward a permanent welfare state.

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## DOES FREEDOM OF THE PRESS EXTEND TO FREEDOM TO UNDERMINE COMPETITION?

## HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. RARICK. Mr. Speaker, in these times of political and moral upheaval it seemingly has become commonplace for people in public and private life to be critical of the news media. And, in return, it has become commonplace for the media to defend itself against charges of deception, half-truths, and innuendo as attacks on their first amendment rights.

But, unprecedented is the current local situation where one of the two Washington, D.C. newspapers accuses the other of "errors" in reporting its financial strength. Perhaps, even more unprecedented is that the complaining editor's letter has now appeared in the letters to the editor of the other paper, accompanied by the editor's note admitting one "error," denying any intention of misrepresentation on another point, and admitting no plea to the remainder.

We should all be happy that, at least as yet, neither newspaper has accused the other of attacks on its historic right to a free press. An informed electorate requires access to varied opinions from its newspapers. Freedom of press must never be given a single monopolistic voice, in Washington, D.C.—our Nation's Capital.

I insert the letter to the editor from a newspaper president which appeared in the January 24 Washington Post at this point:

[From the Washington Post, Jan. 24, 1974]

### FINANCIAL STRENGTH OF THE WASHINGTON STAR-NEWS

The Post was guilty of a number of errors concerning The Washington Star-News and Washington Star Communications, Inc. in an article entitled "Mixed Fortunes" which appeared in its Business Outlook section on Sunday, January 13.

First, the errors of fact:

The Post is in error in its description of Washington Star Communications, Inc., and in listing its subsidiary and affiliated companies. Three of our companies were not listed in the paragraph which purports to show our holdings: WCIV-TV, our NBC-affiliate in Charleston, S.C.; The Washington Star Syndicate; and Commercial Electronics, Inc. These holdings are no secret; they are published every day on page two of The Star-News.

The Post is in error in stating that we hold a 45 per cent interest in Tal-Star Computer Systems. The proper figure is 81 per cent.

The Post is in error in reporting that The Star-News "killed" its Sunday magazine. It would be more accurate to state that the magazine was replaced by Family Weekly, a nationally syndicated supplement that has proved extremely popular with our readers. (We note that your article fails to mention that The Post discontinued publishing Book World as a Sunday supplement).

The factual errors were aggravated by misleading comparisons and a generally slanted tone.

To state that The Star-News has been losing advertising business since last fall is misleading. The Star-News enjoyed a 9.2 per cent gain in advertising for the year, versus a 6.8 per cent gain for The Post. Since, in the same article, The Post cites its own lineage figures on an annual basis, simple fairness would indicate that The Star-News' improved position should be noted on the same basis.

The Post cites unattributed rumors about the sale of The Star-News. These rumors are unfounded. And they seem to be the only instance of rumors that were reported in your review of Washington businesses.

The article is so framed in several other respects that it creates an impression of financial problems. The sale of our minor 8.4 per cent interest in the Spruce Falls Power and Paper Company of Canada is linked to a need for cash in the same sentence that reports rumors of an impending sale of our newspaper. The Spruce Falls holding was sold as a prudent and very profitable business transaction.

You associated Star-News' increases in advertising and circulation rates with "cutbacks last year to save money." In the next paragraph, similar increases by The Post are justified by "higher expenses, particularly wages and newsprint."

Higher expenses are, indeed, a problem for all publishers. Recognizing this, one might expect The Post to describe The Star-News' elimination of its closing stock market edition in the context of efficient management, rather than relating it to "financial difficulties." The plain fact is that when The Star-News added an earlier edition, production of its last edition was on overtime. By combining the last two editions of the day, The Star-News experienced no loss in circulation while saving overtime expenses.

In the framework of business review, capital expenditure is a barometer of vitality. While your article mentions in passing that The Star-News has a new photoengraving printing process, it makes no reference to other substantial capital investments. The printing process alone, is the result of a $1.75 million dollar investment. Your article also fails to report a $1.5 million dollar investment made in mailroom equipment presently being installed to improve Star-News service to its advertisers.

Our company is growing. It is investing heavily in the future. We are confident that Washington Star Communications will continue to expand its operations.

We recognize the obvious reportorial difficulties in comparing a privately held corporation with a publicly held one. Nonetheless, most of the information was capable of verification; and, more seriously, the selection process and pejorative use of words casts into doubt the journalitic responsibility of the article.

JOHN H. KAUFMANN,
*President, Washington Star Communications, Inc., The Evening Star Newspaper Company.*

(EDITOR'S NOTE: The Post was in error on the amount of Washington Star Communications, Inc., holdings in Tal-Star Computer Systems. On the matter of the incompleteness of our listing of the area's largest firms, there was no intention to list all subsidiaries of the companies involved—including all those of the Washington Post Co. For the rest of Mr. Kaufmann's arguments, we enter no plea, on grounds that they have to do largely with genuinely arguable questions of emphasis, nuance, and tone.)

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## ALABAMA'S INDUSTRIAL GROWTH

## HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. NICHOLS. Mr. Speaker, the industrial growth and expansion of the Southeastern region of these United States during the past 25 years has been spectacular and this region has proven itself to be an integral part of the Nation's economic success.

Alabama has made exceptional growth during this period and this past year of 1973 was marked by record industrial growth and expansion for this Southern giant.

I would like to congratulate Gov. George C. Wallace, Mr. R. C. "Red" Bamberg, director of Alabama's Development Office, and the hundreds of other Alabamians whose outstanding efforts made 1973 the greatest year ever for Alabama industrial growth.

Mr. Speaker, I would like to submit this press release for publication in the CONGRESSIONAL RECORD to further explain Alabama's industrial growth during the year of 1973. I do hope that all Members of Congress take the opportunity to read of Alabama's success:

### CAPITAL INVESTMENT ANNOUNCED FOR 1,005 NEW AND EXPANDING INDUSTRIES IN 1973 DOUBLES 1972 FIGURE; EXCEEDS BILLION DOLLARS FOR FIRST TIME

The years 1972 and 1973 were tandem years of record-breaking industrial growth for Alabama with the announced capital investment for 1973 almost doubling the previous year's figures and exceeding the billion dollar mark for the first time in history, Gov. George Wallace announced today at Garrett Coliseum.

Addressing a luncheon group of several thousand people from all over the State, Governor Wallace reported that the announced capital investment for new manufacturing plants and expansions of existing facilities reached a record high of $1,652,726,535 during 1973, almost double the $838,290,120 reported in 1972.

The capital investment figure represents outlays to be made for 164 new plants and 841 plant expansions which will create an estimated 42,998 new jobs when all of the announced facilities are completed and are in full operation.

The Governor termed the announcement a "prodigious achievement" for the people of Alabama and another indication of significant progress in the State's climb up the economic ladder.

"This announcement portends a continuing upsurge in economic growth and all the things that accompany such growth," the Governor said.

J. Craig Smith, president of the Alabama State Chamber of Commerce and well known textile executive, said, "This is the second consecutive year that an all-time record has been set which indicates that we definitely have an attractive business climate in Alabama. We should strive to maintain this good business climate and develop our State in an orderly manner. Nearly half of the total amount of expansion announced is from industries that are already in Alabama, further proof of a favorable attitude toward industry in Alabama. As it has in the past the Alabama Chamber will continue to work with the State, county and local governments in making Alabama a better place in which to live."

The annual year-end industrial report is compiled jointly by the Alabama Development Office, State Chamber of Commerce, and the Industrial Development Department of the Alabama Power Company. The figures it contains on capital investment and new jobs to be created are those reported by company officials. "It is a reflection of the combined efforts of industrial development groups in both the private sector and on the State level and of locally elected officials throughout Alabama," the Governor said.

Capital investment announced for 164 new plants in 1973 was $840,913,220 a new record. Jobs to be provided by these new plants when full production is reached are estimated at 20,606.

Announced capital investment for 841 expanding Alabama industries was $811,813,315 and will create an estimated 22,392 new jobs when the facilities are completed and in full operation. Each of these figures represents a new record for Alabama.

The grand totals for new and expanding industries in capital investment, numbers of plants and jobs to be created are, likewise, new all time highs for the State.

R. C. "Red" Bamberg, Alabama Development Office director, said he was highly gratified with the industrial successes enjoyed during the year. He praised the efforts of the ADO Industrial Development Division and the leadership provided by Fred Denton, State industrial development director. He also stated that he wanted to acknowledge the cooperation and assistance many organizations and individuals provided. "Without their support," he said, "no records could have been set."

Governor Wallace praised T. L. Faulkner, director of the Vocational Education and Community Colleges Division, which administers the Alabama Industrial Development (AID) Training program. He said that much of the industrial growth of the past three years can be attributed to the AID program which is now recognized as the finest in the nation. The Governor said that delegations from other states are now visiting Alabama to study firsthand this program, which trains workers for industry while new plants and expanding plants are being constructed. Often it is the deciding factor in the decision of plant officials to locate in Alabama.

According to Faulkner, the AID program has been committed to 109 industries. After all training has been completed for these industries, 13,203 workers will have participated in the program.

Fred Denton, State director of industrial development, said, "The record for industrial growth set in 1973 is a direct result of the excellent cooperation that exists between the various industrial development groups operating in Alabama. Many people throughout the State including the industrial developers of utilities, railroads, chambers of commerce and banks as well as city, county, state and federal officials have made important contributions to our 'total' industry-seeking effort. We on the State level acknowledge with gratitude these contributions."

"While I am always grateful for announcements of new industries coming to our State, I am equally grateful and pleased to see expansions by our Alabama industries," the Governor said. "No real progress can be made in industrial growth unless our established industry is doing well."

GOVERNOR LISTS NON-INDUSTRIAL GROWTH INDICATORS WHICH GIVE EVIDENCE THAT ALL SEGMENTS OF ECONOMY HEALTHY

In addition to a great year in industrial growth, the Governor reported that there are many other indications that all segments of our economy are moving forward, some of which are listed below.

1. For the third consecutive year, Alabama's farmers set new records in gross agricultural income with a 1973 figure of $1.6 billion, up $500,000 over 1972. In 1971, the State's farmers exceeded a billion dollars in gross income for the first time.

2. Again in 1973, total deposits in State chartered banks increased substantially over those of a year earlier, growing from a 1972 figure of $2,609,297,107 to $2,704,158,561 as of October 17. Combined total capital rose from $216,000,000 to $259,000,000. There is now a total of 195 State chartered banks with 113 branches.

3. According to figures provided by the Federal Reserve Bank of Atlanta, total deposits of all member banks in Alabama increased from $4,572,000,000 in 1972 to $5,153,900,000 in 1973.

4. Capital savings on deposit with Alabama Savings and Loan Associations increased from $1,664,398,000 in 1972 to $1,830,000,000 according to the Alabama Savings and Loan League.

5. The Home Builders Association of Alabama reported construction was started on approximately 24,400 new homes, down 2,600 from the year before, but at an estimated average cost of $29,000 for a total expenditure of $707,600,000, an increase of $181 million over 1972.

6. Taxes collected by Alabama's Department of Revenue in fiscal year 1972–73 increased more than 12.52 percent . . . from $717,493,520 to $807,314,906. This increase is directly related to the multiplier effect of new industrial payrolls being created in the State.

7. Retail sales in Alabama totaled $9,759,400,000 in 1973 which was a 10.8 percent increase over the $8,815,265,000 of 1972. This is the estimate of the University of Alabama Center for Business and Economic Research.

8. Economic growth is reflected in the expenditures of utility companies, which must anticipate increased needs for their services. In 1973, Alabama Power Company invested an estimated $364.7 million for new generating, transmission, distribution, and related facilities. Company officials expect to spend approximately $466.9 million in 1974 for such facilities. This is part of the $1.5 billion expansion program involving new electric generating plants previously announced by the company.

Alabama Gas Corporation plans to spend $8.6 million for various construction projects during their current fiscal year which began October 1. These expenditures will be primarily to serve new customers and for systems improvements.

Officials of South Central Bell have estimated their construction budget for 1974 at $141.6 million. Company projections indicate that there will be an additional 88,500 phones in service in Alabama by the end of 1974.

Combined 1974 expenditures by Alabama's three major utilities will be approximately $617.1 million.

9. Net earnings of the State Docks for the fiscal year ended on September 30, 1973 were approximately $1.5 million. Governor Wallace reported this to be the best port financial achievement in the United States this year. In addition, for the first seven months of the calendar year, imports through the Port of Mobile increased 31.6 percent and exports 106.8 percent.

INDUSTRIAL GROWTH CHART—STATE OF ALABAMA, ALABAMA DEVELOPMENT OFFICE

| Year | New industries | | | Expanded industries | | | Grand totals, new and expanded | | |
|---|---|---|---|---|---|---|---|---|---|
| | Number of plants | Capital invested | Jobs | Number of plants | Capital invested | Jobs | Number of plants | Capital invested | Jobs |
| 1947 | 164 | $47,735,000 | 9,018 | 13 | $450,000 | 415 | 177 | $48,185,000 | 9,433 |
| 1948 | 127 | 18,513,000 | 4,055 | 14 | 3,307,000 | 705 | 141 | 21,820,000 | 4,760 |
| 1949 | 84 | 9,744,400 | 3,442 | 12 | 2,845,000 | 515 | 96 | 12,589,400 | 3,957 |
| 1950 | 41 | 28,238,000 | 9,876 | 8 | 73,570,000 | 2,805 | 49 | 101,808,000 | 12,681 |
| 1951 | 45 | 115,348,000 | 16,669 | 41 | 232,848,000 | 6,350 | 86 | 348,196,000 | 23,019 |
| 1952 | 43 | 21,478,000 | 4,715 | 25 | 14,799,000 | 2,520 | 68 | 36,277,000 | 7,235 |
| 1953 | 101 | 22,899,000 | 7,684 | 52 | 48,670,000 | 2,959 | 153 | 71,569,000 | 10,643 |
| 1954 | 67 | 27,844,000 | 3,724 | 62 | 23,960,000 | 4,543 | 129 | 51,804,000 | 8,267 |
| 1955 | 66 | 172,812,000 | 5,645 | 90 | 188,278,000 | 8,801 | 156 | 361,090,000 | 14,446 |
| 1956 | 84 | 76,853,000 | 5,996 | 79 | 197,528,000 | 4,550 | 163 | 274,381,000 | 10,546 |
| 1957 | 65 | 13,960,000 | 3,280 | 49 | 91,149,000 | 4,560 | 114 | 105,109,000 | 7,840 |
| 1958 | 47 | 12,831,500 | 4,665 | 41 | 36,270,000 | 1,970 | 88 | 49,101,500 | 6,635 |
| 1959 | 103 | 21,567,500 | 5,161 | 161 | 80,278,500 | 7,011 | 264 | 101,846,000 | 12,172 |
| 1960 | 127 | 80,109,500 | 6,828 | 174 | 132,129,200 | 7,485 | 301 | 212,238,700 | 14,313 |
| 1961 | 89 | 27,060,000 | 4,111 | 157 | 191,607,500 | 4,887 | 246 | 218,667,500 | 8,998 |
| 1962 | 111 | 62,174,000 | 7,854 | 150 | 68,467,000 | 6,907 | 261 | 130,641,000 | 14,761 |
| 1963 | 125 | 101,446,000 | 9,445 | 176 | 242,645,980 | 9,910 | 301 | 344,091,980 | 19,355 |
| 1964 | 136 | 175,168,439 | 10,762 | 177 | 230,846,493 | 11,712 | 313 | 406,014,932 | 22,474 |
| 1965 | 136 | 279,971,700 | 10,031 | 224 | 343,479,300 | 17,861 | 360 | 623,451,000 | 27,892 |
| 1966 | 122 | 91,248,000 | 11,581 | 208 | 237,349,000 | 13,251 | 330 | 328,597,000 | 24,832 |
| 1967 | 93 | 232,712,100 | 10,140 | 151 | 423,934,500 | 7,207 | 244 | 656,646,600 | 17,347 |
| 1968 | 119 | 140,535,600 | 9,928 | 198 | 272,808,850 | 13,023 | 317 | 413,344,450 | 22,951 |
| 1969 | 128 | 168,373,000 | 18,315 | 171 | 331,770,000 | 9,624 | 299 | 500,143,000 | 27,939 |
| 1970 | 148 | 85,855,968 | 15,632 | 201 | 267,950,997 | 10,731 | 349 | 353,806,965 | 26,363 |
| 1971 | 159 | 164,974,975 | 15,684 | 155 | 198,591,848 | 5,236 | 314 | 363,566,823 | 20,920 |
| 1972 | [1] 193 | [1] 290,895,372 | 20,727 | [1] 489 | [1] 547,394,748 | [1] 22,151 | [1] 682 | [1] 838,290,120 | [1] 42,878 |
| 1973 | 164 | 840,913,220 | 20,606 | 841 | 811,813,315 | 22,392 | 1,005 | 1,652,726,535 | 42,998 |

[1] Previous record.

## CHINESE NEW YEAR

## HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. BIAGGI. Mr. Speaker, today marks the celebration of the Chinese New Year for millions of Chinese both in the United States and throughout the world. As the Chinese inaugurate the Year of the Tiger they look ahead with great anticipation to a hopeful new era of peace in the world.

The Chinese have had a rich culture which has left its mark in this country. They have contributed particularly to the fields of medicine and science. One of the highlights of the medical year 1973 was the widespread and successful use of the sophisticated Chinese medical technique acupuncture in the United States. This ancient Chinese treatment has provided countless thousands of Americans with relief from various ailments.

The Chinese New Year is celebrated with particular zeal in my home city of New York. In the area known affectionately as Chinatown, thousands of Chinese-Americans will join tonight in marking this festive occasion with religious services, lavish parades, as well as holiday meals. It is an event which few people who have witnessed it will ever forget.

I would like to join with my colleagues in the House in celebrating this joyous day, and extend my hope that our relations with both the People's Republic as well as with the Nationalist will continue favorable throughout the "Year of the Tiger," 1974.

## STEPHEN S. WISE AWARD PRESENTED TO HON. FRANK L. KELLOGG

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## HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. BINGHAM. Mr. Speaker, the Stephen S. Wise Award of the American Jewish Congress was recently presented to the Hon. Frank L. Kellog, Special Assistant to the Secretary of State for Refugee and Migration "for distinguished-contributions to the movement and resettlement of persecuted and homeless refugees around the world." The Wise Award was established in 1949 to celebrate Rabbi Wise's 75th birthday and to honor men and women whose qualities of moral courage, love of liberty, and service have exemplified the noblest teachings and ideals of the Jewish heritage. Recipients in previous years have included Earl Warren, Roy Wilkins, Leonard Bernstein, Arthur J. Goldberg, Adlai E. Stevenson, W. Averell Harriman, Robert Kennedy, HUBERT HUMPHREY, Harry S. Truman, and Herbert H. Lehman. Mr. Kellogg embodies the humanitarian spirit demanded of the times and certainly deserves to be honored for his efforts.

Reprinted herewith are Mr. Kellogg's remarks upon receiving the 1973 Stephen S. Wise Award emphasizing the resilience of the human spirit despite adversity:

REMARKS OF FRANK L. KELLOGG, SPECIAL ASSISTANT TO THE SECRETARY OF STATE FOR REFUGEE AND MIGRATION AFFAIRS

(Presented to the Stephen S. Wise Awards Dinner of the American Jewish Congress, The Pierre, New York, N.Y.)

DECEMBER 9, 1973.

I would have to be blessed with the legendary eloquence of Rabbi Wise to be able to express to you the true depth of my feelings on this occasion. To be asked to join the distinguished company of Wise Award laureates, to have the attention for a few minutes of this important audience—well, my cup runneth over.

Let me say, that if I have at all earned this distinction, it is because of the work of many people, and they deserve to share the honor. For quite a few years, in private life and now in government, I have been fortunate to labor in association with them—some of the finest men and women who walk the earth—the leaders of the humanitarian movements of this and other countries, individuals dedicated to the protection of the rights of man and the advancement of human dignity. I am aware of the pioneering contributions of Dr. Wise toward these goals here in the United States; I grew up in and around New York, and I am old enough to recall his campaigns to eradicate discrimination in college entrance procedures and in employment practices, and his other efforts in causes of social and economic justice and the correction of civic wrongs.

This man was a giant. His works live after him. Just one of them, the American Jewish Congress which he founded, I count among the important organizations, national and international, sectarian and non-sectarian, which are striving, each in its own field, to advance the common aim. Ladies and gentlemen, as we near the three-quarter point of this century of ours, looking at the world around us, I only wish it were less of an uphill fight.

But I'll get into the global outlook a little later, and our options as I see them. First I'd like briefly to discuss the present state of human rights and the dignity of man in relation to refugee situations, and then to share with you some of the moving personal experiences I've had in connection with one of the more dramatic migrations of these times, the movement of Jews from the Soviet Union to Israel.

It is entirely likely, in my opinion, that the historians someday are going to identify the 20th Century not as the century of advancement or enlightenment or achievement but as the Century of the Refugee, for no single human problem has been more persistent or more dominant over all these years. Every war—and we have not been without at least one war at any given time—has taken not only a toll of lives but also has dispossessed multitudes of people and sent them into flight. Genocide has been all too frequent; it was the Nazi regime which took power 40 years ago that first put the U.S. Government into the business of refugee assistance. Varieties of ideological opression, particularly in the communist countries in later years, have resulted in a long and steady flow of refugees, punctuated from time to time by surges such as those from China, Tibet, Hungary, Poland, East Germany, Czechoslovakia, Cuba. And finally, in the past couple of decades, some of the developing nations have begun to contribute to the toll as the result of political, tribal, even religious violence, and sometimes the erratic cruelties of petty dictators.

In Africa alone, today, we count more than a million men, women and children in refugee status; in the Middle East, a million and a half. Around the world the total is in the neighborhood of 8 million, and despite massive and continuing resettlement and repatriation programs over the years, there have seldom been fewer than that as long as records have been kept. Soon after I took up my job in Washington three years ago the number soared drastically with the flight of nearly 10 million people from what is now Bangladesh. It remains a miracle of world humanitarian achievement that the masses of destitute and frightened Bengalis, huddling in more than a thousand teeming camps, somehow were housed, clothed, fed and protected from epidemic for a year, until they were able to return to their homes.

The causes are many and the numbers of human victims are vast, but I think you can't really comprehend the situation until you translate it into terms of individual human beings. I move among refugees in the course of my work and I've met and talked with dispossessed and displaced people of many nationalities, races and creeds and have witnessed their physical privations and their devastated morale. But there is another side of the coin, and that is the resiliency of the human spirit. I have watched the penniless migrant who reaches a new land, straightens bowed shoulders and sets out to achieve self-sufficiency and self-respect, and I have been awed by it. Over and over I have observed this phenomenon of human response in the presence of hope and challenge, and in the atmosphere of a just society. Quite recently, for example, I flew from Vienna with a group of Soviet emigrants to Israel, and I saw their exhilaration, their tearful joy, their great emotion as they set foot on the soil of their new homeland. It was deeply touching to see; it reminded me that "Hatikvah," *the Hope*, is probably the most appropriate anthem in the world today, for that was what I was witnessing, hope personified, that afternoon at Lod Airport.

The United States Government, as I'm sure you are aware, is assisting the Soviet Jewish migration, in a program enacted by Congress. The taxpayer funds are substantial—not nearly as great, of course, as the money raised privately in this country to assist Israel—but they make important contributions in the form of help with transportation of the immigrants, and their resettlement. We are giving scholarships in Israel for vocational training and other education through university level, paying subsistence costs in some cases, and we are assisting in the construction of physical facilities. These include absorption centers and hostels at Rehovot, Holon and Hfar Saba; housing at Carmiel, Ashdod and other places, and a flood of the splendid new Rambam Hospital in Haifa, where immigrant doctors and nurses will be retrained.

It is one of the happier programs in which I have been engaged as a government official. Last May, touring Israel, I saw some of the human results—children and old people learning their new language, scientists already doing useful work, musicians tuning up with new colleagues, professional men and women moving into new careers. There were problems everywhere I went, but the warmth with which the newcomers were being received, the enthusiasm of both the immigrants and their Israeli teachers and colleagues, the hope reflected in faces and in almost every conversation—they were sights and sounds and experiences I will not forget.

One of the questions I am most frequently asked is why the Department of State engages in these widespread operations of assistance to refugees and migrants. What has this to do with the execution of American foreign policy?

The answers are several.

From the practical standpoint, these programs almost always are conducted or coordinated by, or at least involve the participation of international humanitarian organizations within or outside the United Nations system, such as the Office of the UN High Commissioner for Refugees, the International Committee of the Red Cross and the Intergovernmental Committee for European Migration. ICEM, as it is called, is in fact directing the transport of Soviet Jews from Austria to Israel under the U.S. assistance program.

Many of the programs have the support of other nations, and this, of course, also brings the Department of State into the picture.

Again, the existence of a refugee situation can be an important factor in day-to-day conduct of foreign policy. Stated simply, any large number of uprooted and despairing people creates or complicates animosities between nations and leads to all kinds of international problems; the Middle East situation of the past 25 years provides an example. On the other hand, the resettlement or repatriation of refugees tends to ease tensions and encourage the prospect of peace. Sudan at this moment, for instance, is completing the return to their homes of nearly 700,000 people in a program contributing to a peace which ended a long civil war.

Beyond these factors, in the international arena, you have the unshakeable American tradition of compassion and our national dedication to the rights of man. And finally our basic belief, restated most recently by Henry A. Kissinger in his first address as Secretary of State, that the ultimate goal of foreign policy has to be a world of true peace in which basic human rights are the birthright of every man and there is justice and the rule of law.

The kind of world, as the prophet put it, in which men "shall beat their swords into ploughshares, and their spears into pruning hooks; nation shall not lift up sword against nation, neither shall they learn war anymore. But they shall sit every man under his vine and under his fig tree, and none shall make them afraid."

Dr. Wise, an eminently practical man, put it another way years ago, in a sermon on the occasion of his 45th anniversary as a rabbi. Again looking to the ultimate future, he observed that "there will be no real Jewish emancipation until there is human emancipation all over the world."

My own view is that we don't have a lot of time. We have been inching too slowly and too long toward the just and viable world to which we aspire, and events are catching up with us. Nations and tribes and sects and ideologies continue to claw at each other on nearly all the continents, generating new quarrels or prolonging old ones, taking lives, causing misery, creating reservoirs of despair along the way—as if Albert Einstein had never lived, as if the missile silos and the bombers and the submarines and the nuclear warheads were mythological instead of very real. Either mankind is going to start moving with more determination and more effectiveness toward a world of justice, universal human rights and true peace, or we are going to founder along that other path at the end of which lies holocaust, obliteration, a lifeless planet.

Well, I don't want to sound like a harbinger of doom on this auspicious occasion. The thought I want to leave with you—beyond my appreciation for your attention and the great honor you have bestowed on me—is that we of this century have it in our power to move toward a safe and decent world in which the human spirit has a chance to realize itself. It has to be done step by step, by finding practical solutions to real problems, by building toward tolerance and understanding, justice and willingness to share. It will require wisdom, determination, sacrifices, compromises and large doses of unselfish compassion, in the legacy of the great man whose name is perpetuated in these awards. Let us get on with the job.

Thank you.

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## EMERGENCY DAYLIGHT SAVINGS TIME SHOULD BE REPEALED

## HON. RICHARD H. FULTON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. FULTON. Mr. Speaker, perhaps you heard on radio news this morning, as I did, of the tragic consequences which have occurred in Florida as a result of observing daylight savings time during these winter months.

Quoting from memory I recall the newscast reported that in Miami-area hospitals today are three children, victims of accidents which occurred while walking or being transported to school in the dark because of daylight savings time. Throughout the State of Florida it is reported that five children have been killed in accidents related to daylight savings time so far this year. And for the year to date there have been 13 children injured or killed in accidents related to school travel compared with only 14 for the entire year of 1973.

In my own district, Tennessee's Fifth, we have been more fortunate, or should I say luckier. While there have been no deaths there have been injuries. Yesterday a 15-year-old boy was seriously injured on his way to school at 7:05 a.m. when his motorbike crashed into a parked truck.

A junior high school girl narrowly escaped serious injury when her bicycle was struck by a car at 7:20 a.m.

And another youngster was barely missed by a vehicle but the boy's dog who was walking with him to school was not as fortunate. He was struck and killed.

In the Metropolitan-Nashville-Davidson county Tennessee public school system some 50,000 children are bused to school each day. About 20 percent of these are being bused because of court order and many more are being bused beyond the school nearest them because of this same order.

Because of the tremendous increase in busing it has been necessary to stagger the opening times of the public schools. This is simply because there are not enough buses to get the students to school all at one opening time.

As a result our high schools open at 7 a.m. Our junior highs open at 7:30 and 8 a.m. and the elementary schools open at 8:30, 9, and 9:30 a.m.

Why not open an hour later? Even an hour later in the middle of winter would still bring high school students to school in total darkness so nothing would be gained even if the transportation were available, which it is not.

For the elementary children an opening an hour later would take them out of the morning safety problem but throw them right into the same hazard in the evening.

The rationale behind legislating year-round daylight saving time was that it would conserve energy. As I recall the debate on the proposal no one could demonstrate just how or how much energy would be saved.

It is my belief that any energy conservation resulting from the bill is going to prove negligible, certainly nothing commensurate with the danger hundreds of thousands of schoolchildren face each morning.

In fact, I would be willing to go a step further and guess that when the figures are in the results will actually show a loss of energy. In the Nashville public schools, for instance, the daylight saving time is forcing the schools to be opened an hour earlier each morning, meaning that an additional hour of lighting and heating is required.

In addition, many parents who formerly let their children walk to bus stops are now driving them there and waiting in their cars, motors running to keep warm, until the bus arrives.

Therefore, Mr. Speaker, I have introduced legislation to repeal this act. On Monday I intend to invite every Member of this body to join in cosponsorship of this legislation. Year-round observance of daylight saving time is unnecessary, a public safety hazard, and ineffective as an energy conservation measure. It should be repealed.

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## THE STRANGE HISTORY OF THE DEPLETION ALLOWANCE—I

## HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. VANIK. Mr. Speaker, the coming of this winter's energy shortages has provoked the embarrassing questions, "How did we get here?" and "Who is responsible?" The fact is the energy crisis represents the most monumental failure of public policy since the Depression. We have to find some of the answers to these questions if we are to be successful in charting a successful course for our social and economic future. However, up until now there has been much heat and only a little light. The President blames Congress for not acting. The Congress blames the administration for not seeing. And the oil companies blame everyone for not understanding. The truth of the matter is that before a year ago, nobody much cared about energy. Nearly everyone assumed that it would just be there.

But despite what we would like to believe, our energy problems did not arise overnight. They are the product of years of shortsighted policy, the unwarranted intrusion of special interests into the area of policymaking, and simple neglect. Our fiscal policy toward the petroleum industry is the prime case of failure—but there are others. Through the depletion allowance, fast tax writeoffs, import quotas, and State prorationing, we have encouraged the wasteful consumption of our domestic petroleum—a drain-America-first policy. In recent years, as domestic wells have dried up and costs have risen, the focus of the domestic oil industry has turned to foreign production. In fact, we have actually encouraged this movement of capital resources through several ill-conceived provisions of our tax code.

Mr. Speaker, in our frenzy to find a solution to these energy shortages, we must not neglect the tremendous role—the pivotal role—our tax policy has played in precipitating this condition of shortage. In the days and months ahead, we must begin a searching analysis of the taxation of oil and gas income. We must throw out wasteful, counterproductive subsidies and construct in their place a program which is equitable and efficient and which serves our goal of energy independence.

Any discussion of the tax subsidies for oil and gas production should begin with an examination of the congressional intent in first establishing those benefits. In looking back at this legislative history, we find a jumbled story of confused intent, foggy logic, and arbitrary—almost capricious—policymaking.

The strange history of the oil depletion allowance, and all tax matters relating to depreciation, begins in 1913 with the passage of that year's Revenue Act. That legislation provided that for the consumption of net income for the normal tax on corporations—which stood at 1 percent—there should be allowed as a deduction "a reasonable allowance for the exhaustion, wear and tear of property arising from its use in business."

The 1916 act recognized the need to limit this provision. That act read, in part:

> . . . when the allowance authorized . . . shall equal the capital originally invested, or in the case of a purchase made prior to March 1, 1913, the fair market value as of that date, no further allowance shall be made.

By limiting the deduction to the actual capital investment of the taxpayer, the lawmakers prevented depreciation from becoming an open-ended subsidy. This is essentially the same depreciation concept that we know today throughout most businesses and industries.

Special provisions for the natural resources arose in the 1918 Revenue Act. In that year, the concept of "discovery value depletion" was born. Instead of tieing the deduction to any measure of invested capital, discovery value depletion allowed a deduction on the basis of the "value" of the property. The sentiment behind the provision is revealed most clearly in the report filed by the Senate Finance Committee:

> The prospector for mines or oil and gas spends many years and much money in fruitless search. When he does locate a productive property and comes to settle it, it seems unwise and unfair that his profit be taxed at the maximum rate as if it were ordinary income attributable to the normal activities of a single year.

Because the deduction is tied to a different concept of capital than the depreciation deduction, discovery value depletion cannot be thought of as analogous to depreciation. Indeed, discovery value has injected into our tax laws a concept of capital which is inappropriate for tax purposes. Since the deduction for depletion is not tied to the taxpayer's actual investment in the property, it is in essence a subsidy, where the taxpayer can recover his initial investment many times over. Prof. Reid Hambrick has estimated that under the present system of percentage depletion—which, as we shall see, replaced discovery value depletion—the taxpayer generally recovers his investment 18 times over.

Discovery value depletion ran into immediate opposition on Capitol Hill. Senator La Follette introduced an amendment which would have killed the proposal as it came out of the Finance Committee. His amendment obviously failed. Despite vigorous efforts to defeat the allowance in the Senate, the House, curiously, had no debate on the provision. However, Representative Kitchen, chairman of the Ways and Means Committee, stated in explanation of the conference report:

> . . . there are some relief provisions, especially those known as the mineral, oil, and gas provisions, which I cannot subscribe to . . . I cannot subscribe to them because I regard them as pieces of special favoritism . . . I want to say that in my judgement they are unwise, unjust and unwarranted.

In hearings on the 1921 Revenue Act, Dr. Thomas S. Adams, a representative of the Treasury, expressed his opposition to discovery value depletion. In addition, he pressed for an annual limitation—but not a total limitation—on the deduction. He proposed 50 percent of net income. The Finance Committee at first balked, but finally recommended an amendment which would limits a taxpayer's annual deduction to 100 percent of net income. In 1924, this limitation was lowered to 50 percent of net income. This limitation remains today in present law.

In 1925, the Ways and Means Committee again held hearings to revise the Revenue Act. During those hearings the new chairman of the committee, Representative Green, made some stark comments on the short history of discovery value:

> . . . I might as well say at this point that if I had my way I would wipe out this discovery depletion entirely. I consider it might have been justified in a time of war, and that was the only justification given for it to begin with . . . for inducing men to go ahead and make these discoveries. At the time we put that in, as I recollect it, it was practically admitted that in normal times they would not be entitled to anything of that kind.

In that same year, Senator Couzens committee submitted its "Internal Revenue Bureau Investigation Report." The report was highly critical of the oil depletion deduction system. In referring to the mechanics of discovery depletion, it stated:

> There appears to be no system, no adherence to principle, and a total absence of competent supervision.

Significantly, however, the report was even more distressed with the rationale used to justify the entire concept of depletion allowances:

> The increment in the value of the property due to the discovery of . . . oil . . . can in no way be differentiated, in principle from the increment in the value of real estate, stocks, bonds, or other property, yet all such increment is taxed . . . *the greater part of the allowances for discovery depletion are made to those who drill in proven ground* . . . Furthermore, every investor in speculative stocks, particularly those who invest in new enterprises . . . assume a great risk of loss . . . (yet no other) investor is permitted to set up the value of his business, as a deduction from the profit to be derived from that business for the purpose of determining his net taxable income. Discovery depletion is not a deduction permitted for the purpose of arriving at the net income derived from mines and oil and gas wells. *It is clearly an exemption from taxation and as such is a discrimination against every other taxpayer in every other industry.* (Emphasis added.)

As the Couzens report outlined, the administration of discovery value depletion was a nightmare. Quite simply, it became nearly an impossible task to determine the value of the discovered deposit. Accordingly, the Senate Finance Committee, again the prime mover for this legislation, recommended, a substitute system of percentage depletion. Under this scheme, the year's depletion deduction would be determined as a percentage of the taxpayer's gross income from the property. As the committee report outlined:

> The administration of the discovery depletion of existing law in the case of oil and gas wells had become very difficult because of the discovery valuation that had to be made in the case of each discovered well. *In the interest of simplicity and certainty of administration* your committee recommends that in the case of oil and gas wells the allowance for depletion shall be 25% of the gross income from the property during the taxable year. The provisions of existing law limiting this amount to an amount not in excess of 50% of net income of the taxpayer from the property is maintained.

A lengthy debate in the Senate followed the committee's presentation. It featured Senator Reed of Pennsylvania explaining the Finance Committee proposal. Certain of the colloquies are revealing of the uncertainty which shrouded the entire concept of percentage depletion. Various points were raised which remain unanswered today and which are in fact flaws in the essential concept:

> Mr. REED. Ever since early war days Congress has followed the policy of what they call discovery value for both oil and gas wells and for minerals. It is perfectly obvious that if I buy an acre of land in the Rocky Mountains and pay ten dollars an acre for it, and then, by hard work, discover a rich deposit of gold on it, the calculation of my depletion on the original $10 basis would not allow me any adequate return on my real capital. So in allowing what is called discovery value, Congress and the Bureau have tried to get at the real but the unknown value of the property owned by the taxpayer.
>
> Whether it is wise to handle the problem in that way or not I am not entirely persuaded. It has led to some large deductions from income, but to refuse to do it and to calculate the depletion on the original cost is not fair, either, because in these uncertain industries there is much property which is bound to be worthless, on which the taxpayer really makes a dead loss; but there is no production and consequently no depletion from that property. Mr. King: *And no tax.*

Proponents of the depletion deduction have always managed to be quite romantic about the exploration for oil. But they have never been able to resolve why exploring for oil is so much different than any other business enterprise:

> Mr. COUZENS. Does the Senator know of any other industry where that (the depletion deduction) is allowed?
>
> Mr. REED. The production of minerals is the only one I know of . . . It is only in the production of such minerals that the element of uncertainty enters so largely.
>
> Mr. COUZENS. We cannot determine the degree of the element of risk that enters into the respective industries, but I submit that anyone who undertakes an industry . . . has an element of risk, has he not?
>
> Mr. REED. Yes; he has an element of risk but his property is generally worth something, even if the risks go against him. This is not true of the man who takes a worthless mineral claim.
>
> Mr. COUZENS. If he discovers oil he gets the results similar to the man who produces some trade-marked article that happens to please the people. He may or may not trade-mark an article that appeals to the public. In other words, he may go on for years experimenting with a trade-marked article and he may lose many millions of dollars: then he may discover an article which appeals to the public, but he is not allowed to capitalize all his previous losses in computing his taxes.

In reviewing the strange history of the depletion allowance, we find a remarkable lack of any rigorous examination of the subsidy scheme. Why was a depletion allowance necessary? How many small operators had failed? What was the rate of business failure in the petroleum industry and how does this rate compare with other industries? Why was it not sufficient to rely on the market mechanism—the price of crude oil—to compensate producers for their risk? Why is petroleum exploration inherently more risky than other business enterprises? How much will this subsidy cost? What are the benefits, in dollar terms, to the Government and to the consumer of the depletion scheme? If the depletion allowance is to encourage the exploration for new oil, how can one justify extending the privilege to production in proven fields? Why not just pay for unsuccessful wildcats and thereby remove any risk of financial loss? How much would a scheme like this cost in comparison to percentage depletion? If the depletion allowance was to help out the small or marginal producer, how can one justify extending the privilege to large operators with a proven record of profitability?

Disappointingly, we must conclude that these questions were never raised and never satisfactorily answered.

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## COHEN, HOGAN, AND AGRONSKY ON IMPEACHMENT

### HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. RAILSBACK. Mr. Speaker, surveys have shown, that the critical issue of impeachment is often misunderstood by the American people. In a recent interview with Martin Agronsky, two of my colleagues, Mr. COHEN, of Maine, and Mr. HOGAN, of Maryland, did much to explain impeachment procedures and practices. For review of my colleagues, under the leave to extend my remarks in the RECORD, I include the following:

TRANSCRIPT OF MARTIN AGRONSKY'S "EVENING EDITION," BROADCAST FROM WETA-TV, CHANNEL 26, LIVE FROM WASHINGTON, D.C., JANUARY 15, 1974

ANNOUNCER. This is "Evening Edition." Now, from Washington, here is Martin Agronsky.

AGRONSKY. Good evening. If you had an occasion to take a cab in Maryland during the last few days, you may have had Representative Larry Hogan as your cab driver. And if you've been walking around Maine in the last year, you may have run into junior Representative William Cohen from Maine who, this year, has walked hundreds of miles in his district, the largest Congressional district east of the Mississippi. Now, these aren't part of Congressional campaign, physical fitness or salary increases, but they're a unique effort on the part of both these Congressmen to stay in touch with the American voter and to get reelected. Political experts predict a bad year for Republicans. But does the public agree? So tonight, on "Evening Edition," a discussion of the 1974 Congressional elections and the mood of the country in regard to the Republican party with two Republican Congressmen: Congressman William Cohen of Maine, who is the walker, and Congressman Larry Hogan of Maryland, a cabbie. Both Mr. Hogan and Mr. Cohen are members of the House Judiciary Committee where, as you know, the historical impeachment proceedings, or the effort to determine whether to go ahead with impeachment of the President, have already begun.

Now, gentlemen, just this afternoon, as you know, we had a pretty dramatic business in this whole impeachment thing that's going to come into your purview soon and that is the testimony by technical experts before Judge Sirica that an 18-minute gap in the subpoenaed White House tape—that's the Haldeman conversation, I believe—was caused, according to the experts, by erasure and by re-recording. They say no speech on that tape can be recovered. What do you make of this finding after Rose Mary Woods' testimony on all this? Do you want to begin?

HOGAN. Well, I think it's a very serious development. It's one in a series of unexplainable things that have been happening in the entire case. I would say at this point, it's the responsibility, in the judicial system, of the Department of Justice to see where perjury might have been committed and to prosecute those responsible for it.

AGRONSKY. Now, I want to understand what you're saying. Are you saying that at this point it becomes a matter for the Department of Justice—that is, the Attorney General—rather than the Special Prosecutor, Mr. Jaworski, to pursue?

HOGAN. No, actually either one has jurisdiction. The Special Watergate Prosecutor has a very broad mandate. Certainly a perjury prosecution growing out of the Watergate itself would be within his purview. But either of them—I would say they have concurrent jurisdictions in this regard.

AGRONSKY. You don't think it's a matter for your committee?

HOGAN. I think it's a matter for our committee in that we should be concerned with who might have been responsible for the erasure and at whose instance it might have been done. One of our efforts, as I'm sure Bill will agree, in the coming weeks and months will be to try to define what an impeachable offense is. History doesn't give us very much help, because there are no real definitive guidelines as to what an impeachable offense is. But, for my mind, obstruction of justice certainly is an impeachable offense.

AGRONSKY. This would be obstruction of justice?

HOGAN. If we could prove, for example, that the President asked someone to erase 18 minutes of tape or, in another context, asked someone to grant an offer of immunity to someone in exchange for not testifying, this would be obstruction of justice and, to me, it would be an impeachable offense.

COHEN. I think the most recent disclosure certainly removes any doubt from what I consider to be a rather implausible contention in the first place, that it was accidentally erased by Miss Woods for an 18½-minute period of time. And I think it is also rather clear evidence—and I'm assuming that the experts' testimony will hold up—that there was a deliberate attempt to tamper with potential evidence and to obstruct justice. And to what Larry just said I would only add that not only would there be an impeachable offense if the President gave a direct order, but also if it were done with the President's consent. It doesn't have to be by direction or by mandate, but simply by consent that something is done. So that will have to be determined also. I think the next step will be taken by the judge. Sirica will either turn the matter over to the grand jury for further consideration about an indictment. And again, pursuing the question of whether perjury . . .

AGRONSKY. [interrupting]. Indictment of time. I think certainly . . .

COHEN. I appreciate that. But perjury is an indictable offense.

AGRONSKY. Who would be involved in a question of perjury at this point?

COHEN. Well, you have all those who have been called to testify concerning the continuity of the tapes to begin with: where they were, who had them for what period of time. I think cetrainly . . .

AGRONSKY [interrupting]. Would you like to identify those people?

COHEN. Well, I don't think I can offhand. I think Miss Woods will be called back to the stand to offer further testimony, and I'm sure that all the other participants—anyone who had possession of that particular tape. Now, I don't recall whether this particular tape was in the possession of Mr. Haldeman or not, but certainly . . .

AGRONSKY [interrupting]. You mean the tape he took home, whether it was one of them. We don't know that.

COHEN. Anyone who had possession of those tapes would certainly have an explanation to give, and . . .

HOGAN. Excuse me, if I may interrupt there. It may be that perjury has not yet been established, but at least, as Bill observes, if the judge calls everyone who was in a position or had access to the tapes and elicits testimony from them as to this matter, and they're under oath, at least you can set up the possibility of perjury. I'm not prepared to say that Rose Mary Woods is responsible for the erasures. She may or may not be.

AGRONSKY. I'm just trying to understand this. Then the next step in the effort to determine whether or not perjury has been committed—A—and B, to identify those who may have committed the perjury, takes place in Judge Sirica's courtroom at this point.

HOGAN. Yes.

COHEN. Or the Grand Jury Room.

HOGAN. Well, any prosecution has to come in that arena rather than, say, the Supreme Court or the House Judiciary Committee.

AGRONSKY. You had raised the prospect of Justice Department involvement, and that's why I thought you meant some separate procedure.

HOGAN. You see, the Justice Department is the prosecutive arm of the federal government, and it could initiate in either place. Now, I would assume that Jaworski would take the initiative in any kind of perjury prosecution, because it does relate to Watergate and his mandate is certainly broad enough to cover it.

COHEN. And not only perjury, Martin. I think the additional factor is the tampering with potential evidence—the obstruction of justice. Those will be the secondary grounds to look for.

HOGAN. Or the conspiracy to do so.

AGRONSKY. Let me ask both of you gentlemen this, because time and time again the question has been raised: Has anything been produced which is regarded as an impeachable offense as it applies to the President? Now, if the President were to be connected with this, would this be regarded as an impeachable offense?

HOGAN. I would say from my own—and, you know, Bill and I are both in an unfortunate situation. The committee has not really gotten into developing any parameters in the impeachment investigation. But obviously he and I both have given a tremendous amount of thought to it in our own way. And in my own mind I have said to myself that, if the President asked someone to erase some critical information from one of the tapes before the court, that's obstruction of justice. If the President asked someone to make an offer of immunity or lighter sentence or pardon to someone in exchange for not testifying, or caused money to be given in exchange for not testifying, those are obstructions of justice and, to my mind, are impeachable offenses.

COHEN. I'll agree with that. And I think Larry touched upon it earlier: Conspiracy also has been alleged as an impeachable offense, one of the counts before the Judiciary Committee. Conspiracy would simply be an agreement between two or more parties to perpetrate an unlawful act, and even though just one of the parties actually carries that act out, the other can be held responsible. So I think you can tie it to a criminal involvement, if the evidence is there.

AGRONSKY. Now, gentlemen, you're both members of the House Judiciary and you're both Republicans, and I'd like to take this opportunity to pick your brains on one thing. It's extraordinary—as often as we've attempted, on this program, actually, to define what the meaning of impeachment is, there still seems to be a lot of confusion in the country about what is an impeachment? I wonder if I could get either one of you to define impeachment and make the distinction that I think is so little understood between impeachment as an indictment rather than as a finding of guilt.

HOGAN. Well, it isn't precisely an indictment, Martin, but it is analogous. The analogy is inexact, but you're right. I think the general public—and Bill probably learned that during the recess, as I did, that when people talk about impeachment, they think that's going to remove the President from office. It is not. The Constitution creates the mechanism for possible removal. The House is given responsibility for impeachment. If the House votes by a majority for impeachment, the matter then goes to the Senate where a trial takes place, presided over by the Chief Justice of the Supreme Court and, in order for conviction of the offenses charged in the . . .

AGRONSKY [interrupting]: The Vice President stands aside.

HOGAN. That's right, and the Chief Justice of the Supreme Court presides. But in order to reach a finding of conviction on the impeachment charges, a two-thirds vote of the Senate is required.

AGRONSKY. I think that's clear enough, and I hope all the people who are writing and phoning to say please explain it will have heard that.

COHEN. You know, the problem we have to face, Martin, is the definition of an impeachable offense, and there is considerable debate, not only on the Judiciary Committee itself but also within the academic community. You know, there are those who would have a strict construction on the Constitution—namely "high crimes and misdemeanors" taken in that context means a criminal offense. Others maintain it can be something less, an act or a series of acts which bring disgrace or infamy upon an office. There are those all the way to the other extreme who say it's anything that Congress votes at a given time.

AGRONSKY. And there are those who say something else: That the President is in effect responsible for his subordinates.

COHEN. Well, assuming again that you don't apply the criminal definition.

AGRONSKY. It's fascinating that your new counsel for the House Judiciary Committee, Mr. Jenner, in a television interview in Chicago a few days ago, made some . . .

HOGAN [interrupting]: Counsel for the minority. He's the minority counsel.

AGRONSKY. Yes. The Republican Counsel for the committee, as opposed to Doar who is the counsel for the whole committee. Jenner said this: Certainly within some areas the President should be responsible for the actions of aides even if he didn't know what an aide was doing something that would be regarded as an impeachable offense if the President himself did it.

HOGAN. Bill, I'm sure, has been going through the same agonizing that I have. All of us are trying to conscientiously prepare ourselves for our responsibilities on the committee, and I've been reading up on past impeachments, and I know Bill has, and they were as confused in history, every time they had an impeachment, as we are now. It's never been resolved historically. The only thing the Constitution says is that impeachment is for "bribery, treason or high crimes and misdemeanors." And that's where all the confusion comes in. Our founding fathers would have done us a great service if they had explained precisely what they meant by those two words.

COHEN. But I think we should make a point that impeachment proceedings are not a substitute for judicial proceedings and therefore we should not impose criminal standards, and that's what Jenner is advocating at this point, that it may be something less than a criminal offense being an act or a series of acts for which he might be responsible, even though he did not have knowledge of them.

AGRONSKY. I'm sure you're both aware of some interesting observations made by James Madison in the Federalist Papers that is completely pertinent to this point that we were just talking about and that Jenner makes. Madison wrote: "I think it absolutely necessary that the President have the power for removing from office." And then he said, "It will make him, in a peculiar manner, responsible for their conduct and subject him to impeachment himself if he suffers them to perpetrate with immunity high crimes or misdemeanors against the United States or neglect to superintend their conduct so as to check their excesses.

HOGAN. That's an interesting point. Of course, the Federalist Papers have no real historical efficacy except for the insights they give us into the minds of the founding fathers . . .

AGRONSKY. Interpretative . . .

HOGAN. Right. But in the same context of Madison's statement about the . . . the only impeachment of a President we ever had was because he fired the Secretary of War . . .

AGRONSKY. You mean Johnson.

HOGAN. Yes. Johnson was impeached by the House because he fired his Secretary of War when he succeeded Abraham Lincoln as President upon Lincoln's assassination. And Congress had enacted a law freezing the Secretary of War into his job, which Johnson said was unconstitutional. And, as it turns out, the Supreme Court did declare the law unconstitutional .

COHEN. And I think there's some significance to draw from them. Although they're not relevant in that sense, they are very significant in the historical background they give us, as are the Constitutional debates when you had the proposal to use the word "maladministration" instead of "high crimes and misdemeanors." Now, that was defeated, and they left the word out. I think Raoul Burger makes this point in going back historically to try and define or gain some sort of sense of the parameters of impeachment proceedings. We have to look back to English practice, which did not relate it to an indictable offense.

AGRONSKY. I've been enticed into this because it's such an opportunity to get a reading from you gentlemen. You're both on House Judiciary, and you're beginning the study now. I only want to make one other point and then I want to go to your own personal experiences. Jenner—again, the Republican counsel—also said he felt that any subpoena voted by the House would be honored by the Executive Department. Now obviously, somewhere along the line, your committee is going to be asking for Presidential papers. Would you agree with Jenner's interpretation?

COHEN. The first thing we have to do when we go back into session is get the authority from the full House. Presently the Judiciary Committee does not have the subpoena power. We're requesting that.

AGRONSKY. Will you get it, in your opinion?

COHEN. Yes, I assume that we would.

AGRONSKY. Do you think so?

HOGAN. Yes. There is no question in my mind that the Executive Branch is absolutely required to honor subpoenas from the House of Representatives. No question at all.

AGRONSKY. Suppose they do not?

HOGAN. Suppose they do not? Well, that in itself would be, to me, an impeachable offense.

AGRONSKY. You would regard that as contempt of Congress?

HOGAN. Well, I don't know whether I'd call it precisely that, but it would certainly be an unconscionable flouting of the Constitution and a violation of the oath of office.

AGRONSKY. Gentlemen, we're heading for some interesting times, aren't we? It's been an interesting time.

HOGAN. On that subpoena thing—I don't know how Bill feels about this—it troubles me that the Chairman of the committee himself is seeking personal subpoena powers, as he did from the committee. By a straight party-line vote we gave him all the power we had on the committee. But it's insufficient now, we find out, so he wants it from the House. I think the committee should have the subpoena power. There won't be that many of them used, but all of us share the responsibility. It's not a one-man responsibility.

COHEN. If I could add just one note. Larry and I differ a little bit on that particular point, because I think the subpoena power will have to be granted first to the House Judiciary Committee, who will then take another vote to give it to the Chairman. I agree that I think it would be better—politically, at least—to have a joint subpoena power. Politically from the symbolic point of view. In other words, it will look as if it is a bipartisan approach. But I don't think, knowing the Chairman, that he will abuse that power or use it in any partisan way.

AGRONSKY. I'm tempted to go right down this line because it interests me so much, but I think it would be very unfortunate to miss the opportunity to hear from both of your experiences in other areas. You've been driving a cab here in Washington . . .

HOGAN. In Maryland—let's make that clear!

AGRONSKY. What have you found out?

HOGAN. Well, it's not a very scientific analysis of public opinion polling. Obviously, I didn't turn around and say, "I'm taking six questions now." What I did is, I held conversations with my constituents in an anonymous way, just to see the kinds of things that were bugging them. And the conclusion I made is that not much is. Not much is bugging them at all.

AGRONSKY. Impeachment doesn't bug them, gas prices don't bug them, the economy doesn't bug them . . .

HOGAN. This is an interesting thing. Everyone seems to be pretty happy and relaxed. The thing they talk about most is their own personal problems or why they happen to be taking a cab: The car broke down, they're late for work or some other factor. But then, in my conversations, I would try to elicit from them things in discussions that I wanted to know something about. They are very concerned about the oil crisis. That, overwhelmingly, is the thing they do complain about when you get them on those kinds of issues. In my sampling in shopping centers and in the taxicab—only one person brought up impeachment in the shopping centers, and no one brought it up in the taxicab until I brought it up.

AGRONSKY. What do you make of that?

HOGAN. Well, I think it's not the thing that's on the top of their minds. I went beyond that and talked to some of the other cab drivers, and they said that people were talking about impeachment when Cox was fired. So the conclusion I make is that they talk about the thing that is uppermost that day. On last Saturday they talked about the Super Bowl. On Monday they talked about the Super Bowl because they'd all watched it the day before.

AGRONSKY. Then your poll didn't bring you to any conclusions?

HOGAN. It wasn't really a poll, Martin, and I knew it wouldn't be. It didn't have any scientific or statistical efficacy at all. But it was just a way for me to have very interesting conversations with my people in an anonymous way that I otherwise wouldn't have had.

AGRONSKY. What was your most interesting conversation?

HOGAN. It would be a long, involved one—there were so many, but perhaps if I could pick one that was most interesting: I had a young girl who was a practical nurse working in a nursing home for the elderly in the senile ward, and then she also talked about her work with retarded children. This was by far the most interesting, because I saw a girl with fantastic motivation doing a real service. That's not germane to the issues of the day, but it was very interesting.

ARGONSKY. What did you find in Maine?

COHEN. I had quite a different experience than Larry had, perhaps because of the different climate, for one thing. Maine experienced a rather cold week this past week, when the temperatures dropped down below zero several days running, and they were worried about heat. They were worried about their jobs. Two of the major paper companies in my state were in danger of losing oil from Canada, which would put nearly 4600 people out of work and shut down the various newspaper outfits throughout the state of Maine. There were serious questions about employment, about heat. People are making tremendous sacrifices in the state. I find it incredible that, being as cold as it is, that in the past few weeks they've been dropping their thermostats down to 60 during the day, 65 in the evenings, and vice versa, making tremendous personal sacrifices. But I would also tell you that they are tremendously cynical about the energy crisis, and a great majority of them . . .

AGRONSKY [interrupting]. They don't believe it.

COHEN. Well, they believe that it's here, in the sense that they are not getting as much oil, but they also believe it's artificially created by the oil companies.

HOGAN. If I could interrupt just for a brief comment. When it did come up, this was exactly the same reaction. They are very skeptical and cynical about the oil crisis.

COHEN. The other point I wanted to make was, again, different from Larry's experience and that is, although the impeachment issue as such is a secondary or subsidiary issue, it's just below the surface and not too far below the surface, and it keeps bubbling up quite frequently. People are concerned about it. They're quite anxious to talk about it. And I found . . .

AGRONSKY [interrupting]: They want it to happen?

COHEN. Well, I found almost an even split. There are people, of course, who are polarized. There are people who want him impeached under any circumstances, and those who would are opposed to impeachment under any circumstances. The great bulk of people are anxious for things to get on, to wrap them up as expeditiously but as thoroughly as possible, and they seem to be evenly divided.

AGRONSKY. What about resignation? Did they raise that?

COHEN. Yes, they raised that.

AGRONSKY. Do they think that would be an easy way out?

COHEN. Well, I think they do not want to see a long, drawn-out impeachment proceeding, but those who are calling for resignation also are calling for impeachment at the same time. I think the important point here is that they're concerned about what the impact would be domestically, on the international level, and they don't want to see it. Others say we have to go ahead.

AGRONSKY. The Wall Street Journal did a very interesting survey of 100 Republican Congressmen in 45 states. They've come up with a lot of interesting answers, and I'd like to test those answers against you. In Massachusetts, Silvio Conte said that Republicans are desperate to put as much distance as possible between the President and themselves to get reelected. His point was, if Republicans hang in there and defend him—meaning Mr. Nixon—they're gone. With the energy crisis and economic problems, you've got all you can do to survive without that albatross. How does that reflect what you find? Do you agree with that or disagree?

COHEN. I think it's a fairly accurate statement on the part of Silvio. I think what he's saying is that Republicans are not going to go to the wall to defend the President if in fact, the President is involved.

AGRONSKY. He goes beyond that. He says it's an albatross. Do you want to get away from him as far as you can? Do you want to put as much distance as you can between yourself and Mr. Nixon?

COHEN. As far as impeachment is concerned?

AGRONSKY. As far as your reelection is concerned?

COHEN. Well, let me put it this way, Martin. I didn't run on the President's coattails to get elected, and I don't intend to run on the administration's record, certainly, to get reelected.

HOGAN. I think that's a very good answer that Bill just gave.

AGRONSKY. It's a diplomatic answer.

HOGAN. No, I'm sure he knows what he's talking about. In the two times that President Nixon and I were both on the ballot, I led him. Now, I'm not saying he rode in on my coattails, of course, in my district, but I did lead him in votes. I am not one who shares this feeling that Republicans are all going to go down the tube because of Watergate or impeachment or anything else. Every Republican is going to be judged on his own individual merits. If the man, who is Republican or Democrat, is representing the wishes of his constituents and working hard at his job, he's going to be reelected. The electorate today is intelligent enough not to hold Watergate against people who had nothing to do with it.

AGRONSKY. All right, Mr. Congressman, level with me. In your efforts to get reelected, are you trying to avoid any mention of the President? Are you trying to stay away from that issue?

HOGAN. Being on the Judiciary Committee, Martin, it's impossible to avoid the discussion of it. I've said that I think the President is entitled to the same presumption of innocence as any other citizen and he should have due process in impeachment proceedings. I also say that impeachment proceedings should go through promptly, as Bill said, but I'm not avoiding talking about the issue.

AGRONSKY. Ok. Fair enough. Now, you indicated that in your taxi you didn't get people talking about impeachment, and you say it's beneath the surface. Now, you all know Clarence Brown of Ohio, a Republican Congressman. He made this observation. He said, "A large body of the people in my district are relatively silent, and this is a district where one would anticipate a more defensive reaction for the President than brooding silence," and he said this is not good news for Mr. Nixon. What do you think of that evaluation?

COHEN. Once again, I think it's a fairly accurate portrayal of what is taking place in this country. Republicans are concerned about the revelations. They're not hanging in despair, however. They're prepared to face the consequences and meet up to it. But I think they're not overjoyed with the performance of this administration on the domestic level with the activities, the criminal activities that have taken place. They're not proud of those. And so they're not talking about that.

AGRONSKY. A very interesting comment was made by Republican Congressman William Hudnut of Indiana. He said if he remains in office—the President—he can regain confidence to a certain extent, but his capacity to lead has been impaired. And he says there's the "snicker factor." People he's trying to persuade laugh at him. They say, "Who are you to talk about saving energy or election reform?" What about that comment?

HOGAN. Well, I think that the public opinion shifts. Now, we all concede that a year ago there couldn't have been a stronger President. A year from now, who knows what the situation is going to be? But some things have happened that are indefensible. No Republican in his right mind is going to defend now what appears to be an intentional erasure of tape, which we started the show talking about. There's no way you can defend that. We're as interested in seeing the guilty prosecuted and brought to justice as anyone else, and we've got to let the chips fall where they may. If it results in impeachment, so be it. But I don't think it's going to be the end of the Republican party. They predicted the same thing in 1964 when Barry Goldwater lost in a landslide. We came back very strongly.

AGRONSKY. So be it. Thank you, gentlemen, and good night from "Evening Edition."

## MAJOR OIL COMPANIES CONTRIBUTIONS TO REELECTION CAMPAIGN OF PRESIDENT NIXON

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### HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. ASPIN. Mr. Speaker, an astounding allegation has been leveled at the Aramco oil consortium by Senator HENRY JACKSON. If it is true, and we have no evidence to the contrary, it means that Standard Oil of California, Texaco, Mobil, and Exxon shut off the supply of oil to the military forces of their own country during the mideast war alert last October.

Whatever the circumstances were surrounding this move, it is vital that all of us here in the Congress make a searching examination of every aspect of the international oil cartel's operations. For the benefit of my colleagues and others interested in the problem I am inserting in today's CONGRESSIONAL RECORD a listing of the officers and directors of the major oil companies, including the members of the Arabian-American Oil Co. and a breakdown of their contributions to the reelection campaign of President Nixon.

STANDARD OF OHIO

| | |
|---|---|
| Harnett, J. D., VP | $500 |
| Shepard, Harold A., Director | 550 |
| Atkinson, Ralph G. | 500 |
| Hanna, Howard M. | 1,000 |
| | 500 |
| | 500 |
| Spahr, Charles E. (Dir & Chrm) | 1,300 |
| Foster, Clyde T. | 2,000 |
| Total | 6,850 |

ASHLAND

| | |
|---|---|
| Atkins, Orin E. (Chrm. of Bd.) | $1,000 |
| Cash | 100,000 |
| Gordon, Robert D. (Exec. VP) | 1,000 |
| Seaton, William R. (V.Chrm.) | 500 |
| Webb, Clyde M. (VP) | 1,000 |
| Total | 103,500 |

ARCO

| | |
|---|---|
| Anderson, Robert O. (Chrm. of Bd.) | 5,000 |
| | 2,500 |
| | 3,500 |
| | 1,000 |
| | 3,147 |
| | 3,124 |
| | 3,147 |
| Dolley, Chester F. (Pres.) | 500 |
| Eckis, Rollin (Chrm. of Bd.) | 1,000 |
| Grazier, Joseph A. (Dir.) | 600 |
| Gross, C. S. (Dir.) | 1,000 |
| Jones, R. W. | 3,000 |
| Kendall, D. M. (Dir.) | 10,000 |
| | 6,000 |
| | 9,000 |
| | 3,000 |
| | 2,000 |
| Ingersoll, Robert S. (Dir.) (CC) | 3,000 |
| Ellmore, C. Patterson (Dir.) | 2,000 |

CITGO/CITIES SERVICE

| | |
|---|---|
| Gates, T. S. (Dir.) | 1,000 |
| McGillicuddy, John F. (Dir.) | 1,000 |
| Michel, Clifford W. (Dir.) | 2,000 |
| Sellers, Robert V. (Chrm. of Bd.*) | 1,500 |
| Waidelich, Chaler J. (VP.) | 1,000 |
| Total | 6,500 |

### EXXON (STANDARD OF NEW JERSEY)

| | |
|---|---|
| Galloway, J. H. (VP.) | 1,000 |
| Garvin, C. C., Jr. (Pres.) | 1,000 |
| | 2,200 |
| Herrington, Carl G. (VP.) | 1,700 |
| Loftis, John L. | 1,000 |
| MacNaughton, Donald S. (Dir.) | 1,500 |
| | 525 |
| | 1,000 |
| McGrew, V. V. (Jr.) (Div. Man.) | 800 |
| Meyer, Randall (VP.) | 2,600 |
| Milbrath, R. H. (Sen. VP.) | 2,200 |
| Piercy, George T. (Sen. VP.) | 1,000 |
| Spangler, W. S. (Pres.) | 750 |
| Steen, R. L. | 2,000 |
| Rockefeller Family | 268,700 |
| Thomas Pappas | 101,672 |
| J. K. Jamieson (Dir.) | 2,500 |
| Bert S. Cross (Dir.) | 1,500 |
| M. M. Brisco | 2,800 |
| Total | 127,747 |

### HESS (AMERADA)

| | |
|---|---|
| Callender, J. D. (Exec. VP & Treas.) (CC) | 12,000 |
| Cohen, Norman G. (VP) | 956 |
| Hess, Leon (Chrm. Exec. Comm.) | 160,000 |
| Kramer, Philip (Pres.) (CC) | 12,000 |
| Simmons, J. J. III (VP) | 1,000 |
| H. W. McCullum (Dir.) (CC) | 42,000 |
| Ralph Adler (Dir): | |
| GAO | 5,000 |
| CC | 39,000 |
| Total | 261,956 |

### TRANSCON GAS PIPELINE

| | |
|---|---|
| Whitney Stone | 21,000 |

### MOBIL

| | |
|---|---|
| Warner, Rawleigh C. J. (API), Chairman of the Board | 1,000 |
| Abbott, Rich L., Gen. Mang | 1,100 |
| Lapham, Lewis A., Dir. & Vice Chairman of Board | 1,000 |
| Albert L. Williams (Dir), Bronxville, N.Y. | 1,000 |
| William Tavoularcas (Dir. & Pres.) | $200 |
| Total | 4,300 |

### PHILLIPS

| | |
|---|---|
| Houchin, John M., Deputy Chairman of the Board | 2,000 |
| | 500 |
| Keeler, W.W., Chairman of the Board | 1,000 |
| Cash | 100,000 |
| | 500 |
| Minter, Lloyd G., VP, General Counsel, Director | 2,000 |
| John M. Houchin, Dir. (Dep. Chm of Bd) | 2,000 |
| William C. Douce, VP & Dir | 2,000 |
| William Piel, Dir | 2,000 |
| W.F. Martin, Pres | 2,000 |
| W.C. Hewitt, VP | 2,000 |

### SHELL

| | |
|---|---|
| ges, H. (NPC) President | 2,000 |
| winn, William P. (Dir) | 1,500 |
| Bretteville, Charles D. | 1,000 |
| Shell Advertisement, National Convention | 20,000 |
| Total | 24,500 |

### STANDARD OIL OF CALIFORNIA

| | |
|---|---|
| Allen, William M. (Dir.) | 2,000 |
| Ballou, G.T. (VP) | 500 |
| Bell, Howard W. (VP, Finance) | 1,000 |
| Boucke, F.C. (VP) | 500 |
| Gosline, J.E. (Dir.) | 1,000 |
| Grey, J.R. (VP) | 1,000 |
| Haynes, H.J. (VP) | 1,000 |
| Kitto, C.W. (VP, Manu.) | 500 |
| McCammon, W.C. (VP) | 500 |
| McCone, John A. (Dir.) | 2,000 |
| | 10,000 |
| Miller, Otto N. Chairman of Bd.) (cc) | 50,000 |
| Peterson, R.A. (Dir.) (cc) | 1,000 |
| Savage, R.T. (VP, Chemicals) | 500 |
| Vice, Leslie T. | 500 |
| Wasson, E.H. (Dir.) | 500 |
| Willoughby, R.E. (Treasurer) | 500 |
| D.L. Bower (VP Mkt.) | 1,000 |
| James E. O'Brien (VP Legal) | 1,000 |
| G.M. Keller, (VP & Dir.) | 1,000 |
| N. T. Bogart (VP Ind. Res.) | 500 |
| Packard, David (Dir.) | 87,000 |

### SUN OIL

| | |
|---|---|
| Dunlop, Robert G. (Chrm. of Bd.) | 6,500 |
| Mayes, Fred M. (VP) | 500 |
| Pew, Walter C. (Dir.) and Family | 3,000 |
| | 3,500 |
| | 3,000 |
| | 6,000 |
| | 3,000 |
| | 51,650 |
| | 3,000 |
| | 3,000 |
| | 1,500 |
| | 3,775 |
| | 2,429 |
| | 1,500 |
| | 2,000 |
| | 1,194 |
| CC | 27,000 |
| CC | 3,000 |
| CC | 30,000 |
| Donald P. Jones (Dir.) | 1,250 |
| R. Edwin Ross (Dir.) | 500 |
| Darwin W. Ferguson (VP) | 500 |

## UNIFICATION OF MILITARY AND FOREIGN AFFAIRS

## HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. RARICK. Mr. Speaker, news that the Nixon-Kissinger-Bunker team plan to use their "personal diplomacy" to give away U.S. sovereignty over the Panama Canal Zone is now seemingly counteracted by an announcement that the Defense Department is considering establishment of a naval base in the British-held island of Diego Garcia in the Indian Ocean. Justification for the new U.S. naval base is said to be a counter to a potential expansion of Soviet naval power, due to the anticipated reopening of the Suez Canal.

The release does not make it clear whether the military action has been approved by Dr. Kissinger or cleared with Soviet détente.

Vis-a-vis, we place our naval operations in the Indian Ocean to watch the Soviets in their puppet control over the Suez Canal, while we, with full knowledge of the consequences, would give the Russians puppet control over the activities of the Panama Canal through their friends in Panama.

As is usual in our diplomatic and military negotiations, there is no mistake, the American people lose. Few Americans are reminded by the news media that with Dr. Kissinger serving as the head of two titular posts—that is, Chairman of the National Security Council and Secretary of the State Department—he is now in a position of controlling the policies, decisions, and goals of both the military and the State Department. Nothing out of Washington these days just happens—it is planned that way.

Related newsclippings follow:

[From the New York Times, Jan. 22, 1974]

### U.S. BASE

The Defense Department, as a counter to a potential expansion of Soviet naval power due to the anticipated reopening of the Suez Canal, is considering establishment of a naval base on the British-held island of Diego Garcia in the Indian Ocean.

Defense officials said yesterday that preliminary discussions had already been held with the British about expanding a small naval station on the island so it could support naval operations in the Indian Ocean.

[From the Washington Star-News, Jan. 17, 1974]

### KISSINGER PLANS TRIP TO PANAMA

(By Jeremiah O'Leary)

Secretary of State Henry A. Kissinger is planning a short visit to Panama early next month to show U.S. interest in diplomatic efforts to settle the Canal Zone question once and for all, according to informed sources.

Now on a peacemaking mission to the Middle East, Kissinger already is booked to meet with the Latin American foreign ministers in Mexico City Feb. 20 through 22. The trip to Panama comes as a surprise because it is described by informed sources as a one-country journey and because Kissinger is known to be planning a more extensive swing through Latin America in the spring.

The decision to go to Panama, according to insiders, emphasizes the new U.S. concern with reaching early agreement with the Panamanians on the future of the canal, the U.S.-controlled zone and the military bases agreement. There is also interest in possible future expansion of the canal facilities by addition of a third set of locks or excavation of a sea-level waterway.

It is believed that Kissinger will meet in Panama City with Demetrois Lakas, the figurehead president, Foreign Minister Juan Tack and Brig. Gen. Omar Torrijos, commander of the paramilitary Guardia Nacional and Panama's strongman.

Reports from Washington and Panama indicate Tack and Ellsworth Bunker, the roving U.S. ambassador who is in charge of canal treaty negotiations, now have agreed on a set of eight principles for accelerating the talks.

Kissinger's personal presence in Panama will tend to reinforce the idea that Panama and the United States have haggled long enough over the canal issues. Negotiations have been going on since 1967.

The United States has long recognized that Panama should and will recover control of the 10-mile-wide Canal Zone and eventually will be given control of the canal itself.

## FISHERY ZONES BASELINES

## HON. ANGELO D. RONCALLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. RONCALLO of New York. Mr. Speaker, when the yeas and nays were called on Tuesday for passage of H.R. 11809, setting straight baselines for our contiguous fisheries zone, I was meeting with some of the hundreds of my constituents who had come in connection with the pro-life demonstration. I was, therefore, unable to reach the Chamber during the 15-minute period allotted for the vote. Had I been able to vote, I would have voted "yea" with the understanding that the Committee on Merchant Marine and Fisheries plans to hold early hearings on my cosponsored bill to extend the limit to 200 miles.

### E. PAUL MAGAHA

### HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 24, 1974*

Mr. BYRON. Mr. Speaker, on January 10, Mayor E. Paul Magaha, of Frederick, Md., relinquished office after serving two nonconsecutive terms as mayor of Frederick. I want to commend Paul Magaha for a job well done over a period of 8 years. Paul was a true public servant who sought to serve the interests of his constituents and to represent them well.

I would also like to wish Paul Magaha well in his endeavors away from city hall. I feel sure his energy and devotion to his community will lead to further contributions to Frederick and the surrounding area. His efforts as mayor of Frederick have resulted in a better community, and I know that he will continue to give unstintingly of his time and experience for the benefit of his neighbors.

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# HOUSE OF REPRESENTATIVES—*Monday, January 28, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*Thou wilt keep him in perfect peace, whose mind is stayed on Thee.*—Isaiah 26: 3.

Eternal Father, lift us above the din and dust of the past with all its failures and frustrations that we may gird ourselves adequately for the work of this day and the tasks of this week. To us our Nation looks for genuine leadership to guide her safely and sanely through these trying times. May the stature of our souls, heightened by hope, strengthened in spirit and fruitful with fidelity rise to meet the crying needs of these crucial days. Keep our steps steady, our faith strong, our decisions wise and let us not waiver when the test comes to be truehearted and wholehearted in our devotion to the highest good of these United States of America.

So may we walk steadily in the steps of Him who kept His mind stayed on Thee. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries.

## THE UNAUDITED FEDERAL RESERVE'S NEW GRAB FOR POWER

(Mr. PATMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PATMAN. Mr. Speaker, today the Federal Reserve System announced still another grab for power.

This giant bureaucracy now seeks to extend its power so that it controls directly the reserves of virtually every bank in the Nation—regardless of whether these banks are members of the Federal Reserve System.

This, of course, would be a direct challenge to the dual banking system and would greatly reduce the power of State banking authorities and the independence of the small banks around the Nation. The Federal Reserve has been losing members rapidly in recent years and it now seeks to have the Federal Government—through action of the Congress—mandate that these banks—virtually every bank in the Nation—remain hitched to the Federal Reserve.

Mr. Speaker, this new power is not needed by the Federal Reserve to control monetary policy and it amounts to little more than that uncontrollable bureaucratic urge to control more and more from the marble palace in Washington. The monetary bureaucrats know no limits to their boardinghouse reaches.

### FRS REFUSES TO BE AUDITED BY GOVERNMENT

This grab for power is even more galling when it is realized that this is the same agency which thumbs its nose at Congress and the people and insists on keeping all of its activities secret and unchecked by the General Accounting Office. Here is an agency which lobbies desperately—and improperly—against independent audits by the GAO while at the same time asking the Congress for more and more power.

If the Federal Reserve really thinks it can make a case for more power—as suggested by Dr. Arthur Burns—then I suggest that it open its books and let the Congress and the people find out just how this massive bureaucracy operates. I cannot believe that the Congress will give an agency vast new powers when it refuses to let an auditor through the front door.

## SHORTAGE OF GASOLINE IN NEW JERSEY AND NEW YORK

(Mr. HOWARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOWARD. Mr. Speaker, on Saturday I returned from a 2-day personal survey which shows that while the New Jersey-New York area is presently crippled by a shortage of gasoline, you can get all the gasoline you want or need in many other States.

Appalled by what I saw in my driving trip, I telephoned my office and dictated telegrams and letters to the President and the Federal Energy Administrator, William E. Simon, demanding an immediate infusion of gasoline into the New Jersey-New York area under the so-called fair allocation system.

I have also requested an investigation into how and why this situation was allowed to reach such crisis proportions. The letters to the President and to Mr. Simon have been signed by all members of the New Jersey House delegation, with one exception, and by both of our U.S. Senators.

During my drive through South Carolina, Georgia, and Florida, I made a total of 47 stops at gasoline stations. Forty-six of the stations had gasoline, and 36 of them had no limit on how much gasoline could be purchased. Ten of them had some limit, but still had plenty of gas. Two stations remain open 24 hours a day, 7 days a week. Two stations offered a free car wash provided you filled up your tank.

While people in the New Jersey-New York area are unable to get to work, while police stations and municipal officials are calling me and saying that they cannot get gasoline to meet their municipal obligations, people in other parts of the country can get all they want.

The situation is appalling and impossible; it cries out for an explanation. I plan to pursue this matter and to get to the bottom of this obvious contradiction.

## BINGHAM PROPOSES CONSTITUTIONAL AMENDMENT TO ALLOW FOREIGN BORN U.S. CITIZENS TO RUN FOR PRESIDENT

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, I have today introduced a resolution which would provide for a constitutional amendment that would delete the present requirement of article II, section 1 of the Constitution, that the President of the United States must be a natural born American citizen.

Naturalized citizens may serve in every other position in the Government. In fact, there would be great resentment if it were proposed that a naturalized citizen be barred from serving in the Cabinet or on the Supreme Court or in Congress. It makes no sense that the Presidency should be any different.

Mr. Speaker, my proposed constitutional amendment does not amount to an endorsement of Henry Kissinger as President. But I must say in all candor his achievements as Secretary of State have highlighted the problem.

Why should a citizen of Dr. Kissinger's talents be barred from the Presidency? More importantly, why should the American people be denied the right to elect a Kissinger to any office?

The same could equally well be said of Professor John Kenneth Galbraith, who was born a Canadian citizen, and of many other distinguished naturalized Americans.

I recall that in 1928, when my father, Senator Hiram Bingham, had been mentioned for the GOP nomination for Vice

President, a question was raised as to his eligibility because he had been born in the Hawaiian Islands before annexation.

In 1965, I was approached by a father of six whose fourth child had been born in Ireland because the father, not yet a U.S. citizen, had been serving in the American Armed Forces there. The fourth child was therefore not a "natural born citizen," although all five of her siblings were. The father thought this was unjust since she alone was ineligible for the Presidency and Bingham agreed. He introduced a private bill declaring the child "deemed to be a natural-born citizen" and the bill was passed by both Houses of Congress and signed into law by the President in 1967.

Mr. Speaker, I hope that other Members of the House will join in supporting this constitutional amendment, which would do away with a distinction that I think is repugnant to our sense of justice and operates against the best interests of the United States.

## OIL AND GASOLINE PRICES

(Ms. HOLTZMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Ms. HOLTZMAN. Mr. Speaker, I am introducing today a bill to freeze and then roll back prices of crude oil and petroleum products. People in my district and, in fact, throughout the country are angry at the recent, substantial increases for gasoline and heating oil. They are especially angry because, at the same time that prices are rising, oil companies are making windfall profits. The people of the country are already suffering under the biggest inflation we have had since World War II. We in Congress cannot desert the consumer by adding increases in oil and gasoline prices to the already enormous burden of inflation.

Prices of heating oil have gone up a whopping 11 percent in the last month alone, and an unbelievable 47 percent in the last year. Gasoline prices increased 4 percent in the last month and 20 percent in the last year.

These prices have been accompanied by unconscionably high profits for the big oil companies. Annual profits of Exxon and Gulf increased by 60 percent in 1973 over 1972. The figures for the rest of the oil giants are slightly lower but still exorbitant. Increases in quarterly profits reported during the height of the crisis late last year were even higher—80 percent for Exxon for example.

My bill proposes to alleviate the inflationary burden on consumers in two steps: First, by immediately freezing prices of crude oil and petroleum products at the level in effect during a 2-week base period ending January 19, 1974; and, second, by rolling back these prices within 30 days to the price levels in effect during the week ended November 10, 1973. Thereafter, the bill would permit only certain narrowly limited price adjustments to prevent any gross inequities or hardships.

A provision is included in the bill which is designed to help independent distributors and their customers by eliminating price differentials now suffered by purchasers of foreign rather than domestic oil products. This provision will aid the customers of independent oil distributors who recently have been paying exorbitant prices for products such as home heating oils. Independent oil distributors are now being forced to buy high-priced foreign oil products because of discriminatory allocations of domestic oil products by the big oil companies.

Finally, the bill authorizes the President to issue orders designed to preserve the competitive viability of independent marketers, small retailers, and independent refiners within the oil industry.

Enactment of this bill would bring price relief to the consumer and would constitute a very significant step in controlling the runaway inflation suffered during 1973.

## REPEAL OF DAYLIGHT SAVING TIME

(Mr. ROGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGERS. Mr. Speaker, I am today introducing legislation which would repeal the Daylight Saving Time Conservation Act of 1973.

Although passed with good intention, I am afraid that this law has not significantly contributed to the conservation of energy and has in fact proved to be detrimental to many.

In my State of Florida, there have been eight children killed on the way to school since the law went into effect on January 6, 1974. In each case there was darkness when the accident took place. This compares with only two deaths during the same period last year.

In addition, a recent survey of power companies tells us that the hoped for savings of energy has not materialized. Nearly 30 States were polled and the results came back that less than 1 percent savings could be attributed to daylight saving time. In Florida, the Florida Power & Light Co. estimated that no appreciable savings could be traced to daylight saving time.

I hope that this legislation will be given speedy consideration and that other of my colleagues who are also troubled by incidents such as those in Florida, will join in supporting this legislation.

## GREAT LAKES HEARINGS RELEASED

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, earlier this year the Inter-American Affairs Subcommittee of the Committee on Foreign Affairs held hearings both on the serious floods which this spring caused substantial damage in several States and on the overall activities of the International Joint Commission, United States, and Canada. I want to take this opportunity to advise Members that these hearings have now been printed and are available in the Foreign Affairs Committee office.

## THE SHORTSIGHTED APPROACH OF BUSINESS

(Mr. KUYKENDALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUYKENDALL. Mr. Speaker, I have just seen the most conclusive evidence to support my contention that much of the American corporate community lacks the most elementary knowledge of how to deal with people through their Government—and why they have done a generally miserable job of promoting the free enterprise system for so many years.

The Dun Review report that a majority of 300 top business executives have asked for the resignation of President Nixon should come as no surprise to me. In my 7 years on the Commerce Committee I have been constantly amazed and disgusted at the shortsighted approach taken by many business executives, who do not give a tinker's dam about the Constitution, unless it is wrapped around their profit-and-loss statements.

This group has decided that the disruption of their business that would be caused by impeachment is undesirable, but the disruption that would be caused by resignation is tolerable. In other words, an accused President should sacrifice his right to defend himself on the almighty altar of a rising stock market.

Coming to the Congress from big business myself, I am speaking of an environment that I grew up in, and I feel this gives me certain privileges of criticism. And I have often said, if most business executives ran their businesses the way they run their politics, they would be broke in 6 months.

## COUNTDOWN ON CONTROLS—FIRST SEGMENT

(Mr. STEELMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEELMAN. Mr. Speaker, there is wide agreement now that wage and price controls are ineffective and should be scrapped. Groups including the U.S. Chamber of Commerce, the AFL–CIO, and the National Association of Manufacturers have joined the ranks calling for an end to the controls program. I invite my colleagues to join me starting today in a daily series of 1-minute speeches, a "Congressional Countdown on Controls," citing constituent communications that illustrate the need to end wage and price controls. This series will continue indefinitely and includes a call for the Banking and Currency Committee to hold hearings on the repeal of the Economic Stabilization Act and encourage the executive branch to act to terminate the program.

It has become increasingly obvious that these controls have not only failed miserably in slowing inflation but have also led to shortages, disruptions, and distortions in the economy. From paper to plastics, rubber to steel, consumers and businessmen alike are complaining of shortages. We have all received numerous letters indicating that industrial production has been disrupted, corporate capital expenditures have diminished, favorable foreign trade has been hindered, administrative expenses for business compliance with regulations are mushrooming and jobs are endangered.

Mr. Speaker, the inability to slow inflation is the most obvious failure of wage and price controls. In the first 11 months of 1973 the Consumer Price Index showed prices increasing at almost twice the rate—6.4 percent—of 1972. Wholesale prices were 11.5 percent higher. Final figures for 1973, just in, show consumer prices increasing 160 percent faster than in the previous 2 years—at 8.8 percent—and wholesale prices rising at almost twice the rate of 1972 and over four times the rate of 1971—at 26.7 percent. In addition, the National Association of Manufacturers' survey shows that one-third of firms contacted have canceled or postponed capital expansion and two-thirds report that such expenditures would be increased upon removal of these controls.

Congressional review of the Economic Stabilization Act and its accompanying program is necessary now.

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## LET US REPEAL DAYLIGHT SAVING TIME LAW

(Mr. PEPPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEPPER. Mr. Speaker, during the time that the daylight saving time law which we recently enacted has been in effect eight schoolchildren in my State of Florida have lost their lives going to school in the darkness. It seems to me, therefore, that we should pay attention to those who say, speaking now of the report of the utilities company, that daylight saving time as we passed it has saved very little fuel and there has been no real advantage to the people of this country.

Is whatever advantage we may have derived worth the life of even one child lost in the darkness of the morning hours trudging his or her way to the schools of our country?

For myself, therefore, I join my colleagues to have already done so in introducing a bill now to repeal this daylight saving time law. I hope my colleagues all over the country, many if not all of whom I am sure have had the same experiences as I, will join in this effort and I hope we can get early action on what I believe to be this imperative measure.

Mr. ROUSSELOT. Will the gentleman yield?

Mr. PEPPER. I yield to the gentleman.

Mr. ROUSSELOT. Did the gentleman vote for the bill?

Mr. PEPPER. Did I vote for the bill?

Mr. ROUSSELOT. Yes.

Mr. PEPPER. Yes, I did. But as the old saying is: a wise man changes his mind; a fool never does.

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## VIETNAM-ERA VETERANS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93–205)

The SPEAKER laid before the House the following message from the President of the United States, which was read and referred to the Committee on Veterans' Affairs and ordered to be printed:

*To the Congress of the United States:*

Yesterday, January 27, 1974, marked the first anniversary of the date on which the United States troops ended hostile action against the enemy in Vietnam and began the long-sought disengagement from the longest war in our Nation's history.

It is particularly fitting that today, a year later, we should focus our attention on what has been done—and what remains to be done—to repay the debt America owes to those who served.

There are twenty-nine million living American veterans today—men and women who have given military service to their country. Nearly 7 million of them are Vietnam-era veterans. We owe these men and women our best effort in providing them with the benefits that their service has earned them. Accordingly I will request $13.6 billion in spending for veterans' benefits and services in my new budget, an increase of $5.9 billion over the comparable 1969 request.

### THE AMERICAN VETERAN TODAY

On the whole, the situation of the American veteran today is a good one. The average veteran has a higher income, more education, and better health than non-veterans of the same age. He or she is a vital, productive member of the civilian community—a national asset in peace as well as in war.

The years since 1969 have marked important progress for the American veteran. Between 1969 and 1975, outlays for veteran pension programs will have increased from $2.2 billion to $2.9 billion, covering 2.4 million beneficiaries, while compensation for service-connected disabilities or death will have increased from $2.7 billion to $3.9 billion. The benefits we pay to our veterans should continue to reflect the generous appreciation of the American people.

Since 1969, 4.1 million veterans have financed their educations under the GI bill. Of those, 2.7 million are Vietnam-era veterans. The rate at which Vietnam-era veterans have participated in the GI bill training exceeds that of any previous GI bill. At the same time, the number of veterans assisted through guaranteed mortgage loans has increased by 46 percent.

In the last year alone, it was my pleasure to sign into law two major measures benefiting veterans and their dependents. The final form of both pieces of legislation was the result of close cooperation between the legislative and executive branches, and I wish to take this opportunity to repeat my thanks to the Congressional leaders and committee members who helped us arrive at the desired results.

The Veterans Health Care Expansion Act of 1973 was a landmark measure. It provides major improvements in and expansion of medical and nursing care for veterans and extends treatment benefits to certain dependents of veterans.

The National Cemeteries Act of 1973 consolidated the bulk of veterans cemeteries and set up a National Cemetery System within the Veterans Administration and improved related benefits and services. Based on a study authorized by the act, I intend to submit further proposals for improving the cemetery system.

Improved veteran health care has also taken the form of greater flexibility in treatment and more numerous treatment facilities as evidenced by:

—16 new outpatient clinics and 663 new specialized medical services;

—Strengthened affiliation of 106 VA hospitals with 89 medical schools; and

—Consolidation of medical regions and the strengthening of regional management to provide faster responses to problems at individual hospitals.

A vigorous program of modernization and construction has also played an important part in improving veterans health care. Ten new or replacement hospitals have already been established and five more replacement hospitals are being designed or are under construction. In the period 1970–75 the ratio of staff to patients in VA hospitals will have been increased by over 30 percent. We have added over 25,000 full time personnel to the medical departments of the veterans hospitals since 1969, and my budget proposals for fiscal year 1975 will provide for an additional 7,600 medical personnel.

Veterans Administration hospital construction funding in fiscal 1975 will reach an all-time high of $276 million and, when these funds are brought to bear, the VA will be in the midst of its greatest program of hospital construction in history.

As I look forward to proposing my National Health Insurance plan—to make more and better health care available to all Americans—it will be more than ever important to take the VA's health care system into consideration. It is my strong view that it should continue as a system, under VA, to insure the proper care of eligible veterans. The Veterans Administration now operates the largest civilian medical care system in the world. It is only fitting that it remain one of the best.

### NEW INITIATIVES TO PROVIDE FOR OUR VETERANS

Two important Administration initiatives in veterans affairs should receive the attention of the Congress in its coming session.

#### (1) PENSION REFINEMENTS TO HELP THE NEEDIEST

In the field of pensions, Administration proposals will benefit one million veterans and 1.3 million survivors of veterans in economic need due to age, disability or loss of a breadwinner. Although VA pensions have been increased by 27 percent since 1969, some of the most needy are least provided for under the current structure. Many needy veterans and their wives receive less money from the pension system than they would from welfare and no automatic adjustment is provided for increases in the cost of living. There are other inequities as well.

As I mentioned in my message to the Congress on national legislative goals on September 10, 1973, refinement of the

Veterans Administration pension program is necessary. The program has so many problems that it cannot be corrected unless the entire framework of the program is restructured.

I regard the following principles as vital to a realistic and equitable VA pension program, and I will propose legislation to achieve these goals:

—VA pensioners should have some regularized way of receiving cost-of-living adjustments in VA pension payments tied to the automatic increases now available to social security recipients.

—The VA pension program should be structured to assure that additional income flows to the neediest pensioners. This objective would involve raising VA payments to those pensioners who receive less total income than adult welfare recipients under recent amendments to the Social Security Act. In addition, a family's total income should be considered in determining the amount of pension needed.

—Veterans and widows should be treated equally with regard to income and pension payments.

### (2) INCREASE IN EDUCATION BENEFITS

The cost of living is also a problem for those veterans now taking advantage of the GI bill to further their training or education. They need additional help if their allowances are to keep pace with inflation. There are 2.1 million current beneficiaries of the GI bill, most of them Vietnam-era veterans. Payments to each trainee have increased sharply—by 1975 they will be more than double the level of 1969. To help meet the rising cost of living, my budget will request an additional $200 million to provide an 8 percent increase in education benefits in 1975.

### INCREASING PRIVATE EMPLOYMENT OF VETERANS

No group of veterans is more in the minds and hearts of Americans today than those who have recently returned from Vietnam and our Nation's longest war. Beyond the readjustment problems faced by veterans of past wars, this Administration has recognized that the Vietnam-era veteran faces special challenges in re-entering a highly complex and competitive civilian society. We have done our best to help him meet those challenges.

Of particular importance have been our efforts in the field of employment. In 1970, for example, more than a million veterans left the Armed Services and entered the civilian economy. By October of that year, the unemployment rate for Vietnam-era veterans had grown very serious. This led to the launching of the Administration's job placement efforts which have so far helped 2.2 million returning veterans to find jobs. The unemployment rate for Vietnam-era veterans, which once far exceeded that of the general public, was reduced from a high of 11 percent in early 1971 to 4.4 percent by the end of 1973. Both Government and the private sector—through Jobs for Veterans and the National Alliance of Businessmen—played a part in this remarkable success story. We intend to continue these efforts. In fiscal year 1974 our goal is to place 1.2 million additional veterans in jobs or training programs.

### PAYING TRIBUTE TO ALL AMERICAN VETERANS

The tangible benefits extended to our veterans such as medical assistance, education grants and pensions are only one of the ways that America should repay her debts to the men and women who have served her well. We should also accord them a high degree of respect and appreciation in our everyday contacts with them. And we should set aside certain days each year to commemorate their heroic deeds.

In 1974, there should be at least two occasions on which we pay special honor to those who have served in the Vietnam conflict.

One such commemoration was held yesterday, January 27, the first anniversary of the Vietnam ceasefire. I officially proclaimed that day as National MIA Awareness Day. There are still 1,300 Americans missing and unaccounted for in Southeast Asia, and there are more than 1,100 American casualties whose bodies have never been recovered. Their experiences, as well as those of their relatives and loved ones, have been a wrenching sacrifice that deserves special recognition. That is why we set aside a special day dedicated to these Americans and to their families.

In honoring the missing and fallen in the Vietnam conflict, we should also remember the countless others who served and survived that war. Last month I was pleased to sign into law a joint resolution of the Congress authorizing me to proclaim March 29th of this year as "Vietnam Veterans Day". It is appropriate that we choose that date—the first anniversary of the return of all of our POWs—as an occasion to honor all of the veterans of the Vietnam era.

We will honor those Vietnam veterans once again later in the year on Veterans Day itself, an observance which gives us the opportunity to pay tribute not only to the seven million who served during the Vietnam era but also to the 22 million other men and women who have proudly worn the American uniform in years before.

For most Americans, Veterans Day is traditionally associated with November 11th of each year. That was the day more than half a century ago when an historic and dramatic ceasefire was achieved in the First World War.

Legislation approved in 1968, however, changed the traditional observance of Veterans Day from November 11 to the fourth Monday of each October. That change, while well intended, has stirred up considerable confusion and not a small amount of resentment. In many places—including the Tomb of the Unknowns in Arlington National Cemetery—there are now dual observances of Veterans Day, while in others, observances are held not in October but on November 11.

Thirty-one State legislatures have now enacted resolutions declaring that within their jurisdictions November 11th will be officially observed as "Veterans Day". In addition, all of the major veterans organizations have indicated their strong support for returning to the November 11th observance.

In view of the confusion which has arisen and in view especially of the position taken by the veterans themselves, I believe it would be wise to repeal the 1968 change in the Veterans Day observance. I therefore urge the 93rd Congress, as part of its effort to honor our veterans, to enact legislation restoring November 11th as the official date for the entire Nation to commemorate Veterans Day.

As we celebrate Veterans Day this year, let us do so with the hope that the 29 million Americans who have served in our armed forces represent our last generation of veterans and the last of America's wars. May we never forget that we will only be worthy of the blessings of peace and freedom they have won for us for as long as we continue to honor them, and may we do everything we can to repay our boundless debt to them.

RICHARD NIXON.

THE WHITE HOUSE, *January 28, 1974*.

## AMENDING GENERAL EDUCATION PROVISIONS ACT

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor be discharged from further consideration of the bill (H.R. 12253) to amend the General Education Provisions Act to provide that funds appropriated for applicable programs for fiscal year 1974 shall remain available during the succeeding fiscal year and that such funds for fiscal year 1973 shall remain available during fiscal years 1974 and 1975, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the bill, as follows:

H.R. 12253

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 414(b) of the General Education Provisions Act is amended by inserting "(1)" before "Notwithstanding", by striking out "subsection" and inserting in lieu thereof "paragraph", by striking out "1973" and inserting in lieu thereof "1974", and by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this paragraph, any funds from appropriations for the fiscal year ending June 30, 1973, to carry out programs to which this title is applicable which are made available during the fiscal year ending June 30, 1974, shall remain available for obligation and expenditure during the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975.".

Mr. PERKINS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the purpose of this bill is to allow local school districts to carry over into the next school year unused funds appropriated for this school year. Ordinarily, school districts could do this under section 414 of the General Education Provisions Act. However, that section has expired and must be renewed in order to allow a carryover of funds.

This bill would also allow school districts to carry over into the next school year funds which had been impounded by the administration from the fiscal 1973 appropriation. The administration has released some of these funds voluntarily and has released the bulk of these funds pursuant to court orders. But since the funds were not released until shortly before Christmas, school districts cannot conceivably have enough time to make the wisest expenditure of them during the remainder of this school year. Therefore, it is necessary to allow districts to carry over these funds into the next school year.

Mr. Speaker, I have checked with Chairman Mahon and Chairman Flood of the Appropriations Committee, and neither had any objection to this bill or to our bringing it up today. I am also not aware of any objection by any other Member to the bill. The administration is also in full support of the bill.

I will insert at this point in the Record Commissioner Ottina's letter adressed to me supporting the bill:

Department of Health,
Education, and Welfare,
Office of Education,
*Washington, D.C., January 28, 1974.*
Hon. Carl D. Perkins,
*Chairman, Committee on Education and Labor, House of Representatives, Washington, D.C.*

Dear Mr. Chairman: I am pleased that you have taken such prompt action in response to my letter requesting action to extend and amend Section 414(b) of the General Education Provisions Act.

My understanding of H.R. 12253 is that it would allow state and local authorities to expend the FY 73 funds recently released through June 30, 1975 and would extend the period for obligating the FY 74 funds to the same date. It is also my understanding that H.R. 12253 would only extend the provisions of Section 414(b) until June 30, 1975; however, I understand that you will address the question of making this provision permanent (as I have requested) in your consideration of H.R. 69.

Assuming my understandings are correct, I can assure you that the Administration views H.R. 12253 as a good interim solution to the funding problems I addressed to you in my letter of January 21, 1974.

It is my understanding that the Office of Management and Budget has no objections to transmittal of this letter.

Sincerely,

John Ottina,
*U.S. Commissioner of Education.*

We have resorted to this unusual procedure to pass H.R. 12253 for two reasons. The first reason is that school administrators across the country are confused about the length of time they will have to spend these funds. Many of them fear that these funds will only be available through the end of this school year. And they may, therefore, be tempted to make rash use of the funds in order to use them all up by June 30.

The second reason is that the major anti-impoundment law suit is still pending against the administration, and the attorney for the successful plaintiffs is to be in court this week requesting a court order that the administration immediately make known the length of time the impounded funds will be available. If Congress acts today, we will assume our rightful leadership in specifying how long these funds ought to be available; and we will therefore assist the court in resolving this difficult lawsuit.

The one point in the language of H.R. 12253 which I would like to make clear concerns the phrase "funds . . . made available." We mean by this to include all funds which were or are going to be made available for obligation and expenditure during fiscal year 1974 from funds appropriated by Congress during fiscal year 1974 from funds appropriated by Congress during fiscal year 1973—whether those funds were impounded and voluntarily released by the administration, whether they were impounded and only released by the administration pursuant to court order, or whether they were ordinarily made available at the State or local level for obligation and expenditure during fiscal year 1974. All of these funds can be carried over for obligation and expenditure into fiscal year 1975.

Mr. QUIE. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I am happy to yield to the ranking minority member of the committee, the gentleman from Minnesota (Mr. Quie).

Mr. QUIE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I, too, am rising in support of H.R. 12253. This legislation is urgently needed if we are to insure the wise expenditure of Federal education funds at the local and State levels.

The principle behind this legislation is well established, as the gentleman from Kentucky (Mr. Perkins) has indicated. It was first enacted into law in 1970. Reports which I have received from educators in Minnesota indicate that it has done a great deal to eliminate end-of-the-fiscal-year obligation of funds, and to provide better services to the children benefiting from Federal aid.

As the chairman has noted, this extends the already existing Tydings amendment to cover moneys expended by the Federal Government in fiscal 1974, and adds a new section permitting the carryover of funds which the administration had impounded, and then released from fiscal 1973.

This legislation has the full and complete support of the administration.

Mr. Speaker, I ask unanimous consent to insert in the Record at this time a letter of support from the U.S. Commissioner of Education, John Ottina, and a table listing those impounded fiscal 1973 funds to which the second section of this bill applies.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

(The material referred to is as follows:)

Department of Health,
Education, and Welfare,
*Washington, D.C., January 28, 1974.*
Hon. Albert H. Quie,
*House of Representatives,*
*Washington, D.C.*

Dear Mr. Quie: I am pleased that you have taken such prompt action in response to my letter requesting action to extend and amend Section 414(b) of the General Education Provisions Act.

My understanding of H.R. 12253 is that it would allow state and local authorities to expend the FY 1973 funds recently released through June 30, 1975 and would extend the period for obligating the FY 74 funds to the date. It is also my understanding that H.R. 12253 would only extend the provisions of Sections 414(b) until June 30, 1975; however, I understand that you will address the question of making this provision permanent (as I have requested) in your consideration of H.R. 69.

Assuming my understandings are correct, I can assure you that the Administration views H.R. 12253 as a good interim solution to the funding problems I addressed to you in my letter of January 21, 1974.

It is my understanding that the Office of Management and Budget has no objections to transmittal of this letter.

Sincerely,

John Ottina,
*U.S. Commissioner of Education.*

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*Impounded fiscal year 1973 education funds*

| | |
|---|---|
| ESEA | |
| Title I (School library resources) | $224,815,000 |
| Title II | 10,000,000 |
| Title III | 25,000,000 |
| Title V | 15,036,000 |
| Title VII (Bilingual) | 9,870,000 |
| Title VIII (Dropout prevention) | 1,500,000 |
| Sec. 308 (Nutrition and health) | 500,000 |
| Total | 286,721,000 |
| Vocational Education | |
| Part A (State Advisory Councils) | 514,000 |
| Part B (Basic programs) | 50,000,000 |
| Part F (Consumer and home economics) | 12,697,000 |
| Part H (Work/study) | 4,524,000 |
| Part I (Innovation: curriculum development) | 2,000,000 |
| Sec. 102B (Students with special needs) | 9,898,000 |
| Total | 79,633,000 |
| Cooperative Research Act | |
| Education Broadcasting (Sesame Street) | 1,000,000 |
| Education Statistics Surveys and Special Studies | 2,650,000 |
| National Achievement Study | 1,000,000 |
| Total | 4,650,000 |
| Library Services and Construction Act | |
| Title I (public library services) | 32,000,000 |
| Title II (construction) | 15,000,000 |
| Title III (interlibrary cooperation) | 4,770,000 |
| Total | 51,770,000 |
| National Defense Education Act | |
| Title III–A (equipment and minor remodeling) | 48,000,000 |
| Total | 48,000,000 |

| | |
|---|---|
| Environmental education | 820,000 |
| Total | 820,000 |
| Public Law 815 (construction) | 10,000,000 |
| Total | 10,000,000 |
| Education for the Handicapped Act | |
| Part B (State grant program) | 12,500,000 |
| Total | 12,500,000 |
| Adult Education Act (State grant program) | 23,700,000 |
| Total | 23,700,000 |
| Higher Education Act | |
| Title VI–A (undergraduate institutions equipment) | 12,500,000 |
| Total | 12,500,000 |
| Grand total | 530,294,000 |

Mr. QUIE. Mr. Speaker, when I was in my district during the recent recess, I heard more about the need for this legislation than anything else in the education field. I suspect many of the Members had the same experience.

Mr. Speaker, I, too, urge my colleagues to accept this bill.

Mr. PERKINS. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

## RAIL PASSENGER TRANSPORTATION

The SPEAKER pro tempore (Mr. McFall). Under previous order of the House, the gentleman from Idaho (Mr. Hansen) is recognized for 10 minutes.

Mr. HANSEN of Idaho. Mr. Speaker, today I and 15 of my colleagues have joined in sponsoring H.R. 12305, to amend the Rail Passenger Service Act of 1970 to extend the basic rail passenger transportation to States that are not now served.

When the Amtrak system came into being millions of our people and hundreds of communities across the land were left without any rail passenger service. For several States all rail passenger services to major population centers was terminated. My own State of Idaho was among those that were left high and dry when Amtrak was unveiled. The result was extreme hardship for millions of Americans, including thousands of Idahoans, that had come to depend on rail service as a main source of transportation.

Among those hardest hit by the loss of rail passenger service were older persons who are not able to drive cars and must depend on public transportation, which is virtually nonexistent in Idaho and many other parts of our Nation.

That hardship has now deepened because of the fuel shortages that are incident to the energy crisis. Because of greater distances between population centers and the lack of public transportation the people in Idaho and other Mountain States are more dependent on the automobile. Idaho's per capita fuel needs, for example, are about 23 percent higher than the national average.

The fuel shortage we are facing is real and it is critical. There is no prospect for relief for many years, at least a decade but probably much longer. The need to develop alternate means of transportation is becoming increasingly apparent and urgent. Public transportation services must be expanded to permit a more efficient use of our Nation's energy resources while meeting our peoples' need for economical, convenient, and adequate transportation services.

Passage of H.R. 12305 will be a major step in the direction of meeting this critical national need. The expansion of rail passenger services is one of the best means of conserving and wisely using our energy resources and providing an acceptable alternative to more costly means of transportation, particularly the private automobile.

Mr. Speaker, I am hopeful that this urgently needed legislation will receive the high priority for early consideration that it deserves.

I include as a part of my remarks the text of H.R. 12305 and the names of its cosponsors:

### H.R. 12305

A bill to amend the Rail Passenger Service Act of 1970 in order to expand the basic rail passenger transportation system to provide service to certain States

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That title II of the Rail Passenger Service Act of 1970 is amended by inserting at the end thereof a new section as follows:

"Sec. 203. Extensions of basic system after initial designation.

"The Secretary shall, within sixty days after the effective date of this section, designate an extension of the basic system to provide adequate intercity rail passenger service to a major population area of each of the contiguous forty-eight States which did not have any large population area provided with intercity rail passenger service by the basic system designated pursuant to section 201. Extensions pursuant to this section shall be part of the basic system for all purposes of this Act and the designation of such extensions shall not be reviewable in any court."

### List of Cosponsors

Mr. Hansen of Idaho, for himself, Mr. Anderson of Illinois, Mr. Cleveland of New Hampshire, Mr. Cronin of Massachusetts, Mr. Harrington of Massachusetts, Mr. Hunt of New Jersey, Mr. Kyros of Maine, Mr. Mazzoli of Kentucky, Mr. Melcher of Montana, Mr. Mitchell of Maryland, Mr. Moakley of Massachusetts, Mr. Nix of Pennsylvania, Mr. Roe of New Jersey, Mr. Talcott of California, Mr. Vander Jagt of Michigan and Mr. Waldie of California.

## JUSTICE FOR ALL

The SPEAKER pro tempore. Under previous order of the House, the gentleman from California (Mr. McCloskey) is recognized for 60 minutes.

Mr. McCLOSKEY. Mr. Speaker, a fine man, Egil Krogh, has just been sentenced to jail for his admitted guilt in the commission of a felony. If Mr. Krogh's crime cannot be justified by invoking national security, then certainly the cover-up of that crime cannot be justified in the name of national security. Egil Krogh spoke persuasively to this point when he entered his guilty plea. He said:

> . . . I cannot in conscience assert national security as a defense. I am therefore pleading guilty because I have no defense to this charge.

The President of the United States has publicly admitted that when he learned of Mr. Krogh's offense he acted deliberately both to conceal that crime and to hinder the prosecution of those who committed it. His actions consisted of his instructions to H. R. Haldeman and John Ehrlichman to conceal Krogh's actions, and to Assistant Attorney General Henry Peterson to refrain from investigation or exposure of Krogh's criminal conduct.

These actions by the President constitute high crimes in their own right. They are defined as felonies by sections 3 and 4 of title 18 of the United States Criminal Code.

Section 3 reads in part as follows:

> Whoever, knowing that an offense against the United States has been committed, receives, relieves, comforts or assists the offender in order to hinder or prevent his apprehension, trial or punishment, is an accessory after the fact.

Section 4 reads:

> Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined not more than $500 or imprisoned not more than three years, or both.

The President has admittedly obstructed justice. Of equal importance, several White House employees have pled guilty to obstruction of justice, and like Mr. Krogh, face imprisonment.

If we are a nation under law, then we cannot treat one man differently from another, particularly for violating the same law under the same circumstances.

Undoubtedly, the constitutional separation of powers doctrine prevents criminal indictment of a sitting President.

The sole remedy is impeachment, with any criminal prosecution to come only after his removal from office.

In the case of Vice President Agnew, however, the Government followed a special procedure.

When the evidence became clear that the Vice President had commited high crimes, he was allowed to resign in consideration for the promise that his guilty plea would not result in a jail sentence. The rationale for this special treatment was that it was in the national interest to avoid the trauma and uncertainty of a long trial and its accompanying impact on our prestige in the eyes of foreign nations.

The same rationale can be urged in the President's situation.

As one of the Members of the House charged with the constitutional responsibility of impeachment, I would like to propose that we grant amnesty for the President and a full pardon for all crimes he may have committed during his tenure in office if he chooses to resign.

As I see it, the President is in precisely the same situation as Vice President Agnew was a few months ago.

Evidence has been presented of his guilt of ordinary crimes under the law. The House has, by an overwhelming vote, directed inquiry as to whether he should be impeached. We expect a report from the Judiciary Committee within 90 days.

The constitutional trial before the Senate could last through the summer.

I would make clear that I am not urging that the President resign. Only the President can make that decision. I hope he will resign, but feel we have no right to ask it. Our sole constitutional power is that of impeachment. We can legislate amnesty, however, and I go no further than to propose that we do so if the President resigns.

The basis for such offer of amnesty lies in the benefit to the Nation recognized by Attorney General Richardson when he recommended against a jail sentence for Mr. Agnew, that it is damaging to the very functioning of our Government to have our highest executive officer undergo many months of trial.

There are two distinctions some of our colleagues have suggested as between the cases of Mr. Agnew and President Nixon.

The first, that the President is entitled to the defense of "national security," has been refuted by Mr. Krogh's statement that he could not, in conscience, assert the national security as a defense.

The second alleged defense is that Mr. Nixon has been a "good" President.

The issue, however, is not whether the President has been a good President, but whether even good Presidents are not required to obey the law.

Egil Krogh is a good man. I am personally familiar with the excellent work he performed in a number of areas for the White House, from the land reform program in Vietnam to treatment of heroin addiction here in the District of Columbia.

Nevertheless, Egil Krogh is going to jail, at peace with himself because, in his own words:

> My coming to this point today stems from my asking myself what ideas I wanted to stand for, what I want to represent to myself and to my family and to be identified with for the rest of my experience. I simply feel that what was done in the Ellsberg operation was in violation of what I perceive to be a fundamental idea in this country—the paramount importance of the rights of the individual. I don't want to be associated with that violation any longer by attempting to defend it.

With those words, Mr. Speaker, I think Egil Krogh did as much for this Nation as did, with equally simple words, men like Nathan Hale and Elliot Richardson.

I would place Egil Krogh, along with Richardson and Bill Ruckelshaus, among the quiet national heroes of our day. That they are all Republicans gives me some small pride and hope for the survival of our present two-party system.

The issue before us is a simple one, going to the most fundamental of our national strengths.

Is any man above the law?

In particular, can we ever permit our highest officials to violate the law without remedial action?

That we are a Government of laws, not of men, is the key principle of our whole system of government. It is perhaps more important that we firmly re-establish that principle than that we succeed in any other of the dimly perceived goals we now pursue with such difficulty.

We treasure, and constantly repeat to one another, our pledge of allegiance to the flag—ending in those basic words: "justice for all."

What is justice for all? When several individuals commit the same offense, fairness and justice require at the very least that they be treated equally under the law. High Federal officials, in particular, must be held to the same standards of law as ordinary citizens.

When the President commits a crime, the common law should be invoked against him as it would be against the common man. Only because of the problems in exercising the functions of Government during a lengthy impeachment trial, and for that reason alone, should we consider amnesty to the President if he chooses to resign. In the last 10 months, we have seen the executive branch almost paralyzed by the White House efforts to conceal the truth and by an accompanying malaise throughout the executive departments which look to the White House for decision and leadership.

It may be said that it is inconsistent to urge the principle that the President is subject to the same law as others in one breath, and then to suggest that he receive special treatment in the next breath.

But there is a third principle: That a functioning U.S. Government is more important than punishment of any given individual. We may necessarily have to sacrifice some measure of efficiency in Government to preserve the rule of law, but we need sacrifice neither efficiency nor the law in granting a pardon to a President for his unlawful acts.

I do not urge his resignation, but only that in the Congress we be prepared to honor by an act of patriotism with the forgiveness appropriate to a spirit of national reconciliation we perhaps need as badly today as we did in the dark days following the Civil War. The President has borne great burdens, and in many areas he has done a superb job. Should he resign in the Nation's interest, I for one am prepared to vote for full and unconditional amnesty. Otherwise we have no choice but to proceed carefully, fairly, and thoroughly with the constitutional process of impeachment. As Ben Franklin said, with the Constitutional Convention:

> It would be the best way, therefore, to provide in the Constitution for the regular punishment of the Executive, where his misconduct should deserve it, and for his honorable acquittal where he should be unjustly accused.

There should be no reason to fear any constitutional process undertaken in a judicial and nonpartisan manner, but I would hope that the President's resignation would spare us that problem.

## NOTRE DAME NO. 2 AND UCLA NOW NO. 1

(Mr. DEL CLAWSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEL CLAWSON. Mr. Speaker, a week ago today the gentleman from Indiana (Mr. BRADEMAS) had occasion to take the floor to comment upon the success of the Fighting Irish over UCLA. For 1 week they had the glory of basking in the No. 1 spot in the Nation, but this was only by 1 point.

On Saturday last, the UCLA basketball team with Mr. Walton taking charge took away from the Smiling Irish their fight and they are now in tears because they are not just 1 point ahead, but 19 points behind.

I had hopes that the gentleman from Indiana would be here so that he could shed those smiling tears of the Fighting Irish. UCLA is back on top and the Fighting Irish will have to take second place.

Mr. Speaker. May I say to the gentleman from Indiana that the Lord giveth and UCLA taketh away.

## REPRESENTATIVE JACK KEMP CALLS FOR A RETURN TO ECONOMIC PROSPERITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, the authority for Government regulation of wages and prices is scheduled to expire on April 30. I hope the Congress does not extend this authority, but instead helps to restore the strength of this Nation by moving forward to the democratic principles and unparalleled economic productivity which arise naturally from a free market economy. In fact, I have introduced legislation to repeal the misnamed Economic Stabilization Act, the act which authorizes the present controls.

### WESTERN NEW YORKERS WANT A REPEAL OF WAGE-PRICE CONTROL

I had an experience this past weekend which convinces me—more than ever before—of the preponderant support out among the grassroots for an immediate repeal of wage-price controls, or, minimally, their expiration on April 30.

Western New York, a part of which I have the honor of representing in this Chamber, is expecting a full 20-percent cutback in construction during 1974. This means a loss of jobs and income, not only in the construction trades but in the general economy of the whole area. Why? Principally, because of shortages of critical materials—occasioned by price controls, escalating prices—occasioned by distortions resulting from both wage and price controls, and fuel problems—occasioned in great part by a variety of Government regulations.

I met—together with Members and staff members of the western New York congressional delegation—with representatives of construction unions, construction employers, architects, and financial institutions. This meeting was to discuss the severity of the economic crisis and the remedial action this Congress can take to alleviate its potential recessional impacts.

Almost everyone there—labor, business, government—supported some form of deregulation of wages and prices, a return to a market system of allocating scarce resources, a return to the principles of supply and demand—in summary, getting big and intrusive Government off the backs of the American people.

I feel confident that these kinds of meetings are happening all over our great Nation. Their significance should never be overlooked by any Member of this body.

### WAGE-PRICE CONTROLS IN PERSPECTIVE

With the passage of 2½ years since these controls were "temporarily" placed upon the productivity of our people, it is important to examine objectively, the effects of wage and price controls and the policies upon which they were premised.

I hear questions daily: "Why shouldn't we extend wage and price controls? After all, don't we need controls now more than ever since prices are still rising? Don't we need more controls to allocate scarce resources and goods in short supply? And, even if we are going to end price controls, shouldn't we wait until a more appropriate time?" When then do I advocate a refusal to extend these controls?

As a nation—and as a Congress entrusted with the exercise of the people's welfare—we are at an historic focal point for major decisions on the role of government in the economy. If we opt for more controls, we invite the potential destruction of the most productive economy in the world—ours. If we opt for restoring freedom to the marketplace, we will not only help to resolve many of our ills, but we will also set the stage for a period of renewed economic expansion and solidity. This period now before us—between now and April 30—is when we must make this decision, and I, for one, will be on the side of freedom as I believe I was when I voted against the last extension of the act.

This economic stabilization program has been a dismal failure by all objective standards. It has produced disruptions, distortions, and strains upon the economy and the livelihood of the people, seen most frequently in terms of both shortages and higher prices.

If we do not learn from the experiences of history—and there are many, including our own experiences over the past 2½ years—and return to a market economy, we are inviting even worse shortages and even higher prices. These may, in the end, produce a severe recession or even a depression. This would stagnate the economy of the entire world, would weaken our position in relation to controlled economies, would result in millions unemployed, and would place additional—and what would have otherwise been unnecessary—burdens upon government to insure the general welfare.

The choices are clear: Regulation or deregulation; authoritarian government or freedom. Writing in the Harvard Business Review, C. Jackson Grayson, former head of the phase 2 Price Commission, observed:

> Price and wage controls such as we have experienced in Phases I through IV have helped to extend the degree of public control and to accelerate the rate of change. At some point—and I predict that, at the present rate, this point may be reached in about 15 to 20 years—the essential characteristics of a competitive, private enterprise system (nonregulated prices, profit motives, risk taking, collective bargaining) will no longer make up the economic engine that drives our system.
>
> I am not saying that there is and will continue to be public regulation of the private enterprise system. Since 1930, we have had that—a mixed public-private system. But, in the 1970s, the pendulum of the mix has been swinging further, and faster, toward central control.
>
> Call it what you will—managed capitalism, socialism, a planned economy, a post-industrial state—the end result will be the virtual elimination of the free-market system as we now know it. There will be no signposts or traffic lights. We will simply shift over to another kind of system.

Mr. Speaker, I do not believe the Congress of the United States wants to pursue such a reckless course of action as to endanger the economy and the general well-being of our Nation and its people. This Congress will be held accountable on how we stand on the question of preserving a free economy, and there can be no freedom—personal, political, intellectual—unless there is economic freedom. For the first time in American peacetime history, we are living under an authoritarian economy, and too many seem to be willing to acquiesce in its continuation. This must not be allowed to happen.

It is astonishing to me, in light of our Nation's prosperity under a market economy and of our virtually pending collapse under Government regulation, that some argue for even greater controls. I am dismayed that some want more regulation, more control, more bureaucracy, more redtape, all of which combine to produce less freedom, less production. I question no motives, but I cannot agree with the premises for their conclusions. The administration, elected in 1968 on a platform to enact no controls and reelected in 1972 on a platform to remove temporary controls almost immediately, now infers more controls, and the Chairman of the Council of Economic Advisers Mr. Stein, even sees a need for a Federal Government, master planning agency.

No matter what actions the Government takes, we cannot—and should not—repeal the law of supply and demand. What Government action does do is to distort that law so severely as to cripple the capacity of the people to use its mechanics to aright imbalances in the economy. The Federal Government is simply not wise nor sensitive enough to substitute its judgment for those who actually make the economy work: 210 million Americans.

What are the impacts of wage-price controls?

### IMPACT ON THE COST OF LIVING: UP!

There are few areas where the failure of price controls can be more graphically demonstrated than the meteoric rise in the cost of living since 1971. The Department of Labor release of January 22 shows the biggest spurt in the cost of living during 1973 since 1947—a full 8.8 percent. In 1973—

Supermarket prices rose 22.1 percent;

Gasoline prices went up 18.6 percent and fuel oil and coal prices went up 44.7 percent;

Meat, poultry, and fish prices rose 26.4 percent; and

Nonfood commodities, on the whole, rose 5 percent in price and services rose 6.2 percent.

And to make matters worse, this rise in prices was accompanied by a decline in the purchasing power—the real value of the dollar—of an average wage earner's salary by 1.9 percent.

Since this administration took office in 1969, we have had an oportunity to test the efficacy of controls. Between December 1970 and August 1971 when controls took effect, the Consumer Price Index grew at a rate of only 3.3 percent. Since controls were imposed, the Index has accelerated at a much higher rate, with an astonishing 8.8 percent increase for 1973. Thus, we have suffered the trauma of dislocations resulting from the imposition of controls only to now see clearly that the problems they were supposed to solve are not only still with us but are growing at even faster rates.

One cannot avoid the implications of such drastic raises in prices. But one public figure, at least, did miss the point: The President of the United States. It was incredible to read, on the day the statistics on 1973 were released that the President felt his program of wage-price controls had "helped to reduce the dangers of inflation," despite the contrast between the 8.8-percent reality and the 2.5-percent projection for 1973 by the White House made a year ago. How far off could they have been? Rhetoric, including the President's further remarks the same day that, "We are proving that a dynamic and resilient people can meet the challenge of inflation without sacrificing the ideal of a free market system," is no substitute for reality. And, reality mandates this program to be allowed to expire or even be terminated before its natural expiration.

The answer to inflation is not controls.

In other words, a freeze simply masks the consequences of inflation. Price controls, wage controls, rent controls, and interest controls distort and unbalance production. They inhibit business confidence, scare off investors, and produce shortages. Moreover, controls distract attention from the true cause of inflation—the failure of successive administrations to exercise fiscal responsibility. The root of all inflationary evil in the United States is excessive Government spending, and consequent excessive money supply issued to cover the Federal deficits. These are the things that must be attacked through adequate congressional budgeting techniques and through an aroused public will to curb spending by both the legislative and executive branches of Government.

The controllers persist in refusing to learn from experience. Controls failed during World War II, at a time when the U.S. Government was fighting a global war that had tremendous popular support. They are failing today. Indeed, controls have failed whenever and wherever they have been tried, for they are cosmetic measures that provide no real or lasting remedy to economic ills.

If the legal price for any commodity, whether it is bread or shoes, is held by edict substantially below what the free market price would be, the low fixed price must overencourage the demand for it, discourage its production, and bring about a shortage. The profit margin in making or selling it will be too small as compared with the profit margin in producing or selling something else.

### IMPACT ON UNEMPLOYMENT: UP!

Wage-price controls are resulting in rising unemployment. This is happening in two ways: First, industry is laying off current work forces, and, secondly, industry is holding back on hiring additional persons because of economic uncertainties. This is no new insight; we have seen this for months.

An article in The New York Times of November 27 predicted a rise in unemployment during 1974 from 4.5 percent to 6.0 percent. This move of but 1.5 percent would mean layoffs of a whopping 1,300,000 persons. Why? In the opinion of the analyst that prepared this particular article, because of growing shortages.

Projected rises in unemployment were a focal point of the recently released study done by the National Association of Manufacturers, "Industry Survey on Wage and Price Controls," January 7, 1974. This authoritative report reveals that 23.7 percent of companies with annual revenues of less than $50 million and 41.2 percent of companies with annual revenues in excess of $50 million indicated that "controls had had an effect upon the number of persons employed by the companies."

> Many companies reported that they would have employed more persons had it not been for controls.

The relationship here is one of increased production and planned capital spending, both of which have been cut back because of these controls.

Another important complaint by firms, closely related to employment, was their inability to keep high quality personnel. Why? Because under wage regulations, these firms cannot legally increase employee compensation.

The NAM survey also indicated that 40 percent of the firms stated that pay regulations discourage increased productivity. Thus, one can see how wages, prices, and productivity are all so interrelated.

### IMPACT ON PRODUCTION: DOWN!

Before controls were imposed in 1971, the only thing most Americans were short of was credit and time. But now, if you want gasoline, it is short. If you want anything made of steel, it is short. If you want lumber, it is short. If you want textiles, they are short. If you want paper, it is short.

Wage-price controls are crippling the productive capacity of the American people, and it is too shortsighted a view to simply say that such an observation is intended only to help businessmen. Nothing could be more wrong. The restoration of productivity means much more for everyone.

Productivity generates jobs, many of which have been lost as a result of these controls, and jobs mean take-home pay and less unemployment.

Productivity generates profits which are distributed to millions of families across the country who have saved their hard-earned dollars to buy shares of stock as a hedge on the future and for retirement.

Productivity produces revenues, in the form of taxes, through which government can meet other priority needs.

Productivity means the use of goods, raw materials, and byproducts of other industries, thereby producing profits and jobs in those supply industries.

But, productivity is not happening. Wage-price controls continue to stagnate our economy, producing unemployment, reduced profits, reduced revenues, inadequate capital for expansion. The cold facts and hard statistics bear out this claim fully.

The NAM report, to which I have referred, concentrates heavily on the impact of these controls on prices and production. This NAM survey was not strictly limited to manufacturing or industrial firms; it also included utilities, airlines, insurance companies, wholesaling and retailing operations, banks and other financial institutions, and agricultural processors: In short, it covered the overwhelmingly preponderant source of jobs in America.

Are there shortages? Unbelievably so. The listing of specific items—one by one—which are in critical supply is a full 2½ typewritten, single-spaced pages, with insignificant supply shortage a full additional 2 pages. And, we are not talking about insignificant items. We are talking about zinc, aluminum, lumber, asphalts, cotton, copper, paper, steel, plastics, coke, iron, silver, nylon, and nearly 600 other goods.

What other important findings are contained in the report?

Nearly 31 percent of small firms—annual revenue of less than $50 million—and nearly 46 percent of large firms—over $50 million—have reduced or eliminated output of products or services as a result of controls.

Over 91 percent of small firms and 97 percent of large firms are experiencing unusual difficulties in obtaining their requirements of important materials or supplies.

Nearly 62 percent of small firms and 80.5 percent of large firms ascertained that the principal influencing factor to which shortages are attributable were wage and price controls.

As to the future, 32.8 percent of the total firms felt that unless wage and price controls were lifted that the shortage situation would become critical, and an additional 52.3 percent felt it would become worse.

Over 40 percent of small firms and over 55 percent of large firms have been forced to modify production and marketing plans at the expense of serving customers because of wage and price controls.

Some 76 percent of small firms and nearly 87 percent of large firms assert that customers will pay more for products they purchase because of controls.

Over 58 percent of small companies and nearly 81 percent of large firms are having adverse effects on earnings due to controls, and this is of great significance because return on investments are the key to additional capital formation from which to expand production.

A full one-third of all firms have postponed or canceled planned increases in capital outlays due to controls.

Over 60 percent of small firms and nearly 80 percent of large firms indicated they were "suffering harmful distortions or financial damage because of controls."

It is, therefore, not surprising that nearly 92 percent of small firms and 97 percent of large firms were "favoring a prompt termination of controls."

The NAM is to be commended by Members of this body for having fulfilled a very real need for this kind of hard evidence.

Is there little wonder that there is a rising crescendo for abandoning these controls?

### CALLS FOR REPEAL REACHING A CRESCENDO

I am heartened at the rising number of significant calls for abandonment of the wage and price control program, particularly by the cohesion on this issue by labor, business, and the public.

The AFL–CIO has called for abandonment of this program, perhaps summed up best by a statement of the Communication Workers of America that these controls are "a joke, a nasty joke on workers whose wages are shrunk by freezes and then shredded by bloated prices and inflated interest rates."

The U.S. Chamber of Commerce and the National Association of Manufacturers have called for repeal.

Most significantly, the public—the buying public—the consumer—is calling for an end to these controls. In a recent Harris survey, published in the Washington Post during the week the price ceilings on beef were lifted, a decisive mood amongst the people was reflected:

> The prevailing view on the beef problem, supported by a thumping 64–22 percent, is that "all price controls on beef should be dropped so that farmers will produce more beef and that will bring the price of beef down." Thus, the American people are opting to try the free market approach.

One can fully appreciate the importance of removing wage-price controls when one examines the forced changes in human conduct which arise from their imposition.

Prof. Milton Friedman, former president of the prestigious American Economic Association, has observed:

> There has been essentially no discussion of a much more fundamental issue. The controls are deeply and inherently immoral. By substituting the rule of men for the rule of law and for voluntary cooperation in the marketplace, the controls threaten the very foundations of a free society. By encouraging men to spy and report on one another, by making it in the private interest of large numbers of citizens to evade the controls, and by making actions illegal that are in the public interest, the controls undermine individual morality.

In this sense, Mr. Speaker, the continuation of these controls pressures the moral fiber of the Nation.

What about those who say that the time is not now right for removal of these controls?

The fact is that the time is never right to abolish controls, if one is trying to avoid totally the short term rises in price which will inevitably result immediately after their removal. This happened in 1947 after the wartime controls were lifted. But that is shortsighted. After the immediate rise—and this is not speculation, it is fact—the laws of supply and demand begin to take effect, reflecting accurately their interrelationship. Prices then start to decline, as they did after 1947; production starts upward, et cetera. All that we do by keeping these oppressive controls is postpone the day in which we must lift them or risk the total destruction of our economic system. I know the President wants to be remembered in history, but I do not think he wants that remembrance to be next to Herbert Hoover. In some ways both were the victim of policies set into motion long before they took office, but that does not relieve them from the responsibility which they must bear in history's eyes for having failed to take all necessary steps to avoid a pending crisis.

### WHAT OUGHT TO BE DONE?

In his classic work on the fall of Greco-Roman civilization, Edward Gibbon, observed:

> In the end, more than they wanted freedom, they wanted security. They wanted a comfortable life and they lost it all—security, comfort and freedom. When the Athenians finally wanted not to give to society, but for society to give to them, when the freedom they wished for most was freedom from responsibility, then Athens ceased to be free.

I can think of no more bone-chilling observation for the backdrop against which we ought to view the dangers of wage and price controls.

The question, "What ought to be done?" must first be addressed by answering the question, "What ought not to be done?"

The Congress ought not—and neither should the administration—sit back and simply wait for the expiration date of April 30 to pass. The economy is so badly distorted by these controls—and business, labor, and the public are looking so intently for specific evidence on what Government intends to do—that we ought to act now to remove them.

What, then, ought to be done?

First, we must recognize that ideological, philosophical, political, or partisan motives must be set aside. This is no time for rhetoric. We must act on the basis of the facts which are now easily ascertainable. This is a time for answers. These facts support an immediate abandonment of wage-price controls.

Second, the administration should order an immediate rescission of phase IV controls.

In the alternative, if the administration fails to take this action, the Congress should repeal the Economic Stabilization Act now, not waiting until it simply expires on April 30. I have introduced H.R. 10006 to repeal this act, and I urge its speedy passage.

Third, the Government ought to pursue monetary and fiscal reform thereby lessening inflation. An appropriate place to start would be the enactment of my bill, H.R. 10432, the Emergency Anti-Inflation Act.

Fourth, Government should hereafter, pursue a consistent policy as to the national economy. The Cost of Living Council has been decontrolling specific commodities—for example, cement and fertilizers—when it was determined by the Cost of Living Council, after virtually interminable consideration, that such decontrol was necessary to bolster sagging production. Although appropriate measures to undertake this is a haphazard approach which helps few and fails miserably to address the basic policy issues. The pursuit of consistent policy would be a great boon to our economy and an important guide to the wage earners.

Fifth, Government should move decisively toward a less interventionist role in the economy, since Government action typically creates more problems than it resolves. Such a noninterventionist perspective should form the basis for new policies. The American consumer would be their ultimate beneficiaries.

Sixth, our institutions—the universities, government, business, labor, et cetera—must so well document the stark realities of having relied upon and used these controls as to totally discourage our Nation from ever again, at least during peacetime, relying upon such measures.

We owe this, Mr. Speaker, to ourselves and to our posterity.

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## BANNED FOR ADVOCATING EQUALITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

Mr. DIGGS. Mr. Speaker, the situation in the Republic of South Africa is rapidly deteriorating with the banning of more people than ever before for advancing equality, human dignity, and basic political participation for the disenfranchised black majority. The increasing repression by that minority government is indicated by the fact that in 1973 there were at least 70 bannings as compared with 14 in the previous year. The bannings deprive the victim of his or her means of livelihood, prohibit writing or publication, attending meetings, moving outside a small area, or any of the basic rights that in a democracy would be taken for granted. Some of the bannings have been used against eminent theologians who preach justice and freedom, and the most eminent of these is Dr. Manas Buthelezi, S.T.M., Ph. D., the Natal regional director of the Christian Institute of Southern Africa.

Dr. Buthelezi is the cousin of Chief Gatsha Buthelezi, who is well known here in the United States. The banning of his cousin is a sign that the South African regime is using an old tactic which it has brought out in the past to deal with political opposition—to refrain from attacking the leading figures in any organization, but to destroy the movement by banning those closely involved in its day-to-day work. By using this tactic against Dr. Buthelezi, the South Africans have demonstrated the hypocrisy of their claim that the "Bantustans" offer a means of political expression for Africans, and that conditions in South Africa are supposedly improving for the black majority.

Dr. Buthelezi recently gave an address at the University of Cape Town, which indicates the sincere convictions which he and others have of the necessity of change in South Africa. By banning him, the South African minority regime has restated its contempt for law and for decency; it has affirmed its determination to obliterate all questioning voices in South Africa. I include the address and two articles from the December 9 edition of the South African paper, the Cape Times to be printed in the RECORD, at this point:

### CHANGE IN THE CHURCH

(By Dr. Manas Buthelezi)

To some people's 'change' and 'church' seem to be two irreconciliable concepts. The church as an institution stands in sharp contrast to the transitoriness of the things of this world. While permanence and continuity describe the character of the church to them, it is to worldly things that 'change' relates.

In the Middle Ages 'seculum', of which secularization and secularism are modern English variations, pointed to a category of time: it meant 'age' or 'century' as opposed to 'eternity'. It also came to designate those members of the clergy who ministered to people in their daily life in contrast to the members of the monastic orders. In 'seculum' there was a notion of that which is passing away or temporal in contrast to that which is eternal.

Thus the secular was a realm of temporal political power, of labour and trade and natural law. This was in contrast to the church which was a dispensary of grace which related man to the eternal. Timelessness and permanence was to the church what change and transitoriness was to the world.

Since the earliest times of church history the category of antiquity was used to demonstrate the permanence and continuity of the church vis-a-vis sects and heretical groups. The novelty of the sects and heretical groups stood in sharp contrast to the antiquity of the church which dates back to the times of the apostles. Thus in his *Prescription Against Heretics*, Irenaeus challenges the heretics thus:

#### HERESIES

"If there are many heresies which are bold enough to plant themselves in the midst of the apostolic age, that they may thereby seem to have been handed down by the apostles, because they existed in the time of the apostles, we can say: Let them produce the original records of their churches; let them unfold the roll of their bishops, running down in due succession from the beginning in such a manner that that first bishop of theirs shall be able to show for his ordainer and predecessor someone of the apostles or of apostolic men—a man, moreover, who continued steadfast with the apostles."

It is the wrong notion of what the church stands for that causes many people in South Africa to find it difficult to see the church as an instrument of social change and social process. To them that is Social Gospel. This poses the problem of the solidarity of the church with the mass of people among whom it ministers. The issue at stake is whether the bridge between the church and the secural world is just the mission of the church to the world or that this mission presupposes an already existing solidarity between the two.

Gustaf Wingren has made the observation that the salvation event which is the content of the message of the church took place outside the religious centre of Jerusalem. It took place in the world; in the sphere of the "secular." Not an apostle but a stranger. Simon of Cyrene, under compulsion, carried the Cross of Christ; a criminal at Jesus' side and not a disciple received the promise of the kingdom. Both the death and resurrection were enacted before the pagans, Roman soldiers, and not before a crowd of disciples who, as a matter of fact, had run away and were in hiding. Thus, this event in Jerusalem, which is to be proclaimed to all people 'beginning from Jerusalem' is, as much as any could be, an event in the world.

From the beginning the church is part of God's transforming social process in the world. Is there any thing more transforming than the power of the Gospel to the lives and destinies of the peoples of the world? When Christ sent his disciples to make disciples of all nations he was in effect prescribing that the church should be an instrument of change in the historical destinies of those nations.

### STRUCTURAL CHANGE

Therefore when we speak of change in the church; it is not just a question of change in church structures—even though that is also included—but also change in the role of the church in the South African society. The church does not exist for itself but for ministering to South Africa. Therefore what is of primary importance is not just structural change within the church but how the church projects itself as a catalyst in changing the thinking and behaviour of South Africa's politicians, economists as well as all citizens.

Let us take the question of social justice. There are Christians who believe that the active promotion of social justice is outside the purview and competence of the church. They believe that this is something that should safely be left in the hands of politicians. They forget that justice belongs to God and not to the discretion of politicians. There are people who believe that the social and political structures in South Africa radiate justice and fair play to all and that it is only politicial agitators and communist inspired church men who see the situation as problematic at all.

Talking about change, one of the things that should change is this type of thinking. Therefore there should be change within and through the church.

### WHY THERE IS NEED FOR CHANGE

Rightly or wrongly the white man has been regarded as the standard bearer of the mission of Christ in South Africa. He was the protector and watch-dog of all the values which the Christian Gospel is designed to uphold.

We have, however, witnessed one of the greatest spectacles in the history of the church in South Africa, namely, the systematic apostasy of the white man. Let me give a theological setting to this change.

Justice and love are two concepts which are theological in the strict sense of the word. As far as the imperfect human language can go, "holy" and "love" are words which almost define the nature of God. We say "God is holy" and "God is love".

The idea that God cares for his creation in general and for his peoples in particular is central in both the old and new Testaments. In contrast to the gods of the Greek and Roman religious world, who were sometimes represented as jealous of and competing with man, the biblical God is characterized by his active interest in the welfare of his people: he loves and is just to them.

In one of the stories of Greek mythology it is told how sex came about among men. Man was originally a very beautiful being with four legs, four arms and two heads. The gods became so jealous of his beauty that they clove him in half. Since then the two halves have been trying to come together in the form of man and woman.

### SHEPHERD

When we encounter the 'shepherd' of the Psalms or that of St. John's Gospel, we do not only get a glimpse of how a rural culture conceptualized its God, but more important we find an instance of what I shall call biblical oeconomia, that is, God not only produces the means of sustenance but he also distributes it equitably like a shepherd who tends his flock. The communism of the New Testament Church was a social extension of this biblical concept of "God economics". The author of the Book of Acts portrays this social extension as a communal life of sharing, that is, a pooling together of God's gifts for common consumption.

The social extension of "God's economics" contains a moral element of stewardship. The story of Ananias and Sapphira dramatizes the moral accountability of the stewards of God's stewards. The point of reference is always how man's stewardship reflects God's justice and love.

What has happened in this country is that the white man in his stewardship has violated the integrity of God's love and justice.

It is common knowledge that in this country the active promotion of love between black and white is looked at with suspicion. Any fraternization between races, which should naturally develop from faith in Christ, instead of being a cause for praise brings with it serious consequences, like being visited by the security police or simple exposure to one form of censure or the other.

As a black Christian I have come in anguish to the conclusion that the white man, through his political and social governmental institutions, no longer services the promotion of God's love between black and white but is really doing his best to kill and frustrate it. This spiritual vandalism on the part of the white man has brought with it consequences so serious that it is no longer a theoretical possibility that Christians suffer just for the sake of promoting love and good will between black and white.

After the end of it all South Africa will have a unique distinction of producing martyrs who suffered simply because they were trying to promote good will between the races.

### INTRIGUING QUESTION

The current and intriguing question is whether Christian love is safe at all in the hands of the white man. The same applies to social justice. As far as the question of the violation of social justice is concerned, there is a sense in which one can say that the black man has become a 'Christ' to the white man: he has been 'crucified' so as to bring security and social salvation to the white man. What counts for his insecurity means security to the white man: his poverty is the yardstick of the white man's affluence. In other words the white man would not be as affluent if the black man were less poor than he is.

The irony of all this is that Christianity in South Africa has a white image. This is in spite of the fact that almost all the major multi-racial churches are overwhelmingly black. 'What the churches in South Africa are thinking' is very often identical to 'what white people in South Africa are thinking'. The voice of the black man has yet not been heard in the church in any significant manner. Added to this is the fact that the white man has discredited himself as the protector of Christian values; the situation becomes very desperate indeed.

There must, therefore, be change in the church in order to reflect a changed situation, namely, the white man's turning against that which promotes Christian love and justice. The church must release its potential by promoting the reflection of its black constituency in both its structure and proclamation. The church must cease to be sectarian in order to reflect the whole of the people of God. It must cease to be a satellite of white power politics in order to become a forum of communion for the whole people of God.

### THE BLACK MAN HAS CHANGED

The last three years have been characterized by the evolution of Black Consciousness in South Africa. This in turn called for the need to relate the Christian faith in the experience of the black man.

'But God, why did you create us?' This was the title of an article which was published in a church periodical some years ago. The article as a whole reflects the mood of a black man who cries from the abyss of the shackles occasioned by the fact that he is black. He is seeking for meaning for and destiny in a life in which blackness is not a favourable intellectual point of orientation.

The theological meaning of this question cannot be appreciated in isolation from the whole gamut of social, political and economic problems. This is not the palce to discuss the content of the question as such since here we are discussing change in the church in broad terms. I only wish to point to the reality of its existence as a primary pretheological question. In other words there are certain questions which are suggested by the reality and mode of human existence. Any healthy theological reflection uses these questions as points of orientation.

In this critique against 'kerggmatic theology' Paul Tillich cautions us against the danger of 'throwing' the Christian message at those 'in the situation'. One need not follow all the turns and twists of his method of correlation in order to appreciate the validity of his caution. He defines the 'situation' as follows: 'Situation; as one pole of all theological work does not refer to the psychological or sociological state in which individuals live. It refers to the scientific and artistic, the economic, political and ethical forms in which they express their interpretation of existence.' 'The situation to which theology must respond in a special period.'

### CHRISTIAN MESSAGE

Paul Tillich asserts that the Christian message supplies answers correlated to the existential questions which arise from the human situation. The task of Systematic Theology, according to him, is to analyze the human situation from which the existential questions arise, and in demonstrating that the symbols used in the Christian message are the answers to these questions.'

When man—even an unbeliever—raises moral and existential questions about his life and environment, he is impelled by his condition of creatureliness. Gustaf Wingren argues that 'men ask themselves questions like these because of the very fact that they are alive. They can ask them, even though they have no belief in God at all, but what they are really questioning is their relationship to God. For this relationship is given with life itself, and even when men have ceased to be related to Him'.

We can even go further and say that the preaching of the Word of God by missionaries in Africa did not serve to pull down God to the African situation, because he was already there protecting and sustaining life as Creator. All the preaching did was to bring the message of a God who was already there. The important soteriological motif out of which arises the question as to how man can be reconciled to God, should not make us oblivious of the creation motif out of which arises the question how God commands the situation in the fallen world. Neither should epistemological considerations, namely, as to when man 'graduates' from a lack of certain knowledge to ascertained knowledge of things divine, determine our conception of the temporal order of the events of God's active presence among sinful men.

From the above it follows that the existential questions which arise from the soul of the black man are the legitimate frame of reference for the Gospel which sums up God' design for the situation of man. If the Gospel is to save the black man, it must relate to such basic questions as 'Why did God create me black? What is the ultimate destiny of the black man in a world governed by the values of the white man?' It is the task of theology in Africa to use these questions as the frame of reference while it defines the content of the Gospel which is designed also to save the black man. The classical themes of theology and their formulation should only serve as starting points and not mark the final and ultimate points of the task of theologizing.

The so-called Black Theology is the intellectual arm of the spiritual awakening of the black man towards the message of the Gospel. The black man, for the first time, is beginning to hear the message direct from God's mount. For the first time he hears God from the depths of his existence as a black man.

The Church can no longer pretend as if nothing has happened. It cannot close its ears forever towards the witness of faith—liberation by the majority of the South African believers. The Church must change so that the black man's witness to the Christian faith may also be heard. In a eucharistic tone the black man is singing "Out of the depths and cry unto thee, O, Lord!" Who has the authority to silence the black man?

### GOD DEMANDS CHANGE NOW

This is the time of crises: the crises of Christian discipleship. South Africa urgently needs the Gospel of liberation; a Gospel that will liberate the whites from the bondage inherent in the South African way of life—a way of life that chokes brotherhood and fellowship between black and white. This is the Gospel which will liberate the white man into the realization of the fact that he is nothing but a fellow human being in relation to the black man, and a Gospel which will liberate the black man into the realization of the fact that he is nothing less than a human being.

South Africa urgently needs security—a security that results from fellowship between black and white; not a security created by distance between black and white, since the consciousness of distance does not lead to a feeling of security, but leads to fear and suspicion.

God demands that the white man must repent from his political, economic and social sins he has committed over the last three centuries. If the white man will be saved at all, the English and the Afrikaners of this country must say in unison *mea culpa, mea culpa, mea maxima culpa*.

God is greater than the power which the white man wields today. The white man is nothing but the creature of God for whom Christ also died on the cross. The white man is guilty before God because he has manipulated his political and social institutions against the promotion of love between brothers and against justice towards brothers.

The church must change because God demands it now. Both the white man and the black man must be liberated from the present bondage. That will be meaningful change because the whole church, black and white, will have been instrumental in it.

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[From the Cape Times, Dec. 9, 1973]

## BAN ON THEOLOGIAN "HORRIFYING"

(By the Most Rev. Denis Hurley)

"It is abundantly clear that we are now in a situation in which anyone with Christian concern about South Africa must stifle his conscience or risk Government reprisal."

He said "a Christmas, full of disquiet, not a happy and peaceful one, would be a sign that we are taking the situation seriously."

The Most Rev. Robert Selby Taylor, Anglican Archbishop of Cape Town, said he was disgusted that yet another person has been banned without trial and without being told of the reason for the action which has been taken against him.

"Dr. Buthelezi's banning will confirm many people in many countries in their opinion that South Africa is a totalitarian state," he said.

"The Rev. Dr. Manas Buthelezi is a well-known and highly respected theologian with a worldwide reputation.

"The Black people of South Africa must be particularly angry that so distinguished a member of their community should have to be subjected to the restrictions imposed upon him by this banning order."

Mrs. G. Ventress, chairman of the Natal Coastal region of the Black Sash, said it was the view of her organization that "any society which can tolerate this banning without an outraged conscience is both morally sick and blatantly permissive."

She said the country has been subjected over recent months to a wave of bannings culminating in the order against a man "whose sole crime seems to have been his dedication to the teachings of Christ."

Dr. Buthelezi, cousin of Chief Gatsha Buthelezi (head of the Kwazulu Government) is the 70th person to have been banned this year.

A statement signed by the Cape regional director of the Christian Institute, the Rev. Theo Kotze, and five members of the Cape board of management of the Institute, said that they were ashamed "that in a country which claims that its policies are based on Christian values such unjust and arbitrary actions not only continue but are increasing to an alarming extent."

They called on the Government to bring Dr. Buthelezi to trial.

In Johannesburg, the South African Council of Churches has warned the Government that by banning people like Dr. Buthelezi it was creating hostility. The Council described the banning as "a flagrant incitement of the Black people of South Africa."

The director of the Christian Institute, the Rev. Beyers Naude, said that if the Government had found reason to ban Dr. Buthelezi "we at the Institute will just have to accept that similar action may be taken against us."

A Sapa-Reuter report from Geneva last night said that the Lutheran World Federation yesterday issued a statement expressing shock at the banning.

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[From the Cape Times, Dec. 9, 1973]

## BAN ON C.I. MAN AN EPIC BLUNDER

(By Gerald Shaw)

At lunch in Mowbray a few months ago, I met a visiting theologian from Natal, a quietly-spoken Lutheran pastor.

The visitor impressed his fellow guests as a man of formidable intellect, a churchman of unusual quality. It emerged that he was a cousin of Chief Gatsha Buthelezi, Chief Minister of Kwazulu.

And now Dr. Manas Buthelezi, regional director of the Christian Institute in Natal, is banned, excised from the Christian community. The loss is grievous.

I would like to be able to tell you what Dr. Buthelezi had to say on that day in Mowbray. But the provisions of the Suppression of Communism Act make it an offence for his words to be quoted.

Hundreds of people heard Dr. Buthelezi speak at the University of Cape Town and elsewhere during his visit to Cape Town. Those who heard him were convinced that this was a man destined to play an important part in his country's history.

### HIS QUALIFICATIONS

His *curriculum vitae* is impressive. His theological qualifications include a master's degree in Sacred Theology at Yale, New Haven, Dr. Buthelezi has an international reputation in the Christian church as an exponent of a school of theology which holds that Black Christians have a duty to reevangelize their White brothers who have strayed far from the path of the Gospel.

This school of theology is no doubt uncongenial to many. But the action now taken against him by the Nationalist Government is a blunder of epic proportions.

Anyone who was out of circulation on leave in November, as I was, returned in December to find a whole new set of assumptions operating in local and international politics as a result of the oil boycott.

The consequences for South Africa are serious. Even assuming that our own problems of oil supply can be solved, as seems likely, we are by no means out of the woods.

Our real problem concerns our relations with the friendly nations of the West, who are now subject to the kind of pressures which make it imperative for them to put their own vital interests first.

If the price of oil is to include a tougher line against South Africa, it is going to become even more difficult than it has been in the past for the nations of the West to consider the interests of the Whites of Southern Africa.

For this reason it is folly for the Nationalist Government to do or say anything to make things more difficult for the West in its relations with the Republic.

To do and say things which are an affront to Western standards, threatening free expression and persecuting Christian churchmen, in these circumstances, is madness.

The Rev. Theo Kotze is quite right when he says that the banning of Dr. Buthelezi aligns South Africa with the brand of persecution of Christians that is common practice in the communist countries.

### CURIOUS COMPANY

The presence in the Republic of Cardinal Mindzenty, perhaps the most renowned victim of communist persecution in Europe, is a reminder that current Nationalist actions are placing the Republic in curious company.

The views of the Lutheran World Federation, as expressed by Dr. Andre Appel from Switzerland, are already known.

There is no doubt that the Christian community throughout the world sees this action in the same terms as does Dr. Buthelezi's colleague in the Christian Institute, the Rev. Theo Kotze, who said yesterday:

"Dr. Buthelezi's only crime is to be a faithful follower of Jesus Christ—but of course that is a most dangerous road to travel in this country at the moment."

In any event, if the State believes Dr. Buthelezi to be guilty of subversion, why does it not charge him in an open court?

There is no shortage of wide-ranging statutes which could be invoked. There can hardly be a country in the world which is so well equipped with security legislation.

The banning of Dr. Buthelezi strikes me as a grave error of judgment on the part of the authorities. The repercussions will be felt for some time.

Any further interference with the functioning of a free Press would be a blunder of similar proportions.

If there is anything that distinguishes the free nations of the West from the totalitarian societies, it is freedom of expression and freedom of religion.

The timing of this latest banning order was an inspired stroke of official genius in our relations with Black Africa.

At Addis Ababa, Chief Gatsha Buthelezi is battling to make his voice of moderation heard in the councils of the OAU. And it seems that he was making considerable headway.

No longer. The news of the banning of his cousin, a churchman, must surely have cut the ground from under Chief Buthelezi's feet.

The spate of banning orders this year is a sure indication that the political temperature is rising in the Republic. With the prospect of a clamorous general election early next year, the temperature is hardly likely to drop.

### SOLUTION OBVIOUS

The solution open to the Republic is obvious, but there seems little hope that it will be invoked. As a matter of urgency, the lot of Black South Africans must be eased. The crucial areas are the pass laws—the whole maze of oppressive legislation bearing down on Africans—migrant labour, urban and rural wages and working conditions. This is where we will have to start.

If there are people who are not familiar with the crushing burdens which legislation places on Africans, they might call at the Athlone Advice Office to get some idea of the effect of our system in the day-to-day lives of the African people.

Nothing will be gained by more bannings, more suppression, more oppression.

None of our problems, international or otherwise, will be solved until we remove the root causes of Black disaffection.

There are many who realize this, members of organizations such as Verligte Action, the Institute of Race Relations, the Christian Institute, Dr. Gerdener's new Democratic party and the United and Progressive parties.

There are even some Nationalists who can sense what is really needed. As things now stand, the power and the responsibility is in their hands.

The rest of us can only hope that they can do something before it is too late.

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## Vorster's Prosecution for the Witness

(By James Macmanus)

The South African Government is now moving with speed to crush moderate critics of its apartheid policy. The trials of nine such men, five of them churchmen, began in Pretoria yesterday, bringing into the open the long threatened confrontation between Church and State in South Africa.

The first two cases were postponed yesterday and the remaining seven scheduled for this week are likely to be put back pending an appeal in a related case on Friday. But the adjournments will be brief and the message behind the prosecutions is clear. The South African Government is now bent on the destruction of moderate organisations in the country working peacefully for change of the apartheid system.

The nine defendants are all charged with contempt, that is a refusal to testify before the Schlebusch Commission which was set up by the Government in January 1972 to investigate the activities of four anti-apartheid organisations.

Five of the accused are leading members of the Christian Institute, a nondenominational body which is pledged to racial equality in South Africa. Four are from the Institute of Race Relations (IRR). The Commission was charged to investigate the "objects, organisations and financing" of both organisations. The National Union of South African Students (NUSAS) and the University Christian Movement, which has now voluntarily disbanded, were also on the list.

The Commission began its work with an investigation of NUSAS. The hearings were held in secret and allowed witnesses no effective legal representation nor the right to refute charges. The nature and source of the Commission's own evidence was not given. The student leaders felt however that to appear before the eight-man Commission would be the best way to show they had nothing to hide.

It proved a tragic misconception of the Commission's powers and intentions. Sixteen student leaders were "banned" on the orders of the Attorney-General earlier this year after the Commission sent an interim report on its finding to the Government. The banning orders, which last five years, summarily ended the academic careers, social lives and professional aspirations of the students concerned.

When taxed with the reason for such dacronian measures South Africa's Prime Minister, Mr. Balthazar Vorster, said: "It is unfair to burden the courts with responsibility for security. The bannings are preventive, not punitive." Liberal opinion in South Africa interpreted these words to mean that the Commission had been set up to bypass the courts and neutralise potential dissidents through a secret machinery answerable only to the Government.

The reason for such action was simple. The Government had become irritated, if not alarmed, at the relative independence of the judiciary. The answer was the Schlebusch Commission and the lesson of its first investigation was not lost on those next in line for the treatment—the Christian Institute and the Institute of Race Relations.

In the wake of the student bannings the leaders of both organisations decided to have nothing to do with the Sclebusch hearings. The penalty for refusal to testify is six months' imprisonment or a £50 fine.

But the greater danger is that the Commission can recommend wholesale bannings for those who refuse to appear before it. One of the leaders of the Christian Institute, the Reverend Theo Kotze, made it clear in a letter to all members why they had decided to risk such penalties. The Institute had nothing to hide, he said, but it could not "co-operate with a Commission of Inquiry which by its constitution and mandate is a denial of the democratic process and judicial procedure . . . we re-affirm our conviction that the investigation of any organisation should be undertaken through a judicial commission which can ensure impartiality, the right of defence to accusations made, the right to face one's accusers and the upholding of the due process of law."

The stand against Schlebusch was backed by the South African Council of Churches which has 20 affiliated churches representing more than three million South African Christians. The SACC had initially supported a policy of cooperation with the Commission but in July it publicly reversed this attitude and said that it would stand by any of its members if they refused to testify before Schlebusch.

If Mr. Vorster's Government was worried by the prospect of a complete break in relations with the church it did not show it. The Commission not only pressed on but widened its scope. The Wilgespruit Fellowship Centre in Johannesburg, an advanced training centre for Christians, was rapidly investigated and condemned as a "den of iniquity." The Council of Churches was told to "clear up" the centre, whose group therapy sessions had apparently shocked the Commissioners. The SACC held a separate inquiry and cleared the centre of the charges that had been made.

Meanwhile, approximately 15 subpoenas were issued to compel testimony from staff of the Christian Institute and the IRR. Nine people refused to comply with the order. Those who did were mainly junior black staff who felt it better to wait for a greater issue before risking fines, imprisonment or banning.

On the whole, however, the leadership of both groups held firm in their refusal to deal with the Commission which is incidentally named after its chairman Mr. Alwyn Schlebusch, the Nationalist Party MP. And this it is which has brought them into the lists for trial in Pretoria this week.

Most of the defendants, including Theo Kotze, have already had their passports removed. But as Theo Kotze stressed in an interview with the Guardian in April neither he nor his colleagues have any intention of running away from the fight. For them the Schlebusch Commission is the crunch issue in South Africa today. Their feeling is that to allow the Commission to become an established and recognised body is to acquiesce in the destruction of the legal system in South Africa.

The trials will almost certainly result in light fines. But the Commission is waiting in the wings to renew its demands for testimony and that can only lead to further charges of contempt and further, harsher, sentences. For the moderate churchmen and social workers in South Africa the collision course seems to have been set.

The Archbishop of Canterbury yesterday launched a fund for the Christian Institute. Contributions should be sent to the Christian Institute Fund, c/o The Midland Bank, Central Hall, Westminster, London, SW 1.

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## PROFESSIONAL STANDARDS REVIEW ORGANIZATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, the Professional Standards Review Organization, included in title XI of Public Law 92–603, the Social Security Act, has generated much discussion and concern in my State of Texas, as well as other States across the Nation.

The idea for this organization was hastily added to the social security bill in the Senate based on the premise that the taxpayers' money would be saved by having a Federal agency check on doctors to make sure that they do not overcharge for the medical services they give to patients whose medical bills are paid by social security funds.

Unfortunately, while the concept appeared to be harmless, the specific provisions of the law turned out to be such that they would impose on the professional and his patient a system of care standardized at a level that could be below what patients are now being offered under medicare and medicaid.

In addition, it would violate the customary confidentiality between doctor and patient since all the physicians records must be made available to the PSRO inspectors. This procedure particularly removes those guarantees of privacy which have been so important a part of the close relationship between doctor and patient, and has enabled him to provide his patients with highly personal and highly efficient care.

It should also be noted that the PSRO program has many unanswered questions such as what the review mechanism will be, how the records will be kept, and the cost of the program. It appears that there are no plans to have these questions answered until the program is underway which, in my opinion, is putting the cart before the horse. This type of planning is very disturbing indeed when we are dealing with the health care of many elderly and poor patients.

It is my understanding that some physicians have notified their patients they no longer will treat patients whose fees will be paid directly or indirectly by social security. Not because they dislike the fee schedule, but because they feel they could no longer give the patients the type of care they deserve when they would be told how to treat a patient or how long a hospital stay they can recommend.

No other profession has been subjected to such harsh and demanding scrutiny, and the approach of the PSRO's appears to be an overzealous one to correct the threat of fraud in medical charges, when the records show a total of only 16 doctors being convicted in all 50 States in the 6 years since medicare-medicaid began under social security.

Today I am introducing a bill to repeal title XI of the Social Security Act which established the PSRO's. However, I am offering a substitute by authorizing the General Accounting Office to audit hospitals, skilled nursing facilities, or any other institutions to determine if hospital services, hospitalization, or fees for services under medicare or medicaid are unnecessary or excessive.

I believe that my method would remove the burdensome and unnecessary regulations imposed upon the medical profession by the Professional Standards Review Organization, but still provide a means whereby the Federal Government has control over the medicare and medicaid funds.

Every Member agrees that it is the intent of Congress to insure the taxpayers that their money is being utilized efficiently and for the purpose intended under law, but I do not believe that the PSRO approach is the best method of doing this. We should not subject one group of people to harsh rules and regulations that, in the end, turn out to be to the detriment of the poor and elderly that we are trying to help.

## NATIONAL COMMISSION ON THE FINANCING OF POSTSECONDARY EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. O'HARA) is recognized for 15 minutes.

Mr. O'HARA. Mr. Speaker, it is with considerable satisfaction that I note the submission last week of the final report of the National Commission on the Financing of Postsecondary Education.

The past several months have seen the presentation of a number of reports by private and public groups on the questions facing postsecondary education—and particularly the financial questions. The Carnegie Commission, the Committee on Economic Development, the Newman Task Force, to name only three, have all submitted recommendations on postsecondary education matters. And in all these cases, there is much for the Congress to consider very carefully as it prepares for the expiration in 1975 of the existing Higher Education Act programs.

But the National Commission which just reported to us is a special case. The Commission was created by the Congress in the Education Amendments of 1972. It was mandated by that legislation to carry out "a study of the impact of past, present, and anticipated private, local, State, and Federal support of postsecondary education; the appropriate role for the States in support of higher education, including the application of State law upon post-postsecondary educational opportunities; alternative student assistance programs; and the potential Federal, State, and private participation in such programs."

The final report has now been printed and released. I do not pretend to be in a position to make a definitive judgment on the substance of the Commission's findings and suggestions for action. Nor do I think that judgment need be made, or should be made, in a precipitate fashion.

The Commission has done, I can say, a superb job of gathering data, and organizing that data so that decisionmaking bodies, including the higher education community itself, and the Congress and the State legislatures, can get about the business of making policy decisions on the basis of that data, and in response to those suggestions. As an indication of the intention of the House Special Subcommittee on Education to take this report very seriously indeed, I have contacted the chairman of the National Commission and asked him to be prepared for an open hearing on the Commission's final report at the earliest date which will be mutually convenient for the committee and the Commissioners.

Those hearings will not mark the beginning of my subcommittee's study of these same problems, but they will mark a new phase—and I hope a climatic phase in our efforts to prepare existing Federal legislation for improvement and extension.

The National Commission's study will, I am confident, prove to be particularly useful as a first step legislative action because the Commission included among its members, five Members of the Congress—all of whom have been actively involved in the effort to develop and improve Federal higher education programs and policies. These colleagues of ours who served on the Commission included the gentleman from Indiana (Mr. BRADEMAS), who has for several years chaired the House Select Subcommittee on Education, the gentleman from Oregon (Mr. DELLENBACK) who is the ranking minority member on my own Special Subcommittee on Education, the junior Senator from Rhode Island (Mr. PELL), who chairs the Education Subcommittee of that body, the junior Senator from Maryland (Mr. BEALL) a member of the Senate Committee on Labor and Public Welfare, and the junior Senator from Maine (Mr. HATHAWAY) a member of the Senate committee, and before his election to the Senate, a member of the House Education and Labor Committee and a leading figure in the struggle for full funding of education programs.

With this distinguished congressional participation, it is my confident expectation that the Commission's report will be of great value to the Congress as a point of departure. To what extent we will or should follow the Commission's thinking, only time and study and extended debate will show. Indeed, some conclusions have been drawn already from statements in that report with which I would not want to fully associate myself. But the report does give us a place from which to start.

I do not want, of course, to emphasize the congressional Members of that Commission to the exclusion of the other members, public and governmental, whose expenditures of time and energy on the report were enormous and whose contributions to its final outcome were commensurate. Let me list here the names of the other members, and express to each and every one of them, on behalf of the Congress which gave them their mandate and to whom they have now submitted the results of their labors, a heartfelt thanks and good wishes.

The Commission's chairman was Donald E. Leonard, attorney of Lincoln, Nebr.

The vice chairman was Marian W. La Follette, member, board of trustees, Los Angeles community colleges.

Other members included: Ernest L. Boyer, chancellor of the State University of New York; Hon. Winfield Dunn, Governor of the State of Tennessee; Tim R. Engen, student body president, Bradley University, Peoria, Ill.; Dan R. Martin, of Chicago, president, Associated Colleges of the Midwest; George Kaludis, vice chancellor of Vanderbilt University, in Tennessee; Walter C. Mercer, president, the Ohio National Bank of Columbus, Ohio; Joseph Cosand, Deputy Commissioner for Higher Education, USOE, who was later replaced by Peter P. Muirhead, both as Deputy Commissioner of Education and on this Commission.

John W. Porter, Michigan State Superintendent of Public Instruction; Louis P. Rodriguez, assistant superintendent of educational service for the Phoenix, Ariz., elementary schools; Sister Jane Scully, president of Carlow College, in Pittsburgh, Pa.; and Ruth C. Silva, professor of political science at Pennsylvania State University.

I would be doing a disservice to the Commission if I neglected to extend thanks, too, to the executive director, Dr. Ben Lawrence of Boulder, Colo., and to the other members of the staff who assisted the Commission in its work.

I make no predictions now as to what will remain of the substance of the work of these dedicated citizens when we finish our own legislative deliberations. We will not and cannot legislate in a vacuum, and education legislation must take shape not only in terms of what is best for education, but in terms of what is best for the Nation as a whole. But I can safely predict that the National Commission's report, will play a major role in determining the form that debate will take, and will expedite its completion.

## PROJECTED DISMEMBERMENT OF U.S. PANAMA CANAL ZONE CREATES CREDIBILITY GAP AS TO SECRETARY KISSINGER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 10 minutes.

Mr. FLOOD. Mr. Speaker, in many previous addresses in the Congress, I have discussed at considerable length the more significant features of Isthmian Canal policy questions and offered plans of action for our Government derived from reasoned lines of thought. The current threats to the Panama Canal, which since 1946 when Alger Hiss, a high State Department official, over the objection of a superior, succeeded in officially describing the Canal Zone as an "occupied territory," were dramatically emphasized in the overthrow on September 11, 1973, by the Armed Forces of Chile of that country's Marxist government. The lessons to be derived from that overthrow were covered in a colloquy by six Members of the House in the CONGRESSIONAL RECORD of September 26, 1973, which is commended for reading by all concerned with canal questions.

In the course of the current treaty negotiations over the status of the Canal Zone, I long ago noted that those charged with that task did not include anyone who had ever borne the burden of responsibility in an important position in the Canal Zone Government for the maintenance, operation, sanitation, or protection of the Canal. Thus, they have been persons without the lessons of experience and their work has reflected this lack to such a degree as to raise serious questions as to their qualifications for so vitally important work.

Both prior to and after the ill-advised meeting of the U.N. Security Council in Panama, March 15–21, 1973, I wrote the President requesting an appointment so that the facts rather than misrepresentations could be given him, but so far without success. Following the March 15–21 meeting in Panama I wrote the President inviting his attention to these facts: That the Canal Zone was acquired by treaty negotiated under congressional authorization, that the Congress has not authorized its disposal, and that the U.S. veto at the March 15–21 U.N. Security Council meeting was only a veto of immediate surrender and not eventual surrender of the Canal Zone to Panama. Attached to that letter was the 1973 memorial to the Congress of the Committee for Continued U.S. Control of the Panama Canal, which is one of the best yet brief summaries of the crucial canal problems ever written.

On June 11, I received a letter from Dr. Henry Kissinger, then assistant to the President for National Security, in which he promised to see that the views presented would be given full consideration. Dr. Kissinger is now the Secretary of State and with his active support, the move to dismember the U.S. Canal Zone seems to be underway. This development is in direct opposition to the views of many Members of the Congress of both major parties who feel that they have been ignored and has raised serious doubts as to the credibility of Dr. Kissinger and those associated with him on this matter.

In this connection, Mr. Speaker, I would invite attention to the fact that the present Government of Panama is not a constitutional one but a pro-Red revolutionary dictatorship set up as the result of a military coup on October 11, 1968.

In order that all Members of the Congress may read the indicated exchange of letters, I quote them along with the 1973 memorial of the Committee for Continued U.S. Control of the Panama Canal:

APRIL 30, 1973.

The PRESIDENT,
*The White House,*
*Washington.*

DEAR MR. PRESIDENT: In response to the White House letter of April 7, 1973, signed by Mr. Richard K. Cook, expressing your desire for an opportunity to discuss future Panama Canal policy with me, I shall welcome such an invitation.

As to other parts of that letter attention is respectfully invited to the following facts:

1. The Canal Zone was acquired under treaty as authorized by Act of Congress (Spooner Act of 1902).

2. The Congress has not authorized the disposal of this territory or any property thereon, all of which is owned by the United States.

3. Ambassador Scali at the March 15–21, 1973, United Nations Security Council meeting at Panama condoned the proposal for the eventual surrender of the Canal Zone to Panama; what he vetoed was only its immediate surrender, which was a matter of strategic timing rather than principle.

4. There is no more authority for negotiating such a surrender in a treaty with Panama than there is for negotiating a treaty with Mexico for rescission of the 1853 treaty for the Gadsden Purchase and return of that territory to Mexico.

Because much inaccurate and misleading information in what our Isthmian canal policy should be has been persistently published despite repeated exposure of fallacies, I enclose a 1973 Memorial to the Congress by a distinguished, independent and experienced group. Because it diametrically opposes official recommendations and probably has not been made available to you, I trust that you will take time to read it.

In addition, you should know that since appearing on *The Advocates* program of March 15, 1973, with Representative Philip M. Crane and Dr. Donald M. Dozer, I have been deluged with letters from 45 states and territories supporting our position by 25 to 1.

Again, I assure you that I shall welcome an opportunity to discuss the entire canal situation with you.

Sincerely yours,

DANIEL J. FLOOD,
*Member of Congress.*

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## PANAMA CANAL—SOVEREIGNTY AND MODERNIZATION, MEMORIAL TO THE CONGRESS, 1973

### COMMITTEE FOR CONTINUED U.S. CONTROL OF THE PANAMA CANAL

### *Sovereignty and modernization*

Honorable Members of the Congress of the United States:

The undersigned, who have studied various aspects of interoceanic canal history and problems, wish to express their views:

1) The report of the interoceanic canal inquiry, authorized under Public Law 88–609, headed by Robert B. Anderson, recommending construction of a new canal of so-called sea level design in the Republic of Panama, was submitted to the President on December 1, 1970. The proposed canal, *initially* estimated to cost $2,880,000,000 exclusive of the costs of right of way and inevitable indemnity to Panama, would be 10 miles West of the existing Canal. This recommendation, which hinges upon the surrender to Panama by the United States of all sovereign control over the U.S.-owned Canal Zone, has rendered the entire canal situation so acute and confused as to require rigorous clarification.

2) An important new angle developed in the course of the sea level inquiry is that of the Panama biota (fauna and flora), on which subject, a symposium of recognized scientists was held on March 4, 1971 at the Smithsonian Institution. That gathering was overwhelmingly opposed to any sea level project because of the biological dangers to marine life incident to the removal of the fresh water barrier between the Oceans, now provided by Gatun Lake, including in such dangers the infestation of the Caribbean Sea and Atlantic Ocean with the poisonous yellow-bellied Pacific sea snake and the crown of thorns starfish.

3) The construction by the United States of the Panama Canal (1904–1914) was the greatest industrial enterprise in history. Undertaken as a long-range commitment by the United States, in fulfillment of solemn treaty obligations (Hay-Pauncefote Treaty of 1901) as a "mandate for civilization" in an area notorious as the pest hole of the world and as a land of endemic revolution, endless intrigue and governmental instability (Flood, "Panama: Land of Endemic Revolution. . ." C.R., August 7, 1969), the task was accomplished in spite of physical and health conditions that seemed insuperable. Its subsequent efficient management and operation on terms of "entire equality" with tolls that are "just and equitable" have won the praise of the world, particularly countries that use the Canal.

4) Full sovereign rights, power and authority of the United States over the Canal Zone territory and Canal were acquired by treaty grant in perpetuity from Panama (Hay-Bunau-Varilla Treaty of 1903). In addition to the indemnity paid by the United States to Panama for the grant in perpetuity of the indispensibly necessary sovereignty and jurisdiction, all privately owned land and property in the Zone were purchased by the United States from individual owners; and Colombia, the sovereign of the Isthmus before Panama's independence, has recognized the title to the Panama Canal and Railroad as vested "entirely and absolutely" in the United States (Thomson-Urrutia Treaty of 1914–22). The cost of acquiring the Canal Zone, as of March 31, 1964, totalled $144,568,571, making it the most expensive territorial extension in the history of the United States. Because of the vast protective obligations of the United States, the perpetuity provisions in the 1903 Treaty assure that Panama will remain a free and independent country in perpetuity, for these provisions bind the United States as well as Panama.

5) The net total investment by the taxpayers of our country in the Panama Canal enterprise, including its defense, from 1904 through June 30, 1971, was $5,695,745,000; which, if converted into 1971 dollars, would be far greater. Except for the grant by Panama of full sovereign powers over the Zone territory, our Government would never have assumed the grave responsibilities involved in the construction of the Canal and its later operation, maintenance, sanitation, protection and defense.

6) In 1939, prior to the start of World War II, the Congress authorized, at a cost not to exceed $277,000,000, the construction of a third set of locks known as the Third Locks Project, then hailed as "the largest single current engineering work in the world." This Project was suspended in May 1942 because of more urgent war needs, and the total expenditures thereon were $76,357,405, mostly on lock site excavations at Gatun and Miraflores, which are still usable. Fortunately, no excavation was started at Pedro Miguel. The program for the enlargement of Gaillard Cut and correlated channel improvements, started in 1959, was completed in 1970 at a cost of $95,000,000. These two works together represent an expenditure of more than $171,000,000 toward the major modernization of the existing Panama Canal. Under current treaty provisions Panama has proclaimed that the word "maintenance" in the treaty permits "expansion and new construction" for the existing Canal (C.R., July 24, 1939).

7) As the result of canal operations in the crucial period of World War II, there was developed in the Panama Canal organization the first comprehensive proposal for the major operational improvement and increase of capacity of the Canal as derived from actual marine experience, known as the Terminal Lake—Third Locks Plan. This conception included provisions for the following:

(1) Elimination of the bottleneck Pedro Miguel Locks.

(2) Consolidation of all Pacific Locks South of Miraflores.

(3) Raising the Gatun Lake water level to its optimum height (about 92′)

(4) Construction of one set of larger locks.

(5) Creation at the Pacific end of the Canal of a summit-level terminal lake anchorage for use as a traffic reservoir to correspond with the layout at the Atlantic end, which would improve marine operations by eliminating lockage surges in Gaillard Cut, mitigate the effect of fog on Canal capacity, reduce transit time, diminish the number of accidents, and simplify the management of the Canal.

8) Competent, experienced engineers have officially reported that all "engineering considerations which are associated with the plan are favorable to it." Moreover, such a solution:

(1) Enables the maximum utilization of all work so far accomplished on the Panama Canal, including that on the suspended Third Locks Project.

(2) Avoids the danger of disastrous slides.

(3) Provides the best operational canal practicable of achievement with the certainty of success.

(4) Preserves and increases the existing economy of Panama.

(5) Avoids inevitable Panamanian demands for damages that would be involved in the proposed sea level project.

(6) Averts the danger of a potential biological catastrophe with international repercussions that recognized scientists fear might be caused by constructing a salt water channel between the Oceans.

(7) Can be constructed at "comparatively low cost" and being "an enlargement of existing facilities" without requiring additional "lands and waters" avoids the necessity for a new canal treaty with Panama.

9) All of these facts are elemental considerations from both U.S. national and international viewpoints and cannot be ignored, especially the diplomatic and treaty aspects. In connection with the latter, it should be noted that the original Third Locks Project, being only a modification of the existing Canal, and wholly within the Canal Zone, did not require a new treaty with Panama. Nor, as previously stated, would the Terminal Lake—Third Locks Plan require a new treaty. These are paramount factors in the overall equation.

10) In contrast, the persistently advocated and strenuously propagandized Sea-Level Project at Panama, initially estimated in 1970 to cost $2,880,000,000, exclusive of the costs of right of way and indemnity to Panama, has long been a "hardy perennial," according to former Governor Jay J. Morrow. It seems that no matter how often the impossibility of realizing any such proposal within practicable limits of cost and time is demonstrated, there will always be someone to argue for it; and this, despite the economic, engineering, operational, marine biological and navigational superiority of the Terminal Lake solution. Moreover, any sea-level project, whether in the U.S. Canal Zone territory or elsewhere, will require a new treaty or treaties with the countries involved in order to fix the specific conditions for its construction; and this would involve a huge indemnity and a greatly increased annuity that would have to be added to the cost of construction and reflected in tolls, or be wholly borne by the taxpayers of the United States.

11) Starting with the 1936–39 Treaty with Panama, there has been a sustained erosion of United States rights, power and authority on the Isthmus, culminating in the reopening in 1967 of negotiations for a proposed new canal treaty or treaties that would:

(1) Surrender United States sovereignty over the Canal Zone to Panama;

(2) Make that weak, technologically primitive and unstable country a senior partner in the management and defense of the Canal;

(3) Ultimately give to Panama not only the existing Canal, but also any new one constructed in Panama to replace it, all without any compensation whatever and all in derogation of Article IV, Section 3, Clause 2 of the U.S. Constitution. This Clause vests the power to dispose of territory and other property of the United States in the entire Congress (House and Senate) and not in the treaty-making power of our Government (President and Senate)—a Constitutional provision observed in the 1955 Treaty with Panama.

12) It is clear from the conduct of our Panama Canal policy over many years that policy-making elements within the Department of State, in direct violation of the indicated Constitutional provision, have been, and are yet, engaged in efforts which will have the effect of diluting or even repudiating entirely the sovereign rights, power and authority of the United States with respect to the Canal and of dissipating the vast investment of the United States in the Panama Canal project. Such actions would eventually and inevitably permit the domination of this strategic waterway by a potentially hostile power that now indirectly controls the Suez Canal. That Canal, under such domination, ceased to operate in 1967 with vast consequences of evil to world trade.

13) Extensive debates in the Congress over the past decade have clarified and narrowed the key canal issues to the following:

(1) Retention by the United States of its undiluted and indispensable sovereign rights, power and authority over the Canal Zone territory and Canal as provided by existing treaties;

(2) The major modernization of the existing Panama Canal as provided for in the Terminal Lake—Third Locks Plan.

Unfortunately, these efforts have been complicated by the agitation of Panamanian extremists, aided and abetted by irresponsible elements in the United States, aiming at ceding to Panama complete sovereignty over the Canal Zone and eventually, the ownership of the existing Canal and any future canal in the Zone or in Panama that might be built by the United States to replace it.

14) In the 1st Session of the 93rd Congress identical bills were introduced in both House and Senate to provide for the major increase of capacity and operational improvement of the existing Panama Canal by modifying the authorized Third Locks Project to embody the principles of the previously mentioned Terminal Lake solution, which competent authorities consider would supply the best operational canal practicable of achievement, and at least cost without treaty involvement.

15) Starting in January 1973, many Members of Congress sponsored resolutions expressing the sense of the House of Representatives that the United States should maintain and protect its sovereign rights and jurisdiction over the Panama Canal enterprise, including the Canal Zone, and not surrender any of its powers to any other nation or to any international organization in derogation of present treaty provisions.

16) The Panama Canal is a priceless asset of the United States, essential for interoceanic commerce and Hemispheric security. The recent efforts to wrest its control from the United States trace back to the 1917 Communist Revolution and conform to long range Soviet policy of gaining domination over key water routes as in Cuba, which flanks the Atlantic approach to the Panama Canal, and as was accomplished in the case of the Suez Canal, which the Soviet Union now wishes opened in connection with its naval buildup in the Eastern Mediterranean and Indian Ocean. Thus, the real issue at Panama, dramatized by the Communist take over of strategically located Cuba and Chile, is not United States control versus Panamanian but continued United States sovereignty versus Soviet control. This is the issue that should be debated in Congress, especially in the Senate. Panama is a small, weak country occupying a strategic geographical position that is the objective of predatory power, requiring the presence of the United States on the Isthmus in the interest of Hemispheric security and international order.

17) In view of all the foregoing, the undersigned urge prompt action as follows:

(1) Adoption by the House of Representatives of pending Canal Zone sovereignty resolutions and,

(2) Enactment by the Congress of pending measures for the major modernization of the existing Panama Canal.

To these ends, we respectfully urge that hearings be promptly held on the indicated measures and that Congressional policy thereon be determined for early prosecution of the vital work of modernizing the Panama Canal, now approaching saturation of capacity.

Dr. Karl Brandt, Palo Alto, Calif., Economist, Hoover Institute, Stanford, Former Chairman, President's Council of Economic Advisors.

Comdr. Homer Brett, Jr., Chevy Chase, Md., Former Intelligence Officer, Caribbean area.

Hon. Ellis O. Briggs, Hanover, N.H., U.S. Ambassador (retired) and Author.

Dr. John C. Briggs, Tampa, Fla., Professor of Biology, University of South Florida.

William B. Collier, Santa Barbara, Calif., Business Executive with Engineering and Naval Experience.

Lt. Gen. Pedro A. del Valle, Annapolis, Md., Intelligence Analyst, Former Commanding General, 1st Marine Div.

Herman H. Dinsmore, New York, N.Y., Former Associate Foreign Editor, New York Times, Editorialist.

Dr. Lev E. Dobriansky, Alexandria, Va., Professor of Economics, Georgetown Univ.

Dr. Donald Dozer, Santa Barbara, Calif., Historian, University of California, Santa Barbara, Authority on Latin America.

Lt. Gen. Ira C. Baker, Washington, D.C., Former Commander-in-Chief, Allied Air Forces, Mediterranean; Analyst and Commentator on National Security Questions.

K. V. Hoffman, Richmond, Va., Editor and Author.

Dr. Walter D. Jacobs, College Park, Md., Professor of Government and Politics, University of Maryland.

William R. Joyce, Jr., J.D., Washington, D.C., Lawyer.

Maj. Gen. Thomas A. Lane, McLean, Va., Engineer and Author.

Edwin J. B. Lewis, Washington, D.C., Professor of Accounting, George Washington University; Past President, Panama Canal Society of Washington, D.C.

Dr. Leonard B. Loeb, Berkeley, Calif., Professor of Physics (Emeritus), University of California.

William Loeb, Manchester, N.H., Publisher and Author.

Lt. Col. Matthew P. McKeon, Springfield, Va., Intelligence Analyst, Editor and Author.

Dr. Howard A. Meyerhoff, Tulsa, Okla., Consulting Geologist; Formerly Head of Department of Geology University of Pennsylvania.

Richard B. O'Keeffe, Fairfax, Va., Asst. Dir. of Library, George Mason University, Research Consultant on Panama Canal. The American Legion.

Capt. C. H. Schildhauer, Owings Mills, Md., Aviation Executive.

V. Adm. T. G. W. Settle, Washington, D.C., Former Commander, Amphibious Forces, Pacific.

Jon P. Speller, New York, N.Y., Author and Editor.

Harold Lord Varney, New York, N.Y., President, Committee on Pan American Policy, New York, Authority on Latin American Policy Editor.

Capt. Franz O. Willenbucher, Bethesda, Md., Lawyer and Executive.

Dr. Francis G. Wilson, Washington, D.C., Professor of Political Science (Emeritus) University of Illinois, Author and Editor.

Institutions are listed for identification purposes only.

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The White House,
*Washington, D.C., June 11, 1973.*

Dear Mr. Flood: Mr. Friedersdorf has passed on to me a copy of your letter of April 30, 1973, to the President and the attached 1973 Memorial to the Congress of the Committee for Continued U.S. Control of the Panama Canal. It is useful to have your views on this important subject and I will see that they are given full consideration.

Best regards,

Henry A. Kissinger.

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## ARKANSANS MAKE KNOWN THEIR VIEWS ON IMPEACHMENT, WATERGATE INVESTIGATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. Alexander) is recognized for 5 minutes.

Mr. ALEXANDER. Mr. Speaker, during my 5 years of service in the U.S. Congress, I have yet to witness an incident which has stirred the emotions of the people of Arkansas as much as the firing of Special Prosecutor Archibald Cox and Deputy Attorney General Ruckelshaus and the resignation of Attorney General Richardson. Never have I seen such an outpouring of public opinion as I observed after that Saturday night. All wanted me, as their elected Representative, to know of their support for, or opposition to, the President's actions.

On October 23, 1973, resolutions of impeachment began to be introduced in the House of Representatives which under the Constitution has the sole responsibility for impeachment.

On a matter of this magnitude and historical importance to the Nation, I wanted to know the feelings of the people in Arkansas. For this reason, the first week in November, I mailed a questionnaire to persons in my district who have previously exhibited interest in National affairs in order to determine just what these people were thinking; 11,112 questionnaires were sent to 5,556 homes in the 21 counties of the First Congressional District of Arkansas.

Additionally, I mailed a copy of the questionnaires to the 45 newspapers in the district requesting publication so that the opportunity for expression could be expanded. Approximately 10 newspapers voluntarily published the questionnaire, the results of which are also included below. I am deeply grateful to those editors for this cooperation.

I wish to share with my colleagues the result of this survey and a tally of my mail on this subject through December 31, 1973.

The results follow:

### Impeachment Survey Results

#### I. QUESTIONNAIRE (3,570 RESPONSES)

One of the most important subjects facing our Nation today is the attempt to impeach the President of the United States because of allegations of possible abuses of the powers of the office of the Presidency brought out by the Watergate investigations.

As you know, this question must be decided in the U.S. House of Representatives. In order that I may be better informed about your thoughts on this subject, I would appreciate your taking the time to answer the questions below. Your additional comments are welcomed.

1. Do you want to see the Watergate investigations continued?

Yes, 1,596 (44.71 percent); No, 1,820 (50.98 percent; No opinion 154 (4.31 percent).

2. Do you believe, as a result of Watergate, that in the best interest of the country President Nixon should:

a. Remain in Office. 1607 (45.01 percent).

b. Be censured by the Congress if evidence shows that he was involved in the Watergate cover-up. 582 (16.31 percent).

c. Resign. 469 (13.13 percent).

d. Be impeached if evidence shows that he was involved in the Watergate cover-up. 557 (15.61 percent).

cd. (A significant number of respondents checked both c (Resign) and d (Be impeached). Many of these indicated that they would first favor resignation, then impeachment if the President does not resign. For this reason, I have included a separate category (cd) compiling the results). 331 (9.27 percent).

e. No opinion. (.67 percent).

#### II. NEWSPAPER QUESTIONNAIRE RESULTS (401 RESPONSES)

1. Yes 159 (39.65 percent); No 226 (56.36 percent); No opinion 16 (3.99 percent).

2. a. 249 (62.09 percent).
b. 23 (5.73 percent).
c. 21 (5.23 percent).
d. 78 (19.45 percent).
cd. 27 (6.73 percent).
e. 4 (.77 percent).

#### III. CORRESPONDENCE (IN THE FORM OF LETTERS AND TELEGRAMS AFTER OCTOBER 20 THROUGH DECEMBER 31, 1973)

Total: 559.

In-District: Pro-Impeach 143 (69.08 percent).
Anti-Impeach 64 (30.92 percent).
State (Including First District):
Pro-Impeach 391 (69.94 percent).
Anti-Impeach 168 (30.06 percent).

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## DR. MARTIN LUTHER KING, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Mrs. Collins) is recognized for 10 minutes.

Mrs. COLLINS of Illinois. Mr. Speaker, my presentation today is simply to remind this 93d Congress that America and the rest of the world has lost one of its greatest warriors. Yes, my friends and colleagues, Dr. Martin Luther King, Jr., was indeed a warrior who fought for freedom as he walked and as he spoke. His battle was for peace, justice and for the equal treatment of all mankind. He waged war on ignorance, hatred, bigotry and all other forms of social injustice that has been so much a part of America's past. It pleases me to know that Dr. Martin Luther King's beliefs and convictions are felt in the hearts and minds of millions of people today, and that the impact of his wisdom and ability to lead the nonviolent fight for the rights of mankind will last for generations to come.

Dr. Martin Luther King's life was short, but he used it to bring about a major turning point in the struggles for peace and righteousness that has plagued America in her short, but troubled history. Dr. King believed in America, possibly more than America believed in itself. He stood as a symbol for the undying yearnings and imperishable rights for all Americans. He stood for equal laws and equal opportunity which is necessary if this country is to survive in the spirit that gave it its birth. Like our forefathers he too had a dream: that all men freely enjoy life, liberty, and the pursuit of happiness.

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## CONGRESS REPLIES TO THE PRESIDENT'S ENERGY MESSAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. O'Neill) is recognized.

Mr. O'NEILL. Mr. Speaker on Saturday, January 26, the majority whip responded on nationwide radio to the most recent energy mssage of the President. John McFall was chosen by the Speaker and by the Senate majority leader to make the response to the energy message on behalf of the entire Congress.

In his address, John pointed out that not until now has the administration been willing to join with the Congress in an affirmative attack on this energy problem. Last year, the initiatives were all on the part of the Congress while the administration supplied virtually no leadership on this matter.

But I agree with John that it is too late to fix blame. What we need is cooperation and action on the part of the President and the Congress here in Washington and the people all over the United States.

I insert the full text of Mr. McFall's remarks into the Record:

January 26, 1974.

### Statement of Congressman John J. McFall of California

As Majority Whip of the House, I am speaking to you, on behalf of the Congress, about the energy crisis and what your Congress is doing about it.

Last week, President Nixon spoke again on what his Administration hopes to do about the energy pinch. Today I want to round out that picture and tell you what Congress has already done and what its next steps will be and why.

Few problems have presented a greater challenge to the people of this nation and their Congress, because few matters affect so many of us so profoundly and so extensively. We are all affected by the energy crisis. We must all work together to deal with it, even if our part is nothing more dramatic than turning down a thermostat or driving at fifty-five miles an hour.

Throughout most of last year, the Administration appeared to prefer talk to action. We are gratified to note that the Administration is ready to join with the Congress in a creative and cooperative approach to this problem.

The objectives of our national energy policies must be these: 1) we must assure that our current supplies of energy are made available to all sectors of our economy; 2) we must encourage the development of new energy sources; 3) we must assure that there is no profiteering by one group at the expense of all the people caught up in this crisis; 4) we must assure that Americans' job security is not jeopardized by an energy shortage; 5) we must assure that there is equal sacrifice for all Americans; and 6) we must reduce our dependence upon foreign countries for our energy.

One important step toward these goals is an omnibus energy bill expected to come before the House and Senate for final passage next week. This Energy Emergency Act, as it is known, would give the President extraordinary powers to deal with this energy crisis. He would have the legal authority he needs to impose energy-saving measures. The bill would also provide for the conversion from oil to coal in power generators. It would make anti-pollution standards for cars less rigid. It would prohibit any company from making windfall profits out of this energy crisis. And finally the bill would require oil, gas and coal producers to supply detailed reports on the amounts of their reserves, their production and distribution.

In fact, many of the measures in the President's energy message last Wednesday are merely variations on the provisions already contained in the Energy Emergency Act drafted by the Congress, and we hope that he will support it.

The Administration and the oil companies delayed final consideration of this bill until now because they opposed some provisions—those dealing with lawsuits on windfall profits, disclosure of energy resources and congressional review of the President's actions.

The Energy Emergency Act would give us a solid statutory base from which to launch a comprehensive attack on the energy problem. The bill was drafted after extensive hearings in which energy experts gave the Congress the best available information on the nature of the crisis and the alternatives for dealing with it. The final version combines the best elements of the Senate bill developed under the leadership of Senator Henry Jackson and the House counterpart shaped by the Commerce Committee under Chairman Harley Staggers.

Energy matters dominated the work of the Congress last year. Twenty-eight committees in both Houses held more than 500 days of hearings on energy-related issues.

Among the most important new energy laws passed by Congress last year were the Alaska pipeline bill and the mandatory fuel allocation law. In April, the Congress gave the President stand-by authority to see that available fuels were allocated fairly among all service stations and distributors. As gas stations began to fail last summer and the Administration gave no sign of acting, the Congress passed over Administration opposition another law requiring mandatory allocation of fuel supplies.

Now that mandatory allocation is in effect, the Federal Energy Office is having difficulties adminstering it. In the western region, farmers and other priority users report that parent oil companies and local distributors are not observing fuel distribution rules. Hopefully, the performance of the Federal Energy Office will improve as the agency gains experience.

A number of other energy-related measures are now being considered in the current session of Congress.

On Monday Chairman Wilbur Mills and the House Ways and Means Committee will open hearings on a windfall profits tax and other tax proposals. Meanwhile, the Senate Finance Committee under the chairmanship of Senator Russell Long will be holding concurrent hearings on the same subject. We need to stop oil price gouging, to spur exploration and drilling at home and to keep prices down. We also need to be assured that all sectors of our economy are paying their fair share of taxes.

Even in the press of this energy emergency, we must never permit ourselves to lose sight of environmental and consumer considerations. Any easing of anti-pollution or other standards must be reasonable and necessary to deal with this emergency. We cannot permit those who oppose environmental regulations, consumer protection laws and our antitrust statutes to capitalize on this crisis.

Next week the House is scheduled to take up legislation to establish a Federal Energy Administration. This bill would give permanent statutory existence to the Federal Energy Office, now a temporary agency, and would concentrate in one federal organization the responsibility for dealing with our current energy problems.

A companion measure which would set up an Energy Research and Development Administration has already been passed by the House and now awaits Senate consideration. The ERDA bill would convert the Atomic Energy Commission, with all its resources and expertise, into an organization for research on all forms of energy.

Both bills, in their final form, are the product of the House Government Operations Committee under Chairman Chet Holifield. The Senate committee under Senator Jackson is considering its own version of ERDA which would provide for a multi-year program of research to be funded at $20 billion.

There are several other areas in which we can take effective energy action. Congress has already enacted a law providing $3 billion for mass transit construction. Very soon both Houses expect to give final approval to a bill providing operating subsidies for those systems. We hope that the President will now support this legislation.

Beyond mass transit, we need to formulate a national transportation policy, covering all forms of transportation, so that we know how to allocate fuels more effectively to this vital industry.

We will also want to consider more funds for the improvement of coal liquefication techniques which the Interior Department has been working on for the past twenty-five years. The Navy has tested coal liquid and could run half its entire fleet on such fuel if the process is further developed within the next decade. Coal liquefaction and gasification are areas where successful development would mean jobs and an abundant source of energy for factories where millions of Americans work.

Solar energy is a promising source of power to heat and cool our homes and offices, and legislation authorizing a demonstration project has been drafted. In preparation is another bill providing for research on geothermal energy—the natural heat lying deep within the earth.

A deepwater ports bill is taking final form and is expected to come up for House action next month.

Congress is encouraging the environmentally acceptable development of oil shale. Our reserves in shale are more than all known shale reserves anywhere else in the world.

We need accurate and complete disclosure of all the energy resources available to us: we need to know where the oil and gas and coal are located and who controls these deposits. Legislation has been introduced by House Majority Leader Thomas O'Neill and others to create a federally owned corporation to engage in the development, sale and discovery of oil and natural gas.

There has been no lack of Administration messages to the Congress on energy. Counting the most recent submittal, the President has sent Congress five messages on energy in the past nine months.

On April 18, 1973, the President announced that he would increase funding for energy research and development by twenty percent. However, the proposed increase was already contained in the fiscal 1974 budget which the President had announced three months earlier. At that time, Congress, industry and the utilities protested that it was far too little.

On June 29, the President announced that he would recommend an increase of $100 million in this year's energy research budget.

He also announced a $10-billion, five-year research and development program—the same one which was already under consideration by the Congress. Treasury Secretary Shultz and Interior Secretary Morton had earlier testified in opposition to it.

On October 11, the President spelled out details of the $100-million research program he had announced three and a half months before. Most of it consisted of existing federal programs which had been redefined to bring them under the heading of energy.

On November 7, the President told the nation that an energy crisis existed, and he asked the people to make voluntary sacrifices and savings of energy. His request to Congress for unspecified emergency powers led to the Energy Emergency Act which comes up for final consideration next week.

On January 23, the President submitted his fifth message with recommendations for so-called initiatives—many of which are already under consideration by the Congress. For example, the President proposes mandatory labeling of gasoline mileage on new cars and electricity-use on household appliances. Senator Tunney introduced such legislation several months ago and the Administration opposed it. The bill was passed anyway by the Senate and it now awaits House action.

Other actions taken by the Congress during this period include measures dealing with job loss and other economic consequences of the energy crisis. The cost of living rose eight-point-eight percent in 1973—the highest increase since 1947.

The danger now is that the energy crisis threatens to force increasing numbers of workers out of jobs while prices remain at record levels.

To provide assistance to displaced workers and the families they support, the Congress has included unemployment benefits in the Energy Emergency Act. In addition, Congress has authorized a continuation of the public services employment program.

The time has long passed where it does any good to assign blame for the current crisis. What is needed are responsible and realistic proposals that meet the problems. The American people have a right to know what we, their elected representatives, are doing for them, and how we are seeking to accomplish their desired goals. A person without a job is not interested in the political ramifications of the energy crisis. The American citizen is looking to keep his job. He wants to know how he is going to keep up his health insurance, how he can maintain his pension rights, whether or not he will have enough heat, oil and gas, and what kind of actions his government is going to take.

The Democratic Congress, with the support of many of its Republican colleagues, is providing many of the answers. But questions remain, and other programs have yet to be developed. The President is asking the have. And in return we in Congress expect cooperation of the Congress. This he shall that same cooperation from his Administration.

For it is only through such partnership that we can design the programs and pass the legislation and set the example for the American people. It will take all of us, working together, to resolve the energy problems of our nation.

## SOCIAL SECURITY RECORD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. CULVER) is recognized for 5 minutes.

Mr. CULVER. Mr. Speaker, the Nixon administration's hijacking of the credit for the recent 11-percent increase in social security benefits needs to be exposed for the duplicit half-truth it is. In signing the bill in his California White House, Mr. Nixon boasted that social security benefits have risen by 68.5 percent since this administration took office 5 years ago.

What this self-serving statement does not reveal is that the administration fought and hampered Congress on each of the four occasions that social security benefits were raised during these years.

Here is the record: In 1969, when Mr. Nixon proposed 7 percent, then reluctantly 10 percent, Congress voted 15 percent. In 1971, the administration proposed and lobbied for 6 percent. Congress voted 10 percent.

In 1972, the President proposed 5 percent, then 10 percent. Congress voted 20 percent. Then, recently, Mr. Nixon signed the latest two-step 11-percent increase, the first step of 7 percent to become effective in March, the second step in June. The President had pressured for no increase at all until July.

Nonetheless, the Nixon administration unblushingly takes credit for the full 68.5-percent rise in benefits accruing from these four increases voted by Congress.

It should be noted that Congress was on the job, taking care of an important segment of the "people's business"—the needs of the elderly and others dependent on social security in these times of soaring inflation. The administration was dragged along in the act, kicking and screaming, but now taking the credit. Little wonder "Operation Candor" died aborning.

An article by John Herling on the editorial page of the Washington Post of Saturday, January 26, 1974, spells out the facts in this matter. I include it to be printed in the RECORD at this point:

### SOCIAL SECURITY RECORD

(By John Herling)

President Nixon's technique in grabbing credit where credit is not his due was incredibly illustrated when he signed the latest legislation calling for an 11 per cent increase in Social Security benefits.

As he signed the bill in San Clemente, he spoke with pride of the fact that Social Security benefits "have risen by 68.5 per cent since this administration took office five years ago."

What he did not say was that he and his top associates dragged their feet and tried to slow down Congress from enacting an increase in Social Security on the four separate occasions that Social Security benefits were raised.

Seventy-two year old Nelson Cruikshank, the vigorous president of the 4,000,000-member National Council of Senior Citizens, scorched the "dismal record" of the Nixon administration in its first five years. Not only has Mr. Nixon resisted adequate improvements in the Social Security system but, says Mr. Cruikshank, "he lacks a realistic income strategy for old Americans." But the President's effort to block improvements in Social Security benefits was thwarted by the Democratic Congress which attached Social Security increases to veto-proof legislation.

Here is the record, starting with his first year in office:

In April 1969, Mr. Nixon proposed a 7 per cent increase in benefits. Organized labor and the National Council of Senior Citizens lobbied hard against the administration's proposal. Whereupon, in September of that year, the President relented and said he would go with 10 per cent. But Congress insisted on a more adequate figure and in December, Congress tacked on a 15 per cent increase to the tax reform bill. Thereupon, the President reluctantly bowed and signed the bill on Dec. 30.

In 1971, Nixon proposed a 6 per cent increase in Social Security benefits, but Congress—again by oblique action—stiff-armed the President. In March of that year, it passed a 10 per cent increase which was tied to the debt ceiling bill.

In June 1972, Congress again circumvented the President. At first, he favored a 5 per cent increase but later agreed to a 10 per cent boost. Labor and senior citizen organizations insisted on a higher figure—20 per cent. This became law when Congress again attached the increase to the debt ceiling law.

In that presidential year, the re-election of the President was the main order of business. Without a flicker of embarrassment, President Nixon took the credit for the increase he had opposed. Every Social Security payment contained the following notice:

"Your Social Security payment has been increased by 20 per cent with this month's check by a new statute passed by Congress and signed into law by President Nixon on July 1, 1972."

Finally, the other day, the President signed the latest Social Security bill for a two-step 11 per cent increase, the first increase of 7 per cent to be effective in March and the second in June. But Mr. Nixon wanted no increase at all until July.

Actually, if the President had his way in the last five years, the Nixon increases in Social Security benefits would have amounted, at best, to no more than 28 per cent instead of the 68.5 per cent to which he now points with pride.

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## ELIMINATE OIL COMPANY TAX BREAKS

(Mr. LONG of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LONG of Maryland. Mr. Speaker, I am today introducing a bill to end the tax giveaway which has made it more profitable for American oil companies to put their money into the Middle East and to neglect the development of U.S. oil production—thus contributing in a major way to the American dependence on foreign oil and our apparent shortages here at home.

Mr. Speaker, the tax credit for the so-called tax—really a royalty—that the oil companies pay to Arab States is invisible foreign aid that siphons tax money from the U.S. Treasury to the Arab nations. Over $1 billion—possibly $6 billion—cuts the U.S. tax rate of U.S. oil companies from 48 percent to 2 percent a year.

This drain to foreign countries has the effect of holding down domestic oil production from our huge oil reserves, of reducing the revenue that flows into the U.S. Treasury, thus putting a greater burden on the ordinary taxpayer, and of giving vast sums of invisible foreign aid to the Arabs, which they are already using to greatly step-up purchases of arms from Russia and Europe, making it necessary for the United States to give greater amounts of military and economic aid to Israel. The result could well light a fire in the Middle East that could ignite the world.

Mr. Speaker, let us move now to get American capital back to America—so that our gasoline and heating oil will not suddenly run dry and suddenly deprive us of fuel to run our factories or gas and oil to run our ships and planes in any sudden outbreak of war.

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## THE INDEPENDENCE OF TEXAS BANKERS AS TOLD BY PRESIDENT OF A INDEPENDENT BANKERS ASSOCIATION OF AMERICA

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, throughout my career, I have fought hard for the maintenance of a strong system of independent and locally owned banks.

In my own home State of Texas, the smaller independent banks have been very important to the progress of the State and I want to see this type of banking remain.

The banking situation in Texas has been outlined in detail by Fred T. Brooks, president of the Merchants State Bank of Dallas, in an article which appears in the next issue of the Texas Bankers Record. Mr. Brooks, in addition to his important accomplishments in the State of Texas is president of the Independent Bankers Association of America—the organization which represents the independent banks across the Nation.

Mr. Brooks' comments are important reading for anyone concerned about the future of independent banks. I place in the RECORD a copy of Mr. Brooks' article entitled "Independence—The Texas Way."

The article follows:

### INDEPENDENCE—THE TEXAS WAY

(By Fred T. Brooks)

Since when is "independent" a bad word in Texas?

Certainly, not since a tiny band of heroic Texans died for their freedom at the Alamo during the Texas War for Independence.

Certainly, not since Texas became an independent Republic prior to joining the United States.

Certainly, not since individual initiative generated by a system of independent, private enterprise made Texas a national leader in economic growth.

Yet today, a few expansion-minded bankers are attempting to undermine the spirit of independence that made Texas and America great. Their ravenous gobbling up of banks is systematically destroying one of the most vigorous banking systems in the nation.

From El Paso to the Gulf, and from the Panhandle to the Rio Grande, the people of Texas have more than 1,240 independent, competitive, community banks from which to choose—more than any other state. Competition—the great regulator and the best protection the consumer has—flourishes in Texas banking as it does no where else.

Contrary to the arguments of the expansionist bankers, the people of Texas have found unit banking to be one of their greatest assets. Texas grew up under the unit banking system and became the top state in industrial growth without the existence of multi-office banking. Texas ranks among the top five states in total bank deposits, with $36.3 billion. We are topped only by New York, Pennsylvania, California and another unit banking state—Illinois.

### HEALTHY MIX OF BIG AND SMALL

It should likewise be recognized that Texas has a healthy mix of big, little and medium-sized banks, a desirable kind of balance that few states can duplicate. One measure of a state's comparative standing in the number of large-sized banks is the American Banker index of the 300 largest U.S. commercial banks. Sixteen Texas banks are on this list. This number is exceeded only by New York, Pennsylvania and New Jersey. But Texas has an advantage over these Eastern states—branch banking has seriously eroded their systems of independent, community banks, but ours is still largely intact.

We have the best of both worlds, a situation which was recognized by such great Texas banking leaders as Nathan Adams, Fred Florence, R. L. Thornton and Judge Elkins, to name a few. These men were independent bankers, the kind of men who built Texas by marshalling ideas and visions, the men who were able to carry out such ideas and visions. They believed that the Texas economy was best served by a diffused banking system, with each of 1,240 independent banks in the state using its resources to service its local area.

### TWO-PRONGED ATTACK

Today's expansion-minded bankers offer a poor substitute for the fine banking system of Texas. They appear more interested in building their own multi-office empires than in giving the public the kind of banking system that serves people best. In only two years 20 multibank holding companies have captured 41 per cent of the deposits of Texas. Now, a move is underway to remove from the Texas constitution a prohibition on branch banking. This would take away from the people of Texas and give to the legislature the power to decide the type of banking system our state will have.

Combine the two devices of multibank holding companies and branch banking and you have the formula for destroying independent, community banking in Texas. Experience in state after state has shown that unit banking cannot long survive the economic and political power of giant multi-office banking systems.

### HOW OUR NEIGHBORS HAVE FARED

In Arizona, for example, statewide branch banking has caused an erosion in the number of banks until there are now only 16. While Texas has one bank for every 9,000 Texans, Arizona has only one bank for every 110,780 residents. Arizona, of course, has 382 branches, but these are not banks. They are without the power to make banking decisions independently of the absentee headquarters office. The people of Arizona really have only 16 banking decision-making centers from which to choose, while Texans have more than 1,240.

In a number of other states—North Carolina, Oregon and California, for example—statewide branch banking has diminished the number of banking decision centers and concentrated control of banking resources in a handful of giant banks operating many branches.

In Arizona, the five largest banks or bank groups control more than 95 per cent of the deposits in the state.

Such concentration is typical in every state that permits statewide branching. It is true to a somewhat lesser extent in states that permit branching on a limited scale.

Our neighbor to the immediate west, New Mexico, permits a bank to have branches within the county in which its head office is located and in adjoining counties. The concentration pattern can already be seen developing under this limited branching system—New Mexico, with 72 banks that operate 140 branches, has a bank-to-population ratio of 1 to 14,000, and its five largest banking organizations control 60 per cent of deposits.

But concentration is least in the states which do not permit branch banking. In Texas the five largest banking organizations control only 22 per cent of the total deposits. This is a healthy situation. No single bank or combination of banks has an inordinate amount of power in Texas. The same is true of our unit banking neighbors of Oklahoma and Arkansas.

Neither state permits branching. As a result Oklahomans have 440 banks from which to choose, and Arkansas consumers have 254. Deposit concentration in the five largest banks or bank groups in Oklahoma is about 31 per cent, and in Arkansas it is 22 per cent. The bank-to-population ratio in Oklahoma is 1 to 5,800, and in Arkansas, 1 to 7,570.

### OUTSTANDING GROWTH UNDER UNIT BANKING

Yet expansion-minded bankers in our state argue that Texas should permit branch banking to spur economic growth.

This is a spurious argument, at best. We know that Texas has enjoyed outstanding economic growth under the existing unit banking system.

Furthermore, it must be recognized that banks do not create wealth. Branch banking would not magically manufacture new deposits. It would merely redistribute existing deposits into fewer and larger banks, headquartered in the larger cities. This could cause a flow of capital out of the smaller communities of the state into the financial centers, or even out of state.

Proponents of bank expansion respond to this by saying that branch bank systems have higher loan limits than those of unit banks. This is really not a problem, because a country bank can turn for help to a correspondent bank.

Giant borrowers are almost always national corporations that do business with giant banks. Such borrowers would not as a matter of policy confine all their business to one bank or one city or even one state. No one has shown that a company has failed to locate in Texas, or that growth of business in this state has ever been stifled, because of our unit banking system. Our industrial progress proves that independent banking is a partner in economic progress.

When deposits become concentrated in a handful of giant banks, money becomes less available for people-type loans—for houses, small businesses, recreation vehicles.

Economist Jerome C. Darnell summed up the minimal effect of branching on economic growth when he wrote the following in a study published by the Federal Reserve Bank of Philadelphia: "If and when growth comes, it results mainly from other forces at work."

### UNIT BANKS ARE CONSUMER BANKS

It is the competitive nature of unit banking that makes this system the most advantageous from the consumer's point of view.

The independent, community bank is able to offer better service because the management of the bank frequently has his life's savings tied up in the organization. The manager of a bank branch or a subsidiary of a holding company usually has no investment in the bank. His job just represents another rung on the corporate ladder. If a man who owns his bank doesn't offer better banking services than the manager of a banking office controlled by a group of investors in a distant city, it is his own fault.

The president of an owner-operated, independent bank is personally involved with his customers. They are his friends and neighbors. Chances are, his money as well as theirs is invested in the bank. He is concerned with local needs, with building up the community because it's his community, too. And he doesn't have to consult a company policy manual or wait for final approval from some remote executive before granting a loan. It's his personal, on-the-spot decision, based on his knowledge of the customer and the problems involved.

Giant banks favor giant customers, particularly during periods of tight money. They compete with the giant banks in other cities and other regions for the loans and deposits of national business organizations. Community-owned banks primarily serve small depositors and small-to-medium-sized business firms.

In any branching state, shop the mortgage departments of a branch bank and an independent in the same area for a home loan. Then shop the same banks for a business loan for a small company starting out or expanding its operation. You will find that the average family, the average small business gets better service and better rates from the unit bank.

### BRANCHING MEANS HIGHER COSTS

Even supporters of branch banking have admitted such a system means higher costs. Branch offices with absentee ownership take more money to run than independent local units. Increased costs of maintaining more offices with more personnel and equipment lead to increased credit costs. Service charges in the branch banks of New York, for example, are commonly higher than unit banks in Chicago.

A large number of studies which have been done by the research departments of the various Federal Reserve Banks and others indicate that claims of greater efficiency in branch or holding company banks cannot be supported.

### THE PEOPLE HAVE NOT ASKED FOR BRANCHING

If there are no clear economic advantages to banking concentration, why is there pressure to allow such concentration? The people of Texas have certainly not asked for this change in our banking structure.

One answer is that the larger banks in Dallas and Houston would love branching. They would love to follow their customers to the suburbs, would love to get a piece of the action in the many flourishing cities and towns of Texas. If they are allowed to expand via branching, it will not bring an advantage to the consumer. The consumer will lose—lose because the larger bank must always put the interests of its larger customers first, lose because local control and ownership will be lost, lose because the personal touch will be lost.

### UNIT BANKS—THE INNOVATORS

Banking concentration also tends to be unfriendly to new ideas. In many places it is the small banks that have pioneered such things as charge-card banking, which were later adopted by the big banks. Small banks can afford to innovate. When a big system makes a change, it has to be made in all 42 or 200 offices, and management is understandably wary of making a king-sized mistake.

### ECONOMIC POWERS BECOMES POLITICAL POWER

Power tends to snowball. Studies have shown that in the process of banking concentration, a parallel concentration occurs in commerce and industry. Smaller businesses in Europe, for instance, have virtually disappeared, and the opportunity for new small enterprises has all but vanished.

Then, too, banking concentration is more than economic power. It goes hand in hand with political power—that is the nature of things. Do the people of Texas want to hand over that kind of power, with all its potential for abuse, to a handful of bankers? Would that be in the public interest?

### TEXAS: NO. 1 IN NUMBER OF BANKS

Texas is not underbanked. It has more banking institutions than any other state. Not one citizen of this state is without legitimate banking service. Branch banking would mean that the financial needs of the people of Texas would be made subservient to the credit demands of corporations headquartered around the country and overseas.

What would branching accomplish other than the swallowing up of existing banks?

Change in all things is inevitable. And there's nothing wrong with change when improvements result. But the unit banking system has been and is working effectively for the people of Texas. In the absence of any evidence of public benefit from branching, why change it? Indeed, in view of the real disadvantages and dangers of concentration, to invite branching is to invite disaster. The first step in this invitation to disaster would be the removal of the branch banking prohibition from the Texas Constitution.

### CAUSE FOR OPTIMISM

Despite the opposition we face from the very large, expansionist banks, Texas independent bankers are optimistic.

First, the people are becoming fed up with the economic dislocations that are occurring in many economic sectors because of concentration, most recently in the oil and food processing industries. One of our big jobs is to reach the public consciousness with the message that the Texas banking system is one of the few remaining bastions of diffusion and competition. The people of Texas are not asking for a more concentrated form of banking.

Second, independent banks are a growing force both in Texas and in the nation. Growth in membership in the Independent Bankers Association of America is a reflection of this increasing determination by independent banks to roll back the forces of banking concentration. The number of IBAA member banks in Texas has nearly doubled in the last 10 years—from 325 in 1964 to more than 600 today. Five years ago 421 Texas banks were IBAA members and just one year ago the number was 521.

A similar growth pattern has developed nationally. The IBAA today has 1,000 more banks than it did 10 years ago, growing from 6,243 member banks in 1964 to 7,240 banks today.

Just five years ago the IBAA had 6,607 members, and one year ago the total was 7,130 banks.

Texas and Illinois lead the nation in IBAA membership.

### IBAA HEADS FOR TEXAS IN MARCH

Third, an event will occur in Texas, March 21–23, which should have a further unifying effect on our independent banks. I refer to the 44th annual IBAA convention at the Fairmont Hotel in Dallas, which will bring together independent bankers from throughout the nation.

In addition to the opportunity which independent bankers will have to exchange ideas, the convention program will feature an outstanding array of nationally-known speakers. These will include Dr. Walter Heller, chairman of the Council of Economic Advisers under Presidents Kennedy and Johnson; consumer advocate Ralph Nader; Chairman Wright Patman of the House Banking and Currency Committee and Federal Reserve Governor Robert Holland. Also invited to speak was Texas Governor Dolph Briscoe.

We invite every Texas independent banker to participate in what promises to be one of the most exciting conventions in IBAA history.

### SOMETHING BASIC IN COMMON

It is most fitting for a national association of independent banks to gather in Texas. Texas was born out of a desire for independence, and in no state does the flame of independent banking burn more brightly today. The IBAA began because 28 independent bankers fiercely desired to retain their independence. Their determination has united 7,240 independent banks into a strong national organization. Texas and the IBAA thus have something very basic and very important in common.

Now we are in another fight for what we believe is best for Texas and our nation. That fight is for independence—still a sacred word in Texas and one that brings tears to the eyes of its citizens.

I know that leaders of multibank holding companies do not believe they are destroying one of the last strongholds of free enterprise, but in truth they are.

But they speak only for a few large organizations—the IBAA speaks for those 7,240 banks throughout the nation and the more than 600 banks in Texas that believe in that kind of banking system that serves people best—independent, community banking.

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## NATIONAL CANCER ACT EXTENSION

(Mr. ROGERS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. ROGERS. Mr. Speaker, I am, along with Chairman Staggers, Mr. Kyros, Mr. Preyer, Mr. Symington, Mr. Roy, Mr. Nelsen, Mr. Carter, Mr. Hastings, Mr. Heinz, and Mr. Hudnut, all members of the Subcommittee on Public Health and Environment, introducing legislation to extend the National Cancer Act of 1971. On the Senate side, Mr. Kennedy is introducing a companion bill.

Three years ago, we passed into law provisions which were intended to place a clear priority on finding answers to the most dreaded disease mankind has ever known.

Much has been done in this area since we provided tools for an accelerated effort. The Director's report on the overall efforts should be forthcoming within a month. But I would like to touch briefly on just a few of the accomplishments that the Cancer Act has given the people of this Nation.

First, cancer research and supporting activities have more than doubled under provisions of the National Cancer Act of 1971.

The law provided for the establishment of 15 comprehensive centers. At this time we have 12 in place and operating including 3 which were in existence before the law. By July 1974, at least six additional comprehensive centers will be underway. At that time, well over one-half the population should be close enough for a patient to visit a comprehensive cancer center for a consultation and return home the same day by surface transportation.

These centers, in addition to doing research which is vital to the overall effort, also provide treatment for victims, rehabilitation counseling, and outreach programs which are designed to bring to the area physicians the latest knowledge and techniques developed for the detection and treatment of patients.

The latter point is extremely important. For estimates now show us that nearly 110,000 Americans die each year from a form of cancer which is either curable or treatable. This means that if the knowledge we presently have were only disseminated to the general public and to physicians, we could radically reduce the death rate of cancer in the Nation. And the National Cancer Act is making good progress in accomplishing this.

In addition to the centers, seven major hospitals are involved in demonstration programs with practicing physicians and health workers.

Second, we have established, as called for in the law, a cancer control program. With the existing state of the art, we find that many cancers are curable or treatable if we can detect them at early stages. The control programs are designed to make sure that, for instance, women have Pap tests and breast examinations. The simple breast examination is one of the most effective devices we use against the cancer that kills more women than any other. This year, in conjunction with the American Cancer Society, more than 100,000 women will have examinations which could literally save their lives.

The National Cancer Institute, directly, and through grants and contracts, have initiated or expedited research projects in chemotherapy and immunology. The use of chemotherapy has already reaped benefits, and the concept that our own bodies can, with help, develop immunity, is a most promising area.

One of the less identifiable, but important area developments which has resulted from the Cancer Act is that institutions and individuals are communicating with each other. This leads to a reduction in efforts and an increase in the state of the art.

The extention legislation which we are today introducing basically makes minor changes to a law which most feel is a sound and effective one. Possibly the most obvious change is the elimination of the number of comprehensive centers. The law calls for 15. We now feel that this limitation on the number of centers should be released if the establishment of additional centers should come out of the basic appropriation to NCI.

It would now appear that we may need about 35 centers to form a geographic network which will insure that 75 percent of all Americans could be within reach of a comprehensive center by ground transportation for a visit and be able to return home the same day.

I would add that the amendments which we are recommending have also been recommended by the National Cancer Advisory Board. At this time, I would like to include in the Record a section-by-section analysis of the changes which we propose to make.

We have scheduled hearings on this legislation for February 5–6, and I would appreciate hearing from my colleagues on any phase of this legislation.

I would like to take this opportunity to commend the work that the Director of the National Cancer Institute, Dr. Frank Rauscher, has done and also congratulate Benno Schmidt for his leadership as Chairman of the President's panel.

The analysis follows:

### The National Cancer Act Amendments of 1974

### SECTION-BY-SECTION ANALYSIS

Section 2.—Amends section 402(b) of the Act to provide that only direct costs, and not indirect costs such as overhead, of research and training grant applications shall be considered in determining whether or not an application shall be exempt from review by the National Cancer Advisory Board.

Section 3.—Amends section 407(b)(7) of the Act to allow the Director of the National Cancer Institute more autonomy and flexibility in the use of training stipends, fellowships, and career awards.

Section 4.—Amends section 408(a) to delete any reference to a specific number of cancer research and demonstration centers. By July 1974, when the current law expires, all fifteen centers called for in the Act will have been established. This would allow the authority to continue and not be limited to the establishment of fifteen centers.

Section 5.—Amends section 409(b) to authorize appropriations of $50,000,000 for fiscal 1975, $65,000,000 for fiscal 1976, and $85,000,000 for cancer control programs in cooperation with State and other health agencies in the diagnosis, prevention, and treatment of cancer.

Section 6.—Amends section 401(l) of the Act to increase the number of experts and consultants assisting the members of the National Cancer Advisory Board from fifty to one hundred. Further amends section 410 of the Act to add a new paragraph authorizing the Director of the National Cancer Institute to award grants for construction, alteration, and renovation of basic research laboratory facilities, including those related to biohazard control. This provision is necessary in view of the need to create safe environments for researchers working with dangerous viruses.

Section 7.—Amends section 410(C) of the Act to authorize appropriations of $750,000,000 for fiscal year 1975, $830,000,000 for fiscal 1976, and $985,000,000 for fiscal 1977.

## PEACE—A HOPE

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, peace in the Middle East is a hope, not an actuality. Nevertheless, it is a strong hope. It also is the first time ever that both Arabs and Israelis have been willing to negotiate directly in the search for peace.

Actual accomplishments thus far have been minor and limited to Israel and Egypt. They include a cease-fire, the beginning of withdrawal of forces to agreed lines, and a willingness to reopen the Suez. But the pattern for conciliation has been established and other Arab nations are beginning to fall in line.

There remain the more knotty problems of an actual treaty of peace with new lines of separation which will provide buffer zones for Israel and which the Arabs can accept. There is the very difficult problem of Jerusalem, the control of which both sides demand. And there is the barely mentioned problem of Palestinian refugees, which may be the most difficult problem of all. These are the Palestinians who were dispossessed of their lands by the Israelis and whom the Arabs would not accept. They live in concentration camps where hate and bitterness are rampant and they provide most of the Arab terrorists.

But for the impressive start toward real peace in the area, America and the world—and especially the warring nations—can thank Henry Kissinger. The American Secretary of State has carried the load of peacemaker almost singlehandedly. He has shuttled from country to country carrying messages and needling concessions which both sides were too stubborn to do for themselves. He has made progress. The Russians have not helped. There is little to indicate that they really want peace. World peace is not part of their plan.

From these efforts there will be fallouts for America. The Arabs have long wanted to be our friends. They now are appreciative for the obvious effort of this country to be fair to all sides. Oil shipments will follow. So will trade, and there are many items the Arabs want to buy from us.

It will require months to complete the work for a lasting peace and there are still difficult days ahead. The important thing is that a meaningful effort is underway and this operation can be a very important step toward peace in our time for most of the world.

## AMERICANISM

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, I am very proud, indeed, to submit for reprinting in the Record the winning essay on Americanism in the competition for Air Force personnel attending the Aerospace Defense Command Leadership School at Tyndall Air Force Base, Fla. It was written by Sgt. Michael D. Fleury. My warmest congratulations are extended to Sergeant Fleury for a masterful work and to the Air Force for its sponsorship of such worthwhile programs.

The essay follows:

### AMERICANISM

(By Sgt. Michael D. Fleury)

Reflecting upon the word "Americanism," my mind is flooded with bits and pieces of my proud heritage.

America, the melting pot of all nations. The land where the weak are very strong, and all are free, all are proud.

America is the epitome of civilized man's efforts toward the perfect self-government.

America, a land in which every man regardless of race, creed, sex, or national origin can breath deeply and swell his chest with pride in the knowledge that he is a part of the greatest of nations. A land where all cast one vote, all decide where all are one and one is all. The land where all are brothers, united in the effort to maintain their freedoms.

Now and then, my wandering thoughts are caught up by my conscious and I stop to ponder, to marvel at my extreme good fortune, and I ask myself, "Why should I be the lucky one, why was I born an American?"

"I cannot find the answer. Certainly, I am no better than any other man on this earth. Yet I have so much more than millions upon millions of less fortunate, merely by being born in this time and in this great nation.

Since the day that I became aware of other nations and other peoples, that question has remained unanswered, as it will be long after my last breath.

Realizing this, and thanking God almighty, I walk tall, I salute gratefully and most proudly all who have passed these great gifts of freedom on to me.

And I bow my head in silent gratitude to all my forefathers who struggled so valiantly, suffered so bravely, and died so freely so that I, who have no right other than birth, could treasure and exercise the freedoms and liberties that I do.

I pledge my every waking moment to the defense and continuation of these precious pearls of wisdom. I will proudly pass them on to the next generation.

My prayer is one of utmost thankfulness. I also pray that I may be deserving of the oceans of tears, sweat, and blood that have been shed so that I could walk these meadows a free man.

I am but a grain of sand in a great desert, one among many. But I am strong and proud, healthy and educated.

I have more than many. I am an American.

## INVALID INCREASE IN AIR FARES: REQUEST FOR RESTITUTION

(Mr. McFALL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. McFALL. Mr. Speaker, on December 26, 1973, 23 of my colleagues and I joined Congressman John E. Moss in asking a Federal Court of Appeals to set aside a Civil Aeronautics Board order and grant relief to the traveling public for overcharges from airline fares previously held to be "unlawful" by the court. On July 9, 1970, the court held CAB Order 69–9–68 was invalid; the fares based on the order were held "unlawful"; and the case was remanded to the Board for further proceedings consistent with the court's opinion.

In a brief filed with the U.S. Court of Appeals for the District of Columbia, we said that the traveling public was equitably entitled to relief from these illegal fares and that the Civil Aeronautics Board had erroneously found these fares to be just and reasonable and not otherwise unlawful because it had not taken into consideration ratemaking standards similar to those it had established in the "Domestic Passenger Fare Investigation," docket 21866. We pointed out to the court that C.A.B. 73–7–39 reflects acceptance of capacity standards some 33 percent less stringent than what the Board has declared to be reasonable in the "Domestic Passenger Fare Investigation"; a 55 percent load factor and zero dilution rate, or an effective 55 percent normal fare load factor standard in the "Domestic Passenger Fare Investigation," on the one hand, versus a 48.9 percent actual load factor and approximately a 16 percent dilution rate, or an effective 41.1 percent normal fare load factor in Order 73–7–39. This means that the Board has found airline fares some 33 percent greater than its own definition of adequate and efficient service would have required, to be "not unjust or unreasonable."

Our brief of December 26, 1973, asks the court for relief from these overcharges in the form of either restitution to members of the public who were called upon to pay the illegal October 1969 fares, or by the establishment of a fund or reserve against which future fare increases can be charged. Specifically, we ask the court to grant relief of at least $213,519,000, the full amount we have demonstrated carrier revenues were in excess of what just and reasonable fares would have produced during the period in question or, in the alternative, $5,553,765, which represents a ratio of the carriers' revenue attributable to October 1969 fare increase to total carrier revenues of the year ending September 30, 1970, applied to the carriers' net operating profit for the year ended September 30, 1970.

The brief and supporting material which we filed follows. The names of the Members of Congress who filed this brief are listed in the document.

[In The UNITED STATES COURT OF APPEALS For The District of Columbia Circuit, No. 73–1772]

John E. Moss, et al., Petitioners,

v.

Civil Aeronautics Board, Respondent.

### Petition for Review of Order 73–7–39 of the Civil Aeronautics Board

#### BRIEF FOR PETITIONERS—ISSUE PRESENTED*

This case presents the issue whether the traveling public is entitled to restitution or other appropriate relief by reason of the unlawful domestic passenger airlines fares which went into effect on October 1, 1969 and remained in effect for more than a year thereafter.

#### REFERENCES TO PARTIES AND RULINGS

The parties to this case are Petitioners John E. Moss, Glenn M. Anderson, Thomas L. Ashley, George E. Brown, Jr., Phillip Burton, James C. Corman, John D. Dingell, Don Edwards, Richard T. Hanna, Augustus F. Hawkins, Chet Holifield, Harold T. Johnson, Robert L. Leggett, John McFall, Spark M. Matsunaga, Joseph G. Minish, Patsy T. Mink, Jerry L. Pettis, Thomas L. Rees, Peter W. Rodino, Jr., Edward R. Roybal, Bernie Sisk, Charles M. Teague, Lionel Van Deerlin, and Jerome R. Waldie; and the respondent Civil Aeronautics Board. Sixteen airline carriers and Keith Roberts have been granted leave to intervene.

The ruling under review is Order 73–7–39 of the Civil Aeronautics Board, issued on July 11, 1973.

#### STATEMENT OF THE CASE

##### *Introduction*

This is the sequel to *Moss* v. *C.A.B.*, 139 U.S. App. D.C. 150, 430 F. 2d 891 (hereinafter "*Moss I*"), decided by this Court on July 9, 1970. The case originated in a challenge upon Civil Aeronautics Board Order 69–9–68, issued on September 12, 1969, by which the Board, in cooperation with the regulated industry, promulgated a new formula for calculating domestic passenger airline fares and announced that it would permit tariffs based on that formula to go into effect as of October 1, 1969. The carriers all filed such tariffs, resulting in a 6.35 percent nationwide, industrywide fare increase. *Moss I* concluded that Order 69–9–68 had "determined" airline rates within the meaning of the Federal Aviation Act, 49 U.S.C. §§ 1301 *et seq.*[1] and that the Board had failed to abide by the statutory requirements for ratemaking. Order 69–9–68 was held invalid; the fares based on the order were held "unlawful"; and the case was remanded to the Board for further proceedings consistent with the Court's opinion.

#### STATEMENT OF FACTS

Three kinds of "further proceedings" have ensued: (a) the *Domestic Passenger-Fare Investigation* (hereinafter the "*DPFI*"), an extensive examination of various aspects of airline ratemaking; (b) the effort to re-establish lawful fares to replace those declared unlawful by *Moss I;* and (c) a proceeding instituted by the Board upon a supplemental complaint filed by petitioners, for the purpose of determining what relief should be granted the traveling public by reason of the unlawful fares that prevailed after October 1, 1969. This last proceeding lies at the heart of the present controversy, but all three types of "further proceedings" bear on the case. The record is, therefore, both voluminous and complex, and this Statement will describe only those portions which are of prime significance. Further details are discussed in the Argument, and a chronological summary of developments is set out in Addendum B attached to this brief.

##### *I. The DPFI*

On April 21, 1969, petitioners requested that the Board institute "a general rate proceeding to investigate the structure and construction of air passenger fares" in order to develop the background necessary for setting fares and evaluating carrier fare proposals. The Board had never in its history adopted guidelines interpreting the "rule of ratemaking" set forth in section 1002(e) of the Act. While standards for carrier rate of return had been established, the agency had shown no comparable interest in measuring carrier costs. Fares had always been considered in light of the carriers' experienced and projected costs—with no inquiry into the reasonableness of these cost figures or whether they complied with the statutory requirements of adequate, efficient, and low-cost service. Rates had been made on a "cost-plus" basis by simply adding a return element to the carriers' cost projections.

Because the carriers compete for passengers and because price competition is virtually unknown to the industry, the carriers have historically engaged in intense "cost competition," vying with each other through increases in capacity, amenities, advertising, and other costs. The combination of cost competition and cost-plus ratemaking makes it virtually impossible for the carriers to earn the return that the Board regards as reasonable or for fares to decrease. Higher fares lead to intensified competition through higher and higher costs which, in turn, generate pressure for still higher fares. Petitioners requested a general rate investigation and the establishment of cost-oriented ratemaking guidelines which would break into this cycle by providing incentives for more efficient, lower-cost service.[2]

Petitioners' request for a general rate investigation was left pending when the Board issued Order 69–9–68 in September 1969. On January 9, 1970, this Court deferred action on petitioners' motion for interlocutory relief against the October 1969 fare increase "to permit respondent to consider and to act upon petitioners' complaint now pending before it." And on January 29, 1970, the Board issued Order 70–1–47, instituting the *DPFI*. The investigation was divided into ten separate "phases," covering aircraft depreciation, treatment of deferred federal income taxes, treatment of leased aircraft, joint fares, discount fares, seating configurations, load factors, fare level, rate of return, and fare structure.[3] Final decisions have been rendered in all of these phases except that dealing with fare structure. As described more specifically hereinafter, the *DPFI* has amply confirmed the view that cost guidelines are necessary for proper airline ratemaking under the statute and that rates made in the absence of such guidelines are irrational and excessive.

##### *II. Resetting of fares for the future*

The decision in *Moss I* on July 9, 1970 placed the status of the then prevailing fares in doubt.[4] A remand to the Board was necessary to permit the agency to achieve "a resetting of fares . . . for the future." *Democratic Central Committee of the District of Columbia* v. *W.M.A.T.C.*, No. 21,865, June 28, 1973 (slip opin., pp. 75–76).

In a filing dated July 24, 1970, petitioners urged the Board to hold public hearings and reset lawful fares consistent with the statute and subject to judicial review. Petitioners argued that the Board bore a large measure of responsibility for the errors noted in *Moss I* and that it should undertake to correct those errors itself. Petitioners suggested that, pending the resetting of lawful fares, the Board should summarily reestablish the lower fares that were in effect prior to October 1, 1969; those fares had never been challenged and could thus be presumed lawful.

Instead the Board elected to continue the prevailing unlawful fares. On July 28, 1970, it issued Order 70–7–128, calling for new tariff proposals from the carriers. It announced that these proposals should be constructed without reference to the formula set forth in Order 69–9–68, and should become effective on October 15, 1970. In the meantime, the fares declared unlawful in *Moss I* would remain in effect. On July 29, 1970, the Board moved this Court to stay its mandate in *Moss I* for a period of 90 days in order to provide time for the establishment of new fares in this manner. Petitioners opposed the requested stay of mandate, contending that the prevailing fares were even more objectionable than those originally brought to the Court's attention,[5] and that the carrier filings contemplated by Order 70–7–128 could not achieve a resetting of lawful fares.

On July 30, 1970, this Court granted the stay requested by the Board. The carriers proceeded to submit new tariff filings, most of which were based directly on the formula set forth in Order 69–9–68. And on September 24, 1970, by Order 70–9–123, the Board permitted fares identical to those prevailing on July 9, 1970 to remain in effect indefinitely. The agency accomplished this by suspending all other proposed tariffs on the ground that they "may be . . . unlawful" and permitting all carriers to file new tariffs embodying the prevailing fares.

On October 7, 1970, petitioners asked the Court to grant a further stay of its *Moss I* mandate as an expression of disapproval of the Board's method of "resetting" lawful fares. This request was denied on October 27, 1970.

Except for increases in first-class and discount fares, domestic passenger fares remained essentially unchanged until Board Orders 71–4–59/60, on April 9, 1971. The first of these orders held on a tentative basis that the carriers were entitled to fares at a maximum level 9 percent above the existing fares.[6] Board Order 71–4–60 held that, in the interim before Order 71–4–59 became final, the carriers were entitled to fares at a maximum level 6 percent above existing fares.

Petitioners sought reconsideration of Orders 71–4–59/60, contending that the Board had again accepted important elements of the carriers' cost projections at face value, without scrutiny for reasonableness. However, new fares based on Order 71–4–59/60 went into effect on May 7, 1971. In Order 71–6–138, dated June 28, 1971, the Board denied petitioners' request for reconsideration.[7]

Petitioners are dismayed that the Board has continued to regard fare increases as the panacea for all problems encountered by the airline industry. The agency's pliant acceptance of the carriers' preference for high-cost, high-fare service does not appear consistent with either the letter or the spirit of the Federal Aviation Act. The situation is analogous to that described in *Democratic Central Committee of the District of Columbia* v. *W.M.A.T.C.*, No. 24,938, June 28, 1973, where the Court referred to the agency's "erroneous postulate" that "it was compelled—no matter to what level it must raise the fares, how substantial the fall in ridership, and how financially sick [the carrier] might be—to set the fares so that [the carrier] could always earn a profit." (slip opin., p. 51) Indeed, because of the wasteful cost competition in which the carriers are engaged, the Board's ratemaking approach appears even more misguided than the one involved in the *Democratic Central Committee* case. The combination of such competition and cost-plus ratemaking works at direct counterpurposes with *both* the goal of producing adequate profits for the carriers *and* that of achieving low fares for the public.

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*Footnotes at end of article.

However, petitioners have lacked the resources to pursue each of the Board's decisions through the available channels of judicial review. It is clear that Order 71-4-59, on April 9, 1971, constituted agency ratemaking subject to such review. Since that order was not challenged, and since it is now beyond review, the fares fixed therein must be presumed lawful. Petitioners therefore concede that a "resetting" of lawful fares was achieved when these fares went into effect on May 7, 1971 and that the charging of unlawful fares based on Order 69-9-68 finally came to an end at that time. This case therefore involves fares that were in effect from October 1, 1969 through May 6, 1971.

### *III. Proceeding to determine relief for the public from the October 1969 fares*

For present purposes the most important "further proceedings" following Moss I are those concerning relief from the unlawful fares charged by the carriers for more than a year. The issue here, in the words of *Democratic Central Committee of the District of Columbia* v. *W.M.A.T.C.*, No. 21,865, June 28, 1973, is "remediation of the consequences wrought by the order while it was actually operative." (slip opin., p. 76)

On July 24, 1970, petitioners asked the Board to institute a proceeding to determine relief for the period from October 1, 1969 through the date on which lawful fares would be re-established. Petitioners suggested that the proceeding deal with: (a) calculation of the sum exacted from the public by reason of the unlawful fares; and (b) determination of the proper disposition of this sum. This Court's orders of July 30, 1970, and Ober 30, 27, 1970, relating to the mandate in *Moss I*, both took notice of petitioners' request for a relief proceeding.[8] On September 15, 1970, by Order 70-9-73, the Board called for briefs from the parties on various questions pertal taining to the proceeding. And on February 25, 1971, by Order 71-2-109, a relief proceeding was instituted.

Order 71-2-109 [9] defined the scope of the proceeding as follows:

A. The proceeding would serve "to clear the air concerning the fares in effect from October 1, 1969 through October 14, 1970" (p. 5) and to assist in resolution of several class actions brought against the carriers following *Moss I*;[10]

B. The issue to be resolved would be whether the fares in question "were unjust and unreasonable, and if so, the amount of any overcharges that resulted for the period in question" (p. 3);

C. The questions whether the Board has power to grant relief, and the form that appropriate relief might take, would be deferred "until such time as the factual issue of reasonableness is ready for decision" (p. 3);

D. The proceeding would concern only "the reasonableness of the general level of fares which took effect on October 1, 1969," "the returns to the carriers which they produced," and "their conformance as a whole to the standards of Sections 1002(e) and 102 of the Act." (p. 3, n.5)

In a request for reconsideration dated March 8, 1971, petitioners urged the Board to take specific steps to ensure the fairness of the adversary proceeding it was instituting. The proceeding, involving fares unlawfully set by the agency in cooperation with the carriers, was unique in the Board's history. Petitioners had argued against those fares and for relief for the public since mid-1969. Elemental fairness dictated that the public's position be fully and fairly represented in the forthcoming proceeding, and this was not the normal case in which such representation should be entrusted to the Board.

For these reasons petitioners requested a relief proceeding "which puts as little burden on them as possible and places the burden to the maximum extent elsewhere." Specifically, they urged the Board to provide, or to order the carriers to provide, for reimbursement of the costs which they might reasonably incur in the proceeding, such as travel expenses, fees for experts and other witnesses, and legal fees. In addition, petitioners asked the Board to make available such further assistance, including assistance from its Bureau of Economics, as petitioners might reasonably find necessary.

By Order 71-5-65, dated May 13, 1971, the Board rejected these requests for assistance. One week later, trial examiner Ross I. Newmann ordered preliminary submissions from the parties dealing with the issues presented, the information and evidence needed, and proposed procedural dates. A Prehearing Conference was set for July 29, 1971.

Petitioners' pretrial submission, on July 20, 1971, contained a detailed statement of the issues presented, including specific requests that the proceeding cover the "basis [on which] the Board . . . [made] its determination as to the reasonableness of fares in Order 69-9-68" and the question whether the fare structure embodied in those fares was consistent with the Federal Aviation Act. Petitioners also sought detailed data on carrier costs, revenues, and traffic, both on a systemwide basis and with respect to representative city pairs; and information regarding *ex parte* contacts between carrier employees or agents and the Board or its employees relating to either the fares under investigation or the relief proceeding itself.[11]

On August 7, 1971 Examiner Newmann issued a Prehearing Conference Report rejecting most of petitioners' requests. Information about *ex parte* contacts, representative city pairs, and cost and revenue data computed on an hourly basis was all denied. Petitioners excepted to the Prehearing Conference Report, arguing that the information they had requested was needed for a thorough investigation of the October 1969 fares.[12] On September 3, 1971, Examiner Newman issued a Supplemental Prehearing Conference Report, rejecting all of petitioners' contentions.

On December 3, 1971, petitioners submitted the testimony of Richard W. Klabzuba as their direct Exhibit MOC-T-1 (App. —). Mr. Klabzuba had previously testified before the Board on two occasions and had authored a number of published papers dealing with airline earnings, costs, and other matters pertinent to the industry. He had attempted to determine what overcharges, if any, had been produced by the October 1969 fares, but had been hindered by the inadequacy of the data made available by the carriers. Mr. Klabzuba suggested, however, that the issue of overcharges should be determined by using specific guidelines to determine a reasonable level and structure of service during the period under investigation; the amount of revenue needed to produce that level and structure of service; and the amount of actual carrier revenues, if any, in excess of this need.

On January 21, 1972, petitioners submitted Exhibit MOC-T-2 (App. —), rebuttal testimony of Mr. Klabzuba, developing the points made in his direct testimony. Mr. Klabzuba noted that all the carriers had simply asserted that the costs they had incurred were reasonable, argued that they had not earned an adequate return on investment, and concluded that the fares in question did not produce overcharges. Mr. Klabzuba expressed the view that the public had been called upon to pay fares in excess of those needed to finance adequate and efficient service, and the carriers' presentation did not refute this point. He thought a proper hearing in September of 1969 would have revealed that a fare increase was unwarranted.

Hearings were held before Examiner Newmann from February 22, 1972 through March 1, 1972. Extensive testimony was taken both from carrier witnesses and from Mr. Klabzuba, the only witness to testify for petitioners. In the course of the hearings, petitioners submitted Exhibit MOC-1 (App. —), a chart reflecting various estimates of the overcharges produced by the October 1969 fares, depending upon the level and structure of service deemed reasonable. Pursuant to a request from the Board's Bureau of Economics, petitioners subsequently submitted Exhibit MOC-2, a computation supporting the estimates shown on Exhibit MOC-1.

The Bureau of Economics was not helpful to petitioners. It declined even to take a position during the hearings before Examiner Newmann,[13] and claimed to represent every one of the adverse parties involved.[14] Eventually, on brief, it releaved itself as yet another voice supporting the carriers.

On May 1, 1972, petitioners filed a brief with Examiner Newmann contending that the October 1969 fares had produced overcharges equal to their revenue effect, approximately $265,000,000. In addition, petitioners argued that the carriers had failed to show that the fares in question were just and reasonable within the meaning of the Federal Aviation Act, that the relief proceeding had actually revealed the fares to be unjust and unreasonable, and that the fares had produced at least $250,000,000 in revenues in excess of a just and reasonable amount.

Examiner Newmann's Initial Decision, rendered on July 3, 1972 (App. ——),[15] focused upon "the financial situation of the airlines," with particular emphasis on "low profitability," (I.D. pp. 17-18, App. ——). The Examiner held that "the issue of whether the fares charged . . . were reasonable can be resolved by examining the actual operating results experienced by the industry' and that "the best overall index of the reasonableness of the general level of passenger fares here under investigation is return on investment." (I.D., p. 20 App. ——) Examiner Newmann concluded that the carriers had not earned a reasonable return during the period under investigation. The specific guidelines proposed by petitioners to determine a reasonable level and structure of service were summarily rejected, as were their objections to the discriminatory features of the fare structure and to the unfairness of the relief proceeding.[16] The fares in question were adjudged not unjust and unreasonable.

Board review of Examiner Newmann's decision was granted by Order 72-9-23, dated September 7, 1972. In their brief to the agency, filed on October 6, 1972, petitioners argued that *Moss I* justified relief for the public of its own force, regardless of whether the October 1969 fares could be rationalized, long after their making, as not unjust and reasonable. *Moss I* had laid bare a serious and intentional violation of the Federal Aviation Act, and the Examiner's denial of all relief on the basis of the carriers' earnings was highly inappropriate. In addition, petitioners contended that the justness and reasonableness of the fares in question had not been shown. It was clearly improper to hinge decision on "actual operating results experienced by the industry" (I.D., p. 20, App. ——), since this approach might produce a finding of no overcharges even if carrier costs were blatantly unreasonable. If "justness and reasonableness" of the October 1969 fares was to be tested, it was necessary to apply *all* the standards of sections 1002(e) and 102 of the Act, including standards requiring efficiency and low-cost service, without discrimination. When reasonable standards were applied, it became clear that substantial overcharges had been exacted from the public.[17]

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Footnotes at end of article.

Oral argument was held before the Board on November 15, 1972. On July 11, 1973, the Board issued Order 73–7–39 (App. ——),[18] upholding Examiner Newmann, finding the fares in question not unjust and unreasonable, and dismissing petitioners' complaint for relief. The Examiner's findings and conclusions were generally adopted. The Board held that *Moss I* rested on mere "procedural error" (73–7–39, p. 4, n.8, App. ——), and found that it would be "inequitable to require that any amounts collected under the tariffs should be refunded unless it is found that the fares were unjust and unreasonable." (73–7–39, p. 9, App. ——). It concluded that "the best overall index of the reasonableness of the general level of fares is return on investment." (73–7–39, p. 27, App. ——). Issues regarding the discriminatory features of the October 1969 fares, the Board's power to award relief, and the appropriate form of relief were not reached.[19]

On July 16, 1973, petitioners filed a petition in this Court for review of Order 73–7–39. Various motions to intervene have been granted, and the case has been consolidated with *Roberts* v. *C.A.B.*, No. 73–1790, by order dated October 17, 1973.

## ARGUMENT

### *I. Introduction*

*Moss I* struck down a ratemaking system which the Board and carriers had followed for years. That system involved private discussions between Board personnel and industry representatives; fare proposals by the carriers based on these private discussions; a response from the agency commenting upon the carrier filings and, if necessary, suggesting alternatives; withdrawal by the carriers of their initial proposals and the substitution of new tariffs conforming to the Board's specifications; and Board permission for the new tariffs to go into effect. Because all tariff proposals involved in this system were nominally initiated by carriers, only very limited judicial review was available under section 1006 of the Federal Aviation Act. The notice and hearing requirements of section 1002(d) and the various ratemaking factors specified in section 1002(e) could effectively be ignored.

Focusing on Board Order 69–6–68 and the substantial fare increase which it contemplated, petitioners challenged this entire system. They argued that the increase had been granted in violation of sections 1002(d) and 1002(e), that it was not justified under the statute, and that the fare structure determined in Order 69–6–68 was discriminatory and unjust. Petitioners sought suspension of the tariffs filed pursuant to Order 69–6–68 and refunds or other appropriate relief for the traveling public.

The Board admitted that it had approved the October 1969 fare increase "without complying with the statutory procedural requirements and criteria for rate-making by the Board." 139 U.S. App. D.C. at 152, 430 F.2d at 893. Its contention was that "it was not required to adhere to the standards of subsections (d) and (e) because . . . it was not determining rates. . . ." 139 U.S. App. D.C. at 154, F.2d at 895.

In *Moss I*, the Court rejected this contention. It held that "the procedure used by the Board is contrary to the statutory rate-making plan in that it fences the public out of the rate-making process and tends to frustrate judicial review." 139 U.S. App. D.C. at 152, 430 F.2d at 893. It found that the rates in question had been "determined by the Board, with the cooperation of the carriers, to be 'a maximum reasonable rate for the future.'" 139 U.S. App. D.C. at 155, 430 F.2d at 896. It stated: "we cannot help but conclude that the Board is only seeking to avoid the strict requirements of the rate-making portion of the statute and the resulting more stringent judicial review." 139 U.S. App. D.C. at 159, 430 F.2d at 900.

Noting that "there is more to rate-making than providing carriers with sufficient revenue to meet their obligations to their creditors and to their stockholders," the Court rejected "any intimation by the Board that its responsibilities to the carriers are more important than its responsibilities to the public." 139 U.S. App. D.C. at 160, 161, 430 F.2d at 901, 902. *Moss I* concluded: "Since the record shows, as the Board admits, that the public notice and hearing requirements of section 1002(d) were not observed in issuing the order of September 12, that order is invalid and the tariffs filed by the carriers based thereon are unlawful." 139 U.S. App. D.C. at 161, 430 F.2d at 902. The case was remanded to the Board for further proceedings.

The Board, through its "further proceedings," has attempted to negate the practical effect of *Moss I*. The agency has decided that (a) the illegality found by the Court could be rectified for the future by new carrier tariffs identical to those declared unlawful, as long as the Board order calling for such tariffs did not set forth explicit instructions for their preparation; and (b) the illegality could be rectified for the past by simply finding that the October 1969 fares did not produce unreasonable carrier earnings. Under the Board's approach, *Moss I* will have had no practical consequences on airline fares either for the future or for the past, and its only effect will have been minor and cosmetic modifications of Board procedures.[20]

Petitioners contend that meaningful relief should be awarded the public by reason of the illegal October 1969 fare increase. As discussed more fully below, that increase produced additional revenue for the carriers in the amount of $265,913,000. It produced revenues that exceeded a just and reasonable level by approximately the same amount. Restitution or similar relief is required by the controlling precedents, and such relief is essential to discourage re-adoption of the ratemaking system struck down in *Moss I* or similar circumventions of the statute. This Court has the power to grant appropriate relief, and petitioners urge it to do so.

### *II. Legal and equitable considerations support relief regardless of justness and reasonableness*

Board Order 73–7–39 declares that it would be "inequitable" to require the carriers to make restitution, "absent a finding that the fares were unjust and unreasonable." (p. 7) But the normal rule when a tariff is found unlawful is that "the last lawful pre-existing rates are the effective rates to be applied by a court in considerating restitution . . ." *Middlewest Motor Freight Bureau* v. *United States*, 433 F.2d 212, 224 (C.A. 8, 1970); *Chicago M., St. P. & P.R. Co.* v. *Alouette Peat Products, Ltd.*, 253 F.2d 449 (C.A. 9, 1957). This rule has nothing to do with justness and reasonableness. The *Alouette* court noted that "a rate, to have final lawfulness and validity, must be lawfully established . . ., must be just and reasonable . . . and nondiscriminatory and nonprejudicial . . . Lacking any of these essentials, it cannot be the valid, lawful rate even though it becomes the applicable rate by virtue of being on file with the Commission." 253 F.2d at 455 (footnotes omitted). The rates that went into effect on October 1, 1969 were not "lawfully established," whatever else may be said of them. These rates had a revenue impact of $265,913,000, and it is therefore this amount that represents the difference between "the last lawful pre-existing rates" and the amount which the carriers collected.[21] The public is entitled to restitution or other relief with respect to this sum.

As Examiner Newmann and the Board have noted (I.D., pp. 9–12, App. ——; 73–7–39, p. 5, n. 9, App. ——, there are differences between this case and *Alouette*.[22] While *Alouette* involved rates made in violation of a valid order of the Interstate Commerce Commission, this case involves rates made through cooperation of the Board and carriers in violation of the Federal Aviation Act.[23] These differences provide no justification for a departure from the general rule: "A rate once fixed remains established until changed in some manner allowed by law." 253 F.2d at 456. The rates in effect prior to October 1, 1969 were *not* changed in a manner allowed by law for well over a full year after that date.

It is true that the Supreme Court's decision in *Atlantic Coast Line R.R.* v. *Florida*, 295 U.S. 301 (1935), indicates that a restitutional remedy is not automatic when agency-determined rates are declared unlawful. While the Court recognized the general rule "that what has been lost to a litigant under the compulsion of a judgment shall be restored thereafter, in the event of a reversal, by the litigants opposed to him, the beneficiaries of the error," 295 U.S. at 309, it went to state that the general rule is "not without exceptions." Since a cause of action for restitution is "equitable in origin and function," "the claimant, to prevail, must show that the money was received in such circumstances that the possessor will give offense to equity and good conscience if permitted to retain it." 295 U.S. at 309. The Supreme Court concluded that the claimant in *Atlantic Coast Line* had failed to make such a showing.

The "equities" favoring the carrier in that case were, however, clear and convincing. At issue was a 1929 order of the Interstate Commerce Commission invalidating certain railroad rates for being both discriminatory and so low as to be noncompensatory. The Supreme Court had struck down the I.C.C. order in *Florida* v. *United States*, 282 U.S. 194 (1931), on the sole ground that "the facts supporting the conclusion were not embodied in the [agency's] findings." 295 U.S. at 311. The Commission's error was a "mere slip," a defect in the "form" of its decision, 295 U.S. at 310, 311. After *Florida* v. *United States*, the Commission had held further, legally valid, hearings and had again invalidated the rates in question as discriminatory and noncompensatory. Nevertheless, certain shippers had brought suit to recover sums paid the carrier while the 1929 order remained in force.

The carrier was wholly without blame for the defects in the 1929 order, and the complaining shipper had benefitted for years from the discriminatory, unjustly low, and indeed confiscatory rates that the Commission intended to revise. The shippers were in the unattractive position of contending that the carrier should retain no more of the monies it had collected than those confiscatory rates would have produced.

The Supreme Court found "the claim for restitution yields to the impact of these converging equities with all their cumulative power." 295 U.S. at 313. The claimants had not shown that "a fixed and certain duty has been laid upon a court of equity to make the carrier pay the price of the blunders of the commerce board in drawing up its findings." 295 U.S. at 314. Having surveyed the entire record and concluded that "what was charged would have been lawful as well as fair if there had been no blunders of procedure, no administrative delays," the federal court would "stand aloof" and "leave the parties where it finds them." 295 U.S. at 314–315. In the circumstances, the claimants not having shown the Commission's ratemaking order to be unreasonable, "the carrier does not offend against equity and conscience in standing on its possession and keeping what it got." 295 U.S. at 318.

This case is very different from *Atlantic Coast Line*, because the "equities" here clearly favor petitioners and the public. The October 1969 fare increase was invalid not for a "mere slip" or a matter of "form" but be-

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cause of a serious violation of the governing statutory scheme. That increase was granted without the public notice and hearing specifically required by section 1002(d). Whether this error is labeled "procedural" or "substantive," it is plainly of a different magnitude from a failure to embody supporting facts in findings. Moreover, the error in this case was deliberate. The Board and carriers cooperated in devising an illegal ratemaking system for the purpose of "[avoiding] the strict requirements of the statute and the resulting more stringent judicial review." 139 U.S. App. D.C. at 159, 430 F. 2d at 900. If meaningful relief is not granted here, there will be no effective safeguards to ensure that a similar system will not reappear in the future. Compare *Wyandotte Transportation Co.* v. *United States*, 389 U.S. 191, 202–03 (1967).

Furthermore, the Board has conceded that the October 1969 fare increase was granted without observance of the criteria for ratemaking embodied in section 1002(e). 139 U.S. App. D.C. at 152, 154, 430 F. 2d at 893, 895. This concession has never been retracted because the Board and carriers consider the facts surrounding the October 1969 fare increase to be irrelevant.[24] For this same reason, the Board and carriers have consistently rejected petitioners' inquiries as to the circumstances behind Order 69–9–68 and the *ex parte* meetings which preceded that order.

Nor can it be maintained that the Board alone was at fault. The carriers willingly participated in the closed-door meetings in which—there is every reason to believe—the terms of the October 1969 fare increase were negotiated. They cooperated in the establishment and maintenance of the ratemaking system which *Moss I* found illegal. And throughout the relief proceeding they successfully urged the Board to deny requests for information about their *ex parte* contacts with the agency.

In short, the Board and carriers are in a poor position to advance *Atlantic Coast Line* for the proposition that relief would be "inequitable" if the fares in question are not found unjust and unreasonable. *Atlantic Coast Line* speaks of "equity and good conscience"—which presumably includes a good deal more than a *nunc pro tunc* judgment on reasonableness. The various considerations described above, and recognized in *Moss I*, bear strongly on the equities in this case and, in petitioners' view, indicate that "the money was received in such circumstances that the possessor will give offense to equity and good conscience if permitted to retain it." 295 U.S. at 309.

This Court's decision in *Williams* v. *W.M.A.T.C.*, 134 U.S. App. D.C. 321, 415 F. 2d 922 (1968), also supports the claim of the public to relief. In *Williams* the Court concluded that an administrative agency had failed to apply appropriate ratemaking criteria and to make the inquiries prerequisite to valid exercise of its rate-setting authority.

Given these conclusions, the Court "could not permit [the carrier] to retain the increased fares, since to do so would be to give legal effect to the [agency's] invalid order." This was so "notwithstanding that we have held neither that the [agency] lacked power to order a fare increase, nor even that the fares authorized are, as a matter of law, unjust or unreasonable." 134 U.S. App. D.C. at 322, 415 F.2d at 943 (footnotes omitted).

It is true that in the exercise of the "equitable discretion" recognized in *Atlantic Coast Line*, the Court in *Williams* stated that it was "unable to see how any proper resolution of the matter of restitution in the circumstances presented could ignore the reality of [the carrier's poor] financial experience during the years in question." 134 U.S. App. D.C. at 345, 415 F.2d at 946 (footnotes omitted). But contrary to the conclusion which the Board draws from this statement (73–7–39, pp. 6–7, App. ——), *Williams* did not indicate that justness and reasonableness was determinative of the issue of restitution—much less that "fair return on . . . investment" was determinative of justness and reasonableness. The Court indicated, rather, that carrier return was one matter bearing on the equities and thus on the ultimate disposition, of that case. Moreover, the Court was clear that it "could not . . . give legal effect to [the invalid rates set by the agency] . . . by withholding restitution altogether," 134 U.S App. D.C. at 323, 415 F.2d at 944—precisely what the Board has done here.

Like *Atlantic Coast Line*, *Williams* did not involve the kinds of equitable considerations independent of justness and reasonableness, and favoring the complaining parties, which petitioners have described above. *Williams* therefore does not undermine the strong support which these considerations provide for relief to the public to the full extent of the revenue impact of the October 1969 fares: $265,913,000. And since the *Williams* analysis derives directly from *Atlantic Coast Line*, that decision adds further support for such relief in this case.[25]

### *III. The board erred in concluding that the fares in question were "not unjust and unreasonable"*

Order 71–2–109, instituting the relief proceeding, indicated that the issue to be determined was whether the fares charged by the carriers after October 1, 1969 "were unjust and unreasonable." (pp. 2–3) The order declared that "justness and reasonableness . . . will be best determined by application of the standards traditionally governing Board practice in rate cases as set forth in Sections 102 and 1002(e) of the Act." (p. 3) For the reasons stated above, petitioners believe relief should be granted in this case regardless of whether the fares in question are now considered "not unjust and unreasonable." However, petitioners also contend that the Board's conclusion that these fares were "not unjust and unreasonable" is clearly wrong. The fares must be considered unjust and unreasonable both because the carriers have not borne the burden of proving the contrary, see 5 U.S.C. § 556(d); *Puerto Rico* v. *F.M.C.*, 152 U.S. App. D.C. 28, 36–37, 468 F.2d 872, 880–81 (1972); and because analysis of the governing statutory provisions demonstrates that the fares produced revenues considerably in excess of the carriers' legitimate need.

In petitioners' view, the Federal Aviation Act, particularly sections 1002(e)(2) and 1002(e)(5), requires a determination of the type and quantity of service that would have been "adequate and efficient" during the period in question; and a computation of the "lowest cost" for furnishing such service. This entails an assessment not only of carrier earnings needs but also of efficiency and the reasonableness of carrier costs. There may be several ways of making this assessment, but the best way is to translate the statutory criteria into precise guideline standards of reasonableness. The Board has adopted several such standards in the *DPFI*, and petitioners have proposed that similar standards be employed to test reasonableness here. Even if the specific standards proposed by petitioners are deemed inappropriate, the carriers' revenue need should still be determined in light of some assessment of "adequate and efficient" service. If the fares produced significant revenue in excess of the amount needed to provide such service, the fares should not be considered just and reasonable.

The Board, in contrast, believes it would be improper "to impose Board-made standards retroactively on carriers" (73–7–39, p. 15, App. —) and that no alternative tests for reasonableness of service are required. Implicit in Order 73–7–39 is the conclusion that petitioners must bear the burden of demonstrating that the October 1969 fare increase did not comply with the statute; that the agency's responsibility extends only to examining the specific points which petitioners have placed in issue; and that findings demonstrating the compliance of the fares with the factors specified in section 1002(e) are not required. Furthermore, Order 73–7–39 changes the ultimate test for relief from "sums in excess of just and reasonable fares"[26] to "unjust enrichment." (73–7–39, pp. 23, 29, App. —)[27] The latter standard implies concentration upon "return on investment"—*i.e.*, whether the carriers earned a return which the Board regards as unreasonable. (73–7–39, p. 27 App. —)[28] This analysis leads the Board to conclude that the fares in question were "not unjust and unreasonable" because carrier earnings did not reach an unreasonable level. The issue before this Court, insofar as "justness and reasonableness" is concerned, is whether this conclusion is legally correct.

In the sections that follow, petitioners will discuss the various aspects of carrier costs which, in their view, must be subjected to scrutiny for reasonableness; the specific tests for reasonableness which they have proposed; and the discriminatory aspects of the fares in question. The treatment accorded all these matters in Order 73–7–39 is much less than the statute requires. See *Democratic Central Committee of the District of Columbia* v. *W.M.A.T.C.*, No. 24,398, June 28, 1973 (slip opin., pp. 32–42).

### A. The Cost of Excess and Unreasonable Capacity Should Not Be Recognized

The October 1969 fares cannot be tested for "justness and reasonableness" without, at the very least, a determination of what constituted reasonable capacity during the period in question. Capacity—available seat miles or seat hours flown—is of critical importance in assessing reasonableness because the vast majority of carrier costs are directly affected by capacity. The greater the capacity provided in relation to demand, the higher costs will be. Petitioners have proposed the use of two standards for the purpose of determining reasonable capacity after October 1, 1969. These standards, governing "load factors" and "dilution," are discussed in the sections that follow.

#### 1. Passenger load factors

Passenger load factor is "the measure of the percentage relationship between capacity operated and revenue traffic carried. . . ." (Order 71–4–54, p. 1)[29] In other words, load factor is the quotient obtained by dividing available capacity sold by total available capacity.

It is indisputable that fares and load factors are inextricably interrelated. On the one hand, high fares tend to produce low load factors, both because "fare increases . . . depress traffic" (71–4–54, p. 42)[30] and because "the higher the fare level in relation to cost, the more capacity carriers will offer and the lower load factors will be . . ." (71–4–54, p. 23; Tr. 744–45) On the other hand, "increasing the fare level for the purpose of achieving profitable operations at the lower load factor lowers the breakeven load factor and thus encourages the addition of more capacity, leading again to lower profits and demands for further fare increases." (71–4–54, p. 21)

During the first year of carrier operations after October 1, 1969, the trunk carriers experienced an average load factor of 48.9 percent; the local service carriers experienced load factors of 43.2 percent.[31] These figures represent significant decreases from the load factors experienced in the mid-1960's. (71–4–54, p. 15; Exhibit BE–52, App. —) The reason is obvious: Over the period from 1967 to 1969, supply in the airline industry (in the sense of available seat miles) increased approximately three times faster than demand. (71–4–54, p. 17)

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The Board has said that "there is no reason why passengers rather than shareholders should pay for excess capacity" (71–4–54, p. 40), and this is precisely what petitioners contend. The pertinent figures indicate that the 6.35 percent fare increase in October 1969, following close upon a 4 percent increase in February of that same year, was both the product of existing overcapacity and the cause of still greater overcapacity. The Board has effectively conceded in Order 71–4–54 that the October 1969 fares underwrote service that was not "adequate and efficient" within the meaning of section 1002(e) of the Federal Aviation Act.

An argument could be fashioned that the October 1969 fares were *per se* unjust and unreasonable because they exacerbated an already serious overcapacity problem. Petitioners have not made this argument. They have merely proposed that carrier revenue need for the period in question be redetermined on the basis of reasonable capacity, with the costs of unreasonable capacity deleted. As a first step in that redetermination, they have suggested the use of a "load factor standard," a concept which the Board recently adopted, comparing it as follows with a policy of accepting actual and projected load factors at face value:

> Under such a policy, passenger fares would rise if load factors fall, and fares would decrease if load factors rose. The . . . alternative is to base fares on standard or optimum load factors, which would be capable of achievement over the long-range. Under this latter concept, the fares would be fixed at a level which would produce a reasonable return on investment assuming that the industry operated at the standard load factor. As opposed to the first alternative, which contemplates that *fares* will fluctuate with load factors, the second alternative contemplates that *earnings* will fluctuate with load factors. (71–4–54, pp. 4–5; emphasis in original)

The Board has reasoned:

> [A] policy of basing fares on actual load factors can only lead to increasing overcapacity, with the traveling public being asked to pay higher fares to compensate the carriers for the cost of operating an increasing number of empty seats. This result is virtually inevitable because schedules constitute the major competitive device of carriers in their efforts to preserve and enhance their participation in the traffic markets which they serve. In any given market, the carrier with the greatest number of schedules will normally carry the largest number of passengers. Thus, the desire to maximize market participation creates powerful incentives to add capacity. The countervailing incentive is supplied only by the imperative of economics: Schedules cannot be added indefinitely if the load factors achieved are insufficient, at the prevailing fare levels, to permit the carriers to cover costs and return a profit. But this economic incentive loses its force if the carriers are able to raise their fares to cover declining load factors. In that event, the pressure of competition to add schedules will become virtually irresistible and will inevitably lead to a long-term decline in load factor, rising fares to support higher levels of unused capacity, and, because of regulatory lag, a chronically depressed profit level for the industry as a whole. (71–4–54, p. 5)

It is "obvious" that actual capacity is not a proper basis for determining reasonable fares. (71–4–54, p. 21). In fact, the Board finds in section 1002(e) a "duty" to establish "load-factor standards properly adapting capacity to traffic needs for ratemaking purposes." (71–4–54, pp. 8–9). It has observed that "the absence of the constraint of load-factor standards . . . has undoubtedly contributed to the tendency of the carriers to overschedule capacity" and that "a system of regulation which encourages excessive capacity would be patently adverse to the public interest . . ." (71–4–54, pp. 21, 6)

The Board's treatment of load factors in the present case, is however, perplexing. Petitioners suggested that the standards adopted in the *DPFI* to determine reasonable capacity to be employed here—"an overall trunkline standard of 55 percent, an overall local-service standard of 44.4 percent, and an industrywide standard of 54.1 percent." (71–4–54, p. 33). The Board *agrees* that "reported operating results of the carriers under the fares in question should not be accepted" (73–7–39, p. 13, app. ——); but it has rejected its own *DPFI* standards and refused to consider alternatives.

The agency contends that "to impose Board-made standards retroactively on carriers in a situation where they had no reason to believe that their operations would be subject to *ex post facto* review raises a substantial question of equity." (73–7–39, p. 15, App. ——) And it perceives "anomaly" in imposing any load factor standard higher than 52.5 percent, in light of its *DPFI* determination to apply such a standard on an interim basis in order "to allow for a transitional period to enable the carriers to bring their operations into closer compliance with the [55 percent] long-term standard." (73–7–39, p. 16, App. ——; 72–8–50, p. 29) [32]

There is, however, no "inequity" in finding that capacity producing average load factors of 48.9 percent is unreasonable. The Board has specifically stated that fares geared to permit such overcapacity are unacceptable. Nor is there "inequity" in the claim that carriers "had no reason to believe that their operations would be subject to *ex post facto* review." There is nothing *ex post facto* about this case except in the sense that judicial review is always *ex post facto*. The carriers are aware that "judicial review at times results in the return of benefits received under [an] upset administrative order." *United Gas Improvement Co.* v. *Callery Properties, Inc.*, 382 U.S. 223, 229 (1965). And they were on notice as early as mid–1969 that petitioners were challenging further fare increases, largely on the basis of the unreasonable capacity being provided.

Furthermore, the Board does not "accept the proposition that excess capacity has been brought about by forces beyond the carriers' control" (71–4–54, p. 30); it does not believe that "the carriers' decisions to introduce larger aircraft should relieve them of responsibility for realistic scheduling and require an increase in passenger fares." (71-4-54, p. 39) As early as May 1969, in Order 69–5–28, the Board noted that the 53.0 percent passenger load factor reported for 1968 "is the lowest reported for any of the past 20 years" and that "estimates indicate that the domestic trunk load factor will drop to even lower levels during 1969" (p. 3); it observed that "the carriers have bought equipment despite (not by reason of) traffic forecasts" and that *"the basic solution to the industry's present financial situation would appear to lie in exercising restraint in ordering new flight equipment and in the use of its available capacity, rather than in increasing its price to the public."* (p. 4; emphasis supplied)

In short, the Board itself has declared that capacity during the period here in question was unreasonable; that the October 1969 fare increase contributed to the capacity problem; and that the overcapacity problem is, at least in part, the responsibility of the carriers. In these circumstances, the only serious issue relating to load factors in this proceeding is which guideline standard to apply for the purpose of adjusting the carriers' experienced results. The Board has suggested that "the appropriate standard to use would be the interim standard of 52.5 percent, rather than the long-term standard of 55 percent, since it would be anomalous to hold the carriers to a higher standard for the earlier period." (73–7–39, p. 17, App. —) [33] But this is a bootstrap argument. The Board adopted an interim standard of 52.5 percent in 1971 and 1972 because the carriers were experiencing load factors on the order of 50.6 percent for 1971 and 51.6 percent for 1972, and it was thought that the long-term standard could not be attained prior to 1973. This may have been an acceptable ratemaking judgment in mid-1971, in light of the predicament then confronting the industry and the agency. But the Board is not making rates in this case; it is passing upon the "justness and reasonableness" of one of the principal fare increases which *caused* the mid-1971 predicament. It has not been established that load factors on the order of 55 percent would have been unattainable in October of 1969, if fares had been properly established; on the contrary, load factors had been that high or higher for most of the 1960's, and it was only in 1969 itself, when fares were increased more than 10 percent, that load factors fell to clearly unreasonable levels. (71–4-54, p. 15)

Thus, the reasons which led the Board to temper the load factor standards found reasonable in Order 71–4–54 are not applicable here. Those standards—55 percent for the trunklines and 44.4 percent for the local service carriers—should be emplowed in this case, in the absence of a showing that other, lesser standards would be more reasonable.

### 2. Dilution

"Dilution" measures the degree to which promotional and discount fares cause actual revenue yield to fail to reach the yield that would have been attained if all passengers had paid the full fare. (Tr. 641) [34] Discount and promotional fares naturally yield less than full fares. Their purpose is to generate additional traffic *"to fill otherwise empty seats."* (71–4–54, p. 38; emphasis supplied). To the extent that this occurs, load factors are raised, total costs remain relatively unchanged, and costs per passenger are lowered. If the increase in load factors more than offsets the dilution, a reduction in fares will be possible. Thus, as long as discount and promotional fares are used for their true purpose, dilution is a tolerable and even a desirable feature of airline fares.

However, when capacity is added in order to carry diluted-yield traffic, and load factors are kept at or below the reasonable full-fare level, discount and promotional fares cease to serve their purpose, and become inefficient and uneconomical. The added capacity used to carry the diluted-yield traffic means increased total costs; unit costs do not decline and may rise; and the lower yield produced by the discount fares results in a decline in carrier rate of return. "Cost plus" ratemaking passes on the higher costs and lower returns to the passenger in the form of higher fares.

A "dilution" standard is therefore a necessary complement to a load factor standard as long as discount or promotional fares exist. A load factor standard cannot control excess capacity by itself because the load factor standard does not take account of the difference in yield between a discount fare and a full fare. Thus, load factors which might appear perfectly reasonable if only full-fare traffic were being carried may in fact be extremely unreasonable because substantial capacity is being employed to carry diluted-yield traffic.

The Board has recognized the relationship between dilution and load factors:

> A principal purpose of discount fares is to generate traffic to fill otherwise empty seats and thus reduce passenger-mile costs for normal-fare passengers. In order that this purpose not be frustrated, load-factor standards for ratemaking purposes should logically be adjusted upward to take into account the

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dilution in yield occasioned by discount-fare traffic . . . . (71–4–54, p. 38)

There are two ways of "adjusting" the load factor standard to take account of dilution: one is to adjust that standard itself; the other is to employ a separate standard limiting dilution to a reasonable level. Petitioners have proposed the latter approach in this case, urging that a guideline dilution standard of 12 percent be used and that dilution in excess of that amount not be recognized. (Tr. 661, 739)

In Order 72–12–18, dated December 5, 1972,[35] the Board went further than this. It determined that henceforth it would compute fares "on a hypothetical full normal-fare basis *i.e.*, as if the discount fares were not a part of the fare structure." (p. 4) In other words, normal fares would not be increased at all to make up the difference between revenue produced at a reasonable full-fare load factor and revenue actually earned. Since the carriers experienced dilution after October 1, 1969 was substantially higher than 12 percent, application of the Board's approach in this case would produce a substantially greater disallowance of revenue need, and thus a substantially greater discrepancy with reported revenues, than petitioners have urged.

The agency has been concerned with the problem of dilution for essentially the same reasons as those advanced by petitioners:

> [I]n the long run the carries add equipment and schedules in order to accommodate discount traffic. When this occurs, the discount fares cease to cover costs and the shortfall must either be subsidized by the normal-fare passenger, or the carriers will not realize sufficient revenues to provide adequate service. (72–12–18, p. 12)

The Board explained that over the period from 1966 through 1971, the carriers were purchasing equipment and scheduling with reference to all traffic, including discount-fare traffic, and "were increasing their capacity at a faster rate than the growth of traffic warranted, notwithstanding the high level of discount traffic." (72–12–18, p. 43) Of course, a raising of normal fares in order to cover the declining yield produced by such discount traffic burdens the normal-fare passenger by asking him "to bear a fare increase in order to cover the short-fall created by the discount fares." (72–12–18, p. 46)

The Board noted that "under previous policies, the carriers have not had adequate incentives to consider the long-term impact of promotional fares since ratemaking practice has permitted them to seek fare-level increases to offset declines in yield stemming from the discount fares." (72–12–18, p. 56) A policy of adjusting cost projections and revenue need "to eliminate the dilution caused by the discount fares" (72–12–18, p. 55) is, therefore, "a necessary adjunct to the load-factor standards established in [Order 71–4–54]":

> The purpose of the load-factor standard was to assure that the fare level would not be burdened by the cost of providing service in excess of the needs of the traveling public. It was and remains the Board's intention that the 55-percent standard be achieved through adjustment of aircraft fleet size and schedules in relation to traffic demands. This intention would obviously be frustrated if the carriers sought to realize the standard load factor by an artificial stimulation of traffic through the use of discount fares and were free to pass the losses from such traffic on to the remainder of the traveling public. Such a result would clearly be at war with our statutory goal of assuring that air transportation be furnished at the lowest cost consistent with the performance of adequate and efficient service. Indeed, failure to adopt an undiluted normal-fare concept in fixing passenger-fare levels could well create a powerful incentive for the carriers, leading to undesirable extensions and proliferations of discounts as a means of achieving the standard load factors. (72–12–18, pp. 57–58; citation omitted)

The Board accordingly determined that it would not accept *any* dilution in determining the full fare; discount and promotional fares would be accepted only on a short-term basis and only for the legitimate purpose of filling otherwise empty seats.

In these circumstances, the Board's attitude toward dilution in order 73–7–39 is, again, puzzling. The agency has observed that discount passengers accounted for more than 40 percent of traffic during the period here under investigation (72–12–18, p. 10); that the percentage of discount traffic has tended to rise as load factors have dropped (72–12–18, p. 43); that the carriers have provided substantial excess capacity for the purpose of carrying discount traffic. (72–12–18, pp. 40–42) It is therefore odd that the Board finds no "evidentiary basis" for a dilution adjustment in this case and finds the application of petitioners' proposed 12 percent standard "faulty in concept." (73–7–39, p. 21, App. ——)

The reasons for employing a dilution adjustment here are precisely the same as those enunciated by the Board in Order 72–12–18: to take account, after the load factor adjustment, of that amount of excess capacity which was provided for discount-fare passengers. (Tr. 739; see also Tr. 641, 654, 661, 720, 722–25, 730, 733–34) The 12 percent standard proposed by petitioners was suggested on the basis of Exhibit BC–6008 submitted by the Board's Bureau of Economics in Phase 9 of the *DPFI*. (Tr. 741–42) Petitioners' witness, Mr. Klabzuba, had noted, both from that exhibit and from evidence in the record of this case,[36] that higher dilution figures tended to occur in the longer-haul markets, where load factors tended to be especially low. (Tr. 651–54, 720, 739) Mr. Klabzuba concluded that diluted fares were not serving their purpose of filling otherwise empty seats in those markets and that, indeed, the carriers were obviously adding capacity to carry diluted-fare traffic. He made a judgment that dilution up to 12 percent was tolerable, because load factors in markets where such dilution was experienced were generally not delinquent, but that dilution in excess of 12 percent represented a contribution to the overcapacity problem and therefore an unreasonable burden on fares. (Tr. 641–654, 739–40) Had the carriers not provided excess capacity to transport diluted-fare traffic, the fares that prevailed after October 1, 1969 could have been lower. (Tr. 727)[37]

Instead of coming to terms with the problem of dilution in this case, the Board has limited itself to quibbling with petitioners' proposed standard—a standard significantly more generous to the carriers than the Board's own dilution policy—and excused the carriers on the ground that *DPFI* policies should not be applied "retroactively." The Board argues that the Phase 9 exhibit cited by Mr. Klabzuba does not precisely support his thesis that 12 percent constitutes "a reasonable line of demarcation between beneficial dilution and burdensome dilution." (73–7–39, p. 22, App. —; Tr. 651–53) In the first place, the exhibit cited by Mr. Klabzuba does support the point that dilution tends to rise as length of haul increases, reflecting an inverse relationship to load factors.[38]

In the second place, there was ample evidence in the record *of this case* to support Mr. Klabzuba's thesis.[39] Finally, and most importantly, since dilution is a problem which the Board itself has emphatically recognized, it could not limit its inquiries in this area to the simple conclusion that petitioners' proposed 12 percent standard reflected an "unsupported judgment." (73–7–39, p. 23, App. —)[40] The Board has failed to inquire into an area of ratemaking which petitioners specifically placed in issue and which the Board itself has perceived as critical. Taxing petitioners with failing to supply an "evidentiary basis" for their position (73–7–39, p. 22, App. —) is as much beside the point as noting that they did not make "studies" (Tr. 645), or that their witness never held a management position with an airline. (Tr. 700)[41]

The Board has given three other reasons for its lack of concern about dilution in this case: (a) "the fact that some passengers may have paid too much because others paid too little could not support a finding of unjust enrichment to the carriers to make amends or restitution" (73–7–39, p. 23, App. —); (b) "it would be plainly inequitable for the Board to refuse retroactively to recognize the dilution resulting from the charging of discount fares which had become embedded in the fare structure over a period of many years through the filing of tariffs which the Board had allowed to become effective" (73–7–39, p. 24, App. —); and (c) Order 69–9–68 "had the effect of decreasing the actual dilution." (73–7–39, p. 24, App. —)

But none of these points is persuasive. The issue at hand is not whether the carriers were "unjustly enriched" but whether the fares in question were "just and reasonable." And the fact that full-fare passengers were called upon to pay too much in order to subsidize diluted-yield passengers is very much a part of that issue. Moreover, the contention that "some passengers may have paid too much because others paid too little" is overly simplistic. The ratemaking problem under discussion here is not that discount fares were too low in some absolute sense, but that the carriers added excess capacity in order to carry diluted-yield traffic at a reduced profit margin. This invariably results in higher costs, lower returns, and, under the Board's cost-plus approach to ratemaking, fare increases. If capacity had been controlled by means of appropriate standards, fares could have been lower throughout the system. And if reasonable load factor and dilution adjustments are made now, it may well appear that discount-fare passengers did not in fact pay "too little" during the period in question. The problem, in other words, is not merely one of discrimination, but one of excess as well. The Board recognized as much in Order 72–12–18.

The short answer to the Board's contention with respect to "retroactivity" is, again, that the statutory provisions allowing for judicial review place the carriers on notice that fare increases may ultimately be found unreasonable. There is no "inequity" in such a finding.

Finally, it is irrelevant whether or not the October 1969 fares may have reflected some minor improvements on those that prevailed previously. The fares in question here are the responsibility of the Board and carriers. They assert that these fares can be reconciled with the statutory provisions governing "justness and reasonableness." Whether the previous fares were a "hodgepodge" or not (I.D., p. 34, App. —), they cannot legitimize subsequent fares which cannot withstand scrutiny on their own. Moreover, it is especially inappropriate to point to earlier fares for justification when the Board and carriers had devised a ratemaking system which effectively precluded judicial review.

The Board has sought to excuse the carriers on the basis of its poor ratemaking performance in the past and the carriers' poor financial performance under the October 1969 fares. This is consistent with neither the statute nor the Board's duties to the public. For the reasons set forth above, a dilution standard must be employed to delete from revenue need that portion of the carriers' costs reflecting excess capacity employed to carry diluted-yield traffic; in the absence

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of contrary suggestions, a 12 percent standard appears reasonable for this purpose.

### 3. Overcharges

Exhibit MOC–1 (App. —) demonstrates that the use of a 54 percent load factor standard and a 12 percent dilution standard produces overcharges with respect to the trunkline carriers of some $238,519,000.[42] The Exhibit also shows that a load factor standard of 52.5 percent, coupled with the 12 percent dilution standard, produces overcharges of some $87,146,000. Similar calculations employing a 55 percent load factor standard and a 12 percent dilution standard—the standards which petitioners believe reasonable for purposes of this case—reveal overcharges for the trunklines of some $339,756,000.

The October 1969 fares clearly exceeded just and reasonable fares by a very substantial margin. The sums set forth above are conservative because MOC–1 extends only through September 30, 1970, rather than May 6, 1971; [43] because it does not take account of the local service carriers at all; because it includes a perhaps too generous adjustment in favor of the carriers with respect to indirect costs; [44] and because it accepts all other aspects of the carriers' costs at face value, without regard to reasonableness.

The Board's approval of the October 1969 fares, in Order 73–7–39, reflects acceptance of capacity standards approximately 33 percent less stringent than what the Board has declared in the DPFI to be reasonable.[45] This means that the agency has considered airline fares some 33 percent greater than its own definitions of adequate and efficient service would have required, and found them "not unjust and unreasonable."

### B. The Board Failed To Examine Other Carrier Costs for Reasonableness

Section 1002(e) of the statute subjects all carrier costs to examination for reasonableness. It refers to "adequate and efficient" service, to "honest, economical, and efficient management," and to the "lowest cost" as factors to be considered by the Board in establishing rates. Petitioners' approach to the issue of costs has been limited. They have simply asked that the reasonableness of all costs be examined, and have suggested the use of specific guidelines for load factors, dilution, and indirect costs.[46] With respect to indirect costs, petitioners have proposed recognition to the extent of 48.4 percent of direct costs. (MOC–T–1, App. —). This ratio was derived from forecasts prepared by the Bureau of Economics for use in the *DPFI*. (Tr. 714; Order 71–4–59/60, p. 30 (April 9, 1971).)

The Board notes that the *DPFI* ratio was "only for the purpose of forecasting" and not a "Board standard." (73–7–39, p. 19, App.—) It also observes that indirect costs for the year ending September 30, 1970 were 47.7 percent of direct costs, and that petitioners' proposed standard "results in higher unit costs than those experienced, and the carriers are not prejudiced by its use." (73–7–39, pp. 19–20, App. —)

The Board is, of course, free to reject petitioners' proposed standard as unreasonable, and to find that the experienced ratio of 47.7 percent represents reasonableness. It is not free to refuse to examine the question. See, *e.g., D.C. Transit System, Inc.*, v. *W.M.A.T.C.*, 151 U.S. App. D.C. 223, 237, 466 F.2d 394, 408 (1972). The use of guideline standards is clearly one acceptable means of determining the reasonableness of costs and, indeed, the Board has noted that "without such yardsticks, the Board would have no standards of reasonableness . . . and would in effect be deprived of its statutory authority to establish fair and reasonable future rates after hearing except to the extent that it might find projected expenses to be occasioned by dishonest, uneconomical, or inefficient management. Such a construction of section 1002 of the act would in our opinion nullify the Congressional intent that the Board regulate rates and fares in the public interest. . . ." (71–4–54, p. 13)

In the present case, there is no evidence of such concern and no effort to assess the reasonableness of carrier costs, direct or indirect. While the Board claims it has "extensively considered" the statutory factors relating to costs (73–7–39, p. 26, App. ——), petitioners wonder where. It has not made appropriate findings either in Order 69–9–68, where the statutory criteria received only fleeting mention, or in Order 73–7–39.[47] In fact, the agency has seen its task as one of merely dispatching the specific points which petitioners have advanced.

In the recent case of *Democratic Central Committee of the District of Columbia* v. *W.M.A.T.C.*, No. 24,398, June 28, 1973, this Court considered a similar situation. Petitioners there maintained that the agency had failed to consider the efficiency of the carrier's management, one of the ratemaking factors specified by the governing statute, as it is by section 1002(e) of the Federal Aviation Act. The agency and carrier responded that the petitioners had not placed that particular factor in issue. This Court held that the agency had erred in refusing to consider management's efficiency simply because "the formal parties had not produced evidence of bad management." (slip opin., p. 33) The Court explained:

> [T]he failure of the staff and the protestants to produce evidence of mismanagement certainly does not support an assumption that [the carrier] was efficiently managed, and that was too vital a matter to be simply assumed away. The [statute] placed on obligation upon the [agency] to develop the record on important matters when it was unsatisfied with the record produced by the parties. The [agency], like other agencies charged with the protection of the public interest, was not created simply to "provide a forum for the" proceeding. The [agency] was not at liberty to sit back and place "the responsibility for initiating or carrying through essential inquiries" on "private parties;" instead, it had "an affirmative duty to assist the development of a meaningful record." [slip opin., p. 36; citations omitted.]

The Court went on: "If the [agency] refused to perform its statutory duty to make an inquiry [into the carrier's efficiency], then [the carrier] had no incentive to discover and utilize cost-saving devices. The alternative to an inquiry into efficiency, then, was to turn [the carrier] into a high-cost plus profit company and that plainly was not in the public interest." (slip opin., pp. 39–40; citations omitted.)

As in the *Democratic Central Committee* case, the Board here has made no inquiry "into methods, other than a fare increase" for improving the carriers' earnings. (slip opin., p. 40) In these circumstances, the Board's conclusion that the fares in question were not unjust and unreasonable should not be permitted to stand.

### C. The Board Erroneously Refused To Consider the Discriminatory Aspects of the Fares in Question

Section 102(c) forbids "unjust discriminations" and "undue preferences or advantages." The October 1969 fares are unacceptable under this provision because they unjustly discriminated against: (a) long-haul passengers, who were charged fares far in excess of the costs of the service provided them; [48] (b) passengers traveling between uncongested airports, who were charged according to a mileage formula when the miles they traveled required much less time and therefore cost far less than comparable miles traveled between congested airports; [49] (c) full-fare passengers, who were called upon to subsidize very substantial discount-fare traffic; [50] and (d) passengers traveling in markets where one-carrier service was not available and no through fare for connecting service was published; these passengers were required to pay a combination of two or more fares, each of which reflected the fixed terminal charge established by Order 69–9–68.[51]

Rather than responding to petitioners' contention that the fares in question were unjustly discriminatory, the Board has taken the position that "fare structure is not a proper issue in this proceeding." (73–7–39, p. 28, App. ——) Arguing that the "rational consequence" of petitioners' argument is that some passengers paid unreasonably low fares, the Board concludes that "the carriers were obviously not justly enriched, and it would be inequitable to compel them to make restitution to all fare payers." 73–7–39, pp. 29–30, App. ——) The Board also contends that "Order 69–9–68 resulted in a fare structure superior to the pre-existing structure. . . ." (73–7–39, p. 30, App. ——)

But again, the fares in question cannot be considered "just and reasonable" if they contained unjustly discriminatory features—and the issue here is "justness and reasonableness," not "unjust enrichment." Even if it were correct that "some passengers paid unreasonably high, and some paid unreasonably low, faces," [52] this is generally the case where discrimination is involved. The Board's argument is really that discrimination has nothing to do with "justness and reasonableness," and that is not what the statute says.[53]

Finally, even if Order 69–9–68 did improve to some extent upon the prior fare structure—a point which petitioners were denied a full opportunity to examine [54]—this hardly proves that the October 1969 fares were not unjust and unreasonable. It merely indicates, at the very most, that those fares were less unjustly discriminatory than prior fares. This is not enough to satisfy the Federal Aviation Act.

## *IV. This court should order appropriate relief for the traveling public*

### A. The Court Has the Power To Award Relief

There has been some dispute as to whether the Board has the power to grant the relief requested by petitioners. The carriers and Board have pointed to *T.I.M.E., Inc.* v. *United States*, 359 U.S. 464 (1959), for the proposition that the Board may not order reparations. Petitioners have maintained, however, that restitution or a similar remedy for agency-made rates successfully challenged on direct review is entirely different from reparations which are ordered for carrier-made rates challenged collaterally, after becoming final. Petitioners have relied on *United Gas Improvement Co.* v. *Callery Properties*, Inc., 382 U.S. 223 (1965) and the rule therein recognized that "an agency, like a court, can undo what is wrongfully done by virtue of its order." 382 U.S. at 229.

The Board did not address this issue in Order 73–7–39, and the issue has now been superseded by events. The fares under investigation have been replaced by new fares, and the Board has refused to order appropriate relief. The question now is whether this Court can award the requested relief itself.

*Callery* makes clear that the absence of a reparations remedy in the governing statute is not dispositive of this question. The Supreme Court clearly distinguishes between "reparation orders" and relief with respect to an "order, which has never become final, [and which] has been overturned by a reviewing court." As the *Callery* Court observed, "judicial review at times results in the return of benefits received under the upset administrative order." 382 U.S. at 229.

If *Callery* were not enough to establish the Court's power to award appropriate relief here, the decisions in *Williams* v. *W.M.A.T.C.*, 134 U.S. App. D.C. 321, 415 F. 2d 922 (1968),

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and *Democratic Central Committee of the District of Columbia* v. *W.M.A.T.C.*, No. 21,-865, June 28, 1972 (slip opin., pp. 76–82) permit no doubts.[55] In *Williams*, the Court chose to exercise such power, rather than remanding to the administrative agency, because the agency lacked "continuing power . . . to deal with the subject matter of the proceeding." 134 U.S. App. D.C. at 339, 415 F.2d at 940. The same is true here. The fares in question were replaced in May 1971, and a remand to the Board for further consideration would therefore be inappropriate. The Court has ample power under *Callery*, *Williams*, and *Democratic Central Committee* to fashion relief itself.

### B. Relief Should Be Awarded in the Form Established by This Court's Decision in *Bebchick* v. *Public Utilities Commission*, 115 U.S. App. D.C. 216, 318 F. 2d 187 (1963).

Petitioners believe the most appropriate relief in this case would be either restitution to members of the public who were called upon to pay the illegal October 1969 fares or the establishment of a fund or reserve against which future fare increases can be charged. Unfortunately, the carriers have destroyed their records for the period in question and have thereby made restitution a difficult matter. Moreover, it appears likely that many passengers who traveled by air more than three years ago have not retained the necessary records to establish their entitlement to restitution now. Accordingly, in view of the time that has elapsed since *Moss I*, petitioners suggest that establishment of a passengers' fund or reserve would not be the preferred form of relief for the traveling public. This Court ordered establishment of a similar fund or reserve in *Bebchick* v. *Public Utilities Commission*, 115 U.S. App. D.C. 216, 318 F.2d 187 (1963). The possibility of this type of relief was suggested by the Court's Order of January 9, 1970, in *Moss I*.

The Court has recognized that such a fund or reserve necessarily benefits a class that is not precisely identical to the class that was injured by the illegal fares, "since some riders would cease to use the transit, and new riders would replace them." *Bangor & Aroostock R.R. Co.* v. *Brotherhood of Locomotive Firemen and Engineers*, 143 U.S. App. D.C. 90, 99, 442 F. 2d 812, 821 (1971). But in *Bebchick*, "in the context of avoiding carrier retention of fares unlawfully charged and compensating those victimized by the unlawful action there was sufficient relationship and overlap of classes to permit a judgment that the compensation inure in substantial measure to the class of those who had suffered harm." 143 U.S. App. D.C. at 99, 442 F. 2d at 821 The same point applies here. As in *Bebchick*, there appears to be a "sufficient relationship and overlap of classes" to permit the conclusion that the public traveling by air in the future will be substantially the same as the public that was injured by the October 1969 fares. None of the carriers has raised serious objections on this point, nor with respect to the feasibility of establishing a *Bebchick* fund or reserve in this case. Accordingly, this form of relief appears most suitable.[56]

### C. The Extent of Relief Should Be Governed by Legal and Equitable Principles

#### 1. Overcharges

The October 1969 fares produced additional revenues for the carriers, beyond what the prior fares would have produced, to the extent of $265,913,000 for the period from October 1, 1969 through September 30, 1970.[57] Petitioners' Exhibit MOC–1 (App. ), reflecting reasonable guidelines for capacity and indirect costs, demonstrated that revenues were at least $238,519,000 in excess of what just and reasonable fares would have produced.[58] Both of these figures substantially understate the extent of the injury to the public caused by the fares in question.[59]

Under the authorities already set forth in prior sections of this brief, the public is legally and equitably entitled to restitution in the full amount of the overcharges produced by the October 1969 fares. Accordingly, petitioners believe that relief to the extent of at least $238,519,000 is warranted by the precedents.

#### 2. The carriers' operating profits

The Board has noted that if the carriers were required to refund overcharges in this case, "this would more than wipe out the $123 million in net operating profit for the trunks and local service carriers for the relevant period." (73–7–39, p. 9, App. —) In other words, while the carriers may have squandered more than half of the additional revenues produced by the fares in question, they have not reaped unconscionable profits. While petitioners believe that the carriers' poor financial performance does not substantially affect either the equities of the matter or the issue of justness and reasonableness, it may not be improper to consider that performance in determining the appropriate disposition of this case.[60]

However, given the very strong case for relief to the public, denial of all monetary relief—the result reached in Order 73–7–39—is clearly wrong. This result has the effect of condoning a blatant violation of the Federal Aviation Act simply because the carriers did not earn the rate of return which the Board considers appropriate. Since the Board has established that rate at 12 percent for the trunkline carriers and 12.35 percent for the local service carriers,[61] and since cost competition has effectively prevented such earnings for the past twenty years,[62] the Board's approach in this case would effectively preclude relief to the public no matter how fares were established or how unreasonable they were. This seems neither fair to the public nor faithful to the statute.

Petitioners suggest, therefore, that it may be appropriate to limit the extent of relief in this case to the carriers' operating profits—$123,417,000.[63] While the equities may not support placing the carriers in a loss position for the period in question, petitioners strongly support the Board's conclusion that "there is no reason why passengers rather than shareholders should pay for excess capacity" through fares which were illegal and unreasonable in every sense, 71–4–54, p. 40.

If this Court should conclude, however, that requiring the carriers to disgorge their entire profits is still too harsh a result, then petitioners propose, at the least, that relief be granted to an extent that is sufficient to provide a disincentive against illegal ratemaking in the future. The minimum relief appropriate for these purposes would be that portion of the carriers' net operating profits which is allocable on a pro rata basis to the October 1969 fares, plus the costs that petitioners have incurred in prosecuting this case, including reasonable witness' and attorneys' fees. The ratio of carrier revenue attributable to the October 1969 fare increase ($265,913,000) to total carrier revenue for the year ending September 30, 1970 ($5,553,911,000) is 4.5 percent. If this percentage figure is applied to the carriers' net operating profit of $123,417,000, the result is $5,553,765. Although this figure is far less than the harm actually caused the public by the October 1969 fares, in petitioners' view it represents the bare minimum relief required in the circumstances of this case.

In any event, the relief ordered should be apportioned among the carriers on whatever reasonable basis the Board determines to be proper. The case should be remanded to the agency for the purpose of making this determination and in order to ascertain, as in *Bebchick*, whether a fund or a reserve is preferable.

## CONCLUSION

For the reasons set forth above, Board Order 73–7–39 should be found erroneous and relief as described should be ordered for the benefit of the traveling public.

Respectfully submitted,
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Dated: December 26, 1973.

## FOOTNOTES

*This case was previously before the Court in Docket No. 23,627, and a decision was rendered, *Moss, et al.* v. *Civil Aeronautics Board*, 139 U.S. App. D.C. 150, 430 F. 2d 891 (July 9, 1970).

[1] The Act will hereinafter be cited by section number only, without parallel citation to the United States Code. Sections 102, 1002(d), and 1002(e), the critical sections in this case, are reproduced in Addendum A attached to this brief.

[2] Setting rates with reference to the reasonable costs of efficient service, rather than experienced costs regardless of reasonableness, discourages unreasonable costs by denying rate increases to cover them.

[3] See Order 70–2–121 (February 26, 1970), and Order 70–11–91 (November 19, 1970).

[4] The October 1969 fares had remained essentially unchanged until June 19, 1970, when the Board permitted the carriers to "round up" to the next highest dollar all fares which, by the formula announced in Order 69–9–68, did not produce an even dollar fare. The "round-up" decision, which the Board envisioned as a $50 million additional fare increase for the carriers, was accomplished by an agency press release, without giving the public an opportunity to voice its views or lodge objections. It was the October 1969 fares, as increased by the "round up" decision, which prevailed on July 9, 1970.

[5] See note 4, *supra*.

[6] Orders 71–4–59/60 found that intervening upward adjustments in first-class and discount fares represented a fare increase of approximately 3 percent over the fares prevailing as of July 9, 1970.

[7] Subsequently, the tentative decision announced in Order 71–4–59 was made final, with slight modifications, by Order 72–8–50, dated August 10, 1972.

[8] The July 30 order noted that "there is pending before the Board a complaint filed by these petitioners requesting the Board to institute an adjudicatory proceeding for the purpose of determining appropriate relief for rate overcharges exacted during the period extending from October 1, 1969 thru the date on which lawful domestic fares are reestablished." The October 27 order noted that "the Board has assured this court that it is proceeding expeditiously to conclude the Domestic Passenger Fare Investigation and to determine the issues raised in petitioners' supplemental complaint. . . ."

[9] This order is cited hereinafter by number only, with a page number.

[10] The Judicial Panel on Multidistrict Litigation consolidated these various actions for pretrial proceedings in the United States District Court for the Northern District of Illinois. *In re Air Fare Litigation*, 322 F. Supp. 1013 (1971). Subsequently, all proceedings were stayed pending the outcome of the relief proceeding held by the Board. *Weidberg* v. *American Airlines*, 336 F. Supp. 407 (N.D. Ill., 1972). Petitioners are not parties to these class actions.

[11] In early August 1971, petitioners learned that in July the Board had conducted private meetings with two airlines dealing with matters such as excess capacity, load factors, and fare adjustments. Petitioner Moss wrote to Board Chairman Secor D. Browne on August 5, 1971, expressing surprise at this news and posing specific questions regarding the meetings. On October 21, 1971, Chairman Browne responded that private meetings had

indeed been held, without public notice, and that they had dealt in part within "certain general topics of significance in regulation of the airlines." Chairman Browne claimed that *Moss I* did not hold that such meetings were illegal or improper; that since the *DPFI* was under way, it made no difference if the Board met with carrier representatives in private sessions; and that the meetings in question were necessary to enable the Board to understand and appraise the industry.

[12] Cost and revenue-hour data was needed by petitioners to calculate precisely the extent of excessive carrier costs, particularly overcapacity, during the period under investigation. (Tr. 647–48, 709–11) Information with respect to representative city pairs was needed to investigate the discriminatory features of the fare structure. And the lack of information on *ex parte* contacts prevented petitioners from probing the circumstances under which the October 1969 fares were established and the circumstances under which the relief proceeding was instituted and limited by the Board.

[13] Tr. 791–94. See also Bureau Response to Notice of Prehearing Conference, Request of Trial Examiner for Statement of Position, July 8, 1971.

[14] Tr. 804: "The Bureau wears many hats in these proceedings. One, we are interested in seeing that the Examiner and the Board have a complete record so they will have a sufficient amount of facts to make their decision. Secondly, we represent the public in the sense that we are attempting to look out for the public's interest in that they get the lowest fares possible. At the same time we are looking out for the interests of the carriers, to see that they get what they are entitled to in the form of a return on investment." (Testimony of Bureau Witness Edward A. McKay.)

[15] The decision is cited hereinafter as "I.D.," with a page number.

[16] The Examiner concluded that the fares were not unjustly discriminatory because they were less discriminatory than the "hodgepodge" that prevailed prior to October 1, 1969 (I.D., p. 34, App.——); and that petitioners had been given a "full and fair hearing," since "no evidence which was relevant to the issues was ruled out." (I.D., pp. 15–17, App.——)

[17] Petitioners also questioned the Examiner's assertion that the relief proceeding had been "full and fair," in light of the denial of requested information and the refusal to provide them with assistance for the presentation of their case.

[18] The order will be cited hereinafter by its number, with a page number.

[19] An Appendix to Order 73–7–39 (App. ——) deals with petitioners' contention that the relief proceeding was unfair. The Appendix does not, however, discuss the denial of the assistance requested by petitioners. Insofar as it addresses the denial of requested information, it alleges that some of the requested information was available elsewhere, that some was proffered by a few of the carriers despite the Examiner's denials, and that some did not fit within the Board's limited concept of the relief proceeding. The other points treated in the Appendix deal with matters raised below and which, in order to avoid a multiplicity of issues, petitioners do not assert on this appeal.

[20] The Board has not seen fit to discontinue its practice of holding regular private meetings with the regulated industry to discuss matters relating to ratemaking. In response to petitioner Moss's letter of August 5, 1971 to Chairman Browne, see note 11, *supra*, the Chairman replied that private meetings between the Board as a whole and carrier representatives had been held, without public notice, on at least 40 occasions between October 1, 1969 and June 17, 1971. In response to a further letter from petitioner Moss on December 10, 1971, seeking information on meetings of individual Board members and Board staff with carrier agents and employees, Acting Chairman Whitney Gilliland replied on January 27, 1972 that there were too many such meetings to describe. His letter stated that "perhaps more than 3,000 meetings may be covered by your request."

[21] In fact, the revenue impact of the illegal October 1969 fares was considerably greater than the amount stated in text because Bureau Exhibit BE–41 (App. ———), from which the amount in text is drawn, extends only through September 30, 1970—fully seven months less than the time over which those fares prevailed. See pages 5–9, *supra*.

[22] Like petitioners, *Middlewest* finds *Alouette* a helpful "analogy." 433 F.2d at 224.

[23] Contrary to suggestions by Examiner Newmann, the defect in the rates involved in *Alouette* was not that they were higher than the I.C.C. had found the carrier entitled to, but that they had been filed on too short notice and thus not in a "manner allowed by law." The I.C.C., like the Board in the present case, specifically found in *Alouette* that the rates in question were not unreasonably high. 253 F.2d at 454 & n. 4, 455 & n. 6.

[24] See 73–7–39, Appendix, pp. 3–4, App. ——.

[25] Means by which carrier earnings may be taken into account in the ultimate disposition of this case, should the Court believe this proper, are suggested in part IV C of this brief, pages 63–66, *infra*.

[26] See *e.g.*, Order 71–2–109: "the measure of overcharges, if any, constitutes those sums in excess of just and reasonable fares as determined by the standards of the Federal Aviation Act. . . ." (p. 9)

[27] The Board is obviously employing the term "unjust enrichment" to mean excessive net profits, not excessive gross revenues. If the term were employed in the latter sense, it might be the antithesis of "justness and reasonableness."

[28] Compare *Moss I*: "there is more to ratemaking than providing carriers with sufficient revenue to meet their obligations to their creditors and to their stockholders." 139 U.S. App. D.C. at 160, 430 F.2d at 901.

[29] This Order, dated April 9, 1971, was the Board's final decision in Phase 6B of the *DPFI*, dealing with load factors. It will be cited hereinafter by number only, with a page number.

[30] The Board has called it "more than mere chance that the deterioration of traffic growth over the [period from 1969 to 1972] . . . has coextended with a number of significant increases in the level of normal and promotional fares." Order 72–8–50, p. 38 (August 10, 1972).

[31] Exhibit BE–19 (App. —). Order 71–4–54 indicates that the trunk carrier load factor for this period was 48 percent. (p. 15)

[32] Order 72–8–50, dated August 10, 1972, was the Board's final decision in Phase 7 of the *DPFI*, dealing with fare level. It will be cited hereinafter by number only, with a page number.

[33] Either standard would reveal substantial revenues in excess of reasonable need, as long as a reasonable standard governing "dilution" is also employed. See MOC–1, App. —, and pages 42–44 and 52–53, *infra*.

[34] While there are other kinds of dilution, the term is used in this case to refer only to diluted yields produced by discount and promotional fares. (Tr. 741–42, 801–03.)

[35] This order embodied the Board's decision in Phase 5 of the *DPFI*, dealing with discount fares. It will be cited hereinafter by number only, with a page number.

[36] See Tr. 80, 103, 128, 143–45, 245, 287, 290, 302–03, 311, 321–22, 371–73, 445–56, 457, 463–64, 509, 511.

[37] Since fares are not generally made on a market-by-market basis but, as in this case, by use of a nationwide formula, the high costs of excessive capacity in the long hauls is passed on to all users of air travel, throughout the system.

[38] While the exhibit was 'a forecast of future dilution reflecting the changes which had taken place in the discount fare structure authorized in Phase 7" (73–7–39, p. 23, App. ) it was obviously based on past experience and, if anything, reflected a conservative demonstration of the trend that Mr. Klabzuba described, since Phase 7 resulted in a raising of discount fares.

[39] See note 36, *supra*.

[40] In other contexts the Board has defended its own suggested standards as "necessarily based on judgment. However, we must begin at some point. . . ." (71–4–54, p. 37)

[41] It will be recalled that the Board refused to provide petitioners with assistance for the presentation of their case. See page 12, *supra*.

[42] MOC–1 employed the 54 percent industrywide load factor standard set in Order 71–4–54 rather than the 55 percent trunkline standard.

[43] See pages 5–9, *supra*.

[44] See page 54, *infra*.

[45] The comparison is between the *DPFI* requirements of a 55 percent load factor standard and a zero dilution standard, on the one hand, and the trunklines' experience during the year ending September 30, 1970—48.9 percent load factors and approxmately 16 percent dilution.

[46] Direct costs are all operating costs directly associated with the expense of flight. Indirect costs refer to other expenses, including cabin service.

[47] Section 1002(e)(1) requires the Board to consider "the effect of . . . rates upon the movement of traffic." The Board's entire discussion of this factor in Order 73–7–39 was as follows:

> [I]n Phase 7 (Fare Level), the Board determined that the impact on traffic of across-the-board increases in fare level should be measured by a coefficient of –.7. There is no basis to assume that elasticity during the past recent period is other than that found in Phase 7, and that the fare increases had a depressant effect on traffic of approximately, –.7. Nevertheless, as we have shown, the fare increase was required to provide needed additional revenues to the carriers." (pp. 26–27; citation omitted; App. —).

Apart from an emphasis on carrier needs, this discussion is incomprehensible. Surely it does not satisfy the statute.

[48] The Board described these fares in Order 69–9–68 as having been "for some time . . . considerably in excess of costs . . ." (p. 7)

[49] The Board recognized this problem in Order 69–9–68, but brushed it aside. (pp. 5–6)

[50] Many discount fares were found unjustly discriminatory in the *DPFI*, Order 72–12–18.

[51] In May of 1969 the Board found "no reason for continuing such inequity." Order 69–5–28, p. 4. However, Order 69–9–68, six months later left the issue unresolved.

[52] Petitioners do not concede that any passenger paid less than a reasonable fare, assuming fares had been established in a reasonable fashion. See pages 50–51, *supra*.

[53] Petitioners do not understand the Board to claim that it would be impossible to tailor relief in this case so that passengers paying "unreasonably low" fares would not receive a windfall. Like the issue of fare structure, the issue of appropriate relief was not reached in Order 73–7–39.

[54] Petitioners' efforts to secure information bearing on fare structure were rebuffed by the Trial Examiner. See pages 13–14, *supra*.

[55] Although these cases arose under the Washington Metropolitan Area Transit Regulation Compact, the relevant terms of that Compact are comparable to those of the Federal Aviation Act and the approach taken in the cited cases is, therefore, applicable here.

[56] Order 73–7–39 did not address this question.

[57] See Bureau Exhibit BE–41, App. ——.

[58] See pages 52–53, *supra*.

[59] Both calculations extend only through September 30, 1970, while the October 1969 fares actually prevailed for approximately six months thereafter. See pages 5–9, *supra*. In addition, Exhibit MOC–1 (App. ——) reflects highly conservative estimates of the amount by which revenues exceeded the just and reasonable. See pages 52–53, *supra*.

[60] See page 31 and note 25, *supra*.

[61] See Order 71–4–58 (April 9, 1971), the final decision in Phase 8 of the *DPFI*, dealing with rate of return. It is not entirely clear that the carriers are entitled to these rates of return from the October 1969 fares since Order 69–9–68, which established those fares, explicitly employed a 10.5 percent rate of return. (p. 9) Exhibit MOC–1 reflects the rate used in Order 69–9–68.

[62] See Bureau Exhibit BE–51, App. ——, containing statistics with respect to the trunklines only. The local service carriers have historically earned considerably less than the trunklines.

[63] See I.D., Appendix A, App. ——.

## Addendum A

### Principal Statutes Involved

Federal Aviation Act, § 102 (49 U.S.C. 1302)

In the exercise and performance of its powers and duties under this chapter, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

(a) The encouragement and development of an air-transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense;

(b) The regulation of air transportation in such manner as to recognize and preserve the inherent advantages of, assure the highest degree of safety in, and foster sound economic conditions in, such transportation, and to improve the relations between, and coordinate transportation by, air carriers;

(c) The promotion of adequate, economical, and efficient service by air carriers at reasonable charges, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices;

(d) Competition to the extent necessary to assure the sound development of an air-transportation system properly adapted to the needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense;

(e) The promotion of safety in air commerce; and

(f) The promotion, encouragement, and development of civil aeronautics.

Federal Aviation Act, § 1002(d)(e) (49 U.S.C. 1482)

(d) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate, fare, or charge demanded, charged, collected, or received by any air carrier for interstate or overseas air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the Service thereunder, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Board shall determine and prescribe the lawful rate, fare, or charge (or the maximum or minimum, or the maximum and minimum thereof) thereafter to be demanded, charged, collected, or received, or the lawful classification, rule, regulation, or practice thereafter to be made effective: *Provided*, That as to rates, fares, and charges for overseas air transportation, the Board shall determine and prescribe only a just and reasonable maximum or minimum, or maximum and minimum rate, fare, or charge.

(e) In exercising and performing its powers and duties with respect to the determination of rates for the carriage of persons or property, the Board shall take into consideration, among other factors—

(1) The effect of such rates upon the movement of traffic;

(2) The need in the public interest of adequate and efficient transportation of persons and property by air carriers at the lowest cost consistent with the furnishing of such service;

(3) Such standards respecting the character and quality of service to be rendered by air carriers as may be prescribed by or pursuant to law;

(4) The inherent advantages of transportation by aircraft; and

(5) The need of each air carrier for revenue sufficient to enable such air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier service.

## Addendum B

### Principal Developments Relating to Moss v. C.A.B.

April 21, 1969: Petitioners' Complaint and Request for a General Passenger Fare Investigation.

Petitioners alleged that carrier proposals for a fare increase did not comply with the standards of the Federal Aviation Act and that the proposed increase was unjust and unreasonable. Petitioners recommended that the Board suspend and investigate the carrier proposals and undertake a general investigation of domestic passenger fares.

May 8, 1969: C.A.B. Order 69–5–28.

This order suspended the carrier proposals pending Board investigation of their reasonableness, and deferred decision on a general rate investigation.

August 20, 1969: Petitioners' Complaint in the Matter of Tariffs Filed During the Month of August 1969.

Petitioners requested suspension and investigation of new carrier proposals on the grounds that the Board was without ratemaking standards permitting assessment of these proposals and that the carriers had not shown that the level and structure of the proposed fares were just and reasonable. Petitioners again requested institution of a general investigation of passenger fares.

September 12, 1969: C.A.B. Order 69–9–68.

This order suspended the carrier proposals pending investigation, and suggested use of a comprehensive formula involving a line-haul rate and a terminal charge. Application of the formula would produce a 6.35 percent increase in fares which the Board said it would allow to become effective as of October 1, 1969. Tariffs embodying such increase were to have an expiration date of January 31, 1970. A general investigation of domestic passenger fares was again deferred.

September 22, 1969: Petitioners' Petition for Reconsideration of Order 69-9–68.

September 30, 1969: Board Order 69–9–150.

This order denied reconsideration of Order 69–9–68.

November 10, 1969: Petitioners' Petition for Review of Orders.

Orders 69–9–68 and 69–9–150 in the United States Court of Appeals for the District of Columbia Circuit.

December 11, 1969: Petitioners' Motion to the Court of Appeals for Interlocutory Relief.

Petitioners sought an order setting aside the increased fares that had gone into effect on October 1, 1969 and reinstating the prior fares. Alternatively, petitioners sought an order permitting the carriers to continue charging the October 1969 fares but requiring them promptly to repay overcharges in the event those fares were ultimately declared illegal.

January 9, 1970: Petitioners' Complaint in the Matter of Tariffs Filed on December 31, 1969.

Petitioners requested that carrier proposals to extend the October 1969 fares be suspended and investigated. Petitioners alleged that Order 69–9–63 was illegal, and the tariffs filed pursuant thereto were unjust, unreasonable, and unlawful. Petitioners reiterated their request for a general domestic passenger fare investigation.

January 9, 1970: Court of Appeals Order.

This order deferred action on petitioners' motion for interlocutory relief for thirty days to permit the Board to consider petitioners' pending request for a passenger fare investigation. The order also called for supplemental memoranda from the parties on (1) the feasibility of monthly statements by the carriers setting forth the amounts attributable to the October 1969 fares, and (2) the power of the Court to suspend rates pending determination of the Court's jurisdiction.

January 29, 1970: C.A.B. Order 70–1–147.

This order instituted a Democratic Passenger Fare Investigation (*DPFI*), covering various aspects of airline ratemaking.

January 29, 1970: Press Release: C.A.B. 70–11.

The Board announced that it had decided to approve joint fare agreements proposed by local service carriers and would therefore allow such carriers to extend the October 1969 fares beyond January 31, 1970. The Board indicated that it would allow similar extensions by the trunk carriers if they agreed to a proposed joint fare formula.

January 30, 1970: Petitioners' Complaint in the Matter of Passenger-Fare Revisions and Extensions Proposed for February 1–15, 1970.

Petitioners complained against extension of the October 1969 fares pursuant to Press Release 70–11. Petitioners contended that Order 69–9–68 was illegal and that tariffs or tariff extensions based on that order were similarly illegal. Moreover, Press Release 70–11 was improper procedurally and had been issued without considering the ratemaking criteria specified by the Federal Aviation Act. Finally, the joint fare agreement that the Board indicated it would accept was discriminatory and unreasonable.

February 26, 1970: C.A.B. Order 70–2–121.

This order divided the *DPFI* into nine separate phases investigating: (1) aircraft depreciation; (2) leased aircraft; (3) deferred federal income taxes; (4) joint fares; (5) discount fares; (6) load factors and seating configurations; (7) fare level; (8) rate of return; and (9) fare structure.

June 19, 1970: Press Release: C.A.B. 70–79.

The Board announced that as of July 1, 1970, it would allow domestic carriers to round all fares up to the nearest dollar, resulting in increased revenues estimated to approximate $50,000,000. The Board recognized "that the public had no notice of the carriers' proposal to increase fares on July 1st or opportunity to file comments. . . ."

July 9, 1970: Court of Appeals Decision in *Moss* v. *C.A.B.*, 139 U.S. App. D.C. 150, 430 F.2d 891 (*Moss I*).

Order 69–9–68 was declared invalid, and tariffs filed pursuant to that order were found unlawful. The care was remanded to the Board for further proceedings.

July 14, 1970: Letter from Petitioner John E. Moss to Secor D. Browne, Chairman of the C.A.B.

Congressman Moss requested: (1) that there be no *ex parte* communications between the Board and any carrier regarding fares; (2) that he be informed of any meetings between carriers and members or employees of the Board; and (3) that the Board notify him of any action taken in connection with the case or of any proposals made by the carriers or the Board regarding fares.

July 24, 1970: Petitioners' Supplemental Complaint.

Petitioners suggested re-establishment of the fares in effect prior to October 1, 1969, pending determination of lawful fares by the Board. In addition, they requested institution of an expedited adjudicatory proceeding to determine appropriate relief to the traveling public for the overcharges attributable to the October 1969 tariffs found unlawful in *Moss I*.

July 28, 1973: C.A.B. Order 70–7–128.

This order "accepted" the decision of the Court of Appeals in *Moss I* and vacated Order 69–9–68. Although the Board recognized that the prevailing fares, embodying the structure and the increase suggested in Order 69–9–68, fell within the condemnation of the Court's judgment, it declared that those fares were the only ones that could lawfully be charged pending establishment of new fares. The Board called for the carriers to submit new tariffs "free of any compulsion that may have been inherent in the invalid Order 69–9–68." It stated that the new carrier filings should bear an effective date of October 15, 1970 and indicated that it would rule on the proposals by September 15, 1970, in order to allow the carriers to make "competitive filings." The Board stated that it would not establish fares itself without duplicating efforts under way in the *DPFI*.

July 28, 1970: Petitioners' Complaint in the Matter of Proposed Extensions of Domestic Passenger Fares.

Petitioners opposed proposals by various carriers to extend the rounded-up October 1969 fares beyond their August 31, 1970 expiration date, on the ground that these fares were based on Order 69–9–68, held by the Court of Appeals to be unlawful, and the similarly unlawful June 1970 press release.

July 29, 1970: Respondent's Motion for Partial Stay of Mandate.

The Board moved the Court of Appeals to stay its mandate in *Moss I* for 90 days to permit establishment of new fares. Because the procedure it proposed to adopt for this purpose involved maintaining the fares held unlawful in *Moss I* in effect for approximately 90 days, the Board requested a stay of the Court's mandate to allow completion of that procedure.

July 29, 1970: Petitioners' Response to Motion for Partial Stay of Mandate.

Petitioners objected to the partial stay of mandate because (1) the Board proposed to continue the unlawful October 1969 fares for an additional 90 days; (2) the procedure adopted by the Board to establish new fares—involving tariff submissions from the carriers—would be unlikely to result in fares untainted by the unlawful Order 69–9–68; and (3) the Board, which was in part responsible for Order 69–9–68, should bear the responsibility of determining new rates itself, according to the criteria of sections 1002(e) and 102 of the Federal Aviation Act, and subject to judicial review. In the event the Court determined to grant a stay, petitioners requested that it take appropriate measures to protect the claim of the public to relief for the period up to the re-establishment of lawful fares.

July 30, 1970: Court of Appeals Order.

The Court granted the Board's motion for a partial stay of mandate. Because petitioners' supplemental complaint for relief for rate overcharges was pending before the Board, the Court deemed it unnecessary to address itself to the issue of protecting the traveling public during the period of the stay.

August 26, 1970: Petitioners' Complaint in the Matter of Tariffs Proposed by the Domestic Air Carriers To Take Effect on October 15, 1970.

Petitioners objected to the proposed tariffs because: (1) the Board could not rationally choose among them, since the carriers had failed to supply relevant data and standards or to submit appropriate justification for their proposals consistent with the Federal Aviation Act; (2) the carrier filings were all based on Order 69–9–68, despite the Board's statement in Order 70–7–128 that new tariff proposals should be independently made; (3) the carriers had engaged in unauthorized exchanges of information regarding their fare proposals in apparent violation of section 102 of the governing statute and possibly in violation of the antitrust laws.

September 15, 1970: C.A.B. Order 70–9–73.

This order dismissed as moot petitioners' request that the Board re-establish the fares in effect prior to October 1, 1969. It also deferred action on petitioners' request for a proceeding to determine appropriate relief for the public and called for briefs on the Board's power to grant such relief, the nature of proof to be introduced to prove overcharges, the procedure to be employed, the relationship between the DPFI and the proposed relief proceeding, and the form of relief to be accorded.

September 24, 1970: C.A.B. Order 70–9–123.

This order suspended all carrier tariffs filed pursuant to Order 70–7–128 except those which re-established the rounded up October 1969 fares. The order justified continuation of those fares on the grounds that the new proposals were free from any compulsion inherent in Order 69–9–68 and did not appear prima facie unreasonable, since the carriers' earnings were sub-marginal and the problem of excess capacity could not "be remedied overnight." Objections to the "rounding-up" procedure would be resolved by the DPFI, and, in the interim, the amounts involved for individual passengers were minimal. Moreover, all of the carrier filings rejected by the Board proposed further increases in fares.

October 7, 1970: Petitioners' Motion for Further Stay of Mandate.

Petitioners alleged that the procedure adopted by the Board of Orders 70–7–128 and 70–9–123 did not comply with the Court's decision in *Moss I*, and that the Board's actions amounted to an extension of fares which had been found unlawful. The Board had accepted fares identical to the rounded-up October 1969 fares; the fact that it had declared the carriers free from any compulsion to adopt the formula presented in Order 69–9–68 did not prove tariffs reflecting that formula were carrier-made. Petitioners argued that the situation uncovered in *Moss I* could not be remedied through carrier-made filings since the Board possessed no ratemaking standards against which to examine such filings. Petitioners requested the Court to stay its mandate in *Moss I* again, pending re-establishment by the Board of lawful fares, and to order the Board to render a prompt decision on its power to grant the relief for the public which petitioners had requested.

October 15, 1970: Petitioners' Brief Concerning the Matters Discussed in C.A.B. Order 70–9–73.

Petitioners contended that the Board has ample power to award appropriate relief for the illegal October 1969 fares, that it should decide this jurisdictional question at the outset of the relief proceeding, and that there was no reason to combine the relief proceeding with the *DPFI*. With respect to the standards governing relief, petitioners contended that the public was presumptively entitled to the full amount of the October 1969 fare increase unless the carriers could show that some portion of the increase was justifiable under the Federal Aviation Act. Petitioners also asserted that the most equitable form of relief would be refunds to passengers who were overcharged or, in the event this proved not fully possible, the establishment of a fund or reserve to be offset against future tariff actions or otherwise used in the interest of the traveling public.

October 19, 1970: Respondent's Opposition to Petitioners' Motion for Further Stay of Mandate.

The Board alleged that the tariffs which went into effect on October 15, 1970 were lawful, carrier-made tariffs and that since the Court's mandate would be directed only at tariffs in effect prior to October 15, 1970, a further stay of that mandate would be an "empty gesture." Respondent also urged rejection of petitioners' request for an order requiring the Board to rule promptly on its power to grant relief.

October 27, 1970: Court of Appeals Order.

Petitioners' Motion for Further Stay of Mandate was denied on the ground that the Board had assured the Court that it was proceeding expeditiously to conclude the DPFI and to determine the issues raised in petitioners' supplemental complaint regarding relief.

November 19, 1970: C.A.B. Order 70–11–91.

This order subdivided Phase 6 of the DPFI into two parts, dealing respectively with seating configurations and load factors.

November 20, 1970: Letter from Petitioner Moss to C.A.B. Chairman Browne.

Congressman Moss stated petitioners' position that the existing fares were illegal—both because they were identical to those held illegal in Moss I and because the process by which they were established was substantially the same as that condemned in Moss I. Moss also noted that legal fares could not be re-established until the DPFI was completed and retrospective relief was granted to the public.

November 27, 1970: Letter from C.A.B. Chairman Browne to Petitioner Moss.

Chairman Browne asserted that the Board had complied with the procedure described to the Court of Appeals in Respondent's Motion for Partial Stay of Mandate and that the prevailing fares were "the lowest which could have been put into effect" pending completion of the DPFI.

February 25, 1971: C.A.B. Order 71–2–109.

This order initiated an investigation to determine whether the fares charged from October 1, 1969 through October 14, 1970 were unjust and unreasonable and, if so, the amount of any resulting overcharges. The Board rejected petitioners' request that it first determine whether it had power to grant the requested relief. The order noted that class actions had been brought against the carriers in various lower courts around the country, and stated that "the Board's resolution of the reasonableness issue at this time could be an aid to the district courts in fashioning relief, if indeed relief is due, or in determining whether the class actions should be entertained any further."

March 8, 1971: Petitioners' Petition for Reconsideration of Order 71–2–109.

Petitioners requested reconsideration and clarification of various aspects of Order 71–2–709, specifically: (1) that the investigation should include petitioners' contention that the fares which went into effect on October 15, 1970 were as unlawful as those that had prevailed previously; (2) that the investigation should cover the reasonableness of the fare structure as well as the reasonableness of fare level; (3) that the Board should clarify various statements in Order 71–2–109, which appeared either to misstate petitioners' position or to prejudge the investigation; (4) that the Board should specify the actions it would take if the fares were found unreasonable; (5) that the hearing examiner should be given authority to consider issues not anticipated by the Board; (6) that the burden in the relief proceeding should be placed squarely on the carriers in light of the finding in *Moss I* that the fares in question were illegal and because most of the relevant information lay in the carriers' hands; and (7) that the Board and carriers should provide petitioners with reasonable assistance, including attorneys' fees and witness' fees, to enable petitioners to present their position fully in the relief proceeding.

April 9, 1971: C.A.B. Order 71–4–54.

This order was the Board's decision in Phase 6B of the *DPFI*, dealing with load factor standards. The agency determined that such standards must be adopted by reason of section 1002(e) of the Federal Aviation Act and adopted standards of 55.0 percent of the trunklines, 44.4 percent for the local service carriers, and 54.1 percent for the industry.

April 9, 1971: C.A.B. Orders 71–4–59/60.

These orders announced the Board's tentative findings and conclusions in Phase 7 of the *DPFI*, dealing with fare level. The Board found that existing fare levels were unreasonably low, and that the carriers were entitled to a 12 percent increase over the rounded-up October 1969 fares. Because fares had already been increased approximately 3 percent since October 15, 1970, through various upward adjustments of discount and first-class fares, the Board tentatively ordered the maximum increase would be 9 percent above existing fares. Pending a final decision, the Board allowed an interim increase up to a maximum of 6 percent above existing fares.

May 3, 1971: Petitioners' Petition for Reconsideration of Orders 71–4–59/60.

Petitioners noted that the orders were not grounded in the statutory criteria governing ratemaking and that the Board had failed to indicate whether or how it applied those criteria in reaching its conclusions. In particular, petitioners objected to allocation of excess freight costs to passenger fares; estimation of carrier costs with reference to historical data and without determining whether such costs met the statutory standard of "honest, economical, and efficient management"; establishment of fares on a single nationwide and industrywide basis; and failure to assess the impact of a fare increase on the movement of traffic, as the statute requires. Petitioners urged that, if the Board was determined to grant a fare increase, it should institute a survey to determine the impact of that increase on particular classes of passengers.

May 13, 1971: C.A.B. Order 71–5–65.

This order denied petitioners' request for reconsideration of Order 71–2–109 on the grounds that: (1) The fares that went into effect on October 15, 1970 were lawful and properly excluded from the relief proceeding; (2) investigation of the reasonableness of specific fares were unwarranted and would be too burdensome; (3) the Board's delegation of authority to the hearing examiner was sufficient and petitioners had failed to specify the unanticipated issues they believed ought to be included in the proceeding; (4) Order 71–2–109 had made sufficient provision for the eventuality that the fares might be found unreasonable; and (5) there would be no presumption as to the reasonableness of the fares in question, and the burden of proof on the issue of reasonableness "would be apportioned as in any rate case." In addition, this order rejected petitioners' request for assistance in the presentation of their position in the relief proceeding.

May 20, 1971: Notice of Prehearing Conference.

Trial Examiner Ross I. Newmann set a preliminary conference for July 29, 1971, and instructed the Board's Bureau of Economics to submit by July 8, 1971 a proposed statement of issues, proposed stipulations, a request for evidence, statement of position, and proposed procedural dates. The parties were then to reply to the Bureau's submission.

June 28, 1971: C.A.B. Order 71–6–138.

This order denied petitioners' request for reconsideration of Orders 71–4–59/60.

July 8, 1971: Bureau Counsel's Proposed Statement of Issues, Request for Evidence, Proposed Stipulations, and Proposed Procedural Dates.

The Bureau restated the issues presented as they had been defined in Order 71–2–109. It also proposed stipulations that certain of the Board's conclusions in the *DPFI* be employed in the relief proceeding and requested evidence regarding proposed forms of relief and summaries of revenues, expenses, investment, and capacity during the period under investigation. The Bureau took no position on the questions at issue.

July 20, 1971: Petitioners' Submission in Response to Notice of Prehearing Conference.

Petitioners proposed a detailed statement of the issues they believed involved in the relief proceeding, including the basis for the Board's original promulgation of Order 69–9–68, the reasonableness of the October 1969 fares in light of the criteria set out in the Federal Aviation Act, the extent to which fares were unreasonable with respect to particular carriers or classes of passengers, the Board's authority to grant relief, and the form which appropriate relief might take. In addition, petitioners requested information from each carrier in considerably greater detail than the Bureau had requested. They also asked that the carriers and Bureau be required to present their direct case before petitioners were called upon to respond.

July 27, 1971: Letter from Stanford G. Ross, Counsel for Petitioners, to Trial Examiner Ross I. Newmann.

Petitioners requested that a transcript of the Prehearing Conference be kept.

July 29, 1971:

Prehearing Conference.

Petitioners' request that a transcript be kept was denied.

August 5, 1971: Letter from Petitioner Moss to C.A.B. Chairman Secor D. Browne.

Petitioner Moss noted the recent release of transcripts of *ex parte* meetings between the Board and Representatives of two carriers. In light of the potential effect of such meetings on the Board's decisions in the *DPFI* and the relief proceeding, petitioner Moss posed a series of questions regarding the meetings and asked whether the Board had made any revisions in its practices pertaining to *ex parte* meetings in light of *Moss I*.

August 9, 1971: Prehearing Conference Report of Examiner Ross I. Newmann.

The Examiner rejected all proposed issues and subissues suggested by petitioners and accepted only the basic issue adopted by the Bureau of Economics from Board Order 71–2–109. Much of petitioners' request for information was also rejected as "not relevant to the issues as defined by the Board," including (1) block times at 100-mile intervals, (2) available seat hours, (3) passenger hours flown, (4) data on actual and projected load factors, (5) terminal costs, (6) city-pair data, (7) information regarding *ex parte* contacts between the Board and the carriers. All parties were required to submit direct exhibits and testimony simultaneously, on December 3, 1971, and a public hearing was set for February 14, 1972.

August 16, 1971: Petitioners' Exceptions to Prehearing Conference Report.

Petitioners excepted to the Examiner's treatment of proposed issues on the grounds that he had failed to specify the subissues which he had rejected, leaving the parties without notice of the scope of the proceeding, and that he had apparently rejected consideration of fare structure, a matter highly pertinent to reasonableness. Petitioners also excepted to the Examiner's decision to reject most of their requests for evidence and specified the reasons why each requested item of information was relevant and necessary for assessing the reasonableness of the fares in issue. Petitioners again sought a date for the submission of their direct case following the direct submission by the carriers.

September 3, 1971: Supplemental Prehearing Conference Report of Examiner Ross I. Newmann.

The Examiner denied that any useful purpose would be served in an attempt to particularize the subissues involved in the relief proceeding. He rejected as erroneous petitioners' contention that he had excluded the issue of fare structure, claiming that only "extensive examination of each individual fare" was excluded. The remainder of petitioners' exceptions were either rejected or ignored.

September 13, 1971: Petitioners' Exceptions to Supplemental Prehearing Conference Report.

Petitioners stated that the Examiner's Prehearing Conference Reports had failed to establish a hearing that could fulfill the requirements of *Moss I* because relevant issues were excluded and petitioners were barred from obtaining necessary information from the carriers.

October 21, 1971: Letter from C.A.B. Chairman Browne to Petitioner Moss.

Chairman Browne responded to petitioner Moss's letter of August 5, 1971 regarding *ex parte* meetings between the Board and carrier representatives. He asserted that such meetings were a proper means of "understanding and appraising the industry [the Board] is required to promote and develop," and that the Board did not regard them as *ex parte* since they did not deal directly with issues involved in an adversary hearing or pending investigation. Chairman Browne stated, with respect to the particular meetings about which petitioner Moss had inquired, that no public notice was given, no one was present except representatives of the Board and a carrier or carriers, such meetings are very frequent, and that such meetings were unlike those involved in *Moss I* because, unlike the meetings which preceded Order 69–9–68, they did not involve all the trunkline carriers and were not concerned with matters involved in pending fare cases.

December 3, 1971: Direct Testimony of Petitioners' Witness, Richard W. Klabzuba.

Mr. Klabzuba stated that the data made available by the carriers was inadequate to permit a precise determination of overcharges produced by the October 1969 fares. He explained that such a determination should be made by applying specific ratemaking guidelines to determine the reasonable revenue need for adequate and efficient service and then by comparing this revenue need to the carriers' actual revenues.

December 10, 1971: Letter from Petitioner Moss to C.A.B. Chairman Browne.

Petitioner Moss objected that the information provided in Chairman Browne's letter of October 21, 1971 was incomplete. He requested further information on *ex parte* meetings between Board members or staff and private companies, groups, or individuals.

January 21, 1972: Rebuttal Testimony of Richard W. Klabzuba.

Mr. Klabzuba believed that the data and analysis presented by the carriers failed to demonstrate the reasonableness of the fares in issue. He expressed the view that the October 1969 fares were unreasonable because they underwrote unreasonable capacity and unreasonable costs. The amount of revenue required to provide adequate and efficient service during the period under investigation was considerably less than that provided by the October 1969 fares.

January 27, 1972: Letter from Whitney Gilliland, Acting Chairman of the C.A.B., to Petitioner Moss.

In response to petitioner Moss's letter of December 10, 1971, requesting information on all meetings between Board members and staff and private companies, groups, and individuals over the period from October 1, 1969 to October 5, 1971, Acting Chairman Gilliland replied that such meetings were so frequent (possibly in excess of 30,000) that even listing them would be impractical; moreover, no transcript is normally made and no record is normally kept of such meetings or of the notice given and the persons present.

February 22 through March 1, 1972: Hearings Before Trial Examiner Newmann.

Mr. Klabzuba testified at length regarding his methodology for determining just and reasonable fares for the period under investigation. Petitioners submitted Exhibit MOC–1, demonstrating on the basis of the data made available by the carriers that the October 1969 fares had produced revenues substantially in excess of the amount needed for adequate and efficient service.

March 8, 1972: Submission of Petitioners' Exhibit MOC–2.

This exhibit, submitted pursuant to the request of the Bureau of Economics, refined somewhat the approach reflected in Exhibit MOC–1.

May 1, 1972: Petitioners' Brief to the Trial Examiner.

Petitioners argued that the October 1969 fares had occasioned overcharges to the traveling public of no less than $250,000,000, that the Board had the power to grant refunds or other appropriate relief, and that the most appropriate form of relief would be refunds for the public or a fund against which future fare increases would be charged.

July 3, 1972: Initial Decision of Examiner Ross I. Newmann.

Examiner Newmann rejected petitioners' suggested guidelines for determining adequate and efficient service during the period in question. Instead, he hinged his decision on the carriers' return on investment. The Examiner found the fares in issue not unjust and unreasonable because they did not produce excessive earnings for the carriers.

July 24, 1972: Petitioners' Petition for Review of Initial Decision of Hearing Examiner.

Petitioners contended that the Examiner had failed to make necessary findings and had committed both errors of law and of procedure. His initial decision did not appear consistent with *Moss I*.

August 11, 1972: C.A.B. Order 72–8–50.

This order was the final decision in Phase 7 of the *DPFI*, dealing with fare level. It affirmed the tentative decision in Order 71–4–59, and the carriers were thus permitted to charge fares up to a maximum of 11.9 percent above the October 15, 1970 fare level.

September 7, 1972: C.A.B. Order 72–9–23.

This order granted Board review of Examiner Newmann's Initial Decision.

October 6, 1972: Petitioners' Brief to the Board.

Petitioners essentially repeated the arguments they had made to the Trial Examiner.

November 15, 1972: Oral Argument Before the Board.

**December 8, 1972: C.A.B. Order 72–12–18.**

**This order was the Board's decision in Phase 5 of the DPFI, dealing with discount fares. It found that many promotional and discount fares were unjustly discriminatory and that fares would henceforth be set as if the discount fares were not a part of the fare structure. This decision was reached because the Board perceived that the effect of prior ratemaking policies with respect to discount and promotional fares was to encourage excess capacity and raise fares for all passengers.**

**July 11, 1973: C.A.B. Order 73–7–39.**

**This order accepted the Trial Examiner's analysis and rejected petitioners' arguments that the public is entitled to relief regardless of justness and reasonableness; and that a reasonable level and type of service must be determined in order to assess the justness and reasonableness of the fares in question. The Board declined to reach the issues of fare structure, its power to award relief, and the appropriate form of relief. Petitioners' Supplemental Complaint of July 24, 1970 was dismissed.**

**July 6, 1973: Petitioners' Petition to the Court of Appeals for Review of C.A.B. Order 73–7–39.**

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## THE PRESENT STATE OF THE ENERGY SHORTAGE IN RELATION TO THE ENERGY EMERGENCY BILL

(Mr. ECKHARDT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ECKHARDT. Mr. Speaker, it has been over a month now since the House of Representatives passed the Energy Emergency Act. Today there is a growing skepticism among the members of the public and among some Members of this body as to whether there is in fact an energy shortage which requires this emergency legislation. I shall undertake to show here that there is not. Certain information has come to light recently which must appear to any person of open mind to undermine much of the justification for the Emergency Act.

The Energy Emergency Act is the most sweeping grant of power to a President ever conceived by Congress. It is designed to attack the supposed shortage on two grounds, allocation and conservation.

### I. THE ALLOCATION PROVISIONS DO NOT SUBSTANTIALLY ADD TO EXISTING AUTHORITY TO ALLOCATE AND RATION

The emergency bill clarifies and more clearly delineates the powers of the President to allocate—even to end-use-allocation—our present supply of fuel so that vital services will not be disrupted and so that equitable distribution will be assured to all.

In November Congress passed the Emergency Petroleum Allocation Act which gives sufficient powers to the President to act in the area of allocation. As I pointed out in my remarks to this body on December 18 and 19—pages 42350 and 42549 of the CONGRESSIONAL RECORD for those respective days—the Emergency Petroleum Allocation Act already gives the President full authority to allocate, even to the point of end-use-allocation—rationing. While some of the procedural refinements which this bill makes might be desirable, the need for them is not so immediate as to justify the enactment of this sweeping bill.

### II. THE CONSERVATION PROVISIONS HAVE NOT BEEN PROVED NECESSARY

Because of voluntary conservation measures undertaken by individuals, price pressures, and specific legislative action in Congress and in State legislatures, demand for petroleum products has declined about 15 percent. This is equal to, or exceeds, the reduction in through-put of the refineries. Average reduction in through-put capacity is down from about 96 to 97 percent of capacity at normal operating levels to about 85 to 87 percent of capacity at the present time.

### A. COAL CONVERSION

Just as the necessary allocation is already possible under existing statutory authority, the major conservation measures envisaged by this bill can be and in fact are already being taken. For instance, the major specific conservation measure provided in the legislation is the mandatory conversion of some plants from oil to coal. Chairman Nassikas of the Federal Power Commission told the House Interstate and Foreign Commerce Committee that approximately 42 utilities could be converted from oil to coal within a period of 3 to 5 weeks, resulting in savings of oil equivalent to 104,000 barrels a day.

First. Mandatory coal conversion provisions: To achieve these conversions, we were told, we had to give the Executive the authority to mandate the conversions. Then, it was said, in fairness to the plants, we should grant long-term suspensions of the stationary source emission limitations so that plants which had converted could be assured that they would be able to burn coal for several years in order to offset the costs of the conversion. That is what was urged upon us at the time we reported, and then adopted, the House bill. Dutifully, the House of Representatives included in the Energy Emergency Act a provision which allowed the administration to require that plants with the ready capability to convert to coal to do so. This provision is contained within title I of the legislation. And most of title II of the bill deals with suspending the safeguards of the Clean Air Act until 1979 so that plants required to convert will be able to continue to operate with coal until January 1, 1979.

Second. Environmental protection relaxation under existing law: In the last week, I have been checking to see what the possibilities for coal conversion are without the emergency legislation. I have found that conversions are not only possible; they are already underway. Presently the Environmental Protection Agency can grant suspensions of the stationary source emission limitations up to June 30, 1977. Such suspensions must be approved by the State affected by the suspension after an opportunity for a public hearing. Thus it will be seen that statutory capability to grant variances exists within the bounds of the Clean Air Act. Conversions to coal have not been prevented, and industries that have not yet converted are preparing to do so and are quite willing to take their chances under existing law.

**Third. Coal conversion now occurring: It is highly significant that, despite the lack of new legislative authority to mandate conversions and offer broader suspensions of environmental safeguards, nine electric powerplants on the east coast have already switched from oil to coal, representing a saving of 51,000 barrels of oil a day. The Federal Energy Office has also reported that four additional plants have indicated that they will convert to coal within 1 month, saving an additional 26,000 barrels per day. This means that under present law, 13 voluntary conversions resulting in savings of 77,000 barrels a day are already underway. This figure represents 75 percent of the savings the House Commerce Committee was told would result only if new legislation were enacted.**

**Fourth. Projected coal conversion: Not only are 13 voluntary conversions already underway, but regional offices of the Federal Energy Office are working to assist**

still other plants to locate coal and obtain environmental variances to burn it, so that additional voluntary conversions are expected in the future. The FEO estimates that these conversions will reduce daily oil requirements by another 58,000 barrels. If the reports of the Federal Energy Office are correct, a total savings of 135,000 barrels a day will be achieved. This is 30,000 barrels more than was estimated could be achieved with the mandated conversions in the Energy Emergency Act.

Fifth. Price incentive for conversion: Recently I spoke with a gentleman in Houston, Tex., who manages one of the largest oil refineries in the world. He informed me that the bulk of the residual fuel oil which is used by utilities is imported from the Caribbean. The price of this oil is in some instances $13 per barrel and is generally running much higher than the rate at which residual fuel has been obtained in plants using oil in the past. Clearly the economic incentive to convert to the use of coal will alone be sufficient to encourage conversion. That is, of course, the incentive which has brought about the conversions described above.

The administration has mounted an intense drive to convince Congress that the Energy Emergency Act must be enacted into law.

As I have pointed out, the major specific conservation measure provided for in the bill is already occurring without the Emergency Act, and the necessary allocation authority presently exists under the Emergency Petroleum Allocation Act. Therefore, I find that there is insufficient justification to approve this legislation which would afford the broadest grant ever given of authority to a President of the United States to take action without congressional approval.

### III. THE EMERGENCY PETROLEUM ALLOCATION ACT IS WORKING AND IS SUFFICIENT

#### A. AUTHORITY UNDER THE ACT

At the time of the passage of the Emergency Petroleum Allocation Act the great danger was the possibility of homes going cold and the wheels of industry and commerce ceasing to turn for lack of middle distillates and residual fuel oil. The act gave the President authority to allocate petroleum products and to direct refineries to adjust their processes to produce that which must be produced to heat homes and keep the wheels of industry and commerce rolling. I believe the act has worked well to achieve these ends from my personal investigation.

This month FEO has taken necessary steps to mandate allocation of more crude oil in refineries for production of middle distillates. In the last several days Administrator Simon has said that such mandatory allocations do not appear necessary. This has come about in part due to FEO's exercising of pricing authority arising under the Economic Stabilization Act and being made applicable under the Allocation Act. The Agency has ordered a 1 cent per gallon reduction of the price of gas at the refinery level and has permitted a 2 cents per gallon increase on distillates and has provided other price incentives for additional middle distillate production.

#### B. OPERATION OF THE ACT IN PRACTICE

There is now no danger at all of fuel oil for home heating running short this winter. The refineries in my area have been splitting the barrel of crude at about 5 percentage points toward middle distillates, and away from gasoline, since about September.

Let us cite an example. It will be stated hypothetically because precise figures would need to be derived from more checking than has been possible in this short time. A refinery in my district has a throughput of about 220,000 barrels per day. It is now down about 10 percent. It may vary percentage of the barrel for gas, as against middle distillates, by about 6 percent, but the fluctuation is usually about 5 percent. A percent gain for distillates is about a percent loss for gasoline. I use the term "middle distillates" here to include No. 2 fuel oil, kerosene, kerosene jet fuel, and naphtha jet fuel.

The percentage of the barrel of crude that went for gasoline in that plant last summer was 44 percent. This has dropped to 39 percent now. Correspondingly middle distillates have gone up from about 35 percent to about 40 percent.

The manager of one very large refinery states that it usually utilizes its throughput of crude at the following percentages seasonally:

| | *Percent* |
|---|---|
| Summer: | |
| Middle distillates | 30 |
| Gasoline | 50 |
| Winter: | |
| Middle distillates | 35 |
| Gasoline | 45 |

Its parameters have been stretched this winter and last, however. It is now producing 40 percent middle distillates and from 40 to 45 percent gasoline. The percentage of the barrel which may be used for such production is not the same in all refineries. For instance, in the Exxon refinery in Benicia, Calif., as much as 75 percent of the barrel may be used as gasoline.

I state these somewhat detailed examples to show how certain adaptations in the refining process can be used to meet real emergencies.

### IV. THE PRESENT AND PROJECTED SHORTAGE IS NOT SO GREAT AS TO REQUIRE HASTY AND ILL-CONSIDERED ACTION

From my inquiries, both of management and labor, there appears to be no panic, and refineries would quickly move to maximum production if Mideast oil were released. Exxon at Baytown has normally used considerable Arab oil. It is now using mostly west Texas sour crude and some crude from Florida. Atlantic Richfield at Pasadena is now using domestic oil but usually also uses African, Venezuelan, and Mideast crude.

There are several situations in the oil industry which remain unsettled, and there are several areas in which the facts are not clear. The extent of the Arab embargo is not at all clear. There is evidence that considerable oil has reached American refineries through leaks. The information I receive through oil workers is that tanks of crude are generally well supplied, and Exxon recently reported that it has more crude oil, more distillates, and more heavy fuel oil in storage today than it did a year ago. It reported having the same amount of stored gasoline.

In light of all of these facts, I have concluded that there is no such immediate emergency as to justify Congress giving up its constitutional function as policymaker and delegating it to the executive department.

We need more facts from the oil companies and from the Federal Energy Office if we are to pass legislation which intelligently meets the problems related to some ultimate fuel shortage crisis.

### V. PASSAGE OF H.R. 11450 REQUIRES TOO DRASTIC AND EXPENSIVE TRADE-OFFS IN OTHER ECONOMIC AND SOCIAL LEGISLATION AND IN CONSTITUTIONAL FORMS AND PRINCIPLES

In our haste to avoid a crisis which had been so luridly depicted to Congress by the administration we passed H.R. 11450 in the House, a bill which affected many areas of law, relaxed many prudently established standards, and skirted on many important economic principles and social objectives. We relaxed stationary emission source standards and auto emission standards. We tampered with antitrust law and Administrative Procedure Act provisions. We were even called upon to relax legal standards concerning conflicts of interest.

What occurred in conference, though, was far worse. We had eliminated in committee by a 19-to-10 vote broad delegation of authority to the President permitting him to make rules which, barring a House or Senate veto, would have the effect of law. An attempt to reinstate the provision in the Committee of the Whole was defeated by more than 100 votes. Yet such a process was reinstated in conference in an even more objectionable form.

With respect to energy conservation plans such as restricting store hours, setting shorter workweeks, et cetera, conferees agreed to the following system:

First. Energy conservation measures proposed by the administration between now and March 1 can go into effect immediately. But either House of Congress can repeal them by a majority vote within 15 legislative days of their taking effect.

Second. Energy conservation measures proposed between March 1 and June 30 will not take effect until Congress has had 15 legislative days to study them, during which time either House could veto a plan by majority vote.

Third. Energy conservation plans proposed after June 30 will require approval by Congress through the regular legislative process.

Administrator Simon sat in conference committee meetings urging that the President have unlimited authority to put into effect energy conservation plans by Presidential ukase.

Thus, on the point the conference report was a compromise, not between the House and the Senate bills but between the Senate and the administration. The right of the President to establish law by edict in any area where such was deemed necessary for conservation of energy was granted for the period until March 1, 1974. This was modified in the direction of congressional authority by the provision that either House of Congress could repeal the Presidential edict by a majority vote within 15 legislative days of its taking effect.

### VI. H.R. 11450 DOES NOT PRESENT AN ENTIRE PACKAGE OF BALANCED LEGISLATION BUT ONLY CONCESSIONS TO PRESIDENTIAL AND INDUSTRIAL LICENSE AND POWER

If legislation as comprehensive as H.R. 11450 purports to be should be enacted, it should do far more than make the concessions to Presidential and industrial license and power that are made in H.R. 11450. These concessions, as we have seen, lie primarily in the granting of more power to the President—authority to establish conservation plans by edict—and the relaxation of environmental standards.

A proper package of legislation in the field should consist of several bills going to various committees. Such bills should include two of the good features in H.R. 11450; these are, however, procedural:

First. The Moss amendment which provides for a Federal Energy Administration with well considered administrative procedures and due process safeguards for the exercise of price setting and allocation authority. The Economic Stabilization Act procedures now in effect are extremely defective in these respects. That agency, though subject to the Administrative Procedure Act generally, is not so restricted in emergencies, and all its actions have been taken as emergency action.

Second. The Dingell amendment which provides for the industry's divulging data on reserves, production, distribution and use of petroleum products, natural gas, and coal. Such would require disclosure of the nature of refinery runs and their products and byproducts.

In my opinion, the bill which should come out of the Interstate and Foreign Commerce Committee relating to the purpose of H.R. 11450 should contain only provisions dealing with allocation authority, including permissive language for rationing, language providing for tighter regulation against price gouging, and the Moss and Dingell provisions referred to above.

Such package of legislation should also include several bills within the jurisdiction of the Ways and Means Committee. Such would be—

First. An excess profits tax designed, first, to directly discourage increase in prices containing stiffer provisions triggered by such price increases and, second, to take the fruits of such inordinately high prices as might be allowed to get through the price control mechanism heretofore referred to;

Second. A bill to remove negative incentives to domestic production such as foreign tax writeoffs which may be used, in part at least, in lieu of royalties to foreign governments; and

Third. A bill to repeal the application of the depletion allowance to foreign oil, retaining the incentive of the depletion allowance on domestic oil production.

In addition to all this, the package should contain legislation providing the means of thwarting the oligopolistic practices in the oil industry which hinder the development of new refineries. Such might be in the nature of amendments to the antitrust laws or to the Federal Trade Commission Act or might be in the nature of some of the Hart and Stevenson proposals in the Senate relating to Federal engagement in oil exploration and refining.

Of course, in addition to all of the legislation referred to above, there should be a maximum effort to stimulate research and development for energy production.

It is not envisaged that all of these provisions should necessarily become law, but they should all be before Congress for consideration as a rational approach to a developing oil crisis.

### CONCLUSION

Considering all the later developed facts, the unduly peremptory pressures of the administration, the weakening of environmental protection, the absence of much important information concerning reserves, the embargo and its leaks, the important unresolved questions related to prices and profits, and the massive give-up of congressional authority, I respectfully suggest that we do not proceed further on H.R. 11450 and that we go back to the appropriate committees and consider the whole matter with greater deliberation and with more mature judgment.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Abdnor) and to revise and extend their remarks and include extraneous matter:)

Mr. Hansen of Idaho for 10 minutes, today.

Mr. McCloskey for 60 minutes, today.

Mr. Kemp for 15 minutes, today.

(The following Members (at the request of Mr. Thornton), to revise and extend their remarks, and to include extraneous matter:)

Mr. Diggs, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. O'Hara, for 15 minutes, today.

Mr. Flood, for 10 mnutes, today.

Mr. Alexander, for 5 minutes, today.

Mrs. Collins, for 5 minutes, today.

Mr. O'Neill, for 5 minutes, today.

Mr. Culver, for 5 minutes, today.

## EXTENSIONS OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. McFall, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $2,821.50.

(The following Members (at the request of Mr. Abdnor) and to include extraneous matter:)

Mr. Broyhill of Virginia.

Mr. Quie.

Mr. Kemp in three instances.

Mr. Derwinski in three instances.

Mr. Bauman in two instances.

Mr. Goldwater in three instances.

Mr. Archer.

Mr. Railsback in two instances.

Mr. Sarasin in two instances.

Mr. Buchanan.

Mr. Duncan in two instances.

Mr. Gross.

Mr. Rousselot.

Mr. Wyman in two instances.

Mr. McClory.

Mr. Broomfield.

(The following Members (at the request of Mr. Thornton), and to include extraneous matter:)

Mr. Annunzio in six instances.

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Mitchell of Maryland.

Mr. Roybal in 10 instances.

Mr. McCormack in 10 instances.

Mr. Owens in five instances.

Mr. Gaydos in 10 instances.

Mr. Stark in 10 instances.

Mr. Dingell in three instances.

Mr. Gunter in three instances.

Mr. Howard.

Mr. Thompson of New Jersey in 10 instances.

Mrs. Sullivan in two instances.

Mr. Dan Daniel.

## ADJOURNMENT

Mr. THORNTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 36 minutes p.m.) the House adjourned until tomorrow, Tuesday, January 29, 1974, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1771. A letter from the Attorney General, transmitting a report on the administration of the Truth-in-Lending Act during calendar year 1973, pursuant to section 114 of Public Law 90–321; to the Committee on Banking and Currency.

1772. A letter from the senior vice president, Potomac Electric Power Co., transmitting a copy of the company's balance sheet as of December 31, 1973, pursuant to 37 Stat. 979; to the Committee on the District of Columbia.

1773. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report of excess defense articles to be furnished foreign countries on a grant basis in addition to those previously reported for fiscal year 1974, pursuant to 22 U.S.C. 2321b(d); to the Committee on Foreign Affairs.

1774. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to declare that 3.308 acres, more or less, of federally owned land is held by the United States in trust for the Pueblo of Cochiti; to the Committee on Interior and Insular Affairs.

1775. A letter from the Chairman, Indian Claims Commission, transmitting the final determination of the Commission in docket No. 13–A, *James Strong, et al., (Saginaw Chippewa Indians)*, plaintiffs, v. *the United States of America*, defendant, pursuant to 25 U.S.C. 70t; to the Committee on Interior and Insular Affairs.

1776. A letter from the Attorney General, transmitting a draft of proposed legislation to amend chapter 44, title 18, United States Code, to prohibit the unlawful possession of firearms, and for other purposes; to the Committee on the Judiciary.

1777. A letter from the Director, Community Relations Service, Department of Justice, transmitting the annual report of the Service for fiscal year 1973, pursuant to section 1004 of Public Law 88-352; to the Committee on the Judiciary.

1778. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on Smith River Basin, Calif. and Oreg., requested by two resolutions of the Committee on Public Works, House of Representatives, adopted July 12, 1954, and June 13, 1956; to the Committee on Public Works.

1779. A letter from the Secretary of the Army transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on Cedar Island Channel, Fla., requested by a resolution of the Committee on Public Works, House of Representatives, adopted April 14, 1964; to the Committee on Public Works.

1780. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on Rock Creek and tributaries, Iowa and Missouri requested by a resolution of the Committee on Public Works, House of Representatives, adopted October 5, 1966; to the Committee on Public Works.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. TEAGUE: Committee on Science and Astronautics. H.R. 11864. A bill to provide for the early commercial demonstration of the technology of solar heating by the National Aeronautics and Space Administration and the Department of Housing and Urban Development, in cooperation with the National Bureau of Standards, the National Science Foundation, the General Services Administration, and other Federal agencies, and for the early development and commercial demonstration of technology for combined solar heating and cooling; (Rept. No. 93-769). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASHBROOK:

H.R. 12294. A bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the authority of the Secretary of Health, Eductaion, and Welfare with respect to foods for special dietary use; to the Committee on Interstate and Foreign Commerce.

H.R. 12295. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. BROYHILL of Virginia:

H.R. 12296. A bill to amend the District of Columbia Police and Firemen's Salary Act of 1958 to increase salaries, and for other purposes; to the Committee on the District of Columbia.

H.R. 12297. A bill to amend the Foreign Service Act of 1946 to allow credit for service with Radio Free Europe and Radio Liberty for purposes of retirement; to the Committee on Foreign Affairs.

By Mr. DORN (by request):

H.R. 12298. A bill to amend chapter 37 of title 38, United States Code, to permit interest on loans under section 1810 of the chapter to be as agreed upon by the lender and borrower, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. DORN (for himself, Mr. Clark, Mr. Teague, and Mr. Annunzio):

H.R. 12299. A bill to amend title 38 of the United States Code in order to extend medical benefits to the survivors of certain severely service-connected disabled deceased veterans; to the Committee on Veterans' Affairs.

H.R. 12300. A bill to amend title 38, United States Code, to liberalize the provisions relating to payment of dependency and indemnity compensation, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. FASCELL:

H.R. 12301. A bill to repeal the Emergency Daylight Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. FLOOD:

H.R. 12302. A bill to provide for construction of certain bridges, approaches, and roads in the Panama Canal Zone, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. FUQUA:

H.R. 12303. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. GONZALEZ:

H.R. 12304. A bill to amend title XI of the Social Security Act to eliminate the provisions (which were added in 1972) with respect to professional standards review in the medicare and medicaid programs, and to require regular audits by the Government Accounting Office of all institutional providers under such programs; to the Committee on Ways and means.

By Mr. HANSEN of Idaho (for himself, Mr. Anderson of Illinois, Mr. Cleveland, Mr. Cronin, Mr. Harrington, Mr. Hunt, Mr. Kyros, Mr. Mazzoli, Mr. Melcher, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Nix, Mr. Roe, Mr. Talcott, Mr. Vander Jagt, and Mr. Waldie):

H.R. 12305. A bill to amend the Rail Passenger Service Act of 1970 in order to expand the basic rail passenger transportation system to provide service to certain States; to the Committee on Interstate and Foreign Commerce.

By Ms. HOLTZMAN:

H.R. 12306. A bill to amend the Economic Stabilization Act of 1970; to the Committee on Banking and Currency.

By Mr. HUTCHINSON:

H.R. 12307. A bill to amend chapter 44, title 18, United States Code, to prohibit the unlawful possession of firearms, and for other purposes; to the Committee on the Judiciary.

By Mr. KING:

H.R. 12308. A bill to repeal the Occupational Safety and Health Act; to the Committee on Education and Labor.

By Mr. LEHMAN:

H.R. 12309. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. LONG of Maryland:

H.R. 12310. A bill to amend the Internal Revenue Code of 1954 to provide that the credit for foreign taxes shall not be allowed in the case of taxes paid to a foreign country with respect to income derived from the production of petroleum (or petroleum byproducts) or natural gas; to the Committee on Ways and Means.

By Mr. MOAKLEY:

H.R. 12311. A bill to amend the District of Columbia Police and Firemen's Salary Act of 1958 to increase salaries, and for other purposes; to the Committee on the District of Columbia.

By Mr. PEPPER:

H.R. 12312. A bill to repeal the Emergency Daylight Savings Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. ROGERS:

H.R. 12313. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. ROGERS (for himself, Mr. Staggers, Mr. Kyros, Mr. Preyer, Mr. Symington, Mr. Roy, Mr. Nelsen, Mr. Carter, Mr. Hastings, Mr. Heinz, and Mr. Hudnut):

H.R. 12314. A bill to amend the Public Health Service to improve the national cancer program and to authorize appropriations for such program for the next 3 fiscal years; to the Committee on Interstate and Foreign Commerce.

By Mr. SISK:

H.R. 12315. A bill to amend the Immigration and Nationality Act to permit adoption of more than two children; to the Committee on the Judiciary.

H.R. 12316. A bill to assure that weather modification activities and the collection of hydrometeorological information necessary to the management of water resources can be conducted in conjunction with the management and administration of wilderness areas and other Federal lands; to the Committee on Interior and Insular Affairs.

By Mr. SISK (for himself, Mr. Bowen, Mr. Danielson, Mr. Denholm, Mr. Eilberg, Mr. Evins of Tennessee, Mrs. Green of Oregon, Mr. Helstoski, Mr. Mitchell of Maryland, Mr. Morgan, Mr. Poage, Mr. Ryan, Mr. Sikes, Mrs. Sullivan, Mr. Tiernan, Mr. Veysey, Mr. Waggonner, Mr. Charles Wilson of Texas, Mr. Won Pat, and Mr. Wright):

H.R. 12317. A bill to abolish the U.S. Postal Service, to repeal the Postal Reorganization Act, to reenact the former provisions of title 39, U.S.C., and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. WYMAN:

H.R. 12318. A bill to temporarily suspend requested emissions controls on automobiles registered in certain parts of the United States, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. KING:

H.J. Res. 878. Joint resolution authorizing the President to proclaim the last Friday in September as American Indian Day; to the Committee on the Judiciary.

H.J. Res. 879. Joint resolution to authorize the President to issue annually a proclamation designating the period from October 12 through 19 of each year as "National Patriotic Education Week"; to the Committee on the Judiciary.

By Mr. BINGHAM:

H.J. Res. 880. Joint resolution proposing an amendment to the Constitution of the United States relating to the eligibility of a citizen to hod the Office of President; to the Committee on the Judiciary.

By Mr. DORN:

H. Con. Res. 415. Concurrent resolution authorizing the printing of summaries of veterans legislation reported in the House and Senate during the 93d Congress to the Committee on House Administration.

H. Res. 789. Resolution to provide funds for the further expenses of the investigation and study authorized by House Resolution 134; to the Committee on House Administration.

By Mr. HÉBERT:

H. Res. 790. Resolution to provide for the further expenses of the investigations and studies authorized by House Resolution 185 for the Committee on Armed Services; to the Committee on House Administration.

By Mr. ICHORD (for himself, Mr. Aspin, Mr. Dent, Mr. Sarbanes, Mr. Montgomery, Mr. Charles Wilson of Texas, Mr. Mitchell of New York, Mr. Derwinski, Mr. Seiberling, Mr. Riegle, Mr. Veysey, Mr. Gaydos, Mr. O'Brien, Mr. St Germain, Mr. Bafalis, Mr. Whitehurst, Mr. Hunt, Mr. Roy, Mr. Snyder, Mr. Roncallo of New York, Mr. Stark, Mr. Mol-

Lohan, Mr. Donohue, Mr. Boland, and Mr. Badillo):

H. Res. 791. Resolution declaring the sense of the House with respect to a prohibition of extension of credit by the Export-Import Bank of the United States; to the Committee on Banking and Currency.

By Mr. ICHORD (for himself, Mr. Bell, Mr. Burleson of Texas, Mr. Won Pat, Mr. Conlan, Mr. Cochran, Mr. Byron, Mr. Towell of Nevada, Mr. Shoup, Mr. Symms, Mrs. Collins, of Illinois, Mrs. Holt, Mr. Gilman, Mr. Young of Alaska, Mr. Leggett, Mr. Martin of North Carolina, Mr. Cotter, Mr. Steele, Mr. Fascell, Mr. Thompson of New Jersey, Mr. Blackburn, Mr. Crane, and Mr. Steelman):

H. Res. 792. Resolution declaring the sense of the House with respect to a prohibition of extension of credit by the Export-Import Bank of the United States; to the Committee on Banking and Currency.

By Mr. TEAGUE:

H. Res. 793. Resolution to provide funds for the further expenses of the investigations and studies authorized by House Resolution 253; to the Committee on House Administration.

## MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

336. By the SPEAKER: A memorial of the House of Representatives of the Commonwealth of Massachusetts, relative to construction of the Lincoln-Dickey Dam in Maine; to the Committee on Appropriations.

337. Also memorial of the Legislature of the State of Oklahoma, relative to the shortage of hay baling wire; to the Committee on Banking and Currency.

338. Also, memorial of the Legislature of the State of Oklahoma, relative to the date for the observance of Veterans' Day; to the Committee on the Judiciary.

339. Also, memorial of the Legislature of the State of Oklahoma, relative to the interest and discount rate for Federal-State water development projects; to the Committee on Public Works.

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# SENATE—*Monday, January 28, 1974*

The Senate met at 12 o'clock noon and was called to order by Hon. Robert C. Byrd, a Senator from the State of West Virginia.

### PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Our Father God, as we turn again to waiting tasks, give to all who labor in this Chamber the wisdom, humility, and charity sufficient for the day. Through the toiling hours, in tense and testing times, keep our hearts and minds attuned to Thy spirit. Strengthen our weakness, calm our anxieties, save us from cynicism. May faith in Thee allay all fear. When we have done faithfully the work Thou givest us to do, may we leave the result to Thy higher judgment, and take supreme satisfaction in having served the Nation to the utmost and moved forward Thy coming kingdom.

We pray in His name, who is Lord and Master. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
*Washington, D.C., January 28, 1974.*

*To the Senate:*

Being temporarily absent from the Senate on official duties, I appoint Hon. Robert C. Byrd, a Senator from the State of West Virginia, to perform the duties of the Chair during my absence.

James O. Eastland,
*President pro tempore.*

Mr. ROBERT C. BYRD thereupon took the chair as Acting President pro tempore.

## THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, January 24, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## ATTENDANCE OF SENATORS

Hon. Jesse Helms, a Senator from the State of North Carolina, Hon. John Sparkman, a Senator from the State of Alabama, Hon. Thomas J. McIntyre, a Senator from the State of New Hampshire, Hon. John V. Tunney, a Senator from the State of California, and Hon. Howard W. Cannon, a Senator from the State of Nevada, attended the session of the Senate today.

## WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## AMTRAK

Mr. MANSFIELD. Mr. President, ever since the advent of Amtrak and the significant reduction in passenger train service in many areas of the Nation, my able colleague, Senator Lee Metcalf, and I have been attempting to convince Amtrak officials that they made a mistake in reducing service to a 3-day a week basis on the old Northern Pacific Railroad or the southern route. This route serves the most populous part of the State. The passenger demand is there and, in many cases, Amtrak has been unable to provide the service.

I am delighted to report that Amtrak has now agreed with Senator Metcalf and me and that effective May 19 of this year they will begin daily rail passenger service on the southern Montana route. What happens after the summer season will depend on patronage during this period. There is no question in my mind that this passenger service will be utilized to the fullest if the service is provided in an efficient and competent manner.

Mr. President, I ask unanimous consent to have printed at this point in my remarks a letter from Senator Metcalf and me and one from Amtrak responding to it.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Office of the Majority Leader,
*Washington, D.C., November 21, 1973.*

Mr. Roger Lewis,
*President, Amtrak,*
*Washington, D.C.*

Dear Mr. Lewis: We are informed that the Amtrak passenger trains serving the southern route in Montana are booked to capacity during the coming Christmas holidays. Advance reservations promise that travel will be heavier this year than last. We would be grateful if you would immediately investigate the situation and advise what steps Amtrak contemplates to secure additional cars to meet the expected demand.

Additionally, we feel it is particularly appropriate again to raise the issue of expanding the present three-day service to a seven-day service. Passenger ridership has been on the increase and will no doubt continue to expand as travelers seek alternatives to the private automobile. Would it not be wise to begin planning for an expansion of rail service that will surely be necessary in this time of gasoline shortages?

Your early response will be appreciated.

Very truly yours,

Mike Mansfield,
Lee Metcalf,
*U.S. Senate.*

Amtrak,
*January 18, 1974.*

Hon. Mike Mansfield,
*U.S. Senate,*
*Washington, D.C.*

Dear Senator Mansfield: Thank you for your letter of November 21, 1973, to Mr. Roger Lewis, which you sent jointly with Senator Lee Metcalf expressing your interest in seeing additional equipment operated through the Christmas holiday period on the Hiawatha trains and requesting that Amtrak take another look at the question of daily passenger service on the southern Montana route.

Early in December 1973, your office was provided an outline of the additional equipment that would be operated on both the northern and southern Montana trains through the past holiday period. In the meantime Amtrak had been continuing to examine the feasibility of daily rail passenger service on the southern Montana route. Effective May 19, 1974, Amtrak will begin daily service from Chicago to Seattle on the North Coast Hiawatha route. This service will be operated on a trial basis through the summer, but as Amtrak has seen in the past, when given an opportunity to use an attractive rail passenger service the people of Montana have responded.

Kindest regards,

Sincerely,

Robert C. Moot,
*Vice President, Government Affairs.*

Mr. MANSFIELD. Mr. President, In addition, I wish to take this opportunity to compliment the Interstate Commerce Commission for the order issued at the end of 1973 ordering Amtrak and the other railroad passenger trains to upgrade their equipment, services, reservations, and timetables comparable to that now available from the commercial airlines. I agree that there is no reason that these same services cannot be offered by our Nation's railroads; it may take a little more effort and a little more dedication.

## CAMBODIANS CAN MANAGE THEIR OWN AFFAIRS

Mr. MANSFIELD. Mr. President, in the week prior to the opening of the 2d session of the 93d Congress, I received a cablegram from Prince Norodom Sihanouk, Chief of State of the Kingdom of Cambodia and President of the United National Front of Cambodia. A second cablegram was received under date of January 21. Copies of these cablegrams have been forwarded to President Richard M. Nixon and Secretary of State Henry Kissinger.

The Prince states in the course of his first telegram that

> The Cambodians . . . be left to manage their own affairs.

The second cablegram states,

> The current regime in Phnom Penh survives by the will of the United States and not by the will of the Khmer people.

The situation in Cambodia today is a tragedy involving innocent people who have had and have no interest in the war which has been waged for the past several years. What we are witnessing is a civil war in which Khmers kill Khmers. A war which is totally unnecessary. A war which the Cambodians, themselves, could and should bring to a conclusion. And a war in which all outside assistance from all countries should be refused until this struggle is brought to an end.

There is a deep desire on the part of Prince Norodom Sihanouk to once again establish friendly relations with the United States, despite all that has happened, and it would be my strong belief that the best thing this Nation could do would be to allow the Cambodian people, themselves, to settle their own differences, plan their own future and be allowed to live in peace. We have no business in Southeast Asia and the best thing that we could do would be to withdraw completely from that area, including our 35,000 personnel and 250 planes in Thailand, and allow the nations therein to work out their own future in their own way, and on the terms of their own people.

Mr. President, I ask unanimous consent that the texts of the rough translations of the cablegrams be incorporated at this point in the Record.

There being no objection, the cablegrams were ordered to be printed in the Record, as follows:

### First Cablegram Translation

Senator Mansfield,
Senator Fulbright,

Respected Senators, permit me to reveal to you what the Government of Lon Nol in Phnom Penh is going to ask next of the U.S. Government. It will ask for re-intervention in the affairs of Cambodia with U.S. tactical and strategic air power under the false pretext that the offensive now underway on the part of the armies of the Cambodian National Front of which I am the President is "an aggression of North Vietnamese Communists and the Viet Cong." I have the honor to affirm to you with complete sincerity and loyalty that the armed offensive against the armies of the Phnom Penh regime is purely a Cambodian affair and operation in which the North Vietnamese and the South Vietnamese National Liberation Front have absolutely no part.

The American correspondents who have followed the military situation on the spot in Cambodia have ignored the orders of the Lon Nol Government which insist that they describe, in their cables, that the current offensive as well as the entire war in Cambodia is the work of North Vietnam. The UPI and AP cables have made no mention since 1973 of North Vietnamese and Viet Cong. Since 1973 the UPI and AP have spoken only of the Khmer Rouge and of the Cambodian insurgents who do not accept the anti-constitutional, anti-national and anti-popular regime of Lon Nol. Respected Senators, as you have both stated so many times, the United States ought not to become reinvolved in the war in Cambodia and the Cambodian problem ought to be left entirely to the Cambodians.

The United States has already given a maximum chance of survival to the regime of its well-loved proteges, Lon Nol, Sirik Matak, Cheng-Heng, Longboret, Sosthene-Fernandez, in granting this year $370-million of military aid and about $250 million of economic aid. The level of aid is colossal and without precedent in the history of aid grants of great powers to small countries.

More recently, that is to say, since January 4, 1974, the new government in Phnom Penh of which Mr. Longboret is Prime Minister has affirmed to the entire world, through the Minister of Information, Mr. Thinh Hoanh, that "the government of the Khmer Republic does not envisage asking for a new intervention by the U.S. Air Force even if the situation continues to deteriorate. We have sufficient means to defend ourselves and we can also count on the people."

Respected Senators, you know that even if the U.S. Air Force intervenes again in Cambodia the United States can never force the Cambodian people or their FUNU, their GRUNC, their FAPLNC and their legal chief of state, Nordom S. Sihanouk to their knees.

A new intervention of the United States Air Force can only bring about the two following terrible results: First, the horrible suffering and irreparable devastation of poor little Cambodia and her population which does not deserve to be inflicted in this fashion by a great nation; second, the gulf between the Cambodian people and the American people will become so large and so deep that it will never again be able to be bridged. The future relations between the people of our two countries will be irreparably compromised.

In conclusion, I solicit, through you, the intersession of the Congress and the Government of the United States, to the end that the Cambodians will be left to manage their own affairs, and the U.S. Air Force will not again be sent to Cambodia to destroy our poor little country and kill our people and the Cambodian patriots. Please, accept, Senators, my thanks and my highest esteem.

Norodom Sihanouk,
*Chief of State of the Kingdom of Cambodia and President of the United National Front of Cambodia.*

### Second Cablegram Translation

Addressed to:
Senator Mansfifld and
Senator Fulbright

Esteemed Senators: Permit me to present for your information and for that of the Congress of the United States the public position taken recently by the students of Phnom Penh. It is set forth in an Agence France Presse dispatch from Phnom Penh. Here are the principal passages of the dispatch, citing the virulent communique issued by the students at the Faculty of Letters of Phnom Penh on Wednesday. With this Communique, the students broke the prudent silence which they had observed with regard to the Khmer political situation. They go far beyond the position expressed Saturday by a respected Cambodian, M. Son Sann. The latter had demanded the voluntary departure of Marshal Lon Nol in order to accelerate the process of negotiation with the other side. In their communique, the association of students emphasized:

"If one wishes the people to gain . . . one ought not to demand the departure of a minor and insignificant individual. What is necessary is the departure of the fistfull of men who caused the misery of the people . . . the departure of the entire institutional arsenal and the suffocating political administration which stands only by the grace of the aid of ignoble strangers."

The association, which represents the majority of some two thousand students in Letters, expressed the judgment in the communique that the Cambodian conflict is "a civil war juxtaposing, on one side, the armed peasants and, on the other, the priliveged minorities allied with well-known vultures." The communique affirms that "to throw out oppression, there is no other way except radical struggle."

Thus, Senators, you see, that the students of Phnom Penh, who but a short time ago flattered the Phnom Penh Republic, condemns it today unequivocally, confirming thereby all that I have had the honor to bring to your attention: First; that the group of Lon Nol, Sirik Matak, In Tan, Cheng Heng, Long Boret, whom President Nixon is maintaining in power at all costs is seen to be rejected by Khmer patriots, even those who do not belong to FUNC. Second, the current regime in Phnom Penh survives by the will of the United States and not by the will of the Khmer people. Third, the armed struggle conducted by FUNC against that government is solely the work of the Khmer people and, in particular, of the Khmer peasants. I hope that one day in the near future, President Nixon will see fit to end his aid to this regime of Cambodian traitors and will choose soon to become the friend of the FUNC and the GRUNC which are the incarnation of the real Cambodia.

Highest esteem,

Norodom Sihanouk *of Cambodia.*

## ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the assistant Republican leader wish to be recognized at this time?

Mr. GRIFFIN. No, Mr. President.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Delaware (Mr. Biden) is recognized for not to exceed 15 minutes.

## LEGAL SERVICES DEBATE

Mr. BIDEN. Mr. President, although the Senate had substantial debate last month on the legal services bill, it was not able to enact any legislation because of a filibuster which prevented the matter from coming to a vote. I am hopeful that the Senate will overcome this obstacle shortly. Final enactment of this reform measure is urgently needed.

Surely there can be no disagreement as to the purposes of this legislation: To provide equal access to our system of justice by providing quality legal assistance to those unable to afford adequate legal counsel. As a lawyer, I am deeply committed to the American system which entrusts our basic values to the rule of law. It, therefore, follows that if this Nation is to work out all problems in accordance with those laws, which, as a legislator, I hope will represent sane and rational policies, I feel that it is equally a part of our duty to provide the means for all our citizens to participate in that system.

I am already on record in support of S. 2686 because I feel it represents a workable compromise that will provide much-needed legal aid to the economically disadvantaged, but at the same time establish some guidelines for the operation of local legal aid programs and their staffs. Since opposition to the present legislation, as I understand it, centered mainly on criticisms of specific past programs, during the recess I inquired into the Delaware experience to try and evaluate the proposed program in terms of our local situation and in order to reaffirm my support for this legislation.

In Delaware, legal assistance to the poor is provided by the community legal aid society. Our program is now statewide and serves some 4,000 clients per year, at a cost of less than $70 per client. The legal aid program has received the strong support of all elements of the organized bar, of county government in each county in the State, and the State itself.

The work of the Community Legal Aid Society has helped to resolve community as well as individual problems. At present, the society is representing a residents association, as well as many individual residents of substandard housing.

These clients are living in inadequate rural dwellings that are structurally unsafe, lacking in adequate sanitary facilities, or hazardous because of unsafe heating arrangements. The society, together with the Sussex County Community Action Agency, is working with the Farmers Home Administration to obtain low-interest loans for its clients. These loans will enable them to bring their homes up to decent and sanitary standards. At least, we hope and believe it can be done.

Also, during the last year, several cases were handled involving involuntary commitment to State mental institutions and juvenile commitment to State homes.

In one case, a habeas corpus petition was filed on behalf of an individual who was committed to the Delaware State Hospital without counsel, apparently because of a representation by counsel representing the other spouse that the client had expressed suicidal wishes and the court's opinion that the individual could not rationally present her case. In deciding the petition, the superior court ruled that although a court had the right to make an emergency commitment based on conduct before it, in such a situation counsel must be appointed immediately. The court then assigned the staff attorney for Legal Aid who had been handling the case to represent the client and ordered her release unless the family court held a hearing by a specific date. Counsel immediately filed an application for the appointment of an independent psychiatrist, which application was granted, and at the hearing date the client was released.

I cite this and the other examples I am about to indicate to point out that there are regular every day affairs that involve life and death situations for the poor in which they would be unable to gain such representation were it not for the Legal Aid Society.

Far-reaching issues in the juvenile area are also being handled by Legal Aid. Cases have raised such questions as whether commitment to a juvenile home in the absence of counsel and over the objection of the parent is permissable, or whether commitment without counsel upon the complaint of the parent that the child is uncontrollable raises questions of conflict of interest between parent and child and whether or not the parent may waive the juvenile's constitutional rights.

Of crucial value to the individual was a lawsuit recently settled arising from the breakup of a common-law marriage. The client, having held herself out as legally married, incurred debts and purchased a house in joint names, had a child with her common-law husband, and when the relationship terminated, the client was forcefully evicted from the house. Issues ranging from custody, visitation, and support, to partition of real property, and dividing of personal property were successfully negotiated by the Legal Aid attorney so that the parties were able to resolve their difficulties.

Again, were it not for the Legal Aid Society, this would not have been able to have been done. Someone, most assuredly, would have had his or her rights violated because of not knowing what the rights in fact were.

These cases are typical of the work performed by Legal Services lawyers all around the country. As a recent report from the General Accounting Office made clear, the great bulk of casework by these lawyers involves legal problems arising from housing, domestic relations, employment, and consumer grievances. The typical client is not a young revolutionary, seeking protection for the obscenities he prints in an underground paper. The typical client is an old man, barely literate, about to be evicted from his home.

While specific cases of abuse in the Legal Services program may be found, the program itself is clearly essential. As President Nixon himself reminded us last summer, in another context—

> It would be a tragedy if we allowed the mistakes of a few to obscure the virtues of most.

Obviously, he was not referring to the legal aid program, but I think the same rule should be applied with regard to legal aid.

The Legal Services program involves 2,500 lawyers in 900 neighborhood law offices. Chief Justice Burger recognized that "this program attracts young, idealistic lawyers, and sometimes they have more zeal and adrenalin than judgment and skill." But I cannot imagine that this fact could be used to defeat the fundamental right to counsel of so many poor people in this Nation.

Both to the society as a whole, and the individuals concerned, the services performed by Legal Aid are worthwhile far beyond the costs involved. The support which S. 2686 would provide such organizations is essential. I urge my colleagues to invoke cloture on this debate and to enact legislation to allow for the continued operation of Legal Services programs. We should not become mired in a debate as to whether or not, on one particular date, in one particular county, a young revolutionary was in fact represented by the Legal Aid Society, or whether or not any legal aid money was spent representing some young person who wanted to exercise his or her right to use an obscenity in an underground paper.

I think we cannot lose our perspective here. We should address ourselves to the fundamental question of whether or not we, as a society, are going to provide the mechanism by which the poor and the disadvantaged can take advantage of the rule of law to which we pay so much lipservice.

## MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

## THE AMERICAN VETERAN TODAY—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. HASKELL) laid before the Senate the following message from the President of the United States which was referred to the Committee on Veterans' Affairs. The message is as follows:

*To the Congress of the United States:*

Yesterday, January 27, 1974, marked the first anniversary of the date on which the United States troops ended hostile action against the enemy in Vietnam and began the long-sought disengagement from the longest war in our Nation's history.

It is particularly fitting that today, a year later, we should focus our attention on what has been done—and what remains to be done—to repay the debt America owes to those who served.

There are twenty-nine million living American veterans today—men and women who have given military service to their country. Nearly 7 million of them are Vietnam-era veterans. We owe these men and women our best effort in providing them with the benefits that their service has earned them. Accordingly I will request $13.6 billion in spending for veterans' benefits and services in my new budget, an increase of $5.9 billion over the comparable 1969 request.

### THE AMERICAN VETERAN TODAY

On the whole, the situation of the American veteran today is a good one.

The average veteran has a higher income, more education, and better health than non-veterans of the same age. He or she is a vital, productive member of the civilian community—a national asset in peace as well as in war.

The years since 1969 have marked important progress for the American veteran. Between 1969 and 1975, outlays for veteran pension programs will have increased from $2.2 billion to $2.9 billion, covering 2.4 million beneficiaries, while compensation for service-connected disabilities or death will have increased from $2.7 billion to $3.9 billion. The benefits we pay to our veterans should continue to reflect the generous appreciation of the American people.

Since 1969, 4.1 million veterans have financed their educations under the GI bill. Of those, 2.7 million are Vietnam-era veterans. The rate at which Vietnam-era veterans have participated in the GI bill training exceeds that of any previous GI bill. At the same time, the number of veterans assisted through guaranteed mortgage loans has increased by 46 percent.

In the last year alone, it was my pleasure to sign into law two major measures benefitting veterans and their dependents. The final form of both pieces of legislation was the result of close cooperation between the legislative and executive branches, and I wish to take this opportunity to repeat my thanks to the Congressional leaders and committee members who helped us arrive at the desired results.

The Veterans Health Care Expansion Act of 1973 was a landmark measure. It provides major improvements in and expansion of medical and nursing care for veterans and extends treatment benefits to certain dependents of veterans.

The National Cemeteries Act of 1973 consolidated the bulk of veterans cemeteries and set up a National Cemetery System within the Veterans Administration and improved related benefits and services. Based on a study authorized by the act, I intend to submit further proposals for improving the cemetery system.

Improved veteran health care has also taken the form of greater flexibility in treatment and more numerous treatment facilities as evidenced by:

—16 new outpatient clinics and 663 new specialized medical services;

—Strengthened affiliation of 106 VA hospitals with 89 medical schools; and

—Consolidation of medical regions and the strengthening of regional management to provide faster responses to problems at individual hospitals.

A vigorous program of modernization and construction has also played an important part in improving veterans health care. Ten new or replacement hospitals have already been established and five more replacement hospitals are being designed or are under construction. In the period 1970–75 the ratio of staff to patients in VA hospitals will have been increased by over 30 percent. We have added over 25,000 full time personnel to the medical departments of the veterans hospitals since 1969, and my budget proposals for fiscal year 1975 will provide for an additional 7,600 medical personnel.

Veterans Administration hospital construction funding in fiscal 1975 will reach an all-time high of $276 million and, when these funds are brought to bear, the VA will be in the midst of its greatest program of hospital construction in history.

As I look forward to proposing my National Health Insurance plan—to make more and better health care available to all Americans—it will be more than ever important to take the VA's health care system into consideration. It is my strong view that it should continue as a system, under VA, to insure the proper care of eligible veterans. The Veterans Administration now operates the largest civilian medical care system in the world. It is only fitting that it remain one of the best.

### NEW INITIATIVES TO PROVIDE FOR OUR VETERANS

Two important Administration initiatives in veterans affairs should receive the attention of the Congress in its coming session.

### (1) PENSION REFINEMENTS TO HELP THE NEEDIEST

In the field of pensions, Administration proposals will benefit one million veterans and 1.3 million survivors of veterans in economic need due to age, disability or loss of a breadwinner. Although VA pensions have been increased by 27 percent since 1969, some of the most needy are least provided for under the current structure. Many needy veterans and their wives receive less money from the pension system than they would from welfare and no automatic adjustment is provided for increases in the cost of living. There are other inequities as well.

As I mentioned in my message to the Congress on national legislative goals on September 10, 1973, refinement of the Veterans Administration pension program is necessary. The program has so many problems that it cannot be corrected unless the entire framework of the program is restructured.

I regard the following principles as vital to a realistic and equitable VA pension program, and I will propose legislation to achieve these goals:

—VA pensioners should have some regularized way of receiving cost-of-living adjustments in VA pension payments tied to the automatic increases now available to social security recipients.

—The VA pension program should be structured to assure that additional income flows to the neediest pensioners. This objective would involve raising VA payments to those pensioners who receive less total income than adult welfare recipients under recent amendments to the Social Security Act. In addition, a family's total income should be considered in determining the amount of pension needed.

—Veterans and widows should be treated equally with regard to income and pension payments.

### (2) INCREASE IN EDUCATION BENEFITS

The cost of living is also a problem for those veterans now taking advantage of the GI bill to further their training or education. They need additional help if their allowances are to keep pace with inflation. There are 2.1 million current beneficiaries of the GI bill, most of them Vietnam-era veterans. Payments to each trainee have increased sharply—by 1975 they will be more than double the level of 1969. To help meet the rising cost of living, my budget will request an additional $200 million to provide an 8 percent increase in education benefits in 1975.

### INCREASING PRIVATE EMPLOYMENT OF VETERANS

No group of veterans is more in the minds and hearts of Americans today than those who have recently returned from Vietnam and our Nation's longest war. Beyond the readjustment problems faced by veterans of past wars, this Administration has recognized that the Vietnam-era veteran faces special challenges in re-entering a highly complex and competitive civilian society. We have done our best to help him meet those challenges.

Of particular importance have been our efforts in the field of employment. In 1970, for example, more than a million veterans left the Armed Services and entered the civilian economy. By October of that year, the unemployment rate for Vietnam-era veterans had grown very serious. This led to the launching of the Administration's job placement efforts which have so far helped 2.2 million returning veterans to find jobs. The unemployment rate for Vietnam-era veterans, which once far exceeded that of the general public, was reduced from a high of 11 percent in early 1971 to 4.4 percent by the end of 1973. Both Government and the private sector—through Jobs for Veterans and the National Alliance of Businessmen—played a part in this remarkable success story. We intend to continue these efforts. In fiscal year 1974 our goal is to place 1.2 million additional veterans in jobs or training programs.

### PAYING TRIBUTE TO ALL AMERICAN VETERANS

The tangible benefits extended to our veterans such as medical assistance, education grants and pensions are only one of the ways that America should repay her debts to the men and women who have served her well. We should also accord them a high degree of respect and appreciation in our everyday contacts with them. And we should set aside certain days each year to commemorate their heroic deeds.

In 1974, there should be at least two occasions on which we pay special honor to those who have served in the Vietnam conflict.

One such commemoration was held yesterday, January 27, the first anniversary of the Vietnam ceasefire. I officially proclaimed that day as National MIA Awareness Day. There are still 1,300 Americans missing and unaccounted for in Southeast Asia, and there are more than 1,100 American casualties whose bodies have never been recovered. Their experiences, as well as those of their relatives and loved ones, have been a wrenching sacrifice that deserves special recognition. That is why we set aside a special day dedicated to these Americans and to their families.

In honoring the missing and fallen in

the Vietnam conflict, we should also remember the countless others who served and survived that war. Last month I was pleased to sign into law a joint resolution of the Congress authorizing me to proclaim March 29th of this year as "Vietnam Veterans Day". It is appropriate that we choose that date—the first anniversary of the return of all of our POWs—as an occasion to honor all of the veterans of the Vietnam era.

We will honor those Vietnam veterans once again later in the year on Veterans Day itself, an observance which gives us the opportunity to pay tribute not only to the seven million who served during the Vietnam era but also to the 22 million other men and women who have proudly worn the American uniform in years before.

For most Americans, Veterans Day is traditionally associated with November 11th of each year. That was the day more than half a century ago when an historic and dramatic ceasefire was achieved in the First World War.

Legislation approved in 1968, however, changed the traditional observance of Veterans Day from November 11 to the fourth Monday of each October. That change, while well intended, has stirred up considerable confusion and not a small amount of resentment. In many places—including the Tomb of the Unknowns in Arlington National Cemetery—there are now dual observances of Veterans Day, while in others, observances are held not in October but on November 11.

Thirty-one State legislatures have now enacted resolutions declaring that within their jurisdictions November 11th will be officially observed as "Veterans Day." In addition, all of the major veterans organizations have indicated their strong support for returning to the November 11th observance.

In view of the confusion which has arisen and in view especially of the position taken by the veterans themselves, I believe it would be wise to repeal the 1968 change in the Veterans Day observance. I therefore urge the 93d Congress, as part of its effort to honor our veterans, to enact legislation restoring November 11th as the official date for the entire Nation to commemorate Veterans Day.

As we celebrate Veterans Day this year, let us do so with the hope that the 29 million Americans who have served in our Armed Forces represent our last generation of veterans and the last of America's wars. May we never forget that we will only be worthy of the blessings of peace and freedom they have won for us for as long as we continue to honor them, and may we do everything we can to repay our boundless debt to them.

RICHARD NIXON.

THE WHITE HOUSE, *January 28, 1974.*

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## EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. HASKELL) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

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## INTERNATIONAL CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

Mr. WILLIAM L. SCOTT. Mr. President, I take this time to discuss the genocide treaty scheduled to come before us later today. Certainly, I can understand the leadership feeling an obligation to schedule the treaty for consideration after it has been on the calendar for several months. Yet, Mr. President, the treaty has not been ratified even though it was agreed to in the United Nations more than two decades ago. Frankly, I do not believe the necessary two-thirds vote of the Senate will be obtained, and I doubt the wisdom of letting it take up the time of the Senate when we have important national business to consider.

This Nation prides itself on due process; notice and an opportunity to be heard; a trial before a jury of one's peers; presumption of innocence until proven guilty. It seems contrary to the American system of justice for one to be subject to trial before an international tribunal outside the territorial limits of this Nation. Yet, article VI of the treaty permits trial "by such international penal tribunal as may have jurisdiction."

Every Member of the Senate is opposed to any effort to exterminate any national, ethnic, racial, or religious group—but this treaty refers to causing mental harm to them. There is some vagueness in this. It refers to the physical destruction in "whole or in part" of members of the group. Would this include murder of an individual? Would that be an international crime rather than a domestic one? Would it include mental harassment? Among the punishable acts are "direct and public incitement to commit genocide." Would this conflict with the constitutional guarantee of freedom of speech or freedom of the press?

Mr. President, this treaty is effective in time of war or peace; the acts are punishable at home or abroad; persons accused are subject to extradition. It is a very vague treaty. Article II refers to preventing births and forcibly transferring children from one group to another. Does this include birth control measures? Does it include the busing of children to obtain racial balance? During World War II, if a soldier had said, "We will have to kill all of the Japanese on this island, or they will kill us," would that have been public incitement to commit genocide under article III? This is a proposal that is subject to a multitude of interpretations and should be defeated for that reason alone.

As you know, Mr. President, vagueness is a serious violation of one of the most important premises of our American legal system; that a person must know with certainty that his actions fall within legal prohibitions as being criminal acts. Another example of the rampant vagueness throughout the treaty is found in article II subparagraph (C) which defines genocide as being or "inflicting conditions of life calculated to bring about its physical destruction." No attempt is made in the convention itself or in the report of the Foreign Relations Committee to define or give by example the meaning of what is meant by the words "conditions of life calculated to bring about its physical destruction." It appears to me that this vague language used throughout the treaty would lead to a myriad of charges being brought by disenchanted groups interested in embarrassing the American Government.

This treaty would make the specified acts international crimes punishable by imprisonment or fines or both. As a result of ratification the treaty would become a criminal law enforceable in this country and beyond its boundaries. It is required in our country that criminal statutes be strictly construed and any ambiguity be resolved in favor of the defendant. There is no doubt in my mind that a criminal law enacted by a legislature in this country containing similar language as found in the Genocide Convention would be declared invalid because of its vagueness.

I believe this treaty would be an infringement upon the basic constitutional right of our citizens to be put on notice of what activity is a crime and what activity is not. It is said that a treaty cannot be valid if it infringes upon the Constitution, that there are limits, therefore, to the treatymaking power, and that one such limit is that what an act of Congress could not do unaided, in derogation of the power of the Constitution, a treaty cannot do. It is apparent to me that this treaty if approved would be a serious derogation of a constitutional right. There is American case law to support this position: *United States* v. *Samples*, D.C. Mo., 258 F. 479 and *Missouri* v. *Holland*, 252 U.S. 416 where the right of the courts to invalidate a treaty in a proper case has been apparently recognized.

It is interesting to note that the American Bar Association has refused to support the treaty. It is doubtful whether a person tried before an international tribunal envisioned in the treaty would be accorded all the constitutional safeguards which are guaranteed to a person charged with domestic crimes in the United States. The genocide convention does not, moreover, indicate the penalties or punishments which will be applied to those who commit the various crimes.

Our ratification of the treaty would have no binding force on other nations and could not effectively prevent potential genocide in another national state. The Genocide Convention in this sense, although an international agreement in form, does not really deal with an international problem. The treaty attempts to make uniform domestic criminal laws for all parties to it. International agreements are not, however, the proper means for the American people to regulate their internal affairs. We have clearly established constitutional processes by which our Federal and State legislative bodies enact laws to regulate our domestic affairs.

Mr. President, there was an interesting article a few days ago in the Wall Street Journal which comments on various aspects of this treaty and undoubtedly would be of interest to other Senators.

Therefore, I ask unanimous consent that it be inserted in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Senate Is Due To Vote on a Treaty Soon—One Submitted in 1949

(By Arlen J. Large)

Washington.—Anyone dialing LI 3–1776 here the other day could hear a voice warning of a treaty being "pushed by *aliens* to help destroy our American culture and serve the devious ends of hostile forces carefully planted in our midst!"

The tape-recorded message was from the right-wing Liberty Lobby. The subject was one of Washington's more ancient controversies: ratification of the Genocide Convention, or treaty, first submitted to the Senate by President Truman in 1949 and since endorsed by Presidents Kennedy, Johnson and Nixon.

Now, after 25 years of fitful legal argument, the question of ratification finally is headed for its first Senate vote in the next week or two. Proponents say they have a good chance to get the required two-thirds majority, making the treaty against the international crime of genocide part of U.S. law.

A meaningless law, some say. And in the fine old tradition of acrimony surrounding the treaty, others say a "subversive" pact.

In theory, the federal government could then jail anybody who commits acts "with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such." But the theory hasn't been applied anywhere in the world. Nobody in the 75 nations that already are parties to the treaty has yet been prosecuted for genocide.

#### HEAVY SYMBOLISM

What gets people stirred up about the treaty is its heavy symbolism, producing reactions that are, perhaps, more interesting than the treaty itself. Involved are attitudes about the United Nations, atrocities against Jews by Hitler, racial sensitivities and all those aliens with "foreign ideologies."

Stirred up on moral grounds are treaty proponents who have little real expectation that it will lead to jailing genocidists. "Even the most ardent advocates of the Genocide Convention have over the years conceded it might be difficult to enforce, but it carries great moral significance around the world," says Hyman Bookbinder, head of the American Jewish Committee's Washington office.

Stirred up in a structured, senatorial way is William Proxmire of Wisconsin, who has made the treaty's ratification one of his many pet crusades. From 1967 on, Sen. Proxmire has been putting a pro-ratification speech into the Congressional Record every day the Senate is in session. Usually the speech is just handed to a clerk instead of being declaimed on the floor; nonetheless, it's the longest-running daily series of insertions in the record in the memory of Capitol oldtimers.

"The problem is to avoid being reptitious," says one of the several Proxmire aides given the rotating job of comprising the daily essay.

The search for usable genocide material has driven the Proxmire authors back to deploring "the butchery by the Assyrian armies, the utter destruction of Cartharginian people by the Romans, the pillaging of the hordes of Attila and of Genghis Khan."

Sometimes Sen. Proxmire dwells on a main affirmative argument for U.S. adherence to the treaty; the added leverage it supposedly would give American diplomats objecting to cruel treatment of people elsewhere in the world. U.S. behind-the-scenes pressure to halt tribal warfare in the African country of Burundi last year was "ineffectual," perhaps because foreigners "detect an element of hypocrisy" in this nation's refusal to ratify the genocide treaty, one Proxmire speech said.

Mostly, though, Mr. Proxmire and other proponents have been kept busy explaining defensively what the treaty wouldn't require of Americans.

#### THE ERVIN CRUSADE

This has been necessary because of objections raised by formidable people like Sen. Sam Ervin, who has made opposition to the treaty one of his many pet crusades. The North Carolina Democrat has several complaints about the way the treaty defines these five forms of genocide:

"Killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; forcibly transferring children of the group to another group."

Because of complaints by Sen. Ervin and others that the term "mental harm" is too vague, the State Department has endorsed an "understanding" that this category be defined as "permanent impairment of mental facilities." Sen. Ervin says such a change doesn't help much.

Another Ervin objection involves federal prosecution of a killer accused of genocide, which would have priority over an ordinary state charge of murder. If a federal jury decided that the murderer didn't have the required "intent" to commit genocide against a target group, it would have to acquit him of the federal charge. "In such a case," the Senator says in a typical Ervinism, "the accused would go unwhipped of justice unless he was placed upon trial a second time in a state court."

The State Department dismisses the problem by denying that federal prosecutors would try to pin a genocide rap on ordinary murderers. Treaty backers also deny that the treaty would force Americans to be shipped to foreign countries or an international court for trial or that it would stimulate new waves of charges in the United Nations about the treatment of blacks in this country.

Nevertheless, some groups see great, if sometime unspecified, danger in the treaty. Liberty Lobby Chairman Curtis Dall, the man on the telephone recording, says any Senator who votes for it "can be accused of blatant subversion." The American Coalition of Patriotic Societies testified before the Senate Foreign Relations Committee that ratification would "subject our people and our nation to the judgment of alien powers." A spokesman for the National Socialist White People's Party told the committee that the treaty would "rob white Americans of the most fundamental right of racial self-defense."

The treaty was drafted after World War II, mainly in response to Hitler's calculated extermination of European Jews. The late Raphael Lemkin, a Polish professor, coined the word "genocide" to denote crimes against an entire race or nationality as distinct from crimes against individuals. The UN General Assembly approved the treaty by a unanimous vote in 1948, and it went to member countries for ratification.

Although U.S. representatives had played a big role in its drafting, the treaty fast ran into trouble in this country. The American Bar Association's house of delegates voted in 1949 against supporting it, strongly influencing the decision of the Senate Foreign Relations Committee to pigeonhole it the following year. The treaty went into two decades of deep freeze.

The ABA's opposition was said to spring from wariness about international treaties having the force of domestic criminal law. Specifically, some Southerners were suspicious of UN sponsored treaties in the area of human rights in those days before Congress itself became a fount of legislation protecting American blacks.

"Yet that's the hangover that persists," says Jerome Shestack, a Philadelphia lawyer. "There are some conservatives who still hate the treaty without remembering their original reason for hating it."

In 1970, Mr. Shestack headed an ABA panel that recommended a reversal of the 1949 position. Its report made the dual argument that the treaty would have little impact at home ("nothing in the history of the United States since the early Indian wars quite adds up to genocide within the meaning of this convention") while being helpful diplomatically ("our friends are confused, our enemies delighted, at continued United States hestitation about the convention").

But the ABA house of delegates again spurned the treaty, by a close vote of 130 to 126. A new objection had arisen: The treaty might subject U.S. war prisoners to prosecution for genocide by North Vietnam, although ratification supporters replied that such propaganda trials could be staged whether the treaty was ratified or not.

The ABA's opposition, however, was more than offset by President Nixon's 1970 request that the Senate ratify the treaty as a mark of "international order based on law and justice." The Senate Foreign Relations Committee approved ratification that year and again in 1971 and 1973, but floor action was postponed until the beginning of this year's session. To reach a vote on ratification, the treaty's backers admit they may have to overcome a filibuster.

If the treaty is ratified, a follow-up statute approved by a majority of both houses, would still be necessary to authorize federal prosecution of alleged genocidal acts in the U.S.

Mr. WILLIAM L. SCOTT. Now, Mr. President, the thrust of my remarks are that genocide, as commonly understood, never has and never will be committed in this country. But no benefit will occur from our ratification of a vague agreement that will mean different things to different people. It will not prevent other nations from committing the crime as practiced during World War II in Germany.

Individual Senators will give different meaning to the proposal. It is a bad treaty that should not be ratified. I venture to hope that the Senate will not spend much time on this proposal when important national problems confront us and urge the leadership to pull the measure when it becomes apparent that the two-thirds vote necessary for ratification will not be obtained.

Mr. President, I yield back the remainder of my time.

## TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 5 minutes.

## QUORUM CALL

Mr. HATHAWAY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. MANSFIELD. Mr. President, the Senate will recall that on Thursday last, we reached an agreement that a final vote would occur on the conference report on the National Energy Emergency Act of 1973 at 4:30 p.m. on Tuesday, January 29, unless some earlier disposition is made of the conference report by the adoption of some other motion.

It is my belief that most Senators, if not all, were of the opinion that any votes which would occur tomorrow afternoon would occur around the hour of 4:30. So, just to make the record straight and to make my understanding of the agreement very clear, I would anticipate that the vote to recommit—and there will be a vote to recommit made on one side or the other—would occur somewhere in that general vicinity, and on that basis I think all Senators would be on notice and no Senators would be caught short.

I make this statement for the RECORD.

## COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. ROBERT C. BYRD) laid before the Senate the following letters, which were referred as indicated:

### REPORT RELATIVE TO POLICY REGARDING THE INDIAN OCEAN AREA

A letter from the Assistant Secretary for Defense for Legislative Affairs, transmitting, pursuant to law, a confidential report relative to policy relating to the Indian Ocean area (with an accompanying report). Referred to the Committee on Armed Services.

### DELIVERIES OF EXCESS DEFENSE ARTICLES

A letter from the Assistant Secretary of State transmitting, pursuant to law, a report on deliveries of excess defense articles during the first quarter of fiscal year 1974 '(with an accompanying report). Referred to the Committee on Foreign Relations.

### REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Issues Related for Foreign Sources of Oil for the United States" (with an accompanying report). Referred to the Committee on Government Operations.

### REPORT ON FINANCING OF POSTSECONDARY EDUCATION

A letter from the Chairman of the National Commission on the Financing of Postsecondary Education transmitting, pursuant to law, a report entitled "Financing Postsecondary Education in the United States" (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

### REPORT OF THE CIVIL SERVICE COMMISSION

A letter from the Chairman of the Civil Service Commission transmitting, pursuant to law, a report covering two positions which have been established within the Commission in addition to the number of positions authorized by sections 5108, title 5, United States Code (with an accompanying report). Referred to the Committee on Post Office and Civil Service.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, without amendment:

S. 2606. A bill for the relief of Grant J. Merritt and Mary Meritt Bergson (Rept. No. 93-665).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. DOLE (for himself, Mr. COOK, Mr. CURTIS, Mr. BARTLETT, Mr. TALMADGE, Mr. HELMS, Mr. MCGOVERN, Mr. CLARK, Mr. NUNN, Mr. MANSFIELD, and Mr. BENTSEN):

S. 2894. A bill to terminate the Emergency Daylight Saving Time Energy Conservation Act of 1973. Referred to the Committee on Commerce.

By Mr. DOLE:

S. 2895. A bill to amend the Economic Stabilization Act of 1970 to stabilize the price of propane. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. CLARK (for himself, Mr. BENTSEN, Mr. MANSFIELD, Mr. HELMS, Mr. MOSS, Mr. COOK, and Mr. NUNN):

S. 2896. A bill to terminate the Emergency Daylight Saving Time Energy Conservation Act of 1973. Referred to the Committee on Commerce.

By Mr. KENNEDY:

S. 2897. A bill to amend the Internal Revenue Code by increasing the personal exemption from $750 to $850, and for other purposes. Referred to the Committee on Finance.

By Mr. SPARKMAN (for himself and Mr. TOWER) (by request):

S. 2898. A bill to modify reserve requirements of member banks of the Federal Reserve System; to extend such requirements to other institutions that accept demand deposits or certain other types of deposits; to authorize Federal Reserve banks to extend credit to such institutions; and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. ABOUREZK:

S. 2899. A bill to amend the Clayton Act to preserve and promote competition among corporations in the production of oil, natural gas, coal, oil shale, tar sands, uranium, geothermal steam, and solar energy. Referred to the Committee on the Judiciary.

By Mr. MONTOYA:

S. 2900. A bill to improve the safety of motor vehicle fuel systems. Referred to the Committee on Commerce.

By Mr. ALLEN:

S. 2901. A bill to change the date of Veterans Day from the fourth Monday in October to November 11. Referred to the Committee on the Judiicary.

By Mr. CANNON:

S. 2902. A bill for the relief of Miss Clemence Castillo; and

S. 2903. A bill for the relief of Dr. Lok Yee Kung. Referred to the Committee on the Judiciary.

By Mr. BURDICK (by request):

S. 2904. A bill to improve judicial machinery by amending subsection (g) of section 1407, chapter 87, title 28, United States Code, to exempt actions brought by the Securities and Exchange Commission under the Federal securities laws from the operation of that section, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. CHILES (for himself and Mr. HUDDLESTON):

S. 2905. A bill to terminate the Emergency Daylight Saving Time Energy Conservation Act of 1973. Referred to the Committee on Commerce.

By Mr. MONDALE:

S. 2906. A bill to amend the Internal Revenue Code of 1954 to permit taxpayers to utilize the deduction for personal exemptions as under present law or to claim a credit against tax of $200 for each such exemption. Referred to the Committee on Finance.

By Mr. BENTSEN:

S. 2907. A bill to amend the General Education Provisions Act to provide that funds appropriated for applicable programs for fiscal year 1974 shall remain available during the succeeding fiscal year and that such funds for fiscal year 1973 shall remain available during fiscal years 1974 and 1975. Referred to the Committee on Labor and Public Welfare.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself, Mr. COOK, Mr. CURTIS, Mr. BARTLETT, Mr. TALMADGE, Mr. HELMS, Mr. MCGOVERN, Mr. CLARK, Mr. NUNN, Mr. MANSFIELD, and Mr. BENTSEN):

S. 2894. A bill to terminate the Emergency Daylight Saving Time Energy Conservation Act of 1973. Referred to the Committee on Commerce.

Mr. DOLE. Mr. President, I am today introducing a bill on behalf of myself and Mr. COOK, Mr. CURTIS, Mr. BARTLETT, Mr. TALMADGE, Mr. HELMS, and Mr. MCGOVERN. I think an almost identical measure was introduced by the distinguished majority leader and the distinguished Senator from Iowa (Mr. CLARK).

The bill would bring some daylight into the picture and lead us out of the darkness by repealing the present winter daylight saving time provision. There has been widespread evidence that it really has not saved any energy. It has caused great inconvenience and in some cases hazard. It appears to me that the better part of wisdom might be outright repeal. The bill would not change the existing provisions for daylight saving. As everyone knows the winter daylight saving time measure was passed with only brief hearings and little in-depth study. In the bill in one section we ask the Department of Interior to make a study to see whether or not energy has been saved.

It seems to me that as we look at the problems that have been created with reference to schoolchildren alone all across this country, not just in the Midwest or in rural areas but all across the country, I think we can admit it was a mistake to believe we could save energy in the first place and perhaps after the 2-year study we will be in a position to take more responsible action. This bill would simply end daylight saving time on the first Sunday after its enactment and restore the Nation to the position it was in before the recent law was passed. We still could have daylight saving time in the summer months when the evidence is it saves a significant amount of energy.

Mr. President, the year-round daylight saving time act—Public Law 93-182, enacted during the 1st session of the 93d Congress—is a classic example of the Congress legislating blindfolded.

Passed with only brief hearings and little indepth study, there was no solid, factual evidence presented that having schoolchildren, their parents, and most of the working world groping around for an extra hour in winter morning darkness would do anything to save energy. A number of experts—both in and out of Congress—weighed in with their profound opinions that winter daylight time might save as much as 2 percent of our total energy requirements. But they did not present any real evidence—at least to my satisfaction—that having to turn on more lights in the morning and run furnaces an extra hour earlier during the coldest part of the day was going to save anything.

### OPPOSITION TO THE BILL

In fact, they really admitted that they did not have any idea of the effects of winter daylight time by writing into the bill a 2-year study to tell us, after the fact, what really happened.

Therefore, I voted against the bill, not because I am against programs to conserve energy, but because it just did not seem that a convincing case had been made for the law's effectiveness.

### TRAGIC EFFECTS

The first reports on the law's effects are at best inconclusive in terms of energy saved. But unfortunately the laws effects are tragic in terms of injuries and deaths—particularly of schoolchildren in the early morning hours.

A preliminary check with the Kansas City Power & Light Co. revealed little early evidence that winter daylight savings time had had any appreciable effect. However, other conservation measures had apparently brought about a 5.7-percent drop in electric power requirements.

After spending the first 3 weeks of winter daylight time in Kansas, I became more convinced than ever that its hardships, inconvenience, and real hazards are too great to justify its continuation.

Therefore, I am introducing a bill to repeal winter daylight saving time and undo what Congress never should have done in its burst of haste and poorly considered action.

### RESTORE NATION TO PREVIOUS STATUS

This bill would end winter daylight time on the first Sunday after its enactment and restore the Nation to the position it was in before the law was passed. We will still have daylight saving time during the summer when adequate evidence exists that it does in fact save significant amounts of energy.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2894

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.* That notwithstanding the provisions of section 7 of the Emergency Daylight Saving Time Energy Conservation Act of 1973 such act shall terminate at 2 o'clock antemeridian on the first Sunday which occurs after the date of enactment of this act.

Mr. COOK. Mr. President, the ostensible purpose of the year-round daylight saving time law which became effective January 6, 1974, of this year was to have the entire Nation share in the energy problem. Regretfully, early studies of the impact of year-round daylight studies reflect that perhaps Congress, in its eagerness, failed to fully consider the ramifications of its actions.

Daily headlines read, "Florida—Seven Children Killed in Early Morning Waiting for Bus"; "Minneapolis, Minn. School Board Reports—Incidence of Sexual Assaults on Young Children Higher During Weeks of Daylight Savings Time Than Ever Before"; "Virginia, Morning Accident—Fractured Skull"; Enfield, Conn., Woman Killed"; "Student Injured by Bus"; "Los Angeles—One Death Publically Attributed to DST". "South Carolina—One fatality—Crossing Guard."

In effect, these sad headline articles reflect that daylight saving time is a dubious benefit especially when no showing has been made that an appreciable amount of energy is being conserved. Admittedly, it is difficult when considering all the variables of weather, conservation efforts, and holiday structuring for the appropriate officials to determine if an actual saving has occurred. Preliminary surveys conducted by utility officials show that only a fractional percentage of electricity is actually being saved.

To my way of thinking, the saving of a small percentage fraction of utility output can in no way compare with the loss of human life—such as has occurred during this period of winter daylight saving time. Therefore, I heartily join with the Senator from Kansas (Mr. DOLE) in offering a repealer to the Emergency Daylight Saving Time Energy Conservation Act of 1973.

Mr. HELMS. Mr. President, I am delighted to join the distinguished majority leader (Mr. MANSFIELD), the distinguished Senator from Kansas (Mr. DOLE), the distinguished Senator from Kentucky (Mr. COOK), and others, in calling for repeal of the Daylight Saving Time measure, which passed this Senate on December 4, 1973, by a vote of 68 to 10.

I was one of the 10 senators, Mr. President, who voted against this measure (H.R. 11324). Needless to say, Mr. President, I am comforted that the judgment of that minority of 10 has now been vindicated. On the other hand, I am distressed that it required the deaths of numerous schoolchildren, in predawn school bus accidents, to strike the necessary alarm among the people of this country, sufficient to provoke a public demand that the DST measure be repealed.

I criticize no Senator, Mr. President. Those who voted for year-round daylight saving time did so in perfectly good faith, still, I think there is a message inherent in this matter which this Senate ought not to ignore—a reminder that this Senate ought not to act precipitously in matters of great concern and importance.

I trust that we may now move quickly to remedy the error made on December 4, 1973. I am a cosponsor of both bills introduced today to repeal the year-round daylight saving time legislation, thus restoring DST to only that period of the year previously in effect. I reiterate that I hope this Senate will act quickly to correct its error, made in haste back in December.

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By Mr. DOLE:

S. 2895. A bill to amend the Economic Stabilization Act of 1970 to stabilize the price of propane. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. DOLE. Mr. President, in my travels across Kansas during the holiday recess, the first and most recurrent issue addressed by constituents was the high cost of propane. The complaints ranged from a general objection to the fact that propane costs had increased in some instances by more than 400 percent in less than a year, to requests for an explanation of the enormous discrepancy in propane prices across the State. Often I was presented with receipts proving that it was costing Kansas families as much as $130 a month to heat their homes due to the high propane costs, and I had unconfirmed reports of monthly bills exceeding $200 for home heating.

In investigating this matter and discussing the issue with the Federal Energy Office, I found general agreement that the rapid increase in propane prices was not caused by a shortage of the commodity nor by increased costs in its production, but rather was the result of a loophole in the Cost of Living Council guidelines which permit a high percentage of the added cost of the total refining process to be passed through to propane even though propane represents but a small portion of the end product of the refining processes, I feel that this is unfair and inequitable and am offering legislation which would help rectify the injustices done to the propane users and dealers.

The legislation I am proposing would solve the problem by providing that effective the date of enactment no refiner could charge more for propane than his January 1, 1973 price, plus a percentage of the increases on cost of refining—which have incurred since that time. The added cost which could be passed through to propane, however, would only be those cost increases which are related to the production of propane. Since that propane which is produced from crude oil represents less than 5 percent of the byproduct refining per barrel of crude, the added costs of production passed through to propane should be less than 5 percent of the total increase in the cost of refining that barrel of crude. Much of the actual propane production, however, is not associated with the refining process. It comes from natural gas, and the actual cost of producing it, if anything, should rise even less than that for crude oil production.

Unfortunately, in the past the proportionate passthrough the costs to the various byproducts of crude oil has not been observed. Due to provisions in the CLC guideline, the increased costs to the refiner could be passed through to any byproduct. In addition, gasoline, home heating oils, and diesel fuels were given preferential treatment. The net result was that the largest portion of the added costs of refining were being passed through to propane. The higher costs of crude were placed almost entirely on the shoulder of the propane consumer. The prices of gasoline, diesel, and home heating oils were held down by the fact that the refiner could pass the additional costs incurred in producing these products to propane. I feel this is unfair to the propane dealer and consumer. It is unfair to the Midwest where the greatest use of propane for home heating purposes is concentrated.

My bill would rectify this inequity. It would not only prohibit the passthrough of unrelated refining costs to propane, but it would also roll back prices by permitting the sale of propane from the date of enactment at a price which reflects the January 1, 1973, price plus the portion of the added cost of refining crude that has been incurred since that time and which is attributable directly to the production of propane. The January 1, 1973, base price period was selected, because at that time the majority of the companies were selling propane at the same base price, 5.13 cents a cubic foot. By using this base price, the adjusted price of propane from various companies would, in the end, be nearly equal with differences attributable only to the different costs of operation of each company.

The need for the bill is obvious. On January 1, 1973, a distributor in Kansas could obtain propane for slightly over 5 cents a gallon. By December of 1973, it was costing the distributor as much as 25 cents a gallon. The costs of production have not increased that much nor does there appear to be a shortage of propane. More than two-thirds of propane supply comes from natural gas, a commodity which is in short supply, but the availability of which was not affected drastically by the Arab embargo. During my travels in Kansas, I received reports of millions of gallons of propane being stored around the State. Thus, it appears the high propane prices are the result of a loophole in the Cost of Living Council regulations, and since governmental action is responsible for the problem, I feel prompt legislative action is justified to remedy it.

The bill I am proposing would merely return propane to its fair market level. It does not interfere with the free market system, but attempts to remove the distortion which has resulted from artificial controls. It would make propane available to the consumer at a fair market price. By adjusting the price of propane sold by a refiner after the date of enactment, it will prevent undue hardship on any sector of the economy. It is my understanding that LP gas dealers and brokers have a small supply on hand, so the only parties which might be injured by the drop in prices would be businesses who have bought large quantities for use at the higher prices, and speculators who have been hoarding supplies.

Mr President, the need for this legislation is obvious. Propane consumers cannot afford to pay $130 a month merely to heat their homes. Many of the elderly in particular who are dependent on fixed incomes just cannot continue to pay these prices, but propane is their only heat source. We must get propane down to a reasonable level and remedy the inequities that have resulted from past regulations, and I urge my colleagues to join in support of this measure.

I would also like to comment on a related matter which I feel deserves explanation. During my travels across Kansas I was contacted by many LP gas dealers who themselves face severe hardship due to the high propane costs. Contrary to popular belief, the LP dealer is losing rather than making money due to the higher prices since his margin is controlled. Thus, in addition to facing the wrath of irate customers whom he services, he must also face the prospects of going out of business unless something is done to control propane prices.

Since the margin the dealer can charge on propane is controlled to a large degree, he does not make any greater profit selling propane at 39 cents a gallon than he did when it sold at 11 cents a gallon. Yet, while his profit margin is fixed, his volume of business has shrunk due to policies. His overhead costs—the costs of delivery—continue to increase and as a result his profits have been drastically reduced. In addition, many of his prior customers are converting to other fuels due to the abnormally high cost of propane. These are customers he can never regain even if propane prices later are reduced. The net result is that unless some action is taken, LP gas dealers, especially many of the dealers in rural areas, will go out of business. So the LP dealers, although much maligned, face a severe problem of their own which can only be resolved through lower propane prices.

Mr. President, I ask unanimous consent to have printed in the RECORD a comparison of prices charged to most Kansas propane bulk dealers on January 1, 1973, with those charged January 21, 1974, together with the text of the bill.

There being no objection, the table and bill were ordered to be printed in the RECORD, as follows:

COMPARISON OF PRICES CHARGED TO MOST KANSAS PROPANE BULK DEALERS ON JANUARY 1, 1973, WITH THOSE CHARGED JANUARY 21, 1974

January 1, 1973 charge of 5.13 cents per gallon and freight charges (1–3 cents gallon). Price to no dealer varied more than 1 cent per gallon from this figure. On January 21, 1974, charges less (1–4 cents per gallon freight) were as follows:

| Company: | *Per gallon* |
|---|---|
| Phillips | 22.5 |
| American | 21.9 |
| Cities | 19.65 |
| Conoco | 23.0 |
| Exxon | 17.19 |
| Mobil | 25.8 |
| Skelgas | 10.4 |
| Sun | 22.5 |
| Texaco | 18.27 |
| Warren | 22.5 |
| Diamond | 22.2 |
| Signal | 18.3 |
| Sid Richardson | 17.5 |
| Wanda | 25.19 |
| Arco | 17.13 |
| Northern | 14.85 |
| Union Texas | 12.12 |

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S. 2895

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 203 of the Economic Stabilization Act of 1970 is amended by adding at the end thereof the following new subsection:

"(k) Upon the enactment of this subsection, the President or his delegate shall issue an order—

"(1) stabilizing the wholesale and retail prices of propane at their respective market price levels on January 1, 1973; and

"(2) permitting adjustments in such prices to reflect cost increases or decreases which are related to the production and distribution of propane, and which are, or have been, incurred after January 1, 1973."

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By Mr. CLARK (for himself, Mr. BENTSEN, Mr. MANSFIELD, Mr. HELMS, Mr. MOSS, Mr. COOK, and Mr. NUNN):

S. 2896. A bill to terminate the Emergency Daylight Saving Time Energy Conservation Act of 1973. Referred to the Committee on Commerce.

Mr. CLARK. Mr. President, the Senator from Montana (Mr. MANSFIELD) and I today have introduced a bill to terminate the Emergency Daylight Saving Time Act.

Recent events have pointed clearly to the need for a reassessment of the switch to daylight saving time.

When we agreed to change to year-round daylight saving time in December, it was in the midst of great concern about the severity of the energy crisis and predictions of cold homes and no gasoline.

Daylight saving time seemed like a quick way to save energy—with little or no cost to anyone. But the cost can be very high. Several schoolchildren in Florida have been killed in the dark, as we heard just minutes ago, and there are many more examples of hardship, injury, and inconvenience.

Another reason for passing daylight saving time was its potential for joining people together in an effort to save energy. My experience in Iowa has indicated that it is doing anything, but joining people together. It is creating more anger and frustration than any other single energy conservation measure.

I just spent most of this month traveling from county to county throughout the State of Iowa, holding some 25 separate meetings, where people came and talked about the problems of the country. The energy situation in general and DST in particular came up more than any other issue.

Original estimates late last year were that we might save 1 to 3 percent of our energy. Now that appears to be an exaggeration. The Federal Power Commission indicates that there is probably only about a 0.2-percent saving of energy consumption from daylight saving time. A report on energy savings from DST is not expected until June. So, we still do not have any figures on how much has been saved in the last 3 weeks.

But the results are already in on the dangers it can cause.

We should recognize that we may have made a mistake with emergency DST, and that is why I am introducing this bill today to repeal it. This bill will give us a vehicle to reexamine the evidence both for and against year-round daylight saving time. We may well have acted precipitately.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. CLARK. I yield.

Mr. MANSFIELD. Mr. President, I am delighted to join with the distinguished Senator from Iowa (Mr. CLARK), the distinguished Senator from Kansas (Mr. DOLE), and the distinguished Senator from Kentucky (Mr. Cook), and other Senators who are interested in the matter of daylight saving time at this time of the year.

May I say I agree wholeheartedly with what the Senator from Iowa has just said, because what applies to the State of Iowa applies equally to the State of Montana.

The bill which we have introduced repeals daylight saving time. Fundamentally, daylight saving time demonstrated that—

First. This swiftly passed remedy to meet the problem of energy conservation has raised an even more significant crisis.

Second. The increased jeopardy to young schoolchildren in the predawn, predaylight hours of the weekday demonstrates the utter failure of year-round daylight saving time. Furthermore, if my memory of Mr. William Simon's testimony is correct, he stated that he doubted any energy was being saved. The distinguished Senator from Iowa states that perhaps 0.2 percent has been saved, but that certainly is not to be compared with the jeopardy in which the lives of youngsters have been placed.

It is asked: Why not change the school day to a later sun-up period? It cannot be done simply because households where there is only one parent or where both parents work would find infants and youngsters left completely alone and unattended—a situation potentially as bad as that which exists. ,

This bill would end daylight saving time year-round that was enacted to meet in part the energy crisis. It will be repealed upon its enactment. Schools across the land would then operate only during daylight hours.

If transportation companies need time to readjust their schedules, the Committee on Commerce should take note of that. However, nothing should delay enactment of this repealer, because, in addition to what we have noted in our own particular States, I must say I have been appalled by what Governor Askew said, to the effect that since daylight saving was inaugurated in that State on January 6, eight children have been killed, because of coming in contact with trailers, trucks, or automobiles.

So I would hope, along with my colleague, that the Commerce Committee would give this matter the most immediate and expeditious consideration.

I thank the distinguished Senator from Iowa.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. CLARK. I yield.

Mr. DOLE. I agree with remarks of the Senator from Iowa and the majority leader. One way they tried to cope with this problem was by changing the school hours. That added to the inconvenience and confusion, so instead of one problem we had two or three. One could take the choice of taking his children 1 hour earlier, taking the children to work with him, or parents could go to work and then come back for their children. It has not worked well in our State. Some schools have changed the hours to 1 hour later. Some have not. So what we have is chaos in many areas.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. DOLE. I hope that we can work with the Senator from Iowa and other Senators so that we can repeal year-round daylight saving as quickly as possible.

Mr. COOK. Mr. President, the time of the Senator from Iowa having expired, may I just continue this matter?

During the debate on the original passage, this Senator's remarks, which are in the Record, I would like to state again relative to the question raised by the distinguished majority leader. I consulted with one school board in my State that has 500 school buses, and approximately 80,000 children that are picked up at varying times in the morning, such as 7:30, 7:45, 8, 8:15, and 8:30—at 15-minute intervals. I asked the officials if they could change the school hours.

They said they could, but then what they would be doing would be, instead of putting all of their 500 school buses on the road, at 3, 3:15, and 3:30 in the afternoon, it would be at, for example, 4:15, 4:30, 4:45, and so on, putting them on the highways when people are coming back from work. So it would take those buses 1 hour to 1 hour and a half longer to discharge the children in the evening than it otherwise would. Consequently, if we changed the hour so that youngsters could go to school in daylight, we would be imposing an additional 1 hour to 1 hour and a half additional use of fuel for 500 buses in the afternoon, which would include also all the automobiles that had to stop every time a big red school bus stopped.

So the argument that it could be summarily changed did not hold merit then, it does not hold merit now, because we would be increasingly utilizing fuel. We would not be decreasing the use of fuel.

I thank the Senator for raising the question relative to transportation and relative to school hours.

Mr. NUNN. Mr. President, I ask unanimous consent that I may be listed as a cosponsor of the daylight saving bills introduced by the Senator from Iowa (Mr. Clark) and the Senator from Kansas (Mr. Dole).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOK. Mr. President, I ask unanimous consent that I be listed as a cosponsor of the bill introduced by the Senator from Iowa (Mr. Clark).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that I be listed as a cosponsor on the bill introduced by the Senator from Iowa (Mr. Clark).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may be listed as a cosponsor of the bill of the Senator from Kansas (Mr. Dole).

The PRESIDING OFFICER. Without objection, it is so orderd.

Mr. CLARK. Mr. President, I ask unanimous consent that I be listed as a cosponsor of the bill of the Senator from Kansas (Mr. Dole).

The PRESIDING OFFICER. Without objection, it is so ordered.

### REPEAL OF DAYLIGHT SAVING TIME

Mr. NUNN. Mr. President, it has become quite clear that congressional approval of daylight saving time on a year-round basis was a mistake. In the State of Florida, there have already been several predawn accidents resulting in the deaths of eight school-age children. Reports of similar tragedies can be found in newspapers throughout the country.

Last fall, I joined Senator Marlow Cook of Kentucky in sponsoring a bill that would have established daylight saving time for the period between Memorial Day and September 30 each year. The rest of the year all America would be on standard time. This legislation was ignored by Congress in the rush to implement daylight saving time. The Senate was rushed into passage of this legislation by its advocates which claimed a 2 percent savings of our national energy requirements. However, the proponents of this measure were never able to offer conclusive evidence to support their contentions. I discounted these claims of fuel savings and voted against the daylight saving time bill which unfortunately, is now in effect.

While I have received many letters from constituents complaining of the new law, none have expressed their concern with more candor than the children affected by it.

I commend to the Congress the following letters from the second grade class of Mrs. Ellen Feinberg at Morris Brandon school, Atlanta, Ga.:

Dear Mr. Nunn: I think that children that are walking to school need to ride in the buses at 9:00 in the morning and they might save gas and ride the buses. So think about it please.

Sincerely,

Rory Johnson.

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Dear Mr. Nunn: We do not like Daylight Saving Time. We do not like going out on dark mornings. It is dangerous. Like if you go by the bushes somebody will grab you.

Sincerely,

Patrina Denise Ashley.

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Dear Mr. Nunn: Why do we have Daylight Saving Time? We have to use more energy. We have to wait for our buses in the dark. It's not fun at all. It's dangerous. You might hurt yourself. You might get kidnapped. I liked it how it was.

Sincerely,

Thomas Cogburn.

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Dear Mr. Nunn: I do not like Daylight Saving Time. I get mixed up when I wake up in the morning. When I wake up I think it is still night but it's not—it's morning. I don't like getting up in the dark. We have to use a little more electricity, but we don't use much electricity we have an hour extra hour.

Sincerely,

Sandy Draper.

Dear Mr. Nunn: We do not like Daylight Saving Time. We do not like going out on dark mornings.

From,

Ken Altman.

Dear Mr. Nunn: I think we should ride instead of walk to school. We are just wasting electricity. I don't think children should wait for buses in the dark.

Sincerely,

Meredith Stone.

Dear Mr. Nunn: I don't like Daylight Saving Time because I can't see where I'm going.

Trae Facente.

Dear Mr. Nunn: I don't think you are saving energy. We do not like Daylight Saving Time. We do not like going out on dark mornings.

Sincerely,

Kim Robinson.

Dear Mr. Nunn: It is dangerous in the mornings. Some children have to wait for buses. Some children have to walk to school. And people have to get up in the dark in the morning and it burns energy. I don't like Daylight Saving Time.

Sincerely,

Ruth Travis.

Dear Mr. Nunn: I don't think getting up in the dark is good because you have to turn on all the lights and heat because it's dark. If it was old time we would not have to turn on all the lights, the sun would up. And I don't think it is safe for children to walk in the dark.

Sincerely,

Jill Bonner.

Dear Mr. Nunn: I don't like riding to school with the lights on because it is dangerous. The bus driver can have a jam up.

From,

John Armour.

Dear Mr. Nunn: I think we would be saving more energy because if we went to school at 9:00 to 4:00.

Sincerely,

Kent Mason.

Dear Mr. Nunn: There are some good things and bad things in getting up in dark. Children get to play more. But it is dangerous to go to school in the dark and getting up in the dark. If you were the first to get up, you have to turn on the lights. It uses more energy. That doesn't help. I think we should of stayed at the old time. We do not like Daylight Saving Time.

Sincerely,

Neal Heery.

Dear Mr. Nunn: I do not like Daylight Saving Time. I think people like me should be able to write to you. When people get up in the morning they have to turn most of their lights on. Do you think that is saving energy?

Sincerely,

Reese Harman.

Dear Mr. Nunn: I do not like Daylight Saving. I was walking to the bus stop and I tripped over a rock. And if you tripped over a rock and if there was a little rock in front of it you could hurt yourself.

Sincerely,

David Walker.

Dear Mr. Nunn: We do not like Daylight Saving Time. We do not like going out on dark mornings. We do not like waiting at bus stops in the dark. It isn't fun. We used to have pine cone battles at the bus stop. Because of you, we can't!

Joe Dougherty.

Dear Mr. Nunn: I do not like Daylight Saving Time. I bet you don't either. I got a reason why. You could be asleep and wake up and look out the window and find that it was still night but it was really morning. And you go back to sleep. Then you wake up again and look at the clock and see it is late. And you could be in a carpool and it would be harder to see. Don't you think?

Sincerely,

John Carroll.

Dear Mr. Nunn: I do not like the idea of saving energy. It's not much help. Some people have to walk and might get hurt, while others may run over people by accident and it is dangerous for people who drive.

Sincerely,

Jack Calhoun.

Dear Mr. Nunn: I think Daylight Saving is bad. I don't like going to school in darkness. So I think children that walk in the dark to school is really dangerous. I think Daylight Saving is really! really! bad. And I don't like the dark. We do not like Daylight Saving Time. We do not like it.

Sincerely,

Teresa Haley.

Mr. NUNN. Senators Dick Clark and Marlow Cook have introduced separate legislation today which would repeal the emergency provision of the Daylight Saving Time Act of 1973. Their bills, which I have cosponsored, would return the Nation to the provisions of the Uniform Time Act of 1966, which established daylight saving time from the last Sunday of April to the last Sunday of October.

With daylight saving time in effect less than 30 days, Members of Congress are witnessing the tragic results of this legislation. I am hopeful that the Senate and Congress will consider the detrimental and dangerous effect of this legislation and will support these new efforts to pass corrective legislation.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the bill that was introduced by the Senator from Iowa (Mr. Clark) and the bill introduced by the distinguished Senator from Kansas (Mr. Dole) calling for the repeal of daylight saving time be held at the desk for the remainder of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. KENNEDY:

S. 2897. A bill to amend the Internal Revenue Code by increasing the personal exemption from $750 to $850, and for other purposes. Referred to the Committee on Finance.

### TAX CUT TO STIMULATE THE ECONOMY

Mr. KENNEDY. Mr. President, I send to the desk a bill to increase the personal exemption in the Federal income tax from its present level of $750 to a new level of $850, retroactive to the 1973 tax year. The bill is identical to the amendment I offered last week on the Senate floor, which was accepted by a strong 53-to-27 majority of the Senate, before it was recommitted as part of the overall bill to the Finance Committee.

The purpose of the amendment is to offset the increase in the cost of living since the personal exemption was last increased in 1971, and to provide a needed fiscal stimulus for the economy, so that we may avert the imminent danger of a recession.

The biggest danger facing the Nation today is an energy-induced recession in 1974. The problem was clear before the Arab oil embargo last October, but it has become a crisis as the oil shortage worsened. Early last fall, the administration was already talking of a "soft landing" for the economy in 1974, but the sudden new crisis over energy has made a "crash landing" much more likely. Economists are virtually unanimous now in predicting a recession, with 6 to 8 percent unemployment, in 1974. Already, the unemployment rate is creeping up.

No one can miss those early warning signals of recession. Annual real growth in GNP dropped precipitously from well over 3 percent in the third quarter of 1973 to little more than 1 percent in the fourth quarter, an ominous sign that recession is imminent and that growth will be zero or negative in the early quarters of 1974. And to the extent there was any growth at all in the final quarter of 1973, it was caused largely by businesses still producing goods, even though sales were dropping off. Does anyone seriously believe that business will go on producing goods while sales keep falling? Even this relatively minor aspect of growth will vanish if things go on as they are today.

The figures on unemployment tell the same story. The increase from 4.5 percent in October to 4.9 percent in December is an increase of 10 percent. How can we stand by, when hundreds of thousands of workers are being laid off, and when millions more are newly worried about their jobs and about their families' future?

The classical economic remedy for a recession is a tax cut, to stimulate the economy. Once before, in the early 1960's, Congress used a tax cut to pull the economy out of an economic tailspin, by stimulating growth and eliminating the effects of a recession and a long period of stagnation. Thanks to that wise action, we got the country moving again, and the Nation enjoyed the longest sustained period of real economic growth and prosperity without inflation in our history.

That same principle can work well again today. If we can get more purchasing power into the hands of consumers to stimulate the economy, we can blunt the recession before it takes hold. And at the same time, we can help offset the impact of high food and fuel costs in every family's budget.

The best prompt dose of fiscal stimulus is through the Tax Code, and that is the purpose of the bill I am proposing. A $100 increase in the personal exemption, from $750 to $850, would provide $3.5 billion in new consumer purchasing power, as a badly needed shot in the arm for our sick economy. Its impact can be felt at once. By making it retroactive to tax year 1973, people filing their returns between now and April 15 will benefit immediately, and the Nation will be the winner.

At the same time, such a fiscal stimulus to blunt the impact of recession will in no substantial way retard our fight against inflation. To a large extent, the inflation that exists today is already locked in by pressures of the past, and it is confined largely to the areas of food and fuel. Fiscal policy by Congress cannot do anything to curb that inflation now. What fiscal policy can do is to prevent a recession on top of inflation.

It is erroneous to argue that a tax cut now will contribute to inflation. Unlike 1969, where inflation was a serious problem in many sectors of the economy, inflation is out of hand in only two areas today—food and fuel. What we need as our anti-inflation policy is a pinpointed attack on those two areas, not a blunderbuss attack that stops the rise in the price of food and gasoline by throwing people out of work and making them too poor to eat or drive their cars. What we need is strict price controls on food and a more rational approach to agriculture policy, especially in the area of wheat exports. We do not have to put the whole economy through the wringer, in order to stop the upward march of prices on food and fuel alone.

To be sure, a small portion of this new consumer spending will find its way into food and gasoline, the only two important areas where inflation today is a serious problem. But the real advantage of a tax cut in so many other areas of the economy where recession, not inflation, is the problem, far outweighs the disadvantage of any increased spending for food and fuel. The administration has other tools to control inflation here, if only it will use them. Congress may not be able to legislate economic competence in the administration's management of the economy, but at least Congress can act now to try to prevent a serious recession in 1974, especially when the warning signs are so obvious.

The bulk of the increment in consumer spending produced by this legislation will go into areas where the economy is already sagging, and where recession is now an imminent threat. In fact, the proposal means extra employment for workers, extra income for families, and extra profits for business in all of the areas now facing serious dangers of layoffs, economic hardship, idle plant capacity, and all the other distressing consequences of recession.

Relief like this is needed now for millions of workers and their families, hard hit to keep up with the cost of living. In 1973, for the first time in modern history, prices went up faster than wages. From December 1972 through December 1973, prices rose by 8.8 percent, but hourly wages rose by only 6.7 percent. Almost invariably in the past, there has been a 2–3 point differential between prices and wages, but it has always been the other way around—wages surpassing prices because of normal increases in productivity. But in 1973 the pattern was reversed. Prices outran wages, with extremely serious consequences for every working man and woman.

By increasing the personal exemption, Congress can help offset the impact of today's continuing inflation for American families. The cost of living has risen by 13 percent since the personal exemption was increased to $750 in 1971. By raising the exemption to $850, an increase of 13 percent, Congress can set the exemption precisely at the level it should now have if the inflation of the past 2 years is taken into account.

In the Tax Reform Act of 1969, Congress enacted progressive increases in the personal exemption, raising it from the pre-existing level of $600 where it had been since 1948. The increases were as follows:

| | |
|---|---|
| 1970 | $625 |
| 1971 | 650 |
| 1972 | 700 |
| 1973 | 750 |

In the Revenue Act of 1971, Congress accelerated the increases and established a level of $675 for 1971 and $750 for 1972, where it remains today.

Since December 1971, the Consumer Price Index has risen from 123.1 to 138.5, for an overall 2-year gain of nearly 13 percent. The increase in 1973 alone was nearly 9 percent. A rise in the personal exemption from $750 to $850 is an increase of slightly over 13 percent, which thus almost exactly offsets the rise in the cost of living since Congress last acted. Of course, to offset anticipated inflation in 1974, the personal exemption would have to exceed $850.

I recognize that questions will arise as to the best approach to provide the tax stimulus that is needed. Perhaps the relief can be keyed to provide more assistance to the lowest income groups and those on fixed income, who are hardest hit by rising prices and rising unemployment. Perhaps the relief can be "finely tuned" to provide tax incentives for the particular domestic industries where the impact of the energy crisis and the coming recession will be greatest.

But because the personal exemption is widely accepted and widely understood in our tax laws, I believe it offers us the best avenue for giving the economy the broad across-the-board stimulus needed today. It will provide urgently needed relief to taxpayers in all income classes, and, as the accompanying table indicates, the vast majority of the relief will go to low- and middle-income groups, with fully 80 percent of the tax relief concentrated among persons with incomes of $20,000 a year or less. I ask unanimous consent that the table to which I have just referred be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

REVENUE EFFECT OF INCREASING THE PERSONAL INCOME TAX EXEMPTION FROM $750 TO $850

[Based on income levels for 1972 calendar year]

| Adjusted gross income | Number of returns with tax decrease (thousands) | Number of returns made nontaxable (thousands) | Decrease in tax liability (millions) | Distribution of tax decrease | |
|---|---|---|---|---|---|
| | | | | Percent | Cumulative, percent |
| 0 to $3,000 | 3,221 | 533 | 45 | 1.3 | 1.3 |
| 3,000 to $5,000 | 7,746 | 557 | 184 | 5.2 | 6.5 |
| 5,000 to $7,000 | 8,737 | 353 | 310 | 8.8 | 15.3 |
| 7,000 to $10,000 | 12,229 | 130 | 616 | 17.4 | 32.7 |
| 10,000 to $15,000 | 15,595 | 14 | 1,059 | 30.0 | 62.7 |
| $15,000 to $20,000 | 7,557 | 4 | 624 | 17.7 | 80.4 |
| $20,000 to $50,000 | 5,305 | (1) | 582 | 16.5 | 96.9 |
| $50,000 to $100,000 | 449 | (1) | 88 | 2.5 | 99.4 |
| $100,000 and over | 102 | (1) | 22 | .1 | 99.5 |
| Total | 60,940 | 1,592 | 3,531 | 99.5 | 99.5 |

[1] Less than 500.

Mr. KENNEDY. Mr. President, it is rare that tax relief is also sound fiscal policy for the economy. And it is also rare that Congress itself can take the sort of positive action capable of keeping the economy on an even keel, without the need for elaborate bureaucratic machinery or implementation by the executive branch. But we have such an opportunity today, and we cannot afford to miss it.

My hope is that both the Senate and the House of Representatives will give prompt consideration to the need for this sort of immediate tax stimulus to the economy, in order to keep the current economic downturn from materializing into the recession that economists now foresee for 1974.

Mr. President, I ask unanimous consent that the text of the bill may be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2897

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SEC. 2. (a) Effective with respect to taxable years beginning after December 31, 1972—

(1) section 151 of the Internal Revenue Code of 1954 (relating to allowance of personal exemptions) is amended by striking out "$750" wherever it appears, and inserting in lieu thereof "$850";

(2) section 6012(a)(1) of such Code (relating to persons required to make returns of income) is amended by striking out "$750" wherever it appears and inserting in lieu thereof "$850", by striking out "$2,050" wherever it appears and inserting in lieu thereof "$2,150", and by striking out "$2,800" wherever it appears and inserting in lieu thereof "$3,000"; and

(3) section 6013(b)(3)(A) of such Code (relating to assessment and collection in the case of certain returns of husband and wife) is amended by striking out "$750" wherever it appears and inserting in lieu thereof "$850" and by striking out "$1,500" wherever it appears and inserting in lieu thereof "$1,700".

(b) Effective with respect to wages paid on or after the 30th day after the date of enactment of this Act, the table contained in section 3402(b) of such Code (relating to percentage method of withholding) is amended to read as follows:

"Percentage Method Withholding Table

| "Payroll period | Amount of one withholding exemption |
|---|---|
| Weekly | $16.35 |
| Biweekly | 32.69 |
| Semimonthly | 35.41 |
| Monthly | 70.83 |
| Quarterly | 212.50 |
| Semiannual | 425.00 |
| Annual | 850.00 |
| Daily or miscellaneous (per day of such period) | 2.25." |

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By Mr. SPARKMAN (for himself and Mr. TOWER) (by request):

S. 2898. A bill to modify reserve requirements of member banks of the Federal Reserve System; to extend such requirements to other institutions that accept demand deposits or certain other types of deposits; to authorize Federal Reserve Banks to extend credit to such institutions; and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

### RESERVE REQUIREMENTS OF BANKING INSTITUTIONS ACCEPTING DEMAND DEPOSITS

Mr. SPARKMAN. Mr. President, I am introducing today for myself and the senior Senator from Texas (Mr. TOWER), by request, legislation submitted by the Federal Reserve Board to apply reserve requirements to certain institutions which offer demand deposit or NOW account services to their customers but which are not members of the Federal Reserve System.

The purpose of the bill, as explained by Chairman Arthur F. Burns, is to provide for better management of our Nation's money and credit, and to establish a more equitable system of reserve requirements among institutions offering similar deposit services.

In order to avoid placing a burden on smaller, State-chartered banks, the bill exempts from reserve requirements the first $2 million of net demand deposits and NOW accounts at nonmember institutions. The effect of this exemption is to remove from the bill's coverage about 3,300 small State-chartered banks.

Taking account of the fact that vault cash may be counted in meeting the reserve requirements, Chairman Burns estimate that "only about 38 percent of present nonmember banks would be subject to reserve requirements set by the Federal Reserve that exceeded their own existing vault cash holdings." Also, under Chairman Burns' recommendations the required reserves would be phased in over a period of 4 years, at the rate of 20 percent of the total requirement each year, so the nonmember institution would have 4 years to meet its full reserve requirement.

Chairman Burns indicates that under the bill nonmember institutions which bear Federal Reserve reserve requirements will have access to the Federal Reserve's discount window, subject to regulations to be issued by the Board. This contrasts with the present provisions of law which allow such access only under highly unusual circumstances and under relatively restrictive conditions. Another provision in the legislation requires the reporting of data on deposit liabilities by member and nonmember institutions subject to the reserve requirements.

Mr. President, I am well aware that the subject matter of the Board's proposal is highly controversial within the commercial banking industry and is becoming so among depository institutions generally. In fact, the senior Senator from Texas (Senator TOWER) and I introduced a bill, S. 2591, the Financial Institutions Act of 1973, last fall which takes the contrary position on this issue. We have introduced these bills in order to further our goal of providing a forum within which to explore and analyze all points of view so as to develop the best legislation for our country.

The extent to which the effectiveness of the implementation of monetary policy will be enhanced as a result of this particular bill will be thoroughly explored. We shall also analyze the ramifications for the dual branching system.

Most depository institutions in the United States exist in a unique structure which allows a choice between State or Federal charters. This dual chartering structure generally has worked well. It has contributed to an effective system of financial institutions in the United States, and it has received deservedly strong support from the public, from the various States, and from the Congress.

Some will see the Federal Reserve Board's proposal as a dangerous challenge to the continued existence of the dual banking system, although I know Chairman Burns believes that the bill submitted today will in no way undermine our present system. The place to consider such an important issue is here in the Congress, and it is with that conviction that Senator TOWER and I are introducing the Board's proposal today.

Mr. President, I now ask unanimous consent to include in the RECORD immediately following my remarks the texts of the letter Chairman Burns has addressed to me transmitting the Board's bill and the bill as submitted.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAIRMAN OF THE BOARD OF GOVERNORS,
FEDERAL RESERVE SYSTEM,
*Washington, D.C., January 25, 1974.*
Hon. JOHN J. SPARKMAN,
*Chairman, Committee on Banking, Housing and Urban Affairs, Washington, D.C.*

DEAR MR. CHAIRMAN: The Board of Governors herewith submits for Congressional consideration legislation that would extend reserve requirements set by the Federal Reserve System to nonmember institutions—commercial banks, mutual savings banks, savings and loan associations and the like—to the extent that such institutions issue demand or other types of deposits that perform a checking account function. The proposed bill also makes certain other revisions in related Federal Reserve powers, including a widening of the permissible range of reserve requirements and expanded authority for the Federal Reserve Banks to lend directly to nonmember institutions encompassed by the extended reserve requirement system. The Board strongly recommends adoption of the proposed legislation.

The purposes of the proposed legislation are to make the nation's monetary system more responsive to Federal Reserve actions, to facilitate better management of money and credit, to provide a more equitable system of reserve requirements for financial institutions offering similar deposit services, and to permit Federal Reserve credit assistance to a broader range of financial institutions when and as they come under unusual liquidity pressures. At the same time, it should be noted that the bill does not require membership in the Federal Reserve System on the part of State commercial banks or other nonmember institutions, nor does it contemplate any change in present supervisory arrangements.

### BACKGROUND

The principle that underlies the proposed legislation is simple and straightforward—namely, that equivalent cash reserve requirements should apply to all deposits that effectively serve as a part of the public's money balances, whether held at member banks, nonmember banks or other financial institutions. Recent growth of nonmember banks and recent efforts by nonbank depository institutions to evolve new arrangements for money transfers make adoption of this principle a matter of some urgency.

Proposals for uniform reserve requirements are not new. Comparable reserve treatment for member and nonmember banks was embodied in the recommendations of a Congressional committee chaired by Senator Douglas in 1950, repeated in 1952 in the recommendations of a Congressional committee chaired by Congressman Patman, endorsed by the Commission on Money and Credit in 1961, reaffirmed by the President's Committee on Financial Institutions in 1963, and urged again in the 1971 report of the President's Commission on Financial Structure and Regulation.

Since 1964 the Board has repeatedly urged the application of reserve requirements set by the Federal Reserve to nonmember banks as well as member banks. In 1970 the Board requested that such reserve requirements be placed on deposits subject to withdrawal by check at all financial institutions. By 1972 the rapid evolution of the financial system made it clear that reserve requirements set by the Federal Reserve would need also to be extended to so-called NOW (negotiable order of withdrawal) accounts, which serve a function similar to demand deposits.

A main benefit to be derived from the legislation proposed by the Board is that it would buttress the basic role of reserve requirements in the functioning of monetary and credit policy. Before the Federal Reserve System was founded, reserve requirements were imposed by legislation at the national and State levels as a means of protecting bank liquidity. That philosophy was reflected in the original structure of reserve requirements established for Federal Reserve member banks. Higher requirements were set for reserve city banks than for country members, and still higher requirements were imposed on central reserve city banks. Vestiges of that initial structure remain, even today.

Required reserves, however, have not proved in practice to be an important source of operating liquidity for banks, except as they can be used within the weekly reserve accounting period to absorb large fluctuations in check clearings. The reserves required to back deposits cannot be withdrawn to finance a rise in loan demand, and they are available to supply only a small portion of the funds needed to accommodate deposit losses. The essential function of reserve requirements today is not to provide liquidity, but to serve as a fulcrum for monetary policy—that is, to provide a known and controllable base through which the reserve-supplying and reserve-absorbing actions of the Federal Reserve can affect the supply of money and credit.

To achieve good management over the supply of money and credit, reserve requirements must be met by holding assets which are outside the payments stream and whose aggregate volume is under the control of the Federal Reserve. Whatever their role may be in protecting bank liquidity, the reserve requirements set by the various States do not meet this test.

State-determined reserve requirements on nonmember banks vary from one jurisdiction to another, ranging for net demand deposits around the level of reserve requirements set by the Federal Reserve. More important, however, is the form in which these reserves are held. State requirements can be satisfied not only by the holding of cash but also in a number of other ways—for example, by holding deposits with other banks or by holding interest-bearing securities. Holdings in the last two forms do not contribute to the monetary policy function of reserves, since the funds so used remain available to finance additional deposit and credit expansion. When a nonmember bank satisfies all or part of its State reserve requirement by holding deposits at a member bank, that member bank is of course required by the Federal Reserve to hold cash reserves at a Federal Reserve Bank or in the bank vault against these deposits in the same way as for any of its deposits. But, in this case, the size of cash reserve held by the member bank is quite small relative to the initial deposit at the nonmember bank. The minor degree to which deposits in nonmember institutions are indirectly backed by reserves that satisfy reserve requirements of the Federal Reserve—as well as the lack of uniformity in reserve requirements among the States—complicates the task and reduces the precision of monetary control. Thus, the principal thrust of the proposed legislation is to change the form in which nonmember banks may hold their reserves—that is by meeting Federal Reserve regulations with respect to vault cash and reserve balances held with Federal Reserve Banks.

The task of monetary policy is complicated because shifts in deposits between member banks and nonmember institutions alter the relationship between reserves under the control of the Federal Reserve and the nation's deposits. For example, if the Federal Reserve is attempting to restrain monetary growth during an inflationary period, it will be providing bank reserves more slowly. If the public's preferences for deposits at nonmember institutions as compared with member banks were unchanged, the increase in the nation's bank deposits and money supply would be about in line with the slower growth in bank reserves. But if the public is at the same time shifting deposits into nonmember banks—as has often occurred, and to a large and unpredictable extent—there would be a greater monetary expansion than desired. This would happen because deposits at nonmember institutions require less cash reserves than at member banks, and thus the total of deposits that could be supported by the available total of cash reserves would be enlarged.

The growing dimension of this problem can be indicated statistically. Since 1960 the demand deposit component of the nation's money supply held at nonmember banks has grown by 164 per cent, while such deposits held at member banks have grown by only 61 per cent. By the end of 1973, about 25 per cent of demand deposits in the money supply were held at nonmember banks.

Not only are the demand deposits at nonmember banks growing more rapidly than at member banks, but the available evidence indicates that deposit growth at nonmember banks has varied much more from year to year than at member banks. This is shown in the attached Table I. The more erratic growth rates at nonmember banks compound the difficulties of monetary control under the prevailing reserve structure.

The net increase in the number of nonmember banks is shown in Table 2. Overall since 1960, about 750 banks have left the Federal Reserve System through withdrawal or mergers. About 140 State-chartered banks have elected to join the System since 1960. Just over 1,700 others receiving new State charters chose to remain outside the System. The increase in relative importance of both the number of nonmember banks and their deposit holdings has accelerated since 1968, with growth particularly rapid in the past three years.

The main reason for this trend toward avoidance of Federal Reserve membership is the earnings loss that banks conclude they suffer in meeting Federal Reserve requirements. Banks must forego earning assets to build up a reserve balance in the Federal Reserve. That reserve balance pays no interest, although member banks do receive some services from the Federal Reserve.

The potential development at thrift institutions of savings accounts with transfer features similar to checking accounts poses a new risk of slippage in monetary control. In 1973, experimentation with NOW accounts was authorized by the Congress under certain regulatory conditions in two States. These accounts in important degree are capable of substituting for demand deposits, since, unlike ordinary savings or time accounts, depositors can make payment to third parties on the basis of withdrawals in the form of transferable or negotiable instruments. It may well come to the point where the average householder makes a sizable share of his ordinary payments through these accounts. Under present law, these accounts are not subject to reserve requirements set by the Federal Reserve, except at member banks. But in the two States affected, all kinds of depository institutions are authorized to issue these accounts.

Recent trends in nonmember demand deposits and in the development of NOW accounts surely presage a continued, and perhaps accelerated, growth of money-type deposits at nonmember financial institutions. No one can be certain at what exact point this growth will make control over monetary aggregates ineffective, but erosion of the reserve base progressively weakens the reliability of our present monetary instruments.

The proposed legislation extends reserve requirements set by the Federal Reserve only to accounts which are directly employed in making money payments—that is, to demand deposits and to savings accounts with third party payment features. The proposal does not recommend applying Federal reserve requirements to time and savings deposits other than NOW accounts. These deposits do in some degree serve a money-like function, but they are not highly active deposits. Also, under present conditions, there do not appear to be frequent, or large-scale, shifts of funds back and forth between demand and time (or savings) accounts. Shifts among demand deposits, NOW accounts, and other time deposits could become more prevalent in the future, however.

The proposed legislation is not intended to alter the existing chartering options for banking institutions, to favor or disadvantage different types of institutions, or to change the balance among supervisory authorities. State-chartered institutions may continue either to join the Federal Reserve System or not, as they choose. Whether they do or do not—and it is anticipated that many would remain outside the System—they would become subject to reserve requirements set by the Federal Reserve on demand deposits and on NOW and similar savings accounts.

Thus, the specific proposals have been drawn in such a way as to achieve more precision in monetary control and more equity in competition without altering the diversified banking and financial structure that now serves the country. Key specific proposals, and their purposes, are indicated below.

### PROVISIONS OF THE PROPOSED LEGISLATION

Apart from exemptions of importance to small nonmember institutions, the bill proposes that every institution receiving demand deposits be required to maintain reserves as determined by the Board of Governors of the Federal Reserve System in a ratio of not less than 5 per cent nor greater than 22 per cent of such deposits. With regard to interest-bearing deposits from which the depositor is allowed to make withdrawals by negotiable or transferable instrument, the reserve requirement range would be from 3 per cent to 20 per cent, as determined by the Board.

Institutions covered would include member and nonmember banks and savings and depository institutions generally. Also included would be U.S. located, foreign-owned banking institutions that accept demand deposits. This would encompass institutions chartered under State or Federal law and owned by foreign individuals or by foreign banks and U.S. branches of foreign banks. All of these institutions would be required to hold reserves on demand deposits or NOW accounts at Federal Reserve Banks or in the form of vault cash.

The proposed range of reserve requirements for demand deposits is slightly wider than the present range of requirements permitted by law. The present range of net demand deposits is from 7 per cent to 22 per cent. The Board's effective reserve requirements are currently graduated by size of deposit, so that smaller banks have lower reserve requirements than larger banks with generally more active accounts.

A wide range within which the Board can set reserve requirements permits maximum flexibility in the use of the reserve requirement instrument. The structure of reserve requirements can be more readily keyed to the size of bank, with reserve requirements graduated by size of deposit. Moreover, with reserve requirements applicable to both member and nonmember institutions, it would be practical for changes in reserve requirements to be utilized more frequently as an instrument of policy. This instrument has the advantage of permitting monetary policy to affect the reserve position of all banks immediately and thus to attain a prompt change in bank credit availability. In the past, use of the reserve requirement instrument has been quite limited, in part because it applied only to member banks and changes would therefore tend to distort existing competitive relationships between member and other banks.

The lower range of reserve requirements proposed for savings accounts with third-party tansfer privileges would permit lower reserve requirements on these accounts than on demand deposits with full checking account powers. Whether there should be such a reserve requirement differential, and the extent of it, would depend on experience with NOW accounts and, in particular, with the degree to which they begin to assume the function of active money. At present the Federal Reserve cannot set reserve requirements on such accounts at nonmember institutions. Reserve requirements on NOW accounts at member banks in the two States where they currently can be offered are the same as the reserve requirement on ordinary savings deposits at member banks.

The Board recognizes that uniform reserve requirements may impose some burden on nonmember institutions, depending on the level at which requirements are set and on the extent to which they are not satisfied by existing vault cash holdings. This is so because under the proposed legislation, more of the assets of such institutions may need to be held in noninterest-bearing form.

In recognition of this possible impact on the earnings of nonmember institutions, the legislation includes a provision which effectively exempts the first $2 million of the total of net demand deposits and NOW accounts at these institutions from reserve requirements set by the Federal Reserve. For nonmember banks, which hold sizeable amounts of time and savings deposits in addition to their demand accounts, the average size of institution below which there will be a total exemption from reserve requirements set by the Federal Reserve is on the order of $4 million. Nonmember institutions this small are very numerous, but they hold so little of the nation's demand deposits (only about 2½ per cent) that their exemption from reserve requirements of the Federal Reserve would not be a significant handicap for monetary policy.

Given this exemption provision, only about 38 per cent of present nonmember banks would be subject, under the proposed legislation, to reserve requirements that exceeded their own vault cash holdings. Assuming prevailing reserve requirements of the Federal Reserve on demand deposits, the excess of required reserves over vault cash for all nonmembers taken together is estimated to aggregate about $2.3 billion, or less than 1½ per cent of their total resources.

As a further measure to ease any burden on nonmember financial institutions from the transition to uniform requirements, the required reserves on demand deposits over $2 million existing at the time of enactment of the legislation would be phased in over a 4-year period—at the rate of 20 per cent of the total requirement per year, so that by the fifth year the bank would be meeting the full reserve requirement. Any increase in deposits above those existing at time of enactment would, however, be immediately subject to the full reserve requirement. The latter provision is essential because it would promptly permit more effective control by the Federal Reserve over the rate at which the nation's money supply increases.

Nonmember institutions and their communities would also benefit from a provision that permits Federal Reserve credit to be made available to institutions that maintain reserves with Federal Reserve Banks, subject to such limitations as the Board may by regulation prescribe. Under present law, credit to nonmembers is extended only in highly unusual circumstances, and under restrictive conditions as to the type of collateral that may be accepted by the Federal Reserve Bank. The proposed legislation would make it possible for nonmember institutions to have greater access to the Federal Reserve discount window, particularly at times of strong pressures on their liquidity positions. In developing regulations governing such borrowing, however, it would be fair and proper for the Board to give recognition to the remaining differences in the amounts of reserves held at Federal Reserve Banks as between member and nonmember institutions.

The legislation does not propose extension to nonmember institutions of reserve requirements on time and savings deposits apart from NOW accounts. The Board proposes, however, that the lower end of the permissible range within which those requirements can be set for member banks be reduced from the present 3 per cent to 1 per cent, with the upper end remaining at 10 percent. This change would provide needed flexibility in the administration of reserve requirement policy, since the reserve percentage for passbook savings accounts has been at the permissible minimum for a number of years. Whether and to what extent the Board might use this additional latitude would depend on the evolving structure of the deposit system and the impact that various kinds of deposits are judged to have on public behavior with regard to spending and saving.

The legislation also contains a provision that would require reporting of deposit liabilities by member and nonmember institutions subject to reserve requirements set by the Federal Reserve. This information is needed for monitoring purposes and will permit comparative analysis of the various financial institutions as the proposed reserve structure goes into effect.

I and other members of the Board would be pleased to discuss these proposals more fully with you and other members of your Committee. I urge that you consider scheduling public hearings on the matter at an early date.

Sincerely yours,

ARTHUR F. BURNS.

Attachments.

TABLE 1.—MEMBER AND NONMEMBER DEMAND DEPOSIT COMPONENTS OF THE MONEY SUPPLY

| | Member | | Nonmember | |
|---|---|---|---|---|
| 4th quarter | Amount [1] (billions) | Growth [2] (percent) | Amount [1][3] (billions) | Growth [2] (percent) |
| 1960 | $96.2 | 0.4 | $20.1 | 1.3 |
| 1961 | 99.2 | 3.1 | 21.0 | 4.2 |
| 1962 | 99.2 | 0 | 22.1 | 5.3 |
| 1963 | 102.0 | 2.9 | 23.6 | 6.6 |
| 1964 | 105.7 | 3.6 | 25.2 | 7.1 |
| 1965 | 109.0 | 3.1 | 27.1 | 7.4 |
| 1966 | 110.4 | 1.3 | 28.2 | 3.9 |
| 1967 | 117.7 | 6.6 | 30.2 | 7.1 |
| 1968 | 125.3 | 6.5 | 33.4 | 10.9 |
| 1969 | 128.1 | 2.2 | 36.5 | 9.0 |
| 1970 | 135.2 | 5.5 | 38.4 | 5.3 |
| 1971 | 142.1 | 5.1 | 43.1 | 12.3 |
| 1972 | 149.9 | 5.5 | 49.1 | 14.1 |
| 1973 | 154.6 | 3.1 | 53.0 | 7.9 |

[1] Average of daily figures, not seasonally adjusted.

[2] 4th quarter to 4th quarter annual rate of growth.

[3] Nonmember data are based on the ratios of member to nonmember deposits at call dates and are interpolated between such dates.

TABLE 2.—NONMEMBER BANKS COMPARED TO ALL COMMERCIAL BANKS

| | As of Dec. 31 | | Percent of demand deposits in money supply at nonmembers (December average) |
|---|---|---|---|
| | Nonmember banks number | Percent of number of all commercial banks | |
| 1960 | 7,300 | 54.2 | 17.2 |
| 1961 | 7,320 | 54.5 | 17.5 |
| 1962 | 7,380 | 55.0 | 18.1 |
| 1963 | 7,461 | 55.0 | 18.7 |
| 1964 | 7,536 | 54.8 | 19.4 |
| 1965 | 7,583 | 54.9 | 19.9 |
| 1966 | 7,620 | 55.3 | 20.2 |
| 1967 | 7,650 | 55.8 | 20.3 |
| 1968 | 7,701 | 56.3 | 21.0 |
| 1969 | 7,791 | 57.0 | 22.1 |
| 1970 | 7,920 | 57.9 | 22.1 |
| 1971 | 8,056 | 58.4 | 23.3 |
| 1972 | 8,223 | 59.0 | 24.6 |
| 1973 | [1] 8,426 | [1] 59.6 | 25.4 |

[1] As of Nov. 30.

## S. 2898

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SHORT TITLE

SECTION 1. This Act may be cited as the Reserve Requirements Act of 1974.

### RESERVE REQUIREMENTS FOR MEMBER BANKS AND OTHER INSTITUTIONS

SEC. 2. The last sentence of subsection (b) of section 19 of the Federal Reserve Act (12 U.S.C. 461) is designated as paragraph (6) and that part of such subsection (b) that precedes such sentence is amended to read as follows:

"(b)(1) Every institution that receives demand deposits shall maintain reserves against such deposits in such ratio, not less than 5 per centum nor more than 22 per centum, as may be determined by the Board.

"(2) Every institution that receives interest-bearing deposits from which the depositor is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons (referred to in this Act as 'negotiable order of withdrawal accounts') shall maintain reserves against such deposits in such ratio, not less than 3 per centum nor more than 20 per centum, as may be determined by the Board.

"(3) Notwithstanding the foregoing provisions, for each institution that is not a member bank or a corporation operating or organized under section 25 or section 25(a) of this Act there shall be no required reserves against the first $2 million of its net demand deposits or of its negotiable order of withdrawal accounts or of a combination of both.

"(4) Every member bank shall maintain reserves against its time deposits and its savings deposits (other than negotiable order of withdrawal accounts) in such ratio, not less than 1 per centum nor more than 10 per centum, as may be determined by the Board.

"(5) Every institution that receives demand deposits or offers negotiable order of withdrawal accounts shall make reports concerning its deposit liabilities and required reserves at such times and in such manner and form as the Board may require."

### CREDIT TO NONMEMBER INSTITUTIONS

SEC. 3. Section 13 of the Federal Reserve Act is amended by adding at the end thereof the following new paragraph:

"Each Federal Reserve Bank may make advances to any nonmember institution in its district that maintains reserves as prescribed by section 19(b) of this Act with due regard to the proportion of its assets held as such reserves and subject to such limitations as the Board may by regulation prescribe."

### CONFORMING AMENDMENTS

SEC. 4. Subsection (c) of section 19 of the Federal Reserve Act is amended by striking "member bank" and inserting "institution"; by striking "of which it is a member" and inserting "of the Federal Reserve district in which its head office is located or such other Federal Reserve Bank as the Board may designate"; and by striking "such bank" each time it appears and inserting "such institution". Subsection (f) of that section is amended by striking out "a member bank" and inserting "an institution" and by striking out "such member bank" and inserting "such institution". Subsection (g) of that section is amended by striking out "member banks" and inserting "institutions". Section 11(e) of the Federal Reserve Act, relating to reclassification of reserve cities, is repealed.

### TRANSITION PROVISIONS

SEC. 5. With respect to any institution, other than a corporation operating or organized under section 25 or section 25(a) of the Federal Reserve Act, that is not a member of the Federal Reserve System and was not a member on January 31, 1974, the reserve against its base demand deposits otherwise required by reason of the enactment of this Act shall be reduced by 80 per centum during the first calendar year that begins after its enactment, 60 per centum during the second year, 40 per centum during the third year, and 20 per centum during the fourth year. For the purposes of this section, the term "base demand deposits" mean that portion of an institution's demand deposits that does not exceed the average daily amount of its demand deposits during the calendar month immediately preceding the date of enactment of this Act.

SEC. 6. This Act shall take effect on the first day of the first calendar year beginning after the date of its enactment.

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By Mr. ABOUREZK:

S. 2899. A bill to amend the Clayton Act to preserve and promote competition among corporations in the production of oil, natural gas, coal, oil shale, tar sands, uranium, geothermal steam, and solar energy. Referred to the Committee on the Judiciary.

Mr. ABOUREZK. Mr. President, I am introducing a bill that will make it illegal for oil companies to own or control alternate forms of energy such as coal, oil shale, tar sands, uranium, geothermal steam, and solar energy. The importance of this legislation, I believe, can be attested to by the fact that the American people are currently at the mercy of these major oil companies and are being forced to pay monopoly prices for their energy needs.

The major oil companies are able to charge monopoly prices because they control the exploration, production, transportation, refining, and distribution of petroleum in the United States, if not the entire world. Every day my office receives letters from citizens who are outraged that Congress has consistently refused to take action against this giant oil oligopoly. While it may be difficult to eliminate the major oil companies' control over petroleum and natural gas, it certainly is not so difficult to stop these companies from gobbling up America's remaining energy resources.

Moreover, on January 23, the Washington Post reported that the Interior Department's Bureau of Land Management sold the first Federal lease for geothermal steam resources to the Shell Oil Co. for $4.5 million. The Post reported that a private project in the Geysers area "where Union Oil Co. and Magma Power Co. drilled for the live steam is expected to produce two-thirds of the electrical energy needed for the city of San Francisco by the end of 1975."

The Post report also disclosed that a number of other oil companies engaged in the bidding. These companies included Signal, Union, Standard of California, and Getty.

Recently, for example, the Interior Department leased a 5,000-acre oil shale tract in northwestern Colorado to the Gulf Oil Corp. and the Standard Oil Co. of Indiana who jointly submitted a high bid of $210 million. Most of the other companies who bid on the tract were also major integrated oil companies, including such well-known names as Sun Oil Co., Marathon Oil Co., Atlantic Richfield, Ashland, and others.

Oil shale reserves have had a long and complex history. In 1970 an author named Chris Welles wrote a book, "The Elusive Bonanza," detailing how the major oil companies together with the Federal Government have been preventing the development of shale oil until such time as the major oil companies are ready to develop it themselves. Welles argued in the introduction to his most fascinating book that—

> Though this deposit has never been commercially exploited to any meaningful extent, the evidence is overwhelming that production of shale oil would not only be profitable but a good deal more profitable than exploration for and production of new domestic reserves of crude oil.

Welles went on to point out that—

> The federal government, which as owner of over 80 percent of the Colorado shale has broad powers to determine its use, has docilely acquiesced to the oil industry's point of view.

In another book, former Senator Paul Douglas described how for years the Interior Department failed to investigate and prosecute possible false claims on numerous acres of oil shale land by private speculators, many of whom were fronting for the major oil companies. One such speculator was a man named Merle Zweifel. According to Senator Douglas—

> Some believe that certain oil companies are behind Zweifel and are using his claims to prevent any oil shale development until it is convenient for them to engage in it. The loss of Middle Eastern or Venezuelan oil would, for example, accelerate such a development, as would the growing exhaustion of the domestic fields and further technical progress in the methods of extracting oil from the shale.

Senator Douglas also urged that if the oil companies do begin to develop shale oil, that they should not receive any kind of depletion allowance. He argued that—

> In the case of oil drawn from shale owned by the people through their government, the argument is entirely false. It is the government's asset, not the oil companies', that will be depleted, and to compensate private producers who are not owners for this would be highway robbery.

Perhaps, we might consider eliminating the depletion allowance on all energy resources and minerals produced on Federal lands for this very reason.

Unfortunately, for many years the U.S. Department of the Interior has translated the public interest to mean that what is good for the major oil companies is good for the country. The policies of the Interior Department with respect to energy resources on Federal lands have consistently benefited the major oil companies to the detriment of the rest of the American people. As a result, over the years, the Department of the Interior has contributed to the increasing domination over America's energy resources by a handful of powerful major oil companies.

As recent evidence in congressional hearings and in Federal Trade Commission studies indicates, the free market in oil and natural gas does not exist. For all intents and purposes the marketplace is not workably competitive. The results of this lack of competition for America's economy have been disastrous—elimination of competition, fixed prices, reduced supply, corruption of government, and other sordid improprieties and illegalities. In recent years, the major oil companies, which make their plans years in advance, have been feverishly investing their American taxpayer-subsidized capital in competitive fuels—such as coal, oil shale, tar sands, uranium, geothermal steam, and solar energy technology. They are also involved in various stages of research and development of coal gasification, and liquefaction and nuclear technology. In short, the major oil companies are in the process of monopolizing all forms of energy in the United States.

Competition has been the lifeblood of our economic system. Monopoly is the destruction of competition. It distorts the economy and corrupts government. A strong interfuel competitive marketplace is a necessity for this country's economic health and political survival. Congress must not capitulate to the greedy and arrogant demands of the major oil companies, who have shown us that not only are they more concerned with their own profits, but that they will operate against the public interest without the slightest moral misgivings.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2899

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Interfuel Competition Act of 1974."*

SEC. 2. That the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12ff), is amended by inserting after section 7 the following new section:

"SEC. 7A. (a) It shall be unlawful for any oil company—

"(1) to acquire any coal, oil shale, tar sands, uranium, geothermal steam, and solar energy asset after the enactment of this section, or

"(2) to own or control any coal, oil shale, tar sands, uranium, geothermal steam, and solar energy asset after the expiration of three years after the enactment of this section.

"(b) Each oil company which owns or controls any coal, oil shale, tar sands, uranium, geothermal steam or solar energy asset shall, within one hundred and twenty days after the enactment of this section, file with the Attorney General and the Chairman of the Federal Trade Commission such reports respecting its coal, oil shale, tar sands, uranium, geothermal steam and solar energy assets as they may by regulation require and it shall be the duty of the Attorney General and Chairman of the Federal Trade Commission to immediately examine such reports.

"(c) It shall be the duty of the Attorney General and/or the Chairman of the Federal Trade Commission to commence a civil action for appropriate relief, including a permanent or temporary injunction, whenever any person violates subsection (a) or (b). Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance.

"(d) Any person knowingly violating the provisions of this Act shall upon conviction be punished by a fine of not to exceed $100,000 or by imprisonment not exceeding ten years, or both, in the discretion of the court. A violation by a corporation shall be deemed to be also a violation by the individual directors, officers, receivers, trustees, or agents of such corporation who shall have authorized, ordered, or done any of the acts constituting the violation in whole or in part.

"(e) For purposes of this section—

"(1) The term 'oil company' means any corporation engaged in the production or refining of petroleum and includes any affiliate of such corporation.

"(2) The term 'coal, oil shale, tar sands, uranium, geothermal steam or solar energy asset' means—

"(A) any asset used for the mining, drilling, exploration, production or sale of coal, oil shale, tar sands, uranium, geothermal steam and solar energy, or

"(B) any stock in any corporation which engages in (or an affiliate of which engages in) the mining, drilling, exploration, production, or sale of coal, oil shale, tar sands, uranium, geothermal steam and solar energy.

"(3) The term 'acquisition' includes acquisition of control.

"(4) The term 'control' includes actual or legal power or influence over another person, whether direct or indirect, arising through direct or indirect ownership of capital stock, interlocking directorates or officers, contractual relations, agency agreements, or leasing arrangements.

"(5) An affiliate of a corporation is any other corporation which (directly or indirectly) controls, is controlled by, or is under common control with such corporation."

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By Mr. MONTOYA:

S. 2900. A bill to improve the safety of motor vehicle fuel systems. Referred to the Committee on Commerce.

Mr. MONTOYA. Mr. President, the legislation which I am introducing today concerns motor vehicle fuel tank safety standards. The bill has two basic provisions. First of all, it would advance, by 1 calendar year, the effective date of the Federal standards proposed by the National Highway Traffic Safety Administration in August 1973. Second, it would require that all supplemental fuel tanks which are added to a vehicle after its original sale meet standards which provide for at least as much safety as that provided by original equipment standards.

The magnitude of the dangers involved in unsafe fuel tanks, the existence of available technology to remedy tank deficiences and the seeming reluctance on the part of the Department of Transportation to implement safety standards in an expeditious fashion provide persuasive evidence of the necessity for this legislation.

Currently the only safety standard applying to fuel tanks involves a frontal collision test—at a speed of 30 miles per hour—which each vehicle sampled must undergo with a maximum allowable fuel loss from its tank of 1 ounce per minute, with fuel loss measured for a 15 minute period.

The standards proposed by the National Highway Traffic Safety Administration in the August 20, 1973 Federal Register would set a maximum allowable fuel loss of 1 ounce per minute when a vehicle is tested under specified impact and rollover conditions. The proposed standards for passenger car fuel tanks include static and dynamic rollover tests as well as a 30-mile-per-hour rear end crash test, a 30-mile-per-hour angular frontal crash test, and a 20-mile-per-hour lateral crash test. All of these proposed standards are due to take effect as of September 1, 1976, except for the dynamic rollover test which does not go into effect until September 1, 1977. The legislation which I am introducing today would move these effective dates up 1 year to September 1, 1975 and September 1, 1976 respectively. This would mean that 1977 and 1978 model year cars would have to meet these standards.

The importance of fuel tank safety standards can only be understood when one considers the frightening statistics compiled by the Department of Transportation. The Department estimates that fires in traffic accidents account for somewhere between 2,000 and 3,500 deaths annually. Moreover, the Presidentially established National Commission on Fire Prevention and Control, in its report of last year, estimated that more than 450,000 fires occurred in motor vehicles in 1971. In fact, motor vehicle fires each year cause almost 35 percent of all fire deaths in the United States. A large percentage of these deaths are caused by fires resulting from gasoline leaking from fuel tanks.

All that it takes to cause a deadly fire in the presence of spilled gasoline is a spark from one of many possible sources—from the car's electrical or exhaust system, a burning tire, a lighted cigarette, a broken power line, or the scraping of metallic vehicle parts along the pavement. Thus it is clear that in reality we have had a fuel crisis for a long time: a fuel crisis represented by the threat of gasoline splashing from ruptured fuel tanks, ready to serve as fuel not for cars but rather for a raging and lethal inferno.

The report of the National Commission on Fire Prevention and Control is worth citing:

> Since gasoline spillage is a common cause of vehicle fires, the location, construction and security of fuel tanks are important design features for fire safety. The most severe losses, in terms of both life and property, occur from fires following rear end collisions. Next in importance are rollover accidents, followed by front end collisions.

Thus it is very important that the proposed standards, which include both rear end and rollover crash tests, take effect 1 year earlier as proposed in this legislation.

The death toll resulting from traffic accident fires is inexcusably high, especially in light of the fact that the technology exists to remedy the design defects which allow excessive leakage from fuel tanks. The National Commission on Fire Prevention and Control came to this conclusion when it stated:

> The indications, then, are that motor vehicles, especially cars, are not as safe as modern technology would allow. Improvements could be made in design and materials, without significant additional costs.

Testimony last year before the House Subcommittee on Commerce and Finance also indicated that the answers to fuel tank hazards are well known. Dr. William Haddon, Jr., currently President of the Insurance Institute for Highway Safety and formerly first Director of the National Highway Traffic Safety Administration, the agency in the Department of Transportation which is responsible for the establishment of auto safety standards, explained that there are several feasible and practical solutions currently available.

One possible approach is to build a structure around the tank in such a way that impact forces are less likely to reach it with violence sufficient to cause rupturing, tearing, and dislocation. In tests conducted by the Insurance Institute for Highway Safety the structure surrounding the fuel tank proved flimsy and provided little protection at all. Tanks themselves could also be made more rugged so that they could withstand impacts without rupturing. In addition, designed-in threats to the integrity of gas tanks could be avoided by the removal of sharp bolts, ridges, and other hardware from positions adjacent to the tank. Fuel lines, filler pipes, and vent lines also could be designed and constructed in ways that make them far less likely to break during impact.

Moreover, in the event of a rupture in the fuel tank, better insulation and placement of electrical wires can reduce the likelihood of a fire starting. And there are also design approaches to stop the exploding gasoline from erupting into the passenger compartment. One of the most reasonable of these approaches is the installation of fire walls. These fire walls have been built into the fronts of cars for decades, but are found on the rear ends of only a few vehicles now sold in the United States.

The technology exists but it has not been put into effect because of the reluctance on the part of the Department of Transportation and its National Highway Traffic Safety Administration to issue adequate and timely safety standards which would require the use of this technology. The National Traffic and Motor Vehicle Safety Act of 1966 granted the Department of Transportation the authority to issue motor vehicle safety standards. Yet there is still no standard presently in effect which would require automobile fuel tanks to withstand a rear end collision with only a minimal amount of leakage. Nor are there currently in effect any standards for side or rollover impacts. According to the proposed standards proposed by the Department of Transportation last August passenger cars would not be subject to rear end collision tests until September 1, 1976. And, of course, it is precisely this type of rear end collision which most frequently causes fuel tank leakage and the resultant fire hazards.

The only fuel tank integrity test which presently exists involves frontal collisions. And since the vast percentage of automobiles have their fuel tanks in the rear, the result is that fuel tanks are not required to be very durable or strong and thus not very safe.

The Department of Transportation has received numerous reports indicating that fire-producing deficiencies in vehicle design are killing many people each year. The National Transportation Safety Board in its report on a 1969 multiple-vehicle collision involving fires on the New Jersey Turnpike, recommended that "the National Highway Traffic Safety Administration and the Automobile Manufacturers' Association initiate programs leading to the development of automotive fuel tank systems which will minimize the escape of fuel in collisions." This same agency issued a report in 1971 stressing that there had been "no significant reduction of vehicle fires in recent years."

Within the National Highway Traffic Safety Administration over the past several years, there has been received report after report involving accident related fires. These accident investigation reports were designed to prevent future deaths and injuries. Dozens of them blame ruptured fuel systems and fires for accident casualties.

A National Transportation Safety Board study conducted in 1971 contained an appendix entitled "The Continuing Problem of Vehicle Fires." It said in part:

> As long as motor vehicles use liquid combustible fuels, the hazard of fire will persist. But this hazard can be materially reduced by attacking both the spillage of fuel and the common ignition sources, since combustion requires both a readily ignitable fuel and ignition.
>
> Therefore, two main goals need to be considered in a systems approach to this problem:
>
> A. The limiting of fuel spillage . . . at present, fuel-system components seem to be among the most vulnerable of all vehicle subsystems in terms of design, construction and placement, when vehicles are involved in crashes; and
>
> B. Better management of electrical ignition potentialities . . . Both of these approaches are well within the state of the art and should require only direction and development to meet realistic performance parameters.

Some of the most recent data providing persuasive evidence of the need for speedy action in setting fuel tank standards came from tests conducted by the Insurance Institute for Highway Safety in April, 1973. The Institute conducted six rear end crash tests with 1973 cars. Despite the fact that these crashes occurred at speeds less than 40 miles per hour, the results were leaking fuel tanks. Each crash produced either fire, or one of fire's prerequisites, namely spilled gasoline. In short, each crash had the potential of becoming a flaming and very deadly inferno.

Unfortunately, the Department's responses to these alarming reports and statistics have been either too little or too late or both. In October 1967, the Department of Transportation issued an advance notice of proposed rule making announcing its plan to set a standard to require "lateral and read-end longitudinal collision tests, prevention of fuel spillage due to rollover, puncture resistant fuel tanks, and protection of fuel lines and fittings." Then on January 17, 1969, the National Highway Traffic Safety Administration issued a notice of proposed rule making, which, if enacted would have required a rear end impact test effective January 1, 1970. No action was taken on this proposal. On August 24, 1970, the National Highway Traffic Safety Administration, "recognizing that the present requirements are narrow in scope," issued another notice of proposed rule making which included rear end collision test requirements more stringent than those proposed in 1969. The agency stated that "the requirements, if implemented, would significantly reduce the likelihood of fuel spillage fires."

And yet the standard requiring rear end collision tests is now not due to take effect until September 1, 1976, a full 7½ years after the only other standard presently applicable, the frontal collision test, came into effect.

Further illustration of the National Highway Traffic Safety Administration's intransigence is provided by a comparison of the actions taken by the agency with the deadlines and timetables set forth in the agency's own program plan books. The first "Program Plan for Motor Vehicle Safety Standards," published in September 1970, proposed March 1971 as the issue date of the standard on fuel system integrity specified in the August 1970 notice. The effective date of that standard was to have been January 1, 1972. The second program plan book, published in October 1971 moved the dates back even further with a proposed issue date of March 1, 1972 for the rule and an effective date of September 1, 1976, for the standard.

As can be seen from the above data, the National Highway Traffic Safety Administration's actions with regard to fuel system integrity safety standards may well rank as one of the foremost instances of bureaucratic delay in recent history. Meanwhile thousands of people every year continue to die on our Nation's roads and highways as a result of this unjustified delay. A postponement of the effective date of a rear-end collision standard until September 1976 would represent a 4-year, 9-month delay past the date proposed in August 1970; a 6-year, 9-month delay since the date proposed in January 1969; and an incredible delay of over 8 years since the National Highway Traffic Safety Administration first announced its intention to devise a fuel system standard covering rear-end collisions.

Mr. President, the legislation which I am introducing today calls for only a modest 1-year speedup in the effective date of the proposed safety standards regarding rear-end crash tests, lateral crash tests, angular frontal crash tests, and static and dynamic rollover tests. This bill would put these standards into effect in 1975 and 1976, depending on the standard and the class of vehicle, instead of on the 1976 and 1977 dates proposed by the National Highway Traffic Safety Administration. This is a limited but very important step which represents the least we can do to accelerate the pace of establishing adequate auto safety standards.

The rationale behind the second part of this legislation, that pertaining to safety standards for supplemental fuel tanks, is the belief that standards for supplemental fuel tanks should provide for just as much safety as that provided by original equipment standards. This part of the legislation is especially important in light of the current fuel shortage and the increasing tendency for people to install supplemental fuel tanks in order to be able to store more gasoline. At present there are no safety standards applicable to supplemental tanks which are not available as factory options. The increased use of these tanks makes the establishment of safety standards even more imperative.

I think it is clear that we simply cannot in good conscience allow such a long time for these safety standards to become effective. As the Insurance Institute for Highway Safety has indicated, if the standards go into effect as proposed. It would still be well into the 1980's before three-fourths of the cars on the road have the full protection called for in the proposed standards. If some 2,000 to 3,500 people died each year in airplane crashes as a result of faulty fuel tanks, would we see a similarly casual attitude on the part of Government officials toward remedying the situation? I doubt it. We owe it to the millions of drivers of this country to insure that adequate automobile safety standards are implemented as soon as possible. The legislation introduced today is a necessary step in this direction.

Mr. President, I ask unanimous consent to have printed in the Record following my remarks the text of the bill as well as three items prepared by the Insurance Institute for Highway Safety: First, a table entitled "Fuel Systems: Present and Proposed," second, a fact sheet entitled "Federal Motor Vehicle Safety Standard No. 301: Anatomy of a Delay," and third, a table giving the "summary of results of the 1973 moderate speed front-into-rear crash tests." It should be pointed out that the legislation introduced today would advance by 1 calendar year the effective dates for the proposed standards listed in the first table.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 2900

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the motor vehicle safety standards with respect to fuel system integrity, proposed by the National Highway Traffic Safety Administration in Docket numbered 73–20, notice 1, 38 Federal Register 160 at page 22417, to be effective as of September 1, 1976, and September 1, 1977, shall be effective, with any modification prior to final promulgation, as of September 1, 1975, and September 1, 1976, respectively.

Sec. 2. Section 402 of title 23 of the United States Code, relating to State highway safety programs, is amended by inserting at the end thereof the following:

"(i) State vehicle inspection programs pursuant to this section shall include provisions to provide assurance that any supplemental fuel tank installed in a motor vehicle after manufacture meets safety standards promulgated by the Secretary for the purpose of this subsection and providing that any such supplemental tank is at least as safe as fuel tanks installed in such vehicle at the time of manufacture."

FUEL SYSTEM TESTS: PRESENT AND PROPOSED

| | Effective dates | | |
|---|---|---|---|
| | | Other vehicles | |
| | Passenger cars | Under 6,000 lbs | 6,000 to 10,000 lbs |
| Fuel spillage not to exceed 1 ounce per minute after tests as follows: | | | |
| Adopted: | | | |
| 30 mi/h frontal barrier crash | In effect | Sept. 1, 1976 | Sept. 1, 1976 |
| Static roll-over (following frontal crash) | Sept. 1, 1975 | do | |
| Proposed: | | | |
| Static roll-over (following frontal crash) | | | Sept. 1, 1977 |
| 30 mi/h rear moving barrier crash | Sept. 1, 1976 | Sept. 1, 1976 | Do. |
| 30 mi/h angular frontal barrier crash | do | Sept. 1, 1977 | Do. |
| 20 mi/h lateral moving barrier crash | do | do | Do. |
| Static roll-over (following each impact test) | do | Sept. 1, 1976 | Do. |
| Dynamic roll-over | Sept. 1, 1977 | Sept. 1, 1977 | Do. |

FEDERAL MOTOR VEHICLE SAFETY STANDARD No. 301: ANATOMY OF A DELAY

1966.—Sept. 9, 1966, President Lyndon B. Johnson signs National Traffic and Motor Vehicle Safety Act, providing first federal authority for motor vehicle safety standards.

Advance Notice of Proposed Rulemaking issued for Federal Motor Vehicle Standard No. 301, Oct. 6, 1966, to cover fuel tank integrity.

Notice of Proposed Rulemaking issued, Nov. 30, 1966, proposing no loss of fuel greater than one ounce per minute after a 30 mph frontal fixed barrier impact to take effect Sept. 1, 1967.

1967.—Standard No. 301 adopted, Jan. 31, 1967, effective Jan. 1, 1968.

Advance Notices of Proposed Rulemaking issued to extend to rear-end and side collisions, Oct. 10, 1967, as well as extention to multipurpose passenger vehicles, trucks, buses and motorcycles.

1968.—Standard No. 301 takes effect, Jan. 1, 1968, as it turned out, the only protection required in this area for the next 7½ years.

1969.—Notice of Proposed Rulemaking issued, Jan. 17, 1969, for no fuel leakage after panic stop from 80 mph effective Oct. 1, 1969. Also, a 20 mph rear-end moving barrier test proposed to be effective Jan. 1, 1970.

1970.—Notice of Proposed Rulemaking issued, Aug. 24, 1970, extending and modifying test requirements, to take effect Jan. 1, 1972. Additional test proposed to take effect Jan. 1, 1973.

1971.—October 1971, NHTSA delays proposed effective date to Sept. 1, 1976.

1972.—No action.

1973.—Insurance Institute for Highway Safety reveals its new crash-test research at Congressional hearing, May 29, 1973, showing designed-in deficiencies leading to leaking gasoline and fire even in moderate-speed rear-end impacts in new cars.

Rep. John E. Moss (D-Calif.), chairman of the hearings, writes Transportation Secretary Claude S. Brinegar, May 31, 1973, based on IIHS testimony, rejecting explanations for previous delay.

Center for Auto Safety writes NHTSA seeking amendment to Standard No. 301, June 6, 1973, citing IIHS film results.

June 12, 1973, Acting NHTSA Administrator promises action on stronger fuel tank standards "around Aug. 1, 1973."

Rep. Moss writes Secretary Brinegar again, Aug. 3, 1973, in stronger letter, demands action by Aug. 15, 1973.

Department of Transportation issues new test requirements to strengthen Standard No. 301, Aug. 15, 1973, adopting one previous proposal and proposing others (see chart on page 3) to take effect Sept. 1, 1975–77.

INSURANCE INSTITUTE FOR HIGHWAY SAFETY—SUMMARY OF RESULTS, 1973 MODERATE SPEED FRONT-INTO-REAR CRASH TESTS

| Moving car | Parked car | Speed (miles per hour) | Gas Leakage | Fire |
|---|---|---|---|---|
| 1973 Plymouth Fury III. | 1973 Chevrolet Vega. | 39.8 | Yes; Vega. | Potential. |
| 1973 Datsun 610 | 1973 Ford Pinto. | 38.5 | Yes; Pinto. | Potential. |
| 1973 Ford Galaxie 500. | 1973 AMC Ambassador | 37.2 | Yes; Ambassador. | Do. |
| 1973 Volkswagen Beetle. | 1973 Plymouth Fury III. | 38.8 | Yes; Fury. | Initiated. |
| 1973 Chevrolet Impala. | 1973 GM Opel 1900. | 36.4 | Yes; Opel. | Potential. |
| 1973 AMC Gremlin. | 1973 Toyota Corona. | 39.8 | Yes; Corona. | Spontaneous. |

Note: In addition to the moderate speed front-into-rear crashes of 1973 vehicles tabulated above, in an earlier pilot test a 1959 Oldsmobile 98 was crashed into the rear end of a 1964 Mercury Comet at 39.2 mi/h. Spontaneous ignition occurred.

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By Mr. ALLEN:

S. 2901. A bill to change the date of Veterans Day from the fourth Monday in October to November 11. Referred to the Committee on the Judiciary.

VETERANS DAY SHOULD BE RETURNED TO NOVEMBER 11 OF EACH YEAR

Mr. ALLEN. Mr. President, I introduce today a bill to amend title 5 of the United States Code to return observance of Veterans Day to November 11, its traditional date of observance. While I was not a Member of this distinguished body at the time Public Law 90–363 was enacted by the 90th Congress, I am informed that none of the major veterans organizations had an opportunity to testify on this legislation in either the House or Senate nor were they aware that the measure had been amend to change the observance of Veterans Day from November 11 to the fourth Monday in October until after the hearings were closed and the bill favorably reported by the House Judiciary Committee. Given the opportunity, I believe that all of the veterans organizations would have testified in opposition to the measure. This belief is based on a telegram from the American Legion's national legislative director, Herald Stringer, which was read into the RECORD May 7, 1968, by Congressman Whitener in the House of Representatives when H.R. 15951 was debated on the floor. The telegram reads as follows:

> At a meeting last week The American Legion's National Executive Committee adopted a resolution opposing that portion of H.R. 15951 which would change the dates for observing Memorial Day and Veterans Day. The date of these national holidays are established by tradition and are rich in patriotic meaning.
>
> Neither should be arbitrarily changed simply to produce economic benefit. Your efforts in opposition to this proposal are deeply appreciated.

H.R. 15951 passed the House on May 7, 1968. It was favorably reported without amendments by the Senate Judiciary Committee on June 21, 1968. I am informed that most of the major veterans organizations asked for an opportunity to testify in opposition to the change in the date of observance for Veterans Day before it was reported, however, no further hearings were held and it passed the Senate June 24. It was approved by the President as Public Law 90–363 on June 28, 1968, and the Monday holiday observances commenced in the year 1971.

Mr. President, I believe it is obvious that this legislation may have been enacted in haste and some of the people most concerned with the holiday changes were neither consulted nor given an opportunity to register their opposition. Certainly the major veterans organizations should have been given this opportunity with respect to Veterans Day. After all, who has a better right to recommend when their day will be observed than the veterans themselves?

Observance of Veterans Day on the fourth Monday in October commencing in the year 1971, has proven to be so unpopular that 31 of the States which had previously changed their laws to conform with the Federal act subsequently reconsidered and enacted legislation to return the observance of Veterans Day to November 11.

I should like to place in the RECORD at this point in my remarks a list of the 31 States whose legislatures have restored to November 11 the traditional and rightful date for observing Veterans Day:

VETERANS DAY TO NOVEMBER 11

[Effective date]

Alaska, 1973.
Arizona, 1973.
Arkansas, 1973.
California, January 1, 1974.
Connecticut, 1973.
Florida, May 17, 1973.
Georgia, January 1972.
Illinois, 1973.
Indiana, 1971.
Idaho, February 15, 1973.
Iowa, November 11, 1974.
Kansas, November 1976.
Louisiana, 1973.
Maine, 1974.
Michigan, 1973.
Missouri, September 22, 1973.
Nebraska, 1973.
New Hampshire, 1973.
New Mexico, 1974.
North Carolina, 1974 (Law March 5, 1973).

North Dakota, 1973 (Law July 1, 1973).
Oregon, 1973.
Pennsylvania, 1973.
South Carolina, 1974.
Tennessee, 1973.
Vermont, 1974.
Virginia, 1973 (Law January 1, 1973)
Washington State, 1973.
West Virginia, 1972.
Wyoming, 1973 (Law May 25, 1973)
Wisconsin, 1974, (November 28, 1973).

In addition, two States, namely, Mississippi and Oklahoma, never changed their laws to conform with the Federal law in this respect. I might add that more than 18 million of our 29 million veterans still living reside in the 33 States that will observe Veterans Day on November 11 in 1974. Also, in the upcoming session of the legislature of my home State of Alabama, legislation will be introduced to restore the Veterans Day observance. This contraindicates popular support for the continued Federal observance of Veterans Day on the fourth Monday of October as now required by Public Law 90–363.

The change in the date for Federal observance of Veterans Day has resulted in the lessening of its patriotic significance. In the 17 States that have thus far not returned to the traditional date of observance, most of the veterans' organizations and other patriotic groups will nonetheless continue to observe Veterans Day on November 11. This will result in 2 days of observance; one for Federal employees and on the other day by the other citizens. Perhaps this is an overstatement, Mr. President, for the reason that commencing in 1971 few of our public schools and business establishments observe either date. Many of the schools now remain open and the department stores seize upon both occasions for sales promotional purposes, thus reducing both dates to insignificance.

Of more than 38 million men and women who have served in the Armed Forces of the United States since our Nation's inception, more than 29 million are still living. They, together with their families, represent about 50 percent of our total population. Certainly no other national holiday honors so many for their contribution to our Nation's welfare.

Veterans Day was founded in the great outpouring of relief, patriotism, prayerful thanksgiving, and unrestrained joy which marked the end of World War I. In the year 1926, November 11 was officially designated "Armistice Day" and in 1938 Congress enacted legislation making it a national holiday. In 1954 the Congress gave the day its broader designation of "Veterans Day" to include veterans of World War II and all other wars.

I might add, Mr. President, that the overwhelming support for changing existing law to restore the observance of Veterans Day to November 11 is shared by the Congress. Several of my distinguished colleagues have already introduced bills or joint resolutions calling for this change and in the other body some 44 measures, many with multiple cosponsors, have also been introduced. Must we wait until all 50 States have made the change before we act to reflect the demonstrated wishes of the preponderance of our Nation's population? I hope not.

Certainly no other single group of our citizens are more deserving in this honor than our Nation's veterans, who have fought so gallantly in at least five major wars this century. These veterans know that our great American heritage, founded upon freedom, has never been and never will be free of pain, free of struggle and free of individual and collective effort. The least we can do is respect their wishes and return the observance of Veterans Day to November 11.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2901

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, notwithstanding any other provision of law, Veterans Day shall be celebrated as a legal public holiday on November 11 of each year.

SEC. 2. Section 6103(a) of title 5, United States Code, is amended by striking out—

"Veterans Day, the fourth Monday in October." and inserting in lieu thereof—

"Veterans Day, November 11."

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By Mr. BURDICK (by request):

S. 2904. A bill to improve judicial machinery by amending subsection (g) of section 1407, chapter 87, title 28, United States Code, to exempt actions brought by the Securities and Exchange Commission under the Federal securities laws from the operation of that section, and for other purposes. Referred to the Committee on the Judiciary.

### AMENDING JUDICIAL PROCEDURE IN CERTAIN SEC ACTIONS

Mr. BURDICK. Mr. President, I am introducing today at the request of the Securities and Exchange Commission a bill to amend section 1407 of title 28 of the United States Code. That section, enacted by Congress in 1968, created a procedure for consolidated trial proceedings for cases in which two or more actions involving one or more common questions of fact are pending in different judicial districts. The purpose of the bill I am introducing would be to exempt actions brought by the Commission under Federal securities laws from the operation of section 1407. The Securities and Exchange Commission is of the considered opinion that enactment of this bill is very essential to permit it to provide adequate protection of the public interest and the interest of investors in securities through expeditious enforcement of the Federal securities laws which it administers.

On two occasions recently, the Judicial Panel on Multidistrict Litigation, acting under section 1407, ordered SEC injunctive suits consolidated for pretrial purposes with private damage suits which arose out of the same set of facts. The effect of these consolidated orders has been to delay significantly the Commission's action in seeking prompt injunctive relief to prevent violations of Federal securities laws. In one case, involving National Student Marketing, Inc., a complaint was filed in February of 1972 by the SEC in the district court of the District of Columbia. Meanwhile, other private actions involving National Student Marketing were filed in the southern district of New York, the southern district of Ohio, and the northern district of Texas. In April, motions for consolidation were filed with the Judicial Panel on Multidistrict Litigation. Oral argument on consolidation was held in June, but no order was rendered by the judicial panel until December of 1972. The effect of this action was to delay for nearly a year the enforcement action of the Commission.

The need for placing civil injunctive actions instituted by the U.S. Government on a different footing from private civil litigation was recognized by the Congress when it enacted Public Law 90–296 which added section 1407 to title 28 of the United States Code and which provides for consolidation of civil actions involving multidistrict litigation. In paragraph (g) of section 1407, it excluded from the operation of the bill antitrust actions in which the United States is the complainant. The Senate committee report stated with respect to this exclusion:

> This limitation was requested by the Department of Justice and concurred in by the Coordinating Committee and the Judicial Conference of the United States, on the basis that consolidation might induce private plaintiffs to file actions merely to ride along on the Government's cases. Government suits would then almost certainly be delayed, often to the disadvantage of those injured competitors who would predicate damage actions on the outcome of the Government's suit. . . .

Mr. President, I believe there is a strong case for providing that injunctive actions brought by the Securities and Exchange Commission should be exempt from pretrial consolidation requirements under section 1407 and placed on the same footing as actions brought by the Department of Justice to enforce antitrust laws in order to insure effective protection to the investing public.

I ask unanimous consent that the text of the bill be included in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2904

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That subsection (g) of section 1407, chapter 87, of title 28 of the United States Code, is amended to read as follows:

"(g) Nothing in this section shall apply to—

"(1) any action in which the United States is a complainant arising under the antitrust laws. 'Antitrust laws' as used herein include those Acts refererd to in the Act of October 15, 1914, as amended (38 Stat. 730; 15 U.S.C. 12), and also include the Act of June 19, 1936 (49 Stat. 1526; 15 U.S.C. 13, 13a, and 13b) and the Act of September 26, 1914, as added March 21, 1938 (52 Stat. 116, 117; 15 U.S.C. 56); but shall not include section 4A of the Act of October 15, 1914, as added July 7, 1955 (69 Stat. 282; 15 U.S.C. 15a);

"(2) any action brought by the United States Securities and Exchange Commission, including any action brought under the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15

U.S.C. 78a et seq.), the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.), the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.), the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.), or the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.)."

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By Mr. CHILES (for himself and Mr. HUDDLESTON):

S. 2905. A bill to terminate the Emergency Daylight Saving Time Energy Conservation Act of 1973. Referred to the Committee on Commerce.

Mr. CHILES. Mr. President, we all know that the United States faces a serious energy crisis. As the days grew shorter this fall and the Nation moved into deep winter, the Congress passed the daylight saving time bill in an effort to save energy by shifting an additional clock hour of daylight from early morning to early evening when human activity is more concentrated. News of the predawn traffic deaths of eight Florida schoolchildren prompts me, however, to introduce today, along with Senator HUDDLESTON, a bill to repeal that act and urge the Congress to support a switch off of daylight saving time, making the effective date of the repeal the day after enactment.

It now appears the Congress acted too hastily in this legislation. Figures do not conclusively show that significant energy savings result from this new law. In fact the only concrete result has been the danger imposed on schoolchildren waiting for schoolbuses in the dark and the inconvenience caused to many parents, farmers, and businessmen. I agree with Governor Askew of Florida that it is far more important to protect the lives of our schoolchildren than to save any amount of energy. Our energy supply may be limited. We all may need, in the days and months ahead, to change many things in our everyday life for the sake of better energy use and conservation. But our children are our most precious natural resource of all and any step we can take to increase their safety must surely be taken. I believe the tragic deaths and injuries in Florida as well as other States oblige us to act quickly to turn the DST law around.

There were many reasons presented at the time which argued effectively for the action the Congress took. Many Congressmen knew the new law would inconvenience some people, but hoped that work and school schedules could be adjusted to help those adversely affected by early morning darkness resulting from DST. But no argument remains effective in the light of the loss of life suffered in Florida and elsewhere. It is my feeling that this law must be reconsidered in light of these tragic events and I sincerely hope my colleagues will see fit to give our proposal their early and favorable action before yet another tragedy occurs.

Mr. HUDDLESTON. Mr. President, the bill we are introducing is quite simple. It would repeal the provisions of the Emergency Daylight Saving Time Energy Conservation Act of 1973 (Public Law 93–182). The provisions provided for the use of daylight saving time on a year-around basis, rather than just during the April–October period when it is normally in effect. Under the terms of the proposed legislation, we would still observe daylight saving time during the summer period, but not during the remaining parts of the year. This bill would become effective at 2 a.m. 2 days following enactment.

During consideration of the emergency daylight saving time conservation bill in December, I opposed its enactment. The legislation allowed adjustments in time zones—time zones which did not appear by accident or through some frivolous action. These zones were, instead, established after long and extensive hearings, first by the Interstate Commerce Commission and, more recently, by the Department of Transportation. There were public hearings in which all aspects of the zones were examined and analyzed.

Yet, in December, these zones were disrupted—and disrupted with no firm idea of the energy savings which would result. At the most, the use of daylight saving time will make a minimum contribution to the conservation of energy and, in many States, it is exacting an unacceptable toll in doing that. In Florida, eight schoolchildren have been killed in accidents while awaiting schoolbuses in the early morning darkness resulting from daylight saving time. In many areas, farmers are forced to labor additional hours in the dark, making their daily routine more difficult and forcing them to use additional energy at a time when the number of American dairy farmers is decreasing.

For 3 weeks now, we have endangered the lives of our schoolchildren, disrupted the working day of our farmers, hindered commerce, and inconvenienced the public in general—all in the vague hope that we are saving energy.

And, still we do not know that we are saving energy. Indeed, the use of daylight saving time has encouraged the use of additional energy in certain cases, as workers get up in the coldest part of the day, as parents drive their children to school rather than permit them to take the bus or as a person decides to drive rather than wait in the dark for public transportation.

I believe now as I did then that the action taken in December was the wrong action, and I believe we should move to rectify the mistake that was made.

Our citizens are doing much to meet the energy crisis. They are, I believe, willing to do what needs to be done. But, at a time when they are being asked to turn down their thermostats and restrict their driving, they should not be further inconvenienced by a requirement whose conservation value is yet unproven.

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By Mr. MONDALE:

S. 2906. A bill to amend the Internal Revenue Code of 1954 to permit taxpayers to utilize the deduction for personal exemptions as under present law or to claim a credit against tax of $200 for each such exemption. Referred to the Committee on Finance.

### THE $200 OPTIONAL TAX CREDIT TO AID FAMILIES HEAD OFF RECESSION

Mr. MONDALE. Mr. President, I am today introducing legislation that would cut nearly $200 a year from the average family's tax bill by allowing taxpayers to take a $200 credit for themselves and each of their dependents instead of the existing $750 personal exemption.

This is the first of a series of bills I will be introducing to support and strengthen American families.

This new $100 credit would be optional. Anyone who wished to continue using the existing $750 exemption could do so. However, because the $200 credit would be subtracted directly from the final tax bill, it would be worth more in tax savings than the $750 exemption to almost all families earning $20,000 or less.

A family of four earning $8,000 a year would have $236 under this plan, while a family of the same size earning $15,000 would have $117.

Large families, of course, would save more. A family of six with an income of $8,000 a year would save $322, while a family of six earning $15,000 a year would save $187.

I ask unanimous consent that a series of tables showing the tax savings for families of various sizes at different income levels be printed in the RECORD at the conclusion of my remarks.

### NEEDED TO MAKE UP FOR INFLATION, HIGHER TAXES

The relief this new tax credit would bring to low- and middle-income families is desperatley needed after the runaway inflation and higher taxes of 1973. The average working American was on an Alice-in-Wonderland treadmill last year. He had to work harder and harder just to stay in the same place.

A study just released by the Joint Economic Committee, for example, shows that a family with a budget of $12,614 had to pay an extra $1,168 just to maintain their 1972 living standards in 1973. In addition, that same family had to pay $281 more in social security and income taxes during 1973, a 15-percent increase.

The JEC study shows that low-income consumers were especially hard hit by last year's inflation—the worst in 25 years—since they had to spend more on necessities like food, housing, and fuel, where price increases were greatest. The price of food alone went up more than 20 percent last year, for example, while gasoline was up 19 percent and fuel oil and coal 45 percent.

Consumer prices as a whole went up 8.8 percent last year, while most workers were held to the administration's 5.5 percent wage guidelines. Not surprisingly, then, real spendable earnings—weekly pay adjusted for increases in prices and taxes—went down 3 percent during the year.

Another factor eating away at workers' paychecks was the little-understood inflation tax. When paychecks go up workers are no better off economically—they are just keeping even. But those wage increases put them into higher marginal tax brackets, and a bigger percentage of their income is taken in taxes—leaving them worse off. This inflation tax added about 8 or 9 percent to the average family's tax bill last year.

The new optional $200 credit I am proposing would help make up for this erosion in real family incomes.

### NEEDED TO HEAD OFF RECESSION

The economy is headed into a recession, if we are not in one already.

Real GNP—total output corrected for inflation—rose at an annual rate of only 1.3 percent in the last quarter of 1973, and the outlook is for an actual decline in growth in the first half of this year.

This is the classic definition of a recession, and it could mean unemployment of 6 to 8 percent or higher—as many as 3 million additional Americans without jobs.

One of the most important factors in this threatened recession, economists say, will be a decline in consumer spending. With family budgets squeezed by higher prices for food and fuel, and higher income and social security taxes, consumers will have less real income to spend. Growing fear of unemployment and general economic uncertainty will put a further damper on consumer spending.

The best way to stimulate consumer spending and head off this impending recession is with a tax deduction. It worked in the early 1960's, and it can work again today.

But the administration—diverted by predictions of greater inflation in 1974—is apparently once again readying its standard Draconian remedy—a highly restrictive Federal budget, with a full employment surplus as high as $10 billion.

This is the wrong economic medicine. The inflation predicted for 1974 will be largely concentrated in food and fuel, and there is little that can be done about these prices by putting the economy through a recessionary wringer.

A tighter Federal budget will simply add a recession to the existing inflation.

The $200 optional tax credit I am proposing today would help to deal with the threat of recession by pumping $6.5 billion into the economy over the next year, directed toward those who have been hardest hit by rising prices.

Nearly $5 billion of the total amount of tax relief under this proposal—78 percent—would go to those earning between $5,000 and $15,000 a year. Another 12 percent would go to those making less than $5,000. By concentration 90 percent of the tax relief on those making less than $15,000, the proposal not only helps those most in need, but also provides the greatest amount of stimulus to our lagging economy.

Families in these income brackets must spend all—or more than all—of their income on everyday necessities, and have little left over to save. The tax relief they receive, therefore, will be immediately pumped back into the economy in the form of increased consumer spending. Only 1 percent of the relief under this proposal would go to those making more than $20,000, who tend to save a much larger percentage of their additional income rather than spending it.

I ask unanimous consent that a table showing the total distribution of tax relief by income category be printed in the RECORD at the conclusion of my statement.

To the extent it is required by economic conditions, the $6.5 billion revenue loss from this proposal can be recouped in later years by a tax directed toward the excess profits of the oil industry, together with long-overdue reform of foreign and domestic tax loopholes.

### NEEDED FOR GREATER TAX EQUITY

This new optional $200 tax credit plan would also be a significant step toward greater tax equity and fairness.

Hearings on American families before the Subcommittee on Children and Youth—which I chair—have demonstrated the unfairness of the existing $750 exemption. While it is designed in large part to help families raise their children, it discriminates strongly against low- and moderate-income families.

The $750 exemption for dependents is much more valuable for the wealthy than it is for average Americans. It provides the most help to those who need it least, and the least help to those who need it most.

For those in the highest 70-percent bracket—making $200,000 a year and more—each $750 exemption is worth $525 in reduced taxes. But for someone in the lowest 14-percent bracket making around $5,000 a year, each $750 exemption is worth only $105 in reduced taxes.

I believe we need a more carefully structured approach. As I discussed earlier, last year's inflation hit low- and middle-income Americans the hardest, since they had to spend more on necessities like food, fuel, and housing, where price increases were greatest.

Furthermore, as I also discussed earlier, a proposal like the $200 optional credit which concentrates relief on those making less than $15,000 will stimulate the economy more effectively than proposals which concentrate more relief on the well to do, who tend to save more and spend less.

Mr. President, I ask that the text of the legislation appear in the RECORD at this point, along with the tables mentioned earlier and the text of a speech I made today at the Women's National Democratic Club discussing the proposal.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

### S. 2906

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by redesignating section 42 as 43, and by inserting after section 41 the following new section:

"SEC. 42. PERSONAL EXEMPTIONS.

"There shall be allowed to an individual, as a credit against the tax imposed by this chapter for the taxable year, $200 multiplied by the number of personal exemptions provided that individual under section 151 for that taxable year."

(b) Section 151 of such Code (relating to allowance of deductions for personal exemptions) is amended by adding at the end thereof the following new subsection:

"(f) Election to Take Credit in Lieu of Deduction.—This section shall not apply in the case of a taxpayer who, for the taxable year, elects to take the credit against tax provided by section 42 (relating to credit against tax for personal exemptions). The election shall be made in such manner and at such times as the Secretary or his delegate prescribes by regulation.".

(c) The table of contents for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 42. Personal exemptions.
"Sec. 43. Overpayments of tax.".

SEC. 2. The amendments made by this Act apply with respect to taxable years beginning after December 31, 1973.

TAX SAVINGS FROM MONDALE PROPOSAL

[Assumes personal deductions of 15 percent of income]

| Adjusted gross income | Present tax | Tax with $200 credit | Tax saving |
|---|---|---|---|
| MARRIED COUPLE WITH 4 DEPENDENTS | | | |
| $5,000 | 0 | 0 | 0 |
| $6,000 | $28 | 0 | $28 |
| $8,000 | 322 | 0 | 322 |
| $10,000 | 620 | $290 | 330 |
| $12,500 | 1,024 | 758 | 266 |
| $15,000 | 1,435 | 1,248 | 187 |
| $17,500 | 1,903 | 1,779 | 124 |
| $20,000 | 2,385 | 2,340 | 45 |
| MARRIED COUPLE WITH 2 DEPENDENTS | | | |
| $5,000 | $98 | 0 | $98 |
| $6,000 | 245 | 0 | 245 |
| $8,000 | 569 | $333 | 236 |
| $10,000 | 905 | 690 | 215 |
| $12,500 | 1,309 | 1,158 | 151 |
| $15,000 | 1,765 | 1,648 | 117 |
| $17,500 | 2,233 | 2,179 | 54 |
| $20,000 | 2,760 | 2,740 | 20 |
| MARRIED COUPLE WITH 1 DEPENDENT | | | |
| $5,000 | $208 | 0 | $208 |
| $6,000 | 362 | $153 | 209 |
| $8,000 | 706 | 533 | 173 |
| $10,000 | 1,048 | 890 | 158 |
| $12,500 | 1,463 | 1,358 | 105 |
| $15,000 | 1,930 | 1,848 | 82 |
| $17,500 | 2,416 | 2,379 | 37 |
| $20,000 | 2,948 | 2,940 | 8 |
| MARRIED COUPLE WITH NO DEPENDENTS | | | |
| $5,000 | $322 | $169 | $153 |
| $6,000 | 484 | 353 | 131 |
| $8,000 | 848 | 733 | 115 |
| $10,000 | 1,190 | 1,090 | 100 |
| $12,500 | 1,628 | 1,558 | 70 |
| $15,000 | 2,095 | 2,048 | 47 |
| $17,500 | 2,604 | 2,579 | 25 |
| $20,000 | 3,135 | 3,135 | 0 |
| SINGLE PERSON | | | |
| $5,000 | $491 | $433 | $58 |
| $6,000 | 681 | 637 | 44 |
| $8,000 | 1,100 | 1,078 | 22 |
| $10,000 | 1,530 | 1,515 | 15 |
| $12,500 | 2,059 | 2,059 | 0 |
| $15,000 | 2,630 | 2,630 | 0 |
| $17,500 | 3,249 | 3,249 | 0 |
| $20,000 | 3,915 | 3,915 | 0 |

### "Breakeven" points

(Adjusted gross income level at which the optional $200 tax credit is worth the same as the $750 personal exemption.)

| Type of tax return and adjusted gross income level: | |
|---|---|
| Married couple with four dependents | $21,764.71 |
| Married couple with three dependents | 21,274.51 |
| Married couple with two dependents | 20,784.32 |
| Married couple with one dependent | 20,294.12 |
| Married couple with no dependents | 19,803.92 |
| Single person | 12,500.00 |

DECREASE IN TAX LIABILITY UNDER MONDALE PROPOSAL (BASED ON CALENDAR YEAR 1972 INCOME LEVELS)

| Adjusted gross income class | Percent of returns in each income class [1] | Number of returns with tax decrease (thousands) | Decrease in tax liability (millions) | Percent of total decrease |
|---|---|---|---|---|
| $0 to $3,000 | 23.1 | 3,220.5 | $165.8 | 2.6 |
| $3,000 to $5,000 | 13.4 | 7,745.8 | 626.4 | 9.7 |
| $5,000 to $7,000 | 11.9 | 8,736.8 | 983.3 | 15.2 |
| $7,000 to $10,000 | 16.9 | 12,229.1 | 1,763.0 | 27.2 |
| $10,000 to $15,000 | 19.6 | 15,045.2 | 2,280.8 | 35.3 |
| $15,000 to $20,000 | 8.7 | 6,881.2 | 599.3 | 9.3 |
| $20,000 to $50,000 | 5.9 | 1,017.6 | $51.3 | 0.8 |
| $50,000 to $100,000 | .5 | 1.8 | .2 | |
| $100,000 and over | .15 | .4 | .1 | |
| Total | 100.15 | 54,878.5 | 6,470.1 | 100.1 |

[1] In calendar year 1971 (1972 data unavailable).

### Remarks of Senator Walter F. Mondale

I would like to talk today about something that we all take for granted . . . the American family.

There is nothing more fundamental to the wellbeing and future of a nation than the health of its families.

Urie Bronfenbrenner, Professor of Human Development and Family Study at Cornell University put it best:

"It is no accident that in a million years of evolution we have emerged with a particular form for the raising of children and it is the human family."

Few Americans would disagree with that statement. Yet American families have come under increasing pressures in recent decades . . . as the pace of change has quickened . . . and life has become more impersonal And I'm afraid we are often better at paying lip service to the importance of families and children than we are at protecting the opportunities and options they need to succeed.

In the nearly nine years that I've spent in the Senate, I think I've spent as much time as anyone else there working on the problems of children especially disadvantaged children—and their families.

As a member of the Hunger Committee, and of the Education, Health, Poverty, Migratory Labor and Indian Education Subcommittees. I have struggled with the problems of preschool education, discrimination, health care, malnutrition and all the rest.

Like many of you, I've not only tried to read about the problems and listen to the experts. I've tried to see children and their families where they live and to listen to them. I have visited children who have been the victims of child abuse and seen the scars of their burns and beatings. I have talked to families who have lost a child through the unexplained tragedy of crib death. I have seen migrant mothers with their ricket ridden infants . . . and the empty eyes of Navajo children in federal boarding schools thousands of miles from their homes.

And the longer I work on specific problems and programs, the more convinced I am that we need to step back and take a look at the condition and health of American families as a whole.

We're beginning to take that look in a series of hearings by the Subcommittee on Children and Youth, which I chair. We are listening to some of the nation's most thoughtful, experienced observers of the family . . . Margaret Mead . . . Bob Coles . . .Urie Bronfenbrenner. . . Ed Zigler and experts from the Census Bureau. And we are listening to families directly.

We're finding that many families in this country are strong and healthy. Most are coping very well with the increasing pressures. But there are warning signals which we cannot ignore.

Today one out of every six American children lives in a single parent home.

Teenage alcoholism and drug abuse are growing problems.

Suicide among young people is increasing geometrically . . . it is now the second leading cause of death for young American between ages 15 and 24.

Delinquency is so pervasive that experts now predict that one out of every nine youngsters will have been to juvenile court by age 18.

And child abuse . . . most of which is inflicted on children by their own parents . . . is a widespread and apparently growing problem among all social and economic groups.

When we step back and take that long view, one fact emerges above all of the others, It is not just the families of the poor who are facing these increasing pressures although the poor often feel them most. These symptoms strike families from every background. Even in affluent homes . . . where a decent meal and a warm place to sleep are taken for granted . . . in too many cases, the cocktail hour has replaced the family hour . . . and watching television has often become the most common form of family activity.

The cold fact is that parents from all backgrounds are spending less and less meaningful time with their children. Urie Bronfenbrenner told us about one study which measured the amount of time a group of fathers spent interacting with their infants. The result is shocking . . . an average of 37 *seconds* per day.

Then he told us about a marvelous new product that could reduce this time even more for both mothers and fathers. It is called the cognition crib. He read its brochure to us:

"The crib is, the pamphlet said, equipped with tape recorders that can be activated by the sound of the infant's voice . . . Frames built into the sides of the crib permit insertion of programmed play modules for sensory and physical practice. The modules come in sets of six, which the parent is encouraged to change every three months so as to keep pace with the child's development."

These modules include six soft plastic faces . . . and something called ego building mirrors.

* * * * *

We simply cannont continue to ignore what is happening to American families. And I don't think it's enough just to blame the parents when something goes wrong. Responsibility to provide our children with a supportive upbringing *must* rest on those of us who are parents. But we have to realize that it is very hard to be a good parent in America, and it is getting harder every day.

Some of the difficulty stems from the dramatic changes in our society over the last century . . . toward giant cities . . . an economy based increasingly on giant corporations . . . and mass communication

But we must recognize, as well, the fact that in a whole host of different ways . . . unwittingly and often without even thinking about it . . . government policies are placing destructive burdens on families.

Perhaps the strongest message from our hearings concerned the need for financial security . . . and the growing economic squeeze facing so many American families.

Consider for a moment the tremendous pressure that run-a-way inflation has placed on so many American families . . . especially the working families who pay the largest share of taxes and bear the major burdens of making our economy run. Last year, the cost of living in this country rose almost 9% . . . the largest increase in over 25 years. Supermarket prices jumped 22%. Gasoline prices went up over 18% . . . fuel oil and coal over 44% . . . and we are told that there is no end in sight.

The recent study by the Joint Economic Committee shows that a family earning $12,000 a year lost over $1,000 in purchasing power last year because of inflation . . . and paid almost $300 in additional social security and income taxes. This inflation hits low income and working Americans . . . and large families . . . especially hard . . . because they must spend more on necessities like food, housing and fuel where price increases have been the greatest.

Incredibly, the 1968 dollar is now worth only 77c. And the long slide won't stop there.

Listen to what this means in human terms. Bob Coles, the Harvard Child Psychiatrist who has worked so closely with families, shared the following statement with our Subcommittee. The factory worker he talked with put it this way.

"Work, I have plenty of it—so much that it's my whole life. I work my regular shift, then I work overtime—whether I want to or not.

"Like I say to my wife, it's a bind, because we need the money, just to keep our heads above the water, but it means that I practically never get to see the kids, except on Sunday, and then I'm so tired I can barely do anything but sleep and eat and get ready for the next week. My wife is working too, she has to—or else we'd be drowning in bills. As it is, with the two of us working, we're still in trouble.

"I feel like a guy running hard just to keep in the same position. And let me tell you, it makes a difference at home: my wife feels it, and so do the kids."

Families like this one have borne the full brunt of this Administration's economic mismanagement.

The Nixon inflation—the worst since World War II—has slashed into their budget for food, clothing and health.

And they suffered even more when the Administration tried to control inflation with high unemployment and the highest interest rates since the Civil War. Family breadwinners lost their jobs, and millions of middle income families could no longer afford to buy homes.

And now the Administration seems intent on going down this same futile road again. Their standard solution to soaring inflation is to throw the economy into a recession with a highly restrictive Federal budget.

According to Budget Director, Roy Ash, next year's Federal budget will show a full employment *surplus* of at least $5 billion. This is a prescription for a deeper recession and soaring unemployment, and it's more bad news for American families.

Some of the witnesses at our hearings suggested we adopt a children's allowance or family allowance . . . to help families cope with these economic pressures. They pointed out that most Western democracies including Canada and France have this kind of system.

The fact is our country already has what could be called a children's alolwance or a family allowance. It is hidden in our income tax system and called the personal exemption. The problem is that the exemption provides the most help to those who need it least . . . and the least help to those who need it most. Because the size of your benefit depends on the tax bracket you are in, this $750 personal exemption provides up to $525 of tax relief for individuals in families making over $200,000 . . . but only about $150 in tax relief for individuals in the average American family.

This combination of inflation . . . high interest rates . . . restrictive federal budgets . . . and what might be called an upside down family allowance is placing tremendous pressures on American families.

And it is dangerous economic policy as well. I fear that the squeeze of higher costs and higher taxes on the budgets of working Americans could well lead to reduced consumer demand, economic recession and increased unemployment.

That is why I am introducing today legislation to cut about $200 a year from the average family's tax bill. My proposal will pump roughly $6½ billion into our economy over the next year and be directed to those who have been hit hardest by rising prices. And it will be a major step toward greater tax equity and fairness for average families.

Under my plan, each taxpayer will have the option of taking a $200 credit for themselves and each of their dependents . . . or continuing to use the existing $750 exemption. Because the $200 credit would be subtracted from the final tax bill, it would be worth more in tax savings than the $750 exemption to almost all families earning $20,000 or less.

A family of four, earning $8,000 a year would save $240 a year under this plan, while a similar family earning $15,000 would save $117.

And my proposal would provide even greater relief for larger families . . . the very ones who have been hit the hardest by inflation. A family of six, earning $10,000, for example would save about $330 a year under my bill.

In the first year, my bill will add a much needed stimulus to our economy in an effort to head off unemployment and recession. In later years, revenues from a tax directed toward the excess profits of the oil industry . . . together with reform of some of the most intolerable tax loopholes . . . will more than make up for the loss in tax revenues.

I believe there is a consensus developing about the need for this kind of measure. Just last week, for example, the Senate tentatively adopted and then rejected a $100 increase in the personal exemption. This would have provided about $3½ billion in tax relief. I supported that amendment because it was a good beginning toward tax relief. I am proposing a somewhat different plan—an optional credit—which provides more relief, and targets it on the families that need it most.

Our economic and tax policies are only one example of governmental policies that place pressure on families.

Our programs for families under strain sometimes unnecessarily break up families by encouraging placement of children in foster homes or institutions.

Over half our States have Welfare laws which require an unemployed father to leave his family if his wife and children are to be eligible for assistance.

Our public housing and urban renewel policies have too often destroyed neighborhoods and communities . . . or built huge new high rise slums.

And the transfer policies of our armed services clearly need to be reconsidered in terms of their impact on families and children.

Government policies like these need to be examined in terms of their impact on families. In addition to the bill I am proposing today, I hope to introduce a number of legislative proposals in coming weeks to support and strengthen American families.

I will propose a family impact statement . . . modeled in part after the environmental impact statement . . . designed to assess and anticipate in advance the effect of governmental policies on families. And I will offer family strengthening legislation as well in the areas of day care and child development . . . public service employment . . . and an increased minimum wage.

Proposals such as these could bring some long over-due support and relief to American families, but they will clearly only be part of the answer. The government doesn't have and shouldn't pretend to have the entire solution to the problems affecting American families. In some areas, changes in government polices could be very helpful.

But I certainly don't want a national policy of what I call Big Brotherism . . . in which the Federal government assumes that it knows best how children should be raised and how families should be structured.

We're learning, rather painfully, that government has an additional impact beyond its specific programs and policies. Those of us in public life are examples for many Americans. . . we do help set a moral tone for the nation and its families. And anyone who looks at the current moral and ethical mess in Washington must pray that not a single family ever adopts those standards as their own.

Bob Coles put it well: He pointed out the way in which a generation of children is being affected by the seemingly endless revelations surrounding Watergate:

"We would do well, he told us, to think about the sensitivity and responsiveness of children to the kinds of widespread and blatant and cynical corruption not only affected this Government but has also affect American families.

"When, Coles continued, those children and those parents who rear them can fall back on nothing but the kind of pervasive hypocrisy and two-faced preaching, that on one hand exhort law and order and on the other hand demonstrate lawlessness and corruption . . . then I say the American family is as jeopardized as it possibly can be. Because children watch television, and they read, and their parents read and watch television . . . and they all know what is happening about them."

I think Bob Coles issued a challenge to all of us who care about the strength of our nation and therefore the health of American families. He said in conclusion:

"So the Federal government cannot only do something about attempting to give working people and would-be working people of this country a better deal, but it can in very fundamental ways show by its own integrity a whole generation of families what it really does mean to be an American."

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### By Mr. BENTSEN:

S. 2907. A bill to amend the General Education Provisions Act to provide that funds appropriated for applicable programs for fiscal year 1974 shall remain available during the succeeding fiscal year and that such funds for fiscal year 1973 shall remain available during fiscal years 1974 and 1975. Referred to the Committee on Labor and Public Welfare.

#### CARRYOVER OF EDUCATION FUNDS

**Mr. BENTSEN.** Mr. President, for some time I have been concerned that the Congress and the Office of Education have not allowed our local school districts to engage in effective, long-range planning. Too often, we pass appropriations bills late in the fiscal year, giving the school districts no adequate time to react. Too often, the bureaucracy does not explain changes in the law until well after the deadlines established by Congress for doing so. The result has been that officials must tread a thin line on their budgets; they cannot be assured of funds for staff or services, and, as a consequence, must engage in elaborate guesswork to plan their programs for the year.

Last year, for example, we had problems with the funding under title I of the Elementary and Secondary Education Act. The Office of Education did not notify the school districts until very late in the year that 1970 census figures would be used in determining allocations. As a result, many districts, particularly in rural areas, found that their title I funds had been cut by as much as 50 percent. Then Congress nearly compounded the problem by considering a new formula, allowing each school district to receive at least 85 percent of last year's funds, which would have taken funds from the urban districts.

During the debate on that continuing resolution, I offered an amendment on the floor which would have guaranteed every school district 100 percent of last year's title I funding and would have also allowed the districts that had received gains to retain those gains. Although that amendmet was narrowly defeated, an acceptable substitute was eventually adopted which assured that each State would receive 100 percent of what it received in fiscal 1973. Now there is a new problem affecting school district planning, and it involves, not only title 1, but a wide range of Federal funds for education.

Until July 1, 1973, there was a provision in Federal law which allowed education funds appropriated in one fiscal year to carry over into the next year. That enabled school districts to have some degree of assurance that they could engage in orderly planning, and that they would not have to expend funds released late in the year in a hasty and careless manner.

Recently, however, the administration released some $500 million in impounded fiscal 1973 funds for education. If some form of carryover provision were still in law, those funds could be expended in an orderly manner, but, under present circumstances, it well may be that the funds will have to be spent before June 30 of this year.

In addition, fiscal 1974 funds, which have already been appropriated, could lapse on June 30 of this year, without a provision enabling them to be spent in fiscal 1975 as well.

The amendment I introduce today will accomplish two purposes: First, it will allow the recently released impounded funds to be spent either this year or during the fiscal 1975; and second, it will allow funds appropriated for fiscal 1974 to be spent either this year or in fiscal 1975.

Mr. President, I believe this amendment is urgently needed. If school districts do not know by March whether their funds will carry over into the next fiscal year, they may be forced to fire staff and cancel projects. We do not want to pile uncertainty on uncertainty. We want to encourage long-range planning rather than guesswork. And we cannot wait for the final passage of the new Elementary and Secondary Education Act, for that will throw us too late into the school year.

Let us give some rational directions to our school administrators and pass this amendment into law.

I ask unanimous consent that the text of my bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

### S. 2907

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 414(b) of the General Education Provisions Act is amended by inserting "(1)" before "Notwithstanding", by striking out "subsection" and inserting in lieu thereof "paragraph", by striking out "1973" and inserting in lieu thereof "1974", and by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this paragraph, any funds from appropriations for the fiscal year ending June 30, 1973, to carry out programs to which this title is applicable which are made available during the fiscal year ending June 30, 1974, shall remain available for obligation and expenditure during the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975."

## ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

### S. 847

At the request of Mr. Robert C. Byrd (for Mr. Nelson), the Senator from Rhode Island (Mr. Pastore) was added as a cosponsor of S. 847, a bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize safety design standards for school buses, to require certain safety standards be established for school buses, to require the investigation of certain school bus accidents, and for other purposes.

### S. 1017

At the request of Mr. Jackson, the Senator from Ohio (Mr. Metzenbaum) was added as a cosponsor of S. 1017, the Indian Self-Determination and Educational Reform Act of 1973.

### S. 2657

At the request of Mr. Moss, the Senator from Delaware (Mr. Roth) was added as a cosponsor of S. 2657, a bill to provide scholarships for the dependent children of public safety officers who are the victims of homicide while performing their official duties, and for other purposes.

### S. 2782

At the request of Mr. Proxmire (for Mr. Mansfield), the Senator from Wyoming (Mr. McGee) was added as a cosponsor of S. 2782, a bill to establish a national energy information system, to authorize the Department of the Interior to undertake an inventory of U.S. energy resources on public lands and elsewhere, and for other purposes.

### S. 2789

At the request of Mr. McGovern, the Senator from Massachusetts (Mr. Brooke), the Senator from Iowa (Mr. Clark), the Senator from Minnesota (Mr. Humphrey), the Senator from Indiana (Mr. Bayh), the Senator from California (Mr. Tunney), the Senator from North Dakota (Mr. Young), the Senator from New Jersey (Mr. Case), the Senator from New Mexico (Mr. Montoya), the Senator from New York (Mr. Javits), the Senator from Massachusetts (Mr. Kennedy), the Senator from Montana (Mr. Mansfield), the Senator from Michigan (Mr. Hart), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Pennsylvania (Mr. Schweiker), the Senator from Washington (Mr. Magnuson), and the Senator from Florida (Mr. Gurney) were added as cosponsors of S. 2789, the Vietnam Veterans GI Bill of Rights.

### S. 2801

At the request of Mr. Proxmire, the Senator from Colorado (Mr. Dominick), the Senator from South Dakota (Mr. Abourezk), and the Senator from Wyoming (Mr. McGee) were added as cosponsors of S. 2801, a bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements and for other purposes.

### S. 2875

At the request of Mr. Hathaway, the Senator from Alaska (Mr. Stevens) was added as a cosponsor of S. 2875, a bill to amend the State and Local Fiscal Assistance Act of 1972 to exempt any unit of local government which receives not more than $5,000 for the entitlement period from the requirement that reports of use of funds be published in a newspaper.

## SENATE CONCURRENT RESOLUTION 65—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO PEACE THROUGHOUT THE WORLD

(Referred to the Committee on Foreign Relations.)

Mr. PACKWOOD (for himself, Mr. Clark, Mr. Hart, Mr. Hartke, Mr. Hughes, Mr. McGee, Mr. McGovern, Mr. Moss, and Mr. Pell) submitted the following concurrent resolution:

### S. Con. Res. 65

### Right to Peace Resolution

*Resolved by the Senate (the House of Representatives concurring),*

It is the sense of the Congress that:

1. A world without war is possible.

2. In such a world nations will rely for their external protection on world institutions strong enough to stop any nation from making war, capable of assuring peaceful and just settlements of international disputes and reliable enough to be entrusted with such powers.

3. It is the policy of the United States to initiate and to implement with other nations practical steps consistent with our commitment to the United Nations for the expeditious realization of such institutions.

## RIGHT TO PEACE RESOLUTION

Mr. PACKWOOD. Mr. President, in his address to the delegates to the 28th General Assembly of the United Nations, Secretary of State Kissinger stated:

> The U.S. has made its choice . . . We strive for a world in which the rule of law governs and fundamental human rights are the birthright of all. Beyond the bilateral diplomacy, the pragmatist agreements and dramatic steps of recent years, we envisage a comprehensive, institutionalized peace—a peace which this organization is uniquely situated to foster and to anchor in the hearts of men.

I bring Secretary Kissinger's remarks to the attention of the Senate because they relate most particularly to legislation I introduce today on behalf of myself and eight of my Senate colleagues. The "Right to Peace" resolution expresses a sense of the Congress that a world without war is possible. Further, it declares that in such a world nations will rely for their external protection on world institutions strong enough to stop any nation from making war, capable of assuring peaceful and just settlements of international disputes and reliable enough to be entrusted with such powers. And, finally, it asserts that it is the policy of the United States to initiate and to implement with other nations practical steps consistent with our commitment to the United Nations for the expeditious realization of such institutions.

The "Right to Peace" resolution is the end product of many months of drafting and discussion by the members of the World Order Strategy Committee of the Members of Congress for Peace through Law, of which I am vice-chairman. Congressman Drinan, who chairs the committee, is introducing identical legislation today in the House of Representatives.

The principle objective of the resolution is to draw attention to our belief that Hobbes no longer prevails, that war is not innate to human nature. Thus, the first statement of the resolution is a flat contradiction of that premise and an affirmative declaration that a world without war is possible. We believe this to be an essential restatement of mankind's capability to live together in peace on earth, and a critical precondition to the survival of humanity.

Mr. President, if the United States, in fact, has made its choice, then the propagation of this assumption that a world without war is possible needs to be heard in open sessions of our Government. We introduced the "Right to Peace" resolution today with the hope that it will prompt the responsible congressional committees in both Houses to move expeditiously to hold public hearings, thus generating a broad-based exchange on the merits of, as well as the potential vehicles which could be utilized in the search for, world peace through law.

It has become painfully apparent in the past few months that any conflict amongst nations of the world as a profound effect on the whole of the global community. This world needs a lot of things, but one of the things it needs most urgently is an institution which can prevent one nation from making war on its neighbor. If that alone could be achieved, it would be one of the most significant steps forward in mankind's history. I firmly believe that this should be one of the expressed goals of the United States and I, therefore, urge my colleagues to support the "Right to Peace" resolution.

Mr. President, I ask unanimous consent that the remarks of the distinguished former Supreme Court Justice Arthur Goldberg in support of the resolution, and an article outlining the history of the Members of Congress for Peace through Law be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### ADDRESS BY THE HONORABLE ARTHUR J. GOLDBERG, MEMBERS OF CONGRESS FOR PEACE THROUGH LAW, NOVEMBER 8, 1973

I want to commend this group of members of Congress for their work in behalf of world peace through the rule of law.

This may seem to some to be utopian and, indeed, all agree that this will not be achieved today—or even tomorrow. But achievement of world peace through law may, in the long run, be the highest realism.

It is becoming more and more evident that wars are no longer tolerable, and nuclear wars not even conceivable.

My own view of the matter is that we must persist, as the members of Congress are doing, in seeking to establish the rule of law as the basis for settlement of international disputes. This is a matter of highest priority as is evident from the recent war in the Middle East which tragically involved both the parties to the conflict and also brought the two great super-powers, the United States and the Soviet Union, into confrontation.

When I left the Supreme Court to enter on my new duties at the United Nations, I made a statement which may have sounded to some like a mere rhetorical flourish, but it was entirely serious. The statement was that I was moving from one area dedicated to the rule of law to another dedicated to the same principle; and that, to my mind, the effort to bring the rule of law to govern the relations between sovereign states—the central effort of the United Nations—is the greatest adventure in history.

These beliefs come naturally to me from a lifetime in the law and in the pursuit of the just resolution of conflicts through due process. The rule of law among nations is obviously more difficult than here at home; but it is even more necessary, and we have ample proof that it is possible—indeed in some measure it is an accomplished fact.

I am well aware that there are other views of this subject, even among people who have wide experience of diplomacy and world politics. We hear it said that what nations really respect is not law but political power. Besides, we are told, this is an age of revolutions, of deep splits of values between East and West and between North and South. And since law derives from values, this revolutionary era is said to be going through what one distinguished critic calls "a withdrawal of the legal order," in which sheer power is more decisive than ever in international affairs, and laws, especially that of the United Nations, has become little more than mockery.

My own reading of the facts leads me to a very different conclusion, as I shall explain in a moment. But before specifically discussing international law, I would first like to make three observations about laws in general.

First, we must beware of framing the argument in such a way that law and power become antithetical. In real life, law and power operate together. Power not ruled by law is a menace; but law not served by power is a delusion. Law is thus the higher of the two principles; but it cannot operate by itself.

My second broad point is that law cannot be derived from power alone. Might does not make right. On the contrary, law springs from one of the deepest impulses of human nature. No doubt the contrary impulses to fight and dominate often prevail; but sooner or later law has its turn. In one of the decisive moments in the history of law, King John thought he could impose his arbitrary will by force; but the barons who mustered superior force preferred to substitute an agreed rule—Magna Carta—for any man's arbitrary will. Thus, the King became subject to the law, and new proof was given of the strong human impulse toward law and the peace that law brings. In American history, this impulse has been especially strong from the beginning, and found its highest expression in our written Constitution.

My third point flows from the second. Because law responds to a human impulse, it rests on much more than coercion. Law must have the police power, but it is by no means synonymous or coterminous with police power. It is much larger in its conception and in its reach. It builds new institutions and it produces new remedies. It tames the forces of change and keeps them peaceful. People obey the law not only of fear of punishment but also because of what law does for them: the durability and reliability it gives to institutions; the reciprocity that comes from keeping one's word; and the expectation, grounded in experience, that the just process of law will right their wrongs and grievances. All the police power in creation could not long uphold a system of law that did not meet these affirmative expectations.

Our hope for world peace depends on our ability to extend to the international sphere a dual concept of law, both creative and coercive.

This extension of law into the international realm is not going to be achieved in one great Utopian stroke of the pen. In the United Nations Charter, and in age-old norms of international law, the community of nations already has a set of fundamental rules which do not need to be rewritten so much as they need to be observed. Our task, therefore, is to make greater use of existing machinery and existing norms—to build on them and to broaden out the areas of international relations that are susceptible to them.

To keep the matter in perspective, let us first recall that the areas of international law and order are already very broad—and they are constantly broadening to fit the emerging common interests of nations. Without law, international mail would not be delivered; shortwave broadcasts would drown each other out; ships and aircraft would collide in the night; international business contracts could be violated with impunity, travellers would lack the protection of their governments; infectious diseases and insect pests would cross frontiers all the time; and even diplomats—who are supposedly full-time practitioners of power politics—would be unable to carry on their business. And to this body of law, we have recently added the Antarctic Treaty, the Test Ban Treaty, the Space Treaties, the Nuclear Non-Proliferation Treaty and the agreements consummated and, hopefully, to be consummated as a result of the SALT negotiations.

Many functions of the international order are so familiar as almost to be taken for granted. Some of them long antedate the United Nations. But it would be a great mistake to underrate them or to dismiss them as merely "technical" and "non-political." They are bridges of common interest among nations, and the sum of these common interests is one of the great unseen inhibitors of political conflict and international violence.

There are still some who dream of an international Utopia in which a few civilized states could use their power to settle the affairs of the world, much as the major powers of Europe did in the century after the Congress of Vienna. But we should remember that when the rule of the concert of Europe finally fell apart, world war ensued. This happened in great part because, in large areas of the world, the international order of the nineteenth century did not redress grievances but merely submerged them—until in our own century they erupted in revolution and world war.

The world law we should seek should be different. It should extend impartially to white and black, north and south, old and new. It will still be imperfect; it will still depend for its effectiveness on the willingness of the stronger nations to put their power at its service. But it should embrace in a spirit of equality all the races and cultures of the world—and it could address itself to the real troubles of mankind: poverty, inequality, and the deprivation of rights. If it does, it will surpass even the hundred years' peace of the Congress of Vienna, which was based on the subjection of impotence of half the world's peoples.

Our nation derives its great influence in the world not only from great physical power but also from the fact that our basic law and our national outlook are premised on the equality and dignity of all men. The way to peace in this turbulent age is to keep to that national vision; to work with all our might for the establishment of a structure of law that will be reliable and just to all nations. For though law alone cannot assure world peace, there can be no peace without it. Our national power and all our energies should operate in the light of that truth.

### PARLIAMENTARIANS FOR PEACE

(By Sandford Z. Persons)

The date of July 15, 1959 may never appear in future world history books, but it is a date which has had an effect on history and continues to do so.

At eight o'clock that morning, 15 Members of the United States Congress met for breakfast in the Senate Wing of the Capitol. They met at the invitation of Democrat Senator Joseph S. Clark and Republican Representative Charles O. Porter. The purpose of the breakfast was to consider forming an informal group in the Congress to be called Members of Congress for World Law.

The group which met that morning included Republicans and Democrats from both Houses and thus established the pattern for the only bipartisan and bicameral organization in the Congress.

In addition to the 15 Members of Congress, two special guests were present at that breakfast: Charles S. Rhyne, prominent U.S. attorney, past President of the American Bar Association, and father of the World Peace Through Law Center in Geneva, and Einar Rorstad of Oslo, Norway, who was then Secretary General of En Verden, the Norwegian Federalist organization, and Executive Secretary to the Norwegian Parliamentary Group for World Federation.

At meeting's end, it was moved by Senator Jacob K. Javits and seconded by Representative James G. Fulton that they start Members of Congress for World Peace Through the Rule of Law. The motion was adopted unanimously and Senator Clark was elected Chairman.

#### 1959–1966 PERIOD

During the next seven years, the group held several meetings each year to which interested Members of Congress came. There were no membership dues, no staff, no office, and only minimal structure. They met privately with such leaders as Christian A. Herter, then Secretary of State; Lord Clement Attlee, former Prime Minister of Great Britain; President Habib Bourguiba of Tunisia; Dean Rusk, then Secretary of State; John J. McCloy; and William C. Foster, then Director of the United States Arms Control and Disarmament Agency.

### 1966 REORGANIZATION

By 1966, the informal group was becoming less active and badly needed to be reinvigorated. During the summer, Senator Clark invited Joan McKinney, then Executive Director for the Philadelphia World Federalists, to come to Washington and place her proposals for an independent office and staff before some of the past leaders.

At a small luncheon, it was decided to adopt Miss McKinney's proposals and to hire her as Executive Director, provided she could find the funds. She did, thanks to a few anonymous donors who had the wisdom and the vision to understand and appreciate the potential of such an organization of Members of Congress.

In October, 1966 Joan McKinney arrived in Washington, D.C., rented an efficiency apartment, and opened the first independent office of a bipartisan, bicameral congressional organization in the history of the United States Congress.

### THE FORMATIVE YEARS

Twelve Members of Congress comprised the initial group which wrote the By-Laws, established a $10 annual dues, and shortened the name to Members of Congress for Peace through Law (MCPL).

The purpose, as stated in the By-Laws, is "to coordinate Congressional concern for world peace into specific action for the development of international cooperation, a strengthened United Nations and other steps necessary for the achievement of general and complete disarmament under enforceable world law. The purpose is politically nonpartisan."

The By-Laws also spelled out the essential ground rules which have contributed so importantly to MCPL's growth:

"A. Membership in this organization is open to all members of Congress, both of the Senate and the House of Representatives.

"B. All Members shall favor the general purposes of the organization, but shall be free to join in any specific action or not, as they may individually decide."

The first officers of MCPL were: Senator Joseph S. Clark—Chairman, Rep. F. Bradford Morse—Vice Chairman, and Rep. Robert W. Kastenmeier—Secretary-Treasurer.

During 1967, the first Steering Committee was formed consisting of 14 members: Senators Joseph S. Clark, John Sherman Cooper, Jacok K. Javits, Robert F. Kennedy, Eugene McCarthy, and George McGovern, and Representatives Jonathan B. Bingham, Donald M. Fraser, James G. Fulton, Robert W. Kastenmeier, Patsy T. Mink, F. Bradford Morse, Benjamin S. Rosenthal, and Richard S. Schweiker.

The members selected a wide range of foreign policy issues for group study and action: Comprehensive Nuclear Test Ban, Increased East-West Trade, Non-Proliferation Treaty, Peace with Honor in Vietnam, Permanent UN Peace Force, Space Treaty, US-USSR Airlines Agreement, and the US-USSR Consular Treaty.

During the first year, MCPL members, together with some non-MCPL Members, (68 House and 18 Senate cosponsors) introduced resolutions calling for US support for a permanent UN Peacekeeping Force, developed a position statement for a negotiated Vietnam settlement, presented a statement in support of UN efforts to reduce tensions in the Middle East signed by 44 members, and supported the US-USSR Consular Treaty which won by only 3 votes in the Senate.

They also initiated the first Senate colloquy in opposition to the deployment of anti-ballistic missiles (ABMs), worked for adoption of UN Human Rights Conventions, supported the Treaty on Peaceful Uses of Outer Space, and made a special trip to New York to consult with Ambassador Arthur J. Goldberg and top officials of the United Nations.

By the end of 1967, MCPL had 68 members, 21 Senators and 47 Representatives, from both parties.

During 1968, work was continued on the issues still pending. Meetings were held with key US officials and with key spokesmen from other countries. In May, the full membership of MCPL was invited to meet with 7 eminent Soviet citizens for an exchange of views. The Soviet visitors had come to the United States as guests of the American Friends Service Committee. The group also met earlier with Lord Caradon of the United Kingdom to gain his views of the dangers and hopes at the UN and the slow progress toward international authority.

At the opening of the 91st Congress in January, 1969, MCPL had its first changing of the guard. In keeping with its bipartisan and bicameral policy, the chairmanship went from a Democratic Senator to a Republican Representative, F. Bradford Morse of Massachusetts. Two Senate Vice Chairmen were elected, Republican Mark O. Hatfield and Democratic Senator George McGovern. Representative Kastenmeier was reelected Secretary-Treasurer and former Senator Clark, who was defeated in the 1968 election by Richard S. Schweiker, was elected Honorary Chairman.

Under Chairman Morse's leadership, during the 91st Congress (1969–1970), MCPL formed working committees to explore various areas and recommend action to the full membership. The organization had now grown to 89 members who wanted action, so it was decided that the most effective way to look into a range of issues and determine what action to take was to set up issue committees on which those most keenly interested could serve. Committee chairmen were selected on the basis of interest, knowledge, and ability. All members were asked to volunteer to serve on the committee or committees which interested them.

In the spring of 1969, a Military Spending Committee was established under the chairmanship of Senator Mark O. Hatfield and a knowledgeable physicist, Dr. Henry Myers, was retained as a Consultant to MCPL to staff the Committee's efforts. This brought the staff to a grand total of two full-time persons and one consultant.

Fifteen members asked to serve on the Military Spending Committee. At the first meeting, it was decided to focus attention on nine aspects of military spending. One or more members volunteered to research each of these aspects and to prepare a report with recommendations.

The work of this Committee resulted in analytical reports on: Advanced Manned Strategic Aircraft, Continental Air Defense, Safeguard, ABM, Attack Aircraft Carriers, the F–14, Main Battle Tank (MBT–79), Chemical and Biological Weapons, Military Weapons, Military Manpower, and Procurement. These reports might be considered a turning point in Congressional attitudes toward military spending. For the first time, Members of Congress, most of whom were not members of the Senate or House Armed Services Committees which oversee the Department of Defense budget, undertook to educate themselves sufficiently on some aspects of the military budget so that they could form independent judgments and could effectively question some of the recommendations of the Armed Services Committees. Since the reports of MCPL's Military Spending Committee were sent to all Members of Congress, for the first time other Members had easily understandable, credible information and recommendations which they could employ to reach an independent judgment.

During 1969, MCPL also formed committees on the United Nations, the World Court, East-West Trade, the Middle East, Southeast Asia, US-China Relations, World Development, and Arms Control and Disarmament.

On July 1, 1969, Sandford Z. Persons became Staff Consultant to the United Nations and World Court Committees. Following successful fundraising dinners in Washington and Baltimore that fall, two other Staff Consultants were hired, Ronald L. Tammen to serve the Military Spending and Arms Control and Disarmament Committees and William J. Montwieler to serve the East-West Trade and Southeast Asia Committees. Additionally, three outside persons were retained as Consultants to the Middle East, US-China Relations, and World Development Committees. Since Dr. Myers had completed his assignment with the Military Spending Committee, this brought the staff to an all time high of five full-time staff and three part-time consultants and a budget of $127,926.

During the 2nd Session of the 91st Congress in 1970, these committees met with varying frequency, gathered information, consulted knowledgeable outside experts, and formulated proposals for action. On August 12, 1969, 80 members, 21 Senators and 59 Representatives, wrote Secretary of State William P. Rogers urging United States inititatives to strengthen the peacemaking and peacekeeping abilities of the United Nations to their fullest. They expressed their support for the recommendations of the National Policy Panel Report of the United Nations Association of the USA entitled "Controlling Conflicts in the 1970s." The Secretary's reply was later analysed and discussed at a UN Committee luncheon with Assistant Secretary of State for International Organization Affairs, Samuel de Palma.

On November 7, 1969, 57 Members wrote Secretary of State Rogers to express their support for the request of UN Secretary General U Thant that the United Nations be granted reasonably free use of the facilities of the International Telecommunications Satellite (INTELSAT).

On May 1, 1970, 70 members joined in a letter to President Nixon urging United States leadership in the peaceful settlement of international disputes by mediation, arbitration, and adjudication and proposing specific steps to increase the work of the World Court.

On August 20, 1970, 45 members wrote Secretary of State Rogers to express their support for the US Oceans Policy set forth by President Nixon. They commended the Administration for "its bold, dramatic, and innovative effort at this historic moment to make the wealth of the oceans the property of mankind" and urged that international agreement be reached as soon as possible.

During 1970, MCPL's full membership on its committees met with such persons as Robert S. McNamara, President of the World Bank; Sir Robert Jackson; Assistant Secretary of State for the Middle East Joseph J. Sisco; Dr. Ralph E. Lapp, arms critic; Philip C. Jessup, former US judge on the World Court; Dr. Arthur Larson; Undersecretary of State Elliot Richardson; Ambassador Sharaf of Jordan; Harrison Salisbury of the *New York Times;* UN Ambassador Charles W. Yost; Paul G. Hoffman; UN Secretary-General U Thant; Alvin Hamilton of Canada; Ambassador Rabin of Israel; Christian A. Herter, Jr.; and Professor Louis B. Sohn of the Harvard Law School.

### SECOND CHANGING OF THE GUARD

On January 25, 1971 at the opening of the 92nd Congress, MCPL held its annual meeting and elected new officers and a new Steering Committee. The Chairmanship shifted back to the Senate with the election of Republican Senator Mark O. Hatfield. Democratic Representative Robert W. Kastenmeier and Republican Charles W. Whalen, Jr. were elected Vice-Chairmen. Democratic Senator Alan Cranston was elected Secretary-Treasurer.

Upon recommendation of a review committee, the number of committees was reduced, several being logically combined. To head the four major committees, Senator Hatfield appointed Senator William Proxmire Chairman and Representative Ogden R. Reid Vice Chairman of the Military Spending, Arms Control and Disarmament Committee, Senator Charles McC. Mathias, Jr., Chairman and Representative Don Edwards Vice Chairman of the United Nations and International Law Committee, Representative Gilbert Gude Chairman and Senator Alan Cranston Vice-Chairman of the World Environment and International Cooperation Committee, and Senator Walter F. Mondale Chairman and Representative John C. Culver Vice Chairman of the World Trade and Development Committee. He also named Representative Paul N. McCloskey, Jr., Chairman of an ad hoc Southeast Asia Committee and Representative Patsy T. Mink, Chairman of an ad hoc US-China Relations Committee.

At this meeting, members also honored and bade farewell to Joan McKinney, who retired on January 31, 1971 as Executive Director. Joan was presented a scroll to "The First Lady of MCPL" paying tribute to her for "her vision, courage, patience, inspiration and enthusiasm and her uncompromising commitment to peace." Soon thereafter, Sandford Z. Persons was appointed by Senator Hatfield and approved by the Steering Committee as Executive Director. The staff was now four full-time persons and no outside consultants and the budget adopted for fiscal year 1971 was $91,248.

The Military Spending Committee decided to focus on four military items susceptible to criticism and reductions: The Navy's Undersea Long-Range Missile System (ULMS), the Air Force's Airborne Warning and Control System (AWACS), the Navy's Carrier-Based Fighter Plane (F–14) and the Navy's Nuclear Attack Aircraft Carrier (CVN–70).

On April 10, 1971, the report on ULMS was released at a well attended press conference. The report was the combined work of three Senators and eight Representatives of both parties. Much of the work on the other items was done behind the scenes in an effort to present the Committee's findings and recommendations to members of the Armed Services Committees of the Congress.

On April 26, 1972 Senator John Stennis, Chairman of the Senate Armed Services Committee, announced cuts totalling $418,000,000 in the military budget. The cuts were identical to four major MCPL recommendations.

The World Environment and International Cooperation Committee held meetings with the three top US officials in the environmental field: Russell Train, Christian A. Herter, Jr., and William Ruckelshaus and with Professors Francesco di Castro of Chile, Bertrum Pfeiffer of Montana, and Arthur Westing of Vermont. From these meetings came action; a House of Representatives resolution favoring a $100 million international environmental fund, one supporting the UN Stockholm Conference, and bills in both Senate and House urging funds for a study of the environmental consequences of modern weapons technology in South East Asia.

The United Nations and International Law Committee met with Secretary of State William P. Rogers and his top aides to indicate their support for funding UN peacekeeping efforts and forces. This Committee also worked on such issues as the US dues to the International Labour Organization, Rhodesian chrome, and the move to reduce the US share of the UN regular budget to 25%.

The World Trade and Development Committee worked cooperatively with other interested groups in the Congress to hold the line against increasing protectionist sentiment. They met with key officials and non-governmental experts and organized three discussions of American trade policy on the House floor.

The South East Asia Committee initiated an April 12 letter to the President signed by 62 members expressing grave concern over the escalation of bombing and asking him to announce the size, purpose, and costs of future military action. Then on April 21, 81 Members of Congress asked to meet with the President at the White House to discuss ending US involvement in the war in South East Asia. A White House assistant replied that the time was not foreseen when the President could find time for the meeting requested.

On June 24, 1971, Representative Patsy T. Mink, Chairman of MCPL's US-China Relations Committee testified before the Senate Foreign Relations Committee. She described the work of her Committee during 1970 and listed the 24 MCPL members who had associated themselves with the thrust and conclusions of her final paper which urged opening relations with the Peoples' Republic of China long before ping-pong and the President's trip.

In February, 1972 MCPL formed its newest committee called the World Order Strategy Committee. Senator Hatfield asked Representative Robert F. Drinan (D-Massachusetts) to head this unique effort within the Congress to look at US foreign policy in terms of its contribution to world order. Three Senators and eleven Representatives agreed to serve and the Committee held six hearings. Addressing themselves to seven fundamental questions posed by the Committee, the following persons testified: Hans J. Morgenthau, John Kenneth Galbraith, Norman Cousins, Robert Tucker, Richard Barnett, and C. Maxwell Stanley.

On April 25, 1972, MCPL's full membership honored Paul G. Hoffman, former Administrator of the UN Development Program, and his successor, Rudolph A. Peterson, at a luncheon on Capitol Hill. They also took this occasion to honor and bid farewell to MCPL's former Chairman, Representative Bradford Morse, who resigned his seat in Congress to succeed his distinguished predecessor Ralph Bunche as United Nations Under-Secetary for Political and General Assembly Affairs. It was a proud day for MCPL to have this man of energy and vision, a politician and diplomat of consummate skill, one of MCPL's greatest leaders, give up his safe seat in the House of Representatives after more than 11 years of service to devote his unique talents to the very purposes of MCPL—furthering international cooperation and strengthening the United Nations.

### A GLIMPSE OF THE FUTURE

In January of 1973, a few days after the Inauguration of the President on January 20, MCPL members will elect new officers and a new Steering Committee for the 93d Congress (1973–74). The Chairmanship will now pass to a Democrat in the House of Representatives, thus completing the first full cycle of bipartisan, bicameral leadership.

As the 92nd Congress ends on January 3, MCPL's membership stands at an all time high of 133 members, 32 Senators and 101 Representatives. This means almost exactly 25% of the 535 Members of the United States Congress.

Last November's elections will leave MCPL's Senate membership on January 3 at 32, since the five Senators in MCPL who ran for reelection all won and the two did not run will be offset by two House members of MCPL who won Senate seats. In the House of Representatives, MCPL will lose 12 members, seven who did not run and five who lost their race for reelection. There is good reason, however, to expect that several of the new Senators and a substantial number of the new Representatives will join MCPL upon invitation from its Membership Committee. If this occurs, MCPL's membership may well exceed 133 in the new Congress.

Thus there is every reason to believe that MCPL will continue to be a force for peace and for change in the years ahead. Why? Because MCPL helps Members of Congress to work together on world issues which concern them, without binding any one of them to any one policy or approach. Because MCPL provides a vehicle for bringing Democrats and Republicans and Senators and Representatives into a cooperative working relationship. Because MCPL helps its members obtain information, views and expertise that they want and need to forward their own beliefs. Because MCPL strengthens the voice and vote of its members through numbers. Because MCPL has its own full-time staff and office independent of any members and either party which provides a professional secretariat for all MCPL members. Because MCPL looks for talent, interest, and ability, regardless of party or seniority, in selecting its leaders.

There is much talk today in the United States of Congressional reform and of reasserting the Constitutional role of Congress. Both are desperately needed. In the midst of this talk, Members of Congress for Peace through Law goes quietly forward, dealing with neither topic explicitly, but actually *being* a part of the answer through its very *existence!*

### ACHIEVEMENTS OF MEMBERS OF CONGRESS FOR PEACE THROUGH LAW

1968—Full membership of MCPL met with seven eminent Soviet citizens for an exchange of views.

1969—Prepared first analysis of defence spending ever made by Members of Congress outside the formal Committees, and recommended substantial budget cuts.

1969—Eighty MCPL Members joined in signing a letter to Secretary of State Rogers urging improved United Nations peacekeeping machinery and a stand-by force of 20,000 to 25,000 men.

1969—Initiated and led the long Congressional fight against the anti-ballistic missile.

1970—Hosted a luncheon to honour UN Secretary General U Thant and the UN's 25th Anniversary before the President's State Dinner at the White House.

1970—Fifty-seven MCPL Members endorsed free use of INTELSAT by the United Nations (later approved).

1971—Provided leadership to Congressional critics favoring cancellation of the B–1 supersonic manned bomber. The multi-million dollar program was subsequently cancelled.

1971—Conducted the most thorough exploration of US–China relations in the Congress.

1972—Held meetings with top US officials in the environmental field which led to a House of Representatives Resolution favouring a $100 million international environmental fund and a study of the environmental consequences of modern weapons technology in South East Asia.

1972—Organized a unique effort within the Congress to examine US foreign policy in terms of its contribution to world order.

### WHAT MCPL MEMBERS HAVE SAID

BY SENATOR VANCE HARTKE

Now, in this new age, is the time for heuristics—a word we shall hear increasingly, for it means the development of new ideas. The old notions of Napoleon's day or World War II, or even of our own day of Vietnam, will no longer do. The world has grown too small, too interdependent, too demanding of the living-together brotherhood whose present reality cannot separate us further from Africa, Asia, the depressed and needy. For we see in their disaffection our own limitations increased; we see that truly, in a vibrant phrase, freedom is indivisible. Where in 1776 we fought for freedom, by 1976 we must see to it that no one must fight for freedom, that its peace and pursuit of happiness can be won by the efforts of goodwill.

But goodwill of itself can do nothing. It needs organization, leadership, the application of brain and ingenuity, of technology and morality, on a scale such as we have never before attempted. It is this which serves as my vision for the Department of Peace which I propose. It is appropriate that we inaugurate such a dream in this Human Rights Year.

BY SENATOR ALAN CRANSTON

The seating of the Peoples Republic of China in the United Nations is long overdue. Since the most populous nation on earth has now been offered membership, a major step toward universality of representation has at last been taken and an injustice lasting 22 years has been rectified. The United Nations could not pretend to tackle the world's problems as long as its membership did not include the government of the 800 million people of the Chinese Mainland who comprise one-fifth of the world's population.

BY SENATOR MARK HATFIELD

One of the characteristics of the nuclear age is the increasing inability to effectively achieve political aims through the use of military force. We once lived in a world where military supremacy assured political supremacy. But today, with a capacity for destruction several times over resting in the hands of the major powers, military supremacy has far less of a political advantage. What advantage is it if we can kill the Russian population 10 times over, but they can only kill us six times over?

The truth we are discovering is that political stability and international security are the function of political and economic rather than military factors. Political stability—or peace—can seldom be imposed for long by one country over another through the mere use or threat of its military power.

## SENATE RESOLUTION 247—SUBMISSION OF A RESOLUTION AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE SELECT COMMITTEE ON NUTRITION AND HUMAN NEEDS

(Referred to the Committee on Rules and Administration.)

Mr. McGOVERN (for himself and Mr. Percy) submitted the following resolution:

S. Res. 247

*Resolved,* That Section 3 of Senate Resolution 50, Ninety-third Congress, agreed to February 22, 1973, be amended by striking out 255,000 and inserting in lieu thereof $275,000.

## DEEP SEABED HARD MINERALS ACT—AMENDMENT

### AMENDMENT NO. 946

(Ordered to be printed and referred to the Committee on Interior and Insular Affairs.)

Mr. METCALF (for himself, Mr. Jackson, Mr. Bible, Mr. Fannin, Mr. Hansen, and Mr. Stevens) submitted an amendment intended to be proposed by them jointly to the bill (S. 1134) to promote the conservation and orderly development of hard mineral resources of the deep seabed, pending adoption of an international regime relating thereto.

## LEGAL SERVICES CORPORATION ACT—AMENDMENTS

### AMENDMENT NO. 947

(Ordered to be printed and to lie on the table.)

Mr. CURTIS submitted an amendment intended to be proposed by him to the bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the Legal Services Program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

### AMENDMENT NO. 949

(Ordered to be printed and to lie on the table.)

Mr. McCLURE submitted an amendment intended to be proposed by him to the bill (S. 2686) supra.

## MIDAIR COLLISION AVOIDANCE ACT OF 1973—AMENDMENT

### AMENDMENT NO 949

(Ordered to be printed and referred to the Committee on Commerce.)

Mr. MOSS submitted an amendment intended to be proposed by him to the bill (S. 1610) to amend the Federal Aviation Act of 1958 to require the installation of airborne, cooperative collision avoidance systems on certain civil and military aircraft, and for other purposes.

## ADDITIONAL COSPONSOR OF AN AMENDMENT

### AMENDMENT NO. 887

At the request of Mr. William L. Scott, the Senator from Virginia (Mr. Harry F. Byrd, Jr.) was added as a cosponsor of Amendment No. 887 intended to be proposed to the bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the Legal Services Program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

## NOTICE OF WHEAT AND FEED GRAINS SITUATION HEARINGS

Mr. HUDDLESTON. Mr. President, I wish to announce that the Subcommittee on Agricultural Production, Marketing and Stabilization of Prices of the Senate Committee on Agriculture and Forestry will hold a 1-day hearing on Monday, February 4, 1974, in room 3302 of the Dirksen Senate Office Building on the current wheat and feed grain situation.

Both U.S. Department of Agriculture officials and public witnesses, including representatives of producers, the grain trade, millers and bakers have been invited to testify.

Mr. President, due to the current conflicting statements and projections that are being made about continued availability of wheat and feed grain supplies in the United States between now and the end of this marketing year, Senator Henry Bellmon and I felt that our subcommittee should make every effort to immediately ascertain what the facts are concerning this vital matter.

It is one thing for our Nation to run short of a key resource such as petroleum, but it is quite another thing if we run out of one or more of our key food staples such as wheat or feed grains.

The margin for error in estimating the available supply of these food commodities is very small today. An objective and careful analysis of this situation is essential if we are to avoid a panic condition developing in the marketplace.

While USDA continues to reassure both U.S. consumers and foreign buyers that the United States will not run out of wheat or other grains during the balance of this year, other knowledgeable experts are predicting a dangerously low supply situation. Wheat prices currently are at all-time highs, and how much higher they may go over the next several months no one seems to know.

In addition to analyzing the current supply-demand situation on grains, I hope we will also have an opportunity in these hearings to examine what can be done to assure a more stable price and supply situation in the future.

## NOTICE OF HEARINGS ON ADDITION TO NATIONAL WILD AND SCENIC RIVERS SYSTEM

Mr. JACKSON. Mr. President, I wish to announce hearings by the Public Lands Subcommittee of the Interior and Insular Affairs Committee on S. 2439, a bill to amend the Wild and Scenic Rivers Act of 1968 designating a segment of the New River as a potential component of the national wild and scenic rivers system.

The hearing will be held on February 7, 1974, at 1:30 p.m., in room 3110, Dirksen Senate Office Building. Those who wish to testify or submit a statement for inclusion in the hearing record should contact Steven P. Quarles at 5–2656.

## HEARING ANNOUNCEMENT ON CALIFORNIA DESERT NATIONAL CONSERVATION AREA

Mr. JACKSON. Mr. President, I wish to announce hearings by the Public Lands Subcommittee of the Interior and Insular Affairs Committtee on S. 63, a bill to establish the California Desert National Conservation Area.

The hearing will be held on February 19, 1974, at 10 a.m., in room 3110, Dirksen Senate Office Building. Those who wish to testify or submit a statement for inclusion in the hearing record should contact Steven P. Quarles at 5–2656.

## ADDITIONAL STATEMENTS

### COMMITTEE ON PUBLIC WORKS REPORTS ON ACTIVITIES IN 1973

Mr. RANDOLPH. Mr. President, during the first session of the 93d Congress the Committee on Public Works developed several major legislative proposals that were subsequently enacted into law. The committee's workload during 1973 was increased because of matters remaining from the previous year, as a result of Presidential vetoes and for other reasons. Therefore, some of our activities during the past year were a continuation of work initiated in 1972.

At the end of the past year, this backlog of legislation had been virtually eliminated and substantial progress had been made on new matters begun during the past 12 months. This record was achieved with the cooperation of all committee members and their willingness to devote necessary time and energy to the vital matters before us. This included a total of 68 days of legislative and oversight

Six new members joined the commitmittee and subcommittee meetings.

Six new members joined the committee at the beginning of the 93d Congress. Each of them was assigned responsible duties within the committee structure and each joined with the other members in making important contributions to our work.

The Federal-Aid Highway Act of 1973 occupied more of the committee's time and energy than any other single matter. Extensive attention was also given to environmental problems, particularly the implementation of new programs of air and water pollution control. Questions relating to automobile emission standards were considered during hearings in both the spring and fall and a staff report was prepared. The committee was deeply involved in provisions of energy legislation as they relate to matters within our jurisdiction. A major water resources bill was assembled during 1973 and was passed by the Senate in the first days of the second session.

Mr. President, I review, in detail, the work of the Committee on Public Works during 1973 by subcommittees:

### Subcommittee on Air and Water

The Subcommittee on Air and Water Pollution, chaired by Senator Edmund S. Muskie, is responsible for legislation and oversight activities in the Committee on Public Works relating to air and water pollution, solid waste management and resource recovery, control of noise, and other matters affecting the environment. During 1973, the Subcommittee conducted 28 days of public hearings and 20 executive sessions relating to Subcommittee matters.

Auto emission standards established pursuant to the Clean Air Act Amendments of 1970 were extensively examined during 14 days of hearings beginning in April and ending in November. Witnesses included the Administrator of the Environmental Protection Agency, the National Academy of Sciences, and representatives of auto companies, catalyst manufacturers, and oil industry. The question of compliance with the standards as prescribed under the law was considered during 9 executive sessions.

On December 4, the Committee reported S. 2772, which extends for an additional year the interim auto emission control requirements for model year 1975 as prescribed by the Administrator of EPA in April 1973. The effect of this amendment to the Clean Air Act is to postpone for one year the 1975 statutory standards for hydrocarbons and carbon monoxide established under the 1970 Amendments. This legislation passed the Senate on December 17, by a vote of 86–0.

Concurrent with Senate action on the auto emissions question, the House Committee on Interstate and Foreign Commerce developed similar legislation as part of emergency legislation. During House-Senate Conference Committee consideration, agreement was reached which would extend the 1975 interim standards for one year and give the EPA Administrator authority to grant an additional year's extension of standards for hydrocarbons and carbon monoxide with the establishment of interim standards for model year 1977. Congress adjourned on December 22 without completing action on the emergency energy legislation.

In addition to public hearings on auto emissions, the staff of the Subcommittee on Air and Water Pollution submitted a report to the Committee in October on the impact of the standards. In June, the Committee entered into a contract with the National Academy of Sciences to review the health data on which the air quality standards are based. A preliminary report from NAS was received in October, and the final report is due in August. The Committee also contracted with the Academy to examine the costs and benefits of compliance with the auto emission standards. An interim report was submitted in December, and the final report is due in August.

In the early fall, it became apparent that many areas of the country would experience shortages in clean fuels during the winter months. The Subcommittee held a hearing on September 18 with Governor John Love, then Director of the Energy Policy Office, to determine what, if any, impact, the use of high sulfur fuels in stationary sources might have on the implementation of the Clean Air Act. Subsequently, a bill, S. 2680, was introduced which would authorize temporary suspensions of emission limitations or compliance schedules applicable to stationary sources which could not get clean fuel. Suspensions could not be granted if public health would be endangered. Long-term compliance schedules would be revised for those sources which switch permanently to other fuels only where contractual commitments for clean-up equipment have been made.

This legislation was the subject of Subcommittee hearings on November 12. Following one executive session, it was ordered reported and subsequently added as an amendment to the Senate emergency energy bill and was accepted by the Senate on November 15 by a vote of 83–2. The House-Senate Conference Committee on the energy legislation agreed to a stationary source emergency fuel section which included provisions similar to those passed by the Senate. The Congress adjourned without taking final action on this legislation.

Other aspects of the Clean Air Act were examined during public hearings in 1973. The non-degradation policy of the Act was the subject of a hearing on July 24, and the transportation plan proposed by EPA for the Los Angeles Basin was the subject of a hearing in Riverside, California, on November 16.

A bill, S. 1776, introduced in May, amended the Federal Water Pollution Control Act to extend for an additional year the pilot operator training program for waste water treatment plants. After one executive session, the Committee reported the bill with technical amendments, and on June 28, S. 1776 passed the Senate. The House accepted the Senate bill, and added to it the provisions of Senate Joint Resolution 158, passed by the Senate on October 11, after two executive sessions, which increased the authorization under the Federal Water Pollution Control Act for reimbursement to agencies which initiated construction on waste treatment plants between 1966 and 1972 but did not receive the maximum authorized Federal grant. The Resolution also provided for an extension of the deadline for filing applications for reimbursement and authorized advanced payments of reimbursement funds. S. 1776 was signed into law on December 28, as P.L. 93–207.

The Federal Water Pollution Control Act requires Congressional approval of a formula for the allocation of funds authorized for the construction grant program. In October, the Environmental Protection Agency transmitted to Congress the 1973 Needs Survey, estimating costs of all needed publicly owned treatment works. This survey, which was to serve as the basis for an allocation formula for fiscal year 1975 construction grants, was the subject of two days of hearings, at which the EPA and State and local officials testified. After consideration during three executive sessions, the Committee reported S. 2812 with a recommended formula on December 13. Similar legislation was developed in the House, and on December 21, S. 2812 passed both Houses. S. 2812 was signed into law on January 2, 1974, and is P.L. 93–243.

In late March, the Subcommittee held three days of hearings on the Environmental Protection Agency's budget request and its adequacy to implement the programs within its jurisdiction. After evaluating testimony from officials of EPA, State and local officials, and citizen groups, the staff submitted a report to the Committee in June analyzing the budget request. The staff report was subsequently submitted to the Appropriations Committee while considering the EPA budget.

On August 1, the Committee held a hearing to consider the nomination of Russell E. Train to be Administrator of the Environmental Protection Agency. After one executive session the same day, the Committee favorably reported the nomination to the Senate. The nomination was confirmed on September 11.

On February 26, the Subcommittee held a hearing on several bills dealing with deepwater ports and their potential impact on the environment. Testimony was heard from Senators sponsoring the bills, officials of interested coastal States and a representative of the Army Corps of Engineers. Subsequent to that hearing, a special ad hoc subcommittee on deepwater ports was established including members from the Public Works, Interior and Commerce Committees. No action has yet been taken by that subcommittee.

On April 2 and 3, the Subcommittee held hearings on the impact of growth on the environment. Several academicians appeared at those hearings to discuss the economic, social and environmental impacts of uncontrolled growth.

On September 24, the Committee held joint hearings with the Commerce Committee on noise pollution. Testimony was received on several reports that had been submitted on various aspects of noise pollution control.

### Subcommittee on Economic Development

The United States Federal Budget published in January, 1973, contained a recommendation that two programs under the jurisdiction of the Subcommittee on Economic Development chaired by Sen. Joseph M. Montoya, receive no new program funds as of fiscal year 1974. The two programs recommended for phase out were the Economic Development Administration and the Title-V Regional Action Planning Commission. A third program under the jurisdiction of the Commission, would continue as authorized. The purpose of all these programs is to provide a national effort in strengthening the structural base of the economically distressed areas of the country.

As an alternative to these two economic development programs recommended for phase out, the Administration offered a different set of programs and presented as their objectives: improving the efficiency of rendering needed public services, eliminating duplication, and providing greater decision-making authority to localities, communities and states. Under the Administration's proposal, the Department of Agriculture under the Rural Development Act would take over most of the responsibilities now held by the Economic Development Administration. Grant provisions under the Environmental Protection Agency were suggested as further alternatives to Economic Development Administration programs. The Small Business Administration would take over the Economic Development Administration's business loan and loan guarantee program.

A series of special revenue sharing proposals were also put forward to take the place of current programs.

The Subcommittee had strong reservations concerning specific aspects of the Administration's proposals and felt further that a one-year extension of existing economic development programs was essential in order to gain a better grasp of the role of public works in economic, regional, and national growth policies and to provide for a smooth transition into any new development program. On January 18, therefore, a bill (S. 467) was introduced to extend for one year at existing authorization levels the programs administered by the Economic Development Administration and by the Regional Commissions. Hearings on S. 467 were held on February 21. Testifying against extension and presenting the Administration's alternative was Secretary of Commerce, Frederick B. Dent. Six witnesses, including Governor Patrick J. Lucey of Wisconsin and Governor Francis Sargent of Massachusetts, testified in favor of the one-year extension.

In executive session, the Subcommittee adopted H.R. 2246 as a substitute for S. 467 but reduced total authorizations from $1.2 billion to $635 million. The reduction was made in a spirit of cooperation with the President and reflected the Subcommittee's awareness of the need to combat inflation. The full Committee in executive session reduced authorizations even further to $362.5 million. This reduction was made in order to save the programs by minimizing the possibility of a Presidential veto. The bill as recommended by the Committee was passed by the Senate on May 8 by a record vote of 81 to 6. In conference with the House, authorizations were adjusted to $430 million, with $200 million for public works and development facility grants under Title I; $55 million for public works and development facility loans under Title II; $35 million for technical assistance, research, and planning under Title III; $45 million for growth centers and economic development districts under Title IV; and $95 million for Regional Action Planning Commissions under Title V. The bill, H.R. 2246, was reported out of conference on June 5, passed by the Senate on June 6, and became Public Law 93-46 on June 18.

In addition to the $430 million in authorizations for fiscal year 1974, Public Law 93-46 continued for an additional year, to June 30, 1974, the moratorium on the designation of economic development districts and provided 100-per cent funding for administrative expenses to Indian tribes under Title III of the Act. The Act also required submission to Congress of two reports. The first report, prepared by the President's Inter-Agency Economic Adjustment Committee, was submitted to Congress in August and outlined the government's program in assisting communities adversely affected by recently announced defense facility and activity realignments. The second report, by the Secretary of Commerce and the Office of Management and Budget, is to examine current and past federal efforts to secure balanced national economic development and recommend possible improvements.

The Subcommittee's investigations of and experiences with current regional and economic development programs show that the national effort to achieve balanced and sustained growth can be enhanced by new public works-development legislation. In order to formulate new legislation, the Subcommittee held 15 days of public hearings in communities throughout the United States in 1971. Building upon these hearings and upon seven years of experiences with existing programs, the Subcommittee introduced a new public works-development bill in the Senate on March 21, 1972. This bill (S. 3381) outlined the establishment of a national development program through planned public works investment. The basic structure of the program would be a working partnership of Federal, State, and local governments, organized in multi-state commissions. Hearings on S. 3381 were held in Washington, D.C. on April 18, 20, 25, 26, and 27, 1972, with testimony from 38 witnesses. This legislation with certain technical changes was reintroduced as S. 232 on January 6, 1973.

Hearings on the public works-development legislation and additional suggestions presented to the Subcommittee by interested persons demonstrate the need for additional investigation and study of the role of public investment in economic and regional development and national growth policy. Until adequate legislation is formulated and enacted, the Subcommittee believes that the current national effort to provide needed assistance to disadvantaged areas should not cease.

### Subcommittee on Water Resources

The Water Resources Subcommittee organized for the opening session of the 93rd Congress with a new chairman, five other new members and a new name.

The new title was picked by vote of the parent Public Works Committee whose members decided it more aptly described the overall functions of the unit than had the previous designation of Subcommittee on Flood Control-Rivers and Harbors.

Senator Mike Gravel of Alaska was appointed chairman. Other Subcommittee newcomers included Senator Quentin Burdick of North Dakota, transferring from the Interior Committee; and Senators Dick Clark of Iowa, Joseph Biden of Delaware, William Scott of Virginia and James McClure of Idaho, all beginning their first terms.

Legislative activity started much earlier than usual as a result of the President's disapproval of S. 4018, the Flood Control Act of 1972, after Congress had adjourned for the year.

Since no chance was afforded for an effort to over-ride the veto, the Public Works Committee decided to report a new bill identical to the conference report on S. 4018 with the exception of number and date changes so that it could be acted on without delay and sent to the White House to see whether it would be rejected under circumstances permitting an over-ride effort.

In keeping with that plan, a clean bill (S. 606) was reported to the Senate on January 29 and was adopted on February 1.

When the House decided to draft its own legislation instead of acting on S. 606, the Water Resources Subcommittee began to set the stage for a second bill.

It scheduled six days of hearings in April and early May and one day in early June in Washington on new proposals which had been submitted subsequent to adoption of S. 606. In addition, it held one-day hearings in May in Indiana and in September in Louisiana to determine if projects there should be considered for inclusion in the bill.

Following staff and Corps of Engineer briefings, the subcommittee began mark-up sessions in early November and on November 30 completed work on what was to become S. 2798, the Water Resources Development and River Basins Monetary Authorization Act.

In its final form and as reported December 10 by the Public Works Committee, the bill combines various features of S. 606, of H.R. 10203, the bill fashioned in the House of Representatives and adopted October 16, and of some of the proposals offered in the Senate subsequent to consideration of S. 606.

Total cost of the legislation is estimated at $1.28 billion, of which about $780 million is attributable to river basin authorizations under Title II and about $508 million is authorized in connection with projects and provisions outlined in Title I. The Title I figure is substantially less than the approximately $593 million which had been proposed for similar purposes in the conference report on S. 4018. Had the latter measure not been vetoed, it would have been the most modest omnibus flood control bill since 1948.

Aside from its low price tag, the bill is noteworthy for the major and significant policy changes which it establishes.

Heading the list are provisions for two-stage project authorization allowing for congressional project review after the first phase; for a system for deauthorization of outmoded and inactive Corps projects for which no construction money has been alloted for at least eight years; and, finally, for use of higher interest-discount rates under the Water Resources Council formula for evaluation of future projects but barring its application to those authorized in, or prior to, S. 2798.

This bill was the first legislation considered by the Senate this year and was passed on January 22.

Aside from the hearings bearing on current legislation, Chairman Gravel conducted a week of hearings in Alaska during August for the Subcommittee to assess the state's water resources development needs for the future and to determine what guideline changes are necessary to qualify needy by sparsely-populated areas for Federal civil works projects.

In other actions during the year, the subcommittee approved nine watershed proposals submitted by the Soil Conservation Service under provisions of Public Law 83-566 and one project for construction by the Corps of Engineers under authority of Section 201 of the 1965 Flood Control Act.

A total of 32 resolutions were adopted during the year which would authorize the Chief of Engineers to initiate studies of existing projects to determine if modifications are appropriate in the interests of flood control, navigation, and beach and streambank erosion control.

Finally, under a new policy initiated during the year, the Subcommittee cleared eight separate bills naming civil works projects in honor of selected individuals, whereas such designations had previously been included as provisions within omnibus legislation. They include:

New Hope Dam and Lake, North Carolina for former Senator B. Everett Jordan.

Trotters Shoals Dam and Lake, Georgia and South Carolina, for the late Senator Richard B. Russell.

Texarkana Dam and Reservoir, Texas, for Congressman Wright Patman.

Beaver Dam, Arkansas, for the late Congressman James W. Trimble.

Chartiers Creek Project, Pennsylvania for late Congressman James G. Fulton.

Mansfield Lake, Indiana, for former Congresswoman Cecil M. Harden.

Buchanan Dam and Lake, California, for the late E. V. Eastman.

A Central and Southern Florida Flood Control District structure for the late W. Turner Wallis.

### Subcommittee on Transportation

In 1973, the Senate Transportation Subcommittee spent considerable time developing and working for passage of the Federal Aid Highway Act of 1973. In the previous

Congress, legislation had been passed in both Houses and an extensive Conference was held resulting in a compromise one-year extension of the highway program; however, the legislation failed of enactment on the final day of the session, when the House was unable to summon a quorum to vote on the measure.

On January 23, a comprehensive, new highway bill was introduced by the Chairman of the Transportation Subcommittee, Senator Lloyd Bentsen, and joined in by several members of the Public Works Committee. Hearings were scheduled early in the year, to expedite early consideration. On February 7, 8, 15, and 16, the Subcommittee received testimony from over forty witnesses, representing a wide range of viewpoints. The Subcommittee reported its bill in late February, and the full Committee ordered the bill reported on March 1. Debate followed in the Senate on March 14 and 15, and the bill was passed, with amendments, on March 15.

On February 19, Senator Bentsen, along with eight members of the Public Works Committee, introduced the Highway Safety Act of 1973. Two days of hearings were held on March 13 and 14, with testimony being received from sixteen witnesses. The Full Committee reported this separate safety measure on April 6.

On May 9, the Senate and House conferees had their initial meeting on the Federal Aid Highway Act and the Highway Safety Act. Those meetings spanned the period from May 9 through July 20, and included some 29 Conference sessions. On August 1, the Conference Report was agreed upon by the full Senate, and the Federal Aid Highway Act of 1973 was signed into law by the President on August 13 as Public Law 93–87.

The Federal Aid Highway Act of 1973, which also includes provisions of the Highway Safety Act, contains approximately $20 billion in authorizations from the Highway Trust Fund and general revenues for highway construction, safety, and mass transit. In addition, amendments to the Urban Mass Transportation Act add $3 billion in capital expenditures for mass transit from general revenues.

Public Law 93–87 extends time for completion of the Interstate System until June 30, 1979, increases the Federal share payable on account of any non-Interstate project from 50 to 70 percent with respect to all obligations incurred after June 30, 1973, and contains, for the first time, authorization for urban system funds to be used for mass transit. Up to $200 million in urban funds can be used for the purchase of buses in fiscal 1975, and the entire $800 million in urban funds can be used, at local option, for rail or bus mass transit in fiscal 1976.

On December 11, 1973, the Subcommittee held the first in what is planned to be a series of hearings on "Transportation and the New Energy Policies," receiving testimony from witnesses representing the Administration, the highway construction industry, the motor bus owners, Amtrak, the Institute for Rapid Transit, the trucking industry, the Teamsters Union, and the independent truckers. Questions discussed included: (1) the future of the highway construction program, as it will be implemented following the passage earlier this year of the Federal Aid Highway Act of 1973; (2) the questions surrounding the President's proposals for different speed limits for cars, trucks, and buses, and the House-passed bill, which set a national speed limit of 55 miles per hour; (3) the capacity of mass transit to handle the increased load of passengers resulting from lower supplies of gasoline for highway use; (4) the priorities which should be established for fuel allocation among the various modes of transportation; (5) the difficulties we anticipate in moving foodstuffs and other essential goods to market; and (6) other economic dislocations which may result from adjustments required in transportation policies.

From these activities came consideration and approval of legislation establishing a uniform national speed limit which became law late in the year.

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### SUBCOMMITTEE ON DISASTER RELIEF

During the last three years the nation has been subjected to very severe and extensive damage from an unprecedented number of floods, tornadoes, earthquakes and other natural causes. In that short period of time the President has issued 111 major disaster declarations, more than one-fourth the number (409) of all those declared during the last 21 years.

More important than their frequency, perhaps, is the fact that several of these catastrophic events had devastating effects on highly populous areas and resulted in very high losses. Damages inflicted by the San Fernando earthquake (1971), Hurricane Agnes (1972), and repeated widespread flooding in the Mississippi Valley (1973) alone undoubtedly will total $5 or more billion in overall damages.

At the same time Federal expenditures for disaster relief have increased significantly. New and expanded types of benefits, both for the public and private sectors, were provided by the 1970 comprehensive disaster relief act which became effective only a few weeks before the San Fernando earthquake. Moreover, amendments to the Act adopted in 1971 and 1972 added greately to the costs of disaster assistance made available to State and local governments, to private non-profit medical and educational facilities, and to individuals and families.

Although data is not yet complete, total direct Federal outlay for disaster assistance during the last three years has exceeded $2.4 billion, less than half of which ($1.1 billion) was for programs administered by the Office of Emergency Preparedness and its successor agency, the Federal Disaster Administration. The rest was for such items as cancellation or forgiveness of portions of SBA and FHA disaster loans, repair and reconstruction of Federal-aid highways, and non-reimbursed disaster related expenditures of the Army Corps of Engineers. This does not include the very sizable additional cost in subsizided interest rates which the Federal government has contracted to absorb for the uncancelled balance of more than a half-million SBA and FHA disaster loans made since 1971.

Because of the recent upsurge in the number and extent of major disasters, and in order to review the operation of programs authorized by the Disaster Relief Act of 1970 and amendments thereto, the Committee on Public Works reinstated the Subcommittee on Disaster Relief at the beginning of the 93rd Congress. Under the chairmanship of Senator Quentin Burdick, the Subcommittee in 1973 conducted an intensive evaluation of the adequacy and effectiveness of Federal disaster assistance legislation and administration.

Beginning in March, field hearings were held in four cities which suffered severe losses in major disasters: Biloxi, Mississippi (March 24); Rapid City, South Dakota (March 30–31); Wilkes-Barre, Pennsylvania (May 11–12); and Elmira, New York (June 1–2). Members and staff were able also to inspect several damaged areas, to talk with many disaster victims, and to observe first-hand the level of rehabilitation and reconstruction of homes, businesses and public facilities. In addition, hearings were held in Washington (Sept. 11–13) on S. 1840, an Administration-sponsored disaster assistance bill, and on five other measures then pending before the Committee: S. 753; S. 1267; S. 1297; S. 1847; and S. 2265.

More than 300 witnesses testified during ten full days of hearings and nearly 90 others submitted statements for the record, which totaled more than 2,800 pages. Among those who appeared before the Subcommittee were several members of Congress and of State legislatures, numerous State and local officials directly involved in the administration of disaster assistance, representatives from private relief organizations and other interest groups, and many private citizens. The hearings provided the Subcommittee with a valuable overview of Federal disaster programs and produced a variety of interesting and useful suggested changes in legislation and administration.

The Subcommittee has been preparing a bill to update and revise the 1970 Disaster Relief Act. This measure will incorporate some of the proposals made by S. 1840 and other pending bills as well as certain concepts advocated by members as a result of information obtained from the hearings and other sources. It is expected that this bill will be considered by the full Committee shortly and will be reported to the Senate early in this session.

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### SUBCOMMITTEE ON BUILDINGS AND GROUNDS

The Subcommittee on Buildings and Grounds, Chaired by Senator Dick Clark, came into being as the result of the Legislative Reorganization Act of 1946. Since that time the scope of activities conducted by the Public Buildings Service of the General Services Administration, for which the Subcommittee has primary responsibility, has become increasingly complex. Its activities are governed by a number of public laws, executive orders and Federal regulations.

A major Subcommittee activity in 1973 was the developing of improved procedures for expediting the evaluation of building prospectuses and conducting oversight reviews. Assistance on this effort was received from the Congressional Research Service.

These improvements comprise disciplined methods of compiling and evaluating project data, to assist in determining relative merits of a proposal, and also the exercise of more systematic and consistent oversight activity. During 1974, the Subcommittee intends to perfect these new procedures in order to more effectively review all aspects of the General Services Administration's construction activities.

Among important legislative activities of the Subcommittee during 1973 was the expediting of a bill, H.R. 5857, which authorized an appropriation to Interior Department for completion of the National Visitor Center in Washington, D.C. This became Public Law 93–62 on July 6, 1973.

Another was S. 1759, amending the Public Building Amendments Act of 1972 to authorize additional funds for the operation and maintenance of non-performing arts functions of the Kennedy Center, which was signed into Public Law 93–67 on July 10, 1973.

Further, S. 2079 was introduced and passed in the Senate, amending the Federal Property and Administrative Services Act of 1949 to exempt Federal Courts from certain requirements, imposed by Public Law 92–313, which pertain to space acquisition.

S. 1618 became Public Law 92–183 on December 17, 1973, designating a building at Reston, Virginia as the John Wesley Powell Federal Building, honoring an early Director of U.S. Geological Survey. S. 2503 was also signed into Public Law 93–187 on December 17, designating a building in Dallas, Texas, the Earle Cabell Federal Building, in honor of a former member of the House of Representatives and resident of that city. S. 2178 authorized that a building in New Orleans, Louisiana be named for the late Representative Hale Boggs.

Senate Joint Resolution 169 was passed, authorizing a study to determine the feasibility of installing suitable equipment outside the Capitol Building to facilitate production of a sound and light show, featuring historical events.

The Subcommittee met 11 times to discuss proposed legislation and other matters. In addition, formal conferences were conducted at various times with officials of General Services Administration, General Accounting Office, Department of Interior, District of Columbia, Capitol Architect's Office, Pennsylvania Avenue Development Corporation, and Congressional Research Service. Numerous meetings were also held with staff representing other government agencies and the private sector.

A public hearing was held on February 5 on the proposed construction of three Social Security Administration Payment Centers. Hearings were held on May 16 to receive testimony relating to H.R. 5857 and S. 1759, which pertained to the National Visitor Center and Kennedy Center, respectively. Hearings were held on June 18 and 19, at which testimony was given on Value Engineering as a cost and quality control procedure. Another hearing pertaining to the National Visitor Center was conducted on November 13. Acquisition of Square 757 in the District of Columbia was discussed at a public hearing held on November 20. Hearings also were conducted in connection with proposed building prospectuses, on October 8 and December 14, respectively.

During 1973, four resolutions were initiated, directing that surveys be conducted to determine the need for Federal buildings in Palmer and Sitka, Alaska; Columbia, Maryland; and Minot, North Dakota.

During the past year the Subcommittee reviewed the approved 28 prospectuses for buildings with a total estimated cost of $295,526,157 which includes $50,605,940 requested to correct cost overruns for 14 previously authorized projects. Of the remainder, 9 were new building prospectuses totaling $166,639,674, three were for building alterations totaling $11,759,000, and two were for new leases totaling $2,565,000 annually.

### Committee Film Program

The two films on air and water pollution which the Committee makes available for public showing continue to be extremely popular.

During 1973, requests for the films, "Ill Winds on a Sunny Day" and "Troubled Waters" were shown a total of 1,335 times to 46,000 people. This almost doubles the number of people who viewed the films in 1972.

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## RICHARDSON DILWORTH

Mr. HUGH SCOTT. Mr. President, for Philadelphia, the loss of Richardson Dilworth will be immeasurable. He served that city with a love and dedication which will be impossible to duplicate.

An editorial in Friday's Philadelphia Inquirer describes Richardson Dilworth as a man of "unwavering faith in the capability of the urban environment and its peoples not merely to survive but to prosper and to provide a climate for zestful, constructive living." I heartily concur in this assessment of this outstanding public servant and distinguished human being.

Mr. President, I ask unanimous consent that this editorial be printed in its entirety in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Philadelphia Inquirer, Jan. 25, 1974]

### Richardson Dilworth Gave This City a Zest for Life

Richardson Dilworth was the consummate Philadelphian of his time—in the noblest sense. He most certainly will rank among the distinguished Philadelphians of all time in love for his city and service to it.

His death at 75 deprives our community and the nation of a man who achieved extraordinary success as a practicing public servant and played an inspiring role in the urban renaissance in America when many were ready to write off the cities as a lost cause.

To recite the record of Mr. Dilworth in office—as assistant city solicitor, city treasurer, district attorney, mayor and school board president—is to chronicle only one dimension of a wonderfully warm and exciting human being. He got things done partly because he was an able administrator who surrounded himself with associates of exceptional talent—but even more so because he held strong convictions about the bright future of cities, especially Philadelphia. He had unwavering faith in the capacity of the urban environment and its peoples not merely to survive but to prosper and to provide a climate for zestful, constructive living.

Philadelphia was Mr. Dilworth's adopted city but he soon came to love it with a passion rarely equaled by natives. Born in Pittsburgh, he was 28 when he arrived here as a young lawyer in 1926. Although his interest in politics and his close poltical association with Joseph S. Clark had firmly been established in the 1930s, it was not until after World War II that the Clark-Dilworth reform movement took the city by storm and swept Republicans out of offices they had held since the 19th century.

It was the street corner campaigning of Dick Dilworth that caught the public fancy and gave reformers the momentum they needed to get into office. He was at his oratorical best in the give-and-take of dialogue with voters in the informal setting that sidewalk conveniently provided.

The legacy of the Clark-Dilworth decade in the mayor's office—1952–62—is highly visible in the center-city rennaissance from Penn Center and the Parkway to Independence Mall and Society Hill. No less important, these two dynamic mayors demonstrated the practicality of the new City Charter as an effective instrument of good government under capable leadership.

Reform was again the keynote in Mr. Dilworth's six-year tenure as president of the Board of Education. He fought tenaciously for increased local and state funding to finance higher teacher salaries, new school construction and academic innovation.

As a municipal and educational reformer, Mr. Dilworth was right for his time but he sometimes was far ahead of his time—as in the 1950s when he advocated better U.S. relations with Red China and in the 1960s when he espoused regional approaches to metropolitan problems through closer city-suburban cooperation.

The multi-dimensional personality of Mr. Dilworth had to be known to be fully appreciated. His keen wit was his greatest charm He was a man who enjoyed life tremendously and was able to laugh at his own foibles as well as those of others. He combined the manners of a cultured, courteous gentleman and the down-to-earthness of a salty politician in delightful blend. He was an entertaining conversationalist and an attentive listener, an all-too-rare combination.

Richardson Dilworth will be missed with greatest sadness by his family and legion of friends. But he will be missed also by countless thousands who knew him only as a never-say-quit reformer who believed in action as well as words and was extraordinarily adept in the use of both.

Despite his successes, he did not live to see all of his grand, sometimes precocious, always exciting dreams for Philadelphia fulfilled. That task remains. To get on with it would be this city's greatest tribute to Richardson Dilworth.

## THE DEFEAT OF IDA REPLENISHMENT

Mr. KENNEDY. Mr. President, last Wednesday, the House of Representatives, by a vote of 248 to 155, rejected increased U.S. participation in the International Development Association—IDA. Had this bill passed, it would have authorized a U.S. contribution of $1.5 billion during the next 3 years to the fourth replenishment of IDA funds.

Many Members of this Chamber have been critical of U.S. bilateral foreign aid. But far fewer have been critical of multilateral aid, and fewer still of the role that IDA plays in economic development. Its funds do not involve the United States or other countries in the internal affairs of developing countries; nor do its funds go to countries that are on the verge of becoming developed, or to large capital projects that are more show than substance.

In the words of Robert McNamara, President of the World Bank Group of which IDA is a part, its funds go to the "poorest of the poor"—both to countries that cannot qualify for regular World Bank loans at commercial rates of interest, and to projects best designed to help people who have next to nothing.

The United States has played an important role in setting up and funding IDA. Some critics have argued that we contribute too much and, accordingly, the United States has negotiated a reduction in our contribution for the next replenishment, from 40 to 33 percent of the total.

Even more important, the international negotiations that produced the new formula were a complex affair, involving an exchange of pledges by many donor countries. As the longstanding leader in supporting IDA, what we do is critical to the whole effort to get many nations to sustain and increase their contributions. By rejecting our role in IDA, therefore, the House has placed the entire effort in jeopardy. It will be small wonder if other developed states renege on their commitments, illustrating once again that most unfortunate but most iron law of economics: that the poor shall come last.

I am mindful of a new argument that was introduced into the House debate: That the oil-producing countries are now in a better position to provide development assistance; and that in view of the energy crisis they should be called on to take up the slack, either through loans or through reduced oil prices for poor countries.

Mr. President, it is true that several of the major oil-producting states now earn far more money than they can spend on their own development. It is true that they have surplus funds that could usefully be used for the development of other states, both in the Middle East and elsewhere. On December 6, I proposed to the Senate a series of measures designed to promote the flow of oil from these states. Among these measures was the need for us to encourage oil-producing states to share their new wealth with the have-not states and peoples of the world.

This would, indeed, be a happy development. However, despite the creation of development banks by oil exporting states—and despite last week's pledge of $200 million in 1-percent loans for African countries—these efforts are only just beginning.

A role for the oil-producing states in helping the poor countries will not take place in a vacuum. It will only take place if there is an international climate that supports greater social justice in the world, and that holds the development of poor countries to be important.

We can encourage the oil-producing states to make more of their wealth available where it is needed most, but we can do this only if we demonstrate a willingness to do our part. This means bringing the oil-producing states fully into the world economy, where they will feel increased responsibility to play a constructive role. And this means continuing to set an example of concern.

Psychologically, this is a critical time. In many developing countries, the growing economic power of the oil-exporting countries has been greeted with loud approval, even by countries that are suffering from increased oil prices. This shift in economic power has even been called a "Russo-Japanese War in Economics," in reference to the first major defeat of a white Western power by an Asian one in modern times. Thus there is a real risk of further divisions between rich and poor countries in the world, with increasing pride on the part of poor countries alienating opinion in the industrial states.

For the survival and progress of the world economic system, it is essential that these divisions between rich and poor do not increase, or we all will suffer.

It is regrettable, therefore, that the administration, which sponsored the IDA legislation, so conspicuously failed to support it in the Congress. At the very time that the House was preparing to scuttle our IDA contribution, the Secretary of the Treasury was attending the Committee of Twenty meeting in Rome, appealing to the oil-producing states and others to work together in solving the energy crisis.

Now his words mock themselves, as the administration has failed to demonstrate that we in the United States are prepared to join in cooperation with others, as a means for securing their cooperation in return.

In part, this simply represents the ineffective handling of foreign economic issues in the administration, where competing agencies and officials undercut one another and fail to coordinate the policies of the United States. But in part it also reflects a failure of attitude. Today, there can be only one attitude to guide us in the future of our economic relations with other countries. It is to accept our involvement in the outside world; to accept the interdependence of nations; and to reassert our leadership in creating a climate that will permit cooperation rather than conflict in international economic relations.

Mr. President, for all these reasons, the rejection by the House of the IDA replenishment will have consequences far beyond the immediate issue involved. It was a demonstration of our failure to understand the demands of cooperation in changing times; and it was a measure of how far we have to go in shaping institutions of world trade that will help us, because they help all nations. Not only the developing countries will suffer from this vote, therefore, but also the United States and other developed countries will suffer as well.

Our intentions are being tested—toward development, toward seeking an international resolution of the energy crisis, and toward building a new economic world that will benefit all nations during the remainder of this decade. We must not fail this test.

Mr. President, I ask unanimous consent to print in the RECORD an editorial from the Washington Post of January 25, 1974.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 25, 1974]

### CRISIS OF AID

The House vote denying new funds for development aid is the shocking but logical result of the world economic crisis created by the oil price increases. In recent years, the margin of congressional tolerance for aid, whether given straight to the recipients or channeled through the international development agencies, has been extremely thin. That margin utterly disappeared in the wake of the oil price increases, whose cost to the poor countries more than wipes out the foreign funds they could expect to get for development. Why should the United States help the poor, the Congress asked, when the money will merely be passed on to the oil producers? This argument ignores not only the poor countries' desperate needs but the political and moral interest of the United States in continuing participation in development. But it provided Congress with the excuse it needed to say no.

So it was that House Republicans voted by almost 3 to 1 not to contribute the proposed $1.5 billion over four years to the World Bank's easy-money branch, the International Development Association (IDA), which helps the poorest of the poor. Democrats opposed the administration bill too, though by a lesser edge. Since other donor countries will likely seize on the American example to justify their own retreat, the House vote means in effect that the whole carefully negotiated $4.5 billion IDA package may go down the drain. Donor support for the regional development banks now also comes into deep jeopardy.

The administration's reaction to the reversal is indicative of the general confusion generated by the energy crisis. It had worked long and carefully before October to reduce the American share in IDA from 40 per cent to a more palatable 33 and to nourish congressional support. It argued, correctly, that without American leadership in IDA, the basic structure of international development assistance would crumble. What the administration failed to do, however, was to crank the post-October turmoil into its political thinking on aid. After the House vote on Wednesday, the Secretaries of State and Treasury scolded the Congress as though nothing had changed. They displayed no hint of awareness that the basis of political support for aid has been shredded. Whether it can be restored, though unquestionably worth the effort, is problematical. Congress, listening to rumbles of voter discontent at home, is hardly in the mood to heed appeals to do the statesmanlike thing.

The problem of presidential leadership aside, the root trouble is that in Congress' eyes—and not only in its eyes—it is now the Arabs and other oil producers and not the United States and its Western partners who have the extra cash which can be put to use for development. This is, as we say, a shortsighted view, but it is liable to be the controlling view until the oil producers start showing some responsibility for the massive blows they have struck against their friends, the poor. So far the producers have been brutal. They have not only hurt their friends but have refused to consider means of relief, such as a two-tier price system. The blow must be particularly galling to those African nations which, at Arab bidding, broke relations with Israel during the October war.

Already it is becoming clear that the deepest effects of the war lie not in terms of political relations in the Mideast but in terms of a fundamental change in relations between the world's consumers and producers of natural resources. In turn, this bids to render inadequate, if not entirely obsolete, the whole mechanism by which capital and technology have been transferred from "rich" countries to "poor" countries at least since World War II. The World Bank, the regional development banks and the various national aid programs have made up a large part, the official part, of this transfer mechanism. But the terms on which it will continue its operations must now be reappraised. This is a large task that will take many minds, many nations, many years. The shock of the House vote is just one early indication of the need to get the process under way.

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## NATIONAL STATUS OF FARMERS

Mr. DOLE. Mr. President, the general public has an increased understanding of agriculture these days. Consumers better understand the production costs farmers face in the prices of fuel, fertilizer, equipment and other essential materials.

### NATIONAL BENEFIT

But we still have a long way to go to get full public understanding of the meaning of the increased output from our Nation's farms. Agricultural production benefits the entire country and every American citizen. It may not be widely known, for instance, how much farmers have done to help counteract inflation over the years. Farm output has set a record for each of the last 3 years. This record production helps account for the fact that the food dollar still goes further in getting quantity and quality than for other commodities.

The public is not fully aware that farmers' productivity per man hour has been increasing at twice the rate in industry. Farmers do not go on strike for higher wages. They are staying on the job and are working hard. Their work days are unusually long and at least 6 days to a week.

The schoolchildren who are growing up with affluence all around them are not learning as they might that farm output and efficiency have released 95 percent of the people from the land and the basic need to produce food. And our children are unaware that this 95 percent of the population is thus able to work at something else, creating the great affluence, the culture, the medical services, and the recreation and comforts that make this Nation such a mecca of affluence.

### INTERNATIONAL POSITION

There are many who are not aware that in a time when this Nation's industries find it more and more difficult to sell their products in international competition, against the efficiency of foreign competition, U.S. agriculture is meeting the challenge. In the first 10 months of this year, we were able to sell a record $13.6 billion of agricultural products—exceeding food imports by a trade surplus of $6.8 billion. This overcame the $6.6 billion deficit in nonagricultural trade, and provided valuable foreign exchange with which to buy badly needed energy, other vital materials, and consumer goods.

### ECONOMIC FACTS

This year during the fuss over food prices many people learned about the economics of food production. They learned how controls can hamper production, not increase it. They also learned that farmers are like other people—that they need to get a decent return to stay in business to make the capital investments necessary to assure us all of having a plentiful food supply in the future.

Right now, people are learning one of the basic fundamentals of the food situation—the rule that when farm prices go up, they usually come down later. But when other prices go up, they usually stay up. For example, between the middle of August and this month, farmers' corn prices fell 21 percent; fed steer prices dropped 32 cents; hog prices fell 34 percent; and soybean prices are down 37 percent. I challenge my colleagues to find any other group in the American economy who has taken this kind of a cut in the price of their products.

If farmers are going to produce fully in 1974 they need to be able to see the prospect of reasonable returns from their work and investments. They need assurances that they can get fertilizer and the fuel necessary to plant the crop, take care of it, harvest it, dry it, and move it to market.

These things are not fully understood by the nonfarm public. The recent national survey by the Facer group, made up of the six national professional agricultural communicator organizations, shows the challenge that is before us to communicate more effectively with the nonfarm public.

But let me say that things are much better than they were. We have made great progress in the last year or two in getting a better understanding of these vital matters.

### LEADER FOR AGRICULTURE

One of the reasons has been the increased interest in food and food prices. Another reason has been that we have had a Secretary of Agriculture who has been traveling the length and breadth of this land talking eloquently and frankly with the American public.

Secretary of Agriculture Butz has been the most effective spokesman that agriculture has ever had. Not only does he know the agricultural situation from his great depth of background, but he can explain it simply, directly and in an interesting fashion.

Secretary Butz has been a tireless worker in his 2 years in office as Secretary of Agriculture. It was 2 years ago that this body confirmed his appointment—after some lengthy discussion, I might add. In those 2 years, Secretary Butz has put a new spring in the step of the Department of Agriculture. He has worked effectively for a better understanding of agriculture. He has fought effectively against ill-conceived action that would harm farmers, and would lead to food shortages for consumers instead of adequate food supplies. He has brought new hope, and more well-deserved income, to farm people.

As one indication of Secretary Butz's effectiveness as a spokesman for food and agriculture in that 2-year period of time, he has held 169 scheduled press conferences in all parts of the country. He has had 165 scheduled individual interviews with the press, and he has made 265 scheduled speeches. When you include 121 individual radio presentations, this comes to a total of 720 scheduled public information activities in those 2 years.

Anyone who has had an active role in public office can appreciate the energy, vitality, and dedication it takes to keep up that pace of public appearances.

In addition, Secretary Butz has met often with committees of the Senate and of the House. And, of course, there have been the demands of running the U.S. Department of Agriculture in a time of rapid change.

I am sure that you join me in this salute to a dedicated and competent Cabinet official who has performed so magnificently during the last 2 years.

With the continued challenges and difficulties facing American agriculture, we need a man like him to provide continued leadership and support for our farmers. A big job remains to be done in bringing about a better understanding between agriculture and consumers and we need all the help we can get.

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## SENATE LOSES DEDICATED AND EFFICIENT SERVICES OF STEWART E. McCLURE—RETIRES AFTER 24 YEARS OF PRODUCTIVE SERVICE

**Mr. RANDOLPH.** Mr. President, when the 1st session of the 93d Congress adjourned last month the Senate lost, through the retirement of Stewart E. McClure, the services of one of its most dedicated and able staff members. For 16 years, on two different occasions, he served as staff director of the Senate Committee on Labor and Public Welfare.

It is traditional in the Congress that staff members function in virtual anonymity. Those of us who are Members of the Senate and House of Representatives occupy the public spotlight, but the growing complexities of Government are such that we must have staff support of high quality if we are to adequately exercise our responsibilities.

For more than 24 years, Stewart McClure provided the kind of staff work that is essential to the effective functioning of Congress. On the occasion of his retirement it is eminently right to remove from him the cloak of anonymity and to recognize the contributions he has made to representative government in the United States.

Mr. President, when I became a Member of the U.S. Senate in November of 1958, one of the first callers I received was Stewart McClure who came to welcome me and to discuss my appointment as a new member of the Committee on Labor and Public Welfare. In the intervening years I have come to know him well and to admire him greatly as an extremely able Senate staff member as well as a conscientious and compassionate human being.

As a native of the State of Iowa, it was perhaps fitting that Stewart McClure began his Senate career as administrative assistant to a Senator from that State, the late Guy M. Gillette with whom I enjoyed a cherished friendship. He served in that capacity from 1949 until 1955. He was then appointed staff director of the Committee on Labor and Public Welfare by former Senator Lister Hill, who was assuming the chairmanship of the committee. From 1969 to 1971, Stewart served as a member of the professional staff of the Committee on Public Works and then returned to his previous position to complete his Senate career.

Mr. President, these are the chronological facts of Stewart's tenure on the Senate staff. Such a brief summary obviously does not reveal the full extent of his contributions. His impact on the legislative process has been considerable and it came about during a period in which congressional responsibilities have grown rapidly. This growth is reflected in the fact that the staff of the Committee on Labor and Public Welfare has grown from 14 persons when Stewart McClure first assumed its direction to more than 100 today.

This expansion of staff would be meaningless if its energies were not channeled in productive directions, particularly on a committee with such direct impact on the daily lives of the American people. Several innovations in both committee organization and staff utilization were developed during Stewart McClure's tenure. In 1959, a special Subcommittee on the Aging was created. I was privileged to be a member of that subcommittee and to participate in an extensive series of hearings throughout the country to assess the particular needs of our elderly citizens. From these inquiries came the impetus that resulted in the enactment of the medicare program, a significant breakthrough in providing medical care. From this work also came the creation in the 87th Congress of the Special Committee on Aging as a separate entity.

In the early 1960's a Special Committee on Unemployment conducted exhaustive studies and as a result of its findings a standing subcommittee on this subject was created within the Committee on Labor and Public Welfare. I was privileged to be the first chairman of that subcommittee.

These two instances are indicative of the breadth and scope of the Committee on Labor and Public Welfare in the area of humanitarian concerns, an area particularly attuned to the sensibilities of Stewart McClure.

Mr. President, this talented individual

has also been active outside the formal structure of the Congress. His concern for his country and its form of government involved him in activities that led to the creation of the Fair Campaign Practices Committee and the National Committee for an Effective Congress.

During the 2 years Stewart McClure labored with the Committee on Public Works his talents and experience were utilized in legislative areas of pressing concern. He was the professional staff member for our Subcommittee on Economic Development and, as such, directed staff work on legislation pertaining to the Appalachian Regional Commission and the Economic Development Administration. He also was responsible for important staff work during the development of the Disaster Relief Act of 1970 which, for the first time, created the mechanism for a Federal response to natural disasters.

Mr. President, it is indicative of the energy and wide-ranging interests of the man that Stewart McClure will not be inactive although he is formally retired from Senate service. Indeed, I would have been surprised had he chosen the rocking chair over continued constructive involvement in public affairs. Stewart's broad experience and his intellectual capacity will make him a valuable contributor to the cause of better government.

Mr. President, Stewart McClure holds great respect for our former colleague, Lister Hill, with whom he was so closely associated for 14 years. That this feeling is reciprocal is indicated in a letter I recently received from Senator Hill. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MONTGOMERY, ALA.,
*December 13, 1973.*

Senator JENNINGS RANDOLPH,
*Senate Office Building,*
*Washington, D.C.*

MY DEAR JENNINGS: I want to thank you for your letter, but I must tell you that I regret to see Stewart McClure retire. He has been such a fine and able public servant. In fact, in all my 46 years in the House and Senate I never knew a finer one. He is so able and could always write such a spendid report on legislation, and he was a beautiful speech writer. He was not only a man of great ability but one of great dedication and integrity, and his departure is indeed a loss to the Senate and to our country. Please convey to him my affectionate regards and all my good wishes for a happy and rewarding future.

With deep appreciation for your letter and with many thanks for your services to our country,

Sincerely your friend,

LISTER HILL.

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## THE REVEREND JAMES LUKE GOODWIN

**Mr. THURMOND.** Mr. President, the Reverend James Luke Goodwin, a devout and dedicated man of God who served as minister of the First Presbyterian Church in Aiken, S.C., for 23 years, died last week. Characteristically, he was performing a service that had been part of his clerical stewardship at the time he was stricken.

In preparation for a marriage ceremony at his church, this beloved minister suffered the heart attack which ended his life. He had known of the vulnerability of his heart since an earlier attack, but chose to continue the ministry which his life represented.

Throughout the years since 1951, when Mr. Goodwin arrived in Aiken, he was a dynamic force in the community, absorbing the distresses of his flock, and counseling the wisdom of the ages. His words were both inspirational and fluent and his grasp of the Christian role was imparted with clarity.

In addition to the eloquence of his message, however, he was also a man of action in the cause he espoused. Service to people through a host of outlets was his way. For example, he had been instrumental in activities of the Salvation Army and the Red Cross, among others. Yet, his greatest efforts were with individuals who could count on the strength of his support. He was one of the ministers who officiated at our wedding when Mrs. Thurmond and I were married December 22, 1968, and later, he christened our two children. We, as thousands whose lives he touched, have always held him in the highest esteem and affection.

The congregation and community which he served have lost an outstanding inspiration and friend. However, the Christian principles that he taught and demonstrated in his daily life have left a legacy of understanding which will serve the spiritual and human needs of those he loved.

Mr. President, I extend my deepest sympathy to his devoted and lovely wife, Mrs. Sally Moorhead Goodwin; his two daughters, Mrs. Lynn Periano of Augusta, Ga., and Miss Kate Goodwin of Aiken; his son, James Allan Goodwin of Davidson, N.C.; his sister, Mrs. Roy C. Ryan of Moundsville, W. Va., and his brother, Earl Goodwin of Wheeling, W. Va.

Mr. President, at the time of his death a number of articles and editorials appeared about the life of Reverend Goodwin. I ask unanimous consent that four of these articles be printed in the RECORD at the conclusion of my remarks. They are as follows: "Services Scheduled Today for Rev. J. Luke Goodwin," the Aiken Standard, Aiken, S.C., January 21, 1974; "Rev. Luke Goodwin, Aiken Minister Dies," the Augusta Chronicle, Augusta, Ga., January 21, 1974; "The Reverend James Luke Goodwin," the Aiken Standard, Aiken, S.C., January 21, 1974; and "James Luke Goodwin," the Augusta Chronicle, Augusta, Ga., January 23, 1974.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Aiken Standard, Jan. 21, 1974]

### SERVICES SCHEDULED TODAY FOR REV. J. LUKE GOODWIN

The Rev. James Luke Goodwin, 56, who has been minister of First Presbyterian Church in Aiken since 1951, died Saturday just prior to a wedding at which he was scheduled to officiate.

Mr. Goodwin had been in ill health for over a year when he suffered a heart attack. He died in Aiken County Hospital.

Memorial services will be held this afternoon at 5:30 o'clock in the First Presbyterian Church with the Rev. Jerry Robinson officiating.

Mr. Goodwin was a native of Wheeling, W. Va., a graduate of Finley College, Ohio, and a 1948 graduate of Yale Divinity School.

After serving as a chaplain in the Army from 1944–47, he was associate pastor of the First Presbyterian Church, Jacksonville, Fla., from 1948 to 1951, when he became pastor of the First Presbyterian Church in Aiken. He was past chairman of the board of trustees of the South Carolina Home at Montreat, N.C., and served on various committees on the Presbytery and Synod levels of the church.

Active in the Aiken Community, he served on the advisory board of the Aiken Salvation Army, was a past president of the Aiken Rotary Club and a past chairman of the Aiken County chapter, American Red Cross.

Surviving are: his widow, Mrs. Sally Moorhead Goodwin; two daughters, Mrs. Lynn Periano, Augusta, Miss Kate Goodwin, Aiken; one son, James Allan Goodwin, Davidson, N.C.; one sister Mrs. Roy C. Ryan, Moundsville, W. Va., and one brother, Earl Goodwin, Wheeling, W. Va.

Memorial contributions may be made to the Heart Fund or the First Presbyterian Church.

Friends may call at the residence or at George Funeral Home.

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[From the Augusta Chronicle, Jan. 21, 1974]

### REV. LUKE GOODWIN, AIKEN MINISTER DIES

AIKEN.—The Rev. James Luke Goodwin, 56, of 347 Hillcrest Road, S.W., Aiken, pastor of the First Presbyterian Church, died Saturday in the Aiken County Hospital.

Memorial services will be held today at 5:30 p.m. in the First Presbyterian Church with the Rev. Jerry Robinson officiating.

The Rev. Goodwin was a native of Wheeling, W. Va., a graduate of Finley College, Ohio, and a 1948 graduate of Yale Divinity School.

After serving as a chaplain in the Army from 1944–47, he was associate pastor of the First Presbyterian Church, Jacksonville, Fla., from 1948 to 1951, when he became pastor of the First Presbyterian Church in Aiken. He was past chairman of the board of trustees of the South Carolina Home at Montreat, N.C., and served on various committees on the Presbytery and Synod levels of the church.

The Rev. Goodwin also served on the advisory board of the Aiken Salvation Army, was a past president of the Aiken Rotary Club and a past chairman of the Aiken County Chapter, American Red Cross.

Survivors include his widow, Mrs. Sally Moorhead Goodwin; two daughters, Mrs. Lynn Periano, Augusta and Kate Goodwin, Aiken; one son, James Allan Goodwin, Davidson, N.C.; one sister, Mrs. Roy C. Ryan, Moundsville, W. Va., and one brother, Earl Goodwin, Wheeling, W. Va.

Memorial contributions may be made to the Heart Fund or the First Presbyterian Church.

Friends may call at the residence.

George Funeral Home, Aiken, is in charge.

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[From the Aiken Standard, Jan. 21, 1974]

### THE REVEREND JAMES LUKE GOODWIN

The Rev. J. Luke Goodwin died Saturday as he prepared to perform a marriage service at the First Presbyterian Church, where he had served as pastor for 23 years.

He had suffered a heart attack about eight years ago and after a second major attack last spring had been advised by his physicians to retire. Fully warned of the gravity of his condition and with the knowledge that he could "go at any time" unless he drastically curtailed all his activities, Mr. Goodwin elected to continue to minister to his congregation.

His death came as no real surprise to those closest to him, but the shock to the whole Aiken community is no less severe.

Few ministers in Aiken's history have made so strong an imprint on the character of our city as Mr. Goodwin. When the First Presbyterian Church chose him as its minister the membership stood at less than 300. While all churches of the city have grown in the two decades that followed the coming of the Savannah River Plant, the Presbyterians have witnessed an unusual renewal of vigor that was evidenced several years ago in the dedication of a new million-dollar physical plant. The membership now exceeds 1,000.

Many newcomers to Aiken were attracted by the intellectual qualities of the sermons that emanated from the pulpit of the First Presbyterian Church. With a voice and style of delivery that were incomparable, Mr. Goodwin presented sermons that reflected great care and much study in the preparation. He read avidly and found inspiration in both sacred and secular literature, and especially in the works of nature.

He related Christianity to the major issues that Christians face in modern times. He had the soul of a poet and a magnificent gift with words, flavored by a fine sense of humor. He possessed a social nature that made him at home in any surroundings.

Those who knew him best also knew that he was a deeply compassionate man, who bore on his shoulders the sufferings of his congregation. He had served with valor as a chaplain in World War II. War was real to him; he had seen many young men die on the battlefield, and the recollection was enough to bring tears to his eyes even 30 years later.

To die in his clerical robes in the service of his Maker was Mr. Goodwin's choice, and this he realized. He left behind a devoted family, a congregation and a community that mourn his passing and a church that stands today stronger than ever.

The Aiken Standard extends its deepest sympathy to those who grieve him.

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[From the Augusta Chronicle, Jan. 23, 1974]

### JAMES LUKE GOODWIN

Relatively few persons have wielded the influence for good that the Rev. James Luke Goodwin exerted during the 20 years of his pastorate at the First Presbyterian Church of Aiken.

A kind and compassionate man for whom the problems of others became his, the Rev. Mr. Goodwin served not only his own parishoners, but counseled a whole generation of young people, giving no thought to denominational lines, to color or to creed.

By every standard, Luke Goodwin was an ecumenical man who played no favorites. Rather, he was a friend to all, a frequent adviser over the years to members of Aiken's winter colony and, as well, to delinquent youths for whom help was constantly sought by Aiken's law enforcement officials.

An Army chaplain during World War II, the Rev. Mr. Goodwin served his fellows in a variety of constructive ways—on various church boards and through civic organizations.

Eight years ago, and again last spring, he suffered heart attacks. Orders from his physicians to curtail his activities were ignored. He wanted to die, he told friends, in full stride.

Last Saturday, as he donned his robe in preparation for a wedding ceremony he was to perform, a third heart attack took his life, and the Rev. James Luke Goodwin, who had so many friends and had served his fellow man so well, died at the age of 56—in his beloved church, and in full stride.

All mankind is the loser.

## RESULTS OF QUESTIONNAIRE IN STATE OF MAINE

Mr. HATHAWAY. Mr. President, in October, I sent out a questionnaire to 140,000 residents of Maine asking for their views on the pressing issues facing the State of Maine as well as the rest of the Nation at that time. More than 14,000 people responded, a return rate in excess of 10 percent, which is quite good for a questionnaire of this sort. I have completed tabulating the results and would like to share this information with my colleagues.

I would like to emphasize that at the time the questionnaire was put together and sent out, the energy shortage had not reached the critical stages which developed, at least in part, from the cutoff of Arab oil exports to the United States. In a visit to Maine earlier this month I learned that the fuel shortage was certainly the No. 1 concern of the people I talked with. This point should be kept in mind when reading the results of this questionnaire, particularly in evaluating the responses to the last question where the respondents ranked the issues they believed to be most critical.

I ask unanimous consent that the questionnaire results be published in the RECORD at the end of this statement.

There being no objection, the results were ordered to be printed in the RECORD, as follows:

### RESULTS OF HATHAWAY QUESTIONNAIRE

1. Are you in favor of withdrawing American military personnel and their dependents presently stationed in foreign countries?

| | |
|---|---|
| Yes | 51.4 |
| No | 35.1 |
| Undecided | 13.5 |

2. Do you favor legislation protecting the claimed right of newsmen not to reveal the identity of their sources?

| | |
|---|---|
| Yes | 59.4 |
| No | 35.5 |
| Undecided | 5.1 |

3. Are you willing to pay higher prices and/or taxes to help solve the problems of air and water pollution?

| | |
|---|---|
| Yes | 53.1 |
| No | 36.2 |
| Undecided | 10.7 |

4. Is the Volunteer Army more acceptable to you than the draft even though it requires higher pay to attract sufficient volunteers?

| | |
|---|---|
| Yes | 60.3 |
| No | 31.4 |
| Undecided | 8.3 |

6. Should the owners of guns be required to register them?

| | |
|---|---|
| Yes | 64.2 |
| No | 32.2 |
| Undecided | 3.6 |

7. Do you believe that the Office of Economic Opportunity should continue to administer the Nation's antipoverty programs?

| | |
|---|---|
| Yes | 35.4 |
| No | 37.6 |
| Undecided | 27.0 |

8. Do you believe that revenue sharing should be eliminated so that Federal grants can be tied to specific projects and uses?

| | |
|---|---|
| Yes | 37.4 |
| No | 41.9 |
| Undecided | 20.7 |

9. Should the President be able to withhold funds appropriated by Congress?

| | |
|---|---|
| Yes | 20.8 |
| No | 74.0 |
| Undecided | 5.2 |

10. Do you believe that members of the executive branch should be able to use "executive privilege" as a reason for refusing to testify before congressional committees?

| | |
|---|---|
| Yes | 18.2 |
| No | 77.2 |
| Undecided | 4.6 |

11. Do you favor public financing of campaigns for elections to Federal offices, that is, the President, Vice President, Senators, and Representatives?

| | |
|---|---|
| Yes | 56.2 |
| No | 34.7 |
| Undecided | 9.1 |

12. Do you favor continuing efforts to increase U.S. trade with Russia and the People's Republic of China?

| | |
|---|---|
| Yes | 61.4 |
| No | 25.8 |
| Undecided | 12.8 |

13. Are you in favor of Federal controls on wages and prices?

| | |
|---|---|
| Yes | 45.2 |
| No | 42.0 |
| Undecided | 12.7 |

14. List in their order of importance (by placing numbers 1 through 8 after each) the issues you believe are most critical at the present time:

[In percent]

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|---|---|---|---|---|---|---|---|---|
| (a) Encouraging industry to Maine | 12.6 | 11.0 | 12.7 | 9.2 | 11.2 | 11.4 | 9.4 | 2.8 |
| (b) Rural health care | 4.4 | 11.2 | 10.7 | 19.6 | 15.9 | 12.9 | 4.4 | 1.6 |
| (c) Transportation | 2.3 | 5.9 | 6.4 | 7.5 | 9.4 | 14.8 | 23.7 | 8.5 |
| (d) Restoring confidence in government | 36.4 | 13.6 | 7.1 | 6.4 | 5.6 | 5.5 | 7.1 | 1.9 |
| (e) Care for aging | 6.4 | 16.7 | 22.0 | 15.1 | 11.2 | 6.4 | 2.3 | 1.7 |
| (f) Public housing | 2.0 | 5.9 | 11.0 | 10.4 | 13.8 | 14.7 | 14.1 | 3.7 |
| (g) National defense | 14.7 | 16.7 | 10.4 | 8.3 | 8.9 | 9.4 | 11.4 | 4.2 |

Note: "Other issues" suggested by the respondents varied widely with no issue predominant.

## RICHARD FOLSON CLEVELAND

Mr. MATHIAS. Mr. President, many tributes to Richard Cleveland and to his accomplishments have been offered since his death on January 10. Few will be, however, more concise, yet more eloquent, than that of Dr. Richard D. Weigle, president of St. John's College. Dr. Weigle has justly called Mr. Cleveland "a great man, a wise counselor, and a firm friend."

Mr. Cleveland's service to St. John's College is one among many examples of the proof that he gave through his life that a man may be a public servant without holding public office. Through the profession of law and through many significant organizations, Richard Cleveland did lead a lifetime dedicated to public service and countless Americans today benefit from his efforts. All of these and all of his friends joined St. John's College in bowing its head at the time of his death. I ask unanimous consent that

Dr. Weigle's statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

JANUARY 10, 1974.

### RICHARD FOLSOM CLEVELAND

St. John's College mourns the death of Richard Folsom Cleveland, great and good friend, who served for over forty years as a member of its Board of Visitors and Governors. Mr. Cleveland died at his home in Baltimore in the early hours of Thursday, January 10, 1974, following a long and lingering illness. He was in his seventy-seventh year.

Son of President and Mrs. Grover Cleveland, Richard Cleveland graduated from Princeton and entered upon a distinguished career in the law. He became a partner in the firm of Semmes, Bowen, and Semmes for the balance of his life. Generally recognized as one of Baltimore's first citizens, he gave of himself unselfishly in civic and community activities. The last notable service he rendered was as delegate to the Maryland Constitutional Convention in the late 1960's.

From the early 1930's Richard Cleveland had an abiding interest and concern for St. John's College, whose Board he chaired for two decades. He was one of those responsible for introducing the New Program in liberal education in 1937. Then in 1945 he led the successful defense of the College against the efforts of the United States Navy to expand the Academy at the expense of the St. John's campus.

From a personal point of view, I recall with gratitude and affection that it was Richard Cleveland who approached me about assuming the St. John's presidency in the summer of 1949. Over the years he has been a tower of strength and a source of wise counsel as Board Chairman and as a loyal friend. His dedication to the educational ideals of St. John's College was complete. The College sought to recognize in some small measure his invaluable contributions to its well-being by designating him both Honorary Fellow and Honorary Visitor and Governor.

St. John's College bows it head in tribute to a great man, a wise counsellor, and a firm friend. The members of the College community on both campuses extend their deepest sympathy to his wife and the other members of his family.

RICHARD D. WEIGLE, *President*.

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## PROLIFERATION OF SURFACE NUCLEAR POWERPLANTS

Mr. ROBERT C. BYRD. Mr. President, on September 20, 1973, I asked the Chairman of the Atomic Energy Commission seven questions in a brief speech on the Senate floor. At the same time, I wrote a letter to Dr. Ray in which I repeated those questions, which dealt mainly with my concern for reports I had heard that surface emplaced nuclear powerplants constituted a potential danger to the security of the United States. In addition, I asked reassurance that other reports concerning the possible hazards to life and property in the event of an accident at a nuclear powerplant were groundless.

I have received detailed replies to my questions from the Chairman of the Atomic Energy Commission, and I ask unanimous consent that Dr. Ray's letter to me and the replies to my questions that accompany it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. ATOMIC ENERGY COMMISSION,
*Washington, D.C., September 24, 1973.*
Senator ROBERT C. BYRD,
*U.S. Senate.*

DEAR SENATOR BYRD: Chairman Ray has received your letter of September 20 stating your concerns with regard to proliferation of surface nuclear power reactor plants in the United States.

She has requested the staff to assemble the material that will respond to the questions in your letter so that the Commissioners may respond promptly.

Sincerely,

PAUL C. BENDER,
*Secretary of the Commission.*

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U.S. ATOMIC ENERGY COMMISSION,
*Washington, D.C., October 17, 1973.*
Hon. ROBERT BYRD,
*U.S. Senate.*

DEAR SENATOR BYRD: I am writing in response to your letter of September 20, 1973, in which you enclosed several questions on the safety of nuclear power.

My fellow Commissioners and I appreciate the spirit in which you asked the questions and the fact that you have given us this opportunity to present the information on which we base our judgments and carry out our responsibility to protect the health and safety of the public. As you observed in your letter, it is important that the "American people be assured, if certain allegations as to the potential danger of these plants to the national security are indeed groundless".

I have attempted to answer each of your questions in a straight-forward manner. The information provided in these responses should make it clear that these allegations are without basis in fact.

If you wish further information please do not hesitate to let me know.

Sincerely,

DIXY LEE RAY, *Chairman*.

Enclosure: Response to Questions.

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### RESPONSE TO QUESTIONS

**1. Is the vast R&D expenditure undertaken by the United States in the field of commercial nuclear power justified in the light of what some experts claim is the very limited availability of uranium?**

This is really two separate questions:

How vast are the civilian nuclear power R&D expenditures of the U.S.?

How limited is uranium availability?

The answer to the first question is relatively easy to provide. During the last 25 years through FY 1973 the Government has spent about $1.5 billion on the development of Light Water Reactors (LWR). How big this expenditure is can be gauged against the commitment of private industry to build commercial nuclear power plants. As of September 1, 1973, the private sector has in commercial operation, under construction, or on order a total of 171 LWR plants with a designed capacity of approximately 161,000 MWe and representing an investment of more than $60 billion. Thus compared to the industrial base which it has generated, government R&D expenditures on civilian nuclear power can hardly be considered "vast."

The second question deals with the availability of uranium which certain "experts claim is very limited." The facts belie this claim. The cumulative demand for $U_3O_8$ through the year 2000 can be fulfilled from presently known resources without any drastic economic penalty. Three factors will act to increase sharply resource availability in the future:

We are likely to find considerably more low-cost uranium as exploration intensifies.

As fossil fuel prices continue to rise and with possible improvements in mining and milling technology, higher cost uranium resources whose location is already known will become competitive.

Eventual commercialization of breeder reactor technology will further increase the energy available from known resources by 50 to 70 times.

This likely increase in availability of uranium means that the energy available to the Nation from nuclear fuels will last many centuries even if extremely high rates of growth in usage are assumed. It is not correct, therefore, to allege that we will run out of nuclear fuels in the near future.

**2. Just how "unlikely" is an "unlikely accident", as described by the AEC and is the AEC completely satisfied that every possible safety precaution is being taken *at all times* in the commercial power reactor plants that soon will number almost 100 all over the United States?**

This question also consists of two parts: (1) How "unlikely" is an accident which could affect the public health and safety, and (2) How satisfied is the AEC that every possible safety precaution is always taken?

In almost two thousand reactor years of operating experience with military and commercial power reactors, there has not been a single accident affecting the public health and safety. On the basis of current reactor design, construction and operating requirements, technical experts have estimated that the likelihood of an "unlikely" accident with serious consequences to the public is on order of one in a million reactor years. These figures, it should be recognized, are not precise ones. The Commission has undertaken an independent study, directed by Professor Norman Rasmussen of MIT, to provide detailed quantitative estimates of the probability of severe reactor accidents and their consequences. Should the results of this study show that the risks are greater than expected, you can be sure that the Commission will take the steps necessary to reduce them to an acceptable level.

The Commission is, of course, satisfied that power reactors which meet its strict design, construction and operating requirements afford the necessary protection to the health and safety of the public.

On the other hand, we cannot be so "completely satisfied" that we cease to improve our understanding of nuclear power reactors or that we fail to see that all reasonable precautions are taken. The Commission conducts its own vigorous safety research and development program. In addition, the operating experiences of commercial reactors are being continually monitored by our Regulatory staff. Both of these activities increase our depth of knowledge and enable us to attain greater precision in the margins of safety under which we permit operation.

**3. Is the AEC confident that the security plans against plants by enemies of this nuclear reactor plants by enemies of this Nation, are totally adequate to prevent a disaster of almost inconceivable magnitude?**

**4. Are the AEC and the Administration satisfied that in the event of war, this proliferation of surface nuclear reactor plants *does not present a target for demolition by enemy action, the successful completion of which would cause a population loss so devastating that defense of the United States would become meaningless?***

Questions three and four center on the vulnerability of surface nuclear power plants to attack by foreign or domestic enemies. I will deal with the issue of surface plants in my answers to the next questions. For the moment let me concentrate on the issue of vulnerability regardless of site.

The first step in assessing vulnerability is to determine the attractiveness of the target to potential enemies. An attractive target is one which enables the enemy to inflict a great amount of damage with only a small amount of effort or risk. Viewed in this light nuclear power plants make very unattractive targets for either a saboteur or a foreign enemy. They are massive physical structures which are not easily damaged by conventional methods. Moreover, even if seriously damaged a nuclear plant would constitute far less of a threat to the public's health and safety than would a number of other possibilities which do not need to be mentioned. A nuclear plant, therefore, is likely to rank quite low on a saboteur's list of priorities.

The situation is much the same when we consider vulnerability to enemy attack. A surprise attack on U.S. nuclear power plants with conventional weapons is simply not a credible threat. It would risk nuclear retaliation yet it would inflict far less damage to the population, the economy or the war-making capability of the U.S. than would attacks on many other targets.

Much the same is true if we stretch our imaginations far enough to conceive of a nuclear attack on a nuclear plant. The level of damage thus inflicted would be considerably less than could be visited on other targets. Moreover, it should be recognized that in the event of a nuclear attack, the hazard from the nuclear warhead itself dwarfs any hazard from the nuclear plant.

Notwithstanding the above, applicants for operating licenses of nuclear power plants have submitted to the AEC for review their programs of industrial security measures to protect against industrial sabotage in the proposed plants.

During the construction and throughout its operating life time, the plant and all protection procedures are subject to periodic review by competent inspectors to insure that a high level of security control is maintained. All such plants are located within fences and guarded security areas and liaison is maintained with the local and state police officials.

Nuclear power plants simply do not offer an especially attractive target for attack. As such it can hardly be alleged that their existence poses some new and significant threat to our national security.

5. Has the A.E.C. ever considered placing a moratorium on the construction of surface nuclear reactor power plants, with their obvious vulnerability, and insisted that all such nuclear reactor plant construction be underground?

6. Have the additional costs of underground construction vis-a-vis surface construction been a controlling factor in the construction and location of these facilities, to the possible jeopardy of the lives and property of the American people?

It is not clear whether questions five and six refer to protecting the American people from the consequences of enemy action or whether they refer primarily to economic considerations. Studies of underground siting concepts over a number of years have indicated that the cost of such siting is not decisively greater than for above ground sites. Typically, underground siting would not be expected to add a cost penalty greater than 15% to 30% to the capital costs of a facility. Such added cost would not be considered a controlling factor if there were concomitant benefits.

These same studies, however, have found no real or significant safety advantages to underground siting. The advantages and disadvantages of underground siting nevertheless are reexamined periodically as new technology develops and as more information becomes available. We plan, for example to take another look at this question in the near future.

If the questions refer to protecting the public from the consequences of enemy attack, they should be answered in the context of the answers to the previous set of questions. As was pointed out such attacks are not particularly credible since they would be difficult to mount successfully and would produce less damage than would attacks on alternative targets. The assertion therefore, of the "obvious vulnerability" of nuclear plant is wholly unwarranted.

7. Would the Atomic Energy Commission and the Administration oppose or support repeal of the Price-Anderson Amendment to the Atomic Energy Act?

In connection with the expiration of the Price-Anderson Act in August 1977, the Atomic Energy Commission is currently engaged in a comprehensive study which focuses on the complete spectrum of alternative approaches for the post-1977 period. The Commission is currently reviewing all aspects of the Act. The alternative approaches under consideration range from retention of the present system without change through possible modifications of the indemnity system, to permitting the present statute to expire with the responsibility assumed by the nuclear industry for financial risk from any accident.

To assist us in our study, the Commission staff has held discussions over the last several months with representatives of the utility, nuclear supply, and insurance industries. Additional meetings have been scheduled with these representatives as well as with interested members of the public not associated with these industries who might advance other viewpoints. In a manner as significant and as complex as this, we think it important that representative groups be consulted so that we may have the benefit of their views before advancing any legislative proposal to Congress.

While an early legislative submission to Congress on the Price-Anderson Act is desirable, any proposal on our part must be as solidly based as possible and take appropriate account of consultations and studies which are now underway. Repeal of the Act prior to the completion of such activities would be premature at best. We expect these activities to be completed early in 1974 and we intend to make legislative proposals at the earliest possible date thereafter.

## NATIONAL FOOD POLICY

Mr. McGOVERN. Mr. President, I recently had the pleasure of speaking at the National Food Policy Conference in Hershey, Pa. This meeting was a vital step in reaching a solution to a problem which, because of the dedication of such people as the conference participants, we as Americans may never have to face in its full severity—lack of food.

I commend the conference planners, not only on their foresight in convening the meeting at this time, but on their selection of Bishop Edward E. Swanstrom as an opening speaker. As executive director of the Catholic Relief Service, Bishop Swanstrom has been close to the food problem and has seen the suffering it causes. He has taken the lead and worked diligently to identify and eliminate the gravity of this crisis that so many Americans have yet to recognize or take seriously. His words helped set the tone of the Food Policy Conference, and I would like to share them with my colleagues. I ask unanimous consent that they be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Toward a National Food Policy

If this were to be a sermon, I would take as my text that supplication which most certainly has stormed the heavens more often than any other in the history of mankind. How often we have heard it. ". . . Give us this day our daily bread . . ." For food, and its adequacy to feed the world's millions, always a matter of primary concern to man, is perhaps today a matter of even more vital national and international importance than ever before.

Witness this conference itself and the broad scope of leadership it has attracted. Most of all, ponder the task which the conference has set for itself, namely, as a first step toward the formation of an international food policy, an attempt to hammer out a national food policy for America and to sponsor its dissemination through all available media to our fellow citizens in all walks of life and, in particuar, to those public servants at local, state, regional and national levels to whom we have entrusted the welfare of our country.

This conference is meeting at a truly crucial time. The written and spoken word these days centers about the energy crunch, the dimensions of which we Americans are just beginning to realize. (It is said our air conditioning equipment alone consumes more energy than eight hundred million humans consume for all purposes.)

We meet at a time when our scientific and technical knowledge thrusts us ever closer to the stars, and yet our public morals appear determined to sink equally as far into a morass of godless materialism with almost similar velocity. We are gathered at a time when faith in our national institutions has fallen to an all-time low; a time when fear and uncertainty, fed by an apparently endless raid on the family pocketbook, are on the rise; a time when more and more Americans seem only too willing to escape the world's problems and seek solace instead in the television tube. Perhaps most significantly of all, we meet at a time when weather, population growth and increasing affluence are combining to increase alarmingly the dependence of more and more of the peoples of this world upon the North American bread basket.

It is well, then, that this conference intends to come to grips with the problem of the world's food supply and America's role in allaying world hunger. In fact, the overriding challenge to this conference may well be to halt our country's drift toward isolationism and to once again assume its former role of responsible world leadership.

We have improved our performance in the art of power politics and there is no doubt that this is tremendously important on a short-term basis to the stilling of the guns and the halting of the slaughter of the battlefield. But I am talking about returning to that kind of societal world leadership which deals not with power but with people and which alone can chart for mankind the way to lasting peace with liberty and justice for all.

There is no doubt in my mind that the blessed abundance of our land, wisely administered, demands that America reassume its role of leadership by engaging in a new and even more determined war against that hunger which will afflict hundreds of millions of the world's poor unless a determined and concerted attack upon it is mounted now. And there is no time to waste! The fundamental importance of food to mankind's very survival can brook no delay.

Startling statistics, as you well know, abound. It is estimated that two-thirds of the world's population suffers from malnutrition. Millions live on the verge of starvation. An estimated 10,000 deaths each day are attributable directly either to the lack of enough food to sustain life or of the right kind of food. Malthusian prophecies are increasing in number. Starvation on a massive scale within the next decade is being predicted unless something is done to prevent it.

There are, however, and thank God, some encouraging signs on the horizon. The growing emphasis on a people-oriented U.S. foreign aid program, for instance. The increasing confidence in the ability of the private agency not to usurp the fundamental role of governments, to be sure, but, nevertheless, to make a significant contribution toward improving the quality of life in the developing world. Then, too, there is a growing realization of the necessity of not only boosting global food production to meet immediate demands, but to replenish depleted reserves—in a word, "a world food security policy" as Dr. Boerma, Director General of FAO expressed it a few weeks ago in a meeting of the organization in Rome.

More and more knowledgeable Americans are coming to the realization that we may have to voluntarily agree on a national food tithe and set aside a specific amount of our national production for supplementing the meagre diet of others. We are increasing the acreage before being devoted to the production of grains. We are talking less and less about developing world markets for our foods and more and more about how to transfer the essentials of our own food technology so that others may increase local food production to the end that dependency upon our own capacity will be lessened.

In his speech at the recent meeting of the World Bank and the International Monetary Fund in Nairobi, Robert McNamara, the President of the World Bank, highlighted these same priority needs. He pointed out that the growth taking place in developing countries is not reaching the poor and set a target of increased production on small farms. He said, "There is no viable alternative to increasing the productivity of small scale agriculture if any significant advance is to be made in solving the problems of absolute poverty in the rural areas." To that I say Amen.

With the rural populations of most developing countries running as high as 80 or 90 percent of the total population, an emphasis on increased productivity by small farmers will improve the conditions of a majority of the populations of Third World countries and will constitute an important attack on the world food shortage.

In our deliberations over the next two days, we will have the opportunity to review the dimensions of the problem of world food supply and to study America's role in food production and distribution. The part the relative nutritive value of foods will play in meeting world food needs, for instance. The problems of population growth and of the allocation of adequate energy to insure maximum food production in this all-too-suddenly energy-shortage conscious world.

We are going to study the amount of land presently being utilized for food production at home and overseas, and perhaps those additional resources which can, if necessary, be devoted to this purpose, as well. We will be looking at the signal importance of water to food production. Perhaps we may even look into the possibility of a renewed attempt to develop an economical method of desalinating water so that this huge resource of the seas can be utilized in this way. Experts will be treating the international aspects of a food policy for America, its economic implications and those competitive interests which will most certainly affect it.

In short, we will be looking at the problem of feeding ourselves and as many as possible of the hungry of the world (and encouraging others to do likewise) in all its implications, including the political, the social, the economic and cultural.

In this process, we will need to take a good look at our own national priorities and we will have to urge similar priorities upon others. Food and all its aspects is so fundamental to human survival that, in essence, we will, in attempting to formulate a national food policy, be examining our national conscience at the same time. We will need, of course, to relate our proposed food policy to a global food policy, for no one or several nations have the right to control the world's food supply without recognizing and discharging their responsibility for its prudent use for the benefit of all mankind.

And, ladies and gentlemen, may I ask you with all sincerity at my command, to remember above all throughout the discussions at this conference, that behind every statistic and fact which may be related or developed in the next two days, there is the spectre of massive human starvation; that what we ultimately propose and what we urge upon our leaders and fellow citizens as well as the world community, can actually and literally save countless lives, to say nothing of adding immeasurably to the peace and stability of the world.

Will this conference lend truth to the words of this verse which appeared way back in 1966 in Punch, the provocative British publication?

> In countless back alleys,
> No cradle or bed,
> A million sweet children
> Cry out to be fed.
>
> Rich nations, as distant
> As stars in the sky,
> Look down on their hunger
> And heave a sad sigh.
>
> "We'll send you our leavings,
> If any," they say,
> "But we, too, are starving
> On three meals a day."

Or will these meetings result in the issuance of a call to all Americans to support a policy based upon the responsible and compassionate sharing with others of the fruits of America's agricultural prowess?

"America, America, God shed his grace on thee."

America, America, Appreciative of His gifts, reasoned, responsible, just and compassionate let the thoughts and actions of this conference on national food policy be.

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## RAIL PASSENGER TRANSPORTATION

Mr. JAVITS. Mr. President, I would like to call to the attention of my colleagues an editorial appearing in the Washington Post last Thursday, January 24, highlighting the need for more and better rail transportation service. Since the energy crisis began, Amtrak has been deluged with an overabundance of passengers and requests. Not only has Amtrak been unable to provide seats for all the potential passengers on established routes, but Amtrak has also been unable to provide any service at all to areas in great need of rail service.

Foremost among these areas are recreation communities that are not within easy automobile commuting distance of a large metropolitan area. Large portions of our country are heavily dependent on recreation and tourism for their economic survival. Rail passenger service is essential for many of these areas if they are to withstand the effects of the immediate fuel shortages.

But I would not be speaking out for long-term commitments to rail service if I believed the effects of the fuel shortage are short term only. Even if we can develop self-sufficiency in energy within a decade it will be necessary for us to make some major changes in our lifestyle and habits. One of the easiest methods for change is to employ mass transportation for travel to recreation areas, areas where in the past we would drive to, leave our car in the parking lot for the duration of our stay, and then drive home.

Our Nation presently has one of the least developed systems of rail passenger service in the Western World. It is high time we began to correct this deficiency with a major Federal commitment to such service.

I ask unanimous consent that the editorial referred to be printed in its entirety in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 24, 1974]

### RAILROADS AND PASSENGERS

Last fall, Amtrak, which is supposed to entice people back to the pleasures of railroad travel, began to set up a computerized, national telephone reservation system of the kind the airlines have used for years. The system's capacity seemed sufficient for five years. Then, on November 19, the President proclaimed the energy crisis, gasoline and jet fuel supplies seemed threatened, people took to the rails, and, what with the Christmas holidays, the new reservation system was jammed by the sudden, overwhelming demand for seats. As a result, it still can be somewhat annoying to reserve an Amtrak railroad ticket.

And that pretty well illustrates our passenger train dilemma. Amtrak, with the help of airline and travel agency experts, seems to have done a good, slow, difficult but conscientious job of keeping rail travel from going the way of the stage coach. From 1945 until Amtrak was launched in May 1971, the railroads had steadily lost 15 per cent of their passengers every year. Now they are regaining 11 per cent every year. This is due to a number of visible improvements.

Amtrak, first of all, consolidated the passenger runs across the country to a bare minimum. Some cities, such as Cleveland, are not served by passenger trains at all. Next Amtrak began to improve the cars. Only half of the existing 3,000 cars were considered salvageable. The other half are being refurbished at the rate of first 48 and lately 70 cars a month. New diesel locomotives have been put in service or ordered. The Chicago-St. Louis run has a whole new train, made in France.

Personnel has been retrained. There is now a nationwide timetable. Many cities have downtown ticket offices and some have had their railroad stations cleaned and repainted. Three new stations—at Jacksonville, Fla., Springfield, Mass., and Cincinnati, Ohio—have been built. There has even been some modest innovation. Some of the long distance trains have passenger representatives to help make people comfortable and some, like the Montrealer, include recreation cars that offer games and movies and have a piano player along for entertainment.

The Interstate Commerce Commission, furthermore, is about to issue new customer service standards for passenger railroads that will insist on proper luggage handling, a fair reservation system and punctual performance. Under the new rulings, railroads can be fined for being late.

But like the new reservation system, all these gains are likely to be overwhelmed by the new demand on railroad travel created by the energy crisis. There is not enough equipment to handle a sudden increase in passengers. It will take years to build additional cars and locomotives, particularly since Amtrak rightly insists on new, up-to-date designs and engineering rather than reordering obsolete models. The refurbishing program can, of course, be accelerated. But there is as yet little incentive and less money to get the railroads ready for the new passenger rush. Amtrak accomplished what it did against the odds of reluctant railroad managements and a budget that paid only for the barest necessities.

What we now need, and urgently, is rapid passenger service expansion and improvement. We need to spread such innovations as auto trains, so people can take their cars, packed with luggage and camping equipment, on the same train on which they ride to their vacation sites—from Washington to Denver, say, or from San Francisco to Seattle. But the expansion and improvements need money. Congress, having already insisted on better high-speed train service between Washington and Boston, should now make a further substantial investment in railroad travel. It seems essential not only to help the railroads, but also to help the tourist industry, in fact the entire economy, survive the energy crisis in reasonably good health.

## MAHARISHI INTERNATIONAL UNIVERSITY

Mr. TUNNEY. Mr. President, I would like to call to the Senate's attention the existence of a new and innovative California institution of higher education, Maharishi International University. The goal of MIU is to provide an education which gives intellectual knowledge while simultaneously expanding the ability of the individual to absorb knowledge and utilize his or her full creative potential. This university represents a unique educational concept having profound significance not only for the field of education but for all of society. The techniques and programs which MIU offers to mankind deserve careful consideration and, therefore, I ask unanimous consent for inclusion in the Record a statement of the university's goals and programs.

There being no objection, the statement was ordered to be printed in the Record, as follows:

### Maharishi International University

### I. HISTORY

Maharishi International University was established in 1971 under the laws of the State of California as a nonprofit educational institution with teaching programs leading to the baccalaureate and doctoral degrees. The decision to establish Maharishi International University (MIU) arose directly from the enthusiasm of faculty, administration, students and parents at more than 600 college and university campuses in the United States who had witnessed the enlivening results of engaging in the practice of the Science of Creative Intelligence (SCI) as taught by Maharishi Mahesh Yogi. By the end of 1973, more than 300,000 Americans had participated in such programs with an additional 16,000 beginning each month.

The first credit-bearing course in the Science of Creative Intelligence was offered at Stanford University in 1970. Since then, similar credited courses have been offered at more than thirty American universities including Yale, Harvard and the University of California at Berkeley. The profound benefits of the knowledge and practice of the Science of Creative Intelligence and the validation of these benefits by physiological, psychological and sociological research conducted at leading universities and research institutes have provided a vision of possibility for the fulfillment of systems of education everywhere.

In the summer of 1971, the first Symposium on the Science of Creative Intelligence was held at the Amherst campus of the University of Massachusetts and was attended by internationally acclaimed research scientists, scholars and educators. These men and women, in response to the success of the symposium and the overwhelming national recognition of the Science of Creative Intelligence, determined to create a new university, dedicated to the highest ideals of education and named to honor the founder of SCI, Maharishi Mahesh Yogi.

### II. RELEVANCE

The major question posed by educators and the public in relation to the process of higher education has been: What is the proper role of the institution of higher learning in society today? Maharishi International University provides a unique answer to this question—education is complete only when men and women everywhere are provided simultaneously with knowledge and the ability to use their full creative potential. MIU accomplishes this by teaching the traditional academic disciplines along with the study of the Science of Creative Intelligence.

The Science of Creative Intelligence is an interdisciplinary study, drawing upon the arts and sciences, which gives understanding of the nature, growth and development of creative intelligence in life. While MIU offers to its students the full range of academic disciplines, the Science of Creative Intelligence reveals to the student the interrelationship of all knowledge as an expression of intelligence and creativity. In this way, academic understanding is never isolated from personal experience.

The practical aspect of this science is Transcendental Meditation (TM), a simple, natural mechanical technique which enables students to experience directly and to develop the full range of this potential. The practical benefits of this technique have attracted the attention of scientists in the United States and Europe. Their research has demonstrated that Transcendental Meditation produces a unique state of the nervous system characterized by profound physical rest together with heightened mental alertness. This practice leads to greater mental and physical stability, efficiency and increased energy for purposeful activity. In addition, further studies have shown that practitioners of the technique exhibit a significant increase in intelligence and learning ability.

Further, the MIU education is not limited to walls of a single campus or the needs of a specific age group. MIU has designed programs that bring the advantages of higher education to all members of society, independent of the constraints of occupation or geographic location, economic situation or ethnic background. In addition to the main MIU campus in Goleta, California, MIU teaching centers in every major American city will present these courses through closed circuit color instructional television, and through the facilities of public broadcasting the value of the MIU education will soon be available to every home.

### III. THE IMPLEMENTATION OF A WORLD PLAN

Maharishi International University feels that the contributions of its unique curriculum should not be limited to one geographic area, but should be made available in all parts of the world. Therefore, the University has implemented a World Plan to establish 3,600 World Plan teaching centers internationally, one for each one million population, to teach the Science of Creative Intelligence at every level of education, to train teachers of the Science of Creative Intelligence and to offer basic MIU courses for undergraduate and graduate degrees. Through this plan MIU aims to accomplish the following seven goals:

(1) to develop the full potential of the individual.

(2) to improve governmental achievements.

(3) to realize the highest ideal of education.

(4) to eliminate age-old problems of crime and all behavior that brings unhappiness to the family of man.

(5) to maximize the intelligent use of the environment.

(6) to bring fulfillment to the economic aspirations of individuals and society; and

(7) to achieve the spiritual goals of mankind in this generation.

Mr. TUNNEY. Mr. President, in conclusion, I hope that this information will serve to introduce to my colleagues in the Senate the programs and direction of this important new institution. Maharishi International University's global vision and far reaching goals are to be commended. I believe that they deserve our careful consideration.

## UKRAINIAN INDEPENDENCE DAY

Mr. JAVITS. Mr. President, January 22 marks the 56th observance of Ukrainian Independence Day, which was originally proclaimed by the Ukrainian Central Rada in January 1918. Unfortunately, true Ukrainian political independence was short-lived, and the Ukraine was quickly submersed into the U.S.S.R.

However, the Ukraine continues as a culturally distinct region of the Soviet Union with its own language, literature, and heritage, which have remained despite the persistent efforts of the Soviet regime to repress them. The most recent manifestations of Soviet repression of Ukrainian nationalism are the imprisonment of several Ukrainian dissenters in the Potma Camp for political prisoners, the continuing harassment of Ukrainian Jews, which appears to be even more severe than in other regions of the Soviet Union, and the destruction of Ukrainian cultural and historic treasures such as the Ukrainian Orthodox Church of the Epiphany in Zhytomyr, Ukrainian S.S.R.

In our search for détente with the Soviet Union, we must not allow to go unnoticed the aspirations for self-expression of the people of the Ukraine. To omit our expressions of concern would be a betrayal of freedom and the human spirit.

## THE VIETNAM GI BILL OF RIGHTS

Mr. McGOVERN. Mr. President, it is exactly 1 year ago today that the Vietnam peace agreement went into effect. That agreement brought to an end a massive American involvement that saw over 7 million young men enter the Armed Forces. Over 2½ million of them served in the war zone. Fifty thousand died. Twenty-five thousand came home without arms or legs. And hundreds of thousands came home expecting to find a better life than the one they had when they left.

It is no secret by now that these men have faced disappointment and disillusionment in the past year. A Veterans' Administration study revealed that one out of five returning GI's is experiencing "serious and prolonged readjustment problems."

There can be no doubt that a major part of these problems has been caused by the unwillingness of the Congress and the administration to recognize the need to provide adequate educational and job training opportunities. In addition to fighting in a bitter and unpopular war, the young veteran has been burdened with the indifference of a nation known for its generosity.

No one is going to argue with the fact that this country owes a huge debt to our young veterans, Mr. President. But we must realize that our commitment goes beyond recognition days and wooden plaques and paper awards. What the young veteran needs is the tools to improve his own life here at home. These tools can only come from a college education or a vocational training program, or a decent job opportunity that takes into account the skills he learned in the service.

Our commitment to these young men must be measured in dollars and cents. Surveys conducted by the Educational Testing Service and the National League of Cities in the past year show that the present level of GI bill benefits is not adequate to pay for the kind of education and training it takes for young GI's to compete in today's job market. It is an unrefutable fact that education costs have risen three times as fast as GI bill benefits in the past 25 years.

The Senate now has before it a bill which would close the gap for thousands of young veterans. On December 7 of last year, I joined with Senators MATHIAS, DOLE, and INOUYE, to introduce S. 2789, the Vietnam veterans GI bill. It is a distinct, and I think unique, opportunity for me to work on this piece of legislation with my colleagues from Maryland, Kansas, and Hawaii. I doubt that any one of us would be in the U.S. Senate today if it were not for the World War II GI bill. Each of us served in that war and each of us were able to further our education after the war with the aid of a tuition payment and a subsistence allowance furnished by the Congress through the VA.

Altogether, 21 Senators and 65 Congressmen enrolled in college after World War II with the benefit of the GI bill. That same program also helped produce 450,000 engineers, 360,000 teachers and hundreds of thousands of professionals in the fields of medicine, law and science. Perhaps most striking of all, the money invested in that program was turned back to the Treasury seven times over in increased tax revenues.

The solution for the present gap in benefit levels is simple and, on the face of all the evidence, almost incredibly inexpensive. While the World War II program included both a subsistence allowance and a tuition payment, the present program includes only a monthly subsistence allowance. The ETS study made the point that a variable tuition payment plan is needed to provide help to veterans who live in States where the cost of public education is considerably higher than the national average. That is precisely what is proposed by this legislation.

The national average for a 4-year public institution is slightly above $400. The Vietnam veterans' GI bill would require the veteran to pay the first $400, but would provide up to $600 more to cover the remainder of his tuition costs. Out of a total yearly tuition cost of $1,000, the veteran would pay $400 and the VA would pay $600. If the tuition were higher than $1,000, the veteran would have to pay the first $400 and any cost above $1,000.

A simple illustration comparing the States of New York and California provides the best argument for this type of tuition payment. While the average tuition payment in New York a 4-year public institution is in the area of $800 to $1,000, the same education costs a California native less than $400 in his own State and 37 percent of the California veterans have been able to use the GI bill while only 21.6 percent of the New York veterans have enrolled in the program. In fiscal year 1972, California veterans used $302 million in GI bill benefits while New Yorkers used $99 million.

The per year cost of this tuition payment program is estimated to be in the area of $200 to $300 million. That seems a very small price to pay when consideration is given to the needs of the eligible young men and the ultimate benefits to the entire country. It is almost pitiful when considering the reported request of the Defense Department for $99 billion during fiscal year 1975, an increase of 15 percent over fiscal year 1974. If the past record of the Congress is any yardstick, chances are good that the Defense Department will get a large share of that increase inspite of the efforts of those of us who feel that figure is extremely high. Needless to say, the Congress is going to suffer credibility pains if we pass over a simple increase for young veterans in the same session we boost the military budget by billions.

I would not want this bill to be interpreted as a simple increase in benefits, Mr. President, because it is much more than that. The intent of this measure is to give the opportunity for an education or vocational training to men who are not now enrolled under the GI bill. This bill speaks to the disadvantaged veterans, the black, Puerto Rican, and Mexican American veterans, the underprivileged and disabled veteran who, up to now, could not afford to attend school or learn a trade because the benefits simply are not adequate. We want to increase the rate of participation in States like New York, Ohio, and Pennsylvania up to the level it is in California.

It is for that reason that we have included provisions expanding the college work-study program, extending the eligibility period from 8 to 10 years, providing an accelerated subsistence provision, and creating a Vietnam Veterans Communication Center to improve outreach counseling.

When the bill was originally introduced, we had already received the support of Senators HUGH SCOTT, MCGEE, ABOUREZK, METCALF, HATHAWAY, TAFT, CHURCH, MONDALE, GRAVEL, RIBICOFF, and JACKSON as cosponsors. Today it gives me a great deal of personal satisfaction to announce that 17 more of my Senate colleagues have asked to be listed as cosponsors on S. 2789. Added to the original list announced on the date of introduction, it brings our total to 32 named supporters including myself and Senators MATHIAS, DOLE, and INOUYE.

Mr. President, I ask unanimous consent that the following Senators be added as cosponsors to S. 2789: Senators BROOKE, CLARK, HUMPHREY, BAYH, TUNNEY, YOUNG, CASE, MONTOYA, JAVITS, KENNEDY, MANSFIELD, HART, MOSS, MUSKIE, SCHWEIKER, MAGNUSON, and GURNEY.

Mr. DOLE. Mr. President, an article appeared recently in the New York Times which provides a valuable insight into present veterans education benefits. The author of this article, Senator DANIEL INOUYE, has expressed an observation shared by every World War II veteran whose son served in the Vietnam era and is now attending college. The observation is simply this: veterans educational assistance now is not equivalent to what it was in the post-World War II period. And it is high time we give the Vietnam-era veteran the help he needs and deserves.

### NEED FOR ACTION

Senator INOUYE and I both received educational benefits under the more adequate GI bill provisions of the post-World War II era. He and I both speak for the importance of the educational assistance we received. His article is an expression of this and it is unfortunate that the same cannot be said for the present GI bill. Together, we have helped introduce a Comprehensive Educational Benefits Act for veterans of the Vietnam war period which would go a long way toward rectifying the current inadequate amount of Federal aid to this group of young men and women. Through its provisions, veterans of the recent war will be able to gain the education they so justly deserve and which they so greatly need in view of the high cost of college-level education today.

The widespread, nonpartisan support this legislation has received within the Congress and the public at large indicates a general recognition of the problem. It now remains for us to provide a solution to the problem. Our bill, S. 2789, is designed to do this.

### INVESTMENT IN THE FUTURE

As concerned Americans working to correct the inadequacies of the current system, we can indeed look with pride upon the sound investment that is being made in our Nation's future. As Senator INOUYE has appropriately noted, we can most effectively insure a better future for our country by giving our veterans a fair chance now to develop their capabilities to the fullest extent. With this opportunity, our Vietnam era veterans will hopefully be better educated and will be able to contribute more successfully to the well-being of their families and to the strength of their Nation in the future.

Mr. President, I ask unanimous consent that this article entitled "A Fair Deal for Vietnam Veterans" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 23, 1974]

### A Fair Deal for Vietnam Veterans

(By Daniel K. Inouye)

WASHINGTON.—One year ago today, President Nixon announced we had achieved "peace with honor" in Vietnam as a cease-fire agreement was reached. He called on us to be proud of the two and a half million young Americans who served in Vietnam. Later in his State of the Union message the President asserted: "A grateful nation owes its servicemen and women every opportunity it can open to them when they return to civilian life. The nation may be weary of war, but we dare not grow weary of doing right by those who have borne its heaviest burdens."

When I returned home from World War II, like millions of other veterans, I was able to go to the college of my choice under the G.I. bill of rights. A "grateful nation" provided for my tuition, books and fees at the University of Hawaii and George Washington University Law School and a monthly subsistence allowance of $115. With my disability pension of about $200 and my wife's salary, our income was about $800 a month. I don't think many students could have matched that, and such high living was a new experience for us.

Seven million World War II veterans used the G.I. bill. The lives of each of us were changed by the opportunities provided to us. I do not believe I would be in the Senate today without having been a beneficiary of the bill.

Unfortunately, the homecoming of the Vietnam veteran is far different. President Nixon's words ring hollow in the ears of hundreds of thousands of Vietnam veterans who can't find work and can't afford to go to school. These brave young soldiers who gave up the comfort of peaceful homes and years of economic and educational advancement to answer a call to duty are denied benefits or receive benefits not at all comparable to those received by veterans of World War II and Korea.

The Administration has fostered the illusion that today's veteran is as well-treated as his father was. He is not. Presidential impoundment of funds designed to aid student veterans and Administration opposition to increased educational benefits despite misleading rhetoric, has caused the Vietnam veteran to feel that he fought the wrong war at the wrong time.

Today's veteran is eligible for a lump sum of $220 per month or $1,980 for each academic year. Out of this he must pay for tuition, fees, books and living expenses. Two separate studies, by the prestigious Educational Testing Service for the Veterans Administration and by the Special Veterans Opportunity Committee for the National League of Cities and the United States Conference of Mayors, have documented that present benefits are inadequate.

The Vietnam veteran has less purchasing power for fours years in college than did the veteran of World War II after adjustments are made for cost-of-living increases. He is priced out of the private-college and graduate-school market. Unless he lives in a state with a large number of community colleges or inexpensive four-year public colleges, it is unlikely he can afford a college education. A young veteran attending an average four-year public institution falls $700 to $2,000 short of the amount needed to pay for tuition, books, fees and living expenses each year.

The unemployment rate among Vietnam veterans, especially minority and undereducated veterans, remains consistently high. The veteran is squeezed from both ends: Because he lacks education and training he cannot get a job; yet without a job to supplement inadequate G.I. benefits, he cannot get training or an education. Part-time jobs are not available. And as the energy-crisis job cutbacks have begun, the Vietnam veteran who lacks training and seniority has been the first to be fired. Present state and Federal job programs for ex-servicemen just don't do enough to offset depressed job markets.

All the men who fought in World War II and Korea returned as heroes. But Vietnam was the war nobody liked, and everybody now wants to forget. Yet although we disagreed over the motives, methods and purpose of American involvement in that tragic war, I believe the great majority of Americans agree that the Vietnam veterans deserve something better than what they are getting.

Over a fourth of the Senate has joined in co-sponsoring the proposed comprehensive Vietnam era veterans education benefits act. The legislation would bring educational, job and monetary benefits for Vietnam veterans to a level more equal to the benefits enjoyed by veterans of previous wars.

"All we want is the chance that the guys got who didn't have to go," said a returned veteran. It will be a national tragedy if those young Americans who did go to Vietnam, many as involuntary draftees, are now denied the opportunity to be trained and educated to their fullest capabilities because this nation has grown weary of doing right by those who did its fighting.

**Mr. MATHIAS.** Mr. President, 1 year ago today, the Vietnam cease-fire went into effect, marking the end of the direct involvement of American fighting men in that war-torn land. In the weeks and months that followed, the last of our troops and prisoners came home—returning from the longest and most controversial war in our Nation's history—and joined the swelling ranks of the more than 6 million Vietnam-era veterans we count among our citizens today.

From the vantage point of this first anniversary, Mr. President, we can all look back with the deepest gratitude and relief that our men are no longer involved in that seemingly eternal Indochinese conflict. Indeed, with our own troops now home safely, and a year's time already passed to cushion our memories, it must be tempting for many of us—citizens and members of this body alike—simply to want to close the books on that chapter in American history and forget the troubled past.

But for too many Americans, the books cannot be closed—the men who fought, whose civilian lives and education were disrupted by service in our Armed Forces; these Americans still face a conflict for survival, albeit of a more subtle nature.

Returning to civilian life, they find not a hero's welcome, but ambivalence and averted eyes. They hear rhetoric about a grateful nation, but they seek in vain for jobs. The unemployment level among Vietnam-era veterans is nothing short of a national disgrace. And when they seek to turn to higher education, they find tuition and other costs skyrocketing with such acceleration that in many States, college is now available only to those with independent financial resources.

The World War II GI bill, Mr. President, allowed millions of Americans who served their country to receive a higher education which would have otherwise been denied them. I count myself among those who could not otherwise have gone to college, and I am told that roughly a quarter of the Members of this body similarly went to college on the GI bill.

But what about today's veteran and today's GI bill? In order to help answer that question, the Congress enacted an amendment I introduced to the 1972 Veterans Readjustment Assistance Act—Public Law 92–540—which instructed the Veterans' Administration to provide for an independent study to determine whether educational benefits for Vietnam-era veterans are comparable with those which were available to World War II and Korean war veterans.

That study, conducted by the Educational Testing Service, was completed last fall and concludes that today's veteran is being clearly short-changed when compared to his earlier counterparts. And while the VA continues to claim that educational benefits have kept pace with the overall cost of living since World War II, the ETS study explicitly concludes that the real value of the educational benefits available to today's veteran is substantially less, primarily because of soaring cost of tuition, fees, books and supplies. These are costs which have increased far more steeply than the overall cost of living, as any current student, or parent of students, can easily testify.

The most crucial of these variables is the extraordinary range of tuition costs, between States and within each State. The VA, for example, contends that the average tuition cost for public higher education nationally is about $400; and further, that a veteran paying such an average tuition is in roughly the same financial position as an average World War II veteran.

Even if this is true, however, it offers little solace to the millions of veterans living in States where the tuition costs for public education are above average. In my own State of Maryland, for example, the tuition for the University of Maryland is $698, and will rise to $748 next year. This means that after books and fees are paid for, today's veteran attending the University of Maryland will have about $115 per month left from his GI bill benefits with which to feed, clothe and house himself, or a little over $25 a week on which to live—hardly an adequate level.

Furthermore, the University of Maryland is by no means alone in its high tuition cost. The major public universities in California, Connecticut, Illinois, Indiana, Michigan, Minnesota, New Jersey, Ohio, Pennsylvania, and Rhode Island all charge more than $640 per year for tuition.

At this time, Mr. President, I ask unanimous consent to print in the RECORD the following table specifying tuition costs at State colleges and universities throughout the Nation.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE A.—RESIDENT AND NONRESIDENT UNDERGRADUATE TUITION RATES AT STATE COLLEGES AND UNIVERSITIES, 1973–74 ACADEMIC YEAR. (WHERE DIFFERENT, 1972–73 TUITION RATES IN PARENTHESIS)

| | Undergraduate tuition and/or required fees | |
|---|---|---|
| | Resident | Nonresident |
| ALABAMA | | |
| Ala. A&M U | $280(270) | $630(520) |
| Auburn U | 525(450) | 1, 050(900) |
| U. of Alabama | 510 | 1, 020 |
| Alabama State U | 405(345) | 630(570) |
| Florence State U | 470(450) | 470(450) |
| Livingston University | 439(430) | 612(603) |
| U. of Ala.—Huntsville | 525 | 1, 050 |
| U. of Montevallo | 360 | 570 |
| U. of South Alabama | 579 | 867 |
| ALASKA | | |
| U. of Alaska | 472(402) | 1, 072(1, 002) |
| ARIZONA | | |
| Ariz. State U | 320 | 1, 210 |
| U. of Arizona | 411 | 1, 301 |
| Northern Arizona U | 330(304) | 995(969) |
| ARKANSAS | | |
| U. of Arkansas, Fayetteville | 400 | 930 |
| U. of Arkansas, Pine Bluff | 400 | 1, 000 |
| Arkansas Polytechnic College | 410 | 940 |
| Arkansas State U | 400 | 700 |
| Henderson State College | 400 | 800 |
| Southern State College | 410 | 680 |
| State College of Arkansas | 410 | 920 |
| CALIFORNIA | | |
| U. of California, System | 644 | 2, 144 |
| Cal. Maritime Academy | 1, 380(1, 080) | 1, 680(1, 380) |
| Cal. St. Polytechnic U.: | | |
| Pomona | 163 | 1, 156 |
| San Luis Obispo | 165 | 1, 300(1, 100) |
| California St. Colleges: | | |
| Bakersfield | 39 | 1, 100 |
| Dominguez Hills | 146(143) | 1, 256(1, 253) |
| San Bernadino | 157 | 1, 270 |
| Sonoma | 140 | 1, 345(1, 250) |
| Cal. St. Universities: | | |
| Chico | 166(160) | 1, 276(1, 270) |
| Fresno | 168 | 1, 278 |
| Fullerton | 160 | 1, 270 |
| Humboldt | 163 | 1, 399(1, 273) |
| Long Beach | 164 | 1, 369(1, 274) |
| Los Angeles | 165 | 1, 236(1, 110) |
| Northridge | 164 | 1, 145 |
| Sacramento | 160 | 1, 110 |
| San Diego | 161 | 716 |
| San Francisco | 164 | 1, 110 |
| COLORADO | | |
| Colorado State U | 778(570) | 2, 069(1, 759) |
| U. of Colorado, Boulder | 593(576) | 1, 959(1, 895) |
| Adams State College | 471(456) | 1, 446(1, 431) |
| Fort Lewis College | 433(418) | 1, 337(1, 283) |
| Metropolitan St. College | 330(333) | 1, 080(1, 062) |
| Southern Colo. St. Coll | 474(450) | 1, 489(1, 389) |
| U. of Northern Colo | 427(402) | 1, 303(1, 200) |
| Western St. Coll. of Colo | 358(349) | 1, 003(1, 315) |
| CONNECTICUT | | |
| U. of Connecticut | 715(655) | 1, 715(1, 555) |
| Central Conn. St. Coll | 570 | 1, 410 |
| Southern Conn. St. Coll | 524 | 1, 424 |
| Western Conn. St. Coll | 450 | 1, 350 |
| DELAWARE | | |
| Delaware St. C | 355(345) | 930(920) |
| U. of Delaware | 585(475) | 1, 560(1, 350) |
| DISTRICT OF COLUMBIA | | |
| District of Columbia Teachers Coll | 70 | 1, 082 |
| Federal City College | 132 | 852 |
| FLORIDA | | |
| Fla. A&M U | 570 | 1, 620 |
| Florida State U | 570 | 1, 620 |
| U. of Florida | 570 | 1, 620 |
| Florida Atlantic U | 570 | 1, 620 |
| Florida Technological U | 570 | 1, 620 |
| U. of North Florida | 570 | 1, 620 |
| U. of South Florida | 570 | 1, 620 |
| U. of West Florida | 570 | 1, 620 |
| GEORGIA | | |
| Fort Valley St. C | 387(382) | 927(922) |
| Georgia Inst. of Tech | 534 | 1, 419 |
| U. of Georgia | 539(519) | 1, 259(1, 239) |
| Albany State College | 435 | 975 |
| Armstrong State College | $405(390) | $945(930) |
| Augusta College | 400(390) | 940(930) |
| Columbus College | 396 | 936 |
| Georgia College | 423 | 963 |
| Georgia Southern Coll | 367(361) | 787(781) |
| Valdosta State College | 429(387) | 969(792) |
| West Georgia College | 417 | 957 |
| HAWAII | | |
| U. of Hawaii | 223(233) | 733(743) |
| IDAHO | | |
| U. of Idaho | 380(356) | 1, 280(1, 156) |
| Boise State College | 356 | 1, 296 |
| Idaho State U | 276(373) | 1, 126(1, 123) |
| Lewis-Clark St. College | 240 | 840 |
| ILLINOIS | | |
| Southern Illinois U | 579 | 1, 437 |
| U. of Ill., Chicago Circle | 636 | 1, 626 |
| U. of Illinois, Urbana-Champaign | 686 | 1, 676 |
| Eastern Illinois U | 599(691) | 1, 445(1, 437) |
| Governors State U | 585 | 1, 650 |
| Illinois State U | 611(585) | 1, 272(1, 246) |
| Northeastern Illinois U | 476(520) | 1, 322(1, 366) |
| Northern Illinois U | 603(574) | 647(617) |
| Sangamon State U | 472(447) | 1, 133(1, 110) |
| Southern Illinois U. at Edwardsville | 589(584) | 1, 447(1, 442) |
| Western Illinois U | 561(558) | 1, 407(1, 404) |
| INDIANA | | |
| Indiana U | 682(650) | 1, 560(1, 490) |
| Purdue U | 700 | 1, 600 |
| Ball State U | 630 | 1, 260 |
| Indiana State U | 660(600) | 1, 260(1, 110) |
| IOWA | | |
| Iowa State U | 600 | 1, 332(1, 230) |
| U. of Iowa | 620 | 1, 350(1, 250) |
| U. of Northern Iowa | 600 | 1, 100(1, 000) |
| KANSAS | | |
| Kansas State U | 526(746) | 1, 316(1, 066) |
| U. of Kansas | 544(486) | 1, 334(1, 076) |
| Fort Hays Kansas St. Coll | 475(407) | 970(802) |
| Kan. St. Coll. of Pittsburg | 390 | 885(785) |
| Kansas St. Teachers Coll | 394(386) | 889(781) |
| Wichita State U | 536(459) | 1, 327(1, 060) |
| KENTUCKY | | |
| Kentucky State U | 455(395) | 985(911) |
| U. of Kentucky | 480(405) | 1, 210(1, 120) |
| Eastern Kentucky U | 420(360) | 950(875) |
| Morehead State U | 420(380) | 950(896) |
| Murray State U | 425(365) | 955(881) |
| North'n Kentucky St. Coll | 420(360) | 950(876) |
| Western Kentucky U | 420(360) | 950(876) |
| LOUISIANA | | |
| La. St. U | 320 | 950 |
| Southern U | 284 | 914 |
| Grambling College | 332 | 782 |
| Louisiana Tech U | 334(318) | 964(948) |
| McNeese State U | 290(285) | 530(525) |
| Nicholls State U | 302 | 932 |
| Northeast Louisiana U | 292(270) | 922(900) |
| Northwestern State U | 302(294) | 932(924) |
| Southeastern Louisiana U | 165 | 480 |
| MAINE | | |
| Maine Maritime Academy | 600 | 1, 350(1, 200) |
| U. of Maine: | | |
| Augusta | 400 | 1, 400 |
| Farmington | 400 | 1, 400 |
| Fort Kent | 430 | 1, 430 |
| Machias | 400 | 1, 300 |
| Presque Isle | 400 | 1, 400 |
| MARYLAND | | |
| U. of Maryland, College Park | 698(639) | 1, 698(1, 439) |
| U. of Md., Eastern Shore | 345(320) | 695(620) |
| Bowie State College | 570(450) | 1, 020(655) |
| Coppin State College | 520(335) | 970(685) |
| Frostburg State College | 636(420) | 1, 086(770) |
| Morgan State College | 651(460) | 1, 051(835) |
| St. Mary's Coll. of Md | 470(460) | 720(710) |
| Salisbury State College | 721 | 1, 179(954) |
| Towson State College | 546(436) | 996(886) |
| U. of Md., Baltimore Cty | 560(500) | 1, 560(1, 300) |
| MASSACHUSETTS | | |
| U. of Mass | 520(469) | 1, 320(1, 069) |
| Boston St. College | 369(318) | 669 |
| Fitchburg St. College | $300(250) | $600 |
| Framingham St. College | 300(250) | 600 |
| Massachusetts Coll. of Art | 405(353) | 705(703) |
| North Adams St. College | 357(302) | 652 |
| Salem St. College | 400(350) | 800(700) |
| Southeastern Mass. U | 420(370) | 700(650) |
| Westfield St. College | 300(250) | 600 |
| Worcester St. College | 395(345) | 695(645) |
| MICHIGAN | | |
| Mich. St. U | 720(675) | 1, 620(1, 530) |
| U. of Michigan: | | |
| Freshman-Soph | 800(696) | 2, 600(2, 260) |
| Junior-Senior | 904(696) | 2, 800(2, 260) |
| Wayne St. U | 704(668) | 1, 893(1, 857) |
| Central Michigan U | 550(510) | 1, 240(1, 110) |
| Eastern Michigan U | 565 | 1, 353 |
| Grand Valley St. College | 517(480) | 1, 305(1, 224) |
| Northern Michigan U | 495 | 1, 260 |
| Oakland U | 602(557) | 1, 562(1, 502) |
| Saginaw Valley College | 510(450) | 1, 290(1, 200) |
| Western Michigan U | 540 | 1, 140 |
| MINNESOTA | | |
| U. of Minn | 592(550) | 1, 522(1, 456) |
| Bemidji St. College | 453(416) | 827 (788) |
| Mankato St. College | 333(307) | 580 (555) |
| Moorhead St. College | 333(307) | 508 (555) |
| St. Cloud St. College | 330(308) | 578 (555) |
| Southwest Minn. St. Coll | 453(416) | 824 (787) |
| Winona St. College | 477(438) | 873 (834) |
| MISSISSIPPI | | |
| Alcorn A&M C | 400 | 1, 000 |
| Mississippi State U | 506 | 1, 106 |
| U. of Miss | 516 | 1, 116 |
| Alcorn A & M College | 400 | 1, 000 |
| Delta St. College | 434(428) | 1, 034(1, 028) |
| Miss. St. Coll. for Women | 474(465) | 1, 074(1, 065) |
| Miss. Valley St. College | 400 | 1, 000 |
| U. of Southern Mississippi | 320 | 920 |
| MISSOURI | | |
| Lincoln U | 370(350) | 640(620) |
| U. of Missouri | 540 | 1, 540 |
| Central Missouri St. U | 315(300) | 915(900) |
| Harris Teachers College | 205 | NA |
| Missouri Southern St. Coll | 300 | 710 |
| Missouri Western St. Coll | 340 | 720 |
| Northeast Missouri St. U | 280 | 760 |
| Northwest Missouri St. U | 310(300) | 600(800) |
| Southwest Missouri St. U | 300 | 900 |
| MONTANA | | |
| Mont. State U | 476(471) | 1, 376(1, 318) |
| U. of Montana | 487(471) | 1, 387(1, 318) |
| Eastern Montana Coll | 450(445) | 1, 350(1, 292) |
| Montana Coll. of Mineral Science and Technology | 378(375) | 1, 278(1, 223) |
| Northern Montana Coll | 430(413) | 1, 330(1, 260) |
| Western Montana Coll | 434(432) | 1, 334(1, 280) |
| NEBRASKA | | |
| U. of Nebraska | 484 | 1, 210 |
| Kearney State Coll | 505(403) | 865(711) |
| U. of Neb. at Omaha | 600(492) | 1, 508(1, 218) |
| Wayne State College | 555(443) | 915(751) |
| NEVADA | | |
| U. of Nevada | 519 | 1, 719 |
| NEW HAMPSHIRE | | |
| U. of New Hampshire | 983(1, 033) | 2, 233 |
| Keene State College | 617 | 1, 450 |
| Plymouth St. Coll. of the U. of New Hampshire | 714 | 1, 547 |
| NEW JERSEY | | |
| Rutgers U | 725 | 1, 310 |
| College of Medicine and Dentistry of New Jersey: | | |
| New Jersey Dental Sch | 1, 188 | 1, 838 |
| New Jersey Med. Sch | 1, 135(1, 125) | 1, 775 |
| Rutgers Medical Sch | 1, 200(1, 250) | 1850(1900) |
| Graduate Sch. of Biomedical Sci | 635 | 805 |
| Glassboro St. College | 535 | 1, 070 |
| Jersey City St. Coll | 636 | 1, 171 |
| Montclair St. Coll | 679 | 1, 339 |
| Newark Coll. of Engineer | 632 | 1, 216 |
| Ramapo Coll. of N.J | 674 | 1, 209 |
| Stockton St. College | 666 | 1, 201 |
| Trenton State College | 640 | 1, 175 |
| NEW MEXICO | | |
| New Mexico State U | 466 | 1, 296 |
| U. of New Mexico | 456 | 1, 284 |
| Western New Mexico U | 333 | 900 |

TABLE A.—RESIDENT AND NONRESIDENT UNDERGRADUATE TUITION RATES AT STATE COLLEGES AND UNIVERSITIES, 1973–74 ACADEMIC YEAR, (WHERE DIFFERENT, 1972–73 TUITION RATES IN PARENTHESIS)

| | Undergraduate tuition and/or required fees | |
|---|---|---|
| | Resident | Nonresident |
| NEW YORK | | |
| City U. of New York | $70 | $620 |
| Cornell U. (statutory) | 1,350(1,200) | 1,950(1,800) |
| State U. of New York: | | |
| Fresh-Soph | 750(740) | 1,175(1,165) |
| Junior-Senior | 900(890) | 1,400(1,390) |
| Queens College of City U. of New York | 138 | 1,338(1,038) |
| State U. of New York: | | |
| Empire State College | 900(786) | 1,468(1,234) |
| Maritime College | 800[600] | 1,300 900] |
| St. U. of N.Y. Colleges: | | |
| Brockport | 890[740] | 1,390[1,165] |
| Buffalo | 887[737] | 1,387[1,162] |
| Fredonia | 800[650] | 1,300[1,075] |
| Geneseo | 800[650] | 1,300[1,075] |
| New Paltz | 875[725] | 1,375[1,150] |
| Old Westbury | 800[650] | 1,300[1,075] |
| Oneonta | 800[650] | 1,300[1,075] |
| Oswego | 800[650] | 1,300[1,075] |
| Plattsburgh | 800[650] | 1,300[1,075] |
| Potsdam | 895[885] | 1,395[1,385] |
| | [745(735)] | [1,170(1,160)] |
| Purchase | 650 | 1,075 |
| Utica/Rome | 800 | 1,300 |
| NORTH CAROLINA | | |
| N.C. A&T U | 542(525) | 2,075(2,074) |
| N.C. State U | 474(427) | 2,034(2,002) |
| U. of North Carolina | 439(422) | 1,997 |
| Appalachian St. U | 485(467) | 2,070(2,067) |
| East Carolina U | 438(423) | 2,004 |
| North Carolina Central U | 443(421) | 2,043(2,021) |
| Pembroke St. U | 389(390) | 1,730 |
| U. of N.C. at Wilmington | 368(396) | 1,923(1,936) |
| Western Carolina U | 169(166) | 691(699) |
| Winston-Salem St. U | 490(472) | 1,875(1,872) |
| NORTH DAKOTA | | |
| N. Dak. St. U | 435 | 1,164 |
| U. of N. Dak | 456 | 1,184 |
| Dickinson S. College | 415(406) | 952(943) |
| Mayville St. College | 305 | 852 |
| Minot St. College | 400 | 937 |
| Valley City St. College | 405(396) | 942(933) |
| OHIO | | |
| Kent St. U | 804 | 2,004 |
| Miami U | 780 | 1,980 |
| Ohio State U | 750 | 1,800 |
| Bowling Green St. U | 780 | 1,179(1,143) |
| Central St. U | 663(648) | 1,188(1,173) |
| U. of Akron | 705 | 1,605 |
| U. of Toledo | 780 | 1,935 |
| Wright St. U | 780(750) | 1,680(1,650) |
| Youngstown St. U | 630(570) | 1,200(1,050) |
| OKLAHOMA | | |
| Langston U | 337 | 832 |
| Oklahoma State U | 456 | 1,236 |
| U. of Okla | 448 | 1,200 |
| Central St. U | 340 | 835 |
| East Central St. College | 348 | 843 |
| Northeastern St. College | 352(345) | 847(840) |
| Northwestern St. College | 332(327) | 827(822) |
| Oklahoma College of Liberal Arts | 335 | 830 |
| Southeastern St. College | 355 | 835 |
| Southwestern St. College | 330 | 825 |
| OREGON | | |
| Oreg. St. U | 451(425) | 1,633(1,484) |
| U. of Oregon | 566(534) | 1,748(1,593) |
| Eastern Oregon St. College | 549(519) | 1,392(1,239) |
| Southern Oregon College | 549(513) | 1,392(1,233) |
| PENNSYLVANIA | | |
| Pennsylvania St. U | 900(885) | 2,100(1,986) |
| Temple U | 1,050(970) | 1,950(1,870) |
| U. of Pgh | 1,012(982) | 2,002(1,972) |
| Bloomsburg St. Coll | 750(700) | 1,500(1,400) |
| California State College | 820(770) | 1,570(1,470) |
| Cheyney State College | 415(780) | 1,576(1,470) |
| Clarion State College | 750(700) | 1,380 |
| East Stroudsburg St. Coll | 840(790) | 1,470 |
| Edinboro State College | 750(700) | 1,380 |
| Indiana U. of Pennsylvania | 750(700) | 1,500(1,400) |
| Kutztown State College | 750(700) | 1,380 |
| Lincoln U | 1,018(1,418) | 1,718(1,418) |
| Lockhaven State College | 750(700) | 1,380 |
| Mansfield State College | NA(760) | NA(1,450) |
| Millersville State College | 750(700) | 1,500(1,380) |
| Slippery Rock State Coll | 750(700) | 1,500(1,380) |
| RHODE ISLAND | | |
| U. of Rhode Island | $761 | $1,661 |
| Rhode Island College | 490 | 1,175 |
| SOUTH CAROLINA | | |
| Clemson U | $640 | $1,340 |
| S.C. State C | 480 | 960 |
| U. of South Carolina | 570 | 1,280 |
| Francis Marion College | 410 | 910 |
| Winthrop College | 560(470) | 1,220(1,130) |
| SOUTH DAKOTA | | |
| S. Dak. St. U | 596(510) | 1,337(1,132) |
| U. of S. Dak | 554(500) | 1,259(1,076) |
| Black Hills State College | 525(455) | 1,058(874) |
| Dakota State College | 550(488) | 1,017(936) |
| Northern State College | 397(345) | 390(765) |
| U. of South Dakota at Springfield | 492(436) | 1,024(856) |
| TENNESSEE | | |
| Tennessee State U | 351 | 1,161(1,071) |
| Austin Peay State U | 318 | 1,128(1,038) |
| East Tennessee State U | 378 | 1,188(1,113) |
| Memphis State U | 348 | 1,068(948) |
| Middle Tennessee State U | 358 | 1,168(1,078) |
| U. of Tennessee: | | |
| Chattanooga | 416(396) | 1,226(1,116) |
| Martin | 414(390) | 1,224(1,110) |
| TEXAS | | |
| Prairie View A&M U | 198 | 1,422 |
| Texas A&M U | 288(279) | 1,368(1,359) |
| Texas Southern U | 346(284) | 1,422(1,364) |
| Texas Tech. U | 292(290) | 1,444(1,442) |
| U. of Houston | 266(256) | 1,346(1,336) |
| U. of Texas, Austin | 378(267) | 1,458(1,347) |
| Angelo St. U | 300(280) | 1,380(1,360) |
| East Texas St. U | 322(250) | 1,402(1,330) |
| Midwestern U | 120 | 1,200 |
| North Texas St. U | 170(152) | 710(692) |
| Sam Houston St. U | 276 | 1,356 |
| Southwest Texas St. U | 270(218) | 1,350(1,298) |
| Stephen F. Austin St. U | 280 | 1,360 |
| Texas A&I U. Kingsville | 270(190) | 1,350(1,270) |
| West Texas St. U | 280 | 1,360 |
| UTAH | | |
| U. of Utah | 480 | 1,155 |
| Utah St. U | 4.3(438) | 963(948) |
| Weber State College | 405 | 810 |
| VERMONT | | |
| U. of Vermont | 1,088(1,086) | 2,688(2,536) |
| Castleton St. College | 720 | 1,850 |
| Johnson St. College | 720 | 1,850 |
| Lyndon St. College | 720 | 1,850 |
| VIRGINIA | | |
| U. of Virginia | 622(597) | 1,447(1,372) |
| Virginia Poly Inst. & State U | 627 | 1,227 |
| Virginia State C | 690 | 1,150(950) |
| George Mason College | 690(640) | 1,410(1,360) |
| Longwood College | 585(500) | 935(850) |
| Madison College | 652(647) | 1,077(1,072) |
| Mary Washington Coll | 792(762) | 1,547(1,517) |
| Old Dominion U | 470 | 870 |
| Radford College | 480(462) | 879(861) |
| Virginia Commonwealth U | 590(540) | 1,190(1,080) |
| WASHINGTON | | |
| U. of Washington | 564 | 1,581 |
| Washington St. U | 564 | 1,581 |
| Central Washington St. Coll | 495 | 1,359 |
| E. Washington St. Coll | 495 | 1,359 |
| Evergreen St. Coll | 495 | 1,359 |
| W Washington St. Coll | 495 | 1,359 |
| WEST VIRGINIA | | |
| W. Virginia U | 310 | 1,140 |
| Bluefield State College | 242(240) | 992(990) |
| Concord College | 240 | 990 |
| Fairmont State College | 242(232) | 992(982) |
| Marshall U | 282 | 1,082 |
| Shepherd College | 280 | 1,030 |
| West Liberty State College | 270(250) | 1,020(1,000) |
| W.Va. Institute of Tech | 277(260) | 1,027(1,010) |
| West Virginia State Coll | 250 | 1,000 |
| WISCONSIN | | |
| U. of Wisconsin—Madison: | | |
| Freshman-Soph | 573(558) | 1,906 |
| Junior-Senior | 628(558) | 2,006(1,906) |
| U. of Wisconsin: | | |
| Eau Claire | $604(528) | $1,846(1,673) |
| La Crosse | 611(535) | 1,853(1,680) |
| Oshkosh | 602(526) | 1,844(1,671) |
| Platteville | 620(544) | 1,862(1,689) |
| River Falls | 627(537) | 1,869(1,680) |
| Stevens Point | 519(518) | 1,717(1,663) |
| Stout | 604(528) | 1,846(1,673) |
| Superior | 610(534) | 1,852(1,679) |
| Whitewater | 607(531) | 1,849(1,676) |
| WYOMING | | |
| U. of Wyoming | 411 | 1,377 |

Sources: National Association of State Universities and Land-grant Colleges and American Association of State Colleges and Universities.

Mr. MATHIAS. My colleagues will note that tuition costs fluctuate vastly within each State and between States. This fact led the ETS study to three crucial conclusions, as follows:

(a) The accessibility of postsecondary education for the Vietnam Conflict veteran is a function of not only his military service but also his particular state of residence. The effectiveness of the benefits is directly related to the availability of low-cost readily accessible public institutions. The current veteran seeking to use his educational benefits finds that equal military service does not provide equal readjustment opportunities with respect to attendance at postsecondary schools. This is particularly true of institutions of higher education.

(b) It appears that the states are subsidizing the cost of education for veterans of the Vietnam Conflict as compared with earlier subsidization by the Veterans Administration. Since higher costs of education appear to reduce participation, this is a significant factor in determining whether the veteran in a particular state will participate in education.

(c) Current benefit levels, requiring as they do the payment of tuition, fees, books and supplies and living expenses provide the basis for "unequal treatment of equals." To restore equity between veterans residing in different states with differing systems of public education some form of variable payments to institutions to ameliorate the differences in institutional costs would be required.

The consequences of these inequities, Mr. President, are quite predictable. A veteran living in Pennsylvania, for example, where tuition costs range from $750 to $1,000, has no realistic opportunity to attend college without substantial outside financial support. On the other hand, a veteran in California has a range of public colleges and universities to attend with tuition below $200.

Not surprisingly, VA figures show that California, with its highly developed, low-cost public college and university system, has educated a larger portion—37 percent—of its eligible veterans under the GI bill than any other State in the Nation; and that States such as New Jersey, Ohio, Pennsylvania, Indiana, and Vermont—with some of the highest tuition levels in the land—have the lowest participation rates for veterans under the GI bill.

At this time, I ask unanimous consent

to print in the RECORD a table prepared by the ETS study—page 40—which ranks each State in order of the participation level of veterans within it under the GI bill.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE B.—VIETNAM-ERA VETERAN GI BILL ENROLLMENT IN JUNIOR AND 4-YEAR COLLEGES BY STATES BASED ON PARTICIPATION RATES

| | April 1973 Vietnam Era veteran population | Percent ever in college under GI bill |
|---|---|---|
| 1. California | 756, 000 | 37. 0 |
| 2. North Dakota | 15, 000 | 36. 6 |
| 3. Arizona | 64, 000 | 34. 2 |
| 4. New Mexico | 32, 000 | 31. 0 |
| 5. Oregon | 81, 000 | 30. 0 |
| 6. Idaho | 22, 000 | 29. 3 |
| 7. Utah | 40, 000 | 29. 0 |
| 8. Washington | 142, 000 | 28. 9 |
| 9. Wyoming | 11, 000 | 28. 9 |
| 10. South Dakota | 15, 000 | 28. 7 |
| 11. Hawaii | 29, 000 | 28. 5 |
| 12. Colorado | 85, 000 | 27. 7 |
| 13. Oklahoma | 91, 000 | 26. 3 |
| 14. Kansas | 69, 000 | 26. 2 |
| 15. Florida | 224, 000 | 26. 1 |
| 16. Montana | 24, 000 | 26. 1 |
| 17. Texas | 355, 000 | 25. 7 |
| 18. Nebraska | 44, 000 | 25. 2 |
| 19. Michigan | 266, 000 | 23. 0 |
| 20. Wisconsin | 130, 000 | 22. 1 |
| 21. Alabama | 93, 000 | 21. 9 |
| 22. North Carolina | 142, 000 | 21. 9 |
| 23. Missouri | 147, 000 | 21. 6 |
| 24. Illinois | 321, 000 | 21. 6 |
| 25. New York | 478, 000 | 21. 3 |
| 26. Minnesota | 133, 000 | 21. 2 |
| 27. Mississippi | 46, 000 | 21. 1 |
| 28. Maryland | 139, 000 | 21. 1 |
| 29. Louisiana | 97, 000 | 20. 9 |
| 30. Tennessee | 119, 000 | 20. 4 |
| 31. Rhode Island | 34, 000 | 20. 1 |
| 32. Arkansas | 53, 000 | 19. 9 |
| 33. Massachusetts | 188, 000 | 19. 8 |
| 34. Connecticut | 95, 000 | 19. 4 |
| 35. Iowa | 83, 000 | 19. 2 |
| 36. Virginia | 158, 000 | 19. 4 |
| 37. Delaware | 20, 000 | 18. 9 |
| 38. West Virginia | 46, 000 | 18. 5 |
| 39. South Carolina | 80, 000 | 18. 4 |
| 40. Nevada | 20, 000 | 17. 6 |
| 41. Maine | 30, 000 | 17. 5 |
| 42. Georgia | 152, 000 | 17. 3 |
| 43. New Jersey | 208, 000 | 17. 0 |
| 44. New Hampshire | 28, 000 | 16. 9 |
| 45. Ohio | 336, 000 | 16. 8 |
| 46. Pennsylvania | 357, 000 | 16. 4 |
| 47. Kentucky | 87, 000 | 16. 4 |
| 48. Alaska | 12, 000 | 18. 0 |
| 49. Indiana | 167, 000 | 14. 3 |
| 50. Vermont | 14, 000 | 14. 2 |

Source: Derived from Veterans' Administration, DVB, IB 24–73–3. Appendix table 13.

Mr. MATHIAS. I believe that these two tables viewed together, Mr. President, clearly demonstrate that cost of tuition is probably the single most important barrier to fuller use of the GI bill, and that veterans who happen to live in States with high-cost public education do indeed receive "unequal treatment of equals."

To remedy this situation, the Comprehensive Vietnam Era Educational Benefits Act which the Senator from Kansas (Mr. DOLE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Hawaii (Mr. INOUYE) and I introduced last month includes a crucial tuition provision designed to ease this inequity. Under our provision, up to $600 in additional tuition costs above the $400 national "average" would be directly paid for by the VA; in this way, veterans attending schools with tuitions above $400, but less than $1,000, would suffer no greater personal financial sacrifice than those attending lower-cost colleges and universities.

I am gratified that nearly one-third of the Members of this body are already on record in cosponsorship of this crucial piece of legislation. If enacted, we may at least have taken some substantial preliminary steps toward redeeming the pledge of a "grateful Nation" to remember and honor the contribution and sacrifice of those whose lives were disrupted, and often risked, in service to their fellow citizens.

## REVAMPING CALIFORNIA'S STATE CONSTITUTION

Mr. TUNNEY. Mr. President, California continues to go through the difficult process of revamping its bulky State constitution. Since 1964, Orange County Superior Court Judge Bruce W. Sumner has worked tirelessly as chairman of the Constitutional Revision Commission to simplify and modernize the basic document of California governance.

While the life of the commission has now expired, I am most hopeful that a successor commission will soon be created and that Judge Sumner can again be persuaded to serve as its chairman.

Judge Sumner, who served several terms in the California Assembly, was twice elected presiding judge by his fellow jurists and commands the respect and affection of members of both political parties throughout the State of California.

At this point, I ask unanimous consent that the article, "Our Bulky Constitution—Is Pruning Season Over?", from the December 1973 California Journal be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### OUR BULKY CONSTITUTION—IS PRUNING SEASON OVER?

(By Dennis Campbell)

#### WHATEVER HAPPENED TO REVISION?

(If Bruce Sumner's smile brightened November 7th, voters who rejected Governor Reagon's tax initiative can take the credit. Sumner, a former member of the Assembly and now an Orange County superior court judge, objected to writing a tax limitation into the California Constitution and using 5,700 words to do it. Sumner was chairman of the Constitution Revision Commission, which spent nine years and $2.8 million attempting to simplify the Constitution. Proposition 1, Sumner declared, was "in direct contradiction to the goals of the whole revision process."

(What were those goals and why do they remain unfulfilled?)

While school segregation and the San Francisco Panama-Pacific Exposition of 1915 have little in common, they illustrate the beauty of the United States Constitution and the beast in the California Constitution. The U.S. Supreme Court ruled school segregation unconstitutional in 1954 merely by reinterpreting the same language in the federal Constitution used by the court 60 years earlier to justify segregation if educational facilities were "separate but equal". For an event of somewhat lesser social and political impact, Californians authorized state support for the Panama-Pacific Exposition not by statute or court ruling but by a 14,500-word constitutional amendment.

These examples represent a pattern typical of each constitution. The U.S. Constitution has changed and grown with the times simply by the courts' finding new meanings in its original 7,000 words. The California Constitution, on the other hand, has ballooned from 14,000 words on its adoption in 1879 to 80,000 words in 1964. The increase resulted from 360 amendments. The result, complained Phil S. Gibson, former chief justice of the California Supreme Court, is a constitution that is "cumbersome, unelastic and outmoded. . . . It is not only much too long, but it is almost everything a constitution ought not to be."

#### EASY TO AMEND

In the early 1960s, about 74 percent of the state Constitution dealt with matters more commonly covered by statute. California's first Constitution was relatively free of such material. But the Constitution of 1879 was drafted at a time when the Legislature was responding more to vested interests than to the public. Consequently, the framers included in their document many laws that the Legislature had failed to enact. Some of those laws still remained in the Constitution 10 years ago.

Hiram Johnson opened the way for more statutory material when he became Governor. In 1911-12, his successful campaign to secure for California the right to legislate directly via the initiative, referendum and recall made it possible to amend the Constitution by a majority vote of the people, just as Governor Reagan hoped to do last month.

The unusual frequency of amendment in California has been attributed to existence of the initiative. But only 23 of the Constitution's first 360 amendments were achieved by initiative. More likely, political scholars suggest, rapidly changing social and economic conditions in the state put extraordinary strains on a Constitution already impossibly detailed and inflexible. Attempts to deal with the resulting problems by amendment, they say, only made the Constitution more detailed and rigid, leading in turn to even more amendments.

By the 1960s, the pressure to do something about a Constitution that seemed destined to keep on growing and expanding reached a peak. The Constitution Revision Commission was not the first attempt to modernize the document, but it was the most successful. Voters rejected proposals to establish constitutional conventions in 1898, 1914, 1920 and 1930. In 1934, the public surprised lawmakers by approving a convention, but the legislature—made uneasy by the social unrest of the time—failed to pass the law required to call the convention. The Legislature had made a unilateral attempt to revise the Constitution in 1929, and again in 1947, but neither effort had significant impact on pruning its size or reducing its complexity. In 1962, voters approved another attempt to revise the Constitution, and the following year the Legislature created the Constitution Revision Commission.

#### THREE GOALS

It was a mixed group that undertook that mandate, working without pay and supported by a small staff. At one point in its nine-year life, the commission's membership consisted of 17 lawyers, 11 business executives, 10 educators, 8 executive directors of associations and organizations, 6 members of the Legislature, 4 housewives, a newspaper editor and a physician.

"We had three broad goals," recalls Paul Mason, parliamentarian for the commission, "We wanted a reasonably concise Constitution that established basic political concepts, outlined the organizational frame-work of government, and limited the power of state government. We had to develop that from an 80,000-word document that was full of obsolescence, irrelevancy and contradiction.

"A constitution with that much verbiage makes it too difficult to use. When you do find what you're looking for, you may have to get a lawyer to unravel its meaning. Most important, a constitution with so much detail is too slow to respond to social change."

The commission did manage to trim the Constitution to 49,000 words. It deleted a massive amount of language that had slipped in at the turn of the century, but half of the commission's proposals have not been acted on by the Legislature or offered to the voters for consideration. Orange County Superior Court Judge Bruce Summer, who became commission chairman in 1964, fears that many of those proposals may die in the Legislature.

The failure of the commission to achieve a higher ratio of success stems from three factors:

The commission and the Legislature miscalculated the public's willingness to accept a massive package of revisions in 1968.

The Legislature appears to have lost interest in the revision project.

Special interests have stalled action in key areas.

### SOME SETBACKS

The commission had a heady success with its first offering of revisions in 1966. A proposal dealing with the legislative, executive and judicial branches was approved by 73 percent of the voters. Sixteen thousand words were struck from the Constitution. A second revision package was prepared for the 1968 ballot, this proposal even more encompassing than the first. But a revision affecting education, local government, state institutions, public utilities, corporations, land and civil services fell more than 700,000 votes short of approval.

The commission attributed the rejection to a case of too much, too soon. Consequently, separate proposals regarding local government, public utilities and corporations, state institutions and land-use exemptions, and civil services went on the June 1970 ballot. Only the local government revision was approved. The civil service proposal was approved in November 1970, and revisions dealing with suffrage, the Legislature, water, land and certain obsolete materials passed last year.

But many of the significant issues that made the 1968 ballot—the proposals concerning education and public utilities among them—have not been given a second opportunity by the Legislature.

### WANING INTEREST

Each commission proposal submitted to the voters must be approved by a two-thirds majority of the Legislature. The lawmakers may dispute that they have lost interest in revision but the pace at which commission proposals have been considered has slowed in the last three years—and for two reasons. First, there has been a large turnover in the Legislature since the revision project was begun, and many of the new faces may lack both familiarity with the commission's goals and commitment to their fulfillment. Second, legislative interest in revision peaked in 1966 after passage of a commission proposal that removed constitutional restrictions on legislators' pay.

"I think it is fair to say," Judge Sumner said, "that most of the members of the commission feel that revision doesn't have the same interest on the part of the Legislature that it did at the time we were dealing with the legislative article. We should have held up on the legislative article until we got consideration on all these other areas that are equally important. There just hasn't been a close enough look at what we presented."

The lack of commitment to the goals set for the commission is attested to by the fact that, since 1971, legislators have proposed 451 constitutional amendments of their own. To the relief of Judge Sumner, few of those have cleared committee any more handily than the commission's leftover proposals.

### ADVOCATE NEEDED

The reluctance of special interests to support constitutional revision was no surprise. Indeed, special interests made up a large part of the commission's membership. Because the Constitution deals in such detail with so many areas of business and political life in California, opposition to change has been widespread. A constitutional tax exemption to certain businesses, for example, is far more valuable than one granted by statute. A statute can be changed virtually overnight by the Legislature; a constitutional amendment involves a cumbersome process ending with a vote of the people.

Prospects for the balance of the commission's proposals are not bright. For one thing, there no longer is a commission staff available to lobby for the proposals in the Legislature. "I'm convinced," says Judge Sumner, "that the proposals of the commission could be adopted and could be accepted. What we need is a strong advocate who would present them and take the time to go into them."

Time is something else that is working against the commission's proposals. The education proposal, some legislators say, has become dated in the five years since it was first offered. Obsolescence is an argument likely to be heard with increasing frequency against the remaining revisions.

The commission's work, however, is far from dead. Judge Sumner believes that much has been accomplished, but he conceded a year ago that some proposals stand little chance of surviving the political realities of the Legislature. "There are some commission recommendations in sensitive areas such as taxes and exemptions that may be too controversial to be adopted, but, regardless, an important chapter has been written in California constitutional law. This is true not only because half of our Constitution has been revised, but because of the public attention given to controversial areas in our constitutional law."

And four major revisions remain alive—a declaration of rights, revenue and taxation, recall of public officers, and motor-vehicle taxation. All repose in legislative committees. One or more of them could be approved in time for the 1974 ballot.

There is another hope as well for those who would further renovate the California Constitution. At a recent hearing in San Diego, the Assembly Constitutional Amendments Committee discussed the need for a revision commission that might meet every five or ten years to review the Constitution. The committee, noted Chairman Alex Garcia, now "is the only overseer of our state Constitution." When Assemblyman Garcia called the San Diego hearing to order, he expressed hope that it would produce a clearer idea of how the committee might protect the Constitution.

The resurrection of the Constitutional Revision Commission was the idea that emerged.

### LESS IS MORE

A new commission would find plenty of work remaining. The California Constitution remains no more than half revised after the first commission's pruning. It still provides, for example, constitutional status for the authority of the California State Bar, county school boards and local public utilities, for the guarantee of free textbooks for school children, for the exemption of church parking lots from taxation, and for prohibiting railroads from giving free passes to public officials.

With such matter removed to statute, if retained at all, the state's still-bulky basic legal document would assume much more of the austere beauty—and greater flexibility—of the model on which it was based.

## NATIONAL CANCER ACT AMENDMENTS OF 1974

Mr. JAVITS. Mr. President, the bill I introduced with Senator KENNEDY last week, S. 2893, will continue the advances made against the dread killer disease, cancer. This national commitment to the conquest of cancer grows out of legislation Senator KENNEDY and I introduced in 1971, which laid the groundwork for the enactment into law of the "National Cancer Act of 1971" (Public Law 92–218).

This measure will assure that cancer research continues within the NIH and maintains its separate budget—at an increased level of $2,765 million over the next 3 years—to insure the necessary top priority to fulfill our national commitment to launch a meaningful attack on cancer.

I believe that we must continue—at an increased rate—an intensive and sustained program of cancer research on all fronts. We must also seize hold of our scientific insights and advances and exploit them to their fullest potential. We can most effectively achieve this desired goal by moving forward with the establishment of cancer research and demonstration centers of excellence.

Unfortunately, under existing law these centers for clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer are limited to 15. Therefore, the bill I introduce today with Senator KENNEDY would eliminate this limitation. Action which would be in accordance with the recommendation of the National Cancer Advisory Board and the President's cancer panel.

Other proposed changes—including the increased funding authorization levels—required by our "National Cancer Act Amendments of 1973" also represent the views of the National Cancer Advisory Board, concurred in by the President's cancer panel, and a matter of public record. I would urge the administration to adopt them as their official recommendation and submit to Congress its own substantially identical legislative proposal; regardless of what may be the views of the Office of Management and Budget.

I would urge the President to continue his commitment to the conquest of cancer, evidenced by his signing into law the "National Cancer Act of 1971" and by his 1971 state of the Union message where he said:

> The same kind of concentrated effort that split the atom and took man to the moon should be turned toward conquering this dread disease.

## "GIANT PATRIOT"—A DANGEROUS EXPERIMENT

Mr. ABOUREZK. Mr. President, I wish to associate myself with the remarks of the distinguished majority leader of January 24 in regard to "Operation Giant Patriot," the recently announced plan to conduct demonstration launches of Minuteman II missiles from operational silos next winter. Although the program is designed to demonstrate the effectiveness of the deterrent represented by Minuteman II, there is little rationale for launching the missiles from bases deep in the heartland of the United States. This was the reason for constructing Vandenburg Air Force Base along the coast in the first place—to eliminate the possibility of having the potentially disastrous falling debris from falling out over any of the Western States.

Although the first sequence of launches is scheduled for Wing I at Malmstrom Air Force Base in Montana, several accounts have stated that the second series is scheduled to be fired from the missile wing at Ellsworth Air Force Base in my State of South Dakota, as early as the winter of 1975–76. With the potential hazards of such an operation, I cannot think of a more questionable program than this.

If, as reports have indicated, the second series of launches would be fired from Ellsworth, we can expect to encounter falling debris over Salt Lake City, Pocatello, Idaho, or even Yellowstone National Park—assuming maximum efficiency of the launch in the first place. With anything less, the outcome could be disastrous. Even the Air Force has admitted that the amount of debris which would have to be jettisoned is extensive. Approximately 2½ tons—the mass of at least two American automobiles—will fall to the Earth under the flight path of one missile. Adding up the total sequence of eight missile launches, we can expect 20 tons of debris falling from the sky—something like a whole railcar of flaming autos falling and demolishing anything within its range. With these flaming fireballs impacting in forest land, the prospect of fires is almost inevitable. Because of the eminent danger of fires, falling debris, and explosions, evacuation and relocation of people near the flight path is already a foregone conclusion.

It is incredible, Mr. President, to hear the Air Force talk of a "minimum of inconvenience" in describing the operation. Less than 10 years ago, we all witnessed very vividly the results of similar tests. During the same Minuteman tests as are now proposed, three of the four test missiles failed to perform completely all of the launch requirements. Yet, the goals set for those tests were not nearly so ambitious as the launches which are now planned.

Aside from the question of safety, there are other extremely significant problems which demand to be addressed. At a time of unprecedentel domestic priorities which cry for funding, there is no question that this country can ill afford the $26.9 million cost of this poorly conceived program We have an effective testing program already underway at Vandenburg Air Force Base, and the difference in firing them from locations outside of Vandenberg is negligible. Furthermore I have learned that the possibility exists whereby the silo used for this costly operation may not be used again. If these operational silos may not be used again, there should be absolutely no question that the cost and investment involved would be absolutely prohibitive.

Mr. President, there seems to be little question that this whole program is nothing more than a product of the new Schlesinger hard-line policy toward the Soviet Union. It is little wonder that other powers strive with the same aggressiveness to accomplish new heights in this insane race for arms superiority.

I strongly urge this Congress to stand up and say "No" to the Defense Department on this most questionable program. The lives and well-being of thousands of people who would be affected by this are worth far more than learning about the inconsequential difference between launching a missile from Malstrom or Ellsworth and launching at Vandenburg.

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## A WORTHWHILE TRIP

Mr. GOLDWATER. Mr. President, rather than try and write an introduction to the paper I want to submit to the RECORD, I am going to use what the publisher of the Armed Forces Journal International used in introducing the article:

### A WORTHWHILE TRIP

There was the usual criticism of an alleged "boondoggle" when it was announced last month that a 21 man subcommittee of the House Armed Services Committee, headed by Rep. Samuel S. Stratton (D–NY), would visit the Middle East on a fact finding tour. The Special Committee visited Israel from 17–20 Nov. and visited Egypt from 21–24 Nov. The U.S. Congressmen talked with government and military leaders in both countries and produced what may be the most valuable military report ever produced by a Congressional committee. The first hand review of opposing military strategy and weapon systems so soon after hostilities is unprecedented and produce information that will be of great use in dealing with American military posture. An unclassified version of the committee report is reproduced in full and AFJ considers it of high interest.

I ask unanimous consent that this most interesting article on the House Armed Services Committee's visit be printed in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### CONGRESS FILES AN EXTRAORDINARY REPORT: THE MIDDLE EAST WAR

### A WORTHWHILE TRIP

There was the usual criticism of an alleged "boondoggle" when it was announced last month that a 21 man subcommittee of the House Armed Services Committee, headed by Rep. Samuel S. Stratton (D-NY), would visit the Middle East on a fact finding tour. The Special Committee visited Israel from 17–20 Nov. and visited Egypt from 21–24 Nov. The U.S. Congressmen talked with government and military leaders in both countries and produced what may be the most valuable military report ever produced by a Congressional committee. The first hand review of opposing military strategy and weapon systems so soon after hostilities is unprecedented and produced information that will be of great use in dealing with American military posture. An unclassified version of the committee report is reproduced in full and AFJ considers it of high interest.

### WEAPONS SYSTEMS

There has been a tendency in the press to paint the Soviets as 10 feet tall because of what their weapons systems did in the October War. To some degree this tendency has been fostered by the Department of Defense in its reports to Congress on Soviet weapons and on Soviet actions in the Middle East.

The subcommittee learned some important lessons on its visits to the Middle East which bear repeating.

Some general comments first, then some specific observations:

### GENERAL COMMENTS: WEAPONS SYSTEMS AND THE LESSONS OF THE OCTOBER WAR

An important thing for our committee to consider in assessing the lessons of the October War is what elements of the equation would be present and what might be missing in situations involving our own forces.

What the Soviets gave the Arabs was not sophistication, but proliferation. It was the vast number of weapons provided the Arabs rather than any exceptional technical capability that took a toll.

It is important to ask ourselves what the lesson is for our military. In a confrontation of equal tactical, technical and fighting ability, at what point does a great advantage in quantity overcome an advantage in quality?

An important consideration for the United States is what one must consider in supplying our own forces. In recent years the debates in Congress on weapons systems have had a curious phenomenon. The attacks on defense spending have concentrated on the big, expensive strategic systems—the Trident, the B–1 and such. In the end, the Congress has rarely reduced the funds for these major strategic systems. However, a climate has been created that has held expenditures for the less fashionable, conventional weapons to the minimum.

### CONVENTIONAL WEAPONS INVENTORIES

We have continued to develop technically superior conventional weapons (although these developments have sometimes met with great resistance) but we have not supplied U.S. forces with conventional weapons in quantities matching Soviet forces. If the decision is made to resupply the Israeli forces at anywhere near the number they request and those supplies are taken out of inventory, the U.S. forces could end up with shortages in some areas of conventional weapons. Perhaps the United States has concentrated so heavily in developing weapons for the future that not enough effort has been given to producing already adequate systems.

For example, the Israelis lost around [deleted] tanks. Subtracting what they can repair and put back in use and what they can use of captured Arab tanks, they indicate a net loss of approximately [deleted]. They complain that they are assured of getting only [deleted] replacement tanks from the United States. Since they want to more than replace their losses and, out of their desire to increase firepower, want to substantially increase their tank forces right away, they would like a great many more tanks than we have indicated we are prepared to furnish them. It is interesting to note that at present there is only one producer of tanks in the United States for the U.S. Army and the present production rate is 30 tanks a month or 360 a year. To furnish the Israelis [deleted] tanks would mean giving them more than [deleted] production at our present authorized rate without any provisions for even replacing the tanks that we have taken out of inventory.

Certainly one of the lessons of the October War is that the technical advantage that some systems can provide, such as antitank missiles and accurate air-to-ground missiles, can provide an important edge on the battlefield.

Equally important is the need to consider a preponderance of less expensive weapons in place of highly sophisticated, very expensive systems which we can only produce in limited quantity. The Israelis expressed the belief that the Soviets can produce the Sagger antitank missile for $1,000 a piece. The U.S. TOW missile is far more accurate than the Sagger but far more expensive. The subcommittee wonders whether adequate thought has been given by our military forces as to whether, at the price we can afford to pay, we should provide a mix of weapons to assure adequate numbers for the battlefield.

The Russians very skillfully provided SAM defenses in astounding numbers to the Arabs to use in place of air-to-air defenses. There is evidence that at the beginning of the war the Arabs declined to use their air forces to any great extent and instead preferred to rely on SAM systems to counteract the Israeli air forces. The Israelis ignored the lesson of North Vietnam.

It is worth asking whether our armed forces, while they spent an enormous amount of time developing effective measures to defeat SAM's from the air, have thought adequately about the effectiveness of SAM systems for their own defense. The number of air-defense units provided for our forces in Europe, for example, cannot begin to compare with the numbers of the Warsaw Pact nations, even though the Warsaw Pact has numerical superiority in aircraft. Our Hawk is not as mobile as the SAM–6. While both our Hawk and Nike Hercules are very accurate, they are limited in the number of aircraft they can engage. The SAM–D system, which has been under development for some years, is far superior to any system known to be in the inventory of any country. But it is still many years away from deployment. The surface-to-air defense of our own forces is something that should be studied more fully by the full committee.

The Israelis referred to this as the most modern war and stressed to the subcommittee how much the United States could learn about Soviet armament. The Israelis also pointed out that in all phases of the war the ratio was at least 3 to 1 or 4 to 1 against them. They stressed that in the past Israel has closed the gap with superior planning and tactics and better equipment. But they did not have all of those advantages this time. The U.S. equipment was superior, but the Russian equipment was in massive quantities—so much so that it threatened to tip the balance against them. They also admit that at the beginning of the war the Arabs were aided by high morale in their attacking forces.

Each side insisted that the other got the latest weapons from its allies.

The Israelis point out that the Egyptians and Syrians got T–62 tanks and some airplanes not given to Soviet satellites in Eastern Europe and got the SA–6 missile that was never given to North Vietnam. The Egyptians got the Scud missile which can reach Tel Aviv, from Egypt, Russian Foxbat aircraft (MIG–25) arrived in Egypt near the end of the war.

By contrast, the Israelis say they have problems with U.S. policy because it provides them only replacements and the Americans are very reticent on the most sophisticated equipment. They also complain that, in contrast to the Arabs, they have not had all of their losses replaced. (For example, they lost [deleted] aircraft and have gotten [deleted] replacements.)

The Israeli Air Force commander said the Russians had delivered the variable-wing SU–20 aircraft to the Arabs and said this was the latest Soviet strike aircraft.

The commander also stated that the Russions had given the Arabs TU–16 aircraft with the Kelt missile. The Israelis originally thought this was given to the Arabs to frighten the 6th Fleet, but later decided this was not correct. It was indicated that one Kelt missile, which has a range that could take it to Tel Aviv, was fired toward Israel but was shot down. It is not clear what the target was.

By contrast, both Mr. Sadat and the Egyptian War Minister, Gen. Ahmad Ismail, insisted that the Soviets have later versions of the SA–6 and that Egypt was provided "primitive versions" of the SA–6 and other weapons. Mr. Sadat said he knew this because his officers train in Russia and had seen better models. This may be true. On the other hand, it may be that Mr. Sadat is led to believe this because the American equipment he has seen is superior and he naturally assumed the Russians were holding back.

General Ismail, when asked the question, frankly said that U.S. equipment is good but it has competition; that the United States is better in some things, the Soviets in others.

Mr. Sadat placed much emphasis on the fact that we have provided our most sophisticated weapons to the Israelis. When Mr. Nedzi asked him to name them specifically, he mentioned "smart bombs" and Maverick. He mentioned the Maverick on several occasions, emphasizing that we have never used it ourselves.

### MILITARY LESSONS OF THE WAR FOR THE ISRAELIS

The Israelis were candid in admitting that they were, to a degree, surprised by the Arab attack. They were aware of the Arab actions of moving troops but misread Arab intentions. When the Arabs moved aircraft forward, they assumed it was to be in the defensive cover of the SAM missiles. When the Russians evacuated Damascus and other areas, they thought it was because the Soviets desired to have no part in the Arab action. Actually they now conclude it was just the opposite—the Russians had prepared everything and were leaving as action commenced.

One of their major conclusions concerning air forces is that they must have more pilots and more aircraft in reserve. They insist they need more aircraft in storage regardless of the number of pilots.

The Israeli Air Force commander had a very negative attitude toward the helicopter and said it was only useful if it could fly at night below [deleted]. He referred to it as a "cluth weapon" and said that in the daytime it "did not have a right to exist." However, it must be remembered that his air force is used to fighting in open plains and desert. The Israelis have used helicopters to transport supplies since the ceasefire, including providing hot meals to men at the front.

The Isreali Navy indicated that it had four major needs: minesweepers, ASW capability, support ships so that its patrol craft can stay longer out of port, and the new Navy PHM hydrofoil boat.

The Israelis feel they need standoff weapons. They particularly mentioned that they would like to have the Lance missile. In order to be useful to them in such a situation, the Lance missile would have to have a conventional warhead. It is interesting to note the House Armed Services Committee for several years has supported and urged development of a conventional warhead for Lance but has been opposed by the General Accounting Office and other Congressional Committees, and the Lance to date has been limited to a nuclear warhead. Tests are continuing on a conventional warhead. The Lance is the U.S. Army's longest-range surface-to-surface missile with a range of approximately [deleted] kilometers.

The Israelis are convinced they must prepare for the future by developing a great deal more firepower. They say their doctrine must be based on firepower because they will always be outnumbered in manpower.

### ISRAELI PREPAREDNESS

The chief of staff of the Israeli armed forces, General Elazar, said they had seen the Arab preparation for war but did not believe they would attack. He got the warning at 4:00 a.m. on the fateful day that an attack was coming. The information said the attack would come at 6:00 p.m. The Israelis started their mobilization at 10:00 a.m. Mrs. Meir told us she made the decision not to preempt so the world would know that the Arabs started the war this time.

The Syrians and Egyptians attacked simultaneously at 2:00 p.m., achieving a level of coordination they had not demonstrated in the past.

Along the Syrian front the attack came in three places with three infantry divisions and 2,100 tanks. At the time the attack started, the Israelis said they had 180 tanks in position; the odds against them, therefore, were as much as 12 to 1. The Egyptians attacked across the canal with five infantry divisions, two mechanized divisions, two armored divisions and 2,640 tanks. The Israelis had three brigades, including a training brigade at the Egyptian front at the time.

The Israelis actually had one unexpected advantage because the Arabs attacked on Yom Kippur. On that day all Israelis were either at home or at synagogue, and it was thus easier to contact them than would have otherwise been the case. Many rabbis announced in the synagogue that men would report to their units following services.

After the original bridgehead on the eastern side of the canal, it was assumed that there would be a big armor attack by the Egyptians. The Israelis decided to contain the armor attack, destroy as many assets as possible and then counterattack.

Historically there have been three bases of Israeli military strength: a good air force, good armor and rapid mobilization capability.

This time, the Arabs had SAM's to counterattack the good air force, incredible quantities of antitank missiles to counteract the good armor, and a surprise attack that took effect before the Israelis could mobilize.

The Syrians launched a hundred aircraft and tried to hit command posts, troop concentrations and other main points within the Israeli lines; but the Israeli Air Force intercepted their planes and prevented many from getting through.

### AIR-TO-AIR COMBAT AND U.S. AIR-TO-AIR MISSILES

The Israelis reported very good success in air-to-air combat with the Sidewinder missile, which is not new to the Israeli inventory.

The Israeli pilots used mostly Sidewinder or an Israeli-made missile in air-to-air combat. They also had success with the Sparrow missile from a range of up to [deleted] miles. However, they apparently did not use Sparrow much as Israeli training calls for pilots to get as close as possible in air-to-air combat.

However, while these missiles apparently performed well, a lot of the Israeli success was due to their skill in air-to-air combat.

In previous wars the Israelis, in seeing an attack about to come, have used preemptive strikes to knock out the opposing air forces and disrupt the enemy plans. As previously mentioned, this time the political leadership of the country made the decision not to preempt.

The commander of the Israeli Air Force, Major General Peled, said the Egyptians had learned three things since 1967. These are (1) the necessity for adequate surveillance systems to pick up incoming aircraft, (2) the effectiveness of ground-to-air defenses resulting in the most intense such system imaginable and (3) the dispersal and hardening of aircraft sites.

The subcommittee saw some of the very substantial looking aircraft shelters Egypt had built at Fayid Air Base on the west bank of the Suez Canal.

Now for observations on particular Soviet and American weapons systems:

### SA–6

The accuracy of, and damage inflicted by the SA–6 was exaggerated by the press. We now know from a study of the missile itself by our military that the major advantage of the SA–6 is that it is mobile, more so than our ground-to-air missiles.

The SAM defenses of the Arabs caused problems because at the beginning of the war the Arabs had the initiative and the Israeli forces on the ground were greatly outnumbered in men and tanks. Because of this, the Israeli Air Force had to begin immediately to perform close-support missions, ignoring the defenses thrown up against them, instead of their usual strategy of suppressing antiaircraft defenses first.

Even so, the number of planes lost to the SA-6 was less than reading the newspapers would lead one to believe.

Israel lost only 9 F-4s to SAMs of all types, It lost the same number of F-4s to antiaircraft fire.

The SAM-6 presents the problem that reconnaissance is difficult, particularly in an area with many tanks. Strike must be made in minutes after missile launch or launcher target is lost.

General Peled recommended as the answer to SAM-6, and/or SAM proliferation, a standoff missile. He mentioned Condor but undoubtedly is not aware of its cost.

### HAWK

We heard very little about the Hawk; although in answer to questions, the Israelis said it was very effective.

There is a suspicion that it was not used very much because Israeli planes took on enemy planes as a first defense.

Of the Arab aircraft losses, estimated by the Israelis at [deleted], [deleted] Egyptian aircraft and [deleted] Syrian aircraft were lost to ground-to-air fire. It is not known how many of those were Hawk missiles.

### TOW

The TOW missile was shipped to Israel toward the end of the conflict but was not used in combat. (During a briefing of the committee within the week before the trip, a Defense Department briefing officer was asked how the TOW performed in the war and replied that it had been reported that it had done quite well.)

On receiving the TOW, the Israelis remarked that it was only useful 50 percent of the time since it was a daylight, line-of-sight weapon. The Israelis, in trying the weapon out, made a modification to one of their present night sights, involving a $10 item, fired the missile in three practice night firings, and on the third shot hit the target.

We have asked that full information on this be provided to us. In view of the considerable expense the Army has gone to to develop a night sight for TOW, the information should make for fruitful questioning during next year's authorization hearings.

### MAVERICK

The Maverick air-to-ground missile which we supplied the Israelis made a great impression in the war. Unlike the TOW, the Maverick was used by the Israelis. They reported excellent results. The targets were tanks and bunkers. The Maverick can pierce the Armor of the heaviest Soviet tank.

The Egyptians were quite aware of its capabilities. President Sadat mentioned the Maverick on several occasions. The leaders of both countries showed a high degree of knowledge about the weapons systems that the United States has under development.

### AIRLIFT

The Israelis, whose efficiency is everywhere evident, expressed astonishment at the efficiency of the American airlift and were especially lavish in their praise of one C-5A. The Israelis said our airlift and resupply effort was much more efficient that the Soviet's but the Soviets provided a lot more to their allies.

The Israelis were impressed, however, by the willingness and the ability of the Soviets to resupply rapidly. For example, they gave this illustration: On one particular day it was noticed that there were no SAM's being fired against them after 11:00 a.m. That afternoon they picked up Soviet aircraft arriving in Syria. The next day there was no shortage of SAM's among the Arab forces on the Syrian front.

### TRUCKS

The Israelis are somewhat perplexed by the fact that they are unable to impress upon our military the importance of their need for trucks. In the list of equipment they requested as soon as the war started was a request for a great many trucks, but the Department of Defense did not comply, undoubtedly assuming that trucks were of a low priority.

It happened that the Israelis had determined that keeping a vast reserve of trucks was not economical and, therefore, their civilian trucks are kept in reserve like civilian citizens; and when the armed forces are mobilized, as in this case, [deleted] percent of the nation's trucks are mobilized. The result is a severe effect on the attempts to continue the economy of the country, particularly in the service areas, because of the shortage of trucks.

Basically, the Israelis requested 5- and 10-ton regular Army trucks. Subsequently, they requested specifically 10-ton diesel motor trucks.

### THE T-62

The subcommittee examined numerous pieces of captured Russian equipment, including the T-62 tank, the presence of which received so much attention in the early days of the war. The T-62, as indicated, was cited as an example of equipment the Soviets gave the Arabs that it had never given to the European satellites.

The T-62, which is lefthand loaded, has fuel cells mounted outside, which increase its vulnerability. It also appears to have a fuel cell inside directly behind the gunner.

While this is the first time the T-62 has appeared in combat, the tank was actually placed in production back in 1961. It appears to be inferior to the American M-60A1 tank.

### USE OF RESERVISTS

While there was insufficient time to go into depth on the Reserve system in the Israeli armed forces, we did learn that every able-bodied citizen of Israel is required to serve in the armed services—males for a maximum of 36 months of active service and 24 months for females. Upon completion of this service, men continue to participate in the Reserve until reaching age 49 and women till age 30, with waivers for those with children. Women are not used in combat. On completion of active service, male conscripts are assigned to a first-line Reserve unit until the age to 40 to 41.

While perhaps certain lessons could be learned which might apply to the American system of Reserves, this is a matter for the Military Personnel Subcommittee to explore in the future. We would recommend to the subcommittee that it make an in-depth study of the system of Israeli Reserves.

It is obvious that the geographic situation and the motivation of reservists present different factors than we have in the United States. Usually a reservist is located no more than 200 miles from the actual war zones, and certainly protecting one's own homeland from extinction serves as an extremely high motivating force. That the Israeli system of Reserves was successful is shown by the fact that while Reserve units are regularly expected to be mobilized in 24 hours and in place on the battlefield within 48 hours, in the Yom Kippur War of 1973 some of the Reserve units were actually participating in the fighting less than 18 hours after receiving the call.

Since the majority of the Israeli armed forces are in the Reserve, any extended mobilization severely affects the national economy.

The subcommittee was told that reservists in Israel, who are primarily in the Army, train for 35 days per year plus 3 days a month.

### NAVAL ENGAGEMENTS

The Israeli Navy fought 10 engagements with Arab naval units and won 10.

The Arabs had Soviet Osa boats firing Styx missiles with a range of 25 kilometers. The Israelis had Saar boats firing their own Gabriel missile with a range of [deleted] miles.

### OLD POLICY AND ENERGY NEEDS

The subcommittee did not visit the major oil-producing states as part of its mission, but members took the occasion of the discussions with Egyptian leaders to express the hope that Arab oil policy would not be such as to cause retaliatory economic measures in world trade or to cause a backlash of resentment by the American people.

The subcommittee would note also that the October War hastened the arrival of the inevitable crunch in the world oil supply. The need to develop alternative energy resources should have been evident without this war.

The subcommittee speaks below of the need for nuclear power for the U.S. fleet. But it is also necessary to develop other resources for domestic use, and in this regard the subcommittee believes Congress should examine the level of research on solar energy, the only unlimited energy source in the universe.

### SHIPS AND OIL

The Committee on Armed Services has in the past consistently urged nuclear propulsion for naval vessels because of its operational advantages—the virtually unlimited range such power gives a ship. Now nuclear propulsion has become a must because of logistic realities. In addition to the danger of a shortage of oil for ships, the rising cost of oil when available has made scrap paper out of past comparative cost estimates for nuclear and conventional power.

The wisdom of the committee's past position has been borne out by time, and the committee should question carefully the construction of further oil-powered ships where the technology exists to make them nuclear powered.

### EGYPTIAN MILITARY SITUATION

For a number of fairly obvious reasons, including the still somewhat delicate relations between our two countries and the fact that the United States provided heavy resupplies for Israeli defense forces, the information picked up by the subcommittee on Egyptian military operations and equipment was considerably less than what we received from the Israeli military. Nevertheless, because of the long gap in Egyptian-American relations; the fact that no military representatives are attached to the U.S. Mission in Cairo; and the fact that few, if any, U.S. military officials have visited Egypt in recent years, this visit of a military-oriented committee perhaps offers the United States some of the first on-the-spot information relating to Egyptian military affairs. In those circumstances even brief and casual observations by members of the subcommittee and accompanying staff and escort personnel may be of considerably more value than might otherwise be the case.

There is no question but that Egyptian military leaders regard their crossing the Suez Canal as a very important military operation. Indeed, they regard it as a very impressive and historic military victory, comparable to the German breaching, or bypassing of the Maginot line in World War II. And a carefully prepared booklet, replete with full color photographs, setting forth details of their crossing, was presented to every member of the subcommittee during its visit to the front.

The Egyptian generals went to great length to tell the subcommittee how they maneuvered their troops into position for the surprise attack and the extensive steps taken to camouflage those movements. They took great pride in being able to achieve a surprise attack. They also told us of the hours and years spent training to cross the Suez Canal and overcome the strong fortifications which the Israelis had built.

In addition to the crossing itself as a manifestation of improved Egyptian combat capabilities, there is no doubt but that the cover and deception operation, which managed to conceal these intentions from the Israelis over a fairly significant period of time, was even more impressive. The Egyptian officers did not go into great detail in discussing these deception procedures, but they referred to them with great enthusiasm.

Israeli sources indicate they were aware of Egyptian troop movements on the west side of the canal, but assumed these were regular army training maneuvers. Yet the Egyptians were able to move substantial numbers of troops, perhaps 70,000 or 80,000, plus substantial tanks and trucks, into the canal area undetected. In view of the heavy emphasis which the Egyptians placed on Israeli bombing of homes and apartments in Port Said, an area that was well protected by SAM sites as well as dummy SAM sites, it seems possible that the Israelis assumed the buildings of Port Said were being used to hide Egyptian troops destined for further cross-canal operations.

Also contributing somewhat to the cover may have been the large earthenworks constructed by the Egyptians along the west bank of the canal. These not only provided high observation and firing points across to the Israeli side, but also provided cover for vehicles and personnel. In between these high points, the lower banks were in many places, honeycombed with tunnels and firing positions.

At the time of the October 6 canal crossing by the Egyptians, the Israelis told us, the Egyptians also dropped commandos by parachute deep behind Israeli lines on the east bank. The Israelis confessed puzzlement over this action since no effort was ever made to link up with these parachute troops and no effort was ever made to recover them. But Egyptian officers discussing this action said it was part of the cover and deception plan of the crossing, designed to confront the Israelis all at once with Egyptians attacking "from all directions." In that way, the Egyptian officers said, the Israelis would be unnerved and in particular would not know where the main thrust was coming from.

The extent of military preparations in Egypt is awesome. From Cairo to the Suez Canal the subcommittee saw endless emplacements of missiles and columns of tanks, trucks and other military equipment. There was not a kilometer between Cairo and the Canal that had not been fortified. Also, the subcommittee noted great dispersal of tanks, trucks and other equipment, much of it dug into the sand in partial revetments. Extensive trenching in the sand was also noted.

It was made clear the Egyptians believe that time was on their side during these peace negotiations because they have a large standing Army and would be paying their soldiers whether or not they were at the front. On the other hand, the Egyptians believe Israel is hard pressed to maintain their forces in a state of readiness since the majority of their troops come from the Reserves who have a regular place in the business and industrial life of that country.

The importance of the effect on Arab pride is one of the factors in the situation that can hardly be fully grasped until one visits Egypt. Egyptian leaders were deeply conscious of past defeats and of derisive world opinion of their soldiery. President Sadat spoke repeatedly and with great feeling of the "humiliation" his Army had suffered at the hands of Israel as the result of the Six-Day War.

The Arab leaders feel their soldiers have regained their pride through the success of their initial attack. Their soldiers showed superior discipline and morale compared to what they exhibited in the past. It would appear to be impossible for the Arab leaders to go to a peace conference without the feeling that their forces had redeemed themselves on the battlefield.

The Egyptians are extremely proud of the American equipment captured from the Israelis. During the subcommittee visit to Cairo, tanks and other captured weapons were being rolled into a downtown park where they could be seen by Egyptians. We were told an exhibit of this equipment was scheduled to be opened sometime in early December.

Israeli officers claimed that Soviet planning for the Egyptian operation had extended as far down as the battalion level. This was denied by the Egyptians. The subcommittee saw no evidence of Russian troops or personnel during its visit.

In discussing the implementation of point 2 of the cease-fire agreement—withdrawal to the October 22 lines, the major sticking point in the Kilometer 101 talks—General Ismail, Egypt's Minister of War, told the subcommittee that Egyptian aerial photography proved that on October 22 the Israeli forces on the west bank of the canal moving southward had reached only about halfway down Great Bitter Lake. This same photography showed that these forces advanced further on October 23 and by October 24 had reached the outskirts of Suez City, where they finally came to a halt, he said.

The subcommittee received no information from the Egyptians as to the extent of Soviet resupply to Egypt after October 6.

### ISRAELI VIEWS REGARDING THE $2.2 BILLION AID-FOR-ISRAEL LEGISLATION

The importance of the $2.2 billion proposed aid-to-Israel legislation to the Israeli government was made very clear to the subcommittee from the outset.

We were informed that the Israeli Defense Ministry had asked the United States for a total of $2.75 billion in arms shipments as a result of the October War. But the administration had asked Congress for only $2.2 billion. At that juncture Israel had received only about $800-$900 million. Where was the rest? Why had it not been delivered? What was the hold-up?

The subcommittee members explained that we were aware that not all of Israel's requests had been met, but believed the shortfall was due at least in part to the fact that America was still proceeding on a policy of only replacing Israeli losses on a 1-to-1 basis. No decision had yet been made as to whether additional shipments should be authorized beyond this amount, and if so to what extent.

Israeli leaders conveyed their strong feeling that American policy should be geared to furnish Israel weapons not merely to replace those lost in the war, but to match Soviet shipments of new weapons to the Arab countries since the war, where in most cases totals far exceeded those on hand earlier.

Subcommittee members pointed out that the best chance for full funding of the $2.2 billion lay in stressing that a satisfactory settlement in the Middle East could best be assured by restoring a military balance in the area.

Also designed to reinforce a plea for speedy enactment of the $2.2 billion legislation was a briefing received from the Ministry of Finance. Statistics were cited to underscore Israel's need for financial help. The 1967 war, for example, cost about $100 million per day; the 1973 war cost them over $250 million per day, or a total cost of about $6 billion. Total defense imports in 1973 to date amounted to $1.8 billion, or 11 times more than in 1966, and represented one-third of the total of all 1973 imports into Israel: Forty percent of the GNP, we were told, was being spent on defense in 1973; if such a rate was applied to the U.S. GNP, our annual defense budget would amount to $450 billion. In addition, we were informed, Israel's total foreign debt amounts to $5 billion, or $1,500 per capita. Repayment of charges on this debt run to $800 million a year, which equals one-half of Israel's total reserve currency. As an example of the tax burden on Israeli citizens, a man who earns $1,000 a month has a take-home pay, after taxes, of $450 a month.

For all these reasons, we were advised, Israel not only needs the full $2.2 billion, but would strongly like to have it all extended as a grant rather than as a loan.

### THE CHANCES FOR A PERMANENT PEACE SETTLEMENT

Essentially the mission of our subcommittee was military, not diplomatic. Yet the fact is that the Middle East situation represents a very close intermingling of military and diplomatic considerations that cannot be considered apart from one another. For example, the October War was initiated, it would appear, primarily in an effort to force a fresh political effort to alter the status quo line-up in that area. In this it certainly appears to have succeeded. Similarly, the overall Israeli defense effort, especially the dash across to the west bank of the Canal to cut off the Egyptian Third Army was designed to provide increased leverage to preserve as much of Israel's pre-October War position as possible. Indeed, America's current effort to encourage a satisfactory political settlement is motivated primarily by a sincere desire to avoid a constant recurrence of Middle Eastern wars that could ultimately lead to a face-to-face military showdown between the Soviet and ourselves.

Thus it follows that the most urgent business for the United States in the Middle East at this time is to achieve a negotiated settlement that would be acceptable to all the parties and would have a good chance of stability into the foreseeable future.

Given the long and involved history of hatred and suspicion between Jews and Arabs, such a settlement is not easy undertaking. But there are a number of elements in the present situation that appear to offer hope.

First, is the military situation itself. Neither side won an overwhelming victory in this war, and neither side suffered a crushing defeat. The Egyptians did much better militarily than expected. To this extent they have wiped out what they feel were the "humiliations" of the Six Day War and thus they are now much better able to come to a peace table as equals. At the same time, the Israelis have paid heavily for their military advances. Although the Israelis believe their heavy initial losses during early days of the war could have been minimized by a preemptive strike, they recognize clearly that they cannot simply continue to fight such wars periodically into the indefinite future. Both Mrs. Meir and General Dayan emphasized to us their desire for the establishment of peace and their belief that Jews and Arabs can and should live side by side in the Middle East in conditions of peace and mutual respect.

At the same time the subcommittee's 2-hour session with President Sadat in Cairo demonstrated to us a similarly very persuasive desire for a political and diplomatic settlement between the parties concerned. Mr. Sadat told us he was prepared to accept the existence and survival of Israel. He reminded us that he had been the first head of an Arab state to declare his willingness to make peace with Israel. But he needs something concrete from the U.S. to show for this willingness. He said his only desire was to be able to build up the economy of his own country and to reduce the heavy burden of armaments. The Speaker and members of the People's Assembly emphasized their desire to start a new page in U.S.-Egyptian relations.

The fact that Israeli and Egyptian generals have been meeting with considerable good will and some success at Kilometer 101 would suggest that a start has already been made in this direction towards effective face-to-face negotiations between Jews and Arabs—for the first time in over 20 years.

Sadat and his generals recognize that the present cease-fire lines impose a heavy burden on Israel in terms of continued mobilization, which she can sustain over any extended period only at a heavy cost to her civilian economy. Thus Israel too is under considerable pressure to get some satisfactory political solution worked out quickly.

What, if anything, can we say as to the specific terms of a settlement once a peace conference gets underway? Obviously, as in all such complex clashes of interest, any satisfactory solution must involve some give and take on both sides, with the result that a final settlement is unlikely to be totally satisfactory to either side. At least the shape of such a settlement could be gained from piecing together various positions from the remarks of President Sadat, Mrs. Meir, and top military people.

From Mr. Sadat's point of view it is important to recover the Sinai for Egypt and reopen the Suez Canal. For the Egyptians the fact that they crossed the canal represents a major psychological victory. Hence, it would seem unlikely that the Egyptians would agree to give up that east bank area which they now control. Sadat insists at this stage he wants all the Sinai back. But he also said he was willing to consider a disengagement of combatant forces (under the terms of paragraph 2 of the cease-fire agreement), as he put it, "in the depths of the Sinai."

Mrs. Meir, for her part, indicated that Israel would not insist on retaining "all of the Sinai" in any peace agreement, provided that Sharm el Sheik could remain under some form of Israeli control and some suitable corridor out of that area could be provided to Israel.

The Golan Heights and the Palestine refugee problem appear to present much greater hurdles for both sides, but again we found indications of a willingness to compromise.

The problem of Jerusalem is particularly difficult because of the strong religious feelings involved.

Sadat also emphasized two other points. Once disengagement of the military forces is completed, he said he could have the Suez Canal open and operating in 4 months: And he added, "Remember that your real interest is here in this area. We have a message for you; we don't want you to have a cold winter!"

As a further sign of his interest in friendly relations, he advised us that his new ambassador would soon be on the way to the U.S. Later in our stay we met that gentleman, Ambassador Ashraf Ghorbal, a former Egyptian official in the U.N. and a graduate of Harvard.

One final point. Mrs. Meir went out of her way to reject very strongly the proposal of a U.S. guarantee for Israel. She said it implied for the borders being suggested for Israel must be less defensible, and thus had somehow to be made up for in another way. In other words, it seems clear that any settlement finally agreed to cannot be based on mutual confidence alone but must recognize Israel's need for "defensible" borders, either "buffer" or demilitarized zones of some kind to prevent surprise attack.

Obviously, there is not yet full agreement on all these complicated and sensitive points. And yet, as can be seen, there are areas of potential agreement between the parties and for the first time in 20 years face-to-face conversations between the parties have been underway.

If the two countries can talk and make progress at Kilometer 101 on military issues, might they not also be able to do the same on political issues in Geneva? To this extent the picture does offer some ground for hope. So, as the Secretary of State has said, we may, indeed, be closer to peace in the Middle East than at any time in the past 20 years.

### ISRAEL'S WAR DEAD—HALF OF MIAMI

Revised Israeli casualty figures released in mid-December (but not reported in U.S. press) show 2,812 dead during Yom Kippur War, 30% more than the 1,854 dead announced early in November.

On the basis of relative population, Israel lost in 2½ weeks what for the U.S. would have been half the population of Miami or Wyoming. Had U.S. suffered casualties on a similar scale, nation would be reeling under the shock of having Hartford, Conn., Madison, Wisc., Fresno, Calif., Baton Rouge, La., Tacoma, Wash., Salt Lake City, Utah, or Warren, Michigan, wiped out in 18 days.

Arab nations have not released their casualty figures.

### WHO DO YOU BELIEVE?—THREE SIDES TO TOW STORY

A credibility gap has surfaced about Hughes Aircraft Company's TOW antitank missile and the Yom Kippur War. There are three "authoritative" versions of the story:

Israel used TOW in combat.

Israel got TOW, but too late to use them in combat.

Israel never did get TOWs during the October 6–22 fighting.

Within a week of a special House Armed Services Subcommittee's departure for the Middle East in late November, it asked a Defense Department briefing officer how the TOW performed in the war and was told that "it had been reported that it had done quite well."

But after the committee returned, it reported that "The TOW missile was shipped to Israel toward the end of the conflict and was not used in combat."

No wonder the intelligence community works so much overtime.

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## FINANCING HIGHER EDUCATION

Mr. PELL. Mr. President, there has been some recent discussion in academic journals concerning the question of who should bear the burden of financing higher education. Various private groups have issued statements adopting one position or another.

As chairman of the Subcommittee on Education, I have noted this debate and believe that it is a healthy discussion, for it focuses in the mind of the American public the questions of whether the education of our citizenry is a private matter, or a public matter—is there a role for private institutions in the future of higher education or not? Ultimately what will happen to higher education if we approach it on a piecemeal basis? Therefore, it was with interest that I read a statement on tuition policy issued by the American Council on Education, which is considered to be one of the major spokesmen on academic higher education.

Mr. President, I ask unanimous consent for this article to be inserted in the RECORD at this point.

One of the problems many of us see in discussing this question is bringing all the available information together and interrelating it. A very fine paper has been written by Howard R. Bowen, Association of American Colleges. He opens with a historical discussion of higher education, the Federal role, and what appear to be basic theses of the six major studies now being spoken about. The Bowen paper is a fine outline of the issues. I believe it will be helpful to my colleagues as they attempt to understand the debate which is now occurring in the field of higher education and ask uanimous consent that it be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

### FINANCING HIGHER EDUCATION: THE CURRENT STATE OF THE DEBATE

(By Howard R. Bowen)

The perennial debate on the financing of higher education has been unusually spirited in the past five or six years. It may now be reaching a climax. Literature on the subject has been multiplying and no less than six major reports by eminent national groups have recently been issued. Also, controversy is heating up, especially over the frequent proposals that tuitions in public institutions should be raised and that students should be financed—more than in the past—through loans.

I have been asked to analyze and comment on the six recent reports. These include (in alphabetical order) reports of the Carnegie Commission, CED, National Board on Graduate Education, National Commission on the Financing of Postsecondary Education, National Council of Independent Colleges and Universities, and the Special Task Force of HEW chaired by Frank Newman.[1]

When Dr. Eldon Smith invited me to present my paper, he made a quite irresponsible promise. He said, "I want to give you a free hand as to what you will cover. . . . Your paper could be an objective, critical review or a subjective, personalized reaction. . . . And you may take as much time as you need." Despite this opening, I shall try not to take advantage of your patience, but I might as well admit right from the start that the size of the subject does call for a bit more time than I would usually request.

My plan is to deal with the subject in three stages: First, to provide some historical perspective on how we got where we now are; then to present the major themes and broad implications of the six reports (being careful not to get mired down in technical details); and finally to present some of that "subjective, personalized reaction" which Eldon Smith said would be in order. In case I should get out of bounds, the distinguished panel of expert discussants will keep me in check.

### 1. HIGHER EDUCATIONAL FINANCE BEFORE WORLD WAR II

World War II was a kind of watershed in the financing of higher education. Before the war, the theory and practice of higher educational finance had been quite settled.

The finance of students was primarily a responsibility of parents, and of students themselves through part-time earnings. Scholarships and loans were in use but were not prevalent or major forms of student support. Working one's way through college was the accepted and respected mode of student aid.

The finance of institutions, on the other hand, was largely a responsibility of "society" as represented by state government, churches, and private donors. The federal government was involved only marginally and corporations almost not at all. An accepted pre-war dogma, scarcely debated, was that tuitions should be low to encourage attendance of young men and women of all social classes. Tuitions and fees in state institutions averaged about $100 a year or

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a little more. Private tuitions were about 2½ or 3 times public tuitions—as compared with five times today.

### 2. POST-WAR CHANGES

Immediately after World War II, the GI Bill brought new vigor to higher education and opened up opportunities to young men and women far beyond previous expectations. But the GI Bill was short-lived. When the GI's left college, around 1950, higher education lapsed back into a period of poverty, and remained in a depressed state until the late 1950's. But after 1957, when the nation was aroused by the launching of Sputnik, some spectacular changes occurred:

1. Grants to students, based on a systematic means test, rather than on scholarship, became common, especially among the private colleges.
2. The use of loans in financing students was expanded sharply.
3. With the increasing number of married students, a legacy of the GI period, spouses became a major source of support for students.
4. The federal government became a growing supplier of funds for both grants and loans to students.
5. The federal government became an important contributor to institutions through a wide array of grants, contracts, and loans designated chiefly for research, training, and buildings.
6. Philanthropic foundations grew in numbers and resources.
7. Profit-making corporations became patrons of higher education.
8. Colleges and universities became more aggressive and professional in their fund raising.
9. State and local governments greatly increased their appropriations to public institutions; some established state scholarship programs, and some made grants to private institutions.
10. Tuitions were raised year after year by both public and private institutions. The percentage increase in tuitions averaged about 5 percent a year for public and 7.5 percent for private institutions. Educators were amazed that these tuition increases called forth so little reaction from patrons.

The chief effect of these changes was to infuse vast amounts of new money into higher education, some for institutional support and some for student aid. With this new money, the dramatic growth of enrollments was possible. Surprisingly, however, these changes did not alter very much the pattern of institutional support. The shares of total income derived constant over the decade following Sputnik. For example, in public institutions, tuition income as a percentage of total educational funds, increased from 15 percent in 1957–8 to 17 percent in 1967–8, and for private institutions from 55 percent to 57 percent. Moreover, the rise in expenditures per student just about kept pace with per capita disposable income. In other words, the standard of living in colleges and universities was rising at about the same rate as the standard of living in families.

### 3. PROPOSALS FOR FEDERAL INSTITUTIONAL GRANTS

By 1967, when the process of rapid growth and expansion had continued for just about a decade, financial strain began to set in. Institutions had pushed existing sources of revenue as hard as they could, but enrollments were still growing and costs were still rising. So educators began to cast about for still more revenue. Then attention turned to the possibility of institutional grants from the federal government. The American Council on Education.[2] The Association of American Colleges,[3] The Association of American Universities,[4] and the National Association of State Universities and Land Grant Colleges,[5] all went on record in 1967 or 1968 in favor of institutional grants. The common plea was to retain all the then existing forms of federal aid, and add institutional grants—the new money to be distributed according to formulas yet to be devised.

The proposal for institutional grants was based on three tacit assumptions. One was that expenditures would continue to rise rapidly because of growing enrollments and rising costs. Another was that, though federal categorical aid was desirable, it did little to meet the basic operating costs of institutions and unrestricted funds were needed as well. The third assumption was that a steady rise of tuitions would be on principle socially harmful.

The search then began for suitable formulas that might be used to distribute institutional aid. Many were proposed. Even I devised such a formula, and the booklet in which it was contained[6] became one of the very first publications of the Carnegie Commission. Indeed, the Commission gave considerable attention in its early years to federal institutional aid.[7]

The conclusion I draw from this history is that as late as four or five years ago the academic community was overwhelmingly in favor of low tuitions, was alarmed at the prospect of having to raise tuitions year after year in the future, and saw general institutional support from the federal government as the best answer.

### 4. NEW APPROACHES

But around 1968, during the discussion of institutional grants, some new concepts were beginning to get a hearing. One of these was that a major goal of new federal programs should be to encourage needy and lower middle-income students to attend college. It was argued that federal aid should be primarily in the form of grants and loans to low-income students and that institutional aid should be in the form of added cost-of-education allowances to assist those institutions accepting needy students. This was the burden of the Rivlin report which was prepared in the last months of the Johnson administration and issued in January of 1969.[8] This idea eventually became the underlying theme of the Higher Education Amendments of 1972. This act represented a major decision to the effect that general funds from the Federal government would flow to education primarily through grants to students rather than through grants to institutions.

In the early 1970's, other more radical lines of thought were emerging. Some were advanced by those who had become disillusioned by campus unrest, some by public officials who wanted to bring costs under control, and some by economists who presented technical arguments. In general, with variations in detail, the critics converged on three proposals.

The first proposal was that higher education could and should be more efficient. The seemingly endless escalation of costs should be slowed down. Some of the critics argued that higher education was becoming over-expanded—that it was trying to educate more people than could benefit. Some argued that higher education had gone out of balance in that too much was being spent on graduate study, research, and esoteric specialties, and not enough on undergraduate education. And some argued that efficiency could be improved through mechanical technology, better use of building space, new academic calendars, larger classes, etc. From this line of argument arose the demand for cost analysis and measurement, program budgeting, and accountability—all of which are lively topics today.

A second proposal that came on strongly after 1970 was that the support of state colleges and universities should come relatively more from tuitions and relatively less from taxes. The high tuition idea was adopted by some on the pragmatic ground that additional funds were needed and that tuitions were the only potential source. It was argued that because of the turn of public opinion against the academic world, the intensified competition for existing tax monies, and the political resistance to tax increases, the old sources could no longer be expanded.

But the idea of high tuitions was advocated by others, including many economists, on principle. Some argued that both equity and efficiency would be promoted if the higher education "industry" were operated without public subsidy along the lines of the free market with tuitions covering the full cost of instruction.[9] Equity would then be assured because those benefiting would pay for services received and well-off families would no longer get unneeded subsidies. Efficiency would be assured because only those educational services would be produced which student-consumers thought worth paying for. To attract paying customers, institutions would be motivated to offer excellent education, and to meet market competition they would have to be efficient. Charles Carter, the distinguished economist and Vice-chancellor of the University of Lancaster, derisively called this scheme the "jam factory" theory of higher education.

Other economists, taking a less radical approach, advocated more maderate increases in tuitions. Their aim was to capture some of the subsidies now being received by high-income families and use them to support low-income students and to augment institutional budgets. This is the basic philosophy underlying several of the recent reports we are considering today.

A third new idea was that long-term loans of substantial amount should be used regularly for the financing of students. Almost everyone agreed that a generous system of student aid is essential to keep access and opportunity open. Some argued that the aid should be wholly or largely in the form of grants financed largely from public funds.[10] But many others thought long-term loans should be a major source of financing for low and middle income students. Only through a system of loans combined with high tuitions would government be relieved significantly of the cost of higher education and new sources of funds tapped. And so a great deal of effort was devoted to inventing long-term student loan schemes that would be tolerable to students, that would be politically and morally acceptable, and that would give relief to the public exchequer. To date, the nation is still a long way from an adequate loan program as defined by advocates of heavy borrowing, but efforts continue.

The approach to higher educational finance through high tuitions and student loans was seen to have an important collateral effect. It would narrow (or even close) the tuition gap between public and private institutions and help to correct the unfavorable competitive position of the private sector. Thus, educators in the private sector were occasionally tempted to advocate high *public* tuitions and student aid through loans. However, on the whole, educators in the private sector were quite restrained in their political activities especially as many of them sincerely favored low public tuitions.

To conclude, the basic issues in the recent debate are clearly those relating to efficiency, levels of tuition, long-term student loans, and the competitive position of the private sector. However, several other secondary issues have emerged. These are:

1. Should student aid, whether in the form of grants or loans, be fully portable so that students would bring their aid, and possibly also cost-of-education allowances, to the institutions of their choice? Or should the aid be dispensed by the institutions?

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2. What will be the effects of the recent lowering to 18 of the age at which young people reach the majority? How will it affect the administration of a means test in the allotment of student aid? And how will it affect the administration of a means test in the allotment of student aid? And how will it affect the definition of in-state residence?

3. Should tax incentives for charitable giving, and property tax exemptions of colleges and universities, be curtailed, held steady, or expanded?

4. How should the growing programs of adult education be financed with respect to both institutional costs and student support?

### 5. THE RECENT REPORTS

So much for the historical background. Let me now turn to the six recent reports, all of which are in my judgment worthy contributions to the discussion of higher educational finance. I should warn you that not all of the reports have been published and I have not had access to the latest revisions. If I am guilty of misinterpretation, I hope that members of the discussion panel will set me straight.

All are remarkably restrained and moderate in their recommendations. In spirit, they are incremental. For example, no one of them argues for zero tuitions or for full-cost pricing or any other sharp break from past practice. Some recommend that even the moderate changes be phased in over a period of years. Nevertheless, these documents do point in the direction that the system is already moving. If they influence policy, they will hasten trends that are already evident.

I shall not summarize the reports one by one, or outline them in great detail. And I shall not quibble over statistical discrepancies and ambiguities of which there are some. I shall try to concentrate on the major issues which are few in number and conceptually quite simple. The first is efficiency.

A. *Efficiency*. Two of the documents stressed institutional efficiency. I refer to the reports of CED and the National Commission. The Carnegie group did not dwell on efficiency, only because one of their earlier reports was specifically directed toward this subject.[11] The CED report contained an extended discussion on strengthening internal governance and management as a way to improve efficiency. I found this section of the report rather homilectical in tone and not very fresh or provocative. I appreciated, however, its concern for academic considerations in dealing with matters such as faculty tenure, faculty and student participation in governance, and mechanical aids to teaching. This was no crude "managerial" approach to higher educational administration.

The National Commission emphasized the controversial area of cost analysis and unit cost measurement. These concepts were presented as keys to both efficiency and accountability. The Commission had been instructed in its enabling legislation to develop national uniform standards for calculating costs per student. The implication of the directive was clear. In the future, institutions would be expected to compute their costs for purposes of internal management and report their costs for purposes of assessing overall institutional efficiency. The CED group also advocated cost analysis.

The prospect of mandatory cost analysis and cost reporting has been worrisome to many educators. Some of the worry stems from the belief that colleges and universities are unified entities producing many products, and that joint costs cannot readily be assigned to particular outputs. More of the worry stems from a deep concern that measurement of cost will be grossly misleading unless there is corresponding qualitative assessment of the product. So, it is feared, with ample justification I think, that spurious cost figures may be used by funding agencies to beat down the quality of instruction wherever it rises above the average.

The question of cost analysis was also considered by the National Board on Graduate Education. The problem of allocating costs is especially vexing in complex universities with graduate programs. The report of the Graduate group contained an illuminating essay on cost analysis by Professor Frederick E. Balderston of Berkeley. He pointed out that in principle, even if technical problems could be overcome, no single uniform cost figure would be appropriate for all kinds of decisions. Different cost concepts would be needed for different purposes.

The National Commission during its deliberations heard all of these worries and concerns about costs many times and took cognizance of them. But in the end they recommended that cost analysis be pursued as a tool for improving efficiency in higher education.

My own view of the cost question is that educators must be increasingly concerned about cost analysis and should be developing more meaningful cost data. They must accept the fact that public concern about costs is legitimate and desirable. The past habit of measuring quality in terms of inputs instead of outputs, which implies that greater expenditures invariably lead to higher quality, is no longer acceptable. What must be done is to find better measures not only of cost but also of output. Neither of these concepts, standing alone, tells us anything about efficiency. Efficiency is measured as a ratio between cost and output. Meanwhile, we educators must do our best to achieve public understanding of certain obvious facts: (1) meaningful cost measurements are technically difficult; (2) output measurements are vastly more difficult; and (3) meaningful measurements of efficiency will never be wholly quantifiable and will always be partly judgmental.

I should like to offer one other comment on institutional efficiency. This is that concerned outsiders—such as businessmen and legislators—are prone to underrate the present efficiency of higher education and to exaggerate the gains that are feasible without unwarranted sacrifice of quality. I felt that the CED report was by implication unrealistic in its estimate of the amount of gain likely to be achieved through better management. Critics sometimes forget that higher education has on the whole long been a depressed industry and that it has recently been squeezed through a pretty tight wringer. There is not much fat. It is true that some institutions might make one-time cuts in cost per student of as much as five percent without serious damage to quality. Some might even manage to do this several years in a row. But no institution can do this year after year. As suggested in the Carnegie Commission report, The More Effective Use of Resources (1972), a reasonable goal for efficiency-improvement is to cut the annual increase in real cost (after allowance for inflation) by one percentage point. Instead of increases in real costs as in the past of three percent a year, an institution might, with sustained effort, reduce that rate of increase to two percent a year.[12] Such a saving is well worth striving for, but it will not solve many of the financial problems of higher education.

B. *Tuitions and Student Aid*. The central financial recommendation of several of the reports is that the tuitions of public institutions should be gradually raised, *provided* adequate aid for low and middle income students is made available.

The Carnegie Commission proposed a gradual and very modest increase of public tuitions over a ten-year period to one-third of educational costs (with an exception for community colleges) and a slowing of the rise in private tuitions to no more than the growth of per capita disposable income. On the whole, the Carnegie report is quite moderate and generally favors continuation of the present system of finance rather than abrupt change. The CED report made a much more drastic recommendation that public tuitions be raised over five years (ten years in the case of community colleges) to half of educational costs. The CED report incidentally recommended that in the accounting for colleges and universities depreciation on capital assets should be included in the costs. The net of their proposal, then, is that tuitions might rise to perhaps 55 percent of instructional costs as conventionally defined.

The National Commission did not make specific recommendations for change in the financing of higher education, but rather analyzed various alternative proposals from the standpoint of their costs and social effects. The Commission report, nevertheless, confirms the CED and Carnegie views that student aid based on a means test is a more effective way of increasing access than the same expenditures used to lower tuitions. The report of the Task Force of the National Council of Independent Colleges and Universities also analyzes alternatives. The favored one would involve a moderate rise in public tuitions. The Newman report is not specific about financial details, but does emphasize that students rather than governments should be the vehicle for transporting funds to institutions, and so the implication is clear that tuitions should be raised. The Newman report may be the most radical of all in its financial implications.

Collectively, these reports offer abundant testimony from able and public-spirited groups to the effect that tuitions should be raised in the public sector of higher education. And all of the reports state or imply that a collateral benefit will be to narrow the tuition gap between the public and private sectors.

The tuition proposals of the Carnegie Commission contained one notable feature: namely, that tuitions should be graduated by level of education—lowest for freshmen and sophomores, next highest for juniors and seniors, and highest for graduate and professional students. The ratio for the three groups would be about 1 to 1.5 to 3. They proposed this kind of graduation for both public and private institutions. The purpose, of course, would be to keep opportunity open at the beginning of college careers, and to impose high tuitions and heavy borrowing only when students had become well established. It is a way of increasing tuitions without raising the barriers at entry to college. This proposal raises some philosophical questions about the allocations of expenditures among the various levels of instruction and about the unity of the university. And it raises practical questions about potential effects on attrition with stepped-up tuition after two years or four years, and about competitive relationships between the private and public sector. If the plan applied to both private and public institutions as proposed, it could greatly widen the dollar gap between private and public tuitions for advanced students.

If there is one thing on which all elements of higher education are agreed, it is that opportunity should be opened and encouragement given to low-income students. All of the reports agree specifically or by implication that grants to low-income students should be expanded. For example, the Carnegie Commission recommended full funding of the Basic Opportunity Grants. The National Board on Graduate Education recommended three types of graduate fellowships to be granted in modest numbers: those based on merit, those designed to meet specific manpower requirements of national im-

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portance, and those designed for minority groups and women.

The CED and Carnegie reports were also explicit in recommending extension of the student loan system. They would emphasize long-term loans of large amount with income contingent features. The reports recognized, however, that the nation is a long way from overcoming the problems of technique and capital supply needed for the massive loan system they envision. The report of the National Board on Graduate Education was especially articulate on the danger of modifying a financial system for graduate students on the basis of a proposed loan system which simply does not yet exist.

The reports suggest that student aid, including both grants and loans, should be portable in the sense that students would receive their allotments independently of the institutions they chose to attend. This portability would presumably widen student choice of institutions and would motivate colleges and universities to cater to the needs and wishes of students. Portable student aid would be especially potent if accompanied by cost-of-education allowances as is frequently suggested. The Newman report especially emphasizes portability of student aid. In my judgment, the subject of portability raises some serious questions about institutional autonomy and has not yet received the attention it deserves. While student influence over institutions can be recommended within reason, there is something also to be said for the integrity, inner-direction, and academic freedom of institutions. In the current debate, these considerations tend to be ignored. The Newman report was eloquent on academic freedom and institutional autonomy but saw the state as the chief threat and students with portable funds as the liberators. I am not so sure the matter is this simple.

C. *Private Institutions*. Let me now consider the special problems of private institutions. All of the groups were concerned about the future strength and health of the private sector. All expressed appreciation of the contributions made by private institutions to the nation, and indeed to public higher education as well. However, most of the reports dealt with the private sector in a rather incidental fashion. Both the CED and Carnegie groups recommended state aid to private institutions. The CED report was quite explicit in recommending general institutions based on enrollment, the amount per student to be adjusted by types of institution according to instructional costs and amount of income from private sources. In this respect, the CED report is a throwback to the discussions of the 1960's. The Carnegie group recommended state aid in the form of capitation grants to institutions or grants to students attending private institutions. The Carnegie group noted favorably the experimentation with programs of this type now going on in many states, and implied that such programs should multiply and expand. The Newman report, with its emphasis on student aid, suggested that needy students attending private institutions should receive extra grants to help defray high tuitions. The underlying idea in all these reports was to find a way to narrow the dollar tuition gap and improve the competitive position of the private institutions.

The CED report strongly emphasized the importance of charitable giving to higher education and urged (p. 75) that "existing tax incentives for voluntary support of higher education be maintained and . . . expanded . . ." In my judgment, this is a recommendation of great importance and should not be passed over lightly.

As one would expect, the report of the National Council of Independent Colleges and Universities was devoted primarily to the private sector. It recounted the importance of private institutions to American society, explained the mounting financial problems, pointed to the importance of strengthening tax incentives for charitable giving, and then presented several financial options involving varying amounts of aid to needy students. One of these options was to raise public tuitions. Another was to establish a "tuition-offset plan" under which "the state or federal government would pay for each student enrolled in a private institution an amount equal to part or all of the difference between tuitions and average educational cost in public institutions." The payment could be made directly to the student or to the institutions. Another proposal was a compromise similar to the CED Carnegie plans in which public tuitions would be raised moderately and partial tuition-offsets would be paid to the private sector. In addition, the report suggested direct institutional grants from the state or federal government for capital purposes.

The Independent Colleges report alluded to, but did not develop, an issue that was overlooked in the other reports: namely, that adequate aid to private education may require federal as well as state support. Both the CED and Carnegie reports had indicated that support of private institutions should be a responsibility of the states. The problem with this solution is that many private institutions are national or regional in outreach and draw only a fraction of their students from the home state. But programs of state aid are usually confined to in-state institutions and in-state students. It would be possible, of course, for states to make grants with respect to state residents whenever they attended college, and a few states have done this. However, a truly national system of aid to private higher education probably needs the intervention of the federal government either by directly sponsoring the program or by providing matching grants to the states.

D. *Graduate Education and Research*. Many discussions of higher educational finance are confined to undergraduate instruction. The important functions of graduate and professional education, research, and public service are virtually ignored. Of the reports under consideration, only three dealt with this subject—National Board on Graduate Education, Carnegie, and Newman.

The report of the National Board noted the rapid disappearance of federal fellowship and training programs, the leveling-off of federal funds for research (especially for basic research), the unpredictable fluctuations of federal support, federal preoccupation with transient categorical programs, and federal irresponsibility for the welfare and continuity of institutions. The Board called for restoration of some fellowships and traineeships and the development of practicable and adequate student loan programs. They raised many issues regarding the future of basic research and its role in the advancement of our culture and our economy. They recommended institutional aid for graduate study by funding relevant sections of the Higher Education Amendments of 1972, and they cautioned against excessive reliance on manpower forecasts as a basis for educational planning.

The Carnegie Commission, as part of its step-tuition program, advocated tuitions three times as high for post-baccalaureate students as for freshmen and sophomores. The Commission was, however, somewhat ambiguous about this proposal as it might affect students seeking the Ph.D. They also recommended that the federal government assume responsibility for graduate and professional education and research and significantly increase its support "if the nation is to remain in the vanguard of scientific and technological developments."[13] In a previous report, the Commission had recommended a massive program of federal fellowships for doctoral candidates together with cost-of-education supplements of $5,000 each.[14] These fellowships would be awarded to students already in course and would not be portable. And in another previous publication, the Carnegie Commission had recommended that federal grants for university-based research be increased annually in proportion to the growth of GNP.[15] The Newman group, on the other hand, recommended a massive program of portable graduate fellowships with companion grants over and above tuition of $2,000 to the institutions selected by the students.

E. *Recurring and Lifelong Education*. The Newman and Carnegie reports pointed to a current blindspot in the financing of higher education: namely, that no adequate provision is being made to finance recurring or lifelong education or the students (mostly adults) involved in such education. No solutions were offered; the problem was merely identified.

F. *Summary of the Reports*. Let me now recapitulate. Waiving many variations, details, and nuances, the six reports are saying:

1. The efficiency of higher education should be improved.
2. Tuitions of public institutions should be raised to perhaps a third or even half of instructional costs.
3. Access should be available to all qualified students. Student aid should be extended in the form of grants to low-income students and loans to low- and middle-income students.
4. Loans should become a more prominent part of the student aid program. Practical long-term loan programs should be invented and adequate capital to fund them should be raised.
5. Student aid should be portable.
6. Private institutions should be assisted by any of several types of tuition offsets which would have the effect of narrowing the tuition gap, and possibly by institutional grants.
7. Tax incentives for charitable giving should be strengthened.
8. Federal fellowships and traineeships for graduate students should be restored at least in part, and basic research should be supported at rising levels.
9. Ways of financing lifelong and recurring education should be developed.

Of these recommendations, those pertaining to tuitions and student loans are, of course, the most important and have attracted the most attention and reaction. In their 1973 autumn meetings, both the American Association of State Colleges and Universities and the National Association of State University and Land Grant Colleges strongly objected to the tuition proposals and reaffirmed the historic American policy of low tuitions and minimal use of student loans. The Carnegie and CED reports also evoked considerable adverse editorial reaction from newspapers across the country, including such leading papers as the *New York Times*, *Washington Post* *Christian Science Monitor*, and *Minneapolis Star*. Labor unions as well indicated opposition. In the remainder of my remarks, I shall try to share with you my own views on the recommendations contained in these reports.

### *Concluding comments*

As I have indicated, the six reports are all moderate and gradual in spirit. If any one were adopted, higher education would not be instantly or radically transformed either for the better or the worse. Indeed, tuitions in public institutions have been rising so rapidly in the last two years that the recommendations of the Carnegie Commission are already becoming a reality. But these reports do try to set a new course. That course is toward higher tuitions, large

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grants based on means tests for millions of persons, and possibly heavy indebtedness for many. What are the consequences of this line of development in the long run? I must confess to some uneasiness.

For more than a century in this country, efforts have been made to encourage young people of all classes to go to college. Higher education has been regarded both as a form of personal opportunity and as a source of major benefit to society. The accepted view—seldom challenged as late as three or four years ago—has been that higher education ought to be open to all the most generous terms. This was the historic idea underlying the founding of hundreds of private colleges, the land grant movement, the establishment of public urban institutions, the GI Bill, and the community college movement. Why, at this stage in our history, when we still have the task of bringing millions of young people—many from ethnic minorities—into the main stream of American life and when there is so much educational work to be done for all classes, including adults, why are we striking out in a new direction? Have we been misguided over the years and are we just now realizing our errors? Or are we about to commit a colossal blunder?

The financing of higher education is not merely a matter of technique to be decided by experts; it is a matter of educational and social values. My misgivings have to do with values.

A. *The Widening and Deepening of Learning*. First among my values is the widening of learning for persons of all ages, both sexes, and all ethnic and economic backgrounds, and at the same time the deepening of learning for everyone. By learning I mean humanistic, scientific, and vocational education of many varieties. Such learning is a powerful means. It is the base of our culture, the foundation of our economy, a source of good citizenship and civic responsibility, a way toward the solution of social problems, and a major influence toward humanizing individuals. Learning is also an end in itself. It is fun to learn and good to know. The great spread of learning that has occurred in the past century is far from complete. Our ignorance overwhelms our knowledge and our folly vastly exceeds our wisdom.

Learning occurs in many ways, by no means all of it through educational institutions. But institutions have an indispensable role in facilitating the process, not only for millions of persons of ages of 18 to 22, but for persons of all ages. Formal education is destined to be a recurring lifelong experience. The traditionally sharp separation of life into three stages—education in youth, work in middle years, and retirement in old age—is likely to be radically altered.

Under these conditions who can say that the philosophy of the Morrill Act or of the Community College movement is passé? Who can say that higher education should not continue to be available at low cost to insure ready access and encouragement for persons of all ages and conditions? Who can argue that high tuitions, means tests, and long-term loans are really conducive to the widening and deepening learning?[16]

B. *Academic Freedom*. Another cherished value, which is virtually unmentioned in the reports on finance, is academic freedom. It consists in part of the right and duty of individual professors to seek and speak the truth. More broadly, it includes significant inner direction for colleges and universities as institutions. It means that the academic community should have an influential voice—based on professional judgment—in deciding what to teach, how to teach, what academic standards to maintain, what lines of research and scholarship to pursue, what to publish, and whom to employ as professors. Academic freedom in this sense is always in jeopardy, but in the past decade has been subject to unprecedented erosion from growing political influence and increasing reliance on funds earmarked for purposes prescribed from outside.

Academic freedom calls for a system of finance with diverse sources including substantial funds that are not earmarked and for which institutions are not too beholden. The proposal to raise tuitions might tend to diversify the sources of support in public institutions and enhance academic freedom. On the other hand, the proposal would move higher education along the path toward the market price or "jam factory" system of finance. If carried too far, it might impair the inner integrity of universities as institutions.

C. *Means Tests and Debt*. Another of my values, this time a negative one, is distaste for the means test and for loading heavy indebtedness upon young people. I recognize the importance of grants based on need, and loans, in a balanced system of student aid. It is when large amounts of money are involved that I become apprehensive. The means test is essentially undemocratic, bureaucratic, arbitrary, and open to evasion. Moreover, it may be unworkable if young people, who attain their majority at age 18, become emancipated from their parents.

For our society to require its young people to go heavily into debt represents a less than generous attitude toward our youth. Even from the economic point of view, long-term loans make little sense. The social cost of providing and receiving an education must be borne at the time the education occurs. It cannot be transferred to the future. The repayment of debt is only a transfer payment, having little underlying economic significance except an unpredictable effect on the distribution of income. It would seem more businesslike to finance the costs when they are incurred rather than to go through the red tape of making and repaying loans. Still another difficulty with heavy loans is unfairness as between generations. Those of us of the present middle and older generations received our education without heavy indebtedness. We are in effect saying to the next generation, "We got ours; now that your turn has come, you can get your education on the cuff."

What I am suggesting is not elimination of all grants based on a means test or of all student loans. I am counseling that we should go slowly in raising tuitions to a level that will demand heavy use of these devices. I think this will put an unbearable and unnecessary strain both on higher education and on our society.

D. *Equity*. Still another value is equity. The largest single cost of higher education is the time and foregone income of students. This, together with the incidental expenses of higher education (not counting board and room), place at least two-thirds of the total cost on the student and his family. Institutional costs are of the order of only one-third of the total. In view of the fact that education yields substantial social benefits as well as private benefits to students, it would seem that a major portion of the institutional costs might equitably be borne by society, that is, government and philanthropy. This was a conclusion of the Carnegie Commission and largely explains the moderation of their recommendations.[17] Incidentally, the Carnegie Commission is one of the few groups which has openly faced the issues of foregone income and social benefits of higher education.

E. *Preserving the Private Sector*. Another of my values is preservation of the dual private-public system of higher education. This, of course, requires strengthening of the private sector which in my judgment is in great jeopardy. The private sector is important because it contributes diversity and leadership. Through the diversity it contributes, the higher educational system serves the needs of more people and offers more choices than could a purely public system. Through the leadership given by many private institutions, the nature of academic excellence is demonstrated, academic standards are set, the ideal of liberal learning is kept alive and flourishing, a living example of academic freedom is provided, and a fruitful source of innovation and experiment is maintained. The example, the mere presence of the private sector, is a factor in the freedom and advancement of the public sector and serves as a brake on onerous public control. I would vigorously deny that private institutions have a monopoly on diversity or leadership, but I would argue with equal vigor that the whole higher educational system is stronger for its duality.

There is no doubt that raising the tuitions of public institutions would help the private colleges and universities. But I do not believe that such tuition increases are the best way of helping them. For survival, the private institutions must first of all live up to the ideals of diversity and leadership. They must be useful to society in special and demonstrable ways. Second, they need a system of finance that will narrow the tuition gap and at the same time will preserve their privacy. This system of finance has already been invented and tried out. It now needs perfecting and developing. It consists of tuition offsets from government. The tuition offsets may be in the form of grants to private institutions or they may be in the form of grants to students attending private institutions. More than thirty states are experimenting with various forms of tuition offsets and more are considering them. These programs are quite varied. They include tuition scholarships with amounts adjusted to need, grants to disadvantaged students based on need, grants of fixed amount without a means test to students attending private colleges, grants of fixed amount to private institutions for each student enrolled, etc. There is urgent need for further development of these plans and more realistic funding. There is need also for federal intervention partly to encourage the states to establish adequate plans and partly to bring about reciprocity among the states so that students may be covered who attend private (or public) colleges located outside their home states.

Another important part of the financial solution for the private sector is to strengthen the incentives for charitable giving to education. This would include retaining present federal and state tax incentives and adding something comparable to the plan, proposed by Alan Pifer,[18] which would increase both the effectiveness and the equality of income tax deductions for charitable giving. There is need also, for liberalizing property tax exemptions for private institutions. The present trend in many states is to narrow these exemptions.

With these options open, I see no reason why it should be thought essential to the private sector that public tuitions be raised or why acrimonious controversy between the public and private sectors should be allowed to fester. Such controversy can only be harmful to the cause of higher education as a whole. This solution does require a kind of compact between the public and private sectors. The private sector is called upon to support low public tuitions, and the public sector to support tuition offsets.

F. *Adequacy of Finance*. Another value is adequacy of finance. The several reports we have been discussing have rightly given this high priority. Some have taken as a basic assumption that society is not going to sustain high education adequately under traditional methods of finance. They have asked how limited public and philanthropic

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Footnotes at end of article.

funds could be "targeted" so that they could be stretched as far as possible. They have suggested that by raising tuitions and providing long-term loans, the middle and upper income groups could be made to pay for more of their own education. And the funds thus acquired could be used for student aid to the poor and for institutional support. The plan is a not-too-subtle scheme to take from the middle class and give to the poor.

I would raise three questions. First, is the assumption valid that funds from conventional sources will fall short? I am not so sure it is valid, at least for the long run. More about that in a moment. Second, if tuitions are raised and loans expanded will governments and donors correspondingly reduce their effort? I think this is distinct likelihood. Third, is there a risk that the recommended high tuition will not be accompanied by the adequate program of student aid which everyone says must be part of the package? I think the risk is high as indicated by the fact that aid is far from adequate for present levels of tuition.

In short, I am a skeptic about high tuition proposals from the point of view of adequacy. I think higher education might do better if the basic financial responsibility remained clearly with government and philanthropy. However, I cannot deny that to find adequate resources is a serious problem. The several reports have faced this problem candidly. I do not assert that they are dead wrong. I only express doubt.

G. *Conclusion.* I shall conclude on a note of optimism—not because every scenario should have a happy ending—but because I think there is a basis for a genuinely hopeful outlook for the long run.

I believe that higher education is not doomed to be a sick and depressed industry, lapsing into a position of ineffectual poverty. I believe it will, or can, be a buoyant growth industry. I have pointed out the vast amount of educational work to be done if we are to widen and deepen education as we should do. In my opinion, the time will soon come when we can get on with this task on an unprecedented scale. Our economy is clearly reaching the end of its insane preoccupation with producing physical things at the cost of plundering our national resources, fouling our environment, and cluttering our lives. As consumers, we shall be shifting our emphasis more and more to human services that enrich our lives and do not pollute. As producers, we shall be changing our emphasis in the development of productive powers from physical capital to human abilities. Higher education will obviously have a critical role. It is a purveyor of human services that are highly valued in their own right, and it is a basic instrument for investment in human abilities.

With this outlook, we should not take for granted that the fate of higher education is retrenchment and impoverishment. The time is right for the planning of wholly new levels of achievement in higher education. The financial policy that fits this future is one that will activate the widening and deepening of higher education. It is a policy of moderation—moderate public tuitions, moderate use of grants based on means tests, moderate use of loans for student aid, partial tuition offsets to keep private higher education competitive, and positive incentives for private philanthropy.

I suspect that current thinking about higher educational finance, as exemplified in the six reports, grows out of depression mentality and a short-range perspective. In my judgment, these reports have not taken account of the enormous opportunities that lie ahead as our society shifts from the production of things to the provision of services, and to the building of a great culture. Nor have they really faced a future in which education might be truly open to persons of all ages and conditions, in which education would be rationed on the basis of desire to learn and achievement in learning; not by tuitions, means tests, and willingness to go into debt.

If we are concerned about the possibility that upper income families may receive subsidies, let us deal with that problem through the tax system, by requiring everyone to pay a fair share of the general tax burden, not by trying to convert the educational system into a device for redistributing income.

What we now need is still another study group who will break away from depression mentality and short-term considerations, who will explore the vast educational horizons of the learning society, and who will produce a financial plan commensurate with the educational work to be done.

### FOOTNOTES

[1] Carnegie Commission on Higher Education, *Higher Education: Who Pays? Who Benefits? Who Should Pay?* New York: McGraw-Hill Book Company, June 1973.

Committee for Economic Development, *The Management and Financing of Colleges.* New York: CED, October 1973.

National Board on Graduate Education (sponsored by Conference Board of Associated Research Councils), *Policy Alternatives Toward Graduate Education.* Washington, D.C.: 1974.

National Commission on the Financing of Postsecondary Education, *Financing Postsecondary Education in the Last Quarter of the Twentieth Century.* Washington, D.C.: U.S. Government Printing Office, 1974.

National Council of Independent Colleges and Universities, *Financing of Postsecondary Education with Special Referenec to the Private Sector.* (Unpublished preliminary report.) Copies available on request from the Council, 1818 R St., NW, Washington, D.C. 20009.

Special Task Force to the Secretary of HEW, *National Policy and Higher Education* (Newman Report). Washington, D.C.: Department of HEW, October 1963.

[2] *The Federal Investment in Higher Education,* American Council on Education, 1967; *Federal Programs for Higher Education,* American Council on Education, 1969.

[3] *Federal Institutional Grants for Instructional Purposes,* The Association of American Colleges, 1968.

[4] *The Federal Financing of Higher Education,* The Association of American Universities, 1968.

[5] NASULGC strongly supported the Miller bill.

[6] *The Finance of Higher Education,* Carnegie Commission on Higher Education, 1968.

[7] Donald A. Wolk, *Alternative Methods of Federal Funding for Higher Education,* Carnegie Commission on Higher Education, 1968; *Institutional Aid: Federal Support to Colleges and Universities,* 1972; *Quality and Equality: New Levels of Federal Responsibility for Higher Education,* 1968.

[8] *Toward a Long-range Plan for Federal Financial Support for Higher Education: A Report to the President.* Washington, D.C.: Department of HEW, January, 1969.

[9] Milton Friedman, "The Higher Schooling in America," *The Public Interest,* Spring 1968, 108–112.

[10] W. Lee Hansen and Burton A. Weisbrod, "A New Approach to Higher Education Finance," in M. D. Orwin (editor), *Financing Higher Education: Alternative for the Federal Government.* Iowa City: American College Testing Program, 1971, 117–142.

[11] *The More Effective Use of Resources: An Imperative for Higher Education.* New York: McGraw-Hill Book Company, 1970.

[12] See also Howard R. Bowen, "Can Higher Education Become More Efficient?" *Educational Record, Summer* 1972, 199–200.

[13] Higher Education, Who Pays? Who Benefits? Who Should Pay? *op. cit.,* p. 107.

[14] *Institutional Aid.* New York: McGraw-Hill Book Company, 1972, p. 83.

[15] *Quality and Equality.* New York: McGraw-Hill Book Company.

[16] It is sometimes said that if higher education is made too freely available, too many people will attend or will stay too long. In the interests of learning, I am willing to risk this result, especially because there are effective brakes on overutilization. These are the hard work involved in formal learning, the foregone income, and the sacrifice of time for recreation and other pursuits.

[17] *Higher Education: Who Pays? Who Benefits? Who Should Pay? op. cit.,* pp. 49–53, 71–87.

[18] "Revitalizing the Charitable Deduction," in *Annual Report,* Carnegie Corporation of New York, 1972, 3–12. Under this proposal, every taxpayer, whether or not he itemizes his deductions, would either be given a 50 percent tax credit for his charitable gifts or allowed to file under the present system, whichever would benefit him more. The Pifer plan would have the effect of expanding philanthropic giving by increasing incentives in the middle and lower income brackets and at the same time of improving the equity of the tax system.

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### ACE STATEMENT ON TUITION POLICY

The American Council on Education is deeply committed to two fundamental positions. The first is that all those qualified and seeking postsecondary education have access to a broad range of opportunities; second, that the quality of postsecondary education in America is directly related to the healthy co-existence of public and private institutions. Recent debates about desirable levels of tuition in public institutions have threatened to pit these two essential propositions against each other. This will inevitably lead to policy conflicts in which the cause of postsecondary education can only suffer.

Private higher education needs substantial help if it is to survive—including help from public sources. ACE is committed to the task of seeking solutions to the present financial plight of the private sector. The best way to help private institutions is not to raise tuition at public institutions. To the contrary, it is to follow the example of every other ciivilized nation in the world that has enjoyed historically a mixture of public and private colleges and universities: to provide a basic public support for a part of the cost of educating students in private institutions. A judicious mixture of student loans, scholarships and fellowships, and cost-of-instruction grants—the costs shared by our state and national governments—can save our private institutions without driving already burdened middle-income students away from our great public colleges and universities.

Public postsecondary education must be relatively low-tuition education if this segment of our system is to perform its social function. Therefore, it is not sound on general grounds to convert public education to high tuition education, and it is particularly inappropriate to raise levels of tuition in public institutions to assist private education. The doleful effect of raising tuition and fees in public institutions will be to heighten the financial barrier to access for all but the wealthy. Instead of imposing higher tuition in public institutions as a means of sustaining private institutions, States should exert every reasonable effort to restrain tuition increases in public institutions while expanding support for students, and for both public and private institutions.

ACE feels it necessary to make a public statement at this time because many state legislatures are presently considering tuition increases in public institutions. In defense of these pending actions, state authorities are citing the tuition recommendations of the reports of the Carnegie Commission on Higher Education in June 1973, and the Committee on Economic Development in October 1973. ACE believes that their conclusions on tuition increases are seriously misguided. The Carnegie Commission report, *Higher Education: Who Pays? Who Benefits? Who Should Pay?*, advocates increasing tuitions at public institutions over the next ten years to a level of one-third instructional costs. This position was, however, tempered with a recommendation that a relatively low-tuition policy be maintained for the first two years of higher education.

Far more drastic is the report of the Committee on Economic Development, *The Management and Financing of Colleges*. CED argues that tuition charges should be increased over the next five years at four-year institutions, and over the next ten years at two-year institutions, until they constitute one-half of instructional costs.

In essense, what both these reports are saying is that already hard-pressed middle-income families should bear an even heavier educational burden than they are now carrying.

ACE is convinced that the net effect of these recommendations, if carried out, would be disastrous. They would turn both middle- and lower-income students away in droves from higher education. They would force an increasing number of students to limit their educational choices or to incur even heavier burdens of debt. They would not induce more students to attend high-tuition private institutions. To the contrary, they would set in motion a series of popular attitudes increasingly hostile to all higher education—public and private. ACE believes that sound public policy should be based on careful analysis of the costs and benefits of higher education including the relationship between tuition levels and educational choices.

The Carnegie Commission and the CED argue that a disproportional share of the benefits of public support of higher education go to middle and upper income families and that it would be more equitable to raise tuitions and offset the increased tuitions with increased assistance for low-income families.

The assumption on which these proposals rest, namely, that lower-income students would be helped by rising state and federal opportunity grants and/or by institutional fellowship resources that would offset higher tuition costs is tenuous indeed. Existing pledges to help low-income families are woefully underfunded. Hard pressed college administrators are far more likely to use additional revenues to cover existing operating or capital deficits rather than enlarging scholarship funds, and middle-income taxpayers are not likely to support increased taxes for higher education if their children are excluded from the benefits.

A much better way to achieve a fairer distribution of the benefits of higher education is to keep tuitions low and work harder to broaden access.

The Congress has already taken a giant step toward the attainment of the twin goals of equalization of opportunity and diversification of options in its enactment of the Education Amendments of 1972. The promise of that landmark legislation awaits fulfillment through funding action by the Administration and the Congress.

## DAYLIGHT SAVING TIME LAW NEEDS REEVALUATION

Mr. HRUSKA. Mr. President, this past weekend I read with interest a report that the distinguished majority leader intends to support the repeal of year-round daylight saving time. Since this energy-saving proposal went into effect eight bills have been introduced in the House of Representatives which call for its repeal. Similar legislation has been introduced in the Senate.

When the issue of year-round daylight saving time was debated in the Senate last year, most of us were fully aware of the fact that people in the Middle West have never liked the idea of daylight saving time. I shared their concern and skepticism about the proposition.

It was because of this skepticism that I thoroughly reviewed the hearing record of the Senate Commerce Committee. Testimony before that committee revealed that substantial fuel oil savings could be achieved by such a move. Some estimates went as high as 150,000 barrels a day. It was on that basis, Mr. President, that I decided to join the overwhelming majority of Senators by casting my vote in favor of daylight saving time.

As proponents acknowledged, however, there is no hard evidence that substantial fuel savings will result. With no prior experience on which to base such evidence, the experts were relying on educated guesses.

The act provides for continuing year-round daylight saving time through this winter and next with congressional review to follow.

Mr. President, I think such an evaluation by the Congress can be made much sooner. I intend to place in the RECORD following my remarks a copy of the letter I wrote last week to the distinguished chairman of the Senate Commerce Committee (Mr. MAGNUSON). In that letter I call upon the chairman to hold hearings later this year to carefully examine the operation of the Emergency Daylight Saving Time Energy Act of 1973.

It is appropriate for us to continue on daylight saving time for this winter. This will provide us with the basis for studying whether substantial energy savings have resulted. Then we go to the period when the country is normally on daylight saving time. By midsummer we should have some pretty hard evidence to gage how much energy was saved. On the basis of that evidence, we can judge whether we want to go through another winter on daylight saving time.

During debate on the bill, the chairman of the committee stated that daylight saving time would remind us of our daily "obligations to conserve the Nation's precious energy resources." I think by midsummer we should have a pretty good idea whether we are paying too high a price for that reminder.

Mr. President, the Members of this body have a very real responsibility to determine these facts and soon. Of utmost importance to me is the fact that a lot of our children are going to school in the dark. For those children in rural areas, this often means waiting for the bus in the predawn hours. I think parents of such children have every right to be concerned. When the safety of their children is involved, they have every right to expect the Congress to proceed to a speedy compilation of statistical evidence and an analysis of those statistics. Certainly, if in the first 4 months of this year, we see that fatalities and injuries to our schoolchildren have increased, then I for one do not think we have to continue this experiment for another year.

The people of my State have joined other Americans in making many sacrifices to meet the energy crisis. They are entitled to know exactly and without delay if these sacrifices are worth the cost especially in those instances when the health and well-being of our young people are at stake.

I now ask unanimous consent to have a copy of my letter to Chairman MAGNUSON printed into the RECORD together with a resolution sponsored by the Nebraska Legislature calling upon the Congress to reevaluate daylight saving time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JANUARY 24, 1974.

Hon. WARREN MAGNUSON,
*Chairman, Senate Commerce Committee,*
*Washington, D.C.*

DEAR MR. CHAIRMAN: The purpose of this letter is to urge that the Senate Committee on Commerce schedule hearings later this year to examine carefully the operation of the Emergency Daylight Saving Time Energy Act of 1973.

The Committee last month favorably reported this legislation to the full Senate where it was approved by a vote of 68 to 10.

During the hearings, the transcripts of which I have thoroughly reviewed, there was testimony that substantial fuel oil savings would be achieved. Some estimates were as much as 150,000 barrels a day.

But throughout the testimony of the proponents of year-round Daylight Saving Time, there was an acknowiedgement that no really hard figures exist, simply because there was no experience on which to base such data.

The Act provides for continuing year-round Daylight Saving Time through this winter a next.

It is my suggestion that your Committee conduct an inquiry this summer, after there has been time to evaluate the operation of the scheme through the first four months of this year. It is my understanding that the Department of Transportation plans to have the results of an evaluation available sometime in June.

As was acknowledged at the time the Senate considered the measure, my effort which would help to meet the energy crisis was worth trying. It was also recognized in your remarks during debate on the bill, Mr. Chairman, that, "Additionally it will remind each of us daily of our obligations to conserve the Nation's precious energy resources."

The question which I urge your Committee to consider later this year is whether that daily reminder is worth the cost. The committee by mid-summer should be able to make a sound judgment on whether there have been significant energy savings. As you know, a great many Americans, and particularly those in the rural areas, such as you and I represent, have serious doubts this is the case.

But even more importantly, it seems to me, is the question which recurs in letter after letter I receive from Nebraskans and that deals with the safety of children on their way to school in the hours of darkness.

I would like to quote to you from a letter from Sarah Sieler of Norfolk, Nebraska, who wrote to me:

"In some parts of the country this (Daylight Saving Time) may be good, but the mornings are very dark here. We have to turn on more lights in the morning to get ready for work or school. Our parents have to drive us to school because it is too dark for us to walk or ride our bikes. That wastes gasoline. We have to use more electricity than normally."

It is my suggestion that the Committee collect statistics on the number of fatalities and injuries to school children during the first four months of this year. That will be a most significant factor to weigh against projected savings in petroleum.

I realize that the Committee considered whether a four-month test would be adequate and it was concluded that it would not. My purpose is to urge re-thinking of that point. Surely the weight of this argument rests with its proponents and they should either demonstrate that the danger and inconvenience to millions of Americans is justified or we should revert to the former system.

I freely acknowledge that like a majority of the Senate, I accepted the idea that the year-round system was worth trying in order to conserve energy. I still believe that is the case, but I do not believe we should continue the experiment for another full year. We should know before next October, when daylight time would normally end, whether it is worth doing.

It is true, of course, that any state which wishes not to participate in the program can opt out. The Nebraska Legislature voted to participate. But only a few days after that vote, 31 of the Legislature's 49 members filed a Resolution calling upon the Congress to reevaluate its (DST) program "in the interest of rural America," citing hardships to the farm population, the danger to school children and the economic loss to Nebraskans. A copy of that Resolution is attached.

I would appreciate your consideration of this request.

With kind personal regards,
Sincerely,
Roman L. Hruska,
*U.S. Senator.*

### Legislative Resolution 92

Introduced by DeCamp, 40th District.

Whereas, on December 15, 1973, the President of the United States signed into law PL 93–182 calling for day daylight savings time on a national basis; and

Whereas, the farm population of the State of Nebraska works from sunrise to sunset and as a result of PL 93–182 will be deprived, at the end of each day, of necessary shopping and social recreation time; and

Whereas, the school children of Nebraska will be forced to walk to school, or wait for buses, in the hours of darkness; and

Whereas, PL 93–182 will result in economic loss to many Nebraskans.

Now, therefore, be it resolved by the members of the Eighty-Third Legislature of Nebraska, second session:

1. That the Legislature of Nebraska hereby goes on record as opposing PL 93–182 and hereby petitions the Congress of the United States to reevaluate its program in the interest of rural America.

2. That a copy of this resolution be sent to the President of the United States, to members of the Nebraska delegation in Congress, and to the Governor of the State of Nebraska.

### CERTIFICATE

I, Vincent D. Brown, Clerk of the Legislature, do hereby certify that the foregoing resolution was filed with the Legislature on January 2, 1974, and that in accordance with the rules thereof, and within five days thereafter, the following names were attached to said resolution.

Barnett, 26th District; Burbach, 19th District; Carpenter, 48th District; C. Carsten, 2nd District; F. Carstens, 30th District; Chambers, 11th District; Clark, 47th District; Dickinson, 31st District; Duis, 39th District; Epke, 24th District; Goodrich, 20th District; Hasebroock, 18th District; Kelly, 35th District; Kennedy, 21st District; Keyes, 3rd District; Kime, 43rd District; Kremer, 34th District; R. Lewis, 38th District; Mahoney, 5th District; Maresh, 32nd District; Moylan, 6th District; Murphy, 17th District; Rasmussen, 41st District; Richendifer, 16th District; Schmit, 23rd District; Simpson, 46th District; Stromer, 36th District; Stull, 49th District; Waldron, 42nd District; Warner, 25th District; Wiltse, 1st District.

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## SKYLAB AND SPACE SHUTTLE

Mr. MOSS. Mr. President, as the Skylab IV astronauts enter the final phase of their astounding mission of 85 days in orbit, thus bringing the Skylab program to an end, I think it is appropriate to reflect on the importance of this highly successful program to space leadership of this Nation and to the orderly transition to our next major step in space, the Space Shuttle program.

Dr. James C. Fletcher, Administrator of NASA, has written an article for the January 1974, issue of Government Executive magazine entitled, "Are Skylab and the Space Shuttle Worth the Investment?"

Mr. President, I highly recommend this thoughtful article to all who would like to know where we stand in our space program, and I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Are Skylab and the Space Shuttle Worth the Investment?

(By Dr. James C. Fletcher)

I have been asked by Government Executive to answer the question: Are Skylab and the Space Shuttle worth the investment? In my mind there is no doubt about it. Skylab most certainly has been worth the investment, and the Shuttle—together with the manned Spacelab module to be funded, designed, and built in Europe—most certainly will be. I doubt if there has ever been a Government program more carefully defined, whose cost estimates were more scrupulously determined, and whose cost benefits were more extensively analyzed in advance than the Shuttle program.

Skylab and the Shuttle are two separate programs, but they are closely linked. Skylab is an experimental space station, an intermediate step in the progression from Apollo technology to routine operations in Earth orbit for science and for practical benefits. Skylab was not intended to be a continuing program. It will end when the third crew, launched into orbit on November 16, returns to Earth. But the results of these three missions should have a profound and beneficial effect on America's future in space for many years to come.

#### APOLLO RESULTS

What has Skylab cost?

The total runout costs of the Skylab program through the end of FY 1974 will be about $2.6 billion. This includes R&D funding for Skylab and the predecessor program (known as the Apollo Applications program) going back as far as FY 1966. It also includes the cost of the Apollo spacecraft and the Saturn launch vehicles built in, but not used for, the Apollo program.

For this investment the nation received:

An orderly transition from the Apollo era of lunar exploration in the 1960s to the Shuttle/Spacelab era of the 1980s and 1990s, in which we will stress scientific and practical uses of manned and automated spacecraft in Earth orbit.

A continuation of the U.S. leadership in manned space flight established in Apollo.

Proof of man's ability to live and work effectively in space for long periods—up to 85 days at least (if the last mission goes as scheduled) and probably indefinitely.

Clear demonstration that men can perform valuable services in Earth orbit as observers, scientists, engineers, and repairmen. (The ability of the first Skylab crew to repair damage done to the space station during launch literally saved the entire program from failure.)

A great wealth of new scientific information about the Sun and its nuclear processes—information simply not obtainable from ground-based observations.

Convincing new evidence of the value of Earth observations from space by both men and automated spacecraft. (This supplements the work of our first unmanned Earth Resources Technology Satellite, the highly successful ERTS–1.)

Reinforcement of our ability to encourage international cooperation in space. Our decision to proceed with Skylab was essential to our being able to participate in the Apollo-Soyuz Test Project at reasonable cost and undoubtedly strengthened Russian interest in cooperating. Skylab also played an important role in stimulating European interest in funding and developing the manned Spacelab module.

Evidence of the feasibility of manufacturing new products of great value in the weightless environment of space, opening up a completely new field of space activity with very promising possibilities.

And, most important of all, confirmation that we are really on the right track in proceeding now to develop the Space Shuttle and the manned Spacelab module for intensive use in Earth orbit in the 1980s and 1990s.

Everything that we have done in Skylab was necessary for future progress in space. It was good management to learn all of these things now, while we had the Apollo hardware, momentum, and industrial base. I also believe the Skylab team has taken another giant leap for mankind comparable to the first step upon the Moon or the first satellite in Earth orbit.

As originally planned in the 1960s, the Skylab experience was expected to lead directly to the development of large, permanent manned space stations in Earth orbit. I believe that everything we have learned in Skylab has shown the great potential of such stations and the eventual need for them. But we realized several years ago that it would not be feasible, in this decade, to begin simultaneously to develop a large space station and also a Space Shuttle to supply the station and rotate crews and scientific personnel.

#### INTERIM STATION

Also, as we proceeded with the Shuttle design studies, we realized that the Shuttle together with the manned Spacelab module would serve very effectively as an interim space station for missions of short duration (seven to 30 days) and also be a thoroughly superior system for launching, servicing, and retrieving all automated satellites, large and small, NASA or non-NASA.

So what has evolved, from years of intensive planning and the Skylab demonstrations, is an optimized approach to using Earth orbit in the 1980s and 1990s, for science and practical benefits, at reasonable cost. I think we have provided an excellent example of effective, adaptable, relevant long-range planning by Government, industry, and the scientific community in a vital area of advanced technology. We have, in short, found the key for keeping America in space in the decades ahead and making it pay.

In defining the Space Shuttle, we made a successful effort to hold down the cost of development. This means we can bring the Shuttle to operational status in this decade and maintain a balanced program within an annual budget for all of NASA of around $3.3 or $3.4 billion, in 1971 dollars.

This balanced program includes space science and applications programs in Earth orbit (which in turn are necessary to develop productive payloads for the Shuttle and Spacelab module); a strong effort to continue unmanned exploration of the planets on a logical, step-by-step basis; and a substantial annual investment in aeronautical research.

The cost of the Shuttle development effort was estimated in early 1972 at about $5.15 billion in the 1972–1978 period (including development, test, and procurement of two Shuttle Orbiters and two Shuttle Boosters), plus $0.3 billion for the facilities needed for Shuttle development, test launch, and landing. Another $1 billion will be spent in 1979–1980 for refurbishing the first two Orbiters and for procurement of three more Orbiters and for the first production line Boosters.

This makes a total investment of $6.45 billion to bring the Shuttle into operational use in 1980. An additional investment of around $1.6 billion will probably be required during the 1980s for improved upper stages to take payloads to higher orbits than the Shuttle can reach; for facilities at Vandenberg Air Force Base in California which are needed for Shuttle flights in polar orbit; and for other items. Thus the total estimated cost of Shuttle development and additional investments in the period 1972–1990 came to about $8 billion. Allowing for inflation since 1972, this estimate still stands.

To determine what our return on this investment will be (in terms of savings compared with the cost of using present launch vehicles), we needed to make some rather detailed assumptions of how many payloads, and what kinds of payloads, will be launched by the Shuttle in the 1980–1991 period.

Our latest assumptions are set forth in a planning document called *The 1973 NASA Payload Model: Space Opportunities 1973–1991*. It describes in some detail the most likely payloads we could send to the planets or Earth orbit between now and 1991 without significant increases in our annual budget.

According to the *1973 NASA Payload Model*, 986 payloads would be handled by the Shuttle in the 12-year period 1980–1991. This includes 507 NASA payloads and 175 payloads listed as non-NASA and non-DOD. (The Department of Defense has its own payload model for the period. It is estimated that about 31% of total Shuttle payloads in the period will be DOD payloads.) The number of payloads might seem large to some but because of the high efficiency possible with the Shuttle, these can all be flown with less cost to NASA and DOD than current budgets.

Of the 986 tentative payloads in the *1973 NASA Payload Model*, 336, or roughly one-third, will be carried in the manned Spacelab module. These are called sortie payloads. Forty-four of them would be carried on 30-day flights, the remaining 242 on seven-day flights. These figures are important to indicate the extensive use we expect to make of the Spacelab module beginning in 1980.

(It should be pointed out that the number of Shuttle launches will be much less than the number of payloads. More than one payload will be orbited on most flights; and some of the payloads mentioned in the above totals are "service calls" to satellites already in orbit, or are payloads being returned to Earth.)

We have carefully compared the cost of orbiting this many payloads using present launch vehicles (or improved versions) and using the Space Shuttle. And we find that by using the Shuttle we can save an average of more than $1 billion per year over the 12 year period from 1980–1991. This compares quite favorably with the total Shuttle investment from 1972 to 1991 of around $8 billion.

This substantial saving is possible because of three main factors: the cost of putting payloads in orbit with the reusable Shuttle will be somewhat less than the cost of using expendable one-way rockets; the cost of designing and building payloads for launch by the Shuttle will be *much* less; and the versatile Shuttle will make it possible to service and resupply payloads in orbit, repair them, and retrieve them for return to Earth for refurbishment and reuse. I will describe each of these three.

The Shuttle will take off vertically, like a rocket, but will land on a runway like an airliner. It is being designed for quick turnaround and for reuse 100 times or more, perhaps 500 times.

The Space Shuttle has three main parts: the Shuttle Orbiter itself; a large external fuel tank which carries the liquid hydrogen and liquid oxygen burned by the Orbiter's engines; and two solid-fuel booster rockets to assist the Orbiter on take-off.

The Orbiter is completely reusable. The external fuel tank will be jettisoned just before the Orbiter reaches orbital velocity and will impact in a remote ocean area. The two booster rockets will fall into the ocean near the launch site and will be recovered for reuse.

The Shuttle Orbiter will have plenty of cargo room and lifting capacity. The cargo compartment will be 15 feet in diameter and 60 feet long. Loads weighing up to 65,000 pounds can be carried.

This means that Shuttle payloads will not have to be rigorously designed to save every possible inch or ounce, as at present. They can be designed instead for easy assembly, check out, and repair. They can use many more standard parts which have already been tested in the space environment and which are much cheaper and easier to procure than custom-made parts.

Moreover, since the ride into space in the Shuttle will be much smoother than on present rockets, payloads need not be so ruggedly built. And they can also be more simply built and "packaged" because they will be deployed and checked out in orbit by the Shuttle crew. They can be repaired on the spot if necessary (for example, if antennas or solar cell panels fail to unfold properly) or returned to Earth for repair.

It will be a completely new ball game for payload designers when the Shuttle begins operations—and for scientists who have often had to work for years adapting their instruments and experiments to the size and weight constraints, and who have sometimes seen years of effort lost because of a minor malfunction caused by the launch regime or revealed only when the payload became weightless.

But the advantages of the Shuttle go far beyond just getting less expensive payloads into the proper orbit in working condition, important as this is. Because the Shuttle, piloted by its crew will be quite maneuverable in orbit, it can rendezvous with payloads already in place to re-supply them, adjust or repair them, pick up film and data, or bring them back to Earth. This capability for bringing large unmanned observatories and laboratories back to Earth for refurbishment will greatly reduce their cost and thereby expand their use.

We did not realize when we set out to design a reusable Shuttle that one of its chief benefits would be reusable payloads. But that is the way it has worked out. The Shuttle's up-and-down capabilities have made it feasible to plan such payloads as a 120-inch optical telescope which can see, it is hoped, to the ends of the universe.

I can sum up this section on Shuttle savings by saying there is nothing mysterious or miraculous about them. They are the result of advanced technology being thoughtfully applied. The Shuttle simply takes advantage of 10 or 15 years of Apollo technology and experience, and updates and adapts it to practical use in Earth orbit. The Shuttle is the sort of normal, logical technological advance we should be making in many areas of our economy and national life.

I will summarize the benefits we expect from the Shuttle, as I did for Skylab:

As just explained, the Shuttle will save more than $1 billion per year in launch costs and payload costs.

The Shuttle is also much more versatile than present rockets. It is a transportation system to orbit, in orbit, and back to Earth. With the Spacelab module as a payload, it will also facilitate a wide variety of manned operations and scientific work in space at reasonable cost.

It will be a great boon to scientists and other users because it will greatly reduce the lead time and cost of preparing their experiments and permit them to accompany their experiments to orbit when necessary. (Any person in good health will be able to stand the moderate three "G" forces generated during Shuttle launch and reentry. And the Spacelab will have a "shirtsleeves" environment.)

The Shuttle wipes out the longstanding argument whether we should emphasize man's role in space or automated spacecraft. The Shuttle makes it highly advantageous to use both men and machines.

The Shuttle will be used for both science and practical benefits in Earth orbit. It will open up new opportunities such as space manufacturing.

The Shuttle will give us a space rescue capability at all times and at reasonable cost.

The Department of Defense has important uses for the Shuttle and strongly supports its development by NASA.

The Shuttle calls for significant advances in aerospace technology. For example, Shuttle use of hydrogen as a fuel is an important step toward what has been glowingly described as the low-pollution, high-energy "hydrogen economy" of the future. Global transports of the future may draw on other Shuttle-advanced technology.

Like Skylab, the Shuttle initiative of the United States greatly encourages and facilitates international cooperation in space. This has already been demonstrated by the European readiness to invest $300 to $400 million in Spacelab module design and development. Opportunities for expanded international use of the Shuttle and Spacelab are literally unlimited.

The Shuttle is the key to America's bright future in space. There is no substitute for it as the lead project and focal point for developing space technology and space uses in this decade.

We have made hard decisions—and correct decisions—in giving the Shuttle priority. We have designed it well. I am sure this country will be as proud of the Shuttle as it was of Apollo. And the benefits should be much greater over a longer period of time.

If anyone still has doubts about the reality of these benefits, I suggest he consider the implications of the recent European decision to commit more than $300 million to Spacelab development. As I said in recent Congressional testimony, this decision follows extensive and careful evaluation and indicates a growing consensus among the foreign scientific establishments that space exploration is entering a mature phase that will yield significant benefits on a routine basis. The affirmative European decision on Spacelab, after confirmation by their own competent independent technical personnel, represent a conviction at the highest levels of their governments that there will be large returns from the Shuttle.

### IMMEDIATE SAVINGS

We have only been knocking on the door of space with today's rockets. The Shuttle will open the door wide. With the Shuttle, Earth orbit will become a new home and work place for man, just as the land, and the oceans, and the airways are today. The covered wagon and the railroads were not just transportation systems of their day—they helped earlier generations of Americans open a continent. In similar fashion, the Space Shuttle will open the new realm of near-Earth space for all mankind.

And what is that worth in terms of 1971 dollars? It is difficult to say, of course, but it seems clear to me that it will be worth the investment we plan to make in the Shuttle ($8 billion over two decades) many times over. And I would not like to contemplate the real cost to our society of not accepting this challenge.

The Shuttle will produce immediate savings when it comes into use; but it is essentially a long range investment.

For example, we could not begin to think of obtaining solar power from collectors in space without the Shuttle; we cannot hope to unlock the still hidden energy secrets of the Sun and stars without improved space observatories launched by the Shuttle; we cannot hope to develop the tools for better management of natural resources and protection of our environment on a global scale without manned and unmanned Earth observatories launched and serviced by the advantages of a "hydrogen economy" in the future unless we are willing to support such important steps toward that future as the hydrogen-fueled Shuttle.

In short, there is no new frontier in space for America and for mankind without the Shuttle.

All of our cost/benefit studies show the Shuttle a very worthwhile investment. Even if they did not, I would say we should build it. We cannot run spaceship Earth without it.

NASA's belief in the Space Shuttle has been shared by the President and by a strong bipartisan majority in the Congress. We are now moving into Shuttle development, and moving along well. With continued support from the American people, the Shuttle era will open on schedule, and space will be open to us, too. The future is promising for both mankind and technology.

## "THE ADVOCATES" DISCUSS FEDERAL OIL AND GAS CORPORATION

Mr. HRUSKA. Mr. President, last Thursday evening, the popular National Educational Television program, "The Advocates," discussed, as the final program in a three-part series on the energy shortage, the question: "Should the Congress create a Federal oil and gas corporation to compete with private industry?"

The Advocates were former Senator Fred Harris of Oklahoma who argued for such a corporation and former Under Secretary of the Treasury Charles Walker who argued against. Witnesses for the proposition were Senator Stevenson, of Illinois, and Lee White, former Chairman of the Federal Power Commission. Witnesses against the proposition were C. Jackson Grayson, dean of the School of Business at Southern Methodist University and former Chairman of the Price Commission, and John Swearingen, chairman of the board of Standard Oil of Indiana.

For those of us deeply committed to the notion that the United States is founded on the free capitalism system and who have great difficulty understanding that the Government can operate an industry better than can free enterprise, it was not much of a contest: The "no's" won overwhelmingly.

But there are, obviously, those who think othewise, even among the membership of the U.S. Senate.

Therefore, Mr. President, in order that the Senate and the readers of the Congressional Record can have the benefit of this stimulating discussion, I ask unanimous consent to have printed in the Record a transcript of the program as broadcast on the evening of January 24.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

Announcer. Good evening, ladies and gentlemen, and welcome to The Advocates, the PBS fight-of-the-week. Tonight's debate is coming to you from Boston's historic Faneuil Hall. Moderator Evan Semerjian has just called tonight's meeting to order.

Evan Semerjian. Good evening and welcome to The Advocates. Tonight we present the final program in our series of three debates dealing with the energy crisis. Our question examines whether a major industrialized nation such as ours should rely entirely on private industry to meet its crucial energy needs or whether government should play an active role in energy production. Specifically, our question is this: Should Congress create a federal oil and gas corporation to compete with private industry?

Advocate Fred Harris says yes.

Fred Harris. Oil and gas shortages and high prices and high profits have gone hand-in-hand with too little competition. Here with us tonight to say what can be done about it are Senator Adlai Stevenson of Illinois and Mr. Lee White, former chairman of the Federal Power Commission.

[Applause]

Semerjian. Thank you. Advocate Charls Walker says no.

Charls Walker. What we need most today to solve our energy problem is greater supply, and soon. A federal oil and gas company can neither produce nor encourage that supply. Private industry can. And to prove this tonight I have with me as witnesses Mr. C. Jackson Grayson, Dean of the School of Business at Southern Methodist University; Mr. John Swearingen, chairman of the board, Standard Oil, Indiana.

[Applause.]

Semerjian. Thank you. First, I'd like to welcome back our two advocates, Fred Harris is an author and former United States senator from Oklahoma, and Charls Walker was Deputy Secretary of the Treasury in the first Nixon administration and is now a Washington consultant. We'll begin our debate in just a moment, but first a word of background on tonight's issue.

The proposal for a federal oil and gas company to develop energy resources on public lands was first made in 1969 by Lee White, the outgoing chairman of the Federal Power Commission. It took the form of legislation last fall in a Senate bill sponsored by Adlai Stevenson III of Illinois. In the intervening years, Americans have begun to experience fuel shortages for the first time since World War II. Some blame the problem on overregulation by government, while others blame the oil companies and a lack of government involvement. In the words of its sponsors, a federal oil and gas company would secure adequate supplies at reasonable costs to the consumer and provide a yardstick against which the public could measure the costs of private oil production.

The government would be empowered to develop up to 20% of the gas and oil on public lands. These include roughly 700 million acres in the West and one billion acres off shore on the continental shelf. The rest of the public lands could be leased to private companies who would compete with the government-run company.

And now to the cases. Senator Harris, why should Congress create a federal oil and gas corporation to compete with private industry?

Fred Harris. Thank you, Mr. Semarjian. The free enterprise idea is the basic strength of the American economy. But today in the oil industry, free enterprise and competition don't operate freely because the oil companies, the big oil companies have too much control. They work together in production, in refining, and in marketing.

Many Americans today, probably most Americans, are having trouble buying heating fuel or filling up their cars with gasoline and paying for it, if they can, but oil companies profits are up. They fight environmental measures and they enjoy all sorts of special tax privileges. They get away with this because you and I allow it to be done, even though we, on our public lands, own the vast majority of the still-remaining oil and gas reserves.

It's like it used to be with electricity. That was a monopoly, and what did we do in that case? We did just the kind of thing that we propose tonight. We want to set up a federal oil and gas corporation to develop and manage up to 20% of the public lands, to buy competitively in the world crude oil market, and to sell to independent refiners who are now being, as you know, squeezed out of business.

That's nowhere near a total answer, but it's one essential step. America can have a competitive and pluralistic oil and gas system, and here to tell us how that can be done is Senator Adlai Stevenson of Illinois.

[Applause]

Harris. Senator Stevenson has been holding hearings on oil and gas policy.

Senator, why is the oil and gas industry different from other industries in America, and why do we need your federal oil and gas corporation?

Senator Adlai Stevenson. It's the nation's largest industry. It's a heavily concentrated industry. The major oil companies within this industry control the production of oil. They control the production of gas. They control the refining. They control the pipelines. They control now increasingly the marketing of petroleum products, having taken advantage of the shortage to cut off supplies to the remaining competition in the industry, the independent marketers. It's concentrated. It's vertically integrated. It acts through joint ventures, through exchange agreements, through interlocking boards of directorates. It acts in league with foreign governments. But what makes the . . .

Harris. May I just say on that that with that kind of control—I believe over 50% of the crude oil production is controlled by eight companies; over 50% of marketing of gas is controlled by eight . . .

Senator Stevenson. Oh, it's much more than that. 93% of oil production is controlled by the 20 largest oil companies. The largest eight companies control 69% of the nation's uncommitted gas reserves.

Harris. Now you were about to say, then, something about its unique quality, in addition to that.

Senator Stevenson. Well, you see degrees of concentration in various industries, but there is no industry more vital than this industry. It's the commodity of this industry that makes it unique. That commodity is essential to every farm, every home, every business, every public service, even the nation's defense. I think that, more than anything else, the essentiality of that commodity—energy. And in these times of short supply, when a heavily concentrated industry can extort almost any price . . .

HARRIS. Well, are they profiteering from this kind of non-competitive control?

Senator STEVENSON. Well, we estimate in the Senate Commerce Committee that income is flowing from consumers to producers and marketers of oil at an annualized rate of about $25 billion in 1973. That's a very conservative estimate.

Now, Mr. Swearingen has been asked and said that the price of gasoline in the United States will rise 10 or 15 cents in 1974. For every penny, for every one cent that this industry increases the price of gasoline, the cost to the consumer goes up by one billion dollars; 10 to 15 cents, 15 billions. And that's just for gasoline, just one of many commodities marketed by this industry.

HARRIS. Well, what do you propose, then tonight, that we do about that?

Senator STEVENSON. I want to preserve the free enterprise system, but any nation with its sanity would recognize at this point that it cannot leave itself to the whims of one industry. No other nation in the world does so, only this nation. This is also the nation's most pampered industry. It enjoys tax credits against royalties that it pays to foreign governments. It enjoys a depletion allowance. It has until recently enjoyed import quotas. And in spite of it, in spite of all the incentives and benefits this pampered industry has received from its government, it has left the country in a lurch; it has left us without sufficient refining capacity, without sufficient domestic production, and now with very, very high prices, as well as the shortages.

Now, a federal oil and gas corporation would serve several purposes. One, it would . . .

SEMERJIAN. Make this very brief, Senator.

Senator STEVENSON. . . . go into the public domain to develop the public oil and gas resources, and that's where most of them are. And the naval petroleum reserves alone, it was estimated just this week by the Deputy Director of the Office of Naval Petroleum Reserves, there is $240 billion worth of oil. I want to see that oil developed for the benefit of the oil—of the public, the owners of that oil, and not for the benefit of companies which are fattening on a crisis that they helped create. And I also want to see a free enterprise system maintained, and this corporation would bring competition to this industry and head off the days when nationalization or regulation of the industry come about.

SEMERJIAN. All right, Senator, let's go to Mr. Walker now, who I think is eager to ask you some questions.

WALKER. Senator Stevenson, you would agree, would you not, that as far as domestic energy is concerned, the number one problem, the number one goal of public policy is to get an adequate supply of fuel flowing to the people who need it at the lowest reasonable price as soon as possible? Is that correct?

Senator STEVENSON. Yes, plus, of course, conservation measures and others. But that's certainly important.

WALKER. All right, now we will get back a little bit later to your allegations about monopoly and concentration in the industry. They are allegations. I regret that you didn't get to describe your bill a little bit more because I want to talk to you about the bill and what it would do with respect to this problem that confronts the American people. But one of its central provisions, is it not, is to provide authority, or what I will call, instead of the federal oil and gas company, FOGCO, if you don't mind. It provides authority for that corporation to preempt the most promising 20% of federal petroleum leases, leases on federal land. Now, the experts tell us that the recoverable oil on such tracts is probably within that 20% limit, and the other 80% may well be worthless.

Now, isn't it quite clear that this authority for your national oil company is, in effect, to take the cream off the top and as a result, be a tremendous disincentive for private petroleum companies to bid for developing the remaining 80% that's not all that good?

Senator STEVENSON. Judging from the profits of the industry, they're trying to be plenty of incentives in the future to bid on public properties and the price could come down if we adopted what we call royalty bidding—I'm sure you're familiar with it—instead of the present cash bonus system. There'll be plenty of incentives. And besides, why shouldn't the cream of the crop, the best leases be developed for the benefit of their owners?

WALKER. What would the incentive for Mr. Swearingen's firm come from to bid on a tract a land on which the probability is there's no petroleum? I mean the federal oil and gas company would have it all by itself.

SEMERJIAN. When you're referring to Mr. Swearingen's firm, what are you referring to?

WALKER. Standard, Indiana.

Senator STEVENSON. Well, you've put your finger on one of the problems. The oil and gas industry knows far more about what the government owns in the way of oil and gas resources than the government does. Like most everything else, it controls the facts in this industry. This corporation would give the government a means of going into the public domain and finding out what is there before it's leased out or given away to the oil and gas industry.

WALKER. Senator, I hate to press this point, but I'm trying to find out if not, doesn't this 20% off-the-top skimming of the cream mean that competition for public lands will be reduced? And if that is indeed the case, which seems obvious to me, doesn't it means that FOGCO will have the lands, it will take it over five years to get going, and what will it do? Just sit on the oil for that five years while the people need it?

Senator STEVENSON. Mr. Walker, somewhere between 60 and 70 percent of the nation's oil and gas resources are in the public domain. Of that enormous resource, only now about 2% is leased out. There's going to be plenty of oil and gas resources in the public domain for this corporation and for private industry.

WALKER. And you and I know why that hasn't been leased out. In other words, the federal government over the years, the past 10 or 20 years, has been very, very slow indeed in putting these lands up for auction, these offshore lands. That's one of the major problems. The oil companies have been eager to do it, but Uncle Sam hasn't been willing to put it out there.

Senator STEVENSON. No, and I think we should move faster, and in this case not for the benefit exclusively of the oil companies, but for the benefit also of the American public.

WALKER. We agree that we should move faster. Now, FOGCO gets this 20%. They don't have the facilities; they don't have the geologists; they don't have the necessary wherewithal to develop it. They either sit on it for a period of several years till they develop, or, it seems to me, while unemployment is rising, the economy's getting worst off, or they hire the private firms to come in and do the job for them, correct?

Senator STEVENSON. Yes, there'll be plenty of public resources available for exploration by the industry, and to the extent the public corporation developed, it would, to start with at least, do it under contract with private companies.

WALKER. But these are the firms that you say are in a highly concentrated, monopolistic, collusive industry that engages in joint ventures and exchange agreements, and by the nature of the case, they would be the ones that are developing this.

Now, your colleagues in the Senate. . . .

Senator STEVENSON. No, sir; I'm talking about drilling companies, the geological services. I'm not talking . . .

WALKER. The oil industry.

Senator STEVENSON. . . . necessarily. But it could enter into joint ventures with Exxon. But services would be granted, in most cases, by other companies, drilling companies . . .

WALKER. In other words, you recognize the value of a joint venture in your bill and so it's okay, but it's not okay if it's done between—done on the outside.

SEMERJIAN. Let's go back to Mr. Harris for a question.

HARRIS. Senator Stevenson, isn't it one of the points that this federal oil and gas corporation could sit on known reserves while a company would have to produce them, and we could use foreign oil when we could get it and save ours?

Senator STEVENSON. It would become a supplier of last resort in a sense. It would sit on them. It would go in and develop these properties, drill the wells so that they were available when they were needed. As it is now, where the oil companies in some cases go in and drill them and they sit on them waiting for higher prices, this company would make oil and gas available for the public whenever it was needed, including for the nation's defense.

SEMERJIAN. Okay, Mr. Walker, back to you.

WALKER. We need those wells now, Senator. But we've heard charges tonight from you about excessive profits, manipulated shortages, monopolistic practices. What provisions of the FOGCO bill restrict profits of the oil companies or make interlocking directorates illegal and so on?

Senator STEVENSON. No, it is not addressed to the illegality of interlocking directorates. They are already made illegal by the Clayton Act and I have sought enforcement of that law by the Justice Department.

WALKER. Then it's not addressed to the here and now.

Senator STEVENSON. It could, in addition to creating competition in the production of oil, also go into the refining. If it was necessary to go into the refining of oil in order to supply independent marketers in competition with the majors, it could do that. It could create competition at the production, at the refining and also at the marketing levels.

WALKER. And it may be 10, 15, 20 years down the road we would begin to see some benefits for the poor consumer who can't fill up his car now or heat up his home now, today, this year.

Senator STEVENSON. Maybe two or three.

SEMERJIAN. All right, thank you, Mr. Walker. Senator, I want to thank you very much for being with us tonight.

[Applause]

HARRIS. Senator Stevenson has pointed out the kind of lack of competition there is in oil and gas, but it goes even further than this. The major oil companies also have special relationships with the big banks, like Chase Manhattan. These big banks and the big oil companies, such as Standard Oil of Indiana, interlock and interwine almost like spider webs. You, as the consumer, have very little chance against that kind of cooperation, rather than the kind of competition that we believe in, and our next witness in that regard is Mr. Lee White.

[Applause]

HARRIS. Mr. White is the former chairman of the Federal Power Commission and now chairman of the Energy Task Force of the Consumer Federation of America.

Mr. White, we used to think that America was oil rich. Are we now oil poor?

LEE WHITE. No, we've got an awful lot of oil and gas in the United States. The oil is somewhere in the order of 500 billion barrels, and we use less than 50 billion a year. We have somewhere around 2000–2400 trillion cubic feet of natural gas, and last year we used about 22 trillion. So, you see, we do have plenty of oil and gas. Our trick is to find it and to get it out and to the people.

HARRIS. What portion of that—those vast

reserves are owned on the public lands, our lands?

White. Well, we don't know for sure, but the figure is certainly over 50%, probably close to 75%.

Harris. Who's the authority for that?

White. These are government figures. It comes from the Geodetic Survey, and I think there is no serious dispute. There are a range of estimates—but that's—we can accept that, I believe.

Harris. Well now, if we have these kind of vast reserves right here in America, a big part of which you and I own, the public owns, why haven't—take natural gas, for example. Why haven't those reserves been developed and delivered?

White. Well, there's more than one reason, but I'll give you a couple of very important reasons, in my view. One of them's already been alluded to, and that is a very poor job of leasing the federal property. The managers, the government, holding it for the people who own it, has simply not been good at it. And secondly, our tax policy has made it very, very attractive for the multinational corporations, the big ones, the giants—Exxon, Gulf, Texaco—to go abroad. And so, you see, we have drilling in the Middle East, Indonesia, off the coast of Ecuador, the North Sea, but we really need a lot of drilling in the United States.

Harris. What about the idea which you've proposed, and is our proposition tonight, the federal oil and gas corporation? Is that a radical or new idea, where you've got this lack of competition in an energy field?

White. There may be some people who think it's radical, but I've got to tell you, it's fairly old.

Harris. Would that be primarily the oil companies?

White. If I were in the oil business, I might think it was kind of radical. Forty years ago, TVA came into being, and it's done an excellent job. It was born in controversy and is not free of controversy now, but it's very efficient.

We've got 3,000 municipally owned electric systems across the United States. The people own the system; the people buy the electricity from it. We've got a thousand that are owned rurally by cooperatives in those most sparsely settled areas of the United States. And I don't think there's anything startling about it. In fact, we know full well that if the federal government hadn't assisted the people in rural areas with electric cooperatives back in the 1930s, it would have taken decades before they would have been fully electrified, as they are now.

So there's nothing really terribly innovative or startling about it. Moreover, it's being done in almost every major country of the world.

Harris. That gave us a pluralistic system in electricity. They got a small portion of it and some competition, and that's what we're talking about here.

White. A lot of competition, and I think it's benefited everybody.

Harris. What about—the other side says it will take too long to get this federal oil and gas corporation going and develop new oil. What about that?

White. Well, I think Mr. Walker's got a point. I don't know how to turn the clock back, and we'd started four years ago, we'd only have four years less to get to fruition. I think we ought to get started right away. It is not a panacea. There's no question about it. There are many other approaches that also ought to be considered. This is not mutually exclusive of other ideas.

Harris. It's not a total answer, but it's one step that you feel is essential.

White. I think it's very essential.

Harris. Thanks, Mr. Harris. Mr. Walker, your witness.

Walker. Mr. White, of course from our old textbook days, we know that electricity and other utilities are so-called natural monopolies, which is quite a different thing from the oil business. But we need this oil now. People are losing jobs. They're going out of work because we don't have enough fuel.

You've said publicly that this country must be prepared to face an energy deficit for the next 10 years. That varies a little with what you were saying when you were the head of FPC, but you've said that recently. Obviously, you believe this shortage is real. If so, do you agree that prices will rise in the next 10 years because of that shortage, even with FOGCO enacted?

White. Yeah, I think that surely they will rise, but I think that there ought to be a controlled rise in the sense that they ought to be related to the cost of production. The thing that bugs people in the country today is that the prices have shot through the ceiling and we don't believe it costs more to produce the oil that we are using.

Walker. Well, let's get back to this 20% issue that I'm afraid I didn't get too far with with Senator Stevenson in trying to find just what the implication of that is in the legislation. And as a matter of fact, in the hearings in December, Senator Stevenson stated that he might reconsider the 20% skimming of the cream off the top—that's my phrase. He didn't use that phrase—and maybe a random 20%. Let me ask you this. You are against nationalization of the oil industry?

White. Certainly.

Walker. But it is not true, then, with the 20% cream-of-the-top skimming provision, with no private company being able to bid on public land, that you have de facto nationalization for development of the public oil lands?

White. No, I don't think so. I think one of the mistakes you've made is to assume that a maximum is also the absolute requirement. I don't know what that corporation will do. It will depend upon who is operating it, and I don't know that that corporation will necessarily take the top. It may . . .

Walker. Well, wait a minute now. The legislation says 20% now; and we're debating the bill. Are you backing away?

White. No, no.

Walker. Would you go down to five?

White. It says not to exceed.

Walker. Would you buy random 20%? You know what I mean by random 20%?

White. Yeah, I know what you mean by random. No, what I think I would prefer to do is—be to leave it to the administrators to determine how it wants to be done. And don't forget, this operation is going to be out in the public. We're going to have congressional committees.

Semerjian. Excuse me for just one minute. Mr. Walker, would you explain what you mean by a random 20%?

Walker. A random 20% would mean that you [technical difficulties] between FOGCO and the private companies. That's the way I would interpret a random 20%.

Semerjian. Is that how you understood it, Mr. White?

White. That's the way I understood it. That's right.

Walker. And you're saying, then, that this bureaucrat—and believe me, they're good people. They work hard. But you're willing to delegate this decision to the head of FOGCO, a $42,500-a-year-man, to say whether it's 20, 19, 18 or 1?

White. No, I think I'd let the Congress on it, too. This is going to be a public operation. This is going to be in a goldfish bowl. And I don't think that if this organization comes into being that it's going to kind of just float and decisions will be made in the dark. One of the benefits of this operation is that it will be public. We will know what it costs to produce oil and gas, and that's what we're striving for.

Semerjian. Excuse me for just one second. Let me ask you something to clarify your position, Mr. White. You're in favor of the federal oil and gas corporation, I take it, because you don't think there's enough competition in the oil and gas industry. Is that right?

White. Well, that's one of the reasons. There are others, yes.

Semerjian. Is that the primary reason?

White. It used to be the primary reason. I think the way that things are going today, there is one that is rivaling it, and that is the need to have a government agency which will take reserves and have them available so that when King Faisal turns off the spigot, I'd like to have somebody available to turn on a spigot. We ought to be willing to have a government agency, not a private corporation like Mr. Swearingen's, but a government agency that will find our reserves that the people of this country own and hold them for a time when we need them.

Semerjian. But this proposal involves competition by a government organ against private companies. Isn't that right?

Walker. Exactly. And we're trying to argue that it's unfair competition, de facto nationalization, and what it's boiled down to is that some bureaucrat that heads up this agency will have the power of life and death as to whether it's de facto nationalization. This is what I gather from your testimony.

Semerjian. Is that your question?

Walker. That's what I gather from your testimony. Am I correct?

White. Not quite. You're wrong.

Walker. Not quite, I'm wrong. Okay. Show me where I'm wrong.

Semerjian. All right, let's go to Mr. Harris.

Harris. The present situation is that a few corporate executives make that decision purely for private profit, don't they?

White. That's right. And there's nothing wrong with that. That's the way it's supposed to be.

Harris. Sure, but we think there ought to be a public interest involved here as well, don't we?

White. Somebody ought to be looking for oil and gas because we need it, not to maximize profit.

Semerjian. Let's go back to you, Mr. Walker.

Walker. Mr. White, I repeat a question I gave to Senator Stevenson. It's awfully important, the allegations there. We've heard charges tonight about excessive profits, manipulation, shortages, monopolistic practices. Does FOGCO directly in any way, in the draft that I have seen and you have seen, correct these practices?

White. No.

Walker. Thank you very much.

Semerjian. You can have another question if you want it, Mr. Walker.

Walker. No, I'm perfectly satisfied.

Semerjian. All right. Well, thanks very much, Mr. Harris, for being with us tonight—Mr. White.

[Applause.]

Semerjian. We have Mr. Harris right here. Go ahead.

Harris. I wish the other side would tell us how you nationalize public property. These reserves are ours already.

The rich giant oil companies, like Standard Oil of Indiana and others, they fight enforcement or strengthening of the antitrust laws, they fight measures to protect the environment, they fight efforts to make them pay their fair share of taxes, they want more and more profits, less and less taxes, while they gobble up more and more of this property that's already ours, these public lands with these vast oil and gas reserves. That belongs to us. You and I ought not to let them get away with it.

[Applause.]

Semerjian. Thank you. For those of you in our audience who may mave joined us late, Senator Harris and his witnesses have just presented the case in favor of Congress creating a federal oil and gas corporation to compete with private industry. And now for the case against. Mr. Walker, the floor is yours.

Walker. Thank you very much, Mr. Moderator. FOGCO is suggested as a yardstick to measure the performance of private oil companies, but it will be years before it can do that job, and even then, it will distort the picture while in fact discouraging development of our valuable resources. The federal government had a lot to do with getting us into this mess in the first place, and FOGCO can not only not solve these problems, it will make them worse.

Our U.S. private oil companies, on the other hand, have a long-term record that is unmatched in the world for bringing this nation plentiful energy at low prices, so much that we became wastrels of energy. They can produce what we need now to protect your job and your standard of living. This proposed national oil company cannot.

Now make no mistake about it, the stakes are very high. They involve no less than your job, the value of the dollars in your pocket, your standard of living, whether you can get oil for your car, fuel to heat your home. To help prove this case tonight I call as my first witness Mr. C. Jackson Grayson.

[Applause.]

Walker. Mr. Grayson is Dean of the School of Business at Southern Methodist University and former chairman of the Price Commission in Phase II.

Dean Grayson, the proponents of the Stevenson bill argue that the public owns the petroleum resources on public land and therefore it is only common sense that the public, through the government, should develop and market those resources. Why shouldn't we rely on private industry to do the job? Why should we rely on private industry to do the job?

C. Jackson G. Grayson. Well, the question really is does the public have an interest? Certainly the public has an interest. The public has an interest in all public and private corporations. All private corporations have public charters. The question that we're concerned with tonight is what's the best way to get these oil and gas reserves the quickest and the cheapest, and the private enterprise system, I think, has proven that's the best way.

Walker. Well, that's all very good if the private industry is truly competitive, but we've heard a great deal tonight to the effect that the petroleum industry is so concentrated that it almost deserves the description of being a monopoly. What do you think about that?

Grayson. Well, one, concentration doesn't equal monopoly. We have a lot of concentrated industries in this nation. We have automobiles; we have steel; we have rubber tires; we have coal, meat-packing—a number of concentration [sic]. And concentration doesn't mean that we have monopoly.

Now, we looked at this in the Price Commission when I was chairman, and we found that the price increases in the nation were the lowest for the concentrated industries and were higher for the unconcentrated industries. The thing to look at is performance. What are the profits? That'll tell you whether there's a monopoly. If there's a monopoly, you'll have monopoly profits.

The profit record of the oil industry is lower than all manufacturing industries combined in the country for the last 10 years, bordering on 7% return in 1972.

Walker. 7% on capital. Well, let's be specific. Although Senator Stevenson would allow joint ventures in his bill, he's severely joint ventures and exchanges agreements in private industry. Would you comment on that?

Grayson. Well, joint ventures are a natural way for the industry to conduct operations.

Walker. What is a joint venture?

Grayson. A joint venture is where several companies join together to go into a very risky venture, such as the pipeline, or very high-risk lease or anything else. It's a natural way to do business, and I think the Stevenson bill would even say let's do that also in this company.

Walker. The proponents of FOGCO argue that on the one hand the private petroleum companies are understandably and profitably motivated to make a profit for their stockholders, but that FOGCO would be solely motivated to serve the public. Is making a profit inconsistent with serving the public interest?

Grayson. I hope not or our system will change from free enterprise to one of national socialism. Profits serve the public interest. The profits are there to help drive the system. That's free enterprise. Profits encourage risk-taking, they encourage efficiency, and I think that they will—and get the capital that's necessary. If we don't have profits, you don't have the money to go out and find out the oil and gas, which is what we desperately need.

Walker. Dean Grayson, you're testifying as a general expert tonight on the business system and economics, and you have your Washington background also, but you've studied this bill and heard the views presented. Do you agree that FOGCO can do this job depicted?

Grayson. I don't think it can do the job that it's been represented to do. I think it's going to have a difficult time operating in the goldfish bowl that was described. They're going to be subject to all kinds of political pressures. I know because I was in Washington. People are going to be at them as to where to locate this refinery—in the East or the West or the South.

Think about the man who has to make the decision in this corporation to drill a $10 million, perhaps, dry hole. He's going to have risk-avoidance behavior, and you need risk-taking if you're going to go out and get the supplies.

Walker. In connection with oil companies as such, what about the experience abroad—these people have made quite a case about foreign-owned oil companies—what about the experience abroad and foreign ownership of business in general?

Grayson. The record is poor compared to this country. This nation has the highest gross national product of any nation in the world, and the private enterprise system helped put it there. We have the highest standard of living, and private enterprise put it there.

Now, in records with petroleum, take a look at the world and see what the petroleum industries have done in other nations. Yes, other nations have petroleum industries. The one in Italy is on the borderline of being bankrupt. The one in France does not have a good record—$560 million shortfall. Who did the Arabs send for to come develop their oil? Us. Who did they come in Russia? Russia sent over to the United States. Why? Because the expertise is generated in this country. The North Sea is largely developed by the American private enterprise system.

Semerjian. All right, thanks very much. Let's go to Mr. Harris.

Harris. First of all, Dean Grayson, just on that last point, you say the American oil companies dominate Russia's and everybody else's oil business. It seems to me that's exactly our case. We need a little bit of competition here.

Grayson. I don't think they dominate Russia's system yet.

[Laughter and applause.]

Harris. You say they've got to come and get our expertise. I don't mean they dominate the system, as you quite well know I didn't mean that. You say they've got to come get our expertise. They're dependent upon the American oil companies.

Grayson. Because this is where some of the expertise is, so it's a natural resource.

Harris. But I want to ask you something more serious. You wrote last month in the Harvard Business Review something I agree with very strongly, and that is what we ought to have is more competition and less government regulation and less dependence on that, but you also said—you can change your mind on this—consciously and unconsciously, businessmen themselves are adding to the probability of greater centralization by seeking ways to reduce market competition.

That's true, isn't it?

Grayson. That's true. Sometimes businessmen themselves are going to seek too much government protection, and every time the government gets into an operation, generally speaking, it results in higher prices.

Harris. Now, you said a while ago, too, that in the oil industry you weren't alarmed about the concentration, but you said last month that you didn't know about that and our internal studies did not provide—well, he says this, it said it's still unclear—you weren't convinced just last month—still unclear whether large corporations have sufficient power to control markets, reduce competition, and administer prices. You say it's unclear. We think there's evidence. And you said we did not have sufficient time to make a full study of this issue.

Grayson. Of the entire spectrum of all industries in the U.S., what I've said a minute ago is that I find the general bulk of the price increases were at the low end on the concentrated industries.

Semerjian. Dean Grayson, let me ask you a question to clarify something. I take it you're against the proposal for a federal oil and gas company as a means of improving competition. Am I right?

Grayson. Yes, I am.

Semerjian. Let's assume for a moment that there isn't as much competition in the oil and gas industry as there should be. How would you improve competition in the industry?

Grayson. One, I'd get the government as far out of the industry as you can. I think if you wanted to make a scenario of how you increase the shortages in this nation, look at what they have done to the lease sales, as was testified, look at what they have done to the environmental controls . . .

Harris. Would you stop import quotas?

Grayson. Import quotas?

Harris. Yeah. The oil companies have had these import quotas until very lately. No import quotas, no tariff controls?

Grayson. No, no. It doesn't mean you wouldn't have any government regulation. You need some.

Harris. Would you take away all their tax advantages, particularly that tax credit that encourages them to explore abroad? Would you get the government out of that kind of . . .

Grayson. I think the whole question of tax credits or favors for the industry need to be examined. I don't say they should be taken away with, but they certainly ought to be studied.

Semerjian. By tax credit, let's get one thing clear, you're talking about the dollar-for-dollar deduction against American taxes of the tax royalties paid to foreign countries. Is that right?

Harris. Well, yes. If you lease from my dad in Oklahoma, you pay him a royalty, you don't get to credit that against your tax. If you pay King Faisal for that royalty, that reduces dollar-for-dollar what you would otherwise pay in federal taxes. Now, do you favor that kind of free market, free enterprise system?

Grayson. The Congress is studying right

now whether or not these things should be continued, and I think they should study it.

HARRIS. They certainly should study it.

GRAYSON. But the federal oil and gas corporation is not an answer to that question.

HARRIS. So you advocate getting rid of a lot of those kind of government special favors, at least taking a look at them. You seemed to advocate them in your article last month. You also advocate vigorous enforcement of antitrust laws, which goodness knows . . .

GRAYSON. Yes, I do.

HARRIS. You even advocate changing the antitrust laws, perhaps, making them tougher.

GRAYSON. No, I did not. I said that we ought to take a look at the antitrust laws to see if they should be made tougher or not. That's a difference.

HARRIS. Okay, a lot of us have already taken—at least you've said take a look at them. That's one more change.

GRAYSON. That's not a change.

HARRIS. Well, that's one more thing you think might ought to be done. But we're talking about something—that's way off in the future. We are talking about something right now. This federal oil and gas corporation, admittedly not the total answer, but a piece of the answer, it could go right out now on the world market and buy oil and gas and sell it—crude oil and sell it to a refinery that can't buy from a major company. Isn't that so? That's something that could be done right now, not all these other things you're talking about.

GRAYSON. So can the refineries, so can the private companies.

HARRIS. What if the refinery can't get any gas from the crude oil—or, get any crude oil from the major companies? That's exactly the finding of the Federal Trade Commission. Do you dispute that?

GRAYSON. I don't know what the finding was.

HARRIS. The Federal Trade Commission said that one of the big problems is that the majors won't sell to these independents. They can't get any crude oil. Now what would you do about that?

GRAYSON. Is the federal oil and gas corporation going to expropriate therefore and deliver it to the system? You're certainly going to have a nationalistic company if that starts to take place.

HARRIS. Can you think of anything right now that the federal government can do to tell an oil company anything? It can beg; it can plead. It's not involved in the negotiations, is it, in the Middle East? It can't do anything but plead. But the federal oil and gas corporation, just a little piece of it—it wouldn't have very much of it—it would be some competition. Is it not like the electricity industry?

GRAYSON. No, it's not the same as the electricty industry.

The electricity industry is a natural monopoly.

SEMERJIAN. Let's go back to Mr. Walker.

WALKER. Dean Grayson, if you feel like I do, as sort of a Washington Irving character or watching the Late Show and the body's over here and the head's over here, the arguments are in this direction and the solution is out somewhere else, well, you'll understand how mixed up I feel in connecting their case together. And I hate to keep making their case, but they make the case that there's a strong argument that this would provide a yardstick to measure the efficiency of the private oil companies. Is that true, in your judgment?

GRAYSON. No. This company, as proposed, would get 20% of the cream of the leases. It would have a half of a billion dollars interest-free. It would have its debt guaranteed, unlimited borrowing capacity. How can you compare that to the private enterprise system?

SEMERJIAN. All right, let's go back to Mr. Harris.

HARRIS. The generation and transmission of electricity is not a natural monopoly. Do you agree to that? The distribution is. That's what you were talking about. Well, would you sell TVA to Con Edison? Or Bonneville?

We decided that was a kind of monopolistic situation and we ought to get into that.

GRAYSON. Yes, Mr. Harris, you know TVA was built for more reasons' than power generation—flood control, navigation, recreation, social uplifting, and a multitude of purposes, not just power generation.

HARRIS. Well, we want to do this for a lot of other reasons, too—protect the environment, preserve and manage our reserves, find them, get the right information. But the main thing was competition, isn't that so?

GRAYSON. No. If you really want to protect the environment and you want to have full disclosures. . .

HARRIS. On TVA now. What about TVA? Do you want to sell that to Con Edison? Do you want to sell the Federal Deposit Insurance Corporation to Prudential? Do you want to sell the space program to Lockheed? Are you against those kind of corporations?

GRAYSON. Are we debating whether or not we're going to have a private enterprise system or FOGCO? We're debating FOGCO, and FOGCO as such is not going to do the job as represented.

HARRIS. Just like TVA. What's the difference?

GRAYSON. No, TVA was not put in just to create competition.

HARRIS. Sure, sure . . .

SEMERJIAN. I'm going to have to interrupt. Dean Grayson, I want to thank you very much for being with us tonight.

[Applause.]

WALKER. I call as my next witness Mr. John Swearingen.

[Applause.]

WALKER. Mr. Swearingen is chairman of the board, Standard Oil Company, Indiana.

Mr. Swearingen, do we have an oil shortage?

JOHN SWEARINGEN. Yes, we do.

WALKER. Why do we?

SWEARINGEN. It's a combination of a very rapid and unexpected increase of demand as a result of the resurgence of industrial activity, of new regulations that have consumed energy in the power plants and the automotive pollution field. It's occurred because of the delay of the Alaskan pipeline, which nobody expected to be for five years, as it has existed. It's occurred because the federal government has refused to accelerate the leasing of the offshore lands. And finally, since we now import one-third of the oil that we use in this country, the most recent and most dramatic thing was the embargo imposed by the Arab states on the export of oil to the United States.

WALKER. Mr. Swearingen, I'm sure you're aware of the emotional state of the people, you watch the television and read the papers, you know the charges. What do you say about the charges that this shortage has been deliberately brought on by the oil companies so that they can make more money?

SWEARINGEN. This is absolutely false. Absolutely nonsense, utter nonsense.

WALKER. What, for example—if I go down to the corner to—AMOCO is the brand, I believe, that you market—if I go down to the corner to buy some AMOCO gasoline in Chicago, say, what will that cost me per gallon?

SWEARINGEN. It will cost you about 50 cents a gallon. Out of that 50 cents a gallon, about four cents a gallon is federal tax, about another eight cents a gallon is state and local taxes, and on that gallon of gasoline, our own company would make, after taxes, a little less than three cents a gallon.

WALKER. It sounds to me like Uncle Sam and the states are profiteering a little bit more off of this than you are.

SWEARINGEN. Well, there's some reason to believe that. Certainly their take is much higher than ours.

WALKER. Can the private oil companies solve the problem? Can you really get us more supply?

SWEARINGEN. Yes, I think we can, but the unfortunate thing is it's going to take a higher price in order to do this. In existing fields we don't recover anything like the oil that's present in the ground. It's like trying to wring a towel dry with your hands. There's no way to wring all the water out. So we have to inject water, we have to inject gas, we have to inject chemicals in order to get this oil out. It's a very expensive proposition, and it's going to take a higher price in order to pay for this kind of an activity.

In addition, if the federal government will accelerate the leasing of the acreage off shore, and to date they've only leased about 3% of the acreage held by the federal government, there's no question in my mind that the oil industry can develop in fairly short order some very substantial additional supplies of oil and gas.

WALKER. But why, as the proponents argue, why can't the government do as good or better a job than private industry?

SWEARINGEN. Well, I don't believe the government's been very good at doing any kind of a job they undertake to do, and we can talk about the Post Office or we can talk about Amtrak or we can even talk about TVA. I think anybody who has ever tried to use a telephone abroad, as an example, have a pretty good idea of how well government operates things. And I don't believe that they could proceed rapidly enough to do a satisfactory job.

This particular bill, if I may just take a minute, this particular bill provides $50 million a year. $50 million sounds like a lot of money. Our own company, our own individual company is going to spend over a billion dollars in 1974 in looking for new sources of oil and gas, and we only produce 5% of the oil that's produced in the United States. To spend $50 million a year in this proposed federal corporation is not going to make any difference whatever in the next 10 or 15 years in the supply of oil to the public of the United States.

WALKER. Mr. Dean Grayson gave us an idea of some foreign operations abroad. You're obviously more familiar with foreign oil company operations, national companies. What are your comments on their efficiency and results?

SWEARINGEN. I think most of them have been very poor in their ability to find oil. As a matter of fact, I don't know of a single oil company owned by a foreign government that has found a major oil field in its entire existence, and this I mean a field that contains, say, a billion barrels.

SEMERJIAN. All right, thanks, Mr. Walker. Let's go to Mr. Harris.

HARRIS. Well now, Mr. Swearingen, you can't have it both ways. You can't say that this federal oil and gas corporation, which is going to have a rather small part of the whole business, is going to just run the oil companies out of business and take it over, and at the same time say they're so small they can't make too much of a dent. Now, which way is it? Are they going to be too powerful or not powerful enough?

SWEARINGEN. In my opinion, Mr. Harris, what they're going to do is preempt all of the prospective acreage off shore and sit on it because they don't have the money, they don't have the people, they don't have the incentives to develop the new oil and gas that can be produced from those lands.

HARRIS. But isn't the bigger problem about producing what we have right here at home something else? I believe your company, according to Standard & Poor—Standard Oil of Indiana—has a 32% increase in profits this year over last, and a lot of companies were much higher than that, and isn't it true that the main reason why you've been putting your money into foreign oil, rather than into developing what we have here at home, is that you get a lot better tax break under the tax credit?

SWEARINGEN. Absolutely not. You don't know what you're talking about.

HARRIS. The major oil companies . . .

SWEARINGEN. You don't know what you're talking—do you want me to answer your question, Mr. Harris?

HARRIS. Sure, but do you agree—do you disagree that most of the companies have been putting more than 60% of their investment and development in foreign development?

SWEARINGEN. Why? The question is why. It's not for any tax breaks. It's because the federal government wouldn't put up for lease any acreage offshore California, offshore Louisiana, Florida, the East Coast of the United States. There was no place to drill here, to spend that kind of money. And our own company is an example. Went outside the United States trying to find some additional sources of oil and gas that we could bring into this country, and we've been successful in this in the North Sea and Trinidad and a number of other places, and are bringing this oil here to the United States today.

SEMERJIAN. Can I ask you a question to clear one thing up? Which is cheaper, Mr. Swearingen, is it cheaper to spend money abroad to find new wells or is it cheaper to exhaust the remaining supplies in wells already dug here?

SWEARINGEN. Well, I don't quite understand your question, Mr. Semerjian. After all, a 10,000-foot well drilled in 500 feet of water is going to cost about the same amount whether it's drilled in the North Sea or drilled in the Gulf of Mexico.

SEMERJIAN. No, no, no. Perhaps you don't understand.

SWEARINGEN. That's exactly what I said to you, I didn't understand.

SEMERJIAN. All right, let me make it clear. There are wells, are there not, in the United States which have been dug but not exhausted because it would be more expensive to take out the remaining two-thirds of the oil? Is that right or not?

SWEARINGEN. No, that's not correct. All of these wells are being produced at their maximum rates now, but you can produce them without bringing [unintelligible] of water and losing some of the ultimate recovery from the field.

SEMERJIAN. All right, well, perhaps I'm mistaken on that.

HARRIS. But on the tax credit, quickly, you will agree—surely you'll agree this is true, that if you pay a royalty payment to the landowner in Oklahoma, you don't get to credit that against your federal tax. If you pay a royalty in Saudi Arabia, that is a dollar-for-dollar reduction in your federal tax. Isn't that so, now?

SWEARINGEN. No, sir. That's not right.

HARRIS. Why is that not so? You disagree with every expert I've heard.

SWEARINGEN. Mr. Harris, I don't think you've studied your lesson and I don't think you know what you're talking about. After all, the federal government has tax treaties with almost all of the countries in the world with the purpose of avoiding double taxation. Any taxes paid to Saudi Arabia or to France or to England on business done in those countries are credited against taxes due on that income on that income only.

HARRIS. I said royalties.

SWEARINGEN. Now, just a minute. I'm trying to explain this to you and I hope you'll listen. . . .

HARRIS. I'm listening.

SWEARINGEN. . . . because I'm trying to educate you here.

[Applause]

SWEARINGEN. The royalties are not creditable against taxes otherwise due here. The taxes are creditable against taxes otherwise payable. But there is no way to offset taxes payable on income earned abroad against income earned here.

HARRIS. Well, that's a different question than I asked you.

SWEARINGEN. Well, I hope you understand what I've said to you.

HARRIS. I don't. I used to serve on the Finance Committee that wrote these laws, and I know the oil companies got a special ruling on that royalty to treat it as a foreign tax rather than as a royalty. Now that's true, isn't it?

SWEARINGEN. No, not to my knowledge.

HARRIS. All right, let's go into this. Did you oppose—we're talking about shortages. How did we get shortages? You say something, but the Federal Trade Commission and others say one of the reasons was that your oil companies opposed relaxing import quotas to let in foreign oil, after along about the '50s, until it was relaxed last year. Did your company oppose import quotas being relaxed?

SEMERJIAN. Make this a very brief answer.

SWEARINGEN. We certainly did, and I think you people here in New England ought to be delighted that we did, otherwise you might be dependent on the Arabs for 75% of your oil instead of 35.

[Applause]

SEMERJIAN. All right, let's go to Mr. Walker.

WALKER. I hate to be in the position of going back to making the opposition's case for them, but I didn't find anything in the bill about the foreign tax credit, and I want to get back to their arguments that they're making and ask you the same question I asked Dean Grayson. What about the idea that FOGCO will serve as the yardstick to measure the performance of your and other private companies?

SWEARINGEN. Well, the best way I can answer that is I think it will be absolutely useless for this purpose. The Federal Power Commission, for at least the last 20 years, has tried to measure the performance of gas-producing companies on a cost basis, and finally has given up as an impossibility. And to have a yardstick of this kind, particularly with the built-in advantages to this company that are produced in the bill, would be absolutely uselss in providing any information that would be helpful to the government or anyone else.

SEMERJIAN. All right, Mr. Harris, let's come back to you.

HARRIS. Well, is it true, now that the crude oil price is rising, that you have to begin to move to make more profit in sales and refining and that your company and a lot of others are carving up territory around the United States? The Federal Trade Commission says you're moving out of some areas; they're moving out of others so there'll be less competition. That's true, isn't it?

SWEARINGEN. No, sir, that's not true. Let me correct you on another statement that was made earlier here. There is no one company in our business that holds as much as 10% of the oil production, of the oil refining, or the marketing of oil products in this country. And to talk about a situation where there is no one company and where only as many as eight companies have only about 60% is no monopoly, the way I look at it. There's plenty of competition in this business, and there always has been in my 35 years of experience in it.

You talk about the Trade Commission hearings, these are charges and they're completely unsubstantiated and they're before the Federal Trade Commission now for a hearing that has not been adjudicated.

SEMERJIAN. All right, Mr. Swearingen, I want to thank you very much for being with us tonight.

[Applause]

SEMERJIAN. Thank you, gentlemen. That completes the cases, and now it's time for each of you to present your closing arguments. Mr. Walker, could we have yours, please?

WALKER. Ladies and gentlemen, one thing the proponents talked about tonight, to the extent they talked about their proposal, they're right about, and this is that the public lands and offshore tracts we've been talking about are just that. They are public. They belong to you and me. And there's a lot of oil and gas to be taken out of there. The question is who do you want to develop those resources? Who finally will give you and me the best deal? Who will increase our supply of fuel at the most reasonable price, at the quickest pace?

The record is clear. Private enterprise has done it and can do it. Our government can't do it. It can't do it efficiently. It can't do it imaginatively. And it cannot do it vigorously.

Great Britain knows this. They hired Mr. Swearingen's private company to help explore and develop the North Sea gas field. The Soviet Union knows this. They've invited several of our private oil companies to develop their vast Siberian reserves. And we should know it.

Moreover, there is nothing in this bill to deal with the alleged abuses, such as interlocking directorates, so graphically described to you tonight. A federal oil and gas company cannot solve our current shortages. In fact, its proponents don't even claim that it will. Moreover, it cannot do it efficiently in the long run either.

This is an old idea whose time has never come, and for good reason. Let's hope it doesn't ever come. Vote no on the proposition tonight.

[Applause]

SEMERJIAN. Thank you. Mr. Harris, could we have your argument?

HARRIS. We do claim that the federal oil and gas commission—corporation will have a great deal of impact on oil and gas supplies. The main thing to remember is that we, you and I, the public, already own most of the remaining oil and gas reserves in this country. Most of it's on our lands, the public lands. But at the present time, we are completely at the mercy of the giant oil corporations for the development of these public resources which we own. We're at their mercy on the world oil and gas supply and on the price we pay. And we're even at their mercy on the taxes.

You saw with Mr. Swearingen, he disagrees with the Federal Trade Commission. He disagrees with the Federal Power Commission. We can get the facts, but more importantly, we can begin to have some free enterprise competition in the oil and gas industry.

We've done this sort of thing many times before. We did it with the electric industry, which was also non-competitive. You and I, as taxpayers in that instance, and as consumers, were the winners when we got some competition going in the electric industry. And you and I, with a federal oil and gas corporation, will be the winners again with some competition going there for the first time.

[Applause]

## RETIREMENT OF STEWART McCLURE

Mr. PELL. Mr. President, with great enthusiasm I wish to associate myself with the senior Senator from West Virginia, (Mr. RANDOLPH) in his expressions of praise for Stewart McClure upon his retirement as chief clerk of the Senate Committee on Labor and Public Welfare.

I have been a member of the committee for 13 years. In all those years

Stewart has been a strong source of advice and support. His knowledge of the Senate, its procedures and customs, is limitless, and his understanding of the nuances of legislative activity invaluable. However, I value Stewart McClure even more as a personal friend and adviser. He has always been one to whom I could turn, and whose opinions and views could be relied upon, and he is a friend who was of very real help to me before I was elected to the Senate.

I regret that we will no longer have the benefit of Stewart's careful attention to his responsibilities with us. I wish him well in his retirement, a respite from the arduous tasks which have been his daily care for 25 years of service in the Senate, and every success in any new endeavors he will undertake.

Stewart McClure's career exemplifies a dedication to the high principles and to the ideals and goals which should guide our Government. Imagination and keen insight are among his many attributes, and I feel certain that his experience and advice will be of abiding help to old friends who may seek through association with him to enhance their own knowledge.

## UKRAINIAN INDEPENDENCE

Mr. BURDICK. Mr. President, this week Ukrainian-Americans throughout the country are jointly with their brethren living in the Ukraine to celebrate the 56th anniversary of Ukrainian independence. It is an important time for all those of Ukrainian extraction who continue their faith that some day their homeland will again be free. It is a time, also, for other Americans to be thankful that, in spite of our many troubles, we are still a free nation, able to determine our own destiny.

At this time, I want to salute the people of the Ukraine for their faith and their spirit in the face of oppressive conditions. I wish, also, to salute Ukrainians living in this country. They have contributed to our Nation with their culture, courage and their talents. I am proud they are my fellow Americans.

## ANNE ARMSTRONG DESCRIBES BICENTENNIAL PLANS

Mr. HRUSKA. Mr. President, last Wednesday, January 23, I had the privilege of attending a luncheon at which Presidential Counselor Anne Armstrong spoke about plans for the Bicentennial. Her speech was of such significance I asked that it be printed in the Record.

Mrs. Armstrong, however, departed somewhat from her prepared text to discuss a meeting she had with the President the previous day to bring him up to date on Bicentennial preparations. I now have a transcript of that portion of her speech.

Since it provides us with some understanding of President Nixon's depth of commitment to the Bicentennial as well as his beliefs on what the Bicentennial should mean to every American, I ask unanimous consent to have these remarks printed in the Record. In addition, I request that the permanent Record be adjusted to reflect this addition.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

### Remarks by Mrs. Anne Armstrong

I am going to depart from my text because I saw the President for about an hour yesterday, and mainly we talked about the Bicentennial. We took care of business first—where we were in the search for an Administrator, where we were in the search for representative Americans to serve on the Advisory Council, whether the budget was going to give us what we wanted in the way of Bicentennial programs. The President mentioned that we have lost a lot of time, and he urged me to get on with it, to make up for lost time. He said that one of the ways to make up for lost time was through communication—this is the first birthday where we've had instant communications. Another way to make up for it was through ideas that don't demand management by objectives, goals and time-tables. The President made what I think is a very important point about the Bicentennial. He said that we will be taking a long look backward, but it's even more important that we take a long look forward, that we have a rejuvenation of the American spirit, that we fulfill the promises of our forefathers that are, as yet, unfulfilled.

The President then gave a couple of examples of what we can do—how we can do a better job in the pursuit of happiness, as Jefferson called it, and what I think might be translated today as the quality of life. How can we finally realize the unfulfilled promise of equal opportunity in this country? We have so many problems to be solved, he said: energy, inflation, housing. But the great thing about this country is that they can all be solved. We are the premier country of the world militarily and, more importantly, diplomatically and economically; and we have done it in just 200 years. We have the natural resources, we have the human resources. Now all we need is the will to solve our problems. The President said that he thinks that is something the Bicentennial can help give to us—a regeneration of the Spirit of '76.

He raised another point, and emphasized this in the Cabinet meeting today . . . Americans have a tendency to think in short spans—a day, a month, a year. We often lack perspective. Europeans have a long history, and they think in long-range terms—25 years, 100 years and more. An older country or culture, such as the Peoples Republic of China, thinks in long-range terms. That is why he made the opening to the Peoples Republic of China. It was not for what it would mean to this country now or in five years, but in 25 years, maybe 15. And so, another thing the President hopes is that the Bicentennial will help Americans think in long-range terms. While we look back 200 years, he wants us, even more, to look ahead 200 years.

I share the President's feeling that how we commemorate this birthday can have a tremendous influence on the manner and spirit in which we enter our third century as a nation.

## GOING SOMEWHERE FOR YOUR SINS

Mr. METCALF. Mr. President, I should like to call attention to an article by Stephen D. Isaacs in the Sunday, January 27, Washington Post, highlighting the lecture tours and fees of prominent newsmen.

In the article Mr. Isaacs quotes Art Buchwald extolling the joys of speaking to 60 or 40 or 50 people at "21" in New York City. It is "so beautiful because you can get such a great meal and you are out by 10 o'clock." But sad to relate he went on to say, "And then for your sins you have to go to Missoula."

I wish only to say to Mr. Buchwald and this distinguished company that for my sins I had to come to Washington, D.C.

## PETER K. U. VOIGT RECEIVES SUPERIOR SERVICE AWARD

Mr. PELL. Mr. President, in the Education Amendments of 1972, there was established the basic educational opportunity grant program. This program, which will, upon full funding, provide a floor of scholarship aid for all individuals attending postsecondary education dependent, of course, upon their family income has been in operation for 1 year.

The Subcommittee on Education, of which I am chairman, has held 2 days of hearings on the implementation of this program, and I am thoroughly pleased and gratified at the alacrity and efficiency with which the Office of Education has implemented the language of the statute.

Therefore, Mr. President, it was with pleasure that I noted that on January 16, 1974, Mr. Peter K. U. Voigt, Acting Coordinator of the Basic Grant Program, was awarded the Superior Service Award by the Office of Education. On that occasion, I took the liberty of sending Mr. Voigt a letter which I ask unanimous consent to be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

January 21, 1974

Mr. Peter K. U. Voigt,
*Acting Coordinator, Basic Grant Program, U.S. Office of Education, Washington, D.C.*

Dear Mr. Voigt: I understand that you have been awarded the Superior Service Award by the Office of Education for your achievements in implementing the Basic Educational Opportunity Grant Program. I would like to extend my congratulations to you on this recognition of your accomplishments.

As a principal author of the Basic Grant Program, I have followed its developments with great interest. Due in large part to the efforts made by you and your staff, the program is now successfully aiding large numbers of students in postsecondary education institutions.

I would like to express my personal commendation of your achievements in making the Basic Grant Program a reality.

Ever sincerely,

Claiborne Pell,
*Chairman, Subcommittee on Education.*

## PROTOTYPE OIL SHALE LEASING PROGRAM

Mr. JACKSON. Mr. President, oil shale has long been recognized as a potential domestic source of an enormous amount of oil. In the past, it has not been technologically feasible or economically practical to develop oil shale reserves, the bulk of which are owned by the Federal Government. Furthermore, there are substantial environmental risks associated with the mining and processing of oil shale.

On January 8, the Department of the Interior conducted the first of six sales of leases of federally owned oil shale. These six sales constitute a prototype oil shale leasing program designed to provide a new source of energy to the Nation by stimulating the development of commercial oil shale technology by private industry. The prototype program is designed to provide information which will help us to determine whether our 600 billion barrel oil shale reserves can be developed at acceptable economic and environmental costs.

The Committee on Interior and Insular Affairs has long been concerned about oil shale development and has held hearings on the subject for several years. Most recently, on December 17, 1973, the Subcommittee on Minerals, Materials, and Fuels, chaired by the distinguished junior Senator from Montana (Mr. METCALF) held a hearing on the prototype program and received a complete briefing from the Department. As a result of that hearing and the fact that the bonus bids received at the January 8 sale were much higher than anyone had anticipated, the chairman of the subcommittee and I wrote to Secretary Morton expressing our concern about the prototype program. We agreed that an experimental program is needed to develop answers to questions about the economical and technological feasibility and environmental impacts of oil shale development by various methods. However, we expressed serious doubts that the Department's program has built into it the kind of requirements and controls needed to assure that the program will in fact provide answers to these questions.

On January 22, Acting Secretary of the Interior John Whitaker replied to our letter. His reply indicated that the Department did not intend to revise the terms of the leases and would proceed with the leasing program as scheduled. I ask unanimous consent that the text of both letters be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JACKSON. Mr. President, the Department's response, in my opinion, does not satisfactorily answer the questions which the Senator from Montana and I raised about the leases. I still have serious doubts that the leasing program will provide the information that we must have before proceeding any further with oil shale development. I am not convinced that the public is receiving a fair return for its property. However, I recognize that this is a question of judgment on which reasonable men may differ and I do not want to delay the further implementation of the prototype program.

The Committee on Interior and Insular Affairs intends to maintain close oversight of the program. I hope that the results of the program will be satisfactory, and that combined with the knowledge which will be gained from implementation of the energy research and development programs authorized by the bill which the Senate has already passed—the National Energy Research and Development Policy Act (S. 1283), it will provide us with the facts we must have before any further development of oil shale.

EXHIBIT 1

U.S. SENATE,
*Washington, D.C., January 8, 1974.*

Hon. ROGERS C. B. MORTON,
*Secretary of the Interior,*
*Washington, D.C.*

DEAR MR. SECRETARY: We are deeply concerned about the prototype oil shale leasing program which you announced on November 28 and which was the subject of the hearing before the Subcommittee on Minerals, Materials and Fuels on December 17. We appreciate the potential role of shale oil in meeting our nation's future energy needs and we share your view that an experimental program is needed to develop answers to questions about economic and technological feasibility and environmental impacts of oil shale development by various methods. However, we have serious doubts that the Department's program has built into it the kind of requirements and controls needed to assure that the program will in fact provide answers to these questions.

The Department witnesses at the December 17 hearing did not answer these questions. For example, the Department's witness stated that the basic objectives of the prototype program are to:

(1) "stimulate development of commercial oil shale production and technology by private industry; and

(2) "insure the environmental integrity of the affected areas and develop appropriate environmental protection and rehabilitation technology."

We agree that these are both appropriate and important goals. However, we fail to find assurances in the announced leasing program that either of them will be achieved. The stimulation of development of new technology would be assured by performance requirements which demand early demonstration of progress toward full scale prototype plants. The second objective, assurance of adequate environmental technologies, would be served by provisions for strict performance standards with opportunities for adjustments as new environmental problems are discovered and new protective technologies are devised.

We realize that these requirements might require Federal assistance to increase the incentive for industry to participate. A variety of potential forms of Federal assistance which could be used are set forth in S. 1283, the National Energy Research and Development Policy Act of 1973, which recently passed the Senate.

In its Federal Register Notice of Sale (38 F. R. 33187) the Department specifies that for Tract C–a, the minimum royalty will be equivalent to a production rate of, for the sixth year, 1,130,000 tons and, for the fifteenth year, 11,300,000 tons, based upon 30 gallon per ton shale. The shale oil equivalent is approximately 2,200 barrels per day rising to 22,000 barrels per day after fifteen years. The Department's press release of November 28 defines commercial scale plant as producing "at least 50,000 barrels per day".

It is therefore apparent that the Department does not propose to require a lessee to construct anything even approaching a commercial size plant. At best, it will require that by the fifteenth year, when three-quarters of the life of the primary term of the lease will have expired, a lessee have in operation an oil shale plant which is the equivalent of less than one-half the size of a full scale commercial plant. The operation required by the Government for the sixth year, assuming that there are no delays, is of little more than pilot plant dimension.

The conclusion to be drawn is that the Department of the Interior is proposing not commercial oil shale development but an experimental program. However, we question whether the Department's prototype oil shale leasing program is an optimum, or even a desirable, vehicle for the experimentation and research which will be required to determine whether an acceptable oil shale technology can be developed.

The minimal production requirements and the generous royalty and bonus offset provisions which the Department proposes are, of course, a form of subsidy which we assume the Department hopes will enlist industry participation in what is, realistically, an experimental, rather than a commercial, leasing program. Such subsidies could, perhaps, be justified if they were coupled with a requirement for a commitment on industry's part to undertake the heavy investment which will be necessary to bring full scale commercial shale oil production on stream by the target dates projected by the Department. Since no such commitments are being sought, it must be concluded that the Interior Department's proposal offers lessees much for little in return. This is particularly true in view of the fact that the program does not require a variety of development techniques but leaves it up to the lessee to decide what method will be used. In our view, this is another inadequacy in the program.

With respect to environmental protection, Section 7(d) of the lease form provides that the government will pay any "extraordinary costs which is (sic) in excess of those in contemplation of the parties" for environmental protection. This suggests that the long term costs of environmental protection and rehabilitation such as revegetation and maintenance of dams may be paid out of public funds. What types of costs does the Department have in mind that could be considered "extraordinary" and beyond "the contemplation of the parties"? Do you have any estimates of how much these costs might be? Why should the public, rather than the lessee, pay these costs?

Furthermore, this provision would appear to discourage the development of innovative mining and processing techniques which would minimize environmental damage, including, for example, in situ production.

We note in the *Federal Register* of January 3 (39 F.R. 832) that the Bureau of Land Management proposes to withdraw approximately 6,560 acres of national resource lands in connection with the oil shale program. We understand that these lands may be used as spent shale disposal sites in connection with the development of Tract C-a. In view of the fact that the Mineral Leasing Act of 1920 limits oil shale leases to 5,120 acres, what authority would the Department use to make these additional lands available as part of the oil shale mining operation? We are concerned that you may be leaving the prototype program open to the same kind of legal challenge which was successfully made against the Trans-Alaskan Pipeline right-of-way. If additional authority is needed, we urge you to let the Congress know.

As we have already noted, various provisions for offsetting development expenditures against the initial bonus and royalties and for the payment of extraordinary costs by the government constitute a subsidy for the lessee. In view of this, shouldn't the patent rights to any new process developed by the lessee be made available to the government and the general public?

Newspaper reports last week (*Washington Star-News*, January 3) indicate that Administrator Simon of the Federal Energy Office is considering the use of joint government-industry corporations to develop various new energy sources including oil shale. This approach, which would be facilitated by the National Energy Research and Development Policy Act, may well be preferable to the proposed prototype program.

There is one further complicating factor with respect to the Department's program. That is the pending State indemnity selection applications filed by the State of Utah, for 157,000 acres of Federal land in Utah. We understand that these selections include the two Utah tracts the Department intends to lease as part of the prototype program.

We are well aware of the longstanding controversy over selection of "mineral-rich" lands by the States in satisfaction of their statehood grants. We agree with the policy adopted by the Department in 1965 that State selections should not be allowed where there is a "gross disparity" of value between the lost lands and the selected lands. If you intend to change that policy, we request that you notify this Committee before opening any "mineral-rich" lands to selection.

In any event, it seems to us that the Department should decide the state selection question before going ahead with the prototype program. It is our understanding that if the State of Utah takes title to these oil shale lands, that it intends to offer them for development. Any large scale development on these lands would appear totally inconsistent with the objectives of the Department's prototype program.

The results of the January 8 bidding on your November 30, 1973 lease proposal for Tract C–a clearly indicate that industry is now prepared to proceed with oil shale development. In view of the many serious questions that exist about the prototype program, it is our view that prior to proceeding with the other five sales, the Department should carefully reevaluate the lease terms in light of the questions we have raised and inform this Committee of the results of your reevaluation. We would appreciate hearing from you about this matter at your earliest convenience.

Sincerely yours,

HENRY M. JACKSON,
*Chairman.*

LEE METCALF,
*Chairman, Subcommittee on Minerals and Fuels.*

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U.S. DEPARTMENT OF THE INTERIOR,
*Washington, D.C., Jan. 22, 1974.*

Hon. HENRY M. JACKSON,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR JACKSON: This letter responds to yours and Senator Metcalf's letter of January 8, in which you expressed doubts about the Department's oil shale program and stated your view that we should not proceed with the remaining five scheduled oil shale lease sales until we have informed the Senate Committee on Interior and Insular Affairs of the results of our reevaluation of the lease terms under which these sales will be conducted.

In your letter you agreed with the basic objectives of our program, but you expressed doubt that our program contained the kind of requirements and controls needed to assure accomplishment of these objectives. Our objectives are:

1. To provide a new source of energy to the Nation by stimulating the development of commercial oil shale technology by private industry;

2. To insure the environmental integrity of the affected areas and at the same time to develop a full range of environmental safeguards and restoration techniques that will be incorporated into the planning of a mature oil shale industry, should one develop;

3. To permit an equitable return to all parties in the development of this public resource; and

4. To develop management expertise in the leasing and supervision of oil shale development in order to provide the basis for future administrative procedures.

We believe the January 8 sale of the Colorado Tract C–a confirms our judgment that industry is prepared to proceed with oil shale development. We are convinced that our lease terms contain an appropriate balance of incentives and requirements to assure that this development occurs promptly and in a manner that will meet these agreed objectives. We will, therefore, proceed with the remaining sales. Let me address the specific issues you raised.

1. You suggest that Federal assistance, such as would be made available under S. 1283, may be required to stimulate development of new technology under performance requirements demanding early demonstration of progress toward full scale prototype plants. You also suggested that such Federal assistance might be required to attain adequate environmental technologies under strict performance standards. You state that these standards should provide opportunities for adjustments as new environmental problems are discovered and new protective technologies devised.

Our lease terms contain several provisions designed to encourage—and at the same time to require—early development. It also contains strict environmental performance standards, coupled with necessary flexibility to deal with new problems and technologies. A copy of the lease is attached. The most important provisions dealing with these issues are listed below:

(a) *Provisions encouraging early development:*

(1) Section 5 of the lease authorizes the crediting of certain expenditures before the third and fourth anniversary dates of the lease against the fourth and fifth installments of the bonus.

(2) Section 7(e)(2) permits the lessee to credit certain expenditures prior to the tenth anniversary date against the minimum royalty due prior to that date.

(3) Section 7(f) provides that, where the lessee enters into production prior to the eighth anniversary date and the royalty due on such production exceeds the minimum royalty due, the lessee shall be relieved of the duty of paying half of the difference between the actual royalty due and the minimum royalty.

(b) *Provisions requiring diligent development:*

(1) Section 10(a) requires submission of a development plan within three years, and requires the plan to provide for diligent development with a particular emphasis on attaining, at as early a time as is consistent with the provisions of the lease, production at a rate at least equal to that on which minimum royalty is computed.

(2) Section 12 requires reasonable diligence in all operations on the leased lands.

(3) Section 7(e) requires the payment of minimum royalty, beginning with the sixth lease year, whether or not there is production, and the payment of such minimum royalty does not excuse the lessee from compliance with the diligence requirements of the development plan.

(c) *Environmental performance standards:*

(1) Section 11(a) of the lease requires the lessee to conduct all operations under the lease in accordance with applicable Federal, State, and local water pollution control, water quality, air pollution control, air quality, noise control, and land reclamation statutes, regulations, and standards.

(2) Section 11(b) requires the lessee to avoid, or, where avoidance is impracticable, minimize and, where practicable, repair damage to the environment, including the land, the water, and the air.

(3) Section 11(c) incorporates by reference into the lease the Oil Shale Lease Environmental Stipulations. These lengthy and detailed Stipulations cover every aspect of environmental protection of which the Department is aware.

(4) Section 10 requires that the lessee submit for approval by the third anniversary date a detailed development plan under which all subsequent activities must be conducted. This plan must ensure that operations will conform to the environmental requirements of the lease. The plan will be the subject of public hearings.

(5) The Department is establishing an Oil Shale Environmental Advisory Panel, composed of Interior and other Federal employees, State and local representatives, and members of the public active in environmental matters. This Panel will advise Interior officials in the supervision of the leases and will assist in holding public hearings in connection with the detailed development plan.

(d) *Provisions providing flexibility in light of new environmental problems and technologies:*

(1) The Oil Shale Lease Environmental Stipulations are written to require compliance with changing laws, e.g., section 8(A) of the Stipulations requires the lessee to comply with the Clean Air Act "as now in effect or as hereafter amended, or if it should be superseded, the statute superseding it. . . ." Comparable provisions are included with respect to other types of environmental protection.

(2) Section 11(L) of the Stipulations requires that the lessee must conduct a program to obtain the necessary revegetation technology, if such technology is not shown to be available at the time of leasing.

(3) Section 23 of the lease provides for the reasonable readjustment of terms and conditions at the end of each twenty-year period.

(4) Section 7(d) gives the Secretary discretion to permit the crediting against royalties of expenditures under the development plan in connection with environmental protection which are in excess of those in the contemplation of the parties upon the effective date of the plan.

Prior to the first sale Secretary Morton considered whether a subsidy should be added to the incentives provided by the lease, and he considered the possibility of a joint government-industry corporation to develop oil shale. He decided that at this time, in view of the present energy situation, the lease terms by themselves would assure prompt development and that we should proceed with the program rather than form a joint government-industry corporation. We believe the results of the first sale strongly support this judgment. Under the program, development on the lease must, of course, meet strict environmental requirements.

2. Your letter contains the conclusion that the Department's lease "offers lessees much for little in return." This conclusion is supported by reference to the following elements of the program: (i) The lease does not "require" construction of a commercial sized plant, and imposes minimum royalty payments beginning in the sixth year on a production rate of less than commercial scale. (ii) The program is "not commercial oil shale development but an experimental program." (iii) The "minimum production requirements" and "generous royalty and bonus offset" provisions are not appropriate in "a desirable vehicle for experimentation and research to determine whether an acceptable oil shale technology can be developed," because the lease "does not require a variety of development techniques but leaves it up to the lessee to determine what method will be used."

We believe this program will provide the nation a great deal in return for what it offers lessees. In addition to the bonus payments, which we hope will be substantial for all the tracts and royalty payments on actual production, I believe the program will produce the technological and environmental information necessary to determine whether this nation should develop a large oil shale industry.

As suggested earlier, the minimum royalty payments are designed to discourage delays in development by escalating the cost of holding a lease that is not producing. The minimum royalty is not based on projected production and certainly is not intended to dictate actual production rates. We do not anticipate that lessees will hold down their future production to avoid paying royalties greater than required by these minimum royalty rates.

The prototype program, in and of itself, does not require "commercial oil shale development." One objective of the program, as stated in your letter, is "to stimulate development of commercial oil shale production and technology." If we succeed in this objective, as the first bids suggest, and if we find that the environmental issues involved can be dealt with successfully, our future leases for full-fledged commercial development can impose whatever production requirements are called for by the circumstances that then exist. It has been our judgment that we now lack the knowledge necessary for imposition of requirements regarding production rates and plant size and that we might frustrate, rather than facilitate, accomplishment of the program's objectives by such requirements.

The incentives provided by the lease—such as bonus and royalty offsets—are not available unless the lessee makes expenditures on development within the times specified. We believe these incentives are appropriate whether or not the method of developing a particular lease is dictated by the government. We gave careful consideration to the question whether we should specify the mode of development for each lease. The environmental impact statement sets forth our current information and expectations regarding development modes. Your concern that multiple technologies will not be used does not seem to be supported by present industry activities. As you know, the Colony Development Corporation has been developing the TOSCO II process for some time and believes this process to be the most economically sound. Secondly, the Garrett Research Division of Occidental Petroleum has recently announced gratifying research results on their explosive fracturing in situ method and are seeking an opportunity to use the method in commercial operations. Thirdly, the Development Engineering Corporation (DEI) has leased the Bureau of Mines facilities at Anvil Point, Colorado for a 30 month, 7.5 million dollar experiment. This research is sponsored by a number of private firms to experiment on the PARAHO process which uses a modification of the Bureau of Mines Gas-Combustion Retort. Additionally, the prototype tracts have been selected, in part, to encourage the use of alternative means of development, e.g. surface mining, underground development, and in situ processing. For these reasons, we believe that alternative technologies will be used in prototype development.

If our assessments are correct, the leases will probably be developed by the methods we predicted. But, perhaps we're wrong and we saw no national interest to be served by precluding a company from developing a particular lease by some method other than we now think to be the best method. By allowing for such freedom of choice, within a framework of strict environmental controls, we think we are much more likely to encourage the investment and experimentation necessary to develop technology that will produce large amounts of oil from shale, with acceptable environmental effects.

3. You have raised questions about the provision in Section 7(d) of the lease dealing with "extraordinary" environmental costs "in excess of those in contemplation of the parties." You interpret the lease as providing that the government "will pay" any such costs, and, understandably, question what costs we have in mind and ask why the public, rather than the lessee, should pay them.

Section 7(d) provides for the very type of flexibility to deal with unexpected environmental developments that your letter earlier suggested was lacking in the lease. It gives the Secretary *discretion* to allow a credit against production royalties for environmental protection costs which were not in the parties' contemplation when the lease was issued. The credit is not automatic and we do not contemplate that it will be allowed unless the economic viability of the lessee's operation is threatened by unexpected problems. It is difficult to say what type of costs are covered, because, by definition, they are not now foreseen. Certainly the costs of meeting the environmental stipulations within the context of the environmental problems discussed in detail in the environmental impact statement are not costs for which this credit would be granted. We firmly believe that this provision will encourage—rather than discourage, as you suggest—innovative techniques that will minimize environmental damage, because the lessee knows there is a possibility of sharing the costs if unforeseen problems arise.

4. You expressed concern that the possible use of disposal sites outside the limits of an oil shale lease may give rise to the same kind of legal challenge as that successfully made against the Trans-Alaska Pipeline right-of-way. We believe that the Department does have existing authority to permit a lessee under the prototype program to use sites outside the leased tracts for disposal, if the need for such sites is evident when the lessee submits his detailed development plan for approval. It is desirable, however, to avoid any question on this issue that could result in time consuming litigation. Section 112(a) of S. 1040, the Administration's proposed bill to revise the mineral leasing laws, would expressly authorize the use by the lessee of the surface of lands outside the leased tract. Moreover, section 101(a) of S. 1041, the Administration's proposed bill concerning the general authority of the Bureau of Land Management, would also give the Department broad authority over the public lands which we believe would cover this point. To avoid any question, the bill could easily be amended to provide specifically for the grant of rights to use sites off the leased tract, and I have instructed my staff to pursue this question with the staff of your Committee.

5. Your letter also suggests that patent rights to any new process developed by the lessee should be made available to the Government because of the various incentive provisions in the lease.

Oil shale processing is not a unique operation where only one method is likely to be economic. With the development of several acceptable methods, competition among patentee-lessees would undoubtedly lead to reasonable licensing rates, particularly in light of the competition from other sources of petroleum and the maximum acreage limitation of 5,120 acres of oil shale lands allowed to any one person, association or corporation. Our intent is to create the conditions that assure the development of several competing economic technologies.

Experience has shown that new technology is developed most rapidly when those engaged in development are assured of material rewards for their endeavor. None of the mineral leasing laws provide for licensing requirements and we are unaware of any instance in which the Department has included such requirements in any leases issued under those laws. We are not persuaded that such requirements would be justified in this situation.

6. You have also suggested that the Department should decide whether to approve Utah's "in lieu" selection of approximately 157,000 acres of oil shale lands before proceeding with further lease sales under the prototype program. Since final decision on the Utah selections will take quite some time, we do not believe it would be in the national interest to delay the prototype program until that decision can be made.

We have requested the Bureau of Land Management to prepare an Environmental Impact Statement covering this proposed action and I have requested a current legal opinion with respect to the comparative mineral values issue to which you refer. I certainly have not made a decision to change the Department's policy on this question. After a final Environmental Impact Statement is prepared, and all of the issues involved have been submitted to the Secretary, it is our hope that this issue can be promptly decided.

We cannot, of course, be assured that the remaining oil shale lease sales will produce the same interest and high bids as the January 8 sale of Tract C-a in Colorado. However, we are hopeful that there will be considerable interest in the remaining tracts and we are optimistic that the oil shale program will achieve its objectives. For the reasons outlined above, we believe it would be a mistake to stop this program at this time.

I hope these responses are helpful to you and to the other members of the Committee.

Sincerely yours,

JOHN C. WHITAKER,
*Acting Secretary of the Interior.*

## AGE DISCRIMINATION

Mr. BENTSEN. Mr. President, I was deeply shocked to read an article in Thursday's Evening Star which disclosed that the Defense Department is seeking legislation to enable it to force its civilian employees to retire at age 55.

As long ago as March 9, 1972, I introduced legislation to make the provisions of the Age Discrimination in Employment Act applicable to Federal, State, and local employees as well as to the private sector. I have introduced such legislation on three separate occasions, and the Evening Star article only reinforces what I have long believed, that the Federal Government, which ought to be a model employer, is a leading offender in applying pressure tactics to coerce older workers to retire at an early age. I believe my bill must now be passed into law to prevent such initiatives from becoming Federal policies. I do not believe we should ask more of the private businessman than we would ask of the Federal Government.

Mr. President, we have an age discrimination law which would subject a private employer to heavy fines for what the Defense Department is attempting to do. That is unconscionable.

Mr. President, chronological age is not a sure measure of ability. A man may be as productive at 55 as he is at 25, and it is both callous and arbitrary to introduce any general rule forcing men or women to retire at a certain age, unless age is a bona fide occupational qualification necessary to the normal operation of any particular business.

With longevity steadily increasing and medical science on the verge of unlocking the secrets of aging, it makes little sense to concentrate on enforced retirement or easing older workers out of the labor force. Our efforts, rather, should be directed at improving employment opportunities, at giving what the White House Conference on Aging termed "a climate of free choice between continuing in employment as long as one wishes and is able, or retiring on adequate income with opportunities for meaningful activities."

This flagrant violation of the spirit of the Age Discrimination in Employment Act by the Defense Department is not to be condoned. I hope that the administration will not pursue this legislation with the Congress. If it does, I shall fight it with every resource I have.

At this point, I ask unanimous consent that I may insert the article from the Evening Star in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Star-News Jan. 24, 1974]

### Forced Retirement at 55?

(By Joseph Young and John Cramer)

The Defense Department is seeking legislation which would give it the power to force its civilian employes in middle- and upper-grades to retire if they have reached age 55 and have 30 or more years of service.

Rebuffed by the Civil Service Commission on support of such legislation, the Defense Department has decided to go over the CSC's head and seek such a bill on its own.

Defense bases its move on the fact that its civilian work force is getting too old.

It said present civil service retirement laws have resulted in an older federal work force that "inhibits the development and retention of younger employes."

In a memorandum outlining Defense strategy for securing such legislation in the face of CSC coolness to such a move, William K. Brehm, assistant secretary of defense for manpower, said congressional support should be sought before such legislation is submitted.

Brehm said that if the legislation is formally submitted and rejected by Congress before contacts are made, then the future prospects of such a bill would be considerably lessened.

Under Defense's proposals, employes in Grades 13 ($20,677 a year) and above who have at least 30 years of service could be forced to retire.

The initial authority would be for a two-year period and would occur during Defense reductions in force.

A Defense spokesman described the proposal as "a perennial sort of thing. We've been seeking it for years. We keep on trying because we believe we need it."

Civil Service Commission Chairman Robert E. Hampton, confirming CSC's refusal to back the plan, said:

"I have no intention of suggesting it for Administration approval. It doesn't stand a chance."

Several years ago, however, the Administration did submit a similar proposal which would have applied to upper-level employes governmentwide. Congress shot it down.

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## EDUCATION PROPOSALS FROM THE ADMINISTRATION

Mr. PACKWOOD. Mr. President, issuance of the President's 1974 education message last Thursday just 1 day after his urgent communication to the Congress on the energy crisis was no coincidence.

For just as we are at a critical juncture in our Nation's history over meeting energy requirements, so, too, we find Federal education programs surrounded by great debate. Nothing brings this point to bear more than the letters and communication I have received from Oregon educators. Their varied questions of where are we going with the new basic educational opportunity grant, or will there be a new formula for ESEA title I funding, along with hundreds of similar inquiries of import, must be answered by this Congress, by legislation passed this session.

After massive infusion of Federal dollars and the implementation of myriad Federal programs directed from Washington, the path is not as clear today as it was once thought to be. Disillusionment and doubt is crisscrossed with talk of reevaluation and new directions. The President's message suggests many approaches that hold promise—just one example of inestimatable value is the inclusion of an essential provision for advanced funding so that State and local authorities can plan their programs with a degree of certainty. Because of this potential, it is imperative that the White House proposals be given serious examination—consideration heavily reflecting lessons of the past and guidance of the country's educators.

Mr. President, I ask unanimous consent that the President's 1974 education message and accompanying fact sheet be printed in the Record at this time.

There being no objection, the material was ordered to be printed in the Record, as follows:

January 24, 1974.

### The President's 1974 Education Message

*To the Congress of the United States:*

The Congress returns to Washington this week at a time when America faces many difficult challenges. Each of them will spark honest differences of opinion and generate spirited debates during the coming year.

But one goal which unites all of our people is to provide each of our children with a sound basic education. No matter what race, faith or family circumstance, each child should have equal access to a good education.

We have made substantial progress toward this goal, but we can maintain that momentum only if we commit ourselves to a continuing renewal of the educational process. During the coming legislative year, there are many proposals which I believe the Congress should enact to improve our educational system. Among the highest priorities which I would urge upon the 93d Congress are these:

—Consolidating major grant programs for elementary and secondary, vocational and adult education and increasing decision-making authority for State and local education agencies.

—Providing advanced funding so that State and local school authorities can plan their programs with greater certainty—a new and important concept in the financing of education.

—Targeting Federal funds so that students who have the greatest need—the truly disadvantaged—are the major recipients of funds.

—Expanding the grant and loan programs for students faced with the rapidly increasing costs of postsecondary education.

—And increasing support for organizations such as the National Institute of Education, which are searching for better ways to educate more than 60 million students in the United States.

#### I. A RECORD OF PROGRESS

This Administration has worked hard to expand educational opportunity for every child and we have made substantial progress:

—We have established a new program of Basic Educational Opportunity Grants to further our goal that no qualified student be denied access to postsecondary education for lack of money.

—We have provided special aid for local school districts to help them deal with the problems of desegregation.

—We have created a National Institute of Education to marshal our research skill systematically so that we can better understand how students learn and how they can be taught more effectively.

—We have provided support to develop new ways of helping children learn to read.

—We have substantially increased support to colleges serving minorities and students from economically disadvantaged backgrounds.

In taking these and other steps over the past five years, we have increased Federal spending for education from $5.1 billion in fiscal year 1970 to an estimated $7.6 billion in the budget I will propose next month for fiscal year 1975.

This support has helped enrich the diverse educational system and has contributed greatly to our national strength and vitality.

#### II. PRINCIPLES FOR THE FUTURE

While real progress has been made, there are additional problems which must be addressed if we are to make the promise of a quality education a reality for all Americans. Americans have never been complacent about their educational system, but today they are increasingly concerned—and with reason.

—Parents of children who are not learning to read know it is becoming more difficult to lead a satisfying and productive life without this basic skill.

—Parents often see their children moving through elementary and high school without acquiring an understanding of what careers are open to them and what skills will enable them to obtain a rewarding job.

—Many families do not see how they will be able to meet the rising costs of their children's college education.

—Teachers who want to try something new or make old methods work better too often have no place to turn for reliable information about what works and why.

—Local school administrators must plan their budgets without knowing, until the last moment, what Federal aid will be available.

We all want to commit our energies to solving these problems and to making our schools better. We must now find ways to focus these energies.

To do so, I believe, we should adhere to five basic principles of constructive action:

—*First, the Federal Government should continue to support national priorities in education without seeking to control and direct State and local responses to those priorities.* Schools which must respond to detailed and elaborate Federal red tape will be hindered in responding to the demands of students, teachers and parents. A concrete application of this principle is the consolidated education grants legislation which the Congress is now considering. I again urge that this legislation be framed to achieve the maximum possible consolidation of funding authorities, so that State and local agencies can use Federal funds to meet national priorities in their own ways.

—*Second, the Federal Government must make it possible for citizens, students, parents and administrators to plan ahead.* The request I will be making in my budget for advanced funding of the consolidated education grants reflects this principle.

—*Third, to the maximum extent possible we should put the important choices in the hands of students and parents themselves.* A concrete example of this principle is the Basic Opportunity grant program which permits students to apply funds toward an education at the school of their choice.

—*Fourth, the Federal Government must play a more responsive role in funding research to find out what works in education.* My proposal for the establishment of a National Institute of Education in 1970, and the funding for the institute I will recommend in my new budget show how I believe this principle can be carried out.

—*Fifth, we must firmly insist that all Americans have an equal opportunity for education.* The legislation I am supporting, the new budget, and the enforcement of non-discrimination to which I am committed all reflect this principle.

## III. ELEMENTARY AND SECONDARY EDUCATION

Traditionally State and local governments have exercised primary responsibility for education in this country. States and localities provide more than 90 percent of the money for elementary and secondary education while the Federal Government provides less than 10 percent. But in the last decade the tail has wagged the dog. Federal laws, rules and regulations have imposed an elaborate set of "do's" and "don'ts." They often prevent State and local agencies from using Federal funds to best meet their needs.

### *Forward Funding*

As if the Federal red tape were not confusing enough, the Federal funding process has created a situation in which school districts develop future budgets with a diminished degree of confidence or accuracy. School districts, for instance, have been faced with three entirely different allocations of funds just since July of 1973. As one school board member put it: "When we put our budget together, we don't know what we'll get from the Federal Government, so we *have* to be *gamblers.*" School districts across the Nation will begin putting their annual budgets together next month, but unless we soon enact reforms they will not know how much their Federal funds will be until late fall.

To overcome this deficiency, which has plagued school boards in recent years, I plan to ask for supplemental appropriations for the current fiscal year of $2.85 billion. The money will be used by schools in the school year beginning this fall. If the Congress acts on this request swiftly, those who run our elementary and secondary schools as well as vocational and adult education programs would for the first time know how much Federal money they would have *before* the school year begins, not several months *after* the year has begun.

The supplemental appropriations request will be formally transmitted to the Congress as soon as acceptable authorizing legislation is enacted. It is therefore important for that authorizing legislation to be passed early this spring, so that we can provide forward funding at the earliest possible date.

### *Consolidating Funds for Elementary and Secondary Education*

In 1971 I asked the Congress to consolidate and simplify numerous Federal aid programs for education. I again urged this in 1972.

Last year, I proposed this reform under the label of the Better Schools Act. The label itself, unfortunately, became a controversial matter within the Congress. It is not the label that should concern us, however, but the children and the structure of the programs designed to help them. I am pleased that during the last session of the Congress, the executive branch and the appropriate authorizing committees began to deal more seriously with an improved program structure, and I am persuaded that with hard work and careful thought, a bill acceptable to both branches can result.

The appropriate committees of both Houses have written steps to simplify existing programs for innovation and support services into the measures they are now considering. The Senate Subcommittee on Education has initiated a further consolidation of various discretionary and categorical programs into a special projects authority, with provisions for gifted and talented children. But further consolidation is still needed. I am therefore proposing consolidation of present programs of vocational education and a merger of existing authorities in adult education.

### *Fairer Distribution of Funds for the Disadvantaged*

Another issue of continuing concern is the development of a better way to distribute Federal funds for disadvantaged children. The current system of reimbursement often results in school districts being paid for children who are no longer there.

A new formula for distribution of these vital funds must be adopted, targeting the available money on the greatest concentrations of disadvantaged children and on the development of basic skills. That formula should also take into account the differing costs for education in different locales. We must also adopt a definition of poverty which more accurately reflects today's conditions.

### *Aiding Handicapped Children*

There is growing awareness in the Nation of the special educational needs of handicapped children. In 90 demonstration projects we are seeking to learn how to identify handicapped children earlier and give them the help they need to enter regular school when other children do.

I am now proposing that eight discretionary authorities be consolidated into four broad programs for the education of the handicapped. One of these new programs, Resource Implementation, would help teachers identify learning problems; the Professional Development program would provide teachers with special skills to overcome barriers to learning; Innovation and Development would provide new methods and materials for teaching; and Special Centers and Services would accelerate progress in aiding severely handicapped children.

### *Phasing Out Impact Aid*

Another program affecting many school districts throughout the Nation is School Assistance in Federally Affected Areas—aid to districts where Federal installations bring significant enrollment increases. I am proposing 100 percent Federal funding of the program for school districts where enrollment consists of 25 percent or more of children whose parents both live and work on Federal property, and 90 percent funding for school districts where these children comprise less than 25 percent.

In the past we have also funded programs for children whose parents work on Federal property but do not live on Federal installations. Since parents of such children already contribute substantially to State and local governments to help pay educational costs, I see no reason for all American taxpayers to continue subsidizing this special group of school districts. However, a transition period is needed for districts which have depended heavily on these Federal funds. I will therefore propose that no local school district whose subsidy is being terminated will lose more than 5 percent of its total operating budget in the first year that we phase out the program. It is only fair to give school districts as much notice as possible to plan and conform their budgets to Federal financing policies.

### *Targeting Aid for Desegregation*

In coming weeks, I will send to the Congress a proposal for a new project grant program to aid school districts undergoing voluntary or court-ordered desegregation. This program should replace the current Emergency School Aid Act when the act expires this June.

A national formula program is no longer needed to handle this problem. What is needed is a targeted approach to solve specific problems.

As opposed to the national formula now employed under the Emergency School Aid Act, the new project grant program would target desegregation aid to solve specific programs. In addition, we will continue to provide technical assistance to local districts, helping them to meet problems relating to desegregation.

### *Providing for Indian Children*

A targeted approach is also needed to deal more effectively with the needs of Indian children. There is a special Federal responsibility to provide educational services to Indian tribes and communities, and we propose to place emphasis on project grants for this purpose.

### *Bilingual Education*

Because of the great diversity of our Nation, we must also provide special assistance to children of families whose native language is other than English. I ask the Congress to continue support for demonstration projects which help develop better ways to provide bilingual education.

## IV. POSTSECONDARY EDUCATION

This Administration is committed to the goal that no qualified student should be denied a college education because of a lack of funds. Today we are in a position to accomplish a major expansion of student opportunities and choice.

An education beyond high school is a major goal of many young Americans today. In recent years, however, the cost of college or other training has threatened to price this dream beyond the means of many families.

Since 1970 I have been urging the Congress to enact and fund student aid programs that would reduce to manageable size the problem of financing higher education for all families.

### *Expanding Aid to Needy Students*

In 1972 the Congress responded by enacting the Basic Educational Opportunity Grant program, the primary vehicle for reaching the neediest students. The current program provides for an average grant of only $260 and limits eligibility to entering freshmen. The program I propose for FY 1975—totaling $1.3 billion—would provide a grant of up to $1,400 depending on need.

Supplementing this Basic Grant program is a Guaranteed Student Loan program designed to increase access to loans. This program is both for needy students receiving Basic Grants, and for students who are not eligible for Basic Grants but who need or wish to spread the costs of postsecondary education over time.

Over the past year, some students who have sought loans have found it difficult or impossible to locate lenders willing to make federally guaranteed loans.

To remedy this problem I have instructed the Department of Health, Education, and Welfare and the Treasury Department to contact the major lending institutions and to request that they reaffirm their commitment to our Nation's educational needs by making adequate funds available for student loans. If, as the progress of this program is reviewed, additional changes appear to be necessary, I will propose them.

The Basic Grant and Guaranteed Student Loan programs, supplemented by the College Work Study program, expand opportunities for postsecondary education. My budget request for these programs would provide more such opportunities than ever before. Building on Basic Grants, students can rely on work, loans, and family resources, plus State, local and private forms of assistance to meet the remainder of their financial needs.

### DEVELOPING INSTITUTIONS

I will request funding of the full authorization for the Developing Institutions program—an authorization that is four times the funding level when I took office. This program helps to strengthen the capabilities of colleges which are serving Black, Spanish-American, and American Indian students as well as students from economically disadvantaged backgrounds—a special concern of my Administration.

## V. INNOVATION AND REFORM

### NATIONAL INSTITUTE OF EDUCATION

An essential element in our effort to provide every American an equal and increasing opportunity for education is the development and dissemination of alternative educational approaches through research. For too long we threw money at educational problems, feeling that bigger would mean better.

To strengthen support for education research and development, the National Institute of Education was created with strong bipartisan support. The institute is now beginning to provide the leadership in educational research and development that is needed.

In 1975 it will continue to concentrate on several major tasks:

—finding answers to the problems that students have in learning essential skills such as reading and mathematics;

—improving State and local capability to solve the educational problems of their youth;

— increasing the educational benefits to students through improving the productivity of our schools;

— and assisting students to better understand the relationship between the school and the world of work. Through this latter activity, the National Institute of Education has taken on the responsibility to carry out the Career Education objectives I set forth in my 1972 message. The institute is developing new ways to introduce young people to various career opportunities and is experimenting with new methods of preparing them to get and keep jobs that pay well and offer opportunities for advancement.

Education research is not a luxury but a necessity if Americans are to get the education they want for their children at a sensible cost. Accordingly, I would like to emphasize most strongly the need for adequate funding of the institute.

### *Fund for the Improvement of Postsecondary Education*

The Fund for the Improvement of Postsecondary Education constitutes another important new Federal initiative to achieve needed innovation and reform. The fund was created to support exemplary activities and new directions which promise to increase the quality, effectiveness, and diversity of postsecondary educational opportunities. The fund is now providing support for the development and demonstration of more effective approaches to college education.

### *Right to Read*

The Right to Read effort is well on its way to becoming a prime example of the way that a Federal, State and local partnership can achieve positive results. Under this program, we are now on the way toward achieving a 1980 goal of eliminating functional illiteracy among 90 percent of those 16 years and older and 99 percent of the youth of America. I ask the Congress to continue giving this program its full support.

### *Library Partnership Act*

While I continue to believe that State and local authorities bear the primary responsibility for the maintenance of public libraries, I also believe that the Federal Government has a responsible role to play. One of my new initiatives for 1975 is the Library Partnership Act. This legislation would encourage the establishment of reference and information services on a demonstration basis and could lead to significant improvements in public library services across the United States.

### *Head Start*

During 1975, the Head Start program will reach 282,000 children on a year-round basis and some 78,000 pre-schoolers in the summer. It will also extend its activities to include handicapped students. My 1975 budget will increase operating funds for this program and will provide funds to ensure that all children participating in Head Start can obtain a nourishing breakfast and lunch.

## VI. THE NEED FOR COMMITMENT

The proposals I have outlined above are designed to address the educational challenges of tomorrow. They are designed to enhance the effectiveness of the Federal dollar. They are designed to facilitate the operations of our State and local school systems.

For the necessary reforms and rejuvenation of our schools to occur, however, it will take more than Federal programs and more than Federal money. It will require that each of us commit ourselves, with money, time and attention, to that process. Only with individual commitment, with the commitment of State and local school administrators and teachers, with the commitment of parents and students, and with the commitment of the Federal Government, can we obtain a revitalized and rewarding American educational system.

RICHARD NIXON.

THE WHITE HOUSE, *January 24, 1974.*

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## THE PRESIDENT'S 1974 EDUCATION MESSAGE

### FACT SHEET

JANUARY 24, 1974.

The President's education priorities for action by the 93rd Congress include:

Further consolidation of the major grant programs for elementary and secondary education.

Advanced funding for consolidated elementary and secondary programs to enable local school districts to plan with certainty on Federal appropriations.

Targeting compensatory education funds on schools with high concentrations of disadvantaged children.

Full funding for the Basic Educational Opportunity Grant program at $1.3 billion.

Increased support for the National Institute of Education to find better ways to teach and learn.

### *Previous Administration Actions*

Creation of the National Institute of Education.

Enactment of the Basic Educational Opportunity Grants program.

New efforts to provide effective career education.

Special aid for local school districts to help them deal with the problems of desegregation.

Support for Right to Read programs.

Establishment of the Fund for the Improvement of Postsecondary Education.

A four-fold increase in support for Developing Institutions serving minorities and students from economically disadvantaged backgrounds.

An education budget increasing from $5.1 billion in FY 1970 to $7.6 billion in FY 1975.

*The President has stated five principles to guide Federal action affecting the nation's schools:*

(1) The Federal government should support national priorities in education without seeking to control and direct the details of State and local implementation of those priorities.

(2) The Federal government must make it possible for citizens, students, parents and administrators to plan ahead to meet educational costs.

(3) To the maximum extent possible, the important choices should be placed in the hands of students and parents themselves.

(4) The Federal Government must play a more responsive role in funding research to find out what works in education.

(5) We must firmly insist that all Americans have an equal opportunity for education.

### *Consolidation and Forward Funding*

The President has proposed a Legislative program to consolidate over 30 existing grant programs. Major program areas which the President has proposed for consolidation would be funded as follows:

(In millions of dollars)

| | *1974 enacted* | *1974 advanced funding* |
|---|---|---|
| Disadvantaged | 1, 720 | 1, 885 |
| Handicapped | 48 | 48 |
| Innovation | 154 | 154 |
| Support services | 158 | 158 |
| Vocational | 532 | 544 |
| Adult | 63 | 63 |
| Total | 2, 673 | 2, 852 |

### *Other Elementary and Secondary Programs*

The President is proposing the following actions on educational programs for special groups of children:

Consolidation of eight discretionary authorities for the education of the handicapped into four broad functional programs.

One hundred percent funding of payments for which school districts are eligible under the program of School Assistance in Federally Affected Areas where district enrollments include 25% or more children whose parents both live and work on Federal property—with 90% funding where these children number fewer than 25%, and a phaseout of payments on behalf of children whose parents work on, but do not live on Federal property. No district would lose more than 5% of its budget.

A new program of project grants to assist school districts undergoing voluntary or court ordered desegregation, replacing the expiring Emergency School Aid Act.

A shift of aid for Indian children to a project grant basis.

Continued support of demonstration projects to develop better ways to provide bilingual education.

### *Postsecondary Education*

Under the President's $1.3 billion request for Basic Grants to be paid in academic year 1975–76, the average grant would rise from the current $260 to $805. These grants would be available for all four years of college and for part-time students in contrast to present funding which limits eligibility to full-time freshmen. The President has directed the Treasury and the DHEW to take necessary administrative action to assure wide availability of student loans.

The purpose of these programs is to assure that no qualified student is deprived of a chance to go to college for lack of money, and to enable families to plan ahead to meet higher education costs and choose the kind of program best for the individual student whether a traditional four-year college or a vocational or technical school.

*The National Institute of Education*

The President has requested funding for the NIE program emphasizing the following priority areas:

Finding answers to the problems that students have in learning essential skills such as reading and mathematics.

Improving State and local capability to solve the educational problems of their youth.

Increasing the educational benefits to students through improving the productivity of our schools.

Assisting students to better understand the relationship between the school and the world of work through career education.

## CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

## APPOINTMENT TO TECHNOLOGY ASSESSMENT BOARD

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 92-484, appoints the Senator from Alaska (Mr. STEVENS) to the Technology Assessment Board, in lieu of the Senator from Colorado (Mr. DOMINICK), resigned.

## LEGAL SERVICES CORPORATION ACT

The PRESIDING OFFICER (Mr. HASKELL). Under the previous order, the Senate will now resume the consideration of S. 2686, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation and for other purposes.

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Ray Calamiro of the staff of the Subcommittee on Employment, Manpower, and Migratory Labor, be accorded the privilege of the floor during the consideration of the pending business, the Legal Services Corporation Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that Dr. James Luciek and Thomas Schroyer have the privilege of the floor during the discussion of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I call attention to the lack of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, the pending Legal Services Corporation bill (S. 2686) has been on the Senate calendar since November 9, when the committee report was filed—over 2½ months ago. From December 10 through 14 of last year, the bill was on the Senate floor. I do not believe that it can be credibly argued that there has not been adequate time to consider this bill.

Mr. President, the Legal Services Corporation Act, S. 2686, is the result of a carefully constructed compromise between the administration and members of the Labor and Public Welfare Committee. The legislation, which was unanimously reported out of the committee, is based on the administration's bill. It represents the culmination of 3 years of consideration of proposals to establish a Legal Services Corporation.

We did not lightly arrive at the important provisions of S. 2686. Like the administration's bill, this legislation gives the President the unfettered right to appoint all the members of the Board of Directors, subject only to the advice and consent of the Senate.

Some concern has been expressed over so-called abuses perpetrated by idealistic young Legal Services attorneys at the "expense" of their eligible clients. While there is disagreement among reasonable men over the precise nature of these abuses, the compromise worked out with the administration in S. 2686 places a number of restrictions on Legal Services attorneys that would help to curb such abuses in the future.

At the same time, we must make clear that there cannot, and will not, be any restrictions on the right of a legal services attorney to use the tools of his trade as an attorney to provide the highest quality legal representation to the eligible poor. The U.S. Senate cannot be placed in the untenable position of restricting the range of legal services a federally funded attorney can provide his client, and thereby requiring a legal services attorney to violate the canons of ethics or the code of professional responsibility of his profession. Support for this proposition has been heard from every significant bar association in the country and has been constantly reiterated by both sides in the long bipartisan negotiations with the administration.

There has also been some discussion of the development of alternative methods of delivery of legal services to the poor, including concepts like Judicare, vouchers and prepaid legal insurance. There is no question but that existing staff attorney programs, by all current estimations, are the most efficient programs available at the present. This efficiency is especially significant in light of statements made over the past few years that, even at current levels of funding, legal services are being rendered to fewer than 25 percent of the potentially eligible clients at the lowest end of the poverty scale. Nevertheless, S. 2686 does provide for serious exploration, mandating specific demonstration projects, of all the alternatives thus far mentioned by critics of the current program. The results of these studies will be made available to the Congress as well as to the Board of Directors of the Legal Services Corporation. And while major changes in legal services delivery could be considered when that information becomes available, it would be far too premature to contemplate any of those changes at this time.

With respect to political activities the committee-reported bill prohibits the Corporation and its recipients from making available their funds, equipment, or personnel, including the on-time activities of attorneys engaged in providing legal assistance supported under the new title, to any activity of a political party or association or to a campaign of any candidate for public or party office. As an additional safeguard, section 1006(b)(5) adds the injunction that no Corporation or recipient employee shall intentionally identify the Corporation or a recipient with any such specifically prohibited political activity.

Legal Services attorneys are to be subject, in addition, to all the Hatch Act restrictions placed on the activities of recipients of Federal grants today. This is required, if the attorneys are to devote all their efforts to the provision of legal advice and representation to poor clients.

The real key to our agreement on this legislation, and especially its provisions restricting the actions and activities of legal services lawyers, lies in the need to protect the right of the poor to the representation of a whole legal services attorney, not half a legal services attorney.

Mr. President, I will not go over the whole of my introductory statement when the debate on this legislation began on December 10—which appears on pages 40467-40472 of the CONGRESSIONAL RECORD of December 10, 1973.

However, I would like to summarize the key features of the legislation at this time:

### DESCRIPTION OF BILL'S MAJOR PROVISIONS

The National Legal Services Corporation Act would establish a private nonprofit corporation "for the purpose of providing financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance." The Corporation would be directed by an 11 member board whose members would be appointed entirely by the President, with the advice and consent of the Senate. The Board will have sole responsibility for issuing the rules, regulations and guidelines by which the Corporation fulfills its mandate, and will appoint a Corporation president with whom it will share responsibility for providing financial assistance to those programs which will actually provide legal assistance to eligible clients.

The Corporation is empowered to exercise considerable flexibility in insuring the provision of high quality legal assistance to eligible clients. It may contract, where necessary, with individuals, partnerships, firms and nonprofit organizations and corporations. The Board is authorized to contract with State and local governments, upon special application by a State or local agency or institution where nongovernmental alternatives would not be adequate to carry out a proposed supplemental legal assistance project. In addition, the Corporation has the authority to provide, either directly or by grant or contract, for the research, clearinghouse, and other important back-up functions considered so essential to the program's continued vitality.

In order to provide a more efficient means of monitoring the activities of the legal services staff attorneys, the reported bill provides for the appointment of nine-member State advisory councils in each State, whose members are to be appointed by the Governor after considering recommendations of the State bar association. The State advisory councils will be charged with notifying the Corporation of any apparent violation of the provisions of the act. In addition, a National Advisory Council shall be established to consult with the Corporation regarding its activities, including promulgation of rules, regulations, and guidelines. Its members are to be appointed by the Board and are to be representative of the organized bar, legal education, legal services project attorneys, eligible clients, and the general public.

In order to avoid a number of possible abuses which might occur, the legislation also contains restrictions and safeguards concerned with focusing all the resources of the Corporation squarely on the provision of legal assistance to eligible clients.

Specific restrictions written into the act would prevent legal services attorneys from involving themselves in nonclient oriented activities while they are on the job. The staff attorney may not, while engaged in legal services activities, engage in picketing, boycotts, strikes, or public demonstrations, nor may they encourage others to engage in them. They may not at any time engage in rioting or civil disobedience, or violate a court injunction, or engage in any other illegal activity.

Legal Services attorneys may not attempt to influence legislation before Congress or before any State or local legislative body, except as necessary to the provision of legal advice and representation for eligible clients. This provision would prohibit indiscriminate, nonclient-oriented lobbying, and would more beneficially channel the legal efforts of the attorney—whose primary duty is to provide the best possible legal assistance to the eligible poor. It does not prohibit necessary legal advice and representation because to do so would set up an artificial double standard prohibiting a legal services attorney for a poor person from doing what any other private attorney could do. No attorney shall be forced to violate the Canons of Ethics by providing less than the full range of legal services to eligible clients.

Legal Services attorneys would also be prohibited from engaging in political activities by application of Hatch Act provisions generally applicable to employees in Federal assistance programs.

The legislation prohibits funding any training program for the purposes of advocating or encouraging political "causes" or policies, or labor or antilabor activities, or any illegal boycotts, picketing, strikes, and demonstrations. In addition, all legal services personnel are prohibited from organizing groups for any purpose whatsoever. Only in the course of rendering legal advice and representation as an attorney for eligible clients will the legal services attorney be permitted to provide legal assistance in connection with such activities, and then only with respect to such clients' legal rights and responsibilities.

Additional restrictions and safeguards found in this act include the requirement that at least one half of the members of the governing board of any legal services program receiving financial assistance be members of the bar of the State in which the assistance is to be provided.

They include provision for advance notification and solicitation of comments and recommendations from the Governor and State bar association regarding any proposed project or contract within a given State.

They include the requirement that the Corporation monitor and evaluate and provide for independent evaluations of legal services programs and grantees sponsored under this act.

And they include a positive mandate to the Corporation to provide for an experimental evaluation, through demonstration projects, of alternative and supplemental methods of delivery of legal services to eligible clients. Such methods would include a close examination of such proposals as judicare, vouchers, prepaid legal insurance and contracts with law firms. Moreover, the bill sets a deadline of 2 years for the transmission of results and recommendations to the President and Congress.

## OPERATION OF LEGAL SERVICES PROGRAM

The federally funded legal services program had its modest inception in 1965 as a $600,000 adjunct to the Community Action program under title II of the Economic Opportunity Act of 1964. By 1973, it has grown into a $71.5 million program with 256 local programs which have more than 900 neighborhood branch offices. The legal services program currently employs approximately 2,200 full-time lawyers. It is estimated that in 1973 those lawyers will serve 500,000 clients and handle upward of 1,500,000 separate legal problems. By comparison, only $5,375,000 was expended on civil legal aid in the United States in 1965 before the Federal Government entered the picture. It is interesting to note, however, that 40 percent of all current legal services grantees are legal aid organizations that were in existence even in those prefederally funded days.

Local projects in the legal services program are organized around the neighborhood law office, whose attorneys have as their function the provision of legal assistance to eligible clients in the entire range of civil legal problems encountered by the poor. Since the poor have been largely bypassed in the dispensation of civil legal assistance in this country, those problems are often overwhelming in their proportions. This has led the more creative local attorneys, as well as the less individual-oriented attorneys of main project offices and back-up centers, to attempt to discover legal means broader than individual litigation to solve some of the problems. It has unfortunately also led to a certain amount of friction between legal services attorneys and the Federal, State, and local institutions that have found their policies challenged as a result of the efforts at broader reform.

Victories won on behalf of groups of eligible clients against bureaucratic regulations which contravene the constitutional and statutory rights of poor persons have angered critics and inflamed passions against legal services. Needless to say, neither a local housing authority nor Federal agencies like the Department of Agriculture are happy when lawsuits succeed in requiring them to change their regulations, even though the result is to remove obstacles to better low-income housing or to improve nutrition programs for poor children. But those whose passions have been so inflamed should be reminded that the legal process in this country, by which the people govern themselves, is never uncontroversial in the best of circumstances. It was in recognition of the need for this controversy, indeed, that the former Director of OEO, Frank Carlucci, reminded us, when this legislation was first proposed, that:

> It is an act of great self-confidence for a government to make resources available for testing the legality of government practices. We have written laws and created government agencies that provide food for people who are hungry, homes for people who are homeless, and jobs for people who are unemployed.
>
> Consequently, a lawyer who is going to represent poor people is inevitably going to be an advocate for them against governmental agencies. It is to shield legal services from the repercussions generated by suits of this kind as well as those generated by action against private interests that the President proposes creation of an independent legal services corporation.

Thus, while it is possible to point up a few real and potential abuses in the legal services process, it is far more important that this process continue than that it be shut off as a result of the few miniscule abuses that are perhaps inevitable in a 2,200-member "law firm." President Nixon himself reminded us this past summer, in another context, that "It would be a tragedy if we allowed the mistakes of a few to obscure the virtues of most."

Mr. President, I ask unanimous consent to insert in the Record an editorial appearing in the Washington Star-News on Saturday, January 26, at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Legal Services Impasse

One of Congress' lesser-noted failures in last year's session was its dismal performance on continuation of free legal services for poor people. This was, nonetheless, a sizable failure when measured by the scale of public justice, and the lawmakers should move speedily to correct it in this new session.

Legal services without doubt is the most successful of the anti-poverty programs conceived in the '60s. Both liberals and a great many conservatives are committed to its main premise—that citizens must not be deprived of access to the courts because of poverty, lest our claim of equal justice under law appear as something of a mockery. So more than 2,250 lawyers in 900 neighborhood offices across the country are giving free services, through this federal endeavor, which their clients otherwise could not afford. Mainly, the aid is in family law matters that are part of everyday life, along with a good many landlord-tenant cases. On a few occasions, legal-services attorneys have strayed too far into political areas, but legislation to reconstitute the program under a new Legal Services Corporation has safeguards against that.

And certainly this proposed system, designed to give the program independence from political pressures, deserves speedy approval. It is the product of much compromise between liberals and conservatives, and, most notably, between Congress and the Nixon administration. President Nixon vetoed an earlier measure, largely because it didn't empower him to appoint all members of the corporation's governing board, but Congress has bowed to him on this. The current legislation has strong support from the administration and the American Bar Association. Its passage is many months past due, because the legal services program has been hanging on precariously for a long while within the diminished Office of Economic Opportunity.

For this delay, the Senate is mainly to blame. In the final days before adjournment last month, it failed twice to shut off an astonishing filibuster against the bill by two of its more rigid conservatives, Senators Helm of North Carolina, and Brock of Tennessee. One thread seems to run beneath all the obstructionist rhetoric: an aim to protect local and state officials from challenges by the poor to the administration of government programs. There is some intent, quite obviously, to make legal services attorneys subject to local interference, and this cannot be tolerated.

If the filibuster resumes when this measure is brought up again, the Senate should hasten to invoke cloture and pass the bill. For a nettlesome task will lie ahead, even after that, in reconciling the Senate version with a weaker bill passed by the House.

Mr. WILLIAM L. SCOTT. Mr. President, I call up my amendment No. 887 to transfer to the Attorney General jurisdiction over the District of Columbia penal facilities at Lorton, Va., and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered, and without objection the amendment will be printed in the Record.

Amendment No. 887 is as follows:

At the end of the bill insert the following new title:

### TITLE II—TRANSFER TO THE ATTORNEY GENERAL JURISDICTION OVER THE DISTRICT OF COLUMBIA PENAL FACILITIES AT LORTON, VIRGINIA, AND FOR OTHER PURPOSES

Sec. 201. (a) The facilities operated by the District of Columbia Department of Corrections in the State of Virginia commonly known as the Lorton Reservation and consisting of the Correctional Complex, the Minimum Security Facility, the Youth Corrections Center, and related facilities, all functions, powers, duties, and records of the Commissioner of the District of Columbia and the District of Columbia Council with respect thereto, and the care, custody, discipline, instruction, and rehabilitatiton of persons committed to or residing therein are transferred to the Attorney General of the United States.

(b) (1) The positions and personnel of the District of Columbia Department of Corrections (other than medical positions and personnel) who the Director of the Office of Management and Budget determines were employed in connection with any function, power, or duty transferred by this section are transferred to the Attorney General. All personnel transferred by this subsection shall continue to have the employment rights and privileges which they had on the day prior to the effective date of this Act.

(2) The medical positions and personnel of the District of Columbia Department of Corrections who the Director of the Office of Management and Budget determines were employed in connection with any function, power, or duty transferred by this section are transferred to the Secretary of Health, Education, and Welfare, together with such records as the Director of the Office of Management and Budget determines relate to their functions. Such medical personnel shall continue to have the employment rights and privileges which they had on the day prior to the effective date of this Act.

(c) So much of the property, unexpended balances of appropriations, allocations, and other funds of the District of Columbia Department of Corrections as the Director of the Office of Management and Budget determines are used, held, available, or to be made available in connection with the functions transferred by this section are hereby transferred to the Attorney General or the Secretary of Health, Education, and Welfare, as appropriate.

(d) No contract for services or supplies made pursuant to authority granted by law by the District of Columbia Department of Corrections with respect to the Lorton Reservation shall be invalidated by the enactment of this Act.

Sec. 202. (a) All rules and regulations promulgated by the District of Columbia Department of Corrections with respect to the Lorton Reservation shall continue in force and effect until amended or repealed by the Attorney General.

(b) A person who is an inmate of the Lorton Reservation on the day prior to the effective date of this Act shall be subject to the provisions of law and the regulations governing good time allowances which were in effect with respect to him on the day prior to the effectve date of this Act.

(c) A person who, on the day prior to the effective date of this Act, has work release privileges pursuant to the District of Columbia Work Release Act, approved November 10, 1966 (D.C. Code, secs. 24–461 to 24–470), shall remain subject to the provisions of that Act until his release from custody.

Sec. 203. (a) On the effective date of this Act, there shall be transferred to the Federal Prison Industries Fund such portion of the District of Columbia Correctional Industries Fund as the Director of the Office of Management and Budget determines is reasonably attributable to the occupational programs of the Lorton Reservation.

(b) On the effective date of this Act, funds previously paid into the work release trust fund by persons who are inmates of the Lorton Reservation on that date and who have been granted work release privileges prior to that date, shall be transferred to the custody of the Attorney General. Collections made after the effective date of this Act with respect to persons who have work release privileges on the effective date of this Act shall be made by the Attorney General and disbursed in accordance with the individual work release plan developed under section 7 of the District of Columbia Work Release Act (D.C. Code, sec. 24–466).

(c) All other funds belonging to or held for the benefit of employees of the Lorton Reservation or inmates therein shall be transferred to the custody of the Attorney General.

Sec. 204. (a) Section 937 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code, sec. 24–405), is amended—

(1) by striking out "the jail or in the workhouse of the District of Columbia" and inserting in lieu thereof "facilities operated by the District of Columbia Department of Corrections", and

(2) by striking out "superintendent of the Washington Asylum and Jail for those confined in the jail, and upon the certificate of the superintendent of the workhouse for those confined in the workhouse," and inserting in lieu thereof "superintendent of the particular facility in which they are confined".

(b) The Act entitled "An Act to require that all inmates of the workhouse and reformatory for the District of Columbia shall be returned to and released in said District", approved June 10, 1910 (D.C. Code, sec. 24–406), is amended by striking out "the workhouse and reformatory for the District of Columbia" and inserting in lieu thereof "facilities operated by the District of Columbia Department of Corrections".

(c) (1) The last paragraph of so much of the first section of the Act of June 5, 1920, as appears under the heading "CHARITIES AND CORRECTIONS" and the subheading "REFORMATORY" (D.C. Code, sec. 24–418), is amended by striking out "the workhouse and the reformatory" and inserting in lieu thereof "facilities operated by the District of Columbia Department of Corrections".

(2) The third paragraph of so much of the first section of the Act of February 28, 1923, as appears under the heading "CHARITIES AND CORRECTIONS" and the subheading "REFORMATORY" (D.C. Code, sec. 24–418), is amended by striking out "at the reformatory" and inserting in lieu thereof "at facilities operated by the District of Columbia Department of Corrections".

(d) The Act entitled "An Act to establish a Board of Public Welfare in and for the District of Columbia to determine its functions, and for other purposes", approved March 16, 1926, is amended as follows:

(1) Section 6 of such Act (D.C. Code, sec. 3–106) is amended by striking out "(b) the reformatory at Lorton in the State of Virginia;".

(2) Section 7 of such Act (D.C. Code, sec. 24–411) is amended by striking out "the reformatory at Lorton in the State of Virginia;".

(e) Section 2 of the Act entitled "An Act to create a Department of Corrections in the District of Columbia," approved June 27, 1946 (D.C. Code, sec. 24–442), is amended by striking out "the Reformatory at Lorton in the State of Virginia".

(f) Section 304 of the District of Columbia Law Enforcement Act of 1953, approved June 29, 1953 (D.C. Code, sec. 4–134c), is amended—

(1) by amending subsection (a) to read as follows:

"(a) Whenever the United States Board of Parole has authorized the release of a prisoner convicted in the District of Columbia, it shall notify the Chief of Police of that fact as far in advance of the prisoner's release as possible.", and

(2) by adding after subsection (b) a new subsection as follows:

"(c) Except in cases covered by subsection (a) of this section, the Attorney General shall give notice to the Chief of Police as far in advance as possible, whenever a prisoner who has been convicted in the District of Columbia and is under sentence of six months or more is to be released from an institution under the management and regulation of the Attorney General."

(g) The Act of June 1, 1957 (D.C. Code, sec. 24–418a) is amended—

(1) by striking out "District of Columbia Reformatory located at Lorton, Virginia,

at fair market prices determined by the Commissioners of the District of Columbia," and inserting in lieu thereof "facilities under the management and regulations of the Attorney General at Lorton, Virginia, at fair market prices determined by the Attorney General,", and

(2) by striking out the last sentence thereof.

(h) The first, second, and third provisos of so much of the first section of the Act of March 2, 1911, as appears under the heading "CHARITIES AND CORRECTIONS" and the subheading "WORKHOUSE" (D.C. Code sec. 24–403) are repealed.

(i) So much of the first section of the Act of September 1, 1916, as appears under the heading "CHARITIES AND CORRECTIONS" and the subheading "REFORMATORY" (D.C. Code, sec. 24–402), is repealed.

(j) So much of the first section of the Act of March 3, 1915, as appears under the heading "JUDICIAL" and the subheading "UNITED STATES COURTS" and relates to reimbursement of District of Columbia convicts (D.C. Code, sec. 24–424), is amended to read as follows:

"The cost of the care and custody of persons convicted of violations of laws applicable exclusively to the District of Columbia and committed to Federal penal or correctional institutions shall be charged against the District of Columbia in quarterly accounts to be rendered by the Attorney General of the United States. The amount to be charged against the District of Columbia shall be ascertained by multiplying the average daily number of such persons in the particular institution during the quarter by the per capita cost for all prisoners in the same institution for the same quarter, but excluding expenses of construction or extraordinary repair of buildings."

Sec. 205. Prosecution for violations of laws applicable exclusively to the District of Columbia which relate to violations of law in or affecting penal or correctional institutions of the District of Columbia (including the Lorton Reservation) committed prior to the effective date of this Act shall not be affected by this Act or abated by reason thereof and the penalties applicable to such violations shall apply to any person convicted of such a violation occurring before the effective date of this Act.

Sec. 206. (a) All functions, powers, and duties exercised by the District of Columbia Board of Parole on the day prior to the effective date of this Act are hereby transferred to the United States Board of Parole.

(b) There are hereby transferred to the United States Board of Parole all of the property, records, and unexpended balances of appropriations, allocations, and other funds avaiable or to be made available, of the District of Columbia Board of Parole.

(c) The positions, members, and personnel of the District of Columbia Board of Parole are transferred to the United States Board of Parole and shall, with respect to all rights, privileges, and benefits, be considered as continuous employees of the United States Board of Parole without break in service. The former members of the District of Columbia Board of Parole and all other personnel transferred by this subsection may be assigned to such duties as the Attorney General deems appropriate, but without diminution of compensation or employment rights previously acquired.

(d) (1) The positions and personnel of the District of Columbia Department of Corrections who the Director of the Office of Management and Budget determines were employed in connection with the counseling or supervision of persons paroled or mandatorily released from the Lorton Reservation or the Women's Detention Center of the District of Columbia are transferred to the United States Board of Parole and shall, with respect to all rights, privileges, and benefits, be considered as continuous employees of the United States Board of Parole without break in service. Personnel transferred by this subsection may be assigned to such duties as the Attorney General deems appropriate, but without diminution of compensation or employment rights previously acquired.

(2) Nothing in this subsection shall affect the employment by the District of Columbia Department of Corrections of personnel assigned to or employed in connection with halfway houses or similar community-based facilities of the Department of Corrections.

Sec. 207. (a) Persons convicted and sentenced in the District of Columbia prior to the effective date of this Act shall be considered for parole and paroled in accordance with the applicable laws in effect in the District of Columbia on the day sentence was imposed upon them.

(b) Persons on parole in the District of Columbia on the day prior to the effective date of this Act shall remain subject to all of the terms and conditions imposed upon them prior to the effective date of this Act and their parole shall be subject to termination or modification in accordance with the law in effect in the District of Columbia on the day prior to the effective date of this Act.

(c) Nothing in this Act shall affect the validity of warrants issued by the District of Columbia Board of Parole or any member thereof prior to the effective date of this Act.

Sec. 208. The District of Columbia Department of Corrections and all other agencies and officials of the District shall cooperate with the United States Board of Parole and shall furnish the Board with such information, files, and records as it may deem necessary in the performance of its duties.

Sec. 209. (a) The Act entitled "An Act to establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes", approved July 15, 1932, is amended as follows:

(1) Section 5 of such Act (D.C. Code, sec. 24–205) is amended to read as follows:

"Sec. 5. Any officer of a facility of the District of Columbia Department of Corrections or any officer of the Metropolitan Police Department to whom a warrant of the United States Board of Parole for the retaking of a parole violator is delivered, shall execute the warrant by taking such prisoner and returning him to the custody of the Attorney General."

(2) Sections 4, 6, 7, 9, and 10 of such Act (D.C. Code, sections 24–204, 24–206 to 24–209) are repealed.

(b) The Act entitled "An Act to reorganize the system of parole of prisoners convicted in the District of Columbia", approved July 17, 1947 (D.C. Code, sections 24–201a to 24–201c), is repealed.

(c) Title 18, United States Code, is amended as follows:

(1) Section 4202 of such title is amended by inserting "or District of Columbia" immediately after "A Federal".

(2) Section 4205 of such title is amended by inserting "or District of Columbia" immediately after "any United States".

(3) Section 5025 of such title is amended—

(A) by amending subsection (b) to read as follows:

"(b) The Director of the Bureau of Prisons may contract with the District of Columbia for the treatment, rehabilitation, or supervision of youth offenders committed to the custody of the Attorney General by courts in the District of Columbia. With respect to youth offenders convicted in the District of Columbia of violations of laws of the United States not applicable exclusively to the District of Columbia, the cost shall be paid from the 'Appropriation for Support of United States Prisoners.' "; and

(B) by repealing subsection (c).

(4) Section 5026 of such title is amended by striking out ", or of the Board of Parole of the District of Columbia,", and "respectively,".

Sec. 210. Such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate the transfers referred to in this Act shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

Sec. 211. This Act and the amendments made by this Act shall be effective the first day of the sixth month following the date of enactment of this Act.

Mr. WILLIAM L. SCOTT. Mr. President, this proposal is not new to the Congress. In fact, it was passed by the House of Representatives as a part of the District of Columbia crime and court reform bill during the 91st Congress. The Senate version of the bill did not include the Lorton transfer provision and it was dropped in conference.

As the Senators know, Mr. President, this prison complex is located in Fairfax County, Va., but the State of Virginia has no jurisdiction or control over it. It has been a worrisome problem for many years. So much so, that the Virginia General Assembly earlier this year passed a joint resolution memorializing the Congress to undertake corrective action at the prison complex to assure proper administration and security. The incidents that brought about this resolution are the following. During 1972 there have been 137 instances of prisoner escapes, 50 inmate assaults on prison guards, and 53 cases of assaults of inmates upon inmates.

Mr. President, I ask unanimous consent to have printed in the Record at the conclusion of my remarks a copy of the joint resolution of the General Assembly of Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WILLIAM L. SCOTT. Mr. President, I ask unanimous consent to have printed in the Record at the conclusion of my remarks a copy of a resolution passed by the Fairfax County Board of Supervisors asking for the transfer of these penal facilities to the Department of Justice.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. WILLIAM L. SCOTT. Mr. President, I ask unanimous consent to have printed in the Record at the conclusion of my remarks a copy of a complaint filed by the attorney general of Virginia to have these facilities declared a pulbic nuisance.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. WILLIAM L. SCOTT. Mr. President, I ask unanimous consent to have printed in the Record at the conclusion of my remarks an excerpt from the report of the Committee on the District of Columbia of the House with regard to this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

Mr. WILLIAM L. SCOTT. Mr. President the measure introduced in the Virginia General Assembly calling for the transfer of control of the Lorton facilities to the Federal Government had 97 of the 100 Members of the House of Delegates acting as joint sponsors which is indicative of the concern of the State authorities. The Board of Supervisors of Fairfax County have also asked that the Lorton facility be transferred to the Justice Department.

Mr. President, I introduced a measure some 5 to 6 years ago in the House of Representatives which ultimately resulted in a provision for the transfer of Lorton to the Department of Justice being included in the House version of the District of Columbia crime and court reform bill. I did this because the correctional officers came in great numbers to my congressional office and asked that some corrective action be taken. They told me of almost unbelievable acts committed within the prison complex. These acts have continued today and that are attested to by five recent violent deaths, one of which was the brutal knifing of a 26-year-old Lorton guard. The news media is ablaze with news accounts of criminal activity at Lorton. Action to correct this situation is needed.

The notes from which I am speaking today were prepared a little over a month ago, prior to our adjournment on December 21, 1973. I would say that since the preparation of the notes, we have had other acts of violence occurring within this prison complex, which are illustrated by the newspaper accounts and I ask unanimous consent that they be included in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 5.)

Mr. WILLIAM L. SCOTT. Citizens who live near the prison complex have also contacted my office and shared their concern. A short time ago, a family living near Lorton was kidnaped and terrorized by a couple of Lorton escapees. The situation has become so bad, Mr. President, that the attorney general of Virginia filed suit in the State court to have the prison complex declared a public nuisance. The situation has deteriorated to such an extent that today the guards assigned to the prison are considering striking against the unsafe conditions in the prison. Their insecurity speaks loud and clear about conditions at Lorton.

Mr. President, knowing the feeling of the people of Virginia on this matter, I have written to the President, and the Attorney General urging that the executive department take action to improve conditions at Lorton. Escapes have become so routine that I have heard the commentators on radio and television joking about their frequency and it would be comical that inmates could walk in and out of an institution as freely as they do if it was not such a serious matter.

The affairs of the institution have been conducted so loosely and the correctional heads of the District of Columbia Department of Corrections have been so unresponsive to the people of Virginia that I do feel we have no alternative, but to transfer this facility to the Department of Justice. Under the Justice Department's leadership I believe that Lorton could become a model for other prisons and that all parties will benefit from this proposal.

In summary, Mr. President, let me just say that the correctional prison complex at Lorton is a District of Columbia facility. The inmates there are those who have been convicted to crimes within the District of Columbia. Yet, the complex is wholly within the State of Virginia. We have no control over a prison located in Virginia. That facility is under the jurisdiction of the District of Columbia. This prison complex is a festering sore.

I am authorized to say, Mr. President, that my distinguished senior colleague from the State of Virginia concurs with me in this amendment.

I do ask for an affirmative vote on the amendment at the agreed-upon time.

### Exhibit No. 1

### House Joint Resolution No. 229

Memorializing the Congress of the United States to undertake corrective actions at the Lorton Prison Complex to insure proper administration and security of that facility

Whereas, the District of Columbia's penal institution at Lorton, Virginia is unique in that it is physically located within the confines of the Commonwealth of Virginia; and

Whereas, the administration and control of subject facility is exclusively that of the District of Columbia government with no participation by local or State government officials or agencies; and

Whereas, there have been one hundred thirty-seven instances of prisoner escapes during the nineteen hundred seventy-two calendar year, an increase of fifty-eight over nineteen hundred seventy-one, endangering the lives and safety of Virginia citizens; and

Whereas, the administrators of subject facility have responded to local citizen concern in an arrogant and most uncooperative manner; and

Whereas, citizens of Virginia have been captured in their homes, kidnapped and escapees of the Lorton Complex have been charged with the murder of a police officer; and

Whereas, there have been fifteen inmate assaults on prison officers and sixty-three cases of assaults by inmates upon inmates with three violent deaths; and

Whereas, the consumption of alcoholic beverages and use of hard drugs has become commonplace within the prison complex with four recorded instances of death due to drug overdose in nineteen hundred seventy-two; and

Whereas, escapes have taken place at Lorton Prison and gone unreported to Fairfax County, Prince William County, and State law enforcement agencies, for as long as an eight hour period of time, endangering the lives and safety of Virginia residents; now therefore, be it

Resolved by the House of Delegates, the Senate of Virginia concurring, That the Congress of the United States is memorialized by the General Assembly of Virginia to give its most expeditious consideration to transferring the control of the Lorton Prison Complex to the Federal Prison Systems, and to undertake corrective actions to insure proper administration and security of subject facility.

*Resolved further,* That the Clerk of the House of Delegates is instructed to send copies of this resolution to the Clerk of the House of Representatives and the Senate of the United States Congress, and to the Virginia delegation in the Congress.

Agreed to by the House of Delegates, February 7, 1973.

George R. Rich,
*Clerk.*

Agreed to by the Senate, February 23, 1973.

Laurie V. C. Lucas,
*Clerk.*

### Exhibit No. 2

### Resolution Passed by Fairfax County Board of Supervisors on September 25, 1972, re Lorton Prison—Resolved Clauses Only

Therefore be it resolved:

1. that the Federal Bureau of Prisons be requested to provide on an immediate basis, assistance in managing and controlling the Complex, and

2. that the Federal Bureau of Prisons develop and promulgate a long range plan for the operation of the facility, and

3. that the District of Columbia take immediate steps to increase staff (primarily in the area of guards at the Complex), and

4. that plans for any major facilities development at the Complex be submitted to the Federal Bureau of Prisons and Fairfax County for review and approval.

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### Exhibit No. 3

### Complaint

[Virginia: In the Circuit Court of Fairfax County]

Commonwealth of Virginia, Plaintiff, v. District of Columbia, a municipal corporation, Serve on: Stanley J. Anderson, District of Columbia Council, 14th & E Streets, N.W., Washington, D.C.; Kenneth L. Hardy, Director, Department of Corrections, 416 H Street, N.W., Washington, D.C.; and Delbert C. Jackson, Superintendent, Lorton Reformatory, 8300 Lorton Road, Lorton, Virginia, Defendants. Civil Action No. —.

#### JURISDICTION

(1) The jurisdiction of this Court is invoked pursuant to Title 8, Chapter 25, of the Code of Virginia, 1950, as amended, §§ 8-578, *et seq.*

#### PARTIES

(2) Plaintiff Commonwealth of Virginia brings this action in her *parens patriae* capacity as guardian of the health, safety and welfare of her citizens.

(3) Defendant District of Columbia is a municipal corporation which owns and operates a penal facility, known as the Lorton Reformatory, in Fairfax County, Virginia. Defendant Kenneth Hardy is the Director of the District of Columbia Department of Corrections, which is charged by statute with the administration of the Lorton Reformatory. Defendant Delbert C. Jackson is the Superintendent of the said reformatory.

#### CAUSE OF ACTION

(4) Within the calendar year 1972 and prior to the filing of this Complaint, at least seventy-nine (79) inmates, most of whom are felons who have been convicted of crimes of violence, have escaped from the Lorton Reformatory, including thirty-nine (39) who have physically breached the security perimeter.

(5) On information and belief, these escapes have been made possible by the inadequacy of the security, staffing and supervision of the said reformatory by the defendants.

(6) The number and frequency of the said escapes and the presence of the escapees in Northern Virginia and particularly in Fairfax County, Virginia, constitutes a continuing danger to the health, safety and welfare of the citizens of the Commonwealth of Virginia who have been or may be injured, taken hostage, robbed or burglarized by these inmates in their desperate flight.

(7) Based on the foregoing facts, defendants are guilty of maintaining a public nuisance, to-wit: the Lorton Reformatory.

(8) If defendants are permitted to continue to maintain the said nuisance, the health, safety and welfare of the citizens of the Commonwealth of Virginia will continue to be endangered as described above.

(9) If defendants are permitted to continue to maintain the said nuisance, the Commonwealth of Virginia will be unable to attract industrial and residential citizens to the area

surrounding the Lorton Reformatory, to the detriment of her economy and development.

(10) If defendants are permitted to continue to maintain the said nuisance, the Commonwealth of Virginia will be required to hire and maintain extra and special law enforcement personnel specifically for the protection of her citizens in the Lorton area and for the apprehension of defendants' escapees.

### PRAYER FOR RELIEF

(11) Wherefore, plaintiff prays that the Court will take jurisdiction over the complaint and grant the following relief:

(a) Declare that the defendants' current operation of the Lorton Reformatory constitutes a public nuisance.

(b) Enter an order prohibiting the defendants from continuing to operate the Lorton Reformatory unless measures satisfactory to the Court are implemented forthwith effectively to eliminate the possibility of easy escape from the said facility.

(c) Order such other general and special relief as shall seem appropriate upon a review of the evidence.

COMMONWEALTH OF VIRGINIA,
ANDREW P. MILLER,
*Attorney General.*
RENO S. HARP, III,
*Deputy Attorney General.*
VANN H. LEFCOE,
*Assistant Attorney General.*
LINWOOD T. WELLS, JR.,
*Assistant Attorney General.*
SUPREME COURT BUILDING, RICHMOND, VIRGINIA 23219.

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## EXHIBIT 4

### FINDINGS

1. There is a chain of command that exists ineffectively and in regulations only, from the Director to the lowest level of paid personnel. The Director on occasions gives direct orders to various paid personnel, on all levels, as well as prisoner, without notice of, or notifying intervening levels of responsibility. (See Transcript of Hearings, Pages 19, 20, 24, 25, 33, 34, 35, 50, 67, 80, 81 232, 233, 234, 378, 379, 380, 436)

2. The Director and his staff expressed surprise at developments happening within their areas of responsibility, when such incidents were brought to their attention in hearings before the Special Select Subcommittee. (See Transcript of Hearings, Pages 68, 235, 412)

3. Correctional officers were assaulted by inmates on all too frequent occasions, and it appeared that the proper discipline of prisoners might have prevented most of the incidents complained of. (See Transcript of Hearings, Pages 34, 35, 39, 53, 54, 55, 163, 164, 187, 208, 261, 273, 274, 275, 276, 381, 382, 390, 419, 421, 422, 423, 424, 425, 439, 440, 473, 474, 480, 481, 482, 536, 537, 538, 539)

4. When correctional officers strictly enforced regulations, they were transferred to other duties. (See Transcript of Hearings, Pages 282, 412, 413, 526, 530, 531, 532, 533, 534, 535, 536, 537 538, 539, 540)

5. The prisoners were allowed to organize an "Inmate Advisory Council." This group gave advice and made demands, which were granted, as to the operation of their facility (See Transcript of Hearings, Pages 33, 50, 281, 282, 283, 284, 352, 412, 414)

6. Escapes from the five institutions under the control of the Department of Corrections are all too frequent. It appeared that these incidents occurred from lack of proper security at the various institutions and, the permissive policy of the Department of Corrections' staff. (See Transcript of Hearings, Pages 37, 38, 39, 40, 56, 57, 58, 83, 84, 85, 86, 96, 98, 99, 100, 109, 110, 111, 112, 113, 114, 120, 129, 130, 131, 132, 133, 134, 135, 136, 137, 141, 142, 147, 154, 160, 161, 166, 169, 170, 176, 177, 178, 179, 181, 182, 183, 185, 186, 188, 190, 218, 237, 238, 239, 240, 271, 272, 299, 300. 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 335, 342, 349, 372, 387, 388, 390, 391, 392, 393, 406, 431, 432, 433, 476, 477, 478, 496, 497, 500, 501, 543, 544)

7. The use of narcotics by inmates is widespread, and there appears very little effort by the administration to control it. (See Transcript of Hearings, Pages 32, 35, 62, 63, 64, 65, 96, 97, 100, 101, 121, 122, 138, 139, 140, 141, 142, 147, 148, 156, 157, 158, 159, 166, 168 169, 173, 175, 176, 177, 178, 180, 182, 183, 198, 200, 201, 259, 337, 338, 397, 400, 423, 424, 492, 495, 498, 499, 543, 544, 545, 547, 548, 549, 550, 552, 553, 554, 555, 556)

8. The inmates at the Reformatory (Lorton Correctional Complex), Minimum Security Facility and Youth Center at Lorton, Virginia, plus the Women's Detention Center, Washington, D.C. manufactured "moonshine alcohol" in copious quantities. This violation of the laws of the District of Columbia, the State of Virginia and the United States has been a long and continuous one through the years. Recently one officer who was very thorough in locating and destroying such alcohol was transferred to other duties and told "he was making waves and the prisoners did not like it." (See Transcript of Hearings, Pages 35, 36, 37, 38, 39, 150, 151, 171, 172, 173, 174, 208, 258, 259, 337, 382, 383, 384, 391, 392, 393, 395, 396, 397, 400, 404, 428, 429, 430, 431, 492)

9. Some of the prisoners who were selected to operate canteens within the prisons, upon inventory were found to have shortages through misappropriation of funds or inventory. In one, of several recent instances, an inmate named GOSKINS, 89798, on November 20, 1969 was found short $1211.97. He was allowed to be released on parole the following day, with only limited efforts undertaken for repayment. (See Transcript of Hearings, pages 440, 441, 442, 443, 444, 445, 446, 519, 520, 521, 522, 523, 524, 525, 526)

10. The practice of homosexuality and lesbianism is widespread and uncontrolled, and no effort is made to segregate these deviates from other prisoners. (See Transcript of of Hearings, Pages 102, 103, 104, 105, 106, 107, 123, 349, 398, 399, 400, 483, 490)

11. Rapes of prisoners by other prisoners are commonplace. (See Transcript of Hearings, Pages 53, 54, 55, 86, 87, 90, 91, 94, 95, 394, 421)

12. No control or inventory is maintained by the supervisory personnel of eating utensils used within the institutions. Hundreds, perhaps thousands, of these utensils have been manufactured into deadly weapons, some of which are now in the possession of the Special Select Subcommittee. The prisoners have been known to use these weapons not only on one another but on the officers. Even after this was brought to the surprised attention of the Director of the Department of Corrections and his staff, no efforts were made to correct this deadly situation. (See Transcript of Hearings, Page 296, 297, 310, 311, 312, 384, 385, 386, 404, 405, 419, 436, 437)

13. The prisoners do not perform even menial tasks and threaten to riot if an effort is made to force them to work. (See Transcript of Hearings, Pages 43, 287, 288, 289, 290, 291, 372)

14. The five institutions are filthy and ill kept. This situation could easily be corrected with prisoner participation in cleanliness, with soap, mops and pails, plus paint. (See Transcript of Hearings, Pages 43, 123, 124, 125, 126, 143, 145, 146, 287, 288, 289, 290, 291, 406, 485)

15. The various institutions maintain schools for prisoners. They are poorly attended, maintained and taught. Some of the vocational equipment is out-of-date and not only outdated, but limited to the very basic fundamentals of teaching. (See Transcript of Hearings, Pages 203, 211, 212, 433, 434, 435, 488)

16. The hiring practices are beyond belief. There are no minimum educational requirements, a starting age of 18 years, and no character or security investigations of these correctional officer personnel are made. (See Transcript of Hearings, Pages 108, 109, 114, 115, 116, 117, 118, 126, 127, 128, 148, 149, 170, 171, 197, 204, 205, 206, 207, 224, 225, 226, 227, 230, 231, 245, 246, 247, 281, 283, 284, 318, 327, 328, 333, 334, 335, 402, 415 416, 417, 418, 420, 421, 424, 425, 426, 460, 461, 462, 463, 476, 493, 527)

17. Promotions of paid personnel are made without any written criteria, and on the apparent personal whims of the personnel-officer and the candidates' immediate supervisor. The escalation and deescalation of the candidates' grade eligibility, on the Civil Service registers are manipulated at will. (See Transcript of Hearings, Pages 236, 237, 241, 242, 243, 244, 247, 248, 249, 250, 251, 252, 333, 334, 349, 350, 351, 403, 404, 407, 408, 409, 410, 411, 413, 414, 415)

18. The rifling, removal, and destruction of personal and other official files appears to have been done at will, by both authorized and unauthorized personnel. (See Transcript of Hearings, Pages 234, 237, 244, 245, 353, 354)

19. A large segment of the paid personnel have never been fingerprinted, and many of those who were did not have FBI reports on their prints. It appears that none of the higher echelon of administrative employees, and very few, if any, of the department staff have been fingerprinted. Many of those who have been fingerprinted possess criminal records and are allowed continued employment by the Department. (See Transcript of Hearings, Pages 277, 278, 279, 280, 281, 376, 457, 458, 459, 460, 468, 512, 513)

20. There appears to be no criteria for placing inmates in "half-way houses". They attempted to use select or restricted areas in the District, where innumerable prisoners would be allowed to roam at will and terrorize the neighborhood. Not only was the attempt made, but the effort is still being pursued. (See Transcript of Hearings, Pages 175, 357, 358, 359, 360, 362, 363, 364, 365, 366, 367, 368, 369)

21. Outdated and outmoded bookkeeping methods over various funds kept within the Department are maintained with "self-audits". Such "self-audits" were offered to the special Select Subcommittee as proof of balances. (See Transcript of Hearings, Pages 235, 293, 294, 295, 296, 441, 442, 443, 444, 445, 446, 515, 516, 517, 518, 519, 520, 528, 529)

22. There appears to be no specific criteria for the placing of prisoners into "work release programs". The escapes of these prisoners were extremely high, even by the Department of Corrections' statistics. (See Transcript of Hearings, Pages 37, 38, 98, 99, 100, 173, 175, 178, 370, 371, 474, 475)

23. "Moonlighting" (the holding of other jobs), or performing services for hire, is prevalent among a large number of employees. This extra-income producing work was openly condoned, permitted or "winked-at" by the Director's office. (See Transcript of Hearings, Pages 20, 68, 340, 341, 343, 446)

24. Numerous personnel are hired under "contract" (without character investigation or being fingerprinted) which avoided Civil Service procedures and also used funds set aside for other activities or for the hiring of additional guards. (See Transcript of Hearings, Pages 41, 42, 339, 340, 379, 380)

25. The Correctional Advisory Council, Washington, D.C. advised the Director on policies he should follow, and he admitted giving their advice close attention. (See Transcript of Hearings, Page 51)

26. The morale of the paid personnel, especially the guards, or Correctional Officers is at an all-time low. (See Transcript of Hearings, Pages 38, 51, 87, 88, 118, 119, 120, 132, 133, 134, 135, 136, 137, 166, 236, 237, 241, 260, 282, 283, 284, 315, 316, 317, 318, 353, 402, 404, 418, 421, 425, 426, 497, 526, 527, 533)

27. Full inspections or "shakedowns" of the

institutions are seldom. According to Directive DO 5000.4A, they are ordered to be done twice a month. This permits contraband of all types to flow freely in and about the various prisons. (See Transcript of Hearings, Pages 64, 101, 102, 165, 210, 259, 260, 401, 402, 404)

28. The training of correctional officers in particular, and personnel in general is from no training at all, to extremely limited courses. (See Transcript of Hearings, Pages 131, 132, 319)

29. No continuing examinations, records or controls are kept on prisoners with contagious diseases. (See Transcript of Hearings, Pages 145, 149, 201)

30. Visitors are allowed physical contact with prisoners, at which time contraband has been apprehended being passed between them. Any sum of money may be deposited to any prisoner's account by anyone, ostensibly to pay for contraband. (See Transcript of Hearings, Pages 155, 156, 198, 199, 200, 291, 292, 293, 420, 427, 482, 499, 500, 511)

31. First offender prisoners are commingled with hardened or recidivist criminals, there being no segregation facilities available. (See Transcript of Hearings, Pages 157, 179, 180, 181, 285, 286)

32. The administrators of the various institutions under the Department of Corrections are unbelievably inept and without proper experience or training. (See Transcript of Hearings, Pages 195, 196, 226, 335, 336, 347, 348, 352, 354, 355, 372, 425, 447, 448, 449, 450, 451, 452, 482, 489, 490, 491, 492, 494)

33. The inmate population in the Department of Corrections was found to be below capacity. (See Transcript of Hearings, Pages 228, 229, 230, 268, 269, 270, 460)

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## Exhibit 5

[From the Washington Star-News, Jan. 24, 1973]

### Six Flee Through Tunnel

Six inmates of the Lorton Youth Center escaped late yesterday by crawling through an underground tunnel for heating pipes. Four were recaptured within a few hours, walking along Interstate Route 95, between the Lorton and Woodbridge exits. Two were still at large.

Four prisoners were discovered missing at a routine count at 9:30 p.m., and the two others were found to be missing at an 11:45 p.m. count, however, it appeared that all six had gone through the tunnel at about the same time before it was secured after the first four escapes were discovered.

The tunnel, which carries heating pipes throughout Youth Center No. 2 at Lorton, normally is sealed by both bars and brickwork. It was not known early today how the escapees had opened it.

The four men who were recaptured by Lorton correctional officers were identified as: James Henry, 21; serving 6 years under the Youth Correction Act for petty larceny; Kenneth May, 21, 6 years for second-degree burglary; Frederick Green, 23, parole violation and 6 years under Youth Corrections Act for petty larceny and attempted second-degree burglary; and Ronald Valentine, 23, parole violation and Youth Act sentence for possession of narcotics and carrying a dangerous weapon.

The two men still at large early today were: Raymond Cole, 21, originally sent to a halfway house but escaped, and now awaiting trial on a first-degree burglary charge, and Dennis Gillison, 23, serving 6 years under the Youth Correction Act for robbery and unlawful entry.

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[From the Washington Post, Jan. 25, 1973]

### Two of Six Lorton Youth Center Escapees Hunted

Two of six prisoners who escaped from the Lorton Youth Center Tuesday night remained at large yesterday, the Fairfax County police reported.

Four of the six were discovered missing from the facility at about 9:30 p.m. and were recaptured about two hours later along Rte. I–95 between the Lorton and Woodbridge exits, about 20 miles south of Washington, corrections officials said.

Two other inmates were discovered missing at an 11:45 p.m. count. The six are believed to have escaped through a steam tunnel running under the Youth Center fence.

Corrections officials identified the four who were recaptured as Dennis Gillison, 23; Raymond Cole, 20; James Henry, 21; and Kenneth May, 21. The two still missing were identified as Ronald Valentine, 23, and Frederick Green, 23.

Henry was reported to be serving a six-year term for petty larceny; May, six years for second-degree burglary.

Valentine was reported to be serving six years for carrying a dangerous weapon and housebreaking, while Green was serving six years for petty larcency.

Gillison was reportedly serving six years for robbery and unlawful entry, and Cole was awaiting trial on a burglary charge.

#### LORTON TAKEOVER BILL FACES OPPOSITION

Chances for a congressionally ordered federal takeover of the District's Lorton correction complex in Fairfax County are slender, sources said yesterday.

Bills to provide for a federal takeover face opposition in the House and Senate District Committee, which would consider them. They also face a lack of administration support for the switch.

Sen. William L. Scott (R-Pa.) has introduced legislation in the Senate to hand Lorton over to federal supervision. Rep. Stanford Parris (R-Va.) is expected to do so soon on the House side.

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[From the Washington Post, Mar. 9, 1973]

### Lorton Inmate Flees During Trip to District of Columbia

A Lorton inmate who was serving a term for armed robbery and assault with a dangerous weapon escaped from custody yesterday while on a supervised field trip to Washington, corrections department officials reported.

Police said the inmate, Clifton L. Jenkins, 24, of 1842 C St. SE was one of four inmates visiting the Department of Labor and the Adams-Morgan Peoples Center at 2326 17th St. NW.

Jenkins disappeared from the group about 4:30 p.m. near the Peoples Center, a corrections spokesman said.

Corrections officials said Jenkins had served two years of a 9-to-28-year sentence and was a member of the Lorton Council for Progressive Action, a prisoner self-help group.

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[From the Washington Star-News, May 10, 1973]

### Lorton Prisoner Stabbed To Death

A prisoner in the maximum security section of Lorton Reformatory was fatally stabbed in the chest late yesterday while in a recreation yard with some 83 other inmates, the Department of Corrections reported.

In another incident last night, a Lorton inmate serving a life term for murder and attempted robbery disappeared while on an escorted trip to a Washington church, officials said.

The stabbing victim was identified as Larry J. Gallman, 25, who was serving a 12-year sentence, started in January 1972 for attempted robbery and two counts of armed robbery.

He died at DeWitt Army Hospital at 6:40 p.m., the department said, 20 minutes after being rushed to the institution when he appeared at Cellblock 4 from the adjacent yard saying he had been stabbed.

A Lorton spokesman said Gallman could not or would not tell any more about the stabbing. No one professing to have seen the attack was found immediately, and no weapon was discovered.

The FBI is investigating.

The Corrections Department said Maurice Evans, 36, sentenced to a life term on Aug. 12, 1966, for first-degree murder and attempted robbery, was missed from a church at 3401 Martin Luther King Ave. SE at 10:15 p.m.

Evans was one of six inmates who had made the trip to Washington with a group called Lifers for Prison Reform, a self-help organization at Lorton, a spokesman said.

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[From the Washington Post, May 18, 1973]

### Knife Death at Lorton Is Third This Year

A Lorton inmate was stabbed to death yesterday morning, in what officials said was the third fatal stabbing this year at the city's prison complex in Virginia. Another inmate was severely cut yesterday.

The dead man was identified as Melvin G. Brandon, 27, who was serving an eight to 25 year term for robbery, assault with a dangerous weapon and assault on a police officer. The term began May 8, 1969.

Officials said that Brandon staggered out of a recreation room at about 10 a.m. with stab wounds in the left chest, arm, and shoulder. They said he was pronounced dead on arrival at the infirmary.

At about the same time, they said, Benjamin Murdock, 25, emerged from the room with a severely cut left hand. He was taken directly to D.C. General Hospital where he was listed in good condition.

Authorities said that an investigation is under way by the FBI and prison officials. However, they said, they have found no weapons or witnesses and do not know if the two stabbings were related.

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[From the Washington Star-News, May 23, 1973]

### "Fence" Belonged Inside the Fence

(By Patrick Collins)

Paul Enten, the former Georgetown decorator serving time at Lorton Reformatory for fencing, had no business being out of jail on a work release program last week, according to a District prison official.

Jail officials barred Enten from the job as special consultant to the head of the Maryland Bicentennial Commission and confined him to a maximum-security cell at Lorton. This action came after a judge complained that Enten, serving a 6 to 20-year sentence, had been seen shopping at Garfinkel's.

Larry Swain, director of the D.C. Correction Department's adult services division, said yesterday that Enten had not served enough time to merit consideration for the program. It allows convicts to work normal jobs at day and return to a minimum-security prison farm at night.

Swain said a regulation adopted by the department March 15 prohibits inmates with more than 14 months to serve from taking part in the program.

Enten, an interior decorator, was sentenced during September 1971 for participating in a $250,000 burglary-fencing ring that dealt in goods from Northwest Washington homes.

At the sentencing, U.S. District Court Chief Judge Sirica ordered Enten to serve a minimum of six years and eight months before he could be paroled.

Enten, 43, had done about a third of that time in February when he began working three days a week outside the jail as an advisor to an old friend, Louise Gore, the Maryland bicentennial commissioner.

"Whether he should have been released to the program then? I can't say yes or no," Swain said. "But definitely, after March 15, he should have been taken off the program."

Last Tuesday, a court officer saw Enten at Garfinkel's and told Judge Sirica. The judge called the jail and Enten lost his job.

Miss Gore said that Enten's trip to the store was legitimate.

"He was shopping for souvenirs for the Maryland bicentennial," he said.

Enten was transferred to Lorton's maximum-security section because he had missed the prison's two-week orientation program there when he was first arrived, Swain said.

But Enten's wife Jean said her husband had been through the orientation and that she suspects prison officials are wrongly trying to punish her husband.

After orientation, unless a convict is considered particularly dangerous or likely to escape, he is assigned a bunk in a medium-security dormitory or a minimum-security prison farm.

Mrs. Enten said that her husband had spent 900 hours on unescorted release from the jail and had not gotten into trouble during his sentence.

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[From the Washington Post, May 28, 1973]

### GRADUATION FOR THE INMATES

(By William Raspberry)

First the bad news. Of the 10 Lorton inmates who enrolled two years ago in a Washington Technical Institute program aimed at helping them learn to deal with children whose behavior problems has forced them out of public school classrooms, two escaped. One subsequently turned himself in; the other is still at large.

Now the good news. The remaining eight will be graduating from WTI on June 8. Seven of the eight already have earned honors awards "for outstanding achievement" from the faculty of WTI.

The school awarded a total of nine such awards in educational technology. Six of them went to Lorton inmates.

This may be the first time any of them won't be embarrassed to see their names in the newspaper, so here they are: James (Cue Ball) Irby, Alonzo Harris, Richard Brown, David Keys, Larry Williams, James Lewis and William Coefield. Terrell Moore didn't make the honors group, but he's graduating, and not by the skin of his teeth, either.

One more name, Yetta Galiber, without whom, it is safe to say, none of this would have happened. Even with her, it almost didn't.

Mrs. Galiber, who heads the Information Center for Handicapped Children, first got the idea of putting inmates to work with problem children from former Lorton Superintendent John O. Boone. As they conceived it, the inmates would spend part of their time working directly with children, the rest in study at WTI. The trick was to persuade WTI President Cleveland Dennard to institute the program.

He finally agreed to it on the day of registration in September 1971. Since then, upwards of a dozen inmates at a time—most of them with long sentences—have been counseling, tutoring and in many cases rehabilitating teenage boys whose disruptive behavior has forced them out of regular classrooms.

Many of the children, it turns out, need only to know that someone really is concerned about them, the inmates say. It sounds trite and obvious when they say it—until you realize that it is knowing that someone cares that has made a difference in their own lives.

Caring is what keeps Yelta Galiber, middle-class dentist's wife and social activist, from being just a black Lady Bountiful. Listen to Cue Ball Irby:

"I'll tell you the truth, I didn't believe Mrs. Galiber when she first came down there. I went along with her program just because it was something to do. Then I noticed something; her conversation was never what I had done in the past, but what I intended to do in the future. She actually got me thinking about my future for the first time, and I'm 51 years old.

"That's what I mean when I talk about having somebody believe in you. I hadn't been in school in 20 years when she asks me if I have a high-school equivalency. I didn't, but she convinced me that I could get one if I wanted to. That's how she does, just setting little goals. First the equivalency, then WTI. Now I'm looking forward to going to Howard this fall. And you want to know something?

"I'm going to have my Ph.D. if time doesn't run out on me."

Irby's work is at Juvenile Court, at first with Judge John D. Fauntleroy, now with Judge Alfred Burka.

Richard Brown, who also sings Mrs. Galiber's praises, is interested primarily in recreation. He was a starting guard on the WTI basketball team this year. ("I won't say they made all the difference," says Mrs. Galiber, "but the year before Rick and Larry Williams joined the team, they were 3–17; last year their record was 17–2.")

One of the reasons he likes athletics, Brown says, is that it helps him reach the boys he's working with. He's ready with a different case history at the drop of a hat. And what is impressive about his recitals—what makes them believable—is that they are uniformly undramatic; one boy learns to get along with other kids just a little better; two others are able to return to regular classrooms; three or four show no more obvious improvement than that they finally start to talk about what's bothering them.

What's bothering them most often, he says, is the same thing that was bothering him: lack of self-confidence stemming from the fact that nobody believed in him.

Brown, 27, intends to continue his work with handicapped children after he finishes college (he has several offers for a basketball scholarship), assuming Mrs. Galiber is successful in helping him get out of prison in time. He's doing 5-to-25 years on a drug charge.

Irby, who's doing a flat 20 years on his third drug offense, likes children, but he really sees himself as a college professor, perhaps in sociology. Don't bet your house he won't make it.

And please don't bet that what has happened in this program can be duplicated in prison systems throughout the country.

Yetta Galiber's belief and trust in these men has produced a kind of magic that even she doesn't understand. It's far, far more than her willingness to stick her neck out for them, or burn up tankloads of gasoline between Lorton and Washington, or soft-talk her husband into making dental bridges for the men who need them so badly.

She really cares about these guys. And they, having seen what magic caring can work, are passing it on.

Either that, or they're conning the hell out of me.

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[From the Washington Post, Aug. 2, 1973]

### INMATE, 19, SEEKS RELEASE, CITES RAPE DANGER AT LORTON

(By Eugene L. Meyer)

In the first week that Timothy N. Turner, 19, of Hillcrest Heights, spent at the Lorton Youth Center, he said his clothes, sheets, and shoes were stolen and other inmates advised him to submit to homosexual acts.

In his second week at the center, where he is one of 13 whites among 330 prisoners, he said other inmates threatened four times to harm him unless he had sex with them. He said he refused. Records show that after he fought off an attack Saturday he was placed first in solitary confinement, then in a locked, protective custody cell.

Turner, a first offender, had pleaded guilty in D.C. Supreme Court to second degree burglary and was sent by Judge Donald Smith to Lorton for 60 days' psychiatric study prior to sentencing on September 14. Yesterday he asked in Court to be released on personal bond, to return only during the day for testing.

Judge William C. Thompson refused, after a 3-hour hearing. The judge said he believes Turner is not in danger now that he is in protective custody.

According to Turner's attorney, William J. Temple, his client, a slightly built youth, was subjected to cruel and unusual punishment among the general inmate population.

"He wasn't sentenced to be raped," the lawyer said, "he was sentenced to be studied."

"I don't think we have to wait for him to be brought into court on a stretcher," Temple said.

"Everytime I go somewhere," Turner testified "I have to look over my shoulder."

In addition, his lawyer argued that while in protective custody he is denied the right to move about that is accorded other prisoners.

"Because they won't enforce discipline against 98 per cent of the inmates," Temple contended, "2 percent have to live in solitary confinement."

He said that Turner has "constantly been harassed, mistreated, taunted and kept in fear of his life by his fellow inmates solely and exclusively because of his race." Four of the 13 whites at the youth center are in protective custody, officials said.

Robert C. Whitaker, administrator of youth center, acknowledged that inmates have complained in recent protests that locks, which would provide a measure of security, are missing from 80 per cent of the cell doors.

But he said, discipline is enforced "absolutely."

Assistant Corporation Counsel Robert Chernikeff, representing the corrections department, sought to depict Turner as a white youth who does not accept blacks, Assistant U.S. Attorney Charles J. Harkins portrayed him as a loner, who does not fit in anywhere.

"Maybe a lot of this was brought on by his own attitude," Harkins said. Placing the youth on personal bond would be "giving someone who doesn't fit in anywhere a license to steal in D.C." Harkins said.

In an interview after the hearing, Turner's mother, Wilsie Joyce Turner, rebutted the implication that his problems stemmed from dislikes of blacks.

"Most of his friends are black," she said. "It's me that's prejudiced. He's with black people constantly. He brings them home. I told him to be nice to them, that they have equal rights, but you don't have to bring them home."

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[From the Washington Post, May 30, 1973]

### LORTON UNDER FIRE

Rep. Stanford E. Parris (R-Va.) yesterday called the administration of the Lorton reformatory "inept and inadequate . . . and becoming worse with each passing day."

At a press conference, Parris cited statistics showing that over the past 10 months 47 inmates have escaped from the District of Columbia's penal facility in southern Fairfax County.

He said he and his constituents are concerned about security and added: "If I have to, I'll go down to Lorton and put a lock on the gate myself."

The congressman asked the General Accounting Office to scrutinize Lorton's budget for the last two years and he asked Attorney General Elliot L. Richardson to investigate to determine whether any legal means exists to "permit the involvement of federal penal officials in improving this situation."

[From the Washington Post, Aug. 28, 1973]

### EIGHT INMATES ARE INJURED AT LORTON

(By Paul Ramirez)

Eight inmates at Lorton Reformatory's Youth Center were injured, one of them seriously, in an "unusual" weekend of violence at the D.C. penal facility in Fairfax County, city corrections officials said yesterday.

One inmate, 24-year-old Clarence Scott, was paralyzed from the waist down by stab wounds he received in a fight in which four other inmates were "cut in some manner" Saturday night, officials said.

According to corrections department spokesman, Scott was stabbed on the forehead and back when a melee broke out in a recreation room where more than 200 youth center inmates had gathered for a movie at about 8:30 p.m. Saturday.

Scott's mother, Pauline Scott, who visited her son at D.C. General Hospital Sunday, said a hospital nurse "told me my son might not walk no more." She quoted Scott as saying he had been beaten "with iron pipes."

Mrs. Scott said she had learned "from other boys" that a large number of correctional officers "were standing there and they let them fight like that without doing anything."

The corrections spokesman said the officers who witnessed the fight "tried to open doors . . . tried to get everybody that was not involved out. That's the only thing I could tell you on that."

Also treated at D.C. General Hospital for wounds suffered in the fight were Stanley Jackson, 24, and Arthur L. House. Scott remained hospitalized yesterday in fair condition. Jackson is scheduled to be returned to the youth center today and House was returned to the institution after treatment Sunday.

The two other youths injured in the fight, and three others hurt in separate incidents during the weekend, were treated either at the center or at the Lorton Reformatory infirmary for minor cuts, the spokesman said.

The stabbings are being investigated by the FBI, which investigates all crimes at the Lorton prison complex.

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[From the Washington Post, Sept. 3, 1973]

### CONVICT ESCAPES FROM LORTON

Police were searching yesterday for a 31-year-old prisoner who was discovered missing from a minimum security work camp at Lorton reformatory, officials reported.

They said James Alton Procter, who was serving a 5- to 15-year sentence for robbery, grand larceny, burglary with intent to commit a felony and carrying a deadly weapon, was discovered missing at the 9 a.m. roll call yesterday. Procter had been at Lorton since 1970.

Sgt. James Harley, who reported the escape, said that Procter could have walked out of the 300-resident camp, which is not fenced in. The prisoners there "have worked their way up," Harley said, and are "on the honor system."

Sgt. Harley said it was the first escape in eight months from a minimum security camp at Lorton.

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[From the Washington Post, Sept. 5, 1973]

### LORTON INMATE FOUND STABBED

Theodore Matthews, 25, received multiple stab wounds in the chest Monday night at the D.C. correctional facility at Lorton, where he was serving a three-year sentence for narcotics and parole violations, police said yesterday.

He was found by two guards, lying on the floor of his dormitory and was taken first to DeWitt Army Hospital at Ft. Belvoir and then to D.C. General Hospital. His condition was listed as serious yesterday after surgery.

No arrests in the case had been made as of late yesterday, police said.

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[From the Washington Star-News Nov. 12, 1973]

### CRASH FOILS ESCAPE OF FOUR

Four Lorton Reformatory inmates shot their way off a prison bus near the Pentagon this morning, commandeered a general's Cadillac and fled through Alexandria and across the Woodrow Wilson Bridge.

As the fleeing car headed toward the District at the bridge's east end, it crashed into another car in rush-hour traffic near the Blue Plains sewage plant and the four fugitives were eventually recaptured after they fled on foot.

A prison guard on the bus, John A. Tucker was shot in the arm when the prisoners began their escape attempt, and one of the escapees was also wounded.

Details could not be confirmed immediately by the half-dozen law-enforcement jurisdictions involved, but this was the sequence of events that began to emerge:

At about 7:30, the Lorton bus, carrying 41 prisoners to the District Jail en route to court appearances later in the morning, was in the Pentagon Mixing Bowl at Army-Navy Drive and South Eads Street when one inmate produced a pistol and disarmed the guard.

The bus driver pulled over, and in the course of the escape, shots were exchanged and the guard was disarmed.

The four prisoners fled toward Jefferson Davis Highway to commandeer a getaway car.

Wireonca Workman, 41, a maid in the employ of Gen. F. S. Besson Jr. (ret.) had just dropped the general at the Pentagon helipad and was driving his cream-colored Cadillac back to Alexandria when a man armed with two pistols opened the driver's door and said: "Move over, Mama, and you won't get hurt!"

Mrs. Workman moved over, the gunman got behind the wheel and three others piled into the car. One of those in the back, holding a shotgun, was bleeding, she said.

"They said they wouldn't hurt me, and I didn't try to make any funny moves," Mrs. Workman recalled. "I didn't know who they were or what they wanted, and I wasn't about to ask. I was shook up and I just didn't want them to hurt me."

The takeover of the general's car was seen by a construction worker, who reported it to police. An all-points bulletin was put out by Arlington police, and five minutes later Alexandria Patrolman Junior Bowling, in a scout car on N. Henry Street in downtown Alexandria, spotted the Cadillac.

Bowling radioed for help and followed the getaway car onto the Beltway and the Wilson Bridge. By the time it reached the eastern end, four Alexandria cruisers had joined the 90-mile-an-hour chase, and District and Prince Georges police were heading toward the area.

The driver of the Cadillac turned onto the Anacostia freeway at the end of the bridge, but found his way blocked by commuter rush-hour traffic heading into the District and swung onto the northbound shoulder.

At the Oxon Creek overpass, where the shoulder ends, the driver tried to get back into the right-hand lane and rammed into the rear of a car driven by Mrs. Edith McCuall of Upper Marlboro, forcing it up onto the guardrail. The Cadillac was disabled and the four prisoners fled on foot into the woods nearby.

The Alexandria police cruiser took up the chase, radioed his position and was joined eventually by cars from Arlington, Prince Georges County and the District.

As Mrs. Workman recalled her hair-raising ride, the escape bogged down when the driver headed north on Route 295 and ran into two solid lanes of inbound commuter traffic.

The driver swung onto the shoulder of the freeway, but crashed into the rear end of another northbound car when he tried to get back into the moving traffic. The Cadillac was disabled.

The four prisoners jumped out of the car and took off into the brush and woods on either side of the freeway.

Within an hour police using K–9 dogs and a helicopter tracked down the fugitives in the area south of the Blue Plains sewage plant and Oxon Creek.

Metropolitan Police identified the four escapes as Kenneth May, Elijah Cunningham, Lester Irby and Orlando Willis.

According to police Willis was shot in the leg by a Lorton correctional officer as he was fleeing the bus.

Cunningham, 25, was serving a life sentence after being convicted of first-degree murder. Irby, 25, convicted of three bank robberies, was serving sentences of 2 to 7 years, 10 to 30 years and 20 years.

May, 21, was serving a six-year sentence under the Youth Corrections Act. It could not be determined immediately what May was charged with. Prince Georges has a detainer for May, when he is released from Lorton, for a 15-year sentence on a conviction of robbery with a deadly weapon.

Willis, 21, was sentenced in 1969 under the Youth Corrections Act on a burglary charge. He also was convicted in 1973 on a robbery charge for which he was sentenced to 7 to 21 years.

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[From the Washington Star-News, Nov. 28, 1974]

### JUDGE HALLECK FREES VICTIM OF LORTON RAPES

(By Winston Groom)

D. C. Superior Judge yesterday commuted the sentence of a 21-year-old Lorton prisoner after receiving reports that the man was raped repeatedly by other inmates at the prison complex.

Halleck had originally sentenced Michael Matthews, of the 4400 block of Livingston Road S.E to nine months in prison after he pleaded guilty to carrying an unlicensed pistol last June.

"I don't send people to jail for this sort of thing to happen to them," Halleck said, referring to the reports of homosexual assaults on Matthews during his six-month stay at Lorton.

Matthews also received a suspended sentence in a separate case yesterday before Judge Edmund T. Daley. Daley acknowledged that he had spoken to Halleck about the rape incidents but said the discussion had nothing to do with his decision to suspend Matthews' sentence.

"I simply felt that he was the sort of person who should not be incarcerated," Daley said. Both cases (the one before Halleck and the one before Daley) grew out of altercations between Matthews and his wife, he said.

Halleck said he learned of the alleged prison assaults on Matthews through Matthews' attorney, Daniel Brown, adding that he had confirmed them through other official sources.

"The problem is that he, Matthews, is simply not the sort of person who is easily a victim to this kind of thing—and there was every indication that it would continue if he remained in jail," Halleck said.

"If he had been a big street-wise guy who looked like he could take care of himself I would have left him in there, but he is not," Halleck said.

Daley and Matthews appeared before him with bruises and a black eye that he apparently had received while trying to fend off attackers.

"He is not the criminal type—he just has this problem with his wife and I think, he's over it now," Daley said.

He said Matthews, a former clerk at the Interior Department appeared to be a responsible citizen and that he was now studying to be a draftsman at a technical institute.

Commenting on the issue of inmate safety at area penal institutes. Halleck said: "It's bad—really bad, and everyone knows it.

"I don't know what can be done about it, though—except I'm not going to send people down there to be molested and raped."

The question of homosexual assaults became widely publicized two months ago when a 21-year-old Quaker anti-war protestor said he was raped more than 50 times while a prisoner at D.C. jail.

The quaker, Robert Martin of Fairfax, told the U.S. Attorney's office and later the D.C. City Council that other inmates beat and assaulted him during a 24-hour period and that he was able to escape only by flinging himself at the feet of a guard and begging for help.

The U.S. Attorney's Office said a grand jury is investigating the incident.

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[From the Washington Post, Dec. 1, 1973]

### Lorton Guard Is Slain, Body Hidden in Manhole

(By Raul Ramirez)

A Lorton Reformatory correctional officer was killed yesterday and his body hidden inside a manhole in a fenced-in recreation yard at the medium security section of the D.C. prison in Fairfax County, D.C. corrections officials said.

The body of Michael Roy Kirby, 26, of Manassas, was found at 5:20 p.m. by officers who began searching for him after Kirby entered the prison grounds at 2 p.m. but failed to report to his assigned post, officials said.

Kirby was pronounced dead of "multiple ascertainable injuries" by a prison doctor. Officials would not describe the nature of the injuries, other than to say that there was "no evidence of gunshot wounds."

The FBI, which investigates all serious crimes at the 1,600-inmate prison, is probing the death, officials said.

A spokesman for the D.C. corrections department said last night that no other incidents had been reported at the prison yesterday and said prison officials "know of no reason why he (Kirby) might have been murdered."

Since he joined the correctional force on July 31, 1970, Kirby had been assigned in a trailer just outside the main gate to register visitors to the prison, a job that entails little contact with inmates.

Kirby's killing is the first at the Lorton complex since Feb. 13, 1958, when guard Michael J. Hughes was stabbed to death in a dormitory day room by several inmates.

The corrections department spokesman gave the following account of the events preceeding the discovery of Kirby's body:

The officer, who was scheduled to begin working at 2:30 p.m., arrived at the complex at about 2, parked his motorcycle outside the 12-foot-high chain link fence surrounding the facility and entered the grounds through two electronically-controlled gates adjacent to the prison's main entrance tower No. 1.

Minutes later, Kirby was seen by several officers inside the officers' locker room and the duty captain's office, a red brick building adjacent to a dormitory and near the prison mess hall.

At about 2:15 p.m., he was seen by another officer walking on a paved road between the prison chapel and the back side of a row of six dormitories. The rectangular space between the dormitories is fenced-in and is used as recreational space by inmates. Kirby was walking toward tower No. 1, on the outside of the yard. His body was found hours later, inside the yard, which is enclosed by a 10-foot fence.

At 3:15 p.m. a routine phone call was made by his superiors to the trailer outside the prison gate where Kirby screened visitors seeking to enter the prison. When no one answered the call, the tower officer was contacted and he said Kirby had not gone through the gates. A search of the grounds was ordered.

Kirby's body was found inside one of the recreation yards and inside a manhole eight feet deep and five feet in diameter. The iron cover over the hole had been replaced after his body was placed in it.

Yesterday's slaying came in the wake of reports from D.C. corrections officials that violence in the city's 3,300-inmate penal system is declining.

Last month, the keepers of the city's five penal institutions reported that a crackdown search of cells and dormitories had netted hundreds of makeshift weapons and other contraband hidden by Prisoners.

The extensive searches were begun three months ago after the city's 1,000 correctional officers threatened to refuse to patrol hazardous areas at Lorton and the D.C. jail and other institutions because of growing unrest among inmates.

The action was averted when D.C. corrections director Delbert C. Jackson vowed to step up searches for weapons and agreed to meet other security-related requests from officers. Since that time figures provided by the department show incidents of violence among inmates and against officers have steadily declined.

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[From the Washington Post, Dec. 2, 1973]

### Three Lorton Inmates Stabbed After Killing

(By Raul Ramirez)

Three inmates were stabbed in two incidents at the Lorton correctional complex Friday night, hours after the body of a correctional officer who had been fatally stabbed was found at the D.C. prison, officials said yesterday.

The stabbings, two of which occurred in a a gymnasium at the D.C. youth center and the third in a medium security section dormitory, did not appear to be related to the killing of Officer Michael Roy Kirby, officials said.

Kirby's death prompted officials for the union representing the 1,000 guards in the D.C. penal system to call a mass meeting of Lorton officers for Monday to discuss what action to take on the face of what union officials termed a "breakdown in discipline" at the prison.

The body of Kirby, 26, of Manassas, was found at 5:20 p.m. inside a manhole in a fenced-in recreation yard at Lorton's medium security section. Three hours earlier he had entered the prison grounds, but failed to report to his post just outside the facility's main guard tower.

The FBI field office in Alexandria, which investigates all serious crimes at Lorton because of the number of federal prisoners there, said yesterday that an autopsy showed that Kirby had died of "multiple stab wounds." An FBI spokesman said the investigation into Kirby's death "will be open for some time, probably."

Four hours after Kirby's body was found an officer making a routine check of a nearby dormitory found Ronald Richardson, 37, lying on the floor inside the dormitory. He had been stabbed several times, officials said. Richardson is serving a three-year term for escape and parole violations.

Richardson was admitted to DeWitt Army Hospital at nearby Ft. Belvoir, where he was reported in satisfactory condition yesterday. Corrections officials said they had no clues as to how or by whom Richardson was stabbed.

Twenty minutes later, two youth center inmates were assaulted and repeatedly stabbed by several other prisoners during a recreation period in the facilitys' gymnasium, officials said.

A corrections department spokeswoman said an officer was in the gymnasium at the time of the assaults but "was not able to see what happened because of the large number of inmates in the area."

The wounded inmates were identified as Anthony Smith, 19, and Michael Hawkins, 20, both serving terms for robbery and related charges. They were reported in fair condition at area hospitals yesterday.

Lorton officials said they have "some idea" as to who their assailants were and are investigating the incident further.

Several recent "shakedown" searches of Lorton dormitories have turned up hundreds of makeshift weapons and other contraband, and last month union officials had said they were "pleased" with conditions at the prison.

Officials for the American Federation of Government Employees (AFL–CIO), the union representing the correctional officers, said yesterday that some union members have suggested walkouts in protest of security conditions at the 1,600-inmate Lorton Reformatory.

"They are very upset," said Paul Ragan, secretary-treasurer of AFGE union local 1550. He said Monday's meeting, scheduled for 3:30 p.m. outside the prison's main entrance, was called by union officials after numerous complaints came from Lorton officers after Kirby's death. Kirby is the first guard slain at Lorton at least since 1958, officials said.

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[From the Washington Star-News, Dec. 8, 1973]

### Lorton Prisoner Stabbed

A 25-year-old inmate was stabbed several times in a maximum security cellblock at Lorton Reformatory last night, exactly a week after a guard was found slain and three other inmates wounded in apparently unrelated stabbings at the D.C. prison complex in Fairfax County.

Last night's victim, who was reported in serious condition following surgery at D.C. General Hospital, was identified by a Corrections Department spokesman as Nathaniel DeVaughn, who was serving six years for robbery and prison escape.

The spokesman said that about 7:30 p.m., during television privilege time when the door to DeVaughn's maximum-security cell was open, he came out on a tier calling for help.

Suffering from several stab wounds, he was taken to the Lorton infirmary, then to Ft. Belvoir hospital and finally to D.C. General for treatment.

The spokesman said suspects have been identified but no charges filed.

"Shakedowns" of prison dormitories in recent months have uncovered hundreds of makeshift weapons, and Lorton officers—incensed by the discovery of the stabbed body of officer Michael Roy Kirby in a manhole within the prison complex Nov. 30—met with D.C. Corrections Delbert C. Jackson, earlier this week to demand tightened security.

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[From the Washington Star-News, Dec. 13, 1973]

### Lorton Search Uncovers Some Weapons, No Drugs

(By Jared Stout)

Nine squads of volunteer D.C. prison guards undertook a search of the Lorton prison complex today and by early afternoon had found a few weapons but no drugs.

D.C. Corrections Department Director Delbert C. Jackson, though declining to specify the number of weapons found, said a number of knives, including pieces of metal which had been sharpened, were found in the housing units of the complex.

Jackson said the search "was proceeding smoothly without incident," although its pace was slowed somewhat because less than half of the anticipated number of volunteers materialized.

By 1 p.m. the guards were turning their efforts toward a shakedown of the work areas in the central facility at Lorton.

The squads of from eight to 10 men formed on a parking lot near the prison Training Academy shortly after 7 a.m. and moved into the prison through a gate at Tower Six.

In addition to the nine squads of nine men each detailed to the search, a smaller group was assigned to man the gymnasium, where inmates not on work schedules waited, and a standby group of search volunteers was maintained.

As inmates left their dormitories this morning, they were searched and then went to work assignments or the gym. A head houseman and a member of the grievance committee were left in each dormitory to observe the search procedures.

The search for weapons and other contraband was a key demand of local 1550, American Federation of Government Employees to avert a Friday walkout by the guards which the union represents.

Jackson said the search would last until the guards were sure they had picked up all contraband they suspected were on the premises.

More than 250 guards had volunteered originally for the search assignment, but less than half that number turned out. Some of those who showed up today still wore black crepe ribbon across their badges in memory of a fellow guard, Roy Kirby, 26, who was found stabbed to death within the complex Nov. 30.

Jackson later estimated that the search of Lorton's central facility, which houses about 1,100 inmates, would take from six to eight hours. Newsmen were not permitted to accompany the search squad. Officials said the results of the shakedown would be made public after the search was completed.

The search squad moved out five minutes after an announcement over the Lorton public address system. The announcement told the inmates what was coming, although the prison grapevine was humming with rumors of an impending search most of yesterday.

Officials said the announcement was intended to "minimize any fears or apprehensions" among the inmates.

The volunteers agreed to undertake the search in return for time off. It was not clear whether the search would head off a strike threatened tomorrow by some members of Local 1550. American Federation of Government Employees, the union representing the guards.

Corrections officials yesterday were optimistic about averting a walkout. They noted that only 50 of 1,038 guards called for a strike during a heated meeting Tuesday. About 150 attended the meeting, and many had left when the voice vote to strike came.

Officials said the department would honor other commitments in addition to the shakedown to improve security. Among them were a metal detector for the Visitors' entrance, nameplates for inmates and improved lighting and watchtower facilities.

There was no immediate response to other guard demands, including a call for a grand jury investigation of the prison administration, resignation of Jackson, transfer of the D.C. Corrections Department to the U.S. Bureau of Prisons and the right to wear chemical weapons inside the prison.

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[From the Washington Star-News, Dec. 24, 1973]

### FOUR ESCAPE LORTON AS BULLETS WHIZ

Four inmates escaped from the Lorton Youth complex early today by scrambling over two barbed-wire fences as guards fired several shots at them, authorities said.

It was not known if any of the inmates were wounded as they dashed into the woods. Fairfax County police and Lorton guards began searching the area after the 12:30 a.m. escape.

Lorton Sgt. William Fletcher said a guard in Tower No. 2 at the Youth Complex spotted the inmates walking toward the first of two 12-foot fences shortly after midnight and shouted for them to stop.

Instead, they ran to the fence and began to climb over.

The guard fired one warning shot and a guard in Tower No. 1, on the other side, fired two warning shots, Fletcher said.

After the inmates had climbed over the fence and were starting on the second one, the first guard fired four more shots, this time aiming at the inmates.

The four men, however, made it over and dashed into the woods.

They were identified as Ricky Louis, 20, Michael Sweet, 18, and a 17-year-old all of whom were serving sentences for armed robbery. The fourth inmate, Joseph Frederick, 21, was convicted of burglary and grand larceny.

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[From the Washington Post, Dec. 29, 1973]

### PRISONER IS KILLED AT LORTON

(By Judy Luce Mann)

A 25-year-old Lorton inmate was found stabbed to death behind one of the institution's dormitories yesterday, D.C. corrections department officials said. He was the third person to be killed at the District's penal complex in the past month.

Daniel Strickland, administrator of the 1,100-inmate facility, identified the dead man as Tyrone Jefferson and said he was serving a 15-year-to-life-imprisonment term for two counts of armed robbery. Jefferson entered the prison in September, 1972.

Another inmate, Elbert Fleming, 33, was found stabbed and beaten to death in the shower at the minimum security section of the prison complex on Dec. 10.

A guard, Michael Roy Kirby, 26, was killed and his body was found stuffed in a manhole on Nov. 30. Both Kirby and Jefferson were killed inside the central complex, a medium security section of Lorton.

Strickland said there appeared to be no connection between the three killings, although he acknowledged that "there is always a possibility" the deaths are related.

He said the FBI, which is investigating the first two killings, arrived at 4:05 a.m. yesterday, less than two hours after Jefferson's body was discovered in the back of dormitory 16, where he lived. Jefferson's body, clad in underwear, was discovered by a guard.

Strickland, the veteran of private rehabilitation projects and of the D.C. corrections department who assumed his post Oct. 5, met with reporters outside the main gate of the 3,500-acre complex yesterday and discussed the killings.

Asked if he had any explanation for the incidents, he said, "I do not, other than the fact that these situations . . . do happen. The complex is quite large," he said, "and surveillance hinges upon the number of employees you have to patrol."

He said the staff is "insufficient to properly and adequately patrol these areas," where the 23 dormitories, each of which houses about 40 men, are located. "To prevent the type of incident that occurred this morning, additional staff is indicated," he said.

He estimated that a 20 per cent increase in the guard staff is needed but declined to say specifically how many guards there are now. He also said that more guards have been assigned to the night shift since the killings, and that they have been ordered to patrol in pairs.

After the Nov. 30 killing of Kirby, the Lorton guards demanded that a massive search for weapons be conducted in the central complex. This was held Dec. 13 and yielded some 70 illegal items, including home-made knives, narcotics paraphernalia and marijuana.

The weapon used to kill Jefferson has not yet been identified, according to Strickland, but when asked about its presence in the complex so soon after the shakedown, he again pointed to the size of the institution and said "unless you have a daily massive shakedown, it's difficult to prevent the fashioning of weapons."

Also in answer to questions Strickland said there was no evidence to indicate that a drug war was going on within the prison or that a "hit committee" was operating. He said, however, no reason for Jefferson's killing has surfaced.

(A "hit committee" is an organized group that kills people. Such a group might function, for example, in connection with a drug war at the institution.)

"He was a model type of inmate, active in the academic program," said Strickland. Jefferson, who was married and a native of the District, was working toward his high school equivalency certificate and also worked in the heating plant at the prison, said Strickland.

"He was a rather passive guy" who had "nothing in his record to support that he was a drug user," Strickland said.

According to jail records, which are computerized and do not include much detail, 13 charges have been lodged against Jefferson at various times, many of which were dropped. He served time in the Lorton youth center on a robbery conviction in 1970 and to which he was paroled in 1971, according to these records. He was returned to jail in July, 1972 and sentenced to Lorton in September on two armed robbery convictions.

Mr. WILLIAM L. SCOTT. Mr. President, I forgot to mention some matters in connection with the amendment that I have offered. While I indicated that my senior colleague from Virginia agreed with the amendment, I do want to ask unanimous consent that his name be added as a cosponsor of the amendment, Mr. HARRY F. BYRD, JR.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAM L. SCOTT. Mr. President, a companion bill has been introduced in the House of Representatives by the entire Virginia delegation, and I ask unanimous consent that that bill be printed in the RECORD at this point.

There being no objection, the bill (H.R. 3844) was ordered to be printed in the RECORD, as follows:

### H.R. 3844

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. (a) The facilities operated by the District of Columbia Department of Corrections in the State of Virginia commonly known as the Lorton Reservation and consisting of the Correctional Complex, the Minimum Security Facility, the Youth Corrections Center, and related facilities, all functions, powers, duties, and records of the Commissioner of the District of Columbia and the District of Columbia Council with respect thereto, and the care, custody, discipline, instruction, and rehabilitation of persons committed to or residing therein are transferred to the Attorney General of the United States.

(b)(1) The positions and personnel of the District of Columbia Department of Corrections (other than medical positions and personnel) who the Director of the Office of Management and Budget determines were employed in connection with any function, power, or duty transferred by this section are transferred to the Attorney General. All personnel transferred by this subsection shall continue to have the employment rights and privileges which they had on the day prior to the effective date of this Act.

(2) The medical positions and personnel of the District of Columbia Department of Corrections who the Director of the Office of Management and Budget determines were employed in connection with any function, power, or duty transferred by this section are transferred to the Secretary of Health, Education, and Welfare, together with such records as the Director of the Office of Management and Budget determines relate to their functions. Such medical personnel shall continue to have the employment rights and privileges which they had on the day prior to the effective date of this act.

(c) So much of the property, unexpended balances of appropriations, allocations, and other funds of the District of Columbia Department of Corrections as the Director of the Office of Management and Budget determines are used, held, available, or to be made available in connection with the functions transferred by this section are hereby transferred to the Attorney General or the Secretary of Health, Education, and Welfare, as appropriate.

(d) No contract for services or supplies made pursuant to authority granted by law by the District of Columbia Department of Corrections with respect to the Lorton Reservation shall be invalidated by the enactment of this Act.

Sec. 2. (a) All rules and regulations promulgated by the District of Columbia Department of Corrections with respect to the Lorton Reservation shall continue in force and effect until amended or repealed by the Attorney General.

(b) A person who is an inmate of the Lorton Reservation on the day prior to the effective date of this Act shall be subject to the provisions of law and the regulations governing good time allowances which were in effect with respect to him on the day prior to the effective date of this Act.

(c) A person who, on the day prior to the effective date of this Act, has work release privileges pursuant to the District of Columbia Work Release Act, approved November 10, 1966 (D.C. Code, secs. 24–461 to 24–470), shall remain subject to the provisions of that Act until his release from custody.

Sec. 3. (a) On the effective date of this Act, there shall be transferred to the Federal Prison Industries Fund such portion of the District of Columbia Correctional Industries Fund as the Director of the Office and Management and Budget determines is reasonably attributable to the occupational programs of the Lorton Reservation.

(b) On the effective date of this Act, funds previously paid into the work release trust fund by persons who are inmates of the Lorton Reservation on that date and who have been granted work release privileges prior to that date, shall be transferred to the custody of the Attorney General. Collections made after the effective date of this Act with respect to persons who have work release privileges on the effective date of this Act shall be made by the Attorney General and disbursed in accordance with the individual work release plan developed under section 7 of the District of Columbia Work Release Act (D.C. Code, sec. 24–466).

(c) All other funds belonging to or held for the benefit of employees of the Lorton Reservation or inmates therein shall be transferred to the custody of the Attorney General.

Sec. 4. (a) Section 937 of the Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901 (D.C. Code. sec. 24–405). is amended—

(1) by striking out "the jail or in the workhouse of the District of Columbia" and inserting in lieu thereof "facilities operated by the District of Columbia Department of Corrections", and

(2) by striking out "superintendent of the Washington Asylum and Jail for those confined in the jail, and upon the certificate of the superintendent of the workhouse for those confined in the workhouse," and inserting in lieu thereof "superintendent of the particular facility in which they are confined".

(b) The Act entitled "An Act to require that all inmates of the workhouse and reformatory for the District of Columbia shall be returned to and released in said District," approved June 10, 1910 (D.C. Code, sec. 24–406), is amended by striking out "the workhouse and reformatory for the District of Columbia" and inserting in lieu thereof "facilities operated by the District of Columbia Department of Corrections".

(c)(1) The last paragraph of so much of the first section of the Act of June 5, 1920, as appears under the heading "CHARITIES AND CORRECTIONS" and the subheading "REFORMATORY" (D.C. Code, sec. 24–418), is amended by striking out "the workhouse and the reformatory" and inserting in lieu thereof "facilities operated by the District of Columbia Department of Corrections".

(2) The third paragraph of so much of the first section of the Act of February 28, 1923, as appears under the heading "CHARITIES AND CORRECTIONS" and the subheading "REFORMATORY" (D.C. Code, sec. 24–418), is amended by striking out "at the reformatory" and inserting in lieu thereof "at facilities operated by the District of Columbia Department of Corrections".

(d) The Act entitled "An Act to establish a Board of Public Welfare in and for the the District of Columbia, to determine its functions, and for other purposes," approved March 16, 1926, is amended as follows:

(1) Section 6 of such Act (D.C. Code, sec. 3–106) is amended by striking out "(b) the reformatory at Lorton in the State of Virginia;".

(2) Section 7 of such Act (D.C. Code, sec. 24–411) is amended by striking out "the reformatory at Lorton in the State of Virginia,".

(e) Section 2 of the Act entitled "An Act to create a Department of Corrections in the District of Columbia," approved June 27, 1946 (D.C. Code, sec. 24–442), is amended by striking out "the Reformatory at Lorton in the State of Virginia."

(f) Section 304 of the District of Columbia Law Enforcement Act of 1953, approved June 29, 1953 (D.C. Code, sec. 4–134c), is amended—

(1) by amending subsection (a) to read as follows:

"(a) Whenever the United States Board of Parole has authorized the release of a prisoner convicted in the District of Columbia, it shall notify the Chief of Police of that fact as far in advance of the prisoner's release as possible.", and

(2) by adding after subsection (b) a new subsection as follows:

"(c) Except in cases covered by subsection (a) of this section, the Attorney General shall give notice to the Chief of Police as far in advance as possible, whenever a prisoner who has been convicted in the District of Columbia and is under sentence of six months or more is to be released from an institution under the management and regulation of the Attorney General."

(g) The Act of June 1, 1957 (D.C. Code, sec. 24–418a) is amended—

(1) by striking out "District of Columbia Reformatory located at Lorton, Virginia, at fair market prices determined by the Commissioners of the District of Columbia," and inserting in lieu thereof "facilities under the management and regulations of the Attorney General at Lorton, Virginia, at fair market prices determined by the Attorney General,", and

(2) by striking out the last sentence thereof.

(h) The first, second, and third provisos of so much of the first section of the Act of March 2, 1911, as appears under the heading "CHARITIES AND CORRECTIONS" and the subheading "WORKHOUSE" (D.C. Code sec. 24–403), are repealed.

(i) So much of the first section of the Act of September 1, 1916, as appears under the heading "CHARITIES AND CORRECTIONS" and the subheading "REFORMATORY" (D.C. Code, sec. 24–402), is repealed.

(j) So much of the first section of the Act of March 3, 1915, as appears under the heading "JUDICIAL" and the subheading "UNITED STATES COURTS" and relates to reimbursement of District of Columbia convicts (D.C. Code, sec. 24–424), is amended to read as follows:

"The cost of the care and custody of persons convicted of violations of laws applicable exclusively to the District of Columbia and committed to Federal penal or correctional institutions shall be charged against the District of Columbia in quarterly accounts to be rendered by the Attorney General of the United States. The amount to be charged against the District of Columbia shall be ascertained by multiplying the average daily number of such persons in the particular institution during the quarter by the per capita cost for all prisoners in the same institution for the same quarter, but excluding expenses for construction or extraordinary repair of buildings."

Sec. 5. Prosecution for violations of laws applicable exclusively to the District of Columbia which relate to violations of law in or affecting penal or correctional institutions of the District of Columbia (including the Lorton Reservation) committed prior to the effective date of this Act shall not be affected by this Act or abated by reason thereof and the penalties applicable to such violations shall apply to any person convicted of such a violation occurring before the effective date of this Act.

Sec. 6. (a) All functions, powers, and duties exercised by the District of Columbia Board of Parole on the day prior to the effective date of this Act are hereby transferred to the United States Board of Parole.

(b) There are hereby transferred to the United States Board of Parole all of the property, records, and unexpended balances of appropriations, allocations, and other funds available or to be made available, of the District of Columbia Board of Parole.

(c) The positions, members, and personnel of the District of Columbia Board of Parole are transferred to the United States Board of Parole and shall, with respect to all rights, privileges, and benefits, be considered as continuous employees of the United States Board of Parole without break in service. The former members of the District of Columbia Board of Parole and all other personnel transferred by this subsection may be assigned to such duties as the Attorney General deems appropriate, but without diminution of compensation or employment rights previously acquired.

(d)(1) The positions and personnel of the District of Columbia Department of Corrections who the Director of the Office of Management and Budget determines were employed in connection with the counseling or supervision of persons paroled or mandatorily released from the Lorton Reservation or the Women's Detention Center of the District of Columbia are transferred to the United States Board of Parole and shall, with respect to all rights, privileges, and benefits, be considered as continuous employees of the United States Board of Parole without break in service. Personnel transferred by this subsection may be assigned to such duties as the Attorney General deems appropriate, but without diminuation of compensation or employment rights previously acquired.

(2) Nothing in this subsection shall affect the employment by the District of Columbia Department of Corrections of personnel assigned to or employed in connection with halfways houses or similar community-based facilities of the Department of Corrections.

SEC. 7. (a) Persons convicted and sentenced in the District of Columbia prior to the effective date of this Act shall be considered for parole and paroled in accordance with the applicable laws in effect in the District of Columbia on the day sentence was imposed upon them.

(b) Persons on parole in the District of Columbia on the day prior to the effective date of this Act shall remain subject to all of the terms and conditions imposed upon them prior to the effective date of this Act and their parole shall be subject to termination or modification in accordance with the law in effect in the District of Columbia on the day prior to the effective date of this Act.

(c) Nothing in this Act shall affect the validity of warrants issued by the District of Columbia Board of Parole or any member thereof prior to the effective date of this Act.

SEC. 8. The District of Columbia Department of Corrections and all other agencies and officials of the District shall cooperate with the United States Board of Parole and shall furnish the Board with such information, files, and records as it may deem necessary in the performance of its duties.

SEC. 9. (a) The Act entitled "An Act to establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes," approved July 15, 1932, is amended as follows:

(1) Section 5 of such Act (D.C. Code, sec. 24–205) is amended to read as follows:

"SEC. 5. Any officer of a facility of the District of Columbia Department of Corrections or any officer of the Metropolitan Police Department to whom a warrant of the United States Board of Parole for the retaking of a parole violator is delivered, shall execute the warrant by taking such prisoner and returning him to the custody of the Attorney General."

(2) Sections 4, 6, 7, 9, and 10 of such Act (D.C. Code, sections 24–204, 24–206 to 24–209) are repealed.

(b) The Act entitled "An Act to reorganize the system of parole of prisoners convicted in the District of Columbia", approved July 17, 1947 (D.C. Code, sections 24–201a to 24–201c), is repealed.

(c) Title 18, United States Code, is amended as follows:

(1) Section 4202 of such title is amended by inserting "or District of Columbia" immediately after "A Federal".

(2) Section 4205 of such title is amended by inserting "or District of Columbia" immediately after "any United States".

(3) Section 5025 of such title is amended—

(A) by amending subsection (b) to read as follows:

"(b) The Director of the Bureau of Prisons may contract with the District of Columbia for the treatment, rehabilitation, or supervision of youth offenders committed to the custody of the Attorney General by courts in the District of Columbia. With respect to youth offenders convicted in the District of Columbia of violations of laws of the United States not applicable exclusively to the District of Columbia, the cost shall be paid from the 'Appropriation for Support of United States Prisoners.' "; and

(B) by repealing subsection (c).

(4) Section 5026 of such title is amended by striking out ", or of the Board of Parole of the District of Columbia,", and "respectively,".

SEC. 10. Such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate the transfers referred to in this Act shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 11. This Act and the amendments made by this Act shall be effective the first day of the sixth month following the date of enactment of this Act.

Mr. WILLIAM L. SCOTT. Mr. President, I have just conferred with the majorty leader. I therefore ask unanimous consent that there be a rollcall on my amendment at 1:30 p.m. on Wednesday.

Mr. JAVITS. Mr. President, reserving the right to object, I understand the situation. However, I would like the indulgence of the Chair so that I might ask whether, if this stipulation is entered into, a motion may be made to table the pending amendment.

The PRESIDING OFFICER. If a specific hour is agreed to, at which to vote on the adoption of the amendment, any other action would not be in order.

Mr. JAVITS. Mr. President, this is a problem which arises in respect to putting this particular amendment on the pending bill. It really would not be fair to the proponents of the bill to shut off that right.

Mr. MANSFIELD. Mr. President, if the distinguished Senator from Virginia would agree, I would make that stipulation, because it is in order. I had not thought of it at the time that the request was made.

Mr. WILLIAM L. SCOTT. Mr. President, I have no objection to adding that provision to my unanimous-consent request. However, I would hope that the distinguished Senator from New York would not make such a motion. I do recognize that it is within his right.

I am ready to vote now. However, at the request of the distinguished majority leader, I asked unanimous consent that the vote be at 1:30 on Wednesday.

Mr. JAVITS. Mr. President, do I correctly understand that a motion to table the amendment will be in order on Wednesday?

The PRESIDING OFFICER. The Senator is correct.

Is there objection to the request as stipulated above? The Chair hears none, and it is so ordered.

### OPPOSITION TO LEGAL SERVICES CORPORATION

Mr. ALLEN. Mr. President, I oppose the creation of an independent Legal Services Coporation as provided by S. 2686. In short, the bill proposes a socialist-oriented corporation, independent of governmental supervision, but designed to utilize the powers of Government and taxpayers' funds to accomplish socialist objectives.

Mr. President, let me elaborate on two aspects of the proposal. First, there is language in separate provisions of the bill, and language in the committee report on the bill which makes its unmistakably clear that the corporation to be created shall not be inhibited by considerations of accountability to the people in the implementation of its class action type activities. The Corporation will operate independently of the will of State and local governing bodies, free of policy guidelines established by Congress, and free of influence from the executive branch of Federal Government. In short, the Corporation will be empowered to establish policies and fund programs without regard to the will of the people or the will of their elected representatives.

Second, the legislative history of the Coporation to date clearly indicates that it is intended to utilize the class action type of lawsuits against State, local, and Federal agents and agencies of Government to establish public policies and implement such policies by means of judicial decrees. We are being asked to create an independent corporation free of normal governmental restraints to accomplish legislative purposes.

Mr. President, I suggest that to create a truly independent agency of the Federal Government, such as the Legal Services Corporation, and to empower it, and fund it, for the purpose of utilizing the judicial system of government to effect social, economic, and political changes, is a dangerous departure from sound principles of constitutional government. In reality, the Corporation will be performing, in conjunction with the courts of the land, the legislative function of establishing public policy and accomplishing the amendment or repeal of laws enacted by Congress by the process of seeking judicial decrees for that sole purpose.

Mr. President, our Federal Government is already top-heavy with agencies not accountable to the people. Are we to add to an independent judiciary an independent agency to perform both an executive and a legislative function? Is the fate of State and local governments and decisions affecting national policy to be left to the discretion of a handful of radical lawyers and judges? But such, as I see it, is the purpose of the Corporation, and it is an innovative and a radical departure from our proven system of constitutional government.

Mr. President, let me illustrate certain types of activties to be funded by the Legal Services Corporation. One tool of this independent corporate structure will be the so-called back-up centers, funded by the taxpayers. These centers will continue to be paid to do research for poverty lawyers in ways and means of utilizing the courts to accomplish drastic reforms in our political, economic, and social institutions. For example, here we set up a corporate, the Government sets it up, for the purpose of allowing it to bring lawsuits against the Government itself.

Mr. President, let me elaborate for a moment on the role of these backup centers.

Recently, a copy of a professional journal called the Clearinghouse Review came to my attention. This review is published by the National Institute for Education in Law and Poverty, under a contract between Northwestern University and the Office of Economic Opportunity.

Mr. President, while ostensibly providing a factual recording and accounting of cases, job listing in "poverty law," forums on certain issues, and legislative news notes, it has a distinct bias against "the system" and is a dedicated advocate of the poor as a distinct class in the Marxist context of class struggle against the system. I am advised that the Clearinghouse Review is perhaps the most significant publication in the whole area of "poverty law." I might add that "poverty law" is a booming phenomenon, even though one must think that poverty is on the decrease. If proverty standards of 1964 were in effect, poverty would be very much less today. However, since the threshold is continually being lowered, more and more persons are coming under the definition of poverty. It is ironic that the Office of Economic Opportunity, which now has control of the legal services aspect, supposedly dedicated to eradicating poverty, has succeeded in accomplishing a tremendous expansion of that class. It is reasonable to expect that an independent Legal Services Corporation will do the same.

Mr. President, the poverty lawyer profession, as reflected in the Review is remarkably class oriented. To quote a typical passage:

> Poor children . . . will continue to be discarded by the educational system run by and for the middle class. (p. 532, Vol. V, No. 9, January, 1972.

How familiar that sounds, but hardly objective; hardly a statement of fact.

Education is only one area the Review dabbles in. Nixon welfare proposals came in for a blast before his proposals were actually submitted to Congress; police surveillance is attacked; as are draft laws; abortion laws; juvenile laws; housing projects; laws against homosexuality; municipal services; unemployment compensation; bankruptcy; prison discipline—in which the Review drafted a proposed bill for congressional consideration—and on and on and on.

It is interesting to note that very few of the reported cases in which legal services lawyers are involved concern individuals as individuals. By far the majority are class-action cases and typical of what is to be expected under auspicies of an independent corporation.

Mr. President, in July 1970, a rumor circulated that the National Institute for Education in Law and Poverty, which publishes the Clearinghouse Review, was going to lose its OEO funding. The Acting Director, Thomas D. Buckley, responded with an editorial in the pages of the Review which made quite clear the role of the publication from the activists' points of view. I will read from the July 1970, issue of Clearinghouse Review, pages 119 and 120.

> We were always viewed in Washington, and saw ourselves as a proper instrument for turning Legal Services national policy and ideals into action. That's why welfare law was made a subject for treatment nationally in 1968, when it was relatively new, and generally poorly practiced. And that is why "law-reform" and "test cases" were stressed when it was necessary to orient Legal Services nationwide toward those goals. . . . You should not presume that because much of what the Clearinghouse does is "mechanical" it will be easy to set it up elsewhere and achieve comparably effective performance. Nor should the editorial integrity of the Clearinghouse Review, not the Review's usefulness as an open forum for Legal Services Lawyers to speak to each other on important matters, be presumed to be transferable. Finally, it has to be recognized that the Clearinghouse files have many uses. . . . You must make the agency (OEO) understand the importance to you of maintaining, unchanged, the only means by which.uncensored articles and comments can circulate within Legal Services ranks.

From their own mouths, here, the mouthpiece of the profession of poverty lawyers is admitting that without Federal tax funds, to support the publication, its effectiveness and its circulation would be seriously hampered. Without the support of information coordination and exchange services like the Clearinghouse, I would venture to say that half of the revolutionary judicial decisions of the past few years would not have come to pass including the decision legalizing abortion and the decision abolishing residency requirements for welfare eligibility.

Perhaps someday someone will do the comprehensive study required to demonstrate the connection between supposedly antipoverty efforts and the soaring costs of welfare, the increase in teenage immorality, and the future of American education. The Clearinghouse, of the National Institute for Education in Law and Poverty, is considered a back up center. The independent Corporation would allow the continuation of such centers, thus perpetuating and even expanding the resources available to activist class-oriented poverty lawyers.

Mr. President, I do not think it should be necessary for me to say any more to express my continuing disillusionment with the whole idea of eliminating poverty by making poor people a political class. That is what this bill would seek to do. The Legal Services Corporation which we are shortly to be asked to create can be counted on to continue the class struggle against the middle class, hardworking, taxpaying citizens.

### QUORUM CALL

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. NELSON. Mr. President, on January 24, the distinguished majority leader propounded four, I believe, unanimous-consent requests respecting time limitations on debate on the pending legislation.

I ask that the excerpt of the majority leader's requests and the responses of the distinguished Senator from Alabama (Mr. Allen) be printed in the Record.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

### Unanimous-Consent Requests

Mr. Mansfield. Mr. President, as indicated under the order laid down by the Senate, calendar No. 471, S. 2686, a bill to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, will be laid before the Senate on Monday next.

At this time, I am going to propose a series of unanimous-consent requests, seeking to bring about a limitation of time.

I ask unanimous consent that when the Senate takes up the legal services bill (S. 2686) on Monday, January 28, there be an additional 4 hours of general debate, divided between the proponents and opponents—between the majority leader or his designed and the junior Senator from North Carolina or his designee—followed by 2 hours of debate, divided evenly as above, on a motion to recommit or commit to any committee, if such motion is offered, followed by a vote on such motion, followed by 1 hour of debate, evenly divided as above, and a vote on each amendment in the nature of a substitute now pending if called up by its sponsor, followed by one-half hour of debate, evenly divided as above, and a vote, on each other amendment now pending if called up by its sponsor, followed by an additional 4 hours debate on the bill, evenly divided as above, and a vote on the bill, it being understood that any Senator controlling time may choose to use less than his allotted time, and that motions to table remain in order under the usual rules.

Mr. Allen. Mr. President, reserving the right to object, as the Senator from Alabama recalls the situation that existed last year when this measure was pending in the Senate, it was not the unfinished business or even the pending business that was in the Senate and on the calendar. An agreement was made, I understand, not on the bill but, as the Senator from Alabama recalls, an agreement was made with the distinguished junior Senator from North Carolina (Mr. Helms), that this matter would be laid down on January 28. Unless this request has been cleared with the Senator from North Carolina, the Senator from Alabama would feel that the Senator from North Carolina, who is out of the country at this time as I understand it, unless he has returned, would have felt that no action would be taken on the bill until January 28, inasmuch as it was going to be withdrawn from the Senate until January 28.

So I respectfully inquire of the distinguished majority leader whether such request has been cleared with the distinguished junior Senator from North Carolina.

Mr. Mansfield. No. May I say that I made inquiries, but, as the Senator has indicated, the Senator from North Carolina is absent from the Senate on official business.

Mr. Allen. If the Senator from North Carolina were on the floor and agreed to this, the Senator from Alabama would raise no objection. I am wondering whether the distinguished majority leader recalls that this matter was to be laid down on the 28th, and would not that give rise to the supposition that nothing would come up with respect to the bill until it was pending before the Senate?

Mr. Mansfield. That is correct, but that is the only piece of business on the calendar, excluding the genocide treaty, which is just as controversial, if not more so. The intention of the Senator from Montana was to make this request at this time, to see if we could work out some sort of modus operandi on a time limitation basis in the consideration of this most important bill.

Mr. Allen. I thank the distinguished Senator for his explanation. However, inasmuch as the Senator from North Carolina did discuss this matter from time to time with the Senator from Alabama, the Senator from Alabama would feel that, in order to protect the interests of the Senator from North

Carolina, he would have to object to the unanimous-consent request.

Mr. MANSFIELD. I understand.

Mr. GRIFFIN. Mr. President, if the majority leader will yield for a moment. I should like to say that if the Senator from Alabama had not objected, I would feel constrained, in my responsibility as the acting minority leader at this time, to object on behalf of the Senator from North Carolina, because I also have not had an opportunity to check with him. I would not object in my own personal capacity, but in my capacity as the acting minority leader, I would.

Mr. MANSFIELD. Even though I am in favor of the bill, had I been in the position of the distinguished acting Republican leader, I would have done the same. Certain obligations are imposed upon us which we must observe and cannot avoid.

Mr. President, I ask unanimous consent that, when the legal services bill, S. 2686, becomes the pending business on Monday, January 28, there be 6 hours of additional debate on the bill, 4 hours to be controlled by the junior Senator from North Carolina or his designee, and 2 hours to be controlled by the majority leader or his designee, followed by 2 hours debate divided evenly, on a motion to recommit or commit to any committee, if such motion is offered.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Mr. President, reserving the right to object, is this not just a similar request, possibly giving more time? Does it not apply to the same bill?

Mr. MANSFIELD. Yes.

Mr. ALLEN. I would have to interpose an objection, or I will yield to the distinguished Senator from Michigan to object.

Mr. GRIFFIN. I will object, for the same reason.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, when the legal services bill (S. 2686) becomes the pending business on Monday, January 28, the junior Senator from North Carolina or his designees be recognized for the entire period of time during which the Senate remains in session on that day, except that the majority leader or his designee shall be entitled to be recognized for 1 hour; and that at the end of the morning hour on Tuesday, January 29, the legal services bill (S. 2686) remain the pending business, or, if it is not the pending business, at that time, become the pending business; and that there be 2 hours of debate, divided evenly, on a motion to recommit or commit to any committee, if such motion is offered.

Mr. GRIFFIN. Mr. President, I would have to object for the same reasons.

However, I invite the majority leader to propound these or other requests at such time as the junior Senator from North Carolina is on the floor to speak for himself.

Mr. MANSFIELD. I understand, and again I must say that I appreciate the position of the Senator.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. I have one more unanimous consent request.

I ask unanimous consent that when the legal services bill, S. 2686, becomes the pending business on Monday, January 28, the junior Senator from North Carolina or his designees be recognized for the entire period of time during which the Senate remains in session on that day, and for the entire period of time available for debate on Tuesday, January 29, except that the majority leader or his designee shall be allotted 1 hour on each day; and that at the end of the morning hour on Wednesday, January 30, the legal services bill (S. 2686) remain the pending business, or become the pending business, depending on the situation, and that there be 2 hours of debate on a motion to recommit, 1 hour on each substitute, and one-half hour of debate, evenly divided, on each other amendment.

Mr. GRIFFIN. Mr. President, these are very ingeniously worded and drafted proposals, and they have great appeal to the junior Senator from Michigan, especially since he supports the administration's position on this bill; but for the same reasons that were indicated before, I will object, on behalf of the Senator from North Carolina.

The PRESIDING OFFICER. Objection is heard.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. ALLEN. I wonder whether one of the legal services attorneys might possibly have prepared these unanimous-consent requests the majority leader has been reeling off?

Mr. MANSFIELD. May I say to the distinguished Senator from Alabama that the majority leader has done his duty.

[Laughter.]

Mr. ALLEN. I understand.

Mr. NELSON. Mr. President, I wonder whether the distinguished Senator from Tennessee (Mr. BROCK) would respond to this request. Is he prepared to agree to any time limitations at all on debate on the pending legislation?

Mr. BROCK. Mr. President, I do feel that we may be coming closer to a meeting of the minds on this bill—I very much hope so—but we have not reached that point yet. Until that position is defined more specifically, I would not be able to agree to any specific limitation at all.

Mr. NELSON. On either amendments or the bill itself?

Mr. BROCK. Not at this time. I hope that at some point we might.

Mr. NELSON. I thank the Senator.

Mr. HELMS. Mr. President, I submit for insertion in the RECORD certain letters of mine with reference to the Legal Services Corporation bill, S. 2686.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, D.C., January 24, 1974.*

Hon. JACOB JAVITS,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR: As usual, I have been deeply gratified by your sense of courtesy and fair play even though we have taken opposite positions over the legal services corporation bill. Now that the pressure is off, I suspect that we are not really so far apart on our positions as it may have seemed.

Why don't those of us who are disturbed by elements in the bill and those of you who feel that compromise has gone far enough agree on a parliamentary maneuver that will not do damage to either side. I suggest that we agree to have the Judiciary Committee take a look at the bill—perhaps, if you desire, with a report back by a certain date. As you know, Judiciary has capable advocates for both sides of the question. It may be that no modifications would take place, but the bill would take on the tone of a greater consensus and of a greater regard for its impact upon the legal system of this Nation. The alternative would be a bitter fight on the Senate floor. In the present state of our country, I think that should be avoided.

This proposal would entail only a small additional delay, but the moment of urgency has passed, and the gain to the legislative process would be worthwhile.

I will appreciate hearing from you at your convenience.

With every good wish, I am
Sincerely,
JESSE HELMS.

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U.S. SENATE,
*Washington, D.C., January 24, 1974.*

DEAR COLLEAGUE: Please forgive me for intruding upon your time at home. I promise not to do this often but, in this instance, I wanted you to know my feelings about the situation that exists concerning a piece of legislation coming before us shortly.

On January 28, the Senate, by unanimous consent, will resume debate on S. 2686, the Legal Services Corporation bill. Although the Senate has twice refused to cut off debate on this bill, it is expected that its proponents will once again file a petition for cloture.

As you know, a number of Senators are deeply concerned that no hearings were held on this bill in the 93rd Congress. It is a brand new bill, written in the Senate Labor and Public Welfare Committee while the House-passed bill was held at the desk in the Senate. And in spite of the fact that the announced intention of the bill is to have a deep impact on the delivery of legal services in this nation, the Senate Judiciary Committee has not had the opportunity to review the bill. For these and other reasons those who oppose the bill have prepared nearly 100 substantive amendments in an attempt to meet objections raised against S. 2686.

Even if cloture is obtained, it is my belief that most of the Senators who have proposed these amendments intend to bring them up for as much debate as time will allow and for roll call votes thereon.

Please let me assure you that I have no desire to hold up the Senate in a protracted and painful debate. I only wish that the Senate could have considered these matters in the course of the normal legislative process.

The point is this: The matter could still be resolved quickly if S. 2686 were submitted to the Judiciary Committee for consideration, perhaps with a report back by a date certain. I anticipate that such a motion will be offered, and I solicit your support.

I also want to bring to your attention the fact that a study sponsored by the American Bar Foundation has come to the conclusion that staffed legal services centers (of the sort to be perpetuated in S. 2686) are inferior in meeting the client's needs when compared to the "judicare" approach that would be fostered by the Brock-Helms Legal Aid Corporation bill (S. 1900). A copy of that study is enclosed for your reference.

With every good wish, I am
Sincerely,
JESSE HELMS.

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Mr. McCLURE. Mr. President, once again I would like to give legal services lawyers a chance to tell the people first-hand what their ideas of practicing law with public money are. As before nothing has been changed, added or omitted from the copy with the single exception that this time I have instructed the printer of the RECORD to omit certain words which I think will offend my constituents. Those who wish to read the chapter in its entirety can find it under the title "The People's Lawyers" by Marlise James. In it you can read about the lawyer "who has many personal friends who are highly intelligent, educated, sophisticated people who do sell drugs as a part-time thing to survive and pursue art activities or activities that actually benefit our society." Or there may be more interest in the lawyer who expresses his respect for the courts before which he litigates in the following manner:

> The courts won't be able to keep the lid on very long when people tear the prisons down and the courts realize they have no place to hide the people they don't like or don't understand.

They may be concerned about the fact that criminals who prey mostly on the poor are to be defended and released upon society by the enactment of the very bill which purports to make the poor its beneficiary.

Mr. President, I ask unanimous consent that a chapter of "The People's Lawyers" be inserted in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

[Excerpts from The People's Lawyer]

SAN FRANCISCO, CALIF..

(By Marlise James)

San Francisco is the real melting pot of post-World War II American culture. Here people of the establishment, of minorities, of the counterculture physically live side-by-side in relative harmony, although each group sustains itself through its separate mental and cultural ambiance.

Perhaps because of the natural beauty of the environment, perhaps because, after the earthquake of 1906, people can never forget that they are the encroachers liable to be shaken from their homes without a moment's notice, this city, even in bad times, seems somehow more friendly than most other American cities. It is a city of experiments and experimenters. The free speech movement, the Black Panther party, the hip subculture all began in the Bay Area, and the return-to-the-land movement had its full twentieth-century flowering there.

The diversity of the city, the sense of experimentation, extends to its radical law community. What movement lawyers are doing here now, other movement lawyers in other parts of the country will probably be doing in six months or a year, since San Francisco seems always to be that much ahead of the rest of the country.

What the radical lawyers there are now doing covers a wide spectrum. San Francisco's radical law community consists of young lawyers, a little-bit-too-old-to-be-young-but-keeping-with-it lawyers, older lawyers, counterculture lawyers, lawyers-turned-organizers, organizers-turned-legal-workers, revolutionary lawyers, liberal-radical lawyers, and on through every permutation of radical lawyer, legal worker, or general political person.

Vincent Hallinan is an older lawyer, probably the oldest active lawyer in the community. He is seventy-seven years old and still as much a fighter as he has always been. Recently he was cited in *Ripley's Believe It or Not* for playing Rugby for thirty minutes when he was seventy-three.

He is, of course, an Irishman, and gives one the impression that he has tried to live up to sprightly, cocky, pugnacious-in-a-friendly-way image that all Irish-American men seem to favor. He was born in San Francisco in 1897 to immigrant parents. His father was a streetcar conductor and was active in the early unionizing efforts of his occupation. Because a lawyer kept the family from being evicted from their basement apartment which the landlord wanted to use for storage space after the big earthquake, Mr. Hallinan decided that nine-year-old Vince should grow up to be a lawyer. Neither Hallinan ever wavered from that decision.

Vince Hallinan attended parochial schools, and, at fifteen, was declared bright enough to be put in the hands of the Jesuits. From that time through law school, he attended the St. Ignatius schools in San Francisco. He recalls that, at one point in his career when he was suspended from practice, he tried to go back to school at the University of California and found that all of his schooling, including law school did not qualify him to be a freshman there.

While attending St. Ignatius Law School he worked for Daniel Ryan, a lawyer who let him handle most of his Justice Court work. He took the bar examination the first time it was given by a board of bar examiners, passed it, and soon went out on his own. His first year in business he made $20,000 as the result of winning a probate case. Shortly thereafter he decided to take on the jury-planning system in San Francisco. In that system, only those people the bosses of the city knew and wanted for the job would be selected for jury duty.

"The jury commissioner was an out and out gangster. He, his partners, and his boss had conducted the gambling ring in San Francisco. When I took him on he managed to have a grand jury indict me three times for various felonies. I beat them all, and, eventually, I beat him and that planting system."

Those two events in the beginning of his practice set the tone for Hallinan's professional life; he was then, and remains, a fighter for reform and a rich lawyer—eventually, a self-made millionaire. In the fifty-plus years since he started practicing he has covered so much territory that it has made a book in itself, *A Lion in Court*.

His most famous case, and one that changed his own life radically was the Harry Bridges case in 1949. Harry Bridges was the controversial dock worker organizer who formed the International Longshoremen's and Warehousemen's Union. For his efforts on behalf of the labor movement he was rewarded, by the government, with a long period of harassment which culminated in this case. Bridges was being tried, along with two of his coworkers for conspiring to defraud the government of citizenship for himself. The government claimed that, when Bridges had applied for citizenship in the early forties, he had lied by saying that he had never been a Communist and that his coworkers, who had signed his citizenship application, had also knowingly lied.

The trial occurred as the witch hunt was going into full swing, shortly after the trial of the first Smith Act defendants in New York. Hallinan was cited for contempt on the second day of the trial and sentenced to six months. He successfully argued that the sentence be stayed until the completion of the trial.

The Bridges trial lasted five months at the end of which all of the defendants were found guilty and sentenced to the maximum terms. The Supreme Court did eventually overturn the conviction on the ground that the statute of limitations had expired at the time the indictments were returned. They did not, however, grant Hallinan's writ on his contempt conviction so he served six months, March through August of 1952, in the federal penitentiary at McNeil Island, Washington.

It was an unfortunate time for him to be incarcerated since he had previously been nominated as the Progressive party's candidate for president. His family campaigned for him but it was to no avail. The left in this country was so fragmented and frightened of the rising tide of McCarthyism that Vince made a poor showing and the party perished in that election.

Because of his candidacy, the government proceeded to harass him in whatever ways it could think of. At that period of history, it could think of quite a few. First he and six associates were indicted, in March 1953, for conspiracy to defraud the government, a charge that arose out of the transfer of a deed of trust. Because Hallinan had been in New York during the entire period when the conspiracy was supposed to have been in progress, the defendants won.

Three months later Hallinan and his wife, Vivian, were indicted for income tax evasion. After a trial in which much was made of their contributions to organizations that were on the attorney general's list, Ms. Hallinan was acquitted and Hallinan was convicted and sentenced to eighteen months which he began serving in January 1954, again on McNeil Island but this time in the prison and not the prison farm. Because of his conviction, efforts were made to disbar him, and the case went to the Supreme Court, which refused to disbar him but did suspend him from practice for a three-year period.

These experiences did not dampen his fighting spirit. When he was washed down the steps of the San Francisco City Hall on "Black Friday" of the 1960 House Un-American Activities Committee hearings, along with those of the young people demonstrating there, he filed suit against the police commissioner. The suit's basis was that the commissioner wasn't a resident of the city. The suit was successful and the commissioner was discharged, although he was later appointed city manager.

Of his six sons, two—Terry and Patrick—are also lawyers and ones with the same spirit. After Terry passed the bar examination the state bar refused to admit him on the grounds that he had been involved in all kinds of civil rights disturbances. They took the case to the Supreme Court, which required the state bar to admit him. On another occasion Vince defended Terry, who was charged with assault of a policeman.

"He had appeared as attorney for a group sitting in at San Francisco State during the demonstrations there and had tried to stop a policeman from excessively beating two young women. They hit him on the head and inflicted a wound that required sixteen stitches and then charged him with assault. We stood trial in front of a bastard judge who wouldn't tell the jury that Terry had the right to stop the cop from using unnecessary force, so the case was retried in front of another judge and we won an easy acquittal. Then we brought suit against the city for damages."

Vince's case load is light now. He only takes free cases that have a particular significance. Both Terry and Patrick now practice in the same office with him.

In 1972 he ran for judge of Department II of the Superior Court of San Francisco. Although he fought a good race under the slogan of "Humanize the Courts," he was defeated by the incumbent.

Vince has been a member of the National Lawyers Guild since it began.

"The younger people in the Guild are much more revolutionary than the older ones, and they are right to a large extent. The notion that you can effect changes through the courts is pretty much washed out. The courts are simply instruments of the status quo, extensions of the cop's club, and anyone who thinks he is going to get relief from them is kidding himself.

"I'm a socialist, surely. I think this whole system has to be kicked out. So I like the younger lawyers with their law commune ideas because that is approaching law practice in the socialist countries. The capitalist system is not the answer to the problems that confront mankind. Personally, I am extremely pessimistic about man's fate, and I don't think there are any real answers, but I do think that the unjust distribution of wealth must, and can, be corrected. I think that a good number of people in the United States are beginning to see that, and want to overthrow the capitalistic system. I don't necessarily mean armed or violent revolution, just revolutionary change. The revolution we have to watch out for now is a right-wing one. Nixon is a fool being run by madmen. The repression we are into now is the worst one we've had in this century. Many more people now are at least potentially involved.

"Basically, I believe in the perfectibility of man, but I'm still pessimistic. I think man is evolving and will eventually get rid of poverty, disease, illness, wars, racism, discrimination. And just about the time he arrives there the world will swing into the tail of a poisonous comet and wipe out the whole tragic farce in one fell swoop. Man is the victim of a malign destiny. It isn't his show. It's God's, whoever he is."

Another firm composed of fighters who have won their stripes in a series of legal battles, albeit not as long a series as Vincent Hallinan's, is that of Garry, Dreyfus, McTernan & Brotsky. Because of his role as chief defense counsel of the Black Panther party, Garry will be discussed in section III.

Benjamin Dreyfus, born in 1910, is a native of San Francisco. He went to Stanford University, then tried to make his living in business for four years before deciding to become a lawyer. He then attended Stanford Law School, and, because of the politics of that time—the 1934 Upton Sinclair campaign and the workings of the National Labor Relations Board (NLRB)—decided to be a lawyer for the oppressed.

"I began practicing here in 1939, joined the Guild as soon as I was admitted to practice, and started working as a lawyer for people who were getting kicked around."

He continued practicing on his own until he formed a partnership with Frank McTernan in 1945. Around that time he also served as executive secretary of the San Francisco Guild chapter. From 1960 until 1962 he served as president of the Guild.

The man he originally joined in partnership, Francis McTernan, was an Amherst College and Columbia Law School graduate who had begun his legal career as an attorney for the NLRB in Washington. Almost immediately after he joined that organization he was sent to California to investigate charges that the Associated Farmers were engaging in unfair labor practices against workers who were trying to organize. He found that they were but could not prove it.

When a budget drive spearheaded by the Chamber of Commerce resulted in his being let go from the NLRB, McTernan came to San Francisco and worked with a commercial law firm for a year and a half before going into the navy.

After the war he joined with Dreyfus in partnership, then, in 1948, ran for Congress on the Independent Progressive party ticket. He withdrew at the end of the campaign to throw his support to the liberal Democrat who was running. McTernan served as president of the San Francisco Guild chapter from 1958 through 1960.

In 1957 McTernan and Dreyfus joined with two lawyers they had known through the Guild, Charles Garry and his partner, Julius Keller, to form the nucleus of the present nine-man firm. Shortly after the firm began, Julius Keller died.

Allan Brotsky, one of the newer members of the firm, although he is an old-time friend of its nuclear members, was born in Detroit and raised there and in Denver. He went for a year to the University of Colorado, then finished college at UCLA.

"At the University of Colorado I was exposed to socialism for the first time and it blew my mind. It was almost a revelation to find out that that kind of an alternative existed. Then in Los Angeles I was involved in political activity and in the struggle to organize migratory workers, and it was at that point that I decided to be a lawyer for the people. I went to Columbia Law and organized a group there that became a Guild chapter. After graduating I spent six months in a labor law firm that mainly represented the CIO unions in the New York area. When the war came, I went into the army as a signal corpsman.

"After that, I worked for the United Electrical Workers in New York for a while, then came out here and joined the leading CIO labor law firm where I remained for seven years. Almost as soon as I joined that firm, the CIO expelled the left unions and the witch hunt began. We took on the legal battles of the expelled unions and grand jury attacks on the radical movement and attempts to tie people in with espionage rings.

"In 1955 a number of us left that firm to start our own firm, doing the same kinds of things plus immigration cases of people the government was trying to deport on the basis of the McCarran Act. We were also involved in the cases of doctors and dentists who were being drafted into the army as privates because of faceless informers making charges against them or their friends or relatives. The movement then was at its lowest ebb. I continued my Guild membership but the Guild was very quiet. There were discussions about whether it was worthwhile to have it continue after the attorney general proposed to place it on his subversive list with no notice or hearing. The Guild brought a lawsuit in D.C. and, after many years of stalling, the attorney general admitted he was wrong and dropped his efforts to declare the Guild subversive.

"But the damage had been done. The Guild was fighting for its life. A lot of people had been scared and resigned. It took a while before the Guild got back on its feet.

"After a few years with that firm I went on my own doing labor, civil rights, and defense criminal work. In 1967, ten years after this firm had been organized, I joined it. This firm has supported itself by general practice, mainly personal injury work which is the most lucrative, but in the last three and a half years I think we have done more movement work than any other office in the country. When we started doing so much movement work, especially when we took on the Panther work, we were lucky because we had good roots in the community from before, so people would still come to us. If that hadn't happened, I don't think the firm would have survived.

"Aside from those of us with our names in the firm name, there are five other lawyers in the office—James Herndon, Donald L. A. Kerson, Robert S. Marder, David E. Pesonen, and William F. Schuler—and seven other workers. We have a team here where everybody does whatever they are best qualified to do. None of our staff feel that they are oppressed. The idea of a lawyer answering the phones, et cetera, doesn't make sense to any of us. The lawyers have their level of income and, in the years when we reach that, we share the profits beyond that. That doesn't happen too often because we usually have financial problems although, so far, we have managed to survive."

Their case load, like the Center for Constitutional Rights, reads like a *Who's Who* movement cases, although with more of a West Coast and more of a Black Panther party orientation. They've been involved in Bobby Seale's trials, Huey Newton's trials, David Hilliard's trials, the Lois Siete case, the Oakland Seven, the Angela Davis case, other shootout cases, and the whole gamut of draft cases.

"I wouldn't say," said Brotsky, "that our views on the Panthers are uniform, but the thing that unites us is the belief that the Panthers are an important part of the movement, particularly the movement for Black liberation. Charles is personally more involved because, except for Lois Siete and Oakland Seven, he's been doing nothing but Panther work for the past four years. But we're all deeply committed by conviction. Charlie has been made a star by the press and the movement rank and file by the publicity he has received from his Panther work, but he's not a star in the office and he doesn't conceive of himself as such, nor do we. He's just the part of the team that has gotten the most publicity because he has been in court and or the front line so much.

"To some extent, the courts are being reformed every day. Whether these reforms mean anything, I don't know. I don't think our society, as presently constituted, can ever have justice for Black people, for the poor or the young or revolutionary movement people because the society is a class society and that can never give justice to all members of the opposing classes who are trying to liberate themselves.

"But I think it is important to struggle for all of the rights and safeguards we now have in the courts so that the right to struggle and organize will be preserved. It's a hell of a lot harder to have a movement in a fascist state than it is in a conservative, democratic state. I'm optimistic. I think the people of the world are going to win their battle to make the world a humane, comradely, humanistic place for all people."

Garry, Dreyfus, McTernan & Brotsky is not the only San Francisco firm with a *Who's Who* case load of movement cases, nor with a media star in its midst. The other firm sharing this dubious honor does, in fact, go the Garry firm two better since one of its two partners and two of its associates are media stars of the radical law movement. The firm is that of Michael Kennedy and Joseph Rhine, and associated with the firm are Dennis Roberts and Michael Tigar. They are housed in a big red house with a largely red and black interior in which Mike Kennedy feels very much at home, partly because he is an Aries surrounded by Arien colors, and partly because it was decorated by his wife, Eleanore, who is an interior designer.

Kennedy was born in Spokane and raised there and in Seattle until he was ten when his family moved to Corcoran, California, the San Joaquin Valley town where *Grapes of Wrath* was filmed. From there he went to Berkeley, majored in economics, joined a fraternity, and quit after eighteen months because it had a white clause. He also during this time became friends with the Hallinans, Peter Franck, and Arjay Lenske. After graduating from Berkeley, he went to Hastings Law School in San Francisco.

"Being a lawyer seemed to me to be the slickest capitalistic rip-off and professional position one could get, and it seemed I could placate my conscience, to the extent that I had a conscience, by occasionally doing things with the law that one couldn't do in other professions. I had wanted to be a lawyer for a long time, to make a lot of money, get an elite position, and protect the hell out of it for the rest of my life.

"But the more I got into the law, the more I realized what a morass it was, that the poor and people of color were treated differently, and that it really hadn't changed that much from feudalistic times in England."

In law school he first met Joe Rhine, the son of union organizers who were active in the labor movement from the thirties through the fifties. Because of his parents' profession Joe had moved around a lot, attending high school in Indianapolis, Philadelphia, and Arvada, Colorado, before doing his undergraduate work at the University of Colorado and then going on to Hastings.

After meeting Rhine, Kennedy got involved in trying to make the law school employment people hire people from minorities and was washed down the city hall steps on Black Friday. While at Berkeley, Kennedy had received a ROTC commission, with a deferment to go to law school so he could go into the judge advocates corps when he finished.

"Because of my relationship with Joe and other left-wing people the Counter Intelligence Corps and the FBI started to investigate me along about my second year of law school. It —— me off from the civil liberties viewpoint, and I refused to cooperate with them. Eventually they gave me my commission back, although I didn't want it. I graduated from law school in 1962 and was admitted to the California bar at the beginning of the next year. I went to work for a firm that did personal injury and negligence trial work because I wanted to be a trial lawyer. Then in the fall I was called to active duty. I fought with myself about going but went to Fort Benning, Georgia, for training. The army was not all bad because that is where I met Eleanore. In 1964 I went to Fort Knox, Kentucky, as an infantry company commander. I never went with the judge advocates corps because they wanted me in for three years. Talk about Vietnam was just beginning at this time, and I was relieved of my command four times for giving talks to my company about what was happening there, and I went AWOL a few times. In 1965 they gave me an early out, and I returned to San Francisco and went back to the same firm.

"I saw Joe, the Hallinans, and Peter again, and decided that the legal work I was doing wasn't important enough. The person who needed legal help then the most was Cesar Chavez so we all began doing parttime work for him. Then Joe and I helped write the incorporation papers for San Francisco Neighborhood Legal Assistance Foundation [SFNLAF], an OEO program for the city. The senior partner in the firm where I was working was becoming president of the state bar at the time and he and the bar wanted SFNLAF to be under the control of the Legal Aid Society which they totally controlled. He and I publicly fought about it. After that the firm told me that they owned more of my time than they were getting and said that if I had so much free time to do work like that I could take on more cases. I ended up breaking my neck with two hundred and fifty personal injury cases, and then they offered me a partnership. I said that I didn't know whether I wanted it and asked for a leave of absence. I took the leave, got stoned out of my mind, and ended up a month later in New York City, still stoned. This was in the summer of 1967.

"I met Leonard Bouain, and he offered me a job as staff counsel with the National Emergency Civil Liberties Committee (NECLC). I took it while I was there I met and worked with just about every East Coast left lawyer. While I was in the army I had had experience with military law because every time I was relieved of command they'd put me on courts martial so, while with the NECLC, I began to use this knowledge. I met Andy Stapp, who was organizing the American Serviceman's Union, and began to defend people who were refusing to go to Vietnam. I ended up as house counsel for the Union, and I was also doing a lot of draft work. I defended Andy Stapp, the Fort Hood Forty-three—the forty-three Black GIs who refused to go on riot duty at the 1968 Democratic convention in Chicago—Gypsey Peterson, editor of Fatigue Press and Founder of the Oleo Strut Coffee House out of Fort Hood, Texas. I also taught a course in military law at the Guild office in New York City.

"I was mostly into the civil liberties trip but the more I saw of it the more I knew that it was ——. I understood what Marcuse was talking about when he said free speech is irrelevant when you're starving to death and totally disenfranchised. I began fighting for the NECLC to take on cases of alleged bombers, conspirators, and murders on the grounds that these, too, were civil liberties cases because the people involved in them had never gotten into the position where they could exercise First Amendment rights. This drew us into the Buffalo Nine case, the New Haven alleged conspiracy to bomb case in 1968, and defending SDS in the Iowa State conspiracy trial in 1969. In that year I also taught lay advocacy through mock trials to several hundred students at CCNY in New York City. They were part of a mass bust during a GI sanctuary in the college chapel.

"Then Eleanore and I were asked to go to Sweden by the American Deserters' Committee to talk to the deserters and resisters there about the political climate here, and to represent an American marine who had deserted in Vietnam. We went in January of 1969, then went to Puerto Rico where I taught military and draft law in San Juan to Puerto Rican lawyers and tried the last draft case ever tried there, although one-third of the inductees there refuse induction. I then taught a course at Rutgers Law School in military law.

"When I got back to New York, I faced a heavy character committee fight before I could be admitted to the bar. I had passed the exam but the character committee was giving me a hard time for clearly political reasons although they used reasons like my sanity. From their standpoint, I was deranged and crazy. I was tired of the civil liberties stuff anyway and wanted to be independent. I had turned the corner from the civil liberties a long time before.

"I talked to Joe, who had remained in San Francisco, working with Neighborhood Legal Assistance, mainly on welfare rights cases and advising the Black community of the city on these rights. He had built up total neighborhood contact through teaching landlord-tenant law courses with the Berkeley Tenants Union, and done neighborhood law counseling within St. Francis Square. He had also coordinated the legal work for the San Francisco College mass busts with the Guild in 1968, and he is now working with them on the grand jury attacks in California and lecturing at the People's Law School. But, when we first talked he had quit practicing for a while because he was disgusted with the law so we said, 'Why don't we open a storefront office in San Francisco and work for ourselves?' Eleanore and I moved back, and we found this old house which Joe and I bought from a church for next to nothing. Eleanore decorated it with old junk we borrowed and bought and stole from different places and Joe and I started. Clients without money helped decorate the house as their fee.

"While I was in Puerto Rico, the Chicago Eight thing had broken and Rennie Davis called and asked us to represent him and we said yes at least as far as pretrial work. I went to Chicago once and got embroiled in that —— thing and ended up going to jail along with Dennis and Mike Tigar and Gerry Lefcourt because Hoffman didn't want to accept that we had only been working on the case in the pretrial stage.

"While there, I bumped into Charlie Garry again and he asked me to come into the Los Siete case with him. He said it was a little murder case that wouldn't take long. I called Joe, and he said it would be a good idea to do it because it would help us be meaningful to the community. We took the case on shortly after we started in June of 1969 and it ended up being an eighteen-month effort, four and one-half months in trial.

"Dennis joined us in September of 1970, and Mike in May of 1971. We have two full-time and two parttime secretaries and six law students working out of here now. In the economic sense, we are a collective, although, now, the secretaries don't participate in the decision-making, although they do give feedback. Joe and I take out whatever we can in salaries. Some months, nothing; others, $1200 to $1500. We have agreed to spend half of our time on free work. Our fee-paying work includes personal injury, dope, criminal defense, and work on obscenity and pornography cases. In 1970, I was on Los Siete, and I also represented the GI Sanctuary group in Honolulu, and, along with Joe and Michael Standard, took over the appeal of Dr. Timothy Leary's conviction. We've been his attorneys since. So, that year, Joe made the money. In 1971, he was working on the Soledad case and Dennis was working on Angela Davis's case so the burden to make money was on me.

"In the fall, Eleanore and I went to Europe and Africa for six months. We did Leary's political asylum hearing in Switzerland, and then traveled extensively. As a firm we've decided that each person will try to take off at least six months every few years to keep them from being stifled by the law.

"Although I am a so-called 'star' lawyer, I am opposed to the star system from a number of standpoints: it wastes resources and causes egomania and monetary rip-offs. I began arguing in early 1968 that that system couldn't work. At that time there were a full-dozen big names in left lawyering, and it was clear that those half-dozen couldn't meet the people's needs in any way and that their responsibility was to impart their information as best they could, and to demand that local resources be utilized when a big bust occurred. Some people out of the Center for Constitutional Rights—diSuvero, Lefcourt, Michael Standard; myself, and some others—started then to give assistance to young lawyers just out of law school.

"We felt that what was wrong with the star system was that when a star lawyer entered a case, you began to lose the importance of the politics of the case. For example, if a star who is powerful comes into a case he might be able to change the perspective of the organization under attack from an offensive political one to a defensive fund-raising one. Politics would begin to be made by the lawyers because the press would come to them and ask what was going on and they'd run down their line and nobody would go to the defendants and ask them what was going on. Stars are ——. You don't need them. Yet the system still exists.

"Given the cultural revolution we are in right now, and, in my opinion, it is that for whites rather than a political revolution, on all levels there is no great need for single, star-type leadership. This has been true in law for a very long time. Lawyers who become media freaks must understand their responsibilities and feed back the money they make into local lawyers. When the press knows you and runs you it's all right to use that, to rip off the press and get out the right line when you can. But if you use it to change the political organization you're defending, you're dead wrong. Stars inevitably lose contact with the people, go off on an ego trip, and are no longer capable of making political decisions. The whole trip is —— wrong. I guess the commune idea is the best way to control it.

"If radical lawyers are going to be able to rip off the spoils of their position and do nothing about fighting, then they are caught in the worst contradiction in the world. If you rip off the spoils but fight in the courtroom in the way you believe you could outside of the courtroom, then you're probably going to end up going to jail. I'm not into changing the courts and reforming them because I don't think that can happen. There can be no real change until there is a change in the power base.

"The courts are there to give the impression of equal justice for all, which they know is a lie, and to make sure nobody gets too much out of line. They do a fantastic job of keeping the lid on. But the courts are irrelevant when you consider the prisons which is where the revolution is in its most militant state. The courts won't be able to keep the lid on very long when people tear the prisons down and the courts realize they have no place to hide the people they don't like or don't understand. The courts can't deal with a dynamic situation. They are not decorous out of a gentlemanly tradition as they would like you to believe. They're that way because they know if they once allow anything other than obsequiousness and gentlemanly conduct, the whole damn system will explode because that is when you get at the truth. If you can make the courtroom mirror the horrors of the street, even in the slightest way, the whole damn thing will explode.

That's what happened in Los Siete. We made that courtroom something akin to a street brawl on several occasions. That's what happened in Chicago, too. You have to make that courtroom laboratory as much like the outside as you can so the jury—and God knows that is the last hope of the legal system—can have a better idea of what is happening. That means as a lawyer you have to fight the judge, get put down, go to jail but, if you are going to struggle, it must be at that level."

Because of his efforts to make the courtroom reflect the street during the Los Siete trial, which did result in the acquittal of the defendants, Kennedy's and co-counsel Charles Garry's morals and fitness to practice were investigated by the California Bar Association upon the complaint of one of the Bay Area's more reactionary lawyers.

"I feel that all I can do now is beat them on a case by case basis on their own contradictions. That is all I can do as a lawyer. I think I'll be thrown out of the law within time, and I hope when that happens I'll have some other areas in which I'll operate. I'm optimistic. I think it is inevitable that we're going to kick their ———. Everything is on our side. It's just a matter of time."

While guardedly optimistic, Kennedy and Rhine's two younger associates are also confused at this time.

Dennis Roberts, a Brooklynite who grew up in the New Jersey suburbs, went to Rutgers University for three years before quitting to join the merchant marine. After doing that and working as a truck driver, he went back to school and graduated in 1961. He attended Boalt Hall at Berkeley, spending the summer after his second year working for C. B. King in Albany, Georgia. After he finished law school, he went back to the South to work for two years. He then joined the Center for Constitutional Rights where he remained for three years largely working on affirmative litigation.

In 1968 he received a Reginald Heber Smith fellowship to work with the Alameda County Legal Aid program.

"It was horrible there. Theoretically we had a project designed to sue the police for brutality cases, but then others in the project got interested in suing in federal courts around the area of police abuse. I'd done so much affirmative litigation before, I could hardly bring myself to do it anymore. I left and joined this firm. I'd known Mike in New York when he was with the NECLC and we had maintained a friendship. I wanted to develop expertise as a trial lawyer and this seemed a better place to do it than an OEO project.

"I do some court work on our fee-paying cases on pornography and they provide interesting, exciting, hotly fought criminal trials. We have a lot of political problems in the office because of this specialty though these cases do pay the bills here. My wife and I have had big fights over who's being exploited in the films. But if you start with the premise that you have to make a certain amount of money to survive, you can't only take those movement cases you want to take, although some of the law communes seem to be able to survive on less. I think part of it is that we're older, of a different era in a funny sort of way.

"I feel in the middle of a generational thing. In 1963 or 1966 or at the Law Center I was very much in the forefront of what was happening legally in the movement. But, in the last few years, people have moved so far so fast, that I don't find myself there anymore. It's personally disturbing. I see a lot of movement lawyers being left behind and I'm concerned that that doesn't happen to me, that I don't get caught in a certain way of looking at things and a certain life style. I have a tremendous amount of admiration for the people just out of law school who are working out of their own bedrooms doing good things we probably don't know about and just barely surviving.

"I relate to the court system in that, at this point of time, it's still the most useful place that I can be given my limitations and where my head is at right now. I still think it's very important for lawyers to be in the criminal courts defending movement people because it is another way to keep the people doing what I should be doing out on the streets.

"I got a lot of conflict about what I should be doing and whether my role as a lawyer is a relevant one. But I'm not an organizer. I hate to speak publicly, and I do like trial work. So I guess that means I should be in court right now, although I have a feeling that in a very short period of time that is not going to be very relevant anymore. I'm not sure what will happen, but I am sure that there are going to be some enormous limits placed on the role of a lawyer. I find it very hard to define myself politically right now. I'm going through a lot of changes."

So is Michael Tigar. He was born in Glendale, California, in the San Fernando Valley, was raised there and then went to Berkeley during the Slate period. Upon graduation he spent a year in Europe working for Pacifica Radio, the listener-sponsored radio chain. He returned to Boalt Hall about the time that the free speech movement was beginning. He was active enough in it to have an appointment to clerk for Supreme Court Justice William Brennan withdrawn. He went into practice in Washington, D.C., with Edward Bennett Williams' firm, doing a lot of ACLU, Center for Constitutional Rights, and SDS cases.

From 1968 through June of 1969 he was the editor of the *Selective Service Law Reporter*. He then became a professor at the UCLA Law School where he remained until June of 1971 when he moved to San Francisco and became associated with the Kennedy and Rhine firm.

Mike was first thrust into the media spotlight, along with Dennis and Mike Kennedy, when he was arrested during the Chicago conspiracy trial. He was again put in the spotlight when the ACLU hired him to represent two of the defendants in the Seattle conspiracy trial in 1970. During that trial, which ended in a mistrial and contempt sentences against all of the defendants, Mike was maced in the courtroom when he attempted to break a full nelson one of the guards had on one of the defendants. Because of that trial at least one federal judge in Los Angeles refused to let Mike practice in front of him, although a court of appeals twice ruled that the judge was in the wrong.

"Since Berkeley I've been a movement person on and off. It's been very hard. In law school I was isolated because I had the notion that I wanted to get through and get high grades and that that was the best thing to do. In D.C. I thought it would be possible to practice law for a living and do other things on the side, that the firm would be a base. Then it quickly became apparent, although I don't regret having been there, that that was not so. So then I thought teaching would be the way to do it. But it turned out that was just an institutional cage. It turns out that the way to be is just to be, and not to be for somebody else—to start by figuring out first how to live, not as some kind of exigent thing but as a first principle, and then to work from there. The important thing is to be free and to feel free, to be a human being really committed to dealing with the society that really prevents most people from being human beings, which —— them over from the time that they are born. If you can do that, then you've really done something.

"What a lawyer is involved in is giving advice about how he thinks the system is going to work in particular ways toward particular people in given circumstances. Oftentimes, his predictions are going to be less valid than his clients'. A lawyer also has a ticket: he can file papers, defend people, go to court. In that sense there are a few functions that only a lawyer can perform. Some young lawyers now are into collective decision-making with their clients and that is good, except that it can lead to a kind of paralysis in which lawyers are unable to do their jobs.

"Take the pattern of a typical political trial in which some people chosen by the government are indicted and charged with a crime, and the purpose of the prosecution is to deter others than the defendants—and the defendants, too—from doing their politics, and to put away those whom the government has identified as leaders. Now if the decision-making is collective about the case it can very often lead to a situation in which the movement that is under attack promptly begins having meetings about the best way to deal with the attack and those who go to the meetings regard all decisions as necessarily collective ones to be argued, debated, and discussed endlessly before steps are taken to deal with the government's attack.

"What happens is that because trials are interesting, particularly to white liberals who are kind of raised in this notion of American constitutional principle, because there is a real enemy to fight, because it is easier to work on a trial than to organize, the collective decision-making process embodies the movement as a whole, with the result that the movement stops moving and becomes a defense committee to defend the former movement and the government has achieved exactly what it wanted. Good organizing can be done around trials, but it's a mistake to assume that a trial is a place where people do their politics to the exclusion of all other places where they might be doing them.

"The courtroom is the man's forum, and it imposes certain limitations. It's not the place you'd choose to fight if you were choosing, and you didn't choose it. There are times when being highly political in the courtroom is disadvantageous in terms of trying to reach the jury. The jury is the twelve people you're trying to organize in a courtroom, whereas you'd never choose the people who end up on those juries as your constituency if you were into doing politics seriously in the community.

"I look at the court system with total skepticism. Not a chance that it can be reformed. We're at a time now when the ideology of bourgeois liberalism is, in many cases, contrary to the interests of the American ruling class. If you really enforce the First and Fourth Amendments, people get away with a lot. They get to organize.

"There are some good judges, ones who work not with power relationships but with abstract legal principles, who believe in change and want to do something about it. Law should be separate from the commanders of power. But we're at a point now where that idea of law and judges is under tremendous attack by what you could call the ruling class so I don't have any faith in the court system.

"At this point too, the movement for change is fragmented, distorted, and under attack. The job of the movement now is not to debate how we are going to have a revolution—which is what is necessary to get change—but to identify those forces in society whose interests are contrary to those of the ruling class and to join with them and work with them. The important thing for Americans to know about now is that the kind of society you get after you have a revolution is the kind you deserve. If you deal honestly with one another, in a comradely way, not suspiciously or viciously, you stand a much better chance when the revolution is over.

"I'm not optimistic about the movement here now, nor about the future of the country. I think we may well be in a situation where this country, as the leading imperialist power, simply can't be liberated from within, and that we may face a fascist period. A lot of third world countries will have to get liberated from American imperialism before the metropolitan countries get weak enough that something can be done. If you take the majority of people in America you're speaking of people who are the beneficiaries of American imperialism in a quite real sense. It's hard to know where you'd get a revolutionary coalition. It's like a race between the repression coming on and the movement taking off.

"Of course, it is also possible that the economy can't take its internal contradictions and the whole Keynesian theory will come apart. That would then determine what happens. It could cause a moving away from complacency and the forgoing of another New Deal alliance. That has to exist for the movement to exist because the necessary condition of a revolutionary movement is the existence of a large liberal movement which protects and legitimizes it.

"If I sound confused, it's because I really am. I just can't at this moment figure out where the movement is going and what it is to be. I feel best trying to figure it out issue by issue, trying to struggle toward some answers. I lack confidence in all of the answers that other people seem to have found."

While he is searching for answers and working with Kennedy and Rhine, Tigar is also working at the Center for the Study of Democratic Institutions, and doing some writing.

J. Tony Serra is another radical San Francisco lawyer searching for some answers. Unlike most of the lawyers discussed thus far, however, he is looking more toward the counterculture than the movement. Serra is known, in popular jargon, as a "dope lawyer." A native San Franciscan, he attended public schools and then went to Stanford University in Palo Alto on a scholarship that started out being academic but was later transferred to athletic. He made his way through college boxing, playing football and baseball, and drinking beer. When he graduated in 1958 he went to Europe and stayed there for a year.

"When I got back I had no definite plans about what to do next so I went to law school. That was in the late fifties and I guess people who didn't know what to do with themselves went to law school. In college I went around with the athletes and eight or ten of us ended up there."

Once in Boalt Hall, the Law School of the University of California in Berkeley, he decided to aim for criminal practice.

"I could never conceive of myself doing civil practice because I'm not oriented toward business or money problems. This was in the late fifties and early sixties and there wasn't as there is now, the dual phenomenon of revolutionary-oriented students and psychedelically oriented students. There was just a straight world. But there were criminals and I guess I was satisfied at that time to represent straight criminals.

After he got out of Boalt, Serra took a job for a year with the district attorney's office to get experience with jury trials and juries.

"I took that job since I knew it would let me go against high-caliber defense attorneys, and in that one year I tried forty jury trials and countless nonjury trials. Now I would consider anyone who chooses to go with the d.a.'s office, even pragmatically for experience, to be guilty of an immoral act in light of what is happening. But then it wasn't so heavy because you were dealing with the traditional sorts of crimes against persons and property. I did those traditional crimes and I wasn't gravely immoral and I was as liberal as I could be.

"Now you don't have just that. The great bulk of criminal cases today consists of victimless crimes—narcotics violations, demonstration cases, political cases. These things don't belong in the criminal courts. They're sociological problems and should be dealt with in that way."

After that year with the district attorney, Tony opened his own practice in San Francisco specializing in criminal law.

"I was out of a kind of athletic, college, beer-drinking environment which produces the competitive instinct in people so as to perpetuate the society which is more or less predicated on competition and capitalism. I was married then to a woman who was also becoming a lawyer and I was making my role in that society by defending the criminals—indigent criminals or criminals with money. I was never really interested in money. I was just interested in getting into court and getting people out of jail."

After he was in practice for a short time, he and his native city were hit by the strongest phenomenon since the earthquake of 1906. The psychedelic age arrived and San Francisco became the center of its culture. Throngs of people flocked to the city in search a new utopia. Often they were met by officials of the city who in no way approved of the means they were using to obtain this end.

"There was this widespread use of all forms of drugs and, of course, it completely modified my lifestyle since I didn't choose to remain a spectator. I chose to participate in all of those experiences as did everyone with any creative imagination or curiosity. So my lifestyle, values, and practice have modified quite a bit in the period between then and now."

Today Tony Serra is known as one of the city's best counterculture lawyers.

"At present I live communally with a lot of people—I guess you could best describe them as quasi-artistic musicians—and we share things; it's a nonmaterialistic way of life. I think all the things I own are worth around five hundred dollars.

"And I represent chiefly long-haired people who are active in whatever you want to call the cultural ramifications of the hip subculture or who are involved in the dissemination of drugs. I have many personal friends who are highly intelligent, educated, sophisticated people who do sell drugs as a part-time thing to survive and pursue art activities or activities that actually benefit our society. Then, the other level of peers or friends I represent are those who are actively involved in revolutionary activity. The two are coextensive here in the Bay Area. You've got long-haired people, hip subculture people involved in revolutionary acts, and then you've got those committed to the earlier view of the sixties which was the peace/love/brotherhood attitude.

"As an attorney and as a person living here you're always involved in both of those perspectives. You don't find that they conflict too much. Oh, I guess they do theoretically or conceptually, but while you're living it, it flows pretty evenly.

"So, in the last five or six years I've come out of a straight criminal defense position to what I guess you'd call a subculture lawyer with both an hallucinogenic and a revolutionary orientation. I practiced alone until 1971, then I went into partnership with Steve Perelson who is excellent in draft work, which I don't do. A little later Dale Metcalf joined us. Dale and I mainly do state court crimes, and Steve does the federal. His main emphasis is on draft work although he does a lot of our heavy dope smuggling cases. He's keeping a lot of people away from Vietnam and out of the service, which we see as a real social contribution.

"We don't work on any kind of monetary consideration. We just do what we can and if people have money we might take a little and if they don't we don't care. We just have to be sure the office pays for itself, but beyond that we live very humbly and consider ourselves privileged just to be able to help."

Their offices are in an old, charming warehouse section of San Francisco close to North Beach. They are on the third floor of a large walk-up building in a spacious, partially paneled office replete with wall-to-wall carpeting, head paraphernalia, antiques, and wall hangings.

"There are five attorneys working out of this office so it's not as expensive as it looks. Steve, Dale, and I work together and just share space with the others. It doesn't cost much that way.

"I handle hundreds of cases. The percentage of dope cases I have is in direct proportion to the percentage of dope cases there are in the criminal courts here—about 50 percent dope or dope-related. On dope cases I attempt to charge heavy international smugglers and heavy dealers cause they're making money. For the volume we do and for our reputation we probably charge less than most lawyers in the area. If we crack a grand a month it keeps the office going. I've only had one guy in five years go to the state penitentiary and that was his second offense while he was on probation for the first. I've had people do county jail time for heavy sales, but we, that is the judiciary and the legal community here in the Bay Area counties, with the exception of San Mateo county, have a more liberal attitude because things are changing so fast and dope is so prevalent.

"If you went into the houses of all the people around here and checked for dope, you'd probably find it in 75 percent of the houses of people under twenty-five. So now the police don't usually bother going after the possessors like they did in the early days of the Haight. Now all their energy is in going after the heavy dealers."

The other 50 percent of Tony's work falls about evenly into two categories. The first 25 percent is political cases, mainly coming out of Berkeley and San Francisco demonstrations. According to Doran Weinberg, head of the San Francisco Guild office, after a large political bust Tony will call the Guild office and tell them that he's willing to take ten or fifteen cases, a large number for an individual practitioner. Tony does all of these cases for no charge. The other 25 percent of his work is spent defending traditional criminals, those accused of crimes ranging from burglary to murder.

"I believe in doing this, too. I'm not so reform-oriented that I would discount these people. I work more or less from the premise that no one is guilty of anything. Either we're all guilty or we're all innocent. And no one should ever go to jail. There should be no concept of jail."

Tony also feels that the whole concept of the court system might be antiquated. "If you view radical people as an evolving social phenomenon, then the judiciary is one of the impediments to the flowering of that phenomenon."

However, he doesn't think that you can generalize about the people who compose the judicial system.

"Here in the Bay Area there are some fairly intelligent, liberated, humanistic types. There are a lot of judges I dig here who are trying to do as much as they can in their particular form just as I'm trying to do as much as I can in my form and a poet is trying to do as much as he can in his. I don't like to categorize or generalize because I think when you get down to it everyone is basically good. Everyone has the germ of striving, beauty, intelligence, but some people get involved in social forms that are hangovers from another era when social survival was predicated on different types of adaptive mechanisms.

Although he functions as an attorney, Tony possesses some rather harsh opinions on lawyers in general.

"I think lawyers, both civil and criminal, are cowards. The lawyer's position is a very ——— position since a lawyer is always getting off behind some other cat's act of courage, always playing mind ———. It's always your client who is ultimately going to jail. Lawyers have always enjoyed all of the social benefits, prestige, wealth, and favor, and it's because they are highly tutored whore-pimp types. They stand behind other people's bravery and other people's martyrdoms. I particularly denounce that kind of attorney, and they exist in the radical world, too. It's so easy to be safe that way and take the glory and the credit and come out the semantic hero and go out to eat a big dinner when it's all over. While the cat there, he's for real, he's going to jail or taking his bumps. I don't believe in that.

"Lawyers should be out in front, getting arrested, going to jail, participating actively in the revolution, even as leaders if they have that kind of calling. They shouldn't be ——— the side as they traditionally do. I think there is something wrong with everyone who becomes a lawyer. There's some paranoia, some cowardice, some lack of courage, or self-identification, some flaw in a person's constitution that makes him become a lawyer.

"At this particular point I'm doing a lawyer's job. If it gets heavier then I'll do a heavier thing. I consider myself a revolutionary. I'm not throwing bombs right now but there might come a time, and it might be in the seventies when you have to decide and throw bombs and I would do that.

"I don't now belong to any groups at all because I've never been concerned with organized types of mentalities, and I don't get along in that context. I relate to heavy movement people beautifully on an ideological level, but I don't on a personality level. They're uptight, tense, rigid—at least when I see them socially in their mythological role—and in the Bay Area there are just too many people who are open and loving and right now I'd prefer to associate my private life with those people."

Tony Serra has, however, taken some steps for upsetting the powers that currently are. Early in 1971 he announced his candidacy for mayor of San Francisco on the Platypus party platform. The Platypus party is devoted to "Renaissance Now!" and their major interest is in making San Francisco streets safe for dancing.

"This is the political dimension here in San Francisco, and I just found myself in a position to run because I'm qualified by having the establishment pedigree."

Although Tony only received a minute percentage of the vote, he does not feel that the whole thing should be taken lightly.

"We never thought there was a chance of winning. It was the mouse that roared. But what we were trying to do was to amplify a certain ideology so it really embraces hip subcultural values and political values. It was just one more voice getting up and saying the same old things, perhaps helping some of these things to be realized in five years or a decade rather than never.

"You know, political parties could say, 'None of our people are going to be drafted. We're going to provide real sanctuary here.' And if U.S. marshals came in they could have a confrontation that would have ramifications all over the world. It's unlikely that that would happen, but that was one of the values that we wanted to bring out: that war must end.

"Another thing we said was that the whole victimless crime area does not belong to the courts. The third large area we emphasized was the ecological one. If the cities don't convert into parks, then we won't have cities anymore. Most of them are dead now.

"Another thing we wanted to say is that you really don't have to pay taxes. They could be eliminated if war were eliminated. Tax has always been the relationship between the captor and the captive, and we're still the captives both economically and sociologically.

"I think the early seventies will continue to be one further attempt at modifying the values and repressive features of American society by peaceful means, political means, voting, changing laws, demonstrations. I think with the vote being lowered to eighteen, a lot of people will focus on things like the Berkeley elections last year or our party and its platform. Alongside that you'll have revolutionary symbols—bombs, killings—but it won't really be strong. It won't reflect the majority of the people.

"But, if the early seventies don't succeed in changing things peacefully then, by the midseventies, there might be widespread terror and revolution and large acts of violence that reflect more than just a courageous minority.

"I guess I'm optimistic that the latter doesn't have to happen because I see so many good people in the Bay Area, people who are genuine about fulfilling the alternative lifestyle which doesn't depend on the establishment. And I think they are our greatest prospect for acquiring the social changes that we need to live humanly.

"They're not into bombing or revolution. They're just into saying 'I don't want anything to do with that way of life.' They're not into the game-playing that is going on in the political arena. They're just into going out very determinedly to live their own lives outside of the context of 'normal' society. It is selfish I guess, but if a lot of people do it, it's the way things will go.

"You can't do everything. You can't just attack without having some new way of life to offer. You can't just direct everything at destruction. They'll be more repression after a revolution than before. It's always been that way.

"But if you look at the Bay Area you can see both the vision and mobility of the political people and the lifestyle of these other people which is the political vision fulfilled. It's good always to dangle that vision fulfilled in front of you. You can't just blindly postulate a utopia. You've always got to experiment with a utopia, and that experimentation is going on here.

"You can't just hope that after the mechanism of oppression is destroyed, flowers are going to grow automatically. It doesn't happen that way. In a way it's more important to establish some kind of experimental, futuristic society than it is to destroy the old. And that is happening here and it charges me with optimism."

Because the Bay Area is the Bay Area, and because of the current ambiance that Serra mentioned, one would expect to find a host of innovative legal collectives there. While there are some, and while these are innovative, there are just not as many as one would imagine.

One firm in Berkeley—Franck, Hill, Stender, Hendon, Kelley, and Larson—did function collectively for a year as the Telegraph Avenue Collective. However, political differences and internal problems, not unlike those encountered by the New York Law Commune, caused innumerable changes in personnel, and, eventually, a complete disbanding of the project as such in the summer of 1971.

Some of the lawyers and workers who had left that collective earlier had done so to work on a project which, while not a collective, is very innovative. This, the Prison Law Project (PLP), began around the people in the Telegraph Avenue Collective who had been working on the Soledad Brothers case and other prison cases and problems. As they worked, they talked with a large number of prisoners about prison conditions in California. They also began to receive hundreds of letters each week from inmates. It soon became clear to them that a fulltime effort was needed to bring about change in the California prisons, to stimulate reform efforts by other groups, and to provide a model for prison reform work. The people working on the Prison Law Project attempted to get outside funding for their work. Beginning in April 1971 they received grants from several foundations and, after adding some people, became an entity separate from the Telegraph Avenue Collective.

The Project focuses on providing legal services, social services, public education, and community organizing around the conditions in California prisons. By September 1971, the members of the project included five lawyers, six legal workers, including administrative, secretarial, press and public education, writing and research workers, and a number of cooperating attorneys who, though not on the staff of the Project, work closely with it.

Fay Stender, one of the Project's attorneys said, "Lawyers and community groups are working elsewhere to change the conditions in the prisons, but this is the first attempt to put together legal and sociological services in a mixed-media form.

"This project was formed out of necessity. We will be giving inmates a voice. They think now that they'll be murdered if they speak up about the prison conditions, but, even though they think that, it doesn't stop them from speaking up. There is no one that prisoners trust right now so an important function we perform is to show how prisoners are when they have found some people that they can trust. We feel that there is some first-rate political thinking going on right now in the prisons, but there is also an unbelievable amount of very serious oppression. For instance, a prison can torture a man for ten years, but then if he attacks a guard it is his fault, and not the fault of the conditions he has been forced to be in.

"Until we began, the prisons completely controlled the propaganda that came out about them. We hope that by having a group of lawyers and legal workers who have seen what the conditions really are we can counter that propaganda."

In this project, legal workers are considered as equally valuable members of the project, and do receive equal pay. However, although it was originally conceived of as a collective, it never operated as such. An executive committee, after consulting with the whole membership, makes the decisions.

"Speaking personally," said Stender, "I do not think that a process-oriented organization, such as a collective, turns out as much work product as a more traditionally organized operation. I believe in equal pay, which we have, but not in equal decisionmaking, not because of the status of the people, but because of the number of people and because of political differences. So many people today want to engage in dialectical process, and decision-making instead of producing work. Those people should be in living communes and other organizations where they agree that the priority is the process. My own priority is prison work, and I don't think a collective gets out as much work. Others disagree with me."

A group that probably would disagree, at least in part, is the Community Law Firm (CLF) in San Francisco's Mission district. This collective, which began around the same time as the Telegraph Avenue one, is still functioning and has a good prognosis for the future because it is community-oriented within a defined community, and because its members hope to become part of a multiservice collective that would provide health care, legal care, social workers, translators, and cooperatives within the next few years. The firm began as the result of the work of two young lawyers—Paul Harris and Stan Zaks—who have been friends from junior high school on through their days at law school (Columbia for Zaks and Boalt for Harris) until the present. They also both spent summers working for Black civil rights lawyer C. B. King—Zaks in 1965 and Harris in 1968.

"We started discussing setting up a community law firm when we were both about a year into law school," Zaks said. "That was the height of the movement, and we were both enmeshed in it. We knew then that we were actually going to attempt this, a community law firm in the sense that we live in the community, set up our office there, and relate primarily, but not exclusively, to that community. Paul had a back operation, so it took him five years before he finished law school, but, while he was still in, about three years ago, we started meeting intensively with students from his class at Boalt, and we talked about the idea a lot. When people got out of law school, the geographical and financial questions became prime, and people started breaking off from the group. When Paul graduated, he took a one-year clerkship with a U.S. district court judge. In the meantime, I had worked as a Legal Services attorney and then spent a year with a Lawyers Guild general practice firm. In February 1970, I opened a small office in the Mission district with one part-time volunteer, and, then in September, Paul joined me and we moved to our present storefront office, across the street from Mission High School."

"We spent a lot of time trying to figure out what kind of community to relate to," Harris said, "and we had a lot of different criteria, such as our and our spouses' races, our special skills, the special needs of the community, our existing contacts with people in the community, the need for basic legal skills, the legal services, both private and institutional, that were already present, existing social services, police harassment, the potential for racial alliances, functioning political groups, and the level of political activity. We decided on the Mission district bcause it is a mixed Latino, white working-class, Native American, and hippie community. In setting up the collective, we then looked for legal workers and other lawyers who are from one or another of the groups represented in the community."

At the time of writing the firm had two legal workers, Bernadette Aguilar, who grew up in the Mission and had no previous legal training, and Rickey Jacobs, who had some legal-secretarial experience. They have also had ten to twelve law students who have worked in the office at various times. During the summers they have a fulltime, well-integrated staff of six students. High school students, funded by community groups, also work in the office, training to be community legal workers. They also have volunteers who come in to work on specific projects, including a handful of lawyers from traditional business firms who donate their time and their resources. After an excellent experience with Ronald Schiffman, an attorney who now has his own practice, the firm intends to try to continue to run a six-month apprentice program for new attorneys.

Although the two lawyers and two legal workers form the core of the office, the many other persons who relate to it make it possible for the CLF to do a large volume of work with high quality, and to serve as a model of the community law office idea to others.

"When I first came in here," Zaks said, "I was surprised how quickly I was able to build up trust with groups in the community. We had been hesitant about coming into a community we had not been part of before, but the first thing we found was that there was such a need to work with community groups that we were accepted right away and had more work in terms of our house counsel role than we could handle. And we found that the racial question was more in our minds than in the minds of the groups that we worked with."

The firm's work is separated into three categories: (1) house counsel for community groups, (2) criminal cases arising out of police brutality and harassment, and (3) general practice.

In their house counsel role, they have assisted Los Siete de La Raza with general legal problems and some criminal cases; La Raza Legal Defense Union, a community defense organization, with organizational, educational, and legal support; Mission People's Health Center, a free clinic, with problems in setting up and with legal complications that arise. The firm has also taken on some cases from other community groups, and has handled a lot of criminal cases, including some which they have been able to politicize. They have also worked with students from Mission High School, and with an insurgent labor group.

"The political consciousness in this area is rapidly growing so there is a need for movement attorneys. However, except for the Los Siete case, there has been no glamour in it yet, so it was hard for these groups to get other attorneys," said Harris.

"We're hoping that these community groups will continue to grow and move so that they can dictate some of the changes that will be made in the community; for instance, stopping bad model city planning and police harassment. But, until they are strong enough to regulate their own community, we are going to have continual legal things going on. We've been turning down big cases—involvement in things like the Los Siete retrial and the Soledad case—because there are attorneys who will do those so we are trying to do these other things," Zaks said.

"Our main stress has been and will continue to be the house counsel role and the criminal cases that arise out of it. That accounts for 70 percent of our time. The other 30 percent we spend on regular cases which we make money on. Ninety percent of the people in those cases are community people that the groups we work for have brought to us, but they are paying cases," said Harris. "A lot of these cases have been personal injury, which is helpful in building up trust in the community, and many of the others have been draft cases. During our first six months of operation both of our wives were working, so we went without taking salary, but then salaries became necessary although, if we ever make enough money that it becomes an issue, we intend to limit them. We keep our overhead low, and have a makeshift library and furnishings given to us by community groups, and a monetarily successful Guild firm.

"While we are lawyers, we realize that the law works to maintain the status quo and to preserve the system. But we feel that we do have a bourgeois democracy at this time of history so that we can use the courts to get some victories. Until that democracy is past, we feel that if you have legal talent and can stand being a lawyer that it is one way to help the movement. We are either helping people who are changing things to stay out of trouble or creating certain conditions where organizing is allowed. We feel that that is all a lawyer can do. We don't put our trust in test cases and things of that sort because we know that the power is not in the Constitution, and that they take an inordinate amount of research and preparation. When a case like that comes up, we try to channel it to Legal Services, CRLA, or friends in the Reggie program.

"In our practice here, we have also found that many legal problems can be handled without extended paper work and often without court involvement, so we are developing our skills at informal pressure and negotiation. We've also recognized that our legal training has taught us to look only for legal solutions to power struggles. Having seen this, we have tried to overcome our tendencies to depoliticize issues, and we have tried to be aware of the political positions of the groups we work with and to avoid confusing these positions by the use of the legal process. We have also seen the tendency of people to depend on lawyers, and we fight that since we feel that lawyers should not lead their clients' organizing efforts. We also try to give the people some victories in court so they'll lose their fear of the established power and recognize their own power. However, we do try to avoid cases that might turn out to be 'liberal traps' or useless."

"We also realize," Zaks said, "that this whole thing of functioning as a radical lawyer is filled with contradictions. Lawyers are people who can manipulate the system. When you become radical, the system fights you. We have had to learn how to be able to survive and be able to go to the judge and insist on the rights of a client and at the same time know that it is an oppressive system, and that someday soon it is all going to come down."

"We feel," Harris said, "that, as radical lawyers, we should put our ultimate trust in the political power of the people, while remembering that we, as lawyers, have tools to help develop that power. We also feel that, as radical human beings, we should end the schizophrenia caused by our Communist ideals and our capitalist existence. That is why we have chosen the form of a community, collective law firm.

"We feel that the law is society's sophisticated means of restricting people and repressing revolution. But, as long as this society maintains its capitalist-democratic approach, we feel the lawyer has the power to free people and further the revolution. We feel that when the law is replaced by the hangman, there will be sufficient time to throw away the law books and pick up the appropriate tools."

Perhaps the most unique legal collective in the Bay Area is not a collective at all. It is a group composed of the lawyers, legal workers, and political people who center their work around the activities of the Bay Area Regional Office of the National Lawyer's Guild. These young people have taken the same Guild chapter that some of the older members had thought about abandoning less than a decade ago and, with their fresh ideas, have turned it into the most vital Guild chapter in the country, and one that definitely works in a collective way.

At the Guild's 1968 Santa Monica convention, a drive, spearheaded by the younger Guild members, to make the Guild a regional as well as national organization won. The mass defense office concept which was then only functioning in New York City spread, and regional offices were opened in San Francisco and Los Angeles. Later, offices were opened in Detroit, Chicago, Philadelphia, Washington, D.C., Seattle, Boston, Milwaukee, and Denver.

The Bay Area office did not open until the beginning of 1969, six months after the decision to open one had been made. That time was necessary to organize both people and ideas. When the office opened, the San Francisco State strike—which centered around the appointment of S. J. Hayakawa and the absence of ethnic studies at the school—was in full swing. The Guild office related totally to that strike and to the cases of the seven hundred-plus people who had been arrested as the result of the strike.

About four hundred and fifty of those cases were on unlawful assembly charges that came out of mass busts, but the other two hundred and fifty cases were on a variety of charges, and a good number of them were felonies. The office was mandated.

It took the people working there about six months before they could dig themselves out to the point where they could consider doing other work than that of mass defense. At that time, Peter Haberfeld, who had opened the office, left and was replaced by Doron Weinberg, who along with Jennie Rhine, Sharon Gold, Janet Small, Susan Matross, and Carol Grossman, form the working core of the office. In addition, about fifteen other attorneys and legal workers consistently give significant time. General membership in the chapter numbers around four hundred.

"We decided after the San Francisco State cases that the case-to-case legal needs of the movement in the Bay Area were relatively secure and that the ongoing needs of the movement and the community were the things we should address ourselves to. We decided that we should concentrate on educating the community about the legal system, and educating lawyers about how they could best perform their own work in a nonoppressive manner. The first thing we did was concentrate on dissemination of information. We called a conference on high school law in December of 1969 as our first act of combining both external education and internal organizing. This was followed by a conference on landlord-tenant law in January of 1970, one on the handing of political, criminal trials in April and one on the omnibus crime bill in January 1971," said Weinberg.

"We also got into demonstrations for a while. We called the second demonstration of lawyers in the history of this country in October of 1969. The first one had been in New York City on May Day of that year. Our demonstration, in which both political and reform demands were made, was to be against the law as an instrument of repression. Then, the conspiracy trial began in Chicago and we decided to make the demonstration also against that. Four hundred lawyers and law students came, and out of that demonstration groups formed to talk about what radical lawyers should do. This was really the beginning of the radical law community here as it is now.

"We called another demonstration when the verdict for the Chicago trial came in in February 1970, and three thousand people came to that one.

"And we expressed our opposition to the traditional conception of lawyership by passing out red armbands at the bar admission ceremony, and having people take their oath with clenched fist

"We are now into a variety of things," Rhine continued. Most political people in the Bay Area call here if they need a lawyer, so we have set up an on-call system. We have a lawyer on each side of the Bay on call twenty-four hours a day. We have enough lawyers participating so that each one is only on call one day each month. We respond to calls that way from thirty to forty movement groups in the area. We usually do these cases free.

"We also teach a lot about law to lay people. We have our own People's Law School, in connection with several other movement groups, where we give free courses on things like labor law, military law, street survival, women and the law, prison law, immigration law, consumer law, juvenile law, welfare law, landlord-tenant law, and legal research. That began in September 1971, and we hope to give series of classes three times a year. Prior to that time we had coordinated classes on the law at San Francisco State, *Venceremos* University, and the Berkeley Center for Participatory Education, and we still continue to do that."

"We also put out a lot of information for people. We distribute 'street sheets' on various subjects. These tell people how to deal with the law and the police in a wide variety of legal or harassment situations. We've also put out, through *Ramparts* magazine, a *People's Law Book*. And we bring out our paper, *Conspiracy*, each month.

"We also keep ourselves available for people to set up legal defense before demonstrations, and then we follow up afterward. We farm out the actual handling of the cases, probably two thirds of it to Guild lawyers and one-third to lawyers who cooperate but are not members of the Guild."

"We've also helped set up legal-political collectives of people who meet once a week to discuss the direction of our work and their work and to politically educate themselves," Weinberg added, "and we have a Guild women's caucus that also meets weekly. Then we have our 'Gracious Living' series which is kind of a lecture series where people around the Guild get together for informal discussions of topics like labor law or legal workers or the movement in the thirties. And the office is open every Friday for lunch, and a lot of people come here to rap then."

The scope of these activites has caused some dissension within the Guild chapter. Some older members of the Guild feel that the Guild should be a legal organization with political overtones rather than a political organization with legal overtones. With the admission of legal workers to the Guild during the 1971 Boulder convention, however, it appears that the younger members have won their point and that the office's political activities will continue to expand.

Part of the reason that this regional office is so active is that most of the people who form its core are together a great deal of the time. While many of them have jobs outside of the Guild office—several of them have or have had Reggies (Reginald Heber Smith fellowships) that allow them wide latitude in doing OEO work and other work—most of them live together in one of two legal communal houses in Berkeley. Most of the lawyers in this group also come from surprisingly similar backgrounds. They were "red diaper" babies whose parents had been active in the labor movement during the thirties and forties. They did well in school but felt alienated from their school work. They were active in radical activities during the early sixties, and a good number of them went down South in the early civil rights period. They decided to become lawyers because that seemed a good way to keep active in the social arena, no matter what the state of the movement was. They did well in law school, but found that experience even less meaningful than the rest of their education. Many of them received fellowships of one sort or another and, with the freedom that these fellowships gave, were able to use their time to integrate their legal knowledge and political beliefs.

They had been active in Guild chapters at their schools, and so when they all ended up in the same locality, they were drawn together around the workings of the Guild, found each other, and were able to develop their ideas even more. None of them have any faith in the court system. All of them have doubts about the validity of their roles as lawyers.

"I find that the house counsel role is the lawyer role that is not alienating. A lot of lawyers, even movement ones, are people who will sell their services to anyone who asks. I don't conceive of myself that way. I'm not neutral. I have political goals, and I also have legal skills which is the same as having any other skill and using it politically. I'm an activist first and a lawyer second," said one of the attorneys connected with the office.

"When I was a Reggie I worked as much as I could with organizations to build political power by using legal skills. Unless lawyers and legal workers do this, a lot of what they do is counterproductive. I'd work with ten or twelve organizations at any given time, and I would be frustrated when I had to work on an individual case," said another.

"Aside from test case reform I think very little of Legal Services. It's a Band-Aid approach and of very little benefit. I used to have a hell of a time explaining to my clients that I'd done a good job for them when I got them a thirty-day delay before they were going to be evicted. The aim of the programs is cooption. Really there are very few radical lawyers in the program. Most people who are radical either are isolated or leave," commented a third.

"I feel that most lawyers who are radicals, whether they're into Legal Services or something else, are caught in the middle of tremendous contradictions, both personal and political. Everyone I know goes through periodic reassessments of the value of what they are doing. Everyone is always tempted to quit law and a lot do. I'm working in the midst of the legal system which I find is the antithesis of anything I find useful in human relationships. It is artificial and contrived, and it is loaded against anyone who wants to make changes. You're dealing with people who are racist and chauvinistic all of the time. The only thing that makes it worthwhile to me at all is that somewhere on the other side I'm developing relationships that are satisfying to me, personally, and I'm helping to tear the system down. I feel there is very little worth preserving. The way I relate to the court system is to try to figure out how to destroy it before it destroys me which I'm not sure I'm winning on."

"That's how we feel personally, which is what tears us apart inside a lot. But the other side of the coin is that we don't have any choice. The movement is so caught up in the cutting edge of fascism, a good part of which is the legal system, that we have to deal with it. It's important to humanize oneself while doing it, to keep involved in nonlegal things and to watch what you're doing. I think more and more we'll be forced to be criminal lawyers. I don't know if civil law is still important at all.

Some of us went on this legal trip to Cuba, and we found out a lot about lawyers there. Before 1959 some lawyers there were shot for defending some people, and lawyers were as crucial a part of that revolution as anything that happened, partly because Castro was a lawyer and partly because, when a system has reached the level of fascism that that one had, criminal defense is considered the key (to) some intermediary goals.

"It is important here now to distinguish between a lawyer who contributes his legal skills to the movement and a movement person who contributes the skill of being a lawyer. You can tell by dedication, by lifestyle, by whether a person gets outside of him- or herself. I never had a real sense of this before I went to Cuba. It's very difficult for us to be revolutionaries, living in the belly of the monster with all the pressures and temptations and escape mechanisms around us. For us to really believe so much in something outside of ourselves that we give our lives for it or whatever, well, sometimes I don't think any of us are revolutionary yet."

"Working in the court system is essential now. We go when we have to and that's going to be the way it is until we have enough strength growing out of the barrel of a gun, or wherever it's going to grow out of, to ignore that system. We don't have that strength now, and until we do the court system is going to be there."

"I think it is difficult to be revolutionary in any context in this country right now. The contradictions for lawyers are tremendous but I see an absolute political need for them. I'd hesitate to say that I'm a dedicated revolutionary ready to give up my life for the cause although that is what I'd like to be someday. I don't think many people are that now but I know a lot of lawyers who are trying. It's a very dynamic process. A lot of people are trying to do what they think is right which, in the long run, is going to have to turn them into revolutionaries because that is the only way to respond to this system."

"It's inevitable as you see more of the contradictions in life here. But I see validity in it not happening too quickly. I see a lot of people today who seem to have split from a middle-class family and become radical over the weekend. But then they're confronted by so many contradictions, by a volatile life that is difficult to survive in, that they are liable to end up in the mountains because they can't cope with what they see. That can happen to lawyers as well as anybody else."

Sometimes slowly, and sometimes more quickly than they would choose, the people around the Bay Area regional office of the Guild are learning, through experimentation, to cope with the many contradictions that they see in the system at large, the legal system, and the roles they happen to have to play in it. Their conclusions, their methods of coping, are very likely to point the way to the future of the people's law movement.

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## QUORUM CALL

Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

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## CLOTURE MOTION

Mr. HUGH SCOTT. Mr. President, on behalf of the distinguished senior Senator from Ohio (Mr. TAFT), I submit a cloture motion with respect to S. 2686, the proposed Legal Services Corporation Act.

I ask unanimous consent that the vote occur on Wednesday immediately after the vote on the amendment offered by the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT).

The VICE PRESIDENT. Without objection, it is so ordered.

The cloture motion having been presented under rule XXII, without objection the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (S. 2686), a bill to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

Robert Taft, Richard S. Schweiker, Gaylord Nelson, William D. Hathaway, Harrison A. Williams, Mark Hatfield, Alan Cranston, James B. Pearson, Gale W. McGee, and John V. Tunney.

J. Glenn Beall, Jr., Mike Mansfield, Adlai Stevenson, Walter F. Mondale, Hugh Scott, Jacob K. Javits, Edward W. Brooke, Edward M. Kennedy, and William Proxmire.

## QUORUM CALL

Mr. WILLIAM L. SCOTT. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. McCLURE). Without objection, it is so ordered.

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## NATIONAL ENERGY EMERGENCY ACT OF 1973—CONFERENCE REPORT

The Senate resumed the consideration of the report of the committee of conference on S. 2589, to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

Mr. NELSON. Mr. President, last week the Senate Finance Committee conducted 2 days of panel discussion on section 110. The panelists consisted of 11 experts in this area, most of whom have held high positions in the Internal Revenue Service or the Treasury Department during four administrations. This was a fair, objective, bipartisan panel and they were unanimous in their condemnation of this proposal.

After careful consideration and study of their testimony and section 110, it would appear clear to me to be unconstitutional, unworkable, and counterproductive. At a time when everything should be done to stimulate production, section 110 would result in a cutback of production. The following analysis is not intended as a complete discussion of problems raised by section 110, but rather is an examination of some of its more questionable aspects:

### DESCRIPTION OF SECTION 110 OF S. 2589

Section 110(a)(1) authorizes the President to "specify prices for sale of petroleum products . . . which avoid windfall profits by sellers." Section 110(a)(2) authorizes any interested person to petition the Renegotiation Board to determine ((3)(A)) whether the price of "petroleum products permits sellers thereof to receive windfall profits." If the Board so determines, it "shall specify a price for such sales which would not permit such profits to be received by such sellers."

For purposes of this subparagraph, section 110(a)(6) defines windfall profits to mean profits that are in excess of the *lesser of*

110(a)(6)(A)) "a reasonable profit with respect to the particular seller" to be determined by the Renegotiation Board on consideration of certain general factors, *i.e.*, "reasonableness of its cost and profit," "net worth," "risk," "efficiency and productivity" and (iv) "other features the consideration of which the public interest in fair and equitable dealings may require . . . or

(B) *greater of*

"(i) the average profit obtained by sellers for such products during the calendar years 1967 through 1971; or

"(ii) the average profit obtained by the particular seller for such products during such calendar years." Upon petition of any interested person (section 110(a)(3)(B) and the Board's determination that a windfall profit exists, it may "order such seller to take such actions (including the escrowing of funds as it may deem appropriate to assure that sufficient funds to be available for the refund of windfall profits. . . .)" Upon final determination of windfall profits, the Board "shall order such seller to refund an amount equal to such windfall profits to the persons who have purchased from such seller . . . if such persons are not reasonably ascertainable, the Board shall order the seller for the purposes of refunding . . . to reduce the price for future sales, to create a fund against which previous purchasers of such items might file a claim or to take such other actions as the Board may deem appropriate." Such procedure is subject to judicial review. For purposes of this subparagraph, windfall profits is defined as section 110(a)(7) "profits in excess of the average profits obtained by all sellers for such products during the calendar years 1967 to 1971." Section 110(a)(10).

Section 110 takes effect on January 1, 1975, but applies to profits attributable to any price "of crude oil, residual fuel oil, and refined petroleum products in effect after December 31, 1973."

### GENERAL

Section 110 is not a tax and has none of the characteristics of a tax. Rather, it seems to establish a system of restitution or, depending upon one's view, confiscation. Section 110 is based in large part on the Renegotiation Act of 1951, rather than the language of any of the three excess profits taxes enacted during three major wars in this country's history. While excess profits taxes have proven to be extremely hard to administer and have resulted in extended litigation, they are models of precision and objectivity, compared to the vague standards of the Renegotiation Act. The language of the Renegotiation Act has been described by one of the country's renegotiation experts as involving "wholly a matter of judgment," because of the absence of measurable objective standards. (Koehler, "Renegotiation: Evidence and Burden of Proof in Appeal Proceedings," 45 Va. L. Rev. 1, 3 (1959).)

The Renegotiation Act deals with the recapturing, under certain circumstances, of excessive profits on defense contractors engaged in business with the U.S. Government. Section 110 attempts to transfer the same concept to transactions wholly between private parties and where no party to the transaction, unlike the circumstances of the Renegotiation Act, has contractually agreed to a system of recapture of excessive profits. The recapture of windfall profits is completely haphazard, dependent totally upon the petitioning of "an interested party," who is not defined, involving any sale of any petroleum product. Unlike the Korean excess profit tax, this section 110 applies both to individuals and to corporations and to corporations regardless of size. To obtain some idea of the impact of this statute, it has been estimated that there are around 400,000 owners of oil in the United States, 250 refineries, 220,000 filling stations of which 70 to 80 percent of them are individually owned and thousands of others who sell petroleum products.

Furthermore, the section applies to each and every sale of these petroleum sellers. It also appears that this section would apply to sales outside the United States.

### SECTION 110 IS OF DOUBTFUL CONSTITUTIONALITY

Section 110 is of doubtful constitutionality because its application is uncertain. The imposition of the recapture of windfall profits is completely haphazard, depending on a filing of a petition of any interested party. In addition, assuming a petition by an interested party, it is impossible for any seller to determine what transactions subjects him to a refund of the amount of that refund.

Such a concept is unknown in our law. The proposed system would involve an unconstitutional delegation of congressional power or of taking of property without due process of law, because of the vagueness of the statutory standards and concepts.

The Fifth Amendment prohibits the taking of property without due process of law. Procedural due process for the sellers of petroleum products whose property is being taken requires, absent an overwhelming governmental interest and special urgency such as occurs in total war, that the legal rights of the person whose property is taken be adjudicated by a court of law. The seriousness of the injustices which could result from the abuse of the powers delegated to the Renegotiation Board are clear and Congress is required to preserve adequate channels of procedural due process through the courts and provide for careful conformity to those channels. Otherwise, the vagueness of the test for windfall profits would mean that Congress had delegated its final authority to make laws to a body of men not entitled to that authority, *Panama Refining Co. v. Ryan*, 293 U.S. 388, 414–433 (1935).

Experience has shown that every business decision of the taxpayer is relevant to determining whether his profits are reasonable or excessive. To allow thousands of petroleum product purchasers to go before the courts on such a vague question raises serious Constitutional doubts as to whether these issues are capable of resolution by traditional and orderly Constitutional adjudication.

(See *Cohen v. Flast*, 392 U.S. 83 95 (1968).) The business of Federal courts is Constitutionally limited to questions in the context and in a form historically viewed as capable of resolution through the judicial process and Congress cannot destroy a co-equal branch of government by imposing on it issues beyond its capability to resolve.

Even if there are legitimate governmental concerns which might override the individual right in specific situations and the reluctance of the courts to accept jurisdiction for essentially nonjusticiable issues. Congress is required by its Constitutional duty to pick alternatives less intrusive on Constitutional concerns if such an alternative is possible and consistent with the Congressional purpose. By simplifying the determination of windfall profits and by providing that the facts necessary to determinations of that base are to be resolved in a more orderly and less administratively cumbersome forum, Congress can give its due respect to Constitutional concerns. Such alternatives are available.

There is a serious Constitutional doubt about an act which would provide that even though the taxpayer can show that a reasonable profit is higher than his base period average, he nevertheless would not be permitted to use that as a basis for determining excessive profits, particularly in light of the fact that the tax would not be imposed on sellers generally, but only sellers of a particular product.

Finally, while the Constitutionality of the Renegotiation Act of 1951 was upheld (*Lichter v. United States*, 334 U.S. 742 (1948)), it is not an adequate precedent for section 110. The Renegotiation Act was upheld because it was an exercise of war powers and because the affected parties in their contract with the government had agreed to the vague standards contained in the Act. This section attempts to transfer the same concept to transactions wholly between private parties and where no party to the transaction has contractually agreed to a system of recapture of profits.

### SECTION 110 IS LEGALLY UNWORKABLE

The testimony presented to the Senate Finance Committee last week expressed the uniform opinion of experts in the field of tax law that a provision identical to section 110 except that the sanction was a tax rather than a refund, was unadministerable and, therefore, unworkable.

The recapture proposal calls for income determinations by product lines. There is not adequate information for such a determination. Our tax system has never been required to determine taxable income by product lines, and it cannot readily be done.

Since the proposal would require such determinations for the past period 1967–71, both on an industry-wide basis and for each particular taxpayer, as well as for future years, and since such data could not be developed, the system would not be administerable.

It should be noted that the proposal refers to "profits," rather than "taxable income," which is the base of our entire Federal income tax system. We have no concept of "profits" as such under our system; while we have a concept "earnings and profits," it reflects an amount after payment of dividends to shareholders, which is presumably not the intended base of section 110, the proposed tax.

### OTHER PROBLEMS WITH SECTION 110

*Provision*

(2) Any interested person, who has reason to believe that any price . . . [prescribed by the government] of petroleum products permits a seller thereof any windfall profits, may petition the Renegotiation Board . . . for a redetermination . . . [of the price].

*Comments*

Presumably "any interested person" includes a purchaser of a petroleum product. There are around 400,000 owners of oil in the United States, 250 refineries, 200,000 filling stations and thousands of others who sell petroleum products. The number of petitions which would probably be filed with the Renegotiation Board against these sellers is staggering to contemplate. Without regard to the fact that commerce in petroleum products in the United States would be seriously crippled or might even be halted by such a provision, the five-man Renegotiation Board and its staff of 200 would be inundated with petitions. It would probably be a year before any significant staff could be assembled, months more before they were trained to do a fair job and then the process of dealing with the petitions received could be begun.

*Provision*

"(3) (A) . . . The Board may by rule determine, after opportunity for oral presentation of views, data and arguments, whether the price . . . of petroleum products permits sellers thereof to receive windfall profits. Upon a final determination of the Board that such a price permits windfall profits to be so received, it shall specify a price for such sales which will not permit such profits to be received by such sellers."

*Comment*

It is one thing for the Renegotiation Board to determine fair profits from certain types of contracts with basically our large business firms in the United States. But how would the Board ever make a determination with any uniformity for the independent gas station operator whose wife, sons, etc., may work for him without charge and the major oil company-owned station which has only paid employees, higher rent, a large repair facility, a car wash, etc. There is simply no comparability from which to make a determination of fair profit.

The determination is akin to the World War II and Korean War Excess Profit Tax determinations of excess profits. These taxes applied only to corporations—not all persons as does Sec. 110—and contained 30–40 pages of complicated rules governing the determination of "excess" (and, conversely, fair) profits. The morass created by the thousands of cases arising out of those laws will be considered small by comparison with Sec. 110 if for no other reason than the sheer number of people involved.

*Provision*

"(B) . . . If, on the basis of such petition, the Board has reason to believe that such price has permitted such seller to receive windfall profits, it may order such seller to take such actions (including the escrowing of funds) as it may deem appropriate . . ."

*Comment*

It would be intolerable if the Board exercised this power. Merely because a petition is filed by a person alleging that a price for one product is too high would be no justification for any action by any government agency. The determination of how much profit is fair depends upon many more factors than the price of one product. What if that product sells for 120% of cost, another sells for exactly cost and the average of the two is 110% of cost. If a 10% markup on cost is reasonable, does each product have to have the same markup?

*Provision*

"(B) . . . Upon a final determination of the Board that such price permitted such seller to receive windfall profits, the Board shall order such seller to refund an amount equal to such windfall profits to the persons who have purchased from such seller at prices which resulted in such windfall profits. If such persons are not reasonably ascertainable, the Board shall order the sellers . . . to reduce the price for future sales . . ."

*Comment*

Considering the delays which will be involved between the time a person petitions for redetermination and the Board reaches a decision which is then reviewed by the courts, it is likely that few refunds will be made to the exact people who paid the excessive price. It is doubtful whether any but the simplest cases will be disposed of before three to five years on the average. On the basis of the experience gained from the excess profits tax cases, it would be reasonable to expect the complex cases to go on for 10, 20, or 30 years. The final case resulting from the excess profit taxes of 1917 was not resolved until 1938, and the final case involving the excess profit taxes of World War II was not disposed of until 1967. Litigation arising from the Korean excess profit tax of 1950–1953 continues today.

Many small retailers would be in and out of business before these claims could be finally determined. It must be realized that if the owner of crude oil is found (two, five, ten, or thirty years from now) to have made an excessive profit, so, in all likelihood, would each person who handled that crude or its products in the distribution chain. A percentage markup applied to an excessive cost produces, by definition, an excessive profit.

*Provision*

"6 . . . For the purposes of subparagraph (B) of paragraph (3), the term 'windfall profits' means that profit . . . derived from the sale of any petroleum product determined by the Board upon consideration of . . ."

*Comment*

What is a "reasonable" profit is a judgment on which no two persons would agree. It is simply a guess or a rough approximation and, is unadministerable with any kind of equity. The factors enumerated in determining reasonable profits are all significant, but the most important one—and that is whether or not it is high enough to attract the capital necessary to produce the quantity of the product desired—is omitted.

No one can tell what "reasonable costs and profits" means, or what "volume of production" means, or "net worth," extent of risks assumed," "efficiency and productivity" or any other high sounding phrases. The application of these non-reasonable standards has caused great concern even in the Renegotiation Board area where contracting parties voluntarily agreed to them.

Note that the permitted profit is the *lesser* of a reasonable profit or the historical profit. This means that a calculation of reasonable profit must be made in each case, there is no "safe harbor" of any amount.

Note also that a person could be forced to realize less than a reasonable profit if a reasonable profit was more than historical profit.

*Provision*

"(b) the greater of—

(i) the average profit obtained by seller for such products during the calendar years 1967 through 1971; or

(ii) the average profit obtained by the particular seller for such products during such calendar years.

*Comments*

The average profit for each product of a seller would have to be determined for 1967–71. Even if anyone knew what average profit was, in this context, the records for such calculations are not going to be available for all 400,000 crude oil owners, 250 refineries, 200,000 gas stations, etc. And if they were available, it would be years before they could be analyzed to produce any meaningful profit figures.

How would you ever allocate revenues and expenses to petroleum products if you engaged in more than one line of business (and many companies do)?

How would anyone know what all other sellers of the product had done—and how would he know whether or not it was the same product. Petroleum products are largely the same, from seller to seller, but many have important variations in terms of costs to produce, from seller to seller.

*Provision*

"(7) Except as provided in paragraph (6), for the purposes of this subsection, the term 'windfall profits' means profit in excess of the average profit obtained by all sellers for such products during the calendar years 1967 through 1971."

*Comments*

No period can be selected which was a normal period for all taxpayers. That is to say, during any taxable year or years selected, some taxpayers' rates of return on investment or profits will be higher or lower than others for many extraneous reasons, such as strikes, floods, etc. The assumption of normality of any historical rate of profits or any absolute amount of profits for a particular taxpayer for a particular period is subject to challenge because of the infinite variations in taxpayer's situations. For example, during whatever base period is selected, some taxpayers' businesses were contracting, some expanding, some used heavy amounts of equity capital, some relied heavily on debt, some engaged in heavy research and development expenses and others maximized earnings by postponing research and development expenses, and on and on.

Because of the problems referred to above and others, complex machinery has always been required to adjust the inevitable inequities arising from the selection of base periods and the calculation of base period profits. Administrative boards and courts become entangled for years over these questions. The World War II and Korean War excess profits tax cases spawned over 54,000 applications for over $6½ billion of relief because of claimed abnormalities in the computation of excess profits.

*Provision*

"(9) This subsection shall not apply to the first sale of crude oil described in subsection (e)(2) of this section (relating to stripper wells)."

*Comments*

Although the cross reference is not clear, presumably this means that stripper well prices are not to be subject to this provision. There is no perceivable logic to this exclusion. Stripper well owners have windfalls to the same extent as other oil owners. The short-run shortage of oil has benefited them to the same extent as an owner of a 20-barrel per day well.

If the 20-barrel per day well is not cut back to 10 barrels per day to obtain uncontrolled prices, it would be a surprise to observers of human behavior. Mandatory production quotas to overcome this problem would be distasteful, contrary to our system of government and nearly impossible to enforce.

*Provision*

"(10) This section shall take effect on January 1, 1975, and shall apply to profits . . . after December 31, 1973."

*Comments*

It has been said that while Sec. 110 is unworkable its purpose is not to work but is to assure that another provision will be passed before January 1, 1975, to deal with the problem of windfall profits. If that is so, it is an exceedingly high risk approach to dealing with the problem because it is conceivable that no other law may be agreed upon. The Renegotiation Board would have no alternative but to ask for appropriations for a large staff and begin recruiting, hiring and training immediately. Oil producers would have no alternative but to postpone any action which might cause their profits to increase and begin preparing for the cases which would be brought in 1975. Others would simply refuse any longer to sell petroleum products and seek other opportunities not fraught with such legal uncertainties.

In summary, the provisions of Sec. 110 are unconstitutional and unworkable. The only winners, if there would be any winners, would be the lawyers who prosecuted and defended the claims of excessive profits. The losers would be the American people.

Mr. JACKSON. Mr. President, tomorrow the Senate will vote on S. 2589, the Energy Emergency Act. As I noted last Monday, this measure should have been adopted in December before the first session of Congress adjourned. Members of the House and Senate were prevented, however, from having an opportunity to vote on the conference report at that time by the intensive lobbying efforts of the administration, the oil industry, and others.

I am hopeful that the Senate tomorrow will reject motions to table or to recommit to conference committee and will now vote favorably on the conference report and permit a vote on the merits.

There is, however, an organized effort now underway to defeat or recommit the conference report. This effort is supported by the administration and by the oil industry.

Mr. President, I oppose any effort to defeat or further delay adoption of this measure. The American people have carried the full burden of the energy shortage to date. It is now time to introduce some principles of equity and standards of reasonableness into the system.

The conference report on S. 2589 provides a number of measures that are vitally needed to assure adequate and equitable management of the current energy shortage.

Section 104 provides legal authority and equitable standards for energy conservation programs.

Section 105 provides for a standby rationing program that does not impose an undue burden on any class of customer or any sector of the economy.

Section 106 provides authority to save scarce fuel by requiring oil- or gas-fired plants to convert to burning coal.

Section 107 provides for allocation of materials among vital industry and fuel producers.

Section 108 provides for increased and accelerated domestic oil production on public lands, and authorizes the mandating of refining balances.

Section 111 affords protection of franchised service station dealers from arbitrary cancellation of their contracts by the major oil companies.

Section 112 and other provisions of the conference report set forth standards designed to prevent arbitrary and unreasonable actions by the administrators of these essential programs.

Section 113 authorizes regulatory agencies to alter the schedules and routes of regulated carriers for the purposes of saving fuel.

Section 114 provides stringent antitrust protection against collusion by the oil industry in dealing with the energy emergency.

Section 115 provides for restrictions on the export of needed fuel.

Section 116 provides unemployment assistance to those adversely affected by energy conservation measures.

Section 117 provides for increased use of carpools.

Section 118 provides protection of judicial review and administrative procedures to those persons affected by the act.

Section 121 makes available to State and local government and industry idle Federal facilities or equipment to facilitate transportation and distribution of fuels in short supply.

Sections 122 and 123 authorize grants-in-aid and assistance to States for coordinating energy conservation and allocation programs.

Section 124 provides for mandatory disclosure of oil industry data on storage and stocks, production, reserves, distribution, and other essential matters.

Section 201 provides for temporary suspension of emission standards, or revisions in the Clean Air Act to allow maximum fuel use during the energy emergency.

Failure to adopt these provisions is, in my view, an abdication of congressional responsibility.

I fully understand the pressures that have been brought to bear on this matter.

The oil industry opposes the provisions relating to windfall profits and price gouging, on protecting service station operators, and on disclosing information about supplies, reserves, and profits.

The administration opposes the same things. In addition, the administration opposes the stringent antitrust safeguards the committee adopted, and the increased unemployment compensation benefits made available to workers who are unemployed as a result of energy shortages.

Some environmental groups oppose the interim adjustments made in the Clean Air Act which provide the flexibility to deal with shortages.

A major provision of this report is, of course, the section on windfall profits. The administration is adamantly opposed to adoption of the windfall profits provision of this legislation. They intend to offer an alternative proposal which will purportedly attain the same end, and I stress purportedly because it will not do so. An excellent description of why it will not is contained in an article in the January 24 Washington Post. This article headlined "Plan Seen Costing Oil Industry Little," is a discussion of the failure of the administration's plan to in fact prevent, in the Presidents words, "major domestic energy producers from making unconscionable profits as a result of the energy crisis." The administration's proposal is really an excise tax—a sales tax—which will actually encourage the oil companies to charge higher prices and to pass the increased costs on to consumers.

Section 110, the windfall profits provision, does not go into effect until January 1, 1975. If section 110 does go into effect—and if it is not supplanted by other legislation during the coming year–the windfall profits provision would be retroactive to cover all of calendar year 1974. The House and Senate conferees clearly understood and consciously intended to provide an opportunity of 1 year for the administration and the appropriate committees of the Congress to get together on a Federal law to prevent windfall profits and price gouging which would supplant this provision, and which would be designed to insure against unfair corporate profiteering at a time when the average American family is bearing all of the burdens. The conferees consciously intended to put a windfall profits statute on the books that would do two things:

First, insure that the administration and Congress make a serious, good-faith effort in the months ahead to legislate on this subject; and second, to provide American consumers who have paid unconscionable prices to oil companies, brokers, or oil distributors a remedy and a law by which they could recover, beginning on January 1, 1975, any windfall profits.

Mr. President, section 110 provides that remedy. More important, it provides an action forcing procedure whereby the American people can rest assured that the oil industry, the White House, and all those who have traditionally defended the special tax and other advantages the oil companies enjoy, will themselves be in a position of supporting congressional adoption of an excess or windfall profits tax which will prevent unjust enrichment and the accumulation of unearned, unanticipated profits in a period of shortage.

If the conference committee had not adopted a windfall profits section in December, I do not believe the administration would have ever proposed legislation on this subject. It was only after the White House learned of the conference committee's action that the administration expressed any interest in or concern about windfall profits.

The administration's policy up until that time was to limit consumer demand for energy by encouraging increased prices for gasoline and home heating oil. Even after the administration's press release announcement shortly before Christmas that they would propose an "excise tax" in the second session of the 93d Congress, their actual policy of increased oil prices continued. After having condemned windfall profits a few days before Christmas, a few days after Christmas the administration granted a $1 per barrel increase in the price of "old" oil, crude oil that previously had been subject to Cost of Living Council price guidelines.

Mr. President, I strongly urge my colleagues to adopt this interim emergency measure. Early implementation of these provisions will permit more thorough, long-term reforms to be effected without undue haste or pressure, while providing interim authority to deal with current shortages.

## EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider Executive O, 81st Congress, 1st session.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

## INTERNATIONAL CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Chair lay before the Senate, Executive O, 81st Congress, 1st session.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider Executive O, 81st Congress, 1st session, the International Convention on the Prevention and Punishment of the Crime of Genocide, which was read the second time, as follows:

### CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

The Contracting Parties,

Having considered the declaration made by the General Assembly of the United Nations in its resolution 96(I) dated 11 December 1946 that genocide is a crime under international law, contrary to the spirit, and aims of the United Nations and condemned by the civilized world;

Recognizing that at all periods of history genocide has inflicted great losses on humanity; and

Being convinced that, in order to liberate mankind from such an odious scourge, international co-operation is required,

Hereby agree as hereinafter provided:

#### ARTICLE I

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

#### ARTICLE II

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(*a*) Killing members of the group;

(*b*) Causing serious bodily or mental harm to members of the group;

(*c*) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(*d*) Imposing measures intended to prevent births within the group;

(*e*) Forcibly transferring children of the group to another group.

#### ARTICLE III

The following acts shall be punishable:

(*a*) Genocide;

(*b*) Conspiracy to commit genocide;

(*c*) Direct and public incitement to commit genocide;

(*d*) Attempt to commit genocide;

(*e*) Complicity in genocide.

#### ARTICLE IV

Persons comitting genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

#### ARTICLE V

The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide or of any of the other acts enumerated in article III.

#### ARTICLE VI

Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

#### ARTICLE VII

Genocide and the other acts enumerated in article III shall not be considered as political crimes for the purpose of extradition.

The Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force.

#### ARTICLE VIII

Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III.

#### ARTICLE IX

Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

#### ARTICLE X

The present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall bear the date of 9 December 1948.

#### ARTICLE XI

The present Convention shall be open until 31 December 1949 for signature on behalf of any Member of the United Nations and of any non-member State to which an invitation to sign has been addressed by the General Assembly.

The present Convention shall be ratified, and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

After 1 January 1950 the present Convention may be acceded to on behalf of any Member of the United Nations and of any non-member State which has received an invitation as aforesaid.

Instruments of accession shall be deposited with the Secretary-General of the United Nations.

### ARTICLE XII

Any Contracting Party may at any time, by notification addressed to the Secretary-General of the United Nations, extend the application of the present Convention to all or any of the territories for the conduct of whose foreign relations that Contracting Party is responsible.

### ARTICLE XIII

On the day when the first twenty instruments of ratification or accession have been deposited, the Secretary-General shall draw up a *procès-verbal* and transmit a copy thereof to each Member of the United Nations and to each of the non-member States contemplated in article XI.

The present Convention shall come into force on the ninetieth day following the date of deposit of the twentieth instrument of ratification or accession.

Any ratification or accession effected subsequent to the latter date shall become effective on the ninetieth day following the deposit of the instrument of ratification or accession.

### ARTICLE XIV

The present Convention shall remain in effect for a period of ten years as from the date of its coming into force.

It shall thereafter remain in force for successive periods of five years for such Contracting Parties as have not denounced it at least six months before the expiration of the current period.

Denunciation shall be effected by a written notification addressed to the Secretary-General of the United Nations.

### ARTICLE XV

If, as a result of denunciations, the number of Parties to the present Convention should become less than sixteen, the Convention shall cease to be in force as from the date on which the last of these denunciations shall become effective.

### ARTICLE XVI

A request for the revision of the present Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General.

The General Assembly shall decide upon the steps, if any, to be taken in respect of such request.

### ARTICLE XVII

The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member States contemplated in article XI of the following:

(*a*) Signatures, ratifications and accessions received in accordance with article XI;

(*b*) Notifications received in accordance with article XII;

(*c*) The date upon which the present Convention comes into force in accordance with article XIII;

(*d*) Denunciations received in accordance with article XIV;

(*e*) The abrogation of the Convention in accordance with article XV;

(*f*) Notifications received in accordance with article XVI.

### ARTICLE XVIII

The original of the present Convention shall be deposited in the archives of the United Nations.

A certified copy of the Convention shall be transmitted to each Member of the United Nations and to each of the non-member States contemplated in article XI.

### ARTICLE XIX

The present Convention shall be registered by the Secretary-General of the United Nations on the date of its coming into force.

For Afghanistan:

For Australia: Herbert Evatt, December 11, 1948.

For Argentina:

For the Kingdom of Belgium:

For Bolivia: Adolfo Costa du Rels, 11 Dec. 1948.

For Brazil: Joao Carlos Muniz, 11 December 1948.

For the Union of Burma:

For the Byelorussian Soviet Socialist Republic:

For Canada:

For Chile: Con la reserva que requiere tambien la aprobacion del Congreso de mi pais. H. Arancibia Lazo.

For China:

For Colombia:

For Costa Rica:

For Cuba:

For Czechoslovakia:

For Denmark:

For the Dominican Republic: J.E Balaguer, 11 Dec 1948.

For Ecuador: Homero Viteri Lafronte, 11 Diciembre de 1948.

For Egypt: Ahmed Moh. Khachaba, 12-12-48.

For El Salvador:

For Ethiopia: Aklilou, 11 December 1948.

For France: Robert Shuman, 11 Dec 1948.

For Greece:

For Guatemala:

For Haiti: Castel Demesmin, Le 11 Deciembre 1948.

For Honduras:

For Iceland:

For India:

For Iran:

For Iraq:

For Lebanon:

For Liberia: Henry Cooper, 11/12/48.

For the Grand Duchy of Luxembourg:

For Mexico: Luis Padilla Nervo, Dec. 14, 1948.

For the Kingdom of the Netherlands:

For New Zealand:

For Nicaragua:

For the Kingdom of Norway: Finn Moe, Le 11 Decembre 1948.

For Pakistan: Zafrulla Khan, Dec. 11, '48.

For Panama: R. J. Alfaro, 11 Diciembre 1948.

For Paraguay: Carlos A. Vasconsellos, Diciembre 11, 1948.

For Peru: F Berckemeyer, Diciembre 11/1948.

For the Philippine Republic: Carlos P. Romulo, December 11, 1948.

For Poland:

For Saudi Arabia:

For Siam:

For Sweden:

For Syria:

For Turkey:

For the Ukrainian Soviet Socialist Republic:

For the Union of South Africa:

For the Union of Soviet Socialist Republics:

For the United Kingdom of Great Britain and Northern Ireland:

For the United States of America: Ernest A. Gross, Dec. 11, 1948.

For Uruguay: Enrique C. Armand Ugon, Decembre 11 de 1948.

For Venezuela:

For Yemen:

For Yugoslavia: Ales Bebler, 11 Dec. 1948.

Certified true copy.

For the Secretary-General:

KERNO,

*Assistant Secretary-General in charge of the Legal Department.*

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the treaty be considered as having passed through its various parliamentary stages up to, and including the presentation of the resolution of ratification.

The PRESIDING OFFICER. The clerk will report the resolution of ratification.

The assistant legislative clerk read as follows:

*Resolved*, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The International Convention on the Prevention and Punishment of the Crime of Genocide, adopted unanimously by the General Assembly of the United Nations in Paris on December 9, 1948, and signed on behalf of the United States on December 11, 1948 (Executive O. Eighty-first Congress, first session), subject to the following understandings and declaration:

1. That the United States Government understands and construes the words "intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such" appearing in Article II, to mean the intent to destroy a national, ethnical, racial, or religious group by the acts specified in Article II in such manner as to affect a substantial part of the group concerned.

2. That the United States Government understands and construes the words "mental harm" appearing in Article III(b) of this Convention to mean permanent impairment of mental faculties.

3. That the United States Government understands and construes Article VI of the Convention in accordance with the agreed language of the Report of the Legal Committee of the United Nations General Assembly that nothing in Article VI shall affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State.

4. That the United States Government declares that it will not deposit its instrument of ratification until after the implementing legislation referred to in Article V has been enacted.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, this does not preclude the rights of any Senator. It just goes through the regular procedure up to the final ratification.

Mr. President, I think that I should at this time make a statement to the Senate to the effect that I was approached in writing by a Senator last Friday asking that consideration of the so-called Genocide Treaty be deferred until after the Lincoln Day recess.

The reason for that request was the Watergate hearings. I wrote to him explaining the situation and the number of promises and delays and postponements which had been made. And on the basis of the fact that the Watergate hearings as scheduled for this week have now been postponed, I feel that in good conscience the Senate can go ahead with the consideration of the so-called Genocide Treaty.

I tried today to contact this particular Senator. I was unsuccessful in doing so. So the responsibility is mine for taking this action at this time.

Mr. President, I ask unanimous consent to have printed in the RECORD the letters of transmittal in connection with this convention.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

The White House,
*June 16, 1949.*

*To the Senate of the United States:*

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a certified copy of the convention on the prevention and punishment of the crime of genocide, adopted unanimously by the General Assembly of the United Nations in Paris on December 9, 1948, and signed on behalf of the United States on December 11, 1948.

The character of the convention is explained in the enclosed report of the Acting Secretary of State. I endorse the recommendations of the Acting Secretary of State in his report and urge that the Senate advise and consent to my ratification of this convention.

In my letter of February 5, 1947, transmitting to the Congress my first annual report on the activities of the United Nations and the participation of the United States therein, I pointed out that one of the important achievements of the General Assembly's first session was the agreement of the members of the United Nations that genocide constitutes a crime under international law. I also emphasized that America has long been a symbol of freedom and democratic progress to peoples less favored than we have been and that we must maintain their belief in us by our policies and our acts.

By the leading part the United States has taken in the United Nations in producing an effective international legal instrument outlawing the world-shocking crime of genocide, we have established before the world our firm and clear policy toward that crime. By giving its advice and consent to my ratification of this convention, which I urge, the Senate of the United States will demonstrate that the United States is prepared to take effective action on its part to contribute to the establishment of principles of law and justice.

Harry S Truman.

(Enclosures: (1) Report of the Acting Secretary of State, (2) certified copy of convention on the prevention and punishment of genocide.)

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Department of State,
*Washington, D.C.*

The President,
*The White House:*

I have the honor to transmit to you a certified copy of the convention on the prevention and punishment of the crime of genocide, adopted unanimously by the General Assembly of the United Nations in Paris on December 9, 1948, with the recommendation that it be submitted to the Senate for its advice and consent to ratification.

The convention defines genocide to mean certain acts, enumerated in article II, committed with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such. These acts are discussed below.

The basic purpose of the convention is the prevention of the destruction of a human group as such. The first resolution of the General Assembly on this subject, 96 (I), adopted unanimously by the members of the United Nations on December 11, 1946, succinctly pointed out that—

"Genocide is a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings."

The resolution also pointed out that genocide shocks the conscience of mankind, results in great losses to humanity and is contrary to moral law. Of course, homicide also is shocking, results in losses to humanity and is contrary to moral law. The distinction between those two crimes, therefore, is not a difference in underlying moral principles, because in the case of both crimes, moral principles are equally outraged. The distinction is that in homicide, the individual is the victim; in genocide, it is the group.

The General Assembly declared in this resolution that the physical extermination of human groups, as such, is of such grave and legitimate international concern that civilized society is justified in branding genocide as a crime under international law. The extermination of entire human groups impairs the self-preservation of civilization itself. The recent genocidal acts committed by the Nazi Government have placed heavy burdens and responsibilities on other countries, including our own. The millions of dollars spent by the United States alone on refugees, many of them victims of genocide, and the special immigration laws designed to take care of such unfortunates illustrate how genocide can deeply affect other states. On September 23, 1948, Secretary of State Marshall stated that—

"Governments which systematically disregard the rights of their own people are not likely to respect the rights of other nations and other people and are likely to seek their objectives by coercion and force in the international field."

It is not surprising, therefore, to find the General Assembly of the United Nations unanimously declaring that genocide is a matter of international concern.

Thus, the heart of the convention is its recognition of the principle that the prevention and punishment of genocide requires international cooperation. However, the convention does not substitute international responsibility for state responsibility. It leaves to states themselves the basic obligation to protect entire human groups in their right to live. On the other hand it is designed to insure international liability where state responsibility has not been properly discharged.

The convention was carefully drafted, and, indeed, represents the culmination of more than 2 years of thoughtful consideration and treatment in the United Nations, as the following important steps in its formulation demonstrate:

The initial impetus came on November 2, 1946, when the delegations of Cuba, India, and Panama requested the Secretary-General of the United Nations to include in the agenda of the General Assembly an additional item: the prevention and punishment of the crime of genocide. The Assembly referred the item to its Sixth (Legal) Committee for study.

At its fifty-fifth plenary meeting on December 11, 1946, the Assembly adopted, without debate and unanimously, a draft resolution submitted by its Legal Committee. This resolution, referred to above, affirmed that "genocide is a crime under international law." It recommended international cooperation with a view to facilitating the prevention and punishment of genocide, and, to this end, it requested the Economic and Social Council of the United Nations to undertake the necessary studies to draw up a draft convention on the crime.

Pursuant to this resolution a draft convention on genocide was prepared by the ad hoc Committee on Genocide in the spring of 1948, under the chairmanship of the United States representative on this committee. This draft was again discussed by the Economic and Social Council in July and August 1948 in Geneva, and then in the Legal Committee of the General Assembly at its third regular session in Paris, where again the United States delegation played an important role in the formulation of the draft convention.

On December 9, 1948, the General Assembly unanimously adopted the convention to outlaw genocide, which was signed by the United States 2 days later. When signing, the United States representative said, in part:

"I am privileged to sign this convention on behalf of my Government, which has been proud to take an active part in the effort of the United Nations to bring this convention into being.

"The Government of the United States considers this an event of great importance in the development of international law and of cooperation among states for the purpose of eliminating practices offensive to all civilized mankind."

Genocide is a crime which has been perpetrated by man against man throughout history. Although man has always expressed his horror of this heinous crime, little or no action had been taken to prevent and punish it. The years immediately preceding World War II witnessed the most diabolically planned and executed series of genocidal acts ever before committed. This time there was to be more than mere condemnation. A feeling of general repulsion swept over the world, and following the war manifested itself in the General Assembly's resolution of December 1946. It is this resolution to which the Legal Committee gave full content by providing the General Assembly with a legal instrument designed not only to prevent genocidal acts but also to punish the guilty.

The genocide convention contains 19 articles. Of these, the first 9 are of a substantive character, and the remaining 10 are procedural in nature.

Article I carries into the convention the concept, unanimously affirmed by the General Assembly in its 1946 resolution, that genocide is a crime under international law. In this article the parties undertake to prevent and to punish the crime.

Article II specifies that any of the following five acts, if accompanied by the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, constitutes the crime of genocide:

(a) Killing members of the group;

(b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group; and

(e) Forcibly transferring children of the group to another group.

This article, then, requires that there should be a specific intent to destroy a racial, religious, national, or ethnical group as such in whole or in part. With respect to this article the United States representative on the Legal Committee said:

"I am not aware that anyone contends that the crime of genocide and the crime of homicide are one and the same thing. If an individual is murdered by another individual, or indeed by a government official of a state, a crime of homicide has been committed and a civilized community will punish it as such. Such an act of homicide would not in itself be an international crime. To repeat the opening language of the resolution of the General Assembly of December 1946, "genocide is a denial of the right of existence of entire human groups." This remains the principle on which we are proceeding.

"However, if an individual is murdered by another individual, or by a group, whether composed of private citizens or government officials, as part of a plan or with the intent to destroy one of the groups enumerated in article 2, the international legal crime of genocide is committed as well as the municipal-law crime of homicide."

The destruction of a group may be caused not only by killing. Bodily mutilation or disintegration of the mind caused by the imposition of stupefying drugs may destroy a group. So may sterilization of a group, as may the dispersal of its children.

Article III of the convention specifies that five acts involving genocide shall be punishable. These five genocidal acts are—

(a) The crime of genocide itself;

(b) Conspiracy to commit genocide;

(c) Direct and public incitement to commit genocide;

(d) Attempt to commit genocide; and

(e) Complicity in genocide.

The parties agree, in article IV, to punish guilty persons, irrespective of their status.

In article V the parties undertake to enact, "in accordance with their respective constitutions", the legislation necessary to implement the provisions of the convention. The convention does not purport to require any party to enact such legislation otherwise than in accordance with the country's constitutional provisions.

Article VI makes it clear that any person charged with the commission of any of the five genocidal acts enumerated in article III shall be tried by a court of the state in whose territory the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those states accepting such jurisdiction. Thus, the commission in American territory of genocidal acts would be tried only in American courts. No international tribunal is authorized to try anyone for the crime of genocide. Should such a tribunal be established, Senate advice and consent to United States ratification of any agreement establishing it would be necessary before such an agreement would be binding on the United States.

By article VII the parties agree to extradite, in accordance with their laws and treaties, persons accused of committing genocidal acts; none of such acts is to be considered a political crime for the purpose of extradition. The United States representative on the Legal Committee, in voting in favor of the convention on December 2, 1948, said:

"With respect to article VII regarding extradition, I desire to state that until the Congress of the United States shall have enacted the necessary legislation to implement the convention, it will not be possible for the Government of the United States to surrender a person accused of a crime not already extraditable under existing laws."

Existing United States law provides for extradition only when there is a treaty therefor in force between the United States and the demanding government. Only after Congress has defined, and provided for the punishment of, the crime of genocide, and authorized surrender therefor, will it be possible to give effect to the provisions of article VII.

Article VIII recognizes the right of any party to call upon the organs of the United Nations for such action as may be appropriate under the Charter for the prevention and suppression of any of the acts enumerated in article III. This article merely affirms the right of the United Nations to call upon an organ of the United Nations in matters within its jurisdiction.

Article IX provides that disputes between the parties relating to the interpretation, application, or fulfillment of the convention, including disputes relating to the responsibility of a state for any of the acts enumerated in article III, shall be submitted to the International Court of Justice, when any party to a dispute so requests.

On December 2, 1948, in voting in favor of the genocide convention, the representative of the United States made the following statement before the Legal Committee of the General Assembly:

"I wish that the following remarks be included in the record verbatim:

"Article IX provides that disputes between the contracting parties relating to the interpretation, application, or fulfillment of the present convention, "including those relating to the responsibility of a state for genocide or any of the other acts enumerated in article III," shall be submitted to the International Court of Justice. If "responsibility of a state" is used in the traditional sense of responsibility to another state for injuries sustained by nationals of the complaining state in violation of principles of international law and similarly, if "fulfillment" refers to disputes where interests of nationals of the complaining state are involved, these words would not appear to be objectionable. If, however, "responsibility of a state" is not used in the traditional sense and if these words are intended to mean that a state can be held liable in damages for injury inflicted by it on its own nationals, this provision is objectionable and my Government makes a reservation with respect to such an interpretation."

In view of this statement, I recommend that the Senate give its advice and consent to ratification of the convention—

"with the understanding that article IX shall be understood in the traditional sense of responsibility to another state for injuries sustained by nationals of the complaining state in violation of principles of international law, and shall not be understood as meaning that a state can be held liable in damages for injuries inflicted by it on its own nationals."

The remaining articles are procedural in nature. By article XIV the convention is to be effective for an initial period of 10 years from the date it enters into force, and thereafter for successive periods of 5 years with respect to those Parties which have not denounced the convention by written notification to the Secretary-General of the United Nations at least 6 months before the expiration of the current period.

Article XV provides that if there are less than 16 parties to the convention, as a result of denunciations, the convention shall cease to be in force from the effective date of the denunciation which reduces the number of parties to less than 16.

Article XVI authorizes any party to request revision of the convention, by notification in writing to the Secretary-General of the United Nations. The General Assembly shall decide upon the steps, if any, to be taken in respect of such request.

It is my firm belief that the American people together with the other peoples of the world will hail United States ratification of this convention as another concrete example of our repeatedly affirmed determination to make the United Nations the cornerstone of our foreign policy and a workable institution for international peace and security.

Respectfully submitted.

JAMES E. WEBB,
*Acting Secretary.*

(Enclosure: Certified copy of convention on the prevention and punishment of genocide.)

## ORDER FOR VOTES ON ENERGY EMERGENCY BILL

Mr. MANSFIELD. Mr. President, as in legislative session, I ask unanimous consent that on tomorrow, when the distinguished Senator from Wisconsin (Mr. NELSON) offers a motion to recommit the National Energy Emergency Act, the time begin to run at 2 o'clock, the time to be equally divided between the Senator from Wisconsin who will offer the motion and the chairman of the committee, the Senator from Washington (Mr. JACKSON), the vote occur on the motion to recommit at 4 p.m. tomorrow afternoon.

The PRESIDING OFFICER. Without objection, as in legislative session, it is so ordered.

Mr. MANSFIELD. Mr. President, it is my understanding that there will be two votes tomorrow and only two votes on the Energy Emergency Act. One will be on the motion to recommit, by the distinguished Senator from Wisconsin (Mr. NELSON). The other will be a vote on the conference report at approximately 4:30 p.m. tomorrow. And that is it.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## UNANIMOUS-CONSENT AGREEMENT ON TIME FOR VOTE ON THE WILLIAM L. SCOTT AMENDMENT ON LEGAL SERVICES BILL

Mr. MANSFIELD. Mr. President, as in legislative session, I ask unanimous consent that vote on the William L. Scott amendment which was scheduled to take place at 1:30 p.m. Wednesday next, be postponed until 2 p.m. on Wednesday and that the vote on the cloture motion on the legal services bill, S. 2686, which was to follow immediately upon the conclusion of the vote on the William L. Scott amendment be advanced in a like manner.

The PRESIDING OFFICER. Without objection, it is so ordered.

## QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SENATE CONFIRMATION OF DIRECTOR AND DEPUTY DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET

Mr. MANSFIELD. Mr. President, as in legislative session, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 37.

The PRESIDING OFFICER (Mr. McCLURE) laid before the Senate the amendment of the House of Representatives to the bill (S. 37) to amend the Budget and Accounting Act, 1921, to require the advice and consent of the Senate for future appointments to the offices of Director and Deputy Director of the Office of Management and Budget, and for other purposes, which was to strike out all after the enacting clause, and insert:

That the first two sentences of section 207 of the Budget and Acounting Act, 1921 (31 U.S.C. 16) are amended to read as follows:

"SEC. 207. There is in the Executive Office of the President an Office of Management and Budget. There shall be in the Office a Director and a Deputy Director, both of whom shall be appointed by the President, by and with the advice and consent of the Senate."

SEC. 2. The amendment made by the first section of this Act shall take effect—

(1) insofar as such amendment relates to appointments to the office of Director of the Office of Management and Budget, immediately after the individual holding that office on the date of the enactment of this Act ceases to hold that office;

(2) insofar as such amendment relates to appointments to the office of Deputy Director of the Office of Management and Budget, immediately after the individual holding that office on the date of the enactment of this Act ceases to hold that office; and

(3) immediately as to such vacant office or offices, if the Office of the Director or the Office of the Deputy Director of the Office of Management and Budget is vacant when this Act is enacted.

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

Mr. MANSFIELD. Mr. President, as in legislative session, I ask unanimous consent that the action just taken by the Senate on S. 37 be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## GENOCIDE CONVENTION

The Senate in executive session continued with the consideration of Executive O (81st Cong., 1st sess.) the International Convention on the Prevention and Punishment of the Crime of Genocide.

Mr. PROXMIRE. Mr. President, why should we ratify the Genocide Treaty? I spent the weekend reading letters I have received from my constituents and other people from all over the country vehemently protesting this treaty. I was impressed how far these letters have departed from the real meaning, significance, and the reason why we have this treaty before us.

Many Senators have told me they have been swamped in the past few days with letters from people opposing the pending treaty. Very few letters have come in on the other side.

Thus, I believe it is proper that we spend a few moments reviewing the reason why. I will not mention the fact that this is a treaty, of course, that the United States itself proposed, fought for, and succeeded in winning adoption in the United Nations. I will not go into those points in detail, or about how the great majority of the nations of the world have ratified the treaty and are now waiting on the United States to do so.

I should like to tell the Senate that the real argument for the Genocide Treaty was put by a little teenage Jewish girl. She was a victim of Hitler's genocide. She was one of 6 million Jews deliberately destroyed in the Nazis' planned extermination of European Jews during World War II.

Genocide is the planned, premeditated extermination of an entire people or race. The treaty we debate today would make such action an international crime.

Anyone who has any real doubt about whether he should vote yea or nay, should listen not only to the voices of Senators and constitutional authorities, but also to the voice of murdered Anne Frank, that child of love and sunlight, of warmth and joy amid the terror, the hatred and death from Nazi persecution.

Across the 29 years since Anne Frank died in the Nazi concentration camp at Belsen, that voice rings out—calling on us to dedicate this country to the end of the terrible crime of genocide.

Mr. President, I challenge Senators who would vote against this treaty to think not only of the murder of millions of Asians, Africans, and Jews, but also of this single human being, Anne Frank, and tell me how in the name of humanity can they deny that the U.S. Senate should not follow the pleas of our Presidents, our Attorneys General, and the example of 76 nations who ratified the pending treaty?

Mr. President, I am going to yield to the distinguished Senator from New York (Mr. JAVITS) in a minute, but before I do that, I should like to quote briefly from one or two authorities, so that we get some notion of what genocide has amounted to in the past few years.

From Arnold and Veronica Toynbee "Hitler's Europe" in the series "Survey of International Affairs 1939–46," Oxford University Press 1954:

> All through Eastern Europe, and especially in the Russian provinces invaded by the German armies, the Jews, together with many elements of the local population, were massacred on the spot by the special squads attached to the German forces. They were machine-gunned, gassed, starved, or otherwise annihilated in every city and town which the invaders entered, a procedure which could not be concealed from tens of thousands of the soldiery or from the civil administration, and which evoked singularly few protests comparable to that of the Commissioner-General for White Ruthenia. In the south, in the Ukrainian and Bessarabian provinces entered by the Rumanians, the massacres were almost equally bloody and indiscriminate. In all, the death-roll in these campaigns amounted to over 2 million. In many cities where there had been large and prosperous Jewish communities only a few individuals were found when the Soviet armies returned westwards. Others had been more fortunate, especially in the eastern sections of the area, for there they had more time to escape; in this part of Soviet territory some Jews were deliberately evacuated by the Soviet authorities; and though the number of those is impossible to estimate, it is probably smaller than was at one time believed.
>
> While it had not been found prudent by the Nazis to be as open in their policy of extermination in the more civilized portions of Western and Central Europe, their intentions remained the same for the millions of Jews still to be found in these countries. We possess the minutes of an important conference (U.S. Military Tribunals, Case II, Judgment, pp. 28301 seq. Cf. testimony of Lammers (I.M.T. Nuremberg, xi. 50–51), of Nazi officials, held under the orders of Goering in January 1942 at Wannsee, in which it was decided, in the expectation of victory, to complete the annihilation of the 11 million Jews whom the Nazis calculated that they would be able to reach. Even half-Jews were to be given the choice between death and sterilization. In the meantime the policy of extermination was extended, under the command of Neydrich, to all Jews already within the Nazis' clutches. It was for them that the additional death camps in Poland were devised; and all through 1942 and 1943 transports were being sent eastwards and northwards from France, Belgium, and Holland, from Germany, Austria, and Czechoslovakia, from Hungary and the Balkans. At Auschwitz it was possible to kill 2,000 people in a single operation lasting but a quarter of an hour, and to repeat this three or four times a day. And it must be remembered that only a proportion of those who set out on these terrible journeys, sometimes lasting weeks, arrived alive. How summary was the dispatch with which arrivals were treated is revealed by the story of a train-load of Germans evacuated from Hamburg who had been sent to Iwow to make their homes there. They were seized, stripped of their possessions, and gassed by the Gestapo, before it was discovered that they were not Jews.
>
> In the camp of Auschwitz alone it is reported by the Nazi commandant himself that 2½ million persons, most of whom were Jews, were gassed, and that another half million died of starvation and disease. (Affidavit of R.F.F. Koess, Commandant of Auschwitz from 1 May 1940 to 1 December 1943 (I.M.T. Nuremberg, xxxiii. 276 (3868-PS); N.C.A. vi. 787). The last great consignment was 400,000 Jews from Hungary in the summer of 1944. About the beginning of October, when the defeat of Germany was already certain, Himmler finally gave the order for the massacres to stop, though there is ample evidence that local SS squads ignored it right up to the end.
>
> By the time that the Allied armies gained control of the whole of Europe approximately 6 million Jews had perished.

Finally, reading briefly from the dairy of Anne Frank and a concluding commentary on the diary and on what happened to the child:

> Through the research of Ernst Schnabel, a German writer whose book *Anne Frank, A Portrait in Courage* was published in 1958 some of the events of the last few months of Anne's life have been reconstructed. Auschwitz, a former inmate told Mr. Schnabel, was " 'a fantastically well-organized, spick-and-span hell. The food was bad, but it was distributed regularly. We kept our barracks so clean that you could have eaten off the floor. Anyone who died in the barracks was taken away first thing in the morning. Anyone who fell ill disappeared also. Those who were gassed did not scream. They just were no longer there. The crematories smoked, but we received our rations and had roll calls. The SS harassed us at roll call and kept guards with machine guns from the watchtowers, and the camp fences were charged with high-tension electricity, but we could wash every day and sometimes even take showers. If you could forget the gas chambers, you could manage to live.' "
>
> The prisoners moved like sleep walkers, half dead, protected somehow from seeing anything, from feeling anything. "But Anne had no such protection," another survivor recalled. " 'I can still see her standing at the door and looking down the camp streets as a herd of naked gypsy girls was driven by to the crematory, and Anne watched them go and cried. And she cried also when we marched past the Hungarian children who had already been waiting half a day in the rain in front of the gas chambers because it was not yet their turn. And Anne nudged me and said: "Look, look Their eyes . . ." ' "

Mr. President, that is just one example of one human being who died in that horrible genocide, a genocide that we know outraged mankind. There is very little that we can do about that. The best we can do is to prevent that kind of thing from happening again.

But, how do we do it? How do we do it, Mr. President?

We have a vehicle before us now that gives us the opportunity to make genocide a national crime, a crime that will be recognized as such.

The constitutional arguments, the legal arguments, are solid and sound for this treaty. But I think we should not consider the treaty without being thoroughly aware of the absolute imperative, moral necessity for passing this treaty, the fact that in good conscience, it is the shame of U.S. Senators that they have waited for 24 long years that this treaty has been before them—and only this one body to do it.

All Presidents of the United States from Harry S. Truman on have asked the Senate to pass this treaty, as has every Attorney General—all have considered it constitutional and proper. But the Senate has not acted.

So I hope that when Senators read the mail from their constituents, they will look at their mail very carefully and consider whether that mail is motivated by love or hate, or motivated by good sense or misinformation. Is it the real voice of the American people with their great, compassionate record, or is it the voice of a fringe few who misunderstand the treaty and who would prevent the Senate from taking action—action that we should have taken a generation ago?

Now, Mr. President, I am happy to yield the floor to the distinguished Senator from New York (Mr. JAVITS) who has fought so long and hard for the genocide convention.

Mr. JAVITS. Mr. President, I should like to thank Senator PROXMIRE, who has stood on this floor time and time again through the years, raising his eloquent voice for the forgotten dead whose tragic history he has just recounted.

This is a very humanitarian and a very sensitive Nation. Whatever may be our troubles, whatever the world may from time to time think about what we do, America nonetheless has always stood not only as a symbol of freedom but also as a haven against oppression and, as nations go, a highly moral nation. The world has learned to look to us and rely upon us as the one hope in all of mankind, a nation which is so well endowed in population and location, with its own resources, in the tradition of its people, drawn from many cultures and many foreign places, as the one country most likely to stand up for the rights of man.

With the dreadful holocaust of Hitler before us, which Senator Proxmire has described, it nevertheless, has taken us almost a quarter of a century to get to this point, where the Genocide Treaty would even be heard, debated on the floor of the Senate. Only recently, the Committee on Foreign Relations reported the Genocide Treaty; and then, after it did report the treaty, because of the barrage of propaganda that has been mounted against it, it has taken since last March until now, the very end of January in the following year, even to bring the matter up for debate.

It is a very tragic history, and it makes one feel deeply how easy it is for mankind to forget, notwithstanding the infliction upon mankind itself of these horrors.

Mr. President, what does the Genocide Treaty provide, really? After you analyze it completely and come to the last line of the treaty, considering the understandings which the Committee on Foreign Relations has recorded, and the declaration, the interpretations of various legal bodies respecting its real import, you come down to the fact that it is nothing more than a world declaration against the crime of genocide, which it defines. There is really nothing in this treaty that is all that operative beyond that point. There is no penal court in the world, either temporary or permanent.

We are dealing, in terms of enforcement, with sovereign nations like our own. Hence, the restraints which we put upon the exercise of authority under the treaty are completely effective; and those restraints contained in the understandings make it almost impossible, actually impossible, for any American, which is the constantly voiced fear, being tried for genocide in some foreign country—and the hobgoblin is always raised of a Communist country. Under the terms of the treaty, under the terms of these understandings, and in the absence of any international tribunal, that is well nigh impossible. Nonetheless, it is these fears, which we will discuss in detail in the course of the debate on the treaty, which have blocked even its consideration for such a very long time, until the voices of the dead almost cry out against such neglect by the greatest country on Earth—our own.

Mr. President, we must face the reality of this matter. Seventy-eight nations have already approved this treaty—a number of them with reservations, it is true, but nonetheless approved—and our great country is asked to approve the treaty with a number of understandings. The approval of this country, I think it is very well known and understood, is the most important of any, notwithstanding that it is the 79th instead of being the first. Until a treaty of this character is approved by the leader of the world, which it is known will do its utmost to express its spirit—and that is really what this treaty is mostly about, its spirit—it really is not the moral statement that should be made by the civilized world.

All it spells out is the principle of law that genocide is a crime under international law which the signatories undertake to prevent and to punish. Then it goes on to define genocide as an effort, through either death or other coercive means—subornation of the mind, or group restrictions on birth, or the restraint of or the forcible transfer of children, all of which were practiced so barbarically in World War II and before—with the intent, and this is critcial to the definition, to destroy in whole or in part a national, ethnic, racial, or religious group.

That represents genocide. The intent is a critical part of the crime as defined. By one of the understandings adopted in the committee, we have made this applicable only to a substantial part of that national, ethnical, racial, or religious group in order to make crystal clear that we are not talking about homicides. We are talking about genocide.

Mr. President, one last point which I think is critically important in this matter: We have heard that some effort may be made to hold up action on the long, long overdue ratification of this treaty through the means, which are available to the Senate, of talking a measure to death. It should be made clear—I hope my colleagues will read, if they do not hear—what the situation is.

It takes two-thirds of those present and voting to ratify this treaty, and it takes two-thirds of those present and voting to close debate on this treaty—exactly the same number. Under those circumstances, I express the hope that there may be an honorable debate, the Members, if they feel strongly on the subject, voicing their points of view, and then the presentation of whatever reservations or understanding Members may wish when they vote up or down, and then the treaty itself, the ratification resolution, be voted up or down.

I would feel sad, indeed, if it was felt necessary to have a cloture vote, as the same vote occurs on both questions. I think it would be rather sad if a measure, which comes out of such a tragic history, should not be faced by the Senate and vote up or down on its merits.

I believe that the precautions already taken, as well as the words of the treaty themselves are so clear of any involvement for the United States of any other kind than that which it would itself wish in preventing, if we humanly can, the crime of genocide, that the treaty deserves at long last ratification by the Senate.

If we do ratify this treaty it will be an enormous confirmation of the morality and innate sense of decency of this Nation; that these 6 million dead who taught us this lesson that genocide is possible in this world, should not have died in vain, when the great Nation toward which all of them look as the haven or refuge and the redoubt of freedom should itself adopt the principle which would punish those who would seek to impose genocide upon the world.

Let us remember that it takes quite some doing to be guilty of genocide and that it cannot be done by individuals; but it takes some enormous organized force, generally backed and inspired by government in order to carry out this most heinous crime and, therefore, that an international treaty defining it as an international crime, even if there were no prosecutions under it, is itself an eloquent declaration by the world as to where it stands and what it proposes to do; and it will in and of itself be an indication of the sense of the Nation on this subject.

Mr. President, one could almost say that it is common knowledge that without the adherence of the United States to this treaty it is unlikely to have nearly the effect and impact which it should have and is designed to have.

I will not discuss at this time the individual articles of the treaty and the points made against those articles, on the ground that in some way they jeopardize the administration of justice in the United States, because I deeply believe every one of those points is completely refutable. I prefer rather to sum up the overall case for the treaty as we at long last approach its hearing in the Senate and I shall reserve for another time in the course of the debate the analysis of each of the arguments in terms of the arguments made against those articles and why those arguments are completely invalid and why even on the legal draftsmanship involved the treaty deserves to be ratified.

Although we do not have many Senators in attendance today, and it is understood we will not be voting today, I hope Members will take an interest in this treaty. They owe it to themselves and to their consciences and belief in the American system which places the individual so high in terms of nobility, dignity, and the protection of his individual rights. This is the most complete expression of those ideas as it deals with the eternal question of life and death and the life and death not in the name of an individual's responsibility but in some blind sort of hatred against a whole group if it happens to be ethnical, religious, or distinguishable in some similar fashion.

So this treaty deserves the utmost attention of every Senator, really in memorial for the millions who died in World War II as a result of Hitler's genocide, and the countless millions who will die in all the history of mankind in genocidal lunacy.

At long last the world is organized enough to at least declare and set guidelines for all mankind and make some effort to punish those who would dare perform it, without in the remotest way embarrassing or changing the rights of any individual American under our Constitution with respect to crimes which are covered by our laws or with respect to our relations with others.

I hope very much that at long last the treaty will be ratified.

Mr. PROXMIRE. Mr. President, I wish to add to what the distinguished Senator from New York said in his excellent speech. We have been waiting 24 years for this day. In 1950 President Truman submitted the Genocide Treaty to the Senate for ratification. Think of it: Twenty-four years ago. The Senate failed to act in 1950, 1951, 1952, 1953, and all of the years since then. In fact, the Senate as a whole has not had a chance to act on it until the last couple of years when the Committee on Foreign Relations finally reported it to the floor of the Senate.

I have spoken daily over the last 7 years in strong support of ratification of this treaty. As we meet today the treaty is still urgently needed.

In 1945, the Senate overwhelmingly ratified the United Nations Charter. In doing so, it pledged to uphold "the dignity and worth of the human person." Our failure to ratify the Genocide Treaty, however, has raised questions about our commitment to that pledge. Our delay has caused our detractors to question our dedication to human rights.

The Senate's delay on genocide caused former Chief Justice Earl Warren to remark that—

> We as a nation should have been first to ratify the Genocide Convention. . . . instead we may well be the last.

As of today, 76 nations have already ratified it. Only the United States and China, among the world's major powers, have failed to act.

### BACKGROUND OF GENOCIDE CONVENTION

On December 9, 1948, the convention was adopted in the United Nations General Assembly by a vote of 55 to 0. In 1950 President Truman first submitted the Genocide Convention to the U.S. Senate for ratification. Hearings were held before the Foreign Relations Committee that year, but no action was taken. No action was taken for the succeeding 21 years.

In February of 1970, the President urged the Senate to consider genocide again and to ratify the treaty. The Nixon administration's position is consistent with that of past administrations on the issue of constitutionality of the treaty. Attorneys General in every administration have agreed that there are no constitutional obstacles to U.S. ratification.

Later in 1970 the ABA came within four votes of endorsing ratification. The very closeness of the vote itself and the spirited debate indicate that the ABA as a group has no decisive or overwhelming constitutional objection to ratification. And more significantly, the ABA's standing committee on world order under law, its section on individuals' rights and responsibilities, its section on criminal law, and its section on international and comparative law have all overwhelmingly favored ratification of the treaty. In other words, those ABA members most familiar with the subject matter of the treaty are most favorable to it. If another vote were taken in the house of delegates today I am confident the ABA would favor ratification.

Hearings were held before a special Ad Hoc Subcommittee of the Foreign Relations Committee on November 23, 1970. The full committee voted 10 to 2 to report the Convention to the Senate. Unfortunately, no action was taken at that time or in 1971 when the treaty was again reported to the Senate. For the third, and hopefully the final, time, this past spring the Convention was reported once again by the committee to the Senate for action.

The purpose of the Genocide Convention Treaty is to make genocide an international crime whether committed during war or peace. The treaty makes the destruction of a national, racial, ethnic, or religious group a crime under international law. The treaty sets up procedures for trying and punishing any violators, public or private.

### PROVISIONS OF THE TREATY

There are nine provisions in the treaty. Article I provides that genocide is a criminal act and should be punishable under a scheme of international laws. The spirit of this section is that nations must undertake to prevent such acts against humanity.

Some have suggested that genocide is not properly a matter of international concern. But international law prohibits such matters as the protection of submarine cables, oil pollution, and the production and trade in narcotics. If these are matters of international concern, then certainly genocide is also.

Article II of the Convention defines genocide in such a way as to differentiate it from individual acts of murder or prejudice.

As the Senator from New York has said so well, the intent must be emphasized, because it is not enough to engage in such actions as some might, willy-nilly, consider to be genocide, but the intent must be clear.

The crucial words are:

> Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial, or religious group.

There have been allegations that simply are not based on fact—that such actions as schoolbuses or birth control clinics or other such action might be considered as genocide.

The Committee on Foreign Relations in its report on the convention has pointed out that it is necessary to prove intent to destroy, in whole or in part, a group before a conviction of genocide is possible. There have been allegations that such acts as schoolbusing, birth control clinics, lynchings, certain police actions, et cetera, may constitute genocide. But the committee has made it clear that none of these acts would amount to genocide absent the intent to harm members of a group, as a group. The convention does not aim at prejudice toward any given group, but rather at efforts directed toward substantial annihilation of the group as such.

Article III of the convention recognizes, as does our own criminal law, that acts that lead to or aid in the commission of genocide should also be covered. Thus, a conspiracy, an incitement of others, an attempt, as well as complicity in genocide, are covered by the convention.

There has been some confusion about the meaning of the term, "direct and public incitement to commit genocide." Critics of the treaty argue that such an agreement by the United States would usurp the right of free speech, guaranteed by the Bill of Rights. This is not a real problem with the treaty. The first amendment protects the right of advocacy, not incitement. Ratification of the treaty would be impossible if it conflicted with the Constitution. Since it is advocacy and not incitement that is protected, there is no first amendment problem here.

Article IV provides for the punishment of persons committing acts of genocide. Although acts enumerated in article II are punishable whether committed by constitutionally responsible rulers, public officials, or private individuals, it is important to remember that no foreign state can intervene directly or indirectly in American domestic affairs. Only international organizations can mediate or arbitrate disputes, and protections guaranteed by the U.S. Constitution and existing treaties cannot be superseded or abrogated.

Article V of the convention directs the contracting parties to enact, in accordance with their respective constitution, the necessary legislation to give effect to

**the provisions of the convention. This article makes clear that the convention is not to be construed as self-executing. Ratification clearly does not deprive signatories of the power to prosecute and punish in their own courts acts condeemed by articles II and III of the convention. The Department of State has declared that our Government will not deposit its instrument of ratification until after the implementing legislation referred to in this article has been drafted and enacted.**

Article VI provides that persons charged with genocide or any other acts enumerated in article II shall be tried by a competent tribunal. The tribunal may be one of the state in which territory the act was committed. An alternative to the states tribunal is a trial by an international penal tribunal agreed upon by the contracting parties. At this time no international panel tribunal has been established—and there are no present plans to do so. Separate action either through ratification of a treaty or enactment of a law would be required for the United States to accept this jurisdiction. However, it has been recommended by the committee that article IV should be further defined as having no effect on the right of any state to bring to trial before its own tribunals any of its nationals for acts committed outside the state. This understanding will protect our right to try our own nationals.

### EXTRADITION NOT A CONCERN

Article VII of the Genocide Convention pledges the contracting parties to grant extradition in accordance with their laws and treaties in force. However, there is no reason to fear that this provision will subject our citizens to unfair trials. The treaty clearly states that extradition is to be granted according to the "laws and treaties in force."

At present, the United States has no extradition treaty that includes genocide as one of the crimes for which extradition is to be granted. Adoption of the Genocide Treaty would not—I stress "would not"—automatically change this status. An extradition treaty covering genocide would have to be negotiated by us with other countries and would have to be acceptable to the Senate before it becomes law.

Furthermore, the Justice Department's policy on extradition has been that it will only extradite a person to a foreign court after they are assured that the prosecution will take place in a competent court which follows our procedures of due process. Also, we do not expect to withhold prima facie evidence that a violation has occurred. This policy has long protected the rights of American citizens and will continue to do so.

In short, extradition of U.S. nationals has always been under our exclusive control. And the Genocide Convention will do nothing to change this.

Article VIII states that any contracting party may call upon the competent organs under U.N. charter as they may consider appropriate, to prevent genocide.

Article IX provides for the settlement of disputes arising in terms of interpretation, application or fulfillment of this convention. This includes disputes relating to the responsibility of a state for genocide or any other acts enumerated in article III. The provision calls for these disputes to be submitted to the International Court of Justice at the request of the parties in dispute. No disputes arising from the Genocide Convention have been brought before the International Court to date.

The United States has already ratified many treaties that contain the same type of provision for the settlement of disputes as contained in the Genocide Convention. In fact, the inclusion of the provision in international conventions has time and again been championed by the representatives of our Government in international negotiations. This country has accepted the jurisdiction of the international court because it has proven a useful mechanism for resolving questions of international concern in a fair and impartial manner.

The international court is given a purely interpretive function by the Genocide Convention. It will have no power to try persons accused of genocide. American ratification will not create a new cause of action in the international court.

### NO DANGER OF DOUBLE JEOPARDY

Mr. President, the argument has been made that ratification of the treaty would make American citizens vulnerable to stand in jeopardy twice for the same crime. They argue that one who was tried and acquitted of crimes by an American court, might conceivably be retried for genocide by an international tribunal. This is a specious argument. In the United States no citizen can be extradited for a crime for which he has already been tried and acquitted. Thus, under the Genocide Convention, no citizen would run the risk of double jeopardy.

### GENOCIDE A MATTER OF INTERNATIONAL CONCERN

Mr. President, critics of the Genocide Convention have argued that genocide is not a proper subject of an international treaty. In 1969, a special committee of lawyers of the President's Commission for the Observance of Human Rights Year, of which former Supreme Court Justice Tom Clark was chairman, issued its report which states:

> I would like to reiterate here, however, our finding, after a thorough review of judicial, Congressional and diplomatic precedents, that human rights are matters of international concern, and the President, with the United States Senate concurring, may, on behalf of the United States, under the treaty power of the Constitution, ratify or adhere to any international human rights convention that does not contravene a specific Constitutional prohibition.

The Genocide Convention will not be the first treaty dealing with human rights which the Senate has ratified.

We had a lot of trouble persuading the Senate to ratify the Protocol on Refugees and the Supplemental Slavery Convention. As I recall, most of this has been done in the last few years. The Senate has given its advice and consent to U.S. accession to the Protocol on Refugees and the Supplemental Slavery Convention. Genocide is most certainly as much a matter of international concern if not more so.

Many of our concepts of freedom, such as those enumerated in the Bill of Rights, were established in the first colonies by such documents as the Mayflower Pact. They gradually took root until they became an integral part of our beliefs and were embodied in our Constitution. Similarly, if there is ever to be a body of world law, it must begin with the establishment of certain basic concepts.

The criminality of genocide is one of the most basic of these. It has been more than 25 years ago now the United Nation drafted this treaty. The treaty provides us a way of declaring our abhorrence for this crime. As Mr. Charles Yost, a former U.S. Representative to the United Nations said:

> This Genocide Convention is an assertion by the community of nations that a certain particularly heinous act, perpetrated against any national, or ethnic, racial, or religious group whatsoever, is wrong—wrong not only in the domestic law of this or that state, but wrong also in the law and opinion of the community of nations itself.

### TREATY POSES NO ADDITIONAL DANGER TO AMERICANS OVERSEAS

Some have expressed the fear that if America becomes a party to this treaty American citizens could be tried in foreign courts on charges of genocide. This is clearly specious. Right now with no treaty in force, an American citizen in the physical territory and or control of a foreign nation can be charged and tried for any offense from shoplifting, to robbery, to espionage, to murder, even genocide.

Mr. President, I can recall only a few days ago when I was in a small town in my State; the State of Wisconsin, where many people were very concerned about a young lady who had been arrested in Turkey on a charge of trafficking in drugs. She had been held for a year and had then been sentenced to execution. The State Department intervened and the sentence was commuted to life imprisonment.

This kind of action against American citizens traveling abroad has taken place for a long time. There is absolutely nothing in this treaty that would aggravate that or increase the punishment or jeopardize in any way United States citizens abroad. This Genocide Treaty does not alter this, and does not expand the jurisdiction of foreign courts in any way whatsoever.

It is equally specious to say that the treaty allows American prisoners of war to be tried on charges of genocide. An enemy power can charge an American prisoner with any crime it chooses to trump up. The ratification of this Genocide Treaty will not provide any cause of action or put American soldiers in further jeopardy. Former Attorney General Nicholas Katzenbach, who himself was a war prisoner for 27 months, has publicly stated that ratification of the Genocide Convention would in no way present new danger for American troops. And American military men stationed on friendly foreign soil will still be protected by the specific status of forces agreement we have in that particular country. This treaty will alter this in no way.

Even in the absence of ratification there is nothing to prevent a country from making baseless charges of genocide against this country in the United Nations. If anything, ratification would improve our position, because the convention requires "an intent to destroy, in whole or in part, a national, racial, ethnic, or religious group as such."

The tragic events in Vietnam and the terrible loss of life both military and civilian, that has occurred there do not meet this definition. The necessary intent to destroy a racial or ethnic group as such is missing. As the Senate report indicates, ratification of the convention would, if anything, help us rebut these charges by providing a precise standard against which our behavior may be appraised.

### CONGRESSIONAL POWER TO ACT

Article I, section 8 of our constitution specifically gives Congress the power to "define and punish offenses against the law of nations." Genocide is an offense against the law of nations and is thus within the power of Congress to declare unlawful. The American Bar Association's section on individual rights and responsibilities stated in its report on the treaty that "Ratification of the convention will add no new powers to those the Federal Government already possesses."

And, as noted earlier, this treaty does not by itself, promulgate any new Federal criminal law. Rather, this treaty stands as a clear and simple symbol of this country's dedication to man's humanity to himself. Prof. Richard Gardner has eloquently reasoned:

> Our ratification of this convention will dissipate the embarrassing contradiction between our failure to act and our traditional leadership in support of basic human rights. The Genocide Convention outlaws action that is repugnant to the American people and to our constitutional philosophy. We should not decline to affirm our support for principle of international law and morality in which we believe. Our country was founded on a passionate concern for human liberty reflected by the Bill of Rights and the Constitution. We believe that concern is very much alive today, as reflected by the report of the Foreign Relations Committee supporting the convention. It is inconceivable that we should hesitate any longer in making an international commitment against mass murder. At a time when our commitment to human rights is being questioned by some of our own people and by others overseas, it is particularly important that we ratify a treaty so thoroughly consistent with our national purpose.
>
> Can we continue to assume a position of world leadership when we, ourselves do not acknowledge the inherent rights of mankind? Can we expect other countries to respect these rights if we continue to ignore them?

### RECENT INSTANCES OF GENOCIDE

Unfortunately, Mr. President, genocide is not only a matter of past history. Of course, world history has provided countless examples of wars of annihilation and extermination. Many people argue that this is something that took place before, that mankind has become civilized, that we were savage and brutal and cruel and immoral before we become civilized. From the genocide committed by the Assyrian hordes in Old Testament times to the massacre of 6 million Jews in this century, the heinous crime of genocide has been a blot on mankind's record. But genocide is a current as well as a recurring problem. In 1971, tens of thousands of Bengalis in East Pakistan, particularly the educated elite, were summarily shot by Pakistani Government troops.

Mid-1972 witnessed yet another demonstration of "selective genocide." This terror was conducted by the Burundi Government against the Hutu tribesmen and it led to the deaths of as many as one-quarter of a million persons. A subsequent study published by the Carnegie Endowment for International Peace documents the almost total indifference of governments to this disaster. U.N. Secretary-General Kurt Waldheim did send an observer mission to obtain a body count of the blood-drenched area, but the tragedy was all but condoned by the nations of the world. But the bloodshed that marked the days of civil war continued after independence. Pakistani sympathizers have been searched out, tortured, and publicly executed as an example for others.

One of the worst fates meted out has been to the tribal group of the Biharis. This ethnic group continues to bear the brunt of violent persecution and ostracism. Using the excuse of punishing Pakistani collaborators, the Bangladesh guerrillas have cut off the food and medical supply to Bihari villages and have effectively curtailed Red Cross emergency assistance. Whether the Bihari villages will be allowed to survive only the people of Bangladesh can determine.

Right now as we meet in the Senate Chamber, genocide is going on some place in the world. It is not just something that happened 30 years ago as a nightmare under the Nazis and will not occur again. It is occurring at this moment. And as yet the outside world has brought very little pressure to bear.

Although the persecution of the Bihari tribe comes dangerously close to an act of genocide, the State of Bangladesh can be held accountable to no international agreement. It is too young to have signed the Genocide Convention of 1948. However, this situation in Bangladesh dramatically indicates the overwhelming need for universal acceptance of such an international agreement to protect the dignity, human rights, and the very existence of minority groups.

In a situation like this the reason and pressure of the civilized world must be exerted to save these lives. But what pressure can the United States exert? What position of moral leadership can we assume having never ratified the convention treaty?

Mr. President, the need is for the United States to be true to its own ideals and to join with other nations in recognizing and protecting individual rights. In the national interest as well as in the interest of men everywhere, the United States should act promptly in ratifying those human rights treaties which it has supported in the United Nations and affiliated agencies. The United States can do much to safeguard human rights through international agreements, but only if we become a party to them.

Mr. President, let us seize the unique opportunity we now have to act on the Genocide Convention. For if we fail to approve it now, it may be years before we get another chance to act.

Mr. President, in my speech I mentioned the fact that the American Bar Association in a very close vote opposed the Genocide Convention. On tomorrow I expect to put in the RECORD a list of the different organizations that support the Genocide Convention.

I recall very clearly that when hearings were held before the committee, the overwhelming majority of the great American organizations came to appear on behalf of the Genocide Treaty. The American Bar Association was virtually alone. They were isolated.

Of course, as I say, the ABA was narrowly divided, and only by a narrow vote did they decide to oppose the Genocide Convention, and that only after their subgroup that had held intensive hearings on the treaty in every case supported the Genocide Treaty.

Mr. President, I close as I began by once again calling the attention of the Senate to the fact that it is not simply a matter of defending some kind of an arcane treaty which seems to have little reference to real life, and which can be debated on technical constitutional grounds, which may or may not, in the views of some, endanger the rights of American citizens—I am convinced it does not; I think it strengthens our rights—but this is a matter of recognizing the terrible crime that has taken place within the last 30 years.

I conclude by quoting excerpts from the summary of the judgment of the Nuremberg International Military Tribunal, as quoted in the New York Times of October 1, 1946, where it says:

> The commandant of the concentration camp at Auschwitz (Oswiecim) gave evidence that in that camp alone between the 1st of May 1940, and the 1st of December, 1943, 2,500,000 persons were exterminated and a further 500,000 died from disease and starvation. . . . Adolf Eichmann, who had been put in charge of the program to exterminate the Jews, has estimated that the policy pursued resulted in the killing of 6,000,000 Jews, of whom 4,000,000 were killed in the concentration camps and 2,000,000 were killed by the Einsatz Groups.

What are we going to do about that, Mr. President? Are we just going to say, "Well we cannot adopt this treaty because there are some persons who oppose it, because there is some technical opposition to the treaty"?

Of course, we should debate that. I think we can meet those arguments clearly and convincingly. As I say, every Attorney General in the last 25 years has agreed that the treaty is constitutional.

Mr. President, we should never lose sight for a minute, however, that there is a positive, overwhelming moral reason why this country should act. The Senator from New York (Mr. JAVITS) has stated it eloquently this afternoon, and those of us who have pride and love for our country, and recognize it as a world leader, can do no less than act in our capacity as U.S. Senators, for it is up to us. We should remember, Mr. President, that this is nothing we can blame on the House of Representatives or the executive branch, or the State legislatures. This is something that is entirely up to the U.S. Senate, and only the U.S. Senate. The Committee on Foreign Relations has now discharged itself from the treaty. It is up to the body of the Senate. It is up to us.

We will decide the issue finally. It does not take any further action by the President, who has favored the treaty, or the executive departments and, of course, they favor the treaty, but it is squarely up to this body to face the issue. I hope and pray we will do so.

Mr. President, in that connection, last week I received a letter from the American Civil Liberties Union urging the Senate to ratify the Genocide Convention. In examining the impact of ratification upon our constitutional guarantees, the ACLU concluded that "it does not abrogate our constitutional rights and liberties." This is a position shared by the majority of constitutional scholars that have examined the convention.

Mr. President, I ask unanimous consent that the full text of their letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

American Civil Liberties Union,
*Washington, D.C., January 18, 1974.*

Dear Senator: Twenty-five years ago the United Nations General Assembly unanimously adopted the Convention on the Prevention and Punishment of the Crime of Genocide. Since that time, a large majority of the world's nations have ratified the Convention as a fundamental stride toward international cooperation to promote and preserve basic human rights. But, in spite of overwhelming support from American lawyers, jurists, scholars, and statesmen, the United States has not yet joined in that step.

When Congress reconvenes later this month, you will have the opportunity once again to ratify the Genocide Convention. The American Civil Liberties Union, a national organization of 256,000 members for voted protection of the Bill of Rights, strongly supports ratification.

The ACLU has carefully reviewed the Convention, and agrees with the great majority of scholars that it does not abrogate our constitutional rights and liberties. The section prohibiting "direct and public incitement to commit genocide" is fully in accord with the limitations on the First Amendment painstakingly established by the Supreme Court of the United States.

Moreover, the basic personal liberties guaranteed by the Constitution cannot be set aside by any provision of a treaty. The Convention does not supersede state laws nor require the United States to accept the jurisdiction of any international tribunal that might be established to try persons accused of genocide.

Former Chief Justice Earl Warren said in 1968, "We as a nation should have been the first to ratify the Genocide Convention. . . . Instead we may well be the last." Diplomats have found it increasingly difficult to explain to other nations why the United States has not yet endorsed so fundamental a safeguard of human rights.

We urge you to affirm the principles of human dignity, liberty, and justice for all on which our nation was founded by voting to ratify the Genocide Convention.

Sincerely,
Mary Ellen— Gale,
*Counsel.*

Mr. JAVITS. Mr. President, I certainly believe it should be clearly noted in the Record what a thorough, comprehensive, wise, and professionally skilled analysis has just been made of the treaty's provisions by the Senator from Wisconsin (Mr. Proxmire). I think that the whole country and the world should be grateful to him for so eloquent an espousal of this treaty.

Mr. President, I rise to call specific attention to the scheme of the treaty, so that Members who read the Record tomorrow as we deliberate upon this matter may see clearly what is at stake.

Now let us, as I say, try to simplify it. The fact is that if the crime of genocide is committed here, then the treaty itself provides, in article VI, that—

> Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed....

That is what the opponents contend for, and that is what will happen if the act takes place here. If the act takes place elsewhere, the perpetrators can only be sent elsewhere by extradition, and we have locked in the issue of extradition so that there shall be no extradition if the United States is ready, willing, and able to try the person charged.

It is further locked in by the fact that the treaty itself calls for implementing legislation. Article V states:

> The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide or of any of the other acts enumerated in article III.

The State Department has already sent us and we have a draft of a statute for that purpose. It is attached to the committee report, and I ask unanimous consent that it be printed in the Record.

There being no objection, the bill (S. 3182) was ordered to be printed in the Record, as follows:

S. 3182

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) title 18, United States Code, is amended by adding after chapter 50 the following new chapter:

"CHAPTER 50A.—GENOCIDE

"Sec.
"1091. Definitions.
"1092. Genocide.

"§ 1091. DEFINITIONS

"As used in this chapter—

"(1) 'National group' means a set of persons whose identity as such is distinctive in terms of nationality or national origins from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

"(2) 'Ethnic group' means a set of persons whose identity as such is distinctive in terms of its common cultural tradition or heritage from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

"(3) 'Racial group' means a set of persons whose identity as such is distinctive in terms of race, color of skin, or other physical characteristics from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

"(4) 'Religious group' means a set of persons whose identity as such is distinctive in terms of its common religious creed, beliefs, doctrines, or rituals from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

"(5) 'Substantial part' means a part of the group of such numerical significance that the destruction or loss of that part would cause the destruction of the group as a viable entity.

"(6) 'Children' means persons who have not attained the age of eighteen and who are legally subject to the care, custody, and control of their parents or of an adult of the group standing in loco parentis.

"§ 1092. GENOCIDE

"(a) Whoever, being a national of the United States or otherwise under or within the jurisdiction of the United States, willfully without justifiable cause, commits, within or without the territory of the United States in time of peace or in time of war, any of the following acts with the intent to destroy by means of the commission of that act, or with the intent to carry out a plan to destroy, the whole or a substantial part of a national, ethnic, racial or religious group shall be guilty of genocide:

"(1) kills members of the group;

"(2) causes serious bodily injury to members of the group;

"(3) causes the permanent impairment of the mental faculties of members of the group by means of torture, deprivation of physical or physiological needs, surgical operation, introduction of drugs or other foreign substances into the bodies of such members, or subjection to psychological or psychiatric treatment calculated to permanently impair the mental processes, or nervous system, or motor functions of such members;

"(4) subjects the group to cruel, unusual, or inhumane conditions of life calculated to bring about the physical destruction of the group or a substantial part thereof;

"(5) imposes measures calculated to prevent birth within the group as a means of effecting the destruction of the group as such; or

"(6) transfers by force the children of the group to another group, as a means of effecting the destruction of the group as such.

"(b) Whoever is guilty of genocide or of an attempt to commit genocide shall be fined not more than $20,000, or imprisoned for not more than twenty years, or both; and if death results shall be subject to imprisonment for any term of years or life imprisonment. Whoever directly and publicly incites another to commit genocide shall be fined not more than $10,000 or imprisoned not more than five years, or both.

"(c) The intent described in subsection (a) of this section is a separate element of the offense of genocide. It shall not be presumed solely from the commission of the act charged.

"(d) If two or more persons conspire to violate this section, and one or more of such persons does any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be fined not more than $10,000 or imprisoned not more than five years or both.

"(e) The offenses defined in this secton, wherever committed, shall be deemed to be offenses against the United States."

(b) The analysis of title 18, United States Code, is amended by adding after the item for chapter 50 the following new item:

"50A. Genocide ---------------------- 1091."

SEC. 2. The remedies provided in this Act shall be the exclusive means of enforcing the rights based on it, but nothing in the Act shall be construed as indicating an intent on the part of the Congress to occupy, to the exclusion of State or local laws on the same subject matter, the field in which the provisions of the Act operate nor shall those provisions be construed to invalidate a provision of State law unless it is inconsistent with the purposes of the Act or the provisions of it.

SEC. 3. It is the sense of the Congress that the Secretary of State in negotiating extradition treaties or conventions shall reserve for the United States the right to refuse extradition of a United States national to a foreign country for an offense defined in chapter 50A of title 18, United States Code, when the offense has been committed outside the United States, and

(a) where the United States is competent to prosecute the person whose surrender is sought, and intends to exercise its jurisdiction, or

(b) where the person whose surrender is sought has already been or is at the time of the request being prosecuted for such offense.

**Mr. JAVITS.** This statute deals precisely with this particular question which we are discussing now. In addition, the Senate Foreign Relations Committee, in sending the resolution of ratification to the Senate, makes that special provision. It says—and this is found at page 19 of the Senate report:

> That the United States Government understands and construes Article VI of the Convention in accordance with the agreed language of the Report of the Legal Committee of the United Nations General Assembly that nothing in Article VI shall affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State.

That is clear. If a person is outside the state, as Senator PROXMIRE so very properly pointed out, and is in some other state, there is nothing we can do about the exercise of jurisdiction by the other state anyway, except through diplomatic measures. Indeed, the provisions of this treaty may then act as a certain protection for the person who is charged elsewhere, rather than as an additional burden.

Third, there is the possibility of trial before an international tribunal. That is covered also by article VI, which says:

> Persons charged with genocide or any of the other acts enumerated in article III shall be tried . . . or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

Mr. President, there is no such tribunal today, and the United States will be fully able, when the time comes, to accept or reject the jurisdiction of any such penal tribunal when it comes into being.

So, Mr. President, the scheme of the treaty entirely accommodates everything for which anyone can reasonably contend. If a person is here charged with genocide, we reserve the absolute right to try him here, and we are sustained both by the treaty and by the implementing legislation which the treaty itself calls for. And we certainly are not going to pass any implementing legislation that does not satisfy that condition.

Mr. President, it is understood that the Committee on Foreign Relations and the President have stated that the implementing resolution on this treaty, that is, the resolution of ratification, will not be deposited—that makes it legally operative—until after implementing legislation has been signed and made into law. That, too, is in the text of the resolution of ratification as item 4.

So, Mr. President, if a person is here, we reserve entire jurisdiction over him. If the person is somewhere else, we cannot assert jurisdiction anyway, whether we have a Genocide Treaty or not.

In respect of an international tribunal, if there ever should be one, and there is none now, it cannot be binding upon us and we do not have to extradite or deliver anybody unless we have accepted by action—by law or treaty, exactly the same as this—the jurisdiction of that international tribunal.

Now, Mr. President, it seems to me that that is locked in absolutely, especially with the provision, the fact that we have no extradition treaty which now involves genocide. So we are not bound now, and I think that we will not do so, where it means that we give up anyone for trial in another jurisdiction, unless by authority of the United States it is found that we wish to do so; otherwise we have every right to try the person here.

The resolution which we have presented, plus the text of the treaty, plus the implementing legislation, locks us in with respect to every concern and every care.

Some statements have been made, and Senator Proxmire has already dealt with them, that because a treaty supersedes laws both Federal and State, in some way the ratification of this treaty will take away criminal jurisdiction from the States or from the Federal Government, or will cause criminal jurisdiction to be transferred from the States to the Federal Government.

I cannot for the life of me see how that can occur, in view of the fact that the terms of the treaty are irrelevant to crimes on our books. It is going to take implementing legislation to create the crime of genocide, and the crime of genocide, if that is what the so-called superseding jurisdiction is going to apply to, the crime of genocide has the fundamental thrust of, "with the intent to destroy the entire group concerned."

In the case of homicides, and so forth, which unhappily are much too frequent in this country, where we define them by State and Federal laws, depending on their nature and where they occur, they have nothing to do "with the intent to destroy the entire group concerned." On any of the details of the crime of genocide, a crime by this treaty, I cannot see where the fears are warranted as they relate to this country.

We are not vulnerable as they relate to the capability of any other jurisdiction to try an American who may be wanted for the crime of genocide. We have made all these things doubly sure by the understandings and the declarations which are incorporated in the resolution of ratification to which I have referred.

**Mr. PROXMIRE.** Mr. President, before the Senator leaves that subject, which he has dealt with most helpfully and has verified the widespread objection to the treaty, I should like to ask him to give me an example, to show if I fully understand, and if we can clarify just what it means.

One objection to the treaty is that in the event we have a group representing a minority group and they are devoted to violence, they are devoted to killing, and so forth, and the police act against them, and the police arrest them, and they are brought in and some of them are killed in the course of being arrested, the charge has been made that the police could be held guilty of genocide and could be hailed before a court and could be prosecuted and could be convicted, and so forth.

I think the Senator's point is precisely on this kind of situation. This is an instance, obviously, which would take place in this country, and the trial would be held in the courts of this country; is that not right?

**Mr. JAVITS.** That is exactly right.

**Mr. PROXMIRE.** It is under our own jurisdiction.

**Mr. JAVITS.** Exactly right.

**Mr. PROXMIRE.** And the treaty would not have an adverse effect on the rights of the police or anyone else who had engaged in this violation of the treaty.

**Mr. JAVITS.** That is exactly right. It requires reference to a critically important case in this debate which holds that nothing in any treaty supersedes the Constitution. It may supersede State or Federal laws, but not the Constitution. Therefore the constitutional rights of every individual so charged would be preserved. That is the case of *Reid* v. *Covert*, 354 U.S. 1.

As I have pointed out, the very treaty itself calls for trial of an individual by a competent tribunal in the territory in which the act was committed and that would be this territory, the United States of America. The implementing legislation which we will have full power to deal with, will make crystal clear that we are in no way superseding the homicide statutes, or the murder statutes of any State, or of the United States, and that these jurisdictions will go on unimpaired, as they always have.

It seems to me that that is absolutely a complete structure, leaving no "out" by which some such wild result as is feared could be obtained.

**Mr. PROXMIRE.** That is most helpful, because the example I gave is a poor one but is the one used by those who oppose this treaty. It would be clear that no action by the police, under the circumstances, could be construed to be genocide; but even if it were, the fact is that all of the protections which the Senator from New York has described would still be there—the constitutional protection, the trial would be in this country, in a U.S. court, and there is no question that the genocide treaty would not apply and that there would be no deprivation of anyone's rights, and no jeopardy for any American citizen. On the other hand we are not talking about a treaty that has no force. In discussing genocide, we are talking about a situation that occurred years ago and is occurring now in African and Asian countries and elsewhere in the world and with no common international law to permit any preventive action. That is what we are reaching for.

Mr. JAVITS. Let me make this statement. Suppose a group of Americans were properly charged with the crime of genocide, that is, with being party to an intent to eliminate by the means stated here, which are deathly means, a whole ethnic or religious group; and suppose that because of the particular provisions of State homicide laws or the laws of assault, and so forth, some of the people could slip out from under. Would any American with a germ of fairness and belief in the Constitution want such a person to slip out? And should not someone have the power to try him in this case, and in this case it would be a U.S. court.

Mr. PROXMIRE. The Senator is absolutely correct. Of course the Senator's key phrase is that the intent has to be there. One has to have the intent to destroy an entire group or a significant part of that group. Genocide is not and cannot simply be a reaction to violence. There must be an intent to exterminate a group of people.

Mr. JAVITS. Before the treaty goes into effect an implementing statute which has been submitted to us will have to be passed and we are not going to pass anything less, the Senate is sure of that.

There is provided in section 2:

> The remedies provided in this Act shall be the exclusive means of enforcing the rights based on it, but nothing in the Act shall be construed as indicating an intent on the part of the Congress to occupy, to the exclusion of State or local laws on the same subject matter, the field in which the provisions of the Act operate nor shall those provisions be construed to invalidate a provision of State law unless it is inconsistent with the purposes of the Act or the provisions of it.

Then it goes on to say, in section 3 and I would intend to strengthen this when it comes to us:

> It is the sense of the Congress that the Secretary of State in negotiating extradition treaties or conventions shall reserve for the United States the right to refuse extradition of a United States national to a foreign country for an offense defined in chapter 50A of title 18, United States Code, when the offense has been committed outside the United States, and
>
> (a) where the United States is competent to prosecute the person whose surrender is sought, and intends to exercise its jurisdiction, or
>
> (b) where the person whose surrender is sought has already been or is at the time of the request being prosecuted for such offense.

Now, with the relationship stated in the treaty itself between the treaty and the implementing legislation, I just cannot see how we can have any more impervious protection of the individual, that he would be tried here, unless we, as a conscious act of Government, decided we wished him to be tried elsewhere. That we can do in any case, which is an extradition right—or we have this treaty.

So the real value of the treaty is its fantastically important impact, after almost a quarter of a century and the declaration of our country that it is against genocide. At the same time, the fantastic interlocking is felt in safeguards that, if anyone in this country is guilty of any such crime which is performed elsewhere and he is charged with it, that we, and we alone have the right to try that person unless we, as a conscious governmental act, decide otherwise. I cannot see how one can do more than that.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## LEGISLATIVE SESSION; ORDER FOR RESUMPTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now return to the consideration of legislative business and that there be a resumption of routine morning business, with statements therein limited to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## A-10: THE LOW MIX

Mr. PROXMIRE. Mr. President, a curious symmetry has developed within the past year. The Defense Department has been issuing statements that sound like the position taken in prior years by some so called critics of the defense community. There now is a broad area of agreement that at the current rate of declining force levels, the United States is unilaterally disarming itself by insisting on ever more expensive, more complex weapon systems.

A few years ago this would have been considered heresy, and charges would have been exchanged that certain people were pacifists or unilateral disarmists. But now I hope that is behind us. The truth has a way of forcing its own reality.

The point is that we are heading for trouble if expenses continue to rise and unit numbers go down. Right now we have fewer online fighters at sea than the land-based forces of North Korea.

The Defense Department has offered a new strategy to reverse the present trends. There should be a "h-lo" mix of technologically advanced weapons and cheaper more reliable models in quantity. Though I do not think this strategy has widespread application and I do not see it being used by the Navy aircraft people, nonetheless it does have its strong points.

The A-10 close air support aircraft is a good case in point. We need a cheap, reliable, surviveable aircraft to support our ground troops. The Air Force agrees, the Army agrees and so does this Senator. The A-10 has been picked after an exhaustive competition between two well qualified companies and a flyoff of fixed price prototypes. In many ways, this could be the model for future procurements.

Mr. President, "Government Executive" recently printed an article on the A-10 which explains some of the history of the program and its industry team led by Fairchild Industries. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### PROCUREMENT: A-10

### ON SOURCE SELECTION

(By Craig Powell)

"We simply can't be playing political roulette with the lives of men. I'm sure no Congressman would do that. But at the moment—through misunderstanding or misinformation—it appears that some members are flirting with denying the ground soldier the close air support he so vitally needs."

When concerned Edward G. Uhl, President of Fairchild Industries, Inc., is inclined to speak directly to the point. At the moment, he is concerned about Fairchild's Republic Company A-10 close support fighter program which is having to take some high hurdles on Capitol Hill.

"Over the past few years," he says, "the defense procurement system has been under fire from all sides. As a result, we have had a complete "soul searching," both in industry and in the Department of Defense, and made considerable improvements. We have adopted the (Dave) Packard approach (former Deputy Secretary of Defense). We have a more orderly process incorporating the building of prototypes, having a fly-off between aircraft, and contracts that call for "design to cost" and containing built-in milestones that must be demonstrated before the program can proceed."

The aerospace official feels that the defense/industry team has, in the case of the A-10, developed a logical procurement and contracting system that will preclude many of the mistakes that have been made in the past. Commensurately, Congress should also do its best to adjust its own techniques on the review and appropriations side in the same pragmatic manner. More specifically, he believes that, if in its deliberations, Congress has concluded there exists a valid requirement for a new weapon, they should set the ground rules and approve a plan.

However, in subsequent years the legislators should examine the program primarily to ascertain that it is going according to plan and within cost and schedule. But, the basic plan should not be altered year by year and the conduct of the development should be left to the responsible officials within a given service.

This would make Congress' job easier and would allow for development programs free of the cancers in the old procurement processes.

Uhl explained to *Government Executive* that Congress put the pressure on industry and the Defense Department to "get out there and develop an airplane that can give close support to the Army ground forces."

This, he feels, has been done, but now certain elements on the Hill seem to have new questions.

"Everyone agreed on the requirement for an A–X aircraft. Now some people are saying 'Do we really need an A–X; wouldn't a substitute do just as well?' or 'Why have 10 OT&E aircraft, why not only six?' "

(The Senate Tactical Air Power Subcommittee, before adjourning this Summer, recommended that the A–10 program be cut from 10 OT&E aircraft to six, the placing of $30 million for long lead time production items into a deferred account, and a fly-off between the A–10 and the LTV A–7 interdictor aircraft.)

### FLY BEFORE BUY

At a recent press conference, Uhl attempted to put the whole A–X program in focus. He pointed out that the A–10 is a unique weapon system, that it is plowing new ground in two areas.

First, the area of close air support which the Air Force has long been criticized for not giving properly to the Army. There have been comments over the years that the Air Force was interested only in strategic bombardment, or only wanted to fly fast and make holes in the sky.

There were also the bitter fights between the Army and the Air Force over roles and missions. The Air Force was further accused of using cast-off aircraft to support the ground troops. They were told to take a page out of the Marine Corps philosophy and do a better job.

Most recently, in Vietnam, it was found that, again, there were no aircraft available for proper close air support (CAS). The Air Force was forced to resurrect the World War II A–1 and turn the T–28 into a fighter bomber.

"Finally, after these many years," comments Uhl, "the Air Force wrote, with the Army, a requirement for close air support. And, incidentally, it is a hell of a good requirement. It is very balanced and one that we would find little to argue with or complain about.

"The services went through the exercise of getting Congressional support and the close air support project got under way. But as you know, today it is under attack by some special interests."

The second area, Uhl says, is in source selection and methods of procurement. "We've all got scars from the last five years; we all know the wounds that have been brought about by the attacks on Defense, by the problems surrounding the C–5A and F–111. These were not problems confined to Lockheed, or General Dynamics, or the Air Force; these were problems that touched all of us in the aerospace industry, all in DOD—in fact, everybody in the United States."

Further explaining the process, Uhl pointed out that Packard, with the support of Dr. John Foster, then Director of Defense Research and Engineering, and Dr. Robert Seamans, then Secretary of the Air Force, pushed to change the procurement system and start talking about prototypes and "fly before buy."

The reason the Air Force wanted to fly before buy was to see if the weapon, in fact, met the requirements. The A–X is the first airplane to be procured under all of these guidelines.

"In fact," commented Uhl, "we have gone through one added wicket which is the prototype competitive fly-off. I think we have the only weapon in recent history where there were two prototypes designed to the same requirements which were flown off, one against the other, competitively.

"To date, the A–X program is a model program. All schedules were met. The prototypes were built on a fixed-price. There was a tough, fair fly-off between airplanes. This wasn't done by test pilots alone, but by tactical pilots who were flying for score.

"The program was so thorough that we were measured on our maintenance requirements, the maintenance man-hours per flight-hours. As a matter of fact, the General Accounting Office reviewed the competition and said that it was a fair and well-run one."

Early in April of this year, Elmer Staats, Comptroller General of the U.S., wrote Senator Abraham Ribicoff (D-Conn.) that "In our opinion, the Air Force conducted the flight evaluation and source selection fairly and objectively. Because both contractors developed acceptable prototype aircraft, the competition was quite close.

"All of the competing contractors told us that they were satisfied with the fairness of the flight evaluation and had no complaints about the methods used in source selection.

"Selection of the A–X contractor involved an assessment of the competing contrators' proposals and prototype aircraft flight evaluation test results. Basic guidelines established at the beginning of this competition were communicated to all parties concerned, and retained throughout the competition.

"Our review verified the validity of the evaluation data presented in the final briefing to the Secretary of the Air Force, who made the ultimate selection and award. The most significant selection criteria used by the Air Force involved program costs, operational capability, transition from prototype to production configuration, and program adequacy."

### A–10 PROPONENTS

Fairchild's chief executive believes there is considerable confusion in many people's minds concerning "ground support" and "close air support." This confusion further leads to a lack of understanding of the necessity of having an aircraft that has been specifically designed for the CAS mission.

"Both B–52 strategic bombardment and long range interdiction raids by high performance tactical fighters indirectly support the ground forces," states Uhl. "But that is not close air support where the aircraft gets down in the mud with the foot soldier. The difference is in how close in you are going to support."

He points out that this is the reason the A–X was designed. To illustrate his point, he says that the F–4 and the F–15 have slightly different capability levels to carry out the same mission of air superiority. In like manner, the A–7 and the F–105 have similar capabilities in the interdiction role. But for the CAS mission there is no comparable aircraft to the A–10 in the meeting mission requirements.

The position of the A–10 proponents is that the aircraft has built-in survivability, necessary maneuverability, capability for forward basing, and the lethality that only heavy ordnance loads and General Electric's GAU–8A 30mm "tank killing" gatling gun can give.

They feel that the A–10 is completely compatible with the Army's helicopter forces. Also, that it can live in an environment where there is no air superiority by being able to defend itself. Pilots who have flown the A–10 against U.S. high performance fighters say it can handle itself even against the latest model Soviet MIGs.

Most important, the A–X is the only plane that can meet the threat of the Sovie bloc's armored and mechanized units on the battlefield of Europe, should the Allies find themselves embroiled in conflict in the next decade. In an arena where the air superiority, interdiction, and close air support missions will be conducted simultaneously, a tank killing aircraft is necessary to contain the Soviet's 3-to-1 armor advantage over the NATO forces.

A European battlefield would also be an arena of minimum weather conditions requiring an aircraft able to operate under the most adverse circumstances. USAF Tactical Air Commander General W. W. Momyer has told Congress that the A–10's overall agility "provides an excellent capability to work under the low ceiling conditions encountered in Europe. For example, the maneuverability of the A–10 will permit operations under a ceiling of 1,000 feet with one mile visibility—weather conditions worse than this exist only 15% of the time."

Thus, Uhl believes that he is justly concerned over what he feels are attempts by certain elements on the Hill to restructure the program. Certainly, cutting the OT&E program from 10 to 6 aircraft will require renogotiation of all contracts with participating firms and the Air Force.

Deferring long lead time production items will, of necessity, delay the speed with which the program can transition from the development to the production phase.

Also of considerable concern to the Air Force and the proponents of the A–X program are the attempts of some legislators to force a fly-off between the A–10 and the LTV's A–7.

The Air Force takes a strong position on the fly-off. It says that 60 officers made a two-year study (Sabre Armor Charlie) and concluded there did not exist a requirement for such a fly-off.

Major General Leslie Bray, Air Force Director of Doctrine, Concepts and Objectives, told *Government Executive:* "We already have sufficient data on the faster aircraft in the inventory and we will acquire the same data on the A–10 during the test period. We feel we should not have to spend funds to gather information we already have."

Elliot Richardson, then Secretary of Defense, stated: "Recent analyses, and those of past years, lend assurance in this area by continuing to show the A–X is substantially superior to the A–7 in close air support mission effectiveness. Further, we are confident that the A–10 will meet its goal with selected contractors."

Another area of concern to Uhl are several investigative groups which have been sent out to reexamine the validity of the program.

The proponents of the program say that it is interesting to note that wherein the GAO and the Committee for Peace Through Law group gave the program a clean bill of health, other groups have come up with reports to support apparent predetermined conclusions.

Said Uhl: "No legislator should be pushing for his home area when we are dealing with the lives of U.S. servicemen. Decisions must be made truthfully and free of political pressures. You don't send out lynching parties to shoot down a contractor just to get the pork barrel back home.

"Most pilots agree that you have to get down on the deck to do the right job of close support. Congress asked for an aircraft that can do that, can get hit, and still survive. We have done it, we have met cost and schedule.

"The secretaries of the Army and Air Force and the Director of Defense Research and Engineering have given the program full support. Three successive Secretaries of Defense, including the incumbent, have stood squarely behind the A–10.

"Congress wrote the ground rules and we have had the cleanest competition in recent years. It is fair for Congress to probe and question. They have an obligation to do so on a continuing plane; but not capriciously. I only say that Congress should not allow any individuals to stack the deck."

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### SAM–D CUT BACK

Mr. PROXMIRE. Mr. President, today I am pleased to note that the Secretary of Defense, Mr. Schlesinger, has ordered the Army to cut back its work on the controversial SAM-D air-defense missile system. The Army's costly talent can now be put to use on far more useful and effective systems.

I have long been opposed to this overly expensive and complex program. The unit costs have risen a fantastic 350 percent from the initial production estimates. The latest Department of Defense selected acquisition report on the SAM–D lists a current total program cost estimate of $4.481 billion. According to the Army's own estimates, this is more than a $2.8 billion increase over the cost of the presently operative improved Hawk air defense system.

By any standards of cost-effectiveness, SAM–D would be a financial disaster. It is estimated by the Army that it would cost the United States 19 to 25 times as much to counter the projected enemy threat as it would cost the enemy to counter SAM-D. Clearly, our normal defensive strategy is to make it uneconomical for the enemy to attack.

Numerous technical flaws and uncertainties plagued SAM–D. The TVM guidance system which has no operational precedent and the extremely complicated device which was to detonate the missile's warhead were not yet tested.

Furthermore, our NATO allies have informed us that they consider SAM–D much too expensive and sophisticated to be of optimal use. Maintenance costs would be sky high. The SAM-D is projected for use primarily in Europe to protect the 7th Army.

For more than 25 years now, the United States has borne the major burden of defending our European allies. It is certainly time we began talking in terms of the Europeans sharing in the cost of their own defense. The reorientation of the SAM-D to a less costly system is a move in the right direction.

Secretary of Defense Schlesinger should be complimented for the foresight and determination shown in this decision. We will end up with a stronger military. Another debt of gratitude is certainly owed the distinguished Senator from Indiana (Mr. Bayh). His leadership and insight in this matter will also pay large dividends to our national security.

Mr. President, I ask unanimous consent that several articles in connection with this subject be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Wall Street Journal]

### Pentagon Chief Slashes SAM-D Missile Funding Pending Guidance Tests

Washington.—Defense Secretary James Schlesinger has ordered a spending cutback in development of the Army's surface-to-air SAM-D missile by Raytheon Co. pending tests of the weapon's guidance system.

An Army statement informed members of Congress that the SAM-D's budget needs for the current fiscal year ending June 30, and the coming one as well, are being cut to allow only enough money for the guidance testing and some limited equipment purchases.

The Army statement didn't disclose the amount of money cut from the controversial project. But Sen. Birch Bayh (D., Ind.), a strong critic of the weapon, estimated the cutback could amount to as much as $100 million over the two fiscal years.

A spokesman for Raytheon in Lexington, Mass., said the SAM-D cutback would "have a relatively small impact" on the company's sales and earnings in 1974. Pentagon funds for the program have already been committed for 1974, he said, and he indicated that any cutback in planned spending for 1975 would be well under the $100 million figure used by Sen. Bayh.

Raytheon executives said last November that the company's current five-year plan aims at 1975 sales of $1.8 billion and per-share earnings of $3.50, and the company spokesman said the SAM-D cutback wouldn't cause Raytheon to change that forecast.

The SAM-D is being developed by Raytheon to replace two existing missiles used for air defense of Army units in the field and for defense of potential bomber targets in the U.S. The system carries an estimated total price tag of $4.5 billion. Though the Army has given the weapon high priority, several North Atlantic Treaty Organization countries have complained that it's too fancy and expensive to add to their own arms inventories.

Just last September, Sen. Bayh lost an attempt to cut funds for the missile by a Senate vote of 56 to 34. At that time the Senate Armed Services Committee assessed the project in glowing terms. In a report recommending approval of the full budget request of $194.2 million for the current fiscal year, the committee said: "The program is progressing satisfactorily; it is on schedule; it is within cost estimates; and no known major technical problems are unresolved."

The report praised Raytheon, saying, "The contractor's team also deserves high marks for their accomplishments to date."

But Sen. Bayh said he kept after Mr. Schlesinger and other Pentagon officials to reexamine the project, and he applauded the Army's austerity moves announced yesterday. In its explanation to Congressmen, the Army said the Defense Secretary ordered the cutback to "emphasize greater austerity" until the SAM-D's guidance system can be tried out in flight tests starting in May. The Army said it will cut back both the number of test items furnished by the government and the number produced by contractors.

At the Pentagon, another Army statement said it would be "premature" to speculate on whether the project will be delayed "until the restructuring effort has been completed."

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[From the Space Business Daily, Jan. 16, 1974]

### DOD Orders Reexamination/Redirection of SAM-D

Deputy Secretary of Defense William Clements Jr. has ordered the Army to reexamine and redirect the Raytheon-Martin Marietta SAM-D air defense weapons system, to seek "some reduction in total cost," and to make it a "more austere" system.

The Pentagon is said to be planning a major reduction in funds for the program in the FY 1975 budget, believed to be about $55 million in RDT&E funds, until the completion of a flight test program for the missile's guidance system.

Sen. Birch Bayh (D-Ind.), one of the leading critics of the program, said the Defense Department action could save as much as $100 million this year. Bayh, who characterized the SAM-D as the "Army's version of the infamous C–5A," said he was pleased with the decision.

The missile system has survived repeated attacks by members of Congress, such as Bayh and Sen. William Proxmire, and investigations, such as a recent General Accounting Office review (Defense/Space Daily, June 25, p. 307), including amendments to delete the program from the DOD budget.

The SAM-D survived an attempt by the Senate this year to cut more than $20 million from the President's $193.829 million request for RDT&E funds for the program for FY 1974.

The latest DOD selected acquisition report (SAR) on the SAM-D lists a current total program cost estimate of $4.481 billion.

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[From the Washington Post, Jan. 17, 1974]

### Lower-Cost Weapon Sought: Missile System Cutback Ordered

(By Michael Getler)

Secretary of Defense James R. Schlesinger has ordered an important shift in Pentagon efforts to develop new types of surface-to-air missiles (SAMs) to combat Soviet aircraft in the 1980s.

The Defense Secretary has ordered the Army to cut back its work on the complex and expensive SAM–D air defense missile system and to speed up efforts to field a lower-cost, highly mobile weapon.

In explaining the shift, Pentagon officials say they had been planning for several months to put more emphasis on the simpler, lower-cost systems. The Middle East war in October reinforced the idea that quantities of cheaper weapons are as important or perhaps more important than high quality but more expensive armaments.

Defense officials say they still want two new missiles developed.

One, perhaps a modified version of the SAM–D, would be used for defense against the fastest and highest flying Soviet planes under all weather conditions. The other to be based on licensed production of already-developed foreign missiles, would be a cheaper and less capable system, but effective against low-flying planes in a battlefield situation.

The Army's SAM–D project has been a source of behind-the-scenes controversy within the Pentagon and Congress for some time. Some critics contend the missile is too complicated to work right, too large to move in the field, and too expensive to purchase in sufficient quantity.

The price tag on SAM–D is currently estimated at $4.4 billion. It has been in development for about nine years, at a cost of about $700 million, with several years of work still to go. The Pentagon now plans to cut $70 million-$100 million from the project and do no more development work until flight demonstration tests are held.

The Defense Department contends the missile technology still represents a big advance, and that some versions of SAM–D will make it into service in the 1980–85 period.

However, officials say it will no doubt be a more austere version, costing 25 to 30 per cent less per unit than was planned, and with more mobility.

Ironically, the Pentagon move comes after Congress gave the project a strong endorsement in this year's budget hearings and after the Defense Department fought off an attempt by Sen. Birch Bayh (D–Ind.) to cancel it.

The Pentagon claims it will also look at other new weapons to try and make sure cost and technical uncertainties are ironed out before it is too late, and says it no longer will allow a planned operational date to drive a new weapon into production too fast.

The Pentagon says it can get the smaller, foreign-designed weapon into the field by around 1979 or 1980. . . .

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## HOUSE COMMENDED FOR REJECTION OF ADDITIONAL APPROPRIATIONS FOR THE INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. HARRY F. BYRD, JR. Mr. President, I rise to commend the House of Representatives for the action it took last week in defeating by a large majority the administration's proposal to appropriate $1.5 billion more to the International Development Association.

The fight in the House of Representatives against this additional giveaway program was led by Representative H. R. GROSS, of Iowa, and Representative WAYNE HAYS, of Ohio.

Mr. President, this is not the time to be providing new funds for foreign assistance. As a matter of fact, in the current budget there is $10 billion of foreign assistance. I think that is too much. I do not think Congress can justify appropriating such large sums of money at a time when the Government is running such a huge deficit. Certainly we cannot justify going into this new program of foreign aid of $1.5 billion more to the International Development Association of the World Bank.

So I commend the House of Representatives and I hope the Senate will have the good judgment to follow what the House did last Wednesday, January 22.

I note from the RECORD that this proposal was defeated by a vote of 155 yeas to 248 nays. That is a very substantial majority and I think it should have a good effect when that proposal comes before the Senate.

Of course, the House has been condemned by the liberal publications throughout the country; condemned by the New York Times and condemned by the Washington Post. Well, that is all right. I do not find those publications always to be so correct in their judgments. I think the House was correct in the action it took.

The United States is now paying around 8 percent interest to obtain money; but when the International Development Association makes loans it charges only three-quarters of 1 percent interest and collects no interest at all for the first 10 years of a loan.

I do not think our Government can justify going into this additional financing at a time when the deficits of our Nation are running between $20 and $30 billion per year. I wish to mention also that in that vote on January 23, 1974, on the measure I have been discussing, the entire Virginia delegation—all 10 members; 7 Republicans and 3 Democrats—voted against that new $1.5 billion giveaway program. I commend not only the House of Representatives as a whole but also my colleagues from Virginia for that solid opposition.

I first spoke against that proposal on November 13, 1973. I felt at that time, and the same situation prevails now, that with the Federal Government wallowing in red ink, running up huge deficits every year, if we are going to get the cost of living under control, we must first get the cost of government under control, because the smashing deficits in the Federal Government are the major cause of the inflation which eats so heavily into every wage earner's paycheck and every housewife's grocery dollar.

Mr. President, I ask unanimous consent to have printed in the RECORD the comments I made in connection with this matter in the Senate on November 13, 1973.

There being no objection, the comments were ordered to be printed in the RECORD, as follows:

### ADDITIONAL APPROPRIATIONS FOR WORLD BANK

Mr. HARRY F. BYRD, JR. Mr. President, the President of the United States has asked Congress to approve an appropriation of $1.5 billion in additional funds for the International Development Association. This is a subsidiary of the World Bank. This request came to Congress last week.

I must be frank to say that I cannot support this proposal. It is an additional appropriation to the soft loan window of the World Bank.

In order to obtain the funds to give to the World Bank, the U.S. Government must go out on today's market and pay 8 percent interest. Then it plans to turn that money over to the World Bank at the soft loan window, which will then loan this money to other countries at three-fourths of one percent interest, over a 40-year period.

Mr. President, I submit that somewhere down the line this country has got to stop giving away—this Congress has got to stop giving away—funds taken out of the pockets of the hard working wage earners of this Nation.

What has Congress done already this year in regard to international financial institutions?

In the present budget is $2,250,000,000 to go to international financial institutions to make up for the devaluation of the American dollar.

How does that work?

The American taxpayer, being the generous person that he or she is, has contributed funds to international financial organizations. Then we devaluated the dollar twice. As a result of those devaluations, the American dollar is worth less, so these financial institutions come back to Congress and say, "Well now, because the dollars you gave us are worth less, we want you to increase your contribution to make up for that difference"—which Congress has done. It did that to the tune of $2,250,000,000.

Now the President comes in with another proposal to give an additional $1.5 billion to the soft loan window of the World Bank.

As I have already said, I submit that, somewhere down the line, we must call a halt.

Mr. SYMINGTON. Mr. President, will the Senator from Virginia yield?

Mr. HARRY F. BYRD, JR. I am glad to yield to the able Senator from Missouri.

Mr. SYMINGTON. I am very much impressed with what the able senior Senator from Virginia is saying. As he knows, for some years the soft loan window has been a matter of grave apprehension with me.

May I ask the Senator, how was this request for the one billion and a half made?

Mr. HARRY F. BYRD, JR. It was made in a statement from the President to Congress.

Mr. SYMINGTON. What committee will it come before? Will it be a supplemental or a continuing resolution?

Mr. HARRY F. BYRD, JR. So far as I can determine, it would of course come before the Appropriations Committee. Whether it would come before the Committee on Foreign Relations for authorization, that I am not certain of.

Mr. SYMINGTON. That was the thrust of my question. The able Senator has stated what I was worried about. If it comes in as an additional appropriation, that simply means it is a matter of money and not of legislative history as to whether it is justified on the basis of an analysis of our relationships with other countries.

That is the reason I asked the question and I thank the able Senator for bringing this up. I am now going downstairs to ask the Committee on Foreign Relations whether anything has been said on it to that committee.

Mr. HARRY F. BYRD, JR. I thank the Senator from Missouri very much. I might say it was the distinguished senior Senator from Missouri (Mr. SYMINGTON) who first brought to the attention of the Senate this matter of the soft loan window of the World Bank. It was because of his comments on the floor of the Senate that the Senator from Virginia became interested in this subject. I might also say that I have been following the leadership of the distinguished Senator from Missouri on this very vital matter.

Mr. SYMINGTON. I hope that the American people realize the care and diligence the able Senator from Virginia is using in trying to prevent this incredible outflow of dollars to foreign countries which has had so much to do with the deterioration of our own economy.

Mr. HARRY F. BYRD, JR. I appreciate the Senator's comments. He is certainly right about the outflow of dollars to foreign countries.

I hold in my hand the new requests for authorizations and/or appropriations for foreign aid and assistance contained in the fiscal 1974 budget document, the budget that Congress is now considering. It shows that new requests for foreign aid and assistance total $18 billion.

I repeat, $18 billion.

Included in that $18 billion is approximately $8 billion for the Export-Import Bank. That is in a little different category from the other $10 billion. But even if we leave out the amount for the Export-Import Bank, it still means that in the current budget there is more than $10 billion for foreign aid assistance.

Mr. SYMINGTON. The difference is really one of nomenclature instead of actually, because I can remember when the question of the soft loan windows came up and, as the able Senator has pointed out, there is no repayment of the principal for 10 years, and in many cases, if not most, no interest—just a carrying charge. It really is a gift. Yet, because it is put as a loan, the expenses are far greater than if it was a gift because we have to follow it up like a loan. As one of those involved in it said, "They made the AID agency the greatest bank in the world. The only trouble is, no one in the agency knows anything about banking."

So again I congratulate the able Senator from Virginia on his remarks.

Mr. HARRY F. BYRD, JR. I appreciate the Senator's bringing out those points.

I might say in that connection that the subcommittee of which I am chairman, the Subcommittee on International Finance and Resources, established last week that 108 different countries owe money to the United States.

I repeat, 108 different countries—for a total of $58 billion. Thus, we have been very generous. Besides that amount, we have given away to foreign countries—not loaned, $58 billion outstanding on loans—more than $130 billion since the end of World War II.

Now, Mr. President, if Congress were to approve this $1.5 billion additional for the International Development Association, the government does not have the money so that it must go out into the open market and borrow it. As I mentioned earlier in my comments, the Government today is paying 8 percent—actually, in today's newspaper it is listed as 8.3 percent—for the money.

In September, the Government of the United States paid over 9 percent to borrow funds to operate the Government. So I say it is certainly not reasonable or logical or right to dip further into the pockets of the wage earners of our Nation for money to turn over to these international banking institutions, which in turn lend this money at very low interest rates, with the principal to be paid over a 40-year period.

Incidentally, the principal is not repaid to the United States. That is what many persons overlook when they consider these international financial institutions.

That money never comes back to the United States. If it comes back at all, it comes back to the international financial institutions.

The only place the United States can obtain money, the only place Congress can obtain money, the only place the President of the United States can obtain money is out of the pockets of the people who work, out of the pockets of the wage earners, through taxes.

In light of all the funds we have already appropriated and spent for the benefit of foreign nations, I do not believe that we should go into another big program of $1.5 billion in additional appropriations to the World Bank. This is a tremendous amount of money.

In my judgment, our country is in a very desperate financial situation.

Frankly, my view is a minority view among my colleagues in Congress. I hope that the majority of my colleagues are correct, that we do not need to worry as much as I am worrying about the Government's financial situation.

But I am convinced that they are not correct, and I am convinced that I am correct in my assertion that we are facing a very severe situation in the huge deficits that the Government has been running over a long period of time.

I will give an example. Let us take the last five budgets. In 1970, the Federal funds deficit was $13.1 billion; in 1971, it was $30 billion; in 1972, it was $29.2 billion; in 1973, the year which ended last June, it was $24.9 billion; and the projected deficit for the current fiscal year, ending June 30, 1974, is $18.8 billion.

The accumulated deficit in that 5-year period totals $115 billion, and it represents 25 percent of the total national debt.

Stated another way, 25 percent of the total national debt has been incurred during the 5-year period ending next June.

The interest on the national debt in this year's budget is $27.5 billion. That is just the interest on the debt, the interest charge.

The figure of $27.5 billion is twice as much money as this Government will spend this year on its entire weapons systems acquisition program. The measure passed by the Senate and by the House of Representatives and agreed to in conference for weapons acquisitions in the procurement bill is, in round figures, $13 billion. The difference between the $21 billion in the procurement bill and the $13 billion—the additional $8 billion—is for research and development.

So I submit, Mr. President, that when we are running these smashing deficits—and they are smashing deficits—we would be very unwise to approve the President's request for an additional $1.5 billion for the World Bank. There must be an end to this generosity somewhere, and I think now is the time to call a halt.

At this point, Mr. President, I ask unanimous consent to have printed in the RECORD a table giving in detail the new requests for authorization and/or appropriation for foreign aid and assistance contained in the fiscal year 1974 budget document. This table was prepared by the Subcommittee on Appropriations of the Committee on Foreign Operations of the House of Representatives, headed by Representative OTTO E. PASSMAN, of Louisiana.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

*New requests for authorization and/or appropriation for Foreign Aid and Assistance contained in the fiscal year 1974 budget document*

| | |
|---|---|
| 1. Foreign Assistance Act (includes military assistance) | $2,428,850,000 |
| 2. Overseas Private Investment Corporation | 72,500,000 |
| 3. Foreign Military Credit Sales | 525,000,000 |
| 4. Inter-American Development Bank | 693,380,000 |
| 5. International Development Association | 320,000,000 |
| 6. Asian Development Bank | 100,000,000 |
| 7. Asian Development Bank (proposed) | 108,571,000 |
| 8. Asian Development Bank (maintenance of value) | 24,000,000 |
| 9. International Development Association (maintenance of value) | 161,000,000 |
| 10. Inter-American Development Bank (maintenance of value) | 510,000,000 |
| 11. Internat'l Bank of Reconst. & Dev't. (maintenance of value) | $774,000,000 |
| 12. International Monetary Fund (maintenance of value) | 756,000,000 |
| 13. Maintenance of value Adjustment | 25,000,000 |
| 14. Receipts and Recoveries from Previous Programs | 394,464,000 |
| 15. Military Assistance (in Defense budget) | 1,930,800,000 |
| 16. International Military Headquarters | 85,800,000 |
| 17. MAAG's, Missions and Milgroups | 168,100,000 |
| 18. Permanent Military construction-Foreign Nations | 190,700,000 |
| 19. Export-Import Bank, Long-term Credits | 3,850,000,000 |
| 20. Export-Import Bank, Regular Operations | 2,200,000,000 |
| 21. Export-Import Bank, Short-term Operations | 1,600,000,000 |
| 22. Peace Corps | 77,001,000 |
| 23. Migrants and Refugees | 8,800,000 |
| 24. Public Law 480 (Agricultural Commodities) | 653,638,000 |
| 25. Contribution to International Organizations | 199,787,000 |
| 26. Education (Foreign and Other Students) | 59,800,000 |
| 27. Trust Territories of the Pacific | 56,000,000 |
| 28. Latin America Highway (Darien Gap) | 30,000,000 |
| Grand total | 18,003,191,000 |

NOTE.—Total appropriation requests for maintenance of value amount to $2,250,000,000.

Mr. HARRY F. BYRD, JR., Mr. President, I ask unanimous consent to have printed in the RECORD three tables I have had prepared, showing the deficits in Federal funds and interest on the national debt, and various other financial information dealing with the U.S. Government, some of it going back for a 20-year period.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

DEFICITS IN FEDERAL FUNDS AND INTEREST ON THE NATIONAL DEBT, 1955–74 INCLUSIVE

[In billions of dollars]

| | Receipts | Outlays | Surplus (+) or deficit (−) | Debt interest |
|---|---|---|---|---|
| 1955 | 58.1 | 62.3 | −4.2 | 6.4 |
| 1956 | 65.4 | 63.8 | +1.6 | 6.8 |
| 1957 | 68.8 | 67.1 | +1.7 | 7.3 |
| 1958 | 66.6 | 69.7 | −3.1 | 7.8 |
| 1959 | 65.8 | 77.0 | −11.2 | 7.8 |
| 1960 | 75.7 | 74.9 | +.8 | 9.5 |
| 1961 | 75.2 | 79.3 | −4.1 | 9.3 |
| 1962 | 79.7 | 86.6 | −6.9 | 9.5 |
| 1963 | 83.6 | 90.1 | −6.5 | 10.3 |
| 1964 | 87.2 | 95.8 | −8.6 | 11.0 |
| 1965 | 90.9 | 94.8 | −3.9 | 11.8 |
| 1966 | 101.4 | 106.5 | −5.1 | 12.6 |
| 1967 | 111.8 | 126.8 | −15.0 | 14.2 |
| 1968 | 114.7 | 143.1 | −28.4 | 15.6 |
| 1969 | 143.3 | 148.8 | −5.5 | 17.7 |
| 1970 | 143.2 | 156.3 | −13.1 | 20.0 |
| 1971 | 133.7 | 163.7 | −30.0 | 21.6 |
| 1972 | 148.8 | 178.0 | −29.2 | 22.5 |
| 1973 | 161.3 | 186.2 | −24.9 | 24.2 |
| 1974 [1] | 181.0 | 199.8 | −18.8 | 27.5 |
| 20-year total | 2,056.2 | 2,270.6 | −214.4 | 273.4 |

[1] Estimated figures.

Note: Prepared by Senator Harry F. Byrd, Jr., of Virginia.

Sources: Office of Management and Budget and Treasury Department.

| | Fiscal year— | | | | | | |
|---|---|---|---|---|---|---|---|
| | 1968 | 1969 | 1970 | 1971 | 1972 | 1973 | [1] 1974 |
| Receipts: | | | | | | | |
| Individual income taxes | 69.0 | 87.0 | 90.0 | 86.0 | 95.0 | 103.0 | 116.0 |
| Corporate income taxes | 29.0 | 37.0 | 33.0 | 27.0 | 32.0 | 36.0 | 42.0 |
| Total | 98.0 | 124.0 | 123.0 | 113.0 | 126.0 | 139.0 | 158.0 |
| Excise taxes (excluding highway) | 10.0 | 11.0 | 10.3 | 10.5 | 9.1 | 9.9 | 9.9 |
| Estate and gift | 3.0 | 3.5 | 3.6 | 3.7 | 5.2 | 5.0 | 5.4 |
| Customs | 2.0 | 2.3 | 2.4 | 2.6 | 3.2 | 3.2 | 3.5 |
| Miscellaneous | 2.5 | 3.0 | 3.4 | 3.9 | 3.5 | 3.9 | 4.2 |
| Total Federal fund receipts | 116.0 | 143.0 | 143.0 | 134.0 | 149.0 | 161.0 | 181.0 |
| Trust funds (social security, retirement, highway) | 38.0 | 44.0 | 51.0 | 54.0 | 60.0 | 71.0 | 85.0 |
| Total | 154.0 | 188.0 | 194.0 | 188.0 | 209.0 | 232.0 | 266.0 |
| Expenditures: | | | | | | | |
| Federal funds | 143.0 | 149.0 | 156.0 | 164.0 | 178.0 | 186.0 | 200.0 |
| Trust funds | 36.0 | 36.0 | 40.0 | 48.0 | 54.0 | 61.0 | 69.0 |
| Total | 179.0 | 185.0 | 196.0 | 212.0 | 232.0 | 247.0 | 269.0 |
| Unified budget surplus (+) or deficit (−) | −25.0 | +3.1 | −2.0 | −24.0 | −23.0 | −15.0 | −3.0 |
| Federal funds deficit | 27.0 | 6.0 | 13.0 | 30.0 | 29.0 | 25.0 | 19.0 |

[1] Estimated figures.

Note: Prepared by Senator Harry F. Byrd, Jr., of Virginia.

U.S. GOLD HOLDINGS, TOTAL RESERVE ASSETS, AND LIQUID LIABILITIES TO FOREIGNERS

[Selected periods in billions of dollars]

| | Gold holdings | Total assets | Liquid liabilities |
|---|---|---|---|
| End of World War II | 20.1 | 20.1 | 6.9 |
| Dec. 31 1957 | 22.8 | 24.8 | 15.8 |
| Dec. 31 1970 | 10.7 | 14.5 | 47.0 |
| Dec. 31 1971 | 10.2 | 12.2 | 67.8 |
| Dec. 31 1972 | 10.5 | 13.2 | 82.9 |
| Mar. 31 1973 | 10.5 | 12.9 | 90.9 |

Note: Prepared by Senator Harry F. Byrd, Jr., of Virginia.
Source: U.S. Treasury Department.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR RECOGNITION OF SENATOR BIDEN AND FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized tomorrow under the standing order, the distinguished junior Senator from Delaware (Mr. Biden) be recognized for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business, not to extend beyond the hour of 12 o'clock noon, with statements limited therein to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on tomorrow the Senate will convene at the hour of 11:30 a.m. After the two leaders or their designees have been recognized under the standing order, the distinguished junior Senator from Delaware (Mr. Biden) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business, not to extend beyond the hour of 12 o'clock noon, with statements therein limited to 3 minutes each.

At the hour of 12 o'clock, the Senate will resume consideration under controlled time, of the conference report on S. 2589, the National Energy Emergency Act of 1973. The time will be under the control of Mr. Fannin and Mr. Jackson.

At the hour of 2 o'clock, however, if Mr. Nelson wishes to offer a motion to recommit, he may do so, with the time limited on the recommittal debate to 2 hours, to be equally divided between Mr. Nelson and Mr. Jackson, and the vote on such motion to recommit will occur at the hour of 4 o'clock p.m.

If the motion to recommit is made and fails, then the vote on the adoption of the conference report, without prejudice to other intervening motions in the meantime, will occur at the hour of 4:30 p.m.

Yea and nay votes, I repeat, will occur on tomorrow.

## ADJOURNMENT TO 11:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand adjourned until the hour of 11:30 a.m. tomorrow.

The motion was agreed to; and at 4:32 p.m. the Senate adjourned until tomorrow, Tuesday, January 29, 1974, at 11:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate January 28, 1974:

### Department of State

William S. Mailliard, of California, to be the Permanent Representative of the United States of America to the Organization of American States, with the rank of Ambassador.

Max V. Krebs, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United State of America to the Republic of Guyana.

### Department of Justice

William M. Johnson, of Georgia, to be U.S. marshal for the southern district of Georgia for the term of 4 years. Reappointment.

### In the Coast Guard

The following officers of the Coast Guard Reserve for promotion to the grade of captain:

Walter J. Hall
Gail A. Roose, Jr.

The following officer of the Coast Guard for promotion to the grade of lieutenant commander:

James P. Sutherland

The following Reserve officers to be permanent commissioned officers in the Regular Coast Guard in the grade of lieutenant:

Thomas T. Allan III
Donald R. Carlberg
Eugene M. Field, Jr.
William F. Geers
Bryan M. Genez
Leonard H. Henell
Ernest J. Williams

The following licensed officer of the U.S. Merchant Marine to be a permanent commissioned officer in the Regular Coast Guard in the grade of lieutenant (junior grade):

Terrence J. Sherman

The following graduates of the Coast Guard Academy to be permanent Commissioned officers in the Coast Guard in the grade of ensign:

Joseph F. Ahern
John P. Aherne
William M. Albert III
Scott W. Allen
Charles A. Amen
John G. C. Arnold
Michael L. Arnold
Mark E. Ashley
Rex A. Auker
Lloyd D. Barnes
Gregg G. Baxter
Richard R. Beardsworth
William M. Bentley
Richard H. Berry
Russell A. Bishop
Bradford W. Black
Kyle W. Blackman
Arthur S. Blaylock III
Michael M. Blume
Myles S. Boothe, Jr.
Ronald R. Borison, Jr.
Timothy F. Bowen
William G. Braceland
Steven J. Brantner
Douglas M. Brawn
Joseph C. Bridger III
Raymond J. Brown
Arthur E. Brooks
Robert J. Brulle
Joseph P. Brusseau
Russell R. Burke
John C. Burson
Derek A. Capizzi
Michael J. Carlson
David D. Caron
William L. Clossey
Michael W. Collier
Guy R. Colonna
Robert N. Conkling, Jr.
Joseph A. Conroy, Jr.
David W. Courtois
James B. Crawford
Ralph L. Crawford, Jr.
Thomas M. Curelli
Gerald M. Davis, Jr.
Roger M. Dent
Dan Deputy
George H. Detweiler, Jr.
Christopher E. Dewhirst
David G. Dickman
Domenico A. Diiulio, Jr.
Gerald M. Donohoe
William F. Duffy, Jr.
Paul A. Dufresne
James M. Dwyer
Kenneth U. Dykstra
Kevin J. Eldridge
Daniel J. Elliott
Glenn F. Epler
Thomas J. Falvey
Pecos B. Field
Mark A. Fisher
Richard J. Fitzpatrick
Gregory S. Fitzpatrick
Reginald W. Flagg
Robert J. Flynn
Richard J. Formisano
Randall W. Freitas
James M. Garrett
Jeffrey M. Garrett
David W. Gault
William M. Gaynor III
Robert L. Gazlay
David M. Giraitis
Dana A. Goward
Mark F. Grosze
Adan D. Guerrero
Frank C. Halstead
Walter E. Hanson, Jr.
Michael L. Hardie
Joseph W. Harnett
Richard S. Hartman, Jr.
Stephen J. Harvey
Jeffrey J. Hathaway
Timothy C. Haugan
Steven G. Hein
Daniel G. Henderson
William A. Henrickson
Steven G. Hilferty
Glenn R. Holmdahl
James L. House
Dale E. Hower
Allen B. Hughes, Jr.
Michael L. Hunt
Brian V. Hunter
Terance M. Hurley
Richard A. Huwel
Timothy W. Hylton
Walter E. Jaworski
Thomas D. Johns
Walter L. Johnson
Marcus E. Jorgensen
Steven D. Jorgensen
Roger D. Kacmarski
Gary R. Kaminski
Scott F. Kayser
Leonard J. Kelly, Jr.
Jerzy J. Kichner
Lawrence I. Kiern
Thomas C. King, Jr.
Gregory B. Kirkbride
Richard A. Koehler
Gary Krizanovic
Scott A. Laidlaw
Eric Dwight Lamberson
Richard E. Lang
Richard W. Langford
Jeffrey G. Lantz
William J. Lee II
Gregg A. Leibert
Roman T. Lewandowski, Jr.
John L. Locke
David M. Loerzel
George R. Long
Thomas J. Mackell
David W. Mackenzie
Byron A. Maddox
Vincent E. Matner, Jr.
Philip C. Matyas
Michael L. Maxey
John P. McDermott III
Carl E. McGill
Hugh A. McGraw
Clifford W. McKeown
John J. McQueeney II
John P. Miceli
Thomas C. Mielke
Charles L. Miller III
Edward Miller
Peter K. Mitchell
Terry L. Mohrmann
Robert F. Moore, Jr.
Edmond R. Morris
Guy E. Motzer
John T. Murray
John K. Nelson
Ronald A. Nilsen
Steven L. Nylund
John T. O'Connor
Donald R. O'Malley
Walter L. Owens, Jr.
Gary W. Palmer
James A. Peltzer
Steven M. Pendleton
Robert N. Petersen
Frederick G. Phelps
Robert L. Porter, Jr.
Robert R. Poterfield
Odell T. Powell, Jr.
William L. Powers
Jonathan M. Prince
David W. Reed
James F. Reed
Fred F. Rogers III
Richard A. Roth
Robert A. Roush
Bruce A. Russell, Jr.
Gary E. Russell
James Rutkovsky
Daniel F. Ryan II
Patrick E. Ryan
Richard L. Ryan
Philip M. Sanders
Michael E. Saylor
Christopher M. Schoonmaker
James M. Seagraves
Thomas W. Sechler, Jr.
John Stephen Sedlak
James W. Shafovaloff
Stephen E. Sharpe
Robert C. Shearer, Jr.
Andrew J. Sincali
James E. Spence
Ronald W. Stover
Albert F. Sucky IV
Steven P. Suttle
Terry S. Swan
Richard J. Taylor
James D. Thomas
Allan L. Thompson, Jr.
Stephen K. Toney
Drew F. Vanriper
James C. Vansice
Stefan G. Venckus
Steven M. Waldmann
Kenneth A. Ward
John A. Wcislo
Ronald R. Weston
Robert M. Wicklund
Bradley J. Willis
Larry C. Young
Victor J. Zoschak, Jr.

### In the Air Force

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provisions of section 593(a), title 10 of the United States Code, as amended:

LINE OF THE AIR FORCE

*To be lieutenant colonel*

Maj. Vernon L. Beadles, [redacted]
Maj. Clarence R. Boyles, [redacted]
Maj. Joseph R. Briner, [redacted]
Maj. Karol A. Burton, [redacted]
Maj. Russell C. Davis, [redacted]
Maj. John V. Dawson, [redacted]
Maj. Harvey J. Dice, [redacted]
Maj. Walter J. Dobrowolski, [redacted]
Maj. Donald L. Dudrow, [redacted]
Maj. Arthur Farrell, [redacted]
Maj. Lynwood N. Fuelling, [redacted]
Maj. Charles Gilchrist, [redacted]
Maj. Carl W. Goodwin, [redacted]
Maj. Dale L. Hartman, [redacted]
Maj. John M. Hartnett, [redacted]
Maj. Raymond A. Heinz, [redacted]
Maj. John H. Hewitt, [redacted]
Maj. Duke D. Johnston, [redacted]
Maj. Ivan J. Jones, [redacted]
Maj. Karl K. Kramer, [redacted]
Maj. James C. Lapery, [redacted]
Maj. Gerald R. Leonard, [redacted]
Maj. Ralph E. Libby, [redacted]
Maj. James Majoros, [redacted]
Maj. James D. Montgomery, [redacted]
Maj. Dick O. Moorman, [redacted]
Maj. Gene B. Morgan, [redacted]
Maj. John A. Newland, Jr. [redacted]
Maj. David E. Olinger, [redacted]
Maj. Gabriel I. Penagaricano, [redacted]
Maj. Leon G. Rabinowitz, [redacted]
Maj. William G. Robertson, [redacted]
Maj. William I. Smith, [redacted]
Maj. William A. Stanley, [redacted]
Maj. Joseph L. Vogel, [redacted]
Maj. John G. Webb [redacted]
Maj. Robert B. Zuehlke, [redacted]

MEDICAL CORPS

Maj. Joseph A. Greenlee, Jr., [redacted]

MEDICAL SERVICE CORPS

Maj. Henry T. Capiz, [redacted]

IN THE MARINE CORPS

The following-named temporary disability retired officer for reappointment to the grade of lieutenant colonel in the Marine Corps, subject to the qualifications therefor as provided by law:

Richard J. Randolph, Jr., [redacted] USMC.

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# EXTENSIONS OF REMARKS

## TEN-PERCENT QUOTA INCREASE PROPOSAL FOR FLUE-CURED TOBACCO

### HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. MIZELL. Mr. Speaker, the House Subcommittee on Tobacco, on which I have the honor of serving as ranking minority member, held hearings on Tuesday of this week to determine whether or not the U.S. Department of Agriculture's recent decision to increase quotas for Flue-cured tobacco by 10 percent was justified.

At the outset of those hearings, I spoke on behalf of thousands of tobacco growers in taking strong exception to the Department's action.

We have some rather serious problems at the present time regarding the marketing of tobacco products, and all of my colleagues have a stake in the resolution of these problems.

And so for the benefit of my colleagues, I am inserting in the RECORD at this point the text of my remarks at the opening of our recent hearings.

I am also inserting a copy of a news release published by my office outlining certain assurances received from USDA officials regarding the tobacco program:

STATEMENT OF HON. WILMER D. MIZELL

Thank you, Mr. Chairman. I think it is important for our friends from the Department to know that it was at my urging that these hearings were called today, and they were initiated immediately atfer I received word of the Department's decision on the 10 percent increase in quotas and allotments.

As one who represents perhaps the most well-known tobacco district in the country—the fifth district of North Carolina encompassing the city of Winston-Salem and hundreds of tobacco farms—it was, of course, a natural reaction for me to seek clarification and justification of this decision as quickly as possible, since it threatens in quite an ominous and drastic way the economic stability of my district, my state, and my region of the country.

And as the ranking minority members of this subcommittee, it was my duty as well to see that the tobacco program, which has been so successful in the past, was not put in danger of going down the drain by an action taken in as arbitrary and willful a fashion as I have seen, and I have seen quite a few.

Back when I was playing baseball, with some pitchers there was always a danger of getting their signals crossed with their catchers. I didn't have that problem, since all I threw was a fastball anyway, and there was just one signal for a fastball, but some of the fellows like Whitey Ford and some others who had a lot of pitches in their repertoire had some trouble with their signals.

I think in this matter we're dealing with today, the possibility exists that not only did the department and the subcommittee get their signals crossed, but someone may have tried to put a fast one past someone else while the "someone else" was in recess.

Last fall, a special congressional investigating committee, comprised of many members of this subcommittee, held field hearings in Lumberton, North Carolina, and Florence, South Carolina, seeking to determine the extent of marketing problems in the tobacco industry.

The most important problems we identified during those hearings were overproduction and lack of space on auction floors for a sufficient number of tobacco growers and their products.

Following those hearings, we made a recommendation to the Secretary of Agriculture that he not increase allotments at this time, and let us work out the marketing problems we already had.

Instead, the Department proposed on December 26 to do away with the allocation and quota system altogether, which would have established a dominion of chaos in tobacco markets throughout the South.

Then, last week, the Secretary announced instead that quotas for flue-cured tobacco would be increased by ten percent. We are left to assume that this announcement was to have been welcomed with enthusiasm by tobacco growers who had feared for the worst for one month worrying that they might not have an allocation program at all.

In my State of North Carolina, at least, I detected no great sigh of relief at this announcement. Instead, I found—and heard from—a great many disgruntled and worried growers who are greatly and rightly concerned about their economic future and their familes' welfare. I received more than 3,000 such letters.

Now I have gone over the figures for allotments and quotas and percentages and all the rest, and those figures just do not add up for me the way they apparently add up to the Department of Agriculture.

So the purpose of these hearings is really four-fold:

First, to determine how the Department arrived at its conclusion that a 10 percent increase in quotas is required;

Second, to impress upon the powers that be in the Department of Agriculture the strong and well-founded dissatisfaction with its announcement among tobacco growers;

Third, to find out why the Department not only ignored a recommendation by the special ad hoc investigating committee in raising the allotments, but did so while the Congress was in recess, and had no opportunity for consultation on this matter;

And fourth, to see if we can find some way to assure an adequate supply of tobacco for both export and domestic purposes, and at the same time assure the flue-cured tobacco grower that he's not going to go broke in the process.

Finally, I want to advise the Department of Agriculture in the strongest possible terms that it seems to me the Department was apparently playing games with the lives and the livelihood of a substantial segment of the population of North Carolina, at first holding forth the threat of total economic disaster when all the while the department knew it would propose a milder—but still unacceptable—action, raising the quotas by ten percent.

I want the department to know that nobody in our state thought their game was very amusing.

FLUE-CURED TOBACCO

WASHINGTON, D.C.—U.S. Representative Wilmer "Vinegar Bend" Mizell (R.-N.C.) said today the House tobacco subcommittee has received assurances from the U.S. Department of Agriculture that—

The department is committed to a continuation of the present tobacco program, including quotas and allotment programs;

Price supports on flue-cured tobacco will not be frozen, but will probably be increased by an estimated eight to ten percent;

The tobacco barter program involving the Commodity Credit Corporation may be reinstated if export conditions require it;

Tobacco is receiving top priority among agricultural commodities in trade talks now being held in Geneva, Switzerland;

Marketing problems experienced during the last marketing season, including lack of space on auction floors, will be resolved before the 1974 marketing season.

Mizell, ranking Republican member of the tobacco subcommittee, received these assurances from Kenneth Frick, Administrator of the Agricultural Stabilization and Conservation Service, during hearings today on USDA's recent decision to increase flue-cured tobacco quotas by ten percent.

Frick assured Mizell and other subcommittee members that, while it will stand by the ten percent increase, USDA will continue to support the quota and allotment programs. The Department published on December 26, 1973, a proposal to do away with the program entirely, but congressional and public reaction killed the proposal.

In his opening statement, Frick said "a meeting with leading (tobacco) manufacturers and dealers" was held December 14.

"Following a full discussion," Frick said, "we were assured that they will have available, by the time the markets open for the sale of the 1974 crop, the necessary facilities for processing 85 million pounds of flue-cured tobacco per week."

The other assurances were given during the course of an extensive question-and-answer session with the subcommittee.

In his opening remarks, Mizell said it was his decision to call the hearings in response to USDA's announcement of the ten percent increase in quotas.

"It was, of course, a natural reaction for me to seek clarification and justification of this decision as quickly as possible, since it threatens in quite an ominous and drastic way the economic stability of my district, my State and my region of the country," Mizell said. He called the decision "as arbitrary and willful as any I have seen," and said he had received 3,000 letters from tobacco growers opposing the decision.

## THE BRIGHTSTONES

### HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. HELSTOSKI. Mr. Speaker, one of mankind's greatest virtues is the virtue— of compassion—that special quality which enables one human being to help another. And in an age of anxiety and tension, these qualities become even more special. Thus today, I would like to call our attention to the Brightstones—a group of New Jersey citizens dedicated to making life better for those who are less fortunate.

The Brightstones were founded in 1970 by Fairleigh Dickinson University Prof. John D. Lydon to help provide better living conditions for the patients at Greystone State Psychiatric Hospital, located in nearby Morris County. However, the past 4 years, the Brightstones have traveled to psychiatric hospitals throughout the State in an effort to make life a little more pleasant for a countless number of patients.

As the group has grown, so have its activities. The Brightstones, among other things, have been active in supporting mental health legislation. In addition, the group has established a transportation system which enables relatives of patients at Greystone to visit them more easily.

Mr. Speaker, today I would like to share an article with my colleagues which appeared in the Lodi Messenger January 10. The article provides us with additional information concerning the admirable achievements of this dedicated group:

#### Brightstones Off to a Bright Start

The patients at Greystone State Hospital were treated last month to a Christmas party given by the Brightstone Volunteers. The Brightstones provided a Christmas cake and other refreshments along with gifts for the enjoyment of the patients. This party is only one of the ways that the Brightstones help to enliven the days of the patients.

The Brightstones were founded in 1970 by Professor John D. Lydon of Fairleigh Dickinson University. Their initial aim was to help provide better living conditions for the patients. The group, made up of high school and college students would travel to the hospital, and repaint any areas that needed work.

At first they restricted their work to Greystone, but in the last few years they have traveled to all of the State hospitals, spreading their cheer. The mission of the Brightstones is simple . . . to give the patients of the institution some contact with the outside world. But the Brightstones do not stop there. In December of 1971 they traveled to Trenton to support a bill which Senator Garrett W. Hagedorn had submitted on mental health.

The Brightstone Volunteers began as a contingent of 50 students and today they number well in the thousands. From their limited beginning, the group today follows a pattern of two basic activities. On the first Sunday of every month, the Brightstone Bus, named 'Hope', follows a route through Bergen County picking up relatives of the patients at Greystone so that they can visit. Incidentally, this route passes through Lodi. On the third Sunday of every month, the Brightstones travel to one of the many state hospitals for a paint-in to help rehabilitate the hospital.

Governor Cahill recognized the importance of the Brightstones by appointing two of their members to the Board of Trustees of Greystone State Psychiatric Hospital.

If anyone is interested in helping the group spread their cheer, they need only write to Brightstone Volunteers, Inc., Fairleigh Dickinson University, Rutherford, New Jersey.

## A NEED FOR "PRINCIPAL JUDGMENT"

### HON. LINDY BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mrs. BOGGS. Mr. Speaker, in the December 17, 1973, issue of the Chronicle of Higher Education there is an article authored by William J. Byron, S.J. Father Byron is the dean of the College of Arts and Science of Loyola University in New Orleans.

In view of the many items in the news in recent weeks about the moral shortcomings and wrongdoings on the part of "well-educated" people, I think Father Byron's thoughts about the meaning of higher education will make interesting and timely reading for my colleagues and for Congressional Record readers:

#### A Need for "Principled Judgment"

(By William J. Byron)

Henry Steele Commager: "I think we should support, or if necessary create, a group of men and women whose business it is to think far ahead of their contemporaries, whose business is not to represent their own country, their own class, their own times, men and women who should be excused from many of the pressures and passions of their own day and permitted to imagine a different kind of world, to anticipate problems and propose solutions to them . . . Needless to say, we have at least in embryo, just such a class. I refer to the university."

Educational institutions tend to favor the hypothesis that one is better off thinking his way into new ways of acting than acting his way into new ways of thinking. "Think before you act" is, after all, solid and perennial advice. But I believe that one is much more likely to act his way into new (and better) ways of thinking. Reflection on experience is the thought-before-action required of a prudent person. But experience, direct and personal, is, in this dynamic sense, father to the thought.

It is not enough to provide libraries and lecture halls where students can tap the experience of the past; where they can review, for instance, the presence or absence of principles in the judgments and decisions of others. The educational environment should encourage students to reflect on their own experience, to discover the presence or absence of principles in themselves. The need for such reflective discovery was with us long before Watergate. Hollow men and moral nomads have dominated public life in the past. I take it to be the responsibility of the universities to provide future publics with integral men of principled judgment, prepared and available for the service of leadership.

Playwright Robert Bolt has his imprisoned hero, Sir Thomas More, use a striking simile to explain to his daughter why he will not swear to the Act of Succession and thus gain his freedom at the price of violating his conscience:

"When a man takes an oath, Meg, he's holding his own self in his own hands. Like water. [He cups his hands.] And if he open his fingers *then*—he needn't hope to find himself again. Some aren't capable of this, but I'd be loath to think your father was one of them." (*A Man for All Seasons*, Act II)

In a preface to his play, Bolt explains his mood and his social perceptions as he wrote *A Man for All Seasons*. He was troubled by the thin fabric of contemporary human character, by modern man's tendency himself in the third person, to describe himself "in terms more appropriate to somebody seen through a window." Bolt then provides a penetrating insight amounting to a one-sentence summary of the cultural ills that prepared the way for Watergate: "Both socially and individually it is with us as it is with our cities—an accelerating flight to the periphery, leaving a center which is empty when the hours of business are over."

One full decade before Watergate, Robert Bolt asked: ". . . Why do I take as my hero a man who brings about his own death because he can't put his hand on an old black book and tell an ordinary lie? For this reason: A man takes an oath only when he wants to commit himself quite exceptionally to the statement, when he wants to make an identity between the truth of it and his own virtue; he offers himself as a guarantee. And it works. There is a special kind of shrug for a perjurer; we feel that the man has no self to commit, no guarantee to offer."

An educational enterprise, a learning community, a climate of inquiry called a university, should at the very least provide an environment designed to assist the student in acquiring a properly developed sense of selfhood. A clear sense of self can emerge only if the student locates himself in reference to the transcendental. I would specify: Someone transcendental. Others would settle for *something* transcendental. In either case, value enters the picture. This is no way conflicts with the university's commitment to the rational. In the wake of Watergate, there will be fewer voices, I suspect, protesting that an interest in transcendental values is unreasonable. In certain universities, my own among them, faith is a value to be consciously fostered. In any university, faith is a value to be respected.

Another minimal expectation in any university community is a common commitment to truth. Hence open inquiry in the university community is not a threat. In a faith-committed Roman Catholic university like my own, special care must be taken not to substitute authority for thought. We violate our trust if we fail to foster in our students a critical sense. To think critically, one must have a place to stand. One must be able to locate himself, to have some fixed reference points. My university stands on its Catholic commitment, without apology; but it does so with care. Our care is to avoid absolutizing incidentals and accidentals. Our care, moreover, is to guarantee freedom of commitment to all our students, to all our faculty.

In matters of mortality, we take care to avoid a multiplication of absolutes. Catholics everywhere—in or outside universities—must take great care to avoid giving the false impression that their church wants to translate its moral precepts into the criminal code of the nation. Such is not and should not be the case, unenlightened efforts to the contrary notwithstanding. Catholic morality should not be public law. Law, however, should in every case be moral. Men who make, execute, and enforce law must in all cases be moral. And men who break the law may do so, we believe, only when the law itself is unjust (in which case the violator must accept the consequences of his act under the law), or a higher law intervenes (in which case one's moral integrity could cost his life).

In the language of our university's goal statement, graduates should "be capable of principled judgment in the face of complexity and ambiguity. . . ." What are the ingredients of a "principal judgment"? There can, and I suppose there should, be a value-free answer to that question. But the content of any concrete "principled judgment" cannot, it seems, be value-free. It is precisely the ignorance or abandonment of principles that permits the emergence in national affairs of statesmen and their political associates who appear to be moral nomads, unencumbered by conscience, by familiarity with any ethical tradition, and free of the wisdom that comes from making moral choices. Such freedom is really slavery to the whims of impulse, instinct, and opportunism.

When educators speak of assisting students to locate themselves, to establish a sense of selfhood, to become familiar with where they begin and where they leave off, there is always the danger of slipping into an excessive individualism, even a narcissistic withdrawal from societal awareness. This, of course, would be the result of bad education.

Any university is capable of giving bad education. To admit it is more wisdom than weakness. To admit it is to recognize that no one discipline, no one course, no one religious tradition, no one book or project or professor is the conduit of all wisdom. If such were the case, once a student was properly plugged into the unique source, principled judgments would be guaranteed. Such will never be the case. Students need creative combinations in appropriate amounts of all the resources a university can offer. From the past, from the present; from science, from the arts; from the faculty and from each other, the students will themselves draw many of the ingredients of principled judgments.

We all know that moral issues arise in any area covered by any intellectual discipline. To settle the issue definitively is not the job of a classroom professor. To ignore the issue is often inept or dishonest pedagogy. To discuss it may or may not be appropriate, depending on the nature and purpose of the course as well as the availability of another, possibly more suitable forum within the university where the moral issue might be explored. Somewhere in their university experience, students should disclose, at least to themselves, where they stand on these issues and what are the principles upon which a given stance is grounded.

To repeat, the university is an atmosphere of open inquiry and a free quest for truth. In such a setting, enlightened pedagogy may fairly insist that a student's moral judgments be, first, his own; and, second, part of an identifiable (though incomplete), coherent (though riddled with doubt), and consistent (though self-made and embryonic instead of traditional and finished) system of moral choice. Eclecticism and hybrid systems have a proper place in the university and also in the individual. So do unresolved questions and tentative positions. But contradictory positions, lopsided social-over-personal or personal-over-social ethics, and thinly veiled "moral" positions which are obtusely oppositional if not mindlessly anarchic should be identified for what they are. Moral skepticism and moral dogmatism should be equally open to challenge.

Similarly, in politics and the military, in business and the professions, ethical sensitivities will be dull or absent if curricular or co-curricular attention is not given to ethical principles and their application in the university experience.

Not every ethical dilemma, obviously, can be experienced and reflected upon in the student years. Vicarious experience through case studies, role-playing, films, and literature, however, should not be overlooked by anyone responsible for providing a liberal and liberating education. Otherwise, hollow men and women, of thin and soft commitments, will continue to populate our alumni rolls.

Robert Bolt spoke of man offering himself as a guarantee when he takes an oath. And Bolt sees in the perjurer one who "has no self to commit, no guarantee to offer."

University educators, touched more perhaps than others by the present Watergate mood, may find that the curriculum they are offering is ethically hollow and thus ill-equipped to produce a man or woman capable of being his or her own guarantee. Somehow, though a creative, catalytic curriculum, the student should meet in his professors, his peers, his books, and his projects—but most especially in himself—the value which, in developed and personalized form, will eventually guarantee that his judgments will be principled. A university should want to produce such men and women for all circumstances, for all seasons. An education to this end is an education to be human. No need to apologize for that. It simply acknowledges that there should be a partnership between reason and spirit in any human being.

When will the universities get the message? When will they recognize that values provide the necessary bridge between reason and spirit?

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## A BILL TO AMEND THE DISTRICT OF COLUMBIA POLICE AND FIREMAN'S ACT OF 1958 TO INCREASE SALARIES AND FOR OTHER PURPOSES

### HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. BROYHILL of Virginia. Mr. Speaker, I am introducing today a bill to increase salaries of District of Columbia police officers and firefighters—by 18 percent. This bill is a successor to previous legislation which I introduced on August 3, 1973, and is identical except that the salary increase is reflected as 18 per centum rather than 10 per centum.

I think it is only simple justice that District of Columbia police and fire service employees, who daily lay their lives on the line to protect the residents of the District and visitors, should not suffer the loss of purchasing power brought about by inflation. It has been made public in the past few days that food prices in Washington have risen by 25 percent in the last year alone, and the end is not yet in sight. Heating oil went up 51 percent this year for Washington area residents. Gasoline rose 2 cents a gallon just from November to December, and this is on top of previous increases and was followed by even more increases.

Mr. Speaker, I have introduced this measure in the sincere conviction that the District's police and firefighters amply deserve a fair opportunity to provide a decent life for their families. This is a basic right for all Americans. Surely, we can do no less than to make sure that these men and women, whose devotion to a hazardous job is a major safeguard to our Nation's Capital enjoy this right. Their last pay increase was effective in May 1972.

I strongly urge my colleagues in the House to give this measure their closest attention and strongest support and urge enactment of this bill at the earliest possible date.

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## U.S. DEFENSE SPENDING NOT ENOUGH TO KEEP PACE WITH THE SOVIET UNION

### HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. KEMP. Mr. Speaker, the costs of maintaining the Nation's defense have never been subject to more question than they seem to be today. The intended relaxation of tensions between the United States and the Soviet Union—the much-heralded détente—should mean, many argue, that we have less need for maintaining or increasing defense expenditures. Nothing could be further from the stark nakedness of the realities unfolding, for only a strong defense—not a spirit of détente—can insure the survivability of a genuine relaxation of tensions.

Several articles have appeared during recent weeks showing the fallacies of relying too much on the mere letter of détente, for the very success of détente rests upon the United States moving simultaneously toward the maintenance of a strong national defense with which to protect our commitment to freedom, while we pursue the substantive objectives of détente to protect our commitment to peace.

In an insightful editorial, the Wall Street Journal has detailed the nature of the proposed increases in defense spending. It is apparent that these increases are not going for those particular defense items—research and development, training, hardware, deployment—essential for reinforcing our defenses. Rather, these proposed increases will be going to meet the rising costs of inflation, military pay raises, and aid to Israel—which no matter how worthy is only one aspect of our total foreign policy and defense commitment. Recent increases in the budget have occurred principally because of inflated dollars, not because of a recognition—as there should have been—of heightened national defense needs. Meanwhile, Soviet expenditures are going directly for advanced research and demonstration, development, deployment—all in an attempt to wholly overcome the United States in arms, thereby rendering it susceptible to nuclear blackmail.

I think the content of this article merits careful attention by the Members of this body.

The article follows:

### DEFENSE SPENDING

With the approaching release of a new federal budget, the annual debate on defense spending is already gathering. The Pentagon is said to believe it will have an easier time this year, because of the passing of the Vietnam irritant and spreading realism about the nature of the Soviet regime.

If so, it will be about time. For the sad truth is that military power is by no means irrelevant to world affairs, and that the United States' military position has been sharply eroded on nearly all fronts over the last five years. Yet these realities have been obscured by a whole series of myths.

We are told, for example, of a greedy "military-industrial complex" and an "arms-race spiral." Yet the fact is that since 1968 defense spending has been essentially static, which means that in terms of constant dollars it fell. Meanwhile, as the accompanying St. Louis Fed chart shows, civilian spending ballooned. In any such comparison, the defense sector is not bloated but starved.

The Pentagon proposals for fiscal 1975 will break out of the 1968 plateau. It proposes to spend $85.8 billion, and will also ask for a $6.2 billion supplemental appropriation for the current fiscal year. But even at that, the defense part of the budget will expand less rapidly than civilian outlays.

Meanwhile the Soviet Union has been expanding its defense establishment. Problems of secrecy and exchange rates make it hard to evaluate Soviet defense spending, but after running through various calculations, the Institute for Strategic Studies in London concludes, "The equivalent dollar costs of Soviet resources devoted to defense may well be comparable to American spending and perhaps well above it."

This is confirmed by the appearance of several new Soviet strategic weapons, by the reequipping of its tank forces in Europe, by a startling naval expansion and by its lavish support of Arab clients in their war with Israel. In area after area, the United States is falling dangerously behind.

In strategic nuclear forces, American negotiators were forced to accept inferiority in numbers and crucial throw-weight in the interim agreements on offensive weapons. The Soviet building programs were so large that without the agreements they might have increased the disparity even further. Unless the U.S. gets moving with its strategic programs, its SALT–II negotiators will face the same dismal choice.

Naval forces are particularly important to a power like the United States, which must rely on sea-lanes in nearly any military confrontation. Yet even here it has been overtaken by the Soviets, who have been historically and geographically a land power. The Institute now reports that the United States has 221 surface combat ships and 84 tactical submarines, while the Soviets have 212 surface ships and 285 submarines. By and large, also, the Soviet navy is more modern than the American one.

The resources for this Soviet buildup have come off the backs and out of the dinner plates of the Soviet people. The ability to at least match and probably outspend the United States despite a far smaller gross national product and a vastly lower standard of living tells a great deal about the Soviet regime. Alexander Solzhenitsyn tells us the same thing far more dramatically. If there is to be detente with such a regime, its absolute prerequisite is an American military posture sufficient to offset the Soviet one.

Detente probably does give us a bit of leverage with the Soviet Union; apparently the U.S. was able to exploit their need of good relations to moderate their behavior after the recent Middle Eastern war. But their adventurism in the early stages of the war shows again their tendency to be tempted by opportunity. The weakness America's European allies showed during that episode also partly reflects the decline the American military power they once relied on for protection. As the Soviet power grows, it will be tempted more often, our allies will make further adjustments, and in times of crisis the U.S. may may well have to back down in the face of Soviet expansion.

If the U.S. fails to keep a healthy military, in other words, a Soviet imperium will gradually spread over much of the globe. The survival of the United States may not be directly threatened, but the world would become a far nastier place in which to live. To avoid such an outcome the defense budget will at some point have to start upward, and this year is less likely to prove too soon than too late.

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## EULOGY OF DAVID BEN-GURION

### HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. EILBERG. Mr. Speaker, on this occasion, I would like to add my voice to those of democratic peoples everywhere in praise of the departed David Ben-Gurion, first Prime Minister of Israel—champion of freedom.

An ardent Zionist, he devoted his life to creation of the Jewish State, and with remarkable results. When he arrived in Palestine there were only 60,000 Jews in residence. He was to remain there through two generations and six wars and to see his homeland altered from the condition of an oriental satrapy to that of an outstanding modern nation with a population of some 3 million souls.

Born in Russia, some 87 years ago, he emigrated first to Poland, with his father's family, then to Palestine where he arrived as a stowaway at the age of 20. He was already a Zionist, determined on working for the return of Palestine to the custody of its former owners, the Jewish people.

At the time of his arrival, Palestine was under the authority of the Ottoman Empire, which did not take kindly to his Zionist sentiments, and drove him from the land as an exile. Following a visit to the United States, where he was married, and the defeat of the Central Powers in World War I, Ben-Gurion returned to Palestine to plague the British, who were now the landlords of the place he regarded as the Jewish homeland, by right, tradition, and everything but law.

By 1920 he was helping to found the Jewish Labor Federation, which would become in time the all-encompassing labor union of the Jewish State. He was elected chairman of the Jewish Agency Executive, the political arm of the world Zionist organization. Although he had once been a believer in cooperation between Arabs and Jews, Arab violence against Jewish citizens in the 1930's had changed his opinion on that vital subject. When at last the British began thinking in terms of returning Palestine to Jewish authority, Ben-Gurion began thinking in terms of a military force to defend the State against Arab incursions.

It was Ben-Gurion who created Haganah, the underground Jewish army, in the years immediately following World War II, and he was largely responsible for financing, through encouragement of worldwide contributions, the emigration of Europen Jews to Palestine. The emigration swelled, in outright definance of British efforts to prevent it. Meanwhile, Jewish terrorists carried out a continuous assault on British personnel and bases. The desperate strategy succeeded and a "Jewish State in the land of Israel" was proclaimed by Ben-Gurion at Tel Aviv, in May of 1948.

When the assault of five Arab nations immediately began in protest, Ben-Gurion rallied the people, in the capacity of Prime Minister and Defense Minister combined.

He had told his Zionist compatriots:

> Without a Jewish army, there would never be a Jewish state.

And events would prove him right. Under his indomitable leadership, the Israel armies conquered all, and the Arabs fell back in astonished disarray.

After the truce, renewed sharp fighting secured for Israel the Negev and central Galilee. Armistice agreements with Egypt, Lebanon, Syria, and Jordan in 1949 ended the hot war for the time being. But, indeed, the fighting really never ended. In fact, it went on, and on, and on. And as Russia entered the picture, to side with the Arabs, Israel drew closer and closer to the United States. In this manner, David Ben-Gurion became identified with American interests in a very real sense, not merely as a man of democratic principle and spirit, but as a leader of a people opposed to Communist purposes in the Near East.

The long identification of this remarkable man with the democratic cause has ennobled both the cause and the man himself. Of keen mind and indomitable will, he secured the land of Israel to the cause of 20th century progress and Western civilization, to the wonderment of the world at large.

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## HAROLD D. COOLEY

### HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. BAUMAN. Mr. Speaker, it was with sadness that I learned of the passing of the late Honorable Harold Dunbar Cooley, of North Carolina, who served in this House for so many years with such great distinction. Although Congressman

Cooley's reputation was certainly highlighted by his service as chairman of the House Committee on Agriculture, many also knew him to be a very warm and understanding person whose personal generosity to me I greatly appreciated.

In 1955, it was through the late Congressman Cooley's personal intercession with Speaker Sam Rayburn that I was able to continue my employment on the congressional staff, which in turn allowed me to attend night classes ta the Georgetown School of Foreign Service. After the elections of 1954 when the Republican Party lost control of the House, he was willing, because of our personal acquaintance, to help a young man in need.

I have always appreciated this act, and I know it was only one of many such acts by a man whom we shall all miss. His family has my deepest sympathy.

## HON. RAY D. PRUETER

### HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. GOLDWATER. Mr. Speaker, in March of this year, the mayoralty election will once again be held in Port Hueneme, Calif., which is part of the district I am honored to represent in the Congress.

The name of Ray D. Prueter, the mayor since 1962, will be missing from the ballot for the first time. Mayor Prueter has announced his retirement, after 12 years of inspiring and dedicated service to the city he and his family know and regard with such deep affection.

He has indicated he desires to spend more time with his family, and to devote more attention to his business than he has been able to do in the last 12 years. His family and friends, I know, will welcome having more time with Ray, but the city of Oxnard will deeply feel his absence in an active capacity.

Ray's accomplishments, which go even further back than his first election as mayor, read like a virtual "Who's Who" in every area of civic concern and responsibility.

Ray took up residence in Port Hueneme in 1950. In 1951, he married the former Laura O'Donnell, and they have two children, Denise Lynn, and Diane Rae. Ray immediately became active in the Port Hueneme Chamber of Commerce, and since 1953 has been a charter member of the organizational board of the Port Hueneme Harbor Days. Since 1954, he has been a member of the Port Hueneme Rotary, and served as its president from 1955–56. From those years until now, he has managed to find the time and energy to serve as the Hueneme Elementary School PTA president; the Civil Defense Director; be a member of the Navy League, the Elks Lodge, the Salvation Army Advisory Board; to serve as an Elder in the Westminister Presbyterian Church, and as a member of the Ventura County Grand Jury for a year in 1961.

Now if that is not enough, he went on to become a Port Hueneme City Councilman, and was reelected twice, and was then elected mayor, and reelected four times.

He has since served as president of the Channel Division League of California Cities; director of the League of California Cities representing the Channel Division; Oxnard Community Hospital director; a member of the Hueneme High School PTA; president of the Ventura County Mayors and Managers Association; a member of the Local Agency Formation Commission, first vice president of the Southern California Association of Governments, and at various times, president, first vice president, and second vice president of the League of California Cities.

To top it all off, Ray was elected cochairman of the $150,000 fund-raising drive for Hueneme High School's football stadium and lights, in 1970.

I realize that some people go around collecting titles, and put little effort into the job, but Ray Prueter certainly is not one of them. This man has done an exemplary job with every assignment he ever undertook, and put all of his energies into completing each one. The result has been a better government, and a better city for the people of Port Hueneme.

It is no wonder, then, that Ray was named Port Hueneme Citizen of the Year in 1959; was given Hueneme PTA life membership in 1960; was named honorary member of the Harbor Days Board, and honorary chamber of commerce adviser. He is also a life member of the Oxnard Community Hospital Board, and an honorary Navy Seabee and U.S. Marine—Ray served in the U.S. Army from 1943–47 as a first sergeant. Last, but certainly not least, Ray is an honorary life member of the Hueneme High School Booster Club, and an honorary member of Hueneme Bay Kiwanis Club.

I know that everyone who knows Ray wishes him well in the days ahead, and hopes he and his family will have some well-earned relaxation. But knowing Ray as we all do, I have a feeling he will not be far away should anyone need his help. I am confident I speak for everyone who knows him when I say, "What this country needs is a million more Ray Prueters."

## FREEDOM—THE ELUSIVE UKRAINIAN DREAM

### HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. SARASIN. Mr. Speaker, the 56th anniversary of the Ukraine's independence was observed recently, but not with the excitement and color of the fireworks, parades and picnics we associate with our annual Fourth of July celebration. Instead, those living in the Ukraine, and those of Ukrainian descent living in this country, noted the event as another milestone in the seemingly endless span of years in which bondage is commensurate with the term Ukraine. As we all know only too well, the Soviet Union forced the Ukraine into the Soviet Union under the guise of voluntary cooperation with that imperial state.

By making note of the anniversary of the all too brief freedom which was announced on January 22, 1918, we also announce publicly that we do not see eye to eye with the Soviet Union in regard to the current status of the Ukraine. In fact, we see no reasonable, humanitarian, or ethical grounds for the encompassing tactics used against the country. Efforts toward the Russification of the Ukraine have been underway now since 1920, but they have not been fully successful, and will not be, as long as the strong will of the Ukrainians, with the support of their families here in America, as well as those of us in Congress, continue to keep the hope of freedom alive.

## ASSOCIATE JUSTICE HAROLD A. STEVENS

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. RANGEL. Mr. Speaker, Judge Harold A. Stevens has just been appointed the first black associate justice of the New York State Court of Appeals in the court's history. Justice Stevens, a Harlemite with whom I have been privileged to work on a number of community projects, is a former member of the State assembly. With over 20 years of judicial experience behind him, Justice Stevens has proven that the law can be used to protect the rights of the poor and the powerless and that it must be used to guarantee equal justice and equal opportunity to all Americans. He has consistently evidenced the type of sensitivity which is too often missing in our courts.

Mr. Speaker, at this point in the CONGRESSIONAL RECORD I include a profile of Harold Stevens which appeared in the New York Post:

DAILY CLOSEUP: OPENING ANOTHER DOOR

(By Steven Marcus)

When Harold A. Stevens learned that Gov. Wilson wanted to appoint him as an Associate Judge on the Court of Appeals, the state's highest tribunal, Stevens had mixed emotions.

Accepting would mean giving up a job he loved—Presiding Justice of the Appellate Division of the Supreme Court, First Department. And it would mean leaving his wife, Ella, alone in the city while he commuted to Albany, where the Court of Appeals sits.

"But my wife and I talked it over," Judge Stevens recalled the other day, "and we decided I had an obligation to accept the position because, frankly, it would open another door."

What Stevens was alluding to was that by becoming an Associate Judge he would be the first black to serve on the court and, by doing so, would further the cause of integration.

A slender man with a neatly barbered mustache, a fringe of white hair and a low, husky voice that still contains a trace of his native South, the 66-year-old Stevens has been opening doors for his race throughout much of his life.

He was the first black to graduate from the Boston College Law School; the first to win a political race [for the State Assembly] in a predominantly white district; the first to be elected judge of the city's former Court of General Sessions (now part of the Supreme Court); the first to become a State Supreme Court Justice; the first to be named to the Appellate Division; and the first to become Presiding Justice.

Helping to further integration by such means was especially important years ago, he said, and it is still important today. "Race relations have improved, certainly since I was a young man, but they haven't reached the point in this country where a man's race can be disregarded."

Sitting behind his desk in his mahogany paneled, book-lined chambers at 25th St. and Madison Av. and puffing on a cigaret, Stevens recalled that it was a violent racial incident—a lynching—that made him choose the law as a profession.

In 1926, when he was an 18-year-old college student, a Negro woman and her two brothers who had been accused of murdering a sheriff were dragged by a lynch mob from the jail at Aiken, S. C., towed through the town behind an automobile and shot. Afterward, their bodies were mutilated.

"It's been a long time but I can still remember it," Stevens said. "After it occurred it seemed to me that there just had to be lawyers in the South who would insure the protection and the rights of Negroes. I also felt that Negroes had to get into politics, too."

Harold Adolphus Stevens was born on Oct. 19, 1907 on John's Island, S. C., where his father, William F. Stevens, and his grandfather, Quash Stevens, owned a 1000-acre farm called Seven Oaks.

By the time Stevens was three, both his father and grandfather had died and the farm, which was heavily mortgaged, had to be sold. His mother, the late Lilla Johnson Stevens, took Stevens and his three older brothers to Columbia, S. C., to live with her parents.

Stevens keeps photographs of his mother and his maternal grandfather, James H. Johnson, on his desk and says they were the two greatest influences on his life. "They were remarkable people," he said. "They gave me a sense of what was right and wrong, a sense of responsibility and a sense of other people's rights."

His mother and grandfather also insisted that he continue his education, and he complied. He attended Clafin College in Orangeburg, S. C., and was graduated from Benedict College in Columbia, S. C., in 1930. Two years later, he enrolled in night classes at law school. To support himself he worked during the day as a bellman in a hotel.

"I'd work from about 7 in the morning to 5 in the afternoon," he recalled. "Then I'd go to classes. When I came home, I'd study until 1 or 2 in the morning. It didn't leave much time for sleeping but you don't need so much sleep when you're young."

After graduating in the top ten of his class, he went to work as a law clerk for William T. Andrews, a prominent Harlem lawyer. He later became Andrew's partner and an expert in labor law, representing such black unions as the Brotherhood of Sleeping Car Porters and the Brotherhood of Colored Locomotive Firemen, which were fighting to end discriminatory practices by the railroads.

On Christmas Day in 1938 he married his childhood sweetheart, the former Ella C. Myers. They have no children and live in Harlem.

After serving in the Army from 1943 to 1945, Stevens got interested in politics and in 1946 was designated by the Democratic organization to run for the Assembly in a predominantly white Washington Heights district. He won over three rivals. After serving three years he resigned to begin his judicial career as a General Sessions Court judge.

A Catholic, much of his spare time has been given to lay activities in the church. He also likes to watch pro football games and to fish. "I haven't had time to go fishing in three years, but I still have the rod in my closet."

## NORTH VIETNAM AND PEACE AGREEMENT

## HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. BROOMFIELD. Mr. Speaker, Sunday, January 27, 1974, marked the first anniversary of the Vietnam peace agreement. Included in that historic document was a commitment by the North Vietnamese and the Pathet Lao to fully account for all those parties missing in action.

Both the North Vietnamese and the Pathet Lao agreed under article 8, section B, of the January agreement "to help get information about those military personnel and foreign civilians of the parties missing in action." The North Vietnamese reiterated this agreement on June 13, 1973, by subscribing to a joint communique signed that day in Paris.

Unfortunately, 1 full year after signing the accord, the Communists continue to flagrantly disregard it. Cooperation essential to the investigation of the military search teams has been systematically denied and virtually no information has been made available concerning those still missing. In fact, rather than helping in this matter, the Communists have resisted all efforts by the military search teams to account for these men.

This refusal to cooperate raises serious doubt about the fate of the nearly 1,300 men who remained unaccounted for as of January 27, 1973. The time has come for those doubts to be resolved once and for all. Renewed efforts must be made by the Government of the United States to coerce, through diplomatic channels, the Provisional Revolutionary Government, the Lao Patriotic Front, and the Hanoi Government to honor those commitments made in the peace agreement concerning captured personnel, the missing in action, and the dead:

Therefore, I am introducing today a concurrent resolution toward this end. The resolution has been introduced by Mr. PERCY in the Senate, and reads as follows:

H. CON. RES. —

Concurrent resolution relating to unaccounted for personnel captured, killed, or missing during the Indochina conflict

Whereas the Agreement on Ending the War and Restoring Peace in Vietnam, signed in Paris on January 27, 1973, and the joint communique of the parties signatory to such agreement, signed in Paris on June 13, 1973, provide that such parties shall—

(1) repatriate all captured military and civilian personnel,

(2) assist each other in obtaining information regarding missing personnel and the location of the burial sites of deceased personnel,

(3) facilitate the exhumation and repatriation of the remains of deceased personnel.

(4) take such other steps as may be necessary to determine the fate of personnel still considered to be missing in action; and

Whereas the Government of the Democratic Republic of Vietnam and the Provisional Revolutionary Government of Vietnam have failed to comply with the obligations and objectives of the agreement and joint communique; and

Whereas the Lao Patriotic Front has failed to supply information regarding captured and missing personnel or the burial sites of personnel killed in action, as provided in the Laos agreement of February 21, 1973, and the protocol of September 14, 1973; and

Whereas it has not been possible to obtain information from the various Cambodian authorities opposed to the Government of the Khmer Republic concerning Americans and international journalists missing in that country: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That it is the sense of the Congress that new efforts should be made by the Government of the United States through appropriate diplomatic and international channels to persuade the Government of the Democratic Republic of Vietnam, the Provisional Revolutionary Government of Vietnam, and the Lao Patriotic Front to comply with their obligations with respect to personnel captured or killed during the Vietnam conflict and with respect to personnel still in a missing status; that every effort should be made to obtain the cooperation of the various Cambodian authorities in providing information with respect to personnel missing in Cambodia; and that further efforts should be made to obtain necessary cooperation for search teams to inspect crash sites and other locations where personnel may have been lost.

SEC. 2. Upon agreement to this resolution by both Houses of the Congress, the Secretary of the Senate shall transmit a copy of such resoltuion to the President of the United States.

## SOUTH TEXAN HERDS CATTLE WITH A WHIRLYBIRD

## HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. DE LA GARZA. Mr. Speaker, there is a new kind of cowhand not far from the Rio Grande.

South Texan W. J. Tiller herds cattle with a helicopter. He has found that on the average, without horses or cowboys, he can round up cattle from about a thousand acres in an hour. And besides, he says, he can do a lot of sightseeing.

As an example of south Texas ingenuity, I include here a story from the Alice Echo-News about W. J. Tiller and his whirlybird operation.

### SOUTH TEXAN HERDS CATTLE WITH A WHIRLYBIRD

(By Sarah Shults)

Efficiency. Beauty. Ranching. Helicopters. These are the four words that most compactly describe W. J. Tiller's "new" occupation.

Tiller is a rancher but of a different sort than the usual. He's gone modern by replacing horses and a number of cowboys with a helicopter.

A year ago Tiller was a junior high principal and rancher of the "usual" sort. Within the last six months he has stepped out of these ground shoes and into a pair of airborn boots. They're still cowboy cut but they ride in a helicopter now instead of stirrups.

At the end of June of 1973 Tiller invested in a helicopter which he planned to use for working cattle. At that time he had never even been in a rotorcraft although he did have a fixed wing aircraft (airplane) license which he earned in 1948. An instructor was hired from Corpus Christi to teach him the operation of his new "horse" and by September Tiller was in business.

Complete with a rotorcraft pilot's license and an air taxi certificate for commercial operation of a rotorcraft from the Department of Transportation, Tiller started hiring out to work cattle. His "crew" consisted of one of the smallest made helicopters equipped with a siren, a public address system and a .22 pistol loaded with rat shot.

Efficiency—that's the big word that "hovers" over Tiller's new "cowhand". The noise produced by the aircraft is what moves the cattle. Its ability to sweep from side to side in a matter of seconds eliminates the need for extra mounted workers on the ground for herding purposes.

On the average Tiller is able to round up cattle from about a thousand acres in an hour (very rough estimate). This figure varies of course but the "whirybird's" speed and maneuverability does enable it to cover an extensive acreage in a fraction of the time it would take a dozen or more mounted cowhands.

The ability to fly a helicopter is not the only requirement for Tiller's newfound profession. Getting the craft off the ground is one task but using it to work cattle is another subject all together. However, Tiller has been working cattle all his life and thus has a sort of sixth sense about cattle (not an uncommon "instinct" in this part of the country).

Tiller explained that it doesn't take the cattle long to catch on to what is expected of them when a helicopter is flying anywhere from 3 to 50 feet above them. The rotocraft's presence merely offers gentle persuasion that can get cattle heading for a pen in a line and direct them completely through the gate without assistance.

Quite often Tiller will work several thousand head of livestock with only the owner or foreman riding with him for directions and to work the gates. An advantage the owner has in riding with Tiller is that he's sure, after the round up has been completed, that he has all his cattle in.

When working the cattle on a large tract of acreage it is very hard for a cowhand to be sure that a couple of strays haven't been left in a thicket somewhere. With a helicopter any such strays could be easily spotted.

Large acreage ranches aren't the only ones that profit by the efficiency of Tiller's 'copter service'. Spoiled cattle, for instance, are as difficult to work with on a small ranch as on a larger one. Tiller once worked a small herd on a 100 acre buffel grass tract because the cattle were too wild and spoiled to work with horses. Stubborn young bulls who have been allowed to literally run wild all their lives are ideal candidates for the "modern cowhand".

Beauty—that's another key word that characterizes helicopter work. When W. J. Tiller lifts off in his 2000 pound rotocraft he does so armed with something more than a pistol full of ratshot. He also totes a loaded camera with him.

The beauty Tiller says he witnesses everyday in his work can only be partially recorded on film and even that makes a picture worth looking at twice. This reporter, after having experienced a few of these sights first hand, can well verify that.

According to Tiller the abundance of wildlife that can be easily spotted from the air is amazing. Deer, quail, coyotes, bobcats, wild hogs and turkeys are just a few of the wild game that Tiller encounters almost regularly in his work.

Tiller's loaded camera is more than just a pleasure possession. It is also used for a type of photography service he offers. Large ranch headquarters are often quite impressive from the air and lend themselves to aerial pictures.

Since Tiller opened for business in September he has added another helicopter to his service. Both are operated solely by him. This way, as Tiller explained, he always knows just what condition the engine is in and if something starts to go wrong he usually knows why.

The two rotocrafts are stored in an A-frame hanger behind the Tiller home on Farm Road 1554 west of Alice. Men from Corpus Christi are brought out a couple of times a week to make sure the engines are kept in top working order.

Within the not too distant future Tiller plans to have some more pilots in the family. Three of his four sons have already expressed a strong "Hankering" to learn.

With all the efficiency and short working time aspects of Tiller's new profession he finds that even though they more than speak for themselves, the beauty aspect cannot have enough said for it. The various types of countryside and game in the different seasons provides a continual invitation for sightseeing that goes hand in hand with working the new "cowhand".

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## ENERGY: FUTURE ALTERNATIVES AND RISKS

### HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. McCORMACK. Mr. Speaker, I would like to remind the Members of this assembly that on January 29–30 the National Academy of Sciences is convening a public forum on "Energy: Future Alternatives and Risks"—CONGRESSIONAL RECORD, November 28, 1973, 38500—Although I fully realize the workload which awaits us following a recess, I want to urge each of you and particularly your staff to make an effort to attend this Academy forum.

This is much more than another symposium or colloquium on energy. This Academy forum brings together in one location the collected expertise of representatives of the scientific and academic communities, Government, industry, and the private sector to consider aspects of reserves and resources, conservation and demand, environmental health and safety, public and private roles, regulation, and the choices before us for the future. It also should be emphasized that a Panel for Inquiry, consisting of members of the National Academy of Sciences, will be present throughout the 2 days to interrogate, refine, and clarify areas of consensus and disagreement for the audience.

The concept underlying the forum—that of treating the energy problem as a whole notwithstanding its overwhelming ramifications, implications, and complexities—is noteworthy and deserves our close attention. Despite the furor, growing hysteria, and debate about the energy shortage, both as a nation and as a government we seem to be unable to move forward in an informed, rational, systematized way to pull together what we already know toward developing effective policies and action. This inability to consider holistically a problem of barely realized scope is alarming, and I applaud this effort of the National Academy of Sciences to do so.

I also applaud the focus of this Academy forum on "Future Alternatives and Ricks." On January 2, in a letter to William Simon of the Federal Energy Office, I stated the following:

> I appreciate that you are beset by thousands of urgent, short-range problems bearing directly upon petroleum shortages, and the hardships they create today. I must insist, however, that the long-range aspects of the energy crisis are more demanding than the short-range ones. This nation got itself into this mess because we have no integrated energy policy. We will inevitably require at least twenty years of dedicated leadership and national commitment before we can again enjoy the abundance of energy that we will need to improve the standard of living for all elements of our society.

Over the next few weeks we can—indeed we must—create the administrative policy and agency we need. Our time has run out. We must move forward. However, effective action must be based on a sound systems analysis of the entire energy problem and in which there is a firm and clear integration of science.

There are two critical areas of long-range energy policy and programs with which I am particularly concerned. First is the assessment, planning, and management of all fuels. Second is the development of policies for the management of all energy research and development as well as supporting activities, particularly including materials assessment, research, and development. In addition, we must consider the totality of our conservation potential, the environmental impact, and the economic feasibility of any proposed program for energy conversion, transmission, or consumption.

The energy problem is solvable. In spite of the problems of price increases, imports, quotas, rationing, and shortages, the real challenge we face today is the development of policy that ultimately will make this Nation self-sufficient in energy. Moreover, we have the knowledge and the resources to develop technologies for the use of alternative energy sources which we can export to the rest of the world.

If these goals are to be met we must concentrate on the totality of the energy problem and keep our focus firmly fixed on the future while dealing with the immediate considerations of the present. The Academy forum scheduled for January 29–30 can be of great service to all of us in attaining and implementing that vision.

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## 1974—TRIBUTE TO THE 56TH ANNIVERSARY OF THE UKRAINE'S PROCLAMATION OF INDEPENDENCE

### HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. KEMP. Mr. Speaker, January 22, 1974, marked the 56th anniversary of the proclamation of Ukraine's Independence, and the 55th Anniversary of the Ukraine Act of Union. By these acts, a Ukrainian independent state was officially established in all the ethnographical Ukrainian territories.

I would like, at this time, to pay tribute to the Ukrainian people for their undaunted and valiant struggle for human rights, independence, and freedom, in the face of the constant injustices perpetrated upon them by the Soviet Union.

After almost 4 years of continuous fighting and invasions, the Ukraine was forced to succumb to the numerically superior military forces of Communist Russia, who disregarded the Ukraine's Independence Proclamation which they had officially recognized in 1918, and incorporated the Ukraine, in 1922, into the Union of Soviet Socialist Republics.

The whole history of Soviet Russian dominated Ukraine is a ghastly record in inhumanity, outright persecution, genocide, and violation of human rights. Under Stalin, Ukraine was marked for physical extinction; under Khrushchev, and now, under Brezhnev-Kosygin, outright terror has been replaced by the subtle process of destroying the Ukrainian national consciousness and identity through Russification, mass arrests, and illegal trials. In fact, despite the full-pledged membership of the Ukraine in the United Nations, it is today, more than ever, a colony of Communist Russia. There is not, nor has there ever been a détente in the relentless persecution of the Ukrainian people by the Soviet Union.

It is only the Ukrainians and their decendants outside the Ukraine—organizations like the Buffalo Chapter of the Ukrainian Congress Committee of America, Inc.—who can speak of the freedom and independence of Ukraine.

## HAROLD DUNBAR COOLEY

## HON. W. R. POAGE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 23, 1974*

Mr. POAGE. Mr. Speaker, probably no one individual from other than my home State has had a greater influence on my service in Congress than Harold Cooley. Harold Dunbar Cooley served as chairman of the House Committee on Agriculture for 16 years. This is longer than any other man ever occupied that position. During 14 of those years, I was the vice chairman. Harold delighted to tell audiences where I might have introduced him that he was pleased that his vice chairman had introduced him; then he would say:

> Bob is one of the finest, one of the greatest, one of the most outstanding Vice Chairmen our committee ever had—it never had but two.

Harold was my friend, as well as my chairman. He was a demanding friend but he was always willing to go as far as he asked his friends to go. As chairman of the committee, he always astonished me with his ability to quickly understand any subject that was brought before us. He would walk into the committee room in the middle of a discussion and within a very few minutes he would have grasped the important facets of the subject under discussion and would be able to join in the questioning on an intelligent and helpful basis.

He practiced law in his home town during his 32 years in Congress, but he never practiced influence in Washington. His practice was that of a country lawyer, drawing deeds, getting divorces, examining abstracts, defending criminals et cetera. In this way, he was always in touch with the problem and the development of his people.

Harold was a great traveler. When Monroe Redding announced his retirement from Congress, he is reputed to have gone down to the White House and told President Truman that he was making a trip around the world and that he wanted to carry out any mission the President might assign him. The story goes that Mr. Truman handed him an American flag and said that "if you come to any land where Harold Cooley has not been, I want you to plant this flag, claim the country for the United States, as it is clearly undiscovered territory.

Harold was a member of the Interparliamentary Union and served as Chairman of the American delegation. He knew world leaders in every country and he had the knowledge and the grace to represent our country creditably. He knew much about American agriculture, particularly about the tobacco business and, in my judgment, he saved that industry almost alone during the low-price era.

He was a charming host. His home in Nashville was always open to his colleagues and his friends. Although I have not had the close association with him in recent years that I once enjoyed, I have continued to recognize him as one of the outstanding Members of Congress and one of the leaders of American agriculture.

I am happy that I was privileged to talk with him by telephone the day before his death. At that time, he talked of going home in the near future and visiting us here in Washington later this spring. The next day I was shocked to learn of his passing. I knew Harold's family and Frances and I want to extend to them our heartfelt best wishes.

## READER TAKES ISSUE

## HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. DUNCAN. Mr. Speaker, the American public has been saturated by the news media and others with unfair accusations and innuendoes about President Nixon for too many months. As a result, many of my constituents are speaking out strongly in support of their duly elected President. I want to present to my colleagues just one example of how the average citizen is demanding to be heard; the following is a letter to the editor of the Knoxville News-Sentinel:

READER TAKES ISSUE WITH "PERSECUTORS" OF NIXON ADMINISTRATION

Editor, the News-Sentinel:

It's really bad enough to have to look at one Basset cartoon in an edition of your paper. To have thrown in our faces the supposed "best" for a year is indeed a nauseous experience.

The poor taste of the news media, our Senate and house members and just plain people about our duly elected President. Nov. 1960 Cook County, Texas and Missouri queer counting is unpatriotic. I had contemptuous feelings about Wilson, Roosevelt (I voted for him in 1932 and still ask God's forgiveness), Truman, Kennedy and Johnson. But even with my disenchantment, questioning and too often complete dismay, I would never have put in words publicly what is glibly mouthed and printed in this avalanche of unproven things about Nixon.

The one about income tax is stupid. Nixon's records have been gone over with a fine tooth comb, but even so his persecuting critics will not be silenced. I repeat, as I have written you before—given (if records were kept) all the information about Lyndon B. Johnson's $20,000,000 fortune and Lady Bird Johnson's TV monopoly, recently sold, according to The News-Sentinel for $9,000,000. If records were not kept, tax payments not available, etc., that is evidence. From Texas county school teacher to leaving the office of President of the United States of America with a $20,000,000 fortune should be explained, and a $10,000 inheritance built up to a $9,000,000 TV holding is magic, but needs clarification.

E. A. CRAIG.

## BAN THE HANDGUN—XIV

## HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. BINGHAM. Mr. Speaker, Attorney General William Saxbe's pronouncement that gun control is an "idealistic dream" is insulting to the 68 percent of the general public desiring strict regulation of gun purchases—according to the Gallup poll. I believe it is time for the chief U.S. law enforcement official to consider the views of the general public and reject his pro gun lobby position.

The attached article appearing in the January 18 edition of the Christian Science Monitor evidences the growing trend of opinion for national gun control legislation:

GUN CONTROL AN "IDEALISTIC DREAM," SAYS SAXBE, BUT GROWING TREND FAVORS IT

(By Rchard L. Strout)

WASHINGTON.—Attorney General William B. Saxbe dismisses the hope of gun control as an "idealistic dream." He thereby follows the attitude of his predecessor, John N. Mitchell, and of the Nixon Administration.

The Saxbe statement precipitates a new confrontation between a rising city sentiment for gun control, and an American tradition of gun ownership articulated by a powerful lobby centering on the National Rifle Association—backed up by gun manufacturers and dealers. The association has 11,500 affiliated clubs, and 21 million Americans who participate in hunting. An estimated 60 million households have guns.

Contrasted to this, a strong generalized sentiment for gun regulation continues, and the Gallup organization reports that in eight polls between 1959 and 1972 those who favor police permits to buy guns has never dropped below 68 percent.

"I have little confidence in trying to rid the country of guns," Mr. Saxbe said here. He remarked that if it "would end killing" he would favor it, but he had little confidence in the idea.

"It is another of our idealistic dreams that fails in practice," he said. "Any plumber can make a gun in half a day that is just as effective as the real thing."

The Nixon administration generally has identified itself with the American pioneer tradition that motivates grass-roots opposition to gun control and support for its powerful lobby.

Former White House aide G. Gordon Liddy, in April, 1971, represented the administration in a panel at the annual meeting of the National Rifle Association. He was identified as an "attorney, conservationist, and pistol shooter," and told his audience that he had established an "open, clear dialogue" between the White House and the firearms field. He reported this created "mutually helpful conferences" with representatives of 'firearms organizations, manufacturers, and gun publications."

Mr. Saxbe follows former Attorney General Mitchell's position on the subject.

In an exchange at a White House conference, June 3, 1971, Mr. Mitchell first said federal gun control was a matter for the Treasury. When pressed he said that the present laws should be tried out fully.

"You don't see a need for different legislation?"

Mr. Mitchell: "Not at this particular time."

A survey by the New York Times finds that people overwhelmingly place crime as the first problem of New York City. This is increasingly so in other urban areas.

James V. Bennett, former director of the Federal Bureau of Prisons and now chairman of the National Council for a Responsible Firearms Policy, Inc., declares that in 10 years since the assassination of President Kennedy (1963) gun casualties include nearly 100,000 murders, 100,000 suicides, 700,000 wounded, and 800,000 victims of gun robbery.

Although gun registration has wide popular support, this lobby is its only activst group. Its executive secretary is David J. Steinberg.

There are some signs that women's groups are taking stands for gun registration. One of these is the WYCA.

Says the NRA magazine, American Rifleman:

"The Sportsmen's Alliance of Michigan, a highly active and vocal organization of gun owners, already has expressed the view that its members should refrain from contributing to community drives whose proceeds go to supporting the YWCA. Others may follow suit."

Rep. Michael J. Harrington (D) of Massachusetts declares that the gun lobby is strongly supported by the country's gun manufacturers and dealers, which do an estimated business of $1.5 billion. He reports that in 1972 $345,000 in campaign contributions was recorded "from dominant shareholders of a single gun-manufacturing interest," the Olin Mathieson Corporation, whose Winchester-Western division is one of the country's two largest gunmakers. This money went to the Committee to Re-elect the President.

## THE DISCONTENT OF MILT VASSIS

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## HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. STARK. Mr. Speaker, while writing "King Richard," Shakespeare could easily have been projecting his dialog into January 1974 when he described the "winter of our discontent." His words today hold a special significance.

During the past few months, I have received a great deal of mail pouring out feelings of anger, helplessness, and disillusionment. No single piece of correspondence is more representative of this heightened sense of despair than that of Mr. Milt Vassis of Pleasanton.

Typed on these pages are not disjointed fragments of vocabulary. Rather, Mr. Vassis' words form a pattern of frustration that reaches far beyond the southern Alameda community he inhabits. Mr. Vassis articulated a discontent now found deep within this country's conscience.

The citizenry of this Nation has been wracked by Watergate's abuses, conflicts about energy crisis realities and a host of other uncertainties ranging from Gerald Ford's credibility to income tax inequities. Their disbelief is compounded by feelings of betrayal. Like Mr. Vassis, they are weary of being "ripped off." I cannot blame them.

As we begin the second session, our energies should be turned toward restoring the shattered faith and cleansing the atmosphere so tainted by the present administration. Reacting to Mr. Vassis' letter, we must renew the creation of positive legislation designed to heal and correct. I commend Mr. Vassis' letter to my colleagues' attention.

Pleasanton, Calif., *January 7, 1974.*

Congressman Fortney Stark,
*U.S. Congress,*
*Washington, D.C.*

Congressman Stark: I have never been so completely frustrated in my twenty-nine years as I am now as a result of some of the absolutely absurd things that are being thrown at me and the rest of the people of this the "greatest country" in the world. My frustration is so complete that I have decided to try to convey to all of my elected representatives just what my position happens to be in the faint hope that one or two of them just might see fit to attempt to understand my feelings and *begin* to actually represent me.

I just heard Paul Harvey report that most of Congress was back in Washington after the Christmas break with the "down-home-folks". He went on to say that these Congressmen had just discovered that their constituents were fed up with Watergate and more concerned now with the price and availability of gasoline than anything else. Now I am fully aware that Mr. Harvey is just one journalist among many and that his opinions are only as significant as is his influence. However, just to make sure that you and the rest of my representatives in Congress hear me as well as Paul Harvey, I am writing to dispel any of these false impressions.

There are so many things to be said that I don't quite know where to begin. Never before has there been so many unresolved, and threatening issues facing the people of this country as there are facing us now.

For starters, a Harris poll was just released which revealed that 59% of the American Public would like to see a special election take place during 1974 to oust and replace President Nixon. I don't want to falsly put all the blame for this myriad of crises facing us on just one man, but now more than ever before in my lifetime, we need strong, steadfast leadership to unify this country and demonstrate an honest desire to work in behalf of the *people* that this government is all about. Nixon has failed miserably to do this.

Let us examine just a *few* of the things that have effectively destroyed any confidence that most of us once had desperately need in our government. Most of these things are in the form of unanswered questions and situations that seem to simply and steadily get worse and worse and worse . . . almost to the point of unbelievability!

How can any of you Congressmen seriously think that we are just fed-up with Watergate? Although I realize that Nixon and a lot of others would like to believe that if we would just forget about it, that it will just go away. But Watergate and all of the other related items are just too serious and monumental to just forget. We must get to the bottom of this whole mess and find out just what the truth of the matter happens to be! Also, it would be well to note that there is literally nothing that Nixon has touched that is not clouded by some kind of well-founded charge of controversy! While I don't believe for a moment that he is 100% untrustworthy, the actual percentage must be very high. Otherwise, how could there be so many questions about everything that he has done!

I would like to see Congress impeach Nixon and fully investigate all of these charges. Then, if it is proven that he is innocent we should return him to office and learn something from this entire experience. If, however, we find that he has done wrong, we should not hesitate to replace him and his entire administration with honest men. But again, to re-emphasize, we must get to the TRUTH one way or another! And somehow I don't think that this task is bigger than the men like yourself that are empowered to govern this land.

Now let us get on to some of those other questions that face all of us and are so unbelievable. As for the energy crisis . . . I can honestly say that I am not convinced that there is a crisis. And if there is one, I'm not sure why. I will say that most of the evidence points to sinister forces (to use a phrase made popular by none other than General Haig himself!) as being the factor behind this false crisis.

It was reported today that there is more aviation fuel stockpiled to date in the past year than there was in the period one year previous. If this is so, . . . 1. Why are airlines using less fuel now than they did one year ago? 2. Why have they cut back the number of flights? 3. Why are so many airline employees being put out of work because of the ensuing lay-offs? 4. Why has the price of aviation fuel more than doubled in just a few weeks?

The very same situation was also reported about heating fuel today. If this too is so . . . 1. Why is it being allocated and in effect rationed by the government? 2. Why has it increased in cost so tremendously?

What ever happened to the basic laws of supply and demand? Why has almost every industry that has been involved with any kind of a "shortage" reported exorbitant windfall profits? . . . industries such as the oil industry? . . . the agricultural industries? . . . the meat industry? . . . and on and on. This is absolutely beyond my comprehension! Tell me, Mr. Stark, does it make sense to you?

How is it that President Nixon, Governor Reagan, and Mayor Alioto combined, paid less income tax than I did last year? How is it that I saw with my own eyes, a copy of an income tax return for a Richard Nixon, address: The White House . . . where his accountant mistakenly listed his business deductions on the wrong line amounting to a savings of $13,000.00 in taxes? . . . ? . . . ? That is incredible! Do you mean to tell me that Nixon's own high-powered, and high-salaried personal accountant is less competent than me? Boy, if I ever made a "mistake" like that I would expect to be down at the Internal Revenue Office in a matter of hours answering questions.

Of course I am just a peon . . . a taxpayer . . . just one of those small guys who pays for the tremendous cost of this government. I helped pay for the burglary of the Watergate, for the "Plumbers", for an illegal presidential campaign, for the wheat deal with Russia, for an illegal "war" in Southeast Asia, for bombing Cambodia (while "my" Pentagon repeatedly reported that there was no such bombing going on . . .), for Simple Simon who has found it necessary to meet with officials of the auto racing industry and boating industry, but has not met with the officials of the National Education Association to discuss the allocation of heating fuel for the schools, but has talked to these other people about fuel for them to continue their races. . . . and on, and on, and on, and on!

I am asked to believe. Believe what? Believe who? How can I believe anyone??

Do you realize that the F.A.A.'s budget for 1974 amounts to, over $15,000.00 per plane under its jurisdiction!!! How can such costs be justified? And this is only one of thousands of such inequities that are evident all over the place. Look at the Golden Gate Bridge Authority. Look at BART. Look around and you will see some of the reasons for my complete frustration.

This is no more a government of, for, and by the people, than the dollar is still worth a dollar! What can I do to possibly change some of these things? This isn't a government of the people, it is a government that does TO the people. This isn't a government FOR the people, it is a government for the government, and for the corporations and for everyone but the people! This isn't a government BY the people, it is a government by the lobbyists, and for the people that we have been foolhearty enough to elect!

How can we have developments such as these that were outlined above continue? How can we? Is the government going to put me out of work too? I am a salesman and I depend on my auto to get me to my accounts so that I can earn my living. Is my gas going to be cut off and am I going to lose my job? If so, who will pay the cost of supporting my family? It is certain that Nixon, Reagan, and Alioto won't!

I never thought that the day would come that would see the President of the largest, richest Nation in the World stand up on National Television and say "I am not a crook . . ."? Isn't it almost beyond belief that such a thing could occur?

Or look at the nomination and subsequent installation of Gerald Ford as Vice-President. Here is a man who spent 25 years in the House; he was thoroughly investigated and found to be reasonably clean and free of any wrongdoing and millions of people dropped their jaws in awe saying "Boy! Look how clean this guy is. He's like a Saint! What a perfect record!" What pray tell do we expect? Have we diminished to the point that when we find someone we can't hang something on that we should be surprised and awestruck? Or am I just too naive to expect that government officials should be honest?

Traditionally, Congressmen have always wanted media exposure so that they can get before their constituents. During this past Christmas break I was overwhelmed by the lack of these interviews on television and in the newspapers. The fact is, the people's representatives are trying to stay low and put forth a low profile because of all of the controversy. Now is the time to listen to us and to work together to try to overcome some of these problems that are facing us. They are all our problems and I feel sure that they can be licked if we can get together and face these situations headon! Thank God I still have this small flicker of hope. Without it, I would be ready to get off the planet!

Every morning I wake up to hear of a new shortage, a new crisis, a new allegation against some member of government. It is to such a point now, that I could accept anything. Is there no one that is above reproach? Taxes are going up. Prices are going up. Solutions seem almost non-existent. What can we do?

What do we have to do to make our representatives listen to us? When will they realize that a letter or a telegram from a voter is more important than what a lobbyist from Standard Oil has to offer to this country. The people built this country and now we are being "ripped off."

I am interested. I am concerned. I am willing to work for my country. I want to save something for my four and seven-year old children. At this rate, what hope is there for them?

Please hear what I say. I don't have all of the answers, but I do have a lot of questions. Help me to find the answers to them. Let's turn this thing around somehow. I think that the best place to start is to try to define all of the problems and then to place priorities on them and then tackle them one at a time. With God's help, and with everything else going for us we may be able to come out of this trying time on top. Let's do it together.

Thank you very much for your time and consideration.

Respectfully,

MILT VASSIS.

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## NEGOTIATING EQUALITY FOR POSTAL EMPLOYEES

## HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. CHARLES H. WILSON of California. Mr. Speaker, I would like to submit for the RECORD an excellent analysis of the question of postal employee right to strike which appears in the current—January 30, 1974—issue of the Federal Times, and was written by the very able, fair, and knowledgeable legislative director of the American Postal Workers Union, Patrick J. Nilan.

In his article Pat Nilan makes the essential point that the very existence of equality at the bargaining table almost certainly will reduce the current number of work stoppages, such as the wildcat strike last week at the USPS bulk mail facility in Secaucus, N.J.

I agree with this argument, and therefore firmly believe that my bill, H.R. 11002, which would grant postal workers a highly qualified right to strike, is very much in the interest of not only USPS employees, but also the general public. The article which follows, to my mind, adds detailed evidence to that contention:

### UNIONIST MAKES CASE FOR STRIKE RIGHT

(By Patrick J. Nilan)

At the risk of rearranging the prejudice of some legislators and other citizens, I state as a certainty that the best insurance against future work stoppages by postal employees is to give them the legal right to strike.

Conversely, as history continues to demonstrate, the prohibition against strikes by public employees will prove about as restrictive as a tin jail on the Big Rock Candy Mountain.

Moreover, the organized postal employees of the United States will never relax their pressure on Congress until they do achieve the legal right to strike which has been their paramount legislative goal for a decade.

Indeed, this right is more urgent than ever in view of the postal reorganization act reshaping the U.S. Postal Service in the image of big business. A decree that says it is good for management to function like a profit-minded corporation but evil for labor to have any ultimate rights at the bargaining table is an invitation to trouble—a throwback to the sweatshop philosophy of an earlier and more dismal time.

The marvel is that postal employees have been as patient as they have. This is a tribute both to them and to the current leadership of the Postal Service which twice testified in favor of our right to strike until forced to swallow its better judgment in another of the untold backstage sagas of the Nixon White House.

Before examining the moral and legal issues involved, however, let me explain my opening paragraph asserting that the right to strike is the country's best assurance that it will not be used.

As a former career postal clerk myself, I know that the very concept of interrupting the flow of the mails is abhorrent to postal workers who, as a group, not only derive great satisfaction from their unique role in our society but also historically have demonstrated pride in their accomplishments and dedication to their mission.

This, as anyone truly familiar with the postal service knows, is not mere rhetoric. A body of men and women who move more mail in one year than the rest of the world combined is motivated by something more than money, especially when their income falls into a category perilously close to the poverty line.

Given the right to strike, it is our considered judgment that postal employees would use that weapon only in the face of the most intransigent, the most reactionary, the most appalling kind of management effort to turn back the economic clock—a combination of circumstances which is currently unlikely.

Moreover, the very existence of equality at the bargaining table is the surest incentive to mutual agreement in any fair and free negotiation.

Labor history demonstrates that most strikes are precipitated when one side or the other holds an unfair advantage and brutally exploits it—as happened in the postal strike of 1970 when, in the words of our president, Francis S. Filbey, "The normal channels of social change and justice remained deliberately unresponsive in the face of intolerable working conditions and miserable wages."

Such a combination of circumstances is rare today, especially in the private sector, and the dwindling number and dimensions of strikes reflects the fact despite widespread misconceptions to the contrary.

The Bureau of Labor Statistics reports from the Labor Department covering the first six months of last year reveal, for example, that work time lost due to strikes sank to the lowest rate in nine years. Secretary of Labor Peter Brennan said of these, figures: "We're losing more time from coffee breaks than we are from strikes."

The exact figure on man days of idleness due to strikes in this period was 1.1 days per thousand worked compared to 1.4 in the first half of 1972 and in fact for all that year.

Statistics over a long period are equally revealing. In the mid-60s out of 150,000 collective bargaining agreements, only 2 percent were affected by strikes and only two-tenths of 1 percent of the total U.S. work time was lost by strikes. About 40 times that much was lost from unemployment and at least eight times as much was lost from accidents and illness.

Meanwhile, what is happening in the work sector of public service where all federal employees and most state and local employees are prohibited from striking?

This is a big group: The 2,640,000 federal employees plus another 10,366,000 state and local employees constitute 18 percent of the nation's total work force. Among this total, only the legislatures of Hawaii and Pennsylvania have been sufficiently enlightened to grant at least limited strike rights to their employees.

Despite the overwhelming pressure of repressive antistrike laws for this large body of workers public sector strikes have been increasing dramatically.

In 1958, only 15 were recorded; by 1965 the total had jumped to 45; in 1968 the figure was 254. Last year saw 140,000 state civil service employees on strike in New York state not to mention policemen, firemen and garbage collectors.

Even in the federal government the postal people have not been the only strikers. Air controllers of the Federal Aviation Administration reached the striking point and there have been slowdowns in the Government Printing Office.

The comparison between the private and public sectors is inescapable. It is no mere paradox to say that having the right to strike is the best insurance against its use. Lacking that right is no insurance at all.

The argument is frequently used that government employees are essential to the public interest. But private employees working on government contracts, many of which are engaged in supplying absolutely essential goods and services to the government, nevertheless possess the right to strike.

The right to strike is, of course, an integral part of labor management relations in the private sector. Unfortunately, it has been arbitrarily prohibited in the public sector.

It is interesting to note that most of our closest allied countries expressly permit strikes in the public sector either by constitution or statute. For instance, the Italian, German and French constitutions expressly guarantee the right of public employees to strike while Sweden, Norway and Denmark authorize such by statute. It is even more interesting to note that in Latin America, generally considered an underdeveloped area of the world, the right to strike by government employees is recognized by most countries. This is particularly true in Mexico, our closest neighbor, where the right exists by constitutional amendment.

One result of the 1970 strike in the Postal Service was the enactment of the Postal Reorganization Act. That act sought to make the Postal Service an independent establishment and to create conditions for the postal employees on a parity with employees in the private sector of the economy. However, it also extended the force and effect of previous repressive measures which deny the workers their most fundamental right—the right to strike.

The 700,000 employees of the Postal Service were told by Congress that they were going to be denied most of the protections of the civil service laws received by the other employees in the federal government and were going to be allowed to bargain collectively like private employees. On the other hand, they were denied the major tool—the absolutely essential weapon—possessed by private employees to attain their rightfully benefits through collective bargaining.

Those members of Congress who have recognized this fundamental inequity and have sponsored legislation to correct it constitute a courageous minority.

One such is Rep. Charles H. Wilson, D-Calif., whose Post Office and Civil Service Subcommittee on Postal Facilities, Mail and Labor Management last October broke historic ground by voting (along party lines) 5 to 3 to approve a compromise right-to-strike bill—the first such action ever taken by a congressional subcommittee.

Even this breakthrough required a watered-down version, however. His bill, HR 11002, still pending in the full committee, establishes cooling off periods adding up to 110 days to avert a final work stoppage, if possible. The bill further mandates the delivery of priority mail by postal employees during any strike.

It is significant to note that this modified version does not have the total support of all union members.

The leaders of several medium to large locals have expressed dissatisfaction with it. One calls it worse than no bill at all on the grounds that the right to strike is no right at all so long as it is hedged with "safeguards" requiring weeks or months of advance notice that dilute the right to strike *effectively*.

Yet in realistic terms it must be said that even such a modified bill is more desirable by far than the existing machinery of binding arbitration in the event of an ultimate bargaining deadlock which is the only option now offered in the Postal Reorganization Act.

As an alternative to the strike, binding arbitration is repugnant to both labor and management. Former Secretary of Labor W. Willard Wirth has spelled out the basis of its inadequacy in his book *Labor and The Public Interest:*

"The difficulty is that in virtually every dispute one bargainer or the other feels that his chances are better, or that he can evade responsibility for a hard decision, if he lets the issue go to arbitration. No effective way has yet been devised or suggested of limiting the availability of such procedures to cases in which collective bargaining processes . . . have been exhausted.' The record is that if arbitration is assured, the collective bargaining processes are never really used at all."

Our own experience in the Postal Service bears out this wise view. In 1971, literally thousands of union proposals nationally and locally were left unresolved just because the costly and time-consuming option of binding arbitration was available at the end of the road. The traffic jam and the resulting frustration, anger and disenchantment that it generated only proved anew that postal workers' rights are totally inadequate without true equity at the bargaining table.

There is one final point: In the near 200 years of our national life, the Supreme Court has so far managed to avoid testing the right to strike for either public or private employees—at least as far as the protection of the First Amendment is concerned. The question was first raised in 1805 and most recently two years ago by the American Postal Workers Union.

But Judge Skelly Wright, dissenting from his brethren on a three-man court here in Washington, recognized the problem with these words:

"It is by no means clear to me that the right to strike is not fundamental . . . [it] seems ultimately related to the right to form labor organizations. . . . A union that never strikes, or which can make no credible threat to strike, may wither in effectiveness. That fact is not irrelevant to the constitutional calculation."

Meanwhile, the union pursues its goal on Capitol Hill with the fervent hope that the inspiration to legislate total equality for all workers, both public and private, will be found sooner in the houses of Congress rather than later in the streets of our cities and towns.

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## ABYSMAL PRISON CONDITIONS IN MARYLAND

## HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. MITCHELL of Maryland. Mr. Speaker, during the recent recess, I, like many of my colleagues, had the opportunity to speak with a great many constituents and to discuss the major problems confronting them. A subject which was placed high among the worries which were voiced to me was the fear of crime which dominates the life of every city dweller.

The problem of high crime rates can not be discussed without at the same time discussing the problem of recidivism. The rate at which ex-offenders return to prison is staggering. Studies which have been done indicate that the reasons for the return to crime and then to prison show a marked pattern, one which points directly at our penal and correctional institutions and processes.

Chief Justice Warren Burger in a 1972 speech before the National Conference of Christians and Jews, spoke of the irrationality of a society which would:

> In an immature way, seem to want to remove the problem from public consciousness.

Noting the outbreaks of violence in prisons since 1969, Justice Burger stressed:

> The obligation of a civilized society to find the causes and correct the situation.

Unfortunately, too few people have heeded Justice Burger's advice. It is 2 years later and the abysmal state of our prisons has received little attention and less aid.

We are merely fooling ourselves if we believe that those of us "on the outside" have no "stake" in improving those conditions. We have merely to consider that the person to whom we deny human existence for a period of time will, at the end of that time, be returned to live among us, completely unprepared to cope with a human existence to which he has become alien.

I am ashamed to say that some such conditions exist in Maryland's penal institutions. However my conscience obliges me to acknowledge the problem and to expose it to the public, in the hope that this will serve as a first step in the amelioration of the problem.

Therefore, I submit the following article, written by Michael D. Davis of the Baltimore Sun newspaper.

[From the Baltimore Evening Sun, Jan. 19, 1974]

### BARE ROOM "PROTECTS" PEN'S MENTAL PATIENTS

(By Michael D. Davis)

Prisoners at the Maryland State Penitentiary who are believed to have severe mental disorders sleep naked in empty cells without beds or mattresses.

They use an open hole in the floor as a toilet. They must make special requests for toilet paper.

Some are injected with tranquilizers, sometimes by force and against their wills. Some have been chained to a metal stretcher for as long as 24 hours.

The men, who are called "mental patients" by institution officials, often lie in their own feces. Roaches crawl over their food.

### NO EXERCISE PERIOD

They are denied commissary privileges, even to purchase toothpaste. They never get an exercise period or have reading matter; nor are they allowed to participate in any religious activity.

Prison officials call the 10 dungeon-like cells "mental observation."

Inmates call the facility which once housed death-row prisoners, "the blue room."

The guards on the tiers give hospital officials the first notice that an inmate might need mental observation, according to staff psychologist Daniel Porecki.

The psychologists determine if the man has suffered a "psychotic episode."

### "WE MIGHT ADMIT HIM"

"If we get a call in the middle of the night and we are familiar with the man's case history, we might admit him by phone and see him first thing in the morning," he said.

Warden Gerald H. McClellan believes the conditions in the mental observation ward are "less than ideal." He would like to see inmates with severe mental disorders transferred from the penitentiary on East Eager street to the Clifton C. Perkins Hospital Center in Jessup, Md.

But Dr. Robert R. Sauer, administrator of Perkins, the state's 219-bed hospital for the criminally insane, said his institution is overcrowded and working at more than its normal capacity.

Dr. Addison W. Pope, a Baltimore psychiatrist who was formerly a consultant at the penitentiary reception center, said yesterday that the "blue room" was sometimes used for punishment and that prisoners sent there did not receive the "sort of close medical attention" they should have.

The penitentiary's chief psychologist, Loyal B. Calkins, said the cells are used to confine inmates who have "lost control."

### "ACUTELY PSYCHOTIC"

Staff psychologist J. David Barcik is more specific: "Most of them I have admitted to M.O. (mental observation). he said, "have been acutely psychotic."

Mr. Calkins said it is difficult to get patients into the state prison mental hospital.

"It involves a lot of red tape. The admission procedure is inefficient," he said.

"We often keep a man here because we feel he can get the same treatment here he can get at Perkins. He may snap out of his episode in two or three months," he said.

The patient in cell 1 has not snapped out of it.

He was stripped of his clothing in November and placed in the cell. Officials claim he was removed from the prison's regular population after suffering a psychotic episode.

The guards call the patient in cell 1 "Shakey" and say he is taken from his cell twice a week and allowed to shower.

Neither he nor the other inmates are given an exercise period because, according to assistant warden McLindsey Hawkins, "We just don't have the manpower to do it."

The institutional records of the man in cell 1 indicate he has been in Perkins several times. Officials claim he returns in apparently better condition each time, but soon suffers "relapses" and must be placed in the observation area again.

When a reporter visited the mental facility, the patient in cell 1 was given a cup of medicine by a guard.

The patient called out ". . . this is not my medicine." The guard returned and discovered he had given the man the medication marked for the patient in cell 2.

"I don't feel I should be stripped naked and penned up in here," the patient in cell 1 said.

"This is the worst situation a human being could find himself in."

Recently a patient in cell 3 was sleeping on the red tile floor of his cell. His legs were smeared with fecal matters; and his cell, like the rest of the area, was dank with the smell of stale urine.

The only toilet facility is a small hole in the floor of each cell. A common flush operated by the guards washes the drains in ll 10 cells.

A week later, the man was sleeping in the same corner of the cell. He appeared cleaner, but several roaches crawled across a cardboard plate of stewed tomatoes that had been placed in his cell.

Mr. Calkins said the institution attempted to give the patients paper nightshirts but they used them to stop up the plumbing system.

He said this is also the reason they are denied mattresses, bedding, a mat to sleep on or any other items in the cells.

### ONE SUICIDE ATTEMPT

He said many of the men admitted to the facility have demonstrated suicidal tendencies, and this is an additional reason for keeping the cells empty.

The records in Warden McClellan's office indicate, however, that only one "serious suicide attempt" was made in the institution last year.

A patient in cell 6 said he makes repeated requests to attend religious services held in the institution by the Black Muslims. His requests have been denied. Officials said this man asked to be admitted to the cell because he "felt himself going off the deep end."

Near the ward's only shower, a large stretcher is fitted in a make-shift manner with handcuffs and leg irons.

Major Jerry Mills was reluctant to discuss the stretcher, but admitted "Its used to control patients."

Asked how long the device is used, he answered, "Usually a day will do it."

### NO BOOKS, NEWSPAPERS

Mr. Calkins said the prisoners are denied books, newspapers and magazines because these, like other items, can be used to stop up the plumbing.

Most of the patients are given heavy doses of tranquilizers designed to keep an individual submissive.

Warden McClellan admitted that on occasion, when a patient refuses to take prescribed medication, he is held to the floor by guards and given injections.

Except in extreme "life-saving cases," state law forbids the application of medication without consent. And treatment must be done in a licensed and accredited institution.

The hospital at the penitentiary is licensed but not accredited.

### FORCED INJECTIONS "UNUSUAL"

Dr. John M. Hamilton, a noted psychiatrist and the former administrator of Perkins, said a patient, under court order, can be given forced medication in Maryland.

"But this is unusual," he contends. "If a person was in need of a medical operation," he said, "and there wasn't time to go through the standard court procedure, the operation could be given if it was considered life-saving."

Prison officials contend there are seldom more than three patients in the facility at a time.

On a reporter's first unannounced visit to the ward, there were nine men in the facility. A week later, on a pre-arranged visit, five men were in the ward—one of them a young patient with his armed wrapped in gauze. Officials said he had attempted to kill himself.

### DAYS OR WEEKS

Hospital officials said the average stay of a patient in the ward is 3 or 4 days. Most of the patients interviewed said they have been there 3 or 4 weeks. The patient in cell 1 has been there since November.

One patient was confined to a "mental observation" cell for more than a year before he was admitted, on court order, to Clifton T. Perkins Hospital.

In addition to Mr. Calkins and Dr. Barcik, the psychologists, the facility has the services of two part-time psychiatrists. They must also attend to the psychiatric needs of about 800 other inmates.

The institution has retained an exterminating company to handle the problem of roaches in the cells, but the problem of pest infestation is not limited to the prison hospital. A program of rat and roach extermination is conducted in all of the other prison areas as well.

An official of the Empire Exterminating Company, the firm servicing the institution, said it is difficult to adequately treat the M. O. cells because patients might gain access to the deadly insecticides.

Warden McClellan is among the first to admit that the penitentiary "should not be running a psychiatric ward."

Because of lack of funds, an antiquated institution constructed in the early 1800's and the lack of available options in normal mental facilities, Warden McCellan is stuck with what Mr. Calkins calls "the bug-a-boo of our institution."

"Sure, there should be another place for these men," the warden said, "but everyone has to be somewhere, and these men are here."

### DIFFICULT TO SERVICE

"Much of this burden," Mr. Calkins said, "was taken from us by Perkins years ago. Perkins was a panacea for us. When it became overcrowded and was swamped with pretrial sanity investigations for State courts, it became more difficult to get patients admitted."

Dr. Barcik said the "concept of M.O. is needed. We need a place where a man can be put to stop him from hurting himself until he can be moved to a more adequate facility.

"We don't need M.O. as it physically exists but we need a place to stop men from hurting themselves or violent men from being hurt by the guards," he said.

Mr. Colkins concedes that "some of our patients would probably recover quicker at Perkins than in that place," he said, gesturing toward the main door of the mental observation area. Dr. Barcik says "they should tear the damned place down."

Dr. Sauer characterized the M.O. treatment at the penitentiary as "inhuman."

"We use a great deal of chemical therapy here a Perkins, but we don't have anything here like the penitentiary's M.O. ward," he said.

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## THE TAXES ON OIL

### HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. HOWARD. Mr. Speaker, over the weekend President Nixon gave a radio address to the American people on the energy problem.

As chairman of the Subcommittee on Energy of the House Committee on Public Works, I was particularly encouraged when the President told the American people that he was going to crack down on the oil companies.

Maybe, I thought, the President will finally begin cooperating with those of us in the Congress who have been working on the energy problem for some time. Maybe, I hoped, the President would forget that he had received millions of dollars in campaign contributions from oil interests in his bid for reelection.

But as the President began to outline his specifics it became apparent it was just another case of "window dressing" for a concerned America.

He did little more than outline what he plans to do about his "windfall profits tax," a fine-sounding phrase which does little, if anything for the American people.

The January 21 New York Times carries an editorial which reflects my thinking on this matter. I commend it to my colleagues. It is obvious to those of us concerned about the energy problem that we will continue to get no help from the President, particularly as it relates to the oil industry.

The editorial follows:

### The Taxes on Oil

In his radio address on the oil shortage, President Nixon pledged to do "everything in my power to prevent the big oil companies and other major energy producers from making an unconscionable profit out of this crisis." But the steps he is proposing are more in the nature of window dressing than the long-overdue reform of the taxation of the oil industry's domestic and foreign earnings.

Mr. Nixon said that, when Congress reconvenes today, he would ask it to "act immediately" on what he persists in calling the "windfall profits tax" that he requested last month. This is not a tax on profits but a sliding-scale excise tax on crude oil, with the tax revenues rebatable to oil companies willing to invest the tax rebates in oil wells or other energy-producing facilites.

Quite apart from the Administration's determination to label this a windfall-profits tax for public relations reasons, it is a mere slap on the wrist to the oil industry. The price of a barrel of crude oil in this country has already climbed about $2 in the past year and is now at $5.25. If the Government-regulated price should reach $7 in the next year (which appears to be the Administration's approximate target), the excise tax would then amount to 90 cents a barrel. But the oil companies would almost certainly figure out ways of recapturing the bulk of those "windfalls" tax payments by increasing their drilling operations and capital expenditures, the cost of which would thus fall on other taxpayers, while the oil companies increased both their earnings and their net worth.

This is not to say that the correct solution would be to impose a World War II-type excess profits tax on the oil companies. Experience strongly indicates that such a tax would simply cause the oil producers to boost all sorts of their capital and operating expenditures in order to minimize reported profits.

Rather than wasting efforts trying to design a fool-proof *excess* profits tax on the oil industry, Congress would be far better advised to eliminate the special oil depletion allowance and deduction of intangible oil drilling expenses. Oil and other extractive industries pay far lower taxes than manufacturing companies; it has been estimated that, if oil producers were taxed on the same basis as manufacturers, their taxes would go up by $3 billion. The depletion allowance and other tax breaks are clearly no longer justified, if they ever were; with oil selling at such high prices, there is ample incentive for oil exploration and development. The time has come for Congress to eliminate all the tax breaks that have accorded such favorable treatment to oil producers.

It is also imperative that Congress conduct an intensive review of the tax treatment of foreign oil earnings, to eliminate any tax inducement to American companies to expand their foreign production at the expense of domestic development of oil resources and refining capacity. From 1961 to 1972, while United States refining capacity increased by only 2.8 million barrels a day, that of other non-Communist countries went up by 23.4 million barrels a day. The tax laws that encouraged American multinational corporations to invest so heavily abroad were not the only cause of that lag in domestic as opposed to foreign production, but they were a significant factor.

President Nixon has himself directed "an immediate review" of the international tax structure to ensure that American companies developing energy resources abroad "are not permitted to avail themselves of special tax advantages abroad." Here, too, the oil depletion allowance, which American companies collect on foreign oil production just as on domestic operations, ought to be eliminated. And a larger proportion of the payments to sheikhs or other foreign potentates ought to be treated as royalties and expenses, rather than as taxes on which the oil companies can claim a tax credit against their United States tax bills. In effect, the present treatment makes the American oil companies tax collectors for the sheikhs and shahs, with the American public footing the ultimate bill.

"Project Independence"—to make this country independent of unreliable foreign sources for its essential energy needs—should begin with an overhaul of the tax laws that have resulted in Condition Overdependence.

## ESTHER BRAY: HOOSIER IN PROFILE

## HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. HAMILTON. Mr. Speaker, the Indianapolis Star, in the Sunday magazine section of its January 20, 1974 edition, featured an excellent article describing Esther Bray's active life as the wife of Congressman Bill Bray, my respected colleague in the Indiana congressional delegation.

I am confident that fellow Hoosiers will find the following article both interesting and enjoyable:

### Esther Bray—Hoosier in Profile

(By Susan Lennis)

The Bray family had just sat down for Thanksgiving dinner when the phone rang.

The voice on the other end, although broken by a bad connection, was quite familiar to Esther Bray. It was her husband, United States Representative William G. Bray (R-Ind.) calling from Cairo, Egypt.

"I was surprised and pleased to hear from him," says the dark-haired Mrs. Bray, who by now has adjusted to spending some holidays and many weekdays apart from her politician husband. "He had called from Tel Aviv earlier and I didn't think he would be able to get a call through from Egypt."

Although disappointed that her husband couldn't be with the family for the holiday Mrs. Bray was really vexed that she was not with her husband in the Middle East.

A seasoned traveler, she has learned to pack and be ready to go any place in the world on short notice. The trip to the Middle East had been something she and her husband had planned in advance to take together.

"Bill was anxious to see what was going on over there. And when he checked in with the Armed Services Committee, of which he is a member, his enthusiasm for the trip spread. Soon a lot of people wanted to go and it became a business tour. As a result I had to stay home.

"This time I thought I would be ready and even went out and bought a new dress," she says with a good-natured smile, and a shrug of acceptance.

Mrs. Bray, a retired teacher, hasn't been left behind on too many trips, however. She and her husband have visited more than 90 countries and were the first Americans in many areas of Russia and Central Asia. They spent 12 days there while on an around-the-world trip.

"I think the Far East and Thailand are my favorite places—the Thais are so friendly and such fun-loving people," she says.

During one visit in Thailand she and her husband were having lunch together and he showed her a gift given to him as a visiting dignitary. It was a lighter. (Neither Bray smokes.) When she turned it over she noticed it had been inscribed: "Stolen from the Thailand Air Force."

"We wouldn't have dared give someone from another country a present like that," she says with a laugh. "They thought it was great fun and so did we."

The Brays are expected to attend some social functions in other countries and although Mrs. Bray loves trying new foods she confesses to having a "traveler's tummy."

"In Russia I love the borsch and kabobs. I've learned to look for things that have been thoroughly cooked and haven't been on a plate. Like a kabob, they come to you from the fire on a skewer.

"I think my husband could eat almost anything, but I have to take something (medication) with me when I travel," she says.

Occasionally the couple's pleasure trips have turned into tense situations. During one visit to Israel they found themselves in the path of an angry street mob.

"We had to duck into a nearby shop to get away from them. But I understand they were angry at the French not the Americans. I hoped I didn't look French," she says.

Another time when they landed at an airport in Istanbul during a trip to Turkey they were greeted by the American ambassador.

"We couldn't figure why he was there. But it seems the night before the Greek shops had been raided and the city was under curfew.

"As we traveled in the car the lights would pick out tanks and soldiers along the road. A small American flag was fastened to the fender of the car with a spotlight shining on it. As we came to each checkpoint they would see the flag and let us go on through. I've never appreciated the American flag quite so much. It was scary," she recalls.

When the Brays return from their travels they head for the comfort of their two-story white brick home not far from downtown Martinsville.

The house, more than 90 years old, is filled with mementoes of their numerous trips—a coffee table from India, lamps from Iran, chandeliers from Vienna (they were the Brays' 25th wedding anniversary presents to each other), an ashtray from Italy, a lamp base from Pakistan.

"I sometimes think our house looks like a museum. But it's filled with things that are very meaningful to us," she points out.

The house itself has an unusual living pattern. The kitchen and dining room are on the first floor, a half underground area, which overlooks a large wooded area Mrs. Bray refers to as "the south 40." She spends many summer days tending the gardens there. In winter her green thumb is largely devoted to African violets which flourish under her guidance.

In the kitchen Mrs. Bray concocts unusual dishes (sometimes foreign) for her husband, her son, Richard, and his wife and three children. They try to eat each Sunday dinner together.

"I think my son wishes I didn't read so many menus so we could have the same things over. I always fix something that I've never tried before," she explains.

In the dining room the Brays have arranged a lighted cabinet that contains more foreign souvenirs, medals, fans, tiny carved figures, cups.

"If people come over for a tour I show them this area. There's a story that goes along with each of these," she says indicating the objects.

The second floor of the house has a lived-in formality—oriental rugs partly cover handsome hardwood floors, Mrs. Bray's carefully nurtured plants add warmth to the tall-ceiling rooms.

"We've lived in this house since 1940. Even though it is big it doesn't require a lot of care," she points out.

Until recently Mrs. Bray's time was largely occupied by her job as associate professor of business at Indiana University. She retired last spring to accept a position on the Indiana Commission of Higher Education.

"I had a real problem when I was a little girl deciding whether I wanted to teach or become a nurse," she reminisces. "As a little girl I was always playing nurse and so mother made me an apron and hat. I'd grab our cat and wrap him up like a patient. He would lay patiently until he got so hot he couldn't take it. Then mother would make me let him go until he cooled off.

"It seemed to work out better for me to go into teaching although I also worked as a buyer at Ayres while I was going to school.

"When I graduated I got such a good offer to teach I accepted and started in high school. I taught at Ball State (University) before going to I.U." she says.

She confesses she misses the relationship she had with the young people but enjoys not having to be at work by 8:30 on cold, winter mornings.

She still has an opportunity to work with young women, however, in connection with Hoosier Girls' State, for which she is an advisor, and with Girls' Nation as education government director.

"Both programs have always emphasized getting women involved in politics in one way or another. Although we try to offer something new to the girls each year," she says.

For four years the Girls' Nation program has received the Freedoms Foundation Award for an outstanding youth program. If it receives the award next year it will be theirs permanently, Mrs. Bray points out hopefully.

Her days are filled with various meetings, occasional speaking engagements, and a variety of other activities. As a member of the finance committee of the higher education commission she helps review all new programs and expenditures and is involved in long range planning for higher education.

"Bill usually comes in from Washington on Thursday evenings and so I try to have all my activities wrapped up so I can be free to do whatever he wants," she points out.

Mrs. Bray seldom goes to Washington unless there is a special activity planned. The Brays have an apartment there.

"It doesn't seem like the type of place you could call home," she says of Washington, admitting that she spent more time there this fall than usual.

The Brays work closest together, however, during campaign time (they've been through 11 together).

"I was interested in politics before I met Bill, although my father was never particularly involved. He was a farmer in Huntington County and an ardent supporter of the Republican party. My mother had been raised a Democrat but changed her politics after she married," she says.

Mrs. Bray picks up the "odds and ends of a campaign," and when her husband cannot make a scheduled appearance, she aptly fills in.

"We have worked together so closely that I think we supplement each other in our thinking and our actions. He may come to me and say I have to speak at such and such a place, what should I say. Maybe I have been reading something or have an idea along a line that will stimulate his thinking," she explains.

Usually she drives her husband to his campaign speech sites so he can spend that time organizing his notes.

"Occasionally he'll want to take a nap. He can sleep for five minutes and be fresh as can be," she says.

Sometimes some one else will drive while she rides with a portable typewriter on her lap and takes dictation from her husband. Or makes carbon copies of his speech ready for the press on arrival.

"During the 23 years we've campaigned together it's always nice to see how wonderful people can be.

"People seem to be more alert to politics than they were a number of years ago and more informed," she adds. "Although it's difficult to tell if they are more accurately informed. With all the information you get you tend to have a lot of propaganda, too."

She says she has noticed politics itself has changed—particularly the financial aspect of campaigning.

"Each year I notice there are more ways in which campaigning is controlled," she says.

The Brays so seldom find themselves at home with an unoccupied evening that Mrs. Bray admits they probably wouldn't know what to do.

"We may have as many as two or three commitments a day. Even on Sundays Bill is often called to speak at different churches.

"Recently a Presbyterian Church wanted him to speak on the ethics of politics and had scheduled him to appear with Gordon St. Angelo (Democratic state chairman). He couldn't make it and asked me to go. I must say Gordon and I held forth very well," she says with a laugh.

## THE UNCONQUERABLE VOICE OF THE HUMAN CONSCIENCE

### HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. KEMP. Mr. Speaker, I had the honor on Saturday evening of introducing the distinguished and learned Senator from New York, JAMES L. BUCKLEY, at the concluding session of the Conservative Political Action Conference here in the Nation's Capital.

The Senator delivered eloquently one of the most profound address I have ever heard or read—an address on the imperative of moral conscience as the cardinal guide for human action, particularly in the exercise of the public trust.

The Senator has contrasted this moral imperative against the realities of human conduct, and he has found the realities to be severely wanton: The misconduct of public officials, the self-indulgences of public service, the suppression of moral and ethical value systems, the repression of the human spirit. But, his entonements are not the observations of a pessimist. They are the reflections of a student of history who has ascertained that we stand today on the threshold of a renewal of man's commitment to freedom and dignity on Earth and to the exercise of his moral conscience for things of higher purpose. In his remarks, the Senator gives insight into the direction in which our people and their leaders must move:

Our people have had their fill of condescension on the part of big brother government. They have seen the failure of all those shiny promises that each one of our problems could be solved if only the federal government adopted the necessary programs and spent the necessary billions. Americans are ready now for a new approach that will offer common sense solutions to very real problems, that will seek to return real responsibilities to state and local governments, that will prefer freedom to regulation, that will once again treat the ordinary American as a person capable of making his own decisions without the guidance or dictation of a benevolent state.

Finally, at a time when America seems to have lost its moral moorings, Americans are hungry for a sense of commitment to an ideal higher than the satisfaction of their appetites. We are there to fill the void with our passionate concern for individual freedom. We bring to the political front a concept of man and of society with which the most idealistic can identify.

* * * * *

On a wider scale, embracing not only America, but the world, the recent publication of Alexander Solzhenitsyn's *Gulag Archipelago* is such an event for today. Here, in the last quarter of this cruel and bloody century, from the heartland of a despotism, which in Churchill's words about a similar despotism, is all the more sinister for being availed of the uses of a perverted science—here, from where we would least expect it, we have heard the ringing, defiant, unconquerable voice of the human conscience. That voice is now heard, incredibly, about the grinding, hideous sound of the machinery of the totalitarian state. It has pierced the soothing reassurances of a policy of detente. It is heard when all that we have ever known about power has taught of the impossibility for such a voice ever to be heard. But Solzhenitsyn in a transcendent act of courage has sounded the voice of conscience and that sound will grow in volume until even the most spiritually deafened leaders of the West must hear its message.

That voice is really what this conference is all about; for it speaks of man's unquenchable thirst for freedom. That voice is threatened at every instant by the brute totalitarian force which Solzhenitsyn has described in such horrifying detail. The language in this case is Russian but the message is universal. Listen to what Solzhenitsyn had to say in the Novel Prize address he was never allowed to deliver:

"In order to mount this platform from which the Nobel Prize lecture is read, a platform offered to far from every writer and only once in a lifetime, I have climbed not three or four makeshift steps, but hundreds and even thousands of them, unyielding, precipitous, frozen steps, leading out of the darkness and cold where it was my fate to survive, while others—perhaps with a greater gift and stronger than I—have perished . . ."

My friends, let us resolve that the climb made by Alexander Solzhenitsyn and others up those unyielding, precipitous, frozen steps shall not have been in vain. Let us resolve that we will never take our freedoms so lightly that we will make less than a total commitment to their preservation. For if we sustain the high sense of purpose that brings us here tonight, if we will work together intelligently and effectively in the years ahead, we will shape the future and safeguard on these shores the sacred flame of liberty that remains a beacon of hope for all mankind.

Mr. Speaker, the address, in its entirety, follows:

SPEECH BY SENATOR JAMES L. BUCKLEY

Fourteen years ago, in January of 1960, the Victory Publishing House of Sheperdsville, Kentucky published a slim 123-page volume with the then-intriguing title The Conscience of a Conservative. In those days it was a kind of heresy to suggest conservatives had minds let alone consciences. But Barry Goldwater changed all that. With his legendary—and in our own day belatedly recognized—gift for being right in more ways than one, he chose a perfect title for his enormously influential book.

The reception given Senator Goldwater's book was, to put it mildly, mixed. On the one hand, the public eventually purchased over one million copies of the book in all editions. On the other hand, like some bestselling authors, Senator Goldwater suffered the fate of a bad review from the New York Times.

The Times reviewer—who by the sheerest coincidence happened also to be a member of the Times editorial board—began his review by warning Senator Goldwater that he would not receive the Vice Presidential nomination of the Republican Party in 1960 unless he "suppressed" this book. It seems even then the Times' immediate reaction upon discovering a Conservative idea was to call for its suppression. In its great tradition of being generous with praise to deserving Conservatives, the Times described Goldwater as "pleasant," and as being as true a Conservative as a "stage coach" or a "buffalo." But the Times' man wasn't sure if Goldwater's conservatism would be approved either by "Alexander Hamilton or the Almighty."

The supercilious tone of the reviewer, his barely disguised irritation at the presumption of this Republican Senator—of all people—from Arizona—of all places—to dare to speak out on matters of political philosophy, this condescending scorn at the lower-philosophical classes, was typical of the Liberal smugness of 1960.

But, as we know, the decade of the Sixties was to see the conscience of Conservatism become the conscience of America—and it remains so today. For despite the proliferation of "give-away" programs of infinite form and variety, involving billions; despite distorted television documentaries like CBS' notorious Thunder On The Right; despite the nearly universal portrayal of Conservatives as mean-spirited and narrow by the Liberal establishment in the media and academe, despite all of this, a clear majority of the American people have rejected Liberalism and opted for Conservatism.

A recent publication of the Senate Subcommittee on Intergovernmental Relations entitled "Confidence and Concern: Citizens View American Government," contains some important insights on this point.

In the words of the report:

"The public underscores its belief in shared governmental responsibilities with an overwhelming endorsement of two policy propositions:

"(1) State and local governments should be strengthened; and

"(2) The Federal Government should have power taken away from it.

"Public support (61%) for reinforcing the structure and authority of local government almost precisely matches the percentage (59%) by which it advocates strengthening state government. In contrast, only 32% of the public feel the Federal Government needs added power, while 42% recommend diminishing its clout . . ."

Then there is the recent poll taken for the New York Times. This poll disclosed what for some time many of us in New York have known—and the Times has editorially wept over. Thirty-three percent of the people living in New York City, the spiritual headquarters of liberalism, call themselves conservatives, and only twenty-seven identify themselves as liberals. What is interesting about this figure is that in 1970 when a similar poll was taken the figures were exactly reversed. Conservatism is now listed as the choice of thirty-six percent of all the Democrats in a city where the words "Democrat" and "Liberal" have long been thought to be synonymous. In what came as a major surprise to the Times, thirty-one percent of all black New Yorkers polled identified themselves as conservative, giving lie to the myths of the Liberals who tell us the black community is politically monolithic. Let me pause to say that as the junior Senator from New York who ran in 1970 as a Conservative, I want to assure all of you that while I am gratified by such figures, I am not prepared to declare the millenium until the Times' poll shows that 51% of New Yorker voters are conservatives.

Finally, in the 1970 election when the issues were sharply defined, and when the principle ones broke sharply along the lines of Liberal versus Conservative alternatives, the public voted decisively for the latter.

Now as a Conservative I share with you the belief that truth is not determined exclusively by polls and the polling booth. But the facts and statistics I have just quoted do, I believe, point to one of the most amazing phenomena in recent American political history. Between Barry Goldwater's shot across the bow of American Liberalism in 1960 and today, there has been nothing short of an intellectual and political counter-revolution in the United States. Conservative ideas have suddenly become accepted politically and intellectually in circles that only a few years ago would have chosen slow death rather than burn incense to the gods of the free market or admit that there are problems that cannot be solved by sprinkling federal billions on them.

We have, in short, achieved respectability. But respectability alone will not move events. While in the 1960's we were able to demonstrate that Conservatives do in fact have a conscience, our challenge in the 1970's is to demonstrate that Conservatism has relevance. This is our challenge and our opportunity because each day it becomes clear that only the insights offered by Conservatism are truly relevant to the major problems of our times; only our approaches to them offer workable solutions within the context of a free society. The Conservatives' task for the 1970's is to convince the public that Conservative political action, rooted in Conservative principles, can transform America.

A while ago, I referred to the obvious fact that within this room and, indeed within what is usually called the Conservative movement, there are substantial differences. It would be unhealthy to have it any other way. But I think it is necessary to remind ourselves of the fact that all of us here tonight, no matter what form of Conservatism we may embrace, are moved by the same insights into the nature of man and society that illumine our understanding of what is essential to our survival as a free, ordered and productive nation.

It was the late, beloved and unforgettable Frank Meyer who best summed up why we have to present a common front against the great heresies that still dominate our times. I want to quote Frank Meyer at some length because he so clearly understood the absolute necessity for Conservative unity. He wrote:

"In opposition to this image of man as neither free nor inspired by a transcendent destiny, the differences between libertarian and traditionalist are thrown into their true perspective: Differences of emphasis, not of underlying opposition. In the light of it, libertarian and traditionalist, as they deepen their understanding in a commonly based dialogue, can maintain a common front and a common struggle. The desecration of the image of man, the attack alike upon his freedom and his transcendent dignity, provide common cause in the immediate struggle. As with our ancestors who laid the foundations of the Republic, the challenge to our common faith inspires us, without surrendering our differences of stress, to create a fundamental unity of doctrine within which libertarian and traditionalist, respecting each other, can mutually vindicate the true nature of man, free and responsible, against the arid, mechanistic, collectivist denial of man's nature which transitorily prevails . . ."

Frank Meyer eloquently reminded us of what we share together. And I am convinced that the majority of the American people, even many of those who do not think of themselves as Conservatives, share the same principles with us.

In this last regard, let us not be deceived by all of the recent theorizing about Watergate. We are told that the public's undeniable disillusionment with big government is solely due to the fall-out from Watergate. But the fact is that if the Watergate idiocies had never occurred, the American people would still be exasperated to the point of outrage with the ever-growing intrusion of government into their lives: with the Legal Services horrors and the wage-price fiasco and the Affirmative Action quotas and all of the big brother programs ranging from ignition-interlock auto seat-belts—and I cite a proposed rule devised by H.E.W.—a proposal to ban bicycles as a hazardous substance!

The Liberal intellectuals and bureaucrats have caused more fundamental damage to this nation in a lazy afternoon of policy making than the entire Watergate crew did in a year of bungling and burglarying.

Speaking of Watergate, I am told by many who have attended your panels during the course of this conference that there has been a great deal of discussion about the President, his relation with Conservatives and the effect his problems will have on Republicans and Conservatives in 1974 and 1976.

It is certainly too early to say what the future might hold for Richard Nixon, but one thing can be certain; his future and ours cannot reasonably be seen as inextricably intertwined. The principles and ideals that moved Barry Goldwater to write The Conscience of a Conservative more than a decade ago and that generated a political movement capable of bringing us together here this evening do not depend on the political fortunes of one man—and especially one who has never fully embraced them as his own.

Our principles and ideals have a life and validity all their own. Far from being in the eclipse, I believe their special relevance to our times provides us with a significant opportunity to reshape the future of this country because only we can provide the answers that will work answers in which the American people with their great common sense and profound belief in the essential soundness of the American system, can place their confidence. But for us to formulate the answers and demonstrate their relevance will require unity of purpose among Conservatives together with an understanding of the necessity to pursue our common goals through a variety of roots.

As I stated earlier, Conservatism is once again respectable. It is now our task to make it fruitful. The time has come for Conservatives to assert what is rightfully theirs, the intellectual leadership of this country, in the schools, in the media, wherever ideas are promulgated and discussed. For to a large degree, the success of Conservative political action depends on the quality of the political thought and analysis that we are able to generate. This is an area in which we can take great satisfaction. We have a growing base of scholarship and an enviable stable of writers. But we can use more. I therefore urge young Conservatives who have an academic bent or writing talent to seek intellectual careers and to keep writing, to break into print and to break the Liberal lock hold on education in this country.

A strong intellectual base is, I believe, essential to a politically effective Conservatism. But to translate Conservative analysis into public policy depends not on the theoreticians but on those of us who have chosen to work in the political arena: And it is here, if we are to preserve the unity essential to success, that we must have a proper understanding of the limits imposed by the political process. We Conservatives pride ourselves on our sense of reality, and on the fact that the principles which guide us are based on the realities of human nature. Yet we too often lose sight of the fact that among the realities within which we must operate are the political realities. This is particularly true of the legislative process. Time and again we in the Congress will be called upon to make judgments as to which of the less than ideal alternatives is achievable, which will advance us towards our goal, however circuitously. At any given time, we must choose from among the available options, and these are largely limited by the range of alternatives that the public will accept at any given time.

Now while none of us here can change the realities of human nature, we can work to influence the political realities. We can and must reach out to the public in a great educational effort that will result in a better understanding of what are often highly complex issues. This is an effort in which Conservative journalists and office holders can supplement one another. I for one believe that an important part of my job is to present to the public as cogently as possible my own views on matters of fundamental policy. In this way I can contribute to the national dialogues on important issues that in turn will help define what is legislatively possible.

Of one thing I am certain, based on my experience of the past three years. I am convinced that the missionary field has never been so ready to hear the Conservative gospel. Moreover, the missionary field comprises every sector of American life. If we will translate our principles into specific approaches to concrete problems, we will find ourselves on most issues in harmony with the concerns and aspirations of a solid majority of Americans of every background, who at base want nothing more than to be allowed to work out their own lives, set their own priorities, and achieve for themselves such happiness and contentment as is given man to enjoy in this life.

I believe, too, that the public is ready to understand that it is the Conservative who truly believes in and trusts the common man. We reject the elitism that is at the heart of so much of Liberal policy. No where has this fundamental truth about Conservatives been more succinctly stated as when that distinguished columnist, author and yachtsman, my brother Bill, said some years ago that he would rather be governed by the first thousand names in the Boston telephone book than by the Harvard faculty. We are a scandal to the liberals because we really believe that Americans are intelligent enough to lead their own lives, and that they are competent of responsible self-government at levels less olympian than the federal. We do not speak of the "masses" or "minorities" or of any other quantitative misrepresentations so popular in liberal rhetoric. Instead, we focus our attention on the individual. We dare to hold the heretical idea that Americans irrespective of station or origin should be treated as citizens and not as ciphers.

Our people have had their fill of condescension on the part of big brother government. They have seen the failure of all those shiny promises that each one of our problems could be solved if only the federal government adopted the necessary programs and spent the necessary billions. Americans are ready now for a new approach that will offer common sense solutions to very real problems, that will seek to return real responsibilities to state and local governments, that will prefer freedom to regulation, that will once again treat the ordinary American as a person capable of making his own decisions without the guidance or dictation of a benevolent state.

Finally, at a time when America seems to have lost its moral moorings, Americans are hungry for a sense of commitment to an ideal higher than the satisfaction of their appetites. We are there to fill the void with our passionate concern for individual freedom. We bring to the political front a concept of man and of society with which the most idealistic can identify.

Yes, the opportunity is there, the challenge is there. We can build a Conservatism relevant to the Seventies that can be translated into political consequence; and I believe profoundly that any political party that forthrightly builds its platform on the bedrock of Conservative principle and insight will be the majority party of the 1980s. I believe with equal strength that if no party so bases itself, if each of the major parties attempts to prevaricate, to straddle, then we will see a continuing erosion of our freedoms and vitality that in time will spell the end of the American nation as we have known and loved it.

We cannot allow ourselves to falter in our work. And above all, we must never lose sight of the fact that central to all our political action must be the Conservative conscience.

Whatever success Conservatives may achieve in this decade—and I am convinced it is going to be enormous—no success is worth the having if we abandon the conscience that has sustained us through these difficult years.

Conscience. That strange, atavistic word, the word that sends shivers up the spine of materialists and those who can think only in collective terms. It has the ancient, honorable connotations of spiritual virtue and intellectual integrity about it. And from time to time in history a single event reminds us all precisely what conscience means and what it can achieve. Fourteen years ago the publication of Barry Goldwater's book was such an event for America.

On a wider scale, embracing not only America, but the world, the recent publication of Alexander Solzhenitsyn's *Gulag Archipelago* is such an event for today. Here, in the last quarter of this cruel and bloody century, from the heartland of a despotism, which in Churchill's words about a similar despotism, is all the more sinister for being availed of the uses of a perverted science—here, from where we would least expect it, we have heard the ringing, defiant, unconquerable voice of the human conscience. That voice is now heard, incredibly, above the grinding, hideous sound of the machinery of the totalitarian state. It has pierced the soothing reassurances of a policy of detente. It is heard when all that we have ever known about power has taught of the impossibility for such a voice ever to hear. But Solzhenitsyn in a transcendent act of courage has sounded the voice of conscience and that sound will grow in volume until even the most spiritually deafened leaders of the West must hear its message.

That voice is really what this conference is all about; for it speaks of man's unquenchable thirst for freedom. That voice is threatened at every instant by the brute totalitarian force which Solzhenitsyn has described in such horrifying detail. The language in this case is Russian but the message is universal. Listen to what Solzhenitsyn had to say in the Nobel Prize address he was never allowed to deliver:

"In order to mount this platform from which the Nobel Prize lecture is read, a platform offered to far from every writer and once in a lifetime, I have climbed not three or four makeshift steps, but hundreds and even thousands of them, unyielding, precipitous, frozen steps, leading out of the darkness and cold where it was my fate to survive, whole others—perhaps with a greater gift and stronger than I have perished . . ."

My friends, let us resolve that the climb made by Alexander Solzhenitsyn and others up those unyielding, precipitous, frozen steps shall not have been in vain. Let us resolve that we will never take our freedoms so lightly that we will make less than a total commitment to their preservation. For if we sustain the high sense of purpose that brings us here tonight, if we will work together intelligently and effectively in the years ahead, we will shape the future and safeguard on these shores the sacred flame of liberty that remains a beacon of hope for all mankind.

To those to whom the word "conscience" is a guidepost for conduct, I can add nothing. To those who have not yet found the intellectual achievement which arises naturally from its exercise, I commend the reading and rereading of this vital address.

## OPPRESSION OF SOVIET JEWS WORSEN IN RUSSIA

### HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. GOLDWATER. Mr. Speaker, a year ago and more, I pointed out to my colleagues the situation with regard to Soviet Jews had reached the point where it was an affront to every concerned citizen of this planet.

I regret to say the situation is not better today; in fact, it is worse. The years of oppression of Soviet Jews continue to increase. Hundreds of thousands of Soviet citizens, who have worked diligently and loyally for Russia have been the continual subjects of career repression, religious persecution, and personal harassment.

Many Soviet Jews love their country so much they decide to stay and literally, but quietly fight it out. Others, however, wish to rejoin the free community, much as they love their homeland, and desire to emigrate to Israel, or to a friendly nation elsewhere. But the Soviet Union is very reluctant about letting anyone go. The Boris Rubenstein family of Leningrad is one of the families that, while loving Russia, desires to emigrate to Israel and freedom.

Recently, I was invited to participate in a telephone call to Mr. Rubenstein which was arranged by Phyllis Channing, the social action chairperson of the Sisterhood of the Temple Valley Beth Shalom. Inasmuch as I could not make the arrangements to be there, Mrs. Goldwater represented me and spoke with Mr. Rubenstein.

The eloquence of this conversation—and the plight of Soviet Jews in Russia—speaks for itself, and I commend this conversation to my colleagues attention:

TELEPHONE CONVERSATION

Hello, this is Phyllis Channing. I am the social action chairperson of the Sisterhood of the Temple Valley Beth Shalom. Today, Thursday, November 29, 1973, we are going to place a call to our adopted family in

Leningrad, the Boris Rubensteins. Mr. Rubenstein is at the home of a friend, Mr. Joseph Bligh.

Mrs. C. Hello. Is Boris Rubenstein there?

Boris. Yes, this is he.

Mrs. C. Hello. This is Phyllis Channing from Valley Beth Shalom Synagogue in Los Angeles, California.

Boris. I understand you.

Mrs. C. We have been trying to call you. How are you?

Boris. Thank you, fine. How are you?

Mrs. C. Oh, fine. We received your book and we want to thank you.

Boris. Oh, did you like the book?

Mrs. C. Oh, it's beautiful. Thank you very much.

Boris. I am very glad to hear it.

Mrs. C. We do think of you.

Boris. Did you get my letter?

Mrs. C. Yes, and we received your letter and it was beautiful. We think of you and we would like you to know that we are trying everything we can to help you. Right now I would like you to know that here represented in this room are two Congressmen's representatives, United States Congressmen, and they are going to try to help you. There is a newspaper here that is represented that reaches a lot of people. How are your wife and children? Are they all right?

Boris. All right, thank you.

Mrs. C. I wanted to tell you that Mr. Gittelman was here in Los Angeles, Dr. Moshe Gittelman. He is a friend of yours? He was here in Los Angeles.

Boris. Yes.

Mrs. C. Is there anything we can send you? Do you need anything—clothing or anything like that?

Boris. Send my best regards to him.

Mrs. C. You send your best regards to him? O.K. Thank you. Tell us, how are you doing?

Boris. Oh, I don't know what to tell you. My situation. . .

Mrs. C. Is it good or not?

Boris. My situation is quite bad and uncertain. I don't know anything, what I can do, and so I must wait. Do you understand? I am waiting, for one year and a half I am waiting, I want to tell you that my situation is bad and uncertain and difficult.

Mrs. C. Well, I know we are miles apart but in spirit we are very close together and we are going to try to do all we can. Would you like to talk to one of the representatives of one of our Congressmen? Would you like to talk with the wife of Barry Goldwater?

Boris. Yes, if it is convenient.

Mrs. C. I will put her on. She will speak slowly to you. Just one moment.

Mrs. G. Mr. Rubenstein, this is Susan Goldwater. I am married to Congressman Barry Goldwater. I want you to know he is doing everything possible to help you and to help people freely emigrate from the Soviet Union.

Boris. I understand and I want to tell you that you are our one and only hope.

Mrs. G. Thank you. Do not give up hope. We will continue to try and help you. And Mr. Rubenstein, our prayers are with you.

Boris. I see, thank you very much.

Mrs. G. Thank you.

Mrs. C. Hello, Boris?

Boris. Yes.

Mrs. C. This is Phyllis, again. There is another Congressman represented here and I would like her to talk to you, too. One moment.

Mrs. S. Hello, Boris. This is Irene Slater and I am the field deputy for Congressman James Corman and I want you to know that I was in Leningrad in May. I am sorry I didn't know about you at that time. I would have loved to have met you when I was there. But I do want you to know that Congressman Corman, too, has introduced legislation to help the Soviet Jews and we are working to help all of you back there.

Boris. Send my best regards and my gratefulness.

Mrs. S. I certainly will.

Mrs. C. Boris? I want you to talk to the President of our sisterhood here at Valley Beth Shalom. Just a moment.

Mrs. B. Hello, Boris. My name is Sylvia Bernstein and I was very sorry to hear you received none of our cards and letters. We are going to continue writing to you and we have asked the other people in the congregation to write to you.

Boris. I am awaiting your letters.

Mrs. B. I know. We have written and I am very sorry you have received nothing from us but we will continue writing to you and continue doing everything we can to see that you will be able to emigrate to Israel.

Boris. I understand. I want to tell you that your letters and support are quite important to me.

Mrs. B. Yes, I understand and we will continue helping you in every way we can. We want to meet you in Israel one day.

Boris. I hope.

Mrs. B. I hope so, too. I'll put Mrs. Channing back on the phone and it is a great pleasure and honor for us to talk to you.

Mrs. C. Hello, Boris? This is Phyllis again. Is there anything else you would like to say to me?

Boris. I want to tell you that I am grateful very much to you for your help and for your kindness and your attention to my case. I want to ask you to continue your efforts in behalf of my family. It is gratifying for me to have your support.

Mrs. C. Yes, we understand perfectly. Our Rabbi is here and he would like to talk to you very much.

Boris. I am sure that you know the best way to help. I hope that you know some way for help for me and my family so we can get exit visas. It seems to me that it is important to write letters to Soviet authorities and ask them to give the exit visas. Do you understand?

Mrs. C. Yes, we are doing that. We are writing to Soviet authorities and to United States Senators and Congressmen. We are doing all that we can. And to the United Nations.

Boris. Oh, it is important.

Mrs. C. Yes, I would like the Rabbi to talk to you now.

Boris. Please, don't forget me.

Mrs. C. Oh, I won't forget you. Would you like to talk to the Rabbi of our synagogue? One moment.

Rabbi. Shalom ——

Boris. ——

Rabbi. ——

Boris. No, only English.

Rabbi. All right, English. How are you?

Boris. Thank you, fine.

Rabbi. Good. I want you to know that you have a wonderful community here at Valley Beth Shalom which is a conservative congregation in California in Los Angeles which wants very much to be of help to our people in the Soviet Union.

Boris. It is important. And I hope your help will be useful for us.

Rabbi. I know that if you can give us whatever guidance you can, whatever information you can within the limits of your freedom in the Soviet Union they'll be taken very seriously here.

Boris. I understand.

Rabbi. Is it possible for you to communicate with us by letter?

Boris. By letter, of course.

Rabbi. We have some communication already?

Boris. Do I have something yet? Of course.

Rabbi. Wonderful.

Boris. I have a lot of letters from a Norma Edelman. Do you know her? She lives in Eden——

Rabbi. Oh, from elsewhere but not from us, not from our community in Los Angeles.

Boris. Is it possible to have a letter from you? Do you know my address?

Rabbi. Yes, we have your address, I'm quite sure.

Boris. Please write me.

Rabbi. And can you also write us?

Boris. Yes, of course.

Rabbi. Very good.

Boris. But I'm not sure I know your address correctly.

Rabbi. I'll tell you what. I'm going to have Mrs. Channing talk to you and give you all that information.

Boris. I am not sure I can understand. Please write me a letter.

Rabbi. Yes, absolutely, it shall be done without question. I want to wish you Shalom—and on the eve of Hanukkah I wish you and our people happiness and joy and I hope that very soon we are able to rejoice together as a free people and as a part of a world Jewish people.

Boris. Thank you very much. Shalom—to you.

Rabbi. —. One second, please.

Mrs. C. Hello, Boris, this is Phyllis, again. I want to give you our address.

Boris. Oh, I am not sure. Please, write me the address by letter.

Mrs. C. Oh, I should write it by letter?

Boris. Yes, your address.

Mrs. C. But you don't get my letters. I have written to you and you didn't get them. I will write again, though.

Boris. It seems to me that it is useful if you can to send me a telegram with your address. It will be better.

Mrs. C. O.K. Can I give the address to you now so you can write to us, too?

Boris. I'm not sure I can understand address by telephone.

Mrs. C. O.K. I have someone here that speaks Russian and I would like her to talk to you in Russian and she can give you our address.

Boris. Yes.

Mrs. C. O.K., Boris, one moment.

Boris. Yes.

(Russian dialogue)

Mrs. C. Boris, we will write to you. We think of you. Is there anything we can send you?

Boris. You say about letter?

Mrs. C. We will send you letters.

Boris. Please. I hope I have got it.

Mrs. C. O.K., and you take care now and give our love to your wife and children.

Boris. I will.

Mrs. C. O.K.

Boris. O.K.

Mrs. C. Good bye.

Boris. ——

Mrs. C. ——

Boris. ——

## IRS INFORMATION ON CONSTITUENT SERVICE FUNDS

### HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. SARASIN. Mr. Speaker, the question of the status and treatment of contributions received by Members of Congress from their constituents to defray or help defray the cost of direct mailings, questionnaires, newsletters, and various other office expenses which are not covered by our Government allowance has been the source of concern on the part of many Members.

I presented a proposed format that I intend to use in my congressional district to the Internal Revenue Service for an official opinion. As many Members have shared information regarding their own similar voluntary district organizations, I submit the complete response I received from the IRS for the benefit of my colleagues.

INTERNAL REVENUE SERVICE,
*Washington, D.C., December 28, 1973.*
Hon. RONALD A. SARASIN,
*House of Representatives,*
*Washington, D.C.*

DEAR MR. SARASIN: This is in reply to your letter of November 29, 1973, in which you inquire as to the Federal income tax consequences that result from the creation of a fund to provide money for certain expenses, under the circumstances described below.

You state that you are in the process of formulating a "Fifth District Club" (Club) which would consist of constituents from your District who are interested in helping you defray the costs of direct mailings, questionnaires, newsletters and various office expenses not covered by your Government allowance. You indicate that you intend to put these funds into a separate bank account, which will be handled by an individual outside your staff. This individual will have the responsibility of keeping a record of all deposits and withdrawals to and from the account.

You further state that all direct mailings, questionnaires and newsletters will be sent to all constituents whether or not they have contributed to the Club. Any excess in the fund at the end of a particular year will be carried over to a subsequent year to be used for similar purposes. In addition, you envision that the annual costs which the fund will offset will be less than your annual salary.

Specifically, you ask what is the proper way for you to report the funds you receive. Also, you inquire whether the use of the funds to defray the costs of the following items will be viewed as being ordinary and necessary for the operation of your Congressional office, so as to meet the deductibility requirements of section 162 of the Internal Revenue Code of 1954.

(1) Mobile Office: Used once a week by you or a member of your staff to visit different sections of your district, to record constituent inquiries.

(2) Newsletters, questionnaires, and direct mailing pertaining to the affairs of the Federal Government.

(3) Transportation: Expenses, exceeding the amount allotted under your Government allowance, incurred by you and members of your staff for travel to and from your district.

(4) Entertainment: Including meals and special meetings for the purpose of discussing matters pertaining to the affairs of the Federal Government.

(5) Additional clerical assistance above the Government allowance of 16 staff members.

Section 61(a) of the Internal Revenue Code of 1954 defines gross income as all income from whatever source derived, except as otherwise excluded by law. Section 102(a) of the Code is one of those exclusions and provides that gross income does not include the value of property acquired by gift, bequest, devise, or inheritance. The Supreme Court of the United States has held that the term "gift" is not used in section 102(a) of the Code in a common law sense, but in a more colloquial sense. Therefore, the transfer of funds, without consideration, though a common law gift, is not necessarily a "gift" for purposes of section 102(a) of the Code. *Commissioner v. Duberstein,* 363 U.S. 278 (1960), 1960-2 C.B. 428.

In *Duberstein,* the Supreme Court reviewed the legal principles to be applied in determining whether a specific payment to a taxpayer was in fact a gift within the meaning of section 102 of the Code. The Court concluded that a gift proceeds from a "detached and disinterested generosity," "out of affection, respect, admiration, charity or like impulses," and that the most critical consideration is the donor's intention in making the payment. The Supreme Court stated that the proper criterion to be applied in determining whether a particular payment is a gift "is one that inquires what is the basic reason that explains his action in making the transfer."

The Supreme Court also concluded that if a payment proceeds primarily from "the constraining force of any moral or legal duty," or from "the incentive of anticipated benefit" of an economic nature, such a payment is not a gift within the meaning of section 102 of the Code. Following the principles set forth by the Supreme Court in *Duberstein,* the United States Tax Court has ruled that if in making a payment a donor "anticipated, whether rightly or wrongly, that some benefit (whether specifically contemplated or of some undefined nature) might result," such a payment is not a gift. *Max Kralstein,* 38 T.C. 810, 818 (1962), *acq.,* 1963-2 C.B. 4.

Based on the information submitted to this office, it appears that your constituents' contributions to the Club are made with the intention of obtaining a more efficient public servant. Such contributions are therefore made with an "incentive of anticipated benefit." Thus, we are of the opinion that contributions to the Club will not qualify as gifts within the meaning of section 102(a) of the Code, unless you are able to establish with respect to any particular payment that the donor intended to make a "gift" to you under the principles set forth by the Supreme Court in *Duberstein.* Whether a particular payment to the Club falls within the definition of a "gift" is a factual matter, and can best be determined by an appropriate office of the District Director of Internal Revenue after consideration of all the facts and circumstances surrounding a particular payment.

In addition, Revenue Ruling 73-356, 1973-36 I.R.B. 5 (copy enclosed), holds, in pertinent part, that any amount received by a Congressman for the purpose of defraying part of the cost of reporting to constituents or of seeking opinions from his constituents is a substantial benefit to him in that it offsets a portion of the cost to him of performing the duties of his office. Therefore, such amounts must be included in a Congressman's gross income under section 61 of the Code, in the year received.

Accordingly, based on the information presented, we conclude that the amounts contributed to the Club will be includible in your gross income for the year in which such amounts are received by the Club.

With respect to the deductibility of amounts expended for the purposes specified in your letter, section 162(a) of the Code provides for the deduction of all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business. Section 162(a)(2) of the Code specifically provides that ordinary and necessary (business) expenses include traveling expenses (including amounts expended for meals and lodging other than amounts that are lavish or extravagant under the circustances) while away from home in the pursuit of a trade or business.

Section 162(a) of the Code further provides, in part, that the place of residence of a Member of Congress within the State, congressional district, Territory, or possession which he represents in Congress shall be considered his home for purposes of section 162 (a)(2) of the Code. Thus, you are not away from home within the meaning of section 162(a)(2) of the Code when you are at your residence in your congressional district. However, travel and transportation expenses incurred for business purposes within your congressional district are deductible under section 162(a) of the Code.

Further, Revenue Ruling 73-356 also holds that the expenses of publishing and distributing newsletters, reports, and questionnaires sent to constituents are deductible by a Congressman under the provisions of section 162 of the Code as business expenses incurred as an employee.

Therefore, if amounts contributed to the Club are spent by you in the performance of your duties as a public official, including the expenses of your staff in furtherance of such duties, you will be entitled to claim a deduction for such expenditures under section 162(a) of the Code.

We would also point out that travel expenses incurred by you in the performance of your Congressional duties are expenses incurred by you in connection with the performance of services as an employee of the United States. Section 62 of the Code, which defines adjusted gross income, specifies the particular items that may be deducted from gross income in arriving at adjusted gross income. Section 62(2)(B) and (C) allow an adjustment to gross income for expenses for travel away from home and transportation expenses incurred by a taxpayer in connection with the performance by him of services as an employee. Since certain of your expenses which will be paid by the Club include travel and transportation expenses, those expenses paid by the Club, which meet the qualifications of section 62, are deductible regardless of whether you itemize your deductions.

Expenses incurred by a member of Congress for entertainment purposes are deductible under section 162 of the Code provided the allowance of the deduction is not considered a personal expense under section 262 of the Code and does not run counter to section 1,162-20(c) of the Income Tax Regulations, which prohibits the deduction of expenditures for such purposes as lobbying, the promotion or defeat of legislation, and political campaigns.

Further, in addition to meeting the "ordinary and necessary" business test of section 162(a), an expenditure for entertainment must also comply with the substantiation requirements of section 274 of the Code.

Section 274 of the Code provides, in part, that no deduction shall be allowed for any item with respect to an activity which is of a type generally considered to constitute entertainment, amusement, or recreation unless the taxpayer establishes that the item was directly related to, or, in the case of an item directly preceding or following a substantial and bona fide business discussion, that such item was associated with, the active conduct of the taxpayer's trade or business.

Section 274 of the Code further provides than an expenditure for entertainment must be substantiated by records or other evidence sufficient to establish the authenticity of the claim as to: (a) the cost of the entertainment, (b) the time and place of the entertainment, (c) the business purposes of the entertainment, and (d) the business relationship to the taxpayer of the person entertained.

Regarding the expenses incurred in connection with your mobile office, such expenses are deductible under section 162 of the Code provided they relate solely to the performance of your public duties as a Representative. These deductible expenses would include the costs incurred for driving and maintaining the bus.

With respect to amounts paid by the Club for additional clerical assistance, such amounts are deductible as ordinary and necessary business expenses when such assistance is rendered in connection with the performance of your official duties.

As you may be aware, under the provisions of sections 41 and 218 of the Code, an individual taxpayer is allowed a limited credit or deduction for a political campaign contribution of money made after December 31, 1971, to: (1) a national, state, or local committee of a national political party; (2) a campaign committee for its use in furthering the candidacy of an individual; and (3) an individual who is a candidate for nomination or election for his use in furthering such candidacy. Sections 41 and 218 of the Code do not, however, allow a credit or a deduction for an individual's contributions that are to be used by a political officeholder to defray the expenses of performing the duties of his office. Thus, contributions to the Club are not eligible for the Federal income tax credit under section 41 or the deduction under section 218.

You may wish to advise constituents who contribute to the Club that their contributions are not eligible for a Federal income tax credit or deduction. This advice may avoid any misunderstanding on their part since they may be of the opinion that any contribution by an individual to a political officeholder is eligible for a credit or deduction.

You should attach a copy of this ruling to your tax return for each taxable year in which the transactions covered by this ruling occur. The enclosed copy, or a machine copy, may be used for that purpose.

We sincerely regret the delay in replying to your letter and apologize for any inconvenience we may have caused you. If we can be of assistance to you in the future, please do not hesitate to call on us.

Sincerely yours,

LESTER W. UTTER,
*Chief, Individual Income Tax Branch.*

## AN ADEQUATE NATIONAL DEFENSE—MYTH OR REALITY?

### HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. WYMAN. Mr. Speaker, at the time of House debate on the Defense appropriations bill in the last session of this Congress, I said:

> I feel it to be my obligation to say, in the course of this general debate, that in the opinion of this Member of the Defense Committee, this Nation is under-armed, underplaned, undershipped, and underresearched, and that the present national defense posture and capability of the Nation is exceedingly vulnerable. Unless we get on with spending a great deal more attention to defense needs in this Congress, and increasing some of the more meaningful capabilities of our technology in this direction, we are literally endangering the safety and lives of the future generations for which in the process of government we are responsible at this hour in the offices we occupy.

Today's Wall Street Journal editorially confirms this conclusion and I am including it in the RECORD at this point because of the enormous seriousness of the situation.

The United States must remain strong militarily, oddly enough not solely for military reasons. There are demonstrable economic advantages that follow from international recognition of continued U.S. military strength. Right now, the Russian Navy is showing its flag all over the world, to the detriment of U.S. trade agreements and concessions.

When we show our flag it is usually in inferior and older ships. Most recently, reports are that American crews are less than trim and natty or well-disciplined. All of this is deplorable but also avoidable.

The editorial follows:

DEFENSE SPENDING

With the approaching release of a new federal budget, the annual debate on defense spending is already gathering. The Pentagon is said to believe it will have an easier time this year, because of the passing of the Vietnam irritant and spreading realism about the nature of the Soviet regime.

If so, it will be about time. For the sad truth is that military power is by no means irrelevant to world affairs, and that the United States' military position has been sharply eroded on nearly all fronts over the last five years. Yet these realities have been obscured by a whole series of myths.

We are told, for example, of a greedy "military-industrial complex" and an "arms-race spiral." Yet the fact is that since 1968 defense spending has been essentially static, which means that in terms of constant dollars it fell. Meanwhile, as the accompanying St. Louis Fed chart shows, civilian spending ballooned. In any such comparison, the defense sector is not bloated but starved.

The Pentagon proposals for fiscal 1975 will break out of the 1968 plateau. It proposes to spend $85.8 billion, and will also ask for a $6.2 billion supplemental appropriation for the current fiscal year. But even at that, the defense part of the budget will expand less rapidly than civilian outlays.

Meanwhile the Soviet Union has been expanding its defense establishment. Problems of secrecy and exchange rates make it hard to evaluate Soviet defense spending, but after running through various calculations, the Institute for Strategic Studies in London concludes, "the equivalent dollar costs of Soviet resources devoted to defense may well be comparable to American spending and perhaps well above it."

This is confirmed by the appearance of several new Soviet strategic weapons, by the reequipping of its tank forces in Europe, by a startling naval expansion and by its lavish support of Arab clients in their war with Israel. In area after area, the United States is falling dangerously behind.

In strategic nuclear forces, American negotiators were forced to accept inferiority in numbers and crucial throw-weight in the interim agreements on offensive weapons. The Soviet building programs were so large that without the agreements they might have increased the disparity even further. Unless the U.S. gets moving with its strategic programs, its SALT–II negotiators will face the same dismal choice.

Naval forces are particularly important to a power like the United States, which must rely on sea-lanes in nearly any military confrontation. Yet even here it has been overtaken by the Soviets, who have been historically and geographically a land power. The Institute now reports that the United States has 221 surface combat ships and 84 tactical submarines, while the Soviets have 212 surface ships and 285 submarines. By and large, also, the Soviet navy is more modern than the American one.

The resources for this Soviet buildup have come off the backs and out of the dinner plates of the Soviet people. The ability to at least match and probably outspend the United States despite a far smaller gross national product and a vastly lower standard of living tells a great deal about the Soviet regime. Alexander Solzhenitsyn tells us the same thing far more dramatically. If there is to be detente with such a regime, its absolute prerequisite is an American military posture sufficient to offset the Soviet one.

Detente probably does give us a bit of leverage with the Soviet Union; apparently the U.S. was able to exploit their need of good relations to moderate their behavior after the recent Middle Eastern war. But their adventurism in the early stages of the war shows again their tendency to be tempted by opportunity. The weakness America's European allies showed during that episode also partly reflects the decline in the American military power they once relied on for protection. As the Soviet power grows, it will be tempted more often, our allies will make further adjustments, and in times of crisis the U.S. may well have to back down in the face of Soviet expansion.

If the U.S. fails to keep a healthy military, in other words, a Soviet imperium will gradually spread over much of the globe. The survival of the United States may not be directly threatened, but the world would become a far nastier place in which to live. To avoid such an outcome the defense budget will at some point have to start upward, and this year is less likely to prove too soon than too late.

## A CONSTITUENT'S VIEWS OF THE AFTERMATH OF THE YOM KIPPUR WAR

### HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. LENT. Mr. Speaker, as we all know from various newspaper and broadcast media accounts, the recent war in the Middle East was a tragic affair which touched intimately the lives of millions of people. One of my constituents, Mr. Michael Sabin of Oceanside, N.Y., was in Israel during the war and shortly thereafter. He recently wrote to me to relate his views of the war, and I believe that he catches the personal side of this tragic event better than any media account that I have yet seen. I include a portion of his letter in the RECORD at this point:

NOVEMBER 21, 1973.

DEAR CONGRESSMAN LENT: ". . . My experience in Israel was an overwhelmingly emotional and sad story. I worked for three weeks on a cousin's moshava, the only member of my family in Europe that survived the ghettos and concentration camps. She has two sons, one in the Golan, the other on the Lebanese border. My work consisted of farm chores with cows, turkeys, in alfalfa and corn fields, irrigation, driving a tractor, etc. Planes flew overhead constantly, heading toward the front. Katyusha rockets fired from Syria fell on the settlements surrounding us, leaving casualties and destroyed buildings. I recall running for the air raid shelter four times when sirens pierced the air with the shrill call to run for cover. There are many casualties, more than the Israelis have disclosed, and certainly upwards of 2,000 dead. The emotional atmosphere is tense and nervewrecking; fathers and mothers, wives, children—all have lost and are suffering. The POW situation with Syria is intolerable. Several personal friends, whose parents are survivors of Auschwitz and other concentration camps, were killed—all young men in their early twenties. A friend, aged 18, lost his leg at Suez. The stories are typical for all of Israel and there is much sadness and mourning. The universities, which normally would have commenced 4 November are not beginning until January, and so an entire semester was lost. Israelis hope for peace, an end to the killing. Stability is longed for, as is freedom from fear.

I would like to be more cheerful; however, as you well know, the United States is Israel's sole friend and with the exception of brave

Holland and few others we all face a hostile world re the Mideast.

I do not believe in treaties alone. I truly believe that only direct negotiations with firm, defensible, guaranteed borders for Israel are the only solution. We must guarantee further that Israel will not be 'stabbed in the back;' forgive me, but I have heard of bumper stickers that read 'America needs oil, not Jews,' and immediately think of the Weimar Republic.

Your help is observed and appreciated—not only by your large Jewish constituency, but by all men and women who believe in freedom and the independent sovereignty of small peoples and nations.

We must continue military and economic aid to Israel and the release, exchange and treatment of the POWs in Syria. With loyal friends like yourself, the spark of optimism is kindled. . . ."

Sincerely,

Michael A. Sabin.

## POSTING PRESCRIPTION PRICES

## HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. ROSENTHAL. Mr. Speaker, with the support of 27 colleagues, I have today written to the Cost of Living Council requesting that it require the Nation's retail pharmacies to post the prices of the 100 most commonly prescribed drugs.

Prescription drugs are the one consumer product on the market today for which there is no retail price competition.

The Council has drafted a price posting regulation but it has run into delays, including intense pressure from the pharmaceutical industry and retail druggists.

The 28 signers of the letter are also sponsors of the Prescription Drug Price Information Act, which would order prescription price posting as well as end all prohibitions on retail prescription drug price advertising. That legislation is currently pending before the Subcommittee on Public Health and Environment of the Interstate and Foreign Commerce Committee.

The lack of adequate price information often forces consumers to spend more than necessary for prescription drugs. This is a particular hardship for the poor, the elderly, and others on low and fixed incomes.

Joining me in sending the letter to Dr. John Dunlop, Director of the Cost of Living Council, are Representatives Abzug, Badillo, Bingham, Brown of California, Burke of California, Burton, Chisholm, Conyers, Corman, Diggs, Edwards of California, Fraser, Harrington, Hawkins, Hechler of West Virginia, Koch, Metcalfe, Moakley, Podell, Price, Rees, Riegle, Roybal, Seiberling, Stark, Stokes, and Won Pat.

I am inserting the text of our letter in the Record at this point:

Washington, D.C., *January 26, 1974.*

Hon. John T. Dunlop,  
*Director, Cost of Living Council,*  
*Washington, D.C.*

Dear Mr. Dunlop: American consumers are spending some $7 billion annually on prescription drugs—about $33 for each man, woman and child—and the evidence is strong that they are being over-charged, on the average, by at least 25%. One reason for this is that while there is a huge disparity in the prices for identical prescriptions at different pharmacies in the same community, it is almost impossible to compare prices.

Surveys throughout the country have shown that pricing is grossly inconsistent, even among stores of the same chain for the same prescription. The secretive and arbitrary nature of retail prescription prices has resulted not only in a wide disparity of charges for identical drugs from store to store but even, in some instances, from customer to customer at the same store.

It is with that in mind that we are sponsoring the Prescription Drug Price Information Act (H.R. 5736 et al.). This bill would end all prohibitions on retail prescription drug price advertising and it would also order the posting of prices in all pharmacies for the 100 most commonly prescribed drugs.

We understand the Cost of Living Council has drafted regulations to require retail pharmacies to post prices of the top hundred drugs in quantities to be established by the Council. We applaud this and urge you to end any delay and go forward with promulgation of the regulations as soon as possible. We also urge that no retail outlet be exempted. To limit such regulations only to pharmacies with only 60 or more employees, as is one possibility considered, would be to exclude six out of every seven drug stores in the country.

The lack of adequate price information often forces consumers to spend more than necessary for prescription drugs. This is a particular hardship for the poor, the elderly and others on low and fixed incomes. It will become even worse with the anticipated rise in pharmaceutical prices expected in the near future as a result of the shortage of petrochemicals.

A study conducted for the American Pharmaceutical Association by the Institute for Motivational Research recommended that the association endorse prescription price posting in pharmacies because consumers want it. More than half of the 501 persons interviewed in 40 cities for the study said they would welcome price posting. In selecting a pharmacy, they said "lower price" was second only to "professional service" and by only a slim margin of 17.6% to 18.4%.

In the interest of all American Consumers, we request prompt action in this matter.

Sincerely,

—— ——.

## HON. BURR P. HARRISON

## HON. DAN DANIEL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. DAN DANIEL. Mr. Speaker, while I did not have the privilege of serving with Burr Harrison, he and I worked together on several programs of mutual interest. I was proud to call him my friend, and I shall miss him.

Burr was a man of many talents and unusual abilities. He felt keenly his responsibility to his country, and his obligation to the people he so ably represented in the House.

His family has my heartfelt sympathy in the great loss which they have suffered, and my very best wishes.

## CANARIES

## HON. H. R. GROSS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. GROSS. Mr. Speaker, the Justice Department in recent years has developed an inordinate fondness for "canaries"—criminals of one stripe or another who are willing to "sing" in return for leniency.

The outrageous extent to which the coddling of these convicts has now gone is vividly illustrated by the case of swindler Philip M. Wilson. It was reported in an excellent news story in the Wall Street Journal of January 9, 1974, and I include it for insertion in the Record at this point:

### And Now We Turn Up a Prison Industry of a Different Sort

(By Jonathan Kwitny)

When we last left Philip M. Wilson, he had just had a bit of a problem with his bank.

His bank, you might recall, was the Bank of Sark, which wasn't exactly Chase Manhattan but which had a certain charm about it. His problem, if that's the right word, was not that he became overdrawn on his checking account, but rather that he:

Ordered worthless Bank of Sark securities run off at a St. Louis printing shop. Along with a few associates, bribed an accountant into certifying a $72.5 million list of bank assets that really didn't exist. Sent an old high school buddy to England to answer inquiries, because that's where the bank was supposed to be located. And fleeced millions of dollars from bankers and businessmen by peddling the worthless Sarkian securities through a network of professional con artists.

Well, Wilson has surfaced again. This time, he has come up with a scheme showing a little imagination. And he has capped it with a twist so nervy that it makes Clifford Irving look like a shrinking violet.

It isn't too surprising that Mr. Wilson now is involved with other ex-cons in taking over an Arkansas insurance agency. And it isn't too surprising that one aspect of the deal involves an effort to sell policies issued by a little-known Caribbean-based "insurance company" run by another ex-con, an old acquaintance of Wilson's. (After all, Wilson himself once ran more than 30 "insurance companies" from a single post-office box in a St. Louis suburb, sold scores of commercial fire and casualty policies around the world and paid claims with uncashable checks drawn on, yes, the Bank of Sark.)

### THE TWIST

Nor is it too surprising that Wilson's current deal involves a purported $2.8 million asset consisting of a deed to some backwoods acres in Yancey County, N.C., last appraised for the local tax office at $12,000. And it's perfectly natural that Wilson is operating through a corporation—Maltese Holdings Ltd.—that sounds more substantial than it probably is.

What is surprising is that Maltese Holdings Ltd. does business from Room 515, 111 North Calvert St., Baltimore.

111 North Calvert St., Baltimore, happens to be the United States Courthouse. And Room 515 happens to be the U.S. Marshal's Office, which is supposed to be keeping Wilson in "protective custody" in some secret place while he serves what is supposed to be a three-year prison sentence for running the Bank of Sark and related companies, an

operation that the Justice Department called the largest mail-fraud crime in history.

The discovery by an Arkansas insurance official that Wilson has been operating a suspicious business from the U.S. Marshal's Office has been rather embarrassing to the federal government. Neither the Journal nor the Arkansas insurance official, Ernest Fennell, has been able to get much comment out of the department. "These guys are so damned embarrassed that Wilson's stealing from their penitentiary that they don't know what to do," says the Arkansas official.

Wilson and some others involved in the case are under "protective custody" rather than in jail because they struck a deal with the government to sing like canaries in return for kind treatment. There is some question about the value of any songs they have sung, but it's clear that Wilson, at least, leads a life unlike that of your average jailbird.

TO ARKANSAS AND FLORIDA

For instance, a notary public in Springdale, Ark., signed a sworn statement in connection with the insurance deal that Wilson "on this 20th day of November 1973 came before the undersigned . . . within (Washington County, Ark.). . . ." Although the marshal's office insists that Wilson hasn't been out of its custody, Larry D. Douglas, the Springdale, Ark., lawyer who employs the notary, says Wilson was indeed in Springdale signing papers.

When not in Springdale signing papers, Wilson could until recently be found in a suburban Baltimore apartment rented by his wife, Carole, also a convicted fraud artist. Although a deputy marshal in Baltimore scoffs that it's impossible that Wilson could ever have been at the apartment, the switchboard operator at the apartment says Wilson often stayed there with his wife. "I understand he commuted—he worked in Washington, I think," says the operator, who describes Wilson to a T.

Just before Christmas, however, the Wilsons vacated the apartment and left a forwarding address in Fort Lauderdale, where they own a posh condominium. The marshal's office in Washington confirms that Wilson was granted a "furlough" for the holidays.

With Wilson gallivanting around so much, it might be hard to get hold of him, in case you have some insurance needs. But his mail has been reaching him at his place of business. Just address it:

P. WILSON,
*Maltese Holdings Ltd.*
*Baltimore, Md.*

Mark it "personal," just in case.

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## TAX AND TAX—SPEND AND SPEND

### HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. ROUSSELOT. Mr. Speaker, more and more of the 86 million working Americans are realizing that approximately 44 cents out of every dollar they earn goes for local, State and Federal taxes. Resistance is beginning to build at all levels toward the irresponsibility of those—especially in this Congress—who "tax and tax—spend and spend." In the February 4 issue of U.S. News & World Report, the Warner & Swasey Co. of Cleveland, Ohio, has inserted a very constructive advertisement entitled, "Instead of meekly paying more taxes we'd better demand less spending." If ever there was an ad that the average worker will believe it is this, and the Congress of the United States should take heed. I suggest, and urge, that my colleagues read and digest this message right now.

INSTEAD OF MEEKLY PAYING MORE TAXES WE'D BETTER DEMAND LESS SPENDING

How long are you going to put up with having your taxes double in ten years? That is what they have done—and will keep on doing, as long as you permit your Federal, State and local governments to spend *410 billion dollars* a year (up 11% from the year before) *up* year after year after year.

Estimated taxes are $5070 per American household.

The cure is simple and sure—*cut spending,* especially for those pet projects whose objective is votes. There are too many government employees. There are too many government bureaus. There are too many government programs. And why should Federal civilian employees be paid an average of $11,749 a year in contrast to an all-industry wage (the people who do the producing) of $8,440?

Bitter resistance against excessive taxes is long overdue. If you agree, let's say so. *Loud and clear.*

The Warner & Swasey Company.

Corporate Offices, 11000 Cedar Avenue, Cleveland, Ohio 44106.

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## THE DEATH OF WAYNE McMURRAY

### HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. THOMPSON of New Jersey. Mr. Speaker, it was with profound sorrow and regret that I learned of the death of a distinguished newspaper editor in my home State of New Jersey, Mr. Wayne D. McMurray.

My own family and professional background have given me a deep appreciation for those who devote their lives to the profession of journalism. I use that phrase advisedly for in its true sense the dedicated journalist is as essential to our system of representative democracy as the structure of government itself.

Wayne McMurray, in a lifetime devoted to the Asbury Park Press, epitomized all that we have come to expect in a superb journalist. He was untiring in his efforts to advance individual liberties, and he devoted his own private hours to an unceasing support for his home city, his county, and his State. There is not enough space here to recite all of his contributions to the common good, but I think perhaps the one act of service which he prized above all others was his contribution as a delegate to the convention which drafted New Jersey's State Constitution. That constitution stands as a monument to all of our States and bears the mark of Wayne D. McMurray.

I am pleased to place before the House an editorial which appeared in the newspaper he served so long and so well. It reads as follows:

[From the Asbury Park (N.J.) Evening Star, Jan. 23, 1974)

WAYNE D. McMURRAY

Into the narrow vale allotted us Wayne D. McMurray crowded a life rich in service to others. As a community benefactor, a faithful friend, and a devoted husband, he steadfastly subordinated his own interests to those of his fellows. From his post as editor of the Asbury Park Press, he strove for a community and a world governed by brotherhood and freed of the oppression, corruption, greed, and hostility that have, through the ages, afflicted mankind.

Mr. McMurray rejected the devious and frequently popular bypaths toward this objective. His independence and courage accepted criticism as preferable to hypocrisy and a compromise of principle. But while his views, freely spoken, may have provoked rebuttal, there was no question of the sincerity with which they were expressed. And invariably time sustained the validity of his judgment.

In supplementing his efforts as an editor, Mr. McMurray gave generously of his time, his talents, and his resources to countless civic causes. He worked tirelessly in several posts in state, county and municipal government, and always as a volunteer. Asbury Park, in which he spent most of his life, and the Shore area commanded his special interest and he accepted every opportunity to serve them. In Monmouth College and in the Asbury Park Free Public Library, he found a means of expressing his interest in education and he contributed freely to their development.

With more than half a century of association with the Asbury Park Press, Mr. McMurray gained national recognition as an editor and publisher. He succeeded the late J. Lyle Kinmonth in his direction of The Press and he steadfastly adhered to the precepts of independence, fairness, and an objective presentation of the news upon which Mr. Kinmonth founded the newspaper. On this policy The Press has led in scores of reforms and improvements in government and in the social order.

In sensing a profound loss in Mr. McMurray's passing, staff members of The Press extend to Mrs. McMurray their deepest sympathy. They share with her, too, the satisfaction of many years of rewarding association and of the legacy of high standards that Mr. McMurray bequeathed us.

His monument will be perpetuation of these standards.

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## COMPLIMENTS FOR POSTAL SERVICE

### HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. QUIE. Mr. Speaker, many complaints are lodged against the Postal Service, but the Rochester Post Bulletin believes compliments are in order. I am inserting in the CONGRESSIONAL RECORD an editorial appearing in the December 26, 1973, issue of the Post Bulletin listing accomplishments of the reorganized Postal Service.

I commend it to my colleagues:

A PAT ON BACK, NOT CONTINUAL GRIPING DUE POSTAL SERVICE

While many people are continually giving the U.S. Postal Service hell, we'd like to give 'em a pat on the back. During the past year the Postal Service has reduced its losses from more than $175 million (fiscal 1972) to less than $13 million in fiscal 1973. That's a 92 per cent decrease!

While it still is operating in the red, it has made good progress to get into the black during its first two years of existence as a semi-private corporation.

Last March Postmaster General E. T.

Klassen told a Senate investigating committee that he, too, was "far from satisfied" with the record of the Postal Service since it converted over from the former U.S. Post Office Department. He candidly remarked that he was shocked by delivery delays and acknowledged that poor management was a significant factor in Postal Service failures. He promised to do something about it. At the same time the Postal Service is under Congressional mandate to be self-supporting by 1984. It currently gets federal subsidies to help it operate.

The annual report of the Postal Service released last week showed a reduction of more than 5,000 workers and an increase of 6.4 per cent in employe productivity because of increased mechanization and modernization of mail handling procedures.

Like everything else, inflation affects the Postal Service. The three-cent stamp survived for 26 years before giving way to the four-cent stamp in 1958. The five-cent stamp came in 1963, followed by the six-cent stamp in 1968 and by the present eight-cent stamp in 1971—which will soon be replaced by the 10-cent stamp. But the rate of increase is slower than in some other countries. In West Germany, for example, it now costs 15 cents to mail a letter. Five years ago that letter could have been mailed for six cents.

So, how fast does the mail go through? Klassen says that next-day delivery between cities within 600 miles of each other is now at about 80 per cent—the goal is 98 per cent. We think the mail service is a lot better than many critics would have you believe. The recent Christmas mailing bulge, for example, was very well handled.

Everybody can cite examples of when a letter or package arrived late. But actually it's pretty rare and considering the volume of mail handled each year (about 93 billion pieces) service is pretty darned good. The mail consumer can make it better by using ZIP codes. Klassen says ZIP-coded letters do get delivered faster than ones without the ZIP, yet 15 per cent of all the mail handled in the U.S. this year failed to bear a ZIP. And it's probably that same 15 percent of mailers who are doing the complaining.

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## "MURDER BY HANDGUN: THE CASE FOR GUN CONTROL"—NO. 64

## HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. HARRINGTON. Mr. Speaker, the tragic story of Mrs. Barbara Waldman's murder speaks forcefully for the need to implement strong gun control legislation. Yet Mrs. Waldman is only one of the 10,000 people in the United States likely to be killed in 1974 by a handgun.

A January 13 article from the New York Times, describing the brutal death of Barbara Waldman, is included below.

### Clues Sought to Long Island Woman's Slayer

Oceanside, L.I., January 12.—A police van with a loudspeaker soliciting information patrolled the neighborhood in which Mrs. Barbara Waldman was found slain yesterday.

The bound body of the 31-year-old Mrs. Waldman was found with a pair of pantyhose tied tightly around her neck, but the police said today that an autopsy has determined that she had died of a gunshot wound rather than strangulation.

Inspector Andrew Mulrain of the Nassau County homicide division said there were no suspects and no known motives. He said a police information trailer was being set up at the intersection of Mott Street and Oceanside Road in the affluent neighborhood in the hope that someone might come forward with information. According to Inspector Mulrain, the woman's husband, Dr. Gerald H. Waldman, a dentist, was questioned but was not considered a suspect.

"We know of no marital problems, no financial problems," the inspector said.

Mrs. Waldman, who was wearing a nightgown and bathrobe, was found lying next to her bed in the $75,000 two-story colonial home at 3917 Sally Lane at 11:51 A.M. by her 5-year-old son, Eric, when he returned from nursery school. He ran to a neighbor's home and the police were called. The Waldmans' **other** children, Lawrence, 6, and Maria, **7, were** at school at the time.

The house had not been ransacked.

The police said that in addition to the pantyhose around the victim's neck another pair of pantyhose had been used to tie her hands behind her back and a pillowcase had been wrapped around her head with part of it being used as a gag. She had been shot once at the base of the skull, and the bullet lodged behind her right ear.

According to a neighbor, the Waldmans had been residents here for four or five years and Mrs. Waldman was well-liked.

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## THE AUTOBIOGRAPHY OF MISS JANE PITTMAN

## HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. BRADEMAS. Mr. Speaker, I have not before spoken in the House of a motion picture but I take this time to call to the attention of Members of the House of Representatives a film that will be shown on television this week that I believe justifies particular commendation.

I refer to "The Autobiography of Miss Jane Pittman," which will be shown on Thursday, January 31, 1974, from 9 to 11 p.m., e.d.t., on stations on the CBS network.

"The Autobiography of Miss Jane Pittman," stars the distinguished actress Cicely Tyson, in the title role.

The film is based on the novel by Ernest J. Gaines and is a drama about a former slave who lives to participate in the birth of the civil rights movement.

Although the film is a fictional account of a woman who lives to the age of 110 years, the life of Jane Pittman covers a century of change in the United States that is of significance to every citizen.

Mr. Speaker, I insert at this point in the Record an excerpt from a review of "The Autobiography of Miss Jane Pittman" by the distinguished film critic, Miss Pauline Kael, in the January 28, 1974, issue of the New Yorker magazine.

The review follows:

### The Current Cinema—Cicely Tyson Goes to the Fountain

The ironic miracle of "Sounder" was that whites could respond to its black family far more intensely than they could conceivably now respond to a white family. The blacks of "Sounder" live in hardship circumstances in which their sheer endurance is a victory—their endurance and their ability to sustain their feeling for each other. In the past, American movies celebrated white-pioneer courage and endurance; now the black movies take us back to those satisfying hopeful qualities, but, for whites, with a difference. Implicit in "Sounder" and in the new "The Autobiography of Miss Jane Pittman" is a sense of moral complexity—of a redressing of the balance, of justice at work within the mythology of popular culture. What we can no longer accept about white heroes and heroines we surrender to when the characters are black. I think we absolutely need to; this has nothing to do with the formal aesthetics of a particular piece of popular culture but everything to do with how popular culture works in a society. And we have been lucky. The beautifully made "Sounder" spared us the embarrassments of maudlin emotions; and "The Autobiography of Miss Jane Pittman," which was produced for television by Tomorrow Entertainment and will be on C.B.S. on Thursday, January 31st, from 9 to 11 p.m. E.D.T. (and will run in theatres in other countries), stars Cicely Tyson and was made by John Korty, a self-effacing director who has what might be described as an aesthetics ruled by morality. His past work (such films as "The Crazy Quilt" and "Funnyman," and the TV film "Go Ask Alice") shows his principled unwillingness to push for dramatic effect; this makes him the ideal director for "The Autobiography of Miss Jane Pittman." One shove and we would say, "Oh, here it comes—more guilt piled high on us." But as "Jane Pittman" has been directed, her story, of how a black woman lived and what she went through, with major historical events seen through her eyes, has a far greater meaning than if white viewers were browbeaten into a defensive reaction. The full force of "The Autobiography of Miss Jane Pittman" is that no defense is possible, so none is called for.

#### BORN IN SLAVERY

Cicely Tyson plays a woman who was born in slavery and lived to take part in a civil-rights demonstration in 1962; the role spans Jane Pittman's life from the age of twenty to the age of a hundred and ten, and Cicely Tyson knows what she's doing every inch of the way. Her Jane Pittman does not have the Biblical strength or the emotional depth of her Rebecca in "Sounder." Jane isn't a deep woman; childless, uneducated, she's an enjoyer of life. It isn't until extreme old age gives her a privileged status that she loses her fear and becomes—briefly, just before her death—politically active. Old age brings her out in other ways, too; it's as if her life were a series of liberations, so that only at the end is she free enough to speak her mind and to crack a joke and to find herself. When she walks up to a whites-only drinking fountain in front of a Southern courthouse, and drinks from it, all of us in the audience can taste the good water.

Tyson is an extraordinarily controlled actress, and perhaps this control has some relationship to the history of black people in this country. I used to watch her sometimes in the old George C. Scott TV series "East Side, West Side," and I found her control and her tight reserve slightly antipathetic; she seemed to be holding back from us—not yielding her personality, not relaxing within the minuscule demands of the role. Now I think I can see why. It was a role in which a beautiful pinheaded actress might have been perfectly content, and her contentment might have made her seem delectable. Those secretary roles, black and white, are generally played for comedy or for sex; the black girls are plumped down in an office—to fill the quotas—but they're playing classy maids. What Tyson's strained manner in that series was saying to us was "I can't give myself to this role—I have more than this in me."

And, despite her magnetic glamour, she

wouldn't give us more than the cold efficiency of the secretary she played—which could only make a viewer slightly uncomfortable. In small, empty roles, this New York-born actress who had sold shopping bags on the streets when she was nine years old seemed aloof. She felt aloof from the roles, and she had too much in her to sell herself cheap. She still refuses to sell herself; in her performances as Rebecca and here as Jane, she never bathes us in the ravishing smile of her modeling years or her TV talk-show appearances. She has the haughtiness of the enormously gifted—of those determined to do everything the most difficult way, because they know they can. Her refusal to melt us with her smile is like Streisand's refusal to sing; there's some foolishness in these refusals, but also hard-won pride. In every breath, Cicely Tyson says to us, "I'm not going to make Jane a cute, feisty old darling for you to condescend to. I'm not going to warm the cockles of your heart. And don't treat me kindly as a great black actress; I'm an actress or nothing." She's an actress, all right, and as tough-minded and honorable in her methods as any we've got. You feel you're inside skinny old Jane's head: you get to understand her mixture of shallowness and superstition and pop culture and folk wisdom. And through knowing Jane Pittman you feel closer to a recognition of black experience in this country; at an ironic level Jane's story is the story of how it takes a hundred and ten years to make an activist out of an ordinary black woman. Tyson won't allow her beauty to carry her; she plays Jane with supreme integrity. Jane's charm seems all to belong to Jane; Tyson doesn't shove any of her own onto her. She doesn't yet have the fluidity of an actress who can turn the character into herself, and vice versa; she is still in conscious control. She hasn't made that leap to unconscious control which separates the "divine" legendary actresses from the superlative technicians. I'm comparing Tyson to the highest, because that's the comparison she invites and has earned. She isn't there, but she's on her way. She's great, but she will be even greater when she can relax and smile without feeling she's Uncle Tomming as Streisand will be a greater artist when she can accept all her gifts and use them together.

The subject of the Ernest J. Gaines novel on which "Jane Pittman" is based is so good that everyone connected with the movie seems to have respected it. There are inevitable losses. The incendiary preaching that, in the novel, leads to one character's murder has been softened, and events sometimes lose their repercussions—no doubt because a novel more sprawling in time than "Gone with the Wind" is being attempted on a TV shooting schedule and budget, to fit a two-hour slot. There are almost eighty speaking parts, and some of the casting and acting—though not blatantly bad—are nondescript. (A Cajun character certainly doesn't help; no Cajun on the screen ever does.) Yet none of this does serious damage. There's one unfortunate change. In the novel, Jane dreads a black stallion that she thinks will kill Joe Pittman (the one man she loves enough to carry his name). For photographic reasons (the sequence was being shot using day for night), an albino was used instead: the eerie white horse, with a ghastly pink look around the eyes, is mystically effective, but the color switch suggests a racial symbolism that doesn't quite fit the situation. The clumsiest addition is the device of using Michael Murphy as a journalist interviewing the ancient Miss Pittman to link the episodes; toward the end, we feel the shift to amateurishness each time he appears. But Cicely Tyson is, I think, all that a reader of the book could ask for, and her performance and the director's tact are more than enough to compensate for these flaws, and for the anachronisms and naïveté in parts of Tracy Keenan Wynn's adaptation.

### JOHN KORTY

John Korty tells the story at a satisfyingly leisurely pace, befitting a woman who accumulates a hundred and ten years. Korty is a director who has never quite come into his own; his loose, unlabored style was probably at its best in the charming, neglected 1966 comedy "Funnyman," starring Peter Bonerz (the dentist of "The Bob Newhart Show") as a member of The Committee, the improvisational-revue troupe in San Francisco. This hero is wry and self-conscious, and automatically turns human relations into put-ons; he works up whatever situation he's in into routines—his "life situations" have the rhythm of revue acts, and vice versa.

Korty didn't make a big thing of his funnyman hero; the movie just skipped along, and in places dawdled along, without solemnity. Probably Korty's movies suffered commercially from his honesty and tentativeness and his refusal to heighten emotions, but those same qualities showed to great advantage in his direction of the TV film about teen-age drug addiction "Go Ask Alice." The contrast with the usual TV director's hysterically manipulative approach made Korty's work shine. Some of Korty's virtues are dimmed in "The Autobiography of Miss Jane Pittman," because he's not working as flexibly as he did on his own movies (which he also photographed himself)—the direction here is more stilted—but the movie is still so much cleaner and simpler than just about any other movie made for TV (or any TV series show, either) that the fictional Jane Pittman has the singularity and dignity of a person in a documentary. There never was a Jane Pittman; the character is synthesized from stories that Gaines heard while growing up on a plantation in Louisiana, but, watching the film (which was all shot in Louisiana), one literally forgets (as readers of the novel did) that it is fiction. It seems to be a slightly awkward reenactment of the life of an actual person.

Beauty is almost unknown in movies shot for TV, but Korty has brought his compositional sense and his own unassertive lyricism to this mixture of folk history and agitprop. Visually, the interiors and the closeups of people making polemical speeches are only serviceable, but the exteriors and the closeups of Jane show the sane affection of an artist with no fakery about him. John Korty has no show business in his soul, and sometimes we really need to get away from the show-business hype. "The Autobiography of Miss Jane Pittman" isn't a great movie, though with more directorial freedom and a better script it might have been. But it's quite possibly the finest movie ever made for American television. Would a story about the endurance of an ancient white woman be this effective? There's no way for it to be comparable. There is probably no imaginable way that at this point in American history we could be as deeply moved by a white woman's story—no matter how much truth there was in it—as we are by this black woman's story.

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## THE NEW ROLE OF DIPLOMACY

## HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. ARCHER. Mr. Speaker, a discussion of a new approach to diplomacy was contained in a speech by Mr. Alan A. Reich, Deputy Assistant Secretary of State for Educational and Cultural Affairs, to the Houston Rotary Club. Mr. Reich stressed the significance of people-to-people diplomacy as a key to international understanding. I would like to enter Mr. Reich's remarks in the Record, as follows:

### The New Role of Diplomacy—People-to-People Contact as a Basis for World Understanding

Diplomacy has gone public. Foreign relations is no longer the exclusive domain of the professional diplomat. In almost every country of the world, foreign affairs communities, in varying degrees, have opened their ranks to public participation. It is a privilege to meet with the Rotary Club of Houston, which, I understand, is the largest Rotary Club in the world, because you play an important role in Houston's international outreach and leadership.

Technological advances have made nuclear war a threat to mankind's existence. Fortunately, new initiatives and agreements in the disarmament field offer hope that the deadly cycle of weapons build-up may be broken. Prospects for increased government-to-government cooperation look better now than at any time since World War II. The great powers are focusing on areas of common concern and not only on their differences. The results appear promising.

But while technology has made nuclear annihilation possible, it also has sparked a revolution in communication and transportation which brings increasing numbers of people in all walks of life into direct, open, and immediate contact. International diplomacy, traditionally the task of men behind closed doors, has become a public matter. Many foreign offices no longer confine themselves to speaking with other foreign offices for peoples; they help and encourage peoples to speak for themselves across national boundaries. People-to-people communication has become a dominant force in international relations throughout the world. It also exemplifies the new Federalism in which the leadership and action are carried out at the local level.

I shall talk today about the importance of people-to-people diplomacy, the interest of the State Department in furthering it, and comment on the significant contribution of your Rotary work.

Many Americans ask why we should concern ourselves with international problems when we have so many serious domestic concerns demanding attention. There are several good reasons for our getting "involved with mankind": First of all there is common charity. Then there is a sense of common humanity. In addition, there is common sense. Modern transportation and communications, not to speak of modern weapons, have brought our neighbors' problems to our doorstep. We have no choice but to become involved, because if the problems next door are ignored, they soon become our problems.

Poverty, illiteracy, hunger and disease recognize no nation's borders and travel under no country's passport. It is not a matter of the world's poor getting poorer while the rich get richer. The poor are getting richer, too. But their lot is improving so slowly that the difference—the gap—between rich and poor is widening, not closing. Unless some way can be found to reverse this trend, those who are better off must one day suffer the horrible consequences. Neither we nor our children will have the luxury of working on our domestic problems if we do not succeed in bringing about a climate of peaceful cooperation throughout the world during the next few years. Whether we cooperate with our international neighbors because it is good, or right, or necessary, we must get on with it while we are improving the quality of life at home. We can also take some solace in knowing that the job is not ours to do alone. Many other nations share with us the desire and the capacity to help close this gap between the have and have-not peoples of the world. The facts of international life today are that common sense and common survival dictate common action to solve common problems.

As societies and their problems have become more complex, more and more people are educated in international affairs and have become concerned citizens. Mass media reach and stimulate increasing numbers of people. The number of individuals and institutions that influence major decisions in every country is growing. This is true in international as well as in domestic matters.

The geometric increase in citizen involvement in world affairs has special significance for the diplomat. It is a fundamental, irreversible, and irresistible influence for peace. Nations are less likely to deal with their differences in absolute terms when their citizens communicate and cooperate with each other freely and frequently.

When people-to-people bonds and communications networks are more fully developed, there will be a great readiness to communicate, to seek accommodation, and to negotiate. The likelihood of international confrontation will diminish, and prospects for peaceful solutions will be enhanced. This rationale governs the interest of the State Department in the furtherance of meaningful people-to-people exchange.

In the past few years, social scientists have increasingly studied the relevance of informal nongovernmental communications activities to matters of war and peace. Research scholars such as Dr. Herbert Kelman at Harvard University are attempting to develop a more scientific base for these transnational cross-cultural communications activities. Their research suggests that the existence of informal communications tends to reduce the level of tension when conflicts of interest occur; they contribute to a climate of opinion in which conflicts may be negotiated more effectively. Second, their research indicates that informal relationships create a greater openness in individual attitudes toward other nations, peoples, and cultures; these predispositions also lead to greater readiness to communicate and to resolve differences peaceably. Third, social scientists tell us that international cooperation and exchange contribute to world-mindedness and to an internationalist or global perspective on what otherwise might be viewed either as purely national or essentially alien problems. Finally, international people-to-people relationships help develop enduring networks of communication which cut across boundaries and reduce the likelihood of polarization along political or nationalist lines.

### DEPARTMENT-SPONSORED EXCHANGES

When you think of the State Department's conduct of our international affairs, the exchange-of-persons program does not come immediately to mind. It is, nonetheless, a significant and important activity of the Department. The Bureau of Educational and Cultural Affairs works constantly and quietly to improve the climate for diplomacy and international cooperation. The exciting, challenging job of the Bureau is to utilize its modest funds and manpower to reinforce the work of American individuals and organizations who want to help construct, a little at a time, the foundation of better relationships with the rest of the world. It also coordinates, as necessary, the activities of other government agencies with international exchange programs in substantive fields, such as health, education, social welfare, transportation, agriculture, military training, and urban planning.

Having come not too long ago from the business world, I have a great appreciation for what is being done for an investment of some $45 million annually. There are several major elements of the Department's exchange program:

The Fulbright-Hays exchange program over 25 years has engaged more than 100,000 people in academic exchanges. Annually, some 5,400 professors, lecturers, and scholars are exchanged to and from the United States.

The international visitor program brings to the United States about 2,000 foreign leaders and potential leaders annually for one- or two-months orientation programs. This includes nonacademic leaders and professionals, from Cabinet officers to journalists. One out of every 10 heads of state in the world today has been a State Department exchange visitor, as have some 250 Cabinet ministers of other nations.

The Department of State sends abroad annually several leading performing arts groups and athletic stars; for example, in the past year under this program the San Francisco Symphony Orchestra and the New York City Ballet toured the Soviet Union; one of America's leading popular singing groups, the Fifth Dimension, performed in Eastern Europe; Robert Lee Elder and the Morehouse College Glee Club visited Africa; and the United States basketball and swimming teams just returned from tours to the People's Republic of China.

Some 150 prominent U.S. lecturers went abroad for six-week lecture tours in 1972.

Nearly 500 United Nations specialists selected by their home countries and funded by the U.N., are programmed annually by the State Department through 30 other government agencies for six- to nine-month training programs in the United States.

The commitment to these programs is substantial. They are administered, in cooperation with thousands of volunteers and many private organizations, by Bureau personnel in Washington and at our reception centers in Honolulu, Miami, New Orleans, New York, and San Francisco. Abroad they are administered, in cooperation with the United States Information Agency, by the cultural affairs officers in our embassies. In 50 countries there are binational commissions which have responsibility for supervising the academic exchange program.

The State Department's small but catalytic exchange-of-persons program with 126 countries stimulates constructive communication among leaders and future leaders in many fields here and abroad. It creates durable reservoirs of information, understanding, and empathy. It develops rewarding and lasting contacts of key people of other countries with their counterparts here.

### PRIVATE SECTOR PARTICIPATION

These programs depend heavily on the willing cooperation of countless private individuals and organizations throughout the United States. Their response has been outstanding. The Department contracts with a number of organizations to assist in carrying out these activities. For instance, COSERV—the National Council for Community Services to International Visitors—is a network of 80 voluntary organizations throughout the United States which enlists some 100,000 Americans to provide hospitality and orientation for international visitors. They serve voluntarily because they believe in the importance of their work to strengthen international understanding. This makes an indelible impression on the foreign visitors they serve.

You have one of the truly outstanding chapters of the COSERV organization right here in Houston—the Houston International Service Committee.

Another organization, the National Association for Foreign Student Affairs, counsels many of the 150,000 foreign students now studying in American colleges and universities. The Institute of International Education and several private programming agencies help carry out the Fulbright and international visitor programs. I am delighted both these organizations are represented here today.

We in the Department of State are aware that our programs represent only a portion of the total private-public participation in exchanges aimed at furthering international mutual understanding. In addition to service organizations, professional associations of doctors, lawyers, journalists, municipal administrators, and others link their members with counterparts throughout the world. More than 30 American sports organizations carry on international programs involving their athletes in competition, demonstrations, and coaching clinics here and abroad; several youth organizations conduct international exchanges involving nearly 5,000 Americans and foreign teenagers annually. Numerous foundations, businesses, and institutions throughout America facilitate the private studies of many of the nearly 150,000 foreign students who come to study in the United States annually and approximately half that number of Americans who study abroad each year.

Private American performing arts groups tour other countries; reciprocal opportunities are offered to counterpart groups from abroad. The People-to-People Federation and its various committees actively promote and carry out meaningful exchanges; the sister city program of the Town Affiliation Association links 430 American cities with communities in 63 countries of the world. In the Partners of the Americas program, 41 U.S. states are linked in two-way exchange programs with Partner states in countries of Latin America.

I am sure many of you here today are also involved in Houston's sister city programs, which link this city with not just one but *four* communities in the Far East, Europe and Latin America. These sister cities include Taipei, the capital of the Republic of China; Chiba City in Japan, Huelva, Spain; and Veracruz, Mexico.

Before we undertook to encourage new exchange activities in the private sector recently, we asked the cultural affairs officers in our Embassies around the world whether they wanted an increase in exchanges by private groups. They were also asked whether these activities further our long-term purpose of increasing mutual understanding with their respective countries. Almost without exception the posts replied that they want increased exchanges. I have just returned from USSR and Poland; our ambassadors there are optimistic about prospects for new contacts with Eastern Europe.

They want them to occur both to and from the United States. They confirmed that these activities contribute to removing barriers to understanding and to forming durable cooperative relationships.

Last year the Bureau of Educational and Cultural Affairs set up a special office to respond to the needs of private organizations seeking to participate in international person-to-person programs. This Office of Private Cooperation, on request, helps private organizations to become active internationally.

### THE CONTRIBUTION OF SERVICE ORGANIZATIONS

In government and in the private sector, there is much to be done. Service organizations, such as Rotary International, through its people-to-people programs, are doing an outstanding job. Rotary's international youth exchange, involving 700 youths throughout the world annually, is a model program with considerable impact.

The Rotary Club matching program, which links Rotary Clubs in 150 countries with counterpart clubs for direct Rotarian-to-Rotarian relationships and shared service projects, is equally impressive. Rotary's world community service program has helped people throughout the world. Through Rotary International's small business clinic program, many individuals in less developed countries have been helped to self-sufficiency and community contribution.

Two other elements of the overall Rotary International outreach are especially meaningful. First, the mere existence of Rotary joining 750,000 leaders around the world is a potent force for mutual understanding. As your new Rotary International president, William C. Carter, stated at the Lausanne Congress last month, "No country or empire in the world ever had in its embassies and consulates, so many outlets as Rotary International has in its 15,659 clubs in 150 countries and geographical areas of the world." Rotary is made up of leaders from all segments of society; this fraternal relationship—professional to professional, businessman to businessman, and so on—generates good will among millions throughout the world.

Another service which Rotary Clubs perform is the furtherance of international person-to-person relationships by others in their communities. In visits throughout the United States, I have been impressed with the extent to which Rotary and other service clubs have initiated and developed sister city affiliations, people-to-people exchanges, international hospitality programs, and international activities of local performing arts and sports groups. These activities contribute to strengthened bonds between participating local groups and their counterparts in other nations.

An unusual opportunity to bring more people into these activities appears on the horizon as we approach our nation's Bicentennial Year in 1976.

In announcing the Bicentennial "Invitation to the World" recently, President Nixon stressed the importance of enhancing the quality of peace through people-to-people contacts aimed at reducing the fear and ignorance which have divided mankind down through the ages, and at fostering habits of trust and patterns of cooperation.

To serve these international goals the Bicentennial can provide widespread opportunities for cross-cultural communication; foster better understanding among the world's people of the nature and purposes of American people as evidenced both in the initial American Revolution and in the continuing revolution of today; foster similarly a better understanding among Americans of the ideals and objectives of other peoples; and, foster among all peoples greater recognition of the interdependence of nations.

I have been asked by leaders of private organizations what they might do to increase international understanding. Frankly, I cannot imagine a more significant organizational outreach, either in concept or in program, than that of Rotary International.

I would urge Rotary and other organizations to do more of the same—demonstrating so well the capacity for commitment of the American people in solving that most important of all human problems, the achievement of a sustained world peace, by sponsoring exchanges, providing community leadership in international programing, helping peoples of other nations to become less dependent, and strengthening international ties among key individuals and groups. Specifically, I urge you to undertake in whole or in part the following 12-point program:

1. Expand home hospitality and community orientation programs for foreign students and international visitors (including professional, business, diplomatic, military and government leaders).

2. Develop programs for the international alumni of Houston area universities and colleges.

3. Strengthen your sister city programs and affiliate with a new sister city.

4. Expand youth exchanges and community programs for international students.

5. Internationalize your community involvement by affiliating with an appropriate international organization in cooperation with the U.S. National Commission for UNESCO.

6. Participate directly in and support the international exchange programs of the People-to-People International and of the People-to-People Sports, Music, Handicapped and other exchange committees.

7. Internationalize your state and local American Revolution Bicentennial Commemoration programs as they are planned and implemented.

8. Invite foreign professional counterparts and students to conferences and seminars.

9. Help expand the international public service activities of Houston corporations operating internationally.

10. Form international institutional linkages affiliating universities, hospitals, rehabilitation centers, schools, libraries, and museums for exchange relationships.

11. Strengthen the Partners of the Americas Program linking Texas and Peru in a continuing cross-cultural exchange program.

12. Maximize the goodwill generated by ensuring public visibility for these activities both here and abroad.

In addition, I hope you will continue your community-wide cooperative efforts, now under way, to further Greater Houston's contribution to world understanding. Many other organizations represented here today will find their place in such a program. Under the leadership of your two fine committees, Houston could, as you have in so many other areas of human concern, provide a model for the nation in expanding meaningful people-to-people relationships. As you move ahead, please do keep us informed; come to Washington and share your ideas with us. It is very exciting. We might be able to help.

In these few minutes I hope I have helped increase your understanding of U.S. cultural relations with other nations of the world, why it is important, and what your government is doing about it. I also hope you find these suggestions useful.

On behalf of the official foreign affairs community of the United States, I extend my thanks to the Houston Rotary Club and all of you here today, not only for improving the climate for diplomacy, but for your individual and collective leadership in helping to build the human foundation of the structure of peace.

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## APPROPRIATION VOTES

## HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. OWENS. Mr. Speaker, I am enclosing for the RECORD a comparison between congressional changes in the President's 1974 budget and the changes which would have resulted if all of my votes on appropriations had prevailed:

### CONGRESSIONAL CHANGES

These figures represent Congressional changes from budget requests (on budget authority) that were submitted by the President to Congress. My personal voting record on fiscal legislation is included. Note the Congress cut $3.3 billion from Presidential requests and that I voted to cut an additional $5.3 billion.

| Bills | Congressional changes in 1974 budget authority [in thousands] | Wayne Owens, appropriations votes, cut or add |
|---|---|---|
| Appropriation bills: | | |
| Labor-HEW | +$1, 376, 843 | +$1, 309, 013, 000 |
| HUD-Space-Science Veterans | +439, 047 | +928, 501, 000 |
| Supplemental, 1974 | +168, 941 | +4, 245, 000 |
| Agriculture | +108, 116 | −133, 813, 000 |
| Interior | +72, 770 | −4, 877, 000 |
| Public Works | −8, 066 | −81, 074, 000 |
| District of Columbia | −15, 281 | −5, 281, 000 |
| Par value of gold supplemental | −47, 000 | −47, 000, 000 |
| State-Justice | −56, 889 | −82, 134, 000 |
| Legislative | −71, 961 | −16, 900, 000 |
| Transportation | −112, 286 | −126, 801, 000 |
| Treasury-Postal Service | −140, 156 | −244, 340, 000 |
| Military Construction | −286, 039 | −355, 810, 000 |
| Foreign assistance | −1, 212, 483 | −3, 633, 912, 000 |
| Defense | −3, 535, 793 | −6, 149, 414, 000 |
| Subtotal, appropriation bills | −3, 320, 237 | −8, 619, 597, 000 |

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## MARINAS FIND FUEL AVAILABLE

## HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. LEHMAN. Mr. Speaker, over the last months as we have struggled with the energy crisis some businesses have suffered more than others. The boating industry is one of these.

Not only has the lack of supplies of construction materials hurt, but inaccurate reports of marina gas shortages are scaring boatowners away from using their vessels. I hope this article from the Washington Post of January 27 will put the gasoline shortage question in its proper perspective:

### MARINAS FIND FUEL AVAILABLE

(By Aubrey Graves)

Boatmen in Florida are having little or no trouble getting gasoline and fuel oil, according to a survey just completed by the Boating Information Council.

Most of the 30 marinas contacted reported they are meeting the needs of the majority of boats stopping at their fuel docks. While their "official" allocation levels are averaging 90 per cent of their 1972 volume, most of the dockmasters said they were in fact being supplied with nearly all the gasoline they need.

Diesel fuel appears to be in slightly shorter supply, with some marinas limiting transient customers to 30 or 50 gallons. Only two marinas reported they are restricting sales of gasoline.

The amount of fuel burned in boats drops sharply during winter months of course, and the availability of fuel in the Sunshine State at this time of year does not necessarily reflect conditions that will prevail nationwide this summer.

Meanwhile, the Federal Energy Office has published its contingency rationing plan that could be put into effect should the gap between supply and demand become too great to manage through voluntary conservation measures. It would make available 100 per cent of the current requirements for agricultural and energy production, and for emergency, sanitation, telecommunication and passenger transportations services.

After these essential services and business needs have been satisfied, the remaining fuel would be distributed through normal retail channels to private users "on an equitable basis." There would be no restrictions on boating or any other personal use.

Retailers would be entitled to receive the same amount of fuel they received in 1972, on a monthly basis. The FEO estimates that retailers would have about 20 per cent less than their first-quarter requirements in 1974 would have been if there had been no shortage.

Anticipating that the public will continue present voluntary conservation measures, the BIC estimates that marinas should have available in 1974 at least as much gasoline as in 1972.

The FEO is relying on historical patterns of gasoline consumption as a basis for allocating supplies to user classes. In 1972, 72 per cent of the total gasoline was sold for use in private vehicles; 25.7 per cent was consumed by business and commercial users, and the remaining 2.3 per cent was sold to governmental units.

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## THE GOLDEN YEARS—CAN WE NEGLECT THEM?

### HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. ROUSH. Mr. Speaker, today I would like to make some comments on the implementation of the law to increase social security benefits. The 93d Congress is fast becoming a senior citizen Congress, in a comparable manner that the 89th Congress was considered an educational Congress because of major education legislation enacted and the 92d Congress was the environmental Congress, because of the major environmental impact legislation pursued. In this Congress, we have made major leeway for our senior citizens.

In April of 1973 we passed the older Americans comprehensive services amendments to provide for the continuation and strengthening of the programs authorized under the Older Americans Act of 1965. This is now Public Law 93–29. The last of June, we extended the Railroad Retirement Act, to liberalize eligibility requirements for railroad retirees and extend benefit increases. And, most importantly, we have been able to successfully continue to build on a base that was established in the 92d Congress surrounding the social security system.

Social security retirement and disability benefits have been increased 41 percent since the beginning of the 92d Congress in January 1971. Yet, so has the cost of living, and it continues to accelerate. When the House Ways and means Committee issued its report on H.R. 11333, the bill that has become Public Law 93–233, they noted that between July and November 1973 the Consumer Price Index had "risen at a seasonally adjusted annual rate of 10.3 percent and the food components of the index has risen at a seasonally adjusted annual rate of 28.8 percent."

The increased benefits are vital for the elderly in our Nation, and I would like to reiterate the important groundwork laid since 1971 for the legislation that we have enacted this year.

In March of 1971, the 1st session of the 92d Congress, the Congress provided a 10-percent across-the-board increase in old-age, survivor, and disability benefits, retroactive to January 1, 1972. Then in June of 1972, we granted another across-the-board increase in benefits, this time established at 20 percent.

The major social security legislation enacted in October 1972, of the 92d Congress, H.R. 1, included an increase in the retirement test of social security recipients, another needed improvement in the social security law. Increased to $2,100 from $1,680 was the amount that a social security beneficiary under age 72 could earn and still receive full social security benefits. We were able to liberalize the retirement test even further in June 1973, by increasing the limit on other earnings before social security benefits are reduced to $2,400 from $2,100.

A major breakthrough in the passage of the legislation to increase social security benefits 20 percent—Public Law 92–336—was the provision in that legislation authorizing an automatic increase in social security benefits and taxable wage base whenever the cost of living rose more than 3 percent in any calendar year, beginning with calendar year 1975. But because the cost of living has risen so much this year, making it increasingly difficult for those dependent on social security benefits, particularly for those individuals whose sole source of income is the social security check they receive each month, the Congress felt that it was necessary to enact legislation that would, in effect, step up the effective date of the cost-of-living increment provided in Public Law 92–336. With the many, many letters I have received urging my support of this legislation, I did not feel that the Congress could abandon the needs of the elderly. One constituent writes:

> I think the Social Security for the old should be increased. No more than they get they just about eat bread and beans.

This past June, we were able to pass legislation that did step up the effective date of the cost-of-living increase in benefits. Unfortunately, because of administration threats to veto the legislation as inflationary, we had to postpone the increase until July 1974. At that time, a 5.9 percent increase in benefits was to be advanced to social security recipients.

Later, however, the Senate went further by increasing social security benefits by 7 percent, as well as stepping up the effective date immediately upon enactment. Superseding this is the bill that has recently become public law in which we have been able to provide for an accumulative 11-percent increase for beneficiaries.

Unfortunately, again we had to delay the first part of the increase until March—reflected in the social security check beneficiaries received in early April. A 7-percent increase will be granted in March, with the additional 4 percent provided in June—the increase reflected in the check received early July—of that same year.

None of the advancements in the social security program has been easily accomplished in this Congress. In spite of inflation threats, the Congress felt that the elderly not only deserved special consideration but hardly contributed to the inflationary boom on the small social security benefits received. Rather, the huge foreign assistance and defense requests seem to contribute more to inflation than a relatively small increase in social security benefits for survival purposes. We cannot afford to neglect the needs of the elderly in this Nation. As another constituent aptly puts it when referring to social security:

> I am in my "golden years," but feel they should be called the "trash pile years" because I am treated like a trash pile.

What a tragedy that any American should ever feel like that. We should resolve that we shall never permit that to happen.

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## STRONGER ENERGY DATA REPORTING AMENDMENT NEEDED TO FEDERAL ENERGY ADMINISTRATION ACT

### HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. DINGELL. Mr. Speaker, I propose to offer an amendment to the bill, H.R. 11793, the legislation establishing the Federal Energy Administration, in order to make the reporting provisions of that bill conform exactly to the reporting provisions adopted on the floor of the House last month in connection with the Energy Emergency Act, provisions which were accepted by the House and Senate conferees.

The present reporting provisions in the bill, H.R. 11793, are an abomination, as noted by my colleagues on page 48 and 49 of House Report 93–748.

I will point out that hearings I held only a few days ago, in my Subcommittee on the Activities of Regulatory Agencies of the Select Small Business Committee, the Chairman of the Federal Power Commission endorsed by reporting amendment and Mr. Sawhill, Deputy Administrator of the Federal Energy Office, testified that he could find nothing substantively wrong with it. He certainly did not endorse the blanket confidentiality provisions contained within H.R. 11793, the effect of which is to deprive the Congress, the public, and most Federal agencies of needed energy data.

The confidentiality and reporting provision of H.R. 11793 can only be described as "the oil companies' dream."

Amendment to H.R. 11793 as reported on December 28, 1973:

1.(a) On page 34, line 22, strike "(c)" and insert therein "Sec. 16." (b) On page 35, strike all beginning on line 11 through the period on line 21.

2. Strike all beginning on line 7 of page 33 through the period on line 21 of page 34, and insert therein the following:

### REPORTS ON NATIONAL ENERGY RESOURCES

"Sec. 15.(a) For the purpose of providing to the Administrator, Congress, the States, and the public, to the maximum extent possible, reliable data on reserves production, distribution, and use of petroleum products, natural gas, and coal, the Administrator shall promptly publish for public comment a regulation requiring that persons doing business in the United States who, on the effective date of this Act, are engaged in exploring, developing, processing, refining, or transporting by pipeline any petroleum product natural gas, or coal, shall provide detailed reports to the Administrator every sixty calendar days. Such reports shall show for the preceding sixty calendar days such person's (1) reserves of crude oil, natural gas, and coal; (2) production and destination of any petroleum product, natural gas, and coal; (3) refinery runs by product; and (4) other data required by the Administrator for such purpose. Such regulation shall also require that such persons provide to the Administrator such reports for the period from January 1, 1970, to the date of such person's first sixty-day report. Such regulation shall be promulgated thirty days after such publication. The Administrator shall publish quarterly in the Federal Register a meaningful summary analysis of the data provided by such reports.

"(b) The reporting requirements of this section shall not apply to the retail operations of persons required to file such reports. Where a person shows that all or part of the data required by this section is being reported by such person to another Federal agency, the Administrator may exempt such person from reporting all or part of such data directly to him, and upon such exemption, such agency shall, notwithstanding any other provision of law, provide such data to the Administrator. The district courts of the United States are authorized, upon application of the Administrator, to require enforcement of the reporting requirements of this section.

"(c) Upon a showing satisfactory to the Administrator by any person that any report or part thereof obtained under this section from such person or from a Federal agency would, if made public, divulge methods or processes entitled to protection as trade secrets or other proprietary information of such person, such report, or portion thereof, shall be confidential in accordance with the purposes of section 1905 of Title 18 of the United States Code, except that such report or part thereof shall not be deemed confidential for purposes of disclosure to (1) any delegate of the Federal Energy Administration for the purpose of carrying out this Act, (2) the Attorney General, the Secretary of the Interior, the Federal Power Commission, or the General Accounting Office when necessary to carry out those agencies' duties and responsibilities under this and other statutes, and (3) the Congress or any Committee of Congress upon request of the Chairman. The provisions of this section shall expire, as provided in section 19 of this Act."

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## IOWA FUTURES CONFERENCE

## HON. JOHN C. CULVER

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. CULVER. Mr. Speaker, a very hopeful development which has occurred over the past year in my State of Iowa has been the launching of a citizens' effort on Iowa's future. I have long espoused such an approach, crystallizing around and looking toward a future conference. Happily the Iowa Legislature saw merit in the idea and gave it authorization. Subsequently the Governor set it in motion by the appointment of a nonpartisan task force headed by President Willard Boyd of the University of Iowa.

On January 13 the Governor's Conferences on Iowa in the Year 2000 were set in motion. Over a statewide network of TV stations an excellent hour-long special on Iowa's future, narrated by Harry Reasoner, was shown. In anticipation of this event, President Boyd on January 8 delivered an address before the joint service clubs in Iowa City.

Mr. Speaker, Dr. Boyd's remarks highlight the objectives of Iowa 2000 and convey the ways in which it is hoped to engage the energies and participation of Iowans as well as the broadest possible spectrum of private groups and organizations.

I consider this future program in Iowa one of the most heartening and promising initiatives which is pertinent also to other States and the Nation. I include President Boyd's address in the Record, as follows:

### Address of President Willard L. Boyd, January 8, 1974

We leave the old year with a greater sense of failure than accomplishment, and we enter the new year more filled with apprehension than confidence. In a recent poll, a majority of Americans agreed that, "There is something deeply wrong in America." This attitude cuts across economic and regional lines. The major problems identified by those surveyed were economic problems and integrity in government. Forty-five percent of those responding also believed that the quality of life in the United States has deteriorated in the last ten years compared with thirty-five percent who feel it has improved. Nevertheless, the survey showed that citizens generally support the basic system of government in this country.

Unlike the past, we speak more today of failures than successes. It is not surprising, therefore, that MIT is now offering a course on failure as a dominating theme in society. That course attempts to explore the causes and effects of failure and considers ways to cope with failure. Like everything else, failure is complex and is often merely the prelude to success.

In 1974 we are all concerned about the future—the future of this community, this state, this country, and this planet. We must be concerned with both the short and long-term future. This point was recently stressed in a congressional hearing by John Culver when he said that the new mayor of New York City will have "little influence during the course of his entire term as to the shape and direction of life in that city because the major decisions have already been set in motion by actions taken by his predecessors."

It is not easy to take the long view of events which are immediate and close to us, especially those events which involve us personally and directly. One of the special difficulties faced nowadays is to reach the wisest possible long-range decisions within the pressure cooker of today's expediences. We sometimes overdramatize the present to the detriment of the future. Virtually all current problems are described as crises which must be resolved immediately. One cannot be as confident as one would like that contemporary solutions will stand the test of time.

In a period of cynicism in our society, two movements now exist for the rekindling of American values and goals. These are the observance of the national bicentennial in 1976 and the accelerating number of future conferences being held throughout the country. Next Sunday, January 13, 1974, in response to a request from the General Assembly, Governor Ray will launch the Governor's Conferences on Iowa in the Year 2000. On that evening the state's seventeen television channels and one in Omaha will carry a hour-long special program on Iowa's future, narrated by native son Harry Reasoner. You will be able to participate in that television program through a questionnaire which will appear in your Sunday newspaper. The television program is an invitation to you to consider your individual and our collective futures. Between now and July, there will be opportunities for organizatonal, community, regional and state discussions.

The subject matter of these discussions is often described as "futurism." Futurism is an attempt to look beyond the "here and now" to the "then and there" so that today's decisions will not limit tomorrow's opportunities. The objectives of these discussions are to create state-wide awareness of the factors and trends affecting the future of Iowa, to identify the major problems which Iowa will face in the near- and long-term future, and to suggest goals for Iowa and strategies for achieving goals. In pursuing these objectives, it is necessary to recognize that government is not the sole agency for change in Iowa. There must also be concern for the role of other institutions, organizations, and groups as well as for the role of individual citizens. The purpose of these discussions is to involve as many Iowans as possible in order to raise the "future" consciousness of more citizens. This is a less traditional approach than that of the "blue ribbon" committee. The outcome will be less specific, but more pervasive, since larger numbers of people will be involved.

And discussion of the future must of necessity be speculative. We are confronted with value issues as well as factual questions. Circumstances constantly change, and yet, as Thoreau said, "Go where we will, we will discover infinite changes in particulars only, not in generals."

In contemplating our future, we must be mindful of some generalities. First: No longer can we rely on "growth" as the means of solving all our problems and achieving all our objectives. This is certainly clear in education, and it is becoming equally clear in other areas. A stabilized situation is not necessarily bad, but it does require different approaches.

Second: Even though society and nature are never in perfect equilibrium, their interdependencies require that we look at them as a whole and not merely at their individual parts. We need to be generalists as well as specialists. Despite all our new knowledge and all the experts we have prepared, we have not yet solved the complex problems of society.

The sad truth of the knowledge explosion is that it has only taught us more about the individual parts of society and nature and has greatly obscured the total view.

Third: Since the end of the Second World War, the peoples of the world have been seeking to achieve the human rights enunciated by the leaders of the free world during that conflict. Our times have stressed individual rights in developed countries as well as developing countries. This concept of rights extends to civil, political, social, economic and cultural aspirations. This means that those who have not previously participated will participate in the future. There will be more points of view and aspirations to reckon with, and consensus will be more difficult to achieve.

Whatever view we may hold as individuals toward the issues of the time—war, environment, poverty, discrimination—all of us should recognize the great hope for the years ahead which lies in the very fact of spirited disagreement on these matters. For out of the disagreements will come new consensuses. Consensus may come quickly on some issues; on other issues its arrival may be considerably delayed. But in the process of searching for new agreements, new patterns, new approaches to the solution of urgent problems of many kinds, the free society is strengthened and moved forward.

Although social strife can be discouraging, we should never forget that this same strife reflects the living spirit of our society. It is that spirit which is the basis for hope. We have it in abundance. Iowans, according to Meredith Willson's "Music Man" can "stand touching noses for a week at a time and never see eye to eye." How much better off we are than a society in which no one cares enough to differ—or a society in which no one *dares* to differ."

I have mentioned only a few of the generalities and none of the particularities facing us. Our present and our future are fraught with countless difficulties—but so was our past. Were conditions more settled and the future more predictable in 1776 than today? If it is possible for us to think backward as far as 1948, is it not also possible for us to think forward equally as far as 2000? The Bicentennial will celebrate the adoption of a revolutionary concept of government which was oriented toward the future and which has coped with all manner of problems in the past 200 years, emerging from each period of crisis to move on to more remarkable achievements.

I believe that the basic key to the solution of society's future problems lies in our broader acceptance of individual responsibility for what is to happen to our community, our state, our country, and our world. It is not enough that we simply express willingness to leave the decisions in the hands of those holding positions of special responsibility in the society. The individual, too, must be responsible, and must act in intelligent and persuasive ways as a part of every community to which he or she belongs.

We are human, and we have to learn to sharpen both our understanding of the human society and our determination to serve the causes which need to be served.

As individuals, each of us tends to employ a kind of double standard in judging our own behavior, by comparison with the behavior of other people. Usually the standard we apply to others is higher than the one by which we judge ourselves. "Do as I say, not as I do!" Somehow, we find it much easier to be objective about other people than to be similarly cool and detached in our self-appraisal of our own thoughts and actions.

To make the climate for community action even more difficult, a great many of us tend to approach our associates, and our institutions, from a viewpoint which is negative, rather than positive. Even though we may consider them good people and good institutions, we nevertheless shift the burden of proof of their goodness to them. We even take a kind of perverse satisfaction at any evidence of their flaws. (We ourselves, of course, do not have flaws!) Have you ever experienced a special kind of satisfaction in hearing or reading something derogatory about this or that person, or institution—the more important the person's rsponsibility, the more influential the institution, the better?

We might call this inclination "the scapegoat syndrome." In our unwillingness to blame ourselves for community shortcomings, we look to others as being really responsible—the mayor, the governor. We bear no part of the responsibility. It is the other person's fault—particularly if she or he holds a position of designated responsibility.

Inherently, who of us really wants to take responsibility? It is easier not to be involved. We really are not willing to live with the consequences of our acts. When others try to hold us separately accountable for the community's strength, how easy it is to try to shift the responsibility!

Of all the ages of history, this is a time to be affirmative. We will not advance society by being negative.

We cannot afford the negativism of doing nothing but criticize our leadership and pass the buck for our own personal inactivity.

Neither can we afford the negativism of disruption and violence. Our community boat may indeed be rocked by disillusionment and difficulties, but the answer is neither to abandon the boat nor to scuttle it!

Whatever the problems of today, or tomorrow, it is essential that we renew and strengthen the various institutions of American life which are vital to the steady advance of our society, especially the various institutions of local government and community concern. Each of us bears a clear-cut measure of responsibility for the new strength and renewed vitality of every such local institution.

Not only is it essential that this revitalization of our local institutions occur. How it occurs is also vital. In a democracy, the means are more important than the ends. Our goals change over time, but the process of realizing these goals remains the same. The purpose of the democratic process is to permit change so that direct action is not needed. Direct action is resorted to when the democratic process becomes clogged. Therefore, we must seek, not obstruct, solutions.

We must also maintain the delicate balance between individual and group. Modern technology has created group efficiency to threaten our quest for individual fulfillment. It is now possible for social planning to overwhelm the individual and the local group. To preserve individuality, we must have multiple approaches. Democracy is the most efficient form of government because it is designed to subject issues to constant and rigorous scrutiny, and it tolerates multiple approaches. Social and economic issues are infinitely more intricate than scientific issues. The former do not lend themselves easily to research. Social and economic solutions are infinite in number. Any given social or economic problem might be solved several ways. There is no single solution, no panacea. This is good, not bad. It eliminates the necessity for a monolithic system and allows us variety and diversity which encourages individual development. We need to accentuate pluralism.

You and the institutions you represent are essential ingredients of that pluralism and that democratic process. If we continue to centralize in the name of efficiency, we will dehumanize and stifle. However, if we decentralize imaginatively, we will humanize and stimulate.

I urge you to maintain and heighten your individual sense of the great things which can happen to your community and to your world. I urge you to repledge your personal share of commitment to the common cause of making them happen. I urge you to do so with confidence in the future, for as John Gardner has stated:

"Anyone who accomplishes anything of significance has more confidence than the facts would justify. It is something that outstanding executives have in common with gifted military commanders, brilliant political leaders, and great artists. It is true of societies as well as of individuals. Every great civilization has been characterized by confidence in itself."

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## WELDON LEROY MADDOX—MARYLAND VETERAN OF THE YEAR

### HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. BAUMAN. Mr. Speaker, those of us who have known him in public life in Maryland are highly pleased to see the choice of Weldon Leroy Maddox as Maryland Veteran of the Year. Mr. Maddox, who has labored for the rights of veterans, deserves this recognition for his outstanding work in their behalf.

I include an article from the Stars and Stripes which details the distinguished career of this great American:

WELDON LEROY MADDOX NAMED "MARYLAND VETERAN OF THE YEAR"

Weldon Leroy Maddox has been named "Maryland Veteran of the Year" by the Joint Veterans Committee of Maryland which is composed of The American Legion, Catholic War Veterans, Disabled American Veterans, Jewish War Veterans, Marine Corps League, Veterans of World War I and Veterans of Foreign Wars of the United States, and with a combined membership of over 90,000 Maryland Veterans.

Mr. Maddox will receive the award at a banquet to be held on 21 February 1974 at the Blue Crest North, Pikesville. The award is presented yearly to the Maryland veteran who has contributed outstanding service to all veterans in Maryland during the past year. Mr. Maddox was born in Wimmers, Pennsylvania, and came to Maryland just prior to World War II. He has over 8 years active service in the United States Army, and has the unusual distinction of having been given three Army serial numbers, one for his enlisted service, one for his warrant service and one for his commissioned service. He served 2 years in the American Theater of Operations and 2 years in the China-Burma-India Theater of Operations during World War II. He served 17 months during the Korean conflict. He is presently a Lieutenant Colonel in the Judge Advocate General's Corps of the United States Army Reserve.

He is a member of Hamilton Post No. 20, The American Legion, Northfield-Loch Raven Memorial Post No. 9083, Veterans of Foreign Wars, China-Burma-India Veterans Association, Reserve Officers Associations, Y.M.C.A., and the Independent Order of Odd Fellows. He has served as Maryland State Commander, as National Council Member, and as National Judge Advocate General of the Veterans of Foreign Wars. He is the immediate Past Chairman of the Joint Veterans Committee of Maryland. He has been a member of the National Legislature Committee of the Veterans of Foreign Wars for the past few years and is presently serving as Legislative Director of the Joint Veterans Committee of Maryland and as Maryland Legislative Officer for the Veterans of Foreign Wars. The Maryland Veterans Cemetery Bill, the first such law adopted by any State, was passed by the General Assembly of Maryland during his term as Chairman of the Joint Veterans Committee of Maryland. He is a member of the following professional associations: American Bar Association, Maryland State Bar Association, Baltimore City Bar Association, Federal Bar Association, Association of Trial Lawyers of America, Maryland Trial Lawyer's Association, American Judicature Society, Maryland Criminal Defense Attorney's Association, Judge Advocate's Association, and Delta Theta Phi Law Fraternity. He has attended the following Universities: The University of Pennsylvania, Northwestern University, George Washington University, The Johns Hopkins University, University of Minnesota, Washington and Lee University and the University of Maryland. He holds the degree of Juris Doctor.

Mr. Maddox is a lawyer and practices in the firm of Maddox, Bartholomee and Farmer. He is authorized to practice before the Supreme Court of the U.S., the Court of Appeals of Maryland, the U.S. District Court for the District of Maryland, the Fourth U.S. Circuit Court of Appeals, and the Court of Military Appeals, as well as all Circuit and District Courts in Maryland. He has one daughter and grandson who live in St. Petersburg, Florida. He resides in Sparks, with his wife and he is a member of Immanuel Episcopal Church in Glencoe.

After being named "Maryland Veteran of the Year," Mr. Maddox said:

"The veterans of this country are a special distinct and unique class of citizens. They all served their country in trying times and made great sacrifices, and some even made the supreme sacrifice, in order to preserve the American way of life. Maryland and the United States owe them all a great debt of gratitude. It is one of the primary functions of the Joint Veterans Committee of Maryland to insure that our State Legislature passes the necessary laws to aid and help our veterans, and particularly our disabled veterans and the widows and children of our deceased veterans, and to strengthen and preserve patriotism and love of country."

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## THE COMMONSENSE WAY TO MORE OIL

## HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. TEAGUE. Mr. Speaker, a lot has been said about the present energy crisis, some of it makes sense some does not. Two young men at Texas A. & M. University recently wrote an article for the Wall Street Journal that makes a lot of sense.

I recommend it to you, my fellow Members of Congress and the general public:

[From the Wall Street Journal, Dec. 26, 1973]

THE COMMONSENSE WAY TO MORE OIL

(By W. Philip Gramm and Richard R. Davison)

In the great debate about how to stretch the nation's crucially short available supplies of petroleum products to meet current and expected demand, many people in influential positions are trying to straddle the issue. They are proposing rationing or high federal fuel taxes as a short-term policy and free markets as a long-term policy.

On the surface this blend of controls and freedom seems to make sense. The exact magnitude of today's petroleum shortage is unknown but the quantity of excess demand has been estimated in the range of 10% to 20%. Until the forces of the marketplace can once again achieve equilibrium, it is proposed that high fuel taxes would serve to trim some of the excessive demand and rationing would make sure that everyone gets his fair share of the available supplies of gasoline and fuel oil.

In fact, almost nothing could be quite as disastrous for everyone concerned. Rationing and taxing will cause output to *fall* and the shortage will get worse. The explanation is simple. If these programs are introduced as temporary measures, it's true they will serve to hold down the price of oil of domestic producers, but at the same time they will also serve to introduce the expectation of higher prices after controls end. The producer, therefore, will have an incentive to restrict current supply and to maintain his capacity to produce under more profitable conditions.

We need only look back to last summer when beef prices were frozen to see what will happen. Since oil can be held indefiintely, while cattle quickly pass their prime market period and eventually die of old age, we can expect even more production holdovers in oil than we experienced in cattle.

Not only will rationing and taxing petroleum not eliminate the shortage, but under such programs the effective price of petroleum to the consumer *will be higher* than the price that would exist in a free market. There, as prices rise the quantity supplied would expand from both domestic production and increased importation; and the shortage would be partly eliminated by decreases in the quantity demanded and partly by increases in the quantity supplied. The taxing system, on the other hand, would produce no supply response and we would have to rely solely on decreases in the quantity demanded as the effective price rise—thus a higher price to the consumer than under a free market system.

Rationing, with a "white" market in coupons, though lowering the transaction costs that were incurred in the black market trading of World War II, will still produce a higher effective price to the consumer than the free market solution. The market price of ration tickets will be bid up to the point at which the ceiling price of gasoline, plus the price of the ration ticket are equal to the price at which the 10% to 20% of excess demand is choked off. But again there will be no stimulation of oil output, with the consequence that the effective price will rise above the level the free market would have produced.

### THE ICEBERG IMAGE

What, then, could we expect of free market pricing by itself? Where would be additional supplies of oil come from if prices rise? Like an iceberg, 90% below the surface of the ocean, about 90% of the known oil in the U.S. is unrecoverable at present prices, existing in fields that are now considered largely depleted. But, as an iceberg floats higher when the sea becomes denser, so more oil reserves become available when the price rises.

To put this in perspective, in 1969, before the energy shortage developed and when there was little prospect of higher oil prices, cumulative production in the U.S. was 84 billion barrels, and recoverable reserves were about 31 billion barrels. (The Alaskan North Slope strike has increased this to about 39 billion barrels.) Yet there remained in these same reservoirs, in fairly well-defined locations and volumes, 285 billion barrels not recoverable at existing prices. The technology exists to recover much of this oil. Even now, over a fourth of the oil produced in this country comes from fields subject to artificial water floods, but even after successful water flood, about 50% of the original oil remains in place.

There are a large number of so-called "tertiary" recovery techniques that include steam and fire drives, dissolving the oil with miscible gases or liquids and methods employing detergents that literally wash the oil from the rock. The high temperature methods are particularly effective with highly viscous oils. There are estimates that up to 50 billion barrels of low gravity, viscous oil are recoverable by these methods. On the other hand, miscible fluid recovery techniques with higher gravity oils are capable of recovering as much as 90% of the oil in place.

While in time, more and more of this hidden part of the iceberg will become available as improved technology brings down the cost and risk, a few dollars per barrel of price increase would likely have the effect of *tripling* U.S. oil reserves. Just how fast this additional oil would become available as the price rises is impossible to answer with precision. However, between 1947 and 1972 the record indicates that every 1% increase in prices of refined petroleum products was on average associated with a 4% increase in the production of gasoline. This fact bears out what the bureaucrats have been saying: Oil men are greedy. If you raise the rewards for production, they produce more to get it. If real prices fall, as they have under price ceilings, production falls off.

In a free market, all marginal or stripper wells that could produce profitably would soon be in operation. There are over 350,000 stripper wells in the U.S., producing 10 barrels per day or less and tens of thousands more shut down which could be made operational on short notice. Production from these wells could probably increase stripper production by 20% to 25%. Though some of these wells would require renovation, most could be on stream in six months to a year and could produce about 250,000 barrels per day. The even larger inputs from secondary and tertiary production and increased exploration would be felt more slowly. Within a 24-month time frame, new production approaching one million barrels per day might be expected and this source would gush forth in ever increasing quantities until stopped by declining prices.

The free market oil price in constant dollars would be below $8 per barrel. At $8, a vast amount of energy from other sources would cut deeply into the conventional oil market. Not only would coal and nuclear energy replace oil and gas for power generation, but gas from coal would supplement natural gas supplies; and methyl alcohol from coal could undersell gasoline. The U.S. has some of the best coal deposits in the world—at least 200 billion tons (equivalent to roughly 9000 billion barrels of oil and significantly in excess of world crude reserves). There are also huge reserves of shale and tar sands that could make a significant contribution at these prices, and even solar energy could make inroads into the space heating market in many localities.

Gaseous and liquid fuels from coal have a longer lag time than increased petroleum production, but the potential contribution is such that it places an absolute upper limit on ultimate fuel prices. For instance, methyl alcohol, produced from coal, can compete with gasoline at oil prices well below $8 per barrel. Furthermore, methyl alcohol is over 100 octane, lead-free, much cleaner burning than gasoline, and, as a by-product, it could save billions in pollution abatement. With these many energy alternatives, given the opportunity, the free market system would provide adequate fuel for rapid economic expansion.

### A RETURN TO NORMALCY

One of the loudest objections raised against a free market solution to the energy crisis is that the petroleum industry will make excessive profits if prices are allowed to rise. Since the crisis was, in large part, engendered by various government regulations that disrupted the workings of competitive markets and by price ceilings that caused the real price of petroleum and natural gas to fall and lowered the return on investment, rising profit margins represent not so much a windfall gain as a return to normalcy. These profits are necessary if we are to revitalize the exploration and production process in the energy industry.

U.S. production of crude oil and natural gas liquids this year has been running close to 11 million barrels a day, while the latest figure for imports is about 6 million barrels a day. Imports, not covered by price controls, are selling for about $8 a barrel on average, although in extreme cases they have sold for twice that amount. Recently, new and stripper well production was freed from controls and is now selling for over $6.75 a barrel. Last week in a commendable move the price ceiling on "old oil" from existing wells was raised $1 a barrel, but this still leaves two thirds of America's oil selling for $5.25 or less and the other third ranging up to nearly $8 a barrel. The stated objective of these pricing policies is to encourage the finding of new oil and the maintenance of production from marginal wells, but under such a system there is a clear incentive to cut the production of nonstrippers and wait for prices to rise when ceilings are removed. Such incentives explain why many wells have been capped under the present pricing system.

Without question, the government has held the price of oil and gas artificially low for many years. As a result, the return on invested capital in the petroleum industry has fallen from 9.4% in 1963 to 7.4% in 1972. Falling prices also have caused a drastic decline in drilling and hence curbed the growth of oil reserves. Twenty years ago, when crude production was only 60% of present production, there were about half again as many drilling rigs operating in the U.S. as there are now. But 20 years ago it cost less than half as much to find a dollar's worth of reserves as it did in 1972. Just from 1967 to 1972 the cost to drillers for oil field machinery, pipe and labor increased about 30% while the price of finished petroleum products rose less than 9%. This has caused a steady decline in the discovery ratio. At present, not including Alaska, we are depleting reserves about 20 times as fast as we are finding new oil.

In order to reverse this trend the oil companies must spend billions, but this they cannot do if their return on investment is less than the going interest rate. Under a free enterprise system the only way that the cash flow and incentives necessary for research and exploration can be provided is from profits. These profits cannot arise under the present system of controlled prices. The proposal that the government subsidize the oil industry for purposes of exploration and research will create a quasi-governmental cartel modeled on that paragon of efficiency—the U.S. Postal Service. It seems far better (and cheaper), therefore, to allow the oil companies to finance this exploration themselves through free competitive capital markets.

### TREASURY CONTRADICTIONS

The new proposal to institute a progressive "windfall profits" tax on crude oil that sells for over $4.25 a barrel will only lessen the profitability of marginal production, and short term output will increase by a smaller amount than it would be in the absence of such a tax. By extracting $3 billion to $5 billion a year from oil company revenues, such a tax will make it more difficult to plow back the $200 billion necessary to maintain current production over the next 15 years or to get external financing for such a massive investment. Moreover, the Treasury's estimate that such a tax will not affect prices to consumers is based on the assumption that over the five year life span of the tax the quantity of oil supplied will be perfectly fixed, i.e. that no marginal production is possible. This flies in the face not only of every private estimate of the price responsiveness of crude oil supply but of previous estimates put out by the Treasury itself.

Somewhere along the line people have forgotten how the profit system works, that it is to each producer's self interest to expand output and thereby expand profits. As each producer does this, excess profits are competed away. Excess profits vanish when their work is done and output has increased.

It is plain common sense that if government regulation and price controls have helped to cause the energy crisis, they are not likely to solve it. When government intervention does not solve a problem, the bureaucrat never thinks to end controls. He cries for more controls. Those who have no knowledge of free enterprise stampede to give him more power. In such cases, our problem is not "energy crisis" but a "leadership crisis."

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## DR. BENJAMIN W. WATKINS: SUPPLEMENTARY SECURITY

## HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. RANGEL. Mr. Speaker, Dr. Ben Watkins, the major of Harlem, has written a two-part article on supplementary security, the new program which came into official existence on January 1. Dr. Watkins' article appeared in the Amsterdam News and are of interest to all citizens who may be affected by the new program. I am pleased to insert Dr. Watkins' articles in the Congressional Record at this time:

### Supplementary Security Incomes Effective January 1

(By Dr. Benjamin W. Watkins)

Do you, or any of your relatives fall into any of the following categories, (a) blind (b) disabled (c) elderly?

If you or they do, then brace yourself for utter chaos beginning January 1, 1974 for the new Supplemental Security Income system which will then take effect.

Hopefully this article will shed some light on how the new system will work, but since the legislators and others responsible for the program are themselves somewhat confused there is no real guarantee.

Nevertheless, the following is a presentation based on what we have been able to come up with.

For the first time in this country's history, the federal government, through this new system which we will refer to as "SSI," is attempting a federal takeover of our welfare problem. Whether it will do it successfully remains to be seen. We wish them luck in their endeavor.

### MANY AFFECTED

For those who may not be aware of it, SSI is one of the biggest things to happen in a long time because nearly everyone knows someone who could be affected by it.

Before we get to the confusion and possible bad news about SSI, let's first touch on the following points:

Under SSI, requirements for payments will become substantially liberalized and most of the people already receiving relief will get more money. And many others, who never qualified for help before, will be eligible under the new regulations.

As an example, the new rules permit, say a couple in Bedford-Stuyvesant, to own an automobile, a house and some savings but remain eligible for a partial benefit and full medicaid coverage although their earnings from a job—not Social Security or pension—are as much as about $8,000 per year. Less than half that much income is permitted if the source is Social Security, a pension or other retirement benefit.

### MAJOR POINT

A major point of SSI is that the Social Security Administration will take over welfare in New York and New Jersey for recipients over age 65 and those listed as blind or disabled. Here are some other features of SSI:

Home Relief and aid to dependent children will not be affected since they are not in the same categories as the aged, blind or disabled. Generally, they would be affected only if a child is blind, retarded or otherwise disabled.

The elderly, blind and disabled in New York and New Jersey will receive only one check every month, and it will come from Social Security.

### BIGGER CHECKS

Payments in New York and Connecticut, now made up of rent plus a subsistence allowance, will move toward the flat-grant system now in effect in New Jersey where all people in a welfare category get the same amount no matter the cost of their rent.

### How Supplementary Security Affects You

The new system, SSI, is considered a blessing for some. For others, it's regarded as a rotten compromise from what was once called a super-liberal, super-great Family Assistance Plan. They cite these points as their major reservations:

Exclusion of many alcoholics and addicts from New York's disabled rolls.

Termination of the food stamp program.

The impact in New York State of the new flat-grant system that will replace the state's flexible grants based on rent.

Failure by the Federal government to settle several key issues.

### DEBATE GOING ON

At this writing, Congress is still debating the new program and additional, confusing changes could come any day making matters worse for those opposed to the new system and others affected by the many technicalities.

Whatever, it is reported that countless public and private agencies have launched a search for the millions of Americans who are eligible, but not registered for the new program. Throughout the country, about 3.3 million people—a sixth of the nation's poor—are welfare recipients, and of these 330,000 are in the tri-state area.

But, even with these enormous figures, millions more are probably eligible, but don't know it. Also, from what we understand, a significant number of those eligible are Black and Spanish-speaking, and few government agencies are attempting to inform our groups.

Our only comments are that the blind, aged or disabled groups should never have been a part of this scheme of things. The main point is that welfare recipients can return to a new life, whereas the aforenamed cannot.

### NO WELFARE

Our other point is that we hope that there shall emerge a new militancy on the part of the community to buttress the many inequities of the new Supplemental Security System.

Finally, what SSI really means is that those who deserve assistance or extra cash will now get it. And it should not be construed by some as a form of welfare, but social security; something we all need.

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## THE MINIMUM: A NEW WAGE BILL

## HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. ROUSH. Mr. Speaker, I wish to address myself to the importance of the early consideration and passage of the minimum wage bill. I hope to renew our active efforts on this legislation in the spirit of accommodation, fairness, and sound economic policy so that we can assure America's working poor of some hope of meeting the increased cost of living

It is unrealistic to expect someone making the $1.60 minimum passed in 1966 to be able to live on their income when we have experienced a 27-percent increased cost of living since then. I had hoped to secure passage of the new minimum wage bill in the first session of the 93d Congress; however, the administration's opposition placed before us a vote to override the President's veto. We were unable to garner the votes to override and now the bill will be rewritten by the House Education and Labor Committee.

Passage of this bill is essential to move millions of workers out of poverty and off the welfare rolls. At present there are some 20 States where the cash payments for welfare are higher for a family of 4 than the yearly earnings of the family's breadwinner at the minimum wage level. By raising the minimum wage, therefore, we are able to make a direct assault on poverty and help to limit the welfare rolls. Is this not what we all want?

I do not agree with those who argued that an increase in the minimum wage would cause inflation or higher unemployment. We have had 35 years to find out if it does and there is no evidence to that effect. A number of prominent groups and individuals have concurred with this view including the U.S. Chamber of Commerce, former Secretary of Labor Hodgson in his 1971 report to the Congress on the effects of the successive increases in the minimum wage, and the President's own Cost of Living Council which determined that wages under $2.20 an hour were not inflationary and therefore beyond their sphere of interest.

The charges that increases in the minimum wage rate create unemployment have been met by requirements made in 1955 causing the Secretary of Labor to make an annual appraisal of the economic effects of the legislation. Since that time, the Department has prepared reports on the effects of successive increases in the minimum wage. The recurring theme running through these reports prepared in all administrations, has been that the wages of workers at the lowest end of the wage scale have increased and there have been no adverse employment effects.

Moreover, the Congress retained the provision that was included last year which exempts from coverage those small businesses grossing under $250,000 per year thus protecting their self-reliance and independence.

One of the critical provisions of the bill was the question of the youth subminimum wage which permits "part-time employment of students at wages below the regular minimum wage in any occupations other than those deemed particularly hazardous by the Secretary of Labor." Those supporting a broader subminimum wage for youth contended that it would help to solve the youth unemployment problem. I am equally concerned about the unemployment situation among our young. I believe that a better approach to the employment of youth would be to support youth-oriented programs such as the Neighborhood Youth Corps which is presently struggling to survive. An additional consideration is that if a youth subminimum were enacted it would open the door for children to be hired before their parents.

I believe that the above are compelling reasons to move ahead quickly and decisively on this legislation. I commend the committee on its past efforts and know that they will report a bill that will permit those Americans at the bottom of the economic ladder some chance to live with dignity.

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## CONGRESSWOMAN SULLIVAN ADDRESSES CONSUMER FEDERATION OF AMERICA ON CONSUMER CREDIT ISSUES

## HON. LEONOR K. SULLIVAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mrs. SULLIVAN. Mr. Speaker, it was a pleasure and privilege for me to participate last Thursday at a forum devoted to consumer credit issues at the Eighth Annual Consumer Assembly of the Consumer Federation of America, held here in Washington at the Statler-Hilton Hotel. The Consumer Federation of America has been in the forefront of efforts to improve our consumer laws, and I have always appreciated the help given by this national organization representing State and local consumer groups.

I appeared on a panel which also included Senator WILLIAM PROXMIRE, of Wisconsin, and Mr. Neil Gendel, chairman of San Francisco Consumer Action. The chairman of the meeting was Mr. Peter D. Jacobson, of the Pittsburgh area's Alliance for Consumer Protection.

In my talk outlining the issues in consumer credit, I discussed the many areas which we have been covering in the Subcommittee on Consumer Affairs of the House Committee on Banking and Currency in hearings on proposals to improve and expand the Truth in Lending Act and other titles of the Consumer Credit Protection Act of 1968, including creditor remedies, class action suits, billing practices, credit card fraud, coverage of agricultural credit, discrimination in extensions of credit involving sex or marital status, the Fair Credit Reporting Act, and related subjects, such as interest rates and the issue of regulation of settlement fees and closing costs on home purchases.

### HOUSING SUBCOMMITTEE HEARINGS TOMORROW ON SETTLEMENT COSTS

The issue of closing costs disclosure and regulation is to be the subject of hearings tomorrow and Wednesday in the Subcommittee on Housing of the Committee on Banking and Currency on H.R. 12066, a bill which I introduced on December 20, 1973, revising and expanding proposals in this area which the Housing Subcommittee approved in the 1972 omnibus housing bill which did not become law in the 92d Congress. The Housing Subcommittee held 2 days of hearings on this subject last month, hearing mostly from groups in the real estate settlement industry; the hearings tomorrow and Wednesday will feature consumer experts in this field. A fuller discussion of this broad subject than I could include in my consumer assembly speech of last Thursday was contained in the CONGRESSIONAL RECORD of Wednesday, December 26. 1973, beginning at page 43536.

### TEXT OF SPEECH BEFORE CONSUMER ASSEMBLY

Mr. Speaker, the full text of my address to the Consumer Federation of America at the 1974 Consumer Assembly last Thursday is as follows:

### THE ISSUES IN CONSUMER CREDIT

Address by Congresswoman LEONOR K. SULLIVAN (D. Mo.), Chairman, Subcommittee on Consumer Affairs, House Committee on Banking and Currency, at 8th annual Consumer Assembly of Consumer Federation of America, Statler Hilton Hotel, Thursday morning, January 24, 1974

I am always pleased when I can participate in the annual Consumer Assembly of the Consumer Federation of America because I remember so well the circumstances surrounding the beginning of this organization, and the significant momentum it contributed from the very start to the achievement of some of the great consumer advances of the Johnson Administration under Esther Peterson and Betty Furness. That era was truly the high point so far of the consumer movement in the United States, built on the foundation of the John F. Kennedy Consumer Message to Congress of March 15, 1962, which was the Federal Government's Magna Charta of Consumerism.

If you go back and re-read the Kennedy Message of 1962, and the various Consumer Messages sent to Congress by President Lyndon Johnson, I think you would be surprised and gratified by the number of their recommendations which became law. They ranged from the remarkably simple solution to the terribly complex problem of utilizing the ultra high frequency range of television channels—by requiring that all television sets sold in this country contain the capability of receiving all UHF as well as VHF channels—to the enactment of Truth in Lending, Truth in Packaging, drug safety and drug effectiveness, wholesome meat and poultry, automobile safety, clean air and clean water and many, many other landmark consumer and industrial safety bills.

### SIX BIG CONSUMER YEARS FOLLOWED BY SIX LEAN ONES

Six years of unprecedented and spectacular consumer legislative accomplishment between 1962 and 1968 have been followed by six years of dismal White House foot-dragging in the consumer field since 1968. But the momentum which was initiated in 1962 and heightened by the Consumer Assembly of 1966 and the organization of the Consumer Federation of America has not been allowed to die, despite the Nixon Administration's attitude.

One of the important pieces of unfinished consumer business of the Johnson years was the National Commission on Product Safety which completed its work midway through the first Nixon Administration and did such a good job that Congress was motivated into passing a far stronger Product Safety law than the Nixon Administration wanted. So it *can* be done, although the job is much more difficult when Administration leadership is lacking and Administration support is lukewarm or non-existent.

Senators Warren Magnuson and Frank Moss, and Congressman John Moss, backed up by Mike Pertshuk and Mike Lemov on the respective Senate and House Committee staffs who had worked on the National Commission on Product Safety—one as a member of the Commission and the other as chief counsel—

proved that effective consumer legislation *could* be enacted into law, even under the Nixon Administration.

### ESTABLISHMENT OF NATIONAL COMMISSION ON CONSUMER FINANCE

There was another Commission authorized in the Johnson Administration years as a legacy of unfinished consumer business to be completed in the Nixon Administration, the National Commission on Consumer Finance. Unlike the Product Safety Commission, which was organized quickly and had continuity of membership from beginning to end, the Consumer Finance Commission was about 18 months late in getting started and had frequent changes in its membership during its three year existence.

This was one instance in which President Johnson let us down on a consumer matter. The law creating the Commission—the same law which contained the Truth in Lending Act—was enacted in May, 1968. Had Lyndon Johnson followed the urgings of those of us responsible for enacting the legislation, he would have appointed a consumer activist like former Senator Paul Douglas as its chairman and put the Commission to work promptly. Instead, due to a mix-up in the White House—which I guess they had in those days, too—the Commission could not be activated until well into the Nixon Administration. And under those circumstances, its make-up was not nearly as consumer-oriented as we had hoped to make it when we passed the law in the 90th Congress.

Nevertheless, the Commission established a basic outline for extensive revisions in the Federal and state laws dealing with consumer protection in the use of credit and while we disagreed among ouselves on specific details and—more fundamentally—on the philosophy running through the report that higher rates or no ceilings at all on consumer credit rates would be a good thing for consumers by allegedly enhancing competition in consumer lending, we did agree on the need to end a whole panoply of abuses which had grown up over the years in the methods used by creditors to compel replacement of credit without regard to consumer rights.

### SPOTLIGHTING OF DISCRIMINATION IN EXTENSIONS OF CREDIT

This Commission also brought to national attention for the first time the flagrant discriminations against many credit-worthy women in seeking credit in their own names—particularly married, divorced and separated women. The attention given to this problem resulted in a complete about-face by many of the major creditors in this country, who were embarassed by exposure of the stupid standards frequently followed by their credit managers in denying credit to qualified women for no other reason than the fact that they were women.

The Commission pointed to the fact that state laws dealing with husbands' rights in their wives' property and vice versa, along with other state laws, rightly or wrongly persuaded creditors to believe they assumed significant additional risks in lending money or extending credit to married women in their own names, and called for a prompt review and revision by all of the states of any laws on their books which had the effect of inhibiting the extension of credit to credit-worthy women.

Following the Commission's hearings on sex discrimination in 1972, nearly a score of states passed laws prohibiting discrimination in the extension of credit by reason of sex, or by reason of sex or marital status. But so far, many of those states have not taken the additional step of revising or repealing laws on husband-wife relationships which may restrict a creditor's ability to *collect* a debt contracted for by a married woman.

### PROBLEMS OF DEALING WITH DISCRIMINATION

This is one of the major issues we are struggling to solve in the Subcommitee on Consumer Affairs of the House Committee on Banking and Currency, so that any anti-discrimination legislation we may recommend is effective and enforceable—not merely a pious declaration of intent that creditors can generally ignore by citing the dilemma of legal liability for repayment. Some people suggest we solve the problem by pre-empting all state laws dealing with husband-wife relationships, including dower and curtesy, or the community property laws of Louisiana and several other states which give the husband complete control over the disposition of a wife's earnings. Others say just pass a law saying "don't discriminate" and then let it up to the courts to determine what that means. The Senate-passed bill dealing with this subject generally has that approach.

Whatever the answer might eventually be, it is my intention in handling this legislation to make sure that we know what we are doing when we do it, and make clear to both creditor and prospective debtor what their rights and obligations are. In the meantime, I am pleased—after having initiated the move in the National Commission on Consumer Finance in 1972 to study the question of discrimination—that many major creditors who were among the worst offenders in the field of sex discrimination have been revising the policies from top to bottom, and particularly at the level of consumer intervening, to provide credit-worthy women with full opportunity for whatever credit they wish to have and are in a position to repay.

This issue has captured most of the public attention on the consumer credit field in the past year or so, particularly among leaders of the women's rights movement, but it is one of many, many areas of consumer credit activity which need serious attention and legislative solutions. The Senate has combined its anti-discrimination bill with Senator Proxmire's proposed Fair Credit Billing Act, which would eliminate many of the consumer aggravations and frustrations growing out of computer error on monthly open-end credit bills, and also with a series of so-called technical amendments to the Truth in Lending Act vigorously being sought by the credit industry itself, particularly as regards liability for damages in class action suits and also as regards Federal responsibility for policing credit card thefts and fraud.

### WEAKENING OF MAJOR ENFORCEMENT WEAPON

Thus, when some leaders of the women's movement call upon me to pass the Senate bill through my Subcommittee and the full Committee and get it through the House with little or no change because of what they hope it will do for women's access to credit, I am especially mindful of the warnings of the Federal Trade Commission, the Federal Reserve Board, and recognized consumer experts in the credit field that the Senate bill's class action provisions would destroy the most effective weapon we have in compelling compliance by major creditors with the Truth in Lending Act.

I am sure we can draft and put before the House a bill which will accomplish the goals of equal credit opportunity—not only for married and divorced and separated women who can establish credit worthiness but for all groups in the economy subject to credit discrimination by reason of race, color, religion, or ethnic derivation. The credit industry will not fight such legislation if it is carefully drawn, so we do not need to hand that industry a series of major giveaways under the Truth in Lending Act in order to win its agreement for anti-discrimination legislation. And the provisions of Senator Proxmire's proposed Fair Credit Billing Act have caused no despair among the credit-grantors affected.

### OPPORTUNITY TO ROOT OUT MANY ABUSES

Hence, we have an opportunity here—one which comes at rare moments in the legislative process—to root out a whole pattern of abuses which have been inherent in one-sided consumer credit contracts for generations, if we have the patience and skill to seize this opportunity and write the right kind of bill.

What I am talking about is one which meets the legitimate need of the industry for clarification of some of the language of the Truth in Lending Act after five years of operation—not a giveaway on class action liability nor an open invitation to devise methods of getting around Truth in Lending disclosure by getting a vague informal opinion from a government bureaucrat to justify retroactively some policy which the courts may hold illegal—but one which eliminates ambiguities in the law.

### COVERAGE OF AGRICULTURAL CREDIT

Also, we should clarify the requirements of the agricultural credit provisions of the Act so that a rancher borrowing $100,000 or more for the purchase of feeder cattle does not have to wait three days before he can obtain his money, merely because he has the right under the Truth in Lending Act now to back out of the deal within three days if his farm is made security to the debt.

The three-day waiting period was put into the law primarily to protect unwary consumers in fraudulent home-improvement deals, or phony door-to-door sales involving contracts in which the home owner unknowingly signs what amounts to a second mortgage. This kind of transaction has been virtually wiped out under Truth in Lending—one of its greatest achievements. But the problems the three-day rescission clause creates in agricultural lending situations have sometimes approach the ludicrous; as a result agricultural lenders and even some farmers are calling for repeal of any Truth in Lending coverage of agricultural credit transactions. On the other hand, spokesmen for the National Farmers Union, the National Farmers Organization, the National Rural Electric Cooperatives Association, and the Farmers Home Administration, have all indicated that they want continued coverage of agricultural credit under Truth in Lending and I think we can develop legislation which will meet this issue with fairness for both lender and borrower.

But if we are going to do a variety of things to make Truth in Lending compliance easier for the credit industry, we should, at the same time, take advantage of this great opportunity to strengthen consumer protections in the whole broad area of creditor remedies.

### "HOLDER IN DUE COURSE" AND OTHER CREDITOR DEVICES

Hence, we should get rid of "holder-in-due course"—the doctrine which holds that when you sign up for an installment contract, which is immediately farmed out to a finance company to whom you then owe the money, you must pay the finance company regardless of the original creditor's performance of his obligations under the contract.

In my state of Missouri, and in many other parts of the country where holder-in-due-course is protected by state law, dance studios and health clubs signed up thousands of consumers on long-term contracts before going bankrupt or out of business, and the debtors were required to pay even though the services for which they presumably were paying were not being provided. This is a vicious system which we didn't have the power to outlaw in 1968 when the Truth in Lending Act was being passed, although we did manage to include at that time a limited defense against holder-in-due-course in certain circumstances when one's home is made security to the debt.

If you go through Chapter 3 of the report of the National Commission on Consumer Finance, you will find a whole list of other abusive creditor remedies widely in effect in many or most states which victimize the consumer:

In the repossession and resale of automobiles;

In the use of confession of judgment notes which bind the consumer to waive his rights to defend against the debt regardless of the circumstances of the transaction;

In the unholy and abusive collection practices often used to harass not only the debtor but his employer and even his neighbors;

In the use of balloon payments on installment contracts promising deceptively easy monthly payments;

In the binding nature of many door-to-door sales contracts on which there should be a cancellation privilege within a reasonable time after restudy of the terms;

In the use of co-signer agreements in which the co-signer doesn't realize he is fully responsible for repayment even if the main debtor can himself repay but does not do so;

In the never-never land of the so-called Rule of 78 governing interest penalties for prepayment of installment contracts before they are due.

We should also get after such abuses as:

Forcing the consumer to defend his rights in a court far removed from his home;

Failing to serve him court papers advising him of a proposed default action—in New York they call it "sewer service".

Among other traditional practices the Commission deplored is:

Levying on household goods, clothing, tools and other property not involved in the original extension of credit;

Discharge from employment because of garnishments;

Garnishments which cause undue hardship even under the moderate limitations imposed by the Consumer Credit Protection Act of 1968;

Surviving aspects of the colonial practice of debtor's prison;

And the use of wage assignments as an attempt to get around the garnishment laws.

The Commission also recommended strict limitations on attorney's fees charged consumers in debt recovery proceedings, and of contracts which make the consumer liable for immediate payment of the entire amount of an installment debt if he is as little as one day late in making a monthly payment.

Another suggestion was to outlaw oral misrepresentation of the finance charge.

On the other hand, the Commission recommended numerous changes in the requirements of Truth in Lending ostensibly to simplify creditor compliance, or to make the advertising of credit terms less stringent, and there will be a fight in my Subcommittee, I am sure, to make sure the effectiveness of the law is not weakened as far as consumers are concerned.

### DEBATE OVER INTEREST RATES

All of the worthwhile recommendations of the Commission insofar as consumer protections are concerned—and there were many such recommendations—should be incorporated into any bill we pass this year to amend the Consumer Credit Protection Act. In approving these recommendations, some Members of the Commission felt, I am sure, that these reforms should be accomplished under state law as part of a package, such as a revised Uniform Consumer Credit Code, which would also provide for lifting or removing the state ceilings on the rates of finance charges creditors can charge for consumer loans and credit sales. Others of us on the Commission disagreed completely on the rates proposals—in most states consumer credit rates are already very high and in some they are unconscionable. I do not believe we can solve this nation's usurious interest rate structure by raising consumer finance rates even higher.

This Administration has had more power to regulate interest rates than any President in our history. It has not used that power. It has allowed—and in fact encouraged—interest rates to go to ridiculous levels, pricing most families out of the home buying market completely and making others pay exorbitant interest rates into the far future to obtain a home or condominium. That is where the real "credit crisis" is today—in the structure of interest rates.

### THE CLOSING COSTS ISSUE

It is also in the area of settlement costs on homes, involving excessive charges for title searches and title insurance and surveys and hidden commissions and kickbacks and a whole ingrown system of making the home buyer pay through the nose for routine services surrounded by all kinds of real estate mysticism.

The Housing Subcommittee of the House Committee on Banking and Currency tried to solve this problem in late 1972 in the omnibus housing bill, but a massive lobbying effort by the real estate settlement industry to prevent any effective control over closing costs was successfull in the full Committee. We are going to try again. Former Secretary of Housing George Romney was prepared to impose maximum ceilings on closing costs for all FHA and VA housing under a law we passed in 1970, but his successor opposes this approach and has failed to issue the regulations. The 1970 law, therefore, to use a White House euphemism, is "inoperative." The real estate settlement lobby is tying to kill that 1970 law as well as prevent passage of any similar law dealing with conventional mortgages.

### NEED TO IMPROVE FAIR CREDIT REPORTING ACT

Another area I feel we must cover in any forthcoming revision of the Consumer Credit Protection Act is Title VI, known as the Fair Credit Reporting Act. This legislation was enacted in 1970 and many of us knew when we passed it that it was inadequate. As Senator Proxmire knows, a majority of the House Conferees was committed to a stronger bill, as he was, but unfortunately a majority of his colleagues among the Senate Conferees was not. Consequently, instead of being the "Good Name" Protection Act we tried to make it, it suffers from great gaps in enforceability.

The Federal Trade Commission has documented the serious problems it has encountered under the law in making sure that consumers can learn the details of the personal and often intimate data circulated about them by credit bureaus and similar data gatherers—information which is often erroneous, and even malicious, which can cause irreparable harm to the individual unfairly stigmatized. There must be a clear right extended to consumers to see their files—to see what is actually contained in them rather than be given only an oral summary which may or may not be complete.

There must be improved mechanisms for compelling correction of errors and reinvestigation and elimination of unprovable charges and accusations. There must be stronger powers of enforcement. The consumers should no longer be the target of character assassins hiding behind the anonymity of credit bureau files.

We made a start in solving this problem three years ago but it was only a start. If you are turned down for credit, insurance, or employment becaues of credit bureau information, you should be able to find out all of the information the credit bureau has supplied, and be able to take the necesasry steps to clear your name. As we approach the so-called "checkless, cashless society" in which credit cards play an increasing role, the importance of safeguarding one's credit reputation becomes daily more urgent.

### CONSUMERS MUST SPEAK UP ON ISSUES

So I urge you today not only to learn about these issues while you are here to act on them but when you return to your homes. You must speak up to your own Senators and Representatives. The women interested in anti-discrimination legislation involving sex or marital status are doing a bang-up job of getting their views across to Members of Congress and I am sure we could pass any bill—good, bad, or indifferent—based on this issue alone because the public is being heard from. Many Members of the House have joined in sponsoring bills aimed at sex discrimination regardless of anything else in the bills—bills which in some instances are outright credit industry bills except for this one area. Some darn good consumer Congressmen are among co-sponsors of such measures. All they appear to have noticed in them is that they prohibit sex discrimination, and sex discrimination is something constituents are complaining about.

It is up to those of us who have responsibility for consumer legislation to make sure the Congress is not stampeded into passing two or three bad provisions for every good one we pass, but we need your help in getting the word back to our colleagues in the House that you don't want to have the effectiveness of Truth in Lending undermined. We have, as I said, a golden opportunity to expand the Consumer Credit Protection Act into a Federal code of good credit practice in all areas of credit. Let's not lose this opportunity.

### WHEN THE CONSUMER'S VOICE WAS NOT HEARD

Nine months ago, in April of 1973, when the economy was already well on its way to the worst inflation since the end of World War II, we brought before the House a strong bill to roll back prices, interest rates and rents to the levels of January 11, 1973, when the disastrous Phase III was instituted. We took a horrible licking in that fight. A Republican substitute was adopted on the House floor which did nothing to stop or rollback prices and interest rates and rents, and did not even contain authority to allocate increasingly scarce petroleum supplies. But that defeat was predictable because all of the mail, or most of the mail and telegrams coming into Congressional offices, was from those who apparently believed they would benefit financially from ineffective price controls, not realizing that higher prices and interest rates would also lead to alarmingly higher costs of doing business. And while some consumers were organizing meat boycotts and rent protests and complaining to each other, most people weren't watching very carefully what their congressmen were doing on these issues in Washington, or the consumer disaster of April 16, 1973, never would have occurred on the House Floor.

So it's really up to the public generally to make their voices heard in the Congress. You would truly be surprised how carefully most Members of Congress read the mail which comes to them from their own constituents. They don't pay much attention to letters from outside their own districts, but they certainly notice when protests come in from the people they are going to ask to vote for them. And, as you may have heard, this is an election year for every seat in the House of Representatives.

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## METRICATION: WHEN?

## HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. McCLORY. Mr. Speaker, as time goes on, it appears that the United States may soon become the only country in the world not having converted to the metric system of weights and measures. Just recently, the Chicago Tribune—January 16, 1974—reported that Malaysia is going metric and that it aims to achieve complete conversion by 1982. While the katis, chupaks, paus, and gantangs are slowly losing their importance as units of measure and exchange in Malaysia, I hope that inches and pounds do not become obsolete in the rest of the world as we become further isolated as a trading nation. I am hopeful that we can make the metric changeover before that time arrives.

Mr. Speaker, if this Nation wants to maintain a competitive trade posture in the world, we should move rapidly toward converting to metric measure. With our oil imports alone greatly increasing in price, there has never been a time in our history when it has been more imperative to increase our world trade volume. Metric conversion can help keep this Nation's trade balance in the black.

Mr. Speaker, legislation establishing a metric conversion program is pending before the House Rules Committee. In spite of other burdens placed upon our time and energy, we must bring this legislation to the floor of the House at this session. I call upon my colleagues to support this action.

Mr. Speaker, in the January issue of Air Line Pilot, the magazine of professional flight crews, there appeared an interesting article by Grover Heiman entitled "Metrication: When?" While this article views the metric conversion problem in the perspective of a particular segment of the airline industry, it is of a sufficiently general nature to be worthwhile and informative reading for a broad cross section of our citizens. Mr. Heiman shows that our country is slowly but steadily going metric. The question is simply whether we should encourage a planned and coordinated national changeover program—or not.

It is becoming obvious to many people in and out of government that the Congress is not providing the leadership and guidance of a change going on in our society. On the contrary, we are lagging behind—apparently hoping that change will take place spontaneously without the need for becoming involved. It would seem to be time to discard this kind of "wishful thinking." Let us get the metric conversion bill (H.R. 11035) out of the Rules Committee—and on the floor of the House.

Mr. Speaker, the following is the text of the article by Mr. Grover Heiman:

### METRICATION: WHEN?

(By Grover Heiman)

What is this country's longest nonstop argument?

A leading candidate is the controversy over whether or not the U.S. should adopt the metric system of weights and measures to match its decimal money system. This argument has been going on ever since the republic was founded. It isn't settled, but may be this year if the Congress is willing to act on several bills it has been sitting on.

If the U.S. finally joins the rest of the world and converts to a simplified metric system called the International System of Units—SI for short—it will affect every aspect of American life, including aviation, in some way.

For the average person it will mean using meters instead of yards, kilograms in place of pounds, liters will replace gallons and temperature will be measured on the Centigrade scale. With the exception of electrical measurement standards and the use of nautical miles in navigation, most of our customary ways of measuring would change over the years.

Football undoubtedly would still be played on a 100-yard field, horses would likely still be measured in hands and for generations people will, out of habit, say such things as "a miss is as good as a mile" and "an ounce of prevention."

Bills were introduced in both houses of Congress last year that would place an official stamp of government approval on a voluntary conversion program over a 10-year period. A voluntary program would sanction a "soft conversion," which means retaining present sizes and expresing them in metric units. A "hard conversion" would mean changing over at some fixed date to standard metric sizes.

Because of the astronomical costs involved—new machinery and maintaining separate inventories of parts—a hard conversion isn't about to happen.

To organize a soft conversion a 25-member Natitonal Metric Conversion Board is proposed. It would be required to develop a plan within a year of the enactment of a bill. Should Congress pass a bill, and the President sign it sometime this spring as proponents hope, we would be underway in 1975 and have the job done by 1985, assuming a 10-year program. It could be longer. Japan took 30 years.

The basic purpose of the metric bills in Congress is to launch a program and draft a blueprint. Americans will have a freedom of choice. Most likely much of the leadership and coordination will come from such private organizations as the newly formed American National Metric Council, which has offices on the fifth floor of ALPA's Washington Office.

Presently under the auspices of the American National Standards Institute, the new council is certain to make the ALPA Building a focal point of national and international attention, and quite possibly a symbol of frustration for some segments of the American scene, depending on involvement. In varying degrees, a changeover will produce some trauma.

For airline pilots it could mean changes in their professional as well as their personal life. Not generally recognized by the public is the fact that Americans in the business of flight operations, especially international, have been involved with the problems and controversy of metric vs. the English measuring system for 30 years.

Now the entire nation is about to because at this stage the United States is the only major nation in the world that hasn't adopted, is in the process, or is planning to convert to the metric system of measurement. Standing with us against the world in using the English system are such titans as Trinidad, Ghana, Muscat, Oman, Sierra Leone, Tonga, Gambia, Burma, Barbados, Jamaica, Liberia, Nauru and Southern Yemen.

In World War One the U.S. Army had to use metric units to fight alongside our Allies and this gave impetus to metrication in the 1920s, but business and industry vigorously opposed plans to adopt the metric system in the U.S. For one thing it was thought to be very expensive. Also, since the U.S. made the best widgets, if anyone else wanted a widget he could take it or leave it. It was a supply-and-demand situation where the suppliers played the tune, not unlike the Arabs and oil today.

Now, however, many nations make equally good widgets and more and more of them are getting into the market. If their widgets are price competitive, of equal quality, and the seller offers juicy credit arrangements, it's only logical that a buyer who is on the metric system will prefer buying a widget made with metric dimensions, fasteners, etc.

In a half century, business—essentially manufacturing—has generally reversed its position. With few exceptions (iron and steel), American industry favors a voluntary conversion to the metric system for a variety of reasons. One is the dramatic change in availability of raw materials. We now import vast amounts with which to fuel our economy. To pay for those raw materials, we must export.

Small businessmen aren't enthusiastic, and understandably, since they produce primarily for the domestic market. They fear the cost of changeover to new machinery. Service industries see added costs too, but like automobile mechanics faced with 25% of autos on the road of foreign manufacture, they've had to accommodate to survive.

Labor? It depends on the industry. The general concern of the AFL–CIO has been regarding subsidies for workers who must provide their own tools, retraining of older workers and possible job less and attendant economic and social problems. Accordingly, the AFL–CIO Council has urged the matter receive further study.

Tom Hannigan, assistant to the international secretary, International Brotherhood of Electrical Workers, said last October at a Metric Conference held in New York:

"We feel conversion to the metric system would accelerate the undesirable trend towards greater economic concentration . . . labor is afraid that many jobs will be lost as a result of increased import due to conversion."

Union members who work in supporting industries, however, see the inevitability of metrification if they are going to keep their jobs. Aerospace is a typical example.

Karl G. Harr, president of the Aerospace Industries Association of America Inc., the business spokesman, has testified before congressional committees that his industry, which has made 80% of the world's commercial aircraft, "supports a voluntary, planned program for the customary units now in general use in order to make the metric system the predominate but not exclusive system of measurement in the United States."

Unquestionably, a changeover to metrics will cause unique problems for certain professions and the airline pilot is no exception. In fact, he's been in a unique position in this regard since 1944.

Historically, the English vs. metric units of measure controversy has been going on since the earliest days of aviation, starting with the Montgolfier balloons. Until intercontinental flights became commonplace, airmen lived with their own system quite satisfactorily, changing over temporarily as the situation demanded, such as setting new world records.

Then in November 1944, the first International Civil Aviation Conference was held in Chicago. This was the foundation of ICAO, which became an arm of the United Nations in 1946. At that first meeting it was generally agreed the policy would be to adopt a single uniform system of measurements for air operations.

On Dec. 11, 1951, however, ICAO adopted two tables of measurements. An all metric one was designated "ICAO" and a modified one, "Blue." The Blue table was to be "interim" and differed only on a few dimensional elements—it specified altitude, elevation, heights and vertical speed in feet and feet per second. In the ICAO table these elements were in meters and meters per second.

To ease the transition, the ICAO rules allowed, and still do, for nations to file exceptions, which permits them to use different units. The U.S., for example, modifies the Blue table to report short distances in feet instead of meters; visibility in statute miles; altimeter settings in inches of mercury, rather than millibars; ground temperature in degrees Fahrenheit; weight in pounds, instead of kilograms, and modifies the 24-hour clock so that time may be given in local time.

A notable place where the U.S. didn't object was in the use of nautical miles for distance and knots for horizontal speed. This led to the changing of airspeed meters to readouts in knots, which met stiff resistance from some pilots. It's not likely to change again: Those are SI units.

Through the years there has been a desire in ICAO circles to set a time limit of 10 years to eliminate the Blue table and for all nations to adopt the ICAO table.

Strong opposition has come from the users, who are vitally concerned with the technical and operational aspects that might affect the safety of air traffic.

The fact that the U.S. is the airline leader and aircraft supplier to the world became evident in the 1960s. By the end of that decade, 57 nations were using feet and feet per minute and 29 were using metric. Between 1960 and 1964, there were 13 nations that changed from the ICAO table to the Blue table.

In May 1970, there were 86 nations using the Blue table, 38 were following the ICAO and four were using a combination of the two.

FAA a few years ago saw a pronounced trend towards adoption of the Blue table, however, events in recent years could change this trend. With Great Britain now in the process of metrication and other commonwealths, such as Australia following, and Canada on the brink, the day can certainly come when the other ICAO member nations will insist that the dimensional elements in air transportation be metric.

This problem was touched upon by the FAA in its participation in the U.S. Metric Study authorized by Congress in 1968 and completed and forwarded to Capitol Hill in August 1971 by the secreary of commerce. FAA expressed the view that a 15-year conversion span was more desirable than the proposed 10 years.

The Air Line Pilots Association was invited to participate in the study and W. B. Cotton, a United pilot, ably represented ALPA. His paper addressed the problem from the pilots' viewpoint, however, it was presented to the Labor group rather than to the Transportation panel. Fortunately, the National Bureau of Standards officials who compiled the reports summarized Cotton's paper under Transportation.

Cotton wasn't the voice of doom, but he spelled out the factors involved in clear fashion. Airline pilots weren't concerned about buying new tools, but with human life. ALPA's representative obviously had given much more thought to the problem than government agencies.

In addition to the changes that would affect air-ground reporting of position, etc., Cotton discussed the impact on air craft systems measurements, such as quantities of fuel, oil, hydraulic fluid and water; operating pressure of fuel, oil, oxygen and hydraulic systems, and aircraft weight and runway-length requirements.

"The limitations on these systems as well as performance calculations would have to be relearned," he said.

Highlighted also were changes to numerous aeronautical navigation charts, flight handbooks and manuals pertaining to the operation of the aircraft. The airman's hand tools—computers, plotters, etc.—wouldn't change.

He stressed repeatedly the retraining problem and the problems that would occur if an instantaneous change was forced on the flight deck.

And air safety: "It is possible and even probable that the transition could be dangerous if not spread out over a sufficient period of time."

Thus far ICAO has proceeded slowly, notably the Air Navigation Commission, which regularly cautions its study groups on the importance of air safety and cost considerations when proposing changes in operational procedures.

Still, there is nationalism. In the past, for example, a French-African bloc, led by France, and a Latin-American group of 18 states led by Argentina have plumped for metric measurements and the U.S. bloc found itself consistently outvoted on many issues.

Now the situation in ICAO is static, but should the U.S. adopt a voluntary metric conversion program this might just have a domino effect on ICAO. With a metricized world on the ground there will be a strong push for international use of metric units for international flight operations.

The USSR and Brazil today are completely metric. So is Red China, but the ten 707s the Peoples Republic started taking delivery on last fall are fitted with English system instruments. And four of these aircraft will be equipped with a Litton inertial navigation system. That indicates they will probably follow the Blue table in international operations, but nothing, as usual, is sure.

What does appear sure is that the airline pilot will have a heavy stake in the outcome of metrication, both in the air and on the ground.

Aside from that, how will a changeover to the metric system affect his personal life and any outside business interests?

The fact of the matter is, things have been changing all along, even before most of us were born. For example, Tom Edison, seeing the world-wide potential for his movie camera, adopted a metric film width—35 mm.

Since then there have been others. The pharmaceutical industry is fully metricized. The Army and the Air Force use metric units to indicate bore. The Navy has stuck with inches for its large naval cannons, yet it also uses metric units.

Camera lens focal lengths are commonly given in metric units now. Spark plugs are metric and new automobile speedometers are including a kilometer scale. Cadillac this year describes its engine as "8.2 litre," obviously choosing the French spelling for snob appeal.

Items produced and packaged for domestic and foreign sale are increasingly showing a soft conversion scale, such as "pounds/kilograms." More can be expected in many facets of American life as the world settles down to a common system of measurement.

Clearly one of the problems with converting people from one measuring system to another is a very basic human trait—resistance to change.

In a hearing on metric bills conducted in March 1973 by a subcommittee of the House Committee on Science and Astronautics, Representative J. J. Pickle (D-Tex) noted that "probably the biggest problem we have is simply admitting that we ought to change or that we could change and not be just fearful of even discussing it."

"I couldn't help but recall," he said to a witness, "the story that was attributed to one of our earlier governors of the state, when there were so many Mexican children, they suggested textbooks ought to be printed in Spanish. He said no, he would be against that. He said if the English language was good enough for Jesus Christ it was good enough for him."

As a nation we've been thinking of going metric a long time, and resisting. Even today, as in the past, there are some who are against the metric system because it's "un-American."

The Constitution that was ratified by the original 13 states gave Congress the power "to coin money, regulate the value thereof, and of foreign coins, and *fix the standards of weights and measures.*" (Italics supplied.)

In his first message to Congress in 1790, President Washington reminded that it was time to establish a system of weights and measures. A man for all seasons—Secretary of State Thomas Jefferson—was given the task of coming up with a plan.

While in France during the American Revolution, Jefferson became interested in the decimal system and it was this influence that led to the adoption by the U.S. of the world's first decimal monetary system.

Jefferson subsequently proposed a new system of measurements based on the length of the swing of a pendulum, expressed in decimals. Congress agreed to study the proposed system and has been, off and on, studying it ever since.

At the same time—1790—the French Academy of Sciences was looking for a fundamental unit of measure. Out of this quest came the "meter"—one ten-millionth of the distance from the Equator to the Pole.

To determine this length, the French undertook to survey the distance between Dunkirk and Barcelona, Spain, both of which were on the same meridian. The job took seven years to complete, complicated by the Reign of Terror in Europe produced by the French Revolution. From this single length standard all other weights and measures were to be derived, expressed in the decimal system.

In 1799, a meter bar and kilogram weight were constructed of platinum and deposited in the Archives of the French Republic. Iron copies were reproduced for distribution. One set found its way to the United States in 1805, the personal property of Ferdinand R. Hassler, a Swiss immigrant highly trained in mathematics, who later became our first superintendent of weights and measures.

Discussions of conversion to the metric system popped up through the years and finally in 1866 the Congress, authorized permissive and legal use of the metric system. Then in 1869, France proposed to construct new metric standards and the U.S. sent a delegation. On May 20, 1875, the U.S. signed the Treaty of the Meter that established the International Bureau of Weights and Measures, which was to be located in a small palace at Sevres, France, near Paris. The world's master metric units were to be fabricated and stored in a palace vault and copies made for the 17 member nations.

In 1890, Meter No. 27 and Kilogram No. 20 arrived in the U.S. and the next year Meter No. 2 and Kilogram No. 4. By an order of the secretary of the treasury in 1893, Meter No. 27 and Kilogram No 20 were formally recognized as the basis for deriving the "customary units of the yard and the pound" in the U.S.

So, to the surprise of many opponents of the current efforts for the nation to "go metric", we've been metric of sorts for over 80 years: Our yards, pounds, etc., have been derived from the metric units held by the National Bureau of Standards in Gaithersburg, Md., just a few miles north of Washington.

Still, when you say "metric," the average citizen is on the defensive.

Odds are the nation won't come unglued with metrication. The British will have completed the job next year and that doughty island hasn't slipped under the waves. Actually that nation really took a plunge because it decimalized its monetary system at the same time.

Can we expect the same thing to happen in this country as happened in England? The 10-year British operation was voluntary, as ours will be, and relies heavily on education. Lord Ritchie-Calder, former chairman of the British Metrication Board, was fond of saying: "I was not there to suppress the pint but to liberate the liter."

Metrication will certainly liberate some Americans. Tests have shown that the vast majority of Americans don't understand the current English (customary) system now. So there won't be an unlearning process for most, but simply a process of learning a full system for the first time.

Sure there will be problems initially, such as for the housewife in the kitchen. But the truth is that most cooks can't readily ascertain a teaspoon amount from a tablespoon and would be lost without a measuring cup. Few have scales that weigh in ounces and pounds. They basically rely on instinct, experience and reading the labels. Even that is passe now with prepackaged baking goods. A temperature conversion scale tacked on the kitchen bulleting board will help the family chef set the knobs correctly on the oven dials.

How about buying clothing? It will be much simpler and more precise with regard to sizes. Here again a simple conversion chart will solve the problem.

The family auto? It doesn't really matter if that pump meters gasoline through by the gallon or liter. The fuel gauges have long since stopped indicating contents by gallons. There's no reason why they can't go on showing ¼, ½ and ¾ increments.

Speed? Unfortunately in this energy crisis we're missing an opportunity by not converting immediately to kilometers. For decades we've been hung up on "60 miles per hour." In the early days you were pounding on the outer reaches of automotive technology when your vehicle could reach a-mile-a-minute speed. That number of miles per hour has since become a sort of a national cruising speed.

So when the President late in November announced the need for a 50 MPH speed limit and had we been converting to metrics, he could have decreed an 80 kilometer per hour limit. With signs reading "80" Americans would have thought they were going faster, but, in reality, slower. So our speed fetish would have been fed and the energy crisis eased at the same time.

In any event expect to see road signs appearing in both customary and metric unit. It's already happening in Ohio.

Time? Isn't it time the rest of the populace got on the 24-hour clock too? Airline pilots have been on it for years.

Education—for the adults—and for the young will be a vital part of the transition. At least one state, California, is already teaching the metric system to its students. But U.S. universities have been doing it as a matter of course in scientific fields for many years. So have schools teaching electronics—our electrical units have been metric since 1894. Pilots are accustomed to setting radio frequencies by kilo- and megaHertz metric units. Unconsciously so have other Americans when they tune in an AM or FM broadcasting station. We've learned to adjust to metric units in sports because of the Olympics and other international meets.

A number of U.S. manufacturers have gone metric, such as Caterpillar, International Harvester, IBM, Honeywell and John Deere, are committed. U.S. auto firms are converting on some models—many parts of the Pinto and Vega are already metric. Sears, Roebuck carries metric tools in stock.

How much will it cost? No one really knows. U.S. business estimates that converting to metric will increase our exports on the order of $600-million annually. The estimates on the cost to consumers in this country are foggy, ranging from $60 billion to $100 billion, depending on the point of view. One estimate is that it would add $15 to the cost of a new automobile.

Who will pay this cost, whatever it is? Possibly a government subsidy, but business opposes this, preferring to do as the British have done and "let the costs fall where they may." Except for a possible subsidy for tools that a worker has to purchase personally, that's most likely the way the cost of conversion will be handled.

One thing appears conclusive: Metrication is coming. To borrow from a TV commercial, the world seems to be chortling: "We gotcha!"

Dr. Richard W. Roberts, director of the National Bureau of Standards, says: "It is the steadily increasing use of the metric system by our manufacturing industry that makes necessary the enactment of legislation that will insure that the increasing metric use will be as easy as possible and also beneficial as possible for the whole country."

It's incorrect to say that we are at a crossroad. We aren't because that would indicate we have a choice in directions.

It's more like sweeping onto a freeway from an access road and the task is to mesh in quickly with the heavy traffic and go in the same direction.

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## FARMER STATE CHIEF CITES ENERGY VIEWS

### HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. MILFORD. Mr. Speaker, recently I had called to my attention an article which appeared in the December 30, 1973, edition of the Fort Lauderdale, Fla., News. The story is the result of an interview with Mr. Edward Weidenfeld.

Unfortunately, I was not a member of this body when Mr. Weidenfeld so capably headed the special staff when the Committee on Interior and Insular Affairs held the first congressional hearings ever on the overall national energy situation in 1971 and 1972. But I will tell you that the report which was issued after those hearings is an important reference book in our office.

In this interview, Mr. Weidenfeld makes a point which I believe is of interest to all of us here. I cannot endorse his opinion that the Arab oil embargo has pushed the United States toward an eventual reshuffling of energy sources and uses, because Congress does not have enough facts before it yet.

But I do believe, Mr. Weidenfeld's remarks on the subject are worth our attention. I include this article in the RECORD at this point:

#### OIL CUTOFF "BEST THING" FOR UNITED STATES

(By Barbara Greenberg)

Despite threats of gasoline rationing and other proposed or real changes in American life-styles, the man who organized the House hearings on energy says the Arab oil embargo is "the best thing to happen to this country."

The embargo, which precipitated the U.S. energy crisis, "couldn't have come at a better time," according to Edward Weidenfeld, now an energy lawyer in Washington, D.C.

"It woke us up. If it hadn't happened now, we would have gone along in the status quo and been hit a few years with a very sudden crisis and economic disaster.

"This way, at least, we have some lead time to conserve, plan and get used to living differently."

Living differently will mean fewer luxuries, higher prices, higher unemployment and fewer vacations, according to Weidenfeld.

It's the vacation part that could affect South Florida most. Weidenfeld, who was on vacation in Pompano Beach last week, praised Gov. Reubin Askew for his efforts to keep the tourist industry from faltering.

"Askew has been very visible in Washington," Weidenfeld said.

Other Broward officials are worried about the effect of the fuel shortage on tourism, too.

Last week, County Commission Chairman Jack Moss asked residents to cut back on gasoline use so there will be enough fuel for visitors. A reduction in tourists could put numerous Broward people out of work, Moss feared, and seriously hurt the county's economy. Nearly $600 million of tourist money comes into Broward annually, according to Moss.

Weidenfeld said the energy crunch has been long in coming, and he criticized the Nixon administration for not doing something about it sooner.

Even when he put together dozens of witnesses for the House Interior Committee and even when divergent witnesses concurred that an energy crisis was inevitable unless renewal sources of energy were sought, the administration remained deaf, Weidenfeld said.

As general counsel to the House, Weidenfeld also studied the rates of petroleum production and consumption. Two years ago, he said the American economy was overly dependent on hydrocarbons (oil, coal and wood). He predicted that the demand for oil would soon outstrip supply, particularly where oil is used for the manufacture of plastics and other products.

"We've got to turn away from finite sources and seek renewable sources, like solar power, fusion and the power of waves," he said.

Weidenfeld also predicted the skyrocketing price of gasoline. Two years ago, he told the New York Times gas would be 50 cents a gallon by the spring of 1974. He's revised his prediction: 80 cents by spring.

Despite all the problems caused by the energy crisis, Weidenfeld is optimistic.

"The character of the American people will enable us to rise above this problem," he said.

Weidenfeld approves federal energy chief William Simon's proposed rationing plan but hopes it will never have to be used.

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## TIME TO SPEAK FOR THE CONSUMER

### HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. ROSENTHAL. Mr. Speaker, the Long Island Press in an editorial on January 25, 1974, called for the prompt enactment of a strong and meaningful Consumer Protection Agency. This distinguished New York newspaper recognized that—

> To be truly effective, the Consumer Protective Agency must have the muscle its opponents fear. It must be able to conduct research, release information to consumers and, if necessary, even disclose trade secrets to protect public health or safety.

The Long Island Press recognized that the legislation faces "a strong attack by the well-heeled special interests who fear consumers with a real voice" and urged the Congress to act quickly and vigorously to ward off the attack of those opposition interests and to promptly enact a meaningful Consumer Protection Agency bill.

Following is the editorial in full:

#### TIME TO SPEAK FOR THE CONSUMER

The energy situation and the possible impeachment of President Nixon are the overriding concerns of the 93rd Congress' second session. But there are other important matters begging for decisions, such as a broad tax reform bill, election campaign reform, national health insurance, welfare reform, and remedies for growing unemployment and other economic ills.

Included in this "must" list, certainly, is the need for more and better consumer protection against what Sen. Charles Percy, R.-Ill., describes as "bureaucratic neglect" and "secret deals, that sell out the consumer." As things now stand, the consumer gets precious little protection against abuse with evidence mounting that regulatory bodies are more interested in protecting sellers of goods and services.

The fight for improved consumer protection has made little progress since 1962, when the 82nd Congress rejected even a weakened compromise measure to create a federal Consumer Protection Agency. Now, thanks to the efforts of such consumer advocates as Rep. Benjamin Rosenthal, Elmhurst Democrat, and Sens. Percy, Jacob Javits, and Abraham Ribicoff, a new attempt will be made.

Sen. Javits predicts approval of the legislation, which Ralph Nader calls "the single most important consumer bill ever to come before the Congress." He bases his optimism on the Nixon administration's decision to support, in principle, the creation of a strong, truly independent, Consumer Protection Agency. That support, we trust, will continue when the specifics are spelled out.

To be truly effective, the Consumer Protection Agency must have the muscle its opponents fear. It must be able to represent consumers before government agencies and the courts. It must be able to conduct research, release information to consumers and, if necessary, even disclose trade secrets to protect public health and safety. It should have at least limited subpena power and whatever other authority is needed to allow it to help consumers fight unfavorable decisions by such regulatory bodies as the Federal Trade Commission, Food and Drug Administration and the Federal Aviation Agency.

Despite the hopes voiced by its proponents, the legislation faces a strong attack by the well-heeled special interests who fear consumers with a real voice, and by some in Congress who mistakenly fear a Consumer Protection Agency would be another agency with too much power.

The best defense against such an attack is public clamor. Now is the time to start.

## POISONING PROGRAM

## HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. DINGELL. Mr. Speaker, pursuant to permission granted I insert into the CONGRESSIONAL RECORD an article appearing in the Rocky Mountain News of November 25, 1973, regarding a poisoning program conducted by the State of Colorado in which poisoning of bears is a constituent part.

As long as this kind of excess persists, resolution of the problem faced by stockmen because of predators will be most difficult.

The article follows:

### BURKE'S GRAIN CHASE—QUIXOTIC ACT OF DEFIANCE

(By Suzanne Weiss)

For five days in early November, Louis R. "Ray" Burke, an official in the Colorado Department of Agriculture, led a handful of federal bigwigs on a merry chase that one of them said "should have landed him in Leavenworth."

But the series of events that had U.S. Department of the Interior officials angry enough to consider issuing a felony arrest charging Burke with theft of federal property was viewed by Burke as simply a quixotic stand against a bureaucracy that had pushed him too far.

After more than a year of wrangling with Interior Department agents over the ownership of 3½ tons of poison-laced grain used in the state's rodent control program, Burke decided he'd take matters into his own hands.

Burke got a key to the federal warehouse in southwest Denver where the grain was being stored, loaded more than 100 of the 50-pound grain sacks onto a State Agriculture Department pickup truck and drove off.

When federal officials discovered the grain was missing a few days later, they were angry enough. But when Burke refused to disclose where he was keeping the grain—and then took off on a two-week fishing vacation to Mexico—it touched off a Keystone Kops episode.

Beginning Nov. 1, when Interior Department officials first noticed the stuff was missing, Burke set in motion a bizarre plan to prevent the government from recovering the purloined grain.

And he finally gave up his contraband only after five days of head-knocking and intrigue between the Interior Department and an assortment of state officials.

The dispute started more than two years ago when Burke, who has headed the State Agriculture Department's animal industry division for 20 years, bought 6,600 pounds of poisoned grain—oats mixed with deadly 1060 toxin. The grain was to be used to exterminate rats and prairie dogs as part of Burke's state rodent control program.

Shortly after Burke bought the grain, new federal regulations were issued banning the use of such poisoned grain on public lands. But it was still legal to use the grain on private land, and Burke decided he'd simply sell off the material to Colorado farmers and ranchers who might want it.

It was the state's grain, Burke informed federal officials, and it was bought with state funds. He began a year-long correspondence with the Interior Department, insisting it release the grain to him.

Federal officials balked, however, claiming the state didn't own the grain since it was purchased under a cooperative state-federal predator and rodent control program which was financed at least partly with federal money.

The government made Burke an offer, which Interior Department official Jim Ruch said this week was in writing. The offer was to refund the state's share of money invested in the grain, but that couldn't be done until an audit was run.

"Unfortunately, the audit didn't proceed to the point where we actually refunded the state's money," Ruch admitted. "If it had, we wouldn't have had any of this trouble."

For several months Burke bided his time, still intent on getting the grain back. The opportunity came, he thought, when State Agriculture Department officials decided in October to pull out of the federally administered rodent control program.

"That was busting up the marriage, as far as I was concerned," Burke said. "I decided to get back the property that was ours."

So Burke retrieved the grain, and enlisted the aid of one of his assistants—whom he refused to identify—in "keeping the stuff on the move, so the feds couldn't get it."

#### COMMUNIQUES

For almost a week the assistant drove the truck around the city and parked it in a different location every day. Meanwhile, Gov. John Vanderhoof—who had received several threatening communiques from the Interior Department—frantically ordered that the grain be returned.

Burke, who was in daily contact with the assistant from his Mexican vacation spot, finally got wind that his own job was on the line and told the assistant to surrender the grain. When federal officials repossessed the grain, it was loaded on the pickup truck which was parked a half-block from Burke's office near the Statehouse.

#### LOT AT STAKE

"I realized there was a lot at stake," Burke said, with no trace of regret in his voice. "You know, they've always got that carrot of federal money dangling in front of your nose. You can't sniff at some of those big grants the state gets."

Burke recounted the incident with some amusement, seeing it as a justifiable act of defiance against "a lot of high-priced federal bureaucrats."

He even suggested that his actions might inspire officials in other states to such heroics.

"Some of these other guys who are fed up with the way the government's been running this program are saying, 'If Burke gets away with this one, we're going that way, too,' " he said proudly.

#### TAKES DIM VIEW

But the Interior Department's Ruch has taken a dim view of Burke's prank. "I don't think he (Burke) has any idea how close he came to having a felony rap laid on him," Ruch said.

"There's never been any legal question whatsoever about the ownership of the grain—it was the government's, not the state's," he said.

Ruch said the Interior Department, which now has its grain back in the Denver warehouse, is "reckoning," how much it owes the state for its share of the purchase. But it's likely to be only about $1,500, according to Burke—who insisted the government never offered to refund the state's money before the incident.

#### RESENTFUL

Vanderhoof, questioned about the episode, seemed resentful of the Interior Department's heavy-handedness in recovering the grain.

Asked if he knew ahead of time that Burke was planning such a maneuver, Vanderhoof said, "Well, no, I didn't. But if I'd been in a position to, I would have authorized it. It was the state's property."

Ruch was less appreciative of Burke's conduct—"In my career, I've never heard of anyone who acted the way he did.

"He could've been locked up—complete with manacles."

## THE EFFECTS OF GOVERNMENT'S HEAVY HAND ON THE ECONOMY

## HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. CRANE. Mr. Speaker, by this time, it should be well known to all Americans that wage and price controls do not stop inflation, for inflation is caused by an increase in the money supply which has proceeded during the past period as the Government has been spending far more money than it has received in revenue.

While controls do nothing to stop inflation, they do a great deal to cause serious dislocations in the entire economy. The policy of price controls on natural gas, for example, has increased the demand for petroleum products, just as keeping the price of electricity and other forms of power artificially low has also increased that demand. At the same time that Government kept the price of energy artificially low, it also limited the demand through artificial import quotas. These, not the Arab boycott, are the real components of our current crisis.

Now we are becoming aware of the fact that there is a serious paper shortage as well. This has come about in precisely the same way. Paper manufacturers, operating under restrictive price controls, are dropping less profitable lines and hope to export more of their products overseas. Low profits in the paper industry have discouraged capital investment, just as import quotas on petroleum discouraged the building of new refineries. The price for bleached raw pulp is $265 a ton in Europe and only $185 a ton in the United States. Thus, American companies are selling their products abroad, not at home. By eliminating wage and price controls, we would be eliminating the problem of shortages.

Discussing the impact of Government's heavy hand upon the economy, Alan Reynolds, an associate editor of National Review, notes:

> Sellers will not increase supplies if such expansion would add more to costs than to revenues. This is . . . the main reason why petroleum refineries were not too anxious to expand capacity, or to buy increasingly costly imported crude oil, since even cost-justified price increases have been severely limited. The mere possibility of price controls is enough to delay long-range investments.

To those who argue that an increase in gasoline prices would be unfair to the poor, Mr. Reynolds writes:

> Studies indicate that those with annual incomes below $5,000 spend about 3.4 per cent of their income on gasoline, and from 35 to 40 per cent on various taxes. If Government officials were truly concerned about the poor, they would stop taxing them into poverty. Instead, they are suggesting huge increases in the gasoline excise tax—no less painful than an equivalent price increase but far less likely to result in more oil production.

The market operates under laws of its own, and we ignore these, as we have done, at our peril. Mr. Reynolds concludes:

> We do not conduct opinion polls on the causes and cures for cancer, but economic ills are another matter. For the last few years, politicians have tinkered with prices, trade and production . . . We have only begun to experience the results.

I wish to share with my colleagues the article "Some Preliminary Effects of a Heavy Hand," by Alan Reynolds, which appeared in the New York Times of January 20, 1974, and insert it into the Record at this time:

### Some Preliminary Effects of a Heavy Hand

(By Alan Reynolds)

The shortage of petroleum and natural gas is only the most conspicuous of many shortages that have plagued the economy in the last year. Among others have been shortages of metals, foods, textiles, lumber, paper and oil-drilling equipment. Unless we are to turn to rationing goods by political influence as each new shortage appears, there are some elementary lessons to be learned:

1. The term "shortage" means people want to buy more at some specific price than sellers want to sell at that price. This is why the shortages of meat, lumber and fertilizer miraculously disappeared when price controls were lifted.

2. It is wholly arbitrary to classify some things as "essential needs" and others as wasteful squandering. People might prefer to wear coats indoors rather than give up Sunday drives to a ski resort. They might prefer to consume oil directly—as gasoline, heating oil or electricity—rather than in the form of energy-using products made of plastic or aluminum. In the absence of price controls, changes in relative prices would draw scarce goods to uses that consumers prefer, on a proportional basis.

3. An increase in one price does not imply an increase in the average level of all prices (inflation). If consumers pay more for gasoline, they will have less money left over to bid up the prices of other things. If price controls discourage production, however, that will increase the inflationary consequences of any given monetary policy: There will be too much money chasing too few goods.

4. Sellers will not increase supplies if such expansion would add more to costs than to revenues. This is presumably the main reason why petroleum refineries were not too anxious to expand capacity, or to buy increasingly costly imported crude oil, since even cost-justified price increases have been severely limited. The mere possibility of price controls is enough to delay long-range investments.

5. Above average ("excess") profits provide funds for expanding productive capacity and stimulate innovators and investors to seek ways of capturing a share of the market, ultimately driving prices and profits back down. This is why there has been insufficient investment in energy research, extraction, processing and marketing. After-tax profits of petroleum refineries fell every year between 1966 (11.2 per cent of sales) and 1972 (6.6 per cent). Oil stock prices are still depressed, despite relatively adequate profits in 1973, because potential investors do not believe that the government will allow the business to remain sufficiently profitable to warrant risky and expensive ventures in oil shale, tar sands, offshore drilling and coal conversion.

6. Price "gouging" is socially useful. The clever entrepreneur who can attain a temporary monopoly position—by somehow having supplies when others do not—has always been rewarded for his foresight and unique ability to serve customers. Without the incentive of monopoly pricing, service stations will simply not open very often, much less scramble for additional supplies in regions where arbitrary allocation is not working. Consumers are not really "forced," after all, to pay a premium for the convenience of having gasoline available at a certain time and place.

7. A sizable rise in gasoline prices will not have much impact on the poor. Studies indicate that those with annual incomes below $5,000 spend about 3.4 per cent of their income on gasoline, and from 35 to 50 per cent on various taxes. If Government officials were truly concerned about the poor, they would stop taxing them into poverty. Instead, they are suggesting huge increases in the gasoline-excise tax—no less painful than an equivalent price increase but far less likely to result in more oil production. Nearly any price increase, by definition, hurts the poor more than the rich. This may be an argument for cash aid or fuel stamps (like food stamps), but not for preventing people from exchanging whatever wealth they have on terms they agree to.

Paralyzing the price system, and the production it inspires, is an absurd way of "helping" the poor. Nor is it necessarily true that the rich alone "waste" fuel while the poor "need" all that they now use. As my own family income rose out of the four-figure bracket in 1971, I switched from two vintage Buicks (the drip pans alone would lubricate most compacts) to one new Vega, and from a poorly insulated house to a tightly insulated one.

We do not conduct opinion polls on the causes and cures for cancer, but economic ills are another matter. For the last few years, politicians have tinkered with prices, trade and production in response to fickle fads and uninformed passions. We have only begun to experience the results.

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## MY RESPONSIBILITIES AS A CITIZEN

## HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. DERWINSKI. Mr. Speaker, I am pleased to insert into the Record a copy of a speech printed in the January 17 Desplaines Valley News, written by Timothy Corbitt. Timothy was the second prize winner of the VFW Voice of Democracy Speech Contest.

Not only as a Member of Congress but also as a VFW member, I believe that the Voice of Democracy contest is a most wholesome and practical program. Timothy's contribution is a fine essay and noteworthy accomplishment by a young constituent.

The speech follows:

### My Responsibilities as a Citizen

(By Timothy Corbitt)

This speech contest comes at a time when living up to our responsibility as citizens is more important than ever. In such a time it is important, I believe, to re-examine just exactly what responsibility to a country really means.

I believe that responsibility begins with emotion for, or more simply LOVE of country. I don't mean simply that rush of pride when a flag passes by. I don't mean that feeling of awe for the beauty of a great mountain range. These are well and good, but what I refer to is love of country almost as one would love a person. I believe that if one can feel this way, the fulfillment of his responsibilities as a citizen will come naturally, for whatever hurts the country as a whole should also be a source of real personal sadness to a good citizen. This feeling will most always cause a person to think first of what is best for this country before any personal gain.

A very visible example of this type of thought was a famous speech of the late President Johnson in which he stated his intention not to seek re-election for the sake of the country. The emotion of that decision for the love of his country was evident in the television speech.

It is the kind of love that makes people drive at 50 miles per hour before it is a law, to save our precious energy resources. It is this that causes people never to lose faith in the majority of politicians because of the transgressions of a few. It is this that gives a feeling of personal pride when an American wins an Olympic event.

To be a good citizen is not only to serve jury duty when called upon, but to do it cheerfully and conscientiously, remembering that this is a land where everyone gets a fair trial.

It is very much a part of not only our responsibility but our heritage to write to our elected officials and tell them what we want from them. It is part of our right and duty to assemble in peaceful protest when we believe a problem could be remedied by it, but it is also our responsibility to remember that this is the land where peaceful protest is allowed. That is really something to cheer about. It is our responsibility to fight aggression whenever called upon. For it is the duty as a whole of the greatest democracy in the world to defend those democracies which are not strong enough to defend themselves. For in the final analysis, the United States is not so much a country of itself as it is the dreams and hopes of every lover of freedom that ever lived. The dreams of freedom and liberty and democracy are the same in every land. Even the sad and oppressed people of the communist bloc countries still hold out hope that they may some day be liberated. The model for those hopes must continue to be the news and music which cut thru the propaganda over Radio Free Europe from the one great democracy, the United States of America.

In short, responsibility to the United States is and should ever be a responsibility to the dreams and hopes of the oppressed people of the world. We must never let them lapse into despair, we must put all our heart, our soul, and our mind and our strength into keeping the flame of democracy alive.

## STUDY ON OIL RESERVES IN UNITED STATES

### HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. ASPIN. Mr. Speaker, "Estimates of crude oil reserves in the United States have been consistently underestimated by the API," according to a 70-page report commissioned by the Library of Congress which I am publicly releasing today.

Mr. Speaker, this study, which is broadly critical of available energy information, is new and convincing evidence that the Government must independently develop energy information.

The study says that traditionally, the oil industry has been "very conservative" in estimating available resources of crude oil.

Mr. Speaker, the industry has been consciously and consistently manipulating its own statistics. How can the Government possibly make a decent energy policy with such unreliable information?

As many of my colleagues know the American Petroleum Institute and the American Gas Association have developed estimates of available crude oil and natural gas reserves based on so-called provable reserves.

The study prepared by Energy Research, Inc. a private consulting firm in Washington, D.C., faults the use of provable reserves because:

Industry figures are not validated by government;

There is a lack of standardization of economic and technical factors to be applied in the definition;

Its published proved reserve figures are consistently understated from the standpoint of accepted statistical techniques; and

Confidentiality of data makes verification impossible.

The study recommends that:

> The government at a minimum should have the capability which would permit a responsible federal official to testify before a Committee of Congress that the figures have been reviewed and validated under his supervision and that they can be relied upon.

Mr. Speaker, with the industry controlling all the statistics, they can consciously manipulate the data to prove anything that will help promote their own interests.

With big oil benefiting so dramatically from the crisis it comes as no surprise that many Americans suspect that the current crisis may be a fraud and a hoax.

The API definition of provable reserves takes into account various economic factors including the amount of capital available for development and production. But, according to the study,

> Reserve estimates may be subject to distortion, deception, and perhaps even fraud, from time to time, since reserves often have a direct relationship to the availability of capital.

The study also says that:

> Discoveries repeatedly have exceeded estimates made a few years earlier. This occurrence is so common that it approaches a rule.

Mr. Speaker, the study cites several specific examples of underestimating of reserves by the industry. For example, in 1960, increases in the estimates of reserves in fields discovered through 1936 were almost twice as much as the estimates made in 1936. In addition, proved reserves in the Western Hemisphere in 1962 were 70 billion barrels. By 1972, despite 50 billion barrels of production in the intervening decade reserves had climbed to just under 90 billion barrels.

Although companies developing the North Slope of Alaska have estimated that provable reserves in 1973 were 19 billion, J. C. Reed of the Arctic Institute estimates that 42 billion barrels of crude oil will be discovered in Alaska by the year 2000.

The report also says that for the last 27 years the net revision of estimated reserves has always been upward. In 1972 the API revised its figure upward by 820 million barrels.

The report comments:

> From a probability approach, the chance of getting upward revisions and no downward revisions from an unbiased estimating procedure is exceedingly small (less than 1 in 100 million).

In other words, the chances are infinitesimal that these reserve statistics are honest and accurate. Until the Government completely audits these figures, including reserve data, we will have no idea what the long-term energy picture in the United States actually is and what our policy should be.

The report also discloses that oil company executives themselves recognize that there is a credibility gap with the public on estimates of dimensions of the energy crisis.

The report highlights earlier recommendations in 1962 and 1965 to improve Government data gathering in the oil-gas field. All of these earlier warnings were ignored and now Congress must act swiftly to approve energy information legislation.

For my colleagues' information, I am including at this point in the RECORD an abstract on the study entitled "Analysis of Salient Issues Regarding the Estimation of Proved Oil and Gas Reserve Figures." The abstract follows:

#### ABSTRACT

> The first two chapters of the study are designed to acquaint the reader with basic fundamentals associated with the petroleum and natural gas industries. These fundamentals include terminology, geological factors, matters affecting the exploration process, and an introduction into diverse practices for measuring oil and gas reserves, including a brief chronology into the history of reserve estimates.
>
> Chapter III investigates economic issues associated with measuring oil and gas reserve estimates. There is a specific discussion regarding the definition currently utilized by the American Petroleum Institute (API) and the American Gas Association (AGA). It is stated that utilization of the current definition is deficient in that the factors contained in the definition are not "weighted" nor are there quality control programs associated with obtaining reserve figures. Moreover, it is pointed out that the definition does not tell anything about the availability of inventories of oil and gas from reservoirs that are yet to be discovered but which are assumed to exist in nature.
>
> What follows is a discussion of economic considerations which demonstrate that public and private policy making must rest on a broader and more complex base of information than "proved reserve" figures. The study also notes that current governmental incentives are geared to encouraging production and use, and not to the discovery and holding of reserves. This aspect of the study contains a discussion of the cost of capital, and the optimum ratio of reserves to production, demonstrating that the existence of strong incentives to raise production to high rates from successful drilling produces a low ratio of reserves to production. The economic section of the study concludes by pointing out that there is no standardization of economic factors in the API-AGA definition and that the appraisal of existing economic conditions often lies in the eyes of the beholder.
>
> Chapter IV involves a detailed discussion of the nature and methodology of making reserve estimates. It is noted that these estimates are important from the standpoint of developing a sound national energy policy. The discussion points out a common fallacy made by those unfamiliar with the oil and gas industries of equating the term "proved reserves" with "petroleum resources." The study stresses the fact that it has been traditional to be "very conservative" in estimating undiscovered oil and gas resources and that actual discoveries repeatedly have far exceeded estimates made a few years earlier. Examples are provided.
>
> In discussing the methodology of reserve estimates, it is noted that estimates are generally made by use of a mathematical method, geological method or a combination of both. The chapter concludes with a discussion of the procedures and methodology employed by API and AGA in estimating "proved reserves" pursuant to the definition previously discussed.
>
> The basic purpose of Chapter V is to provide two case studies in which oil and gas estimates were recently considered and to critique those studies.
>
> The first involves the "National Gas Study," initiated by the Federal Power Commission in order to establish an independent estimate of the total proven gas reserves in the United States as of December 31, 1970. The chapter

includes a description of the composition of the study team and their approach to the problem. In the critique of the FPC study it is noted that it was designed, controlled and executed in a highly acceptable manner and sound. The FPC study resulted in a lower gas estimate for the sample period than the estimate provided by AGA.

The second example involves an analysis of a study performed under the auspices of the National Petroleum Council, an industry advisory group sponsored by the Department of Interior. The study (U.S. Energy Outlook) was published in December, 1972. It included chapters on both foreign and domestic oil and gas availability (1971–1985). The stated objective was to examine the factors which affect future supplies with a view toward increasing domestic supplies. The study concluded that an estimated 385 billion barrels of oil and 1,178 trillion cubic feet of gas remained to be found as of the end of 1970.

The critique of the study notes that it was an industry study and subject to questions of "credibility." Moreover, the figures published by NPC are conservative when measured against other estimates. It is noted that the use of "probable, possible and speculative" categories provide a more rational basis for formulating national energy policy than the proved oil and gas formula alone.

The issue of credibility is treated as a separate subject in Chapter VI. The study team believes that this issue is of paramount importance in making estimates for the purpose of formulating national energy policy. This chapter also contains an outline of the criticisms of the "proved reserve" concept. They can be summarized as follows:

1. Industry figures without government validation.

2. Lack of standardization of economic and technological factors to be applied in the definition.

3. Published proved reserve figures are consistently understated from the standpoint of accepted statistical techniques.

4. The "proved reserve" definition is not an acceptable standard for determining potential oil and gas resources.

5. "Confidentiality" of data makes verification impossible.

The study team concludes that even if the API–AGA proved reserve figures are accurate, a problem still exists because the figures are suspect, being derived and compiled by industry without federal validation. The study recommends that what is needed at the minimum is a capability which would permit a responsible federal official to testify before a Committee of the Congress that the figures have been reviewed and validated under his supervision and that they can be relied upon.

The study concludes in Chapter VII with a list of alternatives to the present "proved reserve" system. First, overall objectives are identified; *e.g.*, type of information needed. Second, an assessment of industry, government and the public's role is stated; *e.g.*, the federal government must assume the responsibility for the preparation of needed data which are accurate and timely.

Alternative procedures are presented in the order of increasing governmental participation. They range from improving current procedures by instituting an independent governmental review of current reserve estimate procedures to total government involvement in developing a data base and performing its own analysis of the base. Costs associated with such programs are discussed. A wide range of overlapping alternatives is presented so that a single procedure or a mix of several procedures can be explored.

The narrative concludes with a brief description of proposed legislation bearing on the subject.

The study demonstrates that estimates of oil and gas resources can be valuable tools in developing national energy policy. However, these estimates must be understandable and credible if decision makers are to utilize them in formulating such policy. The current reliance on API proved reserve figures is not acceptable because the federal government has not established a capability to verify or validate these figures. Some federal involvement in the estimating process is absolutely essential from the standpoint of credibility.

This study was designed to clarify some of the problems associated with the estimation process and suggest reasonable alternatives on how future estimates can be made.

## WASHINGTON POST ARTICLE DESCRIBES H.R. 12066 ON REAL ESTATE SETTLEMENTS, ON WHICH HEARINGS BEGIN TOMORROW

## HON. LEONOR K. SULLIVAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mrs. SULLIVAN. Mr. Speaker, I was tremendously pleased on Saturday to see in the Washington Post—on page 1 of the real estate section, which is read widely by families actively interested in buying homes in this area—an article describing my bill, H.R. 12066 dealing with the disclosure and regulation of the mysterious fees charged to home buyers when they go to the title company or settlement office to complete the closing transactions on the transfer of the property. Two days of hearings on H.R. 12066 begin tomorrow morning in the Subcommittee on Housing of the House Committee on Banking and Currency.

The real estate settlement industry was ably represented at hearings of the subcommittee last month in support of legislation on closing costs which is not nearly as comprehensive in protecting the consumer as H.R. 12066 and which, in fact, repeals existing law for the setting of maximum closing costs on FHA-insured and VA-guaranteed loans. H.R. 12066 not only retains this power on FHA and VA housing, but extends it to cover most conventional loans as well. The subcommittee hearings scheduled tomorrow and Wednesday will be devoted to witnesses who will stress the need for strong consumer protections in this field.

In addition to my statement in introducing H.R. 12066 which appeared in the RECORD of December 26, 1973, the following article from Saturday's Washington Post will be of interest, Mr. Speaker, to those Members who are concerned over the cost to consumers, and the confusion they experience, when it comes time to sign all of the papers and pay a lot of unexpected fees in order to take legal possession of their homes.

The article referred to is as follows:

[From the Washington Post, Jan. 26, 1974]

HOUSE LAUNCHES BILL TO AID HOME BUYERS

Hearings on a consumer-oriented bill to protect home buyers from exorbitant costs—ranging from inflated closing fees to artificially high sales prices—will begin Tuesday and Wednesday before the House Banking and Currency Subcommittee on Housing.

The measure—H.R. 12066—was introduced in the waning hours of last year's Congress by Rep. Leonor K. Sullivan (D-Mo.). She is not only a member of the subcommittee but also chairman of the Banking and Currency Subcommittee on Consumer Affairs and next week's hearings are expected to start off with witnesses from consumer-oriented groups like Consumers Union.

"In passing this legislation," Rep. Sullivan said in introducing her bill Dec. 20, "Congress would be making a determination that consumers throughout the nation—especially low- and moderate-income families consumers—must be protected from widespread abusive, inequitable and fraudulent real estate transaction practices which have bilked our citizens of billions of dollars and have caused enormous hardship and deprivation."

The most crucial provision of the bill, Mrs. Sullivan believes, calls for the establishment, by the Secretary of Housing and Urban Development, of maximum charges for each of the principal kinds of costs in any residential real estate settlement involving a federally related mortgage loan.

Other key provisions of the bill would call for:

Development of a single, standardized federal settlement form to be used in all transactions covered by the definitions of a federally related mortgage loan.

Preparation by HUD of special consumer information booklets outlining the nature and purpose of every charge incident to a real estate settlement, indicating the maximum allowable charges and explaining the pitfalls to be avoided in a settlement.

Advance disclosure, or a good faith estimate, of an itemized list of charges that will arise in connection with the settlement—disclosure to be made at the time the buyer is entering into a mortgage commitment.

Prohibition of kickbacks with a fine of up to $1,000 and/or a year in prison for anyone accepting a payoff for referring business incident to a residential real estate sale.

Prohibition of attorney's commissions for title insurance on the property involved in such a real estate transaction. Also, any fees for title insurance to protect the lender's interests would have to be paid by the lender.

Disclosure to a buyer by the seller of the previous selling price of a home that had changed hands in the preceding two years, such disclosure to be made before the signing of the sales agreement.

This last provision is designed to attack what Mrs. Sullivan sees as a "serious abuse" in the transfer of real estate, in which the property previously has been sold to "straw parties" at inflated prices in order to try to establish an artificially high market value.

"Low-income families, particularly," Mrs. Sullivan said on the House floor, "have been victimized by such practices when buying a home from a real estate speculator who had previously kited the alleged market value of the property through one or more sales to straw parties."

On her bill's "most crucial" provision—that of giving HUD power to set maximum settlement charges—Mrs. Sullivan has pointed out that such authority already exists in settlements involving FHA-insured or VA-guaranteed mortgage loans, but that not even this limited power has been put into effect.

Mrs. Sullivan's bill would not only retain that authority but also widen its application to any federally-related mortgage loans—principally, those insured or subsidized by a federal instrumentality or issued by a lending institution regulated or insured by the federal government, and covering, in effect, virtually all first mortgages and most second mortgages.

"This is without a doubt," Mrs. Sullivan has noted, "the most controversial section of the bill."

## THE HOUSE COMMITTEE ON INTERNAL SECURITY

### HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. ASHBROOK. Mr. Speaker, the annual battle of the appropriations for all the House committees looms again before us. I address my remarks today to only one committee during this period of early skirmishing, a committee whose vocal antagonists in this House have badgered but never beaten us, have vilified but never been victorious over us, and have maligned but never moved us from our course to investigate Marxist-Leninist organizations.

I am, of course, referring to the House Committee on Internal Security—HCIS—the eyes and ears of Congress in the field of national security affairs, on which including its predecessor, I have been privileged to serve for over a decade.

HCIS, and its predecessor, the Committee on Un-American Activities, have rounded out 30 years of service to the House of Representatives. Ironically, at a time when it is most needed, an ad hoc committee of the House composed of fewer than a dozen Members, have, in effect, called for its abolition by the stratagem of transferring its authority to the Judiciary Committee, a grossly overworked committee.

Before we recessed last month the Select Committee on Committees issued a "Working Draft of Report"—an apt title indeed, because I can report that the draft needs working and needs it very badly. However, lest I be considered subjective concerning my own committee's future welfare and the select committee's report thereon, I briefly quote the remarks, in part, of another Member of the House, Congressman JOHN DINGELL. The gentleman from Michigan in a letter to the chairman of the Select Committee, Mr. BOLLING, wrote:

> While I agree that the House must improve its internal procedures, I do not find anywhere in the documents furnished to the membership a justification for the total revision and perversion of the Committee systerm which appears to be its principal focus.
>
> As a brief for your proposal, I find your draft report to be inconclusive, obscure, and wholly unpersuasive. I am, in fact, persuaded that the kindest thing that we can do is to vote it down quickly, and to resume consideration of the needs and mechanics of Congressional reform at another time, and by [illegible]other Committee.

[illegible] should come as no great shock to all [illegible] Members of the House who have [illegible]thfully supported HCIS' appropriations in recent years by an overwhelming majority of 3 to 1 that the Select Committee recommended our demise in their report.

I sincerely hope that HCIS may again be the beneficiary of their vote of confidence in 1974 as well as that of 300 other Members of the House whose commonsense in matters of national security reflects the popular support for our committee which has existed throughout its history.

I submit at this point highlights from areas covered by HCIS during the last several years:

HIGHLIGHTS—SUBJECT MATTER COVERED BY THE COMMITTEE ON INTERNAL SECURITY (91ST–93D CONGRESSES)

Legislative hearings for the purpose of:

A. Safeguarding (1) industrial facilities essential to the U.S. defense program against acts of espionage, sabotage, and subversion (2) classified information released to contractors and (3) vessels and waterfront facilities.

B. Prohibiting (1) the solicitation, collection and delivery of monies and material to or for the use of any foreign power engaged in armed conflict with the U.S.A. (2) the obstruction of movement of men and material of the U.S. Armed Forces.

C. Considering bills to repeal Title II (the Emergency Detention Act) of the Internal Security Act of 1950.

D. Exercising legislative oversight functions on the Executive Branch's stewardship of (1) the Subversive Activities Control Act and (2) the Federal Civilian Employee Loyalty and Security Programs, the administration of which has become confused because of the "complex hodgepodge of underlying statutes and regulations" as well as the many adverse court decisions, both of which have "raised serious questions concerning congressional efforts to protect the Nation from internal subversion".

E. Restricting the travel of American nationals to the territory of a foreign power (e.g. Jane Fonda in Hanoi) engaged in armed conflict with the U.S.A. and the effect of such activity on the treatment and morale of American POWs.

Investigative hearings and/or reports compiled on:

A. Students for a Democratic Society (SDS) and Weatherman; an in-depth investigation on the origin, purpose, leadership, and activities from 1959–69, of the "national voice for campus leftists" which degenerated into an anarchistic, Marxist infiltrated, anti-US, youth group advocating the "violent overthrow of the present form of government in the United States and the goal of a classless world: world communism.'"

B. Black Panther Party; investigation of the origin, leadership and activities of this paramilitary, quasi-Marxist, racist organization whose propaganda called for a revolution in America to "liberate" the black population by "destroying" the "ruling class".

C. New Mobilization Committee to End the War in Vietnam; an in-depth investigation of the predecessors, the history and the subversive leadership of this Communist dominated, anti-war coalition whose chieftains were "militantly pro-Hanoi and anti-United States", and whose goal was the unilateral withdrawal of the U.S. Armed Forces from Vietnam. Founding conference organized by Prof. Sidney M. Peck, national co-chairman, and former member of Wisconsin State Committee of the Communist Party, USA.

D. Progressive Labor Party; investigation of the origin and organization of this Marxist-Leninist group, a spin-off of the Communist Party, which agitates for the destruction of the American capitalist system by violent revolution, and which supports the establishment of a dictatorship of the proletariat.

E. National Peace Action Coalition (NPAC); investigation of the origin and organization of this so-called peace group, one of two successors to the New Mobilization Committee, revealed that this coalition, which seeks the violent overthrow of the U.S. government was "tightly controlled by the Socialist Workers Party, a Trotskyist, communist organization."

F. Peoples Coalition for Peace and Justice (PCPJ); investigation of the origin and organization of this twin successor to the New Mobilization Committee revealed that the Communist Party, USA, exercised a generally "predominant influence" in the activities of this so-called pacifist, "anti-war" group. PCPJ and NPAC sponsored major demonstrations in Washington, D.C. in the Spring of 1971, to "close down" the government and to raise the "social cost" of the war to "unacceptable levels".

G. Activities to Subvert the Armed Forces of the United States; investigation of the extent of subversive influence by Marxist-Leninist groups of the so-called G.I. Movement on the morale, discipline, and combat readiness of U.S. military personnel. Chairman Ichord stated that certain anti-war groups, who have attempted to disaffect the man in uniform, have sought a communist victory in Asia and have promoted an American defeat and the humiliation of its military forces.

H. Revolutionary Activities Directed Against American Penal Institutions; investigation of radical and revolutionary groups including Weatherman, Young Lords Party, Black Panther Party, and the Black Muslims, revealed that the small but vocal faction of radical inmates created substantial problems for prison administrative staffs. Disruptive tactics of 10% of the inmates in prison demanded 90% of the Staff's time in one institution. Objectives of these organizations were to incite riots and employ acts of violence against lawful authorities and institutions for the purpose of creating loss of trust in government and in its ultimate destruction. Under existing court decisions, outside sources of revolutionary propaganda directed at inmates were almost impossible to control.

Investigative hearings on the series, "Theory and Practice of Communism" (i.e. Propaganda versus Performance): examined the practices of foreign communist parties, fronts, and governments, and their relationship to American communist and revolutionary organizations, including the Communist Party, U.S.A., its youth arm, the Young Workers Liberation League, and the pro-Castro Venceremos Brigades. Testimony received from defectors, undercover operatives, academicians, and specialists on the above concerning the Soviet Union, Red China, Cuba, Czechoslovakia, East Germany, Latvia, Laos, Cambodia, and Chile under Allende.

Reports and studies:

A study on the tactics of kidnapings as a political weapon by Marxist guerrillas and extremists.

A survey into the financing received by revolutionary groups and personalities through speaking engagements on college campuses.

A report on the Trotskyist-communist Social Workers Party and its youth arm, the Young Socialist Alliance.

A report on the Maoist, Marxist-Leninist Revolutionary Union, and the Venceremos Organization.

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## EMERGENCY DAYLIGHT SAVING TIME

### HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. LEHMAN. Mr. Speaker, when I voted for the Emergency Daylight Saving Time Energy Conservation Act of 1973, to put the Nation on DST on an experimental year-round basis until 1975, my concern was that the Nation must try all available means at its disposal to conserve energy.

Since January 6, when the Nation turned its clocks forward, five Florida children have lost their lives on their way to school. Several other children have been critically injured.

Furthermore, the savings of electrical energy are estimated to be a minuscule 1 percent.

I think it is time we admitted that we have made a miscalculation, and put the Nation back on standard time. I am introducing a bill today to repeal the Emergency Daylight Saving Time Act. We cannot wait for more accidents and deaths to take their toll.

I submit for my colleagues' attention the following telegrams I have received from Commissioner of Education Floyd Christian and Gov. Reubin Askew.

JANUARY 24, 1974.

Representative WILLIAM LEHMAN,
*Cannon House Office Building,*
*Washington, D.C.:*

Despite a change in opening school hours in most Florida, county moving to a later time in order to reduce the number of students who must travel to school in predawn darkness. Five Florida children have now lost their lives and several have been critically injured in early morning accidents on their way to school. This is deplorable and insensible. In light of this terrible toll and in light of evidence in this morning's newspapers that the change to daylight saving time has resulted in the small electrical savings of only 1 percent I want to urge you to seriously consider the introduction of legislation to return the Nation to regular time and to repeal the new DST legislation at this time. The law does not allow the Governor to make a change; only Congress and the legislature can remedy this situation. We are collecting county by county facts on the effect of DST on local schools and will have this information for you early in February. Floridians as all Americans are willing to do their share in this energy crisis but I cannot see how anyone can justify sacrificing the life of one schoolchild in this effort.

FLOYD T. CHRISTIAN,
*Commissioner of Education.*

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TALLAHASSEE, FLA., *January 24, 1974.*

Hon. WILLIAM LEHMAN,
*Cannon House Building,*
*Washington, D.C.:*

I join with Commissioner Christian in urging the Congress to promptly repeal the daylight saving time Energy Conservation Act. While energy savings may well result from this new law, it is far more important to protect the lives of our schoolchildren. The tragic deaths and injuries which have already occurred in Florida demonstrate the need for Federal action without delay. As you know, Florida and other states are limited in their ability to act on this serious problem. Governors were provided little latitude in which to act before the January 6 effective date of the law. We were effectively precluded from considering the problems of schoolchildren in the guidelines set forth by the U.S. Department of Transportation.

Legislatures have additional flexibility in states, such as Florida, which encompass two time zones. While we are seeking to determine what further action can be taken at the state level, it is my strong feeling that reconsideration of the Federal legislation would be both more effective and less disruptive, and I urge you and your colleagues in the Congress to consider such action.

REUBIN ASKEW,
*Governor.*

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## THE NEW U.S. AMBASSADOR TO CHILE: DAVID POPPER

## HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. RARICK. Mr. Speaker, the Department of State newsletter for December 1973 announced the appointment of David H. Popper, an Alger Hiss protégé, as Ambassador to Chile. Ambassador Popper was confirmed on December 19, 1973, along with Helmuth Sonnenfeld, a former principal assistant to Henry Kissinger, as counselor of the Department of State.

The appointment and confirmation of David Popper as Ambassador to Chile, where the people have just recently thrown off the totalitarian yoke of a Marxist regime should raise many questions by concerned Americans who know Mr. Popper's background as a notorious security leak and friend of Soviet agents.

In the CONGRESSIONAL RECORD of February 6, 1968, on page 2379, I had extended remarks to include a biographical sketch of David H. Popper and his Red associations. Notwithstanding, in May of 1969, Mr. Popper was appointed Ambassador to Cyprus, and in June 1973, he returned to Washington as Assistant Secretary of State for International Organization Affairs.

It comes as a shock to many observers that President Nixon, on the recommendation of Secretary of State Kissinger, nominated Mr. Popper, and that the Senate with its extensive documentation on his background confirmed him.

Is this the latest détente trade-off by the administration?

I include pertinent portions of my February 6, 1968, remarks:

"UNTOUCHABLES" UNLIMITED UNELECTED

Mr. RARICK. Mr. Speaker, emotional and impressive sounding titles—positions of sacred trust and confidence over the lives and destiny of our people, but the documented roster of untouchables seems unlimited.

Day by day, it becomes clearer that any solution in Vietnam, Korea, or elsewhere cannot be solved until the problem of the "untouchable" menace within our own Government is handled.

The untouchables are a seeming elite corps of subversives, not elected by the people—they appoint each other, are mutually interdependent upon each other. They have no terms of office; and they manage to survive political partisanship—except through public opinion and the demand voice of Congress.

No stone must be left unturned to initiate more hearings and investigations to ferret out the disloyalist and dual citizenship employees of the Government, especially the State Department. Our role must be to overcome the ancient Greek adage:

"If the gods want to destroy someone, first they strike him with blindness."

Was the *Pueblo* an accident? Until we replace the untouchables with pro-Americans—the mothers and dads of America can never be sure—nor can you and I.

Mr. Speaker, Mr. Frank Capell, through his Herald of Freedom, has released part VI of the "The Untouchables" which I place in the RECORD at this point:

David Henry Popper is one of the persons on McLeod's list. He is still with the U.S. State Department, now being Deputy Assistant Secretary of State in the Bureau of International Organizations Affairs. He came into U.S. Government service through Alger Hiss in 1945 at which time he worked for and with Hiss. He was born in New York City on October 3, 1912, the son of Morris Popper and Lillian Greenbaum (Popper). He graduated from Harvard University in 1932 with an AB degree and received his MA in 1934. During part of the period from 1932 to 1933 he had a travelling fellowship in Europe and in 1941 had another one for travelling in Latin America. On March 8, 1936, Popper was married to Miss Florence Cecelia Maisel.

Soon after leaving Harvard in 1934 Popper was employed by the Foreign Policy Association where he worked for the next six years until 1940. He was a research assistant under the direct supervision of the notorious Mrs. Vera Micheles Dean. Vera Micheles arrived in the United States from the Soviet Union in 1919. She became a U.S. citizen in 1928 after having obtained a Ph. D. from Radcliffe College. She was employed as Research Director by the Foreign Policy Association in 1928 and held this post until 1947 when she became Editor of Publications. As of June 30, 1960, Mrs. Dean's record of affiliations with Communist fronts took four pages to list when the House Committee on Un-American Activities prepared a report on her for Congressman James C. Davis.

Mrs. Dean was a member of the board of directors of the American Russian Institute, cited as Communist by a U.S. Attorney General and Communist-controlled by the Senate Judiciary Committee. This organization was intimately linked with the Institute of Pacific Relations and specialized in pro-Soviet propaganda. Mrs. Dean wrote articles for Far Eastern Survey and Pacific Affairs, both organs of the IPR. Page 4861 of the Senate Hearings on the IPR shows that David H. Popper was affiliated with the IPR also.

Mrs. Dean lectured at the Marxist-oriented New School for Social Research in New York City, the course being entitled "Asia in Ferment." Among those who lectured with her in this course were Owen Lattimore, Lawrence C. Rosinger, Derk Bodde, W. W. Lockwood and Harold R. Isaacs.

The Foreign Policy Association for which Popper worked under Mrs. Dean was cited in a Grand Jury Presentment by the March–April 1960 Grand Jury of Fulton County (Atlanta), Georgia and the Grand Jury of Bibb County, Georgia. Both examined the subversive type material sponsored by the F.P.A. and both recommended further investigations. The American Legion, Post 140, of Atlanta prepared a lengthy expose on the Foreign Policy Association which documented its subversive connections. The American Legion publication, Firing Line, of June 15, 1960, quoted from an article which appeared in Plain Talk of November 1946 as follows: "Under the present leadership o[illegible] Vera Micheles Dean of the FPA's Resea[illegible] Department, its most influential sectio[illegible] been turned into a factory for propa[illegible] to appease the Soviet Union and to apolo[illegible] for its expansion in all directions." Th[illegible] American Legion publication also pointed out that the FPA received financial support from the Carnegie Endowment for International Peace during Alger Hiss' presidency of that organization and stated that Hiss advocated "close collaboration between the Carnegie Endowment and the FPA." The FPA also received financial support from the Rockefeller Foundation while Dean Rusk was its president.

Through his employment in the FPA Research Department, David Popper came into close contact with key people in the IPR and also with identified Communists, Soviet espionage agents and Communist sympathizers. The IPR Hearings (P. 5193) show that David H. Popper was a member of the editorial board of the magazine Amerasia which was cited by the Senate Judiciary Committee as a "Communist controlled magazine which was so closely linked into the IPR system that the IPR family ordinarily treated it as simply another of its publications." Frederick Vanderbilt Field was owner of fifty per cent of the stock of Amerasia and was chairman of the editorial board for more than three years. "When it ceased publication after the arrest in what has been known as the Amerasia Case in 1945, the subscription list was taken over by the Far Eastern Survey, official publication of the IPR." (Senate Report 2050, IPR, 7-2-52, pp 71-95-145-146)

On the editorial board of Amerasia with David H. Popper were Frederick V. Field, identified as a Communist and member of a Soviet espionage ring; Philip J. Jaffe (alias Y. W. Phillips), managing editor, Russian-born and identified as a Communist and convicted in connection with the theft of over 1500 secret Government documents found in Amerasia offices or the homes of persons connected with it; Lillian Peffer, assistant editor; T. A. Bisson, identified as a Communist; Ch'ao-Ting Chi, identified as a Communist and affiliated with IPR; Owen Lattimore who was identified as a Communist but denied it, and was cited by the Senate Judiciary Committee as "a conscious articulate instrument of the Soviet Conspiracy;" William W. Lockwood, closely associated with Communists and espionage agents, an executive of the IPR; Cyrus H. Peake; William T. Stone, connected with IPR; and Harriet Levine Chi, identified as a Communist. Those most closely associated with Popper were the identified Communists, Field, Jaffee and Bisson.

Another Communist enterprise with which Popper's name was connected was Commonwealth College set up at Mena, Arkansas. In 1935 a Special Committee of the Arkansas Legislature investigated the college and the testimony of Hon. J. L. Shaver, a member of that committee was presented in a Hearing before the Special Education Committee of the Arkansas Legislative Council, held December 16, 17, and 18, 1958. It reads as follows:

"In 1925, Commonwealth College settled west of Mena, Arkansas. This school had no particular academic requirements, tuition or qualifications for students or faculty. No attempt was made to belie the fact that it was communistic in nature, and to a large extent was supported by organizations with subversive backgrounds."

There was an official investigation made of the college as a result of its displaying of the Communist hammer and sickle. The records of the college were obtained and it was reported that the name of David H. Popper was found in the confidential files and on the regular mailing list of the college. The U.S. Attorney General cited Commonwealth College as Communist and the Special Committee on Un-American Activities cited the college as "A Communist enterprise cited as subversive by an investigating committee of the Arkansas Legislature. It received money from the Garland Fund." The Garland Fund was also known as the American Fund for Public Service and was cited by the same House Committee—"it was a major source for the financing of Communist Party enterprises." William Z. Foster, who was Chairman of the Communist Party USA, served on its Board of Directors.

David H. Popper was reported as a dues paying member of the United Office and Professional Workers of America. In the Hearings of the Senate Internal Security Subcommittee entitled Subversive Control of Distributive, Processing and Office Workers of America, held in 1951-2, page 18, we find the testimony of W. A. Copeland, C.I.O. Regional Director:

"Mr. Arens. Do you have similar information with reference to the United Office and Professional Workers of America?

"Mr. Copeland. They went through the similar process.

"Mr. Arens. And were they likewise expelled?

"Mr. Copeland. They were expelled.

"Mr. Arens. And were they likewise expelled because the CIO found that the United Office and Professional Workers of America had followed the Communist Party program?

"Mr. Copeland. That is the record of the CIO executive board. They were expelled for that reason."

Late in 1945, after Popper had served in the Army Chemical Warfare Service as a Captain, he came into the State Department as a specialist in International Organizations Affairs, where he worker with and under Alger Hiss. Other Hiss favorites were Harding Bancroft and Andrew Cordier, the latter two having been recommended by Harlan Cleveland for a special advisory Committee to select staffing of personnel at the United Nations as mentioned in the Otepka Brief.

By 1948 Popper became Assistant Chief of the State Department's Division of International Affairs. His experience in promoting the United Nations idea and World Government while in the Foreign Policy Association had brought him into contact with a large number of pro-Soviets who had similar objectives and many of them had found their way into the State Department. The year before the formation of the U.N. at San Francisco, Andrew Cordier and Alger Hiss had toured the country promoting the U.N. idea. By 1949 Popper was the officer in charge of United Nations General Assembly Affairs for the State Department. He then became Deputy Director and then Director of the Office of United Nations Political and Security Affairs of the Department of State.

During the years 1952-53, the Senate Internal Security Sub-committee conducted investigations and hearings on "Activities of U.S. Citizens Employed by the United Nations." These hearings disclosed that U.S. Communists had been employed at the United Nations and that the State Department was negligent in allowing this situation to develop. The Committee's report, page 16, states:

"For a period of approximately 3 years—between the time of the formation of the United Nations in 1946 and some time in 1949—there was no safeguard whatsoever, from the standpoint of the United States, against employment by the United Nations of United States citizens who were disloyal to their country, or were actively engaged in espionage on behalf of some foreign power." Alger Hiss, who brought Popper into the State Department, also recommended a list of 200 people for U.N. employment. In the group were found Communists and Soviet espionage agents.

During the period from 1946 to 1953 Popper acted as an adviser to the United States Delegation to the United Nations Assembly. He was the Deputy U.S. Representative to the Conference on the Discontinuance of Nuclear Weapons Tests which conference took place at Geneva 1959-61 and out of which came the Test Ban Treaty which favors the U.S.S.R. Popper was Senior Adviser on Disarmament Affairs for the U.S. Mission to the United Nations 1961-2 which resulted in a program of disarmament of our country which has been carried out ever since.

In 1962 Popper was Director of the Office of Atlantic Political and Military Affairs of the Department of State, and was a member of the U.S. Delegation at NATO Ministers meetings. During 1962 in this capacity he worked with Harlan Cleveland, now U.S. Ambassador to NATO. Both Popper and Cleveland are long-time friends of Alger Hiss. It has recently been revealed that there is a large Soviet espionage ring operating in NATO.

As a result of the espionage cases of Harold Adrian Philby, Donald D. MacLean, Guy Burgess and George Blake, a team of forty British Secret Intelligence agents have been investigating some 120 Americans, according to the Government Employee's Exchange newspaper of Dec. 13, 1967. They are reportedly investigating employees of the State Department, the Foreign Service, the CIA, the Atomic Energy Commission, TVA, NASA, the Defense and Treasury Departments. Philby, the master spy, helped to set up the CIA and had contact with some of the same people with whom Popper was in contact. A confidential source reported Popper to a U.S. Intelligence service as having connections with members of the Soviet Intelligence apparatus. A former high ranking member of the Communist Party USA had advised a U.S. Intelligence agency that he had been informed "Popper is one of us and should be treated accordingly."

That David H. Popper had subversive affiliations was publicly known in 1944, the year before he went into the State Department. The Special Committee on Un-American Activities in their report, Appendix IX, page 1446, under the title (Communist) Party and Party Line Publications explained, "Throughout its existence in this country the Communist Party has made a specialty of propaganda through publications and periodicals." The first such publication listed was AMERASIA, "A review of America and the Far East published at 125 East 52nd St." Thereafter appear the names of the Editorial board with Frederick Vanderbilt Field as chairman, Philip Jaffe as managing editor and David H. Popper as Editorial board member.

Time and again information concerning the background and contacts of Popper came to the attention of the proper authorities but, as an "Untouchable," he was able to remain in the State Department, moving up higher and higher. As we have noted before, the Poppers stay, the Otepkas go. Among the files seized from Otepka's office by his superior, John F. Reilly, one of the conspirators in the "Get Otepka Project," were records of the investigation of the Amerasia Case which involved the theft or unlawful removal of hundreds of State Department documents in 1945. These files pertaining to U.S. relations with China implicated State Department employees. Also seized from Otepka's files were the identities and backgrounds of the 858 persons in the Scott McLeod list. It is understood that orders may have been given to have these files destroyed and this may already have taken place. Unfortunately for the record-destroyers, there are two more copies of this information in safekeeping, and perhaps even copies of the copies.

Just as Roy Rubottom and William Wieland were able to conceal the warnings that Castro was a Communist so there are other serious security risks in positions where they can orient our foreign policy along a pro-Communist line. David Popper was well trained in pro-Soviet propaganda by an expert, Vera Micheles Dean, and we may be sure that, working quietly behind the scenes, his name never appearing in the newspapers, he is still unchanged. To the contrary Popper developed a close association with important figures in the Communist Conspiracy and with pro-Soviets both in the State Department and the United Nations. The take-over of one country after another by the Communist Conspiracy has been possible only because of the pro-Soviet policies of "Untouchables" within the Government of the United States.

## JUSTICE DEPARTMENT IN RACE WITH OIL FIRMS TO DETERMINE IF MERGER GOES THROUGH

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### HON. BILL GUNTER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. GUNTER. Mr. Speaker, a massive behind-the-scenes battle is going on this week behind the closed doors of the Justice Department's Antitrust Division and the corporate board rooms of two large oil companies to determine whether a major independent U.S. supplier of crude oil to American refineries disappears from competition and is effectively absorbed, with the apparent help of the U.S. State Department, by an English-owned oil conglomerates whose interests are scarcely identical to the interests of American oil consumers, or of independent retail gasoline station operators throughout the country.

The decision will be made shortly—perhaps today. The Justice Department is now attempting, belatedly, and apparently after being subjected to outside pressures not to act, to reach a decision as to whether the Government should take immediate legal action to prevent the acquisition from taking place.

The oil companies involved are arrogantly refusing U.S. Justice Department requests for a postponement of the acquisition until the antitrust implications are fully weighed. Their intention appears to be to consummate the merger as fast as possible and before the Justice Department can act and the Congress can review the matter.

Both the Justice Department and officials of the two large oil firms are locked in an apparent struggle to see who can beat the legal clock. While the Justice Department frantically attempts to assemble evidence it should have had weeks ago, the oil firms show every intention of attempting to thwart Justice Department action by accomplishing the merger first—perhaps today.

This combination of arrogance and ineptitude poses an immediate threat to the interests of U.S. consumers. But few of the major national media outlets in the country appear to have been able to summon interest in the developments and pending consequences during the critical period leading up to the present imminent merger. The Los Angeles Times has sought to inform the public the past week, as the Washington Post has today.

Once the oil merger is consummated, it may take years to pry the two companies apart and unscramble their affairs, if competition in fact can ever be fully restored. The time to act is now, before the merger is completed. A matter of hours, not days, seems most likely involved, however.

In the midst of this behind-the-scenes struggle, the U.S. State Department appears to have thrown its weight against a full and rigorous enforcement of the Nation's antitrust laws and in behalf of the English-owned oil conglomerate, following approaches made to the State Department by representatives of the British Government, itself a major partner in the conglomerate. Up to this moment, the Justice Department—following State Department approaches to it in turn—appears unable to make up its mind. But clearly, the pending disappearance of the largest independent U.S. holder of crude oil reserves hardly appears consistent with President Nixon's policy of making America "energy self-sufficient" by the 1980's. The President, who has taken an interest in the past in the antitrust policy of his administration, may wish to take fresh interest at this time in order to guarantee that his administration's antitrust policy is indeed consistent with his stated objective of making the United States self-sufficient in energy.

Representing the British-owned oil firm as its attorney is Cyrus R. Vance, former high-ranking official attached to the State and Defense Departments. It is unclear at this point who is representing the public—or the principle of antitrust law enforcement.

The independent conglomerate U.S. firm about to be acquired by the foreign oil conglomerate is Signal Oil and Gas Co., a wholly owned subsidiary of the Signal Companies, Inc., a Delaware corporation with its principal offices in Beverly Hills, Calif. The principal offices of the subsidiary are in Houston, Tex.

It is to be acquired by Burmah, Inc., a Delaware corporation with its principal place of business in New Orleans, La. Burmah is a subsidiary of Burmah Oil Co., Ltd., of England, which is among the largest, fully integrated oil companies in the world and counts approximately 250 subsidiaries.

Burmah of England also holds effective control of the British Petroleum Co. and its 650 subsidiaries in some 80 countries known collectively as the BP Group, one of the seven or eight major international petroleum groups in the world. The BP Group includes SOHIO, a U.S. major which itself is experiencing a crude oil shortage at present.

Signal Oil and Gas is presently the largest independent U.S. holder of crude oil reserves.

Rival consortiums which include BP on one hand and Signal Oil and Gas on the other, presently compete for lease acreage for oil and gas exploration and production in the Gulf of Mexico.

Competition might also be affected in the Thistle Field in the British North Sea, in the southern California market, between SOHIO and competing oil companies, and possibly elsewhere.

The merger would further increase reliance of independent refiners and gasoline operators on the so-called major oil suppliers.

It would decrease U.S. energy self-sufficiency.

The purchase price for Signal Oil and Gas is set at $480 million, making it one of the largest acquisitions in dollar amount in the oil industry in the last 5 or 10 years if reserve holdings alone are counted and excluding other types of properties.

At the very least, the proposed merger on its face deserves a full review of antitrust implications—but the executives of the oil companies involved have arrogantly refused to grant the Justice Department request for a 60-day delay in consummating the acquisition.

As of this moment, the American public has been left oblivious of these developments as they have been occurring. It appears they will be confronted now with a fait accompli.

Senator FLOYD HASKELL has scheduled a special hearing of the Senate Subcommittee on Integrated Oil Operations for next Tuesday morning and has asked representatives of the oil companies involved and of the Justice Department to appear. It will be interesting to see if they in fact appear, and if there is indeed already a fait accompli by that time. I intend, in cooperation with Senator HASKELL, to continue to vigorously press for a full investigation of this matter.

In this connection, Mr. Speaker, I submit the text of letters I have addressed to Secretary of State Kissinger and to Senator FLOYD HASKELL, and a copy of a Gannett news service report of January 18, 1974 for the RECORD:

JANUARY 25, 1974.

Hon. HENRY A. KISSINGER,
*Secretary of State,*
*Department of State,*
*Washington, D.C.*

DEAR DR. KISSINGER: Certain contacts have come to my attention as having occurred between representatives of your Department and those of the British Government and officials at the U.S. Justice Department over the past few days with respect to a contemplated merger of Signal Oil and Gas Co., the single largest supplier of crude oil to independent U.S. refiners, and the British-owned Burmah Oil Co. Ltd. That contemplated merger has been under scrutiny by the Antitrust Division of the U.S. Justice Department for the past 20 days and has been the subject of an Antitrust Division request to the parties involved that they postpone its consummation for a 60-day period until antitrust implications are weighed. The request has been refused. The consummating of the merger is imminent. The Antitrust Division has taken no action to date to legally prevent the merger from taking effect.

I desire full and detailed information with respect to the role of the State Department and extent and nature of its contacts with officials of the Justice Department and of the British Government on this matter. This request specifically includes copies of all relevant State Department documents, memorandums of conversations and phone calls, and any other existing information bearing on State Department activity on this matter, in order that the content of these contacts by your Department and the extent of their influence on the enforcement or non-enforcement of the antitrust laws of the United States in this instance may be weighed.

Your prompt and immediate response to this request would be appreciated.

Sincerely yours,

BILL GUNTER,
*Member of Congress.*

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JANUARY 25, 1974.

Hon. FLOYD K. HASKELL,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR HASKELL: In connction with the work of your Senate subcommittee on integrated oil operations and the scheduled hearings for Tuesday, January 29th relating to the Signal Oil and Gas Company acquisition by Burmah, you may be interested in the attached copy of a letter I have directed to the attention of Secretary of State Kissinger on this same matter.

With powerful foreign-based international oil conglomerates already appearing to wield undue influence on the amount, price and method of U.S. oil allocations, any indication that they may also now be influencing the enforcement or non-enforcement of the antitrust laws of the United States within our own borders would be additionally disturbing indeed.

As I am sure you are aware, this is not the first time the State Department appears to have played a role in matters bearing on antitrust questions, as indicated in some detail in a Jan. 18, 1974 news report, a copy of which is also attached for your possible interest. You will note the State Department in the incidents described refused to make available to the Congress information requested of it bearing directly on these antitrust matters "on the grounds it would be detrimental to the foreign relations interests of the United States."

I wish to commend your own vigorous concern and interest with respect to these matters of such basic public importance and impact. Please let me know if I may be helpful in any way with respect to your own pursuit of the facts in this case.

Sincerely yours,

BILL GUNTER,
*Member of Congress.*

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NIXON APPROVED VAST U.S. OIL CARTEL

(By Kenneth C. Crowe)

WASHINGTON.—The Nixon administration acquiesced in 1971 to a decision by the major international oil companies to form a bargaining cartel to deal with the newly united oil-producing nations of the Mideast and, in effect, to shape the course of future U.S. foreign policy.

The Justice Department files detailing the unprecedented approval of the oil companies' bargaining cartel, which raised the issue of possible violation of antitrust laws, have been kept out of reach of the press and inquiring congressional committees at the insistence of the State Department "on the grounds that it would be detrimental to the foreign relations interests of the United States."

Washington sources recreated the following scenario of how the oil companies arranged to obtain the administration's approval of their decision to form a united front against the oil-producing nations:

In January 1971, New York City lawyer John J. McCloy, a former U.S. High Commissioner for Germany, former chairman of Chase Manhattan Bank, and honorary chairman of The Council on Foreign Relations, called the attorney general then, John Mitchell, to ask him to send someone to New York City to pick up a copy of an agreement reached by the government's approval.

Dudley Chapman, who at the time was chief of the Justice Department's Foreign Commerce Section, and James E. Akins, director of the State Department's Office of Fuels and Energy then, were dispatched to McCloy's New York office to pick up the documents. Chapman is now an associate counsel to President Nixon, and Akins is ambassador to Saudi Arabia.

While McCloy met with representatives of the major oil companies in one room, the two government officials waited in another for the final details of the agreement to be worked out. Chapman and Akins carried the papers back to their Washington offices.

One source said the Justice Department's antitrust division staff "had apoplexy" when they saw what the oil companies were asking: the right to negotiate jointly with the Organization of Petroleum Exporting countries and to arrange reciprocal supply agreements among the companies to strengthen their bargaining position.

An administration source said the companies were seeking what any business organization theoretically has the right to: a "Business Review Letter," stating the Justice Department does not intend to prosecute firms under the antitrust laws for a specific course of conduct. "When corporations start talking to each other, that prima facie raises a question" of antitrust policy, the source said. The business review letter was issued, granting what the oil companies sought.

Attempts by Sen. William Proxmire, D-Wis., early in 1971, and more recently by the staff of the Senate Subcommittee on Multinational Corporations, to see the files were unsuccessful. Richard Sayler, a special assistant in the antitrust division, said: "We have never revealed that information. . . . The State Department was firm in taking the position that it would be detrimental to the foreign relations interest of the United States."

Washington lawyer Martin Lobel, who was Proxmire's legislative assistant in charge of energy in 1971, said: "In effect, we appointed the oil industry to negotiate our foreign policy in the Middle East. Since when have we handed over foreign affairs and national security to private companies? It's like The British East Indian Co. all over again.

It allowed two cartels (oil companies and oil-products groups) to deal with each other, neither of which were concerned with the cost to the consumer or the economy of the oil-consuming countries."

Prior to 1970 the oil companies effectively dictated the prices they would pay the producing nations for their oil, but a tough attitude by Libya changed that. "Looking at it from the inside," a Mobil Oil Corp. executive said, "I think we did a pretty good job myself. It was a difficult struggle all the time. The fact we were shifting into a seller's market from a buyer's market, I think the industry did an exceptional job."

He said that until the latest Arab-Israeli war, the industry was able to keep prices "within limits." Since then, the matter has been politicized, he said, and the oil countries' "governments have pretty much established prices without reference to the companies."

The Senate multinational subcommittee will open hearings within two weeks on the foreign-policy implications of the oil industry's negotiations with the producers' organization.

Sen. Frank Church, D-Idaho, chairman of the subcommittee, who expresses a skeptical view of the loyalty of the multinational corporations to anything but profits, said in a recent speech: "In the aftermath of the October war between Israel and Egypt and Syria, we have witnesses one of the most important developments in the history of modern international relations: the Arab world's effective employment of oil as a political weapon against the industrial colossi of the United States, Western Europe and Japan. In the midst of this squeeze play, we find the traditional makers of international oil companies, acting as the foreign-policy instruments of the Arab world, in many cases to the injury of their home governments.

"American companies, Exxon, Mobil, Gulf, Texaco and Standard of California, which for so long we have considered 'our companies,' have in fact become the policing agents of the Arabs' boycott against the United States."

A spokesman for Standard Oil of California said: "Senator Church has been patently unfair in making an accusation of this type . . . It would have served no purpose for us not to agree to avoid these shipments to embargoed nations."

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## AMENDMENTS TO H.R. 11793

## HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. ROSENTHAL. Mr. Speaker, I intend to offer three amendments to H.R. 11793, the Federal Energy Administration Act tomorrow. The three amendments I will be offering follow:

I. Amendment to Section 7(c):

"Whenever the Administration establishes or utilizes any advisory board, task force, committee, commission or similar group, not composed entirely of permanent federal employees, with respect to any matter affecting any industry or segment thereof, the Administrator shall insure that each such group is reasonably representative of all segments and levels of such industry and of the industrial and private consumers served by such industry or segment thereof. Provided that, the Administrator in appointing private consumers to each such group shall give special consideration to the recommendations of public interest entities and individuals specializing in consumer, environment and conservation matters; and that the consumer members of each advisory panel shall be selected on the basis of experience and participation in consumer affairs.

II. Amendment to Section 14:

"(2) any books, documents, papers, records or other recorded information of any public or private persons, organizations or other entities which are or would be available to any Federal agency pursuant to its functions and authorities relating to management and conservation of energy, including but not limited to energy costs, demand, supply, reserves, industry structure, environmental impacts, and research and development, which in the opinion of the Comptroller General may be related or pertinent to the operations of the Administration; and".

III. Amendment to Section 5:

Pursuant to subsection (a) of Section 2 and paragraph 5 of Section 5;

(b)(1) Immediately upon the date of enactment of this Act, the Administrator shall issue an order to establish a ceiling on prices of domestic crude oil and petroleum products at levels not greater than the highest levels pertaining to a substantial volume of actual transactions by each business enterprise or other person during the fourteen day period ending January 19, 1974, for like or similar commodities, or if no transactions occurred during such period, then the highest applicable level in the nearest preceeding fourteen day period.

(2) The ceiling on prices required under paragraph (1) shall be applicable to all retail prices and to wholesale prices for unfinished, finished or processed goods.

(3) As soon as practicable, but not later than 30 days after the date of enactment of this Act, the Administrator shall by written order stating in full the considerations for his actions, roll back prices for domestic crude oil and petroleum products to levels no higher than those prevailing in the seven-day period ending November 1, 1973, in order to reduce inflation. Price increases announced after November 1, 1973, and made retroactive to dates prior to November 1, 1973, shall not be considered as having been in effect prior to such date for purposes of this section.

(4) The Administrator may, by written order stating in full the considerations for his actions, make exceptions and modifications to the orders required under this section as may be necessary to prevent gross inequities and hardships, and to encourage and preserve the competitive viability of

branded independent marketers, small refiners, nonbranded independent marketers, and independent refiners, as defined in the Emergency Petroleum Allocation Act of 1973 (Public Law 93–159). Such orders shall state procedures and adequate public notice of any price exceptions.

(5) The Administrator shall promulgate rules which shall insure that all persons engaged in the sale of crude oil at the refinery level, or petroleum products at the wholesale level, reflect, in sales to any purchaser, the average costs of its foreign and domestic crude oil and petroleum products. Such rules shall take effect not later than 60 days after the date of enactment of this Act.

(6) For the purposes of this subsection the provisions of Section 406 of Public Law 93–153 shall not apply.

(7) For the purposes of this subsection, "petroleum product" means gasoline, kerosene, distillates (including Number 2 fuel oil), LPG, refined lubricating oils, or diesel fuel."

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## ELECTRONIC SURVEILLANCE

## HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. GOLDWATER. Mr. Speaker, the following article, by John Lofton, United Features Syndicate columnist, provides us with information to enable us to maintain some perspective in the wave of charges regarding electronic snooping. By no means should this be construed to mean that I, or any of my colleagues, condone illegal electronic surveillance, but rather it should be received as a pertinent reminder that we must keep a perspective on this issue. I present the article for my colleagues' interest:

### BOOK SHOWS BUGGING NEWS, BUT NOT NEW

(By John D. Lofton, Jr.)

WASHINGTON.—Did you know that in addition to the 1972 Watergate bugging of the Democrats, the Democrats were also bugged during the 1968 presidential campaign?

And did you know that the person charged with the illegal electronic surveillance was a news director of the National Broadcasting Company?

I knew this but had forgotten about it. My memory was refreshed when I was recently flipping through one of my favorite books, "The Mass Media and Politics," a hefty volume published by The New York Times and comprised of selected Times' stories over the years.

According to the Times story, on Sept. 7, 1968, NBC acknowledged that on August 26 "Overzealous and overeager employes, acting without authority" (sound familiar?), planted a microphone in a closed meeting of the Democratic Platform Committee in Chicago.

#### NBC SUED

Rep. Hale Boggs (D-La.), head of the Platform Committee, said the mircrophone was hidden under a cushion behind a curtain and was attached to a cable "leading directly to the recording facilities of NBC in the same hotel."

NBC, in a statement, pointed out that no material obtained by the bugging was used, the bugging was deeply regretted and the bugging was not condoned or encouraged by NBC news or NBC management.

What ultimately happened in the case was that on March 20, 1969, the NBC employe, Enid Roth of New York City, was indicted and charged with two counts of "willfully endeavoring to use an electronic device to intercept oral communications."

In February of 1970, Miss Roth pleaded nolo contendere (sound familiar again?) to one count of the indictment and was fined $1,000 and costs.

#### OLD STORY

The Times' news story went on to say that such "escapades" were not new. As an example, the paper noted how in August of 1968, at the Republican Convention in Miami, a Florida delegate concealed a tape recorder at a closed meeting in which one Richard M. Nixon addressed Southern delegates.

The tape was turned over to the Miami Herald and the St. Petersburg Times, both of which ran stories quoting Mr. Nixon's secretly recorded remarks.

Other things in this fascinating book are startingly remindful of much happening today and remindful of how much some in the media have changed their tune. In his New York Times column on April 28, 1961 James Reston wrote:

"For the preservation of our Democratic society in this time of 'clean and present danger' it is more essential than ever that the people be fully informed of the problems and of the perils confronting them. This is a responsibility as much of the press as of the President. But it is equally essential that the secrets of military technique and—as the President (Kennedy) said—of 'covert preparations to counter the enemy's covert preparations'—be kept inviolate."

#### RESTON'S LEAK

Mr. Reston's newspaper, of which he is a vice president, of course published the purloined Pentagon Papers and Reston reportedly argued strenuously for publication of this most massive leak of classified government documents in American history.

Another Times story in the book reports that President Eisenhower once defied a House resolution and refused to provide a transcript of one of his press conferences for insertion into the Congressional Record.

Eisenhower declined on the grounds that he wanted to preserve "the free and open basis" on which his conferences were conducted. If he complied with the House request, he said, "It would bring to me a consciousness of restraint as well as a necessity for constant preparation of my remarks."

On Oct. 23, 1965, LBJ press aide Bill Moyers attacked some reporters as "too picayune from time to time, and too inaccurate about what they are picayune about."

As an illustration, he cited a report saying LBJ had installed a Muzak system in the White House. Moyers said the Muzak was in fact installed by another President years ago.

"Here, about something in which the public wasn't interested, the erroneous impression was given that the President had spent the taxpayers' money to install Muzak in the White House," he complained.

As I said, the book is a fascinating one. It really shows how much things have changed. Or have they?

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## LET PEACE BEGIN WITH ME

## HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 28, 1974*

Mr. LANDGREBE. Mr. Speaker, in a day when the press criticizes politicians and politicians are critical of the press, it was refreshing for me to note the credo of the Colorado Springs Gazette Telegraph which appears at the head of the newspaper's editorial page.

Under leave to revise and extend my remarks, I include the Gazette Telegraph's statement of purpose and I commend it to the attention of my colleagues:

This newspaper is dedicated to furnishing information to our readers so that they can better promote and preserve their own freedom and encourage others to see its blessings. Only when man is free to control himself and all he produces, can he develop to his utmost capabilities.

We believe that freedom is a gift from God and not a political grant from government. Freedom is neither license nor anarchy. It is self-control. No more. No less. It must be consistent with the truths expressed in such great moral guides as the Coveting Commandment, the Golden Rule and the Declaration of Independence.

Let peace begin with me

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# SENATE—*Tuesday, January 29, 1974*

The Senate met at 11:30 a.m. and was called to order by Hon. SAM NUNN, a Senator from the State of Georgia.

### PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Lord God, above all men and nations, release Thy mighty power in us that we may be led to the higher life we never yet have known. Make us new men for new times—gentle but firm, kind and just, loyal and wise. Give us keen minds, stout hearts, sensitive spirits and wills to do Thy will. Hold us in Thy love and fill us with grace and goodness. Let Thy life so rule our lives that as we work for the Nation we may press forward the work of Thy kingdom. Send us to our tasks equipped by Thy spirit.

Through Jesus Christ our Lord. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., January 29, 1974.*

*To the Senate:*

Being temporarily absent from the Senate on official duties, I appoint Hon. SAM NUNN, a Senator from the State of Georgia, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
*President pro tempore.*

Mr. NUNN thereupon took the chair as Acting President pro tempore.

## MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. Nunn) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

## THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, January 28, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## ATTENDANCE OF A SENATOR

Hon. Birch Bayh, a Senator from the State of Indiana, attended the session of the Senate today.

## COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## FEWER SERVICEMEN ABROAD—BUT WELCOME MAT STILL OUT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be inserted at an appropriate point in the Record an article out of the U.S. News & World Report under date of December 31, 1973, entitled "Fewer Servicemen Abroad—But Welcome Mat Still Out."

Before the Chair rules, I am happy to note that the total servicemen now overseas number 561,875—still far too many, but a change for the better in 1973, because the figure is down 42,125.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Fewer Servicemen Abroad—But Welcome Mat Still Out

More than a half million U.S. servicemen—one fourth of all Americans in uniform—are on duty in foreign posts this holiday season.

That's the smallest number since mid-1950, just before the Korean War began.

The total will be further reduced, at least marginally, in 1974 as the Pentagon prepares to close additional bases. On top of that, political pressures in the U.S., plus new strains between the U.S. and its allies are adding to speculation that wholesale numbers of Americans could be brought home from Europe.

Latest official figures show 561,875 Americans now serving abroad in the Army, Navy and Air Force. That is 42,125 fewer than a year ago. What's more, the decrease continues a steady slide from the post-World War II peak of 1.3 million troops abroad in 1968, at the peak of the Vietnam war.

Since last Christmas, forces in Asia and the Pacific have been cut by some 70,000.

More soldiers, sailors and airmen were sent to Europe, though, as understrength units there were beefed up. Naval power in the Mediterranean got more muscle in the face of Mideast tensions.

A year-end survey by members of the International Staff of "U.S. News & World Report" turns up a surprising fact, in view of occasional "Yankee Go Home" demonstrations that get the headlines:

Nations around the world regard a substantial U.S. military presence as essential to their security today—and for the most part have the welcome mat out for the GI's in their midst.

As reported by bureaus overseas:

#### WEST GERMANY

Wrangling brought about by the Mideast conflict hasn't affected the status of U.S. troops and bases.

It's pointed out that West German Defense Minister Georg Leber is solidly pro-American, and that none of the squabbling between Bonn and Washington over American handling of its support-Israel operation during the Mideast war involved the German military. By far the greatest concentration of American troops outside the U.S.—229,000—is in West Germany.

Negotiations now under way are aimed at fixing a higher figure for West Germany's share of the cost of keeping these forces on station.

The U.S. is asking West Germany to pay 3.5 billion dollars over a two-year period, an increase of 50 per cent. A well-informed American official says: "We are reasonably encouraged about reaching our goal."

To cope with grumbles in various West German localities, the U.S. is reducing its requests for new and bigger training areas. American and German forces are engaged in more-extensive sharing of facilities. These measures are reducing friction in the sensitive area of real estate.

Crimes committed by GI's in Germany continue to get big headlines in some newspapers. But there is no widespread clamor for an American pullout.

#### BRITAIN

British leaders leave no doubt that, whatever their disagreements with the U.S. during the Arab-Israel conflict, American bases are as welcome as ever. A flare-up over U.S. military facilities in Britain was touched off by some British complaints over the worldwide nuclear alert that had been ordered for American forces around the world during the Mideast war.

But Britain's Foreign Secretary, Sir Alec Douglas-Home, says his Government is unconcerned. He maintains that the U.S. was within its rights in ordering the alert, as long as the bases affected in Britain were not actually used for a war purpose without London's consent.

With few exceptions, relations between the 21,000 American servicemen stationed at five major bases in Britain, and their British hosts, have been amicable.

As for the official attitude, questions arising from the Mideast war do not appear to have changed the often-expressed view of Prime Minister Edward Heath and other leaders that substantial American military withdrawals from Western Europe would have dire consequences.

#### ITALY

The Italians show no signs of displeasure with the 11,000 U.S. servicemen stationed in their country.

In fact, the Americans are now especially popular because of aid given during Italy's cholera epidemic this year.

U.S. Navy doctors vaccinated 270,000 people in Naples—a fifth of the city's population. A Communist-backed Italian newspaper, "Paese Sera," declared that "the only help, it must be admitted, came from the Americans."

#### GREECE

Some differences now exist over where to base some of the more than 10,000 American military personnel, including their dependents, living in Greece.

The U.S. sought to "homeport" an aircraft carrier and six destroyers near Athens. "Homeporting" means that families of warships' crews live in the country where the vessels are stationed. The Greeks agreed and the destroyers have arrived at their berths. But lately the Athens Government has talked of closing the naval facility where the carrier is assigned so that beaches nearby can be developed for tourists.

So far, the controversy hasn't cooled friendly relations between U.S. Navy families and the Greeks with whom they come in contact.

#### ICELAND

The 3,000 American servicemen and their families stationed in this island country are under notice by Iceland's leftist-Communist coalition Government that they may have to get out by 1975.

The U.S. is seeking a compromise which will permit continued operation of a base at Keflavik, which since 1951 has had a vital role in tracking Soviet submarines and surface ships entering and leaving the Atlantic Ocean.

The North Atlantic Treaty Organization says the base has "great strategic value" and the U.S. insists that it would be neither feasible nor wise to pull out.

#### JAPAN

The Japanese attitude toward an American military presence was expressed recently by Prime Minister Kakuei Tanaka, who told "U.S. News & World Report":

"American military personnel and their dependents are warmly welcomed by the Japanese people in every corner of Japan. You seldom hear of serious incidents involving them."

There are problems. Simply the area taken up by U.S. bases in land-poor Japan leads to complaints.

In Yokosuka, where a major naval base is located south of Tokyo, officials estimate that civilian use of the land used by the military would produce seven or eight times as much revenue in taxes as the city now gets as a subsidy from the Japanese Government.

Yokosuka also was the scene of short-lived demonstrations this October when the carrier *Midway* arrived. Leftist-led groups used the incident to protest their country's military ties to the U.S. The demonstrations had less sting than similar anti-U.S. events in the past, however. Most Japanese now appear to accept the *Midway* as part of the price for the security treaty they have with the U.S.

"The Japanese consider the U.S. military as an evil to be suffered and they are willing to suffer it," says a senior American official.

Much of the past pressure on Americans to move out has been eased by the return of Okinawa to Japan in 1972. Besides, the U.S. is trimming the number of men based on Okinawa as well as on the Japanese home islands. Eighteen military facilities were closed in the nine months through August 31 alone.

#### PHILIPPINES

The U.S. has two big naval and air bases and about 16,000 servicemen in the Philippines.

The Government in Manila is mindful of what this means to the country's economy. The U.S. military spends about 160 million dollars a year and, in addition, provides jobs for 22,000 Filipinos.

The U.S.-Philippine base agreement does not expire until 1991. Despite some nationalist sentiment against the American presence, no major change in the status of the bases is seen on the horizon.

### SOUTH VIETNAM

In this country where more than 500,000 American servicemen once were deployed, the sight of an American uniform on the streets of Saigon is rare—and many Vietnamese occasionally sigh for the times when there were so many free-spending GI's around.

The U.S. military presence now consists of fewer than 100 officers assigned to the Embassy in Saigon and 160 Marines on guard duty at the Embassy.

### THAILAND

There is no pressure for withdrawal of the 38,000 U.S. military men in this country, almost all of whom are stationed at air bases away from Bangkok, the capital.

The issue of American use of the bases arose during the uprising in October that forced Thai military leaders to relinquish their political posts and flee into exile.

But the students who led the uprising were not angry at the Americans. Their ire was directed at what they saw as use of American military-aid funds to line the pockets of the men they deposed.

American officials anticipate a gradual phase-out of the U.S. use of Thai bases.

### SOUTH KOREA

Far from wanting U.S. troops out of their country, South Koreans protest vigorously when American forces are reduced, as happened in 1971. The Koreans look upon the 42,000 remaining American servicemen as their country's main protection against aggression from their Communist neighbors to the north.

Aside from security—and notwithstanding the growth of the South Korean economy in the last few years—U.S. military spending is still of great importance to the villages clustered around major U.S. bases.

Relations between Koreans and Americans are friendly.

All signs are that in Europe and Asia alike, allies of the U. S. recognize their dependence on American military power and would regard drastic reduction with dismay.

IN SOUTHEAST ASIA

| | |
|---|---|
| Now | 60,875 |
| Change in 1973 | Down 48,125 |

| | Now | Change in 1973 |
|---|---|---|
| Thailand | 38,000 | Down 7,000 |
| South Vietnam | 225 | Down 24,775 |
| Naval forces afloat | 22,650 | Down 16,350 |

IN PACIFIC AND FAR EAST

| | |
|---|---|
| Now | 145,000 |
| Change in 1973 | Down 22,000 |

| | Now | Change in 1973 |
|---|---|---|
| Korea | 42,000 | Up 2,000 |
| Okinawa | 38,000 | Down 2,000 |
| Japan | 19,000 | Down 3,000 |
| Philippines | 16,000 | Down 1,000 |
| Guam | 16,000 | Up 5,000 |
| Taiwan | 6,000 | Down 2,000 |
| Naval forces afloat | 8,000 | Down 21,000 |

IN EUROPE

| | |
|---|---|
| Now | 311,000 |
| Change in 1973 | Up 18,000 |

| | Now | Change in 1973 |
|---|---|---|
| West Germany | 229,000 | Up 19,0009 |
| Britain | 21,000 | Down 1,000 |
| Italy | 11,000 | Up 1,000 |
| Spain | 9,000 | None |
| Turkey | 7,000 | None |
| Greece | 5,000 | Up 2,000 |
| Iceland | 3,000 | None |
| Belgium | 2,000 | None |
| Netherlands | 2,000 | None |
| Portugal | 1,000 | Down 1,000 |
| Other countries | 1,000 | None |
| 6th fleet | 20,000 | Down 2,000 |

IN LATIN AMERICA

| | |
|---|---|
| Now | 20,000 |
| Change in 1973 | None |

| | Now | Change in 1973 |
|---|---|---|
| Panama Canal Zone | 10,000 | None |
| Puerto Rico | 7,000 | None |
| Guantanamo | 3,000 | None |

OTHER AREAS

| | |
|---|---|
| Now | 25,000 |
| Change in 1973 | Up 10,000 |

| | Now | Change in 1973 |
|---|---|---|
| Bermuda | 2,000 | Up 500 |
| Canada | 2,000 | Up 500 |
| Morocco | 1,000 | Down 500 |
| Other countries | 9,000 | Up 3,000 |
| Naval forces afloat | 11,000 | Up 6,500 |

Source: Military officials.

## U.S. FORCES FOR EUROPE: NEED FOR PHASED REDUCTION

Mr. MANSFIELD. Mr. President, Rear Adm. Gene R. La Rocque, U.S. Navy (retired), the director of the Center for Defense Information, has put out a brochure on "U.S. Forces for Europe: Need for Phased Reduction." I ask unanimous consent that this article also be inserted in the RECORD, along with a matter entitled "Defense Monitor in Brief," which, in brief, explains what the main article states.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

### U.S. FORCES FOR EUROPE: NEED FOR PHASED REDUCTION

### U.S. SPENDING FOR THE DEFENSE OF EUROPE

(NOTE.—Figures 1 and 2 do not appear in this reprint.)

The annual cost to the United States of peacetime preparations for conflict in Europe is higher than the cost of the Vietnam war at its peak when 600,000 U.S. servicemen were fighting in Southeast Asia. The yearly price tag on U.S. armed forces for war in Europe is about $30 billion. The annual incremental cost of the war in Southeast Asia at its high point was $21.5 billion in fiscal year 1969.[1] In view of lessening East-West tensions and hitherto unparalleled European prosperity, is it not time for the United States to cease carrying such a heavy burden for the protection of Western Europe?

Providing forces for the defense of Europe against possible invasion by the Soviet Union is the most expensive item in the Pentagon budget, exceeding outlays on strategic forces. The total defense budget can be roughly divided between 75% for conventional forces and 25% for strategic forces. Public attention is usually directed to controversial strategic missiles, submarines, and aircraft, but it is the $65 billion spent each year on maintaining a capability to fight conventional wars that eats up the bulk of the defense budget.

"The size of our general purpose forces is determined largely by our NATO commitment," said Roger Kelly, former Assistant Secretary of Defense for Manpower and Reserve Affairs, in 1972.[2] The Defense Department has acknowledged that the level and composition of U.S. conventional forces are not driven by the need to defend the territory of the United States. Because of its advantageous geographic position and powerful strategic forces, the U.S. requires only small conventional forces to defend itself against foreign threats. Most U.S. conventional forces are purchased to defend our allies. The size, composition, and cost of U.S. conventional forces are established primarily Army is structured and equipped for fight- to support plans for war in Europe. The U.S. ing in Europe, and U.S. Navy ships and aircraft are also being developed principally for a lengthy conventional war in Europe.

### *Composition of conventional forces for European defense*

U.S. conventional forces consist of land, sea, and air components. There are 13 active Army combat divisions, 3 Marine Corps divisions, 14 attack aircraft carriers around which the Navy is structured, and 72 Air Force fighter and attack squadrons and other tactical air units. To augment this active force, there are 1 million trained Ready Reserve and National Guard troops immediately available for callup.

The numbers of the U.S. military forces for the defense of Europe are inventoried in Figure 1. Included are equipment and personnel stationed both in Europe and the United States. There are 319,000 personnel in Europe and related areas, 4⅓ divisions and 4 brigades, and prepositioned equipment for an additional 2⅔ divisions located in the U.S. but designated for rapid airlift to Europe in case of conflict. The troops in Europe are accompanied by 235,000 dependents and 14,000 U.S. civilian employees. There are 139 principal U.S. military bases in Europe and related areas.

The U.S. has more than 7,000 tactical nuclear weapons in Europe and more than 2,000 associated delivery systems. The U.S. maintains 780 combat aircraft (including carrier aircraft) in Europe. The Sixth Fleet, permanently stationed in the Mediterranean, normally has 45 ships and submarines, built around two attack aircraft carriers. Conventional forces in the continental United States, primarily for conflict in Europe, include almost the entire Atlantic Fleet with four attack carriers, one Marine Division, at least half of the Army Strategic Reserve (4⅔ divisions), Air Force tactical air and transport units, and most Reserve and Guard units with modern combat equipment. Total U.S. forces in Europe or earmarked for Europe include 16 divisions, 8 brigades, 2,900 combat aircraft, and 294 ships.

### *Full costs of U.S. NATO forces difficult to calculate*

The Defense Department produces a complicated array of figures for the cost of U.S. NATO forces, ranging from $4 billion to $17 billion. It has never, however, revealed publicly the full extent of NATO-designated forces. Any financial estimates must of necessity be inexact because of the complexities involved in detailing the direct and indirect costs in DOD accounting. The $4 billion figure covers only the direct annual operating costs (primarily wages) of the approximately 300,000 troops actually based in Europe. The $17 billion figure is said to include the yearly expenses of U.S. forces located in Europe and those forces in the U.S. committed for quick deployment to Europe in the event of war. These U.S. rapid-reinforcement forces are only part of the total U.S. forces that would be used for European defense. The Defense Department calculates that it spends an additional $9.5 billion each year on conventional forces that could be used in a NATO conflict if necessary but which are also available for fighting in Third World countries (see Table 1).

TABLE 1.—*Annual U.S. spending for European defense*

($30 billion plus)

$17 billion—direct cost.
$9.5 billion—auxiliary.
$3.5 billion—other (e.g., R&D.)

DOD's calculations of the financial cost to the U.S. to defend Europe are less than the actual costs, which are around $30 billion annually and probably more. A number of additional NATO-related military expenditures need to be taken into account. For example, the Europeans enjoy the benefits of the nuclear umbrella provided by the

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Footnotes at end of article.

United States without contributing to the costs of U.S. strategic forces. The U.S. would probably retain most of its strategic forces in the absence of a commitment to the defense of Europe. Much of the impetus toward the development of new and better strategic weapons, however, that could be used in limited or "flexible response" nuclear warfare stems from the desire to allay Western European doubts about the credibility of the U.S. strategic guarantee. Some perhaps unquantifiable amount of U.S. spending on strategic forces can be attributed to the costs of the U.S. defense of Europe and the need to continually reassure the Europeans that we would actually use nuclear weapons against the Soviet Union in case of invasion of Western Europe.

### *R&D costs not accounted for in NATO-related expenditures*

Additionally, new and expensive conventional weapons systems are being developed primarily for war in Europe. A major portion of the $8 billion spent each year on research and development by the Defense Department must be added to the cost of defending Europe. Our NATO allies contribute little toward paying for new U.S. weapons that will be used primarily for their defense. (The joint U.S.-West German project to build a new main battle tank was abandoned in 1971.) For example, the $8 billion F-15 aircraft program is being developed to defend U.S. and other NATO ground troops against Soviet air attack in Europe. The proposed $4.5 billion SAM-D surface-to-air missile system is intended principally for deployment in Europe. Small tactical nuclear weapons ("mini-nukes") are being contemplated for use in Europe at the cost of billions. The new Navy F-14 aircraft program will cost more than $5 billion and the F-14 will be stationed on carriers primarily in European waters where it would be used against Soviet forces. The F-14, at a cost of over $20 million per plane, is too costly and sophisticated to be developed and procured for use against lesser opponents in other areas of the world. The F-14 is being built, as many other new weapons, for a conventional war in Europe.

The Defense Department includes a share of the cost of newly procured weapons and equipment in its calculations of the cost of U.S. NATO forces. But DOD does not reveal what the amount is, and it is doubtful that DOD takes fully into account the degree to which weapons are procured for NATO purposes. The Senate Armed Services Committee studied this matter and concluded:

"That defense of NATO is uppermost in defense planning is clearly illustrated by review of justifications presented to support procurement of weapons systems. A review of selected general purpose weapons systems estimated to cost $30 billion shows that $21-$25 billion of that cost can be identified with the requirement to support NATO defense."[4]

Finally, DOD's $17 billion figure does not include the retirement pay for U.S. NATO forces, nor the overhead administrative costs of these forces. In addition, the cost of maintaining the 229,000 U.S. troops in Germany has increased in 1973 after dollar devaluation and revaluation of the German mark.

### *For the future—More emphasis on arms for European defense*

For more than 20 years, the United States has borne the major burden for organizing and supporting the military defense of Western Europe against possible attack by the Soviet Union. Even so, Pentagon planners foresee even greater emphasis and spending on conventional arms and European defense in the future. Lt. Gen. George Seignious, Director of the Joint Chiefs of Staff, states that ". . . the evolution of the U.S. forces, as you will see in the coming years, will be more and more identifiable with our mission in NATO."[5] Former Secretary of Defense Elliot Richardson expressed the view of the Nixon Administration: "The development of approximate parity between the U.S. and the U.S.S.R. in strategic weapons has created a situation which, in our view, makes it more important than ever that the NATO forces should have substantial conventional capability."[6] From the Pentagon point of view, conventional war is thought to be more likely than 15 years ago when relations with the Soviet Union were far more strained.

### NONMILITARY TIES—THE U.S. ECONOMIC STAKE IN WESTERN EUROPE

The ties that bind Europe and America are many and varied, but they have been defined chiefly in military terms. Nonmilitary ties, such as the substantial U.S. economic stake in Western Europe, are at least as important as the military connection between the U.S. and its allies. The activities of multinational corporations on both sides of the Atlantic imply an important mutul commitment to the preservation of a friendly, prosperous, and stable Europe. U.S. assets and investments in Western Europe total approximately $40 billion, of which $28 billion are private investments which earn American investors nearly $3 billion a year.

### *The economic growth of Western Europe*

Since World War II, Western Europe has become rich. In 1951, the combined GGNP of all the European members of NATO was $47 billion. By 1972 it jumped to $949 billion, almost 100% higher than that of the Soviet Union. By almost any measure, the combined industrial might of NATO Europe surpasses that of the Soviet Union. The greater economic and manpower resources of NATO Europe provides a basis for a strong military potential as well (see Table 2).

TABLE 2.—COMPARISON OF NATO EUROPE AND U.S.S.R., 1972

[Does not include United States]

| | Population (millions) | GNP (billions) | Defense spending (billions) | Armed Forces (millions) |
|---|---|---|---|---|
| NATO Europe (including France) | 311 | $949 | $34 | 3.1 |
| U.S.S.R. | 248 | 549 | 50-60 | 3.4 |

The U.S. spends 6.7% of its GNP on the military and the Soviets an estimated 8%-10%, but NATO Europe spends only 3.6% on military forces. Our European allies allocate on the average about 20% of their government spending to defense, while the U.S. spends twice that percentage.

### THE CHANGED POLITICAL SITUATION

Apparently our allies take a less worried view of the Soviet threat than the U.S. From their point of view, a Soviet conventional attack on Europe is increasingly implausible. It has become more difficult to see what Soviet interests would be served by attack on Western Europe. The Soviet Union would gain little and lose much by a military attack on Germany, France, and other NATO allies. The Defense Department apparently agrees that the threat to Western Europe is remote because it allows 235,000 dependents to stay there.

The political situation in Europe has changed from when the North Atlantic Treaty was signed in 1949. U.S. General Andrew Goodpaster, the Supreme Allied Commander in Europe, graphically described in 1971 the prevailing perception of the Soviet threat at the time that NATO was founded:

"In those days the question was not, 'Will there be war?' but rather, 'In what month will war start?' An exhausted Western Europe, weakened and weary of war, faced a new threat—and it seemed only a matter of time until the threat would be carried out. That was the climate—the harsh, numbing, almost paralyzing climate—into which NATO was born."[7]

The division of the world between a U.S.-led bloc and a Soviet-led bloc has been eroded. Increasingly, the conflict between the Soviet Union and the West has been channeled into nonmilitary spheres, on which basis a wealthy and confident Western Europe already competes as an equal. Most of the European Cold War tensions of the 1950's and 1960's can be traced to problems arising around the Berlin situation and the German problem. As of 1973, these difficulties have been eased, particularly because of the Berlin accords signed in 1972, and West Germany has normalized its relations with most East European countries.

### *Implications of the Chinese threat to the Soviet Union*

For the Soviet Union, the breakdown of the simple bipolar conflict has meant that it is now confronted with possible threats from more than just the United States. The U.S.S.R. faces the Chinese who are armed with nuclear weapons and a regular armed force of 2,900,000. Dr. John Foster, former director of Defense Research and Engineering, has observed the multithreats to the Soviets:

"They face, in a way, more threats than does the United States, and so what they see as equitable seems a little off balance to us. . . . Of course, they have China on a large fraction of their borders. China, as you know, is rapidly obtaining a nuclear capability in submarines, in bombers, and in surface-to-surface missiles. They also have, of course, NATO bordering on their country and the Soviet bloc nations. So they have to reckon with Chinese missiles, Chinese armament, U.S. armament, the French and United Kingdom nuclear armament."[8]

The Soviet Union is unlikely to engage in provocative behavior or launch an attack on West Germany, France, and other NATO countries as long as it perceives a threatening Chinese presence on its eastern border.

### NEED TO TRANSFORM NATO

With the growth of European economic strength and with the waning of the Cold War, it has become increasingly difficult to accept a relationship between the United States and Western Europe involving such a heavy U.S. military responsibility for the region's defense. Western Europe is well able to raise and support the military forces required for its own defense. The North Atlantic Alliance should therefore be transformed to lessen the dominant role of the United States in the NATO command structure and to increase Western Europe's role in its own defense. For example, it may be time to reassess the tradition of having a U.S. general officer as Supreme Commander of NATO forces in Europe.

A growing number of Americans have become conscious of the unreality of the United States devoting so much of its military efforts to the remote possibility of a major war in Europe. The maintenance of more than 229,000 U.S. troops in Germany in particular has diminishing plausibility. In early October 1973, a Gallup poll indicated that a majority of the American public favored cutting U.S. forces in Europe.[9] In the Congress there has been growing pressure for substantial cuts. These demands have been fed by increases in the number of U.S. trops in Europe while U.S. deployments in Asia have been reduced in recent years.

### THE NIXON DOCTRINE AND SELF-HELP

The Nixon Doctrine, conceived for Asia and by implication extended to Western Europe, declares that the nation directly threatened will assume primary responsibility for providing the manpower for its own defense. Admiral Thomas Moorer, chairman of the

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Footnotes at end of article.

Joint Chiefs of Staff, noted this year that political, fiscal, and manpower constraints "prescribe smaller, but more efficient, U.S. general purpose forces, and require a much greater degree of self-reliance and burden sharing by our allies."[10] Defense Secretary Schlesinger agreed:

"The underlying premise of the Nixon doctrine is that we should be encouraging greater self-help on the part of allied friendly countries to build up their forces so that they can defend themselves in the absence of U.S. ground forces, in particular, and hopefully in the absence of U.S. air and naval forces."[11]

This principle of self-help and an end to U.S. military paternalism is even more applicable to the wealthy nations of Western Europe than to Asia. In Senator Mansfield's phrase, it is time "to replace a policy of land-based omnipresence with a policy of discerning internationalism." The contrast, however, between the Nixon Doctrine and the continuation of 25-year old military arrangements for European defense is sharp.

#### *Fluctuations in NATO troop strength*

There have been great fluctuations in the level of NATO forces, but with no apparent impact on the European security situation. Many of our allies have cut their forces and France withdrew from formal participation in many NATO activities. The Dutch, Belgians, Canadians, and British have all cut their forces stationed in West Germany. U.S. forces in Europe declined from 463,000 in 1962 to 296,000 in 1969. Military force planning is an uncertain process wherein the only consistent pattern is that there is never enough and that what exists should not be reduced. The relationship between foreign commitments and military force structure is loose. Despite the history of fluctuations in NATO forces, military leaders argue today that the present level of U.S. forces, and NATO forces in general, are the absolute minimum required for defense of Europe and cannot be cut.

Planning for conventional forces is more complicated than for strategic forces. Admiral Moorer has admitted that "there are a great many uncertainties involved in drawing up a balance between NATO and the Warsaw Pact."[12] He states that NATO planning is "not a precise science at all,"[13] and that many of the variables and scenarios used in developing force levels and strategy are "just a speculation,"[14] and "you can get almost any answer depending upon how you vary the inputs."[15]

#### *Recent studies disclose NATO strengths*

Current Defense Department studies of Western European defense requirements, considered by DOD to be the most comprehensive to date, indicate that NATO has more than enough forces to defend itself against the likely Soviet threats, and that Warsaw Pact strength has been exaggerated in the past.[16] NATO can handle the probable Soviet threat with less ground forces in Europe. Former Defense Secretary Richardson commented that, "the general thrust of this study is that the conventional capabilities of the allies in NATO have tended to be underestimated and that they could withstand for a very substantial period a conventional Warsaw Pact attack."[17] Defense Secretary Schlesinger agreed that, "it is clear that NATO is in better shape conventionally than had been anticipated."[18] He also suggested that the United States is not at a severe disadvantage in reinforcement capability when compared to the Soviet Union: "With our airlift capabilities, we are able to redeploy combat troops very quickly, in fact more quickly in a number of respects than the Soviets can in a location closer at hand. . . . The difficulties of redeployment may be less for us than they are for our possible opponents."[19]

### POLITICAL ARGUMENTS AND INSTITUTIONAL INTERESTS BEHIND LARGE U.S. FORCE LEVELS

Despite the revised military estimates, Administration pressure to retain U.S. troops in Europe continues to be strong, and emphasis shifts from military to political grounds. For example, Administration spokesmen say that U.S. cuts would lead to a Western European loss of confidence and the erosion of European independence from the Soviet Union. The diminution of U.S. military power in Western Europe could lead, it is alleged, to Western Europe ultimately being dominated by the Soviet Union. This spectre has been dubbed "Finlandization." Finland has a total armed force of 39,500, a GNP of $13 billion, and a defense budget of $230 million. Comparing the situation of Finland to that of Western Europe stretches logic. The countries of Western Europe can handle the U.S.S.R. (which also has 800 million Chinese to contend with), as long as they make some effort to cooperate with each other and to maintain alliance with the United States. It is unrealistic to expect that they will fold up like some empty husk if the U.S. military presence is reduced. Addressing himself to changes that have occurred in concepts of power, Secretary of State Henry Kissinger said:

"The most striking feature of the contemporary period—the feature that gives complexity as well as hope—is the radical transformation in the nature of power. Throughout history power has generally been homogeneous. Military, economic, and political potential were closely related. To be powerful a nation had to be strong in all categories. Today the vocabulary of strength is more complex. Military muscle does not guarantee political influence. Economic giants can be militarily weak, and military strength may not be able to obscure economic weakness. Countries can exert political influence even when they have neither military nor economic strength."[20]

Other political arguments suggest that "substantial and precipitous reductions" would indicate to U.S. NATO allies and to the Soviet Union that the United States was preparing to lessen its commitment to the defense of Western Europe. Europeans, especially the West Germans, would lean toward this view. The United States would have to give assurances that any troop cuts would be replaced if necessary. To the West Germans, so long accustomed to a large U.S. military presence, such assurances would be particularly important to allay feelings of abandonment by the United States that could lead to the scuttling of European-oriented policies and to a reversion to strictly national policies. Nor could the Chinese be expected to look with favor on any U.S. troop cuts that could result in reciprocal Soviet reductions that could ultimately strengthen the already large Soviet force on the Sino-Soviet border.

Another factor that works against the reduction of U.S. forces is the institutional interest of the NATO command structure. NATO exists only for the purpose of protecting its members against Soviet military aggression. The sole task of the very large NATO staffs has been to plan and carry out exercises against the contingency of Soviet aggression. These staffs, including the 123 U.S. general officers assigned to NATO headquarters, have become keepers-of-the-faith in an era of Détente whose task is not to determine whether a threat exists, but where the threat exists and when it will come. With single-minded purpose they warn against soft options and political backsliding. The U.S.-dominated NATO command structure tends to perpetuate overly pessimistic views of the Soviet threat, thus resulting in high levels of U.S. forces in Europe.

### NEGOTIATIONS ON MUTUAL REDUCTIONS OF FORCES AND ARMAMENTS

In response to the domestic pressures for change in U.S. policy, the U.S. Government since 1966 has been pushing the concept of mutual and balanced force reductions (MFR) in Central Europe as a substitute for independent U.S. cuts. The Nixon Administration is tying any reduction of U.S. forces in Western Europe to corresponding, and apparently larger, reductions in Soviet forces in Eastern Europe. President Nixon has stated the policy:

"Given the existing strategic balance and similar efforts by our allies, it is the policy of this Government to maintain and improve our forces in Europe and not reduce them except through reciprocal reductions negotiated with the Warsaw Pact."[21]

As a result, expenditures on U.S. military forces oriented for European defense are growing (direct costs up from $14 billion in 1971 to $17 billion in 1973), troops in Europe increasing, and investment in new conventional weapons for use in Europe expanding.

The long-awaited "Negotiations on Mutual Reductions of Forces and Armaments and Associated Measures in Central Europe" began in Vienna on October 30, 1973. These talks between the members of NATO and the Warsaw Pact are among the most complicated international negotiations in history. Certainly they are much more complex than the SALT talks concerning strategic weapons, if only because 19 rather than two countries are participating. (Eleven states are full participants and eight are observers.) Talks on force reductions in Europe were first formally proposed by NATO countries in 1968, but it was not until January 1973 that exploratory meetings began. These preliminary discussions of agenda and participation were planned to last five weeks but actually went on for five months.

It is frequently said that there should be a reduction of U.S. troops in Western Europe, but that results should await the outcome of the MFR talks. Proposals to reduce U.S. forces to more reasonable levels are dismissed with the slogan that we must not undermine our negotiating position. It is the same "bargaining chip" argument that has been used to support the expansion of strategic arms while SALT talks are attempting to reach arms limitations. It sounds good to arm to parlay, but there are difficulties.

#### *Significant negotiated U.S. reductions unlikely*

Prospects for significant reductions in U.S. forces in Europe resulting from the MFR talks in Vienna are very unlikely. For supporters of the continuation of the present level of U.S. forces there is no right time to cut. There is also little interest in reducing troops except in return for Soviet cuts that would have to be so large that the Soviet Union probably will not find them acceptable. In fact, the Soviet Union has been quite skeptical about force reductions in Europe, and has only reluctantly and under pressure for progress in other aspects of East-West relations been willing to begin negotiations.

The role of the MFR talks is in great part to forestall pressures in the U.S. Congress to cut U.S. troops. Only small, symbolic reductions are probable, to prevent larger reductions enforced by Congress. Senator James Pearson, Republican of Kansas and a member of the Senate Foreign Relations Committee, has observed the place of the MFR talks in efforts to preserve substantial U.S. forces in Europe:

"There are really three groups of people. There are those that don't want any withdrawal and then there are those who want to do it by mutual reduction. Then there are those who want to do it unilaterally. I think those who don't want any withdrawals are the same group that want to do it by mutual negotiation."[22]

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Footnotes at end of article.

It will be extremely difficult to achieve balanced reductions of forces, because so many different kinds of units and complex weapons are involved. The differing force postures, mobilization capabilities, and geographic situations of NATO and the Warsaw Pact make the technical difficulties of negotiating balanced reductions almost insurmountable. Numbers of troops and amounts of weapons cannot with precision be translated into levels of security. Varying national perspectives also produce conflicting conceptions of what constitutes a fair balance. These talks are likely to drag on for years. In the end, all that may be achieved is a mutual 10% cut by NATO and the Warsaw Pact countries, and perhaps the accumulation of "bargaining chips" on both sides that will negate any reductions achieved at the negotiating table. This could mean that 90% of the present American troop strength in Europe would be frozen in position, perhaps indefinitely, perhaps "only" for another quarter of a century. Handcuffing present and future U.S. policy to the success of the mutual force reduction talks is really no policy for change.

### THE NEED FOR NEW APPROACHES

If there are to be cuts in forward deployed forces in Europe, and savings in U.S. defense spending, other approaches that permit greater flexibility and independence should be explored and carried out. We should avoid engaging in force reductions only in lock-step with the Soviet Union. Better a carefully thought out, well-planned, well-phased cut, than an unsatisfactory and frustrating 10% reduction that would likely be rejected by U.S. public opinion and followed by an angry backlash and a precipitate, wholesale withdrawal of our forces that could be damaging. In consultation with its NATO allies, the U.S. could begin to make plans now for a gradual but significant reduction of U.S. military forces in Europe, regardless of the course of the MFR talks. The phasing down of U.S. forces could be done on a ten-year plan, negotiated with our allies, with a 20% cut spread over the first three years, and then a reassessment of the situation to see how the Soviet Union and our allies are reacting. This initial cut would be less than the 50% cut advocated by Senator Mansfield.

Buildups occur as a result of unilateral or independent action. Surely reductions can be made in the same way. The Soviet Union might respond to a diplomacy of "mutual example" because of its need to shift forces from Eastern Europe to areas nearer to China, or because it also faces domestic pressures on defense spending. Soviet troops in Eastern Europe, however, are there in great part as occupation forces to preserve political stability and Soviet dominance. Former Secretary of Defense Richardson, in March 1973, reported to congress:

"Since 1955, when the Warsaw Pact was established, Soviet troops in Eastern Europe have been actively utilized, in a military sense, not against NATO, but against two of the Pact member states—Hungary in 1956 and Czechoslovakia in 1968. Quite clearly, the courageous and large-scale resistance that met both invasions suggest that Soviet troops have a tenuous welcome at best." [23]

The continued presence of a high level of U.S. troops in Western Europe provides a continued rationale for the Soviet garrison forces in Eastern Europe. If the Soviet Union were able to respond positively to U.S.-initiated cuts, well and good. If not, then the situation could be reassessed.

### *A phased withdrawal: Returning to the original NATO concept*

The goal of a phased withdrawal of American forces from Europe is not abandonment of NATO by the U.S., but a return to the concept of NATO as it was originally conceived. The intent was certainly not to send American troops to Europe on a permanent basis. The idea was to afford the Europeans time to build up adequate military forces of their own. Once that was accomplished, U.S. forces in Europe were to be phased out. As General Alfred M. Gruenther, SHAPE chief of staff, told the Congress in 1951, "once this European rearmament build-up has been accomplished, it should be possible to begin the phasing out of United States ground forces." [24]

As of 1973, Europe is capable of military self-sufficiency vis-a-vis the Soviet Union with a level of U.S. support and presence in Europe less than at present. In particular, West Germany, where most U.S. troops have been stationed, has greatly expanded its military forces over the past 17 years (see Figure 2). From 1956 to the present, West German armed forces have increased from 66,000 to 475,000. There has, however, been no phase-down of U.S. troops to take account of this buildup. It should also not be overlooked, and certainly is not by the Soviet Union, that both Britain and France possess strategic nuclear forces that may seem small in comparison to U.S. and Soviet levels of overkill, but are still quite substantial deterrent forces for the defense of Western Europe. The SALT I agreements have enhanced the effectiveness of British and French strategic weapons by limiting Soviet ABM defenses to very small levels.

The NATO treaty does not specify a level of U.S. forces for the defense of Europe (Article 3). All it says is that the parties will maintain and develop their individual and collective capacity to resist armed attack. They agree that an armed attack against one is an attack against all, but even then, each party is left free to decide what action to take according to its own constitutional procedures and requirements; the treaty merely says that such action can "include" use of armed force (Article 5).

### *NATO military spending exceeds that of Warsaw Pact*

The U.S. is pledged to defend Western Europe because the existence of a friendly and independent Western Europe is in America's interest. It is hard to envisage an attack by the Soviet Union on Western Europe that would not involve the U.S. As Admiral Thomas Moorer has remarked, "It should be clear to everyone that a major NATO-Warsaw Pact conflict would involve the nations concerned in global warfare, not just in the European theater." [25] An assessment of the total assets available to NATO and the Warsaw Pact indicates clear NATO superiority, both in actual and potential military power (see Table 3). According to calculations of the U.S. Arms Control and Disarmament Agency, NATO during the period 1961-71, consistently outspent the Warsaw Pact by $30 billion each year for military forces.[26]

TABLE 3.—COMPARISON OF NATO AND THE WARSAW PACT, 1972

[Includes United States]

| | Population (millions) | GNP (billions) | Defense spending (billions) | Armed Forces (millions) |
|---|---|---|---|---|
| NATO | 542 | $2,207 | $114 | 5.6 |
| Warsaw Pact | 352 | 753 | 60–70 | 4.4 |

### A U.S. REDUCTION: KEY TO PRESERVATION OF NATO ALLIANCE

It is time, therefore, for the U.S. to begin a phased withdrawal of forces from Europe, down from the present American contribution of a quarter of NATO strength in place on the central front. After an initial period of U.S. reduction, there would be a reassessment of how our European allies react. They could probably get better defense than they now have for their annual $35 billion defense spending, if they eliminated overlapping and duplication, and progressed toward greater European unity. The U.S. would, of course, still remain in NATO and a reduction of the American military presence in Europe would still leave NATO strong. The fact of the matter is that an attack on Western Europe is highly unlikely, with or without the presence of substantial American troops. This reality should have some effect on what we do.

The alternative to phased withdrawal is almost certainly not a stubborn continuation of the status quo, but a hasty, massive pullout from Europe in backlash against the whole NATO concept. A phased withdrawal is not a denial of our NATO commitment; rather it is perhaps the only way to preserve the military cooperation of the NATO allies. Henry Kissinger has said that "no foreign policy has any chance of success if it is born in the minds of a few and carried in the hearts of none." [27] Nowhere is this more true than with regard to the now outmoded policy of maintaining forces for war in Europe far in excess of those required.

FOOTNOTES

[1] DOD (Comptroller), *The Economics of Defense Spending: A Look At the Realities* (July 1972), p. 149.

[2] Senate Armed Services Committee, *Hearings on Military Procurement Authorization, Fiscal Year 1973, Part 1*, p. 14.

[3] Senate Armed Services Committee, *Hearings on Military Procurement Authorization Fiscal Year 1974, Part 1*, p. 270.

[4] Senate Armed Services Committee, *Report on Military, Procurement Authorization, Fiscal Year 1972* (September 7, 1971), p. 16.

[5] Senate Foreign Relations Committee, hearings on "Mutual Reduction of Forces in Europe" (July 27, 1973), p. 133 (stenographic record).

[6] House Armed Services Committee, *Hearings on Military Procurement Authorization, Fiscal Year 1974, Part 1*, pp. 463–464.

[7] *SHAPE and Allied Command Europe: Twenty Years In the Service of Peace and Security 1951–1971* (Fleurus, Belgium), p. 9.

[8] House Armed Services Committee, *Supplementary Hearings on Defense Procurement Authorization Relating to SALT Agreement* (June 13, 1972), p. 12098.72, p. 12098.82.

[9] *Washington Post*, October 8, 1973. *New York Times*, October 9, 1973. The Gallup Poll showed that 57% of those who are aware of the issue of withdrawal of U.S. forces in Europe are in favor of it. Two-thirds of the public are aware of the issue.

[10] *Statement by Chairman of the Joint Chiefs of Staff Admiral Thomas H. Moorer, USN, on United States Military Posture for FY 1974* (March 26, 1973), p. 31.

[11] Senate Armed Services Committee, *Nomination of James R. Schlesinger to Be Secretary of Defense* (June 18, 1973), p. 71.

[12] *Statement by Chairman of the Joint Chiefs of Staff . . .*, p. 53.

[13] Senate Armed Services Committee, *Hearings on Military Procurement Authorization, Fiscal Year 1974, Part I*, p. 388.

[14] *Ibid.*, p. 386.

[15] *Ibid.*, p. 259.

[16] See Senate Armed Services Committee, *Hearings on Military Procurement Authorization, Fiscal Year 1974, Part 8*, pp. 5249, 5279, 5304; *Part 1*, p. 310; Senate Foreign Relations Committee, hearings on "Mutual Reduction of Forces in Europe", July 27, 1973; and *Washington Post*, June 7, 1973 (Michael Getler, "Study Insists NATO Can Defend Itself").

[17] Senate Armed Services Committee, *Hearings on Military Procurement Authorization, Fiscal Year 1974, Part 1*, pp. 310–311.

[18] Press conference, June 8, 1973.

[19] Senate Armed Services Committee, *Nomination of James R. Schlesinger to Be Secretary of Defense* (June 18, 1973), p. 71.

[20] Speech at *Pacem In Terris* Conference, Washington, D.C., October 8, 1973.

[21] Report by President Richard Nixon to the Congress, *United States Foreign Policy for the 1970's*, February 9, 1972, p. 44.

[22] Senate Foreign Relations Committee, hearings on "Mutual Reduction of Forces in Europe", July 27, 1973, p. 185 (stenographic record).

[23] Senate Armed Services Committee, *Hearings on Military Procurement Authorization, Fiscal Year 1974, Part I*, pp. 175–176.

[24] Senate Foreign Relations Committee, *Hearings on the United States Foreign Aid Program in Europe*, 1951, p. 290.

[25] Statement before the House Foreign Affairs Committee, July 11, 1973, hearings on "United States Troop Levels in Europe," p. 8 of original statement.

[26] United States Arms Control and Disarmament Agency, *World Military Expenditures 1971*, p. 9.

[27] Speech before the International Platform Association on August 2, 1973.

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### DEFENSE MONITER IN BRIEF

Spending for the possibility of war in Europe is the largest item in the United States military budget. European defense costs U.S. taxpayers about $30 billion each year.

The United States should begin to plan now for a gradual, but significant reduction of U.S. military forces for Europe, regardless of the course of the current talks on mutual force reductions (MFR) in Vienna. The MFR talks are unlikely to lead to any but small, unsatisfactory cuts.

The phasing down of U.S. forces could be scheduled over 10 years, negotiated with our allies, with a 20% cut spread over the first three years. Then the situation could be reassessed.

As of 1973, Western Europe is capable of military self-sufficiency vis-a-vis the Soviet Union with a lower level of U.S. support and presence in Europe.

The goal of a phased withdrawal is not an abandonment of NATO by the U.S., but a return to the concept of NATO as it was originally conceived. The original intent was not to send American troops to Europe permanently. The idea was to allow the Europeans time to build up their own military forces. Once that was accomplished, U.S. forces in Europe were to be phased out.

## IN PRAISE OF AMTRAK

Mr. MANSFIELD. Mr. President, I have on occasion found fault with Amtrak. I am in receipt of a letter from Mrs. Jane S. Tucker, of Wiscasset, Maine, in which she has some good words to say about a roundtrip which she recently took from Boston to Livingston, Mont., via Amtrak.

I ask unanimous consent that the communication be inserted in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WISCASSET, MAINE,
*January 24, 1974.*

MR. HAROLD L. GRAHAM,
*Vice-President, Marketing, Amtrak,*
*Washington, D.C.*

DEAR MR. GRAHAM: I have recently returned from a round trip Boston/Livingston, Montana, via Amtrak, and want to send you my appreciation for a comfortable and interesting trip. Your service was excellent throughout. PSRs and PSAs everywhere were most courteous and helpful, especially those who assisted me when I missed a Chicago connection. It was nice to be wanted again as a passenger—I didn't feel that you wanted me in November 1971.

This small check won't help Amtrak much, but I didn't feel I should keep the surplus from the Chicago rescue (cabs to airport ran a little under the estimate). In fact, I would return the whole amount if I did not feel that, with the southern Montana train running only three times a week, your scheduling is at fault and should be less tight. You could conceivably have people making a 3-night stopover in Chicago, if plane reservations were not available to Minneapolis. Isn't there some way both the Montana trains can be tied in to make a truly trans-continental schedule?

One other suggestion—could you have a child's plate on the dining car? Over the holidays there were many small children traveling and the amount of food was appalling. It could be the same menu, just reduced portions.

I want Amtrak to succeed and plan to keep traveling on the trains. In fact, I would be glad if you could extend your service into Maine, where the railroad track runs past my house!

Sincerely yours,
(MISS) JANE S. TUCKER.

## ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the minority leader desire to be recognized?

Mr. HUGH SCOTT. Mr. President, I cannot think of a thing to say that would enlighten anybody.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Delaware (Mr. BIDEN) is recognized for not to exceed 15 minutes.

## TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 12 o'clock, with statements made therein limited to 3 minutes each.

## QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## THE LEGAL SERVICES CORPORATION ACT—SUBMISSION OF AMENDMENT NO. 950

Mr. ALLEN. Mr. President, I send to the desk an amendment to S. 2686, which I ask to have printed and lie on the table. At a later time I will discuss the amendment in detail when it is called up for action.

I would like to state briefly that this is an amendment to the legal services bill and it provides:

"(b) No funds made available by the Corporation under this title, either by grant or contract, may be used in any State—

"(1) for any purpose in derogation of any valid State law or any public policy enacted by or established by the State legislature; or

"(2) for any activity which may be vetoed by a Governor (A) pursuant to a formally adopted resolution by the governing body of a State Bar Association requesting such veto or (B) pursuant to the exercise of the police power vested in the Governor of a State to protect the life, property, health, or welfare of the citizens of that State."

Mr. President, I will discuss the amendment in detail at the time it is called up.

The ACTING PRESIDENT pro tempore. The amendment will be received and printed, and will lie on the table.

## QUORUM CALL

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, is this the morning hour?

The ACTING PRESIDENT pro tempore. This is the morning hour.

## THE SALE OF AIR FORCE PLANT NO. 14 TO LOCKHEED WAS IMPROPER AND SHOULD BE INVESTIGATED

Mr. PROXMIRE. Mr. President, last year, Arthur F. Sampson, Administrator of the General Services Administration, gave his final approval to the sale of an Air Force facility at Burbank, Calif., to Lockheed Aircraft Corp. despite repeated warnings by the Justice Department that a negotiated sale would be inconsistent with the antitrust laws.

The facility, known as Air Force Plant No. 14, consists of 88 acres including 91 buildings and equipment. The selling price was $30,087,000.

### LOCKHEED WAS THE SOLE BIDDER

Lockheed, which has occupied the Government-owned plant as a defense contractor, was the sole bidder. No one else was allowed to bid for the property. There was no competition.

### JUSTICE DEPARTMENT OPPOSES SALE

The Justice Department first advised the General Services Administration of its objections to the sale in a July 30, 1970, letter signed by Richard W. McLaren, Assistant Attorney General and head of the Antitrust Division.

The General Services Administration made several efforts to get the Justice Department to change its opinion. But those efforts were unsuccessful.

On March 29, 1972, Walker B. Comegys, who succeeded McLaren as head of the Antitrust Division, repeated the Justice Department's objections to the sale.

A year ago the Justice Department was again asked to reverse itself. This time the Attorney General himself, Richard G. Kleindienst, wrote to Mr. Sampson on March 26, 1973, to reaffirm the original unfavorable antitrust advice.

According to the Attorney General, the sale of the Air Force plant to Lockheed—

> Would increase concentration in the aircraft industry; and, therefore, such sale would tend to create or maintain a situation inconsistent with the antitrust laws.

### FEDERAL PROPERTY ACT MAY HAVE BEEN VIOLATED

The sale may also have violated the Federal Property Act. There is no statutory authority for selling Government-owned industrial equipment to contractors who hold the equipment, unless the sale is done competitively. Millions of dollars of Government-owned equipment, in addition to the land and buildings, were involved in the sale.

The same view was expressed by J. Fred Buzhardt, General Counsel of the Defense Department, in a 1970 legal memorandum to the Assistant Secretary of Defense.

The Buzhardt memorandum states:

> We are of the opinion that there is no existing disposal authority that is adequate to support a Defense program which seeks to dispose of Government-owned industrial equipment on a negotiated basis to contractors in possession of such property and at whose plants the property is located.

Exceptions to the general rule may exist in periods of emergency or where public health or national security would be promoted by a negotiated sale. No exceptional conditions existed in the Lockheed sale.

### JUSTICE DEPARTMENT OBJECTIONS SPELLED OUT

The objections to the sale spelled out by the Justice Department were:

First. The sale would give Lockheed, one of the largest corporations in the United States, a preferred position over other firms which might want to acquire such a facility.

Second. The sale of Plant No. 14 would increase the concentration of assets employed in aircraft production in the hands of the largest aircraft firms.

Third. The sale would adversely affect competition in the aircraft industry.

Fourth. Competitive bids would enable the Government to choose from a range of options on competitive and other relevant grounds.

The General Services Administration argues that Plant No. 14 is a facility so situated that it cannot be utilized by anyone other than Lockheed, and therefore not suitable for disposal by competitive bidding. The Justice Department rejected this argument by showing that other purchasers would have easy access to the property and that the plant is not dependent upon Lockheed for its utilities.

The odor from this deal stretches all the way from Burbank to Washington.

Lockheed made its offer to buy the property in 1969. The sale was not completed until July 1973. Yet, after 4 years of inflation and rising real estate values, GSA sold the facility for the same amount offered in 1969.

The ACTING PRESIDENT pro tempore. The Senator's 3 minutes have expired.

Mr. MANSFIELD. Mr. President, I am delighted to yield the Senator my time.

Mr. PROXMIRE. I thank the distinguished majority leader.

### GSA ADMINISTRATOR ACTED IMPROPERLY

In my judgment, Mr. Sampson acted improperly by failing to abide by the opinions given by the Justice Department and he may have broken the law by ramrodding the sale through.

He should have put the property up for competitive bids, at the very least, to see whether a higher price could have been obtained for the taxpayer, even if there were no antitrust problems.

I have asked the Attorney General to conduct a full investigation into all of the matters surrounding the sale, including the role, if any, played by the Air Force and to set the sale aside if there are grounds for doing so.

I have also asked the Comptroller General to conduct an inquiry into this transaction with particular attention to the provisions of the Federal Property Act.

I ask unanimous consent that the letters from Mr. McLaren, Mr. Comegys, and Mr. Kleindienst, the memorandum from Mr. Buzhardt, and a letter from Mr. Sampson to former Attorney General Elliot Richardson dated July 5, 1973 explaining why GSA believes it should go ahead with the sale be printed at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
*Washington, D.C., July 30, 1973.*

Re: Air Force Plant No. 14 and portions of runways of Lockheed Air Terminal, Burbank, California (D-Calif-437-C).

HART T. MANKIN, Esquire,
*General Counsel, General Services Administration, Washington, D.C.*

DEAR MR. MANKIN: Pursuant to section 207 of the Federal Property and Administrative Services Act of 1949, as amended, our advice was requested as to whether consummation of the above sale of surplus property would tend to create or maintain a situation inconsistent with the antitrust laws.

Data previously furnished us by the Department of Defense discloses that in due course Air Force Plant #6 at Marietta, Georgia will also be sold by negotiation to Lockheed. Air Force Plant #6 is designed and utilized for the manufacturing of large aircraft. Since both Plant #14 and Plant #6 are proposed to be sold to Lockheed, these proposals may have cumulative as well as individual effects upon competition in the aircraft industry. We have considered both of these proposed transactions in making this report, as noted below.

The present proposal involves three widely separated parcels of government property situated at Burbank, California. Parcel 1 is Air Force Plant #14, which consists of 88 acres of land improved with 91 buildings and equipment. These facilities are used for the manufacture of aircraft parts. Some buildings which were constructed by Lockheed are located on this government-owned land. Parcel 2 (50 acres) and Parcel 3 (78 acres) are portions of the main runways of the Lockheed Air Terminal (Hollywood-Burbank Airport), apparently extensions of the original runways. Neither of these parcels is adjacent to Parcel 1. While there appears to be no reason why they cannot be sold independently of Parcel 1, it is our view that sale to the Lockheed of the portions of the runways owned by the government would not present antitrust problems. Accordingly, the balance of this report will be concerned with the proposal sale of Plant #14.

The following aspects of this proposal appear to us to be of competitive significance.

1. The proposed negotiated sale of Plant # 14 to Lockheed confers upon that firm a competitive advantage over other firms which might wish to acquire such a facility. Although the GSA-estimated fair market value of this facility (plus the runways) is $30,087,500 (the proposed price to Lockheed), it appears that the replacement cost—that is, the price another firm would have to pay to duplicate this facility—may be considerably higher. In this connection, we note that the proposed sale price evidently is not based upon an independent appraisal. Moreover, Lockheed would enjoy the benefits of ownership immediately, whereas another firm seeking to duplicate such a facility could do so only after considerable delay, and after estimating what market conditions will prevail at some future time.

2. Lockheed, one of the largest industrial corporations in the United States, is a leading manufacturer of aircraft, an industry which is highly concentrated. Plant #14 is a substantial facility used in the production of parts and subassemblies for aircraft. Sale of this plant to Lockheed would increase the concentration of assets employed in aircraft production in the hands of the leading aircraft firms. The antitrust laws disfavor transactions which further increase already high levels of industrial concentration. Conversely, sale of Plant #14 to a firm other than Lockheed—one which was not a leading firm in the aircraft industry—would reduce concentration and increase the number of firms capable of competing in that industry, results which the antitrust laws are designed to promote and which would be precluded by sale to Lockheed.

3. A vertical acquisition, in which a firm acquires one of its suppliers and consumes all of the latter's output, may adversely affect competition, since it forecloses the acquiring firm as a market for competitors of the acquired firm and eliminates the acquired firm as a supplier of the acquiring firm's competitors. Lockheed is a substantial user, and plant #14 a substantial producer, of aircraft parts. Thus the proposed sale would appear to present the danger of foreclosure effects of a kind which have been held to violate the antitrust laws.

4. A sale of plant #14 to a firm other than Lockheed might well avoid the competitive problems inherent in this proposal and, indeed, be procompetitive. Solicitation of competitive bids for this plant would enable the disposing agency to evaluate and choose from among a range of alternatives on competitive and other relevant grounds.

Your letter asserts that negotiated sale of Plant #14 to Lockheed is necessary because competitive bid sale would not be practical for two reasons: (1) the need to preserve the plant's capacity for defense production for a five-year period; and (2) the "highly scrambled nature of this property."

First, with respect to defense production, the plant is currently being utilized by Lockheed to fulfill defense contracts, and Lockheed would be required by the terms of sale to preserve the plant's existing capacity for defense production for five years. However, the papers forwarded to us do not indicate when the current Lockheed procurement contracts to which this plant's production is devoted expire. In the event that these contracts expire before five years, then a sale of the plant to another firm at the time of expiration would appear to be feasible, with the purchaser undertaking to preserve the plant's defense capability for an appropriate period. Moreover, a sale by competitive bids could be effected in five years without any apparent adverse effect on defense production, rather than declaring the plant "surplus" at this time provided it is sold only to Lockheed. In any event, our responsibility under the statute is confined to rendering advice with respect to the antitrust aspects of a proposed sale. It is within your province to determine, in light of the antitrust, defense, and other considerations, whether to proceed with a negotiated sale to Lockheed.

Second, your letter states in substance that the alleged "scrambled" nature of the property is the basic reason for negotiated sale, since even "at the end of the five year period during which a portion of the capacity will continue to be used for defense production" "the plant could not be disposed of to any concern other than Lockheed." A "scrambled" government facility is one which cannot be effectively utilized by a purchaser other than the contractor in possession. However, Plant #14 does not appear to be a "scrambled facility." The plant is situated on 88 acres of government-owned land, and most of the buildings and equipment on the land are owned by the government. A purchaser other than Lockheed would not be dependent upon Lockheed for access to the property or for essential utility services. Therefore, there does not appear to be anything in the nature of this property that would bar its effective utilization by a purchaser other than Lockheed at a competitive bid sale.

The presence in Plant # 14 of certain buildings and equipment owned by Lockheed does not alter this conclusion. We are informed (although the papers submitted to us do not confirm) that Lockheed has the right to remove its property if the plant is sold to another firm, and it would probably do so if this course seemed economically desirable. It might also offer to sell its property to the new occupant or to the government. In any event, it is not our view that Lockheed's ownership of some 17 of the 91 buildings of Plant # 14 and of some equipment in the plant confers upon Lockheed the sole right to purchase the entire government-owned complex to the exclusion of all other interested purchasers—a result which would be produced by calling Plant # 14 a "scrambled facility." Otherwise, it is likely that virtually all sales of government-owned, contractor-operated plants would be confined to the operating contractors, since they probably have added some of their own equipment (and perhaps structures of various kinds) to most of these plants. In that event, negotiated sales to occupying contractors would become the rule, and competitive sales, favored by the statute, the exception. And, as this proposed sale indicates, an investment by the contractor some years ago could confer upon it a preferential position with respect to government property of much greater relative value.

For the reasons stated, we believe the negotiated sale of Plant # 14 to Lockheed would tend to create or maintain a situation inconsistent with the antitrust laws. The adverse competitive effects of this proposal may be increased by the proposed sale of Plant # 6 at Marietta to Lockheed. This plant is designed for the production of large aircraft. We understand that it is an extensive facility and one of the most self-contained and efficient aircraft manufacturing plants in the United States.

As indicated above, Lockheed is one of the largest U.S. manufacturers of aircraft. Acquisition of the Marietta plant by Lockheed would tend to increase concentration in the aircraft industry. Sale of the plant to Lockheed would foreclose its utilization for aircraft production by any other firm in the aircraft industry. Smaller aircraft firms which might acquire Plant # 6 and obtain a foothold in the manufacture of large aircraft would be denied an opportunity to gain entry and to improve their competitive status. Disposal of the Marietta plant to someone other than Lockheed would increase competition in the aircraft industry.

Sincerely yours,

RICHARD W. MCLAREN,  
*Assistant Attorney General,*  
*Antitrust Division.*

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DEPARTMENT OF JUSTICE,  
*Washington, D.C., March 30, 1973.*

WILLIAM E. CASSELMAN II,  
*General Counsel, General Services Administration, Washington, D.C.*

DEAR MR. CASSELMAN: This is in response to GSA's request for reconsideration of the unfavorable statutory antitrust advice given July 30, 1970, on a proposed negotiated sale of Air Force Plant #14 at Burbank, California, to Lockheed Aircraft Corporation. In support of such request, GSA submitted information in communications of October 20, 1970, January 13, 1971, and April 22, 1971; and Lockheed submitted information on December 13, 1971. In addition, we had conferences with representatives of GSA and Air Force on November 19, 1971, and with representatives of GSA and Lockheed on December 13, 1971.

After careful consideration, we have determined that the information submitted in connection with the request for reconsideration does not afford a basis for modifying our original opinion with respect to this transaction.

Our initial unfavorable antitrust advice on Plant #14 rested on two related grounds. First, the transaction appeared to embody a number of undesirable competitive consequences: giving Lockheed a preferred position over other firms which might wish to acquire such a facility; increasing the concentration of aircraft-production assets in the hands of the largest firms; and threatening foreclosure effects of a kind which have been held to violate the antitrust laws. Second, Plant #14 was not in our judgment a "scrambled" facility, and therefore it could have been offered to additional firms on a competitive bid basis when it was no longer required by Lockheed to fulfill defense contracts.

We have pointed out that a negotiated sale of Plant #14 to Lockheed would confer upon that firm a competitive advantage over other firms which might wish to acquire such a facility. First, as GSA has recognized, the cost to another firm of duplicating this facility would be greater than the sale price to Lockheed; second, duplication would involve a time delay and an estimate of future market conditions. Neither conclusion rested upon the specific price or other terms of sale, matters upon which we express no opinion.* Thus, the fact that the sale price was determined after an independent appraisal, as we are now informed, is not critical. Moreover, it was, of course, clear that a firm duplicating such a facility today would not only pay a higher price but would also have the use of a more modern plant. Nevertheless, a negotiated sale to Lockheed deprives other firms of the choice between immediate acquisition of an older plant at a lower price and future construction of a new facility at a higher price.

Next, we pointed out that a negotiated sale to Lockheed would increase the concentration of aircraft manufacturing assets in the hands of the largest firms, whereas the sale of the plant to a company which was not a leading firm in the aircraft industry would reduce such concentration and increase competition.

While GSA does not appear to disagree with this analysis, it suggests that the possession of Plant #14 would not of itself enable the owner to be a prime contractor on a major aircraft program. However, GSA recognizes (letter of October 20, 1970, p. 4) that Plant #14 could be a viable entity "as one of many subcontractors in the aircraft industry". GSA's suggestion that the most likely bidders at a competitive sale would be either an established aerospace firm or a speculator is, of necessity, speculative. In any event, sale to a smaller aerospace firm than Lockheed would represent the kind of reduction in concentration which the antitrust laws favor.

With respect to the foreclosure effects noted in our initial report, GSA correctly points out that Plant #14 has always been used by Lockheed in its own operations, and GSA suggests that a transfer of the plant's title to Lockheed would not significantly change the existing situation. This contention may well be true as far as it goes, but in our view it does not go far enough. It takes into account only the actual past use of the plant by Lockheed, and it ignores its potential future use by other firms. Since it was our judgment that Plant #14 was not a "scrambled" facility (for reasons discussed further below), it followed that ownership and operation by another firm would place the plant's output, and any Lockheed purchases from it, on an open competitive basis now foreclosed by virtue of Lockheed's control; a negotiated sale to Lockheed would maintain foreclosure.

A second important element in our analysis was our opinion that Plant #14 is not a "scrambled" facility; that it could be effectively utilized by a firm other than its present user, Lockheed; and, therefore, (that it was suitable for disposal by competitive bidding). We have reviewed this conclusion in light of the additional data supplied to us, and we believe that it remains sound.

In determining whether a facility is "scrambled," and hence unsuited as a practical matter to a competitive bid sale, the decisive question is whether the facility is so situated that it cannot be effectively utilized by any firm other than the contractor in possession. This might be the case where, for example, the facility is entirely surrounded by contractor-owned land and is entirely dependent upon the contractor for access and essential utility services. There are no indicia of such dependence here.

With respect to access, GSA recognizes (letter of October 20, 1970, p. 10) that "Plant #14 would not be completely dependent upon Lockheed." Our own inspection of the property confirms that access would pose no insurmountable difficulties for another purchaser, although a new owner might wish to effect certain modifications in existing access routes.

Much of the same situation pertains with respect to essential utilities. Plant #14, which fronts on three public streets, stands largely on its own feet, with direct access to gas, electricity, water and sewage services; the plant has many facilities of its own, including steam boilers, water chillers, air compressors, and a central fire alarm system. While there undoubtedly has been some degree of utilities coordination between Plant #14 and adjacent Lockheed property, the plant does not appear to be dependent upon Lockheed for its utilities.

Finally, for reasons indicated in our prior report, the fact that Lockheed may own certain buildings and equipment in Plant #14 is not sufficient to make it a "scrambled" facility. Moreover, since GSA is undoubtedly correct in stating that "Lockheed would find the cost of moving its equipment and improvements from Plant #14 to be very costly" (letter of October 20, 1970, p. 9), there is every reason to believe Lockheed would reconsider its declaration of intention not to remove such equipment and improvements. The present proposal offers a variety of means to minimize expense if Plant #14 were to be sold to a purchaser other than Lockheed. For example, the Government is proposing, as part of this transaction, to sell Lockheed a significant amount of Government-owned machinery located in Lockheed plants. It would seem appropriate to explore the possibility of a trade-off in which neither the Government nor Lockheed would have to remove a substantial amount of its equipment from the other's plants. (We have already noted the possibility of a sale of the Lockheed personalty in Plant #14 to the Government or to another buyer of the plant.)

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*GSA suggests that, because of its location, Plant #14 can command a higher price from Lockheed than another firm would be willing to offer at a competitive bid sale. Whether or not this is the case could only be ascertained by inviting bids; as you are aware, there have been instances in the past when a competitive sale yielded a higher price than negotiation. In any event, our role is limited to rendering antitrust advice. The decision whether or not to negotiate a sale, and upon what terms, is ultimately committed to your agency in light of defense and other relevant considerations.

On the basis of the foregoing, we must reaffirm the advice given July 30, 1970, to the effect that the proposed negotiated sale to Lockheed Aircraft Corporation would tend to create or maintain a situation inconsistent with the antitrust laws.

Sincerely yours,

WALKER B. COMEGYS,
*Acting Assistant Attorney General, Antitrust Division.*

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UNITED STATES OF AMERICA,
GENERAL SERVICES ADMINISTRATION,
*Washington, D.C., July 5, 1973.*

Hon. ELLIOT L. RICHARDSON,
*Attorney General,*
*Washington, D.C.*

DEAR MR. ATTORNEY GENERAL: This is in reference to Mr. Kleindienst's letter of March 26, 1973, reaffirming the unfavorable antitrust advice furnished by Mr. McLaren and Mr. Comegys on the proposed negotiated sale of Air Force Plant 14 to Lockheed Aircraft Corporation.

After careful consideration of that advice, I have determined for the reasons set forth in the enclosed Findings and Determination that it is in the best interests of the United States to conclude the sale of Air Force Plant 14 and associated properties to Lockheed.

Sincerely,

ARTHUR F. SAMPSON, *Administrator.*

Enclosure.

### FINDINGS AND DETERMINATION

In accordance with my authority as Acting Administrator of General Services as set forth in section 203 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484), I hereby determine that a negotiated sale of AF Plant #14 and associated properties in Burbank, California, to the contract operator, Lockheed Aircraft Corporation, is in the best interests of the United States of America, for the reasons as set forth hereinafter:

1. The overall interests of National Defense will best be served by such a negotiated sale in that:

a. The Secretary of Defense has determined that the facility is necessary for defense production for five years from the date the property is sold.

b. Continued Government ownership is not in the best interests of the United States in that buildings and equipment on the property are obsolete and in need of expensive and extensive repairs and alterations.

c. The property owned by the United States is so intermingled with and dependent upon the property owned by the contract operator that it would be infeasible to attempt to separate the property.

d. The Department of Defense has advised that only Lockheed can operate the scrambled facilities and has reported the property for sale only to Lockheed.

e. Separation of the property (if possible) would destroy the capability of the facility to function in the defense effort of the United States.

f. The negotiated sale price of $30,037,500 is far above the appraised value of ——— and far above the special use value of the property to the purchaser of ——— as set by an appraisal by Mr. Kurt S. Shelger, MAI, of Shattuck Company, Los Angeles, California.

g. The terms and conditions of the sale are favorable to the United States; and sale of the property, while maintaining defense production capability at the plant for a prescribed period of time, will have economic advantages to the United States with regard to property management.

The sale award was made on April 21, 1970, after submission of explanatory statements to the Senate and House Government Operations Committees, pending receipt of antitrust advice from the Department of Justice.

2. I have considered the advice with regard to the antitrust considerations of this matter and have determined that any possibility that this sale would tend to create or maintain a situation inconsistent with the antitrust laws is outweighed by the considerations outlined above.

Recommended:

/s/ T. M. THAWLEY,
*Commissioner, Property Management and Disposal Service.*

WILLIAM E. CASSELMAN,
*General Counsel.*

Approved:

/s/ A. SAMPSON,
*Acting Administrator.*

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OFFICE OF THE ATTORNEY GENERAL,
*Washington, D.C.*

Hon. ARTHUR F. SAMPSON,
*Acting Administrator,*
*General Services Administration,*
*Washington, D.C.*

DEAR MR. SAMPSON: This will acknowledge your letter and attachment of March 13, 1973, in regard to a proposed negotiated sale of certain property to Lockheed Aircraft Corporation. After unfavorable antitrust advice had been given by Assistant Attorney General McLaren on July 30, 1970, GSA requested reconsideration; and, after reconsideration, that advice was reaffirmed by Acting Assistant Attorney General Comegys on March 29, 1972.

Upon careful review of the matter, I am obliged to reaffirm the unfavorable antitrust advice given by Mr. McLaren and Mr. Comegys to the effect that sale of Plant 14 to Lockheed would increase concentration in the aircraft industry; and, therefore, such sale would tend to create or maintain a situation inconsistent with the antitrust laws.

We have previously advised General Services Administration that sale of portions of the runways to Lockheed would not present antitrust problems. This advice was, of course limited to the runways themselves and did not apply to any production facilities.

Sincerely,

RICHARD G. KLEINDIENST,
*Attorney General.*

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GENERAL COUNSEL OF
THE DEPARTMENT OF DEFENSE,
*Washington, D.C., November 19, 1970.*

MEMORANDUM FOR THE ASSISTANT SECRETARY OF DEFENSE (I&L)

Subject: Legal authority for the sale of government-owned industrial property.

By memorandum of October 26, 1970, the Deputy Assistant Secretary of Defense (Materiel) raised certain questions with regard to the existence of legal authority for the sale by the government of "non-excess" government-owned industrial property, presumably by negotiated sale to a Contractor in possession of such property and at whose plant the property is located. In referring to "non-excess" property, we assume that the Deputy Assistant Secretary was referring to property which the government no longer needed to retain provided the terms of the disposal required its continued availability at a contractor's plant for defense production purposes.

Prior to addressing specifically the questions raised in the Deputy Assistant Secretary's memorandum, it may be useful to provide some background information. The disposition of government property is restricted by the Constitution of the United States, Article IV, Section 3 Clause 2, which provides that "the Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States". This provision has been interpreted by the U.S. Supreme Court to mean that no property of the United States may be sold or otherwise disposed of without authority from Congress. *Ashwander* v. *T.V.A.*, 297 U.S. 288 (1935).

Shortly before the entry of the U.S. into World War II, Congress granted the War Department substantial authority to expand the industrial base by the Act of July 2, 1940 (P.L. 703, 76th Congress) which provided broad temporary authority to acquire, lease, and dispose of industrial property. This authority was soon extended to the Department of the Navy. With the expiration of P.L. 703, Congress enacted P.L. 130, 83rd Congress (1953), which authorized the expansion and lease of industrial facilities. P.L. 130, which finally expired on July 1, 1957, did not authorize the sale of such facilities.

When the extension of P.L. 130 was being considered in 1955, draft legislation was prepared by the Department of Defense which would have provided permanent authority similar to P.L. 130 to permit the continuation of the development of mobilization production base. One provision in this proposed legislation would have authorized the Department of Defense to dispose of nonserverable facilities to the contractor in possession. There was, however, opposition within the Executive Branch to providing this authority, and in 1957 a bill was introduced in Congress without the disposal provision. The effort to obtain such disposal authority continued, and in 1959, legislation including such authority was submitted to Congress and introduced (H.R. 6270, 86th Congress). The bill was not acted on and this legislative proposal died.

At about the same time, in 1956, another Department of Defense legislative proposal was initiated which would have authorized the sale of non-excess industrial property needed for current and mobilization requirements to private holders. While this effort continued in varying forms for several years, it was never transmitted to the Congress and was removed from the DOD Legislative Program in 1960. In 1968 a draft bill, which would have authorized the disposal of production equipment, was initiated by DOD, approved within the Executive Branch and submitted that year to the Congress for consideration. However, this proposed legislation was not introduced in the Congress.

Contemporaneously with this Department of Defense legislative proposal, Senator Proxmire introduced S. 3122, 90th Congress, which among other things, would have provided disposal authority to that desired by the Department of Defense. Simillar legislation was re-introduced in the 91st Congress, S. 2007, H.R. 12414, a companion bill, and H.R. 14696. The Department of Defense has formally supported these bills.

During the 1960's in conjunction with the General Services Administration, and in 1968 with the General Accounting Office, consideration was given to using various provisions of the Federal Property and Administrative Services Act of 1949 (hereinafter referred to as the Federal Property Act) as authority for the negotiated sale of Defense industrial property to the contractor in possession. It was in this statute that the Congress provided the current statutory framework for the general disposal of government property. Consideration was given to (1) Section 203(e)(A), which authorizes negotiated disposal in the public interest during a period of emergency; (2) Section 203(e)(3)(B) which authorizes negotiated disposals if the public health, sale or national security will thereby be promoted; (3) Section 203(e)(5), which authorizes the negotiated sale at fixed prices of categories of personal property when the Administrator of GSA determines that such action will best serve the interests of the government, with, however, competition consistent with the value and nature of the property and; (4) Section 203(f) which authorizes the negotiated disposal of contractor inventory. Each of these alternatives was found wanting either because of the limited nature of the statutory authority or because of the General Services Administration's reluctance to use the authority for the purpose.

During the 1960's there was also some expanded use of the authority to dispose of real property by negotiation (Section 203(e) (3)(G)). This authority was originally used as a basis for the disposal of real property in the traditional sense, i.e., land and structures, and then was expanded to include heavy items of nonseverable equipment, such as heavy expensive presses which required specially designed facilities to house them.

We are of the opinion that there is no existing disposal authority that is adequate to support a Defense program which seeks to dispose of government-owned industrial equipment on a negotiated basis to contractors in possession of such property and at whose plants the property is located. The efforts of the Department of Defense to obtain broad disposal authority since 1955, and Department of Defense reports to this Congress on pending legislation clearly recognized this lack of authority.

We note that by memorandum of 3 November 1970, the Deputy Secretary of Defense approved with certain modifications for implementation by you of Blue Ribbon Panel Recommendation No. II–28 of a program for DOD to divest itself of ownership of all plant equipment where such ownership cannot clearly be shown to be to the economic advantage of the government. Accordingly, it is our recommendation that the Department of Defense, with the approval of the Office of Management and Budget submit to the next Congress proposed legislation to that effect and that Congress be urged to give it immediate consideration. Consideration might also be given to the conclusion in such legislation of a provision which would permit the proceeds of sale to be returned to the appropriations of the owning DOD component. Such a provision would provide added incentive to DOD components in furthering such a disposal program and in obtaining maximum return to the government.

My office will assist in every way possible in this effort.

Answer to the specific questions raised in the Deputy Assistant Secretary's memorandum are provided in the attachment hereto.

J. FRED BUZHARDT.

Attachment.

*Question 1.* ASPR 13–101.10 defines nonseverable Government production and research property as such property which "cannot be removed after erection or installation without substantial loss of value or damage thereto, or to the premises where installed." Please define "substantial" as it applies here. What constitutes a "substantial loss?"

Answer: The ASPR definition of "nonseverable" contained in section 13–101.10 is used in connection with the provisions of section 13–307. Section 13–307 provides that nonseverable facilities shall not be installed on privately-owned land unless the contract contains provisions safe-guarding the government's investment. The purpose of this provision is to avoid the situation where at the end of the usefulness of the facilities to defense production, the government might otherwise abandon them because the cost of removal would be excessive in relation to their value. The term "substantial" and "substantial loss" it is believed are used in this context.

*Question 2.* Does the existence of nonseverable Government-owned equipment on contractor-owned property vest the Government with a real property interest in the contractor's premises? Does the designation of "nonseverable" permit such equipment to be treated as real property for disposal purposes under the Federal Property and Administrative Services Act of 1949 and must it be reported as real property under 10 U.S.C. 2662?

Answer: The existence of nonseverable government-owned equipment on contractor-owned property does not vest the government with a real property interest in the contractor's premises. In the past in certain specific cases, nonseverable facilities owned by the government and located in contractor's plant have been disposed of as real property under section 203(e)(3)(G) of the Federal Property Act (40 U.S.C. 484(e)(3)(G). One of the first of such sales we believe was in 1964 involving a government-owned heavy drop forge located in the plant of the Ladish Company. We find no basis for making a distinction between the use of the term "real property" as used in the Federal Property Act and in section 2662 of title 10 U.S.C. which requires reports of proposed real property dispositions to the Armed Services Committee. Therefore, property to be disposed of as "real property" under that Act must be considered as real property for the purpose of reporting in accordance with section 2662 of title 10, United States Code.

Section 203(e)(1) of the Federal Property Act provides generally that all disposals of property shall be made after publicly advertising for bids. Section 203(e)(3) permits a deviation from this requirement in certain specified situations subject to the obtaining of such competition as is feasible under the circumstances. One of the specified situations is contained in section 203(e)(3)(G) which reads as follows:

"With respect to real property only, the character or condition of the property or unusual circumstances make it impractical to advertise publicly for competitive bids and the fair market value of the property and other satisfactory terms of disposal can be obtained by negotiation;"

There is no definition of "real property" in the Federal Property Act. However, "real property" is defined, in pertinent part, in section 101–47.103.12(b) of the Federal Property Management Regulations (41 CFR 101–47.103.12(b)) as:

"(b) Improvements of any kind, structures, and fixtures under the control of any Federal agency when designated by such agency for disposition without the underlying land (including such as may be located on the public domain, or lands withdrawn or reserved from the public domain, or lands reserved or dedicated for national forest or national park purposes, or on lands that are not owned by the United States) excluding however, prefabricated movable structures, such as Butler-type storage warehouses and quonset huts, and housetrailers (with or without undercarriages)".

The terms "improvements", "structures" and "fixtures" are not defined in the regulations. The term "fixture" can have a fairly wide meaning and varies from state to state. Whether a particular item is a "fixture" may depend on such factors as how it is annexed to the realty, its relationship to the use or purpose to which the realty is appropriated, the intention of the parties, and local custom and practice. "Severability" could be one of several factors in determining whether property is a "fixture".

It is our opinion that the DoD should discontinue any reliance on the authority provided in section 203(e)(3)(G) in proposing dispositions of certain industrial equipment, unaccompanied by a disposal of land, to contractors in possession. The absence of precise definitions in the Federal Property Management Regulations is itself evidence of the difficulty in determining in any particular case whether an item of equipment installed on real property itself possesses the characteristics of "real property" and hence is eligible for disposition under existing authority separate from the land. The absence of an ability to apply meaningful guidelines to its use in a particular case is indicative of its weakness. What is obviously lacking in this area is specific statutory authority from the Congress for dispositions of this nature. The Department of Defense should seek such authority along with the authority to sell other industrial equipment clearly in the nature of personal property.

*Question 3.* Under a negotiated sale of nonseverable and non-excess Government-owned property, would it be legal to include severable non-excess Government property which is used in conjunction with the nonseverable property? If so, would it be proper to classify items such as general purpose machine tools as related severable property?

Answer: In recent years the sale separate from the land of certain nonseverable facilities under section 203(e)(3)(G) of the Federal Property Act has included some ancillary equipment necessary to the operation of the facilities. However, as stated in answer to the preceding question, our opinion is that DoD should discontinue reliance on that authority for such sales for the reasons stated therein.

*Question 4.* Part I, Paragraph 1 of Executive Order No. 10789, 14 November 1958 as amended by E.O. 11051, 27 September 1962 authorizes the Department of Defense "to enter into contracts . . . without regard to the provisions of law relating to the making, performance, amendment, or modification of contracts, whenever, in the judgment of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force . . . the national defense will be facilitated thereby." Paragraph 3, states in part: "the contracts hereby authorized . . . shall include agreements of all kinds . . . for all types and kinds of property or services necessary . . . including . . . facilities, utilities, machinery, machine tools, and any other equipment without any restrictions of any kind as to type, character, location or form." Is it legal to use the foregoing authority as basis for selling non-excess Government equipment by negotiation? If not, please explain to include the meaning of the language "to enter into contracts . . . without regard to the provisions of law relating to the making, performance, amendment, or modification of contracts."

Answer: Executive Order No. 10789, as amended, is an implementation of the authority conferred on the President by the Act of August 28, 1958 (P.L. 85–804, 50 U.S.C. 1431–1435). As noted in section XVII of the Armed Services Procurement Regulation, this is extraordinary statutory authority to be exercised only in unusual circumstances and only after it is formally determined that such action would facilitate the national defense. Subject to such a determination and certain restrictions set forth in the statute, it permits authorized departments and agencies performing functions in connection with the national defense, to enter into contracts and into amendments or modifications of contracts without regard to other provisions of law relating to the making, performance, amendment or modification of contracts. P.L. 85–804 does not specifically authorize the disposal of property. It was a continuation with certain additional restrictions for use during a national emergency of the authority of Title II of the First War Powers Act of 1941 which was enacted a few weeks after entry of the U.S. into World War II. The primary purpose of Title II of the First War Powers Act was to authorize the negotiation of procurement contracts without regard to laws relating to the making of such contracts, e.g., the requirements of formal advertising. In this connection one of the restrictions added to this authority by P.L. 85–804 was a prohibition against its use for purchases of or contracts for property or services required by law to be procured by formal advertising and competitive bidding.

It is our opinion that future dispositions of DOD industrial equipment should be based on specific authority to be obtained from the Congress.

*Question 5.* 10 U.S.C. 2667(b) (2) permits the Secretary of a Military Department to give the lessee of Government property the first right to buy the property if the lease is revoked to allow the United States to sell the property "under any other provision of law." Since inclusion of the foregoing authority implies that laws exist elsewhere please cite and explain the specific provisions of the other laws referred to here.

Answer: Section 2667 is a codification of the Act of August 5, 1947 (P.L. 364, 80th Congress), which was enacted for the purpose of broadening and making uniform the authority of the War and Navy Departments to lease government property. An examination of the legislative history indicates that section 2667(b) (2) was not predicated on any particular disposal statute, but that a disposal at a particular time would be based on "whatever legal procedures are then provided for the sale of surplus Government property." (S. Report 626, 80th Congress).

## SENATE RESOLUTION 248—RELATING TO REQUEST PURSUANT TO COURT ORDER FOR INFORMATION IN COMMITTEE FILES

Mr. ERVIN. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The resolution will be stated.

The assistant legislative clerk proceeded to read the resolution.

Mr. ERVIN. I ask unanimous consent that further reading of the resolution be waived, and that the resolution, with its preamble, be printed in full in the RECORD at this point.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 248), with its preamble, is as follows:

S. RES. 248

Resolution relating to a request, pursuant to court order, for certain information in the files of the Judiciary Subcommittee on Constitutional Rights.

*Resolved,*

Whereas Lawrence M. Baskir, Chief Counsel and Staff Director of the Senate Judiciary Subcommittee on Constitutional Rights, has been requested by letter, pursuant to court order, to provide certain information from the subcommittee files regarding one Bradford Benner for purposes of a civil suit entitled *Bradford Benner* v. *National Broadcasting Company, Incorporated,* Numbered 4–72 Civ. 67 (United States District Court, District of Minnesota, Fourth Division); and

Whereas Lawrence M. Baskir was authorized on December 4, 1973, in a document filed by Bradford Benner on December 6, 1973, to release to respondent, or his representative, in the aforementioned civil suit, any information pertaining to him in the subcommittee's files; and

Whereas by the privileges of the Senate of the United States, no evidence in the possession and under the control of the Senate of the United States can, by the mandate of process of ordinary courts of justice, be taken from such possession or control but by its permission; and

Whereas by rule XXX of the Standing Rules of the Senate of the United States, no Member or Senate employee is authorized to produce Senate documents, papers, or evidence but by order of the Senate, and information secured by Senate staff employees pursuant to their official duties as employees of the Senate may not be revealed without the consent of the Senate;

That Lawrence M. Baskir, Chief Counsel and Staff Director of the Senate Judiciary Subcommittee on Constitutional Rights, is hereby authorized to withdraw information regarding one Bradford Benner from the files of the Judiciary Subcommittee on Constitutional Rights, and to transfer such information to respondent, or its representative, in the aforementioned civil suit. This authorization to release certain information does not constitute an authorization by the Senate of the United States for Lawrence M. Baskir to appear in such suit, nor does it constitute an authorization by the Senate to pay any expenses which may be incurred by the release and transfer of such information.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to consider the resolution.

Mr. ERVIN. Mr. President, this is a very simple resolution, which I offer in behalf of the Judiciary Subcommittee on Constitutional Rights.

The U.S. District Court for the District of Minnesota has issued an order in a civil action pending in that court requesting the committee to provide, as relevant evidence in that case, information in the possession of the committee. This resolution is merely an attempt on the part of the committee to comply with the rules of the Senate that a committee or subcommittee cannot release information under these circumstances without the permission of the Senate.

There can be no valid objection to the adoption of this resolution, and I ask for its immediate adoption.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution was considered and agreed to.

The preamble was agreed to.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to print Senate Resolution 248 in the regular form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further morning business?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## "THIS IS THE DAY," A SPEECH BY CULLY A. COBB

Mr. STENNIS. Mr. President, last April 14, a very distinguished man and a dear friend, Mr. Cully A. Cobb, spoke at the groundbreaking for the building that will house the new Institute of Archaeology at Mississippi State University, his alma mater and mine. The building was made possible by Mr. Cobb's generosity, and has been named the Cobb Institute of Archaeology.

Cully Cobb is a man who has great competence and ability, and combines these qualities with gentle regard for others. He is a man of wisdom and humility, of strong character and of great faith. His speech at the groundbreaking is for all of mankind and for all ages to come.

No man is truly great, but Cully A. Cobb has done many great things. He was one of the originators and was a strong backer of the corn clubs, the 4–H Clubs, and other early advances in training the farm youth. He was at the forefront in modern agriculture at Mississippi State and later at the agricultural school at Buena Vista, Miss. In time he became editor in chief of the Southern Ruralist, a leading publication in agriculture for the Nation, where for many years he was a strong leader in major phases of agriculture in the Southeast and in time throughout the Nation.

He was brought to Washington in the formative years of the agricultural legislation of the 1930's and was placed in charge of the cotton program. In addition, many major phases of new legislation in the field of agriculture felt the impact of his leadership.

He was also successful in business. However, as this speech shows, the inner man developed, and thus the integrity and character, together with a dedication to causes, to people, and to his country, rounds out a career of achievements that have helped countless thousands.

His inspirational words reflect his deep feelings on that occasion, and those of his gracious and devoted wife, Mrs. Cobb. Our country will again turn to such characters for leadership in the decades ahead. The entire Nation shares in his qualities and in his achievements. Therefore, I ask unanimous consent that his speech be printed in the body of the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

### THIS IS THE DAY

(Ground-breaking Cobb Institute of Archaeology, Mississippi State University, Mississippi State, Mississippi, April 14, 1973—C. A. Cobb)

We are here today on the campus of this great university to break the ground for the building of the Cobb Institute of Archaeology.

When I came here as a student in February 1904, it was then the Mississippi Agricultural and Mechanical College. Already the solid beginnings of the comprehensive and magnificent institution we find here now had been established. As one of the nation's land grant colleges its purpose was to provide young men with a good solid education with special emphasis upon the mechanic arts and industries, and upon those sciences that relate to the soil, all plant and animal life and the season-to-season and year-to-year natural forces controlling planning. And then how to apply what they learned to the management of the state's land and other natural resources so as to preserve the productivity of the land and produce the required abundance for full living and effective citizenship. The end sought by this and its sister institutions has been achieved. The record shows that our farmers are the most productive in the world and that our people are the best fed in the world. Moreover as a national industry, agriculture here in the United States is the most efficient in the world.

When I came here as a student there were between seven and eight hundred students. Now there are ten thousand. We find the men and women who have moved through these halls and on out into life occupying positions of great leadership, and great distinction in every phase of our national life. Wherever you find them they are helping to shape the destiny of our own people and are helping to bless the whole wide world in the basic and often brilliant contributions they make to the advancement of human progress.

In 1908 I was handed my diploma in Lee Hall. In the seventy years that have intervened since I came here, indeed throughout my life, door after door has opened to me. And somehow, because of the influence of the forces that have shaped my life, especially my training here, I have had the good fortune to choose the right doors.

The world has been generous to me. So much so indeed, that I am here today with a gift that helps me keep faith with those who have believed in me and that have invested so much in me. And I have faith to believe the investment Mrs. Cobb and I are making here today will pay off as the investment made in me has paid off in the joy of living and serving that has so richly blessed our home and our lives. We believe the Cobb Institute of Archaeology will add a brilliant facet to the great university of which it is to be a part.

I have been asked many times when did all this start? When did you first become interested in archaeology? And how did you think of the establishment of the Institute? I would not try to offer a precise answer to these questions.

Probably no one knows the day or the hour. You have heard it said "It is in the blood." I would offer that as a fact and as the beginning. I think the real beginning would date back some two thousand years or more. However, the conscious beginning in me as an individual came when I was a small child. This fact brings the answer much closer.

One of the great teachers that has graced the halls of this university was Dr. W. H. Magruder, Professor of English and my English teacher in my junior and senior years. On my first day as a junior in his classroom, after he had welcomed the class and had made some general remarks about what the college was here for, about student life, and what we would be doing in his classroom in the months that lay ahead, he observed that barring some calamity, we were far enough along to feel assured of our graduation on time. He then hesitated for a moment and said, "Now, young gentlemen, whether you are aware of it or not you are going to be leaders. You are going to be leaders in your sphere of life." He hesitated again for a moment and said "Learn how to pray. Class dismissed." You could have heard a pin drop. Nobody was ready to leave. And the next day after we had been seated, he gave us this to be thinking about: "Every normal human being at some time, usually rather early in life, asks himself these questions, Who am I? Where did I come from?" And a little later, "How did I get here? What do I have?" Beyond these questions he said, "There is one other question that naturally suggests itself, Where do I go from here? We will concern ourselves with the answer to that later."

In our study of the English language itself and what to do with grammar, rhetoric, English composition and how to express ourselves, Dr. Magruder said, "We will have to study the origin of languages and of the other peoples of the world—the Sumerians, the Babylonians, the Greeks, the Latins, and even the aborigines. That will bring us face to face with the question of Who am I? Where did I come from? How did I get here? We will already have begun to realize what we have. To know the world about us, its people especially, and to really understand the forces that gave us this institution, and that brought us to this campus, is preparation we must have if we are going to find our way in the years ahead and be fruitful and happy."

These wonderful days in Dr. Magruder's classroom helped me to find the way to this place where we stand today. Moreover they took me back to my childhood in the modest farm home of my father, a country Baptist preacher and solid American citizen, and of my understanding, compassionate mother who had a marvelous gift of impressing me with the difference between right and wrong.

My first and formative years were spent on this farm. It had its own Indian mound. Being a great mound of heavy unhewn stones, it probably antedates the days of the Indian. It had its burial ground. One day, we plowed up a skeleton and there was a mound of periwinkle shells, the remains of some great feast. This was archaeology and history. We discussed it in the one-room country school. I have axes, arrowheads, spear points and scrapers from the plenteous supply found there at that time. Our farm lay at the bottom of what sixty-five million years ago was a sea. Cretaceous limestone, full of all manner of ancient seashells, is a part of the floor of this valley.

I wondered about the Indians and the arrowheads, the axes, the knives, the great rock mound, the periwinkle shells. I still do. This institute will help me find the answer. I wondered about the sea shells in the vast tonnage of loose cretaceous stones on top of and on down deep in some of the hills of the area. Dr. W. N. Logan, Professor of Geology, my teacher here, helped me get the answer to this, but also knew why bold everlasting springs of clear cold water were found at the foot of the hills where these cretaceous stones abound. And so I came here with a maturing interest in geology and archaeology that in the meantime, had expanded far beyond our little farm and the creeks and rivers of Middle Tennessee.

Greatly concerned about the future of my sister and me, my mother and father, in my eleventh year moved the family to the small country town of Elkton, Tennessee, so we could have the advantage of the excellent high school there. I did not know it then, but this was the first, and a very long step, probably the longest single step, toward the place where I stand today. The principal of the school was personally attractive, a man of high intelligence and great moral strength. Above all he regarded it as his job to help each student find his way. His natural attitude invited confidence and counsel.

Perhaps the greatest shock of my life came in my eighteenth year when I suddenly realized one day that I had arrived at that point of my life when "I was on my own" and would be from that day on out. Face to face with the cold facts of life, I also realized that I had better make some plans. To make plans of value, I needed mature, wise and intensely personal guidance. Fortunately I had it in my school principal, Professor M. L. Caneer. We talked it over and his first advice was "Don't be afraid." We agreed that there wasn't anything at Elkton for me or anywhere else until I prepared myself for some definite place in life, and that my first job was to get into some good broad-based college, maybe the University of Tennessee. He said, "Your toughest job is to make a clean break with everything here at Elkton, go somewhere, get a job and save enough money to get your foot in the door of a school. At that point if you keep your health, you will have it made. And all this will have to be just between us." And so it was. My mother and father lived to see the move to Elkton pay off.

When we plowed up the Indian skeleton, I not only wondered who he was, I wondered who I was. With this and the foregoing, you can more fully understand why Dr. Magruder's questions stand out as one of the most exciting moments of my life—and some of the reasons and forces that have combined to bring me back to these grounds today.

In the meantime, I have found out very definitely who I am. I now know who I am. I have found out where I came from. I know where I came from. What I know carries me back a couple of thousand years and more, and if you read history at all, especially the Bible, you know the route I came and how I got here. And I know that the heritage that I have the glorious privilege of claiming is rich beyond any man's ability to measure it. Out of it and because of it, I can claim a life that has been as full as my capabilities would permit.

I alone know the rewards that are mine—the breadth of understanding, the depth of satisfaction that I have gotten out of life, and the privilege of witnessing the progress of our people. Nothing could be more gratifying than to have had the privilege of watching this university grow and mature into the great instrument of usefulness it is today. Out of the seeds of its plantings we see here today the beginnings of the four walls of this Institute and the enormously significant leadership they will house. This leadership will help the men and women who come here to get answers to those vital questions Dr. Magruder asked, "Who am I? Where did I come from? How did I get here? and What do I have?" The answers they will get will lay a deep and solid and enriching foundation of understanding of themselves and of the world of which they are a part. Above all what they will get as they look back into the ancient past and forward to the road that lies ahead, will help them find the answer to great usefulness, great living, and to the question, "Where do we go from here."

In all humility may I venture to say that this day of ground-breaking is another day of door opening, when I am witnessing with my own eyes a dream come true and the harvest of seed that have been planted down through the generations. Would it be all right to say "Some fell upon good ground?" I must add—"it was in the blood." And the first good ground was provided long ago. To me as an individual it was found first in a Christian home on a farm in Tennessee, then in a little country church. I found it in the one-room country school at Conway. I found it in a high school. I found it here, and I found it in every step of the way down through the years of my business and professional life.

And in joyous acknowledgement let me emphasize that this is in every way a joint enterprise in which Mrs. Cobb and I share and share alike. We have worked and saved and prayed and planned together for this day, a day of fulfillment. Nothing less than this deep sense of devotion, gratitude, and understanding of the mission to be served could have brought it to pass. And we have faith to believe that much of the seed that will be planted will "fall upon good ground."

With the Psalmist I would reverently claim, "This is the day which the Lord hath made; we will rejoice and be glad in it."

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## ORDER FOR EXTENSION OF PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TODAY

**Mr. ROBERT C. BYRD.** Mr. President, I ask unanimous consent that there be an extension of 3 minutes for routine morning business today.

**The ACTING PRESIDENT pro tempore.** Without objection, it is so ordered.

## SENATE RESOLUTION 249—RELATIVE TO OIL PRICE INCREASES

Mr. CHILES. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The resolution will be stated.

The assistant legislative clerk read as follows:

S. RES. 249

*Resolved,* That it be the sense of the Senate that it be an urgent matter to communicate to the governments of Canada, Venezuela, and the Arab oil producing countries that the United States views with utmost concern recent oil price increases as detrimental to prices, real income and employment in the United States and that such actions by these countries should not be taken without regard for these effects on the life of the American people and for the possibility of reciprocal economic action by the United States which might adversely affect the economies of these countries.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

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## OIL TAX INCREASES ABROAD DO NOT GO UNNOTICED AT HOME

Mr. CHILES. Mr. President, the Canadian broadcaster, Gordon Sinclair, says in his now famous record that "he thinks it is time to speak up for the Americans as the most generous and possibly the least appreciated people on all the Earth."

Well, I sure wish Gordon Sinclair could have a little influence over Canada's foreign policy toward the United States. The Canadian Government's recent astronomical rises in export taxes on oil shipped to the United States confirm Sinclair's view that we are the "least appreciated people on all the Earth."

Do you realize, Mr. President, that as little time ago as September 1 of last year the Canadians first levied an oil export tax and at that time set it at 40 cents a barrel? Now they have passed legislation that will make effective as of this Friday, February 1, an export tax rate of $6.40 a barrel.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks some tables showing Canadian, Venezuelan, and Arab oil prices, and U.S. oil imports.

The PRESIDING OFFICER (Mr. HATHAWAY). Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHILES. Mr. President, this exhorbitant export tax rate will take $6 million a day out of the pockets of consumers in the United States and pay it into government coffers in Canada. Over a year's time, this transfer will amount to an additional $2 billion in public revenue in Canada which is more than 10 percent of the Canadian national budget.

This is an unreal world. Unlike Sinclair, many Canadians carp and complain about how much power and influence the United States has over their lives. Now they are in a sense hijacking $6 million a day out of our pockets and we are behaving as if they have our hands tied and as if we do not have any power in the situation at all. That is what I mean about it being an unreal circumstance. We do have power and we should use it.

William Simon, our Federal Energy Administrator, will be meeting on Thursday of this week with Canada's energy chief, Donald MacDonald. Mr. President, I strongly urge this body to request that Mr. Simon send a clear message to the Canadians that we are not going to roll over and play dead and that if this continues we will strike back with some biting measure of our own. If this kind of game is going to be played, then we have to play it too. We must send Canada a message that these kinds of one-sided actions will not wash.

There are no two economies in the world that are more interwoven with each other than are the United States and Canadian economies. There are border industries in both countries that are highly dependent on the flow of goods from the other. There is just no way that I can see that Canada can take a unilateral action as it has, with total disregard for the power we have to strike back at the jugular of some of Canada's own industry.

When William Simon meets with Donald MacDonald this week, let us be loud and clear. The Canadians, and others that matter, are starting to play a new and highly risky game. The industrial world is not going to be flattened by unilateral oil hikes. They should already know that we can strike back. They are as dependent on us as we are on them. Now, we need to let them know that we will strike back if this nonsense continues.

We are not talking so much now of an oil shortage, although this continues to be a problem. We are facing more now the problems coming as a result of tremendous increases in oil prices. One problem, of course, feeds the other. But we have to be very concerned in this country about what the effects will be of this price hijacking on our own inflationary situation and employment picture. There is no way that we can have these kinds of mammoth changes in oil prices drawing that kind of money out of our Nation's money stream without there being trouble ahead for many Americans. This concerns me deeply and I think that as a Government we are going to have to get as tough with the governments as we are with the companies that are causing our people these difficulties.

As is well known, it is not just the Canadians who are playing this game. Venezuela and the Arab countries too have hiked the daylights out of their oil prices. The outgoing Venezuelan Government, after suffering a decisive defeat at the polls on December 11, gave Americans a Christmas Eve announcement of an 80-percent increase in their oil prices. This increase became effective on January 1 raising the tax reference price of Venezuelan crude to over $14 from $8 a month before. This seems clearly to be a case of a lame duck party making a final bid to the Venezuelan people before turning over the reins of power to the opposition. We need to think about how to make our interests known.

Again, Venezuela, like Canada, is very dependent on us for certain imports. For example, Venezuela produces no wheat domestically and gets 98 percent of its supply from the United States. They import nearly half a billion dollars in industrial and agricultural machinery from the United States every year. Venezuela has a sluggish agricultural sector and its industry is just getting off the ground. So these two sectors are highly dependent on imports, and especially on imports from the United States.

Let us let the Venezuelan Government know that we mean business. If they are going to join this knock-'em-sock-'em ball game with oil prices, we are going to start to play too. It is not the nicest way to make foreign policy, but these actions hurt so we need to strike back.

Of no less importance, to be sure, are the Arab oil producing countries. It is there that the problem began and the first leverage on price was actually exerted. Now through the outstanding efforts of the Secretary of State a negotiated settlement in the Middle East is underway. We should focus our efforts now not only on seeing to it that the oil embargo is lifted, but also on communicating our concerns about the price of oil. The Arabs should be made to realize that with oil prices going the way they are the United States would almost be better off to embargo the oil ourselves instead of submitting our people to these price hikes. If we are going to consider rolling back prices of domestic crude produced by our own companies, then we need a strong message to the Arab oil producing countries as well of our urgent concern about the international price of oil.

The Middle East is an especially important source of oil for Japan and Europe. The Arab oil producing states would be fools to cause economic turmoil in Europe and Japan and not expect reprisals of some kind. Countries with as much economic muscle as these are not going to stand back and watch their vital interests washed out by the actions of less powerful countries in the Middle East.

As we have become painfully aware, the Middle East is important to us too. But Americans are not so aware of the fact that we get more oil from Venezuela than from all the Arab countries combined and that Venezuela and Canada together provide half of our oil imports.

Mr. President, oil price hijacking by other countries with drastic damaging effects on the jobs and prices of the American people is no way to play the international game when nations of today are highly dependent on each other not only for goods but also for economic survival. I respectfully request that the Senate urge the Executive to take some steps which will show the rest of the world that we will not be pushed around and that this kind of game is no fun at all to play, because nobody wins. Therefore, Mr. President, I have introduced this sense of the Senate resolution which the Senate has just agreed to.

### EXHIBIT 1

TABLE 1.—CANADIAN OIL PRICES IN CHICAGO, ALBERTA CRUDE (PEMBINA)

| | Wellhead price | Transport costs | Export tax | Total |
|---|---|---|---|---|
| Jan. 1, 1973 | $2.96 | 0.45 | 0 | $3.41 |
| Sept. 1, 1973 | 3.81 | .45 | .40 | 4.66 |
| Dec. 1, 1973 | 3.81 | .45 | 1.90 | 6.16 |
| Jan. 1, 1974[1] | 3.81 | .45 | 2.20 | 6.46 |
| Feb. 1, 1974[1] | 3.81 | .45 | 6.40 | 10.66 |

[1] Assumes that wellhead price and transport costs remain constant.

TABLE 2.—VENEZUELAN AND ARAB OIL PRICES

[Per barrel]

| | Venezuelan crude,[1] 35 gravity | Arab light crude, 34 gravity |
|---|---|---|
| Aug. 31, 1970 | $2.34 | $1.80 |
| Aug. 1, 1973 | 4.63 | 3.07 |
| Dec. 1, 1973 | 8.00 | 5.04 |
| Jan. 1, 1974 | 14.88 | 11.65 |

[1] Tax reference price for Oficina crude.

TABLE 3.—U.S. OIL IMPORTS, 4TH QUARTER ESTIMATES, 1973

| Source | Barrels | Percentage of estimated U.S. consumption |
|---|---|---|
| Arab | 1,600,000 | 9.2 |
| Saudi Arabia | 600,000 | |
| Abu Dhabi | 150,000 | |
| Kuwait | 150,000 | |
| Iraq | 50,000 | |
| Libya | 350,000 | |
| Algeria | 150,000 | |
| Other Arabs | 150,000 | |
| Iran | 400,000 | 2.3 |
| Venezuela | 2,000,000 | 11.6 |
| Canada | 1,100,000 | 6.4 |
| Nigeria | 550,000 | 3.2 |
| Indonesia | 240,000 | 1.4 |
| Other | 400,000 | 2.3 |
| Total | 6,300,000 | 36.4 |

## COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. NUNN) laid before the Senate the following letters which were referred as indicated:

### REPORT ON EXEMPLARY REHABILITATION CERTIFICATES

A letter from the Secretary of Labor, reporting, pursuant to law, on exemplary rehabilitation certificates, for the calendar year 1973. Referred to the Committee on Armed Services.

### REPORT ON ENFORCEMENT OF TITLE I OF CONSUMER CREDIT PROTECTION ACT OF 1968

A letter from the Attorney General, transmitting, pursuant to law, a report on enforcement of title I of the Consumer Credit Protection Act of 1968, for the calendar year 1973 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

### REPORT OF RENEGOTIATION BOARD

A letter from the Chairman, the Renegotiation Board, transmitting, pursuant to law, a report of that Board, for the fiscal year ended June 30, 1973 (with an accompanying report). Referred to the Committee on Finance.

### REPORT ON ADMINISTRATION OF THE GUAM DEVELOPMENT FUND ACT OF 1968

A letter from the Director of Territorial Affairs, Department of the Interior, transmitting, pursuant to law, a report on administration of the Guam Development Fund Act of 1968, for fiscal year 1973 (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

### PROPOSED CONCESSION CONTRACT

A letter from the Acting Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed concession contract within Olympic National Park, Washington (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

### PROPOSED LEGISLATION FROM THE ATTORNEY GENERAL

A letter from the Attorney General, transmitting a draft of proposed legislation to amend chapter 44, title 18, United States Code, to prohibit the unlawful possession of firearms, and for other purposes (with an accompanying paper). Referred to the Committee on the Judiciary.

### REPORT OF FOUR CORNERS REGIONAL COMMISSION

A letter from the Federal Cochairman, Four Corners Regional Commission, Department of Commerce, transmitting, pursuant to law, a report of that Commission, for fiscal year 1973 (with an accompanying report). Referred to the Committee on Public Works.

### REPORT OF GOVERNMENT PRINTING OFFICE

A letter from the Public Printer, Government Printing Office, Washington, D.C., transmitting, pursuant to law, a report of that office, for fiscal year ended June 30, 1973 (with an accompanying report). Referred to the Committee on Rules and Administration.

## PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. NUNN):

A concurrent resolution of the Legislature of the State of Oklahoma. Referred to the Committee on the Judicriary:

"A CONCURRENT RESOLUTION MEMORIALIZING CONGRESS TO RETURN VETERANS DAY TO NOVEMBER 11, THE MEANINGFUL AND PROPER DATE ON WHICH WE SHOULD HONOR OUR VETERANS; AND DIRECTING DISTRIBUTION

"Whereas, this country owes a great deal to its men and women who have served in its armed forces; and

"Whereas, it is fitting that we set aside one day each year to honor the veterans who have served this country so faithfully; and

"Whereas, it was decided in the early 1950's that November 11, the date of the Armistice ending World War I would be set aside to honor all the veterans of all wars; and

"Whereas, two veterans days are presently being celebrated in thirty-two states, because the federal government has created a new, more commercially convenient Veterans Day while these states continue to honor veterans on the day which has meaning and relevance to those it seeks to honor; and

"Whereas, there have been some thirty-nine resolutions introduced in the 93rd Congress to change Veterans Day back to November 11, from its present date which has no meaning and was chosen for more convenience's sake;

"Now, therefore, be it resolved by the House of Representatives of the 2nd session of the 34th Oklahoma legislature, the Senate Concurring therein:

"That the House of Representatives and the Senate of the United States be and hereby are respectfully urged to pass any legislation which would change Veterans Day to its meaningful and proper date, November 11, and thereby make the national holiday coincide with the Veterans Day of the majority of the states.

"That the Oklahoma Congressional Delegation actively support such legislation.

"That duly authenticated copies of this Concurrent Resolution be transmitted to:

"1. The Honorable Richard M. Nixon, President of the United States;

2. The Honorable Gerald Ford, Vice President of the United States;

"3. The Honorable Mike Mansfield, Majority Leader, United States Senate;

"4. The Honorable Carl Albert, Speaker, United States House of Representatives;

"5. All other members of the Oklahoma Congressional Delegation."

A concurrent resolution of the Legislature of Michigan. Ordered to lie on the table:

"HOUSE CONCURRENT RESOLUTION NO. 311

"Whereas, Gerald R. Ford has been confirmed for the Nation's second highest office by the Congress of the United States and has taken the oath of office, thus becoming the fortieth Vice President of the United States; and

"Whereas, Gerald R. Ford brings to the office of Vice President invaluable experience as an outstanding public leader, a proven record of superior accomplishments in the Federal Government, and tremendous energy and concern for the welfare of all mankind; and

"Whereas, In 1949 he began his long and distinguished career in the United States House of Representatives. He served in the House of Representatives as a member of the Public Works Committee during 1949 and 1950 and as a member of the Appropriations Committee from 1951 to 1965. He was elected Chairman of the House Republican Conference in 1963. In 1965 he was chosen House Minority Leader; and

"Whereas, His driving energy, hard work, and remarkable political skills became legendary in Washington. His particular genius in legislative relations and his causual and genial manner have proven a stabilizing influence in legislative affairs and his considerable legislative knowledge and acumen have served the work of the Congress and the interest of the Nation; and

"Whereas, The wholesome sincerity and fresh outlook of Gerald Ford make him the kind of leader the Nation has been looking for. His long association with the United States House of Representatives and his straight-forward approach to solving problems will prove to be a particular benefit to him as Vice President of the United States; now therefore be it

"Resolved by the House of Representatives (the Senate concurring), That, by all present Gerald R. Ford is hereby accorded the unanimous congratulations of the Michigan Legislature upon his confirmation as Vice President of the United States by the United States Congress; and be it further

"Resolved, That a copy of this tribute be transmitted to Vice President Gerald R. Ford as evidence of the esteem in which he is held by the Michigan Legislature."

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. Res. 238. A resolution continuing the authorization for two additional temporary professional staff members and two additional temporary clerical assistants for the Committee on Finance (Rept. No. 93-666);

S. Res. 239. A resolution authorizing additional expenditures by the Committee on Finance for routine purposes (Rept. No. 93-667); and

S. Res. 247. A resolution authorizing supplemental expenditures by the Select Committee on Nutrition and Human Needs for inquiries and investigations (Rept. No. 93-668).

By Mr. CANNON, from the Committee on Rules and Administration, with an amendment:

S. Con. Res. 61. A concurrent resolution authorizing the printing of additional copies of part I of the Senate hearings entitled "Confidence and Concern: Citizens View American Government—A Survey of Public Attitudes" (Rept. No. 93-669).

By Mr. KENNEDY, from the Committee on Labor and Public Welfare, with an amendment:

S. 2368. A bill to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety and effectiveness of medical devices (Rept. No. 93-670.)

## TECHNICAL CORRECTION OF COMMITTEE REPORT (NO. 93-661) ON S. 316, THE EASTERN WILDERNESS AREAS ACT

Mr. JACKSON. Mr. President, I offer for the benefit of my colleagues and other interested parties a technical correction of an arithmetic error which appears on page 27 of report No. 93-661, filed by the Interior and Insular Affairs Committee on December 20, 1973, regarding S. 316, the Eastern Wilderness Areas Act.

Under the heading "Private acreage in Proposed Areas" I would substitute the figure 4,200 in lieu of the figure 2,300 which presently appears in that column for the Nebo Ridge Wilderness study area located in the Hoosier National Forest in the State of Indiana. There would be a related correction for the column headed "Estimated Cost of Private Land" substituting the figure 1,260,000 for 587,000 also for the Nebo Ridge area. Corresponding changes should also be noted for the first paragraph on page 13 of the report.

Mr. President, I ask unanimous consent that corrections be made accordingly.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BIDEN:

S. 2908. A bill to establish a mass transportation trust fund and to amend the Urban Mass Transportation Act of 1964 in order to assure adequate local transportation service. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. TAFT:

S. 2909. A bill to amend the Emergency Daylight Saving Time Energy Conservation Act of 1973 in order to extend and revise the authorization to exempt individual States from the provisions of such act. Referred to the Committee on Commerce.

By Mr. GOLDWATER (for himself and Mr. DOMENICI):

S. 2910. A bill for the relief of Maj. Richard F. Meyer, Jr., U.S. Air Force. Referred to the Committee on the Judiciary.

By Mr. McINTYRE:

S. 2911. A bill to establish a loan program to assist industry and businesses in areas of substantial unemployment to meet pollution control requirements. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. HUMPHREY (for himself, Mr. MONDALE, and Mr. MOSS):

S. 2912. A bill to provide for payments to compensate county governments for the tax immunity of Federal lands within their boundaries. Referred to the Committee on Agriculture and Forestry and the Committee on Interior and Insular Affairs jointly, by unanimous consent.

By Mr. MONDALE:

S. 2913. A bill to declare that certain federally owned lands within the White Earth Reservation shall be held by the United States in trust for the Minnesota Chippewa Tribe, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. KENNEDY (for himself and Mr. HRUSKA):

S. 2914. A bill to amend section 1341 of title 18, United States Code. Referred to the Committee on the Judiciary.

By Mr. KENNEDY (for himself and Mr. BROOKE):

S. 2915. A bill to authorize the Secretary of the Interior to establish the Boston Naval Shipyard Historic Site in the city of Boston, Mass., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BIDEN:

S. 2908. A bill to establish a mass transportation trust fund and to amend the Urban Mass Transportation Act of 1964 in order to assure adequate local transportation service. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. BIDEN. Mr. President, at this moment the attention of the country is turned toward coping with our energy crisis. Congress is considering all sorts of legislation—from measures placing restrictions on energy consumption to those that would encourage the development of alternate sources of energy. Today, I intend to introduce a bill that is also aimed at bringing relief from the present crisis and at encouraging a long-term energy conservation measure. This bill is intended to immediately provide for the increased use and development of mass transit systems.

I know that Congress has debated the mass transit issue for many years. It has recently passed bills which would provide some money from the highway trust fund in future years to aid capital development. In addition, the Senate passed, last spring, S. 386, which would authorize the expenditure of Federal money for operating subsidies. That bill, however, has been in conference for several months, and its ultimate disposition is uncertain.

In light of the urgency for additional public transportation brought on by the energy crisis, I am introducing this bill, because I think it can channel urgently needed money immediately to where it can do the most good. While all other arguments for mass transit such as easing up traffic congestion and lessening air pollution to enable urban areas to meet the standards laid down in the Clean Air Act continue with long-established validity, it is the urgency of the energy crisis which I feel require the immediate enactment of mass transit legislation.

This bill provides two complementary aids for mass transit. The first is the creation of a mass transportation fund which would be established by the transfer of, first, all amounts at present appropriated under the Urban Mass Transportation Act of 1964 and remaining unexpended on the effective date of this legislation, and second, 40 percent of the total amount received in the highway trust fund for each fiscal year beginning on or after the effective date of this act.

The moneys available from this new mass transit trust fund would be made available, as provided by appropriation acts, for making grants and expenditures not only under the Urban Mass Transportation Act of 1964, but for operating subsidies, in accordance with a comprehensive mass transportation service improvement plan prepared by the applicant State or public body and approved by the Secretary of Transportation. The Federal subsidy would be limited to four times the amount of financial assistance provided from the State or local sources for that purpose. This formula thereby contemplates that at least 20 percent of the operating subsidy would be contributed by the State or local body which maintains the mass transportation service.

These two major revisions of present Federal participation are designed to meet the Nation's immediate transportation needs, but without requiring new tax measures for consumers. In addition, I feel that this is a particularly opportune time to utilize money from the highway trust fund, because we must now realistically look to the decreased use of the individual automobile as the mainstay of transportation, and thereby can expect a decrease in travel over the road.

In times of unlimited, cheap supplies of gasoline, the comfort and convenience of the automobile made it the overwhelming favorite of the American public for personal travel—for work and for travel. I, for one, have long felt that a great deal of waste, and hardship on those unable to afford such transportation, was allowed in letting this situation to continue without decent alternatives.

But the time has come when few people can afford, or even find, enough gas to take them everywhere they need to go. Mass transit, as it now exists, serves two functions: It provides transportation between shops and jobs in the cities and homes in the suburbs. But a really successful system, as I see it, would make transportation available between jobs and shopping in one suburb and housing in another. This will require substantial expansion of almost all systems now in operation, but this is essential if we are to preserve the high level of commerce and growth of this Nation.

Transit systems almost always operate at a deficit because, given freedom of choice, potential riders will usually choose the comfort and convenience of the automobile. Of course, the deficit picture is different for each area, but as the Senate Banking Committee pointed out in its report on S. 386:

> A program of capital grants cannot, by itself, alleviate the increasing financial distress faced by the growing number of municipalities which now own and operate transit systems . . . Information received by the committee indicates that in the decade from 1961–1971, the number of municipalities which were forced to initiate programs of operating assistance to transit systems increased by nearly 400 percent. The committee finds that the financial structure of the mass transit industry is certain to deteriorate further unless immediate financial assistance is made available. Without Federal aid, the transit industry will continue to experience increasing operating expenses, increasing fares, and declining ridership.

In any case, I believe it is the duty of the Government to provide such subsidies as are needed because I think mass transit is as much an essential public service as the fire department or hospitals. And up to now we have dealt with the subsidy to mass transit as if it were some sort of evil and have felt sometimes that it ought to go its own way, which is unrealistic. We do not ask that of other areas of great public service and need, and I see no need for it here. In addition, I think a 80-percent Federal contribution is entirely appropriate, since the great mobility of our population makes it as important to provide local transportation for intercity travelers who must increasingly rely on trains and planes for long-distance travel as for local residents who use mass transit for their daily needs.

Our citizens deserve the best possible transportation systems, because they are vital for jobs, for the home, and for recreation. Mass transit can provide efficient, economical service that will take us where we need to go. I hope this legislation will provide a means for realizing that goal.

Mr. President, I would like to summarize in closing by saying that if we do not enact an adequate mass transportation act at this time it means that we are extremely derelict in our duty and will find it increasingly difficult to explain to our constituents that in a time of need for energy and in a time of shortage of vital service we in Congress are not taking one of the most appropriate measures we need to take at this time, and that is to provide for adequate mass transit so as to alleviate the needs of our citizens.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection the bill was ordered to be printed in the RECORD, as follows:

S. 2908

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress finds that present shortages of energy supplies require the immediate expansion of mass transportation services because such services are essential to the needs of commerce; that rapid urbanization and the continued dispersal of population and activities within urban areas has made the ability of all citizens to move quickly and cheaply an urgent national goal; and that success in the effort to provide efficient, safe, and convenient mass transportation compatible with soundly planned urban areas will require substantially greater and more assured Federal financial participation to permit confident and continuing local planning and greater flexibility in program administration. It is the purpose of this Act to provide an effective means of meeting these requirements.

CREATION OF TRUST FUND

SEC. 2. There is hereby established in the Treasury of the United States a trust fund to be known as the mass transportation trust fund (hereinafter referred to as "trust fund"). The trust fund shall consist of such amounts as may be appropriated or credited to the trust fund as provided by this Act.

TRANSFERS TO TRUST FUND

SEC. 3. (a) All amounts appropriated for purposes of grants, loans, and general administrative expenses under the Urban Mass Transportation Act of 1964 (or for liquidating obligations incurred for such purposes) and remaining unexpended on the effective date of this Act are transferred as of such date to the trust fund; and any amounts which may be appropriated for such purposes (or for liquidating obligations incurred for such purposes) after the effective date of this Act shall be deposited in the trust fund.

(b) There shall be transferred to the trust fund from the highway trust fund, for each fiscal year beginning on or after the effective date of this Act, an amount equal to 40 per centum of the total amount received in the highway trust fund in that year under applicable provisions of law. Transfers under this subsection shall be made at such times and in such manner as the Secretary of Transportation shall determine, and the Secretary of Transportation shall make such adjustments in the apportionment of other amounts in the highway trust fund as may be necessary or appropriate to reflect such transfers. In addition, the Secretary of Transportation may make such adjustments in amounts available for the purposes of section 14 of title 23, United States Code, as may be necessary to assure equitable distribution of such amounts in accordance with the policy of such section and with the policy of the Urban Mass Transportation Act of 1964.

(c) There are authorized to be appropriated from the general fund of the Treasury to the trust fund, for any fiscal year beginning on or after the effective date of this Act, such additional sums as may be required to make the expenditures referred to in section 5. These sums are to be repayable advances unless otherwise provided.

MANAGEMENT OF TRUST FUND

SEC. 4. (a) It shall be the duty of the Secretary of the Treasury to hold the trust fund, and (after consultation with the Secretary of Transportation) to report to the Congress not later than the 1st day of March of each year beginning with 1974 on the financial condition and the results of the operations of the trust fund during the preceding fiscal year and on its expected condition and operations during the current and next ensuing fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(b) It shall be the duty of the Secretary of the Treasury to invest such portion of the trust fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at issue price, or (2) by purchase for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the trust fund. Such special obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield during the month preceding the date of such issue, on marketable interest-bearing obligations of the United States of comparable maturities then forming a part of the public debt rounded to the nearest one-eighth of 1 per centum. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest. Advances to the trust fund pursuant to section 3(c) shall not be invested.

(c) Any obligation acquired by the trust fund (except special obligations issued exclusively to the trust fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from the sale or redemption of, any obligations held in the trust fund shall be credited to and form a part of the trust fund.

EXPENDITURES FROM TRUST FUND

SEC. 5. (a) Amounts in the trust fund shall be available, as provided by appropriation Acts, for making grants and expenditures to meet obligations of the United States which are incurred on or after the effective date of this Act under the Urban Mass Transportation Act of 1964 (including general administrative expenses).

(b) Advances made pursuant to section 3 (c) shall be repaid with interest to the general fund of the Treasury when the Secretary of the Treasury determines that moneys are available in the trust fund for such purposes. Interest shall be at rates computed in the same manner as provided in section 4(b) for special obligations and compounded semiannually.

(c) Section 3 of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out "No" in the fifth sentence of subsection (a) and inserting in lieu thereof "Except as provided in subsection (f), no"; and

(2) by adding at the end thereof a new subsection as follows:

"(f) The Secretary is also authorized, on such terms and conditions as he may prescribe, to make grants or loans to any State or local public body to enable it to assist any mass transportation system which maintains mass transportation service in an urban area to pay operating expenses incurred as a result of providing such service. No financial assistance shall be provided under this subsection unless (1) the Secretary determines that the mass transportation services provided by the system involved are needed to carry out a program referred to in section 4(a), and (2) the applicant State or public body has submitted to the Secretary a comprehensive mass transportation service improvement plan which is approved by him and which sets forth a program, meeting criteria established by the Secretary, for capital or service improvements to be undertaken for the purpose of providing more efficient, economical, and convenient mass transportation service in an urban area, and for placing the mass transportation operations of such system on a sound financial basis (including a reasonable fare structure), and (3) the Secretary determines that the mass transportation services provided by each system involved is being provided by an efficient operation of such system in accordance with regulations promulgated by the Secretary.

Notwithstanding the provisions of the fifth sentence of section 4(a), the amount of any grant under this subsection to a State or local public body to enable it to assist any mass transportation system to pay operating expenses shall not exceed four times the amount of financial assistance provided from State or local sources for that purpose. The Secretary shall issue such regulations as he deems necessary to administer this subsection in an equitable manner. Such regulations shall include appropriate definitions of (A) operating expenses, and (B) the sources or types of State or local financial assistance which may be considered in computing the maximum allowable Federal grant."

(d) The fourth sentence of section 4(a) of such Act is amended by striking out "section 3" and inserting in lieu, thereof "section 3 (other than subsection (f))".

(e) Section 4(c) of such Act is amended by striking out "sections 3, 7(b), and 9" and inserting in lieu thereof "section 3 (except subsection (f)), and sections 7(b) and 9".

(f) Section 12 of such Act is further amended by adding at the end thereof the following new subsection:

"(g) The provision of assistance for the payment of operating expenses under section 3(f) shall not be construed as bringing within the application of chapter 15 of title 5, United States Code, any nonsupervisory employee of an urban mass transportation system (or of any other agency or entity performing related functions) to whom such chapter is otherwise inapplicable."

### LIMITATION ON EXPENDITURES

SEC. 6. The Secretary of the Treasury shall from time to time, after consultation with the Secretary of Transportation estimate the amounts which will be available in the trust fund (excluding repayable advances) to defray the expenditures required to be made from the fund. The Secretary of the Treasury shall advise the Secretary of Transportation whenever, after all other expenditures required to be made from the trust fund have been defrayed, the amounts available in the trust fund (excluding repayable advances) will be insufficient to defray expenditures required to meet obligations incurred under section 5(a). Whenever he is advised of any insufficiency, the Secretary of Transportation shall, for the fiscal year affected, determine the percentage which the amount remaining available is of the amount authorized to be obligated for that fiscal year under section 5(a) and shall, by prorating using that percentage, determine the amount which can be obligated in lieu of the amount which would be obligated but for the provisions of this subsection. Whenever the Secretary of the Treasury determines that, after all other expenditures required to be made from such fund have been defrayed, there will be available in the trust fund (excluding repayable advances) amounts sufficient to defray the obligations previously withheld under section 5(a) for any fiscal year, he shall so advise the Secretary of Transportation who may then obligate such amounts.

### EFFECTIVE DATE

SEC. 7. This Act shall take effect on the first day of the first fiscal year which begins on or after the date of its enactment.

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By Mr. TAFT:

S. 2909. A bill to amend the Emergency Daylight Saving Time Energy Conservation Act of 1973 in order to extend and revise the authorization to exempt individual States from the provisions of such act. Referred to the Committee on Commerce.

Mr. TAFT. Mr. President, the bill I am offering today will make it possible for any State to become exempt from daylight savings time in the winter. The effect of my amendment is to provide a procedure whereby Ohio or any other State could once again become subject to the provisions of the Uniform Time Act of 1966. The legislation which I am proposing would amend section 3(b) of the 1973 Emergency Daylight Saving Time Energy Conservation Act to allow the Governor of a State by proclamation, or in the absence of such a proclamation, the State legislature of any State to make a finding that the newly required all-year daylight saving time creates undue hardship or that it causes increased fuel consumption. Should such a proclamation be made, the President or his designee could be petitioned for an exemption from the provisions of the new act. If the State is exempted from the provisions of the new act, then it would automatically be subject to the provisions of section 260 a(a) of the Uniform Time Act of 1966 which required changeover to daylight saving time on the last Sunday of April of each year and ending on the last Sunday of October of each year. My amendment would provide a procedure for exemption of a State from the provisions of section 3(a) of the 1973 act which is the section that supersedes sections 260a(a) of the 1966 Uniform Time Act.

While I favor the complete repeal of the daylight saving time in the winter and have cosponsored legislation to accomplish this, I also feel that each State should be given the opportunity to judge the effect of year around DST on its own economy. The State of Ohio, lying on the western edge of the eastern standard time zone, has found it unsatisfactory, however, another State may feel that winter daylight saving time does save energy and proves to be no inconvenience to its citizens. My legislation will give the States an alternative to study the possibility of repeal and take that step if they feel it will be beneficial.

I voted against the daylight saving time bill in the Senate on December 4. At that time, in my remarks on the Senate floor, I stated that because I live on the western edge of a time zone, many schoolchildren in my area of Ohio would have to get up earlier in the morning and would have to go to school in the dark or take buses in the dark. In addition, I stated my doubts, insofar as the economy of the State of Ohio is concerned, as to whether there would really be any material savings in the actual energy used because of the change to daylight saving time.

Since the changeover, on January 6, stories of horror and loss of work hours due to later daylight have come in from all over the Nation. In my hometown of Cincinnati, construction workers cannot do their work or must work inefficiently because of the dark during early hours. Many housewives also would prefer not having meter readers and servicemen coming into their homes before daylight. The DST has forced predawn calls by these employees. Highway maintenance crews are seriously affected by the DST. They must wait for daylight before starting their jobs, so they will be more visible to passing motorists.

The most obvious problems, of course, have been the worry of mothers whose children must go to school before daylight.

Pictures of children waiting on corners, crossing streets and vacant lots in the darkness have appeared in major newspapers and magazines. Children who would not be roaming the streets after dark in the evening, are now doing the same thing during darkness, sometimes as late as 9 a.m., on their way to school.

While I do not believe we are saving a substantial amount of energy by switching to daylight saving time in the winter, we may save some lives and much inconvenience if we are able to exempt our States from this law. This bill does not automatically exempt every State, but it makes exemption possible, if the State agrees that there are other, safer ways to conserve fuel or that winter DST creates an undue hardship for its people.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### S. 2909

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 3(b) of the Emergency Daylight Saving Time Energy Conservation Act of 1973 is amended to read as follows:

"(b) Notwithstanding any other provision of law, if a State, by proclamation of its Governor or in the absence thereof by Act of its State legislature, makes a finding that an exemption from the operation of subsection (a) or a realignment of time zone limits is necessary to avoid undue hardship or to conserve fuel in such State or part thereof, the President or his designee may grant an exemption or realignment to such State."

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By Mr. McINTYRE:

S. 2911. A bill to establish a loan program to assist industry and businesses in areas of substantial unemployment to meet pollution control requirements. Referred to the Committee on Banking, Housing and Urban Affairs.

### POLLUTION CONTROL FACILITY ACT OF 1973

Mr. McINTYRE. Mr. President, one of the great paradoxes of our times is the fact that the scientific and technological advances which have made our lives easier and more pleasant and lifted us into a position of world leadership have created their own problems in the form of environmental contamination. As we look ahead to the final quarter of the 20th century, we realize the urgent need to balance the pressures of industry and the crying needs of our environment without adversely affecting our labor force.

While I welcome and wholeheartedly endorse recent actions to purify the quality of our environment, we must also realize the financial burden of plant and equipment that pollution control measures can have on small-scale as well as large-scale manufacturers. During the 92d Congress, I was pleased to have my proposal adopted which established SBA loans to small manufacturers to assist them in complying with Federal antipollution standards.

Today, we must address ourselves to another group who need special assistance. Firms located in areas of high or substantial unemployment need incentives in order to maintain operation when adversely affected by pollution regulations. A Federal loan program would provide the necessary stimulation to keep those firms operating in areas of acute need while bringing their practices in line with Federal pollution standards.

In the time period from January 1971 to March 1973, 47 firms closed and 74 firms threatened closing due to the impact of environmental controls. These closings represent 9,640 actual job losses and 17,430 threatened job losses. The Environmental Protection Agency has conducted impact studies of the adverse effects of environmental regulations. In summary, the studies reveal that of approximately 12,000 plants operating in 11 major industries during the review, about 800 would be phased out in the normal course of market competition between 1972 and 1976, and an additional 200 to 300 because of pollution control requirements representing "approximately 1 to 4 percent of total employment in the industry activities studied."

These figures signify to me the need for supportive loans to industry in order to benefit areas where an industry relocation could mean economic disaster for the locality.

Today, I am submitting a bill which would establish a Federal loan program to assist business and industry in areas of substantial unemployment to meet pollution control requirements.

The Secretary of Commerce would be authorized to grant loans of no more than 65 percent of the aggregate cost to firms located in areas of substantial unemployment. These areas are established by the Department of Labor under the Public Works and Redevelopment Act of 1965.

A revolving fund would be established with an original allocation of $750 million. This fund would be replenished through payment of obligations.

Mr. President, I ask unanimous consent that the text of the Pollution Control Facility Act of 1973 be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2911

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Pollution Control Facility Loan Act of 1973."

Sec. 2. As used in this Act:

(1) The term "eligible area" means any redevelopment area eligible for assistance under the Public Works and Economic Development Act of 1965, and any other area of substantial unemployment eligible for assistance under Title I of such Act.

(2) The term "Secretary" means the Secretary of Commerce.

(3) The term "certified pollution control facility" means any pollution control facility with respect to which an applicant may be entitled to a deduction under Section 169 of the Internal Revenue Code of 1954.

(4) The term "applicant" means a privately owned industrial, commercial, or business corporation, company or concern, operated for profit.

Sec. 3. The Secretary is authorized to make loans to any applicant to aid in financing any project within an eligible area for the acquisition, construction, rehabilitation, alteration, expansion, or improvement of a certified pollution control facility. Such a loan shall be made on such terms and conditions as the Secretary may prescribe, subject to the following conditions:

(1) Such loan shall not be extended to assist an applicant relocating from one area to another or to assist any subcontractor whose purpose is to divest or whose economic success is dependent on divesting other contractors or subcontractors of contracts theretofore customarily performed by them, except that such limitation shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch affiliate or subsidiary of such entity if the Secretary finds that the establishment of such branch affiliate or subsidiary will not result in an increase in unemployment of the area of original location or in any other area where such entity conducts business operations unless the Secretary has reason to believe that such branch affiliate or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(2) No loan shall be made unless it is determined that there is reasonable assurance of repayment.

(3) No loan, including renewals or extensions thereof, may be made under this Act for a period exceeding twenty-five years.

This restriction shall not apply to any security or obligation received by the Secretary as a claimant in bankruptcy or equitable reorganization as a creditor in other proceedings attendant upon insolvency of the obligor.

(4) Loans made under this Act shall bear interest at the rate of 5 per centum per annum.

(5) No loan shall be made which exceeds 65 per centum of the aggregate cost to the applicant of the project (excluding all other Federal aid in connection with such project).

(6) Such loan shall be made only if the Secretary determines that other funds are available in an amount which, together with the loan requested under this Act, are sufficient to pay the aggregate cost to the applicant of the project.

Sec. 4. There is hereby established in the Treasury of the United States a revolving fund which shall be available to the Secretary for the purpose of making loans under this Act and for the payment of all obligations and expenditures arising in connection therewith. There is authorized to be appropriated $750,000,000 to carry out this Act and funds appropriated under authority of this sentence shall be deposited in the revolving fund established in the first sentence of this section. There shall also be credited to the revolving fund all loan repayments received under this Act (including interest on such loans).

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By Mr. HUMPHREY (for himself, Mr. Mondale, and Mr. Moss):

S. 2912. A bill to provide for payments to compensate county governments for the tax immunity of Federal lands within their boundaries. Referred to the Committee on Agriculture and Forestry and the Committee on Interior and Insular Affairs jointly, by unanimous consent.

## TO REFORM PAYMENT IN LIEU OF TAXES ON FEDERAL LANDS TO COUNTIES

Mr. HUMPHREY. Mr. President, I introduce, for myself, Senator Mondale, and Senator Moss, a bill to overhaul and improve the system of payments by the Federal Government to counties in which Federal lands associated with Federal natural resources programs are located. This bill has been jointly introduced in the House by my distinguished colleague from Minnesota (Mr. Blatnik), the chairman of the House Public Works Committee.

This bill would offer another method for determining fair revenues from these Federal lands, rather than the many different existing formulas for making payments in lieu of taxes to the local governments. These payments are computed as a percentage of the Federal revenues generated by these lands. My bill would give local governments the opportunity to have these Federal lands appraised, placed on the tax rolls, and taxed according to the same millage rate applied to similar private lands.

The need for reform in this area, so vital to hundreds of counties in rural America, has long been recognized. When the Public Land Law Review Commission completed its work in 1970, one of its principal recommendations was that "the United States—should—make payments in lieu of taxes for the burdens imposed upon State and local governments by reason of Federal ownership of public lands without regard to the revenues generated therefrom."

Mr. President, I ask unanimous consent that chapter 14 of the Commission's report be included in the Record at the conclusion of my remarks, as well as the text of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HUMPHREY. Mr. President, almost 14 years ago the Senate took action to accomplish a similar reform. On May 14, 1960, the Senate passed my bill, S. 910, which was similar in intent to the legislation I am introducing today. This was shortly prior to a change of administrations and, regrettably, the Bureau of the Budget opposed that bill and the House did not complete action on it.

The bill passed by the Senate in 1960 would have resulted in a basic reform of the Federal payments system, while also assuring that Federal expenditures would be fair and reasonable.

Mr. President, we have waited 4 years for the administration to submit its proposals to implement the recommendation of the Public Land Law Review Commission that a Federal payment system be established that would not be tied to varying levels of revenues from Federal lands, which have led to serious inequities and often totally inadequate payments under the present system.

During the summer and fall of 1973, Chairman Blatnik held several detailed conferences with county officials representing those areas in Minnesota where the national forests are concentrated. My staff and I cooperated in those meetings.

What we learned made it abundantly clear to us that under the present system, payments from the national forests to the counties very seldom come close to approaching tax equivalency. The same thing is true of other "fixed percentage" type payment systems under other Federal lands holdings. Thus it seemed to us that the best approach was to introduce a bill that reformed the entire payments system. The bill I am introducing today will do just that.

It covers such holdings as the national forests, Bureau of Land Management lands, fish, and wildlife refuges, and the Corps of Engineers—civil functions. In a nutshell, it covers all natural resources lands that now have a "payment-in-lieu-of-tax" formula.

The bill gives the counties 2 years to elect whether to participate in the new payment system established under this act or to stay with the present system.

The bill also provides for an appraisal of the value of Federal lands in each county to be made. A 2- to 4-year period is provided for this to be completed.

In sum, once a county elects to go under the new system the method of fixing the payments to the local government will be the same as that for comparable private land. The assessed value of the land multiplied by the local millage rate will determine the annual payment. This, in my opinion, will be a tremendous improvement over the present hodgepodge of payment formulas.

With regard to the National forests, for example, last year with 25 percent of revenue going as the in-lieu-of-taxes payment to the counties, payments ran from an average of 1 cent per acre in some States to an average of $2.85 per acre in the highest State. For individual counties the payments ran from a few dollars in some counties to a high of $9,677,709 in one county.

In Minnesota, four counties received 7 cents per acre and three received 13 cents per acre from regular national forest land. Nationwide, the average county was paid 62 cents per acre.

Payments to Minnesota counties ranged from $45.63 in total to $39,642.64.

On another block of national forest lands in Minnesota, the Boundary Waters Canoe Area, a separate payment formula exists that pays three-fourths of 1 percent of the value of the lands. These 749,000 acres pay an average of 35 cents per acre as compared to the average of 9 cents per acre payed on the 1.4 million acres of national forest land under the 25 percent system. In neither case is the payment a fair approximation of tax equivalence based upon the best information that we have been able to secure.

St. Louis County, Minn., provides an interesting example. This county had 795,000 acres of private forest taxed at 53 cents per acre, 573,000 acres of national forest at 7 cents per acre, and 195,000 acres in the Boundary Waters Canoe Area taxed at 32 cents per acre. Certainly these data do not suggest that all of the national forest lands would pay, under our bill, 53 cents per acre. However, since the lands that pay 7 cents are essentially the same as the lands that pay 32 cents and neither are too dissimilar from the private lands, there is reason to believe that on a truer tax equivalence than either of the current Federal methods provide, the payments would be far closer to 53 cents per acre than to 7 cents per acre.

This bill has been discussed with representatives of the National Association of Counties. Its principles have their support.

The enactment of this bill will not only increase the payments made by the Federal Government to local governments, it will also give these payments a reasonable relationship to the taxes paid on similar private lands. I believe it will also encourage local governments to adopt more uniform and equitable tax policies and systems.

I would not want to suggest that this bill is the perfect approach. However, I do believe it is a reasonable approach to meeting an old and complex problem. The fact that this problem has not yielded to earlier reform efforts does not discourage me from seeking to improve the situation. However, as my friends in county government know, securing enactment of this bill will require hard work and will be a real exercise in Federal-State-county cooperation.

Enactment of this legislation will give to our hard-pressed rural counties the equitable treatment that they deserve and that fairness dictates.

Mr. President, since the jurisdiction over the matter included in this bill is divided between the Committee on Agriculture and Forestry, and the Interior Committee, I request that it be concurrently referred to both of these committees.

The PRESIDING OFFICER. Without objection it is so ordered.

EXHIBIT 1

REPORT BY PUBLIC LAND LAW REVIEW COMMISSION, 1970, CHAPTER 14

TAX IMMUNITY

Because of the sovereignty of the United States, federally owned lands cannot be taxed by state or local governments. This has created large and increasing problems for the states within whose borders such lands lie. The problems are particularly felt in the West where most public lands [1] are concentrated and where, as previously shown in this report, federally owned lands often constitute a large proportion of a state's total area. But the situation, concerning which the Commission is required to make recommendations, is not confined to the West. Eleven nonwestern states each contain more than 1 million acres of Federal land, ranging from approximately 8 percent of the total area of Arkansas to 3.2 percent of Georgia. In addition, West Virginia contains 920,212 acres of public lands (5.9 percent of the state's total acreage); South Carolina 680,265 acres (3.5 percent); New Hampshire 678,807 acres (11.8 percent); and Vermont 240,238 acres (4.0 percent) (in each state there are also other Federally owned lands).

Originally, the Federal ownership of land was considered, in general, to be temporary. Under Federal policy and laws the public domain passed into private ownership and thereupon became subject to state and local taxation. The retention by the Federal Government of comparatively small amounts of land for military or other Federal purposes seemed to pose no serious problem for the future, and even in 1872, when a large tract in Wyoming was set aside to establish Yellowstone National Park, it was still generally assumed that almost all of the rest of the Nation's public domain would eventually be transferred to private ownership.

In 1891, however, with passage of the act that authorized the President to set aside forest reservations, a major break with the past occurred. As large tracts of forest land were set aside as reserves, it became obvious that millions of acres of the public domain would be retained and managed permanently by the United States and would never pass into private ownership.[2]

The impact on the taxability of state and local governments by the Federal Government's retention of the forest lands caused concern at an early date, and in 1907 Congress authorized the return of 25 percent of stumpage sale receipts to the counties in which the timber was cut to be used for public education and roads.[3]

In 1920, the Federal Government acted similarly when the Mineral Leasing Act [4] of that year removed from the operation of the Mining Law certain minerals, including oil and gas deposits, and thus assured that lands chiefly valuable for those minerals would remain in Federal ownership. As part of the Mineral Leasing Act, Congress authorized sharing with the states the receipts generated by the oil and gas leases, giving the state of origin 37½ percent of the revenue, the Reclamation Fund 52½ percent and permitting the United States to keep only 10 percent for its cost of administration. The only exception is that Alaska receives 90 percent of oil and gas lease revenues in accordance with the provisions of the Mineral Leasing Act.[5] Several other, but relatively minor revenue-sharing programs were also developed, both before and after the two mentioned above, but payments made by the Federal Government to the states for such programs have been comparatively small.[6]

The legislative history of the acts providing for the sharing of receipts from forest products and oil and gas, as well as other leaseable minerals, clearly reflects that the payments to the states and local governments were intended as compensation for the fact that the lands in question would no longer be available for private ownership and property taxation.

To day, however, the pressure of new circumstances requires new thinking. Until comparatively recently, the cost of providing state and municipal services, especially in the western public land states whose vast spaces had a sparse population and received relatively few outside visitors, was not very great. But in recent years, a dramatic change has resulted from the greatly increased mobility of the American people. Visitors who now come in increasing numbers to public land areas from all over the country require, as a minimum, the same services that are furnished to local citizens—and sometimes they require more.

At the same time, state and local government expenditure levels and revenue requirements have vastly increased. In 1940, prior to World War II, the combined spending of state and local governments was approximately $9.3 billion. Ten years later, in 1950, it had risen to approximately $22.8 billion. In 1969, the figure exceeded $100 billion.

In the meantime, while state and local revenue needs have been growing, the recent years have seen a greatly expanded increase in the acreage of lands permanently set aside by the United States for various purposes. From relatively modest beginning, for example, there are now 18,564,079 acres of public domain under the jurisdiction of the National Park Service, with an additional 4,735,818 acres acquired for the National Park System, or a total of 23,299,897 acres spread among 44 states [7] and over 26 million acres set aside for the Wildlife Refuge System in all 50 states.

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Footnotes at end of article.

The largest portion of the public domain, more than 465 million acres, including 295 million acres in Alaska, is under the jurisdiction of the Bureau of Land Management of the Department of the Interior. Except for those lands that may be transferred to the states to satisfy land grants, this large acreage comprises, for the most part, what is known as the vacant unappropriated public domain, and was previously assumed to be destined for private ownership. But since the passage of the Taylor Act in 1934,[8] the transfer of these public domain lands to private ownership has slowed considerably. In the last decade, it has dwindled to a trickle while awaiting the enactment of legislation suited to the needs of today and tomorrow.

If the recommendations of this Commission are followed, additional millions of acres of public domain land will be retained by the Federal Government instead of being transferred, as contemplated until relatively recent times, to private ownership. With the millions of acres of land already reserved, plus the additional acres that probably will be set aside, the United States must reexamine its relationship to the state and local governments within whose borders those lands are located.

### PAYMENTS TO COMPENSATE FOR TAX IMMUNITY

Recommendation 101: If the national interest dictates that lands should be retained in Federal ownership, it is the obligation of the United States to make certain that the burden of that policy is spread among all the people of the United States and is not borne only by those states and governments in whose area the lands are located.

Therefore, the Federal Government should make payments to compensate state and local governments for the tax immunity of Federal lands.

The study made for this Commission confirms the contention of state and county government officials that shared revenues amount to much less than the revenues they would collect if the lands were in private ownership and subject to taxation.[9] While the bulk of the states analyzed were in the West, detailed studies of counties in other parts of the country demonstrated that the situation is similar everywhere.[10]

The fact that the lands on the tax rolls would have brought in a greater revenue should not by itself be considered persuasive. It is, however, a compelling indicator of both the magnitude of an existing problem and the impact of the present system.

This Commission is convinced that the United States must make some payments to compensate state and local governments which have burdens imposed on them because of Federal ownership of public lands within their borders. Even though it is recognized that Federal expenditures must be held to the minimum necessary to provide essential Federal programs, the Federal Government, as a landowner, must pay its way. Whatever the costs, fairness and equity demand that such payments be made.

### MANNER OF MAKING PAYMENTS

Recommendation 102: Payments in lieu of taxes should be made to state governments, but such payments should not attempt to provide full equivalency with payments that would be received if the property was in private ownership. A public benefits discount of at least 10 percent but not more than 40 percent should be applied to payments made by the Government in order to give recognition to the intangible benefits that some public lands provide, while, at the same time, recognizing the continuing burdens imposed on state and local governments through the increased use of public lands. The payments to states should be conditioned on distribution to those local units of government where the Federal lands are located, subject to criteria and formulae established by the states. Extraordinary benefits and burdens should be treated separately and payments made accordingly.

A system of payments in lieu of taxes provides a better standard for determining the level of payments than does a system of sharing revenue. Just as in their relationship to private property, state and local governments are, in general, constitutionally responsible for providing the ordinary functions of government to the public land areas within their borders. Federal ownership, in other words, does not mean that the Federal Government has assumed fiscal responsibility for the administration of all aspects of those lands. But, the system of revenue sharing bears no relationship to the direct or indirect burdens placed on state and local governments by the Federal lands within their boundaries.

In practice, there has been no attempt made to correlate the services rendered, or the burdens assumed, by the local governments to the payments they receive under the present revenue-sharing systems. As a result, the portion of Federal revenues which they currently receive varies from 5 to 90 percent, depending on the program and Federal agency involved.

Although they were originally designed to offset the tax immunity of Federal lands, the existing revenue-sharing programs do not meet a standard of equity and fair treatment either to state and local governments or to the Federal taxpayers. Such a standard should be established and applied.

In addition, the Commission's review has revealed several defects in the revenue-sharing system. In some cases, payments made by Federal programs undercompensate, while in others they overcompensate. The revenue-sharing programs, moreover, do not apply to many federally owned lands, and where they do apply, management decisions aften reduce or eliminate the revenue base upon which the payments to state and local governments depend. At the same time, pressures can be generated to institute programs that will produce revenue, though such programs might be in conflict with good conservation-management practices.

The Commission has thus concluded that the existing system of revenue sharing is not equitable, and that the Federal taxpayer is financing a program that has little relation to the purpose it was originally designed to accomplish.

It is axiomatic that expenditure requirements determine the tax levels needed to produce the revenue to meet the costs of government. Since the ad valorem tax system has been the foundation for the financing of programs providing municipal services, the Commission believes that all landowners must share in payment for these services. This should not exclude the Federal Government as a landowner, except where the federally owned land is being used for facilities, as in the case of post offices, to furnish services to all the people throughout the country.

Believing, as the Commission does, that the tax level represents the actual need for revenue, Federal payments related to the level of state and local taxes levied on private owners should be in proportion to the services received and burdens imposed by Federal ownership. At the same time, to repeat, they should be fair and equitable to all concerned.

### LEVEL OF PAYMENTS

While the Commission is convinced that payment should be related to actual property taxes in the area, it does not follow that the payments should be equal to full tax equivalency.

Under the existing system, certain benefits are received by local governments. For example, probably **because it pays no taxes**, the Federal Government permits state and local governments to use its land without charge for such facilities as airports and cemeteries, and allows them to take sand and gravel without cost. In addition, the Federal landowner provides fire protection for its own lands where fire is a major threat, thereby relieving the state and local governments of that cost. There are also indirect benefits, like the use of roads, which Federal agencies construct and maintain.

Though the Commission's studies have proved that these direct and indirect benefits cannot be calculated with any degree of precision, the Commission believes that some reduction in payments should be made for the measurable as well as the immeasurable benefits which accrue to the communities in which there are concentrations of Federal lands.[11]

After careful consideration, the Commission has concluded that fairness will best be served by deductiing—as recognition of the direct and indirect benefits received by state and local governments from the use of public lands—not less than 10 percent nor more than 40 percent of the amount necessary to provide full tax equivalency.

At the same time, the Commission has concluded that while benefits are national, the geographic distribution of the Federal lands makes their burdens regional and local, and that, in general, continued Federal ownership of public lands provides no distinguishable benefits to state and local governments in lieu of the benefits they would receive if the lands were privately owned.

### EXTRAORDINARY BENEFITS AND BURDENS

From time to time, certain extraordinary benefits may be obtained, or burdens imposed, as a result of Federal ownership of public lands. The Commission does not believe that they should be taken into consideration in establishing the basic formulae of Federal payments. Whatever their cost may be, they should be negotiated separately, and a separate payment should be arranged.

If a state or local government, for example, was required to give the Federal Government services, such as increased police protection, over and above what it provided to regular taxpayers, it could and should suggest the negotiation of a contract with the Federal Government. If the Federal Government thought the local government was charging too much for such special services, it could seek other arrangements.

The important point is that under a payments-in-lieu-of-taxes system, the Federal Government would expect, and would be entitled to, the same services received by a regular taxpayer from the state and local governments—no more and no less.

### UNIT OF GOVERNMENT TO RECEIVE PAYMENT

The governmental unit that supplies the services, usually the county or municipality, should receive the Federal payments in lieu of taxes. But, under our Federal system, the national Government should deal solely with the state government, which should make proper allocations within the state.

In this connection, the Commission recognizes that in many instances, state tax-equalization programs redistribute all categories of funds. While this is a matter of state policy, concerning which the Federal Government should take no position, the Commission's contractor study showed that generally these programs must supplement local tax revenues from general state funds to a greater degree in areas of public land concentrations than elsewhere.

### DIFFERENT LAND CATEGORIES

The Commission believes that it would be impractical to exclude from the program any types or categories of lands because the impact of different classes of land is uneven. Under existing revenue-sharing systems, no payments are made for national parks, mili-

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Footnotes at end of article.

tary reservations, and reclamation reservations. Yet, there is no evidence that the economic benefits flowing from the activities carried on at these lands would not be equalled or exceeded if the lands were privately owned and were part of the local tax base.

### LIMIT PAYMENTS TO REVENUES?

The Commission believes it is impractical and improper to limit payments to the net revenues of resource programs. Because these programs involve both commodities for which market value is charged and those, such as outdoor recreation, for which user fees, if any, are unrelated to market value, overall net revenues from public land programs do not provide an adequate guide to the level of payments in lieu of taxes. For the same reasons that the Commission recommends abandoning revenue sharing, it rejects limiting payments in lieu of taxes to the receipts from the sale of goods and services from the public lands.

### THE "THRESHOLD" LIMITATION APPROACH

Federal lands that provide general services, such as use for post offices, are located in all parts of the country. However, public lands are not so regularly distributed. Even in a state containing a relatively small percentage of federally owned land, a large percentage may be concentrated in a single county.

The Commission cannot endorse the "threshold concept" under which payments in lieu of taxes would be made only to the extent that Federal lands represent more than some percentage of total land in a particular state or locality. First, it is virtually impossible to arrive at a logical basis for establishing either a percentage of land or of land values within a given area. Secondly, the pattern of concentration of public lands makes it impractical in our Federal system to apply such criteria to the states: in 19 states, for instance, federally owned lands comprise less than 2 percent of the state, while in 12 they constitute more than 26 percent. And this does not take cognizance of concentrations within individual counties.

### UNIFORM TREATMENT

We believe that a uniform policy should be applied to both acquired and public domain lands in determining the level and distribution of payments in lieu of taxes.

Although revenue sharing has been used, historically, as a device to compensate for Federal ownership of public domain land, while payments in lieu of taxes were applied to acquired lands, the Commission sees no reason to continue that distinction. Whatever the original rationale for the different approaches, it believes that there is no longer need or purpose to continue the dual treatment.

### USE OF FEDERAL PAYMENTS

The Commission is convinced that the Federal Government should not earmark payments in lieu of taxes for particular functions. This is consistent with our concept of the Federal-state relationship.

Historically, virtually all revenue-sharing payments are restricted to use for education and roads, while payments-in-lieu-of-taxes systems contain no restrictions. In view of the present-day, high level of financing for varied functions of state and local governments, earmarking for restricted uses is no longer valid. By paying the states directly without earmarking, the states can adjust the use of the funds to their individual fiscal requirements, and the local governments, which will be the utimate recipients, can use the funds where they are needed.

### RELATIONSHIP TO GRANT-IN-AID PROGRAMS

Existing Federal grant-in-aid payments to state and local governments are not related to, and do not compensate for, the concentration of Federal lands, nor would proposed block-grants. Under a wide variety of Federal grant-in-aid programs, more than $20 billion is paid each year to state and local governments. These categorical grants, (*i.e.*, earmarked for specific purposes), often requiring matching commitments by state and local governments, help finance a wide range of public programs, such as education, welfare, and transportation, conducted by state and local governments. With one exception,[19] these categorical grants-in-aid are not land related. Consequently, a community with a restricted taxable property base can receive payments no greater than those received by an otherwise comparable community with a fully taxable property base.

Thus, even if categorical grants-in-aid, as now constituted, continue to increase at their current rate (from about $6.5 billion in fiscal year 1960 to an estimated level of more than $24 billion in fiscal year 1970), they will not satisfy the test of fairness which the Commission has suggested is required because of the concentration of Federal lands.

In addition to the expanding system of categorical Federal grants, recent proposals have emerged for large-scale, block-grant, revenue-sharing programs to help finance all state and local government programs. One of the principal proposals—to divert a part of Federal personal income taxes to state and local governments—has drawn considerable attention to the potential of unrestricted block-grants.

But, other devices, such as tax credits, have also been proposed. None of them is designed, however, to compensate for the fiscal burdens generated by the presence of Federal lands.

### A TAX EFFORT CRITERION

To the extent that state and local tax efforts fall below the national average, the Commission recommends that payments in lieu of taxes should be reduced proportionately.

In addition to the public benefits deduction from estimated full tax equivalency as the basis for Federal payments, a further deduction based on a tax effort criterion should be applied to assure that the cost of state and local government is not shifted disproportionately to the Federal taxpayer.

The Commission recommends the use of a criterion based on per capita state and local taxes from all sources as a percentage of state per capita personal income for each state, compared to the national average of per capita state and local taxes from all sources as a percentage of national per capita personal income.

### POSSESSORY INTEREST TAXATION

State and local governments should be encouraged to tax possessory interests of Federal land users, such as lessees and remittees, and the improvements constructed by them. This will, obviously, have an impact on the overall tax effort.

At present, the contractor report referred to earlier makes clear that there is considerable variation in the treatment of possessory interests among the states. The Commission believes that possessory interest taxation would afford state and local governments a significant opportunity to supplement conventional property tax income. At the same time, the Commission recognizes that with the many taxing devices available to it, an individual state might score well overall, as compared with other states and still not pursue possessory taxation as vigorously as some of the others do.

### SLIDING-SCALE HIGHWAY BENEFIT PROGRAMS

If the Commission's recommendation for the establishment of a payments-in-lieu-of-taxes system is adopted, the sliding-scale highway benefits program should be re-evaluated. Under the interstate, primary, and secondary road network programs, public landholdings of the Federal Government, excluding national forests, parks, and monuments, determine the amount of matching funds required of a state as against the Federal funds for those programs.

In the Commission's opinion, this is not a public land problem. But, close consideration must be given to the relationship of primary and secondary highway sliding-scale benefits to land-related payments.

### THE VALUATION OF FEDERAL LANDS

The Commission recommends that the interests of all concered should be protected by a continuing program of periodic valuation of Federal lands.

In the interest of administrative simplicity and uniformity, the implementation of a Federal payments-in-lieu-of-taxes system will require a systematic approach to the valuation of Federal lands. Federal lands would have to be valued expressly for tax purposes, with built-in protection against discriminatory practices.

As a first requirement, the General Services Administration should be given responsibility for overall administration. At the operational level, representatives of the Federal Government, jointly with state and/or local governments, should agree on a valuation for tax purposes consistent with the assessment of privately owned lands in the area. Safeguards must then be provided to assure that, in relating payments to the tax rates applicable to similar private land, there will be no discrimination against the Federal Government.

A system of placing valuations on Federal lands for this purpose need not be burdensome, either administratively or financially, the appraisers used could be either Government employees or individuals retained under contract, though the Commission prefers the latter. A different method, used in the valuation procedure for the revested Coos Bay-Wagon Road grant lands in Oregon, might also be followed. A Federal representative, a local representative, and a disinterested third party compose a 3-member board that establishes the valuation.

Still another alternative would be to use a board of appeals, rather than a disinterested third party, to reconcile differences between the Federal and local representatives. Since we are committed to the idea that the United States, as the Sovereign, must have the last word, this last solution may offer the most promise. Valuations would be made every 5 to 10 years but would be updated annually by methods to be established by those making the initial valuation.

### IMPROVEMENTS

Valuation for determining payments in lieu of taxes should not include improvements on Federal lands. If improvements on Federal lands (summer homes in national forests, concessionaire facilities in national parks, etc.) have been made by private users, then state and local governments have the authority to levy possessory interest taxes on their owners.

Improvements placed on the land by the Federal Government should not be taken into consideration because, generally speaking, they are provided for the purpose of furnishing services to the region or locality in which they are constructed. Accordingly, the Commission believes that their benefits automatically outweigh any burdens they might impose.

### PERIOD OF TRANSITION

Recommendation 103: In a payments-in-lieu-of-taxes system, a transition period should be provided for states and counties to adjust in changing from the existing system.

Under a payments-in-lieu-of-taxes system, state income might be significantly less than under existing revenue-sharing programs. New Mexico and Wyoming, for example, demonstrate the changes that might occur in connection with both the extent of total payments and the distribution of Federal

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Footnotes at end of article.

payments. Mineral-leasing shared revenues are currently an important source of income to both state governments, and may total more than the in-lieu payments based on a percentage of tax equivalency.[13] Because the Commission has recommended that in-lieu tax payments flow to the counties in which the lands are located, it must be noted that in Wyoming only 3 percent of the shared revenues are distributed directly to the counties, and in New Mexico, none. Both states, however, make large intergovernmental transfers to school districts for support of public education.

The sudden suspension of revenue-sharing payments, such as those under the Mineral Leasing Act of 1920,[14] might cause hardship on some state and local governments, particularly if there is a substantial reduction in the amount of payment. In such cases, payments should be phased so as to provide a gradual decrease over a period of years. These increased transitional Federal costs could be offset, at least in part, by similarly phasing incremental payments upwards over a short period of years to those states that would receive substantially more under the new system than under the old. In either event, payments should be adjusted to the basic system as soon as is practicable.

### RECLAMATION FUND

The provisions of the Reclamation Law of 1902,[15] as amended, and the Mineral Leasing Act of 1920,[16] providing for certain receipts to be disposited in the Reclamation Fund, were designed to assure construction of large expensive irrigation projects required to permit development of the West. Generally, the Commission is opposed to earmarking of funds. However, we believe that the United States should not take any action that might interfere with the fulfillment of its commitment to the West. Once the commitment has been fulfilled, the earmarking should cease. Accordingly, we recommend that the earmarking of any portion of receipts to the Reclamation Fund be discontinued when repayments to the Reclamation Fund are sufficient to finance reclamation construction.

### COST OF PROGRAM

The contractor's study, referred to above, indicated that it would cost the Federal Government approximately $190 million a year to make payments, based on full tax equivalency, to state and local governments for the lands for which the Commission is required to make recommendations. In 1966, for those same lands, $93 million was paid under existing revenue-sharing programs.

The Commission recognizes an imperfection in the contractor's estimate. The tax equivalency was based on the General Services Administration's periodic Real Property Report[17] in which estimates of land values are not made for tax purposes, do not follow a consistent approach in arriving at estimates, in some instances are crude approximations, and, with regard to acquired lands, carry the original acquisition cost even if they were obtained at nominal cost. For example, there is no indication that potential subsurface mineral values were ever considered in agency estimates of public domain lands.

Nevertheless, while the Commission cannot embrace the $190 million estimate as a ceiling, it has no better means of obtaining such estimate at this time. It believes, however, that the total cost is irrelevant if fairness requires the compensating of state and local governments for protecting the national interest in lands considered to warrant retention in Federal ownership. It is a proper cost to be borne by all Federal taxpayers.

### FOOTNOTES

[1] As used here the term "public lands" refers only to those lands coming within the definition of that term in section 10 of the Commission's Organic Act, as quoted in the Introduction and printed in full in Appendix A.

[2] The 1891 Act, as amended, is 16 U.S.C. § 471 (1964). Today the total of lands administered by the Forest Service has grown to over 186.9 million acres in 44 states. Of the total, 160.8 million acres came from public domain lands, and the rest was acquired from non-Federal sources. For a breakdown of acreage by states, see Appendix F.

[3] U.S.C. § 500 (1964).

[4] 30 U.S.C. § 181 et seq. (1964).

[5] 30 U.S.C. § 181 et seq. (1964).

[6] 30 U.S.C. § 191 (1964).

[6] A breakdown of all programs and payments is contained in EBS Management Consultants, Inc., *Revenue Sharing and Payments in Lieu of Taxes*, Pt. 2. PLLRC Study Report, 1968.

[7] For breakdown by states, see Commission staff, *Inventory Information on Public Lands*. PLLRC Study Report, 1970.

[8] 43 U.S.C. § 315 et seq. (1964).

[9] EBS Management Consultants, Inc., *Revenue Sharing and Payments in Lieu of Taxes*, Pt. 4. PLLRC Study Report, 1970, for a detailed analysis of revenue sharing and payments in lieu of taxes related to public lands in five states and 50 counties.

[10] For example, in Carroll County, New Hampshire, where 24 percent of the land is in national forest, total benefits to the county from both Federal revenue sharing payments and indirect benefits in 1966 amounted to $21,291. The estimated potential tax revenue to the county from the Federal lands, if assessed and taxed on the same basis as privately owned lands of similar character, was estimated at $151,420. In Gogebic County, Michigan, the potential tax revenue was estimated, likewise, at $251,840 from national forest lands, as compared to direct and indirect benefits of $149,581 in 1966.

[11] EBS Management Consultants, Inc., *Revenue Sharing and Payments in Lieu of Taxes*, Pt. 4. PLLRC Study Report, 1970. The great variety of indirect benefits, which include use of Federal facilities and lands for some purposes, availability of Federal employees to provide expertise in some cases, and joint use of Federal roads and facilities in some cases, differ widely from one location to another.

[12] Programs administered by the Federal Highway Administration do consider Federal lands in the matching funds payment formulae. It is the one major exception to the general rule that categorical grants do not relate to Federal lands.

[13] For comparison of payments under the revenue sharing program with an estimate of payments in lieu of taxes, see EBS Management Consultants, Inc., *Revenue Sharing and Payments in Lieu of Taxes*. Pt. 5, PLLRC Study Report, 1970.

[14] 30 U.S.C. § 181 et seq. (1964).

[15] 43 U.S.C. § 391 (1964).

[16] 30 U.S.C. § 191 (1964).

[17] General Services Administration. *Inventory Report on Real Property Owned by the United States Throughout the World, June 20, 1966*, Washington, D.C.

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## S. 2912

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Payments in Lieu of Taxes Act of 1974."

SEC. 2. As used in this Act—

(a) The term "Public lands" means all lands, and natural resources thereon, or interests in lands, owned by the United States which are administered for natural resources purposes, except lands or interests therein held by the United States in trust for any group, band or tribe of Indians, Aleuts, or Eskimos, lands used exclusively for national defense purposes, and the Outer Continental Shelf.

(b) The term "Administrator" means the Administrator of General Services Administration.

(c) The term "Board" means a State Board of Appraisal Appeals established under section 4.

(d) the term "regular taxpayers" means taxpayers subject to State and local real property taxes who do not enjoy the benefits of tax immunity.

(e) the term "county" includes a parish or borough.

SEC. 3. (a) Within two years after the date of enactment of this Act, each county shall elect whether it wishes to proceed under the terms of this Act to receive payments from the Federal Government equal to the real property taxes otherwise due from public land within such county, or continue to receive whatever payments such county is entitled to receive under any existing applicable Federal law providing for Federal payments for such county similar to those available under this Act or for payment to such county of part of the revenue derived from such public land.

(b) The Administrator and each county electing to proceed under this Act shall jointly arrange to have the public land in such county appraised and such appraisal shall be completed within two years after the date such county made such election. If the Administrator and the county agree that the appraisal may require longer than two years to complete they may either divide the area and complete a portion in two years or provide a period of not to exceed four years to complete such appraisal. However, before such appraisal is finally adopted by the county, the county, upon due notice and payment of actual costs for such appraisal to date, may elect to remain under such existing applicable Federal law.

(c) In making appraisals under this section the following criteria shall be met:

(1) The appraisal of public land shall be consistent with the appraisal for real property tax purposes of privately-owned lands in the county.

(2) There shall be no discrimination against the Federal Government in relating payments to the real property tax rates applicable to similar private land.

(3) Appraisals shall be completely and thoroughly reviewed at least every ten years. In the intervening years, appraisals shall be updated annually in accordance with procedures to be established by the Administrator. However, upon the request of any county, at no less than five year intervals, a reappraisal may be conducted in the same manner as the original appraisal.

(d) Appraisals shall, when made, conform to standards for the State and counties involved, and only their actual cost shall be deducted from payments to be made to a county under this Act.

SEC. 4. (a) When any county within a State has elected to proceed under the terms of this Act, there shall be established for that State a State Board of Appraisal Appeal which shall consist of three members, one member to be appointed by the Administrator and two members to be appointed by the Governor of the State for which such Board is established. Of the members appointed by the Governor, one shall be appointed from among persons who are citizens of the State and representative of the interests of the counties in the State in which are located public land. Members shall serve terms of five years and may be reappointed.

(b) Members of each Board shall serve without compensation but while away from their homes or regular places of business in performance of services for the Board, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(c) Two members of a Board shall constitute a quorum.

(d) Each Board shall select a chairman who shall call meetings of that Board.

(e) Each Board shall consider and decide any appeal from a county within the State relating to the appraisal of public land within such county either with regard to the cost or procedure of the appraisal or to the appraisal findings. Decisions of the Board shall be final and shall not be subject to judicial review unless arbitrary or capricious.

SEC. 5. (a) Beginning in the first complete fiscal year after the acceptance of such appraisal by both the county involved and the Administator, the Secretary of the Treasury is authorized to pay annually to the State in which such county is located an amount equivalent to the State, county, and local real property taxes on public lands within such county, based on the tax rate applicable to similar private lands at the value arrived at under the appraisal conducted under this Act.

(b) The payment made to a State shall be distributed by the State to those counties electing to proceed under the terms of this Act in which the public lands are located to be used by such counties for any public purpose. Each such county shall receive an amount equal to the total amount of taxes due from the public lands located within such county.

Notwithstanding any other provisions of this Act, or of any other law, the Administrator is authorized to discontinue payments to such county of part of the revenue derived from such public land on a gradually decreasing basis over a period of five years and to program implementation of this Act on a similar time basis, for any county where immediate implementation of this Act will result in hardships because of a substantial reduction in the amount of payments.

SEC. 6. Nothing in this Act shall interfere with the right of State or local governments to levy possessory interests taxes on private owners of improvements made by private users on public lands.

SEC. 7. There are hereby authorized to be appropriated such sums as may be necessary to administer this Act and to make the payments authorized by it.

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By Mr. MONDALE:

S. 2913. A bill to declare that certain federally owned lands within the White Earth Reservation shall be held by the United States in trust for the Minnesota Chippewa Tribe, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. MONDALE. Mr. President, I am today reintroducing legislation which I first introduced on May 23, 1967. This bill, identical to S. 1830 of the 90th Congress and S. 1710 of the 91st Congress and S. 1217 of the 92d Congress, restores to the Minnesota Chippewa Tribe, White Earth Reservation, certain submarginal lands of the United States and makes such lands part of the reservation.

These properties consist of approximately 28,700 acres purchased by the Federal Government during the mid-1930's under title II of the National Industrial Recovery Act. The lands were so acquired in order to retire them from private ownership, to correct maladjustments in land use, and with the expectation that they would be made available for tribal use.

Mr. President, these lands were originally owned by the Minnesota Chippewa Tribe. Unfortunately, they were allotted under the Allotment Act and subsequently passed from Indian ownership. The Government acquired the lands at a cost of $175,664. In 1963, when similar legislation was introduced in the Congress, their market value was placed at $474,000 by appropriate governmental agencies.

Similar legislation has already been enacted restoring property to the Seminoles of Florida and to the Pueblos and other tribes in New Mexico. During the 92d Congress, a bill identical to the one I am introducing today was passed by the Senate. I am, therefore, most hopeful that this legislation will again receive favorable consideration during the present session.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2913

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, subject to valid existing rights, all of the right, title, and interest of the United States in the lands, and the improvements thereon, that were acquired under title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 State. 115), and section 55 of the Act on August 24, 1935 (49 Stat. 750, 781), and that are now administered by the Secretary of the Interior for the benefit of the Minnesota Chippewa Tribe, White Earth Reservation, are hereby declared to be held by the United States in trust for said tribe, and the lands shall be a part of the reservation heretofore established for the tribe.

SEC. 2. The Indian Claims Commission is directed to determine in accordance with the provisions of section 2 of the Act of August 13, 1946 (60 Stat. 1050), the extent to which the value of the beneficial interest conveyed by this Act should or should not be set off against any claim against the United States determined by the Commission.

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By Mr. KENNEDY (for himself and Mr. HRUSKA):

### AMENDMENT OF THE MAIL FRAUD STATUTE

Mr. KENNEDY. Mr. President, today I join with the distinguished Senator from Nebraska (Mr. HRUSKA) in introducing a bill to amend the mail fraud statute in light of the recent decision of the U.S. Supreme Court in United States against Maze. Prior to this decision 3 weeks ago, it was generally believed that the mail fraud statute, section 1341 of title 18, United States Code, could be applied to prosecute persons who devised a scheme to defraud cardholders, merchants, or banks by unlawfully obtaining possession of another person's credit card and using it to obtain goods and services for themselves.

The Department of Justice supported this interpretation by prosecuting the appeal in the Maze case, in which it argued that the mailing of sales slips from merchants to the issuing bank, and from the bank to the cardholder, conferred Federal jurisdiction under the mail fraud statute. But the Supreme Court, by a 5-to-4 vote, held that the statute as presently drafted could not be used to prosecute such conduct. This is because under present statutory language, the mailing must be "for the purpose of executing" the fraudulent scheme, and the Court held that the mailing which took place in connection with the credit card fraud was not for that purpose.

The Court, however, issued a clear invitation to the Congress to amend the statutory language to cover such conduct. The Court noted that "Congress could have drafted the mail fraud statute so as to require only that the mails be in fact used as a result of the fraudulent scheme," and stated, "If the Federal Government is to engage in combat against fraudulent schemes not covered by the statute, it must at the initiative of Congress and not of this Court." The Court pointed out that the mail fraud statute, first drafted in 1872, "while obviously not directed at credit card frauds as such, is sufficiently general in its language to include them if the requirements of the statute are otherwise met."

The bill I am introducing today is designed to accept the Supreme Court's invitation in the Maze case. It amends the statute to require only that the use of the mails be "for the purpose of, as an incident to, or as a result of executing such a scheme or artifice or attempting so to do" in order for Federal jurisdiction to be present. Any fraudulent scheme in which the mails were used as an incident to, as a result of, or for the purpose of executing the scheme or attempting to execute it would be prosecutable under the amended statute.

In my judgment, Congress never intended to exclude schemes such as credit card frauds from the coverage of the mail fraud statute. My amendment would codify what I believe to be the original congressional intent in light of the modern-day use of credit instruments. In the wake of the Maze decision, there is also some question as to whether certain other fraudulent practices, such as check kiting, are prosecutable under Federal law. My amendment will permit vigorous Federal law enforcement of such offenses as well.

The problem of credit cards frauds is a serious one. It was estimated that in 1969, 1.5 million credit cards were lost or stolen, resulting in $100 million in losses due to fraud. Credit card fraud offenses are often difficult to prosecute under State laws, since it is relatively easy for the perpetrator to leave the State before the fraud is discovered. It is important that Federal laws protect the cardholder, the merchant, and the bank that may be the victims of fraud, and my amendment is intended to accomplish this.

Mr. President, I ask unanimous consent that the text of the opinions in the Maze case be printed in the RECORD at this point.

There being no objection, the opinions were ordered to be printed in the RECORD, as follows:

[Supreme Court of the United States, No. 72-1168, 42 U.S.L.W. 4113]

UNITED STATES, PETITIONER, *v.* THOMAS E. MAZE

(On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit, January 8, 1974)

MR. JUSTICE REHNQUIST delivered the opinion of the Court.

In February 1971 respondent Thomas E. Maze moved to Louisville, Kentucky, and there shared an apartment with Charles L. Meredith. In the spring of that year respondent's fancy lightly turned to thoughts of the sunny Southland, and he thereupon took Meredith's BankAmericard and his 1968 automobile and headed for Southern California. By presenting the BankAmericard and signing Meredith's name, respondent obtained food and lodging at motels located in California, Florida, and Louisiana. Each of these establishments transmitted to the Citizens Fidelity Bank and Trust Company in Louisville, which had issued the BankAmericard to Meredith, the invoices representing goods and services furnished to respondent. Meredith, meanwhile, on the day after respondent's departure from Louisville, notified the Louisville bank that his credit card had been stolen.

Upon respondent's return to Louisville he was indicted on four counts of violation of the federal mail fraud statute, 18 U.S.C. § 1341, and one count of violation of the Dyer Act, 18 U.S.C. § 2312. The mail-fraud counts of the indictment charged that respondent had devised a scheme to defraud the Louisville bank, Charles L. Meredith, and several merchants in different States by unlawfully obtaining possession of the BankAmericard issued by the Louisville bank to Meredith, and using the card to obtain goods and services. The indictment charged that respondent had obtained goods and services at four specified motels by presenting Meredith's BankAmericard for payment and representing himself to be Meredith, and that respondent knew that each merchant would cause the sales slips of the purchases to be delivered by mail to the Louisville bank which would in turn mail them to Meredith for payment. The indictment also charged that the delay in this mailing would enable the respondent to continue purchasing goods and services for an appreciable period of time.

Respondent was tried by a jury in the United States District Court for the Western District of Kentucky. At trial, representatives of the four motels identified the sales invoices from the transactions on Meredith's BankAmericard which were forwarded to the Louisville bank by their motels. An official of the Louisville bank testified that all of the sales invoices for those transactions were received by the bank in due course through the mail, and that this was the customary method by which invoices representing BankAmericard purchases were transmitted to the Louisville bank. The jury found respondent guilty as charged on all counts, and he appealed the judgment of conviction to the Court of Appeals for the Sixth Circuit. That court reversed the judgment as to the mail fraud statute, but affirmed it as to the Dyer Act. 468 F. 2d (CA6 1972).[1] Because of an apparent conflict among the courts of appeals as to the circumstances under which the fraudulent use of a credit card may violate the mail fraud statute,[2] we granted the Government's petition for certiorari. 411 U. S. 963 (1973). For the reasons stated below, we affirm the judgment of the Court of Appeals.

The applicable parts of the mail fraud statute provide as follows: [3]

> "Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises . . . for the purpose of executing such scheme or artifice or attempting so to do . . . knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any [matter or thing whatever to be sent or delivered by the Postal Service] shall be fined not more than $1,000 or imprisoned not more than five years, or both." 18. U. S. C. § 1341.

In *Pereira* v. *United States*, 347 U. S. 1, 9 (1954), the Court held that one "causes" the mails to be used where he "does an act with knowledge that the use of mails will follow in the ordinary course of business, or where such use can reasonably be foreseen, even though not actually intended . . . ." We assume, as did the Court of Appeals, that the evidence would support a finding by the jury that Maze "caused" the mailings of the invoices he signed from the out-of-state motels to the Louisville bank. But the more difficult question is whether these mailings were sufficiently closely related to respondent's scheme so as to bring his conduct within the statute.[4]

Under the statute, the mailing must be "for the purpose of executing the scheme, as the statute requires," *Kann* v. *United States*, 323 U.S. 88, 94 (1944), but "it is not necessary that the scheme contemplate the use of the mails as an essential element," *Pereira* v. *United States, supra,* at 8. The Government relies on *Pereira, supra,* and *United States* v. *Sampson,* 371 U.S. 75 (1962), to support its position, while respondent relies on *Kann* v. *United States, supra,* and *Parr* v. *United States,* 363 U.S. 370 (1960).

In *Kann, supra,* corporate officers and directors were accused of having set up a dummy corporation through which to divert profits of their own corporation to their own use. As a part of the scheme, the defendants were accused of having fraudulently obtained checks payable to them which were cashed or deposited at a bank and then mailed for collection to the drawee bank. This Court held that the fraud was completed at the point at which defendants cashed the checks:

> "The scheme in each case had reached fruition. The persons intended to receive the money had received it irrevocably. It was immaterial to them, or to any consummation of the scheme, how the bank which paid or credited the check would collect from the drawee bank. It cannot be said that the mailings in question were for the purpose of executing the scheme, as the statute requires." 323 U.S., at 94.

In *Parr* v. *United States, supra,* the defendants were charged, *inter alia,* with having obtained gasoline and other products and services for their own purposes by the unauthorized use of a gasoline credit card issued to the school district which employed them. The oil company which furnished products and services to the defendants would mail invoices to the school district for payment, and the school district's payment was made by check sent in the mail. Relying on *Kann,* the Court again found that there was not a sufficient connection between the mailing and the execution of the defendants' scheme, because it was immaterial to the defendants how the oil company went about collecting its payment.

The defendant in *Pereira, supra,* was charged with having defrauded a wealthy widow of her property after having married her. The Court describes the conduct of defendant in these words:

> "Pereira asked his then wife if she would join him in the hotel venture and advance $35,000 towards the purchase price of $78,000. She agreed. It was then agreed, between her and Pereira, that she would sell some securities that she possessed in Los Angeles, and bank the money in a bank of his choosing in El Paso. On June 15, she received a check for $35,000 on the Citizens National Bank of Los Angeles from her brokers in Los Angeles, and gave it to Pereira, who endorsed it for collection to the State National Bank in El Paso. The check cleared, and on June 18, a cashier's check for $35,000 was drawn in favor of Pereira." 347 U.S., at 5.

Thus the mailings in *Pereira* played a significant part in enabling the defendant in that case to acquire dominion over the $35,000 with which he ultimately absconded.[5] Unlike the mailing in *Pereira,* the mailings here were directed to the end of adjusting accounts between the motel proprietor, the Louisville bank, and Meredith, all of whom had to a greater or lesser degree been the victims of respondent's scheme. Respondent's scheme reached fruition when he checked out of the motel, and there is no indication that the success of his scheme depended in any way on which of his victims ultimately bore the loss.[6] Indeed, from his point of view, he probably would have preferred to have the invoices misplaced by the various motel personnel and never mailed at all.

The Government, however, relying on *Sampson* v. *United States, supra,* argues that essential to the success of any fraudulent credit-card scheme is the "delay" caused by use of the mails "which aids the perpetrator . . . in the continuation of a fraudulent credit card scheme and the postponement of its detection." In *Sampson,* various employees of a nationwide corporation were charged with a scheme to defraud businessmen by obtaining advance fees on the promise that the defendants would either help the businessmen to obtain loans or to sell their businesses. Even after the checks representing the fees had been deposited to the accounts of the defendants, however, the plan called for the mailing of the accepted application together with a form letter assuring the victims that the services for which they had contracted would be performed. The Court found that *Kann* and *Parr* did not preclude the application of the mail fraud statute to "a deliberate, planned use of the mails after the victims' money had been obtained." 371 U.S., at 80.

We do not believe that *Sampson* sustains the Government's position. The subsequent mailings there were designed to lull the victims into a false sense of security, postpone their ultimate complaint to the authorities, and therefore make the apprehension of the defendants less likely than if no mailings had taken place. But the successful completion of the mailings from the motel owners here to the Louisville bank increased the probability that respondent would be detected and apprehended. There was undoubtedly delay in transmitting invoices to the Louisville bank, as there is in the physical transmission of any business correspondence between cities separated by large distances. Mail service as a means of transmitting such correspondence from one city to another is designed to overcome the effect of the distance which separates the places. But it is the distance, and not the mail service,[7] which causes the time lag in the physical transmission of such correspondence.[8]

Congress has only recently passed an amendment to the Truth-in-Lending Act[9] which makes criminal the use of a fraudulently obtained credit card in a "transaction affecting interstate or foreign commerce." Congress could have drafted the mail fraud statute so as to require only that the mails be in fact used as a result of the fraudulent scheme.[10] But it did not do this; instead, it required that the use of the mails be "for the purpose of executing such a scheme or artifice. . . ." Since the mailings in this case were not for that purpose, the judgment of the Court of Appeals is

*Affirmed.*

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Footnotes at end of article.

### FOOTNOTES

[1] The Court of Appeals determined that even though it affirmed respondent's Dyer Act conviction, for which he had received a concurrent five-year sentence, it should also consider the mail fraud convictions as well. There is no jurisdictional barrier to such a decision, *Benton* v. *Maryland*, 395 U.S. 784 (1969), and the court decided that "no considerations of judicial economy or efficiency have been urged to us that would outweigh the interest of appellant in the opportunity to clear his record of a conviction of a federal felony." 463 F. 2d, at 536 n. 6. We agree that resolution of the mail fraud questions presented by this case is appropriate.

[2] The decision of the Court of Appeals for the Tenth Circuit in *United States* v. *Lynn*, 461 F. 2d 759 (1972), appears consistent with the decision of the Sixth Circuit in the instant case. Five other courts of appeals apparently take a contrary view. *E.g., United States* v. *Kellerman*, 431 F. 2d 319 (CA2 1970) cert. denied, 400 U.S. 957 (1970); *United States* v. *Chason*, 451 F. 2d 301 (CA2 1971), cert. denied, 400 U.S. 1016 (1971); *United States* v. *Madison*, 458 F. 2d 974 (CA2 1972), cert. denied, 409 U.S. 859 (1972); *United States* v. *Ciotti*, 469 F. 2d 1204 (CA3 1972), cert. pending, No. 72–6155; *Adams* v. *United States*, 312 F. 2d 137 (CA5 1963); *Kloian* v. *United States*, 349 U.S. 291 (CA5 1965), cert. denied, 384 U.S. 913 (1965); *United States* v. *Reynolds*, 421 F. 2d 178 (CA5 1970); *United States* v. *Thomas*, 429 F. 2d 407 (CA5 1970); *United States* v. *Kelly*, 467 F. 2d 262 (CA7 1972), cert. denied, 411 U.S. 933 (1973); *United States* v. *Kelem*, 416 F. 2d 346 (CA9 1970), cert. denied, 397 U.S. 952 (1970).

[3] The full text of the section reads as follows:

"Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined not more than $1,000 or imprisoned not more than five years, or both."

[4] The Government indicates that in 1969 it was estimated that more than 300 million consumer credit cards were in circulation, with annual charges between $40 billion and $60 billion. It was also estimated that, in 1969, 1.5 million cards were lost or stolen, and that losses due to fraud had risen from $20 million in 1966 to $100 million in 1969. Brief for the United States, at p. 14 n. 2, citing 115 Cong. Rec. 38987 (Dec. 12, 1969). The mail fraud statute, first enacted in 1872, 17 Stat. 323, c. 335, § 301, while obviously not directed at credit card frauds as such, is sufficiently general in its language to include them if the requirements of the statute are otherwise met.

[5] While it is clearly implied in this Court's opinion in *Pereira* that the El Paso bank did not immediately credit the account of the defendant, but instead awaited advice from the Los Angeles bank to which it had mailed the check, the opinion of the Court of Appeals for the Fifth Circuit in *Pereira* makes that fact abundantly clear:

"The return of [the] check from Texas to California constitutes the mailing referred to in the First Count. . . . In mailing the check back to the bank in California on which it was drawn, the El Paso, Texas, bank sent 'instructions to wire fate,' meaning to wire whether the item was paid or not. Upon receiving a telegram stating that the check had been paid, the bank in El Paso gave Pereira its cashier's check for $35,286.01, which Pereira promptly cashed on June 19, 1951." *Pereira* v. *United States*, 202 F. 2d 830, 836 (CA5 1953).

[6] MR. JUSTICE WHITE's dissenting opinion indicates that respondent engaged in a "two week, $2,000 transcontinental spending spree." While we are not sure of the legal significance of the amounts fraudulently charged on the credit card by the respondent, we note that the four counts of mail fraud charged in the indictment were based on charges on Meredith's credit card totaling $301.85. Brief for the Respondent, at p. 4 n. 2; Brief for the United States, at pp. 4–5.

[7] Since we are admonished that we may not as judges ignore what we know as men, we do not wish to be understood as suggesting that delays in mail service are solely attributable to the distance involved. If the Postal Service appears on occasion to be something less than a 20th century version of the wing-footed Mercury, the fact remains that the invoices were mailed to and were ultimately received by the Louisville bank.

[8] Distance is not the only cause of delay. The Court of Appeals noted that BankAmericard had a billing system in which billing was accomplished by collecting receipts over a one-month period and then billing the card holder. 468 F. 2d, at 535. It might reasonably be argued that respondent himself used facilities of interstate travel for the purpose of executing his scheme, since the large distances separating the defrauded motels from one another and from the Louisville bank probably did make it more difficult to apprehend him than if he had simply defrauded local enterprises in Louisville. But the statute is cast not in terms of use of the facilities of interstate travel, but in terms of use of the mails.

[9] 15 U.S.C. § 1644 provides:

"Whoever, in a transaction affecting interstate or foreign commerce, uses any counterfeit, fictitious, altered, forged, lost, or stolen, or fraudulenty obtained credit card to obtain goods or services, or both, having a retail value aggregating $5,000 or more, shall be fined not more than $10,000 or imprisoned not more than five years, or both."

The Court of Appeals felt that the enactment by Congress of the above amendment to the Truth-in-Lending Act manifested a legislative judgment that credit card fraud schemes were to be excluded from the application of the mail fraud statute "unless the offender makes a purposeful use of the mails to accomplish his scheme." 468 F. 2d, at 536.

Respondent contends that the passage of the amendment indicates that Congress believed in 1970 that credit card fraud was not a federal crime under 18 U.S.C. § 1341 or otherwise. Respondent also notes that the legislative history of the passage of the amendment indicates that the original bill, as enacted by the Senate, contained no jurisdictional amount limitation. The Senate-House conferees, at the request of the Department of Justice, later added the limitation limiting federal jurisdiction under the section to purchase exceeding $5,000. Brief for the Respondent, at pp. 16–21.

The Government contends that the Court of Appeals erred in attaching significance to the 1970 amendment, urging that there is no indication that Congress intended its provisions to be the sole vehicle for the federal prosecution of credit card frauds. Brief for the United States, at pp. 33–37, citing *United States* v. *Beacon Brass Co.*, 344 U.S. 43, 45, (1952).

We deem it unnecessary to determine the significance of the passage of the amendment, since we conclude without resort to that fact that the mail fraud statute does not cover the respondent's conduct in this case.

[10] We are admonished by THE CHIEF JUSTICE in dissent that the "mail fraud statute must remain strong to cope with the new varieties of fraud" which threaten "the financial security of our citizenry" and which "the Federal Government must be ever alert to combat." We believe that under our decision the mail fraud statute remains a strong and useful weapon to combat those evils which are within the broad range of its language. If the Federal Government is to engage in combat against fraudulent schemes not covered by the statute, it must do so at the initiative of Congress and not of this Court.

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[Supreme Court of the United States, No. 72–1168]

UNITED STATES, PETITIONER, v.
THOMAS E. MAZE

(On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit, January 8, 1974)

MR. CHIEF JUSTICE BURGER, with whom MR. JUSTICE WHITE joins, dissenting.

I join in the dissent of MR. JUSTICE WHITE which follows but add a few observations on an aspect of the Court's holding which seems of some importance. Section 1341 of Title 18, U.S.C., has traditionally been used against fraudulent activity as a first line of defense. When a "new" fraud develops—as constantly happens—the mail fraud statute becomes a stop-gap device to deal on a temporary basis with the new phenomenon, until particularized legislation can be developed and passed to deal directly with the evil. "Prior to the passage of the 1933 [Securities] Act, most criminal prosecutions for fraudulent securities transactions were brought under the Federal Mail Fraud Statute." A. Matthews, Criminal Prosecutions Under the Federal Securities Laws and Related Statutes: The Nature and Development of SEC Criminal Cases, 39 Geo. Wash. L. Rev. 901, 911 (1971). Loan sharks were brought to justice by means of 18 U.S.C. § 1341, S. Lynch, Prosecuting Loan Sharks Under the Mail Fraud Statute, 14 Ford, L. Rev. 150 (1945), before Congress, in 1968, recognized the interstate character of loansharking and the need to provide federal protection against this organized crime activity, and enacted 18 U.S.C. § 891, *et seq.*, outlawing extortionate extensions of credit. Although inadequate to protect the buying and investing public fully, the mail fraud statute stood in the breach against frauds connected with the burgeoning sale of undeveloped real estate, until Congress could examine the problems of the land sales industry and pass into law the Interstate Land Sales Full Disclosure Act, 15 U.S.C. § 1701, *et seq.* R. Coffey and J. Welch, Federal Regulation of Land Sales: Full Disclosure Comes Down to Earth, 21 Case W. Res. L. Rev. 5 (1969). Similarly, the mail fraud statute was used to stop credit card fraud, before Congress moved to provide particular protection by passing 15 U.S.C. § 1644.

The mail fraud statute continues to remain an important tool in prosecuting frauds in those areas where legislation has been passed more directly addressing the fraudulent conduct. Mail fraud counts fill pages of securities fraud indictments even today. A. Mathews, Criminal Prosecutions Under the Federal Securities Laws and Related Statutes: The Nature and Development of SEC Criminal Cases, 39 Geo. Wash. L. Rev. 901, 911 (1971). Despite the pervasive government regulation of the drug industry, postal fraud statutes still play an important role in controlling the solicitation of mail-order purchases by drug distributors based upon fraudulent misrepresentations. F. Hart, The Postal Fraud Statutes: Their Use and Abuse, 11 Food Drug Cosm. L. J., 245, 247, 261 (1956). Maze's interstate escapade—of which there are numberless counterparts—demonstrates that the federal mail fraud statute should have a place in dealing with fraudulent credit card use even with 15 U.S.C. § 1644 on the books.

The criminal mail fraud statute must remain strong to be able to cope with the new varieties of fraud that the ever-inventive American "con artist" is sure to develop. Abuses in franchising and the growing scandals from pyramid sales schemes are but some of the threats to the financial security of our citizenry that the Federal Government must be ever alert to combat. Comment, Multi-Level or Pyramid Sales Systems: Fraud or Free Enterprise, 18 S. Dak. L. Rev., 358 (1973).

The decision of the Court in this case should be viewed as limited to the narrow facts of Maze's criminal adventures on which the Court places so heavy a reliance, and to the Court's seeming desire not to flood the federal courts with a multitude of prosecutions for relatively minor acts of credit card misrepresentation considered as more appropriately the business of the States. The Court of Appeals, whose judgment is today affirmed, was careful to state that "[w]e do not hold that the fraudulent use of a credit card can never constitute a violation of the mail fraud statute." *United States* v. *Maze*, 468 F. 2d 529, 536 (CA6 1972). The Court's decision, then, correct or erroneous, does not mean that the United States ought, in any way, to slacken its prosecutorial efforts under 18 U.S.C. § 1341 against those who would use the mails in schemes to defraud the guileless members of the public with worthless securities, patent medicines, deeds to arid and inaccessible tracts of land, or other empty promises of instant wealth and happiness. I agree with Mr. Justice White that the judgment of the Court of Appeals was error and should be reversed.

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[Supreme Court of the United States, No. 72–1168]

UNITED STATES, PETITIONER, v. THOMAS E. MAZE

(On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit, January 8, 1974)

Mr. Justice White, with whom The Chief Justice, Mr. Justice Brennan, and Mr. Justice Blackmun concur, dissenting.

Until today the acts charged in the indictment in this case—knowingly causing four separate sales invoices to be mailed by merchants to the bank that had issued the stolen BankAmericard in furtherance of a scheme to defraud the bank by using the credit card without authorization and by falsely securing credit—would have been a criminal offense punishable as mail fraud under 18 U.S.C. § 1341.[1] But no more. By misreading this Court's prior decisions and giving an unambiguous federal criminal statute an unrealistic reading, the majority places beyond the reach of the statute a fraudulent scheme that by law is not consummated until after the mails have been used, that utilizes the mails as a central, necessary instrumentality in its perpetration, and that demands federal investigatory and prosecutorial resources if it is to be effectively checked. Because I cannot subscribe to the majority's reasoning or the result it reaches, I dissent.

As "part of his scheme and artifice to defraud," respondent was charged with "obtain[ing] property and services on credit through the use of" an unlawfully possessed BankAmericard and "by means of false and fraudulent pretenses, representations and promises. . . ." App., at 5, 6. The property and services were obtained from Citizens Fidelity Bank and Trust Company of Louisville, Kentucky, a BankAmericard licensee, Charles Meredith, the authorized card holder and user, and various persons and business concerns "which had previously entered into agreements with BankAmericard to furnish property and services on credit to the holders of BankAmericards . . . ." *Id.*, at 6. The indictment also charged that the mails played an indispensable role in respondent's fraudulent activities:

"It was a further part of his scheme and artifice to defraud that the defendant would and did obtain property and services on credit through the use of [the] BankAmericard . . . by charging purchases on credit, well knowing at the time that the bank copies of the sales invoices recording these purchases would be, and were, delivered by mail to Citizens Bank and Trust Company, Louisville, Kentucky, according to the directions thereon for posting to the BankAmericard account of Charles L. Meredith, that copies of these sales invoices, together with a bill for the accumulated charges, would subsequently be mailed in the normal course of business to Charles L. Meredith; and that the delay inherent in this posting and mailing would enable the defendant to continue to make purchases with [the] BankAmericard . . . before his scheme and artifice to defraud could be detected." *Id.*, at 6–7.

## I

Section 1341 proscribes use of the mails "for the purpose of executing" a fraudulent scheme. The trial court had instructed the jury that it could convict on the four mail fraud counts only if it found, *inter alia*, that "the mails were in fact used *to carry out* the scheme and that the use of the mails was reasonably foreseeable. The mail matter need not disclose on its face a fraudulent representation or purpose, but need only be intended *to assist in carrying out* the scheme to defraud. App., at 37 (emphasis added). Viewing each fraudulent transaction as consummated at the time respondent received goods in exchange for signing the BankAmericard sales drafts, the Court of Appeals held that respondent did not cause the subsequent mailings "for the *purpose* of executing his fraudulent scheme." *United States* v. *Maze*, 468 F. 2d 529, 535 (CA6 1972) (emphasis in original). The court below acknowledged that "the fraud was directed against the card issuer and the card holder," but it nevertheless concluded that the relevant perspective was respondent's. "As far as [respondent] was concerned, his transaction was complete when he checked out of each motel; the subsequent billing was merely 'incidental and collateral to the scheme and not a part of it.'" *Id.*, at 534, quoting *Kann* v. *United States*, 323 U.S. 83, 95 (1944).

The majority has uncritically embraced this unnecessarily restrictive approach to construing the statute. Like the Court of Appeals, it has selectively seized upon language in our prior decisions in pursuit of its notion that the fraudulent scheme ended when respondent duped the motels into giving him goods and services on credit. We are told, for example, that as in *Kann*, *supra*, where the mails were used to deliver checks drawn from a dummy corporation as part of a scheme by corporate officers to defraud their own corporation, that the scheme here "had reached fruition," that the person "intended to receive the [goods and services] had received it irrevocably," that it was "immaterial . . . to any consummation of the scheme" how the sales invoices were forwarded by the motels to the issuing bank for payment and billing to the card holder, and that the so-called billing process was, as previously noted, "incidental and collateral to the scheme and not a part of it." 323 U.S., at 94, 95. "Therefore, only if the mailings were 'a part of the execution of the fraud,' or as we said in *Pereira* v. *United States*, 347 U.S. 1, 8, were 'incident to an essential part of the scheme,' do they fall within the ban of the federal mail statute." *Parr* v. *United States*, 363 U.S. 370, 390 (1960).

What the majority overlooks is the salient fact that the fraud in this case—and most others involving unauthorized use of credit cards—was practiced on the card issuer and not on the individual merchants who furnished lodgings and meals to respondent. As the Court of Appeals itself recognized, "[t]he merchants who honored the BankAmericard were likely insulated from loss under their agreements with BankAmericard. *See* Brandel & Leonard, Bank Charge Cards: New Cash or New Credit, 69 Mich. L. Rev. 1033, 1040 (1971)." 468 F. 2d, at 534 n. 3.[2] Here, then, the fraud was ultimately perpetrated upon the credit card issuer and not the merchant.[3] The mails thus became "part of the execution of the fraud. . . ." *Kann* v. *United States*, *supra*, 323 U.S., at 95. Indeed, they were "an essential element" and not merely "incident to an essential part of the scheme. . . ." *Pereira* v. *United States*, *supra*, 347 U.S., at 8.

Nor had respondent's plan reached fruition. For his part, he may very well not have schemed beyond obtaining the goods and services under false pretenses with a stolen credit card. But from a legal standpoint of criminal fraud, this was only the first and certainly "not the last step in the fraudulent scheme. It was a continuing venture. . . . The use of the mails was critical to the success of the fraudulent project. We are not justified in chopping up . . . the scheme into segments and isolating one part from the others. That would be warranted if the scheme were to defraud [only the merchants]. But it is plain that these plans had a wider reach and that but for the use of the mails they would not have been finally consummated." *Kann* v. *United States*, *supra*, 323 U.S., at 96 (Douglas, J., dissenting).

Since it was the card-issuing bank that was actually defrauded, the mails were employed "for the purpose of executing [the] scheme. . . ."

## II

The mails further contributed to the realization of respondent's fraudulent scheme by creating the delay in detecting the fraud that necessarily results from the time-consuming processing of credit card invoices by mail. See *United States* v. *Chasson*, *supra*, 451 F. 2d, at 303–304. During his two week, $2,000 transcontinental spending spree, respondent took full advantage of this inevitable delay to continue his unlawful activities. If the motel owners had employed an instantaneous identification or verification system, respondent's fraudulent scheme would most likely have been nipped in the bud. But the simple truth of the matter is that they did not. As a direct consequence of the prevailing business practice of mailing invoices to the issuer for subsequent billing to the card holder and the system's attendant time delays, respondent was able to buy valuable time to postpone detection and thereby execute his scheme.

The majority mysteriously ignores prior decisions that 18 U.S.C. § 1341 reaches "cases where the use of the mails is a means of concealment so that further frauds which are a part of the scheme may be perpetrated." *Kann* v. *United States*, *supra*, 323 U.S., at 94–95. See *United States* v. *Hendrickson*, 394 F. 2d 807 (CA6 1968), cert. denied, 393 U.S. 1031 (1969); *United States* v. *Riedel*, 126 F. 2d 596, 599 (CA7 1940), cert. denied, 311 U.S. 717. Moreover, it fails to take appropriate account of our most recent decision construing § 1341. In *United States* v. *Sampson*, 371 U.S. 75 (1962), an indictment for mail fraud

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Footnotes at end of article.

had been dismissed by the District Court on the ground that the mailings after the money had already been obtained from the victims were not "for the purpose of executing" the scheme to defraud. We reversed.

"We are unable to find anything in either the *Kann* or *Parr* case which suggests that the Court was laying down an automatic rule that a deliberate, planned use of the mails after the victims' money had been obtained can never be 'for the purpose of executing' the defendants' scheme. Rather the Court found only that under the facts in those cases the schemes had been fully executed before the mails were used. And Court of Appeals decisions rendered both before and after *Kann* have followed the view that subsequent mailings can in some circumstances provide the basis for an indictment under the mail fraud statutes." 371 U.S., at 80 (footnote omitted).

As previously indicated, the indictment here charged that respondent knew that the delay inherent in the posting and mailing of the credit card invoices would enable him to continue making purchases with the purloined card before his criminal conduct could be detected. Respondent engaged in a criminal enterprise that is by its very nature short-lived. Every time delay in the card holder's receipt of the forged credit card slips allows the scheme to continue that much longer. For my part, the indictment charge a crime under 18 U.S.C. § 1341, and the Government established respondent's guilt beyond a reasonable doubt.

### III

The majority's decision has ramifications far beyond the mere reversal of a lone criminal conviction. In this era of the "cashless" society, Americans are increasingly resorting to the use of credit cards in their day-to-day consumer purchases. Today well over 300 million credit cards are in circulation, and annual charges exceed $60 billion. In 1969 alone, 1.5 million credit cards were lost or stolen, resulting in fraud losses exceeding $100 million, 115 Cong. Rec. 38987 (1969). Current estimates of annual credit card fraud losses are put as high as $200 million. Cleveland, Bank Credit Cards: Issuers, Merchants and Users, 90 Banking L. J. 719, 729 (1973). Under the result reached by the majority, only those credit card frauds exceeding $5,000 covered by 15 U.S.C. § 1644 will be subject to federal criminal jurisdiction.

Yet this burgeoning criminal activity, as evidenced by the very facts of this case, does not recognize artificial state boundaries. In the future, nationwide credit card fraud schemes will have to be prosecuted in each individual State in which a fraudulent transaction transpired. Here, for example, respondent must now be charged and tried in California, Louisiana, and Florida. This result, never intended by Congress, may precipitate a widespread inability to apprehend and/or prosecute those who would hijack the credit card system.

I dissent.

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FOOTNOTES

[1] See, *e. g., United States* v. *Kelly*, 467 F. 2d 262 (CA7 1972), cert. denied, —— U.S. ——; *United States* v. *Madison*, 458 F. 2d 974 (CA2 1971), cert. denied 400 U.S. 859; *United States* v. *Chason*, 451 F. 2d 301 (CA2 1971), cert. denied, 405 U.S. 1016; *United States* v. *Kellerman*, 431 F. 2d 319 (CA2 1970), cert. denied, 400 U.S. 957; *United States* v. *Thomas*, 429 F. 2d 407 (CA5 1970); *United States* v. *Kelem*, 416 F. 2d 346 (CA9 1969), cert. denied, 397 U.S. 952; *Adams* v. *United States*, 312 F. 2d 137 (CA5 1963).

The majority recognizes that prior to this decision at least five courts of appeals had taken a view contrary to that reached by the court below. *Ante*, at —— n. 2. The Court of Appeals in this case relied upon *United States* v. *Lynn*, 461 F. 2d 759 (CA10 1972), but the indictment in that case did not allege that the plan defrauded the authorized card holder or the credit card issuer.

[2] Almost all of the bank credit card systems presently in operation in this country rely upon a three-way transaction between the card issuer, the card holder, and a subscribing retailer. This tripartite credit card arrangement basically entails three separate contractual agreements: (1) between the bank issuing the credit card and the individual card holder; (2) between one of the banks in the system and a local merchant; and (3) between the merchant and the card holder. See generally, Comment, The Tripartite Credit Card Transaction: A Legal Infant, 48 Calif. L. Rev. 459 (1960).

"The most important of the many parties to such a system is the bank which issues the charge cards to the public. The issuer-bank establishes an account on behalf of the person to whom the card is issued, and the two enter into an agreement which governs their relationship. This agreement establishes a line of credit under which the cardholder may incur obligations to the issuer by a cash advance or through a purchase of goods or services from one of the merchant-members.

"These merchants also have an agreement with the banks requiring them to honor all charge cards issued by a member-bank, and enabling them to deposit slips evidencing sales to cardholders in an ordinary checking account at the bank with which he has reached an agreement in return for a discounted credit to that account. These slips are then cleared and forwarded through an interchange system to the member-bank which originally issued the card and from which the cardholder will be billed periodically. The cardholder must then decide whether to make payment in full within a specified period, free of finance charges, or to defer payment and ultimately be charged an extra percentage of the amount billed." Comment, Bank Credit Cards—Contemporary Problems, 41 Ford. L. Rev. 373, 374 (1972) (footnote omitted).

Because the legal relationship between the parties is dictated by the terms of their respective agreements, the contract governs the distribution of risk for credit cards frauds between the merchant and the issuer. Under most systems, with certain exceptions for negligence on the part of the merchant if he honors an expired card or one appearing on the current "stop list" or if he makes a sale for an amount in excess of the card holder's credit line, the issuer assumes all risks for frauds. Murray, A Legal-Empirical Study of the Unauthorized Use of Credit Cards, 21 U. Miami L. Rev. 811, 813 (1967); Note, Credit Cards: Distributing Fraud Loss, 77 Yale L. J. 1418, 1420 (1968); Comment, The Tripartite Credit Card Transaction, 48 Calif. L. Rev. 459, 464–465 (1960).

"'As far as the merchant is concerned, he is in the same financial and legal position as if he were receiving certified checks on a bank that does not clear at par, with no risk that the check will be returned or payment stopped, or as if he were receiving cash at a small discount for the bank's services. This firm bank commitment is what makes the merchant willing to accept a bank card as freely as cash and what makes the bank card as good as cash to its holder (and without the risks of carrying cash).

"'Under these arrangements, the card-issuing bank takes all the credit risk, which is appropriate to the banking function it performs, the cardholder selects the merchant with whom he will deal, and the bank and the cardholder-purchaser expect the merchant to assume the merchandise risk. It is this division and allocation of risks between merchant and bank which permits the bank card to be used as though it were cash with hundreds of thousands of participating merchants throughout the country and abroad.'" Cleveland, Bank Credit Cards: Issuers, Merchants, and Users, 90 Banking L. J. 719, 723–724 (1973), quoting Statement of the American Bankers Association, the Consumers Bankers Association, Interbank Credit Card Association, and National BankAmericard, Inc. to the Federal Trade Commission in the Matter of Revised Proposed Trade Regulation Rule on Preservation of Consumers' Claims and Defenses, p. 4 (March 5, 1973).

[3] Section 133(a) of the Consumer Credit Protection Act limited the card holder's liability for the unauthorized use of his credit card to $50. 15 U.S.C. § 1643(a).

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Mr. HRUSKA. Mr. President, I am pleased to join my distinguished colleague from Massachusetts (Mr. KENNEDY) in cosponsoring this bill to amend the Federal mail fraud statute, 18 U.S.C. 1341, and thereby solve a problem raised in the recent Supreme Court opinion of *United States* v. *Maze*, 42 L.W. 4113 (January 8, 1974). In Maze, the five member majority construed the subject mail fraud statute as an inappropriate foundation for prosecuting many cases involving credit card fraud.

The mail fraud statute requires that the mails be utilized "for the purpose of executing" a scheme to defraud. The Court held in Maze that the mailing of sales charges bearing a fraudulent signature was not sufficiently related to the scheme of misusing a stolen credit card to be proscribed by the statute.

This bill would amend 18 U.S.C. 1341 and make prosecutable any fraudulent scheme in which the mails are used "for the purpose of, as an incident to, or as a result of executing—or attempting" such a scheme. Thus, the credit card scheme in Maze and fraudulent schemes of a similar nature would clearly fall within the amendment statute.

In an era of the "cashless" society, Americans are increasing their use of credit cards for consumer purchases. I understand that today over 300 million credit cards are in circulation. Current estimates of annual credit card fraud losses are estimated to be in the neighborhood of $200 million. Thus, the importance of this measure as a necessary law enforcement tool is self-evident.

I am confident that this proposal, if enacted, can be used to accomplish significant results in reducing this type of criminal activity. Therefore, I am hopeful that prompt and favorable action will be taken on this measure.

## ADDITIONAL COSPONSORS OF BILLS

### S. 1359

At the request of Mr. MCCLELLAN, the Senator from Iowa (Mr. CLARK) was added as a cosponsor of S. 1359 to amend section 9 of title 17 of the United States Code.

### S. 1388

At the request of Mr. TALMADGE, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S. 1388, to authorize the Secretary of Agriculture to encourage and assist the several States in carrying out a program of animal health research.

S. 1434

At the request of Mr. HUMPHREY, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 1434 a bill to amend the Internal Revenue Code of 1954 to disregard children's benefits received by an individual under the Social Security Act in determining whether that individual is a dependent of a taxpayer.

S. 2488

At the request of Mr. KENNEDY, the Senator from Illinois (Mr. STEVENSON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Indiana (Mr. BAYH), the Senator from Michigan (Mr. HART), and the Senator from California (Mr. CRANSTON) were added as cosponsors of S. 2488, to extend title VII of the Older Americans Act of 1965, the nutrition for the elderly program.

S. 2782

At the request of Mr. NELSON, the Senator from Iowa (Mr. HUGHES), and the Senator from New Mexico (Mr. MONTOYA) were added as cosponsors of S. 2782, to establish a National Energy Information System, to authorize the Department of the Interior to undertake an inventory of U.S. energy resources on public lands and elsewhere, and for other purposes.

S. 2821

At the request of Mr. JAVITS, and by unanimous consent, the Senator from New Mexico (Mr. DOMENICI) and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 2821, to extend the authorization of appropriations for the Cabinet Committee on Opportunities for Spanish-Speaking People.

S. 2854

At the request of Mr. CRANSTON, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Iowa (Mr. HUGHES), the Senator from Vermont (Mr. STAFFORD), the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Michigan (Mr. HART), and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of S. 2854, a bill to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance a national attack on arthritis.

S. 2894

At the request of Mr. DOLE, the Senator from Ohio (Mr. TAFT) was added as a cosponsor of S. 2894, to terminate the Emergency Daylight Saving Time Energy Conservation Act of 1973.

S. 2906

Mr. MONDALE. Mr. President, yesterday I introduced S. 2906 calling for a $200 tax credit for dependents as an alternative to the regular deduction from the adjusted gross income. I ask unanimous consent that my colleague from Minnesota (Mr. HUMPHREY) be added as a cosponsor of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SENATE RESOLUTION 250—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON VETERANS' AFFAIRS FOR INQUIRIES AND INVESTIGATION

(Referred to the Committee on Rules and Administration.)

Mr. TALMADGE, from the Committee on Veterans' Affairs, reported the following original resolution:

S. RES. 250

*Resolved*, That in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Veterans' Affairs or any subcommittee thereof is authorized from March 1, 1974, through February 28, 1975, in its discretion (1) to make expenditures from the contingent fund of the Senate (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursement basis the services of personnel of such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $275,000, of which amount not to exceed $50,000 may be expended for the procurement of the services of individual consultants or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1975.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

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## SENATE RESOLUTION 251—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO MARGARET G. COBEL

(Placed on the calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 251

*Resolved*, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Margaret G. Cobel, widow of Jimmy J. Cobel, an employee of the Architect of the Capitol assigned to duty in the Senate Office Buildings at the time of his death, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

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## SENATE RESOLUTION 252—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO RUTH W. MOSS

(Placed on the calender.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 252

*Resolved*, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Ruth W. Moss, mother of J. Rulon Moss, an employee of the Senate at the time of his death, a sum equal to four months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

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## SENATE RESOLUTION 253—SUBMISSION OF A RESOLUTION RELATING TO COMPARATIVE PRINTS OF CERTAIN BILLS AND JOINT RESOLUTIONS

(Referred to the Committee on Rules and Administration.)

Mr. HATHAWAY. Mr. President, today I am submitting a resolution to extend the so-called Cordon rule of the Senate, rule XXIX(4), to cover the entire process of bill consideration in the Senate committees.

The Cordon rule, adopted by the Senate in 1949, requires that in reporting a bill to the Senate, a committee must provide an accompanying document showing the text of the statute or part thereof which is proposed to be repealed, and a comparative print of that part of the bill or joint resolution making the amendment, and of the statute or part thereof proposed to be amended, showing by appropriate typographical devices the omissions and insertions which would be made by the bill or joint resolution if enacted in the form recommended by the committee.

The purpose of the Cordon rule is to make clear the effect of proposed legislation on existing law. Both in terms of clarification and efficiency, the rule has proven helpful to Members of the Senate, and has undoubtedly expedited the floor work of the Senate. With the Senate workload increasing all the time, I feel we can utilize this helpful tool even more extensively in the legislative process.

In the belief that the expanded application of the Cordon rule would benefit the Senate, I am introducing a resolution requiring that the rule apply during the most preliminary consideration in subcommittee hearings, through final committee consideration of a bill or resolution.

Mr. President, I ask unanimous consent that the text of the resolution be printed in the RECORD at this point.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S. RES. 253

*Resolved*, That rule XXIX of the Standing Rules of the Senate is amended by adding at the end thereof the following paragraph:

"5. Whenever a committee or subcommittee thereof considers at committee or subcommittee meetings (including hearings), a bill or joint resolution repealing or amending any statute or part thereof, the committee or subcommittee, as the case may be, shall have at hand an accompanying document (to be prepared by the staff of such committee or subcommittee) which includes (1) the text of the statute or part thereof which is proposed to be repealed, and (2) a comparative print of that part of the bill or joint resolution making the amendment and of the statute or part thereof proposed to be amended, showing by stricken-through type and italics, parallel columns, or other appropriate typographical devices the omissions and insertions which would be made by the bill or joint resolution if enacted in the form in which it was introduced, or, in the case of such a bill or joint resolution first considered by a subcommittee of a committee, in the form recommended by the subcommittee."

## SENATE RESOLUTION 254—SUBMISSION OF A RESOLUTION RELATING TO THE PRESENT HIGH PRICE OF PROPANE GAS

(Referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. FULBRIGHT. Mr. President, I am today submitting a Senate resolution requesting the Federal Energy Office to promulgate new regulations which will alleviate the present high price of propane.

Propane is a particularly important fuel in predominately rural states such as Arkansas. Arkansas ranked fourth in total sales of liquid petroleum gas in 1972, and was the largest per capita user in the country. Furthermore, propane is often used by those who can least afford dramatic price increases—low income Americans and senior citizens who live on fixed incomes.

The rate at which propane gas prices have risen is absolutely incredible. For example, the delivered price from the Phillips Petroleum Co., terminal in West Memphis, Ark., to an LP gas dealer in West Memphis was 8.27 cents per gallon in January 1973. By August 1973, it had increased to 10.08 cents, and on January 11, 1974, the price had risen to 26.95 cents. Thus in the course of 1 year the price had increased from 8.27 cents to 26.95 cents. The price now is 300 percent of what it was 1 year ago. This is not an extreme example, and, in fact, some LP gas dealers have faced larger increases.

Of course, these price increases at the wholesale level mean higher prices to the consumer. The LP dealer in West Memphis I discussed above was charging 18 cents a gallon to the domestic consumer in January 1973, and 23 cents in August 1973. He is now charging 38 cents a gallon. Under the administration's price regulations, the LP dealer is not making any extra profit because of the price increases. He is merely allowed to pass on his increased costs. In fact, the markup of the West Memphis dealer last August was 12.92 cents—23–10.08—and is now 11.05 cents—38–26.95. Thus the problem is at the wholesale price level, not at the retail level. The LP gas dealers I have talked with want a lower price for their consumers.

Propane is used extensively in rural Arkansas for heating and cooking purposes. For many Arkansans living on low or fixed incomes, the high cost of propane is not stretching their budgets, it is busting them. Fuel costs for many of these Arkansans are now $100 and more a month. A low-income family cannot afford this. Retired citizens living on social security or on a pension cannot afford this.

Propane is also vitally important to agricultural production. For example, the poultry industry is very dependent on propane. The high prices for this fuel can only result in shortages and increased costs of food. Therefore every American has a stake in this issue.

The prices of all fuels have increased greatly in recent months, and I certainly recognize that consideration must be given to the increased costs of crude oil and to the need for an economic incentive to encourage energy production. However, there is no justifiable reason for a 200 to 300-percent rise in price over a period of months. It is apparent that the administration's price regulations have not only allowed, but have actually encouraged this price rise. These regulations allow the refiner to pass through increased product costs. However, the refiners are given great discretion in allocating these cost increases to any of the various refined products.

Furthermore, gasoline, home heating oils, and diesel fuels are given special treatment. The result is that these refiners have been allocating a large portion of the cost increases to propane in spite of the fact that propane gas is a minor percentage of the final product of the refining process. In fact, approximately 70 percent of the propane produced comes from natural gas, the price of which has grown relatively slowly. Thus increases in production costs which have nothing to do with propane production are being allocated to propane. In effect, propane purchasers are subsidizing users of other fuels.

The Federal Energy Office is currently considering new regulatons on the price of propane. The Senate should urge that Office to adopt regulations that will effectively reduce the present high price.

The resolution reads as follows:

### S. Res. 254

Whereas there has been an unprecedented increase in the price of propane gas in recent months;

Whereas propane is used extensively in agricultural production and by senior citizens and citizens of low income who cannot afford to pay the present price of propane; and

Whereas the price increases in propane are largely attributable to price regulations which have allowed refiners to apportion an excessive amount of increased product costs to propane: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that the Administration of the Federal Energy Office should, and is hereby urged and requested to, promulgate new regulations which will alleviate the present high price of propane.

## ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

### SENATE CONCURRENT RESOLUTION 63

At the request of Mr. Percy, the Senator from Idaho (Mr. Church), the Senator from New York (Mr. Javits), the Senator from South Dakota (Mr. McGovern), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pell), the Senator from Pennsylvania (Mr. Hugh Scott), and the Senator from Alabama (Mr. Sparkman) were added as cosponsors of Senate Concurrent Resolution 63, to seek new efforts to obtain compliance with the terms of the Paris peace agreement as they apply to prisoners of war and personnel missing in action.

## NOTICE OF HEARINGS ON S. 2885 BY THE INTERIOR COMMITTEE

Mr. JACKSON. Mr. President, on January 31, and February 1, 1974, the Senate Interior Committee will hold hearings on S. 2885, to direct the President to establish ceiling prices on petroleum crude oil and refined petroleum products.

Recent price increases for crude oil and petroleum products are having a substantial economic impact. This measure amends the Emergency Petroleum Allocation Act—Public Law 93–159—to require ceiling prices on all crude oil, refined petroleum products, and related goods. These ceilings would prevent increases in excess of those that would actually increase long-run supply and diminish long-run demand.

Ceiling prices would be limited to a dollar-for-dollar cost passthrough, except for the sole purpose of encouraging increased domestic exploration and production of crude oil or investment in new refining and transportation capacity. Any such increase would have to be accompanied by a detailed statement of the extent and the means by which any price increases which are greater than a passthrough of cost can be reasonably expected to increase supply.

On January 31, the hearing will convene at 2 p.m. in room 3110 of the Dirksen Senate Office Building. The invited witnesses are: The Honorable Lee C. White, chairman, Energy Policy Task Force, Consumer Federation of America, Washington, D.C.; George Meany, president, AFL–CIO, Washington, D.C., and Frank N. Ikard, president, American Petroleum Institute, Washington, D.C.

On February 1, the hearing will convene at 9:30 a.m. in room 3110 of the Dirksen Senate Office Building. The invited witnesses are: The Honorable William E. Simon, Administrator, Federal Energy Office; the Honorable Herbert Stein, Chairman, Council of Economic Advisers; the Honorable George P. Shultz, Secretary, Department of the Treasury, and the Honorable John T. Dunlop, Director, Cost of Living Council.

These hearings are being held as part of the national fuels and energy policy study. Individuals desiring to file a statement commenting on the bill or the following general questions and policy issues are requested to transmit 10 copies to the committee by February 8, 1974.

The general questions follow:

### General Questions and Policy Issues, Hearings on S. 2885

#### A. IMPACT OF CRUDE OIL AND PETROLEUM PRODUCT PRICE INCREASES

1. What has been the impact of recent price increases in crude oil and petroleum products and what will be the impact of expected further increases on:

(a) the economy generally (the growth rate, inflation, etc.);

(b) state and regional economies;

(c) the output, employment and viability of major consuming industries, and

(d) individual consumers of petroleum products.

#### B. PETROLEUM PRODUCT PRICES, CRUDE OIL SUPPLY AND PRICES

1. For each month since January 1971, and each week since October 1973, indicate

average wholesale and retail prices, and the range of prices, for the major categories of refined petroleum products, by region of the United States.

2. For each month since January 1971, and each week since October 1973, indicate the volume and proportion of crude oil run in U. S. refineries:

(a) produced in other countries;

(b) produced from domestic stripper wells, and

(c) produced from other domestic wells. For the period for which the distinctions are relevant, subdivide this category pursuant to COLC regulations into:

(1) new oil;

(2) released, old, or flowing oil, and

(3) price-controlled old oil.

3. Indicate the average prices (or, if averages are not available, representative prices for each time period and category of crude oil listed in question (1) above.

4. What, in your judgment, is the "long-term supply price" or "long-term market clearing price" of crude oil in the United States? For purposes of this question, this price is the level which, if established and maintained in 1974 dollars, would permit the United States to be 85 to 90 percent self-sufficient in crude oil by 1980, taking into account opportunities for fuel substitution and production of synthetic crude oil, and the impact of price upon demand. Include or reference any recent analyses that support this estimate, and list other major assumptions underlying the estimate.

5. a. If all crude oil prices were to be decontrolled, in your judgment, what level would average domestic crude oil prices reach in the short-run before levelling off as a result of the impact of price on supply and demand? (Consider two cases, (1) stabilization of import prices at current levels, and (2) continuing increases in import prices).

b. If all crude oil prices were to be decontrolled now, how long in your judgment would it take before prices fall to long-term supply or market clearing levels? Include or reference any recent analyses that support these estimates, and list any other major assumptions of the estimates.

6. What, if any, justifications are there for allowing the prices of domestic crude oil, or any part thereof, to rise above the estimated long-term supply price? Consideration should be given to, but need not be limited to, the short term responsiveness of stripper well production, increased recovery rates and new exploration and development, to crude oil prices.

7. What, if any, would be the reduction of production below levels expected under present rules currently and over the next two years resulting from each of the following:

(a) rolling back the ceilings on old or flowing oil to November 1 levels;

(b) eliminating the "released oil" bonus for new-oil production;

(c) enforcing a ceiling price on new crude oil at—

(1) $4.25.

(2) $5.25.

(3) $6.00.

(4) $7.00.

(d) enforcing a ceiling price on crude oil from stripper wells at each of the prices in (c) above.

8. Assuming domestic crude oil prices are to be controlled,

(a) what are the comparative advantages and disadvantages of (1) the two price system that attempts to distinguish the relatively price-responsive and price-unresponsive components of supply, and (2) a single (intermediate) price ceiling?

(b) to what extent do the current definitions of oil and new oil in the price stabilization regulations provide an effective and workable distinction between relatively price-responsive and price-unresponsive components of supply?

(c) what are the relative advantages and disadvantages of different price control treatment of stripper wells for (1) old oil, or (2) new oil?

C. EVALUATION OF S. 2885

The purposes of the price rollback bill introduced by Senator Jackson and others are:

(1) to require price controls on all domestically produced crude oil, whether "old," "new," or from stripper wells;

(2) to limit crude oil price ceilings to the long-term supply price or long-term market clearing price (as defined in question B-4 above);

(3) to establish as a primary criterion for price increases for crude oil and refined petroleum products, actual cost increases involved, and

(4) to provide for exceptions to the cost pass-through criterion, solely for the purpose of increasing supply, but for such exceptions to require a detailed statement in support of any such increase, setting out the amount and timing of additional production to be expected as a result of the contemplated price increases.

To what extent, if at all, are these objectives desirable, workable and attainable; and to what extent would S. 2885, as filed, satisfactorily implement these objectives?

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## NOTICE OF HEARINGS ON ENERGY INFORMATION LEGISLATION

Mr. JACKSON. Mr. President, on February 5 and 6, 1974, the Interior Committee will begin hearings on S. 2782, the Energy Information Act, to establish a National Energy Information System, to authorize the Department of the Interior to undertake an inventory of the U.S. energy resources on public lands and elsewhere, and for other purposes. Testimony also will be received on related legislation, including S. 2861, a bill to authorize the Administrator of the Federal Energy Office to obtain certain information with respect to supplies of crude oil and petroleum products.

These hearings will be held by the Interior Committee as part of the Senate's National Fuels and Energy Policy Study. They will convene at 10 a.m. in room 3306 of the Dirksen Senate Office Building. Two additional days of hearings have been scheduled for February 14 and 15, 1974.

Written comments have been requested from a large number of Federal Departments and Agencies, associations, and individuals. The invited witnesses for February 5 are: The Honorable William E. Simon, Administrator, Federal Energy Office; Joseph Fisher, President, Resources for the Future, Washington, D.C.; Lee C. White, Chairman, Energy Policy Task Force, Consumer Federation of America, Washington, D.C.; Dr. S. David Freeman, Ford Foundation Energy Policy Project, Washington, D.C.; Jesse M. Calhoon, National Marine Engineers Beneficial Association, AFL–CIO, New York, N.Y.

The invited witnesses for February 6 are: The Honorable Elmer B. Staats, Comptroller General of the United States; Mr. Ralph Nader, Congress Watch, Washington, D.C.; Dr. Jack Bridges, the Center for Strategic and International Studies, Georgetown University, Washington, D.C.; Mr. Frank Ikard, president, American Petroleum Institute, Washington, D.C.; Mr. H. A. True, Jr., president, National Petroleum Council accompanied by: Mr. Vincent Brown, executive director.

Written statements also are invited from interested and affected parties; however, they must be transmitted in 10 copies to the committee by February 19, 1974. Insofar as possible, statements should address the following general questions and policy issues:

GENERAL QUESTIONS AND POLICY ISSUES, HEARINGS ON S. 2782, "ENERGY INFORMATION ACT"

INTRODUCTION

The Energy Information Act, S. 2782, attempts to deal, through legislation, with the problems of gathering adequate data for the Federal Government in energy-related areas. Below is a list of the various issues addressed by the proposed legislation. All witnesses, and groups and individuals preparing statements for the record, should attempt to discuss the general issues in their testimony. To the extent practical, they should also address those specific points and questions listed that are within their areas of competence. Witnesses may deal with these issues in their testimony or in a more detailed statement for the record submitted at the time of appearing or, if necessary, later.

*A. General issues*

I. The bill's basic assumption is that the volume and complexity of energy information has become so great as to require improved systems for its collection and management.

Should the Federal Government include a single, permanent agency charged with the responsibility of providing all levels and branches of government, industry, the press and the public with prompt, detailed and reliable energy-related information, based on systematic collection and comparison of factual data?

II. A second assumption of S. 2782 is that important energy information is now held as proprietary secrets by business concerns, to the impairment of both competition and regulation, and to the detriment of the national security and the public health, safety and welfare.

Should changes be made in the policies, laws and regulations that now define the boundaries and strike the balance between the private interest in keeping "proprietary" energy information secret and the public interest in having the utmost possible disclosure of important energy-related information?

III. In addition to authorizing systematic collection of information describing the nation's energy supply system, the bill directs the Department of the Interior to conduct an inventory of the energy resources of America's public lands. Should an independently verified accounting of these reserves be carried out under the direction of the Federal Government? If so, at what level of detail should this inventory be taken?

*B. Detailed questions and policy issues*

Answers to the following detailed questions should be supported wherever practical with historical and current data, quantitative estimates or projections, and reference to more complete sources of underlying data and analysis. (Note: Questions are preceded by parenthetical references to sections and pages of S. 2782.)

(Reference: Sec. 2(a) (5), p. 3, lines 18–22.)

I. Evaluate the information now collected by those Federal departments and agencies with responsibilities for energy policy, regulation or data collection. Show for each such office the type of information collected, the sources from which the information is collected, and the use made of the information by way of analysis, publication, regulation, law enforcement, policy planning, etc.

II. What offices and agencies of the several State governments now collect energy information?

(Reference: Sec. 2(a)(6), pp. 3–4, lines 23–24, 1–3.)

III. What are the principal periodical publications, both official and private, that now report energy information?

IV. To what extent is there a need to obtain independent verification of the information used for the formulation of energy policy? For regulation of energy-related industry?

(Reference: Sec. 3, pp. 5–8.)

V. Evaluate the definitions of key terms provided in the bill; for example, the definitions of "energy industries" (Sec. 3(a)), "major energy company" (Sec. 3(e)), "substantial energy resources company" (Sec. 3(f)), and "energy information" (Sec. 3(g)) are important, because they establish, in effect, classes of companies, industrial activities and information that will *not* be covered by the bill. Should these definitions—and exemptions—be changed?

(Reference: Title I, pp. 8–14, esp. Sec. 101, pp. 8–9.)

VI. Is the Department of Commerce the best location in the Federal Government within which to establish a new Bureau of Energy Information?

(Reference: Sec. 106(b), p. 10, lines 5–22.)

VII. It is intended that the Bureau of Energy Information will have full and complete access to energy information collected by *any* other office of the Federal Government, on a mandatory basis. Are the provisions of the legislation adequate to provide the Bureau with this access to information?

(Reference: Sec. 107(b), plus Sec. 211(b), pp. 29–30.)

VIII. Sec. 107(b) of the bill contemplates that the Director of the Bureau of Energy Information will, to the utmost extent practicable, utilize rather than duplicate the energy information-gathering efforts of State and private agencies. Should the Secretary of Commerce and Director of Energy Information, or their delegates, be given access to and subpoena powers for records and energy-related information collected by private organizations, such as the American Petroleum Institute?

(Reference: Sec. 107(e), pp. 12–13.)

IX. What information concerning the operation of the United States energy supply system should be reported by the Bureau on a periodic basis? What should be the periods of these reports?

(Reference: Title II, pp. 14–31.)

X. What should be the relationship between the National Energy Information System and the needs of States and localities for energy information? In particular, should detailed information describing the state of the energy supply system (e.g., stocks of fuel, pollution data) be readily accessible on a regional basis?

(Reference: Sec. 203(e), p. 16.)

XI. Should the Bureau of Energy Information confine itself to the collection and dissemination of factual information, or should it also possess capabilities for modeling, forecasting and performing analysis based on factual information?

(Reference: Secs. 204, 205, 206, 208 and 209.)

XII. The Director of Energy Information will obtain or have access to energy information, broadly defined, possessed by major energy companies and substantial energy resources companies, and will place this information in one of three libraries within the System. Please comment in some detail on use of these libraries as a means of making needed information available to those responsible for policy and regulation in the Federal Government, while attempting to minimize potential damage to those providing the information.

(Reference: Title III, pp. 32–34.)

XIII. Is the description in Sec. 302 of the annual inventory of public energy resources to be made by the Secretary of the Interior adequate, and does the possibility of an on-site geological and engineering inspection by the Department of the Interior, as provided in Sec. 303, provide a sufficiently strong incentive for accurate reporting by companies of their reserves?

(Reference: Titles IV and V.)

XIV. What reporting system should be instituted to obtain from substantial energy resource companies and major energy companies that information which the purposes of the Act require? In particular, address your comments to the nature, level of detail and form in which this information should be provided.

(Reference: Title VI.)

XV. What provisions should be added to this section of the legislation which will insure that the system in fact collects the information required for the purposes of regulation and formulating public policy?

Mr. JACKSON. Mr. President, because of the urgent need for legislation to improve our national energy data and information, the committee hopes to begin mark-up sessions on this legislation on February 19, or shortly thereafter.

## NOTICE OF HEARING ON A NOMINATION

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, February 5, 1974, at 10:30 a.m., in room 2228, Dirksen Office Building, on the following nomination:

Curtis Marshall Dann, of Delaware, to be Commissioner of Patents, vice Robert Gottschalk, resigned.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Arkansas (Mr. McCLELLAN) chairman; the Senator from Michigan (Mr. HART); the Senator from North Dakota (Mr. BURDICK); the Senator from Pennsylvania (Mr. HUGH SCOTT), and the Senator from Hawaii (Mr. FONG).

## ANNOUNCEMENT OF HEARINGS ON COSMETIC SAFETY BILL

Mr. KENNEDY. Mr. President, I would like to announce that the Health Subcommittee will be holding hearings on S. 863, a bill to amend the Food, Drug, and Cosmetic Act with respect to cosmetic safety. The hearings will be held February 20 and 21, 1974 in the Labor and Public Welfare Committee hearing room—room 4232, Dirksen Building. All persons interested in testifying should contact the Health Subcommittee staff in room 4226, Dirksen, at 225–7675.

## ANNOUNCEMENT OF CHILDREN'S CHARITY HEARINGS

Mr. MONDALE. Mr. President, on February 4 and 5 my Subcommittee on Children and Youth will open hearings on charities that serve children and youth.

The purpose of the hearings is to determine whether existing legislation is adequate to protect the interests of the beneficiaries of and contributors to these charities; and to determine if new legislation is needed.

I believe that American charity makes a vital contribution to the improvement of life for children and youth both here and abroad, and that our national policies should encourage these efforts. Charities receive benefits and privileges from the Federal Government and the public—through the use of the tax exemption, the mails and registration with the Agency for International Development. I think, therefore, Congress has a duty to see that the public interest is met and that the children identified with these charities really do benefit from the public's generosity.

On February 4 witnesses will discuss the types of children and youth programs supported by charity; the cost of these programs; and standards by which such programs should be judged. On February 5 the subcommittee will receive testimony from representatives of a particular charity—the Asthmatic Children's Foundation.

The hearings will begin at 10 a.m. in room 4232 of the Dirksen Senate Office Building. They will be open to the public.

## DEATH FROM DUST

Mr. TAFT. Mr. President, each year there may be as many as 390,000 cases of occupational diseases among America's 80 million employees. I have long been concerned about this problem and last session introduced the Respiratory Disease Benefits Act of 1973, S. 1029, designed to increase compensation to individuals who are totally disabled due to employment-related diseases, or to the surviving dependents of individuals whose death was due to such occupational-related diseases.

I believe it is vital that the Congress give serious attention to this question as State workmen's compensation laws with regard to occupational disease coverage has lagged behind that of accidental injuries. Consequently, an individual suffering from a dust disease is in a more difficult position to receive adequate compensation than a person disabled from an accident or from another occupational disease. In two States, workmen's compensation laws do not cover dust diseases at all. Ohio and 18 other States which do cover such occupational diseases place a specific limitation on benefits for asbestos and silicosis.

The Senate Labor Subcommittee has begun hearings on S. 1029 in conjunction with S. 2008, the National Workers Compensation Standards Act of 1973 and I am hopeful that my proposal, which has the cosponsorship of Senators CHURCH and PASTORE, will be favorably considered by the committee.

With respect to the seriousness of occupational-related diseases I ask unanimous consent that an article entitled

"Death From Dust" from Time magazine, January 28, 1974, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Death From Dust

When the Pittsburgh Corning Corporation closed its asbestos insulation plan in Tyler, Texas, two years ago, it did an unusually thorough job of cleaning up after itself. Some 60 workers spent a week scraping asbestos waste from machinery and depositing it in a nearby dump. Then another crew took over. Ceilings and walls were steam cleaned. Every piece of equipment in sight was scrubbed down; some machinery was dissembled and shipped to P.C.C.'s home office in Pittsburgh. What was left was cut up and buried. When the crew finished, all that remained of the plant were two dilapidated wooden buildings that had once seen service as Army barracks during World War II.

P.C.C.'s scorched-policy has left few visible reminders of the factory's 17 years in Tyler. But the scars from the plant's presence will not soon disappear. While producing insulation for the boilers and pipes of naval ships, workers in the plant were exposed to enormous quantities of asbestos dust, which, once inhaled, never leaves the lungs. Now, based on previous experience with asbestos-caused diseases, medical experts estimate that as many as 300 of the 869 employed at the plant since 1954 will die of asbestosis (a permanent and often progressive scarring of lung tissue from inhaled asbestos fibers), lung cancer or cancers of the colon, rectum or stomach.

Their deaths should come as no surprise to either company or Government officials. Doctors have long suspected that asbestos dust is hazardous; there has been ample documentation of increased incidence of lung disease and cancers among people exposed to the mineral. As early as 1961, Dr. Irving Selikoff, 59, of New York's Mount Sinai Hospital, and Dr. E. Cuyler Hammond, 61, of the American Cancer Society, confirmed the deadly relationship in studies of workers at a Paterson, N.J., asbestos plant. They documented their work in scientific papers and meetings. They also showed that even small quantities of asbestos fiber could be lethal. Selikoff studied a woman who died of mesothelioma, a cancer of the membrane that covers the lungs and lines the chest and abdomen. The woman's only contact with asbestos came when she washed the clothing of her husband, who worked in an asbestos plant.

After the work by Selikoff and others, P.C.C. officials ordered a study of the asbestos-dust hazard at Tyler in 1963. The report seriously underestimated the hazard. A 1966 dust survey found asbestos levels above recommended thresholds in many areas of the plant, and a 1967 survey by the U.S. Public Health Service's Division of Occupational Health confirmed that the levels were high, but did not warn of the health hazard. After a Labor Department study two years later reported the same conditions, respirators were issued to workers in the plant's dustiest area. But, according to workers, at no time did P.C.C. officials tell them that they were exposed to a health hazard. "I even had one tell me that stuff, asbestos, is good for you," says J. C. Yandle, 48, a former employee. "He said you could eat it."

Silent Violence. It was not until a 1970 law created the National Institute for Occupational Safety and Health (NIOSH)—and gave the Labor Department's Occupational Safety and Health Administration (OSHA) the authority to enforce compliance with asbestos standards—that things began to happen. In 1971 a NIOSH team visited Tyler, confirmed the danger of the dust levels, and emphasized the extraordinary hazard. The team pointed out many examples of poor hygiene practices: the company lunchroom was close to the production area and workers were using compressed-air hoses to blow dust off each other (and thus spreading it about), and the company was selling burlap bags contaminated with asbestos. NIOSH promptly notified OSHA, which inspected the plant, fined P.C.C. $210, and gave it four months to come up to standards. When a reinspection showed that the company still had not installed necessary dust-control equipment, OSHA fined it $7,990 and promised further action. Forced to make a decision, P.C.C. opted to close the plant. It cited economic as well as environmental reasons.

The closing should help protect citizens of Tyler from any further risk of contracting asbestosis. But it will do little to help those already exposed to the asbestos dust. Asbestosis and related cancers may not develop until 30 years after exposure to the particles, but once they do, they are painful and often fatal. "He hurt with every breath he took, because his lungs were torn and scarred on the inside from breathing asbestos fibers," said Mrs. Robert Thomas of her husband, who died five months ago.

Steve Wodka, 24, of the Oil, Chemical and Atomic Workers Union, which represented the Tyler plant's labor force, charges P.C.C. with negligence, a form of "silent violence." One group of former employees is suing P.C.C. for $100 million in damages; some individuals are also bringing $1 million suits against the Government for failing to protect them. But neither the suits nor any belated medical care that the workers may now receive are likely to alter the odds against their survival. Now that they have been exposed to asbestos, the deck is stacked.

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## AMERICAN INSTITUTIONS ENDURE

Mr. ROBERT C. BYRD. Mr. President, on the evening of Monday, January 28, 1974, I had the pleasure of addressing the Mortgage Bankers of America Washington Committee in the Statler Hilton Hotel, Washington, D.C., at their opening dinner.

I ask unanimous consent that the speech appear in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

### Speech By Senator Robert C. Byrd

Mr. Chairman, President Williams, my old friend from Charleston, West Virginia, Phil Hill, Vice President Jones, and Gentlemen: I thank your assistant counsel, Larry Bruce for inviting me to be here. Larry is from Huntington, West Virginia.

If I am not mistaken, this is the first time that I have had the pleasure of speaking to an audience of mortgage bankers.

Mortgage bankers, as you probably know, loan vast sums of money to builders, real estate entrepreneurs, and other segments of the construction industry, and they really don't care too much about making a profit, just as long as they get their original loan back. I well remember the first time I met Marty West, of Weaver Bros., here in Washington. He had this definite halo round his head, and it puzzled me, until I discovered that he was a mortgage banker. Then I understood.

I note, with pleasure, the presence of your Legislative Counsel, Lee Holmes, with whom I attended classes in the law school at American University a few years back. The fact that we both graduated says a great deal, either for our capacity to absorb the law, or for the very high standard of the law school faculty.

As we approach the second anniversary of our existence as a nation, there are questions that swirl about the heads of many Americans, whether they are mortgage bankers, politicians, butchers, truck drivers, or gas station operators. Some of these questions are profoundly disturbing. All around us, people are asking if this great Republic, and its institutions, can weather the storm that has gathered about us in the decade from 1963 to the present. Let us cast our minds back just one generation to the post-World War II days of glory, when we had just saved the world from rule by a paranoiac madman; when we were embarking on a program to save the Old World from economic ruin and starvation; when we were founding an international organization dedicated to the preservation of peace in the world, and were secure in our possession of the atomic bomb as a sure deterrent against any aggressor; and when our institutions and our ideals were the envy of all mankind.

I would ask you to contrast those euphoric days—when God was in His Heaven, and all was right with our world—with these days in which we now live—only 25 years later—when millions of our people are disillusioned with our institutions, they question our ideals, scorn the American dream of liberty and justice for all, and loudly proclaim that our politicial and social system and way of life are a sham and a hypocrisy.

Many of us are angered by these charges of our failures, and probably few people, relatively speaking, subscribe to them entirely, but too many Americans, while regarding the charges as exaggerations, find themselves asking why they are being made at all, as we come within two years of our Bicentennial.

This is an enormous change in a tragically short time, and much of it can be traced, I believe, to the fateful month of November, 1963, which started with the overthrow of the Diem regime in Vietnam, and ended with the shocking assassination of John F. Kennedy in Dallas. Since those cataclysmic days, we have seen trouble after trouble beset our society—more assassinations, a grueling war in Vietnam, city blocks on fire, campuses rioting, a Vice President of the United States resigning his office because of charges of crime, the President's closest advisers indicted for other crimes, and the President of the United States himself under attack.

And yet, we have not suffered the ravages of a conqueror. We have not suddenly been struck by pestilence, famine, or civil war. We have seen no mass executions or the inhumanities of slave labor camps. In fact, we have escaped all the great calamities that have been commonplace among nations throughout the history of the world.

History records many instances where nations have passed through a sea of troubles much worse than our own today, and one nation in particular, bears a close relationship to this America that is now approaching the 200th year. That nation, too, had just completed a terrible war—far more bloody, and far more divisive than the Vietnam conflict. No sooner had that war ended, when that nation's leader was cruelly assassinated, and charges of conspiracy abounded in the land.

Strife and scandal struck the political leadership of the country, and the Head of State was impeached, tried, and acquitted.

That unhappy nation, so like our own today, as we approach 1976, was the United States of America in 1876. If we look back at the years from 1860 through 1876—if we look at the Civil War, Lincoln's death, the Reconstruction, President Johnson's impeachment and acquittal, Grant's scandals, and the settlement of the Hayes-Tilden election—can we really say that the troubles that beset this great nation today are unprecedented? Can we really say that our institutions are not sturdy enough to overcome our present troubles?

We have a curious warp in the fabric of our society. The American public is well aware of the fundamental strength of this nation and of our institutions, but the disorganized majority is unable to put this awareness into words. There is, on the other hand, a small but vocal minority of Americans who are apparently unable to see the fundamental strengths of our country, but who are very articulate in their criticisms. They often exaggerate what they articulate as our country's failures and they deny our country's successes. It is this kind of cynicism that destroys confidence in American institutions. Watergate is, I think, an important example of how our institutions have effectively checked the venality of men, just as the Founding Fathers designed these institutions to do. For the real test of institutions is their capacity for dealing with flawed men. Many political thinkers today forget that man is flawed—under any set of institutions; that men in power will be inclined to abuse that power—under any set of institutions; and that power corrupts—under any set of institutions.

The political thinkers who wrote our Constitution did not forget these things. They understood the potential for venality in men, and they designed our institutions to curb that venality. They created an institutional framework that would make the abuse of power as difficult as possible. The Watergate scandal is a tribute to their genius, in that though the men of Watergate failed, the institutions that curbed them survived, and were the instruments of their undoing.

Much has been written and said of the role of an independent press in exposing Watergate, and the press does deserve great credit. But we must not overlook the other institutions that proved their independence.

Foremost among them was the judiciary, in the person of Judge John Sirica, who refused to accept what he considered were inadequate answers and tainted evidence when the lowest figures on the totem pole were first charged with complicity in the case. Nor must we forget that men of integrity in the lower and middle echelons of the Department of Justice and the F.B.I. risked their careers to bring to public notice evidence of wrong-doing by the Watergate perpetrators, as the case unfolded. When they did those things, they did not know that their actions would be appreciated and applauded by their peers. They might just as easily have been condemned, had not the institutions ground on in their inexorable way. In their own way, the F.B.I. under J. Edgar Hoover, and the Internal Revenue Service resisted strong political pressures, and were faithful to their institutional principles.

So it is far from true to say that American institutions have failed, as the vocal minority so constantly claims. The truth is that America, and our American institutions have a historically unsurpassed record of achievement. The fact is that we have created in this nation more good lives for more people, than has any nation in history. Certainly, we have made our mistakes. But Vietnam, Watergate, assassinations, and other political scandals have been the mistakes of men, and not of our institutions and our constitutional system. Why does our current set of troubles, which are far smaller than those that faced Americans a hundred years ago, create doubt regarding the reliability of our institutions? Speaking out in support of our American institutions has not been a popular pastime with too many of our political leaders for too long. There has been a strong tendency to side with the short end of our society for the benefits of the short haul.

But the virtue is not on the side of those who are blinded by the glittering gewgaws of the moment. It is with those who are willing to cast their lot with the future. The institutions of America have been time-tested and found strong. The constitutional system that is the result of the collective genius gathered at Philadelphia 200 years ago, is still sound.

The strengths of the Republic are enduring. There are no problems that cannot be overcome; there are no horizons that cannot be gained; there are no frontiers that cannot be explored; there are no storms that cannot be weathered—if we but have the kind of faith and vision and courage epitomized throughout so many adversities by the founders of our country.

We must stop rejecting the good that is in America, and start embracing it! We must stop telling our young people that we have failed. We must, instead, seek to inspire them, by our words and example to see in this American system the ideal, the paragon of all political systems and ways of life.

You and I helped to build this great and good country. We should be proud of it! What other country has ever been as good or as great as our own? What other country has sent men to the moon and brought them back safely? What other country has built as many libraries, hospitals, recreation facilities, and roads and schools as we have built? What other country has launched the kind of wars on disease that we have waged?

Ours is a land in which our people are better fed, better clothed, better housed than are the men and women and children in any other nation. It is a country in which any boy or girl can go to the top in any profession if he or she has the ambition, the common sense, and the drive to get there. It is the one country in which every man is an aristocrat—in which even the poorest man can come home at night and take his little grandson on his knee and know that that little boy can achieve all that the sons of the wealthy can achieve. And that thought sweetens every drop of sweat that rolls down the honest face of toil! You and I had a part in making this so! Then why should we engage in self flagellation? Why should we apologize to anyone for our country? No generation in any other country can point with such great pride as can we to our own country!

It is our duty to stand up for America! And you and I will be recreant in our duty if we fail to do that! Let us not join with those who would sell America short. If we do, future generations will not deal lightly with us.

Let us be found always doing our duty.

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## TRIBUTE TO COL. CHARLES H. DOLAN, JR., OF HAWAII

Mr. FONG. Mr. President, I rise to pay tribute to one of Hawaii's most distinguished residents, Col. Charles H. "Carl" Dolan, Jr., the last surviving member of the famed Lafayette Escadrille, which fought so gallantly in the air over France during World War I.

Today is the fine Colonel's 79th birthday, and I would feel most remiss if we did not salute him in some way.

Though Colonel Dolan was born in Boston, Mass., we in Hawaii are wont to claim him as one of our own.

He currently lives in retirement in Kalilua, near Bellows Air Force Base on the windward side of Oahu. He married a Hawaii girl, the former Ramona Morgan of Honolulu.

After his service in Europe and in the United States, during which time he filled every post from pilot to squadron commander, Colonel Dolan went to work in Hawaii when he returned to civilian pursuits.

Among other things, he made a 4-month aviation survey for the Inter-Island Steam Navigation Co., served on the Territorial Aviation Commission of Hawaii, and was chairman of the Commission on Design and Development of Airports.

I have a biographical sketch of Colonel Dolan from the book, "The Lafayette Flying Corps," and an excerpt from the Blue Book of Aviation, 1932, which lists the Colonel's many achievements.

I ask unanimous consent that this information be printed in the RECORD so that others also may appreciate the contributions Col. Charles H. Dolan, Jr., has made to American aviation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

(From the book "The Lafayette Flying Corps," published in 1920 by the Houghton Mifflin Co. of Boston and New York)

CHARLES H. DOLAN, JR.

SERVICE RECORD

Charles H. Dolan, Jr., Boston, Massachusetts.

*Service in French aviation*

Date of enlistment: August 11, 1916.

Aviation Schools: August 30, 1916, to May 10, 1917, Buc, Avord, Pau, G.D.E.

Breveted: March 10, 1917 (Blériot).

At the Front: Escadrille Lafayette, May 12, 1917, to February 18, 1918.

Final Rank: Sergent.

*Service in U.S. aviation*

Commissioned First Lieutenant: January 14, 1918.

At the Front: 103d Pursuit Squadron, February 18, 1918, to October 16, 1918.

On duty in America: October 16, 1918, to Armistice.

Carl Dolan, Irish patriot and stanch follower of John Boyde O'Reilly, is one of the original crowd of old-timers who gave employment to the Annamite wrecking gang at the Blériot school at Buc. With the exception of a forced landing on a shell-wrecked terrain near Verdun, his work at the Front was without dramatic incident. His monogrammed Spad was in the midst of many a hotly contested battle, but Fate seemed to be against him. He never succeeded in bringing down an enemy, or, more accurately, he never secured official confirmation of a victory. He gained real distinction, however, by returning from a furlough in America, in the remarkably short period of two months, including traveling time. The average furlough to the States required an actual absence from duty from three to four months, and a few of them, unfortunately, were for the duration of the war. Carl has a fine sense of duty, and did not exceed the limit of his furlough by so much as a day, thus shaming earlier leave-takers, and setting an honorable record for later ones.

At the time of the transfer of the Lafayette Squadron to the American army, he performed variable service, as electrician to the unit, and officer in charge of mechanics. With the assistance of a few of the old French mechanicians, loaned by the French Government, he instructed the newly arrived and untried American personnel, in the care and reparation of the intricate Hispano-Suiza motors, and was largely responsible for the success with which they later performed their duties. He did this work in addition to his daily patrols, and with the same painstaking thoroughness. He had a high sense of the importance of the work to be done, and while this gave his fellow pilots irresistible opportunities for boisterous "ragging" every one of them secretly admired him for this very quality. Unlike many Irishmen, Dolan was slow to anger, and could take any amount of chaff with unruffled good nature.

The spring of 1918 witnessed the final break-up of the old Lafayette Squadron. It had been the hope of all the men that they might be kept together at the Front as a unit until the close of the war; but the needs of the U.S. Air Service made this impossible. Some of the pilots were sent as flight and squadron commanders to newly formed units; others, as flying instructors, to aviation schools both in France and in America. And so the old, never-to-be-forgotten fellowship came to an end. Carl Dolan is one of the men who did more than his share to make the squadron comradeship bright and happily memorable, and for this service he has the grateful acknowledgment of all of his fellow pilots in Spad 124.

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(From the *Blue Book of Aviation*, 1932, published by the Hoagland Co., Los Angeles)

### Charles Heave Dolan

Dolan, Charles Heave, (War Flyer; Aircraft Operations Manager): Born Boston, Mass., Jan. 29, 1895, son of Charles H. and Annie (Wainwaring) Dolan. Education: St. Peter's Grammar School; Mechanics Art High School; Mass. Inst. of Tech.; Lowell Inst.; electrical engineering course, 1½ years. Married Ramona Morgan, of Honolulu, T. H., July 10, 1921. One child—Charles Heave, Jr.

Since 1913, Charles H. Dolan has been actively identified with aviation. In that year he worked with Prof. Andrews of the Mass. Inst. of Tech. in checking Prof. Effiel's work on wing efficiency, constructing models for use in the Boston Tech. wind tunnel. In 1914 he went to England and engaged as assistant chief inspector for the British Thomson-Houston Co. on the first aviation magnetos made in England and on a bombing device, until 1915. He was also chief inspector of the aeronautical instruments factory of S. Smith & Sons. He went to France in 1915 for the Sperry Gyroscope Co. as installing engineer, in charge of the Paris shops, on the automatic gyroscope stabilizer (automatic pilot), continuing in this work until his entry into the French Army air service.

He enlisted in the French Foreign Legion, 1916, and subsequently graduated from the following: Bleriot Primary School of Aviation, Pau School of Aerial Acrobatics and Combat, and the Plessis Belleville School of Combat (Sped). He was then assigned to the La Fayette Escadrille, under the command of Major Raoul Lufbery and Colonel William Thaw, and saw service in nine engagements with this unit. In 1917 he transferred to the U.S. Army air service, and was commissioned a 1st lieutenant, Nov. 17, 1917, and sent to the front where he later engaged in two battles. During his service with the U. S. Army air service he filled, at various times, every post from pilot to squadron commander. Upon his return to the U.S. and during 1918–19, he was assigned to the Control Board, and stationed at Carlstrom and Dorr Fields, Fla., in charge of systems of air training, and, in addition was engineer officer in charge of the $5,000,000 worth of planes and equipment, and of the 2000 mechanics and 10 assistant engineer officers. During 1919 and 1920, he was stationed in the Office of the Director of Air Service, at Washington, D.C., and in July, 1920 he resigned to enter civilian life. He returned to the U. S. Army air service the following year (1921) and was sent to China by General Mitchell as air instructor and adviser, continuing on this assignment until 1923. Decorations: Croix de Guerre; Forragere; La Fayette Escadrille and French Foreign Legion Campaign Ribbons; Victory Medal (France); Victory Medal with 11 clasps (U.S.).

Returning to civilian pursuits, he established in Hawaii in 1924. In 1928 he made a four months aviation survey for the Inter-Island Steam Navigation Co. He served as a member of the Territorial Aviation Commission of Hawaii and as chairman of the Commission on Design and Development of Airports. Subsequently he made surveys for the Cuban Curtiss Co. He later became associated with the Eastern Air Transport Co., Inc., of Atlanta, Ga., and since 1931 has been operations manager of this organization.

Transport Pilot license No. 5040; F.A.I. certificate No. 5859; N.A.A. certificate No. 110; French Military Brevet No. 5615 (1917). Member: Early Birds, Federation Aeronautique Internationale, National Aeronautic Assn. (Atlanta Chap.; delegate to Los Angeles convention), Soc. of Automotive Engrs., Amer. Soc. of Mech. Engrs., National Air Pilots Assn., 40 & 8, American Legion, Internationale des Aviateurs. Club: Aero of France.

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## ACCOUNTABILITY TO THE PEOPLE

Mr. MONDALE. Mr. President, I recently had the opportunity to address the Sigma Delta Chi in Minneapolis. In that address, I attempted to grapple with what I believe to be the central problem in Government today—accountability to the people.

On January 18, the St. Paul Pioneer Press printed an editorial regarding this issue of accountability which effectively makes clear the importance of achieving greater accountability of the Executive to the people, and the likelihood of gaining this greater accountability as a result of Watergate.

I commend this editorial, and ask unanimous consent that it be printed in the Record at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### Unanswerable Question

Senator Walter Mondale, speaking before Sigma Delta Chi, the professional journalism organization, in the Twin Cities the other evening, was asked: "Do you think President Nixon will serve out his term of office?"

"Well," the senator joked, "I know but I'm not at liberty to tell you." The senator was not, of course, going to be trapped into answering the unanswerable. Only the very rash, or the very partisan, would attempt anything but the most hedged-about reply to such a question. It does not appear that the Congress is yet in any unstoppable rush toward voting impeachment, and only the wishful thinking of those most rabidly anti-Nixon suggests the President is about to resign.

But Mondale did not hesitate to tell the journalists what he was fairly certain would come out of the Watergate and related scandals. In a word, it was greater accountability of the Executive. Out of the investigations, the trials and the political turmoil the country would at last bring a halt to what had become a runaway trend toward placing the Presidency above and beyond the law. This, Mondale acknowledged, was a trend that began long before Richard Nixon took office, but had been accelerated under Mr. Nixon until it imperiled the basis of our democracy.

This accountability—in essence, an assurance that the American Presidency will stay in its place, as a powerful but co-equal branch of government—is, it seems to us, what the electorate of this country really is after. Whether impeachment or resignation will eventually come about depends on future developments. But regardless of whether Mr. Nixon continues in office until his term expires, or leaves before that time, the important thing for the nation is to assure that the Presidency never becomes beyond the reach of law.

## FEDERAL PROGRAMS FOR THE HANDICAPPED

Mr. DOLE. Mr. President, on January 12, 1973, I introduced for the third time a bill to establish a National Information and Resource Center for the Handicapped.

Although the Congress has not yet acted on this legislation, I remain convinced that one of the major needs of the handicapped is better access to relevant information. It should be a simple matter for a handicapped individual to learn where and what assistance is available to him. What should be a simple problem has become a search through a maze of Federal, State, and local programs, a multitude of new technical developments and a general void of information. In a period of rapid technological advances, information is of vital importance to achieving the greatest productive output and social contribution from the handicapped.

The large number of private and university information centers springing up around the country is an indication of the need for information. These efforts to resolve the information problem are creating a need for coordination and organization at the national level. I intend to pursue the solution to this need in my actions in the Senate.

One man who has already made a great contribution to the dissemination of information is Mr. Edward Klebe, Congressional Research Service. In April 1971, at my request, Mr. Klebe compiled a "Directory of Federal Programs for the Handicapped," which I had the pleasure of making a part of the Congressional Record. Since the publication of that directory, people all over the Nation have used it and praised it for its value. This year following the enactment of the Vocational Rehabilitation Act of 1973, Mr. Klebe began an update of his earlier work. I have the pleasure today of making the results of his labor a part of the Congressional Record.

Mr. President, I ask unanimous consent that this directory entitled "Federal Programs for the Handicapped" be printed in the Record.

There being no objection, the directory was ordered to be printed in the Record, as follows:

### Federal Programs for the Handicapped

#### INTRODUCTION

The following is an update of a 1971 compilation of Federal programs to serve physically and mentally handicapped persons. These include programs in vocational rehabilitation and education of the handicapped, programs for disabled veterans, programs under the Social Security Act for blind and other disabled persons, mental health programs, programs for the developmentally disabled, and programs to prevent and treat handicapping conditions.

The compilation provides, as far as it has been possible to obtain from budget documents and other sources, five types of information for each program, as follows:

1. A brief description of the program, including the type of grant it provides, if it provides a grant, and the purpose for which the grant is to be used;

2. Legislative authority for the program;

3. Fiscal data for the program, including, whenever possible, estimated obligations for fiscal years 1973 and 1974;

4. Program data, including number of grants funded, numbers of persons being served, and other relevant accomplishments of the program; and

5. Name and address of the Federal agency administering the program.

It must be noted that, because of unforeseeable delays in the completion of this compilation, much of the fiscal data, particularly regarding fiscal year 1974, is out of date. The compilation was prepared based on data from the fiscal year 1974 budget request and was completed before the enactment of the appropriations act for the Department of Health, Education and Welfare. Many of the programs included in the compilation were funded at different levels from those requested in the original budget presented to the Congress.

Because of the demand for this compilation, it was decided that, rather than take additional time to try to update these figures, it would be better to issue it as soon as possible.

Similarly, some of the Administration's plans for certain other programs included in the compilation did not come to fruition, and, as a result, there are some inaccuracies in description of these programs. For example, special education revenue sharing, which was supposed to have replaced certain of the programs for the education of the handicapped, was not acted upon in the first session of the 93rd Congress. Also, the program for construction of community mental health centers, which the Administration had planned to terminate, was extended by the Congress.

It is planned that this compilation will be further updated by mid-1974 to reflect more accurate fiscal year 1974 and data on fiscal year 1975.

### VOCATIONAL REHABILITATION SERVICES—BASIC SUPPORT

A program of formula grants to State rehabilitation agencies to provide and support the following types of rehabilitation services for handicapped persons: (1) evaluation of rehabilitation potential, including diagnosis and related services; (2) counseling, guidance, referral, and placement services; (3) vocational and other training services; (4) physical and mental restoration services; (5) maintenance during rehabilitation; (6) interpreter services for the deaf and reader services for the blind; (7) recruitment and training services to provide new employment opportunities in the field of rehabilitation and other public service areas; (8) rehabilitation teaching services and orientation and mobility services for the blind; (9) occupational licenses, tools, equipment, and initial stocks and supplies; (10) transportation in connection with vocational rehabilitation services; (11) telecommunications, sensory, and other technological aids and devices. When provided for groups of individuals, vocational rehabilitation services may also include: (1) management services and supervision, together with the acquisition of vending facilities or other equipment and initial stocks and supplies for small businesses operated by individuals with the most severe handicaps; and (2) the construction and establishment of rehabilitation facilities which promise to contribute substantially to the rehabilitation of a group of individuals.

The Rehabilitation Act of 1973, P.L. 93-112, section 110.

Fiscal Year 1973 Estimated Obligations—$589,000,000.

Fiscal Year 1974 Estimated Obligations—$615,870,000.

In FY 1973, 1,180,000 handicapped persons were served by the vocational rehabilitation basic program; 360,726 were rehabilitated. In FY 1974, it is estimated that 1,275,000 persons will be served and 375,000 will be rehabilitated.

Rehabilitation Services Administration, Social and Rehabilitation Service, Department of Health, Education, and Welfare, Washington, D.C. 20201.

### VOCATIONAL REHABILITATION—PROJECT ACTIVITIES

A program of project activities to provide specialized programs and services over and above that possible by resources of the Basic Support Program. These activities include: (1) Innovation and expansion grants—P.L. 93-112 converted these grants to a formula grant based on population, but each State is assured sufficient funds to complete those projects funded in 1973; (2) a special study of the rehabilitation service needs of the severely disabled; (3) special projects, with 5 percent of the amount appropriated to be available only for rehabilitation service to handicapped migrant workers; (4) evaluation projects; and (5) Secretarial Responsibilities.

The Rehabilitation Act of 1973, P.L. 93-112, sections 120, 130, 304, 403, 405, 406, 407, and 502.

| | Fiscal year— | |
|---|---|---|
| | 1973 | 1974 |
| Innovation and expansion grants | $35,786,000 | $29,000,000 |
| Special study | | 1,000,000 |
| Special projects | 14,500,000 | 11,000,000 |
| Evaluation | 1,000,000 | 1,000,000 |
| Secretarial responsibilities | | 1,000,000 |
| Total project activities | 50,836,000 | 43,000,000 |

In 1974, 45,000 persons will be served and 14,000 rehabilitated through project activities. In addition, under Secretarial Responsibilities, an Office for the Handicapped will perform long range projection functions, data collection and analysis, and information clearinghouse functions; a special study will assess the role of Sheltered workshops; a State Allocation Study will evaluate the methods of allotting funds among States; and an Architectural and Transportation Compliance Board will review architectural and transportation activities affecting the handicapped.

Rehabilitation Services Administration, Social and Rehabilitation Service, U.S. Department of Health, Education, and Welfare, Washington, D.C. 20201.

### VOCATIONAL REHABILITATION—RESEARCH AND DEMONSTRATION

A program of project grants to support the service goals in rehabilitation: to provide rehabilitation services to those disabled persons where such services would reduce their dependency on society; to provide habilitation and associated services to the developmentally disabled; and to achieve such social reform that will enable the handicapped to participate more fully in society.

The Rehabilitation Act of 1973, P.L. 93-112, section 202.

FY 1973 Estimated Obligations—$9,405,000.

FY 1974 Estimated Obligations—$9,655,000.

In FY 1974, Rehabilitation Research and Demonstrations will focus on implementation of a model system for the care of spinal cord injured, the establishment of rehabilitation engineering centers, interagency participation and implementation of plans to rehabilitate drug addicts and alcoholics.

Social and Rehabilitation Service, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201.

### VOCATIONAL REHABILITATION—RESEARCH AND TRAINING CENTERS

Research and Training Centers are established in University settings having expertise and well-developed resources for multidisciplinary research and teaching, and are assigned to encompass the necessary facets of services considered essential in carrying out a comprehensive program of patient/client care and rehabilitation.

The Rehabilitation Act of 1973, P.L. 93-112, Section 202.

FY 1973 Estimated Obligations—$10,341,000.

FY 1974 Estimated Obligations—$10,341,000.

In FY 1974 the twenty Research and Training Centers will consist of nine specializing in medical rehabilitation, six in vocational rehabilitation, three in mental retardation, and one in deafness, and one concerned with minority problems.

Social and Rehabilitation Service, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201.

### VOCATIONAL REHABILITATION—TRAINING

A program of project grants to institutions of higher learning to support both students and faculty to assure available manpower pools to meet the demand for effective rehabilitation programs.

The Rehabilitation Act of 1973, P.L. 93-112, Section 203.

FY 1973 Estimated Obligations—$27,700,000.

FY 1974 Estimated Obligations—$8,130,000.

This program is planned for phase-out in FY 1974 because Federally-funded programs of general student aid, such as scholarship assistance for needy students at the undergraduate level and guaranteed loans for other undergraduate students, are now available to assure that students are not deprived of higher education for lack of funds. FY 1974 funds will be used for the support of specialized rehabilitation training activities of a highly specialized nature for which support under general student aid programs is not appropriate. These activities include long-term training in the areas of blindness, deafness, and orthopedic disability; short-term training; and State vocational rehabilitation agency in-service training.

Social and Rehabilitation Service, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201.

### NATIONAL CENTER FOR DEAF-BLIND YOUTH AND ADULTS

The Vocational Rehabilitation Amendments of 1967 authorized the establishment and operation of a Center for vocational rehabilitation of handicapped individuals who are both deaf and blind. The purposes of the Center will be to demonstrate methods of providing intensive and specialized services for the deaf-blind, to train professional and allied personnel, to conduct research in the rehabilitation of the deaf-blind, and to aid in the conduct of related activities which will expand or improve the services, or help improve public understanding, of the problems of the deaf-blind.

The Rehabilitation Act of 1973, P.L. 93-112, Section 305.

Fiscal Year 1973 Estimated Obligations—$5,600,000. ($5,000,000 for construction of new facilities.)

Fiscal Year 1974 Estimated Obligations—$600,000.

The Center is operating in temporary headquarters in New Hyde Park, Long Island, New York. Recruitment and training of staff are continuing goals for FY 1974.

Rehabilitation Services Administration, Social and Rehabilitation Service, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201.

### VOCATIONAL REHABILITATION SERVICES FOR SOCIAL SECURITY BENEFICIARIES

Under agreements with the Social Security Administration, State agencies (usually the rehabilitation agency) make disability determinations on applicants for social security benefits, and make referrals for possible vocational rehabilitation services, so that the maximum number of such individuals may be rehabilitated into productive activity. Through 1972, Social Security Trust Funds up to one percent of the disability benefits paid in the preceding year could be used to pay for necessary rehabilitation services from a State vocational rehabilitation agency, to selected disability beneficiaries. Under a provision of P.L. 92–603, the limitation increases to 1.25% for 1973 and 1.50% for 1974 and thereafter.

Social Security Act as amended. P.L. 92–603.

Fiscal Year 1973 Estimated Obligations—$42,877,000 (from Social Security Trust Funds).

Fiscal Year 1974 Estimated Obligations—$66,284,000.

In FY 1974, an estimated 263,000 beneficiaries will be served with vocational rehabilitation services, and 70,000 will be rehabilitated.

Rehabilitation Services Administration, Social and Rehabilitation Service, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201.

### SUPPLEMENTARY SECURITY INCOME PROGRAM

Title III of the Social Security Amendments of 1972 provides for the implementation of a new Federally administered and financed "Supplementary Security Income" program for persons aged 65 and over, and for the blind and totally disabled. The SSI program, effective January 1, 1974, replaces the present State programs of aid to the aged, blind, and disabled. The SSI program guarantees a minimum income of $130 per month starting January 1, 1974 and $140 per month starting July 1, 1974 for an individual and $195 per month starting January 1, 1974 and $210 starting July 1, 1974 for a couple.

Eligibility requirements and payment support levels are for the first time uniform in all States. The definition of "disability" used for the new SSI program is the same as that now used in the social security disability program. There is also a standard, uniform definition of "blindness."

The basic requirements for eligibility to Federal SSI payments are:

1. The individual must be age 65, or blind, or disabled;

2. Total income, after certain exclusions and income disregards, must not exceed $1,560 per year for an individual or $2,340 for a couple;

3. Total resources, excluding normally the value of a home, an automobile and $1,500 of life insurance, must not exceed $1,500 for an individual and $2,250 for a couple.

Social Security Amendments of 1972, P.L. 92–603, Title III.

An estimated $1.7 billion in benefits will be obligated during the January–June 1974 period from Federal funds. Since the effective date of the new Federal program is January 1, 1974, no benefits will be payable in FY 1973.

An estimated 3.4 million persons will be converted from State and local assistance rolls to the Federal payment rolls and, in addition, payments will be made to 2.8 million persons newly eligible for SSI payments because the new Federal income standard is higher than the present standard in many States and because of the absence of home lien, relative support and residency requirements. This makes a total of 6.2 million persons who will be receiving support under the SSI program.

Social Security Administration, Baltimore, Maryland 21235.

### VOCATIONAL REHABILITATION SERVICES FOR SUPPLEMENTARY SECURITY INCOME BENEFICIARIES

The Social Security Amendments of 1972 provides that blind or disabled persons who receive SSI payments be referred to State agencies for vocational rehabilitation services. The law provides that no blind or disabled person may be eligible for benefits under the SSI program if he refuses without good cause to accept vocational rehabilitation services for which he is referred. The costs incurred by the States in providing such services are to be paid out of Federal funds.

Social Security Amendments of 1972, P.L. 92–603.

FY 1974 Estimated Obligations—$39,674,000. (Includes $13,367,000 for start-up costs and $26,307,000 for ongoing vocational rehabilitation costs for an estimated 142,200 cases for one-half year, since the effective date of the new program is January 1, 1974.)

The workload estimate of 142,200 consists of a projection of the potential number of vocational rehabilitation cases among current Aid to the Blind and Aid to the Permanently and Totally Disabled program recipients (estimated at 51,000), plus an estimated 91,000 new SSI cases.

Social Security Administration, Baltimore, Maryland 21235.

### SOCIAL SECURITY—SPECIAL BENEFITS FOR DISABLED COAL MINERS

A program to provide cash benefits to coal miners who have become totally disabled due to pneumoconiosis (black lung disease) arising out of employment in underground coal mines, and for dependents of miners who die of this occupational disease.

Federal Coal Mine Health and Safety Act of 1969, P.L. 91–173, as amended.

FY 1973 Estimated Obligations—$1,526,500,000.

FY 1974 Estimated Obligations—$967,868,000.

By the end of FY 1974, an estimated 210,000 miners, 138,000 widows, 11,000 orphan children, and 4,000 dependent parents, brothers and sisters will be receiving monthly benefits. In addition, the benefits to miners and widows will be higher because of 228,000 dependents of these beneficiaries.

Bureau of Disability Insurance, Social Security Administration, U.S. Department of Health, Education and Welfare, Baltimore, Maryland 21235.

### MEDICAL ASSISTANCE PROGRAM—MEDICAID

A program of financial assistance to States to administer medical assistance programs and pay for medical services that benefit certain groups of needy persons, and others at the option of the State. Among the groups for which Federal financial participation is available are the blind and the disabled public assistance recipients.

Social Security Act as amended, Title XIX.

Fiscal Year 1973 Estimated Obligations—$5,048,500,000.

Fiscal Year 1974 Estimated Obligations—$5,281,862,000.

In FY 1974 an estimated 163,000 recipients of aid to the blind and 2,384,000 recipients of aid to the permanently and totally disabled will receive medical assistance under the Medicaid program.

Medical Services Administration, Social and Rehabilitation Service, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201.

### DEVELOPMENTAL DISABILITIES GRANTS TO STATES FOR PLANNING, ADMINISTRATION, SERVICES, AND CONSTRUCTION OF FACILITIES

This program of formula grants to States replaced existing authority for the construction and staffing of community mental retardation facilities with a broad program to assist the States in developing and implementing a comprehensive plan for meeting the needs of persons with developmental disabilities. States may use these funds to construct facilities, provide services, support State and local planning, administration, and technical assistance, train specialized personnel, and develop and demonstrate new service techniques. The term "developmental disability" is defined to include mental retardation, cerebral palsy, epilepsy, or other neurological conditions originating in childhood which are closely related to mental retardation and require treatment similar to that required for the mentally retarded.

The Developmental Disabilities Services and Facilities Construction Act of 1970, P.L. 91–517; extended through FY 1974 by P.L. 93–45, the Health Programs Extension Act of 1973.

Fiscal Year 1973 Estimated Obligations—$31,206,000.

Fiscal Year 1974 Estimated Obligations—$21,715,000.

Fiscal 1974 funds will be distributed 1% to program evaluation, 9% to projects of national significance, and 90% to the States on a formula basis. The States have indicated that, on the average, they will use 70% of their allotments for services, 20% for planning and administration, and 10% for construction. Approximately 169,000 persons will be served.

Rehabilitation Services Administrations, Social and Rehabilitation Service, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201.

### GRANTS FOR DEVELOPMENTAL DISABILITIES—SERVICE PROJECTS UNDER THE REHABILITATION ACT OF 1973

The local and State projects supported by this activity provide part of the cost to improve community and State institutional services for the developmentally disabled. Service support is provided through the Rehabilitation Service Projects, Hospital Improvement Program, and the Initial Staffing of Community Facilities.

The Rehabilitation Act of 1973, P.L. 93–112, Sections 301, 302, 304.

FY 1973 Estimated Obligations—$9,000,000.

FY 1974 Estimated Obligations—$12,500,000.

In 1974, this program will support 440 Rehabilitation Service Projects serving 42,000 persons.

Rehabilitation Service Administration, Social and Rehabilitation Service, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201.

### UNIVERSITY-AFFILIATED FACILITIES FOR THE DEVELOPMENTALLY DISABLED

A program of project grants to assist universities or affiliated facilities in the construction of special facilities capable of demonstrating exemplary care, treatment, education, and rehabilitation of the developmentally disabled. These facilities provide comprehensive services, train specialized personnel, and demonstrate new techniques of specialized services.

Developmental Disabilities Services and Facilities Construction Act of 1970, P.L. 91–517; extended through FY 1974 by P.L. 93–45.

Fiscal Year 1973 Estimated Obligations—$4,549,000.

Fiscal Year 1974 Estimated Obligations—$4,250,000.

A total of 34 centers will receive partial "core" support to conduct comprehensive interdisciplinary operations.

Rehabilitation Services Administration, Social and Rehabilitation Service, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201.

### MENTAL HEALTH—CONSTRUCTION OF COMMUNITY MENTAL HEALTH CENTERS

A program of formula grants to provide funds to finance the building of community mental health centers. Such centers are intended to improve the organization and allocation of mental health services and to provide modern treatment and care.

Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 as amended; extended through FY 1974 by P.L. 93–45, the Health Programs Extension Act of 1973.

Fiscal Year 1972 Estimated Obligations—$14,414,000.

No Fiscal Year 1973 Budget Request.

No Fiscal Year 1974 Budget Request.

Since the inception of the program, 515 centers have received grant support for construction or staffing or both.

Division of Mental Health Service Programs, National Institute of Mental Health, Health Services and Mental Health Administration, U.S. Department of Health, Education and Welfare, Chevy Chase, Maryland 20015.

### MENTAL HEALTH—STAFFING OF COMMUNITY MENTAL HEALTH CENTERS

A program of project grants to assist in the establishment and initial operation of community mental health centers by making grants to meet a portion of the costs of compensation of professional and technical personnel.

Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 as amended; extended through FY 1974 by P.L. 93–45, the Health Programs Extension Act of 1973.

Fiscal Year 1972 Obligations—$135,074,000.

Fiscal Year Estimated Obligations—$125,-250,000*.

No Fiscal Year 1974 Budget Request.

Division of Mental Health Service Programs, National Institute of Mental Health, Health Services and Mental Health Administration, Chevy Chase, Maryland 20015.

### EDUCATION FOR THE HANDICAPPED—PRESCHOOL AND SCHOOL PROGRAMS

A program of formula grants to State Departments of Education to assist them in the initiation, improvement, and expansion of educational and related services for handicapped children at the preschool, elementary and secondary school levels.

Education of the Handicapped Act as amended by P.L. 91–230, Title VI–B.

Fiscal Year 1973 Budget Estimate—$37,-500,000.

Fiscal Year 1974 Budget Estimate—to be included in the proposed Special Revenue Sharing program.

Approximately 215,00 children received services under the program in 1972.

Division of Education Services, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

### EDUCATION FOR THE HANDICAPPED—CHILDREN IN STATE-SUPPORTED SCHOOLS

A program of formula grants to strengthen education programs for children in State-operated or supported schools for the handicapped.

Elementary and Secondary Education Act, Title I.

Fiscal Year 1973 Budget Estimate—$60,-939,000.

Fiscal Year 1974 Budget Estimate—to be included in Special Revenue Sharing.

In FY 1970, 110,531 students in State schools for the handicapped received services supported by this program.

Division of Educational Services, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

### EDUCATION FOR THE HANDICAPPED—SUPPLEMENTARY EDUCATIONAL CENTERS AND SERVICES

A program of formula grants to State agencies to fund local innovative or exemplary projects for the educational improvement of the handicapped.

Elementary and Secondary Education Act as amended, Title III.

Fiscal Year 1973 Budget Estimate—$22,-925,200.

Fiscal Year 1974 Budget Request—to be included in the proposed special revenue sharing program.

Division of Educational Services, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

### EDUCATION FOR THE HANDICAPPED—EARLY EDUCATION FOR HANDICAPPED CHILDREN

A program of project grants to support model preschool and early childhood programs for handicapped children.

Education of the Handicapped as amended by P.L. 91–230, Part C, Section 623.

Fiscal Year 1973 Budget Estimate—$12,-000,000.

Fiscal Year 1974 Budget Request—$12,-000,000.

The Early Childhood program in FY 1973 directed its efforts to increasing the enrollment of handicapped children in preschool programs by 75,000, to bring the total estimated number of children in such programs to 175,000. Objectives for 1974 include funding of services through 100 demonstration projects for 5,500 handicapped children in comprehensive educational therapeutic services; providing parents counseling and other consultative services; screening 20,000 children and providing, 5,000 teachers and aides with in-service training.

Division of Educational Services, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

### EDUCATION FOR THE HANDICAPPED—VOCATIONAL EDUCATION PROGRAMS FOR THE HANDICAPPED

A program of formula grants to States to assist them in conducting vocational education programs. States must allocate 10 percent of their total allotment for vocational educational programs for the handicapped.

Vocational Education Amendments of 1968.

Fiscal Year 1973 Budget Estimate—$38,-384,000.

Fiscal Year 1974 Budget Request—to be absorbed into the proposed Special Revenue Sharing.

Division of Educational Services, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Walfare, Washington, D.C. 20202.

### EDUCATION FOR THE HANDICAPPED—MEDIA SERVICES AND CAPTIONED FILMS LOAN PROGRAM

A program to advance the handicapped through film and other media. This includes a captioned film loan service and cultural and educational enrichment of the deaf; provision to contract for research in the use of educational and training films and other educational media for the handicapped and for their production and distribution and to contract for training persons in the use of such educational media for the handicapped; and authorization to establish and operate a National Center on Educational Media for the Handicapped.

Education for the Handicapped Act as amended by P.L. 91–230, Part E.

Fiscal Year 1973 Budget Estimate—$13,-000,000.

Fiscal year 1974 Budget Request—$13,-000,000.

The Special Education communications network continued to develop the mechanisms to bring all handicapped children the resources they need, where and when they need them. In 1973 the number of computer-based research units reached approximately 500,000 units by 75,000 teachers. The National Center on Educational Media and Materials for the Handicapped completed one year of planning and is now developing new instructional materials. The demonstration and research program supported 14 media-related projects in the area of child-centered learning technology.

Division of Educational Services, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

### EDUCATION FOR THE HANDICAPPED—INFORMATION AND RECRUITMENT

A program of project grants to improve recruitment of educational personnel and to improve dissemination of information concerning educational opportunities for the handicapped.

Education of the Handicapped Act as amended by P.L. 91–230, Part D, Section 633.

Fiscal Year 1973 Budget Estimate—$500,000.

Fiscal Year 1974 Budget Request—$500,000.

Under this program, the Bureau carries on a project called "Closer Look," which, utilizing advertising in the media, urges parents of handicapped children to write for information on opportunities for their children.

In 1974, 50,000 new parents will receive program information through "Closer Look", and the SEIC (Special Education Information Center) newsletter should reach approximately 150,000 parents.

Division of Educational Services, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

### EDUCATION FOR THE HANDICAPPED—CHILDREN WITH SPECIFIC LEARNING DISABILITIES

A program of project grants to provide for research, training of personnel and to establish and operate model centers for children with specific learning disabilities.

Education of the Handicapped Act as amended by P.L. 91–230, Part G, Section 661.

Fiscal Year 1973 Budget Estimate—$3,-250,000.

In 1973 this program has been expanded to an additional 17 states bringing the total number of States served to 40. The Bureau of Education for the Handicapped plans to continue funding 30 service models in State Education Agencies and territorial departments of education.

Division of Training Programs and Division of Research, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

### EDUCATION FOR THE HANDICAPPED—DEAF-BLIND CENTERS

A program of project grants to establish regional centers to provide all deaf-blind children the following: comprehensive diagnostic and evaluative services; a program for their education, adjustment, and orientation and effective consultative services for their parents, teachers, and others involved in their welfare.

Education of the Handicapped Act as amended by P.L. 91–230, Part C, Section 633.

Fiscal Year 1973 Budget Estimate—$10,-000,000.

Fiscal Year 1974 Budget Request—$10,-000,000.

During the school year 1972–73, services were expanded in the 10 regional centers already supported to provide for 1,310 deaf-blind children. Also, 709 deaf-blind children and their families received diagnostic counseling and tutorial services, increasing the total number of deaf-blind children served to 2,019. The 15 Crisis Care Centers offer 24 hour care and preschool experiences for 150 handicapped deaf-blind children.

Division of Educational Services, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

### EDUCATION FOR THE HANDICAPPED—LIBRARY SERVICES

The Library Services and Construction Act as amended authorized formula grants to establish and improve library services in State institutions, including institutions for the handicapped, and to assist generally in extending library services to the physically handicapped, including the blind and other visually handicapped. Legislation in 1970 eliminated these specific programs and included library services for the handicapped as part of general library services being supported by Federal assistance, with the stipulation that the same amount allotted for library services for the handicapped in FY 1971 be allotted for such services in FY 1972.

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*Includes no funds for new staffing grants, only fulfillment of prior obligations.

This program, originally Titles IV-A and IV-B was consolidated to be funded under Title I of the Library Services and Construction Act, as amended, Sections 101 to 504, P.L. 89-511; P.L. 90-154.

Fiscal Year 1973 Budget Estimate—$30,-000,000.

Fiscal Year 1973 Budget Request—no funds for this program are being requested in the budget.

Almost every State has instituted some type of program to provide library services to the handicapped, sometimes in cooperation with the Library of Congress Division of the Blind and Physically Handicapped program. Workshops, institutes, and other programs are held to assist and inform teachers and school librarians.

Division of Library Programs, Bureau of Adult, Vocational, and Library Programs, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

### EDUCATION FOR THE HANDICAPPED—REGIONAL RESOURCE CENTERS

A program of projects and contracts to establish regional resource centers which provide advice and technical services in the educational diagnosis and remediation of handicapped children.

Education of Handicapped Act as amended by P.L. 91-230, Part C, Section 621.

Fiscal Year 1973 Budget Estimate—$7,243,000.

Fiscal Year 1974 Budget Request—$7,243,-000.

In Fiscal Year 1974, 7 regional resource centers will be supported. A new thrust called Special Target Grant program plans to award grants to 8 states.

Division of Research, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

### EDUCATION FOR THE HANDICAPPED—RESEARCH AND RELATED ACTIVITIES

A program of project grants to promote new knowledge and developments in the education of the handicapped.

Education of Handicapped Act as amended by P.L. 91-230, Part E, Section 641.

Fiscal Year 1973 Budget Estimate—$9,-566,000.

Fiscal Year 1974 Budget Request—$9,-916,000.

In 1972, 69 research and demonstration grants were awarded.

Division of Research, Bureau of Education of the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

### EDUCATION FOR THE HANDICAPPED—RESEARCH IN PHYSICAL EDUCATION AND RECREATION

A program of project grants for research and demonstration in the improvement of physical education and recreation programs for the handicapped.

Education of the Handicapped as amended by P.L. 91-230, Part E, Section 642.

Fiscal Year 1973 Budget Estimate—$350,-000.

Fiscal Year 1974 Budget Request—None.

Division of Research, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

### EDUCATION FOR THE HANDICAPPED—PERSONNEL EDUCATION

A program of project grants to assist in developing and improving training programs for educational personnel for the handicapped.

Education of the Handicapped as amended by P.L. 91-230, Part D, Sections 631 and 632.

Fiscal Year 1973 Budget Estimate—$37,000,000.

Fiscal Year 1974 Budget Request—$37,700,000.

In FY 1970 about 4,800 teachers and other education personnel received training under this program. Objectives in FY 1974 are to prepare 23,000 specially trained teachers and subprofessionals to serve an additional 350,-000 handicapped children.

Division of Training Programs, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education and Welfare, Washington, D.C. 20202.

### EDUCATION FOR THE HANDICAPPED—TRAINING IN PHYSICAL EDUCATION AND RECREATION

A program of project grants to improve the quality and increase the supply of physical education and recreation personnel trained to work with the handicapped.

Education of the Handicapped as amended by P.L. 91-230, Part D, Section 634.

Fiscal Year 1973 Budget Estimate—$700,000.

Fiscal Year 1974 Budget Request—None.

In FY 1970, the program supported 13 academic planning grants and 2 summer programs which served about 50 persons. In FY 1971, the program supported 15 planning and quasi-operational projects serving about 35 persons. In FY 1972, the program funded 23 operational projects training about 100 students. The Physical Education and Recreation Training program plans the establishment of one additional training program; emphasis will be placed on leadership personnel to promote programs of direct service to children and to initiate community college programs; upgrade and update with appropriate information about the handicapped at least 500 physical education and recreation personnel.

Division of Training Program, Bureau of Education for the Handicapped, Office of Education, U.S. Department of Health, Education, and Welfare, Washington, D.C. 20202.

### GALLAUDET COLLEGE

A private, nonprofit educational institution providing an undergraduate higher education program for the deaf, a preparatory school for deaf students who need such training to qualify for college admission, a graduate school program in the field of deafness, and adult education for deaf persons. It operates the Kendall School for deaf children (primarily from the District of Columbia) and a preschool program for very young deaf children. The college also has programs in research on deafness and on ways and means of assisting deaf persons in more adequately relating to predominantly hearing environment. Federal funds provide slightly more than three-fourths of Gallaudet's operating costs.

The Columbia Institution for the Instruction of the Deaf and Dumb and Blind was incorporated by act of February 16, 1857. The name was finally changed to Gallaudet College by P.L. 83-420.

Fiscal Year 1973 Estimated Obligations—$14,480,000.

Fiscal Year 1974 Estimated Obligations—$12,106,000.

In the 1972 fall semester, Gallaudet enrolled 927 undergraduate and preparatory students and 88 graduate students. The college estimates that in the 1973 fall semester it will enroll 926 undergraduate and preparatory and 115 graduate students.

Gallaudet College, 7th and Florida Ave., N.E., Washington, D.C. 20002.

### MODEL SECONDARY SCHOOL FOR THE DEAF

A school located at Gallaudet College, Washington, D.C., designed to provide an exemplary secondary education for deaf persons in order to prepare them for college or other advanced study.

Model Secondary School for the Deaf Act of 1966. P.L. 89-694.

Fiscal Year 1973 Estimated Obligations—$19,601,000.

Fiscal Year 1974 Estimated Obligations—$4,002,000.

In 1973 construction of the permanent MSSD facilities was initiated. The school in the meantime is operating in temporary leased facilities with enrollment at the maximum permitted by available space. For 1974, objectives include particular emphasis on refining and improving instructional and support programs. Development of instructional materials especially designed for the deaf adolescent and with a highly mediated format will receive high priority.

Model Secondary School for the Deaf, Gallaudet College, 7th and Florida Ave., N.E., Washington, D.C. 20002.

### KENDALL DEMONSTRATION ELEMENTARY SCHOOL FOR THE DEAF

A program to modify and enlarge the authority of Gallaudet College to maintain and operate the Kendall School as a demonstration elementary school for the deaf to serve primarily the National Capital area.

P.L. 91-587.

Funding for the Kendall School is included in the appropriation for Gallaudet College. The estimated obligations for the school for FY 1974 is $1,992,000.

In FY 1973, Kendall School enrolled 38 preschool and 175 elementary school children.

In FY 1974, the School estimates it will enroll 40 preschool and 175 elementary school children.

Gallaudet College, 7th and Florida Ave., N.E., Washington, D.C. 20002.

### NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

A residential facility for post secondary technical training and education for persons who are deaf in order to prepare them for successful employment. It is located at the Rochester Institute of Technology, Rochester, N.Y.

National Technical Institute for the Deaf Act of 1965, P.L. 89-36.

Fiscal Year 1973 Estimated Obligations—$7,256,000.

Fiscal Year 1974 Estimated Obligations—$7,226,000.

In FY 1974, the sixth year of its interim program, NTID will enroll a projected 503 students, 473 of them deaf and the other 30 students in professional development.

National Technical Institute for the deaf, Rochester Institute of Technology, 1 Lomb Memorial Drive, Rochester, New York 14623.

### AMERICAN PRINTING HOUSE FOR THE BLIND

A nonprofit institute created in 1879 which supplies educational materials and tangible apparatus for education of the blind to children in schools for the blind, in public schools, and in private nonprofit institutions and to multihandicapped children and adult trainees at rehabilitation centers.

An Act of March 3, 1879 as amended.

Fiscal Year 1973 Estimated Obligations—$1,696,500.

Fiscal Year 1974 Estimated Obligations—$1,817,000.

In FY 1973, the American Printing House for the Blind supplied educational materials and educational aids to 21,846 blind children in schools for the blind and in private and public schools. An estimated 22,702 blind pupils will be served in the fiscal year 1974.

American Printing House for the Blind, 1839 Frankfort Ave., Louisville, Ky. 40206.

### BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

A program of library services to blind and physically handicapped residents of the United States and its territories through the dissemination of talking books, books in braille, and talking book machines.

Act to Provide Books for the Adult Blind, as amended by P.L. 87-765.

Fiscal Year 1973 Estimated Obligations—$8,906,000.

Fiscal Year 1974 Estimated Obligations—$9,921,000.

During the five-year period from 1968 to 1972, the number of readers requiring catalogs from which to select reading matter has grown from about 142,000 to almost 322,000, and circulation from approximately 5,300,000 units to over 9,110,000.

Division for the Blind and Physically Handicapped, Library of Congress, 1291 Taylor Street, N.W., Washington, D.C. 20542.

### MATERNAL AND CHILD HEALTH SERVICES

A program of formula grants which provides financial support to States to extend and improve services (especially in areas suffering from severe economic distress) for reducing infant mortality and improvement of health of mothers and children. Some of these funds are used by States to conduct special clinics for mentally retarded children where diagnostic, counseling, treatment, and followup services are provided.

Social Security Act as amended, Title V, Section 503.

Fiscal Year 1973 Estimated Obligations—$60,778,000.

Fiscal Year 1974 Estimated Obligations—$153,051,000.

### *Mentally retarded children*

The maternal and child health and crippled children's programs currently support in whole or in part 156 mental retardation clinics in which 71,000 children and their families received diagnostic and counseling services; 20 cytogenetic diagnostic and counseling programs; and 15 special clinics for children with multiple handicaps. The services include diagnosis, evaluation of a child's capacity for growth, the development of a treatment and management plan, interpretation to parents and follow-up care and supervision.

A major effort in the prevention of mental retardation continues to be in relation to the treatment of phenylketonuria (PKU). Seventeen medical centers from representative geographic locations throughout the Nation are collaborating in a study of children treated for PKU. This study is supported by the Maternal and Child Health Service. MCHS also continues to support State health departments in developing the necessary laboratory facilities to detect families with the PKU condition and to assist States in providing special diets and follow-up programs for such persons.

Maternal and Child Health Service, Bureau of Community Health Services, U.S. Department of Health, Education and Welfare, Rockville, Maryland 20852.

### CRIPPLED CHILDREN'S SERVICES

A program of formula grants to provide financial support to States (especially in areas suffering from severe economic distress) for medical and related services to crippled children and children suffering from conditions that lead to crippling.

Social Security Act as amended, Title V, Section 504.

Fiscal Year 1972 Obligation—$62,272,000.

Fiscal Year 1973 estimated Obligations—$64,900,000.

Fiscal year 1974 Estimated Obligations—$64,900,000..

In FY 1971, an estimated 498,000 children received physicians' services and 79,000 received inpatient hospital care under this program.

Maternal and Child Health Service, Bureau of Community Health Services, U.S. Department of Health, Education and Welfare, Rockville, Maryland 20852.

### MATERNAL AND CHILD HEALTH—PROJECT GRANTS

A program of project grants to help reduce the incidence of mental retardation and other handicapping conditions associated with childbearing and to help reduce infant and maternal mortality. The grants are used to find the more vulnerable patients early in pregnancy and make available a broad spectrum of diagnostic and specialist consultation services, provide hospitalization during the prenatal period as well as during labor and delivery, and provide for medical and intensive nursing care for prematurely born and other high risk infants. The program also supports health care projects for children and youth, particularly in areas where low-income families are concentrated, and comprehensive dental care projects for children.

Social Security Act, as amended, Title V, Section 508(a)(1).

Fiscal Year 1973 Estimated Obligations—$92,273,000.

Fiscal Year 1974 funding is transferred to the MCH formula grants to the States program.

Maternal and Child Health Service, Bureau of Community Health Services, U.S. Department of Health, Education and Welfare, Rockville, Maryland 20852.

### MATERNAL AND CHILD HEALTH RESEARCH

A program of project grants to support research projects relating to maternal and child health services or crippled children's services which show promise of substantial contribution to the advancement of such services.

Social Security Act, as amended, Section 512.

Fiscal Year 1973 Estimated Obligations—$6,035,000.

Fiscal Year 1974 Estimated Obligations—$6,035,000.

The FY 1974 funds will continue support of 68 research efforts in the broad field of maternal and child health and crippled children's services.

Maternal and Child Health Service, Bureau of Community Health Services, U.S. Department of Health, Education and Welfare, Rockville, Maryland 20852.

### MATERNAL AND CHILD HEALTH TRAINING

A program of project grants to train personnel for health care and related services for mothers and children, particularly mentally retarded children and children with multiple handicaps.

Social Security Act as amended, Title V, Section 511.

Fiscal Year 1973 Estimated Obligations—$15,882,000.

Fiscal Year 1974 Estimated Obligations—$15,882,000.

FY 1974 funding continues support to the 20 University-affiliated centers for the mentally retarded and sustains the annual level of long-term training at about 515 individuals.

Maternal and Child Health Service, Bureau of Community Health Services, U.S. Department of Health, Education and Welfare, Rockville, Maryland 20852.

### NATIONAL INSTITUTE OF MENTAL HEALTH—RESEARCH GRANTS

A program of project grants to develop new knowledge and approaches to the causes, diagnosis, treatment, control, and prevention of mental diseases of man through basic, clinical, and applied research, investigations, experiments, demonstrations, and studies.

Public Health Service Act, Sections 301 and 303.

Fiscal Year 1973 Estimated Obligations—$79,349,000. (Includes funding for Hospital Improvement Grants).

Fiscal Year 1974 Estimated Obligations—$80,489.

In 1973, a total of 979 projects were awarded. These grants are awarded for up to a one-year period and are used to develop and test a new technique or method or to exploit an unexpected research opportunity. Of the total research budget in 1974, $39,000,000 will be required to continue existing projects. New funds available will be invested only in high priority areas such as depression and child mental health.

National Institute of Mental Health, U.S. Department of Health, Education, and Welfare, Chevy Chase, Maryland 20015.

### MENTAL HEALTH—HOSPITAL STAFF DEVELOPMENT GRANTS

A program of project grants to support staff development programs to increase the effectiveness of staff in mental health hospitals and to translate rapidly increasing knowledge into more effective services to patients.

Public Health Service Act, Section 303.

Funding for this program is combined with NIMH research grants.

Emphasis is placed on using current knowledge in demonstrating improved services for patients and developing working relationships with community mental health programs.

National Institute of Mental Health, U.S. Department of Health, Education and Welfare, Chevy Chase, Maryland 20015.

### NATIONAL INSTITUTE OF MENTAL HEALTH—MANAGEMENT AND INFORMATION

In order to support the staff who are responsible for the planning, development, and administration of the grants and contracts program included in the general mental health activities, this subactivity includes the following program organizations: (1) the Division of Extramural Research Programs which plans and administers research programs; (2) the Division of Special Mental Health Programs which plans and administers programs directed toward problems of special significance such as crime and delinquency; (3) the Division of Manpower and Training which plans and administers programs of support for training of mental health personnel; (4) the Division of Mental Health Service Programs which provides planning at the national level and technical assistance in the field for the Community Mental Health Centers program; (5) the HEW Regional Offices which administer the decentralized Mental Health Programs; (6) the Office of Communications which serves as a focal point for the Institute's public information activities; and (7) the National Clearinghouse for Mental Health Information which collects, stores, and disseminates scientific mental health information.

Public Health Act as amended, Sections 301 and 303.

Fiscal Year 1973 Estimated Obligations—$20,443,000.

Fiscal Year 1974 Estimated Obligations—$21,355,000.

National Institute of Mental Health, U.S. Department of Health, Education and Welfare, Chevy Chase, Maryland 20015.

### ST. ELIZABETHS HOSPITAL

St. Elizabeths Hospital provides treatment and care for mentally ill who are either beneficiaries of the Federal Government or residents of the District of Columbia.

Established by Act of March 3, 1855.

Fiscal Year 1973 Estimated Obligations—$58,307,000.

Fiscal Year 1974 Estimated Obligations—$38,000,000.

At the current time, action is underway to transfer program and fiscal control of St. Elizabeths Hospital from the Federal Government to the District of Columbia.

The Hospital provides treatment and rehabilitation for approximately 9,800 individual patients annually, with an estimated daily average of 3,100 inpatients and 2,700 outpatients.

St. Elizabeths Hospital, Washington, D.C.

### NATIONAL EYE INSTITUTE—RESEARCH PROJECT GRANTS

A program of research grants and conditional gifts made to universities, medical schools, hospitals, and other nonprofit institutions for research on the causes, prevention, diagnosis, and treatment of blinding eye diseases and visual disorders.

Public Health Service Act as amended, Title IV, Part F.

Fiscal Year 1973 Estimated Obligations—$22,483,000.

Fiscal Year 1974 Estimated Obligations—$20,953,000.

In FY 1974, the Eye Institute plans to support approximately 371 research project grants in the areas of glaucoma, corneal diseases, retina and choroid diseases, cataract, congenital and developmental abnormalities, and other eye research.

National Eye Institute, National Institute of Health, U.S. Department of Health, Education and Welfare, Bethesda, Maryland 20014.

### NATIONAL EYE INSTITUTE—RESEARCH AND DEVELOPMENT CONTRACTS

Research and development contracts of the National Eye Institute provide a mechanism of support for highly targeted research programs which have a high probability of rapid payoff. Contracts may be awarded to universities and other nonprofit organizations, and to industrial or commercial concerns.

Public Health Service Act as amended, Title IV, Part F.

Fiscal Year 1973 Estimated Obligations—$2,122,000.

Fiscal Year 1974 Estimated Obligations—$2,122,000.

In FY 1974, this program will maintain its targeted research program on retinal diseases and glaucoma. Further, some new studies will be initiated on corneal disorders. High priority areas under consideration for contract efforts are mechanism immunity to infection; the immunopathologic mechanism; the mechanism and pathogenesis of recurrent and deep Herpes Simplex infection; evaluation of newer drugs and treatment of Herpes Simplex infection, including the mechanism of interferon production and action.

National Eye Institute, National Institute of Health, Bethesda, Maryland 20014.

### NATIONAL INSTITUTE OF NEUROLOGICAL DISEASES AND STROKE—RESEARCH GRANTS

This program supports, usually through research project grants to the independent investigator, the development and implementation of broad programs and projects of research on disorders of the brain, special senses, and human communication.

Public Health Service Act as amended, Title IV, Part D.

Fiscal Year 1973 Estimated Obligations—$62,544,000.

Fiscal Year 1974 Estimated Obligations—$59,116,000.

This Institute in FY 1974 will support 1,036 grant awards, with research emphasis in the fields of stroke, spinal cord injury, multiple sclerosis, parkinsonism, and speech and hearing.

National Institute of Neurological Diseases and Stroke, National Institutes of Health, Bethesda, Maryland 20014.

### NATIONAL INSTITUTE OF NEUROLOGICAL DISEASES AND STROKE—LABORATORY AND CLINICAL RESEARCH

The intramural research activities of the Institute are directed toward a broad program to investigate the basic characteristics of the nervous system and its diseases.

Public Health Service Act as amended, Title IV, Part D.

Fiscal Year 1973 Estimated Obligations—$10,392,000.

Fiscal Year 1974 Estimated Obligations—$10,910,000.

The Institute's basic and clinical research in neurological and communicative disorders includes projects in the field of cerebral trauma, particularly head injury, and in the field of muscular disorders. In 1974 it is planned to establish a laboratory of neurotology to focus on improving our basic understanding of the physiology, biophysical, and psychological mechanisms involved in the reception and interpretation of sound as well as the vocalization of speech.

National Institute of Neurological Diseases and Stroke, National Institutes of Health, Bethesda, Maryland 20014.

### NATIONAL INSTITUTE OF NEUROLOGICAL DISEASES AND STROKE—RESEARCH AND DEVELOPMENT CONTRACTS

These contracts are used to carry out the planned multidisciplinary program which is integrally related to the Institute's directed research programs, and provides the close collaboration between Institute and contractor personnel needed during the course of the contract.

Public Health Service Act as amended, Title VI, Part D.

Fiscal Year 1973 Estimated Obligations—$7,687,000.

Fiscal Year 1974 Estimated Obligations—$7,487,000.

Research contracts support neurological research for developmental programs including neural prosthesis and communicative disorders; applied neurological research including epilepsy, head injury, stroke, and a cerebral death project; and in 1974 will include further research towards developing improved instrumentation and sensory aids for the deaf and blind.

National Institute of Neurological Diseases and Stroke, National Institutes of Health, Bethesda, Maryland 20014.

### NATIONAL INSTITUTE OF NEUROLOGICAL DISEASES AND STROKE—COLLABORATIVE RESEARCH AND SUPPORT

This activity supports many of the most important categorical research programs conducted by investigators in collaboration with other Federal institutions and non-Federal institutions largely through contracts.

Public Health Service Act as amended, Title IV, Part D.

Fiscal Year 1973 Estimated Obligations—$7,365,000.

Fiscal Year 1974 Estimated Obligations—$7,293,000.

The research emphasis is on Head Injury, Epilepsy, and the Perinatal Research Projects, with programs directed toward speech and hearing, multiple sclerosis, and neural prosthesis and to determine the role of viruses and their effect on neurological disorders.

National Institute of Neurological Diseases and Stroke, National Institutes of Health, Bethesda, Maryland 20014.

### NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT—RESEARCH GRANTS

These grants provide support of research relating to maternal health, child health, and human development; in addition to the regular research grants and program project awards, support is furnished for twelve mental retardation research centers.

Public Health Service Act is amended, Title IV, Part E.

Fiscal Year 1973 Estimated Obligations—$60,046,000.

Fiscal Year 1974 Estimated Obligations—$59,020,000.

In 1974, the Institute will support 788 regular research grants and the twelve mental retardation research centers, with continued emphasis on mental retardation, particular Down's Syndrome.

National Institute of Child Health and Human Development, National Institutes of Health, Bethesda, Maryland 20014.

### NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT—LABORATORY AND CLINICAL RESEARCH

One of the five major program areas of child health and human development in this intramural research program is mental retardation.

Public Health Service Act as amended, Title IV, Part E.

Fiscal Year 1973 Estimated Obligations—$11,952,000.

Fiscal Year 1974 Estimated Obligations—$12,158,000.

National Institute of Child Health and Human Development, National Institutes of Health, Bethesda, Maryland 20014.

### NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT—RESEARCH AND DEVELOPMENT CONTRACTS

The research contracts are carried out in educational institutions, nonprofit organizations, and industrial concerns, and complement the Institute's programs carried on directly in Government laboratories and those supported through research grants.

Public Health Service Act as amended, Title IV, Part E.

Fiscal Year 1973 Estimated Obligations—$19,659,000.

Fiscal Year 1974 Estimated Obligations—$19,027,000.

Funds for FY 1974 will support continuation of research efforts in mental retardation and other areas.

National Institute of Child Health and Human Development, National Institutes of Health, Bethesda, Maryland 20014.

### DISABLED VETERANS—COMPENSATION FOR SERVICE-CONNECTED DISABILITY

A program of income replacement to compensate veterans for disabilities due to service based upon the average impairment in earning capacity such disability would cause in civilian occupations.

38 USC, Chapter 11.

Fiscal Year 1973 Budget Authority—$3,808,743,000.

Fiscal Year 1974 Budget Authority—$3,750,497,000.

In 1974, an estimated 2,564,037 disabled veterans and survivors will receive compensation averaging $1,463 a year.

Veterans' Administration, Washington, D.C. 20420.

### DISABLED VETERANS—PENSION FOR NONSERVICE-CONNECTED DISABILITY

A program of income support to assist veterans in need whose nonservice-connected disabilities are permanent and total and prevent them from following a substantially gainful occupation.

38 USC, Chapter 15.

Fiscal Year 1973 Budget Authority—$2,631,632,000.

Fiscal Year 1974 Budget Authority—$2,652,807.

In 1974, an estimated 1,085,466 veterans and survivors will receive pensions averaging $1,364 per case per year.

Veterans' Administration, Washington, D.C. 20420.

### DISABLED VETERANS—AUTOMOBILE GRANTS

A subsidy program to provide financial assistance not to exceed $2,800 to certain disabled veterans toward the purchase price of an automobile or other conveyance.

38 USC, Chapter 39.

Fiscal Year 1973 Estimated Expenditures—$11,500,000.

Fiscal Year 1974 Estimated Expenditures—$13,000,000.

In fiscal year 1974, assistance will be provided for the purchase of 3,810 automobiles and other conveyances at an average cost of $2,756 per conveyance. In addition, assistance will be provided for maintenance, repair, and installation of adaptive equipment in 6,000 cases at an average cost per item of $417.

Veterans' Administration, Washington, D.C. 20420.

### DISABLED VETERANS—SPECIALLY ADAPTED HOUSING

A program of grants to assist certain totally disabled veterans in acquiring a suitable housing unit, with special fixtures and facilities made necessary by the nature of veterans' disabilities. The maximum of such a grant is $17,500.

38 USC, Chapter 21.

Fiscal Year 1973 Estimated Expenditures—$10,500,000.

Fiscal Year 1974 Estimated Expenditures—$11,375,000.

In FY 1974, a total of 650 housing grants will be awarded.

Veterans' Administration, Washington, D.C. 20420.

### DISABLED VETERANS—VOCATIONAL REHABILITATION SERVICES

A program of training, advisory services and counseling, subsidies, and direct loans and repayable advances with the purpose of restoring employability, to the extent consistent with the degree of disablement, lost by virtue of a handicap due to a service-connected disability.

38 USC, Chapter 31.

Fiscal Year 1973 Estimated Expenditures—$27,125,000.

Fiscal Year 1974 Estimated Expenditures—$93,025,000.

In FY 1974, an estimated 38,000 disabled veterans will receive vocational rehabilitation services at an average cost per trainee of $2,448.

Veterans' Administration, Washington, D.C. 20420.

### DISABLED VETERANS—REHABILITATION OF BLIND VETERANS

A program of specialized services to assist eligible blind veterans to reorganize their lives under the condition of blindness and provide any necessary medical or health related services. Blind rehabilitation centers have been established at 3 VA hospitals to accomplish this purpose. Other services available for the rehabilitation of blind veterans include medical care, prosthetic services, outpatient care, vocational counseling and training, and compensation and pension benefits.

38 USC, Chapter 39.

As the program encompasses so many different VA programs, it is difficult to break out any dependable fiscal or program data on rehabilitation of blind veterans.

Veterans' Administration, Washington, D.C. 20420.

### VETERANS MEDICAL CARE

A program of care and treatment of eligible beneficiaries in Veterans Administration hospitals, domiciliary and nursing care beds, restoration centers outpatient clinics, contract care facilities, and State homes. Inpatient care is available to veterans receiving care for service-connected disabilities, veterans with service-connected compensable disabilities who can receive care for non-service-connected disabilities if a bed is available, and veterans who can receive care for nonservice-connected disabilities if they are unable to pay for care elsewhere.

38 USC, Chapter 17.

Fiscal Year 1973 Estimated Obligations—$2,558,000,000.

Fiscal Year 1974 Estimated Obligations—$2,672,000,000.

The VA estimates that in FY 1974, a total of 1,039,200 inpatient beneficiaries will be treated in VA hospitals, nursing home units, and domiciliaries, and an additional 69,700 will be treated in non-VA facilities. VA will also provide care in 13,549,000 outpatient medical visits, 275,000 dental examinations, and 264,000 dental treatments.

Department of Medicine and Surgery, Veterans Administration, Washington, D.C. 20420.

### DISABLED VETERANS—PROSTHETICS RESEARCH

A program of project grants to develop new and improved prosthetic devices, sensory aids, and related appliances for the primary benefit of disabled veterans. Through comprehensive educational and informational programs, the results of such research are made available for the benefit of disabled throughout the world.

38 USC, Chapter 17.

Fiscal Year 1973 Estimated Obligations—$3,169,000.

Fiscal Year 1974 Estimated Obligations—$3,264,000.

Program data not available.

Prosthetic and Sensory Aids Service, Veterans' Administration, Washington, D.C. 20420.

### HOUSING FOR THE HANDICAPPED

The Federal Housing Administration coordinates and directs programs and activities in the production and financing of housing and in the conservation and rehabilitation of housing. The FHA insures under the terms of the National Housing Act, mortgages and loans made by private lending institutions for the purchase, construction, rehabilitation, repair, and improvement of single-family and multi-family housing. The FHA also administers housing production under the Department's low-rent public housing program and college housing programs. The handicapped are eligible for, and do benefit from, these programs but in numbers so low that specific information is difficult to ascertain.

Federal Housing Administration, U.S. Department of Housing and Urban Development, Washington, D.C.

### COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED—WAGNER-O'DAY ACT

A program to encourage the gainful employment of blind and other severely handicapped persons by making it possible for them to supply products and services to Federal agencies on a well-organized basis.

Wagner-O'Day Act of 1938, P.L. 75–739, as amended by P.L. 92–28.

FY 1973 Estimated Obligations—$200,000.

FY 1974 Estimated Obligations—$240,000.

Over 200 workshops for the blind and for the severely handicapped are participating in the program.

Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 1511 K Street N.W., Washington, D.C. 20005.

### VENDING STANDS FOR BLIND PEOPLE—RANDOLPH-SHEPPARD ACT

A program granting preference to blind persons in the operation of vending stands in Federal buildings.

Randolph-Sheppard Act of 1936, P.L. 75–732, as amended.

At the end of fiscal year 1972, there were 878 stands on Federal properties employing 1,005 blind persons. In addition, there were 2,351 stands employing 2,578 blind persons on non-Federal installations. The average net income of operators in that year was $6,996.

Rehabilitation Services Administration, Social and Rehabilitation Service, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201.

### PRESIDENT'S COMMITTEE ON EMPLOYMENT OF THE HANDICAPPED

The President's Committee promotes employment opportunities for the physically and mentally handicapped through cooperation with Governors' Committees in the 50 States and with local community committees and with other public and private groups in promotional campaigns.

In 1949, P.L. 82–162 created the President's Committee on National Employ the Physically Handicapped Week; Executive Order 10640 of October 10, 1955, changed the name to the President's Committee on Employment of the Physically Handicapped; Executive Order 10994 of February 14, 1962, established the present Committee.

Fiscal Year 1973 Estimated Obligations—$890,000,000.

Fiscal Year 1974 Estimated Obligations—$844,000,000.

President's Committee on Employment of the Handicapped, Washington, D.C. 20210.

### FEDERAL EMPLOYMENT FOR THE HANDICAPPED

The Federal Government provides employment opportunities to handicapped persons in positions for which they can apply. This supports the traditional concept of assuring equal opportunity to all citizens desiring Federal employment and is fully compatible with the goal of efficiency and economy in Government. It serves to focus attention on a frequently overlooked source of valuable manpower. The Civil Service Commission, as the central personnel agency for the Federal Government, has the responsibility for a positive Federal program for the selective placement for the handicapped. The Commission serves as a catalyst for a nationwide effort by coordinating all phases of the program with Federal agencies.

Civil Service Commission Act.

Fiscal and program data on funds spent on this program and numbers of persons assisted are not available in any way suitable for inclusion in this compilation.

Director of Public Policy Employment Programs, Manpower Sources Division, Bureau of Recruiting and Examining, U.S. Civil Service Commission, Washington, D.C. 20415.

### EMPLOYMENT SERVICES

A program of project grants, advisory services and counseling, and specialized services designed to place persons in employment by providing services to individuals in need of preparation and placement in jobs and to employers seeking qualified individuals to fill job openings. Special services include special employment counseling services and placement assistance to physically and mentally handicapped persons seeking work in cooperation with other community agencies serving the handicapped, and priority in preferral, selection, and referral services to veterans seeking employment assistance, with preferential treatment for the disabled veteran.

Wagner-Peyser Act of 1933 as amended.

Fiscal and program data are difficult to break out from the total program of unemployment services.

U.S. Training and Employment Service, Washington, D.C. 20210.

### OFFICE OF MENTAL RETARDATION COORDINATION

This office was established in 1972 to replace the Secretary's Committee on Mental Retardation and is responsible for the following activities: (1) serves as a means of coordination and evaluation of the Department's retardation activities; (2) serves as a focal point for consideration of Department-wide policies, programs, procedures, activities and related matters relevant to mental retardation; (3) serves in an advisory capacity to the Secretary in regard to issues related to the administration of the Department's mental retardation programs; (4) serves as liaison for the Department with the President's Committee on Mental Retardation.

Established by the Secretary of Health, Education and Welfare on January 26, 1972.

Fiscal Year 1973 Estimated Expenditure—$236,415.

Fiscal Year 1974 Estimated Expenditure—$195,000.

Office of Mental Retardation Coordination, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201.

### MENTAL RETARDATION—PRESIDENT'S COMMITTEE ON MENTAL RETARDATION

The Committee advises and assists the President on all matters pertaining to mental retardation; evaluates national, State, and local efforts; helps coordinate Federal activities; facilitates communication between Federal, State, and local agencies; informa the public about mental retardation; and mobilizes support for related activities.

Created by Executive Order 11280, May 11, 1966.

Fiscal Year 1973 Estimated Expenditure—$635,000.

Fiscal Year 1974 Budget Request—$656,000.

President's Committee on Mental Retardation, Washington, D.C. 20201.

### SOCIAL SECURITY—DISABILITY INSURANCE

A program to provide monthly cash payments to a person with a physical or mental impairment severe enough to keep him from working, if the disability has lasted (or is expected to last) for 12 months or longer. Each applicant is considered for services by the Vocational Rehabilitation Agency in his State. The Social Security Disability Insurance Trust Fund pays disability benefits to eligible persons throughout their periods of disability. In addition, a certain percentage of the fund pays the costs of vocational rehabilitation services to selected social security disability beneficiaries. The 1972 Social Security Amendments provided that disability beneficiaries will be covered under Medicare after entitlement to disability benefits for not less than 24 consecutive months.

Social Security Act of 1935 as amended, Title II.

Fiscal Year 1973 Estimated Payments—$5,242 million.

Fiscal Year 1974 Estimated Payments—$6,106 million.

In fiscal year 1974, benefits will be paid to 2.0 million disabled workers totalling $4,923 million and to 1.5 million dependents of disabled workers totalling $1,183 million.

Bureau of Disability Insurance, Social Security Administration, U.S. Department of Health, Education and Welfare, Baltimore, Maryland 21235.

### SOCIAL SERVICES—AID TO THE BLIND AND THE PERMANENTLY AND TOTALLY DISABLED

A program providing 75 percent Federal matching funds to the States for the purpose of encouraging each State to furnish rehabilitation and other services to help needy individuals who are blind or disabled to attain or retain capability for self-support or self-care. Services may be provided under a State plan to persons who are beneficiaries of the new Federal Supplementary Security Income program, or to past or potential beneficiaries.

Social Security Act, as amended, Title VI (effective January 1, 1974).

The Social Services program also serves aged beneficiaries of SSI, and a break-down of expenditures according to kind of beneficiary is not available. In FY 1971 and FY 1972, the amounts of $196,368,000 and $476,827,000 respectively were spent to provide such services as General information and referral, Adult and family functioning, Family planning, Consumer education and money management, Housing improvement, Homemaker and chore services, Employment and training, Health access, Alcoholism and drug addiction, Community adjustment fpr those with mental health or retardation or crime and delinquency problems, Adult home and community living arrangements, Adult protection, and institutional adjustment. The aged constitute the majority of persons served.

Social and Rehabilitation Service, U.S. Department of Health, Education and Welfare, Washington, D.C. 20201.

### PLANNING AND DESIGN OF MASS TRANSPORTATION FACILITIES TO MEET SPECIAL NEED OF THE ELDERLY AND THE HANDICAPPED

The Urban Mass Transportation Assistance Act of 1970 declared the national policy to be that elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services; that special efforts shall be made in the planning and design of mass transportation facilities and services so that the availability to elderly and handicapped of mass transportation which they can effectively utilize will be assured; and that all Federal programs offering assistance in the field of mass transportation should contain provisions implementing this policy. The legislation, as amended in 1973, authorizes the 2 percent of the total obligations under the Act may be set aside for grants and loans for the specific purpose of assisting in providing such services. In addition, the legislation provides that 1½ percent of all research, development, and demonstration grants be set aside and used to increase the information and technology related to this problem.

Urban Mass Transportation Assistance Act of 1970, P.L. 91–453, Section 16, as amended by P.L. 93–87.

As yet, no projects have been funded under this program.

Urban Mass Transportation Administration, U.S. Department of Transportation, Washington, D.C. 20590.

### CHAMPUS PROGRAM FOR THE HANDICAPPED

A special program of civilian health services training and rehabilitation available for the seriously handicapped and moderately and severely mentally retarded spouses and children of active duty military personnel. Services authorized are, but not limited to: diagnosis; inpatient, outpatient, and home care; surgery and medical care; dental care, including orthodontia needed to correct handicapping conditions; prosthetic devices and orthopedic appliances; special optic devices; purchase or rental of durable equipment such as wheelchairs, iron lungs, hospital beds, etc.; training, rehabilitation, and special education; institutional residential care in private nonprofit, public, and State institutions and facilities; and transportation to and from facilities in which the dependent is to receive or has received institutional care.

Medical Military Benefits Amendments of 1966, P.L. 89–614.

In FY 1972, a total of $25.8 million in claims were paid under this program. These expenditures were made for 28,000 claims for physically handicapped cases, 1,400 claims for mentally retarded cases, and 131,000 orthodontia cases. (A separate claim does not represent separate case, many claims can be paid for an individual patient. With orthodontia cases, for example, a separate claim is paid each month for a patient with treatment lasting 24 months on the average.)

OCHAMPUS, Denver, Colorado 80240.

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## REPEAL OF YEAR-ROUND DAYLIGHT SAVING TIME

**Mr. BENTSEN.** Mr. President, the administration has made several requests for congressional action to deal with our Nation's energy shortage. The Congress has complied by passing a number of bills designed to alleviate the impact of the energy shortage. These measures will require sacrifices on the part of all of us, but we will see this crisis through together. It is the American character to rise to the occasion on demand and our experience so far has certainly been that we as a people have not grown too soft to respond positively to the crisis we are facing.

One of the measures requested by the administration as a cornerstone of its energy conservation program was legislation providing for uniform daylight saving time on a temporary basis to see us through the energy crisis. Expert studies, both within and outside the Government, indicated that year-round daylight saving time would yield significant energy savings because of lowered demand for electrical energy as well as savings in other areas such as reduced space heating requirements. I voted for daylight saving time as part of the effort to head off the energy shortage and ease the threats of rising unemployment, inadequate heat, and economic recession that this shortage poses.

Now, after having experimented with daylight saving time, I am seriously questioning whether the experts were correct. The more I see the more I am convinced that the experts were wrong for the energy savings are nowhere near as substantial as had been anticipated. But more importantly I am concerned about the impact daylight saving time is having on the safety of our schoolchildren. I do not believe we can continue to send schoolchildren to school and adults to their jobs in the dark of night as we have done since this law went into effect. The energy shortage is serious and strong energy conservation measures are necessary but not at the expense of the safety and well-being of the American people. Sacrifices will have to be made but should not be in the area of safety. There are many measures other than daylight saving time which the United States can enact to conserve energy. Therefore, Mr. President, I urge the Senate to give serious consideration to repealing daylight saving time. I am privileged to be a cosponsor of S. 2894, a bill introduced by the distinguished majority leader (Mr. Mansfield) and the distinguished junior Senator from Iowa (Mr. Clark) to provide for such a repeal. I am convinced that this legislation will have the strong support of citizens across the Nation and I hope the Congress will move expeditiously toward its enactment. The Congress should concentrate on more workable and realistic programs to conserve and increase our energy supplies.

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## A FAIR DEAL FOR VIETNAM VETERANS

**Mr. MONDALE.** Mr. President, I wish to place before the Congress an article which appeared in last Wednesday's New York Times. The article deals with the inadequate educational assistance given to Vietnam veterans. Few Members of our Congress could write so sensitively and so insightfully about the needs of the American veteran than my colleague and friend Senator Daniel Inouye of Hawaii.

I encourage my colleagues not only to read this article but to proceed to act to meet the educational needs of those who have sacrificed so much for our Nation.

I ask unanimous consent that Senator Inouye's article from the January 22, 1974, New York Times be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### A Fair Deal for Vietnam Veterans

(By Daniel K. Inouye)

Washington.—One year ago today, President Nixon announced we had achieved "peace with honor" in Vietnam as a cease-fire agreement was reached. He called on us to be proud of the two and a half million young Americans who served in Vietnam. Later in his State of the Union message the President asserted: "A grateful nation owes its servicemen and women every opportunity it can open to them when they return to civilian life. The nation may be weary of war, but we dare not grow weary of doing right by those who have borne its heaviest burdens."

When I returned home from World War II, like millions of other veterans, I was able to go to the college of my choice under the G.I. bill of rights. A "grateful nation" provided for my tuition, books and fees at the University of Hawaii and George Washington University Law School and a monthly subsistence allowance of $115. With my disability pension of about $200 and my wife's salary, our income was about $800 a month. I don't think many students could have matched that, and such high living was a new experience for us.

Seven million World War II veterans used the G.I. bill. The lives of each of us were changed by the opportunities provided to us. I do not believe I would be in the Senate today without having been a beneficiary of the bill.

Unfortunately, the homecoming of the Vietnam veteran is far different. President Nixon's words ring hollow in the ears of hundreds of thousands of Vietnam veterans who can"t afford to go to school. These brave young soldiers who gave up the comfort of peaceful homes and years of economic and educational advancement to answer a call to duty are denied benefits or receive benefits not at all comparable to those received by veterans of World War II and Korea.

The Administration has fostered the illusion that today's veteran is as well-treated as his father was. He is not. Presidential impoundment of funds designed to aid student veterans and Administration opposition to increased educational benefits despite misleading rhetoric, has caused the Vietnam veteran to feel that he fought the wrong war at the wrong time.

Today's veteran is eligible for a lump sum of $220 per month or $1,980 for each academic year. Out of this he must pay for tuition, fees, books and living expenses. Two separate studies, by the prestigious Educational Testing Service for the Veterans Administration and by the Special Veterans Opportunity Committee for the National League of Cities and the United States Conference of Mayors, have documented that present benefits are inadequate.

The Vietnam veteran has less purchasing power for four years in college than did the veteran of World War II after adjustments are made for cost-of-living increases. He is priced out of the private-college and graduate-school market. Unless he lives in a state with a large number of community colleges or inexpensive four-year public colleges, it is unlikely he can afford a college education. A young veteran attending an average four-year public institution falls $700 to $2,000 short of the amount needed to pay for tuition, books, fees and living expenses each year.

The unemployment rate among Vietnam veterans, especially minority and undereducated veterans, remains consistently high. The veteran is squeezed from both ends: Because he lacks education and training he cannot get a job; yet without a job to supplement inadequate G.I. benefits, he cannot get training or an education. Part-time jobs are not available. And as the energy-crisis job cutbacks have begun, the Vietnam veterans who lacks training and seniority has been the first to be fired. Present state and Federal job programs for ex-servicemen just don't do enough to offset depressed job markets.

All the men who fought in World War II and Korea returned as heroes. But Vietnam was the war nobody liked, and everybody now wants to forget. Yet although we disagreed over the motives, methods and purpose of American involvement in that tragic war, I believe the great majority of Americans agree that the Vietnam veterans deserve something better than what they are getting.

Over a fourth of the Senate has joined in co-sponsoring the proposed comprehensive Vietnam era veterans education benefits act. The legislation would bring educational, job and monetary benefits for Vietnam veterans to a level more equal to the benefits enjoyed by veterans of previous wars.

"All we want is the chance that the guys got who didn't have to go," said a returned veteran. It will be a national tragedy if those young Americans who did go to Vietnam, many as involuntary draftees, are now denied the opportunity to be trained and educated to their fullest capabilities because this nation has grown weary of doing right by those who did its fighting.

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## THE INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. BROOKE. Mr. President, many of us here share a deep disappointment over the recent House action to deny funds for replenishment funds for the International Development Association. The implications of this action for our relations with the developing countries of the world are not too difficult to discern. By its actions the House may well have given a serious blow to U.S. efforts to convince those countries of our concern for the welfare of their peoples. As Robert McNamara, President of the World Bank, said upon hearing of the House action, it is—

> An unmitigated disaster for hundreds of millions of people in the poorest nations of the world.

Commonsense and humanitarian concern compels me to fully endorse this view.

The United States in seeking to confront its problems—energy, inflation, and the growing alienation between Government and the individual—cannot, must not, lose sight of its opportunities to help improve the lot of peoples much less fortunate than ourselves. I only need point to the unfolding tragedies in the Sahelian region of Africa, in Ethiopia, in Bangladesh, to illustrate the cruel conditions that are the everyday existence of hundreds of millions of our fellow human beings. It would be ignoring many of the humanitarian principles which Americans pride themselves as having to turn our backs on these peoples.

Mr. President, I hope that the Senate will speedily move to rectify the unfortunate action of the House. I will work to that end, trusting that many of my colleagues will join me in doing so.

Mr. President, I ask unanimous consent that several articles and editorials concerning the bitter implications of the House action be printed in the Record.

There being no objection, the articles and editorials were ordered to be printed in the Record, as follows:

[From the New York Times, Jan. 25, 1974]

### House Curb on Aid "Disaster" for Poor, McNamara Says

(By Edwin L. Dale, Jr.)

Washington, January 24.—Robert S. McNamara, the president of the World Bank, said today that the vote yesterday by the House of Representatives to deny new United States contributions to the bank was "an unmitigated disaster for hundreds of millions of people in the poorest nations of the world."

In an unusual public statement on an action in one of the bank's member countries, Mr. McNamara said the arm of the bank that was affected, the International Development Association, "is the major source of development assistance for 21 countries classified by the United Nations as 'least developed,' to whom the United States and other nations have pledged a special assistance effort."

Most of these countries are small and most are in Africa. But the association is also important to much larger countries. In the past year it supplied 30 per cent of all the aid received by India, for example.

High officials of the World Bank said the bank's strategy for the moment was to "give the United States another chance"—that is, to see whether the legislation can be revived—before contemplating an appeal to the 24 other relatively rich countries that provide funds to the development association to put up their share without the United States.

The sharing agreement, negotiated last September in Nairobi, Kenya, at the annual meeting of the International Bank for Reconstruction and Development, or World Bank, provides for $4.5-billion over three years, with the United States share $1.5-billion. This is the smallest share ever for the United States, which, unlike the others, would be allowed to spread its contribution over four years instead of three. It was this contribution that was killed by the House yesterday.

Secretary of the Treasury George P. Shultz was in charge of the negotiations for the United States and pledged to do his best to win Congressional approval. Mr. Shultz, it has been reliably learned, was taken by surprise by the adverse house vote yesterday, having believed that the bill would pass. The vote to kill it was 248 to 155, with Republicans voting overwhelmingly against the bill.

Mr. Shultz is still groping for the best way to revive the legislation. One possibility would be to seek passage in the Senate and then, in the words of one official, "give the House another chance to do the right thing." But no decision on tactics has been made.

Once before, in 1969, the House voted down the bill authorizing a three-year United States contribution to the development association and then later reversed itself and approved the bill by a narrow margin. The necessary appropriations for these three years were also approved, but with a long delay, leaving the United States far behind schedule in the current round of contributions.

One result of the surprise vote, which came at a time of growing disillusion with foreign aid, was a decision by Mr. Shultz and the House leadership to postpone indefinitely consideration of a companion bill that would provide new United States contributions to the much smaller Asian Development Bank.

Mr. McNamara, in his statement, emphasized that "the United States total development effort today runs 14th among the 16 principal donor countries, and in relation to the national income is only one-tenth of what it was 25 years ago."

"Moreover," he said, "United States per capita income now is 30 to 40 times that of people in the poor nations of Africa and Asia."

### DROUGHT CITED

Mr. McNamara said that the poorest nations that rely on the World Bank unit for much of their external assistance include such countries as Niger, Upper Volta, Mali, Mauritania, Senegal and Chad, which "have been undergoing one of the worst droughts in human history."

He added that other large recipients of these funds such as India, Pakistan and Bangladesh, "have also recently been hit by drought, tripling the cost of imported food grain."

He said that to people in these countries international aid, including that from the development association, which makes loans on easy terms, "means the difference between some alleviation of their poverty and desperation."

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[From the New York Times, Jan. 25, 1974]

### THE POOR OF THE EARTH

(By James Reston)

WASHINGTON, January 24.—One of the bitter tragedies of the present world crisis is that the heaviest blows are falling, as usual, on the poor of the earth.

For the rich, inflation, the energy shortage and rising food prices and unemployment are an irritation and at worst an inconvenience, but for the poor, they are a disaster.

The point is obvious, but it seems to have been missed by the House of Representatives in its recent vote to kill President Nixon's bill to aid the world's poorest countries through the World Bank's International Development Association.

This vote tells a lot about the present mood of the Congress and the state of Presidential and Democratic leadership. Though the danger of mass starvation in sub-Sahara Africa and in India and Bangladesh is now alarming, the House voted 248–155 against the relief sought by the Administration, with 108 Democrats voting for it and 118 against it, and 130 Republicans voting against the President and only 47 Republicans supporting him.

Now we are beginning to see the consequences of Vietnam, Watergate, and the turmoil of the Middle East. The House is surly and frustrated, disillusioned with foreign aid and foreign adventures, and hostile to a President who impounds funds for the poor at home while seeking more aid for countries overseas.

President Nixon anticipated this mood but he underestimated it. By diligent private negotiating over the last year, and with the help of Robert McNamara, the head of the World Bank, he managed to persuade the other industrial nations of the world to increase their "soft loans" to the poorest countries from 40 per cent to 66⅔ per cent, allowing the United States to reduce its contribution to one-third from 40 percent.

Even at 40 per cent of the total funds contributed by the rich nations through I.D.A. to the poor nations, the United States was putting up less of its gross national product than fourteen of the sixteen most prosperous countries.

Nevertheless, though inflation has reduced the value of I.D.A.'s soft loans by almost 30 per cent in the last few years, and though starvation is an immediate problem in most of the countries concerned, the vote for relief in the House wasn't even close.

If this were an isolated case of nationalism, it might be passed over as a regrettable and correctable offense; but the tide of nationalism is running strong in the world again, and there is little doubt that the vote in the House will probably be popular with the voters in this country.

Wherever you look in the advanced countries today, you will find leaders arguing for a new world order and pointing to the monetary crisis and the energy crisis as evidence that this is an increasingly interdependent world, requiring mutual aid and cooperation.

But at the same time, many of these same nations turn protectionist whenever they get in trouble. Europe is trying to form a more cooperative union, but when the Netherlands irritates the Arab oil-producers, the Dutch are left to fend for themselves.

Likewise, though Europe is engaged in the most delicate monetary negotiations in order to bring stability to its currencies, the French float and devalue the franc on their own. Now it is the House of Representatives that recognizes the danger of world hunger but votes against relief.

The leadership on both sides of the aisle was appalling during the debate. A White House preoccupied with its personal and legal problems gave its bill very little support—in fact, the President's name was seldom mentioned by his own House leaders—and the Democrats were just as bad.

Representative George Mahon of Texas, who is normally a sensible man except in election years, warned the House that he wouldn't be for appropriating the money requested by the President even if the House authorized it, and Representative Wayne Hays, Ohio's gift to diplomacy, was worse.

He argued that money voted for the poor countries would merely be used to pay for higher gas and oil prices, and thus would probably wind up in the pockets of the oil sheiks. This was like saying that if you're gouged by the rich, you are justified in turning round and kicking the poor.

The situation is particularly awkward now, not only because the World Bank will run out of "soft-loan" funds at the end of June but because no nation is obliged to meet its commitments to I.D.A. if other nations refuse to meet their quotas.

State Secretary Kissinger and Treasury Secretary Shultz reacted strongly against the House vote, but the following day, Mr. Kissinger was condemned on Capitol Hill for doing so.

Accordingly, they are now turning to the Senate for a more careful reappraisal of the problem. Their aim is to get the decision reversed or at least modified before Feb. 11, when the world oil producers, and consumers meet here to discuss cooperative action on the cost and distribution of fuel.

"How can we expect cooperation on oil if we will not cooperate to relieve hunger" Mr. Kissinger asks. But Congress has its mind on other things and so has the President.

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[From the Washington Post, Jan. 25, 1974]

### NO AID, NO TRADE

The House of Representatives threw much more into jeopardy than its members may have realized when it refused to authorize funds for an enlarged development loan pool to be operated by the World Bank for the poorest nations of the world. Several reasons for defeat of the Administration's proposal are obvious; there are many more reasons why this unthinking action should be quickly reversed, if it is not too late.

The mass defections among Republicans—only 47 supported the measure despite strong urging from the White House—gives one more sign of weakened Presidential influence, even in his own party. Neither among voters nor, more inexcusably, among their elected representatives does the notion of foreign aid seem able to overcome its earliest years of being considered an American "giveaway." However often it is argued, the Congress seems reluctant to recognize that development assistance brings mutual benefits to industrialized and less developed nations alike.

The program just defeated a $1.5-billion contribution to the World Bank's International Development Association, represented a positive and sophisticated approach to foreign aid. First of all, it is multilateral in its funding, avoiding the dangers inherent in attaching political strings. Through its multilateral structure, the I.D.A. is equipped to draw on the new resources of oil-rich countries, as well as the conventional donors, for redistribution among countries still in need of investment funds.

Secondly, the World Bank sponsors development projects of direct benefit to the poorer segments of the population in the less developed countries, as opposed to the earlier practice of strengthening national economic institutions from the top and hoping that the benefits would "trickle down" to the poor—hopes that were often shown to be futile.

Finally, the I.D.A. loan pool, negotiated last September at the World Bank meeting in Nairobi, represents a genuine trend toward burden-sharing among the richer states—another retort to the traditional critics of American giveaways. The United States share would have been dropped from 40 per cent to one-third; Japan, in contrast, had agreed to triple its contribution; West Germany's share would have more than doubled.

The essence of worthwhile foreign aid in the coming decade is to create productive economic ties among richer and poorer nations, to realize the benefits from cooperation as opposed to short-term advantages that might be gained from embargoes, unilateral price hikes and expanding cartels. The threats of economic warfare that have arisen over the Middle Eastern oil powerplays should stand as ample lesson of what is endangered when a country or group of countries goes its own way into economic confrontation rather than cooperation.

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## GREEN GROW THE PROFITS

Mr. ABOUREZK. Mr. President, on December 21, 1973, the ABC television network broadcasted a special news program entitled "Green Grow the Profits." This program offered a very insightful examination of a trend in the American food industry that I find disturbing.

That trend is the growing tendency for the industry to be dominated by giant conglomerate corporations who are in a position to make decisions regarding the quality, taste, price, and even quantity of food available to the American consumer.

These decisions, of course, are made in the interest of the corporation, not the consumer. In fact, the interests of the corporation and the consumer may be directly opposed to one another. For example, it is the interest of the company to maximize production efficiency. This means getting as much product out as quickly as possible. To the consumer, however, the question of quality and safety of the product is more important. He wants to be sure that the food he eats is safe. Making sure that the food is not contaminated adds expense to the company and slows down the production line.

There is no industry more important to America than the food industry. We care about the quality of our housing, our clothing, our automobiles. But the quality of the food we eat can be, literally and immediately, a matter of life or death.

The retention of competition in the food industry is, in my mind, one of the most important issues that America must face. Because of the value of this broadcast, I ask unanimous consent that the transcript be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

### ABC NEWS CLOSEUP: FOOD: GREEN GROW THE PROFITS

(Produced and written by James Benjamin)

**NARRATOR.** Where are the meals of yesteryear . . . the tastes, the feel, the smell of good food? At holiday time, when families gather, we remember and savor those meals in our minds . . . the food that came from the millions of American farms, with only a stop at the grocer or butcher before it got to our homes.

Today this is no longer so. Why?

This may be the tomato of the future—genetically redesigned to be oblong and firm for mechanical harvesting and packing . . .

This long-feathered crested chicken may be marked for commercial success. The bangs block out distractions. Result: Such chickens with limited vision fight less and have fewer bruises when they're ready for slaughter.

Tax supported research is changing the food we eat—why?

**WORDHAM.** These chicks are two weeks old, and in seven weeks one of them may be on your dinner table. This chicken house in the South is part of the Agribusiness assembly-line method of raising food, which is said to be more efficient and a way to make the products more wholesome.

But the chicken you eat may be contaminated. Why?

**INSPECTOR.** Main thing they're interested in is getting the product out the back end of the building. Shipped.

**WORDHAM.** What are you told to do?

**INSPECTOR.** To pass chickens that to the best of our knowledge and training are chickens that should go in the condemned can.

Secretary **BUTZ.** Last year we spent less than 16% of our take-home pay for food . . . This year it's going to be less than 16% . . . That's less than ever before in the history of America . . . I think that will continue on downward.

**NARRATOR.** The 16% is an average which includes take-home pay spent for food at home and outside the home. Using the Agriculture Department's own statistics which are restricted to money spent for food eaten at home, we find that an average urban family with two school-age children, on a moderate food budget—take-home pay eight thousand a year—spends 32% of its budget on food. A family that takes home $12,000 spends 21% on groceries.

And food remains cheapest for the rich. If you take home $50,000 or more—average food cost, six percent per year or less.

**PETERSON.** There is a fundamental change occurring in the ways our foods are being grown, processed and delivered to us. Seasonal crops are now available year round. Prepared foods have drastically cut time in the kitchen. This is now possible because giant corporations and cooperatives handle our food from seed to supermarket. The system is known as Agribusiness. I'm Roger Peterson. In the next hour, we'll examine some aspects of Agribusiness, in fruits, vegetables and poultry, see how assembly-line agriculture operates, what abuses, if any, are occurring because of this changing system and, if so, what we can do about it. What we eat is important to us all. So, Agribusiness is everybody's business.

### PART I

**NARRATOR.** Food becomes something special during the holiday season. But holiday—or every day, we never know enough about our food. Just check the credentials of your holiday meal. You may find that not only has your turkey come from Greyhound, but your chicken from Continental Grain Company, through its subsidiary Wayne Poultry . . . your ham from IT&T . . . your roast from John Hancock Mutual Life Insurance Company . . . your vegetables from Tenneco, formerly Tennessee Gas & Transmission Company and from Gulf & Western, owners of Paramount Pictures . . . potatoes from Boeing Aircraft . . . fruit from Purex, peaches from Westgate which also owns the Yellow Cab Company in California . . . and after-dinner nuts from Getty Oil.

Many of the corporations are conglomerates with no agricultural background. They've bought into food as a fertile field for growing, processing, distributing and controlling the supply. Agribusiness corporations now control 51% of our fresh vegetables and 95% of processed vegetables . . . 85% of our citrus crops . . . 100% of sugar cane . . . 97% of broiling chickens . . . and 40% of eggs.

"Efficiency" and "quality" are the two claims of Agribusiness. To achieve this in the farming end, machines replace or help man. Animals are penned up and fed chemically-enriched feed that research shows will make them grow bigger faster. Fertilizers and pesticides are used heavily. Most research by the food industry is toward finding new products and food supplements. The bulk of agricultural research in this country, however, is by the Department of Agriculture and Land Grant Colleges who spend an estimated 600 million dollars of tax money each year. The public paid for the mechanical tomato harvester which can't harvest the tomatoes it was meant to pick. It also required genetically changing the old-style tomato to one which the harvester wouldn't squash.

Dr. Allen Stevens at the University of California at Davis has been tailoring tomatoes to machines. ABC News correspondent Dick Shoemaker talked with him:

**Dr. STEVENS.** As we have gone to mechanical harvesting, we have had to develop tomatoes which have smaller fruit size, the fruits have to be tougher, they have to be firmer, they have to be able to stand the bumping and the pressure that they get during mechanical harvesting.

**SHOEMAKER.** I see here there's quite a difference between the old style, and the one that you've developed for mechanical harvesting.

**Dr. STEVENS.** Right, you can see, the older tomatoes have a thin wall, they have a lot of seed area, a lot of juice, and as we have developed a firmer tomato we have gotten to a much thicker wall, a reduced seed area, and the tomatoes are much firmer and harder.

**SHOEMAKER.** How do they taste right now?

**Dr. STEVENS.** Not so good.

**JIM HIGHTOWER.** This little hard nugget that you buy at the supermarket wrapped in cellophane, there today, is the product of your tax expenditures.

**NARRATOR.** Jim Hightower is Director of the Agribusiness Accountability Project which is a private, non-profit organization supported by foundations. To him, the tomato story illustrates what's wrong with tax supported research being done for Agribusiness.

**HIGHTOWER.** Del Monte, Hunt, and Heinz and the giant processors wanted to mechanically harvest tomatoes, because they wanted to eliminate labor in the fields.

And the land grant colleges said yes we'll do that for you. So they genetically redesigned the tomato. But then they had to harvest the tomatoes green, because they still aren't hard enough. So they developed a system of applying ethylene gas to tomatoes, which turns them red, but it doesn't ripen them, necessarily. It just turns them red, uniformly and at the same time. They're chemically ripened. Now they've isolated 70 chemicals that cause flavor in tomatoes and they're going to artificially inject those back into that tomato.

**NARRATOR.** Let's examine what other work is being done to prepare crops for the industrial revolution to come. At the University of California at Davis, cantaloupes that now grow on vines are being redesigned to grow on bushes, for mechanical harvesting. Dr. Frank Zink.

**Dr. ZINK.** Ag engineering department is working with me here, on the campus and working with the ag engineer, I develop the plant and they develop the machine. And it's a kind of hand in glove operation. It's the same approach we used for the mechanical harvesting of tomatoes. We're just about 10 years behind the tomato people, that's just it.

**NARRATOR.** Another project, at the University of Georgia, is developing a machine to prepare peaches for the public, by, among other things, defuzzing them. Dr. John Perry.

**Dr. PERRY.** This machine that we see here is what we refer to as a mobile in-orchard grading, sorting, and packaging unit for peaches. The machine will remove the fuzz that exists on all peach fruit. It will coat the fruit with a water-soluble wax containing fungicides to prolong storage life and prevent weight loss during storage. After this is done the fruit comes to the rear of the machine and can be packaged into the trays and boxes that you see here.

**NARRATOR.** Another project: the commercial use of this chicken is being investigated at the University of Georgia. Dr. Kenneth Washburn.

**Dr. WASHBURN.** This chicken that I am holding is called a "naked neck"—obviously because of the fact that it has no feathers on its neck. I am looking into the possibility of developing this into a commercial strain because in processing, one of the processing problems is the fact that when the chicken is killed, and the head cut off, there is usually a ring of feathers in this area, that has to be removed by hand, and it is very difficult to remove. There is another mutation called "naked" in which the entire bird may have a total of three or four feathers. If you think this is a weird looking bird then you should see the naked bird.

**NARRATOR.** At the Richard Russell Laboratory, Athens, Georgia, another search—to isolate the taste of chicken. Dr. Robert Horvat.

**Dr. HORVAT.** The instruments in this room are all being used to attempt to solve the problem of chicken flavor and what compounds or materials are responsible for what we call chicken flavor. This problem arose because certain people questioned whether a modern chicken is equal to the chicken that grew up on grandpa's farm. So we trap the small amounts of material such as this, and this is equivalent to about ten pounds of chicken, this material here. What we hope to do is find that maybe five or six or seven major or minor components will reproduce the odor of chicken, and help the feed formulators decide on a diet that would produce the superior flavor chickens.

**NARRATOR.** For several years cattle have been collected in lots and fed chemically-enriched food. This has been successful. They have grown fatter, faster, but problems have developed with one of the most widely used chemicals . . . DES.

DES was developed at Iowa State University and licensed without competitive bidding to Eli Lilly, the pharmaceutical corporation, which distributed it for 18 years. During that time, its cancer-causing ability in animals was established. But, so long as no residue of DES was found in edible meat, its use was permitted by Congressional amendment . . . until 1972.

**ANNOUNCER.** Document: "Department of Health, Education and Welfare. Food and Drug Administration. Diethylstilbestrol order denying hearing and withdrawing approval."

"The animal feeding industry, the pharmaceutical industry and the U.S. Department of Agriculture have been unable to come forward with restrictions and controls on the use of DES in animal feed that will result in the absence of detectable residues in the edible portions of the animals. Accordingly, the law requires that use of the drug must be discontinued."

Dr. Feingold. I have a youngster, four and a half year old youngster who had been in, all the places like so many of them . . . They see psychologists, psychiatrists . . . They have all kinds of electroencephalography . . . Everything . . . But nothing's of any avail.

Narrator. The effect of adding chemicals to our food is a source of growing concern. Dr. Ben Feingold, chief emeritus, department of allergy, Kaiser Medical Center, San Francisco, believes artificial colors and flavors, along with naturally occurring salicylates, contribute to extreme over-activity in otherwise normal children, a condition known as hyperkinesis. Eighty-five percent of his patients improve on a diet free of these chemicals.

Dr. Feingold. I had a youngster for instance who was doing extremely well and his mother put the child on a diet . . . He cleared up.

And one day he got a hold of a box of ice cream cones. Ice cream cones are dyed with the yellow dye—tartrazine. Right after that he hit the ceiling . . . she said she had to scrape him off the ceiling. Originally our work started with adverse reactions to aspirin and we included that in the diet. And then we found that many foods contain natural salicylates. We added that to our diet. Then we found out that there are other chemicals, that, although they're not structurally related to aspirin, produce adverse reactions and accordingly we included a diet to eliminate all artificial flavors, all artificial colors regardless of whether or not they're related or not. And when we did that, that's when we started getting the results. Now, we'll have to go ahead and study, and try to pinpoint them if we can.

Now most of the cereals that are fruit flavored, new cereals particularly designed for children are all with artificial colors and flavors.

Now, I think one of the worse areas of offenders are the soft drinks. Then we get into all the convenience foods, TV foods.

Narrator. Dr. Feingold allowed ABC News to be present when he interviewed Mrs. Tracy Stevenson and her son, Dean. Dean, hyperactive from early childhood, had been taking drugs to calm him for three years. He has been on the Feingold diet for some two weeks.

Mrs. Stevenson. We had taken him off his medication initially and, then he was totally unable . . . especially in the evenings, when I would see him after work, to sit down, to concentrate, and you would see this wildness, like he . . . there was no control of what was happening with his body or even with his head at that point.

So then we started on the diet, and for five days I didn't see anything and was beginning to get a little bit depressed and on the sixth day it was like . . . there it happened. He's just plain manageable now, and his therapist says she sees no sign of hyperactivity in him at all.

Narrator. The Feingold diet does not work for all cases as there are multiple causes for this disorder. Further study is needed. Other research at Georgetown University has revealed that chemical preservatives inhibit growth of human tissue culture cells, alter their shape, and in some cases even destroy them.

Peterson. During the preparation of this broadcast we asked the major food industry associations for representatives of industry to reply on film to some of the statements made regarding the nutritional value of food today, additives placed in food during processing, and research being conducted by the industry.

The Grocery Manufacturers Association told us it was unable to obtain statements from individual member companies. But it did agree to comment on research being done on the safety of chemical flavors and colors and other additives in processed foods. It said quote . . . "Dr. Feingold's recent research has yet to be scientifically reviewed and verified. All substances added to food, however, are approved for safety by the Federal Food and Drug Administration. These substances are either categorized as Generally Recognized As Safe or are subject to specific FDA testing and approval." The National Canners Association agreed to a filmed interview. I talked with its president, Charles J. Carey.

Segments of the food industry have been criticized for not looking at nutrition, to just sort of turning out a product, and not wondering about the quality of the product, the nutrient quality of the product . . . Do you think that's a fair criticism?

Charles Carey. Well, I certainly wouldn't think it was a fair criticism of the canning industry. By and large the products that our industry processes are the natural farm products, the basic farm products, and they are preserved in their natural state. Work has been done through genetics to try and improve some of the characteristics of the products from a nutritional standpoint, as well as for other reasons. One very interesting piece of research that was done not too long ago, improved the protein quality of beans, through the amino acid structure, through changing the genetics or through, through the typical work in plant genetics.

Peterson. What, what does a tomato that can be mechanically harvested add to my diet?

Carey. It doesn't add to your diet, but it makes it more economical for, to process and to deliver to the consumer, and the consumer, of course, is very concerned about the cost of food as well as she is about the nutrition of the food.

Many of the most common products you see on the grocery shelf today, would be in the luxury category, if it weren't for mechanization.

Peterson. Sir, is there a reason why the consumer should be concerned about the quality of his food?

Carey. Certainly not canned foods. We are delighted to have the opportunity whenever it's offered, to spread the record of our industry for the public to see.

Narrator. Dr. Jean Mayer is professor of Nutrition, Harvard University. He headed the White House Conference on Food, Nutrition and Health in 1969.

Dr. Mayer. There is no reason why the same large companies which have developed these extreme technological marketing efficiency cannot produce better foods than many of the foods now on the market are. I had a great deal to do with the chief executives of all the largest food companies in the country at the time of the White House Conference, and I have remained on very good terms with many of them since, and I am impressed with the fact that I think that all of them . . . express a very sincere interest in nutrition and in nutrition education, and would like to see people, American people, better fed. Unfortunately, as you go down from those professions of faith at the top to the level of the sales and advertising executives, then you get a very different sort of viewpoint and the viewpoint is still that they're not really sure that they can sell nutrition, and—taste, yes; advertising, yes; but nutrition . . . they're not quite sure. I think they've got to be convinced that they not only have to but they should and they can.

Announcer. Document: "An Evaluation of Research on Human Nutrition," an independent survey for the U.S. Department of Agriculture and the State Universities and land-grant colleges: "Most of all of the health problems underlying the leading causes of death in the United States could be modified by improvements in diet. . . . Death rates for many of these conditions are higher in the U.S. than in other countries of comparable economic development."

"Improper diet may also affect learning directly through its effect on brain and central nervous system development during the fetal period, infancy, and early childhood."

"Processed and fabricated foods are often not comparable nutritionally to the foods they replace."

Narrator. Next, we'll look at the chicken industry which was reorganized by Agribusiness for the purpose of greater productivity and efficiency.

### PART II

Announcer. Document: "Don't Be Afraid of Integration," a 1959 magazine article by the Dean of Agriculture, Purdue University.

"The fact that an individual producer may surrender some of his managerial freedom and may transfer part of his risk-taking to someone else, is really a very small price to pay for the advantages that flow, out of an integrated system . . . 20 years from now, we'll look back on 1959, and be a litle amused that we were so fearful of change. The future belongs to those who prepare for it."

Narrator. The author, Earl Butz, is now Secretary of Agriculture. Butz was on the board of directors of Ralston-Purina when he wrote it. Purina led the vertical integration in broiler raising—one of the first industries to be revolutionized. Broilers are grown, mainly, in the South. We visited Alabama to see how the system operates.

It's been controlled by a handful of companies such as Wayne Feed, a subsidiary of Continental Grain Company and Holly Farms . . . Pillsbury . . . Gold Kist and Conagra.

Once, chickens were raised by farmers in barnyards. Now there is an assembly line process. Laying hens, hatcheries, the chicks themselves and what they eat are owned and provided by the corporation. Farmers have become contract growers for the company and rent the chicks. The feed is delivered weekly by the corporation. There are rules which growers must follow during the 7–9 week growing stage to provide a uniform product. Growers must also pay for building their large expensive chicken houses and the equipment. Special insulation, heaters, watering trays and automatic feeding troughs. Growers must update equipment as the company decides.

After 7–9 weeks, the chickens are picked up by integrator corporation trucks and taken to the processing house for slaughter.

The same corporations kill, dress and distribute the broilers. They say that vertical integration is efficient and provides good, uniform broiler quality.

Despite an expansion of broiler production due to mechanization, the price of broilers has gone up. And the system may be far from foolproof.

Wordham. This is chicken feed in a big modern mass production chicken house in the South. The feed is heavily laced with arsenic. Growers and scientists for the Agribusiness companies tell us that arsenic makes the birds grow fatter faster and also kills parasites. Federal regulations prohibit the use of arsenic in the final feed before the bird is killed because much of the arsenic would still be in the body of the bird when it reached your supermarket shelf. And yet, growers have told us that there is arsenic in final feed delivered to them by the big companies.

Reporter. I am Debra Kram, a reporter for ABC News. While on assignment in the South a grower and I called other growers who were feeding chickens. We asked permission of those who were in the final feeding stage to take samples of their feed . . . and some agreed. I gathered this feed from empty chicken houses. In three houses I saw the chickens picked up. In two other houses I was told the birds had been picked up the night before and I picked random samples from the feed troughs from which the chickens had eaten immediately before they went to slaughter. This feed had been provided for the growers, under contract, by major integrators.

ANNOUNCER. Document: Laboratory Analysis Report to: American Broadcasting Company; Sample of: Animal feed; Analysis Requested: Arsenic content; Results: Five samples of final feed tested. Four of the five contained arsenic.

THOMAS. If you mention this to the field men out here and they laugh about it and say it's no concern of yours. You're just producing the chickens.

NARRATOR. W. O. Thomas was a grower until two years ago.

WORDHAM. Did you complain about it?

THOMAS. Right.

WORDHAM. Nothing happened?

THOMAS. Nothing happened.

NARRATOR. Charles Van Houweling is director of the Bureau of Veterinary Medicine, Food and Drug Administration. I asked him about our finding arsenic in the final feed samples.

VAN HOUWELING. That kind of a mistake, if it occurred would lead the producer to get into some trouble because it might cause sufficient residue to be detectable and be over the tolerance.

PETERSON. Just the producer? This is an integrated operation, where a man is under contract to grow these chicks.

VAN HOUWELING. Well, that involves the entire corporation, actually. The penalty could be as high as a thousand dollars fine or one year in jail, for each count for the first offense.

PETERSON. Have you ever brought charges against a company?

VAN HOUWELING. Not as fas as arsenic. We have investigated a good many but we have not had the second offenses which we normally require and we have not had what, you know, would seem to be willful misuse.

PETERSON. Doctor, have you had any complaints from people who have received chicken with too much arsenic in it?

VAN HOUWELING. Well, certainly not from arsenic. We have had occasional reports where someone would eat a TV dinner or some other food and then have a reaction and perhaps go to a doctor or a hospital and they would immediately suspect there might be some residue and we've tried to check those out in every instance. We have never been able to document the connection between any residue and any illness.

NARRATOR. We will examine more of the broiler industry in a moment.

### PART III

NARRATOR. Mechanization and speed are hallmarks of broiler raising. This is a mechanical chicken harvester now being perfected at the University of Georgia with tax money. The harvester is to replace present commercial equipment. It will mechanically herd the broilers down toward the middle of the broiler house and on to a conveyor belt that's recessed in the floor. This can carry 100 to 200 birds a minute to waiting trucks for slaughter.

Still on the drawing board: a ten-tier model, to transport 6,000 birds.

In speeding up production today, there have occurred some questionable practice in broiler processing—in the slaughtering, dressing and packaging. Federal poultry inspectors charge that the companies pressure them to rush their inspection and pass contaminated poultry on the inspection line.

Wayne Poultry, a division of Continental Grain Company, allowed us to film the processing operation in their Albertville, Alabama, plant. They feel there are no infractions here. The white-hatted inspectors have three seconds to check each bird for more than 10 diseases. Those birds rejected go into USDA condemned cans to be later chopped up for pet food.

ABC's Bill Wordham spoke with Hugh Allison, a retired USDA inspector, who said that violations of Federal poultry inspection rules are widespread.

WORDHAM. You were a Federal inspector and you had to insure that the chickens in these plants met minimum Federal Health Standards. Were you able to do that?

ALLISON. Well, in plants, yes, some plants but you do have a problem of doing your job without being . . . pressure put on.

WORDHAM. What kind of problems did you have?

ALLISON. The fact they wanted to keep the lines running at full speed regardless of the errors which they might make.

WORDHAM. Regardless of errors? You and other inspectors in plants like these, did you get more than just that kind of pressure? Was there any physical violence involved?

ALLISON. Well, there has been physical violence, yes.

WORDHAM. Any directed against you?

ALLISON. I have been threatened, yes.

WORDHHAM. What kind of threats, Mr. Allison?

ALLISON. Life, threatened to be shot.

WORDHAM. You were threatened to be shot?

ALLISON. Yes.

WORDHAM. How did that threat reach you?

ALLISON. By the supervisor, who was the immediate supervisor over the line at which I was working. And the reason, I was doing a job I was directed to do.

NARRATOR. We met several other Federal inspectors in a dark parking lot one night. Some of them feared for their jobs and would not be filmed. A few agreed to talk, next evening, but would not mention the names of the companies where they were assigned.

WORDHAM. Is it true some of these stories that I have been hearing that there has been violence from time to time, threats issued against Federal employees to bow to company wishes for a faster line? Has anybody here had physical threats issued against them?

INSPECTOR. Yes, I have.

INSPECTOR. I have, too.

WORDHAM. And you have, too?

INSPECTOR. Right.

WORDHAM. You all are or were Federal employees. And yet, it seems you get a certain amount of pressure from these places where you work from private company employees. People who are not Federal, not over you in a supervisory capacity. Is that right?

INSPECTOR. The main thing that they're interested in is getting the product out the back end of the building. Shipped.

ANNOUNCER. Document: USDA Regulations for Meat and Poultry Inspection: "Diseases of the Leukosis Complex: Carcasses of poultry affected with any one or more of the several forms of the avian leukosis complex shall be condemned." "Inflammatory Processes: Any organ or other part of a carcass which is affected by an inflammatory process shall be condemned." "Contamination: Carcasses of poultry contaminated by volatile oil . . . which render the carcasses adulterated shall be condemned."

WORDHAM. Gentlemen, I would like you to tell me, if you will, about the problems you have with the chickens that come through the line which are not healthy.

INSPECTOR. Aerosaccolitis is the greatest one condemnation we have, and the regulation positively says that any bird that has liquid, frothy, runny aerosaccolitis in any part of the body . . . that the carcass will be condemned. And in our plant now we're salvaging that type of bird. They're attempting to remove the aerosaccolitis with lung guns and cutting out certain parts.

INSPECTOR. And there's also mechanical grease; because there is quite a bit of machinery in the processing plant. And, failure to clean it the mechanical grease of that nature.

WORDHAM. Now, these chickens that you pass because you are told to pass them, they go on and become available for human consumption?

INSPECTOR. Yes, sir.

WORDHAM. Anybody else have a similar experience?

INSPECTOR. Well, I think we've all had it at one time or another.

WORDHAM. Do you inspectors, and former inspectors, do you eat chicken now?

INSPECTOR. I raise some at home and dress them myself.

WORDHAM. But do you buy chicken from a store? And eat it?

INSPECTOR. No, sir.

WORDHAM. Is there any way, when you pick up a chicken breast or leg or wing, that you can tell it came from a diseased chicken, any way that the layman and the housewife could tell?

INSPECTOR. No.

WORDHAM. Is buying chicken parts risky?

INSPECTOR. Yes.

WORDHAM. Why?

INSPECTOR. Because it might be just part, well, maybe one part from a diseased chicken, and where the other is cut and condemned, and you're not sure that it's really a good chicken.

NARRATOR. We asked Secretary of Agriculture Earl Butz about these complaints.

PETERSON. We've seen and we have on film, your own poultry inspectors, who say they have been so intimidated by the processing plants, threatened, that they've been forced to pass on tainted meat to the consumer.

Secretary BUTZ. Oh, I've heard those stories, Roger, and we run 'em down. If we have any case in which one of our inspectors, has okayed tainted meat, he's not an inspector any more. I want to assure you of that, that our inspectors are pretty careful about that. The complaints I get are from the processing plants that our inspectors are too tough and I get to looking into that. And, I don't think they ever are too tough. But our inspectors do have the power of shutting down the processing plant. They push a button and shut the processing line here.

PETERSON. When the choice is between shutting down the plant and having their family threatened what happens then?

Secretary BUTZ. Oh, they, they've been told that, in that case we'd move our inspectors around, and we haven't had any cases of moving inspectors around.

REPORTER. Sir, we have men on film who say they've been physically threatened. One man has actually been assaulted. They say that when they, when they reported this to their supervisors, they're told to keep their mouths shut, and they have to or they'll lose their jobs . . . these are people being paid by taxpayers. And yet the processors are forcing this upon them.

Secretary BUTZ. Well, I'm . . . well, let me say I'm going to view your film, then to see who it was that said that, and we'll follow up immediately on this.

NARRATOR. Dr. Butz was unable to see the film. We asked Dr. Francis Mulhern, director of the USDA's Animal and Plant Health Inspection Service to view it.

PETERSON. How many complaints such as we've just seen reach your level?

Dr. MULHERN. Well, these, these inspectors have a union, a very powerful and effective union, that's one way in which those complaints come to my level. They meet with us periodically during the year with their grievances and so forth. There are other ways. Just like this has given me insight now as to my first reaction to this is, where's that and what can we do to get in there and take a look at it? The other part is there's the consumer protection groups have opened up a newsletter and many of our inspectors are writing to them. I'm kind of embarrassed in this that we can't create an environment in which they'll write directly to me, but, I'm well aware of these, of these criticisms and I know that they exist there and I'm not defensive against it. I'm saying that we got to get to it. And react to it.

PETERSON. What guarantee, what percentage of protection does the consumer have, a consumer goes out to buy something, what chance does he have of buying something contaminated?

Dr. MULHERN. My feeling is that it's well over 99 percent that it's pure, that it's a wholesome product going out and I don't think we can be perfect, the volume is just too great.

PETERSON. How many companies do you feel are putting pressure on the inspectors to pass tainted meat?

Dr. MULHERN. It shouldn't be misleading that this is general throughout our country. That it exists in some locations I have no doubts that that's so. We even have a plant, one plant I know of that shut down because of this condition. They are trying to produce a product to make the most profit that they can. And we are there to see that that product is wholesome. In some cases where our inspection system is slowing lines down or making it more difficult to produce there's friction that develops, and I think that's true wherever government is regulating industry.

So that it doesn't surprise me that this takes place.

NARRATOR. There are other problems with this vertically integrated industry. The growers, most of them ex-farmers, now depend on the corporation for chicks and the price paid for growing them. Sam Chumbly is a grower.

W. O. Thomas was a grower who tried, with the National Farmers Organization, to organize Alabama growers so they would get more money. The attempt failed—Thomas quit growing.

THOMAS. Now, you're talking about approximately a three and a half pound chicken that you're getting two cents per pound or less.

CHUMBLY. Right.

THOMAS. Or seven cents per chicken.

CHUMBLY. Seven cents per head. I talked to a guy the other day that asked his fieldman, he said, chickens are going so high, said, when are you all going to give us a break out of it? He says, when we have to . . . he says, we're not going to give it until we have to.

THOMAS. And, Sam, you know you're very unusual of the ones that are still in the broiler business. Why so are you willing to be interviewed on camera this way?

CHUMBLY. Well, I tell you there ain't much difference in being in and being out . . . we don't make enough to, to authorize a fella to stay in.

NARRATOR. The profits may be low for the growers—but the investments are high. This lady was willing to talk with us—but would not show her face or allow mention of the company for whom she grows chicks . . .

WORDHAM. What did it cost you to put up these houses?

GROWER. It cost us 29,600 for a lock and key job. I mean . . . ready to put the chickens in.

WORDHAM. And how did you raise that money?

GROWER. We borrowed it.

WORDHAM. So your home was mortgaged to pay for the houses?

GROWER. Yes.

WORDHAM. To pay for these houses?

GROWER. Yes, it is.

WORDHAM. Now how about the money you've been getting for your chicks, is that working out all right?

GROWER. No. It sure isn't. It has dropped in the last bunch of chicks I sold. I didn't get nothing for them, hardly, period.

WORDHAM. And how about the number of chickens or chicks that you've been raising this year as compared to last year?

GROWER. Well, they was six weeks between bunches of chickens this time.

WORDHAM. Did the growers give you any reason why they didn't deliver the chicks?

GROWER. No. No, they don't.

WORDHAM. Why do you stay in the business of chicken raising?

GROWER. We have to! We'll lose our home. Our farm. Everything we've worked for.

NARRATOR. There were those growers who hid from our cameras even while allowing Thomas to show us through their chicken houses.

THOMAS. The man that owns this house is right in the house here with us but he's not being shown for fear of reprisals from the companies on this because they do not like for the public to know of the conditions that goes on in this vertical integration. Now this man over here is just as much American as any one of you or I, and yet he has these real fears. I've seen growers more frightened than these chickens here.

You've seen these baby chickens run as I walked toward them; and I've seen growers much more frightened than that, of what would happen to them.

NARRATOR. I talked about broiler intergration with Donald P. Corbett, chairman of Corbett Poultry Products Corporation which owns 16 broiler-raising companies in the East and South.

PETERSON. Are the growers making any more money nowadays, sir?

CORBETT. My answer to that is yes . . . Now, when you say yes to a general question like that, I mean, you know, I can't speak for all growers, but basically today we're growing more chickens, more flocks of chickens in the house than we've ever grown. And we're going to continue to grow more, and this will mean that the grower will have more total dollars for his facilities and effort for the year.

PETERSON. Mr. Corbett, some growers have expressed a fear of being tied to the integrator. How do you answer criticism like that?

CORBETT. We have got to earn as an integrator, the confidence of our growers, and I'd hate to think that the majority of growers live with us in fear.

PETERSON. One of the products that's also put in the feed is arsenic, which is used to help promote growth, and it's supposed to be cut off at a certain point . . . so it gets out of the chick.

CORBETT. It is.

PETERSON. In some of our investigations we've found where arsenic is used in the final feed.

CORBETT. Well, that's not allowed, and basically I doubt if you'd find that many people are doing this because the inspection program monitors that pretty thoroughly.

PETERSON. Some inspectors say that they have been threatened by companies for doing their jobs.

CORBETT. Roger, I think that's the most irresponsible thing I've heard. I'm not saying it doesn't happen, but we are living in a civilized society . . . There's laws and so forth. If it did, the people that made those threats should be prosecuted to the full extent of the law.

PETERSON. Why is it that with all of the efficiencies of vertical integration that as a consumer I have to pay so much for chicken now?

CORBETT. We are still committed to bringing efficiency, but we're not going to bring the price of chickens back to where it was two or three years ago, because we think that the people involved in this business—the growers, the people in the plant, are entitled to more reward than what they've got. And we must take that responsibility, and the consumer's gonna pay for it.

PETERSON. Do you think the public is being adequately protected from contaminated meat?

CORBETT. Yes, sir. I'd say that the public is getting the finest meat, poultry that exists in the world and they need have no reservations about it.

ANNOUNCER. Document: United States versus National Broiler Marketing Association.

Department of Justice Antitrust suit . . . "the defendant and the co-conspirators have been engaged in a combination and conspiracy to fix, maintain, and stabilize the price of broilers in violation of Section One of the Sherman Act."

The Association denies the allegation. The case is still in court.

NARRATOR. Next, we will examine profits, how they're obtained and who pays for them.

### PART IV

PETERSON. When we began this broadcast, we pointed out that there is a fundamental change occurring in the ways our food is being grown, processed and delivered to us. The very efficiency and profitability of agribusiness has attracted non-farmers to it . . . some to increase its efficiency, others merely to take advantage of its good return on investment. One way is through tax laws.

NARRATOR. Branding time at a feedlot in Atkinson, Nebraska. One hundred thousand head of cattle are fed here each year, for investors, who are far away and never see their cattle.

Owners who may be individuals or large corporations with extra money to invest. The investor sends a check, the cattle are bought, fattened and sold for slaughter. Another method for non-farmers to make profits out of agriculture.

WELLS. I have, within this week received a beef deal; it's a syndication; it's a method of investing $300,000 and getting a two hundred and one . . . two hundred and one percent tax write-off.

SHOEMAKER. Two hundred and one percent.

WELLS. That's right. For every dollar you invest in this program you get to deduct two dollars from your tax return.

NARRATOR. Special tax laws have drawn individuals and corporations toward agriculture. They can use the laws made for farmers to spread profits and losses over several years and obtain tax shelters. Los Angeles tax lawyer Michael Wells.

WELLS. Much of our law was written to, to help individuals, the small farmer, and it has been, the laws have to be applied to all people and the corporations are taking advantage of it.

They've done nothing illegal about that. They have just seen where the law was and gone right into it.

BUTZ. Let's get the point across here that there's nothing wrong with the firms in agribusiness making money. That's what they're in business for. They've invested their capital. They perform an essential service.

The steer in Omaha isn't worth very much until he becomes an attractive roast in a Philadelphia meat counter. And somebody has to do some work to make an attractive roast on a Philadelphia meat counter. And they get paid for that service.

PETERSON. But the quest for profits in this newly-emerging system of agriculture has led to harsh errors in judgment. Agribusiness corporations encouraged many small farmers to extend themselves, borrowing money to expand. These ventures resulted in some farmers losing their land.

Narrator. In California, for example, many lost their land when they tried to expand to meet the demands of large corporations for more crops.

Tom Ellera of Modesto, a successful farmer for 40 years, was one of them.

Del Monte Corporation became not only his buyer, but also lent him money to expand, an arrangement no longer legal. A few bad years for peaches and Del Monte foreclosed. A court denied Ellerd's petition which tried to establish that a partnership existed with Del Monte.

ABC News asked Del Monte for a comment. It replied that when the Ellerd indebtedness exceeded the value of the property, Del Monte reluctantly foreclosed, since it too had lost money. Ellerd now lives in this three-room house owned by a relative. He and his son lost over $100,000 worth of land and buildings.

This is a photo of the ranch they lost.

Ellerd. It was one of the best farms in the country, best taken care of, even the canneries complimented us on our way of operating, taking care of the place. We had two homes. One of them was a new home we built in '65.

Shoemaker. Why couldn't you go and find the money someplace else, why did you have to go to Del Monte?

Ellerd. Well, after you get started with Del Monte and they have a mortgage on the peaches and your crop, your equipment and no bank or anything will touch you because they've got everything in their control. They wouldn't release the crop for you to get money or anything. They wanted it all.

Peterson. Mr. Ellerd is not an isolated case, but, an example of a pattern that has developed as agriculture has become big business. Yet, Secretary Butz feels that the threat of agribusiness is not that great.

Secretary Butz. Less than 1% of our . . . less than 10% of our farms are corporation farms and 9 out of 10 of them are family corporations. I think the invasion of the large non-farm corporations, the invasion of the conglomerate in agriculture has not been alarmingly large.

Peterson. Do you still feel that integration in the food industry is a good thing?

Secretary Butz. I think integrated production and processing, marketing is the trend of the times. I think it's good for consumers. I think it can be done and still maintain a large degree of independence and competitiveness at the family farm level. We're dedicated in this department, to keep that kind of family farm in a strong position.

Peterson. In the past hour we've looked at some aspects of Agribusiness.

We've seen how technology can increase supply and variety of produce . . . how, as Mr. Carey of the National Canners Association told us, crops which were once in the luxury class are now available to all. Bigness is not necessarily badness. Making profits is no sin. What we've seen, however, is that abuses are developing.

We've seen how our foods are being genetically changed and their nutritional values altered. We've seen a Department of Agriculture official affirm that 99% of chicken meat is pure. Yet we've also learned that some tainted chicken is slipping through. What can be done about this?

The way to stop this is for existing laws to be enforced . . . for Federal inspectors to be pressured by the government to follow the rules, rather than, as we've heard, to be pressured by corporations—in the name of speed and efficiency.

Or, what should be done about arsenic appearing in the final feed of broilers?

We've seen how helpless growers are because they must accept what the corporations deliver to them, or go out of the broiler business.

But consumers are not helpless. They can insist that the law against arsenic in final chicken feed be enforced, by the government—without, perhaps, the need for two offenses before an offender is prosecuted.

This broadcast has reported that Agribusiness is expanding and is here to stay. Despite the fact that the Agriculture Department says only 1% of our farms are owned by large firms, it is the control over crops that matters; and that control is increasing. At this stage of Agribusiness development we can see that this control does not get out of hand—or go hand-in-hand with abuses against consumers and taxpayers. This is the time to look closely at the new system . . . with the same kind of drive that has been demonstrated by Agribusiness itself.

For, as we said when we began this broadcast, Agribusiness is everybody's business.

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## FUEL STANDDOWN OF ALL RESERVE AND GUARD FLYING UNITS DURING HOLIDAYS

Mr. THURMOND. Mr. President, between December 21, 1973, and January 7, 1974, the Defense Department ordered a standdown of all Reserve and Guard flying units throughout the United States in an effort to conserve fuel.

This action seriously affected the readiness and training efficiency of a number of units. In addition, many crews which had worked themselves nearly to the point of proficiency qualification were set back and in many cases will have to go back over training procedures they had already covered.

In other situations aircraft were ready to come out of maintenance but could not because of the total grounding by the Defense Department. Also, the operational readiness and maintenance of some aircraft were adversely impacted because of the total standdown.

Finally, the standdown had an adverse effect on flying safety which is always a problem but especially so during the winter months. Accident rates since the standdown should be watched closely.

While we all recognize the desirability of steps to economize in the face of the energy crisis, it would have been a wiser course to reduce flying hours for the Reserve and Guard rather than to order a total standdown.

This would have permitted pilots at key points in proficiency qualification training to perform essential flying. Also, aircraft in repair could have been picked up and other essential missions could have been flown.

While my primary concern is for the overall adverse effect resulting from the total standdown the fact that the standdown was applied only to Reserve and Guard units brings into question the validity of the total force concept.

A partial standdown would have been a more economical step and it would have also preserved the total force concept as Active Force aircraft were under similar restrictions.

Of additional concern is the fuel reductions imposed on Reserve and Guard units which will take them to the borderline in maintaining proficiency and readiness. These restrictions also will make flying safety a matter of great concern, especially when it is realized that Reserve and Guard units have unique safety problems by the very nature of their limited operations.

A recent committee investigation into this matter revealed that the standdown adversely impacted on the readiness of a number of units. Further, unit personnel indicated that it would be difficult to increase or even maintain readiness ratings if flying hours are reduced to the extent being considered in some quarters.

The lessons of the recent standdown should be sufficient for those in authority as they plan future policies affecting the air units of the Reserve and Guard Forces.

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## THE GI BILL AND TODAY'S VET

Mr. INOUYE. Mr. President, 1 year ago the official cease-fire agreement between North Vietnam and the United States went into effect. As a cosponsor of S. 2789, the Comprehensive Vietnam Era Veterans Education Benefits Act, I am well aware that this anniversary is not being celebrated with much enthusiasm by many of the men who fought for the United States in that tragic conflict. Those men who have yet to be given fair treatment in terms of veterans benefits, who realize that the veterans of World War II, including a number of U.S. Senators and Congressmen, received better educational benefits than are now available, and who question our national commitment to honor the men who bore the burden of fighting, are not in a celebrating mood.

I request unanimous consent for printing in the Record an article which was sent to me by a Hawaii constituent explaining the plight facing any Hawaii veteran who wishes to further his education on the GI bill.

There being no objection, the article was ordered to be printed in the Record, as follows:

### The GI Bill and Today's Vet

Today's GI Bill has no direct tuition payment to schools but pays the single vet a flat $220 per month. Education costs at many colleges are now five times greater than 1948. The cost of living has more than doubled, and the vet must consider that plus tuition out of the $220 he receives. In many areas, this barely covers rent and food. A tight job market has also made part-time jobs hard to find.

A study of the effectiveness of today's GI Bill shows great disparities. Veterans are a small percentage of college students today. After World War II, veterans were 50 percent of all enrollees in college; today they are only nine percent. Although there were 15 million World War II vets versus 6.2 million Vietnam-era veterans, today's vets are still a potential audience. They choose not to pursue further education. However, more than half of those who have not applied for the GI Bill said they would certainly apply if benefits were increased.

After World War II the GI Bill took 7.5 percent of the federal budget; today, it takes only one percent. According to Senator Vance Hartke, only a small portion of the federal dollar is spent on veterans' benefits and services today than ten years ago, despite the addition of six million plus veterans.

Roughly 20 percent of the 6.2 million Vietnam-era veterans have preservice college; 60 percent are high school graduates, and 20 percent are high school dropouts. Of these, only 20 percent of the high school dropouts use their GI Bill, while almost 50 percent of the high school graduates do. 50 percent of those with pre-service college go on to use their GI Bill. It seems that those who need the GI Bill most do not use it.

But dropouts and high school graduates make the greatest use of the GI Bill for correspondence courses. About 800,000 persons have done so, with 75 percent of those dropping out prior to completion, according to a GAO study.

Here in Hawaii, the two-year community college and its inexpensive tuition provides some advantages to the veteran. But, woe to the vet when he goes on to the U.H. at Manoa and faces the higher charges of $225 per year. If he is not accepted at Manoa, he will need to make arrangements to pay out about $1,200 per year for tuition at one of our private colleges.

The estimated minimal expenses of attending the U.H. at Manoa for the 1973–74 academic year was computed at $2,662 for residents and $3,172 for non-residents. This estimate includes costs for board, room, tuition, books, supplies, and fees, but does not include medical, dental, clothing, recreational, personal, extracurricular, or miscellaneous expenses.

Today's veteran receives $1,980 in payments for the school year. Supposedly, he only needs to raise $682; but those extra expenses can be a burden on him. Unfortunately, it doesn't work out too nicely for the vet, and he is forced to seek a part-time job. Most do. Working long hours at minimum wage rates in jobs requiring a lot of physical exertion can be pretty heavy on a full-time student. Especially when he needs the time and energy to perform his school work.

Recently, a meeting of several veteran students took place at Leeward's Office of Veterans' Affairs which revealed that vets are plagued with adjustment problems, financial troubles, and critical housing conditions. One vet stated that while the advanced GI Bill payment is an improvement over previous delays in getting the first check, the task of meeting initial school tuition, books, supplies, advance rent payments, and clothing can set a vet back so far that he never recovers from his debts even if he obtained a part-time job. As many as five vets team up to share housing expenses due to exorbitant rental rates. Obtaining adequate food medical and dental services, and part-time jobs are problems that the vet has to face in his pursuit of higher education.

Every day we hear the complaints and rumblings of the dissatisfied vets. How do we parry the questions when young vets vocalize their claims that the unemployed person gets more bread of doing nothing, or that unwed mothers get more money from the government than they do? Or that the VA is an unhelpful bureaucratic agency? These are real questions of the times.

We try to turn a deaf ear to their pleas and mentally call them radicals and trouble makers. Perhaps this is no accident. Public reaction to the Vietnam war has not been favorable or pleasant. In fact, despite the recent ovation for some 600 POWs; the public has barely noticed six million ex-soldiers as they returned from active duty in a constant though imperceptible trickle. Always, they seem to unobtrusively disappear before their existence can come to public attention. The country that wants so badly to forget the war, can forget its warriors as well.

Despite community unresponsiveness to the veterans' existence and needs, the vet faces overwhelming odds against his successful integration into civilian life.

One does not have to look far to note that the federal benefits and privileges for the vet are wholly inadequate and state benefits nonexistent. We do not owe the veteran total support while he is pursuing higher education, but we should at least provide a reasonable opportunity for him to exist as decent human beings like the rest of society does.

Despite slogans of "Hire the Vet," the veteran is always the last to be hired and the first to be fired. The jobs he can apply for are limited.

He is finding out that the training he received in the service is not being recognized at all; no matter how much they told him his training and experience would qualify him for a good job on the outside.

When a top notch sheet metal worker is turned down for a metal inscribing sign job, or a 20-year career mess sergeant is refused a hotel restaurant cook's job because he doesn't have a junior college food service certificate, the veteran finds he cannot compete or cope with the civilian world. It can be emotionally and financially disheartening. Many veterans never overcome this feeling of alienation and distress. The vet needs schooling and more besides.

With rents sky high, real estate costs beyond reach, and apartments so limited; it is a wonder that the vet in school can afford to live here in Hawaii. Paradise is not for the poor vet.

Mr. INOUYE. Mr. President, as pointed out in the article, Senator HARTKE and the Senate Veterans' Affairs Committee have documented the low level of present Federal assistance to our ex-servicemen. Senator HARTKE and his committee colleagues have in past years created significant increases in veterans benefits despite legislative and executive obstacles. I am sure that the Comprehensive Vietnam Era Education Benefits Act which almost one-third of the Senate is now cosponsoring will receive a fair hearing in the Senate Veterans' Affairs Committee.

President Nixon's message to the Congress dealing with veterans benefits was a disappointment to me. His request for an increase of $200 million or 8 percent in veterans education benefits will not cover the cost-of-living increase for 1973, nor will it make up for prior gaps between benefits and economic realities. Also, the President ignored the problems of inflexible administration of educational programs and the need for tuition assistance for GI's. The growing number of Senate cosponsors for S. 2789 should tell the President that the Senate believes the veterans of the Vietnam war deserve better than what the President has proposed.

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## BOOTT MILL CULTURAL COMMUNITY CENTER

Mr. BROOKE. Mr. President, the city of Lowell, Mass., like so many old American manufacturing centers, has suffered tremendously from the rapid growth of modern technology. Once the proud and booming center of the New England textile industry, its mills now lie silent, its canals undisturbed. Worse, there is a chance that these monuments to our economic history could disappear entirely.

Faced with this possibility, the local citizenry banned together to devise an urban national cultural park, the legislation for which I introduced last February. Such a park would capture the unique atmosphere of the 1850's and preserve it for generations to come.

The challenge to create such a park has attracted creative urban planners from all over the country. Two such planners, Michael and Susan Southworth, have come up with a most interesting plan for Lowell's largest mill, the Boott Mill, which would fit nicely into the overall concept. Their design—for a "Boott Mill Cultural Community Center"—received the highest award in the annual Progressive Architecture magazine design contest.

The project was described in depth in an article which appeared in the Washington Post on Saturday, January 26, 1974.

I bring this article to the attention of my colleagues not only because of its description of the Southworth project, but also because of the interesting glimpse it provides of Lowell's rich history.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 26, 1973]

### A CULTURAL COMMUNITY CENTER IN THE LOWELL TRADITION

(By Wolf Von Eckardt)

"Art is the Handmaid of Human Good," said Lowell's textile manufacturers 150 years ago, teaching poetry, drama, music and crafts to the young women who worked in their mills.

The town has now remembered this motto.

Having nearly renewed itself to death a few years ago, Lowell, Mass., (pop. 100,000, 25 miles northwest of Boston), now plans to recycle its remaining cotton mills, canals, locks, gatehouses and historic ambience into an "urban national park" an industrial Williamsburg, as it were.

And Art being the Handmaid of Human Good, the capstone of this encouraging endeavor is to be the conversion of the old Boott Mill complex into a cultural community center.

The project, designed by Michael and Susan Southworth, a Boston urban design team, has just received the top award in the annual Progressive Architecture magazine contest. The P/A awards are particularly interesting because a discerning jury examines new concepts and ideas rather than just pretty buildings.

This shows us the trends, the uncompromised achitectural thinking, the avant-garde. Young architects, it appears, are no longer concerned with architecture for art's sake, but with solving environmental problems. P/A singled out five projects for the imaginative reuse of old buildings, not because they are historic, romantic or nostalgic, but because their reuse provides possible answers to socio-economic problems.

Lowell's socio-economic problems are considerable. One of America's oldest industrial cities. Lowell was carefully planned 150 years ago as a utopian mill town at the confluence of the Merrimack and Concord Rivers. Its energy source was a waterfall. The town still has almost as many canals as Venice, although neglect has all but made them invisible.

Lowell's planning was part of a daring social and economic experiment. The Lowells, Cabots, Lawrences and other American industrialists knew that they had to do better than the British in building their company towns.

At Lowell they tried to provide a decent living environment for their "American Manchester" and imbued it with a high moral and religious tone. Handmaid Art served to recruit farm girls from all over New England.

Paternalistic goodness was rewarded by prosperity.

But not for long. After the Civil War, waves of immigrants supplied cheap labor without Art, Handmaids and Human Good. When labor began to organize, the textile industry shifted South. Lowell declined.

It is still declining. Only one of the cotton mills is still spinning—nylon. There has been industrial diversification and uglification. Some residents work in the new plants around Rte. 128. Unemployment, however, is the highest in the commonwealth.

Then came urban renewal to demolish the last resource for genuine renewal. A number of handsome old cotton mills and stately workers' dormitories were bulldozed into parking lots.

The Southworths were among the first to cry out, "What are you doing to this town?" A citizens effort was launched. Michael and Susan Southworth drew up a map of Lowell's many fascinating historic assets: the mills, the locks, all kinds of ethnic churches, taverns, Indian burial grounds. "The Lowell Discovery Network," they called it. It helped Lowell discover itself.

So Whereas having now discovered its unique charms, and Whereas these remnants of industrial history "contribute in great measure to our American Heritage" as well as to a lucrative tourist business, the city council last fall Resolved to seek state and federal funds for an Urban Cultural Park and Further Resolved to develop new programs which will restore the old buildings and waterways in order to restore the town's economic vitality.

The Boott Mill's Cultural Community Center is to be the center piece of this effort. Most of the mill complex, which covers two city blocks along the river, was built between 1835 and 1843. It consists of nine interconnected buildings, ranging in height from three to six stories, framing several courtyards that resemble Italian piazzas. The dominant feature of this town within the town is a clock and bell tower with a splendid, 19th-century weather vane, that beckons from far away.

The Mill is now about half occupied by a variety of small factories. The canal running along it generates all the electric power needed by the community that is to replace them.

The community will include riverview apartments, exhibit halls, artist studios and apartments, a theater, a dance studio, a concert hall, a cinema, a covered shopping mall, restaurants, a library, more shops, a hotel and duplex apartments. Outdoor activities will focus on two courtyards. One is to be enclosed for year round use. The other is a grand space for summer festivals and ceremonies.

As the Southworths see it, this won't be a Kennedy or Lincoln Center. "This should be a blue-collar place for blue-collar art," says Michael Southworth, he points out that Lowell residents have cultural roots in 20 different countries. And by way of explaining what "blue-collar art," might be, he raves about Puerto Rican hand weaving, Irish lacemaking and American Indian beadwork.

Ten years ago Ghirardelli Square—the conversion of a San Francisco chocolate factory into a high-style shopping center—changed historic building preservation in this country from musty pedantry into something that was fun

Boott Mill will be fun with an important social and economic purpose—morally uplifting fun, as it were.

And that is in the old Lowell tradition.

## THE BICENTENNIAL CENTER FOR THE DISTRICT OF COLUMBIA

Mr. HOLLINGS. Mr. President, earlier this month, the Bicentennial Center for the District of Columbia was dedicated. Dignitaries from throughout the city, and even a representative of the White House, came to the celebration.

What they expected to find, of course, was a center commemorating the pageant of America. And in the art work of the center, they expected to see something of the great names and events which took America from wilderness to preeminence among the nations of the world.

Instead they found a mural painting which featured such un-Americans as Karl Marx, Friedrich, Engels, Joseph Stalin, and Mao Tse-tung. Thrown in for added insult was a gross caricature of President Nixon.

Mr. President, I think this is disgraceful. That the officials of the District Bicentennial Commission should allow such brazen insult to 99 percent of America's 210 million citizens is indecent beyond belief. It reflects not only bad taste, but an ignorance of America and its people totally unexpected from a group charged with commemorating the Nation's history.

Mr. Howard Flieger, editor of U.S. News & World Report last week devoted his editorial column to this unfortunate incident. His column, entitled "Worst Joke in 200 Years," deals with the perpetrators of this libel exactly as they deserve to be dealt with.

Mr. President, I hope that officials of the District of Columbia will take prompt and resolute action to remove this desecration from the center's walls at once.

I ask unanimous consent that Howard Flieger's column, which appeared in the January 28, 1974, issue of U.S. News & World Report be printed in the RECORD. It deserves the widest possible reading audience.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

[From U.S. News & World Report, Jan. 28, 1974]

### WORST JOKE IN 200 YEARS

(By Howard Flieger)

With varying degree of originality, communities all across the nation are getting ready to celebrate the 200th anniversary of the United States in 1976.

In 1776, when the country was born, the population was 2.5 million.

Now it exceeds 210 million.

If you are one of those millions of American citizens, you have just been insulted.

The Bicentennial Center for the District of Columbia, the nation's capital, was dedicated on January 14 by the Mayor of Washington. A representative of the White House was there. So were other dignitaries.

Looking down on the occasion was a new mural, done for the Bicentennial office by an artist named H. H. Booker II.

Among the personages depicted—

Karl Marx, the father of Communism.

Friedrich Engels, Marx's associate.

Joseph Stalin of the Soviet Union.

Mao Tse-tung of the Chinese Communists.

For extra measure, the muralist included a caricature of President Nixon wearing a mustache and clad in the costume of a movie gangster. He sketched the President's daughter, Tricia Nixon Cox, with an Afro hairdo. He included a portrait of Angela Davis.

This is Americana?

Where are Washington, Jefferson, Tom Paine, Ben Franklin and the Adams family?

Where are such symbols of American culture and uniqueness as Washington Irving, Mark Twain and Carl Sandburg? Winslow Homer, Frederic Remington and Thomas Hart Benton? Francis Scott Key and George M. Cohan? John Philip Sousa and Louis Armstrong? Samuel Gompers and Andrew Carnegie? Thomas A. Edison and Mary Bethune? Where are the pathfinders—Lewis and Clark, Charles Lindbergh and Neil Armstrong, to name a few?

The list is endless. If portraits are needed to dramatize two centuries, you can take your pick from within our own borders, including many immigrants from other lands.

Granted, the planning for the Bicentennial observance has been uneven, often halting and short of real achievement on a national scale. But hundreds of communities, many States and regions have pitched in with their own projects and are moving ahead to the anniversary with enthusiasm and pride.

Granted, too, there has been honest disagreement. One group, for example, feels that the basic aims of the American Revolution are being overlooked. But such things are legitimate dissent—which is the American way.

The mural in Washington is something else.

A member of the staff of this magazine asked an official of the District of Columbia Bicentennial Commission about the inclusion of the Communist figures. The explanation was that those people are a valid part of the American scene because "all were involved in some way with the United States over the past 200 years."

When asked what Marx, Engels, Stalin and Mao had to do with the U.S., the official, irritated, broke off the conversation.

The muralist explained to a reporter for "The Washington Star-News" that his employer told him to "make faces" on the walls, so he sketched those he considers interesting. He called it a "lot of fun" and seemed to regard the whole affair as a very clever joke.

Marx, Stalin and Mao as characters in an American panorama—this is a joke?

It is a coarse insult to the very word, a desecration of everything truly American from 1776 to today. It is high jinks of the lowest order, done in the poorest taste.

Those who had anything to do with it—whether through deliberate participation, irresponsibility, arrogance or plain ignorance—should hang their heads in shame.

## PASSING OF DISTINGUISHED KANSAN C. I. "CY" MOYER

Mr. DOLE. Mr. President, last Sunday, January 27, Kansas lost one of her finest citizens and most distinguished public servants.

C. I. "Cy" Moyer, the first and only regional director the Kansas City office of the Small Business Administration has had in its 20 years of existence, succumbed to a heart attack at the age of 69.

### SBA POST CAPPED DISTINGUISHED CAREER

Cy Moyer assumed the post of regional SBA director in 1953. Under his guidance, the regional office was several times named as the best in the Nation, most recently in ceremonies last fall which I was privileged to attend.

But by the time he took over the SBA position 20 years ago, Cy Moyer had already accumulated a record of achievement and experience in law, business, politics, and civic affairs which few men can equal in a lifetime.

He had served 14 years in the Kansas Legislature, 10 in the house and 4 in the senate. He had enjoyed a successful 3-

year tenure as Kansas Republican State Chairman, during which he managed two successful gubernatorial campaigns. He had made his mark on the contemporary history of my State of Kansas.

### SMALL TOWN BEGINNINGS

Born in the small town of Severance, Kans., in Doniphan County, an area he represented in the legislature, Cy Moyer knew well that smallness was no deficiency to be overcome but rather it could be an asset and a virtue to be fostered.

The Small Business Administration, therefore, was like home to him. The special challenge of helping small businesses to develop and prosper was well suited to Cy Moyer, and he excelled at it. In 1969, he received the highest accolade awarded by the SBA, its Gold Medal for Superior Performance. The service he performed in the four State region of Iowa, Nebraska, Missouri, and Kansas, won him not just that award but it won him the respect and the friendship of thousands. And I am proud to say I include myself among those thousands who looked upon Cy Moyer with the highest regard.

As public servant, as lay leader in the Methodist Church, as member, officer, and driving force in so many Kansas civic and fraternal associations and as citizen, Cy will be long remembered and sorely missed.

He is survived by his gracious wife Ruth, his son, two daughters, and seven grandchildren in whom he always had a bursting pride. He leaves behind as well, an important legacy of achievement and example of excellence in which they, too, will find cause for pride and which all Americans would do well to emulate.

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## LONG-TERM SETTLEMENT OF MIDDLE EAST CONFLICT

Mr. BENTSEN. Mr. President, the issue of a long-term settlement of the Middle East conflict once again occupies our thoughts following talks resulting in a preliminary disengagement agreement between Egypt and Israel. A number of proposals for a long-range, comprehensive settlement have been advanced. Among these is a plan enunciated by Ambassador George McGhee, a well-known and able scholar of international affairs. As a former Ambassador to Turkey and West Germany and a former Under Secretary of State for Political Affairs, Ambassador McGhee makes a thoughtful presentation of one of many alternatives that will undoubtedly be under consideration. I ask unanimous consent that Ambassador McGhee's article, which appeared recently in the Washington Post, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 14, 1974]

### PEACE WITH A GUARANTEE

(By George C. McGhee)

In the "Tripartite Declaration of 1950" the United States, England and France, as the great powers with responsibility and influence in the Mideast, stated their determination to protect the existing boundaries of all states in the area against aggression by any other state. Israel and the individual Arab states were included on the same basis. At the same time the three powers resumed limited arm supplies to the area under the control of a Tripartite Committee.

Since it helped alleviate Israeli fears of Arab aggression, as well as the concerns of Arab leaders over possible aggression by Israel or other Arab states, the declaration was generally welcomed and provided increased stability to the area. Although eroded over the years by neglect and even misuse, as in the Anglo-French-Israeli invasion of Egypt in 1956, it has nevertheless been given lip service by succeeding American Presidents and, even today, provides the only formal basis for United States alliance policy in the area. A venerable and ambiguous policy can sometimes be very useful.

In 1956 Adlai Stevenson, running for the second time for the presidency, urged the inclusion of the Soviet Union as a signatory of the declaration. This proposal was widely criticized and was perhaps premature, since it would have given the Soviets the status of a Mideast power which they had not yet earned. Nevertheless, it may have pointed the way to a step which could overcome the present impasse resulting from the recent Arab-Israeli conflict.

It has been proposed that the United States alone guarantee Israel against Arab aggression. This would presumably permit Israel to make territorial and other concessions required for an agreement with the Arabs which, on grounds of security, she would not otherwise deem possible. Israel is, with some justification, determined to end up with "secure" borders, i.e., by maintaining some of the captured territory beyond her 1967 borders, particularly the Golan Heights, where required by the local tactical situation. It is, on the other hand, obvious that there will never be a voluntary agreement by the Arabs to any settlement which is not essentially a return to the 1967 boundaries as called for by the United Nations Resolution of Nov. 22, 1967.

It is this difference, which on the face of it seems negotiable, that poses the greatest single obstacle to a successful agreement. The prospect is made even more tragic by the fact that in reality there are no "secure" boundaries as such for either Israel or the Arab states, no matter how they are drawn.

The danger in a U.S. guarantee to Israel alone is that it invites the Soviets—indeed it makes it necessary for them—to offer similar assurances to the Arab states through an upgrading of their present commitments. This would, therefore, only formalize at a higher and more binding level the present U.S.-Soviet confrontation in the Mideast. A new outbreak of hostilities would be even more likely to bring U.S. and Soviet forces into direct conflict. Such a guarantee would not, moreover, appear even-handed in regard to the Arabs. It would evince no interest in them or indicate what we would do in the event of Israeli aggression.

A preferred alternative would be for the outside powers involved—the Tripartite Powers but this time including the Soviet Union—to declare that they will guarantee a peace settlement—and the resulting boundaries—once accepted by the states of the area. This time our ratification should—as was not deemed feasible in 1950—be submitted to the Senate for approval as a treaty. Only in this way can our guarantee be made credible.

Since the Soviets are now a Mideast power in their own right, our invitation to join us would not further enhance their status. They should find in such a guarantee a convenient way to "get off the hook" with the Arabs. Although it will preclude the Arabs winning a new Mideast war, it will also save them from losing one.

The British and French, although they "sat out" the last round of hostilities, should be included. They are traditional arms suppliers in the Mideast and have a residual moral influence there. They would expect to be signatories and could help depolarize a U.S.-Soviet confrontation. It would be tempting to try to include Japan; however, Japan is not an arms supplier, is too vulnerable to the stoppage of Mideast oil and has never had influence in the area.

The new declaration should, as before, emphasize primary reliance on the United Nations in stopping any conflict. In the event of hostilities, the United Nations would, through the Security Council, take any steps it considered necessary and feasible to limit and stop the war and negotiate a settlement. Only if it failed would it call on the Four Powers. The agreement should provide that the Four Powers would limit their activities to those which can be accomplished external to the area—the denial of arms, blockade and, in extreme cases, air action based outside the area. Any "forces" sent in would be U.N. Forces.

The problem of defining aggression should be facilitated by demilitarized buffer zones and a permanent U.N. Peace and Observer Corps between the opposing forces. In the event there is not agreement among the powers as to a joint course of action following a United Nations failure to stop aggression, each power would carry out its interpretation of its obligations under the declaration—within the agreed ground rules designed to prevent direct confrontation in the area.

The declaration should pledge the Four Powers, as did the Tripartite Declaration of 1950, to the creation of a joint arrangement to allocate arms supplies to the various countries of the area. The objective would be to prevent an arms race while assuring all states broad arms parity and discouraging aggression.

The actual settlement including permanent boundaries, demilitarized areas, conditions of access, status of Jerusalem and the Holy Places, satisfaction of the rights of refugees, the problems of Palestine, financial security and other arrangements would not be dictated by the great powers. If there is to be any hope for permanence, the final settlement must be accepted voluntarily by both sides as the best they can obtain under the circumstances and as one they can "live with."

It is unrealistic, however, to believe that agreement can be reached without influence on the negotiating parties by those states that now support them. Israel and the Arab states are not independent variables in the Mideast equation. They have all been supported by the great powers since their inceptions. The level of assurances given by us to Israel and by the Soviets to the Arab states affect directly the negotiating sights and bargaining power of the states involved. Too great a support for either side not balanced by support to the other could result in intransigence, overconfidence or renewed war.

"Pressure" is not the right word to describe discussions between a power and its "protected" state. What is involved is the reaching of an agreement between the two as to the conditions under which support can be provided. It is comparable to a bank's negotiations with a borrower as to how he will use the borrowed funds. In supporting Israel, we must take into account not only whether her aims are legitimate and realistic, but whether they are compatible with the relevant U.N. resolutions and with our own interests, which any nation disregards at its peril.

The vital element that the Four Powers alone can supply is the assurance that, once an agreement is reached, it cannot be upset by threats or unilateral action—but only by further agreement. This assurance should provide a powerful incentive on both sides to arrive at a peace settlement.

## THE LEXICON OF ARMS CONTROL LITERATURE

Mr. BROOKE. Mr. President, the subject of deterrence is extremely difficult to understand, let alone master. We who are not experts must nevertheless seek to come to grips with its complexities. One of these is the unique vocabulary associated with deterrence thinking and arms control. Such terms as "terminal accuracy," "inertial guidance," "assured destruction" and acronyms like MAD, MIRV, MARV seem to cloud rather than enlighten the understanding. Yet, familiarity with these and related terms is necessary if intelligent evaluations are to be made of proposals such as those recently advanced by Secretary of Defense Schlesinger concerning "retargeting" and increasing the accuracy of our strategic nuclear weapons. In this regard, a glossary of arms control terms recently published in a volume entitled "SALT: Implications for Arms Control in the 1970's" has been useful to me. In inserting it into the Record I hope it will be equally useful to others.

Mr. President, I ask unanimous consent that the "Glossary of Terms Used in Arms Control Literature" be printed in the Record.

There being no objection, the glossary was ordered to be printed in the Record, as follows:

### Glossary of Terms Used in Arms Control Literature

Active defense. The type of defense that seeks, by use of defensive missiles or airplanes, to intercept an offensive missile strike before it reaches its targets.

Active sensor. Devices designed to gather evidence concerning incoming missiles by the emission of energy impulses that reflect back from objects in the air. The most obvious example is the radar.

Air-to-surface missile. A missile fired from a vehicle in flight against a target on the ground.

Antiballistic missile (ABM). A defensive missile fired to intercept an offensive ballistic missile at either an endoatmospheric or exoatmospheric level.

Antisubmarine warfare (ASW). The type of "defensive" warfare whereby an attempt is made to combat the unique advantages of the submarine. There are five basic steps in antisubmarine warfare: (1) detection—the ability to determine that a submarine actually exists in the area under observation; (2) classification—the ability to identify friendly from hostile submarines, real from false targets like schools of fish, and types of hostile submarines; (3) localization—determining the accurate position of the detected hostile submarine; (4) attack—the use of weapons capable of reaching the submarine at varying depths; and (5) destruction—the actual ability to render the submarine inoperable. All five of these steps require a high degree of technical sophistication. At present, antisubmarine warfare capabilities lag behind the mobile offensive capabilities of submarines.

Area type of defense. Defense systems that seek a capability to defend valued property over a fairly widespread geographical area.

Assured destruction. The ability to inflict an "unacceptable" degree of damage upon an aggressor, even after absorbing his surprise first strike. The degree of unacceptable damage is a function, in part, of target selection, value preferences, and economic considerations. Mutual assured destruction is a condition in which this capability is possessed by opposing sides, resulting in deterrence by "mutual terror."

Ballistic missile. A missile fired from land or sea sites against surface targets. Such a missile reaches, at the apex of its flight, an altitude outside of the earth's atmosphere before falling back toward its target under the influence of gravity.

Ballistic Missile Defense (BMD). A system designed to destroy offensive ballistic missiles before they reach their targets. The system is composed of antiballistic missiles, radars, and control equipment.

Bipolarity. The model of the international system that is characterized by two opposed primary actors whose strength clearly outclasses that of the other participants in the system.

Bus. The portion of a multiple warhead missile containing the warhead packages and from which the individual packages are launched at their targets.

Catalytic war. Nuclear war between the superpowers triggered by the nuclear attack on one or the other by a third nuclear power.

Circular error probable (CEP). The measure of accuracy of an offensive missile's warhead package against a target. CEP is the radius of a circle centered on the target within which 50 percent of the warheads can be expected to fall. The accuracy figure is usually given in nautical miles (NM) (one NM=1.152 statute miles). A missile system with an accuracy of 0.5 NM CEP is therefore one that can be expected to deliver 50 percent of its warheads within a radius of one-half a nautical mile around the target.

Civil defense. *See* Passive defense.

Counterforce first strike. An initiatory attack aimed at an adversary's strategic weapons.

Counterforce weapons. Weapons aimed at an opponent's strategic weapons—missiles or bombers—while they are still in prelaunch status.

Countervalue second strike. A retaliatory attack aimed at an opponent's cities or industries.

Countervalue weapons. Weapons aimed at civilian targets. They are termed-*countervalue* because their targets are the economic and human resources of the opponent state. (They are sometimes termed *countercity weapons*.)

Cruise missile. A missile fired from sites on land or at sea against surface targets. Such a missile remains in the earth's atmosphere during its flight.

Damage denial. The capability of precluding any significant damage from an opponent's nuclear attack.

Damage-limiting capability. The ability to minimize the injury that a nuclear attack could cause within "acceptable" bounds, if deterrence were to fail.

Depressed-trajectory missile. A ballistic missile fired at a much lower angle than normal. Consequently, such a missile rises above the line-of-sight radar horizon at a later stage of flight, thus making detection and interception more difficult.

Deterrence. The strategy which seeks to persuade an opponent that in his own interest he should avoid certain courses of action, or in a nuclear sense that the costs and risks attendant to nuclear aggression clearly outweigh any calculable gains to be drawn from such aggression.

Endoatmospheric defensive missile. A defensive missile designed to carry out interception of an offensive missile *after* the latter has *reentered* the earth's atmosphere. The interception thus is designed to take place in the terminal phase of the offensive missile's flight.

Exoatmospheric defensive missile. A defensive missile designed to carry out interception of an offensive missile *while* the latter is still *outside* the earth's atmosphere. Interception is thus designed to take place during the mid-course phase of the offensive missile's flight.

Finite deterrence (FD). A deterrent strategy designed to create credibility by exclusive emphasis on countervalue targeting, that is, targets such as enemy cities.

First strike. The launching of an initial nuclear attack before the opponent attacked has used any strategic nuclear weapons himself.

Forward-based systems (FBS). Aircraft and other capabilities that could strike the Soviet Union, at least in one-way missions, although such systems are designed primarily for missions in Western and Central Europe in support of NATO ground forces.

Fractional orbital bombardment System (FOBS). A missile that achieves an orbited velocity but fires a set of retro-rockets before the completion of one revolution in order to slow down its re-entry system and to drop the warhead that it carries into a normal ballistic trajectory toward a target on the earth's surface.

Hardening. The process by which land-based missiles or bombers are made less vulnerable to the blast effects of a nuclear attack through protective structures such as missile silos.

Hard-point defense. Defenses designed to protect ICBM sites or other key facilities that possess a relatively high degree of ability to withstand a high level of psi overpressure (also known as hard-site defense).

Inertial Guidance System. The basis guidance system for ballistic missiles consisting generally of an encased mechanism capable of detecting and correcting for deviation from planned trajectory and/or velocity.

Intercontinental ballistic missile (ICBM). A ballistic missile launched from land with an approximate range of 4,000+miles.

Intermediate-range ballistic missile (IRBM). A ballistic missile launched from land with an approximate range of 1,500 to 3,000 miles.

Invulnerability. The condition in which a nuclear force is protected from destruction by an enemy counterforce attack. Invulnerability is sought in several ways: (1) *dispersal*, whereby nuclear forces are positioned at multiple staging areas; (2) development of preattack *warning systems*, such the U.S. Ballistic Missile Early Warning System (BMEWS); (3) development of *mobility* and *concealment* capabilities, the Polaris system being an example; and (4) *hardening*.

Kiloton (KT). The energy of a nuclear explosion that is equivalent to that produced by the explosion of 1,000 tons of TNT. The Hiroshima bomb had an approximate yield of 20 kilotons.

Medium-range ballistic missile (MRBM). A ballistic missile launched from land with an approximate maximum range of 1,500 miles.

Megaton (MT). The energy of a nuclear explosion having a yield equivalent to one million tons of TNT. Equivalent of 1,000 kilotons.

Multiple independently targeted re-entry vehicle (MIRV). A reentry vehicle containing several warhead packages capable of wide separation and independent targeting. MIRV capability will be incorporated into Minuteman III and Poseidon missiles.

Multiple re-entry vehicle (MRV). A re-entry vehicle containing several warhead packages of limited separation capability.

Multipolarity. The model of the international system in which several states exist whose individual power capabilities and/or potential, although not equal in all respects are nevertheless comparable.

Mutual and balanced force reductions (MBFR). Arms-control concepts for Europe that would provide for reduction in the military forces of NATO and the Warsaw Pact.

Mutual assured destruction. *See* Assured destruction.

Nuclear delivery vehicle (NDV). The component of a delivery system designed to carry nuclear weapons to their target.

Nuclear Non-Proligeration Treaty. Treaty negotiated by the United States and the Soviet Union and subsequently adhered to by many other states that seeks to inhibit the spread of nuclear weapons by requiring that signatory nonnuclear states agree not to acquire nuclear weapons and existing nuclear powers agree not to assist nonnuclear powers in acquiring such weapons.

Nuclear proliferation (Nth country problem). Designation given to the problem of the possible spread of nuclear weapons to an indeterminate or "N" number of countries by national development of nuclear capability or procurement of nuclear weapons from existing nuclear powers.

Offensive missile phases. An offensive missile can be postulated to go through three phases in its flight. The first is the boost phase, in which the missile is thrust upward from its launching pad by the rocket motors of the propulsion system. For an ICBM this phase lasts approximately from three to five minutes. The second phase is the mid-course one, which begins when the booster rockets have burned out. The remainder of the missile continues upward without power until the force of gravity overcomes the impetus provided initially by the rocket motors. After reaching its zenith, the missile, reacting to the pull of the earth's gravitational field, begins to descend toward the target. The end of the mid-course phase occurs when the downward course of the missile approaches the upper limits of the earth's atmosphere. For an ICBM this mid-course phase lasts approximately twenty-five minutes. The last phase, the terminal phase, begins with the re-entry of the missile into the earth's atmosphere and ends with its impact on the target. In the case of the normal ICBM this phase lasts approximately one to two minutes.

Passive defense. A defense against a nuclear strike whose objective is to gain the ability to absorb an attack by either removing the targets in question from offensive reach or protecting them against the effects of nuclear explosions. This latter objective usually involves the building of protective shelters, hardening, etc.

Passive sensor. An information gathering and processing device that receives and identifies phenomena produced by an offensive missile itself. An example would be an infrared sensor capable of detecting and distinguishing the infrared radiation of a missile.

Payload. The weight that the rockets of a missile are required to lift. This includes both the weight of the booster stage of the missile and the re-entry vehicle with its warhead package.

Penetration aids (Pen-Aids). Capabilities designed to neutralize the effect of ABM and to assure that a missile reaches its target.

Pounds per square inch overpressure (PSI). The measure commonly used to determine the capability of an object to withstand the pressure exerted by a nuclear blast. Current Minuteman silos in the United States are estimated to be hardened to approximately 300 PSI overpressure.

Preemptive strike. A nuclear attack launched in anticipation of the opponent's decision to resort to nuclear war.

Preventive war. War initiated in order to forestall an opponent's acquisition of military preponderance.

Re-entry System (RES). Those parts of the missile, including the warhead, intended to fall back into the earth's atmosphere under the influence of gravity and to deliver the warhead to its target.

Re-entry vehicle (REV). Each separate package of a multipackage re-entry system designed to fall back through the atmosphere separately.

Second-strike force. A missile attack launched in retaliation against an initial attack by an opponent.

Second-strike force. A force capable of extensive retaliation after absorbing an opponent's first strike.

Soft facilities. Missile sites, command and control centers, and other potential targets that have not been hardened to a degree sufficient to protect against the effects of nearby nuclear blasts.

Stable strategic deterrence. A situation in which both opposing nuclear powers have available weapons systems so numerous and diversified that neither side can hope to upset the balance either through war or through technological innovation.

Strategic nuclear forces. Those forces defined as having the capability of delivering nuclear weapons against countervalue or counterforce targets; also defensive forces designed to defend against such attacks. In the superpower context such forces are commonly thought to include those having intercontinental capabilities, such as long-range bombers, ICBMs, missile-launching submarines, and defenses built to counteract such offensive capabilities.

Strategic nuclear parity. A relationship between opposing nuclear military forces wherein such forces are roughly equal to one another in military capacity. Nuclear parity usually is measured in terms of megatonnage, numbers of launch vehicles, or deliverable nuclear warheads.

Strategic nuclear sufficiency. A term used by U.S. strategic security planners to denote a situation in which the United States possesses a nuclear capability able to: (1) maintain an adequate second-strike capability to deter an all-out surprise attack on U.S. strategic forces; (2) provide no incentive for the Soviet Union to strike the United States first in a crisis; and (3) prevent the Soviet Union from gaining the ability to cause considerably greater urban/industrial destruction than the United States could inflict on the USSR in a nuclear war.

Strategic nuclear superiority. The possession by one power of a decided advantage in nuclear weaponry measured in terms of megatonnage, launch vehicles, and deliverable warheads. In addition to quantitative and qualitative factors, strategic superiority includes a psychological component. The impression by Power A that Power B has attained a condition of strategic superiority may confer on the latter a *political* advantage in its international relationships.

Submarine-launched ballistic missile (SLBM). A ballistic missile launched from an underwater-capable vehicle. The missile is capable of being fired while the vehicle is either on the surface or submerged.

Surface-to-air missiles (SAM). A missile launched from the surface and designed to intercept a target in the air.

Terminal defense. The type of ballistic missile defense that seeks to intercept incoming missiles in the terminal phase of flight.

Theater nuclear forces. Those nuclear forces designated for use in a limited "battlefield" situation where conditions inhibit the use of weapons capable of causing extensive damage through actual nuclear explosion of fallout.

Throw weight. The weight of the re-entry vehicle with its warhead package. In contrast with payload, the weight of the booster stage of the missile is not included in the calculation of throw weight.

Triad. The term used in referring to the basic structure of the U.S. strategic deterrent force. It is comprised of land-based ICBMs, the Strategic Air Command (SAC) bomber force, and the Polaris/Poseidon submarine fleet.

Undersea Long-range Missile System (ULMS). The proposed successor to the U.S. Polaris submarine fleet. It will consist of submarines capable of extended periods at sea and requiring less time in port for overhaul. There will be an increase in on-board missiles in comparison to Polaris. (Current unclassified estimates are twenty-four as compared to sixteen on Polaris.) The expected range of the missile will be approximately 6,000 nautical miles, allowing the submarines, in their deterrent capacity, to be on station much closer to their home bases than is the case with Polaris. The missile is expected to have a sophisticated MIRV capability.

Variable-range ballistic missile (VRBM). Missiles located in the Soviet Union capable of intercontinental range but able to be targeted also on Western Europe.

Warhead. The explosive charge, nuclear or conventional, to be delivered by a missile.

Yield. The force of a nuclear explosion expressed in terms of the number of tons of TNT that would have to be exploded to produce the same energy. The effects of the yield are caused by nuclear radiation, thermal radiation, blast, and shock. The extent of destruction is primarily a function of the medium in which the explosion takes place. The type of nuclear weapon and the time after detonation are also important factors in determining the extent of anticipated destruction.

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## SOARING COSTS OF HIGHER EDUCATION

Mr. CRANSTON. Mr. President, Washington Post Columnist Carl T. Rowan has provided a perceptive commentary on the rising cost of getting a college education.

Writing in the January 6 edition of the Post, Mr. Rowan observes that "the American dream of tuition-free public colleges has gone the way of the nickel subway ride."

While not entirely true in my State of California, where 98 community colleges provide tuition-free higher education, the cost squeeze is still threatening potential students with the possibility that many avenues of no- or low-cost post-secondary education will close.

Mr. President, I commend Mr. Rowan's column to the attention of Senators and ask unanimous consent that it be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

### KEEPING COLLEGE COSTS WITHIN REACH

(By Carl T. Rowan)

Any parent who's seen the bill for a son's or daughter's college expenses is well aware of a painful fact—the cost of sending youngsters to college is soaring out of sight.

The median tuition charged a resident at a four-year public college or university is $520 during the current school year, a 67 percent increase since 1965. Add room, board, books, transportation and other expenses, and it costs $2,100 a year for a young man or woman to go to a public college or university in his or her home state. For nonresidents, the total runs to more than $3,000 a year, including $1,336 tuition.

At a private university, the average tuition now is in the neighborhood of $2,000 a year and total annual costs are around $3,500.

Now multiply those figures by four (the number of years it normally takes to get a bachelor's degree) and again by two or three (the number of children many families send to school). You see the financial burden that confronts today's families.

You also see that the American dream of making a decent college education available to all who are qualified is in trouble. Although almost 60 percent of America's high school graduates now go on to some form of higher education, the Carnegie Commission on Higher Education has estimated that 1 million potential students are barred from attending college because of finances. A study by the Committee for economic Development (CED), a businessmen's organization, found that children from families making less than $3,000 a year are one fifth as likely to attend college as those from $15,000-a-year homes.

The financial crunch of individuals reflects that faced by colleges and universities. Inflation, expansion, poor management, leveling off of enrollments and other factors have combined to threaten the very survival of many institutions of higher education.

Everybody agrees a problem exists, but they don't agree on how to deal with it. Should families with children in school bear a greater portion of the cost of their education, through increased tuition? Or should federal, state and local governments provide more help? At present, the public pays about $3 for each $1 spent by private sources on higher education.

The issue was spotlighted in recent months when the Carnegie Commission and the CED recommended higher tuitions at public colleges and universities, to be offset by direct aid to students who need it. Those who do not qualify for grants could get loans.

The basic arguments for raising tuition is that many students at tax-supported schools can afford to pay more of their own way. By getting them to do this, money will be freed to aid low-income students, it is claimed.

The idea of increasing tuition evokes strong protest from many educators, labor leaders, students and others. They argue that higher tuition will squeeze middle-income families—especially those in the $10,000 to $15,000 range—who will not be eligible for much, if any, financial help. The result, they say, will be that only the rich, who can afford it, and the poor, who get scholarships, will be able to go to college. The surest long-term guarantee of access to higher education is low tuition, not student aid, they argue.

This is not a case of good guys vs. bad guys. Both sides claim to seek the same goal—making sure that college gates do not clang shut on large numbers of students because of lack of money. The problem is how to reach that goal.

Much has been done in the last decade to make college more accessible to the poor, and it would be foolish to halt that progress. Education is a vtial factor in their effort to climb out of second-class status. But to add substantially to the growing burdens of middle-income Americans raises serious problems.

The answer lies in a combination of efforts.

Schools must make the most efficient use of available funds. They should continue to experiment with new approaches in higher education. We need all kinds of post-secondary schools, from community colleges to private universities.

Maybe some increase in public college tuition would help spread the costs more equitably, though doubling charges, as some suggest, seems drastic. If tuition is increased, sufficient grant and loan funds must be available for all who need them.

And the government must not shirk its commitment to students or schools. Aid to higher education has risen considerably in recent years, but only 70 percent of congressional authorizations are actually being spent and the outlay represents only 3 percent of the total federal budget.

The American dream of tuition-free public colleges has gone the way of the nickel subway ride. Maybe that was unavoidable. But we can avoid losing another dream—access to higher education for all who are qualified.

## METHODS OF CONTROLLING ABUSE OF POLICE POWER

Mr. TOWER. Mr. President, the July 1972, issue of the OEO Clearinghouse Review contained a number of articles which illustrate the reasons for the concern several of my colleagues and I share with regard to the Legal Services program.

The first, an article entitled "Methods of Controlling Abuse of Police Power" urges active involvement of legal services staff attorneys in limiting police authority. Emphasis is placed on "the right to the streets," and the suggestion is made, by inference, that the kind of activity engaged in by the District of Columbia Police Force during the 1971 disorders is a proper area of concern for legal services attorneys.

Another indication of the importance accorded this subject is the attention given it by the Bureau of Social Science Research, an OEO grantee. I call the attention of my colleagues to the article entitled "Report on Abuses of Police Authority."

Next, in an article entitled, "Indigents Cannot be Incarcerated Without Right to Counsel," we have one more example of Legal Services involvement in what is essentially a criminal matter, despite apparent prohibition to the contrary. As noted, this was a landmark Supreme Court case.

An article entitled "Suspended Students Seek To Protect Right to Leaflet" explains that legal services attorneys brought a class action on behalf of students allegedly threatened or disciplined for circulating leaflets and petitions attacking a member of the faculty of Los Angeles Community College and books used in course work. The plaintiffs represented by Legal Services in this suit were attempting to organize an SDS chapter on the campus.

"Challenge 'Tracking' in Public High Schools" is an article explaining the action of one of OEO's backup centers which challenged the right of the San Francisco school district to run a high school for superior learners. It was argued that the school was discriminatory since minority students were "unable to achieve grades as high as white students" because white students attend better elementary schools.

In the next article, the appellant challenges the authority of a juvenile court judge to determine whether juvenile court jurisdiction shall be waived in matters involving acts which would be felonious if committed by adults.

Finally, we have an example of one of the series of cases in which Legal Services attorneys challenged the right of the courts and others to require information concerning the eligibility of Legal Services clients. The absence of precise statutory language setting forth clear eligibility standards, in effect, waives such standards.

Mr. President, I feel these articles speak for themselves, and ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

### METHODS OF CONTROLLING ABUSE OF POLICE POWER

(By Stephen E. Gottlieb, the Legal Aid Society of the City and County of St. Louis*)

#### INTRODUCTION

The relationship of the police to the poor is presently suffering from various conflicts over the allocation and use of police resources. Charges and countercharges of abuse and lawlessness are the symptoms of police failure to deal with questions of police policy. Nevertheless few suits are brought against the police.[1] Charges of breaching the peace and resisting arrest, which are often the countercharges to the brutality charge, are often avoided by Legal Services attorneys, public defenders and the private bar alike, and poorly handled by the courts.

The courts have dealt with police abuse largely in terms of the exclusionary rule. That rule is not well suited to prevent abuse but it is well adapted to inflaming the public. Other means of controlling police abuse do exist, concentrating on the rights of innocent people as opposed to alleged criminals, which may well prove more effective and which put the issues in more sensible perspective. This article will help develop some of these more positive approaches to police practices or abuses.

#### 1. FAILURE OF THE EXCLUSIONARY RULE BOTH AS WEAPON AND AS EDUCATION

Half a century ago the Supreme Court attempted to minimize police harassment and brutality by adopting the rule that evidence illegally obtained could not be used in a criminal prosecution.[2] The rule was intended to prevent illegal searches and seizures by the police. The Court expected the exclusionary rule to accomplish this goal by rendering illegal searches and seizures useless in obtaining convictions.[3] Critics like Wigmore[4] and Cardozo[5] shared the same assumption, only arguing that the officer should be prosecuted along with the defendant.

The distinction between permissible and impermissible searches and seizures is based on the effort, embodied in the fourth amendment, to protect the person and privacy of the innocent.[6] The fourth amendment was ratified to keep the government from seizing people it had no right to hold and information it had no right to know.[7] It was intended to protect people from abuse of legal power by personal, social, or political enemies. It was designed to prevent harassment, blackmail, intimidation and extortion.[8]

The fourth amendment strives to reach these goals by its requirement of probable cause and a warrant for an arrest, search or seizure. Presumably, the requirements of probable cause and a warrant should lead law enforcement officers to concentrate on apprehending criminals, and prevent them from wasting and abusing their time on political opponents, personal enemies, or beleaguered minorities. The real vice of uncontrolled arrests, searches and seizures—"fishing expeditions"—is not that they may catch criminals but that they may be used to harass and intimidate. The likelihood of illegal searches and seizures in the homes of persons unpopular to the officer does not depend on the ability to convict. As demonstrated by the late Senator Joseph McCarthy, public exposure of ideas, friendships, or

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Footnotes at end of article.

hatreds, can easily be a weapon. The same is true of disclosure of confidential business or professionals information or information about sexual relations. The notoriety of the search itself may cause embarrassment and injury. The vice of the baseless arrest is not that it may lead to a conviction but that the citizen has already been embarrassed, punished and confined.

In fact, however, the exclusionary rule limits its inquiry only when its purpose is proper:

> Only occasional and flagrant abuses come to the attention of the courts, and then only those where the search and seizure yields incriminating evidence and the defendant is sufficiently compromised to be indicted. If the officers raid a home, an office, or stop and search an automobile but find nothing incriminating, this invasion of the personal liberty of innocent persons too often finds no practical redress. There may be, and I am convinced that there are, many unlawful searches of homes and automobiles of innocent people which turn up nothing incriminating, in which no arrest is made, about which the courts do nothing, about which we never hear.[9]

Thus the officer suffers no penalty at all from the rule unless his object, thwarted by the rule, was to obtain the conviction of a criminal.[10] When the officer legitimately suspects a crime his premature invasion of personal liberty is likely to be censured but only if it prevented conviction in an otherwise manageable case. If, for example, an officer without probable cause but with some desire to harass encounters incriminating evidence in an illegal search, he is unlikely to incur departmental censure because there was no probable cause and, therefore, there was no possible conviction lost. If the officer's purpose is extra-legal the sanction doesn't work at all.

Where police, neither intending nor undertaking to prosecute, take the law in their own hands for purposes of harassment, threat or revenue, the courts have no means of control at all. . . . Clearly no court rule of evidence is likely to deter police from making such a search and seizure. In fact, as one commentator has suggested, the strictness of the exclusionary rule may increase the incentive for this type of infraction.[11]

Thus the exclusionary rule misses the mark entirely as a device to protect the innocent from intentional harassment.

It is possible that the rule prevents harassment based on discriminatory assumptions of probable cause. For example, some officers may be disposed to assume that long-haired men carry narcotics and that black persons in strange areas are stealing. A strict interpretation of probable cause may well inhibit some such arrests.[12] It is also possible that the rule has prevented some unintentional harassment by overzealous officers. And, more important, the rule may be essential lest, as Brandeis argued, the courts sanction lawlessness and contribute to the demoralization of the police.[13]

But since the exclusionary rule was developed the defense of the constitutional right to be free of abuse of governmental power has been left largely to persons convicted of relatively serious crimes who were seeking to eliminate incriminating evidence against them. A more inappropriate context for defining constitutional rights could hardly have been developed. By contrast the Supreme Court has discouraged civil litigation, with the notable recent exception of *Bivens*.[14] By providing limited immunity to the officer in *Pierson v. Ray*,[15] and damage immunity to the city in *Monroe v. Pape*,[16] it has prevented civil damage litigation from being the instrument for defining civil liberties. In addition, it has declined to entertain suits for injunction,[17] and avoided an opportunity to compensate the innocent.[18]

By failing to develop at least a parallel line of cases giving innocent persons access to the courts for more ligitimate purposes regarding these rights, the courts have necessarily abdicated any moral leadership they might have exercised, and poisoned constitutional rights with a meal of crime.

Recently Justice Burger suggested he may be inclined to limit or replace the exclusionary rule.[19] Nevertheless the problems which the rule was meant to deal with are still very real, and more effective protection for civil liberties is essential.[20] Assuming that judicial regulation of police practices can be effective only in an atmosphere of broad acceptance of civil liberties. both by the police and the public, it is essential for attorneys to develop and pursue cases concerning direct injury to innocent persons instead of just their guilty counterparts.

Legal Services attorneys have a peculiar advantage in this field: since they are not members of the criminal bar they are often sought out not to defend criminal prosecutions to take affirmative action against abusive practices. Such attorneys must learn to take full practical, strategic and polemical advantage of those facts. Affirmative action against abusive practices is quite difficult,[21] the more so because it is relatively uncharted. There are, however, several crucial areas which offer important possibilities for legal development of the rights of innocent persons and client groups. Several issues involving freedom versus abuse will be considered. These issues are suited to litigation but legislative or administrative action should also be considered. The article concludes with a brief discussion of several broader issues which dominate citizen-police relations. These issues can probably benefit most from advice and counselling by attorneys rather than directly from litigation.

### II. IMPROVING POLICE COURT PRACTICE

The police, justice of the peace, or city courts are generally the first and perhaps most important jurisdiction in which relations between citizens and police are tested.[22] In these courts persons alleging police abuse generally meet their first hurdle endeavoring to defend charges which cover, conceal or justify the use of official force. A complaint of false arrest can only succeed if the defendant is acquitted or not charged. A complaint of excessive use of force can generally succeed only if the defendant is acquitted of resisting arrest or not charged. As a practical matter those original charges and countercharges do come in pairs.[23] Thus it is essential to provide counsel to defend those original charges or otherwise assure a fair trial of the issue in order to deal effectively with police abuses.

Dealing with such charges is largely a matter of court reform. Most minor offenses are summarily tried, often on short notice, in mass production fashion, before judges who have seen thousands of criminals parade before them.[24] Sympathies lie with the police. The patrolman's job is difficult; split second misjudgments are excused and the "authority" of the police upheld against defiance, however sincere.[25] Defending these minor offenses therefore requires securing substantial due process so that the defendant has a chance of acquittal.

#### *A. The right to counsel*

The most basic issue is the absence of counsel in the police courts. Although indigent defendants have a right to appointed counsel in all prosecutions for serious offenses (and this may include a large portion of the non-traffic cases in police courts) this right is seldom enforced.[26] If not found indigent and appointed an attorney by the court most defendants simply find the cost of hiring an attorney prohibitive—often higher than the likely, as opposed to maximum, fine. Neither uncompensated counsel nor overburdened public defenders will solve the problem because of the common temptation to settle (a practice similar to plea bargaining but revolving around the size of the fine rather than the nature of the offense). Because of their critical place in the legal system these charges have an importance beyond the value of the typical fines. Similarly, the procedures in the police courts have a significance well beyond their limited jurisdiction. Thus despite the theoretical availability of counsel in some cases, police courts must be properly equipped to handle *pro se* cases. (See the section on trial procedures, *infra*, for specific suggestions.)

#### *B. Jury trial in police courts*

The right to jury trial for municipal ordinance violations appears to depend solely on ordinance or local law. The Supreme Court has exempted petty offenses from the jury trial requirement and defined petty as any offense punishable by less than six months in prison.[27] A recent decision the double jeopardy provisions to a 90-day ordinance in Florida.[28] It would seem that if an ordinance is criminal for purposes of double jeopardy it is criminal for purposes of a jury trial, but apparently the Court by applying a "balancing" test sees no inconsistency. There may be another constitutional approach in states where citizens of some communities are granted juries and some are not for identical offenses. There might be a denial of equal protection in that disparity. However, unless the court considers a trial by jury to be an important right and applies a stringent equal protection test, it may be inclined to accept an argument supporting the distinction on the basis of local autonomy.

Provision for jury trials can often be found in state or local statutes, ordinances or rules. But resistance to their use is likely to be strong. In *State of Missouri ex rel. Butler v. Cady*,[29] the St. Louis Circuit Court granted a writ of mandamus requiring a jury trial in a city court pursuant to Sections 175.010 and 175.020 of the Revised Code of the City of St. Louis at the prescribed rate of $18 per day. But the city's response was to amend the ordinance so that jury trial is now discretionary and now costs $144 per day—a pyrrhic victory indeed. This incident emphasizes the general thesis of this article that it is essential to take steps to alter the climate in which judicial and legislative decisions are made through appropriate rhetoric and choice of issues and clients.

The argument against jury trials is time and expense. Yet in many police courts a small number of judges contrive to dispose of a large number of cases on part-time or half-day dockets. If justice occasionally requires a jury trial, such "efficiency" is no justification for avoiding it. Jury trials must be available to keep the court system responsive whenever lawyers discover there is no alternative. Indeed on minor cases if lawyers are satisfied of the impartiality of the bench they have the same reasons to avoid jury trials that the judges do—time and expense—and the resulting impact on dockets, time and personnel is slight.[30] But where a civil action for false arrest or excessive force is planned a jury trial of the prosecution of charges should be employed in most instances.

#### *C. Trial procedures in city courts*

City or police courts are often the successors of the old justice of the peace courts and not uncommonly their practices are but slightly improved. Persons held in custody have all the rights necessary to a fair trial—that is to defend themselves and show their innocence. In practice due process seldom extends down to the level of these courts.[31] As the President's Commission on Law Enforcement and Administration of Justice reported,[32] assembly line procedures are the rule rather than the exception.

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Footnotes at end of article.

Although local practices vary, defendants are often brought into court the morning after arrest, at which time the judge or clerk asks for their plea, and the judge directs the trial to begin. Thereafter the judge directs the policemen to step down and defendant to testify, thus sacrificing each and every one of defendant's rights.[33]

Despite these practices, local rules may offer the defendant a host of rights. Missouri rules, for example, provide the defendants with the right to retain counsel,[34] a continuance,[35] bail and the reduction of bail,[36] witnesses and subpoenas to compel their attendance,[37] an opening statement,[38] appeal,[39] and silence.[40] The Missouri constitution guarantees the right to cross-examine prosecution witnesses [41] and, for most jurisdictions, the right to trial by jury.[42] Regardless of state law or local rules, most of these rights (with the exception of appeals [43] and jury trials [44]) should be available on federal constitutional grounds because these are criminal proceedings.[45] State law may treat city court proceedings as civil despite all the effects of a criminal adjudication.[46] But even defendants in civil cases have a right to a fair trial or hearing which includes most of these specific rights.[47]

Without help from the bench or bar defendants' rights to due process in police courts are meaningless. Without being advised of their rights or being told that they can take time to obtain witnesses or to consult with counsel most defendants lose their rights automatically. With the judge directing the pace of proceedings he is effectively causing defendants to abandon those rights. If no one asks the defendant whether he is ready or whether he needs help to gather witnesses in his defense, he will find himself on trial without the resources to defend himself. If he does not understand these basic procedural rights it is impossible to give him a fair trial.[48] Thus the court has a duty to inform defendants of their rights.[49] Indeed it is this precise problem which underlies the requirement of counsel for indigents in serious cases.[50]

Defendants do not waive their rights by submitting to assembly line procedures. Waiver is an intentional abandonment of a known right. Therefore, such constitutional rights cannot be waived without knowledge and willingness.[51] Consistent with due process the court should publicly ascertain for itself whether defendant waives those rights, if at all.[52]

Regardless of the ground of decision it is essential that the trials which oversee the relations between lay persons and "authority" be conducted fairly, impartially and with understanding of the needs of both sides. It is equally essential that courts which try large numbers of persons unrepresented by counsel develop procedures to ensure fair trials, and to do this the full panoply of due process rights should be accorded. In practice, however, there is too little judicial time or personnel to provide justice is these cases. But this is no excuse. It is necessary to extend the guarantee of due process to these courts by appeal if the matter was apprehended in time (a useless procedure for law reform purposes if the appeal is by trial de novo), by habeas corpus if the defendant was incarcerated, or by collateral attack or suit for injunctive relief if the defendant is at liberty. Civil liberties are more commonly at stake in these courts than in more carefully regulated higher courts.

## III. PROTECTING CLIENTS FROM ARREST RECORDS AND WARRANTLESS ARRESTS

In addition to improving police court practice, another problem is to counter the use of arrest itself as a harassment device. An arrest record, even if unsubstantiated by later warrant or conviction, causes severe embarassment and bars access to many jobs. Arrest procedures also need reform. In some cities no warrants are required by local law or custom and therefore the police almost always make arrests without them. This practice makes a mockery of the constitutional requirement of a warrant. It also thwarts the purpose of the warrant requirement by exposing men to repeated arrest, personal and financial disgrace, damaging police records, loss of wages and other damage based only on an arresting officer's on-the-spot decision.

### *A. Expunging arrest records*

There is some authority for expunging arrest records. But despite decisions favorable to their obliteration, the request is still treated as extraordinary; the burden remains on citizens to take affirmative action to clear their names.

In *United States v. Kalish*,[53] the court held:

> No public good is accomplished by retention of the material (records of arrests not resulting in conviction) while a great imposition is placed on the citizen. His privacy and personal dignity are invaded.

The court ordered the Attorney General to destroy the records.

A number of decisions by other federal courts have reached the same conclusion. The Fifth Circuit ordered records of arrests destroyed in *United States v. McLeod*,[54] when the arrests were made for harassment. The suit was brought under the Civil Rights Acts. In *Hughes v. Rizzo*,[55] the court ordered arrest records destroyed where no charges were brought and there was no probable cause for arrest. Records of arrests made without probable cause were also expunged in *Wheeler v. Goodman*.[56]

Although *McLeod* and *Rizzo* dwelt on the improper actions of the police, in *Menard v. Mitchell*,[57] the D.C. Circuit adopted a rationale closer to *Kalish*.[58] The court held that even if probable cause was found, relief should still be available to the person arrested and later released. In the court's view, if the person was exonerated there would be no reason for continued punishment by adverse use of his criminal records. The court also held that a criminal court has inherent power to effectuate its order dismissing the case by ordering the records destroyed.[59] The court found "extensive documentation of the harm which comes from dissemination of arrest records to employers," that this damage falls disproportionately on minorities, and that the practice had no valid purpose. Indeed the United States is unique in expanding police records to include arrests for which no conviction resulted.[60]

In *State ex rel. Reed v. Harris*, [61] the Missouri Supreme Court held that an action may be maintained to enjoin the dissemination of photographs and fingerprints. The court noted that such dissemination might cause serious and irreparable damage. While it did not deal explicitly with arrest records, the ground for relief would appear to rest on the same foundation.

In *Cissel v. Brostron*,[62] the Missouri Court of Appeals refused to order the destruction of records, holding that the arrest had happened and that a record of it could not be obliterated. But it did not reach the dissemination question, holding that there was, unlike *Reed*, no proof that the records would be disseminated. The Seventh Circuit has also taken the position that the police have the duty to keep such records.[63]

The different philosophies of those courts which granted relief are strategically decisive. Where expungement or injunctive relief is granted because of police error the suit tests arrest procedures and is an instrument for law reform in that area. Some specific implications of that kind of relief are discussed below. Where relief is granted on the ground that there was no conviction regardless of the justification for arrest, the suit offers more far reaching relief with respect to arrest records. A suit of this nature could be used to obtain class relief. Although this has not yet been accomplished, it may be the result of the deliberate strategy of the attorneys in developing facts showing lack of probable cause and otherwise emphasizing the specific injustice. Certainly the possibility of class relief seems inherent in the *Kalish* and *Menard* decisions.

### *B. Reforming arrest procedures*

The cases on arrest records outlined above raise another important problem and opportunity. In the context of the exclusionary rule cases under the fourth amendment. The United States Supreme Court has said two things: first, that evidence resulting from an arrest without a warrant is admissible if there was probable cause for the arrest,[64] and second, that arrests without warrants will be more closely scrutinized because the Constitution favors warrants.[65] In the area of searches, however, the search and its fruits are invalid where despite probable cause there was no necessity for proceeding with the search without a warrant.[66] These two rules are therefore somewhat inconsistent. Part of the problem appears to lie in the factual situation presented by the exclusionary rule. In every exclusionary rule case the defense is seeking to ground important constitutional rights on the damage done to a man who is by the logic of the situation presumably guilty—*i.e.*, if the evidence is not excluded the defendant will be convicted. Yet the purpose of the exclusionary rule is not to free criminals. The purpose is to prevent the harassment, embarrassment, loss of liberty, intimidation and defamation of innocent persons. Thus an important breakthrough in the climate of decision may be possible if cases are developed in which the litigant is, by the logic of the situation, presumably innocent instead of presumably guilty.

This problem of repeated groundless arrests penalizing minorities is poignantly posed by clients with long arrest records and no convictions. But instead of attacking this situation on appeal from a conviction as is generally done, where the only remedy has been release of a criminal, it makes more judicial and administrative sense to attack the practice by suit for injunctive or declaratory relief which is less burdened by the necessity of releasing a criminal.[67] This approach differs from the usual contest over warrantless arrests both in the nature of the clients (already found innocent) and in the nature of the complaint (against arrest records rather than convictions and centered more on the future than the past). Arrest is itself a severe punishment and its use and duration prior to trial must be placed under constitutional restraint. Thus the first advantage in shifting the battle to civil litigation may lie in putting teeth in the requirement that a warrant be obtained.

There is another advantage to splitting the doctrine of illegal arrest into two branches, one applicable in the criminal proceeding and one applicable in civil suits. That advantage lies in the opportunity to strengthen the doctrine of probable cause without the penalty of freeing criminals. Although police departments require an explanation if a suspect escapes, they do not generally require an explanation for mistaken or malicious arrests. The officer is bound by the requirement of probable cause, but neither local regulations nor judicial decisions require that he take reasonable care to avoid arresting the wrong person. For example, if the alleged victim of an assault on a residential street tells an officer that a named neighbor was the attacker and that there was a crowd, does the officer have probable cause to make an arrest prior to checking for corroborating witnesses among the neighbors? If the thought of subjecting the officer to responsibility for his own negligence is too frightening, then

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Footnotes at end of article.

let the government act as his insurer as Justice Burger has suggested.[68] Civil litigation on behalf of persons arrested but not convicted should seek to subject the right of arrest to the duty of care.

In a recent decision the Supreme Court held that there was no constitutional right to reimbursement for bonding expenses incurred in connection with an unsubstantiated charge.[69] In searching for ways to protect the innocent from abuse of power that decision should be overruled. Part of the problem with an arrest is that it is a badge of dishonor, a burden the arrested person must bear without regard to fault or expense. It would be appropriate to require not only repayment of bonding expenses but also payment or reimbursement for unjustified time spent in jail. The innocent person does not escape the burdens of imprisonment, bonding expenses, counsel fees and the disgrace which accompanies the whole affair. Nor is it unusual for men to lose their jobs because they could not report to work as the result of an arrest. Therefore although the legal system presumes that a person is innocent until proven guilty, in fact being innocent is often to no avail. Eliminating arrest as a form of harrassment requires recognizing and compensating an individual for the burdens which society places on him for its protection.[70]

### IV. POLICE POWER AND THE RIGHT TO THE STREETS

The third problem is to deal with the substantive relationship between the police and the community and to define how much power the policeman has. Some policemen believe and act on the assumption that they can tell anyone at anytime to move along or leave the area. Many men believe that the streets are public, and can and do react with shock and anger at such orders. As a result of this difference of opinion about police power, the stage is set for a confrontation which works to everyone's disadvantage. It creates a bad impression of police abusiveness in the public mind, and results in many otherwise law-abiding persons spending time in jail and being burdened with a criminal record.[71] Similarly members of the public do not see themselves as violating the criminal law by arguing with the police. Yet to many policemen such behavior is a challenge to their authority. Again the criminal law is misused to settle a dispute between persons both of whom are concerned with seeking justice.[72]

The use of breach of the peace or loitering laws to support demands that citizens move along or stop arguing is frequent but illegal.[73] The challenge to those concerned with preventing arrogant abuse of power is to extend these holdings across the country.

Loitering ordinances have their origin in efforts to provide labor by punishing idleness following the plague in England.[74] They are plainly an anachronism. In *Palmer v. City of Euclid*,[75] the Supreme Court held unconstitutional an ordinance which made punishable:

> Any person who wanders about the streets or the public ways or who is found abroad at late or unusual hours in the night without any visible or lawful business and who does not give a satisfactory account of himself.

The Court held the ordinance unconstitutionally vague and held that no man may be held criminally responsible for conduct which he could not reasonably understand to be proscribed, citing *United States v. Harriss*,[76] *Bowie v. Columbia*,[77] and *Wright v. Georgia*.[78] The decision was unanimous. Harlan concurred in the result without opinion and Stewart and Douglas concurred on the ground that it was vague on its face, not merely as applied. The case reversed a conviction and sentence of $50 and 30 days.

In *Coates v. City of Cincinnati*,[79] the Supreme Court held unconstitutional an ordinance which made it a criminal offense for "three or more persons to assemble . . . on any of the sidewalks . . . and there conduct themselves in a manner annoying to passers by. . . ." The ordinance was punishable by a fine of not more than $50 or imprisonment for one to 30 days, or both. The record was devoid of facts since appellants argued that the ordinance was unconstitutional on its face. Five justices—Stewart, who delivered the opinion, Douglas, Harlan, Brennan and Marshall—held that the ordinance was:

> [U]nconstitutionally vague because it subjects the exercise of the right of assembly to an unascertainable standard, and unconstitutionally broad because it authorizes the punishment of constitutionally protected conduct.

Justices White, Burger and Blackmun dissented on the ground that the court should have awaited a situation in which the ordinance was applied either to conduct not clearly proscribed or to protected conduct. In effect, therefore, even the dissenting justices do not close the door to attack on ordinances of this kind. Justice Black for similar reasons wanted to remand to expand the record.

The Court's position that these laws do not warn a citizen that he is violating the law reflects a basic fact about American ethics. That is, a large number of Americans do not believe it is criminal to stand on a corner and argue with a policeman about what should be done while apparently a large number of policemen do. Given this fundamental disagreement it is impossible for the citizen to determine when his protests to the police officer become legally actionable. Put another way, to many Americans those protests are protected speech. Hence it is highly inappropriate to apply peace disturbance laws in such situations.

Most recently in *Gooding v. Wilson*,[80] the Court made clear that its concern was largely for ordinances which made the criminality of the conduct depend on the sensibilities of the victim or observer. The Court excluded ordinances restricted to generally recognizable fighting words. Presumably, however, any prosecution under an ordinance so drawn and so interperted must involve some form of proof of community standards and some clarification of whose community standards are reflected in the law in determining whether the words used were fighting words. The courts can hardly be permitted to take judicial notice of "fighting words" in an era when acceptable use of language is rapidly changing. Moreover even unacceptable speech may be part of speech with "redeeming social value" and therefore properly protected on free speech grounds.[81]

Despite these complexities stemming from the manner in which the ordinances are being applied, this recent line of Supreme Court decisions makes such ordinances highly suspect (especially where no limiting construction has been developed by the state courts) and open to challenge. Nevertheless, such ordinances are universal and are not being removed or rewritten. The dearth of lawyers in this field who could effectively litigate this issue in each municipality is a challenge to both legal and judicial activism. Police court judges are well aware of these decisions but disinclined to follow them. It is a major and important task to see that these changes are effected.

### V. CHANGING THE CLIMATE OF OPINION OTHER THAN BY LITIGATION

The discussion above has centered on alternatives to the exclusionary rule in litigation designed to protect the constitutional rights of innocent persons. The purpose of this concluding section is to focus attention on strategies which do not require litigation to affect both the climate of opinion and the reality of police practice.

Perhaps the most damaging simplification in American public life appears to be the widely held belief that it is necessary to sacrifice constitutional rights in order to catch criminals. It seems almost useless to argue from statistical evidence that this is grossly exaggerated. The fear of crime requires solutions, not explanations. This fear coupled with intolerance toward strangers or persons of different color or habits or beliefs[82] makes successful judicial regulation of police practice difficult since the desire to clear the streets of persons who seem dangerous is too often used to justify unsupportable arrests and practices.[83] Judicial regulation of police practice can accomplish only limited objectives unless it is supported by public opinion.

Client groups whose interests and demands normally span both justice and safety present an important opportunity to cut through the barrier of fear by redefining the issues in terms which all sides can support, such as expansion, efficiency, progress, and creative management. These groups need to develop working relations with lawyers, criminologists and penologists who can help them formulate programs by which the police can provide both justice and safety more satisfactorily.

For example, the crime commission suggests hiring a new group of unarmed police assistants.[84] Assistants could patrol the streets, initiate investigations and perform service functions of police departments. Without reliance on force they could calm the ordinary neighborhood argument without making a criminal case out of it. The employment effects are not to be ignored, and in larger jurisdictions the opportunity for mutual non-coercive education across class and geographical boundaries is an important byproduct if by reducing fear of strangers and increasing tolerance and sympathy for other groups one can strengthen the climate of opinion supporting constitutional liberties for all people.[85] Another by-product might well be the diminution of police corruption which would become far less manageable for those dishonest policemen with a large and changing number of assistants whose willingness to keep secrets could not be counted on.[86]

The crime commission also suggests eliminating entirely the enormous amounts of police time spent arresting drunks and loiterers in favor of greater efforts in felony cases in order to increase efficiency and decrease the opportunity for ugly confrontations over control of the streets as discussed above.[87]

Another fruitful area of scrutiny is the promotion system. Traditional police practice is to start every one at the bottom and promote only from the ranks. The loss to the department in cross-fertilization both from other departments and from the academic community is enormous.[88] Moreover policemen are now rewarded largely for bravery and arrests. It might be useful to reward policemen with promotion for a record of calming disputes without having to make arrests.[89]

Control of the police is critical.[90] Community control is probably counterproductive for poor communities which cannot support independent police units and for society in general because of poor organization and parochialism of small departments. But it may make a great difference whether the governor or mayor appoints the head of the police department; or whether the head of the department is appointed or elected; or serves full or part time; or is an individual or board. The local political climate will determine which option is best. No one solution is always ideal. Any solution may degenerate in time. Change may be valuable in itself. The essential problems are to achieve fresh, continuing and expert evaluation of police policies and practices by independent and well staffed evaluators reporting directly to the

Footnotes at end of article.

head of the department,[91] and to develop policies in pursuit of justice rather than only of arrests. These obectives can be served through change in structure and personnel.

Issues such as these offer the possibility of achieving greater respect for constitutional liberties while improving the general operation of the police department. They offer the possibility of transcending the apparent contradiction between policies which support civil liberties and policies which provide safety on the streets. If client groups with appropriate assistance from lawyers and other experts can reach consistent positions on problems such as these they might make an immense contribution to reducing abuse of official power.

There is also room for important improvements in press relations. Demonstrations attract attention, but frequently draw attention to the decorum of the demonstrators instead of the repression of the authorities. The genius of Martin Luther King as a strategist was to expose to public scrutiny the illegal behavior of his adversaries. Recently one ACLU affiliate invited the press to witness harassment of a kind that is normally hidden from public view—the arrest of several persons for standing on a corner. They were able to do this because they could predict the response of the police to a small group on a particular corner.[92] The results may prove far more important than litigation. Legal Services attorneys can assist in carefully planned exposure of police harrassment against law-abiding persons if they are prepared to offer advice and representation to prevent those who take part from violating the law and to protect them from false charges.

The issues and approaches discussed in this article offer important improvements in libertarian strategy. They offer alternatives to judge-made law and alternatives to the divisive exclusionary rule. Such alternatives, insofar as they recast public understanding of the issues, may be far more important for Legal Services clients than judge-made law.

### FOOTNOTES

[*] The author is indebted to the following colleagues: Robert Thomas, Charles Bobinette, Cynthia Holmes and Ron Elliot, who contributed research on various issues raised in this article.

[1] Bivens v. Six Unknown Named Agents, 39 U.S.L.W. 4821, 4822 n.4 (U.S. June 21, 1971).

[2] Weeks v. United States, 232 U.S. 383 (1914).

[3] Elkins v. United States, 364 U.S. 206, 217 (1960).

[4] 8 Wigmore, Evidence, Section 2184 (3d ed. 1940).

[5] People v. Defore, 242 N.Y. 13, 21 (1926).

[6] 58 Yale L. J. 144, 148 (1948).

[7] Boyd v. United States, 116 U.S. 616, 628 (1886).

[8] 58 Yale L. J. 144, 148 (1948).

[9] Brinegar v. United States, 338 U.S. 160, 181 (1949) (Jackson, J., dissenting opinion).

[10] Allen, *The Wolf Case*, 45 Ill. L. Rev. 1, 18 (1950).

[11] 58 Yale L. J. 144, 148, 163 (1949).

[12] *See* Elkins v. United States, 364 U.S. 206 (1960), and Bivens v. Six Unknown Named Agents, 39 U.S.L.W. 4830 (U.S. June 21, 1971) (Burger, J., dissenting opinion) for judicial assessments of the statistical evidence.

[13] Olmstead v. United States, 277 U.S. 438, 485 (1928).

[14] Bivens v. Six Unknown Named Agents, 39 U.S.L.W. 4821 (U.S. June 21, 1971).

[15] 386 U.S. 547 (1967).

[16] 365 U.S. 167 (1961).

[17] Boyle v. Landry, 39 U.S.L.W. 4207 (U.S. 1971).

[18] Schilb v. Kuebel, 40 U.S.L.W. 4107 (U.S. 1971).

[19] *See* Bivens v. Six Unknown Named Agents, 39 U.S.L.W. 4828, 4830 (U.S. June 21, 1971) (Burger, J., dissenting opinion).

[20] *Id.*

[21] Allen, *supra* n. 10.

[22] Chevigny, Police Power (1969).

[23] *Id*, at ch. 8.

[24] President's Commission on Law Enforcement & Administration of Justice, the Challenge of Crime in a Free Society 128 (1967) [hereinafter cited as President's Commission].

[25] Changing and increasingly restrictive law on this subject is noted in State v. Brothers, 445 S.W.2d 308 (Mo. 1969).

[26] Carnley v. Cochran, 369 U.S. 506, 516 (1962); Beck v. Winters, 407 F.2d 125 (8th Cir. 1969); MacDonald v. Moore, 353 F.2d 106 (5th Cir. 1965); Harvey v. Mississippi, 340 F.2d 263 (5th Cir. 1965).

[27] Baldwin v. New York, 399 U.S. 66 (1970).

[28] Waller v. Florida, 397 U.S. 287 (1970).

[29] Missouri *ex rel.* Butler v. Cady, No. 26685F (St. Louis Cir. Ct., Oct. 28, 1971).

[30] Baldwin v. New York, 399 U.S. 66, n. 22 at 75 (1970); Burch & Knaup, *The Impact of Juvenile Justice*, 4 Clearinghouse Rev. 345, 359 (December 1970).

[31] Koen v. Long, 302 F. Supp. 1383, 1392–3 (E.D. Mo. 1969), *aff'd*, 428 F.2d 876 (8th Cir. 1970).

[32] President's Commission *supra* n. 24 at 128.

[33] *See* Koen v. Long, 302 F. Supp. 1383, 1392–3 (E.D. Mo. 1969), and the deposition of Judge George Cady taken in that case.

[34] Rule 37.17 and 37.89.

[35] Rule 37.39.

[36] Rule 37.15 and 37.100.

[37] Rule 37.41.

[38] Rule 37.54(b).

[39] Rule 37.78.

[40] Rule 37.54(b) and 37.59.

[41] Art. 1, § 18 (A).

[42] Art. 1, § 22 (a) guarantees the right "as heretofore enjoyed" and Section 98.080, 98.380 and 98.550 guarantees the right for certain classes of cities.

[43] Griffin v. Illinois, 351 U.S. 12 (1956).

[44] Baldwin v. New York, 399 U.S. 66 (1970).

[45] *See* Waller v. Florida, 397 U.S. 287 (1970); Pointer v. Texas, 380 U.S. 400 (1965).

[46] City of Clayton v. Sigloff, 452 S.W. 2d 315 (St. Louis App. 1970).

[47] Greene v. McElroy, 360 U.S. 474 (1959); Goldberg v. Kelly, 397 U.S. 254 (1970); Bell v. Burson, 39 U.S.L.W. 4607 (U.S. 1971); California Dep't of Human Resources v. Java, 39 U.S.L.W. 4491 (U.S. 1971); Sniadach v. Family Finance Corp., 395 U.S. 337 (1969); Hanna v. Larche, 363 U.S. 420 (1960); *In re* Grobah, 352 U.S. 330 (1957); Slochower v. Board of Higher Education, 350 U.S. 551 (1956); Speiser v. Randall, 357 U.S. 513 (1958).

[48] Carnley v. Cochran, 369 U.S. 506 (1962).

[49] Koen v. Long, 302 F. Supp. 1383, 1393 (E.D. Mo. 1969).

[50] Carnley v. Cochran, 369 U.S. 506 (1962).

[51] McCarthy v. United States, 394 U.S. 459 (1969); Johnson v. Zerbst, 304 U.S. 458 (1937).

[52] *See* Boyken v. Alabama, 395 U.S. 238 (1969); Carnley v. Cochran, 369 U.S. 506, 516 (1962).

[53] 271 F. Supp. 968 (D. P.R. 1967).

[54] 385 F.2d 734 (5th Cir. 1967).

[55] 285 F. Supp. 881 (E.D. Pa. 1968).

[56] 306 F. Supp. 58 (W.D. N.C. 1969).

[57] 430 F.2d 486 (D.C. Cir. 1970).

[58] United States v. Kadish, 271 F. Supp. 968 (D. P.R. 1967).

[59] Morrow v. D.C., 417 F.2d 728 (D.C. Cir. 1969).

[60] 14 Crime & Delinquency 494, 501 (1967).

[61] 153 S.W.2d 834 (1941).

[62] 395 S.W.2d 321 (St. Louis App. 1965).

[63] Herschel v. Dyra, 365 F.2d 17 (7th Cir. 1966).

[64] McCrary v. Illinois, 386 U.S. 300 (1967); United States v. Ventresca, 380 U.S 102 (1965); *see also* Amsterdam, Segal, & Miller, Trial Manual for the Defense of Criminal Cases, Section 241 (1967).

[65] United States v. Ventresca, 380 U.S. 102 (1965).

[66] *Id. See also* Carroll v. United States, 267 U.S. 132 (1925); Preston v. United States, 376 U.S. 364 (1964).

[67] Reiss, the Police and the Public 192 (1971).

[68] Bivens v. Six Unknown Named Agents, 39 U.S.L.W. 4821, 4830 (U.S. June 21, 1971) (Burger, J., dissenting opinion).

[69] Schilb v. Heugel, 40 U.S.L.W. 4107 (U.S. 1971).

[70] *Cf.* Frankel, *Preventive Restraints and Just Compensation: Toward a Sanction Law of the Future*, 78 YALE L. J. 229 (1968).

[71] Chevigny, *supra* n. 22.

[72] *Id.* at 70; REISS, *supra* n. 67, at 149–50.

[73] *See* Shuttlesworth v. City of Birmingham, 382 U.S. 87, 90 (1965); Territory of Hawaii v. Anduha, 48 F. 2d 171 (9th Cir. 1931); Baker v. Binder, 274 F. Supp. 658, 662 (W.D. Ky. 1967); Alegata v. Commonwealth, 231 N.E. 2d 201 (Mass. 1967); Graham v. State, 447 P. 2d 200 (Okla. 1969); Goldman v. Knecht, 295 F. Supp. 897 (D. Colo. 1969); Broughton v. Brewer, 298 F. Supp. 260 (S.D. Ala. 1969); Kirkwood v. Ellington, 298 F. Supp. 461 (W.D. Tenn. 1969); Fenster v. Leary, 264 F. Supp. 153 (S.D. N.Y. 1967); City of Moore v. Cook, No. CRM 70–129 (Okla. Dist. Ct., Cleveland County, Nov. 12, 1970).

[74] Statute of Laborers, 32 Edw. 3, Stat. 1; II Holdsworth, History of English Law, 459–62 (1927).

[75] 39 U.S.L.W. 4612 (U.S. 1971).

[76] 347 U.S. 612, 617 (1954).

[77] 378 U.S. 347 (1964).

[78] ?73 U.S. 284 (1968).

[79] 39 U.S.L.W. 4630 (U.S. 1971).

[80] 40 U.S.L.W. 4329 (U.S. 1972).

[81] *Roth* v. *United States*, 354 U.S. 476 (1957), generally applied to written words but the issue is closely parallel.

[82] President's Commission *supra* n. 24, at v.

[83] Chevigny, *supra* n. 22.

[84] *Id.* at ix; and National Advisory Commission on Civil Disorders, Report, 317 (1968).

[85] The author's observations suggest that the Peace Corps, and the Iranian Literacy and Medical Corps do just that. The major effect of service is to increase the respect and sympathy of the corpsman for the people he serves.

[86] Reiss, *supra* n. 67, at 156.

[87] President's Commission *supra* n. 24, at viii.

[88] Reiss, *supra* n. 67, at 162.

[89] *See* Chevigny, *supra* n. 22, at 154–58; Reiss, *supra* n. 22, at 214.

[90] *Cf.* Weigley, History of the United States Army (1967), for a study of the comparable problem in the military.

[91] Reiss, *supra* n. 67, at 203–7.

[92] Civil Liberties 5 (May 1972).

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### Report on Abuses of Police Authority

The Bureau of Social Science Research has revised and reprinted its report entitled *Abuses of Police Authority: A Literature Review*. The report is a review of the literature on abuses of police authority and mistreatment of citizens, concentrating on abuses which occur on the streets, in day-to-day encounters between policemen and individual citizens. The report is available free of charge to Legal Services attorneys from the Bureau of Social Science Research, Inc., 1200 Seventeenth St., NW. Washington, D.C. 20036.

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### Indigents Cannot Be Incarcerated Without Right to Counsel

8245. Argersinger v. Hamlin, No. 70–5015 (U.S. Sup. Ct., June 12, 1972). Petitioner represented by Bruce S. Rogow, Economic Opportunity Legal Services Program, 622 N.W. 62nd St., Miami, Fla. 33150, (305) 379–0822. On the brief, J. Michael Shea and P. A. Hubbart. Amicus curiae, William E. Hellerstein, Legal

Aid Society of New York. [Here reported: 8245A Opinion (14 pp.).]

The Court, in reversing a Florida Supreme Court decision, has held that an indigent criminal defendant's constitutional right to counsel does not depend upon the classification of the offense or whether or not a jury trial is required and that no accused may be deprived of his liberty pursuant to a criminal prosecution in which he was denied assistance of counsel. The Florida Supreme Court had held that right to counsel extends only to trials for non-petty offenses.

The Court noted that all of sixth amendment protections, only that of right to trial by jury has historical support for limiting its application to more serious crimes. The Court stressed that nothing in the language of the amendment, history, or recent decisions indicated a similar limitation for the right to counsel. The Court instead found the *Powell v. Alabama* and *Gideon v. Wainwright* rationale relevant to any criminal trial where there is deprivation of liberty. The Court reasoned that the prejudice which results to misdemeanor defendants from "assembly-line justice" indicates that the requirement of counsel may be necessary for a fair trial even in prosecutions for petty offenses.

The Court emphasized that the majority of misdemeanors will not be affected by the decision and effectively placed the burden of deciding when to offer and appoint counsel on the trial judge. Justices Burger, Brennan, and Powell wrote concurring opinions.

### Suspended Students Seek To Protect Right to Leaflet

7453. Pryor v. Los Angeles Community College District, No. C20533 (Cal. Super. Ct., Los Angeles County, filed Jan. 14, 1972). Plaintiffs represented by Robert E. Mundy, 10925 S. Central Ave., Los Angeles, Cal. 90050 (213) 564–6971; Ernest L. Aubry, c/o Western Center on Law and Poverty, 1709 W. Eighth St., Los Angeles, Cal. 90017, (213) 483–1491. [Here reported: 7453A Complaint (21 pp.); 7453B Points and Authorities (40 pp.); 7453D Preliminary Injunction (3 pp.).]

A preliminary injunction was issued ordering community college officials to vacate the plaintiffs' suspensions and probations; to renew proceedings only with proper notice and opportunity for hearing; and to consider a waiver of the school's requirements for a faculty advisor to sponsor plaintiffs' SDS group. Two college students have brought a class action on behalf of themselves and other students threatened or disciplined for circulating leaflets and petitions and on behalf of those desirous of doing the same. Plaintiffs had attempted to secure a faculty sponsor for their SDS organization. Although some members of the faculty expressed interest, they were prevented from accepting because of threatened harmful reaction from their superiors. The plaintiffs were suspended for leafleting against what they felt were racist books and a racist teacher. Although published school procedures require written notice and an opportunity for a hearing, the plaintiffs were suspended after only an oral warning as to the possibility of future disciplinary action. The plaintiffs contend that this is a violation of the first and fourteenth amendments and that, as a minimum, the college administrators must adhere to the safeguards contained in the school's duly promulgated rules.

### Challenge "Tracking" in Public Schools

6583. Berkelman v. San Francisco Unified School District, No. C–71–1875 LHB (N.D. Cal., filed Apr. 12, 1972). Plaintiffs represented by Suzanne Martinez and Kenneth Hecht, Youth Law Center, 795 Turk St., San Francisco, Cal. 94102, (415) 474–5865. [Here reported: 6583B Amended Complaint (29 pp.); 6583C Plaintiffs' Memo in Support of Preliminary Injunction and Partial Summary Judgment (72 pp.). Previously reported: 6583A Complaint (14 pp.), 5 CLEARINGHOUSE REVIEW 469 (December 1971).]

The plaintiffs, minor school children, bring this class action under the Civil Rights Act to challenge the maintenance by the San Francisco Unified School District of Lowell High School, an elite academic high school. Plaintiffs contend that students of low-income backgrounds, black and Spanish-surname students, and female students are systematically and arbitrarily excluded from Lowell, and therefore from its greater educational opportunities, under the existing admission policy of "tracking" in violation of the due process clause of the fourteenth amendment. At present, despite existing alternative methods, Lowell admits students almost exclusively on the basis of their junior high school grades, females needing higher grades than males. In addition to the obvious sex discrimination, plaintiffs allege that low-income groups, blacks and Spanish-surnamed individuals are discriminated against because they are unable to achieve grades as high as white students, due to the educationally superior elementary and junior high schools which the whites attend. Plaintiffs further contend that the concentration of academic resources at one high school and the denial of similar resources to students at other high schools is damaging and detrimental to the students enrolled in the other high schools and is in violation of their right to an equal educational opportunity.

### Challenge Constitutionality of Statute Permitting Waiver of Juvenile Court Jurisdiction

7270. *In re* A.D.R., No. 56,658 (Mo. Sup. Ct., filed January 1972). Appellant represented by Richard J. Habiger and Harvey L. McCormick, The Legal Aid and Defender Society of Greater Kansas City, 1029 Oak St., Kansas City, Mo. 64106, (816) 474–6750. Of counsel, T. E. Lauer, National Juvenile Law Center, St. Louis University School of Law, 3642 Lindell Blvd., St. Louis, Mo. 63108, (314) 533–8868 [Here reported: 7270A Appellant's Brief (109 pp.).]

The appellant challenges the validity and construction of the Missouri statute permitting waiver of juvenile court jurisdiction of children over 14 years of age who have been charged with an act which would be a felony if they were adults. The statute (Mo. Rev. Stat., § 211.071 (1969)) conditions waiver upon the juvenile court judge's finding "that such child or minor is not a proper subject to be dealt with under the provisions of [the Juvenile Code]."

The appellant challenges this statute as unconstitutionally vague on its face, in that it provides no standards as to whether a juvenile is "not a proper subject" to be dealt with under the Juvenile Code. In addition to challenges to the application of the statute in this case as allegedly based on hearsay and otherwise inadmissible evidence, the appellant charges that the statute has been applied to deprive him of his constitutional rights to freedom of speech and freedom of association, in that its application was based upon his alleged political education, associations, attitudes, manners, and social and political beliefs.

### Legal Services Court May Not Investigate Client Eligibility

7805. *Hernandez* v. *Stockton Board of Education*, No. 101016 (Cal. Super. Ct., San Joaquin County, Feb. 1, 1972). Petitioner represented by California Rural Legal Assistance Cooperative Legal Services Center, 1212 Market St., San Francisco, Cal. 94102 (415) 863–4911. [Here reported: 7805A Decision (3 pp.).]

The court denied respondents' motion to compel counsel employed by California Rural Legal Assistance to show authority for representing allegedly ineligible clients.

Respondents maintained that CRLA represented clients who were financially ineligible for their services. They challenged counsel's representation in the absence of authority and maintained that allowing them to proceed in this action would permit the expenditure of taxpayers' money to finance their efforts contrary to federal statute, regulations and the terms of the grant of funds used to finance their activities. CRLA contended that in the absence of statutory authority the courts have no power to remove counsel on the ground that the client is ineligible for his services.

Respondents offered no evidence that counsel was not authorized to represent the client. The court held that even if it assumed that CRLA counsel were representing those whom they should not that there was adequate review of such impropriety through the political process. It stated that it could not interfere with the attorney-client relationship of petitioners and CLRA counsel, and that protection of the taxpayers' funds is properly overseen by the political branch of government, not by the judiciary.

## HEROISM OF HAWAIIAN POLICEMEN

Mr. INOUYE. Mr. President, too often we read in the headlines of new instances of police brutality, of graft and corruption within the police force, or further examples of the incidents which encourage citizen disrespect toward the police.

Today, I wish to bring to the attention of my colleagues an act of heroism by members of the Honolulu police. An article from the Honolulu Advertiser of December 26, 1973, tells the story of one of the finest examples of heroism which has ever come to my attention.

Sgt. John Peiper and Officer Donald Wong of the Honolulu Police Department displayed great courage and determination in their prevention of a suicide attempt. These men grabbed hold of a young man just as he released his grip on a crane, 240 feet above a city street, and pulled him to safety.

I believe these men are deserving of great recognition and honor for their heroic action. Therefore, I would like to have the article telling of that event included in the Congressional Record as a tribute to these valiant men and as a needed reminder that the police are daily involved in acts of heroism which go unsung while the incidents where they fail to meet the expected standards gain great attention.

Mr. President, I ask unanimous consent that the article by Tim Toner be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Police Save Youth From 25-Floor Fall

(by Tim Toner)

"Could you hear the wind whistling?"

"No, I couldn't. He was trying to talk to me."

That's the way two police officers described their daring rescue yesterday of a 19-year-old would be suicide. They got him from the edge of a construction crane 25 floors high, as one officer grabbed the youth's wrist the second he began to fall.

"He was just dangling in the air. Man, I thought he was going to drop," said Sgt. John Peiper, 39, who first gripped the youth—

identified as Marine Gary Caudell—on the crane atop the recently completed Four Paddle condominium at Lewers and Launiu streets in Waikiki.

"The road was a long way down," said motor patrolman Donald Wong, who grabbed Caudell's other wrist and, with Peiper, gripped Caudell's clothing and pulled him to safety.

Caudell first was seen climbing the building by the exterior construction elevator at about 3 p.m.

Police arrived soon after, and Peiper, Wong and officers Gary Loo and Bonifacio Pabillano followed him up. A crowd had gathered below.

Peiper said he kicked down a ground-floor door and the officers climbed the 25 floors by the stairs inside the building.

Peiper said that when they got to the top Caudell was sitting on the edge of a T-crane which extended out over Kuhio Avenue.

"We watched him for a few seconds. We didn't want to spook him," said Peiper.

He said Caudell took out a letter and began to read it, then threw it away.

Peiper said motor patrolman Isaac Sanga—on the ground floor—retrieved the letter and radioed up that the man's name was Gary.

"From there on we could at least refer to him by his name," said Peiper.

Police said later that the letter was a "Dear John" communication from Caudell's girl friend.

Peiper said he walked out to about one-fourth the length of the boom, where Caudell cautioned "not to come any farther" and threatened to jump.

"All the while we were telling him not to jump, that it's not worth it," said Peiper.

"Then things got worse."

Caudell had moved from his sitting position to the bottom of the crane, placing his elbows on the bottom frame and his feet on a cable running back to the building—like a sailor on a ship's top mast.

Peiper said he moved closer to Caudell but "I had difficulty hearing what he was saying. Finally, I asked Gary if he wanted help.

"He nodded. I took that to mean he wanted us to go and get him," said Peiper.

He said he and officer Wong moved toward Caudell.

"Just as I reached to grab him, he let go," said Peiper.

He said he snatched Caudell's left wrist and saw the man's "two feet kicking in the breeze." Wong said he coud "hear the people scream" below.

Wong immediately came around Peiper and grabbed Caudell's other wrist "and, together we pulled him up, grabbing anything we could . . . we grabbed him every place," Peiper said.

The cliff-hanging scene was so graphic that Peiper remembered Caudell wore a Levi jacket "with the sleeves cut off, so when I grabbed I had to reach for the jacket itself.

"I also remember he had a big white belt," Peiper said.

He said he and Wong pulled Caudell into the cross-bar midsection of the crane, where Caudell's waist was encircled by a rope that Pabillano had cut with a piece of pipe from construction material.

Peiper said two men from the Fire Department's Pawaa rescue squad came out on the crane to rig a line to guide Caudell back to the top of the building.

"You could feel the crane sway when all five of us were out there," said Peiper.

He said Caudell got back by inching his way along the top of the crane on his rear, with Peiper following him.

Peiper said everyone involved in the rescue did a "tremendous job."

Peiper said they did not ask Caudell any personal questions as they walked down 25 floors to the ground. "We didn't want to upset him. There were no questions, other than to comfort the guy," he said.

Caudell was taken last night to the Tripler hospital for observation.

Peiper, a veteran of some 15 years on the force who was named the Police Department's 1973 father of the year, said he had never been involved in a rescue "that high" before.

He said Caudell weighed "about 160 pounds." Peiper weighs about 180 pounds and Wong about 175 pounds.

Wong, who has been on the force about two and a half years, said he felt no fear while performing the rescue.

"Then," said Wong, "when we had the rope around him, I looked down. I think I'm scared of heights."

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## ENTIRELY NEW KIND OF CRIME STATISTICS AND INFORMATION REPORT

Mr. HRUSKA. Mr. President, the Sunday editions of the New York Times reported on a significant new development in the Federal Government's war on crime. The National Crime Panel, supported through grants by the Law Enforcement Assistance Administration, has compiled new and updated statistics which will permit criminal justice practitioners to measure the performance of the criminal justice system.

It is a landmark study that shows—for the first time—that many American victims of crime do not bother to report the incident to the police. There are probably many reasons for this, but the Crime Panel said that the two main ones were that the victims of crime do not think the incident important or they feel the police can do little about it.

Until the release of the Crime Panel's preliminary results, the uniform crime reports—UCR—prepared by the Federal Bureau of Investigation, were the primary basis for gaging the incidence of crime in the United States. Although the UCR statistics serve as a valuable tool for compiling statistics on crime reported to police in the larger cities, the Crime Panel measures victimization regardless of where it occurs.

The new data base will not replace or make less important the UCR data compiled by the FBI. The two reporting systems will, in fact, complement one another.

In my view, it behooves criminal justice planners, administrators, and practitioners to establish measures to overcome the apparent apathy and disenchantment that the National Crime Panel has uncovered in its report.

The Panel's findings, I think, provide us with an excellent starting point. For the first time in the Nation's history, we will have a statistical profile of crime, its characteristics, its victims, and the havoc it wreaks through personal injury, loss of property, and fear.

With this information in hand, criminal justice planners can fashion effective weapons to first cope with this attitude among citizens and then conquer crime. I am sure that the value of this new tool will not go unnoticed by the Nation's State and local criminal justice agencies.

I commend the Law Enforcement Assistance Administration for taking the necessary steps to investigate, fund, and provide the technical assistance to keep the program going.

Before effective programs to deal with crime can be launched, we need to know more about criminality in all its aspects. In the LEAA-funded National Crime Panel report we find a multitude of facts about crime. It is information that can be used to develop programs and projects that get at the root of crime and its causes.

Mr. President, I ask unanimous consent that an article by David Burnham from the New York Times of January 27, 1974, discussing in detail the work and results of the National Crime Panel survey be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### FEDERAL SURVEYS TO GAGE CRIME LEVELS IN BIG CITIES

(By David Burnham)

The Federal Government is about to give the people of America's major cities a scientific yardstick to help them measure the crime-fighting performance of their policemen, prosecutors, judges and jails.

The yardstick is a continuing series of public surveys in which a sampling of close to a half million Americans each year is being asked such questions as whether they have been the victim of a crime, what the crime was and whether they reported it to the police.

The program will for the first time permit the citizens of one city to compare their crime experience with that of another without having to depend upon the honesty and counting ability of the single agency most responsible for crime control—the local police department.

The $10-million-a-year surveys—a project of the Justice Department's Law Enforcement Assistance Administration—are viewed by top officials of that agency as a way to force local criminal agencies to do a better job by making them more accountable to informed citizen pressure.

One preliminary finding is that the citizens of eight selected cities were raped, robbed and assaulted last year approximately twice as often as was suggested by the police statistics published by the Federal Bureau of Investigation. One reason for this disparity, according to criminologists, is that people, for a variety of reasons, often do not report crimes to the police.

#### EFFECT ON CITIES CITED

The first results from the eight selected cities have been made available to The New York Times and are in an accompanying article.

Donald E. Santarelli, head of the Law Enforcement Assistance Administration, which is responsible for pumping Federal dollars to the police, courts and jails, said of the new program:

"This is the ultimate strategic tool and should make each city a lot more responsive to the public concern about crime."

Dr. Lloyd E. Ohlin, a leading criminologist at Harvard Law School, agreed with Mr. Santarelli. "The real value of these surveys lies not so much in the absolute number of crime incidents found in different cities and areas, but in our ability to assess with much greater accuracy the trends in crime," he said. "In short, we now will be able to measure the effectiveness of our law-enforcement agencies, policies and programs."

Publication of the results of the surveys in the years ahead is expected to bring about more than strong new political pressures on local criminal justice officials.

The program—which many experts believe will provide the most accurate and complete picture of crime ever produced—will probably end abruptly the decade-old domination by the F.B.I. of this important area of public policy through its regular publication of crime statistics provided by local police departments.

Some officials also think that the consequent increased public discussion of crime may result in the Nixon Administration's being unfairly viewed as somehow responsible for the crime that will now be more thoroughly documented.

Because people often choose not to report crimes to the police—because the police sometimes choose not to officially record all the crimes that come to their attention—many criminologists and police officials have questioned whether the annual crime reports of the F.B.I. are an accurate index of crime in the United States.

The experts, including members of the F.B.I. itself, especially warn against trying to compare the specific levels of reported crime in one city with those of another.

There are two parts to the Federal survey program, which is conducted by the Census Bureau. One is nationwide and involves the questioning every six months of what is called the National Crime Panel—persons in 60,000 households and 15,000 business concerns. Every six months one-seventh of the respondents will be dropped and new ones will take their place.

From the answers given by this scientific sampling of more than 150,000 persons in the first survey, the Law Enforcement Assistance Administration this June will begin publishing an entirely new kind of crime report, according to George E. Hall, in charge of the National Criminal Justice Information and Statistics Service, a part of the L.E.A.A.

The first report will compare the crime levels found throughout the country during the first and second quarters of 1973. It will show the crime victimization rates for the whole country and four regional subdivisions—Northeast, North Central, South and West.

In addition, for the first time, the report will provide detailed statistical portraits of the race, age and sex of victims of various crimes and when and where these crimes are most likely to occur.

As the information is processed during the continuing program, annual reports will be published.

### CITY SURVEYS

The second part of the crime surveys will provide similar information for specific major cities. In each city, residents in about 10,000 households plus 2,000 businessmen—a total of about 25,000 persons—are questioned about their experience with crime.

Surveys have already been completed in 13 cities. They are the nation's five largest cities—New York, Chicago, Los Angeles, Philadelphia and Detroit—and eight so-called "impact cities," where the Law Enforcement Assistance Administration has been making a concentrated effort to curb street crime.

The impact cities—the ones for which preliminary information has been made available—are Atlanta, Baltimore, Cleveland, Dallas, Denver, Newark, Portland, Ore., and St. Louis.

The information gathered in the five largest cities is still being processed and is expected to become available in about two months.

While statisticians in Washington are working on the information already collected from the National Crime Panel, and in the 13 cities, Census Bureau questioners have already begun conducting surveys in a second set of 13 cities. In this group are San Diego, Oakland, San Francisco, Minneapolis, Milwaukee, Cincinnati, Boston, Washington, Miami, New Orleans, Buffalo, Houston, and Pittsburgh.

Under present plans, the L.E.A.A. intends to pick a third set of 13 cities. Then, each set of 13 will be examined once every three years.

The agency's decision to develop the surveys represents the first time the Federal Government has applied such a technique on a regular basis to crime. The survey technique has been used previously in other important areas. National, regional and local unemployment statistics, for example, are based on surveys rather than on reports from industry, unions or welfare agencies.

The crime surveys have become a part of a broad new effort by Mr. Santarelli and the L.E.A.A. to make the police, prosecutors and judges more responsive to victims of crime and witnesses of crime.

"Policemen, and judges, and corrections officials, and prosecutors cannot be in business for themselves," Mr. Santarelli said in a recent speech to law-enforcement officials. "Their job is not to erect empires and operate outside the gaze and control of the public."

Observing that it often seemed the criminal justice system was operated for the convenience of bureaucrats, Mr. Santarelli said: "The victim of a criminal can also find he is a victim of the criminal justice system."

"Crime reduction: That's our business. That's the yardstick by which our success and failures will be measured," he said.

In addition to giving the nation and individual cities a dependable way to measure crime, later surveys will question citizens about how they were treated by the police, district attorneys and judges—either as witnesses or as victims. These results also will be published, Mr. Santarelli said.

The official was asked whether law enforcement agencies could fairly be held accountable for crime in a given community, considering the reality of factors such as broken homes, poor schools and high levels of unemployment.

"It is fair to say they must do better, it would be unfair to say they must do it all," Mr. Santarelli replied.

REPORTED AND UNREPORTED CRIME

| | Incidents reported by police and published by the FBI's uniform crime reports | Estimated crime incidents projected from impact cities crime survey |
|---|---|---|
| BY OFFENSES | | |
| Total all offenses | 409, 208 | 913, 900 |
| Rape | 3, 090 | 6, 600 |
| Aggravated assault | 24, 095 | 87, 600 |
| Robbery | 34, 274 | 78, 100 |
| Burglary | 119, 984 | 325, 600 |
| Larceny $50+ | 60, 714 | 140, 700 |
| Larceny $50− | 101, 085 | 259, 600 |
| Auto theft | 65, 966 | 65, 700 |
| BY CITY | | |
| Total all cities | 409, 208 | 913, 900 |
| Atlanta | 43, 104 | 96, 700 |
| Baltimore | 69, 554 | 151, 100 |
| Cleveland | 48, 921 | 116, 900 |
| Dallas | 64, 676 | 166, 500 |
| Denver | 47, 704 | 139, 800 |
| Newark | 35, 423 | 493, 300 |
| Portland | 35, 736 | 93, 700 |
| St. Louis | 64, 890 | 95, 800 |

Note: Rates drawn from statistics of the FBI's uniform crime reports and the impact cities crime survey of the Law Enforcement Assistance Administration.

### Eight Cities Show a Crime Disparity

Denver had three times more rape assaults—in relation to its population—than Newark. Atlanta's robbery rate was three times higher than that of Portland, Ore. Three times more cars were stolen in Cleveland than in Dallas.

These are some of the first findings to emerge from a continuing Federal study aimed at measuring the levels and kinds of crime in the United States as a whole and in its major cities without relying on the crime reports made either to or by local police departments.

The initial findings of the program, in which citizens and businessmen are being questioned throughout the country, are based on answers given to a scientific sampling of persons living in eight selected cities—Atlanta, Baltimore, Cleveland, Dallas, Denver, Newark, Portland and St. Louis. The cities were chosen for the first part of the study by the Law Enforcement Assistance Administration.

Among the findings drawn from the answers given by the approximately 200,000 persons questioned in the eight cities were the following:

The official police statistics, on the average, show only half the serious crimes the survey respondents said had occurred. The non-reporting varied from crime to crime. There were 2.1 actual rapes, 2.3 robberies and 2.7 burglaries for each one of these crimes that was recorded. Almost all stolen cars were reported.

The nonreporting of crime varied widely from city to city. In Denver, there were almost three crimes for every one noted in police records, while in Newark there were only 1.4 crimes for every one recorded.

Contrary to expectations, the white and black residents of the eight cities told the Census Bureau questioners that they had suffered a roughly similar rate of over-all criminal victimization. Whites living in three cities—Atlanta, Dallas and St. Louis—said they had been subject to more criminal attack, in relation to their population, than blacks reported.

### A VARYING PATTERN

The survey found wide variation in the totals of different kinds of crimes committed in the eight cities.

For every 100,000 residents, for example, there were 17,000 robberies in Atlanta, 15,900 in Baltimore, 12,400 in Newark, 10,700 in St. Louis, 9,800 in Cleveland, 6,900 in Denver, 5,700 in Dallas and 5,500 in Portland.

For rapes and assaults, an entirely different pattern emerged, with Denver leading with 4,100 for every 100,000 persons, Portland had 3,500, Dallas 2,800, Atlanta 2,700, Baltimore 2,500, Cleveland 2,500, St. Louis 2,200 and Newark 1,200.

Donald F. Santarelli, head of the Law Enforcement Assistance Administration, which sponsored the survey, and George E. Hall, head of its National Criminal Justice Information and Statistics Service, expressed surprise at some of the findings.

They were especially puzzled by the comparatively close rates of victimization experienced by whites and blacks in the eight cities, because early experimental surveys and precinct-by-precinct studies in New York City had indicated that blacks were far more likely to be attacked and robbed than whites.

### HOMICIDE EXCLUDED

"The most startling find to me," said Mr. Santarelli in an interview in his Washington office, "is that approximately half the victims of crime did not have enough confidence in their criminal justice agencies to seek their assistance when victimized by crime."

Homicide was not included in the study,

partly for the obvious reason that there were no victims to interview and partly because it happens relatively infrequently.

According to Mr. Hall, the interviews on which the eight city crime patterns are based were conducted between July and October of 1972, and the results pertain to victimization occurring in the latter months of 1971 and most of 1972. There was some variation in the period covered because each interview covered only the 12 months immediately preceding it.

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## FOOD, AGRICULTURE, AND FOREIGN POLICY

Mr. HUMPHREY. Mr. President, last month in Hershey, Pa., the Governor of that State, the Honorable Milton Shapp, with the able assistance of his State Secretary of Agriculture, Mr. Jim McHale, sponsored a conference on the world food situation. Speaking at that conference were many knowledgeable and competent personages. Among them was a new, yet highly knowledgeable young Senator from the State of Kentucky, Senator WALTER D. HUDDLESTON. Senator HUDDLESTON delivered one of the most perceptive and comprehensive addresses given at this important conference.

Mr. President, I ask unanimous consent that Senator HUDDLESTON's Hershey, Pa., address be printed in the RECORD immediately following completion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mr. HUMPHREY. Mr. President, I would like to urge every Member of both the Senate and the House of Representatives to read and study the junior Senator from Kentucky's remarks. In his address, Senator HUDDLESTON not only lays out the major problems we face today in meeting man's need for food, but also lays out what we as a nation must do in the future in order to meet our responsibilities in this regard.

I am proud to serve on the Senate Committee on Agriculture and Forestry with capable men such as Senator HUDDLESTON, who through this work on the committee and now through this address, clearly demonstrates how well he both understands and is able to provide leadership regarding these global agricultural matters.

### EXHIBIT 1

### SPEECH BY SENATOR WALTER D. HUDDLESTON

In 1789, England's Reverend Thomas R. Malthus, declaring that trouble was ahead for the world, stated as part of his premise, that first: "Food is necessary to the existence of man, and, secondly that the passion between the sexes is necessary and will remain nearly in its present state."

For over 150 years, most of the world paid little attention to his warning that man would outpropagate his capacity to feed himself.

But in recent months, there has been ample evidence to cause us to reconsider the proposition.

The American housewife paying her weekly grocery bill, the Japanese citizen learning of last summer's embargo on U.S. soybean exports and the livestock farmer paying double for his feed grains know that there is trouble in the U.S. and world agricultural systems.

The food machine is out of whack—and little drops of oil in the form of abolished set-asides and optimistic predictions—are not guarantees of a smooth-running future. Instead, we need major overhauls of transportation facilities, energy and fertilizer supplies, marketing production and trade policies, and several other factors necessary to insure an efficient and adequate system for the future.

Unfortunately, the mechanics of the overhaul will not be simple. We can no longer deal with the components one by one, in isolated fashion, for we have reached a point where linkages are important. In a nation and a world where non-renewable resources are both limited and often controlled by a few nations, distortions in the production and distribution of one resource can have far-reaching implications for many other resources.

As Dr. Lester Brown of the Overseas Development Council noted in a recent article, "A shortage of fresh water with which to restore strip-mined areas holds down the level of coal extraction, adding pressures not only on available coal supplies, but on all other energy resources as well. A fall-off in the growth of the world fish catch raises global demand for soybeans in order to produce substitute protein products. Scarcity of cotton pulls cropland needed for soybean production into cotton production, intensifying the protein shortage."

Thus, today and in the days ahead, we must deal not only with inputs but also with the implications of substitutions and dislocations in the usual input patterns—as the shortage of one resource often begets another. Several factors are basic to our current position in the area of food supply and demand.

First, there are 3 problem-situations. In the U.S., where foodstuffs have traditionally been abundant and inexpensive, we are now experiencing both high prices and scarcities of some familiar items. In Japan and Western Europe, where incomes have been continuously rising, there are new demands for high protein foods, especially meats. In the less-developed countries, where population growth continues at high rates and where there have been a number of natural disasters, millions of people face disaster.

Second, grains are basic to food supply. The two billion people who live in the hundred developing nations depend on grains for most of their protein and caloric intake. Annually, they consume something less than 400 pounds of grain per person. The average North American consumes close to a ton each year, with the major portion utilized indirectly in the form of meat, eggs and milk. The Europeans and Japanese fall somewhere between the two relative extremes.

Third, the North American continent has in recent years become the major exporter of grain.

Fourth, food production, in the next few years at the least, will be vitally affected by the availability of a number of necessary inputs. Furthermore, changes in the availability of these inputs are likely to cause distortions not only in food supplies, but also in supplies of various other materials.

What, then, can the United States do in the next several years to anticipate and meet the developments which do occur, and to guide food policy in a direction that will be beneficial to our citizens and the world at-large?

In general, our efforts will have to be made on three levels: (1) farm programs, (2) trade, and (3) development assistance to foreign nations.

During most of the post World War II period, the U.S. lived with agricultural surpluses, a set-aside program which idled close to 50 million acres of farmland, a support program which led to government acquisition of grains, and relatively low food costs.

Now those situations have changed. Surpluses are gone, food costs are up, set-asides are to be abandoned over a two-year period, the government has removed itself from the acquisition process and a new agriculture program has been adopted which will provide support payments only when farm prices fall below "target levels."

In other words, a decision was made to go all-out on production and to leave supplies in private hands.

At the moment, that production policy appears desirable. Even with record yields, 1974 and 1975 are years of anticipated tight supplies. We must, however, closely monitor the trends to determine whether or not all-out production is advisable on a continuing basis and whether or not we should maintain some type of emergency stocks.

I am a cosponsor of a bill to provide for a minimal domestic reserve designed to protect our basic foods and I believe careful consideration should be given to an international program—along with the attendant problems of who will pay, who will administer and how. Undoubtedly, the best forum for discussion of such a program is the World Food Conference proposed by Secretary of State Kissinger.

Special attention must be given to the production input factors. The Cost of Living Council acted recently to lift the ceiling on domestic fertilizer costs and a reporting system has been imposed to help monitor the movement of fertilizer abroad. But, this situation must be monitored in the upcoming months and efforts made to increase domestic production and availability and efficient use must be made of the plant nutrients which are available. For without adequate use of this input, production will undoubtedly fall below the current optimistic estimates

Priority in propane and petroleum allocations must continue both for production and distribution of foodstuffs. The farmer must be assured of energy supplies for planting, harvesting, drying, obtaining fertilizer and getting his crop to market.

Continuous attention must be given to the economic viability of our farming community. Agriculture is capital intensive and heavily dependent upon borrowing, which is in turn, quite dependent upon the prevailing fiscal and monetary situation.

Research should be expanded in soybeans. World demand for soybeans is growing, as is production. Yet, most of the recent increase in production has resulted from the planting of additional acres, not from increased yield per acre. With the increasing demand—particularly if the Peruvian fish catch does not return—and the declining number of available agricultural acres, it is highly important to achieve a breakthrough on per-acre yield.

A second policy closely related to the food and agricultural situation is that of trade. In recent years, U.S. farm products have proven to be the bright spot on the trade spectrum. The U.S. farmer is efficient and he can produce grains at a competitive cost and this fact has substantially helped our balance of payments situation.

During the 1972–73 year, U.S. agricultural exports reached $12.9 billion and contributed $5.6 billion to the trade balance (exports minus imports). Projections for the upcoming year suggest the figures may reach $19 billion and $10 billion, respectively.

There are several important implications of this trade. First, it helps stabilize the U.S. dollar abroad and assists in offsetting the expenditures which the U.S. must make in other countries for raw materials we lack and items in scarce supply at home.

Second, it allows the U.S. to pursue full production without causing a glut on the domestic market. The U.S. production picture, taken alone, is not a bleak one. Even with the reduced production of 1972, total wheat harvested in the U.S. was twice that required for domestic use. When the previous year's carry-in is added, the U.S. domestic requirements accounted for only one-third of over-all supply.

In 1973, a record wheat harvest of 1.7 billion bushels is anticipated, but only between 750–780 million bushels will be used domestically for food, seed and livestock feed. With corn, 5.5 billion bushels will probably be harvested, while domestic use is estimated at 4.7 billion bushels. So it's easy to see that exports are essential to the well-being of U.S. agriculture. The problem lies in the handling of those exports.

During the past year, the export situation simply got out of hand, forcing our nation to embargo certain products.

Every nation must, of course, seek to protect its own food supply. The United States is no different. At the time they were iniated the controls were probably necessary—the situation had degenerated to that point. But, what we should strive for is a policy which will preclude the necessity for "drastic" actions (to use the Administration's own terminology) on exports. Our trading partners throughout the world must be assured that the U.S. is a dependable supplier of food products.

The export monitoring system now in effect is a step in the right direction, but it can be improved. Information on exports should be obtained more promptly and additional date on exports held for "unidentifiable" destinations should be required.

Consideration should be given to licensing of the export of any such commodities expected to be in especially tight supply. Any such licensing considered should, however, go hand in hand with planning and should be implemented when data collections warn of potential shortages—not after some crisis is upon us. This means that we must keep close tabs on our exports and their relation to the domestic supply/demand situation and that we must be foresighted about our needs.

Furthermore, improvements should be sought in world-wide data collection and dissemination, with new attempts to include expanded information on the Soviet Union and the People's Republic of China. Both of these countries are potential market-forces, but the information we have on their agriculture situations is limited at best.

Coupled with this should be a *policy* for fulfilling obligations should trade restrictions become necessary. For years, the U.S. has been encouraging the European Community and Japan to import additional U.S. grains. The summer embargo and then licensing of soybean exports dealt a blow to U.S. arguments for increased grain trade and raised questions about the stability of the U.S. as a supplier nation, which we, in effect, are. Thus, it would appear advisable to develop a policy, known to our trading partners, for dealing with scarce situations.

Such a policy should seek, after consideration of our own interests, to protect the traditional U.S. purchasers—the ones who have been there in years past and will be there in the future—and then to provide assistance to those nations where it may make a difference in terms of survival. Development of such a policy would not only lend credibility to the U.S. as a supplier, but would also contribute to more stable trade patterns.

Movement toward such a policy might also provide the incentive for those nations which are now outside the major trade patterns, but which can disrupt the market—notably the Soviet Union and the People's Republic of China—to become more co-operative on trade matters.

In short, each nation can proceed on the basis of pure self-interest and haphazard planning, fulfilling its own needs and then letting the trade chips fall where they may. Or nations can seek to utiize a mechanism—perhaps the General Agreement on Tariffs and Trade (GATT)—which would allow them to protect their own supplies, but also one which would provide policy guidelines and bring order to the distribution of scarce commodities when exports must be restricted.

Another policy related to food and agriculture is *development assistance*. Some two billion people live in the developing nations of Asia, Africa and Latin America. More than two-thirds of these people live in rural areas and most of them earn their living by farming.

Yet, in these areas, a large segment of the population spends as much as 80 percent of its income on food, and these countries annually import billions of dollars of foodstuffs from the industrialized nations.

Insuring an adequate supply of food for these nations, especially when supplies are limited and affluent nations can bid prices up, is a major concern. If no provision is made, millions can starve; stability can be threatened in many parts of the world; and, development which would enable these nations to participate in the world trade flow is retarded. Thus, humanitarian concerns, security and economic well-being, especially in a time of resource and raw material shortages, argue for attention to the needs of these peoples and nations.

To permit the industrialized nations' preoccupation with their own needs and the prevailing disillusionment with development aid, to eliminate concern for the requirements of two-thirds of the world's inhabitants would be a long-term mistake.

There are, furthermore, other steps which can be taken relating to world food supply and demand. Voluntary population control programs can be pursued and expanded. Despite the efforts that have been made, population increases in the less developed nations continue at more than twice the rate in most industrialized countries, enlarging the youth population which drains from rather than contributes to development.

New efforts can be made with fortified and formulated foods—and with the distribution and education activities necessary to guarantee that such foods are properly utilized.

The directions taken by the World Bank and the U.S. Agency for International Development to improve the infrastructure of agriculture in LDCs should be supported and encouraged. The average farmer cannot benefit from the development of a new variety of wheat or rice if he is unable to obtain the seed, to gain the knowledge and technology to grow the crop, to have access to a road to get his product to market.

Finally, careful study should be given in the GATT negotiations to the needs of the LDC's. Without access to markets for products which they do grow and manufacture the LDCs cannot secure the foreign currency required to purchase foodstuffs and technology they need or to pay the growing debt service charges on loans which are essential to their development.

This all seems to leave us with more questions than answers, more to do than has been done. That is, in my opinion, the way it is.

We cannot adequately address our food and agricultural problems without addressing a host of other problems—energy problems, transportation problems, economic problems. We cannot adequately determine food and agricultural policy without looking at trade policy, foreign policy, fiscal and monetary policy. We cannot forecast nor plan for future U.S. food and agricultural needs without surveying and analyzing the trends in other nations—both in agriculture and in the input or supportive areas—as well as current and potential food consumption.

All of this tends to spell interdependence, a policy fraught with questions in view of what dependence has meant in the current energy crisis. But, what that crisis should teach us—especially our nation, Western Europe and Japan—is that we are interrelated, that the events and developments which affect one are likely to affect all—and affect all in a growing number of ways. Thus, each nation can play its oil politics, or its food politics, its grain politics or we can seek to avoid such situations.

That means planning—and planning on a co-ordinated basis. We must, first, come to grips with our domestic problems—with, for example, the question of a domestic food reserve. Unless we are on known and solid ground at home, we cannot have a sure footing elsewhere. Then, we must move forward to encourage co-operation among nations.

On the international level, we are engaged in or preparing for a number of meetings. GATT negotiations are underway; a Law of the Sea Conference has convened; a population conference will be coming later; a world food conference has been proposed. While each of these has its purpose and each has its own technical aspects which require attention, we must not miss the inter-relationships among them. We must develop an over-all view, one which will identify not only the inter-relationships, but the dislocations which will result if we are not adequately apprised of the implications of substituting inputs or resources from one area to compensate for scarcities in another.

The new challenge is not so much in identifying problem areas—in fact, problems have had the all too obvious propensity for identifying themselves—but, in understanding the linkages. Otherwise, we will transfer a shortage from area to area as substitutions occur, and the movement from anchovy fishing to soybeans will prove to be but the first in an echoing series of demands on the constantly closing doors of supply.

I commend Governor Shapp and the state of Pennsylvania on the convening of this conference. I note the schedule includes discussions on the major problems confronting our nation and the world—relating to food production, supply and distribution. Your work here will undoubtedly contribute to a better understanding of these problems and hopefully will develop workable solutions.

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## THE PART OF VICTIMS, LITIGANTS, JURORS, AND WITNESSES IN LAW ENFORCEMENT.

Mr. HRUSKA. Mr. President, the Law Enforcement Assistance Administration has made significant progress in strengthening law enforcement efforts against crime during the past 5 years. While a great deal has been accomplished, much more remains to be done to assure that Americans will regain that sense of security and safety they once had.

Thus, it was with great interest that I read a speech given by Donald E. Santarelli, the LEAA Administrator, to state criminal justice planning administrators in Williamsburg, Va., last week.

Mr. Santarelli's remarks go to the heart of the issue: the criminal justice system must be made more responsive to the needs of citizens. For too long, the citizen has been the forgotten element in the criminal justice equation. As Mr. Santarelli so eloquently puts it,

> A victim of a criminal can also find he is a victim of the criminal justice system.

To conteract public disenchantment with the criminal justice system, Mr. Santarelli outlines a major new LEAA program to foster citizen involvement in the criminal justice system and to make sure that citizen interests are accorded high priority.

If there are any who question the need for action in this area, I would refer them to an article which appeared in the New York Times on January 11, 1974. The picture it presents of a Manhattan courthouse where addicts, prostitutes, pimps, and known criminals roam the halls is a shocking confirmation of what Mr. Santarelli is talking about. Can justice truly emerge in such a setting? I think not.

Mr. President, I strongly urge my colleagues to read the material I have been discussing, and I ask unanimous consent that Mr. Santarelli's speech of January 14, 1974, and the article from the New York Times, "Manhattan Courthouse a Sordid Setting for Justice," by Marcia Chambers, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Address by the Honorable Donald E. Santarelli

I appreciate this opportunity to discuss with you a number of matters of substantial importance to us all.

This conference takes place at a particularly appropriate time, for we are beginning a new year—traditionally a time of viewing opportunities to be grasped during the next 12 months. We also are beginning the new three-year authorization for LEAA approved by Congress. And we in LEAA are in the early phase of charting new directions and initiatives vitally needed if the Federal role is to be totally productive.

Since we face sober—even somber—realities, I would like to recall some sobering words.

The Safe Streets Act says: "Congress finds that the high incidence of crime in the United States threatens the peace, security, and general welfare of the Nation and its citizens." That is a harsh indictment of this society's ability to protect its citizens.

After a struggle by local, state, and Federal agencies, serious reported crime declined in 1972 by two percent—the first reduction in 17 years. That was a major achievement, though it was somewhat flawed by the fact that crimes of violence continued to rise.

But we now see something of an ominous pattern reasserting itself. The FBI reports that serious crime increased nationally by one percent in the first nine months of 1973, and crimes of violence rose by even higher rates.

Congress created LEAA to help the states and localities reduce crime—through financial and technical assistance, and by leadership. Though it may seem obvious, there are a number of things Congress did not create LEAA to do. It did not create LEAA so that its funds could be frittered away—as has happened in some instances in a number of states.

Crime reduction is the yardstick by which we will be judged—by the people, by Congress, by future generations. Our work is not academic. The fact of crime and the fear of crime are very real, and are affecting our national life and national fiber in drastic ways.

We should ask what we can say to the victims of those crimes—to the nearly 400,000 victims of aggravated assaults in 1972, to the more than 46,000 victims of rape, to the families of nearly 20,000 victims of homicide. I don't believe any of us could say we are doing enough.

LEAA has been in business for more than five and one-half years. The time for trial periods, test-runs, and shakedown cruises is over. In two and one-half years, LEAA's legislative authority will expire. We will have to go back to Congress to ask for its renewal—and Congress is going to want to know what we have accomplished. So are the people.

We sometimes read of Americans being prisoners in their own homes and hear of proposals on how to reduce the fear of crime. The fear of crime is very real—and, we might note, with very good reason. There is only one way to reduce the fear of crime—and that is to substantially reduce crime itself.

After five and one-half years in business, and LEAA budgets that total nearly $3.5 billion, there can no longer be any excuse that there isn't enough money. It may not be sufficient to cover every item on every laundry list of needs, but it is enough to have produced more results than we see today. We are here today to join together in doing a better job.

I am relatively new as Administrator of LEAA. The LEAA program has accomplished a great deal—and against great odds. LEAA has made errors—there is no doubt of that. And with a program that deals with thousands of projects—and upwards of $1 billion a year—I'm sure LEAA will make mistakes in the future.

But I want us to learn from those mistakes. I want to see a program that produces more—so those crime rates are reduced permanently, so our citizns are saved from harm.

And now I want to turn to a discussion of some of the ways in which we can reach our goal. One of my first priorities is to foster a new spirit of partnership between the Federal government and our partners at the state and local level. We are now well along on the task of defining how LEAA will carry out this role under my administration.

The State Planning Agencies are going to be brought into the family even more than they have been in the past. And I pledge that you will have full participation in defining the LEAA role as well as in helping us construct a broad range of new national initiatives.

LEAA takes this leadership role very seriously. We really have two basic roles. One is to provide financial and technical assistance—a support role for state and local efforts. The other is to have a leadership role, in charting initiatives and in helping decide how funds will be used to carry them out.

We cannot abdicate this Federal leadership role. Stronger leadership may be exerted in some areas than in others—for instance, we are vitally interested in full civil rights compliance—but there will be leadership shown in every facet of our joint efforts.

From a management point of view, I see no more important function for me as Administrator than strengthening the ties between LEAA and the State Planning Agencies. For that reason, I am relying on Charles R. Work, my Deputy Administrator for Administration, to be the major point of contact for your organization within LEAA. I'm sure most of you know Chuck by now, and are aware of his skill and dedication. He feels as strongly as I do about this concept of closer cooperation.

But he will be more than a contact point for you within LEAA. He will be the man to whom this organization can frankly give its views, suggestions, and, yes, complaints. Naturally, the state planning agencies can continue to deal individually on matters with the appropriate regional office. We want to hear everything you have to say. Nothing was ever accomplished on a diet of good news.

No important program or policy development will be made by LEAA without your views first being heard. I cannot promise we will agree with everything you say, either individually or collectively. But we will solicit your views on everything of substance—and we will consider them carefully. We will give you our views on everything, as well.

We are building a new team at LEAA, and it is a team dedicated to excellence in leadership. Pete Velde's in charge of policy development. Chuck is my chief of staff for day to day operations, and please remember that when you talk to him it is the same as talking to me or Pete. He speaks for us. His goal is achieving results. Our motto of "Quality and Candor" is a two-way street. Pete, Chuck and I want your views. And you can be certain you also will receive ours.

Since LEAA provides both leadership and support, I look upon the network of State Planning Agencies as the very important and basic system of delivery. And I would like to turn now to a discussion of some of the things we are going to provide to the states to aid in reaching our common goals.

Please remember that we are now developing a new relationship, and out of it is coming a number of new initiatives. Pete, Chuck, and I will be discussing some of them in detail with you in the days and months to come.

We want—and must have—new initiatives in evaluation, so we will know what works best and what doesn't work very well or at all. An in-depth evaluation effort is now well along the road to reality. New efforts also are being fashioned to help make a greater impact on the crimes of violence. The work of the Standards and Goals Commission was of exceptional importance—both its specific recommendations and the process it represents. But we are not mandating the standards and goals, or forcing them upon anyone. They are for voluntary adoption as states and localities see fit. What we want to see adopted is the process of planning and carrying out improvements of excellence—with you setting your own priorities and goals. And we will support you in those efforts. We also will be discussing this with you in detail, for I know not only of your interest but of your concern in how needed help can be obtained. New efforts are needed to upgrade and improve the efficiency of courts, and that, too, is a priority. Effective corrections and police programs also will be stressed.

No part of the criminal justice system is going to be given short shrift on funding. What we plan is more emphasis on certain areas—the courts, for instance—which have gotten too little attention in the past.

In addition to the other areas of new emphasis I have briefly discussed, I now want to turn to another priority which we are in the process of developing—and discuss it in some detail.

We want your full contribution here as we gather information and construct another vehicle that I believe will contribute to crime reduction.

As I mentioned earlier, our goal is the reduction of crime in America. There are many paths we must follow simultaneously to reach that goal.

One of them that has been overlooked in the past is the citizen—and the role he can play in helping to fashion advances in crime reduction.

Some may view this as a new perspective for solutions to old problems. It is that, in part. But it is also something more. And that is developing within the criminal justice system mechanisms to make it truly responsive to the citizens.

Naturally, the foremost way in which the criminal justice system can aid citizens is by protecting them, by reducing crime. But we also have to face the fact that in much of the nation today the criminal justice system seems to be operating to serve its own needs, running things to suit its own preferences, carving out spheres of influence to suit its own convenience.

But the criminal justice system must not be the master of the people. It can only aspire to be the servant of the people.

Policemen, and judges, and corrections officials, and prosecutors cannot be in business for themselves. Their job is not to erect empires and operate outside of the gaze and control of the public.

We hear and read a great deal these days of the lack of public confidence and trust in the institutions and mechanisms of government.

There are two ways in which the criminal justice system can reclaim that trust. The first is by reducing crime in significant and permanent ways. The second is by the criminal justice system treating citizens as though they are what they are—decent, law-abiding people who comprise the heart of our democracy. It is time the criminal justice system began viewing citizens in that fashion—rather than as pawns who can be moved on life's board at the whim of officials who occupy posts only at the public's tolerance.

It is time for us, as men and women who carry out the will of Congress through the LEAA program, to become the spokesmen and advocates of the people—to make certain that their interests are the primary factor in everything that we do.

The criminal justice system, in working to achieve the goal of crime reduction, must make citizen interests and citizen participation an integral part of all of its operations.

We must march to the tune of a different drummer—the people. Everything we do—everything that is done with LEAA funds—must include a component for treating citizens better and making the system more responsive to them.

It is easy to discern the reasons for public disenchantment with the criminal justice system. The odds are better than even that any citizen who comes into contact with the system will come out of that experience with a sour taste in his mouth, with his or her confidence eroded.

The public's most frequent point of contact with the criminal justice system is the traffic offense—when a policeman stops you or me or our friends for speeding or failing to stop at an arterial highway, or one of a hundred other things. And what is the usual experience? The citizen comes away feeling a real anger. Not because he didn't violate a traffic law—but because the traffic policeman treated him in such a demeaning way in the process of giving him a ticket.

Anyone who has ever been to traffic court recognizes the shortcomings of the judicial part of our system. Endless waiting, numerous delays, frequent postponements—all of the things that make the citizen wonder if he is living in a free America or in some sort of oligarchy where decisions are made to suit the fancy of the aristocrats—or, more properly, the bureaucrats.

But if things are bad in traffic court, where the stakes are relatively small, they grow even worse for the citizens who come in contact with the criminal courts—whether the citizens be victims, witnesses, or jurors.

A victim of a criminal can also find he is a victim of the criminal justice system. If he shows up to testify, he can find the case is postponed—and then postponed again and again. That is money out of his pocket, time out of his life. He begins to wonder who the system is supposed to be for—him, the victim, or a host of other people—the defense attorneys, the prosecutors, the judges.

The citizen has every right to be dismayed by high crime rates. He has every right to be dismayed by low clearance rates of crimes—for he knows, for instance, that less than 20 percent of all burglaries nationally are cleared. And he has every right to be dismayed at the even lower rates of convictions. Put yourself in the shoes of a crime victim—who finds himself to be that pawn on the criminal justice chessboard, who has to suffer all sorts of indignities, and then sees, as the final straw, the accused offender walking out free.

In another two months or so, we will have the results of a landmark study in one major urban jurisdiction of how criminal prosecutions wash out—and why. We will make those results available to all parts of the criminal justice system, because they will show us some fascinating things about what happens in the courts and prosecution sections of the system.

While we do not have hard data in hand yet, the preliminary material shows clearly that fear of reprisal is a significant factor in witnesses failing to cooperate—in failing to testify—with the result that many accused offenders are freed.

We know that non-cooperation from witnesses is a major factor in prosecutions washing out—perhaps responsible for half the cases that are scrubbed. And that fear of reprisal seems to be the reason in a significant number of cases. If we ponder that for a moment, it is a chilling indictment of the criminal justice system and its ability to bring the accused to justice and to achieve justice for the victim and for society. It means that we not only cannot protect huge numbers of our citizens against crime in the first place, but we cannot even instill confidence in significant numbers of citizens that the law can protect them if they testify against the accused.

Something has to be done about that—and now. We must create programs to protect witnesses: Not some sort of cosmetic effort, but perhaps witness protection units that will really safeguard citizens against reprisals for doing their duty.

The same study also gives some indication that a significant number of witnesses fail to cooperate because of the way they are treated by prosecutors—presumably because too often nobody ever explains anything to them or tells them how the system works or how they fit into the case that is being developed. That, too, must be changed.

The litany of failures of the criminal justice system could go on and on.

Recent published reports show that in one major city jurors spent 62 percent of their time in the waiting room. We can imagine the impressions those jurors gained of our criminal justice system, and what effect that may have on their willingness to support the system in the future.

We know from test studies in LEAA's national victimization surveys that an awesome amount of crime is unreported. In two cities surveyed, we learned that the actual number of crimes in certain categories was five times higher than that reported to police. We know, too, that citizens often fail to report crime because they lack confidence the police will be able to do anything about it. Or because they feel they will be caught up in a maze of legalisms and procedures that could extract even more costs from them. And because some feel they will be hassled or ignored or shunted aside by the very people sworn to help and protect them.

These sentiments are voiced by people of all backgrounds, all ethnic groups, all economic classes. But there is a particular problem, it seems to me, with the ways in which minority groups are treated by the criminal justice system. In many cities today, police-community relations programs have no more substance or no more relation to reality than the false-front stores erected on the sound stages of a film studio for a western movie.

We have to tear down the walls that separate the residents of the inner cities from their fellow citizens. Where the walls cannot yet be torn down, then we have to build bridges. And where bridges cannot yet be constructed, then we will have to erect catwalks. But the dissension, the isolation, the suspicion must be overcome—and with programs that protect and serve the people, not mere cardboard structures.

The criminal justice system cannot continue following its misdirected course of ignoring or abusing the very citizens it was originally designed to serve.

Neither can it abdicate its responsibilities by saying to the citizens that they must support the system without being shown how that can be done.

One of the parts of the new citizen program LEAA is now creating calls for a massive program of public education—ranging from telling citizens how they can better protect themselves against crime to how they can join together in responsible citizen action with information from a national clearinghouse.

There are relatively simple, inexpensive steps that citizens can take to make their homes secure against burglars. There are simple precautions that citizens can take to protect themselves against robbers and muggers and rapists. There should be no higher priority in these new initiatives than showing citizens how they can protect themselves and their loved ones.

Criminal justice can benefit enormously from the efforts of citizen and civic groups throughout the nation which are either working for crime reduction or which want to if they only had some assistance. Through the Standards and Goals Commission, we now have a blueprint—the Community Crime Prevention Task Force Report, with its hundreds of specific recommendations.

It is the process of Standards and Goals that is most important. But many states and localities probably will find in the reports a number of things they may wish to do—quickly and at little cost.

Public corruption—especially in police agencies and other parts of the criminal justice system—is one of the greatest obstacles to effective law enforcement that we face. Yet it costs virtually nothing to reproduce and disseminate broadly the Standards and Goals checklist on signs of public corruption that the citizens should be on the watch for.

Each state should have a clearinghouse of information for citizen action groups, tied into a Federal clearinghouse which we will develop.

Other reasonably easy steps can also be taken rapidly. As so many crimes go unreported, police departments should set up procedures to make it easy for citizens to report crime—and obtain effective action.

When people go to report crimes, they sometimes can find no one to talk to. Or they have to wait endlessly. Or they find themselves given two minutes and then shunted off. Or, even worse, they find that they are being badgered by the police. This is especially true of victims trying to report certain kinds of crimes—for instance, rape.

Courts can set up new procedures that serve the public rather than wasting the time of victims, litigants, jurors, and witnesses. On this point, it might be instructive to recount a story attributed to Associate Justice Byron White of the Supreme Court, who went for a dental appointment one day only to find the waiting room filled with 25 patients. When he finally got to see the dentist six hours later, he asked what had caused the delay. The dentist replied: "It's very simple. A few days ago, I had to go to court. I was told to be there at 9 a.m., along with 50 or 60 other people. My case didn't come up until 4 o'clock. I figured if that's the right way to run a courtroom, I can do the same thing as the judges, so from now on all of my patients have to be here at 9 o'clock every morning. It may not be so good for them, but, like the judge, it's great for me."

We do not yet have a complete plan for our new citizen initiatives. My reason for discussing the matter with you today is to seek your views and ideas and contributions, so that a program of the greatest possible excellence can be developed.

A high-level task force within LEAA already is at work on this project. In addition to the ideas it is generating, staff members are screening all state plans for relevant projects. We have invited representatives from your organization to give their views. We invite each of you individually to make your input. We are looking at research and development efforts that have been carried out over the years—within LEAA as well as outside of the agency. We are seeking a wide range of views from criminal justice specialists and organizations.

The effort to help citizens—to bring them into the system, to meet their needs—is going to be a major new direction for LEAA. We want your help. And in turn we will devise the best program possible and back up our beliefs with technical assistance and very substantial funding, though we do not yet have the price-tag for the latter.

The ideas are many: central citizen complaint and service bureaus for all criminal justice elements; witness coordinators at police stations, courthouses, district attorneys' offices, and defenders' offices; new techniques of construction and communication so that, for instance, people can hear what is going on in courtrooms; community relations bureaus for police and courts and prosecutors; participation of the victim in plea bargaining by prosecutors; video-taping of testimony; reports at some point by police to victims on whether they are making progress in investigating or solving cases; family crisis intervention units; citizen advisory boards for all criminal justice agencies; and citizen action program of all kinds.

The list of needs—and of symptoms—stretches on. And while our plans are not yet complete, we do know that our new programs to evaluate the effectiveness of LEAA programs must include a component to make certain that all citizen needs are met.

When Joseph Pulitzer published The New York World, he had on the masthead his credo for public service. It said, at one point: "Always remain devoted to the public welfare." And at another point: "Never be afraid to attack wrong, whether by predatory plutocracy or predatory poverty."

We are in the business of attacking wrong—the wrong of crime that claims millions of victims each year, the wrongs of a criminal justice system that fails to do everything it can to prevent and reduce that crime.

If some in the criminal justice system interpret my remarks as unfair criticism, let me say that I certainly do mean to criticize and that it is not unfair. My point—the point of the LEAA program—is to achieve results, and it is no more unfair to criticize bungling public officials than it is to criticize a surgeon who bungles an operation or a public health scientist who fails to detect quickly enough an outbreak of typhoid.

For the thing that every single person in the criminal justice system has to understand—with his heart as well as his mind—is that we, too, hold human lives in our hands. And if we fall short, if we fail to protect, then we bear burdens too heavy for even the most hardened conscience.

We are not talking about academic matters or impersonal statistics or flow charts. We are talking about saving human lives and preventing human suffering. We are talking about preserving our cherished freedoms, freedoms that cannot co-exist with crime at the present levels. The views I express here today are not mine alone. They are the views of the Congress, which created this program to achieve results. They are the views of the people of this nation, whose patience is remarkable—but not endless.

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[From the New York Times, Jan. 11, 1974]

## MANHATTAN COURTHOUSE A SORDID SETTING FOR JUSTICE

(By Marcia Chambers)

Enter the lobby at 100 Centre Street. A half-dozen vagrants who have spent the night in the building wander up and back, up and back. A spaced-out addict dances by, bumping into people.

At the information desk, prostitutes, pimps and a well-known pickpocket drink soda pop and grind cigarettes into the filthy floor. No information is dispensed at the information desk. It has not been staffed for years.

In the corner of the lobby, John Murken, a 53-year-old blind newsdealer, is selling chewing gum to a customer. Mr. Murken can remember that, when the building opened in 1941, it was one of the most beautiful in the city. Now he is afraid to cross the lobby at any time of the day.

"This place is treacherous," he said. "It's a zoo. The lower depths. There is simply not enough security. Once there was great dignity here.

"But in the last eight years or so, things have changed. People steal all day. Three years ago a guy leaped over my counter and took my strongbox. It contained $1,000. The week's receipts. In the old days I could play chess over my counter. Now I can't be distracted for an instant."

The place Mr. Murken is talking about is the Criminal Courts Building of New York County, through which hundreds of witnesses, police officers, lawyers and potential jurors who are required to presume the innocence of those on trial pass daily.

Citizens called for jury duty enter elevators whose walls and doors are covered with obscene graffiti. At any time of the day or night, derelicts, usually drunk, sleep in window alcoves along the court's corridors. Remnants of food are everywhere—on floors, spilling over receptacles, sometimes in courtrooms.

On a recent tour of the 16-story building, a New York Times reporter found a glassine envelope, usually used to hold heroin, on a bathroom floor. Several lawyers said they had witnessed addicts shooting heroin in the men's rooms.

Those who work in the building—judges, court clerks, court officers, defense, prosecution and Legal Aid lawyers, and police officers have described the court's atmosphere as "degrading," "disturbing," "a pigsty," "a hangout for vagrants," "a depressing, sad place."

Supreme Court Justice David Ross, administrative judge of the Criminal Court and the Manhattan and Bronx Criminal branches of the State Supreme Court said:

"The building looks like a stable. But after awhile, if you work in a stable long enough, you don't smell the horse manure." Neither judges nor lawyers could measure the effect of such an environment on justice in general and jurors in particular. "It has an effect on the system. We have to start with an image of the law. How do you have respect for the law when you start out with dirty courtrooms?" Justice Ross asked.

### IN "TERRIBLE SHAPE"

Howard E. Meyer, the attorney-in-charge of the Legal Aid Society's Division of Narcotics, who for three years had offices in the building, went a step further. "The presumption of innocence is a bit tarnished. It would be nice if we could helicopter jurors in."

Alfred J. Scotti, the acting District Attorney of Manhattan, said the lobby was in "such terrible shape" that it "offended one's aesthetic sense." Such an environment might make a person—juror or witness—unhappy, he said.

While few involved in the criminal justice system care to discuss it, the Times has learned through numerous interviews with building employes and through a check of records for 1972 at the Fifth Precinct, in which the building is situated, that crime flourishes at 100 Centre Street.

Office equipment, particularly typewriters, has been stolen, Judges' robes have disappeared from chambers. Two con game artists have plied their trade in the arraignment section. Wallets are taken regularly from employes' purses. Vandals break windows and slit the leather on courtroom doors.

Few people interviewed could precisely pinpoint the year when the building's decline began, but several courthouse veterans believe that the disappearance of dignity and the atmosphere of degradation and hopelessness appeared along with the thousands of narcotics cases that moved through the court system in the past eight years.

### MANPOWER SHORTAGE CITED

Judge Ross and others place the blame on two factors: the extremely high volume of traffic and an insufficient number of court officers and cleaning staff.

Lester Goodchild, administrator of the courts, said that over an 11-month period, from January to November, 1973, there were 192,212 cases on the Criminal Court calendars.

"I have insufficient men to man the courtrooms, how can I afford to place any men in the corridors?" Justice Ross asked. An additional 107 court officers are needed, he said, adding that while 72 positions had been authorized this year, the jobs remain vacant because of the "job freeze."

Justice Ross and the Police Department are reluctant to place police officers on patrol in corridors of a court of law, a place where impartiality is required. A police spokesman also said yesterday that manpower was insufficient for daily assignments, although the police from time to time have been used to buttress court personnel during "politically sensitive trials."

Recognizing that the city's Department of Public Works, which oversees the building's cleaning, has also sustained job cutbacks, Justice Ross said he could hardly criticize the department's inability to clean the building.

Charles S. Foti, director of Operating Services for the Department of Public Works, conceded the building was in a sorry state. But, he said, 11 years ago a staff of 99 was required to clean the building. By 1973, the staff, he said, had been reduced to 61 men and women, some of whom work part time.

Three potential jurors, all women, said the sleaziness annoyed them. "This courthouse is dirty," one of them said during a luncheon recess. "It's not like the kind you see on television. Those seem nice and clean and comfortable."

### OPEN 7 DAYS A WEEK

At night the court's warmth attracts the neighborhood's homeless, and the frantic daytime pace is reduced to those few dozen on hand for night court. The building, open to the public seven days a week, from 9:30 A.M. to 1 A.M. is easily accessible.

No court officers check identification, as in Federal court, and often it is difficult, if not impossible, to distinguish between a vagrant seeking shelter and a vagrant arriving for his court case. Nonetheless, after three days of observation, it became clear that the building is home for six or seven lonely and sick men and women, who usually spend the night sleeping in bathrooms and corridors on the second floor.

Larry, 50 years old, is one of them. He has been living in the courthouse for 11 months. His threadbare overcoat and torn trousers are filled with lice. He said he needed a bath. He tries hard not to get in anybody's way, and several court officers and luncheonette employes look after him.

"If you're quiet about it and don't raise hell, you can spend the night," he said at 11 P.M., as he sat in a phone booth.

Outside the fourth-floor complaint and docket room, another courthouse habitué was happily snoring as he sat sprawled on a bench, his shoes and socks drying out from the snow on the bench beside him, and the remainder of his worldly possessions—jackets, shirts, hat and cane in a shopping bag nearby. Police officers and lawyers passed by never noticing him. He returned the following night, too.

"NO RESPECT"

Meanwhile, Police Officer Paul M. Alaimo, 27, of the Midtown North precinct, was waiting for a case he was involved in to be called in night court. Judge Leon Becker was presiding in robes ripped at the elbows.

Officer Alaimo, who joined the force four years ago, recalls how shocked he was when he first entered the building. "It hasn't changed. It's still a hangout for pimps bailing their women out." Then he added: "In the halls of justice there's just no respect—even for property."

In recent years, the building has become so dangerous that even the court buffs, who roam from courtroom to courtroom following the best cases, have deserted the building. But for an occasional trial, they can be found in the gleaming courtrooms and marble corridors of the United States Court House three blocks away at Foley Square.

"It's dangerous over there in Criminal Court. We're elderly people and we're always afraid of a flare-up. Sometimes people throw bottles at each other in the corridors. And we're afraid of getting mugged in the men's rooms," said James Shiro, 75, a retired vaudevillian, who has been a courtroom "regular" for 12 years.

Charles Herzog, 76, a court buff since he left the grocery business 18 years ago, made one of his infrequent visits to the courthouse one day in November. He was in the courtroom when a defendant pulled out a revolver and critically wounded himself and a woman friend. Like the judge, Mr. Herzog ducked for cover. He has not returned since.

## LACONIA, N.H.'S RIGHT-TO-READ CENTER

Mr. McINTYRE. Mr. President, the Right-To-Read Center at the Memorial Junior High School in my hometown of Laconia, N.H., has been cited by the International Reading Association for its "unique and innovative features." I am always proud when New Hampshire programs receive recognition and honor, but especially when it happens in my hometown.

One of the key factors in any reading program is the training of staff. The national right-to-read effort stresses the importance of having well trained and understanding teachers who are fully supported in their efforts by the school administration. The article by the International Reading Association points out that the Memorial Junior High School had an "exemplary program in staff development." In particular, they noted the following distinguishing features:

A comprehensive, well integrated inservice program, the administration and staff were enthusiastic, ample planning time and additional pay were available to the staff, and the well-equipped, beautiful, two room lakeside reading lab provided the right ingredients for a successful program.

I want to commend all those involved in the development, administration, and teaching of this program. Most especially I want to congratulate Principal Martin Harwood, reading specialist Phillip Yeaton, and librarian Helen C. Colby for fine efforts in making this program such a success.

Mr. President, I ask unanimous consent to print in the Record the entire text of the International Reading Association reports on the right-to-read effort in the Memorial Junior High School, Laconia, N.H.

There being no objection, the text was ordered to be printed in the Record, as follows:

### An Exemplary Program

In our search for exemplary programs in staff development numerous programs were cited to us as outstanding with unique, innovative features worth disseminating. One such program at Memorial Junior High School in Laconia, New Hampshire attracted our attention because it seemed to have all the key components working for it. The Task Force planned a comprehensive, well integrated inservice program, the administrators and staff were enthusiastic, ample planning time and additional pay were available to the staff, and the well-equipped, beautiful, two room, lakeside reading lab provided the right ingredients for a successful program. In an on-site visit we observed how these components worked together.

Briefly, the Task Force designed a program which included:

1. An orientation period of several months to assess student and teacher needs.
2. A plan for involvement and training of teachers and volunteers.
3. Strategies and activities to train personnel and involve specialists.
4. Facilities for in-depth reading studies and preparation of materials.
5. Opportunities a) for a variety of inservice programs, b) to visit other schools and reading conferences on released time, c) to integrate programs with the librarian, guidance counselor, specialists and other teachers, d) to work in a clinic experience program with a student under the guidance of the coordinator and others, e) to develop a prescription for improvement for the clinic student, and f) to develop a unit which could be integrated with the school curriculum.

### INSERVICE ON READING FUNDAMENTALS

The first inservice workshop was held for two weeks for 25 classroom teachers from Memorial Jr. High and local elementary schools. All received remuneration as did others working on outside time. The workshop was a general exploration into individualized instruction and included topics such as reading in the content areas. All topics were relevant to student needs at the junior high level and to the target program. Another 10 hours of in-depth study was held several months later. The staff continued weekly study programs on released time. They were also released to attend appropriate reading conferences, and the school hosted reading groups, area teachers, and out-of-state teachers for workshops: Free periods were used for staff planning.

### INSERVICE FOR CONTENT AREAS

As a result of intensive reading clinic training in the content areas, seventh grade target teachers have initiated individualized prescriptive programs in heterogeneously grouped science classes, replaced part of the ancient history material in social studies classes with a Career Exploration Study, and developed an integrated Language Arts program in place of traditionally taught English. Fifteen teachers, who were paid, participated in the clinic which totaled 70 hours and was held in the local district. Each participant was required to: tutor a student 2½ hours daily; write a prescription for the student which would emphasize reading in the content areas; and integrate the content reading skills. All tutoring was supervised by the reading coordinator. The participating teacher also attended 2½ hours of workshops and seminars daily.

Principal Martin Harwood of Memorial Junior High reports that the teachers are very enthusiastic about their inservice training in reading and the students seem to enjoy changes in the curriculum. The inservice program coupled with the well-equipped reading lab and skilled specialists which operate it have worked together to produce a highly successful, well integrated reading program at Memorial.

## THE NECESSITY FOR SENATE ACTION ON THE AUTHORIZATION FOR THE INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. PERCY. Mr. President, on January 23, 1974, the House of Representatives defeated the bill authorizing continued U.S. support of the International Development Association—IDA. This was not a partyline vote. It was a frustration vote, reflecting the turmoil in our own political system and the chaotic state of the world economy fostered by the energy crisis. The vote is a double tragedy. It represents a vote against responsibility and a vote against those who need aid the most, the world's poor.

IDA funds are loaned at low interest rates only to the poorest countries, countries with a per capita income below $375. Most of the countries receiving aid from IDA are in Africa. Many of these countries are being ravaged by the drought that grips a large area of Africa. The majority of IDA funds, though, flow into the densely populated and deeply impoverished nations of South Asia. In most of these nations development planning does not involve raising the standard of living, but rather planning for the survival of the population.

On June 30 IDA will be out of funds. For the last 2 years the United States and 25 other donor nations have been meticulously laboring over negotiations to replenish its reserves. The executive branch, in close coordination with the congressional committees responsible, worked out an agreement very beneficial to the United States. U.S. participation in the replenishment was allowed to drop from 40 percent to 33 percent and the payment schedule for the United States was expanded from 3 to 4 years. In turn, other countries increased their contributions: West Germany doubled and Japan tripled their previous participation.

Under this new agreement, each dollar of aid extended by the United States will be matched by $2 from other donor countries. For 20 years we have worked for this type of burden-sharing agreement, and now it is in jeopardy. If the United States does not hold to its negotiated share, other major contributors can be expected to reconsider their own participation. There is a good chance that IDA and the entire concept of long-term, low-interest loans to the poorest countries in the world could die.

Development assistance serves our national purpose in a multiplicity of ways—political, economic, security and humanitarian. Some of these purposes are long term in nature such as expanded export markets, access to raw materials, cheaper semimanufactured products and opportunities for foreign investment. Other interests are more short term in nature such as influencing other nations to perceive a common interest in our own international policies. In this effort both bilateral and multilateral aid complement each other.

The multilateral aid program, of which IDA is an important part, has the additional advantage of providing a very low political profile. The World Bank can help coordinate aid efforts from numerous donors to a given country, something neither the United States nor any other single nation could hope to do. This coordination helps guarantee that aid is not duplicative. IDA also brings together the donor and receiver nations in an institution where conflicts can be understood and resolved.

A lack of congressional support for IDA, moreover, could reach far beyond just the structure of our assistance program. Our foreign economic policy and the concern it displays toward the less developed world will influence both the monetary and trade negotiations now pending before the nations of the non-Communist world. Monetary stability, trade and economic development are interrelated. Cooperation and good faith are needed by all concerned. The Arab oil embargo is an example of how quickly hostile economic acts between interdependent countries can cause hardship or tragedy for both rich and poor alike. The road we must follow is one of cooperation and international responsibility, not isolationism and withdrawal.

We in the Senate now have the responsibility of resurrecting the issue of IDA and its companion in legislation, the authorization of funds for the Asian Development Bank. This legislation has already been presented in public hearings, and I urge the leadership of this body to bring it before the Senate prior to the February 11 meeting of the key industrial states here in Washington. At this meeting we need to impress upon the members of our economic community that if we all stand together and accept our responsibilities we will all benefit. These are the nations who have committed themselves to IDA in cooperation with us. We cannot afford to project an image that we only want cooperation when our immediate short-run interests are at stake. If we wish the cooperation of others, then we too must cooperate.

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## IMPROVING RELATIONS BETWEEN THE UNITED STATES AND INDIA

Mr. HUMPHREY. Mr. President, encouraging year-end assessments of Indo-U.S. relations recently appeared on the editorial pages of two major Indian newspapers, the Statesman and the Hindustan Times.

Both assessments cited a significant improvement in our relations with India. The Statesman pointed to "signs of a mutual desire to restore trust and understanding," while Krishan Bhatia reported to the Hindustan Times that "[both countries] have acquired a new sense of international maturity and a compulsion to build a reasonably durable working arrangement between themselves."

The key to the improvement of Indo-U.S. relations, according to these articles, has been a new willingness on the part of both countries to respect differences, to be more restrained in their reactions to each other's policies, and to build on the common ground that exists.

India did not overreact to the U.S. naval presence in the Indian Ocean. Indian leaders have been less inclined to regard every indication of friendship between the United States and Pakistan as an expression of hostility to India. Dr. Kissinger has stated that the United States does not mind the recent improvement of relations between India and the Soviet Union and that he hopes the Soviet Union would not mind an improvement of Indo-American relations. According to Krishan Bhatia, the United States realizes that neither she nor the Soviet Union will be able to dictate Indian political and economic policies. All these are cited by the Indian newspapers as indications that the United States and India have reached a new level of "maturity" and "realism" in their relations with each other.

Both articles emphasize the importance of this new mutual understanding and respect for differences in the effort to improve economic relations between the United States and India.

An important first step was made in the building of stronger economic ties in the recent renegotiation of India's Public Law 480 debt to the United States. The settlement reached reflected a pragmatic understanding by each country of the political and economic constraints faced by the other. Hopefully, this success will be repeated as the United States and India strive "to discover and possibly increase common ground" in the economic as well as the political sphere.

An article in the New York Times of Sunday, January 20, shows that one major area of common concern for the United States and India is the energy crisis. The article points out that India faces a severe economic setback, both in food production and in industrial growth, as a result of the increase in oil prices. Food production, relying heavily on petroleum-based fertilizers, is expected to drop at least three million tons this spring. Both the United States and India will be faced with a severe fertilizer shortage in the next year. Both will be faced with high rates of inflation and unemployment, coupled with low or negative economic growth rates resulting from the oil shortage. Like the United States, India will have to meet its oil crisis by developing alternative, domestic sources of energy, such as coal. We must build on the improvement in political relations between the United States and India over the past year in working together to solve these common economic problems.

Mr. President, I ask unanimous consent that the December 31 editorial in the Statesman, the January 3 article from the editorial page of the Hindustan Times, and the January 20 article in the New York Times be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Statesman, Dec. 31, 1973]

### Indo-U.S. Relations

Dr. Kissinger's remarks on Indo-U.S. relations at his Press conference on Thursday contain the encouraging assurance, since the 1971 "tilt" and its consequences, of a steady improvement in Indo-American relations. Signs of a mutual desire to restore trust and understanding were apparent more than a year ago. Some minor irritants intervened; but both Governments seem to have been patiently pursuing the same basic objectives. Dr. Kissinger's testimony to the Senate Foreign Relations Committee on September 11 did much to dispel Indian misgivings regarding American arms supplies to Pakistan. He also confirmed that Indo-U.S. relations were improving and that Washington wanted the process to be accelerated. His meeting with Mr. Swaran Singh in Washington in October, followed by Mr. Moynihan's talks in New Delhi, cleared the way for an agreement on PL–480 funds. U.S. officials have now indicated that talks on trade and aid are likely to begin after Congress ratifies the settlement on the U.S.-owned rupee account. Meanwhile, both countries have done well to avoid political controversy. There was no Indian over-reaction to reported U.S. plans for a regular American naval presence in the Indian ocean. Washington, on its part, refrained from any provocative comment on the outcome of Mr. Brezhnev's visit to India. Indeed, Dr. Kissinger said that the USA did not mind an improvement in Indo-Soviet relations and hoped that Russia, too, would not mind an improvement in Indo-American relations. New Delhi could not have hoped for a more reasonable and potentially helpful stand.

This does not necessarily mean that Mr. Nixon and Dr. Kissinger have undergone a complete change of heart or that there is no longer any scope for conflict between Indian and American interests. There is no call here for euphoric visions of everlasting friendship of the "bhai-bhai" variety. New Delhi has no reason to regret that there is not. Sentimental effusions serve no purpose in sustaining mature political relations; these are best built on a recognition of each other's interests. Neither side has a right to expect these interests to be identical; what is needed is a mutual willingness to discover and possibly increase common ground and thereafter respect such differences as remain. Washington seems to have been steadily coming round to this view; and this calls for an adequate response. It is encouraging that the Nixon Administration is not disappointed. Dr. Kissinger has acknowledged that U.S. efforts to improve relations have been reciprocated. He has also said that the two countries have "no conflicting national interests". Yet differences may arise. Fortunately American acceptance of new realities in the subcontinent has removed a major source of misunderstanding. The U.S. disengagement from South-East Asia should enable India to avoid provocative command on a subject which has often caused unnecessary bitterness. Washington's new relations with Moscow have already enabled Dr. Kissinger to take a more dispassionate view of India's foreign policy. New Delhi needs now to be far more businesslike than it has been in the past in assessing its priorities, which are economic rather than political.

[From the Hindustan Times, Jan. 3, 1974]

## MORE MATURE RELATIONSHIP

(By Krishan Bhatia)

Now that the recent Indo-US agreement about the future of the PL–480 funds is expected to be formally ratified within the next few weeks, one hopes 1974 will witness the "new relationship" between the two countries take concrete shape.

Mr. Nixon and others holding important positions in the Administration have spoken of the new relationship on virtually all major occasions since the beginning of 1972 but all this time the suggestion has lacked substance. The confrontation over Bangladesh proved the last straw for the previous relationship which in any case had been rendered irrelevant by changed circumstances in the world. However, neither side was clear in its mind about the lines along which the new association may be evolved.

### APPROPRIATE TIME

The time now appears to be ripe for both countries to do some serious and frank talking about the future pattern of relationship. The aggravations that each suffered from the other during 1971 have more or less disappeared. In this past two years, they have also acquired a new sense of international maturity and a compulsion to build a reasonably durable working arrangement between themselves.

The impending approval by the Congress here and Parliament in Delhi of the PL–480 agreement is revelant to the two countries' search for a new relationship. Nearly six months ago, the Administration had sent an aide-memoire to New Delhi expressing its readiness to begin discussions about the nature of the new relations covering not only economic aid but also trade, investment and exchange of technology. New Delhi had then responded with the view that a more appropriate time for such an exchange might be after the PL–480 problem and the emotional burden it caused in India were out of the way. This approach was reiterated more recently when India's Ambassador here, Mr. T. N. Kaul, met Dr. Henry Kisinger on the eve of the initialling of the rupee agreement.

It may be some months before Indo-US parleys begin and reach a meaningful stage but certain basic, if negative, features of the future association are already obvious. One does not have to have access to "inside information" to be able to say, for example, that US involvement in India will be on a very modest scale and that aid will not be the principal basis of the new relationship.

Whatever the magnitude of the US role in India, the Administration is determined that it will not be "intrusive". It is with some irritation and perhaps even a measure of embarrassment that officials recall the way previous Administrations tried to twist India's arm and often tried to tell it what it should do. President Johnson used the 1966 drought and India's need for American foodgrains to shape India's agricultural policy. If Indians resented this foreign interference in their processes of decision-making, US diplomats and experts instead of desisting only tended to suffer acute exasperation over their seeming inability to see what was good for them and their country.

Such close involvement with India's thinking and work, however well-intentioned it might be, is definitely going to be excluded from the new relationship. The US officials here claim to be quite happy to let India manage its affairs according to its own lights. For years now, the US or other Western friends of India, they note, have not influenced any of its major decisions and they are now fully conscious of the pointlessness of trying.

### MATURITY DISPLAYED

Even on the question of economic aid, the Administration would like to gauge India's thinking before finalising its own plans. The volume of US aid has been drastically cut in deference to domestic, political, and economic considerations but before any of the limited funds go to it, India would be required clearly to indicate its willingness to receive it and even suggest the form in which it would prefer to get it.

Administration officials, in fact, seem just as eager as their counterparts in India to revamp economic ties and let trade and commerce between the two countries be the main basis for them. Even in respect of scientific and technological research, the US thinking seems to place greater emphasis on co-operation and exchange than on one-sided help or donations.

The Indo-U.S. confrontation in 1971 undoubtedly caused much bitterness and resentment then; but apparently it was not without the proverbial silver-lining. Some of the maturity that both sides have displayed in recent months, particularly in negotiating a settlement over the PL–480 funds, may well be attributed to their experience of each other during that unhappy episode.

US leaders are beginning to believe that the Soviet Union, too, cannot dictate to India and that Moscow's widening economic links with India give it, at best, only limited political influence in New Delhi. Significantly, Mr. Brezhnev's visit to India last month and the elaborate agreements the two countries signed with each other did not cause here the usual consternation. When he stated the other day that the US did not mind the improvement in Indo-Soviet relations, Dr. Kissinger was not making a polite after-dinner remark but reflecting the Administration's considered reaction to the Brezhnev visit.

### NEGOTIATORS IMPRESSED

On their part, Indian leaders and officials seem to have mellowed on the question of US relations with Pakistan. Their tendency to get agitated over any US show of cordiality towards Pakistan and automatically to regard it as an act of unfriendliness towards India has been markedly less evident in recent months. There is also in their demeanor an element of self-confidence and realism which much impressed the US negotiators during the PL–480 talks.

On one point, which may have some bearing on the shape of the new relationship, there is still sensitiveness here. Responsible Americans in the Administration as well as in Congress worry about the Indian penchant for what they call "loud-mouthing." A Senator inquired of me recently "why Indians must denounce us publicly whether what we do concerns them or not." An official expressed the same exasperation somewhat differently. "If you are angry with us over something, why do you not summon Moynihan to the Foreign Office and let him have hell? Why must we always learn about it first from a press report of S. D. Sharma's speech somewhere in Madhya Pradesh?" he asked.

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## WHEN WILL THE YELLOW TIN CAN BE REPAIRED AND WHY DOES THE GOVERNMENT NOT CARE?

Mr. PERCY. Mr. President, some excerpts from the December 10 and 11, 1973, editions of the Chicago Daily News serve to point up the gravity of the problem of schoolbus safety:

> When peppery, handsome Jeffrey Kaiserman, 9, stepped into the street from behind the schoolbus that had just dropped him across from his Skokie home, he was struck by a taxicab and thrown more than 100 feet.
>
> He died minutes later in the arms of his anguished father—killed just as surely by the inaction . . . of the federal government as by the taxicab. . . .

Federal safety regulations for alighting from schoolbuses could have prevented little Jeffrey Kaiserman's death.

Flashing rear lights on the bus might have alerted the onrushing cab. But the owner of Jeffrey's bus had been directed to disconnect these lights by—of all people—an inspector at a State-supervised safety lane.

The Daily News continues:

> Six weeks ago five children died near Madison, Indiana when a tractor-trailer carrying 40 tons of railroad ties plowed into the side of a schoolbus trying to cross rainswept U.S. 421.
>
> Investigators said seat belts doubtless would have saved two boys who were killed after being buffeted in the bus "like they were inside a washing machine."
>
> And, in Colorado, a schoolbus careened down a mountain pass highway . . . and finally rolled over at a filling station, spewing victims from the bus like rag dolls.
>
> Of 39 children thrown from the bus, 9 died. Of nine passengers who remained inside only one even required hospitalization. Again federal investigators said seat belts would have saved lives.

But no schoolbuses are equipped with seat belts.

In fact, the yellow bus is so defective in body design that the seat anchorages of most models are not strong enough to take the emergency stress of seatbelts.

As the Daily News points out:

> Even if seatbelts were installed, their use would jackknife the torsos of children during sudden stops, hurling them forward and smashing teeth, noses, necks, and foreheads into the tubular handgrip or metal edging found along the tops of most seat backs.
>
> The seats and anchorages all should have been redesigned and replaced years ago and the metal handrails and edging banned.
>
> The fact that they were not has been nobody's fault it seems.
>
> Every year more than 4,500 children are severely bruised or cut; have teeth knocked out, are crushed, maimed, or mangled; incur mashed cheeks or noses or suffer other injuries on schoolbuses—and that, too, apparently is nobody's fault or somebody else's fault.

When will we take our children's safety out of the hands of blind fate and feeble buckpassers? With 20 million students riding the buses each day, every roll of the yellow tin can is a particularly grim form of Russian roulette.

The conclusion of the Daily News is poignant:

> (Schoolbus accidents) happen largely because riding in a schoolbus has been widely touted as the safest form of motorized transportation.
>
> In reality, schoolbus accidents in Illinois are soaring. Accidents have more than doubled, and deaths tripled since 1968—although the statistics are mostly hidden from the public. The same situation almost certainly prevails nationwide.

### BUREAUCRATIC BUMBLING

The National Highway Traffic Safety Administration in the Department of Transportation has been promising comprehensive standards for years. Both it and the Vehicle Equipment Safety Commission have long acknowledged the need for basic safety measures. But none have been forthcoming.

The vacillation to date has been a most disturbing example of bureaucratic bumbling verging on negligence. Judging from the record of systematic nonaction, the agency apparently considers lip-service—empty promises in the form of proposed standards—as a means of brushing serious safety problems under the rug. How many more children have to die, how many innocent bodies must be piled how high, before promises yield to performance?

For example, in February of 1970, then Secretary of Transportation John Volpe assured Congress that rulemaking action on seats had already begun. In July 1971, Douglas Toms claimed the Department was "moving forward" and that a rulemaking docket on stronger seats was to be issued in late summer or early fall of 1971.

It was not. But in April 1972, a press release promised a proposed standard "shortly." In September 1972, the Department issued, not the standard, but another promise to have it "in a few weeks."

DOT eventually issued the long-awaited proposed rulemaking in January 1973, with all comments to be in by May 15. The docket has been closed for 8 months now and still no word on when schoolchildren will be protected by a safe seat standard. It is still only a proposal.

Similarly, on January 7, 1974, the National Highway Traffic Safety Administration issued a proposed rulemaking on schoolbus body integrity, including joint efficiency.

Each year, too many children incur severe lacerations and death as a result of the structural collapse of schoolbus bodies during accidents. Standards in this area are extremely important.

But, the point is that merely proposing standards does not mitigate the extreme hazards of unsturdy schoolbus bodies. The proposals must be finalized and implemented as soon as possible.

### ACTION NEEDED

S. 847, which I am cosponsoring with Senators Nelson and Magnuson would require such standards. To be realistic, they must be developed, of course, in a coordinated Government-industry program. Without the expertise of schoolbus manufacturers, regulations originating somewhere deep within the Washington bureaucracy may have so little relation to reality that they fail to afford needed protection.

With this in mind, I initiated correspondence several months ago with major schoolbus manufacturers to get ideas on making their vehicles safer.

Charles Ward, president of Ward School Bus Manufacturing Inc., urged the following safety improvements:

> A. I would strongly recommend that the Department of Transportation adopt uniform lighting requirements for all schoolbuses. At the present time lighting requirements for flasher lights, stop lights and turn signals vary greatly from state to state. The coloring, placement and method of operation required by various states can be very confusing to a motorist when he is on a cross country trip or when he is confronted with an out of state bus.
>
> B. Padded stanchions—I think there is a need for stanchions in buses; however they should be padded.
>
> C. Reflective markings—All schoolbuses should have a band of at least 3" reflective tape the entire length of the bus in addition to the reflectors that are now required. A great percent of schoolbus accidents occur in early morning or late afternoon and a reflective band would enable a motorist to distinctively identify these markings.
>
> D. Escape exits—At least two emergency windows should be located on each side of the bus and two escape hatches in the roof. These should all be equipped with a positive latch mechanism so they would not open under rollover conditions.
>
> E. Window glazing—All windows in schoolbuses should be equipped with laminated type safety glass that could preclude hostile objects from entering the bus and also would preclude children from being thrown from the bus in the event of rollover and the glass broken. Most states now use tempered glass, which completely disintegrates when broken and documents show that there have been children thrown through these openings and have been killed as the bus turned over them.
>
> F. Bow strength requirements—Every schoolbus manufacturer to a great extent relies on the strength of his body bows for side impact and rollover conditions. Weaknesses have been demonstrated in accidents that have occurred in the past. I strongly suggest a rollover or Rack Test to demonstrate body and roof bow strength.
>
> G. Joint efficiency and panel attachment to underlying framework—Possibly the most important safety proposal that is being discussed is the increased use of rivets and other fasteners to create a greater joint efficiency in schoolbuses. The National Transportation Safety Board has at least three reports vividly pointing out the need for such additional fasteners.

Mr. Ward lamented the National Highway Traffic Safety Administration's inexcusable delay in promulgating safety standards but noted—

> The DOT has standards in existence that could be modified to include all of these safety improvements.

Concerning the ease and speed with which the manufacturers could implement these safety features, Mr. Ward was optimistic:

> Our company would be in a position to comply with all of the safety standards I have recommended within 30 days.

Mr. Ward estimated that in some areas, such as lighting, Federal standards may actually cut production costs by making uniform the now widely varying local regulations with which he must comply. The itemized cost estimates for all the safety improvements he suggests total under $500.

Also in response to my inquiry, Chester Devenow, chairman of the board and president of the Sheller-Globe Corp., poignantly remarked:

> We cannot consider our engineering and research commitments fulfilled as long as even one child is killed or injured in a schoolbus.

Mr. Devenow outlined a general course of action:

> . . . Further improvement in the schoolbus safety record is attainable through continued soundly-engineered advances in construction of schoolbuses together with advances in bus driver qualifications and training, vehicle maintenance, and prompt replacement of worn out buses; wider use of optional safety equipment currently available and strengthened traffic law enforcement.

Albert Luce, president of the Bluebird Body Co., affirmed the industry's healthy attitude toward safety improvement, but pointed out that the highly competitive schoolbus market necessitates Federal safety regulations uniformly imposed on all schoolbus manufacturers. He stated—

> The manufacturers are under pressure not to price themselves out of the market by putting more cost into a product than the market will bear.

Similarly, John Thomas, president of Thomas Built Buses Inc., called for Federal assistance to reduce the hazards of schoolbuses:

> Our industry needs help. Experimentation and research by individual members of our industry is limited considerably by our size. It is in this area that I feel the Federal government can provide leadership. . . .
>
> The schoolbus body industry needs a national uniform construction standard that considers the total bus body, the total bus chassis and the matching of the two.

Mr. Thomas warns that in the absence of uniform Federal safety regulations, the cost of hazard-reduced schoolbuses will be high:

> Each state that has reacted to the recent emphasis on schoolbus safety has devised a different means of solving what they feel is the problem. A continuation on this course will result in custom-produced schoolbus bodies which in turn will be translated into much higher manufacturing costs than is necessary.

Robert Kurre, director of engineering for the Wayne Corp., advocates:

> Performance standards on the following items should be the subject of additional regulations for schoolbuses: Crash-worthiness; roll-over strength; emergency exits; direct and indirect fields of view; passenger lateral restraint; windshield defrosting and defogging; windshield retention; and standees.

Mr. Kurre concurs with almost all of his colleagues in the industry that Federal action is necessary:

> The schoolbus industry is a competitive one and in most cases schoolbuses are purchased on a low bid basis. Often times, the low dollar evaluation of a bid does not take into account safety features. . . . We believe that Federal regulations specifying performance standards are essential for an effective uniform and economic schoolbus safety program.

In conclusion, two things are clear. Safer schoolbuses should be a top priority of the Federal Government. And, important segments of the industry are our allies in this objective.

More injury and death from failure to act by Federal authorities will be especially tragic, in view of the tender young ages of these particular citizens. I urge immediate action.

Mr. President, because the responses of the manufacturers afford important insight into the problem of alleviating schoolbus hazards, I ask unanimous consent that the correspondence be appended to my remarks. I also request unanimous consent that the two Chicago Daily News articles referred to above be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

MARCH 5, 1973.

Mr. CHARLES D. WARD,
*Ward Schoolbus Mfg., Inc.,*
*Conway, Ark.*

DEAR MR. WARD: In response to the pleas of many parents whose children travel daily on schoolbuses, and in the interest of elementary safety for those children, I have joined Senators Nelson and Magnuson in sponsoring legislation (S. 847) to require the Department of Transportation to issue, within a fixed time period, comprehensive safety standards for schoolbus construction. This legislation has received bipartisan support. A companion measure has been introduced in the House of Representatives.

While the National Highway Traffic Safety Administration within DOT has recently issued a new standard for safer seat design (including the use of modesty panels for the front seat passenger), I am convinced from the accident data and from studies done in this area that additional Federal standards are needed to provide greater occupant protection. At a minimum, there should be a requirement for the elimination of stanchions, for rollover strength, and for the integrity and efficiency of joints.

I anticipate that hearings will be held on this legislation in the near future before the Senate Commerce Committee. And, unless responsive action is forthcoming by the Department of Transportation, I intend, as ranking minority member of the Senate Government Operations Committee, to urge oversight hearings into this matter. There would be considerable support within the committee for such an inquiry.

In order to assist me in focusing on the areas most in need of Federal motor vehicle safety standards, I would appreciate your responses to the following questions:

i. What aspect of schoolbus safety design and construction should be the subject of additional regulation under the 1966 Motor Vehicle Safety Act?

ii. Could you suggest performance standards that would help to alleviate these problem areas to give more reasonable protection to schoolbus occupants?

iii. What do you estimate to be the cost for implementation of each of these suggestions?

iv. How long a lead time would your company need to implement such standards?

v. In what way would your proposed standards affect your own competitive position in the industry if they were to be incorporated by you but not uniformly required as part of a Federal regulatory program?

I am certainly aware of the outstanding initiative of your company in producing a prototype safety schoolbus and I am certain that your suggestions will be of considerable assistance to me in promoting our mutual concern for the safety of the 20 million American children who daily ride to school on schoolbuses. I look forward to hearing from you soon.

Sincerely yours,
CHARLES H. PERCY,
*U.S. Senator.*

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WARD SCHOOL BUS MFG., INC.,
*Conway, Ark., March 28, 1973.*

Hon. CHARLES H. PERCY,
*U.S. Senator, Committee on Government Operations, Washington, D.C.*

DEAR SENATOR PERCY: I certainly share with you a great interest in school bus safety. As you know, I have been quite outspoken about my feelings concerning the Department of Transportation and their lack of initiative in requiring safety standards for school buses.

Our engineers are now studying the new standards for safer seat designs and we plan to respond to the Department of Transportation within the required time set forth in the original publication in the Federal Register.

I join with you in feeling that seating is an area that is long overdue for some additional standards.

I do not agree that stanchions should be eliminated as they do serve, in my opinion, a useful purpose in keeping children from falling as they depart from the bus. However, I do think that a very stringent pad requirement should be introduced requiring padded stanchions.

I agree with you that additional standards should be established for rollover strength and I think that the most important standard that has been completely neglected is the integrity and efficiency of joints and the attachment of sheet metal panels to underlying framework.

I certainly hope, Senator, that you will be successful in your effort to secure hearings in (S. 847). I would be happy to testify and supply any information that I have at my disposal to your Committee.

I will answer your questions in the same sequence that you asked them.

I.

A. I would strongly recommend that the Department of Transportation adopt uniform lighting requirements for all school buses. At the present time lighting requirements for flasher lights, stop lights and turn signals vary greatly from state to state. The coloring, placement and method of operation required by various states can be very confusing to a motorist when he is on a cross country trip or can be confusing to a motorist when he is confronted with an out of state bus. I would be happy to give you information on the requirements state by state if you so desire.

B. Padded stanchions—As I have stated before, I think there is a continuing need for stanchions in buses; however, they should be padded.

C. Reflective markings—All school buses should have a band of at least 3" reflective tape the entire length of the bus in addition to the reflectors that are now required. A great percent of school bus accidents occur in early morning or late afternoon and a reflective band would enable a motorist to distinctively identify these markings in the road ahead.

D. Escape exits—At least two emergency windows should be located on each side of the bus and two escape hatches in the roof. These should all be equipped with a positive latch mechanism so they would not open under rollover conditions.

E. Window glazing—All windows in school buses should be equipped with laminated type safety glass that could preclude hostile objects from entering the bus and also would preclude children from being thrown from the bus in the event of rollover and the glass broken. Most states now use tempered glass, which completely disintegrates when broken and documents show that there have been children thrown through these openings and have been killed as the bus turned over them.

F. Bow strength requirements—Every school bus manufacturer to a great extent relies on the strength of his body bows for side impact and rollover conditions. Weaknesses have been demonstrated in accidents that have occurred in the past. I strongly suggest a rollover or Rack Test to demonstrate body and roof bow strength.

G. Joint efficiency and panel attachment to underlying framework—Possibly the most important safety proposal that is being discussed is the increased use of rivets and other fasteners to create a greater joint efficiency in school buses. The National Transportation Safety Board has at least three reports vividly pointing out the need for such additional fasteners. The delay by the Department of Transportation in implementing these requirements is inexcusable. This specification, I feel, will assure adequate joint strength and adequate attachment of the skin to the underlying framework.

II.

Senator, the Department of Transportation has standards in existence that could be modified to encompass Items A, B, C, D and E. Item F would require the recent Rack Test that was devised by the University of Colorado. I think all manufacturers can comply with this specification by strengthening their buses.

Item G, joint efficiency requirement, Exhibit #1, which I have attached to my letter, is a specification that was recently adopted by the Department of Transportation of Pennsylvania.

III. ESTIMATED COST

A. Lighting cost would actually be reduced. The customer would receive a better quality lighting system if all states required the same lighting.

B. Padded stanchions—Our company, at one time, charged approximately $30.00 extra for padded stanchions. We have since made this a standard part of our bus, but for those companies who do not pad stanchions, it would increase their cost approximately $20.00.

C. Reflective markings—A 3" reflective band similar to the band used by the Post Office Department on their small vehicles would cost approximately $25.00 per bus.

D. Escape exits—If escape exits were made standard, I feel that it would cost no more than $12.00 per exit and if six were required per bus, the total cost would be $72.00.

E. Window glass—Laminated window glass would cost $120.00 more per bus body to supply if you buy the glass through normal channels. Our company manufactures its own laminated safety glass to meet all Federal Standards and by doing so, we are able to supply this glass at a cost comparable to that of purchased tempered glass.

F. Bow strength requirements—It cost our company approximately $60.00 to supply the additional bow strength as required by the Colorado Rack Test. I cannot estimate how much it might cost other companies. Some may comply with their standard body; some might require additional expenses.

G. Joint efficiency—When we first announced our safety bus to comply with VESC-6 joint efficiency requirements, we implemented the additional price of $390.00 per unit in our price. It is my feeling that if this were made a nationwide standard, our company could supply the additional rivets at a cost of no more than $180.00 to $200.00 per unit.

IV.

Our company would be in a position to comply with all of the safety standards I have recommended with the exception of roof hatches, within 30 days and I feel that we could develop and tool for production a roof hatch within six months of its proposal.

V.

All the standards that are proposed could be complied with by our company and our competitors at approximately the same cost, with the one exception being that we now manufacture the laminated safety glass. However, if laminated safety glass were required, our competitors could certainly begin production just the same as our company has.

I do not think that any of the safety standards that I have proposed would give our company a competitive advantage over others; however, it would be impossible for our company to implement these standards unless they were part of state or federal requirements. At least 95% of the buses purchased by school districts in the United States are purchased strictly as low bid items. Our company could not stay in business very long if it supplied these safety items as standard and our competitors did not. As you know, some states are now adopting these safety standards on their own; however, I feel very strongly that the federal government should take the initiative in these areas.

If you will note from the enclosure marked Exhibit #1, the State of Pennsylvania has recently adopted joint efficiency requirements as part of their state specifications. Maryland has adopted a modified version of this specification. Two other states, Wisconsin and your own State of Illinois, are strongly considering adopting these specifications next year.

Senator, I know that you are concerned about federal specification, but I think it would be extremely helpful also if you would make your feelings known to the appropriate officials in Illinois so that your state and the children of your state can start receiving benefits of the increased joint strength early next year. All six major school bus manufacturers have indicated that they can comply with VESC–6 joint strength specification as it is required.

I certainly hope that I have given you the information you requested. I am sorry I have not been more timely, but have been on vacation for the last ten days. If you need any further assistance, please let me know.

Sincerely yours,

CHARLES D. WARD,
*President.*

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[From the Beaver Falls (Pa.) News-Tribune, Mar. 19, 1973]

### PENNDOT GETS TOUGH ON SAFETY

Pennsylvania Department of Transportation has taken the initiative in the field of traffic safety.

Julius A. Trombetta, director of PennDOT's Bureau of Traffic Safety, announces the School Bus Section has notified all school bus manufacturers that the state plans to adopt three additional safety regulations to go into effect Jan. 1, 1974.

Most important of the three would set minimum metal thickness and body strength of structural joints for steel components of school bus bodies.

Pennsylvania is the first state in the nation to adopt rigid guidelines as set forth by the Vehicle Equipment Safety Commission last year. The VESC, a group made up of safety representatives from all states, is charged with establishing vehicle safety standards.

The new regulation is intended to insure that all metal sheets used to manufacture school bus bodies for use in Pennsylvania are of uniform thickness and are attached to the underlying framework by fasteners to better protect passengers.

The regulation would require greater strength at the joints of the inner and outer sheet metal panels of the bus to reduce the possibility of separation in an accident.

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FEBRUARY 21, 1973.

### COMMONWEALTH OF PENNSYLVANIA—NOTICE OF INTENT TO ADOPT REGULATION

To: All School Bus Manufacturers.

From: John F. McElhany, Chief. School Bus Division.

Notice is hereby given that the School Bus Division of the Bureau of Traffic Safety, Department of Transportation intends to amend the school bus regulations effective January 1, 1974 by adopting the following standard of VESC–6, Section 5.6 in the following language.

### MINIMUM METAL THICKNESS AND STRENGTH OF STRUCTURAL JOINTS FOR STEEL COMPONENTS OF SCHOOL BUS BODIES

This section is intended to insure that all metal used to manufacture school buses for the State of Pennsylvania is of uniform thickness and is attached to underlying framework and all joints have such strength as to insure as much safety as possible for the children riding the buses. Listed below in Table I is the requirement for the thickness in decimal inch equivalent for all sheet steel components used to manufacture a bus body.

TABLE I.—MINIMUM METAL THICKNESS FOR STEEL COMPONENTS

| Item Number | Components | Type I |
|---|---|---|
| 1 | Bow frames | 0.062 |
| 2 | Bows, roof | .062 |
| 3 | Cowl, front | .062 |
| 4 | Doors, Emergency and service: | |
| 4a | Exterior panel | .038 |
| 4b | Interior panel | .032 |
| 5, 5a | Door Posts: Emergency door | .076 |
| 6 | Floor panels | .076 |
| 7 | Longitudinal frame members: | |
| 7a | Floor line | .062 |
| 7b | Seat line | .062 |
| 7c | Belt line | .062 |
| 7d | Window header line | .062 |
| 8 | Panels, exterior: | |
| 8a | Front | .038 |
| 8b | Rear | .038 |
| 8c | Roof | .038 |
| 8d | Side | .038 |
| 8e | Skirts | .038 |
| 9 | Panels, interior: | |
| 9a | Headlining | .032 |
| 9b | Front lap | .032 |
| 9c | Rear lap | .032 |
| 9d | Lower (below windows) | .032 |
| 10 | Posts, side | .062 |
| 11 | Rub rails: | |
| 11a | Floor line | .062 |
| 11b | Seat line | .062 |
| 11c | Window line | .038 |
| 12 | Safety panel | .038 |
| 13 | Strainers (bow spacers) | .062 |
| 14 | Wheel housing | .062 |
| 15 | Window jambs (post caps) | .038 |
| 16 | Window sills | .038 |

Only plus tolerance allowed for metal thickness requirements.

On all joints in both the inner and outer sheet metal panels, it shall be demonstrated by calculation that the strength of such joints is at least 60% of the tensile strength of the thinnest joint member. In addition to the joint strength requirements, all sheet metal panels, both exterior and interior, shall be fastened to the underlying framework by fasteners and the pitch of the fasteners shall not exceed 24 times the thickness of the thickest metal used in the joint.

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SHELLER-GLOBE CORP.,
*Toledo, Ohio, May 4, 1973.*

Hon. CHARLES H. PERCY,
*U.S. Senator, U.S. Senate, Committee on Government Operations, Washington, D.C.*

DEAR SENATOR PERCY: As a school bus manufacturer, we are gratified that you sought our views as to how school buses can be made even stronger and safer.

I would like to preface our replies to the specific questions in your letter with some general observations which may help make those replies more informative and useful to you.

We urge most strongly that any new federal regulations for school bus construction be on the basis of total vehicle performance standards, reached through sound engineering studies. It is equally important that such standards be applied uniformly throughout the states.

The cause of further improvement in strength and safety of school buses, a continuing commitment for our company, is not well served, in our opinion, by piecemeal application of individual new design specifications, unrelated to performance standards for the vehicle as a whole.

Few major individual changes in design specifications can be implemented without having an effect on many other phases of bus construction. An example is the seat standards being advanced by the National Highway Traffic Safety Administration, which, our studies indicate, will involve additional changes extending through underbody and chassis. A similar effect can be expected from the requirement for passenger seat belts currently being considered by several states.

Without total performance standards it is difficult to evaluate the desirability of the number of individual design specifications currently being proposed for school buses. With performance standards established, however, we can have greater assurance of attaining the combination of design features calculated to reach the performance goal most effectively and economically.

For example, performance standards should include the maximum impact against which school bus body should be designed to maintain structural integrity. Reaching this goal may not necessarily be determined by the number of rivets used, or by the strength of joints alone, but may very well be answered primarily by the overall strength, or load bearing capacity of the total structure and panel assembly.

For 25 years the school bus manufacturing industry has worked with the states to establish uniformity in basic school bus construction, essential to providing buses of the best quality at the lowest possible cost to the taxpayers who fund most pupil transportation. That uniformity is being threatened today by the pressure in various states for unilateral application of new design specifications.

A sound engineering approach to school bus construction need not involve lengthy or indefinite delay. Much of the required data and methodology are being developed.

Our Superior Coach Division is expanding on its own original studies, started with Battelle Institute a year ago, and directed toward development of computerized structural strength analysis and physical testing of school bus designs. In a separate study, the School Bus Manufacturers Institute is seeking criteria for school bus performance standards, using the engineering resources of its members and the input of representatives of universities and transportation directors of a number of states. We understand studies are also being conducted by the Department of Transportation in this area.

Now as to the answers to the specific questions you posed:

I. Structural performance standards, including such areas as roof loading, diagonal loading, and side impact which would improve roll over and crash worthiness capabilities of the total vehicle.

Interior design to provide a total systems approach for the elimination of hostile environments inside the bus. This would involve such things as seat construction and padding, elimination of such items as stanchions and overhead racks, and substitution of 3–2 seating for the current 3–3 seating to accommodate larger average size of pupils.

Escape exits.

Driver vision, particularly as it relates to chassis hood to provide better downward visibility in front of bus.

II. We are not yet in a position to propose consideration of any specific structural performance standards. However, we would anticipate that our own structural analysis program, referred to above and to be completed in about four to five months, and the SBMI program which should produce some conclusive results in several months, may provide a basis for some recommendations, as will the continuing studies by the Department of Transportation. In the area of the school bus interior, the National Highway Safety Administration has proposed new standards dealing with seats and other aspects of the bus' interior environment in Docket 73–3. The docket requests comments by May 15, 1973, and provides for an effective date for new standards by September 1, 1974.

III. Cost impact of any of the standards referred to above cannot be projected at this time. In regard to the seat requirement in Docket 73–3, we are making design studies and have scheduled sufficient prototyping and testing to enable us to submit comments, although it may be extremely difficult to attain sufficient test data for comment by May 15. Preliminary studies, however, indicate that seats designed by these requirements may weigh as much as 100 pounds more than those in current use. Effect of this additional weight will extend through the entire bus body, requiring a substantially heavier underbody structure, and an overall addition, including seats, of some 2,000 to 2,500 pounds. This, in turn, will require a chassis of higher GVW rating. It is conceivable that these requirements could add as much as $1,500 to $2,000 to the cost of a 66-passenger bus. In addition, it appears that the seat configuration which may be required will involve seat spacing which would decrease the passenger capacity of each bus.

IV. As noted above, specific requirements for any standard are yet to be determined. Lead time, like cost, cannot be accurately determined until detailed design requirements are set. For most standards, lead time of one to two years should be allowed, and at least two years' lead time should be provided for standards involving major body changes.

V. Obviously, any unilateral application by Sheller-Globe of a standard not generally applied throughout the highly price competitive school bus market would adversely affect our competitive position to a substantial degree. Extent of such adverse effect could not be determined until engineering, tooling, and production costs are known.

I believe our contribution to the impressive safety record of school buses, the safest form of transportation in terms of deaths and injuries per miles traveled, evidence our willingness and ability to meet any generally applied construction requirements.

Our Superior Coach Division, source of some 30% of the school buses on the road today, has participated in the two instrumented crash tests for school buses held to date. Over recent years, we have made available a Super-Pad school bus seat which meets the Department of Transportation's Standard 201 for padding of passenger car seating, and in 1971 we offered a higher padded seat which offered excellent containment against passengers being thrown to the front of the bus by impact. Our 1973 model school buses embody no less than six structural changes designed to further protect occupants against roll-over or crushing, and we offer numerous options for protective padding throughout the bus interiors.

However, we cannot consider our engineering and research commitments fulfilled as long as even one child is killed or injured in a school bus.

We believe further improvement in the school bus safety record is attainable through continued soundly engineered advances in construction of school buses, together with advances in bus driver qualifications and training, vehicle maintenance and the prompt replacement of worn-out buses; wider use of optional safety equipment currently available, and strengthened traffic law enforcement.

Thank you for the opportunity to present our views on the question and we hope they prove helpful.

Sincerely yours,
CHESTER DEVENOW,
*Chairman of the Board and President.*

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BLUE BIRD BODY CO.,
*Fort Valley, Ga., March 15, 1973.*

Hon. CHARLES H. PERCY,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR PERCY: Thank you for your letter of March 5. I will try to answer questions numbers 1 and 2 together.

The School Bus Manufacturing Institute is putting together a group made up of engineering professors from several leading colleges, state transportation supervisors who have a proven track record of being practical as well as being constructive in the areas of safety, and the engineering committee of the SBMI.

It is the hope of our industry that this group will be able to develop performance standards which will give more reasonable protection to school bus occupants.

I am sure these will include such items as methods of joining metal together, padding, warning devices, and strength of various body parts.

A performance standard is much better than a theoretical standard since it can be measured and proven.

In reply to question number 3, I cannot give a realistic cost figure on what these might cost until we can evaluate the specific recommendations.

In the meantime, we are working on better padding for seats and stanchions, fewer joints and other items which have been written into either state or federal specifications.

Safety is the name of the game and we never have new models without new features which we feel will improve the safety of our product.

I think the same can be said for all manufacturers of school buses.

Your question number 4 regarding lead time is somewhat hard to answer until we know the specific requirements.

School bus companies have an annual model year similar to the automotive industry. Changes required during the year can be costly since they may upset production runs or obsolete inventory that has been purchased.

These major model changes usually come in the fall after our heavy production season which is necessary during the summer in order to have new buses ready for school opening.

Your question concerning lead time is a significant one and I hope adequate lead time will be given for changes which may be required.

Crash programs are always costly and don't always produce the desired results.

Your question number 5 needs a little bit of background in order to answer. In most cases, school buses are sold on competitive bids.

All bidders will usually meet the state specifications required for the bids.

In addition to the state specifications, some local school units may write in additional requirements which go beyond the state specifications. Most bidders would try to meet these.

However if a bidder had extra features that were beyond the bid requirements, there would be many cases when these would not be considered or taken into consideration in awarding the bid.

Sometimes a bidder is given an adequate chance to present and sell extra features but sometimes they are not.

In cases where you would not have a chance to present and sell extra safety features, then any bidder with extra features which increases his cost would be at a definite price disadvantage in a situation where a low bid is the determining factor in who is awarded the business.

School boards can come under local criticism for not purchasing on low bids so they have to take this into consideration.

Frequently they are under budget pressure and are trying to manage a given amount of funds in order to purchase the necessary number of buses to transport all the pupils.

The manufacturers are under pressure not to price themselves out of the market by putting more cost into a product than the market will buy.

The specific answer to your question is that anything that increases cost significantly beyond state and local specifications can definitely affect the sale of our products.

Until the public will specify and pay for these features, there is a limit as to what any manufacturer can do in going beyond what the specifications call for.

I trust this gives you some answers to your questions.

If you have time to read on, there are several other things which may be helpful to you.

The manufacturers of school buses have always been concerned with safety of school buses and the children who ride in them.

A study of school bus literature over the past 30 years or more would show that safety has been a prime concern with all manufacturers.

The state supervisors of transportation are a group of dedicated men who have worked with school bus manufacturers giving us their ideas based on actual experiences with buses regarding both safety and maintenance cost of buses. These men have made a great contribution to the safety of school buses.

Out of these have come the National Specifications which have been jointly developed by manufacturers, state supervisors of transportation and the National Education Association.

National Specifications have been the guideline for many states and have greatly contributed to school bus safety.

We all realize that we are dealing in a sensitive area when it comes to transporting school children. I love my children as much as you love yours and anything which affects them, affects me. The same applies to all parents.

Whenever anyone offers an idea regarding a school bus and proclaims it in the name of "SAFETY" then anyone who questions this is immediately labeled as being anti-safety.

As I am sure you can appreciate, this is an untenable position for a school bus manufacturer to be in and it leaves us at a loss to know how to best evaluate and comment on recommendations which are made from time to time in the name of safety.

As an industry, we are all in favor of safety. Privately we might not always think that everything that is promoted in the name of safety will decrease accidents. On the other hand, as an industry, I think you will find that we have been cooperative in making available things requested by various state specifications to make our products safer.

In addition to this all manufacturers have developed ideas which we feel have contributed to safety and we have adopted ideas developed by competitors when it seems they contribute to the safety of our products and our passengers.

I am attaching a sheet which gives some interesting figures regarding school bus safety and other means of transportation.

While there are always ways for improvement and we all regret any accidents, as an industry we tend to get a lot of bad publicity for the few serious accidents which do occur and no one ever points out the millions of passenger miles that are travelled by school buses that are accident free.

Perhaps you can help us at this point.

Your letter mentioned requiring modesty panels for the front seat passengers. These have been in state and national specifications for many years for the front right seat. The driver's seat offers some protection for the front left seat passenger. There are current specifications requiring padding on stanchions and more and more states are requiring these.

Several years ago, we conducted crash tests in which we drove automobiles into the side and rear of our buses.

We also conducted roll-over tests that

rolled a bus down a steep hill 4½ times and it landed on its top without collapsing. We have movies of this.

The question has come up from time to time concerning the elimination of stanchions in buses. This must be weighed against the protection these stanchions give students who, day in and day out, get up and start down the aisle of the bus as it is stopping. These students may be propelled into the windshield if there is nothing for them to hold on to.

It is my understanding that many of the figures which show the number of school children involved in school bus accidents also include children involved in accidents in crossing the roads to and from the school bus. Accidents of this type distort the figures and do not have any relationship to the construction of the school bus or safety features designed into the bus.

I mention these things in order to help you evaluate the record of school bus transportation which I know is better than some of the recent publicity might indicate.

Very truly yours,
ALBERT L. LUCE, Jr.,
*President.*

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THOMAS BUILT BUSES, INC.,
*High Point, N.C., April 5, 1973.*

Hon. CHARLES H. PERCY,
*U.S. Senator, Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR PERCY: I apologize for the delay in answering your letter. You have, however, posed some thought provoking questions which took some time to consider. Your approach at this time to the belated emphasis on school bus safety seems to me to be a proper one—an unemotional, open-minded, hard look at the present state of affairs. This is in contrast to the wild-eyed, emotional, closed-mind look we read about daily in our newspapers.

I have taken time to acquire and read through S. 847. With the exception of two questionable items, I wholeheartedly support S. 847. I question the reference in the preamble to design standards. In my opinion, a performance standard is the better choice. Page 3, section (5), beginning on line 17, is not clear. There is ambiguity in the statement of responsibility concerning the inspection and test drive. To me, the intent and purpose is clear, but the ambiguity would make this entire section subject to too many interpretations. Some of the questions that may be posed are as follows: Should the bus body manufacturer, his distributor, or the chassis manufacturer or his dealer or local service representative be responsible for test driving the completed bus prior to delivery? Interestingly enough, the chassis manufacturers have within the last two years instituted a predelivery service program at the body manufacturer's location which incorporates a test drive. However, there was considerable argument between the body manufacturers and the chassis manufacturers as to responsibility about this very item and, therefore, if not stated clearly, the argument may arise again. As stated above, I would wholeheartedly support S. 847 and urge its enactment with these two corrections.

The school bus body industry needs a national uniform construction standard that considers the total bus body, the total bus chassis and the matching of the two. Each state that has reacted to the recent emphasis on school bus safety has devised a different means of solving what they feel is the problem. A continuation on this course will result in custom produced school bus bodies which in turn will be translated into much higher manufacturing costs than is necessary.

The need for uniformity is great, but the need for a clear definition of what the school bus structure should withstand in an accident is even greater. The design standard approach promoted by some to this point, if continued, will result in a patchwork quilt of detailed design standards.

We feel strongly that the only way to arrive at a sound, practical, uniform bus construction standard is to rely on those most knowledgeable in this field. The School Bus Manufacturers Institute (SBMI), of which we are a member, is funding a task force comprised of the leading authorities in pupil transportation, school bus design and light gauge sheet metal structures to develop criteria for a body construction standard.

It is of paramount importance that the final construction standard be based on the principal of performance as opposed to a detailed design standard.

Performance standards set forth desired objectives in terms of how the product should react or perform under certain conditions. On the other hand, a design standard is concerned primarily with the details of "how to build" the product.

As an example, many states specify that the interior of the bus is to be heated to at least 50 degrees when the outside air is at the average minimum January temperatures for that area. This is a performance standard.

In some few instances, a local school board will require that his supplier furnish a bus with an 85,000 BTU front heater and a 65,000 BTU rear heater. This is a design standard.

The performance standard author tells us how warm he wants to keep the children under conditions. It is then the supplier's complete responsibility to furnish equipment that keeps the passengers warm.

The design standard author tells us precisely what he wants in his bus to keep the passengers warm. He has accepted the complete responsibility to keep the passengers warm. His experience proves that the installation of these two heaters will keep passengers warm in his area. The design standard, however, does not take into account that there may be other more economical and more efficient means of keeping his passengers warm. The design standard may inadvertently omit reference to required basic items that definitely affect the efficiency and effectiveness of the heating system such as: insulation, water pumps and thermostat.

With the assistance of outside engineering consultants, School Bus Manufacturers Institute has developed a performance standard for bus body construction. Along with this standard static tests have been developed to determine if the standard has been met. This performance standard makes no demands on the manufacturers as to how the product should be manufactured—only that it meet the performance required. The fulfilling of the requirements must be verified by a series of tests after which the bus body will be certified by the manufacturer as meeting their performance requirements. This work was accomplished over a year ago. It is a beginning to the right kind of solution to the problem.

A copy of the SBMI performance standard 007 is attached.

It is impossible to estimate the cost for implementation of the performance standard 007; however, an educated guess would result in an increased body cost of approximately $150 to $200. We hesitate to implement our own proposal since there is considerable emphasis placed on price in the purchase of bus bodies.

The lead time required for this particular proposal for our company is very short. However, consideration should be given for delivery problems, and consideration should be given to an implementation date of any standard of January 1 in any year. School bus purchases are very seasonal. Our high production season is the spring and summer and early fall months. It seems to me to be reasonable to expect changes to be implemented somewhere in the vicinity of the model year changeover.

As stated earlier in this letter, our industry needs help. Total industry volume for school bus bodies would represent less than 200 million dollars annually. Experimentation by individual members of our industry is limited considerably by our size. Our industry cannot absorb the losses generated by failures in research and development from standards proffered by the federal government such as the air bag for the automotive industry. Extreme care and consideration must be exercised in the drawing of standards such as the new standard for a safer seat recently issued. It is in this area that I feel the federal government can provide leadership and, quite frankly, the money for experimentation.

Thomas Built Buses, Inc., along with others in the bus industry, is continuing to search for ways to improve school bus safety. We feel that a performance standard accompanied by required tests to substantiate the performance will result in the bus structure the public desires while allowing each manufacturer latitude to meet the performance in the most economical fashion.

Your very truly,
JOHN W. THOMAS, Jr.,
*President.*

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WAYNE CORP.,
*Richmond, Ind., April 6, 1973.*

Hon. CHARLES H. PERCY,
*U.S. Senate, Committee on Government Operations, Washington, D.C.*

DEAR SIR: Mr. Kevitt has asked me to comment for him on the questions contained in your letter of March 5, 1973. Before we get into the specific questions, we would like to comment briefly on the Department of Transportation's proposed Passenger Protection Standard. Of course, we will comment to the Department of Transportation in much greater detail.

We believe this proposed standard is definitely a step in the right direction, and based on our studies, will help to eliminate death and injuries in school bus accidents. We are bothered by the fact that the proposed standard is silent on and does not provide any lateral restraint for the passengers, and the problem of passenger seating space has been completely ignored. This will become even more critical when the seat belt option is used.

We believe that the proposed standard effectively deals with the stanchion problem inherent in current designs. We visualize the hand-hold and passenger assist functions which are currently being met by the stanchions will be incorporated into the front side of the front seat "retaining barriers" required by the proposed standard. Located in this manner, such passenger assist devices will be separated from the seated passengers and will not present a safety hazard.

We share your concern for the safety of the children who travel daily in the big yellow school buses. This concern is reflected in the many thousands of hours and dollars which Wayne has expended into putting into production the new Wayne Lifeguard bus body. Now, as you may have heard, this new safety bus is coming off our assembly lines. The youngsters who ride school buses can enjoy the advantages of the new Wayne now. Unlike others who manufacture a regular school bus and a safety bus, Wayne has only one standard and every conventional school bus that leaves the Wayne plant is a safety bus.

We would like to point out a few of the advance safety features available only with Wayne, and have enclosed a Lifeguard booklet which illustrates these features. After each feature, we have listed the page in the booklet on which the feature may be examined.

1. One-piece full-length longitudinal panels inside and outside (Pages 4 thru 7).

(A) Only two one-piece longitudinal roof panels (Page 6).

(B) Only two one-piece longitudinal inside side panels (Page 6).

(C) Only three one-piece longitudinal outside roof panels (Page 4).

(D) Only two one-piece longitudinal outside side panels (Page 4).

2. Staggered joints for the roof and headlining panels (Page 7).

3. Inside panel edges folded, eliminating razor panel edges (Page 7).

4. Eight one-piece full-length rub rails Huckbolted to panels and structure (Pages 8 and 9).

5. One-piece bow frame at each seating position (Page 11).

6. One-piece bow frame at the front and the rear of the bus (Pages 8 and 9).

7. Upper corners of bow frame reinforced for extra roll over protection (Page 11).

8. The heaviest main floor sills used in the school bus industry at each bow frame (Page 11–A).

8. Huckbolt construction in our high-strength fool-proof fasteners (Page 11–B).

10. Big 12-inch side widow escape openings. Up to 5,760 square inches of side window escape area in a 66-passenger bus (Page 14).

11. Bottom of window opening raised to prevent extension of head and arms (Page 14).

12. New increased driver vision and convenience (Pages 16 and 17).

We will respond to the questions in the same order listed in your letter.

I. Performance standards on the following items should be the subject of additional regulations for school buses: Crash-worthiness, roll-over strength—emergency exits—direct and indirect fields of view—passenger lateral restraint—windshield defrosting and defogging—windshield retention—and standees.

II. A performance standard for crash-worthiness and roll-over strength should be directed towards retaining the passenger within the bus and at the same time providing a survivable environment. This is the kind of performance requirements we used for the new Wayne. A performance standard would demonstrate the bus bodies structural integrity, joint efficiency and roll-over capabilities under various accident conditions.

*Emergency Exits.* We believe that the emergency exits requirement of Motor Vehicle Standard #217 should be expanded to include school buses.

*Direct and indirect fields of view.* The Department of Transportation's visibility standards as proposed in Docket #70–1 and 71–3A are being delayed, pending further research. The deaths and injuries resulting from youngsters being hit by the bus they are going to board or have just gotten off of should indicate a high priority for driver visibility standards.

*Passenger lateral restraint.* Passenger lateral restraint should be included in the Department of Transportation's proposed Passenger Protection Standard.

*Windshield defrosting and defogging.* Motor Vehicle Safety Standard #103 should be revised with performance requirements for buses. Currently, the standard does apply to buses, but does not list any performance requirements for buses.

***Windshield retention.*** Motor Vehicle Safety Standard #217 should be revised to include bus windshields.

*Standees.* Contrary to popular opinion, Standard No. 17 does not prohibit standees in school buses. From Section IV, C, (6), d, (1), "Seating shall be provided that will permit each occupant to sit in a seat in a plain view lateral location, intended by the manufacturers to provide seating accommodations for a person at least as large as the fifth percentile adult female, as defined in 49 CFR–571.3", which provides 12.8 inches of lateral seating space for each passenger.

Most school buses are purchased with 39-inch wide seats which are intended to seat three passengers. This seating allowance is sufficient for very small children through the third or fourth grade—but what about the rest? The larger child sitting on the aisle is only half on the seat. In an accident, this child will be thrown up the aisle even if the seats have high backs and are padded; also this arrangement encourages standees. Dr. Severy, after the U.C.L.A.-I.T.T.E. school bus crash test his team conducted, recommended, "Safety regulations for school buses should be standardized without allowances for the intended size of school passengers to be hauled." If we are to effectively protect the children riding school buses, standees must be eliminated and a minimum of 15-inches of lateral seat spacing must be provided.

III. We will be able to estimate the cost for these suggestions when the requirements and specifications are finalized.

IV. Many of the suggestions we have made above are already available in the new Wayne bus, in one form or another, but the lead time could vary up to eighteen months, depending on the final requirements and specifications.

V. As you know, the school bus industry is a very competitive one, and in most cases, school buses are purchased on a low bid basis. Often times, the low dollar evaluation of the bids does not take into account safety features furnished but not specified in the request for bid. We believe that federal regulations specifying performance standards are essential for an effective, uniform and economic school bus vehicle safety program.

Sincerely,

ROBERT B. KURRE,
*Director of Engineering.*

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[From the Chicago Daily News, Dec. 10, 1973]

### SCHOOL BUS SAFETY: DEADLY MYTH

(By Charles Nicodemus)

When peppery, handsome Jeffery Kaiserman, 9, stepped out into the street from behind the school bus that had just dropped him across from his Skokie home, he was struck by a taxicab and thrown more than 100 feet.

He died minutes later in the arms of his anguished outraged father—killed just as surely by the inaction of the state of Illinois and the federal government as by the taxicab that was driven by an 18-year-old Evanston youth with three speeding convictions.

The story of Jeffery Kaiserman's death six weeks ago is the story of an accident that never should have been.

It happened largely because riding in a school bus has been widely touted as the safest form of motorized transportation.

In reality, school bus accidents in Illinois are soaring. Accidents have more than doubled, and deaths tripled, since 1968—although the statistics are mostly hidden from the public. The same situation almost certainly prevails nationwide.

Under Illinois regulations governing school bus operations, Jeffery Kaiserman ordinarily would have been let out of the bus on the same side of the street as his home at 3645 Davis, if possible. There was nothing to prevent it. But he was not.

Alternatively, when crossing to his house under the driver's watchful eye, he should have walked up the curb 10 feet in front of the bus, then stayed there until the driver checked traffic and gave him the signal to cross.

But Jeffery had never been taught this. Neither had the youthful school bus driver, a second-year Northwestern University graduate student from North Carolina, driving here with an out-of-state license.

Another factor ordinarily might have saved Jeff. Those big red lights on the school bus, flashing on and off during unloading, might have alerted the onrushing cab.

But the bus signal lights weren't working. The owner later said he had been directed to disconnect them by—of all people—an inspector at a state-supervised safety lane.

The bus, a remodeled 14-passenger van, did not measure up to inspection standards as a fully equipped school bus. There were only three lights instead of four, plus other deficiencies.

So the lights were ordered disconnected, and the vehicle was passed through the lane as a truck.

However, chances are that this particular sequence of events never would have happened—and Jeffrey Kaiserman, one of the best-liked boys in his 4th grade class at Skokie's Walker School might be alive today—if it had been a public school bus from which he alighted.

But Jeff had been coming home from Tuesday afternoon Hebrew school, and the bus was a private vehicle, owned by a school bus contractor, Howard Becker of Skokie.

Federal safety standards require the state of Illinois to supervise Becker's three buses and their part-time drivers, just as it is supposed to supervise public school buses and drivers.

But because school bus transportation is supposed to be super safe, there has been no apparent sense of urgency, and Illinois has not yet passed the federally required law that would have brought Howard Becker's bus fully under state control.

Furthermore, because school bus transportation is presumed to be so safe, the federal government has not pressured Illinois or any other state into speedy full compliance with its school bus operating safety standard No. 17. This despite the fact that:

The content of most of the proposed standard was first publicized in June, 1970.

It was formally made effective in May, 1972, 18 months ago.

Illinois' failure to enact the required law is not entirely characteristic. Ironically, Illinois is one of the more progressive states in school bus safety.

Just last week, State Supt. of Public Instruction Michael Bakalis published an updated manual, effective April 1, 1974, that sets toughened-up requirements for the manufacture, equipping and operation of all types of school buses, sold in Illinois.

Only a handful of other states have gone as far or farther.

"We're proud of our record in Illinois," said Ralph Sarto, Bakalis' state director of public transportation.

Sarto is a hardworking public servant who says he took considerable heat from certain sections of the school bus industry in pushing through several of the new and updated regulations.

"We carry more than a million students a year, in more than 10,000 buses," he points out.

"In 1972, there were just 3 school bus-connected deaths in Illinois, and only 223 reported school bus accidents," he wrote in a recent state publication.

Unfortunately, through no fault of Sarto, his key statistics are substantially in error.

The state's Department of Transportation, which compiles its statistics directly from police accident reports, says there were 10 school bus related deaths in 1972, not 3, and 1,676 school bus accidents, not 223.

Why the staggering discrepancy?

Sarto is dependent for his statistics on reports submitted by school principals through school districts and county superintendents. That system apparently has two serious shortcomings:

In most states, including Illinois, only accidents, injuries and deaths involving public school buses or bus contractors serving public schools, get reported as the "official" published statistics, compiled and publicized by the National Safety Council.

Accidents involving parochial and private school buses of all sizes are left out.

Since the number of nonpublic school buses is by no means that sizable, a significant part of the disparity must come from the failure of local schools and school districts to report all accidents and injuries. The police, however, learn the true picture—because they either are called to the scene or are notified for insurance purposes.

But Bakalis' office is not told.

### ACCIDENT "NEVER HAPPENED"

This means, for instance, that Jeffrey Kaiserman will never be dead—in the eyes of the superintendent's "official" tabulators.

This means that even though two standard-sized parochial school buses got banner headlines when they slammed into each other Sept. 26 in southwest suburban Worth, injuring 19 people, the accident never happened—as far as Illinois' "official" statistics are concerned.

This means that when an erring motorcyclist crashed headon into the small yellow school bus serving west suburban Glen Ellyn's Junior Village private nursey school, the bus driver, Mrs. Doris Mercer, 41, of Wheaton—who was killed by the impact—wasn't an "Illinois school bus fatality."

The importance of those omissions—and the hundreds of others like them in Illinois, and the thousands in other states—cannot be over-stated.

For the purportedly low rate of accidents, injuries and deaths claimed for school bus transportation is widely hailed by the school bus "establishment."

Most (but not all) of the major manufacturers; virtually all of the private school bus contractors (who operate more than one-third of the nation's 310,000 school buses), public pupil transportation officials and, most important, key federal officials trumpet the "outstanding" safety record of the buses, which carry more than 20 million youngsters a years, as justification for the unconscionably slow pace at which school bus safety measures have been pushed.

The school bus manufacturers Institute, in testimony submitted last May to a House subcommittee weighing new school bus safety legislation, warned several times against "panic" measures, saying school buses were the "safest form of transportation" known to man and should not be criticized by the news media, members of Congress and others who lack "understanding."

A task force of experts with the National Highway Traffic Safety Administration, (NHTSA)—a branch of the Department of Transportation—reported six months ago that school buses are eight times safer than cars.

Top officials of the agency, testifying before a House Commerce subcommittee, said accident statistics establish that school buses "are 40 times safer" than automobiles.

Based on such "facts" NHTSA traditionally has given low priority to setting and enforcing school bus safety standards.

Not only are those statistics perhaps drastically understated, but a new type of analysis indicates that even according to the accepted, under-reported statistics, school buses actually may be as dangerous as autos.

### WHAT'S WRONG WITH FIGURES

Thomas J. Grenchik of Greenbelt, Md., a tracking data analyst with the federal space agency, has taken a hard look at long-accepted methods of computing school bus safety statistics.

He decided that computing accidents "per passenger mile" really told little about school buses themselves, in comparison with automobiles, since the large number of students carried by each bus ballooned the percentages to favor the school bus.

Instead, he compared nationally accepted figures on school bus accidents per vehicle mile against the totals of auto accidents per vehicle mile, and concluded that "school buses are, by that more meaningful standard, in reality no safer than cars—and perhaps slightly less safe."

Grenchik has submitted his study to the NHTSA, which is analyzing it.

Meanwhile, the National Safety Council, which accumulates the "official" nationwide school bus statistics from the states, acknowledges the obvious margin for error in its data.

And the NHTSA task force has conceded the inadequacy of current school bus accident reporting procedures.

More accurate, complete figures are "essential," the task force said. Standard 17 calls on the states to produce them, but it doesn't say how or when.

School bus defenders and critics alike agree on one key act:

Nearly two-thirds of the children who die in school bus-related accidents are killed—as was Jeffery Kaiserman—just outside the bus, either by cars or trucks, or by the school buses themselves.

That phenomenon, which has been apparent for more than five years, would seem to have called for a "crash" program of pupil and bus driver education to reduce avoidable fatalities.

Yet, while Standard 17 calls for pupil and driver education programs, NHTSA gave the states five years, until mid-1977, to comply.

In Illinois, a broad smattering of students and drivers receive quality, state-sponsored guidance, through "workshops" and newly required in-service training programs. Many of the larger contract operators, like Willet in Chicago and Scholastic Transit in Northbrook, have excellent programs for drivers. So do some parochial schools. But many don't. And pupil-rider education is badly lacking.

Before he died, Jeffery Kaiserman and his father had been planning the family's first camping trip, and Jeffery was permitted to buy a small sheath knife that set his eyes shining. The knife was buried with the boy.

"I just hope my son's death will at least serve as a warning, so that lives of other children can be spared," said Kaiserman, tears welling in his eyes.

But if experience is any indicator, it's more likely that Kaiserman's hopes for swifter action in the field of school bus safety will be buried, too.

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[From the Chicago Daily News, Dec. 11, 1973]

## THE SCHOOL BUS SAFETY LOGJAM

(By Charles Nicodemus)

A school bus careened down a mountain highway from Colorado's Monarch Pass and finally rolled over at a filling station, spewing victims from the bus like rag dolls.

Of 39 children thrown from the bus, 9 died. Of nine passengers who remained inside, only one even required hospitalization. "Seat belts would have saved lives," federal investigators aid.

Six weeks ago, five children died near Madison, Ind., when a tractor-trailer carrying 40 tons of railroad ties plowed into the side of a school bus trying to cross rainswept U.S. 421.

Investigators said seat belts doubtless would have saved two boys who were killed after being buffeted in the bus "like they were inside a washing machine."

The chronicles are long on school bus accidents in which children have died when flung from buses, or battered inside by impact with seats or sides, or were slashed by ripped metal panels or glass.

Seats belts would have saved lives, the federal government's accident investigator, the National Transportation Safety Board, keeps saying.

But no school buses are equipped with seat belts. In fact, the well-known yellow bus—touted as the safest vehicle in the motor transport world—is so relatively weak in places that the seat anchorages and flooring of most models are not guaranteed strong enough to take the emergency stress of seat belts.

And the seat backs in most of the nation's 310,000 school buses are such blatant safety hazards that even if seat belts could be installed, their use might jack-knife the children's upper torsos forward during sudden stops, smashing teeth, noses, necks or foreheads into the tubular handgrip or metal edging found along the tops of most seat backs.

The seats and anchorages all should have been redesigned and replaced years ago, and the metal handrails and edging banned.

The fact that they were not has been nobody's fault, it seems.

Every year, more than 4,500 children are severely bruised or cut; have teeth knocked out, are crushed, maimed or mangled; incur mashed cheeks or noses, or suffer other injuries on school buses—and that, too, apparently is nobody's fault, or somebody else's fault.

That's because, if there is one thing the nation's school bus establishment can do better than transport 20 million children a day, it is pass the buck on safety.

That is one of the main conclusions of a two-month long Daily News survey that involved more than 100 interviews with school bus chassis and body makers; contractors; local, state and federal officials; congressmen and legislators; school board members; administrators, bus drivers and parents.

For years, the National Transportation Safety Board has been running detailed postmortems of major school bus accidents, and has been reporting that:

School bus bodies are poorly put together. In severe accidents, they come apart at the seams because they are not sufficiently riveted, bolted or screwed.

The safety board said that because of this "long standing failure to employ (even) normal engineering practices in school bus construction," the vehicles' metal panels are ripped apart, permitting children to be thrown from the bus or sliced up or jagged or knife-like metal edges.

Gas tanks should be moved away from their present site just to the left and beneath the front door of the bus, where their location is an invitation to disaster. And the tanks should be strengthened, or crash shields should be added.

High-backed, well padded seats would have prevented countless injuries.

The reaction of the "school bus establishment"—with the exception of two body manufacturers—usually has been to point at somebody else when confronted by these reports.

Most school bus body manufacturers emphasize that they'd be happy to put all kinds of safety options in their products.

But they complain that the nation's chronically underfinanced school boards buy most buses through state-required competitive bids, which means they buy vehicles at the lowest cost available and settle for bare minimum construction and equipment standards.

"If the federal government would promulgate reasonable, comprehensive performance standards that applied to the entire industry, we would welcome it" said Berkely Sweet, School Bus Manufacturers Institute executive director.

Private contractors, who run about one-third of America's school buses also insist they welcome uniform federal standards.

Meanwhile, if one firm buys better-built buses or too many safety options, another firm operating with minimum standard buses can cut costs and take all the business, they complain.

Cost-conscious school board members often contend they are unaware of safety options available, or are convinced by dealers that minimum standard buses are adequate.

As for those unsafe seat backs most school officials queried said they had never heard that there are relatively inexpensive retrofit kits available for padding seat back tops. Maryland made such retrofitting mandatory two years ago.

State legislators, such as Illinois' Rep. Peter Pappas (R-Rock Island), chairman of the House Motor Vehicles Committee, often say they are marking time on new school bus safety laws "because we don't want to do something and then have the feds come along and require something different."

Pappas, a longtime friend of most vehicle industry lobbyists, has all school bus safety legislation bottled up "under study" in his committee. It's been there since last spring, even though only one new federal safety standard is pending that would relate to any of those proposals.

One bottled measure, sponsored by Rep. Susan Catania (R-Chicago), calls for safety belts in new school buses. Another, introduced by Rep. Sam McGrew (D-Geneseo), would require use of laminated safety glass throughout the bus; the use of safety gas tanks (now mandatory in New Jersey), plus padded seats and side-rails.

The school bus industry denies that it ever fights such measures.

The School Bus Manufacturer's Institute (SBMI) describes the industry as self regulating with a proven concern for safe buses. But the industry's performance seems somewhat at variance with its assertions.

By the almost-universal estimate of the safety board, reform-minded legislators, and Ralph Nader's Center for Auto Safety, only two bus body makers—Wayne, of Richmond, Ind., and Ward, headquartered in Conway, Ark.—have initiated significant structural changes to enhance vehicle strength and safety.

Both Wayne and Ward also have campaigned vigorously for tougher federal safety standards.

In contrast, the manufacturer's institute warns Congress and the National Highway Traffic Safety Administration (NHTSA) not to push for "piecemeal" adoption of new safety requirements, saying that standards must be considered for the whole bus. And then, only after lengthy research and testing.

Meanwhile, the school bus manufacturing group this year belatedly set up a task force of its own, to study such overall standards. But the industry has failed to provide sufficient financing and government funds are being sought.

At the center of the school bus controversy is the National Highway Traffic Safety Administration.

The National Highway Safety Act of 1966 required the safety administration and its predecessor agency to set safety standards for all motor vehicles—including school buses. But for years, the agency concentrated mostly on passenger cars, almost ignoring school buses, because accident statistics indicated school buses were "40 times safer than cars."

Now those often-trumpeted statistics appear open to serious question. School bus accidents are soaring. In Illinois, The Daily News found the totals were 6 times higher than those formerly reported by the state to the National Safety Council, the only agency that compiles and publicizes them. Similar problems have been found in other states.

The safety administration's reaction to mounting pressure from Capitol Hill and the public has been to give more lip service to progress, while increasing the actual speed of its efforts from the pace of a snail to that of a turtle.

Initially, NHTSA "met" its obligations to school buses by promulgating some 40 safety standards—most of them for autos—and then announcing, much later, that 21 applied to school buses. However, only five dealt primarily with school buses' unique problems. And most of the buses' crucial problems were ignored.

Here is a breakdown on the agency's action and inaction on school bus safety, as of early December:

Joint and seam structural strength: The issuance of a proposed standard, belatedly adopting the tougher joint strength requirements recommended two years ago by the federal Vehicle Equipment Safety Commission, has been promised by NHTSA for "this calendar year." But it is not out yet; its final effective date remains a mystery . . . and probably is far off.

Seating: A long-delayed standard—calling for padded, high-backed, safety anchored seats—finally was proposed in February, 1973, and scheduled for "issuance" this year, to be effective in September, 1974. But it hasn't been issued yet, and NHTSA aides privately concede the padded seats probably won't be required until January, 1975.

Operational safety—best known as Standard 17. First promised by the agency for July 1967, it was eventually proposed in July, 1970, and finally made effective in June 1972—then the states were given an incredible five years to implement it.

Eighteen months later, NHTSA still has not even sent the states a model training curriculum—of the sort that repeatedly stresses defensive driving, where it is drummed into the bus drivers that they must never take chances—such as venturing rashly into speeding cross-traffic on a rainy, murky afternoon. That's what caused the Madison, Ind. crash.

Brakes, whose malfunction the safety board found to be the most frequent cause of "catastrophic" school bus accidents. The effective dates for implementing 2-year-old standards requiring improved air and hydraulic brakes are September of 1974 and 1975, respectively, for all heavy vehicles including school buses. Yea Detroit is pushing to delay the air brake standard until September, 1975.

Now, having finally lost patience with NHTSA's documented history of procrastination and obfuscation, Congress is preparing to move under the leadership of the House members such as Representatives John Moss (D-Calif.), Les Aspin (D-Wis.) and Fred Rooney (D-Pa.), and Senators Warren Magnuson (D-Washington), Gaylord Nelson (D-Wis.), Jacob Javits (R-N.Y.), and Charles Percy (R.-Ill.).

Moss' House Commerce subcommittee already has approved a new auto recall bill that includes flat requirements that NHTSA promptly issue certain school bus safety standards. And Magnuson's Senate Commerce Committee opens hearings on a similar measure next month.

In preparation for the Senate hearings, NHTSA submitted data on the progress it is achieving in making the yellow school bus safer.

The agency once more said it is moving ahead "rapidly"—which, Percy notes, is just what the agency has been saying since 1967 . . . many, many deaths ago.

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## VACANT AMBASSADORIAL POSTS

Mr. KENNEDY. Mr. President, in conducting relations between the United States and other countries, our ambassadors abroad play a critical role. This is true with regard to the major countries of the world, especially during times of delicate negotiations with adversaries, and strained relations with allies. It is also true with regard to countries that are not in the mainstream of current policy, where their relations with the United States only rarely command the attention of the President, the Secretary of State, and other senior officials. There, the American ambassador becomes even more important than he would be otherwise, and often plays the central role in shaping day-to-day policies of the United States, and relations between us and the country in which he serves.

Ambassadors also play an important symbolic role. Appointing a man or woman who is highly capable is a mark of respect, and can pay direct benefits in the process of conducting relations. By contrast, appointing second-rate people as American ambassadors can make matters worse. And not appointing an American ambassador at all can be regarded as an insult and a direct impediment to good relations, or—at best—as a handicap to working out diplomatic problems and difficulties.

It is important for us in the Senate, therefore, to note vacancies of long standing in U.S. ambassadorial posts abroad.

It is with particular regret that I note the continued absence of a U.S. ambassador to Sweden, since August 30, 1973. We all know the reasons for this: Swedish criticism of U.S. bombing policies at the end of our involvement in the Vietnam war, and the granting of asylum by Sweden to some Americans who refused to fight in that war.

Whatever we think about these Swedish policies, the failure to appoint an Ambassador to Stockholm, at this critical time in the energy crisis and in the reordering of international economic relations, is clearly not in the best interests of the United States.

In addition, we also have not had an Ambassador in Libya since November 7, 1972, a period which has seen the most serious turmoil in international oil markets. I do not wish to imply that the presence of a U.S. Ambassador in Tripoli would have had a decisive impact: But at least we would have had better opportunities for direct communication at the appropriate level.

Far more important, the United States has not had an Ambassador to the Organization for Economic Cooperation and Development—OECD—since September 1972—nearly a year and a half. And yet this has been a critical period in trying to reach common positions in the supply of energy, through the OECD's oil committee.

On February 11, the U.S. Government will convene a meeting of foreign minister from eight major oil importing nations, to discuss the formation of an energy action group. I have supported that initiative by Secretary Kissinger, as a first step toward worldwide cooperation in energy research, development, production, and trade. Yet we must wonder about the administration's seriousness of purpose during recent months, when it failed to provide appropriate U.S. representation at the OECD, where energy cooperation was being pursued. The difficulties of cooperating that we face today might not be as severe, if the administration had taken the established organization more seriously before.

Mr. President, during hearings before the Senate Foreign Relations Committee last September, Secretary of State-designate Henry Kissinger pledged that all vacant U.S. ambassadorial posts abroad would be filled within 2 months. Sweden was given particular emphasis by the committee.

Since then, many posts have been filled, including Bulgaria and Bangladesh—the latter vacant for 15 months—last Friday. Several have not, including Sweden, and in the normal course of events some others have become vacant. This last group includes Japan, which—despite today's crisis in energy relations—has not had a U.S. Ambassador since last November 16.

Mr. President, I urge the Secretary of State and the President to fill those U.S. ambassadorial posts that are now vacant, especially those which have been vacant for any significant period of time.

I ask unanimous consent that a list of vacant ambassadorial posts be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

VACANT U.S. AMBASSADORIAL POSTS

Jamaica: Vacant since July 18, 1973.
Japan: Vacant since November 16, 1973.
Jordan: Vacant since November 29, 1973.
Khmer Republic: Vacant since September 26, 1973.
Libyan Arab Republic: Vacant since November 7, 1972.
Mauritius: Vacant since July 23, 1973.
New Zealand: Vacant since October 31, 1972.
OECD: Vacant since September 16, 1972.
Rwanda: Vacant since September 3, 1973.
Sweden: Vacant since August 30, 1973.

## WORLD FOOD CONFERENCE

Mr. PERCY. Mr. President, I want to bring to the attention of my colleagues a resolution adopted by the United Nations General Assembly in the closing days of the 28th session in December that went largely unnoticed at the time. The resolution calls a World Food Conference to be convened in Rome in November 1974.

The General Assembly's resolution sets out a number of goals for the conference. Its "principal task—consists in developing ways and means whereby the international community as a whole could take specific action to resolve the world food problem within the broader context of development and international economic cooperation." The conference "would provide members with a forum in which to bring about the improvement of world food security and emergency assistance." The emphasis should be placed "on additional measures for increasing the food production, consumption and trade of developing countries."

The convocation of a World Food Conference under the auspices of the United Nations could not be more timely. As the United States permanent representative, John Scali, said last October in a letter to the Secretary-General:

> The problem of the world's food supplies requires urgent attention. The world has had a clear warning that we need to develop better means to assure adequate food supplies over the longer term.

The "clear warning" to which Ambassador Scali referred was underscored by the Food and Agriculture Organization's annual report entitled "The State of Food and Agriculture." The report made these points:

In 1972 world agricultural production fell for the first time since World War II.

Food production was 3 percent lower in developing countries and as much as 6 percent lower in the Far East region.

Production shortfalls were largely the result of widespread unfavorable weather conditions, particularly drought, which was most vividly demonstrated by the conditions in the Sahelian zone of Africa.

World grain stocks were by mid-1973 at their lowest levels in 20 years and the prices of wheat on world markets tripled between mid-1972 and mid-1973.

Shortages in other commodities—soybean and fish meal, for example—also sent prices up.

In 1973 world agricultural production is likely to increase by 3 to 4 percent over 1972.

Secretary of Agriculture Earl Butz predicted during the 17th biennial session of the Food and Agriculture Organization held in Rome in November:

> That 1973–74 consumption of food will exceed production, but not by very much.

According to the Secretary, wheat and feed grain stocks of the United States, Canada, Argentina, and Australia should make up the deficit.

Latest reports from the U.S. Department of Agriculture indicate that about 200 million bushels of wheat, roughly equivalent to a 7-week domestic and export supply, will be left over from the 1973 crop at the time the 1974 crop starts coming in. This would be the lowest carryover since 1946.

Given this precarious state of U.S. stocks, think of the dimensions of the world food crisis should the present crop year turn out as badly as last year. The human suffering and hardship flowing from the food crisis would far exceed those difficulties that stem from the so-called energy crisis.

Mr. President, I firmly believe we can avoid a future world food crisis if we face facts rather than ignore them, if we take action now to avoid a crisis rather than wait for the crisis to overtake us, and if we recognize, as Ambassador Scali pointed out, that these problems "call for cooperative action by the entire world community," rather than assume that we here in the United States can and should be agriculturally self-sufficient and independent of the rest of the world.

I want to commend the Secretary of State, Dr. Kissinger, for his initiative in recommending a world food conference in his address to the General Assembly on September 24. He has shown great wisdom and foresight in recognizing the need for international cooperation and common action and in placing the matter before the United Nations General Assembly. The United States was then in a position to join with the nations represented at the Algiers conference of heads of state or government of nonalined countries which had called for the convening of a conference on food problems in sponsoring the resolution which the General Assembly adopted.

The U.N. resolution recommends an intergovernmental conference at the ministerial level and assigns the responsibility for the conference to the Economic and Social Council. It directs the U.N. Secretary-General to appoint a Secretary-General for the conference and to set up a small conference secretariat drawing particularly on the Food and Agriculture Organization of the United Nations and the United Nations Conference on Trade and Development. I understand that a small preparatory committee has been formed and will meet in New York City on February 11.

Because of Secretary Kissinger's role in initiating the World Food Conference, I am certain that the matter will receive attention at the very highest levels of Government.

I am informed that Secretary Kissinger has appointed Edwin Martin as senior adviser to the Secretary and U.S. coordinator for participation in the World Food Conference. Mr. Martin is presently chairman of the Development Assistance Committee of the Organization for Economic Cooperation and Development in Paris. He has served as an Assistant Secretary of State for Economic Affairs and for American Republic Affairs and as U.S. Ambassador to Argentina.

Mr. Martin will be setting up a staff which will include officials from the Department of Agriculture as well as from the State Department and AID.

I know Mr. Martin will have the support and cooperation of the Congress in preparing for U.S. participation in the World Food Conference. I know that Mr. Martin will want to do everything possible to assure the success of the conference. I believe this means not only seeking out the advice and counsel of the Congress but also the recommendations of scholars, businessmen, and the general public who are concerned with food and nutrition.

The potential of a world food crisis is too great a challenge to mankind for the United States merely to adopt a defensive stance responding to the proposals of others. The United States must be prepared to offer concrete proposals to assure international action to eliminate the threat of a severe food shortage and to provide adequate diets for all the world's people.

Mr. President, I ask unanimous consent that the General Assembly resolution convening a World Food Conference, together with related materials from both the United Nations and the Food and Agriculture Organization, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

### RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

[On the report of the second committee A/9403)] 3180 (XXVIII). World Food Conference.

The General Assembly,

Recognizing that the principal task of a world food conference, on which the greatest effort should be concentrated, consists in developing ways and means whereby the international community as a whole could take specific action to resolve the world food problem within the broader context of development and international economic co-operation.

Believing that a world food conference would provide members with a forum in which to bring about the improvement of world food security and emergency assistance,

Recognizing that the conference should, in the first instance, place emphasis on additional measures for increasing the food production, consumption and trade of developing countries,

Recalling that the Fourth Conference of Heads of State or Government of Non-Aligned Countries, held at Algiers from 5 to 9 September 1973, called for the convening, as a matter of urgency, of a conference on food problems at the ministerial level, sponsored jointly by the Food and Agriculture Organization of the United Nations and the United Nations Conference on Trade and Development,[1] and further recalling the proposal of the United States of America for the convocation of a world food conference under the auspices of the United Nations,[2]

1. Decides to convene a World Food Conference under the auspices of the United Nations for about two weeks, in November 1974, in Rome;

2. Recommends that the Conference be an intergovernmental conference at the ministerial level;

3. Entrusts the Economic and Social Council with over-all responsibility for the Conference;

4. Requests the Secretary-General, after consultation with the Director-General of the Food and Agriculture Organization of the United Nations and the Secretary-General of the United Nations Conference on Trade and Development, to appoint as soon as possible a Secretary-General of the Conference and to set up a small Conference secretariat drawing particularly upon the expertise and competence of the Food and Agriculture Organization of the United Nations, the United Nations Conference on Trade and Development and other relevant bodies of the United Nations system;

5. Recommends that in preparing for the World Food Conference, proper account be taken of the recommendations of the seventeenth Conference of the Food and Agriculture Organization of the United Nations and of the recommendations made by legislative bodies of other organizations in the United Nations system concerning the goals and objectives of the Conference, as requested by the Economic and Social Council in its decision of 18 October 1973;[3]

6. Invites all the competent organizations of the United Nations system to collaborate closely in the organization of the Conference;

7. Accepts with appreciation the invitation of the Government of Italy to act as host to the Conference in Rome.

2204th plenary meeting December 17, 1973.

### REQUEST FOR THE INCLUSION OF AN ADDITIONAL ITEM IN THE AGENDA OF THE 28TH SESSION—CONVOCATION OF A WORLD FOOD CONFERENCE JNDER THE AUSPICES OF THE UNITED NATIONS

(Letter dated 4 October 1973 from the Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General.)

The Government of the United States of America proposes the inclusion on the agenda of the twenty-eighth session of the General Assembly, as an important and urgent matter, of an item entitled "Convocation of a world food conference under the auspices of the United Nations".

The general purpose of the proposed conference, as explained by the Secretary of State in his address to the General Assembly on 24 September,[4] would be to discuss ways to maintain adequate food supplies, and to harness the efforts of all nations to meet the hunger and malnutrition resulting from natural disasters.

The problem of the world's food supplies requires urgent attention. The world has had a clear warning that we need to develop better means to assure adequate food supplies over the longer term.

We must act to develop better ways of coping with the danger of a recurrence sizeable declines in production simultaneously in many critical areas of the world. At the same time, we cannot take for granted that the increasing demands on the world's food supplies as a result of population growth and rising incomes will be automatically met by the policies of the past. Nor can we remain indifferent to the fact that in the developing countries as a whole food production is not increasing quickly enough to improve over-all nutritional levels.

Problems of this order call for co-operative action by the entire world community. Rich and poor, large and small, market or centrally-controlled economy, each nation has its interest, its obligation, its role to play.

Major producing countries, including the United States, are already engaged in discussions of the situation in order to determine the true dimensions of the problem of supply. The wheat grain situation has been reviewed by the members of the International Wheat Council. At the seventeenth Conference of the Food and Agriculture Organization of the United Nations in November, member nations will consider proposals for an undertaking on minimum world food security.

The proposed conference would bring these and similar activities into one central focus. It is our hope that the conference will produce guidelines for individual and co-operative action which will enable the international community to meet the tests it will face in this area in the years ahead.

I should be grateful if you would consider this letter as an explanatory memorandum within the meaning of rule 20 of the rules of procedure of the General Assembly and if you would circulate it as an official document of the General Assembly.

JOHN SCALI.

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### FAO ENDORSES UNANIMOUSLY WORLD FOOD CONFERENCE IN 1974

WASHINGTON, November 27.—Member nations of the Food and Agriculture Organization have endorsed unanimously a proposal for a World Food Conference in November 1974 under the auspices of the United Nations and voted $500,000 towards the costs of the Conference.

A report proposing general objectives and format for the Conference was approved in plenary session of FAO's 130-nation biennial conference, meeting in Rome November 10–29. The FAO conference recommended that, because of the availability of technical expertise in FAO, the World Food Conference be held in Rome.

The report will now be transmitted to the Economic and Social Council of the United Nations in New York which will place its recommendations before the U.N. General Assembly, where a final decision is expected before the middle of December.

"The principal task of the World Food Conference," the FAO report declares, "should be to bring about a commitment by the world community as a whole to undertake concrete action towards resolving the world food problem within the wider context of development problems."

In its report the FAO conference indicated that the world food problem which had undergone a serious deterioration during the past year, could not be solved within the agricultural sector alone. It suggested that the next year's World Food Conference should be at the ministerial level with full participation of all members of the United Nations, or of its related agencies including those not members of FAO. In earlier debate on the question many delegations stressed the importance of participation of the USSR which is not a member of FAO.

As envisaged by the FAO report, major emphasis of the World Food Conference should be placed on additional measures for increasing the food production consumption and trade of developing countries.

"Particular attention," the report declares, "should be paid to maximizing the production potential of available land to an extension of the area under irrigation, and to the expansion of the availability of agricultural inputs, which should increasingly be manufactured in the developing countries. Action should also be foreseen to reduce losses, both before and after harvesting."

The question of what role trade matters should play in the World Food Conference was the focal point of considerable debate as the item moved through commission and plenary sessions of the FAO conference.

The report does not envisage the World Food Conference as a negotiating forum. It suggests that the aim should be to reach agreement on specific objectives and programs, which would subsequently be carried out through existing international machinery. Since questions of food balances and trade are highly interlinked, the area of international trade and international agricultural adjustment has particular significance, the report indicated.

During earlier debate many delegations had emphasized the urgency of improving unfavorable conditions on international markets for the agricultural commodities produced in developing countries.

Under arrangements which the U.N. General Assembly is expected to make, UNCTAD would be invited to cooperate in the work of the Conference. While the Conference would not be expected to duplicate the work of UNCTAD or the General Agreement on Trade and Tariffs—GATT—it could give "valuable support and impetus to it".

Following the report's unanimous adoption by the FAO conference plenary, FAO Director-General Addeke H. Boerma expressed "great satisfaction" that member countries had been able to agree on a report which would give the U.N. General Assembly "clear guidance as to what this Conference thinks should be done."

"The World Food Conference," said Dr. Boerma, "presents a great challenge and a great opportunity . . . provided that it can express the political will of all member states to put an end to the shameful state of affairs in which millions of people still suffer from hunger."

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[1] A/9330, p. 99.

[2] A/9194.

[3] E/SR.1885. p. 20.

[4] A/PV.2124, p. 21.

He hoped that the spirit of collaboration evident here in Rome would be sustained when the issue came before the U.N. General Assembly and in subsequent discussions.

While preparations for the World Food Conference cannot be decided upon until the U.N. General Assembly reaches its final conclusions on the proposals, the FAO conference authorized Dr. Addeke Boerma, FAO's Director-General, to enter into appropriate arrangements for FAO participation if U.N. General Assembly endorsement is received. It also authorized the Director-General to draw on the Organization's working capital fund up to a maximum of U.S. $500,000 to cover costs connected with the Conference. The FAO report recommends that the Conference be held in Rome where FAO Headquarters facilities would be available to the Conference preparatory committee, Secretariat and the Conference itself.

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## PROPOSALS FOR A SPECIAL WORLD FOOD CONFERENCE UNDER UNITED NATIONS AUSPICES

### SUMMARY

The United Nations General Assembly, at its current session, will take up a proposal for the convocation of a World Food Conference under United Nations auspices. The FAO Conference is invited, under the terms of a decision of the Economic and Social Council, to consider this question as a matter of priority and to submit its report to the Economic and Social Council. In this paper the Director-General submits some suggestions on the various topics which the FAO Conference may wish to cover in its report.

### INTRODUCTION

1. The sudden deterioration of the short-term outlook for world food supplies during the summer months of 1973 created widespread concern in developed and developing countries alike. It was in the face of this disturbing situation that the idea of a Special World Food Conference took shape. In point of time, the idea first received formal collective expression at the Conference of Heads of State or Government of the Non-Aligned Countries held in Algiers from 4 to 9 September 1973. After an analysis of current problems in its Economic Declaration, the Conference stated in its Action Programme for Economic Cooperation:

"The Heads of State or Government urged that in the context of the serious food crisis confronting vast areas and populations of the world an emergency joint Conference of FAO and UNCTAD should be convened at Ministerial level in order to formulate a programme of international cooperation to overcome the increasing shortage of food and other commodities, and to maintain stable prices."

2. Within the United Nations system, the idea was formally proposed for the first time by the Secretary of State of the United States, Dr. Henry Kissinger, in a speech to the General Assembly on 24 September 1973. In his statement Dr. Kissinger put forward a United States proposal:

"That a World Food Conference be organized under United Nations auspices in 1974 to discuss ways to maintain adequate food supplies, and to harness the efforts of all nations to meet the hunger and malnutrition resulting from natural disasters; that nations in a position to do so offer technical assistance in the conservation of food. The United States is ready to join with others in providing such assistance."

Subsequently, the United States formally proposed the addition to the General Assembly's agenda of an item entitled "Convocation of a World Food Conference under the auspices of the United Nations". The General Assembly has agreed to include this item in its agenda and has referred it to the Second Committee. At the time of preparation of this document it is expected that the Second Committee will take up the subject on or about 10 December.

3. The United Nations Economic and Social Council (ECOSOC) also took up the matter at its resumed Fifty-Fifth Session from 15 to 18 October in view of the obvious need for coordination not only with FAO but also with UNCTAD, IBRD and other United Nations agencies with an interest in aspects of the world food problem. ECOSOC did not adopt a formal resolution, but after informal consultations between delegations agreed on the following decision:

"The Economic and Social Council Decides:

"1. To recommend to the Twenty-Eighth Session of the General Assembly the convening of a World Food Conference in 1974 under the auspices of the United Nations;

"2. To invite the Secretary-General of the United Nations, taking into account the remarks of the competent Organizations of the United Nations System, to submit to the Twenty-Eighth Session of the General Assembly through the Economic and Social Council a report on the convening of the World Food Conference;

"3. To invite the governing bodies of the Organizations of the United Nations System, as appropriate, to consider this question as a matter of priority and to submit their reports to the Economic and Social Council."

4. This text was formally communcated by the United Nations Secretariat to the Director-General, who informed Member Nations through his note dated 26 October 1973. In accordance with the invitation of the Economic and Social Council the FAO Conference is expected to take up the question of a World Food Conference as a priority matter, and this paper has been prepared to assist the Conference in its deliberations. The Conference report on the matter, as soon as it has been adopted in plenary, will be transmitted to the Economic and Social Council, which will also have before it a report by the Secretary-General of the United Nations taking into account the remarks received from all interested organizations of the United Nations system. ECOSOC is expected to transmit its recommendations to the General Assembly in time to assist the Second Committee when it takes the matter up on or about 10 December. The final decision regarding the holding of a Special World Food Conference, and the arrangements for it, will then be taken by the General Assembly.

### *Role of the proposed special Conference*

5. The Conference being considered by the General Assembly would be held "under United Nations auspices". Within the United Nations system problems relating to food and agriculture are the primary responsibility of FAO. Nevertheless the Director-General endorses the idea of a Special Conference as a recognition of the fact that the world food problem, which in the last few months has given rise to the gravest apprehension, cannot be solved within the agricultural sector alone. Indeed, in its ramifications and linkages the world food problem requires the action and cooperation of Governments and international Agencies on many fronts, agricultural and industrial, production and trade, processing and conservation, services and institutions. It is directly connected with issues such as population, environment and employment. The Director-General sees the convening of a Special Conference as a unique opportunity for a synthesis of all factors affecting the world food problem and for the launching of an integrated attack on the problem as a whole. Such an integrated attack should clearly involve a number of organizations of the United Nations system.

6. It could therefore be hoped that, after considering the problem as a whole, the Special Conference could adopt a package of broad longer-range goals for action. Within the framework of each such goal the Conference might proceed to formulate specific objectives and as far as feasible define or endorse specific action programmes. The governments of the world would thus have in the Special Conference an opportunity, not merely to analyse the world food problem, but to crystallize a willingness to act on the main elements of that problem. The output in real terms might therefore take the form on the one hand of a series of specific actions launched by the Special Conference itself, and on the other hand of strengthened support for action already underway through organizations of the United Nations system. Indeed, a decision by the General Assembly to convene a Special World Food Conference should be based on the political will of governments to undertake additional action on the national and international levels to help solve the world food problem, along lines that will be clarified by the Special Conference itself.

### *Possible subjects for consideration at special conference*

7. The Director-General believes that the FAO Conference will wish to give its views to ECOSOC and the General Assembly regarding the subjects which might be discussed at a Special World Food Conference. He has had the benefit of brief preliminary consultations on this matter with the Secretary-General of the United Nations and also with the Executive Heads of other United Nations agencies within the framework of the Administrative Committee on Coordination (ACC), which met in New York on 25 and 26 October 1973. These consultations are being continued and intensified. In the meantime the Director-General presents the following ideas on his own responsibility.

8. The work of the Conference might be broadly divided into two phases: first, an *assessment* of the world food problem, and second the formulation of goals and possibly programmes for *action* at international and national levels.

### A. ASSESSMENT

### *Review of data on current food consumption levels*

9. Although the present food crisis is generally discussed in terms of food supplies at national and international levels, the real food problem is that faced by underprivileged individual consumers. Any World Food Conference surely has a moral obligation to start by examining current levels of food consumption in average years throughout the world in order to arrive at an appreciation of the present dimensions and causes of hunger and malnutrition. The analysis should as far as possible be broken down not merely by regions and countries, but also by economic classes with particular emphasis on vulnerable groups, and should compare actual consumption levels with minimum nutritional standards. In policy terms, it would inevitably focus on poverty as the root cause of hunger and malnutrition, and would draw attention to a nexus of closely interrelated questions including rates of general economic growth, distribution of income and employment and the special nutritional problems of vulnerable groups such as infants and young children, nursing mothers and low-income workers and their families in both rural and urban areas.

### *Possible future evolution of world food problem*

10. Under this heading the Conference would deal with the food problem in terms

of the imbalance between supply and demand at world level. After a brief historical evaluation, the Conference documentation should focus on three time horizons: 1976 or 1977 (i.e. the problem of the following two or three harvests); 1985 (a date up to quantitative estimates of likely developments); and the year 2000 (a brief outline only, in order to identify the types of problem which should be tackled soon in view of the very long time-lag in bringing about change in agriculture, which moves at the slow rhythm of the seasons).

11. The documentation would not be of a highly technical nature, although it would of course be based on technical work by FAO and other organizations. In arriving at broad conclusions on the probable evolution of demand for foodstuffs, account might be taken not only of population increases and income growth and distribution, but also of the likely future scope for supplementary feeding programmers both for vulnerable groups and through public works projects utilizing food aid for the promotion of employment. On the supply side, the historical trends and production potentialities of both developed and developing countries would be examined. Requirements for physical inputs such as fertilizers necessary for achieving production goals would be estimated. Account should be taken of the perspectives for technological advance, including the possible future role of non-conventional food sources. Special attention would be paid to the importance of social objectives. In particular, the analysis should identify the main bottlenecks to the realization of the full production potential of developing countries.

12. Among the external factors to be considered, attention would be devoted to international trade and the possibilities of international agricultural adjustment through changes in production and trade policies. The extent and pattern of international aid to agriculture and the options in agricultural investment assistance should also be examined.

13. The Special Conference could also make an assessment of factors that affect the security of world food supplies, i.e. fluctuations of production in developed and developing countries; fluctuations in commercial supply and prices due to reductions in stocks held by major exporting countries; and fluctuations in supplies of food aid. It could then assess, after taking into account the work of the FAO Conference in this area, the need for any additional initiatives or measures that may be necessary to assure adequate availability of basic food stocks.

### B. NATIONAL AND INTERNATIONAL ACTION

#### *Expanding the food production of developing countries*

14. While the Conference findings under the assessment item cannot at this stage be forecast in any detail, it is reasonably certain that expanding the food production of developing countries will emerge as the most important area for intensified national and international action. The Conference might establish a long-term goal, for instance a doubling of the food production of developing countries over a period of fifteen years. It could consider the nature and extent of the resources, both domestic and international, that would have to be mobilized to achieve such a goal, allowing for increased participation by small farmers in the growth of production. Particular attention might be given to the scope for capital and technical aid to agriculture, including assistance for research. While all aspects of the problem should be examined, the Conference might concentrate mainly on specific bottlenecks where a major effort could result in significant breakthroughs. Attention should be given not only to quantitative factors but also to the quality of diet. Measures for improving the diet of vulnerable groups should be particularly emphasized, including the possibility of expanded food and nutrition programmes related to the achievement of minimum nutritional standards.

#### *Limitation of food losses*

15. As a corollary to measures for increasing production, action should be promoted to control losses in plant and animal production, and to decrease waste and losses during harvest, handling, storage and preservation of food commodities.

#### *World food security*

16. The problem of world food security, which has emerged as a major issue during the current period of production setbacks, will certainly continue to be vital for a very long time to come. Even if the food production of developing countries in particular achieves a strong upward trend, output in specific countries and regions will continue to be subject to wide year-to-year swings induced by weather variations.

17. Based on Conference findings under the assessment item, agreement might therefore be reached on:

(a) additional measures, going beyond action taken by the FAO Conference at its current session, necessary to ensure the availability of adequate *food stocks,* including the resources needed for a significant action programme to assist developing countries in creating storage facilities and building up and carrying stocks;

(b) the supplementary role of an international food reserve for *emergencies,* for instance in the form of specially pledged supplies to be handled by the World Food Programme;

(c) a long-term policy and target level for *food aid,* combining food security with development assistance, as long as food deficits remain.

#### *International trade and agricultural adjustment*

18. In any long-term strategy for resolving the world food problem, international trade and international agricultural adjustment must be important elements. Certain long-term objectives might therefore be set by the Conference, based upon the International Strategy for the Second Development Decade and the work already carried out by UNCTAD and GATT in the trade field and by FAO in international agricultural adjustment.

#### *Organization of the special conference*

19. The Economic and Social Council, in its decision quoted in paragraph 3 above, recommended the convening of a World Food Conference "under United Nations auspices". While the Conference would thus be convened by the General Assembly, the FAO Conference will no doubt wish the Organization, as the agency in the United Nations system responsible for food and agriculture, to be associated in an appropriate manner with this initiative. In the Director-General's view, specific provision might be made for the Conference to be organized jointly by the United Nations and FAO, in cooperation with UNCTAD and other interested organizations and programmes of the United Nations system.

20. With regard to the Secretariat, the Director-General suggests that a Secretary-General or Executive Secretary for the Conference be appointed jointly by, and responsible to, the United Nations Secretary-General and himself. It may be expected that the greater part of the technical preparations for the Conference will have to be carried out by FAO, with the cooperation of other Agencies for specific agenda items, and consequently he would propose that the Conference staff be located at FAO Headquarters.

#### *Considerations regarding the time and place of the special conference*

21. In view of the difficult world food situation the holding of a Special Conference is considered by all concerned as a matter of urgency. However, time must be left for adequate preparation if the Conference is to serve any useful purpose. The Director-General feels that October or preferably November 1974 would be the earliest feasible date. Here again the views of the FAO Conference would undoubtedly be of value to ECOSOC and the General Assembly.

22. From FAO's point of view there would be obvious advantages in holding the Conference in Rome, since most of the technical preparation and servicing will presumably have to be made by FAO. Furthermore 1974 being a non-Conference year the Organization's facilities would be available for this purpose. Ideally the timing of the Special Conference should be coordinated with that of the Sixty-third Session of the FAO Council, which would normally be held in November 1974. In reaching a decision on this point the General Assembly may also wish to take into account any offer of host facilities that may be received from Member Nations.

#### *Preparations for the conference*

23. It appears likely that an Intergovernmental Preparatory Committee will be required for the Conference, both to finalize the agenda and to prepare the discussion of the main issues at the Conference itself. If timing had permitted, it would have been possible to consider such a Preparatory Committee being established jointly by (for instance) ECOSOC and the FAO Council. However, there will be no Session of the FAO Council at the time required for such action, and a special session of the Council just for this purpose would hardly seem justified. It may be expected, therefore, that the Preparatory Committee will be designated by ECOSOC or possibly by the General Assembly itself.

24. In the Director-General's view, the Preparatory Committee should not be large in size. While the Committee would formally consist of Governments, he would hope that the members would designate as their representatives individual experts with a knowledge of the various aspects of the world food problem. The Director-General presumes that meetings of the Preparatory Committee would, like the Special Conference itself, be organized jointly by the United Nations and FAO, and would be serviced by the Conference staff.

25. The Director-General believes that the bulk of the technical preparation for the Conference and for meetings of its Preparatory Committee will have to be carried out by FAO, although there would also be contributions from other organizations. An estimate of the workload for FAO is not possible until the agenda and timing of the Conference have been decided. In general terms, the Director-General envisages the greatest possible use of consultants in order to minimize disruption of the approved programme of work. He would, however, be prepared to reorient the work of certain technical officers towards Conference preparation.

26. To ensure the coordination of contributions from all United Nations organizations and programmes an inter-agency coordinating committee will almost certainly be required. This will be a matter for further consultation with the Secretary-General and the Executive Heads of the organizations and programmes in question.

#### *Financial implications for FAO*

27. At the present stage of uncertainty, when the General Assembly has not yet started its consideration of whether to convene a World Food Conference, it is impossible to produce an analysis of financial implications for FAO. It is not known, for instance, to what extent provision would be made in the United Nations budget for the Conference, and to what extent other organizations participating would be expected to cover their own costs. Nor is it known

whether, and to what extent, the country hosting the Conference might contribute to the expenses. As a matter of principle, however, the Director-General considers that FAO, as the organization in the United Nations system responsible for food problems, should make a financial as well as a technical contribution to the Conference.

28. In the circumstances, the Director-General suggests that he be authorized to draw on the Working Capital Fund, up to a maximum amount of $500,000, to cover costs connected with the preparation for, or servicing of, the proposed Special Conference if the General Assembly decides to convene it.

## RURAL HOUSING IN 1974

Mr. ABOUREZK. Mr. President, the administration's housing plans for the balance of fiscal 1974 deserve close watching by Congress, especially by those of us from States in which the Farmers Home Administration is a primary source of mortgage credit.

As you may recall, Congress appropriated $2.1 billion for the basic rural housing program, the section 502 FHA home loan program. Some 60 percent of that was earmarked for subsidized housing under the interest credit program.

About 10 percent of the unsubsidized loan funds have been placed in reserve. Nearly a third of the subsidized loan funds have also been placed in reserve.

In addition, 54 percent of these moneys have been earmarked for housing rehabilitation.

There are two possible interpretations of this strategy.

The first is that the strategy amounts to an attempt to cripple the already sufficiently meager rural housing program. This interpretation bears weight when you recall last year's impoundment, the Administration efforts both on the Hill and in the courts to defend the impoundment, and considering Farmers Home's severe manpower bottleneck and the fact that housing rehabilitation loan processing requires more manpower.

We will be watching very closely to see whether this is true.

The second interpretation of the strategy is that it represents a sincere effort to maximize utilization of the existing housing stock.

I am told that Farmers Home Administrator Elliott, whom I have not hesitated to criticize in the past when I thought him wrong, feels that he needs to earmark these funds in order to drive his message home to his 1,700 field offices: Use the existing stock as much as you can, and use it in a way which effectively lowers the total mortgage costs so as to be able to serve lower-income families.

I am also told that Administrator Elliott has said that the reserves, as they are called now, do not amount to impoundments, that they can be used as soon as they are needed. I hope so.

It will be fairly easy to judge which of these interpretations is correct. By March we should have a good idea whether the second strategy is working or whether those reserves do amount to a new euphemism for impoundments.

Granting Administrator Elliott the benefit of the doubt, I would further say that even if his strategy proves to be a smashing success, there will be much remaining undone and un-do-able until we have put a comprehensive rural housing delivery system in place.

We will still need a clear designation of a houser of last resort for places of up to 25,000 under a plan which provides total areawide coverage of rural America, and we will still need some kind of program to serve nearly 1 million rural American households, mostly elderly, whose average rent-paying ability is a mere $14 a month. As yet we have no program for them.

## OMB IMPOUNDMENT REPORTING MISLEADS CONGRESS AND THE PUBLIC

Mr. HUMPHREY. Mr. President, recently I received an analysis prepared independently by the Congressional Research Service, entitled "Impoundment Reporting by the Office of Management and Budget." The report raises major questions regarding the quality of the OMB's impoundment reporting. The four reports submitted by the OMB to date are vague and often misleading to both Congress and the American people.

Among other things, the CRS analysis clearly shows that there has been no effort by the OMB to improve its reporting on impoundments, during the past year. My comments of last February 9, as noted in the CRS study, that the OMB's first report—

> Was unacceptable . . . did not specify full reasons for fund impoundments and contained little information as to when Congress and the public can expect funds to be released.

remain as true today as they were last year.

The OMB appears to have formally complied with the "Humphrey impoundment information amendment" by simply submitting listings of specific impoundments to Congress. But, because of bureaucratic gobbledygook and other administrative slight of hand the impoundment data fails to clearly delineate the full impact of impoundments on programs lawfully authorized by Congress.

The CRS study shows, for instance, that while the OMB report of September 30, 1973, indicates more dollars were impounded from the DOD military budget than for HUD, it fails to indicate that when considered as a percentage of the total departmental budget authority, impoundment of the DOD budget amounted to a mere 1.37 percent, while fully 12.28 percent of the HUD budget is being withheld, even using OMB's own narrow definition of impoundment.

When data is disguised in this manner, the OMB report simply confuses the public and Congress regarding the real impact of impoundments. If the OMB intends to be responsive to Congress, it must as a minimum submit impoundment data as percentages of the budget authority of departments and agencies.

The CRS analysis also shows that the executive branch did not even report on four major impoundment actions. By defining impoundment in the narrowest possible way, OMB has circumvented the information requirements of the law. Not included in the OMB reports are: First, $6 billion in contract authority under the Federal Water Pollution Control Act; second, $382 million proposed for budget reductions by the administration; third, $441 million in contract authority for HUD programs; fourth, $1.9 billion in HEW and Labor Department funds.

The exclusion of these large sums of money for major domestic programs could mislead the Congress and the public into believing that the President is not using impoundment for policy reasons. This clearly is not the case.

In the case of the impoundment of HUD funds, the report notes that, "existing tax laws and the statutory limitation on national debt, and, action taken pursuant to President's responsibility to help maintain economic stability without undue price and cost increases" were the grounds for impoundment given by the OMB. But these reasons do not explain why HUD programs were singled out for impoundment, an obvious policy decision beyond the legal authority of the President to make alone.

Probably the most deceptive aspect of the OMB reports is their use of codes to indicate the reason for such impoundment. There is a clear implication in these codes that impoundments for allegedly routine fiscal accounting purposes were used more frequently than impoundments based on major policy decisions. However, the CRS study documents the fact that 65 percent of impounded moneys actually reflected basic administration policies, while routine impoundment only amounted to 35 percent.

As long as the OMB is allowed to submit deceptive data, exclude large sums of money, and offer vague reasons to rationalize unilateral domestic policy changes by the President, the purposes of Congress in passing the "Humphrey impoundment information amendment" will not be achieved.

And I would suggest to my colleagues, and the public, that they be skeptical of OMB Director Ash's recent statement to reporters that "you can retire the word 'impoundment' from your type."

When the President withholds funds for policy purposes, contrary to the expressed will of Congress, as the CRS report clearly indicates he has, regardless of whether he and Roy Ash choose to call it impoundment or not, it is an illegal act and shall be vigorously attacked by the Congress and in the courts. No simple change in rhetoric will change the substance of these constitutional acts.

I have asked the CRS to expand their preliminary analysis of OMB, reporting on impoundment and to report to Congress their recommendations for assuring that Congress and the public are provided with the information needed to understand what is being impounded by the President and for what purpose. I believe it is time to let the OMB know that we will not stand for any more bureaucratic subterfuge.

Mr. President, I ask unanimous consent that this excellent report by the CRS, entitled "Impoundment Reporting by the Office of Management and Budget," be printed at this point in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

## IMPOUNDMENT REPORTING BY THE OFFICE OF MANAGEMENT AND BUDGET: A PRELIMINARY ANALYSIS

(By Dennis M. Sherman)

### I. INTRODUCTION

This report represents a preliminary analysis of the Office of Management and Budget's impoundment reports to the Congress. While much of the information contained here applies generally to the four reports issued to date by OMB pursuant to law, we will examine specifically the last report listing budgetary reserves as of September 30, 1973.

This preliminary analysis provides background information on the legislative history of the reporting requirement, including OMB justifications for impoundments. Since the majority of impoundments were justified by the Antideficiency Act (majority by frequency of justification, not dollar amounts), a brief analysis and review of the Antideficiency Act is also included. In addition, we review other OMB justifications and try to distinguish between "routine" and "policy" impoundments.

This report concludes with a short analysis of the September 30 report. Several tables have been prepared to provide information and insight into the impoundment practices of the Administration.

### II. REPORTING REQUIREMENTS

On November 13, 1971, Senator Humphrey offered an amendment to the Revenue Act of 1971, requiring that whenever any funds are appropriated by Congress and then impounded by the President, the President "shall promptly transmit" to the Congress and to the Comptroller General of the United States a report containing the following information: [1]

(1) the amount of funds impounded;

(2) the date on which the funds were ordered to be impounded;

(3) the date the funds were impounded;

(4) any department or establishment of the Government to which such impounded funds would have been available for obligation except for such impoundment;

(5) the period of time during which the funds are to be impounded;

(6) the reasons for the impoundment;

(7) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the impoundment.

In offering his amendment, Senator Humphrey argued that "not only does the President refuse to spend billions of dollars . . . but he refuses to inform the Congress of the precise amount of Congressionally appropriated funds that the Office of Management and Budget has placed in reserve." [2] Casper W. Weinberger, then Deputy Director of OMB, charged that the legislation—if enacted—would create excessive work for OMB and confuse the public.[3] Senator Humphrey rejected that argument:

> It is clear to me that OMB is unwilling to support this legislation because the President is able to impound billions of dollars in a semi-secret fashion away from the eyes of the Congress and the public.[4]

The Humphrey amendment, adopted by a 48 to 18 vote, was deleted from the Revenue Act of 1971 by the House because it was considered nongermane under House rules.[5]

The Humphrey amendment was finally incorporated into the Public Debt Limitation bill in October, 1972. The Senate adopted the Humphrey provision on the floor without debate by voice vote.[6] The conference report on the Public Debt Limitation bill merely mentioned the amendment and included it without discussion.[7] The Public Debt Limitation bill, containing the Humphrey amendment, was enacted into law on October 27, 1972.[8]

Prior to enactment of the Humphrey amendment, there had been no existing requirements for the President to report impoundments to the Congress. Nevertheless, the Administration had prepared several reports with data concerning impounded funds. The first such report was released in March of 1971 (showing reserves as of February 1971) just prior to the Ervin Subcommittee hearings on Executive Impoundment of Appropriated Funds.[9] There were three more resports before the Humphrey amendment became public law, showing impoundments as of January 25, 1972,[10] as of April 14, 1972,[11] and as of June 30, 1971.[12]

It is interesting to note that the voluntary reports in 1972 were broken down into two separate tables: one showing "Budgetary Reserves for Routine Financial Administration" and the other representing "Reserves for Other than Routine Financial Administration." OMB regarded "routine reserves" as temporary deferrals of funds, whereas "nonroutine reserves" (or policy impoundments) represented funds that could be used, i.e., obligated, but had not been apportioned for any one of several reasons: the Executive's responsibility to (1) help keep total Government spending within a congressionally-imposed ceiling, (2) help meet a statutory limitation on the outstanding public debt, (3) develop a government-wide financial plan for the current year that synchronizes program-by-program with the budget being recommended by the President for the following year, or (4) otherwise carry out broad economic and program policy objectives.[13]

Routine impoundments were bv far the larger:

Report, "routine", and "policy":

January 25, 1972, $10,588,778,000, $1,748,-000,000.

April 14, 1972, $9,394,669,000, $1,551,897,000.

June 30, 1972, $9,110,078,000, $1,527,861,000.

On January 6, 1973, more than two months after the Humphrey amendment had been enacted, the President had yet to comply with the reporting provisions. Nor was there any indication when the required impounding report would be transmitted to Congress. In view of this situation, Senator Robert C. Byrd offered an amendment to House Joint Resolution 1 to provide for a deadline of January 29 for the impounding report. Senator Byrd noted that the Humphrey amendment provided no interpretation or definition of what "prompt" reporting meant.[14]

Senator Griffin, minority leader asked Senator Byrd if he would change the date of compliance to February 5, in view of the heavy workload OMB was under to finish preparation of the budget. Senator Byrd did so without objection.[15]

On January 15, Representative Mahon asked the House to accept an amendment to Senator Byrd's amendment. Mr. Mahon told the House that OMB had requested a five-day extension to February 10 to submit the required impounding reports. The House agreed.[16] The following day the Senate accepted the deadline date of February 10.[17]

On February 5, 1973 the President submitted the first report to the Congress required by law.[18] Senator Humphrey, in a strongly worded speech on the floor of the Senate on February 9, called the report "unacceptable," arguing that the report did not specify "full reasons for fund impoundments" and contained little information "as to when the Congress and the public can expect funds to be released." Nor did the message delineate what effects the reported impoundments would have on employment, inflation and the economy.[19]

Humphrey criticized the delay in informing Congress on impounded funds. He charged that with regard to compliance with the reporting provisions the Administration had displayed a ". . . special propensity for avoiding the law, changing the law, or disobeying the law." [20]

He cited what he called "glaring errors" in the report and dismissed the explanations of impoundments (required by law) as "burueacratic gobbledygook . . . that does not tell anyone anything. It does not relate to anything that is meaningful and practical." [21]

In response to Humphrey's complaint of the time it took for the Administration to file a report, Senator Robert C. Byrd suggested that the difficulty was one of interpretation, in that the Humphrey amendment used the word "promptly" in requesting impoundment reports. Senator Byrd's suggestion led to a statutory requirement for quarterly reports.[22]

The Office of Management and Budget has issued four reports to date pursuant to law. The first was issued on February 5, 1973;[23] the second, April 27, 1973;[24] the third July 13, 1973;[25] and the last on Oct. 15, 1973.[26]

These reports differ in format from the previous voluntary reports in that they no longer divide impoundments (or the amounts in reserve) into routine and nonroutine. The table below represents the total amount in reserve for each report.

AMOUNT IN RESERVE

| Report as of— | |
|---|---|
| Jan. 29, 1973 | $8,723,000,000 |
| Apr. 14, 1973 | 8,456,000,000 |
| June 30, 1973 | 7,732,000,000 |
| Sept. 30, 1973 | 7,446,000,000 |

At least four Executive withholdings of funds were not included in the January report. If they were included, the total would more than double. These four withholdings include:

(1) $6 billion in contract authority under the Federal Water Pollution Control Act Amendments.

(2) $441 million in contract authority for various HUD programs.

(3) $382 million proposed for rescission by the Administration.[27]

(4) $1.9 billion in HEW and Labor Department funds. This represents the difference between the authorized level of expenditures and the rate of expenditures planned by the Administration.

### III. OMB JUSTIFICATIONS FOR IMPOUNDMENT

All four reports required by law employ a code of justification for impoundments, based either on constitutional or statutory authority. The codes are reproduced below.

REASON FOR CURRENT RESERVE

Code:

1—"To provide for contingencies" (31 USC 665(c)(2));

2—"To effect savings whenever savings are made possible by or through changes in requirements, greater efficiency of operations, or other developments subsequent to the date on which such (funds were) made available" (31 USC 665(c)(2));

3—To reduce the amount of or to avoid requesting a deficiency or supplemental appropriation in cases of appropriations available for obligation for only the current year (31 USC 665(c)(1)). This explanation includes amounts anticipated to be used to absorb or partially absorb the costs of recent pay raises grant pursuant to law;

4—"To achieve the most effective and economical use" of funds available for periods beyond the current fiscal year (31 USC 665 (c)(1)). This explanation includes reserves established to carry out the Congressional intent that funds provided for periods greater than one year should be so apportioned that they will be available for the future periods;

5—Temporary deferral pending the establishment of administrative machinery **(not**

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Footnotes at end of article.

yet in place) or the obtaining of sufficient information (not yet available) to apportion the funds properly and to insure that the funds will be used in "the most effective and economical" manner (31 USC 665(c)(1)). This explanation includes reserves for which apportionment awaits the development by the agency of approved plans, designs, specifications;

6—The President's constitutional duty to "take care that the laws be faithfully executed" (U.S. Constitution, Article II, Section 3):

6a—Obligation at this time of the amount in reserve is likely to contravene law regarding the environment; or the amount in reserve is being held pending further study to evaluate the environmental impact of the affected projects (activities) as required by law;

6b—Existing tax laws and the statutory limitation on the national debt are not expected to provide sufficient funds in the current and ensuing fiscal years to cover the total of all outlays in these years contemplated by the individual acts of Congress;

6c—Action taken consistent with the President's responsibility to help maintain economic stability without undue price and cost increases;

6d—Amount apportioned reflects the level of obligations implicitly approved by the Congress in its review of and action on the appropriation required to liquidate obligations under existing contract authority;

6e—Other. See footnote for each item so coded;

7—The President's constitutional authority and responsibility as commander in Chief (U.S. Constitution, Article II, Section 2);

8—The President's constitutional authority and responsibility for the conduct of foreign affairs (U.S. Constitution, Article II, Section 2);

9—Other. See footnote for each item so coded; and

10—Not applicable or no reason required. (In most cases where a previous reserve has been apportioned in its entirety.).

The Senate Committee on Government Operations, in its report on the impoundment bill (S. 373), expressed dissatisfaction with the OMB report. The Committee recommended that the reporting requirement be strengthened. For example, whereas PL 92-599 called for "the reasons for the impoundment." S. 373 added the language "including any legal authority invoked by him [the President] to justify the impoundments." Although OMB did cite statutory and Constitutional authority, it was of a vague nature in some instances. For impoundments of HUD funds, the OMB report cited "existing tax laws and the statutory limitation on the national debt" and "action taken pursuant to President's responsibility to help maintain economic stability without undue price and cost increases." The Committee found those reasons "wholly inadequate," arguing that they did not explain why HUD programs had been singled out for impoundment.[28]

Another example cited by the Committee was funds impounded for Health, Education, and Welfare programs. OMB's first report gave the reason for impounding those funds as "temporary deferral pending the establishment of administrative machinery (not yet in place) or the obtaining of sufficient information (not yet available) properly to apportion the funds and to insure that the funds will be used in 'the most effective and economical' manner (31 USC 665 (c)(1)). This explanation includes reserves for which apportionment awaits the development by the agency of approved plans, designs, specification." The Committee regarded that as "pure bureaucratese," stating that it was "not the least bit instructive to Members of Congress."[29] The Committee went on to argue that impoundment actions must be justified in terms that are "straightforward," "comprehensible" and "in accordance with external standards of judgment." Without that type of report Congress could not discharge its review responsibilities.[30]

In complying with the Humphrey amendment, OMB abandoned its earlier practice of distinguishing between "routine" and "policy" impoundments. Nevertheless, it is possible to reconstruct those two categories. The justifications denoted by code numbers one through five are all related to the Antideficiency Act, or what can be regarded as "routine" reserves. Code numbers six through nine may be called policy impoundments—actions based on such factors as the Administration's anti-inflation policy or administrative disapproval of certain programs.

While we have included code number five as a "routine impoundment," an alternate interpretation would place it in the policy category. The Antideficiency Act does not stipulate that reserves can be established while waiting for administrative machinery to be put into place or pending approval of plans. Moreover, the section of the Antideficiency Act cited in code number five applied only to money appropriated until expended, that is, "no-year money." And yet code number five is sometimes used for multiyear accounts, such as for military procurement.

### *Antideficiency Act*

The Antideficiency Act has been cited in the various OMB reports as statutory justification for executive impoundment of funds. The Act permits the establishment of reserves:

To provide for contingencies, or to effect savings whenever savings are made possible by or through changes in requirements, greater efficiency of operations, or other developments subsequent to the date on which such appropriation was made available. Whenever it is determined by the officer responsible for apportionment] . . . that any amount so reserved will not be required to carry out the purposes of the appropriation concerned, he shall recommend the rescission of such amount . . .[31]

While this language provides authority to set aside funds, the scope of that authority is a point of contention between Members of Congress and the President.

The Antideficiency Act has its roots in an 1870 law which prohibited an executive department from expending or contracting for future payment of sums in excess of an appropriation for the given fiscal year.[32] The 1905 and 1906 Antideficiency Acts established a procedure of monthly or quarterly allotments of appropriated funds to departments so as to avoid deficiencies or supplemental appropriations.

The Antideficiency Act was amended in 1950. To comprehend the purpose of the new language, the context of an earlier Post Office dispute is relevant.

In the spring of 1947, the Post Office Department announced that it would exhaust its funds prior to the end of the fiscal year. It had apportioned 99.2 percent of its funds for the first three quarters, leaving only $9.5 million for the fourth quarter. The Senate Committee on Appropriations called upon the Budget Bureau and the General Accounting Office to recommend ways to improve the Antideficiency Act. Several weeks later the joint BOB-GAO report proposed language which, among other things, encouraged agencies to set aside reserves for contingencies and to effect savings. These surplus funds would be used to cover unanticipated expenses. In establishing such reserves, the report noted that the legislation "must be exercised with considerable care in order to avoid usurping the powers of Congress." It was not until the 1950 omnibus appropriation act that the BOB-GAO recommendations were enacted into law. Section 1211 of the act closely followed the 1947 report.

The legislative history of the 1950 language indicates that Congress wanted the agencies to build up surpluses as a means of paying for unavoidable deficiencies. There was no implied authority to set aside reserves which would cancel or curtail a program.

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This was a well-established principle. In 1949, when the Hoover Commission recommended that the President should have authority to reduce expenditures, it did so on the condition that the purposes intended by Congress be carried out.[33]

The Nixon Administration has interpreted the Antideficiency Act broadly. Roy Ash, Director of the Office of Management and Budget, had the following exchange with Senator Chiles in 1973.

Mr. Ash. As we read the Antideficiency Act, it does provide that if there are other developments subsequent to the date on which the appropriation was made available, that subjective judgments should be changed. This is an obligation of his.

Senator Chiles. Do those other developments just go to thoughts or opinion of the President?

Mr. Ash. No sir; his other development—as a good example, in 1966 when President Johnson chose to impound some funds, an eminent Member of the House of Representatives explained that his reason for doing so was under the Omnibus Appropriations Act and under the Antideficiency Act. He did so because of the then developing inflation and he was responding to that other development, the then developing inflation, in the impounding of the funds. That is clearly another development since these funds were made available and one not contemplated by this act itself.[34]

Neither the wording of the Act nor its legislative history suggests that the phrase "other developments" included authority to impound for anti-inflation purpose. Rather, impoundments seem permissible only to the extent that they do not subvert the purposes of Congress with regard to the particular programs involved.

## IV. PRELIMINARY ANALYSIS OF THE SEPTEMBER 30, 1973, REPORT

The report on reserves, as of September 30, 1973, begins with a summary of impoundments listed by agency (table 1). The impoundment figures, by themselves, do not indicate the full impact on agencies and functions. For example, impounded funds for the Department of Agriculture and the Department of Defense-Military, are comparable. However, the funds withheld from Agriculture represent over eleven percent of DOA's budget authority for fiscal 1974, while the military funds withheld represent less than one and one half percent of DOD's budget authority. Thus, one instructive measure would present budgetary reserves as a percent of budget authority. We have recast the OMB figures to show the impact of impoundment on each agency (table 2).

TABLE 1.—OMB SUMMARY OF BUDGETARY RESERVES, 1974 PROGRAM

[Dollars in millions] [1]

| Agency | Amount as of June 30, 1973 | Amount as of Sept. 30, 1973 |
|---|---|---|
| Executive Office of the President | $2 | ---------- |
| Funds appropriated to the President | 126 | $96 |
| Department of Agriculture | 1,316 | 1,173 |
| Department of Commerce | 140 | 63 |
| Department of Defense—Military | 1,618 | 1,143 |
| Department of Defense—Civil | 33 | 1 |
| Department of Health, Education, and Welfare | 21 | 23 |

Footnote at end of table.

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Footnotes at end of article.

TABLE 1.—OMB SUMMARY OF BUDGETARY RESERVES, 1974 PROGRAM—Continued

| Agency | Amount as of June 30, 1973 | Amount as of Sept. 30, 1973 |
|---|---|---|
| Department of Housing and Urban Development | $460 | $456 |
| Department of the Interior | 473 | 162 |
| Department of Justice | 36 | 14 |
| Department of State | 6 | |
| Department of Transportation | 2,885 | 3,838 |
| Department of the Treasury | 22 | 22 |
| Atomic Energy Commission | 118 | 27 |
| General Services Administration | 262 | 258 |
| National Aeronautics and Space Administration | 2 | 2 |
| Veterans' Administration | 44 | 43 |
| Other Independent Agencies: | | |
| National Science Foundation | 62 | 4 |
| Small Business Administration | 50 | 31 |
| All other | 51 | 90 |
| Total | 7,732 | 7,446 |

[1] Details may not add due to rounding.

TABLE 2.—BUDGETARY RESERVES AS PERCENT OF BUDGET AUTHORITY,[1] 1974 PROGRAM

[Dollars in millions]

| Agency | Budget authority | Reserves | Percent of budget authority |
|---|---|---|---|
| Executive Office of the President | $121 | | |
| Funds appropriated to the President | 5,115 | $96 | 1.88 |
| Department of Agriculture | 10,400 | 1,173 | 11.28 |
| Department of Commerce | 1,242 | 63 | 5.07 |
| Department of Defense—Military | 83,481 | 1,143 | 1.37 |
| Department of Defense—Civil | 1,514 | 1 | .07 |
| Department of Health, Education, and Welfare | 101,880 | 23 | .02 |
| Department of Housing and Urban Development | 3,713 | 456 | 12.28 |
| Department of the Interior | (356) | 162 | (2) |
| Department of Justice | 1,834 | 14 | .76 |
| Department of State | 648 | | |
| Department of Transportation | 9,025 | 3,838 | 42.53 |
| Department of the Treasury | 32,612 | 22 | .07 |
| Atomic Energy Commission | 2,429 | 27 | 1.11 |
| General Services Administration | 175 | 258 | (2) |
| National Aeronautics and Space Administration | 3,015 | 2 | .06 |
| Veterans Administration | 12,209 | 43 | .35 |
| Other Independent Agencies: | | | |
| National Science Foundation | 15,765 | 4 | .79 |
| Small Business Administration | | 31 | |
| All other | | 90 | |

[1] Fiscal 1974. Budget authority is not necessarily the best index to use when evaluating impoundment. Agencies vary greatly in the extent to which their budget authority includes uncontrollable items. A better index might involve budget authority after uncontrollables have been excluded

[2] Percentage computations are complicated because these agencies derive extensive funds from sources other than appropriations. Thus, Interior shows a negative sum for budget authority, while GSA reserves actually exceed GSA budget authority.

We reiterate that the dollar amounts listed as "reserves" are OMB figures. Because of technical reasons (OMB terminology and other factors), "impounded" amounts might be considerably higher than amounts "held in reserve." That is particularly evident with HEW funds. According to OMB, only $23 million is held in reserve. But a number of cases are being litigated in the courts to release HEW funds withheld in far larger sums, with decisions being handed down against the Administration. For example, as a result of Commonwealth of Pennsylvania v. Weinberger (Civ. Action No. 1125–73, D.D.C.), the Administration was ordered to release $380.4 million in education funds. Even more striking was the announcement by the Administration on December 19, 1973—two months after the OMB report was issued—that $1.5 billion in health and education funds were being released. Of that amount, $968 million represented funds that were being contested in the courts. (See discussion on page 8 regarding Labor-HEW funds).

We have constructed another table (table 3) to show the frequency of code justifications. While there are thirteen possible justifications, only nine are used. (Code ten is not applicable; it merely indicates that impounded funds have been released and therefore no explanation is necessary). This table reveals that there is sometimes a wide divergence between the frequency with which a justification is used and the actual dollars impounded. Greater frequency need not mean greater dollar amounts. For example, code five is employed 57 times and accounts for $859,137,000, while code 6a is employed only twice but accounts for almost double that amount.

Table 4 attempts to divide reserves into "routine" and "policy" impoundments. "Routine impoundment" justifications (represented one through five) cover 35.75 percent of impounded funds. "Policy impoundments" (represented by codes 6a through 6e) account for 64.25 percent.

To calculate these figures we had to contend with the fact that some budgetary reserves were explained by a single justification, while others involved multiple justifications. Of the 131 accounts in the September 30 report, seventy-five are justified with a single code, that is, an exclusive explanation of the impoundment. Fifty-six accounts have multiple justifications. In such cases, we divided the dollar amount by the number of justifications and assigned an equal share to each code. Thus, all explanations in a multiple justification were given equal value; no value or weight was given.

Some of the justifications suggested further questions. For example, several accounts are justified by codes 4 and 6b. Code 4 is presumably a routine impoundment, based on the Antideficiency Act, but code 6b is evidently a policy matter ("Existing tax laws and the statutory limitations on the national debt are not expected to provide sufficient funds in the current and ensuing fiscal years . . ."). The Administration decides which programs to delay because of debt limit problems.

TABLE 3.—FREQUENCY BY CODE JUSTIFICATION

| Code | Type of justification | | | Total dollars impounded[1] |
|---|---|---|---|---|
| | Exclusive | Multiple | Total | |
| 1 | 4 | 3 | 7 | 819,000 |
| 2 | 3 | 4 | 7 | 282,169,000 |
| 3 | | | | |
| 4 | 25 | 24 | 49 | 1,448,746,000 |
| 5 | 36 | 21 | 57 | 859,137,000 |
| 6a | | 2 | 2 | 1,708,110,000 |
| 6b | 3 | 15 | 18 | 613,516,000 |
| 6c | | 10 | 10 | 2,167,306,000 |
| 6d | 3 | 2 | 5 | 165,705,000 |
| 6e | 1 | | 1 | 100,000 |
| 7 | | | | |
| 8 | | | | |
| 9 | | | | |
| 10 | NA | NA | NA | NA |
| Total | | | | [2] 7,245,608,000 |

[1] Not identical to OMB's total of $7,446,000,000 because of rounding, computational grouping and other factors.

[2] As listed in the OMB report, as of Sept. 30, 1973.

TABLE 4.—ROUTINE AND POLICY RESERVES[1]

| Code | Total dollars impounded | As percent of impounded funds |
|---|---|---|
| 1 | 819,000 | (2) |
| 2 | 282,169,000 | 3.89 |
| 3 | | |
| 4 | 1,448,746,000 | 20.00 |
| 5 | 859,137,000 | 11.86 |
| | | 35.75 |
| 6a | 1,708,110,000 | 23.57 |
| 6b | 613,516,000 | 8.48 |
| 6c | 2,167,306,000 | 29.91 |
| 6d | 165,705,000 | 2.29 |
| 6e | 100,000 | (2) |
| | | 64.25 |
| 7 | | |
| 8 | | |
| 9 | | |
| 10 | NA | NA |
| Total | 7,245,608,000 | 100.00 |

[1] We treat codes 1 through 5 as routine impoundments and codes 6a through 6e as policy impoundments.

[2] Negligible.

### FOOTNOTES

[1] 117 Cong. Rec. p. 41102. Senator Humphrey had previously introduced this legislation in the form of a bill (S. 2604, 92d Cong., 1st Sess., September 29, 1971).

[2] *Ibid.*

[3] 117 Cong. Rec. p. 41103.

[4] *Ibid.*

[5] H. Rept. No. 92–708, 92d Cong., 1st Sess. p. 59 (1971).

[6] 118 Cong. Rec. p. 35966.

[7] H. Rept. No. 92–1606, and H. Rept. No. 92–1614, 92d Cong., 2d Sess. (1972).

[8] Public Law 92–599 (86 Stat. 1324).

[9] Hearings on *Executive Impoundment of Appropriated Funds* before the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary, 92d Cong., 1st Sess. 877 (1971).

[10] 118 Cong. Rec. pp. 8031–8035.

[11] 118 Cong. Rec. pp. 18292–18296.

[12] 118 Cong. Rec. pp. 28522–28527.

[13] *Ibid.*, p. 13668.

[14] 119 Cong. Rec. p. 418.

[15] *Ibid.*, at p. 419.

[16] *Ibid.*, at p. 1055.

[17] *Ibid.*, at p. 1209.

[18] S. Doc. No. 93–4, 93d Cong., 1st Sess. (1973).

[19] 119 Cong. Rec. pp. 4100–4101.

[20] *Ibid.*, at p. 4100.

[21] *Ibid.*

[22] See *Ibid.*, at S. 2949; Public Law 92–9.

[23] "Budgetary Reserves as of January 29, 1973," 38 *Fed. Reg.* 3474 (Feb. 6, 1973), reprinted at 119 Cong. Rec. pp. 3282–3285.

[24] "Budgetary Reserves in Effect as of April 14, 1973," 38 *Fed. Reg.* 12137 (May 9, 1973).

[25] "Budgetary Reserves as of June 30, 1973," *Fed. Reg.* 19582 (July 20, 1973).

[26] Budgetary Reserves as of Sept. 30, 1973," 119 Cong. Rec. p. 36803.

[27] In its first report on impoundments as of January 29, 1973, the Office of Management and Budget explained that the rescission funds had not been included in the impoundment total because they had been apportioned to the agencies. Therefore, they were not in "budgetary reserve."

[28] S. Rept. No. 93–121, 93d Cong., 1st Sess., p. 22.

[29] *Ibid.*

[30] *Ibid.*

[31] 31 USC 665(a)(2).

[32] This section relies heavily on a study by Louis Fisher, "Anti-Deficiency Act," in Hearings on *Impoundment of Appropriated Funds* by the President before the Ad Hoc Subcommittee on Impoundment of Funds of the Senate Committee on Government Operations and the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary, 93d Cong., 1st Sess., pp. 396–399 (1973).

[33] The Commission on Organization of the Executive Branch, *Budgeting and Accounting*, A Report to the Congress, February 1949, p. 17.

[34] *supra* note 32, p. 286.

## HYDROGEN AS A FUEL

Mr. MOSS. Mr. President, as our scientists and technicians push for development of alternate sources of supply of energy, I have often made the suggestion that hydrogen might become the ideal fuel, since it is nonpolluting when it goes through the combustion process. I have pointed out on several occasions that the National Aeronautics and Space Administration has had valuable experience in the use of hydrogen as a fuel in our space program, and therefore ought to be commissioned to utilize its technological expertise to adapt hydrogen for use as a fuel in automobiles.

There was recently published in the Provo Herald in Utah an article concerning a hydrogen powered automobile which has been assembled by a Provo scientist. I found the article to be very interesting, and it certainly offers a peek at the possibilities of an alternate fuel supply to use in our transportation system. I therefore ask unanimous consent that the text of this news article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### HYDROGEN POWERED AUTO UNVEILED BY PROVO SCIENTIST

A Provo scientist unveiled a hydrogen-powered auto in Santa Barbara, Calif., on Wednesday, calling the car's modified fuel system "a significant milestone" in the reach for a practical alternative to petroleum fuels.

Roger Billings, president of Billings Energy Research Corporation of Provo, Utah, preparing to speak before a national attended energy symposium here this evening, showed fellow scientists, members of the press and other participants the new state-of-the-art automobile, then allowed press representatives to drive it around Santa Barbara.

#### USES CONVENTIONAL ENGINE

The 1973 Chevrolet, an experimental model known as the HL-1, utilizes a conventional engine to which Billings' organization has added a modified carburetion system and a specially packaged hydrogen fuel supply.

Billings called the automobile "the first hydrogen-fueled car with a reasonable fuel system," defining "reasonable" as operationally and financially feasible for powering automobiles.

At the same time he cautioned his audience that the new design is not yet production ready, citing a number of developmental hurdles that must be overcome before hydrogen-powered automobiles can be placed in mass production.

These include further improvements in the present hydrogen storage containers in the cars, and development of hydrogen production and distribution systems for automobile use.

#### NEW STORAGE TANKS

The experimental model actually has two types of hydrogen systems, which operate independently: a sophisticated "powdered metal" hydride model in which the hydrogen is stored in iron titanium contained in a special tank in the normal fuel tank area; and a liquid model consisting of a thermos-like tank containing supercold (minus 423 degrees F) liquid hydrogen, which is fed into the engine through a specially designed carburation system.

The metal hydride storage system was designed by Billings Energy Research Corp., and is claimed to be the first of its kind ever installed in an automobile. It is based on the hydrogen absorption capability of iron-titanium alloys discovered at Brookhaven National Laboratory in New York during the late 1960's.

The alloy is contained in a bundle of tubes resembling a steam boiler located in the conventional fuel tank position. The hydrogen is held inside the metal powder by chemical bonds which are broken by heat from the engine's cooling fluid.

#### COSTS NOT FIXED

Production cost estimates are not yet available but the materials are not expensive, Billings stated.

Representatives of Beech Aircraft Corporation, designers and builders of the liquid fuel tank for the HL-1's alternate system, were on hand Wednesday to witness the demonstrations.

The firm's Boulder, Colorado division gained international recognition for developing oxygen and hydrogen cryogenic storage systems for NASA's Apollo and Skylab space programs, and on January 4 was selected to provide cryogenics for the Space Shuttle.

Together, the two systems give the Monte Carlo a driving range of approximately 145 miles, but enlargement of the small prototype storage tanks could easily increase the range, representatives stated.

The HL-1 conversion kit, in its present configuration, could provide automobile owners a practical alternate source of energy, making it possible for the driver to switch back and forth between hydrogen and gasoline.

Even at present production costs, hydrogen needed to operate the engine is not unreasonably high, the developer stated.

#### HYDROGEN RELATIVELY CHEAP

"We are now buying liquid hydrogen at an operating cost of 2.5 cents per mile, vs. a cost of 3.5 cents per mile for gasoline at 50 cents per gallon (figured at 14 miles per gallon of gas)." Some projections on the cost of producing hydrogen from coal gassification indicate a possible two-thirds reduction—to eight cents per pound or less—said Billings.

Asked about safety aspects of the new hydride system, Billings stated, "Those who suffer from the 'Hindenburg Syndrome' or from subconscious word association between 'hydrogen' and 'bomb' can relax. If a crash were severe enough to break the tough little fuel box open, the fuel would escape so slowly that the possibility of fire casualties would be remote."

Speaking on the liquid system, Beech claims that its hydrogen storage tank has been vibration tested for the equivalent of 200,000 miles, and the tank's double steel walls provide excellent crash protection, considerably more than the conventional gas tank.

Frank Lynch, vice president and director of engineering for the Billings firm, elaborated on clean air aspects of the engine:

#### FOG NOT SMOG

"The obvious advantages of fueling an automobile with hydrogen—so that it exhausts fog instead of smog—have intrigued engineers and scientists for years, for several vehicles have been built to demonstrate the concept.

"Until now, virtually all such vehicles, which have used hydrogen gas, have been burdened with unreasonably bulky fuel storage systems and unforgiveably short ranges. The problem is that no matter how highly hydrogen is compressed at normal temperatures it remains a gas with very little energy per cubic foot.

This means that a tank large enough to propel the family sedan for 100 miles might weigh over half a ton and would usurp all of the trunk and most of the back seat.

"By switching to supercold liquid hydrogen and by developing a practical powdered metal hydride storage system, we believe we have achieved a major breakthrough in the use of hydrogen for automotive energy."

#### USES EXTENSIVE

But Lynch didn't limit the scope of his remarks to automobiles.

"Hydrogen is perfectly feasible as a power source for everything from lawn mowers to locomotives. Home heating units, boats, and aircraft might well receive energy from hydrogen," he added.

Because of its high energy output per pound of fuel, Lynch said aircraft might realize a 30 per cent weight reduction by switching to hydrogen systems.

Billings began his study of hydrogen-fueled internal combustion engines in the early '60's. His efforts resulted in a series of academic and scientific awards ranging from the 17th International Science Fair at Dallas, Texas in 1966, to the 1972 Intercollegiate Urban Vehicle Design Competition at General Motors Proving Grounds near Detroit, Michigan.

#### LOWEST EMISSIONS

By means of the latter award (lowest emissions in a field of 63 vehicles) which accrued to his hydrogen-fuel Volkswagen, built while he was attending Brigham Young University, he was able to demonstrate publicly that the hydrogen powered automobile surpasses all future Federal Emission Standards.

Billings Energy Research Corporation was organized in June, 1973, when The Kipper Corporation of Salt Lake City merged with Energy Research Company of Provo, Utah.

To strengthen the scientific nucleus of the organization a partnership was formed between Roger Billings and Lynch, a UCLA graduate student responsible for the development of a hydrogen-fueled Gremlin.

#### MANPOWER NEEDS

Key manpower needs have been filled by a hydrogen researcher, Nathaniel Baker, who worked with Lynch at UCLA.

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## CONSUMERS HIT HARD BY INFLATION IN 1973

Mr. HUMPHREY. Mr. President, as chairman of the Consumer Economics Subcommittee of the Joint Economic Committee, I feel it is my responsibility to provide the Congress and the public with a brief wrap-up report on the most serious economic problem that faced the American consumer in 1973—uncontrolled and rampant inflation.

In 1973 the United States suffered its worst inflation since the post-World War II year of 1947. It was obvious to most of us, and to the American consumer, early in the year, that inflationary pressures were very strong. Only the administration seemed oblivious to the spiraling prices and the erosion of real incomes. In February 1973, Mr. Nixon told Congress that "we have a good chance to reduce the overall inflation rate to 2½ percent by the end of 1973." At about that time the administration moved to phase III of its economic stabilization program. The inflation statistics for 1973 eloquently document the total failure of that program. In the first quarter, prices, as measured by the Consumer Price Index, rose 8.6 percent at an annual rate, up from 3.4 percent in the last quarter of 1972. Wholesale prices jumped even more, rising at a staggering 21 percent annual rate in the first quarter.

By June it was obvious, even through the rose colored glasses of the administration's economic policymakers, that phase III was a disastrous mistake. A second freeze and phase IV were then imposed, with no visible effect on the rate of inflation. In the third and fourth quarters of 1973, the CPI rose at annual rates of 10.3 and 9 percent respectively. Wholesale prices jumped by 13.2 percent in the third quarter and 15.5 percent in the fourth.

In spite of the clear evidence of accelerating inflation at the retail level, the administration continued to insist that price increases abated in 1973. Just last week, President Nixon sent a message to Congress, reporting on the Economic Stabilization program. Let me quote an excerpt from his statement:

> Phase IV was designed to provide a tough program of controls that would enable this country to return to the free market system as soon as possible. Since its introduction, Phase IV has made admirable progress toward reducing the danger of inflation.

With these kinds of statements coming from the White House, it is no wonder that the President's credibility is at an alltime low.

Mr. President, in the second half of 1973, inflation accelerated to over 9 percent as measured by the CPI. As measured by the gross national product deflator, perhaps the most comprehensive measure of price change in the economy, the rate of inflation was 6.7 percent in the first half of 1973 and 7.5 in the second half.

I can find no basis in fact for Mr. Nixon's claim that we have made "admirable progress toward reducing the danger of inflation." This rather complacent attitude of the administration about inflation rates of up to 9 percent is certainly a far cry from Mr. Nixon's statements as he first took office, when he described a 6 percent rate of price increase as "runaway inflation."

I also want to emphasize today that the 1973 inflation was broadly based and not simply the unfortunate result of extraordinary shortages of a few major commodities. Every major component of the Consumer Price Index increased faster in 1973 than during the 1960 to 1972 period. It is true, as the administration has claimed, that food price increases accounted for a significant portion of the overall price rise, but food was by no means the only component which increased.

Housing prices, which accounted for almost 30 percent of the inflation in 1973, rose 7.1 percent.

Apparel prices were up 4.1 percent, more than one and a half times their historical rate of increase.

Medical care and personal care prices were up 5.2 percent and 6.3 percent respectively. In the fourth quarter alone, medical care service prices rose a whopping 11.5 percent.

At the consumer level, energy price increases accounted for about 12 percent of the 1973 inflation. Household fuel and utility prices rose 11.4 percent in 1973, shooting up at a 30 percent rate in the fourth quarter. When we exclude regulated electricity and natural gas from this component, we find that prices for heating oil and coal for residential use increased at an annual rate of 177 percent in the fourth quarter.

Gasoline and motor oil price increases were only slightly less dramatic. For the year, gas and oil prices were up 18.6 percent, with increases of 55.8 percent in the fourth quarter accounting for much of the rise.

In spite of these disheartening statistics, Dr. Herbert Stein, Chairman of the President's Council of Economic Advisers, said in August 1973:

> There is apparently the feeling in the country on the part of the people that they are worse off than they were, say a year ago, whereas our statistics would seem to indicate that on the whole they are better off.

Statistics on real income and earnings bear out the consumer's perception that quite to the contrary, as a result of inflation, he was worse off in 1973 than in 1972. Even though wages and salaries rose during the year, inflation eroded these income gains. Almost all measures of real income, that is, dollar income adjusted for inflation, showed a decline in 1973. Disposable income per household dropped 1.3 percent from the third quarter of 1972 to the third quarter of 1973. Gross average weekly earnings, in real terms, fell 1.5 percent during 1973, and real hourly earnings dropped 1.9 percent from December 1972 to December 1973.

Mr. President, the working men and women of this country—those on hourly or weekly wages—have borne the brunt of the 1973 inflation. And no amount of rhetoric by Mr. Nixon on the admirable progress we've made on fighting inflation, and by Mr. Stein on how the consumer is better off, will carry any weight with them. They know better. Consumers know that they worked more hours for more pay last year and yet have less to show for it. They know only too well that administration controls have been a failure, as they pay higher grocery bills, utility bills, rent, gasoline prices, and clothing prices.

Now that the final whistle has blown, and the much heralded Nixon economic game plan for 1973 has run its course, the American consumer knows for sure that it put no points on his side of the economic scoreboard.

Mr. President, I ask unanimous consent that a table showing price changes for the last 13 years as measured by the GNP deflator, the Consumer Price Index and the Wholesale Price Index, be printed in the RECORD. These data document well the severity of the 1973 inflation and the failure of the administration's anti-inflation policy.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—CHANGES IN SELECTED PRICE INDEXES, 1960–73

[Percent change per year] [1]

| Period | GNP deflator |  |  | Consumer Price Index |  |  |  | Wholesale Price Index |  |  |  |
|---|---|---|---|---|---|---|---|---|---|---|---|
|  | Total | Private | Private nonfarm business | All items | Food | Nonfood commodities | Services | All commodities | Farm products | Processed foods and feeds | Industrial commodities |
| 1961 | 1.1 | 0.7 | 0.8 | 0.7 | −0.9 | 0.6 | 1.9 | −0.2 | −0.9 | 1.1 | −0.1 |
| 1962 | 1.1 | 1.0 | .8 | 1.2 | 1.5 | .7 | 1.7 | 0 | 1.5 | .5 | −.2 |
| 1963 | 1.4 | 1.1 | 1.1 | 1.6 | 1.9 | 1.2 | 2.3 | −.1 | −4.1 | .3 | .5 |
| 1964 | 1.7 | 1.4 | 1.4 | 1.2 | 1.4 | .4 | 1.8 | .4 | −.6 | 0 | .6 |
| 1965 | 1.7 | 1.5 | 1.0 | 1.9 | 3.4 | .7 | 2.6 | 3.4 | 11.1 | 6.9 | 1.4 |
| Average: 1961–65 | 1.4 | 1.1 | 1.0 | 1.3 | 1.5 | .7 | 2.1 | .7 | 1.4 | 1.8 | .4 |
| 1966 | 3.5 | 3.3 | 3.2 | 3.4 | 3.9 | 1.9 | 4.9 | 1.7 | −1.2 | 2.2 | 2.2 |
| 1967 | 3.5 | 3.0 | 3.1 | 3.0 | 1.2 | 3.1 | 4.0 | 1.0 | −2.7 | −1.2 | 1.9 |
| 1968 | 4.1 | 3.8 | 3.5 | 4.7 | 4.3 | 3.7 | 6.1 | 2.8 | 4.4 | 3.0 | 2.7 |
| 1969 | 5.3 | 5.0 | 4.7 | 6.1 | 7.2 | 4.5 | 7.4 | 4.8 | 8.4 | 6.8 | 3.9 |
| 1970 | 5.4 | 4.8 | 5.3 | 5.5 | 2.2 | 4.8 | 8.2 | 2.2 | −4.7 | .8 | 3.6 |
| Average: 1966–70 | 4.4 | 4.0 | 4.0 | 4.5 | 3.8 | 3.6 | 6.1 | 2.5 | .8 | 2.3 | 2.9 |
| 1971 | 3.6 | 3.2 | 2.7 | 3.4 | 4.3 | 2.3 | 4.1 | 4.0 | 8.1 | 4.7 | 3.2 |
| 1972 | 3.3 | 3.2 | 2.4 | 3.4 | 4.7 | 2.5 | 3.6 | 6.5 | 18.7 | 11.6 | 3.6 |
| 1973 | 7.1 | 7.1 | 6.8 | 8.8 | 20.1 | 5.0 | 6.2 | 18.2 | 36.1 | 20.3 | 14.8 |
| 1972: |  |  |  |  |  |  |  |  |  |  |  |
| I | 5.7 | 4.9 | 4.5 | 3.3 | 6.5 | 3.1 | 4.4 | 4.6 | 7.1 | 5.6 | 4.1 |
| II | 1.6 | 1.6 | .6 | 2.5 | .3 | 2.0 | 3.1 | 4.9 | 12.4 | 2.4 | 4.3 |
| III | 2.8 | 2.7 | 1.8 | 4.4 | 7.7 | 3.7 | 3.0 | 7.2 | 32.6 | 9.7 | 3.4 |
| IV | 3.3 | 3.5 | 2.9 | 3.4 | 4.9 | 1.3 | 3.9 | 9.4 | 23.6 | 30.9 | 2.4 |
| 1973: |  |  |  |  |  |  |  |  |  |  |  |
| I | 6.1 | 5.7 | 4.1 | 8.6 | 28.6 | 4.0 | 3.6 | 21.1 | 77.3 | 37.1 | 10.2 |
| II | 7.3 | 7.6 | 5.5 | 7.4 | 14.7 | 5.4 | 4.5 | 23.4 | 61.0 | 31.9 | 14.9 |
| III | 7.0 | 7.3 | 4.3 | 10.3 | 28.8 | 2.6 | 7.4 | 13.2 | 67.3 | 14.8 | 4.5 |
| IV | 7.9 | 7.7 | 13.4 | 9.0 | 9.2 | 7.9 | 9.4 | 15.5 | 28.1 | 1.3 | 31.3 |

[1] All quarterly data are at compounded seasonally adjusted annual rates.

Source: Department of Labor—Bureau of Labor Statistics, Department of Commerce, and Joint Economic Committee.

## COMMITTEE FOR INTELLECTUAL FREEDOM

Mr. McGOVERN. Mr. President, the persecution of writers, artists and scientists in the Soviet Union, including the renowned author Alexander Solzhenitsyn, has aroused the concern of Americans of all political views.

Recently members of the Ad Hoc Committee for Intellectual Freedom rallied to protest the repression of ideas in the Soviet Union. Mr. Eric Sevaried, the distinguished CBS commentator, was one of those who joined in the protest. Mr. Sevaried spoke movingly of the effort in his commentary of January 22. I ask unanimous consent that the Sevareid commentary and a statement of the Ad Hoc Committee for Intellectual Freedom including the names of the members of the committee be printed in the RECORD:

There being no objection, the commentary and statement were ordered to be printed in the RECORD, as follows:

### EXCERPT FROM CBS NEWS WITH WALTER CRONKITE

WALTER CRONKITE. Another group of demonstrators gathered today in Washington, and here is Eric Sevareid's analysis.

ERIC SEVAREID. Washington's slack season for protest demonstrations picked up a bit this week. Yesterday, it was truckers about their money and pro-Nixon people about impeachment; today several thousand about abortion, and a small knot of people about an abstract principle and a man. Most of them were authors and journalists, naturally undemonstrative demonstrators at best, out in front of the National Press Building.

They were protesting ugliness, not ugliness in the natural environment, but ugliness in the landscape of the mind. The ugliest idea in the modern world, they said, is the idea that ideas may not be freely expressed. They were talking about Alexander Solzhenitsyn, his historic expose of the political prison system in the Soviet Union, the peril of his death or disappearance, unless a lot of people in a lot of countries make a lot of noise about it.

The Soviet news agency, Tass, is in the forefront of the savage attack on Solzhenitsyn. Tass is a news agency, a propaganda agency and also an integral cog in the Soviet government. The Tass people here opened their office door the two inches permitted by the chain inside and received the demonstrators' statement. No bets were made that it would be transmitted to Moscow. Dissenting writers are silenced, sometimes permanently, in other places beside the Soviet Union, but the Solzhenitsyn case is the case of the century, more important than Zola and the Dreyfus affair in France, because the Solzhenitsyn story is about millions of human beings, because his personal risk seems worse than that run by Zola, and because he is an authentic genius, a world commodity not only scarce but irreplaceable.

The other Washington item today that Tass probably will not transmit is the picture of those seven heads of the seven giant oil companies lined up like schoolboys to be scolded by U.S. senators. Tass will have trouble with this. It is their article of faith that oil barons and their like tell the Congress what to do, not the other way around. They sometimes try; they sometimes win on points. But fairly surely their easy days with politics are over. For one thing, their operations are going to be laid bare, like those of various other industries, and at long last. The oil companies acknowledge that they pay very little in American taxes, because, they said, they pay so much to other countries—all more than faintly reminiscent of 1932, when senators had the mighty J. P. Morgan, himself, in the witness chair. He, too, paid taxes abroad, in Great Britain. It turned out he paid no American income taxes at all in '30, '31 and '32. This made sense to him, not to the public.

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### HANDS OFF

We who have come here today from the Washington area represent a wide diversity of political backgrounds, of professional activity and of ideological belief.

Within the political framework, for example, we have both served—and opposed—recent American Presidents. We have campaigned for well-left-of-center Democratic and well-right-of-center Republicans—and at almost every way-station in between. We have been called, variously, liberals, moderates and conservatives. Moreover, we have not—for the most part—been involved in "demonstrations" before this. For many of us we are learning only today which end of the picket sign is up.

We share in common perhaps only two attributes.

We are all active in the world of ideas: as writers, artists, scientists, actors, or in the realm of politics.

And we are dedicated to the proposition that the ugliest idea in the contemporary world is the one that says ideas may not be expressed openly and freely.

So strong is this belief in the primacy of the free expression of ideas that we non-demonstrators are here today to demonstrate.

The immediate cause of our demonstration is Alexander Solzhenitsyn, a lonely beleagured man who has earned the right to be called a hero by many persons of every free political persuasion.

Almost alone, he has withstood the force of a mighty government dedicated to repressing and eliminating the right of people to speak their mind.

For some years, and especially since the publication of *Gulag Archipelago*, Solzhenitsyn has been the target of a campaign of threats and vilification which each day grows more intense. A lynch mob is now being formed in the Soviet Union. Solzhenitsyn stands in danger of being destroyed by the very oppressive forces he has so powerfully described.

Officials of the Soviet Writer's "Union" now openly accuse Solyzhenitsyn of treason and push him to leave his homeland for a life of exile. Abusive phone calls, threatening letters, and threatening police tactics have become the daily lot of Solzhenitsyn, his family, and his friends. Others who speak out have been sent to insane asylums.

We have come to TASS, because TASS has been in the forefront of this disgraceful campaign to silence a man of intellectual heroism. We who have insisted upon, and protected, the independence of the American press cannot remain silent while the Soviet news agency acts shamelessly as an instrument of government repression, as a hatchetman for the Soviet state.

All that stands today between Solzhenitsyn and his destruction is the force of world public opinion. We are here to help bear witness to a simple notion that must be explained to the Soviet government again and again: *The whole world is watching.*

For many of us, the fate of Solzhenitsyn represents a litmus test of whether the Soviet leadership will revert to the barbarism of the Stalin era described in *Gulag Archipelago*. Alternatively, the Solzhenitsyn case provides the Soviet Union a clear chance to begin to move toward a credible respect for those human rights without which there can be no durable detente for the benefit of mankind.

If the concept of "detente" is to mean more than the absence of military confrontation, it must mean mutual accommodation and exchange. It must mean mutual openess if it is eventually to mean trust. We are here to suggest that *freedom* is a legitimate part of the exchange between our societies. All the grain, all the computers, all the gas and oil, all the vodka and all the Pepsi Cola stand as little, compared with the sovereign idea that men must be allowed to speak their mind.

We favor detente with a government prepared to allow the sun of freedom to shine into the Soviet Union. But we ought not encourage forces that would turn back to darkness.

Our demand then is an elementary one: Hands off Solzhenitsyn. Let him be heard.

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## EVALUATION OF REPORT OF THE PRESIDENT'S ADVISORY PANEL ON TIMBER AND THE ENVIRONMENT

Mr. McGEE. Mr. President, upon the release, last September, of the Report of the President's Advisory Panel on Timber and the Environment, I immediately responded with an expression of concern about what I believed to be the serious implications of the forest management policies which it recommends. Although several of the Panel's conclusions were timely and well-advised, the overall tenor of this supposed report on timber and the environment was unnerving. In short, its recommendations constituted a general advocacy of abandoning the multiple-use concept in favor of an all-out program to expand timber production.

It was not long thereafter that I began to have some doubts about the statement I had made, because several of my colleagues, whose views on forestry issues I generally esteem, praised the Panel's findings. It seemed as though I had read an entirely different report. The disparity between my views and those of my colleagues was of no small concern to me; but try as I might, I could find nothing in the report to prompt a reconsideration of my initial evaluation of the Panel's report.

In this month's issue of Audubon, however, an article by Gary Soucie has appeared which will do much to dispel the many confusing and contradictory statements prompted by the Report of the President's Advisory Panel on Timber and the Environment. Mr. Soucie has meticulously traced the backgrounds and perspectives which each of the Panel's members brought to bear on the final conclusions of the report. He has sought to reevaluate, without the heavy influence of the National Forest Products Association, the principal arguments offered by the Panel in support of its dubious recommendations; with the result that Mr. Soucie has deflated much of the authority and credibility with which this report was first presented.

Mr. President, much ado was made when the Panel's report was first released. I would commend, therefore, my colleagues most careful consideration to Mr. Soucie's incisive examination of the Report of the President's Advisory Panel on Timber and the Environment. Mr. President, I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### How Much Wood Would a Woodchopper Chop if a Woodchopper Could Chop Wood?

(By Gary Soucie)

The French have a saying, *Chacun tire de son côte:* "Everyone pulls for his own side." To which it seems appropriate to add, after reading the Report of the President's Advisory Panel on Timber and the Environment, "but some pull harder than others." Which is to say the woodchoppers got nearly everything they could have wished for in the conclusions and recommendations of the panel, and conservationalists got rhetorical platitudes and bland assurances.

This 541-page report (dated April 1, 1973, but actually delivered to President Nixon and released to the public on September 24th) is difficult to categorize. Brock Evans, the director of the Sierra Club's Washington office and the man who has provided most of the leadership and direction in fighting the woodchoppers in recent years, has called it "simply the latest in a long series of actions by the current Administration on behalf of the timber industry." It is that, but more than that. One cannot help concluding that the panel (a) misinterpreted its mission, (b) wandered seriously off course, or (c) was inappropriately, perhaps even deceptively, named: a far more accurate title, if a title is supposed to be a fair representation of the content, would have been the Report of the President's Advisory Panel on Timber and the Economy. Its dominant theme is increasing the supply of timber, principally from the National Forest System, as an instrument of national economic policy. Its subdominant theme, less well developed, is protection of the forest environment.

Throughout, the report is marred by jarring discord between environmental and economic philisophies:

"The panel disavows any need for a strict 'even flow' harvest policy at the national forest level" (page 9), vs. "It is an interesting paradox that over the long run no more timber can be harvested than grown, and that no more can be grown on a given land base than is harvested by man or natural mortality" (page 22).

"The panel states unequivocally that in its opinion the protection of environmental quality over the long run should take precedence over all uses of forest resources (page 42), vs. "The panel concludes that the role of the national forests must be different in the future from what it has been in the past . . . that greater attention must be directed to economic considerations in the future" (pages 81–2).

"The protection of soil and watersheds, shelter for a host of wild creatures, preservation of seed stock of native plants and animals, and provision of natural beauty of forests and the amenities they add to suburban and rural life . . . some of these "non-commodity' benefits are of great public significance, perhaps equally or more important to national welfare than is timber (page 23), vs. "National forests are big business . . . the panel feels that timber programs should not be sacrificed to other, less well-funded programs" (pages 84–5).

The entire report displays this schizoid confusion, but there is no question where the weight is; and when it came time to vote, the timber-harvesting philosophy won hands down. Some four dozen recommendations are made, twenty of which are singled out as "major recommendations" in the summary. First the good news: the panel recommends the accelerated completion of the National Wilderness Preservation System. And now the bad news: timber harvest on the national forests should be "increased substantially . . . on a schedule commensurate with their productive capacity and sufficient to make their proportionate contribution to national timber needs," and "commercial forest lands not withdrawn for wilderness or other specific uses should be designated for commercial timber production."

Harvesting timber is obviously, in the panel's judgment, the heart of the matter, and other forest uses and benefits are minor issues. The need for timber is supported by a plethora of facts, statistics, charts, tables, graphs, and data drawn from staff and consultants' reports and from unspecified "source of information utilized by the panel in the conduct of its work." All other forest uses are, in the main, accorded homilies and lip service. Timber production, of course, is to proceed in ways that will not harm the forest environment, but "the panel finds the popular conception that timber-cutting causes severe damage to soil, watersheds, streams, water quality, wildlife habitat, and forest regeneration to be grossly unjustified." To take care of the timber-environment issue once and for all, the panel "recommends that appropriate forest management and timber harvest practices be adapted to the circumstances of the particular forest area, and worked out on the ground by competent professionals."

Who sat on the President's advisory panel that made these judgments and recommendations? The chairman was Fred A. Seaton, a Nebraska newspaper publisher and the second Secretary of the Interior in the Eisenhower Administration (1956–61). The other members were:

Marion Clawson, an agricultural economist who serves as director of land and water programs at Resources for the Future and who was, from 1948 to 1953, director of the federal Bureau of Land Management.

Ralph D. Hodges Jr., a lawyer and executive vice-president of the National Forest Products Association, the principal lobby of the timber industry.

Stephen H. Spurr, a forest ecologist and president of the University of Texas.

Donald J. Zinn, a professor of marine zoology at the University of Rhode Island and formerly president of the National Wildlife Federation (1968–71).

Having spoken to a number of people who know these men or who were close to the panel's work, one gathers that their positions on a scale, from good to bad from an environmental standpoint, were: Zinn, Spurr, Clawson, Seaton, Hodges. Everyone categorized Dr. Zinn and Hodges as occupying the opposite poles, which is cause for concern because the National Wildlife Federation could not fairly be called a preservationist group, and Dr. Zinn's grasp of forestry issues could hardly match Hodges'. By dint of the strength of his commitment to an extreme point of view and the enormous staff support at his disposal, Hodges overwhelmed the panel.

Just how the head of the timber industry's lobby came to sit on the panel is a mystery, especially since he was not balanced by a knowledgeable and severe critic of the industry like Brock Evans or David Brower. In June 1970, when creation of the panel was urged by another lumber advisory body, President Nixon directed that its members "should be persons of outstanding ability and experience, *with no ties or commitments that might prejudice objective judgment*" (emphasis added). Apparently Mr. Nixon considers the timber industry's point of view to be objective, a fact reflected in many of the President's actions and statements on timber matters.

The importance of Hodges' seat on the panel cannot be overestimated. According to John P. Milton, formerly deputy director of international programs for the Conservation Foundation and who served briefly as the panel's staff ecologist, "The amount of work produced by Hodges and the National Forest Products Association was awesome. They put their whole staff to work and inundated the panel and its staff. They produced about four times as much paper as everyone else put together." The President's Advisory Panel on Timber and the Environment had a professional staff of six and an administrative staff of eight; the National Forest Products Association has a staff of 65.

Just how effectively the timber industry, through Hodges, overwhelmed the advisory panel can be gleaned from this remark by Dr. Zinn, who is quite pleased by the report, its conclusions, and its recommendations: "Ralph had to give a little, and I had to give a little, but I think we can both live with the recommendations. You can't have it both ways, and it's obvious the timber is available and you can get at it without wrecking the environment."

#### DOUBLING THE ALLOWABLE CUT

The main point of controversy in the report's recommendations, as it has been between industry and conservation groups in recent years, is over the level of logging (allowable cut) in the National Forest System. It is worth examining how the panel addressed itself to that question and came up with its recommendation.

The panel's consultant in these matters—Dr. Carl Newport, a partner in Mason, Bruce and Girard, a major consulting firm to the timber industry in Portland, Oregon—first looked at the methods and policies presently used by the U.S. Forest Service in calculating the annual allowable cut (about 13.6 billion board feet), and concluded they offered little opportunity for achieving increased harvests: "Under such circumstances, from where and how are any needed increases in timber supply from the national forests to come? The alternatives implied seem to be: (1) that the industry will have to develop suitable harvesting methods for the special and marginal areas, or (2) that the Forest Service's environmental and multiple-use constraints will have to be relaxed or violated, and/or (3) the standard areas will have to be overcut."

Extrapolating from generally unstated data used by his firm on behalf of timber industry clients in examining and "correcting" Forest Service methods for calculating the allowable cut on four national forests, Dr. Newport estimated that the Western national forests would permit harvests "at least 30 percent above current allowable cuts."

The panel members, on the other hand, proceeded from national timber volume statistics and calculated "the possibility of increasing the harvest in Western national forests by up to 50 percent for the next two decades." The panel did note once that "foresters allied with the conservation movement" believed strongly that the allowable cut should be decreased substantially, after which no more was said about that.

By the time the panel was drafting its recommendation on increasing the allowable cut on the national forests, the numbers had somehow sneaked up. "Analyses based upon nationwide forest inventory data," the panel states, "indicate possibilities for increasing the old-growth cutting rate in the range of 50 to 100 percent."

True, this recommendation is the longest and most heavily qualified in the whole report. (Dr. Zinn said, "We wanted to leave as much latitude as possible; obviously a lot more work needs to be done before this recommendation can be implemented.") But how many timber-harvesting zealots are going to carefully read the whole recommendation and its nuances, let alone the whole report? Immediately upon receiving the report, President Nixon issued glowing praise, especially for the recommendation that the allowable cut be increased. Dr. Earl Butz, Secretary of Agriculture and the Forest Service's boss, told a timber group in Portland: "We should meet the challenge of doubling our timber cutting in all our forests, including the national forests, regardless of what the environmentalists shout about."

### WHAT TIMBER SHORTAGE?

At this point it is opportune to ask: Is there really a timber shortage or a timber supply crisis so severe that we must seriously entertain turning over our national forests to dominant-use management, logging everything that hasn't been specifically set aside for wilderness preservation, high-density recreation, or other uses?

First, there is no overall shortage of forests, trees, wood, or timber in America. Forests occupy about one-third of the total land area of the United States, 754 million acres. Of that total, commercial forests—those capable of growing at least 20 cubic feet of useful timber per acre each year, and which are technically and legally available for logging—cover some 500 million acres, equivalent to one-fourth of the land area of the 48 contiguous states.

Second, all the shouting about timber supplies applies to only one category of timber products: softwood lumber. No one is overly concerned (whether the lack of concern is justified) about supplies of hardwood lumber, plywood and veneer, pulpwood, fuelwood, or any of the other categories of timber products. And there isn't even a shortage of softwood lumber. The U.S. commercial forests contain about 1.9 trillion board feet of softwood sawtimber, or about 40 times as much as was harvested in 1970 (47.74 billion board feet). But because our commercial forests are only growing at about half capacity, the annual growth of softwood sawtimber—40.3 billion board feet—is lagging behind the annual harvest. So the real crisis, if indeed there is any crisis, is in getting our forestlands to grow timber at or near their potential. Even the timber industry's much-vaunted tree farms are growing wood at only 60 percent of their productive capacity.

Third, demand—the other half of any supply question—is not growing so fast that we must succumb to drastic measures. While the use of nearly every other commodity seems to double every decade in our wasteful society, use of softwood lumber is climbing moderately after several decades of relative stability, and per capita use actually has declined. The panel recognized this: "Total lumber consumption in the United States remained fairly constant from about 1908 until the mid-1960s. . . . Since the mid-1960s, lumber consumption has risen about 20 percent."

Fourth, the only significant change in the lumber supply-and-demand situation has been an economic one. In the panel's words, "In general, increased demand for lumber has taken the form of increased prices for essentially the same quantity." Since 1800, lumber prices have risen steadily at a compound rate of about 1.7 percent annually. Outdoor recreational use of the National Forest System, on the other hand, is rising about 8 percent annually, doubling every eight years.

Fifth, the whole timber supply issue comes down to the industry's wish to increase supply during periods of relatively high prices and to keep prices from getting too high and pricing lumber out of a highly competitive market in which non-wood substitutes have made considerable inroads; and to the Nixon Administration's wish to influence lumber prices as a means of economic regulation. The panel makes this point clear: "If prices are artificially high, there will be overproduction unless means are found to increase demand or contract supply. . . . Demand will exceed supply only if price is somehow controlled; if prices are allowed to move freely, then demand and supply will be brought into balance. From the market viewpoint, timber 'famine' or timber 'shortage' results only at some price other than a freely determined one. . . . A national government may be dissatisfied with the supply-demand-price situation for any product and may undertake programs to bring about a new balance."

Sixth, and last, the most convenient way to manipulate the lumber supply-demand-price situation (whether in the interest of improving industry's profits or of demonstrably attemtping to control inflation) is to increase the harvest of softwood sawtimber from the National Forest System.

While the national forests account for less than 20 percent of the country's commercial forest acreage, they contain 51 percent of the standing volume of softwood sawtimber. Because the national forests, particularly the Western national forests, have so many stands of large trees, and because young trees grow much faster than old trees, harvesting that old-growth timber is the fastest way to increase the overall annual growth of softwood sawtimber.

From the industry's point of view, the national forests are conveniently located near their Western sawmills, and they do not have to pay an ad valorem property tax on a timber supply growing on government land. From the Administration's point of view, the national forests are the most easily influenced source of timber supplies. Hence these perennial timber raids on the public's forests.

### HOUSING VERSUS WILDERNESS

A number of side issues that bear on the timber supply question also demand review.

The timber industry has a long and baleful history. After many decades of liquidation (logging off all the timber on its own lands and then moving West to new lands and virgin forests rather than practicing the tree farming it preaches), the industry's rapaciousness has backed it up against the Pacific Ocean. There are no more virgin forests for sale, and the industry is heavily dependent on timber from the National Forest System. Of the major timber companies, only one—Weyerhaeuser, the industry's giant—owns enough timberland to fully supply its own mills. All the others depend on timber purchased from the federal government and private owners of forestlands. Even Weyerhaeuser is still "liquidating capital assets." In recent years the company has closed several mills and sold logged-off holdings in California, Oregon, and Washington, and has invested in a billion-dollar expansion program in the southeastern United States, eastern Canada, British Columbia, and Indonesia. Other large timber companies have been converting forestlands into real estate developments through subsidiary land sales companies. A great many smaller timber companies own mills but no forestland at all.

Besides braking the general inflationary trend in the economy, the Administration's interest in reducing lumber prices is concerned with the perennial failure of the government to achieve its housing goals. Housing starts fluctuate in response to numerous pressures including the overall health of the economy, the cost and availability of mortgage money, and the price of materials.

To hear the timbermen and their friends in government talk, the most important reason that America's poor have to live in wretched tenements and slums is the high cost of lumber, a cost driven up by wilderness preservationists—a privileged, advantaged, selfish minority. This is nonsense, of course. Last March, U.S. Forest Service Chief John McGuire, in a letter to Representative Mike McCormack of Washington, admitted that the price paid by timber companies for the standing timber to produce the lumber and plywood for an average house "would be about $635 or 2.4 percent of the selling price." By the time the consumer pays for it, the cost of that wood is much higher. The President's advisory panel calculated that "in 1969, the wood products including furniture in the average house cost $4,580."

Then, projecting lumber prices by the end of this decade based on two levels of harvest in the national forests—at the 1970 level and at a rate 60 percent greater—the panel produced an astonishingly feeble justification for ripping off the public's forests. At the lower cutting rate, it estimates, the higher price of wood would increase the cost of that house, including furniture by $460 in 1980.

Because the timber industry is not a regulated utility, opening up the National Forest System to heavy cutting would not necessarily increase the total timber harvest all that much. As the panel pointed out, "Increased federal timber harvest would affect lumber prices if demand were constant, and this in turn would tend to depress harvest from other ownerships and also to depress imports." A table in the report showing the anticipated effect of raising the national forest harvest to 22.1 billion board feet—a 62.5 percent increase over the current allowable cut and almost double the actual annual harvest—indicated only a 7.5 percent increase in total lumber supply.

The United States is a net importer of wood products—the world's largest importer, in fact. Nearly an eighth of all wood products consumed in this country are imported: three-fourths of our newsprint comes from Canada; half of our hardwood plywood and veneer comes from Southeast Asia; a fifth of all the softwood lumber comes from Canada.

At the same time the United States is a major exporter of wood and wood products, our exports amounting to about one-half the volume of our imports. By far the most controversial element in our foreign trade of wood products is the export of sawlogs to Japan. We are exporting 4 billion board feet of sawlogs each year, 80 percent of them to Japan, and most of the balance to Canada. Most of the sawlogs come from western Washington, but also from western Oregon and northern California.

Relatively few of these logs come directly from the national forests because the 1968 Morse Amendment to the Foreign Assistance Act limits log exports from Western national forests to 350 million board feet a year. But a lot of those logs are coming indirectly from the national forests—because the timber companies buy logs from the public forests for their own sawmills to substitute for the logs they export, or because it is possible, through multiple transfers and other schemes, to get around the legal limitation.

How important are these log exports to the domestic timber supply situation? Conservationists oppose the exports on the grounds that the wood should be entering U.S. markets to defuse the pressure to increase the allowable cut on federal forests. The timber industry believes the log exports should continue (it is very profitable) but supports a ban on exports from the national forests to protect those companies that depend on public timber for their sawmills and who can't compete with the prices the Japanese are willing to pay. The President's advisory panel thinks the level of exports to Japan should be controlled through governmental negotiations—at least until we can step up logging the national forests—but that in general foreign trade in wood products should be free.

Downgrading the impact of log exports on domestic timber supplies, the panel points out that 80 percent of the exports to Japan are logs of species not very important to the U.S. market; hemlock, true firs, and Port Orford cedar. But the panel also admits that, despite a ten-fold increase in exports since 1960, the Pacific Northwest has not increased its total timber production, which would indicate a net drain of timber away from the domestic market.

Moreover, since the timber supply issue is basically an economic one, the log exports cut two ways. The Japanese appetite for timber is so strong they have bid up the price of sawlogs on the West Coast to two and three times their previous levels. This has driven some sawmills out of business and played havoc with the timber-price situation. Log exports are defended on the ground that they help offset our imports thus aiding the balance of payments. But economist Gerry Pratt, writing in the *Portland Press*, wonders just how these exports help the balance of payments: "We paid Canadians $765 million to replace the lumber we could have manufactured from that $400 million worth of logs we sold to the Japanese."

### DOWN WITH THE FOREST PRIMEVAL

Implicit in all timber industry thinking, and that goes for the President's advisory panel report, is the conviction that a managed forest—one that has been cut and restocked—is better than a natural forest. Not just because it grows more wood faster, but better in all respects; better for wildlife, better for recreation, better for scenery, better for America. The thrifty, young, vigorous, manicured, managed forest is the great gift that scientific forestry has to give to the world, and it is a mystery to the logger and his ilk that anyone would say "no thanks."

Conversely, the forest primeval, with its dead and dying trees, its thick layer of duff and leaf litter, its mix of plant and animal species, is anathema to the sawlog forester and the delight of the nature lover, and never the twain shall meet. That is why all forest controversies finally come down to a slugging match over wilderness preservation. Never mind that all the wilderness areas in the National Forest System have "locked up" only 6.7 million acres of commercial forest on which stand only 58 billion board feet of sawtimber, barely enough to sustain one year's consumption of lumber against an eternity of wilderness recreation and inspiration. (According to the panel, the equivalent volume of sawtimber could be produced in 60 years by Douglas fir on but 1.2 million acres of good quality land in western Oregon, [or] in 50 years by Southern pines on 2.3 million acres of good quality land.) For this is a holy war, a battle for men's minds.

"But ye shall destroy their altars, break their images, and cut down their groves," it says in the Bible (Exodus 34:13), and that is exactly what the woodchoppers would like to do to the wilderness heathen. They cannot even understand why conservationists cringe upon hearing hardwood trees, the noble oaks and elms of poetry, referred to as "weed trees" in their managed forests. But they do understand this little verse the turkey and squirrel hunters in the South throw at them, for barn-burning has as long a tradition as oral literature south of the Mason-Dixon Line:

You've got the money,
We've got the time;
You kill the hardwoods,
We'll burn the pine.

Having studied the Report of the President's Advisory Panel on Timber and the Environment, I decided to ask Brock Evans, the timberman's archnemesis, how he would manage America's forests if he were an administrator rather than a wilderness advocate. His response:

"First, I would protect the national forest wilderness areas, for we won't even know the size of the timber-growing base from which to make plans until the wilderness issue is settled.

"Current information indicates that the national forests contain about 50 million acres of unprotected *de facto* wilderness, 20 million acres in Alaska and 30 million in the Lower 48 states. I'd settle for about 20 million acres of wilderness in the Lower 48, but the Alaskan wilderness needs more study. About one-third of that *de facto* wilderness is classified as commercial forest, but most of the areas are of low potential for timber production.

"Once the wilderness was protected, I would manage the national forests on a *true* sustained-yield basis, and I would make sure we didn't mine timber from the land. No cutting would be allowed on land with timber-growing potential lower than 35 to 40 cubic feet per acre per year.

"I would practice cautious intensive forestry on the national forests, to reduce the area required for wood production. Precommercial thinning would be required, and so would prompt reforestation of harvested areas.

"To reduce the pressure on the national forests, I would press for incentives for timber production on the two-thirds of the nation's commercial forests owned by farmers and other nonindustry private owners.

The real potential for increasing our wood supply is on these miscellaneous private woodlands, but we've got to stop talking about it and start doing something. The industry's tree farm program is a joke. The vast majority of the acreage in the 35,000 tree farms the industry boasts about is in big timber company holdings.

"I would take steps to force better wood utilization. In northern Idaho, for example, 60 to 80 percent of the timber is left lying on the ground in the woods. The Environmental Protection Agency estimates that 50 percent of this slash from logging is usable, as is as much as 40 percent of mill wastes. There are plenty of ways to get more wood out of the timber that's being cut now, including more efficient logging practices and using thinner saws."

### WHO'S IN CHARGE?

These paragraphs are only a sample of the management program that Brock Evans described for getting more wood out of fewer trees. None of the ideas is new; it is just that they are moldering away in the textbooks and panel reports.

But Brock Evans isn't in charge, and it is hard to say just who is. The loggers are in the woods, the science of forestry is giving way to the industry of logging and the U.S. Forest Service is tending toward atrophy. More than one commentator on the history of forestry in America has observed that we might be heading full cycle, through the reckless ravage of the woods, through more cautious forestry and silviculture, and back again. Over the past two decades, during which the nation's annual consumption of sawtimber increased by 20 percent, the annual allowable cut of timber on the national forests has more than doubled.

The timber supply question is more than the issues of woods or wilderness, timber or trees, sawlogs or scenery, the economy or the environment. It is a question that goes to the heart of the choices we must make about the kind of world we want for ourselves and for our descendants. We need to ask ourselves the question that poet Gary Snyder posed in Myths & Texts:

What bothers me is all those stumps:
What did they do with the wood?

## WHEAT SUPPLIES AND INFLATION

Mr. HUMPHREY. Mr. President, recently two excellent editorials appeared in the Minneapolis Star and the Washington Post on the current wheat situation. These editorials clearly highlight the complicated situation in which we find ourselves with regard to wheat supplies and their effect on inflationary trends.

We apparently have not learned anything from the experience of the past year. The Post editorial accurately states that only after the mismanagement of the soybean crop did the administration begin to require exporters to register export commitments. Now we find that we are selling far more wheat abroad than we should be in terms of maintaining adequate supplies here at home. The Star goes on to point out that there is little or no definitive information available to pinpoint how much wheat we have in supply, or even how much we need for domestic uses.

On several occasions I have warned of the danger of depleting our reserves as a result of the administration's preoccupation with export earnings. I am concerned about the reliability of Department of Agriculture wheat export estimates and carryover figures, and the disastrous effect of very tight supplies on already inflated markets. In addition, I have mentioned on several occasions that much of this year's expected increase in production will necessarily go into rebuilding exhausted reserve inventories. While many other nations throughout the world have recognized this fact and have learned important lessons from the past year, it seems that the United States has not learned anything.

We have failed to take urgently required action, such as establishing reserves and monitoring our commodity exports. I am pleased to note that the Star agrees with me that an amendment to the Export Administration Act to monitor commodity exports is necessary.

To add insult to injury, the administration insists that it has no role to play in protecting the American consumer against crop failure or changes in world demand. As the Post editorial further notes, the great stabilizing North American stocks of grain are now greatly diminished, and there is no longer any cushion to guard against minor fluctuations in demand which may set off spurts of buying at panic prices.

Mr. President, I request unanimous consent that these excellent editorials be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Minneapolis Star, Jan. 23, 1974]

### The Great Wheat Mystery

As if there isn't enough mystery about the oil shortage, Americans are being told they have something else to puzzle over whether there is enough wheat available to keep the price of flour, and of bread, from going through the roof.

There was a general discounting of the prediction of a baking industry official that bread would go to $1 a loaf (the price now ranges from 45–50 cents). But there the agreement stops. The Department of Agriculture has been spreading the word, through

Secretary Earl Butz, that there is no wheat shortage. Grain traders, flour millers and bakers aren't so sure, and point to the rising prices of wheat and flour.

Sen. Hubert Humphrey, D-Minn., isn't so sure, either. He has been casting a worried eye at the department's estimates of export demand and warned earlier this month that those estimates are too low. The wheat carryover for the current marketing year could drop below 200 million bushels, he said, with the price then going "through the ceiling."

The U.S., Humphrey said, is "currently living on a hand-to-mouth supply basis with no allowance for reserve. If any unforeseen development should occur within the next 10 to 12 months—such as bad weather—which may adversely affect production prospects in any of the world's major wheat producing areas . . . much of the world could be faced with . . . food shortages."

Humphrey called for a grain reserve system, which would include some holding and ownership of grain by the government. Butz has pooh-poohed the need for such a reserve, saying the American farmer, once freed from production restrictions, can meet domestic as well as export needs.

One of the problems—as with the oil shortage—is that there are no firm statistics on the amount of wheat on hand in this country, and the amount committed for export. The Agriculture Department has predicted that there will be 210 million bushels of wheat on hand at the end of the current growing season. Other government figures show that the supply could go as low as 33 million bushels. Similarly, there is little agreement on how much wheat is enough.

We agree with Butz and other federal officials that an embargo on wheat exports would be self-defeating. But we are concerned about the lack of hard facts about the domestic supply of wheat and the amount committed for export. Without such facts, realistic policy decisions are almost impossible to make. For this reason, we support Humphrey's proposed amendment to the Export Administration Act, which would establish a system for the monitoring of commodity exports.

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[From the Washington Post, Jan. 18, 1974]

### Wheat and Inflation

The price of wheat is moving steadily upward, promising future rises in food costs. The baking industry is putting out anxious warnings that we might actually run out of wheat before the next crop comes in. Foreign nations are beginning to wonder whether they will actually get delivery on the American grain that they have already bought.

Does all that sound familiar? You bet it does. We are right back where we were last year, with the interesting exception that wheat today costs more than twice as much as it did a year ago. The Nixon administration is once again full of excuses. A year ago it was clearly culpable of a gross lack of foresight. This year, the charge can only be negligence. The administration is displaying, in its management of agricultural prices, a perverse unwillingness to learn from its own mistakes.

In July 1972 the standard bushel of hard winter wheat sold for about $1.55. That was before the Russians started buying. At that time, the government assumed that our grain surpluses were everlasting and inexhaustible. The assumption proved to be wrong. Because there were bad crops in several major wheat-producing countries and because most of the world was simultaneously improving its diet, even the vast American stocks were all but emptied out. By January 1973, the price of that bushel of wheat was up to $2.75. The Agriculture Department complained that it had no way of knowing how much wheat was being bought for export. The whole run-up of prices was a product of highly unusual circumstances that would never be repeated, the administration argued.

But here we are again. The price of wheat was up to $4.75 a bushel by mid-November, $5.25 by mid-December, and now by mid-January it is approaching $6. Last July, after the mismanagement of the soybean crop led to the politically disastrous embargo on exports, the administration belatedly began to require exporters to register their commitments. By mid-summer registrations were high enough to generate real concern that we were selling abroad more than we could spare at home. The Agriculture Department angrily replied that the registration figures were unreliable. But a lot of professional brokers evidently disagree. The current export registrations, added to our normal domestic requirements, would bring our supplies down to zero. That is why the price is marching rapidly upward.

Long before the total wheat stocks reached statistical zero, we would have run out of many types and grades of wheat. The recent talk by the American Bakers Association about bread at $1 a loaf can be discounted as a hysterical exaggeration. But it is simple truth to say that, while it took only two and a half cents worth of wheat to make the standard loaf of bread 18 months ago, it now takes nine and a half cents' worth. The bakers may well be correct in suggesting that this cost could double again before the next harvest begins in May.

The administration has been scurrying surreptitiously around the world, trying to persuade foreign buyers to accept late delivery on the wheat for which they have already contracted. It has also been trying to buy Canadian wheat to cover our own needs. It is urgently trying to avoid an eleventh-hour embargo, in the manner of the soybean fiasco.

Why do we keep making the same mistakes? Partly it is the administration's excessive reliance on agricultural exports to balance the country's foreign trade accounts. The White House evidently fears that any formal and orderly restraint on grain exports will threaten the trade balance and set off a flight from the dollar. Perhaps another reason is the political appeal of high farm prices. Still another is the administration's ideological commitment to a free market, although no reasonable definition of a free economy requires a nation to leave the security of its food supplies exclusively to the speculators and international brokers.

Once again, the administration is displaying its peculiar inability to grasp a fundamental change in the world's economy. From World War II to 1972, the two great North American producers carried the grain stocks for the entire world and stabilized its wheat market. The United States and Canada carried out this valuable service, not really by design, but to support the prices paid to their own farmers. Regardless of the reason for it, the system worked very well until the disastrous crop year of 1972 when an increasingly rich and populous world ate up most of those reserves. Worldwide crops over the past year have been quite good, but now the great stabilizing North American stocks are greatly diminished. There is no longer any cushion, and each minor fluctuation of demand sets off spurts of buying at panic prices

The rebuilding of reserves is essential, as the United Nations' Food and Agricultural Organization has been saying for some months. But even this process will put a strain on delicately balanced markets. For the short term, the only recourse for this country is a firm and public agreement stating the amount of grain that we will export each year. If the administration really intends to hold down food prices, there is a limit to the foodstuffs that we can export. It is much better to state that limit at the beginning of the crop year, rather than waiting until we have sold too much.

The soaring price of wheat carries a somber implication for the Nixon administration's whole strategy for controling inflation. The prevailing theory at the White House is that the world is going through a sudden dramatic adjustment in commodity prices and, however painful, it is a one-time shift that will not be repeated. That's a nice theory but, as the case of wheat suggests, countries that keep making the same mistakes can expect to keep paying for them.

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## NATIONAL ENERGY EMERGENCY ACT OF 1973—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 12 o'clock having arrived, the Senate will now resume the consideration of the conference report on S. 2589, which the clerk will state.

The assistant legislative clerk read as follows:

> A report of the committee of conference on the disagreeing votes of the two Houses to the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

The Senate resumed the consideration of the conference report.

The ACTING PRESIDENT pro tempore. The time between now and 2 p.m. today is to be divided between the distinguished Senator from Washington (Mr. Jackson) and the Senator from Arizona (Mr. Fannin).

Mr. JACKSON. Mr. President, I shall reserve my main statement for a later time this afternoon. At this time I should like to yield to the able Senator from Wisconsin (Mr. Proxmire) who, I believe, wishes to propound some questions.

Mr. PROXMIRE. I thank the distinguished Senator from Washington. I do have some questions to ask but first would like to make a short statement before asking them.

Mr. President, when the energy bill was before the Senate on November 16, it adopted an anti-limousine amendment, which I proposed, by an overwhelming vote of 53 to 16. That amendment did two things.

First, it reduced the number of chauffeur driven limousines and heavy and medium sedans from over 800 to about 27. Only the President, Vice President, Members of the Cabinet, the Chief Justice, and a handful of "elected" officials of the Congress were provided individual cars.

Second, my amendment provided that except for these 27 or so officials, no Government car could be used to chauffeur Government officials to and from their home. This is already the law—title 31 section 638a restricts the use of all Government cars to "official purposes" and explicitly states that official purposes shall not include driving officials to and from home. The only exceptions to that rule—except for doctors and officials in remote areas—are Members of the President's Cabinet, period.

Now that the energy crisis is with us, this is an important item. Driving an official to and from home doubles the mileage.

If he drives himself, he drives in and drives home. If he is chauffeured the car makes two daily round trips—out and back in the morning and out and back in the evening. Further, hearings I held indicate that chauffeurs cost from $14,000 to $17,000 a year. So it is time we made this law stick.

When the bill got to conference, the Senate conferees accepted the House language.

SENATE BOUGHT A PIG IN A POKE

But I am here to tell the Senate and the managers of the bill, that they bought a pig in a poke. The final version they brought back to the Senate is a farce. The House and the bureaucrats took them for a cleaning. In fact, under the final version, there could even be an increase in the more than 800 limousines provided Government officials. Here is why. And here is why the provision is a farce.

First, the House version affects only class 6 vehicles. These are the big Fleetwood Cadillacs of 5,500 pounds or more. But the only officials in the executive branch who have class 6 vehicles—the President, the Cabinet, and some ambassadors in class I diplomatic posts—are those whom the amendment exempts from its provisions. So, the amendment outlaws class 6 vehicles but allows everyone in the executive branch with a class 6 Fleetwood Cadillac to keep it.

Second, the 775 or so officials who are now chauffeured around in heavy—class V—and medium—class IV—sedans are not touched. The under secretaries, the assistant secretaries, about 100 of the Pentagon brass, consulars and aid mission officials abroad, and the heads of such obscure agencies as the Battle Monuments Commission, the Foreign Claims Settlement Commission, and the Railroad Retirement Board legally keep their chauffeured cars. These class V and class IV, vehicles include Lincoln Continentals, Chrysler Imperials, Mercury Marquis, Chrysler New Yorkers and Newports, Buick Electras, and Mercury Montereys. These are not touched by the final version of the amendment.

Third, under present regulations, only a limited number of class I diplomats get Cadillac Fleetwoods. Under the energy bill conference report, the number is legally increased to any diplomat the Secretary of State designates. This is why there can be an increase in the actual number of limousines under the final provision.

Fourth, the legislative and judicial branches are exempted altogether. I am not against the Vice President, the Speaker of the House, and the majority leaders and whips of the House and Senate having cars. But I am against some 20 or more congressional staff or legislative agency heads having a chauffeured limousine provided them. That practice continues under the final version.

Fifth, the anti-limousine amendment in the conference report does nothing about the chauffeurs for some 775 big cars. Hearings I held indicate that routinely chauffeurs earn $14,000 to $17,000 a year including overtime. My amendment banned them for all but the 27 or so major officials. Under the final version, at least 775 Government officials will still be driven around in chauffeured limousines.

Sixth, the conference report language does nothing about the illegal practice of driving officials to and from home. The public does not understand, and rightly so, why a member of the Home Loan Bank Board or the Chief Counsel of HUD cannot drive himself to and from work.

The amendment is worse than useless. It pretends to do something while doing nothing at all. In fact, because of the diplomatic exemption, it could make matters worse.

There is a great credibility gap in the country about the actions of Government. When the Congress passes a so-called antilimousine amendment which does nothing about limousines, that increases the credibility gap.

It would be wiser to kill the entire amendment than to try to fool the American people.

Of course the President may take action on his own. But once the present energy crisis is over or there is a change in administration, the bureaucrats will be back again, fighting tooth and toenail to keep their gas guzzling status symbols.

What we need is a law, not regulations, to do the job. The antilimousine amendment in the energy bill is a farce.

I would like to ask the manager of the bill some questions. There are two possible circumstances—namely, the bill or conference report may pass or it may be sent back to the conference committee.

First, if the bill does not go back to the conference committee does the Senator from Washington agree that it is now mandatory on the executive branch of the Government to enforce title 31, section 638a, which outlaws the use of limousines, heavy and medium sedans, and in fact all Government cars with minor exceptions for the Cabinet, doctors, and remote employees, from being used to drive officials to and from home?

Mr. JACKSON. That is the existing law, which came into being as a result of the legislative effort, outstanding effort, of the Senator from Wisconsin. That is the law. This will not change it. That will apply, as I interpret the language in the conference report.

Mr. PROXMIRE. I thank the Senator very much. As he knows, unfortunately, that law has not been enforced. Even the White House staff does not abide by the law.

Mr. JACKSON. The Senator knows that I voted with him on every one of these proposals, including the one adopted by the Senate.

Mr. PROXMIRE. Indeed, the Senator did, and I am grateful for that.

I ask the Senator if he agrees that the legislative history of this bill and this amendment means that title I, section 638(a) as modified only by title V, section 101, must be strictly interpreted?

Mr. JACKSON. The Senator is correct. If it is not being enforced, it certainly should be enforced, and I will back the Senator in any and all efforts to achieve effective enforcement of existing law.

Mr. PROXMIRE. I thank the Senator. I have other questions.

Mr. JACKSON. May I just respond in general by saying that we tried very hard in conference to sustain the Senate's point of view. We got no support from the House side.

As the Senator knows, the White House was very active in its opposition to the Proxmire amendment. We did everything we could to make the Senate position prevail; because I agree with the Senator from Wisconsin that, at a time we are asking that sacrifices in one form or another, be made by more than 200 million Americans, in order to meet this energy crisis, the least we can do is to set an example at the Federal level of government.

Mr. PROXMIRE. As the Senator knows, when the House, as a whole, had a chance to act on a similar amendment to the HUD appropriation bill, they came very close to supporting the position taken by the Senate in knocking out all limousines for HUD, except for the Secretary, himself.

Mr. JACKSON. The Senator is correct.

Mr. PROXMIRE. That was over the opposition of the leadership.

The second question deals with the alternative possibility. If this bill is recommitted to the conference committee, will the Senator do his best to do three things?

First, instead of limiting the prohibition for cars through class VI Fleetwood Cadillacs, will he also define the cars to be prohibited to class V and class IV vehicles?

Mr. JACKSON. I think that is a reasonable request. The chairman of the committee, the junior Senator from Washington, will do everything he can to achieve that, if it goes back to conference.

I must say that if the bill is recommitted to conference, as proposed here, I am afraid it may be dead, period.

Mr. PROXMIRE. Will the Senator work to write into the amendment a provision calling on the executive branch to enforce title 31, section 638(a)?

Mr. JACKSON. If it is within the power of the conference, and I think it should be, because it is relevant, unless some point of order is made, I would strongly support appropriate language calling upon the executive branch to implement the existing law, pointing out that as outlined by the distinguished Senator from Wisconsin the law has not been enforced.

Mr. PROXMIRE. I realize that the Senator was up against it in a complicated bill which was extremely hard to handle. I think he has done a marvelous job, a great job for the country as well as for the Senate, in handling the energy situation.

I hope the Senator will raise the issue with the House, to seek to have the provisions of the Senate bill apply.

These chauffeurs cost a great deal of money—$14,000 to $17,000 a year. As we know, the average family in this country earns $11,000 a year. To ask them to subsidize cars and chauffeurs for Government officials, servants of the people, making four to six times as much, does not seem to be fair or logical at this time.

The Senate provisions outlawed giving the head of the Battle Monuments Commission or the Chairman of the Commission on the Ryukyu Islands a chauffeur-driven limousine. Will the Senator fight for the Senate position if the bill is sent back to conference?

Mr. JACKSON. I certainly will.

I drive a 1961 Chevrolet to and from work every day, and I think that is a sufficient clue as to how I feel about someone passing me with a chauffeur, some bureaucrat, who even has a light in the back of the car and is reading the paper. I do not even get a chance to read a paper, except on weekends, if we are lucky enough to get off. I want to make that disclosure so that the Senator will fully understand the sincerity of my point of view. I get sick, seeing some of these characters in this town driving around in that manner.

Mr. PROXMIRE. May I say to the Senator that I appreciate that very much, recognizing that his car is 14 years old—a 1962 Chevy——

Mr. JACKSON. 1961. It is an Impala.

Mr. PROXMIRE. However old it is, I hope the Senator will forgive me if I speed past him as I run to work. [Laughter.]

Mr. ROBERT C. BYRD. Mr. President, may we have order in the galleries and in the Chamber?

The PRESIDING OFFICER. The Senate will be in order. The galleries will refrain from outbursts.

Mr. JACKSON. Mr. President, I shall not endeavor to compete with the Senator from Wisconsin in the art of jogging. I think he has the best possible franchise on that. I do that in the Senate gym every night—as long as we do not outlaw that. I swim my half mile every day. That is not as good as—how many miles?

Mr. PROXMIRE. Five in and five out.

Mr. JACKSON. Just think of the gas the Senator is saving. We reserve it for the Senate.

Mr. President, I yield to the Senator from West Virginia such time as he may require.

Mr. ROBERT C. BYRD. Will the distinguished Senator, the manager of the conference report, yield me 15 minutes?

Mr. JACKSON. I yield 15 minutes to the distinguished Senator from West Virginia; and if he needs additional time, I yield it, also.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, I ask unanimous consent that I may be permitted to speak out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, for the purpose of knowing precisely what the rules and precedents require, we are operating on controlled time now. Am I required to ask unanimous consent that I be permitted to speak, having been yielded time, on a subject that is not germane to the pending conference report?

The PRESIDING OFFICER. Under the precedents as ruled by the Chair, the Chair does not take the initiative to enforce the rule of germaneness of debate, but any Senator could invoke the rule by calling for the regular order. Therefore, it would appear that the Senator correctly get unanimous consent to speak out of order since another Senator could invoke the rule against him unless he had obtained unanimous consent.

Mr. ROBERT C. BYRD. I thank the Chair.

## THE UNITED STATES AND LATIN AMERICA

Mr. ROBERT C. BYRD. Mr. President, in March of 1973, I called for a thorough review of U.S. policy toward Cuba. Today, I would like to suggest a broadening of the foreign policy horizons of the United States with respect to the whole of Latin America.

Geographically, strategically, economically, and to some extent, philosophically, our hemispheric neighbors in Latin America represent a potential for friendship and mutual security equal to any of our present international alliances. Traditionally, however, Latin America has occupied a relatively minor place in the perspective of those responsible for establishing the U.S. position in world affairs. There have been brief flashes of positive action. President Franklin D. Roosevelt established the Good Neighbor policy. President John F. Kennedy initiated the Alliance for Progress. But the bright promise of both of those attempts dimmed in a sea of indifference and neglect. Today there is more than ever a need for hemispheric solidarity and cooperation between the United States and the countries of Latin America. It is time that the United States stopped taking Latin America for granted. It is time that our Government opened its eyes and ears to the problems, the realities, and to the opportunities that exist in our relationships.

President Nixon, in his annual foreign policy message in May 1973, described the administration as following a "low-keyed course" in its Latin American policy. Lately, however, there have been encouraging signs that more positive movement is contemplated, and that a new era in United States-Latin American relationships may be about to emerge.

The most recent and most encouraging sign was given by Secretary of State Kissinger when he addressed the Western Hemisphere delegations to the United Nations Assembly in October 1973. At that time, Mr. Kissinger invited Latin American governments to suggest changes and participate in the shaping of a new U.S. policy for the hemisphere.

Secretary Kissinger said that the policy should be "a policy designed by all of Latin America for the Americas." He also indicated that an urgent examination of U.S. policy toward the hemisphere was being launched. The recently signed agreement between the United States and Panama regarding the principles for a new Panama Canal Treaty is a positive indication that perhaps attitudes are taking a turn for the better.

It is only natural, however, given the performance of this, and past administrations to view even good signs with a certain degree of skepticism. The Latin Americans have heard the rhetoric of the U.S. Government before. The only way to convince them that there is, or will be a change of policy is to proceed with actions, and not words.

President Nixon has made only one major statement on Latin America since he has been in office, and that statement was made in October 1969. The "mature partnership" envisioned by the President in that speech has frequently been alluded to by administration spokesmen as the guiding light for U.S. policy toward Latin America. Latin Americans, however, conscious of lowered U.S. initiative in their countries, discount the rhetoric, and point to what they regard as blatant neglect and lack of interest on the part of the United States toward policies directed at promoting genuine mutual advantages.

Former Secretary of State Rogers, in his annual report on U.S. foreign policy in April of 1973, achieved a classic of understatement when he said, in reference to the "mutual partnership" that—

> We have not yet been able to move as fast as we had hoped, and the development of a mature partnership has not yet been fully achieved.

Though the administration must bear a substantial portion of the blame for the low state of our relationship with Latin America, the Congress is not blameless. We have shown little interest and we have done little to spur the administration into action. This may be because the Latin American fields are not regarded as politically fertile. But while Latin America does not rate the urgency of Vietnam of the 1960's or the Middle East and the energy crisis of the 1970's, it is, nevertheless, much too important to the United States to be continually ignored.

As a trading area, Latin America is one of our best customers. In 1972, the major Latin American countries purchased almost $6.5 billion in U.S. goods. U.S. direct private investment in 1972—according to AID estimates—totaled more than $13 billion. Venezuelan oil, heretofore taken for granted, now looms as a vital resource, especially for the east coast of the United States. Prospects are that Peru, Ecuador, and Bolivia will also become important sources of oil, and the availability and cost of that oil to the United States will depend to a significant extent on how friendly our relationships are with these producing countries.

In addition, there are some major practical problems that have to be solved before satisfactory relationships with Latin America can be established. For one thing, Latin America needs better and freer access to U.S. markets. Some basic Latin American commodities are prevented from entering this country by discriminatory tariffs. Since President Nixon's October 1969 speech, the administration has been promising Latin America a liberal system of generalized tariff preferences. Finally, after years of delay and bitter anti-American sentiment over the issue in Latin America, trade preferences for Latin America were included in the administration's trade bill in 1973. This bill is still under consideration by the Congress, and it is too early to assess whether the measures proposed by the administration will satisfy Latin American needs. I consider it unfortunate that the United States did not take the lead in this area, but instead had to follow the example of Western Europe and Japan, which granted trade preferences to Latin America 3 years ago.

In this connection, it is gratifying to note that U.S. economic assistance is increasingly moving in the direction of multilateral assistance through international agencies. This removes some of the sting of "strings attached" and the paternalistic attitude connected with bilateral aid, and should serve to lessen the bitterness felt by many Latin Americans who resented the "handout" aura that has existed for so long. President Nixon has acknowledged that the countries of Latin America would much prefer trade to aid, but it has taken much too long for trade liberalization to reach the verge of reality.

Again, there is the vexing issue of private U.S. investment in Latin America. While it generally is recognized that private investment is important to the economies of the individual nations, actions and attitudes of various American corporations have been responsible for a great deal of anti-American sentiment in Latin America. The recent example of the ITT fiasco in Chile strongly suggested that there was collusion between the corporation and the U.S. Government to prevent the late President Salvador Allende from taking office after his victory in a democratic election. This gave new life to the time-worn suspicion that U.S. companies operating in Latin America, and the U.S. Government—principally the CIA—constantly meddle in the internal affairs of Latin American States.

Much would be done to alleviate this suspicion if the U.S. Government was not so quick to defend the companies in every expropriation case, but rather judged each case on its merits. General harangues against nationalization in Latin America do not serve any interest, and often serve only to exacerbate an already difficult situation. I would further suggest that it be impressed on corporations operating in Latin America that they are the most obvious symbol of the United States in the areas in which they do business, and they have the responsibility to conduct their business both as responsible corporate citizens of the host country and as unofficial representatives of the United States.

As I mentioned at the beginning of this speech, I called last March for a thorough review of U.S. policy toward Cuba, but the administration still maintains its intransigent position and refuses to see Cuba as a factor influencing our relations with the rest of Latin America. Recently, the press has reported a flurry of activity and rumors concerning a possible change in attitude on the part of the Cuban Government as well as our own on the matter of improving relations. I sincerely hope that these reports have substance, as it is certainly within our self-interest to overcome the problems with Cuba that have disrupted the fabric of unity, however frail, that has developed over more than a century of United States-Latin American relations.

I urge the administration to pursue any course of action that might lead to a solution of this unrealistic United States-Cuban impasse that has festered for 13 years.

Though I have been critical of the years of "benign neglect" toward our neighbors in Latin America which has characterized every U.S. Government since the early thirties, I believe that I am justified in concluding this statement on a note of optimism, which I draw from the results of a meeting of Latin American foreign ministers which took place in Bogotá on November 14–16, 1973, at the invitation of the Government of Colombia. From this meeting emerged a document entitled "Bases for a New Dialog Between Latin America and the United States." The document lists major Latin American concerns and they are as follows:

Development cooperation should be extensive and carried out through the Inter-American system; Latin American products should be permitted free access to the U.S. market.

An effective mechanism should be established to protect against economic coercion methods.

The Inter-American system should be restructured so as to adapt to the new political, economic, social, and technical conditions in the Americas.

The Latin American governments reaffirm their solidarity with Panama over the Panama Canal question.

Latin America must participate fully in matters involving the structure of international trade and the international monetary system.

The Latin American governments recognize the importance of transnational enterprise but call on the United States to cooperate in surmounting problems arising from the conduct of companies.

The transfer of technology from various countries, including the United States, is vital.

The governments are willing to discuss these and any other issues in the interest of improving relations with the United States.

Secretary of State Kissinger is scheduled to meet with the Latin American foreign ministers in Mexico on February 21, at which time the points listed above, and other matters will be discussed. Mr. Kissinger is currently riding a wave of popularity as a result of his successful conduct of diplomacy in several areas of U.S. interest. I believe that the Secretary of State, as spokesman for the President, and for the Government of the United States, has a unique opportunity to show Latin America that the United States can adapt to the realities of the 1970's in the Western Hemisphere, as we have in Asia, Eastern Europe, and the Middle East. There exists an opportunity to demonstrate that the United States values its relations with its neighbors in this hemisphere and that we will take positive steps in areas such as trade, economic development, and sovereign state understanding.

We could be on the threshold of an historic era in United States-Latin American cooperation and mutual interest. It will be tragic if the United States once again passes up the chance to cement friendships and commercial exchanges that could be of immense importance to this Nation as we approach the beginning of our third century of existence.

I thank the distinguished Senator from Washington for yielding and I thank the distinguished Senator from Arizona, the manager of the conference report on the other side of the aisle, for his patience, cooperation, and courtesy.

Mr. FANNIN. Mr. President, I wish to give praise to the distinguished Senator from West Virginia for his remarks regarding the great opportunities we have with the Latin American countries. It is my good fortune to live in the State of Arizona, a neighbor of the good people of Mexico.

Mexico is a country that exemplifies what can take place in a Latin American country. Mexico is now one of the leaders of the Latin American countries. A stable economy now exists in Mexico, and we are looking forward to greater developments in the relations between these two great nations.

This also holds for most of the other Latin American countries. We have had our differences with some of them. Perhaps we have not always taken full advantage of our opportunities there. However, it is certainly significant that we will be working with those countries that are developing their resources and that may be in a position to be of great assistance both to our country and to many other countries in the world.

So I want to commend the Senator. I believe what he has said contributes meaning fully to what we are talking about—ways of solving our energy problem.

I noted in the press this morning an article regarding the State of West Viginia, wherein there are coming to fruition—I think greatly due to the efforts of the distinguished Senator from West Virginia—the efforts he has been making as far as coal is concerned.

It was brought out in the article that methane is now being taken from coal mines—very successfully, as I understand it. It bodes a good picture for the future in this regard.

I was extremely impressed by the estimates made in the article. I knew of the potential as far as coal gasification and liquefaction were concerned. This is the first time I realized the full potential of methane from coal mines.

We have a twofold objective in bringing about the beneficial use of that product, which I understand has been previously practically wasted—creation of safer mines and utilization of the methane gas.

I want to commend the distinguished Senator from West Virginia, because he has been a leader in this field over the years, exemplifying what can be done if we take advantage of the potential of the coal reserves of this Nation.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Arizona for his overly generous remarks. I especially appreciate them coming as they do from a Senator who represents a State which rests on the border of our immediate neighbor to the south—Mexico. I am also very grateful for his comments with respect to the possibilities inherent in coal to solve our great energy problem at this time.

He has also been very generous in his comments concerning my personal efforts in this regard. As a Member of the other body for 6 years, I repeatedly called attention to the danger of our dependence on vulnerable and interruptible foreign sources of energy. Back as far as 1953, 1954, 1955, 1956, 1957, and 1958, I talked about those dangers. I talked about them in the Eisenhower administration. I talked about them in the Kennedy administration. I talked about them in the Johnson administration. I have talked about them in the Nixon administration.

As a member of the Appropriations Committee that has jurisdiction over appropriations for research in the Bureau of Mines and Office of Coal Research, I have been very active in amending bills to include additional moneys for research dealing with coal gasification, coal liquefaction, and improved mining technology, and I shall continue these efforts.

I appreciate more than I can say the observations made by my friend. Working together, I know we are all going to try to reach solutions to the onerous energy problems that confront our country.

I thank the Senator.

Mr. FANNIN. I express my appreciation to the distinguished Senator from West Virginia and acknowledge the contributions he has made over the years. I am sure we will work together to try to solve problems which seem insurmountable today. I am sure that with the development of the natural resources he is talking about and the natural resources we have in some other States, in different categories, we can overcome this problem.

Mr. ROBERT C. BYRD. I am delighted to see that the President has included in his budget for 1975, $427 million for coal research, which represents about a 160-percent increase—to be exact, $262 million—over the 1974 budget.

Five years ago the Office of Coal Research was operating on a budget of about $11 million. Today, that budget is well over $100 million. I was successful in adding $39 million of unbudgeted funds to the Office of Coal Research budget last year for fiscal 1974 programs dealing with coal research. But even so, the appropriations for the Office of Coal Research are only today what they should have been 5 years ago.

I have been able to get coal research funds increased through the years, only through grinding, difficult, constant effort, in the face of failure to recognize need for such, on the part of administrations—Democratic and Republican—through those years. It has been an uphill battle hammering away, amending bills, putting in the moneys, going to conferences with the House, and trying there to save the items in conference. It has been a difficult struggle, and I am glad to say, as I have already indicated, that the President has at last included in his budget for this coming year enough money to at least launch the kind of research programs that should have been launched half a dozen years ago.

There is energy R. & D. money in the budget, amounting to $1.8 billion for research into solar energy, nuclear fusion, geothermal, environmental technology, oil and gas exploration, and so on, but I am delighted to say that $427 million is for coal research alone. I shall do the best I can to see that every dollar of it is appropriated.

Mr. FANNIN. I am glad to have the comments made by the Senator from West Virginia. His persistence has paid off. We have not solved our problems, but we are now going along the path in the right direction. I feel that in the next few years we will see tremendous development of our coal reserves in a way which will not be detrimental to the environment as far as air quality is concerned.

I would like to report that in my State of Arizona one of the utility consortiums is spending $150 million on emission controls alone. It is working on sulfur dioxide controls. It spent $100 million even before determining what equipment will be selected.

The PRESIDING OFFICER. The 15 minutes of the Senator have expired.

Mr. FANNIN. Mr. President, I yield myself 10 minutes.

These are the steps that are going to help in the future.

I just want to extend my commendations to the distinguished Senator from West Virginia.

## NATIONAL ENERGY EMERGENCY ACT OF 1973—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses to the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. JACKSON. Yes, I will be delighted to yield.

Mr. ALLEN. Mr. President, I read from Senate Conference Report No. 93-663, page 45:

> Does this language mean that the intent of the conferees is to accommodate the do-it-yourself movement of both people and their personal possessions from one job site to another during these times of national stress, when jobs in the country are either opening up or closing down and people may be very mobile, seeking better opportunities or greater economic security?

Mr. JACKSON. Mr. President, the needs of the armed services necessitate the periodic reassignment of personnel and the transport of these personnel, their families, and their household goods from one duty station to the next. In addition, we Americans are a very mobile people. The family move from one city to another in search for new or better employment is probably more common here than in any other nation. It is a routine facet of our society and of our economy. In incorporating in the conference report the passage which my esteemed colleague has cited, it is the intent of the conferees to acknowledge those two facts.

Furthermore, it is their intent that, insofar as it may be possible, and consistent with the other provisions of this act and of the Emergency Petroleum Act of 1973, end use rationing plans should be so developed as not to unduly inhibit this normal movement of people and their personal possessions be it by van line or by hired vehicle.

Mr. ALLEN. I thank my colleague for this clarification.

I am pleased that such is the intent of the conferees for unless we provide the fuel for a person to move himself, his family, and personal household possessions to his place of employment, we have, for the first time in our Nation's history, effectively prevented him from getting to employment. His family will be living on the unemployment compensation provided in this bill instead of being the useful, productive family it would like to be. Fuel is the lifeblood of a man's mobility to get to employment. Without it, he is confined to the area and can become a financial burden to the State.

I would like to compliment the managers for their attention to the needs of our Nation's physically handicapped persons which I find in the conferees' report on page 45 and for their attention to the needs of families who must face the psychic and monetary traumas that are connected with moving from one locality to another while finding new jobs or other kinds of employment during this time of crisis.

However, under the most recent regulations as set forth in the Federal Register of Tuesday, January 15, 1974, volume 39, No. 10, part III there are certain allocations for users of gasoline at page 1944. The servicemen and other people using do-it-yourself moving methods are not included. Their only recourse would be to apply to the State under the set-aside provisions. The State in turn must justify the hardship application to the appropriate Federal office. This would compound the problems of the 1-out-of-5 families who are relocating for employment purposes.

No group of people in the economy feel these economic adjustment pressures so acutely as the young unmarrieds, young couples, and younger families with school-age children. Theirs is the age group that has the lowest job stability, rising needs, and limited savings. This group provides the primary "customer" for the do-it-yourself household moving industry. All the features that make do-it-yourself moving attractive, appeal to these younger individuals and families. It should be a matter of national concern that this mobile, educated, eager, creative segment of our populace be able to carry out considered decisions on where to live to best meet the economic and social demands of their era.

Family moving is rarely undertaken lightly—it is a difficult experience involving large psychic costs as well as considerable monetary expenditures.

Each year 1 family in 5 will move. In 1973, 12.5 million families moved, or 18.7 percent of the Nation's 66,890,000 households. 46.8 percent of these household moves utilized do-it-yourself moving equipment. Lower-income families have no other viable alternative except to liquidate their household belongings.

Families have to move. Nearly 75 percent of one-way do-it-yourself moves are directly employment-related:

Ten percent unemployed, seeking a job.

Fourteen percent being transferred by current employer.

Thirty-one percent accepting new employment opportunity.

Twenty percent entering, leaving or being transferred by the military.

The balance includes moves for reasons of health, education opportunities, change of marital status, retirement, voluntary and involuntary housing change, and others.

These are essential, purposeful, nonrecreational moves for both the individual and the Nation.

The expected displacement of people due to the energy crisis will further intensify the need for mobility to where the jobs are, and the need for an economic, flexible system of household moving. But when a family must set out for a destination hundreds or even thousands of miles away, they should have assurance that they will not become stranded enroute in an unfamiliar area due to lack of fuel.

The do-it-yourself household moving industry is unique in that its vehicles are gasoline-powered, in that the consumer purchases the gasoline himself at retail and at several successive independent service stations along the route to his destination.

The group we are talking about consists of heads of households in the age bracket of from 25 to 44 years of age, young marrieds or families with small children. It is a unique group. It is free enterprise in operation.

Those with sufficient financial resources generally choose among van lines, a rental truck, and a large trailer for household moving. Their primary considerations are the cost savings of the rental equipment versus their time and effort to pack, load, drive, unload, and unpack. Dollar savings average about $340 on an average 490-mile move when truck rental equipment is used; on the average, a 63.4-percent savings.

Although the services provided are different and the out-of-pocket costs to the consumer vary considerably, competition between the van lines and the do-it-yourself household moving industry is stiff. The do-it-yourself household moving industry must price considerably below the van lines to offer sufficient savings to a person moving his household belongings to induce him to choose to rent a truck or trailer. Competition within the industry is also severe, and even within individual corporations smaller rental trucks compete with larger rental trailers.

Potential customers in the lower-income brackets tend to choose between a small rental trailer and the alternative of disposing of excess—more than a car load—of personal goods. They usually decide by comparing the value of those goods with the cost of the trailer rental. This effectively limits the rates the do-it-yourself moving industry can charge for small trailers. The resulting pricing limitations, taken in toto, represent free enterprise operating at its best.

This consumer group—using do-it-yourself equipment—should be differentiated from the moving van industry, and from the commercial truck and general car leasing industry, most of which is covered under the regulated carrier section—section 113 of the bill reported by the conferees.

My concern is that the conferees intent be, as expressed on page 45 of the report in the aforementioned paragraph, clearly brought to the Federal Energy Office and that this be enforced as it is not now in the allocation regulations or the proposed gasoline rationing plan of January 16, 1974.

Mr. FANNIN. Mr. President, we have a conference report on S. 2589 pending before the Senate today. I would like to discuss the conference report, principally one section. I will have more complete remarks to make at a later time. At this time, however, I would like to cover the section of this legislation which is referred to as windfall profits.

### WINDFALL PROFITS HEARINGS EXCERPTS

The Committee on Finance invited former high officials of the Treasury Department, concerned with the administration of tax laws, to testify on a windfall profits tax proposal based on the definition of windfall profits in S. 2589. These former officials were asked to comment on the administrative problems which would be created if such a vague standard were enacted, and they were asked, as tax practitioners, what kind of advice they would give a company to which the tax would apply. Excerpts from the testimony of these witnesses is set forth below:

### GENERAL COMMENTS

Former Commissioner Mortimer Caplin of the IRS had this to say:

> For reasons discussed before, the proposed "windfall profits" tax is not a suitable solution: it is erratic and inequitable in application, and complex and costly to manage.

We then have the testimony of Edwin S. Cohen, former Under Secretary of the Treasury for Tax Policy, who said:

> I do not believe it feasible to give adequate guidance to administrative officials, taxpayers or the courts on a subject of such complexity in a statute that is as brief and vague as the one proposed.

John S. Nolan, former Deputy Assistant Secretary of the Treasury, testified:

> While it is possible to develop a reasonable windfall or excess profits tax applicable to energy companies which preserves and even increases the incentive for development of new energy sources, the form of tax under consideration today is wholly unsatisfactory. Similarly, the recapture of windfall profits by the renegotiation process, as contemplated in section 110 of S. 2589, the proposed Energy Emergency Act, would be an equally poor system. These particular proposals are probably unconstitutional because of their uncertain application. They would greatly discourage new capital investment in energy development because of this extraordinary uncertainty that they would create. Finally, they are totally unadministrable, either through our tax administration structure or the renegotiation process.

Mr. Johnnie M. Walters, former Commissioner of the IRS, had this to say:

> In addition to the administrative and litigation problems, enactment of a "windfall" profits tax presents other serious problems. It seems clear today that we ought to be finding and developing new and greater sources of energy, in other words, encouraging development, exploration, and research. A "windfall" profits tax certainly will not do this. Instead, it will discourage investment of dollars, effort, and time. Those who otherwise might make significant investments to improve our energy supplies without doubt will be dissuaded to some extent by the "windfall" profits tax. Even if an energy corporation is willing to do what patriotism suggests, i.e., live with non-windfall profits, the necessity to justify actions will have a chilling effect on corporations. Unquestionably, this will delay needed action—just the opposite of the Nation's critical need.

Former IRS Commissioner Randolph W. Thrower had this to say:

> Finally, the difficulties foreseen in the administration of the proposed excess profits tax pale into insignificance compared with the renegotiation provisions of S. 2589. The excess profits tax would be applied in the first instance by the taxpayer in filing his return. Thereafter, it would be audited by the Internal Revenue Service. Unresolvable differences could end in litigation. Under the renegotiation provisions, however, any purchase of petroleum products could initiate an appeal directly to the Renegotiation Board with no screening processes whatsoever. The Board could be swamped. Its decisions would be subject to judicial review. It seems probable that issues raised in this manner would be tied up in litigation long after the present crisis had subsided and little but confusion would have been contributed to the resolution of the crisis.

The following are statements made by professionals in this field:

Crane C. Hauser, a former Chief Counsel of the Internal Revenue Service, said:

> In my view, this proposed statute unhappily combines the vagueness of the Renegotiation Act of 1951 (from which the factors enumerated in determining a "reasonable profit" were derived) with the basic unfairness of a base period income excess profits tax.
>
> One need only consult the Tax Court reports on Renegotiation cases to see that a "reasonable profit" is simply a matter of opinion, regardless of how many underlying factors are enumerated.

### ADMINISTRATIVE PROBLEMS

Johnnie M. Walters, a former Commissioner of the IRS, said:

> As indicated earlier, what is "a reasonable profit"? What are reasonable costs? And who can determine satisfactorily the true efficiency of an energy corporation at any time, and particularly during a period of crisis?

> The determination of "windfall" profits in many cases will not be easy. In fact, only in the simplest of cases will it be easy. For instance, where an "energy corporation" derives some income from sale of energy products and some from production or sale of other products, it may be difficult, or even impossible, to ascertain what profits, if any, should be subjected to the "windfall" profits tax. While the accounting profession has developed the specialty of cost accounting, the profession does not acclaim the specialty as a science. At best it is an art, and certainly not one on which to base an 85% tax!
>
> The kinds of subjective questions the proposed tax will raise (reasonable profit, extent of risk, efficiency, etc.) can only result in serious problems of administration and litigation. * * * Does the provision apply where the corporation generates and uses energy or energy products, without sales to others? And does the restriction of profits to "reasonable profits" raise a constitutional question? It may.

John S. Nolan, former Assistant Secretary of the Treasury, said:

> Such a tax would call for income determinations by product lines, since the products of energy corporations extend far beyond the usual concept of "energy products," particularly in petrochemicals and chemical and plastic products. Our tax system has never been required to determine taxable income by product lines, and it cannot readily be done. Few, if any, companies have product accounting which would provide profit data according to product lines which coincide with the concept of "energy products." Product accounting requires proper *intra*-company pricing between one division and another, as where the oil refining division sells refined products as raw materials to the chemical division, a determination which may be extremely difficult to make and is beyond the present scope of our section 482 *inter*-company pricing regulations.
>
> Since the proposed tax would require such determinations for the past period 1967–1971, both on an industry-wide basis and for each particular taxpayer, as well as for future years, and since such data could not be developed, the tax would not be administrable.

Mortimer Caplin, also a former Commissioner of IRS, made this statement:

> In determining a "reasonable profit" of a particular seller, consideration would have to be given to "the reasonableness of its costs and profits, with particular regard to the amount and source of capital employed," "extent of risk assumed," "efficiency and productivity, particularly with regard to cost reduction techniques and economics of operation," and "other factors the consideration of which the public interest and fair and equitable dealing may require." What an awe-inspiring responsibility! Whereas today we have an energy administrator, tomorrow under this proposal the Commissioner of Internal Revenue would become an "energy industry czar."

This is the statement of Randolph Thrower, another former Commissioner of IRS:

> The formula provided in S. 2589 and incorporated in the excess profits tax provision in the press release would seem deficient in several respects including the following:
>
> 1. It is unprecedented in establishing profits of a base period as a maximum standard for current profits. It authorizes the administrator, by referring to a number of vague generalities, to reduce the standard of normalcy provided by the base period. Excess profits tax provisions traditionally have established the base period as a minimum standard, with a possible upward adjustment due to equitable considerations peculiar to the taxpayer or the segment of his particular industry. The factors listed in Paragraph (b)(2) of the proposed windfall profit tax are of the type which should be referred to as a justification, in the public interest or in the interest of treating equitably the taxpayer or seller, for increasing the base period standard rather than reducing it.
>
> 2. The proposed formula is vague and uncertain in referring to "average profit" of the base period. Does this mean average profit in terms of absolute dollars? This would be determinable for a single operator but not for the entire industry which has a wide range in the size of sellers. Does it then refer to a margin of profit as related to gross sales or units produced or sold or does it refer to return on investment? If all measures are referred to, which would control, the one most favorable to the taxpayer or the least favorable one?

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. FANNIN. Mr. President, I yield myself an additional 15 minutes.

The PRESIDING OFFICER. The Senator is recognized for an additional 15 minutes.

Mr. FANNIN. I thank the Chair.

Senators will understand that I am quoting from men who have great expertise in this field. In most instances they favor an excess profits tax, but, in these remarks they are commenting on the stipulations in the conference report on S. 2589.

Mr. President, to continue with my statement regarding the windfall profits and the hearings excerpts I would like to quote from the testimony of Edwin Cohen:

> As contrasted with the brief "windfall profits" tax provision being considered by the Committee today, the Korean War excess profits tax—which was drafted with care in the light of the experiences with the World War I and II taxes—contained 35 lengthy sections that were necessitated by the complexity of the subject matter. While the Korean War excess profits tax dealt with substantially all business corporations, whereas the proposed tax would deal only with sales of "energy products" by "energy corporations," it would seem that most of the same problems would exist in this narrower segment; and they would be compounded by the necessity of determining separately the profits on energy products sold by corporations which are also engaged in the sale of other goods and services. I do not believe it feasible to give adequate guidance to administrative officials, taxpayers or the courts on a subject of such complexity in a statute that is as brief and vague as the one proposed.

Then Mr. K. Martin Worthy, a former Chief Counsel at IRS, testified:

> While I do not intend for a minute to deprecate the efforts of the Renegotiation Board, which must, of course, administer the law as it finds it, the lack of any precise rules as to how the various factors enumerated—such as reasonableness of cost and profits, volume of production, net worth, risk, and efficiency—are to be taken into account, make any objective determination of excessiveness of profits virtually impossible to attain. The lack of adequate guidelines for applying and weighing the statutory factors was the subject of criticism in a report by the Comptroller General to the Congress on the Renegotiation Board last May. The Comptroller General said that as a result it was unable to evaluate the reasonableness of the Board's determinations. Even if authority were to be granted to the Renegotiation Board, with its familiarity with such standards to determine excessiveness of profits, it is quite apparent that extended litigation would ensue—just as it has under the Renegotiation Act—before the amount of excessive profits of many companies would finally be determined.

Charles W. Davis, former Chief Counsel of IRS, had this to say:

> The single most important element of such a system is a law which a taxpayer can understand and apply to his own affairs—sufficiently clear and well defined to give him distinct pause at the thought of noncompliance. Stated somewhat differently, if the system is to work, a taxpayer ought to be on notice of what would constitute noncompliance. The proposed Windfall Profits Tax is utterly deficient in this respect. It fails to provide a workable premise for self assessment, even by the most sophisticated corporate taxpayers. By failing to prescribe adequate standards by which even major corporate taxpayers can compute and report their liability, it erodes the very foundation of our tax system, by courting—and perhaps even inviting—massive noncompliance.

Johnnie M. Walters, the former Commissioner of IRS, whom I have quoted before, had these additional comments:

> With a "windfall" profits tax, we can expect two basic approaches by those subject to the tax:
>
> (1) Longrun: To the extent feasible delay actions requiring investments necessary to meet and resolve the energy crisis until the "windfall" profits tax expires.
>
> (2) Shortrun: Bill and charge conservatively in order to avoid the "windfall" profits tax in order to avoid controversy and to avoid adverse public relations. (This means investors will keep their funds out of the very corporations needing them to meet and solve the crisis, i.e., the energy corporations will be weakened.)
>
> Thus, both the short-run and the long-run effect of a "windfall" profits tax are counter to what the Nation needs, i.e., a great enthusiastic charge to discover and develop new and greater energy sources for the decades ahead.

Mr. President, I commend that statement. I know that Johnnie M. Walters is very familiar with the mandate that was given by the Senate to the oil companies of this Nation. Many of those companies are independents, and must have the ability to raise the funds for exploration. That is why Mr. Walters was so concerned about the effects of this legislation.

Then John E. Nolan, whom I have quoted before, a former Assistant Secretary of the Treasury, had the following comments on this particular provision of the conference report:

> I would feel obligated to counsel my clients to challenge in court the constitutionality of the statute; to challenge in court the validity of regulations and rulings interpreting its scope and attempting to amplify the statutory factors; and to challenge in court any determination of windfall profits. I would advise my clients that no reliable estimates of profitability or rate of return on investment for new capital expenditures could be made, at least for a number of years until the application of the statute in operation could be determined. In my judgment, this would greatly inhibit new capital investment for the purpose of expanding energy reserves—particularly in such vital projects as recovery of oil reserves from tar sands and oil shale, gasification of coal, use of thermal and steam energy resources, and similar projects.

Mr. President, I shall continue to quote from the testimony given, because I think it is essential in explaining the widespread opposition to this conference report. It is absolutely unworkable. It could result in a great burden upon the companies, but more importantly, it would result in a diminution of the efforts toward exploration and development of our resources, and this, of course, could be disastrous in the years ahead.

Mortimer Caplin, the former Commissioner of IRS, had this to say:

> In each instance, judgments would then have to be made on the possible existence of "windfall profits" and the prudence of making commitments notwithstanding the threat of the 85% penalty tax. Differences of interpretation, and potential controversy and litigation, would always be lurking in the background.
>
> Until final Treasury regulations were adopted, therefore, lawyers would tend to proceed with extreme caution and would normally prefer to give only tentative advice. Even with final regulations, the statute would not lend itself to clearcut decisions, and advice to clients would in all probability have to contain numerous qualifications.
>
> In these circumstances, management would undoubtedly proceed with similar caution in making final investment decisions.

Mr. President, I further quote Randolph W. Thrower's testimony—another former Commissioner of the IRS—as follows:

> One must assume that the client has the choice whether or not to risk his investment in an area covered by the excess profits provisions. Additional investment will be determined by the return (perhaps, depending on the definition of "profits," including cash throw-off from percentage depletion) on marginal capital invested, not by the overall average return. The 85% tax rate may be too high to leave sufficient capital for reinvestment by petroleum producers. Moreover, the use of base period profits as a maximum return, without regard to inflation, impact of the devaluation of the dollar, extent of new investment or marginal risks in the present emergency, combined with the vast uncertainties of the language, might constitute too great a disincentive to new investment. Ultimately these are questions for economists rather than lawyers, but one would tend to advise a client to look elsewhere for investment opportunities.

Mr. President, I have quoted several former IRS commissioners, and now I should like to quote another excerpt from Edwin Cohen, former Under Secretary of the Treasury:

> At least until appropriate guidelines had been developed and published, it would be most difficult to advise an energy corporation with respect to proposed capital investments. Inability of the companies to ascertain the effect of capital investments under an 85 percent rate would seem to provide a serious deterrent to development of additional production and capacity, which is a prime objective in the energy program.

Another statement that was made during the hearings on the constitutionality of this particular amendment by John S. Nolan, former Assistant Secretary of the Treasury reads as follows:

> Against this background, several conclusions may be drawn. If implemented through the renegotiation process, such a system would probably be unconstitutional. The renegotiation statutes have traditionally provided for recapture of excessive profits on contracts with the Government, principally defense-related. They have not applied to affect dealings wholly between private parties. Their constitutionality was upheld on the basis of the war powers of Congress. *Lichter* v. *United States*, 334 U.S. 742 (1948). Where the Government's interest is far less direct, as where the transactions are wholly between private parties, the proposed system would involve an unconstitutional delegation of Congressional power, or a taking of property without due process of law, because of the vagueness of the statutory standards and concepts.

Now another quote on the same subject of constitutionality from Mortimer Caplin, former Commissioner of the IRS:

> For reasons discussed before, the proposed "windfall profits" tax is not a suitable solution: it is erratic inequitable in application, and complex and costly to manage. An alternative approach is called for—either through different new methods of taxation or, perhaps through modification, reduction or elimination of existing tax benefits available today to various elements of the energy industry. In making its decision, Congress clearly will want to procure and consider data on energy inventories, production, costs, reserves, sources of supply, and quantities sold. Undue haste could lead to unwise layering of the Internal Revenue Code with additional complexity.

Now a quote from K. Martin Worthy, former Chief Counsel of the IRS:

> It would seem clear, Mr. Chairman, that the enactment of legislation determining excessive profits in the manner set forth in the proposed legislation before the Committee today would create not only great inequity to many companies—and by the same token, windfalls to others—but also tremendous administrative problems and almost endless litigation, which could be expected to ensue for a long period to come.

Let me quote Charles W. Davis, former Chief Counsel of the IRS:

> An eminent authority in the field of Federal taxation has observed that the "the excess profits tax is an excrescence of crisis. Typically it has been one element in an emergency fiscal program designed for a mobilizing economy." (Mertens, Law of Federal Income Taxation, Introd. V. 6A.) Judges who have been required to consider the provisions of the Excess Profits Tax Act of 1950 have observed that it is perhaps the most intricate and baffling enactment ever to receive Congressional approval. Accordingly, it may be appropriate to evaluate the current proposed windfall profits tax in the light of the most recent experience of the Congress in the imposition of the Excess Profits Tax Act of 1950.
>
> Although that law was enacted during a period of approximately 6 weeks, from the beginning of hearings in the House Committee on Ways and Means to its signature by the President, there was a consistent theme expressed by witnesses before the tax writing committees and by committee membership that the standards for computation of excess profits subject to the excess profits tax should be explicitly stated in the statute, with much less reliance upon vague generalities than had been the case under the World War II Excess Profits Tax.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be taken from both sides.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FANNIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I have touched on the windfall profits matter only, but this is just one of 13 major infirmities in the bill. Let me enumerate the sections for the RECORD.

Section 103 needs to be corrected.

Section 105, congressional review, has its limitations and certainly needs correction.

Section 107, contingency plans, is also faulty.

I have covered the windfall rebates, on which I have gone into detail.

Section 112, standards for allocation, certainly needs reconsideration.

The antitrust section is faulty and is very much in need of correction.

The export controls section is unclear and not explicit.

The unemployment provision section would be of tremendous cost without hearings giving full consideration to determining what would be involved.

The car pool section is one that also presents problems.

The judicial review section has been questioned by a number of my colleagues.

There are questions on the air quality section to be brought up this afternoon.

The special interest section on mass transit subsidy is another matter that must be reconsidered.

Mr. President, I want to make it clear that my objection to this legislation is not on one item alone. We do need an excess profits bill; the Senate Finance Committee and the Ways and Means Committee of the House will be working on such a bill. The FEA Organization bill has already passed the Senate, and the House will consider its version next week.

I feel that these separate energy measures are superior to the corresponding provisions of the conference report, which, as I stated earlier, was hastily drafted and heavily amended in the closing days of the session.

Mr. President, this is no time for Congress to act irresponsibly. We must accept the responsibility and provide the administration with adequate legislation to manage the problems they face in this emergency. We are on the road to accomplishing the objective of dealing with our energy situation. I believe the conference report should be defeated.

Mr. President, I ask unanimous consent that during the consideration of the Conference Report on S. 2589, and during votes related thereto the following staff members be granted the privilege of the floor:

Bill Van Ness, Jerry Verkler, Grenville Garside, Jim Barnes, Lucille Langlois, Ben Cooper, Mike Harvey, Dan Dreyfus, Russ Brown, Fred Craft.

Dave Stang, Harrison Loesch, Brent Kunz, Ron Frank, David Russell, Roma Skeen, Nolan McKean and Maureen Finnerty.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. MUSKIE. Mr. President, I yield myself such time as I may need.

I ask unanimous consent that the following staff members of the Public Works Committee be granted the privilege of the floor during the consideration of the conference report: Leon Billings, Karl Braithwaite, Sally Walker, Barry Meyer, Phil Cummings, and Dr. Arton Tussing, of the Committee on Interior and Insular Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, in view of the limited time for the debate on the motion to recommit, it seems to me it might be useful to the Senate and for the RECORD if I began the discussion of the issues in a preliminary way before the hour of 2 o'clock, when the motion to recommit will be offered.

I was a member of the conference, as a representative of the Public Works Committee, together with the distinguished Senator from West Virginia, the chairman of the Public Works Committee (Mr. RANDOLPH), and the distinguished Senator from Tennesseee (Mr. BAKER). Our special responsibility in the conference had to do with the issues involving environmental legislation which ultimately found their way into the conference report. Because that is a technical subject, I thought I might get some of the technical discussion out of the way before we get into the heat of the debate.

I would like to make it clear at the outset that I will oppose the motion to recommit, and will vote against it for reasons in addition to those which I will discuss in the next 15 or 20 minutes. Those reasons will become apparent in the course of the debate. But I might say at the outset, Mr. President, that the conference report before us represents long, hard work, over a period of some days on both sides of the conference.

It represents long hours of careful deliberation and work between the House and Senate conferees, and the compromises that it represents were not easily agreed to. I think it would be a waste of all those days and hours of effort to recommit this legislation to the conference. But I will get into that question in a little more detail a little later.

I would at this time like to summarize the provisions of the pending conference report which relate to the Clean Air Act. Those provisions fall into three categories.

First are the sections of the bill which would permit extension of deadlines for compliance with stationary source emission limitations for major fuel burning stationary sources which convert to coal to reduce demand for oil. Second are those provisions which relate to emissions from automobiles. And third are amendments which relate to the transportation control strategies required by the Clean Air Act to implement and maintain health levels of air quality.

In regard to the first and second categories, similar matters were considered by the Senate as a part of this or other legislation last year.

Coal conversion was an important element of the bill reported by Senator JACKSON's Interior Committee. Extension of compliance schedules for sources required to convert to coal, together with a requirement for obtaining continuous emission reduction systems, was a primary thrust of the amendment which I offered to Senator Jackson's bill on the Senate floor, which the Senate subsequently approved.

The conference agreement on this provision is narrower than either the House or the Senate proposal.

In other words, from the environmentalist's point of view, it is a better deal than either the House or Senate proposal.

While the compromise deadline for compliance with the Clean Air Act requirements is 18 months later than would have been permitted under the Senate bill, the scope of both the House and Senate bill has been narrowed to apply only to those facilities which convert to coal and decide to continue to use coal after November 1, 1974. Only facilities which do not intend at sometime in the future, to reconvert to the use of oil will be allowed an extension of present deadlines. This means that only facilities which either have a commitment to stack gas control techniques or a long-term contract for low-sulfur coal will be allowed to utilize this 18-month extension from current deadlines.

This does not mean, however, that concern for public health can or will be abandoned during this interim period, even for those facilities. There are three important features of these amendments which will make possible adequate public health protection.

First, under section 119(2)(C), the Administrator has authority to require any fuel-burning stationary source to which the conversion section applies to use coal of the type, grade, or pollution characteristic as the Administrator may decide. This authority is also vested in States and local governments and is conditioned only upon the availability of coal of the stipulated type, grade or pollution characteristic.

Second, the Administrator has the authority to require the Federal Energy Administrator to issue exchange orders to redistribute available low-sulfur coal to areas to "avoid or minimize the adverse impact on public health." As amendments to the Clean Air Act, this authority continues after expiration of the energy emergency legislation. It is sufficient authority, in my opinion, to assure that low-sulfur coal is used in highly polluted areas during the extended compliance periods, limiting the use of high-sulfur coal to those areas where its use will have the least impact.

Third, the Administrator has the authority to require compliance with the applicable emission limitations "no later than January 1, 1979," which gives the Administrator adequate authority to require earlier compliance by those stationary sources which avail themselves of this procedure if he determines the public health and welfare requires more rapid compliance with applicable emission limits. At the same time this later date should permit the orderly development of stack gas control technology and the orderly phasing-in of available stack gas control equipment. In some States where the status of the implementation plan is still unclear, some questions may arise. It is the intent of this legislation that the term "implementation plan in effect on the date of enactment" means the applicable implementation plan as defined in the original Clean Air Act, section 110(d). Mr. President, I realize that these deadlines are longer than the Senate approved, but they represent a significant compromise for the other body. And more important, this provision may reduce the potential whipsawing between environmental requirements and the vagaries of imported fuel supply.

The second aspect of the legislation which relates to automobile emission standards is also familiar to the Senate. On December 17, the Senate passed, by a vote of 86–0, a 1-year extension of 1975 interim automobile emission standards for hydrocarbon and carbon monoxide. I will not, at this point, discuss that amendment in detail. However, I ask unanimous consent that remarks explaining that bill at the time the amendment was considered be printed in the RECORD at the end of this statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MUSKIE. Mr. President, the conference agreement goes beyond the limited 1-year extension passed by the Senate. Under the agreement, the Administrator can extend the deadline for compliance with the statutory standards for hydrocarbon and carbon monoxide for 1 additional year beyond 1976. The House version made that extension mandatory. The conference report makes it discretionary with the Administrator. Also the conference agreement establishes a standard for oxides of nitrogen for 1977 of 2 grams per mile. The latter is the recommendation of the administration; the former requires an administrative determination that the statutory standards for hydrocarbons and carbon monoxide are neither technically nor economically achievable. The Administrator has already found that those statutory standards can be met. I doubt, therefore, he will reverse his previous findings, the 1975 standards, for another year.

The additional year provided by the Senate bill to achieve those standards was intended to provide an opportunity to evaluate the implications of the technology chosen by the industry for compliance and also to permit an additional year to improve and refine that technology both as to emission efficiency and fuel economy.

The third aspect of the conference agreement relates to transportation control strategies arising out of air quality implementation plans required by the Clean Air Act. This is the area in which the Senate conferees had the greatest reservations. We did not believe it was necessary or appropriate to deal with these issues in the context of the energy emergency. However, the House conferees insisted.

As I indicated before the recess, I would have been reluctant to accept the provisions regarding transportation control under circumstances other than the pendency of this legislation. The Senate conferees did succeed in narrowing these questions sufficiently so as not to prejudice the validity of parking management regulations as elements of achieving and maintaining air quality protective of public health.

The Subcommittee on Air and Water Pollution will review these questions during oversight hearings this year. We will attempt to determine whether or not the parking surcharge should be an element of the Administrator's authority and we will decide whether or not the Administrator should utilize, as a means to protect and enhance air quality, authority which he has to regulate parking and other facilities which encourage vehicle use.

Mr. President, I believe it is essential that my colleagues understand the scope, purpose, and intent of those provisions of this legislation which relate to the Clean Air Act. I think we have narrowed the scope of the conference agreement sufficiently to protect environmental values while encouraging the utilization of domestic coal resources. Under the provisions of this act, these resources can be utilized with minimum adverse impact on the environment. To the extent that the provisions contained herein are not adequate for that purpose, I assure my colleagues that necessary modifications will be made in the Clean Air Act Amendments which will be forthcoming this year.

Mr. President, I would like to say a word or two about the strategy that is about to be proposed to the Senate, the strategy of recommitting the conference report to the conference.

I have already said that my own responsibility in the conference had to do primarily with the amendments of the Clean Air Act. And the conference carried out its responsibility and met separately until it had discharged that responsibility.

We were therefore brought into the discussion of other issues involved in the bill. We had an opportunity to evaluate the attitudes of the House conferees on the issues which were the greatest sticking points.

I may say, Mr. President, that two of the issues which constituted the greatest sticking points are the windfall profits provision and these environmental provisions. And I can say to the Senate that the House conferees in my judgment are not likely to change the stand which they took on these issues and stayed with until the end.

I had the privilege in the next to the last day of the first session, Mr. President, of listening to the debate in the House on the bill which the Senate sent over to the House in an attempt at the last minute to get the energy emergency legislation enacted. It was not the conference report. It was the conference report stripped of the windfall profits section.

And I say, Mr. President, that anyone who had the privilege of listening to that debate throughout that long evening could not help coming away from that debate with a clear understanding that the House conferees reflected the overwhelming sentiment in the House.

The House is going to insist upon a windfall profits provision, and I doubt that the House will accept any changes to strengthen the environmental safeguards in the provisions which we agreed to with respect to the Clean Air Act.

**The PRESIDING OFFICER.** All time available to the Senator has expired. The Senator from Arizona has 10 minutes remaining.

**Mr. JACKSON.** Mr. President, do I have any time left?

**The PRESIDING OFFICER.** The Senator from Washington has no time remaining.

**Mr. JACKSON.** I ask unanimous consent that, despite the previous unanimous-consent agreement, the Senator from Maine may proceed for 2 minutes.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. MUSKIE.** May I say, just to wrap up that point, Mr. President, there is an enormous tide against environmental values and the environmental legislation that we have put on the books, which is very visible on the House side. What we have in this bill, on the environmental issues, is a good deal, and the tide against this moderate kind of approach is rising very rapidly, as Senators who returned to their States during the recess, I am sure, understand. Under the pressure of the energy emergency, there is a tendency on the part of rank and file citizens and Congressmen to throw overboard all of the safeguards which we have written to protect the environment.

This conference report does not undermine any of the fundamental values which we have protected in such legislation, and to open up the legislation to further modification is to risk losing far more than we have any chance, conceivably, of gaining.

### Exhibit 1

### Automobile Emission Standards

**Mr. Muskie.** Mr. President, this legislation is the result of 18 days of hearings and 8 executive sessions devoted to the review of the implications of auto emission standards required as result of Clean Air Amendments of 1970. While the language of the bill is simple, its implications are important and complex.

The legislation extends for an additional year the interim emission requirements which the auto industry must meet for the 1975 model year. The effect of this amendment is to postpone for an additional year, the statutory standards established in 1970 for hydrocarbons and carbon monoxide. This amendment also vacates the 1976 interim not standard.

The Committee on Public Works is not unaware of the implications of this proposed legislation. Much controversy has surrounded the technology which the auto industry selected to meet statutory emission control requirements. While the catalyst controversy alone raises sufficient questions to urge moderation on the part of the Senate and the Congress, there are other issues regarding emission control requirements.

The committee was concerned with the questions raised about public health-related air quality requirements, fuel economy, oxides of nitrogen emission controls, nitrogen dioxide air quality standards, and transportation control strategies.

This bill would mean something less than a total, national commitment to catalysts—as few as 25 percent and as many as 50 percent of vehicles could meet these standards without catalysts and without fuel economy loss—because noncatalyst cars are small cars.

This bill would vacate 1976 standards which are more stringent than the 1975 interim standards but less stringent than the 1977 standards. Two years' experience with these interim standards will provide ample opportunity to evaluate catalyst issues; evaluate fuel economy questions related to stricter standards; and provide the auto industry with an opportunity to gear their technical efforts and resources to 1977 rather than the present moving target of different standards in 1975, 1976, and 1977.

This bill is a logical outgrowth of the procedure established in the 1970 act; that is, when administrative remedies were exhausted, the Congress would evaluate industry progress and ramifications of the statutory standards. This is the first result of that evaluation. After the NAS studies the committee will have additional recommendations.

The Senate, through the Committee on Public Works, is paying $500,000 to the NAS to evaluate the need for current auto standards from a public health point of view and an evaluation of the cost effectiveness of alternative strategies to deal with auto emission. This bill will place a hold on auto standards for a sufficient period to evaluate the results of those studies. Any more would prejudge those results—any less would foreclose NAS input.

I would like to discuss the history of the issues with which this legislation deals and the basis for committee proposal.

The 1970 Clean Air Amendments (P.L. 91–604) required that all 1975 model cars achieve a reduction in emissions of hydrocarbons and carbon monoxide of 90 percent over the emissions from 1970 model cars. In section 202(b)(5) of the act, the Administrator of the Environmental Protection Agency is authorized to extend the date for compliance with that statutory standard for 1 year, upon a determination that:

"(i) such suspension is essential to the public interest or the public health and welfare of the United States; (ii) all good faith efforts have been made to meet the standards established by this subsection; (iii) the applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available for a sufficient period of time to achieve compliance prior to the effective date of such standards, and (iv) the study and investigation of the National Academy of Sciences conducted pursuant to subsection (c) and other information available to him has not indicated that technology, processes, or other alternatives are available to meet such standards."

The Administrator made such a determination in April of this year. In accordance with the statute, at that time an interim emission requirement for 1975 model year cars was established. Test procedures for the certification of emission controls on light duty vehicles and engines for model year 1975 have also been established. This legislation provides that the certification procedure for 1976 model cars shall be the same as that for 1975 model cars.

This legislation extends the Environmental Protection Agency interim emission requirements and the implementing test procedures for 1 more year and extends the final date for compliance with the statutory 90-percent reduction of hydrocarbons and carbon monoxide to model year 1977. The statutory standards for oxides of nitrogen will also become effective in model year 1977.

And, this legislation preserves the separate standard established by the administrator for California for model year 1976 as well as model year 1975. The statutory authority for a waiver at the request of the State of California for stricter emission controls in model year 1976 remains in effect.

The available evidence indicates the need to continue efforts to reduce air pollution emissions from automobiles. This finding is confirmed in a preliminary report to the committee from the National Academy of Sciences which concludes regarding present public health-related standards of air quality:

"Present knowledge of health effects appears to afford no compelling basis for suggestions to either raise or lower the currently mandated primary air quality standards at this time."

The available evidence from the Environmental Protection Agency, the National Academy of Sciences and from other independent sources indicates that public health-related air quality standards are no more stringent than needed to protect the health of sensitive groups in our population from the adverse impact of air pollution.

The committee intends to continue its investigation of the validity of health standards which are the basis for the control requirements of the act. A final report from the National Academy of Sciences on the validity of present standards will be available in August, 1974.

This report and associated reports from the Academy on the feasibility of technology to control oxides of nitrogen emissions and on the costs and benefits of alternative strategies to achieve air quality standards will provide the committee with a basis for an evaluation of a number of aspects of the Clean Air Act, including statutory auto emission standards and transportation control strategy requirements.

Conflicting evidence was presented to the committee on the potential impact of unregulated emissions from catalyst-equipped vehicles.

One serious question relates to emissions of sulfates and sulfuric acid from catalyst-equipped vehicles. While there is considerable disagreement as to the validity and implications of available data, the Environmental Protection Agency scientists and contractors have found significant emissions of sulfates and sulfuric acid in tests and catalyst-equipped vehicles. Projections made by agency researchers from this data indicate a potential for roadside concentrations of sulfates and sulfuric acid in excess of those levels required to assure protection of public health.

Information provided the committee indicates that the projections were based on insufficient evidence and did not justify action by the committee which would delay the introduction of catalysts.

Present marketing trends in the industry show that smaller cars will have a large portion of the market by 1975 and 1976. Thus catalyst-equipped vehicles will have a significant on-the-road test without a total national or industry commitment to the technology.

Also, the Environmental Protection Agency is committed to a major field test of the unregulated emissions and other effects of catalyst control systems in California in late 1974 and early 1975. Reports of this full field investigation should be made available to the Congress by April 1975.

Another issue is emission of potentially toxic noble metal compounds. While no substantiated data was submitted as to emissions of such compounds, the committee expects the Environmental Protection Agency, the auto and catalyst manufacturers to direct adequate resources to monitoring the evaluation of this question to ascertain whether pollutants such as platinum compounds are released from catalyst-equipped vehicles in actual use.

The committee underscores the need to continue the development of alternative pollution control strategies and alternative engine systems which have inherently low emissions. Should the concerns expressed regarding unregulated emissions be borne out in field tests and should other alternatives such as desulfurization of oil prove impractical, the Congress will want options available which would permit immediate abandonment of catalyst technology on the model years subsequent to 1976.

Much controversy exists regarding fuel economy or diseconomy associated with auto emission standards required for 1975 and subsequent model year vehicles.

There are two issues involved: the first is the extent to which there will be as a significant penalty in crude oil requirements associated with the manufacture of lead-free gasoline. The second is the extent of the penalty or savings associated with catalyst-equipped vehicles.

The committee is satisfied that the fuel penalty associated with production of lead-free gasoline, if any, is not a sufficient justification for abandoning our clean air efforts.

On the other hand, there is little controversy as to the fuel economy relationship between 1975 and 1974 cars. Virtually all testimony received by the Subcommittee on Air and Water Pollution and the Senate Committee on Public Works this year indicates that the poorest fuel economy was achieved with 1973–74 vehicles, in part as a result of exhaust gas recirculation required to reduce oxides of nitrogen levels in intermediate and large cars.

The auto industry testified that the catalyst would permit an increase in engine efficiency and thus a decrease in fuel use. The auto companies agreed that the use of catalysts could permit up to a 5 percent to 6 percent increase in fuel economy depending on the efficiency of the postcombustion emission control system and the extent to which the engine is "detuned from an emission point of view to maximize fuel economy and performance. General Motors and the Environmental Protection Agency have placed this fuel economy improvement at anywhere from 13 to 18 percent.

The committee believes on the basis of the evidence cited that implementation of the 1975 interim standards would result in improvement of both emission control and fuel economy.

### EXHIBIT 2

### ENERGY EMERGENCY LEGISLATION: COMPARISON OF HOUSE-PASSED BILL WITH CONFERENCE REPORT

1. House: Extend auto deadlines for HC and CO for two years (Senate one year-Conference one year plus 1 yr. discretion).

2. House: Void Statutory .4 gm/mile $NO_x$ Standard and set permanent 2.0 $NO_x$ Standard (Senate didn't address. Conference sets one year at 2.0)

3. House: Extends deadline for achievements of public health related air quality for auto related pollutants to 1985 (Senate no, Conference no).

4. House: Voids use of parking surcharges, parking management controls and car pools and bus lanes to achieve health related standards (Senate had none. Conference has only surcharges, and gives authority to suspend parking management regulations).

5. House: Effectively voids current State deadlines for achievement of all secondary standards (Senate no, conference no).

6. House: Voids use of enforceable emission controls to implement air quality standards (Senate no, conference no—goes the other way to insist on same).

7. House: Extends deadlines for electric power plants which convert to coal to Jan. 1, 1980 (Senate July 1, 1977; Conference January 1, 1979).

8. House: Extends deadline for all other fuel burning stationary sources to June 30, 1979 (Senate no, conference no—narrowed to include only conversions except for short term).

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. JACKSON. Mr. President, I want to pay high tribute to the able and distinguished Senator from Maine for his outstanding leadership in the conference in handling this very, very difficult matter. The House practically repealed the Clean Air Act; that is what the Senator was confronted with in carrying out his responsibilities.

I think we passed a very sensible provision in the action by the Senate, and in the conference we worked out a proposal that to me was statesmanlike. The Senator from Maine deserves great credit, not only on this particular part of the conference report but on the report as a whole. With the Senator from West Virginia (Mr. RANDOLPH), he played a very vital role in bringing it about.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. President, I yield the Senator from Oklahoma such time as he may require.

Mr. BARTLETT. Mr. President, I thank the distinguished Senator from Arizona for giving me this time.

### WHAT IS A WINDFALL PROFIT?

Mr. President, considerable discussion has been given in the past few months to the term "windfall profits." It appears that there is much misconception about profits in general.

Just what constitutes a windfall profit? To answer that question we first must review a few general principles that apply to profits and profitability.

The attractiveness of an investment is based on its profitability, that is, the rate of return on the investment of capital required. In other words, how much in earnings does the money tied up in an investment generate for the investor. A basis for comparison would be the interest that is earned on money placed in a savings account.

Net profits by themselves do not necessarily give an indication of the profitability of an investment. Net profits must be compared to the capital investment required to generate those net profits. For instance, $1 million net profit is a very poor annual return on invested capital if $20 million was required to generate the $1 million profit. On the other hand, $1 million net profit would be a tremendous return on an investment of only $5 million. The same $1 million in net profits represents only a 5 percent return in the first instance and a 20 percent return in the second. Even if the net profits in the first example increased 100 percent to $2 million the return on the investment of $100 million would be only 10 percent—still much below the 20 percent figure in the second case.

Increases or decreases in net profits and return on investment should only be used on a comparative basis because of general fluctuations in the economy as a whole. No single industry's profits can be reasonably analyzed unless compared to the performance of other industries at the same time.

Oil industry net profits are up in the first 9 months of 1973 compared to the very poor first 9 months of 1972. Oils—domestic and international—showed net profits up 47 percent. However, compared to increases in net profits for other corporations such as the New York Times, up 93 percent; the Washington Post, up 57 percent; the American Broadcasting Co., up 45 percent; International Harvester, up 47 percent; U.S. Steel, 116 percent; and Kaiser Industries, up 601 percent; and oils—domestic and international—hardly seem out of line.

The same is true when oils—domestic and international—are compared to representatives of other industries on a rate of return on equity basis for the first 9 months of 1973 compared to the first 9 months of 1972.

The Columbia Broadcasting System showed a rate of return above 20 percent. Dr. Pepper had a corresponding figure of 29.4 percent; Ford Motor Co., 17.6 percent; Dow Chemical, 18.8 percent; appliances reported a 16.5 percent return; automotive, 17.5 percent; building materials, 14.5 percent; chemicals, 14 percent; drugs, 19.9 percent; electronics, 15.2 percent; food, 13 percent; instruments, 15 percent; office equipment and computers, 16.6 percent; publishing, 13.9 percent; compared to 13.2 percent for oils—domestic and international.

Unfortunately, there seems to be a fever spreading today that profits are bad. Profits are bad only if they do not act in some way to solicit additional supplies for the consumer's ultimate use.

If the energy industries within the United States are to provide adequate supplies of energy for you and me they must have profits so they can reinvest them into projects that will increase energy supplies.

John Winger of the Chase Manhattan Bank estimates that the petroleum industry must find twice as much new oil in the 1970 to 1985 period as it did in the preceding 15 years. He says $450 billion in capital must be spent in the search for oil between 1970 and 1985. That is compared to only $104 billion which was spent the preceding 15 years.

An additional $360 billion must be invested in refineries, tankers, pipelines, storage equipment, and marketing facilities; therefore, a total of $800 billion must be spent between 1970 and 1985 or 4 times the amount spent in the previous 15 years. Debt service, working capital, and dividends will require another $550 billion in the 1970–85 period for a grand total of $1.350 trillion which must be spent worldwide.

The recent report entitled "U.S. Energy Outlook" by the National Petroleum Council estimated total capital requirements for the U.S. energy industry between 1971 and 1985 to range from $451 billion to $547 billion. These estimates do not include other major sums required for petroleum marketing, gas and electricity distribution, and the development of overseas natural resources to satisfy U.S. imports requirements. They were strictly related to requirements for domestic energy resource development, processing, and primary distribution.

These sums are staggering. Referring to the petroleum industry alone, capital outlay in the United States increased steadily during most of the decade in the 1960's, rising above the $8 billion level in 1968. Since then spending has failed to increase—remaining at about the 1968 level despite the rapid growth in the petroleum market.

Both increased profits and increased financing would be required if these investments are to be made. Financing will not be readily available to any industries which might have trouble retiring the debt due to limitations on profits.

How do we know that any increased financing would be required if these industries hands due to price increases would be reinvested to increase supplies of energy for the people of the United States?

Mr. President, on October 5, I asked both integrated and independent companies engaged in the production of domestic oil and gas to answer the following question:

Assuming that sufficient new acreage will be available in the United States for the exploration for new reserves of oil and natural gas and that price controls on either or both commodities are lifted, what percent of the additional cash flow resulting from the removal of existing price controls on natural gas or crude oil or both, would you invest in the exploration for and development of new domestic petroleum and natural gas reserves including domestic oil and gas pipelines, domestic refineries, and domestic natural gas processing plants?

Mr. President, as I said in my remarks of October 5, 1973, I have spoken freely many times concerning our Nation's energy situation. I have given many speeches on energy on the Senate floor, and have spoken about energy on numerous other occasions before interested groups. In most of those speeches, in the interest of achieving adequate domestic supplies of energy, I have urged that all price controls on natural gas and crude oil be removed. I have said specifically that there needs to be increased economic incentive, that there must be considerably more capital available, and that the consumers must assume part of the responsibility by paying higher prices if adequate supplies of energy are to be developed.

Most people agree that a free market will increase our supplies more rapidly than a controlled market—even a controlled market which provides for price increases for natural gas and crude oil. But many wonder if the petroleum industry would invest the increased cash flow resulting from decontrol of prices into areas that will help to solve our domestic energy shortage.

I asked over 400 integrated and independent companies engaged in the production of domestic oil and gas to answer the question I read earlier.

My office has received replies from 115 integrated and independent companies. Not one of those replies gave any indication that a large portion of the additional cash flow resulting from the removal of existing price controls would not be used to increase domestic energy capabilities.

On the contrary, 93 of the companies responded by saying that "virtually all or 100 percent of their increased cash flow would be so utilized." The remaining few companies, although they did not say that they would reinvest virtually all the additional cash flow, did imply that they would reinvest significant amounts such as "90 percent, a minimum of 90 percent, or a minimum of 75 percent."

It makes sense that these companies, as they have indicated to me, would continue to invest in that industry which they know best, especially when the opportunity for a reasonable rate of return is improved by price decontrol.

A shortage of energy was inevitable, and it has been no surprise. Michael T. Halbouty, past president of the American Association of Petroleum Geologists, was one or many who could see the writing on the wall. He said in 1960,

> I can safely predict that between now and 1975 we will have an energy crisis in this country. Then people will say "the industry is to blame, why weren't we told?" Well, I'm telling them now.

That was in 1960 and I could recite numerous similar warning over the years.

In 1965 a high of 16,173 exploratory wells were drilled—in 1972 only 7,587 exploratory wells were drilled—less than half the 1956 amount. Also exploratory geophysical crew activity dropped to half as much in 1970 as it was in 1960. The reason we are not drilling more wells is easy to see. Profits have been insufficient.

The price for crude oil in 1957 was $3.09. The price of crude oil decreased slightly after 1957 and then again reached $3.09 per barrel in 1969. In constant 1958 dollars the price of crude oil in 1957 was $3.17. By 1972 in constant dollars the price of crude oil per barrel had decreased to $2.32. The price of crude oil was not keeping up with the increasing costs to produce it.

In 1969 the depletion allowance was changed from 27½ percent to 22 percent. The additional tax burden upon the petroleum industry removed $500 million from profits that might have been used to increase supplies of energy.

The now abandoned import quota system has over the years acted to hold down domestic crude oil prices because of the constant threat to allow cheaper foreign oil to be imported if prices domestically were to rise.

Also, the import quota program, with provisions promulgated under pressure from the New England States to allow fuel oil to be imported quota free, led to refineries being built outside the United States.

Over the years these actions have caused decreases in domestic drilling activity. Only 21 percent of all domestic wells are drilled by the 30 largest companies—including the multinationals—with their large profits from their foreign operations, 79 percent of all domestic wells are drilled by the independents who are not the beneficiaries of large profits. Yet they will drill the great majority—over 75 percent of all the domestic wells—drilled in 1974. If we adopt this conference committee report with the windfalls tax rebate, we will seriously hamper the ability of the independents to do their job of increasing sharply the number of domestic wells drilled in 1974.

Small producers have been forced out of the crude oil producing business. Not by lack of competition but rather by lack of profits Fifteen years ago there were about 20,000 small producers, now there are only 10,000. They went into other businesses that were more profitable.

Many people talk of the rich oil men. For every person who has made any money in the oil industry, I can show you many who have gone broke. If it were such a bonanza why have so many gone broke? The answer is simple. The oil industry has been no bonanza.

The recent increases in the price of crude oil and natural gas have spurred activity in the oil and gas fields of the United States. This incentive should have occurred long ago.

Drilling rigs have been running in numbers 13 percent to 15 percent greater than last year. Marginal producing wells that would have been plugged and abandoned by now at old oil prices have been held in production because new higher prices justify their operation.

Many people have tried to sensationalize the increases in net profits of companies in the petroleum industry. Claims of price gouging by the big companies are unfounded. The Cost of Living Council has had controls on domestic prices of the petroleum industry as it has had on all industries.

The real increase in profits has come to major international petroleum companies because of their profit increases in the Eastern Hemisphere. These profits are not necessarily paid by Americans—the whole world is served by American companies. We are fortunate indeed to have major petroleum companies that are aggressive in the world petroleum market. Look at the precarious position of Japan and Western Europe, and other industrialized nations, compared to us.

The problem is that the petroleum industry as a whole and in this country is not big enough today. Lack of sufficient profits have stunted its growth and now we face inadequate supplies of oil and gas.

This Congress should, after thorough hearings and deliberation, pass legislation that would assure to the consumers in the United States that no price gouging will occur. But at the same time, Congress must be very careful not to enact a law that will be counterproductive to increasing the supply of energy.

The Senate Finance Committee and the House Ways and Means Committee are having or are going to have hearings to determine how to accomplish the desirable goal of increasing energy supplies while preventing excessively high prices in a time of shortages.

We must pass an excess profits provision which will penalize those with large profits who do not reinvest those profits in exploring for new domestic reserves of oil and gas and provide an incentive for those with large profits to reinvest those profits in new domestic reserves of oil and gas.

Bill Simon, Administrator of the Federal Energy Office also is studying the petroleum industry's profits.

For Congress to act now with an unworkable rebate is playing political poker and the stakes are the welfare of the Nation.

So, Mr. President, let me emphasize some of the highlights of the situation we are facing right now.

First, I think it is important to note that the role of the independents in drilling oil and gas wells is a very big role. They drill some 79 percent of all the wells drilled in this country.

The number of wells drilled, compared to 1956, has dropped to half, and yet the demand currently, today, is double that of 1956.

The question is, Why did the drilling drop off during that period of some 18 years? The reason is that the price of oil in 1957 was $3.09, and then dropped, and stayed below that figure until it got back to $3.09 in 1969, at the end of the 13th year.

At this point, the profits in the domestic industry were severely eroded. The number of independents had declined from about 20,000 to 10,000. Congress passed a bill to reduce the depletion allowance from 27.5 percent to 22 percent, which had the effect of increasing the taxes on the oil industry by some $500 million, and reducing very substantially the money available for investment in the oil industry.

During this period, we had mandatory import controls because of the pressures for cheap foreign oil. The tendency of the Government was to lower the restrictions on imports and increase the amount of oil that was coming in, in order to keep the domestic price down, so as to prevent increases in the price of crude oil that the domestic oil industry needed to offset increases in the cost of steel and labor.

This particular conference report includes a proposal to limit windfall profits that is not workable. It has been stated by many experts in economics and by the IRS that it would be very difficult to administer this particular proposal. Also it does not give the independent producer any assurance of receiving the capital they will have to invest in 1974. It is really the independents who are going to be called upon to do a lot of drilling. It is not the independents who have been the beneficiaries of large profits.

There is no question that the multinational companies have experienced large profits. These large profits come from foreign nations. The independent companies have not been the beneficiaries of the large profits. Yet they are going to be required to do most of the drilling that will be done in 1974. The increase in drilling in 1973 over the previous year has amounted to only some 15 percent. So in our haste to write this proposed legislation, we do not want to be remiss to the point of handicapping the independent companies in this most worthy enterprise of increasing the amount of oil wells that can be drilled.

So far as the multinationals are concerned, certainly we want them to reinvest as much as they possibly can in domestic wells. It is important, so far as the total supply and demand of production is concerned, that the American companies now participate in increased drilling activity around the world, in order to bring some balance to the supply and demand. If this does not take place, then the extremely high prices of foreign oil, which are prevalent today, are going to continue. This will not only work to our detriment, because we still remain large importers of oil, but it may well lead to a worldwide depression.

I favor the recommitment of this proposal, so that there will be an opportunity to consider carefully an excess profits provision—which would provide an incentive to companies having large profits to invest in domestic exploration and production.

I think it is vital that we take our time to write a good law, so that the United States can be independent, and not have our foreign policy dictated by other countries which oppose our own sound judgment.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD, as an appendix to my remarks, a further statement concerning this problem.

There being no objection, the appendix was ordered to be printed in the RECORD, as follows:

### APPENDIX

It was interesting to note that all of the 8 largest major oil companies replied to the question and 16 of the top 20 producing companies responded.

The replies received represent 7,079,980 barrels per day of crude oil and natural gas liquids and 32,499,827 million cubic feet of natural gas per day. That is 60 percent of 1972's daily average crude oil and natural gas liquids production and over 50 percent of the daily average gas production.

The small fellow—the independent producer—almost without exception said unequivocally that he would invest all additional profits back into the petroleum industry.

Common phrases used by the small producers were—

I would expect to invest every additional dollar of cash flow generated in new domestic oil and gas exploration.

Any additional monies received because of decontrol of above products would likewise be invested in exploration for new energy reserves. And any increase in our cash flow resulting from higher crude oil and gas prices would be immediately reinvested in a search for, and development of, more reserves.

Exxon Co., U.S.A., the largest domestic producer with 1,114,000 barrels per day of crude oil and natural gas liquids in 1972 and 5,952,000 million cubic feet of natural gas per day stated:

> We would anticipate investing all of the incremental cash flow resulting from decontrol of prices in the domestic energy operations after providing for royalties, taxes and dividends.

Texaco, Inc., pointed out the difficulty encountered when a major oil company tries to forecast investments under hypothetical circumstances. Texaco said:

> While the exact amount of increase in cash flow which would result from lifting of controls is impossible to quantify, we believe nevertheless, that Texaco's investment performance in the past provides a realistic view of how our company would employ any additional cash flow resulting from deregulation.

Texaco also said:

> You may be assured that the lifting of price controls on oil and natural gas would be of significant assistance in helping to meet the enormous capital investment required for the exploration and development of additional domestic petroleum and natural gas reserves and associated downstream facilities.

Gulf Oil Corp. directed attention to its capital expenditures in relation to net income. In no year from 1968 thru 1972 did Gulf have as much income as it had capital expenditures. Gulf said:

> To help finance these programs, corporate debt increased almost 50 percent, or from 1.31 billion dollars to 1.94 billion dollars. The increasing need to resort to debt financing put a restraint on these programs.

Shell Oil Co. in its response said:

> A unique answer to your question depends on difficult estimates, including the method of timing of new acreage awards, the fraction of increased revenue actually available for investment, and the effects of many constraints, such as availability of steel and other materials. . . . We also believe that greatly expanded offerings of acreage could result in logistical problems in such areas as exploration and drilling equipment, ship yards, and steel.

I call attention to my statements on this floor of November 29 and December 3, 1973, addressing these problems to which Shell has referred.

Standard Oil Co. of California estimated that about "90 percent of any additional cash would be so reinvested."

Atlantic Richfield Co., proposed that:

> Not only would essentially all such increases be reinvested in the domestic oil industry, except for that portion of the after-tax book profit that is generally distributed in the form of dividends to the millions of company stockholders, but also that increased profits have a multiplying effect on the borrowing capacity of the company. This generates additional funds for investment in the domestic industry.

This is an important point that should not be forgotten—that increased cash flow increases the ability of companies to obtain additional financing.

Standard Oil Co. (Indiana) demonstrated the effects of the 1969 decrease in the depletion allowance in their investments. They said:

> Our exploratory expenditures in 1969 were 56% above 1968, but in 1970 exploratory spending was reduced 68% below 1969. This significant decrease clearly was related to the cut in the depletion allowance of 1969.

To show further the effect of higher prices Standard Oil Co. (Indiana) said:

> In contrast, our exploration budget for 1974 will be increased by a substantial margin over 1973. Due principally to higher oil and gas prices that will justify exploratory activities previously judged to be uneconomic.

Mobil Oil Corp., pointed out that much of the additional spending by the petroleum industry has been paid to the Federal Government. Mobil said:

> Over the last five years Mobil has been consistently increasing its domestic capital in exploration expenses as a percentage of its total net income.
>
> I should point out, however, much of the increase in spending levels have resulted from higher lease bonuses paid, principally to the Federal Government. To this extent, the increased spending flows directly back to the consumer through the Federal Government.

Mobil's chairman of the board, Rawleigh Warner, Jr., made an important observation when he said:

> To the extent that prices of new supplies of natural gas are decontrolled we will have a direct test of the value of such action, since the higher price will not be paid unless the new supplies are forthcoming.

Getty Oil Co. noted that it anticipated that a smaller part of its future discretionary corporate cash flow will be invested in domestic programs than historically. The reasons:

> This is primarily the result of current unavailability of attractive domestic acreage and projections of a very low rate of return on future domestic investments due to present pricing restrictions and high capital investment requirements.

This statement by Getty Oil Co. serves to indicate the need to remove the "present pricing restrictions."

Sun Oil Co. in its response, made an important observation as to why it is difficult for a company to quantify the percentage of additional cash flow that would be reinvested for the purposes that I had indicated in my question. Sun said:

> Investment decisions depend upon a rather precise knowledge of a substantial number of facts current at the time the decision is made, coupled with judgments related to the future. Forecasting the facts is beyond our ability; the judgments alone are difficult enough, and prove often enough to have been incorrect. Unless someone can guarantee the future levels of supply, demand, price, cost of materials and wages, interest rates, trends in these factors at different time intervals, decisions to be made by competitors that will affect opportunities for Sun, new discoveries to be made that open unexpected provinces, etc., attempts to calculate additional cash flow are hypothetical.

Marathon Oil Co.'s reply carried the competitive spirit of the oil industry when it said:

> It is Marathon's intention to continue to grow, and in doing so, we hope to at least maintain the company's share of the Nation's output of liquid and gaseous hydrocarbons. These objectives can only be accomplished by expanding the company's outlays for exploration and development. Accordingly, we can assure you that the great bulk of any increase in cash flow would be plowed back into our activities.

Continental Oil Co. anticipated that—

> Conoco would invest 100% of the additional cash flow so generated into the operations described above. Further, if a healthy capital and stock market is available, Conoco would probably secure additional financing, either debt or equity, and likewise invest these funds.

Phillips Petroleum Co., as background for the decontrol of prices, called attention to the fact that:

> In 1972 Phillips Petroleum Company had approximately 1.7 billion dollars of total assets employed in the United States in exploring for, producing, pipelining, refining and marketing crude oil, natural gas and petroleum products. The rate of return in 1972 in this investment was 6.3%, which reflects a decline from 7.9% in 1967. Our rate of return on these operations for the first nine months of 1973 has declined further to 5.3% compared to 5.8% on oil-wide assets. This continuing decline in our rate of return vividly illustrates the need for improved earnings if this segment of our national economy is to be able to compete for new capital to invest in supplying energy to the Nation's consumers. When compared with rates of return in excess of 8% authorized to relative risk-free interstate transmission companies by the Federal Power Commission, it becomes obvious that Phillips' rate of return has not kept pace, and contrary to apparent public misconceptions our investment in domestic oil and gas activities at present price levels is far from a bonanza.

Cities Service Co. itemized important limitations that must be removed if new supplies of energy are to be forthcoming within the United States. Cities Service said:

> Our ability to carry out our dedication to expand our energy producing activities depends on the following assumptions about the future: (1) That new prospective exploration acreage is available and that sites for building new processing facilities can be located in economically advantageous areas. (2) That the market place will be free of direct government intervention in the form of price controls and allocations effecting supply and demand of alternative energy forms. (3) That a prospective rate of return on the resources so dedicated will be sufficient to justify the risk. (4) That sufficient numbers of qualified geologists, engineers, and other technicians will be available to get the job done. (5) That a healthy and vigorous infrastructure will be available upon which the industry counts heavily for: Supply of materials; the design and construction of facilities; providing trained rig crews; financial market to provide both equity and borrowed funds, etc.

Skelly Oil Co. replied:

> If a substantial relaxing of price controls does not occur, it is certain that we will spend substantially less than we are now forecasting in domestic areas, perhaps even less than during the last five year period. In other words, a susbtantial increase in the selling prices is necessary to jutify this increased investment we are planning. We believe that with the proper incentive from higher prices, we will commit to domestic expenditures for oil and gas exploration, production or related facilities virtually all of the additional cash flow that results from removal of price controls.

The Louisiana Land and Exploration Co., in response to my question said:

> The answer is emphatically "yes" provided that prospective areas which can be reasonably expected to produce are available in the U.S. in the past we have been able to find such areas and we expect to be able to do so in the future if governmental policies including those of the environmentalist will permit us to do so.

These short excerpts which I have just read are from the responses received from 16 of the largest 20 producing companies in the United States. They represented 6,556,535 barrels per day of crude oil and natural gas liquids production in 1972. They represented 28,751,662 million cubic feet of natural gas production per day in 1972. That amounts to approximately half of the total domestic production in both instances.

I submit that these major companies and a large number of smaller companies are unquestionably willing to invest all or a major portion or any additional cash flow that might accrue because of the deregulation of the price paid for natural gas and crude oil into the domestic petroleum industry—to make our domestic energy industry stronger.

It makes no sense to me to pay American dollars to foreigners for additional foreign oil—if and when this foreign oil is available—instead of paying American dollars to Americans to help the American economy, to give Americans jobs, to improve America's national security, to increase American energy supplies so that the American people will not have to sacrifice because the Federal Government for several sessions of Congress and through several sessions of Congress and through several administrations has failed to recognize the importance of the free market's ability to solicit ample energy supplies.

Higher prices of conventional fuels will not only encourage producers to increase their output of these fuels but also to use other techniques as they become commercial—such as degasification and liquefaction of coal and extracting of oil from shale and tar sands—and further to undertake research on geothermal, solar, nuclear fusion, and other sources of energy.

The obstacles and uncertainties created by Government regulation must be minimized and eliminated in all those areas where the free market can operate effectively to increase energy supplies.

Mr. BARTLETT. Mr. President, I ask unanimous consent that the following members of my staff be given the privilege of the floor during the votes and consideration of this bill:

Ron Frank, David Russell, Bud Scoggins, and Jim Trickett.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, will the Senator from Wisconsin yield at that point?

Mr. NELSON. I am happy to yield.

Mr. LONG. Mr. President, first, I ask unanimous consent that during discussion of this measure the following staff members of the Finance Committee may be permitted the privilege of the floor:

Bob Willan, Bob Best, Bill Morris, Mike Stern, and Tom White of the Joint Committee on Internal Revenue Taxation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I ask unanimous consent that Richard Fay and Jeffrey Nedelman, of my staff, be accorded the privilege of the floor during the debate of the conference report on S. 2589.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that Mr. Rick Herod and Mr. R. Hellman, of my staff, also be accorded the privilege of the floor during the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, informed the Senate that pursuant to the provisions of section 4(b), Public Law 93-191, the Speaker had appointed Mr. UDALL, Mr. CHARLES H. WILSON of California, Mr. HOWARD, Mr. GROSS, Mr. DERWINSKI, and Mr. QUILLEN, to serve as members of the House Commission on Congressional Mailing Standards.

The message announced that the House had passed a bill (H.R. 12253) to amend the General Education Provisions Act to provide that funds appropriated for applicable programs for fiscal year 1974 shall remain available during the succeeding fiscal year and that such funds for fiscal year 1973 shall remain available during fiscal years 1974 and 1975, in which it requested the concurrence of the Senate.

## HOUSE BILL REFERRED

The bill (H.R. 12253) to amend the General Education Provisions Act to provide that funds appropriated for applicable programs for fiscal year 1974 shall remain available during the succeeding fiscal year and that such funds for fiscal year 1973 shall remain available during fiscal years 1974 and 1975, was read twice by its title and referred to the Committee on Labor and Public Welfare.

## NATIONAL ENERGY EMERGENCY ACT OF 1973—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses to the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

The PRESIDING OFFICER (Mr. HELMS). Under the previous order, the hour of 2 p.m. having arrived, the Senator from Wisconsin (Mr. NELSON) is recognized to offer a motion to recommit the conference report (S. 2589).

Mr. NELSON. Mr. President, I move to recommit the conference report (S. 2589).

The PRESIDING OFFICER. Time for debate shall be limited to 2 hours to be equally divided between——

Time for debate shall be limited to 2 hours, to be equally divided and controlled by the Senator from Wisconsin (Mr. NELSON) and the Senator from Washington (Mr. JACKSON), with the vote to occur at 4 p.m. today.

Who yields time?

Mr. NELSON. Mr. President, I yield myself such time as I may need.

Mr. President, my sole interest in moving to recommit the conference report is to see whether, once again, in conference, it would be possible to modify the environmental provisions which are in the conference report and substitutes for them the very carefully designed provisions of the Senate bill which were drafted by the distinguished Senator from Maine (Mr. MUSKIE) and, which in my judgment are better provisions, than what came out of the conference.

Of course, that conference occurred last year. The distinguished Senator from Maine and the distinguished Senator from Washington came out of it, I am sure, with the best provisions they could get at that particular time. However, a number of things have changed since then. I think there may be an opportunity to modify the environmental provisions and remove the section dealing with an excess profits tax, which is not, in fact a tax at all.

There should be some reasonable opportunity to remove that section now, because as contrasted with last December, the Ways and Means Committee will begin hearings on taxes on the oil industry, next week, on February 4. The Finance Committee, under the chairmanship of the distinguished Senator from Louisiana (Mr. LONG) will shortly conduct hearings on proposals involving taxes on the oil industry.

So we are going to have before us legislation which will give us the opportunity to vote on an excess profits tax. There will be legislation before us which will give us the opportunity to vote on a price rollback. There will be legislation before us which will give us the opportunity to vote on abolishing the depletion allowance. Therefore, I am hopeful that it might be possible to modify the environmental section and to remove the so-called excess profits tax section.

If that is not possible, I want to make it clear on the floor of the Senate, that if they cannot reach agreement to modify the conference report, and they come back to the Senate with the same proposal, then I shall vote for it. But I think there is an opportunity to improve both sections. My judgment may be wrong, but I hope it is not.

I am moving to recommit this conference report for several reasons:

First. It unnecessarily and dangerously compromises the law respecting air emissions from stationary sources.

Second. The so-called excess profits tax is a total and complete misnomer. It is not an excess profits tax. In fact, is is not even a tax of any kind whatsoever. The press and the Members of Congress who refer to it as an excess profits tax are confusing both the public and themselves. This proposal establishes a procedure by which an individual citizen who feels he has been overcharged for an oil product may file a claim with the renegotiation board to seek reimbursement for the alleged overcharge. It is quite clearly unworkable, unenforceable and almost certainly unconstitutional.

Furthermore the Senate is going to have ample opportunity to debate and vote on several oil tax measures in the very near future. The Ways and Means Committee starts hearings next week on February 4. And very shortly the Finance Committee will commence hearings. The Senate will have the opportunity to vote on an excess profits tax, a price rollback and the depletion allowance.

Third. All of the various significant provisions of the bill have either already been separately adopted by the Senate or are momentarily scheduled for hearings and action by the Senate or are contained in other provisions of law already enacted or can be expeditiously passed by both Houses because they are noncontroversial.

Mr. President, there are six major provisions in the conference report on the Energy Emergency Act, S. 2589 that deserve attention.

First, the conference report contains a provision that goes much too far in compromising the Nation's primary and secondary ambient air quality standards over a long period of time. The House-Senate conferees should reconsider and look toward the language drafted by the

Senator from Maine (Mr. Muskie) for guidance on this matter.

If the conference report is recommitted EPA will not be constrained, limited, or hampered from granting variances from air pollution regulations. In fact, EPA has already granted variances and will continue in their efforts to balance the needs for increased energy production against its legislative mandate to uphold and protect the quality of the Nation's air. The Clean Air Act contains an "expedited procedures" section designed to meet the needs of such emergencies.

The Senate language was carefully and thoughtfully drafted by Senator Muskie, the chairman of the Air and Water Subcommittee of the Senate Public Works Committee, and subsequently cosponsored by all 14 members of the full committee. This measure which the Senate approved on November 15, 1973, by a vote of 83 to 2 permits temporary variances to be granted while the EPA carefully gathers information and prepares a comprehensive report to the Congress on the need for further action. This language will grant variances without substantially compromising the Nation's efforts to improve the quality of its air.

The language proposed by Senator Muskie provides for an initial short-term variance from air pollution regulations. It calls upon the EPA to study the situation and report back to the Congress with recommendations 7 months before the initial variances expire. There is a built in recognition that if the energy crisis grows worse and the need persists the variances can be extended. And the Muskie amendment underlines the concept that this is a temporary measure, a short-term suspension and relaxation of regulations only until 1977.

The conference substitute language basically allows a 5-year delay in meeting air pollution regulations. It permits that plants that were either in the process of converting from natural gas or oil to coal or that are ordered to convert under other sections of the bill will be able to apply for a variance which will suspend primary and secondary standards for these installations until January 1, 1979.

Second, the conference report correctly speaks to the need to organize the Nation's energy programs in one independent agency, in this case, the Federal Energy Office. The conferees acknowledge that this organization will be replaced by the Federal Energy Emergency Administration. This section of the conference report is unnecessary. On December 19, 1973, by a vote of 86 to 2 the Senate passed and sent to the House a comprehensive and farsighted bill, authored by Senator Jackson to provide for the efficient management of the Nation's energy policies and programs. This bill formally establishes the Federal Energy Emergency Administration.

Third, the conference report that we have before us contains language which would authorize the President to ration petroleum products that are in short supply. Whereas, the Senate may at some future time wish to enact a straightforward single piece of legislation we are not in an emergency situation now.

Mr. Simon informs us that rationing may not become necessary until this fall. Certainly that leaves us plenty of time to consider this issue and report out a thoughtful piece of legislation.

The President is not now without adequate tools to handle a rationing situation. The Defense Production Act passed during the Korean crisis allows the President to take whatever steps are necessary to allocate, products in the civilian marketplace in the case of a national or defense emergency.

Recognizing in advance that this Nation will be in an energy crunch for the foreseeable future and that the President may need additional authority to deal with specialized energy problems the Congress enacted an amendment to the Economic Stabilization Act which was offered by the distinguished junior Senator from Missouri (Mr. Eagleton). This amendment authorizes the President to issue such executive orders and directives as he deems necessary to assure equitable distribution of scarce petroleum products to assure that all areas of the country have sufficient fuel to meet vital needs and to prevent anticompetitive effects within the petroleum industry.

So far this authority has only been exercised for allocations of refined products at the wholesale level which is tantamount to rationing.

Fourth, the conference report contains a section establishing a national conservation policy. We must all reduce the amount of fuel and energy we use. While this provision of the conference report speaks to a great need, again, the able Senator from Washington has provided us with a better and more comprehensive piece of legislation in the form of S. 2176, the National Fuels and Energy Conservation Act which passed the Senate by a vote of 75 to 15.

The realities of the energy crisis have already forced many States to devise energy conservation programs. Hawaii has gone to mandatory rationing, Oregon has a volunteer program now and many States, like Wisconsin have already established statewide energy efforts to reduce energy consumption.

Finally the conference report contains a section dealing with employment impact and worker assistance.

The language of the conference report severely limits those workers that would be eligible to receive the proposed benefits. The provisions of the act would apply to persons unemployed directly "as a result of the provisions of this law," and it does not apply to workers laid off before the legislation is signed by the President.

This section will not help many people in the automobile, steel, rubber, and other industrial businesses that have recently been laid off. We need a much broader bill.

What we really need is a general change in the unemployment compensation and insurance provisions of the Federal statutes.

If this report is not reported back I will introduce legislation that will provide an adequate program of unemployment assistance to State governments that is adequate to cover essential needs.

Mr. President, I ask unanimous consent to insert in the Record at this time, an editorial by the New York Times questioning the need to suspend Clear Act Standard until January 1, 1979.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### Or Dirty Air Bill?

The pending energy bill permits the postponement of strict auto emission standards for yet another year. Because of the controversy among Detroit's "big three" automobile manufacturers about catalytic converters to control those emissions, much publicity has naturally focused on this part of the bill.

Overlooked and potentially more significant is the bill's provision that would permit the Federal Energy Office to compel electric power companies and other industries to switch from oil or gas back to the use of coal—and would compel the Environmental Protection Agency to exempt such firms from clean air standards for the next five years.

The worst victims of this indiscriminate rush to coal conversion would be the people in the New York-New Jersey area and their neighbors in the eastern air corridor running from Boston to Baltimore. The Federal Power Commission has already listed 46 power plants in this corridor that have the capability of converting from oil to coal within sixty days.

If these power plants and other industrial firms, irrespective of locations, all switch to the use of coal, the danger to concentrated populations will be severe. The American Public Health Association has estimated that such conversion will lead to "an increase of 20 per cent to 40 per cent in both morbidity and mortality due to respiratory and cardiovascular diseases."

The truth is that no one is yet certain that this flight from the standards of the Clean Air Act is necessary. Senator Henry Jackson of Washington, the principal author of the pending energy bill, began public hearings this week on the scope and character of the oil shortage. In opening the hearings, he stated: "The facts are—we do not have the facts." Senator Jackson pointed out that his committee has discovered discrepancies between Federal and oil company statistics—"so significant as to raise fundamental questions whether existing data systems provide any rational basis for policy making."

Against the background of this factual confusion, Senator Jackson and his colleagues would do better to lay aside the emergency energy bill, at least in its present form, and concentrate first on finding out the facts about the emergency. Disease-laden air, smoggy with coal dust, is a high price to pay for political haste and competitive headline-grabbing between White House and Congress.

Mr. NELSON. Mr. President, section 110 addresses itself to one of the most important problems of the present energy shortage. The energy shortage which has meant to most Americans increasing prices and lowering thermostats, has meant to the oil companies a bonanza of profits. While private initiatives and industry should be rewarded, these profits do not reflect increased productivity or production, but rather reflects the oil companies' positions as beneficiaries of monopolistic pricing decisions of a few Arabian shieks.

The distinguished chairman of the House Interstate and Foreign Commerce Committee, Congressman Staggers, is to be commended for being one of the first to see that the energy shortage does mean unconscionable profits for oil companies. The Nation is in his debt for bringing this issue so promptly to the attention of Congress and for moving so vigorously in proposing legislation insuring oil companies do pay their fair share of taxes.

Recent headlines dramatically demonstrate the validity of Congressman STAGGERS' concern. For the year just ended, the 21 top oil companies accumulated profits estimated at almost $10 billion, which was not only an industry record but was twice what the Nation's automobile makers generated—1973 was Detroit's best sales year ever—and 10 times what the country steelmakers could manage. For the entire oil industry profits rose by almost 60 percent.

While 1973 profits were spectacular, 1974 profits will be unbelievable. According to estimates by Walter Heller, former Chairman of the Council of Economic Advisers under President Kennedy, and George L. Perry, the recent 50-percent increase in oil prices will result in approximately $24 billion in additional profits.

These figures demonstrate the need for substantial additional taxation of the oil industry. I join Congressman STAGGERS in his valiant efforts to tax windfall profits of oil companies, but I cannot, in good conscience, support section 110 of S. 2589 as reported by the Senate and House conferees. Last week the Senate Finance Committee conducted 2 days of panel discussions on this section. The panelists consisted of 11 experts in this area, most of whom have held high positions in the Internal Revenue Service or the Treasury Department during four administrations. This was an expert panel and they were unanimous in their condemnation of this proposal.

After careful consideration and study of their testimony and section 110, I am compelled to the conclusion that it is unconstitutional, unworkable, and counterproductive. It should be clearly understood that section 110 is not a tax and has none of the characteristics of a tax. Rather, it establishes a system of restitution. Section 110 is based, in large part, on the Renegotiation Act of 1951, rather than the language of any of the three excess profits taxes enacted during three major wars in this country's history. While excess profits taxes have proven to be extremely hard to administer and have resulted in extended litigation, they are models of precision and objectivity, compared to the vague standards of the Renegotiation Act. The language of the Renegotiation Act has been described by one of the country's renegotiation experts as involving "wholly a matter of judgment," because of the absence of measurable objective standards.

The Renegotiation Act deals with the recapturing, under certain circumstances, of excessive profits on defense contractors engaged in business with the U.S. Government. Section 110 attempts to transfer this concept to transactions wholly between private parties and where no party to that transaction, unlike the circumstances of the Renegotiation Act, has contractually agreed to a system of recapture of excessive profits. Section 110 is of doubtful constitutionality because its application is uncertain. The recapture of windfall profits is completely haphazard, dependent totally upon a petition of an interested party, involving any sale of any petroleum.

Furthermore, the proposed system would involve an unconstitutional delegation of congressional power or of taking of property without due process of law, because of the vagueness of the statutory standards and concepts.

At a time when everything should be done to stimulate production, section 110 would result in a cutback of production. Section 110 establishes a base year for purposes of imposing a refund and since oil producers are receiving more today for their present level of production, they would have to cut back their production just to remain within the permissible level.

It is argued that section 110 should be enacted because it does not go into effect until January 1, 1975, before which Congress will enact a better law which would, among others, repeal this section. Section 110 while taking effect on January 1, 1975, applies to all sales in petroleum products during this year. While this law exists, petroleum sellers must assume it has some meaning. The witnesses for the Senate Finance Committee were unanimous in their testimony that they would have to advise their clients not to undertake any new production if this law was in effect. The following testimony by Mr. Walters is typical:

> I would advise any client I had definitely against making any investment which would subject him to this windfall profits except in the case of the greatest urgency where it was a necessity to retain a lease or some rights. I do not see how any attorney could advise any client to do anything that would subject him to this tax. I think it would be a very definite deterrent to development of greater energy resources.

It is my belief there is a need for substantial additional taxation of oil companies. The first step is to end immediately existing tax preferences granted the oil industry. Trying to tax away excess profits while continuing to present tax breaks is like trying to scoop water out of sieve. On January 24, I introduced a bill which would totally repeal the percentage depletion allowance. This tax preference, costing the American taxpayer over $1.5 billion a year, has failed to provide America secure sources of energy or to encourage domestic production. A 1969 Treasury Department study showed that although $1.4 billion in Federal revenue was being lost annually through the depletion allowance, it had little influence on exploration and resulted in additional oil reserves valued at only $150 million. If the depletion allowance is not changed, this tax gift to the oil companies could soar to $3 billion this year.

In addition, Congress should reevaluate the special provisions which permit the current writeoff of intangible drilling and developing costs for producing oil and gas wells. Cost of labor, materials, and other goods incidental to drilling are considered "intangible costs of drilling" and can be expensed. This is a benefit because it permits the immediate tax-free recovery of capital investments. By most criteria, exploration and development costs for productive wells would be considered an investment in capital and, therefore, subject to a depreciation allowance over the useful life of the capital asset.

Third, there is a need for a critical examination of the oil companies' use of the foreign tax credit. The foreign tax credit is conceptually a good device to prevent double taxation, but in the oil industry this tax provision has a peculiar effect. Royalties are artificially termed taxes and then are used as a shelter to protect other earnings and operations of international oil companies from paying even a modicum of Federal income taxes.

A small portion of these huge payments to the producing nations could be considered as a tax on profits and the oil industry should be treated the same as other industries that can offset taxes paid to foreign governments against U.S. taxes. But, the bulk of the sums are obviously royalty payments, no different than the cash bonuses and royalty paid to the U.S. Government for offshore leases. They should be treated as a cost of doing business, not as a tax.

One of the few benefits of rising oil prices is that it provides Congress with a unique opportunity to restructure our tax code, and to achieve a more rational taxation of the oil industry. The first step of this more rational tax policy is to remove the special tax provisions and let the oil companies pay their fair share of taxes.

Mr. LONG. Mr. President, as the Senator has stated, we will be conducting hearings on the excess profits tax proposal which has been made by the administration and which the House has indicated it proposes to send us. We can expect to be conducting hearings in the next 2 weeks.

The Senate has already voted on one tax reform type of suggestion that would affect the oil companies, but as the Senator knows, we will be recommending a great number of revenue bills all during this year; and in connection with any of those bills, anyone who wants to can offer either the administration's excess profits tax proposals, or any other.

I am sure that the Senator is aware of the fact we have had lawyer after lawyer state that the proposed renegotiation thing in this bill is unconstitutional. I have yet to hear a single lawyer state that in his judgment the proposal is constitutional.

As a matter of fact, in view of the fact that everyone selling any oil, any gas, or any petroleum product under this bill, including 220,000 service stations, could be the subject of litigation by every person who makes a single purchase from them, this could result in hundreds of millions of lawsuits before the so-called Renegotiation Board.

The unconstitutional potential of this measure is such that it has been testified to that it threatens the entire bill, having everything in it stricken, not just the tax thing, but the whole thing, because it has become such a major part of the whole proposal, to say that anyone who sells any petroleum product at all could be subject to an unconstitutional renegotiation process.

Mr. NELSON. The Senator is correct. As the Chairman knows, there were 11 witnesses before the committee and they included former Commissioners of the Internal Revenue Service who served under four different administrations and all of them said that in their opinion the proposal was unworkable. Several said that it was unconstitutional and that the President would not sign it. I think it is most doubtful that he would. I do not see how he could sign it. Several of them stated that if he did sign it, its unconstitutionality would have to be tested.

The Senator is correct. I carefully followed the hearings and read the testimony, and it is clear that any individual any place in the United States who is aggrieved by a price charged to him by a filling station, any one of thousands all over this country, may then file a complaint with the Renegotiation Board. Then there will be before the Renegotiation Board an application for a refund for part of the price of 10 gallons or a hundred gallons of gasoline that were purchased by this individual. The Renegotiation Board has to decide whether it was an excess charge by an individual filling station at the retail level. Of course, the same is true of an individual complaint against a wholesaler or a producer of oil.

It should be understood that this is not a tax. It is a method for allowing individuals to raise tens of thousands of complaints before the Renegotiation Board about the prices that are being charged to them.

Mr. LONG. The Senator is not talking about tens of thousands of complaints. The old renegotiation law, which involved the Government proceeding against a Government contractor, has expired; and 20 years after the conflict for which it was passed has come and gone, they still have 50,000 unfinished cases over there, where only the Internal Revenue Service could file the complaint.

Think of where we are going to be when any one of 200 million citizens can file a complaint against 220,000 gasoline stations and anybody else who is in the oil and gas business in any respect whatever.

For example, anybody who is selling pipe or equipment, even selling mud to put in the ground in the process of drilling a well, is a subject of the Renegotiation Board if they made any more than they made in the base period or anything more than the renegotiation board might feel is a fair profit, whichever is the lesser.

The testimony before the committee is that that would amount to taking a man's property without due process of law, because it fails to specify what the man is entitled to keep and what he must give back under the law.

The only way a renegotiation law can be upheld is where there is a contract between the Government and a contractor in which the contractor agrees that he will give back anything more than the Renegotiation Board would think would be a fair profit. There is no contract here. There is something that proposes to proceed on the taxing principle, without any contract and without it stipulating what the man is entitled to keep and what he is not entitled to keep. It mentions five or six different things they are supposed to take into consideration in determining what they think is a fair profit.

In the case of a company that had more that $500 worth of business, if a hundred people looked at those standards in an attempt to determine how much the company is entitled to keep—or a producer or filling station is entitled to keep—and how much they must give back, every one would arrive at a different figure, because there is no firm guideline as to what they could and could not keep.

Even when talking about what one would hope would be the simplest part of the proposal, just to say that he cannot keep more than the average of what he made during the period 1967 through 1971, it fails to say whether it is talking about how much he made in taxable profits or how much he made in terms of the accountant's profits—even the accounting principles vary, and there is some dispute about that—or how much he made from a banker's point of view, or how much he made from lender's point of view, or how much he made from an investor's point of view, or how much he made from the point of view of the tax code. It fails to specify.

The Senator knows, as does everyone else, that there are things in the tax laws that are subject to debate, as to whether or not they are proper deductions. Take the oil depletion allowance, which has been attacked by the Senator from Wisconsin and many others. Is that going to be regarded as an expense? Is it going to be regarded from the bankers' point of view? Will they be permitted to take only cost depletion?

In other words, looking at the language of the bill, I would challenge any two Senators who have something to do with bringing this foolishness here to take the same set of facts and arrive at the same conclusion as to how much a person should be permitted to keep out of what he earns and how much he has to give back.

Mr. NELSON. I say to the Senator that I have the guidelines here. No Philadelphia lawyer would be able to interpret them. This is what it says:

(6) For the purposes of subparagraph (B) of paragraph (3), the term "windfall profits" means that profit (during an appropriate accounting period as determined by the Board) derived from the sale of any petroleum product determined by the Board to be in excess of the lesser of—

(A) a reasonable profit with respect to the particular seller as determined by the Board upon consideration of—

(i) the reasonableness of its costs and profits with particular regard to volume of production;

(ii) the net worth, with particular regard to the amount and source of capital employed;

(iii) the extent of risk assumed;

(iv) the efficiency and productivity, particularly with regard to cost reduction techniques and economies of operation; and

(v) other factors the consideration of which the public interest and fair and equitable dealing may require which may be established and published by the Board; or

Mr. LONG. I ask the Senator to stop there.

Does the Senator think that any two Members of the United States Senate—if this is not being applied to anything but a small corner filling station in a small neighborhood—could take those standards and arrive at the same figure?

Mr. NELSON. No two people could arrive at that. What makes it worse is that those who are subject to the law, including the 220,000 retail outlets, will not be able, for themselves, to determine what they may charge, using these guidelines.

As the Senator knows, we are not in agreement on the depletion allowance, because I would eliminate it. I have introduced a bill providing for its elimination. I am sure that I would go further than the Senator from Louisiana on the question of excess profits. I would probably go further than the Senator from Louisiana in roll back of prices. I am for doing one, two, or all three of those, and I will be supporting them on the floor of the Senate. But I do not think we ought to be going through the exercise of adopting a piece of legislation which is called an excess profits tax and is no such thing at all, although most Members of the Senate think it is and most Members of the House think it is, and the press thinks it is, because that is what they are calling it in the newspapers. It is not an excess profits tax. It is just a technique for letting millions of people take a complaint to the Renegotiation Board about a purchase they think was excessive, and then these people will be run through these guidelines, which I, as a lawyer, certainly could not interpret and I doubt whether any other lawyer could. I think it falls on these guidelines alone.

We had 11 people appear before the committee. A former general counsel to the Military Renegotiation Policy and Review Board said it was unworkable. Another, from the Renegotiation Board, said it was unworkable. Nine tax lawyers, four of them former Commissioners of Internal Revenue—Republicans, Democrats, conservatives, and liberals—all said it would not work; and several said it was unconstitutional.

So I do not think we ought to kid the public by passing a piece of legislation that will not work and is unconstitutional and would require the President's veto. If he did not veto it, he would create great confusion all over this country.

Furthermore, it could wind up in the Supreme Court when, in fact, we have an orderly procedure in these institutions, in the Ways and Means Committee and in the Committee on Finance and in action on the floor, to bring up the issue we are interested in, to debate it, and take action.

Unfortunately, people around the country think this was an excise profit tax. I have received letters which state, "I hope you will support the excise profits tax." I would, but there is none in this bill. Some 999 people out of 1,000 do not know it unless they were on the conference committee or in the hearings held before the Ways and Means Committee or the Committee on Finance on this subject.

Mr. President, I ask unanimous consent to have printed in the Record the names of the various former Commissioners of the IRS and experts who appeared against this proposal saying that it was either unworkable or unconstitutional or both.

There being no objection, the list was ordered to be printed in the Record, as follows:

Sheldon S. Cohen: Former Chief Counsel to the IRS 1964–1965, Former Commissioner of the IRS 1965–1969, 1730 M Street, N.W., Washington, D.C. 20006.

K. Martin Worthy: Former Chief Counsel to the IRS 1969–1972, 1776 F Street, N.W., Washington, D.C. 20006.

Charles Davis: Former Chief Counsel to the IRS 1952–1953, 1750 K Street, N.W., Washington, D.C. 20006.

William S. Whitehead, Chairman, The Renegotiation Board, July 1973, Washington, D.C.

Mortimer Caplan: Former Commissioner of the IRS, 1961–1964, 1101–17th Street, N.W., Washington, D.C. 20036.

John S. Nolan: Former Assistant Secretary of the Treasury, 1969–1971, 1700 Pennsylvania Ave., N.W., Washington, D.C. 20006.

Johnnie Walters: Former Commissioner of the IRS, 1971–1973, 1730 Pennsylvania Ave., N.W., Washington, D.C. 20006.

Edwin Cohen: Undersecretary of the Treasury (former) 1972–1973, Washington, D.C. 20220.

Jerome Kurtz: Former Tax Legislative Counsel, Treasury Department 1966–1968, 12th floor Packard Building, Philadelphia, Pa. 19102.

Barron K. Grier: Former General Counsel to the Military Renegotiation Policy and Review Board, 1948–1951, 1700 Pennsylvania Ave., N.W., Washington, D.C. 20006.

Mr. LONG. Mr. President, will the Senator yield further?

Mr. NELSON. I yield.

Mr. LONG. There is a group known as Tax Analysts and Associates. I have never found myself in agreement with those people, but they have great respectability with the Washington Post and persons with whom I disagree on tax matters. That group proposes that the oil companies should be denied their percentage depletion, their intangible drilling costs, and foreign tax costs. They say they should be taxed like any other manufacturing company. One would think that certainly that group and certainly the Washington Post, having advocated to take away from the oil companies, would advocate this, but they are against it. One finds that people against everything that will benefit the companies, anything tailored to their advantage, are in favor of taking it away from them. But people say it would do more harm than good, that it would result in wasteful practices, and result in less oil.

Mr. NELSON. And it would not raise a single penny in tax revenue.

Mr. LONG. It would not raise a nickel.

Mr. NELSON. It would not result in a refund to the consumers.

Mr. LONG. It would give only the impression that Congress has done something when in the last analysis the whole thing would be declared unconstitutional by the Supreme Court, and the Supreme Court would throw it into the trash basket. So we would have enacted a nullity, and it would have resulted in diminishing the ability of this Nation to provide energy in a time of crisis because business people from the filling station man up and down do not know where they stand, and they could not invest money with any degree of certainty to make any given amount of money as a return on their investment.

All we would have done would be a complete nullity eventually and stricken down by the Supreme Court. Why do that when we have an effective law to enact the things in this measure and pass an effective tax on windfall profits, rather than an unconstitutional law?

Mr. NELSON. I agree. We are going to have opportunities on the floor, either with bills from the Ways and Means Committee or the Committee on Finance or the debt limit, and we will all have an opportunity to offer amendments, to debate, and vote on all the propositions we are interested in, after there have been hearings.

I wish to interject at this point that I give Representative Staggers credit for having raised the issue and waved the flag. He was the first person around the Hill to do it. I could not have drafted the bill. I could not draft an excise profits tax bill. I could draft one on the depletion allowance; we just repeal it. That is simple enough. But Representative Staggers raised the issue and I give him credit for it. But it is an impractical proposal that cannot be administered and I do not think we should pass it.

If they go back to conference and cannot modify it in any way—and I am not critical of the chairman of the committee or the distinguished Senator from Maine, two of the leading environmentalists in this country; I am not critical in any way about the failure to get what I would like to see them get because I have been in conference and had to come back with modifications I did not like. But I think now, as to the tax provisions, since there are hearings now scheduled and we are going to have a chance to act on it, it is unnecessary to have this provision.

The argument for it is that it puts a burr under the saddle, so to speak, and it makes the administration come forward to support something, because they could not support this one. I think that is a risky approach, but if it is passed and the President signs it, we surely are going to pass a piece of legislation to replace it after all kinds of confusion in the country because that proposal will not work, and no one that I know, no tax expert, will tell you that this proposal will work. So why pass it and then pass a substitute for what we did already, if, in fact, the President signed it and the Supreme Court declared it constitutional, both of which I think are doubtful.

Mr. LONG. Mr. President, will the Senator yield further?

Mr. NELSON. I yield.

Mr. LONG. There is one thing the Senator should think about when and if he gets ready to pass a constitutional, realistic windfall profits tax proposal. If this measure is on the books, he will be accused of doing something to help the oil companies because then the charge will be that the 100 percent windfall profits tax—which is not a tax at all; it is a mirage—but this 100 percent windfall proposal would apply to the companies except for the excise profits tax which we would be passing, and they will contend that it would be better for the oil companies than what is then on the books. There is a question. I know what is on the books would be a nullity.

Mr. NELSON. I shall vote on the floor of the Senate for taxes on the oil companies that will be effective and constitutional.

I would like to ask the Senator from Louisiana if it is the Senator's intent to send to the floor some tax bill, if he has a majority of support, upon which we will be able to debate and offer our amendments at some early date.

Mr. LONG. Yes.

Mr. NELSON. May I ask one other question? There is a provision here which authorizes $500 million that the President may spend at his discretion for the purpose of extending additional unemployment compensation to employees who have lost their jobs as a consequence of any action taken under this Energy Act; that is to say, if some wholesaler is denied oil and has to lay off two truckers, they would qualify under this. I hope this goes to conference and that the provision stays in. If it should happen the bill is not reported from conference, would the Senator from Louisiana support a proposal, at least as good as the one here, to a tax bill which he will report out of committee?

Mr. LONG. I certainly will. I hope we will do something more effective than that. I hope we will be able to find something more effective with respect to people who lost their jobs due to the energy crisis.

Mr. NELSON. I would like the record to show that I discussed the issue—I could not get hold of Mr. George Shultz, because he was out of town, but I talked to Mr. Paul O'Neill, his deputy at OMB, and he assured me that in a matter of days the administration will be recommending an unemployment compensation measure, that will be broader than the one that is included in this bill, which limits the benefits only to those who lose their jobs as a direct consequence of some oil allocation that has been made as a decision under the authority of the current conference report. In other words, it will apply across the board, because, you know, Mr. President, it is just as hard to be unemployed if one is among the 20,000 Chevrolet workers in Janesville, Wis., who have lost their jobs, not because of the energy shortage, but because General Motors is retooling to make smaller automobiles. So it is just as serious a situation whether one loses his job for that reason or any other. But he assured me that they will be offering a proposal that will have a trigger provision that will apply unemployment compensation benefits to every concentrated area of unemployment.

Their estimate, as of now, looking to the future, which he knows may or may not be correct, is that they are talking about unemployment compensation in the neighborhood of $600 to $800 million. So it is a broader bill, covering people who have lost their jobs for whatever reason, and they are estimating that it will have from $100 to $300 million more in it than the one that is authorized here.

So in any event, if the conferees did not come back, or if they broke up because of nonagreement, we would still have an unemployment compensation bill that will be before the House Ways and Means Committee and the Senate Finance Committee.

Mr. LONG. Mr. President, I expect to support that kind of measure. My only question is if we can do better than that. I think we can. If necessary, I would favor it.

The Senator knows that the Senator from Louisiana has helped the Senator from New York to get insurance bills through. He has helped the Senator from Connecticut get unemployment compensation bills through. I will be glad to join the Senator from Wisconsin in helping the Senator from Washington (Mr. MAGNUSON), as he was helped in getting an unemployment insurance bill through when they had a high amount of unemployment in those States. So we are together on that. The only thing we are talking about is whether we ought to encumber what is a good bill with provisions that should not be in the bill, unconstitutional provisions, measures that would impede the effectiveness of what we ought to be trying to do.

Mr. NELSON. I agree with the Senator. I emphasize, for the third time, if the House were unwilling to make any accommodation, based upon the history that has passed since the last conference, then I think we are going to have to drop the conference report and then move very quickly to pass a very effective, sensible, administratively effective tax law, to take the place of the one in this bill.

Mr. LONG. I thank the Senator.

Mr. MAGNUSON. Might there be under this energy bill a shift of electric power from one area to another?

Mr. JACKSON. Yes, there could be.

Mr. MAGNUSON. Since this shift would be on the basis of one area conserving power, is it contemplated that the area to which it is shifted would also conserve power in at least a like amount?

Mr. JACKSON. Yes, we would anticipate each area would conserve a like proportion of its power.

Mr. MAGNUSON. In the Pacific Northwest, we serve a lot of interruptible industrial load. Would this interruptible load be regarded differently from firm load, or would it be regarded as the same in considering any shifts in power?

Mr. JACKSON. Those loads would be regarded the same as in the Pacific Northwest. For example, for planning purposes and the proposed new rate schedules of Bonneville, there is no distinction between interruptible and firm loads.

Mr. MAGNUSON. At the present time, Public Law 88-552 does not permit hydropower from the Federal system to be shipped out of the Pacific Northwest if it can be used by a market in the Pacific Northwest. Would this law (Public Law 88-552) take precedence over any shifts under this energy act before us today?

Mr. JACKSON. Public Law 88-552 would take precedence. Therefore, if there is Federal hydro energy available, it can be applied to firm or interruptible loads or to any loads in the Pacific Northwest. There could not be any order for it to be shifted to another area under the provisions of this bill. However, with conservation there possibly could be a surplus of energy in the Northwest that otherwise would not be available and that surplus might be shifted to another area.

Mr. BIBLE. Mr. President, section 118 of the bill would establish special procedural requirements, including minimum time of public notice before promulgation of final rules or orders, and a right to present oral views and arguments concerning proposed rules or orders.

I am concerned about the extent to which these special procedural rules would apply to rules and orders issued under the Emergency Petroleum Allocation Act. Would their new procedural requirements apply, either retroactively or prospectively, to rules and orders promulgated under the allocation act?

Mr. JACKSON. I will be pleased to respond to the gentleman's question. Section 118(a) is clear in specifying that these special procedures apply only to rules and orders issued under this title that is, title I of this bill. And there are in the same section several exceptions, including the new subsection 4(h) of the Emergency Petroleum Allocation Act added to this bill. Thus, the special procedures do not apply to the Emergency Petroleum Allocation Act.

### PROBLEM DEEPER THAN PROFITS ALONE

Mr. McINTYRE. Mr. President, I will not vote to recommit the Emergency Energy Act despite some serious reservations about its approach to the problem.

I believe it is critical for the Congress to go on legislative record right now in clear opposition to the unconscionable profiteering made possible by the energy crisis.

America's oil barons must be put on notice that the American people will not tolerate being taken advantage of in this way.

That said, let me add that I have some doubts about the way in which this particular bill goes about solving the problem. I am by no means convinced that it is possible to construct tax laws tight enough to put an end to windfall profits. I believe this is true because the legislation moves to treat a symptom and not a cause.

The problem, or cause, is not windfall profits themselves. It is the system which produces these profits. It is a system characterized by special privileges, tax loopholes, and monopolistic practices which make it possible for oil companies to earn excess profits in time of crisis.

In short, it is a mollycoddled, spoiled industry which needs a healthy dose of old-fashioned free enterprise.

The challenge for Congress, Mr. President, is to administer the dosage with caution, making sure the cure is strong enough medicine for the oil giants, but not so strong as to kill off the little independents who pose the only element of competition left in the industry.

Mr. President, we face tough questions. Is percentage depletion as it is currently used a satisfactory incentive to oil production? For small companies and large ones as well? Is expensing of intangible drilling costs a viable means of encouraging investment in oil well drilling? Is the foreign tax credit a useful tool for American-based oil companies or is it little more than a billion dollar giveaway?

Let us create a quiet, reasonable atmosphere in the next few months and get down to the business of answering these questions. The American people want results, not rhetoric.

I applaud the thrust of this bill—to put a stop to profiteering which is today accompanying the energy crisis. But I believe the problem is more serious than can be solved by a tax on excessive profits. It has to do with the structure of the energy industry and this is the year to attack that problem with all our might.

Mr. HANSEN. Mr. President, I strained my voice in speaking of the windfall profits section of this bill at the end of the last session and I will, therefore, make my remarks brief.

I have distributed a letter to each of you which summarizes my reasons for believing that the act should be sent back to conference for deletion of the windfall profits provision.

Some of you may have noticed at the top of the front page of last Sunday's Washington Post an article that was headlined "Sampling Shows 'Massive Ambiguities' Clouding America." In an interview, a Mississippi doctor told a Washington Post reporter that he thought America had been drifting toward socialism for some time. He said:

> The more the government regulates, the more inefficient the economy becomes; and the less productive the economy, the more regulation you need.

I am not defending industry profits although I do think they have not been excessive or at the levels necessary to develop the domestic energy resources we must have. What I am saying is that the concept of confiscation of such profits is the wrong way to go. We may need a reinvestment requirement to insure the quickest possible development of our abundant energy resources and a return to energy self-sufficiency. But a continuation of the policies that have brought the Nation into this dilemma through application of further stifling price ceilings and controls will do nothing but continue and worsen the shortage.

As the distinguished senior Senator from Louisiana (Mr. LONG) and the able ranking minority member of the Senate

Interior Committee (Mr. FANNIN) have said, I would hope that Senators here today after contemplating the hastily drafted legislation before them would vote to recommit the bill so that we might hear further from experts in the tax area who have already analyzed the windfall profits section as unconstitutional and unworkable.

As Henry S. Houthakker, professor of economics at Harvard University and a former member of the Council of Economic Advisers, recently said:

> The consuming nations should not assume they are at the mercy of OPEC, even though for the moment they can do little except curtail consumption. All the talk about energy being "essential" should not blind us to the fact that it is subject to the laws of supply and demand. These laws may take some time to operate with full effect. But they have not been abrogated. When the governments of the importing countries assemble at President Nixon's invitation they should not be misled by industry projections of an inexorable rise in demand and a lack of productive capacity in North America. Consumption is already responding to higher prices, and supply will catch up too.

But supplies will not increase but rather stagnate under a windfall profits section that eliminates profits and incentives.

I know of no better example than Federal regulation of the wellhead price of natural gas since 1954 that has contributed so largely to our present energy dilemma.

Let us not compound that error.

And in the words of Vermont Royster of the Wall Street Journal, there is another reason for the public suspicion that it is some kind of a dire plot, one that has nothing to do with the facts and one that cannot be allayed by facts:

> If we have a beef shortage a lot of people simply aren't going to believe that it's because of a failure of the feed crop, or because consumer affluence has increased the demand beyond the supply, or because inflation has made it impossible for farmers to grow beef at the ceiling price, or whatever the real reason may be. It's got to be a plot. "They" are conspiring to gouge "us."
>
> The "they" varies with circumstance. Sometimes the impulse is to hang the butchers, they being closest at hand. Or maybe the middle-men, the meat-packers and wholesalers. But somehow when mysterious things happen there must be a "they" out there somewhere plotting against "us." In olden days the cure was to burn a witch.
>
> Perhaps we do have here proof of the prevalence of witches. That is maybe all those oil company people have been clever enough to corner the whole world's oil supply and are gloating over all those exorbitant profits they are going to glean from wrecking the economies of the United States, Great Britain, Japan and practically the whole Western world, blithely unconcerned about the risk of being put to the torch.
>
> If that isn't ridiculous, it's at least a puzzlement. For if it's true that all those exorbitant profits glitter while oil stocks languish there must be an awful lot of dumb people on Wall Street.

So concludes Mr. Royster.

I hope we in the Senate will do better than burn at the stake the only ones able and willing to solve our energy problems.

Mr. BAKER. Mr. President, I want to take this opportunity to reaffirm my support for the conference agreement on S. 2589 and to state my opposition to the motion which has been made to recommit this bill for further discussion by the House-Senate conference.

Many issues have been raised in criticism of the legislative product of that conference and I am sure that that product is far from perfect. The conferees on this bill worked long, hard hours during the last few days before the adjournment of the first session of this Congress in order to produce an emergency act in response to the energy shortage which faces this Nation. Although the dimensions and details of that energy shortage have at least appeared to change over the past several weeks, I do not think there can be any serious doubt as to the need for emergency action during the next several months to deal with shortages of gasoline and other petroleum products. On last Friday the Federal Energy Office issued a news release quoting Energy Administrator Simon as saying:

> The energy crisis is here and it is not contrived. It is a global crisis that literally threatens the integrity of the world economy, to say nothing of our own national security.

Frankly, I find it disturbing that we are at this time urged by the administration under the threat of a veto to recommit and reconsider action on this proposal. I recall the urgent pleas of Energy Administrator William Simon in an 11th-hour appeal to the conferees to pass some form of energy emergency bill. The administration presented at that time several points of criticism which the conferees took up and considered. Several of these items were compromised and others represented matters on which the Congress and the administration have basic disagreement. I do not feel that under these circumstances a recommittal of this bill to the conference would produce progress in these areas and, indeed, further consideration of the measure could threaten provisions of the report upon which agreement was reached.

I would discuss briefly some of the criticisms which have been leveled at the conference report. It has been stated by critics of the report that the administrative provisions contained therein are inconsistent with the administration's recently created Federal Energy Office. Section 103 of the conference agreement establishes a Federal Energy Emergency Administration, which would endure only until May 15, 1975. Section 103(a) states that the agency so created shall continue "unless superseded prior to that date by law." It is clear, therefore, that the Congress could, and I am sure would, take steps to insure that further legislation to create an administrative framework in response to the energy crisis would not duplicate or overlap the authority of this bill. Furthermore it is my opinion that the authorities and responsibilities of the Administrator established under this section are not inconsistent with the parameters of the Federal Energy Office and in my opinion this administrative framework could be folded into the existing structure.

Section 110 of the conference agreement which provides for a prohibition against windfall profits and price gouging has come under intense criticism by both the administration and by the oil industry. It is clear that there is a consensus in the Congress that some action must be taken to prevent windfall profits. I think it is also safe to say that the Congress is nearly as unanimous in its feeling that section 110 of the conference report is a badly flawed mechanism for accomplishing that purpose. In response to criticism lodged against this section by the administration prior to its reporting, an effort was made in the conference to delete this provision. When this effort failed a motion was made and accepted to postpone the application of this section until January 1, 1975. This postponement was provided in order to afford the appropriate committees of the House and Senate the time and the opportunity to consider this proposal and to develop legislation thereon. Since it is clear that such revision is necessary and would receive rapid endorsement of both bodies, section 110 of the conference report will serve the purpose of committing the Congress to such action without delay. For that reason, and with the understanding that I shall support revision of the section to make it more effective and less onerous, I oppose those who would recommit this bill on this issue.

I am deeply disturbed by the assertion of critics of the clean air provisions of the conference report that these provisions go too far and threaten the integrity of the Clean Air Act. There are no Members of this body more dedicated to the preservation and protection of our environmental protection programs than Senator RANDOLPH, Senator MUSKIE, and myself. During the tense days of conference we deliberated as a subconference on these issues with Congressmen PAUL RODGERS and JOHN HASTINGS and reached a compromise which reflects, I feel, a deep regard for the Clean Air Act, a real concern for the impact of air quality strategies, and a pragmatic understanding of political realities. It is my opinion that those who seek to recommit this report for the reconsideration of title II do not understand what that title does or the situation which created the need for such a measure.

The clean air provisions of the conference report as they apply to stationary source controls are drafted very narrowly to apply only to such facilities that have the ready capacity and necessary plant equipment to convert to coal and are required to do so, because of the unavailability of low-sulfur fuels. If the source chooses by November 1, 1974, to make a long-term commitment to coal, they may obtain a revision of their State implementation plan so that they might be permitted to continue burning coal. This could potentially result in a violation of primary standards and in that connection the Administrator of EPA is given broad powers to protect the health and safety by preventing conversions or by requiring interim control strategies.

In return for the plan revision granted by the section, these converted sources must undertake to meet emission standards through the use of continuous emission reduction equipment or through contracts for low-sulfur fuels by 1979, 18 months after the deadline presently contained in the law.

Two things motivated the conferees in providing this long-term provision. First, the realization that we cannot call upon the coal industry to make the capital investment necessary to enable them to meet our emergency needs without making a commitment commensurate with theirs. Second, that low-sulfur fuels strategies employed by the States to meet air quality standards may in the future, as they have now, prove undependable; and thus, revision of State plans toward a strategy of continuous emission control or toward the use of low-sulfur domestic fuels will improve the dependability and safety of air quality programs.

The deadline extension in the provision was inserted in recognition that present sulfur emission control technology is in a rudimentary state. To mandate such systems as an alternative to present strategies without providing development time for the technology could result in prematurely eliminating alternative approaches. I am not at all convinced for instance, that limestone scrubbing systems with their substantial solid waste production are the ultimate answer. For those plants choosing to go to low-sulfur coal as an ultimate strategy, the Administrator may require implementation as soon as practicable.

Additionally, I believe that the proposed changes in the automotive emission standards represent a viable compromise which permits us to proceed most of the way to eliminating the automobile as a significant contributor to air pollution. At the same time, I expect the domestic and foreign automakers to use the extension of the 1975 interim standards to maximize fuel economy and drivability of automobiles before they are required to go the next step to the full 90-percent reduction from the 1970 levels. I also look forward to the 2.0 grams per mile standard for nitrogen oxides to encourage the automakers to exploit fully such developing technologies as the stratified charge engine, the diesel, and still more exotic means of propulsion.

Mr. President, I am convinced that my colleagues in the conference arrived at the best possible resolution of these issues related to the Clean Air Act. This accomplishment, which was made doubly difficult by the press of time, ought not be undone in the vain hope that by recommitting this bill, we can avoid the hard choices imposed by the present energy emergency. I urge each of my colleagues to vote for the conference report as proposed.

Mr. NELSON. Mr. President, I wish to reserve some time for a rebuttal period, but I understand the distinguished Senator from Arizona (Mr. FANNIN) wants some time. How much time does the Senator wish?

Mr. FANNIN. The Senator from Kansas (Mr. DOLE) would like some time. How much time does the Senator——

Mr. NELSON. Mr. President, are we in the situation that the distinguished Senator from Kansas and I are on the same side?

Mr. DOLE. For the first time.

Mr. FANNIN. Yes; both Senators are on the same side on this question.

Mr. NELSON. I had better get my motion back.

How much time does the Senator from Kansas desire?

Mr. DOLE. Perhaps 7 minutes or less.

Mr. NELSON. I think I need to reserve some rebuttal time. Are there other Senators who wish to speak?

I yield 7 minutes to the Senator from Kansas.

Mr. DOLE. I thank the Senator.

Mr. President, on this matter, I am on the same side as the Senator from Wisconsin (Mr. NELSON). I do not think there is any doubt—that everyone is concerned about the energy problem. I know the people of Kansas are concerned, for I returned from there only this morning. Some are not convinced that we have one. Some are convinced that it is contrived. Some are concerned about excess profits. But they believe a serious situation exists, and they feel something should be done to deal with it—in an effective and responsible manner.

Mr. President, the job of equipping our country with the programs and plans required to manage the energy crisis is vitally important.

This Nation faces a great challenge over the remainder of this decade and beyond as we strive to reestablish our self-sufficiency in energy. Success in this effort is essential, for we must eliminate the intolerable drain on our balance of payments caused by the cost of foreign oil imports, and we must end our vulnerability to oil embargos and other foreign manipulations which threaten our military and economic security.

It is particularly unfortunate, therefore, that legislation needed to manage our energy effort has become entangled in dispute, disagreement, and no small amount of political gamesmanship.

### TOO MUCH HASTE

I believe this situation is in large part due to the haste with which the Energy Emergency Act was considered in the House and Senate. This bill is highly complex, contains far-reaching grants of Presidential authority, and will directly affect nearly every citizen of this country. In these respects I believe it exceeds even a general tax reform measure in impact. But in contrast to the pending tax reform bill—which has been the subject of months of hearings in the House and has yet to be taken up on the House floor or in the Senate Finance Committee—the Energy Emergency Act was run through committee and floor consideration in the Senate and House in such a rushed and publicity-laden atmosphere that it was impossible to adequately explore its full impact.

Now, after a month-long opportunity for comment, study and assessment of the bill, several of its features are seen to raise serious questions regarding their necessity, their desirability, and their capacity to accomplish the purposes for which they are supposedly designed.

### ENVIRONMENTAL CONCERNS

The Senator from Wisconsin (Mr. NELSON) and others have voiced their concern over the consequences of title II upon the many years of effort in Congress and throughout the Nation to restore and preserve the environment. In my 4 years of service on the Public Works Committee and its Air and Water Pollution Subcommittee, I was directly involved, under the leadership of the Senator from Maine (Mr. MUSKIE) in the consideration, drafting and passage of the Clean Air Act, the Water Pollution Control Act, and a number of other key laws which support our environmental programs. As the Senator from Maine knows, many long weeks and months of work went into those laws, and I certainly have great concern that the Energy Emergency Act's hasty changes, modifications, and suspensions of environmental statutes may do unforeseen damage to these programs—perhaps without accomplishing everything necessary to achieve our energy goals. I cannot say for certain that this would be the result, but at the moment it is difficult to see the results of these provisions one way or another.

I would observe, however, that with experience the winter daylight saving time legislation—which passed Congress with perhaps even less study and factual support than the Energy Emergency Act—gives reason for caution in our approach. The imposition of winter daylight time seems to have done little more than produce widespread inconvenience, disruption, and danger to school-age children. Negligible energy savings have been achieved, and there appears to be growing support for my measure which would bring about the new law's immediate repeal.

I would hope that the Energy Emergency Act will not backfire to a similar extent.

### DANGERS OF SECTION 110

However, especially with regard to another area, I believe we are headed for just such a result, only much more serious.

While not wishing to be an alarmist or overly harsh in my criticism, I believe it is fair to say that section 110, the so-called "Prohibition on Windfall Profits—Price-Gouging" is one of the most unwise, ineffective, and transparently shallow examples of shoddy legislation to come before the Senate. And this is all the more unfortunate, because it claims to deal with a very serious and deep concern of the American people. There is no doubt about the fact that there is deep concern about excess profits and windfall profits.

In fact, however, section 110 only plays on the emotions of the people and if enacted would frustrate their legitimate expectations that Congress effectively deal with the problem of profiteering in the energy crisis. Section 110 would not be effective in blocking unfair economic advantages, and it poses the more dangerous prospect that it would seriously hamper our energy-sufficiency efforts.

### INEFFECTIVE ENFORCEMENT

It would not be effective because it has no teeth, no real ability to combat the problem of profiteering. It would not even become effective until January 1, 1975. And its only enforcement would be through a slow, drawn-out, and frustrating administrative procedure that is so vague and confusing that even experts in this area cannot say how or if it would even produce any final determinations.

### UNLIMITED APPLICATION

In the second place, section 110 is so broad in its terms and application that in addition to the "major oil companies" it would cover every royalty owner, every local jobber, every corner service station operator, and who knows who else in the Nation.

Mr. President, I might say that this point was brought forth in the testimony before the Finance Committee on which the Senator from Kansas serves along with the Senator from Wisconsin. A question was asked directly as to what the impact of section 110 would be, how far it would go, whether it was limited just to major oil companies, and where we draw a line between the major oil companies, other oil companies, and independent oil companies. But no line is drawn in section 110—it is universal and undiscriminating. It would apply to hundreds of thousands of businesses and millions of transactions.

The possibilities for complaints, lawsuits and bureaucratic entanglement are almost unlimited. With it would come almost complete paralysis in every business which involves the sale at "any price" of "petroleum products"—from the Alaska pipeline to the local gas pump.

Now, one might say, so what? It would not make a great deal of difference if some obscure board was studying the prices charged for various petroleum products. After all, they might decide that there were no "windfall profits" involved.

But it would make a very great difference in a country that must maintain a strong, healthy domestic economy, and which must expand its efforts to locate and develop new sources of energy within its borders.

As the Senate Finance Committee, on which I serve, heard last week, the almost certain result of section 110's enactment would be a retardation of efforts to meet our energy needs.

I ask unanimous consent to have printed at this point in the RECORD excerpts of testimony received by the Finance Committee from a panel of tax experts on the advice they would offer a hypothetical energy client in response to section 110.

There being no objection the excerpts of testimony were ordered to be printed in the RECORD, as follows:

### ADVICE TO ENERGY CLIENTS

Johnnie M. Walters, former Commissioner of IRS—"With a 'windfall' profits tax, we can expect two basic approaches by those subject to the tax:

"(1) *Longrun:* To the extent feasible delay actions requiring investments necessary to meet and resolve the energy crisis until the 'windfall' profits tax expires.

"(2) *Shortrun:* Bill and charge conservatively in order to avoid the 'windfall' profits tax in order to avoid controversy and to avoid adverse public relations. (This means investors will keep their funds out of the very corporations needing them to meet and solve the crisis, i.e., the energy corporations will be weakened.)

"Thus, both the short-run and the long-run effect of a 'windfall' profits tax are counter to what the Nation needs, i.e., a great enthusiastic charge to discover and develop new and greater energy sources for the decades ahead."

John E. Nolan, former Assistant Secretary of the Treasury—"I would feel obligated to counsel my clients to challenge in court the constitutionality of the statute; to challenge in court the validity of regulations and rulings interpreting its scope and attempting to amplify the statutory factors; and to challenge in court any determination of windfall profits. I would advise my clients that no reliable estimates of profitability or rate of return on investment for new capital expenditures could be made, at least for a number of years until the application of the statute in operation could be determined. In my judgment, this would greatly inhibit new capital investment for the purpose of expanding energy reserves—particularly in such vital projects as recovery of oil reserves from tar sands and oil shale, gasification of coal, use of thermal and steam energy resources, and similar projects."

Mortimer Caplin, former Commissioner of IRS—"In each instance, judgments would then have to be made on the possible existence of 'windfall profits' and the prudence of making commitments notwithstanding the threat of the 85% penalty tax. Differences of interpretation, and potential controversy and litigation, would always be lurking in the background.

"Until final Treasury regulations were adopted, therefore, lawyers would tend to proceed with extreme caution and would normally prefer to give only tentative advice. Even with final regulations, the statute would not lend itself to clearcut decisions, and advice to clients would in all probability have to contain numerous qualifications.

"In these circumstances, management would undoubtedly proceed with similar caution in making final investment decisions."

Randolph W. Thrower, former Commissioner of IRS—"One must assume that the client has the choice whether or not to risk his investment in an area covered by the excess profits provisions. Additional investment will be determined by the return (perhaps, depending on the definition of 'profits,' including cash throw-off from percentage depletion) on marginal capital invested, not by the overall average return. The 85% tax rate may be too high to leave sufficient capital for reinvestment by petroleum producers. Moreover, the use of base period profits as a maximum return, without regard to inflation, impact of the devaluation of the dollar, extent of new investment or marginal risks in the present emergency, combined with the vast uncertainties of the language, might constitute too great a disincentive to new investment. Ultimately these are questions for economists rather than lawyers, but one would tend to advise a client to look elsewhere for investment opportunities."

Edwin Cohen, former Under Secretary of the Treasury—"At least until appropriate guidelines had been developed and published, it would be most difficult to advise an energy corporation with respect to proposed capital investments. Inability of the companies to ascertain the effect of capital investments under an 85 percent rate would seem to provide a serious deterrent to development of additional production and capacity, which is a prime objective in the energy program."

### NO PLOWBACK

Mr. DOLE. Mr. President, aside from these other objectionable features of section 110, I believe it omits an essential requirement for any measure designed to capture excess or windfall profits. It does not contain any provision to channel greater amounts of money into the broader program of energy development. This feature is often referred to as a plowback provision and means that a company is given the choice of either paying a tax or turning that money back into greater efforts to expand our energy supplies or develop better energy technology.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOLE. Mr. President, would the Senator yield me additional time?

Mr. NELSON. Mr. President, I yield an additional minute to the Senator from Kansas.

Mr. DOLE. Mr. President, as I said in the Finance Committee hearings last week, it is not possible to step on the gas and brake at the same time and still make progress.

We must be realistic and recognize that operation independence will be successful in meeting our energy needs only if it is pursued in a sensible and constructive manner.

I would guess that those who are voting to recommit the bill will have their motives characterized—and inaccurately—as being in favor of excess profits for the major oil companies. This is a senseless charge. I would only say that as some others have stated, I believe in action against and in taxation on windfall profits. However, let us act in a way that has some sense and meaning.

### MEANINGFUL PROTECTION REQUIRED

Of course, steps must be taken to assure the average American that his sacrifices are going to contribute to the national cause and not just fatten some big oil company's profits. Every citizen has a right to expect this, and Congress has an obligation to see that those expectations are met. And I share in the commitment to provide this protection.

But section 110 is a sham and a hoax. It would not protect the average citizen and would in the long run be seriously damaging to the public interest. And it is time to stop using the energy crisis as a political springboard.

### APPROPRIATE STUDY

Windfall profits, excess profits and the like raise extremely complex and difficult questions. The taxing power of the Federal Government is by far the most appropriate means of dealing with these problems in a constructive and positive manner. No effort to do so, however, should be attempted without the fullest and most careful study. This is not to say that there should be delay, for there should not. But as last week's Finance Committee hearings disclosed measures in this area have the most serious and far-reaching impact throughout the economy.

I look forward to participating in February in the full-scale Finance Committee study of this field. I feel we must move with utmost dispatch to establish the protection needed to combat energy crisis profiteering and in a way which will contribute to—not detract from—the overall energy program.

Therefore, for the reasons I have stated, I believe it is essential that the conference report on the Energy Emergency Act be recommitted for further action that is consistent with the needs of America and the expectations of the people.

Mr. FANNIN. Mr. President, will the Senator yield?

Mr. NELSON. Mr. President, I yield 5 minutes to the Senator from Arizona.

Mr. FANNIN. Mr. President, I thank the Senator from Wisconsin and commend him for the efforts he is making to accomplish our objective of relieving the energy situation of this Nation.

Mr. President, I ask unanimous consent that a letter from the President to the minority leader, the Senator from Pennsylvania (Mr. HUGH SCOTT) be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
*Washington, D.C., January 29, 1974.*

Hon. HUGH SCOTT,
*U.S. Senate,*
*Washington, D.C.*

DEAR HUGH: My conversations with you and other members of the Senate since the beginning of the Second Session have convinced me that the people have made their elected representatives very much aware of the real concern over the energy shortage. It would be most unfortunate if, through an understandable but misdirected response to this concern, the Senate approved the conference version of S. 2589, the pending Emergency Energy Act.

The time and opportunity now exist for refining this legislation which was so hastily put together during the closing days of the last Session. We have been able to make do without emergency legislation thus far, and I urge you and your colleagues to take the additional time required for developing a truly responsible product.

You have already been furnished with a listing of thirteen sections of the bill which present difficulties. Some of these provisions have no place in this bill and should be deleted, while others can be modified through the use of reasonable alternatives.

We do not need the Federal Energy Emergency Administration proposed in this bill—the Congress itself is close to providing us with a far better organization through separate legislation.

The subject of windfall profits should be addressed through a rational tax scheme using the normal legislative process. I am confident the Congress will quickly complete the work on a windfall profits tax.

Unemployment cannot be effectively dealt with by a system that seeks to find a tenuous connection with the energy crisis. Rather, it should be identified and treated swiftly for its own sake. We have an alternative for accomplishing this through a system which would respond in terms of the labor market conditions where the affected individuals work, regardless of the cause of unemployment.

I am already committed to a proposal which will provide both Government and the public with needed information from the oil industry—without the indiscriminate burden of work and the flood of unwieldy data which this bill would produce.

The pending Emergency Energy Act can provide useful authorities in helping resolve the energy emergency now before us, but not without further efforts from you and your colleagues.

I understand there will be a motion to recommit the conference report, and I strongly support such action. Should recommittal take place I pledge the full support and cooperation of the Administration in working with the Congress to produce the result we all desire.

Sincerely,

RICHARD NIXON.

Mr. FANNIN. Mr. President, as I stated to the Senator from Wisconsin, the President to my knowledge agrees that the subject of windfall profits should be addressed through the normal legislative process.

I am confident that Congress will quickly act on this matter.

The Senator from Wisconsin also covered the unemployment problem when he said that it cannot be effectively dealt with in this manner.

Mr. President, the chairman has sounded the alarm for immediate action on the conference report S. 2589. Senator JACKSON said,

> We must act now to provide the executive branch with the means to take needed actions in the country's interest.

For this reason he urged the Senate to vote in favor of the conference report.

I take note of the important staff analysis that the chairman of the committee ordered printed.

On page 76 of the report concerning natural gas policies, issues and options, the following is stated:

> In the face of such uncertainty, it is the hope of the "windfalls" on some ventures that encourages producers to bear the risk of losses on others. For this reason, a system that rigorously seeks to expropriate all "excessive profits" from exceptionally profitable investments can be expected to reduce the willingness of producers to take on the risk of losses from other ventures. Accordingly, such a regulatory regime could be expected to have a depressing impact upon investment in proportion both to the variability and to the uncertainty of future costs.

I agree with the chairman of the committee in the report's statement that:

> In short, a part of what are commonly called "windfalls" plays an important role in the energy economy. Cost-based price ceilings do not prevent consumers from paying for some extraordinary profits. Nor would it be desirable for any system of regulation to do so. To the extent that extraordinary profits or economic rents are due to geology, they are not windfalls strictly speaking, but are used to elicit exploration and development efforts.

That is exactly what we are trying to do. We hope that this legislation will be approved and that it will accomplish that objective.

Mr. President, I commend the distinguished chairman of the committee for his statements on the Face the Nation program yesterday. I was very impressed with what he had to say. He very effectively brought out the necessity of a free enterprise system.

I agree with the chairman that we need legislation. Unfortunately, the conference report not only fails to give the President the authority he needs, but it contains provisions which would hinder rather than enhance efforts to solve the energy crisis.

The chairman of the Interior Committee is asking his colleagues to support the action of the conferees which he himself recognized as inadequate, an overreaction, and just plain bad law. As it might be recalled, the day before we adjourned in December the chairman sponsored a substitute for the conference report, recognizing at the time its superiority to the conference report. The Senate supported him in this moderate, reasoned compromise.

That substitute which was sent to the House as a rider to the Wild and Scenic Rivers Act eliminated the windfall rebate provision because it was unworkable. The chairman knew it was unworkable.

That substitute modified the information disclosure provisions because they were unworkable as contained within the conference report. The chairman knew they were unworkable.

That substitute eliminated the FEA reporting requirements because they were not only infeasible but also unconstitutional. The chairman knew this to be the case.

Several other provisions in the conference report were also modified because they were unworkable. The chairman is familiar with these provisions.

At the time the compromise substitute was adopted we commended the chairman for his recognition of the infirmities of the conference report and his leadership in preparing a sensible substitute. Now that some of the powerful elements of the media have spawned a movement directed toward an unmitigated attack on the energy industry of the United States, it appears as though the chairman has decided to lead the antiindustry demagoguery by shifting his ground. Now he is calling for support of a conference report that a month ago he repudiated. The issue of supplying this Nation's energy needs is one which should be above partisan politics, but the chairman, despite his better judgment a month ago, now appears to have decided to put aside reasonableness and the welfare of energy-short U.S. citizens.

Instead he has chosen to play politics with energy. With regard to energy politics, let me read extracts from Joseph Kraft's column in the January 24 Washington Post. Mr. Kraft said:

> So what's new? Well, what's new is that many Americans are mad about the high prices they have to pay for gasoline and fuel oil. They don't like driving at limited speeds or lining up to buy gasoline or doing without it on Sundays. Since the explanation for these inconveniences is not simple, the populist disposition takes over. That's one thing that's new.
>
> Another thing that's new is that ambitious political figures are stepping forward to make the most of the discontent. Take, for example, Senator Henry Jackson, the Washington Democrat who is now leading the oil company hearings in his Senate permanent investigating subcommittee.
>
> Senator Jackson is one of the best informed men in the Congress. He is particularly knowledgeable about energy, which he has been studying for years. So he knows very well what the oil companies have been doing. Only now Senator Jackson is running for the Presidency.
>
> He is particularly eager to identify himself with the ordinary Joe, so suddenly he is full of righteous indignation about the companies.

"I'm flabbergasted," he said the other day when Exxon refused to release some information. "This to me is incredible. . . . This is more secret than the CIA."

Mr. President, this is no time to play politics with energy.

Playing politics by adopting the conference report is irresponsible.

Playing politics by adopting the conference report is a disservice to energy-short Americans.

This conference report is clearly unacceptable to the administration. Mr. President, this conference report was drafted in the late hours of the last session in that climate of uncertainty and near panic. We are all one month older and we should be much wiser as far as the energy crisis is concerned. We should all ask ourselves: Is this the mechanism that is needed today?

There is indeed an energy crisis, yet the predicted severity of the energy crisis has not come to pass, due to the effectiveness of administration energy conservation measures and to a mild winter.

The Federal Energy Administration is functioning under the strong leadership of Secretary Simon and he is equipped with existing laws which will suffice for the time being. Let us not now rush into any new legislation which may possibly hinder or interfere with that effort.

During the recess the administration analyzed the conference report and has clearly spelled out its many deficiencies.

Mr. President, I ask unanimous consent that the memorandum be printed in the Record in full at this point.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

### Emergency Energy Act—S. 2589: Conference Version

### ADMINISTRATION COMMENTS

1. Section 103.—Establishes a Federal Energy Emergency Administration, into which all powers under the bill (and some previously existing powers now held by the President) are placed.

Establishes an independent agency with virtually no administrative authorities, no viable staff structure, no funding authorization, and no provision for continuity with existing activities under FEO. Would establish a marginal, if at all operable, agency.

Should be deleted in favor of well-tracked, separate Congressional action (S. 2776, passed Senate; H.R. 11793, reported to House Floor) proceeding on course.

Deleting this provision should also be accompanied by deletions of "Administrator" throughout the bill and substituting "President" where appropriate.

2. Section 105.—Provides a staged system of Congressional approval/disapproval for energy conservation plans proposed by the Administrator (President): (a) until March 1 plans are effective immediately, subject to disapproval by either House within 15 days; (b) between March 1 and June 30 plans must lie over for 15 days before taking effect, subject to disapproval by either House; (c) after June 30 plans must be approved through legislation.

The staging in this bill poses administrative difficulties. While we do not object to Congressional participation in conservation plans, there should be a uniform system of submission to Congress which permits the voicing of objections within 15 days. The objective would be to provide consistency and yet allow sufficient administrative flexibility.

3. Section 107.—Requires promulgation of a contingency plan for allocating energy-related supplies and equipment, which must be submitted to Congress before it can take effect under the same staged system applicable to conservation plans.

This should be authorized, as with conservation plans, rather than directed to be done within 30 days. This will permit greater responsiveness to rapidly changing conditions.

The submission to Congress ought to be modified as suggested with respect to Section 105, above.

4. Section 110.—Provides a mechanism designed to discourage windfall profits and price gouging. The Renegotiation Board is established as the agency which will receive petitions and complaints from "any interested person" who believes that in any transaction involving petroleum products the seller has obtained a windfall profit (as defined to include excesses beyond "reasonable profit", which the Board will determine considering several listed factors). Further judicial review is available. This procedure will become effective one year after the bill's enactment, but will then retroactively cover all transactions since enactment. During the intervening year the President is directed to exercise his price control authorities under existing law to avoid windfall profits.

The administrative and judicial workload which would be produced by the ad hoc type procedure strongly argues against its adoption. There would be major judgmental and procedural problems in determining price-cost relationships for individual transactions, producing both inequities and multiple appeals. The intervening year would additionally produce great uncertainty pending the effective date of the Renegotiation Board procedure and its retroactivity.

Immediate and effective action to preclude excess profits can be taken through an appropriate taxing scheme, which will be equitable and yet allow incentives for exploration and development. The Administration's windfall profits tax proposal will shortly be before Congress, and we urge deletion of this provision pending enactment of such a tax.

5. Section 112.—Requires factors of equity and fairness to be considered in taking action to allocate or restrict energy use.

Largely duplicates other similar requirements stated in Section 4 of the Emergency Petroleum Allocation Act. To the extent it goes further in speaking against arbitrary action and discrimination, could give rise to litigation since allocation can be by definition somewhat arbitrary and discriminating.

Proviso in 112(a) would require U.S. to allocate only 3 days' supply of energy to British firms in U.S. so long as England operates on a 3-day work week. This proviso and entire section should be deleted as unnecessary.

6. Section 114.—Deals with the potential antitrust difficulties which may arise through voluntary agreements and plans of action among members of the petroleum industry in order to assist the Government in resolving the energy emergency. Involves the Attorney General and the Federal Trade Commission in administering and monitoring such agreements or actions.

This provision is unduly restrictive and burdensome, to the extent that it would discourage potentially helpful voluntary agreements and plans of action.

Section 314 of S. 2589 as passed by the Senate takes a more reasonable approach which is favored by the Justice Department over the present provision. It would provide more effective results, and therefore should replace the present conference language. In the alternative, existing law may be relied upon.

7. Section 115.—Provides authority to impose restrictions on exports of fuels and related products.

In effect this duplicates existing authority now being exercised under the Export Administration Act and the Mandatory Petroleum Allocation Act. To avoid confusion this section should be deleted.

8. Section 116.—Provides for consideration of and assistance to those unemployed as a result of the administration of this legislation.

Unemployment should be avoided and eliminated where possible as an evil in itself, not through an attempt to determine its cause. Determining who fell within the scope of such a program would be impossible. It would be far preferable to enact the broad unemployment insurance program proposed last year by the President, which would assist all unemployed.

9. Section 117.—Provides for involvement by the Secretary of Transportation in a national carpool effort through grants and other assistance administered through an Office of Carpool Promotion in the Transportation Department.

This provision is unnecessary because of the Emergency Highway Conservation Act enacted just prior to adjournment, which provides sufficient authority to carry out the objectives of this provision.

10. Section 118.—Provides complex procedures for administrative and judicial review of rules and orders under this legislation.

Close study during the recess has raised a number of ambiguities and inconsistencies which seriously affect the ability of any organization to operate under this section. It is also difficult to determine to what extent this section applies to other sections of the bill. Because of the potential confusion which this section would create in its administration, deleting it and permitting the Administrative Procedures Act to apply in the ordinary course would be the better action.

11. Section 124.—Requires the promulgation of a regulation requiring persons doing business in U.S. engaged in exploring, extracting, and refining for petroleum, natural gas, or coal to provide detailed reports every 60 days on energy supplies. Retail operations are exempted from reporting and further exemptions may be granted persons where they now provide similar data to Federal agencies.

This requirement will place a huge administrative burden on persons engaged in such businesses as well as the Government, even though such data will not be needed bimonthly on such a comprehensive basis. On far more *selective* basis, the additional data not now collected by the Government can be gathered to develop the necessary information on petroleum, natural gas, and coal supplies in the energy development process.

We feel strongly that additional data is required from industry, and the Federal Energy Office has already instituted a plan to collect all appropriate data. To insure prompt collection, there is a need to carefully define the types of information needed and how it should be made available consistent with the preservation of full industry competition.

The Senate/House FEA bills have a general authority provision that provides the Administrator with authority to require reports from persons in the energy business. In addition, the Administration plans to submit draft legislation to the Congress for authority to gather the necessary data on a selective basis.

12. Section 203.—Provides with respect to automobile emissions that (a) interim standards for emission of carbon monoxide and hydrocarbons applicable to 1975 model year light duty vehicles and engines shall be ex-

tended to apply also to the 1976 model year; (b) the Administrator of EPA may extend these standards for one additional year under certain circumstances; and (c) that standards for oxides of nitrogen applicable to 1975 model year (3.1 grams per mile) shall also apply to the 1976 model year, and that the standard for the 1977 model year shall be 2.0 grams per mile.

The interim 1975 standards for hydrocarbons, carbon monoxide and oxides of nitrogen should be extended *now* for 2 years—to cover model years 1976 and 1977—so that there will be a steady target for a known and fixed period of time enabling manufacturers to concentrate on maximizing gasoline mileage. Extending the standards for 2 years would have no significant adverse impact on our progress in improving air quality.

13. Section 206.—Requires (a) a study and report to Congress within 6 months of potential methods of energy conservation; (b) an "Emergency Mass Transportation Assistance Plan" to expand and improve mass transit to be submitted to Congress in 90 days; and (c) a study of a proposed high-speed ground transportation system between Tijuana, Mexico and Vancouver, Canada to be reported to Congress and the President by December 31, 1974.

The "Emergency Mass Transportation Assistance Plan" contemplates a Federal program of operating subsidies for mass transit, which we strongly oppose. The appropriate Federal concern should relate, in our view, to extending service for the purpose of shifting riders from autos to transit, which studies show subsidies tied to fare reductions would not tend to accomplish.

The Transportation Department has already studied the Tijuana to Vancouver system issue, and has developed information which indicates serious technical and economic problems. Rather than devote additional resources to further study, it would seem more useful for the Department to discuss their findings with the appropriate Congressional committees.

Mr. FANNIN. Mr. President, to reiterate, let me call to my colleagues' attention five major points elaborating further on the deficiencies of the conference report.

First. The country does need energy legislation but not within the next few weeks. The administration is meeting this challenge head on and performing well.

Second. The conference report contains provisions which will complicate—frustrate—and neutralize the efforts of the administration. The conference report if enacted will create a climate of uncertainty and spur litigation on every front which will cripple the very efforts that are being made to promote self-sufficiency and bring new sources of energy on line.

Third. The bill was written in haste and prompted by inaccurate predictions.

Fourth. There is a definite need to meet the questions of windfall profits, data disclosure, and congressional oversight of executive action. We owe it to our Nation to take the necessary steps to insure that the legislation we pass is justified and has reasonable prospects of accomplishing the purpose for which it was drafted. Until last week, neither the Senate nor the House had had a single hearing on any windfall profits proposal. This scheme as written in S. 2589 has never been looked at by anybody outside of Congress. We have heard no comments from any sector. Something so important and vital as this must be subjected to the normal legislative process that allows full scrutiny.

None of us seek to support an industry in reaping excessive profits at the expense of the consumers of this Nation. Calm heads need to prevail and a system that can identify what excess profits are and prevent them must be adopted. Hasty unreviewed schemes could foul the industry that we must depend upon to search out and find new sources of energy. We must be careful not to penalize and use as a scapegoat that industry, because we in the Congress must take our own share of the blame for not anticipating and preparing for this energy shortage.

Fifth. Many of the provisions in S. 2589 will help provide the tools necessary to deal with the problem. In order to save these provisions we must recommit to conference. I am confident that our colleagues on the House side will feel the same way now that we have all had a brief respite and opportunity to listen to our constituents and heed their advice on this problem. With this change of climate we ought to be able to fashion a more rational and workable bill. It would be pure folly to pass this conference report when we know its shortcomings and when we know we have time to remedy them.

Sixth. The President has prepared an energy package of legislation far more adequate than the conference report now before us.

I urge my colleagues to recommit this conference report and salvage this opportunity to construct necessary legislation.

Mr. NELSON. Mr. President, I yield 3 minutes to the distinguished Senator from Texas.

Mr. TOWER. Mr. President, I would like to take a few brief moments to express to my distinguished colleagues why I am opposed to passage of the Emergency Energy Act of 1973 in its conference form. Although I disapprove of the hodge-podge approach to legislation, I could support most of the conference report in the absence of section 110, the so-called windfall profits provision. My opposition is underpinned by the fact that I do not know—nor, I suspect, does any other legislator know—what the term "windfall profits" means in the context of the oil industry.

This admission should shock no one, since to date no effort has been made in Congress to compile the necessary evidence to determine whether windfall profits, whatever they are, exist in the industry. The only hearings that have been held to date on the subject were before the Senate Finance Committee and the Senate Permanent Subcommittee on Investigations. Hearings before the committee, chaired by the distinguished senior Senator from Louisiana with admirable dispatch, resulted in a determination that section 110 was wholly unadministrable. Hearings before the subcommittee, chaired by the distinguished Senator from Washington, resulted in incomplete evidence since testimony was presented by only seven of several thousand oil companies.

That testimony was also probably inadequate because those seven companies are virtually integrated, and the profit picture of integrated companies could well distort the profit picture of smaller, nonintegrated companies.

At a time when many Americans are asked to sacrifice in order that our supplies of energy are not completely exhausted, we in the Congress should examine with thoroughness any possibilities of excess profiteering within the oil industry. However, I fear that the Congress in its zeal to find a culprit for the current energy shortfall would through this legislation erase profit incentives essential to continued exploration and development of domestic petroleum reserves thus quite possibly worsening the shortage.

It is my position that the Government should not be permitted to control windfall profits when those passing on the enabling legislation have not the foggiest notion what windfall profits are. To illustrate what we do not know, let us assume that there is a penicillin shortage and a concurrent scarlet fever epidemic, and that pencillin sellers are using their market position to increase their profits—defined for these purposes as return on equity—from 15 percent to 500 percent. I doubt that any of us would permit that kind of profiteering. On the other hand, assume that the profits in the agricultural industry have been about 6 to 7 percent, that farmers are leaving the industry, that a shortage occurs and profits double to 12 to 14 percent, that farmers begin to return to the agricultural industry, and finally that the shortage begins to disappear. Not many rational people would claim, under those circumstances, that the farmers are making windfall profits.

Now no one in Congress knows what the level of oil industry profits have been over the last few years, what the level of other manufacturing profits have been, what the profits in nonmanufacturing industries have been, or what the pending windfall profits proposal will accomplish. The fact that some would have us legislate in this state of ignorance deeply concerns me. As long as the matter has not been committed to the appropriate congressional committees for study, passing the proposed legislation would constitute the most intolerable irresponsibility.

Recent hearings in the Senate Permanent Subcommittee on Investigations confirm that there is a genuine energy crisis—not the result of an oil company conspiracy. The answer to that crisis is to increase domestic supplies. One of the most powerful economic functions of increased profits is to stimulate investment, which translates into increased supplies. But we have before us the specter of Government interference that might well eliminate that avenue of escape from the shortage.

Consider this scenario: The oil industry's profits have fallen below the level of the manufacturing industry as a whole, on the average, for a number of years. Producers have left and are leaving the industry. There is a shortage, and oil profits increase. Producers are returning to the industry, and the shortage begins to disappear.

Then the Government imposes a so-called windfall profits tax, forcing oil profits back to depressed levels. What happens to the shortage in that case? The Government, by its actions, has aggravated the problem, or at least blocked its solution. A bureaucracy, designed to allocate scarce supplies, develops a vested interest in the shortage because jobs depend on it, and suddenly there is a governmental impetus to perpetuate the shortage—for example, FPC regulation of wellhead prices of natural gas.

I do not postulate this scenario as the case, but I do insist that it could become a reality. In Forbes, January 1, 1974, page 54 and the following, we find that the average return on equity over the last 5 years for the Washington Post was 14.6 percent. The comparable figure for CBS was 18.3 percent. During the same period, Atlantic Richfield's—Arco—return was 7.8 percent, or about one-half that of the Post, and Standard of Ohio earned only 6.9 percent. Now who are making excess profits? I submit that we in Congress do not know, and that we must find out before we legislate on the issue. The people of this Nation have a right to expect no less from their Congress.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, I reserve the remainder of my time.

Mr. JACKSON. Mr. President, I yield myself such time as I may require. I ask to be notified at the end of 15 minutes.

The PRESIDING OFFICER. The Senator will be notified.

Mr. JACKSON. Mr. President, we today commence the final debate on the conference report on S. 2589, the Energy Emergency Act. I introduced this bill on October 18, 1973. The purpose of S. 2589 is to provide the executive branch with the statutory means to deal effectively with the shortages we experienced in 1973 and with those caused by the Arab oil embargo.

The fact that S. 2589 is not law today is a sad commentary on the leadership of this Nation. It reflects the fact that the special interest groups have a bigger voice in government than the people.

Mr. President, the failure to act on this measure in December could well have been catastrophic but for extreme good fortune in the form of abnormally warm weather which we have enjoyed this winter and the magnificent response of the American people in conserving fuel.

I am appalled that the Congress of the United States has yet to provide the authority for a standby rationing program and for fair and equitable energy conservation programs.

This represents an abdication of congressional responsibility. While Congress delays, the State of Hawaii and Oregon and States in New England are put in the position of having to develop, on a State-by-State basis, rationing and other energy conservation programs to deal with the critical problems they face. But in doing so, they are hampered because they do not have the authority to control or direct the activities of the major oil companies which operate in interstate commerce. The executive branch does not have this authority either, because Congress has failed to act on this conference report.

I think it is about time we acted.

The Senate has made every possible effort to work in a cooperative and bipartisan manner with the administration in order to provide the executive branch with the authority which they acknowledge that they must have to address the energy shortages.

Administration representatives attended and participated in committee executive sessions on October 24 and November 1. They testified in open hearings on November 8. In an unprecedented procedure, they actively participated, at my invitation in committee markups on November 8 and 9.

Our effort has failed. Unilateral efforts on the part of the Congress at cooperation and bipartisanship have been futile.

On October 24, Governor Love and Secretary Morton rejected any proposal that the Interior Committee staff and their counterparts in the executive branch work together to make changes and to amend S. 2589 as introduced so as to accommodate insofar as possible, administration views and needs. Governor Love stated that "I, for one, believe that we should come up with an administration bill, which we are momentarily prepared to do. Secretary Morton stated, "I think we can have a bill within a week."

Mr. President, we have seen no administration bill. The closest we came was when we were provided with what the administration sent up and categorized as a secret "nonbill." We have also seen various disjointed and often conflicting individual agency proposals.

On January 23, the President called upon the Congress to pass a Special Energy Act. I have not seen a draft of that bill either, but as I read the President's message, he is taking for everything that is already in this bill.

What we have seen from the administration is delay, indecisiveness, and obstructionism.

The only positive response of the administration to the energy crisis has been an appeal to the public for sacrifice balanced by a stout defense of the special interests of their natural constituency. For example, the administration has formed a coalition with the interests of big oil to defeat the windfall profits provision of the bill. While I realize this provision is not perfect, it does comprise an action forcing mechanism to assure that long-term tax reform is effected in earnest, and that oil companies are not allowed to reap billions of dollars worth of profits by charging exorbitant prices for gasoline and heating oil.

What is the administration's position? What do they favor? What do they oppose? Based on an unsigned document now in circulation in the Senate which is dated January 17 which purports to be administrative comments on the conference report, they oppose the following sections: 103. Federal Energy Emergency Administration; 105. Energy conservation regulations; 107. Materials allocation; 110. Prohibitions on windfall profits—price gouging; 112. Prohibitions on unreasonable allocation regulations; 114. Antitrust provision; 115. Exports; 116. Employment impact and unemployment assistance; 117. Use of carpools; 118. Administrative procedure and judicial review; 124. Reports on national energy resources; and 206. Energy conservation study.

What do they favor? They favor unlimited authority to implement any or all of the conservation actions in the following Draconian list inserted in the RECORD on December 21 by my esteemed colleague from Arizona:

LIST OF CONSERVATIONS ACTIONS TO BE FREE OF 15-DAY VETO BY CONGRESS

1. Retail gasoline sales may be banned from 9:00 p.m. Saturdays to 12:01 a.m. Mondays.
2. An additional day on which retail gasoline sales may be banned.
3. Maximum speed limit of 55 MPH for intercity buses and trucks and 50 MPH for automobiles.
4. Ban promotional, display and ornamental lighting by commercial establishments, including advertising identification lighting at times not essential.
5. Reduce fuel for use by general aviation.
6. Ban exterior residential ornamental lighting.
7. Turn down thermostats 6 degrees in residential and 10 degrees in commercial establishments.
8. Promote weatherizing of homes with insulation, weather stripping and storm doors and windows.
9. Require that retail sales of gasoline be limited to a specified amount per sale or per day.
10. Take necessary steps to encourage car pooling, including restricting driving to a certain number of days per week.
11. The ability to direct all facets of industry to function in a manner consistent with our goals.
12. Require conversion of oil burning electrical generating plants to coal to the greatest extent practicable.
13. Set indoor lighting standards for commercial, governmental and industrial facilities.
14. Restrict weekend and evening lighting in commercial and industrial facilities.
15. Set standards on highway lighting.
16. Reduce recreation on public lands.
17. Limit hours of operation for commercial, industrial and governmental establishments.
18. Reduce space heating in industrial establishments to the greatest extent practicable.
19. Require industry energy audit plans.
20. Ban advertising which encourages excessive use of energy.

They favor continued price increases as a demand control mechanism although they have not demonstrated that higher prices at the gas pump will in fact reduce demand.

Because of the windfall profits provision of this conference report they now profess to oppose unconscionable profits by the oil industry, although their initial proposals would in no way reduce them.

Let us discuss windfall profits a bit further, since the major opposition to this conference report is directed toward their defense. The administration is adamantly opposed to adoption of the windfall profits provision of this legislation. They intend to offer an alternative proposal which will purportedly attain the same end, and I stress purportedly because it will not do so. The administration's proposal is really an excise tax—a sales tax—

which will actually encourage the oil companies to charge higher prices and to pass the increased costs on to consumers.

Section 110, the windfall profits provision, does not go into effect until January 1, 1975. If section 110 does go into effect—and if it is not supplanted by other legislation during the coming year—the windfall profits provision would be retroactive to cover all of calendar year 1974. The House and Senate conferees clearly understood and consciously intended to provide an opportunity of 1 year for the administration and the appropriate committees of the Congress to get together on a Federal law to prevent windfall profits and price gouging which would supplant this provision, and which would be designed to insure against unfair corporate profiteering at a time when the average American family is bearing all of the burdens. The conferees consciously intended to put a windfall profits statute on the books that would do two things:

First, insure that the administration and Congress make a serious, good-faith effort in the months ahead to legislate on this subject; and, second, to provide American consumers who have paid unconscionable prices to oil companies, brokers, or oil distributors a remedy and a law by which they could recover, beginning on January 1, 1975, any windfall profits.

Mr. President, section 110 provides that remedy. More important, it provides an action forcing procedure whereby the American people can rest assured that the oil industry, the White House, and all those who have traditionally defended the special tax and other advantages the oil companies enjoy, will themselves be in a position of supporting congressional adoption of an excess or windfall profits tax which will prevent unjust enrichment and the accumulation of unearned unanticipated profits in a period of shortage.

If the conference committee had not adopted a windfall profits section in December, I do not believe the administration would have ever proposed legislation on this subject. It was only after the White House learned of the conference committee's action that the administration expressed any interest in or concern about windfall profits.

Mr. President, I strongly urge my colleagues to adopt this interim emergency measure. Early implementation of those provisions will permit more thorough, long-term reforms to be effected without undue haste or pressure, while providing interim authority to deal with current shortages.

Mr. President, I think it is probably useful, first of all, for Members of the Senate to refresh their recollection for a moment about the history of this legislation.

First, Mr. President, in order to try to get some movement on this bill, I moved to lay on the table the conference report, and that motion was voted down 62 to 0.

Second, lest my colleagues forget—and some were not able to be here—in an effort to deal with what the Senator from Wisconsin and the Senator from Louisiana are talking about, the question of excess profits, we took that section out of the conference report, we then took the whole conference report and attached it to a bill that was on the calendar, sent it over to the House, and only 20 Members of the House of Representatives voted for that bill.

Mr. President, every Member of this body who votes to recommit this bill must understand what is then going to happen to it. It is going to die. And, Mr. President, Senators had better decide whether they want to kill all the necessary provisions that are in this bill.

I must say that we have brought together here the most unusual coalition I have seen in all the time I have been in Congress, and that is quite awhile. I know of no one who has been a greater conservationist than the distinguished Senator from Maine. He has led the fight for clean air, clean water, and clean land, and I played a small role in that myself.

But when you get one or two conservation groups working hand in hand with the oil industry and the White House, and a peculiar coalition on this floor, which the rollcall will reveal, then I think the American people ought to start asking some questions.

Mr. President, we have had a lot of time taken up here about the renegotiation provisions. I tried to be forthright with my colleagues. I did not claim this provision was the last word in solving the windfall profits problem. We did everything we could to do something about that in conference, and we failed.

I have made it very clear that we do not agree with all the provisions in this conference report, but it is rather amazing to me that we would spend all our time here for this first hour talking about the poor old profit situation. Look at that chart on the easel in the rear of the Chamber. What does it show? It shows that for the first 9 months of last year, the top 16 oil companies had a gain in profits of from a low of 27 percent to a high of 96 percent.

All of the discussion basically has been regarding the unworkability of this renegotiation section. Nothing is being said about all the other provisions in the bill, which I shall come to in a moment. Well, Mr. President, if there is anything that is stirring the conscience of America, it is the unconscionable profits and, Mr. President, unconscionable prices.

I say unconscionable prices. How many Members of this body realize what has happened to the price? Forget about Arab oil; I am talking about the price they are getting here in the United States for oil.

A year ago, domestic crude was $3.70 a barrel. For old domestic oil, they are now getting $5.20 a barrel, and for new domestic oil they get $10.35 a barrel. Let us not take that out on the Arabs; that is the price here.

When I asked the seven major oil companies how, with a tiny increase in sales volume, they reached those stratospheric heights of profit, they said they made it on the price of crude oil.

Mr. President, the pricing problem alone is doing great devastation to the American consumer, the person who goes to the gasoline station, the person who has his oil tank filled up to heat his home.

In addition, Mr. President, there has never been a greater threat to our free private enterprise system here in the United States than the terrific increases in fuel costs charged to American industry. It is even worse, as we know, in Japan and in Western Europe. This is what we ought to be talking about. What are we going to do about that?

Mr. President, if we recommit this bill, we are going to delay for a long period any real action to prevent price gouging and profiteering, and I think the Senate should understand that.

I have a high regard for my colleague from Arizona, who read the letter from the President. But, as in the case of the energy message that was sent up, Congress has acted on all but one item, in one form or another. It is all listed; we will put it in the RECORD if anyone wants to see it.

That was the new energy message. But it was against many of the things that were mentioned in that message, Mr. President, that the President, through his emissaries, waged one of the the greatest lobbying efforts of all time. The administration, during the closing days of the last session, opposed the following: They opposed action on windfall profits, opposed the section in this bill on unemployment insurance, opposed the provision in this bill that requires disclosure on the part of the industry, opposes the opportunity for congressional review dealing with such matters as conservation.

Now they are all for these things. Mr. President, that is fine. I welcome that. But I think we all ought to understand that had it not been for this emergency bill and the overwhelming vote in the House, and the earlier overwhelming vote in the Senate, there would not have been this change in point of view.

I would also point out now, so my colleagues will fully appreciate what they are doing and cannot come around later and say, "Well, I didn't know we had all these other things," that is what they are doing, if they vote to recommit this bill, is throwing the baby out the window with the bath water.

Let me emphasize what is being thrown out here. The first thing is, if there is anything that has hurt the American people it has been their recent experiences at gas stations all over the country. My colleagues have had lots of mail on this. Why, in Georgia one company closed 400 stations and, I gather, would not even discuss the matter with the two U.S. Senators. Section 111 in the conference report affords protection to franchised service station dealers from arbitrary cancellation my major oil companies.

How many Senators want to go on record to take that section out? That is what it will amount to, because they are killing the bill. There is no use dealing with the House. The House will not change. The bill will die and with it any safeguards to the individual, independent gasoline station operator.

We have in section 114 stringent antitrust protections against collusion by the oil industry in dealing with energy emergencies. That will be taken out of there, if this is recommitted.

Section 115 deals with the problem of the export of needed fuel by providing for restrictions on such exports.

How many Members want to face their constituents and say, "Look, it is true that we did kill that provision and we are sorry, but we cannot do anything about it." That is what they are going to have to say.

Section 116 provides for unemployment assistance to those adversely affected by energy conservation measures. I am glad that the President now reportedly supports it, but they were up here lobbying against it when we had this measure in conference. My colleagues know that that is a fact. In fact, Mr. President, today I read in the Wall Street Journal that the Nixon administration has no intention of providing special unemployment assistance to workers unemployed by fuel shortages. Commenting on section 116 of the Emergency Act, the Labor Department announced that it would pay unemployment benefits only to those narrowly interpreted as being directly affected by implementation of the act. The reason given for taking this narrow approach is that a broad unemployment assistance program would be—and I quote—"an administrative horror."

Mr. President, this is a most appalling statement. At a time when hundreds of thousands of people face the prospect of long-term unemployment, because of reduced fuel allocations or other shortages, it is incredible that an agency of the Federal Government whose mission it is to serve the working public should abandon these people because it shies away from a possibly difficult task.

When we considered section 116 in the Senate, and later in conference, we recognized that major dislocations would occur in the economy as the fuel shortage grew worse. Specific direction was given to the President, in administering this act, to take all possible steps to minimize adverse impacts on labor and employment. If this most recent announcement is any indication of the diligence with which this mandate will be carried out, we could well face a major recession. Once again, Mr. President, we find that Congress has taken the initiative in looking out for the public interest only to have its efforts frustrated by the administration. They have opposed this section of the bill since its inception, and, having failed at blocking its adoption, apparently now will refuse to implement its provisions. I ask unanimous consent that a copy of the Journal article, and a letter from the United Auto Workers, are printed below to illustrate this point.

Now we also propose to help the States to administer the programs. Sections 122 and 123 authorize grants in aid and assistance to the States for coordinating energy conservation programs. We want these programs administered wherever possible by State and local governments. We do not want a huge Federal bureaucracy. We plan to reimburse the States for their efforts.

There being no objection, the article and the letter were ordered to be printed in the RECORD, as follows:

### RULES FOR ENERGY-RELATED JOBLESS BENEFITS SHOULD BE STRICT, ADMINISTRATION INDICATES

(By Walter Mossberg)

WASHINGTON.—The Nixon administration is spreading the word that proposed energy-related unemployment benefits won't be made available to jobless auto workers or others laid off so far in the fuel squeeze.

Richard F. Schubert, Under Secretary of Labor, told a Labor Department advisory panel that special benefits for workers laid off due to the energy shortage, proposed as part of the emergency energy conservation bill pending in Congress, would be narrowly applied if Congress approves them.

He said the Labor Department would pay the benefits, designed for workers whose normal unemployment compensation has expired, only to workers whose employers released them due to a direct lack of fuel. Payments wouldn't go to workers who lose their jobs due to indirect factors, such as energy-related parts supply problems or the energy-related decline in car sales.

He also said the administration believes the benefits would apply only to layoffs occurring after the bill is passed.

#### "ADMINISTRATIVE HORRORS"

The decision to take a narrow approach in administering the proposed $500 million special benefits program was made, he said, to avoid "administrative horrors" involved in deciding which layoffs could be traced to energy shortages.

Public discussion of the administration's tough interpretation of the pending bill apparently is also designed to pressure Congress to drop the special benefits plan, which the administration opposes. Mr. Schubert said the administration prefers that any special jobless benefits be tied to a numerical formula determining which local areas have had large boosts in general unemployment, rather than to energy-related job losses.

His explanation of the administration view drew an immediate angry response from an official of the United Auto Workers union who is a member of the Federal Advisory Council on Unemployment Insurance, which met with Mr. Schubert.

Ken Morris, a member of the UAW's board, warned the Under Secretary that the federal government would be "buying a lot of trouble" by adhering to the narrow view. "You're never going to convince people laid off in an auto plant that they aren't suffering from the energy crisis," he said.

#### AUTO FACTORIES HARD HIT

The latest federal statistics show that, by early January, about 131,500 workers had been laid off for reasons the workers attributed to the energy shortage. Hardest hit have been the auto factories, many in the Midwest, where about 60,000 workers have been permanently laid off at the big three auto makers alone, and tens of thousands more have been idled temporarily.

These workers will still be able to collect normal unemployment benefits, until they are exhausted, usually in less than a year. And many have union contracts providing generous layoff benefits that, combined with unemployment compensation, provide up to 95% of their weekly pay for up to a year.

But Mr. Morris indicated that the auto union expects its hard-hit membership to be able to benefit from the added protection provided by the energy bill during what many foresee as a long and deep recession in the auto industry.

#### SPECIAL TASK FORCE

Mr. Schubert acknowledged that the auto industry is a major victim of energy-related problems and said the Nixon administration was responding to the auto problem by forming a special task force of federal officials and officials from Michigan, Ohio, Illinois and Indiana to find solutions to the problem. It will also convene a special meeting of auto industry and union leaders.

He said, however, that the task force wouldn't address itself to special benefit payments for auto workers but to ensuring a smooth flow of normal compensation payments and devising possible retraining and emergency job programs in areas dependent on auto industry employment.

The Labor Department is caught in an embarrassing squeeze in fighting the energy-crisis unemployment plan. Its own proposal to revamp the entire unemployment compensation system was proposed months ago but has gone nowhere in Congress. Organized labor opposes the measure because unions feel it fails to block states from imposing more stringent duration limits and qualification requirements.

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INTERNATIONAL UNION, UNITED
AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS
OF AMERICA—UAW,
*Washington, D.C., January 28, 1974.*

Hon. HENRY M. JACKSON,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR JACKSON: Ken Morris, a UAW regional director, was in Washington last week for a meeting of The Federal Advisory Council on Unemployment Insurance on which he serves. Among subjects discussed during the meeting were provisions of the emergency energy bill currently awaiting further action in the Senate.

I am informed by Mr. Morris that a Department of Labor official at the meeting claimed the unemployment compensation provisions of the emergency energy bill, as reported by the conference committee, would not apply to automobile workers because—and I quote—"they are not directly affected by the energy emergency." In addition, the Labor Department official said the provisions would not be applicable in the case of a worker who lost his job because of the energy situation if his employment loss occurred prior to the time the legislation is signed into law.

Our understanding of the emergency energy bill leads us to the conclusion that the Labor Department official was incorrect about the applicability of the unemployment compensation provisions. We believe the provisions would apply to automobile workers who might lose their jobs because of dislocation in the industry brought about by energy shortages. Likewise, we believe the provisions would apply to persons who lost their jobs because of energy shortages, even if the unemployment had occurred before the bill was signed into law.

There are 60,000 auto workers presently on permanent lay-off, and many more will be laid off before the crisis eases. Lay-offs indirectly related to supplier industries such as rubber and steel will be much higher. If the Labor Department persists in the above interpretations, the unemployment insurance provisions of the energy bill will become a cruel hoax.

We would appreciate your classifications of these points.

Sincerely,

JACK BEIDLER,
*Legislative Director.*

Mr. JACKSON. Section 124 provides for mandatory disclosure of oil industry data on storage and stocks, production, reserves, distribution, and other essential matters. The need for full disclosure on energy has been brought out in hearings held here last week before the Permanent Subcommittee on Investigations. For the first time, the large companies are being called to be accountable to the public.

But the executive branch cannot do a thing about it without this legislative authority.

Mr. NELSON. Mr. President, if the Senator will yield at that point, as to that provision in the bill, is it not correct that the distinguished Senator from Washington joined me in cosponsoring the Energy Information Act, which is a much more comprehensive bill than this one?

Mr. JACKSON. The Senator is correct. That would be permanent. That legislation would supersede this. But I point out to my friend from Wisconsin that this is an emergency act. Mr. Simon cannot now command submission of any information at all. It has to be voluntary. That is crucial. What is happening now is that the Permanent Committee on Investigations is turning over sworn testimony to the Federal Emergency Agency Administration so that they can analyze it.

I commend the Senator from Wisconsin. I have joined him as a cosponsor of that legislation but, in the meantime, what do they do? They do not have the authority they must have.

Then, I would point out, lest my colleagues forget, that section 129 deals with this arbitrary problem of price gouging.

Let me read that section in full so that every Member of this body will understand what he is doing if he votes to recommit this measure, because there is nothing that is driving the American people up the wall more than real and alleged price gouging.

Here is what section 129 says:

> The President shall exercise his authority under the Economic Stabilization Act of 1970, as amended, and the Emergency Petroleum Allocation Act of 1973 to specify prices for sales of crude oil, residual fuel oil, or refined petroleum products in or imported into the United States which avoid windfall profits by sellers. For purposes of this section, windfall profits shall be defined as those profits which are excessive or unreasonable, taking into consideration normal profit levels.

There is no definition of it? There it is. Let us not go around kidding people by trying to make them believe that the bill may be unconstitutional. We applied elementary law regarding the question raised by the Senator from Wisconsin (Mr. NELSON) and the Senator from Louisiana (Mr. LONG) as it relates to every section in the bill. That is the section on separability. That is standard legislative practice. If the renegotiation authority is declared to be unconstitutional, that does not bring the house down. We have gone through that routine.

The PRESIDING OFFICER. The time of the Senator from Washington has expired.

Mr. JACKSON. I yield myself 5 more minutes.

I yield to the distinguished Senator from Maine.

Mr. MUSKIE. Mr. President, will the Senator yield for a question?

Mr. JACKSON. I yield.

Mr. MUSKIE. I listened earlier with great interest, I say to the Senator from Washington, to the discussion between the Senator from Wisconsin and the Senator from Louisiana. I make this point: This issue, as it was discussed in the conference report—the provision in the conference report—was in the House bill. Of all the provisions in the bill on which they insisted, this is one in which they took the strongest position.

There were those on the Senate side who were not sure that it was workable. We had some doubts about aspects of it. The discussion went on and approached a stalemate. How does one resolve an issue which is strongly supported by the one side, but as to which the other side has only doubt as to the validity of the provision?

So I offered an amendment, as the Senator will recall, making the provision effective January 1, 1975. The idea was that in later legislation there would be ample opportunity for the appropriate committee either to revise and improve the program in which the House believed, or offer something further, something better, or something different. We thought 1 year would provide adequate time.

So it puzzles me, in light of the discussion I heard earlier this afternoon—the commitment by the Senator from Wisconsin and the Senator from Louisiana—that, of course, there would be legislation by the committee which would be reported to the Senate and debated on the floor of the Senate.

What I could not quite figure out for myself was why it was easier to bring legislation of an original generic nature to the floor. Why do they not act to bring to the floor legislation that will supersede the provisions of the conference reports, if there really is a commitment to deal with the children?

I can understand why they were going to strike it here and bring it to the floor of the Senate in the form of new legislation, on which the Senate would have a chance to deliberate for whatever time the Senate wants, but the other route is just as viable.

The House insisted on this provision. They insisted on it. They rejected the bill the Senate sent over to them. I listened to that debate. If any Senator believes that the House conferees can be shaken, he is completely mistaken.

Mr. JACKSON. I could not agree more completely with the Senator. As a matter of fact, there were only 20 votes for the attempted compromise in the House of Representatives. They fought the omission renegotiation provision. So the Senate is now on notice that if this bill goes to conference, they are killing all the things we have recited in here, all the things that are in this conference report.

The Senator from Maine deserves great credit for working out the compromise so that it would not be effective until January 1, 1975, giving Congress a whole year to deal with the problem of excessive profits.

We all want to be rational and reasonable about it. But what we have done here is to put a burr under the saddle of the House and Senate so that there will be some action on excessive profits and price gouging. That is the purpose of it.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. MUSKIE. The Senator made reference earlier to the nature of the opposition to this conference report. I have listened to this debate all afternoon. Just one target has emerged and that is the windfall profits section. That is the one target of the opposition that has surfaced, has been discussed, and has been debated. The administration proposes recommittal, and I take it that this is the administration's principal target. Spokesmen who reflect the views of the oil industry have done so. So this is the one target.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. MUSKIE. I should like to finish, and then I will be happy to yield.

All we did, as Senate conferees, in the light of the adamant position the House took, was to make a commitment which we felt the Senate would be willing to make, a commitment that the issue of windfall profits would be dealt with this year. We made no commitment to this particular mechanism. We need no commitment to this particular provision, notwithstanding the enthusiasm of the House for it. We saw this as an opportunity to make a commitment to take action before January 1, 1975, and it is that commitment which we are being urged to abandon this afternoon.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JACKSON. I yield 1 additional minute.

Mr. President, this is the crucial question: Does it make any sense for this body to send the conference report back to conference, when we tried that course, in effect, by sending a bill to the House with this windfall profits section out and only got 20 votes for it?

We are on notice, every Member is on notice, that if we send it back, we are killing not just the question of renegotiation but also all the safeguards that deal with price gouging, unemployment insurance, a requirement on reporting, and all the other things that go with it, to protect the little dealer, to deal with antitrust.

Let us not kid ourselves. Why shed crocodile tears over all those increases that are on the graph? That is what it boils down to.

This issue was adjudicated in December, and the House turned it down cold. I must say that we are fooling ourselves when we move to recommit it.

There is no one in this body for whom I have a higher regard than the Senator from Wisconsin, but I am a little confused in this particular situation.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. JACKSON. I yield 1 minute.

Mr. NELSON. I should like to say, with respect to the reference to the crocodile tears about the profits, that I am sure the Senator is familiar with my 10-year record here in support of removal of the depletion allowance and with the excess profits tax proposals.

Mr. JACKSON. The Senator and I have voted together on those issues. I voted to kill the foreign depletion allowance a long time ago when it was up. I voted against the special foreign tax credits. I voted to cut the depletion allowance, just as the Senator did. But what I do not understand, really, is why there is this constitutional concern about this section when, if it is unconstitutional, the courts will decide it, and it will not touch the rest of the bill. This I do not understand.

Mr. NELSON. May I respond?

Mr. JACKSON. Yes.

Mr. NELSON. There are two points. I am concerned about two provisions. One is the environmental provision, which I realize was the best the Senator could get at that time. I object to the waiver of the standards for a 5-year period.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. MUSKIE. I have been waiting all afternoon to get the specifics. I understand that the Senator objects to a 5-year waiver. There is no 5-year waiver of standards in this conference report.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JACKSON. I yield 1 additional minute.

Mr. MUSKIE. I would be glad to discuss that at further length; but I have been waiting, and all I have heard is a discussion of the windfall tax provision. That is why I addressed my remarks to it. I discussed the environmental provisions in the half hour prior to the offering of the motion to recommit, and I have been waiting for the case that I was told would be made on the floor. I shall be glad to get into it.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. NELSON. I never got to the provision, because the distinguished chairman of the Committee on Finance started asking me questions, and we carried on a dialog so long that I never got to read all of my remarks on that subject.

Mr. MUSKIE. I got the distinct impression that the Senator's case against the environmental provisions was not as important, in his mind, as his case against the windfall profits provisions.

Mr. NELSON. I think there is no doubt at all that the renegotiation provision is simply an incredible disaster. I would not say that about the negotiated settlement that the distinguished Senator from Maine made in the conference.

Mr. MUSKIE. I would hope not. I would challenge that with all the vigor at my command.

Mr. NELSON. But what the Senator put into the bill and took out of his committee, with a vote of 14 to nothing, was a better provision than what we got from conference.

Mr. MUSKIE. I respectfully disagree with the Senator, so that the record is clear.

Mr. JACKSON. In fairness to the Senator from Maine, in its bill the House virtually disposed of the Clean Air Act, and the safeguards that we had in the Senate were retained in conference. We came out of conference with a much stronger bill, from an environmental point of view, than what the House had passed.

Mr. MUSKIE. There was no comparison.

Mr. NELSON. To what the House had passed—that is correct.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JACKSON. I yield 1 additional minute.

Mr. NELSON. I agree with the Senator from Washington when he says that this is a burr under the saddle, because the bill is such a disaster that Congress will have to do something about it.

We have a situation in which the President is going to set the prices at the retail, wholesale, and production levels. Then, after he sets the price and the retail operator charges the price the President sets, I can come in and complain against the price and I go up to the Renegotiation Board, and they say that under the guidelines it is an excess profit and that he has to give it back.

Mr. JACKSON. As I understand the Senator's point of view, he is raising questions we all raised in connection with renegotiation and the Clean Air Act. But does it make much sense to turn around and throw out an emergency bill with this long list of safeguards that protect the little dealer——

Mr. NELSON. The motion to recommit does not throw it out. If the Senator goes to conference and they cannot agree, he can come back with it.

Mr. JACKSON. The Senator from Wisconsin and I have been here a little while. The House has gone through this exercise once, and they gave us 20 votes on the issue of renegotiation.

Mr. NELSON. But that was last year, was it not?

Mr. JACKSON. Last year, but it is not that long ago. It was last month, in the closing days of the session, not a year ago.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JACKSON. I yield 1 additional minute.

Mr. NELSON. Is it not correct that at the time this agreement was negotiated, to which the Senator from Washington is opposed and voted against and to which the Senator from Maine is opposed and voted against, which I think both will say privately is no good—and not a single tax expert in America thus far, that anyone can name, supports the renegotiation proposal—is it not true that now there are hearings, which were not existent then, with respect to the excess profits tax?

I thank the Senator for the time.

Mr. JACKSON. We have been whipping around this renegotiation provision dealing with windfall profits. But if it did nothing else—and I hope my colleagues will listen to this—2 days after the conference agreed on the windfall profits section, the administration came out for a windfall profit tax bill. Do I need to say more?

Mr. LONG. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. LONG. The Senator certainly should say more. They told me about that a week before it came out.

Mr. JACKSON. The Senator has a better arrangement than I have.

Mr. LONG. The Senator ought to say more than that.

Mr. JACKSON. I know they got religion, Mr. President. I know they got religion when the conference agreed to section 110, just as they got religion when the conference agreed on an unemployment insurance provision. The list of items is long on which they have switched their position.

They opposed the windfall tax provision; they opposed the unemployment insurance provision; they opposed the public disclosure provision; they opposed congressional review of their conservation plans; and now they are all for them. If that terrible renegotiation provision did not do anything else, it really brought religion down to the other end of Pennsylvania Avenue.

Mr. FANNIN. We should be fair. We had information about the excess profits tax before that conference was over.

Mr. JACKSON. When did they make it public?

Mr. FANNIN. I do not know when they told the Senator.

Mr. JACKSON. They did not tell me anything.

Mr. FANNIN. Let us disclose it. Let us be fair.

Mr. JACKSON. I want to be fair.

Mr. FANNIN. I have a letter from the President as to what he wants to do. He certainly is in support of what the Senator is talking about. Sunday on "Face the Nation" the Senator from Washington said what should be done, but this conference report does not carry it through.

Mr. JACKSON. The press, which follows this matter closely, knows when they came out for the excess profits tax, after the conference agreed to this. They propose an excise tax for this purpose which would be passed on to the consumer, like a sales tax. I do not know how big a load the consumer can carry with the terrible escalation of prices now going on. We cannot afford many such new proposals that add to consumer costs, such as deregulating new oil. And I hope we do not have any more wheat deals for a while. We are now going to buy wheat from Russia and buy wheat from Canada. This is typical of this administration's mismanagement of the economy, for which we pay. A little more of this and we could be facing the greatest economic crisis since the 1930's.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 28 minutes remaining.

Mr. JACKSON. The Senator from New York (Mr. JAVITS) wanted to be heard.

Mr. RANDOLPH. Mr. President, will the gentleman yield for a question.

Mr. JACKSON. I yield to my good friend from West Virginia.

Mr. RANDOLPH. The conference report at section 301(2)(C) requires the Administrator to conduct a study regarding further development of the Nation's hydroelectric power resources.

This directive is altogether wise. A million kilowatts of hydroelectric capacity operating at 40 percent plant factor saves consumption of 6 million barrels of crude oil annually, or the amount needed to generate equivalent energy by an oil-fueled powerplant. Today we have eight million kilowatts of authorized unconstructed Federal hydroelectric capacity. We also have proposals for 18 million kilowatts before the Federal Power Commission. My question to the gentleman is, will the study directed by the conference report consider further hydroelectric development by all interests of our Nation, both Federal and non-Federal?

Mr. JACKSON. My good friend correctly states the intent of this provision. The study will consider possible development of the Nation's hydroelectric resources by whomsoever it might be undertaken, toward the end of increasing the conservation of fossil fuels.

Mr. RANDOLPH. I thank the Senator.

Mr. JACKSON. I yield 10 minutes to the distinguished Senator from Maine. He and the Senator from West Virginia were the real anchor men in that conference we have heard so much about.

Mr. MUSKIE. Mr. President, I would be happy to answer any questions that any Member of the Senate would like to put to me about the environmental issue. I have not heard a case made against these provisions. I would be happy to go into it in a colloquy with any Senator. I already have placed a statement in the RECORD today explaining the conference agreement on these questions; and last month when we reported the conference report to the Senate I made a statement at that time explaining it.

I have heard the conference report on these questions distorted, misrepresented and misunderstood, so I am available, and I have been since 1:30 this afternoon to go into these questions, and I would be happy to do so.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. NELSON. Did I understand the Senator correctly a moment ago to say that the conference agreement was better than the provision that the Senate adopted?

Mr. MUSKIE. That is right. I explained that earlier this afternoon.

Mr. NELSON. I did not hear the Senator's explanation. In reading it, I do not see how. The environmental organizations do not agree with that.

Mr. MUSKIE. The only environmental organization comments I have seen are from the Sierra Club. I see this two-page analysis with many errors in it. I have been waiting all afternoon for someone to advance these arguments so I could respond, but it has not been done.

There are errors, I am sure, made in good faith. That is why I am here. That is my business. I was a member of the conference on these issues. I try to be knowledgeable about them, and accurate and objective about them.

The Senator, for example, referred to this as a 5-year suspension. The suspension of clean air standards is only until November 1 of this year. Thereafter, any fuel burning source which converts to coal before November 1, 1974, must file another compliance schedule which immediately puts them under standards of the act in a time frame compared to their implementation. There is no 5-year suspension. I heard that in some of these statements. To get into all the technicalities is a little bit of a problem. Let me read some of the language of the legislation which is enlightening. I wish to read section 106 which is a definition of the extent to which standards can be modified under this bill. I read subsection (c):

> SEC. 106. COAL CONVERSION AND ALLOCATION.
>
> (a) The Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this Act, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal.

So they must first have the capability present and necessary plant equipment have to burn coal. If they do and if on a plant-by-plant basis a balancing of the environmental effects is positive—that is, the result is not harmful to the health—then the procedures we included in this conference report will take hold. This authority here that I have just read is effective only until May 15, 1975. At that point by the terms of this bill it expires. There can be no conversions after that date. With respect to conversions that take place before that date, they must be made, if they are made, on a permit basis. They must follow the procedures outlined in section 119.

I wish to read from the language in section 119(b)(1):

> "(b)(1) Except as provided in paragraph (2) of this subsection, any fuel-burning stationary source (A) which is prohibited from using petroleum products or natural gas as fuel by reason of an order issued under section 106(a) of the Energy Emergency Act, or which the Administrator determines began conversion to the use of coal as fuel during the 90-day period ending on December 15, 1973, and (B) which converts to the use of coal as fuel, shall not, until January 1, 1979, be prohibited, by reason of the application of any air pollution requirement, from burning coal which is available to such source.

Paragraph 1, which I have just read, shall apply to a source—

> only if the Administrator finds that emissions from the source will not materially contribute to a significant risk to public health and if the source has submitted to the Administrator a plan for compliance for such source which the Administrator has approved, after notice to interested persons and opportunity for presentation of views (including oral presentations of views). A plan submitted under the preceding sentence shall be approved only if it provides (i) reasonable assurance that such source will achieve at least the same degree of emission reduction by January 1, 1979, as it is required to achieve by the applicable implementation plan in effect on the date of enactment of this section: (ii) for compliance by the means specified in subparagraph (B) in accordance with a schedule for compliance which meets the requirements of such subparagraph; and (iii) that such source will comply with requirements which the Administrator shall prescribe to assure that emissions from such source will not materially contribute to a significant risk to public health. The Administrator shall approve or disapprove any such plan within 60 days after such plan is submitted.
>
> (B) The Administrator shall by regulation prescribe requirements that sources to which this subsection applies submit and obtain approval of schedules of compliance. Such regulations shall include requirements that such schedules shall include dates by which such source must (i) enter into contracts or other enforceable obligations for obtaining a long-term supply of coal or coal by-products (which contracts or obligations must have received prior approval of the Administrator), and (ii) take steps to obtain continuous emission reduction systems necessary to permit such coal or coal by-products to be burned in compliance with the applicable implementation plan (which steps and systems must have received prior approval of the Administrator). Such regulations shall also require that the source achieve as expeditiously as practicable considering the type of coal to be used (but not later than January 1, 1979) the same degree of emission reduction as it is required to achieve by the applicable implementation plan in effect on the date of enactment of this section.

It provides for the compliance, by the means specified in paragraph (B), in accordance with a schedule for compliance which meets the requirements of such paragraph.

Such source will comply with the requirements which the Administrator shall prescribe to assure that emissions from such source will not materially contribute to a significant risk to public health.

Now, paragraph (B):

> The Administrator shall by regulation prescribe requirements that sources to which this subsection applies submit and obtain approval of schedules of compliance. Such regulations shall include requirements that such schedules shall include dates by which such source must (i) enter into contracts or other enforceable obligations for obtaining a long-term supply of coal or coal by-products (which contracts or obligations must have received prior approval of the Administrator), and (ii) take steps to obtain continuous emission reduction systems.

You know, Mr. President, the Sierra Club document which I hold contains this language:

> Long-range expansion of coal-fired power capacity should involve development and installation of pollution control equipment and exploitation of low-sulfur reserves. Such expansion will then involve no violations of air pollution standards, and so would require no special exemptions.

The language which I have just read writes into this law the exact provisions which they prescribe in their document. That is what I mean by a lack of understanding and knowledge of what is in this conference report.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JACKSON. Mr. President, does the Senator want more time?

Mr. MUSKIE. I will be glad to continue if it is helpful at all to any Senator.

Mr. JACKSON. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 18 minutes.

Mr. JACKSON. I yield 3 minutes to the Senator, and I will add to that.

Mr. MUSKIE. Mr. President, may I say this? The Senator from Wisconsin may wish to put other questions. While he is considering that, let me make this observation.

Anybody who reads the House record of debate on the original House bill, or who reads the House record on the bill which we sent over to the Senate on the last day, has to be aware of the strong and vigorous and rising opposition to every piece of environmental legislation we have put on the books.

In the course of the debate on the House version of the original bill, the Representative from New Hampshire, Mr. WYMAN, introduced an amendment to wipe away all controls on automobile emissions—all of them—and he came within 20 or 30 votes of carrying that amendment.

During the recent recess, I—and I suspect many other Senators and many Members of the House—was asked to meet with automobile dealers across my State. Their mission was this: to pressure us or to persuade us to vote for the Wyman amendment.

Mr. President, if you open this thing up and send it back to conference, and perhaps back to the House, those of us who are really concerned about preserving the laws we have put on the books to preserve the environment had better consider whether we really want to open it up. Under the form of the motion to recommit the conference report, everything in the report is opened up. No agreement which we made in the original conference is binding upon anybody. So every provision we have in here—and those provisions touch not only stationary sources but automobiles and all the rest of it—is open again and is subject to whatever consequences the pressures brought during the recess may achieve. To you who are really concerned about protecting as much as we can of the environmental policies we have written over so many difficult and frustrating and agonizing years and that are now on the law books of our country, I urge you not to open this compromise up to the kind of attacks it could receive if it got back to the House, by any stretch of the imagination. The people who are fighting the windfall profits tax, the oil industry also, would like to see every piece of environmental legislation go down the drain. That is not to say that a Senator who may vote to recommit, for any number of reasons, is motivated that way, but I think it ought to be made clear that the oil industry has been one of the strong proponents for undermining environmental laws.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JACKSON. Mr. President, I will yield later to the Senator from Maine. I yield 3 minutes now to the Senator from New York (Mr. JAVITS).

Mr. JAVITS. Mr. President, I understand completely the arguments already made in respect of end-use rationing, allocation, new exploration, control of exports, unemployment assistance, franchise dealers, and so forth, and the disadvantages of the diminution of environmental protection, that brings the Senator from Wisconsin (Mr. NELSON) to bring this motion. Additionally, I have followed the arguments in respect of section 110, the renegotiation or windfall tax provision.

I think that renegotiation provision is bad. I believe it will be found invalid because of its indefiniteness. However, I believe it will be dealt with in an excess profits tax which we will be considering promptly, well before this provision takes effect. There is no liability until the Board actually acts. In other words, there is no right of action until the Renegotiation Board acts. So nobody will be prejudiced by that section if it gets wiped out in an excess profits tax provision.

What this conference report means is that it is of importance in trying to get an end to the oil embargo. It is my considered judgment that unless we act by adopting the report—and I shall vote against recommittal and for the report for this principal reason—we will not have served notice upon the Arab States that the United States intends to make itself strong and well nigh invulnerable in terms of its petroleum product consumption within very short order, and therefore that it is in an excellent position to lead, in respect of Western Europe and Japan, in an effort to coordinate their policies with ours, because it is the breakdown in that coordination which has put the world in such a disarray as to endanger all mankind.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. May I have 2 minutes?

Mr. JACKSON. I yield 2 minutes to the Senator from New York.

Mr. JAVITS. This to me is the critical point. It is that we are taking this action in order to demonstrate that the United States is not going to be overcome by this oil embargo or by production cutbacks, or what may turn out even worse, the enormously escalating prices of oil, but that we are putting ourselves in a stronger position to deal with it.

I believe, in view of the uncertainty and delay that are bound to ensue if this matter is returned to conference and if this conference report is not approved, the tradeoff for the imperfections that admittedly are in this bill simply are not worth it. And it is much too dangerous from the point of view of hoping to bring an end to the high prices which the world simply cannot bear as well as the actual physical deprivation caused by the shortage of oil which neither the people of the United States nor Europe and Japan can bear.

The key answer to that now is the stance of the United States. Can we take on the responsibility? In my judgment we can serve notice to the world that we can and we will by acting now in terms of giving ourselves the power inherent in this act.

For those reasons, and because I believe the deficiencies in the bill can be corrected by appropriate and swiftly enacted legislation, I shall vote against the recommittal of the conference report.

Mr. JACKSON. Mr. President, I thank the Senator from New York for his very fine statement.

Mr. President, I yield 2 minutes to the Senator from South Dakota.

### IS THE EMERGENCY BILL NECESSARY OR WORKABLE?

Mr. McGOVERN. Mr. President, the major oil companies and their friends in the administration have been pushing the line that present shortages of crude oil require higher consumer prices and sweeping new powers for the President.

There is no question in my mind that we face a long-term energy problem which must be met by expanded domestic petroleum production, the development of new fuels and sources of fuel and more rational consumption patterns.

But we must not permit this long-term question to obscure our judgment on whether the present alleged shortage warrants sweeping new Presidential powers and a full-scale retreat on emission standards.

I say alleged shortage because recent reports from Europe indicate a surplus of supply is causing the price of both crude and refined petroleum to fall. Ten days ago the Philadelphia Inquirer reported that European storage tanks were so full that tankers are backed up in the harbors because there is no room for their cargo.

Business Week in a follow-up article last week reported that European home fuel which cost $85 a ton before the October war and skyrocketed to $240 in the panic buying which ensued is now priced at $115 a ton and is falling. The article also notes:

> First to realize that a glut was developing were the major oil companies that were buying regularly in the spot market to buttress their own supplies. The majors stopped buying in mid-December.

Now we learn from the London Financial Times that the price for Arab crude oil is also falling by 25 percent or more from earlier sales. Perhaps the reason for this is also that "the majors stopped buying in mid-December." Their embarrassment over high petroleum stocks would certainly provide them with a motive to artificially stop replenishing their stocks and keep on the pressure for high consumer prices.

This evidence leads me to conclude that the emergency energy bill should be sent back to the Interior Committee for greater study of how serious the present shortage of petroleum really is.

In this connection I have been rather dissatisfied with the administration's description of its information on the oil industry and congressional willingness to accept their plea of ignorance.

Under the phase IV price control program, the administration's own regulations require that the major oil companies file quarterly and monthly reports on "prices, costs, profits, and production levels," as well as detailed justifications for proposed price increases—sections 150.151, 150.362. They also have the power to audit company books to verify those reports as well as to expand the reporting requirements.

So, in the face of that authority, the

administration's plea of ignorance of oil industry information sounds suspicious. Either they have the information and are not properly using it or they are not asking for sufficient information in their price control program. The problem is certainly not the absence of authority to get the facts. I hope this is a subject the Interior Committee will pursue in reconsidering the bill.

Lastly, I believe that the excess profits provision contained in the bill is inherently unworkable. Arbitrary judgments made by faceless bureaucrats without strict standards to follow never work out well. That is not to say that a good excess profits tax cannot be drafted. It only means that the present language is not satisfactory.

I introduced the first Senate excess profits bill last December and will shortly introduce a revised version. Other Senators will doubtless offer other proposals. Even the administration has an excise tax proposal mislabeled a "windfall profits tax." We must act to control runaway prices and profits promptly. But we should do it right.

In conclusion, Mr. President, I ask unanimous consent that the articles I referred to earlier and the text of a letter I recently sent to the Deputy Administrator of the Federal Energy Office be printed at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Philadelphia Inquirer, Jan. 20, 1974]

### TANKS FULL ABROAD, OIL GOES BEGGING

(By Donald L. Barlett and James B. Steele)

The wholesale prices of oil products—from gasoline to jet fuel and home heating oil—are declining dramatically across Western Europe.

In sharp contrast with market conditions of a few months ago, when buyers were scrambling to purchase every barrel of oil they could, forcing prices up, a variety of oil products are now for sale in European ports—but there are no buyers.

The reason: European countries, which have been stockpiling record quantities of crude oil and petroleum products, have run out of storage space.

"Storage tanks are, in fact, full to the brim in Northwest Europe, the East Coast of the United States and in Italy" at the same time consumption has been cut back, said Platt's Oilgram Price Service, a daily price reporting service that monitors the worldwide activities of the oil industry.

Platt's is an authoritative oil pricing service whose subscribers include oilmen, bankers, financial analysts and foreign governments. Its circulation is about evenly divide between the United States and overseas.

The Platt's report confirms findings first published by The Inquirer in a continuing series of reports that:

There are record stockpiles of oil products in the United Kingdom, The Netherlands, Italy and other European nations as well as the United States—and no serious oil shortages.

The effects of the Arab embargo and the severity of the oil shortage in the United States have been grossly exaggerated by the Nixon Administration.

Of the Arab embargo, Platt's Oilgram quotes a European oil trader as saying that the last three months have shown the "Arabs either cannot, or really didn't want to pull off their embargo.

"Even singled-out Holland has ended up with the fullest tanks of any of us. In short, the panic factor has ironed out the market."

In Rotterdam, the largest oil port in Europe, Platt's reports that prices for jet fuel and heavy fuel oil used by electric utilities have declined more than 30 percent in recent weeks.

At the first of the year, the price of heating oil there ranged between $150 and $175 a ton, says Platt's. It now is selling for $107.50 and the price is still falling.

There have been four offerings of jet fuel at terminals in Italy and Spain—but no buyers, says Platt's. And a Platt's report from Italy says that the once frequent calls from the United States for jet fuel have ended.

In a dispatch from Milan, Platt's reported:

"Deadness of the market is the main topic of conversation in Italian oil circles. Buyers are a rare breed.

"A trading company reports at least five Italian refiners are in the market offering products from gasoline down to gas oil (heating oil).

"This broker gives a picture of full tanks at refineries and no takers of the oil. A trader notes the entire market has made a complete turnaround from two months ago."

Indeed, in Genoa, Italy's largest oil port, Antonio Orlando, press officer for the Genoa Port Authority, told an Inquirer reporter:

"There is no shortage of oil. In my opinion, the oil companies played a great deal on the Arab embargo to close off the taps of petroleum and get an increase in prices."

Statistics for the Genoa port, gathered by The Inquirer, show that oil imports for the last three months of 1973 were up 19 percent over the same period a year earlier.

And in December—the month when Arab production cutbacks should have been felt in a busy port such as Genoa—a record 5.1 million tons of crude oil was unloaded, the most for any month in 1973.

This, despite the fact that Italy is heavily dependent on Arab oil. In 1972, the latest period for which complete figures are available, 71 percent of all the oil imported into Italy came from the Arab nations, largely Libya, Saudi Arabia and Kuwait.

The large increase in oil imports into Genoa has some significance for other European countries, for Italy exports about 25 percent of the crude oil it receives.

Oil unloaded in Genoa is carried by pipeline to refineries in Switzerland, Germany and other Italian cities.

Even though Italy is receiving plenty of crude oil, the country has been hit with sporadic shortages of some oil products.

Indeed, there were scattered shortages of gasoline, diesel fuel and home heating oil in Italy off and on for months before the Arabs announced their reduction in oil production.

The problem appears to stem more from government price control policies and hoarding than from anything else.

Last week, the Italian government charged an independent oil refiner in Genoa with fraud and hoarding petroleum products, confirming the suspicions of many oil industry observers that there is substantial hoarding of petroleum.

The government has contended that the refiner is withholding its products from the market to get a higher price.

The Italian government, as part of its inquiry, said police had seized dozens of telegraph messages in a Rome refinery that were sent to oil tankers bound for Italy.

The messages, according to the government, indicated that the tankers were being urged to go elsewhere because there was no more storage space for crude oil in Italy.

The Italian government said it also is questioning the officials of a number of other oil companies about their stockpiling practices.

The companies being quizzed include at least one American oil company, Chevron, a subsidiary of Standard Oil Company of California.

A spokesman for Standard Oil Company of California, at the company's headquarters in San Francisco, had no comment, saying the company had not heard from its affiliate in Italy concerning the matter.

The purpose of the probe by the Italian government is to determine whether some oil companies refused to refine crude oil last year and thus helped create product shortages.

The Inquirer survey of oil supplies in Italy produced about the same results as its survey in The Netherlands and United Kingdom.

As The Inquirer has disclosed over the last two weeks, the Arab cutbacks have had little effect on Europe's two largest oil ports—Rotterdam in The Netherlands and Milford Haven in the United Kingdom.

In Rotterdam, for example, a port official said that oil was flowing into the port at a steady rate, even though The Netherlands was the only country besides the United States hit with a total embargo by the Arab states.

Prior to the embargo, about 70 percent of all oil shipments into Rotterdam came from Arab states. After the embargo, major oil companies diverted supplies of non-Arab oil to the Dutch.

Then the companies shipped Arab oil, which once was intended for The Netherlands, to countries the Arabs considered more sympathetic to their views, such as France and Britain.

While The Inquirer's continuing probe into the worldwide movement of oil has indicated that production is indeed down in some Arab states, there is little evidence to suggest that overall production has been slashed to the levels publicly announced by the Arabs.

In addition, oil production has been stepped up in a number of other countries, including at least one Arab state (Iraq), as well as Iran and Indonesia.

So it is, then, that the Italians, like the Dutch and the British, are more concerned with the spiraling retail prices of oil products than with the supply—which is considered adequate.

In the United States, on the other hand, the new Federal Energy Office and the Nixon Administration have expressed more concern over alleged oil shortages. This has tended to divert attention from steeply rising prices.

While there is a squeeze between supply and demand for oil products in this country, The Inquirer has pointed out, beginning last month, that the Federal Government has consistently overstated the severity of the problem.

The overstatement of the oil shortage has helped bring about a general slowdown in some businesses and industries, and the loss of jobs for tens of thousands of workers.

Meanwhile, in Europe, a Platt's Oilgram official says, "there's an awful lot of oil coming out on offer, but no one's buying."

In addition to cargoes of jet fuel and heating oil and even 200,000 tons of Russian naphtha for which there are no buyers, the Platt's spokesman said there have been price dropoffs in heavy fuel oil—a product which supposedly is in shortest supply of all.

Heavy fuel oil is used by industry and electric power plants and the Federal Energy Office has pointed to inventory levels of this product in the United States as evidence of the seriousness of the energy shortage.

Last week, according to the American Petroleum Institute (API), an industry trade association, stocks of heavy fuel oil totaled 52.2 million barrels—down 5 percent from the 55 million barrels on hand a year earlier.

Inventories of other petroleum products, however, such as home heating oil and jet fuel, are at much higher levels than this time last year.

Helping to account for declining oil prices in Europe, in addition to full storage tanks, the Platt's spokesman said, is that the energy scare has encouraged everyone to keep a full supply of petroleum on hand.

"It's just like what we have been doing here in the United States," he said. "You used to drive your car until the gas tank was empty. Now when it's half-empty, you get it filled up. When everybody who uses oil does that, it has quite an impact."

He added that there also had been a "speculative frenzy" in Europe, with speculators buying any kind of oil product they could get their hands on.

Now those speculators are trying to sell off those supplies and no one is buying at the higher prices.

Another Platt's representative said there were reports from New York harbor last week that some independent oil companies were refusing to pay inflated prices for heating oil that major oil companies had offered for sale.

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[From the Washington Post, Jan. 29, 1974]

### Oil Prices Drop on World Mart

LONDON.—Oil prices are beginning to fall on the international market after reaching record levels in December, the Financial Times of London said yesterday.

The trend was evident both at crude oil auctions by certain producer countries, and on the refined products market, particularly in Rotterdam, the paper said.

The newspaper thought the crude oil sales currently in progress in Kuwait and Tunisia would fetch only $12 a barrel, compared to $20 recently obtained by Libya.

At Rotterdam, refined products are reportedly being offered for immediate delivery at half the recent prices.

The Financial Times attributed the price slip to the mild winter temperatures Europe has been experiencing and the prospect of an easing in the Arab oil embargo.

As finance experts from major oil-exporting nations began framing a long-term price strategy in Vienna, meanwhile, there were signs of a split within the ranks of the 12-nation Organization of Petroleum Exporting Countries over a Saudi Arabian call for cuts in the present high cost of OPEC oil.

Saudi Petroleum Minister Sheikh Zaki Yamani, said in Tokyo Sunday that King Faisal would take "very important steps" soon to reduce oil prices.

OPEC Secretary General Abderrahman Kheme of Algeria said there were no plans to discuss the Saudi ideas in the OPEC Economic Commission.

Asked if he considered oil prices had reached their limits, Khene said, "I don't think prices have reached the maximum." But he declined direct comment on Yamani's statement.

Informed sources said Algeria and Iran are expected to resist any attempt to reduce the cost of crude oil, which has more than doubled in price since December. Iraq is expected to support Saudi moves to lower prices.

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Jobert made plain in the talks that France is prepared to supply Kuwait with Mirage fighter planes, tanks and antiaircraft missiles free of political strings, the sources said.

He also expressed France's readiness to participate in petrochemical and oil refinery projects in Kuwait in return for guaranteed yearly deliveries of crude and refined oil, the sources added.

They said the French foreign minister left the size of Kuwaiti oil deliveries and French industrial investments to be determined in subsequent negotiations if the Kuwaiti government approved the barter principle.

In Saudi Arabia, the first and most important leg of Jobert's tour, unofficial reports said he had won King Faisal's tentative agreement to provide France with about 5.6 billion barrels of Saudi crude over the next 20 years. The amount would meet a fourth of France's oil needs.

In return, the reports said France has agreed to play a major role in Saudi's Arabia's industrialization programs, including the construction of petrochemical industries and joint oil refineries.

Detailed accords for these projects are to be negotiated by a joint ministerial commission the two countries agreed to set up during Jobert's three-day visit to Saudi Arabia, according to the reports.

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[From Business Week, Jan. 26, 1974]

### Europe—A Gas-Oil "Shortage" Turns Into a Glut

Speculative buyers who scrambled to snap up oil products in the limited "spot" market late last year are watching those prices come tumbling down all over Europe. The reason is simply that oil storage tanks from Rotterdam to Milan, and probably even as far away as the U.S. East Coast, are brimful. Says a London-based oil executive: "The market is flooded with oil products right across the barrel."

The upshot is that prices in the spot market, which accounts for 10% to 15% of European oil, are now only a little above those set by the major oil companies for the rest of the market. And, at midweek, the majors boosted their oil prices in Germany even closer to spot market prices.

The spot market's price plunge is showing up mostly in gas oil, an oil product used primarily for heating. Gas oil prices, which spiraled from the pre-Yom Kippur War level of $85 a ton to $240 a ton in mid-December, are back down to $115 a ton. And they could go lower. A Milan broker tells of an Italian refiner who offered him a cargo of gas oil for $152 a ton. f.o.b. on Jan. 4. The broker, unable to find a buyer, declined the offer. Five days later the refiner was back, trying to unload his cargo for $135 a ton.

Behind the price slump lies the growing realization in the oil industry that the European oil crisis stems more from Arab price hikes than any real shortage. Saudi Arabian oil minister Sheik Ahmed Yamani brought the point home last week when he noted that the 15% production cutbacks combined with the embargo on sales to the U.S. and the Netherlands mean that the non-boycotted European countries are now getting more oil than they were last September. What's more, a mild winter and the energy-saving measures instituted throughout Europe have kept demand down.

#### TRYING TO UNLOAD

First to realize that a glut was developing were the major oil companies that were buying regularly in the spot market to buttress their own supplies. The majors stopped buying in mid-December. The price was supported a while longer by speculators and by Germany's independent importers, who buy heavily in spot markets.

But by early January, the speculators were sitting with full oil tanks, and began to realize that the shortage was not materializing. So now the speculators are trying to unload their oil without knocking the bottom out of the market. Even so, they are finding that the few interested buyers knock off $5 a ton and then start to negotiate. Barring any further production cutbacks, the soaring prices caused by the panic buying of late 1973 appear to have been reined in and spot prices are now likely to move up at a more leisurely pace.

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SELECT COMMITTEE ON
NUTRITION AND HUMAN NEEDS,
*Washington, D.C., January 22, 1974.*

JOHN C. SAWHILL,
*Deputy Administrator, Federal Energy Office,*
*New Executive Office Building, Washington, D.C.*

DEAR MR. SAWHILL: Again, many thanks for your testimony before the Select Committee this morning and your offer to provide us with further information.

In your testimony you stated that the data you use in energy planning derived from information provided by the American Petroleum Institute, the U.S. Bureau of Mines, and the U.S. Customs Bureau. Because that information "is not adequate and its reliability cannot be checked," you also described various new efforts to get more detailed information more rapidly. You further suggested that you need additional legislative authority to obtain full and accurate statistical information.

It occurred to me that you should have substantially more detailed information than you are apparently using, as well as the power to fill in whatever blanks may exist under the Phase IV price control program.

For example, the Cost of Living Council's regulations require the major oil companies to file quarterly reports on "prices, costs, profits and production levels" (Sec. 150.362). They are also required to file monthly reports on "price movements, costs, and other related information." (ibid.) In addition, Category I firms (revenues of $100 million or more) are required to file detailed justifications for proposed price increases (Sec. 150.151).

My understanding is that you inherited this data base and certain CLC employees when your office became responsible for petroleum industry price controls last fall.

I can understand that you may want to change the monthly and quarterly reporting requirements to a weekly basis and add certain categories for disclosure. But you clearly have the power to do this as well as to audit oil company books to check the accuracy of the figures without further legislative authority.

I would appreciate your furnishing the Committee with a copy of the forms used for the quarterly and monthly reports I referred to above, as well as the "prenotification" and price justification forms.

I would also like to know why your office is apparently not using the price control data you presently have in energy planning.

Finally, I would like your opinion on why the powers you have under both the Economic Stabilization Act of 1970 and the Emergency Petroleum Allocation Act of 1973 are not sufficient to obtain whatever further facts you need.

With every good wish, I am

Sincerely,

GEORGE MCGOVERN,
*Chairman, Select Committee on Nutrition and Human Needs.*

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**Mr. JACKSON.** Mr. President, the Senator asks some very proper questions. The Subcommittee on Permanent Investigations had seven of the largest companies before it. They testified under oath. We asked them questions about the stocks on hand.

The committee had Mr. Simon before it and proceeded on the same basis. The testimony of those witnesses was to the effect that for the first quarter the supplies of middistillates was down and the supply of gasoline was up a bit. In part that was due, we think, to the weather that was most favorable in recent weeks and which caused the stocks to be up more than they were a year ago.

First, the gasoline stocks, however, are going down very fast. So, we are facing a very critical situation in the second quarter of this year barring some kind of solution in the Mideast. It is the judgment of a lot of people who are following this problem that gasoline rationing will take effect. The answer is that stocks are up a slight bit over a year ago, due primarily to weather conditions. But gasoline is going down.

Gasoline was up at one point. However, the testimony was that inventories are going down.

I do not know what the situation is overseas. We have asked these companies the questions under oath. We shall have follow-up interrogatories to get to the particular points that the Senator has in mind and to determine whether there are inventories anyplace else. They have sworn under oath that they do not have anything other than that which they have revealed.

Mr. McGOVERN. There are publicly released figures that show at least a modest increase in oil company reserves now over a year ago.

Mr. JACKSON. The Senator is correct. However, when we break it down, it is in the middistillate area. Gasoline is going down, because they are still refining heating oil. We have benefited from the weather. Because of the weather we may be faced with having a glut of heating oil.

Mr. McGOVERN. I know that the Senator from Washington has been very vigorous in his interrogation of these companies. I do not need to remind the Senator that these are the same companies that told us 3 or 4 years ago that there was not any shortage and that we did not need to lift the import quotas. I wanted to remind the Senator that their judgment and facts are not always right.

Mr. JACKSON. The Senator is correct. I wrote a letter to Secretary Shultz in 1969 denouncing the archaic quotas set on oil.

The problem is a difficult one which we are following up in the committee. The staff met with the representatives on yesterday. We are asking all of the questions the Senator referred to as a followup, so that we can find out specifically what happened.

Mr. McGOVERN. Mr. President, I commend the Senator from Washington for his action.

Mr. JACKSON. I commend the Senator from South Dakota for raising the questions on the floor of the Senate.

Mr. President, I wonder if the Senator from Wisconsin would take a little time now. I believe that the Senator has more time than we do.

The PRESIDING OFFICER. The Senator from Washington has 5 minutes remaining. The Senator from Wisconsin has 7 minutes remaining.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. NELSON. I yield 2 minutes to the Senator from Louisiana.

Mr. LONG. Mr. President, I have yet to hear anyone refer to the fact that this measure is unconstitutional. We have the testimony of tax lawyer after tax lawyer, many of whom have served as Commissioners of Internal Revenue Service under the Truman administration, the Johnson administration, the Kennedy administration, and the Nixon administration, who they say that they think the proposal is unconstitutional.

If that proposal is unconstitutional, it may well bring down the whole bill with it. So the whole bill may be declared unconstitutional. It is very simple. This constitutes a taking without due process. It says that if someone takes what we believe to be an unfair profit, we might look at all of his profits and tell the man to give back anything that he has received that is more than a fair profit.

Now the Renegotiation Act is able to bypass that issue because there is a contract between the Government and the Government contractor to give the money back.

I know a very able lawyer in New York who said that he thinks that provision is bad. I think that we can repeal it later and substitute something else.

Here is what the witnesses say. If a company produces more oil than it had in that base period, he has to give back 100 percent of everything that he has made or he is guilty of price gouging.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NELSON. Mr. President, I yield 1 additional minute to the Senator from Louisiana.

Mr. LONG. Mr. President, the people will say, "You will not accuse me of price gouging. I will not produce that much oil."

Look at the list of all the companies up there on the board. They made more profits than they made in a depressed period. We should not be giving them an incentive to produce less oil than they did before so that they will not be accused of price gouging. That is ridiculous.

We ought to be encouraging people to produce more energy.

When we put that provision on the statute books, lawyer after lawyer who has had responsibility in this matter has said that people will be confronted with uncertainty and that, if they invest their money, they cannot get it back. Bankers will not make loans to companies that want to produce more oil.

Mr. President, bankers will not make loans to companies who want to drill wells and produce more oil and process more oil. They will say that it is doubtful whether the company will be permitted to earn enough money to pay off the loan.

So, we would get less oil and less gas in due course if we were to follow this method. Why would we want to do that if we could take our time and pass a law that would be constitutional? We would then be doing what we swore to do when we took our oath of office, to uphold the Constitution.

Mr. BENTSEN. Mr. President, is it not true that there are approximately 220,000 service stations in this country, that 70 to 80 percent of those stations are independent operators, that there would be individual decisions with respect to each of them with respect to the sale of gasoline, that any citizen might object to any one of those stations and a hearing would have to be held, and that would result in a legislative nightmare. There is no way in which that could feasibly be accomplished.

Mr. LONG. And every one of those 220,000 service stations can be hauled into court under the Renegotiation Board for every sale they make to every customer. So that board could meet from now to eternity, and would not have settled all its cases.

Mr. BENTSEN. Does the Senator from Louisiana remember the service station operators who were here last year because they were having problems in this regard?

Mr. LONG. I certainly do.

Mr. BENTSEN. Does he not think they would be back again with the same kind of problems?

Mr. LONG. I certainly do. Mr. President, I expect to vote for the kind of excess profits tax that would work, and would not keep us from getting energy for the American people at a time when they need it desperately.

Mr. NELSON. Mr. President, what we are really doing if we approve this bill is playing a gigantic con game on the American public, because it is not constitutional, it will not work, and it is not a tax, and I do not think the President, on his worst day, could conceivably sign this bill.

Nevertheless, I think we ought to recognize who we are putting a burden on with this bill. That is, the local gasoline station owners and it will bankrupt them. They cannot live under it.

Think of a situation where the President sets the price at the retail level, and then the filling station operator follows the price the President sets. Then along come a bunch of customers and complain that the price he charged, based upon what the President set, gives him an excess profit, so they go up to the Renegotiation Board, which has the authority under the law to decide that in fact, after using all these guidelines I read into the RECORD, he is charging an excess amount. So then they haul him before the Renegotiation Board, with maybe 10 complaints or 50 complaints, and now he has got to pay back money.

There is no way in the world, under the free enterprise system, for any retailer to survive under this provision. The Senator from Washington and the Senator from Maine both know it is a bad provision. They will both say so. They both voted against it. Yet they want to stick by the provision because they say that is all they can get out of the conference.

Now let us look at the argument that there are a bunch of urgent things in here. I just called WILBUR MILLS and talked with him at home, and I asked him about whether, if something happened at this conference and they did not come back with any agreement, he considered it important that we have some unemployment compensation act provision such as is in this bill, or better.

He said, "Yes, we have got to do something about those who are unemployed."

So we have the chairman of the Ways and Means Committee who has a position on it, we have the chairman of the

Finance Commitee, and there is hardly a soul in either House who will vote against extending unemployment compensation at least as broad if not broader than what is in this bill.

It is argued that we need a Federal Energy Officer. An FEO is contained in this bill. I must say to the distinguished Senator from Washington that after he conducted hearings he came up with a far superior Federal Energy Office Act (S. 2776) and we passed it here in the Senate. So that is no problem.

Now, as to the question of rationing: I do not think the problem needs to be delineated further. However, the President can ration, under the Defense Production Act or under the Economic Stabilization Act, right now.

On the question of disclosure, we have the Energy Information Act, which the distinguished Senator from Washington has cosponsored with me, and it is far superior and much more comprehensive than what is in this bill. Hearings are going to start and we are going to complete them before the end of the recess, and they will be before the Senate within a matter of 15 or 20 days.

There are at least four good provisions in there that are not controversial; without this bill we can pass them any time we want to, and we will. One of them is the antitrust provisions. They have already been enacted on the floor of the Senate. We can pass those. There are the export limitations; everyone agrees on them. We can pass them. There is a franchise protection provisions; almost everyone agrees on that, and we will pass that, plus one on price gouging.

So I do not see the reason for all the fuss.

**Mr. PACKWOOD.** Mr. President, there are two very serious problems with the legislation before us today. They deal with windfall profits and environmental protection. Nothing in this measure prevents the oil industries from investing their profits in anything they want. The legislation is so vague on this point that not only would it allow the generation of excess profits, but it does nothing to insure that any profits, excess, or otherwise, will be used for the exploration and production of energy. In addition, Mr. President, there are grave questions regarding the long-range implications of the bill's provisions on coal conversion and the changes that will be made in title I of the Clean Air Amendments of 1970.

Let us look at these two issues today.

The provisions contained in section 110 of the Emergency Energy Act relating to windfall profits in the petroleum industry are ill-conceived, unworkable, counterproductive and, in all likelihood, unconstitutional.

Immediately upon our return to Washington, D.C., the Finance Committee began to inquire into the provisions of section 110. The first day of our hearings was particularly informative. We had before us former IRS Commissioners and Treasury tax officials spanning the entire political spectrum from Truman to Nixon. These were men who had no bone to pick with the oil companies, no particular ax to grind at all. They were before us solely to advise the committee as to the desirability of resolving the vexacious problem of excess profits in the manner proposed in the energy bill. To the last man, they were unanimous in their denunciation of the approach.

Several points were raised:

The provision would affect only petroleum companies, it would not direct itself to the coal industry, it made no reference to price gouging, if you will, by any other sector of the energy economy. In short, it is not comprehensive.

With specific respect to the petroleum industry, the proposal was vague as to degree of application. It was earlier presumed that the proposal would zero in on the "big oil companies." In fact, the language of the proposal would be equally applicable to the independent small businessman operating the corner gas station and to Exxon. It occurs to me that the two extremes simply cannot be fairly treated via the same mechanism.

The witnesses before the Finance Committee, speaking from their expertise as administrators of the tax laws, referred time and again to the fact that the language in section 110 was imaginatively vague. The witnesses unhesitatingly declared that passage of section 110 would result in such a state of confusion and duplicative litigation as to make future investment decisions impossible. In short, section 110 will likely result in less investment in the energy industry at the very time when we need to do all we can to encourage additional investment.

Another point is with respect to the workability of section 110: Will it accomplish its purpose without causing unduly harmful secondary impact? Mr. John S. Nolan, former Deputy Assistant Secretary of the Treasury, summed up the feeling of the panel when he stated that—

> While it is possible to develop a reasonable windfall or excess profits tax applicable to the energy companies which preserves and even increases the incentive for development of new energy sources, the form of tax [proposed in section 110] is wholly unsatisfactory. ... These particular proposals are probably unconstitutional because of their uncertain application. They would greatly discourage new capital investment in energy development because of this extraordinary uncertainty ... they are totally unadministrable either through our tax administration structure or the renegotiation process.

Finally, the proposal embodied in section 110 has been likened to placing a small tin cup under a sieve. The various special provisions contained in the Federal tax law with respect to treatment of energy company profits and tax liability allow vast sums of money to escape taxation. For purposes of my objection, I am assuming that these special provisions were completely justified and necessary when enacted. However, I am convinced that we must take a long hard look at these special allowances in light of present conditions to determine whether they are still justified.

The Committee on Finance will be working to develop a system of taxation that will insure the achievement of two objectives: First, the expansion of research, and exploration and development of new energy sources; and second, the prevention of any company taking undue advantage of the consumer by price gouging during the shortage. This will be an extremely delicate balance to attain. It goes without saying that section 110 of the energy bill does not even begin to approach the balance.

Section 110 is bad legislation and should not be enacted.

In turning to the environmental provisions of this measure it is evident that the present energy situation while extremely serious does not require the action proposed in this legislation.

Prior to the Christmas recess, the Congress labored hard and long to pass a bill to deal with the threat of a national energy shortage this winter. Inevitably, a bill assembled under such time pressure contained provisions that gravely disturbed those of us who have consistently voted to protect public health and the environment. I am particularly concerned about the long-range implications of the bill's provisions on coal conversion and its changes in title I of the Clean Air Amendments of 1970. In my opinion, the context in which this legislation is being considered has changed appreciably since December. We have now moved so far into the peak winter heating season that little can be done now to authorize additional substitution of coal for oil in powerplants and industrial facilities that would measurably affect this winter's fuel shortage. Meanwhile, the Environmental Protection Agency has moved expeditiously, through existing clean air amendment procedures, to allow coal to be used temporarily where it was needed and available. As expected, shortages of coal, caused by insufficient surge capacity in mines and transportation facilities, have limited the number of conversions possible in a short time also. Further, it has become apparent that the heating oil shortfall predicted for this winter was overstated, though there are clearly places where fuel shortages remain pressing. Mr. Simon has recently revised his estimate of the daily shortfall to a level which has been estimated to be well within the amounts that can be saved through conservation measures without exposing our populated centers to dangerous sulfur oxide and particulate pollution. While we must give all due consideration to our energy needs, this must not be done at the expense of our environment, nor need it be. Our pursuit of a sound energy policy can and should continue, and, at the same time, must not be made mutually exclusive of sound environmental policy. Past and projected short-term energy shortages cannot be blamed upon environmental factors. They have been basically economic in nature.

For these reasons, I feel it imperative that we reconsider the compromises made earlier with regard to the coal conversion sections in title I of the Clean Air Act. More appropriately, consideration of any longer term amendments to the act should be saved for later in the session when there has been time to assess our energy position and to determine how we can optimize any tradeoffs between public health and energy supply that still seems necessary.

The VICE PRESIDENT. The time of the Senator from Wisconsin has expired.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. JACKSON. I believe I have 5 minutes remaining.

The VICE PRESIDENT. The Senator is correct.

Mr. JACKSON. I yield 1 minute to the Senator from Tennessee (Mr. BAKER).

Mr. BAKER. Mr. President, I thank the Senator from Washington for yielding.

I shall vote against recommitting the conference report. I was a conferee on this measure in the closing days of the last session. I remember the long and arduous hours we spent in that conference—on one occasion, at least, with the administration representatives in the adjoining room—trying to hammer out some kind of compromise to give the President the powers he urgently needs to deal with the energy crisis.

Many provisions were adopted in that conference report with which I disagreed, and with which I still disagree, Mr. President, particularly that section which deals with renegotiation. That section is poorly drafted.

But the fact that it is bad, it seems to me, is an urgent incentive for the jurisdictional committees, the Finance Committee and the Ways and Means Committee, to go forward with corrective legislation to prevent the major oil companies from reaping windfall profits as a result of the fuel shortage.

The one thing I fear, as senior Republican member of the Public Works Committee, which has jurisdiction of the environmental aspects of this bill, is that if we go back to conference we will come back with a bill not as good, and in fact maybe much worse, than that which we hammered out so laboriously in the course of that conference. We did a good job, and I do not want to take a chance on its going down the tube. Therefore, I shall vote against recommittal.

Mr. JACKSON. Mr. President, I ask unanimous consent to have various matters printed in the RECORD in connection with my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### ENERGY EMERGENCY ACT—CONFERENCE REPORT

**The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:**

**That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:**

In lieu of the matter proposed to be inserted by the House amendment insert the following:

*That this Act, including the following table of contents, may be cited as the "Energy Emergency Act".*

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## TITLE I—ENERGY EMERGENCY AUTHORITIES

### SEC. 101. FINDINGS AND PURPOSES.

(a)(1) The Congress hereby determines that—

(A) shortages of crude oil, residual fuel oil, and refined petroleum products caused by insufficient domestic refining capacity, inadequate domestic production, environmental constraints, and the unavailability of imports sufficient to satisfy domestic demand, now exist;

(B) such shortages have created or will create severe economic dislocations and hardships;

(C) such shortages and dislocations jeopardize the normal flow of interstate and foreign commerce and constitute an energy emergency which can be averted or minimized most efficiently and effectively through prompt action by the executive branch of Government;

(D) disruptions in the availability of imported energy supplies, particularly crude oil and petroleum products, pose a serious risk to national security, economic well-being, and health and welfare of the American people;

(E) because of the diversity of conditions, climate, and available fuel mix in different areas of the Nation, a primary governmental responsibility for developing and enforcing energy emergency measures lies with the States and with the local governments of major metropolitan areas acting in accord with the provisions of this Act; and

(F) the protection and fostering of competition and the prevention of anticompetitive practices and effects are vital during the energy emergency.

(2) On the basis of the determinations specified in subparagraphs (A) through (F) of paragraph (1) of this subsection, the Congress hereby finds that current and imminent fuel shortages have created a nationwide energy emergency.

(b) The purposes of this Act are to call for proposals for energy emergency rationing and conservation measures and to authorize specific temporary emergency actions to be exercised, subject to congressional review and right of approval or disapproval, to assure that the essential needs of the United States for fuels will be met in a manner which, to the fullest extent practicable: (1) is consistent with existing national commitments to protect and improve the environment; (2) minimizes any adverse impact on employment; (3) provides for equitable treatment of all sectors of the economy; (4) maintains vital services necessary to health, safety, and public welfare; and (5) insures against anticompetitive practices and effects and preserves, enhances, and facilitates competition in the development, production, transportation, distribution, and marketing of energy resources.

### SEC. 102. DEFINITIONS.

For purposes of this Act:

(1) The term "State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(2) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (as defined in the Emergency Petroleum Allocation Act of 1973).

(3) The term "United States" when used in the geographical sense means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(4) The term "Administrator" means the Administrator of the Federal Energy Emergency Administration.

### SEC. 103. FEDERAL ENERGY EMERGENCY ADMINISTRATION.

(a) There is hereby established until May 15, 1975, unless superseded prior to that date by law, a Federal Energy Emergency Administration which shall be temporary and shall be headed by a Federal Energy Emergency Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. Vacancies in the office of Administrator shall be filed in the same manner as the original appointment.

(b) The Administrator shall be compensated at the rate provided for level II of the Executive Schedule. Subject to the Civil Service and Classification provisions of title 5, United States Code, the Administrator may employ such personnel as he deems necessary to carry out his functions.

(c) Effective on the date on which the Administrator first takes office (or, if later, on January 1, 1974), all functions, powers, and duties of the President under sections 4, 5, 6, and 9 of the Emergency Petroleum Allocation Act of 1973 (as amended by this Act), and of any officer, department, agency, or State (or officer thereof) under such sections (other than functions vested by section 6 of such Act in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice), are transferred to the Administrator. All personnel, property, records, obligations, and commitments used primarily with respect to functions transferred under the preceding sentence shall be transferred to the Administrator.

(d)(1) Whenever the Federal Energy Emergency Administration submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress.

(2) Whenever the Federal Energy Emergency Administration submits any legislative recommendations or testimony or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Federal Energy Emergency Administration to submit its legislative recommendations, or testimony or comments to any officer or agency of the United States for approval, comments, or review prior to the submission of such recommendations, testimony, or comments to the Congress.

(3) The Federal Energy Emergency Administration shall be considered an independent regulatory agency for purposes of chapter 35 of title 44, United States Code, but not for any other purpose.

SEC. 104. END-USE RATIONING.

Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection:

"(h)(1) The President may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with the objectives of subsection (b), for the establishing of a program for the rationing and ordering of priorities among classes of end-users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to end-users of such products of rights, and evidence of such rights, entitling them to obtain such products in precedence to other classes of end-users not similarly entitled.

"(2) The rule under this subsection shall take effect only if the President finds that, without such rule, all other practicable and authorized methods to limit energy demand will not achieve the objectives of section 4 (b) of this Act and of the Energy Emergency Act.

"(3) The President shall, by order, in furtherance of the rule authorized pursuant to paragraph (1) of this subsection and consistent with the attainment of the objectives in subsection (b) of this section, cause such adjustments in the allocations made pursuant to the regulation under subsection (a) as may be necessary to carry out the purposes of this subsection.

"(4) The President shall provide for procedures by which any end-user of crude oil, residual fuel oil or refined petroleum products for which priorities and entitlements are established under paragraph (1) of this subsection may petition for review and reclassification or modification of any determination made under such paragraph with respect to his rationing priority or entitlement. Such procedures may include procedures with respect to such local boards as may be authorized to carry out functions under this subsection pursuant to section 122 of the Energy Emergency Act.

"(5) No rule or order under this section may impose any tax or user fee, or provide for a credit or deduction in computing any tax."

SEC. 105. ENERGY CONSERVATION PLANS.

(a)(1)(A) Pursuant to the provisions of this section, the Administrator is authorized to promulgated by regulation one or more energy conservation plans in accord with this section which shall be designed (together with actions taken and proposed to be taken under other authority of this or other Acts) to result in a reduction of energy consumption to a level which can be supplied by available energy resources. For purposes of this section, the term "energy conservation plan" means a plan for transportation controls (including but not limited to highway speed limits) or such other reasonable restrictions on the public or private use of energy (including limitations on energy consumption of businesses) which are necessary to reduce energy consumption and which are authorized by this Act.

(B) No energy conservation plan promulgated by regulation under this section may impose rationing or any tax or user fee, or provide for a credit or deduction in computing any tax.

(2) An energy conservation plan shall become effective as provided for in subsection (b). Such a plan shall apply in each State, except as otherwise provided in an exemption granted pursuant to the plan in cases where a comparable State or local program is in effect, or where the Administrator finds special circumstances exist.

(3) An energy conservation plan may not deal with more than one logically consistent subject matter.

(4) An amendment to an energy conservation plan, if it has significant substantive effect, shall be transmitted to Congress and shall be effective only in accordance with subsection (b). Any amendment which does not have significant substantive effect and any recission of a plan may be made effective in accordance with section 553 of title 5, United States Code.

(5) Subject to subsection (b)(3), provision of an energy conservation plan shall remain in effect for a period specified in the plan unless earlier rescinded by the Administrator, but shall terminate in any event no later than May 15, 1975.

(b)(1) For purposes of this subsection, the term "energy conservation plan" means a plan promulgated by regulation proposed under subsection (a) of this section or an amendment thereto which has significant substantive effect.

(2) The Administrator shall transmit any energy conservation plan (bearing an identification number) to each House of Congress on the date on which it is promulgated.

(3)(A) If an energy conservation plan is transmitted to Congress before March 1, 1974, and provides for an effective date earlier than March 1, 1974, such plan shall take effect on the date provided in the plan; but if either House of the Congress, before the end of the first period of 15 calendar days of continuous session of Congress after the date on which such plan is transmitted to it, passes a resolution stating in substance that such House does not favor such plan, such plan shall cease to be effective on the date of passage of such resolution.

(B) If an energy conservation plan is transmitted to the Congress and provides for an effective date on or after March 1, 1974 and before July 1, 1974, such plan shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which such plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that such House does not favor such plan.

(C) An energy conservation plan proposed to be made effective on or after July 1, 1974, shall take effect only if approved by Act of Congress.

(4) For the purpose of paragraph (3) of this subsection—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 15-day period.

(5) Under provisions contained in an energy conservation plan, a provision of the plan may take effect at a time later than the date on which such plan otherwise is effective.

(c)(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2) For the purpose of this subsection, "resolution" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the -------- does not favor the energy conservation plan numbered -------- transmitted to Congress by the Administrator of the Federal Energy Emergency Administration on --------, 19---.", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy conservation plan.

(3) A resolution with respect to an energy conservation plan shall be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If the committee to which a resolution with respect to an energy conservation plan has been referred has not reported it at the end of 5 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to such energy conservation plan which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy conservation plan), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(C) If the motion, to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same plan.

(5)(A) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to an energy conservation plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution with respect to an energy conservation plan, and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to an energy conservation plan shall be decided without debate.

(d)(1) In carrying out the provisions of this Act, the Administrator shall, to the greatest extent practicable, evaluate the potential economic impacts of proposed regulatory and other actions including but not limited to the preparation of an analysis of the effect of such actions on—

(A) the fiscal integrity of State and local government;

(B) vital industrial sectors of the economy;

(C) employment, by industrial and trade sector, as well as on a national, regional, State, and local basis;

(D) the economic vitality of regional, State, and local areas;

(E) the availability and price of consumer goods and services;

(F) the gross national product;

(G) competition in all sectors of industry; and

(H) small business.

(2) The Administrator shall develop analyses of the economic impact of any energy conservation plan on States or significant sectors thereof, considering the impact on energy resources as fuel and as feedstock for industry.

(3) Such analysis shall, whenever possible, be made explicit and, to the extent practicable, other Federal agencies and agencies of State and local governments which have special knowledge and expertise relevant to the impact of proposed regulatory or other actions shall be consulted in making the analyses, and all Federal agencies shall cooperate with the Administrator in preparing such analyses except that the Administrator's actions pursuant to this subsection shall not create any right of review or cause of action except as otherwise exist under other provisions of law.

(4) The Administrator, together with the Secretaries of Labor and Commerce, shall monitor the economic impact of any energy actions taken by the Administrator, and shall provide the Congress with separate reports every thirty days on the impact of the energy shortage and such emergency actions on employment and the economy.

(e) Any energy conservation plan which the Administrator submits to the Congress pursuant to subsection (b) of this section shall include findings of fact and a specific statement explaining the rationale for each provision contained in such plan.

SEC. 106. COAL CONVERSION AND ALLOCATION.

(a) The Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this Act, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies shall be permitted to continue to use coal as provided in section 119(b) of the Clean Air Act. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact. A prohibition on use of natural gas and petroleum products under this subsection shall be contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area. The Administrator shall require that fossil-fuel-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant may be required under this section to be so designed and constructed, if (1) to do so would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether to impose a design and construction requirement under this subsection, the Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the capability of the owner or operator to recover any capital investment made as a result of the conversion requirements of this section.

(b) The Administrator may by rule prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in this section.

SEC. 107. MATERIALS ALLOCATION.

(a) The Administrator shall, within 30 days after the date of enactment of this Act, propose (in the nature of a proposed rule affording an opportunity for the presentation of views) and publish (and may from time to time amend) a contingency plan for allocation of supplies of materials and equipment necessary for exploration, production, refining, and required transportation of energy supplies and for the construction and maintenance of energy facilities. At such time as he finds that it is necessary to put all or part of such plan into effect, he shall transmit such plan or portion thereof to each House of Congress and such plan or portion thereof shall take effect in the same manner as an energy conservation plan prescribed under section 105 and to which section 105 (b)(3)(B) applies (except that such plan may be submitted at any time after the date of enactment of this Act and before May 15, 1975).

(b) Section 4(b)(1)(G) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of—

"(i) fuels, and

"(ii) minerals essential to the requirements of the United States,

and for required transportation related thereto,"

SEC. 108. FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES.

(a) The Administrator may initiate the following measures to supplement domestic energy supplies for the duration of the emergency:

(1) require by order or rule, the production of designated existing domestic oilfields, at their maximum efficient rate of production, which is the maximum rate at which production may be sustained without detriment to the ultimate recovery of oil and gas under sound engineering and economic principles. Such fields are to be designated by the Secretary of the Interior, after consultation with the appropriate State regulatory agency. Data to determine the maximum efficient rate of production shall be supplied to the Secretary of the Interior by the State regulatory agency which determines the maximum efficient rate of production and by the operators who have drilled wells in, or are producing oil and gas from such fields;

(2) require, if necessary to meet essential energy needs, production of certain designated existing domestic oilfields at rates in excess of their currently assigned maximum efficient rates. Fields to be so designated, by the Secretary of the Interior or the Secretary of the Navy as to the Federal lands or as to Federal interests in lands under their respective jurisdiction, shall be those fields where the types and quality of reservoirs are such as to permit production at rates in excess of the currently assigned sustainable maximum efficient rate for periods of ninety days or more without excessive risk of losses in recovery;

(3) require the adjustment of processing operations of domestic refineries to produce refined products in proportions commensurate with national needs and consistent with the objectives of section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(b) Nothing in this section shall be construed to authorize the production of any Naval Petroleum Reserve now subject to the provisions of chapter 641 of title 10 of the United States Code.

SEC. 109. OTHER AMENDMENTS TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 as amended by section 104 of this Act is amended by adding at the end of such section the following new subsection:

"(i) If any provision of the regulation under subsection (a) provides that any allocation of residual fuel oil or refined petroleum products is to be based on use of such a product or amounts of such product supplied during a historical period, the regulation shall contain provisions designed to assure that the historical period can be adjusted (or other adjustments in allocations can be made) in order to reflect regional disparities in use, population growth or unusual factors influencing use (including unusual changes in climatic conditions), of such oil or product in the historical period. This subsection shall take effect 30 days after the date of enactment of the Energy Emergency Act. Adjustments for such purposes shall take effect no later than 6 months after the date of enactment of this subsection. Adjustments to reflect population growth shall be based upon the most current figures available from the United States Bureau of the Census."

(b) Section 4(g)(1) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "February 28, 1975" in each case the term appears and inserting in each case "May 15, 1975".

SEC. 110 PROHIBITION ON WINDFALL PROFITS—PRICE GOUGING.

(a)(1) The President shall exercise his authority under the Emergency Petroleum Allocation Act of 1973 and under the Economic Stabilization Act of 1970 so as to specify prices for sales of petroleum products produced in or imported into the United States, which avoid windfall profits by sellers.

(2) Any interested person, who has reason to believe that any price (specified under any of the authorities referred to in paragraph (1) of this subsection) of petroleum products permits a seller thereof any windfall profits, may petition the Renegotiation Board (created by section 107(a) of the Renegotiation Act of 1951 and hereinafter in this subsection referred to as the "Board") for a determination under subparagraph (A) or (B) or paragraph (3).

(3)(A) Upon petition of any interested person, the Board may by rule determine, after opportunity for oral presentation of views, data, and arguments, whether the price (specified under any of the authorities referred to in paragraph (1)) of petroleum product permits sellers thereof to receive windfall profits. Upon a final determination of the Board that such price permits windfall profits to be so received, it shall specify a price for such sales which will not permit such profits to be received by such sellers. After such a final determination, no higher price may be specified (under any of the authorities specified in paragraph (1)) except with the approval of the Board.

(B) Upon petition of any interested person and notwithstanding any proceeding or determination under subparagraph (A), the Board may determine whether the price charged by a particular seller of any petroleum product permitted such seller to receive windfall profits. If, on the basis of such petition, the Board has reason to believe that such price has permitted such seller to receive windfall profits, it may order such seller to take such actions (including the escrowing of funds) as it may deem appropriate to assure that sufficient funds will be available for the refund of windfall profits in the event there is a final determination by the Board under this subparagraph that such seller has received windfall profits. Prior to a final determination under this subparagraph, such seller shall be afforded a hearing in accordance with the procedures required by section 554 of title 5, United States Code. Upon a final determination of the Board that such price permitted such seller to receive windfall profits, the Board shall order such seller to refund an amount equal to such windfall profits to the persons who have purchased from such seller at prices which resulted in such windfall profits. If such persons are not reasonably ascertainable, the Board shall order the sellers for the purpose of refunding such profits, to reduce the price for future sales, to create a fund against which previous purchasers of such item may file a claim under rules which shall be prescribed by the Board, or to take such other action as the Board may deem appropriate.

(C) Notwithstanding section 108 of the Renegotiation Act of 1951 and section 211 of the Economic Stabilization Act of 1970, any final determination under subparagraph (A) or (B) shall be subject to judicial review in accordance with sections 701 through 706 of title 5, United States Code.

(4)(A) The Board may provide, in its discretion under regulations prescribed by the Board, for such consolidation as may be necessary or appropriate to carry out the purposes of this subsection.

(B) The Board may make such rules, regulations, and orders as it deems necessary or appropriate to carry out its functions under this subsection.

(5) The determination and approval authority of the Board under this paragraph may not be delegated or redelegated pursuant to section 107(d) of the Renegotiation Act of 1951 to any agency of the Government other than an agency established by the Board.

(6) For the purposes of subparagraph (B) of paragraph (3), the term "windfall profits" means that profit (during an appropriate accounting period as determined by the Board) derived from the sale of any petroleum product determined by the Board to be in excess of the lesser of—

(A) a reasonable profit with respect to the particular seller as determined by the Board upon consideration of—

(i) the reasonableness of its costs and profits with particular regard to volume of production;

(ii) the net worth, with particular regard to the amount and source of capital employed;

(iii) the extent of risk assumed;

(iv) the efficiency and productivity, particularly with regard to cost reduction techniques and economies of operation; and

(v) other factors the consideration of which the public interest and fair and equitable dealing may require which may be established and published by the Board; or

(B) the greater of—

(i) the average profit obtained by sellers for such products during the calendar years 1967 through 1971; or

(ii) the average profit obtained by the particular seller for such products during such calendar years.

(7) Except as provided in paragraph (6), for the purposes of this subsection, the term "windfall profits" means profit in excess of the average profit obtained by all sellers for such products during the calendar years 1967 through 1971.

(8) For the purposes of this subsection, the term "interested person" includes the United States, any State, and the District of Columbia.

(9) This subsection shall not apply to the first sale of crude oil described in subsection (e)(2) of this section (relating to stripper wells).

(10) This section shall take effect on January 1, 1975, and shall apply to profits attributable to any price (specified under any of the authorities referred to in paragraph (1) of this subsection) of crude oil, residual fuel oil, and refined petroleum products in effect after December 31, 1973.

(b) Notwithstanding any other provision of law, administrative proceedings before the Board under this section shall be governed by subchapter II of chapter 5 of title 5, United States Code, and such proceedings shall be reviewed in accordance with chapter 7 of such title.

### SEC. 111. PROTECTION OF FRANCHISED DEALERS.

(a) As used in this section:

(1) The term "distributor" means a person engaged in the sale, consignment, or distribution of petroleum products to wholesale or retail outlets whether or not it owns, leases, or in any way controls such outlets.

(2) The term "franchise" means any agreement or contract between a refiner or a distributor and a retailer or between a refiner and a distributor, under which such retailer or distributor is granted authority to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or distributor, or any agreement or contract between such parties under which such retailer or distributor is granted authority to occupy premises owned, leased, or in any way controlled by a party to such agreement or contract, for the purpose of engaging in the distribution or sale of petroleum products for purposes other than resale.

(3) The term "notice of intent" means a written statement of the alleged facts which, if true, constitute a violation of subsection (b) of this section.

(4) The term "refiner" means a person engaged in the refining or importing of petroleum products.

(5) The term "retailer" means a person engaged in the sale of any refined petroleum product for purposes other than resale within any State, either under a franchise or independent of any franchise, or who was so engaged at any time after the start of the base period.

(b)(1) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless he furnishes prior notification pursuant to this paragraph to each distributor or retailer affected thereby. Such notification shall be in writing and sent to such distributor or retailer by certified mail not less than ninety days prior to the date on which such franchise will be canceled, not renewed, or otherwise terminated. Such notification shall contain a statement of intention to cancel, not renew, or to terminate together with the reasons therefor, the date on which such action shall take effect, and a statement of the remedy or remedies available to such distributor or retailer under this section together with a summary of the applicable provisions of this section.

(2) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless the retailer or distributor whose franchise is terminated failed to comply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out the terms of such franchise, or unless such refiner or distributor withdraws entirely from the sale of refined petroleum products in commerce for sale other than resale in the United States.

(c)(1) If a refiner or distributor engages in conduct prohibited under subsection (b) of this section, a retailer or a distributor may maintain a suit against such refiner or distributor. A retailer may maintain such suit against a distributor or a refiner whose actions affect commerce and whose products with respect to conduct prohibited under paragraphs (1) or (2) of subsection (b) of this section, he sells or has sold, directly or indirectly, under a franchise. A distributor may maintain such suit against a refiner whose actions affect commerce and whose products he purchases or has purchased or whose products he distributes or has distributed to retailers.

(2) The court shall grant such equitable relief as is necessary to remedy the effects of conduct prohibited under subsection (b) of this section which it finds to exist including declaratory judgment and mandatory or prohibitive injunctive relief. The court may grant interim equitable relief, and actual and punitive damages (except for actions for a failure to renew) where indicated, in suits under this section, and may, unless such suit is frivolous, direct that costs, including reasonable attorney and expert witness fees, be paid by the defendant. In the case of actions for a failure to renew damages shall be limited to actual damages including the value of the dealer's equity.

(3) A suit under this section may be brought in the district court of the United States for any judicial district in which the distributor or the refiner against whom such suit is maintained resides, is found, or is doing business, without regard to the amount in controversy. No such suit shall be maintained unless commenced within three years after the cancellation, failure to renew, or termination of such franchise or the modification thereof.

### SEC. 112. PROHIBITIONS ON UNREASONABLE ACTIONS.

(a) Action taken under authority of this Act, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in the allocation of petroleum products and electrical energy among classes of users or resulting in restrictions on use of petroleum products and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among classes of users: *Provided*, That with respect to allocations of petroleum products applicable to the foreign trade and commerce of the United States, no foreign corporation or entity shall receive more favorable treatment in the allocation of petroleum products than that which is accorded by its home country to

United States States citizens engaged in the same line of commerce, and allocations shall contain provisions designed to foster reciprocal and non-discriminatory treatment by foreign countries of United States citizens engaged in foreign commerce.

(b) To the maximum extent practicable, any restriction on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restriction on all sectors of the economy, without imposing on unreasonably disproportionate share of such burden on any specific industry, business or commercial enterprise, or on any individual segment thereof and shall give due consideration to the needs of commercial, retail, and service establishments whose normal function is to supply goods and services of an essential convenience nature during times of day other than conventional daytime working hours.

SEC. 113. REGULATED CARRIERS.

(a) The Interstate Commerce Commission (with respect to common or contract carriers subject to economic regulation under the Interstate Commerce Act), the Civil Aeronautics Board, and the Federal Maritime Commission shall, for the duration of the period beginning on the date of enactment of this Act and ending on May 15, 1975, have authority to take any action for the purpose of conserving energy consumption in a manner found by such Commission or Board to be consistent with the objectives and purposes of the Acts administered by such Commission or Board on its own motion or on the petition of the Administrator which existing law permits such Commission or Board to take upon the motion or petition of any regulated common or contract carrier or other person.

(b) The Interstate Commerce Commission shall, by expedited proceedings, adopt appropriate rules under the Interstate Commerce Act which eliminate restrictions on the operating authority of any motor common carrier of property which require excessive travel between points with respect to which such motor common carrier has regularly performed service under authority issued by the Commission. Such rules shall assure continuation of essential service to communities served by any such motor common carrier.

(c) Within 45 days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the period beginning on the date of enactment of this Act and ending on May 15, 1975 while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—

(1) the type of regulatory authority needed;

(2) the reasons why such authority is needed;

(3) the probable impact on fuel conservation of such authority;

(4) the probable effect on the public convenience and necessity of such authority; and

(5) the competitive impact, if any, of such authority.

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to provide for the public convenience and necessity during such period.

SEC. 114. ANTITRUST PROVISIONS.

(a) Except as specifically provided in subsection (i), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil and criminal liability or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust laws" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c) (1) To achieve the purposes of this Act, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App. I), whether or not such Act or any of its provisions expires or terminates during the term of this Act or of such committees, and in all cases shall be chaired by a regular full-time Federal employee and shall include representatives of the public. The meetings of such committees shall be open to the public.

(2) A representative of the Federal Government shall be in attendance at all meetings of any advisory committee established pursuant to this section. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of sections 552 (b)(1) and (b)(3) of title 5, United States Code.

(d) The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil or any refined petroleum product may develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives stated in section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(1) Such agreements and plans of action shall be developed by meetings of committees, councils, or other groups which include representatives of the public, of interested segments of the petroleum industry and of industrial, municipal and private consumers, and shall in all cases be chaired by a regular full-time Federal employee.

(2) Meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission and to the public in the affected community;

(3) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views and arguments at such meetings;

(4) A full and complete verbatim transcript shall be kept of any meeting, conference or communication held to develop, implement or carry out a voluntary agreement or a plan of action under this subsection and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be available for public inspection and copying, subject to provisions of section 552 (b)(1) and (b)(3) of title 5, United States Code.

(f) The Federal Trade Commission may exempt types or classes of meetings, conferences or communications from the requirements of subsection (c)(3) and (e)(4) provided such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of implementing or carrying out a voluntary agreement or plan of action authorizd pursuant to this section. Such ministerial meeting, conference or communication may take place in accordance with such requirements as the Federal Trade Commission may prescribe by rule. Such persons participating in such meeting, conference or communication shall cause a record to be made specifying the data such meeting, conference, or communication took place and the persons involved, and summarizing the subject matter discussed. Such record shall be filed with the Federal Trade Commission and the Attorney General, where it shall be made available for public inspection and copying.

(g) (1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation and carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this Act. Each shall have the right to review, amend, modify, disapprove, or prospectively revoke, on its own motion or upon the request of any interested person, any plan of action or voluntary agreement at any time, and, if revoked, thereby withdraw prospectively the immunity conferred by subsection (i) of this section.

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented, where it shall be made available for public inspection and copying.

(h) (1) The Attorney General and the Federal Trade Commission shall monitor the development, implementation and carrying out of plans of action and voluntary agreements authorized under this section to assure the protection and fostering of competition and the prevention of anticompetitive practices and effects.

(2) The Attorney General and the Federal Trade Commission shall promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts and other records related to the development, implementation or carrying out of plans of action or voluntary agreements authorized pursuant to this Act.

(3) Persons developing, implementing or carrying out plans of action or voluntary agreements authorized pursuant to this Act shall maintain those records required by such joint regulations. The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Federal Trade Commission and the Attorney General may each prescribe such rules and regulations as may be necessary or appropriate to carry out their responsibilities under this Act. They may both utilize for such purposes and for purposes of enforcement, any and all powers conferred upon

the Federal Trade Commission or the Department of Justice, or both, by any other provision of law, including the antitrust laws; and wherever such provision of law refers to "the purposes of this Act" or like terms, the reference shall be understood to be this Act.

(i) There shall be available as a defense to any civil or criminal action brought under the antitrust laws in respect of actions taken in good faith to develop and implement a voluntary agreement or plan of action to carry out a voluntary agreement by persons engaged in the business of producing, refining, marketing or distributing crude oil, residual fuel oil, or any refined petroleum product that—

(1) such action was—

(A) authorized and approved pursuant to this section, and

(B) undertaken and carried out solely to achieve the purposes of this section and in compliance with the terms and conditions of this section, and the rules promulgated hereunder; and

(2) such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

(j) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act, (2) outside the scope and purpose or not in compliance with the terms and conditions of this Act and this section, or (3) subsequent to its expiration or repeal.

(k) Effective on the date of enactment of this Act, this section shall apply in lieu of section 6(c) of the Emergency Petroleum Allocation Act of 1973. All actions taken and any authority or immunity granted under such section 6(c) shall be hereafter taken or granted, as the case may be, pursuant to this section.

(l) The provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action authorized to be taken under this Act or the Emergency Petroleum Allocation Act of 1973.

(m) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every six months, a report on the impact on competition and on small business of actions authorized by this section.

(n) The authority granted by this section (including any immunity under subsection (i)) shall terminate on May 15, 1975.

(o) The exercise of the authority provided in section 113 shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing from the beginning an adequate opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division, who shall propose any alternative which would avoid or overcome, to the greatest extent practicable, any anticompetitive effects while achieving the purposes of this Act.

### SEC. 115. EXPORTS.

To the extent necessary to carry out the purpose of this Act, the Administrator may under authority of this Act, by rule, restrict exports of coal, petroleum products, and petrochemical feedstocks, under such terms as he deems appropriate: *Provided*, That, the Administrator shall restrict exports of coal, petroleum products, or petrochemical feedstocks if either the Secretary of Commerce or the Secretary of Labor certifies that such exports would contribute to unemployment in the United States. The Secretary of Commerce, pursuant to the Export Administration Act of 1969 (but without regard to the phrase "and to reduce the serious inflationary impact of abnormal foreign demand" in section 3(2)(A) of such Act), may restrict the exports of coal, petroleum products, and petrochemical feedstocks, and of materials and equipment essential to the production, transport, or processing of fuels to the extent necessary to carry out the purpose of this Act and sections 4(b) and 4(d) of the Emergency Petroleum Allocation Act of 1973: *Provided*, That in the event that the Administrator certifies to the Secretary of Commerce that export restrictions of products enumerated in this section are necessary to carry out the purpose of this Act, the Secretary of Commerce shall impose such export restrictions. Rules under this section by the Administrator and actions by the Secretary of Commerce under the Export Administration Act of 1969 shall take into account the historical trading relations of the United States with Canada and Mexico and shall not be inconsistent with subsections (b) and (d) of section 4 of the Emergency Petroleum Allocation Act of 1973.

### SEC. 116. EMPLOYMENT IMPACT AND UNEMPLOYMENT ASSISTANCE.

(a) The President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

(b) The President shall make grants to States to provide to any individual unemployed, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred.

(c) On or before the sixtieth day following the date of enactment of this Act, the President shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers and shall include legislative recommendations which the President deems appropriate to meet such needs, including revisions in the unemployment insurance laws.

### SEC. 117. USE OF CARPOOLS.

(a) The Secretary of Transportation shall encourage the creation and expansion of the use of carpools as a viable component of our nationwide transportation system. It is the intent of this section to maximize the level of carpool participation in the United States.

(b) The Secretary of Transportation is directed to establish within the Department of Transportation an "Office of Carpool Promotion" whose purpose and responsibilities shall include—

(1) responding to any and all requests for information and technical assistance on carpooling and carpooling systems from units of State and local governments and private groups and employees;

(2) promoting greater participation in carpooling through public information and the preparation of such materials for use by State and local governments;

(3) encouraging and promoting private organizations to organize and operate carpool systems for employees;

(4) promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of carpool systems; and

(5) promoting other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

(c) The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll adjustments, and other incentives as may be found beneficial and administratively feasible to the furtherance of carpool ridership, and consistent with the obligations of the State and local agencies which provide transportation services.

(d) The Secretary of Transportation shall allocate the funds appropriated pursuant to the authorization of subsection (f) according to the following distribution between the Federal and State or local units of government;

(1) The initial planning process—up to 100 percent Federal.

(2) The systems design process—up to 100 percent Federal.

(3) The initial startup and operation of a given system—60 percent Federal and 40 percent State or local with the Federal portion not to exceed 1 year.

(e) Within 12 months of the date of enactment of this Act, the Secretary of Transportation shall make a report to Congress of all his activities and expenditures pursuant to this section. Such report shall include any recommendations as to future legislation concerning carpooling.

(f) The sum of $5,000,000 is authorized to be appropriated for the conduct of programs designed to achieve the goals of this section, such authorization to remain available for 2 years.

(g) For purposes of this section, the terms "local governments" and "local units of government" include any metropolitan transportation organization designated as being responsible for carrying out section 134 of title 23, United States Code.

(h) As an example to the rest of our Nation's automobile users, the President of the United States shall take such action as is necessary to require all agencies of Government, where practical, to use economy model motor vehicles.

(i)(1) The President shall take action to require that no Federal official or employee in the executive branch below the level of Cabinet officer be furnished a limousine for individual use. The provisions of this subsection shall not apply to limousines furnished for use by officers or employees of the Federal Bureau of Investigation, or to those persons whose assignments necessitate transportation by limousines because of diplomatic assignment by the Secretary of State.

(2) For purposes of this subsection, the term "limousine" means a type 6 vehicle as defined in the Interim Federal Specifications issued by the General Services Administration, December 1, 1973.

### SEC. 118. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.

(a)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order (including a rule or order issued by a State or officer thereof) under this title (except with respect to any rule or order pursuant to sections 108 and 113 of this Act, section 205(a), (b), and (c), of this Act, or section 4(h) of the Emergency Petroleum Allocation Act of 1973) or under the authority of any energy conservation plan.

(2) Notice of any proposed rule or order described in paragraph (1) shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious impairment to the operation of the program to which such rule or order relates and such findings are set out in detail in such rule or order. In addition, public notice of all rules or orders promulgated by officers of a State or political subdivision thereof or to State or local boards pursuant to this Act shall to the maximum extent practicable be achieved by publication of such rules or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(3) In addition to the requirements of paragraph (2), if any rule or order described in paragraph (1) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the implementation of such rule or order, but in all cases such opportunity shall be afforded no later than 45 days after the implementation of any such rule or order. A transcript shall be kept of any oral presentation.

(4) Any officer or agency authorized to issue rules or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act or the Emergency Petroleum Allocation Act of 1973 (as the case may be), as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) when such denial becomes final. The officer or agency shall, in rules prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(5) In addition to the requirements of section 552 of title 5, United States Code, any agency authorized by this Act or the Emergency Petroleum Allocation Act of 1973 to issue rules or orders shall make available to the public all internal rules and guidelines which may form the basis, in whole or in part, for any rule or order with such modifications as are necessary to insure confidentiality protected under such section 552. Such agency shall, upon written request of a petitioner filed after any grant or denial of a request for exception or exemption from rules or orders furnish the petitioner with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. Such opinions shall be made available to the petitioner and the public within thirty days of such request and with such modifications as are necessary to insure confidentiality of information protected under such section 552.

(b) (1) Judicial review of administrative rulemaking of general and national applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the District of Columbia within thirty days from the date of promulgation of any such rule or regulation, and judicial review of administrative rulemaking of general, but less than national, applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within thirty days from the date of promulgation of any such rule or regulation, the appropriate circuit being defined as the circuit which contains the area or the greater part of the area within which the rule or regulation is to have effect.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under regulations or orders issued thereunder, except any actions taken by the Civil Aeronautics Board, the Interstate Commerce Commission, Federal Power Commission, or the Federal Maritime Commission, or any actions taken to implement or enforce any rule or order by any officer of a State or political subdivision thereof or State or local board which has been delegated authority under section 122 of this Act except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the constitutionality of this title or the validity of action taken by any agency under this Act). If in any such proceeding an issue by way of defense is raised based on the constitutionality of this Act or the validity of agency action under this Act, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code. Cases or controversies arising under any rule or order of any officer of a State or political subdivision thereof or a State or local board may be heard in either (1) any appropriate State court, and (2) without regard to the amount in controversy, the district courts of the United States.

(c) The Administrator may by rule prescribe procedures for State or local boards which carry out functions under this Act or the Emergency Petroleum Allocation Act of 1973. Such procedures shall apply to such boards in lieu of subsection (a), and shall require that prior to taking any action, such boards shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) at least 10 days before taking the action. Such boards shall be of balanced composition reflecting the makeup of the community as a whole.

### SEC. 119. PROHIBITED ACTS.

It shall be unlawful for any person to violate any provision of title I of this Act (other than provisions of this Act which make amendments to the Emergency Petroleum Allocation Act of 1973 and section 113) or to violate any rule, regulation (including an energy conservation plan) or order issued pursuant to any such provision.

### SEC. 120. ENFORCEMENT.

(a) Whoever violates any provision of section 119 shall be subject to a civil penalty of not more than $2,500 for each violation.

(b) Whoever willfully violates any provision of section 119 shall be fined not more than $5,000 for each violation.

(c) It shall be unlawful for any person to offer for sale or distribute in commerce any product or commodity in violation of an applicable order or regulation issued pursuant to this Act. Any person who knowingly and willfully violates this subsection after having been subjected to a civil penalty for a prior violation of the same provision of any order or regulation issued pursuant to this Act shall be fined not more than $50,000 or imprisoned not more than six months, or both.

(d) Whenever it appears to any person authorized by the Administrator to exercise authority under this Act that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of section 119, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any provision, the violation of which is prohibited by section 119.

(e) Any person suffering legal wrong because of any act or practice arising out of any violation of section 119 may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

### SEC. 121. USE OF FEDERAL FACILITIES.

Whenever practicable, and for the purpose of facilitating the transportation and storage of fuel, agencies or departments of the United States are authorized, during the period beginning on the date of enactment of this Act and ending May 15, 1975, to enter into arrangements for the acquisition or use by domestic public entities and private industries of equipment or facilities which are surplus to the needs of such agency or department and appropriate to the transportation and storage of fuel, except that such arrangements may be made (1) only after the Administrator finds that such equipment or facilities are not available from private sources and (2) only on the basis of compensation for the acquisition or use of such equipment or facilities at fair market value prices or rentals.

### SEC. 122. DELEGATION OF AUTHORITY AND EFFECT ON STATE LAW.

(a) The Administrator may delegate any of his functions under the Emergency Petroleum Allocation Act of 1973 or this Act to any officer or employee of the Federal Energy Emergency Administration as he deems appropriate. The Administrator may delegate any of his functions relative to implementation and enforcement of the Emergency Petroleum Allocation Act of 1973 or this Act to officers of a State or political subdivision thereof or to State or local boards of balanced composition reflecting the make-up of the community as a whole. Such officers or boards shall be designated and established in accordance with regulations as the Administration shall promulgate under this Act. Section 5(b) of the Emergency Petroleum Allocation Act of 1973 is repealed effective on the effective date of the transfer of functions under such Act to the Administrator pursuant to section 103 of this Act.

(b) No State law or State program in effect on the date of enactment of this Act, or which may become effective thereafter shall be superseded by any provision of this Act or any regulation, order, or energy conservation plan issued pursuant to this Act except insofar as such State law or State program is inconsistent with the provisions of this Act, or such a regulation, order, or plan.

### SEC. 123. GRANTS TO STATES.

All funds authorized to be appropriated under section 127(b) shall be available for the purpose of making grants to States to which the Administrator has delegated authority under section 122 of this Act, or for the administration of appropriate State or local energy conservation programs which are the basis of an exemption made pursuant to section 105(a)(2) of this Act from a Federal agency conservation plan which has taken effect under section 105 of this Act. The Administrator shall make such grants upon such terms and conditions as he may prescribe by rule.

### Sec. 124. Reports on National Energy Resources.

(a) For the purpose of providing to the Administrator, Congress, the States, and the public, to the maximum extent possible, reliable data on reserves, production, distribution, and use of petroleum products, natural gas, and coal, the Administrator shall promptly publish for public comment a regulation requiring that persons doing business in the United States, who, on the effective date of this Act, are engaged in exploring, developing, processing, refining, or transporting by pipeline, any petroleum product, natural gas, or coal, shall provide detailed reports to the Administrator every sixty calendar days. Such reports shall show for the preceding sixty calendar days such person's (1) reserves of crude oil, natural gas, and coal; (2) production and destination of any petroleum product, natural gas, and coal; (3) refinery runs byproduct; and (4) other data required by the Administrator for such purpose. Such regulation shall also require that such persons provide to the Administrator such reports for the period from January 1, 1970, to the date of such person's first sixty day report. Such regulation shall be promulgated 30 days after such publication. The Administrator shall publish quarterly in the Federal Register a meaningful summary analysis of the data provided by such reports.

(b) The reporting requirements of this section shall not apply to the retail operations of persons required to file such reports. Where a person shows that all or part of the data required by this section is being reported by such person to another Federal agency, the Administrator may exempt such person from reporting all or part of such data directly to him, and upon such exemption, such agency shall, notwithstanding any other provision of law, provide such data to the Administrator. The district courts of the United States are authorized, upon application of the Administrator, to require enforcement of such reporting requirements.

(c) Upon a showing satisfactory to the Administrator by any person that any report or part thereof obtained under this section from such person or from a Federal agency would, if made public, divulge methods or processes entitled to protection as trade secrets or other proprietary information of such person, such report, or portion thereof, shall be confidential in accordance with the provisions of section 1905 of title 18 of the United States Code, except that such report or part thereof shall not be deemed confidential for purposes of disclosure to (1) any delegate of the Federal Energy Emergency Administration for the purpose of carrying out this Act, (2) the Attorney General, the Secretary of the Interior, the Federal Trade Commission, the Federal Power Commission, or the General Accounting Office when necessary to carry out those agencies' duties and responsibilities under this and other statutes, and (3) the Congress or any Committee of Congress upon request of the Chairman. The provisions of this section shall expire on May 15, 1975.

### Sec. 125. Intrastate Gas.

Nothing in this Act shall expand the authority of the Federal Power Commission with respect to sales of non-jurisdictional natural gas.

### Sec. 126. Expiration.

The authority under this title to prescribe any rule or order or take other action under this title, or to enforce any such rule or order, shall expire at midnight, May 15, 1975, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, May 15, 1975.

### Sec. 127. Authorization of Appropriations.

(a) There are authorized to be appropriated to the Federal Energy Emergency Agency to carry out its functions under this Act and under other laws, and to make grants to States under section 123, $75,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975.

(b) For the purpose of making payments under grants to States under section 123, there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975.

(c) For the purpose of making payments under grants to States under section 116, there is authorized to be appropriated $500,000,000 for the fiscal year ending June 30, 1974.

### Sec. 128. Severability.

If any provision of this Act, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

### Sec. 129. Price Authority.

The President shall exercise his authority under the Economic Stabilization Act of 1970, as amended, and the Emergency Petroleum Allocation Act of 1973 to specify prices for sales of crude oil, residual fuel oil, or refined petroleum products in or imported into the United States which avoid windfall profits by sellers. For purposes of this section, windfall profits shall be defined as those profits which are excessive or unreasonable, taking into consideration normal profit levels. This section shall be effective only until December 31, 1974.

### Sec. 130. Importation of Liquefied Natural Gas.

The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new section:

"Sec. 8. Notwithstanding the provisions of section 3 of the Natural Gas Act (or any other provisions of law) the President may by order, on a finding that such action would be consistent to the public interest, authorize on a shipment-by-shipment basis the importation of liquefied natural gas from a foreign country: Provided, however, That the authority to act under this section shall not permit the importation of liquefied natural gas which had not been authorized prior to the date of expiration of this Act and which is in transit on such date."

## TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

### Sec. 201. Suspension Authority.

Title I of the Clean Air Act (42 U.S.C. 1857 et seq.) is amended by adding at the end thereof the following new section:

"ENERGY EMERGENCY AUTHORITY

"Sec. 110. (a)(1)(A) The Administrator may, for any period beginning on or after the date of enactment of this section and ending on or before November 1, 1974, temporarily suspend any stationary source fuel or emission limitation as it applies to any person, if the Administrator finds that such person will be unable to comply with such limitation during such period solely because of unavailability of types or amounts of fuels. Any suspension under this paragraph and any interim requirement on which such suspension is conditioned under paragraph (3) shall be exempted from any procedural requirements set forth in this Act or in any other provision of local, State, or Federal law; except as provided in subparagraph (B).

"(B) The Administrator shall give notice to the public of a suspension and afford the public an opportunity for written and oral presentation of views prior to granting such suspension unless otherwise provided by the Administrator for good cause found and published in the Federal Register. In any case, before granting such a suspension he shall give actual notice to the Governor of the State, and to the chief executive officer of the local government entity in which the affected source or sources are located. The granting or denial of such suspension and the imposition of an interim requirement shall be subject to judicial review only on the grounds specified in paragraphs (2)(B) and (2)(C) of section 706 of title 5, United States Code, and shall not be subject to any proceeding under section 304(a)(2) or 307(b) and (c) of this Act.

"(2) In issuing any suspension under paragraph (1) the Administrator is authorized to act on his own motion without application by any source or State.

"(3) Any suspension under paragraph (1) shall be conditioned upon compliance with such interim requirements as the Administrator determines are reasonable and practicable. Such interim requirements shall include, but need not be limited to, (A) a requirement that the source receiving the suspension comply with such reporting requirements as the Administrator determines may be necessary, (B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and (C) requirements that the suspension shall be inapplicable during any period during which fuels which would enable compliance with the suspended stationary source fuel or emission limitations are in fact reasonably available to that person (as determined by the Administrator). For purposes of clause (C) of this paragraph, availability of natural gas or petroleum products which enable compliance shall not make a suspension inapplicable to a source described in subsection (b)(1) of this section.

"(4) For purposes of this section:

"(A) The term 'stationary source fuel or emission limitation' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under this Act (other than section 303, 111(b), or 112) or contained in an applicable implementation plan and which is designed to limit stationary source emissions resulting from combustion of fuels, including a prohibition on, or specification of, the use of any fuel of any type or grade or pollution characteristc thereof.

"(B) The term 'stationary source' has the same meaning as such term has under section 111(a)(3).

"(b)(1) Except as provided in paragraph (2) of this subsection, any fuel-burning stationary source (A) which is prohibited from using petroleum products or natural gas as fuel by reason of an order isued under section 106(a) of the Energy Emergency Act, or which the Administrator determines began conversion to the use of coal as fuel during the 90-day period ending on December 15, 1973, and (B) which converts to the use of coal as fuel, shall not, until January 1, 1973, be prohibited, by reason of the application of any air pollution requirement, from burning coal which is available to such source.

"(2)(A) Paragraph (1) of this subsection shall apply to a source, only if the Administrator finds that emissions from the source will not materially contribute to a significant risk to public health and if the source has submitted to the Administrator a plan for compliance for such source which the Administrator has approved, after notice to interested persons and opportunity for presentation of views (including oral presentation of views). A plan submitted under the preceding sentence shall be approved only if it provides (i) for compliance by the means; and in accordance with a schedule which meets the requirements of subparagraph (B), and (ii) that such source will comply with requirements which the Administrator shall prescribe to assure that emissions from such source will not materially contribute to a significant risk to public health. The Administrator shall approve or disapprove any such plan within 60 days after such plan is submitted.

"(B) The Administrator shall prescribe regulations requiring that any source to which this subsection applies submit and obtain approval of its means for and schedule of compliance. Such regulations shall include requirements that such schedules shall include dates by which such source must (i) enter into contracts or other enforceable obligations for obtaining a long-term supply of coal or coal by-products (which contracts or obligations must have received prior approval of the Administrator), and (ii) take steps to obtain continuous emission reduction systems necessary to permit such source to burn such coal or coal by-products and to achieve the degree of emission reduction required by the following sentence. (Which steps and systems must have received prior approval of the Administrator). Such regulations shall also require that the source achieve as expeditiously as practicable considering the type of coal to be used (but not later than January 1, 1979) the same degree of emission reduction as it was required to achieve by the applicable implementation plan in effect on the date of enactment of this section. Such regulations shall also include such interim requirements as the Administrator determines are reasonable and practicable including requirements described in clauses (A) and (B) of subsection (a)(3).

"(C) The Administrator (after notice to interested persons and opportunity for presentation of views, including oral presentations of views, to the extent practicable) (i) may, prior to November 1, 1974, and shall thereafter prohibit the use of coal by a source to which paragraph (1) applies if he determines that the use of coal by such source is likely to materially contribute to a significant risk to public health; and (ii) may require such source to use coal of any particular type, grade, or pollution characteristic if such coal is available to such source. Nothing in this subsection (b) shall prohibit a State or local agency from taking action which the Administrator is authorized to take under this paragraph.

"(3) For purposes of this subsection, the term 'air pollution requirement' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation, including this Act (except for any requirement prescribed under this subsection or section 303), and which is designed to limit stationary source emissions resulting from combustion of fuels (including a restriction on the use or content of fuels). A conversion to coal to which this subsection applies shall not be deemed to be a modification for purposes of section 111(a)(2) and (4) of this Act.

"(4) A source to which this subsection applies may, upon the expiration of the exemption under paragraph (1), obtain a one year postponement of the application of any requirement of an applicable implementation plan under the conditions and in the manner provided in section 110(f).

"(c) The Administrator may by rule establish priorities under which manufacturers of continuous emission reduction systems shall provide such systems to users thereof, if he finds that priorities must be imposed in order to assure that such systems are first provided to users in air quality control regions with the most severe air pollution. No rule under this subsection may impair the obligation of any contract entered into before enactment of this section. No State or political subdivision may require any person to use a continuous emission reduction system for which priorities have been established under this subsection except in accordance with such priorities.

"(d) The Administrator shall study, and report to Congress not later than May 31, 1974, with respect to—

"(1) the present and projected impact on the program under this Act of fuel shortages and of allocation and end-use allocation programs;

"(2) availability of continuous emission reduction technology (including projections respecting the time, cost, and number of units available) and the effects that continuous emission reduction systems would have on the total environment and on supplies of fuel and electricity;

"(3) the number of sources and locations which must use such technology based on projected fuel availability data;

"(4) priority schedule for implementation of continuous emission reduction technology, based on public health or air quality;

"(5) evaluation of availability of technology to burn municipal solid waste in these sources; including time schedules, priorities, analysis of unregulated pollutants which will be emitted and balancing of health benefits and detriments from burning solid waste and of economic costs;

"(6) projections of air quality impact of fuel shortages and allocations;

"(7) evaluation of alternative control strategies for the attainment and maintenance of national ambient air quality standards for sulfur oxides within the time frames prescribed in the Act, including associated considerations of cost, time frames, feasibility, and effectiveness of such alternative control strategies as compared to stationary source fuel and emission regulations;

"(8) proposed allocations of continuous emission reduction technology for nonsolid waste producing systems to sources which are least able to handle solid waste byproduct, technologically, economically, and without hazard to public health, safety, and welfare; and

"(9) plans for monitoring or requiring sources to which this section applies to monitor the impact of actions under this section on concentration of sulfur dioxide in the ambient air.

"(e) No State or political subdivision may require any person to whom a suspension has been granted under subsection (a) to use any fuel the unavailability of which is the basis of such person's suspension (except that this preemption shall not apply to requirements identical to Federal interim requirements under subsection (a)(1)).

"(f)(1) It shall be unlawful for any person to whom a suspension has been granted under subsection (a)(1) to violate any requirement on which the suspension is conditioned pursuant to subsection (a)(3).

"(2) It shall be unlawful for any person to violate any rule under subsection (c).

"(3) It shall be unlawful for the owner or operator of any source to fail to comply with any requirement under subsection (b) or any regulation, plan, or schedule thereunder.

"(4) It shall be unlawful for any person to fail to comply with an interim requirement under subsection (i)(3).

"(g) Beginning January 1, 1975, the Administrator shall publish at no less than 180-day intervals, in the Federal Register the following:

"(1) A concise summary of progress reports which are required to be filed by any person or source owner or operator to which subsection (b) applies. Such progress reports shall report on the status of compliance with all requirements which have been imposed by the Administrator under such subsections.

"(2) Up-to-date findings on the impact of this section upon—

"(A) applicable implementation plans, and

"(B) ambient air quality.

"(h) Nothing in this section shall affect the power of the Administrator to deal with air pollution presenting an imminent and substantial endangerment to the health of persons under section 303 of this Act.

"(i)(1) In order to reduce the likelihood of early phaseout of existing electric generating facilities during the energy emergency, any electric generating power plant (A) which, because of the age and condition of the plant, is to be taken out of service permanently no later than January 1, 1980, according to the power supply plan (in existence on the date of enactment of the Energy Emergency Act) of the operator of such plant, (B) for which a certification to that effect has been filed by the operator of the plant with the Environmental Protection Agency and the Federal Power Commission, and (C) for which the Commission has determined that the certification has been made in good faith and that the plan to cease operations no later than January 1, 1980, will be carried out as planned in light of existing and prospective power supply requirements, shall be eligible for a single one-year postponement as provided in paragraph (2).

"(2) Prior to the date on which any plant eligible under paragraph (1) is required to comply with any requirement of an applicable implementation plan, such source may apply (with the concurrence of the Governor of the State in which the plant is located) to the Administrator to postpone the applicability of such requirement to such source for not more than one year. If the Administrator determines, after balancing the risk to public health and welfare which may be associated with a postponement, that compliance with any such requirement is not reasonable in light of the projected useful life of the plant, the availability of rate base increases to pay for such costs, and other appropriate factors, then the Administrator shall grant a postponement of any such requirements.

"(3) The Administrator shall, as a condition of any postponement under paragraph (2), prescribe such interim requirements as are practicable and reasonable in light of the criteria in paragraph (2).

"(j)(1) The Administrator may, after public notice and opportunity for presentation of views in accordance with section 553 of title 5, United States Code, and after consultation with the Federal Energy Emergency Administration, designate persons to whom fuel exchange orders should be issued. The purpose of such designation shall be to avoid or minimize the adverse impact on public health and welfare of any suspension under subsection (a) of this section or conversion to coal to which subsection (b) applies or of any allocation under the Energy Emergency Act or the Emergency Petroleum Allocation Act.

"(2) The Administrator of the Federal Energy Administration shall issue exchange orders to such persons as are designated by the Administrator under paragraph (1) requiring the exchange of any fuel subject to allocation under the preceding Acts effective no later than 45 days after the date of the designation under paragraph (1), unless the Administrator of the Federal Energy Administration determines, after consultation with the Administrator, that the costs or consumption of fuel, resulting from such exchange order, will be excessive.

"(3) Violation of any exchange order issued under paragraph (2) shall be a prohibited act and shall be subject to enforcement action and sanctions in the same manner and to the same extent as a violation of any requirement of the regulation under section 4 of the Emergency Petroleum Allocation Act of 1973."

### SEC. 202 IMPLEMENTATION PLAN REVISIONS.

(a) Section 110(a) of the Clean Air Act is amended in paragraph (3) by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) (1) For any air quality control region in which there has been a conversion to coal under section 119(b), the Administrator shall review the applicable implementation plan and no later than one year after the date of such conversion determine whether such plan must be revised in order to achieve the national primary standard which the plan implements. If the Administrator determines that any such plan is inadequate, he shall require that a plan revision be submitted by the State within three months after the date of notice to the State of such determination. Any plan revision which is submitted by the State after notice and public hearing shall be approved or disapproved by the Administrator, after public notice and opportunity for public hearing, but no later than three months after the date required for submission of the revised plan. If a plan provision (or portion thereof) is disapproved (or if a State fails to submit a plan revision), the Administrator shall, after public notice and opportunity for a public hearing, promulgate a revised plan (or portion thereof) not later than three months after the date required for approval or disapproval.

"(2) Any requirement for a plan revision under paragraph (1) and any plan requirement promulgated by the Administrator under such paragraph shall include reasonable and practicable measures to minimize the effect on the public health of any conversion to which section 119(b) applies."

(b) Subsection (c) of section 110 of the Clean Air Act (42 U.S.C. 1857 C–5) is amended by inserting "(1)" after "(c)"; by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and by adding the following new paragraph:

"(2) (A) The Administrator shall conduct a study and shall submit a report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate not later than May 1, 1974, on the necessity of parking surcharge, management of parking supply, and preferential bus/carpool lane regulations as part of the applicable implementation plans required under this section to achieve and maintain national primary ambient air quality standards. The study shall include an assessment of the economic impact of such regulations, consideration of alternative means of reducing total vehicle miles traveled, and an assessment of the impact of such regulations on other Federal and State programs dealing with energy or transportation. In the course of such study, the Administrator shall consult with other Federal officials including, but not limited to, the Secretary of Transportation, the Administrator of the Federal Energy Administration, and the Chairman of the Council on Environmental Quality.

"(B) No parking surcharge regulation may be required by the Administrator under paragraph (1) of this subsection as a part of an applicable implementation plan. All parking surcharge regulations previously required by the Administrator shall be void upon the date of enactment of this subsection. This subparagraph shall not prevent the Administrator from approving parking surcharges if they are adopted and submitted by a State as part of an applicable implementation plan. The Administrator may not condition approval of any applicable implementation plan submitted by a State on such plan's including a parking surcharge regulation.

"(C) The Administrator is authorized to suspend until January 1, 1975, the effective date or applicability of any regulations for the management of parking supply or any requirement that such regulations be a part of an applicable implementation plan approved or promulgated under this section. The exercise of the authority under this subparagraph shall not prevent the Administrator from approving such regulations if they are adopted and submitted by a State as part of an applicable implementation plan. If the Administrator exercises the authority under this subparagraph, regulations requiring a review or analysis of the impact of proposed parking facilities before construction which take effect on or after January 1, 1975, shall not apply to parking facilities on which construction has been initiated before January 1, 1975.

"(D) For purposes of this paragraph, the term 'parking surcharge regulation' means a regulation imposing or requiring the imposition of any tax, surcharge, fee, or other charge on parking spaces, or any other area used for the temporary storage of motor vehicles. The term 'management of parking supply' shall include any requirement providing that any new facility containing a given number of parking spaces shall receive a permit or other prior approval, issuance of which is to be conditioned on air quality considerations. The term 'preferential bus/carpool lane' shall include any requirement for the setting aside of one or more lanes of a street or highway on a permanent or temporary basis for the exclusive use of buses and/or carpools."

### SEC. 203. MOTOR VEHICLE EMISSIONS.

(a) Section 202(b) (1) (A) of the Clean Air Act is amended by striking out "1975" and inserting in lieu thereof "1977"; and by inserting after "(A)" the following: "The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5) (A) of this subsection for light-duty vehicles and engines manufactured during model year 1975."

(b) Section 202(b) (1) (B) of such Act is amended by striking out "1976" and inserting in lieu thereof "1978"; and by inserting after "(B)" the following: "The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1977 shall contain standards which provide that emissions of such vehicles and engines may not exceed 2.0 grams per vehicle mile."

(c) Section 202(b) (5) (A) of such Act is amended to read as follows:

"(5) (A) At any time after January 1, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1) (A) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1) (A) of this subsection) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1977."

(d) Section 202(b) (5) (B) of the Clean Air Act is repealed and the following subparagraphs redesignated accordingly.

### SEC. 204. CONFORMING AMENDMENTS.

(a) (1) Section 113(a) (3) of the Clean Air Act is amended by striking out "or" before "112(c)", by inserting a comma in lieu thereof, and by inserting after "hazardous emissions)" the following: ", or 119(f) (relating to priorities and certain other requirements)".

(2) Section 113(b) (3) of such Act is amended by striking out "or 112(c)" and inserting in lieu thereof ", 112(c), or 119(f)".

(3) Section 113(c) (1) (C) of such Act is amended by striking out "or section 112(c)" and inserting in lieu thereof ", section 112 (c), or section 119(f)".

(4) Section 114(a) of such Act is amended by inserting "119 or" before "303".

(b) Section 116 of the Clean Air Act is amended by inserting "119(b), (c) and (e)," before "209".

### SEC. 205. PROTECTION OF PUBLIC HEALTH AND ENVIRONMENT.

(a) Any allocation program provided for in title I of this Act or in the Emergency Petroleum Allocation Act of 1973, shall, to the maximum extent practicable, include measures to assure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Administrator of the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impact on public health.

(b) In order to determine the health effects of emissions of sulfur oxides in the air resulting from any conversions to burning coal pursuant to section 106, the Department of Health, Education, and Welfare shall, through the National Institute of Environmental Health Sciences and in cooperation with the Environmental Protection Agency, conduct a study of chronic effects among exposed populations. The sum of $3,500,000 is authorized to be appropriated for such a study. In order to assure that long-term studies can be conducted without interruption, such sums as are appropriated shall be available until expended.

(c) No action taken under this Act shall, for a period of 1 year after initiation of such action, be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856). However, before any action under this Act that has a significant impact on the environment is taken, if practicable, or in any event within 60 days after such action is taken, an environmental evaluation with analysis equivalent to that required under section 102(2) (C) of the National Environmental Policy Act, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a 30-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act by the appropriate Federal agency. Any action taken under this Act which will be in effect for more than a one year period (other than action taken pursuant to subsection (d) of this section) or any action to extend an action taken under this Act to a total period of more than 1 year shall be subject to the full provisions of the National Environmental Policy Act notwithstanding any other provision of this Act.

(d) Notwithstanding subsection (c) of this section, in order to expedite the prompt construction of facilities for the importation of hydroelectric energy thereby helping to reduce the shortage of petroleum products in the United States, the Federal Power Commission is hereby authorized and directed to issue a Presidential permit pursuant to Executive Order .0485 of September 3, 1953, for the construction, operation, maintenance, and connection of facilities for the transmission of electric energy at the borders of the United States without preparing an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969 (83 Stat. 856) for facilities for the transmission of electric energy between Canada and the United States in the vicinity of Fort Covington, New York.

Sec. 206. Energy Conservation Study.

(a) The Administrator of the Federal Energy Administration shall conduct a study on potential methods of energy conservation and, not later than 6 months after the date of enactment of this Act, shall submit to Congress a report on the results of such study. The study shall include, but not be limited, to the following:

(1) the energy conservation potential of restricting exports of fuels or energy-intensive products or goods, including an analysis of balance of payments and foreign relations implications of any such restrictions;

(2) federally sponsored incentives for the use of public transit, including the need for authority to require additional production of buses or other means of public transit and Federal subsidies for the duration of the energy emergency for reduced fares and additional expenses incurred because of increased service;

(3) alternative requirements, incentives, or disincentives for increasing industrial recycling and resource recovery in order to reduce energy demand, including the economic costs and fuel consumption trade-off which may be associated with such recycling and resource recovery in lieu of transportation and use of virgin materials;

(4) the costs and benefits of electrifying rail lines in the United States with a high density of traffic; including (A) the capital costs of such electrification, the oil fuel economies derived from such electrification, the ability of existing power facilities to supply the additional power load, and the amount of coal or other fossil fuels required to generate the power required for railroad electrification, and (B) the advantages to the environment of electrification of railroads in terms of reduced fuel consumption and air pollution and disadvantages to the environment from increased use of fossil fuel such as coal; and

(5) means for incentives or disincentives to increase efficiency of industrial use of energy.

(b) Within 90 days of the date of enactment of this Act, the Secretary of Transportation, after consultation with the Federal Energy Administrator, shall submit to the Congress for appropriate action an "Emergency Mass Transportation Assistance Plan" for the purpose of conserving energy by expanding and improving public mass transportation systems and encouraging increased ridership as alternatives to automobile travel.

(c) Such plan shall include, but shall not be limited to—

(1) recommendations for emergency temporary grants to assist States and local public bodies and agencies thereof in the payment of operating expenses incurred in connection with the provision of expanded mass transportation service in urban areas;

(2) recommendations for additional emergency assistance for the purchase of buses and rolling stock for fixed rail, including the feasibility of accelerating the timetable for such assistance under section 142(a)(2) of title 23, United States Code (the "Federal Aid Highway Act of 1973"), for the purpose of providing additional capacity for and encouraging increased use of public mass transportation systems;

(3) recommendations for a program of demonstration projects to determine the feasibility of fare-free and low-fare urban mass transportation systems, including reduced rates for elderly and handicapped persons during nonpeak hours of transportation;

(4) recommendations for additional emergency assistance for the construction of fringe and transportation corridor parking facilities to serve bus and other mass transportation passengers;

(5) recommendations on the feasibility of providing tax incentives for persons who use public mass transportation systems.

(d) In consultation with the Federal Energy Administrator, the Secretary of Transportation shall make an investigation and study for the purpose of conserving energy and assuring that the essential fuel needs of the United States will be met by developing a high-speed ground transportation system between the cities of Tijuana in the State of Baja California, Mexico, and Vancouver in the Province of British Columbia, Canada, by way of the cities of Seattle in the State of Washington, Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, Los Angeles and San Diego in the State of California. In carrying out such investigation and study the Secretary shall consider, but shall not be limited to—

(1) the efficiency of energy utilization and impact on energy resources of such a system, including the future impact of existing transportation systems on energy resources if such a system is not established;

(2) coordination with other studies undertaken on the State and local level; and

(3) such other matters as he deems appropriate.

The Secretary of Transportation shall report the results of the study and investigation pursuant to this Act, together with his recommendations, to the Congress and the President no later than December 31, 1974.

Sec. 207. Reports.

The Administrator of the Environmental Protection Agency shall report to Congress not later than January 31, 1975, on the implementation of sections 201 through 205 of this title.

Sec. 208. Fuel Economy Study.

Title II of the Clean Air Act is amended by redesignating section 213 as section 214 and by adding the following new section:

"FUEL ECONOMY IMPROVEMENT FROM NEW MOTOR VEHICLES

"Sec. 213. (a)(1) The Administrator and the Secretary of Transportation shall conduct a joint study, and shall report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committees on Public Works and Commerce of the United States Senate within 120 days following the date of enactment of this section, concerning the practicability of establishing a fuel economy improvement standard of 20 percent for new motor vehicles manufactured during and after model year 1980. Such study and report shall include, but not be limited to, the technological problems of meeting any such standard, including the leadtime involved; the test procedures required to determine compliance; the economic costs associated with such standard, including any beneficial economic impact; the various means of enforcing such standard; the effect on consumption of natural resources, including energy consumed; and the impact of applicable safety and emission standards. In the course of performing such study, the Administrator and the Secretary of Transportation shall utilize the research previously performed in the Department of Transportation, and the Administrator and the Secretary shall consult with the Administrator of the Federal Energy Administration, the Chairman of the Council on Environmental Quality, and the Secretary of the Treasury. The Office of Management and Budget may review such report before its submission to Congress but the Office may not revise the report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comments respecting such report. In connection with such study, the Administrator may utilize the authority provided in section 307(a) of this Act to obtain necessary information.

"(2) For the purpose of this section, the term 'fuel economy improvement standard' means a requirement of a percentage increase in the number of miles of transportation provided by a manufacturer's entire annual production of new motor vehicles per unit of fuel consumed, as determined for each manufacturer in accordance with test procedures established by the Administrator pursuant to this Act. Such term shall not include any requirement for any design standard or any other requirement specifying or otherwise limiting the manufacturer's discretion in deciding how to comply with the fuel economy improvement standard by any lawful means."

## TITLE III—STUDIES AND REPORTS

Sec. 301. Agency Studies.

The following studies shall be conducted, with reports on their results submitted to the Congress:

(1) Within 30 days after the date of enactment of this Act:

(A) The Administrator of the Federal Energy Emergency Administration shall conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if such rulings and regulations are contributing to the shortage of fuels and of materials associated with the production of energy supplies.

(B) All Federal departments and agencies, including the Federal regulatory agencies, are directed to undertake a survey of all activities over which they have special expertise or jurisdiction and identify and recommend to the Congress and to the President specific proposals to significantly increase energy supply or to reduce energy demand through conservation programs.

(C) The Secretary of the Treasury and the Director of the Cost of Living Council shall recommend to the Congress specific incentives to increase energy supply, reduce demand, to encourage private industry and individual persons to subscribe to the goals of this Act. This study shall also include an analysis of the price-elasticity of demand for gasoline.

(D) The Administrator shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers, together with legislative recommendations appropriate to meet such needs, including revisions in the unemployment insurance laws.

(E) The Secretary of the Interior and the Secretary of Commerce are directed to prepare a comprehensive report of (1) United States exports of petroleum products and other energy sources, and (2) foreign investment in production of petroleum products and other energy sources to determine the consistency or lack thereof of the Nation's trade policy and foreign investment policy with domestic energy conservation efforts. Such report shall include recommendations for legislation.

(2) Within 6 months after the date of enactment of this Act:

(A) The administrator shall develop and submit to the Congress no later than May 15, 1974, a plan for providing incentives for the increased use of public transportation and Federal subsidies for maintained or reduced fares and additional expenses incurred because of increased service for the duration of the Act. For the purposes of Section ——, the plan provided for in this section shall be considered an energy conservation plan.

(B) The Administrator of the FEEA shall

recommend to the Congress actions to be taken regarding the problem of the siting of energy producing facilities.

(C) The Administrtaor of the FEEA shall conduct a study of the further development of the hydroelectric power resources of the Nation, including an assessment of present and proposed projects already authorized by Congress and the potential of other hydroelectric power resources, including tidal power and geothermal steam.

(D) The Administrator shall prepare and submit to Congress a plan for encouraging the conversion of coal to crude oil and other liquid and gaseous hydrocarbons.

(E) The Secretary of the Interior shall study methods for accelerating leases of energy resources on public lands including oil and gas leasing onshore and offshore, and geothermal energy leasing.

SEC. 302. REPORTS OF THE PRESIDENT TO CONGRESS.

The President shall report to the Congress every sixty days, beginning February 1, 1974, on the implementation and administration of this Act and the Emergency Petroleum Allocation Act of 1973, together with an assessment of the results attained thereby. Each report shall include specific information, nationally and by region and State, concerning staffing and other administrative arrangements taken to carry out programs under these Acts and may include such recommendations as he deems necessary for amending or extending the authorities granted in this Act or in the Emergency Petroleum Allocation Act of 1973.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the Senate bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the Senate bill, insert the following: "An Act to assure, through energy conservation, end-use rationing of fuels, and other means, that the essential energy needs of the United States are met, and for other purposes."

And the House agree to the same.

HENRY M. JACKSON,
ALAN BIBLE,
LEE METCALF,
JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
HOWARD BAKER,
ADLAI STEVENSON,
TED STEVENS,
*Managers on the Part of the Senate.*

HARLEY O. STAGGERS,
TORBERT H. MACDONALD,
JOHN D. DINGELL,
PAUL G. ROGERS,
JAMES T. BROYHILL,
J. F. HASTINGS,
*Managers on the Part of the House.*

**Mr. JACKSON.** Mr. President, the purpose of S. 2589 is to assure continuation of vital services during continuing energy shortages. It is the purpose of this measure to equitably distribute the burden of energy shortages and minimize, insofar as practicable, the adverse impacts of the energy emergency in all sectors of society.

There has been much discussion of what constitutes a vital public service. I would like to make clear, at this point, that continuance of education would indeed be considered a vital public service, and that continuation of their operations are essential.

I have received a letter from the president of the National Education Association describing a number of ways in which schools can contribute to energy conservation, and requesting equitable consideration of educational facilities under proposed allocation and conservation programs. I commend such spirit, and ask unanimous consent that portions of that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

Those of us who work in the schools know very well that a part of the heat in the school room is body heat from the tremendous energy resources of the young people. Furthermore, the pupil in the classroom may actually use less scarce energy than the child in a heated home with the color TV or stereo blaring or the teenager cruising around aimlessly in a car. We question the premise that closing schools will result in a significant net saving of energy.

Some of the means being considered with regard to schools' efforts to conserve energy are obviously less disruptive than others.

Closing for an extended period is probably the most disruptive measure for the pupils, parents, and teachers. Learning progress would be impaired if the school term were interrupted for an extended period. Working parents have to provide daytime supervision for pupils. Summer work, school, and vacation plans of teachers, pupils, and parents would be interrupted. Wages of school employees on daily or hourly rates would be lost, and teachers' contract salaries would be in question.

The four-day week would necessitate rescheduling of classes. Pupils and teachers would have to adjust to a longer school day. Some employees on a daily or hourly wage basis would earn less money.

Shortening the hours schools are open during the day would curtail extracurricular activities, supervised study in school, and alter regular school adult and community programs.

Closing schools when the temperature is extremely low would be of some inconveniences to pupils, parents, and school employees. The severity of the damage would depend on the number of days schools were closed. In cold climates this would be extremely disruptive.

Fuller utilization of existing transportation facilities and lowering of school temperatures within limits of health and safety would obviously be the least disruptive of the options available.

Again, let me emphasize that we are not asking that schools be totally exempted from the constraints necessitated by the energy crisis. Obviously, we realize that all of us are going to have to tighten our belts and put up with inconveniences. But we are asking that the Congress and the Administration recognize the unique qualities and functions of the schools and the need for schools to operate at a near-normal level. We are ready to cooperate in whatever way possible to insure both short-range and long-range benefits to all of society, which must include the integrity of the education process.

**Mr. CLARK.** Mr. President, it is past time for the Congress to respond fully to the Nation's energy shortages. In the midst of the raging controversy over the role of the oil companies and confusion about the severity of the shortage, Congress has not been able to agree on positive action. I support the Energy Emergency Act—despite its faults—because it deals with several important problems that need attention.

The legislation is far from perfect. But it at least attempts to deal with the giant oil companies that have made such high profits while the Nation has been running short of fuel.

The conference report provides for a windfall profits tax. Although I would prefer a stronger provision—and, hopefully, one soon will be enacted—the conference report is at least a step in the right direction. Additionally, I would hope that we will soon move to decrease or eliminate the oil depletion allowance, the tax loophole that permits oil companies to pay only a few percent of their profits in income tax.

However, an increased tax on oil company profits is only part of the solution to the problem caused by high oil prices. We must also provide relief for the consumer who has paid and is paying the higher prices. A bill introduced by Senator MONDALE, S. 2906, does this, providing tax relief for those who need it most—those families earning less than $20,000 per year. Ninety percent of the tax relief provided by this bill will go to those with incomes below $15,000.

Together, the windfall profits tax, a lower depletion allowance and S. 2906 will do much to remedy the redistribution of income caused by the high price of oil.

One of the most important provisions of the Energy Emergency Act requires the oil industry to provide information necessary to compile an adequate assessment of the energy situation. Perhaps the most serious obstacle to meeting the energy problem has been the lack of adequate and reliable information. I would prefer an energy information agency independent of the Federal Energy Administration, an agency provided for in the Nelson-Jackson bill, but it is essential right now that we have the facts about energy—and that they are available on a regular basis.

The Energy Emergency Act contains a number of other worthwhile and necessary provisions:

It gives the President the authority to ration—which may be necessary this spring as the impact of gasoline shortages are felt.

It provides very clearly for unemployment compensation to people who lose their jobs because of the energy shortages.

And it gives the President the authority, under congressional review, to impose energy conservation measures—such as a ban on Sunday driving, closing of gasoline stations, and setting store hours.

Although I support the overall direction of this bill, I am disappointed and disturbed with the sections that affect the environment.

While I would greatly prefer that automobile emissions standards proceed as required by the Clean Air Act, I can accept the extension through 1976 because the 1975 standards, which will require the extensive use of catalytic converters—devices which increase gasoline mileage—will proceed on schedule.

I am far more concerned about the section on emissions from utilities and large industries. The Environmental Protection Agency has already granted variances to permit the burning of coal this winter. This action does seem reasonable under the present conditions. But the extension of deadlines for meeting the standards until 1979 goes far beyond the demands of the energy crisis. Fortunately, Senator MUSKIE who has led the fight for clean air in the Senate has indicated it is unlikely that more than half of the 46 plants that qualify for the extensions will convert to coal. Those that do convert must have "cleanup equipment" by the end of 1978.

Another provision of the conference, which I do not support, would prohibit the use of a parking surcharge—a device which would encourage mass transit, and thus help in meeting energy shortages.

I am concerned about these provisions because I do not believe that environmental protection caused the energy emergency and it certainly should not be sacrificed to the energy emergency. We have limited supplies of energy—but we also have limited supplies of air and land and water.

It appears, however, that many Members of the Congress are determined to retreat even farther from clean air goals. From all indications, the provisions of the conference report represent the best possible compromise, considering the strength of the pressure to back off from the goals.

In spite of my doubts about some of its provisions, I support this bill because it begins to face the problems surrounding the shortages—oil company profits, the lack of vital information about energy, and the need to conserve energy.

Mr. MONDALE. Mr. President, I will support the motion of the distinguished Senator from Wisconsin (Mr. NELSON) to recommit S. 2589, the National Energy Emergency Act of 1973.

This is a complex piece of legislation, with many provisions affecting a wide spectrum of interests. In some instances, these provisions may have been felt necessary at the time this legislation was in committee and originally on the floor of the Senate. Since then, however, 2 months have passed. Now, we are more perplexed than ever as to the extent of the current crisis, and what types of legislative authority are really necessary to enable the President and the Congress to deal with the crisis.

We all want the President to have the tools he needs to deal with the present shortage situation. In particular, we all want our economy to remain strong and jobs to be given the top priority in decisions affecting the use of scarce oil resources.

But we must be careful not to grant more authority than is needed, and thereby to abdicate our own role in dealing with this crisis. And we must be certain that the type of authority we grant—be it in the area of mandatory conservation measures or measures affecting our economy or environment—responds to the present situation and not to our worst fears about the potential shortages at some earlier date.

Much of the controversy over this bill, however, does not center on rationing or environmental concerns or export controls.

Instead, it centers over the performance of the largest single industry in this country—the oil industry—in recent months, and whether the profit performance of that industry indicates that windfall profits have been and are being realized.

In my view, there is little question that the recent profit increases reported by the major oil companies of this country indicate that they are profiting immensely from a shortage situation. Regardless of the extent of the industry's role in helping to create the shortage situation, it is clear that they and they alone are now reaping its benefits.

But I strongly believe that the real issue has been and will continue to be distorted, so long as we concentrate our attention on windfall profits. The real issue is not windfall profits. The gut issue which affects every American working family is the incredible increases in the price of crude oil and petroleum products to which we have been subjected in recent months.

In fact, I believe that the longer we focus on the issue of windfall profits, and the longer we attempt to devise a windfall profits tax which the oil companies cannot avoid or evade, the longer we will be prolonging the agony of the American consumer. Americans are being slowly bled to death by rising prices, and rising oil prices are the most dramatic and most important source of this cruel inflation.

The real issue, I repeat, is price. I therefore believe that we should focus attention as quickly as we possibly can to legislation which attacks the real problem of price.

I have introduced legislation which seeks to deal with this problem by requiring the President to institute an immediate freeze on all domestically produced petroleum and petroleum products, and within 30 days thereafter, to roll back the prices on such crude and products to the levels prevailing on November 1, 1973.

This rollback would save the American consumer $6 billion per year on the crude oil level alone, with additional billions of savings on refined petroleum products. And once extortionate price increases have been controlled and rolled back, there will be little in the way of excess profits with which we must deal.

It makes little sense to force American consumers to pay embargo-induced prices for domestically produced oil, and then to attempt to collect some of the windfall. Instead, it is possible to lower prices and save consumers billions of dollars per year. A rollback of the type I have proposed would eliminate the vast majority of the Arab embargo-induced increases in domestic oil prices, while still maintaining the strong incentives for increased domestic exploration and production which we all want.

Of course, we may still wish to enact excess-profits legislation, to deal with those increases which any price rollback cannot absorb. But at this point we must continue to focus public attention on the central issue of price.

I, therefore, believe that the excess profits provision in this bill—which is quite clearly unadminstrable—should not be used as the justification for an otherwise problematical piece of legislation.

On balance, this legislation might gain much from recommittal. Hopefully, many of the problems now in the bill could be resolved in a satisfactory manner. Then, we might again consider this legislation in a way which will insure that in dealing with the present energy situation, we tailor the solution to the problem with creating more questions than we resolve.

Mr. BAYH. Mr. President, I have determined to oppose the motion to recommit this conference report, and, assuming that motion is defeated, to vote for final passage of the Emergency Energy Act.

As with any other multifaceted legislation, this is not a simple matter with all the evidence for or against the conference report. But on balance, although I do have reservations regarding certain provisions of the conference report, I am convinced that the national interest will best be served by passing this bill at this time.

American consumers are justifiably up in arms over the huge profits increases being realized by most of the major, integrated oil companies in the midst of our energy shortage. There should be little wonder that consumers are upset; the 20 percent rise in gasoline and 45 percent rise in fuel oil prices last year were only partly a result of worldwide increases in oil prices. The fact is that domestic crude oil prices rose sharply last year and contributed significantly to the jump in consumer prices for refined petroleum products.

Profiteering, Mr. President, is no more tolerable in the midst of the energy crisis than it would be in the midst of a war. And we have a heavy responsibility to prevent profiteering by the major oil companies, along with a parallel responsibility to keep the lid on consumer prices so that inflation does not go unchecked.

The provision of this bill—section 110—dealing with the problem of windfall profits and price gouging gives us our first opportunity to enact legislation protecting the consumer from unreasonable fuel prices and making certain the oil companies do not further exploit the fuel shortage.

The specifics of section 110 are not ideal by any means. I share the hope expressed by a number of my colleagues that this section, if enacted, will be replaced by an even better and more workable excess profits tax with or without some control on domestic oil prices. But I am deeply concerned that if we fail to pass this bill it may be a long time before the desired excess profits tax is forthcoming from the House of Representatives where it must originate.

So the need to enact the prohibition on windfall profits strikes me as a decided plus in favor of passage of the conference report.

The bill has a number of other important provisions which argue for its passage:

Recognizing that there are limits to which we can balance energy supply and demand by increasing supplies in the short term, the bill gives the administration needed authority to limit energy demand through mandatory conservation methods. Such conservation may be our best hope for avoiding economic disaster due to the energy crisis.

In a further effort to avoid energy

waste, the bill instructs the regulatory agencies to revise their regulations to permit fuel savings in interstate commerce.

Since end-use gasoline rationing may become necessary if the Arab oil embargo is effective and sustained, the bill creates the necessary authority for rationing.

Recognizing the pressing nature of the petroleum and natural gas shortages, the bill wisely directs that coal be used in lieu of oil or gas where it can be accomplished efficiently without endangering the public health. Air quality rules are to be suspended when necessary to permit the use of coal.

As part of the overall program of energy conservation the bill provides Federal assistance to States and localities in developing carpool programs.

Since the major, integrated oil companies have used the fuel shortage as a tool against gasoline service station operators who do not follow the company line, the bill contains needed protections for the franchise rights of these small businessmen.

The bill has tough, effective antitrust rules to make certain the oil companies do not act improperly in concert in responding to the energy crisis.

Very importantly, the bill authorizes $500 million in extended unemployment compensation for workers who lose their jobs as a result of action taken on the authority contained in this act. I saved this point for last, Mr. President, because I think it is an important step forward, but a step which requires amending at the first available opportunity.

My concern is that the way the amendment is drawn it will limiit extended unemployment benefits in a manner which was not the intent of Congress. As the Senate knows, the energy crisis has already had a severe effect on the economy in various parts of the country.

Only this morning I was in Elkhart, which a few months ago was a thriving city, in large part because it was the center of the Nation's recreational vehicle industry. Today, as a result of the energy crisis and the public's uncertainty about the availability of gasoline, the recreational vehicle business is severely depressed and Elkhart's unemployment rate is about 10 percent.

Yet the unemployed workers and their families in Elkhart are not technically covered by the extended unemployment compensation provisions of the pending legislation since these jobs were lost prior to enactment of the Emergency Energy Act. Had this bill passed before the Christmas recess in its present form, when it was blocked by a filibuster against the windfall profits section, most of the unemployed people in Elkhart would have come under the coverage in section 116.

In addition, I have been informed that the Labor Department is giving a very narrow interpretation to that provision of section 116 which extends the benefits of that section to persons who lose their jobs because of this act. This narrow interpretation of who qualifies for extended unemployment benefits is directly contrary to the goal of this bill as I see it.

To remedy the inadequacy of section 116 that results from the long delay in enactment of this bill, and to deny the Labor Department the chance to give an unduly narrow interpretation to Section 116, it is my intention to introduce a new bill amending this section of the Emergency Energy Act in the very near future. This bill, which I hope could receive prompt attention, would make certain that the extended unemployment benefits were available to all workers who lose their jobs due to the energy crisis and would be retroactive to last fall so persons now unemployed are covered.

I indicated at the outset, Mr. President, that there were sections of this bill about which I had reservations. One was the unemployment compensation section, which should be corrected easily through a separate piece of legislation.

Another part of the bill which causes me concern is that which goes farther than necessary in pushing clean air standards back to 1979. As I said before, I support the separate section of the bill which directs that coal be used in lieu of oil or gas when possible during the energy emergency. Such action may well be necessary for more than 1 year, but there simply is no evidence to justify a decision now to push the air quality rules back to 1979.

This problem should be approached on a reasoned basis, responding to real energy need, making case-by-case decisions as necessary. This is far more responsible than making a wholesale retreat from the environmental gains of recent years. While I recognize as much as anyone the importance of assuring an adequate energy supply, a broad abandonment of the Clear Air Act goes beyond the current energy need. It is clearly an attempt by some to undo much of the progress previously made in setting forth the goal of clean air for all Americans.

Mr. President, while this provision of the bill certainly appears to be broader than necessary in the context of the energy emergency, the Conference Report should be adopted because of the overriding national interest embodied in its other provisions. I trust that if the Conference Report is adopted that the Air and Water Pollution Subcommittee will not let the issue rest and will come forward with remedial legislation undoing the damage to the Clear Air Act that is in the conference report.

With such remedial legislation, a clarification of the scope of extended unemployment benefits, and the excess profits tax which I believe this bill will elicit, even these three parts of this bill which have provoked so much discussion would be resolved positively.

I hope, Mr. President, that the Emergency Energy Act will pass the Senate today, the House later this week, and become law within days. It will represent a significant gain in our national energy program, and permit us to move in those areas outlined just above, as well as taking other necessary steps to provide Americans with enough energy at affordable prices. That, after all, its the overriding goal of any national energy program.

Mr. PERCY. Mr. President, on November 20, 1973, on the floor of the Senate I expressed serious reservations about the original version of S. 2589, the National Energy Emergency Act, which was rushed through the Senate in near-record time. At that time I stated:

> I am concerned that S. 2589 represents another massive grant of authority to the President for instituting Federal controls, which the Congress and the public may regret for years to come.

More than 2 months have now passed since that hasty action by the Senate. The Federal Energy Office has been reasonably effective in coping with the fuel shortage, relying only on the Emergency Petroleum Allocation Act and on voluntary conservation measures. Now, even the chief sponsor of the bill, the distinguished chairman of the Interior Committee, has been quoted as questioning the need for legislation granting such unprecedented broad authority to ration fuels and mandate energy conservation measures.

Except for section 104, which allows the President to impose mandatory gasoline rationing without any congressional oversight, I believe the conference report on S. 2589 is generally preferable to the Senate-passed bill in its handling of the emergency powers. Nevertheless, I intend to vote to recommit the bill to conference in the hopes that other extraneous provisions, many of them added by the House, will be eliminated from the bill.

I object to section 103 which haphazardly sets up a Federal Energy Emergency Administration with no clearly defined functions or staff. A far superior bill to establish the FEEA, S. 2776, has already passed the Senate and a similar bill has been reported in the House.

I object to section 201, which permits powerplants that are ordered to burn coal instead of oil or gas, to continue burning coal for 5 years without adequate regard for air quality standards. This is too long a period of time for temporary relief. I believe the coal conversion and auto emission provisions of the conference report go too far in turning back the environmental clock for the sake of an energy emergency whose true extent is still very much in doubt.

Finally, I believe the purported "prohibition" on windfall profits in section 110 and the additional unemployment assistance program in section 116 are inequitable and unworkable in practice. I have proposed that appropriations be increased for the public employment program as a method of providing jobs, not handouts, for the energy-related unemployed.

For these and other reasons, I believe the conference report should be completely reworked in light of the better understanding we now have of the fuel shortage situation. This is extremely important legislation, which could have profound effects on our economy and our lifestyles. It deserves more careful deliberation, and I shall vote to recommit it to conference.

Mr. HASKELL. Mr. President, a great deal of attention has been paid in the press and recently in the Congress to the enormous profits that major oil producers have been realizing since the energy problem became an energy crisis. The Congress has made an effort to address the problem in section 110 of the Energy Emergency Act. The matter continues, though, to be one of great concern to me because I am afraid that the Emergency Act fails to provide a solution, and, indeed, may in some cases do injustice to some of the small businessmen involved in oil production and sales.

As a general proposition, Mr. President, I agree that it is our duty to take a close and hard look at the profits being realized by the oil industry at a time when virtually all Americans must suffer in one way or another from the energy crisis. In times of crisis, the American people are brave and cooperative, but they are also accustomed to the principle that the burden of a crisis is to be shouldered equally by all. While everyone else in America must cope with a soaring rate of inflation, as well as the problems attendant to the energy crisis, there is something improper in a clearly unreasonable level of profiteering from these troubles by a single industry. The issue of windfall gains prompts us to consider the ways in which the good fortunes of the oil industry can be turned to the benefit of the country as a whole. We should be able to formulate a mechanism to return excess profits to consumers.

### THE NEED FOR MEANINGFUL PRICE CONTROLS

I see the task before us as one involving a number of distinct, but interrelated concerns: Alleviation of the energy crisis, assurance that the suffering of the Nation is not the unfair good fortune of a small few, and adjustment of some of the tax inequities that have been made even more apparent than they were before the energy crisis began. With these considerations in mind, I have carefully considered the legislation pending before us and I find it inadequate in some respects. Recognizing as I do that it would be unwise at this time to move for recommittal of the conference report, I do want to register my reasons for giving only qualified support to this report, and to propose what I believe to be an appropriate solution to the problems raised by the bill and which I am certain will demand our attention in the coming months.

In the year just past, the 21 major oil companies earned more profits than any other segment of the economy. Profits rose 61 percent last year over the year before, and may well increase another 60 percent in the year to come. At the same time, the oil industry was the recipient of bigger and better tax breaks than any other industrial sector, and of course, than the average American family. These tax breaks—the oil depletion allowance, the tax credit for so-called income taxes paid to foreign governments, and the writeoff allowed for intangible drilling costs—constitute indirect subsidies that, in part, are what is known as the "hidden budget" of the Federal Government, escaping as they do the continuous or at least periodic reevaluation that we conduct in the case of a direct Government subsidy. Thus we are today faced with a situation in which the American people must pay higher and higher prices for petroleum products, while the industry brings in more and more profits, in large part thanks to literally billions of dollars of Government subsidization through tax breaks that the industry has received in the years past. This is the situation with which the Energy Emergency Act fails to come to grips—more particularly, which section 110 of the act inadequately addresses.

Section 110 directs the President to exercise the price control authority delegated to him several times in the past. Additionally, it directs him to set price ceilings on petroleum products by reference to a specific definition of "windfall profits" and gives authority to the Renegotiation Board to determine by rule or order whether prices charged by the industry are leading to windfall profits. In the event that there are windfall profits the Board has a wide range of powers to rectify "gouging," including the power to order a refund of the excess profit. On its face, the provision makes sense. In reality, it is unworkable and will lead to a double injustice. On the one hand, section 110 fails to address the fact that multinational oil industries are capable of finding many pockets in which to hide excess profits from the tax collector. The same profits will be hidden from the Renegotiation Board. On the other hand, the act applies indiscriminately to the petroleum industry; to Gulf and Exxon, to the one-well independent oil producer, to the corner gas station. Thus, the reality is that the biggest and most profitable of the oil companies, the multinationals, will likely escape the sanctions that may be imposed under section 110, while small independents or the single station owners will be subject to the act since they have nowhere to hide their "excess" profits. Furthermore, it is the independent that is the source of exploration in the industry.

The excess profits of the truly domestic segments of the oil industry can be controlled very easily through a meaningful program of price control—controls that do not exempt new oil or stripper wells. We could avoid the administrative nightmares that section 110 is likely to give the understaffed Renegotiation Board through a serious and comprehensive effort to control prices. Refunds would not be necessary for the simple reason that the prices would not be excessive. By a meaningful price control effort, I mean a rollback of the prices currently being paid for both new and old oil. New oil, exempted from price controls at this time, is bringing $10 a barrel, while the increases that have been allowed by the Cost of Living Council to old oil have pushed its cost from about $3.90 a barrel last year to at least $5.25 a barrel today, a 35 percent increase. An important consideration, of course, is the effect of such a rollback on the future of energy exploration. I am confident that an appropriate balance between price protection to the public and a continued incentive to exploration can be achieved. Only last October 24, when the price of old crude oil was $4.25 a barrel and the price of new crude was about $5.50, the chairman of the Standard Oil Co. of Indiana, stated that:

> Recent increases in the prices of domestic crude oil and natural gas have provided additional incentives and additional funds for intensified exploration for new supplies of oil and gas.

And, the Petroleum Independent, the magazine published by the Independent Petroleum Association, in its November 1973 issue reported this comment by a producer-geologist:

> There's no doubt that prospects are for increased drilling. . . . With new oil prices from $5.30 to $6 a barrel, there's incentive now to go looking for oil.

What these statements indicate is that long before—very long before—the price of new crude reached $10 a barrel, sufficient incentive existed to explore new sources. Clearly, there is room for a rollback.

### THE NEED FOR EXCESS PROFITS TAXES ON MULTINATIONALS

What price controls in general, and section 110 of the legislation before us cannot do is to effectively control the prices of oil that moves through the hands of the multinational corporations. The processes through which these corporations hide their profits, or turn them into "costs," take many forms. For example, the multinationals commonly own the transportation systems that move their oil. A shipping subsidiary might fly a foreign flag for the purpose of taking advantage of that nation's absence of an income tax. Or, a multinational might own foreign producers such as the Aramco Corporation, whose stockholders are Exxon, Texaco, Mobil, and Standard of California. These stockholders set the price at which the oil is sold, and since they get back whatever they pay in dividends, they do not care how high the price is. The foreign subsidiary thus can take the profit, while the ultimate corporate stopping point, the U.S. side of the operation, has a higher cost basis for the products it sells to the American people. In this way, much of the multinational's own inflated costs are in reality the higher prices that they have charged themselves abroad and passed on to the American people. Form, not substance, is the name of the game in oil company accounting practices—and, unfortunately, in the tax treatment of the oil industry by the Internal Revenue Service.

Not surprisingly, it is just these companies, the multinationals, that are the biggest profitmakers. Standard of California's profits rose 54.3 percent last year, Exxon's rose 59.3 percent and Gulf Oil's rose 86.5 percent. It is just these corporations that will be able to escape the potential sanctions of the windfall profits section of the legislation before us today.

Thus, Mr. President, under the first of the criteria that I have used to evaluate the effectiveness of this legislation, its ability to limit prices and spread the burden of the crisis more fairly, section 110 must be regarded as an inadequate answer. Price control can be meaningful, under this legislation, only as far as the physical borders of the Nation. The biggest profitmakers will remain relatively unburdened and profitable beyond their needs. Equally as distressing, though, in my judgment, is the utter failure of the legislation to strike a balance between profitmaking and energy development or to address the pressing issue of overall tax equity in our treatment of the petroleum industry.

### EXPLORATION INCENTIVES

While the legislation before us contains a number of provisions aimed at energy conservation and development, the windfall profits section of the act, I fear, fails to take account of the delicate balance that must be struck between retaining an incentive to development and eliminating any unfair and unnecessary profit margins. Again, it is the small independent producer that shoulders a disproportionate burden in the exploration field. Since the act aims itself principally at this side of the industry for the reasons heretofore discussed, I think it would have been appropriate to spell out in greater detail than has been done in section 110 just how that balance ought to be struck.

I am convinced that only a combination of meaningful price controls on the domestic side of the industry and a carefully tailored excess profits tax on the multinationals will serve to accomplish the goals of this legislation. I have begun to work on such excess profit legislation, and hope to be able to introduce it in the Senate sometime in the very near future.

I should point out that I am well aware of the pitfalls posed by the concept of an excess profits tax. I realize the difficulty of definition that is presented by the term "excess profit," and I recognize that it is the responsibility of the Congress, not the Internal Revenue Service, to define it with precision. But, when all things are considered, I am convinced that this is the only approach that we can take to bring within the rubric of the regulation we are today considering the multinational oil industry. I find no comfort in effective control on the prices of domestic oil, while the biggest of our suppliers escape, not only price controls, but also any meaningful form of income taxation.

### THE NEED FOR INCOME TAX FAIRNESS

What I am today suggesting is a tax patterned on the excess profits tax that was in operation during the Korean war. Its focus will be the multinational oil companies, and in operation, it will assure that, at least for purposes of this tax, the interest that a multinational corporation has in a foreign subsidiary will be reflected in the tax base utilized. In essence, the profits that a multinational oil company pockets in a foreign subsidiary, are not unlike income that an individual deflects to other recipients—and, income of this nature is taxable to the primary recipient, by virtue of the control that is exercised over the flow of funds.

I intend to combine with this tax proposal an amendment to the present Internal Revenue Code treatment of the of industry. Under the code, taxes paid to foreign governments are regarded as generating a dollar-for-dollar tax credit for purposes of U.S. taxes, on the theory that double taxation of income is inappropriate. That principle is quite justifiable where true taxes are involved. However, the Internal Revenue Service allows an oil company to treat what are really royalty payments to a foreign nation as though they were income taxes. I shall propose to eliminate this practice. No other industry, no individual, is allowed to treat a royalty as though it were an income tax. Royalties are essentially a cost of doing business, and, hence, should generate nothing more than an ordinary deduction. Treatment of the oil industry just as we treat everyone else in this respect is a long overdue first step in reform of the tax treatment accorded this industry without apparent justification.

Finally, Mr. President, I intend to vote for the Energy Emergency Act not because I like the form of its windfall profits section, but because I believe it will be helpful in finally forcing the needed rollback in domestic prices and excess profits tax on the multinationals that I have described. I am afraid that defeat of this act will serve only to delay the truly effective legislation that is needed to deal with the energy emergency.

**Mr. BENTSEN.** Mr. President, I have stated during the consideration of the Energy Emergency Act my reservations concerning some of its provisions. The country faces an energy shortage and the Congress must act to alleviate that shortage and to make sure that no one segment of our society unduly benefits or suffers in the process.

The manner in which we respond to this National energy shortage, however, may be more important to the future of the country than the present shortages themselves. We are establishing through the Emergency Energy Act both a program, and the bureaucracy to administer it, that will deeply effect the lives of every American citizen without exception.

This is not the kind of legislative step that should be taken in a crisis atmosphere. One that is charged with heated rhetoric, fraught with hastily contrived compromises and based upon inadequately developed information. The country expects better from us and I believe we can do better if we will give ourselves the chance.

My specific objections are as follows:

The proposed administration of the program devised under the bill is left to an independent agency which has little clear authority and which provides no guarantee of continuity with the existing programs of the Federal Energy Office. Second, the bill contains a labyrinth of administrative requirements and procedures that may very well hamper rather than help efforts to curb energy consumption and increase supplies.

Finally, the windfall profits provision of section 110 of the conference report offers little hope of real protection for the consumer and would further aggravate the fuel shortage by causing chaos in energy producing and distributing industries.

I am very concerned about the complex administrative and judicial procedures provided for in section 311 of the bill. The provisions of this section alter considerably the requirements of the Administrative Procedures Act and substitute a confusing amalgam of features contained in both the House and Senate bills. Some argue that the new Federal Energy Administration must be able to act with speed and without the delay of drawn-out administrative proceedings. I for one feel that regulations that will deeply effect the most essential aspects of our lives deserve the inspection and comment of the public. Just the brief experience we have had so far with the Federal energy allocation program demonstrates how monstrously complex the problems are when a Federal agency attempts to regulate some 200 millions lives. With these programs there is a ripple effect which can magnify a bureaucratic bungle into a major catastrophy for whole segments of our society.

This is why I offered an amendment in the Senate that would have guaranteed at least 5 days for interested parties to comment on a proposed regulation. That guarantee has been watered down in the conference report so that regulations can be implemented whenever the administrator feels they are essential to the program. We have already witnessed the cavalier manner in which the Cost of Living Council used a similar loophole to implement its rulings and I do not want to see the mistake repeated with the Federal Energy Administration.

Another point of concern to me is the weakness of the administrative provisions of the bill and the unclear authority that is to be used in carrying out energy conservation programs. The bill establishes an independent agency to administer Federal energy programs and then says virtually nothing about how that agency is to be staffed, funded, or to integrate its activities with other Federal agencies. The Congress has already made considerable progress on a separate bill, the Federal Energy Administration Act, which would provide us with a fully constituted and carefully considered energy administration to carry out what will be the most crucial Federal program to be undertaken in decades. The House will soon be considering this legislation and the Senate has already approved its version. I believe there is time to wait when the results will be so obviously better and the matter is so clearly important.

The most controversial feature of the bill in my opinion is that relating to so-called windfall profits. As I have said before, no industry, no company, and no individual should be allowed to make unconscionable profits from the troubles of this country. I believe some tax to deal with windfall profits should and will be enacted. Hearings are being held before the Finance Committee for that purpose. However, section 110 in this bill would not accomplish its purpose of preventing windfalls but it would aggregate the current shortage. I have spoken before about this section so I will only briefly describe here my objections to it.

By this section we are calling upon a Federal board with no background and little expertise to determine what are reasonable profits and to set individual prices for as many 278,000 sellers of petroleum products. That is the number of sellers, at all levels, of petroleum products in this country. Under the terms of this section each would be subject to complaints to the Renegotiation Board by any interested party.

The Board would be called upon to make individual determinations of profit levels and set individual prices for each seller. The Board would be buried in cases; complaints would go unheard; and litigation would be endless. The petroleum seller, most of whom are small independent operators, would be hamstrung by endless bureaucratic proceedings and the consumer would have little hope of a speedy or conclusive decision.

In addition to section 110 failing to accomplish its intended purpose, I am very concerned about the adverse impact of the provision on petroleum production and investment during 1974. The provision is not effective until 1975 but if it does go into effect it will be retroactive to 1974 profits.

As a result of higher crude oil prices, domestic producers are receiving more today for their present level of production than they were during the base period provided in section 110. To the extent their costs have not increased as fast as oil prices they are already over the profit margin allowed and for every barrel of increased production they sell this year they will be that much more over the allowed margin. This provision actually prohibits increased production during 1974 for most producers.

So at a time when the country is exploring every avenue to increase our energy resources the Congress is considering a bill that might very well stop new petroleum exploration dead in its tracks. Hardly a result that I believe most Members of this body would care to see.

Mr. President, in sum I find great flaws in the conference report we have before us. I cannot support its passage and I hope the Senate will seriously consider its weaknesses before passing this monumental piece of legislation.

Some have asked whether we can afford to wait another few weeks to pass additional energy legislation. Mr. President, I feel we cannot afford not to wait if time will give us a better view of the problem and a clearer understanding of what our response is to be. The people are not just expecting a bill—they are expecting a solution that works. I believe we must not fan their expectations and for that reason I will oppose the conference report.

Mr. McGEE. Mr. President, since I am opposed to S. 2589 in its present form, I am voting in favor of the motion to recommit the conference report on this legislation.

I am particularly disturbed over the windfall profits section of S. 2589 as it is presently written, but not because I do not favor enactment of legislation to prevent windfall profits or price gouging to protect the public during the energy crisis. I do favor such legislation. However, I am disturbed that the windfall profits section is unworkable in its present form; would create an administrative nightmare; and in all probability, would worsen the energy crisis, which in turn, would have an even greater detrimental impact on the consumer.

Testimony offered by a wide range of tax experts in the past few days warn that the windfall profits section of S. 2589 is completely unworkable.

We have heard former IRS Commissioner Sheldon Cohen warn that it is "virtually unadministerable."

We have also heard from other tax experts that oil industry investments in new energy sources would be deterred by significant uncertainties which this section promotes, as it is presently written.

In fact, not one tax expert has stepped forward in support of the windfall profits section of S. 2589 in its present form. Every expert who has offered his views on this section has been emphatic in his assessment of the difficulties associated with the section as it is now written.

I honestly believe that the Congress has the capability, and should exercise this capability, to draft legislation that would indeed block excessive profits while, at the same time, spur investments in the production of more energy.

It is for the reason I have outlined above that I will support the motion to recommit the conference report on S. 2589.

Mr. KENNEDY. Mr. President, I would appreciate the opportunity to explore some of the details concerning the conference provisions related to the Clean Air Act with the distinguished manager of the bill and with the distinguished Senator from Maine.

These provisions concern the people of my State and I have been extremely disturbed by them. I have received communications from the Governor of the State of Massachusetts and from the mayor of the city of Boston on this subject.

I hope that the clarification of the two distinguished Senators will resolve my problem.

On page 8, the report states:

> The Administrator shall, to the extent practicable and consistent with the objectives of the Act, by order, after balancing on a plant basis the environmental effects of the use of coal against the need to fulfill the purposes of this legislation, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel burning installations.

I interpret this "plant-by-plant balancing" to mean that, first, a prior determination must be made whether a major fuel burning installation is prohibited from burning natural gas or petroleum and converted to coal would indanger the public health. Second, a prior determination must be made that the plant is unable to directly secure those necessary clean fuels for operation and is unable to secure such fuels through the qualitative allocation authority granted under this act and the Emergency Petroleum Allocation Act of 1973 before it can be prohibited from burning natural gas or petroleum.

Is that the understanding of the Senators?

Mr. MUSKIE. That is correct.

Mr. KENNEDY. There is a second question that I would raise with the manager of the bill which refers to section 106. Does the manager of the bill assume that this is designed to provide for the allocation of low sulfur fuels, including coal, to those areas where there would be a health danger if high-sulfur fuels were burned and if such low-sulfur fuels are available. In other words, the EPA Administrator would have the power to require the allocation of low-sulfur fuels away from an area where burning high-sulfur fuels would have a minimal health effect to an area such as the high density areas in Massachusetts and the Northeast were burning such fuels could have a very damaging effect?

Mr. MUSKIE. The Senator is correct. That is what is intended.

### THE ENERGY CRISIS AND PROPERTY TAX REFORM

Mr. President, as debate over the energy crisis has taken shape in recent weeks, it has become more and more clear that crucial to any solution of the problem is information—information which could tell us how bad the crisis really is, but which we are told is simply not available for those in government who are trying to define a national energy policy.

The optimists believe this information would tell us that there is no energy crisis.

The confirmed skeptics believe the information would prove that the crisis is a hoax.

And the pessimists insist that information would show that the crisis is worse than the most dire predictions we have heard.

No doubt, the truth lies somewhere in between. Just where is a factor which will affect the everyday life of this country for a long time to come. In the meantime we continue to operate in a partial vacuum, a situation which is clearly tolerable.

In the midst of all these charges and countercharges over the scope of the energy crisis, a new and interesting idea has been put forth by Ralph Nader and Jonathan Rowe, of the Tax Reform Research Group, which I would like to share with my colleagues.

Nader and Rowe draw a very credible connection between the need for information about energy reserves in this country and the issue of property tax reform. They point out that there is a body of public officials—the local property tax assessors—who should have at their command very detailed information about the size and value of energy reserves such as oil, coal, and natural gas in every State in the Nation. Mineral reserves are very much real property, and assessors are supposed to locate and value them accurately.

The fact of the matter, of course, is that many assessors are not performing this function, for a number of reasons ranging from a simple lack of resources for such complex assessments to collusion with the owners of mineral property. There is no shortage of examples of tax assessors simply accepting the valuation figures given them by the local mineral company instead of conducting their own assessment of the property. The result of such poor assessment practices is triply negative—no information, artificially low property taxes acting as an incentive for mineral companies to keep their reserves in the ground, and local communities cheated out of tax revenues needed to support local services.

By comparison, in those States where property tax assessment practices are sophisticated and up to date, the assessor's records can be the source of highly reliable information on energy reserves which serve the public need in a number of ways, as the following article from the Los Angeles Times demonstrates.

The call for property tax reform has gone unheeded for a very long time. We now have a compelling new argument in its favor.

I ask unanimous consent that the following items on the energy crisis and property tax reform be printed in the Record at this point: "Tax Bribes Won't Work," from the January 12 issue of the Nation, "Less Talk, More Action," from the January 20 edition of the Washington Star-News, January 18 letter from Ralph Nader to William E. Simon, Administrator of the Federal Energy Office, "Pull the Oil Tax Lever," from the January 11 edition of the Boston Globe, and "Tax Windfall Seen for Oil-Producing Counties," from the Los Angeles Times of January 18, 1974.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Tax Bribes Do Not Work

"We need the tapes," lamented ecologist Barry Commoner on *The Dick Cavett Show* the other night. He was saying that to chart our way out of the energy shortage, we need to know what the oil companies have, and where. But the companies aren't telling.

What Mr. Commoner and most others seem to forget is that at this very moment, all over the country, there are public officials with the legal mandate to get precisely this information. They are state and local property tax assessors. Energy resources like coal and oil are as much property as a house and its furniture. Assessors are supposed to locate and value them accurately.

In fact, of course, the mineral owners have co-opted the property tax system, just as they have every other facet of government with which they intersect. In Texas, local assessors contract out the task of appraising oil property to an engineering firm that frequently works for the oil companies themselves. A preliminary survey by Texas law students in 1970 found that much oil was either grossly undervalued or not on the tax rolls at all. Throughout Appalachia, assessors dutifully list on the tax rolls the figures the mineral companies give them. One assessor in Claiborne County, Tennessee, saved himself the trouble by just pasting in the coal company's submission.

When Tennessee began a statewide reappraisal, it contracted the work out to "mass appraisal" firms like Cole-Layer-Trumble [see "The Appraisal Conglomerates: What's Wrong with the Property Tax" by Peter Gruenstein, *The Nation*, May 7, 1973], whose sister firm, American Appraisal, Inc., does appraisals for many top corporations on the *Fortune* Five Hundred list. Coal and mineral property, though worth millions, was specifically excluded from the contracts.

Had our states been more diligent in their property tax assessing, we would already have the "tapes."

But there is more. The energy shortage should make us rethink our popular notions about the property tax. It was political cant in both camps in 1972 to condemn the levy (Nixon was much more successful in avoiding income than property taxes—could that be a reason?). The way we apply the tax to homeowners and renters of modest means may indeed need revision. Nevertheless, the property tax can be made to work as one of the best antimonopoly tools around.

The economics are simple. When you tax an asset—any asset—you make it expensive to hoard. The owner is moved to use the asset to generate revenue to pay the taxes. When there is no property tax, or when the assets are grossly underassessed, just the opposite occurs. Owners hoard their assets until the "price is right." It's cheap to do so. And they buy up as much as they can—monopolize supply—without fear of incurring holding costs.

As we confront energy monopoly, and possibly contrived shortages, perhaps we could take a cue from the Australians. Around the turn of the century they devised a *progressive* property tax—rates increasing with size of holdings—to help break up large estates and give more people a chance to own land. We could use the same device to control the energy monopoly.

Would we endanger the environment by encouraging resource owners to use instead of hoard? We have learned the hard way that *not* taxing these owners fails to protect anything—except themselves. Strip mining is rampant; land use is a disaster. Only direct controls can stop them. Tax bribes just don't work.

In short, one way to attack the energy shortage is through a dose of tax law and order; to start enforcing the state laws that say property should be assessed and taxed (strengthening the laws where necessary). We would get information on what resources are where. We would urge more supply onto the market. We would encourage more diverse ownership of energy resources. And hard-pressed state and local governments would get a revenue bonus as well.

Jonathan A. Rowe,
*Director, Property Tax Project, The Tax Reform Research Group, Washington, D.C.*

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### Less Talk, More Action

(By Ralph Nader)

Now that the people are accurately telling members of Congress that the present energy shortage was orchestrated by the oil industry and condoned by the big businessmen running the government, what will Congress do about it?

Here is a suggested program which senators and representatives could support that would go a long way toward providing justice for consumers, workers and small businessmen being squeezed so mercilessly.

Oil prices must be rolled back. Domestic oil costs have not increased so much and this oil supplies 70 percent of the nation's needs.

To permit energy chief William Simon to use foreign oil prices as a reason to allow domestic oil prices to skyrocket amounts to unarmed robbery of billions of dollars from the public. An export tax would prevent a speculative outflow of oil.

Legislation is needed to require a reluctant federal government to obtain the full facts about the energy situation.

This means obtaining and giving to the people the information about oil and gas reserves in this country (much higher than the industry claims), refinery output, storage levels, distribution policies, average production costs and profit rates of return from wellhead to retail.

Americans should realize that the ex-industry chiefs now fashioning federal energy policy do not even disclose the extent of oil and gas found on federal lands which belong to the people.

To insure that the giant multinational American oil companies do not desert this country and its consumers for higher profiteering abroad, the federal incorporation of these companies is necessary.

These companies now are chartered in states like Delaware which will not and cannot make them accountable. Federal chartering was supported for all national companies by Presidents Roosevelt and Taft early in this century. It is still a good idea.

Strong antitrust action is a high priority to make the oil industry less concentrated and more competitive.

Greater competition will break the monopolistic hold over the industry by the big seven oil companies and encourage smaller producers, refiners and retailers to get petroleum products to market cheaper and more consistently.

The Federal Trade Commission and several state attorneys general have such antimonopoly cases under way. But Simon and his aides are strongly against such action.

A major portion of new oil and gas is situated on federal lands—offshore and onshore.

These natural resources belong to the people. As proposed by Sen. Adlai Stevenson, a federal oil and gas company, to explore and produce such resources under strict environmental controls, would be highly beneficial.

Such a company would assure the nation of adequate fuel supplies in emergencies whether they are real or contrived. It would help stimulate competition in the oil industry—as much as TVA did for the electric power industry.

It would also provide independent gas stations and heating oil distributors with supplies when the big oil companies cut them off in order to replace them with their wholly owned outlets.

With a very small expenditure, Congress could provide technical assistance to state and local taxing districts to reassess the value of oil, gas and coal in the ground.

Minerals companies have historically underestimated the amount and value of their minerals in order to keep their property taxes unconscionably low.

The desperate needs of these poor localities have gone unmet because of this gross underpayment of property taxes by the companies that exploit their wealth.

There now are more compelling reasons than ever to reassess these lands and resources from West Virginia to Texas and recover hundreds of millions of dollars of uncollected property tax revenues.

Both directly and indirectly, through the "multiplier effect," this leap of fuel prices will jolt the economy into another inflationary spiral and an increasing inability to compete in world markets.

How many more devaluations can a further weakened dollar absorb under such circumstances in the future?

If such programs as noted above are not adopted, the created energy crisis of 1972–74 will become the trillion dollar economic trauma over the next twenty years.

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January 18, 1974.

Hon. William E. Simon,
*Administrator, Federal Energy Office,*
*Washington, D.C.*

Dear Mr. Simon: Your proposed fact-finding trip to Texas, Louisiana, and other energy-producing areas will avail little if you rely solely on carefully-packaged industry and even official information once you get there. It will take independent digging on your part to get to the truth regarding the energy management fiasco. To this end I would urge you to explore such sources as the following, among others.

A first, and basic, step would be to establish the source of information which purports to be "official." For example, do the Texas Railroad Commission and the other state bodies concerned with the oil and gas industry conduct their own investigations? Or do they rely on the data and reports of industry and industry backed organizations like the Texas Research League, to which the Texas state government often turns for information? These are hardly the unbiased, disinterested sources your office needs for guidance in this critical period.

Here are some other suggestions:

1. Private Engineering Firms.—Firms such as Pritchard and Abbott Valuation Engineers

do extensive appraisal work, for property tax purposes, under contract with Texas taxing jurisdictions. In 1970 Pritchard and Abbott alone had contracts to appraise approximately 60% of the state, including oil and gas property. Such firms may do private appraisal work for oil and gas companies as well. They certainly have information that would be most pertinent to your inquiry.

2. Property Tax Assessors.—You should consult assessors not just in the oil-field areas, but in cities like Houston as well. In such places the oil companies have major installations and storage facilities, which in Texas are subject to the property tax along with the oil inventories they contain. As the price of oil skyrockets, the assessed value of oil reserves, processing facilities and inventories should go up accordingly. Millions of dollars in property tax revenues are at stake in local taxing units such as Houston and Harris County, Texas, in which reside petrochemical plants of firms like Exxon, Arco, and Texaco. The property tax assessors in these areas, if they are doing their jobs, have been keeping close tabs on oil production and inventories within their jurisdictions.

3. The Texas Attorney General.—Texas has strong anti-trust laws, and the Attorney General may as a result have gathered, or be gathering, useful information on the oil industry.

4. Dallas, Houston and New York Banks.—Oil companies, especially the large independents, may well have used their reserves as collateral for loans and for other financing purposes. The banks, along with investment and financial advisors, quite possibly have as yet undisclosed information on what the energy companies have, and where.

5. Dallas Office of the Interior Department's Bureau of Mines.—This office may have done, or be doing, studies on such subjects as the extent of energy reserves and of untapped production potential. The Interior Department does not always see fit to make such studies public, but certainly it could not withhold them from your office.

6. Texas Railroad Commission.—I would urge you to request whatever *raw* data it has, rather than rely on conclusions drawn from that data. The mission of your office is not the same as the Texas Railroad Commission's. Thus it is fitting for you and your staff to interpret the data according to your own lights.

I would urge you to pay particular attention in your travels to the condition of property tax administration as it relates to energy resources, and to how your office and the federal government generally can help to make this property tax administration more effective. This issue is not peripheral but is of crucial importance for getting information on energy reserves as well as for prompting a greater supply to reach the market. These are the reasons:

1. Energy-Resource Information.—If the states and localities were assessing mineral resources properly—as their laws and consituations in many cases already mandate—then the country would not have been caught in a sea of ignorance, notwithstanding the federal government's past derelictions herein. We would already know much more about how much coal, oil, gas and other resources we have.

At present the assessing of these resources is in an abominable condition—even more abominable than is property tax administration in general. In 1970 a pilot study in Ector County, Texas by Texas University law students found that much oil property was appraised either at a nominal value or not at all. Four hundred thousand dollars worth of Texaco oil leases in that single county were not even on the tax rolls! Throughout Appalachia property tax assessing is so decrepit that coal, oil and gas owners literally tell the assessor how much they have and how much it is worth. The assessor of Knott County, Tennessee told the St. Louis Post Dispatch:

"We have no system for finding what they (the mineral companies) own. Like they may tell us they own 50 acres at a certain place when they actually own 500 acres. Companies just send in what they say they owe, and a check."

And that is one main reason we know so little about our energy reserves.

It is important to note that the energy companies are as tight-lipped as they are in part to foil the property tax assessor. Frank Barnett, chief executive of Union Pacific (which has extensive mineral holdings), was quoted by Peter Barnes, the West Coast editor of the New Republic, as stating, "We don't even care to guess what (our minerals) are worth. If we did, we'd have tax assessors all over the place."

It is time to end the energy information anarchy. And the local assessor's office is one place to start.

2. Increase Energy Supply.—If the property tax were administered properly, it would be a most effective device for getting more energy resources onto the market. Simply stated, the property tax imposes a cost on the owners who do not tap their reserves, who try to hold them off the market waiting for prices to rise. It gives the owners an economic incentive to sell or use instead of hoard.

To date most talk of incentives has been mired in the ever-expanding bog of bonuses and bribes for the oil and energy industry. The public is expected to bear the cost of these tax breaks and other benefits and then cross their fingers and hope. The property tax balances out the bribe approach with an incentive from the other end, one that imposes costs on the companies that do not produce.

In short, the property tax, if well-administered, would be a consumer-oriented market force that could replace battalions of federal bureaucrats. And unlike the plethora of income tax loopholes for the energy industries, it would relieve, rather than increase, the tax burdens of ordinary taxpayers at the local level.

3. Help Federal Treasury.—Areas of the country that are literally groaning in mineral wealth—like Appalachia—have become the objects of expensive federal spending programs. A main reason is that their property tax administration is so weak. Would it not be far better—both for the people in those areas and for federal taxpayers generally—for the areas to meet their now needs by more fully using their own tax resources?

How your office can help is as simple as it would be effective. Express statutory authorization already exists for the federal government to share tax information with state and local officials, under 26 U.S.C.A. § 6103 (b). In addition, your office will no doubt be coordinating and expanding the ongoing information gathering activities of the IRS, the Department of the Interior, the Census Bureau, the Department of Defense, and of other federal agencies as they relate to energy. All that remains is to set up a system for sharing this data with the relevant state property tax authorities.

You could start to lay the groundwork for such a system in your travels.

In addition you could urge the Administration to support such measures as S. 1255, now pending in Congress, which would help and encourage the states to improve the way they administer their property taxes.

Such steps would be inexpensive—considering the potential returns. They would be in line with Congressional and Administration momentum, both for fuller disclosure of energy information and for more power and self-sufficiency for the governments closest to the people. They are in line too with the recommendation of the Advisory Commission on Intergovernmental Relations that federal agencies do more to share their property-tax related information with state and local tax officials. And perhaps most important, they could mean more energy supplies on the market and a better value for consumers and property taxpayers.

Sincerely,

RALPH NADER.

### PULL THE OIL TAX LEVER

As long as petroleum supplies were plentiful and prices more or less stable no one thought very much about the way the industry worked. There were no cries for precise data on how much oil was where because no one had any particular need to know. The largest single complaint about the industry centered on its mineral depletion allowance, set at 27½ percent until its reduction to 22 percent in 1970.

But now with shortages or fears of shortages there are increasing demands for audits of oil company prices, profits and supplies if for no other reason than to improve the general level of understanding of an industry that has rather suddenly become an object of fear, if not loathing.

It appears inevitable that Congress will examine tax incentives and disincentives when it reconvenes on Jan. 21 and that it will look in particular for ways to discourage hoarding of petroleum supplies in the interests of pushing up prices.

The hoarding process can be a complicated one. The householder with a 273-gallon tank in his cellar is hardly a potential hoarder if he uses 2000 gallons a heating season. But if he owns three such tanks, it is possible he is standing on the borderline.

A corporation acting alone in its attempt to protect itself against vagaries of supply may only think of itself as protecting its best interests if it adds sharply to storage facilities and stocks up. But it is surely pushing up demand beyond "normal" levels and actually helping to bring about the shortage it fears.

A petroleum company sloshing oil from tank to tank or country to country may be a different matter altogether. There may be no need at all for oil companies to collude with each other to recognize the utility of keeping the flow of oil exactly at demand levels. As prices climb, the supplies on hand become noticeably more valuable.

In the past couple of weeks industry figures on supplies have come under increasing criticism. Without even doubting the veracity of the reporting system, some of the numbers are rather large. There are, for instance, more than 200 million barrels of distillate—heating and diesel oil. There are another 212 million barrels of gasoline and 238 million barrels of crude, according to figures supplied by the industry's American Petroleum Institute.

It has been suggested by the Tax Reform Research Group of Washington that property taxes be imposed on such inventories at the state and local level. Congress itself may want to look at the issue of whether taxes on inventory might be levied in ways that would discourage hoarding as opposed to taxing normal warehousing transactions designed to cope with fluctuations in demand for various fuels. Such a tax scheme would be complex, having to differentiate between precaution and predatoriness. Since this has implications about the length of holding reserves, the season, and perhaps the actual form of inventory, a great deal of information will be needed to build an appropriate tax structure.

But we have a feeling that a thorough investigation by Congress of the potential of such a tax system would by itself have a beneficial effect on the industry. The mere possibility of a tax system designed to discourage hoarding and withholding of oil from market would tend to make oil company executives reexamine their own practices. Congress should waste no time before inspiring that kind of self-criticism in the oil industry.

### Tax Windfall Seen for Oil-Producing Counties

(By Lee Dye)

The rising value of crude oil will mean at least a small tax windfall for oil-producing California counties, and it could mean a significant boost in income for school districts and small cities.

The increase will be offset slightly by the decline in the assessed valuation of closed service stations, and possibly by declining real estate values in outlying areas, but the gain will be much greater than the loss, according to Los Angeles County Assessor Philip E. Watson.

Oil reserves beneath the ground are taxed as though they were land, and in the past year the value of oil has increased substantially—in some cases as much as 50%.

J. S. Taylor, chief of the oil division in the assessor's office, estimates that the market value of Los Angeles County's oil reserves has increased by about $300 million over last year.

That means the assessed valuation has increased by about $75 million, and that, in turn, California should bring in around $8 or $9 million in additional tax revenues this year, Taylor estimates.

Since oil fields are not spread evenly over the county, some cities and some school districts will profit more than others.

In Los Angeles County, for instance, major oil fields are concentrated in the Long Beach City school district and the South Bay area. The latter lies mainly in the Los Angeles school district.

School district taxes represent about half of the total county tax rate, so those two districts will share a substantial portion of the anticipated $8–$9 million windfall.

The Los Angeles school district's budget this year is more than $1 billion, so the windfall hardly means the district has struck it rich.

But the district is anticipating a $20 million deficit next year, so the increase may prove significant.

In the months ahead, the county will probably gain in oil-related capital improvements as a result of a rejuvenated oil industry, Taylor believes.

The rising value of crude oil makes marginal operations more appealing, and reservoirs that were not worth developing in the past may be profitable at today's prices.

In addition, the industry can make more money off oil resulting from new wells or increased production than it can off existing wells at past production levels.

New wells and increased production result in what the federal Cost of Living Council classifies as "new oil."

"Old oil," or oil produced from existing wells at no greater than 1972 production levels, is priced according to its quality, but generally sells for around $4 a barrel.

"New oil" can be sold at the free market price, now about $7.80 a barrel.

So companies that produce more oil than they produced last year stand to gain an extra margin of profit from their "new oil."

That fact should stimulate oil production in the county. That means more equipment and facilities will be required to produce and refine the oil and that, in turn, means more tax money for the county.

Watson said industry officials have informed the assessor's office that many service stations in the county are being closed as a result of fuel shortages.

Oil companies have opened some stations in the past because of the "exposure" value rather than the opportunity to sell their product, according to Morton Frishman, director of real property appraisals for the assessor's office.

"Some stations have been opened at bad sites just because they wanted to be there," Frishman said.

Many stations on Wilshire Blvd. fit into that category, according to Watson.

"They build them there for advertising," Watson said. "There's no way you can pump enough gas to pay for the location."

And that, Watson believes, will change.

Bad locations that don't carry their own weight will be phased out by the industry, and that, in turn, will mean fewer gas stations.

### AMERICA'S NEED FOR A COMPREHENSIVE ENERGY POLICY

**Mr. PERCY.** Mr. President, the energy crisis has clearly revealed the pressing need for the formulation and prompt implementation of a comprehensive national energy policy. The exploration, production, refining, distribution, and marketing of fuels are responsible for approximately $125 billion annually in economic activity, or roughly 10 percent of the Nation's gross national product.

Yet, it is all too apparent that the Nation lacks a rationally planned energy policy. The inadequacy of governmental efforts to assess our short-term and long-term energy needs, to analyze the reason for the current shortages, and to prescribe remedial action has resulted in the hardship and inconvenience that Americans are now experiencing.

Mr. President, as we all know, the past is often prolog. This is as true of the energy crisis as it is of the other great events that must be seen in an historical perspective. It is for this reason that the Permanent Subcommittee on Investigations has been holding hearings over the past several months in an attempt to understand the origins, and hopefully the future trends, of our present petroleum product shortage. The valuable information generated by these hearings should also be instrumental in the development of a responsible long-range energy policy for the entire Nation.

The complexity of the energy crisis, with its rapidly ascending consumption functions, its declining supply curves, and the attendant higher fuel prices and the loss of jobs, is very great indeed. There is a need for a better understanding of the available options for fulfilling the rising energy requirements of our expanding economy. Hopefully, enlightened public debate about possible policy choices will lead to the formulation of far-sighted national energy policy.

To date, the United States has spent a relatively small amount of funds for the research and development of new energy resources. A very high percentage of this research and development effort has gone into the development of nuclear breeder reactors. Research in other alternate energy sources has been badly neglected. In addition, until recently our rather feeble national energy policy has been focused almost completely on the provision of sufficient quantites of energy to meet steadily increasing consumption. Consequently, efforts directed at conservation and the efficient utilization of available energy supplies have been largely ignored.

Mr. President, I ask unanimous consent to insert in the Record an article, "Energy Policy in the United States," by David J. Rose, which appeared in the January, 1974 edition of Scientific American. This study identifies many of the problems of past Government action and inaction in this area and it emphasizes the need for completely rethinking our energy goals and policies.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Energy Policy in the United States

(By David J. Rose)

The President's appeal for U.S. energy self-sufficiency by 1980 cannot be regarded as realistic. The long-range options that are open to the nation are here considered in a "taxonomic" approach.

Note.—Illustrations are not reprinted in Record.

Contemplating the energy crisis in their chilly homes this winter and facing an economic turndown stemming from fuel shortages, Americans increasingly wonder where it all went wrong. Had no one foreseen the problems that in retrospect receive so many glib explanations, that now require emergency correction because long-term guidance was lacking and that cannot be truly ameliorated for many years? It should have been obvious to the oil companies, the electric utilities, the automobile industry, Congress, the White House and the universities that without adequate energy an industrial society must throttle down.

The problem is large enough, once it is recognized holistically. The getting, refining, distributing and consuming of fuels account directly for about 10 percent of the nation's economic activity, or about $125 billion per year out of a gross national product approaching $1,300 billion. That is almost equal in dollar value to all of agriculture, food processing and food distribution, activities long recognized as requiring intellectual organization and balance, even to having their own department in the Federal Government. It might therefore seem that the development of a rational, long-range energy policy would be the first order of any nation's business. That the U.S. never had such a policy and is still without one can only be regarded as a major social failure.

In fact, the energy crisis not only was predictable but also was in its general nature predicted. For one thing the petroleum industry is short of domestic refining capacity by about three million barrels per day. Its spokesmen give environmental restrictions on siting as a principal reason. The short-term demand for fuel, however, is well known to be highly inelastic; this means that a small shortage leads to large price increases. Thus not by any collusion but by a little benign neglect the petroleum industry could improve its lot substantially. Compounding the difficulty, and against advice from many sources, the industry has allowed tax credits and other incentives to increase its dependence on overseas refinery capacity. The automobile industry has paid virtually no attention to fuel conservation. The Federal Government has developed little capability to collect data on fuel demand and resources and has been content with petroleum-industry data. Few in decision-making positions in Government or industry paid attention to the scarcity of low-sulfur fuel as they promulgated environmental standards. Federal agencies responsible for developing nonpetroleum fossil fuels (particularly clean fuels from coal, which might have provided not only earlier relief but also competition to petroleum fuels) have been virtually starved while tax funds have been lavished on nuclear reactors. Few universities and public-information groups found it either interesting or rewarding to illuminate the issue. Our present difficulties were largely caused not by ignorance but by irresponsibility.

The President has announced a set of mandatory regulations, effective January 1, designed to reduce consumption of heating oil, gasoline and jet-aircraft fuels by 1.7 million barrels per day, or slightly less than 10 percent of last year's average daily demand. Even with this reduction, the President said, available supplies will still fall 7 percent short of the anticipated demand, so that "additional actions will be necessary." A predicted ultimate shortfall of 17 percent is largely attributed to the oil embargo imposed by the Arab states. As a long-range response to the Arab action the President proposed "Project Independence 1980,'" which he defined as "a series of plans and goals set to insure that by the end of this decade Americans will not have to rely on any source of energy beyond our own."

Such an ambition seems unachievable without the application of Draconian measures, and probably would be unwise besides. Lack of policy has in effect encouraged substantial foreign dependence. Estimates show that to achieve hemispheric (not domestic) self-sufficiency by 1980 means closing an energy gap of nine million barrels per day. Conceivably this might be achieved by combining the strict conservation of energy with the ruthless exploitation of all the energy resources tappable within the short span of six years. That would mean a sharp curtailment in the booming demand for oil (recently growing at 7 percent per year), the accelerated depletion of known oil fields, intensified drilling offshore in the hope of a major strike, the relaxation (if not the total abandonment) of environmental-quality standards, unrestricted strip-mining and a wholesale shift from oil and natural gas to coal, particularly for electric-power generation. Between now and 1980 it will be virtually impossible to build more nuclear-power plants than those already on the drawing boards. It is also unrealistic to expect any substantial production of synthetic crude oil from coal or oil shale by 1960. It is estimated that to achieve a capacity of five million barrels per day of synthetic oil from these sources would cost $50 billion and take eight to 10 years. Solar and geothermal energy can make no important contribution in the near future. And power from fusion reactors cannot be expected before the end of the century.

This preamble brings us to the point of asking what the energy problem is, instead of only what went wrong. If there is any excuse for the nation's being confronted with an energy crisis, it can be found in the sheer richness of the energy problem. The scale of the problem is too vast and its time horizons are too distant for it to fit the customary behavior of the institutions charged (or left) to deal with energy. For example, industrial rates of economic return lead to time horizons only five to 10 years hence, but the problems themselves have a much longer lifetime, and the rewards for solving many of them accrue only to the public at large and not to specific industries. Thus even if the U.S. could discern and immediately adopt the wisest set of actions to meet the present crisis, energy problems would still persist. Some measures and actions now proposed are part of a continuing series that, if sensible, will bring gradual progress and improvement but never total "solutions." Thirty years from now energy will still be a serious topic; only the details will change.

Analyzing alternative solutions to technical problems and weighing their consequences has an increasingly fashionable name: technology assessment. The term, although useful for naming the task to be performed, is hardly a recipe for how to go about the task. When the problem concerns a subject as multifaceted as energy, in which technology, economics, resource allocation and social goals all interact, it becomes extraordinarily difficult to balance cost and benefits and reach a national consensus. For one thing, many goals naturally oppose one another, such as cheap coal and minimum land disturbance. It is hard for a partisan of one view, no matter how conscientious, to assess opposing views. At the crudest level, to recognize the validity of an opposing view tends to weaken one's own. More intractable kinds of intellectual imbalance arise when advocates of a particular option attract a band of adherents who, in their overenthusiasm, convert the option into a crusade.

What is needed, among other things, is some overall taxonomy of energy: a listing of the options in a logical hierarchy, so that national debate leads to public illumination and eventually to more satisfactory choices. Unfortunately no unique taxomony exists, but any reasonable one is better than none; one hopes through study of the taxomony to achieve some degree of insight. Then better decisions will follow. Here I attempt a taxonomy based primarily on technological issues, but it will soon become apparent where and how nontechnical issues enter also, and indeed often dominate the discussion. It will also become apparent that some currently popular ideas lack merit.

The technological discussion proceeds best from the particular to the general. One begins by comparing the simplest technical options (one component with respect to another, say). After that one compares alternative major devices, then alternate strategies for achieving major technical goals and so on, thereby constructing a succession of ever more complex intellectual assemblies. Each higher stage of assessment tends to bring in more and more nontechnological issues, such as environmental cost, resource use or social purpose.

Let us start, then, at a reasonably simple level and choose a topic: Comparison of various nuclear methods for generating nuclear power, arranging the options to produce a structure resembling a mobile, the kind that hangs from a hook on the ceiling. The mobile has two main segments: one labeled "Fission" and the other "Fusion." Of these two general routes to nuclear power the latter will probably not be available until after the end of the century. The fission branch of the mobile divides into two subbranches: converters (present technology) and breeders (future technology). Under converters there are two subclasses: light-water reactors and the more advanced high-temperature gas reactors. There are also two subclasses under breeders: the liquid-metal fast-breeders reactor that may be available in the 1980's, and beyond that, perhaps, the gas-cooled fast reactor.

The mobile analogy is useful because it presents specific technological "varieties" as options at the bottom of the structure; at the next higher level the options are between species of devices and at still higher levels the options are among genera, families, orders, classes and phyla. Thus the mobile establishes a taxonomic ordering of alternatives. In making assessments one gives least weight to the individual items at the bottom of the structure and increasingly more weight to options available as one moves upward. As in constructing actual mobiles, one must build the structure and balance the items from the bottom up.

What weights, in development dollars, are actually being given to elements in the nuclear-power mobile at the present time? Between fission and fusion the funding ratio is about five to one; $400 million for fission reactors to $80 million for fusion reactors. The ratio is roughly appropriate to the distant time horizon for fusion as well as to its remaining uncertainty. If and when fusion power becomes more certain, it will require more development funds than fission power did; fusion is technologically as far beyond fission as fission was beyond coal-burning.

The principal imbalances appear in the fission program itself. The gas-cooled reactor has been delayed for lack of development funds. The light-water devices were developed either with Federal money (as part of the nuclear-submarine program of the Westinghouse Electric Corporation) or with conscious acceptance of initial losses (such as those incurred by the General Electric Company in promoting the boiling-water reactor). The high-temperature gas reactor may actually be safer than the water-cooled reactors, more economical of uranium resources, more efficient (meaning that less waste heat is rejected to the environment) and perhaps even cheaper to build (although not all these advantages are confirmed). Its development lagged because its sponsor, the General Atomic Division of General Dynamics, could not afford to accept losses on the initial units. Now that General Atomic is part of the Gulf Oil Corporation that limitation has been removed; a first reactor nears operation and six more are on order.

A different and more serious imbalance applies to the breeder-reactor program. Its budget of $320 million in the fiscal year 1974 represents a fifth of the total U.S. research and development expenditure on energy and more than a third of the Federal effort. The breeder's chief advantage over present reactors is fuel economy. Whereas present reactors depend on fission of the rare uranium isotope U-235, the breeder can utilize U-238 (99.3 percent of all uranium) by converting it into fissionable plutonium. To be sure, uranium costs will rise appreciably by the end of the century if a breeder reactor is not developed, but since uranium costs are only a small fraction of the total cost, delivered electric-power costs would not rise more than a few percent. Thus a demonstration breeder reactor for the U.S. is less urgently needed than the Atomic Energy Commission, the White House and Congress have maintained. Europe and Japan, far poorer than the U.S. in reserves of fossil fuels and somewhat poorer in uranium, have more urgent reasons than we do to develop all forms of nuclear power, including power from breeder reactors.

In addition to pushing the breeder concept faster than the facts warrant, the Government has put virtually all its support behind the liquid-sodium-cooled version, allotting only $1 million per year to Gulf General Atomic's gas-cooled fast breeder. The relative promise of the two concepts is in no such disparate ratio. Still worse, concentration on only one technological device is risky and unwise.

A similar assessment can be made with respect to generating electric power from alternate energy sources. Again the options can be arranged in the form of a mobile. Some of the options that have been proposed can be dismissed out of hand. For example, it is easy to calculate that if a low dike were built around the entire U.S. to harness all the tides, the resulting electric power would only satisfy the needs of a city the size of Boston. To supply the U.S. electric needs by wind power would require windmills 100 meters high spaced a few kilometers apart over the entire country. Most of the suitable hydroelectric sites are already developed. [Hydroelectric generators now account for 10 percent of the U.S. electric-power supply.] It is clear that tides, winds and falling water are not solutions to the nation's energy problem.

The heat of the earth's interior is vast but normal flow of it to the surface is small. It has nonetheless been estimated that subterranean sources of steam and hot water have a potential for supplying about twice as much power as the U.S. currently obtains from hydroelectric sources.

Gaining in popularity is the notion of drilling holes to reach kilometer-size bodies of hot rock that lie anomalously near the surface. There are perhaps 1,000 such bodies in the geologically active western U.S., enough to satisfy the region's power needs for a very long time. The injection of water might both fracture the rock and jack up the strata to facilitate percolation. Steam would be withdrawn through separate exit holes. The idea is not unattractive, but there will be problems. Since hot water dissolves many minerals, it will be hard to keep cooler piping free of mineral deposits. Moreover, percolation channels tend to become enlarged where the flow is greatest, thus leading to large mass flow with poor heat transfer. Such difficulties are well known to the drillers of deep wells.

Solar energy is a different story. It is plentiful and free, but the problem is to collect it efficiently and economically. A million-kilowatt plant, equal in output to the largest conventional generating station, would require a collection area of 100 or more square kilometers, depending on the efficiency of conversion. That might seem to put such options beyond consideration, but a coal-burning plant, obtaining its fuel from strip-mining of coal seams half a meter thick, will cause the same area to be stripped in 25 years. With available technology a solar-energy power plant would cost between five and 10 times as much as a coal- or nuclear-power plant. Advocates believe the cost would fall sharply with suitable engineering development.

The idea of converting solar energy to electric power in space and beaming it down to the earth at microwave frequencies would provide energy around the clock, fair weather and foul. To be economically feasible the cost of available components would have to be reduced by a factor of about 100 and the cost of putting the components in orbit by a factor of about 10, over and above the economies promised by the space shuttle. Beyond that there is worry about the long-term effect of low-level microwave power on life near the receiving antennas, which would have to cover tens of square kilometers. Meanwhile terrestrial solar energy, including welcome applications of it for domestic space conditioning and water heating, enjoys for the first time some reasonable exploration: $12 million in Federal funds in the fiscal year 1974.

In assessing the available options for generating electric power a corrosive and ill-constructed debate has developed between some vocal advocates and critics of fossil fuels and nuclear fuels. The costs of generating electric power have been rising more sharply than the general price index for two reasons: the dramatically increasing cost of nuclear reactors and the need to use low-sulfur fuels in conventional power plants (or to add sulfur-recovery equipment). Except where low-sulfur coal is plentiful and cheap, nuclear electricity now tends to be cheaper than fossil-fuel electricity. Moreover, the disparity in price will probably increase if air-quality standards force more restrictions on fossil-fuel plants and as clean fossil fuel becomes steadily more expensive.

Several issues enter the discussion, some of them spurious. The clandestine and irresponsible use of nuclear-weapons material is quite unlikely to be prevented by this country's refraining from installing nuclear-power reactors. The core issue is environmental: Which type of power plant is actually, or potentially, more hazardous? It is my opinion that the environmental and epidemiological evidence strongly favors nuclear-power plants. The Atomic Energy Commission has spent more than $1 billion exploring the health and other environmental problems of nuclear energy. Although its record is not perfect and more remains to be done, a huge amount of information has been made public. The nuclear hazards are fairly well recognized and widely advertised. Principally they are associated with uranium mining and processing, with the normal operation of nuclear plants and fuel-reprocessing facilities, with long-term waste disposal and with accidents.

Conversely, the Department of the Interior, which has cognizance over coal and its technology, has spent hardly anything on the general environmental and epidemiological hazards of burning coal, leaving the problem largely to the Department of Health, Education, and Welfare and the Environmental Protection Agency. Thus the hazards of fossil fuels have been little studied or publicized. The data that do exist show that the total social cost of generating energy with fossil fuels has vastly exceeded the cost associated with nuclear fuels per unit of energy, at least with the environmental and work standards that applied through the 1960's.

For example, Lester Lave and Eugene Seskin of Carnegie-Mellon University and Thomas A. Hodgson of the Cornell Medical College present data implying that the pre-1968 health cost to New Yorkers from unrestricted coal burning in power plants was several thousand deaths per year, plus uncounted nonfatal disabilities of varying severity. Some 50,000 American coal miners are currently disabled with black-lufng disease. To these social costs must be added the despoliation of land by strip-mining.

These social costs, which appear to be more than 100 times higher than the equivalent nuclear costs per unit of energy, will no doubt be reduced as environmental standards rise, but the cost of putting fossil fuels on an even environmental footing with nuclear fuels seems prohibitive. Meanwhile debate has concentrated on the more publicized nuclear hazards and has led indirectly to lowered air quality as a result of the construction or retention of fossil-fueled plants. We see here a clear case of unbalanced debate and consequent faulty decisions arising from an initial imbalance in available information. When the public is presented with a balanced picture of the consequences of burning fossil fuel, I feel sure there will be an accelerated movement toward nuclear power and much more caution about relaxing environmental standards during energy shortages.

We now pass to the next level in our hierarchical assessment, the allocation of primary energy resources among users. The electric-utility industry and transportation each take about 25 percent of the nation's fuel supply; another 20 percent is required for space heating and 30 percent is consumed by industry (which also takes about 40 percent of the electric power generated). Here at the level of dividing up the national energy budget it is again fair to ask whether the relative effort to develop better options matches the relative needs.

Again the answer is no, and coal once more serves as a good example. Fossil fuels, in spite of their drawbacks, will be needed for many years, not only for the generation of electric power but also for transportation, for home heating, for industrial purposes and so on. Coal, together with the oil shale of western Colorado and the tar sands of western Canada, is a unique North American reserve of fossil fuels. In a period of ever increasing prices and ever decreasing security the first two are the only resources capable of replacing imported fuels until better and more nearly inexhaustible resources can be rationally developed. The U.S. Geological Survey estimates that the U.S. possesses 1.6 trillion tons of recoverable coal in beds at least 14 inches thick, lying no deeper than 4,000 feet. The total is equivalent to 500 times the total U.S. energy consumption last year and more than 20 times the energy the U.S. will consume between now and 1990. Of course, only a fraction of the coal reserve, perhaps no more than a third, is reasonably recoverable with existing technology at acceptable cost.

At present, however, coal provides only 18 percent of the nation's energy needs, a fraction that has dropped with time. (In 1900 coal supplied 70 percent of the nation's energy, and as recently as 1950 it supplied 36 percent.) Most present modes of coal extraction and use have been socially, environmentally and epidemiologically damaging. In this respect the technology of coal languishes. Oil shale may be an even worse environmental problem, but these and other difficulties are correctable, in my opinion, if the public has the will to demand correction.

Coal and oil shale (perhaps tar sands too, with the appropriate consideration of Canadian interests) now appear in their proper light: as raw materials for a synthetic-fuel industry that can limit economic and political threats from abroad. The domestic cost of producing low-sulfur crude oil and delivering it to the East Coast of the U.S. has been about $3.75 per barrel (42 gallons) until recently, but now has risen to just above $5. Until last fall approximately the $3.75 price was charged by overseas suppliers, mainly through the operation of the Organization of Petroleum Exporting Countries (OPEC), even though the actual cost of producing and shipping crude oil from the Middle East is only a fraction of that figure.

With the recent outbreak of war in the Middle East the Arab states raised prices substantially, and then several of them cut off supplies to the U.S. Saudi Arabia cut its total exports 20 percent and raised prices to recoup; Libya raised the posted price of her product from $4.604 to $8.925 a barrel. Such prices, of course, can scarcely be maintained under normal conditions. Nevertheless, within the next 10 years the U.S. can expect to be paying $8 or more per barrel (in 1973 dollars) for imported crude oil. Even if the price were to rise no higher, the annual U.S. bill for foreign oil in 1985 could reach $40 billion, if imports rise to the 15 million barrels per day given in some estimates.

Even worse is the threat of external political blackmail, which can only be met with determined action by the U.S. One such possibility is establishment of a substantial synthetic-fuel industry. Between now and the early 1980's there would be enough time to develop environmentally acceptable methods for producing oil from coal, and perhaps from oil shale as well, at less than $7 a barrel. At the same time programs now under study will probably lead to the production of clean synthetic natural gas from coal at, say, $1.20 per 1,000 cubic feet, equivalent in energy cost to petroleum at $7 a barrel.

The implementation of such a strategy would be neither cheap nor simple, even if it is a good option. One can ask, "How much syncrude is enough?" and thereby raise a host of other questions. To build the capacity needed to produce five million barrels per day (perhaps a third of the projected 1985 imports) would cost about $40 billion. Although that is no more than the U.S. spent in the 1960's on space ventures, its impact on the economy (particularly the construction industry) will be vastly different. Many difficult questions will have to be answered. What will be the impact on the engineering and skilled-labor market? How will other patterns of investment (investment in housing, for example) be affected? What will be the impact on the coal-mining industry? On water resources? What are the alternate strategies? At $7 per barrel how much more petroleum can be produced in the U.S. and its sea-bottom surround? More than 80 percent of the original U.S. petroleum reserve is still in the ground, and more is available with increased effort, but finding and extracting a substantially increased fraction would be very difficult.

International impacts are no less complex. Whether an increased U.S. production capacity would force OPEC prices to remain below $7 per barrel is hard to say, because the U.S. represents only a fraction of the world market. On the other hand, OPEC is not a monolithic structure, and the temptation for one OPEC country to abandon the consortium would be great. If that were sure to happen, the U.S. syncrude industry would have to have been built to stand largely idle. Underpriced by Arabian oil, it would be an economic and political weapon designed by Federal policy not to be used, in the same sense that the Department of Defense builds weapons systems not to be used. Other international questions relate to such matters as whether Western Europe and Japan will remain dependent on the Arab states, will turn to the U.S.S.R. (which is believed to have immense reserves waiting to be proven in), or will turn even more to nuclear power. Questions such as these, which are difficult to frame, let alone answer, make the energy problem what it is.

Even if the U.S. does not elect to spend tens of billions on synthetic-oil facilities, coal-extraction technologies call for major improvement. It seems feasible to develop a fully automatic technology for mining coal underground. Where strip-mining remains the method of choice, the land can be properly restored; not doing so is a social problem, not a technological one. In many of the empty regions where coal is strip-mined land sells for not more than $200 per acre, except where coal is present. To reclaim the land properly may cost $5,000 per acre in Appalachia and perhaps $10,000 or more per acre in some Western states, because of the arid climate and the need for long-term care. In contrast, the value of the coal in a two-foot seam in Appalachia may be $40,000 per acre and that in a 50-foot seam in the West may be $1 million per acre. Clearly the reclamation costs are small compared with the sale price of the coal but very large compared with the normal sale price of the land. A social decision, one not based entirely on microeconomics, must be made on the value of the land to the society as a whole.

The pending assessment applies only to the next 50 or 100 years, certainly not longer. It would be compounding tragedy to convert any large fraction of the domestic coal reserves to liquid or gaseous fuels when coal hydrocarbons are so much more valuable as chemical raw materials. Eventually, as the U.S. and the world switch to energy technologies based on virtually inexhaustible resources—fission, fusion and solar power—coal will no longer be needed as a major fuel source.

I have dwelt on the coal question because it is an excellent example of issues that have deep roots both in technology and in society and that cannot be resolved without serious and simultaneous attention to the consequence of various options. I shall discuss only briefly other issues associated with the allocation of primary energy resources. The U.S. is currently spending about $1.5 billion a year for research and development on new energy options. The total is only about 1.5 percent of the sum that the energy "industry" contributes directly to the gross national product and is thus well below the average research and development expenditure in other technological sectors of the economy. The small scale of the budget for energy research and development is a strong clue to what has gone wrong. Of the $1.5 billion more than half goes toward the provision of electric power, where the options are in the best order. An imbalance arises not because electric-power development receives too much attention but because other areas have received too little.

We now move to the highest level in this hierarchical assessment of energy: energy provision v. energy utilization and conservation. All the energy provided (the prodigious sum of $1.9 \times 10^{14}$ B.t.u. per day for the U.S., or 11 kilowatts continuously for every person) goes somewhere, and its rational use is only now receiving appreciable attention. The efficiency with which energy is consumed ranges from less than 5 percent for the ordinary incandescent lamp to perhaps 75 percent for a well-maintained home furnace. The automobile engine (particularly since the installation of emission controls) has an efficiency of less than 20 percent. Modern fossil-fuel power plants are more than twice as efficient. On the average probably less than 35 percent of all the B.t.u.'s consumed end up as comfort heat, useful work or visible light. Low as the figure is, it has probably quadrupled since 1900. Up to the present time the allotment of funds for developing more efficient energy converters has been paltry: perhaps a few percent of the total $1.5 billion budget for energy research and development.

The imbalance is beginning to be corrected. For several years a few Federal organizations have quietly and penuriously been studying how energy might be better utilized: the National Bureau of Standards, the Office of Emergency Preparedness and the Oak Ridge National Laboratory. Stimulated by real fuel shortages, their concern has become popular, reinforced by the enthusiasm of the environmentalists and conservationists. An Office of Energy Conservation was established in the Department of the Interior last year, with an annual budget of $6 million.

Some energy-conserving and dollar-saving options are straightforward, easy to apply and have now received attention: lower automobile speed limits, year-round Daylight Saving Time, a reduction in "cosmetic" lighting, lowered thermostats and so on. A less well-known energy-saving option is the use of radial tires, which can reduce gasoline consumption 5 to 10 percent (because of reduced friction between the tire and the road). Other options are easy to envision but more difficult to adopt: lighter automobiles, for example, and commercial buildings designed to achieve comfort with minimum energy consumption.

The study of energy conservation and rational energy utilization has languished for simple reasons. Until now energy has been so plentiful and so cheap that there has been little incentive for people to be frugal. It has not been easy for the individual to perceive that his bargain in energy entailed large costs to the society as a whole. And even when the fact is pointed out to him, the individual rightly sees that any personal sacrifice he might make has only a minuscule effect in ameliorating an environmental problem. The second big reason for the neglect of energy conservation is that industry is richly rewarded for selling energy and energy-consuming devices.

The various assessment mobiles I have discussed so far can be assembled into one large mobile that includes all the options laid out hierarchically. In this arrangement one can see that utilization and conservation, on the right half of the mobile, merits as much attention and effort as all the options dangling in five tiers on the left half of the mobile. Yet one small line at the bottom left, the liquid-metal breeder reactor, represents an option that will receive $320 million in Federal and private development funds this year: 20 percent of the entire national budget devoted to energy options. What the mobile dramatizes is an embarrassment of blank space, where options are either absent or so poorly formulated that they have received little attention.

Several suggestions for ameliorating future energy difficulties have appeared in this discussion, coming mainly from reflection on new technical options, on conservation methods and on international economic relations. We can see several other strategies being implemented in some measure today. One approach involves a modified laissez faire, leaving parts of the problem to be solved in the marketplace; with increasing scarcity rising prices will bring supply and demand into some kind of balance and less energy will be wasted. To be sure, energy prices have been too low, but overreliance on this approach would work a hardship on many people.

Another strategy is to expand domestic exploration and production of petroleum fuels. The rocks of the continental shelves seem quite similar to the typical sedimentary rocks of the U.S. and Canada, so that they are believed to contain rich petroleum deposits. It is extremely risky to assume, however, that the offshore reserve is adequate to meet an unchecked demand. It should be noted that the much-debated Trans-Alaska pipeline will at its peak carry only two million barrels per day. That amount will not provide much relief from a predicted import requirement of 11 million barels per day in 1980. Even where an oil field is known to exist it takes from five to seven years to bring it into production. And on the continental shelf off the U.S. eastern seaboard the first hole remains to be drilled; the existence of oil is simply conjectured.

Another strategy that is currently prominent is application of regulatory and other measures to limit energy use: taxes, allocations, rationing and outright bans. The strategy has the advantage that it can be designed for prompt effect. It is the only approach with this feature, and it is therefore invoked in this winter of fuel emergency. We should be aware, however, that such measures generally represent the failure of past policy (or the lack of any policy at all) and that the consequences of stringent regulatory actions are hard to predict. For example, the 1971–1973 controls to combat inflation were a substantial failure. The National Energy Emergency Act sent to Congress on November 21 of last year relies heavily on emergency controls, and it will have little to do with rational long-term energy policy. On the other hand, regulations designed for long-term constructive effect have their place in a coherent energy policy.

One may hope that from some combination of all these possibilities a better energy program will emerge, involving the Federal Government, state governments, industry and other sectors. Clearly the days are gone when parts of the problem could be denied or ignored, as for example when energy conservation and rational energy utilization were ignored by the President's office until the middle of last year.

To choose any particular combination of energy strategies without much thought and analysis would be to compound the difficulties. An adequate national energy policy must of course rise from basic decisions made by or on behalf of the country as a whole, decisions concerning national security, costs, the present and future quality of life and so on. When those decisions have been made, a planner can set down tentative desiderata—not yet firm decisions—about operational strategies. They would include the degree of dependence on foreign oil supplies, environmental standards and the balance between exploitation and conservation of natural resources. Only then can planners arrive at detailed strategies to achieve selected goals: the technology of nuclear power, new types of automobiles and so on. The process is obviously not straightforward; decisions at each level affect conditions both above and below.

These new intellectual and technological thrusts have their organizational counterparts, and the old arrangements for dealing with energy, at least at the Federal level, are being swept away. In general the old ones were not impressive. Federal energy policy consisted mainly of a strong nuclear program (coming from a strong nuclear Congressional Joint Committee on Atomic Energy, and a legacy from earlier military programs), a favorable attitude toward petroleum companies (direct U.S. tax credits for foreign royalty payments, depletion allowances and so on), the benign neglect of coal and several fairly successful regional programs (the Tennessee Valley Authority, for example). Technical activities were mainly in the Atomic Energy Commission; some were in the Department of the Interior and some were scattered in other agencies. Regulatory commissions were only party effective. (For example, the Federal Power Commission set natural-gas prices so low as to simultaneously destroy exploration initiatives and create an insatiable demand).

All of this is now changing rapidly. It is clear that more central coordination is required than the fragmented energy groups have managed heretofore. The optimum degree of coordination, however, is an important question. Too little can accomplish little; too much can throw the operations of agencies and groups with legitimate energy interests into disarray. At least there is need for the coordination of policy, and Governor John A. Love's Energy Policy Office seemed to be doing that.

In jettisoning the Love office, the President sought a two-level approach. At the level of preparing technological options he proposed an Energy Research and Development Administration. This was to combine the energy-related activities of the various Federal agencies. The chairman of the Atomic Energy Commission, at the President's request, came up with a $10 billion, five-year program for the development of alternative energy technologies. These proposed expenditures include many projects already planned. At the policy and executive decision level the President proposed a Federal Energy Administration, to be headed by William E. Simon. Arrangements like this could free up to some extent the development of technological options, while giving the executive group freedom to pick and choose and to transcend narrow technical arguments. Congressional bills to implement these measures were introduced in the Congress by Senator Henry M. Jackson and Representative Chet Holifield.

Also at both the technological and policy levels Senator Jackson's own bill (S. 1283) aims at each of these technological and policy functions, through the allocation of $800 million per year of new funds for non-nuclear research, coordinating activities of the AEC, the Department of the Interior, the National Aeronautics and Space Administration and the National Science Foundation.

In the House, meanwhile, Representative Mike McCormack and his Subcommittee on Energy have considered not only a Department of Energy (not far from the President's ERDA–FEA proposal) but also the establishment of an integrated Department of Science and Technology. That is a still broader concept, requiring more public debate.

Whatever the administrative outcome, I personally favor an authority that will decide about rationing (I favor that too) and other short-term measures. Simultaneously such an authority should make a careful assessment of the long-term possibilities before committing the nation to some very expensive acts of commission or omission. The technology of energy conservation, the development (but not yet massive deployment) of new fuels from coal and oil shale, the full environmental costs of various fuel options all deserve careful study—not forgetting the important international repercussions of a change in the fuel-consuming habits of the U.S.

The role of energy is too pervasive and the interests of the participants are too manifold for any expectation that there will be a simple consensus. It can nonetheless be hoped that the national debate will give rise to a better common understanding of the problem. Then some steps can be taken in the direction of probable improvement, and from that new vantage the view ahead will be a little clearer than before.

### THE WINDFALL PROFITS PROVISION

Mr. LONG. Mr. President, the time has come for the Members of this body to reassess the significance or importance of accepting the conference report on S. 2589, and bowing to the will of the House on the matter of a windfall profits curb. As you may remember, the conference report on S. 2589 was brought up on Friday, December 21, and we learned for the first time that the Senate conferees had accepted a House amendment to S. 2589 which would impose a curb on windfall profits by sellers of petroleum products.

This amendment was adopted by the House Committee on Interstate and Foreign Commerce, a committee which did not have jurisdiction over the matter. It acted without any public hearings and apparently without any consultation with technical experts, which would be customary in legislating in such an important area.

The House passed this measure, including the windfall profits provision, despite the urging of acting chairman of the Ways and Means Committee AL ULLMAN that the windfall profits provision was ill-advised, deficient in technical respects, and deserving of public hearings by his committee and despite Mr. ULLMAN's commitment that the Ways and Means Committee would take up the matter of windfall profits legislation early in this session.

When I learned of the precise nature of this windfall profits provision in the conference report on December 21, which was even before the official conference report was printed, I knew that I had a responsibility to the Senate to point out the evils of the proposed windfall profits curb, based on my experience as a member and presently chairman of the Finance Committee. Because of the urgency of action on the Energy Emergency bill, I joined with other Senators in seeking a compromise which would permit enactment of S. 2589 without the windfall profits provision. In the tumult of the last day of the first session, the House was unable to agree to a compromise which would have deleted the windfall profits provision.

As I stated at that time, I favor a tax on windfall or excess profits which has been subject to the regular legislative process of public hearings and consideration by the proper committees, with the customary assistance from the technical experts. I would expect that such a windfall profits or excess profits tax would deny the oil companies unreasonable profits during the energy crisis, which the public rightfully demands.

At the same time, I would expect that such legislation would take into account in some fashion the fact that the Nation expects our private energy industry to make vast expenditures of capital in the next decade if the Nation is to meet its goal of self-sufficiency in the energy area.

My efforts to bring some logic and reason to bear on the hastily-devised and ill-conceived windfall profits curb in S. 2589, which is little more than a giant swat at the oil companies in a panic response to the public outcry at price gouging in some areas of petroleum marketing, has been labeled in some quarters as a filibuster to protect the profits of the major oil companies.

I have at times defended against unreasoned and hysterical attacks on the oil industry, since the basic stability of the oil industry is important to my State and to the Nation. In this case, the record is prefectly clear that my opposition to the windfall profits curb in S. 2589 is not in any sense a blind opposition to the concept of windfall profits tax or an unjustified defense of the oil companies.

Quite the contrary, I have stated repeatedly on the floor of the Senate that I am actively in favor of the enactment of laws to prevent price gouging and profiteering in situations affected by the energy crisis. In this connection, I ask that a paragraph be included at this point in the RECORD from a newsletter I sent almost a month ago to my constituents explaining my position on this subject.

> We should not allow energy companies to take unfair advantage of the current crisis to make excessive or "windfall" profits. Whether this should be prohibited by excess-profits taxes or by a stiff requirement that any such profits be reinvested in energy production, or a combination of both, is a subject being carefully studied by the Senate Finance Committee, of which I am chairman. A tax on windfall profits can be drafted in such a way so we will get more energy. It should not be done in a manner that denies us more fuel.

I know that many Senators were interested in and are still studying the results of hearings which the Finance Committee held last week on a windfall profits tax proposal based on the definition of windfall profits in S. 2589. The committee invited former high officials of the Treasury Department, serving in both Democratic and Republican administrations. We invited them to comment on the administrative problems presented by such a vague standard for defining windfall profits and to indicate the type of advice they would give clients if this were law.

First, let me indicate the names of some of the former officials giving their comments. Included were former Commissioners of Internal Revenue Service Mortimer Caplin, Sheldon S. Cohen, Randolph W. Thrower, and Johnnie M. Walters; former chief counsels of Internal Revenue Service Charles W. Davis, Crane C. Hauser and K. Martin Worthy; former Under Secretary of the Treasury Edwin Cohen; former Assistant Secretary of the Treasury John E. Nolan; and former tax legislative counsels of the Treasury Department Donald C. Lubick and Jerome Kurtz.

These former officials generally agreed that the standard of reasonable profit used in the windfall profits provision of S. 2589 is virtually unadministerable. In fact, it is no standard at all. Many were vigorous in their criticisms.

Mr. President, in an effort to bring to the attention of each of my colleagues the highlights of the testimony given by these distinguished tax administrators, I addressed a personal letter to each of my colleagues and had it hand delivered to each of their offices this morning. I ask unanimous consent that a copy of this letter be printed in the RECORD at this point as further indication of my sincere effort to divert the Senate from the enactment of what would be bad, bad law.

U.S. SENATE,
*Washington, D.C., January 29, 1974.*

DEAR COLLEAGUE: Like you, I *favor* enactment of legislation to prevent windfall profits or price gouging to protect the public during the energy shortage. It is possible to draft legislation of that sort which will not impede our efforts to expand domestic production.

Unfortunately, the "windfall profits" amendment which the House of Representatives added to S. 2589, the Emergency Energy Act, fails completely to do what we should be trying to achieve. It will result in drastic cutbacks in oil and gas production. People who have worked honestly and diligently to expand oil production would be discouraged from continuing that effort by the imposition of what in many cases might be a confiscatory tax on the return from any expanded production.

The proposal found its way into the Emergency Energy Act without the benefit of any hearing or expert advice whatever.

At a hearing last week before the Senate Finance Committee, those who have administered the revenue laws under Presidents Truman, Kennedy, Johnson and Nixon testified unanimously that the proposal was unworkable, could not be administered and is probably unconstitutional.

They testified that this proposal would create such uncertainty in the industry that new capital investments would be greatly discouraged. It was their conclusion, and mine, that if the Congress is capable of acting in hysteria to put such a law on the books, there is little reason to assume that we will act reasonably later on. The industry and the lending institutions would simply decide not to risk major new investments until the issue is resolved. Excerpts from their statements are attached to this letter.

It is for these reasons, as well as several substantial objections made by the Administration and others, that I hope you will join me in voting to recommit the Conference Report on S. 2589. This nation has much to gain and nothing to lose by further study of this far-reaching legislative proposal.

With best regards, I am
Sincerely yours,

RUSSELL.

What should be of grave concern to this body, is that seven of our witnesses thought the vagueness of the windfall profits provision raised a serious question of constitutionality. While generalities and vague standards of excessive profits on the Renegotiation Act have been upheld by the Supreme Court, based on the wartime emergency powers and the fact that defense contractors agree in the contract to submit to renegotiation, there is no similar justification for the present windfall profits provision.

For example, if the Congress can limit petroleum sellers to the profits they realized during 1967–71, then Congress can limit the farmers and the doctors to the profits they realized on their products and services during the period 1967–71. This matter surely deserves more careful consideration than it has received thus far.

How is the proposed windfall profits provision going to affect our efforts to get the petroleum industry to discover new reserves and expand production and refining of petroleum? On this point, former Commissioner Caplin states:

> I think the consensus that you have heard today is that this bill is not the way to do it, that it is such a terrible disincentive that you are going to throttle any desire to move forward and open up new fields.

Former Commissioner Walters states:

> I think if this law should be enacted that many, and certainly I, would advise any client I had definitely against making any investment which would subject him to this windfall profits tax except in the case of greatest urgency where it was a necessity to retain a lease or some rights.

Former Commissioner Thrower says:

> If I had [any clients affected by the tax] the first suggestion I would make is to increase very substantially your retainer, as we will be busy for years to come litigating over this monstrosity.

Charles W. Davis, chief counsel of Internal Revenue Service under President Truman compared the vagueness of the Windfall proposal with the consideration given the Excess Profits Act of 1950, stating:

> Although that law was enacted during a period of approximately 6 weeks, from the beginning of hearings in the House Committee on Ways and Means to its signature by the President, there was a consistent theme expressed by witnesses before the tax writing committees and by committee membership that the standards for computation of excess profits subject to the excess profits tax should be explicitly stated in the statute, with much less reliance upon vague generalities than had been the case under the World War II Excess Profits Tax.

I have great respect for these former Treasury officials, who served under Presidents Truman, Kennedy, Johnson, and Nixon. When they express their views, as experts in tax administration, that this windfall proposal is unworkable, unadministerable, probably unconstitutional, and would be the basis for advising clients to hold back no investments in the petroleum area until these vague standards could be clarified, if ever, I ask the question: Why should the Senate proceed to enact such a law?

Is it more important for the Senate to pacify on a temporary basis those consumers who are understandably outraged by spiralling fuel prices by passing a law which is patently ridiculous, or is it the Senate's business to help find enduring solutions to the Nation's energy problems?

I, for one, feel that it is time to remove some of the emotion and hysteria from the legislative process which has prompted the Congress to even give serious consideration to such a proposal that is now before us.

It has been very revealing to me, Mr. President, that few—if any—Senators have come before this body to state their specific approval for the House provision. No one to my knowledge has stepped forward to say: "I like the Staggers amendment. I think it would make good law. I have studied it and find that it is workable and can be fairly administered. I think it will help solve the energy shortage."

Mr. President, such specific support for the provision by any one of my colleagues would astonish me. It would run contrary to the opinion of every one of the Nation's top experts in administration of tax laws—Democrat and Republican, liberal, and conservative—to whom I have referred above.

At this point, it appears that even some of its original sponsors and supporters in the House are wishing that this preposterous thing would sprout wings and fly away.

They fear that if it gets into the law it will be a black mark on their responsible lawmakers.

They are beginning to see that this amendment is aptly named—that it would, indeed, stagger the Nation by disrupting and discouraging the kind of capital investment in domestic oil production that might some day free us from high-priced and unreliable imports.

I ask my colleagues that for all these reasons they vote to recommit the conference reports to S. 2589 and to allow the tax-writing committees of the Congress the opportunity to design a proposal which would both protect the consumer from price gouging and profiteering and which will, at the same time, allow the industry to attract those huge amounts of capital which will be necessary to expand production and to bring to the Nation a high degree of energy self-sufficiency.

As the Senate knows the House Committee on Ways and Means has already announced public hearings on this subject. The Finance Committee has had 2 days of full committee hearings already, and only yesterday I announced additional hearings to coincide with those of the House Committee.

In concluding my remarks, I ask unanimous consent to have printed in the RECORD at this point in my remarks a copy of the press release announcing these hearings.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

COMMITTEE ON FINANCE

Chairman Russell B. Long, D-La., announced today that the Senate Finance Committee will conduct two days of hearings on February 13 and 14 to deal with the problem of excess or windfall profits in the oil industry. The hearings will begin both days at 10 a.m. in Room 2221 of the Dirksen Senate Office Building.

The Chairman said the hearings will develop information on the profits and rates of return realized by oil companies from their operations in the United States during the 10-year period from 1964 to 1973.

"Testimony the Committee received on January 22–23 from the nation's top experts in tax administration was emphatic on how an excess-profits tax should not be drafted," Long said.

"These authorities agreed unanimously that the provision contained in the conference report to S. 2589 (the emergency energy bill) is not workable and cannot be administered," Long continued. "Several even raised serious doubts about its constitutionality."

The Chairman said the Committee "intends to develop all the information it can in an expeditious manner in seeking a workable alternative to the ill-conceived proposal" in S. 2589.

Long stressed the fact that emergence of the windfall profits issue is a very recent development. "Despite the raging controversy on the subject, it is surprising to many that the very first windfall-profits bill introduced in the Senate in connection with the energy crisis was proposed on December 12, 1973, by Sen. George McGovern, D-S. Dak.," he said.

Pointing to the Finance Committee's quick action on the subject, Long said, "It has been only 13 legislative days since that first proposal was referred to my Committee. Already we have had two days of full committee hearings devoted specifically to this subject, and three days of hearings by the Energy Subcommittee devoted to part of it."

The Committee expects that witnesses representing oil companies will address themselves to the following points:

(1) What was the overall rate of return which your company realized on invested and borrowed capital devoted to exploration, production, manufacturing, transportation and marketing of petroleum products during the period 1964 to 1973, inclusive?

(2) What is the rate of profitability in relation to sales during the period 1964 to 1973, inclusive?

(3) What was the rate of exploration expense and capital expense in the U.S. during the same period, 1964 to 1973?

(4) How is the price determined with respect to imports of petroleum products into the United States from a foreign subsidiary?

(5) What is your estimate of future capital requirements in the United States and what is the relationship of such needs to the rate of return on investment?

(6) What per cent of your total United States sales is based on imported petroleum products during the period 1964 to 1973?

(7) Provide information as to the amounts of oil investments outside the United States during the period 1964 to 1973 which were derived from profits generated in the United States?

The Chairman said: "We are going to be considering legislation shortly to deal with the windfall profits situation in the oil industry. The public is concerned with the sharp price increases in petroleum products since November, and I believe it is important that the Committee and the public learn the facts about oil company profits on their United States operations."

Chairman Long stated: "Before drafting an excess-profits tax law, we first need to know to what extent the profits earned on domestic oil production are being reflected in the price of gasoline at the pump and the price of other petroleum products to consumers."

*Requests to testify*—Senator Long advised that witnesses desiring to testify during this hearing must make their request to testify to J. Michael Stern, Staff Director, Committee on Finance, 2227 Dirksen Senate Office Bldg., Wash., D.C., not later than Monday, February 4, 1974. Witnesses will be notified as soon as possible after this cutoff date as to when they are scheduled to appear. All witnesses must include with their written statement a summary of the principal points included in the statement. The written statements must be typed on letter-size paper (not legal size) and at least 50 copies must be submitted to the Committee.

Written Statements—Witnesses who are not scheduled for oral presentation, and others who desire to present a statement to the Committee, are urged to prepare a written position of their views for submission and inclusion in the printed record of the hearings. These written statements should be submitted to J. Michael Stern, Staff Director, Committee on Finance, Room 2227, Dirksen Senate Office Building not later than Friday, February 22, 1974.

## ENERGY CRISIS CAN COST HUNDREDS OF THOUSANDS OF JOBS

Mr. HUMPHREY. Mr. President, the Labor Department's statistics confirm that perhaps as many as 100,000 jobs have already been lost as a direct result of the "energy crisis." And this, the experts agree, is merely the first ripple in the waves of energy-related joblessness that we can expect in 1974.

Administration economists have themselves predicted that the "energy crisis" will cost over a half million American workers their jobs. Others have projected losses of as much as twice this figure.

Mr. President, the unfortunate American workers who have lost or will lose their jobs as a result of fuel shortages cannot be asked to shoulder the lion's share of this "energy crisis" on their own. This just is not fair.

Justice demands that, if we cannot prevent job losses from fuel shortages through national energy policy, then we must immediately initiate job and economic assistance programs to minimize the suffering of these workers and their families.

Mr. President, a recent article in the Journal of Commerce discusses energy-related unemployment as indicated in data released by the Department of Labor. I ask unanimous consent that this article be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Job Figures Feeling "Gas" Crunch Impact

### DECEMBER DATA ASSESSED

(By Tom Connors)

Washington, January 13.—Government experts think the December employment figures show the first signs of job reductions because of actual or threatened gasoline shortages but they are uncertain about exactly how many jobs were involved.

The Labor Department apparently was concerned Friday by a wire service story which placed the number of affected jobs at around 100,000, but later labor explanations of the December figures indicated that the number probably was in this general neighborhood, if perhaps a little lower.

Additionally, there is the likelihood that the survey of places of work in December, taken during the customary week of the month which includes the 12th, came too early to catch the layoffs in the auto manufacturing and other industries. The effects of these actions on the job figures will not show until the January survey.

Administration economists, meanwhile, felt that the December figures in the gasoline affected area were within the bounds of expectations. They have estimated recently that energy programs might raise the unemployment level over the course of this year by as much as 0.6 percentage points above the levels it would reach otherwise.

The 100,000 jobs figure mentioned in regard to gasoline supply problems in December while not exactly comparable to the unemployment figures, is the equivalent of about 0.1 percentage point.

The payroll figures from places of work or "establishments", released by the Labor Department Friday followed a report a week earlier on the basis of its household survey. The first report showed that unemployment had risen from 4.7 per cent in November to 4.9 per cent in December.

The "establishment" survey itself was once clear victim of the energy crisis which, combined with holidays, delayed its publication for a week.

The nonfarm payroll figures from the survey rose slightly between November when they were reported at 76.6 million, and their December level of 76.7 million.

The household survey earlier had shown a similar slight decline in overall employment; taken together, the two figures point to high-level stability in the job picture generally.

Inside the total nonfarm payroll figures, however, Labor cited employment reductions in several industries which it said "appear to be due to actual or anticipated shortages of gasoline."

In this connection, the department said retail trade employment declined after seasonal adjustment by 80,000 last month with the loss concentrated among auto dealerships and service stations, although a strike among grocery workers also had a substantial effect. The strike apparently accounted for about 30,000 jobs; there were some other sectors besides auto dealers and gas stations in the remaining 50,000.

The department also said that the service industry failed to post its usual large seasonally adjusted increase, primarily, but not only, because of employment declines in hotels, motels, and entertainment. The service trade missed that customary increase by a margin of about 35,000 to 45,000 jobs.

## MOTION TO RECOMMIT CONFERENCE REPORT ON S. 2589 SHOULD BE DEFEATED

Mr. RANDOLPH. Mr. President, the conference report on the Emergency Energy Act has been before the Senate for more than a month. Its provisions were carefully developed in conference and they were extensively debated in this body prior to the Christmas recess. While this legislation was not enacted before the recess, the period during which Congress was not in session gave us an opportunity to further reflect on this conference report. Temporarily freed from the immediate pressures of time, Members of the Senate could examine this measure carefully and consider its effectiveness in coping with the energy crisis as well as its impact on other programs.

Mr. President, I am satisfied that this measure achieves its purposes in the most practical way possible at this time. This legislation is needed and, therefore, I oppose its recommittal to the Conference Committee.

There is no question that this is complex legislation and that its ramifications are widespread. The development of this bill was expedited but its provisions were by no means arrived at hastily. The individual issues addressed have been considered for many months in the various committees of the Senate which have jurisdiction over these matters.

The Committee on Public Works has been particularly concerned with sections of the bill which relate to air pollution controls. Our committee developed the basic legislation in this area and we have kept continuous watch on its implementation.

The Senator from Wisconsin (Mr. Nelson) has indicated that one of his principal reasons for seeking recommittal of this legislation is its effect on the air pollution program.

The relationship of clean air requirements to the energy supply situation was thoroughly explored by the Committee on Public Works. We sought to determine what temporary adjustments realistically could be made in the air pollution program. We did not want, however, to be panicked into ill-conceived action that would undermine the basic integrity of the program and have little or no effect on the energy crisis.

It was in this context that members

of our committee participated in the conference and devoted our earnest energies to sections of this bill relating to the Clean Air Act. The provisions of the conference report on this subject do not represent a retreat from our commitment to clean air. They are a realistic response to the current situation. The variances to the provisions of the Clean Air Act are temporary in nature and under no circumstances could they be implemented if such implementation would create a severe impact on public health.

I suggest to the Senator from Wisconsin (Mr. Nelson) that recommittal of this legislation would not result in significant change in the sections of the bill relating to the Clean Air Act. As in any conference report, this measure represents compromise, the establishment of a common meeting ground between the differing viewpoints of the Senate and House of Representatives.

I further remind the Senator from Wisconsin (Mr. Nelson) that the air pollution provisions of the original House bill are much more lenient than those adopted by the Senate. The House of Representatives would have relaxed automobile emission standards and transportation control requirements of the Clean Air Act to a much greater degree than the Senate bill contained.

In addition, the requirements for coal-burning utilities over the next few years to assure compliance with ambient air quality standards by the new deadline are much more stringent under the conference report than the original House bill, and concessions in that area were hard-won by those of us from the Senate. I cannot conceive, therefore, that recommittal of this measure will achieve the results sought by the Senator from Wisconsin (Mr. Nelson) concerning the amendments to the Clean Air Act.

Considerable attention also has been focused on provisions of this bill dealing with what has come to be known as windfall profits. Controversy over this issue, in fact, has threatened to divert our attention from other important aspects of the energy emergency. Substantial revisions in tax policies should not be undertaken hurriedly. I regret that attention focused on the windfall profits question, important though it is, has impeded our consideration of the total bill. I would have preferred that the matter of profits in the oil industry not be addressed in this emergency legislation. I do not believe its inclusion, however, is grounds for recommittal and consequent delays in passing this bill. Furthermore, the Senate Finance Committee and the House Ways and Means Committee have assured us that they will expedite consideration of this complex and important issue. We will have oportunity, therefore, in the near future to make any adjustments and provide amendments that may be necessary to the windfall profits section of this bill.

Mr. President, I am aware that there is some confusion and uncertainty about the extent and possible duration of the energy crisis. There is, however, no doubt about the existence of the energy crisis. The fact of shortages of our energy sources requires that we act with dispatch to adjust to these shortages. This legislation is an emergency bill and is so titled. It is intended to provide us with the mechanisms for accommodating our economy and our way of life to the current situation in the most equitable and least disruptive manner. Its provisions have been painstakingly drawn and I believe further delay in implementing them would be to the detriment of the United States.

Mr. JACKSON. Mr. President, this is the first real test in Congress as to where Congress stands as far as protecting the public interest is concerned.

We have argued this afternoon about the so-called renegotiation provision as if that were the only section in this bill. Mr. President, we sought a compromise on this, and the House rejected it. There were only 20 votes for the position of the Senate to take it out. That is all past.

Mr. President, the Senate has to decide whether we are going to do anything about protecting the consumer and the American public. This bill provides protection for the franchised service dealer. It provides stringent antitrust protection. It provides for restrictions on the export of fuel. It provides for unemployment assistance. It provides for grants in aid to the States to carry out the allocation and conservation programs, and it provides for mandatory disclosure by the oil companies of their profits, of their inventories, and so on—something that the administration does not have. That is in this bill. And it provides for special authority to deal with price gouging and windfall profits.

You cannot talk out of both corners of your mouth on this issue, Mr. President. Either you are for doing something to protect the public interest, or you oppose it. If we recommit this bill, we will be taking away an incentive, first, to get an excess profits tax, and, second, we will be taking out all of these safeguards. That is the issue. Let us not kid ourselves. We have voted on this issue, and 20 votes is all we got. I offered this proposal with the renegotiation provision out, and only 20 Members of the House of Representatives voted for it. Do not go out of here saying, "Those poor fellows are having a terrible time with profits." Look at the charts on the wall. The lowest of the top 16 companies showed a 27.7 percent profit increase the first 9 months of last year, up to 96.9 percent, and that is what the discussion has been about this afternoon.

The Members of this body can decide, are we going to do something for the consumer who is being gouged, or are we going to worry about those poor fellows on that graph who are having a hard time—the 16 largest oil companies in the United States?

That is the issue.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Wisconsin (Mr. Nelson) to recommit the conference report on S. 2589.

All in favor indicate by——

Mr. JACKSON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The VICE PRESIDENT. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCLURE (after having voted in the negative). On this vote I have a pair with the distinguished Senator from New York (Mr. Buckley). If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. MANSFIELD. (After having voted in the negative.) On this vote I have a pair with the distinguished Senator from North Dakota (Mr. Young). If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Missouri (Mr. Eagleton) and the Senator from Indiana (Mr. Hartke) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. Hartke) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from North Dakota (Mr. Young), is absent on official business.

I further announce that the Senator from New York (Mr. Buckley) is necessarily absent.

The result was announced—yeas 57, nays 37, as follows:

[No. 14 Leg.]

YEAS—57

Abourezk
Aiken
Allen
Bartlett
Beall
Bellmon
Bennett
Bentsen
Biden
Brock
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Cook
Cotton
Curtis
Dole
Dominick
Eastland
Ervin
Fannin
Fong
Fulbright
Goldwater
Gravel
Gurney
Hansen
Hatfield
Helms
Hruska
Johnston
Long
Mathias
McClellan
McGee
McGovern
Mondale
Moss
Nelson
Nunn
Packwood
Pearson
Percy
Proxmire
Roth
Scott, Hugh
Scott, William L.
Sparkman
Stennis
Stevens
Taft
Talmadge
Thurmond
Tower
Weicker

NAYS—37

Baker
Bayh
Bible
Brooke
Chiles
Church
Clark
Cranston
Domenici
Griffin
Hart
Haskell
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Magnuson
McIntyre
Metcalf
Metzenbaum
Montoya
Muskie
Pastore
Pell
Randolph
Ribicoff
Schweiker
Stafford
Stevenson
Symington
Tunney
Williams

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Mansfield, against
McClure, against

NOT VOTING—4

Buckley
Eagleton
Hartke
Young

So the motion to recommit the conference report on S. 2589 was agreed to.

Mr. NELSON. Mr. President, I move that the Senate reconsider the vote by which the conference report on S. 2589, the National Energy Emergency Act of 1973, was recommitted to conference.

Mr. FANNIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## LEGAL SERVICES CORPORATION ACT

The VICE PRESIDENT. The Chair lays before the Senate the unfinished business, which will be stated by title.

The second assistant legislative clerk read as follows:

Calendar 471, S. 2686, a bill to amend the Economic Opportunity Act of 1964 to provide for the transfer of the Legal Services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

The VICE PRESIDENT. The Senate will be in order. The clerk cannot be heard. The Senate cannot proceed with its business until the Senate is in order.

The Chair recognizes the Senator from Washington.

## ORDER OF BUSINESS

Mr. MAGNUSON. Mr. President, may I ask the majority leader and the distinguished Senator from Michigan what the order of business will be for the rest of the day? I think many Senators would like to know.

The VICE PRESIDENT. Does the majority leader wish to respond to the Senator from Washington?

Mr. MAGNUSON. I merely asked, What will be the pending order of business for the rest of the day? Will there be any votes?

Mr. MANSFIELD. I do not think there will be any more votes today. I always have to keep my fingers crossed, but my belief is 99.4 percent against it. However, the Legal Services bill will be the pending business. There will be a bit of debate on that bill. It is my understanding that another cloture motion will be laid before the Senate. However, I believe there will be no further votes today.

Mr. MAGNUSON. I thank the Senator.

## LEGAL SERVICES CORPORATION ACT

The Senate continued with the consideration of the bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

The PRESIDING OFFICER (Mr. CURTIS). The pending question is on agreeing to the amendment of the Senator from Virginia (Mr. WILLIAM L. SCOTT), No. 887, to S. 2686.

Under the previous order, the vote will come at 2 p.m. tomorrow.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CURTIS). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, as Members have been advised the Senate will consider tomorrow, Wednesday, January 30, a motion filed by Senator TAFT—in which I joined—to invoke cloture on S. 2686, the Legal Services Corporation Act; that vote will take place immediately after a vote on the Scott amendment, Amendment No. 887.

This morning, two national newspapers, the New York Times, and the Washington Post, each contained editorials in support of cloture.

The New York Times editorial concludes that success in the cloture effort is "essential to keep alive and vigorous a program designed to remove the economic barriers to equal treatment and equal standing in the courts."

Similarly, the Washington Post describes the committee bill, S. 2686, as a "realistic and workable compromise" and thus urges that it, as a strong Senate bill, "should be passed and be considered in conference with the House."

Mr. President, I ask unanimous consent that the New York Times editorial, entitled "Lawyers for the Poor," and the Washington Post editorial, entitled "A Test for Legal Services" each of todays date, be printed at this point in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 29, 1974]

### LAWYERS FOR THE POOR

Among the useful accomplishments of the "war on poverty" initiated by President Johnson a decade ago was establishment of a Government-funded but politically independent legal services program to assure high-quality legal assistance in civil cases to those who would not otherwise be able to afford it.

This program now embraces more than 2,250 lawyers operating in 900 neighborhood law offices. Much of their work is involved in challenging bureaucratic regulations that discriminate against the poor—a mission not calculated to make this branch of law popular with the public officials who find themselves called to account.

By way of safeguarding the program against new efforts to cripple it and to strip its lawyers of their necessary freedom of advocacy, a bipartisan group clearly representing a majority in the Senate has been trying vainly to get a floor vote on a proposal for a permanent Legal Services Corporation. The bill is the fruit of compromise between the White House and the Senate Committee on Labor and Public Welfare—a middle-of-the-road effort, in President Nixon's own words, to "protect and preserve a basic right of all Americans." Despite its balanced nature, however, the bill has been blocked by filibuster.

A third attempt to shut off the filibuster will be made in the Senate tomorrow. Its success is essential to keep alive and vigorous a program designed to remove the economic barriers to equal treatment and equal standing in the courts. The House passed a mangled version of the same bill last June; the first round in the redemption effort comes tomorrow on cloture.

[From the Washington Post, Jan. 29, 1974]

### A TEST FOR LEGAL SERVICES

The enemies of the independent legal services bill now before the Senate have so far failed to destroy it. They have, however, stalled it by means of filibuster and thereby have prevented the fulfillment of a compromise that had been worked out by the Nixon administration and the Senate Labor and Public Welfare committee. The bill goes back to 1971 when it was agreed that legal services should be taken from OEO and placed in a public corporation; this was a recommendation of the Ash commission and supported in the Senate. On two occasions, the bill went nowhere: once a veto killed it and another year it died in conference. Now with both factions—the administration and the committee—in agreement, the bill this week faces still another crucial test.

At issue is whether the Senate will allow a small part of its membership to block what is seen by the larger membership as a necessary, reasonable and long-overdue bill. A petition has been filed—by Sens. Hugh Scott (R-Pa.), Robert Taft Jr. (R-Ohio) and 17 others—that seeks to end the current filibuster and proceed with serious consideration of the bill. At stake is whether or not the poor will receive the kind of legal protection and assistance that is rightfully theirs. The legal services program has a record of solid achievement, both in providing the daily services to the poor—in family law, landlord-tenant law, consumer law—and also in enforcing federal and state statutes when abused by governmental officials.

The current bill is far from ideal. One drawback, for instance, concerns the fact that the President and state governors will be allowed to appoint all members of the corporation's board and state advisory committees. This contradicts the original intention of the corporation idea—to insulate the program from political interference. Nevertheless, the compromise that has been worked out is realistic and workable. To date, the White House has been a needed ally for the current bill, and the administration will earn much credit if it continues to offer its support. A strong Senate bill is crucial at this time because it will soon be sent to a conference committee with a House bill that in many ways undermines justice for the poor. Thus, going into a conference, the better the Senate bill the better the chances for an adequate final version.

## PERIOD FOR TRANSACTION OF ADDITIONAL ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there again be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 3 minutes.

The PRESIDING OFFICER (Mr. TAFT). Without objection, it is so ordered.

## LEGAL SERVICES CORPORATION ACT

The Senate continued with the consideration of the bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

## CLOTURE MOTION

Mr. TAFT. Mr. President, I send a cloture motion to the desk and ask that it be read.

The PRESIDING OFFICER (Mr. JAVITS). The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read the cloture motion, as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the pending bill, S. 2686, to transfer the legal services program from the OEO to the newly established Legal Services Corporation:

Robert Taft, Jr., Alan Cranston, Gale W. McGee, James B. Pearson, Walter F. Mondale, Hugh Scott, William Proxmire, William D. Hathaway, Mark O. Hatfield, and J. Glenn Beall, Jr.

Gaylord Nelson, Howard M. Metzenbaum, Mike Gravel, Adlai E. Stevenson, Edmund S. Muskie, Lee Metcalf, Mike Mansfield, Frank Church, James S. Abourezk, Howard E. Hughes, and Jacob K. Javits.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TAFT). Without objection, it is so ordered.

## ORDER TO VACATE REQUIREMENT FOR QUORUM UNDER THE RULES

Mr. ROBERT C. BYRD. Mr. President, in view of the fact that the order previously entered provides that the vote on the motion to invoke cloture on tomorrow, follow immediately after the vote on the amendment offered by the Senators from Virginia (Mr. HARRY F. BYRD, JR., and Mr. WILLIAM L. SCOTT), there will be no time for the automatic quorum call preceding the cloture vote, as required by the rule. Presumably a quorum will be present for the vote on the Scott-Byrd amendment. However, in the unlikely event that a quorum were not to vote on that amendment, I assume that an immediate quorum call would then be required.

In any event, I ask unanimous consent that the requirement for a quorum call, under the rule, immediately preceding the vote on the cloture motion be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR RECOGNITION OF SENATORS GRIFFIN AND ROBERT C. BYRD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the minority whip, the Senator from Michigan (Mr. GRIFFIN), and the majority whip, the Senator from West Virginia (Mr. ROBERT C. BYRD), be recognized in that order, respectively, for not to exceed 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, following the recognition of Senators under the order previously entered, on tomorrow, the period to last for not to exceed 20 minutes with statements made therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR THE CONSIDERATION OF LEGAL SERVICES BILL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the routine morning business tomorrow, the Senate proceed to the consideration of the unfinished business, the so-called legal services bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR LIMITATION OF TIME

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for debate on the legal services bill and debate on the Scott-Byrd amendment and on cloture all prior to the vote on the Scott-Byrd amendment, be equally divided between and controlled by the distinguished majority leader and distinguished minority leader or whomever they may designate.

The PRESIDING OFFICER. Without objection, it is so ordered.

## INTERNATIONAL CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

Mr. PROXMIRE. Mr. President, the leadership has told me they would be prepared to have a discussion on the genocide treaty now. Of course, I am always anxious to do that and have been for 7 years, having spoken almost every day since 1967.

We are very hopeful that we can come to a vote on the treaty. It has been before the Senate or the committee for 24 years.

I think it significant that on yesterday the distinguished Senator from New York (Mr. JAVITS) and I were the only speakers on the treaty. The Senator from Idaho (Mr. CHURCH), of course, will address himself to the treaty shortly. However, as yet we have not heard from the opponents. I am sure that they will speak on it. I would hope that they do so in the next few days so that we can come to a vote on this matter.

Some have said that we are likely to have a filibuster on this measure. I earnestly hope that we do not. As the Senator from New York (Mr. JAVITS) said on yesterday, this is a matter which requires a two-thirds vote anyway. It takes a two-thirds vote to invoke cloture. So, there seems to be no tactical reason for filibustering.

One reason that I am speaking today is to make it very clear to the Senate and to the country that the time is now available for those who would like to address themselves to the treaty. If those who oppose the treaty wish to speak, they could have spoken on yesterday. They could speak today. I am sure that they can speak on Thursday and on Friday.

I hope that they will indicate the reasons for their opposition. Let us get the debate moving. If these Senators oppose cloture later, let them recall their failure to speak now.

As one of the spectators in the gallery on yesterday told me after listening to the debate, he could not understand how anyone would be against the treaty.

On the other hand, when a Senator looks at his mail, he will note that he has received a lot of mail on this subject. I have received hundreds of letters from people respecting the treaty. There are many letters from those who oppose the treaty. And the reason for that is that those who are opposed to the treaty are organized and are able to inspire the sending of a number of letters from all over the country. I have received a number of letters from Ohio, Indiana, Illinois, as well as Wisconsin and other States.

The substance of the letters was very similar. The basis for the opposition to the treaty in most cases is one of clear misinformation and misunderstanding.

There was an element of opposition to the effect that any participation whatsoever in the United Nations is unnecessary and that we should not be involved in anything that requires international cooperation.

There has been no opposition discussion of the treaty title by title. Yesterday I did exactly that in justifying the treaty. I not only discussed the reason for it, but I discussed the opposition to it.

I am very hopeful that those who oppose this treaty will come in and will do so in the next few days so that we can join in an effective debate and not merely postpone it, so that when we do have a cloture vote—which I am afraid we will have to have on the treaty—the opposition cannot argue that they have had no chance to debate it.

They had a chance on yesterday and they have a chance on today. They will have days in the future on which they can debate this matter before we make a final determination of it.

In the course of my remarks yesterday, I pointed out that the American Bar Association has been split over the treaty. While every single subcommittee of the ABA without exception that has been asked to study the treaty—and I think that there were four or six subcommittees of the American Bar Association—supported the treaty and argued that the treaty should be ratified, it is true that at a meeting of the delegates of the American Bar Association, by a very small margin of 51 to 49 percent, the American Bar Association went on record against the treaty.

Mr. President, this was the only group that appeared before the Foreign Relations Committee to the best of my knowledge who opposed it. We have had a very large number of organizations who have supported it. Among others, we have had the great religious groups in this country who supported it. We have not only had the Jewish organizations, but have also had the National Catholic Conference for Interracial Justice, as well as a number of the Protestant sects who have appeared in support of the treaty.

We should recognize that in particular the religious organizations have a peculiar and special interest and responsibility in this matter, because genocide is defined in part as a calculated attempt to destroy and to eliminate a group, including a religious group.

Mr. President, as I pointed out yesterday, I hope that Senators will not become so involved in the technical aspects of this treaty, although they should be very carefully considered. There are eminent constitutional authorities on both sides. But we should not miss the human and the emotional aspects of this treaty.

The fact is that the treaty was inspired by the most monstrous crime of this century, the deliberate genocide of European Jews in Nazi Germany.

The tragic fact is, whether Jew or gentile, as human beings we must oppose genocide. After all Hitler's genocide pogrom was not the only genocide that has occurred from that time until now. We have had it in Pakistan. We had it in the African countries. The Nation must address itself to this problem.

Mr. President, I ask unanimous consent that a list of organizations that support the Genocide Treaty be printed in full in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

GROUPS ENDORSING CONVENTION

AD HOC COMMITTEE ON THE HUMAN RIGHTS AND GENOCIDE TREATIES

MEMBER ORGANIZATIONS

American Baptist Convention.
American Civil Liberties Union.
American Ethical Union.
American Federation of State, County and Municipal Employees, AFL-CIO.
American Federation of Teachers, AFL-CIO.
American Friends Service Committee.
American Humanist Association.
American Jewish Committee.
American Jewish Congress.
American Romanian National Committee.
American Veterans Committee.
Americans for Democratic Action.
B'nai B'rith.
Brotherhood of Sleeping Car Porters, AFL-CIO.
Episcopal Church.
Farband, Labor Zionist Order.
Friends Committee on National Legislation.
Hadassah, the Women's Zionist Organization of America.
Industrial Union Department, AFL-CIO.
International Ladies' Garment Workers' Union, AFL-CIO.
International Rescue Committee.
International Union of Electrical Workers, AFL-CIO.
Jewish Labor Committee.
Jewish War Veterans.
League for Industrial Democracy.
Methodist Church, General Board of Christian Social Concerns.
National Association of Negro Business and Professional Women's Clubs.
National Association for the Advancement of Colored People.
National Board, YWCA.
National Catholic Conference for Interracial Justice.
National Jewish Community Relations Advisory Council.
National Conference of Christians and Jews.
National Council of Jewish Women.
National Spiritual Assembly of the Baha'is of the U.S.
Poale Zion, United Labor Zionist Organization of America.
Quaker UN Office.
Retail, Wholesale and Department Store Union, AFL-CIO.
Textile Workers Union of America, AFL-CIO.
Ukrainian Congress Committee of America.
Ukrainian National Association.
Union of American Hebrew Congregations.
Unitarian-Universalist Association.
United Automobile Workers of America.
United Church of Christ.
Women United for the United Nations.
Women's International League for Peace and Freedom.
Workers Defense League.
Workmen's Circle.
World Federalist, USA.
World Jewish Congress, American Section.

Mr. PROXMIRE. I do hope that we can join in debate on this matter, and extensive debate, because I feel that with all the business the Senate is going to have to accomplish this year, we should try to handle all of our business as expeditiously as possible, and it would be a very sad thing indeed if this great treaty, representing the position the United States won before the United Nations a few years ago, should be defeated, because Senators were not allowed to vote on the substance of it.

Mr. President, I yield the floor.

Mr. JAVITS. Mr. President, I would like first to associate myself with the remarks made by my distinguished colleague, who has been such an intrepid fighter for this particular treaty. I could not think of a more worthy objective, notwithstanding his otherwise very illustrious career.

Mr. President, the fact is that a two-thirds vote is required to agree to the resolution of ratification, and a two-thirds vote is required to close the debate, so that in this particular case, I see no point to giving the feeling, let along any substance of any evidence, of reluctance to vote on the treaty. There is no time limitation; Members may propose such reservations or understandings, which is the way in which this matter is approached, as they feel are essential. They can be debated and voted up or down; that takes only a majority vote. Then the whole treaty will take exactly the same vote as would be required for cloture.

So I hope very much that the Senate, with that rather unique capability of self-discipline which we exercise on occasion, will allow this matter to proceed forward to a vote on the treaty, rather than anyone who is either for or against the treaty, considering its sensitive character and the tremendous situation which it approaches, seeking to make the world feel that we would try to inhibit a vote upon the treaty itself in the U.S. Senate, when there is nothing to be gained and no point to it.

I join with Senator PROXMIRE, therefore, in pleading that we may, at the earliest possible time, take up the debate, follow it through with diligence, and vote on this treaty. After 25 years, it is time that the Senate express itself as yea or nay, especially since two-thirds of the nations of the world have already expressed themselves on the subject.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR RECESS FROM THE CLOSE OF BUSINESS TOMORROW UNTIL 8:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in recess until the hour of 8:30 p.m. tomorrow, at which time the Senate will proceed in a body to the Hall of the House of Representatives.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR ADJOURNMENT FOLLOWING THE STATE OF THE UNION MESSAGE UNTIL 9 A.M. ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the conclusion of the state of the Union address tomorrow evening, the Senate stand adjourned until the hour of 9 a.m. on Thursday.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AMENDMENT OF THE WILD AND SCENIC RIVERS ACT

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 921, the wild rivers bill.

The PRESIDING OFFICER (Mr. TAFT) laid before the Senate a message from the House of Representatives stating that the House disagrees to the Senate amendment to the House amendment to S. 921, an act to amend the Wild and Scenic Rivers Act.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from Washington (Mr. JACKSON), I move that the Senate recede from its amendment to the House amendment, thereby concurring in the House amendment without an amendment.

Mr. GRIFFIN. Mr. President, reserving the right to object, I do not intend to object, but I would like the RECORD to indicate that this matter has been checked with the ranking Republican member of the committee Mr. FANNIN, and also with the Senator from Wyoming (Mr. HANSEN) and the Senator from Washington (Mr. HATFIELD), and there is no objection to the request.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

## ORDER FOR RECOGNITION OF SENATOR CLARK ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, February 4, after the two leaders or their designees have been recognized under the standing order, the Senator from Iowa (Mr. CLARK) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 12 o'clock noon tomorrow.

After the two leaders or their designees have been recognized under the standing order, the Republican whip and the majority whip will be recognized, in that order, each for not to exceed 10 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 20 minutes, with statements therein limited to 5 minutes each.

At the conclusion of routine morning business, the Senate will resume its consideration of the unfinished business, S. 2686, the legal services bill. Debate will be under control, and the vote will occur on the amendment (No. 887) by the Senators from Virginia (Mr. WILLIAM L. SCOTT and Mr. HARRY F. BYRD, JR.), that vote being a yea-and-nay vote, at the hour of 2 p.m.

Immediately following the vote on the Scott-Byrd amendment, the Senate will proceed to vote by rollcall on the motion to invoke cloture on the bill (S. 2686) and, of course, what occurs during the remainder of the afternoon tomorrow will depend on the outcome of that vote to invoke cloture.

I ask unanimous consent, in accordance with our usual practice, that all amendments at the desk at the time that the vote on the motion to invoke cloture begins, be considered as having met the reading requirement under the rules.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, when the Senate completes its business tomorrow, it will stand in recess until the hour of 8:30 p.m. tomorrow, at which time Senators will meet in the Senate Chamber and, at the hour of 8:42 p.m. or thereabouts, Senators will proceed in a body to the Hall of the House of Representatives.

Following the President's state of the Union address, the Senate will stand adjourned until the hour of 9 a.m. on Thursday.

I repeat, there will be at least two yea-and-nay votes tomorrow.

Mr. JAVITS. Mr. President, will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. What time do we vote on this? Do we have a time fixed to vote on the Scott-Byrd amendment tomorrow?

Mr. ROBERT C. BYRD. Yes. The Scott-Byrd amendment will be voted on at 2 o'clock tomorrow p.m.

Mr. JAVITS. I wish to serve notice that I reserved under unanimous consent the right to move to table, and I may well do that.

Mr. ROBERT C. BYRD. To table the Scott-Byrd amendment?

Mr. JAVITS. Yes.

Mr. ROBERT C. BYRD. Very well.

Then, Mr. President, I will amend my statement of the program. Instead of saying, as I said earlier, that the vote would occur on the Scott-Byrd amendment at 2 p.m., the vote will occur on the disposition of the Scott-Byrd amendment at 2 p.m.

## ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and, at 5:01 p.m., the Senate adjourned until tomorrow, Wednesday, January 30, 1974, at 12 o'clock noon.

## NOMINATIONS

Executive nominations received by the Senate January 29, 1974:

### DEPARTMENT OF STATE

Davis Eugene Boster, of Ohio, a Foreign Service Officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of Bangladesh.

Martin F. Herz, of New York, a Foreign Service Officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Bulgaria.

### ACTION AGENCY

John L. Ganley, of New Jersey, to be Deputy Director of the ACTION Agency, vice Walter C. Howe, resigned.

### MINING ENFORCEMENT AND SAFETY ADMINISTRATION

James M. Day, of Virginia, to be Administrator of the Mining Enforcement and Safety Administration. (New position)

### BUREAU OF MINES

Thomas V. Falkie, of Pennsylvania, to be Director of the Bureau of Mines, vice Elburt Franklin Osborn, resigned.

### CORPORATION FOR PUBLIC BROADCASTING

Irving Kristol, of New York, to be a member of the Board of Directors of the Corporation for Public Broadcasting for the remainder of the term expiring March 26, 1976.

### IN THE ARMY

The following-named persons for appointment in the Regular Army of the United States, in the grades specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

*To be major*

Guglielmo, Eugene M., Jr., [redacted].
Hardee, Erasmus B., Jr., [redacted].
Hendrickson, Donald E., [redacted].
King, Jerry M., [redacted].
Lundin, Keith E., [redacted].
McDowell, Milton K., [redacted].
Spaulding, Harry S., [redacted].
White, Claude R., [redacted].
Wright, Lewis W., III, [redacted].

*To be captain*

Adams, William C., [redacted].
Bacas, Harry J., [redacted].
Bacon, Gordon D., [redacted].
Baumgartner, John C., [redacted].
Boehme, Ronald E., [redacted].
Bryan, James L., [redacted].
Buhler, John E., Jr., [redacted].
Burnette, Larry R., [redacted].
Cates, James L., [redacted].
Cavanaugh, Charles G., Jr., [redacted].
Disney, Robert C., [redacted].
Epperson, Gary E., [redacted].
Fischer, Donald C., [redacted].
Gillen, Philip J., Jr., [redacted].
Gooden, William J., [redacted].
Harris, Edwin C., [redacted].
Haseman, John B., [redacted].
Hutton, Albert B., Jr., [redacted].
Jenkins, Kenneth M., [redacted].
Johnson, Lowell W., [redacted].
Justice, Jackie P., [redacted].
Kastantin, Brony F., [redacted].
Keen, Charles E., [redacted].
Knowlton, William F. X., [redacted].
Lang, John P., [redacted].
Mills, Francis E., [redacted].
Morris, Dennis K., [redacted].
Nickens, Joseph E., [redacted].
Pelletier, Armand M., [redacted].
Price, James W., [redacted].
Ross, Sandra V., [redacted].
Ruybalid, Jerry A., [redacted].
Sarno, Albert R., [redacted].
Schutt, Geralynn L., [redacted].
Slater, Rufus E., [redacted].
Sowell, Russell W., Jr., [redacted].
Vaughn, Robert R., [redacted].
Welch, James C., [redacted].
Wheeler, Jesse T., [redacted].
Wood, Mary L., [redacted].
Wu, Daniel, [redacted].

*To be first lieutenant*

Abbenante, Thomas L., [redacted].
Adame, Rumaldo, [redacted].
Adams, Abram E., Jr., [redacted].
Alaniz, Moses P., [redacted].
Anderson, John L., [redacted].
Andino, Manuel, [redacted].
Bailey, David V., [redacted].
Bailey, Ernest M., Jr., [redacted].
Bailey, Robert B., [redacted].
Barnum, Thomas I., [redacted].
Beeks, Gary H., [redacted].
Beer, John Michael, [redacted].
Beeson, Charles S., [redacted].
Berkowitz, James W., [redacted].
Beyer, Ronald F., [redacted].
Blische, Charles L., Jr., [redacted].
Boeset, Hugh A., [redacted].
Brandt, Terry W., [redacted].
Brinckmann, Karen A., [redacted].
Broderick, Clifton J., [redacted].
Brown, Geoffrey P., [redacted].
Brown, Thomas L., [redacted].
Bryant, Joseph A., [redacted].
Brzozowski, Gregory A., [redacted].
Buono, John T., [redacted].
Burchett, Michael A., [redacted].
Burnau, Warren A., [redacted].
Burnett, John R., [redacted].
Cahill, Terence L., [redacted].
Caplan, Marcia, [redacted].
Carden, John P., [redacted].
Carmichael, William T., [redacted].
Cascio, Anthony F., [redacted].
Causey, William M., Jr., [redacted].
Chamberlin, John H., II, [redacted].
Chessnoe, John M., [redacted].
Chopin, Theodore G., [redacted].
Coates, Byron C., [redacted].
Corbett, John W., [redacted].
Cothran, Julian L., [redacted].
Crampton, Richard W., [redacted].
Dale, Robert A., [redacted].
Davis, James H., [redacted].
Davis, Joe W., [redacted].

Davis, Richard S., [redacted].
Dempsey, John M., [redacted].
Depew, Richard L., [redacted].
Devera, Emmanuel V., [redacted].
Dorny, Walter B., II [redacted].
Dunn, Martin A., [redacted].
Duvall, Douglas W., [redacted].
Earley, Jack D. [redacted].
Eckles, George T., [redacted].
Edwards, Roy L., [redacted].
Edwards, Roy T. [redacted].
Ehrmantraut, John E., [redacted].
Ellis, Neil W., [redacted].
Emerson, Harry M., III, [redacted].
Engeset, Robert M., [redacted].
Fielden, Terry S., [redacted].
Flatt, Kevin N. [redacted].
Flye, Patricia A. [redacted].
Garnett, Thomas E., [redacted].
Gilreath, Johnnie B., [redacted].
Gray, James M. [redacted].
Gregery, Byron J. [redacted].
Grossholz, Fred P., [redacted].
Hahn, Jamie C. [redacted].
Hammer, Harvey B., [redacted].
Harris, Jordan H., [redacted].
Hatchett, William H., [redacted].
Hess, Jeffrey L., [redacted].
Hethcox, Richard E., [redacted].
Hill, Charles H., III, [redacted].
Hill, Jerry O., [redacted].
Hill, Reginald A. [redacted].
Hook, John W., [redacted].
Hussey, William V., [redacted].
Janecek, Frank P., [redacted].
Jeans, David S. [redacted].
Jones, John B., [redacted].
Kearns, Walter J., [redacted].
Kennedy, Wayne E., Jr., [redacted].
Key, Carl E., Jr. [redacted].
Kitchell, Joseph W., Jr., [redacted].
Knight, William E., [redacted].
Konopka, Gary W., [redacted].
Koudelka, Brent M., [redacted].
Kozumplik, Peter W., [redacted].
Krehbiel, Carl C., [redacted].
Lamb, Arthur W., [redacted].
Landrus, Andrew G., [redacted].
Larson, James A., [redacted].
Lawson, Bruce G., [redacted].
Lenderman, John F., [redacted].
Lewis, Timothy D., [redacted].
Linker, Lynda A., [redacted].
Longenecker, Steven C., [redacted].
Losching, Holly J., [redacted].
Luciano, Peter R., [redacted].
Lundquist, David L., [redacted].
Lundy, Jack E., [redacted].
Lynch, William L., Jr., [redacted].
Mackland, Larry B., [redacted].
Macpherson, Charles W., [redacted].
Marsh, Schappi, [redacted].
Martin, Ronald T., [redacted].
Matthews, Larry W., [redacted].
Mattox, Philip M., [redacted].
Mayo, Charles E., [redacted].
McClellan, Chandler Y., IV, [redacted].
McFetridge, Charles D., [redacted].
McGee, Thomas W., [redacted].
McGinnes, Larry D., [redacted].
McKenna, Mary K., [redacted].
McMillan, Gary A., [redacted].
McNeil, Jack L., [redacted].
Meiers, William D., [redacted].
Meredith, James E., [redacted].
Messenger, Leroy T., [redacted].
Meyers, Thomas L., [redacted].
Mill, Charles S., Jr., [redacted].
Miller, Linda B., [redacted].
Molloy, Clyde P,. [redacted].
Moon, George B., [redacted].
Morin, Dennis W., [redacted].
Morris, Daniel T., [redacted].
Mudgett, Donald M., Jr., [redacted].
Mueller, Wolfgang R., [redacted].
Mutz, Warren F., [redacted].
Nesmith, Robert P., [redacted].
Nichols, James R., [redacted].
Nickels, Dennis E., [redacted].
Nicks, Edward L., [redacted].
Nieman, Charles L. [redacted].
Nolde, Barry L., [redacted].
Norman, Jack E., Jr., [redacted].
Oldham, Robert W., [redacted].
Oler, Roy P., [redacted].
Olson, Donald C., [redacted].
Ortiz, Eliezer [redacted].
Page, Stephenson W., [redacted].
Patterson, Ollie E., Jr., [redacted].
Pepperd, Loren J., [redacted].
Peregoy, Nelson G., [redacted].
Persyn, Charles E., [redacted].
Peterson, Rodney C., [redacted].
Pretz, Stephen F., [redacted].
Pruski, Betty J., [redacted].
Radeke, Donald E., [redacted].
Reed, Thomas A., [redacted].
Rixon, Gregory A., [redacted].
Robinson, Hayward, [redacted].
Rogers, Gordon L., [redacted].
Ross, David A., [redacted].
Ruggles, James E., [redacted].
Runge, Jerry D., [redacted].
Rye, Mark J., [redacted].
Sanchez, Desi J., [redacted].
Savitske, George J., [redacted].
Schrader, John R., III, [redacted].
Searle, Paul M., [redacted].
Serene, Fred L., [redacted].
Shafer, Joe G., [redacted].
Shatzer, Wilson A., Jr., [redacted].
Shine, Patrick T. [redacted].
Simmons, Stephen E., [redacted].
Sisson, James R. [redacted].
Smith, Laurence J., [redacted].
Sommers, Lawrence E., [redacted].
Stanley, Ralph E. [redacted].
Stewart, Ronald L., [redacted].
Stokes, Oliver C., Jr., [redacted].
Strittmatter, Richard A., [redacted].
Sturges, Jeffrey R., [redacted].
Sullivan, Daniel J., [redacted].
Swahn, John F. [redacted].
Thomas, Florence K. [redacted].
Thomas, Joseph T [redacted].
Thomas, William G., [redacted].
Thompson, John H., [redacted].
Thompson, Richard B., [redacted].
Tomasik, Donald M., [redacted].
Turner, Grey A. [redacted].
Vasquez, Charles E., [redacted].
Warley, Ronald R., [redacted].
Whatley, Charles J., [redacted].
Whitcomb, Roy S., [redacted].
Williams, Randall C., Jr., [redacted].
Willson, Michael P., [redacted].
Wilmsmann, Veronika G., [redacted].
Wilson, Johnnie E. [redacted].
Wilson, Warren D., [redacted].
Wimmer, Charles R., [redacted].
Wright, Barry E. [redacted].

*To be second lieutenant*

Fones, Ronald E. [redacted].
Franco, Jess J., Jr., [redacted].
Gore, Gerald E. [redacted].
Macaulay, Richard A., [redacted].
McGraw, Kenneth S., [redacted].
Morghiem, Steven W., [redacted].
Pender, Robert C., [redacted].
Pierce, John B., [redacted].
Reinsprecht, Rudolph, [redacted].
Ristow, Donald R., [redacted].
Russo, Christopher, S., [redacted].
Salzman, Jeffrey, [redacted].
Stoll, Larry E., [redacted].
Trotter, James W., [redacted].
Wood, William J., [redacted].

The following-named cadet, graduating class of 1972, U.S. Military Academy, for appointment in the Regular Army of the United States in the grade of second lieutenant, under the provisions of title 10, United States Code, sections 3283 through 4353:

Frocht, Felipe, [redacted].

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# HOUSE OF REPRESENTATIVES—*Tuesday, January 29, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*Except a man be born again, he cannot see the kingdom of God.*—John 3: 3.

Eternal God, our Father, who dost guide and govern the minds and hearts of the people, help us to be truly conscious of Thy presence as we begin and continue and end the work this day. Make us instruments of Thy grace that we may be men and women of strong minds, great hearts, true faith, and ready hands, whom the spoils of office cannot buy and who live honorably above the fog in public duty and in private thinking. May this be a great day because we are working with Thee for the good of our country.

We pray for our Nation—that she may be born again of Thy spirit, be obedient to Thy laws, and learn to live with love at the heart of life.

To Thy loving care and merciful goodness we commend ourselves, our Congress, and our country.

In the spirit of Him who lived humbly with Thee we pray. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

After consultation with the majority and minority leaders, and with their consent and approval, the Chair announces that on tomorrow, the date set for the joint session to hear an address by the President of the United States, only the doors immediately opposite the Speaker and those on his left and right will be open. No one will be allowed on the floor of the House who does not have the privilege of the floor of the House.

## APPOINTMENT AS MEMBERS OF THE HOUSE COMMISSION ON CONGRESSIONAL MAILING STANDARDS

The SPEAKER. Pursuant to the provisions of section 4(b), Public Law 93-191, the Chair appoints as members of the House Commission on Congressional Mailing Standards the following Members of the House: Mr. UDALL, of Arizona, chairman; Mr. CHARLES H. WILSON of California; Mr. HOWARD, of New Jersey; Mr. GROSS, of Iowa; Mr. DER-

Winski, of Illinois; and Mr. Quillen, of Tennessee.

## ANDREW J. MELECHINSKY, ET AL. AGAINST RICHARD M. NIXON, THE U.S. SENATE, THE U.S. HOUSE OF REPRESENTATIVES, ET AL. (CIVIL ACTION NO. H-74-18), IN THE U.S. DISTRICT COURT FOR THE DISTRICT OF CONNECTICUT

The SPEAKER. The Chair, in his official capacity as Speaker of the House of Representatives, has been served by certified mail with a summons and complaint issued by the U.S. District Court for the District of Connecticut in the case of Andrew J. Melechinsky, et al. against Richard M. Nixon, the U.S. Senate, the U.S. House of Representatives, et al. (Civil Action No. H-74-18).

The summons, which was received on January 25, 1974, requires the House of Representatives to answer the complaint within 60 days after service.

Pursuant to the provisions of title 2, United States Code, section 118, the Speaker has requested that the U.S. attorney for the District of Connecticut to represent the U.S. House of Representatives in this matter.

Without objection, copies of the summons served upon the Speaker, and copies of the Speaker's letters to the U.S. attorney and to the Attorney General, will be inserted at this point in the Record.

There was no objection.

[U.S. District Court for the District of Connecticut, Civil Action File No. H-74-18, summons]

Andrew J. Melechinsky, Barbara Anderson, Frank Anderson, Myrna M. Bleau, Ronald J. Bleau, George Bruhns, George Bousquet, Jackie Bousquet, Joseph Bucciarelli, Richard Bucciarelli, Gregory Butko, Robert E. Chandler, David Cohen, Charles Curley, Arne R. Erickson, Charles Fabrico, Adrian Gaudreau, Richard Hansen, Arthur W. Ketchem, Marcel A. Major, Michael McKeon, Roger Morin, Elaine Jan Van H. Den Breems, Allen Peichert, Joseph Piekos, Sr., Christine Seraydarian, David Shea, Irene Staff, David Vesce, Mrs. L. E. Williams, and William Zebuhr, Plaintiff v. Richard M. Nixon, Pres. of United States, The United States Senate, The U.S. House of Representatives, Atlantic Richfield Co., Gulf Oil Co., Exxon Corp., Mobil Oil Corp., Shell Oil Co., and Texaco, Inc., Defendant

To the above named Defendant:

You are hereby summoned and required to serve upon Andrew J. Melechinsky, plaintiff's attorney, whose address 29 Fairfield Dd., Enfield, Conn. 06082, an answer to the complaint which is herewith served upon you, within 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Sylvester A. Markowski,
*Clerk of Court.*

Date: January 17, 1974.

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The Speaker's Rooms,
U.S. House of Representatives,
*Washington, D.C., January 29, 1974.*

Hon. Stewart H. Jones,
*U.S. Courthouse,*
*Bridgeport, Conn.*

Dear Mr. Jones: I am sending you a certified copy of a summons and complaint in Civil Action No. H-74-18 filed against the U.S. House of Representatives et al. in the United States District Court for the District of Connecticut and served upon me in my official capacity as Speaker on January 25, 1974 by certified mail.

In accordance with Title 2, U.S. Code, section 118, I respectfully request that you take appropriate action, as deemed necessary, under the supervision and direction of the Attorney General of the United States in defense of this suit against the U.S. House of Representatives.

I am also sending you a copy of the letter that I have forwarded this date to the Attorney General of the United States.

Sincerely,

Carl Albert.

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The Speaker's Rooms,
U.S. House of Representatives,
*Washington, D.C., January 29, 1974.*

Hon. William B. Saxbe,
*Attorney General, Department of Justice,*
*Washington, D.C.*

Dear Mr. Saxbe: I am sending you a certified copy of a summons and complaint in Civil Action No. H-74-18 filed against the U.S. House of Representatives and others in the U.S. District Court for the District of Connecticut and served upon me in my capacity as Speaker on January 25, 1974 by certified mail.

In accordance with 2 U.S.C. § 118 I have sent a certified copy of the Summons and Complaint in this action to the U.S. Attorney for the District of Connecticut requesting that he take appropriate action under the supervision and direction of the Attorney General. I am also sending you a copy of the letter I forwarded this date to the U.S. Attorney.

Sincerely,

Carl Albert.

## PRESIDENT SHOULD SEE MIA WIVES

(Mr. FUQUA asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FUQUA. Mr. Speaker, 17 blocks from here, a vehicle circles the White House. It is a very special vehicle with a very special purpose.

It is being driven by wives of American servicemen still missing in action in Vietnam. They have said that they are determined to drive around the White House in an endless circle until the President sees them.

I raise my voice in their support and urge the President of the United States to meet with them immediately.

Those driving this vehicle are speaking for the families of men they feel have been forgotten. They want to call attention to the plight of the more than 1,000 families who still do not know whether or not their loved ones are alive or dead.

Their action is designed to call attention to this fact.

These families know no peace.

Theirs is a pain which permeates their existence. Those who have been able to claim the remains of their loved ones—lost in Vietnam—have at least the certainty as to the life or death of their son, husband, father.

That solace can never come to the family of a MIA.

They can never go to bed at night without wondering if there might be something else that they could have done. They cling to that hope that their loved one just might be only one of those missing who is still being held prisoner. It is a terrible plight.

I think the President of the United States could do us all a service by meeting with representatives of these families. His Office is such that this one action will call this Nation's attention to an unmet obligation.

If he does not meet with them, that vehicle will continue to circle the White House. Theirs is a mission which they dare not fail.

It would be fitting for the President of the United States to talk with them for all of us. Let us renew our efforts to see that these men are accounted for so that these families may have solace.

## MISFIT INSULTS NATION'S HERITAGE

(Mr. FUQUA asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. FUQUA. Mr. Speaker, during the congressional recess, the District of Columbia Bicentennial Building was opened with fanfare. The Mayor of Washington, D.C., was there to dedicate the structure, as well as a representative from the White House.

What they did not know was that the mural painted in black and white around the ceiling of red, white, and blue is an affront to all that the Bicentennial represents.

Staring down from the ceiling were Mao Tse-tung, Karl Max, Friedrich Engels, Angela Davis, and Joseph Stalin.

Further insult was hurled with the President of the United States depicted in the costume of a movie gangster.

The painter is a man named H. H. Booker II, who was commissioned to paint a mural to enliven the headquarters. Even the mentally retarded would have understood that the painting should say something about America and its nearly two centuries of life.

The painter, in my opinion, is not an artist and chose to be obnoxious, insulting, and offensive. In a time when a brave writer dares to speak out against dictatorial rule in Communist Russia, at a time when the Jewish people are not allowed to leave a land where they are persecuted, this misfit saw fit to insult the land that gives him the right to freedom.

In so doing, he desecrated the sacrifice of the tens of thousands of Americans who have given their lives since the founding of this Nation. Personally, I wish that he would immigrate to a Communist country so that he might fully enjoy oppression.

Immediately upon discovering this graffiti, they should have ordered it to be painted over. Instead, some chose to make asinine statements that this was the free expression of an artist.

Be that as it may, the whole affair has been a gross insult.

Many of us had hoped that the celebration of the beginning of the third century of the American adventure would be an exciting recollection of those who gave of themselves that our land might prosper and be free. So far it has been a comedy of mistakes, errors, and outright incompetence.

I, for one, am proud of my country.

I, for one, resent this disgraceful and disgusting insult.

## AMENDMENTS TO PENSION BILL

(Mr. ULLMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ULLMAN. Mr. Speaker, I am taking this means of advising our Democratic colleagues in the House, for purposes of meeting the requirements of rule 17 of the Democratic Caucus, that the Committee on Ways and Means has completed its substantive action with respect to amendments to be proposed to H.R. 2, the pension bill, and that we are asking the Rules Committee for a closed rule and the amendments to be offered by the Committee on Ways and Means to H.R. 2. As I understand the agreement which we have worked out with the Labor Committee, we intend to develop a substitute bill embodying both Ways and Means Committee titles, for which we will ask for a closed rule, and the Labor Committee titles, for which an open rule will be requested. These will be combined into one substitute to be jointly offered to the existing provisions of H.R. 2.

We appeared before the Rules Committee this morning to state our intention with respect to the Ways and Means portion of this substitute. We requested that they hold the issuance of a rule in abeyance until next week, with the expectation that they would hold another committee meeting next week so that rule 17 in all respects can be compiled with.

The series of Ways and Means Committee decisions on this subject have been announced from time to time as we developed our amendments. I hope that a complete summary of those decisions will be available at an early date. The press, of course, has been present at every meeting and has fully reported what the committee has been doing, so there should be no question as to the committee decisions on the various subjects involved. As I indicated, we are asking for a closed rule on our portion of the bill, inasmuch as our amendments relate to provisions of the Internal Revenue Code. In brief, we will have amendments, insofar as the tax treatment of pensions and profit-sharing plans is concerned, relating to participation, vesting, funding, administration, and also amendments relating to contributions on behalf of the self-employed, deductions for retirement savings for those who are not now covered under any plan, and related matters.

## BICENTENNIAL COMMISSION

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, I was very disturbed last week to read in the U.S. News & World Report a full-page editorial on the mural on display in the Bicentennial offices in the District of Columbia. I went down to view the mural, and everything that is said in this article is absolutely true. I am told the mural will be removed tomorrow.

However, while I was in the office there I picked up a paper being prominently displayed in the window called "The Sentry Post." This Sentry Post is published and paid for by the Bicentennial Commission. This is a paper that espouses political causes of several natures and also includes, it seems to me, a number of very nonflattering remarks about the Congress.

I believe that the Bicentennial Commission should not be publishing newspapers dealing with political matters but, rather, should be working to promote interest in this country of ours and its great history. We have plenty of press to keep us covered on all other matters, but I do not think that the people of the United States should be paying the bill for this.

Mr. RONCALIO of Wyoming. Will the gentleman yield?

Mr. PEYSER. I yield to the gentleman.

Mr. RONCALIO of Wyoming. How can the Bicentennial Commission do their job unless they develop a discussion and coverage of political matters? It seems to me it is very essential to point out the process for peaceful changes, especially in a representative and responsible form of government. I am glad that they are doing this.

Mr. PEYSER. I do not agree with the gentleman. I do not think the forum is where it should be handled.

## PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. LONG of Louisiana. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

## TRIBUTE TO WILLIAM McKINLEY

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. REGULA. Mr. Speaker, today, you and the other Members will observe the red carnations provided through the courtesy of Chet Keller of United Florists in Canton, Ohio, being worn by the Ohio Members as well as others. This is to recognize this day as the birthday of William McKinley, 25th President of the United States, Governor of Ohio and Member of the U.S. House of Representatives for 14 years from 1877 to 1891 representing the 16th District of Ohio.

I might add that today is also the birthday of another equally distinguished Member, the gentlewoman from Michigan, MARTHA GRIFFITHS. Mrs. GRIFFITHS related to me today her surprise during her first month in Congress as a new Member to see carnations being worn by the Members and thinking that this was in honor of her birthday until Frank Bow had to break the news to her that he really distributed the carnations to honor William McKinley.

I would also note that 1 year ago today, many Members of this body joined me in paying tribute to another great American, Frank T. Bow, my distinguished predecessor who served 21 years as a Member of this body and 7 years as the ranking Republican on the Appropriations Committee. During this time, Frank Bow provided the 16th District of Ohio and the Nation with dedicated leadership and a compassionate concern for people in the tradition of William McKinley.

During this 5 years as President was the destiny of President McKinley to lead his Nation in its emergence as a world power in internationl affairs. By the Treaty of Paris in 1898 this country established itself firmly both in Asia and in the Americas, acquiring control over Cuba, Puerto Rico, Guam, and the Phillipines not as colonies in the imperialist tradition but as territories and peoples for whose security and eventual freedom we assumed responsibiltiy. William McKinley had moved with the greatest reluctance toward conflict with Spain, but when it came, in the words of President Taft, he "was his own Chief of Staff (in) the war," directing its operations on a global scale. During his administrations, he even sought to expand the sphere of American influence by peaceful means—the partition of Samoa in 1899 and the appointment of the first American Governor of Hawaii, for examples. The enunciation of the "Open Door" policy toward China by McKinley's great Secretary of State, John Hay, in 1899, was a landmark in the history of the Western powers' relationships in Asia, and helped preserve the Chinese people from further colonial abuse. The United States fully supported the first international peace conference at the Hague in 1899. The present administration is following in the statesmanlike path which McKinley blazed over 70 years ago in seeking a structure of peace throughout the globe.

What is most distinctive, enduring, and relevant for today in the legacy of William McKinley is the way in which he served his country as a moderator and harmonizer of diverse interests: he sought to embody a truly National vision not one limited by special interest on narrowly sectional ties. He himself had served in the Civil War, and he knew the need for National unity. Thanks to his human qualities of kindliness of heart and generosity of spirit, allied with an innate sense of personal dignity, he was able to escape the bitter political enmities of his day—remember that his was the era of tariff and free silver controversies as well as the sharp debate over America's role in the world—and rise above the provocations of demagogs.

A crucial element in his character was the role of deep religious faith: his sense of duty to God took precedence over all else, and exerted a major influence in his day-to-day political decisions. His love for and loyalty to his ailing wife touched the Nation with its evidence of devoted, life-long affection. Some measure of the respect and affection which William McKinley inspired in our people is revealed in the shock and grief with which his tragic death was received in 1901, barely

6 months into his second term at the age of 58. Writes Dr. John Sutherland Bonnell:

> Not since the death of Abraham Lincoln, had the anguish of personal grief so penetrated every household in the nation.

More than perhaps any President since Lincoln, he was in touch with—as he was truly a part of—the common people of this land, to whom he imparted his own lively faith and broad-based charity.

William McKinley was the fifth President born in Ohio and the fifth to die in office. He was the third to be assassinated, and the second born in Ohio to be cut down. He was, in fact, the fifth Ohio-born President elected within 28 years. He was the first President to use the telephone for campaign purposes, and the first to ride in an automobile.

His love of and concern for his constituents was evidenced by two of his campaign slogans used during the famous front porch campaign for the Presidency. They were, "Good work, good money, and good wages" and "For labor a short day is better than a short dollar."

Certainly, however, his greatest political expression came in 1901 at the Pan American Exposition in Buffalo, where he gave characteristic utterance to his philosophical vision of America's role in the world community. He declared:

> The period of exclusiveness is past—God and man have linked the nations together. . . . Isolation is no longer possible or desirable.

It was a prophetic challenge to the new century. His closing words speak to us here today:

> Let us ever remember . . . that our real eminence lies in victories of peace, not those of war. . . . Our earnest prayer is that God will graciously vouchsafe prosperity, happiness, and peace to all our neighbors, and like blessings to all peoples and powers on earth.

Nothing became him so well as the dignity with which he faced death while a Nation and, indeed, a world grieved. Eight days after the shooting, he roused himself from a coma long enough to say to those attending him:

> It is useless, gentlemen. I think we ought to have prayer.

His dying words gave eloquent voice to the faith which animated his life:

> It is God's way. His will, not ours, be done.

William McKinley was a man in the classic mold—a statesman and patriot, a man of the people and a man of deep, personal piety. His example and his memory can uplift us all in these troubled times as we recover something of his sense of faith—faith in America and faith in our party, and—above all—faith in the God and Father of us all, Author of liberty in this blessed land.

As we mark the birthday of William McKinley, may our Nation witness a renewal of dedication to the ideals and principles for which he lived. And I say to you, as he said, have faith in America and in her people who, under God, are still the best hope of earth.

## PROVIDING FOR CONSIDERATION OF H.R. 11793, FEDERAL ENERGY ADMINISTRATION

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 788, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 788

> *Resolved*, That upon the adoption of this resolution it shall be in order to move that the House shall resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11793) to reorganize and consolidate certain functions of the Federal Government in a new Federal Energy Administration in order to promote more efficient management of such functions. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Government Operations now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against sections 7, 10, and 12 of said substitute for failure to comply with the provisions of clause 4, rule XXI are hereby waived. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 788 provides for an open rule with 2 hours of general debate on H.R. 11793, a bill to reorganize and consolidate certain functions of the Federal Government in a new Federal Energy Administration.

House Resolution 788 provides it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Government Operations now printed in the bill as an original bill for the purpose of amendment. House Resolution 788 also provides that points of order against sections 7, 10, and 12 of the substitute for failure to comply with the provisions of clause 4, rule XXI, of the Rules of the House of Representatives—prohibiting appropriations in a legislative bill—are waived.

H.R. 11793 creates a temporary, 2-year Federal Energy Administration (FEA) as an independent agency in the executive branch of the Government. The bill transfers to the new Federal Energy Administration from the Department of the Interior, functions relating to the Office of Petroleum Allocation, the Office of Energy Conservation, the Office of Energy Data and Analysis, and the Office of Oil and Gas.

Mr. Speaker, I urge the adoption of House Resolution 788 in order that we may discuss and debate H.R. 11793.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 768 provides for the consideration of H.R. 11793, Federal Energy Administration, under an open rule with 2 hours of general debate. The rule has two other provisions: First, it makes the committee substitute in order as an original bill for the purpose of amendment, and second, it waives points of order against sections 7, 10, and 12 for failure to comply with the provisions of clause 4 of rule XXI. This waiver is needed because of appropriations contained in a legislative bill.

The primary purpose of H.R. 11793 is to establish a Federal Energy Administration for a 2-year period.

The bill transfers to the Federal Energy Administrator from the Department of Interior functions relating to: The Office of Petroleum Allocation, the Office of Energy Conservation, the Office of Energy Data and Analysis, and the Office of Oil and Gas. Also transferred are functions relating to the Energy Division of the Cost of Living Council.

If H.R. 11793 is enacted into law and the Federal Energy Administration is established, it will replace the existing Federal Energy Office. William Simon, who is presently at the head of the Federal Energy Office, is expected to become Administrator of the new agency upon enactment of this bill.

The cost of this bill over the 2-year period is expected to be $375,000,000. However, the committee report points out that much of the cost would be incurred by existing agencies if the new Administration were not created.

Mr. Speaker, I urge the adoption of this rule in order that the House may begin debate on H.R. 11793.

Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Speaker, in view of the fact that only last December the House approved the Energy Research and Development Administration bill, I should like to ask someone why there be a further proliferation of the administration of the energy situation at this time?

Mr. HOLIFIELD. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from California.

Mr. HOLIFIELD. I thank the gentleman for yielding.

The bill we passed last year known as ERDA, the Energy Research and Development Administration, was for the specific purpose of research and development. It had nothing to do at all with administration of the different things such as rationing authority and allocation of fuel, and all of the other powers that were put in the Staggers bill. This bill that we have before us today is completely separate from the Staggers bill and from the ERDA bill. This is to set up a statutory organization to replace the present organization under which Mr. Simon is working, which is called the Federal Energy Office. It is set up by Executive order and, of course, as the gentleman knows, there are a number of differences between an organization set up by Executive order and one set up by statute.

The most important is from a financial standpoint—I know the gentleman from Iowa is always interested in that—and is that any emergency office set up by an Executive order must be funded from the President's Emergency Fund, or he must borrow people from the other agencies and let the agencies supply the money.

Mr. GROSS. It does not make a great deal of difference where the supply of money comes from insofar as the legislation is concerned. It all comes out of the taxpayer's pockets, does it not?

Mr. HOLIFIELD. That is right. The money is being spent anyway, for the Cost of Living Council which is already set up and already has personnel, and where other organizations have personnel and functions which are placed in the new organization. This bill does not contain any new appropriations. It merely transfers the appropriations that are already assigned to the functions that are transferred into the new organization.

Mr. GROSS. If I understood the gentleman from California (Mr. DEL CLAWSON) correctly it is estimated the expenditure for this proposed Office of Administration would be $375 million.

Mr. HOLIFIELD. It is possible that they will ask for that amount of money, but a great part of that amount of money is already appropriated and there are no new appropriations here. What they will ask for in their appropriation bill, I do not know.

Mr. GROSS. What did ERDA cost?

Mr. HOLIFIELD. It has not cost anything.

Mr. GROSS. What will it cost?

Mr. HOLIFIELD. It should not cost any more than its regular appropriations which are now given to the Atomic Energy Commission with this exception, that for instance the Office of Coal Research appropriations will be transferred into ERDA. That does not mean any new appropriations, but that is a matter for the Appropriations Committee to decide, and the legislation for ERDA did not authorize any new appropriations. Neither does this authorize any new appropriations.

Mr. GROSS. Do I understand that ERDA—and I just do not remember the details of the bill—was open-ended, that there was no fixed figure on authorization?

Mr. HOLIFIELD. There were only the appropriations that have already been made to the Atomic Energy Commission and the Bureau of Mines and other activities which were transferred over, and they will have to go on with that for the rest of the fiscal year unless there is a request for funds and that would come probably under a supplemental appropriation, and the House would have an opportunity to work its will on that.

Mr. GROSS. I will have to say to the gentleman I presently am unable to comprehend why we are now deliberately proliferating these agencies with respect to energy control. Unless adequate justification is given for this particular bill I shall vote against the rule.

Mr. HOLIFIELD. The gentleman will have to make up his own mind on that, and he certainly has a very fine mind to make up. I will say that.

Mr. DEL CLAWSON. Mr. Speaker, I have no further request for time and reserve the balance of my time

Mr. LONG of Louisiana. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MONTGOMERY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 380, nays 5, answered "present" 4, not voting 41, as follows:

[Roll No. 9]

**YEAS—380**

Abdnor
Abzug
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Aspin
Badillo
Bafalis
Baker
Barrett
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Bray
Breaux
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carey, N.Y.
Carney, Ohio
Carter
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Downing
Drinan
Dulski
Duncan
du Pont
Edwards, Ala.
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gubser
Gude
Guyer
Hamilton
Hammerschmidt
Hanley
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Ichord
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
King
Koch
Kuykendall
Kyros
Landgrebe
Landrum
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McDade
McEwen
McFall
McKay
McKinney
McSpadden
Madden
Mahon
Mallary
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mazzoli
Meeds
Metcalfe
Mezvinsky
Michel
Miller
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reid
Reuss
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Schroeder
Seiberling
Shipley
Shoup
Shuster
Sikes
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

**NAYS—5**

Eckhardt
Gross
Macdonald
Melcher
Symms

**ANSWERED "PRESENT"—4**

Breckinridge
Hutchinson
Moss
Roy

NOT VOTING—41

Adams
Ashbrook
Ashley
Brasco
Casey, Tex.
Culver
Dellums
Dorn
Edwards, Calif.
Eilberg
Ford
Gibbons
Gunter
Haley
Hanna
Heckler, Mass.
Jarman
Jones, Okla.
Jones, Tenn.
Kluczynski
McCormack
Madigan
Mailliard
Mann
Mayne
Milford
Mills
Rhodes
Rooney, N.Y.
Sebelius
Shriver
Skubitz
Stark
Teague
Thompson, N.J.
Van Deerlin
Walsh
Wilson, Charles, Tex.
Winn
Young, Alaska
Young, Ga.

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. Thompson of New Jersey with Mr. Dorn.

Mr. Rooney of New York with Mr. Ashbrook.

Mr. Haley with Mr. Rhodes.

Mr. Brasco with Mr. Gunter.

Mr. Kluczynski with Mr. Jarman.

Mr. Teague with Mr. Young of Alaska.

Mr. Young of Georgia with Mr. McCormack.

Mr. Ashley with Mr. Shriver.

Mr. Adams with Mrs. Heckler of Massachusetts.

Mr. Culver with Mr. Winn.

Mr. Hanna with Mr. Sebelius.

Mr. Jones of Tennessee with Mr. Madigan.

Mr. Eilberg with Mr. Walsh.

Mr. Edwards of California with Mr. Skubitz.

Mr. Dellums with Mr. Ford.

Mr. Gibbons with Mr. Jones of Oklahoma.

Mr. Casey of Texas with Mr. Mayne.

Mr. Mann with Mr. Milford.

Mr. Mills with Mr. Stark.

Mr. Van Deerlin with Mr. Charles Wilson of Texas.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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## VETERANS EDUCATION BILL

(Mr. LONG of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LONG of Maryland. Mr. Speaker, while our veterans cannot afford to use their GI education benefits, American dollars are being loaned to foreign borrowers at near zero interest rates with almost forever to repay.

The bill I introduced today increases the direct educational benefits for veterans, guarantees those benefits will be available until the veteran wants to use them, and provides a loan program to help veterans meet their living expenses while in school.

The loan terms in my bill would be the same as those provided for foreign aid loans—2 percent per year for a 10-year grace period and 3 percent per year during the repayment period.

Our veterans deserve at least as good a deal as foreign governments get instead of a so-called benefit that they cannot afford to use.

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## FEDERAL ENERGY ADMINISTRATION

Mr. HOLIFIELD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11793) to reorganize and consolidate certain functions of the Federal Government in a new Federal Energy Administration in order to promote more efficient management of such functions.

The motion was agreed to.

### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11793, with Mr. FLYNT in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from California (Mr. HOLIFIELD) will be recognized for 1 hour and the gentleman from New York (Mr. HORTON) will be recognized for 1 hour.

The Chair now recognizes the gentleman from California (Mr. HOLIFIELD).

Mr. HOLIFIELD. Mr. Chairman, I yield myself 10 minutes.

Before I present my statement on the bill, I wish to announce to the House that by agreement with the gentleman from West Virginia (Mr. STAGGERS), we will proceed with the general debate but defer reading the bill for amendments today.

The gentleman from West Virginia, the distinguished chairman of the Committee on Interstate and Foreign Commerce, has requested that we defer voting on the amendments for a reasonable time to give the Congress an opportunity to act on the conference report on S. 2589, the emergency powers bill reported from the gentleman's committee, and agreed to in Congress, but not finally enacted when the 1st session of the 93d Congress ended.

The leadership is apprised of this situation and has raised no objection.

Mr. HORTON. Will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from New York, the ranking minority member of our committee.

Mr. HORTON. Is it not true that the House cannot act on the conference report on S. 2589, the Staggers bill, until the Senate acts first?

Mr. HOLIFIELD. That is my understanding.

Mr. HORTON. It has been stated in the RECORD of January 24, 1974, that the Senate will vote on this matter at 4:30 this afternoon. It has also been reported that a recommittal motion will be offered in the Senate. What happens if the conference report is recommitted? Does that mean that we will not be able to act upon our bill, H.R. 11793?

Mr. HOLIFIELD. Of course, I cannot tell the gentleman from New York what the other body will do today, or as to when the conference report on S. 2589 will come before this House. It is my understanding that if that conference report is not acted upon today or tomorrow in the House, that then we will proceed to complete action on the bill before us in a timely way.

Mr. Chairman, I will yield to the gentleman from West Virginia (Mr. STAGGERS) for confirmation of my statement.

Mr. STAGGERS. Mr. Chairman, I thank the gentleman from California for yielding to me.

I think the gentleman has stated the situation as we talked it over very precisely. I would like to add that at the time I talked to the gentleman from California (Mr. HOLIFIELD), I told him of the importance of the bill we had that had come out of our committee. I would appreciate having the gentleman yield to me further a little later so that I can explain the bill a little more thoroughly.

But, as the gentleman from California states, that is the conversation we had.

Mr. HOLIFIELD. I will be glad to yield further to the gentleman from West Virginia just as soon as the gentleman from New York (Mr. HORTON) completes his statement.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, I would ask the gentleman from California, Does this then mean that we will dispose of the general debate only, and not undertake the 5-minute rule today?

Mr. HOLIFIELD. Of course, the gentlemen from Iowa understands that that happens many, many times.

Mr. GROSS. I understand that, but I just want it to be clear that we will drop this bill after general debate and until some disposition has been made by the Senate of the conference report on the energy bill?

Mr. HOLIFIELD. As I understand it, the Senate will act upon the Staggers bill this afternoon, and the gentleman from West Virginia (Mr. STAGGERS) has asked us to defer amending this bill until we find out what the action is over there.

Mr. HORTON. Mr. Chairman, if the gentleman will yield, it is my understanding, and I hope it is correct, that we can proceed with the amending process under the 5-minute rule tomorrow.

Is that the desire of the chairman, the gentleman from California (Mr. HOLIFIELD) also?

Mr. HOLIFIELD. It is my desire, and, as a matter of fact, I would like to proceed this afternoon, but other arrangements have been agreed to, as the gentleman knows, and, of course, I will honor those arrangements.

Mr. HORTON. As I understand it, this bill that are we now getting ready to take up will not be delayed, and we will move as expeditiously as we possibly can, and that we will not wait until final determination of that conference report.

Mr. HOLIFIELD. I want to move as expeditiously as I can, after consultation with the leadership.

Mr. HORTON. I thank the gentleman.

Mr. HOLIFIELD. Mr. Chairman, H.R. 11793 creates a new temporary Federal Energy Administration to administer the Government's short-range emergency programs to meet the current energy crisis. The bill was approved by our committee on December 19, 1973. We had hoped to bring the bill before the House before the end of the 1st session, but unfortunately, there was not enough time. The Members are well aware of the legislative situation that confronted us in the closing days of the first session.

Before going to the substance of the bill, let me stress these points:

One. The bill is strongly supported by our committee. When we brought up the bill in committee there were 29 members present and voting, and 28 of them were in favor of the bill.

Two. The Senate already has acted on its version of this legislation. The Senate bill was passed on December 19, 1973.

Three. The administration supports this bill. The organizational approach embodied in this bill was specifically requested by the President in a message of December 4, 1973, and again in his energy message to the Congress last week.

Four. This bill is intended to complement the Energy Emergency Act (S. 2589); that is, the Staggers bill, as agreed to in conference. As the committee of conference on the Staggers bill says in its joint explanatory state, Senate Report No. 93-663, page 43:

> The conferees wish to emphasize that the creation of a temporary Federal Emergency Energy Administration under this Act does not remove the necessity of the Congress acting upon the legislation reported by the House and Senate Government Operations Committees. The need for statutory creation of an administrative office within the Executive Branch which consolidates energy policy related functions of government remains real and immediate. This Act provides the basic authority to initiate the establishment of such an administrative office.

In other words, our bill, H.R. 11793, provides the organizational framework. The Staggers bill, as agreed to in conference, provides the substantive authorities for energy conservation and allocation programs.

The Federal Energy Administration, created in H.R. 11793, will be the administrative organization to replace the Federal Energy Office, established by Executive order on December 4, 1973. William E. Simon, Deputy Secretary of the Treasury, is the Administrator of the Federal Energy Office, and it is our understanding that he will continue, subject to Senate confirmation, as FEA Administrator. That office will be compensated at level II of the Executive Schedule—$42,500. The bill provides additionally for a Deputy Administrator at level III—$40,000; six Assistant Administrators and a General Counsel at level IV—$38,000, and not more than nine additional officers at level V—$36,000.

Section 5 of the bill sets forth the functions of the Administrator.

Let me speak very plainly at this point. These are advisory and procedural. There is much confusion abroad in regard to this bill. This bill does not change the authority and functions, and so forth, of the different acts, like the Economic Stabilization Act, and acts that come under the Committee on Interstate and Foreign Commerce. This is an organization bill. This bill sets up the machinery to administer all of the laws that are now on the books and such as may be put on in the future in regard to energy.

Please keep that clearly in mind.

The Administrator is to advise the President and Congress on national energy policies both in their foreign and domestic aspects. He is to assess the adequacy of energy resources and to collect and analyze energy data. He is to develop plans and programs for meeting energy shortages, to assure that programs are fairly and efficiently administered, to promote price stability and competition, and to prevent unreasonable profits. But we do not tell him how to do this. He will get the basic authority and instructions on how to do these things from the basic acts such as come from the Committee on Banking and Currency and from the Interstate and Foreign Commerce Committee.

Mr. REUSS. Mr. Chairman, will the gentleman from California yield?

Mr. HOLIFIELD. I yield to the gentleman from Wisconsin.

Mr. REUSS. I thank the gentleman for yielding.

I want to commend the gentleman from California and his associate, the gentleman from New York, on their leadership in bringing this clearly delineated bill before us. The gentleman from California has just made and reiterated the point that this bill, H.R. 11793, is in essence an organization bill.

Mr. HOLIFIELD. That is right.

Mr. REUSS. I will call to the gentleman's attention that the Committee on Banking and Currency has under rule 11, subsection 4, jurisdiction over price control. I take it from what the gentleman has said that the bill, H.R. 11793——

The CHAIRMAN. The time of the gentleman has expired.

Mr. HOLIFIELD. Mr. Chairman, I yield myself 5 additional minutes.

Mr. REUSS. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from Wisconsin.

Mr. REUSS. I thank the gentleman for yielding.

I take it from what the gentleman has said that H.R. 11793 in no way impairs the jurisdiction of the House Committee on Banking and Currency over price control and that legislation affecting prices of energy or petroleum remains with the House Committee on Banking and Currency.

Mr. HOLIFIELD. That is my understanding, and that is the intent of the bill.

Mr. REUSS. I thank the gentleman.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from New York.

Mr. HORTON. I thank the gentleman for yielding.

In that connection, I understand we are going to have offered an amendment which would attempt to regulate prices. It is my intention to oppose that amendment for the reason that the gentleman has just expressed; that the subject of the amendment is not within the jurisdiction of the Committee on Government Operations. That matter is under the jurisdiction of another committee, in this case the Committee on Banking and Currency.

I would hope that the gentleman from Wisconsin will be on the floor when the amendment is offered and will help us point out to the person who offers the amendment that the subject of price controls belongs in legislation under the control of the Committee on Banking and Currency.

Mr. HOLIFIELD. I agree with the gentleman, and I, too, will oppose any amendments which affect the substantive laws of other committees. I do not believe that they are appropriate in this bill, and I shall certainly oppose those.

Section 5 of the bill sets forth the functions of the Administrator. These are advisory and procedural. The Administrator is to advise the President and the Congress on national energy policies, both in their foreign and domestic aspects. He is to assess the adequacy of energy resources and to collect and analyze energy data.

He is to develop plans and programs for meeting energy shortages, to assure that programs are fairly and efficiently administered, to promote price stability and competition, and to prevent unreasonable profits. He is to work with State and local governments in resolving energy problems and to enlist the cooperation of business, labor, consumer, and other groups.

The Administrator's functions are framed in advisory and procedural terms to show the broad scope of his interests, but not to confer any new substantive powers for specific actions outside the jurisdiction of this committee. Let me emphasize that. Take, for example, the reference in section 5, paragraph (5), on page 19 of the bill, to promoting price stability and open competition and preventing unreasonable profits. Of course, the Administrator will take heed of these matters in carrying out his administrative duties, but we are not authorizing him to invoke, for example, an excess profits tax. That is the prerogative of another committee.

Similarly, in paragraph (6) of the same section, where we emphasize fair and efficient implementation of programs, we are not, by that language, authorizing a rationing program. That authorization is carried in S. 2589, the energy emergency bill reported by the Staggers committee.

To avoid any argument on the Administrator's authority, I will offer an amendment at the proper time to make it doubly clear that nothing in section 5 of the bill, referring to the Administrator's functions, shall authorize any program or action not otherwise authorized by other sections of this act or by other law.

Our bill is primarily a reorganization bill, It transfers to the Administrator from the Department of the Interior functions relating to or utilized by: The Office of Petroleum Allocation, the Office of Energy Conservation, the Office of Energy Data and Analysis, and the Office of Oil and Gas. Also transferred to the Administrator are functions relating to or utilized by the Energy Division of the Cost of Living Council.

In these transfers, we are not adding

to, or subtracting from, the authorities of these offices which are derived from specific legislation within the jurisdiction of various committees. The substantive legislation still is controlling in these matters.

The Members will note, in section 6 (c), toward the bottom of page 20, that the President will have 3 months to propose additional transfers of energy functions to the agency, subject to congressional review. That provision was written into the bill to permit some flexibility for perfecting changes in the new agency. Enough time has elapsed without requests from the administration for additional transfers to suggest elimination of that section. At the proper time, I will offer an amendment to eliminate section 6(c).

Essentially, the Administrator will have the aggregate authority now reposing in the organizational entities that will be transferred into the FEA, and several additional administrative and procedural functions specified in the bill. The bill does not try to fix the internal administrative organization of the new agency. The committee believes that the Administrator must have flexibility to accommodate programs authorized by substantive legislation and to adjust to rapidly changing circumstances. However, a description of the internal organization as presently conceived by the Office of Management and Budget is presented at pages 6 and 7 of the committee report. Also, appendix 2, at page 39, has a copy of the organizational chart showing the proposed component offices.

The new FEA will be a temporary organization largely concerned with the immediate and short-term aspects of the energy emergency situation we are facing, because of inadequate energy supplies. FEA's functions will necessarily be carried out in the context of presently available technology. These functions will be separate from those of ERDA—the Energy Research and Development Administration, also an independent agency—which the House voted last month to establish by its approval of H.R. 11510. ERDA's missions will be R. & D. oriented. ERDA will seek new and improved energy sources, utilization technologies, and conservation techniques. We need to have both of these independent agencies; their separate functions will be complementary and, in sum, they should constitute an effective national response to our overall energy problem.

Let me point out several additional features of the bill:

Section 15 of the bill, starting at page 33, enables the Administrator to collect and analyze energy information. He is authorized to submit questionnaires, inspect energy facilities and premises, and compel the attendance and testimony of witnesses and production of records by subpena. Agents of the Administrator who enter business premises will be governed by the procedures for administrative search warrants laid down in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 880). Confidential information is protected in accord with 18 U.S.C. 1905, which safeguards trade secrets and other proprietary data.

There has been much debate whether a pertinent conflict-of-interest law should be relaxed in order to recruit industry executives to assist the Administrator. The committee position is that the conflict-of-interest law should be carefully observed. Section 4(i), at the bottom of page 17 of the bill, provides that if limited waivers, now permitted under existing law (18 U.S.C. 208), are to be invoked, the Administrator must do this personally and notify the Congress in advance, giving detailed information about the financial interests of the person involved.

Section 7(c), beginning near the bottom of page 21 of the bill, authorizes the Administrator to establish advisory boards in conformity with existing law. In this case, existing law refers to the Federal Advisory Committee Act (Public Law 92-463). That act makes provision for advisory committees to have balanced representation, reflecting the several viewpoints associated with any given advisory committee.

In addition to creating such advisory boards as he may require from time to time, the Administrator is directed to establish and consult with an advisory board of State public utility commissioners. This is intended to insure that the Administrator is apprised of the diversity of the energy problems of various States, in relation to proposed policies and activities directly affecting States' regulatory jurisdictions.

According to section 7(k), at the bottom of page 23 of the bill, the Administrator will utilize the administrative procedures provided by sections 207 and 211 of the Economic Stabilization Act of 1970, as amended. These now govern fuel pricing and allocation, the two main functions transferred to the Administrator.

Recognizing that there are differences in laws already enacted, or bills pending, with regard to the administrative procedures to be followed by the Administrator, our bill calls upon him to study and report within 2 months after the bill takes effect as to what administrative procedures are needed to insure fair and equitable treatment of all persons and business concerns administratively affected by the act. The purpose here is to establish, if possible, a uniform set of administrative provisions which will be understandable and fair to all concerned.

Section 14, toward the bottom of page 31 of the bill, provides that the Comptroller General will have access to books and records of, first, the Federal Energy Administration; and second, recipients of Federal funds or assistance under contracts, leases or other transactions. The Comptroller General's access to FEA books and records includes recorded information within the possession or control of the agency. This will give the Comptroller General ample opportunity to evaluate the adequacy of the data collection process.

Reports of the Comptroller General to the Congress relating to the management and conservation of energy shall be available to the public at reasonable cost. But if confidential information is involved, it may not be publicly disclosed, but may be transmitted to committees of Congress, Federal agencies, and the courts in a manner designed to preserve confidentiality.

Mr. Chairman, let me emphasize that this is a bill for a temporary agency. The bill provides that the act will terminate 2 years after the effective date. Six months before the act expires, the President is directed to transmit to the Congress a report with recommendations as to the disposition of the agency's functions. If conditions warrant, he could recommend continuation of the agency, or its reorganization, or its assimilation in an existing or new department of Government. It would then be the responsibility of the Congress to authorize by law the preferred form of organization.

A reversion section in the bill provides that, upon termination of the act, functions or personnel transferred from the Department of the Interior shall revert to that department or to a successor department if created. Similarly, other functions or personnel positions provided by statute which may be transferred to the administration shall revert to their respective agencies. When the act is terminated, officers or employees who were transferred are entitled to reemployment in the same or comparable positions in terms of grade and salary.

In conclusion, I should point out that this bill is necessary in connection with emergency powers bestowed on the President or the Administrator by other legislation. Mr. Simon needs a statutory office to carry out his present duties. He will need the statutory office even more if and when the conference report on S. 2589, the energy emergency bill, is adopted by both Houses. H.R. 11793, the bill before us today, will provide the administrative framework and the statutory underpinning for a wide variety of important tasks in meeting our present energy crisis.

Two years from now, when the Federal Energy Administration expires under the terms of this bill, we can take another look at the situation. I am well aware that there are various organizational alternatives being proposed, such as a Department of Energy and Natural Resources, a Department of Energy, an Energy Policy Council, and undoubtedly other suggestions. We do not have to solve all these organizational problems or make all of these decisions at one time.

We have a bill before us that is strongly supported by our committee, requested by the administration, and needed now. I urge the Members to vote in support of H.R. 11793.

Mr. HORTON. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, it is imperative that the House act as quickly and forcefully as possible to meet the energy crisis we face. No two pieces of legislation are more important now than the Energy Emergency Act, the conference report on which the Senate and House may act today, and this bill, the Federal Energy Administration Act. The first will provide the principal new policies and program authorities needed to respond to the energy crisis. The second, this FEA bill, provides the organizational capability to run both existing and new energy programs. This bill fleshes out that section of the Energy Emergency Act which establishes a Federal Energy Emergency Administration. The Energy Emergency Act presupposes action on this bill, as Chairman HOLIFIELD noted.

Another important point to be made about the relationship between these two bills is that H.R. 11793 does not set policies or grant program authority as does the Energy Emergency Act. This bill is a reorganization bill only. As such, it establishes a new organization to run the existing energy programs transferred to it, and the new energy programs contained in the Energy Emergency Act. No new program authority is established. The functions listed in section 5 refer only to policy advisement and administrative procedures; they confer no new program authority, such as authority to ration gasoline.

I think it would be helpful to the House if I outlined what the organizational structure of the energy program looks like now, and how it would change with the passage of this bill.

When the oil embargo started this fall, it became immediately obvious that the Federal Government would have to take a major leadership role and develop a coordinating mechanism to pull together various energy regulatory programs, the energy data collection and analysis programs, and the Federal energy policy development activities. In November, the President announced that he would create by Executive order, a Federal Energy Office, headed by Deputy Secretary of the Treasury William Simon, to serve as principal energy adviser to the President and help the President coordinate energy programs. The President gave to Mr. Simon the one relevant program authority he had; namely, the economic stabilization authority as it relates to energy. But he could give Mr. Simon no more. By law, the petroleum allocation authority is in the Secretary of the Interior. The principal data collection and analysis staffs are also in the Department of the Interior. In short, two of the three principal elements for coordinated energy programs under existing law could not be placed under Mr. Simon's direction. Recognizing this, the President asked that the Congress act as soon as possible to establish an independent Federal Energy Administration, which would supersede the Federal Energy Office and statutorily transfer to this new Administration the requisite energy program authority. He also asked that the Congress continue to consider a longer term reorganization of the energy and natural resources programs along the lines of his proposal for a Department of Energy and Natural Resources. Whether or not we go further in the direction of a larger, more complex reorganization, the FEA organization structure is needed now. It is a quick, necessary step to meet the current energy crisis.

As was brought out in our hearings, there are numerous technical and legal problems involved in trying to operate a coordinated energy program by Executive order. So a point to be made is that this bill is very necessary now to run existing programs and new programs, such as those provided for in the Energy Emergency Act, which we will be acting on soon. In fact, this legislation is needed whether or not the Energy Emergency Act is passed into law.

Let me now turn to the provisions of the bill which I believe most significant:

The bill sets up a Federal Energy Administration as a temporary independent agency of the Federal Government. Its officers are subject to Senate confirmation and fully responsible to the Congress as no officer in the White House can be. We will use the conference with the Senate to settle any differences not only between the two FEA bills, but also between the FEA bills and the Energy Emergency Act provisions which set up this agency with a slightly different name, the Federal Energy Emergency Administration.

It transfers the principal energy programs of the Federal Government into the Federal Energy Administration. As we discussed earlier, the chairman will offer an amendment striking from the bill the additional reorganization authority we had included.

The bill provides the Administrator with powerful information-gathering authority to obtain information from the oil companies. At the same time, it provides for a judicial check on use of this authority and makes applicable standard Federal law regarding confidentiality of information; that is to say, the Freedom of Information Act

We have developed what I believe to be a very strong procedure for preventing conflicts of interest regarding the employees of FEA.

To help cut redtape, we have provided that there be a single set of administrative procedures applicable to the activities of the FEA. We require the use of the Economic Stabilization Act procedures, until such time as the Congress acts on a mandated FEA report, due within 2 months, which is to recommend the best possible single set of administrative procedures for FEA.

We have mandated that the FEA develop effective arrangements for the participation of State and local governments in resolving energy problems, and that it work with business, labor, consumers, and other interests and obtain their cooperation.

We have provided appropriate access for the Comptroller General to all the books and records of the Federal Energy Administration, and its contractors.

And finally, we have put in the bill the administrative authority necessary to an agency, the authority needed to make the transition from the old structure to the new structure, and savings provisions which will continue rules, regulations and legal actions which are in effect or are underway on the effective date of this act.

Mr. Chairman, this bill was reported out of subcommittee unanimously and from the full committee by a vote of 28 to 1. It has the complete support of the administration and the head of the Federal Energy Office, Mr. William Simon. The Senate recently approved similar legislation by a vote of 86 to 2. It is time for the House to act. This legislation is urgently needed, and deserves the support of each Member of the House.

Let me finish with a statement on House consideration of this bill. Many Members feel no doubt that they ought to use this bill as a vehicle for carrying out commitments made to constituents on energy programs. This is an organizational bill, and program amendments are inappropriate. I hope that when the House considers this bill, the Members will limit their amendments to the subject matter of this bill, which is the organization of Federal energy programs.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I will be happy to yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, section 13 of the bill states as follows:

> There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

That is an open-ended authority.

Is there any indication as to what the functions of the Administration are likely to cost?

Mr. HORTON. I think we have had some testimony on it and this information appears in the committee report. This bill is not an authorization bill for any program. The programs now in existence that have already been authorized are appropriated for. I assure the gentleman this is not intended as a program authorization.

Mr. YATES. It is an authorization for the expenditure of such funds as may be necessary.

Mr. HORTON. The Administration would have to come back to the appropriate committees of the House for authorization in addition to the authorization they now have.

Mr. YATES. Will the gentleman yield further

Mr. HORTON. I will be glad to yield.

Mr. YATES. I notice in the information-gathering section that the Administrator is empowered, as the gentleman pointed out, to seek certain information that may be confidential. The examination is limited under the provisions of certain acts designated in this bill. Would the Congress be entitled to have access to this confidential information?

Mr. HORTON. We do not extend any new authority with regard to making available records to any other branch of the Government, the Congress or otherwise. In other words, if the Congress is now authorized to look at those records, they would. We do provide that the GAO will have an opportunity to examine the administration's records, that is, the Federal Energy Administration's records, and any records that may come into their possession; but we do provide for the GAO to protect the confidentiality thereof.

Mr. YATES. I thank the gentleman.

Mr. HOLIFIELD. Mr. Chairman, I yield 5 minutes to the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. I want to thank the gentleman from California for yielding to me. He is a gentleman of high esteem in this House and certainly, in my personal opinion, one of the great Members of the House.

Mr. Chairman, here is a ltitle disagreement on these two bills. First, I would like to say we had an energy bill before the House during the end of the last session. This was debated for 3 long days and ended up at 2 o'clock in the morning with perhaps 60 or 70 or 80 amendments being offered. We had 125 amendments offered in the Interstate Committee and 75 were adopted. We went to conference and worked well into the night several times trying to develop a conference report and finally did work up a conference report. It was signed by a majority of the Members of the Senate and by a majority of the Members of the House.

In this the Congress of the United States, the most august legislative body in all the history of the world, there is a tradition that, when men put their names to an official document, it is with a pledge of their sacred honor, as Jefferson phrased it long ago. I expected the men on the other side of the Capitol to keep their pledge of sacred honor when they signed that conference report and to bring it back so that we could vote on it in this House. We cannot do it until the Senate takes action. This happened back in December, and here it is almost the end of January. They promised it would be done the first week of this session and it still has not been done.

Word has come to me that the idea today was to put off action until this bill was voted on here in the House and then kill the bill in the Senate. When I found that out. I called the Speaker and asked him to put over the vote. I talked to the chairman of the committee (Mr. HOLIFIELD) and by mutual agreement we did agree to delay the vote until later. I want to thank the gentleman from California for this, because he has conducted himself as a gentleman and an honorable man.

I received word this morning that the President of the United States has sent a letter to the Senate asking to recommit the energy bill.

That was the energy legislation worked on by this House, by the Senate, by this committee, and by the conference for such a long period of time.

I would simply like to say one thing is clear. That is, if this body is to be governed by the activities of lobbyists rather than by its own judgment, then this body might as well surrender its credentials for office and go home.

If we are going to let the lobbyists of this Nation tell us what we have to say and do, then this is indeed a sad state.

On the other hand, the American public has met this energy crisis in a manner befitting America. They have not panicked. They have shown every disposition to make whatever sacrifices are found necessary. The people of our great Nation are, however, confused by the lack of dependable information as to the true extent of the energy shortage.

Shall we in the Congress become the weaklings, and add to the confusion of the American people? Firmness and resolution now might avert disaster later. What is needed on Capitol Hill is backbone.

The House of Representatives has always done its job. Now is the time to act, and to let the American people know that we have done our job, and that it is up to the Senate to do its job in the way of honest gentlemen who have signed an agreement to do certain things, and let them stand by it now. I am waiting to see what the vote will be this afternoon at 4:30, when they have agreed to take action on this matter.

I did ask the gentleman from California (Mr. HOLIFIELD) to hold up a vote on this bill until we found out what action the Senate would take on the measure which will affect all Americans. This bill would define certain things which would be helpful to all, and which will stop the confusion insofar as the people back home are concerned. It is a bill to help the American people know what is going on in this Nation, and to define what must be done.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STAGGERS. Mr. Chairman, I would ask the gentleman from California if he would yield me an additional half minute.

Mr. HOLIFIELD. Mr. Chairman, I yield an additional half minute to the gentleman from West Virginia.

Mr. STAGGERS. As I say, the American people have responded in this crisis, and they are doing so according to our American way.

Therefore, if the Senate should kill this bill, as some of them are trying to do, and the lobbyists have tried to do, then I would recommend to this House that the bill now under consideration be voted down, because this is a bill which the lobbyists want

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL of North Carolina. Mr. Chairman, I thank the gentleman from New York for yielding me this time.

I regret that this issue has come up in the middle of the debate on this bill, that is, debating again the emergency energy bill which we debated for so long before Christmas.

The chairman of the Committee on Interstate and Foreign Commerce, on which I serve, the gentleman from West Virginia (Mr. STAGGERS) has made a very strong speech here, saying that perhaps there is some plan or plot or scheme that is going on, which I know nothing about.

We did work hard on the emergency energy bill, as the gentleman has said. I served on that conference. We had opportunity to hear all sides, and there were strong objections to various parts of that bill, not only parts of the House bill, but the bill reported from the other body, that were objected to by the administration.

I think that we gave good and serious consideration to those objections.

But I can tell Members that there is no one that I know of here in this body who has been trying to use the bill that has been reported from the Committee on Government Operations, the bill that we are debating today, to defeat this other bill, S. 2589. If he knows of any scheme like this, I certainly do not know of anyone taking part in it.

I think we need both bills. I am going to support both bills. I would like to see this bill that is reported from the Committee on Government Operations creating the Federal Energy Administration pass today, if possible. If not, then we will pass it tomorrow, but I do not see the connection between the two. This bill is needed.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL of North Carolina. I yield to the gentleman from New York.

Mr. HORTON. I thank the gentleman for yielding. I want to agree with the gentleman. That is my understanding also, and that is the understanding that we have with regard to this Federal Energy Administration bill. It creates an organization. The bill that the gentleman is talking about and that Mr. STAGGERS was talking about is a bill that authorizes certain authority to the Administrator, so I think both bills are important and both bills are necessary. This bill is not in conflict with the other bill. I tried to make that clear in my opening remarks. I want to agree with the gentleman.

Mr. BROYHILL of North Carolina. There are objections to both bills. There are objections to the Energy Administration bill.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL of North Carolina. I yield to the gentleman from California.

Mr. HOLIFIELD. I thank the gentleman for yielding.

I want to echo the remarks which my friend, the gentleman from New York, made just now. This bill is an organization bill, and it is for the purpose of setting up an organization to implement and administer whatever laws now exist such as the Economic Stabilization Act and any other laws that may be passed, even the Staggers bill or any other law that subsequently may be passed related to the energy crisis.

I listened to the gentleman from West Virginia very carefully. He and I have worked harmoniously together. I supported his bill on the floor, although there was a section that in effect attempted to set up a Federal Energy Administration, but it was not done thoroughly and the gentleman admitted that in his report. I feel sympathetic with the gentleman for the terrible time that he has had in trying to get this very comprehensive bill through, and I supported it. I subscribe to his concern, but I certainly do not subscribe to the last sentence in which he said that this bill is a lobbyists' bill. I can say on my honor as a Member of this House that no lobbyist approached me on this bill, and I know of no lobbyist approaching any of the other members of my subcommittee. They will have to speak for themselves.

I worked on this strictly from a technical point of setting up an organization, a normal type of an organization which we have in every agency and in every department of Government, in order to do this job and administer emergency laws dealing with the energy crisis.

I hope the gentleman from New York will give additional time, because I want to make my views clear on this problem.

Mr. BROYHILL of North Carolina. Will the gentleman yield 2 additional minutes?

Mr. HORTON. I yield 2 additional minutes to the gentleman from North Carolina.

Will the gentleman yield to me?

Mr. BROYHILL of North Carolina. I yield to the gentleman from New York.

Mr. HORTON. I should just like to emphasize what the chairman has said, and that is that no one has approached me on this bill. The chairman and I have worked on this bill very conscientiously. The members of our subcommittee have, and the members of our full committee have worked very conscientiously to report out a bill which we feel will accomplish the purpose of establishing a Federal Energy Administration, which I think is a very important ingredient in solving the energy crisis. It has nothing to do with the jurisdiction, nor affecting the authorization authorities, of the Committee on Interstate and Foreign Commerce.

Mr. BROYHILL of North Carolina. I know that the administration has certain objections to the Energy Emergency Act which the conference reported before Christmas, and which we will be voting on here in this House tomorrow. I realize this. These are objections that have been around for some time. Frankly, I have informed the representatives of the President that most of their objections, to my way of thinking, are wrong, but I do not see any connection at all between this bill we are debating today creating the Federal Energy Administration and the Energy Emergency Act which we will have tomorrow. Both bills should be passed, and I do not think we should be holding up one as hostage for the other.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL of North Carolina. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I thank the gentleman for yielding.

I would hope that the gentleman from New York would yield me another minute, because I would like to say this in response to the gentleman from California, that I do not say this is a lobbyists' bill. This is what the lobbyists would like, because they want to kill the one that is effective, and with this bill they can do as they please.

I have in my hand now a copy of a letter to the President of the United States dated January 29 from Mr. HUGH SCOTT. In that he makes two objections. They are so superfluous and really not real. One of them is about the windfall profits. The Finance Committee of the Senate and the Ways and Means Committee of the House are now working on that and when it passes it will supersede the windfall profits bill. The other is playing on the employment benefits. The President called me in the committee at 8 o'clock at night and said this was one of his objections. He said it could go to $20 billion. We set a limit of $500 million on that. I think men should be taken care of when they are thrown out of work because of the energy shortage. These are the objections I have on this.

Mr. HOLIFIELD. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. MACDONALD), who is a member of both committees, the Committee on Government Operations and the Committee on Interstate and Foreign Commerce.

Mr. MACDONALD. Mr. Chairman, I thank the chairman of the committee for yielding. I would like to just add I have supported the chairman of the Committee on Interstate and Foreign Commerce with whom I have worked very closely through the years and especially on this energy problem.

I believe there is a misunderstanding. I do not believe—although the gentleman from West Virginia (Mr. STAGGERS) speaks for himself—that he has any objection to this bill. Indeed, if we have our energy bill passed, this bill must pass and I rise in support of this bill

I would like to explain to the chairman who has just yielded me some time that I voted "No" on the rule because it was not clear to me that an agreement had been reached that there would be no vote today on this bill until such time as we know what happens in the Senate today on the Energy Emergency Act. The talk is rife that on the Senate side—and the information has come in directly to me—there is going to be a concerted effort to kill the energy bill by claiming this bill is an adequate substitute and I do not know whether or not that will actually happen. I think we will know that by 4:30, and I agree with the chairman of the full Committee on Interstate and Foreign Commerce that there is a movement to kill the bill that was agreed to in the conference. I cannot name the people behind that movement because I do not know them by name, but there is a concerted effort moving through a different committee to sidetrack the windfall profits section of the energy bill. In my judgment and apparently in the judgment of most of the Members of the House who voted just before Christmas, we must deal effectively with windfall profits before we can go back to our constituents and face them.

I therefore believe that this bill should be passed and I am going to support this bill. Indeed, I also think we should stand fast by our conference report position we took before Christmas. We should pass that bill too. Inasmuch as the two chairmen, in the best traditions of the House, have gotten together and seen to it that any Machiavellian plot which is supposed to be going on in the Senate is unsuccessful, we will then not have lost all our ammunition. I urge support of this bill but I urge support of it after we see what the other body does with our energy conference report.

Actually, as most of my colleagues are aware, this measure is in the nature of a reorganization of many energy related functions which are currently fragmented throughout the Federal bureaucracy. The purpose of H.R. 11793 is to create a temporary independent agency which will be responsible for administering the emergency energy programs and other programs relating to energy conservation, production, and distribution.

I would like to remind my colleagues that a Federal Energy Office has been in existence for several months. It is headed by William Simon, who will become the administrator of the new agency which the bill before us today will create. Under this legislation and under the Energy Emergency Act which we will act on hopefully later in the week, Mr. Simon will be given substantially increased power to deal with the energy crisis.

There are some who argue that it is wrong to give such power to the executive branch, especially at a time when decisionmaking at the White House seems to have been crippled by political upheaval. But I feel that the Congress would be irresponsible if we were not to give Mr. Simon all of the tools necessary to do his job.

I am not suggesting that we give Mr. Simon our blank check, and it is wrong to suggest that this bill would somehow produce that result. The proposed FEA would be in existence for only 2 years unless specifically extended by the Congress. All appointees to key positions in the FEA will be subject to Senate confirmation. And the General Accounting Office will have access to all information which is collected by the FEA. These safeguards seem adequate to me.

Let me make one further point. As a member of the Government Operations Committee which has reported this bill and as chairman of the House Commerce Subcommittee on Communications and Power which has initiated the Emergency Petroleum Allocation Act and the Energy Emergency Act, I can assure my colleagues that this energy crisis is not going to simply fade away. It is going to be with us and affect our pattern of living for a long time to come. And I think it would be unfortunate if we allow any delay in coming to grips with the problems which it poses.

The FEA is not a perfect vehicle for meeting our needs and solving our problems, but it is a good start. Mr. Simon and his staff will make mistakes—indeed they have made some already—but they will be called to account for them by the Congress. However, if we fail to provide the means for dealing effectively with this crisis, we are in no position to criticize the work which is being done. I urge my colleagues to support H.R. 11793, and I hope the House will approve this measure.

Mr. HORTON. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. HUDNUT).

Mr. HUDNUT. Mr. Chairman, I thank the gentleman for yielding.

I rise in support of both bills and I would like to associate myself with the remarks made by the distinguished chairman of the Committee on Interstate and Foreign Commerce (Mr. STAGGERS) and also by the gentleman from Massachusetts (Mr. MACDONALD).

I am a freshman member of that committee and not privy to some of the high councils of the House. But I do know the Interstate and Foreign Commerce Committee worked long and hard under the very able leadership of the gentleman from West Virginia to report out a good energy crisis bill; and I hope we will listen to him and take his advice as to the procedure we should follow in passing both these bills.

Mr. HOLIFIELD. Mr. Chairman, I yield 10 minutes to the gentleman from New York (Mr. ROSENTHAL).

Mr. ROSENTHAL. Mr. Chairman, I want to discuss the three amendments I will be offering to the Federal Energy Administration Act, H.R. 11973. The first amendment would freeze and then roll back the price of domestic crude petroleum and petroleum products to levels prevailing on November 1, 1973; the second would grant to the Comptroller General of the United States the authority to have direct access to the books and records of companies regulated by the Federal Energy Administration so that data submissions to the FEA could be verified by an arm of the Congress; and, the third would require that in establishing industry advisory committees, the Federal Energy Administrator place on each such committee a public or consumer representative.

Mr. Chairman, the first of the amendments goes to the vital question of the cost of petroleum products to the American consumer. The second and third amendments, which are of equal importance, go to the question of the credibility of the Federal Government's decisions with respect to the energy crisis.

I do not hold myself out to be any more knowledgeable than any other Member of this distinguished body on how to deal with this very serious national problem, but I do believe that the three amendments will improve the Federal Energy Administration Act and result in a more effective and equitable Federal energy policy.

PRICE CONTROLS ON DOMESTIC CRUDE PRODUCTS

Mr. Chairman, H.R. 11793 transfers to the new Federal Energy Administration the Cost of Living Council's authority over energy prices, but leaves intact the "hit and miss" policies that have resulted in runaway fuel costs.

In order to confirm that 1973 was a bad year for the energy consumer, one need only glance at the wholesale price index for the year ending November 1973. Those figures indicate that energy prices were 47 percent higher in 1973 than in 1972. Gasoline and No. 2 oil prices rose by 89 percent, crude petroleum by 21 percent, coal by 19 percent, natural gas by 12 percent and electricity by 9 percent.

Since November, crude oil prices on the wholesale level rose by 27.5 percent while refined petroleum products prices were up by 125 percent.

No one has yet estimated the dollar and cents costs to the American public of the rippling effects of increases in domestic crude and petroleum products prices. One can only guess at the billions of dollars more that American consumers will have to pay for the vast array of products made with or dependent on petroleum.

Two paramount considerations have guided my thinking with respect to the price freeze and rollback amendment: First, is the need to control runaway fuel costs to consumers; second is the need to provide the oil industry with price incentives sufficient to cause an acceleration in domestic crude oil exploration and production. I believe that the amendment meets both of these considerations.

The entire industrialized world is properly concerned over the unconscionably high prices of oil imported from the Middle East, Venezuela, and a few other nations. Frankly, the present prices for "new" and "old" domestic crude oil—about $10 and $5.25, respectively—are near a level that could cause the bankruptcy of our own economy from within. "Old" oil is that amount of crude produced at or below 1972 levels and it totals between 70 to 75 percent of our entire domestic production. "Old" crude is price controlled. "New" oil is that produced in excess of 1972 levels and is not price controlled.

It is my contention—a contention corroborated by statements of oil industry sources—that the current prices for both "old" and "new" petroleum are substantially higher than is necessary to encourage increased production and exploration.

Mr. Chairman, this amendment would roll back the price of "old" crude and petroleum products to the price prevailing on November 1, 1973—$4.25 from the present price of $5.25. It would roll back the price of "new" crude to the November 1, 1973, price of $5.50 as opposed to the current price of approximately $10 per barrel.

In December 1972, the National Petroleum Council, an advisory body composed of representatives of the major oil companies, presented to the Secretary of the Interior and the Congress a report on U.S. energy policy. This report estimated that to achieve the greatest feasible level of domestic self-sufficiency the domestic price of crude oil would have to rise from $3.18 per barel in 1970 to $3.65 in 1975. In August 1972, the Independent Petroleum Association of America testified before the Senate Committee on Interior and Insular Affairs that a domestic price of $4.10 per barrel would be adequate to assure the United States 100 percent self-sufficiency by 1980.

Taking into account the effects of inflation, the National Petroleum Council price would have to be increased to $4.35 and the Petroleum Association price to $4.55.

On October 24, 1973—when the price of old crude was $4.25 per barrel and the price of new crude was about $5.50—John E. Swearingen, chairman of the Standard Oil Co. of Indiana, stated that:

> Recent increases in the prices of domestic crude oil and natural gas have provided additional incentives and additional funds for intensified exploration for new supplies of oil and gas. Our company has embarked upon the most extensive exploration and development program in its history with particular emphasis on the U.S.

In July of 1972, Business Week magazine quoted the chairman of Continental Oil Co. to the effect that when domestic crude prices rise to between $4 and $5 per barrel, deeper drilling or tertiary recovery will be economical as will be the production of crude oil from tar sands and even from shale.

These and other similar statements from the oil industry itself point to the fact that prices for "new" oil of $5 to $6 per barrel would be most sufficient to encourage additional domestic exploration and development of our U.S. oil resources. These prices for "new" oil are the prices prevailing on or about November 1, 1973, before the Arab embargo began to exert its effect on domestic oil prices. Even Energy Chief William Simon told the Senate Investigations Subcommittee last week that the price of a barrel of new domestic crude oil should be substantially less than the present level of over $10.

As compared to current prices, the rollback envisaged in this amendment would save American consumers $7 billion per year while still providing a fair rate of return and profitability to the oil industry.

In spite of the fact that production costs for domestic crude oil have risen only slightly in the period since the Arab embargo began, the cost of old oil has been allowed by the Cost of Living Council to rise by $1 per barrel—from $4.25 to $5.25—and prices of new oil, which are not controlled, have shot up from levels of about $5.50 to the current $10.35 per barrel figure.

The inexcusable $1 per barrel increase which the Cost of Living Council allowed on "old" oil on December 19, 1973 represents an added cost for the American consumer of $3 billion per year. And yet, the oil industry made no promises for increased production resulting from this price increase on the same oil on which they were making handsome profits 1 year ago at $3.50 per barrel.

Mr. Chairman, specifically, the amendment would accomplish the following:

It would impose an immediate price freeze on all domestic crude petroleum and petroleum products, that is "petroleum product" means gasoline, kerosene, distillates—including No. 2 fuel oil—LPG—that is, propane—refined lubricating oils or diesel fuel—and, within 30 days thereafter, a rollback of such prices to the levels in existence on November 1, 1973;

It would permit the President to make exceptions and variations to the rollback orders when required to prevent gross inequities and hardships and to encourage and preserve the competitive viability of branded independent marketers, small refiners, nonbranded independent marketers, and independent refiners—as defined in the Emergency Petroleum Allocation Act of 1973;

It would require corporations engaging in sales of crude petroleum at the refinery level or petroleum products at the wholesale level to reflect, in sales to any purchaser, the average cost of its foreign and domestic crude oil and petroleum products. This would benefit the small independent dealers who are now forced to buy the more expensive foreign oil and charge their customers much higher prices. This provision should also provide relief to those geographic sectors of the country—in particular the Middle Atlantic States, the New England States, the Upper Midwest, and the west coast—which are more heavily dependent on foreign oil for their supplies, by requiring the producing companies to average foreign and domestic prices in all sales so as to spread price increases equitably throughout the Nation;

Finally, it would make "stripping well" oil no more than 10 barrels per day, subject to price controls.

Mr. Chairman, the rollback in prices which I am proposing would save American consumers about $7 billion a year, and would also provide a fair rate of return to the oil industry.

### GAO ACCESS TO THE BOOKS AND RECORDS OF ENERGY COMPANIES

Mr. Chairman, when the Comptroller General of the United States testified before the House Government Operations Committee on the Federal Energy Administration Act, he stated the following:

> Provisions should be made for GAO access to the same records and documentation for which the [Federal Energy] Administration is provided access, thus providing Congress the assurance that independent reviews of the manner in which the Agency is carrying out its data collection functions can be made.

It is important to note that the GAO now has this authority, but only with respect to companies under contract to agencies of the Federal Government or where Federal loans, grants, or other types of financial transactions are involved. In other words, what the amendment attempts to do is to merely extend an existing power of the Comptroller General to a new category—the energy crisis and those companies that are subject to the information gathering powers of the Federal Energy Administration. I think that every Member of this body would agree that the General Accounting Office has served the Congress and the public well over the years. I know that my constituents—and I suspect constituents of others—are having difficulty believing the disparate energy-related statistics and data coming out of different Government agencies and from the private sector. If we are to ask the public to believe in and make sacrifices in behalf of the Federal Government's energy policies, it is vital that they have confidence that these policies are based on accurate and verifiable data.

The Comptroller General has requested that he be permitted access to the books and records of those companies which are or would be available to the Federal Energy Administration. I am certain he would exercise such authority with discretion and with regard for the rights of others. If data submissions to the Federal Energy Administration are called into question or if the FEA's data collection practices are challenged, the Congress should be able to rely on the General Accounting Office to inquire into the matter. But without this amendment, such an inquiry will be impossible.

### REQUIRING CONSUMER REPRESENTATION ON EACH INDUSTRY ADVISORY COMMITTEE

The third amendment would require the Federal Energy Administrator to appoint a consumer or public representative to each industry advisory committee not composed entirely of permanent Federal employees. It should be understood that the amendment does not require that industry advisory groups be dominated by consumer or public representatives. It merely requires that such groups are reasonably representative of all segments and levels of industry and of the industrial and private consumers served by such industry.

The consumer community has very little faith in the operation of industry advisory groups. They see these groups as special interest organs with inside information and an inside influence on the policymaking decisions of Federal departments and agencies. Frankly, I think that this impression is basically correct. But we could change that impression and foster public confidence in the work of energy industry advisory groups, if we placed a consumer spokesman on each one to ask the right questions, raise the right issues, and seek data relevant to consumer interests.

Again, I am not asking that consumer representatives dominate any one advisory committee. But I do believe that it would be a mistake to do "business as usual" and segregate consumers in one advisory group while industry advisory groups operate independently and outside the scrutiny of consumers.

It is clearly unlikely that the consumer point of view will be expressed in the deliberations of an industry advisory group unless a consumer representative is present at the meetings and participates fully in the framing of the issues and the recommendations of the group.

I urge the adoption of this amendment as a way of assuring the public that their interests are represented at all levels and in all processes of the Federal Energy Administration's decisionmaking apparatus.

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER. Mr. Chairman, I take this time to ask the chairman of the committee, the gentleman from California (Mr. HOLIFIELD) about the reports to Congress. I see under section 7(k) on page 23, that it is necessary to make a report to Congress after 2 months.

Then, we go to section 17(b), and see that it is necessary to make a report to Congress in 1 year. Then, we go to section 17(c), where it so states that the Administrator shall from time to time report to Congress on the policies and activities of the administration.

Mr. Chairman, the sections appear to overlap. To make a little legislative history at the time, I am wondering what Congress can expect in the report that would be made by the Administrator, as the document says, from time to time.

Mr. HOLIFIELD. Mr. Chairman, if the gentleman will yield, I shall be glad to respond. Will the gentleman from Ohio give me the reference to the first reporting?

Mr. MILLER. Mr. Chairman, the first reporting is section 7(k), page 23. The second is section 17(b), page 36. The third is section 17(c), page 36.

Mr. HOLIFIELD. Mr. Chairman, the first report that is called for has to do with the procedures which he is going to set up to administer this program, to assure that all persons and businesses concerned will receive equitable treatment in the actions of the Federal Energy Administration.

Mr. MILLER. Mr. Chairman, the second was section 17(b), page 36.

Mr. HOLIFIELD. Mr. Chairman, that has to do with the expiration of the Agency, which is set up as a temporary Agency for 2 years. Six months before the expiration, the President shall transmit to Congress a full report together with his recommendations as to the Agency's disposition. He might even wish to extend it. He may recommend whatever he wants to.

Mr. MILLER. Mr. Chairman, the third reference is to section 17(c), page 36. That is the point of my question, as to what would be expected from the language that states "The Administrator shall from time to time report to Congress."

Mr. HOLIFIELD. Mr. Chairman, there might be specific activities or problems to report. For instance, let us say that he intended to put in rationing. He should at that time report to the Congress. He would anyway, I am sure of that, but anything that would be important in regard to his activities I think should be a matter of public knowledge and should be reported to the Congress, keeping us currently informed, in other words, of the progress. He might also need some additional authority to do something.

Mr. MILLER. Mr. Chairman, if I could continue, I have one other question. The Federal Energy Administration bill H.R. 11793 has a termination date of 2 years.

Mr. HOLIFIELD. Yes, in 2 years.

Mr. MILLER. Now, much of the authority will be removed from the Department of the Interior, as well as from the Cost of Living Council and from the Department of Commerce and from the Department of Agriculture and, as I recall, the Department of the Treasury.

Mr. Chairman, it appears that this authority will be put into an Office of Federal Energy Administration which will be responsible for the activity that the various departments had in the past.

My question is this: Do you feel that this energy problem will go away within 2 years, because now we are doing something to solve the problem, and yet we have a termination date of 2 years?

Mr. HOLIFIELD. Mr. Chairman, I will reply very simply to the gentleman on that matter.

The administration designated it as a temporary agency; they asked for 2 years.

I think it will take longer than that, and I would not be surprised at all if at the end of the 2 years' experience there will be—could be, I will put it that way, because I do not know what the administration will do—could be a request for an extension. I think that this crisis is going to be with us for a long time; regardless of whether this Arab-Israeli problem is settled in the Middle East or not, the infliction on the American people of these high prices is going to affect us economically, I believe, for the next decade or so.

I doubt very much if we can develop, outside of considerable conservation measures, the adequacy of our energy reserves in 2 years. I doubt if we could do it in 10 or 15 years.

**Mr. HORTON.** Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. Brown).

**Mr. BROWN of Ohio.** Mr. Chairman, I am pleased to speak in support of H.R. 11793, legislation to create a Federal Energy Administration to carry out the directives of Congress and the President in an effort to provide a positive response to the "energy crisis." This bill, which I have cosponsored, is designed to give the FEA a full range of authority and responsibility including: Assessment of the Nation's energy resources and recommendations on energy policy for the present and future; advising the President on petroleum imports and exports; coordination with State and local governments in solving energy problems; development of equitable energy conservation programs; gathering and analyzing energy information on reserves, production, demand and related economic data; and stabilization of energy prices. In short, the Federal Administration complements substantive energy emergency legislation to deal with energy shortages by providing the organizational base for effective administration.

Currently energy-related functions at the Federal level are handled by a number of offices in several different departments. The Offices of Petroleum Allocation, Energy Conservation, Energy Data and Analysis, Oil and Gas, are within the Department of the Interior, while the price control mechanism for petroleum—the 55-man Energy Division—is in the Cost of Living Council. And, the Federal Energy Office now operates by Executive order under the President. Obviously, such lack of coordination at the Federal level hinders successful energy management. It is logical, then, to combine these offices in one administration such as FEA.

It is interesting to note that a Federal Energy Regulatory Study Committee organized last June at the request of the President, will soon issue a tentative report recommending consolidation of jurisdictional, managerial, and regulatory functions in one agency. This study is based upon data and information generated independently from Congress—however, this entirely separate study group reached basically the same conclusions as did the Congress in formulating both the emergency energy bill and the Federal Energy Administration Act; that is, that there is a definite need for a single, broad-based energy office, with sufficient authority to carry out congressional mandate. The Federal Energy Administration, as designed by this bill, will provide the necessary leadership and oversight to direct and insure a sound, integrated Federal energy policy.

**Mr. HOLIFIELD.** Mr. Chairman, I yield 10 minutes to the gentleman from Arkansas (Mr. Alexander), a member of the committee.

**Mr. ALEXANDER.** Mr. Chairman, last week I brought to the attention of my colleagues the outrageous, unfair, and inequitable hardships that exist today and which will be continued through this bill in the pricing practices which allow the oil industry to tack on everything, including the kitchen sink, to the cost of propane gas and to pass that cost on to the consumer.

Mr. Chairman, after general debate I will offer an amendment which will correct this unconscionable situation that has victimized the poor, the elderly, and the rural people of this Nation who are dependent upon propane gas for heating and cooking.

My amendment will prohibit the pass-through of costs that are unrelated to the production of propane gas to propane consumers and will minimize the hardship and inequities.

Mr. Chairman, propane prices have skyrocketed in the last 9 months in Arkansas, and have risen as much as 350 percent. Although big business can absorb these costs for awhile, the budgets of county schools, small towns, retired people, and social security recipients cannot bear this burden. These are the people who are major users of propane gas.

Mr. Chairman, can you imagine spending $60 of your $88 monthly pension just to heat your home? Under present pricing regulations, which provide for the "equitable" pricing of propane, my constituents are expected to do just that. This practice is not only inequitable, but it is unconscionable.

Yesterday I met with the Arkansas attorney general and members of the Arkansas State Legislature and several propane gas dealers concerning this problem. My amendment is based on the needs and suggestions they expressed.

It is estimated that from an entire barrel of crude oil only 3 percent is refined into propane gas. It is certainly not fair or, as the regulations require, equitable for the increase in the cost of refining the other 97 percent of that barrel of oil to be tacked onto the costs which are passed through to the propane users. I believe the sense of equity and justice to which this House aspires will right this wrong.

One of the stated purposes of this act which we are considering today is to "insure fair and efficient distribution of and the maintenance of fair and reasonable consumer prices." This amendment represents another opportunity for us to speak out against the injustices suffered daily by the people living in the countryside of this Nation.

I hope my colleagues, Mr. Chairman, will support this amendment, and I support this bill.

**Mr. HOLIFIELD.** Mr. Chairman, will the gentleman yield?

**Mr. ALEXANDER.** I am glad to yield to the chairman of the committee.

**Mr. HOLIFIELD.** I am very sympathetic to this problem. While I have no farmers in my district I have many manufacturers of plastics. They are faced with the same problem of using this propane gas and other types of gas. They are closing their doors and laying off their employees.

I know just exactly what the problem is, and therefore from the standpoint of my own district and the gentleman's district I am very sympathetic with this problem.

The problem that the Chair has is that if we get into these substantive amendments as to authorizing the administration of the laws that are now on the books, we are getting out of our jurisdiction, it seems to me, and therefore we are stepping on the toes of committees like the committee chaired by the gentleman from West Virginia (Mr. Staggers), the Committee on Interstate and Foreign Commerce, or the Committee on Banking and Currency, and other committees.

So I just do not believe it is wise for the committee to do that.

I do, however, want to compliment the gentleman from Arkansas on his industry and his attentiveness to the needs of the people from his district, and I share that same concern that the gentleman shares.

**Mr. ALEXANDER.** Mr. Chairman, I appreciate the gentleman from California (Mr. Holifield) recognizing this as a national problem. I certainly understand the position that the chairman has in being the floor leader on this particular bill. I understand that a point of order will be made, and I will be prepared to speak on that point of order.

**Mr. HORTON.** Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. McClory).

**Mr. McCLORY.** Mr. Chairman, I thank the gentleman from New York for yielding to me.

Mr. Chairman, I have asked for this time in order to ask a question or two perhaps of the gentleman from New York (Mr. Horton) who is handling this bill on the minority side, or perhaps the chairman of the full committee.

Mr. Chairman, one of my questions relates directly to the conceptual thinking behind this bill, which is to establish a Federal Energy Administration—FEA. The FEA is to be charged with the responsibility of regulating the industry as well as seeking compliance to its directives. At present much effort is being expended in the allocation of fuels through the delivery systems.

The reason this question arises at this time is that I have been informed that some States independently of Federal directive and some foreign nations have found it necessary to add a dye to their supplies of the middle distillate designated No. 2, which upon being dispensed can either be used as home heating oil or as diesel oil. The main difference being that State and national governments collect an excise tax on the diesel oil, but not on the home heating oil. If home heating oil is diverted to the blackmarket and is used as a fuel, the homeowner loses out because his fuel oil becomes hard to come by and the various governments lose because they fail to collect their taxes.

My office recently received a copy of a letter from the Assistant Deputy Minister of Revenue of the Province of Quebec, Canada. That Government in 1972 began adding a dye to its heating oil. As a result of that effort, there has been a remarkable increase in the revenues collected. For example, for the period from November 1972 to November 1973, the increase in revenue was 55.8 percent. The Minister remarked in his letter that in some of the cases they have brought to court, organized crime connections were discovered. Thus, I am concerned about lost revenue and the entry of organized crime into the petroleum allocation system of this Nation.

Mr. Chairman, we should insure that the FEA has the authority to require a dye to be added to scarce fuel oils so that these fuel oils will not be misdirected and misused to the detriment of this Nation and its people. The FEA administration should have the immediate authority to have distinguishing dyes added, in much the same way that leaded gas and aircraft fuel is color coded now. This will make the FEA Administrator's regulatory and compliance job much easier and make him much more effective.

I wonder whether the committee would entertain an amendment at the proper time to grant authority to the Administrator to authorize the inclusion of a dye in petroleum products for the purpose of better enforcement of the law.

Mr. HORTON. Mr. Chairman, if the gentleman will yield, I certainly understand the concern of the gentleman, and I am sure that the gentleman from Illinois has good reason for offering such an amendment.

However, earlier, during the debate, the chairman and I both indicated that this was an organizational bill; that it is to establish an organizational structure known as the Federal Energy Administration. I believe that the amendment the gentleman from Illinois proposes should more appropriately go before the Committee on Interstate and Foreign Commerce, or one of the other committees of original jurisdiction for energy policy legislation. This bill is not designed to add any new energy authority for the Administrator. We would therefore oppose such an amendment, not because it is not a good amendment and well worth considering, but because we feel that it is inappropriate to have it considered as an amendment to this bill. This bill is just to set up the organizational structure for the Federal Energy Administration.

Mr. McCLORY. It is possible, I would judge, that under this bill the Administrator could recommend, the use of dye in heating oil under section 5, subparagraph 12, which authorizes the Administrator to "perform such other functions as may be prescribed by law."

Mr. HORTON. I think the Administrator could possibly recommend such a step, but he would not be authorized by this bill to order its use because we do not provide program authority in this bill. When we get into program authority of the type you suggest, then we impinge upon the jurisdiction of other committees. I would hope that the gentleman would attempt to get his amendment considered by the appropriate committee rather than as a part of my committee's bill.

Mr. McCLORY. I understand the gentleman is sympathetic with the suggestion I made; is that right?

Mr. HORTON. I am not passing judgment upon it. I am sure that the gentleman has good reason for suggesting it as a possible amendment. I am merely saying I do not believe the suggestion should be offered as an amendment to this bill.

Mr. McCLORY. I thank the gentleman from New York. I probably will not offer an amendment to this bill as the authority to require a dye in heating oils may exist under the provisions of the bill as written.

Mr. HORTON. Mr. Chairman, I do not have any further requests for time.

Mr. HOLIFIELD. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, there is no man on this floor for whom I have greater respect than the distinguished chairman of the committee that presents this bill. What I have to say here is, though, in disagreement with him with respect to the effect of this bill. I do not believe that it is possible to draw a bill which creates an agency and defines its powers without coming into conflict with another bill which controls the functions of the agency.

I voted against the rule on this bill for this reason: I had always understood that the Committee on Rules of this body was our dispatcher, so to speak. It is as if we were running a railroad so that the second train could run so close to the first as to collide with its caboose.

There are conflicts between the energy bill now before the conference committee and the bill here presented in many areas. I shall, upon the reconvening of the House, ask unanimous consent to put at this point in the RECORD a tabulation of those areas in which conflict exists.

| S. 2589 | H.R. 11793 |
|---|---|
| (1) Establishes FEEA until May 15, 1975 (Sec. 103). | Establishes FEA to remain in operation for *two* years after enactment (Subsection 3, 19). |
| (2) End-use rationing (Sec. 104); energy conservation plan (Sec. 105). | Plans and programs for dealing with energy production shortages (Sec. 5(4)); development and implementation of energy conservation programs (Sec. 5(7)). |
| (3) Increase petroleum supplies (Sec. 108). | Develop energy resources (Sec. 5(10)). |
| (4) Prohibitions against windfall profits and price gouging with expiration date of December 31, 1974 (Sec. 110, 129). | Prevention of unreasonable profits, production of price stability and free enterprise with no specific expiration date (Sec. 5(5)). |
| (5) Gather information regarding fuel reserves (Sec. 124). | Gather information on reserves, production and demand (Sec. 5(a)). |
| (6) Administrative procedures, including right to hearing, specified in detail (Sec. 118) (discussed below). | Administrative procedures from Economic Stabilization Act (Sec. 7(k)) (no right to hearing). |

I shall describe them briefly here.

One of the greatest conflicts is with respect to the manner in which rules are made. This bill, of course, gives authority to the agency to make rules. It says that those rules may be made in accordance with the provisions of the Economic Stabilization Act. The Economic Stabilization Act provides for one method of making rules which permits a rather curtailed hearing, but it also provides for an emergency provision, which is the only way that agency has ever made rules, in which no hearing at all is allowed.

Under the bill that is now in conference, the energy bill, there is provision that there must be hearings with respect to the making of rules. There is in effect a little administrative procedures act written into that bill.

If we enact both bills, we have clear conflicts between the two bills as to the manner in which rules are made.

It has also been said that there is no conflict in certain other areas and nothing substantive is attempted in this bill with respect to these areas. Yet on page 8 of the report with respect to the gathering of information, it is stated:

> He is authorized—that is, the head of the agency—either by consent or through judicial warrant, or in special circumstances where no warrant is constitutionally required, to enter business premises or any facility engaged in any phase of energy supply or major energy consumption for such purposes as the following.
>
> To inspect and copy records, . . .
>
> To inspect, to a reasonable extent, equipment, . . .
>
> To inventory stocks . . . .

In the energy bill before the conference committee under the Dingell amendment, there are provisions for gathering information. Both of these deal with procedures, and they deal with them in different ways. I should like to urge this body not to jump through a hoop because the question of energy is involved. This body should be a deliberative body. Why should we start dealing with the same subject matter dealt with in sections 104 and 105 in another bill that we now have before Congress?

Why should we enter into the same field in a new piece of legislation dealt with today and tomorrow? If we do this ultimately what we will have is administrative procedures provided with respect to this agency of one type in the energy bill, if it should pass, and we will have administrative procedures of another type in the bill that purports to set up the agency. We will have provisions for gathering information of one type in the bill that is now before conference and provisions for gathering information of another type in the bill that purports to set up the agency.

These pleas for amendments that have been made by the gentleman from Arkansas (Mr. ALEXANDER) and that have been made by the gentleman from New York (Mr. ROSENTHAL) and that have been made a minute ago by the gentleman from Illinois (Mr. McCLORY) all indicate that we cannot divorce function from structure.

Perhaps the chairman of this committee and the ranking minority Member may make a point of order or urge their fellows not to push the point, but it cannot be predetermined that amendments to these various definitions of authority which define function and deal with questions of energy will not be in order. I do not know what the answer is and of course the gentleman urging the amendment is entitled to insist on the germaneness of his amendment. Perhaps the chairman will prevail. Perhaps he will not.

I find myself frankly in the position of not being able to rationally define the difference between setting up of an agency and defining its powers and the definition of function of that agency with respect to areas of authority that may deal with substantive regulation of energy.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from California.

Mr. HOLIFIELD. The chairman is loath to press the point of germaneness unless an amendment is clearly nongermane and he will look upon all amendments with the greatest of consideration. I am sure many of the amendments may be germane, and if they are we will consider them and argue them, and have a vote upon them, and whatever the House decides will prevail.

Mr. ECKHARDT. That is precisely the point I am making. The thing is, many of these amendments may well be germane and when we get through writing the bill we will write one set of functions with respect to energy in this bill; and, if we pass the other bill as a result of adopting the conference report, we will have dealt with the same subject matter, the two being very probably in conflict with each other. I should like now to make references to each bill and to the sections of each that overlap and frequently conflict.

To implement the board grants of authority in section 5, section 7(d) of H.R. 11793 authorizes the FEA to "promulgate such rules, regulations and procedures as may be necessary to carry out the functions—which are spelled out in section 5—vested in him."

As the brief description of section 5 above indicates, the functions vested in the FEA by H.R. 11793 not only cover each activity specified in S. 2589, but additional activities as well. However, the great breadth of the authorizing language of H.R. 11793 makes it impossible to determine the precise boundary lines of these additional functions. The FEA is given specific authority to carry out its functions by section 7(d), which directs the FEA to issue implementing rules and regulations. In addition, section 7(j) directs the FEA to "perform such other activities as may be necessary for the effective fulfillment of his duties and functions."

Section 118 of S. 2589 requires the FEEA to follow detailed administrative procedures—including the right to a hearing—and makes special provision for judicial review. Section 7(k) of H.R. 11793, however, directs the FEA to follow the administrative and judicial review procedures of the Economic Stabilization Act in all its actions and activities pending the outcome of a 2-month study on the appropriate procedures ultimately to be used. Since there is no hearing input under ESA, this provision in effect permits the FEA, at least for some period of time, to take virtually any action it desires in any manner it desires notwithstanding the carefully considered and drafted procedures developed in S. 2589.

It is possible, of course, that H.R. 11793 was never intended to constitute such a broad grant of authority. The committee could have intended in section 5 merely to provide sufficient general authorizing language to cover the specific functions that already exist and are being transferred by the bill or that will be vested in the FEA by pending legislation. Also, the rulemaking provision of section 7(d), under this interpretation, might have been merely intended to confer authority to adopt internal "housekeeping" rules for internal agency procedures. Whatever the drafters' unstated intention, however, it is far from clear that the courts would interpret the rulemaking provisions of section 7(d) so narrowly. In *FTC* v. *National Petroleum Refiners Ass'n*, 483, F. 2d 672 (1973), the U.S. Court of Appeals for the District of Columbia Circuit interpreted virtually identical language contained in the FTC Act—authorizing the FTC "to make rules and regulations for the purpose of carrying out the provisions of this act"—to authorize substantive rulemaking, even though the act contained detailed adjudicatory powers and procedures for the FTC to follow with respect to violations of section 5 of the FTC Act. The fact that H.R. 11793 contains no implementation provisions other than the rulemaking provision of section 7, makes any judicial limitation of its rulemaking authority very unlikely.

There are other conflicting provisions of S. 2589 and H.R. 11793:

Section 129 of S. 2589 authorizes the President to exercise his authority under the Economic Stabilization Act to specify prices for sales of crude oil, residual fuel oil, or refined petroleum products to avoid windfall profits. It defines windfall profits "as those profits which are excessive or unreasonable; taking into consideration normal profit levels," and makes the section effective only until December 31, 1974. On the other hand, section 5(5) of H.R. 11793 directs the FEA—but not the President—without specific time limitations, to prevent unreasonable profits in the entire energy industry—not defined—and in addition directs the FEA to "promote stability in energy prices to consumers"—also not defined. Section 5 is thus far broader, and is quite indefinite as to its scope.

For another example, section 124 of S. 2589 authorizes the FEA to require detailed reports, from persons engaged in exploring, developing, processing, refining, or transporting petroleum products, gas or coal, showing reserves of crude oil, gas and coal, production of petroleum products, and other data. That same section also provides some measure of protection from public disclosure for proprietary information, and specifies that the disclosure requirements shall not apply to the retail operations of persons required to report.

Section 15 of H.R. 11793, on the other hand, grants the FEA subpena power to collect energy information "from all persons owning or operating facilities or premises who are engaged in any phase of energy supply or major energy consumption," and to conduct physical inspections. That section also directs the FEA to collect and analyze energy information "of sufficient comprehensiveness and particularly to permit fully informed monitoring and policy guidance with respect to the exercise of each of the advisory and program responsibilities vested in the Administrator under section 5 of this act or otherwise." The information gathering authority of H.R. 11793 is thus different and at the same time far broader than of S. 2589.

Mr. HOLIFIELD. I yield 2 minutes to the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Chairman, earlier an allegation was made here that this is a bill that is wanted by the lobbyists. If the lobbyists referred to were the lobbyists for consumers of energy, then I am in agreement. Otherwise I am very much in disagreement.

I happen to be the chairman of a subcommittee that started hearings in 1970, warning that an energy crisis was in the process of developing. There was only about one thing that we could agree upon in those days, whether one was a consumer type, from industry, or the executive department. The one thing we could agree upon was that the different forms of energy are interchangeable and affect one another, whether it be coal or gas or oil, or whatever. But, the responsibilities for the decisions made relative to each of those forms of energy were tucked away in various departments of the Government. The Department of Interior had domestic oil, the FPC had gas, the OEP handled imports, and the AEC had uranium. They were spread throughout the Government. One of the arguments important in determining whether an energy crisis was over the extent of reserves. Government agencies responsible for one form of energy had no idea what reserves were claimed for other forms of energy. They were all too dependent upon the industry for the figures. Responsibility was so spread that a national policy was not possible.

So on December 15, 1970 in our report we said there should be designated,

> A single federal agency with responsibility, authority and jurisdiction for establishing a National Energy Policy to attain the objective of an efficient and productive utilization of this country's total energy resources in conjunction with the appropriate environmental protection agencies. This agency would be responsible for the development and planning of a National Energy Policy that would cover both fuel and electrical energy.

Fragmenting responsibility was an ideal situation for the big energy companies because they could play one bureau against another or press wherever the response seemed the best and Government responsibilities to consumers of energy were uncoordinated.

During most of the past 4 years and while we were undertaking these investigations and issuing reports, most people simply would not believe that a crisis could be developing and no more than token attempts were made toward the development of a national energy policy. In too many cases, a disaster must occur before the appropriate agencies of Government will move. This is another one of those cases, but at last here today we have what appears to be a fairly good consensus by the administration and the Congress on the changes needed to assure the establishment of the very kind of agency we asked for 4 years ago.

Although there were many other recommendations made at that time which were important and some of which have since been supported, I wish to single out one which called for "an independent Government entity to conduct an in-depth reservoir-by-reservoir analysis of domestic natural gas reserves" together with some similar ones related to reserves of other fuels. At the urging of our subcommittee, some agencies did start to make some independent studies but they have proceeded rather slowly. With an agency such as can be established under this bill, a more meaningful study can be made and the expertise and help of the various bureaus and the various departments which in some way relate to these various kinds of fuels can be recruited and used.

Although I do have some reluctance to vest so much authority in the executive department, it is needed to accomplish these and various other needs which have been outlined by my subcommittee; and we should, on an overall basis, recognize both the great need at this late hour for these reorganizations and the fact that the bill itself limits such transfers of authority to a definite time period therefore assuring review and termination.

My only objection to the timing of the bill is that I wish it had been requested 3 years ago, because until we get all these agencies working together there is no possibility of really doing what we need to do in the energy field.

If the allegation is true that some lobbyists are pushing for this bill, it must be the lobbyists for the consumers of energy.

Mr. HOLIFIELD. Mr. Chairman, if the gentleman will yield, I will say again, I am not known as a champion of the oil lobbyists. If the gentleman remembers, on Saturday in the early morning at 2 o'clock I spoke against the elimination of the windfall profits tax on the energy bill.

Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Ms. ABZUG).

Ms. ABZUG. Mr. Chairman, the debate that has taken place here today is indicative of the reasons that I, for one, voted against the bill in the committee.

I realize that it is important for us to have a bill which would set up a bureaucratic mechanism for whatever the present energy emergency bill is; but in going through this bill as rapidly as we did, I found that we were confusing our role with that of both a substantive bill, as well as a long-range bill, rather than dealing with the present emergency problem.

Broad grants of power are given by this bill to the Federal Energy Administration, which I believe to be vague and which permit very arbitrary actions. We would have to limit that kind of grant of power.

Many of the other Members of Congress who have spoken on the floor today have indicated various weaknesses in the legislation by the kinds of amendments that they will offer to make this bill reflect what things must be changed. Our own chairman has indicated that he will move to delete certain provisions of the bill which, I believe, gave the President authority to reorganize and make transfers from department to department which we had already agreed he could not do.

There are serious questions of conflict with existing law. I believe that the Federal Agency Administrator should only have those powers which he obtains from those provisions specified in other acts or other authorities or limitations which have been prescribed by the President or the executive branch, rather than to get unauthorized powers here.

There are provisions in this bill that could be corrected by amendment, particularly the provisions concering confidentiality of information, about which there were some questions asked on this floor.

I believe the provisions in the bill weaken the purposes of the Freedom of Information Act and it would be preferable to adopt the provision in the present Energy Emergency Act conference report which does allow information to be gotten and given to the Attorney General, the Secretary of the Interior, the Federal Trade Commission, the Federal Power Commission, the General Accounting Office, and the Congress, with respect to important information that we must have concerning oil and the oil companies and their profits.

I myself believe that if we are going to adopt any rationing, I will deal with this question by offering an amendment to indicate that any such adoption of rationing requires the participation of local boards whose composition reflects the makeup of the community.

I believe that many other provisions in this bill can be corrected if we are to reflect what is the reality now.

What has been said here today is that we have to provide for a bill which will give the people in this country some relief against arbitrary acts on the part of the oil companies; their failure to present information, their assuming and obtaining windfall profits.

All of these things, I believe, can be remedied by proper attention to this measure if we recognize it as a bill for implementation rather than a substantive bill. I hope I can join with the rest of my committee in supporting that bill at the appropriate time.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. HOLIFIELD. Mr. Chairman, I yield 1 additional minute to the gentlewoman from New York.

Ms. ABZUG. Mr. Chairman, the essence of what I was saying is that this bill cannot substitute for the real problems which we have. We cannot legislate substantively through it. Where it does seek to give broad powers, we should limit it. Where it prevents us from receiving information, as it does in the confidentiality provision, we should strengthen that provision, and perhaps we can make this a mechanism that can deal with our immediate problems.

Mr. Chairman, I thank the Members.

Mr. HOLIFIELD. Mr. Chairman, I wish to make just a few remarks, and then I will ask for a reading of the title of the bill, after which I will move that the committee rise in accordance with our agreement with the leadership.

Mr. Chairman, we believe we have a good bill here. We worked very hard to make it a good bill. We on the Government Operations Committee have had a lot of experience in putting Government organizations together under reorganization plans and by the setting up cabinet level departments such as the Departments of Housing and Urban Development and the Department of Transportation.

Therefore, the committee and its staff does have a great amount of expertise in these fields. We have tried to the best of our ability to keep within the jurisdiction of our committee, which pertains to Government reorganization, and in this instance to organization.

That means moving the different checkers of Government around on the checkerboard. We have tried not to interfere with the size or color or shape of the different checkers, and when I use that simile, I mean the statutory purpose given to those entities that we move, such as the Cost of Living Council; we have them with the authority which they now have and transfer that authority along with their personnel and records into this new entity.

Therefore, we believe we have a bill here that is deserving of support.

Mr. Chairman, that concludes my remarks.

Mr. MOSS. Mr. Chairman, I am submitting for publication in the CONGRESSIONAL RECORD a series of nine amendments, which I intend to offer to the Federal Energy Administration Act during debate under the 5-minute rule.

H.R. 11793

FEDERAL ENEGRY ADMINISTRATION

Page 15, line 12, after "sec. 3" insert "(a)".

Page 15, line 15, after period insert the following new subsections:

"(b) Whenever the Federal Energy Administration submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress.

(c) Whenever the Federal Energy Administration submits any legislative recommendations or testimony or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No Officer or agency of the United States shall have any authority to require the Federal Energy Administration to submit its legislative recommendations, or testimony or comments to any officer or agency of the United States for approval, comments, or review prior to the submission of such recommendations, testimony, or comments to the Congress.

(d) The Federal Energy Administration shall be considered an independent regulatory agency for purposes of chapter 35 of title 44, United States Code, but not for any other purpose.

### REMOVAL OF ADMINISTRATOR

Page 16, line 2, after "the Administration." insert the following new subsection and renumber the following subsections:

"(b) The Administrator may be removed by the President for cause. If the Administrator is removed the President shall furnish the Congress with a statement of the cause for removal. For purposes of this subsection the term "cause" shall mean malfeasance, neglect of duty and documented incompetence."

### DELEGATION OF AUTHORITY

Page 16, strike line 5 beginning with "except" and all that follows through line 7 "appropriate." and insert in lieu thereof:

"(2) The Administrator may delegate any of his functions to any officer or employee of the Federal Energy Administration as he deems appropriate. The Administrator may delegate any of his functions relative to implementation and enforcement of any law administered by him to officers of a state or political subdivision thereof or to state or local boards of balanced composition reflecting the makeup of the community as a whole.

(3) In the event the Administrator implements any authority of the law providing for end-use rationing, such plan or program shall provide for local implementation through state or local boards of balanced composition reflecting the makeup of the community as a whole."

### TRANSFERS FROM EXISTING DEPARTMENTS

Page 20, strike line 22 and all that follows through line 7, Page 21.

### RULE-MAKING AUTHORITY

Page 22, strike line 16 and all that follows through line 18 and insert in lieu thereof:

"(d) The Administrator may promulgate such administrative and advisory rules and regulations which may be necessary to carry out the functions vested in him."

### ADMINISTRATOR'S AUTHORITY

Page 23, strike line 18 and all that follows through line 20.

### ADMINISTRATIVE PROCEDURE

Page 23 line 21, after "(k)" insert "(1)". Page 23, line 25, strike the colon and insert a period.

Page 24, strike line 1 and all that follows through line 5 and insert in lieu thereof:

"(2) Subject to paragraphs 3, 4 and 5 of this subsection the provisions of subchapter 11 of chapter 5(c) of title 5 United States Code shall apply to any rule or order of the Administrator or his delegate.

(3) Notice of any proposed rule or order described in paragraph (2) shall be given by publication of such proposed rule of order in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious impairment to the operation of the program to which such rule or order relates and such findings are set out in detail in such rule or order.

(4) In addition to the requirements of paragraph (3), if any rule or order described in paragraph (2) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the implementation of such rule or order, but in all cases, such opportunity shall be afforded no later than 45 days after the implementation of any such rule or order. A transcript shall be kept of any oral presentation.

(5) Any officer or agency authorized to issue rules or orders described in paragraph (2) shall provide for the making of such adjustments, consistent with the other purposes or the Emergency Petroleum Allocation Act of 1973, as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in rules prescribed by it, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (L) when such denial becomes final. The officer or agency shall, in rules prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(L) JUDICIAL REVIEW.—Any interested person (including a State or political subdivision thereof) may obtain judicial review of any rule or order described in subsection (k) (2) of this section in accordance with chapter 7 of title 5, United States Code. Review of a rule may be obtained in the temporary Emergency Court of Appeals. Review of a rule or order shall be pursuant to the procedures of section 211 of the Economic Stabilization Act of 1970.

### CONFIDENTIALITY OF INFORMATION

Page 35, strike line 12 and all that follows through line 21 and insert in lieu thereof:

"SECTION 16. Except as otherwise provided by law upon a satisfactory showing to the Administrator by any person that any information obtained by the Administrator would, if made public, divulge methods or processes entitled to protection as trade secrets or other proprietary information of such person, such information or portion thereof shall be confidential in accordance with purposes of section 1905 of title 18 of the United States Code, except that such report or portion thereof shall not be deemed confidential for purposes of disclosures to (1) any delegate of the Federal Energy Administration for the purpose of carrying out this Act, (2) the Attorney General, the Secretary of the Interior, the Federal Trade Commission, the Federal Power Commission, or the General Accounting Office when necessary to carry out these agencies' duties and responsibilities under this and other statutes, (3) the Congress or any Committee of Congress upon request of the Chairman, and (4) the public where the Administrator determines disclosure is necessary to promote the conservation of energy and to carry out the purposes of this Act.

Page 32, lines 21 and 22, strike out "in a manner designed to preserve its confidentiality"

Line 25 on page 32 and lines 1 and 2 on page 33, strike out "having jurisdiction over the subject matter to which the information relates."

Page 33, after line 6, and the following new subparagraph:

"(4) to the public where the Administrator determines disclosure is necessary to promote the conservation of energy and to carry out the purposes of this Act"

Mr. BOLAND. Mr. Chairman, I wish to go on record as supporting H.R. 11793, a bill to reorganize and consolidate certain functions of the Federal Government in a new Federal Energy Administration in order to promote more efficient management of such functions.

This legislation will establish by law the agency which has hitherto been operating under executive order. I wholeheartedly support the concept of unifying under one official the various related energy functions which rational formulation of a coordinated national energy policy demands. The forward strides that have already been made by the present Federal Energy Office under William E. Simon offer a refreshing and long-awaited change from the chaos and false steps of previous so-called "energy czars" and "advisers."

I feel that H.R. 11793, by setting a 2-year authorization period for the FEA, puts a sensible limit on the lifespan of our emergency energy regulatory apparatus. Provision is made in the bill for Presidential recommendations for either continuance or other disposition of the functions assembled under the aegis of the Federal Energy Administrator. I feel that one lesson that we ought to have learned by the experience of the last year is that regular and frequent reviews of our energy policymaking procedures and goals are a necessity if we are not again to be caught as flat-footed as we were by the Arab boycott.

Mr. Chairman, I am aware that some Members are alarmed by what they characterize as the sweeping breadth of power which has been deputized to the FEA by this legislation. I think it important to point out—as is already evident from the workings of the present Federal Energy Office—that the President already possesses the powers that it is feared will so strengthen the Executive Office. Last spring Congress renewed the Economic Stabilization Act, under which the President has since authorized the creation of the Federal Energy Office and assembled various energy functions.

I favor passage of H.R. 11793 because it will enhance congressional control over the new FEA. If this bill becomes law, all the principal officers of the FEA will necessarily have to be confirmed by the Senate. Further, congressional approval will be mandated at the end of 2 years for any further energy regulation and policymaking vehicle. The interim period will have afforded all of us in this body and in the other House the opportunity to appraise the benefits and drawbacks of this agency. At that point, we will be able to act on information our own senses have gathered.

Despite my endorsement of this legislation, I am troubled in particular by one aspect of this bill and its near relation, the conference report on the Energy Emergency Act (S. 2589). Neither piece of legislation takes, to my mind, a firm enough stand upon perhaps the most crucial issue raised by the national energy crisis. Quite simply, where are our national priorities?

Do they lie with some ill-conceived, vague entity—the marketplace—or do they have their foundation in the well-being of our people? It seems to me that the most dangerous and insidious issue amidst this whole energy debate is the view, quite openly stated and restated by top administration figures, including Mr. Simon, that if prices go high enough demand will eventually mesh with supply and presto, no more shortages.

This philosophy seems to me to ignore the fact that energy—whether it be used to heat homes, carry people to work or school or run factories—is not some imaginary commodity in an economics textbook. It is a rockbottom necessity. If bread is the staff of life, energy is the firm ground upon which to plant it.

Without gasoline, heating oil, and electricity at affordable rates, workers will lose more jobs, for a great many have already lost them since the Yom Kippur war; and people, especially those with fixed or lower incomes, simply will not be able to heat their homes or get to work. Why? It will cost too much.

The basic insensitivity to the human condition displayed by anyone that holds the line for more "free market" energy price hikes for the oil companies leads me to insist that we include among the provisions of H.R. 11793 a rollback of domestic petroleum prices. I will support a simplified consolidation of energy functions in a new Federal Energy Administration, but it is high time that we in the Congress let it be unequivocably known that we do not support price hikes at any cost merely to satisfy so-called market demands.

This Nation climbed out of the economic slough that was the Depression by satisfying human as well as market demands. Today, we have the same obligation as the Congresses of that era. We must put citizens before corporations, people before profits. We have got to stop the spiraling costs of petroleum products and now is the time to do so.

And in order that this may be done, intelligently and honestly, I also support a provision which would allow the Comptroller General to examine the records of all companies regulated by the new FEA. That includes every company and individual on the energy supply chain, from major refiners and suppliers to the local gas station. This power will compliment those which the Congress hopefully will soon authorize so that all available energy data must be and will be collated by the Government. We can never again afford the luxury of another energy crisis, much less the almost total dependence upon self-serving industry records we now experience.

Mr. ROY. Mr. Chairman, at the appropriate time, I intend to offer an amendment to H.R. 11793, the Federal Energy Administration Act, directing the Administrator of the Federal Energy Administration to submit legislative recommendations establishing a system of price controls on petroleum products to avoid windfall profits by oil companies.

Specifying prices to avoid windfall profits in the first instance is clearly preferable to an excess profits tax. An excess profits tax would do nothing to prevent high prices and huge profits; it would actually permit windfall profits and then apply in effect an excise tax which would be passed on to the consumer.

The American people deserve nothing less than an absolute restriction on windfall profits. I strongly urge that the House accept this amendment:

Section 17, new subsection (d):

In carrying out the functions under Section 5(5) of this Act, the Administrator shall submit to the Congress, within 60 days after enactment of this Act, legislative recommendations establishing a system of specifying prices for sales of crude oil, residual fuel oil, and refined petroleum products in or imported into the United States which avoids windfall profits by sellers.

Mr. PRICE of Illinois. Mr. Chairman, I know of no other matter which affects the lives of so many as profoundly as the energy crisis. To deal with the problem efficiently and effectively, there must be coordinated and concerted efforts.

H.R. 11793 would consolidate for 2 years all our current energy-related agencies into one Federal Energy Administration, which would have the responsibility of coordinating the Government's role in the area of energy conservation and regulation, with the power to act decisively under emergency conditions.

All Presidential appointments to the Administration would be subject to Senate confirmation. This is essential if Congress is to retain some checks over questionable Executive action.

I urge my colleagues to support this legislation, for it should make our fight against energy starvation easier and more effective. The longer we delay action, the worse off we will be in the future.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SHORT TITLE

Section 1. This Act may be cited as the "Federal Energy Administration Act of 1973".

Mr. HOLIFIELD. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Flynt, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11793) to recognize and consolidate certain functions of the Federal Government in a new Federal Energy Administration in order to promote more efficient management of such functions, had come to no resolution thereon.

## GENERAL LEAVE

Mr. HOLIFIELD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the general debate just concluded, and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

## RETIREMENT OF CRAIG HOSMER

(Mr. RONCALIO of Wyoming asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. RONCALIO of Wyoming. Mr. Speaker, I was pleased this week to notice that Llewellyn King, editor of Weekly Energy Report, devoted one full page to the Joint Committee on Atomic Energy and the retirement of our colleague, Craig Hosmer. Craig Hosmer has decided to retire at the end of this session of Congress, and his absence from the Congressional Joint Committee on Atomic Energy will be deeply felt.

I think Members and nearly all who have followed the Washington scene over these past years will enjoy this item on the irrepressible Craig Hosmer, and I am happy to insert it as a part of my remarks in the Record. It is also of timely interest to those who inquire about the future of the Joint Committee on Atomic Energy.

### Shadows Lengthen for Joint Committee; Hosmer Is Quitting

Rep. Craig Hosmer, minority leader of the Congressional Joint Committee on Atomic Energy, is leaving Congress after 22 years, most of it devoted to atomic energy. Hosmer, a wit, a bon vivant and a ceaseless campaigner for the atom, announced last week that he would not seek re-election this year. His departure casts new doubts on the future of the Joint Committee and signals the end to an era which has seen nuclear technology elevated from the experimental to the commercial.

For much of the past quarter of a century the destiny of the atom has been closely supervised by Hosmer, a Republican of conservative persuasion who represents Long Beach, California, and Rep. Chet Holifield, a crusty Democrat, also from California. Working in tandem, joined in spirit by a common belief that harnessing the atom is one of the great achievements of man, Hosmer and Holifield have quarreled with successive Administrations, alternatively bludgeoned and coddled the Atomic Energy Commission, and dominated nuclear policy in the nation.

It has been a single-minded effort rare in the annals of Congress for its effectiveness, longevity and dedication. Both men have resisted more powerful appointments and have turned their backs on careers in Congress that could have led to national political stature. To Holifield's inflexible and dominant drive, Hosmer has added humor and, to those who know the Joint Committee well, humanity. To critics of the committee, and they are legion, especially among environmentalists, it has been a Mutt and Jeff performance. To the men concerned it has been a life's work well done.

Last week Hosmer told *Weekly Energy Report*, "I have had a magnificent privilege in being in on the genesis of nuclear energy. We have established procedures which will be in effect for centuries after I am dead." Hosmer said that he became interested in nuclear energy in 1945 when he was skipper of an assault craft in the Pacific. "In 1945 I realized that it was the biggest force put on this earth in the previous 2000 years." From that point Hosmer, a lawyer by trade, began his service to the atom. When he left the Navy with the rank of commander—he is now an admiral in the reserves—Hosmer went to work for the Atomic Energy Commission at the Los Alamos Scientific Laboratory.

There he concluded that the way to become a force in the development of the atom was to be a Member of Congress. He moved to Long Beach and was elected to the House in 1952, but had to wait until 1958 before he was appointed to the prized Joint Committee. In 1968 the seniority system paid off and Hosmer became the leading House Republican on the committee, although the work of the committee has never been marked by partisanship.

Hosmer's quitting raises questions about the future of the committee itself and about the plans of Holifield. Holifield gave up the chairmanship of the committee a little over three years ago to assume command of the powerful House Government Operations Committee. It is commonly speculated that Holifield, 70, will announce later in the year that he, too, is leaving Congress. In that event, only Rep. Melvin Price, 69, the committee's present chairman, will be left in the old leadership lineup. In addition, two Senate members, Alan Bible and George Aiken, have announced that they will be leaving.

It is possible but by no means certain that the Joint Committee itself will disappear into a Joint Energy Committee after Rep. Bolling's Committee on Reorganization reports later this year. However, this course is so fraught with rivalries and jurisdictional squabbles that a more likely event, barring the emergence of tough new leadership of the Hosmer-Holifield school, is that the committee will simply atrophy and assume a less dominant role.

Atomic energy is such a complex subject that many Congressmen have found that to keep abreast of the subject is a full-time job. What has made Holifield, Hosmer and Price an effective and autocratic leadership is their preparedness to devote themselves almost exclusively to atomic energy at the cost of other committee assignments, party leadership and even their constituencies. The uncertainty over the future of the committee is heightened by confusion over the future of the proposed Energy Research and Development Administration (ERDA) and the Nuclear Energy Commission (NEC). This is a proposal to split up the research and development aspects of atomic energy and the regulatory functions of the commission. The congressional overlordship of these two bodies is unclear and will remain so until a compromise on the nature of ERDA is struck between Holifield as chairman of the House Government Operations Committee and Sen. Henry (Scoop) Jackson, chairman of the Senate Interior Committee.

At 58, Hosmer is not through with atomic energy. He told *Weekly Energy Report* that he hopes to find something else to do in nuclear energy but that he has no plans at present. It also is possible that Hosmer might accept an ambassadorship or some other prestigious poltical appointment. Meanwhile, he has 11 months left in Congress and close friends say that he is open to offers but that with the combination of his congressional retirement and his military retirement he has no financial worries.

Why is he leaving? This is Hosmer's explanation: "I am at an age when I am no longer in touch with the young people. It is a time when there ought to be some movement and some new faces. Also Congress has changed. It is more difficult and demanding though not more effective. Seniority is fine but there ought to be some movement."

Hosmer will be most missed by the nuclear community in the hearing room. In a receptive and almost inaudible drawl he has needled witnesses and flattened opponents with a tongue as penetrating as a laser and as funny as any that has alleviated the pomp and drudgery of congressional hearings.

## RESPONSIBILITY FOR CURRENT ENERGY CRISIS RESTS WITH THE GOVERNMENT

(Mr. ROBERTS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ROBERTS. Mr. Speaker, on December 18, 1973, the Texas Senate adopted a resolution which places the responsibility for the current energy crisis squarely where it belongs and offers some sensible, sound, and forthright solutions to the problem of oil and gas shortages.

The resolution was introduced by one of the Texas Senate's outstanding members, the Honorable Peyton McKnight, who represents District 2.

The Texas Senate can speak with some authority on this subject, since Texas is a principal supplier of natural gas and petroleum for the rest of the Nation. I urge my colleagues to read this resolution, which follows:

### SENATE RESOLUTION

Whereas, Texas holds a unique position in the nationwide energy crisis, being the principal supplier of natural gas and petroleum for the rest of the nation, in that nearly two-thirds of the oil and natural gas produced in Texas is exported to other states and nearly 80 percent of total energy consumption in Texas is from natural gas and petroleum products and is therefore vitally affected by national energy policies, some of which have served actually to exacerbate the energy crisis, accelerate the depletion of our reserves, and provide economic barriers to exploration and development of our resources; and

Whereas, the history of federal government intervention in the market place is not such to inspire confidence in its ability to correct imbalances in supply and demand; and

Whereas, most of this nation's greatest economic problems, such as the current energy shortage, are largely the result not of government inaction but of government interference in the working of what is still basically a free market economy; and

Whereas, this is bad government and bad government is usually the result of too much government; and

Whereas, when Washington substitutes the wisdom of the bureaucracy for the exactitude of the marketplace, Washington itself deserves the blame when the bureaucracy guesses wrong, but the solution is not to create a bigger and better bureaucracy to ration resources and manage prices; and

Whereas, this wrong guessing is exemplified in:

Speculative and often contradictory statements by Washington officials about fuel supplies causing, among other things, declining automobile sales in an industry employing directly or indirectly one out of six people in this country;

Automobile exhaust emission standards that are costing this country, according to various estimates, 300,000 to 600,000 barrels of crude oil a day—more than the total savings hoped for by banning outdoor lighting and Sunday gasoline sales and by imposing lower highway speed limits;

Shortages of fuel oil last winter and gasoline last summer as a direct result of distorting refinery price incentives through an artificial control mechanism;

Current shortages of diesel fuel for farmers and truckers resulting from allocation priorities for middle distillates;

Natural gas shortages directly resulting from artificially low prices controlled by the Federal Power Commission which, on the one hand, encourage substitution of this fuel for others such as coal, and on the other hand, provide no economic incentive for exploration and production;

Current shortages of tubular steel goods as a result of lifting price controls on other steel products; and

Whereas, State of Texas officials, including specifically the Honorable Ernest O. Thompson, former Chairman of the Texas Railroad Commission, since the 1950's have attempted to call official and public attention to the problem of exhaustible petroleum resources; and

Whereas, While conservation measures for all users of all forms of energy are necessary and desirable in present circumstances, overreaction and short-term solutions which impose additional rigidities on our economy and resources will do irreparable harm; and

Whereas, To date in the current crisis, action taken by the federal government, other than continuation of an allocation system and price controls, has been limited to imposing Daylight Savings Time on the major part of the country and consideration of legislation currently pending in the Congress which would reduce highway speed limits and prohibit gasoline sales on Sunday, all of which is, at best, only marginally effective, and is directed largely at the transportation industry which, in all its varied forms, accounts for less than one-quarter of the total United States energy consumption; now, therefore, be it

*Resolved,* By the Senate of the 63rd Legislature, 1st Called Session, that the Senate of the State of Texas hereby memorialize the Congress of the United States that constructive action by the federal government is needed to deal with both short- and long-range energy problems, including steps to:

Lift controls on oil and natural gas prices to provide more incentive for exploration and production, including production from presently marginal wells and fields;

Restore the depletion allowance to its previous level of 27.5 per cent, and further, eliminate the depletion allowance in its entirety on foreign production of oil and gas;

Eliminate price controls on production of tubular steel goods and other products necessary for the production of more oil and gas (supplies at any price being better than no supplies at all);

Eliminate unreasonable federal environmental constraints which have served to limit national refining capacity and have discouraged increased production of needed oil and gas supplies;

Temporarily suspend automobile exhaust emission controls to regain lost fuel efficiency, at least in broad areas of the country where health standards clearly and obviously will not be impaired;

Give highest priority to developing nonpetroleum fuel sources (including nuclear energy) for generation of electricity, development of vast areas of oil-bearing shale, and extraction of oil and gas from coal;

Call on those states whose legislatures, regulatory agencies and environmentalists have effectively prevented offshore drilling for oil and gas, construction of petrochemical plants, refineries and offshore terminals, to redirect their attention toward positive approaches to solution of the energy problem, such as exploration off the east and west coasts, including the Santa Barbara Channel which contains oil reserves of hundreds of millions of barrels; and, be it further

*Resolved,* That copies of this Resolution be forwarded to each Senator and Representative in the Congress from Texas, with the request that this Resolution be officially entered in the Congressional Record as a Memorial to the Congress; and, be it further

*Resolved,* That copies of this Resolution also be sent to the presiding officers of the legislatures or assemblies of every state, territory, and protectorate of the United States of America.

## OIL PRICES

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. NICHOLS. Mr. Speaker, in Alabama as well as the rest of the country, people everywhere are pointing an accusing finger at the major oil companies, as prices on gasoline, fuel oil, and propane continue to spiral.

Despite full pages of advertisements in the major newspapers of this country by major oil companies to the contrary, I find that my constituents in general remain unconvinced, and this is especially true with my constituents who are dependent on propane in their business in the production of broilers and for heating. I am guessing that perhaps upward to a million people in Alabama use propane and so many of these are located in rural areas and are living on small social security and welfare checks. Many propane users are poultry farmers producing broilers and are totally dependent on propane to furnish heat in their broiler houses during the winter months.

Mr. Speaker, would you believe that the wholesale cost of propane in Alabama has increased up to 350 percent to most dealers in less than a 12-month period, and this raises real questions in the dealers' minds as well as with this Member of Congress, for I cannot justify these exorbitant price increases levied on propane and believe it to be grossly unfair and completely unwarranted and I have asked Mr. Simon and the Federal Energy Office to take the necessary steps to force the major oil companies to revise their pricing schedule on this necessary fuel.

Propane is only a small part of the oil industry and it was expected that some increases were inevitable, but they should have been kept within the framework of increases authorized to other products within the oil industry. This is especially strange to me as 65 percent of the propane used in this country is refined from natural gas, which has experienced a relatively small increase in price. Only 35 percent of propane comes from crude oil and most of this is from domestic crude, which is under controls and which has not increased too much in price.

Mr. Speaker, one of my propane gas distributors who had been in business for almost half a century has furnished me his cost figures on propane, which he purchases from Gulf Oil Co. These figures indicate that as late as June 25 of last year that his distributor cost delivered to his warehouse storage was 9.75 cents per gallon. His delivered cost on propane which he received on January 3 of this year, in just 6 months had increased to 25 cents per gallon. Another distributor, who purchases propane from a major oil company in Tulsa, Okla., was paying 7.42 cents per gallon delivered Alabama point in April of last year. In August his cost had gone up to 11.9 cents per gallon, but in January his cost had reached unbelievable figures of 24.2 cents per gallon.

Mr. Speaker, how in the name of all that is sacred and honorable and I might add, American, can the major oil companies justify such outrageous increases in the price of an essential product to so many Americans. Many of us in the Congress are anxiously awaiting the promised changes in regulations which are to be printed in the Federal Register by the Energy Office in the next day or so, but I can assure you that my distributors and my constituents are extremely disturbed and unless some meaningful action is promptly taken by the Energy Office, I sense sentiment on the floor of this House through corrective legislation which would serve to roll back these exorbitant prices and would further prohibit the passing through of costs to customers that are totally unrelated to the production of propane gas.

## "EDUCATION IN ISRAEL," AN ADDRESS BY CONGRESSMAN JOHN BRADEMAS

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I was today privileged to deliver an address on "Education in Israel" at the Joint Program Institute of the National Council of Jewish Women in Washington, D.C.

I insert at this point in the RECORD the text of my remarks on this occasion:

ADDRESS OF CONGRESSMAN JOHN BRADEMAS, NATIONAL COUNCIL OF JEWISH WOMEN, JANUARY 29, 1974, WASHINGTON, D.C.

I am pleased and honored to have been invited to participate in the 1974 Joint Program Institute of the National Council of Jewish Women.

There are several reasons I am glad to be with you today.

First, I count it a privilege to share the platform with the distinguished Ambassador of Israel to the United States, the Honorable Simcha Dinitz, especially at a time when it is the hope of us all, Americans and Israelis alike, that the current military disengagement in the Middle East will be the harbinger of a lasting settlement in that troubled part of the world . . . a settlement that will mean both genuine peace and security for the only flourishing democracy in those parts, Israel.

I am pleased as well to have the opportunity to meet with leaders of the National Council of Jewish Women, for I have long admired your work both here in the United States and, since my visit four years ago to Israel, there.

And finally, of course, I am grateful for the chance to discuss with you our common concern, education, especially education of the disadvantaged, and to talk about what the NCJW has done to improve our understanding of this crucial challenge.

### VISIT TO ISRAEL

I said that in 1970 I went to Israel, and I must tell you that the visit my colleagues and I of the Select Education Subcommittee of the House of Representatives made there was, for us all, a most moving and illuminating experience.

We visited nearly every part of Israel and a wide variety of kinds of institutions, educational, cultural and political.

We went to Jerusalem and Beersheva, Haifa and Tel Aviv, the Negev and the Sea of Galilee.

We visited universities and technical institutes, schools and child day care centers, kibbutzim and moshavim, and youth Aliyah villages.

And I want to tell you today some of the lessons that a group of American Congressmen, with some experience in writing education legislation, learned as a result of our expedition to Israel.

For what we learned in that small and relatively poor country can, I am convinced, be of significant help to us in our rich and powerful country as we seek to improve our own education system.

The first lesson we learned was that the principal preoccupation of the people of Israel, second only to national defense, is education.

### EDUCATION: THE KEY TO ISRAEL

Everywhere we went, people told us, "Education is the key to the survival of Israel."

And we were naturally impressed that, at least as of 1966–67, Israel was spending a higher percentage of its gross national product on education than we in the United States were.

That the Minister of Education, Ygal Allon, was also the Deputy Premier, is further evidence of the importance Israel assigns to education.

A second lesson our subcommittee learned is that the sharp rise in the number of immigrants of Arab, North African, and Asian background, presents Israel its most difficult educational problems.

For the educational levels of the Oriental Jews are significantly lower than the educational attainments of immigrants from Europe and the Western Hemisphere.

For example, the rate of illiteracy among Oriental Jews is about 45% as compared to the 4% rate among European immigrants.

A key problem, therefore, as your Council understood in setting your own priority in education, is how to integrate into the Israeli educational system and Israeli society generally, those of Oriental background and bring them to educational levels approximating those of the Europeans.

The integration of hundreds of thousands of students from some 90 different countries into one educational system is an immense task.

From our subcommittee's observations, however, it is one which—although there are still significant difficulties—is being accomplished in Israel with remarkable success.

### COMMITMENT TO EARLY CHILDHOOD DEVELOPMENT

And this brings me to another lesson from the Israeli educational experience—the deep national commitment to preschool, or early childhood, development.

Although all children are required to be in school at the age of five, and although such schooling is free, children of Oriental background are eligible for preschool programs beginning at age three.

And because Oriental children are often at a "disadvantage," this means an extraordinary commitment to move toward preschool programs for nearly all disadvantaged children.

Further evidence of the importance the Israelis assign to early childhood development is that many middle income families set aside a part of their budgets for early learning for their children because for middle income Israelis, it is not free.

Because my subcommittee is the one in Congress that handles child day care and child development legislation, you can imagine how valuable we found our exposure to what the Israelis were doing in this field.

Clearly, we in the United States can take a leaf from Israel's book here, for we have yet a long way to go to match Israel's commitment to very young children.

### STRESS ON EDUCATION OF DISADVANTAGED

So, too, to move to a different level, were we impressed by the powerful stress in elementary schools on training the Oriental, or disadvantaged, child.

Schools are often located by neighborhoods so that some 90% of the children within a school can be considered disadvantaged and furnished with effective compensatory programs.

We were struck by the low teacher/pupil ratio in some of the special remedial courses conducted in such schools as, for example, Beersheva, where one teacher generally worked with only four or five pupils.

We were also surprised to see that all elementary children were expected to spend at least six hours a day, six days a week, in school.

But we noted as well the remarkable variety of activities in that schedule, including a manual arts component and modern agricultural instruction.

Is there not something for us in the United States to learn here?

Do we confine our own young children too exclusively to academic skills?

### HIGH QUALITY VOCATIONAL EDUCATION

The Israeli emphasis on the dignity and importance of all trades and crafts was also obvious to us when we visited high schools, both rural and suburban. We observed, in several different geographical and cultural settings, young people aged 14 or 15, at work on expensive metal lathes or doing relatively difficult tool and die exercises.

And we felt it significant that this high quality vocational training was not carried on in isolation from other kinds of education. In no instance did we visit a school described as a "vocational school" in which vocational training was any more than a part of a comprehensive secondary education. In most of these schools, students attended eight hours a day of classes, six days a week, and the vocational training was only a part of a regimen that included courses in literature, mathematics, biology, botany, Hebrew, English and other subjects.

Perhaps we can learn from Israel both how to keep what we call vocational or occupational education from being too narrow and limiting.

Another important factor in education in Israel is the network of youth villages, such as the Nitzanim and Kfar Batya villages we saw. These communal settings, which combine family-style living, education and work, are of great importance in helping children and youth from foreign countries or from overcrowded, disadvantaged households.

My subcommittee felt that the Israeli experience with the youth village concept might well be useful here in America. Residential-type programs, particularly for the disadvantaged, combining education and social rehabilitation, seem especially suggestive for further exploration.

We were also struck by the unique military-based program known as Gadna. As you know, Israeli youngsters in secondary school receive brief paramilitary training at Gadna bases each year, and further instruction at their own schools. The curriculum includes the topography and geography of the Middle East, history of Israel, physical development and military drill, and current events.

In Gadna, both boys and girls receive an introduction to the nation-building efforts of the Israeli armed forces, and also have sometimes their first opportunity to meet children of many different communities and ethnic and social backgrounds. We found Gadna to be an apparently effective instrument for bridging cultural gaps and developing a sense of patriotism and national purpose. I am honestly not sure that this program is relevant to the American scene, but educators and scholars here might give it some attention.

And, of course, no one who visits Israel can fail to be impressed by the high caliber of the institutions of higher education, several of which we visited, including the Technion in Haifa, the Weizmann Institute, Tel Aviv University, and, of course, the Hebrew University in Jerusalem.

### NCJW CENTER FOR RESEARCH IN EDUCATION OF THE DISADVANTAGED

This, naturally, brings me to the work of your own Center for Research in Education of the Disadvantaged at the John Dewey School of Education at the Hebrew University.

As you know, the Center is not the first association of NCJW with the Hebrew University and its School of Education, for as far back as 1947, the Council's members granted it a sum to help train better school teachers, and the Council subsequently made annual contributions to the School.

You all know of the Council's support of classes of disadvantaged youngsters in the Council-built Hebrew University High School and, even before the Research Center was established, the funding of research projects at the University of disadvantaged learning problems.

And the NCJW has also created hundreds of fellowships over the years for training professionals.

But the most recent commitment, following an NCJW study after the Six-Day War of 1967 is, I believe, particularly exciting and of special significance to us in the United States.

For the Council decision to provide funds for a Research Center at the School of Education shows how far-sighted you of NCJW were in appreciating the crucial importance of first class research in teaching and learning, with emphasis on education of the disadvantaged.

For, I must explain to you, we in the United States are only lately, and even now, fitfully and unevenly, beginning to realize that we do not know nearly enough about that most crucial enterprise, teaching and learning.

As a member, in my sixteenth year now, of that committee of the House of Representatives with chief responsibility for writing legislation for education, from preschool through graduate school, I speak from experience when I say that educational systems everywhere need the best that the research and development community can give, if we are to provide education worthy of free people in the modern world.

### NATIONAL INSTITUTE OF EDUCATION

It was because of this conviction that three and a half years ago I responded with enthusiasm to President Nixon's proposal, in his message to Congress on educational reform, for the creation of a National Institute of Education as a vehicle for supporting research and development in education.

As one who has found it easy—and it's growing easier every day!—to restrain his enthusiasm for the works of Richard Nixon, I nonetheless applauded the President's call for an institution that would, in his words, "begin the serious, systematic search for new knowledge needed to make educational opportunity truly equal."

And so, on March, 1970, as leader of a bipartisan group of twenty Members of the House of Representatives, I introduced the bill authorizing the National Institute of Education.

My Select Education Subcommittee conducted extensive hearings on the bill, visited centers of educational research in this country and abroad, and commissioned essays by leading authorities on the kinds of problems such an institute might consider.

Our subcommittee went through this intensive process—a kind of protracted graduate seminar—not only to inform ourselves about the role of research in education but also to signify to our colleagues in Congress, to the Administration, to educators and others that we regarded the National Institute of Education as a new development of the highest importance to the future of American education.

And, without my here reviewing the legislative history, we wrote the National Institute of Education into law. Suggested by a Republican President not known for his support of education, approved by bipartisan majorities in a Democratic-controlled Congress, the new venture was on its way.

Unfortunately, in its second year, the Institute has had some troubles in its search for funds, and was granted this year only $75 million dollars, instead of the $163 million that we who support the Institute had sought.

This financial stringency has made it difficult for the Institute to begin many new programs of research, as most funds are tied up in projects transferred to the new agency from the U.S. Office of Education.

I am encouraged, however, to see that the President continues to support the NIE. In his education message last week, he said:

"Education research is not a luxury but a necessity if Americans are to get the education they want for their children at sensible cost. Accordingly, I would like to emphasize most strongly the need for adequate funding of the Institute."

### WORK OF NCJW CENTER RELEVANT TO U.S. EDUCATION

And as I reflect on what we in the United States are beginning to do in educational research and on the work of the NCJW Research Center in Jerusalem, I am struck by how much the NCJW Center is doing that may prove relevant to some of our problems in the United States.

Look at the names of some of the research projects in Israel to get an idea of what I mean:

"A Study of the Influence of Teachers' Expectations on Classroom Behavior."

"Home Environment and the Intellectual Performance of the Child."

"A Home Intervention Program for the School Youngsters."

"An Investigation of Cultural Versus Primary Intellectual Retardation."

Even this week—this morning—as we on the House Committee on Education and Labor considered extending the Elementary and Secondary Education Act, we have been wrestling with the effort to write Title I, which provides funds for improving the education of disadvantaged youngsters.

Our task has not been easy, for how do you define educational disadvantage?

The present law is premised on the presupposition of a very high correlation between economic deprivation and educational underachievement.

That premise is now under attack in the committee, and none of us has seen scientific evidence that is completely compelling on any side of this argument.

So I applaud the work of the NCJW Center for Research in Education of the Disadvantaged to develop answers to some of the same kinds of problems that plague us in the United States.

And I applaud the support of the National Council of Jewish Women that makes such work possible.

Let me say as well that I am especially impressed by the concern of educational policy makers in Israel that the results of research get translated into the schools and other educational institutions, where the payoff is.

I believe that this commitment to effective dissemination, demonstration, and utilization of research results must also characterize our educational research effort in the United States, or we shall see a withering away of support which is already too modest.

I want also to applaud the vision of the Center to include education beyond the formal school setting. I have made the same point in addressing American researchers, encouraging them to look at Israel, where educational activity occurs in a wide range of situations, from kibbutz, to children's village, to the army. Here in America we segregate young people mostly in schools, where they interact exclusively with professional educators.

The National Institute of Education has adopted as a priority the encouragement of diversity and pluralism in our educational system, and I believe that research on the success of Israel's diversity could be provocative here.

What can the Center tell us of the relative impacts of such different formal and informal educations as those offered by Gadna, the youth villages, the kibbutzim, the religious schools, the pre-academic semester at the Hebrew University, or the home interventions that make mothers into teachers?

There is diversity indeed, within an overall context of commitment to seeking any solution that will work!

### UNITED STATES-ISRAELI COOPERATION IN EDUCATIONAL RESEARCH

You can see why, from what I have already said, I have real sympathy for a proposal offered by my friend and distinguished colleague, Senator Mondale, to establish a United States-Israel Foundation for the Education of Disadvantaged Children and Youth with the purpose of encouraging and supporting cooperation between our two countries in the areas I have today been discussing with you.

Indeed, we need not wait for the establishment of such a foundation in order for the National Institute of Education in the United States and the NCJW Research Center in Israel to begin to develop cooperative relationships with each other.

For, clearly, we can learn from each other.

At least, I hope, by virtue of what I have told you today, it is clear that it is the conviction of one Member of Congress that we in the United States have much to learn from the educational system of Israel.

The deep commitment to the support of education, generally, to pre-school education, to education of the disadvantaged, and to first class research—learning more about teaching and learning—all these are lessons that we in the United States must surely take to heart and mind and pocketbook.

And, finally, I believe that all of us in the United States can learn from the inspiring commitment of the National Council of Jewish Women to the support of the Center for Research in Education of the Disadvantaged at the Hebrew University.

In the words of the Director of the Center, Dr. Chaim Adler:

> "We all seem to be motivated by some age-old Jewish commitment to a decent and proper social order: you in America may hope that Israel will become a social laboratory for the rest of the world: we in Israel know that unless our experiment is successful, the progress of our development will be hampered, and our cultural vitality and physical strength vitiated. The joining of our two forces in an effort to limit human misery and to increase and strengthen social justice seems an endeavor of the utmost urgency."

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## PERSONAL EXPLANATION

Mr. GUNTER. Mr. Speaker, I was absent during rollcall No. 9 the vote on the adoption of the rule providing for the consideration of H.R. 11793 Federal Energy Administration due to my participation in hearings of the Senate Subcommittee on Integrated Oil Operations. Had I been present I would have voted "aye" and ask unanimous consent that the RECORD so indicate.

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## THE LATE HONORABLE CHARLES M. TEAGUE

The SPEAKER pro tempore (Mr. ECKHARDT). Under a previous order of the House, the gentleman from California (Mr. GUBSER) is recognized for 60 minutes.

### GENERAL LEAVE

Mr. GUBSER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today, the life, character, and public service of the late Honorable CHARLES M. TEAGUE of California.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GUBSER. Mr. Speaker, some time during the night when the year 1973 gave way to 1974 our dear friend and colleague, the Honorable CHARLES M. TEAGUE, passed away. I have reserved this time so that along with my colleagues in the House, we can express our respect for one who deserved the ultimate in respect.

No greater tribute can be paid to any man than to say "he was a man we will remember."

His classmates at Stanford University and its law school from 1927 until 1934 will remember him as an excellent first baseman, a good student, and a worthy son of a distinguished California family.

His friends and neighbors of Ventura County and the city of Ojai knew him as an excellent attorney, a willing participant in beneficial community activities, and one who left his native area only to serve his country in the Army Air Corps during World War II and later to serve that country in the Congress of the United States.

I like to remember CHUCK TEAGUE as one of my closest friends. I remember how he and his wife Marjorie were so considerate of other people's feelings. During our numerous "meetings" which we held in my office on days of long sessions, I can vividly recall mentally catching and recatching that prize winning trout which CHUCK landed in the Sierras after a 40-minute fight. During a particular period when personal problems beset him, I enjoyed his confidence and developed an intense admiration for the kindliness, patience, gentleness, and the dignity with which CHUCK TEAGUE met unpleasantness and adversity.

His constituents will remember his remarkable feat of securing authorization of a major reclamation project in his district during his very first term of office. They will recall the unfortunate error which caused CHUCK's name to be left off the primary ballot in 1958, and the overwhelming respect which his constituents displayed for him by actually writing in his name and giving him a substantial vote of confidence.

Nationally he will be remembered for his constructive leadership in agricultural matters and in legislation concerning veterans. CHUCK TEAGUE had a way of effectively opposing a principle he did not believe in, but while voicing his opposition in a nonabrasive manner never offended his opposition.

We all remember his leadership in killing the rule on the National Timber Supply Act, considered by some as the high water mark of legislative effectiveness for environmentalists. Nationally he was also credited for an outstanding piece of work in conducting the delicate investigation of questionable conduct by one of our former colleagues. He was among the first to suggest the establishment of an Ethics Committee which has since come to pass.

The habitues at the Round Table at the Capitol Hill Club will remember his quiet good humor and his genuine friendship. His empty chair will never be filled.

His gentle sense of humor will be remembered by everyone who knew him. On one occasion he disowned one of his own bills on the floor of the House, a bill to eliminate tariffs on the importation of wild animals which had been referred to as the Teague bill. But by the time it got through the Senate, it had come out as a bill to limit beef imports from Australia and New Zealand. The changes brought this speech from Representative TEAGUE:

> I was proud to have been the father of such a clean, beautiful little fellow. . . . He was prepared to do great things for boa constrictors and gorillas and their owners.
>
> But in the course of events my little baby was sent to the Senate pediatric hospital. . . . All that remained of him was the identification number on his poor little wrist.
>
> Mr. Speaker, I must disclaim fatherhood of H.R. 1839 as he is before us today. I am willing to contribute to his support, but he is not mine—my blood no longer flows in his veins.
>
> I repeat, Mr. Speaker, "This child ain't mine".

These are the things for which CHARLES TEAGUE will always be remembered. His quiet efficiency, his kindliness, his patience, his gentleness, his sense of humor, and his great dignity.

We all express our sympathy to his surviving family—his daughters, Mrs. Judith Kenyon and Mrs. Norma Potter, his son Alan Teague, and his eight wonderful grandchildren.

CHUCK TEAGUE died as he had lived. He left us in quiet dignity—as a gentle, patient, and kindly man whom we shall never forget.

Mr. TALCOTT. Mr. Speaker, will the gentleman yield?

Mr. GUBSER. I am happy to yield to the gentleman from California (Mr. TALCOTT).

Mr. TALCOTT. Mr. Speaker, I was grieved and shocked to learn of the death of our colleague CHARLES M. TEAGUE. He was much too young to die, but he had lived a full and productive life of service to people.

Mrs. Talcott and I extend our heartfelt condolences to his family, friends, and constituents.

I greatly admired the manner in which CHUCK TEAGUE performed his duties as a Congressman. He was quiet, unassuming. He did not shout for the headlines or act for the cameras, but he did his job.

He was popular among Members of the Congress, but he was also highly respected by them.

He believed in representing his district to the Congress rather than the Federal Government to his district.

He was always willing and quick to help his constituents, no matter what their problem.

CHUCK TEAGUE was a Congressman before I was elected to the Congress. I did not know him personally then; but we knew him by his deeds which were impressive.

He appointed our son Ron to the Air Force Academy although by that time he no longer represented our county of Monterey. I was impressed that a Member would permit the appointment of someone he no longer represented. For that reason I decided to use Mr. Teague's method of appointment. He provided a good example in this and many other ways.

He was my kind of Congressman. He worked conscientiously and assiduously but with special sensitivity for the individual citizen.

Mr. Teague was not spectacular. He devoted his time to the work of his office and committees. Mr. Teague was decent, honest, and conscientious—characteristics that are in high demand. We politicians are grateful to our colleagues who possess these virtues in such great abundance.

Time does not permit me to reflect on many aspects of his life.

Many may not have known his interest in sports. He was more than an avid fan although I remember with relish the Teague family bus rides from San Francisco to the big game—at Berkeley or Palo Alto—where a bus load of friends would enjoy the ride and the game regardless of the score or the weather.

He played first base for the Stanford freshmen. He was always a staunch supporter of our alma mater, Stanford University, through "thick and thin."

He actually played with his staff's softball team—the "Teague Condors"—for a number of seasons including the summer of 1973.

I am pleased to have had the opportunity to know and work with Chuck Teague. I considered him a worthy mentor. He may be remembered by many for his contributions to agriculture and veterans legislation, but he will be remembered by me as a decent human being who represented the people of his district and Nation well, and as a true friend.

Mr. HOLIFIELD. Mr. Speaker, will the gentleman yield?

Mr. GUBSER. I am happy to yield to the gentleman from California.

Mr. HOLIFIELD. Mr. Speaker, first I wish to thank the gentleman from California for reserving this time. I had a conversation with the gentleman from California (Mr. Hosmer), and that gentleman informed me that the gentleman from California (Mr. Gubser), was going to ask for this time. Of course, if the gentleman had not asked for this time I certainly would have.

Mr. Speaker, I served with Chuck Teague for almost 20 years. During that time I had occasion to observe him and his work on the floor of the House of Representatives, and of course I know of his very hard work in the committees on which he served. I know that he was a real champion for the agricultural interests of the great State of California, which State ranks very high in the agricultural column among all of our States. I know that he gave great dedication to his job. His voice on the floor was always a strong voice for the principles in which he believed.

Personally, Chuck Teague was a delightful man. In all of the years that I knew him I never had one word of personal disagreement with him in any way. His loss will be, in my opinion, a great loss to the State of California, to his constituents, and to American agriculture. The importance of his contributions for the State of California will long be remembered. I regret very much his tragic passing. I extend to his family my sincere sympathies.

I was able to go to the memorial services for him, and the people who came there were certainly a vivid demonstration of their love and regard for him.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. GUBSER. I am happy to yield to the gentleman from California (Mr. Rousselot).

Mr. ROUSSELOT. Mr. Speaker, I thank my colleague, the gentleman from northern California (Mr. Gubser) for yielding to me. I am especially grateful to the gentleman for having set aside this time in order that we might comment on our association with our late good colleague, Charlie Teague. It is appropriate that we all review what our association meant to each of us as individuals, to the whole House of Representatives, and, as a matter of fact, to the entire country.

I think, as my colleague Mr. Gubser has pointed out, Charlie Teague as first and always a very gentle man who approached every single problem before the Congress with a sense of calm and careful consideration that we do not always find present in this kind of work. He treated everybody exactly the same in that gentle and fair approach that he expressed every day.

As has already been indicated, Charlie Teague was a totally decent man. He never tried to cut a corner. He never tried to obtain the advantage of another Member of Congress or a Member of the Senate or for that matter anybody. Mr. Teague always tried to approach everything from a position of maximum consideration of the other people involved, including his own constituents.

And yet through all of this sense of fairness he was an extremely effective legislator. That does not mean that he won all of the battles he entered, but his legislative efforts where felt. He was extremely well informed in the field of agriculture—and I do not say this just because he supported the point of view that I share; that is, the belief in a strong free market system as opposed to a highly governmental controlled system. Charlie was always willing to work for that position in a way that others understood, and everyone always respected his positive approach.

Many times we would follow his leadership just because of the very decent and fair way in which he presented it. I remember just recently he joined many of us to include a $1.5 million appropriation for airborne firefighting equipment. Those of us from California and the West who were very much interested in this new firefighting equipment that was to go in the C-130's to be used during the very critical time of fire in the West, know full well how very active he was in his normal, quiet way of making sure that the funding was included in the supplemental appropriation.

Whenever we needed his help to call people in the administration and to gather together people on the committee to be helpful in support of a given position, he was not only willing to do it, but he took extra time to make sure that all people involved fully understood the position. One just never heard an unkind word that he would utter about anyone. Even when he was upset—which was seldom—or felt that something had been done improperly. He just never had an unkind word for anyone.

I know on the basis of my own experience with him as a coworker here in Congress, when we had jointed to face a problem together, that he was extremely careful and thoughtful in the way that he worked for his constituents. He never turned anyone away, and even though he totally disagreed with a given point of view, he would make sure that it was fully explored and that the individual, or constituent, be fully represented. This included political adversaries.

I guess we could really sum it up by saying that Charlie Teague was everything that we expect a Congressman to be, only he proved it by deeds and not by just words. Charlie Teague meets my highest ideal of a fine public servant.

Mr. GUBSER. Mr. Speaker, I yield to the gentleman from California (Mr. Ketchum).

Mr. KETCHUM. I thank the gentleman for yielding.

Mr. Speaker, I am honored to join with my colleagues in paying tribute to the late Congressman Charles M. Teague.

On the facade of California's Supreme Court Building in Sacramento are inscribed these words:

> Bring me men to match my mountains.

My friend and colleague Charles Teague was such a man. As calm as our Sierra's snow-capped peaks, as tough as the rock beneath them, as gentle as the rolling foothills of the Pacific Slope, as cheerful as a sunny Santa Barabara day, as friendly as the flower fields of Lompoc, as productive as the soils of our great State. He was indeed a man to match our mountains. He was my friend and guide. He is gone and I shall miss him. So also will his district, his beloved California, and our Nation.

Mr. GUBSER. Mr. Speaker, I yield to the gentleman from North Carolina (Mr. Broyhill).

Mr. BROYHILL of North Carolina. I thank the gentleman for yielding.

Mr. Speaker, I also want to thank the gentleman for taking this time to pay our respects to our late departed friend and colleague, Mr. Charles Teague.

I remember, of course, meeting Chuck Teague after coming here some 11 years ago. We became very close friends. He was always most helpful to me in my early years. I am not a member of the Committee on Agriculture, but, of course, my State, North Carolina, has a great interest in agricultural matters, and I was continually checking with him on legislation which had been before his committee and working with him on this legislation as it was reported to the House. I always found him to be a most knowledgeable and helpful person when we formulated legislation in agricultural affairs. I did not always agree with him, but I always found him to be one who could disagree in a gentlemanly way.

We will miss him here in the House.

We will miss his wisdom and we will miss his leadership.

Mrs. Broyhill joins with me in extending to his family our most sincere sympathy and condolences.

Mr. GUBSER. Mr. Speaker, I yield to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Speaker, I thank the gentleman for yielding.

Certainly I believe I presented the gentleman with a statement which I would hope would be incorporated in the RECORD respecting the passing of our beloved colleague, the gentleman from California, CHUCK TEAGUE.

It was my pleasure when I first came to the Congress 11 years ago to be assigned to the committee as Congressman TEAGUE, to wit the Agriculture Committee. On that committee we developed not a Democratic or a Republican position. We, and that includes CHUCK and Harlan Hagan and I, developed a California position. I believe that these men and the gentleman from Hawaii SPARK MATSUNAGA and some of the rest of us developed almost a western position. We worked together on very many knotty problems for a great number of years as to what to do with the Mexican workers in this country, which was commonly called the bracero program, which put us in very close contact on a daily basis for a number of years. We worked out those problems together. Actually we worked away the bracero program, and we mechanized agriculture and changed the face of agriculture in California. Eventually I moved off the Agriculture Committee but CHUCK stayed there and did his duty for California.

I think both sides respected the opinions of CHUCK when he spelled out his best judgment on what should or should not occur with respect to agricultural issues and their effect on the State of California. I know my colleague, the gentleman from California, BERNIE SISK, on the committee had the highest respect for the opinions of CHUCK.

I really can hardly remember an issue when we disagreed when it came to the very important subject matter of agriculture. We of course had our differences on other subject matters.

CHUCK was a very close friend and represented Santa Barbara, the home of my wife's parents. CHUCK TEAGUE worked to protect the environment from unnecessary oil drilling adjacent to his district off the Santa Barbara coast. He always did a very scholarly job in representing his district and was an excellent competitor on the paddle ball courts throughout the years, an excellent athlete, and a real catalyst in promoting the camaraderie we have among the at one time 38 and now 43 members of the California delegation.

It is with real sorrow that we in northern California will miss CHUCK TEAGUE in the Congress. On behalf of the Democrats of California I certainly want to express my dismay at his passing. He is going to be very difficult to replace in the central coast area of the State of California.

Certainly his family has my deepest respect and condolences.

Mr. GUBSER. Mr. Speaker, I yield to the gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. Mr. Speaker, I thank the distinguished gentleman in the well for permitting me to join him and our other colleagues in tribute to one of the finest men who ever sat in this or any other legislative body, a cherished friend and a distinguished American, CHUCK TEAGUE.

I first came to be closely associated with CHUCK TEAGUE a great many years ago when he and I were among others on the Adam Clayton Powell committee. I saw then what since has come to be one on the predominant qualifications of his life, the sense that he was a man who wanted to do only what was right. At a time when those in public office are so often under question in the public mind, nobody who ever knew CHUCK TEAGUE would associate him with anything but the highest standards of ethics and honorable conduct. He was dedicated to the public interest. He was diligent in the performance of his duties. He had a warm compassion and generous heart. He was a man who thought of other people and their happiness, and their well-being was always a subject of primary concern and consideration to him.

I have read that President Kennedy rather chose as the criteria of his life the kind of man he would like to be—three qualifications: debonair, brilliant, and brave. CHUCK TEAGUE embodied every one of those desirable and those enviable qualities. He was always fastidious in his dress, always most gracious and gentlemanly in his manner. He was always a man of both pleasant and temperate disposition, a delightfully agreeable companion, a friend that one knew he could count on either for agreeable companionship or in case of need for proper assistance.

He had the courage of a man that knows that his primary concern is to be worthy of the trust his friends hold in him. He was also brilliant in his grasp of public issues, of problems that presented themselves to him in his capacity as a Representative of his great district and of his great State and country.

All who knew CHUCK TEAGUE well looked upon him as a laudable symbol of what a citizen, of what a public servant, of what a distinguished leader should be.

I shall not forget that only a little while ago he was a guest with dear friends of ours at a dinner that my wife and I gave, and what a happy association that and many other occasions when we were privileged to be with him, were to my wife and to me.

We were brought closely together because we had shared dear friends in common. We knew him well enough to know that he did not anticipate the end when he was still in the fullness of his life. We know that he had great hopes and happy dreams—great ambitions—for the years ahead. He looked forward to continued service in this great body. He looked forward to many years of health and happiness in his own life here.

What a tragedy that a country so sorely in need of men of such quality should have lost him when he was on the threshold of yet greater deeds of accomplishments and service for his country and his fellow citizens.

So, Mr. Speaker, for my wife and myself, I wish to join in heartfelt tribute and the expression of deep sympathy upon the passing of this good and great gentleman, this noble friend, CHUCK TEAGUE.

Mr. GUBSER. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Speaker, I thank the gentleman for yielding and consider it a very deep privilege to join him and the other friends of CHUCK TEAGUE in expressing the feelings we have concerning a man for whom I had a great deal of respect. Personally, I find mere words too inadequate to express the very deep and sincere feelings that I had about CHUCK, but I intend to try.

Although I was not privileged to serve 20 years with this fine man, in the 5 years that I have been in the Congress I had grown to appreciate his abilities as a legislator and respected him as a friend.

I can recall when I first came to Congress how helpful he was in keeping my feet on solid ground. More than once there was an occasion when CHUCK would come up to me, as a colleague, with very sound advice on how to proceed with a problem or how to go forward with a project.

Not only did CHUCK represent a congressional district which adjoins mine in California, but I was also very proud his office was located only a few doors from mine. Although we feel a deep sense of loss, I am sure that his family and those who worked most closely with him, his staff, feel a loss in a way to which we cannot relate. For his congressional office was one comprised of real teamwork and one which I looked upon with envy and tried to emulate in my office. His staff excellence very clearly echoed this.

Since we did represent adjoining districts, there were many occasions when we worked together, and there are a great deal of memories in my heart. I feel fortunate we were able to work together in such an excellent way; a way which was in the best interests of those that we, in many instances, almost mutually represented.

Whether it was a scheduling request for visiting officials, or the flood control of the Santa Clarita River, or an unemployment problem, or a problem involving an individual having troubles with the Federal Government, there was a unique relationship there between my office and his. For that, I must give credit to CHUCK TEAGUE, because of his sincere and unselfish desire to serve his constituency the best that he could.

Mr. Speaker, I only hope that as I proceed in many of the areas that were part of his district and his life, I can bring the same kind of service that CHUCK demonstrated, and that those people he represented became so accustomed to receiving.

His passing was a great loss to the people that he represented, but it was also a great loss to me. We certainly cannot replace CHUCK TEAGUE. We can only cherish his memory and carry forward as only he would have us do.

He was truly a great man, and to his beloved ones left behind, I extend my deepest sympathy.

Mr. Speaker, I thank the gentleman from California, and, at this time, would like to include the following two eulogies as part of my remarks:

[From the Press-Courier, Jan. 3, 1974]

### TEAGUE MIRROR

(By Mike Bird)

Joe said, "He was a rare kind of a guy."

Rep. Charles Teague's untimely death hit my friend a jolt and it shook loose a story.

"Red tape," Joe related, "is the bane of people. An immigrant like me knows. But I soon found Teague, too, disliked bureaucrats and endless tape.

"If you had an individual problem, he would cut across channels. My passport had expired and my emergency trip back home was doomed—until the congressman went to bat. In a matter of hours I was on my way."

The recollection of it caused Joe's heart to beat faster.

"Listen to this," he continued. "Our service station operator recently was being squeezed in the middle. Between the big oil company and the pump. My wife sympathized. She wrote letters trying to catch the ear of senators and congressmen. Teague, unfortunately, no longer represented Oxnard. But, as I'd come to expect, he fired back a reply anyway—days ahead of all the rest—and said, 'I'll take it right up.' "

Joe added, "What's more, Mr. Teague put the gas station man's peeve right on the desk of the President of the United States."

It was that kind of concern, I quickly observed on my return to Oxnard newspapering more than a dozen years ago, that endeared the late lawmaker to people.

In a word, he was folksy.

Teague was born in the shadow of Santa Paula citrus groves. He became a lawyer. But he never tried to shake the soil from his shoes. He joshed about himself and won elections.

The congressman served quietly. He liked to be on the job. His staff was a marvel of efficiency—and the White House could take lessons.

Every other year the boss allotted himself about two big weeks for personal campaigning. I can still see him climbing into a funny old Chevy sedan.

"My campaign car," he called it. "Sits in the garage the rest of the year."

Teague, as folks across the political fences found out, was not a man to be underestimated.

Back in 1958 aides overlooked filing the proper number of nominating signatures. Even so, he won the Republican endorsement for his third term. Pencil pushers gave him an astounding 31,000 write-in votes.

In the recent era of political whim and skulduggery, he kept his sense of integrity. Early in the Watergate scuffling, he was among the first to call for full disclosure.

He stuck by his guns on an oil-drilling sanctuary for the Santa Barbara Channel, for local option in the conversion of deactivated Oxnard Air Force Base, for abolition of farm subsidies, and for a square deal for veterans.

Election foes generally viewed him as an arm of the status quo. They would concede only:

"He opens doors to people."

Indeed he did. And with powerful grassroots results.

In today's touchy area of young people, Teague, at 64, had perhaps the best record of any person in Congress for selecting outstanding appointees to the nation's service academies.

He was painstaking about it and proud of his "boys."

Nor did the congressman take a backward step from a fight. A union delegation that once presumably sought to embarrass him in a confrontation at his Washington headquarters was summarily invited to leave. And it did.

The gesture was the sort of thing an ordinary political figure would avoid. But Teague wasn't ordinary.

Once I played a little trick of my own on him.

Out at Point Mugu a fuss had erupted over a safety regulation requiring personnel in restricted areas to keep their hard hats on—even in the lavatories.

Well, the hands sent an appeal to Teague headquarters in Washington, and he promptly responded.

So I decided to have some fun with the story. I obtained a photo of a hard hat and fitted it neatly onto a column-sized photo of Teague.

The composite picture ran in the newspaper.

Teague confided later, "I scratched my head a long time trying to remember when that shot of me in a hard hat was ever snapped."

Though his departure was untimely, the congressman left us a public office in good order and a shelf full of warm memories.

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[From the Star-Free Press, Jan. 3, 1974]

### CONGRESSMAN TEAGUE

As a Congressman, Charles M. Teague was hard-working, accessible and conscientious. His 19-year career as Ventura County's man in the House of Representatives is a welcome reminder that—despite all the scandals and constitutional corruption—there are honorable politicians in the halls of Washington, D.C.

In the 19 years that Mr. Teague represented Ventura County in the nation's Capitol, he represented the county well. We say that without any pretense that we always agreed with him. In fact, we disagreed at times to the extent of endorsing his opponents when we felt they were of outstanding caliber.

Mr. Teague treated those opponents pretty much the same, whatever endorsements they may or may not have had. He simply swamped them at the polls. He did so because he accurately reflected the views of a majority of his constituents.

That was true even for Vietnam, a misadventure that Mr. Teague supported consistently under two presidents, while we were opposing the war long before it became fashionable to do so. But when public sentiment shifted, Mr. Teague continued to reflect the views of his constituents, and—in the most significant vote in his last term of office—voted for the War Powers Act, that is designed to prevent any similar misadventures in the future, by returning war-making powers to Congress.

There were periodic attempts to paint Mr. Teague as a wealthy farmer, enriching himself by his position as the ranking Republican on the House Agriculture Committee, but those attempts always fell flat. Most Teague family land holdings were acquired before Mr. Teague's tenure in Congress, and the crops—primarily citrus—are not among those enjoying the largesse of farm subsidies.

Mr. Teague consistently opposed subsidies for all farm crops, and took a stern view of government spending in general. Unlike many congressmen, he didn't content himself with preaching political austerity—he practiced it as well.

He maintained his office in the old Longworth Building, long after new, plusher quarters were available for congressmen in the expensive structure built as a memorial to Sam Rayburn. And Mr. Teague's name was never found on the list of congressmen who were junketeering to faraway places—taking a nice paid vacation at taxpayers' expense, in the guise of "fact finding." He even voted against the most recent proposal to raise his own pay as a congressman, but that was typical of Mr. Teague.

Where his name was found, annually, was right up near the top of the list in attendance. When the roll was called, Mr. Teague was there and voting, and you don't have to agree with every vote to find that commendable.

Mr. Teague represented his constituents even more effectively in the thousands of congressional chores that don't involve legislating and voting. He was readily accessible to all, and devoted much of his time to untangling the inevitable problems—lost checks, delayed papers, unanswered mail—that can make the federal government seem so unresponsive to the people it is designed to serve. Mr. Teague always responded and often managed to make bureaucracy serve, and he did it without the huge entourage of hangers-on that follow other politicians around.

When it came election time, his constituents didn't forget that their congressman hadn't forgotten them, when they needed help. And let's emphasize that this reputation Mr. Teague earned for responsiveness to his constituents was not earned by doing favors for the well-to-do political contributors, but by doing chores—not favors, really—for the unemployed veteran in Oxnard or the little old lady in Ojai, and by pushing public works projects of benefit to the whole county—such as Casitas Dam.

It's worth noting that trying to represent this district hasn't always been easy. Mr. Teague was caught in the middle at least twice—on offshore oil and Oxnard Air Force Base. His offshore oil position more accurately reflected his constituents in Santa Barbara County than in Ventura County, we would guess, and he couldn't even find agreement in this county on the air base.

Mr. Teague was planning to move to Ventura, to stay within his reapportioned district, and with him gone, speculation on possible successors is natural. But before we get on with a special election to select a successor, let's take time to honor a man who served Ventura County with diligence and with dignity.

Mr. Teague was elected the first time to succeed a congressman convicted of payroll fraud, and 19 years later was still in office, serving during the troubled times of Watergate. Ventura County can be grateful for honest, conscientious representation during that 19 years, thanks to Charles M. Teague.

Mr. GUBSER. Mr. Speaker, I yield to the gentleman from Georgia (Mr. FLYNT).

Mr. FLYNT. Mr. Speaker, it is with a feeling of profound personal sadness that I join with the distinguished gentleman from California and other colleagues in paying tribute today to the life and memory and service of the Honorable CHARLES M. TEAGUE, late a Representative from the State of California.

In the passing of CHUCK TEAGUE, I have lost a warm personal friend. The friendship which existed between us began immediately upon his election to the House of Representatives, which followed by less than 2 months my own election in a special election the same year.

We were immediately attracted to each other when we became colleagues in this body.

Mr. Speaker, I watched CHUCK TEAGUE master the arts of parliamentary skill.

I watched him become an expert on matters affecting his district, his great State of California and, for that matter, the entire Nation.

He was a hardworking Member of Congress. I would describe him, in terms which we in this body consider an accolade, as a "Congressman's Congressman."

He was never too busy to discuss a problem upon which I and other of our colleagues considered him to possess a great amount of expertise and knowledge. It was his nature to be generous of his time and to share that knowledge which he possessed in abundance.

His district and his State are better off today because of the near 20 years during which he represented his district and his State and, indeed, represented the body politic of the United States of America.

Those of us who have been privileged to serve with him are ourselves the richer for the experience which we have had. Among many, I am proud to have been included in his circle of friends.

Mr. Speaker, he will be missed at home, he will be missed here. Mrs. Flynt joins me in extending to his family and loved ones, indeed to the people of his district and his State, our condolences and heartfelt sympathy.

Mr. MILLER. Mr. Speaker, will the gentleman yield?

Mr. GUBSER. I yield to the gentleman from Ohio.

Mr. MILLER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am deeply saddened by the unexpected passing of our colleague and friend CHUCK TEAGUE. The Congress has lost a gifted legislator.

Having served on the House Agriculture Committee with CHUCK during my first 6 years in the Congress, I found him to be one of the most dedicated men in service to our Nation.

During his many years in the House of Representatives, CHUCK TEAGUE was an example of hard work and persistence. I can recall the many times during Agriculture Committee sessions when he virtually dissected a particular piece of legislation, looking for ways in which to improve its language and assuring its applicability to the public in general, and the American farmer in particular.

Coupled with his strong interest in agriculture and the growth of rural areas, he was an equally strong supporter of conservation and environmental measures. His views were deeply respected, by officials at all levels of government, and especially by those wanting to better acquaint themselves with the legislative process. I know that I and my fellow members of the House Agriculture Committee who were his junior in senority received an education from CHUCK TEAGUE which has assisted us throughout our terms of service in the Congress.

The Congress and the Nation, along with those in the 13th Congressional District of California and the entire agricultural community, have lost a true friend. My wife Helen and I extend our deepest sympathy to the family of CHARLES TEAGUE.

Mr. VEYSEY. Mr. Speaker, will the gentleman yield?

Mr. GUBSER. I yield to the gentleman from California.

Mr. VEYSEY. Mr. Speaker, it is with a very heavy heart that I join in this special order paying tribute to the fine congresisonal work of our departed colleague, CHARLES TEAGUE. I thank the gentleman from California (Mr. GUBSER) for extending this opportunity to me.

CHARLES TEAGUE was a part of the very fiber of his district. His home was known to all, and he related to the needs of his people, having lived all of his life in Santa Paula.

His name was legendary in agriculture in California. As the working member of our Committee on Agriculture he has done great good in advancing the farm interests of the golden State. And agriculture is our most important industry.

CHARLIE TEAGUE was a kind, understanding, human being. He befriended me when I was a new Member here, and I am sure he helped dozens of others.

All of California is saddened by our loss.

We will long remember the outstanding service of CHARLES TEAGUE.

Mr. GUBSER. I thank the gentleman.

I yield to the gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. I thank the gentleman for yielding.

Mr. Speaker, I, too, would like to express my deep sympathy to CHUCK TEAGUE's family. He was one of my very dear friends here in the House.

You know, when a new Member comes to the Congress certain faces and names stand out, I think, for as long as we are here. CHUCK TEAGUE was such a person. When I came here he was one of those who went out of his way to see that as a new Member I was brought onto the floor and I knew what was going on and that I knew there was always somebody who could answer questions. As a new Member I certainly had them. That was 10 years ago. And that friendship blossomed and flourished.

I frequently went to CHUCK for advice and talked about legislation. I considered him to be one of the real experts in the field of agriculture. He was articulate and persuasive in his efforts to bring about free as opposed to subsidized farming. In a recent statement he said, "We have the land, the farmers, the technology, the climate and the distribution system—if only we turn our farmers loose from Government subsidies and controls and let them farm."

I think it is fair to say that he wore no man's collar when it came to agriculture. He had his own views; they were deep-seated and well founded. If that meant that he was in opposition to the administration, so be it; if that meant he was in opposition to the farm bloc, so be it. He did what he thought was best for agriculture, and I think we can ask no more of any man than to stand up for his own beliefs in the way he did.

He was also an effective advocate of environmental causes, and he contributed greatly to improved housing rights for veterans.

Mr. Speaker, I very strongly feel we will miss CHUCK and his wise counsel. Mrs. Edwards joins me in extending the very deepest sympathy to his family.

Mr. GUBSER. Mr. Speaker, I now yield to the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Speaker, I thank the gentleman for yielding.

I, too, would like to join with my colleagues in memorializing a great American whose passing is a loss to the Nation and a loss to the State of California and more so a loss to his colleagues here in the House of Representatives, with whom he so well served over the years.

Mr. Speaker, CHARLEY TEAGUE was a man that many of us turned to for straight answers, particularly on agricultural matters.

All of us know that we have our own committee assignments and that we cannot begin to know the affairs in the others without dependence on someone on whom we have reliance on their integrity. CHARLEY TEAGUE was one to whom we could all turn. He would give us his position and the administration position, if it were different, and the majority and the minority positions on the committee. Normally we would ask him how he would vote, and usually that would turn out to be the right vote.

CHARLEY TEAGUE and I had a great personal relationship, particularly because I come from the hometown in Ohio of Ohio State University, one of the Big Ten, and CHARLEY was a great advocate of a little old country college in Palo Alto, Calif., the University of Stanford. We had a great deal of friendly colloquy about the relative merits of the schools' football teams.

He was also interested in the theory that a man, in order to be mentally awake, should be physically fit. We both availed ourselves of the facilities that the Congress has to work out and stay in shape.

Mr. Speaker, we miss CHARLEY jogging and doing calisthenics and keeping himself fit to serve the Nation better.

Mr. Speaker, I thank the gentleman for yielding.

Mr. GUBSER. I yield to the gentleman from Indiana (Mr. MYERS).

Mr. MYERS. I thank my colleague from California.

Mr. Speaker, each of us received the news of our dear friend, CHUCK TEAGUE'S passing during the recess with deepest felt sorrow. Each of us at one time has been a freshman Member of the House and has received help from one of the experienced Members. Eight years ago I joined the Committee on Agriculture and had the honor of serving with CHARLES 4 years on that committee. I learned to admire him for his intellect, for his capability and his deep concern not only for agricultural interests but for the relationship that agriculture has to the rest of the Nation.

We found that he did have a very well established and good understanding of the situations as they related to the problems of the consumers, and always had his eyes upon the farmers and the consumers, and he did an excellent job of helping both. I believe that all of us recognize that. But, more importantly, we shall remember CHUCK for his integrity and his courage. He was a man who believed that right was worth working for, regardless of how it might have affected him politically. Many times, as many of us asked him for his advice and counsel, he has told us that politically maybe it would be better to take one particular line or course of action, but he would say, "As for me, I am going to do this because it is the right way." And that is rather unusual today in politics, but it is certainly proof that CHUCK TEAGUE had certainly the courage of his convictions to do what was right for agriculture, and for America.

So, Mr. Speaker, I join my other colleagues here in saying that we surely shall miss CHUCK, and wish to express our heartfelt sympathy to his family. America has lost a true patriot.

Mr. MAZZOLI. Mr. Speaker, I would like to take this opportunity to pay my personal respects to our late colleague from the State of California, CHARLES TEAGUE.

It was not my privilege to know Mr. TEAGUE personally. However, his reputation as a legislator was well established in this body—and his reputation was well-deserved.

His dedicated service on the House Agriculture Committee, where he was the ranking Republican member, and his faithful efforts as senior Republican on the House Veterans' Affairs Committee earned him the respect of all his colleagues.

I extend my condolences to his family and to the constituents he served in the 13th District of California.

Mr. STEIGER of Arizona. Mr. Speaker, it is with a deep sense of loss that I wish to pay a final tribute to our late colleague, the Honorable CHARLES M. TEAGUE of California.

"CHUCK'S" untimely death over the Christmas recess is indeed a great loss to to the U.S. Congress, the people of California and all citizens who have long known and appreciated his efforts on behalf of the "little guy."

For 19 years he served on the Committee on Agriculture and was a true friend to the small farmer. He is well known for his efforts to maintain "free" agriculture in this country. As ranking minority member on that committee, he fought to preserve the small farmer's independence.

He also served with equal distinction as second ranking minority member of the Committee on Veterans' Affairs where he played an important role in drafting legislation.

CHUCK was a capable and responsible legislator. He was an asset to the Republican Party, respected for his legislative ability, his honesty and integrity. He indeed will be sorely missed. It is with sorrow that I extend my deepest sympathy to his family.

Mr. TEAGUE. Mr. Speaker, I was deeply saddened to learn of the untimely death of my great personal friend and genial colleague, CHARLES "CHUCK" TEAGUE from California, who diligently served with me on the House Veterans' Affairs Committee beginning in the 84th Congress. "CHUCK" TEAGUE was a stalwart leader in the Congress and he was one of the best informed Members I know of in the field of veterans affairs. He served for many years on the Hospital Subcommittee and the Compensation and Pension Subcommittee. His leadership in the field of GI education and training helped bring about many new innovative ideas which have benefited thousands of ex-servicemen in furthering their education after leaving the military service. He championed numerous proposals to benefit veterans with service-connected disabiilties and their families.

He was an active sponsor of legislation to improve the GI home loan program. He stood foresquare behind legislation which has given education and training entitlement to approximately one quarter of a million war orphans of America's ex-fighting men.

Mr. Speaker, "CHUCK" TEAGUE was a World War II veteran, and he served as the ranking minority member of the Veterans' Affairs Committee during the last term I served as chairman of the full committee. During this period of time, and in fact throughout his entire service on this committee, he played a major leadership role to insure that partisan political considerations were never placed above the needs and welfare of those who served their country in the Armed Forces.

Mr. Speaker, CHARLES TEAGUE leaves an inspiring record of service to his country. He was a conscientious and hard working legislator and will long be remembered by his colleagues for pursuing what he believed was best for his country. I will miss his fellowship, his wisdom, and his kind and considerate understanding in dealing with many important legislative matters which will come before the Congress in the future. We have all lost a good friend.

Mrs. HECKLER of Massachusetts. Mr. Speaker, the sudden death during the holidays of my dear friend and colleague, Representative CHARLES M. TEAGUE, has saddened me deeply.

I feel, as do the other Members of the House, that this country has lost, not only a devoted public servant and able legislator, but also a fine human being capable of great compassion and warmth.

During his 20 years in Congress, Representative TEAGUE became identified as the chief advocate of American agriculture. As the ranking Republican member on the House Agriculture Committee, he worked to maintain free rather than subsidized agriculture and took a strong position in favor of many conservation and environmental programs.

I had the opportunity to become well acquainted with the wit and abilities of Representative TEAGUE during our work together on the Veterans' Affairs Committee. During his tenure on this committee, he exhibited the same sincere interest in the plight of the Vietnam-era veteran that he had demonstrated toward the economic problems of the American farmer. He worked diligently to promote better housing for veterans and to improve overall living standards for those returning from the war.

I am certain that his dedicated service will be missed by his colleagues in the House and his constituents in California. My deepest sympathies to his family in whom he was so very proud.

Mr. KUYKENDALL. Mr. Speaker, it was with great sorrow that I learned during the holiday recess of the death of our colleague, CHARLES M. TEAGUE of California. CHUCK TEAGUE was an able and conscientious representative, and a man of whom I was very fond.

Despite the many miles which separated this Capitol from his California constituency, CHUCK TEAGUE always kept abreast of the thinking of his people. He devoted a great deal of time to answering his mail, and keeping in touch with those he represented. CHUCK was the type of guy who thoroughly enjoyed being a Member of this body and devoted most all of his energies toward his job. I shall always remember CHUCK for his gentlemanly disposition. He was the type of man who by his very presence added dignity to any group.

Yes, CHUCK TEAGUE has passed on, but the example which he set for service in the House of Representatives will be remembered.

Mrs. GREEN of Oregon. Mr. Speaker, we shall all miss the late Congressman from California's 13th Congressional District. Elected to this Chamber nearly 20 years ago, as a legislator, CHARLES TEAGUE will probably best be remembered for his influence in shaping important farm legislation and for his persistent efforts in furthering the welfare of this country's veterans. That record is very impressive.

A modest and unassuming individual, a key quality was his extraordinary ability to use charm and wit in making a point during the House debates. Not long ago I recall this body considered a bill to indemnify ranchers suffering losses incurred by predatory animals. CHARLIE TEAGUE rose to his feet, objecting that:

> The bill is not just confined to coyotes killing lambs . . . but dogs or cats killing chickens . . . skunks killing chickens . . . coyotes or wolves or foxes killing calves—any sort of a predatory animal that kills a domesticated animal.

He continued that—

> Any owner could claim that this animal was killed by a predator, and Uncle Sam has to pay me.

In his genial fashion, our colleague concluded:

> Well, all I have to say is that anyone with a sick sheep ought to go out and hire a coyote.

His was a quiet kind of charm that rarely went unnoticed.

While all of us deeply mourn the sudden loss of a friend and colleague, those of us who knew CHARLIE TEAGUE can find consolation in the many fond memories we now share.

Mr. POAGE. Mr. Speaker, the sudden unexpected passing of my good friend and colleague of many years, CHARLES TEAGUE, shocked and saddened me deeply. As chairman of the House Committee on Agriculture, I came to rely heavily on Chuck. As the ranking minority member, he often disagreed with my viewpoint, but he was always most fair and cooperative. I considered him a good personal friend.

There were many occasions when he and I disagreed on issues. There were times when he opposed legislation which I strongly supported on the floor of the House. But he was always open and above board. Far beyond everything else, Chuck Teague was a gentleman in the highest sense of the word.

I can recall a number of occasions our committee was working on legislation when Chuck was most valuable in assisting in working out compromises between those who held radically different points of view. There were occasions when Chuck spent many hours in bringing about a concensus on bills that at the time appeared to have no chance of passage. There were times when, after lending his sincere efforts to obtain a workable compromise, Chuck would even vote against final passage of the bill because he simply opposed it on a philosophical basis. Indeed, this was one of his rare qualities, and this is also why he was such an effective Member of Congress.

I never recall seeing him lose his composure. I never remember him becoming personally angry with anyone. I do remember that I was always greatly relieved to have his support on the floor, and I was always happy to have his suggestions off the floor. They were always well considered.

As many others have already said and will say, our colleague, Chuck Teague, will be missed here in this House. I consider myself most fortunate to have worked closely with him for so many years. I consider myself most fortunate to have had him as a good friend. Mrs. Poage and I extend our deepest sympathy to his family.

Mr. RHODES. Mr. Speaker, I would like to express to the House my great sense of loss over the passing of our colleague Charles M. Teague. During his 20 years of service in the Congress he earned the respect and friendship of a great many Members, from both sides of the aisle.

I know that he will be missed. As ranking member of the House Committee on Agriculture he was a positive influence on farm legislation, a steady voice for the American farmer and a believer in our great free enterprise system which has produced the highest standard of living in the world.

It has been my privilege to work closely over the years with Chuck Teague on a variety of regional and national problems. The Nation has lost a dedicated public servant, and I have lost a good and true friend in Congress. The 13th district has lost the valued service of a fine statesman and a warm and friendly person. Mrs. Rhodes joins me in extending sincere sympathy to his family.

Mr. WAGGONNER. Mr. Speaker, I was deeply saddened to learn of the passing of my friend and colleague, Charles M. "Chuck" Teague, of the 13th District of California. There is no question that California has lost an outstanding legislator and citizen, and the Nation has lost a truly dedicated public servant.

Having come to the House some 20 years ago, Chuck served this country during some of its most difficult times. He remained throughout his years here a conscientious and hardworking individual—dedicated to his work and to the people of California whom he loved so much and represented so well.

The Nation and we here in the House will sorely miss the wisdom, leadership, and legislative abilities of Charles M. Teague. I join my colleagues in paying tribute to him and offering heartfelt sympathy to his family and loved ones.

Mr. DEL CLAWSON. Mr. Speaker, when a friend and colleague leaves the Washington scene it creates an irreplaceable void. This is especially true when the friend leaves because of death.

Every Members of the House of Representatives who personally knew our friend, Charles M. Teague, could call him their friend because Charlie, as he was affectionately known, had a very special facility for developing friendships of a deep and lasting quality.

When death comes, it is better for all of us if we are in happy surroundings with family and friends. This was true of our colleague, Charlie, who passed away at the home of his son, Alan, the mayor of Santa Paula, Calif. The very fact that he was spending his recess time at home with his family reveals the close ties and family orientation that occupied the life, mind, and heart of our beloved colleague.

Chuck was a constant and sincere confidant of mine. Having befriended me, he was always available for advice and counsel on matters of congressional business, political subjects, or even personal problems.

His congressional record is well known to all of us. He distinguished himself in the fields of American agriculture and was a strong advocate of the conservation of our resources and preservation and improvement for the quality of our environment.

Each of us in his own way must consider the passing of Congressman Teague as the loss of a close personal friend and it will not be possible to "fill his shoes."

His memory will remain with us throughout a lifetime as we recall our associations. His keen sense of honor will come to mind together with his love for the good things of life, all of which will make our memories of him happy and pleasant.

Our love, sympthy, and condolences are extended to his son, his two daughters, and eight grandchildren who survive Charlie.

Mr. JOHNSON of California. Mr. Speaker, I want to join my colleagues in paying tribute to Charles Teague, a member of this body for many years.

"Chuck" Teague, as he was known by most people, was a dignified, mild-mannered man who was dedicated to his congressional district, State, and Nation.

All of us in California are going to miss "Chuck" Teague very deeply as a good friend, an outstanding colleague and a fine example of all that is best in a Representative in Congress. California, with its great dependence on agri-business looked to "Chuck" Teague as a leader in this field because of his outstanding service on the Committee on Agriculture. His contributions on this committee are going to benefit not only the farmers of the Nation but the consumers for years to come. I should also note that he demonstrated similar leadership in veterans' affairs in his service on that committee. Here again his dedicated service to the veterans of this Nation has resulted in more important benefits for our veterans, better medical assistance, hospitals, and may other benefits which can be contributed directly to "Chuck" Teague's efforts.

My wife and I were deeply saddened to learn of his death on New Years Day and extend sympathy to his family.

Mr. MAILLIARD. Mr. Speaker, I want to join in paying tribute to our departed colleague, Charles M. Teague. Others have given the details of his long and most distinguished public career. I heartily endorse their praise of his personal and professional accomplishments. I can well attest to Chuck's effectiveness as a Congressman: In particular, Chuck's strong efforts in the House Agriculture and Veterans' Affairs Committees will be long remembered and well appreciated by his colleagues and the country at large. Having been a colleague of Chuck's for nearly 20 years, I feel a deep sense of loss. My wife and I offer our sincere condolences to the family of our departed colleague.

Mr. NATCHER. Mr. Speaker, the death of our colleague, Charles M. Teague, during the adjournment period is a great loss to the House of Representatives and will become more acute as time passes.

I respected my friend, Charles M. Teague, for his outstanding abilities as a lawmaker and admired him for his dedication as the chosen Representative of his people. As a member of the Committee on Agriculture, his contributions were many and his devotion to duty and his adherence to the principles of sound Government were ever evident.

Mr. Speaker, a great Member is gone from our ranks. The influence of this servant of the people will be felt for many generations to come. He was a busy man—a humble man—a good man.

My heartfelt sympathy is with the Teague family and it is my prayer that they will be comforted in the knowledge that Charles M. Teague was an outstanding Member of the House of Representatives and a just and honorable man.

Mr. PETTIS. Mr. Speaker, in these times when politics and elected officials have very poor images and some citizens are urging the young people of this country to stay away from working on the public's business, it is especially important that we honor the memory of our colleague, Charles M. Teague.

Not a person to grab press headlines, Mr. Teague went about the day to day business of his California constituents and the people of this Nation in a quiet manner. He was known throughout the

13th District as a hard working, honest politician, someone upon whom you could depend, someone who would go that last mile to help you, regardless of your station in life. It is no wonder the electorate continued to return him to Washington as their representative since he first ran for Congress in 1954. Once they even mounted a successful write-in campaign, when, through an oversight, his name was not listed on the primary ballot.

Mr. Speaker, for those people who would give up on the American political system, I urge an examination of the record of Charles M. Teague. His kind of representation of the people's interest is what the business of this House and our representative government is all about.

He was my friend and I will miss him.

Congress, California and the Nation—we are all made poorer by his passing.

Mr. VAN DEERLIN. Mr. Speaker, when Charles Teague died, I lost a good friend. The people of his 13th District of California, however, lost not only a good friend, but a forceful and effective champion. For Chuck was just that—a friend to everyone who knew him and a dedicated and effective champion of the rights of everyone he represented. Those of us who knew him in the House knew him for the key role he played in shaping important farm legislation—an area in which he was keenly interested.

But legislation, whatever its impact on the individual, still is somewhat impersonal, and Chuck Teague was known and will be remembered by his constituents as a man whose concern and interest went far beyond impersonal legislation. His concern for the welfare of his constituents and his efforts on their behalf earned him the respect, admiration and gratitude of those who sent him to Congress and who returned him to Congress each election year by overwhelming margins. A man who wins not only wide respect, but widespread friendship of the people at home is a man who cannot help but win the friendship of his colleagues. I was proud to count myself not only a colleague of Chuck Teague, but a friend, and it is as such that I mourn his passing.

Mr. BROOKS. Mr. Speaker, for almost two decades it was my honor to serve in the House of Representatives with the able Congressman from California, Charles McKevett Teague.

Chuck Teague was a kind and gracious man dedicated to the Congress and to the people he represented.

He will be missed, not only by his family, but by the people of California, and all his friends here in Congress.

Mr. ROYBAL. Mr. Speaker, it is with a deep sense of personal loss that I join the members of the California Delegation in taking special note of the passing of our friend and former colleague, the late Charles M. Teague.

Chuck Teague was a dedicated and hardworking legislator who served with distinction for nearly two decades as a Member of the House of Representatives. As ranking Republican member of the Agriculture Committee, he was the leading advocate of American agriculture in the House and will long be remembered as one of our outstanding Congressmen. His unexpected death represents a significant loss to the Congress, the State of California, and the Nation that he loved and served so long and so well.

To his family and friends I extend my sincere sympathy and condolences.

Mr. BAKER. Mr. Speaker, this tribute to the memory of our colleague, the late Charles Teague, is most appropriate. I want to join in expressing my high regard for him, and in doing so, I reiterate something which I shared with him while he was alive. He knew how much I appreciated his friendship, his guidance, and his counsel. He was aware that I considered it an honor to be one of his colleagues.

"Chuck" Teague and I served together on the Committee on Agriculture. As ranking member of the minority, he provided the direction and leadership which were essential to me and others in realizing our own effectiveness on the committee. He was an expert in agricultural matters and he combined this knowledge with an understanding of the legislative process so that those of us without this same background and experience, had someone upon whom we could lean. He gave freely of his time and he shared his expertise. His contributions to the work of the committee and the legislation it produced, therefore, serve as a memorial to him.

He was a Christian gentleman, a man of his word, and above all, a friend to whom the bonds of friendship were stronger than the superficial amenities which pass as currency in a day-to-day relationship.

These qualities were not lost on his constituency. He served his people well and they responded by keeping him on the job. I know he was looking forward to running again this year. There would be no doubt about his return as the Representative of the 13th District of California.

The work of the Congress goes forward even when such stalwarts as "Chuck" Teague are no longer here to participate in the active direction of that work. We know that Government works a little better, however, because men of his stature have served here and have left their mark upon the process.

Mrs. Baker joins me in sending our condolences to the members of the Charles Teague family. We share this loss of a good man.

Mr. GOODLING. Mr. Speaker, I was shocked when I was advised of the passing of my good friend and colleague, the Honorable Charles M. Teague.

I had the privilege of working closely with Chuck Teague, for we both held ranking minority positions on the House Committee on Agriculture.

The list of causes he championed during his service in the House of Representatives is indeed a long and impressive one. Some of the issues he chose to tackle, particularly with respect to the House Committee on Agriculture, were of the controversial nature, still he never failed to take a firm stand if necessary on issues in which he believed. I know, because on many occasions I found myself in his company, out there on the lonely plains of disagreement with one legislative feature or another.

While Chuck Teague was deeply concerned with agricultural matters, his interests were not limited to such affairs exclusively. He had the reputation for having broad interests in the affairs of Congress, just as he was known to be dedicated to doing a good job in his congressional assignments. All of his colleagues would quickly agree that Chuck Teague gave his congressional district first class representation in the House of Representatives.

Just as Chuck Teague kept himself mentally alert, so did he strive to keep himself in top notch physical condition. He was a frequent visitor to the House gymnasium, and I frequently joined with him in lively games of paddle ball. I can reflect on some very enjoyable sessions Chuck and I spent on the paddle ball court.

In summary, Chuck Teague was a man committed fully to public life, a real patriot and a fine legislator, along with a splendid personality. He will be deeply missed in this House of Representatives. The vacuum of his absence will, however, be filled, in some part, by the realization of the good things he accomplished while he served in this House Chamber.

I extend my condolence and sympathy to the survivors of the Honorable Charles M. Teague.

Mr. CORMAN. Mr. Speaker, during our recent recess I was deeply grieved by the passing of Charlie Teague, Congressman for over 20 years from my own State of California.

Throughout his distinguished service in the House, Congressman Teague represented the best interests of both his constituents and all Americans. As ranking Republican member of the House Agriculture Committee Charlie Teague played an important role in shaping our agriculture policies for many years to come. He worked in a quiet, diligent manner to achieve his objectives.

At the same time Charlie Teague was able to see some humor in life's all too serious situations. During floor debate of the agriculture authorization bill last summer, a group called Women United demonstrated against farm price supports in the House Gallery. They became too boisterous and the Speaker was forced to remove them.

Charlie Teague, who also opposed the price supports said to the Speaker that he agreed on the importance of House decorum but, "I am afraid you just threw out my rooting section."

Rooting section or not one of Mr. Teague's goals was achieved—farm subsidies were reduced and restricted substantially for the first time.

In preserving our environment Congressman Teague was equally effective. In 1971 he led the successful fight to end platform oil drilling in the Santa Barbara Channel. The drilling had earlier destroyed several parts of the beautiful California coastline.

In other conservation issues Congressman Teague also played a significant role. In 1969 he helped defeat the Timber Supply Act—a bill seeking to greatly increase cutting on U.S. Forest Service land. CHARLIE TEAGUE worked closely with conservation groups like the Sierra Club to restore and maintain our finite and precious forest lands.

As a colleague and friend to many in the House of Representatives CHARLIE TEAGUE was highly respected. His dry humor made the House a better place to serve the people of this country. I shall sorely miss him.

Mr. STARK. Mr. Speaker, I join with many of my colleagues in expressing my deep personal regret over the death of Mr. CHARLES TEAGUE.

I knew CHARLIE less well than most, but will miss his presence as much as others who served with him over the years. As a junior Member of this body I only knew him for 1 year, but in that time recognized the qualities that made him the respected, highly qualified, and appreciated leader he was.

My district was struck by a natural disaster many months ago, and the Agriculture Committee considered and reported legislation to authorize emergency aid for the area. CHARLIE TEAGUE did not live near the disaster area but recognized the severity of the blight and acted to aid and protect those affected by it. He was a man who recognized a problem and acted on it promptly, always keeping in mind the interests of those in difficulty, even if he had no prior relations with them. He was in this sense a great leader and a fair Representative to anyone who asked his assistance.

In many ways CHARLIE represented all that was meant to be by the seniority system in this body. He accumulated invaluable experience and patience, and then shared it and encouraged his young colleagues to pursue the same course. That tradition of continuity is vital to the effectiveness of the Members of this body, and we must thank CHARLIE for all his efforts to sustain and enhance it. His death is a great loss to his colleagues individually, and to their work.

Mr. ADDABBO. Mr. Speaker, I rise to join my colleagues in this eulogy of our late colleague and friend, the Honorable CHARLES M. TEAGUE of California. CHUCK TEAGUE served this body for nearly 20 years with the kind of dedication and determination we all admired and respected.

As the ranking Republican on the House Agriculture Committee and a high ranking member of the Veterans' Affairs Committee, Congressman TEAGUE made a lasting mark on the legislation enacted over the past two decades in these two important areas.

I extend my personal sympathies to his family and know that the distinguished career of CHARLES TEAGUE will be a cherished memory for them and an example to future Members of the House of Representatives.

Mr. MATHIAS of California. Mr. Speaker, it is with deep sorrow that I join with my colleagues in paying tribute to my friend and colleague, CHARLES "CHUCK" TEAGUE. I knew Congressman TEAGUE to be a dedicated and conscientious Congressman who labored tirelessly to serve the people in his district and the Nation as a whole. He was an admired and respected legislator who was a true friend of the farmer.

As the ranking Republican on the Agriculture Committee, CHARLES TEAGUE performed a crucial role in the drafting of legislation and he leaves an inspiring record of service on behalf of America's farmers. The committee relied upon his vast knowledge and insights into agriculture during all of our deliberations. His counsel and leadership will be missed.

CHARLES TEAGUE will be remembered not only for his accomplishments in matters concerning agriculture, but also for his compassionate concern for the welfare and security of all Americans.

Mr. CEDERBERG. Mr. Speaker, it is with a particularly strong sense of personal loss that I take this opportunity to join my colleagues in expressing sorrow at the death of CHARLIE TEAGUE.

The House of Representatives will miss CHARLIE TEAGUE. We will miss the wisdom which he brought to the business of this great body. We will miss the leadership which he exercised so well as the ranking minority member of the Committee on Agriculture. We will miss, most of all, the genuine friendliness and good humor which CHARLIE TEAGUE brought to this Chamber and to every Member of the House.

As an attorney, community leader, and Member of the House CHARLIE TEAGUE dedicated his life to the service of his fellow man. It was a particular mark of his character that he always had a kind word, a smile, a gesture of friendship.

I would be remiss if I did not, in passing, remark on the particular dedication and wisdom which CHARLIE brought to the task of being the ranking minority member of the Agriculture Committee. CHARLIE devoted extraordinary time and effort to preserving and improving the role of agriculture in our society, and to bettering the lives of farmers across America. Agriculture has lost a great friend, and the Congress great wisdom with his passing.

Finally, a personal note. It was my very great pleasure to have been a personal friend of CHARLIE's over the nearly 20 years he served in this body. I can say that I will surely miss this friendship and I know that there are countless others who feel a similar void. But, and this may be the finest legacy a man can leave, we are all the better for having had the privilege to know CHARLIE TEAGUE.

Mrs. Cederberg and I extend our sincerest sympathy to CHARLIE's children and their families.

Mr. SCHNEEBELI. Mr. Speaker, CHUCK TEAGUE was certainly one of the finest gentlemen in the House and his quiet but very effective manner was most impressive. He had the respect of the Members of the House because of his expertise and deep knowledge of so many subjects of national concern, particularly in the field of our agriculture policy, but he did not try to overwhelm his colleagues by freely expressing any superior knowledge on these matters.

It was quite evident from his manner that he came from an excellent background, both from his family training and his fine education, and he was one of the persons with whom I conferred frequently, because of his depth of knowledge and sincerity.

His desire to become a member of the House Agriculture Committee was a natural one, since his family was among the founders of the Sunkist cooperative in California and his father was a pioneer in that State's farm credit program. He was the ranking Republican member of this committee and served our country well in this capacity.

Congressman TEAGUE was also a member of the House Committee on Veterans' Affairs, and he worked long and hard to improve housing rights for veterans.

He was a diligent, dedicated, hardworking legislator whose first concern always was in supporting what he felt was best for the Nation.

After more than 20 years of loyal service, the Congress and the country shall miss this truly outstanding American. CHUCK TEAGUE was a charming and dependable gentleman; I shall miss him very much in the House.

Mr. MONTGOMERY. Mr. Speaker, it was with great sadness and shock that I read a wire service report in my hometown newspaper during the Christmas holidays that our former colleague, CHARLES M. TEAGUE, had passed away as the result of a massive heart attack. I realized immediately that there would be a void in the House of Representatives when we reconvened January 21 because we had lost one of our most able and conscientious Members.

Like many of my colleagues, I probably took CHUCK TEAGUE for granted. With his passing, I have lost another stalwart adviser and confidant. Fortunately his wise counsel and wisdom will serve me well in his absence just as it did when he was walking in our presence.

Mr. Speaker, it was my good fortune to serve for 4 years with CHUCK TEAGUE on the Agriculture Committee and for the last 5 years on the Veterans' Affairs Committee. During all of our committee deliberations, his dedication to duty was always evident. He has left his indelible mark for the better on legislation affecting the future welfare of our farmers and former members of the American military.

On a more personal level, I will always remember CHUCK TEAGUE as a warm and close personal friend. A man of great wit who helped to make each day a little brighter.

Mr. Speaker, I extend my deepest sympathy to CHUCK's three children who were a very important part of his private life.

Mr. ICHORD. Mr. Speaker, I wish to join in this special order today memorializing our late colleague, the Honorable CHARLES M. TEAGUE. His unexpected death in his native Santa Paula, Calif., during the recess came as an immense shock to all of us here and to the 13th Congressional District of California where he served as a diligent and popular representative since 1955. Indeed his tremendous popularity in this district brings to mind the legendary moment in 1958 when he overwhelmingly won his party's nomination as a write-in candidate when aides failed to file enough signatures on his nomination papers. But more than this distinguished service to his own congressional district, Chuck Teague's passing will be keenly and personally felt in a special way by millions of America's farmers and veterans. The dedicated work of this one man on the House Agriculture Committee and the House Veterans' Affairs Committee meant a great deal to these two groups of Americans, and his devoted and sensitive service on these committees will be sorely missed. Mr. Speaker, I deeply share the hollow sadness felt by this body at the passing of Chuck Teague. His quiet wit, his outstanding legislative talents, and his deep and abiding love for his country represent a great personal loss to this House.

Mr. McCLORY. Mr. Speaker, it was a particular shock to learn of the passing of our beloved colleague, Representative Charles Teague of California's 13th District.

It may not be appropriate to say of most of the male Members of this Chamber, that he was a "sweet" man. However, with respect to Charlie Teague, it can truly be said that he was both sweet and considerate of those with whom he served during the 20 years of his tenure in this House of Representatives.

There were many legislative issues with which Charlie Teague and I found ourselves in close agreement. Typical of his unbiased respect for persons on the basis of their inherent merit, he cooperated closely with me in helping secure passage of the Equal Rights amendment when that great constitutional issue was debated on the floor of this House.

A popular and much beloved Member of this great body, the Nation as well as all of us who had the privilege of serving with him, have been greatly enriched.

Mr. Speaker, in addition to expressing praise and tribute for Congressman Charles Teague, I wish also to extend deep sympathy to his surviving daughters, and other members of his family.

Mr. MORGAN. Mr. Speaker, I join with my colleagues in honoring the memory of Congressman Charles Teague of California. All of us in Congress regarded him highly, and our judgment was vigorously supported by his constituents in the 13th District of California who returned him to the House of Representatives by substantial victory margins.

The ranking Republican on the House Committee on Agriculture and the third ranking Republican on the House Committee on Veterans' Affairs, Chuck's intellectual abilities and complete dedication enabled him to play a significant role in the formulation of key legislation far beyond the influence available to a man of even his seniority. Perhaps the phrase "balanced judgment" most accurately describes his essential legislative and personal qualities.

Two bills which he cosponsored just before his death, H.R. 1207, which would protect certain lands from the ravages of fire, and H.R. 11864, which would provide for the early development and commercial demonstration of solar heating and cooling technology, in addition to his well-articulated remarks on such issues as trade reform and the energy crisis, illustrate the breadth of his many interests.

Mr. Speaker, both his constituents and the House of Representatives have suffered a substantial detriment. I extend to his widow, children, and eight grandchildren my heart-felt sympathy over their personal loss.

Mr. NIX. Mr. Speaker, I rise to pay my respects as a Member of Congress to the late Charles Teague, Member of Congress from California. He served his Government and the people of the United States from his election to Congress in 1954. He was an outstanding lawyer and he brought a lawyer's skills to the Congress and the record of the last 19 years bears witness to his skills and dedication.

He was an outstanding Representative because he was close to his constituency and brought their concerns to the attention of official Washington.

There are those who say that a Congressman should visualize in his own mind what the national interest is and then vote that national interest regardless of his constituents' views. They are wrong as most purists are, because each Member of Congress can only visualize the national interest by grappling with the interests of his constituents. In this way he is always in touch with reality, and only reality serves as a basis for thought.

Congressman Teague kept the national trust and served the interests of his constituents both. He was a reasonable man who never deviated in all the years of his service from commonsense.

When such a man dies, there is a gap left in the ranks of the Congress similar to the fall of a great tree. It will take many years before others will fill his place.

I will miss Charles Teague as a friend. I will miss him as a colleague. I will miss his professionalism as a Congressman.

I express my sympathy and regrets to his family who have suffered a great loss; yet I know that they find some solace in the pride they must feel in a father who finished the course with his honor and record of service immaculate.

Mr. FINDLEY. Mr. Speaker, Chuck Teague's death will be sorely grieved by the Congress and by the House Agriculture Committee in particular. It was there that his background in agribusiness and his desire to see a highly competitive, efficient agriculture rather than a subsidized one made him a strong spokesman for the American farmer. As ranking Republican of that committee, he proved himself a worthy and able proponent of forward-looking legislation.

But Chuck's strength was felt beyond agricultural matters. As a member of the Veteran's Affairs Committee, he was instrumental in improving housing rights for veterans. Part of my deep personal feeling for Chuck grew out of this unwavering support for the Atlantic Union which I have supported for many years.

Chuck was always decent, fair, and totally dedicated in the 19 years he represented his native State in Congress. His death is a loss not only to California, the Congress, and the Agriculture Committee, but to me personally.

Mr. QUIE. Mr. Speaker, when I first came to Congress nearly 16 years ago, I met Charles Teague through our work with the House Committee on Agriculture. We became good friends and working partners as we sat next to each other in committee meetings. During my years of service there, my respect for him grew and extended as I watched him in the House as well.

Not only will the Agriculture Committee miss his fine leadership, but the Veterans' Affairs Committee will as well. It is with sadness that I join my colleagues today in paying tribute to one of California's finest Members. The House of Representatives will long remember his outstanding years of service.

Mr. PRICE of Texas. Mr. Speaker, I join with my colleagues in the House of Representatives to pay tribute to the memory of Congressman Charles M. Teague. His passing is truly a great loss to all Americans.

Congressman Teague and I served on the Agriculture Committee together for 7 years and I will never forget all the guidance and advice he gave me during my freshman days as a Congressman. As the ranking Republican member of the House Agriculture Committee, Chuck was a leading advocate of a free agriculture program as opposed to a subsidized one. Although our views on agriculture programs were not always in accord, I respected his judgment and views.

Another thing I will always admire Chuck for, was his never ending support of a free American enterprise system. He not only worked for this goal in agricultural matters, but in the overwhelming majority of the legislation which he considered and voted on.

I am deeply saddened by Congressman Teague's death and will miss him greatly not only in the Agriculture Committee, but also in the Congress. His district, State, and our Nation have lost an outstanding man and legislator.

Mr. HANLEY. Mr. Speaker, I join with my colleagues today in paying homage and tribute to our late colleague and friend, Chuck Teague.

Those of us who were fortunate enough to have served with Chuck during his 19 years of distinguished service here in the House will always remember him as a quiet but skillful and respected legislator. Indeed, none of us will ever forget Chuck's fine sense of humor, his work on behalf of our Nation's veterans, or his devotion to American agriculture.

We will all miss Chuck. America has lost a Congressman who was tireless in his devotion to his constituents. The death of Chuck Teague is a great loss for us all.

Mr. Speaker, Rita and I wish to express our heartfelt condolences to Chuck's family. Our prayers are with them.

Mr. JONES of North Carolina. Mr. Speaker, one of the pleasures of serving in the U.S. House of Representatives is the friends that one makes through the years. It becomes even more pleasant when friendships are made with Members from distant parts of this Nation.

Some are endowed with the virtues of kindness, honesty, and compassion perhaps more than others. When we attempt to list those who have the admiration and respect of their fellow Members, then the name of the late CHUCK TEAGUE will always appear among the top.

His almost 20 years as a Member of the House will cause him to be missed by many. His service as the ranking minority member was outstanding. Although he and I were members of different political parties, I always found him to be fair, impartial, and a very effective leader.

It is with sadness that I join with other Members of the U.S. House of Representatives in paying tribute to the service and the memory of the late CHUCK TEAGUE.

Mr. WIDNALL. Mr. Speaker, I was very much saddened recently to learn of the sudden death of Representative CHARLES M. TEAGUE on New Year's Day, while visiting his son Alan, the mayor of Santa Paula, Calif. I join with my colleagues today in paying tribute to this fine leader.

The President said his passing is a "significant loss to the U.S. Congress." The Vice President lauded him "for his dedication to the best interests of the American farmer," and BOB MICHEL said "he typified the best in American politics today." To lose a man of this caliber at this time in our history is tragic.

CHUCK was ranking Republican on the Agriculture Committee and senior Republican on the Veterans' Affairs Committee, and legislation coming from these committees has borne his stamp for a long time. His interest in conservation and the environment is well known, as he served for years on the Conservation and Credit Subcommittee.

CHUCK was a friend and colleague for 19 years, and his gentle humor and quick wit will be sorely missed. We all mourn his passing. My deepest sympathy to his family.

Mr. ZWACH. Mr. Speaker, I am deeply saddened by the sudden and untimely deathly of Congressman CHARLES TEAGUE of California.

It was my privilege and pleasure to serve with him on two committees, Agriculture and Veterans' Affairs.

In addition to the dedication and expertise he displayed as a member of these committees, he was a sound conservationist and a strong supporter of environmental efforts.

Congressman's TEAGUE's passing is a significant loss to all of America, a loss we can ill afford.

Mrs. Zwach joins me in extending our heartfelt sympathy to the bereaved members of his family.

Mr. MINSHALL of Ohio. Mr. Speaker, during the recent adjournment I was shocked and greatly saddened by the news of the sudden death on January 1 of my very dear friend and distinguished colleague, the Honorable CHARLES M. TEAGUE of California.

Just a few weeks before, CHUCK TEAGUE and I had joked about being the only two members of the Republican 84th Club, elected to Congress in 1954 and serving consecutive terms thereafter, who remained in the House. Other colleagues had retired, been defeated, gone to the Senate or to high public office. Finally, only CHUCK and I remained of the band of GOP freshmen first sworn in in January 1955. It became a standing joke between the two of us that we would alternate as president of the diminished 84th Club, that we would hold our meetings in a phone booth, and so forth.

Now he is gone. It is very difficult to accept the fact that one so relatively young, so full of energy, talent and wit, a man with a true joy of living, has left us. Congressman TEAGUE's passing has deprived this House of a legislator of uncommon ability, his constituents of conscientious service, our Nation's farmers and veterans of a strong voice on both the Agriculture and Veterans' Affairs Committees, and Americans everywhere of a valuable statesman and patriot.

Mrs. Minshall and I extend our deepest personal sympathy to his bereaved family.

Mr. MAYNE. Mr. Speaker, CHARLES M. "CHUCK" TEAGUE served in the House of Representatives with conscientiousness, wisdom, and integrity over the past 19 years. His sudden death earlier this month was certainly a great loss to the Members of Congress, to his constituents whom he served so well, and indeed to our whole Nation. His honest, hardworking form of representation will be an inspiration for years to come for all of us who have had the privilege of working with him.

It was my good fortune to have served with Congressman TEAGUE on the House Agriculture Committee over the past 7 years. I am particularly grateful for his many kindnesses to me as a freshman member of the committee when I first came to the Congress in 1967. I marveled at the patience and helpfulness he unfailingly showed to me and other junior members. As the then second ranking minority member of the committee he offered us steady and much needed counsel and guidance. He continued to display these fine qualities through the ensuing years, and they became even more evident when he assumed the post of ranking minority Member in the 93d Congress. His capabilities as a legislator and his interest in American agriculture will be sorely missed by all the committee's members. It has been a great privilege to serve on the committee under his leadership during the past year.

Some of my fondest memories of CHUCK's friendship are from an Agriculture Committee trip we made with other members of the committee to Bangladesh, India, and Pakistan in November 1972. His kind, considerate, gentlemanly ways made him an ideal traveling companion, always considerate of others in the official party and deeply concerned about the problems of threatening mass starvation in the countries we visited. Truly CHUCK TEAGUE proved on that trip that he was a great humanitarian as well as a distinguished statesman. I extend my deepest sympathy to his family and to the people of the 13th District of California in their loss and bereavement.

Mr. WILLIAMS. Mr. Speaker, I join my colleagues and the Nation in paying tribute to an outstanding Congressman. The Honorable CHARLES M. TEAGUE of California was a truly dedicated public servant and our land is saddened by his sudden passing.

Congressman TEAGUE was first elected to the 84th Congress of the United States in 1954, after serving as an officer in the Army Air Corps and a successful lawyer in California. As a Representative he served his people well, and they reelected him to each succeeding Congress. CHARLES TEAGUE worked hard during his nearly 20 years in the House, and earned the well deserved respect of his fellow Members on both sides of the aisle.

CHARLES was an exceptional lawmaker. His skill was always evident as he shepherded agricultural and veterans affairs legislation through the House. Veterans and farmers in the 13th District of California, and across this Nation, owe a debt of gratitude to his unfailing efforts on their behalf.

Congressman TEAGUE served his district and his Nation with dedication and enthusiasm. He is missed by his constituents, his staff, and all of us in Congress. I will long remember my association with him.

CHARLES was a devoted family man, and I extend my sincerest sympathies to his family. I trust that many fine memories of this upright man will sustain them, and us, in this sad hour.

Mr. HAMMERSCHMIDT. Mr. Speaker, I was shocked and saddened to learn of the untimely death early on New Year's Day of my good friend and colleague, CHARLES M. TEAGUE of California.

From the time I was elected to the 90th Congress, it was my privilege to have served with CHUCK TEAGUE on the Committee on Veterans' Affairs. During 4 of those years, from 1969 through 1972, he was the ranking Republican member of the committee. The knowledge of veterans' affairs and the experience he had acquired during 19 years of service on this committee will be sorely missed. I, for one; have been enriched by my association with this distinguished gentleman.

A lawyer by profession, TEAGUE was a quiet man. With a minimum of verbiage, he always made his position clear. A true gentleman, possessing a sense of humor and a dry wit, he was well liked and respected by his associates.

Though he ultimately chose to be the ranking member of the Committee on Agriculture, TEAGUE's interest in veterans affairs did not wane. He participated in all deliberations of the committee until the sine die adjournment of the 1st session of the 93d Congress.

Mr. Speaker, the people of California's 13th District have lost an effective, and dedicated Representative and I have lost a dear friend. To his family, I extend my heartfelt sympathy in their bereavement.

Mr. FISHER. Mr. Speaker, I share with my colleagues the sadness occasioned by the death of CHARLES TEAGUE. He was recognized as one of the most able and influential Members of this body. Above all, he was a patriotic, dedicated American who put the welfare of the country above everything else. This Nation desperately needs more men in Congress of the caliber of CHARLES TEAGUE.

To the survivors I extend my profound sympathy in their bereavement.

Mr. TOWELL of Nevada. Mr. Speaker, it was my pleasure to become acquainted with the late CHARLES TEAGUE during the first session of the 93d Congress. Being a freshman Congressman, I valued greatly CHUCK TEAGUE's insight and leadership qualities, which he was always willing to share with me. I found him to be a complete gentleman—never losing his perspective during the times of emotional debate on the House floor. He will be greatly missed by the entire freshman class and, indeed, by the entire Congress.

Mr. REUSS. Mr. Speaker, it was a shock for all of us to learn of the sudden death of Representative CHARLES M. TEAGUE during the holiday recess.

CHUCK and I were first elected to Congress on November 2, 1954, and it was my privilege to serve with him over the past 19 years. During that period he rose to become ranking minority member of the Committee on Agriculture and senior minority member of the Committee on Veterans' Affairs. His dedicated work on these committees, particularly in the areas of conservation and veterans' housing, earned him the respect of all his colleagues. He was a man of his convictions and was looked to as a prime exponent of free agriculture in America.

California and the Nation have suffered a great loss in the death of CHUCK TEAGUE. I extend my sincere sympathy to his family.

Mr. SARASIN. Mr. Speaker, it is with a great sense of loss that I join my colleagues in paying respect to the memory of the Honorable CHARLES M. TEAGUE and in extending my sympathies to his family.

For 19 years, Congressman TEAGUE served in this Chamber, dedicated to the needs of the residents of the 13th district of California and to the interests of an honest government and a strong nation. He believed in the principles upon which our heritage is based—truly representative government effected by the balance which is necessary for stability.

CHARLES TEAGUE was a hard-working legislator, typifying the best in American politics. His quiet manner often belied his determination, but his strength and effectiveness were apparent to all of us who knew and worked with him.

Best known for his contributions to American agriculture, CHARLES TEAGUE focused his efforts on maintaining free rather than subsidized agriculture. Having served on the House Agriculture Committee during most of his tenure in office, eventually attaining the position of ranking Republican, he provided devoted and conscientious service to the farmers of our country and did much to shape American farm legislation.

Conservationists and environmentalists will also deeply miss the presence of Mr. TEAGUE. Through his work on the Conservation and Credit Subcommittee, he aided many programs and was also responsible for the implementation of the Interior Department ban on new oil drilling platforms in the Santa Barbara Channel, precipitated by the damaging oil spill of 1968.

CHARLES TEAGUE was concerned over all matters that affected his constituents, whether on the Federal, State, or local level. He was active in community affairs, serving as president of the Ventura County Community Chest, the Ventura Rotary Club, and the Ojai Valley School Board of Trustees. Prior to his election to Congress he also served as president of the Ventura County Republican Assembly.

Congressman TEAGUE contributed his dedication, hard work, and intelligence to the formulation of national legislation for almost two decades. Highlighting this was his sense of humor which was quietly interjected, often at surprising moments, throughout his career.

CHARLES M. TEAGUE will be missed in this body, by those of us who had the opportunity to work with him and know of his devotion, and by those who he so ably served over the years.

Mr. YOUNG of Alaska. Mr. Speaker, I rise today and join with my colleagues in memory of our late friend and colleague, CHARLES M. TEAGUE.

In my brief tenure in the 93d Congress, I came to know CHUCK TEAGUE fairly well. He was a great legislator who always worked diligently for what he thought was in the best interests not only for his district but also for the Nation.

Mr. Speaker, CHUCK TEAGUE will be sorely missed in this great body. I extend my deepest sympathy to his family.

Mr. DANIELSON. Mr. Speaker, we have all been saddened by the loss of our friend and colleague, CHARLES M. TEAGUE. A Member of Congress for 19 years, CHUCK TEAGUE will be greatly missed here on Capitol Hill.

I first got to know CHUCK as a fellow representative from Southern California when I arrived in Washington as a freshman Congressman. I will always be grateful for the advice and assistance he gave me at that time. I also had the pleasure of working with CHUCK TEAGUE on the Veterans' Affairs Committee, where his experience and expertise made a great contribution to meeting the responsibilities of the committee. He was very helpful to me in the work of the Committee on Veterans' Affairs.

But CHUCK TEAGUE was much more to me than a helpful senior Member. He was a good friend whose presence here I will sorely miss.

Mr. DE LA GARZA. Mr. Speaker, in the passing of CHARLES M. TEAGUE the farmers of America have lost a powerful friend and I have lost a personal friend.

Since I came to this House in 1965, I served with CHARLES TEAGUE on the Agriculture Committee, of which he was ranking minority member at the time of his death. In 1965 he already had been a Member of the House for 10 years. His experience and knowledge were most helpful to me as a freshman and during the years since then.

Never flamboyant, Congressman TEAGUE was dedicated to the interests of farm producers. He worked hard and effectively to advance those interests. He was an outstanding legislator. He will be missed in his district and State and in the Nation. He will be missed by all of us who were privileged to serve with him here.

Mr. MARTIN of Nebraska. Mr. Speaker, in the recent death of CHARLES M. TEAGUE of California the House has lost a valued, able Member and I have lost a close, personal friend. I would classify CHARLIE TEAGUE as a Member's Member. One who is held in the highest esteem by his colleagues on both sides of the aisle; an effective Representative of his district, but one who gave first consideration to the welfare of his country.

As a ranking member of the House Agriculture Committee and a senior member on the Veterans' Affairs Committee, CHARLIE TEAGUE contributed, over the years, a great deal to the benefit of agriculture and to the well being of our millions of veterans.

CHARLIE and Marge were college sweethearts, and throughout their many years of marriage, until Marge's unfortunate death, they were extremely devoted and close to one another. Mrs. Martin and I were with them many times on social occasions and we both always were enlightened by their companionship.

I extend my condolences to their three children: Alan, Norma Teague Potter, and Judith Teague Kenyon.

Mr. BROOMFIELD. Mr. Speaker, the sudden death of our distinguished colleague, CHARLES TEAGUE, has left me with a great sense of loss and sadness.

I admired him for his honesty, integrity, and conviction, and counted him as a personal friend. He dedicated his public life to his country and his constituents, and his distinguished legislative record is testimony to this dedication. The House will miss his leadership greatly.

"CHUCK" TEAGUE represented the best in American politics. His work in the agriculture field as the ranking Republican member of the House Agriculture Committee earned him a well-deserved reputation as the leading advocate of American agriculture in Congress. American agriculture owes a great deal to this man who throughout his years in Congress dedicated himself to the best interests of the American farmer.

In addition, he aided in many conservation and environmental programs. His courageous fight for controls on offshore oil drilling was instrumental in saving many of the Nation's beaches from the threat of pollution.

Mr. Speaker, CHUCK TEAGUE's death is a great loss to his home State of California, to the Congress, and to the country he so honorably and ably served. I join my fellow Members in offering my condolences to his family during their time of grief.

Mr. ANDERSON of California. Mr. Speaker, I rise at this time to pay tribute to our departed colleague and my good friend "CHUCK" TEAGUE, who was an outstanding Member of Congress, a devoted public servant, and a loving father.

I first came to know Chuck when he was a State official in the American Legion and I was active in State political affairs as a member of the assembly. At that time, I recognized him as a man with unusual abilities—leadership, integrity, and intelligence—and with great love for his fellow man and country.

While Chuck was successful in every endeavor, he had the quality of being able to poke fun at himself and not take his triumphs too seriously. His dry wit and keen sense of humor were attributes that served him well in his dealings with people.

In the Congress, Chuck was a respected and influential Member, due largely to his hard work and intense study, but also, due to his ability to instantly detect salient points and to relate his findings in precise language, well understood by all. As an expert in farming and agricultural matters, he was looked upon as a spokesman for commonsense in farm programs. We worked together to show the waste of the subsidy system that paid agribusiness not to produce crops, and we worked to eliminate this program that drained the Federal Treasury of billions of dollars each year.

In working for programs for our Nation, I often sought Chuck's advice, counsel, and support, and I appreciate the help he always offered. While we sometimes differed on approaches, we rarely differed on objectives.

Chuck Teague was a warm, decent individual who served the people of California and the Nation in a manner which could only bring respect to himself and to the Congress. We who knew him will miss his guidance and his friendship, and the Nation will miss his wise counsel.

My wife Lee joins me in extending our sincere sympathy to his son Alan of Santa Paula, his daughters, Mrs. Norma Potter of Washington, and Mrs. Judith Kenyon of Santa Rosa, and his eight grandchildren.

**Mr. ROGERS.** Mr. Speaker, with the passing of our distinguished colleague, Charles Teague, we suffer the loss of a valued friend and compatriot. His qualities and talents as an effective legislator manifested themselves by his handling the demanding responsibilities of his congressional committee assignments with intelligence and insight. He will always be remembered for his conscientious efforts in behalf of his country and fellowman.

In this time of great loss, Mrs. Rogers joins me in extending our heartfelt sympathy to his family.

**Mr. SIKES.** Mr. Speaker, I want to join today in paying special tribute to our good friend and colleague, the late Honorable Charles M. Teague of California, who died on January 1, 1974.

Since 1945, Charles Teague represented the 13th Congressional District of California in the Congress. He was the ranking Republican on the House Agriculture Committee and a senior Republican member of the Veterans' Affairs Committee. He will long be remembered for his capable and effective interest in American agriculture and for his many years of devoted service on the House Agriculture Committee, as well as for his service to veterans and his efforts in their behalf on the House Veterans Affairs Committee. He was well known for his efforts to maintain free as opposed to subsidized agriculture and these efforts were considered very effective. He also took a strong stand toward aiding conservation and environmental programs.

He was one of those responsible for bringing about an Interior Department ban on new oil drilling platforms in the Santa Barbara Channel in 1971. There had been heavily damaging oil gushing from a drilling platform there.

Teague was a natural choice to serve on the Agriculture Committee. His family was among the founders of the Sunkist cooperative in California, and his father was a pioneer in that State's farm credit program.

The death of Charles Teague represents a significant loss to the U.S. Congress, to his home State of California, and to the Nation he served so long and so well. I join my colleagues in extending deepest sympathy to Congressman Teague's family and assure them he will long remain in our thoughts and prayers.

**Mr. BOB WILSON.** Mr. Speaker, one of the noblest men ever to sit in the House of Representatives has left our ranks with the death of our colleague Chuck Teague.

For 19 years he served his constituents and our country with a strong dedication to duty and with a unique understanding of the problems of the American farmer and the American veteran. His amiable presence and soft-spoken intellect endeared him to those of us who worked with him through the years. Yet, behind that gentle air was a true leader and an energetic legislator who always sought ways to resolve a problem. Several years ago, when brush and forest fires blackened thousands of acres of southern California back country, a few of us from that region gathered to find ways to improve fire prevention and firefighting technique employed by the U.S. Forest Service. We needed a leader for this cause and it was Chuck Teague to whom we turned. Today more is being done than ever before to strengthen the Forest Service's fire prevention and fighting capability. This could not have been accomplished without the persistence of our dear friend Chuck Teague. This is only a single small example of the service he gave to our country.

I will miss him as a friend, and his absence from this body will be felt for a long time.

**Mr. CLEVELAND.** Mr. Speaker, I was deeply saddened to learn of the death of our colleague Charles Teague during the recess. I shall always value the recollection of the assistance and encouragement he extended to me when I first came to this body and the friendship that developed over the years.

Charlie was unfailingly helpful to me in matters involving veterans' affairs and agriculture. In the latter area, his views on the strength of the free-market concept have stood the test of time. He was interested as well in matters involving our national forests, and last summer I was delighted to find him sitting in at a hearing of the Forests Subcommittee on a piece of legislation I had introduced.

As ranking or senior member of two major committees—Agriculture and Veterans' Affairs—he made a contribution of quiet effectiveness of a sort which often gains little notice outside this body.

But he had the respect of his colleagues and, obviously, that of his constituents who elected him to 10 terms in the House. This doubtless was satisfaction enough to a man of his character and should serve as a source of consolation to his bereaved family, to whom I extend my condolences.

**Mr. SISK.** Mr. Speaker, I should like to commend my colleague Charlie Gubser for reserving this time so that the House might pay tribute to the memory of our beloved friend and able colleague, the late Charles M. Teague.

Chuck and I came to Congress together for the first time on January 3, 1955, and from that moment we became close friends working together for the betterment of California and the Nation.

Five years ago, I joined Chuck as a member of the House Agriculture Committee, from which vantage point we could work together for the benefit of California's largest industry, approaching it as a State problem jointly rather than on a partisan basis.

His distinguished service will be sorely missed by me personally, California, the country as a whole, and sadly of course, his grieving family.

**Mr. DELLUMS.** Mr. Speaker, I would like to join with my colleagues in expressing the deep sorrow we feel in losing our colleague from Santa Paula, Charles M. Teague.

Over the last 3 years I had the pleasure of getting to know Mr. Teague, and I found him to be a fair and sensitive man.

Despite our obvious political differences, I came to know Charles Teague as an extremely professional person, and a man dedicated to helping persons all over the country. My district and I will particularly remember the strong support he provided last year when we attempted to secure legislative relief from a natural disaster in the Oakland-Berkeley hills.

I mourn his loss to us, to his constituents, and to the country.

**Mr. HOSMER.** Mr. Speaker, a lot will be said today, and rightly so, about Charlie Teague, a man of the people, a man who sought to help others. He richly deserves that reputation because he did in fact devote long hours of hard work to understand the needs of his constituents and achieve close, personal contact with them.

Charlie Teague was an effective Congressman. He came to the Congress in the early 1950's. I have watched him grow in stature through the years. He was well regarded by all of us. A lot of people probably do not know how very effective Charlie was as a legislator because he went about his business quietly and unobtrusively. However, when he felt strongly about an issue, or wanted to have his constituency's views represented, he knew how to buttonhole all of us and get the job done. Yet, he never abused that relationship and friendship he had with the Members. He never overdid it.

I will miss his sense of humor, too. He had a knack for easing tensions with private little jokes between the Members. His technique was to make a nickname fit a particular situation or trait to lampoon his friends, so that if he happened to shellac a particularly good player in paddle tennis, he called him "Clumsy" from then on.

Perhaps we will remember him best in Congress as the ranking Republican member of the House Agricultural Committee. During his service on that committee he played a key role in shaping important farm legislation.

In the overall, Charlie Teague was a statesman and a gentleman. I will miss his good counsel. A man has to be judged by the legacy he leaves posterity. On that point, I was particularly impressed by an article which appeared in the Cararillo, Calif. Daily News on January 4, 1974. It reflects what the people back home thought of Charlie Teague. I am pleased to include it among my own reminiscences.

The article follows:

### We'll Miss Chuck Teague

The fact that Congressman Charles M. Teague was elected time and time again—often by overwhelming margins—and yet was not one of the most nationally known members of Congress probably says a lot for the kind of congressman Teague was.

Teague was not in Congress to further a national political career, to grab as many national headlines as possible or to make a name for himself.

He was in Congress to serve the people of the 13th Congressional District.

That he did extremely well.

We commented in this space a few months ago about the fact that constituents could always depend on requests they made of the congressman being acted upon.

Chuck Teague had a special knack for seeing that his constituents were served by their congressman and his office.

The Teague staff was well indoctrinated with the congressman's theory that he was in Washington to serve the people of Ventura and Santa Barbara counties.

Few people ever had a bad word for Teague. Even his opponents over the years found it difficult to find a great many things to argue with the Congressman about other than the party line situation.

The fact that Teague ran so strong against Democratic opponents even in so-called Democratic years also illustrated the popularity of the Congressman.

A lot of members of Congress are better known nationally than Charles Teague. But we doubt seriously that any member could boast of knowing and being really "known" by a greater percentage of his constituents.

Congressmen who contend that Congress shouldn't have been home during the three week period they're spending there currently, while work waits in Washington, don't win too many votes with the do-gooders in the nation's capital, but residents of Teague's district knew that if the congressman said that he meant it. He wasn't seeking headlines. He simply felt that Congress should be working instead of vacationing.

The Santa Paula auditorium where funeral services are to be held today for the congressman following his unexpected death at the home of his son New Year's day can't possibly hold the thousands of friends Charless Teague had in his Congressional district.

There are literally legions of residents of the district who will mourn the death of Congressman Teague. There's not a building or even a stadium in the area that would hold them.

Teague's successor may be an extremely effective congressman, he may make more headlines and accomplish all kinds of other things, but he'll have to fill some very, very big shoes before he's regarded any more highly by his constituents than the late Charles Teague.

Being so highly thought of by the people who know you best is an accomplishment for any man.

Mr. FRELINGHUYSEN. Mr. Speaker, it is with real sorrow that I join my colleagues today in commenting on the sudden passing of our colleague, Chuck Teague of California. He was a friend of many of us, and we shall miss him.

Although Chuck Teague seldom made headlines during his years of service in the House, he was an able and conscientious legislator. He was consistently patient, courteous and concerned with the many problems which came his way. His many friends here on the Hill, Democrats and Republicans alike, have lost a man who brought distinction to the Congress in which he served.

Mr. MIZELL. Mr. Speaker, I rise to join in tribute to a man whose passing was a great loss to the Congress he loved so much, to the farmer he worked for so long, and to the country he served so well.

The man, of course, is our late beloved colleague Charles Teague of California.

It was my honor and privilege to serve with Chuck Teague for 5 years on the Committee on Agriculture, which he helped lead in such an effective way, especially in this 93d Congress when he assumed the position of ranking Republican member of the committee.

Even the circumstance of his ascension to that post gives powerful evidence of Chuck Teague's concern for the American farmer.

At the beginning of the Congress in January of last year, Chuck Teague was faced with an enviable but difficult decision: He had risen to the position of ranking member of two committees, but under our rules, could not accept both responsibilities.

And so he gave up his ranking member status on the Committee on Veterans' Affairs, where he had served with such great distinction, to take the same position on the Agriculture Committee—certainly not because he cared less for our veterans, but because he was a farmer himself, knew at first hand the problems and potentials of the American farmer, and thought his own background and experience better suited him to the leadership of the Agriculture Committee.

None of us, especially those of us who served with him on the Agriculture Committee, can ever forget his incessant urgings for the elimination of the farm subsidy program in favor of returning the farmer to the marketplace for his price on commodities.

This was a cause he championed with increasing success in recent years, but it is only one of the memories we will hold of this man who meant so much to all of us.

He has left a lasting impression on American agriculture, and his contribution to this field has benefitted—and will continue to benefit—the American people in so many ways.

We shall miss him, of course, and we mourn his passing, but we rejoice in the fact that his was a long and full and productive life devoted to the service of his fellowman. His family has our deepest sympathy, and his country owes him its profound thanks and admiration.

Mr. HANSEN of Idaho. Mr. Speaker, it was with profound sadness and a deep sense of personal loss that I learned of the news of the passing of our colleague Charles M. Teague of California. He was one of the most talented lawmakers and dedicated public servants to serve in the body.

Charlie Teague brought to the office he filled with such great distinction a unique combination of abilities and personal traits. He had a quiet and pleasant manner and a ready smile. He held strong convictions, but listened with tolerance and respect to those who held different views. His private life, as well as his public service, reflected the highest standards.

The passing of Charlie Teague is a loss not only to the people of his district that he served so faithfully, but to the entire Nation that benefitted so greatly from his leadership. His exceptional service has reflected much credit on his home State of California and on the Congress of the United States.

He will be greatly missed, by those of us who came to know and love him and by the Nation that has been enriched by his life and service.

Mr. FREY. Mr. Speaker, we have lost a true friend and gentleman. Our colleague Chuck Teague was not only a man of great ability, he was also a man of dedication and integrity.

Chuck Teague would accept nothing but the best effort, both from himself and from those he worked with. He worked hard, he persevered, to get the truth, to get the best possible legislation. And in all this, I especially remember his great sense of humor and his zeal for his job and for living.

As a member of the Agriculture Committee, Chuck Teague was particularly helpful to me on many occasions—advising me and assisting me with agricultural legislation so important to the State of Florida.

We will certainly miss the gentleman from California who for almost 20 years served his district, his State, and his Nation so well.

Mr. WALSH. Mr. Speaker, I am deeply saddened by the death of Charles Teague and Mrs. Walsh and I join in extending our sympathies to his family.

His passing causes me to feel a personal loss because of his kindness when I first came to Washington. As a senior member of the Veterans' Affairs Committee, he took the time and made the effort to make freshmen members feel at home. He was not only kind, but helpful. Congressman TEAGUE was always ready to answer a freshman's questions or explain the why's and wherefore's of committee action.

The American farmer should also feel a great loss because CHARLES TEAGUE was the champion of the farmer. As ranking Republican on the House Agriculture Committee, he constantly argued against strong Government intervention in agriculture and in favor of relying on free market mechanisms.

TEAGUE's contributions to farming are perhaps best illustrated by the tributes of those who knew him.

President Nixon—

> He will be remembered most especially for his interest in American agriculture and for his many years of devoted service to the House Agriculture Committee.

Vice President FORD—

> American agriculture owes a great deal to him for his dedication to the best interests of the American farmer.

CHARLES TEAGUE was a quiet man, who attracted little national attention, but played an important role in the House. He had a gentle sense of humor.

Most of all, he typified the best in American politics. He was a hardworking and dedicated lawmaker and what was best for the country was his prime concern. He will be missed.

Mr. COLLINS of Texas. Mr. Speaker, the U.S. Congress lost a dedicated leader with the passing of CHARLES M. TEAGUE. We all looked to CHUCK for his leadership in agriculture. But we also counted on him when it came to sound fiscal policy. In this day when the country has accelerated its inflation spending and Congress has led the way downhill through deficit financing, it was great to always count on CHUCK TEAGUE and his keen concern for sound economy.

He has served the 13th District well for 10 strong and faithful terms. In this moment of sadness for his family, we all join in extending to them the deepest sympathy for the loss of our good friend, CHUCK TEAGUE. We know that they will share, as we do, the pride in his tremendous record of service to his country since the first days he responded with his election to the U.S. Congress on November 2, 1954.

Mr. CONTE. Mr. Speaker, I speak today as one who is sorely grieved by the depletion of our ranks by the death of our colleague CHARLES M. TEAGUE early this month.

Although we represented districts a continent apart, we had areas of common interest. In his almost two decades as a member of the House Veterans' Affairs Committee, CHARLES TEAGUE amply demonstrated his concern for and commitment to our Nation's former military men and women, a concern and commitment that I share.

In this area, and from his position as ranking Republican member of the House Agriculture Committee, he made his mark here in Washington. But his ability as a Representative of his 13th California District matched his legislative achievements.

A quiet man, not one to court headlines, CHARLES TEAGUE was a tireless worker on behalf of his constituents. He was meticulous in his attention to their problems.

I join my colleagues today on both sides of the aisle in mourning the passing of a distinguished public servant, CHARLES TEAGUE.

I take this opportunity to express my heartfelt sympathy to his son, Mayor Alan Teague of Santa Paula, Calif., his daughters, Norma Potter, and Judith Denyon, and his grandchildren.

Mr. FUQUA. Mr. Speaker, the passing of our colleague, CHARLES M. TEAGUE, removes from our midst one of our finest.

CHUCK was one of the first men I met when I came to the Congress and I came to know him as a warm friend.

As the ranking minority member of the House Agriculture Committee, he made significant contributions to this Nation and our agricultural economy. Since agriculture is such an important part of my district, I came to count on him for advice and counsel on a number of matters most important to me and my people.

At his passing, he was in his 20th year of service as a Member of the U.S. House of Representatives. He was a good Congressman—one who was concerned about his people and their welfare.

He leaves three children and a host of friends. I am one of the latter.

I shall miss those visits with him and having the benefit of his counsel. Congress has lost one of its finest and I have lost a very dear friend.

Mr. BIAGGI. Mr. Speaker, I, like so many of my colleagues, was deeply shocked and saddened to learn of the death of our colleague from California, the Honorable CHARLES M. TEAGUE, who died on New Year's Day at the age of 64. His death truly deprives the House of Representatives of one of its finest and most respected Members.

Word of his death brought forth expressions of sympathy from the highest levels of government. Both President Nixon and Vice President FORD paid glowing tributes to this fine man who so ably represented the 13th District of California.

In his 20 years of service, CHARLES TEAGUE built a most distinguished record of service and achievement. He was particularly noted for his work as the ranking Republican member of the House Agriculture Committee. In addition, he was an active worker on behalf of veterans, and as the senior member of the Veterans' Affairs Committee, I sought out his advice on several occasions, and found his expertise and knowledge of veterans affairs unparalled.

In addition, CHARLES TEAGUE was a leading spokesman in the fight to preserve and protect our environment. For years he was the ranking member of the Agriculture Committee's Conservation and Credit Subcommittee. One of his more notable accomplishments was the obtaining of a ban against oil drilling in the Santa Barbara Channel in 1971.

It was a privilege and honor for me to have known and served with CHARLES TEAGUE. His dedication and integrity made him an exemplary public servant and Congressman. His sense of humor was also well known to many of us who served with him, and all of his fine characteristics will be conspicuously absent on the House floor.

It has been my distinct honor to take part in this special order for CHARLES M. TEAGUE. I extend my deepest sympathies to the members of his family, and assure them that their loss is shared by many Americans.

Mr. BELL. Mr. Speaker, as we begin the second session of the 93d Congress, we do so without a good friend and colleague, CHARLES TEAGUE.

CHARLES TEAGUE served the people of California with distinction, and his passing has created a void in Congress that will be difficult to fill.

CHARLES TEAGUE was more than just a fellow member of the California delegation to me.

He was among the most helpful Members to me when I first came to Congress in 1961.

He helped me immensely with many invaluable suggestions in those critical early months.

CHUCK TEAGUE was a man of very great character.

He had much sadness in his life, but you could never tell it by the way he conducted himself on the floor of the House.

I shall always remember him as an extremely courageous, kind, warm, and sympathetic man. He will be sorely missed.

Mr. BOLAND. Mr. Speaker, it is with a great deal of sorrow that I join my colleagues today in mourning the loss of Representative CHARLES M. TEAGUE. We are all saddened by his sudden passing.

In the years that CHUCK TEAGUE and I served together in the House I found him to be a dedicated and hard-working Member. His was perhaps one of the best attendance records both in committee and House proceedings that I have seen in Congress. Our philosophies of government were different. In fact, we often opposed each other over issues on the House floor.

Despite our differences on political issues, I had respect for CHUCK TEAGUE's opinion—particularly in the area of Veterans' Affairs, on which committee he served so energetically. He always contributed full and forthright comments with complete candor. I admire that in a man.

I found, however, that this trait was not CHUCK TEAGUE's greatest virtue. He was also a generous and good man. His humanity was his overriding characteristic. While we in the House will miss his articulate, probing comment on the problems that now face us, all those who knew him are now the poorer for the passing of a warm, totally committed man. The people of 13th Congressional District have lost a vigorous and outstanding Representative in these Halls since his passing.

Both Mrs. Boland and I wish to extend our deepest sympathies to his family on this sad occasion.

Mr. HOGAN. Mr. Speaker, the start of the second session of the 93d Congress does not seem the same without one of our most respected Republican colleagues, Charles Teague, who recently passed away.

Chuck Teague, was a man of quiet confidence and rare ability who represented California's 13th Congressional district with competence and dedication. He was perhaps best known for his work on behalf of the American farmer where he consistently gained high recognition from the National Farmer's Union.

He held the No. 2 Republican position on the House Veterans' Affairs Committee where he was active in increasing veterans benefits and was largely responsible for improved veterans' housing rights.

Congressman Teague was first elected to the 84th Congress and was elected to each succeeding Congress by an overwhelming majority.

I deeply regret the passing of our esteemed colleague, Charles Teague, but I know that the people of his district can be proud of the service he has rendered not only to them but to the people of our entire Nation as well.

Mr. HARSHA. Mr. Speaker, I take this opportunity to join my fellow Members of Congress in expressing my profound sense of loss at the passing of Charles M. Teague, late a Representative to Congress from the 13th District of California.

Congressman Teague, ranking member of the House Committee on Agriculture, expressed his prime interest of what was best for this country through his dedication and integrity in his work. He was a man widely respected for his honesty and capabilities to legislate.

Charles Teague leaves a record of conscientious pursuit of those principles of good government he believed in so strongly. His valuable contribution to the field of agriculture is especially felt in the district I represent, where farming is a major contributor to the economy.

Mr. Speaker, I feel it was a privilege to have the opportunity to serve with him in Congress these past 13 years. I want to extend my deepest sympathy to his family, and to the citizens of the 13th district. He was a good friend to us all, and his passing is a sad event.

Mr. BROWN of California. Mr. Speaker, I wish to join my colleagues in paying a justly deserved tribute to our late friend and associate, Congressman Charles M. Teague. The people of the 13th District of California will be hard put to find a Representative as hardworking and as diligent in representing their interests.

I first knew of Charles Teague as a result of his family's tradition of public service. His father was the President of the California Chamber of Commerce and a member of the Federal Farm Board under President Hoover. His son, Alan, is the mayor of Santa Paula, Calif., and his daughter, Norma, married a Los Angeles city councilman.

Congressman Teague was not one to seek attention or publicity. His activity as a Member of this body was characterized by working quietly but effectively with other Members of the House on the floor and in committee. An illustration of the effectiveness of this approach was his success in getting the Casistas Dam project authorized, appropriated, and built all within 2 years.

Over the years, I knew Charlie as a formidable paddle ball opponent, as a fellow member of the Agriculture Committee—on which he served 19 years—and as a fellow member of the Veterans' Affairs Committee, where we served together for 8 years. His dedication to the welfare of the men who served in our country's armed services was well known to all. Among his successes in the field of agricultural policy was passage of the Small Watershed Act in the 83d Congress. In subcommittee he took responsibility for conscientiously reviewing the details of hundreds of small and not especially glamorous watershed projects.

Special note should be taken of his efforts on behalf of the environment. Among these were his fight against oil pollution in the Santa Barbara Channel in 1970 and his success in persuading the House to kill the 1969 timber supply bill which threatened to permit excessive cutting in our national forests.

I sincerely regret his passing. He will be sorely missed.

Mr. ROSENTHAL. Mr. Speaker, I want to join with my colleagues today in paying tribute to a good friend and colleague, Hon. Charles M. Teague of California, who for 19 years served his congressional district and the country as an outstanding Member of Congress.

The start of the New Year was saddened by the news that Chuck Teague had passed away in California on January 1. He had worked hard and long during the preceding session, and with the recess had returned home to California for the holidays.

His death was quite unexpected, and he will be sorely missed by all of us who so admired him.

I well remember him from my days as a freshman Congressman from New York. I had been elected in a special election in February 1962, after the start of the 2d session of the 87th Congress, and was assigned to the Committee on Veterans' Affairs. Chuck was also a member of that committee, and although we were of different political persuasions, he was most helpful to me in my adjustment to congressional committee routines.

At the end of that Congress and with the onset of the 88th Congress, I was assigned to the House Agriculture Committee. Happily for me, Chuck was also a member of that committee, and again gave unstintingly of his advice and counsel. To this day, I am indebted to him for his kindness and thoughtfulness.

My deepest sympathies go out to his children and grandchildren. I hope they can find solace in the fact that he will be affectionately remembered by all his colleagues, and very much missed.

Mr. SYMMS. Mr. Speaker, all of us were saddened by the death of a dear and highly respected colleague of ours, Representative Charles M. Teague, of California who died on January 1 of this year.

Charles Teague had represented his district, his people, and our entire Nation both ably and well, since 1955. He was graduated from Stanford University in 1931 and from the Stanford University Law School in 1934. He practiced law for 20 years, specializing in business law before winning election to the House of Representatives.

Mr. Speaker, I have had the honor of serving alongside Charles Teague on the House Agriculture Committee from the time I arrived in the House. I had ample opportunity to observe, and to appreciate, his grasp of a complex subject. He was a forceful and articulate champion in favor of relying on the tried and tested mechanisms of a free market—and he never ceased to believe that the American farmer, when given full freedom to engage in agriculture, could fully meet the challenges of production for a growing and hungry nation and world.

Now, Mr. Speaker, my good friend and colleague, Charles M. Teague, is gone. His record of a lifetime of service continues—and that record stands as an impressive and lasting tribute that will serve as a beacon for those of us new to the Congress who seek guidance in a troubled time. He earned the respect of all of us, and I know that I am joined by my colleagues in extending heartfelt sympathy to his family at this time of tragic loss.

Mr. CARTER. Mr. Speaker, I join my colleagues in paying tribute to the long and distinguished service of our late colleague Charles M. Teague.

Each of us who had the good fortune to work closely with him knows that he was a man of honor and a man who always worked for a strong Nation. The citizens of the 13th District of California have lost a valued and highly respected voice in the House of Representatives, and our Nation has lost a very able leader.

Charles Teague was a close personal friend of mine, and I extend my heartfelt sympathy to his fine family. He will be deeply missed by the Members of this House.

Mr. RODINO. Mr. Speaker, Charles Teague was more than my colleague. He was, to me, a good friend. His warmth, his gentleness, his sense of humor, his ability to recall and to remember so many of the special memories and experiences we all cherish, shall be dearly missed in this Chamber.

The men and women of his district whom he served so ably and well, I am sure, well know of his commitment and his assistance over these many years. From individual questions, to advice on organizational proposals, to meetings on city and community needs, Charles Teague was always responsive to the best interests of his constituents. And, the impact of his contributions on the citizens of this entire Nation, shall long endure.

There are no words, no matter how eloquent, which could possibly provide Mr. Teague's friends and family with the comfort and inner peace they seek at this time.

Mr. O'NEILL. Mr. Speaker, I would be remiss if I did not take this opportunity to pay a special tribute to a fine and distinguished Member of this Chamber, the late Charles Teague.

I will always remember our colleague,

Chuck Teague, as a warm, jovial, friendly individual who represented the 13th District of California for nearly 20 years.

Quickly achieving a reputation as a man who could get things done, Chuck Teague built a career on service to his constituents, all his constituents. When someone in his district needed aid or advice, Chuck never asked if the person was a Republican or if he voted for Charles Teague in the last election. Congressman Teague was the greatest vote-getter in the history of Ventura County because he served his constituency with great dedication and purpose.

Although Chuck did not seek the national spotlight while in office, he was the ranking Republican on the Agriculture Committee and an important member of the Veterans' Affairs Committee. Chuck Teague was a man of high principles and personal conviction. When the opportunity came for him to move into the new and lavish Rayburn Building he stayed in the older Longworth to show his opposition to what he considered ostentatious spending. He opposed congressional pay raises and was sharply critical of lengthy congressional vacations.

Perhaps one of the most difficult legislative positions for him to take was an anti-oil stand when the Santa Barbara oil spill occurred in 1969. His district was very much divided over the issue: The most vocal leaders in Santa Barbara were adamantly against more oil development, while many in Ventura pressed hard for the development. On November 17, 1969, Teague testified before a congressional hearing in Santa Barbara against reopening the channel to drilling.

Those of us who have had the good fortune to serve with Charles Teague for the past 20 years will sadly miss his fine sense of humor, his amiability, his resourcefulness, and his good memory for details about individuals.

Mrs. O'Neill joins me in extending our deepest condolences to Charles Teague's family at this time.

Mr. McDADE. Mr. Speaker, "knowledge of the human nature is the beginning and end of political education."

This must be true, because Charles Teague had developed a unique wisdom during his political education. And it was a wisdom that understood human nature, simply understood people. Chuck Teague treated everyone the same, with politeness and a deference for their privacy, and always with his good humor as his tool.

In dealing with his colleagues, he used his homespun political education and practiced a method of dealing with his adversaries that is increasingly rare. He understood that a stance taken a step or two to one side of a clamoring confrontation was likely to lead to a better understanding than would a belly-bumping squabble. And in taking that stance, he was not caught up in having to prove he knew all the answers. He could poke fun at his adversary's argument, and at his own, and never lose sight of the purpose of his method. He simply tried to help himself and the rest of us figure things out.

Chuck Teague was quite a gentleman—an "old school gentleman" was probably the best description—and his assets will be missed. But, importantly, they can be emulated, and that is one of the highest tributes we can pay. We would do well to learn and practice the value of good humor as we approach difficult problems. Humor, along with the politeness and decency he practiced, are really the lubricants of civil relationships. Any man would do well to leave that message as his impact.

Chuck Teague was a popular Congressman, both here and in his district, but not in a rah-rah way, not in the "new politics" way, but respectfully regarded. And he knew it. But unlike so many of us, his colleagues, he never flaunted his confidence or self-regard. Chuck was ready or reelection, and in today's atmosphere, his decent attributes were a good example for Republicans to point at and share. Chuck Teague's contribution to the House was significant. Because Chuck Teague understood people, he will be missed, but not forgotten.

Mr. COTTER. Mr. Speaker, I would like to take this opportunity to join with my colleagues in honoring the late Charles M. Teague, who passed away from us so quickly.

Chuck Teague was a man of dedication and integrity. He had the courage of his convictions and was a leader. His work in the areas of Veterans' Affairs and Agriculture will be long remembered, and his loyalty to his job as a public servant will be sorely missed by all the residents of the 13th Congressional District in California.

Although we will all miss Chuck Teague, I was grateful to have had the privilege of serving with him in the House of Representatives.

My heartfelt sympathies go out to his family at this sad time.

Mr. CAMP. Mr. Speaker, it was with great sorrow and a deep sense of loss that I learned of the death of my friend and colleague, Representative Charles M. Teague, during the recent Christmas recess. I had a close relationship with Chuck Teague since his office was a few doors down the hall from mine, and I feel this loss very personally.

As a Representative from an agricultural area, I also had many occasions over the years to observe Chuck's effective work on the House Agriculture Committee. At the start of the 93d Congress, Chuck became senior minority member on the Agriculture Committee and, during his short year as ranking Republican, he was instrumental in formulating the landmark farm bill of 1972.

More than just an able and responsible legislator, however, Chuck Teague was a real gentleman, a kind and sensitive man. He will be missed by his family and friends, of course. But the House of Representatives and the Nation as a whole must also mourn the loss of Charles M. Teague, a statesman who served his district, his State, and his country faithfully and well.

Mr. DICKINSON. Mr. Speaker, I would like to take this time to pay final tribute to a friend and colleague, the Honorable Charles M. Teague, who has so well represented the people of the 13th District of California.

I am glad to have had the opportunity to know and work with Chuck Teague. He was a Member's Member. He performed his duties as a Congressman in a quiet, unassuming way. He did not shout or act for the TV cameras or grab for headlines. He was dedicated to his job and proved himself with deeds, not words.

At the time of his death, Chuck Teague was ranking Republican on the House Agriculture Committee and senior Republican on the House Veterans' Affairs Committee. His was not a partisan service, however. He was respected by Members on both sides of the aisle because he always treated everyone with the same fair and gentle manner. I cannot remember when he ever had an unkind word for anyone.

Although he did not win all the battles, Chuck Teague was an extremely effective legislator, especially in the field of agriculture and veterans' affairs. He was a genuine friend of the farmer, especially the small farmer, and of the veterans of our country. He was also a great sportsman and friend of the environment.

I really came to know Chuck Teague when we were investigating the conduct of Adam Clayton Powell. I saw then that Chuck Teague only wanted to "do what was right."

Working with Chuck Teague, I also came to know his gentle and sometimes quiet sense of humor, which was a delight to all his friends and colleagues.

With the passing of Chuck Teague, this country and the Congress lost a great leader. His constituents lost an effective voice in Washington. His wife Marjorie lost a devoted husband. His three children lost a father. I lost a friend.

I regret much his tragic passing and extend my sympathies to all those who knew him.

Mr. STEIGER of Wisconsin. Mr. Speaker, the death of Chuck Teague came as a terrible shock. During his service here in the Congress, I came to have a deep respect and admiration for Chuck Teague's integrity and ability, and I am deeply saddened by his untimely passing.

His leadership as the ranking minority member of the Committee on Agriculture, his guidance in the House on veterans' affairs, and his continuing battle regarding the Santa Barbara Channel on behalf of his constituents—all shall remain as a tribute to his years of service to his country and district.

Mrs. Steiger joins me in expressing our condolences to his family.

Mr. QUILLEN. Mr. Speaker, I join my colleagues in paying tribute to the life and memory of Charles M. Teague, the late Congressman from the State of California. The Members of the House have lost a great colleague, the constituents in his district have lost a great representative, farmers and veterans across the Nation have lost a great supporter, the country has lost a great American, and I have lost a good friend.

Charles Teague served in the House for 19 years. As the ranking Republican on the House Agriculture Committee and a senior Republican member of the Veterans' Affairs Committee, he will long be remembered for his many contributions to agriculture and veterans legislation.

He was an honest and honorable man who was highly respected and admired by his many friends. He was a man of firm convictions and of deep devotion for the welfare of our Nation, which always came first with him. His quiet and friendly manner leaves a void which will be impossible to fill.

Charles Teague acquired a well-deserved reputation as a capable and responsible legislator. He was dedicated to his job and diligent in the performance of his duties. His wisdom and leadership will be sorely missed in this Chamber.

I extend my deepest sympathy to his family.

Mr. ROONEY of Pennsylvania. Mr. Speaker, it is with a special sadness that I add a few comments as we pause today to remember our departed colleague and my dear friend, Charles M. Teague.

I met him when I served with him on the Veterans' Affairs Committee when I first came to Congress and I was able to observe in his work there the quiet dedication to a job well done that was his trademark.

We can all admire the lasting legislative contributions he made in his 20 years in Congress, especially in the field of agriculture in which he worked effectively to maintain a free rather than a subsidized system. He managed to keep abreast of all the innovations in agriculture in recent years and I know his expertise will be sorely missed by the American farmer.

Chuck Teague's concern for his country was demonstrated by his support for legislation to protect the environment from human destruction and especially by his belief that the American people have the strength and creativity to successfully meet any challenge in the future.

We were all saddened by his passing and want his family to know that his dedication to the service of his country was greatly admired by those of us who were privileged to work with him.

Mr. DULSKI. Mr. Speaker, it was with sorrow that we began this session of Congress without our colleague, Charles Teague. In the two decades he served, he was a familiar and highly respected Member of this body.

I had the pleasure of serving with him on the Veterans' Affairs Committee, and on the Hospitals Subcommittee. His work was marked by a genuine interest in veterans' matters and sincere concern for their welfare. He was courteous and capable, always willing to listen to other viewpoints and to consider alternative approaches to finding solutions to problems.

Charles Teague was a good man and an effective legislator. He served his constituents and his Nation well, and he will be greatly missed. Our deepest sympathy goes to his family.

Mr. ROBISON of New York. Mr. Speaker, it is always a difficult thing to lose a colleague, but each of us is especially moved—and saddened—when that loss involves one who has been a particular friend.

"Chuck" Teague, of California, was such a friend, to me. Though he and I were not "social" friends—in the accepted sense of that word—we were, I think in retrospect, much alike in personality and philosophy, out of which stemmed the ease with which we related, one to the other. Though I was from the far "East" and he from the "West," I tend to think our congressional districts and, hence, our concerns, were somewhat alike—even though our committee assignments took us in opposite directions.

Regardless of all that, Mr. Speaker, Charles M. Teague was a working Member of this body, as we all know; one who gave his full measure of devotion, and then a bit more, to his responsibilities, both to his constituency and then to his country. He served both well—and faithfully—and his death represents a significant loss to us, all. On top of all his other, admirable qualities, he also had the saving grace, as it has been put, of a sense of humor without which—these days, at least—all of us would be lost; and for that, too, he will be remembered.

Mr. Speaker, I was saddened at the death of this good and honorable man, and Mrs. Robison joins me in extending our sympathy and regrets to his daughters and grandchildren.

Mr. MATHIS of Georgia. Mr. Speaker, it is with a great deal of sadness that I face this occasion, that of bidding farewell to a trusted friend and colleague. Charles Teague was a friend whose accomplishments and life history have been eloquently outlined by other distinguished Members of the House who also hold him in esteemed friendship.

Allow me then to speak very briefly of Charles Teague, the man. I always found him to be an outstanding advocate of the ideals and positions in which he believed, and he believed very deeply in this Nation and her people. I found him to be, at all times, Mr. Speaker, a true gentleman. Whenever you agreed or disagreed with Charlie Teague, you always knew that his actions and his tactics would be of the highest order. This is truly the mark of a man—and Charles Teague was that kind of man.

Mrs. Mathis joins me in extending sympathy to the family.

Mr. BROTZMAN. Mr. Speaker, I rise to join my distinguished colleagues in this tribute to Charlie Teague. He was an outstanding legislator, and more than that, he was a fine individual.

For 19 years he represented his southern California constituency with distinction. During that tenure, he came to be respected by his fellow Congressmen on both sides of the aisle.

Charlie's most widely publicized accomplishments pertained to his service on the Agriculture Committee, where he was the ranking Republican. In that capacity he played a significant role in shaping the Nation's farm policies. In addition to his yeoman-like work in finding solutions to the problems of rural America and rural Americans, Congressman Teague played an important role on the Veterans' Affairs Committee. He was particularly committed to giving our returning Vietnam era veterans a fair chance to succeed in the land they had served.

Mrs. Brotzman joins me in expressing our sympathy to Charlie's family for their loss which is a loss to us all.

Mr. VEYSEY. Mr. Speaker and colleagues, the unexpected and untimely passing of Representative Charles Teague was not only a great personal loss to me, but it was an especially severe loss to the country and most particularly, to the farmers of this country.

As ranking Republican on the House Agriculture Committee, Chuck Teague was one of the most effective and most conscientious spokesmen the agricultural community, and especially the family farmer, has ever had.

And still, while he spoke for all farmers and labored tirelessly for the institution of agriculture, his dedication to his district and to his constituents in Santa Barbara and Ventura Counties was always his first concern.

During his 19 years in this House, Chuck Teague established himself as one of this body's most respected and hardest working Members. Those of us who were fortunate enough to serve with and work closely with Chuck Teague know well that his commitment to his job as a Congressman and to the principles of our democracy was a total commitment. He was an inspiration to me as I know he was to all who came to know him.

He was never too busy to take time for someone else's problems and to take a personal interest in resolving them. He envisioned his job as one of helping people.

Chuck Teague was truly the kind of man our forefathers had in mind when they framed the Constitution and created our representative form of Government. His death was a great loss to all of us.

Mr. SHRIVER. Mr. Speaker, it is with deep personal sadness that I join the California delegation in the House of Representatives and many other friends of Chuck Teague in expressing our admiration and respect for his great service to his constituency and the country. His very untimely passing leaves a void in this House at a period in which we need more such conscientious and accessible Members.

Chuck was a popular Member of Congress. Each of us was aware of his dedicated service on the House Agriculture Committee, where he fought to free our farmers and agribusiness community from the unproductive Federal controls and subsidies. He deeply believed that a free market system for agriculture would in the end provide its own natural controls, a view which I share.

He also served with distinction as the second ranking Republican on the Committee on Veterans' Affairs, where his concern for others was clearly evident in the drafting of veterans legislation.

But most of all, we will remember Chuck Teague in a personal way—his quiet sense of humor, his decency, his friendliness. The low-calorie "Teague Special" served at the Capitol Hill Club has been instrumental and will continue to be helpful to many Members and staff in combatting the "battle of the bulge."

We will miss him. Mrs. Shriver joins me in offering our heartfelt condolences to his family and his constituents, who were served so well by him for many years.

Mr. HALEY. Mr. Speaker, when word came to me at my home in Florida that our distinguished California colleague, CHARLES M. TEAGUE, had passed away, I was shocked and deeply grieved. Although we came from the opposite corners of our Nation and from different political faiths, we were close friends who worked together in harmony to solve problems which were mutual to us and our constituencies. We both represented citrus producing districts. Sometimes we shared common problems. On other occasions we assisted each other in seeking a solution to a problem which was unique to the industry in one of our respective States.

CHUCK and I chose to accept dual committee assignments. In addition to his fine service on the Committee on Agriculture, he accepted assignment on the Committee on Veterans' Affairs, so that the veterans of his great State would be represented there. I had also accepted assignment to this important committee because of the large veteran population of Florida. We worked together for 19 years to resolve the problems of our veterans, their dependents, and their survivors. The veterans of our Nation had dedicated service from the gentleman from California. They, too, have lost a great friend.

CHARLES TEAGUE was one of the finest men I have been privileged to know. I shall miss him very much. He was a very effective legislator. The House of Representatives has lost one of its ablest Members. The State of California has lost a noble son and a distinguished public servant. Mrs. Haley joins me in extending to his family our deepest sympathy.

Mr. DOMINICK V. DANIELS. Mr. Speaker, I rise to express my own sorrow at the passing of our good friend, the late Congressman CHARLES TEAGUE, of California. CHUCK TEAGUE was one of the quiet Members of this House whose memory will remain green with those who appreciated his quiet, good sense and his spirit of constructive criticism. I know how he loved the southern California countryside where he was born and maintained his residence until his untimely passing, and how much he would have enjoyed going back to the lemon groves of the Golden State. Almighty God had other plans for his servant and he has called him home to the finer land beyond.

Mr. Speaker, I extend my deepest sympathy to CHUCK's three children, Norma, Alan, and Judith. When the shock and sorrow wears off they will be sustained by the fact that their father left them and their children a great heritage.

Mr. DON H. CLAUSEN. Mr. Speaker, I want to join with the gentleman from California (Mr. GUBSER) and others in expressing the heart-felt loss every one of us feels at the recent death of CHUCK TEAGUE.

As a man and as a legislator, CHUCK TEAGUE was among the very best. His accomplishments in the House will stand as standards by which the rest of us will be judged.

CHUCK has had a profound impact on this body. Others have pointed specifically to his impact on agricultural legislation, but in truth his influence went well beyond even so basic a subject and touched nearly every issue that came before the House during his tenure.

In many ways, Congressman TEAGUE was unparalleled in his contributions to the American people. He was an accomplished and compassionate man. Every Member of the House from California looked to CHUCK for leadership on the issues that affected our State.

On a personal note, it is difficult for me to express the grief I felt during the holiday season learning of CHUCK's unexpected passing which was a tragedy in the truest sense.

CHARLES TEAGUE was faithful to his responsibilities and diligent in pursuing his goals. I consider it a great privilege to have known him and I shall miss him.

Mr. ROONEY of New York. Mr. Speaker, the sudden passing on the first day of this new year of Congressman CHARLES M. TEAGUE of California came as a great shock and loss to all of us here in this House who knew him, respected him and counted him among our friends. His public service, experience, courage, his gentle wit and character will be greatly missed by his district, his State and his country.

It was my great honor and pleasure, Mr. Speaker, to have served in this Chamber with CHUCK TEAGUE for almost two decades. During that time I found him to be a man completely dedicated to working diligently for legislation he considered proper while keeping as his prime interest what was best for his country.

His dedication to the improvement of American agriculture was near legend here in the House. He worked long and diligently as the ranking Republican on the House Agriculture Committee for the improvement of the living standard of the American farmer.

CHARLIE's service to this Nation was on many levels, Mr. Speaker. During the Second World War he served as a major in the Army Air Corps. After the war he resumed practice of the law in his hometown of Santa Paula and became involved in community affairs, serving as president of the Ventura Rotary Club, the Ventura County Community Chest and the Ojai Valley School Board of Trustees. He was also president of the Ventura County Republican Assembly when he was elected to the Congress in 1954. He was reelected to the nine succeeding Congresses and had planned to run for reelection again this year.

Mr. Speaker, I am sure that the memory of CHARLIE TEAGUE will be cherished by all those who knew him and that my sense of personal loss is shared by many both in this Chamber and out.

To his son and daughters and his grandchildren I extend the Rooneys' deepest sympathy and prayers in their great loss.

Mr. DERWINSKI. Mr. Speaker, I was saddened and shocked to learn of the death of my good friend, and colleague, CHUCK TEAGUE.

During his 20 years in Congress, CHUCK was a hardworking and dedicated Member, especially interested in agriculture matters which made him a strong spokesman for the American farmer. As the senior Republican Member on the House Agriculture Committee, CHUCK was instrumental in introducing legislation that not only benefited the farmer but also the consumer. He was also a strong supporter in efforts to improve the rights of veterans.

He was wholeheartedly responsive to the needs of our Nation and of his district. He had all the qualities and talents that are essential to the makeup of an effective legislator, and he handled the demanding responsibilities of his congressional assignments with intelligence and insight. He has the unique talent of being able to put his finger on the core of a problem and marshaling the forces essential to getting the job done when the going was tough.

Mr. Speaker, we have lost the services of a respected and dedicated colleague, one who had acquired many, many friends through his long years in Congress. We will remember CHUCK as an extremely warm and understanding friend. The country has lost a man of great stature, we have lost a good friend and a good human being.

Mr. RARICK. Mr. Speaker, the recent passing of our distinguished friend and colleague CHUCK TEAGUE of California came as a great shock to all of us.

It was my distinct pleasure and privilege to serve with Congressman TEAGUE during the last 7 years. As ranking minority member of the Committee on Agriculture, CHUCK TEAGUE served this Congress, his people, and the entire American farming community well.

He was an able and effective legislator and a good man. He will be missed by all of us, particularly those of us who had the privilege of working closely with him in committee.

Mrs. Rarick joins with me and the people of the Sixth District of Louisiana in extending our sympathy to his many friends and family.

Mr. COLLIER. Mr. Speaker, like so many of my colleagues, I was saddened recently to learn of the sudden death of our recently departed colleague from California.

CHARLES M. TEAGUE had already been a Member of this great body for 2 years when I began my service 17 years ago. In a short time I became well acquainted with him as did most Members, because he was friendly by nature. As our friendship continued, I learned to respect him, for he was a man who possessed many great qualities. In the years that followed, I developed a great admiration for him, because he used his excellent training and broad experience for the betterment of his fellow men and the advancement of his community, State, and Nation.

We are all the poorer for his passing, but let us derive consolation from the fact that we were privileged to know him and to work closely with him while we were colleagues in the House. Let us also be comforted by the knowledge that his congressional career will be an example worthy of imitation by those who will come after him.

Mr. LANDGREBE. Mr. Speaker, I join with my colleagues in honoring our former colleague, Charles M. Teague. For 20 years, Congressman Teague served his country and his colleagues in Washington. He was a man who served his constituents in the 13th District in California in the best manner he saw fit.

As the ranking minority member of the Agriculture Committee, and the Veterans' Affairs Committee, he committed himself to bettering the living standards of those he served.

Our sorrow is compounded because our country needs more outstanding men like Chuck Teague during these difficult times. I join with his friends in extending personal sympathies to the family of our late colleague, Charles Teague.

Mr. VIGORITO. Mr. Speaker, I consider myself fortunate to have been a member of the House Agriculture Committee for the past 9 years with Congressman Charles M. Teague.

During those years, Congressman Teague helped put together many significant pieces of legislation in the area of agriculture and rural life in general as a Republican member of the committee and in recent years as the ranking minority member.

I will most remember Congressman Teague as a fair and knowledgeable man who respected the opinions and views of his colleagues.

He and I shared a common belief in sparing our environment from further abuses and in stopping the indiscriminate waste of our natural resources.

His 19 years in the House of Representatives were spent in working hard for his constituents back home in California and also in promoting a better way of life throughout our country especially for the farmer and rural worker.

I will miss Congressman Teague as I sit in future Agriculture Committee meetings and I am sure other Members of the House feel the same way.

Mr. EDWARDS of California. Mr. Speaker, I am particularly saddened by the passing of Congressman Charles M. Teague for I have lost not only a respected and admired colleague, but also a longtime personal friend.

I had known Chuck since the mid-1930's. He was a classmate of my late brother, Thomas E. Edwards, at Stanford University and we shared many interests. During our student days, we spent many an hour in friendly competition on the university golf course and played together in the California State golf championship.

Our youthful association was renewed when we became colleagues in this House, once again sharing friendly, competitive recreational interests. Our friendship was also continued as we worked together as members of the Veterans' Affairs Committee. Chuck, second ranking minority member of the committee, was deeply concerned about and interested in veterans' problems. He devoted a great deal of time to the careful study and analysis of all veterans' legislation, making sure that these bills served the needs and problems of ex-GI's.

Although I am much less familiar with the details, I know that Chuck's service as a member of the Agriculture Committee was characterized by the same dedication and hard work. He is widely known and respected for his efforts to protect and represent the interests not only of California but of all American farmers, while promoting a free enterprise, competitive farm system that did not need to rely on artificial Government support.

His legislative expertise and knowledge will be greatly missed by veterans, farmers, and his colleagues, and I will miss a most genial and personable friend. I extend my deepest sympathy to his children.

Mr. CRANE. Mr. Speaker, the death of our colleague, Representative Charles Teague of California, leaves the Members of this House with a great sense of loss and the Nation no longer able to call upon the dedicated service he provided for so many years.

Representative Teague was best known for his efforts on behalf of the American farmer, and his legislative rating from the National Farmers' Union grew to a high mark over the years. He also held the No. 3 Republican position on the Veteran's Affairs Committee which, in the 93d Congress, first session, lost its No. 2 Republican, Representative John B. Saylor of Pennsylvania.

Representative Teague was a man of the highest integrity, a fact which enabled him to weather the years of political change in California. Originally, he was elected from a traditionally Democratic area of Ventura County, which had large numbers of Mexican-Americans. In the 1960's, a population shift gave him a comfortable margin of victory and over the years he had little trouble winning reelection. His most serious opposition came in 1970 when a young man who was active in the Presidential campaign of Eugene McCarthy challenged him. This campaign challenge only served to reduce Mr. Teague's winning percentage from 66 to 59 percent and he still won by 40,000 votes. In 1972, Mr. Teague captured 73 percent of the vote.

Respected by his colleagues for his conservative convictions and his personal sense of honor and duty, the House leadership chose Representative Teague to be a member of the special House Judiciary Subcommittee that investigated the actions of Representative Adam Clayton Powell in 1966. His work on that case led Representative Teague to call for a permanent House Ethics Committee, which was later established.

It is a sign of the vitality of our democratic system that men such as Charles Teague offer themselves for public office and are selected by the voters to serve in that capacity. In an age when Americans are becoming increasingly suspect of the ethics and moral standards of their Representatives, and of other public officials, the life and career of Charles Teague provides testimony to the fact that honorable men still seek public office and are able to succeed in their tasks.

Mrs. Crane joins me in extending our deepest sympathy to members of the family in their loss. It was an honor to serve in this body with Charles Teague, and I know that we will all miss him and feel the loss of his counsel and friendship.

Mr. SEBELIUS. Mr. Speaker, it is with deep regret that I join the Members of the House of Representatives in mourning the passing of my friend and colleague, Mr. Charles Teague of California.

Chuck Teague was known in the House of Representatives as a stalwart, hardworking, soft-spoken man who served his Nation and his State. During his 20 years in Congress, Chuck Teague earned important positions on both the Agriculture and the Veterans' Affairs Committees. He served them ably. It was a great privilege to have had the opportunity to serve with him on the Agriculture Committee and work under his guidance as ranking minority member. As a dedicated worker for the American farmer and the free enterprise system, Chuck Teague's influence and ideas will be an inspiration to all of us. His death leaves a void in the House of Representatives, but his record of accomplishment will serve as his memorial. His life truly exemplified public service.

I join with his other friends and Members of the House of Representatives in extending my deepest sympathy to his family.

Mr. McFALL. Mr. Speaker, I rise today to pay tribute to my good friend and colleague, Charles Teague, who has taken from us on January 1, 1974.

As we all know, "Chuck" Teague gave his constituents 19 years of distinguished and dedicated service. A gentleman—and a gentle man—Chuck had the courage of his convictions. His distinguished service on the House Agriculture Committee was productive for all our citizens and we in California, who are so heavily dependent on our agricultural base, are particularly indebted to Chuck for his leadership in this area.

Our Nation's veterans also owe him a debt of gratitude. For nearly two decades he worked untiringly for increased benefits for these men and women who gave so much to their Nation. He fought particularly hard for increased housing benefits under the GI bill.

And Chuck helped to see to it that he left our earth with a more wholesome environment. He helped us improve Interior Department regulations on off shore drilling so that our California beaches would retain their exquisite beauty.

But the human side to Chuck perhaps outweighs all other considerations and underscores his success in the House of Representatives. A member of my staff recently related an anecdote to me about Chuck's patience and good naturedness. Chuck had come over to the Rayburn Building for some occasion or another. As he alighted from the elevator, he was confronted by two different groups trying to find two different locations. Willing to help, and with his pipe clinched between his teeth, he went to the maps we find necessary in the Rayburn and found the proper place they were supposed to be and directed them to it.

CHUCK was also my friend and partner on the paddle-ball court where he was a regular participant. In this nonpolitical, nonpartisan setting where we had the opportunity to know each other as friends and not competing politicians, his character and personality were always a delight and an inspiration to all of us. We will miss him.

Without doubt, his children and grandchildren—and his constituents—will also miss this unselfish and attentive human being. I extend my deepest sympathy to his son and daughters and his eight grandchildren.

Mr. ABDNOR. Mr. Speaker, even those of us who were denied the privilege of serving with him in the Congress over a period of years, greatly feel the loss and mourn the death of our colleague, CHARLES M. TEAGUE. His sudden passing leaves a void which will be very difficult to fill.

It was my privilege to serve with him and benefit from his counsel on the Veterans' Affairs Committee during the past year. Prior to that, I had gained a great respect for his wisdom and leadership when, as a farmer, I had the opportunity to note his tireless work in behalf of the American farmer on the House Agriculture Committee where he was the ranking minority member.

A quiet, dedicated worker in behalf of the free enterprise system and the high principles he espoused, his diligence and integrity will long be an inspiration and a high example to those with whom he labored as well as to those with whom he came in contact, however briefly.

Mrs. GRASSO. Mr. Speaker, the untimely death of the Honorable CHARLES M. TEAGUE has taken from this body a warm, witty, and respected public servant.

I had the privilege of serving with CHUCK on the Veterans' Affairs Committee, on which he was a senior Republican member. For the 3 years we served together, I came to know and appreciate his devotion to the well-being of the American veteran. "TEAGUE of California" was undoubtedly one of the best informed Members in the field of veterans affairs. As a veteran of World War II, he had firsthand knowledge of the hardships and personal sacrifices which our veterans have faced, and diligently worked for the best possible benefits for the veterans of all wars. CHUCK made sure that partisan political considerations had no role in determining the welfare of our veterans. Over the years, he became recognized as a leader in the fields of GI education and training, housing rights for veterans, and benefits for veterans with service-connected disabilities. His steadfast work on behalf of those who had given of themselves in the defense of our country and its principles earned him the respect and admiration of America's veterans.

The fact that the citizens of California's 13th Congressional District sent him to Washington 10 times, to serve for a total of 19 years, attests to his continued dedication to his constituents.

I wish to convey my deep sympathy to the family of CHARLES TEAGUE and to his constituents. We will all miss this fine individual and dedicated Congressman.

Mr. HANNA. Mr. Speaker, I join with my colleagues here in the House of Representatives in expressing my deep sorrow at the death of our friend, CHARLES M. TEAGUE.

I first met CHUCK TEAGUE when I arrived in Washington 11 years ago. I found him to be an able and dedicated representative of the people of Ventura County, Calif. CHUCK and I worked together over many issues of importance to our home State of California. As a member of both the Agriculture and Veterans' committees, CHUCK demonstrated again and again his concern over the well-being of all Americans. His integrity and dedication were beyond question.

The loss of CHARLES TEAGUE leaves a void in this chamber which will not easily be filled. I will miss him not only as a respected colleague, but also as a personal friend.

Mrs. Hanna joins me in extending our sympathy to the Teague family.

Mrs. MINK. Mr. Speaker, I join my colleagues in expressing sincere tribute to the late CHARLES M. TEAGUE, my distinguished colleague from California.

It is with personal sadness that I make these remarks. "CHUCK" TEAGUE exemplified the virtues of honesty, integrity, and devotion to principle that are the distinctive hallmarks of true public service.

He was a credit to the U.S. Congress, and was much liked and respected by every Member of this body. As a member of the House Committees on Veterans' Affairs and Agriculture, he was an industrious and capable lawmaker. He contributed heavily to the deliberations and handiwork of the legislative branch. His contributions are found through numerous statutes enacted over his 10 terms of service.

"CHUCK" TEAGUE, as a personable and welcome friend, will long be remembered by those of us who were privileged to know him. I express my deep sympathy to his family, and know that Congressman TEAGUE leaves a great store of trust and affection among his colleagues.

Mr. ARENDS. Mr. Speaker, for almost 20 years it was my privilege to serve in the Congress with one of the most conscientious and dedicated legislators I have ever known—our late colleague from California, CHARLES M. TEAGUE.

In addition to a warm friendship, CHUCK and I shared many mutual interests. We were both deeply concerned about the welfare of American agriculture. In his assignment as ranking minority member on the House Committee on Agriculture, I sought his wise counsel frequently on matters relating to our farm population and farm programs which would assure Americans a plentiful supply of food and fiber at reasonable costs

We also shared a mutual interest in veterans legislation. CHUCK was likewise a member of the Veterans' Affairs Committee and really took the welfare of our Nation's veterans and their dependents to heart.

The people of California's 13th District—indeed, the people of the country—were well served by CHARLES M. TEAGUE in Washington. His only interest was the public interest. He was candid and forthright in all that he did, and he set high standards not only for himself but for his country as well.

We shall miss CHUCK TEAGUE in these halls, but we can look back with pride at his outstanding legislative record and fine accomplishments of the past two decades.

He was a public servant in the truest sense of the word.

Mr. CHAPPELL. Mr. Speaker, I had the pleasure of knowing Congressman CHARLES TEAGUE during the time I have been in the Congress. He was one of the most fair-minded men I have ever known.

CHARLIE TEAGUE will especially live on in our hearts as a man genuinely interested in doing what he considered best for the country. Mr. Speaker, we will miss him here in the Congress, but his contribution to our country will last on and on.

Mr. THONE. Mr. Speaker, as the ranking Republican on the Committee on Agriculture, Representative CHARLES M. TEAGUE was my mentor, teacher, and counselor. He was very interested in helping junior members. He was considerate and courteous to me.

Few individuals are as knowledgeable concerning agriculture as was CHARLES TEAGUE. His intellect and his studiousness helped make the Committee on Agriculture stronger and improved the quality of legislation it produced.

Above all, CHARLES TEAGUE was dedicated to the system of free enterprise. He was a strong force in shaping recent farm policy and legislation which has caused American farmers to prosper from free sales in the marketplace rather than being dependent for a dole from the Federal Government.

The loss of CHARLES TEAGUE is a blow especially to those who worked with him in Congress but it is also a deprivation for agriculture and for the Nation.

Mr. JONES of Tennessee. Mr. Speaker, I would like to take this opportunity to honor the memory of Representative CHARLES M. TEAGUE, of the 13th District of California.

CHARLIE was ranking minority member of the House Agriculture Committee, of which I am also a member, and served that body well. Although I did not always agree with him, I respected his judgments on different issues. Congressman TEAGUE was elected to Congress for the first time in 1954 and had represented the people of California's 13th District in that body for almost 20 years, and served them well.

I respected and admired CHARLES TEAGUE, as did everyone who knew him, and I join with my colleagues today in expressing sympathy to his children in this time of grief.

Mr. ULLMAN. Mr. Speaker, I would

like to join in paying tribute to our late friend, Congressman Teague of California. I was deeply saddened by his death last month, as I know we all were. Chuck Teague was a good friend of mine and a respected colleague. A warm, humble man, he was extremely dedicated to serving his district and our Nation. In those matters on which I had the pleasure of working with him he proved to be an able legislator and man of sound judgment. For almost 20 years he carried his responsibility as a public servant with dignity and distinction.

My wife, Audrey, and I would like to extend our condolences to Chuck's three children.

Mr. REES. Mr. Speaker, I was very saddened over the death of our good friend, Charles M. Teague.

I have known Chuck Teague and his family for many years. His ranch in Ojai brought back the romance of old California traditions. His life as a diligent lawyer and a faithful representative in government for 19 years has set an example well worth following.

He was always a considerate friend to me here in Congress, and I looked to him for advice, especially on the agricultural bills which so often seem incomprehensible to those of us from the cities.

My deepest sympathy to Congressman Teague's family.

Mr. GUBSER. Mr. Speaker, literally dozens of my colleagues have expressed their desire to participate in this tribute to Chuck Teague, but for a variety of reasons they were unable to be present. They have furnished me with their statements which will become a part of this record and, in accordance with the usual custom of the House of Representatives, will be printed in a memorial book to the late Charles M. Teague. That will probably be the last book published exclusively for Chuck Teague, but as the printing presses roll off that last copy it will not be the end of the things that he has left us, the principles that he has left us, and the heritage that has been left by Chuck Teague. This House is better because he lived; this Nation is better because he lived; and this world is better because Chuck Teague lived amongst us.

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## WATER-GENERATED ELECTRICITY FOR ANCHORAGE AND FAIRBANKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alaska (Mr. Young) is recognized for 10 minutes.

Mr. YOUNG of Alaska. Mr. Speaker, Alaska, for all its wealth of oil and other natural resources beneath the ground, is very dependent on a 2,000-mile lifeline for its oil and other energy supplies. Oil that is now being produced in the State's Cook Inlet and Kenai Peninsula fields must be shipped down to the west coast for refining. Finished products are then returned to the State.

As this Nation realizes more and more every day just how precious our oil reserves are, we must begin seriously to consider practical alternatives to petroleum as much as possible to heat our homes, power our industry, and help us in our daily lives.

One of the methods the administration has already selected for greater utilization is water, one of nature's greatest gifts to Alaska.

Today, I am introducing legislation that would authorize the use of that water to generate electricity for Alaska's two biggest population and industrial centers, Anchorage and Fairbanks.

My bill asks the Secretary of the Army and the Secretary of the Interior to begin work on a project in the headwaters of the Susitna River in south-central Alaska.

Located midway between Alaska's two largest cities, the selection of Devil's Canyon and the Denali Basin site make sense in both the economic and environmental senses.

Fortuitously, no salmon spawn in the upper Susitna, a tremendous environmental plus. And, if the two dams are used to supply a considerable portion of Alaska's electric power needs, this will mean that more of Alaska's oil reserves can be shipped south to the smaller States where the potential for hydroelectric power does not exist.

Construction of these paired dams will be important for Alaska and the Nation as well by making the United States that much more self-sufficient when it comes to meeting the growing demand for energy.

I include the bill to be printed in its entirety:

### H.R. 12382

A bill to authorize construction of the Devil Canyon and Denali Units of the Upper Susitna River Basin Project and related transmission facilities.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Devil Canyon Authorization Act."

Section 1. In order to provide essential power and a backbone transmission grid for the Southcentral and Interior Alaska, and to develop and utilize available renewable energy resources to assist in meeting long range national objectives for conservation of petroleum and natural gas supplies, and for other purposes, the Secretary of the Army, acting through the Chief of Engineers, is authorized to construct and the Secretary of the Interior is authorized to operate and maintain the Devil Canyon and Denali Units of the Upper Susitna River Basin Project, substantially in accordance with the plans presented in the March 1961 project report of the Commissioner of Reclamation. Project works shall consist of the Devil Canyon Dam, Reservoir, and Powerplant, the Denali Dam and Reservoir, and related facilities, and transmission facilities which are determined by the Secretary of the Interior to be necessary and feasible to distribute and market project power to the Anchorage and Fairbanks areas and other power market areas of Southcentral and Interior Alaska. Federal Investment in these facilities is estimated at $750 million on the basis of January 1973 price levels.

Sec. 2. Electric power and energy generated at the Upper Susitna River Basin project except that portion required for project operation, shall be disposed of by the Secretary of the Interior in such a manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles. Rate schedules shall be drawn having regard to the recovery of the costs of producing and transmitting the power and energy, including the amortization of the capital investment over a reasonable period of years, with interest at the average rate (which rate shall be certified by the Secretary of the Treasury) paid by the United States on its marketable long-term securities outstanding on the date of this Act and adjusted to the nearest one-eighth of 1 per centum. In the sale of such power and energy, preference shall be given to Federal agences, public bodies, and cooperatives. It shall be a condition of every contract made under this Act for the sale of power and energy that the purchaser, it it be a purchaser for resale, will deliver power and energy to Federal agencies or facilities thereof within its transmission area at a reasonable charge for the use of its transmission facilities. All receipts from the transmission and sale of electric power and energy generated at said division shall be covered into the Treasury of the United States to the credit of miscellaneous receipts.

Sec. 3. The appropriate Secretary is authorized to perform any and all acts and enter into such agreements as may be appropriate for the purpose of carrying the provisions of this Act into full force and effect, including the acquisition of rights and property, and the Secretary of the Army, when an appropriation shall have been made for the commencement of construction or the Secretary of the Interior in the case of operation and maintenance of said division, may, in connection with the construction or operation and maintenance of such division, enter into contracts for miscellaneous services for materials and supplies, as well as for construction, which may cover such periods of time as the appropriate Secretary may consider necessary but in which the liability of the United States shall be contingent upon appropriations being made thereof.

Sec. 4. The Secretary of the Army is directed to proceed with preparation of project designs and an environmental impact statement in accordance with the National Environmental Policy Act, and the Secretary of the Interior is directed to proceed with a determination of necessary and feasible electric power transmission facilities and power marketing studies. The environmental impact statement and the determination of necessary electric power transmission facilities are to be completed within not more than two years of the date of this Act and transmitted to the Congress prior to appropriation of funds for construction of project works. The sum of $1 million is authorized to be appropriated for the environmental and other studies required by this section.

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## VOLUNTEER PHYSICIANS FOR VIETNAM PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Morgan) is recognized for 5 minutes.

Mr. MORGAN. Mr. Speaker, on June 30, 1973, the Volunteer Physicians for Vietnam program came to a close. Since 1965, a total of 774 American physicians served 2-months tours of duty in that war-torn land and provided medical care for the civilian population. Civilians in any war—and no less so in this tragic conflict—are often the victims of instruments of suffering and death, despite their own uninvolvement in the hostilities. Appalled by the suffering of so many innocent Vietnamese, the American Medical Association assumed the responsibility for operating the Volunteer Physicans for Vietnam program in July 1966, and the association's efforts stand as a monument to the humanitarianism of the medical commmunity in the United States.

Mr. Speaker, we in Congress discussed the merits and ramifications of American involvement in Southeast Asia for many arduous years, and patriotic Americans of every political and ideological persuasion participated in the national debate. Commentators may defend or criticize the policy of our Government, but all can agree that the benevolence of these physicians in aiding the innocent victims of the Vietnam conflict is a shining example of humanitarian conduct. The activities of these 774 physicians provide incontrovertible proof of their noble characters, and their unselfish contributions to the people of Vietnam are also manifestations of the generous spirit of the American people.

Mr. Speaker, the following is a list of those courageous men and women who donated their services to the Vietnamese people. A more distinguished honor roll cannot be found:

### List of Physicians by States Who Served in the VPVN Program

(Note.—Asterisk preceding name denotes former volunteers who returned to Viet Nam in FY 1973.)

Alabama (3/4)

*Folke Becker, Birmingham.
Robert T. King, Mobile.
Edwin T. Ricketts, Talladega.
Joanne Smith-T. Opelika.[1]

Alaska (2/2)

Alan Homay, Anchorage.
Gayle F. Sacry, Cordova.

Arizona (7/9)

Clifton J. Alexander, Tucson.
Cyril C. Call, Phoenix.
Charles E. Eby, Tucson.
Robert M. Grassi, Parker.
Delbert J. Miller, Prescott.[3]
Paul J. Slosser, Yuma.
Joseph Y. Strickler, Bisbee.

Arkansas (2/2)

John M. Grasse, Jr., Calico.
James K. Patrick, Fayetteville.

California (109/137)

Jack Adelman, Camarillo.
Robert E. Adler, Fremont.
Kenneth M. Amlin, Arnold.
Paul N. Bergland, San Francisco.
Faustino Bernadett, Chico.
Joseph I. Bernstein, San Francisco.
Sergio E. Betancourt, San Francisco.[1]
Irving B. Bloom, Livermore.
*Quentin Bonser, Placerville.[1]
James V. L. Bradley, Pinedale.
William H. Brownlee, Tulare.
Craig A. Burns, Westwood.
Eusobio E. Cabrera, Torrance.
Merritt C. Canfield, San Diego.
Jean E. Carlin, Orange [1]
Paul A. Carlson, La Palma.
Lawrence O. Carpenter, Point Arena.
Bernard W. Casselman, Los Angeles.
James G. Cavanagh, Sacramento.
William G. Chastain, Empire.
Max E. Childress, San Francisco.
Philip H. Clinton, Vallejo.[1]
Grange S. Coffin, Colma.
Lloyd H. Cotter, Santa Ana.
Hugh Crawford, Santa Ana.
Stephen M. Creer, Los Angeles.[1]
Howard F. Detwiler, Van Nuys.
Alberto Doria, Oakland.
*Wake Eckert, Mammoth Lakes.[1]
Lloyd W. Espen, Redwood.
Gerald A. Ezekiel, San Diego.
Dorian R. Faber, Merced.
Henry G. Farish, North Hollywood.
Elliston Farrell, Long Beach.
Joseph P. Farrell, Yuba City.
Neal R. Fisher, Covina.
Robert E. Fisher, Woodland.[1]
Robert E. Fuller, Placerville.
George W. Flynn, Petaluma.
Stanley Garstka, Riverside.[2]
Ralph G. Gaytan, El Monte.
Vernon R. Gee, Redding.
John A. Gius, Pomona.
Merle F. Godfrey, St. Helena.
John W. Godsey, San Francisco.
David Grubman, Monterey.
Jerry Manning Hallman, San Francisco.
Jack D. Halpin, Los Angeles.
Oril S. Harbaugh, San Diego.
William A. Harris, Los Angeles.
Allen Hassan, Talmage.
William M. Helvey, Sunnyvale.
Wayne A. Hemphill, Victorville.[1]
Merlin A. Hendrickson, Rialto.
Thomas Humphrey, Los Angeles.
Roland K. Iverson, Marysville.
Russell B. James, Imola.
James Jones, San Jose.
Walter H. Kaiser, Los Angeles.
Charles L. Keagy, Delano.
Richard F. Keiger, San Diego.
Jo Erie Kimbell, Los Angeles.
Robert M. Kradjian, Long Beach.
Leo H. LaDage, Long Beach.[1]
Gilbert Lee, Los Angeles.
William P. Levonian, Santa Cruz.
Marvin Lottman, Anaheim.
Russell H. Lowell, Santee.
David L. McAninch, Glendale.
*John J. McDermott, Claremont.
William H. Marshall, Jr., Palo Alto.
William J. Martin, Ventura.
Marshall M. Mercer, Los Angeles.
Arthur Miller, Hollywood.
Samuel L. Miller, San Francisco.
Leslie J. Moglen, San Francisco.
*William B. Neal, Jr., Los Angeles.[3]
Richard W. Nixon, Long Beach.[2]
Jay W. Overmyer, San Jose.
*Charles A. Owen, San Francisco.[1]
*Richard P. Parkinson, Indio.
Ralph E. Pawley, Palm Desert.
James H. Phelps, Upland.
R. Cree Pillsbury, Mountain View.
Denis Lauren Quiring, Inglewood.
Jesse C. Ralph, Sacramento.
John M. Reed, Carmichael.
Richard C. Reznichek, Torrance.*
Henry N. Ricci, Martinez.
Thomas V. Reilly, San Diego.[1]
Francis D. Riley, Los Angeles.
Robert L. Roth, San Jose.
Robert B. Rowe, Madera.
Karl D. Rupport, Sacramento.
Alvin L. Sanborn, Fontana.
*William N. Scott, Long Beach.[3]
William P. Skivolocki, San Diego.
Joost Sluis, San Francisco.
*Gabriel Smilkstein, Claremont.[5]
Lawrence A. Smookler, San Francisco.[3]
Eliot D. Sorsky, Fresno.
Harold B. Swenson, Long Beach.
Roger A. Thill, Harbor City.
Betty Lou Tom, Los Angeles.
Lloyd C. Tom, Palo Alto.
Vance W. Tschanz, Anaheim.
Harry E. Tucker, Chino.
Jack W. Tupper, Oakland.
Edward S. Vanderhoof, San Rafael.*
Harold J. Wanebe, San Francisco.
Ronald F. Waters, Pasadena.
Donald S. Weaver, Sacramento.
E. Robert Wells, Glendale.
Leo Louis Wenke, Healdsburg.
Hal T. Wilson, San Bernardino.*
William E. Woodruff, Vallejo.
Lan Sing Wu, Concord.*
*Ralf I. Young, Long Beach.[3]
Anthony J. Yuskaitis, Sacramento.

Colorado (21/26)

Donald P. Anderson, Denver.
Robert S. Brittain, Denver.
Thomas A. Carey, Denver.
Ernest G. Ceriani, Kremming.
Richard S. Fixott, Colorado Springs.
Harriet E. Gillette, Denver.
Warren Gillette, Boulder.
Theodore K. Gleichman, Denver.
James A. Henderson, Denver.
James R. Leake, Littleton.
James H. Lee, Denver.
James B. Miller, Colorado Springs.
Kenneth H. Nelson, Broomfield.
Marvin F. Piburn, Boulder.*
Alson F. Pierce, Colorado Springs.
*Gerald E. Puls, Fort Collins.[1]
*Robert W. Rasor, Colorado Springs.[1]
Robert B. Richards, Fort Morgan.
Meritt W. Stark, Denver.
Robert J. Stewart, Denver.
*Edward H. Vincent, Colorado Springs.[1]
John L. Weaver, Pueblo.[1]

Connecticut (5/6)

Charles P. Curtis, Fairfield.
Marvin B. Day, Hartford.
William B. Lyons, West Haven.
Haakon Ragde, Waterbury.
Chester Weed, West Hartford.

Delaware (1/1)

William A. Wright, Wilmington.

Florida (15/16)

John H. Beggs, Lake City.
Paul L. Berezney, St. Cloud.
Irving A. Beychok, Sarasota.
Matthew H. Bradley, Miami Beach.
William T. Cobb, Gainesville.
James J. DeVito, St. Augustine.
James H. Ferguson, Miami.
Gerald M. Holingsworth, Ft. Walton Beach.
Robert H. Meaders, Pensacola.
Richard Perry, St. Petersburg.
Paul L. Schmitz, North Miami.
Myron I. Segal, Hollywood.
Elbert J. Soskis, Tampa.[1]
Max Suter, Jacksonville.
Carl M. Voyles, St. Petersburg.*
Frederick M. Zerzavy, Jacksonville Beach.*
Jose L. Zubero, Ft. Walton Beach.

Georgia (12/12)

Charles Berry, Ellijay.
Edwin Brackney, Augusta.
Bruce Caldwell, Augusta.
Dan Callahan, Warner Robins.
G. Elizabeth Camm, Atlanta.
Alexander S. Fitzhugh, Griffin.*
John W. Gamwell, Atlanta.
David N. Harvey, III, Augusta.
Claude T. Moorman, II, Atlanta.
Joseph F. Rice, Savannah.
Irving Victor, Savannah.
Charles C. Wike, Augusta.
Charles H. Wray, Augusta.

Hawaii (7/13)

*Truett V. Bennett, Honolulu.[3]
George E. Kenessey, Ewa Beach.
Harold Lewis, Hilo.
Bal Raj Mehta, Honolulu.
Douglas M. Murray, Kailua.
Jarvis D. Ryals, Honolulu.
Rudolph P. Wipperman, Hilo.[3]

Idaho (5/6)

Mark Baum, Idaho Falls.
Lauren Mark Neher, Jerome.[1]
Warren Beltran Ross, Nampa.
George B. Saviers, Sun Valley.
James H. Stewart, Cascade.

Illinois (29/46)

Howard T. Barratt, Minonk.
Roger L. Benson, Woodstock.
Robert Bort, Fairbury.
Thomas Clark, Carbondale.
Eugene F. Dolehide, Chicago.
*Charles J. Eggerstedt, Berwyn.[3]
Arthur L. Ennis, Decatur.
John J. Erben, Naperville.*
Don A. Fischer, Chicago.

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Footnotes at end of article.

Martin A. Funk, Park Ridge.[4]*
John M. Garnello, Chicago.[4]
Dennis J. Gates, Chicago.
Robert F. Gilbert, Effingham.
James Graham, Springfield.
Patrick D. Guinan, Chicago.[3]
*Hugh A. Johnson, Rockford.
Haydee J. Kimmich, Springfield.
Kurtz W. Liepins, Crestwood.
Theodore F. Mauger, Chatsworth.
William E. Morthland, Galva.
Franklin A. Munsey, Rockford.
Lawrence G. Oder, Vandalia.
Pietro Pedone, Chicago Heights.
Donald R. Risley, Mt. Carmel.
Robert Ryan, Lake Forest.
Stanley C. Stanmar, Forest Park.
Diane L. Trembly, Chicago.[3] *
Joseph Vidziunas, Lexington.
Lorin D. Whittaker, Peoria.

### Indiana (22/31)

Marion E. Ayers, Indianapolis.
Andrew J. Bacevich, Hammond.
Thomas E. Bailey, Indianapolis.
John M. Bender, Goshen.
John Bennett, Warren.
George R. Bloom, Elkhart.
Juan C. Bolivar, Indianapolis.
C. Richard Bowers, Anderson.[5]
Dale Carlberg, Jeffersonville.
Harry L. Craig, Huntingberg.
Arthur H. Girod, Decatur.
Leonard J. Green, Valparaiso.
John J. Hartman, Angola.
Donald J. Kerner, Indianapolis.[1]
Kenneth M. Lehman, Topeka.
Daniel E. McLaren, Indianapolis.
Galen R. Miller, Elkhart.
Patricia K. Moseley, Indianapolis.[1]
Arthur C. Rettig, Muncie.
Jack D. Shonkwiler, Greencastle.[2]
Paul W. Waitt, Noblesville.
Gilbert H. White, Hammond.
Frances G. Zeier, Evansville.

### Iowa (7/9)

Elward W. Green, Iowa City.
James W. Hendricks, Clear Lake.
Leonard K. Lackore, St. Ansgar.
*William E. Owen, St. Ansgar.[1]
Robert Porter, Des Moines.
Elmer M. Smith, Des Moines.*
James E. Whitmire, Sumner.[1]

### Kansas (10/10)

William Aldis, Ft. Scott.
Robert O. Brown, Atchison.
Moheb A. S. Hallaba, Winfield.
Ilse Heilbrum, Wadsworth.
Cline D. Hensley, Wichita.
Earl Hutchins, Mission.
Rose L. Jewell, Coffeyville.
Charles E. Livingston, Salina.
Wayne G. Parker, Oberlin.*
Nels M. Stadjord, Kansas City.

### Kentucky (8/10)

James W. Bard, Lexington.
Susan J. Brenner, McDowell.
George F. Brockman, Greenville.[1]
Joseph A. Burke, Lexington.
John Ritter, Harlan.
James E. Ryan, Louisville.
Samuel S. Shouse, Lexington.
Paul M. Walstad, Harlan.

### Louisiana (11/14)

Philip R. Beckjord, New Orleans, La.
Rufus Holt Craig, Alexandria, La.
Mayo E. Emory, New Orleans, La.
Paul Reims Meyer, Jr., New Orleans, La.
Richard A. Morvant, Thibodaux, La.
Edward C. Norman, New Orleans, La.
John B. O'Keefe, New Orleans, La.
Steve F. Price, Lake Charles, La.
Charles L. Saint, Pineville, La.
Gerald Vandervlugt, Metairie, La.[3]
Richard Wallace Young, Baton Rouge, La.

### Maine (2/4)

Geerge W. Hallett, Jr., Portland.
Mahlon P. Palmer, Springvale.[2]
Paul H. Pfeiffer, Togus.

### Maryland (12/24)

Thomas C. Butler, Baltimore.
Robert Ellwood Eby, Olney.
Andre V. Fesus, Baltimore.
Michael B. Flynn, Baltimore.
Wayne K. Foster, Cecilton.[7] *
David F. Goldstone, Baltimore.[1]
Stephen M. Nagy, Jr., Baltimore.
Louis Padovano, Woodstock.[1]
Thomas Hooker Powell, Baltimore.[1]
*Glendon E. Rayson, Baltimore.[1]
*Patrick A. Reardon, Seabrook.
Ernesto A. Tolentino, Glen Burnie.
Donald K. Wallace, Baltimore.
Celeste L. Woodward, Baltimore [1].

### Massachusetts (26/32)

John B. Ballou, Salem.
Carl F. Brandfass, Jr., Amherst.
Edward L. Burwell, Falmouth.
Ned H. Cassem, Boston.
*George P. Christian, Boston [5].
Laurence P. Cloud, Boston.
Carol E. Craig, South Hadley.
Jerry J. Dowling, Stockbridge.
Joseph W. Gauthier, Foxboro.[1]
Sue Grufferman, Boston.
J. B. Leith Hartman, Marblehead.
Murray H. Helfant, Framingham.
Bernard J. Hodgkinson, Boston [1].
*William F. Ketchum, Needham.
Claire C. Manwell, Northampton.
Edward J. Manwell, Northampton.
*John Greer McBratney, New Bedford.
George A. McCormack, Medford.
Justin V. McGuirk, Randolph.
Lawrence B. Mutty, Melrose.
John H. Olson, Colrain.
Carl A. Olsson, Boston.
Robert D. Reinecke, Boston.
Robert P. Riker, Fairview.
C. Reid Roberts, Boston.
Arthur B. Serino, Cambridge.
*Rudolph Toch, Milton.[1]
Edwin T. Wyman, Jr., Boston.

### Michigan (22/22)

Robrt F. Baugh, Detroit.
Edward S. Bear, Detroit.
Robert F. Bort, Ann Arbor.
Hugh T. Caumartin, Saginaw.
Daniel D. Chapman, Ann Arbor.
*J. Colin Elliott, Buchanan.
*James F. Gerrits, St. Clair.
Joseph A. Grady, Detroit.
Seymour Krevsky, Detroit.
Armand M. La Sorsa, Manistique.
Donald Lipsey, Durand.
Lambertus Mulder, Muskegon.
Adrian J. Neerken, Kalamazoo.
*Leonard M. Pickering, South Gate.
John C. Rawling, Flint.
Henry Scharnweber, Midland.
Roger A. Scholten, Kalamazoo.
*Hugh L. Sulfridge, Saginaw.
Alfred Swanson, Grand Rapids.
Carlos A. Vence, Birmingham.
Virgilio Villarreal, Flint.
Franklin V. Wade, Flint.
Daniel B. White, Rochester.

### Minnesota (29/29)

Charles I. Benjamin, Glenwood.
Thomas P. Comer, Rochester.
Franklin H. Ellis, Jr., Rochester.
John A. Elstrom, Rochester.
Albert B Hagedorn, Rochester.
Kristofer N. Hagen, Edina.
Inman A. Hesla, Austin.
Norman W. Hoover, Rochester*.
David H. Hume, Rochester.
Douglas L. Johnson, Little Falls.
Thomas P. Kenefick, Rochester.
Joseph M. Kiely, Rochester.
John N. King, Rochester.
Robert L. McRoberts, Rochester.
Jurgen J. Moller, St. Paul.
Robert Monahan, St. Paul.
Robert Harry Nelson, Benson.
Joe Nettles, Rochester.
Bror F. Pearson, Shakopee.
Charles J. Prespare, Waconia.
Murray D. Rosenburg, St. Paul.
Jose S. Sanchez, St. Paul.
Gregory A Schissel, Minneapolis.
Marjorie E. Seybold, Rochester.
Herbert S. Strait, Minneapolis.
Matthew J. Weir, Virginia.
Arthur H. Wells, Duluth.
William A. Wilcox, Minneapolis.
Lewis I. Younger, Winona.

### Mississippi (3/3)

Curtis W. Caine, Jackson.
John Herron Mitchell, Vicksburg.
*Charles W. Turner, Jackson.

### Missouri (10/11)

Carl H. Almond, Columbia.
Anne E. Bannon, St. Louis.[1]
Michael J. Clarke, Springfield.
James W. Crain, Branson.
Albert J. Grant, Hannibal.
Donald C. Sauer, St. Louis.
William J. Shaw, Columbia.
John P. Tierney, St. Louis.
Emmett D. Wall, St. Louis.
William W. Woodward, Independence.

### Montana (8/10)

*Raymond Benson, Billings.[1]
Harold A. Braun, Missoula.
Paul E. Carlson, Bozeman.[1]
Donald H. Cheever, Bozeman.
Morton Levitan, Ft. Harrison.
John J. Lipinski, Kalispell.
Grant P. Raitt, Billings.
John W. Strizich, Helena.

### Nebraska (1/1)

*Calvin M. Oba, Scottsbluff.

### Nevada (3/3)

John W. Batdorf, Las Vegas.
Kirk V. Cammack, Las Vegas.
George A. Furman, Reno.

### New Hampshire (4/8)

Raymond W. Peppard, Laconia.
Edward Sheris, Wilton.[1]
William H. Tatem, Walpole.[3]
John A. Walker, Newport.

### New Jersey (12/15)

Joan C. Burgess, Flemington.
Benjamin E. Chua, Boonton.
Harold V. Coes, Sussex.
Alfred T. Devito, Madison.
Francis Eugene Gilbertson, Red Bank.
William Hall, Princeton.[2]
Sam William Kalb, Newark.
Frank D. Newell, Summit.
Zebulon C. Taintor, Cape May.
John J. Thompson, Essex Falls.
*Ann E. Thrower, Madison.[1]
Robert Walsh, Jr., Elizabeth.
James R. Wait, Glen Gardner.

### New Mexico (9/10)

*Merill W. Brown, Albuquerque.[1]
William S. Curran, Albuquerque.
Hershel L. Douglas, Lovington.
Adriana Fenenga, Las Cruces.
William Ranson Kilgore, Taos.
Harlan Clay Pannell, Lovington.*
Jack C. Redman, Albuquerque.
Albert M. Rosen, Taos.
John A. Schadler, Las Cruces.

### New York (64/82)

Hugh Auchincloss, New York.
John L. Ayer, Syracuse.
C. Richard Barber, Glens Falls.
John Bennett, Rome.[1]
Frank P. Berg, Mt. Kisco.
Robert K. Boese, New York.
Waldo Burnett, Middletown, New York.
Reynold E. Church, Bronxville.
Roger S. Dayer, Buffalo.
William P. Doremus, New York.
Helga Mae Erdman, New York.[1]
Dolores Elyse Fiedler, Middle Village.
Joseph G. Fink, New York.
Richard M. FitzSimons, Binghamton.*
Ronald S. Forlenza, Buffalo.

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Footnotes at end of article.

Henry Clay Frick, New York.[1]
David Glassner, New York.*
John Godrey, Olean.
Harold F. Goodman, New York.
John P. Grant, New York.
George D. Griffin, New York.
*Oliver W. Hasselblad, New York.[3]
Paul A. Hinenburg, New York.
George R. Holswake, New York.
Robert F. Horsch, Westfield.[1]
*Adib Karam, Brooklyn.[1]
Frank V. Keary, Slingerlands.[1]
Adam A. Kindar, Amsterdam.
David Gilbert Klickstein, Brooklyn.
McGregor E. Knight, New York.
Julius D. Krombach, Henderson.
Ira D. LeFevre, Coeymans.
Albert Lesser, Forest Hills.
William Libertson, Rochester.
J. William Littler, New York.
Christopher T. Maloney, New York.
Colin W. McCord, New York.
Robert A. McKinley, White Plains.
Donald J. Meehan, Springville.
Samuel W. Mills, Jr., Middletown.
Ann O'Neill, Rochester.[4]
Thomas Felix Oram, Schenectady.
Ronald A. Passafaro, Fredonia.
Frederick G. Pleune, Rochester.
Robert T. Potter, Brooklyn.
Andrew J. Presto, Bayside.
James B. Rodgers, New York.
William J. Rogers III, Tonawanda.
Hendrik M. Rosendaal, Schenectady.[3]
*Charles F. Schnee, Setauket.[1]
Wilson W. Shaw, Jamestown.
Charles D. Shields, Buffalo.
Richard B. Stark, New York.
*Herman J. Steinmetz, Babylon.
Bihan Taghavi, New York.
Bernard M. Teschner, White Plains.
Mauro A. Tumolo, Brooklyn.[1]
James F. Upson, Buffalo.
John L. Vigorita, New York.
Ronald G. Vincent, Buffalo.
Alan J. Wabrek, New Hyde Park.
Redmond B. Walsh, Bronx.
Carnes Weeks, Jr., Amenia.
Richard B. Welch, New York.
Herbert J. Wilk, Binghamton.[1]
Rudolph Zalter, New York.

### North Carolina (11/17)

W. Grimes Byerly, Jr., Hickory.
Charles C. Dudley, Jr., Elkin.
James Ralph Dunn, Jr., Tarboro.
Dan Espey, Jr., Hickory.[2]
Susan W. Forlenza, Goldsboro.
John S. Gaskin, Albermarle.
George M. Leiby, Albermarle.
James H. Lipsey, Asheville.
William C. Mebane, Wilmington.
Alexander F. Thompson, Jr., Concord.
Samuel Haywood Walker, Asheville.
Willard Wyan Washburn, Boiling Springs.

### North Dakota (1/2)

Perry H. Engstrom, Wahpeton.[1]

### Ohio (35/44)

Peter Amenthorp, Middletown.
Jack P. Baldwin, Cincinnati.
William E. Barratt, Painesville.
Jack R. Bontley, Columbus.
William R. Brinker, Ravenna.
Robert C. Cahill, Attica.[1]
Benjamin B. Caplan, Columbus.
Robert Eugene Cooke, Harrison.
David M. Creamer, Bellaire.[1]
Charles J. Cross, Columbus.
Walter W. Donahue, Leipsic.
James Quinn Dorgan, Jr., Columbus.
Louis J. Finkelmeier, Celina.
Robert Martin Foster, Youngstown.
Joseph H. Gaudreault, Hinckley.[2]
Aaron I. Grollman, Cincinnati.
Mark T. Hoekenga, Cincinnati.
*William H. Jeric, Cleveland.[1] [4]
Paul A. Milde, Cleveland Heights.
Alexander Miller, Cleveland Heights.
William F. Mitchell, Columbus.
Wallace Mulligan, Shaker Heights.
Stanley H. Nahigian, Cleveland.
Anthony C. Nassif, Seven Hills.
Ranier S. Pakusch, Maumee.
James B. Patterson, Lorain.
Thomas Prescott, Mt. Vernon.
Jerry C. Rosenberg, Toledo.
Robert G. Smith, Circleville.[1]
Robert E. Sooy, Mt. Vernon.
*John E. Stephens, Columbus.
Clinton W. Trott, Mr. Vernon.
Ladislao K. Wallerstein, Toledo.
Robert L. Wick, Jr., Worthington.
Lois R. Zimmerman, Tiffin.

### Oklahoma (11/14)

Roy W. Anderson, Cordell
David B. Brinker, Oklahoma City
Arthur Brown, Perry
Richard A. Conley, Watonga
Charles E. Green, Lawton
Richard F. Harper, Pawhuska
J. Ted Herbelin, Oklahoma City*
John E. Horn, Muskogee
Gale R. Kimball, Oklahoma City
Waync Babcock Lockwood, Oklahoma City
David F. Watson, Muskegee
Jack Daryl Welsh, Oklahoma City

### Oregon (11/12)

John R. Boe, Grant Pass
E. Murray Burns, Portland
Calvin E. Gantenbein, Portland
Glenn M. Gordon, Eugene
Marion T. Merrill, John Day
Edward S. Morgan, Pendleton
Thomas E. Morris, Jr., Portland
*Peter A. Nathan, Portland
Charles H. Nelson, Albany
William E. Parshall, Eugene
Richard N. Sherwin, Prineville

### Pennsylvania (27/30)

Kelly M. Berkley, Philadelphia
Eugene F. Berkman, Beaver
Martin R. Bradley, Philadelphia
Daniel H. Brooks, Pittsburgh
Charles N. Chasler, Pittsburgh
Francis P. Colizzo, White Haven
John R. Cope, Indiana
Harry R. Davis, Boiling Springs
Matthew J. Drogowski, Freeland
Franklin D. Gassaway, Pittsburgh
Robert T. Gildea, Wilkes-Barre
James K. Greenbaum, Kittanning
Joseph Blaine Griffith, Sewickley
William F. Haines, Malvern
Henry Knecht Heller, Bethlehem
Ronald J. Hoy, Pittsburgh
John C. Kuehnle, Philadelphia
Martin L. Lee, Danville
Ralph Gerald Leighty, Swissvale
Walter Luchinsky, Ringtown
Robert D. May, Wayne
Robert Wallace McLaughlin, Eaton
William P. Mulloy, Philadelphia
Pio Julius Pezzi, Abington
Charles F. Sparger, Butler
John H. Updegrove, Easton
John M. Wagner, Clarks Summit
David G. Young, Philadelphia

### Rhode Island (1/1)

Edward P. Anderson, North Providence

### South Carolina (15/15)

James H. Bowers, Clemson
Gilbert Bradham, Charleston
Cornelius B. Burns, Sumter
Julian Buxton, Charleston
Charles T. Fitts, Charleston,
Harry Gregorie, Charleston
Carl J. Hiller,. Charleston
Edward E. Kimbrough III, Columbia
Foster Marshall II, Columbia
Walter M. Newton, Charleston
*Jennings K. Owens, Jr., Bennettsville
William M. Rambo, Charleston
James W. Reid, Charleston
John Sutton, Charleston
Robert Wilson, Jr., Charleston

### South Dakota (4/7)

John P. McCann, Parkston
Christopher J. Moller, Dell Rapids
Isaiah R. Salladay, Pierre
James L. Tuohy, Sioux Falls

### Tennessee (8/8)

Joe F. Bryant, Lebanon
Richard France, Nashville
Brett Gutsche, Memphis
Nat D. Hyder, Jr., Erwin
Curtis McGowan, Clarksville
W. Walter Pyle, Franklin
*Paul Spray, Oak Ridge
John H. Wolaver, Knoxville

### Texas (43/55)

Willard E. Adams, Garland.
Richard O. Albert, Alice.
William R. Albracht, Stephenville.
Jerry W. Bains, Galveston.
Exeter F. Bell, Jr., Houston.
Billy Jim Blankenship, Galveston.
Ray L. Brewer, Houston.
John V. Connolly, Ingleside*.
James E. Dill, San Antonio [2] *.
Emerson Emory, Dallas.
Sterling Fly, Uvalde.
Robert Franken, San Angelo.
Robert E. Haan, El Paso.
Richard B. Hartin, Garland.
Charles W. Hase, Sherman.
Joe D. Heath, Kermit [1] *.
Otto Heins, Raymondville [6].
Charles M. Henner, Santa Anna[4]
Curtis R. Jordan, Palestine.
Richard A. Keffler, Lubbock [1].
Benjamin F. Kitchen, Houston.
Vincent J. Kitowski, Houston.
Michael Koehl, San Antonio.
Kurt Lekisch, Midland.
John C. Long, Plainview.
Frederick C. Lowry, Austin.
Mark Marians, El Paso.
John W. McFadden, Jr., Galveston.
Paul R. Meyer, Port Arthur.
John D. Nelson, Dallas.
Jay F. Norton, Corpus Christi.
Lumir F. Novak, San Antonio.
Andrew W. Para, Big Spring.
James A. Roberts, Big Spring.
Jay B. Sanford, Dallas.
Ted A. Schafer, Houston.
Roscoe A. Schulze, Flatonia [1].
Edward B. Singleton, Houston.
Merle E. Smith, San Antonio [1].
William W. Taylor, Dallas.
Leonard A. Toomin, Beaumont.
Wayne E. Truax, Galveston.
Frank Van Orden, Trinidad.
Felix A. Walters, Nederland.
Harold A. Wood, Brownsville.

### Utah (5/5)

Mark Greene, Salt Lake City.
Thomas L. Hannum, Brigham City.
Mark B. Jenson, Provo.
George H. Lowe, Jr., Ogden.
Charles A. Rodman, Salt Lake City.

### Vermont (5/5)

William F. Hoffman III, Chester.
Luke A. Howe, Townshend.
James R. Mackenzie, Burlington.
David M. Stewart, Billows Falls.
Howard C. Taylor, Burlington.

### Virginia (6/10)

John M. Adams, Winchester.
Herbert Lee Berry, McLean.
Leroy P. Bragg, Hampton.
Leo J. Falk, Charlottsville.
Julian J. Ney, Chincoteague [3].
William C. Stone, Roanoke [1].

### Washington (25/40)

George M. Bogardus, Seattle.
Louis E. Braile, Seattle.
Edward C. Calta, Renton.
John A. Duncan, Seattle.
Harry Frewing, Vancouver.
Anthony R. Galgano, Port Angeles
Fred H. Gloeckner, Buckley.

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Footnotes at end of article.

C. Richard Goodhope, Edmond.
Dale Hadfield, Bremerton.
Donald T. Hall, Seattle.
Jack G. Henneman, Seattle [1]
John E. Hershey, Spokane.
William A. Johnson, Longview [1]
Clarence W. Jones, Longview.
Barbara A. Kenyon, Buckley*.
Robert E. Lane, Tacoma.
Edwin F. Leibold, Forks.
*Richard B. Link, American Lake.
Robert C. Maher, Spokane.
John O. Milligan, Steilacoom [2].
William N. Pope, Seattle [1].
*Philip A. Pritel, Vancouver [4] *.
Herman L. Schless, Seattle.
Lester P. Servid, Lynden.
*John W. Taylor, Seattle [5].
Richard Tinker, Seattle.
Wayne Zimmerman, Tacoma.

### West Virginia (5/7)

Richard A. Currie, Morgantown
Fernando Dominguez, Huntington
Reverdy H. Jones, Jr., Fairmont
Robert W. Neilson, Jr., Bluefield [3]
Joan K. Short, Beckley
Frederick W. Wampler, Williamson

### Wisconsin (15/17)

John T. Beno, Green Bay
Thomas P. Chisholm, Arcadia
Victor S. Falk, Edgerton [2]
William B. Gallagher, LaCrosse
John A. Garb, Madison
Samuel B. Harper, Madison
Charles E. Hopkins, Madison
Willard G. Huibregste, Sheboygan
Lief Henry Lovkam, Kenosha
Dominic J. Martinetti, Hurley
Reynold M. Nesemann, Kewaunee
Bernard B. Rhomberg, Wood
Isadore H. Schultz, Mazomanie
Joseph P. Springer, Durand
Jack L. Teasley, Milwaukee

### Wyoming (5/9)

Edwin B. Burgoon, Big Piney [1]
Christie J. Ghicadus, Laramie
Ben Morris Leeper, Cheyenne
Loran B. Morgan, Torrington [3]
Joseph P. Murphy, Casper

### Washington, D.C. (9/9)

Basdeo M. Balkissoon, Washington
Charles H. Gates, Washington
Joseph Francis Fazekas, Washington
William W. Funderburk, Washington
Fred A. Geier, Washington
Dorothy Holmes, Washington
William Davis Oldham, Washington *
G. Harvey Sloane, Washington
Bernice J. Wedum, Washington

### Canal Zone (6/6)

Carlos Garcia-Rivera, Balboa
Edward W. Healey, Canal Zone
Ronald E. Moore, Canal Zone
Robert E. Price, Canal Zone
Robert D. Shay, Balboa
William H. Woodruff, Balboa

### Puerto Rico (1/1)

William D. Brindle, Puerto Rico

### Outside the United States (12/18)

John H. Baker, Bagdad *
Julia M. Baker, Mexico [2]
Priscilla Boekelheide, Philippines
Donald E. Butterfield, Tokyo
Elizabeth Herz, Vienna
Howard P. Hyde, Viet Nam [2]
Robert C. Schlossman, Tokyo
John R. Schmidt, Paraguay [1]
Lois H. Visscher, India [1]
Bautista A. Vicencio, Philippines
Joseph J. Weiss, Afghanistan
George M. Weitzner, Malaysia

### Virgin Islands (1/1)

Magda G. Pendall, Christiansted, St. Croix

### FOOTNOTES

Figures in parentheses (109/137) indicate the number of volunteers/number of tours. For example 109 individual physicians from California have served 137 tours.

* Physicians who subsequently served or are currently serving long-term tours in Viet Nam under contract with AMA, USAID or other Agencies or as medical missionaries.

[1] Physicians who extended or returned to Viet Nam to serve the equivalent of a Second tour.

[2] Physicians credited with serving a Third tour.

[3] Physicians credited with serving a Fourth tour.

[4] Physicians credited with serving a Fifth tour.

[5] Physicians credited with serving a Sixth tour.

[6] Physicians credited with serving a Seventh tour.

[7] Physicians credited with serving an Eighth tour.

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## TAIWAN ECONOMY THRIVING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DENT) is recognized for 5 minutes.

Mr. DENT. Mr. Speaker, it gives me great pleasure to insert in the RECORD at this point an article by Robert Elegant of the Los Angeles Times Service, dealing with Taiwan and the great strides it has made in its economy.

Many Members of Congress have voted for economic aid to underdeveloped countries. Lately, there has been a growing antagonism on the part of some on continuing the foreign economic aid programs. A signal was given very clearly last week when the House voted an overwhelming defeat, perhaps temporary but a defeat, for the $1.5 billion authorization of funds for the International Development Association. The next day the House postponed action on the Asian development fund.

Recent events have done nothing to temper the feelings of the House and, in general, the workers of America. There have been many instances of abuse by nations, individuals and multinationals, of the generosity and good will of the American people who, through the Congress, have provided economic aid for those nations such as Taiwan, that in all respects deserved the help of the American people.

Taiwan has used its aid from the United States in a very efficient and worthwhile manner. The small island is now among the leading producing nations of the world. All of us recognize that, as we take these nations out of dependency, we must insist that the level of their people is given consideration so that they do not become workers producing goods that they cannot afford to buy.

We look forward to the oncoming years for all of the Taiwanese to benefit from their thriving economy.

After reading the following article, one would have to say that the people of Taiwan have not wasted the efforts of the American people have made on their behalf:

[From the Philadelphia Inquirer, Jan. 18, 1974]

### TAIWAN TRADE RISES 50 PERCENT YEARLY

(By Robert Elegant)

TAIPEI, TAIWAN.—The thriving economy of Taiwan is remarkably like the bumblebee. Its configuration is so peculiar it's almost grotesque; by all conventional standards, it shouldn't be able to get off the ground.

Yet the economy of the island ruled by the Nationalist Chinese has taken off into soaring flight.

Taiwan is unique, even aside from its complex political position. It is, of course, a major embarrassment to the rapprochement between Peking and Washington. Peking claims sovereignty over the island and is seeking to reclaim it. The government of the Nationalist Republic of China has already lost almost all its formal diplomatic contacts with other nations to the People's Republic of China.

#### BREAKING POINT

Yet the economy has survived unscathed the rapid politico-diplomatic decline of the Taiwan government. Indeed, Taiwan's internal economy and worldwide trade have actually grown more rapidly since the Nationalists' diplomatic problems became acute in 1971.

The gross national product has been growing at an annual "real" rate (after discounting inflation) of better than 11 percent, while trade has been increasing by an almost incredible 50 percent yearly.

The major role trade plays in the economy are, perhaps, its most arresting features. In 1972, imports and exports amounted to 87.5 percent of the total GNP. In 1973, two-way trade will be more than 90 percent of the GNP.

Total trade in 1972 was $5.6 billion; $7.5 billion in 1973, and projections for 1974 range to an almost unbelievable $12 billion—all with a steady balance in Taiwan's favor. By contrast, the people's republic of China, with almost 800 million persons to Taiwan's 15 million, will have a total trade in 1973 of about $6.5 billion.

"An export-oriented economy like ours," says Finance Minister K. T. Li, "is a most unusual phenomenon. We are benefitting greatly, but we are also very vulnerable to changes in world trading patterns—like the current worldwide inflation, the continuing monetary crisis, and, now, the oil cutbacks. But we have to find our own solutions as we go along. There are no answers in the textbooks."

As Li frankly—indeed proudly—acknowledges, Taiwan's present prosperity is based firmly on the generous American aid supplied from 1950 to 1965. Economic aid of more than $1.5 billion changed the island from a backward area to one of the world's growing economies.

Li and his colleagues are too modest to point it out, but Taiwan is the most spectacular—if, indeed, not the only—example of truly effective American aid to an underdeveloped country. Japan and Western Europe, where U.S. aid was equally effective, were of course, not underdeveloped, but war ravaged.

The reasons are outwardly simple. A substantial portion of the managerial elite of the vast Chinese mainland concentrated its talents on the small island.

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## CONGRESSMAN ANNUNZIO SUPPORTS IMPROVEMENTS IN VETERANS BENEFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, yesterday I cosponsored two bills, H.R. 12299 and H.R. 12300 with the distinguished chairman of the Veterans' Affairs Committee, Hon. WM. JENNINGS BRYAN DORN, and today I introduced another bill, H.R. 12320, all of which are of great importance to thousands of veterans and their dependents.

The bill which I introduced today, H.R. 12320, increases benefits for disabled veterans who are receiving compensation, while the two bills I cosponsored yesterday, first, provide an increase in benefits for widows and children who are receiving dependency and indemnity compensation and for widows, children, and dependent parents receiving death compensation; and second, provide an extension of medical benefits to certain dependents of veterans.

Mr. Speaker, I introduced the compensation increase bill because I feel the time is long overdue to provide the necessary adjustment in compensation rates in order to keep pace with enormous cost-of-living increases which have taken place since 1972 when the last compensation increase took place.

The basic purpose of the disability compensation program is to compensate for the impaired earning capacity of veterans disabled as a result of their military service. The amount varies according to the degree of disability and represents, to the extent practicable, the average impairment in earning capacity in a civilian occupation.

Since the disability compensation program was first established, the Congress has periodically reviewed the rates of compensation provided as to their adequacy and has made adjustments when such were deemed necessary.

Disabled veterans who are in receipt of compensation benefits based on a service-connected disability last received a benefit increase on August 1, 1972. Since that time, the Consumer Price Index has increased by 10 percent. The cost of living is expected to continue to rise at a minimum monthly rate of 0.6 percent per month.

Social security beneficiaries received a 20-percent across-the-board increase in benefits effective September 1972. They will receive a 7-percent increase in March 1974 and an additional 4-percent increase in June 1974.

Effective January 1974, approximately 2.4 million veterans and their survivors began receiving a 10-percent increase in monthly pensions.

The last four compensation increases—which cover a period of 8 years—provided a total average increase of 34 percent in the 10 percent to 100 percent basic disability ratings. The cost of living during the same period has risen by 42 percent. Thus, since 1965 the actual purchasing power of the compensation dollar has lagged 8 percent behind the rate of inflation.

My bill would provide a much needed 15-percent across-the-board increase in the current rates of disability compensation as well as dependency allowances.

My second bill, H.R. 12300, relates to dependency and indemnity compensation and death compensation benefits. The most recent increase in DIC rates for widows and children of veterans who died as a result of service-connected disabilities became effective on January 1, 1972. Since that time the cost of living has risen more than 11 percent.

This bill would increase DIC rates and dependency allowances for widows and children by 15 percent. In addition, death compensation rates for widows, children, and dependent parents, which have not been increased since the program's inception, would be increased by 15 percent. Finally, the bill would provide that the death compensation benefits paid to survivors of peacetime veterans would be equal to the death compensation benefits payable to survivors of war-time veterans.

While I realize that we can in no way make up for the economic difficulties suffered by veterans and their dependents during the period in which inflation eroded their benefits, I do feel that these two bills will restore the intended value of the benefit dollar and will provide a small hedge against future cost-of-living increases.

My third bill, H.R. 12299, is intended to correct an oversight on the part of the Congress in its passage of the Health Care Expansion Act of 1973 which extended coverage for medical care and treatment to the wives and dependent children of totally and permanently service-connected disabled veterans and to the widows and dependent children of veterans who died as a result of a service-connected disability.

H.R. 12299 would extend medical benefits to the dependents of veterans who were, at the time of their death, totally and permanently disabled due to a service-connected condition but did not die as the result of a service-connected condition.

Mr. Speaker, I strongly urge my colleagues in the House to give this vital legislation their favorable consideration so that our Nation's veterans and their families, who have sacrificed so much for all of us, will receive these compensation increases and be able to avail themselves of these medical benefits, if needed, as soon as possible.

## PANAMA CANAL AND THE ENERGY CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 15 minutes.

Mr. FLOOD. Mr. Speaker, former President Theodore Roosevelt once said that the only compensation for being in public life is the occasional opportunity to render a worthwhile public service. He always considered the acquisition of the U.S. Canal Zone and the construction of the Panama Canal as his greatest contributions for they provided the gateway to the Pacific and shortened voyage distances for much of the shipping of the world.

For those who once became deeply interested in this vital waterway it never loses its appeal because the Isthmus of Panama, as one of the principal crossroads of the world, has always been, and will continue to be, a place of challenge. Its problems together form a situation that is microcosmic.

As a Representative in the Congress from the anthracite capitol of the world, I have long been interested in matters affecting the supply of energy for our great country. The Panama Canal has been, and still is, a vital artery for economically enabling the supply of energy producing commodities between the Atlantic and Pacific Oceans. To illustrate, I shall list certain commodities in long tons that were carried on vessels in transit in the fiscal year of 1972:

| Commodity | Atlantic to Pacific | Pacific to Atlantic |
|---|---|---|
| Coal and coke | 14, 114, 249 | 500, 696 |
| Coke, petroleum | 141, 999 | 1, 202, 891 |
| Gasoline | 1, 905, 065 | 31, 075 |
| Jet fuel | 915, 222 | 3, 014 |
| Kerosene | 732, 695 | 1 |
| Oil, crude | 5, 090, 350 | 1, 791, 928 |
| Oil, diesel | 1, 209, 781 | 2, 487 |
| Oil, residual fuel | 2, 325, 299 | 228, 646 |
| Petroleum and products | 353, 323 | 307, 104 |
| Total | 26, 787, 983 | 4, 067, 842 |

Mr. Speaker, could there be stronger evidence of the importance of the Panama Canal as regards the handling of energy-producing materials, not only for the United States but also for all other countries affected?

The recent Mideast Arab-Israeli war and the resulting denial by the Arab nations of further crude oil shipments to the United States has brought into focus a number of facts of life with which the United States must deal at the earliest date. A modern industrial nation such as ours requires enormous energy supplies, the interruption of which can be catastrophic. Even though Arab oil constitutes only about 10 percent of the current U.S. requirement, projections through the 1980's and 1990's of this century, without other energy sources coming into play, show a doubling or tripling of this amount in those years. We clearly need reliable external energy sources which are not subject to political or nationalistic interruption or we must rapidly expand our internal energy sources to meet the need.

Senate bill, S. 1283, passed by the Senate on December 7, 1973, is designed to accelerate our internal energy development process and it heavily stresses energy sources other than fossil fuels. The fact is, however, that fossil fuels will continue to be required in the foreseeable future for at least a wide variety of transportation needs, and even if we achieve self-sufficiency in the near future, we will continue to have to deal with the problem of getting our internal crude to suitably distributed refineries and from there the products to the consumers.

Historically, as shown by the previous table of commodity movements and, more importantly today, the Panama Canal is a major artery in the distribution of crude oil and oil products. Our major oil companies are now making extensive use of this canal and with the advent of Alaska oil from the North Slope, even greater utilization will become necessary. Our west coast refinery capacity is not now adequate to process the quantities of crude oil expected from Alaska and because of higher overland costs of shipping refinery products from the west to east coasts, it is more economical to ship crude oil by ship through the Panama Canal to the east coast for processing in existing or new refineries located in the east. The Panama Canal, therefore, becomes an absolutely necessary link in the energy chain as we move toward our goal of self-sufficiency.

The Isthmus of Panama and the

Panama Canal which crosses it are indispensable to the economic health and well-being of the United States. We have, by virtue of the wisdom of our leaders at the turn of the century, a fair and just treaty with the Republic of Panama which grants the United States rights and prerogatives as if sovereign over a 10-mile-wide strip of territory across the isthmus in the heart of which we have built at enormous cost of blood and treasure a wonder of the world known as the Panama Canal. Over the years, we have invested about $6,000,000,000 in its construction, maintenance, operation, sanitation, and defense. We have made the canal available on an equal basis to all ships of the world with transit rates set and maintained since 1914 at the same level.

We have operated this canal on a break-even basis since it opened as a world utility. Direct payments to Panama provided in the treaty as modified in 1936 and 1955, plus employee earnings and other benefits to Panama, constitute the largest single item in Panama's gross national product, and as a result Panama has the highest standard of living of all the Central American nations. In other words, our enterprise in the Canal Zone has been good for the United States, for Panama, and for all user nations of the world. Now that this canal is rising in importance in our newfound need to achieve energy self-sufficiency, it is all the more important that our role in Panama and control over a major factor in our destiny be reaffirmed as in the best interests of all participating nations.

As requirements for use of the Panama Canal increase for at least petroleum, we will have to face the reality that delivered crude to an Eastern refinery can be lower in cost if it can be shipped in larger ships. The Panama Canal can accommodate ships in the 60,000-ton range and is doing so now, but ships twice this size can deliver crude much cheaper and the canal in its present configuration cannot handle them. The major shipping trade associations on behalf of their subscribing companies have stated in congressional hearings that ships will be built to the maximum size possible for transit through the canal should facilities be provided for larger ships.

There are those who, in the past, have advocated construction of a sea level canal through the Isthmus but economics and environmental considerations dictate against any such approach. What is needed at the earliest date is a rather modest major modernization of the existing Panama Canal and this could take the form of construction of a new set of larger locks parallel to the existing locks and provision of maneuvering space not now available at the Pacific end of the canal—a plan that originated in the Panama Canal organization during World War II as the result of war experience and studies of canal operations over many years. As stated by me many times previously this proposal known as the Terminal Lake-Third Locks Plan received the approval of President Franklin D. Roosevelt as a post war project. It is the subject of pending legislation in the Congress, S. 2330 and H.R. 1517, introduced by Senator STROM THURMOND and myself. Because a number of years will be required for making the necessary studies and time is short I urge support by all concerned.

Mr. Speaker, the energy crisis is upon us and we are embarking on a number of courses of action which certainly will give us self-sufficiency in due time. Let us put our best efforts toward this worthy goal and have the wisdom, as did our forefathers at the turn of the century, to recognize that the Panama Canal is an absolute requirement for our economic well-being in general and in the light of current energy realities is even more important than in time of lesser difficulties. We must reaffirm our dedication in the Isthmus of Panama and we must increase the capacity and improve the operations of the canal to assure this aspect of United States energy self-sufficiency.

The text of H.R. 1517, which is identical with that of S. 2330, follows as part of my remarks:

### H.R. 1517

A bill to provide for the increase of capacity and the improvement of operations of the Panama Canal, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Panama Canal Modernization Act".

SEC. 2. (a) The Governor of the Canal Zone, under the supervision of the Secretary of the Army, is authorized and directed to prosecute the work necessary to increase the capacity and improve the operations of the Panama Canal through the adaptation of the Third Locks project set forth in the report of the Governor of the Panama Canal, dated February 24, 1939 (House Document Numbered 210, Seventy-sixth Congress), and authorized to be undertaken by the Act of August 11, 1939 (53 Stat. 1409; Public Numbered 391, Seventy-sixth Congress), with usable lock dimensions of one hundred and forty feet by one thousand two hundred feet by not less than forty-five feet, and including the following: elimination of the Pedro Miguel Locks, and consolidation of all Pacific locks near Agua Dulce in new lock structures to correspond with the locks capacity at Gatun, raise the summit water level to its optimum height of approximately ninety-two feet, and provide a summit-level lake anchorage at the Pacific end of the canal, together with such appurtenant structures, works, and facilities, and enlargements or improvements of existing channels, structures, works, and facilities, as may be deemed necessary, at an estimated total cost not to exceed $950,000,000, which is hereby authorized to be appropriated for this purpose: *Provided, however*, That the initial appropriation for the fiscal year 1974 shall not exceed $45,000,000.

(b) The provisions of the second sentence and the second paragraph of the Act of August 11, 1939 (53 Stat. 1409; Public Numbered 391, Seventy-sixth Congress), shall apply with respect to the work authorized by subsection (a) of this section. As used in such Act, the terms "Governor of the Panama Canal", "Secretary of War", and "Panama Railroad Company" shall be held and considered to refer to the "Governor of the Canal Zone", "Secretary of the Army", and "Panama Canal Company", respectively, for the purposes of this Act.

(c) In carrying out the purposes of this Act, the Governor of the Canal Zone may act and exercise his authority as President of the Panama Canal Company and may utilize the services and facilities of that company.

SEC. 3. (a) There is hereby established a board, to be known as the "Panama Canal Advisory and Inspection Board" (hereinafter referred to as the "Board").

(b) The Board shall be composed of five members who are citizens of the United States of America. Members of the Board shall be appointed by the President, by and with the advice and consent of the Senate, as follows:

(1) one member from private life, experienced and skilled in private business (including engineering);

(2) two members from private life, experienced and skilled in the science of engineering;

(3) one member who is a commissioned officer of the Corps of Engineers, United States Army (retired); and

(4) one member who is a commissioned officer of the line, United States Navy (retired).

(c) The President shall designate as Chairman of the Board one of the members experienced and skilled in the science of engineering.

(d) The President shall fill each vacancy on the Board in the same manner as the original appointment.

(e) The Board shall cease to exist on that date designated by the President as the date on which its work under this Act is completed.

(f) The Chairman of the Board shall be paid basic pay at the rate provided for level II of the Executive Schedule in section 5313 of title 5, United States Code. The other members of the Board appointed from private life shall be paid basic pay at a per annum rate which is $500 less than the rate of basic pay of the Chairman. The members of the Board who are retired officers of the United States Army and the United States Navy each shall be paid at a rate of basic pay which, when added to his pay as a retired officer, will establish his total rate of pay from the United States at a per annum rate which is $500 less than the rate of basic pay of the Chairman.

(g) The Board shall appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, a Secretary and such other personnel as may be necessary to carry out its functions and activities and shall fix their rates of basic pay in accordance with chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates. The Secretary and other personnel of the Board shall serve at the pleasure of the Board.

SEC. 4. (a) The Board is authorized and directed to study and review all plans and designs for the Third Locks project referred to in section 2(a) of this Act, to make on-the-site studies and inspections of the Third Locks project, and to obtain current information on all phases of planning and construction with respect to such project. The Governor of the Canal Zone shall furnish and make available to the Board at all times current information with respect to such plans, designs, and construction. No construction work shall be commenced at any stage of the Third Locks project unless the plans and designs for such work, and all changes and modifications of such plans and designs, have been submitted by the Governor of the Canal Zone to, and have had the prior approval of, the Board. The Board shall report promptly to the Governor of the Canal Zone the results of its studies and reviews of all plans and designs, including changes and modifications thereof, which have been submitted to the Board by the Governor of the Canal Zone, together with its approval or disapproval thereof, or its recommendations for changes or modifications thereof, and its reasons therefor.

(b) The Board shall submit to the President and to the Congress an annual report covering its activities and functions under this Act and the progress of the work on the third locks project and may submit, in its discretion, interim reports to the President and to the Congress with respect to these matters.

SEC. 5. For the purpose of conducting all studies, reviews, inquiries, and investigations deemed necessary by the Board in carrying out its functions and activities under this Act, the Board is authorized to utilize any official reports, documents, data, and papers in the possession of the United States Government and its officials; and the Board is given power to designate and authorize any member, or other personnel, of the Board, to administer oaths and affirmations, subpena witnesses, take evidence, procure information and data, and require the production of any books, papers, or other documents and records which the Board may deem relevant or material to the performance of the functions and activities of the Board. Such attendance of witnesses, and the production of documentary evidence, may be required from any place in the United States, or any territory, or any other area under the control or jurisdiction of the United States, including the Canal Zone.

SEC. 6. In carrying out its functions and activities under this Act, the Board is authorized to obtain the services of experts and consultants or organizations thereof in accordance with section 3109 of title 5, United States Code, at rates not in excess of $200 per diem.

SEC. 7. Upon request of the Board, the head of any department, agency, or establishment in the executive branch of the Federal Government is authorized to detail, on a reimbursable or nonreimbursable basis, for such period or periods as may be agreed upon by the Board and the head of the department, agency, or establishment concerned, any of the personnel of such department, agency, or establishment to assist the Board in carrying out its functions and activities under this Act.

SEC. 8. The Board may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

SEC. 9. The Administrator of General Services or the President of the Panama Canal Company, or both, shall provide, on a reimbursable basis, such administrative support services for the Board as the Board may request.

SEC. 10. The Board may make expenditures for travel and subsistence expenses of members and personnel of the Board in accordance with chapter 57 of title 5, United States Code, for rent of quarters at the seat of government and in the Canal Zone, and for such printing and binding as the Board deems necessary to carry out effectively its functions and activities under this Act.

SEC. 11. All expenses of the Board shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the Chairman of the Board or by such other member or employee of the Board as the Chairman may designate.

SEC. 12. There are hereby authorized to be appropriated to the Board each fiscal year such sums as may be necessary to carry out its functions and activities under this Act.

SEC. 13. Any provision of the Act of August 11, 1939 (54 Stat. 1409; Public Numbered 391, Seventy-sixth Congress), or of any other statute, inconsistent with any provision of this Act is superseded, for the purposes of this Act, to the extent of such inconsistency.

## PREVENTING THE IRS FROM BEING USED FOR POLITICAL PURPOSES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. TIERNAN) is recognized for 5 minutes.

Mr. TIERNAN. Mr. Speaker, we have all seen recent evidence that the Internal Revenue Service has been used for political purposes. Today I am introducing a measure aimed at preventing this form of abuse in the future.

The bill I offer would make the IRS an independent commission and remove it from the direct influences of any future administration, and would insure that the tax laws of this country are enforced fairly and equitably without regard to political considerations.

My bill would establish the Internal Revenue Commission as an independent body composed of five commissioners each serving a term of 5 years and subject to confirmation by the Senate.

We should remember that our tax laws were enacted to provide funding for the Federal Government—not to give an administration a means to harass its opponents or to help its friends.

## CPA AT USDA—I

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FUQUA) is recognized for 10 minutes.

Mr. FUQUA. Mr. Speaker, when a bill to creat a Consumer Protection Agency was considered in the 92d Congress, there was disagreement as to what authority a CPA needed to fully advocate the consumers' interests in the Federal administrative process. There was also much confusion concerning the scope of administrative action into which a CPA might insinuate itself.

There are three bills to create a CPA now pending before a subcommittee of the Government Operations Committee, on which I serve. They are H.R. 14, introduced by Congressman ROSENTHAL, H.R. 21, introduced by Congressmen HOLIFIELD and HORTON, and H.R. 564 introduced by Congressman BROWN of Ohio and myself.

Each of these bills would create a CPA to represent the consumer within the existing Federal administrative structure. There are other differences, but the major difference among these bills is that both H.R. 14 and H.R. 21 would empower the CPA to appeal, as of right, final regulatory decisions of other agencies to the courts while the Fuqua-Brown bills H.R. 564 would deny such an extraordinary authority to a nonregulatory agency such as a CPA.

In order to dispel some of the confusion, I have asked a number of Federal agencies frequently mentioned as targets of a CPA to list the actions they took in the calendar year 1972 in which a CPA could have participated under the bills.

I have been inserting the replies of these agencies in the RECORD as received, in order to make them available to my colleagues. These replies have, I think, demonstrated a breathtaking scope of Federal decisionmaking which would attract CPA advocacy.

Thus far, I have inserted replies from a handful of Federal agencies which indicate that in 1972 they took well over a million actions in which a CPA could have intervened under all the bills and, in addition, under either H.R. 14 or H.R. 21 the CPA could have challenged in court—more than 1 million actions taken by only a few of the many existing Federal agencies.

The two bills which authorize CPA court appeal go even further. They would empower the CPA to appeal to the courts the failure of any agency to take CPA-requested action above and beyond what the regulatory agency considers to be its own priorities.

Today, I wish to call attention to the reply of the Department of Agriculture. Because the Department is intimately involved with such basic consumer commodities as food and fiber, it is necessarily engaged in many activities affecting consumer interests. In fact, probably everything it does affects the interests of consumers.

Mr. Speaker, because of the great volume and variety of activities of the Department of Agriculture, each of which might attract a CPA, I will insert in the RECORD at this time only those USDA proceedings subject to the rulemaking provisions of the Administrative Procedure Act and note that each of these proceedings would be subject to court review at the instance of a CPA under all CPA proposals except the Fuqua-Brown bill. I will insert the other USDA proceedings and activities at a later time.

The material follows:

DEPARTMENT OF AGRICULTURE,
*Washington, D.C., December 20, 1973.*

Hon. DON FUQUA,
*House of Representatives,*
*Washington, D.C.*

DEAR MR. FUQUA: This is in reply to your letter of September 7, 1973, requesting information relating to certain Departmental activities.

The enclosure provides answers to the seven questions you asked regarding the types of activities which may be within the scope of the advocacy of a proposed Consumer Protection Agency to be created under H.R. 14, 21, and 564. For the sake of clarity, we have adopted the format contained in your letter.

We hope this information will be helpful to you in your consideration of this legislation.

Sincerely,

EARL L. BUTZ,
*Secretary.*

ATTACHMENT

(Activities of the United States Department of Agriculture during 1972 prepared pursuant to letter of September 7, 1973, from Honorable Don Fuqua concerning H.R. 14, 21, 564.)

*Question 1.*—What regulations, rules, rates or policy interpretations subject to 5 U.S.C. 553 (the Administrative Procedure Act (APA) notice and comment rulemaking provisions) were proposed by your agency during calendar year 1972?

*Answer.*—The informal rulemaking proposals below were published during 1972. For purposes of clarity they are divided according to the initiating agency. It should be noted that many of the activities[1] of the Department fall within the exemptions of 5 U.S.C. 553 relating to public property, loans, grants, benefits and contracts. By direction of the Secretary of Agriculture, rulemaking relating to such exempted activities is to follow the public participation requirements prescribed by 5 U.S.C. 553(b) and (c). However, only the rulemaking proposals actually subject to 5 U.S.C. 553 are listed here. Of course, other rulemaking proposals were also published during 1972 which were not subject to 5 U.S.C. 553, and those additional rulemaking proposals are not listed here.

### AGRICULTURAL MARKETING SERVICE

1. Elimination of linters as a factor in the determination of grades of cottonseed.

2. Establishment of quantity index in grading system for American Pima cottonseed.

3. Fees for cotton classification services.

4. Limitation of shipment regulations, expenses and rate of assessment, and administrative rules and regulations with regard to fruits or vegetables issued pursuant to marketing agreements and orders under Agricultural Marketing Agreement Act of 1937 (407 dockets[2]).

5. Administrative rules and regulations and expenses and rate of assessment issued pursuant to Potato Research and Promotion Plan under Potato Research and Promotion Act (2 dockets).

6. New or revised U.S. standards for grades of fresh and processed fruits and vegetables (12 dockets).

7. Amendments to Rules of Practice under Perishable Agricultural Commodities Act.

8. Amendments to regulations under Perishable Agricultural Commodities Act to increase license fee and redefine and clarify terms (2 dockets).

9. Suspensions or terminations of Federal milk marketing order provisions under the Agricultural Marketing Agreement Act of 1937 involving such proposed actions as easing diversion of milk rules, removal of mileage limitations on transfer of cream, increasing Class II price, lowering classification of yogurt and cream, revising shipping percentages, modifying cooperative pool plant standards, and maintaining two percent shrinkage on bulk cream (28 dockets).

10. Appeal grain inspection fees and charges under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*).

11. Agricultural processed products, rice, and seed inspection fees and charges under Part 68 of the regulations under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*).

12. U.S. standards for rice under Part 68 of the regulations under the Agricultural Marketing Act of 1946, as amended.

13. Voluntary service for the testing of equipment used in the inspection of agricultural products under the Agricultural Marketing Act of 1946, as amended.

14. Standards and procedures to help assure genetic purity and identity of certified seed under the Federal Seed Act (7 U.S.C. 1551 *et seq.*).

15. Grade standards for cattle and beef.

16. New standards for grades of mohair top.

17. Amendments to regulations dealing with cotton warehouses with regard to recordkeeping, weight certificates, form of warehouse receipts, and surrender thereof.

18. Clarification and updating of regulations governing the inspection of eggs and egg products.

19. Increase in laboratory fees for rabbit and poultry products.

20. Established tours of duty for rabbit, egg and poultry graders, and egg products inspectors in the voluntary program.

21. Penalty for late bills to be deleted. Voluntary grading regulations for rabbits, egg products, shell eggs, and poultry.

22. Voluntary egg products plants to submit product formulation.

23. Nest run standards for shell eggs.

### ANIMAL AND PLANT HEALTH INSPECTION SERVICE

24. Space requirement for animals under Animal Welfare Act of 1970.

25. Prohibitions and restrictions on importation of meat and other articles and declaration of countries infected with rinderpest or foot-and-mouth disease.

26. Tuberculosis testing of cattle from Mexico.

27. Identification of cattle two years of age or over for interstate movement.

28. Official test for equine infectious anemia and requiring reactors to be permanently identified before moving interstate.

29. Mandatory exercise requirement for animals under Animal Welfare Act of 1970.

30. Restrictions on importation of poultry and other birds.

31. Definitions and terms used in regulations pertaining to biological products.

32. Label requirements for biological products.

33. Extension of the European Chafer Quarantine to the States of New Jersey, Ohio, and Rhode Island, or alternatively termination of the quarantine.[3]

34. Quarantine of the States of Alabama, Delaware, Florida, Maryland, Ohio, North Carolina, South Carolina, Virginia, Wisconsin, and the District of Columbia because of the gypsy moth and addition to the list of gypsy moth regulated articles, under specified circumstances, mobile homes and other recreational-type vehicles and associated equipment.[3]

35. Quarantine of the States of Alabama and Missouri because of the Japanese beetle.[3]

36. Allow restricted importation of Unshu oranges from Japan into the State of Hawaii and restrict the interstate movement of such oranges.[3]

37. Specify different ingredient and labeling requirements for specified kinds of cooked sausages.

38. Provide uniform requirements and procedures in establishments operating under Federal inspection relative to schedules of operation, overtime, and holiday inspection service.

39. Allow importation of meat from British Honduras into the United States.

40. Withhold inspection from plants if USDA inspectors are intimidated, assaulted, or threatened.

41. Establish standard for Italian sausage.

42. Establish standard for country or country-style hams and pork shoulders.

43. Permit three percent basting solutions to be added to whole poultry, poultry parts, and roasts.

44. Require the window of sliced bacon containers that have transparent windows to be 1½ inches wide and 70 percent of length of a representative slice.

45. Establish a 50-pound limit on quantity of meat which can be exported for personal use without an official export certificate.

46. Permit meat product inspected under State jurisdiction to be stored in and shipped intrastate from federally inspected plants.

47. Require that cured meat product be labeled with list of curing ingredients.

48. Require official poultry plants to provide laundry service for USDA inspectors' outer work garments.

49. Allow importation of meat from the Trust Territory of the Pacific Islands into the United States.

50. Allow importation of meat from El Salvador into the United States.

### AGRICULTURAL RESEARCH SERVICE

51. Proposed amendments to the National Poultry and Turkey Improvement Plans and Auxiliary Provisions.

### AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

52. Special Allotments for Valencia Peanuts.

53. Cigar-Binder Tobacco Program.

54. Extra Long Staple Cotton Program—proposed determinations regarding 1973 crop.

55. Marketing Quotas, Burley Tobacco.

56. Extra Long Staple Cotton Acreage Allotments.

57. Peanut Quotas and Allotments.

58. Extra Long Staple Cotton Marketing Quotas.

59. Marketing Quotas for Rice.

60. Marketing Quotas, Flue-Cured Tobacco.

61. Miscellaneous Changes in Rice Program.

62. Proposed Acreage Allotments for Rice.

63. Dark Varieties Tobacco Program.

64. Marketing Quotas, Dark Tobacco.

65. Marketing Quota Review Committees.

66. Marketing Quotas, Burley Tobacco.

67. Continental Sugar Requirements and Area Quotas for 1973.

68. Sugar Requirements for Local Consumption, Hawaii and Puerto Rico for 1973.

69. Import Quotas for Chocolate, Candy, and Confectionary.

70. Proportionate Shares (Acreage Allotments), Beet Sugar Area, Mainland Cane Area, Texas Cane Area, Puerto Rico, for 1973 Crops.[4]

71. Fair and Reasonable Wage Rates for Field Workers, Sugar Beet, Mainland Cane, and Texas Cane Areas.[4]

72. Fair and Reasonable Prices for Sugar Producers, Beet Sugar Area, Mainland Cane Area, Hawaii.[4]

73. General Conditional Payments Provisions, Beet Sugar Area, Texas Can Area.

74. Acreage Allocations for New Beet Sugar Facilities.[4]

75. Weighing of Imported Sugar.[4]

### COMMODITY EXCHANGE AUTHORITY

76. Conditions and requirements which must be met by contract markets for their continued designation as a contract market.

77. Requirement that contract markets give CEA at least three weeks' notice of any proposed change in contract market bylaws, rules and regulations or resolutions which relates to the terms and conditions of sale or to other trading requirements.

78. Reports submitted by (a) merchants, processors and dealers, (b) by clearing members, (c) by futures commission merchants and foreign brokers, and (d) by traders.

79. Adding coconut oil and specifying reporting forms.

80. Reporting required information by data-processing media.

81. To provide additional protection to customers.

82. Processors or manufacturers to file anticipating hedging statements with appropriate regional office.

83. To insure fair practice in dealing in commodity futures on contract markets.

84. Service of documents (rules of practice).

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[1] Such activities include, for example, those relating to management of the National Forest System, Farmers Home Administration loans, rural electrification loans, price support loans and purchases under the farm commodity programs, and food stamp and child nutrition programs.

[2] Includes 269 actions issued without notice under waiver procedures of Administrative Procedure Act.

[3] Public hearing was held in connection with the proposal, pursuant to requirement of the Plant Quarantine Act.

[4] Informal hearing held on proposals pursuant to requirements of the Sugar Act of 1948, as amended (7 U.S.C. 1100 *et seq.*).

FOREIGN AGRICULTURAL SERVICE

85. Expanded quotas for certain imported cheeses and revision of the price break mechanism.

OFFICE OF PLANT AND OPERATIONS

86. Implementation of Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

PACKERS AND STOCKYARDS ADMINISTRATION

87. Instructions on weighing and testing scales used in purchase, sale, or acquisition of live poultry.

88. Prescribe time of payment for live poultry.

89. Modify requirements relating to market agency and dealer bonds.

90. Provide for voluntary filing of surety bonds (Statement of General Policy).

*Question 2.*—What regulations, rules, rates, or policy interpretations subject to 5 U.S.C. 556 and 557 (that is, APA rulemaking on the record) were proposed or initiated by your agency during calendar year 1972?

*Answer.*—

1. Forty (40) proposals to promulgate or revise Federal milk marketing orders under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*).

2. Three (3) proposals to establish or amend marketing agreements or orders relating to fruits or vegetables under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*).

3. Three (3) proposals with regard to rates charged at stockyards subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*).

4. Three (3) proposals relating to allotment of area sugar quotas among persons who market sugar within the area under the Sugar Act of 1948, as amended (7 U.S.C. 1115).

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## CORRECTING BIOGRAPHICAL RECORDS OF THE UNITED STATES CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 5 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, I am taking this opportunity to bring to the attention of the U.S. Congress a request I made to correct the official records of the Biographical Records of the U.S. Congress with reference to myself. I enclose a copy of a letter I have sent to the U.S. Government Printing Office calling for the correction.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, D.C., January 15, 1974.*

Mr. PAUL BEACH,
*Assistant Staff Director,*
*Joint Committee on Printing,*
*Washington, D.C.*

DEAR MR. BEACH: May I again call to the attention of the Joint Committee on Printing a mistake was made in the publication, *Biographical Directory of the American Congress, 1774–1971*, in my biographical data on page 670 with regard to my sketch. A mistake occurs on the end of line three and the beginning of line four, stating "graduated from Suffolk University." The word graduated should be stricken and replaced by the word attended.

This is the second time I have called this to the attention of the Joint Committee on Printing but I understand a memorandum must be on file to have this correction made. Your attention to this matter is appreciated.

Sincerely,

JAMES A. BURKE,
*Member of Congress.*

BURKE, James Anthony, a Representative from Massachusetts; born in Boston, Mass., March 30, 1910; educated in Boston public schools and Lincoln Preparatory School; attended Suffolk University; registrar of vital statistics for the city of Boston; during World War II was special agent in the Counter-Intelligence, attached to the Seventy-seventh Infantry Division in the South Pacific; awarded four battle stars; member of the Massachusetts General Court for ten years; member of the Massachusetts House of Representatives for four years, serving as assistant majority leader; vice chairman of the Massachusetts Democratic State Committee for four years; elected as a Democrat to the Eighty-sixth and to the five succeeding Congresses (January 3, 1959–January 3, 1971). *Reelected to the Ninety-second Congress.*

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## PANAMA CANAL SURRENDER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CRANE) is recognized for 5 minutes.

Mr. CRANE. Mr. Speaker, at the present time there is significant danger that our country is prepared to relinquish our rights to the Panama Canal Zone.

The history of our role in this area is instructive, and little known. In 1902, Congress authorized President Theodore Roosevelt to acquire a Canal Zone, stipulating that the United States must secure "perpetual control" over the territory.

A French concern had already lost millions on a canal venture in Panama which was then a "department" of Colombia. In 1903, under the Hay-Herran treaty, the United States secured from Colombia a 6-mile-wide strip of land across Panama for 100 years, along with rights to administer it under a system of dual sovereignty and mixed courts. The price was $10 million in gold and, beginning in 1912, $250,000 a year. The Colombian Senate, however, denounced and rejected the treaty. They wanted $15 million and no U.S. courts.

At this time, revolutionary groups sprang up among the Panamanians. On November 3, 1903, Panama declared independence. Twelve days later a treaty between the United States and Panama was signed. In 1936, President Franklin Roosevelt negotiated a new treaty raising our annuity to $430,000 annually, to compensate for the devaluation of the dollar. President Eisenhower increased the payment to $1,930,000.

Not until the Johnson administration, however, would any U.S. Government yield on the decisive issue of sovereignty or perpetuity. Now, this administration is continuing on the same path set in motion by President Johnson.

At the present time, when Ambassador Ellsworth Bunker was dispatched to Panama, the State Department announced a plan to "give the Panama Canal back to the Panamanians."

Discussing this idea Anthony Harrigan, executive vice president of the U.S. Industrial Council, declared in a recent column that:

> It is really incredible that Secretary of State Kissinger should approve a surrender of the Panama Canal, especially at a time when the United States is the target of economic warfare by the oil-producing nations. The Panamanians, once in control of the canal, undoubtedly would take a leaf from the Arabs' book and deny American ships access to the canal unless further political concessions were made.

Mr. Harrigan concludes that:

> The transfer of the canal to Panama would be intolerable. The proposal exemplifies the . . . diplomacy . . . based on winning "peace" through abandonment of solid advantages enjoyed by the United States.

Following is Mr. Harrigan's syndicated column, released January 24, 1974:

### PANAMA CANAL SURRENDER

While Secretary of State Henry Kissinger was being hailed for securing Israeli-Arab troop disengagement along the Suez Canal, he agreed to a giveaway of the Panama Canal. Ambassador Ellsworth Bunker was dispatched to Panama and the State Dept. announced a plan to "give the Panama Canal back to the Panamanians."

Dr. Kissinger may have gone too far this time. In proposing to abandon the Panama Canal to the strongman regime of Gen. Omar Torrijos, Dr. Kissinger is recommending that the United States surrender territory over which it has sovereign control. The treaty of 1903 gives the U.S. sovereignty over the Canal and Canal Zone in perpetuity.

The Indianapolis News, in a forthright editorial on the proposed giveaway of the Panama Canal, says: "It becomes increasingly difficult to be certain just whose side our diplomats are on." The same people who gave the American people the disastrous grain deal with the Soviet Union, which caused the rise in bread prices in the U.S., now favor turning over the Panama Canal to a regime that is hand-in-glove with the Libyan government that wants to punish the United States for its Middle East policy.

It is really incredible that Secretary of State Kissinger should approve a surrender of the Panama Canal, especially at a time when the United States is the target of economic warfare by the oil-producing nations. The Panamanians, once in control of the canal, undoubtedly would take a leaf from the Arabs' book and deny American ships access to the canal unless further political concessions were made.

The United States depends on rapid movement of ships between the Atlantic and Pacific Oceans. One of the first considerations for the State Dept. should be maintenance of control of the Canal Zone so as to assure secure movement between the two oceans. As Rep. Daniel J. Flood (D.-Pa.) has pointed out, the Panama Canal is "the jugular vein of hemispheric defense."

If the Panama Canal is not controlled by the United States, it affords no security to the United States and friendly powers. When the Suez Canal fell under Egyptian influence, it became a political instrument for Col. Nasser of Egypt. Last year, C. L. Sulzberger of The New York Times admitted that "what Torrijos hopes to accomplish in the Panama Canal Zone is somewhat the same as what Nasser accomplished vis-a-vis Britain in the Suez Canal Zone."

The American people have a major stake in the Panamanian situation. They should demand that the State Dept. tell all it knows about relations between the Panamanian and Libyan regimes. Last spring, Panama established diplomatic ties with Libya, Algeria and Bulgaria. There were reports of Libya financing a new canal across the Panamanian isthmus—a canal, the use of which would be denied to the friends of Israel. Jose Guillermo Aizpu, the finance minister of Panama, had talks with Dictator Muammar Qaddafi of Libya. The possibility of an economic and political link between the military dictatorship in Panama and the Libyan leftists cannot be ignored. Libyan support for Panama would vastly extend the area of revolutionary Arab influence. As one student of Panamanian affairs advised me, "With an Arab-controlled canal in Panama and with the Arab-controlled Suez Canal, the Arabs would control the key water ways of the world."

In any case, the transfer of the canal to Panama would be intolerable. The proposal exemplifies the bankruptcy of Dr. Kissinger's diplomacy, which is based on winning "peace" through abandonment of solid advantages enjoyed by the United States. To achieve an empty "detente" with the Soviet Union, Dr. Kissinger yielded America's superiority in several areas of nuclear defense. Now, in order to appease leftist elements in Latin America, he would yield the vital Panama Canal to an unstable, anti-American junta.

The U.S. Government has invested in the canal and its defenses more than $5.3 billion. Our Government has operated the canal for 60 years as an international public service in accordance with our treaty pledge, given in 1901 to keep the canal free and open to the vessels of all nations on terms of entire equality at charges which are just and equitable. Tolls have not been raised since the canal was opened in 1914, nor have we taken advantage of our position there to charge rates high enough even to reimburse ourselves for the original cost of the canal.

If the United States leaves the canal, what kind of government would replace it? Gen. Omar Torrijos, commandant of the Panama National Guard, seized power in 1968 and deposed the last constitutionally elected president of the republic. He abolished the Panama General Assembly and he has proclaimed that if he is unable to nationalize the Canal Zone by treaty agreement, he will march on the zone at the head of his 6,000 national guardsmen and seize the territory by force.

Discussing the proposed surrender of the canal, the Baltimore News-American declared editorially that:

Any arrangement that results in sharing or surrendering our responsibilities in the Zone will introduce massive instability not only in the Caribbean but throughout the Western Hemisphere. A strategic waterway under the sovereignty of a weak power invites subversion and international manipulation of events.

Following is the editorial, "Canal Proposal Called Foolhardy," which appeared in the January 24, 1974, issue of the Baltimore News American:

### Panama Canal Proposal Called "Foolhardy"

"The left-leaning, anti-American dictatorship of Gen. Omar Torrijos in Panama for years has been agitating for surrender of United States sovereignty over the Panama Canal—a total control granted 'in perpetuity' by treaty in 1903. Incredible as it may seem under the circumstances, this could happen in the near future.

"Reports of a sweeping State Department accord with Panama now have been confirmed by Ambassador-at-large Ellsworth Bunker, recently returned from negotiations there. In a letter to various U.S. lawmakers, Mr. Bunker conceded that this country has agreed in principle to a new treaty which would give Torrijos much of what he has been demanding.

"At least one senator who received the Bunker letter hit the ceiling. He was Sen. Jesse Helms (R., N.C.), who wrote in reply that he was 'appalled' by the U.S. diplomatic stand and would do all in his power to defeat any agreement that contains 'the principles you propose.' He elaborated as follows, in part:

" 'Any arrangement that results in sharing or surrendering our responsibilities in the Zone will introduce massive instability not only in the Caribbean but throughout the Western Hemisphere. A strategic waterway under the sovereignty of a weak power invites subversion and international manipulation of events.

" 'Panama was excluded (in the 1903 treaty) from every right except the right to have the territory back if we ceased to run the canal. If we now cede U.S. territory to a country with a history of wretched instability and which presently is controlled by a regime that makes no pretense of democratic procedures, then it is hard to avoid the conclusion that we are watching the decline of the United States in world history.'

"Sen. Helms is dead right. At a time when Russia is engaged in a massive drive to expand its military influence, when its submarines in fact have an operating base in Cuba, it would be foolhardy indeed to relinquish even part of our dominion over the Panama Canal to the present unsteady and hostile government."

Prof. Donald Dozer, an expert in Latin American affairs, points out that:

Panama is pressing these demands at a time when new Soviet threats are arising to challenge the strategic defenses of the U.S. in the Caribbean, an area where recent administrations in Washington have allowed a strategic vacuum to develop . . . In the 2½ years between July, 1969, and January, 1972, the Soviet Union sent seven squadrons of warships into the Caribbean . . . The deteriorating defense posture of the U.S. . . . calls emphatically for a positive reaffirmation of exclusive U.S. sovereignty over the Canal Zone.

An editorial in the Phoenix Gazette of January 19, 1974, entitled "Keep Panama Canal," points out that:

If the United States relinquishes sovereignty over the waterway, the Russians won't have to seize it with a naval armada in an act of war. It could control the canal by subverting Panama, a task it has partially completed.

It is essential that the United States reverse its course on the question of the Panama Canal. I wish to share with my colleagues the editorial from the Phoenix Gazette and insert it into the Record at this time.

### Keep Panama Canal

There are just four strategic waterways in the world, and the Soviet Union already has the upper hand over one of them, the blocked Suez Canal. The Communists are menacing another, the Strait of Malacca, with continued military aggression in Southeast Asia. The Strait of Gibraltar seems safe for the moment, but the United States—almost unbelievably—appears ready to expose the Panama Canal to foreign domination.

According to a news story cut of Washington, American negotiators have reached a preliminary agreement to return the Panama Canal and the American zone to Panama, a fragile and volatile nation that the Soviet Union already influences and might have for the taking.

A government spokesman observed that adverse reaction by a number of key congressmen could create difficulties for the tentative accord. If that adverse reaction doesn't develop, the United States and its allies and trading partners may be in for some fatal trouble.

Once the Suez Canal is opened again as a Soviet ditch, the Russian navy, already ahead of the United States in many aspects of seapower, will have ready access to the Indian Ocean, where it could dominate the Strait of Malacca and the trade routes to the Orient. With the Panama Canal also in the Soviet Union's pocket the West would be at the Kremlin's mercy.

The tentative agreement is said to include provisions for the defense of the Panama Canal, but if the United States relinquishes sovereignty over the waterway, the Russians won't have to seize it with a naval armada in an act of war. It could control the canal by subverting Panama, a task it has partially completed.

Unless the Communists seize the Malaya Peninsula and Indonesia, the United States might neutralize Soviet influence over the Strait of Malacca with a presence of seapower in the Indian Ocean. If the Communists come to control both banks of the Panama Canal, however, they could blackmail the United States mercilessly.

The Arabs already have proved with the oil embargo how easily some nations can be brought to their knees. What might happen if the Russians made it difficult for America's allies and trading partners to use the Panama Canal? The United States would be alone, that's what.

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## A RESPONSE TO FATHER DANIEL BERRIGAN BY RABBI BALFOUR BRICKNER

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, a very distinguished rabbi, Balfour Brickner, and a good friend, has commented on Father Daniel Berrigan's statements on Israel and Jews. I believe that Father Daniel Berrigan has evidenced his anti-Semitism in his remarks and have expressed myself accordingly in the Congressional Record. Rabbi Balfour Brickner has his own opinion of Father Berrigan's remarks which are certainly worth considering. I am appending the statement that he made in the American Report on December 10, 1973:

### Agenda for Peace: "With Friends Like These"—

(By Rabbi Balfour Brickner)

Years ago when, together with the late Rabbis Abraham Joshua Heschel and Maurice Eisendrath, a few of us in the Jewish community joined an equally few of our Protestant and Catholic clergy colleagues; to form an anti-war organization called CALCAV ("Clergy and Laymen Concerned About the War in Viet Nam") many of our friends in the Jewish community warned us that those with whom we were about to associate were neither true allies nor friends. The reasons for our (Jewish) opposition to the obscenity then tearing up Viet Nam and our society, were not the same reasons motivating those Christian activists with whom we were to become so visibly linked. We were told that they—those Christians—based their opposition to the war in Viet Nam on historic modalities of Christian pacifism, reinforced by strong universalistic ideologies. Moreover, for some, that feeling spilled over into an almost doctrinaire support of "national liberation" for third world peoples—the have-nots of the world—mostly non-Caucasian. "What," we were asked, "did we share with these values?"

#### JEWISH PRINCIPLES

While surely Judasim has its pacifist currents and while certainly Judasim contains strong strands of universalistic-type thinking, powerfully advocated through prophetic teaching, the motivations propelling religiously motivated Jews into the anti-war movement were really not the same as those of our Christian conferees. Most of us were not pacifists and if the truth be told, large portions of particularistic-type thinking were to be found intermixed with our universalist dreams. Most of us were either long-time Zionists or strongly pro-Israel.

Moreover, our advisers continued to warn us, some day we would rue the coalition into which we were then so naively entering. The time would come when those very Christian ideological motivations would not only cause those with whom we were now entering into such an easy alliance to desert us, but worse, they would be the ideological cause of opposition to other interests even closer to our hearts than the war in Viet Nam.

But when two weeks ago I read Fr. Dan Berrigan's "Responses to Settler Regimes," I could not help thinking of those earlier warnings we had been given. Maybe they were right. How could one understand a Christian of Dan Berrigan's integrity and reputation condemning Israel as a "military missioner, sending its military advisers into every part of the world where minority people are bleeding under the heel of jack boots."

A sentence like that was enough to make one wonder about one's earlier ally in the anti-war movement. That is the language and the mind-set of one who measures events in terms of national liberation of an "enslaved" third world. "It is not merely because my government, which has brought endless suffering to the world, is supporting Israel." It is the language and thought of some (how many?) in and outside the anti-war/peace movement who begin with a set of stereotypic preconceptions:

1. Imperialism is evil.

2. America is an imperialistic nation.

3. Those allied with or aided by America must, per force, also be imperialistic and evil.

4. Israel is aided by America, therefore Israel is evil.

The next step for those who begin with this "logic" is to find the evidence in Israel's contemporary experiences to justify the imperialist-evil thesis. Berrigan's entire piece is in that pattern. It is an exercise in advocacy of third world-national liberation doctrine. He calls himself a "Jew in resistance against Israel." To be sure, some Jews do think the way he does. But frankly, the Jewish people need no more Jews like this.

Father Berrigan's use of the word "missioner" is carefully chosen and particularly revealing. The implication is obvious. Israel's real religion is not a belief in the God of all men, but a belief in the god of militarism with its accompanying violence and the physical domination of otherwise innocent peace-seeking poor peoples. This she dispenses abroad as a religious missionary carries his faith, imposing it on helpless, hapless "natives." Thus, Father Berrigan, to whom such an image is certainly not strange, can write: Israel "has not passed from a dispossessed people to a democratic state, as he would claim; she has passed from a dispossessed people to an imperial entity."

Can Dan Berrigan either be so trapped by his own negative presuppositions about Israel or so ignorant of the facts as seriously to suggest that the only or even the primary kind of advisers Israel has sent to the Have-Not peoples of the world are military advisers? ("Israeli military advisers to Iran, Israeli military advisers in Ethiopia") To put it bluntly, he is either ignorant or blinded by his bias.

Until some of those third world nations over whom and for whom Dan Berrigan and his friends cry, expelled Israeli economic advisers, Israel operated a foreign aid program to Africa, South America and countries in Southeast Asia considered by many historians and economists as the world's best example of how a small nation helps other small nations develop themselves. Until oil-rich Arab nations began to put economic pressures on African and Asian countries to cease their relations with Israel, more than 10,000 students from more than 90 countries on four continents came to Israel for training; 1,800 Israeli experts had carried out more than 3,500 assignments in 62 counties, and in the decade from 1958 to 1968 Israel loaned $25 million to developing countries throughout the world, a most remarkable statistic when seen against the background of two decades of Arab hostility necessitating an enormous outlay on the part of Israel for its own military and physical security.

Is it possible that Dan Berrigan does not know that in Burma, Israel helped train air technicians, that in Ghana, Israel was responsible for the founding of Ghana's Black Star Shipping Line; that as early as 1963, Israeli experts joined a team of Venezuelan advisers to "CORDIPLAN," the national planning authority of that country, to help settle 2,000 families in the Cojedesarare irrigation system network, applying techniques learned in the Lachish Development area of Israel?

Is it conceivable that a person who knew so much of the facts of life in Southeast Asia could not know that similar teams of Israelis had visited Chile, Guatemala and Peru and that in Tanzania, Israel helped establish a cooperative marketing organization to which Uganda had sent its own representatives in order to study the structure? Is it conceivable that he did not know that in Nepal, Israeli experts helped establish 10 villages and a rural center at the foot of the Himalayas and that similar programs were under way in Argentina and Thailand?

NAHAL-type programs have been established in the Ivory Coast, the Central African Republic, Dahomey, Cameroon, Senegal, Togo, Tanzania, Bolivia and Ecuador. Israeli doctors served in Burundi, Ethiopia, Ghana, Liberia, Malawi, Congo (Brazzaville) Rwanda, Tanzania and the Upper Volta. Israeli professors and lecturers have gone to Ethiopia, Ghana and Kenya, vocational training advisers had helped set up programs in Costa Rica and other parts of Central and South America.

In any of these places, had there been any Israeli effort to suppress freedom, to support reactionary governments, to plant the Israeli flag, or to convert the citizens?

Moreover, Israel continued to oppose the racial regimes of Southern Rhodesia and the apartheid of South Africa and to do so publicly in the forums of the United Nations, even though such opposition jeopardized the position of many Jews living in South Africa. If Israel is the imperialist nation that Berrigan accuses it of being, how does it manifest that tendency?

### IMPERIAL ISRAEL?

An imperialist nation is one that exploits another nation for economic, political and/or social advantage. Can such a charge really be made against the state of Israel? What nation has Israel exploited? To the contrary, Israel came into existence as a result of a long-standing ideological, political and military battle with England, the prototype of imperialism. That resistance to imperialistic patterns has never changed and much of Israel's economic and social programing, such as the kibbutz movement, the Histadruth Labor Federation, her programing of social welfare, etc., reflected and reflects a radical, socialist anti-capitalist world-view.

Has any Arab nation done a fraction of this for its own people in African or Arab lands? What foreign aid, what industrial or agricultural assistance have they offered South America? What, other than money for arms and war, have they exported to their brothers and cousins in Arab lands? Military missioners indeed! How is it possible that Dan Berrigan fails to mention Egypt's war against Aden or its brutal physical domination of the Sudan?

If the above were not enough to indicate the point on the ideological spectrum from where Dan Berrigan begins, he makes it even more clear:

"When an American is resisting the murder of the Vietnamese people . . . one is joined in this way to blacks and Cubans and Brazilians and Chileans and so many others who have made it their life's work to create a better method than murder for dealing with human conflict."

What spiritual network does Dan Berrigan have with a black community of America that totally failed him and us in our anti-Viet Nam war effort? What spiritual network does he have with the Chileans who overthrow Allende, or with the Cubans or the Brazilians or the Argentinians who recently returned Peron to power? The truth is that none exists.

### MYSTIQUE OF COLOR

The only connection that might exist is one of color and he as a white man does not even share this. There seems to be some mystique to the idea that color binds interests and people together. The non-white "have-nots" versus the white "haves". But the truth is that color does not create any permanent bond of solidarity among people. Unity through color cannot be extrapolated from the experiences of the non-white world. The massacres of the Indonesian Communist party was committed by non-whites on non-whites. The civil war in Biafra was a war of blacks against blacks. The expulsion of Indians from various African countries is the work of blacks. The Pakistan-Indian clash was between non-whites. In short, no color code solves political problems.

The terrible, tragic truth is that Dan Berrigan and those who share his myopic third world sympathy have shattered the one spiritual network he and they might have had with those who really sought for and seek a better way of dealing with human conflict: the one that could have existed with those in Israel and with some of us here in the American Jewish community who are also critical of some of Israel's domestic and foreign policy—the so-called "doves."

That coalition is now impossible. Moreover, Fr. Berrigan has jeopardized credentials with and in the Jewish community of those of us who have sought a more dovish posture.

Amnon Rubinstein, dean of the law faculty at Tel Aviv University, is one of those "doves." In a frank article, "The Israeli: No More Doves" which appeared in the *New York Times Magazine* for Oct. 21, he eloquently described the damage done by the Yom Kippur War to those who sought to steer a middle road "between, on the one hand, the left groups, such as the New Israeli Left, which advocated the returning to the pre-1967 armistice lines, and, on the other, the right-of-center Gahal opposition alignment and the National Religious Party, which advocated the annexation of the West Bank by Israel."

We here, who have been receptive to Rubenstein's position, now find our tasks infinitely complicated and more difficult. First, the Egyptian and Syrian attack on Yom Kippur makes support in Israel much stronger for holding on to territory as a means of blunting future Arab attacks. I saw how deeply the Syrians penetrated into the Golan during the first three or four days of the war. Had Israel taken the advice of its friends like Fr. Dan Berrigan and given up the Golan, or yielded territory on the bank of the Suez Canal, it is more than likely that today Israel would be fighting for its life against Syrian and Egyptian troops, not in an occupied territory, but in the territory of Israel itself. It is not unlikely that Israeli soldiers and citizens would have been defending their homes and their children's lives on the outskirts of Safed, Tiberias, Beersheba and even Tel Aviv and Haifa.

We are now seriously compromised by having had one of the antiwar movement's leading spokesmen take a position so critical of Israel that one might suspect even deeper negative motivations. If advocating the "dove" position within the ranks of American Jewry was hard before the war, and before Dan Berrigan, it is now infinitely more difficult—maybe for a while, impossible.

Nevertheless, there are still some of us who are prepared to examine unpopular options—even to be publicly identified with them if they seem both just and practical.

Many of my antiwar friends speak of justice for the Palestinians. What does that mean? How many Palestinians are we talking about? The 600,000 who originally fled Palestine in 1948, or the 1,500,000 to which that number has swollen outside of Palestine since the initial war?

Both Israelis and Jews living outside of Israel would welcome a situation where the borders between Israel and her Arab neighbors could be secure, defensible and guaranteed. What does it mean to speak of guaranteed borders? Who shall be the guarantors? The superpowers? If so, is that not an example of the re-introduction into the Middle East of the very imperalists trend which those in the antiwar movement so deeply deplore?

There are many of us who feel a deep necessity to discuss these and other related matters with those with whom we shared a concern over the destruction of Viet Nam, particularly with those with whom we joined out of a religious conviction.

The time has come for some hard confrontation, for a looking at the realities; not with stereotypic preconceptions, but with an objectivity and a balance typically missing from those who write as Dan Berrigan has written. If once we were allies in the anti-war movement, the continuance of that alliance cannot be assumed, particularly if the glasses used to examine the Middle East are clouded over by inapplicable "third world" preconceptions, impossibly pacifist postures or unreal universalistic aspirations. Those values will apply only when the Arab world realizes that Israel also has a rightful place under the middle East sun and is prepared to make peace. At that time Israel, too, will make concessions, and the dreams that Dan Berrigan cherishes will again be worth dreaming.

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## THE PRESIDENT'S MESSAGE ON VETERANS

(Mr. HAMMERSCHMIDT asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HAMMERSCHMIDT. Mr. Speaker, President Nixon has again expressed his concern for the Nation's veterans through the special message transmitted to Congress yesterday.

I was especially impressed with the President's comments on the Veterans' Administration hospital system. With national health insurance plans on the horizon, there has been increasing speculation and worry about the future of the Veterans' Administration hospital system. Does this vast system have a role in a comprehensive national health care system?

President Nixon has left no doubt about his feelings on this subject. Yesterday's message expressed his strong view that the Veterans' Administrations health care system should be continued under VA to insure the proper care of eligible veterans. The President's positive statement on this subject should allay the fears of those who have been apprehensive that national health insurance would mean the end of our independent Veterans' Administration hospital system.

I am also pleased that the President has recognized the need for increased allowances for those pursuing programs of education or training under the GI bill. While it appears that the rising cost of living may warrant a greater increase than recommended, I am confident that the Committee on Veterans' Affairs will consider carefully the President's recommendation on this subject.

In fact, Mr. Speaker, all of the subjects discussed in the President's message that are under the legislative jurisdiction of the Committee on Veterans' Affairs will, I am confident, receive early consideration. President Nixon has called attention to the substantial increases in expenditures for service connected compensation payments that will have occurred between 1969 and 1975. The rising cost of living makes necessary the prompt consideration of legislation to increase these monthly payments as well as those to survivors of service connected deceased veterans. I am hopeful that early hearings will be scheduled.

Mr. Speaker, President Nixon is to be congratulated for his keen awareness of the needs of veterans.

I share his view that "the benefits we pay to our veterans should continue to reflect the generous appreciation of the American people."

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## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Mayne (at the request of Mr. Arends), for today, on account of attending a funeral.

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## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Talcott) to revise and extend their remarks and include extraneous matter:)

Mr. Young of Alaska, for 10 minutes, today.

(The following Members (at the request of Mr. McSpadden) to revise and to extend their remarks and include extraneous matter:)

Mr. Morgan, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Dent, for 5 minutes, today.
Mr. Murphy of New York, for 5 minutes, today.
Mr. Annunzio, for 5 minutes today.
Mr. Flood, for 15 minutes, today.
Mr. Tiernan, for 5 minutes, today.
Mr. Fuqua, for 10 minutes, today.
Mr. Burke of Massachusetts, for 5 minutes, today.
Mr. Fascell, for 60 minutes, on May 20.

(The following Member (at the request of Mr. Abdnor) and to revise and extend his remarks and include extraneous matter:)

Mr. Crane, for 5 minutes, today.

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## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Abdnor) and to include extraneous matter:)

Mr. Myers, in two instances.
Mr. Eckhardt, and to include extraneous remarks during debate.

(The following Members (at the request of Mr. Talcott) and to include extraneous matter:)

Mr. Hastings.
Mr. Mayne.
Mr. Madigan.
Mr. Hansen of Idaho.
Mr. Rinaldo in five instances.
Mr. Young of Alaska in two instances.
Mr. Chamberlain in two instances.
Mr. Hammerschmidt.
Mr. Shriver.
Mr. Derwinski in three instances.
Mr. Roncallo of New York.
Mr. Baker.
Mr. Thomson of Wisconsin.
Mr. Wyman in two instances.
Mr. Talcott in three instances.
Mr. Gude.
Mr. Broyhill of Virginia.
Mr. Frenzel in five instances.
Mr. Erlenborn.
Mr. Vander Jagt.
Mr. Hudnut in two instances.
Mr. Bray in three instances.
Mr. Kemp in three instances.
Mr. Gilman. in two instances.
Mr. Parris in five instances.
Mr. Veysey.
Mr. Symms.
Mr. Nelsen.

(The following Members (at the request of Mr. McSpadden), and to include extraneous matter:)

Mr. Morgan.
Mr. Giaimo in 10 instances.
Mr. Patten.
Mrs. Griffiths.
Mr. Gaydos in 10 instances.
Mr. Gonzalez in three instances.
Mr. Rarick in three instances.
Mr. Bolling.
Mr. Carney of Ohio in two instances.
Mr. Reid.
Mr. Matsunaga in 10 instances.
Mr. Dan Daniel.
Mr. Obey in six instances.
Mr. Charles H. Wilson of California.
Mr. Symington.
Mr. Hamilton.
Mr. Leggett in three instances.
Mr. Macdonald in two instances.
Mr. Koch in five instances.
Mr. Flowers in three instances.
Mr. Harrington in three instances.
Mr. Rodino.
Mr. Rosenthal in five instances.
Mr. Fuqua in five instances.
Mr. Evins of Tennessee.
Mr. Dellums in 10 instances.
Mr. Rangel in 10 instances.
Mr. Waldie in two instances.

## ADJOURNMENT

Mr. RYAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 9 minutes p.m.), the House adjourned until tomorrow, Wednesday, January 30, 1974, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1781. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation to the Department of Labor for "Limitation on grants to States for unemployment insurance and employment services" for fiscal year 1974, has been apportioned on basis which indicates the necessity for a supplemental estimate of appropriation, pursuant to 31 U.S.C. 665; to the Committee on Appropriations.

1782. A letter from the Acting General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend titles 10 and 37, United States Code, relating to the appointment, promotion, separation, and retirement of members of the Armed Forces, and for other purposes; to the Committee on Armed Services.

1783. A letter from the Secretary of the Army, transmitting the Annual Report for Calendar Year 1973 in Progress of the Army Reserve Officers' Training Corps Flight Instruction Program, pursuant to 10 U.S.C. 2110; to the Committee on Armed Services.

1784. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken for the Army National Guard, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

1785. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting reports of military construction projects placed under contract in fiscal year 1973 in which it was necessary to exceed the amount authorized for the project by Congress by more than 25 percent or to reduce the scope of the project in order to award within the authorization amount, pursuant to section 703(d) of Public Law 92–545; to the Committee on Armed Services.

1786. A letter from the Administrator. Agency for International Development, Department of State, transmitting a draft of proposed legislation to amend the Foreign Assistance Act of 1961 to authorize an appropriation to provide disaster relief, rehabilitation, and reconstruction assistance to Pakistan, Nicaragua, and the Sahelian nations of Africa; to the Committee on Foreign Affairs.

1787. A letter from the Executive Director, Federal Communications Commission, transmitting a report on the backlog of pending applications and hearing cases in the Federal Communications Commission as of December 31, 1973, pursuant to section 5(e) of the Communications Act, as amended; to the Committee on Interstate and Foreign Commerce.

1788. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting an Annual Report for 1973 on Progress in the Prevention and Control of Air Pollution, pursuant to section 313 of the Clean Air Act, as amended (42 U.S.C. 1857j–2); to the Committee on Interstate and Foreign Commerce.

1789. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting a report on positions in grade GS–17 in the Service during calendar year 1973, pursuant to 5 U.S.C. 5114(a); to the Committee on Post Office and Civil Service.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MATSUNAGA: Committee on Rules. House Resolution 794. Resolution providing for the consideration of H.R. 11221. A bill to provide full deposit insurance for public units and to increase deposit insurance from $20,000 to $50,000 (Rept. No. 93–770). Referred to the House Calendar.

Mr. ICHORD: Committee on Internal Security. Annual Report of the Committee on Internal Security for the year 1973 (Rept. No. 93–771). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DUNCAN:

H.R. 12319. A bill to amend title II of the Social Security Act to establish more effective procedures for the conduct of hearings, and the appointment of hearing examiners, with respect to claims under such title or title XVIII of such act; to the Committee on Ways and Means.

By Mr. ANNUNZIO:

H.R. 12320. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ASPIN:

H.R. 12321. A bill to establish a National Energy Information System, to authorize the Department of the Interior to undertake an inventory of U.S. energy resources on public lands and elsewhere, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 12322. A bill to amend the Internal Revenue Code of 1954 to phase out the foreign tax credit attributable to taxable income from foreign oil and gas wells; to the Committee on Ways and Means.

By Mr. BENNETT:

H.R. 12323. A bill to amend the Public Health Service Act; to the Committee on Interstate and Foreign Commerce.

By Mr. BLATNIK (for himself, Mr. Don H. Clausen, Mr. Johnson of California, Mr. Hansen of Idaho, Mr. Foley, Mr. Owens, Mr. Bergland, Mr. Obey, Mr. Rodino, Mr. McCormack, Mr. Alexander, Mr. McKay, Mr. Froehlich, Mr. Miller, Mr. Denholm, Mr. Walsh, Mr. Hamilton, Mr. Nix, Mr. Roe, Mr. Shoup, Mrs. Burke of California, Mr. Cleveland, Mr. Brown of California, Mr. Charles Wilson of Texas, and Mr. Carney of Ohio):

H.R. 12324. A bill to provide for payments to compensate county governments for the tax immunity of Federal lands within their boundaries; to the Committee on Interior and Insular Affairs.

By Mr. BROYHILL of Virginia (for himself and Mr. Rees):

H.R. 12325. A bill to amend the National Capital Transportation Act of 1969 with respect to the amount of the net project cost paid by the United States; to the Committee on the District of Columbia.

By Mr. BURLISON of Missouri:

H.R. 12326. A bill to designate certain lands in the Mingo National Wildlife Refuge, Wayne and Stoddard Counties, Mo., as wilderness; to the Committee on Interior and Insular Affairs.

By Mr. CAMP:

H.R. 12327. A bill to repeal the Economic Stabilization Act of 1970; to the Committee on Banking and Currency.

H.R. 12328. A bill to amend the Community Health Centers Act to provide for the extension thereof, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. CLANCY (for himself and Mr. Devine):

H.R. 12329. A bill to impose an embargo on the export of petrochemicals until price controls on petrochemicals are removed; to the Committee on Banking and Currency.

By Mr. CLARK:

H.R. 12330. A bill to amend title 10, United States Code, to equalize the retirement pay of members of the uniformed services of equal rank and years of service, and for other purposes; to the Committee on Armed Services .

H.R. 12331. A bill to repeal the Emergency Daylight Savings Time Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. DRINAN:

H.R. 12332. A bill to amend the Internal Revenue Code of 1954 to provide in the case of an individual with low income, or who has attained age 65, credit in an amount equal to the increase in energy costs experienced by such individual relative to such costs during 1972; to the Committee on Ways and Means.

By Mr. FRASER:

H.R. 12333. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. FREY:

H.R. 12334. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the performance of duty; to the Committee on the Judiciary.

By Mrs. GRASSO:

H.R. 12335. A bill to establish a temporary embargo on the exportation of certain chemical fertilizers; to the Committee on Banking and Currency.

By Mr. HALEY (for himself, Mr. Melcher, Mr. Taylor of North Carolina, Mr. Hosmer, Mr. Skubitz, and Mr. Steiger of Arizona):

H.R. 12336. A bill to provide for the addition of certain lands in the State of Alaska to the National Park, National Wildlife Refuge, National Forest, and the Wild and Scenic Rivers Systems, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HAMMERSCHMIDT:

H.R. 12337. A bill to impose an embargo on the export of petrochemicals until price controls on petrochemicals are removed; to the Committee on Banking and Currency.

H.R. 12338. A bill to direct the Comptroller General of the United States to conduct a study of the burden of reporting requirements of Federal regulatory programs on small business establishments, and for other purposes; to the Committee on Government Operations.

H.R. 12339. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

H.R. 12340. A bill to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance a national attack on arthritis; to the Committee on Interstate and Foreign Commerce.

By Mr. HAYS:

H.R. 12341. A bill to amend the Foreign Service Buildings Act, 1926, to authorize sale of a property in Venice to Wake Forest University; to the Committee on Foreign Affairs.

H.R. 12342. A bill to direct the U.S. Postal Service to issue a special postage stamp in recognition of the importance of the study of Latin and of the Junior Classical League; to the Committee on Post Office and Civil Service.

By Mr. HECHLER of West Virginia:

H.R. 12343. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mrs. HECKLER of Massachusetts:

H.R. 12344. A bill to authorize the Secretary of Health, Education, and Welfare to make grants to conduct special educational programs and activities designed to achieve educational equity for all students, men and women, and for other related educational purposes; to the Committee on Education and Labor.

By Mr. HUDNUT:

H.R. 12345. A bill to amend title II of the Social Security Act to increase to $750 in all cases the amount of the lump-sum death payment thereunder; to the Committee on Ways and Means.

By Mr. JOHNSON of California:

H.R. 12346. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. LEGGETT:

H.R. 12347. A bill for the relief of certain natives of the Philippines who served in the U.S. Armed Forces during World War II; to the Committee on the Judiciary.

By Mr. LENT:

H.R. 12348. A bill to amend section 4 of the Emergency Petroleum Allocation Act of 1973 to direct the President to establish ceiling prices on petroleum and related goods; to the Committee on Interstate and Foreign Commerce.

By Mr. LITTON (for himself, Mr. Riegle, Mr. McCloskey, Mr. Derwinski, Mr. de Lugo, Mr. Seiberling, Mr. Rees, Mr. Mollohan, Mr. Thompson of New Jersey, Mr. Breaux, Mr. Harrington, Mr. Charles Wilson of Texas, Mr. Fuqua, Mr. Won Pat, Mr. Melcher, Mr. Dellums, Ms. Abzug, Mr. Conyers, Mr. Studds, Mr. Rarick, Mr. Rose, Mr. Brown of California, Mr. Drinan, Mr. Veysey, and Mr. Kemp):

H.R. 12349. A bill to amend the Internal Revenue Code of 1954 to restrict the authority for inspection of tax returns and the disclosure of information contained therein, and for other purposes; to the Committee on Ways and Means.

By Mr. LONG of Maryland (for himself and Mr. Marazıti):

H.R. 12350. A bill to amend title 38, United States Code, to increase the vocational rehabilitation subsistence allowance, educational assistance allowances, and the special training allowances paid to eligible veterans and persons under chapters 31, 34, and 35 of such title; to improve and expand the special programs for educationally disadvantaged veterans and servicemen under chapter 34 of such title; to improve and expand the veteran-student services program; to establish a veterans education loan program for veterans eligible for benefits under chapter 34 of such title; to promote the employment of veterans and the wives and widows of certain veterans by improving and expanding the provisions governing the operation of the Veterans Employment Service and by providing for an action plan for the employment of disabled and Vietnam era veterans; to make improvements in the educational assistance program; to recodify and expand veterans' reemployment rights; to make improvements in the administration of educational benefits; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MADIGAN (for himself, Mr. Bennett, Mr. Brown of California, Mr. Burgener, Mrs. Chisholm, Mr. Coughlin, Mr. Cronin, Mr. Drinan, Mr. Eilberg, Mr. Fish, Mr. Flood, Mr. Gaydos, Mr. Jones of North Carolina, Mr. Helstoski, Mr. Hogan, Mr. Hudnut, Mr. Ichord, Mr. Lehman, Mr. McEwen, Mr. Madden, Mr. Mitchell of New York, Mr. Moakley, Mr. Morgan, Mr. O'Brien, and Mr. Parris):

H.R. 12351. A bill to require oil producers, refiners, and distributors to provide certain information as requested by the Federal Energy Administration, to authorize auditing of such information by the General Accounting Office, and to provide for enforcement; to the Committee on Interstate and Foreign Commerce.

By Mr. MADIGAN (for himself, Mr. Railsback, Mr. Rhodes, Mr. Riegle, Mr. Roe, Mr. Sarasin, Mr. Steiger of Wisconsin, Mr. Walsh, Mr. Wampler, Mr. Charles Wilson of Texas, Mr. Wolff, and Mr. Yates):

H.R. 12352. A bill to require oil producers, refiners, and distributors to provide certain information as requested by the Federal Energy Administration, to authorize auditing of such information by the General Accounting Office, and to provide for enforcement; to the Committee on Interstate and Foreign Commerce.

By Mr. MATHIS of Georgia:

H.R. 12353. A bill to amend title XI of the Social Security Act to repeal the recently added provision for the establishment of Professional Standards Review Organizations to review services covered under the medicare and medicaid programs; to the Committee on Ways and Means.

By Mr. MAYNE:

H.R. 12354. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. MEEDS (for himself, Mr. Don H. Clausen, and Mrs. Hansen of Washington):

H.R. 12355. A bill to amend the Alaska Native Claims Settlement Act (85 Stat. 688); to the Committee on Interior and Insular Affairs.

By Mr. MEEDS (for himself and Mr. Regula):

H.R. 12356. A bill to authorize appropriations for the Indian Claims Commission for fiscal year 1975; to the Committee on Interior and Insular Affairs.

By Mr. MINISH:

H.R. 12357. A bill to amend titles II and XVIII of the Social Security Act and chapters 2 and 21 of the Internal Revenue Code of 1954 to provide that the costs of the social security and medicare programs shall be borne equally by employees, employers, and the Federal Government (with appropriate reductions in the taxes on employees, employers, and the self-employed to reflect the Federal Government's participation in such costs); to the Committee on Ways and Means.

By Mr. MOAKLEY:

H.R. 12358. A bill to amend the Public Health Service Act to provide for programs for the diagnosis and treatment of hemophilia; to the Committee on Interstate and Foreign Commerce.

By Mr. O'NEILL (for himself and Mr. Moakley):

H.R. 12359. A bill to authorize the Secretary of Interior to establish the Boston Naval Shipyard Historic Site in the city of Boston, Mass., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. QUIE:

H.R. 12360. A bill to amend Public Law 93–182; to the Committee on Interstate and Foreign Commerce.

By Mr. RANDALL:

H.R. 12361. A bill to amend the Internal Revenue Code of 1954 to permit an individual to take a deduction for the costs of making energy-conserving alterations to his residence; to the Committee on Ways and Means.

By Mr. RARICK:

H.R. 12362. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. REID:

H.R. 12363. A bill to establish a National Energy Information System, to authorize the Department of the Interior to undertake an inventory of U.S. energy resources on public lands and elsewhere, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 12364. A bill to designate the birthday of Martin Luther King, Jr., as a legal public holiday; to the Committee on the Judiciary.

By. Mr. RIEGLE (for himself, Ms. Chisholm, Ms. Collins of Illinois, Mr. Dellums, Mr. de Lugo, Mr. Edwards of California, Mr. Eilberg, Mr. Fraser, Mr. Harrington, Mr. Hawkins, Mr. Hechler of West Virginia, Mr. Helstoski, Mr. Lehman, Mr. Matsunaga, Mr. Metcalfe, Mr. Moakley, Mr. Stark, Mr. Tiernan, Mr. Charles Wilson *of* Texas, Mr. Charles H. Wilson of California, and Mr. Yatron):

H.R. 12365. A bill to amend the Social Security Act to establish a program of food allowance for older Americans; to the Committee on Ways and Means.

By Mr. SISK:

H.R. 12366. A bill to amend the eligibility requirements for an emergency loan from the Farmers Home Administration; to the Committee on Agriculture.

H.R. 12367. A bill to amend title 38 of the United States Code to correct an inequity in the law relating to the provision of adaptive equipment for automobiles used by disabled veterans and servicemen; to the Committee on Veterans' Affairs.

By Mr. SLACK:

H.R. 12368. A bill to amend title II of the Social Security Act to reduce from 60 to 55 the age at which a woman may become entitled to actuarially reduced widow's insurance benefits thereunder; to the Committee on Ways and Means.

By Mr. STUCKEY:

H.R. 12369. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. TALCOTT:

H.R. 12370. A bill to authorize and direct the Secretary of the Interior and the Administrator of General Services to conduct a study relating to the procurement and use by the Federal Government of products manufactured from recycled materials; to the Committee on Government Operations.

By Mr. THOMSON of Wisconsin:

H.R. 12371. A bill to amend the National

Housing Act and the Small Business Act to transfer without change from the Small Business Administration to the Department of Housing and Urban Development the function of providing catastrophe assistance to victims, other than small business concerns, and the function of providing assistance to certain organizations operated in the interest of handicapped individuals; to the Committee on Banking and Currency.

By Mr. TIERNAN:

H.R. 12372. A bill to establish an independent commission to administer the internal revenue laws; to the Committee on Ways and Means.

By Mr. VANIK:

H.R. 12373. A bill to deny percentage depletion on excess profits from oil and gas wells in the United States; to the Committee on Ways and Means.

By Mr. WAGGONNER (for himself, Mr. Hébert, Mr. Passman, Mr. Breaux, Mr. Long of Louisiana, Mrs. Boggs, and Mr. Treen):

H.R. 12374. A bill to amend the Internal Revenue Code of 1954 to treat the sale of certain livestock sold as a result of flood as an involuntary conversion eligible for replacement or nonrecognition of gain treatment; to the Committee on Ways and Means.

By Mr. WALDIE:

H.R. 12375. A bill to provide that respect for an individual's right not to participate in abortions contrary to that individual's conscience be a requirement for hospital eligibility for Federal financial assistance; to the Committee on Interstate and Foreign Commerce.

By Mr. WALDIE (for himself, Mr. Dominick V. Daniels, Mr. Badillo, Mr. Boland, Mr. Mazzoli, Mr. Green of Pennsylvania, Mr. Studds, Mr. Rosenthal, Mr. Davis of Georgia, Ms. Grasso, Ms. Schroeder, Mr. Stark, Mr. Moakley, Mr. Randall, Mr. Conyers, Mr. Leggett, Mr. Rodino, Mr. Lehman, Mr. Clark, Mr. Jones of North Carolina, Mr. Rees, Mr. Cronin, Mr. Nedzi, Mr. Gunter, and Mr. Corman):

H.R. 12376. A bill to establish a National Energy Information System, to authorize the Department of the Interior to undertake an inventory of U.S. energy resources on public lands and elsewhere, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WALDIE (for himself, Mr. Roy, Mr. Tiernan, Mr. St Germain, Mr. Yatron, Mr. Charles H. Wilson of California, Mr. Gude, Mr. Addabbo, Mr. Clay, Mr. Carney of Ohio, Ms. Mink, and Mr. Danielson):

H.R. 12377. A bill to establish a National Energy Information System, to authorize the Department of the Interior to undertake an inventory of U.S. energy resources on public lands and elsewhere, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WALDIE (for himself, Mr. Edwards of California, Mr. Hawkins, Mr. Podell, Mr. Mitchell of Maryland, Mr. Bergland, Mr. Rooney of Pennsylvania, Mr. Helstoski, Mr. Roybal, Mr. Dent, Mr. Burke of Massachusetts, Mr. Ford, Mr. Obey, Mr. Harrington, Mr. Fascell, Mr. Fulton, Mr. Pepper, Ms. Abzug, Mr. Brown of California, Mr. Sarbanes, Mr. Mollohan, Mr. Brasco, Mr. Seiberling, Ms. Holtzman, and Mr. Drinan):

H.R. 12378. A bill to establish a National Energy Information System, to authorize the Department of the Interior to undertake an inventory of U.S. energy resources on public lands and elsewhere, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. CHARLES H. WILSON of California:

H.R. 12379. A bill to amend title 39, United States Code, to apply to the U.S. Postal Service certain provisions of law providing for Federal agency safety programs and responsibilities, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. WON PAT:

H.R. 12380. A bill to lower the age qualification for membership in the Guam Legislature; to the Committee on Interior and Insular Affairs.

By Mr. YATRON (for himself, Mr. Wolff, Mr. Boland, Mr. Bafalis, Mr. Eshleman, Mr. Jones of North Carolina, Mr. Roush, Mr. Cederberg, Mr. Ullman, Mr. Bingham, Mr. Esch, Mr. Brinkley, Mr. Mallary, Mr. Robert W. Daniel, Jr., Mr. Roy, Mr. Don H. Clausen, Mr. Melcher, Mr. Steiger of Wisconsin, Mr. Murphy of Illinois, Mr. White, Mr. Collier, Mr. McKay, Mr. Young of South Carolina, Mr. Lott, and Mr. Ashley):

H.R. 12381. A bill to direct the Comptroller General of the United States to conduct a study of the burden of reporting requirements of Federal regulatory programs on independent business establishments, and for other purposes; to the Committee on Government Operations.

By Mr. YOUNG of Alaska:

H.R. 12382. A bill to authorize construction of the Devil Canyon and Denali units of the Upper Susitna River Basin project and related transmission facilities; to the Committee on Interior and Insular Affairs.

By Mr. ZWACH:

H.R. 12383. A bill to authorize the Secretary of Agriculture to make grants to cities and park districts to encourage the increased planting of trees and shrubs and to encourage other urban forestry programs; to the Committee on Agriculture.

By Mrs. GRASSO:

H.R. 12384. A bill to authorize and direct the President of the United States to allocate chemical fertilizers until September 1, 1975; to the Committee on Banking and Currency.

By Mr. PATTEN:

H.R. 12385. A bill to amend the Food Stamp Act of 1964, as amended, and other purposes; to the Committee on Agriculture.

By Mr. MEEDS (for himself and Mr. Fraser):

H.J. Res. 881. Joint resolution to provide for the establishment of the American Indian Policy Review Commission; to the Committee on Interior and Insular Affairs.

By Mr. SIKES:

H.J. Res. 882. Joint resolution authorizing the President to proclaim the week beginning on the second Monday in November each year as "Youth Appreciation Week"; to the Committee on the Judiciary.

By Mr. BROOMFIELD:

H. Con. Res. 416. Concurrent resolution relating to unaccounted for personnel captured, killed, or missing during the Indochina conflict; to the Committee on Foreign Affairs.

By Mr. DRINAN (for himself, Ms. Abzug, Mr. Addabbo, Mr. Ashley, Mr. Badillo, Mr. Bergland, Mr. Bingham, Mr. Blatnik, Mr. Bolling, Mr. Brown of California, Mr. Conte, Mr. Conyers, Mr. Corman, Mr. Dellenback, Mr. Dellums, Mr. Eckhardt, Mr. Edwards of California, Mr. Eilberg, Mr. Fraser, Mr. Frenzel, Mr. Green of Pennsylvania, Mr. Hechler of West Virginia, Mr. Helstoski, Mr. Hungate, and Mr. Kastenmeier):

H. Con. Res. 417. Concurrent resolution relating to peace throughout the World; to the Committee on Foreign Affairs.

By Mr. DRINAN (for himself, Mr. Lehman, Mr. McCloskey, Mr. McKinney, Mr. Matsunaga, Mr. Metcalfe, Ms. Mink, Mr. Moorhead of Pennsylvania, Mr. Mosher, Mr. Rangel, Mr. Rosenthal, Mr. Seiberling, Mr. Smith of New York, Mr. Stark, Mr. Stokes, Mr. Symington, and Mr. Won Pat):

H. Con. Res. 418. Concurrent resolution relating to peace throughout the World; to the Committee on Foreign Affairs.

By Mr. FINDLEY (for himself and Mr. Roncallo of New York):

H. Res. 795. Resolution creating a select committee to investigate and study the character of the energy crisis; to the Committee on Rules.

By Mr. GUNTER (for himself, Mr. Lehman, Mr. Long of Maryland, Mr. Martin of North Carolina, Mr. Minish, Mr. Mitchell of New York, Mr. Podell, Mr. Roybal, Mr. Ryan, Mr. Snyder, Mr. Tiernan, Mr. Charles Wilson of Texas, Mr. Rinaldo, and Mr. Litton):

H. Res. 796. Resolution creating a select committee to conduct an investigation and study of the role of the oil and gas industry in contributing to the current energy crisis; to the Committee on Rules.

By Mr. HAYS:

H. Res. 797. Resolution to provide funds for the expenses of the investigations and studies by the Committee on House Administration; to the Committee on House Administration.

## MEMORIALS

Under clause 4 of rule XXII,

340. The SPEAKER presented a memorial of the Legislature of the State of Maine, ratifying the proposed amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURTON:

H.R. 12386. A bill for the relief of Antonio Mendoza Jimenez; to the Committee on the Judiciary.

H.R. 12387. A bill for the relief of Linda Maria Gaitan; to the Committee on the Judiciary.

By Mr. DINGELL:

H.R. 12388. A bill for the relief of Zahra Hamzeh Sage; to the Committee on the Judiciary.

## PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

386. By the SPEAKER: Petition of Austin Minor, Shelbyville, Tenn., relative to redress of grievances; to the Committee on the Judiciary.

387. Also, petition of Kathleen A. Barnhart, Memphis, Tenn., and others, relative to impeachment of the President; to the Committee on the Judiciary.

# EXTENSIONS OF REMARKS

## PRAISE FOR CONGRESSMAN BILL SCHERLE

### HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. MYERS. Mr. Speaker, it is not often that politicians are applauded for the job they are doing. However, I was fortunate to be the guest of the National Limestone Institute last week and to hear Institute Chairman John Schildberg praise the work and dedication of one of our colleagues, Congressman BILL SCHERLE of Iowa. Mr. Schildberg's remarks are particularly significant in view of the problems we face as a nation, and I would like to share them with all the Members of the House:

REMARKS OF CHAIRMAN JOHN SCHILDBERG

Senator Scott, esteemed Members of the Senate, Honorable Members of the House, Honored Guests, Ladies and Gentlemen of the National Limestone Institute.

As we bring to a close the year of my serving you as your Chairman, I would like to share some thoughts and reflections with you.

In the year 1973 we have seen a turn of events that I believe will change our basic government functions—not a change in our government system but a very definite change in the functions.

We will also see a change in our very basic way and style of life.

A change I hope that will bring us back to the ideals that made this country great.

Back to a strong free enterprise system—as you know our country has just weathered a severe economical crisis in its balance of payments—and it was the American Farmer—one of the last bastions of our free enterprise system that saved us in this crisis.

We cannot let the American Family Farm pass into obscurity.

We must always keep in mind that the Lord has given us the stewardship of the land and it is vital that we protect this stewardship, and pass it to future generations in at least as good a shape, if not better than when we received it. We must not forsake this great resource.

We are now in the midst of an energy crisis, contrived or otherwise only time will tell, but make no mistake we are in a Crisis. Ask any auto worker or airline employee who has lost his job. They will tell you the crisis is real. But as the pendulum swings, as it many times does when we search for an answer to such a crisis, we must not lose sight of the fact that we have a Road System in this Country second to none in the World, and it is this same Road System that is a very important reason that we have also an economy that is second to none.

We have accomplished this great road system mostly from revenues and funds derived from the use of the road system itself. Yes, Funds, as our Highway Trust Fund. We must not let the pendulum swing to the point where we destroy the Highway Trust Fund, then our great Road System, and finally the economy of this Nation itself.

In listening to Hugh Sidey yesterday, who by the way my wife and I went through school with back in Greenfield, Iowa, and maybe this is the reason for our solid Midwestern American feelings, we heard Hugh relate to something very close to my heart, "Creditability"—Creditability in Public Office, Creditability in the Press and Creditability in our own personal lives—to me this all adds up to *"American Creditability"*.

As many of you know, I have been involved in a project in Europe. For the past few years I have talked to many, many Europeans and I must say I have seen our American image through our credibility go from a high during the Eisenhower Administration, peak during the Kennedy Administration and then steadily fall to its present embarrassing low ebb.

About a week ago I saw my Congressman Bill Scherle, who spoke to us this noon, on a one-on-one TV interview. The questions that were called in and then asked straight to Bill covered almost every facet of today's problems. Bill answered every question straightforward in all honesty as he saw it. Never once did he circumnavigate a question or a point.

Bill made me proud to be an American and also proud to know I am represented by a man with such a good Creditability.

I thank Bill, as well as Hugh Sidey who spoke yesterday, and now Senator Scott who have given us the change we as individuals need.

Let's start at the grassroots, let's each one personally become creditable in his own right.

Then become involved in your community—in your Politics—in your Associations. Not by lip service, but by doing.

Give of your time and effort as well as helping financially. The Program—The Candidate—the Issue of your choice.

Keeping in mind in every endeavor we must be straightforward, honest, and aboveboard.

With this return to our basic ideals I am sure we can look forward to a good sound future in this Country.

One we can be proud of in our own eyes as well as in the eyes of the World.

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## AMENDMENT TO H.R. 11793

### HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Ms. ABZUG. Mr. Speaker, when H.R. 11793, the legislation establishing the Federal Energy Administration, comes to the floor for amendments, I will offer amendments concerning fuel reserves on land owned by the Federal Government and concerning protection of the environment from energy actions undertaken by the Federal Energy Administration.

The amendment regarding fuel reserves on Federal land would provide the FEA Administrator with authority to collect information about such reserves. It has been estimated that 80 percent of our fuel reserves are on public land. However, as FEO Administrator Simon has admitted, we have no adequate data concerning those reserves. That information is vital if we are to know accurately what our reserve status is and if we are to develop our energy policies on the basis of the best available information.

The amendment I will offer with regard to environmental protection would establish, within the FEA an environmental protection unit. The purpose of this unit would be to coordinate the energy activities of the Federal Energy Administration with those of the Environmental Protection Agency so as to prevent violations by FEA of our environmental laws.

The text of the amendments follows:

AMENDMENT TO H.R. 11793

Page 33, line 10, after "information" insert the following, "concerning fuel reserves on land owned by the Government of the United States, and have authority to collect energy information".

Page 30, between lines 5 and 6, insert the following new section:

ENVIRONMENTAL PROTECTION

SEC. 11. There shall be established within the Federal Energy Administration an Environmental Protection Unit whose primary purpose shall be to coordinate activities between the Federal Energy Administration and the Environmental Protection Agency. The purpose of such coordination shall be to preclude the possibility that the energy actions undertaken by the Federal Energy Administration will be violative of environmental protection laws including, but not limited to, the National Environmental Protection Act and the Clean Air Act.

And renumber the succeeding sections accordingly.

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## DALLAS BUILDING PLANS AHEAD FOR ENERGY SAVINGS

### HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. COLLINS of Texas. Mr. Speaker, in Dallas we have all been proud of the excellent engineering job done by Herman Blum in preparing the 56-story First International Building of Dallas. From the very first, they have looked into the future as to conservation of energy. The First International Building will come in with many innovations which will be invaluable to future conservation programming and savings in energy.

I have heard this plan discussed many times but I saw it summed up very well in the story that was written in the December issue of the New York Times:

BIG DALLAS BUILDING TO USE BODY HEAT TO SAVE ON ENERGY

DALLAS.—Body heat will be used to conserve energy in this city's tallest building, beginning next spring.

The building is the 56-story First International Building of Dallas and the man responsible for the energy conservation effort is Herman Blum, a nationally known consulting engineer.

Designed more than two years ago, First International is the first major structure in the Southwest to incorporate three basic systems to conserve energy.

The first system involves the collection of heat generated by people and electric lighting in the interior of the building. The heat is next distributed through a variable-volume outlet to the exterior of the structure. This blanket of heat then counteracts energy losses through the glass walls.

The second area of energy saving is through highly efficient insulated reflective glass. "We came up with reflective glass on the outside separated by an air space from a second insulating pane on the inside," Mr. Blum said. "The result of all this is a 15 per cent savings of fuel required for summer air-conditioning."

The third energy-saving system is the variable-volume outlet, which automatically adjusts the air between the exterior walls. If the outside is too cool, the outlet opens up and pumps warm air into the space between the two walls. If the space is too warm, it shuts down and provides less warm air, thus controlling the temperature of the space.

Mr. Blum estimates savings of 25 to 30 per cent on the total cost of energy in the building * * * structures. Savings on heating are expected to exceed 55 per cent.

## THE ENERGY INFORMATION ACT

### HON. OGDEN R. REID

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. REID. Mr. Speaker, I am introducing a bill today entitled the Energy Information Act. It is, I believe, a measure which has been sorely needed for a long time. The bill would create a Bureau of Energy Information within the Department of Commerce and a national energy information system would be operated and maintained by the Bureau.

The pronouncements we hear almost daily now from William E. Simon, our so-called energy "czar," from the oil industry, and from economists have, at the very least, confused the Nation terribly. Paradox and contradiction have exacerbated the energy crisis for the American people and the deliberate obfuscation of energy information by the major oil companies has certainly not helped at all. One is easily convinced by the industry's windfall profits in 1973 that the current crisis is being used to rip off the American consumer.

Mr. Speaker, there is only one way in which the Congress and the American people will ever learn the true facts behind the energy crisis. It has become amply clear that we can no longer rely upon the American Petroleum Institute or the Oil Daily to tell us what is happening. Relying on information voluntarily produced by the oil companies does not give us any more insight into whether the oil shortage is real or just the result of a misfired marketing scheme designed to upgrade profits. Experience now proves that neither Congress nor the administration can afford to rely on industry-supplied data to set energy policy for the Nation. The time has come for the Federal Government to begin collecting, organizing, standardizing, coordinating, and disseminating energy information. It is to that end that my bill, the Energy Information Act, is directed.

Mr. Speaker, with rising demands for congressional action on the energy crisis, the creation of a Bureau of Energy Information to serve as a "census bureau" for the energy industry should be a top legislative priority. I believe that the creation of such a system, with the proper safeguards built in, of course, is the only way in which Congress and the public will ever learn the truth about our energy situation. I hope that my colleagues will join me in cosponsorship of the Energy Information Act.

## LETTING WILDERNESS PRESERVE ITSELF

### HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. GUDE. Mr. Speaker, on Friday, January 25, the Baltimore Sun ran a story by Peter A. Jay, who wrote convincingly on the importance of moving carefully, but decisively on preserving wilderness areas. Mr. Jay's comments center around a proposal to include some 8,000 acres of the Blackwater National Wildlife Refuge under the provisions of the Wilderness Act.

The major issue raised here is a vital one which deserves careful consideration, and it is the extent to which essentially wild lands ought to be "managed," if indeed they should be managed at all. The case surrounding the possible inclusion of the Blackwater Refuge under the Wilderness System well illustrates some of the problems involved. Mr. Jay's article goes into some of the issues, I include that article at this point in the RECORD:

### LETTING WILDERNESS PRESERVE ITSELF

(By Peter A. Jay)

It is nearly 9 o'clock in the morning, but that is by Nixon time and it is still half dark. Out in the marshes that stretch away to where the horizon would be if one could see that far, and honking overhead hidden by the low rain clouds, are thousands of Canada geese.

Thirty years ago about 5,000 geese wintered here. Now there are nearly 100,000 in the refuge in the early winter. They have flourished because they have been "managed," to use the wildlife men's term. Their habitat, in these Dorchester county marshes and elsewhere, has been protected and expanded until they have reached vast numbers—and nuisance proportions, according to some Eastern Shore farmers.

Scientific management of wildlife is old in Europe but relatively new to the United States. It has had some notable successes—primarily with game birds, and animals, like the Canada goose and white-tailed deer—and some less publicized failures. Generally, management is accepted as a good thing; even those who believe we would do better to leave the creatures of the earth alone are a little chary about saying so openly.

There is a polite little confrontation now going on at this refuge between the managers and the anti-managers, and while the managers are pretty clearly going to win, the anti-managers make some interesting points that are worth at least passing attention by anyone concerned with the use of natural resources.

In accordance with the Wilderness Act of 1964, the Interior Department is now reviewing major roadless areas within the National Wildlife Refuge system to determine if they should be classified and preserved as wilderness under the law. Most of these areas are in the West, but about 80 per cent of the Blackwater Refuge—over 8,000 acres of marsh and open water—is also being considered. It is the only potential wilderness in Maryland, at least for the purposes of the Interior Department.

What would wilderness status mean for these wild marshes? The managers, especially the Bureau of Sport Fisheries and Wildlife, but also a number of private conservation groups, say it would be undesirable because it would interfere with the management of the refuge.

Some 3,000 acres of marsh grass are burned annually, mainly to provide fresh green forage for the geese, and there is some question whether the Wilderness Act would allow this practice to continue.

The Interior people say the wilderness designation also might prevent the current extensive trapping of muskrat and nutria—the latter a South American rodent that was imported a number of years ago and has become both a considerable pest and a prime example of mistaken management. Some wilderness advocates say that the Wilderness Act is flexible enough to allow trapping and burning to continue.

For the most part, the debate over Blackwater has skirted the edges of the central management question—whether wild lands ought to be managed at all. At a recent public hearing here, nearly every witness praised the Bureau of Sport Fisheries and Wildlife's management of Blackwater. In these surroundings, with the spectacular abundance of waterfowl both visibly and audibly obvious, it was hard not to do so.

But the question still remains, and it underlies other debates—over whether roads should be built in parks, or foot-trails, or nothing; whether there should be hunting on public lands; whether Forest Service land should be timbered and grazed. How much should nature be managed, and for whom?

Here at Blackwater, the leaders of the wilderness faction, primarily the Wilderness Society and the Sierra Club, based their arguments not on the management issue but on the future security of the refuge.

Only as wilderness, they say, will the marshes be made safe once and for all from commercial development, mineral exploration or other abuse. They have a point. The Nixon administration has shown little interest in the refuge system, and when refuges and special interests collide, as has occurred in Alaska, the refuges tend to fall victim to the national interest as expressed in terms of bulldozers.

The Chesapeake Bay Foundation and other groups have questioned some of the management practices at Blackwater, especially the annual burning. Erosion is a critical problem at Blackwater and other low-lying parts of the Shore, and the burning may contribute to it, some conservationists suspect.

But no one has quite dared to suggest that it might be better in the long run to leave places like Blackwater both wild and unmanaged, even if it means fewer geese.

The managers have had some shiny successes. At Blackwater, ospreys and eagles and the Delmarva fox squirrel have a fighting chance at survival, because of man's intervention. But clear-cut forests, poisoned predators and overgrazed mountains, as well as the pestiferous nutria, have been brought to us in the name of management.

The suspicion lingers that perhaps we ought to let nature have a crack at running a few little corners of the earth herself.

Arguments favoring inclusion of Blackwater in the Wilderness are quite convincing. We must move carefully but decisively into these areas of wilderness versus management before we lose too much. As Mr. Jay summarizes, there is a compelling logic to allowing nature to have a chance.

## INTRODUCTION OF LEGISLATION ON THE PERCENTAGE DEPLETION ALLOWANCE: ATTACKING EXCESS DOMESTIC PROFITS IN THE OIL INDUSTRY

### HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. VANIK. Mr. Speaker, confusion continues to spread in the media war between the oil industry and its critics. Misinformation and deception have destroyed the public's confidence in the industry and have seriously eroded the credibility of Government efforts to define the dimensions of our energy shortages. Thus far, much of the controversy has focused on the excess or windfall profits of the oil companies. Debate has become bogged down in technical arguments over what is "reasonable," what is "excess," what is an accurate gage of profitability, and so on. The only conclusion we can safely draw is that statistics can serve virtually any point you want to make.

All of this controversy has missed the essential point about oil company profits: The oil companies are paying little, if any, Federal income tax. This is because we have created, through our own misguided policies, a system of irrational, inefficient, and unproductive tax subsidies to the oil companies. The real excess profits are flowing through the gaping tax loopholes in our Internal Revenue Code.

These loopholes are widening. In 1972, I calculated that the top five oil companies paid effective rates of tax ranging from 2.7 percent to 5.8 percent. For the oil companies, a major escape from tax liabilities is the percentage depletion deduction. The deduction is computed at 22 percent of gross income from a producing property. Gross income is determined by the price at which a barrel of crude oil is sold times the number of barrels of oil produced. In recent weeks, this price has gone through the roof. As the price of domestic crude has spiraled upward, the value of the deduction to the oil companies has multiplied.

Under present price rulings, the Cost of Living Council controls the price of "old" oil at $5.25 a barrel—that is a dollar over the December level. Much of this old oil, which accounts for 75 percent of our domestic supply, was discovered when costs were only a fraction of what they are today. At the same time, the Council exempted from price controls all new oil. Congress added to this exemption category all stripper wells—wells which produce less than 10 barrels a day. This oil which is decontrolled is now selling at over $10 a barrel.

This price is unwarranted by the costs of production. It is, in short, a windfall to producers. The Treasury Department has analyzed the situation as follows:

> . . . suppose that a price of $7 a barrel for crude oil would be sufficient after two or three years to induce increased supplies and to dampen demand, so the shortages would disappear. Such price would be the "long term supply price." If in the interim, the price goes to $8 or $9 a barrel, the excess of the $8 or $9 price over the long term supply price is a "windfall"—it is more than the price required to produce all that is in fact being supplied or is likely to be supplied in the next several years.

The difficulty with the administration's analysis is that nobody knows what the long-term supply price will be. The Treasury Department guesses $7 a barrel. At this stage, it is anybody's guess.

But the essential fact remains: The oil producers of this country are taking the American people for a ride. As consumers, we are being forced to pay higher and higher prices. As taxpayers, we are being forced to subsidize the oil companies to a greater and greater extent.

This injustice must stop. Today I am introducing initial legislation which will establish some controls over the abuse of the depletion deduction. My proposal limits a company's depletion deduction to a base period oil price—it will prevent the multiplication of the depletion benefit as the price of oil soars.

Percentage depletion is a poorly conceived, open-ended subsidy. Under the present condition of skyrocketing crude prices, Congress is in danger of totally losing control. With the plan I propose, the value of the depletion deduction will not multiply as the price goes up and Treasury loss will be controlled. This legislation will enable Congress to harness the depletion deduction while we determine its fate.

We must not allow the present windfall profit dollars of the oil producers to turn into the great oil robbery of the U.S. Treasury.

## JOHN TREMBLEY DAY

### HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. DUNCAN. Mr. Speaker, on January 26, 1974, "John Trembley Day" was celebrated at the University of Tennessee in Knoxville to honor one of the Nation's outstanding athletes. I want to bring this fine young swimmer to the attention of my colleagues and the American people.

John Trembley has been a tremendous asset to the University of Tennessee swimming program. While at the university he has not participated in a losing effort, and on many occasions has been the team's winning edge.

Trembley is coholder of the NCAA 50-yard freestyle record at 20:3 with Dave Edgar, also a UT varsity swimmer. He also won the 50-yard freestyle event at the conference championships in 1972. For the past 3 years, Trembley has been numbered among the All-America ranks.

In 1973, Trembley won five gold medals at the NCAA championship meet for the 50-yard freestyle at 20:3, the 100-yard freestyle at 45:0, the 100-yard fly at 48:4, the fly leg on the winning NCAA medley relay team, and the 400-yard freestyle relay as anchorman. This particular relay team set two consecutive American records, 3:01 in 1972 and 3:00 in 1973. Trembley is the first man in the history of the NCAA to win five gold medals, and he accomplished this feat last year at the golden anniversary of the NCAA championships.

Trembley has been lauded as the 1973 swimmer of the year by the Columbus Touchdown Club which annually recognizes the outstanding swimmer in America.

## SELECT COMMITTEE ON COMMITTEES EFFORTS ARE HERALDED

### HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. HARRINGTON. Mr. Speaker, I wish to insert in the RECORD an article which appeared recently in the Los Angeles Times bringing to the public's attention the House Select Committee on Committees efforts to generate greater efficiency in the House committee system.

The Honorable RICHARD BOLLING, who chaired the committee and his fellow committee members assumed a difficult task in attacking many old, difficult and controversial problems of organization, heretofore unaddressed. Their efforts of this past year are to be commended.

I am pleased to see their work receive this attention.

The article follows:

[From the Los Angeles Times, Dec. 31, 1973]

HIGH TIME TO REVAMP THE HOUSE

Spheres of power in the House of Representatives that have existed for more than a quarter-century would be revised under a proposal drafted by the House Select Committee on Committees. After almost a year of study and debate, the committee has come forth with plans for wholesale revamping of the House committee network. It is high time.

Work loads would be distributed more logically and more equitably. Three panels would be abolished. Most members would be limited to service on one committee, which should reduce absenteeism because of schedule conflicts.

Perhaps the most drastic proposal would be the changes in the role of the Ways and Means Committee. Although originally set up to handle revenue-raising measures, Ways and Means now virtually dominates key legislative issues and has come under considerable criticism for its slow pace. It has no subcommittees, and it takes up only one subject at a time. Ways and Means would be stripped of control over foreign trade and most health insurance matters, but it would retain review power over trade and health bills and would also retain original jurisdiction over tax aspects of health insurance.

Foreign trade problems would be transferred to the Foreign Affairs Committee, which has a comparatively light work load for the simple reason that the Constitution leaves only a minor role for the House in foreign affairs. Congressional Quarterly reports that in recent years Ways and Means has not looked regularly at foreign trade matters. The foreign affairs panel would be given jurisdiction over the Food for Peace program, which is primarily an instrument of foreign policy but is now administered by the Agriculture Committee.

The controversial Internal Security Committee would be eliminated and its duties transferred to the Judiciary Committee is the way such matters are handled in the Senate. Also slated for disbanding would be the Post Office and Civil Service Committee and the Merchant Marine and Fisheries Committee. It is argued that their work loads are too light to justify their continuance and that their duties can readily be absorbed by other groups; the argument makes sense.

The Public Works Committee would be renamed the Public Works and Transportation Committee, and would handle various transportation matters now scattered in several, and some unlikely, places. For example, mass transit is presently under the supervision of the Banking and Currency committee.

In addition to these jurisdictional and organizational changes the select committee made a useful procedural recommendation, urging that members of Congress meet in Washington in the weeks before formal opening of the session in order to dispose of organizational matters. In that way, members would be ready to get down to business as soon as the session is convened.

The Select Committee on Committees hopes to finish its work on the plan in time to have it ready for a floor vote before the Easter recess. Many of the proposals would improve the process of government. But the House should keep in mind that this is only part of the reform job. Of particular importance is the presently inadequate budgetary procedures, which should be pressed along with the committee changes.

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## YEAR-ROUND DAYLIGHT SAVING TIME QUESTIONED

### HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. SHRIVER. Mr. Speaker, I would like to bring to the attention of the House the discontent I have noted among many of my constituents over enactment of the Daylight Saving Time Act of 1973.

The people of my district are perplexed that Congress only positive legislative action thus far with respect to the energy crisis is to adjust the clock. Nor is that concern founded alone in the conviction that moving the clock ahead an hour is a meaningless gesture. To a man, the anti-DST'ers agree on one vital point: The act was ill-conceived. It has created hardships and safety hazards immeasurably greater in magnitude than the benefits supposedly to be derived from it.

Instead of engendering a morale-building attitude of "let's tough it out together," the act has led our constituents to demand, "what's the matter with those people in Washington?"

The other day I received a letter from a 12-year-old Wichita girl, Kelly Malone. It expresses more poignantly than most the frustration, the confusion and the dissatisfaction of many in Kansas' Fourth District over the Daylight Saving Time Act. The letter follows:

WICHITA, KANS.,
*January 19, 1974.*

Hon. GARNER SHRIVER,
*House of Representatives,*
*Washington, D.C.*

DEAR SIR: I would like to ask why you turned the clocks ahead. I don't understand.

I was going to contribute to my part, but now it would be very hard. I was going to walk to and from school when the weather permitted. Now at 7:15 in the morning it is too dark. It's too dangerous to walk.

I'm a 7th grader at Wilbur Jr. High. I live about 1¼ miles from school.

It is also very dangerous to walk because there isn't any good way to walk. I could walk across a field, but usually it's wet. Also I could walk on a street, but it's too easy to get hurt or killed.

Please answer my letter.

Sincerely,

KELLY MALONE.

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## INTERNATIONAL COORDINATION IN COMMODITY-RESOURCE POLICIES

### HON. ORVAL HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. HANSEN of Idaho. Mr. Speaker, the Arab oil embargo has emphasized the critical impact of unilateral action on the international economic community. As the world community seeks solutions to the "petrocrisis," the temptation certainly exists for unilateral action to benefit individual economies. World economic stability demands that this temptation be resisted.

The President has wisely sought a joint effort to seek meaningful solutions to the oil problem by calling for meetings of petroleum consuming and producing nations to be held here in Washington, D.C., in early February. While the initial efforts of the participants must be dedicated to the current petroleum dilemma, consideration must be given to commodity-resource supply and demand problems that will develop in the expanding world economy.

I have written to the President urging the establishment of an international commission to develop an overview of supply-demand trends in commodities and resources, and to implement long-range policies based on this global perspective.

I insert my letter to the President in the CONGRESSIONAL RECORD, along with an article by Mr. Robert R. Bowie that appeared in the January 23 issue of the Christian Science Monitor. Mr. Bowie's thoughtful analysis of the economic implications of unilateral action underscores my own concern for developing an effective international mechanism to deal with long-range problems of supply and demand.

The articles follow:

JANUARY 23, 1974.

Hon. RICHARD M. NIXON,
*President of the United States,*
*The White House,*
*Washington, D.C.*

DEAR MR. PRESIDENT: You are to be commended for the initiative you have taken to establish an international dialogue on the energy crisis with the forthcoming Washington meetings of petroleum consuming countries and members of OPEC. I share your concern about the long-range international implications of economic imbalances resulting from disproportionate levels of supply and demand in key raw materials and food. The forthcoming Washington meetings will provide a basic forum for a meaningful discussion of the problems faced by the international community in this critical area, but effective long-range policy planning will depend on more than the interchange of ideas that may be achieved at these meetings.

What is clearly required is the establishment of a permanent international commission dedicated to the formulation of long-range international policies. Such a commission should also possess sufficient authority to encourage the implementation of the policies that are developed. Complex economic interrelationships demand an overview of international policies. What has been lacking in the international community is a well-developed sense of direction. Without it, individual countries proceed down self-created avenues of approach to growth that often conflict with the equally legitimate aspirations of another country. The resultant collision between objectives often traumatizes the entire economic world. We can ill afford many more of these traumas.

The wealth of administrative talent, research capability and technological knowledge we have in the world today should be coordinated to preclude the occurrence of any further commodity crises. The elements of international expertise are already available—coordination should be the next objective.

The momentum of international action to confront the energy crisis must be maintained and accelerated to promote the establishment of an administrative body capable of making balanced decisions on long-range world problems.

The necessity for a quick reaction to sudden crises, such as the energy problem, does not allow sufficient time to assess how short-term programs may affect future international developments. We can no longer afford a disjointed, unilateral perspective that embraces only our own domestic requirements. The short-range advantages that might be gained by such an approach would be quickly outweighed by international repercussions. Thus, I strongly urge you to promote the establishment of a high-level international agency that would address itself to the problems of international supply and demand and all related socio-economic and political functions. In such a commission, the United States could exercise the leadership it has pledged to the international community, and in doing so, provide the mechanism for the achievement of social and economic goals necessary for world stability.

Growing world economic interdependence, which your Administration has wisely encouraged, could provide the mechanism for implementation of policies developed by the international commission. The commission should also possess that degree of autonomy that would insulate it from the demands of temporary political expediency. As we have seen demonstrated in this country, many worthwhile recommendations and programs are rejected on the basis of political popularity rather than being judged on the basis of long-range merit. Policy decisions based on this level of perspective will result in a loss of flexibility to confront international problems as population and demand increase and resources are depleted. Complex international problems demand reason and foresight that is often lacking in political decisions. The proposed commission should possess the ability to launch an educative effort in the world community to define the parameters of a developing problem and to diffuse sufficient information that will encourage meaningful dialogue and wise choices.

I would welcome the opportunity to discuss these ideas with you or Secretary Kissinger, and I am hopeful that your staff will explore the possibilities of such an international commission prior to the forthcoming round of Washington meetings.

Sincerely yours,

Orval Hansen,
*Member of Congress.*

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[From the Christian Science Monitor, Jan. 23, 1974]

### Hanging Together—Or Separately

(By Robert R. Bowie)

Brussels.—The energy crisis could pose the gravest threat to the economic system of the non-Communist world since 1947–50. The economic problems, while complex and novel, can almost surely be handled if the interested states work together to solve them, and recognize their interdependence. Thus the greater challenge is to political leadership. And it comes at an unpropitious time.

Public attention has focused primarily on the Arab oil cutback and the resulting shortages in supply. That action was, of course, a shock and its effect potentially disruptive, especially for Western Europe and Japan which depend so heavily on imported oil. In practice, however, the cutback was relaxed somewhat and may be ended before severe damage is done.

Far more serious is the tripling of oil prices at the end of 1973. The figures are staggering. For the advanced nations in the Organization of Economic Cooperation and Development (OECD) the oil imports will cost some $50 billion more in 1974 than last year. And for the less developed countries, oil costs will jump by $9 billion to $10 billion—which will exceed total external assistance, and put in jeopardy the entire development program of many of them.

For the advanced nations the threat is different. The added costs are a serious burden, but can certainly be handled eventually. The greater danger arises from the impact on their balance of payments and the repercussions of their possible reactions. For Japan the added exchange costs could amount to nearly $10 billion, and for Western Europe about $30 billion. And this blow comes at a time when all are suffering from rapid inflation and concerned about a recession, and some, like Britain and Japan, already face large deficits in their balance of payments.

Conversely, for 1974 alone, the oil suppliers will be holding surplus funds of $40 to $50 billion, after allowing for probable spending for food, development, arms, and other purposes.

The consequences could be disastrous if the situation is not handled by cooperation. Avoiding disaster will require concerted action of various sorts:

First, the advanced nations will have to refrain from unilateral measures designed to improve their balance of payments at the expense of others. If each country tries to expand its exports or curtail imports by devaluing or by trade barriers, subsidies, and the like, it will trigger counteractions which will only disrupt trade and exchanges without meeting the real problems at all.

Second, the advanced nations will have to work out with the oil exporters orderly ways for managing their enormous surpluses. Perhaps the International Monetary Fund (IMF) can serve as a conduit to acquire and relend part of them to importing states to finance their deficits. Or maybe the OECD nations can revalue their gold reserves at current market prices and sell gold to the oil exporters. It should also be possible to assist some of these oil suppliers to construct refineries and processing plants, and to invest in the advanced nations.

Third, the poorer oil importers among the developing countries will have to have special help. Perhaps the oil-rich states can be persuaded to lower the prices for such users, or to provide them with development assistance, or at least to channel funds to them through the World Bank or its affiliates.

Fourth, the oil imports should launch a large-scale cooperative program of research and development and exploration to develop new processes and sources of energy for the long run. A combined attack will be much more effective and less wasteful than uncoordinated and duplicating efforts.

The need for such cooperation has already been recognized—at least verbally. The OECD has warned against beggar-they-neighbor measures, the IMF committee of 20 urged joint action at its Rome meeting last week, and President Nixon has called a conference for Feb. 11.

Yet as I have said, conditions are far from ideal. Curiously, the problem may not lie mainly with the oil exporters. They may not be willing to reduce oil prices, as Secretary Shultz hopes, (though even that may not be excluded). But the key leaders in Saudi Arabia and Iran seem fully aware that disruption or depression in the advanced nations will also harm their economic and security interests.

The difficulties may come more from within the West itself. The first reaction of Japan, Britain, and France was to arrange bilateral deals for their national oil supply.

Last weekend, France floated the franc unilaterally, despite its obligations in the European Community. And the community itself is in extreme disarray, with little evidence of the community spirit anywhere.

Yet efforts to cope unilaterally with the present predicament will be futile and self-defeating. If political leaders can be gotten to look at the consequences of trying to do so, they may draw the proper conclusions and be jolted into taking the requisite actions together.

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## MACK TRUCKS CIVIC AWARD GIVEN TO ANDY KOROPCHAK

### HON. ANGELO D. RONCALLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. RONCALLO of New York. Mr. Speaker, the Massapequa resident, who had a day proclaimed in his honor on June 19, 1971, by the town of Oyster Bay for outstanding participation in civic affairs, has been named a recipient by Mack Trucks, Inc., of its Civic Award for dedicated community service.

Mr. Koropchak, an "A" mechanic with the Queens branch of Mack Trucks, which he joined in 1946, was cited particularly for his work with Post No. 7763, Veterans of Foreign Wars, of Massapequa Park.

In a letter to Mr. Koropchak, Zenon C. R. Hansen, Mack chairman and chief executive officer of the truck manufacturing company, said:

> This award is the most prestigious in our organization and was initiated in 1972. Your efforts in the civic activities in which you have been engaged in your locality are outstanding, and I offer my heartiest congratulations and best wishes. It is people like you, doing the things that you are doing, that indeed "make the difference."

The Civic Award, an inscribed plaque, was one of 17 made this year in the United States and Canada by the Allentown, Pa.,-based company. Eligible for the award are employees of the company, its subsidiaries, and authorized distributors.

Mr. Koropchak, who lives at 1132 Lakeshore Drive, was the VFW Post's "Man of the Year" in 1970 and its commander in 1971–72. He also is active in "Poppy Day" and is a three-time "Poppy Day" champion. Mr. Koropchak's active participation in community activities has projected him as a true citizen of the community who works for the interest of others rather than for himself.

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## ISRAELI SECURITY IN THE MIDDLE EAST

### Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mrs. BURKE of California. Mr. Speaker, as peace negotiations move forward in the Middle East, it is important to remember why at this critical juncture we must continue to help Israel. With peace hanging in the balance, serious discussions are now underway which could lead to a fair and durable settlement of this long-lasting conflict. Important progress has already been made with the recent announcement of troop disengagement at the Suez Canal.

But to negotiate a permanent peace, Israel must be able to maintain a military balance with the Arab States, and this requires our help. Members of Congress recognized this necessity with the introduction of the O'Neill-Yates resolution, which I cosponsored shortly after the outbreak of the recent war. The resolution provides:

> Whereas the people of the United States deplore the outbreak of hostilities in the Middle East and earnestly hope that peace may be negotiated in that area; and
>
> Whereas the President is supporting a strong and secure Israel as essential to the interests of the United States; and
>
> Whereas the armed forces of Egypt and Syria launched an attack against Israel shattering the 1967 ceasefire; and
>
> Whereas Israel refrained from acting preemptively in its own defense; and
>
> Whereas the Soviet Union, having heavily armed the Arab countries with the equipment needed to start this war, is continuing a massive airlift of sophisticated military equipment to Egypt and Syria; and
>
> Whereas Public Law 91–441 as extended authorizes the President to transfer to Israel by credit sale such arms as may be needed to enable Israel to defend itself: Therefore, be it
>
> *Resolved*, That it is the sense of the House that the President, acting in accordance with the announced policy of the United States to maintain Israel's deterrent strength, and under existing authority, should continue to transfer to Israel the Phantom aircraft and other equipment in the quantities needed by Israel to repel the attack and to offset the military equipment and supplies furnished to the Arab States by the Soviet Union.

The Soviet Union continues to supply large amounts of sophisticated weaponry to the Arabs. Israel can get comparable weapons only from the United States. Thus far, she has paid in cash or credit for all her American arms. But Israel has suffered tremendous war losses which has put a heavy strain on her economy and she needs our continued assistance.

The recently passed Emergency Security Assistance Act of 1973 authorizes $2.2 billion in emergency assistance to Israel. For the first time in recent history, Israel would be allowed to receive direct grants of aid which need not be repaid or taken on credit. Israel has already bought nearly $1 billion worth of arms from this country since the outbreak of the October war. These shipments of replacement weapons have restored Israel's relative military strength to that which existed before the war, and they have enabled her to negotiate on an equal basis with the Arab countries. The Emergency Assistance Act would in effect authorize payment for the $1 billion worth of arms already sent and for those additional shipments which might be necessary for her future security.

Our assistance will help insure the survival of Israel. It will also create a more stable environment in which serious peace negotiations can take place. If a permanent settlement is achieved, which I am hopeful can take place, then our assistance will be a small price to pay for the fruits which peace will bring to the United States, to the Middle East, and to the world.

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## NORTHWEST IOWA ALCOHOLISM AND DRUG TREATMENT UNIT'S ANNUAL REPORT FOR YEAR 1973

### HON. WILEY MAYNE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. MAYNE. Mr. Speaker, when the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974, H.R. 11387, was before the House on January 21, 1974, I spoke at length in support of this legislation which passed the House by a record vote of 338 yeas to 22 nays.

In my remarks, I described the great progress made by many Iowa State, county, and local officials and agencies and by Iowa voluntary agencies and individuals in the prevention, treatment, and rehabilitation of alcoholism, especially in my Sixth Congressional District in northwest Iowa. As an outstanding example of these programs, I described the Northwest Iowa Alcohol and Drug Treatment Unit at Spencer, Iowa, under the very able directorship of Jeff Voskans, and I inserted in my remarks the 1972 report of this unit, the latest report then available to me.

The Northwest Iowa Alcohol and Drug Treatment Unit at Spencer has now prepared its annual report of year 1973, and director Jeff Voskans has thoughtfully forwarded a copy to me. In view of the wide interest in the unit's programs, I request unanimous consent that this report be set forth at this point in the Record, as follows:

#### Northwest Iowa Alcoholism and Drug Treatment Unit's Annual Report for Year 1973

During the year 1973 Northwest Iowa Alcohol and Drug Treatment Unit combining both disciplines alcohol and drugs processed a total of 505 clients. Activity breakdown for the alcohol clients consists of the following:

There were 398 male clients active in program and 61 female clients combining total 459 for the treatment of alcoholism.

Drug phase of the programming in Treatment Unit processed 46 individuals during the year of 1973, that is 33 males and 13 females. In providing a comprehensive care and treament for all individuals seeking services at ADTU, the following services were carried out for the alcoholism clientele:

ADTU staff provided 1,667 individual counseling hours on outpatient basis. 613 individuals participated in group therapy during the year of 1973. ADTU staff appeared in the courts 47 times during the year representing clients or assisting clients in various capacities and needs. In addition to these services, ADTU staff initiated 175 initial contacts out in the field with the potential clientele. Out of 459 clients enrolled in the alcoholism program, 61 individuals underwent inpatient care or hospitalization at the local hospitals throughout 7 county area. ADTU field staff provided 451 counseling hours in the field plus conducted 1,602 follow-up services or sessions with individuals involved in the program. Adjacent to the initial contacts, there were also 108 pre-intakes which have taken place thus enrolling these individuals in active program.

Other services delivered consisted of pastoral counseling where 59 individuals underwent this phase of program. 127 medical examinations were provided on outpatient basis by Treatment Unit's medical director. 90 diagnostic evaluations were provided by Unit psychiatrist. ADTU staff actively engaged and placed 27 individuals on new jobs or reinstated to previous employment.

In addition to these services ADTU also provided a family field assessment care and in this phase of the program 147 families were involved during the year 1973 for various needs. A specialized phase of the program, Court Education Classes for individuals who are under age or minors, were conducted at ADTU Center here in Spencer. 274 persons attended these classes during the year.

In other alcohol activities Northwest Iowa ADTU staff provided 102 speaking engagements of various kinds and distributed 1,755 pieces of literature. A total attendance for 102 education sessions had an audience of 4,168. 3,056 informative telephone sessions with potential clients or interested parties did transpire during the year of 1973.

Drug programming provided following services in 1973: Outpatient care constituted 203 counseling hours, 33 initial field contacts, 11 medical examinations, 14 diagnostic evaluations, 2 individuals underwent inpatient hospitalization. 6 individuals were involved in pastoral counseling. Field activities incorporate 144 follow-ups, 28 pre-intakes, and 54 field counselling sessions.

Clients involved in drug treatment program are subjected to urinalysis on a weekly basis and as a result of this effort 36 individuals were involved in urinalysis program.

In 1973 following clients came from the following counties:

Buena Vista County, 86.
Clay County, 131.
Dickinson County, 70.
Emmet County, 68.
O'Brien County, 65.
Osceola County, 26.
Palo Alto County, 52.

Individuals from other counties or transients constituted 7 clients. Total caseload for Alcohol and Drug Treatment Unit was combined of 505 individuals in the total programming.

Northwest Iowa Alcohol and Drug Treatment Unit during the year of 1973 spent $143,972.52 for total services. The monies for this total expenditure came from the following sources: Federal grant from National Institute of Alcohol and Alcoholism Abuse, $88,061.00. Iowa State Commission on Alcoholism $9,125.02. Iowa State Alcoholism Authority (OPP) $7,201.97. Liquor funds from municipal governments $15,345.56. Counties paid $9,728.66. Some individuals undergoing inpatient care did subscribe to their own third party payment or insurance policy thus paying for the treatment and care $3,365.38.

Drug Treatment Unit's expenditure constituted the following: Iowa Drug Abuse Authority contributed $1,556.41. Cherokee Mental Health Institute contractural agreement from the Federal Grant $6,992.03. Thus the total expenditure for the drug program was $8,548.44.

Taking a combined figure of $143,972.52 and applying it to the total client number with all elements of services constitute $280 to $285 expenditure per client. This is a comparatively small sum of money that is being spent for restoring an individual to a new way of life.

Northwest Iowa Alcohol and Drug Treatment Unit's staff conducted a total full year's follow-up on individuals who have gone through the program starting in 1972 and ending in 1973. This special follow-up conducted indicated that the recovery rate is 63% and this figure is double the national average and is something that one unit or a community should be proud of.

In other services provided by ADTU in the year of 1973 Northwest Iowa Alcohol and Drug Treatment Unit conducted its fourth annual summer school at Buena Vista College. In 1973 there were 90 individuals enrolled in summer school. Some individuals came as far as the State of Maine and a number of people were enrolled from adjacent states such as Nebraska, Wisconsin, Illinois and others.

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## BAN THE HANDGUN—XV

### HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. BINGHAM. Mr. Speaker, on January 28 four people were shot to death and a fifth critically wounded on the streets of San Francisco. Fear grips that city today as a massive manhunt attempts to capture the madman or men responsible. Strict Federal controls on the purchase and possession of guns is one way to reduce the chance of being shot, the alternative is staying indoors.

Reprinted herewith is an article from the January 29, edition of the Washington Star News:

#### Shots Kill Four in California

San Francisco.—Four persons have been shot to death in four different locations in San Francisco and all available police units were put on alert. A fifth person was seriously wounded.

A police spokesman said the killings occurred between 8 p.m. and 10:15 p.m. yesterday and "all were killed with the same type weapon."

"You better bet we've got all our units out," he said.

Three men and one woman were killed and a second woman was "barely hanging on," the spokesman said.

## ENERGY CRISIS

## HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. SYMINGTON. Mr. Speaker, in light of the very limited data now available on oil reserves and companies' profits, it is appropriate to review the proposed Energy Conservation Act. Moreover, the Nation should recognize that those concerned about the environment are not to blame for our energy difficulties. On this point, I call to the attention of the public and my colleagues three excellent articles detailing the country's urgent need for both clean air and clean energy.

The first item is a KMOX–TV editorial urging that clean air laws be maintained; the second article is a New York Times editorial on the energy conservation bill; the third is James Noone's account of that same legislation.

The articles follow:

### Air Pollution: Maintain the Controls

Some businessmen around the nation are talking about reducing air pollution standards in the face of the energy crisis. We are afraid many have jumped on this bandwagon without some forethought as to the long range implications of such reductions.

Automobile manufacturers claim that if all the pollution devices were removed from the family car there would be an increase in mileage. We don't doubt this claim, but wonder if we're not sacrificing our health and well-being in the process.

The lack of petroleum is also inspiring many to call for the burning of sulphur laden coal in some parts of the country. Granted this will provide more energy, but it also will dramatically increase air pollution and could do as much damage as the lowering of industrial output.

Some even go so far as to pin the cause for the energy crisis on conservationists. These people claim that ecologists, who opposed the building of the Alaska pipeline and expansion of off-shore drilling, are the real culprits. This is plain bunk.

We think it's important to keep air and water quality standards in mind when talking about the energy crisis. What many seem to forget is that shortages in fuel will cause only temporary discomforts, but damage to the environment may be permanent.

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[From the New York Times, January 23, 1974]

### Energy Bill? . . . or Dirty Air Bill?

The emergency energy bill, stalemated in Congress last month just before the adjournment of the first session and now pending in the Senate, reflects neither a coherent Administration strategy nor careful consideration by committees of the House and Senate.

On the contrary, the bill was born out of an unseemly competition between the White House and Congress, each trying to escape the brunt of public resentment for the sudden oil shortage.

Three of the items originally included in this legislative smorgasbord hurriedly set out by the President have been cleared away. Separate bills authorized year-round daylight saving time and the 55-mile-an-hour speed limit. The Senate has authorized private exploitation of the Navy's oil reserve, and early House approval of that dubious resolution is now expected.

In addition to giving the President standby authority to impose gasoline rationing the bill includes a few other miscellaneous items. It authorizes the President to devise energy conservation programs but ties his hands in such a way that he cannot put any of them into effect without further Congressional action.

There is also a sliding-scale excise tax on crude oil that for public relations reasons the President insists on calling a "windfall profits tax" when it is nothing of the kind. What is really needed is an honest reform of the oil depletion allowance and of the favorable tax treatment now given the payments that oil companies make to foreign countries.

The pending energy bill permits the postponement of strict auto emission standards for yet another year. Because of the controversy among Detroit's "big three" automobile manufacturers about catalytic converters to control those emissions, much publicity has naturally focused on this part of the bill.

Overlooked and potentially more significant is the bill's provision that would permit the Federal Energy Office to compel electric power companies and other industries to switch from oil or gas back to the use of coal—and would compel the Environmental Protection Agency to exempt such firms from clean air standards for the next five years.

The worst victims of this indiscriminate rush to coal conversion would be the people in the New York-New Jersey area and their neighbors in the eastern air corridor running from Boston to Baltimore. The Federal Power Commission has already listed 46 power plants in this corridor that have the capability of converting from oil to coal within sixty days.

If these power plants and other industrial firms, irrespective of location, all switch to the use of coal, the danger to concentrated populations will be severe. The American Public Health Association has estimated that such conversion will lead to "an increase of 20 per cent to 40 per cent in both morbidity and mortality due to respiratory and cardiovascular diseases."

The truth is that no one is yet certain that this flight from the standards of the Clean Air Act is necessary. Senator Henry Jackson of Washington, the principal author of the pending energy bill, began public hearings this week on the scope and character of the oil shortage. In opening the hearings, he stated: "The facts are—we do not have the facts." Senator Jackson pointed out that his committee has discovered discrepancies between Federal and oil company statistics—"so significant as to raise fundamental questions whether existing data systems provide any rational basis for policy making."

Against the background of this factual confusion, Senator Jackson and his colleagues would do better to lay aside the emergency energy bill, at least in its present form, and concentrate first on finding out the facts about the emergency. Disease-laden air, smoggy with coal dust, is a high price to pay for political haste and competitive headline-grabbing between White House and Congress.

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### Environment Report/Emergency Energy Bill Will Delay Timetable of Clean Air Act

(By James A. Noone)

Exactly three years ago, when the environmental protection movement was reaching full bloom, Congress was putting the finishing touches on landmark legislation designed to clean up the nation's air by the mid-1970s.

In an emergency energy bill destined for the President's desk at Christmastime this year, Congress is retreating from that commitment.

**As a result of action by the House and Senate to deal with fuel shortages, achievement of the goals set forth in the Clean Air Act of 1970 (84 Stat. 1676) is likely to be delayed into the next decade.**

Progression: President Nixon indicated publicly for the first time on Nov 7—in his energy message to the nation—that his Administration would countenance retreat from environmental goals during the energy crisis. He called for "an appropriate balancing of our environmental interests with our energy requirements."

Environmentalists were quick to criticize the President for language that seemed to rank energy "requirements" ahead of environmental "interests."

Two days later, Sen. Edmund S. Muskie, D-Maine, chairman of the Public Works Air and Water Pollution Subcommittee and chief architect and defender of the Clean Air Act, proposed legislation granting industrial plants and other stationary sources of pollution wholesale variances from state or federal emission limitations between now and next May 15. Also, suspensions would be granted after May 15 when applicants produced a plan showing how compliance with federal standards could be achieved by July 1, 1977.

The National Energy Emergency Act (S. 2589) passed by the Senate on Nov. 19 contained the Muskie amendment almost in total, except that immediate variances could extend until Aug. 15, 1974.

Environmentalists, already unhappy with what they considered an unnecessary intrusion into the Clean Air Act by the Senate bill, received a more devastating setback during House consideration of its version of the emergency energy bill (HR 11450).

The bill, as ordered reported by the Interstate and Foreign Commerce Committee on Dec. 7, went further than the Senate bill in attacking the Clean Air Act.

The committee changed the date for coming into compliance with air standards for stationary sources from 1977 to 1979.

As a quid pro quo, environmentalists gained explicit assurance in the bill that primary air quality standards—those designed to protect human health—would not be violated. This subject was not addressed in the Senate version.

More important, however, was action by the committee to open up other sections of the Clean Air Act—sections that were not conclusively demonstrated to have a bearing on the energy dilemma.

The action extended the Enironmental Protection Agency's (EPA) already-promulgated interim auto emission standards for 1975 model cars through 1976. The final version of the bill, passed by the House on Dec. 14, froze the interim standards for "two years—through 1977".

The Senate had not considered auto emissions in its emergency bill. Environmentalists had argued that the issue was so complex and far-reaching that it should not be part of emergency legislation, and that the issue was not germane because it was not clear that any action on auto emissions would result in short-term fuel savings.

However, in a move to strengthen the bargaining position of its conferees, the Senate on Dec. 17—the first day of the energy bill conference—passed a one-year extension of the interim 1975 standards by a 85–0 vote. The legislation was passed as a separate amendment to the Clean Air Act.

#### PATTERNS

During protracted markup sessions in the House Commerce Committee—more than 125 amendments were considered during seven working days—and during floor considerations, two trends emerged:

The White House consistently refused to consult with EPA prior to recommending less stringent air pollution control standards than those favored by the environmental agency.

The depth of congressional discontent with the Clean Air Act and EPA's enforcement of it became clear, in the first extensive floor debate on the measure since it was passed three years ago.

### *End run*

On three occasions during House Commerce Committee debate on the bill, the White House made an end run around EPA, neglecting to consult with the environmental agency on recommendations related to air pollution standards.

The first two of those instances involved the Administration's old energy team—former Energy Policy Office head John A. Love and his top assistant, Charles J. DiBona.

During the last week in November, the Energy Policy Office asked the House Commerce Committee to extend the interim 1975 auto emission standards through 1977 and to set less environmentally stringent limits on stationary source pollution. EPA was not asked for input on either of the recommendations.

At a hearing before the Commerce Public Health and Environment Subcommittee of Rep. Paul G. Rogers, D-Fla., on Dec. 5, John C. Sawhill, deputy administrator of the new Federal Energy Office, again advised that the interim 1975 standards be frozen through 1977. Once more, EPA was not consulted in advance.

Sawhill also said a study should be made of the possibility of holding the standards at their 1974 level.

Two days earlier, EPA Administrator Russell E. Train had told the subcommittee that the standards should not be changed in any way.

Following his prepared statement, Sawhill was asked whether EPA had a voice in the White House decision to seek an extension on the auto emissions. Sawhill replied that EPA had been "advised" of the White House position.

EPA officials, already incensed by the White House bypass the week before, were even more irritated by Sawhill's testimony.

"We've checked around," said one EPA official, "and the only person we can think of that may have been 'advised' by the White House is one of our janitors."

On a more serious note, he added, "We're very concerned with Sawhill's testimony. We didn't see it at all, and this was just two days after Train's testimony on the same subject before the same subcommittee was cleared with OMB. It's not as if we've been taking shots out of the fold; we've tried to be a team player."

In a "Dear Paul" letter to Rogers on the same day as Sawhill's testimony, Train refuted several of the technical points made by Sawhill.

"I believe the most orderly approach would be to make such a decision in late spring," he said, referring to the auto emissions issue. "At that time, we will have available far more data on fuel economy from catalyst-equipped cars than we have today."

### *Discontent*

The three-day floor debate preceding the passage of the bill shortly before 2 a.m. on Dec. 15 was characterized by disenchantment with the Clean Air Act and its guardian agency.

"If we want to do something to really help meet this gasoline shortage and this oil shortage in this country, we should end the overkill in the current Clean Air Act requirements by ending, at least during this petroleum shortage, emission controls that defy both common sense and responsibility in this country," said Louis C. Wyman, R-N.H., during floor debate on Dec. 14.

Much of the acrimony concerning EPA surfaced during consideration of a Wyman amendment that would have suspended all auto emission controls imposed under the Clean Air Act until Jan. 1, 1977, except in a certain few designated regions.

Wyman argued that 95 per cent of the country has no auto-related air pollution, but that residents of those areas are forced to pay penalties of up to 20 per cent in fuel economy as a result of emission-control devices.

The amendment was defeated, but the vote was a surprisingly narrow 180–210.

Rep. James W. Symington, D-Mo., a member of the Commerce Committee and one of the Clean Air Act's most ardent defenders during committee and floor action, said floor debate on auto emissions "took little notice of the fact that emission controls are only a small part of the total burden on fuel consumption."

He said, "If Congress is going to take action to reduce emission controls, they ought to take action to reduce the weight, and the effect of, automatic transmissions, air conditioners and other factors that increase fuel consumption".

"Instead," he said in an interview, "the whole tenor of the debate made the Clean Air Act out to be the whipping boy."

Despite the defeat of the Wyman amendment, Clean Air Act foes got in their licks.

The extension of 1976 of the interim 1975 auto standards was moved to 1977 on an amendment by Rep. James F. Hastings, R-N.Y.

Hastings, in an interview, said he prepared the amendment independent of the Administration, but added that the White House and Office of Management and Budget had sent a similar proposal to Capitol Hill.

He said the Wyman amendment would have "emasculated" the Clean Air Act. "I got my amendment as a compromise," he said.

The final version of the bill also prohibits EPA from implementing such traffic control methods as parking surcharges, abolition of parking spaces and designation of highway lanes for exclusive use by car pools and buses without new legislation to approve the steps.

### PRESSURES

Just before and during its markup sessions, which ran as late as 10:30 p.m., members of the House Commerce Committee received pressure on environmental issues from a wider range of lobbying interests.

The coal and electric power industries concentrated their efforts on provisions dealing with stationary source emissions, specifically those designed to facilitate pollution-control variances to allow oil-fired electric power plants to switch to coal.

The industries, represented chiefly by officials from the National Coal Association and the National Association of Electric Companies, argued that unless these variances were granted for a period of several years, no economic incentives would exist either to convert the plants or to increase coal production.

However, the lobbying was most intense on the auto emissions provisions where a wide variety of interests—excluded from the Senate bill—worked hard to be included in the House version.

Strategies: The decision by Rogers' subcommittee to include auto emissions as part of the bill upset Rogers' own strategy and that of Muskie for holding off major amendments to the Clean Air Act this year.

The pressure for changes began to build early in the summer when EPA started promulgating transportation control plans for 31 metropolitan areas.

As it became apparent that the EPA plans would result in a drastic reduction of automobile use in some of the nation's largest cities, Members of Congress began hearing from distressed constituents protesting the potential change in their lifestyles.

### *Muskie*

On June 29, Muskie announced that his staff was beginning a reevaluation of the implications of the Clean Air Act. Part of this would be a review by the National Academy of Sciences of the validity of the health data that supports the act's standards.

In the meantime, it was the strategy of Muskie and his staff to use the study as a delaying tactic to thwart any serious challenges to the act.

On Nov. 28, in response to repeated requests of the auto companies for some kind of action, the Public Works Committee voted 11–3 to extend the interim 1975 standards through 1976. But the committee decided to offer the proposal as an amendment to the Clean Air Act next year. The amendment covered only hydrocarbons and carbon monoxide; the committee said it would need more time to consider nitrogen oxide emissions and scheduled hearings next year. Muskie was one of the three who opposed the extension.

The Public Works Committee was forced to alter its game plan this month when the House approved the two-year extension.

Muskie and committee chairman Jennings Randolph, D–W. Va., arranged to get the Public Works amendment to the Senate floor on Dec. 17, just as conferees were beginning to write final language for the emergency bill. (Muskie, Randolph and Sen. Howard H. Baker Jr., R-Tenn., were all named conferees on the energy bill).

Muskie introduced the amendment, the passage of which gave the Senate energy bill conferees the bargaining position that they had lacked. As the Senate approved the Muskie amendment, it also defeated, 19–67, a proposal by Sen. William Lloyd Scott, R-Va., to extend the standards through 1977.

### *Rogers*

The House Public Health and Environment Subcommittee chairman, Rogers, who was instrumental in passage of the Clean Air Act, also had hoped to put off amendments to the law until next year. His subcommittee held comprehensive oversight hearings this fall as a way of temporarily responding to demands for Clean Air Act revisions.

When it was disclosed that the Commerce Committee would have jurisdiction over the emergency energy bill, Rogers came under fire to include an auto emissions amendment as part of the emergency energy bill.

"We were under pressure from all over," he said in an interview. "It was clear someone was going to offer it as an amendment."

Due to committee structures and jurisdiction, Rogers and the full Commerce Committee chairman, Rep. Harley O. Staggers, D-W. Va., were more open to pressure to have auto emissions in the bill than were Muskie and Sen. Henry M. Jackson, Senate Interior and Insular Affairs Committee chairman.

Muskie's Public Works subcommittee has jurisdiction over air pollution, but not over the emergency bill, which Jackson's committee handled. Rogers' subcommittee not only has Clean Air Act jurisdiction, but is part of the full committee that considered the energy bill.

Rogers said he "would have been just as willing to spend some more time" on auto emissions and not make them part of the emergency bill.

An assistant, who spoke on a not-for-attribution basis, said, "We got swept into it. The Administration and others were pushing for an amendment on emissions, so we figured the best thing we could do was to go on the offensive."

Rogers' decision was to recommend to the House a one-year extension in emission deadlines. But unlike Muskie in the Senate, he was not able to make that position stick, and the full House voted a two-year extension.

*Interests:* The in-fighting and debate over the proposed auto emissions extension indicated the complexity of the issues and the wide range of competing interests that faced the law makers.

Auto manufacturers have been pleading with Congress to make a decision by the end of this year on auto emissions, so Detroit could decide whether or not to install catalytic converters on its 1976 model year cars.

A decision to freeze the standards at the interim 1975 level (or to continue on the current, tougher schedule favored by EPA) would mean that the 1976 models would have to be equipped with catalytic converters. On the other hand, a decision to freeze standards at the 1974 level would mean that the converters would not have to be used.

Companies that make catalysts were lobbying for an extension at the interim 1975 level. "It's the catalyst people and us against the rest of them on this one," said one environmentalist, who, with his colleagues, was attempting to ward off any substantive amendment to the Clean Air Act.

Since catalysts require unleaded gas, firms that manufacture lead additives were seeking a freeze at the 1974 emission levels, which do not require catalysts.

And since it takes more oil to make a gallon of unleaded gasoline than it does to make a gallon of leaded gasoline, the oil industry campaigned for the 1974 standards on the grounds that it would enable the country to save fuel.

The Administration through Love, and later Sawhill, had asked for a two-year freeze at the interim 1975 levels.

However, during the open markup sessions of the Commerce Committee and at an unusual open markup meeting of Rogers' subcommittee on the auto emissions amendment, no representatives of the energy office were to be seen.

But in attendance were several officials of EPA, who wanted no change at all.

"It was really a fascinating thing," said one environmental lobbyist. "No one really knew who was speaking for the Administration."

### *Subcommittee*

During a supper recess of the full Commerce Committee, Rogers' subcommittee met at 7:15 p.m. on Dec. 6 to vote on an auto emission amendment to recommend to its parent body, scheduled to reconvene at 7:30. It was the second such meeting in two days.

"I've never heard so much conflicting testimony on any subject in my life," said an exasperated Rep. H. John Heinz III, R-Pa., referring to the three days of hearings the subcommittee conducted during the full committee markups on Dec. 3, 4 and 5 and the more extensive hearings in the fall.

After some entreating by Rogers, the subcommittee voted 9-1 to approve an amendment extending the interim 1975 standards for hydrocarbons and carbon monoxide through 1976. The EPA administrator was given the option of extending them another year.

For nitrogen oxide emissions, the present requirement of 3.1 grams per mile (gpm) would be frozen through the 1976 model year. The 1977 requirement would be 2.0 gpm, which under the present schedule would have had to be met by 1976 autos. The EPA administrator was authorized to grant five one-year suspensions up until the 1983 model year, on a year-by-year basis, for nitrogen oxides.

Opposing the Rogers' amendment was Rep. William H. Hudnutt III, R-Ind. Rep. David E. Satterfield III, D-Va., did not vote and said he would offer an amendment in full committee to freeze the standards at the 1974 level.

### *Full committee*

The markup sessions of the full committee, particularly on Dec. 6 and 7 when time constraints severely limited debate, were busy with amendments as lobbyists jockeyed for legislative positions.

"I think I'm sitting in the midst of a blizzard here," said Rep. John D. Dingell, D-Mich., during one particularly hectic stretch of the final markup session. "Every time I look up someone's handing me an amendment that's not even being considered."

At its night meeting on Dec. 6, the committee adopted the Rogers' amendment on auto emissions by voice vote after defeating, 12–22, a Satterfield amendment to freeze the standards at the 1974 level. It also turned back an amendment by Rep. James Harvey, R-Mich., to hold the interim 1975 standards through 1977 by a 16–19 vote.

On the next day, Staggers sucessfully offered an amendment that would allow power plants to burn coal until 1980 if they switched from oil. (Staggers' congressional district includes large deposits of low-sulfur coal.)

The Staggers amendment did not soothe the coal interests. National Coal Association president Carl E. Bagge said in an interview that the industry needs a commitment in the range of 20 years or assurances that coal will be used for as long as it is more readily available than gas or oil.

The committee also accepted on voice vote apparently contradicting amendments on stationary sources, one by Rep. John M. Murphy, D-N.Y., to allow power companies to use "intermittent controls" such as high smokestacks and the burning of high-sulfur fuels on windy days, and one by Symington, which would have allowed variances to be granted until 1979 but which prohibited violation of primary ambient air quality standards.

The final version, hammered out by committee lawyers and aides to individual members after the bill was ordered reported, still allowed the use of intermittent controls for long-term variances. Symington, who feared that such measures would permit unacceptable levels of pollution, tried unsuccessfully to change the language on the floor.

The provision to halt EPA parking surcharges came from Rogers' subcommittee and passed the full committee on voice vote. Rogers said pressure for the measure came particularly from the California and Texas delegations, whose constituents were particularly affected by EPA proposals "In California, they were planning to hold some shopping centers to 50 parking spaces," Rogers said in an interview.

### *Auto industry*

The major automobile manufacturers have been divided on their approach to the use of catalysts, and they also were splintered in their reaction to the committee's decision to include provisions on auto emissions in the emergency bill.

William C. Chapman, manager of General Motors Corp's technical liaison group, said the committee acted responsibly. GM has made a public commitment to the use of catalysts in its 1975 models and has testified that catalysts can result in a fuel savings of up to 18 per cent.

Chapman and GM prefers to see a decision made by the end of the year on the matter, whether or not that decision is done as part of the bill that finally emerges from the House-Senate conference.

Ford Motor Co., which has said it will install catalysts on about 65 per cent of its 1975 cars, had favored freezing the 1974 standards for two years.

Wayne H. Smithey, director of Ford's office of national affairs, said that because of the pressing nature of the industry's timetable, it "seems the best way to get that" would be to have auto emission language similar to that voted by the House committee included in the emergency bill.

Both Ford and Chrysler Corp. had testified that any fuel savings gained through use of catalysts—Ford said a 1 to 4 per cent saving could result while Chrysler said there might be a loss—would be offset by the additional amounts of oil needed to produce unleaded gas.

Even after the House committee vote to include auto emissions in the emergency bill, Chrysler was sticking to its position that there should be a freeze on the 1974 standards.

A spokesman for Chrysler, which has been the most adamant of the major manufacturers in opposing the use of catalysts, said the Commerce Committee decision to include auto emissions has not changed his company's position.

"We haven't come off that position at all," he said. Asked whether Chrysler would prefer to go with the House version or to ignore the auto emissions completely, as the Senate bill does, he said: "We haven't made that choice; we're still for the 1974 standards."

### *Oil*

The American Petroleum Institute, whose membership includes the giant oil companies, favored extension of the 1974 standards and was critical of the decision to extend them at the interim 1975 level.

"If they had taken that vote three weeks from now, there would have been a different result," said Arne E. Gubrud, API's director of environmental affairs, in reference to the committee's decision on the interim 1975 extension. "I don't think most people realize how serious the oil situation is.

"One of the points that escaped attention during the recent hearings was that we're going to have a reduction in gas consumption anyway due to shifts in refinery production, the lowering of speed limits and things like that. Along with this will be a corresponding reduction in emissions.

"But by going from the 1974 standard to the interim 1975 standard, you only achieve a 1 per cent drop in emissions. And at the same time you use more oil in making unleaded gasoline for catalysts."

Gubrud said API's calculations indicate a fuel economy of about 3 per cent from use of catalysts, adding that this would not offset losses accruing from the requirement to produce unleaded gas.

A spokesman for Gulf Oil Corp. said that EPA regulations, promulgated on Nov. 28, mandating a phase-down over the next five years of the amount of lead in gasoline, would "really hurt us" when combined with the need to produce unleaded gasoline for catalysts.

The EPA limitations, designed to protect public health, require a 60 per cent to 65 per cent reduction of the lead content in gasoline, bringing the level down to .5 gram per gallon by Jan. 1, 1979.

EPA has estimated that it will cost the oil industry some $75 million for stocks, operating and capital costs at the refinery to finance the phase-down process.

### *Lead additive firms*

Ethyl Corp., world's largest producer of lead additive products, had lobbied hard to have the emission standards frozen at the 1974 level.

Howard E. Hesselberg, Ethyl vice president and director of air conservation, said that the use of catalysts and the EPA phase-down "will, if they run their course, have a serious impact on the availability of crude oil."

Hesselberg said Ethyl "conservatively" estimates that it will take 1 per cent to 2 per cent more crude oil to produce a gallon of nonleaded gasoline over the same amount of typical leaded gas. He also said it will require 0.5 per cent to 1 per cent more crude to achieve the 1.7 grams per gallon level mandated by EPA for Jan. 1, 1975.

"We firmly believe that catalysts have some problems and that the auto industry will develop a high-compression engine that will achieve emission standards by using leaded gasoline," Hesselberg said.

Ethyl has been working with Chrysler on a "lean reactor" type of high-compression engine, utilizing leaded gas.

On Dec. 6 Ethyl filed suit in the U.S. Circuit Court of Appeals for the District of Columbia to have the phase-down regulations set aside. The firm charged that EPA did not substantiate its claims that use of lead anti-knock compounds will endanger public health.

Championing the position of lead compound manufacturers on the House Commerce Committee has been Rep. Satterfield, whose district includes Ethyl's corporate headquarters in Richmond, Va.

In an interview, Satterfield said he sought to have the auto standards frozen at the 1974 levels in order to give the auto industry more lead time for research and planning, as much as for any other reason.

He said the tradeoff between gasoline saved by use of catalysts and oil lost in production of nonleaded gasoine would be "at best a washout."

A spokesman for the E. I. du Pont de Nemours and Co. said that the combination of the use of nonleaded gasoline for catalysts and EPA's phase-down regulations "will produce about a 3 per cent penalty in the amount of crude oil needed to produce a gallon of gasoline" by 1979.

Du Pont and Ethyl are the major U.S. manufacturers of lead anti-knock compounds.

"The only way you're going to get away from the crude penalty is to modify the lead phase-down regulations," the spokesman said. "The matter is far from settled, because the energy situation is going to keep people scrutinizing the effects of regulations like this."

One company that makes lead additives, PPG Industries Inc., ran afoul of EPA because of full-page advertisements it ran in *The New York Times* and *The Washington Post* protesting the agency's phase-down rules.

The advertisements showed oil spilling from a barrel, adorned with stars and stripes, into a hole and said in large letters: "The removal of lead from gasoline could have the net effect of dumping 1 million barrels of crude oil every day, a tragic waste of our natural resources."

In a letter to PPG president Joseph A. Neubauer on Nov. 29, John R. Quarles Jr., EPA deputy administrator, asked for a detailed explanation of PPG's figuring. "I know of no conceivable analysis by which it could be concluded that the removal of lead from gasoline could have the effect of wasting 1 million barrels of crude oil a day," Quarles wrote. "I therefore feel that your advertisement may represent a serious and irresponsible distortion of the facts."

An assistant to Quarles said that Neubauer's reply, dated Dec. 12, "does not allay our concerns" about the advertisement.

### *Catalyst manufacturers*

The big winners from the Senate and House decisions to extend the emissions at the interim 1975 level are manufacturers of the catalysts that will have to be installed on autos.

"It's clear from action in the past several weeks in the Senate and House that catalysts will be required" on the 1975 and 1976 models, said a spokesman for Engelhard Industries Division, which will be one of the major catalysts manufacturers.

Engelhard has two plants ready to produce catalysts in Newark, N.J. It is building another in Huntsville, Ala., which is scheduled to begin production next spring.

Edward E. David, Jr., former head of the White House Office of Science and Technology and now executive vice president for research, development and planning for Gould Inc., another catalyst manufacturer, called the extension a "step forward that will result in cleaner air sooner."

A spokesman for Universal Oil Products Company said the firm was "extremely happy" with Senate and House action on the extensions.

### *Environmentalists*

Environmental groups, which achieved little success in their attempts to protect the Clean Air Act in the House, had harsh words for the bill that emerged from that chamber.

At a news conference on Dec. 17, the National Clean Air Coalition, a loose federation of environmental groups headed by the Sierra Club, said the only emergency the House bill solves is "to see that the special interests received their Christmas presents on time."

Richard M. Lahn, a Sierra Club staff member who serves as coordinator for the coalition, said that "the energy companies, the electric utilities and the auto companies have used the House emergency legislation for their own selfish purposes: to effectively suspend for six years the regulation of emissions from power plants . . . to take away the power from the states to regulate air pollution and leave severely limited powers to the federal government . . . to freeze automobile standards at a level which would prevent further savings in gas consumption, and to undercut the National Environmental Policy Act."

### FORECAST

Some of the provisions in the House bill to which environmentalists objected were eased in the version that emerged from conference, particularly the auto emission controls. Conferees agreed on an extension of the interim 1975 levels through 1976, and gave EPA the option of delaying them for an additional year. But the bill still was a blow to environmentalists.

Rep. Symington of Missouri, asked for his view of the House action, said: "I guess my lead line should be 'Alas, the Clean Air Act, we knew it well.' "

There was some feeling, however, that the outcome could have been much worse for the environmentalists. "There is no need to take action now on extending the auto emission standards to 1976 or 1977," said Sierra Club president Laurence I. Moss, "but proposals were made that would have done a lot more damage."

Despite the belief of environmentalists that they did well to limit the encroachments on the Clean Air Act, it appears that they are in for difficult times in the months ahead.

That conclusion also is held by many at EPA. "Let's face it," said one EPA official as the House was finishing its work on the emergency bill, "these are not good times for us here."

It seems evident that the energy policy team at the White House is not inclined to defer to EPA on energy decisions affecting the environment.

EPA administrator Train, who has had a "team player" image in his present job and during his previous tenure as chairman of the Council on Environmental Quality, will face difficult decisions on whether to quietly accept White House energy decisions that postpone environmental goals or to break openly with the White House.

Some believe that the Administration's recent slights to EPA could act to the advantage of the agency and Train.

"The White House crossed Train," said Lahn of the Sierra Club. "From now on, he can use that as a reason to operate more independently. With Watergate and all, that may be the best thing that could ever happen to him."

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## DEMAGOGIC NEWSLETTER ARTICLE ATTEMPTS TO SLANDER THE DISTRICT OF COLUMBIA SCHOOL SUPERINTENDENT

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## HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. DELLUMS. Mr. Speaker, in the December 10, 1973, edition of the Republican Congressional Committee Newsletter there appeared an article entitled "My Name Is Arnold: A Ghetto Primer." The article purports, through the use of innuendoes, to indict the newly appointed Superintendent of District of Columbia public schools as teaching students to hate white people. Included in the article is the following language:

> If you've wondered where some of the black kids get their ideas about whitey, one look at a book called "My Name is Arnold: A Ghetto Primer" may supply the answer.
>
> First used in Chicago Public Schools as a text for beginning readers . . .
>
> The person who introduced the book to Chicago's Schools was Mrs. Barbara Sizemore, who earlier this year was appointed superintendent of the District of Columbia Public School system.

Based on this language and the possible harm that it could bring to Ms. Sizemore's tenure as superintendent, her future professional life and, more importantly, to the future of the children attending District of Columbia public schools, I feel that it is necessary to set the record straight.

Had the editor of the newsletter availed himself to readily available facts, he would have learned that Ms. Sizemore, while in the Chicago public school system and having some authority for training teachers, proposed using "My Name is Arnold" as an in-service training device. "My Name is Arnold" is a book based on a series of interviews with children from the Woodlawn School District. The interviews were excerpted and consolidated into one personality called Arnold which typified the children interviewed. Ms. Sizemore, in her position as director of the Woodlawn Experimental School District, recognized the excerpts personified by Arnold, if used as a training tool for teachers, to be an excellent means for increasing teacher sensitivity, teacher readiness, and teacher effectiveness in classrooms of children from poor and minority backgrounds.

The book, authored by Mrs. Essie G. Branch and published by the Du Sable Museum of Chicago, was from Ms. Sizemore's perspective and was never intended to be used in the classrooms of the Woodlawn Schools nor indeed was it ever used. Therefore, the assertion that the book was "First used in Chicago public schools as a text for beginning readers" is not true. The suggestion that the book may be a basis for a source from which "some of the black kids get their ideas about whitey" is ludicrous.

The column, as it was written, contributed nothing to the betterment of the education of local public school students and could have been published for no other apparent reason other than to embarrass or denigrate Ms. Sizemore at the commencement of her superintendency. This is all the more true in light of the obvious fact that the Congress finally determines the budget for the District of Columbia school system.

The article is open to interpretations which could only aggravate unproductive racial hostilities among its readers.

Based on the response that has been received by my office, the offices of other Members of the Congress, and the District of Columbia school system, the article has done untold harm to the efforts of Ms. Sizemore and the District of Columbia Board of Education in their attempt to bring about the delivery of better educational services to the citizens of the District of Columbia. Hopefully, this inclusion in the RECORD will set the record straight and minimize its possible harmful effect.

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## VISIT PITTSBURGH'S FLAG PLAZA—A PATRIOTIC EXCURSION

### HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, despite the current energy shortage, Americans still will be making vacation trips this summer—although they may not venture as far from home as they once did.

For the vacationing family, Pittsburgh's Flag Plaza-Scout Center is an entertaining, educational, and patriotic stop on their schedule.

Flag Plaza-Scout Center stands prominently and proudly at the base of Pittsburgh's Golden Triangle, a short distance north of the Civic Arena. Flag Plaza is part of a patriotic and educational legacy given to the youth of America by Vivian W. Lehman, in loving memory of her husband Chester Hamilton Lehman, distinguished citizen, industrialist, philanthropist, and Scout leader.

Scout Center is the program and administrative heart of Allegheny Trails Council, Boy Scouts of America. It serves 850 sponsoring institutions, 1,300 Scout units, and 16,000 adult volunteer Scout leaders. These organizations and leaders project Scouting's educational program of challenge and adventure to 50,000 boys annually as they climb the Scouting trail of character development, citizenship training, and physical fitness.

The glistening white-stone building was dedicated on Independence Day, 1968, and is entrusted to Allegheny Trails Council, Boy Scouts of America.

Flag Plaza is the scene of the historic flag ceremony held each evening and of educational programs for school groups. Here five stately poles tower to an awesome 80 feet—the height of an 8-story building. The 50-star flag of the United States of America waves majestically atop the central and highest pole as a symbol of our never-ending quest for peace and freedom for all mankind. Four other banners flank and salute Old Glory. Three of these are the crest of the city of Pittsburgh, the colors of the Commonwealth of Pennsylvania, and the ensign of the Boy Scouts of America. The fourth is one of 31 historic flags that have flown over this land in ages past. These, displayed and changed daily in chronological sequence, begin with the banner of the Viking Norsemen and include the flags of Holland, Britain, France, and Spain. Most are American flags dating from the years 1775 to 1781, in that period when our Founding Fathers rebelled against foreign tyranny, risked their lives and fortunes to create and defend a new nation, and thus gave us the heritage of freedom and independence that is ours today.

For student and Scout, Flag Plaza is at once a lesson in history, civics, and love of country. For the tourist, it is a unique and stirring experience. I urge my colleagues and their constituents to visit Flag Plaza—taste of its patriotic flavor, sense its educational atmosphere, thrill a little to the story our flags tell of America. Observe today's youth conducting the historic flag ceremony or participating in the stimulating school programs. Come to Flag Plaza and, as thousands of others have done, reverently salute the flag of the United States of America in this invigorating setting.

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## "MURDER BY HANDGUN: THE CASE FOR GUN CONTROL"—NO. 65

### HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. HARRINGTON. Mr. Speaker, in a tragic and unexplained handgun incident, Fred Sposato, the father of five children, was shot six times and killed while he was sweeping out his barber shop in New York City.

Yesterday I included an article about another death that resulted from a handgun. Today's story is a clear indication that handgun murders are not confined to particular economic, social, and age groups. Mr. Sposato was 60, and Mrs. Waldman was 31; Mr. Sposato was a lower middle income worker living in Brooklyn, and Mrs. Waldman lived in a $75,000 home in the suburbs. But they both were killed, for no apparent reason, with handguns.

Included below is the January 13 article from the New York Times.

FROM THE POLICE BLOTTER

A 60-year-old Brooklyn barber was shot six times and killed as he was sweeping out his shop at 574 Fourth Avenue shortly after 9 A.M. The unknown gunman escaped and the police said they had been unable to find a motive for the slaying. The victim was identified as Fred Sposato, father of five.

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## DEDICATION OF A "FREEDOM TREE"

### HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. MADIGAN. Mr. Speaker, on November 11, 1973, the citizens of Rantoul, Ill., gathered to dedicate a symbol of their continuing concern and hope for those men who went to Vietnam at the request of their country, Congress, and President, and who have neither returned nor been accounted for.

Mayor McJilton's remarks represent the concern of a citizen-mayor for his country and community.

Maj. Gen. Frank Elliott's remarks, I believe, exemplify the very finest values of the American military tradition, and Chaplain Capt. Brevard S. Williams invested those ceremonies with the teachings of the Lord.

All taken, these remarks certainly capture some very fine American virtues. I believe the fact that this spirit is still abroad in the land should give us some degree of comfort, even despite the trials we face.

Their remarks follow:

REMARKS BY MAYOR JACK MCJILTON

On this date and at this hour for 55 years, the people of our great nation have annually joined in a "prayer for a lasting peace" and a "salute to our veterans of all wars."

It is most fitting that on this date of the traditional Armistice Day, we, here in Rantoul, can dedicate a Freedom Tree—as a living tribute to all prisoners of war and those missing in action.

I would like to emphasize that this Freedom Tree is an evergreen. The evergreen tree remains green throughout the whole year and stands out when others lose their foliage. This is very symbolic to one of the American peoples' greatest needs of today—hope—the feeling that what is wanted will happen. History, experience and the Bible teach us that Christianity, state and home are only successful when we, as individual people, believe and maintain an everlasting *hope* for the future.

Today, let us, as people of this great nation, be like the evergreen. Let us have hope, stand out, remain strong and have convicted belief in God, country and fellow man.

On behalf of the citizens of the Rantoul-Chanute community, it is my great pleasure to accept this beautiful and symbolic blue spruce in the honor of all who have served their country.

Thank you.

REMARKS BY MAJ. GEN. FRANK W. ELLIOTT

We are here today to honor our personnel carried in MIA (Missing in Action) status, many of whom have been missing up to eight years, a few for more.

Some wonder if their fate was worth their sacrifices. Whether it was, or not, is up to us who did survive. There is a quotation which describes our feelings somewhat better than I could. It states: "War is an ugly thing, but not the ugliest of things; the decayed and degraded state of moral and patriotic feeling which thinks that nothing is worth war is much worse. A man who has nothing for which he is willing to fight—nothing he cares about more than his own personal safety—is a miserable creature who has no chance of being free, unless made and kept so by the exertions of better men than himself."

I submit that those who are missing from any war during our lifetime can be counted on the side of those who cared—cared for their God, their country, their families.

This tree is an everlasting indication that this community appreciates their sacrifices. We hope that in the not-too-distant future some presently listed as MIA may view that which we dedicate today.

This flag which has flown over our Nation's Capitol is another symbol which meant much to every person who has ever fought for his country. I feel that the American creed passed through their minds on many occasions. It states: "I believe in the United States of America as a government of the people, by the people, for the people; whose just powers are derived from the consent of the governed; a democracy in a republic; a sovereign nation of many sovereign states; a perfect union, one and inseparable, established upon those principles of freedom, equality, justice, and humanity for which American patriots sacrificed their lives and fortunes. I, therefore, believe it is my duty to my country to love it, to support its Constitution, to obey its laws, to respect its flag, and to defend it against all enemies."

This American Creed was written by William Tyler Page in 1918 in the course of a nation-wide contest on the subject. It is interesting to note that Mr. Page bought liberty bonds with the $1,000 award money three days after receiving it, and then gave these bonds to his church. Mr. Page's last public appearance was on Sunday evening, October 18, 1942, when, as a guest of the DAR, he led the recitation of the American's Creed at the 50th anniversary celebration of the Pledge of Allegiance to the Flag.

Mr. Page died the next day.

This tree and this flag are true indications that the citizens of this community care.

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PRAYER

(By Chaplain Capt. Brevard Williams)

Eternal God, Whose love and strength is denied to no man, we thank You for the return of our prisoners of war to us, and for Your sustaining them under their unspeakable loneliness and pain. We pray, also, for those left behind, missing in action, that Your solace will ever keep them whole. We pray for those who have given their lives that we may live in freedom; strengthen their families and loved ones, that they may know the consolation of Your love; and keep them before our vision upon which rest our hope and freedom.

Almighty God, Who hast given us this good land for our heritage, we humbly beseech Thee that we may always prove ourselves a people mindful of Thy favor and glad to do Thy will. Bless our land with honorable industry, sound learning and pure manners. Save us from violence, discord and confusion; from pride and arrogance, and from every evil way. Defend our liberties, and fashion into one united people the multitudes brought hither out of many kindreds and tongues. Endue with the spirit of wisdom those to whom in Thy name we entrust the authority of government, that there may be justice and peace at home, and that, through obedience to Thy law, we may show forth Thy praise among nations of the earth. In the time of prosperity, fill our hearts with thankfulness and in the day of trouble, suffer not our trust in Thee to fail, following the example of those whom we honor here today; all which we ask through Jesus Christ our Lord and Savior. Amen.

## VIETNAM—1 YEAR LATER

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## HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. SEIBERLING. Mr. Speaker, as we mark the first anniversary of the signing of the Paris agreement on ending the war and restoring the peace in Vietnam, we do so with deep concern and apprehension about the current situation in Vietnam.

The breakdown of the standstill ceasefire has created immediate danger of a return to allout warfare in Vietnam, and with it new pressures for increased U.S. aid to South Vietnam, and perhaps even U.S. reinvolvement in the war.

Violations of the peace accord by either side are not condoned by anyone. But our responsibility, as the Nation which is currently providing about 90 percent of the cost of the Saigon government's civilian and military operations, is to see to it that the Thieu regime scrupulously adhere to the provision of the Paris agreement. Only if this is done can we and the world know if the other parties will abide by the provisions so dearly arrived at for achieving a negotiated political settlement.

In the past year, the Republic of Vietnam has repeatedly violated the ceasefire agreement by its offensive military operations, by its inhumane treatment of thousands of political prisoners, and its restrictions on movement, assembly, speech and other fundamental civil liberties. Documentation of these violations are listed below. More recently, President Thieu has gone beyond these infractions and declared that he will attack the military sanctuaries of the other side in open violation of the cease-fire accord.

The role the United States continues to play in condoning these violations by the RVN can no longer be ignored. Our military and economic support of the RVN is so substantial that it obviously constitutes approval or at least acquiescence in the politics and action of the RVN.

Our financial support of the Thieu regime is already substantial, and reports persist that the administration will shortly request a supplemental appropriation for additional military aid to South Vietnam. In view of the serious problems facing the American people, we cannot lightly continue to pour further American resources into Vietnam, especially if the RVN will not adhere to its international treaty obligations.

Rather than increasing assistance to the Saigon Government, now is the time for the United States to be firm in insisting that the Paris agreement be honored, and that any violations be dealt with, not by us unilaterally, but by all parties to that agreement.

Mr. Speaker, today 26 members of Congress for Peace Through Law have sent a statement to President Nixon and Secretary of State Kissinger expressing their concern about the military situation in Vietnam. I include that statement in the RECORD, along with a list of the violations of the Paris agreement by the Republic of Vietnam:

MEMBERS OF CONGRESS FOR PEACE THROUGH LAW—NEWS RELEASE

WASHINGTON, D.C.—Twenty-five members of Congress Tuesday issued a statement expressing their concern about the continued military conflict in Vietnam and the U.S. government's support of the Republic of Vietnam's civilian and military operations. The bi-partisan group signing the statement, all Members of Congress for Peace Through Law, are:

Senators James Abourezk, Mark Hatfield, Vance Hartke & George McGovern; Representatives Bella Abzug, Herman Badillo, Jonathan Bingham, George Brown, John Conyers, Lawrence Coughlin, Robert Drinan, Bob Eckhardt, Don Fraser, William Green, Ken Hechler, Parren Mitchell, Bertram Podell, Peter Rodino, Ed Roybal, Fernand St Germain, Pat Schroeder, John Seiberling, Pete Stark, Antonio Won Pat, and William Lehman.

The statement follows:

"On the first anniversary of the signing of the Paris Agreement on Ending the War and Restoring the Peace in Vietnam, we, the undersigned Members of Congress for Peace Through Law express our profound concern over the breakdown of the standstill ceasefire which has created immediate danger of a return to all-out warfare in Vietnam.

"We recognize that both sides to the conflict in Vietnam have been guilty of violating the Paris Agreement. We deplore the fact that the North Vietnamese with their allies, and the South Vietnamese have each failed to fully uphold their responsibilities under the Paris Agreement.

"We would point out that our government has a particular responsibility for the actions of the Republic of Vietnam in this matter. The United States supports up to 90% of the cost of the Saigon Government's civilian and military operations. Therefore, it is incumbent upon our government, as a signatory to the Agreement, to take particular notice of the Republic of Vietnam's performance in light of the Paris Agreement.

"The history of the past year demonstrates that the Republic of Vietnam has repeatedly violated the ceasefire agreement by its offensive military operations, by its inhumane treatment of thousands of political prisoners, and by its restrictions on movement, assembly, speech and other fundamental civil liberties. President Thieu has gone beyond these infractions and declared that he will attack the military sanctuaries of the other side in open violation of the ceasefire accord.

"We are well aware that it takes the good faith of all parties to make an agreement work. We are deeply troubled that agreements which promised to bring peace to the people of Indochina, and which still hold that promise, are so severely jeopardized by the present situation.

"Although we are thankful that Americans are no longer fighting in Indochina, we must continue to seek other practical alternatives for implementing our concern for a true and lasting peace for the people of that war-torn region of the world. We should even consider the reconvening of the Paris Conference on Vietnam with all involved nations, as a means for insuring a true peace in Indochina."

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DOCUMENTATION OF VIOLATIONS OF REPUBLIC OF VIETNAM

The Saigon Government has been systematically violating the Paris Agreement, both in its military and political provisions. These violations, which go to the heart of the Agreement, began immediately with the ceasefire deadline and have been continuous over time.

Following is a partial listing of important violations of the ceasefire which can be documented from U.S. sources and from press reports. These are arranged in 2 categories: 1) Military violations; 2) political violations.

MILITARY

The ARVN established many new military outposts all along route 4, which runs from My Tho to Vinh Long, where no government posts had existed at the time of the ceasefire (State Department source). This was a violation of Article 2 of the ceasefire protocol, which provides that there can be "no major redeployments or movements that would extend each party's area of control."

B. In still another violation of Article 2, immediately after the ceasefire was proclaimed, ARVN troops attacked some 350 villages which had been occupied by the PRG forces during the three days before the ceasefire was to take effect. Some of the fighting continued for two weeks before Saigon recaptured these villages. (Washington Post, March 29, 1973).

C. Official U.S. reports from the field showed that by mid-year the South Vietnamese Army was firing twenty times as much ammunition as their foes, most of it for "harrassment and interdiction," meaning that it was not fired at any particular military target but at the PRG zone generally. (Washington Post, June 4, 1973).

D. Beginning in October 1973, President Thieu openly ordered his commanders to launch "preemptive strikes" against the PRG forces on the ground as well as in the air. (New York Times, November 1, 1973).

E. One of the most experienced correspondents in South Vietnam summed up the first two months of the ceasefire by saying, "The Saigon Government has been guilty of by far the greatest number of cases of launching offensive operations into territory held by the other side." (Christian Science Monitor, March 30, 1973).

F. In Chuong Thien province, ARVN troops were carrying out "nibbling operations" against the PRG zone over a period of months. (Time Magazine, November 19, 1973).

POLITICAL

A. Thieu has refused to permit "democratic freedoms," called for in Article 11 of the Agreement, such as the right to organize politically, hold meetings, publish, etc. He has justified his position by arguing that the Communists would "take advantage" of such freedoms to "subvert our society from within." (Vietnam Report, Saigon, April 15, 1973, p. 7).

B. The Thieu Government also violated Article 11 by using its government machinery to prevent refugees from returning to their old homes in the free PRG zone or contended areas and prevented movement between the two zones. Thieu even circulated within his government a false summary of the Paris Agreement which claimed that that Agreement forbade civilians from moving from one zone to another. (Christian Science Monitor, March 16 and 27, 1973; Ron Nessen, NBC Morning News, January 30, 1973).

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## BURR POWELL HARRISON

## HON. M. CALDWELL BUTLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 22, 1974*

Mr. BUTLER. Mr. Speaker, I wish to join my colleagues in paying tribute to the memory of Burr Powell Harrison who served in the House of Representatives from 1946 to 1963. Judge Harrison, as he was known to many, represented a portion of the Shenandoah Valley which through redistricting in later years now lies in my own congressional district His former constituents still speak with affection and praise of their distinguished former Representative.

The son of Thomas Walter Harrison, who represented the same district earlier in this century, Burr Harrison was educated at Virginia Military Institute, Hampden-Sydney College, the University of Virginia, and the Georgetown University School of Law.

He served the State of Virginia throughout his career as an attorney, a Commonwealth's attorney, State senator, circuit court judge, and Congressman. A true servant of the people, Burr Harrison's death is a great loss to the Commonwealth of Virginia and to the Nation as a whole.

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## A VICTORY FOR FARAH STRIKERS

## HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Ms. ABZUG. Mr. Speaker, yesterday a major victory on behalf of poor working men and women was won. A National Labor Relations Board judge ruled that Farah Manufacturing Co., must reinstate striking employees who want their old jobs back.

The 3,000 striking workers, largely Chicano and largely women, are striking against one of the largest apparel manufacturers in the world. I would like to lend my support to the striking workers and to the national boycott of Farah products. In so doing, I join prominent religious, labor, and political leaders, who have also lent their support to the strikers.

The Farah strikers' struggle is taking place in El Paso, Tex. Of some 20,000 clothing workers in El Paso, only slightly more than 10 percent are under union contract. El Paso contains an enormous pool of unorganized, cheap Mexican-American labor. Farah, El Paso's largest employer, hires 14 percent of the local work force in its four El Paso factories. Although Farah refuses to divulge the average pay of its workers, the reported pay is $1.70 per hour. A unionized plant of Hortex Manufacturers pays a starting wage of $1.80 per hour. Levi Straus just signed a contract with ACWA, settling for a minimum wage of $2 per hour. The workers at Farah deserve a living wage. They deserve a negotiated pay scale.

Farah's working conditions call for comment. Farah workers have no job security—there have been firings without cause. Workers live in fear of dismissal if production falls—they are pushed to meet ever rising production quotas. The company admittedly has no grievance procedures other than appeals to management. The company has gone so far as to curtail all talking among employees during working hours.

Farah has attempted to divert attention from such wages and working conditions. A company sponsored savings plan, which was challenged in Federal court, seems to be a subterfuge. It encouraged workers into making interest-free loans to their employer. Workers' money was put into the company's bank account and was used to pay the firm's operating expenses. No interest was paid.

The salient issue is that of the freedom to unionize. In 1970 the Amalgamated Clothing Workers won an election in the cutting room in El Paso. The company disregarded the election and challenged the matter in the courts. In September of 1972 the NLRB certified Amalgamated as the cutters' exclusive bargaining agent. The company still refuses to meet and bargain with this union as the law requires. Without a freely chosen collective bargaining agent the workers can hardly have social justice.

The AFL–CIO executive council charged the company was trying to break the strike with tactics "from the Dark Ages of American labor relations." Indeed, the company has harassed, intimidated, and coerced workers. The company has created an atmosphere of fear and oppression. The company has maintained close surveillance of various workers, has questioned workers about union sympathies, and has threatened workers with plant closings. The company has offered wage increases on the condition that workers stop engaging in union activities. The company has threatened workers with "harsh treatment" and a loss of benefits if they became active in union activities. They have transferred workers to less desirable jobs for engaging in union activities and have unlawfully discharged workers for supporting union activities. Later Farah has refused to rehire them for their former or equivalent jobs.

The company has mistreated strikers themselves. Farah has photographed employees engaged in picketing and demonstrations. The company has used guard dogs to intimidate striking employees who were engaged in peaceful picketing at the plant. More than 1,000 arrest warrants were obtained against strikers, mostly for misdemeanors in failing to observe a State law requiring pickets to space themselves at 50-foot intervals. Such harassment has resulted in hundreds of workers being taken from their home to jail at midnight.

I fully support the Farah strikers.

As the Spanish poet, Carlos Garcia-Lorca said, "I am and shall always be on the side of those that hunger." For the benefit of my colleagues I am inserting the Amalgamated Clothing Workers' Farah factsheet, and an article that appeared in today's Washington Post, "Farah Strikers Win Job Ruling," in the CONGRESSIONAL RECORD:

FARAH FACT SHEET

The Farah Manufacturing Company is one of the largest pants manufacturers in the United States, with wide distribution to department and men's specialty stores throughout the country.

The Farah Company operates 8 plants (4 in El Paso, 2 in San Antonio, 1 in Victoria, Texas, and 1 in Las Cruces, New Mexico). Before the strike Farah employed 9500 workers, 95% of whom were Mexican-American and 80% were women.

The strike started on May 3, 1972 when workers in the San Antonio plant left their jobs in protest of the Company's unfair labor practices, including the firing of several workers engaged in legal union activities.

The strike protesting these and other unfair labor practices rapidly spread to the other Farah plants and soon there were close to 3,000 workers on strike.

Despite peaceful and orderly picketing, the company obtained a temporary injunction of the most stringent nature. One of the provisions of that injunction was that pickets had to remain 50 feet apart at all times. This, of course, made it almost impossible to maintain a normal picket line. Eventually, a Federal court declared the Texas picketing law unconstitutional.

Before the law was struck down, however, many hundreds of the strikers were arrested despite the fact that there had been no violence or unlawful activity on the part of the strikers. Many of the strikers were arrested at their homes in the middle of the night and held for the exorbitant bail of $400 per person. The usual bail for similar misdemeanors in the El Paso area has been $25.

Although the Federal government has found Farah guilty of unfair labor practices for hiring sympathizers, the company continues to flout the law. Union supporters have been fired or harassed at each of the operating plants.

In addition to the discharges, numerous other acts of intimidation, coercion and undue restaint have been perpetrated against the workers. Some of these have included the use of armed guards patrolling with vicious police dogs in an effort to frighten the strikers.

The National Labor Relations Board has ordered the Farah Company to cease all such unlawful activity and to rehire those employees from the El Paso plants and the San Antonio plant who had been unlawfully fired. Similar cases are pending but the N.L.R.B. has ordered Farah:

To stop enforcing a broad no-solicitation rule which interferes with union organizing during non-work time.

To stop maintaining a close surveillance of employees.

To stop maintaining a rule that restricts personal conversations during working time because employes are involved in union activities.

To stop interrogating employees about their union activities.

To stop discharging employees for refusing to obey orders which unlawfully interfere with union activities.

To reinstate unlawfully fired employees and to pay them for lost earnings plus six per cent.

Additionally, in a "formal settlement agreement" the Board has stated that strikers will be treated as unfair labor practice strikers, thus signaling the fact that the company is held to have precipitated the strike.

In 1970 the Amalgamated won an election in the cutting room in El Paso. Nearly two years later, after numerous appeals and protests lodged by the company, the N.L.R.B. certified the Amalgamated as the cutters' exclusive bargaining agent. Today, after repeated orders, the company still refuses to meet and bargain as required by law. The company's tactics are clear. Farah intends to wear down the union and the employees with legal delays and outright law-breaking.

The Mexican-Americans employed in the plants are being exploited in the worst possible way. A recent suit filed in U.S. District Court at San Antonio is but one example of this exploitation. Farah employees, including some still working in the plants in El Paso and San Antonio, have filed a class action suit against the company because, as they allege, they have unknowingly been loaning the company money for over ten years. Farah operates a savings plan that pays no interest and that allows withdrawals once only for emergencies and again at the end of a year. According to the workers, some employees were strongly pressured into joining the plan. The funds from this plan go directly into company accounts at the El Paso National Bank where they are put into the company's general funds and used to meet the firm's operating expenses. Willie Farah is a director of the El Paso National Bank.

The acts of intimidation used against the workers are the company's way of preventing its employees from securing a better economic way of life, and thereby gaining dignity and freedom for themselves and their families.

In order to hasten the end of the strike and to help the Farah workers achieve a better life, the ACWA has launched a nationwide consumers' education boycott which includes regular consumer educational picketing and leafleting against the struck product in front of retail stores that sell Farah pants.

Support for the strikers and the boycott has been enormous. The national AFL–CIO has made the Farah boycott a major concern as has its state and county affiliates. Similarly, international and national unions have pledged their support in meaningful time and money donations.

At the same time, numerous leaders in the political, social and cultural fields have endorsed the strike and the boycott, for example. Senators: Bayh, Cranston, Hart, Javits, Kennedy, McGovern, Mondale, Montoya, Moss, Stevenson and Williams, the National Organization of Women, the NAACP, and the National Student Association.

A major addition to the impetus of the boycott has been the support given by the religious community. The Most Reverend S. M. Metzger, Bishop of El Paso, sent out a call to his fellow Bishops to endorse the strikers' cause and spread the boycott as a means of aiding the people in need of his diocese. The answer to his message has been heartwarming. Not only have many Bishops, Archbishops and Cardinals across the nation replied, but they have been joined by other religious leaders in this struggle for social justice. The Central Conference of American Rabbis, the Texas Conference of Churches, The National Council of Churches, African-American Methodist Episcopal Church, local Councils of Churches, The Very Reverend Francis B. Sayre, Jr., Dean of Washington Cathedral and the Most Reverend Trevor Wyatt Moore, D.D., Bishop of the Orthodox Catholic Autocephalous Church of the United States, have all given their complete support to this major quest for human rights.

During the week of October 29 Farah announced that he was closing the Victoria, Texas and Las Cruces plants.

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### Farah Strikers Win Job Ruling

(By Selig S. Harrison)

The Amalgamated Clothing Workers won a major victory yesterday in the union's 20-month battle against the Farah Manufacturing Co. when a National Labor Relations Board judge ordered the company to reinstate striking employees who want their old jobs back.

Administrative Law Judge Walter H. Maloney Jr. ruled that the Texas manufacturer of slacks must offer 2,000 striking workers reinstatement in their former jobs or "substantially equivalent" positions.

If necessary, he said, Farah must dismiss workers hired to replace the strikers since the walkout began in May 1972.

Maloney also ordered the reinstatement with back pay and full seniority of six employees whose dismissal precipitated the bitter strike and a subsequent union boycott campaign against Farah products.

The ruling must be reviewed by NLRB before it takes effect. Farah is expected to wage a court fight against an adverse NLRB decision.

Maloney's findings upheld union charges of unfair labor practices against Farah management for seeking to block union organizing efforts and intimidating union supporters.

In unusually sharp language, Maloney declared that Farah "has been repeatedly directed to mend its lawless ways, and yet it continues on as if nothing had happened, trampling on the rights of its employees as if there were no National Labor Relations Act, no board and no Ten Commandments. Farah has simply thrown down the gauntlet to this agency."

Hailing the ruling, Amalgamated Clothing Workers President Murray Finley said that "rarely, if ever, in the history of federal labor law has any employer been so outspokenly chastised by a judicial officer of the U.S. government."

Farah spokesmen were unavailable for comment.

Company officials have stated that profits dropped 15 per cent during 1973 but deny that the boycott fully accounts for this decline.

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## REPRESENTATIVE EDITH GREEN ON THE QUALITY OF EDUCATION

## HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. KEMP. Mr. Speaker, there are few subjects which should be of greater importance to the future of this Nation than the quality of education.

Education has been at the center of attention in this Chamber for years, but only recently have we begun to come to grips with the hard realities of how much—and how little—Federal assistance to education has helped to insure and to promote its quality. This can be no mere passing concern, for the education of our young men and women forms the basis for their abilities to lead this Nation when their time for leadership has come.

The distinguished and very able Representative from Oregon (Mrs. Green) is nationally noted as a leading authority on Federal aid to education. It was my privilege to serve with her on the Education and Labor Committee before she moved to appropriations. Her objectivity in reviewing the substantive accomplishments of Federal aid to education is reflected by her willingness even to question programs which she once had help shepherd into public law. It is a sign of her commitment to education, when we reflect on how few are willing to view the world with such insight.

In an article of watershed significance in the "Annual Education Review" of the New York Times, January 16, 1974, Mrs. Green has written a succinct, well-documented, well-reasoned critique of the Federal role in education. Her eloquence speaks for itself. The article follows:

### Backer of Federal Aid Asks, "What Went Wrong?"

(By Edith Green)

As a long-time supporter of Federal financial aid for education, I have come to realize with much pain that many billions of Federal tax dollars have not brought the significant improvement we anticipated. There are even signs that we may be losing ground.

What has gone wrong? I believe that several unanticipated problems must be understood before we can take positive steps toward achieving the goals we have set for ourselves.

First, it seems that whenever a new problem arises, well-meaning people immediately suggest that the Federal Government should provide a solution. If the state or local school district has turned down a program because there are other items of higher priority, surely in the inexhaustible Federal budget money can be found. Since there is no end to the number and variety of problems in education, there has been no end to the Federal programs that have developed over the years.

The structure constantly grows and usually at the hands of people whose motive is to help.

In hearings last year, Dr. Sidney P. Marland, Jr., former Commissioner of Education and Assistant Secretary for Education in the Department of Health, Education, and Welfare until his resignation last September, said:

"O. E. sprang very swiftly from a relatively small office in 1965 to an office with some $5-billion in its responsibilities and some 104 different laws and programs to administer in a relatively short period of time. . . . The whole substance of proliferation of programs in the Office of Education has reached the point where it is causing almost impossible management to keep the lines of communication, the avoidance of duplication, the infinite volumes of paper work surrounding categorical programs."

A peculiar feature of all this is that programs never seem to phase out, even after the problem has been solved or after the program has shown very disappointing results. It is almost impossible to reverse an initiative. It is also next to impossible to change formulas for allocation of funds because the decision of each Congressman is too often based on the very pragmatic question: "Will my Congressional district (or state) gain or lose?"

So, in 1974, we are still using 1960 census figures despite evidence that some districts have thousands of new students and other districts are being paid for students who departed years ago.

Second, Federal education programs suffer from a terrible lack of coherence. To begin with, several Congressmen have several different proposals for solving any particular problem. By the time the appropriate subcommittee has agreed on a draft bill, the process of political compromise may have done away with the internal unity of the new program before it is even started.

The full committee then does its work on the bill, followed by the House as a whole—a process that has a complete analog on the Senate side (usually uncoordinated with the House). A Senate-House conference then alters the bill yet further with the result that the program lacks integral wholeness.

It may really please no one; the original author may reject it entirely; the academic community may "buy" it not because they like it, but because it promises more dollars. Ineffective responses ot real needs only compound distrust in Government.

Many Congressional committees and agencies start programs unilaterally. It is always with the intent of "doing good." This results in more overlapping and duplication of effort. If the Federal Government's objective is to meet a short-range goal, the goal may well be achieved in this way. Multiagency programs, planned unilaterally, do not, however, promote long-range over-all planning. Categorical programs preclude an integral approach to the provision of services.

### BEYOND TEXTBOOK DESCRIPTION

The third problem is one that goes beyond textbook description. We have been taught in school that Congress legislates the people's will and the executive branch carries out the Congressional will. This is often far from the truth. The executive branch has grown to immense proportions and has developed its own set of plans and programs. Sometimes the plans for the executive branch and Congress coincide. But time and time again, we have found the Office of Education planning, announcing and implementing programs never contemplated in the Congressional legislation.

Often it seems that the Office of Education considers the year's appropriations to be a giant pool from which their people can transfer funds or draw, as they wish, for whatever programs they have decided to carry out. The Renewal Site program of 1972 is but one example.

Elliot L. Richardson, then Secretary of Health, Education and Welfare, testified that the $363-million would be addressed to "reform and innovation." One of the Federal deputies in the Office of Education said, "After the needs assessment, the training program will be used to install new curriculum and to retain staff to meet the cultural and knowledge revolution that is upon us."

One irate Congressman demanded of Sectary Richardson:

"Who told you that you can use E.P.D.A. to go out across the United States and make a needs assessment to determine what the most important needs of the schools of the country are? Who told you you had the authority to install a new curriculum?"

These and other discretionary funds are often used to do an "end run" around Congress. The impoundment of other funds for the programs is also used to thwart the will of Congress.

Fourth, if the execution is bad, even the best program is doomed. When he was the Senate majority leader, the late Lyndon B. Johnson said, "Legislation should not be examined in the light of benefits it will convey if properly administered, but by wrongs it would cause if improperly administered."

A Federal agency consists of an upper echelon of political appointees whose life spans in office are very short and a vast underlay of permanent Civil Service bureaucrats. The top people rarely get a chance to get a real grasp on the agency before moving on. As a result, the lower level bureaucracy runs the show.

In practice, this means that regulations and guidelines are issued, laws are "interpreted," contracts are let and grants are made, by third-rank and fourth-rank officials who are remote from the college or the local school district and immune from constituency complaints. In fact, Civil Service manages to protect all who come within its purview from any serious restraint on their freedom except in rare cases of extreme malfeasance.

In addition to problems arising from the inherent islolation of centralized bureaucracy, there are the usual problems of corruption and inefficiency. Corruption wears many faces. Outright thievery or collusion is relatively rare. Far more prevalent are such practices as bypassing regulations, ignoring uncomfortable restrictions, bestowing benefits on friends or colleagues and all the known forms of logrolling.

Frequently, when officials leave Government service, they are rewarded with positions in the private sectors where they have had the most contacts—and they often receive Government contracts or grants (called "graduation presents" in the corridors of the Department of Health, Education and Welfare) to help them along. Repeated agency promises to tighten up management practices have produced little if any change.

### THE ADMINISTRATIVE MONSTER

Finally, each new program spawns at least one new administrative unit within the Government. This involves new office space, new staff of many ranks, new organization charts, new regulations. Administrative growth is a galloping cancer. Many listed as new state or city employes are there solely because of Federal funds or Federal requirements.

Out of the $5.6 billion for 1973, the Office of Education had more than $890 million in "discretionary funds." These funds amount to more than twice the total appropriations the agency had for all of its programs in 1960. This is spent in contracts and grants, research and evaluation.

Two years ago, my office did a study of O.E. contracts and grants. What we found was appalling. The General Acounting Office said the department was in absolute chaos. No one knew to whom the grants were given, for what purpose, or what were the results. More than 90 per cent of all contracts and grants from 1967 to 1972 were awarded on a noncompetitive basis.

Last year, Dr. Marland testified that there were more than 50,000 contracts and grants that required some degree of monitoring. An official of the Contracts and Grants Division estimated that 9,000 contracts and grants in the O.E. headquarters and 4,000 in regional offices had not been closed out. The closing of some has been delayed for as long as eight years.

Besides the 13,000 closeouts now outstanding, another 6,000 award files will probably never be closed out because they were in storage but cannot be located.

Who knows, then, whether the Federal dollars have been spent wisely? What are the results of the research? What kind of an evaluation was ever made? What dissemination was ever made of information gained?

Now the National Institute of Education has been established where research is to be centered. One of Oregon's leading educators says:

"Instead of finding out what's working in various states, they have to discover it all over again. There appears to be an intention to replow previously studied areas. There appears to be an intention to go for 'splashy' projects [like the NASA satellite program for Appalachia] as opposed to focusing on the 'here and now' problems of students, classroom teachers and school administrators."

It seems to me that the time has come for an "agonizing reappraisal." We can no longer afford another new program for each new problem, or another new agency for each old agency that has lost its vitality. We cannot tolerate more centralization and Federal control. We cannot afford to enlarge, or even to continue with, a huge administrative apparatus that operates out of public view and beyond public control.

The enormous Federal influence has not yet really entrenched itself, either structurally or philosophically, in the American experience. It is by no means too late to cut discretionary funds to a justifiable and manageable amount, and to do away with the myriad categorical programs. To the extent that financial assistance is required for education programs, such assistance can be supplied through outright block grants with minimum restrictions on how or for what they are spent, once a basic over-all need has been established. *Decentralization* and *general aid* are key concepts in the rehabilitation of our educational system; they and they alone permit each locality to determine its own priorities, plans and objectives—to focus on its own particular educational problems.

### A LESSON ABOUT LABELS

My experience with Federal education programs over the years has taught me a profound lesson about political labels. Time was when it was easy to identify a "liberal" and a "conservative:" The liberal supported increased Federal aid to education, and the conservative opposed it. But then matters got more complicated.

The liberals became those who supported assistance to certain programs, such as environmental studies or consumer education or the twentieth program for child development, but opposed assistance to the "wrong" programs, such as R.O.T.C. or block grants or funds for Federally forced busing to achieve a certain ratio, depending solely on pigmentation of skin. Conservatives became those who favored local control in certain areas, such as school districts in the South, but opposed local control in the community schools of New York.

We have come to the point where the old labels are as meaningless as the old simple formulas for political cures. If we could quit arguing about "liberal" or "conservative" and find out which programs work, children would be the beneficiaries. We have matured greatly in the past years, since Sputnik jarred our awareness. From a purely pragmatic standpoint, we should be eager to end unsuccessful programs and rid ourselves of the waste they engender. The essential lesson we have learned is that the financial resources of the Federal Government *are* necessary to our educational system, but the preservation of local control over priorities, plans and objectives is *equally* necessary. To the extent that this recognition becomes part of the national consciousness and is translated into action, we will be able to save our schools from mutilation and maintain their role as the preservers of a free, independent and enlightened citizenry.

This article was the subject of editorial comment in the Wall Street Journal last week. In light of the President's message on education, received by this body last week, the time is right to strengthen the commitment of this Nation to the genuine quality of education by looking with impartial candor at the successes and failures of our efforts to date. I think the Wall Street Journal editorial summarizes well the tasks before us. That editorial follows:

### THE FAILURE OF FEDERAL AID

Representative Edith Green's litany of what went wrong with federal aid to education, appearing in an article in The New York Times' annual education review, makes it clear that the trouble was not lack of funds. On the contrary, education has had great amounts of federal money lavished upon it in recent years. As a result, it may be in worse shape than ever.

This is not to deny that some school districts could use more money, or that some areas of education still suffer from neglect. Moreover, a number of school districts used federal funds wisely to improve their overall educational performance. But after billions of federal tax dollars have been spent on education during the past 15 years or so, Representative Green admits the money has "not brought the significant improvement we anticipated. There are even signs that we may be losing ground."

The usual explanation is that federal programs failed because even the additional money was not enough. Thus, there are still those who insist that the War on Poverty and similar New Frontier and Great Society programs would have succeeded if only Congress had been more generous. That argument has a veneer of plausibility, but only if one doesn't understand realpolitick.

The key to understanding is the realization that there is no end to the number and variety of problems, therefore no end to proposed solutions ranging from the bold to buncombe. Unless goals are carefully thought out and ambitions strictly limited, the result is likely to be disaster or disillusionment.

The federal government can, for example, use financial incentives to college students to affect the availability of engineers, foreign language specialists, clergymen or veterinarians. Even here, though, there is danger that government stimulation will eventually glut the market, as the National Defense Education Act helped glut the market with teachers. But limited financial incentives are a far cry from grandiose plans to upgrade education across the board. Similarly, pockets of poverty probably can be ameliorated with federal aid, but sweeping "Wars On Poverty" are almost guaranteed to ignore the social and cultural roots of poverty.

The more basic reasons for this failure, however, are not so much lack of vision as the facts of political life: Struggles over patronage, administrative empire building, bureaucratic inertia and unresponsiveness. In short, the usual stumbling blocks of centralization.

Representative Green says we can no longer afford another new program for each new problem, or another new agency for each old agency that has lost its vitality. We cannot continue with a huge administrative apparatus that operates out of public view and beyond public control. She was referring to education, but it is a pretty sound prescription for other social welfare programs as well.

Mr. Speaker, I commend both of these items, and the observations which they impart, to the attention of all my colleagues who share with me a concern over the education of our heirs of tomorrow.

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## THE CASE FOR THE SAFE SCHOOLS ACT

## HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. BINGHAM. Mr. Speaker, crime in our public schools is reaching staggering proportions. Hardly a day goes by when serious incidents of crime and violence are not reported by school districts across the country. Dr. Frank Brown, chairman of the National Commission for Reform of Secondary Education, in a study conducted by the Kettering Foundation, has stated—

> The major concern confronting secondary schools today is the climate of fear where the majority of students are afraid for their safety.

Albert Shanker, president of the American Federation of Teachers in New York, has often insisted that teachers in his union want above all a safer climate in which to teach.

The Broward County, Florida, school board reported a 17-percent increase of assault incidents for the 1972–73 school year, including one murder. The number of arsons doubled compared to the previous year, and was responsible for losses of school equipment valued at nearly $207,000. Of course, there is no way to measure the dollar value that such incidents have on the learning environment or the attitudes of students and teachers.

It is estimated that school crime across the country cost American taxpayers $500 million for the 1972–73 school year, or about $10.87 per student; about the same amount that was spent for textbooks that year. Approximately one-half of that sum was spent for school security measures.

The following table, reprinted from an article by Kenneth H. Dukiet in the November–December 1973 issue of School Management magazine, breaks down the costs of crime in schools by categories:

COST OF CRIME AND VIOLENCE IN SCHOOLS, ESTIMATED 1972–73

| | Millions | Per student |
|---|---|---|
| Vandalism reported | $260 | $5.65 |
| Windows (glass breakage) | 35 | .76 |
| Fire (arson and accidental) | 90 | 1.96 |
| Equipment (theft and damage) | 60 | 1.30 |
| Facilities (building damage) | 50 | 1.09 |
| Facilities (playground, athletic field, stadium, etc. damage) | 25 | .54 |
| Security support services | 240 | 5.22 |
| Personnel (security guards, contracted services) | 75 | 1.63 |
| Personnel (night watch) | 25 | .54 |
| Equipment (alarms, locks, lights, etc.) | 100 | 2.18 |
| Windows (replacements) | 20 | .43 |
| Insurance (additional due to losses) | 10 | .22 |
| Miscellaneous | 10 | .22 |
| Total crime and violence [1] | 500 | 10.87 |

[1] Does not include hidden costs mentioned in article; Market Data Retrieval estimates this figure in range of $100,000,000 to $150,000,000 per year. Does not adjust for recovery of lost money; MDR estimates this figure in range of $15,000,000 to $25,000,000 per year.

Sources: Market Data Retrieval, Inc.; Baltimore City Public Schools, Annual Report of Vandalism for 1971–1972; National Association of School Security Directors; USOE; Federal Crime Statistics, Federal Bureau of Investigation.

Hidden costs not included in the totals are costs for repair effected by school maintenance personnel, costs that are unreported by school officials who for public relations reasons are reluctant to report all crime and vandalism; costs for the protection of people and property that are difficult to ascertain, such as time spent by school personnel on security matters, and the cost of teaching and learning time lost due to damaged equipment and morale.

Last January I introduced legislation, H.R. 2650, the Safe Schools Act. This bill would provide funds to schools requiring assistance to carry out locally approved school security plans to reduce crime against children, employees, and facilities. These security plans as well as the education agency applying for the grant would be required to meet specific standards to qualify for Federal aid.

Hearings were held on H.R. 2650 last February but no action has been taken on the legislation since that time. The need for the legislation is indicated by the constant stream of letters coming into my office from educators, researchers, and teachers organizations across the country urging my continued efforts to enact safe school legislation.

In December of last year, Congressman BELL and I introduced the Safe Schools Study Act, H.R. 11962. This bill would require the Secretary of Health, Education, and Welfare to conduct a full and complete study to determine the extent of the crime problem in our Nation's schools and evaluate the most practicable and effective solutions. The study would also measure the dollars lost and the psychological effect of school crime upon this country's public schools.

Our schools need help in combating a phenomenon that is eroding the very foundations of American public education. That school crime is a widespread problem, and serious in its magnitude, is evident to all who have ever skimmed the surface of the statistics and studies available on this subject.

The articles reprinted below from the Fort Lauderdale News and the Boston Herald-American, respectively, provide further evidence of the vast extent of the problem and the need to enact legislation that would alleviate the burden our public schools are now having to bear alone:

[From the Fort Lauderdale News, Jan. 18, 1974]

EXPELLED YOUTH, 14, RETURNS TO KILL SCHOOL PRINCIPAL

CHICAGO.—The 14-year-old son of a Chicago policeman has been charged with murder in a school shooting that brought death to a principal and injury to three other persons.

Steven Guy was charged last night in the death of Rudolph Jezek Jr., 52.

Police said young Guy walked into an elementary school on the South Side yesterday carrying a .45-caliber pistol and a .38-caliber revolver, both of which belonged to his father, Patrolman Ralph Guy.

Officers said the eighth-grade pupil apparently was angry about being expelled and transferred on Monday from the school to a social adjustment center.

He was confronted in the corridor by assistant principal Gordon Sharp, 40, and school security guard Ezekiel Thomas, 47. Police said when they demanded to know why he was back at the school he pulled out one of the guns and opened fire, wounding both men.

Witnesses told police Guy then walked into the crowded principal's office waving a gun, fired one shot through Jezek's open door and then fired more shots at closer range, killing the principal.

[From the Boston Herald American, Jan. 9, 1974]

VANDALISM SOARS IN SCHOOLS; 139 TEACHERS ATTACKED IN 1973

(By Pamela Bullard)

During the past year, 139 teachers in Boston public schools were assaulted and 664 vandalism breaks were reported resulting in the loss of thousands of dollars worth of equipment and the destruction of two school facilities.

According to Chief Plant Engineer John J. Doherty, the cost of damage will exceed the $1 million allocated by the School Committee to cover "malicious breaks."

Along with the 139 teachers assaulted were 12 custodians, bringing the total of school employees injured or robbed during the school day to 151.

The disclosure of vandalism came as School Committee chairman John J. Kerrigan launched a campaign for additional money from City Hall to provide for a security system to "provide for the safety of all school personnel."

Boston is the only major city in the country that does not have a security system. There are alarm systems in only 33 of the city's 204 school buildings.

During the last year, vandalism has been increasing in the system, with Boston having the highest per pupil vandalism cost of any city. The city spends over $200,000 each year just to replace broken glass.

In the past few months both the Dorchester High Annex and the Edward Southworth School were destroyed by fire. Arson was suspected in both cases. Each school had been the subject of numerous vandalism breaks.

Brighton High School was the most vandalized, 24 times in the year. South Boston High School was runner-up with 22 breaks. At the elementary level, the $8 million Lee School that opened in 1971 had 21 breaks.

Among the articles stolen were: 42 record players valued at $75 each; 93 typewriters valued at $350–$500 each; 40 projectors, seven television sets, 13 microscopes, seven sewing machines, 20 clocks, two pool tables, nine cameras, two 15-gallon fish tanks, and 21 fire extinguishers.

Also taken were a nurse's couch, three snow blowers, and 10 floodlights used to light school grounds to protect against vandalism.

Five alarm systems also were stolen from five schools.

A considerable amount of food was stolen during the past year, including 161 pounds of cold cuts, 580 pounds of hotdogs, 211 pounds of ham, 186 pounds of sausage, 230 pounds of chicken, 1048 pounds of butter, 60 pounds of pastrami, 65 pounds of salisbury steaks, and 18 turkeys (fully cooked).

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## INDIANA UNIVERSITY SWIM TEAM HOLDS CLAIM TO LONGEST COLLEGIATE WINNING STREAK

## HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. MYERS. Mr. Speaker, the great State of Indiana has the distinction of producing many outstanding athletes. While most of the headlines center on football and basketball, I today pay tribute to the longest winning streak in collegiate sports history, the 111 straight victories by the Indiana University swim team coached by my good friend Dr. James "Doc" Counsilman.

It is true that another Indiana school, Notre Dame, recently ended UCLA's string of basketball victories and we Hoosiers are justly proud of Notre Dame's prowess as a football and basketball power. But when it comes to swimming, Doc Counsilman's teams are second to none, as pointed out in this article by Thomas R. Keating in Tuesday's Indianapolis Star which I would like to share with my colleagues:

HERE'S REAL WINNING STREAK

(By Thomas R. Keating)

So Johnny Wooden had his 88-game winning streak broken a week or so ago. Big deal—88 games.

Down at Indiana University this week, the swimming team is getting ready for win No. 112 in a row and there's virtually no way it'll get caught napping.

The architect of this, the longest winning streak in collegiate sports history, is, of course, the only coach in the nation with an actual doctorate in how to motivate young men to perform—Dr. James Counsilman.

When Counsilman came to Indiana in 1957, there was a joke around campus that it was a successful swimming meet if none of the I.U. swimmers drowned. Since then, Doc's athletes have broken more than 50 world records and created a dynasty unmatched in the sport.

With 13 Big Ten titles in a row, 92 straight dual-meet victories, six consecutive national championships and a number of Olympic stars back in the fold, Counsilman might be expected to be a satisfied, content man.

But, such isn't the case.

In many ways, this has been the most difficult of all his years of coaching.

Several months ago, Doc's son, James Jr., a world-class swimmer and a young man of the same caliber, was killed in an accident in which he fell from a cliff.

The tragedy left the usually gregarious and eloquent Counsilman more subdued than at any time in his life. Only someone who has lost a young son in such a manner can realize how he felt.

According to his closest associates, the desire to continue the rigorous pace required of a national-championship season took an extraordinary effort on Doc's part. Playing games sometimes just doesn't seem all that important.

In addition, the Hoosiers aren't the overwhelming favorites for the national title that they have been in some of the last six years.

Other squads, particularly arch-rival Southern California, have narrowed the talent gap the last two years, and are predicting they will snap I.U.'s winning streak at this year's national meet in March.

In short, the pressure is on this year, and some of Doc's critics (a few other swimming coaches he clobbers annually) have said Doc will have to coach more this year to win.

On the other hand, Doc's fans say he currently is doing the finest coaching job of his career. They add that he performs best when the pressure is on.

There is little doubt I.U. will annex its 14th straight Big Ten title this year; but on paper, the national championship may be up for grabs.

"But, you watch," said one of Counsilman's former swimmers. "Doc knows how to motivate himself as well as he does his swimmers. He'll bring home another winner, and when he does, it should rank as one of the greatest coaching jobs ever because this has been the toughest year of his life."

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## WHAT ARE GROUNDS FOR IMPEACHMENT?

## HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. BOLLING. Mr. Speaker, there follows a well researched and sensible article by Merlo J. Pusey, former associate editor of the Washington Post. The article appeared in the Post of Monday, January 28, 1974:

WHAT ARE GROUNDS FOR IMPEACHMENT?

(By Merlo J. Pusey)

Nearly two centuries have failed to produce any clear-cut definition of the offenses for which a President or other high government officials may be removed by impeachment. The founding fathers agreed in the Constitutional Convention that some means of removing the President was essential to their system of limited government, which divided power among executive, legislative and judicial branches. But, like so many other provisions in the Constitution, their final compromise could be widely interpreted. And since no President has ever been both impeached by the House and convicted by the Senate and only four of the other impeachments have resulted in convictions—all involving federal judges—the blank spaces in this area of constitutional law are extensive.

There are, however, some guidelines as to the broad purpose of the founders in adopting the impeachment provision. They were well informed as to the part impeachment had played in curbing the powers of British kings. They studied the various impeachment provisions then in effect in the American states. Their first, tentative decision on the subject was that the President would "be removable on impeachment and conviction of malpractice or neglect of duty."

There was a good deal of debate on the subject because Gouverneur Morris and other members of the convention feared that Congress might use the power of impeachment to destroy the independence of the President. At that time, the tentative draft of the Constitution called for election of the President by the legislature. Because of fear that Congress would be able to dominate any President thus beholden to it, the Committee on Detail reversed a previous vote of the convention and resolved that the President "shall be removed from his office on impeachment by the House of Representatives, and conviction in the Supreme Court, of treason, bribery or corruption." After selection of the President by an electoral college was agreed upon, the Special Committee revised the impeachment provision so that the President might be removed upon "conviction by the Senate, for treason or bribery." As a safeguard against dismissal of the President "under the influence of heat and faction" a two-thirds vote of the Senate was required.

James Madison and Elbridge Gerry complained that impeachment should not be limited to the crimes of treason and bribery. Madison would not go along, however, with a proposal that Congress be allowed to impeach the President for "maladministration." Use of "so vague a term," he said would mean "tenure during pleasure of the State." The convention accepted a proposal by George Mason that impeachment be extended to "other high crimes and misdemeanors against the State." This language, of course, was written into the final draft of the Constitution.

Mason made clear that he had borrowed the terms "high crimes and misdemeanors" from English law. He was striking, not at ordinary crimes, but at grave offenses against the state. This view appears to have been shared by both Madison and Alexander Hamilton. In expounding the work of the founders in The Federalist, Hamilton said that the impeachment provision was designed to reach "the misconduct of public men" and "abuse or violation of some public trust." Madison threw a good deal of light on his view when he argued, in the first Congress, that the President should have the power of removing other executive officials from office and that this power would "make him, in a peculiar manner, responsible for their conduct, and subject him to impeachment himself, if he suffers them to perpetrate with impunity high crimes or misdemeanors against the United States, or neglects to superintend their conduct, so as to check their excesses."

Use of the impeachment power, which the convention had provided and the states had approved, got off to a poor start when the Jefferson administration seized it as a means of ousting Federalist judges. In 1805 the House impeached Supreme Court Justice Samuel Chase, and the Senate tried him in an atmosphere of furious partisan bickering. Chase had been indiscreet on the bench and was widely accused of allowing politics to color his decisions. A majority of the Senate (though less than the required two-thirds) found him guilty on three of five counts. He might have been convicted, except for the fear that such action would unloose an orgy of impeachments to serve political ends. Chief Justice John Marshall was said to be next on the Jeffersonians' list. The independence of the judiciary was clearly at stake.

In moving against Chase, the Jefferson administration stretched the impeachment power to the breaking point. As Edward S. Corwin points out in "President: Office and Powers," "the prosecution advanced the doctrine that impeachment is 'an inquest of office,' a political process for turning out of office any official whom a majority of the House and two-thirds of the Senate wished to be rid of." Similarly Charles Warren comments in "The Supreme Court in United States History":

"Its gravest aspect lay in the theory which the Republican leaders in the House had adopted, that impeachment was not a criminal proceeding but only a method of removal, the ground for which need not be a crime or misdemeanor as those terms were commonly understood."

The foes of Chase further undermined their cause by trying to pass a constitutional amendment that would have given the President and a majority in Congress authority to dismiss any federal judge without trial. That move also failed, and the political branches had to accommodate themselves to a system under which they could not ride rough-shod over the courts. The shadow of the Chase case undoubtedly prejudiced many later efforts to use impeachment against official lawlessness and corruption.

The only serious attempt to use impeachment against the President came in the Andrew Johnson case after the Civil War. In this case, too, the forces pressing for impeachment overplayed their hand with the result that Johnson was acquitted by the Senate, although by only one vote. The country was close to being torn apart by the fanaticism of the Reconstruction. The Radical majority in the House seemed determined to force its will upon the country, with little regard for the methods used or for the consequences. President Johnson was much alarmed by rumors that his enemies in the House planned to put him under arrest or suspend him from office while the impeachment trial was pending.

Once more the offenses punishable by impeachment were defined in very broad terms. At Johnson's trial the manager for the House commented:

"The result is, that an impeachable high crime or misdemeanor is one in its nature or consequences subversive of some fundamental or essential principle of government or highly prejudicial to the public interest, and this may consist of a violation of the Constitution, of law, of an official oath, or of duty, by an act committed or omitted, or, without violating a positive law, by the abuse of discretionary powers from improper motives or for an improper course."

This brought an equally sweeping rejoinder from Johnson's defenders. Former Justice Benjamin R. Curtis, one of Johnson's counsels, told the Senate:

"My first position is, that when the Constitution speaks of "treason, bribery, and other high crimes and misdemeanors," it refers to, and includes only, high criminal offenses against the United States, made so by some law of the United States existing when the acts complained of were done, and I say this is plainly to be inferred from each and every provision of the Constitution on the subject of impeachment."

Corwin concludes that the Curtis view must be regarded as having prevailed, "not only on account of the failure of the impeachment, but because of the emphasis given by the House managers themselves to the contention that Johnson was guilty of a breach of the law, the Tenure of Office Act." But this is far from being conclusive. It is more reasonable to conclude that the House lost its case against President Johnson because of the inherent weakness of that case.

The basic charge against Johnson was that he refused to comply with an act of Congress which prevented him from dismissing appointed officials without the consent of the Senate. The act was a flagrant invasion of presidential power, as the courts ultimately recognized. It was Congress that was out of step with the Constitution, and there is not much force to the argument that Johnson should have accepted the congressional mandate in spite of his misgivings about it, because restoration of the dismissed Secretary of War to his former post would have removed the grounds on which a test case in the courts could have been based.

As in the Chase impeachment case, moreover, the assault upon Johnson was accompanied by another outrageous coup that discredited the Radical cause. While the impeachment trial was still under way, the Radicals slipped through both houses an act taking away the jurisdiction of the Supreme Court to hear the *McArdle Case*, because of fear that the Court was about to strike down some of the Reconstruction laws on grounds of unconstitutionality. This gave rise to fears that the impeachment trial was but one act of a drama designed, as Gideon Welles said, "to overthrow not only the President but the Government." Johnson made his relations with Congress worse by vetoing this bill. Congress passed it over his veto, which alarmed many moderates who feared that Representative Thaddeus Stevens and his colleagues were on a power binge that would endanger personal liberties as well as constitutional government.

There is very little in either the Chase impeachment or the Johnson case to guide Congress in 1974. The charges against President Nixon are much broader than the charges against either Chase or Johnson. If the House decides to bring in a bill of impeachment against the President, it could rest its case on basic constitutional principles without relying on either narrow technicalities or sweeping generalities.

The founding fathers avoided any narrow definition of impeachment for the same reason that they avoided excessive detail in other sections. To paraphrase Marshall, it was a Constitution they were creating. Certainly there was purpose in treating impeachable offenses differently from other crimes. They assigned the impeachment power to the House and Senate rather than the courts because it involves no question of punishment for crime: the only penalty on conviction is removal from office. The underlying object was not to punish a criminal but to save the country from officials whose conduct has been so treasonable, subversive, illegal, or otherwise outrageous as to imperil the welfare of the nation or its people.

For this reason, it is impossible for anyone to determine in advance whether any particular offense or series of offenses is impeachable. The Senate has to judge each impeachment on the evidence presented and the circumstances surrounding the alleged offenses.

Very little in these records of the past is worthy of emulation. What does stand out is a potent warning that, if the course if impeachment is to be taken, the charges to be pressed should be grave and substantial, the trial of such cases should be disentangled from politics so far as that is humanly possible, and Congress should not use the crisis resulting from an impeachment effort to enhance its own power at the expense of the legitimate responsibilities of the executive branch.

At the same time, Congress must be aware of the dangers of inaction. Some observers believe that, if Congress should fail to proceed against President Nixon in the face of mounting evidence that he has bungled and mismanaged his office, thwarted the processes of justice and twisted his credibility, it will lose its power to check any future presidential corruption or grab for power, however flagrant it may be. Despite the failures and abuses associated with the power of impeachment, it has always been a potentially vital factor in the relations between Capitol Hill and the White House. Congress cannot rationally allow it to become a dead letter.

Logic thus calls for a candid and thorough examination of the President's fitness to continue in office, without partisan brawling and without any power-play designed to shift legitimate executive responsibilities to Capitol Hill. The Democrats might well take a hint from the Republicans in Congress in 1937 who fell into the background and let dissenting Democrats take the lead in the fight against President Roosevelt's court-packing bill. The current grave situation calls for an exhaustive examination of the facts and a judicious trial in the Senate if the House decides that impeachment is warranted. It is a critical time for the President, but no one should forget for a moment that Congress too is on trial, against a background of shabby performance in somewhat similar circumstances of the past.

## THE FAMILY FARM IS STILL BEST

### HON. ANCHER NELSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. NELSEN. Mr. Speaker, the New York Times Sunday edition last week carried an article in its business section which I found most interesting. I believe a number of my colleagues who have extensive agricultural operations in their districts will also be interested in reading this piece, and so I ask that it follow my remarks in the RECORD.

This article says it all in one phrase, Mr. Speaker, and I quote, "who wants to sit up with the corporate sow at night?" Corporations which get into farming just are not aware how much dedication it takes, the hours and devotion it takes to bring home the bacon—no pun intended. A lot of fears have been expressed about the impact of big companies on the agriculture sector, and I believe this article will help put some of them to rest.

The article follows:

NO KEEPING THEM DOWN ON THE FARM

(By George L. Baker)

Having waited in vain for a golden harvest, many corporate giants are sadly coming to the conclusion that the farming business is not for them.

Scores of companies rushed into farming, mostly in the West, during the late nineteen-sixties. They were mesmerized by the profit potential, the long-range prospect of food shortages, tax advantages and the notion that a 10,000-acre farm would be 10 times more efficient than a 1,000-acre farm.

It seemed like such a good plan at the time, but these corporate latecomers might have saved themselves considerable grief had they looked at the experience of the Di Giorgio Corporation.

Twenty years ago, Di Giorgia derived 100 per cent of its revenues from agriculture and related enterprises. Last year only 2 per cent of this company's $459.8-million in revenues came from farming—a stunning about-face.

In 1959, Di Giorgio set as its goal an annual growth rate of 10–15 per cent, according to its chairman, Robert Di Giorgio.

"If you want regularity of earnings over a period of five to 10 years, it's hard to do that in farming," he declared. "When you're in farming, you are subject to things beyond your control—weather, oversupplies, undersupplies and market conditions."

Di Giorgio phased out just as the rush began. This turned out to be wise strategy since the projected cornucopia of profits never came.

After taking their financial lumps, such companies as the S.S. Pierce Company, CBK Agronomics, Inc., the Gates Rubber Company, Multiponics, Inc., and Gulf & Western Industries, Inc., later got out entirely. Others, such as the Purex Corporation, Ltd., and Telleco, Inc., are now retreating.

Not all diversified corporations, however, have pulled up stakes and gone back to the city. Some of them remain involved in farming in an indirect way (mostly through limited partnership syndicates).

Yet there is a lesson to be learned from the failure of corporate farming ventures: It seems that the usual corporate standards of productivity, pricing, quality control and lower-level management cannot be transferred to a $130-billion industry where so many imponderables predominate.

One of the most startling failures has been that of Purex, the Lakewood, Calif., producer of home-use products. As part of its diversification program, the company went into the business of lettuce and fresh produce, hoping to capitalize on its marketing skills.

Today Purex is retrenching as fast as it can. Now it is growing only 11,500 acres of grain and cotton, compared with 40,000 acres in California and Arizona two years ago.

Rodger R. Robbins, executive vice president of Purex, attributed the poor performance of its Fresh Pict subsidiary to a "horrible labor situation" stemming from a contract it signed with Cesar Chavez's United Farm Workers of America in 1970. (Other people in the farming industry say that Purex's problems were more deeply rooted and that a proposed Federal Trade Commission complaint alleging monopolization of the lettuce industry also wes a factor.)

"When we started we had all kinds of charts showing price averages," said Mr. Robbins. "But I think the thing we didn't anticipate was inflation. We looked at the averages and it looked good to us. We ended up not being able to harvest a lot of crops and this increased our costs a lot more. Production costs went up, prices went down and we were caught in a cost-price squeeze."

Mr. Robbins said he had originally expected Fresh Pict to be able to return at least 25 per cent on stockholders' equity, but in one year alone it sustained a loss of almost $800,000.

Eric Thor, agricultural economist at the University of California and former administrator of the Agriculture Department's Farmer Cooperative Service, says that diversified corporations simply are not good farmers.

"There's an old saying of who wants to sit up with the corporate sow at night," he said. "There is plenty of data to show that large (absentee) corporations have higher production costs and get lower yields than do farms where the operator is a part-owner.

"The real risk in a hired manager is that he can't make decisions very well. He's more concerned about his job than about production of crops. He knows that if he makes a bad decision he might get fired, so he waits for someone higher up to approve it. Sometimes it's too late to save a crop."

Gates Rubber, a privately held corporation in Denver, found out about management problems. It invested several million dollars (the company won't say how much) in 10,000 acres of sugar beets and wheat in eastern Colorado and waited for the profits to roll in.

They never did. Gates lost money three years in a row. In 1971 it unloaded its land, expensive irrigation system and equipment.

Robert Schramm, vice president of the Superior Farming Company, a subsidiary of the Superior Oil Company, Houston, thinks there can be a place for corporations in agriculture if management understands the cyclical and uncertain nature of farming.

Superior, which farms 35,000 acres in California, has some of the most sophisticated and expensive equipment in the state. But its venture has not turned a profit in five years and probably won't for the next 15.

Even when a company attempts to stabilize prices, however, trouble can arise. United Brands, Inc., known for its Chiquita bananas, paid $17-million for seven West Coast lettuce firms and set a goal of 25 per cent of the national lettuce market.

With so big a market share, the company figured it could afford a heavy advertising program of brand identification, thus helping to stabilize prices, which can swing from $1 to $7 a carton.

But now United Brands is fighting an F.T.C. order to liquidate its fresh produce subsidiary, Inter Harvest, Inc. which had a deficit of $8,287,000 in 1970.

The illusion of corporate efficiency was shattered. United Brands told the F.T.C. "at the farm level (the company's) size does not bring with it any significant cost benefits." It added, "farming has severe built-in limitations on size in terms of diseconomies of scale."

S. S. Pierce, based in Boston, also knows about diseconomies of scale. This distributor of quality food products attempted to apply its corporate management techniques to California's strawberries, a fruit normally grown with great care on sites of 25 to 50 acres.

Pierce planted more than 2,000 acres and tried to grow strawberries in blocks as big as 500 acres, a perilous undertaking for even an experienced farmer. It quickly ran into financial problems. Pierce had a loss of $4.5-million on sales of $10 million.

Even Tenneco, the Houston based multinational company with sales last year of $3.27-billion, has pulled back from its vow of handling food from "seedling to marketplace."

A former executive of Tenneco said it had de-emphasized farming because of "all the heat," including disputes with Mr. Chavez's union, criticism from social reform groups and an investigation of its grape-growing activities by the F. T. C.

Economist Thor believes the trend toward corporate farming has abated.

"The outlook is brighter now than it was four or five years ago in terms of local autonomy and control," he said. "Back then it looked as if the big companies were going to take over California agriculture."

## FATAL AUTOMOBILE ACCIDENTS REDUCED IN PHILADELPHIA

### HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. EILBERG. Mr. Speaker, Philadelphia's fatal accident reduction enforcement—FARE—program, funded by a Federal grant of $504,000 achieved a 50-percent reduction in fatal traffic accidents during the past year.

Conducted over 7 months from May through December, the drive was concentrated in 14 high fatality areas by intensified police patrols that worked 38,377 overtime hours.

There were 20 fatal crashes in which 31 persons—9 pedestrians and 22 car occupants—were killed. This compares to a total of 41 fatal accidents over a comparable period in 1972 in which 28 pedestrians and 20 vehicular operators lost their lives, for a total 48.

City Managing Director Hillel S. Levinson said a Police Department statistical breakdown shows there were 24,855 traffic violations during the FARE operation. These include 2,325 drivers charged with speeding, 718 for failure to yield the right of way, and 313 apprehended for driving while intoxicated.

In addition, 525 were ticketed for running through a stop sign while 8,334 were cited for failing to stop at a red light. Hazardous parking accounted for 12,643 other violations.

The cooperation of the news media in keeping the public informed of the drive's main objective was also of great assistance. They reminded motorists of the continuing need to drive with care. I am sure this contribution was responsible for preventing many accidents and thereby saving more than a few pedestrians and motorists from incurring fatal traffic injuries.

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## FUEL-ALLOCATION LOOPHOLE

### HON. CHARLES E. CHAMBERLAIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. CHAMBERLAIN. Mr. Speaker, while fuel allocation regulations attempt to equitably distribute energy shortages throughout our economy, it is obvious that certain industries are carrying a disproportionate load, and some, in fact, are going under. The critical plight of the plastics industry is a case in point, and is well illustrated by Jeffrey Perlman in an article in the Wall Street Journal, of January 28, which I ask to be included in the Record following my remarks.

Apparently it is not enough to provide raw materials and feedstocks to petrochemical manufacturers, when no effort is made to assure users of intermediate refinery products that they, too, will receive a fair share. Federal Energy Office regulations must be more responsive to inequities in product distribution patterns that are virtually wiping out small businesses throughout the country which depend on plastics. I urge that this matter receive the immediate and thorough attention of the officials of the Federal Energy Office.

The article follows:

#### Small Chemical and Plastics Firms Fear Bankruptcy Due to Fuel-Allocation Loophole

(By Jeffrey A. Perlman)

A loophole in the U.S. fuel-allocation program threatens to bankrupt many small chemical and plastics concerns, manufacturers say, stating that they believe current raw material shortages are due to economic factors rather than to the energy crisis.

As a result, the manufacturers are seeking government export curbs on the petrochemical raw materials that are in short supply.

The problem, according to Peter Fass, executive vice president of Reichhold Chemicals Inc., is that petrochemicals derived from oil and natural gas aren't covered by the Federal Energy Office's fuel-priority system. However, Federal officials have said publicly that the petrochemical industry is to receive "100% of current needs" when it comes to getting petrochemical feedstocks.

Oil companies selling petrochemicals have told industrial customers that the phrase "feedstocks" includes products like fuel oil and naphtha, and doesn't include the styrene monomer or benzene, for example, which are made from oil and naphtha and go into many plastic products molded by small private companies. Styrene and the benzene used to make styrene are so scarce that they're being sold through black markets, executives say, largely because these downstream, or intermediate, refinery products don't have to be allocated fairly by the companies that make them.

#### UNFAIR TO SOME COMPANIES

According to Mr. Fass, petrochemical suppliers can use scarce raw materials for their own operations or sell them on the open market. He believes this is unfair to companies like Reichhold Chemicals, which must compete with others for the reduced supplies then available.

Frank Zarb, Federal Energy Office administrator in charge of enforcing allocation rules, said in an interview that the oil companies are correct in assuming that only the basic products produced by an oil refinery, and not the downstream products, were considered "feedstocks" when the allocation program was set up.

Asked what would happen to a plastics company unable to get styrene supplies from a chemical company recently given 100% of its oil or naphtha requirements, Mr. Zarb said: "We cannot afford to let that happen to the small guy. Steps will be taken to make sure that the companies allocated 100% of their feedstock requirements pass this benefit on to their small customers."

The energy office mightn't have statutory authority to require a chemical or oil company to sell a specific oil-based product like benzene or styrene to a customer, Mr. Zarb cautioned, but such authority will be sought from Congress if it's needed, he indicated.

Mr. Zarb cited as an example a company that quits making a product, thereby removing some customers' only supply source at a time when other producers won't take on new accounts. This situation won't be tolerated, he said, and the original supplier will be ordered to find an alternate source for its customers.

#### "BOOTLEG" RAW MATERIALS

Businessmen, like Theodore Riky, co-owner of Randel Plastics Inc., New York, say they're offered "bootleg" styrene and other raw materials daily from small commodity brokers who seem to get their supplies "from nowhere." Mr. Riky and other manufacturers claim this material is black-marketed at four or five times the Phase 4 ceiling price. Several company officials said they believe domestic supplies are sent out to sea in tankers and then returned to a different U.S. port to be sold as imports free of Phase 4 controls.

None of the company officials could prove their conjecture, however. And Union Carbide Corp., Shell Oil Co. and other petrochemical concerns—who sell to people like Reichhold's Mr. Fass and Randel's Mr. Riky—deny they're diverting large domestic stocks to foreign markets or commodity brokers to reap higher profits. But while Commerce Department records indicate benzene exports, for example, didn't increase much during 1973, exports of polystyrene, which is made from benzene, have soared more than 30% in recent months.

This has prompted angry meetings between Mr. Riky, Mr. Fass and trade groups such as the Society of the Plastics Industry Inc. and the Organization of Plastic Processors on one side, and Federal Energy Office staffers, Commerce Department officials and the Cost of Living Council on the other. Manufacturers have demanded decontrol of raw material prices and fair allocation of downstream oil-refinery products like benzene and styrene. The Commerce Department is developing a proposed export-licensing program to help stem raw material exports.

Without these actions, executives say, the U.S. will face plant closings and shortages of plastics-based consumer products ranging from plastic cups to refrigerators and television sets.

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## HIGHWAY TRUST FUND

### HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. MIZELL. Mr. Speaker, during the 1st session of the 93d Congress I introduced legislation to provide a more equitable distribution of funds from the highway trust fund to the States for road construction.

At that time, I pointed out the huge disparity of returns on investments in the fund by the various States, with North Carolina ranking 49th in per-dollar return for its contribution to the highway trust fund.

North Carolina in 1972 received only 51 cents in return for every dollar it contributed to the highway trust fund, while other States fared far better, ranging up to Alaska's $7.25 return for every dollar contributed.

To correct this inequity, my legislation directs the Secretary of the Treasury to guarantee that no State shall receive less than an 80-cent return on every dollar it contributes to the highway trust fund. A majority of the 50 States currently receive less.

A growing number of county commissions and chambers of commerce in North Carolina are endorsing my proposal and for the benefit of my colleagues I include in the Record at this time a sampling of these expressions of support, in the hope that my colleagues will consider the support this measure might earn in their districts and States.

The sampling of support follows:

Ashe County
Chamber of Commerce,
*West Jefferson, N.C., October 30, 1973.*

Hon. Wilmer D. Mizell,
*House Office Building,*
*Washington, D.C.*

Dear Congressman Mizell: The Executive Committee of the Ashe County Chamber of Commerce has instructed me to write you and inform you of their wholehearted support of HR10549 which if passed would insure that no State would receive less than 80% of the amount collected in federal gasoline taxes within that state.

It is the Committee's understanding that at present North Carolina receives only fifty two cents out of each gasoline tax dollar collected by the federal government, and that our neighboring states of Virginia and Tennessee receive over $1.00 for every dollar they collect. This is indeed a very inequitable apportionment system, and the Committee wishes to express their appreciation to you and to the other North Carolina representatives who have introduced this legislation in Congress.

Very truly yours,
A. B. ADDINGTON,
*Executive Secretary.*

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CHAMBER OF
COMMERCE, INC.,
*Mount Airy, N.C., November 13, 1973.*
Congressman WILMER D. MIZELL,
*Cannon House Office Building,*
*Washington, D.C.*

SIR: The Board of Directors of the Mount Airy Chamber of Commerce want to apprise you of their support for House Bill H.R. 10549 which would insure North Carolina getting its fair share of federal gasoline tax monies.

We appreciate your sponsorship on this Bill and your continued good work in representing us.

Sincerely,
JAMES C. GRIMES,
*Executive Vice President.*

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ROCKY MOUNT
CHAMBER OF COMMERCE,
Hon. WILMER D. MIZELL,
*House Office Building,*
*Washington, D.C.*

DEAR CONGRESSMAN MIZELL: Your sponsorship of H.R. 10549 to insure more equitable distribution of Highway Trust Funds to the states has been unanimously endorsed by our Directors for the Rocky Mount Chamber of Commerce and its 700 business and professional members.

We deeply appreciate your efforts to correct this longstanding inequitable arrangement through which our state has suffered.

Please let us know what specific actions we may take to enhance the chances of H.R. 10549 becoming law.

Sincerely,
R. NEIL CHAFIN,
*Executive Vice President.*

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PLYMOUTH AND WASHINGTON
COUNTY CHAMBER OF COMMERCE,
*Plymouth, N.C., November 6, 1973.*
Mr. WILMER D. MIZELL,
*Representative, House of Representatives,*
*Washington, D.C.*

DEAR MR. MIZELL: This letter is to notify you that the Plymouth and Washington County Chamber of Commerce went on record at our Board of Director's Meeting on October 30th supporting Bill No. H.R. 10549 one hundred percent, and they ask that we seek your continued support of this bill.

Yours very truly,
LOGAN N. WOMBLE, *President.*

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RESOLUTION

Whereas, Congressmen Mizell, Broyhill, Jones, Martin and Ruth have introduced a bill into Congress of the United States; and,

Whereas, this bill is to amend Title 23, United States Code, to insure that no State will be apportioned less than eighty (80) per centum of its tax contribution to the Highway Trust Fund, said bill being designated as H.R. 10549; and,

Whereas, it is the belief of the Board of Commissioners of Stanly County, North Carolina, that H.R. 10549 has a tremendous amount of merit and should be adopted by the Senate and House of Representatives of the United States of America in Congress assembled; Now Therefore,

Be it resolved by the Board of Commissioners of Stanly County, North Carolina, that this body does praise each of the above Members of Congress for their thoughtfulness in the introduction of H.R. 10549; and we do encourage favorable action on this bill.

Be it further resolved that a copy of this resolution be sent forthwith to each Congressman for his use.

This resolution passed and adopted this 22 day of October, 1973.

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SALISBURY-ROWAN COUNTY,
CHAMBER OF COMMERCE,
*Salisbury, N.C., November 14, 1973.*
Hon. WILMER MIZELL,
*House of Representatives,*
*Washington, D.C.*

DEAR CONGRESSMAN MIZELL: James T. Rusher, Executive Vice President of the Albemarle-Stanly County Chamber of Commerce, recently made us aware of H.R. 10549, which North Carolina Representatives Ruth, Broyhill, Martin, Jones and yourself have introduced in Congress to secure a more equitable distribution of Federal gasoline tax monies to all states.

At our last Board meeting held Monday, November 12, 1973, this bill was presented to our Board of Directors for action.

We are happy to pass on to you our Board of Directors' one hundred per cent approval of your bill. They were certainly surprised and shocked at the inequities in the present system of returning gasoline tax monies—specifically with North Carolina receiving less than any other state in the union.

Our highway program has suffered long enough, and with your leadership in introducing this legislation and gaining passage, it could have a tremendous effect upon the highway program in North Carolina and possibly our county.

Sincerely,
WILLIAM W. SHIVES, Jr.,
*Assistant Executive Vice President.*

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HIGH POINT CHAMBER OF COMMERCE,
*High Point, N.C., November 28, 1973.*
Congressman WILMER MIZELL,
*House of Representatives,*
*Washington, D.C.*

DEAR CONGRESSMAN MIZELL: We commend you for introducing HR 10549, a bill to amend Title 23, United States Code, to insure that no state will be apportioned less than 80% of its tax contribution to the Highway Trust Funds.

The Board of Directors of the High Point Chamber of Commerce passed a motion at its November meeting endorsing the bill and has authorized me to write our North Carolina delegation asking support for it.

The attached editorial from the High Point Enterprise explains our reasoning for supporting this bill.

Sincerely,
EDWARD R. HARDIN, *President.*

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TRYING TO GET A FAIR SHARE

It is too bad, it seems to us, for there to have to be consideration given to setting up artificial restraints in such things as federal funding for highway spending, but unfortunately, the alternative is worse.

The federal government takes huge amounts of money into its highway trust fund from fuel taxes, and it doles this money back to the states for highway building and improvement. By all reason, that distribution ought to in some way reflect the facts of need as evidenced by the amount of vehicular traffic—in other words, the amount paid in ought to be some indication of what sort of traffic problems a state faces.

But the realities of the situation don't seem to attest to that truth. The states of Virginia and Tennessee, for instance, receive back more than a dollar for every dollar their motorists pay in, we are told. Up in Alaska, perhaps unsurprisingly, they get something more than $7 back for every $1 in taxes paid. The adjacent state taxes become peculiar when one learns that North Carolina gets back only 52 cents which is, according to Chamber of Commerce information, the lowest return in the country.

We do not claim enough statistical knowledge on this subject to know how Washington figures its yardsticks, but pure logic tells us that North Carolina has got no business being at the very bottom of the list. Were we the heaviest traveled, as some state like New Jersey probably is, or the least, which Alaska wins hands down; were we the richest state in the nation; or if any of several other superlatives were to rightfully fit, it might be better understood. In the absence of more expert explantion, we simply have to assume that something is definitely out of kilter in the Potomac mud flats.

And so think others. They have, to hark back to our first paragraph, seen fit to introduce a bill in Congress to set up those artificial limitations. If H.R. 10549 is passed in its present form, no state would get less than 80 cents back for every dollar contributed. The Chamber and other interested groups are making it a point to let Congressmen know that they would like to have this measure passed.

We believe that this encouragement is worthy of wider participation until such a time as we can be convinced that 52 cents is our fair share.

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## HOW TO MARKET DURING PERIODS OF SHORTAGES AND CONFUSION

## HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. KEMP. Mr. Speaker, Metromedia, Inc.—the leading nonnetwork broadcasting group in the United States—under the leadership of its president, John W. Kluge, is sponsoring a series of marketing essays in the major dailies. This series communicates thoughts on marketing by authorities in government, business, and education, for the expressed purpose of creating a broader public understanding of the vital importance of America's marketing system and America's marketing professionals.

Writing in the current article in the series, Philip Kotler, the Harold T. Martin professor of marketing at Northwestern University and a prominent author in the subject field, has given insight into how to market during perids of shortages and confusion, in other words, how to market in these times.

Mr. Speaker, I share the concerns of Mr. Kluge, Metromedia, and their adherents, but I share something else with them too. I share their optimism for the future; I share their optimism for America. And, I commend this valuable article to all who share these concerns and aspirations with us. The article follows:

HOW TO MARKET DURING PERIODS OF SHORTAGES AND CONFUSION

(By Philip Kotler)

(Professor Kotler received his Master's degree at the University of Chicago and his Doctor's degree at M.I.T., both in economics. He did post-doctoral work in mathematics at Harvard University and in behavioral science at the University of Chicago. He is the author of Marketing Management: Analysis, Planning and Control, the most widely used marketing book in graduate business schools in the U.S. and abroad; Marketing Decision Making: A Model Building Approach; and the forthcoming Marketing for Nonprofit Organizations. In addition, Professor Kotler is an active consultant to many companies on marketing systems and planning. He is the former chairman of the College on Marketing of the Institute of Management Sciences, and a former Director of the American Marketing Association.)

MARKETERS WILL NEED NERVES OF STEEL IN 1974. Their vision and flexibility will be tested as never before. It is not easy to recall another period posing as much confusion and frustration.

Other years usually have a clear character. Times are good and getting better. Times are bad and getting worse. Times are going to stay the same. None of these pronouncements can be made about 1974.

Every day brings news that change yesterday's picture. Before the Mideast War, economists predicted a moderate rise in real income and prices. Shortly after the war, the oil embargo plunged many companies into shortages and despair. Businessmen dug in for hard times. As the oil embargo is eased or lifted it will raise hopes again. Some forecasters see a return to normal. Others see deepening shortages of energy and materials.

Businessmen are used to taking calculated risks. The thing that is new about these times is that no one can agree on the odds. They are changing daily.

Marketers are bearing a major burden of this decision-making under uncertainty. Should they raise prices? Should they reduce advertising? If so, where? Should they change existing product features, styles, and packaging, to meet new concerns of the marketplace? Should they postpone or expedite new product launchings? Can they get the supplies? Should they accept management proposals to cut staff and marketing expenditures? Should they drop weak customers? What does the law say? Should they act or should they wait? Waiting itself is a decision.

### HOW TO SURVIVE AND PROSPER

The marketing concept is a concept of how a firm can survive and prosper in the long run. It holds that the most important thing about a firm is not its physical assets: plant, equipment, raw materials. They can become valueless overnight without customers. The major asset that a firm has in the long run is loyal customers. And loyal customers are not created by serving them royally during good times and charging them what the traffic will bear during bad times. Loyal customers are created by companies that are helpful to their customers at all times. A truly market-oriented company during a shortage period would work as hard as ever with their customers to help them solve their problems. The company does not abandon its customers in the kitchen to put out their own fires. The market-oriented company knows that it cannot build a growth business by helping its customers only in periods when they do not need much help.

The accelerating pace of change challenges the marketing man's mettle. In talking with marketing managers in many parts of the country. I have detected five different response profiles:

The business-as-usual marketers expect the current shortages in fuel and materials to be over in a matter of months. They have faith in American technological and administrative ingenuity to restore quickly an orderly market for goods and services. They are not altering their marketing plans or policies.

The panicked marketers are changing their marketing programs overnight. If they control a scarce good, they are cutting off weaker customers, reducing supplies to others, raising prices, cutting advertising, laying off salesmen, and trimming the marketing department.

The gloom-and-doom marketers foresee chronic shortages plaguing the economy. It might be fuel this year, food next year, minerals the following year. They don't see the economy ever returning to the runaway economics of the past where everything got bigger and better and little thought was given to the way the nation used its resources. This group is planning a profound revision of their marketing premises to accommodate to an Age of Shortages.

The resourceful marketers see shortages as creating numerous opportunities for aggressive companies. Instead of drawing in their horns, they want to attack new markets with products that solve new problems people are facing. They welcome and relish the challenge and want to charge forward like a bull in the pen.

The adaptive marketers believe not so much in a particular response but in a system of flexible response. They recognize change as always occurring and posing new opportunities and responsibilities. They have established first-rate systems for information gathering and contingency planning. They have thought through their responses to different possible marketing environments. They are ready to adjust marketing programs when there is sufficient evidence that a new environment has emerged.

I have great admiration for the last two types of marketers. They have not committed themselves to a particular position and closed the doors on others. They know how to market if times should get better and if times should get worse. They are alert and resourceful.

### INITIATE ACTION NOW

What are some of the things that adaptive and resourceful marketing leaders are thinking and doing right now? What should you be doing? Here is a composite recipe for effective and responsible marketing in 1974:

Take the age of scarcity seriously. Read the newspapers and trade reports carefully on reported shortages. Ferret out their implications for your company and your customers. Watch your competitors' responses. Watch what legislators are doing in Washington.

Take a fresh look at your customers and their problems. If they want more goods than you can supply, don't simply act as if it is their problem, not yours. It is your problem, too. Your job has always been to help your customers solve their problems. That's how you earn their loyalty. Put your company to work on new solutions.

Take a fresh look at your product line. Customer desires are likely to undergo strong changes that you have to detect early. Listen with a third ear to new desires and expectations. You may have stressed style and variety in the past. You may have catered to a throwaway spirit. Is this still what people want? Are there new segments emerging who want economy or durability or something else that you are not now giving?

Cement your relationship with your suppliers. Those companies who have a policy of multiple suppliers and "play-them-off-against-each-other" are the first to be hurt in a goods crunch. They haven't earned their suppliers' loyalty. Re-examine your purchasing policy and make sure that you are building dependable long-term relations with your suppliers.

Help your company find the areas where marketing expenses can be cut safely. Have your department review the profitability of different customers, products, territories, trade channels, and marketing resources. Those entities that are chronically unprofitable should be weeded out. Certain marketing expenditures on advertising and promotion may be reduced. Or they may be channeled into messages to help the consumer adapt to the new situation or redirected to other products whose sales are slower. You should carefully consider what effect any reduction in advertising will have on your share of market. Don't forget, it is always expensive—and sometimes impossible—to recapture market share once you start down.

Vigorously preserve marketing resources you need. Management will put pressure on the marketing department to lay off what appears to be redundant personnel in sales, advertising, and marketing research. The chief marketing officer must proceed cautiously. He may eliminate some weak salesmen and some redundant marketing staff. But he must keep most of his team intact.

First, salesmen are needed to help customers solve their problems, to sell other products not in short supply, to provide service and expedite customer orders, and to supply information to customers as well as learn of new opportunities. Marketing researchers are needed to study customer product, territory, and trade channel profitability, to improve forecasting, to determine supply allocations to final customers, and to assess new market opportunities. Key advertising and promotion executives are needed to formulate revised messages to customers, to buy advertising efficiently, and to promote products that are not in short supply. The chief marketing officer must resist scaling down the company's marketing resources to such a level that the company is vulnerable and ill-prepared to return to energetic marketing when normal times resume.

Remember shortages are an opportunity too. The very definition of a shortage is that customers' needs are not being met. To the resourceful firm, this means that new ways must be found to meet customer needs. A shortage of heating oil is an opportunity to increase the sale of sweaters, fireplaces, and electric blankets; a shortage of gasoline is an opportunity to expand the sale of small cars, bicycles, and mass transportation; a shortage of clean air is an opportunity to develop new pollution control equipment.

Reassess your marketing philosophy. Make sure it responds to the needs of your company, industry and society. American consumers are showing a growing interest in conservation, consumer information, product safety, and advertising truthfulness. They are showing growing concern about life quality and real values. They want a return to sensibility marketing. They will increasingly favor companies who show industry leadership in responding to these needs. Companies must not promote consumption for the sake of consumption. They must find ways to deliver a higher quality of life and still make a profit. This is the new challenge facing America's marketing leaders.

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## PROPOSED JOINT RESOLUTION INTRODUCED IN INDIANA STATE SENATE BY HON. JOHN M. MUTZ REGARDING FORCED BUSING OF SCHOOLCHILDREN

### HON. WILLIAM H. HUDNUT III

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. HUDNUT. Mr. Speaker, on several occasions previously I have spoken before the House to express concern about the issue of forced busing of schoolchildren to achieve racial balance in the public school system of America. The vast majority of people in central Indiana and throughout the United States believe that action must be taken in this regard.

Senator John M. Mutz, a constituent of mine, has introduced a joint resolution in the Indiana General Assembly directing the Congress to call a constitutional convention for the purpose of proposing an amendment to the constitution of the United States concerning public school students. This joint resolution has passed the Indiana Senate and it is pending before the House. For the information of my colleagues, I am including the text of Senator Mutz's proposed amendment. It is identical to the wording of House Joint Resolution 738 which I have introduced in this Congress and which is pending before the Judiciary Committee.

Once again I call upon the committee and the Congress to give this matter due consideration in view of the desires of a vast majority of our constituents.

The text of Senate Joint Resolution No. 3, introduced in the Indiana General Assembly, by the Honorable John M. Mutz is as follows:

SENATE JOINT RESOLUTION NO. 3

A joint resolution directing the United States Congress to call a constitutional convention for the purpose of proposing an amendment to the Constitution of the United States concerning public school students

*Be it resolved by the General Assembly of the State of Indiana:*

SECTION 1. That the Congress of the United States be, and hereby is requested to call a constitutional convention for the purpose of proposing the following amendment to the Constitution of the United States:

"ARTICLE —

"SECTION 1. No public school student shall, because of his race, creed, or color, be assigned to or required to attend a particular school.

"SEC. 2. The Congress shall have the power to enforce this article by appropriate legislation."

SECTION. 2. The Secretary of the Senate is directed to transmit immediately copies of this resolution to the Secretary of the Senate of the United States and the Clerk of the House of Representatives of the United States and to each member of the Congress from this state.

## DAYLIGHT TIME POSING PROBLEM

### HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. TEAGUE. Mr. Speaker, the recently enacted daylight saving time is causing problems all over the United States. I was one of a small group that voted against going on daylight saving time this winter, because I felt it would not provide any energy savings and would place undue hardship on our rural community. I was not aware of the extreme hazard it is placing on our small schoolage citizens lives.

It is time we enact legislation to allow the country to revert back to standard time. If certain States feel they are better off on the present daylight saving time then those State legislatures can take care of their area.

I hope my colleagues in the House will read the editorial that appeared in the Bryan Eagle, Bryan, Tex., on January 13, 1974.

DAYLIGHT TIME POSING PROBLEM

Superintendent of Bryan Schools, W. K. Summers, has a situation right now that Mission Impossibilities team couldn't even solve. What to do about the government-imposed daylight savings time which has thrown the entire system, the city, parents and children into a state of near panic.

The students are going to school in the dark and their safety is being questioned by every parent, bus driver, policemen and the school district itself. It's one of those situations that no matter what you do, it's going to displease some.

"We're been asked to comply with the daylight savings time by the government. We haven't seen any gas rationing or other things related to the energy shortage yet. Perhaps they exist. We simply are complying with the requests from our government. But if a child is hurt, I'm going to be blamed for it, no matter who's fault," Summers said.

He's been beleaguered by phone calls about the childrens safety, the amount of gasoline the buses are using, the times at which the children are having to go to school. Does anyone have the remedy? If so, Summers would like to hear it.

First, A&M Consolidated did change its time for classes. But that change only brought the Consolidated class starting time up with Bryan. Consol schools are starting no earlier.

The situation was heightened when, on the first day of DST, it was a dreary, foggy day which made driving more hazardous.

Maybe some of the mothers who don't work can help divert the children across busy intersections—sort of serve as policemen. Perhaps more of the elderly people, many of whom now act as safety patrolmen, can be put to work doing more of it.

At any rate, this won't last long so we'll have to make the best of it. Everyone can pitch in and help, drivers can be more careful and parents can teach their youngsters to be more careful.

No one is more worried about it than Dr. Summers, but his hands are tied. Give him a hand and help keep our children safe.

## WITTPENN WRITES "THAT'S EARLE NOW" TO NEWS CAREER

### HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. GAYDOS. Mr. Speaker, the people of the Steel Valley area in my 20th Congressional District of Pennsylvania recently lost one of their champions when Earle V. Wittpenn stepped aside as editor of the Daily Messenger.

Earle is to be honored at a testimonial dinner February 2 by residents of the valley who will. I am certain, bestow on him a number of well-deserved accolades. But, I believe the greatest tribute which can be paid this man is to say he exemplifies what all of us believe members of the news media should be.

Earle is dedicated to the principle that our Nation must have a free press if our people are to have freedom. But, he also recognizes the awesome responsibility which accompanies a free press. He knew the press must be allowed to report the news, but it also must report it accurately and fairly.

For 8 years under his leadership, the Messenger provided its readers with colorful, penetrating accounts of the news of the day; whether it be the dry, routine adoption of a community budget or the exciting coverage of a "breaking" story. In his personal editorial column, Earle was a hard-hitting writer; quick to condemn something not in the best interests of the citizens and taxpayers of the community, but equally quick to single out for public recognition those who performed acts and duties in a responsible manner. His column touched all bases and all walks of life. Through it, you learned not only what was going on in the Nation's Capital, also, what the grocer down the street thought about it.

Earle came to the Messenger in 1966 from the Douglas Dispatch in Douglas, Ariz., and rapidly established himself as a prominent member of the community. He became an active member of numerous civic, fraternal and community organizations. He further entrenched himself as a citizen of the Valley by recently marrying one of its own, the former Michele Phillips of West Homestead.

Earle's background in newspaper work stretches back to his high school days when he worked as sports editor for the Times in Weirton, W. Va. At 26, he was named editor of the Times. At that time he was the youngest editor in West Virginia, and he held the post for 15 years before joining the Dispatch in Arizona.

Mr. Speaker, I find it hard to believe this man has written "30" to his journalistic career and so, instead of bidding him a formal goodbye, I will close this tribute to him as he closed his editorial comments over the past 8 years: "That's Earle—For Now!"

## C. JOHN MILLER—IPAA'S 20TH PRESIDENT

### HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. VANDER JAGT. Mr. Speaker, America's complex and challenging energy problems demand leadership. That leadership must be dedicated, knowledgeable, and well motivated. It must be found in Government and in industry.

I am pleased to advise my colleagues in the House that one of my constituents has recently been selected to serve in one of the key leadership spots in the petroleum industry. Mr. C. John Miller who has been elected the 20th president of the Independent Petroleum Association of America, is a partner in Miller Brothers of Allegan, Mich.

As the principal officer of the influential IPAA, which represents the independent oil and gas producers in governmental affairs, John Miller will provide enlightened and effective leadership of this important organization. In providing that industry leadership John Miller will also be rendering patriotic service to this Nation because that is the kind of businessman John Miller is—he has known what is good for his community, State, and country is also good for his business. For that reason he has a distinguished record of public and industry service.

In addition to his busy career as an oilman and civic leader, John Miller has also found time to be a devoted husband and father to his wonderful family. As one who has valued his friendship for many years, I am personally aware of the fine attributes this distinguished American brings to his new responsibilities. I am looking forward to working with him in a government-industry relationship in behalf of sound Government policies affecting the independents who have such an important mission to fulfill in solving our Nation's crucial energy problems.

Mr. Speaker, the November–December 1973 issue of the Petroleum Independent, the IPAA publication, carried an interesting article on its new president, C. John Miller. I would like to include the text of that article in the CONGRESSIONAL RECORD at the conclusion of my remarks. The Members of Congress will be hearing about and from John Miller in the months ahead. I would like in this way to introduce him to my colleagues as a devoted family man with dedications to his country and to the American private enterprise system. He is an outstanding oilman whose advice and counsel should be sought and heeded as we deal with governmental policy affecting our energy outlook.

The article follows:

### IPPA's 20TH PRESIDENT C. JOHN MILLER

Allegan, Michigan, has a population of about 6,000. That's a long way from being a world oil center, but Allegan is the home of IPAA's new president, C. John Miller, and he wouldn't have it any other way.

John's oil company, Miller Brothers, is exactly what the name implies—a relatively small company that runs on team and family effort.

The time and effort John will have to devote to IPAA and the domestic oil industry are part of the philosophy he and his family live by. "In a company our size it just had to be that way or it wouldn't work," says John.

It's going to throw a bigger load on my brothers Gene and Jack while I'm IPAA President and if it weren't for their attitude, I couldn't begin to consider leaving them with my work."

"Gene and I have a warm relationship with each other, and he is a tremendous partner. And if Gene and I are gone—and we do travel quite frequently on business together—Jack takes over and always does an excellent job. He was our head driller when we were contracting, and he was our drilling superintendent when we got a little busier. And when we splinter off into other things, he's generally manager of whatever it is."

The teamwork that runs Miller Brothers also fits the community. The Millers are active and numerous.

John Miller's idea of relaxing is being active—whether it's with the First Baptist Church of Allegan or living on nearby Gull Lake in the summertime. John is chairman of the Board of Deacons; his wife Reva is a Sunday school teacher; his brother Gene and his wife are heads of the finance department; and his brother Jack, and wife, Phyllis are some of the "greeters" every Sunday. The rest of the family may not have titles but they all take an active part.

The church has a wide ministry and the Millers love it. "We're in the process right now of building a new addition," says John. After ball games on Friday nights, John says they've had as many as 400 kids in the basement of the old church. "We don't pressure them to do anything, but if they need someone to talk to we're glad to counsel them."

John is immediate past president of the Allegan Board of Education and is still a trustee but he doesn't belong to any other group in town.

"On demand," says John, "I'll play golf, but it isn't a pleasure—it's torture. And fishing is just too quiet for my temperament."

"I'm interested in just about all other athletics, though. I used to box; I like to fool around with weights a little; I like water skiing—almost as much as my son Mike, who is 19 years old. And my wife Reva is in love with our Tennessee Walking horses. We'd probably go into the horse business, but I'm afraid Reva would never sell any of them—she would rather keep them around."

A lot of John's time is spent with the Grand Rapids Baptist College where another Miller—his mother Verna—spend a lot of time as dorm mother.

"It's a relatively new school. It's about 10 years old at the present campus, and this year we'll have about 140 seminarians and about 650 college students. My mother and the rest of the family are very proud of the school. It's a fine facility with new campus buildings, and most of all, it's doing a really great job."

John and Reva Miller have four children: Mike, 19, Cindy, 17, Sarah, 15, and Sally, 13. "Mike's out of school, but with all the other Miller children and mine, a teacher could easily be facing three cousins in on class here in Allegan."

"I can't afford to put Mike to work in the oilfields, because he's making more money driving a truck than I could pay him as a roughneck or roustabout."

"He told me, 'Dad, I'd like to work for you but I don't know if I can afford the cut in wages.' He's honest—I'm sure he can't afford to work for me."

John must have been a little headstrong like his son, because who else would have taken cable tool, shallow-depth rigs, and gone into the oil business in Michigan back in 1953?

"I was with Seabees in Guam when my father died in 1953. I had planned on going into the road construction business. But when I got home the estate had a couple of drilling rigs, and there wasn't any market for selling them, so Gene and I bought the equipment from the estate and started in contracting."

John's dad and his brother had also operated as Miller Brothers ever since they moved into the state from Kentucky back in 1929. John was born in Paintsville, Kentucky, in 1931, but his parents moved to the Allegan area while he was an infant.

"My dad started in the oil field tending boilers when he was 12 years old in West Virginia. And he was still in the oil field when he died."

"When Gene and I started, we were strictly contractors, but as you know, most contractors take an interest in the deal, and eventually we started picking up a little oil production."

Miller Brothers still has two rigs but has moved out of the contracting business because most of the play up there is getting deeper. Most of their activity runs 4,000–7,000 feet, which means larger casing, better blowout preventers, and all the more expensive equipment that goes along with it. "The business has changed drastically from when we started," says John.

"It's all pretty tricky pinnacle reef-type production in the Northern area. You may find something that's 1,000–1,500 acres, but at this time the rule of thumb would be closer to 240–400 acres. And some of them, of course smaller than that.

"Another unique aspect is that we'll drill an oil well in one place and a gas reservoir almost adjacent to it, and then just beyond that another oil well. They can be almost intermixed and yet each a separate and distinct reservoir.

"We have a lot of acreage we haven't evaluated, even though we've done a lot of geophysical work. It's a play that has quite a few years to go, and Miller Brothers intends to be heavily involved in it."

Of course, says John, the recent improvement in crude prices is going to pick Michigan production up even more. However, he says, a big objective for operators up there is to achieve price parity with alternate crude from Canada or any other producing area.

John isn't coming into the tough IPAA job without experience. He was the youngest president the Michigan Oil and Gas Association ever had. He has also been president of the National Stripper Well Association. And that experience is already serving him well. These aren't quiet times in the political arena. The energy crisis is full-blown, the government is considering several alternatives to the energy problem, and John had no more than stepped into the job than he was called to Washington to testify before the Senate Interior and Insular Affairs Committee. Considering the international nature of the energy crisis and the importance of the Interior Committee's function, it was no job for an amateur. John and the IPAA staff spent several hours polishing his testimony and additional hours sitting in the hearing room waiting for his opportunity to testify. He was scheduled to go on at 2:30 p.m., Nov. 8, but got on at 5:30 p.m. that day. The next morning he mentioned that the national news ignored everyone but an environmental spokesman who came on after he did. Thus he was initiated into the Washington scene.

It's the beginning of a year of ups and downs and a continual plugging, which cannot be done without a wife willing to do without her husband physically and mentally at times. All the while, his partners will have to make do when a chore ordinarly handled by John comes up while he's in Washington and John—a man who loves the great outdoors with more fervor than any city-bred environmentalist could ever hope—will have to sit in the background while someone accuses him and the domestic oil industry of having no respect for the land.

What is his philosophy for IPAA itself?

"For one thing, this job is new enough itself. I don't have any great philosophy of operation or anything else. As far as I'm concerned, for me to come in and start making a bunch of waves would be ridiculous. This association is operating and going along well. I'm sure there are some things that need doing. The thing I'd like to do is to get the staff and committee chairmen to determine where improvements can be made and shore the weaknesses up. As far as I'm concerned, these next few years ahead of us have to be among the more interesting years that the oil and gas industry has ever experienced."

In the beginning and the end, John Miller says he and his family have one philosophy that they try to pattern their lifestyle after.

"There's a verse in Colossians 3:17," says John, as he pulls a New Testament out of his suit coat, "and it goes:

'And whatsoever ye do in name and deed, do all in the name of the Lord Jesus, giving thanks to God and the Father by Him.' "

"So," says John, "we kind of feel that if everything we get involved in is structured with that kind of a concept, it won't be wrong. And that's really the way we operate."

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## THE STRANGE HISTORY OF THE DEPLETION ALLOWANCE—II

## HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. VANIK. Mr. Speaker, in my earlier remarks last week in the RECORD, I pointed out how percentage depletion—that sacred institution of our tax code—arose as a substitution, an expedient, to the foggy concept of discovery value depletion. Discovery value was conceived as a special compensation to those courageous operators who explored for oil and gas. The provision was accepted despite the fact that one appeared capable of defining exactly why oil exploration was so risky as compared to other industries. In the absence of any logical argument to support the concept—and I was unable to find any—I am forced to conclude that Congress was genuinely confused when it enacted the depletion deduction.

This confusion is nowhere more evident in the arbitrary selection of the percentage at which deduction should be allowed. Over the years the 27½-percent figure for the percentage depletion deduction has become the most widely publicized figure in the tax code. For over 40 years—until 1969—the percentage reigned. It is interesting, in looking back, to see where it all began.

In hearings for the Revenue Act of 1926, The Senate Finance Committee recognized that the system of discovery value depletion—whereby a taxpayer's deduction is based on the estimated value of his discovered deposit—had become impossible to administer with any precision. As an alternative, they proposed the deduction be computed as a percentage of the taxpayer's gross income from the property during the taxable year. The startling fact that emerges in all of this is that the Finance Committee apparently just guessed at an equitable percentage.

At first glance, one would expect that the committee would attempt to corrolate the benefits under discovery value and approximate a percentage of gross income accordingly. But no such effort appears ever to have been made. In fact, the Finance Committee appears not to have cared much about the percentage.

Senator Reed, in explaining his committee's proposal on the floor, stressed that what they were attempting to eliminate the administrative abuses that had arisen under discovery value depletion. There was no economic analysis to underpin the committee's recommendation of 25 percent. According to Senator Reed:

> We are trying, by the Finance Committee amendment, to get away from . . . uncertainties and to adopt a rule of thumb which will do approximate justice to both the Government and the taxpayers. We find, then, that probably the best way to do it is to provide that an arbitrary percentage on the gross value of each year's yield be chalked off for depletion.

One arbitrary percentage is as good as another, and when the committee bill came to the floor there was a series of amendments awaiting to alter the percentage. Some proposed a level as high as 40 percent. Senator Neely finally persuaded the Senate to increase the Finance Committee's recommendations by 5 to 30 percent

The House typically did not consider the depletion deduction in its deliberation on the Revenue Act. In conference, however, the House receded with an amendment which established 27½ percent as the applicable rate for oil and gas. In presenting the conference report, the House managers again failed to discuss the provision. In short, the 27½ percent appears to have been a compromise between what the Finance Committee originally proposed and what the Senate finally passed. The fact that there was no debate on the provision in the House indicates that Congress probably did not know what it was getting into.

The end result is that Congress had actually multiplied one uncertain and flimsy idea—discovery value depletion—by another uncertain and flimsy idea—percentage depletion to come up with a windfall for the petroleum industry. Senator Couzens, a chief opponent of the depletion deduction, pointed to how percentage depletion had actually gutted the original congressional intent for the depletion deduction.

Because the deduction is tied to a different concept of capital than the depreciation deduction, discovery value depletion cannot be thought of as analogous to depreciation. Indeed, discovery value has injected into our tax laws a concept of capital which is inappropriate for tax purposes. Since the deduction for depletion is not tied to the taxpayer's actual investment in the property, it is in essence a subsidy, where the taxpayer can recover his initial investment many times over. Prof. Reid Hambrick has estimated that under the present system of percentage depletion—which, as we shall see, replaced discovery value depletion—the taxpayer generally recovers his investment 18 times over.

Discovery value depletion ran into immediate opposition on Capitol Hill. Senator LaFollette introduced an amendment which would have killed the proposal as it came out of the Finance Committee. His amendment obviously failed. Despite vigorous efforts to defeat the allowance in the Senate, the House, curiously, had no debate on the provision. However, Representative Kitchen, chairman of the Ways and Means Committee, stated in explanation of the conference report:

> There has some relief provisions, especially those known as the mineral, oil, and gas provisions, which I cannot subscribe to . . . I cannot subscribe to them because I regard them as pieces of special favoritism . . . I want to say that in my judgment they are unwise, unjust and unwarranted.

In hearings on the 1921 Revenue Act, Dr. Thomas S. Adams, a representative of the Treasury, expressed his opposition to discovery value depletion. In addition, he pressed for an annual limitation—but not a total limitation—on the deduction. He proposed 50 percent of net income. The Finance Committee at first baulked, but finally recommended an amendment which would limit a taxpayer's annual deduction to 100 percent of net income. In 1924, this limitation was lowered to 50 percent of net income. This limitation remains today in present law.

> What Congress first intended to do was allow the deduction to the little "wildcatter" who had spent nearly all of his money in exploring for oil and then discovered a well. That was the intent of Congress, as the evidence before the Ways and Means Committee and the Finance Committee of the Senate plainly shows, and as every Senator and Representative who was on those committees at that time must know. That idea has now been entirely abandoned, and *this is so profitable and advantageous to the oil industry that it is proposed to extend it so that not only the little "wildcatter" but the whole industry will get the benefit.* (emphasis added).

Senator Couzens submitted a chart to the RECORD to illustrate his point. It shows how Congress in multiplying one uncertainty by another came up with an industry bonanza. The chart is self-explanatory, but two significant figures bear mentioning. In comparing discovery value with percentage depletion for the years 1918, 1919, and 1920 the total depletion allowed would have been 89.6 percent higher if the 1926 act had been in effect. Likewise, the net taxable income would have decreased by 32.1 percent.

COMPARISON OF DEPLETION ACTUALLY ALLOWED OIL COMPANIES WITH DEPLETION ALLOWABLE UNDER 1962 REVENUE BILL

[Discovery depletion included in depletion allowed]

| | 1918 | 1919 | 1920 | Total |
|---|---|---|---|---|
| Number of companies | 100 | 115 | 75 | |
| Gross income from production | $286,863,485 | $338,419,621 | $361,121,041 | $986,404,147 |
| 25 percent of gross income | $71,715,871 | $84,604,905 | $90,280,260 | $246,601,037 |
| Net income (computed without allowance for depletion) | $76,985,704 | $66,431,726 | $59,595,303 | $203,012,733 |
| 50 percent of net income (computed without allowance for depletion) maximum depletion allowable under 1926 bill | $38,492,852 | $33,215,863 | $29,797,651 | $101,506,366 |
| Depletion allowed by income tax unit | $18,188,848 | $18,958,781 | $16,381,431 | $53,529,060 |
| Percent of gross income allowed as depletion | 6.34 | 5.6 | 4.5 | 5.4 |
| Percent of net income (computed without allowance for depletion) allowed as depletion | 23.6 | 28.5 | 27.5 | 26.4 |
| Net income taxed after deducting depletion allowed | $58,796,856 | $47,472,945 | $43,231,872 | $140,483,673 |
| Net income after deducting depletion according to 1926 bill | $38,492,852 | $33,215,863 | $29,797,652 | $101,506,367 |
| Percent of increase in depletion allowable under 1926 bill over depletion actually allowed | 111.6 | 75.2 | 81.9 | 89.6 |
| Percent of reduction in net taxable income when depletion is computed under 1926 bill | 34.5 | 30.0 | 31.5 | 32.1 |

Note: The "25 percent of gross income" refers to the figure that was under debate. It was eventually raised to 27½ percent.

Source: Congressional Record, Feb. 11, 1926, pp. 3772, 3773.

In short, the value of the depletion deduction increased dramatically with the advent of percentage depletion.

The benefit was so appealing that other mineral industries were soon to catch on. The interwar years saw an expanding list of "risky" industries which supposedly deserved special treatment for their depleting resources. In extending these benefits, the Congress worked off its model for oil and gas. It never really reexamined what it had done.

Criticism of the proposal, however, did not stop. Articulate criticism was heard in periodic hearings with some of the most persuasive remarks being made by representatives of the Treasury Department. In 1930 in hearings before the Joint Committee on Internal Revenue Taxation a central controversy arose. It focused on the precise definition of "capital." On the one hand, there was the position held by Mr. L. C. Groton, a mining geologist, who maintained that a mine or well operator's capital was actually the resources in the ground. Under the principles of depreciation, therefore, the operator should be allowed to recover this capital through a tax deduction—the depletion allowance.

Mr. B. H. Bartholow, Special Assistant to the Secretary of the Treasury, offered a persuasive argument against Mr. Groton's idea of capital. He pointed to the fact that while the term "capital" might have the meaning described by Mr. Groton for some purposes, that concept was inappropriate for tax purposes. What really mattered was the amount the taxpayer invested in his property.

> These provisions permit a return, as capital, of something which is not originally a capital investment . . . a concession no other taxpayers are getting.

This is the core reason the depletion allowance is a subsidy. It permits the tax-free recovery of dollar amounts that are far in excess of the taxpayers original investment. Because there appeared to be no justification for the subsidy the Roosevelt administration pressed for its elimination. In 1936 President Roosevelt himself wrote a letter to the Joint Committee on Tax Evasion and Avoidance in which he claimed that the oil depletion allowance was, "the most glaring loophole in our present revenue law—in 1936, one mining company deducted nearly $3,000,000 under this provision, although it had already completely recovered the cost of its property—this was a sheer gift from the United States to this taxpayer and its stockholders."

Treasury Secretary Morgenthau proposed that the existing oil depletion allowance be replaced with a more logical and direct one. He pointed out:

> One of the reasons asserted in behalf of percentage depletion of oil and gas is that it stimulates exploration for such properties.

Therefore, his feeling was that—

> If this is a proper objective, it would be better achieved by a special depletion allowance to those who explore without indiscriminate extension of the same favor to all owners.

In support of his proposal, Morgenthau pointed out:

> It would have cost the Federal Government about one-third as much to have paid all the cost of every wildcat that was drilled in 1941 as to have allowed percentage and the associated intangible drilling expenses.

Despite its logic and economy, the Congress failed to act on Morgenthau's proposals.

In hearings on the Revenue Revision of 1950, the Treasury Department proposed the reduction of the percentage depletion allowance to 15 percent. John S. Graham, Assistant Secretary of the Treasury referred to the original congressional intent when he made the Department's proposal:

> No one who is familiar with the oil business would underrate the significance of the so-called wildcatter even under present day conditions where the bulk of the exploratory work is done by the large integrated corporations. . . . The present depletion provisions, however, do not contribute substantially to (the wildcatter's) preservation.

The Treasury Department's recommendations obviously were not accepted. However, Mr. Graham's remarks touched on a point that has never been resolved in the controversy over the depletion deduction: Namely, if the deduction, as a subsidy, is geared to increase exploration by compensating for the risks of small businessmen, how can one justify allowing depletion for wells sunk by large corporations into known pools? We have already seen that the so-called risk argument is a specious one. There is nothing qualitatively different from a businessman exploring for oil and a businessman trying to market an electric fork—both are taking high risks. But the fatal flaw of the depletion subsidy scheme is that it is indiscriminate. It rewards successful wildcatters and timid freeloaders alike.

The 1950's saw the promotion of a new argument to support the special tax treatment of the oil industry—national security. In some of the most specious reasoning I have seen in my years in public life, the oil companies came before the Congress to proclaim: "Oil is vital to the national security. Percentage depletion is vital to the oil industry. Therefore, percentage depletion is vital to the national security." To see just how far the oil companies were willing to push the argument of national security, one need only refer to the remarks of Mr. Richard Gonzales of the Humble Oil Co., before the Ways and Means Committee in 1959. Mr. Gonzales declared:

> Petroleum continues to be highly important to security even with the development of nuclear weapons and intercontinental missiles. The United States must be prepared to fight effectively by conventional means since it does not propose to start a nuclear war . . .

There is no reason Mr. Gonzales' argument could not be used.

Discussion of the depletion allowance was elevated to a new height in the hearings on the Revenue Act of 1963 before the Senate Finance Committee. In that year, Senator Long introduced S. 2057, a bill to allow a deduction to professional athletes for depletion of their physical strength, stamina and skill. The legislation proposed to allow a deduction for the taxable year in an amount which bore the same ratio to income derived from professional sports during the taxable year as the number "1" bears to the number of years in the "career span" of the sport.

Senator Douglas discussed the proposal with Pete Retzlaff, president of the National Football League Players' Association:

> Senator Douglas. Mr. Retzlaff, I want to congratulate you on this statement. What you are saying is that you think professional athletes should have a depletion allowance as well as oil, gas, iron ore, clam shells, oyster shells, sand and gravel. . . . I have been expecting, as long as these depletion allowances on minerals are continued, that we must, in all logic, expect such claims as you are advancing to be put forward, and I think there is a good deal of justice in them, as long as we provide these other depletion allowances. . . .
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> Senator Douglas. May I ask you this? I naturally understand you would wish to consider the professional athletes. I was never good enough to be a professional athlete myself but what about moving picture actors? They have a brief career, like flowers, many of them. Like the flowers of the meadows, they bloom and disappear from sight. Now its true that some such as Gable and others continue for a long period of time, but most of them disappear rather quickly. Shouldn't they have a depletion allowance for the wastage of their natural assets of attraction?
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> Senator Douglas. . . . I am told that television, like Cronous, devours its children, too, and after a few years on television the public gets fed up with one, and one retires. Hasn't this been a depletion of social attractiveness, and, therefore, would not the television personalities be entitled to a depletion allowance?
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> Senator Douglas. . . . Poets are in much the same position. Poetic impulse develops early in life, and then there are a very few poets who write good poetry after the age of forty. It is part of the ebullience of youth, so to speak. Shouldn't they receive a depletion allowance for the wasting away of their poetic inspiration?
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> Senator Douglas. Here is an interesting thing, too. Mathematicians do not do much good work after the age of thirty. And there is another factor. When a man gets a Nobel Prize in science, therafter, except with Einstein, he makes no contribution to science. He gets the Nobel Prize and then he lives on his laurels, and the flow of inspiration ceases. So I think we ought to provide a depletion allowance for Nobel Prize winners, too.

The first significant empirical analysis of the implications of the depletion allowance came in 1969 with the publication by the CONSAD Research Corp. of a study entitled, "The Economic Factors Affecting the Level of Domestic Petroleum Reserves." The study was conducted under the aegis of the Treasury Department and represents the first systemmatic attempt to analyse the benefits and costs of special tax treatment of oil and gas income. The study concluded:

> Percentage depletion is a relatively inefficient method of encouraging exploration and the resultant discovery of new domestic reserves of liquid petroleum. . . .

The Tax Reform Act which was passed in the same year made the first significant change in the percentage depletion allowance in 43 years—the act reduced the allowable percentage from 27½ to 22 percent. Another important reform, the elimination of depletion on foreign production, was recommended by the Ways and Means Committee but failed to survive in the final bill.

A recent staff study by the Federal Trade Commission has added a new dimension to the problem. According to the study the operation of the depletion allowance has been perverted by the large, integrated oil companies—those firms which produce, refine, and market their own oil—and has operated to restrict entry into the refining industry by independent businessmen. The report outlines:

> Under this (percentage depletion) system, the major integrated firms have an incentive to seek high crude prices. The high crude prices are, however, a cost to the major firms' refineries. Thus, an increase in crude prices implies an increase in crude profits but a decrease in refinery profits. The integrated oil companies gain because the depletion allowance reduces tax on crude profits, while refinery profits are not subject to the same advantageous depletion deduction.

In other words, the major oil companies, by boosting their internal transfer prices—the prices they charge themselves for their own crude oil—create another barrier to entry into the refining business. It is exactly the expansion of our domestic refining capacity which poses the knottiest energy problem in the years immediately ahead.

Confusion over the depletion allowance has today created a fundamental paradox in our public policy toward oil. Presently, we allow a depletion allowance to multinational firms supposedly to encourage them in a worldwide search for oil. At the same time we are prevented from bringing that oil—produced partially at taxpayer expense—to meet our own domestic needs. While the issue of the depletion allowance may be at least debatable in terms of domestic production, it is an absurd and untenable policy to extend taxpayer supported subsidies to the production of foreign oil which we never see.

The time has come to scrap the entire depletion scheme. It is ill-conceived: Costly, wasteful, inequitable, inefficient, and anticompetitive. It is time to strip away all the misinformation, romanticism, and myth surrounding the oil industry and devise an equitable system of natural resource taxation which will serve our goals of security, economic growth, and environmental preservation.

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## A TRIBUTE TO MISS PAULA ANN MOON

## HON. LAMAR BAKER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

**Mr. BAKER.** Mr. Speaker, I rise to pay tribute to a most exceptional young lady. Miss Paula Ann Moon of Decatur, Tenn., has been elected by the county court to serve as register-of-deeds for Meigs County in the Third Congressional District of Tennessee at the age of 18 years. This possibly makes her the youngest office holder in the State of Tennessee and perhaps the United States. Paula graduated from the Meigs Consolidated School in June of 1973 as valedictorian of her class and was employed immediately in the register-of-deeds office. Shortly thereafter, she was made deputy to the register-of-deeds who was suffering from what proved to be a terminal illness.

On October 8, 1973, Paula was elected by the Meigs County Court to assume the full duties of the register-at-large office. Not satisfied with this important and demanding position, on October 19 she accepted an appointment to serve as registrar for 18-year-olds registering in the area for the draft. I venture to say that young men turning 18 in Meigs County will find draft registration a far more pleasant duty with Paula officiating.

As a Congressman and a citizen, it means a great deal to me to know that we have young people willing and eager to assume the responsibility of an important public service office. It may be that there is undue pessimism regarding the young people of today.

I view the future of this country with more confidence when I see young people like Paula Moon exhibit such a high degree of talent and ability. With enough like her we need have no fear for the course this country will follow. I extend to her my congratulations and my appreciation. I feel fortunate to number her among my constituents.

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## "OPEN DOOR" TO THE FOREIGN TAKE OVER OF AMERICAN CORPORATIONS

## HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

**Mr. GAYDOS.** Mr. Speaker, the January 22 issue of the Wall Street Journal carried a lead story dealing with the stampede of foreign investors to buy in and buy up American corporations and companies.

According to the article, in just 5 short years foreign investments here have increased by 50 percent. Today, foreign investments total an estimated $16 billion. That may not seem like very much—until you look at what has happened. In 1973 alone the amount of foreign investments in U.S. businesses increased by $2 billion. That is triple what was invested in 1972 and 5 times what was invested in 1971.

This signals a dramatic turn of events which in my opinion my well prove disastrous to the American people in the long run if allowed to continue unchecked. I am gravely concerned that some future day we may wake up and find that industries vital to our national defense and the economic well-being of the American people, will be controlled by foreign nationals.

Accordingly on June 25, 1973, and November 6, 1973, I cosponsored legislation to regulate foreign investment in vital industries, particularly those dealing with energy, defense, agriculture and natural resources, so as to prevent foreign interests from acquiring control of American corporations. I am heartened to learn from the Journal that other prominent Members of Congress share my concern.

I think the message of the Wall Street Journal article will be of significant interest to my colleagues. The article follows:

### BUYING IN: INCREASING INVESTMENT IN UNITED STATES BY FOREIGNERS IRKS MANY IN CONGRESS—THREAT TO BUSINESS IS SEEN; BUT OTHERS SAY RETALIATION WOULD SEVERELY HURT UNITED STATES; A THREAT TO THE "OPEN DOOR"

(By James P. Gannon)

WASHINGTON—The Japanese are invading Hawaii again. The Germans are establishing a beachhead in South Carolina. The British, of all people, are assaulting Wall Street. And there are rumblings of a massive attack by the Arabs.

That isn't an apocalyptic vision of some future American calamity but a description of a real foreign "invasion" of the U.S. that is reaching unprecedented intensity. Heavily armed with dollars, investors from abroad are buying into the American economy at a record clip. They are purchasing everything from farmland to fishing fleets, taking over well-known American corporations through stock purchases and setting up new plants to produce such varied goods as Swedish Volvos in Virginia and Japanese teriyaki and soy sauce in Wisconsin.

Not surprisingly, this surge of foreign investment in the U.S. is triggering a defensive reaction in Washington. As some lawmakers express alarm, at least three congressional committees are planning to investigate the trend and consider whether the U.S. needs new laws to cope with it. One panel starts hearings today, another tomorrow. The White House, eager to head off any stiff new controls over foreign investment, is mobilizing to fight for a continued "open-door" policy.

#### THE 1973 OPEN DOOR

Foreign investors certainly stampeded through the open door in 1973. While the Commerce Department won't publish the figures until May, unofficial estimates put the increase in direct foreign investment in the U.S. last year at more than $2 billion. That is a record, roughly triple the $708 million of 1972 and five times the $385 million of 1971.

Last year's spurt pushed the book value of all direct foreign investments in the U.S. well above $16 billion, up more than 50% in just five years. The figures on direct investments include outlays for new foreign-owned facilities in the U.S., such as the planned Volvo plant in Virginia, as well as purchases of 25% or more of the voting stock of an American corporation. But stock purchases of less than 25%, called "portfolio" investments, aren't counted.

The foreign investments are cropping up in many forms around the nation. They range from Japanese purchases of hotels in Hawaii and farmland in the Midwest to planned plants by a French tire maker and a German diesel-engine parts company in South Carolina. Wall Street has also witnessed a rash of takeover bids in the past year, including successful tender offers by British-based concerns for such well-known companies as Gimbel Brothers Inc. (department stores), Grand Union Co. (supermarkets) and Trave-Lodge International Inc. (motels).

### THE POWER OF OIL

Besides these invaders, a new foreign investment power is on the horizon. Because of their rapidly rising income from dearly priced oil, the Arab states and other petroleum exporters will have billions of dollars to invest somewhere. U.S. government officials pooh-pooh alarmist visions of Arab oil sheikhs swooping down on Wall Street with bulging suitcases of "petrodollars" to gobble up American companies, but they concede that such wealthy lands as Saudi Arabia and Kuwait probably will look to the U.S. for some investments. Indeed, certain deals are surfacing already, such as the planned investment of $250 million—largely government oil money from Lebanon and Kuwait—in U.S. real estate.

Government officials expect foreign investment in the U.S. to remain high in 1974, although it is unclear whether recent international economic developments will restrain or stimuate it. The recent resurgence of the dollar against other currencies could slow the trend by making such investment more expensive to foreigners. And Japan has limited investments by its citizens in securities of other countries. But officials here believe that the U.S. could become the most attractive haven for investment in a world shaken by the oil crisis, so that much of the excess currency reserves of the oil-producing nations may flow into U.S. investments.

Some U.S. politicians and businessmen are growing worried about the trend. Congressmen are getting complaints from the voters back home who either resent the alien "invasion" in general or feel that their own jobs or businesses are threatened. The political debate will heat up this week as two congressional subcommittes start hearings.

Today a House Foreign Affairs subcommittee will begin its hearings on the subject by calling nongovernment witnesses. Tomorrow Peter Flanigan, a presidential assistant, is scheduled to present the Nixon administration's views at a hearing called by a Senate Banking subcommittee. At least one and as many as three other congressional panels plan to stick their oars into the troubled foreign-investment waters in coming weeks.

### DIFFERING OPINIONS

Sure to emerge is a wide difference of opinion over whether foreign investment is good, bad or indifferent in its effects on the U.S. economy. "Depending on your viewpoint," comments Kalman J. Cohen, a New York University economics professor, who is a specialist on the subject, the surge in investment from abroad is either "an economic defeat resulting in an alarming takeover by foreigners of America's productive assets or a welcome stimulant to American employment and an aid to the balance-of-payments position of the U.S."

From the days when foreign capital helped build railroads across the Continent more than a century ago, the U.S. traditionally has welcomed foreign investment. For years the Commerce Department has sponsored "invest-in-the-U.S.A." seminars abroad, seeking to lure foreign plants here. At least 14 states maintain overseas industrial-development offices for the same purposes.

The Nixon administration maintains a friendly view toward foreign investment. Since last July, Mr. Flanigan, the White House aide, has had a special interagency task force gathering information on the growth of investment from abroad and its effects on the American economy. Mr. Flanigan, in reasserting the "open-door policy" in his congressional testimony, is likely to cite task-force data intended to show that foreign investment increases U.S. employment and incomes and aids the balance of payments.

More fundamentally, the administration argues that the U.S. can't close the door on foreigners and still expect American corporations to be welcomed around the world. "We have much more at stake abroad" in investments than foreigners do here, notes John Neihuss, head of the interagency task force. U.S. direct investment abroad at the end of 1972 totaled $94 billion, six times the foreign investment in America. The U.S. would jeopardize its investment and invite retaliatory moves if it restricted foreign capital, Mr. Niehuss says.

While few members of Congress would slam the door on foreign investors, an increasing number are beginning to question whether the U.S. should close the door partway or at least keep closer track of who is coming through and why. The congressional hearings planned are largely investigatory—to examine the foreign-investment trend, its impact and U.S. policy toward it—but they also will consider bills to limit or monitor more closely the investments from abroad.

### AN OUTLINE OF THE BILLS

A Pennsylvania Democrat, Rep. John Dent, has introduced the most restrictive bill, a measure to prohibit foreign ownership of more than 5% of any American corporation's voting stock. An aide says the bill is intended to stimulate discussion; even Mr. Dent isn't sure that severe a limit is necessary. "He had visions of a steel company's being taken over by foreign interests and had reservations about it," the aide explains.

Another bill, introduced by Democratic Rep. John Moss of California, is designed to prevent foreign takeover of U.S. companies in the energy and defense industries. It would bar foreign ownership of more than 10% of the stock of any oil company, coal concern, electric utility or other energy producer as well as of any firm that gets 20% or more of its revenues from defense business. Rep. Moss says he's concerned about national security.

Reports of Japanese purchases of farmland, grain elevators and other agricultural assets in the Midwest have prompted Iowa Democrat John Culver to introduce a congressional resolution and start hearings today by the House panel he heads. His resolution calls on the government to study the problem of increasing foreign investment and adopt a "responsible" policy toward it.

The surge of foreign investment "raises many troubling questions," Sen. Daniel Inouye, a Hawaii Democrat acknowledges, but it would be "premature" to restrict it, he thinks. Instead, he has introduced a bill calling for a massive two-year study of foreign investment in the U.S. to provide information needed to formulate "a coherent national policy."

### THE JAPANESE AND HAWAII

Present information is so sketchy, Sen. Inouye says, that "we don't know whether the net effect of foreign direct investment in the U.S. has been beneficial or detrimental." What Sen. Inouye does know, however, is that foreign investment is causing trouble in his home state.

"In the short space of three or four years," he says, "Japanese investors have poured between $200 million to $300 million into Hawaii," he says. This investment has been concentrated in the state's most important industry, tourism. Japanese interest in Hawaii has also grossly inflated already-high real-estate prices to the point that very few Hawaiians can afford new housing," the Senator complains. Furthermore, he says, the investors from Japan have "aggravated" Hawaiians with poor public relations. An aide tells of a golf course purchased by Japanese who then closed it to Hawaiians.

Capitol Hill aides predict that, at a minimum, some new disclosure requirements will be imposed on foreign investors to give a more complete picture of the scope and sources of foreign investments.

In at least one area, the government is already beginning to scrutinize foreign investors more closely. Officials of the National Oceanic and Atmospheric Administration are concerned over Japanese takeovers of American commercial-fishing fleets—which gives them rights to fish inside U.S. territorial waters.

"I don't think we would want a great amount of foreign control" of American fishing companies for fear that the foreign-controlled firms would export their catch at the expense of U.S. consumers, an official of the agency says. With that danger in mind, the agency now requires a review of any foreign takeover bid.

## POSTCARD VOTER REGISTRATION BILL

### HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. FRENZEL. Mr. Speaker, the county auditor and registrar of voters for the county of Lake of the Woods in Minnesota has recently written me outlining his objections to the proposed postcard voter registration bill. I invite all Members' attention to some of his thoughtful criticisms about the bill. The observations he expresses are similar to those of election officials testifying on the post card registration bill (H.R. 8053). Since his office not only handles voter registration but a host of other functions, the objections he raises about the problems of administering the bill are particularly enlightening. I hope that all Members will carefully review his criticisms.

His letter follows:

LAKE OF THE WOODS COUNTY,
OFFICE OF THE COUNTY AUDITOR,
*Baudette, Minn., January 2, 1974.*

Hon. BILL FRENZEL,
*House Office Building,*
*Washington, D.C.*

DEAR SIR: As it was outlined to me in your letter of December 18, 1973, I find myself, as a citizen and as County Auditor and Registrar of Voters for the County of Lake of the Woods, Minnesota, very much opposed to the proposed National Voter Registration Act H.R. # 8053 on the following grounds.

1. The Administration of the Act would require another Federal Government Bureaucracy that would cost the taxpayers millions of dollars. Few Federal Agencies have ever administered programs without untold amounts of regulations, red tape, paperwork, and expense. Ordinary citizens who have problems or complaints find getting satisfaction or answers so difficult that they give up.

2. A dual registration system—one for Federal elections and one for other elections—will cost the taxpayers money because of the obvious duplication of effort. Moreover, all people will not follow instructions nor fill out cards correctly and completely. Numbers can be programmed and worked with by computer or in any other way. The characteristics of people can be studied; but nobody can manage all the voters by computer, or any other way, no matter how idealistic the idea might sound. People are just people. The duplicate registration system, in fact, would create an unmanageable situation. Local control over voter registration is the only possible way to keep the situation under any control.

3. While I have only limited confidence in the U.S. Postal service, I am sure that the Service, along with all other cards available in public places, will get everybody a voter registration card—in fact, many people will

get several. The opportunities for fraud will become almost unlimited.

4. Does a Federal or State Office really know where people live and are entitled to vote? No way! I foresee the proposed Voter Registration Administration conducting a study to see where people live and vote (more millions of dollars) which would be out of date by the time it was published (because of the mobility of the American people.) and which, like most studies of this type, would be entirely unintelligible to the average person, anyway.

5. Once a Federal Bureaucracy is established, it is almost never disbanded, only increased; it seems to feed on itself, constantly increasing its distance from the people—and always increasingly promulgating rules, regulations, and paperwork.

6. It seems that where it costs the taxpayers one person's salary to do a job locally, the States each need two employees (or three or more) and the Federal Government even more to get the same job done. I suppose what I'm asking is that you let local governments alone and just help us to do our jobs better. I think the Federal Revenue Sharing Program and the Emergency Employment Act are two examples of programs that have contrasted greatly with the usual programs. They have helped us and will continue to help us. They don't burden us with paperwork; and the money involved actually gets to the people who need it and for whom it was designed. The proposed Voter Registration Act would do just the opposite. There's no way it would help those for whom it would be designed, nor correct the abuse it would be supposed to correct.

7. The chances for fraud would be so increased under this kind of system that Watergate would seem like a child laughing and playing during a Sunday School Class. Obviously, we have problems in some of our election processes; but it seems that the proposed medicine would only make the patient sicker. One doesn't heal an injury to a finger by cutting off an arm. A flat tire is not repaired by buying a new car.

8. Minnesota has just initiated a new Voters Registration System. We think it's going to work well and be a good one. Give us a chance to see how it works.

9. Whatever you do in this matter and others, remember the administration involved in all proposed legislation. If a program can't be administered simply and fairly, on a local level, then maybe it requires more thought.

Some ideas are great from the ideological or political point of view. There are only three of us in my office. We levy the taxes, pay the bills, handle licenses, and perform all sorts of other local government functions. We intend to absorb most of the work involved in the Minnesota Voter Registration System. I'm not sure we could absorb the proposed Federal System. It appears that the proposed legislation would be a nightmare for us and for the Nation.

I thank you for taking the time to read this and consider my views. If my views are wrong, I would welcome correct information from you.

Sincerely,

DEAN E. IRLBECK,
*Lake of the Woods County Auditor.*

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## CLARK OIL CO.

## HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. ASPIN. Mr. Speaker, the Clark Oil Co. of Milwaukee. Wis., is providing a 92-percent allocation to their own stations in January while holding the allocation of a large independent company. Kickapoo Oil of Hillsboro, Wis., at 32 percent.

Kickapoo is now out of gasoline and may be forced to close all of its 75 stations in Wisconsin.

Mr. Speaker, the Clark Oil Co. is apparently trying to force independent dealers such as Kickapoo out of business.

I have asked Mr. William E. Simon, Administrator of the Federal Energy Office to conduct a special investigation of Clark's activities. Clark has violated the voluntary allocation ruling by not sharing the available fuel supply equally.

Since Clark is willing to attempt to squeeze out independents and violate the voluntary guideline, the Government must conduct an investigation to make sure that they comply with the new mandatory allocation system which went into effect on January 15.

I hope by the time the mandatory program begins there will still be some Kickapoo stations in business, but Clark's action has made it possible for some Kickapoo stations to be forced out of business.

Mr. Speaker, Clark's withholding gas from Kickapoo while supplying their own stations is particularly alarming in view of Clark's profits. Clark's profits during the first three quarters of 1973 rose 350 percent—totaling $22.4 mililon. Clark's profit increase has been phenomenal. They should have been willing to help Kickapoo out.

Clark claims that Kickapoo had "no legal right" to receive additional gasoline.

It is not a question of legal right. It is a question of whether the oil companies are going to cooperate or are they only out for themselves.

The people of Wisconsin can no longer tolerate the efforts of the big oil companies to try to eliminate the competition provided by independent gasoline dealers like Kickapoo.

Clark's apparent effort to squeeze out an independent like Kickapoo offers new evidence that the power of big oil companies to eliminate competition must be curbed.

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## NEW CARTELS SPELL HIGH PRICES AND INFLATION FOR INDUSTRIAL NATIONS

## HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, the inflationary impact, caused when the oil producing nations unilaterally raised their prices, is now reaping—and will continue to cause—higher prices in innumerable products and services which rely on oil or oil derivatives.

When the world, or major countries of the world, must rely on a few suppliers for products necessary to economic growth, the die is cast for those producers to band together and raise their prices, thus forcing their customers to do without the necessary item or pay a very steep price.

C. Fred Bergsten, a senior fellow at the Brookings Institution, writing in the Sunday, January 26, issue of the New York Times, paints a very dismal picture of how this "resource diplomacy" might well be applied to more and more raw materials on which the world depends.

I would like to put Mr. Bergsten's article in the RECORD at this time for the information of my colleagues:

### SOME VITAL COMMODITIES ARE SUBJECT TO "RESOURCE DIPLOMACY"—THE WORLD MAY HAVE TO LIVE WITH "SHORTAGES"

(By C. Fred Bergsten)

WASHINGTON.—As recently as a year ago, it was conventional wisdom that "the oil countries could never get together"; it was believed that they could not risk retaliation from a "united Western world." But, today, through the Organization of Petroleum Exporting Countries, the oil nations have quintupled their price. They have cut back production. They have raised fears of global depression. And they have left the consuming countries, particularly in Europe and Japan, in disarray, and alliances such as the Common Market and NATO, in peril. Indeed, Europe's every scramble for a "special deal" has strengthened the confidence of the oil cartel.

But oil is just the beginning, for three reasons. First, the lesson of this startling reversal of power seems obvious for other countries with key primary products: Band together and your revenues can rise dramatically. Second, higher oil prices force the other primary producers to increase their own export earnings to pay for their oil needs. Third, OPEC itself appears ready to support the formation of other cartels, as one way to avoid opprobrium for bankrupting the "developing countries."

To be successful, producer cartels must take advantage of demand that is relatively insensitive to price hikes. Substitute products cannot be readily available at better prices. The fewer the producers and the fewer the rivalries among them, the easier it is to collude. (The United States, China and Brazil produce most of the world's soybeans, and they could act in concert but they are unlikely to form a soybean cartel.) Large financial reserves and relative independence from the short-run fortunes of the commodity in question make it easier for producing countries to limit output, which may be necessary to boost prices effectively. A powerful leader can be of decisive importance.

These conditions are even more prevalent for a wide range of industrial raw materials and foodstuffs than for oil. Most oil countries depend heavily on that single commodity, and some do not possess large financial reserves. OPEC comprises such widely scattered countries as Venezuela, Nigeria, and Indonesia, but even the Arab members have had bitter disputes among themselves.

To be sure, none of these other products approaches the economic importance of oil. Nor would any of the combinations of countries involved be likely to cut production for political reasons, as did the Arabs. They may "simply" require that their materials be processed domestically rather than abroad, to retain more of the profit for themselves.

"COPPER IS NEXT"

But several other commodity cartels have already formed, including one of copper producers, and CIPEC (standing for Conseil Intergouvernmental des Pays Exportateurs de Cuivre and comprised of the dominant non-North American producers, Chile, Peru, Zaire and Zambia) may soon join OPEC as a household word. Copper is an essential ingredient in electrical and structural products (tubing, fittings, fixtures, and so on) with a vital impact on Western economies. The price of copper for nearby delivery reached a historic high in December of nearly $1 a pound, up from around 53 cents in July. The Shah of Iran has predicted that "copper is next."

The bauxite producers have already met once, and have publicly announced a more formal session next month to "consider creating an OPEC for aluminum." Five countries (Australia, Guinea, Guyana, Jamaica, Surinam) account for almost all of the world's exports. Australia, which has spoken publicly of its new "resources diplomacy" and is actively seeking commodity expertise, is a natural leader for the bauxite group because of its widely diversified economy and extremely high monetary reserves.

The coffee cartel is already so far along that its producers were content to let expire the international coffee agreement, which they sought a decade ago to marshal help from consuming countries to keep prices from falling. Here, too, there is a key leader: Brazil, the world's largest supplier, whose own dependence on coffee has declined dramatically and whose monetary reserves are eighth largest in the world.

More possibilities abound. Four countries account for virtually all the world's tin exports and two of them (Malaysia and Thailand) have high monetary reserves. Four countries (again including Malaysia and Thailand) dominate the natural rubber market, whose importance has risen dramatically with the competitive decline of petroleum-based synthetic rubber. A few countries dominate each of the regional markets for timber, where shortages are apparent everywhere. Similar situations may exist for tea, cocoa, and pepper.

There is even the possibility that unofficial multimineral cartels could be formed where allied interests prevail. For example, consuming countries potentially could substitute aluminum for copper or tin and to prevent that producers of the three metals might agree to work along parallel lines.

### THEY HAVE THE MONEY

The monetary reserves of the Third World have risen by $33-billion in the last three years, so many of its members could finance such efforts.

The main economic effects of more commodity cartels will be increased inflation in the industrialized countries, and a further shift of monetary reserves to the primary producers. The main political effect will be more power for the countries, many in southern and warmer climates, that "have" key resources, relative to those industrial countries, mainly in the northern hemisphere, that are "have-nots" in terms of resources.

These problems will be more acute for Japan and most European countries than for the United States, but we are, or soon will be, heavily dependent on imports of every commodity mentioned above and many more as well. And, the United States can never be truly independent of such problems as long as Europe and others are dependent in the integrated world economy of the 1970s.

### A QUESTION OF MORALITY

Those who support the producing countries in this central new issue of world economics and politics, cite four principles.

First, they say, it is no more immoral for a few countries to produce the lion's share of a particular product than for a few countries to consume the lion's share, as the industrialized world has become used to doing.

Second, the legitimate needs and aspirations of producer countries must be met in constructive ways which are acceptable to them. Most of these goals are economic, and in part, the "rich" are now paying for their past neglect of the "poor."

Third, only unity among consumers can effectively counter unity among producers. Monopolistic sellers, whether corporate or national, thrive in the face of competing buyers.

Fourth, new international rules and institutions must be developed to cope with equitable sharing and pricing of goods in short supply, and attendant policy problems such as the export controls applied by many countries over the past year. The present framework for governing trade and financial relations among nations was directed wholly to problems of inadequate demand and barriers to imports, whereas the critical problem for the foreseeable future is inadequate supply and barriers to exports.

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## INFORMAL PICKETS

### HON. BURT L. TALCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. TALCOTT. Mr. Speaker, patrons of Washington shopping centers are being harassed and harranged by motley and uninformed crews of "informational pickets" urging shoppers not to purchase lettuce, grapes, or wine.

I often ask the picketers if they have ever "cut lettuce" or "picked grapes." None have. They are mostly students or unemployed. None have known the true facts of the social and racial involvement of "La Causa" or "La Raza" promoted by Cesar Chavez.

Farmworkers in most States need help in improving the wages, hours, working, and living conditions. They need secret ballots to determine their collective bargaining units. They need a union. They need national farm labor legislation. Cesar Chavez is furnishing none of these things.

The place to learn about the condition of farmworkers is in the fields and their homes. Few people in or near Washington have any true knowledge about the farmworker. They should know more before they carry an "informational picket."

I insert a copy of a letter from a constituent who knows the problems and conditions of the farmworkers from long intimate association. The letter of Mr. Louis W. Uribe of Salinas, Calif., follows:

DEAR MR. CONGRESSMAN: How much longer are you people of this beautiful state and wonderful Union going to let what I think is a little czar by the name of Cesar Chavez and his uninformed (notice I didn't say stupid because they're not), followers intimidate, harass, beat and lie to you the public.

Since when did a union have the right to block or obstruct entrances to supermarkets, liquor stores or small independent markets.

Since when is it permissible by the law to have you the public heckled at your place of doing business.

Nobody has the right to tell you what to buy or what not to buy, especially a "herd of sheep" yelling and waving red banners.

"El jefe" says he represents all the farmworkers.

Where is his proof?

Whatever happened to Freshpict? I believe his union broke the company.

What happened to all those people that worked for Freshpict (welfare)?

Why does he only have one lettuce agreement left?

Why did he lose all but a few grape contracts that he carried around in his pocket?

If you don't know why, go ask those farmworkers that were once under the thumb of "El jefe."

"El jefe" means "The Boss."

I know his answer already, the reason "El jefe" lost them was because the ranchers and the Teamsters made a "Sweetheart Agreement."

Not so, before the Teamsters even called on any employer to sit down and negotiate, the farmworkers of those U.F.W. held contracts petitioned and demanded that their employer stop all further dealings with "El jefe" and sit down to negotiate a new agreement with the Western Conference Agricultural Workers Organizing Committee.

If they are "Sweetheart Agreements," then why under any Teamster field labor agreement is the cost to employers so much more as compared to "El jefe's" contracts.

Why do the Teamster farmworkers receive unemployment benefits when laid off if qualified and not "El jefe's" members?

Why, because "El jefe" once said that it was not the responsibility of the union to negotiate unemployment insurance on their contracts, but that it is the responsibility of the state to take care of the unemployed (welfare lines swell).

What did "El jefe" learn in the years he spent under the wing of Saul Alinsky, a devout revolutionary teacher here in the United States of America?

Just remember if you continue to support what I think is a little menace with his only weapon, the boycott, we are, putting many husbands and families out of work.

There are enough people being laid off their jobs because of the energy crisis, let us not contribute by not buying our wine and lettuce.

Remember keep the Cesar out of our salad and buy Gallo Wine.

Sincerely,

LOUIS W. URIBE.

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## EDWARD HAUSNER HONORED AS POLONIAN OF YEAR

### HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. RINALDO. Mr. Speaker, Edward Hausner of Linden, N.J., who operates a business in the 12th Congressional District, was recently honored by the New Jersey State Conference of American Polonians as the Polonian of the Year.

Mr. Hausner, who is a respected community leader in Union County, was the subject of a feature article in the Post-Eagle, America's leading independent American-Polish weekly newspaper. I would like to enter this article into the RECORD:

#### EDWARD HAUSNER HONORED AS POLONIAN OF YEAR

The New Jersey State Conference of American Polonians (NJSCAP), completing a most successful year of operation in this state, became a reality in 1972, when a central headquarters was opened in Bloomfield center to service Polonians in many capacities. The NJSCAP has become the official voice of Polonians here, and has led in the fight for recognition of our American Polonians.

As the moving force in this state, the NJSCAP has flexed its muscles on all levels and has challenged detractors of our image making them apologize publically. Big stars such as Bob Hope and Jerry Lewis felt the sting of the NJSCAP, as delegates visited them personally and in no uncertain terms told them to stop the derogatory Polish Jokes. The NJSCAP also took on the State Department and forced an investigation of discrimination against Polish . . . people by the Consular Offices in Poland, a fight other Polonians have now taken up, including Congressman Dingell of Michigan.

This dedicated band of Polonian delegates also played an important role in the political arena including the Gubernatorial elections in November. A fund was started for Mrs. Zygmaniak, mother of Lester Zygmaniak who killed his brother and was acquitted by the courts recently.

A number of job placements were made with the proper influence being used for our Polonians. This and other services to Polonia were the result of the NJSCAP, and that is the reason this group is considered the official and leading Polonian force in the state.

In order to maintain these services the Conference has assessed the delegates who are being accepted into the ranks. Other plans are being formulated to raise additional monies to expand the conference, offices and help.

The executive board recommended that deserving Polonians should be recognized and honored yearly, giving the recipient the honors due him or her as well as raising the necessary funds needed to keep up the fight for recognition of Polonia here in New Jersey.

With this in mind, it was the unanimous decision of the NJSCAP to honor as the first Polonian of the Year a true Polonian who has given of himself and his efforts constantly for every cause brought to his attention. This man is also one of the founders of the NJSCAP and holds the office of Treasurer. The man chosen to be honored for 1974 is Edward Hausner of Linden who is also proprietor of the Skyline Lounge in Elizabeth, New Jersey.

Ed Hausner was the only one of his family to be born in these United States. His family came from Jaslika. Powiat Sanok, Poland. Ed is the son of the former Franciszek Hausner and Apolonia (Cichon) Hausner. His father was an organist in the parish church in Jaslika. The family lived in Newark, Down Neck, where Ed was born in 1915. He attended St. Kazimer's Polish Parochial School. The family moved to Linden where they settled down. Ed graduated Linden High School and then continued his education at Casey Jones School for Aeronautics and Eastern Aeronautical Academy where he earned his Engineering Degree.

Ed worked for Republic Aviation. Seversky Aviation and Breeze Aviation.

In 1932, Ed received his pilots license. He is rated as a four engine pilot. In 1941, two years after Poland was attacked by the Nazi's, Ed joined the Polish Air Force in Canada going overseas in England where he served with the Polish Squadrons. A flying Sergeant, Ed flew fifty missions with the Polish Squadrons, transferring to the American Air Force when America entered the war. A fighter pilot for the Polish Jednostki, Ed went on to Randolph Field where he began instructing American pilots. He then transferred to Fort Worth and became a bomber pilot on the B–24's, flying raids over Italy, Germany, and Austria.

As a fight officer, Captain, in the 8th Air Force he flew 25 missions in B 24's as well as P47's in the 15th and 12th Air Force.

Ed was a prisoner of war in Germany in 1944, escaping three times.

In 1946 Ed mustered out of the Air Force as a Captain. As a reservist, Ed was called back to service as a pilot in the Korean War, here he flew in the 18th Fighter Squadron. In 1953 Ed became a civilian again.

Ed is married to the former Lillian Kozar of Linden. He resides on Kent Place in town with his wife and children: Elizabeth 17, Dennis, 22 a student at Pratt Institute in Brooklyn and Konrad age 20 where he is assisting his dad in running the beautiful Skyline Lounge on Dowd Ave. in Elizabeth, New Jersey.

Ed Hausner is well known in Union and Essex Counties, having owned a number of business establishments, one of them being the Pennbrook Inn in Elizabeth. Eight years ago, Ed built the Skyline Lounge in Elizabeth where he can be seen daily welcoming the luncheon crowds and guests.

Ed is a member of the PLAV, Post (9) Elizabeth; GEDA, Elizabeth; The Elks and charter member of the NJSCAP. He is active in just about all of Polonian affairs throughout the State and recently was appointed as Program Chairman of the coming Polish Festival to be held at the Garden State Arts Center in Holmdel.

Ed's generosity is legend. Polonian candidates, no matter where in the State, can depend on Ed's contributions. Other politicians have been beneficiaries of Ed's generosity.

Ed holds the Silver Star D.F.C.; Eight Air Medals; Two Purple Hearts; From the Polish Government, the Krzys Waleczny (K.W.) and the British Service Medal.

Although Ed put his life on the line for the land of his parents, he never visited Poland until recently when he spent a weekend in Warsaw and Jasliska while on his way to Switzerland. He speaks Polish fluently as well as Italian.

Our honoree has a brother, Paul in Detroit; Tom in Camden; sisters Frances Chmielewska, in Flushing, Maria Papuzynska and Katherine Tandul, in Linden, N.J.

The Hausner name is well known to Polonia in Union County and the Country for Ed's deceased brother Stanislaw, who was one of the pioneers in aviation. His plans to fly the Atlantic ocean to Poland years before Lindberg, were cut short when he died a tragic death while flying his plane over Detroit in 1935.

The 34th Anniversary of this tragic death of a brilliant Polonian, Stanislaw Hausner will be celebrated in May of this year. If Polonia had supported Stanislaw Hausner thirty five years ago, perhaps he would have realized this dream of a flight over the ocean and his name would have gone down in history instead of Lucky Lindbergh.

For his generosity, goodness, and willingness to help all Polonians, the NJSCAP have deemed it a great pleasure to nominate Ed Hausner as the 1974 Polonian of the Year.

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## PENNSYLVANIA NEEDS MORE GASOLINE

### HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. EILBERG. Mr. Speaker, Gov. Milton J. Shapp, of Pennsylvania, has written to William E. Simon, Director of the Federal Energy Office, urging him to increase the proposed hardship gasoline allocations to the States from 3 to 10 percent if rationing is put into effect.

The letter states that in Pennsylvania the elderly, who are dependent on the mobility of volunteers for various services, will be jeopardized by an inadequate gasoline allotment. Also in danger are the rural physicians, salesmen, job commuters and other persons whose livelihood greatly depend upon sufficient amounts of gasoline.

At this time I enter into the RECORD the letter written by Governor Shapp to Mr. Simon explaining Pennsylvania's need for more gasoline.

OFFICE OF THE GOVERNOR,
*Harrisburg, Pa., January 9, 1974.*

Mr. WILLIAM E. SIMON,
*Director, Federal Energy Office, The White House, Washington, D.C.*

DEAR MR. SIMON: I note that the only official statement yet available on gasoline rationing provides that:

Each state will hold coupons representing up to 3% of the quantity of gasoline available in the state for each month. These coupons will be used by the state to provide relief in cases of exceptional hardship.

Our experience in December 1973 suggests that the 10% state reserve for exceptional hardships with middle distillate fuels (fuel oil #2, diesel and kerosene) proved hardly adequate. Several major suppliers, in fact, informed us that a 10% set aside of fuel had been exhausted before the end of the month, forcing us to seek other suppliers.

Many groups of Pennsylvanians have expressed concern to us over motor gasoline rationing. For example, groups interested in the aged have noted the need for sufficient gasoline for volunteers helping to operate Federally-funded programs for senior citizens. Alternatives to some of these programs, such as "meals on wheels," could mean costly and unnecessary institutionalization of many senior citizens.

One letter from the Catholic Social Services, Archdiocese of Philadelphia, written by the Chairman of the Southeastern Pennsylvania Regional Council on Aging, states that:

"The great majority of our elderly population are dependent upon programs such as those held in Golden Age Clubs and multiservice centers for senior citizens wherein we provide social, recreational, educational and other services, the goal of which is to maximize their self-care and independent living within the mainstream of life."

We are also concerned about rural physicians who must often travel vast distances to serve patients—some of them in conditions of rural poverty. We are worried about salesmen who need their cars in order to contact customers, and about the owners of the so-called small "mom and pop" retail stores who depend upon many independent truck drivers to deliver their wares. We are concerned, too, about the gasoline needs of many other citizens of Pennsylvania who have settled some distance from their places of work and for whom the establishment of car pools is unrealistic.

Our best judgment then is that should gasoline rationing be instituted a 3% allocation of gasoline to this state for "exceptional hardship," will prove grossly inadequate. We would propose, instead, a minimum 10% allocation for "exceptional hardship" for Pennsylvanians.

More important, though, I urge that before any gasoline rationing system is established, complete justification for such a program be made to the public. The recently published figures in the Philadelphia Inquirer and the Wall Streeet Journal indicating that national supplies of oil are greater today than a year ago has created great suspicion as to the need for rationing at this time.

I am sure you will agree that for any program of rationing of any product to be successful the public must be in complete understanding of the need and have confidence that the program itself is fair. If these conditions do not exist, there will be flagrant abuse of the system and a black market is certain to flourish.

We realize, of course, that no draft regulations for gasoline rationing have yet been published in the Federal Register. But if and when such draft regulations may be published, we urge adequate time to provide for full comment by state and local officials and the public at large.

Sincerely,

MILTON J. SHAPP,
*Governor.*

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## TERMINATION INSURANCE: THE BEGINNING OF THE END OF PRIVATE PENSIONS?

## HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. ERLENBORN. Mr. Speaker, many view pension plan termination insurance as the cornerstone of protection for the private pensions of American workers. Many others of us view one aspect of termination insurance as a tombstone marking the demise of the hopes of millions of workers expecting a private pension with a definite benefit when they retire.

Recent editorials in the Chicago Sun-Times and Chicago Daily News tell the story, and I commend them to our colleague's attention:

[From the Chicago Sun-Times, Jan. 15, 1974]

### Wrong Route to Pension Reform

Authors of pension reform legislation pending in Congress have been properly concerned with protecting workers from pension fund failures. But the way in which the bills would provide such protection is widely off-target. A business firm, for example, could be liable for huge payouts even if a fund's failure were to be caused by circumstances outside the company's control and not at all its fault.

Under each of the bills being considered, the proposed mandatory, government-administered insurance program would make companies liable for deficiencies in pension funds. The liability under a bill already passed by the Senate (HR 4200) could amount to up to 30 per cent of a firm's net worth. Under HR 2, which has been reported out by the House Education and Labor Committee, the liability could be an astounding 50 per cent of net worth. In addition, under HR 4200, net worth is figured as the total value of all stock, an amount that could be substantially higher than net worth as determined by standard accounting procedures.

Pension fund deficiencies certainly are not always the result of poor company practices or policies. A deficiency could occur because of a decline in the value of a fund's investment portfolio. It could occur because of bad loans or fraud. Yet under the liability provision of the two pension-reform bills, the government would have what amounts to a permanent federal lien on up to 50 per cent of a firm's assets. Because this would have to be shown on the balance sheets, a firm's ability to borrow for operations and expansion would be affected, and so would its ability to attract investment funds. The ultimate result could be detrimental to workers still on the job, and could even mean layoffs.

Congressional testimony has diclosed that workers haven't always been protected from the loss of benefits, and they deserve to be protected, by law. Yet, individual abuses—some of which have occurred in labor union pension funds—should not be attacked in a way that places a potentially crippling burden upon every business involved with a pension plan. The intention of the legislation is good, but the implications of it are bad. It is imperative that there be extensive debate on the fund-insurance proposals. There ought to be a study also of whether some form of private pension-fund insurance might not be adequate to the task.

[From the Chicago Daily News, Jan. 16, 1974]

### Protecting Pension Plans

Private pension plans, which cover some 35 million civilian workers in the United States, are headed for significant reform and new federal regulation. A Senate bill passed 93 to 0 last September. It and a House bill are under study by the House Ways and Means Committee. Passage of a compromise is expected before midyear.

The task before Congress is twofold.

One is to protect employes against loss of retirement income because of pension plan terminations, job dismissals or job transfers. While most funds are run honestly and in good faith, a number of scandals in recent years involving firms and labor unions have revealed cases of workers losing their pensions through firings just before retirement age, through business failure, or on technicalities such as moving from one union local to another. One step toward ending such abuse is to require that pension rights be vested—that is, after a certain time a worker retains his earned pension credits and is guaranteed he will receive them at retirement age, even if he leaves his job beforehand.

A second task of Congress is to leave the private pension system free of federal regulation so cumbersome as to discourage establishing new plans and improving old ones.

That could happen, however, without some modification in the present plans for plan-termination insurance. Each of the bills being considered contemplates making the affected corporations liable to a federal insurance corporation for deficiencies if a pension plan is terminated without assets sufficient to pay a stipulated scale of benefits to participants or beneficiaries. Each company would be liable for making up the difference out of company assets up to 50 per cent of net worth under the House Education and Labor Committee's bill and up to 30 per cent under the Senate's.

This creates problems, however, even for the vast majority of companies that run honest, well-funded pension plans. Such a law would suddenly create huge contingent liabilities for businesses, which could seriously affect a firm's ability to borrow money and to sell new securities.

Many pension fund experts, who support most of the reforms being studied in Congress, question whether such insurance—and the new federal bureaucracy it would surely bring—is needed at all. They point out that the tighter requirements for vesting and for funding during the life of the plan make such deficits highly unlikely.

If it is decided by Congress that some form of insurance is needed to protect against the few cases of abuse, it would be better to require that coverage be purchased through the private insurance sector. And no reform bill should be passed that does not specifically guard against the abuses that have occurred in several union-run pension plans.

Private pension plan benefits of some $10 billion were paid last year to some 6 million men and women. That was up from $1.8 billion paid to 1.8 million recipients in 1960. Still, there are some 30 million civilian workers not covered by plans. For those that are covered, pension improvements have been a key fringe benefit, often negotiated to fit particular needs.

No doubt there is need for tighter standards over the private pension field. Abuses have been too tragic and too many to risk recurrence. But on the whole the private pension system has performed well and is constantly improving.

Before the Ways and Means Committee finishes its version of pension reform, the bills should be subject to more public debate. It would run counter to the interests of millions of workers to overregulate and encumber the system so as to discourage further growth and improvements.

My concerns about the employer liability feature of termination insurance led me to call a press conference January 25.

The statement I delivered then follows:

### Termination Insurance—The Beginning of the End of Private Pensions

What has been hailed by many as the cornerstone of reform may instead be the tombstone marking the demise of the hopes of millions of workers expecting a private pension with a definite benefit when they retire. This is the inescapable conclusion you must reach if you examine the impact of one of the provisions of the pending private pension reform bills.

The provision to which I refer is an unnecessary and counterproductive feature of the plan termination insurance requirements. This feature would make the employer liable if there were not enough money in the pension trust when the plan terminated. To write this into law would alter, by legislative fiat, a contract between employer and employee; and this may be unconstitutional.

More important than the legalisms, however, are the practicalities. Termination insurance with this feature would discourage creation of new definite benefit pension plans and improvement of existing plans.

When starting a pension plan, a company usually gives its workers credit for past service. This creates a large unfunded liability. Each increase in benefits has a similar effect. In time, the employer's contributions to the pension fund will catch up to these liabilities but, until that catch-up time comes, the employee does not have a full guarantee. It is better to have a partial guarantee, however, than to have no pension plan at all.

This danger was spelled out in a letter from the American Bankers Association to Representative John Dent (D-Pa.), Chairman of the House General Labor Subcommittee:

"It is only logical that in such circumstances employers will be more hesitant in deciding to establish a plan or improve benefits of an existing plan because of the irrevocable nature of the decision. Some employers with existing plans may even find it necessary to consider their termination before the new law's effective date."

Termination insurance with this recourse might put an employer in more of a bind than he can withstand. This hazard was also outlined by the American Bankers Association in its letter to Representative Dent:

"In addition to the irrevocability of the decision, the employer liability provisions may affect continuation and establishment of plans because of their effect on the employer's ability to obtain or maintain credit.

"Since most pension plans limit the employer's legal obligation for the payment of benefits to the amount of the pension fund, disclosure regarding the amount of this excess is generally made in the footnotes and usually is not a significant factor affecting credit decisions. However, Opinion No. 8 (of the Accounting Principles Board) requires that: 'If the company has a legal obligation for pension costs in excess of amounts paid or accrued, the excess should be shown in the balance sheet as both a liability and a deferred charge." . . .

"In such case, the debt of the employer would be increased by the amount of its pension obligation or some part thereof, which might possibly cause some employers to violate existing indentures. Obviously, the ability to take on additional debt might be severely limited."

The problem of the employers can be understood when you consider that in a recession or depression the value of the assets of the pension fund will be reduced. This, in turn, increases the unfunded portion of benefits and, therefore, increases the employer's liability. In effect, the employer, under these proposals, would be forced by law to become an insurer of the value of the pension trust assets.

The effect also is to increase the employer's liabilities when economic conditions are bad. In many cases, this would prohibit the employer from obtaining credit when he needs it most. Thus, poor economic conditions would be aggravated by this provision and, thus, this provision would cause more business failures and more unemployment.

There is already evidence that prudent managers of businesses are shying away from employee benefit programs. They are fearful of starting a definite benefit pension program because of the likelihood that termination insurance may be enacted with this liability feature. Some will drop their plans for starting a pension program. Others will look for a plan which does not create this liability.

Profit-sharing plans are free of this constraint. So are savings-incentive and money purchase plans. These may be the choice of company managers if this law is enacted. None of these forms of benefit plans gives the retirement security of a definite benefit pension plan.

The termination insurance concepts now being considered could lead to a quick sale of the assets of a pension plan in the event of termination. All too often, this forced sale would come at the very worst time.

Who wants the kind of insurance that might discourage creation of new pension plans? Who wants insurance that would force the termination of existing plans? Or reduce the borrowing power of employers? Or lessen the ability of employers to expand and to create new jobs. Who wants the kind of insurance that would even force some owners out of business?

And is it really necessary to sell assets in haste? Many of them will not be needed to pay pensions for a long time.

That kind of insurance would mean that the employee would suffer.

Alternative forms of plan termination insurance have been developed. They have been studied by the Pension Task Force of the Dent Subcommittee; and they do not require this undesirable employer recourse provision.

One such alternative might be a non-profit insurance corporation. It could be established under the supervision of the Secretary of Labor. Financial institutions then could be invited to participate, on a competitive basis, to obtain productive management of the assets of terminated plans, while avoiding uneconomic and untimely liquidation of assets.

Such alternatives may not be perfect, but they would not wreck pension plans, weaken companies, force some out of business and put people out of work.

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## THE NEED FOR THE IDA

## HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. HAMILTON. Mr. Speaker, I would like to call attention to the following editorials and comments which raise a number of important questions as to the advisability of the recent House vote against U.S. funding of the International Development Association.

As these articles point out, failure to support the IDA loan program could have grave consequences for the underdeveloped nations and an adverse impact on the United States and the rest of the world:

[From the Washington Post, Jan. 28, 1974]

### NO AID, NO TRADE

The House of Representatives threw much more into jeopardy than its members may have realized when it refused to authorize funds for an enlarged development loan pool to be operated by the World Bank for the poorest nations of the world. Several reasons for defeat of the Administration's proposal are obvious; there are many more reasons why this unthinking action should be quickly reversed, if it is not too late.

The mass defections among Republicans—only 47 supported the measure despite strong urging from the White House—gives one more sign of weakened Presidential influence, even in his own party. Neither among voters nor, more inexcusably, among their elected representatives does the notion of foreign aid seem able to overcome its earliest years of being considered an American "giveaway." However often it is argued, the Congress seems reluctant to recognize that development assistance brings mutual benefits to industrialized and less developed nations alike.

The program just defeated a $1.5-billion contribution to the World Bank's International Development Association, represented a positive and sophisticated approach to foreign aid. First of all, it is multilateral in its funding, avoiding the dangers inherent in attaching political strings. Through its multilateral structure, the I.D.A. is equipped to draw on the new resources of oil-rich countries, as well as the conventional donors, for redistribution among countries still in need of investment funds.

Secondly, the World Bank sponsors development projects of direct benefit to the poorer segments of the population in the less developed countries, as opposed to the earlier practice of strengthening national economic institutions from the top and hoping that the benefits would "trickle down" to the poor—hopes that were often shown to be futile.

Finally, the I.D.A. loan pool, negotiated last September at the World Bank meeting in Nairobi, represents a genuine trend toward burden-sharing among the richer states—another retort to the traditional critics of American giveaways. The United States share would have been dropped from 40 per cent to one-third; Japan, in contrast, had agreed to triple its contribution; West Germany's share would have more than doubled.

The essence of worthwhile foreign aid in the coming decade is to create productive economic ties among richer and poorer nations, to realize the benefits from cooperation as opposed to short-term advantages that might be gained from embargoes, unilateral price hikes and expanding cartels. The threats of economic warfare that have arisen over the Middle Eastern oil powerplays should stand as ample lesson of what is endangered when a country or group of countries goes its own way into economic confrontation rather than cooperation.

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[From the Louisville Courier-Journal and Times, Jan. 27, 1974]

### A SHAMEFUL VOTE ON IDA FUND

Foreign aid spending has been under attack in Congress for the past few years, some of the time for good reason. But last week's vote by a substantial majority of the House to reject the U.S. commitment of $1.5 billion to the International Development Association (IDA) was indefensible and deplorable.

It was largely through a congressional initiative that IDA was founded 14 years ago. By the late 1950s it was becoming obvious that the poorest countries couldn't raise the money they needed for vital development at ordinary interest rates. The association was set up to provide those nations loans at minimal interest, with strict standards for both the eligibility of the countries and the soundness of the proposed projects.

The major source of funds for IDA has been a series of replenishments from the richer industrialized nations every few years. Last year, 25 donor nations, including the United States, agreed on a fourth replenishment of $4.5 billion—almost double the previous replenishment of $2.4 billion in 1971.

The U.S. commitment to the fourth replenishment was, as some congressmen complained, a sizable increase from America's 1971 assessment of $960 million—half of which has still not been appropriated. But the increased figure does represent a marked decrease in the U.S. share of the total. After vigorous negotiation by the administration, our portion was reduced from the previous 40 per cent to one-third, while the proportion raised from other donors, particularly West Germany and Japan, has been increased.

Even at the best of times, withdrawal of U.S. support would be devastating. In a period of world economic turbulence it is catastrophic. Certain we have been hit by the energy crisis, but not nearly so hard as other countries, both rich and poor. The dollar is rising to new strengths, while West Germany and Japan—now faced with doubled and tripled IDA assessments—are floundering.

And the very poorest countries in Africa and Asia, which stand to lose most anyway as prices of badly needed imports soar out of reach, will see prospects of any real progress this century virtually disappear if IDA aid is cut off. In recent years half of IDA's loans have gone for development of agriculture and education—the basic priorities—yet even with this help mass famine was only narrowly averted in the poorest regions of Africa last year.

The hand that Congress helped to hold out in 1960 should not be pulled back now for narrowly selfish reasons. The Senate should act quickly to approve the $1.5 billion and the House should reconsider its vote. World faith in American ideals and our own pride in American humaneness and responsibility demand no less.

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[From the Wall Street Journal, Jan. 1, 1974]

### SADDENING "VICTORY"

These columns have scarcely been special friends of foreign aid, yet when the House defeated World Bank funds Wednesday our reaction was one of sadness.

We're not at all sure underdeveloped countries will be hurt if they fail to receive the aid. By its very nature foreign aid tends to be given to governments, which means that in recipient nations it entrenches government bureaucracies. Bureaucracies obviously mean centralized and therefore often mistaken management, and tend to hamper the entrepreneurial spirit that does promote economic development.

Perhaps the House vote is a victory for this point of view, but only in the narrowest sense. The House shows no signs—least of all in its domestic economic policies—of recognizing the lesson of foreign aid. Rather, its vote reflects a general disillusionment with the U.S. world role, a disinterest in handouts to people who cannot vote in U.S. congressional elections, and a disintegration of leadership both on Capitol Hill and in the White House.

Those who have supported foreign aid over the years have at least done so from a viewpoint that was, however mistaken in some of its particulars, a broad and long-range one. For our part, we would be more than willing to play along with all the frivolities of foreign aid if that is the price of maintaining American world leadership. So we are far from elated by a House vote that represents not the correction of mistaken particulars of a broad view, but a retreat into short-run and parochial concerns.

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[From the Washington Post, Jan. 28, 1974]

### The Poor of the Earth

(By James Reston)

WASHINGTON, January 24.—One of the bitter tragedies of the present world crisis is that the heaviest blows are falling, as usual, on the poor of the earth.

For the rich, inflation, the energy shortage and rising food prices and unemployment are an irritation and at worst an inconvenience, but for the poor they are a disaster.

The point is obvious, but it seems to have been missed by the House of Representatives in its recent vote to kill President Nixon's bill to aid the world's poorest countries through the World Bank's International Development Association.

This vote tells a lot about the present mood of the Congress and the state of Presidential and Democratic leadership. Though the danger of mass starvation in sub-Sahara Africa and in India and Bangladesh is now alarming, the House voted 248–155 against the relief sought by the Administration, with 108 Democrats voting for it and 118 against it, and 130 Republicans voting against the President and only 47 Republicans supporting him.

Now we are beginning to see the consequences of Vietnam, Watergate, and the turmoil of the Middle East. The House is surly and frustrated, disillusioned with foreign aid and foreign adventures, and hostile to a President who impounds funds for the poor at home while seeking more aid for countries overseas.

President Nixon anticipated this mood but he underestimated it. By diligent private negotiating over the last year, and with the help of Robert McNamara, the head of the World Bank, he managed to persuade the other industrial nations of the world to increase their "soft loans" to the poorest countries from 40 per cent to 66⅔ per cent, allowing the United States to reduce its contribution to one-third from 40 per cent.

Even at 40 per cent of the total funds contributed by the rich nations through I.D.A. to the poor nations, the United States was putting up less of its gross national product than fourteen of the sixteen most prosperous countries.

Nevertheless, though inflation has reduced the value of I.D.A.'s soft loans by almost 30 per cent in the last few years, and though starvation is an immediate problem in most of the countries concerned, the vote for relief in the House wasn't even close.

If this were an isolated case of nationalism, it might be passed over as a regrettable and correctable offense; but the tide of nationalism is running strong in the world again, and there is little doubt that the vote in the House will probably be popular with the voters in this country.

Wherever you look in the advanced countries today, you will find leaders arguing for a new world order and pointing to the monetary crisis and the energy crisis as evidence that this is an increasingly interdependent world, requiring mutual aid and cooperation.

But the same time, many of these same nations turn protectionist whenever they get in trouble. Europe is trying to form a more cooperative union, but when the Netherlands irritates the Arab oil-producers, the Dutch are left to fend for themselves.

Likewise, though Europe is engaged in the most delicate monetary negotiations in order to bring stability to its currencies, the French float and devalue the franc on their own. Now it is the House of Representatives that recognizes the danger of world hunger but votes against relief.

The leadership on both sides of the aisle was appalling during the debate. A White House preoccupied with its personal and legal problems gave its bill very little support—in fact, the President's name was seldom mentioned by his own House leaders—and the Democrats were just as bad.

Representative George Mahon of Texas, who is normally a sensible man except in election years, warned the House that he wouldn't be for appropriating the money requested by the President even if the House authorized it, and Representative Wayne Hays, Ohio's gift to diplomacy, was worse.

He argued that money voted for the poor countries would merely be used to pay for higher gas and oil prices, and thus would probably wind up in the pockets of the oil shieks. This was like saying that if you're gouged by the rich, you are justified in turning round and kicking the poor.

The situation is particularly awkward now, not only because the World Bank will run out of "soft-loan" funds at the end of June but because no nation is obliged to meet its commitments to I.D.A. if other nations refuse to meet their quotas.

State Secretary Kissinger and Treasury Secretary Shultz reacted strongly against the House vote, but the following day, Mr. Kissinger was condemned on Capitol Hill for doing so.

Accordingly, they are now turning to the Senate for a more careful reappraisal of the problem. Their aim is to get the decision reversed or at least modified before Feb. 11, when the world oil producers and consumers meet here to discuss cooperative action on the cost and distribution of fuel.

"How can we expect cooperation on oil if we will not cooperate to relieve hunger?" Mr. Kissinger asks. But Congress has its mind on other things and so has the President.

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## VIETNAM: A STRANGE KIND OF PEACE

### HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. CRANE. Mr. Speaker, on January 4, Vietnamese President Nguyen Van Thieu called upon his troops to resist the continuing encroachments of the Viet Cong and declared that, in fact, the Vietnam war had begun once again.

At that time, President Thieu declared that:

> We should not allow the Communists a situation in which their security is guaranteed now in their zone so that they can launch harassing attacks against us. We should carry on these activities not only on our zone but also in the areas where their army is now stationed. As far as the armed forces are concerned, I can tell you the war has restarted.

The cease-fire agreement which has been hailed by so many in our own country and elsewhere in the world has been made meaningless by the Communists' continuing intent to use the peace agreements as a smokescreen under which they can continue their drive to take over South Vietnam.

Since the cease-fire went into effect, Communist terrorist acts against the people of South Vietnam are estimated at 8,758 incidents as of November 1, 1973 an average of 973 cases per month or 32 cases a day. Writing in the New York Times of November 21, 1973, James M. Markham noted that their attacks were totally indiscriminate:

> Viet Cong units have almost regularly been dropping mortars on several district capitals, occasionally opening fire on farmers and other civilians in government held areas, and lately attacking village and hamlet officials.

By any standard it is a strange kind of "peace" which has been inflicted upon Vietnam.

Discussing this "peace" in the January–February 1974 issue of the New Guard, Roy Colby points out that:

> The firing did not cease nor did other hostile acts. And the North Vietnamese never intended them to, thanks to their ideological interpretation of the terms "peace" and "cease-fire."

To the Communists, Mr. Colby notes:

> A "cease-fire" is unilateral in effect, i.e., the enemies of the communists are supposed to hold their fire while the Communists shoot at them . . . Since, however, the South Vietnamese refused to go along with this nonsense and insisted on responding to Communist attacks, the war went on, but at a lower degree of intensity.

Mr. Colby concludes that:

> The Vietnam war never stopped; it merely slowed down. Anyone familiar with communist tactics can predict confidently the war will reach major proportions again, just as soon as the communists have established overwhelming superiority and are dead sure the U.S. will not intervene again.

Those who have hailed this "peace" agreement have much to answer for, as do those who tell us that Communist goals in the world have now changed and that an era of détente lies ahead. Unfortunately, the facts seem to tell a far different story.

I wish to share Roy Colby's article, "The Phantom Vietnam Peace," with my colleagues and insert it into the RECORD at this time:

### The Phantom Vietnam Peace

(By Roy Colby)

In late 1973, shortly before the Mideast hostilities and the Agnew resignation with its repercussions monopolized newspaper copy, a curious UPI dispatch from Saigon reminded readers of the forgotten war in Vietnam. The "forgotten war", I say, because so many people want to put the whole business of Southeast Asia out of mind, surfeited for various reasons, and possibly holding to the theory (in the subconscious, of course) that if you don't think about something distasteful, any potential dangers it may have will go away. An ostrich-sticking-its-head-in-the-sand type of mentality, you might say.

The dispatch strikes political semantics as being curious on account of its headlines and lead sentence. Viet "peace" edges nearer to warfare it was titled, and the initial sentence, properly summarizing the story following, read: "The phantom Vietnam peace edged closer to admitted war Friday, both on the battlefields and in the Saigon conference rooms."

In fair consideration, the headline composer should be congratulated for putting the word "peace" in quotes, together with the UPI correspondent for modifying the same word with the adjective "phantom". Thus is suggested a vague awareness on their part that the kind of peace existing in Vietnam since last January is not what we expected, although we certainly might have, if we understood communist semantics. What we got last January at the Paris peace table was a communist-type peace, a tactical device to assure the withdrawal of U.S. troops in exchange for the promise of a cease-fire and the cessation of other hostilities.

Well, the firing did not cease nor did the other hostile acts. And the North Vietnamese never intended them to, thanks to their ideological (Communese) interpretation of the terms "peace" and "cease-fire". Incidentally, in Communese a "cease-fire" is unilateral in effect, i.e, the enemies of the communists are supposed to hold their fire while the communists shoot at them. (The Soviets are trying to foist the same unilateral principal onto us at the SALT talks with respect to "strategic arms limitation", meaning we disarm while they increase their military strength) Since, however, the South Vietnamese refused to go along with this nonsense and insisted on responding to communist attacks, the war went on, but at a lower degree of intensity.

In a word, the Vietnam war never stopped; it merely slowed down. Anyone familiar with communist tactics can predict confidently the war will reach major proportions again just as soon as the communists have established overwhelming superiority and are dead sure the U.S. will not intervene again.

Isn't it indeed curious that Western newsmen have never seemed to realize the North Vietnamese war to "liberate" (i.e., conquer) the South hasn't ended, despite the solemn agreements reached at Paris? That the "liberators" from the North merely shifted the killing and terrorism into a lower gear? Can this be because those in the media assume, as so many other Americans do, that communists mean the same thing we do when we come to an "agreement" with them?

Wouldn't you think the Kremlinologists in our State Department would include semantical experts skilled in rendering the true meaning of communist words? Incidentally, is there *anyone* in the State Department versed in the Communese lingo? Does Henry Kissinger, the new Secretary of State, understand it? If not, why not? Haven't decades of disappointments, frustrations and misunderstandings following so-called agreements with communists states convinced the custodians of U.S. foreign policy that the Reds have an international language capable of conveying ideological import to *all* terms of international law and diplomacy? Don't American policy makers recognize after all these years that even the concept of agreement is different in Communese, apparently signifying a meeting of minds but actually being a means of gaining strength?

Don't they know by now what "detente" and "peaceful coexistence" mean to the Communists? "Negotiations?" "Strategic arms limitation?" "Peace?" "Peaceful settlement?" "Treaty?" Aggression?" "Increased and reduced international tensions?"

Well, they better find out soon and tell foreign correspondents who confuse a communist-type peace with the cessation of hostilities. Then maybe the UPI dispatch writer will see how foolish it is to write, "The phantom Vietnam peace edged closer to war" when there never was peace in our sense of the word because the war never really stopped.

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## RESPECT FOR CONSCIENCE

### HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. WALDIE. Mr. Speaker, Tuesday, January 22, marked the first anniversary of the historic Supreme Court decision on the right of a woman to choose whether or not she will have an abortion.

It is obvious that the question of abortion is still a matter of controversy. Conscientious persons of good will and intellect line up on either side of the question. Emotions and spiritual values—unmeasurable yet real—become involved.

As I believe the law must protect the free choice of the woman who in good conscience opts for an abortion, so I believe the law must protect the person who in conscience objects to participation in such a procedure.

At this time I am introducing a bill to provide that respect for an individual's right not to participate in abortions contrary to that individual's conscience be a requirement for hospital eligibility for Federal financial assistance.

Mr. Speaker, the text of the bill follows:

H.R. 12375

A bill to provide that respect for an individual's right not to participate in abortions contrary to that individual's conscience be a requirement for hospital eligibility for Federal financial assistance

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Right of Conscience in Abortion Procedures Act".

Sec. 2. Eligibility of each hospital, clinic, and other medical institution to apply for Federal financial assistance shall also be contingent upon certification satisfactory to the Federal agency administering the program under which such assistance is made available that such hospital, clinic, or institution has afforded all employees who may be directly involved in the procedure of abortion or the disposition of any aborted fetus the right and opportunity to sign a statement of conscientious objection to participation in such procedure or disposition, and that such statements are honored in full without discrimination in regard to the terms of employment or opportunities for promotion and advancement. Such eligibility shall also be contingent upon the keeping of all such statements on file by such hospital, clinic, or institution, and the availability of such file for inspection by such Federal agency.

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## M. D. "PETE" GILMER

### HON. WALTER FLOWERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. FLOWERS. Mr. Speaker, in recent days the people of Alabama, and particularly the Seventh District which I represent, were saddened by the untimely death of a dedicated public servant, M. D. "Pete" Gilmer.

Mr. Gilmer was just beginning his second year as Alabama Agriculture Commissioner when he passed away. He first joined the Agriculture and Industries Department in 1935 as a food and drug inspector and rose to division head in 10 years. He served as assistant agriculture commissioner under three different commissioners and was himself appointed commissioner in November, 1972, to complete the term of late Commissioner Richard Beard.

In addition to his service in the Agriculture and Industries Department, Gilmer was president of the American Dairy Association of Alabama for 8 years and served for 6 years in the Alabama House of Representatives from Dallas County.

Pete Gilmer was a man whose entire life was devoted to the people of Alabama. He will be long remembered by those he served so well.

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## HONOLULU KIWANIS CLUB PRESENTS A WORTHY EXAMPLE IN ENERGY CRISIS

### HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. MATSUNAGA. Mr. Speaker, the Kiwanis Club of Honolulu, Hawaii, recently set a patriotic example for other Americans to follow by adopting a resolution calling for energy conservation to alleviate the suffering of their fellow citizens "in areas dependent upon the use of oil for electricity generation."

Without debating the cause of the current energy crisis, the Kiwanis Club noted that energy available from sources outside the United States may be only sporadically available for some time. Members of the club pledged to drive at or below the speed of 50 miles per hour, turn off all lights not in use and cut down on nonessential lighting, and to support all other energy conservation programs. They further resolved to support and encourage research and development of new sources of American energy.

With the thought that other Americans will find the resolution adopted by the Kiwanis Club of Honolulu as heartening and inspiring as I did, I am submitting the text of the resolution for inclusion in today's Congressional Record:

Resolution of the Kiwanis Club of Honolulu

Whereas: There presently exists a worldwide energy crisis which affects all people in all places, and

Whereas: Energy normally available from sources outside of the territories and possessions of the United States may, for some time, be available sporadically;

Whereas: We encourage research and development of new and additional sources of American energy;

Whereas: The people of the United States particularly in areas of extreme cold and, in areas dependent upon the use of oil for electricity generation, will suffer as a result of shortages; and

Whereas: We, of the City of Honolulu, State of Hawaii, can and must cooperate in all manner for the benefit of those who will suffer, and to our communities and nation. Now, therefore, be it

*Resolved;* That each and every one of us as Kiwanians and citizens pledge to cooperate in every way, and more specifically, as follows:

1. Drive at or below the speed of 50 miles per hour, and
2. Conserve on all lighting requirements and turn off all lights not in use, and to minimize all non-essential lighting such as Christmas lights, flood lights not needed for security, etc., and
3. To support all other requested energy conservation programs, and be it further

*Resolved*: That the Kiwanis Club of Honolulu requests all citizens of the State to similarly cooperate in the united efforts to solve the energy crisis.

## REMINDERS: LOOKING AT THE MIDDLE EAST

### HON. MARTHA W. GRIFFITHS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mrs. GRIFFITHS. Mr. Speaker, at this time, I would like to insert in the Record the January 25 editorial and column of Philip Slomovitz, editor and publisher of the Jewish News in Michigan. The editorial recalls the position of the Soviet Union toward Jewish statehood as expressed by Andrei Gromyko in 1947 before the United Nations, while the commentary recalls the longstanding support of American people for Israel.

The editorial follows:

Purely Commentary

(By Philip Slomovitz)

Uninformed propagandists often question the justification of American friendship for Israel that has developed in substantial economic and military assistance to the Jewish state. It becomes necessary, from time to time, to recall the background of this traditional amity.

For many years, the American Palestine Committee drew much of its strength from the U.S. Congress. For some time, Senators Arthur H. Vandenberg and Robert F. Wagner were co-chairmen of the committee.

On the 25th anniversary of the Balfour Declaration, on Nov. 2, 1942, 68 members of the Senate and 194 members of the House of Representatives, issued a statement which was entitled "The Common Purpose of Civilized Mankind: A Traditional American Policy Confirmed."

The signers of that statement included Michigan's distinguished Senator Vandenberg. In the list of Congressmen whose names were among the signers of that statement was the late John D. Dingell, father of the present Congressman John D. Dingell Jr. The elder Rep. Dingell was one of the dedicated friends of the Zionist cause.

Other Michigan congressmen who signed the 1942 statement were Fred Bradley, Albert J. Engel, Frank E. Hook, Bartel J. Jonkman, Rudolph G. Tenerowicz and Roy O. Woodruff.

That historic statement by the members of the 77th Congress declared:

"Twenty-five years ago the British Government issued the Balfour Declaration pledging itself to facilitate the establishment of a National Home for the Jewish people in Palestine. The Declaration was published to the world with the approval of the other Powers allied with Great Britain in the World War, and with the encouragement and support of the Government of the United States. It was written into the Peace Treaty with the aid and approval of President Wilson who publicly expressed his confidence that the purposes of the Declaration would be fulfilled. A few years later, the House of Representatives and the Senate of the United States, by unanimous vote, adopted a joint resolution favoring the establishing of the Jewish National Home, and on September 21, 1922, the resolution was duly signed by President Harding. Since then, this policy has been reaffirmed by every succeeding Administration, including the present. It has thus become the declared and traditional policy of the United States to favor the restoration of the Jewish Home.

"The Balfour Declaration was justly hailed throughout the world as an act of historic reparation and as a charter of freedom for the Jewish people. It was designed to open the gates of Palestine to homeless and harassed multitudes and to pave the way for the establishment of a Jewish Commonwealth.

"The reasons which 25 years ago, led the American people and the government of the United States to favor the cause of Jewish national restoration in Palestine are still valid today. In fact, the case for a Jewish homeland is overwhelmingly stronger and the need more urgent now than ever before. In Palestine the resettlement has advanced from the status of a hopeful experiment to that of a heartening reality, while in Europe the position of the Jews has deteriorated to an appalling degree. Millions of uprooted and homeless Jews will strive to reconstruct their lives anew in their ancestral home when the hour of deliverance will come.

"We, therefore, take this occasion, the 25th anniversary of the issuance of the Balfour Declaration, to record our continued interest in and support of the purposes and principles which it embodies. We wish to send a message of hope and cheer to those in Palestine who are confronting the common enemy with courage and fortitude and are contributing unstintingly of their manpower and effort to the democratic cause.

"Faced as we are by the fact that the Nazi government, in its Jewish policy, is attempting to exterminate a whole people, we declare that, when the war is over, it shall be the common purpose of civilized mankind to right this cruel wrong insofar as may be in our power, and, above all, to enable large numbers of the survivors to reconstruct their lives in Palestine where the Jewish people may once more assume a position of dignity and equality among the peoples of the earth.

"Our government may be assured that in continuing the traditional American policy in favor of so just a cause, it can rely upon our individual support and the approbation of the American people."

This declaration of "The Common Purpose of Civilized Mankind" remains what the second portion of its title asserted: "A Traditional American Policy."

Congress has never deviated from this policy. All of our Presidents from Wilson onward have endorsed that policy. The overwhelming majority of our Congress adheres to this program. It is reaffirmed as part of basic American interests.

Would that all the critics could read the 1942 statement in this period of crisis. It is as timely today, as a reaffirmation of Zionist libertarianism as it was more than 30 years ago.

Gromyko: 1947 Compassion, 1974 Animosity

Why has the Soviet Union become antagonistic to Zionism and to Israel? Second to the United States to have recognized Jewish statehood in Israel, May 14, 1948, the Russian representatives at the United Nations had taken a positive stand in support of Jewish historic aspirations. The Soviet representatives supported the Jewish position, they opposed efforts by antagonists to Zionism to create a trusteeship for Palestine as means of creating obstacles to Jewish statehood.

In the course of the debates in the United Nations General Assembly, May 14, 1947, one of the most powerful speeches for Jewish statehood was delivered by the Soviet delegate, Andrei Gromyko. In this unforgettable address, Gromyko declared:

"During the last war Jewish people underwent exceptional sorrow and suffering. Without any exaggerations this sorrow and suffering the indescribable. It is difficult to express them in dry statistics on the Jewish victims of the fascist aggressors. The Jews in territories where the Hitlerites held sway were subject to almost complete physical annihilation. The total number of members of the Jewish population who perished at the hands of the Nazi executioners is estimated at approximately six million. Only about a million and a half Jews in Western Europe survived the war.

"But these figures, although they give an idea of the number of victims of the fascist aggressors among the Jewish people, give no idea of the difficulties in which large numbers of Jewish people found themselves after the war. Large numbers of the surviving Jews in Europe were deprived of their countries, their homes, and their means of existence. Hundreds of thousands of Jews are wandering about in various countries of Europe in search of means of existence and in search of shelter.

"It may well be asked if the United Nations, in view of the difficult situation of hundreds of thousands of the surviving Jewish population, can fail to show an interest in the situation of these people, torn away from their countries and their homes. The United Nations cannot and must not regard this situation with indifference, since ths would be incompatible with the high principles proclaimed in its charter, which provide for the defense of human rights irrespective of race, religion or sex. The time has come to help these people, not by words, but by deeds. It is essential to show concern for the urgent needs of a people which has undergone such great suffering as a result of the war brought about by Hitlerite Germany. This is the duty of the United Nations.

"The fact that no Western European state has been able to ensure the defense of the elementary rights of the Jewish people, and to safe-guard it against the violence of the Fascist executioners, explains the aspirations of the Jews to establish their own state. It would be unjust not to take this into consideration and to deny the right of the Jewish people to realize this aspiration. . . .

"In analyzing the various plans for the future of Palestine, it is essential . . . to bear in mind the indisputable fact that the population of Palestine consists of two peoples, the Arabs and the Jews. Both have historical roots in Palestine . . .

"All this leads the Soviet delegation to the conclusion that legitimate interests of both the Jewish and Arab populations can be duly safe-guarded only through the establishment of an independent dual, democratic, homogeneous Arab-Jewish State. . . .

"If this plan proved impossible to implement, in view of the deterioration in the relations between Jews and Arabs . . . it would be necessary to consider the second plan which, like the first, has its supporters in Palestine, and which provides for the partition of Palestine into two independent autonomous states, one Jewish and one Arab."

Why the change of heart? Why the present animosity and the constant threat to Israel by this very same Andrei Gromyko? Why his warnings to Israel at the opening meeting of the Geneva conference, Dec. 21, emphasizing his country's pro-Arab role?

Perhaps this will stay on for a while as one of the mysteries of the diplomatic war affecting Israel's status and endangering the Jewish state's future. Perhaps Gromyko can explain his attitude. More urgent is the hope that he, on behalf of his anti-Israel government, will revert to a policy of humanism vis-vis Israel. If the USSR is to be a party to peace negotiations, what other role can his government play if there is to be realism and international justice in dealing with the Middle East, the Arabs and Israel?

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## CONGRESSIONAL COUNTDOWN ON CONTROLS

### HON. VICTOR V. VEYSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. VEYSEY. Mr. Speaker, for 2½ years the American people and our Government have wrestled with Federal controls on wages and prices. We have gone through contortions attempting to apply just the right measure of control, and we are now suffering serious shortages as a result.

Certainly, there was a sound argument for the original application of controls and it is possible that we are better off today for having made that decision. But I am afraid that any advantage we might have gained by temporary checks on our economy is rapidly deteriorating.

A year ago, the Members of this body engaged in heated debate over whether or not we should extend Presidential authority to impose wage and price controls to the end of April of 1974. We decided to pass that legislation, on the premise that controls would be gradually phased out and on the theory that the administration should have a flexible hand in managing that phase-out.

Today, I am not certain that the executive judgment has been wise, and further, I am concerned that we must now take forceful action to bring an orderly end to controls as soon as possible.

In my congressional district the economic stress created by inequitable and ill advised controls has been severe. Cattlemen suffered an economic whiplash from the meat price freeze that put many out of business for good. When that freeze was limited to beef alone the distortion in the economies of beef production intensified as cattlemen began holding beef off the market. Cattlemen reduced the domestic supply of beef, and finally, when the freeze was lifted, the build up of supply smothered the market and live beef prices plummeted.

This same kind of economic distortion, along with the accompanying shortages and crises, has caused turmoil for farmers in several other cases.

With prices frozen, supplies of fertilizers and raw materials began going overseas. Suddenly, we had a fertilizer shortage, then a crisis, and for a while we were flirting with a potentially serious shortage of food because of it.

Right now, baling wire is almost impossible to find and the black market price is five times normal. Steel companies are producing goods where they can get more markup because of the freeze on steel prices.

All companies are going into production of goods with the highest markup potential.

Furthermore, much of the price and supply trouble we now face with the oil crisis can be traced to excessive controls on the free-market economy.

The tendency of industry to export and turn to higher markup goods is especially painful to the plastic industry. Polyvinyls are virtually disappearing as petrochemicals materials are going out of the country.

In my district, a frightening byproduct of this development has suddenly emerged—a potential shortage in hospitals of oxygen equipment. The Hudson Oxygen Co., in Rancho, Calif., which depends on plastic, tells me that the plastic supply will be gone by March 31. This raises the ugly specter of loss of life for want of adequate oxygen equipment.

Mr. Speaker, I submit that the time for experimentation with price and wage controls is gone. Economic freezes have outlived their usefulness. I urge the Congress to move quickly to bring an end to these controls and I appeal to the administration to make that transition as soon as possible. The entire Nation will gain from such action.

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## LIFE CYCLE

## HON. BURT L. TALCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. TALCOTT. Mr. Speaker, mankind has a responsibility to preserve the ecosystem which supports life on our planet.

In this country Americans are constantly working to balance economic necessities against their environmental preservation.

Most of this Nation's industry is dependent upon the smooth functioning of the "life cycle" which provides their raw materials. If the cycle were slowed, damaged, or altered, the gears of our economic system would grind to a halt. It is not happenstance that some of our most knowledgeable and conscientious conservationists are found in the business world.

Together with many of the conservation minded in the fishing industry from my district I have been working for some time to alert this body to events of unconscionable environmental destruction which threaten to destroy one segment of America's economy and its resources. The Pacific coast is visited regularly by huge fleets of fishing vessels from Japan and Russia. Miles, sometimes 10 miles, of nets are lowered from these boats as they travel over our Continental Shelf. These weighted nets sink to the ocean floor and trap all in their path. The catch includes everything from the smallest, not-yet-mature, fish to fish eggs which cannot escape these very fine mesh nets.

This technique shows absolutely no concern for future needs and threatens to destroy numerous varieties of fish whose eggs are being wantonly harvested. American fishermen, brought up in the commonsense school of conservation, are worried, frustrated, and angry about this irresponsible activity. They recognize that the consequences of this type of prolonged fishing devastation will be disastrous for their industry, for our environment, for our country, and for mankind generally.

I believe that the United States needs full management control over our coastal fishery resources for conservation purposes. Therefore, I am proposing a three-species concept of control:

### I. COASTAL SPECIES

"Coastal nations shall have the ownership of all fish and shellfish resources which live on or above or are dependent upon the continental shelf and slope adjacent to the coastal nation, and the waters above the shelf and slope, for the reproduction and survival during the major part of their lives.

"When stocks of fish are underharvested by the coastal nation to which they belong, provisions shall be made for harvesting by other nations subject to licensing and control by the coastal nation.

"The coastal nation must carry out such conservation measures as will insure a sustained yield.

"No coastal nation may refuse a license to fish by foreign nations on underfished species. A coastal nation must carry out such research as is necessary to determine the size of stocks and allowable catch to be taken from such stocks. Wise use, sound management practices would be the criteria for the retention of ownership privileges.

### II. ANADROMOUS SPECIES

"All nations would recognize ownership by the home nation of all stocks of anadromous fish—fish originating in the inland waters of the home nation. No nation other than the home nation could fish for such anadromous fish anywhere in their high seas or inshore habitat unless granted specific permission to do so by agreement with the home nation. Such species would include: all salmon, all trout and char, shad, and sturgeon.

### III. PELAGIC SPECIES

"Pelagic species such as the tunas, sauries, and so forth; not dependent on the waters above the continental shelf of a particular nation for survival during the majority of their life could be fished by all nations without the restriction of coastal national boundaries or territorial seas extending beyond 12 miles except as agreed upon by treaty by all nations concerned in the location, harvest, and conservation of such stocks. Any nation whose coast borders the distribution of such pelagic stocks could be included in any agreement for conservation of these species, in addition to the nations harvesting these stocks."

The Federal Government has a responsibility to protect the interests of American fishermen whose resources are being exploited by marauding nations. These resources are no less valuable, or is their environmental balance any less delicate and worthy of protection, than America's timberlands, mountains, and prairies. Our perspective has to be trained to recognize that the invisible ecosystem—under the oceans—is as vulnerable to irresponsible human manipulation as the visible ecosystem and just as worthy of protection.

Fisheries limitations, straightening of base lines, research, negotiations, even Federal support for our fishing and merchant marine may help, but protection of the fish resources of our planet is essential and urgent.

I urge every Member of the Congress and every conservationist to join me in urging the adoption of the three-species concept for conservation of our fish resources.

## CONCEPT OF SURGICAL DAY CARE SUCCESSFUL

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## HON. TORBERT H. MACDONALD

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. MACDONALD. Mr. Speaker, I want to call to the attention of my colleagues an article which appeared in the Wall Street Journal on January 4, 1974. This article discusses the success of the concept of surgical day care at Melrose-Wakefield Hospital in Melrose, Mass. With the mounting concern over the expense of proper medical care, this procedure seems to present an especially constructive approach which is apparently working very well at Melrose-Wakefield Hospital and at other hospitals around the country.

I include the article at this point in the RECORD for the perusal and study of my colleagues:

[From the Wall Street Journal, Jan. 4, 1974]

### WHEN SOME PEOPLE TELL ABOUT OPERATION, THE STORY IS SHORT

(By Liz Roman Gallese)

MELROSE, MASS.—Melrose-Wakefield Hospital faced a problem. Despite a $2.5 million expansion, its 279 beds were nearly always filled, and doctors in the community had surgical patients lined up weeks in advance waiting to be admitted.

"It came down to a choice between expanding again or detouring patients elsewhere. Neither choice was acceptable," says William L. Nellis, the hospital's general director.

But Melrose-Wakefield did find an acceptable choice. It set up a unit to offer quick in-and-out service, without the usual overnight hospital stay, for patients requiring minor surgery.

That was in December 1967, and the hospital's situation has changed dramatically as a result. It admitted 12,126 patients in the year ended Sept. 30, 1972, up from 7,933 in 1967, and even though it hasn't added a single new bed, surgical patients are getting admitted almost immediately now. Moreover, cost savings and productivity gains, attributable to surgical day care, have helped Melrose-Wakefield hold down costs. Room rates held steady from 1967 to 1970 and have risen 22% in the past three years. The hospital "would have had a far greater increase had it not been for the unit," Mr. Nellis says.

Surgical day care—sometimes called verticare or ambulatory surgery—has been around since 1961, when Butterworth Hospital of Grand Rapids, Mich., pioneered the concept. Over the past few years, the units have spread rapidly. In Massachusetts, 21 hospitals have added them in the past five years. A survey by the American Hospital Association last year turned up 1,427 of the units in 7,000 U.S. hospitals.

#### MODELS OF EFFICIENCY

"It's catching on because it extends service relatively inexpensively. And under proper supervision, it provides quite good care," says John Alexander McMahon, president of the hospital association.

The unit also sharply increases a hospital's return on investment in its costly operating-room facilities. At Melrose-Wakefield, for example, the seven operating rooms and their staffs formerly stood idle most afternoons because all the beds were filled for the night. Now they're busy all day long.

The Melrose-Wakefield unit handles five to 10 surgical patients daily and seems a model of efficiency. "The entire surgical procedure is put into a capsule," says Dr. P. Anthony Penta, chief of surgery. Attendants usher patients through the admitting, operating and recovery procedures in an average of four to six hours.

Patients are selected carefully and must be in relatively good health. Anyone who is old, infirm, obese or diabetic is rejected because of the threat of complications. The operations must be relatively quick and simple ones, confined to small areas of the body, involving minimal risks of heavy bleeding or postoperative complications. These operations include biopsies (taking tissue samples for testing), removals of cysts and other growths, surgery to remove teeth and repair diseased gums, skin grafts, face lifts, hair transplants, vasectomies and therapeutic abortions.

#### INSURERS PRAISE PLANS

Patients are watched closely immediately after surgery. Signs of lingering dizziness or nausea or other complications result in an overnight stay. Nurses walk patients down the long corridor leading out of the hospital, instead of using the usual wheelchairs. "If they can walk that distance, we feel they've recovered," says Louise A. Hickey, director of nurses. Patients aren't allowed to drive themselves home afterwards.

The biggest attraction to patients is the cost. Melrose-Wakefield figures its patients save an average of $133. Routine surgery requiring a night in the hospital before the operation and another after costs $158 at Melrose-Wakefield. Use of the day-care unit costs $25.

The move to one-day surgical centers is getting strong impetus from insurers that pick up most of the tab for hospital stays today. Blue Cross of Massachusetts Inc. is trying to persuade each of the state's 131 hospitals to open units. "Rather than just being a horn of plenty, we're saying, 'Let's rationalize the system,'" says James Lathem, a Massachusetts Blue Cross manager.

Currently, 63 of the 74 U.S. Blue Cross firms have plans that pay the full cost of outpatient care, including surgery, up from 42 eight years ago. "We can hardly say anything against it," says Walter J. McNerney, president of the Blue Cross Association in Chicago. "It's good from all points of view. We save money, and the patients get home faster."

Another major attraction is the amount of time and worry one-day surgery seems to save patients. "I was praying I wouldn't have to stay overnight," says Gayle Means, a third-grade teacher who went to the Melrose-Wakefield unit recently for some tests. "It would have meant unnecessary days off from work."

"It's great," says Suzanne Knight, who had a cyst removed recently at Bon Secours Hospital in Methuen, Mass. "I have two little ones. My mother could have taken them, but she would have had to put one on the bed and another on the couch and hope they wouldn't fall off."

Doctors say one-day surgery is especially good for children, as it reduces their anxieties to a minimum. Jill Means, a bouncy four-year-old with an infected growth under her tongue, for example, arrived at Melrose-Wakefield at 8 a.m. the other day clutching an armful of toys. After half an hour of blood tests and half an hour of waiting, she donned a surgical robe for a 25-minute operation. After two hours in the recovery room, she walked down the hall with her mother and went home for an afternoon of play. "It prevented the trauma of an overnight stay," says her mother. "Jill's first hospital experience was like a normal day for her."

Improved anesthetics are a major factor in the spread of one-day surgery units, doctors say. Today's fast-acting anesthetics, explains Dr. Penta, "wear off faster and leave fewer after-effects."

But not all hospitals are eager to open the units. Hospitals whose occupancy rates are below 80% are particularly resistant. (Melrose-Wakefield's 92% occupancy rate is one of the highest in Massachusetts.) Some of those hospitals see the quick surgical procedures as a serious threat to their much-needed room revenues. "There's no incentive for some of them," Mr. Latham says. "They don't come right out and say they won't, but they cite doctor resistance, lack of space, things like that."

Still, Mr. Latham, like others in the Blue Cross groups, sees wider acceptance of one-day surgery as inevitable because of the clamor against skyrocketing medical costs. Massachusetts General Hospital, whose unit is due to open March 1, expects to do 6,000 day operations annually for an average saving of $300 per patient, or $1.8 million annually. (The hospital, which is adding additional operating rooms for the day unit, also expects to free its crowded regular operating rooms for more time-consuming, sophisticated procedures, such as open-heart surgery.)

But "the real savings will be in closing hospitals that don't have to be there," adds Mr. Latham, who figures Massachusetts has twice the number of hospital beds it needs.

Both hospitals in Somerville, Mass., for instance, opened one-day surgery centers a few years ago. "It left so many beds vacant that one of them really should close," says Mr. Latham, who's currently trying to persuade one of the Somerville hospitals to do just that.

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## SMALL BUSINESS DISASTER ASSISTANCE

## HON. VERNON W. THOMSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. THOMSON of Wisconsin. Mr. Speaker, I am introducing legislation today intended to restructure the Federal disaster assistance program. Besides improving the coordination of emergency assistance to disaster victims, my bill would remove from the Small Business Administration its present responsibility to handle housing disaster loans while retaining its present responsibilities to assist small business disaster victims.

The SBA has been severely hampered in its assigned mission of assisting the Nation's small businesses by its extra load in handling disaster assistance. During the past 3 years, for example, more than 80 percent of the total loans made by the SBA were disaster loans, not business loans. And fully 90 percent of all the disaster loans it handled went for housing disasters, not small business disasters.

My bill would concentrate the Federal homeowner disaster program in HUD where the Federal Disaster Assistance Administration already shares this responsibility. This legislation would assign the SBA exclusive jurisdiction in handling disaster relief loans for small businesses.

The purposes of this bill have been endorsed by the National Federation of Independent Business, the largest single member business organization in the Nation. At this point in the RECORD, I would like to insert excerpts of an excellent statement on this particular problem made by Frederick L. Williford, director of government affairs of the NFIB:

### Excerpts of Statement by Frederick L. Williford

The National Federation of Independent Business firmly believes that the homeowner portion of SBA's disaster loan program has a serious detrimental effect upon its ability to serve its natural constituency—the small business community. Each year the Small Business Administration's responsibilities in this area have grown heavier and heavier, diluting its overall effectiveness in behalf of small business more and more.

Since its creation, SBA has been in the forefront of the Federal disaster relief effort. It has helped millions of Americans recover from the devastations of innumerable natural disasters—a much needed and highly commendable public service. But this is not the Agency's natural sphere of activity and the burden of its growing involvement in this area has fallen heavily upon the shoulders of the small business community.

It is fairly common knowledge that the Small Business Administration is the stepchild of the Federal Government. It is understaffed, underfunded and often ignored, yet it is charged with ministering to the needs of over 5½ million small and independent firms—more than 95% of the total business population of the United States.

A brief comparison of its resources with those of the Department of Agriculture will amply illustrate our point. SBA has a staff of approximately 4,750 concentrated in 86 offices located mostly in major metropolitan areas. Its fiscal 1974 budget is roughly $22 million. The USDA, on the other hand, has 116,200 employees dispersed in some 1,700 offices throughout the United States. These are supported by a $15 billion fiscal 1974 budget. With this the USDA looks after the needs of three million farmers, which is slightly more than half the nation's total small business population.

Of SBA's meager allotment of 4,750 employees approximately 500, or 10½ percent, are permanently assigned to its disaster relief programs. But this is only the tip of the iceberg. In the wake of a natural disaster, this number can swell enormously overnight as the Agency gears up to meet the emergency.

SBA's response to the devastation of Hurricane Agnes provides an excellent example of the magnitude of the burden placed on it by this program. In its aftermath almost every SBA office east of the Mississippi was at least partially committed to disaster relief. In addition, Agency personnel from Washington and loan specialists from as far away as California were temporarily assigned to the emergency operation.

This action created a manpower drain that lasted almost six months. During this period many of the Agency's normal small business activities were severely curtailed and some of its regular business loan programs, especially in the areas hardest hit by the Hurricane, came to a complete halt. It was well into the first half of 1973 before the Federation stopped receiving complaints about SBA service and cooperation from its members in Pennsylvania.

While the Federation realizes that the unfortunate victims of natural disasters must be comforted and assisted as quickly and as thoroughly as possible, it sees absolutely no reason why this has to be accomplished at the expense of the small business community. Under the circumstances cited above, it is quite possible for a small business loan applicant to see his life's work collapse while he is forced to sit and wait for the Agency to resume its normal small business functions.

A brief examination of the Small Business Administration's lending activities over the past three fiscal years will further emphasize our point.

From Fiscal 1971 through Fiscal 1973 SBA made 449,218 loans (these included 7(a), EOL, Displaced Business, 502 and Disaster). Out of this total, 81.4 percent were granted under its disaster authority, while only 13.1 percent were regular 7(a) business loans. In Fiscal 1973 alone, 215,001 disaster loans, representing 86.5 percent of its total, were made. Of these disaster loans only 22,301, or slightly more than 10 percent, went to businesses. The remainder, some 192,700 loans, were made to homeowners to repair or replace their dwellings.

It is obvious that SBA is expanding far too much of its meager resources in this area. Yet, its participation in and responsibility for disaster relief is increasing steadily. Currently, it is helping the victims of 26 disasters, all of which have occurred since the first of the year.

Clearly, the Small Business Administration cannot continue to serve two masters simultaneously. If something is not done to correct this situation, one of them—probably the small business community—will suffer.

SBA has long recognized that its ability to assist small business has been eroded by the growing burden of its disaster relief program. In July, 1972, Tom Kleppe, its very capable Administrator, did not try to mask his feelings when he stated before the Senate Banking Committee that he "would like to see the housing portion of the disaster program" transferred to HUD. NFIB and others who are aware of the burden this program has placed on the Agency agree with him wholeheartedly.

The employees of the Small Business Administration are very dedicated and competent. They have many years of first hand experience with small business problems and their fine record speaks for itself. Because of this, the Federation sees no logical reason or pressing need to give the small business portion of the disaster program to HUD. We are fearful that this action might create more problems than it would solve, and we are forced to agree with Administrator Kleppe's position that only the housing segment of the program should be transferred.

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## COMMONWEALTH POLAND IN EXILE SUPPORTS ISRAEL

## HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. PATTEN. Mr. Speaker, with the Mideast crisis coming to an end, we must never forget the great struggle Israel made for its very survival. Although the fighting has virtually stopped, Israel has lost many men and it will take a great deal of time and effort as well as support for Israel to regain its strength.

One group supporting this tiny, courageous country is the Commonwealth Poland. These worthy people have written of their support for Israel. The article follows:

### Declaration of Support

On behalf of the President of the Commonwealth Poland in Exile, Juliusz Sokolnicki, and on behalf of the Polish American Revival Movement Conference, we are issuing the following statement of support and concern for the State of Israel and the Jewish Nation.

1. As a continuation of the old Polish tradition for support the nations who fought for their independence, we wholeheartedly support the struggle of the Jewish people in Israel for their independence. We believe that the people of Israel have the right to their land as the Polish Prime Minister Beck once stated in the League of Nations before World War II.

2. We believe that the Western Powers, especially the United States of America, should not bow to the Soviet Russian pressure and should not agree to any "provisions" which would endanger the independent State of Israel.

3. We ask all people in the world, especially Polish people, to assist and support the Israeli cause as we did in the past before World War II when we trained in Polish Army Camps the armed units of the Polish Jewish Organization "IRGUN" and "HAGANAH", who later took part in their fight for independence in Palestina.

4. We ask Polish people abroad to send money to the Jewish organizations who are collecting money for Israel.

5. We ask the President of the United States, the members of the Congress and Western diplomats to prevent any Ylata-type "agreements" with the Soviets which would bring Israel and their people under foreign slavery as it happened to Poland and other East Central European countries.

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## BEWARE OF POLICE LAWLESSNESS

## HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. RANGEL. Mr. Speaker, one certain method of undermining public confidence in the police is police lawlessness. This lawlessness can take many forms: Corruption, brutality, disrespect for and abuse of civil liberties, callousness to due process requirements of the Constitution and racial discrimination.

I would like to share with my colleagues an article by Ira Glasser of the New York Civil Liberties Union which appeared in the Westsider. Mr. Glasser articulates the potential danger if we ignore police lawlessness.

The article follows:

### Increased Police Power Is a Crime

(By Ira Glasser)

Willie Hamilton is a reporter for the Amsterdam News. On September 5, 1973, he was at 125th Street and Eighth Avenue when he saw a police officer waving his gun at a man in the street. Another police officer was close behind. Hamilton approached the second officer, showed him his green press card and asked what was going on. In response, and without warning, Hamilton was arrested.

He was taken to the local precinct, where he saw the first officer beating the man at whom he had earlier pointed his gun. The man dropped to the floor under the impact of the blows, and then the officer came over to Hamilton. There in the police station Hamilton was hit with a billy club and cut on the chin. He was then charged with resisting the arrest of the unidentified man and obstructing governmental administration. Both those charges were later dismissed by the grand jury.

What happened to Hamilton was not an isolated incident. On March 24, 1973, Edward Rickards, Jr., a newsman for WINS radio, saw a policeman leading a street peddler by the arm. He approached the policeman and told him he thought the police should leave honest peddlers alone and concentrate instead on drug traffic within the police department. For voicing that opinion, Rickards was arrested and charged with obstructing governmental administration. The charge was later dismissed.

Last February, James Ganocy, a bookkeeper, saw an undercover policewoman in the

Times Square area whom he recognized from a prior newsstory. He saw a man approach and it appeared to him that the policewoman smiled at the man and said something to him. When the man turned towards her, another plainclothes officer moved in and arrested him. Ganocy approached the arrested man, gave him his business card and said he would be willing to testify in his behalf. For his pains, Ganocy was then arrested and charged with obstructing governmental administration. The charge was later dismissed.

Richard Black is a member of a radical political organization and a photographer for its official newspaper. This past November, he was at the New York City Criminal Court to witness proceedings in the cases of two fellow-members of his organization who had been arrested in their offices. (One of these arrests was for obstructing governmental administration by asking what the reason for the other arrest was!) Black took pictures of the arresting officer, who had been accused of assaulting the two, on the street outside the court. The officer later came out, shoved Black around, took the camera and arrested Black. Once inside, the officer removed the film from the camera and exposed it to the light in the presence of a superior officer. The superior officer did nothing. Later, Black was offered a deal: the charge against him would be dropped if he agreed not to press any claims against the police for taking his camera and ruining his film.

These sorts of incidents have occurred for years. People who question or criticize a police officer, or take photographs of or in any way comment upon police conduct are arrested and charged with obstruction to cover the illegal arrest. These incidents have been brought to the attention of the Police Commissioner, past and present, and notices have gone out designed to eliminate such harassment of citizens. But the harassment has continued, and now a lawsuit has been filed in federal court which seeks money damages from the offending police officers and an injunction prohibiting such illegal arrests in the future.

This issue provides a good example of illegitimate police power. People who fear crime, and especially violent crime, sometimes believe that if the police are given more power, the streets will be safer. But too much police power is itself a cause of unsafe streets. Any society that allows its police to act like bullies just because they have a badge and a gun sacrifices its liberties: Chile today is not a very safe place to be.

The ironic thing about excessive police power is that it rarely helps catch criminals or protect citizens. Who is safer because Willie Hamilton was arrested? Which of us is more secure from muggings because Richard Black had his camera taken away? Last week, the United States Supreme Court ruled that whenever a police officer stops an automobile for even the most minor traffic violations and takes its driver into custody, the driver and the car may be searched thoroughly (not just a pat-down frisk for weapons) for evidence of any other crime, without a warrant or any probable cause to believe that a crime has been committed. The law always permitted police to search without a warrant if the search was incidental to an arrest. Thus, if a man was arrested for weapons, money or any other evidence reasonably connected to the crime for which he was arrested. If in the course of such a search, evidence of an entirely different crime was also found, that was permissible because the original search was legal.

Now, however, a car can be stopped for going through a stop sign, and its driver arrested. Clearly, no search of the driver of the car is necessary to provide evidence of passing the stop sign. But under the recent 6–3 ruling of the high court, the police may thoroughly search both the driver and the car.

The rationale for this increase of police power is the rise of crime, particularly violent crime. But these expanded searches, done without a warrant and entirely within police discretion, bear no relation to serious crime. They will not turn up many kidnappings by searching people who go through stop signs. Cars that make illegal U-turns are not very likely to contain guns or dead bodies in their trunks. People going five miles above the speed limit are not often going to turn out to be major drug dealers with a hundred pounds of pure cocaine conveniently stashed in their glove compartment.

What will happen is that the police will exercise their new power according to their own biases. They will decide whom to search, and the decision will be based on looks. Blacks and other nonwhite minority groups will be searched more frequently; so will the young and those with a lot of hair. Dress and personal appearance will become an index of criminality, and the police will harass those whom they don't like. They will probably find a good deal of marijuana, but will we be safer from muggings because of that?

If in our fear of crime we remove the Constitutional limits upon police power, we will not make it easier for the police to protect us from violent crime. Quite the contrary, we will now need to fear not only the criminals, but also the police. That makes us less safe, as other societies have discovered.

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## A BILL TO INCREASE LUMP-SUM PAYMENT UNDER SOCIAL SECURITY

### HON. WILLIAM H. HUDNUT III

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. HUDNUT. Mr. Speaker, one of the finer provisions of the Social Security Act is the lump-sum death benefit paid to help defray the cost of the funeral. Unfortunately, the amount of the benefit has not increased with the rise in funeral expenses. A maximum of $255 was established for this benefit in 1954 and it remains at this figure today. Since 1954, average retirement income under social security has increased from $59.14 to $165.41 in September 1973, a 180-percent rise. The average increases for all benefits over the same period is 117 percent. Clearly the size of this important benefit has not kept pace with other benefits under social security.

The National Funeral Directors Association reports that the cost of an average funeral in 1972 was $1,097. Only 17.2 percent of all funerals in 1972 cost less than $800. And these cost figures do not include charges for the interment receptacle, burial clothing, cemetery or crematorium expenses, monument or marker, honorarium for the clergyman, flowers, transportation, or newspaper notices—only payments to the funeral director are included.

As a minister, I am well aware of the complex nature of the burdens that follow the death of a family member. As legislators, there is one such burden that we can help relieve and that is financial. The present size of the lump-sum death benefit is unrealistic when we consider the increases since 1954 in all other social security benefits, and the increases in funeral costs over the same period.

I am introducing a bill today proposing a flat $750 grant in place of the current, graduated system that makes a minimum payment of $258.50 and a maximum of $255. A payment of this size just does not do the job it was intended to do when the facts show that the vast majority of funerals today cost well over $800. I urge you to consider this proposal as both a fair increase in a fiscal sense, and a humanitarian gesture to people in a real time of need. It is my hope that the Committee on Ways and Means will give it early and favorable consideration.

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## TIME ON "TIP"

### HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, yesterday's Time magazine cover story centered on this Chamber and a man we have all come to deeply respect, greatly admire, and cherish, the majority leader of the House, "Tip" O'Neill.

Time calls "Tip" "a great shaggy bear of a man who is equally at home bellowing Irish ditties or talking history with Harvard professors."

The article further cites our great friend's service to his district, and his affable nature.

Focusing on the monumental questions facing the Judiciary Committee, and in all likelihood this body, in the coming months, the Time story is interwoven with insights about House procedure and the charms of the gentleman from Boston.

I would like to put this article into the Record for the information of my colleagues:

JUDGING NIXON: THE IMPEACHMENT SESSION

Quite by coincidence, the second session of the 93rd U.S. Congress began last week on the eve of the Chinese New Year, the Year of the Tiger. But there were very few tigers in evidence among the returning 431 Congressmen and 100 Senators. Their sojourn among the voters back home during the 29-day holiday recess exposed them to an American public that was angry, suspicious, impatient and sour, and one, moreover, that was sharply divided on how to solve the nation's problems. Energy shortages, exploding prices, dwindling jobs, all conspired to make 1974, for most legislators, loom as their Year of the Nervous Stomach.

Beyond pipeline and purse-string issues, what weighs upon Congress is the judgment it must pass upon Richard Nixon in this session. It is a cup that the Congress, almost to a man and woman, would rather let pass from its lips. No U.S. President has ever been found guilty of the Constitution's "high Crimes and Misdemeanors" and turned out of office before his time. Only once has a President been impeached by the House and stood trial in the Senate, and Andrew Johnson's ordeal took place a full century ago (*see* Time Essay *page 30*). Yet unless Nixon resigns, and he insists that he will not, the

93rd Congress will surely find its place in history as the "impeachment Congress." The rubric will stand whatever the outcome, even should the House ultimately vote that there are insufficient grounds to support impeachment and let the matter end there. The processes already well begun will ensure the niche.

For the moment, the historic burden rests most heavily on the House of Representatives, and with special force on Congressman Thomas P. ("Tip") O'Neill, Jr., 61, the floor leader of the Democratic majority in the House and the man responsible for ensuring the fairness of the impeachment process. "The main thing is getting the show on the road," says O'Neill. "The American people want some action—and they want it on a nonpartisan basis."

The House must play the role of grand jury, deciding whether the evidence of presidential abuse warrants sending articles of impeachment to the Senate. The House duty, as Republican Congressman John B. Anderson phrases it, is to conduct "the grand inquest of the nation." Since October, the House Judiciary Committee has been at work assembling evidence and defining the modern meaning of high crimes and misdemeanors; it hopes to finish its work by April or May. If the 38-member committee then votes to recommend impeachment, the House as a whole cannot escape voting yea or nay on the President. A simple majority of yeas would put Nixon on trial by the Senate, with Supreme Court Chief Justice Warren Burger presiding. At that point, Nixon might well choose to fight no further and resign.

### NIXON KNEW

Few members of the House have any illusions that they will be permitted to escape that momentous roll call in late spring or early summer. It is accepted as a virtual certainty that the Judiciary Committee will vote an impeachment. Indeed, House Minority Leader John Rhodes felt that he had no choice last week but to go to Nixon and flatly warn him of the worst. Says Rhodes: "I told him why it [the articles of impeachment] would be voted out. All you have to do is look at the numbers of Democrats on that committee who put in resolutions of impeachment or said they favor impeachment." Nixon, who can count votes too, did not really need to be told. The President, reports Rhodes, "didn't seem overwhelmed or surprised."

In fact, Nixon's new game plan of an all-out fight against impeachment, coupled with White House efforts to depict the House process as a political vendetta rather than a judicial inquiry, is doubtless aimed at the vote of the House on the committee's finding. The President knows that the members of the House are caught on the horns of a cruel dilemma, indeed several dilemmas. They have been sent back to Washington with contradictory messages from the folks at home. Most Americans think that the President is guilty of one charge or another in the Watergate scandals; they would like to see him out of office. But they do not yet want him to be impeached. Most Americans, sick to death of Watergate, want Congress to act quickly on the impeachment question. This feeling is summed up by what amounts to a new political cliché: "Impeach him or get off his back." Yet the people also want the impeachment handled fairly and judiciously.

### SAVING SKINS

Trying to make sense of these conflicting impulses, a good many Congressmen have come to a terrifying conclusion: that the people want Congress to do what it thinks best. That is not, by and large, what the House of Representatives does best in the best of times, and in this election year most Congressmen shrink from such a mandate like the plague. It heaps too much responsibility on their shoulders, forces them to step out ahead of the people and commit themselves to a position that could later prove disastrously unpopular. What they would like to do is wait until public opinion crystallizes and they have unequivocal marching orders. The production of fresh evidence in the months ahead before the vote could provide those orders. In the meantime, no one wants to act precipitately on impeachment. Polls of House members show only a few dozen willing to declare firmly for or against impeachment now. The vast majority of Republicans and Democrats are staying carefully uncommitted. Their re-election may well depend on it.

What many members of the House would really like, of course, is for Nixon to resign, taking the House off the hook. That, too, is true on both sides of the aisle, though no House Repubican has thus far dared publicly voice the feeling. (On the Senate side, the only Republican to call for resignation so far has been Massachusetts' Edward Brooke.) Democrat Frank Thompson Jr. of New Jersey puts it bluntly: "Most guys hope and pray for a resignation. I can think of 25 Republicans I know who will have to vote for impeachment to save their skins."

Part of Nixon's strategy is to deny any hope of that prayer's being answered. He invited Speaker of the House Carl Albert to breakfast with him at the White House and declared flatly: "I'm not going to resign. I'm going to serve out my term." In his chat with Rhodes, the President reported what Senator Barry Goldwater had told him: "Barry was in here the other day and he said to me, 'Resignation? Anybody who had the guts to support me in 1964 has more guts than to resign from this job.' "

Adding that message to those from the voters, the House has no choice but reluctantly, warily to continue to move down the impeachment road. It is a dangerous road not only for Congressmen but for the nation as well. Whatever the outcome for Nixon, millions of Americans are going to be at the very least dissatisfied and unhappy. And if the process is not seen to be orderly, just and reasonably nonpartisan, the effect could divide the nation and embitter U.S. politics for years to come.

The man who is charged with guaranteeing the probity of the impeachment steps in the House is hardly a household name. Congressman Tip O'Neill, the majority leader, has always preferred to work behind the scenes during his 21 years on the Hill. Although he is now beginning to play more of a public role in this affair, O'Neill intends to continue to do most of his work out of sight in the weeks ahead.

How the question of impeaching the President reaches the floor of the House this session, when, in what form and with what support, are all his duties. They are the sort best executed in the back offices and cloakrooms of the House, where the bargains are struck, the power sharded and melded, where persuasion can take root. It is a process that O'Neill knows well. "I have an ability to read the sense of the House," he says frankly. "I've never had a problem that I could not put the thing together."

O'Neill is a gregarious, back-slapping, poker-playing Boston Irish politician out of a renowned tradition (*see box*), a great, shaggy bear of a man (6 ft. 2 in., 268 lbs.) who is equally at home bellowing Irish ditties or talking history with Harvard professors.

### BONE AND STEEL

O'Neill's role as the political architect of what he hopes to keep an essentially unpolitical effort is an odd one. On any other issue, his job as party floor leader is to be the cutting edge of the Democratic program in the House. But he is keenly aware that the validity of the impeachment process would be destroyed by partisanship. by permitting Nixon's charge that it is a Democratic effort to undo the Nixon mandate of 1972 to become true—or even seem to be true. He is determined that the issue of Nixon's guilt or innocence of presidential wrongdoing shall, so far as possible, be the only issue.

Though he has said that Nixon should resign, he insists that he has not made up his mind on impeachment. Says he: "I'm still taking the position that I'm a grand juror. I want the Judiciary Committee to report, and then I'll study the report and make my own decision. This is a matter for every man's conscience. I'd never try to persuade anybody to vote one way or the other on this. The best interest of the country must come first."

A particular weight falls on O'Neill by default of the other two key Democrats in the drama. Many House Republicans believe that New Jersey Congressman Peter W. Rodino, the dapper Judiciary Committee chairman, has already prejudged Nixon's guilt and is determined to impeach him. The Republicans' respect for O'Neill, and their knowledge that Rodino leans heavily on the floor leader for advice, helps offset those suspicions. House Speaker Albert, who tends to shrink from the enormity of impeachment, also looks to O'Neill. Says one senior member of the House: "Tip's put some backbone and steel in the Speaker and Rodino." Says Albert of O'Neill: "Tip is a rare individual. He has all the instincts of a good rough-and-tumble Irish politician, and he also has a terrific amount of courage and common savvy."

Part of O'Neill's own steel in presiding over the impeachment procedure is his absolute control of his district, built up in a lifetime of old-fashioned service and cultivation of his constituents. His voters, by his soundings, have, predictably in liberal Massachusetts, long since decided in favor of impeachment. But O'Neill continues at every opportunity to hear them out when he is home from Washington on weekends.

Recently TIME Correspondent Neil MacNeil followed Congressman O'Neill as he took what he calls his "ethnic walk" through home-town Cambridge, sampling opinion while simultaneously wooing votes. As he has every Saturday for years, he stopped at his Chinese laundryman's to pick up the shirts that his wife Millie had left earlier in the week, visited his Italian shoemaker, his barber, and half a dozen other shopkeepers.

### TOP START

Lunging into Red's grocery, his huge hand outstretched, O'Neill greeted Vicki, the cashier. "How's everything going?" he boomed. "What do people think of Nixon?" Replied Vicki: "Most people think he should be impeached."

And so it went all up and down Massachusetts Avenue. "Dominick," O'Neill hailed an Italian tailor, "how's everything?" Dominick responded that the inflation was terrible; bread was up to 47¢ a loaf. "Tell me," asked O'Neill, "what kind of shape is the President in? Should he be impeached?" Answered Dominick: "You bet he should—I'm surprised you don't do it yet."

Back on the sidewalk again, O'Neill was spotted by a bearded, middle-aged driver who slowed down to yell, "You better get that important resolution out of the Judiciary Committee. We're watching you!"

In the delicate weeks and months ahead, O'Neill will indeed be watched as never before, particularly by his peers in the House. He will need all the acumen gathered in his lifetime in politics. But he started learning at the top almost from the beginning, and had the best tutors in the business along the way.

He first entered Congress in 1953 with the immense advantage of being the protégé of Democratic Whip John McCormack, a fellow Boston Irishman who was later to become

Speaker of the House. McCormack got O'Neill to look at issues not just from the point of view of Boston, as he had been raised to do, but from a broad national perspective. In O'Neill's second term, McCormack got him a place on the powerful Rules Committee, a rare honor for a new man since the committee controlled the flow of legislation to the floor.

With McCormack as his patron, O'Neill soon entered the inner circle of the House, where his blarney and good fellowship made him a quick favorite. O'Neill regularly attended the select meetings of Sam Rayburn's "board of education," afterhours sessions in the Speaker's office where the likes of Lyndon Johnson, Albert and McCormack met over bourbon to discuss the business of Congess.

O'Neill was also invited to take part in another congressional rite reserved for the elite—the late-night poker games involving some of the top leaders on the Hill. O'Neill more than held his own; he had helped earn his way through Boston College by playing poker. In one night of good hands, recalls O'Neill, a man could win $400. "Nobody ever got hurt," says O'Neill.

### REFORMING POL

At the card table O'Neill met and for a while became friends with another poker player of repute—Richard Nixon, then the Vice President. But for all Nixon's reputation—he had won a bundle in the Navy during the war—O'Neill found him lacking. "Nixon was one of the lousiest players I ever played with," Tip remembers. "He didn't follow the cards. He talked too much. But he was an affable and likable guy in that friendly atmosphere, and the other players were nice to him because he was Vice President."

In the crunch of politics since then, the President and the Congressman have ceased to be friends, but O'Neill knew him long enough to offer an insight into his personality that he feels may partially explain Watergate. Because he is such a loner, suggests O'Neill, the President does not do enough personal assessing of the men being considered for his staff, taking them on the judgment of others. What is more, says O'Neill, "Nixon is well briefed—but he's briefed the way his people think he wants to be briefed. He's not briefed on the other side of the question."

For all his easy manner, O'Neill is a deeply ambitious man, a man completely confident of his ability to lead after his long years of experience in the House. In his early days, the Rules Committee was stalemated by a split between conservatives and liberals. To get any legislation he supported moving, O'Neill had to learn the House technique of bargaining, bluffing, pleading and bargaining again. Years later, O'Neill was able to use his position on the committee to drive a key bargain with President Johnson. When Johnson phoned to ask him to vote for a bill that he wanted badly, O'Neill replied: "Gee, I don't know if I can be there. I'm so busy trying to save the Boston Navy Yard." Said Johnson: "Let me worry about the Boston Navy Yard. *You* be at that committee. I need your vote."

When he became party campaign chairman in 1970, O'Neill won the respect of his fellow Democrats by distributing funds fairly, whatever the candidate's state or political philosophy. Old Pol O'Neill also earned points in the House by supporting the reforms of the Legislative Reorganization Act of 1970, which made public for the first time votes taken in committees and made on amendments offered on the floor. By steadily playing his own cards right, he rose to become party whip in 1971. Then, in October 1972, an airplane carrying Majority Leader Hale Boggs disappeared while flying across Alaska. In November, with Boggs presumed dead, the Democrats prepared to elect his successor. Before he became a candidate, O'Neill asked permission of Boggs' wife to go ahead, to be sure that she had given up hope that her husband would ever be found. Working the telephone, O'Neill lined up the support of 121 Democrats in three days and 190 by Thanksgiving. His only rival was Sam Gibbons of Florida, who quickly withdrew when he saw that the struggle was hopeless. Said Gibbons: "I know better than anyone that Tip doesn't have an enemy in the House."

In January 1973, the new majority leader was responsible for the adoption of a party reform weakening the traditional seniority system that automatically kept committee chairmen in power year after year. Now the chairmen must be approved at the start of every Congress by a vote of the entire Democratic caucus.

### AGNEW REJECTED

As majority leader, O'Neill admits, "I'm a terrifically Democratic partisan." He has shown himself to be a skilled and salty battler with the White House, a role that Speaker Albert has never been able to fulfill because of his natural tendency to avoid controversy. When the President called for cooperation last summer between the Administration and the Congress—and then threatened to use some vetoes—O'Neill cracked: "It was hard to tell whether the President was calling for teamwork—or a scrimmage."

But O'Neill said he was willing to try to work with the White House—especially with former Congressman Melvin Laird, who was then on Nixon's staff. When the two old acquaintances met, O'Neill told Laird: "We've got the votes to pass legislation. You've got the votes to sustain vetoes. Let's talk." Talk they did, and what emerged from the conference was compromises that led to the passage of such bills as the act reforming manpower training.

O'Neill showed his influence—and political sensitivity—last September when Spiro Agnew sought to have the House of Representatives investigate reports that he had accepted bribes from Maryland contractors. During the meeting between the Vice President and the Democratic leadership, O'Neill immediately sensed that Agnew was desperately trying to keep the case out of the courts. When there was some indecision about how the matter should be handled, O'Neill was the man mainly responsible for convincing Speaker Albert that he should reject the plea out of hand.

After the Watergate affair broke open last spring, O'Neill became deeply involved in the House's reaction. He and Albert squelched as "premature" a move by Congressman John Moss to have the House start impeachment hearings after Senator Sam Ervin's committee began its work. O'Neill knew that there were insufficient grounds at that point to justify the step, which could jeopardize future efforts if the evidence came to warrant impeachment.

Then John Dean testified in June and O'Neill really moved into action. He told Chairman Rodino: "You've got to get ready. This thing is going to hit us, and you've got to be prepared for it. And keep it from becoming political."

As Rodino set up a special staff to study the question of impeachment, O'Neill kept badgering him regularly: "How do you think it's going? Are we moving?" When Rodino delayed too long in naming a special counsel, O'Neill delivered an ultimatum: "You've got to have your man before we go home for Christmas." In December Rodino named John Doar, who had O'Neill's approval because he was a Republican and thus could not be attacked for partisanship.

### A HOUSE DIVIDED?

Prodded by O'Neill, Rodino has shown an increasing sensitivity about maintaining not only a nonpartisan approach but also the appearance of nonpartisanship. Last October, Rodino made the mistake of proposing that only he have the right to subpoena materials. When the committee voted on the motion, the Democrats predictably won by a straight party vote, 21 to 17. The Republicans then charged, not without some reason, that it appeared the Democrats were out to get the President by collecting only anti-Nixon evidence.

Last week Rodino corrected his mistake by offering to share the right of subpoena with Edward Hutchinson of Michigan, the ranking Republican on the committee. Rodino will soon ask the House to vote to grant subpoena power to the committee. That seems certain to be given, since Republicans are in the vanguard of those urging the committee to get on with its assignment. The effect will be to put the full weight of the House behind the inquiry.

Meanwhile, Counsel Doar and his staff of 40 are trying to lay hands on the documents, tapes and testimony that Special Prosecutor Leon Jaworski has been accumulating on all phases of Watergate. Without the files, warns Rodino, his hearings could drag on until next year—a prospect appalling to everyone. But Jaworski, who has to worry about charges of partisanship himself, has been carefully insisting that he does not now have the legal right to turn over his files to Rodino.

Jaworski has, however, been hinting broadly that he would gladly turn over his files to Rodino if so ordered by John J. Sirica, the federal judge who convened the Watergate grand juries. Rodino is expected to ask Sirica to solve the impasse. If Sirica refuses, Rodino can try to subpoena the materials. Assuming that he can get Jaworski's files, Rodino has promised O'Neill that he will push for a committee vote on impeachment by April or May.

"At the moment," says one G.O.P. leader, "there are not more than one or two Republicans on that committee who are inclined to support an impeachment resolution." One or two are not enough. It is generally agreed that at least six of the 17 Republicans on the committee must endorse the resolution before the Democrats dare risk sending it to the floor. Otherwise, unless one or more charges are clear-cut and proved, the Democrats would leave themselves open to the accusation of partisanship. In that case, not enough Republicans would support impeachment in the final vote—though the Democrats could force it through by simple majority—to convince the American people that the Democrats were not simply voting to oust a Republican nemesis.

And if a badly divided House sent charges against the President to the Senate, the leadership there might not be able to get the necessary support—two-thirds of the members present at the time of voting—to find Nixon guilty. As matters now stand, Republican leaders feel that no more than 44 Senators would favor conviction on the weight of the evidence available thus far.

While the House has been struggling with impeachment, the Senate has adopted an attitude of watchful waiting on the issue. Neither Majority Leader Mike Mansfield nor Minority Leader Hugh Scott has even allowed any time for an impeachment trial in their advance planning for the year. "I don't think the House will impeach," says Scott flatly. In an effort to keep wavering Republicans in line, Scott has warned: "History does not deal gently with regicides." For his part, Mansfield hopes that the House will not impeach "because politically it will help no one, and it will hurt the country."

But even Senate Republicans admit that chances for impeachment would vastly increase if another Watergate bombshell burst over Nixon's head. Says one key Republican: "If, for example, it were shown that the President had anything to do with the 18-minute erasure, or that he was directly involved in any other aspect of the cover-up, all bets against impeachment would be off."

O'Neill is not waiting for a bombshell to remove the problem. And as he harries along the impeachment proceedings, he has other problems to worry about. A long agenda of important legislation looms. Congress has yet to pass an emergency energy bill to give the President broad powers to cope with the fuel shortage. In the wake of Watergate, there are bills to tighten the income tax laws and to provide federal financing for political campaigns. A trade bill is pending to give the President the power to negotiate worldwide agreements easing the flow of goods. There is rising sentiment for national health insurance. And up ahead is another fight over the size and shape of the military budget.

### ON THE PROWL

As the Congressman returned to the House last week, they came under pressure from lobbyists on both sides of the issue of impeachment, the most powerful by far being AFL-CIO President George Meany, who is now dead set against the President he helped elect in 1972. If Nixon does not resign, Meany wants him impeached and tried. The American people, he says, "have a right to know whether or not their President is a liar."

To check on the mood of the reassembling Congressman, O'Neill was prowling the floor, the Speaker's lobby, cloakrooms, back offices, even the gym. In all, he talked to more than 200 of the 431 Representatives. He detected that some Republicans who had been considering impeachment before the holidays were drawing back. "Their leaders are talking to them about their sense of loyalty," he said.

On the other hand, O'Neill's sensitive antenna picked up a slight change in attitude by some Southerners, who had formed a solid bloc against impeachment before the holidays. The main cause apparently was the call for the President's resignation two weeks ago by Arkansas' Wilbur Mills, who is not only one of the most powerful men on the Hill but also the chairman of the committee that is examining Nixon's tax returns. Reports O'Neill: "The Southerners came back wanting to see the evidence. If the evidence comes out that the President has lied or obstructed justice, that's going to solve the whole thing."

### HISTORY REPEATED?

O'Neill also believes that more and more Republicans, caught in the crosscurrents of the impeachment process, will in the end go along with the recommendations of the Judiciary Committee—provided that they are fairly drawn on the basis of available evidence. The Republicans could then argue that they were only doing the honorable and intelligent thing: endorsing the views of the men and women who had studied the issue the hardest and turning the matter over to the Senate for final judgment as the Constitution provides. On quite another level, they could also argue that not to vote impeachment would play into the hands of those Democrats who would like to see the Republican Party still snarled in Nixon's problems come the November elections. Predicts O'Neill: "There's going to have to be an awful lot of arm twisting to hold them in line."

At his last estimate, O'Neill calculated that some 50 of the 188 Republicans were leaning toward impeachment, a solid start toward gaining the kind of bipartisan support that the House leadership has been hoping to achieve should impeachment seem warranted. Holding these and winning over others may well depend as much upon how the evidence is handled by the Democrats as the evidence itself. And O'Neill, as he well knows, cannot afford to make a mistake in the days ahead. Privately, he believes that in the end the process will not run full course, that at some point Nixon will "step aside for the good of country." But perhaps, barring new evidence, only when the President recognizes that the process otherwise will indeed run its full course.

The day of Gerald Ford's swearing in as Vice President, O'Neill was stopped by a friend in mid-dash to the ceremony. Asked why the urgency O'Neill replied: "This is a historic event. The founding fathers never had this in mind. You may not see it happen again—for four or five months."

### AN APPLE THAT FELL NEAR THE TREE

Politics positively saturates the life of Tip O'Neill's family. His five children—ranging in age from 22 to 30—can remember running for the swimming pool as youngsters and shouting "Last one in is a Republican!"

Growing up in a solidly Irish-American district of North Cambridge, O'Neill developed a fiercely partisan love for Democratic politics. His stern, teetotaling father, the son of a bricklayer who came over from County Cork, was a local political power. For 35 years he was head of the city's water system, with 1,700 men on his payroll and access to hundreds of other jobs. When O'Neill was a boy, torchlight parades still surged through the narrow streets of Cambridge, and candidates shouted their speeches on street corners. In 1928, already a veteran campaign worker at the age of 15, O'Neill hustled out trustworthy Democratic voters in a losing effort to elect Al Smith President.

O'Neill attended Roman Catholic schools. He was a casual student and, though he kept getting elected captain of his teams, an awkward athlete. Even so, local lore has it that he got his nickname as a young boy from one James Edward O'Neill, who batted an eye-popping .492 for the old St. Louis Browns in 1887. Those were the days when bases on balls were counted as hits in players' averages, and O'Neill was renowned for "tipping" off so many pitches that hurlers eventually walked him.

O'Neill tried Boston College for a year, dropped out to drive a truck, finally returned, and was a 22-year-old senior when he ran for the Cambridge city council. Before doing so, he announced his intention to his father, who had once served on the council. "The apple doesn't fall far from the tree," replied the elder O'Neill, not at all displeased.

Tip lost by 150 votes, but learned an invaluable lesson. On election day, Mrs. Elizabeth O'Brien, an elocution teacher who lived across the street, told him, "Tom, I'm going to vote for you even though you didn't ask me." Surprised, O'Neill replied: "Mrs. O'Brien, I've lived across the street from you for 18 years. I shoveled your snow. I didn't think I had to ask you."

"Tom," said Mrs. O'Brien, "I want you to know something—people like to be asked."

Since then, O'Neill has been carefully asking people for their votes, and he has yet to lose another race. He was 23 when he was elected to the Massachusetts legislature and 36 when he became speaker of the house, the youngest at that time in the state's history. O'Neill used the full power of his office between 1949 and 1952 to ram through the state's "Little New Deal" of social legislation. During key votes, he was known to lock the doors, as he puts it, "to keep a fella from taking a walk."

In 1952, O'Neill was elected to Congress as Representative from the polyglot district that now embraces Boston's fashionable Beacon Hill, 36 colleges and universities, as well as the working-class neighborhoods of Cambridge, where his real power lies. His predecessor in the seat was John F. Kennedy, who moved to the Senate that year. When O'Neill went down to Washington, he made sure that his roots remained firmly planted in Cambridge. His wife Millie and their five children stayed at home in their modest house on Russell Street, just four doors away from the two-family house where he was raised.

O'Neill used to commute weekly to Cambridge from Washington, going up on Thursday night and returning on the Monday night sleeper. The family loved to linger over dinner, arguing politics for hours. Listening to his children, O'Neill began to have doubts about his hawkish party-line stand on Viet Nam. He did some quiet checking in Washington, found some top officials who had private doubts, and became a dove in 1967—one of the first top Democrats of his stature in the House to break with Lyndon Johnson on the war. "Tip," said Johnson, "I never thought you'd do this to me." Fearful that his district would turn on him, O'Neill sold his position so effectively that the G.O.P. did not even bother to run a candidate against him in 1968, or since.

His eldest son, Thomas P. O'Neill III, 29, is finding things a bit more difficult. Running for his father's old seat in the state legislature in 1972, he quickly encountered the sly machinations of the Boston political jungle. His opponents found two other Thomas O'Neills to run against him, leaving it up to the voters to figure out which of the three was Tip's boy. They figured it out and sent Tip's son to the statehouse.

As a Washington "bachelor," the elder O'Neill has roomed for 21 years in Northwest Washington with Congressman Edward Boland from Springfield, Mass. They make an odd couple: Boland is the neat one, patiently tidying up their three-room apartment after O'Neill has rumpled it.

Usually there is nothing but a few oranges and some cans of Fresca in the refrigerator. O'Neill is constantly struggling with his weight, which has soared to 296 lbs., then dropped to 208, climbed to 286, then fallen to 215 before rising again. "I've lost a thousand pounds in my life," he estimates. In 1968 O'Neill joined a Weight Watchers group, the only man among some 50 women who had no idea who he was but applauded him warmly when the director announced: "Tom lost 16 lbs. last week."

A church-going Catholic, O'Neill is a moderate social drinker who plays golf for recreation, contentedly shooting in the upper 90s. Instead of joining a fashionable suburban country club, O'Neill slips away to a public course, pays his $1.60 and waits for a threesome to come along that needs a fourth.

With impeachment on his calendar, O'Neill wonders how long it will be before he gets to spend time with his family at their vacation house on Cape Cod. But he usually makes it back to Cambridge on weekends, and the voters come past to ask for favors as they always have. As always, Tip tries to comply. As a state legislator during the Depression, he often got as many as 250 men snow-shoveling jobs at $3 or $4 a day; as a Congressman, he was able to find 3,000 youngsters Christmas jobs at the Boston post office—before the nonpolitical Postal Service was created. "I run a public-service agency," he says.

And very effectively, at that. The voters wait patiently for him for three or four hours, and when their turns come, they usually start out by saying "I'm so-and-so's brother-in-law." Or "I'm this fellow's grandson." Or "I'm somebody's nephew." Listening and remembering, Tip O'Neill can usually tie them into the intricate web of friendships and contacts he has built up over the years. This solid political base is the source he will need for the paramount event of his political life: the drive to push the impeachment proceedings through to resolution, one way or the other.

## THE NEED FOR CORRECTIVE POSTAL SAFETY LEGISLATION

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## HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. CHARLES H. WILSON of California. Mr. Speaker, the Subcommittee on Postal Facilities, Mail and Labor Management of the House Post Office and Civil Service Committee, which I have the honor to chair, is very deeply interested in the safety of employees of the U.S. Postal Service.

On May 24, 1973, our subcommittee held a hearing to determine if the Postal Service had an ongoing safety program, if such program was effective, and if neither of these proved true—what the Postal Service was doing to establish a viable safety program.

Subsequently, I directed my subcommittee staff to tour facilities at Secaucus and Kearney, N.J.; Cincinnati, Ohio; and Memphis, Tenn., to determine the effectiveness of the preferential and bulk mail systems with special concern for the safety program being implemented at these facilities by postal management.

Additionally, my subcommittee held a series of oversight hearings in the Western Region of the U.S. Postal Service during the August recess in San Francisco and Los Angeles, Calif.; Hilo and Honolulu, Hawaii; and Denver, Colo., on the Postal Service's operations.

We, of course, received a considerable amount of testimony on the Postal Service's employee safety and health program, including the conditions in the postal facilities in these cities.

Our hearing in May, the subcommittee staff investigative tour, and our oversight hearings held during the August recess, lead to an undeniable conclusion that the Postal Service does not have an adequate employee safety program.

We found that there is only one full-time safety postal officer for every 80 postal facilities—or, in other words, 1 safety officer for every 1,500 postal employees. This means that one safety officer could not inspect a postal facility more often than every 4 months.

We found that the frequency of accidents with injury throughout the Federal service in fiscal year 1972 was 6.5 per million man-hours, while in the Postal Service it was a "shocking" 13 per million man-hours. Further statistics quoted at the hearing compare the U.S. Postal Service rate of 13 per million man-hours, with 3.6 for the steel industry, 4.18 for textiles, 4.8 for machine products, 1.4 for auto, and 7.1 for shipbuilding.

There was, it seemed, a very incurious attitude about safety in the Postal Service by the postal managers, and whenever there was a need to reduce expenses for budgetary reasons, the postal employees safety program was the first to be cut.

Most of the facilities that we toured were a jungle of safety hazards, assuring serious injury to the postal employees.

We also found that postal workers, union leaders and postal supervisors, felt that working conditions were poor and that top management refused to establish and fund an adequate safety program.

The U.S. Congress finding that the number and severity of work-related injuries resulting in human suffering and economical loss rose dramatically in recent years, passed the Occupational Safety and Health Act of 1970. The main purpose of this act is to enforce safety and health standards in private industry. Also, section 19 of this act requires the administrators of each Federal agency to establish their own health and safety programs based on OSHA standards.

While the USPS is a Federal entity, USPS claims that they are not subject to section 19 of the Occupational Safety and Health Act. They state that it is not necessary for them to come under the act since they have established their own adequate safety program. As I indicated earlier, this is not the case. The Postal Service does not have a viable safety program.

It is my feeling that the service should—at the very least—mirror the provisions of the OSHA Act. It is hypocrisy of the worst kind to have the Federal Government demanding that private industry conform to OSHA, while one of its largest agencies is not meeting the same high safety standards.

I am, therefore, introducing today legislation which will bring the U.S. Postal Service under section 19 of the Occupational Safety and Health Act of 1970. Obviously, this will force the Postal Service to develop, promote, and adequately fund a viable safety and health program.

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## THE 56TH ANNIVERSARY OF THE PROCLAMATION OF INDEPENDENCE BY THE UKRAINIAN NATIONAL REPUBLIC

## HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. GIAIMO. Mr. Speaker, I wish to join my colleagues in commemorating the 56th anniversary of the Proclamation of Independence by the Ukrainian National Republic. This is an occasion that should be noted carefully by all who love freedom. The tragic history of the short-lived Ukrainian republic emphasizes dramatically that independence requires a continuing struggle against the forces of tyranny and repression.

For more than 3 years, the Ukrainians battled valiantly against a numerically superior Soviet army to preserve their newly established republic. Finally, however, they were overwhelmed in 1921, and their independent government was replaced by a puppet regime. Since then, the Ukrainians have been the victims of the cruelest kind of domination and repression.

Despite this brutal persecution, the Ukrainians have held tenaciously to their aspirations for human rights and independence for their homeland. For those Ukrainians and their descendents, some of whom have been fortunate enough to emigrate to this country, the ideal of liberty remains firmly implanted in their minds and hearts.

I hope the day will come soon when nations can determine their own destiny and people will not be subjected to brutal tyranny. Until then, we must not forget the struggle of the Ukrainians to regain the freedom they proclaimed so proudly 56 years ago.

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## BETTY ASBURY, A GIRL OF GOLDEN DEEDS

## HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. LEGGETT. Mr. Speaker, several years ago, I took the occasion to publicly commend the golden deeds of Betty Asbury of Fairfield, Calif., in the CONGRESSIONAL RECORD. Betty, a star reporter for the Valejo Times Herald and an organizer for political, religious, and civic efforts, extraordinaire, succumbed during the recent holidays to a lingering illness.

I talked politics with my friend Betty in the hospital a few days before her death—her concern was that this country get reorganized. She did her part, and her many friendships will be her perpetual memorial.

One of her press colleagues, Dolores Skinner, describes Betty as follows:

[From the Vallejo News-Chronicle, Jan. 2, 1974]

BETTY WAS JUST SPECIAL

(By Dolores Skinner)

VACAVILLE.—We are all diminished by her passing the minister said and as I glanced around the room, I thought perhaps the word devastated might be a better choice because with the passing of Betty Asbury, this part of the world won't be quite the same.

She fought a valiant fight and went on fighting longer than anyone hoped she could but the enemy was just too formidable for her to conquer.

This lady, great of spirit and body, was loved as she loved and she loved everyone, no matter what their race or creed, they were her friends. And they were all there to pay their final tribute to her, this beautiful human being whom I have had the privilege of knowing for about 10 years.

Now don't misunderstand me, this gal was no plaster of paris saint, she was the everyday garden variety of saint who always had time for everyone's problems and who always had time to try and find a solution.

Although she was a hard working gal who earned every bit of money she had, she could always find something for someone in need. And it was this goodness and lack of consideration for her own problems, and the time she needed to solve them, that usually got her in hot water.

When you work for a newspaper there are deadlines to be met and editors aren't exactly the most patient fellows (or gals) if those deadlines are not met. This has to be, I know, because there's a bit of the procrastinator in all of us but with Betty there was always someone knocking on her door with an immediate problem which needed to be solved.

In her concern to help others, deadlines would slip by or stories wouldn't appear and she sometimes drove her editors straight up the wall. She loved her work and was very good at it but just couldn't say no to a plea for help. Because of this, and the fact that her office was in her home where all knew the door was always open, she worked at night and on weekends, many times to make up for her constant interruptions.

It was just two years ago that the Exchange Club of Fairfield honored her as the recipient of their "Book Of Golden Deeds" award and that night was the greatest outpouring of love for another person that I have ever witnessed.

The great and the small were there as well as those of different races and the room where the dinner was held was almost too small as over 300 persons crowded in to pay tribute to this most deserving lady.

There were wires and gifts from such well known political figures as Rep. Robert Leggett, U.S. Sen. John Tunney, U.S. Sen. Alan Cranston and Assemblyman John Dunlap, to name just a few. There were members of the Board of Supervisors and other important names and faces, many whom Betty had personally worked very hard to help elect, there were relatives and a very large number of good friends; members of a variety of organizations of which she was an active, hard working member; and many, many more who knew personally what a great benefactor this warm, wonderful person was. There were flowers, plaques and other gifts, too numerous to list.

Person after person mounted the platform as everyone wanted equal time for their outpouring of love for this wonderful lady and many of these same persons were present to pay tribute to Betty, Saturday.

She had had great difficulty trying to work as her illness progressed but she tried to hang on, she loved her work and didn't want to give up. Finally, however, she had to retire, as it was often impossible for her to work. A newspaper job is an extremely demanding one. So she made her decision to retire and we wanted to have a party for her. We planned a backyard barbecue (her favorite kind of party) and staff members, not working that evening, were looking forward to attending. The party was canceled, however, when she was hospitalized the day before.

A small number of us, with whom she had worked, had to be content with honoring her at a small luncheon.

We all tried hard not to mourn, Saturday, knowing it was better for her that the long battle was over but when someone like Betty has touched your life it's hard not to remember and be selfish and want her to remain.

It has often been said that only the good die young, and at 65 Betty was still young, especially at heart. She knew what love was all about and she never failed to open her heart and arms to anyone in need—of love or anything else.

We'll all miss her but her legacy of love and goodness will remain in the hundreds of lives that she touched.

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## LADY WRESTLER FROM SOUTH TEXAS

## HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. DE LA GARZA. Mr. Speaker, I have said it before and I will say it again: south Texas has everything.

As a case in point, I give you Susan Green, lady wrestler supreme from Alice, Tex., in the 15th Congressional District.

At age 20, "Big Tex," as she is known in professional wrestling circles, has a 3-year start on her career. Her story was told by Sarah Shults in the Alice Echo-Star, and I pass it on here for the edification, and no doubt envy, of my colleagues:

### Lady Wrestler From South Texas

(By Sarah Shults)

One Thursday night about 14 years ago a little girl went to her first wrestling match with her father—and she liked it.

The next Thursday night found her back again—and the next—and the next—and each Thursday from then until the little girl had grown into a young lady in high school.

Susan Green—lady wrestler.

Her familiar six ft. one inch frame clad in a patriotic red, white and blue outfit (including the boots) is becoming a familiar sight in wrestling rings across the country. Three or four matches a week with some of the top lady wrestlers in the profession is reason enough for this and the fact that she is one of the youngest wrestlers to make the top ten and to have shot up as high as the number two spot at times.

Susan's youth also makes it surprising that she and her five ft. one in. tag partner, a veteran wrestler of five years, were able to capture and hold the tag team world belt for a year. The loss of the belt was due to a twisted knee sustained by the smaller partner.

Susan's career in wrestling was inevitable with her combined great love of the sport, athletic competitiveness and her tall frame. As a result, at 20-years of age Susan already has a three year start on her career and a two year standing among the top ten of her sport.

Susan, the daughter of Mr. and Mrs. R. M. Green of 814 Glennwood, has been visiting her hometown during the holidays but will take off again this week for a wrestling tour that will take her across the country and keep her away from home until next Christmas.

Susan's actual training started in the summer of 1970 before her senior year. Floyd Emerson, a former wrestler who handles wrestling matches in Corpus Christi, was her trainer.

Susan's senior year brought her the first matches of her career. The very first ironically fell on her 17th birthday. Confidence wasn't one of her assets at the time so she lost her first eight matches trying to build some up.

Fourteen matches were all Susan squeezed in that year due to an injured shoulder which temporarily put her out of commission. That injury was only a forerunner to the sprained ankles and wrists, slight concussion, "busted lips," and knees that have been pulled out of socket which were to greet her in her chosen profession.

"Big Tex," as Susan has come to be known, admits that the injuries and continual loss of hair with each match are not among wrestling's more appealing attractions but they are outweighed, in her opinion, by the challenge of the profession and by a number of "fringe benefits".

Travelling, for instance, is a key part of Susan's life now. Already she has travelled across the country through every state except Minnesota and North and South Dakota. Her travels, with matches all along the way, also include Hawaii, Puerto Rico, Canada (from coast to coast) and a two week trip to Hong Kong.

For transportation Susan either uses her car or when she's in a hurry she flys. Most of the time this lady wrestler travels by herself unless she has a tag partner. Either way wrestling tours have given Susan the chance to see a lot of country she might not otherwise have seen.

Besides travelling Susan also enjoys the fact that her profession has enabled her to meet many famous television and movie celebrities and recording artists. Through her landlord (of her apartment in South Carolina) who used to be a country-western music promoter she has met artists such as Jerry Lee Lewis, Merle Haggard and Lynn Anderson.

In the back room after a wrestling match it's not uncommon for people like Rose Marie or Elvis Presley, wrestling enthusiasts, to come back for a little chat. Some, such as Elvis Presley, take enough interest to invite them to their home. Susan recalls that she even got to go swimming in the Presley swimming pool.

Currently rated number five out of some 500 lady wrestlers, "Big Tex" is the first to admit that female wrestling does have its hazards. Long fingernails can be filed to a fine point and prove to be quite dangerous—Susan has the scars to prove it.

Women in wrestling also have to watch out for long hair. Susan explained that a quick jerk of the head will whip long hair around and in doing so can very easily scratch the opponent's eye, an injury which is quite painful.

Ratings and how they're affected are a big concern with people in Susan's profession. Only the top 10 and sometimes 20 are rated. To reach the ratings and stay there means constantly arranging matches with the top wrestlers. Wins are important but they don't count very much, if any, towards a good rating if the loser is a newcomer.

According to the Alice wrestler some of the top matches and most numerous are found around Boston, New York and San Francisco, depending on the time of year. When she leaves Alice this week she'll head for New York where wrestling attention is being focused on Madison Square Garden.

Like most people Susan has a very definite dream she would like to see come true some day. She would like to open up her own wrestling school for girls in Alice.

To do this Susan feels like it would be necessary for her to win and hold the world's belt for women's wrestling for a definite period of time. She explained that this type of accreditation would be essential if the school were to attain any measure of success.

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## L. HOLLANDER & CO. OF YOUNGSTOWN, OHIO—A FULL-FOOD SERVICE ORGANIZATION

## HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. CARNEY of Ohio. Mr. Speaker, L. Hollander & Co. is a successful food service business which caters to hotels, restaurants, schools, clubs, and other institutions in the Youngstown area.

Recently, L. Hollander & Co. sponsored a Food Show Exposition, Impact '74, to kickoff a new and vigorous effort to reeducate the food industry so that it can meet the challenges of 1974 and beyond.

L. Hollander & Co. realizes that "if you're not part of the solution, then you're part of the problem," and that everyone must cooperate and work together to solve the problems created by the energy crisis, shortages, and inflation.

Mr. Speaker, I would like to take this opportunity to heartily commend the management and employees of L. Hollander & Co. for their public-spirited attitude. In addition, I insert an explanation of "The Impact Philosophy," the proclamation issued by the Mayor of Youngstown, and a brief history of L. Hollander & Co. in the Record at this time:

### The Impact Philosophy

Impact '74 is more than a Food Show Exposition. It's a natural progression in the fifty-year growth of L. Hollander and Company, as we rapidly become a full-food service organization.

Impact '74 is also a natural outgrowth of 1973 . . . rising costs, shortages, the energy crisis, governmental controls, allocations and strikes. To make this next year one of growth, everyone will be called upon to work together to achieve common and individual goals. Service will have to be everyone's byword.

Purveyors and manufacturers will have to introduce new and better products.

Forecasting will have to become more important than ever before. It's going to be the responsibility of every business to forecast their needs over longer periods of time. This is going to require re-education and a great deal of study on everyone's part. But guaranteed . . . growth will be dependent upon it. The lowering of speed limits on our Nation's highways, and the general delays in receiving and delivering raw materials is basically responsible . . . and are all results of the current energy crisis. We are all involved. But the consumer needn't feel the full brunt of it, if we all act responsibly.

Everything points to continued rising prices. However, we anticipate a leveling off about spring. Maintaining a solid inventory position will be of prime importance.

Everything seems to be coming into play. Even the trucking industry is in a very poor condition. It will be adversely affected by the shortage of diesel fuel and government allocations. To protect against delays in shipping, customers will have to give purveyors as much advance notice as possible, maintain a large inventory position, review purchasing patterns, and consolidate as much buying as possible . . . anticipate needs to overcome minimum orders and higher transportation costs.

In total, 1974 is going to call upon us all to revise our patterns of doing business. The market is changing. The needs of people and groups are more diversified than ever. Each of us must learn not only to cope, but to change our pattern of business in such a way that all groups will benefit. If we sincerely wish . . . 1974 can be a very good year.

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### Proclamation

Whereas: the Food Service Industry is so closely tied to the average consumer; and

Whereas, the Food Service Industry has been so adversely affected by current market and energy limitations; and

Whereas, companies such as L. Hollander and Company of Youngstown, Ohio, are attempting to re-educate the industry so they might be equal to the challenge of the existing shortages and transportation difficulties; and

Whereas, a food show exposition, IMPACT '74, is being held on January 22, 1974, in Youngstown, Ohio, sponsored by L. Hollander and Company, to accomplish these objectives. Therefore, I am proclaiming the week of January 20 through January 26, 1974, as "Food Service Week" in Youngstown, Ohio, in recognition of their valuable services to the citizenry of our community.

In witness whereof, I hereunto set my hand and cause the Seal of the City of Youngstown, to be affixed this 18th day of January, 1974.

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### Brief History of L. Hollander & Co.

Impact '74 is more than a Food Show Exposition. It's only the beginning. Impact is a natural progression in the Fifty Year growth of L. Hollander and Company, as we rapidly become a full-food service organization.

Impact '74 is also a way we can be of service in meeting your problems as expeditiously and profitably as possible. Meeting them in such a way that the many stumbling blocks, such as rising prices, delays in receiving and delivering products, the energy crisis, governmental control and allocation, etc., don't become limitations in themselves.

As we institute our total concept Impact philosophy, we urge you to rely upon L. Hollander and Company. It's our firm goal in '74 to help you become more successful. And we can . . . through new and existing products. Through helping you forecast your needs over longer periods of time. Through introducing labor-saving devices and ideas.

By helping you eliminate waste in your kitchen. Portion control. Quality control. And by aiding you in instituting the most profitable and expedient fast food products and methods. Through innovation, such as the Entree System of full-course dinners.

L. Hollander and Company has always been the "Idea" Organization. Now, more than ever, you can look to us to help you make a real impact in 1974. Your best year yet!

For two generations, L. Hollander and Company has been an outstanding leader in the industry. Its growth has been by leaps and bounds . . . and today, its 20,000 square foot physical plant is one of the most modern processing facilities in the United States.

Nothing has characterized the spectacular growth of L. Hollander and Company as much as service. This, combined with a truly superior product, has pleased customers in the tri-state marketing area for half-a-century. So much so, that clients are dependent upon Hollanders as they are upon few other suppliers. It's product. Service. Experience. And a very special "We Care About You" Policy . . . and that's more than a theme or slogan. At Hollander's, it's a way of life.

Indeed, L. Hollander and Company is a full-food service organization . . . specialists in fulfilling the needs of the food service industry in the tri-state area. Hollanders offer an extraordinary large variety of portion and quality-controlled fresh, frozen and pre-cooked foods, all under rigid government inspection. And Hollanders is big enough to handle the largest client . . . small enough to give truly personal, individualized attention.

From their fleet of eight refrigerated trucks to professionally trained sales specialists, Hollanders consistently stands above the crowd. A 24-hour service policy enables a client to depend totally upon L. Hollander and Company. It's a very special way of doing everything right . . . the first time around, that makes Hollanders the company it is today. It's a desire to achieve perfection. To be of service. And L. Hollander and Company would like the opportunity to be of service to you.

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## REPRESENTATIVE PAUL G. ROGERS PRAISED FOR HEALTH CARE LEGISLATION

### HON. JAMES F. HASTINGS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. HASTINGS. Mr. Speaker, the December 1973 issue of the Journal for Podiatric Education contains an article on Representative Paul G. Rogers, of Florida, chairman of the House Subcommittee on Public Health and Environment, extolling his work in health care. As a member of the subcommittee, I can well attest to his leadership in this field and at this time I am including the article in the Record:

Paul G. Rogers, now serving his third year as Chairman of the House Public Health and Environment Subcommittee, has become nationally recognized as an innovative and hardworking leader in the health field.

Virtually every major law in the areas of environment and health bears Rogers' mark. Roughly speaking, his panel has legislative jurisdiction over all health matters except Medicare and Medicaid, and all environmental legislation except water pollution.

Rogers is the youngest Subcommittee chairman of the powerful House Interstate and Foreign Commerce Committee.

His work in the health manpower field has ben exceptional. Many aspects of the health manpower acts of 1968 and 1971 were the result of Rogers' intense interest. Additionally, he has fought hard to increase the funding of schools of the health professions, and has pressed the appropriations committees to increase funding in this field.

His staff is now at work drafting the 1974 Comprehensive Health Manpower Training Act for introduction early in 1974 (the life of the 1971 Act terminates on June 30, 1974).

One of Rogers' chief goals is to give health a national priority. "A great deal of attention has been given to welfare and education, and this is understandable. Changes are needed. But this attention has been at the expense of health. Health funding has suffered greatly. And there is a bitter irony here," Rogers has said.

"Health is the most common denominator of all. For both the rich and the poor are at the mercy of ill health. And the educated as well as the uneducated are affected by poor health. With a proper priority on health we can do so much more to insure that all Americans live better lives."

One of the first things Congressman Rogers says must be done is to establish a separate Department of Health. His bill to do this was supported by one-quarter of the Senate and more than 60 members of the House when he introduced it earlier this year.

"We need to let the American people know that they can have better health, and at a lower cost." Rogers said, "If the public knows this, health could have the most effective constitutency in the nation."

The National Cancer Act in 1971 and the National Heart and Lung Act in 1972 were two of the more prominent pieces of health legislation to bear the Rogers name. He was the House author of the 1970 Clean Air Act and has since produced laws designed to limit noise pollution and find solutions to the growing problem of solid waste.

Rogers' keen interest in conservation and environment is also carried over into his work as a member of the Merchant Marine and Fisheries Committee, where he was a sponsor of the National Environmental Policy Act. Rogers also authored the National Sea Grant College Act which is the flagship of this nation's efforts in the field of oceanography.

Described as 'Mr. Health' by his colleagues because of his knowledge and activity in the field of health, Paul Rogers either has authored or been the prime sponsor of more than a dozen pieces of legislation which were signed into law during the 92nd Congress alone.

Publicity on the environment and Rogers' efforts to raise health to public awareness place his legislative position dead center on two of the most pressing issues of the day.

Yet his personality and method of operation are low key and may be described best in a profile done by the New England Hospital Assembly:

"In a Congress where the Senate big names often get the credit in front, it's frequently the House's little known mechanics who do the real work. And Paul Rogers is a chief mechanic."

His outstanding work in health legislation has resulted in the following awards and honorary degrees:

Doctor of Laws from George Washington University;

Doctor of Laws from Florida Atlantic University;

Doctor of Laws from the University of Maryland;

Doctor of Laws from the University of Miami;

Doctor of Humanities from Nova University; and

Doctor of Humane Letters from New York Medical College.

Rogers was graduated from the University of Florida Law School after serving with the Army in Europe for four years during World War II. He and his wife, Becky, and daughter, Laing, maintain their residence in West Palm Beach. Rogers is serving his 10th term in Congress, representing the 11th Congressional district in Florida.

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## TRIBUTE TO HON. H. R. GROSS: ABLE, CONSCIENTIOUS WATCHDOG OF THE TREASURY

## HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. EVINS of Tennessee. Mr. Speaker, it was with sincere regret that I learned recently of the announcement by our genial colleague and friend, the gentleman from Iowa, Representative H. R. Gross, that he plans to retire from the House at the conclusion of the 93d Congress.

Certainly he will be missed because of his unfailing diligence, his devotion to his responsibilities in the House, and his faithful and loyal service to his district, State and Nation.

He has been called the "super-watchdog" of the House because of his careful scrutiny and examination of each bill reported to the House for debate and consideration.

He carefully analyzes authorization and appropriations bills and pinpoints areas where he feels economies can and should be effected.

H. R. Gross and I came to Congress at about the same time. He was first elected to the 81st Congress. I have great respect for my friend, the gentleman from Iowa—he is a champion of the public interest and guardian of the public purpose, the U.S. Treasury, against bureaucratic waste and excesses. His contributions have been immense.

While Congressman Gross is noted principally for his diligence in offering amendments to cut out waste and extravagances throughout the Government, and serving as a "watchdog" for the Congress, he is also a genial, personable, and likable gentleman who is universally admired and respected. He has served a needed and useful role in the Congress and his work and presence will be missed.

I personally congratulate our colleague and friend, H. R. Gross, and wish him good luck, good health, and happiness in his retirement.

In this connection, Paul Duke, commentator for the National Broadcasting Co., recently made some very commendatory remarks concerning the gentleman from Iowa on the Today show—and because of the interest of my colleagues and the American people, I place in the Record herewith the commentary by Mr. Duke.

His comments follow:

### Comments by Paul Duke

> Harold Royce Gross is one of the last of the great gadflys. He also is one of the last of the big-time savers—a man who hates to spend federal money almost as much as most people hate to go to war.
>
> Gross is a small, droopy-eyed man who has been on Capitol Hill for 26 years fighting waste and extravagance. He has voted against almost all spending bills except those to help his rural Iowa district. He once voted against a bill to make Winston Churchill an honorary American citizen because it didn't require Churchill to help retire the federal debt which, said Gross, he helped us accumulate during World War II.
>
> Gross also has been a fierce foe of Congressional junkets. Even though a member of the House Foreign Affairs Committee, he has never once traveled overseas. When the House Public Works Committee went flying off to look at the highways of Spain not long ago, he suggested they really wanted to go to the bullfights.
>
> Few things get by Gross, who's the superwatchdog of the House. He's one of the few members on the floor every day, hour after hour, taking in everything that's happening. He reads, line by line, every bill that comes to the floor questioning, probing, sniping, at his colleagues, using his acid tongue to try to shoot down the most innocent-looking bills.
>
> He has lost far more times than he's won, but occasionally has uncovered some not-so-innocent skulduggery. Such as a measure a few years ago to put up federal funds to design a special flag for members of Congress. Just as the bill was about to slip thru, Gross discovered it was meant to accommodate a Congressman who wanted to fly the flag on his cabin cruiser.
>
> Not surprisingly, some of his colleagues have regarded Gross as an obstructionist pest. Ohio Democrat Wayne Hays, a maverick himself, once tried to put down Gross for benefitting from a pay raise bill he had fought.
>
> It reminded him of what Frederick the Great once said of Austria's Maria Theresa—said Hays—she weeps but she takes her share.
>
> But as usual Gross had the last word, asking Hays if Maria Theresa was one of the queens the gentleman had met on one of his many junkets to Europe.

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## AIRLINE ANALYSTS BAR PRESS AT REQUEST OF CAB

## HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. OBEY. Mr. Speaker, Thursday's Wall Street Journal discloses that at the request of a Civil Aeronautics Board official, a Journal reporter was excluded yesterday when the official and a CAB colleague addressed a room full of airlines security analysts in New York on the industry's current woes. All they discussed in his absence were "CAB policies, philosophies, and the status of pending cases in a variety of areas, including fuel shortages, fare increases, joint capacity-control agreements, subsidies, route swaps, and so on."

As the story notes, the closed-door session goes against the trend toward openness being encouraged by the Securities and Exchange Commission. It also reminds me that last November 20, just 10 days before a 5-percent fare boost was to take effect, the CAB announced that because the airlines were going to have to make do with 10 percent less fuel than they had planned to use, it would give them "sufficient leeway" to coordinate service cutbacks so that the resulting disruption would be minimized.

The CAB assured us it would keep close watch over any agreements the airlines made and "act as an impartial arbitrator of the competing needs of passengers, shippers, communities, and the Postal Service regarding the relative level of service provided."

While anticipating that airline get-togethers normally would take place only after notice was given, the CAB went on to recognize an occasional need for "less formal" carrier consultations—"by phone, telegram, or otherwise."

The CAB then ventured to suggest that "the interests of the public can be adequately protected, despite such informal consultations," through a system of "full reporting" to the Board what was discussed, and laid down some guidelines, including this:

> Reductions in non-stop service below one daily round-trip non-stop flight will not be approved except in extentuating circumstances.

However, on November 30, the Washington Post reported that CAB Chairman Robert D. Timm, speaking in Houston, said it now seemed likely that airlines will have to stop serving some cities as the only way to cut fuel consumption to target levels. And he was quoted as warning that the CAB lacks the authority to "protect and guarantee an essential national air system during this time of crisis."

I am beginning to believe that the only thing the CAB is capable of protecting is its own penchant for secrecy and the chumminess of the airlines it is supposed to be regulating.

Here is the Wall Street Journal story:

### Airline Analysts Bar Press From Meeting at Request of CAB—Journal Reporter Is Excluded From a Crowded Discussion of Current Industry Woes

(By Todd E. Fandell)

> New York.—Publicly owned companies and securities analyst groups, with occasional prodding from the Securities and Exchange Commission, have been slowly edging away in recent years from the practice of holding closed meetings to discuss corporate affairs. The object is to eliminate the possibility of disclosure to a select group of significant information that isn't available to the public.
>
> But news of the trend away from such secret sessions apparently hasn't yet reached some other federal regulatory agencies. At

least, it would seem, the word hasn't gotten to the Civil Aeronautics Board, which oversees operations of the nation's airlines.

Two key CAB officials—Robert J. Sherer, director of the Bureau of Economics, and William B. Caldwell Jr., director of the Bureau of Operating Rights—yesterday addressed a roomful of airline securities analysts in New York. They discussed CAB policies, philosophies and the status of pending cases in a variety of areas, including fuel shortages, fare increases, joint capacity-control agreements, subsidies, route swaps and so on.

Most of the topics were matters that affect the current economics of airline operations, and presumably, could potentially affect the market values of airline securities.

### REPORTER BARRED

At Mr. Sherer's request, however, a Wall Street Journal reporter wasn't allowed to attend, even though the analyst group involved had previously indicated his presence would be permitted. The group regularly permits such attendance by the Journal at its meetings with companies.

A CAB spokesman said the final decision to bar the press from the meeting had been left by Mr. Sherer to the analysts. But he conceded Mr. Sherer had told the group he would object to the presence of a reporter and wouldn't feel free with a reporter present to discuss certain matters in the way he wanted to talk about them.

"There are certain things that are better discussed without the press present," the spokesman said. He cited as examples the use of certain figures that aren't "releasable" to the public and possible discussions of confidential information from individual carriers that could be competitively damaging if known to other carriers. He didn't explain why it would be okay to discuss such information with a couple dozen Wall Street analysts, most of whom are in frequent contact with each U.S. airline.

### SPOKESMAN APOLOGIZES

A spokesman for the airline analysts expressed surprise at Mr. Sherer's request and apologized for the development. He said "nothing really newsworthy" was discussed during the "informal" session.

From analysts in attendance it was learned that the two officials, among other things, said the CAB staff strongly opposes the grant of any subsidy payments to Eastern Airlines, a prospect the carrier had raised. They also said the board may withdraw the blanket authority recently given airlines to discuss mutual capacity cutbacks and schedule reductions because of the fuel supply situation.

One analyst said he received the impression it would be mid-February at the earliest before the CAB would rule on airline requests for a new domestic fare increase to cover rising fuel prices.

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## THE ECOPOLITICS OF OIL

## HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. LEGGETT. Mr. Speaker, in reducing our current energy problems to their simplest terms, one reaches the inescapable conclusion that the industrialized world simply requires more oil than it has; conversely, some portions of the rest of the world, most notably the Arab States, have more oil than they can use. In times past, a free market world economy provided the solution to this problem in a very straightforward way; that is, we would buy what oil we needed by selling our manufactured and agricultural goods. That system is not working now. The price of oil has reached a level where we can no longer sell enough to afford our needs. But more important than that, $20-a-barrel oil will, in a short time, bankrupt every Western currency and the world monetary system with them.

The problem is not insoluble, nor must we engage in hysterical histrionics to get to its roots. It touches only peripherally on Arab-Israeli politics, and I would hope that the Arabs with whom we are dealing are too sophisticated to turn the entire world on its ear over oil price avarice. A recent article in the Saturday Review/World by Mr. Richard C. Longworth provides an analysis of the possibilities we face. Though I question some of the statistics, I commend the article to the Members' attention, and ask that it be printed in the RECORD at this point.

The article follows:

### THE ECOPOLITICS OF OIL

(By Richard C. Longworth)

When the governors of the International Monetary Fund met in Nairobi, Kenya, last fall to debate the world's new monetary system, they gave relatively little thought to the impact of the oil crisis on that system. The ministers and bankers were not blind to the problems an energy crisis could cause; rather, nearly everyone thought the new system would be in place by 1975, presumably before the crisis would hit. A Libyan delegate warned that the oil nations would oppose any restriction on their right to pile up huge monetary reserves, but few money men heard him. Most were playing hooky among the lions and zebras in Nairobi's game park, and the Kenyatta Conference Center was three-fourths empty.

Now, a half-year later, the crisis is nearly upon us and holds huge potential for upsetting the reformed monetary system before it even goes into effect. The crisis, it should be stressed, is not a matter of the short-term shortages caused this winter by the Arab embargo on oil shipments to America and by the cuts in production for Europe and Japan, both aimed at putting pressure on Israel. The long-term problem has nothing to do with Israel and probably would persist even if Israel were to vanish. It is the squeeze over the next ten to fifteen years caused by the probable refusal of the oil nations. Arab and non-Arab, to produce as much oil as the industrial nations need. The oil producers' logic is impeccable: First, they cannot begin to spend the money they would get by supplying all the world's needs, and, second, oil is their only source of income and should be conserved to guarantee a prosperous future. They threaten no cutback in present production. Rather, they say they are unlikely to double that production—which is what an oil-thirsty world will need to keep going.

Much has been written already on the effect an oil drought could have on life in the West—the death of air conditioning, for instance, or night baseball or the private car. Just as imminent are wrenching changes in America's role in the world—e.g., injury to the American-European-Japanese economy and the impending breakup (already begun) of NATO, on which U.S. policy has been based since 1941. Responsible men are even suggesting that the United States may go to war to secure the oil it needs to live.

Of that, more later. For a glimpse into the future, it is necessary to begin, as the crisis itself began, with money.

James E. Akins, the new U.S. ambassador to Saudi Arabia, early last year wrote that the Arab nations and Iran must produce 48.5 million barrels of oil per day by 1980 to satisfy the growing Western economies. That is more than double the 23.8 million barrels that those nations drilled per day in 1972. Akins predicted five dollars per barrel as the probable average 1980 price. From that, he calculated that these arid, underpopulated nations would earn a staggering $210 billion between now and then, included $63 billion in 1980 alone. The Financial Times of London noted that income on this scale "could enable countries like Saudi Arabia to buy companies the size of Exxon or Shell at the rate of one a year without feeling the pinch."

Two things, both surmised by Ambassador Akins, have happened in the brief year since his predictions appeared. First, the Arabs warned that they have no intention of raising production that much. For most of them, the unspent surplus funds would bring more trouble than good. And oil left in the ground is a fine hedge against inflation. That would cause a Western oil drought, of course, but it would bring our 1980 oil bill down, were it not for the second event—the Arabs' unilateral scrapping of price-setting negotiations with oil companies. From now on, the Arabs intend to set prices themselves at whatever level the market will bear. The five-dollar figure that Akins forecast for 1980 is already outdated. Sheikh Ahmed Zaki al-Yamani, the Harvard-educated oil minister of Saudi Arabia, has said his country could cut output by 80 percent and survive because "a barrel of crde oil . . . could be sold for fifteen or twenty dollars."

Worried bankers see a peril to the world monetary system in that high Arab oil income. For one thing, only a few nations, such as Iran and Iraq, will spend all their income on development. The rest, with fewer people and problems, will run up a surplus of $40 billion to $110 billion—maybe more—by 1980. So much money simply cannot help causing trouble: Last year's money crisis began with the speculative shift, in a much smaller amount, of the homeless U.S. Eurodollars oversees. Yet can that much money be usefully spent in such a short time? Can it be invested abroad without creating dangerous social and political pressures—an "Arab challenge" dwarfing the "American challenge" that so exercises Europeans? Is there a Faisal in our future?

If the money would cause trouble on arrival in the oil nations, it would do equal damage on its way out of America, Japan, and Europe.

Monetary reform has been postponed, and world currencies have been allowed to float until the badly skewed payments balances of the major nations—particularly the huge U.S. deficits—can be put right. At year's end that objective was in sight. The U.S. trade balance had moved suddenly into surplus. Agreement on the major elements of reform seemed likely by last summer. Oil has threatened all that.

By 1980 the United States may be sending $20 billion or more abroad each year to pay for oil. Europe's energy deficit could be even higher—some $25 billion—and Japan's, $15 billion. Outflows of that size not only would upset any payments balances but also would undercut a key reform—the punishment of nations with big and persistent deficits or surpluses. In that situation, can Europe and Japan, and probably America, avoid deficits? And can the unavoidable surpluses of the oil nations realistically be penalized? That Libyan delegate in Nairobi said no.

It is idle to hope, moreover, that the Arabs could resist the temptation to play the money markets. Most evidence indicates that they suffered by staying out of last year's money speculation. They are unlikely to abstain a second time.

Finally, the new monetary system will be based on an artificial currency called the backed by a mélange of the more muscular Special Drawing Right. This SDR will be currencies—gold plus the dollar, pound, yen, deutsche mark. But a nation's currency is only as strong as its economy. If the oil crisis damages Western economies, it also will damage their currencies. What good, then, will the SDR be? Or monetary reform itself, for that matter?

No sober and sophisticated Arab economist—and there are many—wants that. Oil will be sold, after all, for Western currencies. If these currencies collapse, so will Arab income. But the economics of the oil game has assumed a mad momentum of its own.

In an article I wrote for this magazine last year, I called the oil crisis the "joker in the deck" of transatlantic relations, because it would force the allies—already at odds over so many issues—to face the Middle East together or fall out in a competitive scramble for scarce oil reserves. That joker has been played, much sooner than expected, with the sharp U.S.-European division over the Arab oil boycott that began in October. The United States went one way, in continued support of Israel. The Common Market countries went the other, issuing a statement that, for the first time, put Europe on the Arab side. That statement was an error, because it forfeited Europe's bargaining chips—economic and political—in the first hand of the game. Holland signed the statement, but the Arabs boycotted the Dutch anyway, to punish them them for pro-Israel statements during the Yom Kippur war. The other eight EEC nations, in a display of coordinated cowardice reminiscent of Munich, refused to support Holland for fear that the Arabs would boycott them, too. The affair afforded the spectacle of eight allies helping the Arabs enforce a boycott against a ninth—a sorry start for the "foreign policy" that Europe hopes to build.

The episode was the first in what will become a series of challenges to Western unity. From it, the Arabs already have learned that this unity hardly exists. They now know that Europe, at least, will pawn its foreign policy for oil. They have seen that a nation's support of Israel decreases as its dependence on Arab oil grows. Europe gets 72 percent of its oil from the Arabs; the United States gets 11 percent. Who can blame the Arabs for thinking that if U.S. oil imports rise as fast as expected, Washington might see new merit in the Arab case? And why, therefore, should they compromise?

That situation stems, of course, from the Arab-Israeli war. For the long-term crisis, prospects for allied cooperation are not much better. The United States made a belated move toward a truly cooperative policy when Henry Kissinger proposed an "energy action group," uniting America, Europe, and Japan in a common attack on the crisis. Kissinger offered a "very major financial and intellectual contribution" from the United States and said the oil-producing states could join in, too. But the Europeans, fearful of being tarred by Washington's pro-Israel brush, are wary. France, in particular, opposes any all-European approach to Washington, because it believes (erroneously) that its good relations with Arab countries give it boycottproof supplies.

The Sixth Fleet in the Mediterranean is said to have fuel problems because the Arabs told Italy to cut off the fleet's oil. The logical extension of that squeeze is an end to the American presence in Europe. If the Arabs order West Germany to stop the sending of oil supplies to U.S. forces based there and Germany acquiesces, Congress will certainly have the soldiers on the next plane home.

In those testy circumstances, how can the West and the world get through the next decade with minimum damage to economies, currencies, and foreign relations? A few governments seem certain. Western governments must take the place of the independent oil companies in negotiations with the oil nations about prices and output. The oil business is too important to be left to the oil firms, which have become tax collectors and lobbyists for the Arabs, offering little protection to the consumer. The Common Market would like to turn Europe's oil firms into glorified public utilities. That trend probably will grow.

Another casualty will be the philosophy of waste expounded by President Nixon when he said: "There are only seven percent of the people of the world living in the United States, and we use thirty percent of all the energy. That isn't bad. That is good. That means we are the richest, strongest people in the world, and that we have the highest standard of living in the world. That is why we need so much energy, and may it always be that way." In fact, Americans use so much energy because they waste half of it. The average American uses two-and-a-half times as much energy as does the average European to support a standard of living only marginally higher. If China alone consumed energy with the per capita profligacy that Americans display, it would use up every watt, gallon, and BTU in the world.

Beyond that, many long-range policies have been proposed. U.S. oil expert Walter J. Levy has urged the United States, with its relatively small dependence on Arab oil, to protect its allies against extreme shortages. In return Japan and Europe must "forego the temptation of looking only at their immediate self-interest." If that much trust can be built—and, on present evidence, the possibility is doubtful—the industrial nations, Levy says, could "avoid bidding against each other or being played against each other with ever-escalating political and economic demands being made upon them." A "countervailing power" to the oil-producing nations would emerge, and "the extraordinary political, strategic, and economic power of the Atlantic-Japanese group of nations' would restore balance of the oil picture.

Yet "Long-Term Projections of Political and Military Power," an authoritative study compiled for the U.S. Navy by a Princeton team, doubts the allies can find enough unity to make such pressure effective. It also discounts economic pressures, because the Arabs need nothing so badly as we need the oil. Nor, it adds dryly, "in view of their past experience with Western powers, would they be especially susceptible to moral and political arguments."

Some Westerners still see the Arab as an unlettered desert warrior, swapping his camels for Cadillacs as the oil gushes in. But the warrior's sons are in charge now. They have been to Harvard and Wharton and would rather invest in computers than Caddies.

A Western cartel for negotiating with the Arabs or for allocating supplies will probably be necessary. But unity must be assured in advance, since the Arabs say they would use a boycott to break up any "hostile" cartel. Everyone agrees on the need to develop nuclear and solar energy. In the long run, those plus coal will provide the answer. But only the White House believes they will be functioning effectively by 1980.

King Faisal appears to worry less about Israel (except for Jerusalem) than about Mideastern rivalries involving Saudi Arabia, Iran, Iraq, Kuwait, the two Yemens, and the seven sheikhdoms in the United Arab Emirates. The country that armed Faisal against these threats, as we have begun to do, might cash his gratitude in for oil. That could be an effective policy despite the moral and practical objections, not the least of which is that it is playing with fire.

But for all our futures, the best strategy is cooperation. The oil nations do need Western technology, finance, political support, and imports, and they will pay in oil to get them. An example is the recent deal between Germany and Iran, with Bonn getting oil and Tehran getting two steel mills, a refinery, and a petrochemical plant.

The wise use of such long-term cooperation could, if we are lucky, produce the best answer of all—international commodity agreements ensuring a steady oil supply to the benefit of both producer and consumer. Joseph Yager of the Brookings Institution urges the formation of an "international oil organization . . . stabilizing the production and marketing of oil." Both Arabia's Sheikh Yamani and Iran's Jahangir Amuzegar suggest that the oil nations invest their immense profits in refineries, pipelines, and other energy projects that the industrialized nations, by themselves, will be hard pressed to finance.

But before that can happen, the Arabs must realize they can gain nothing by playing the Western allies off against each other, by tying politics to oil, by imposing leapfrog price demands, and by cutting output to drought levels—whether out of self-interest or to fulfill the threat by Libya's Qaddafi to "ruin your industries." That realization, in turn, will not happen so long as Japan, America, and Europe undercut each other for every drop of Arab oil. In a world of "Nixon shokkus" and aborted "years of Europe," that unity is elusive. But on that issue, at least, the allies' interests are identical.

The alternative to cooperation has been clearly stated. British strategist Neville Brown warns that the West "may face the choice of capitulating or going in physically to get the oil." Sen. J. William Fulbright says Washington may "come to the conclusion that military action is required to secure the oil resources of the Middle East, to secure our exposed jugular." Sheikh Yamani says the Arabs would blow up their oil fields if that happened. But the study for the U.S. Navy says the Western powers, if they "became very desperate," could marshal overwhelming military strength.

These men are no warmongers. Brown says an invasion of Arabs "is a possibility that I quite frankly regard as horrendous." Yet the possibility exists. Skeptical? Ask yourself this: Would the Western nations accept—should they accept—an oil-supply situation that undermines their currencies, economics, foreign policies, alliances, and standards of living? If the search for alternatives begins now, that question need never be asked.

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## H.R. 11955

## HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. SYMMS. Mr. Speaker, the House Agriculture Committee will conclude hearings this week on legislation that would pose a great danger to the productivity of American farmlands. This bill could make a shambles of American farming. Mr. Speaker, I believe this bill is so bad it could ultimately be responsible for so disrupting our farm system, that the present energy crisis will look like a picnic beside it. I am referring to H.R. 11955, the Commodity Futures Trading Act of 1974. I urge my fellow Members to be aware of the dangers of this bill, for it has been the futures market that has provided financing and liquidity for much of American agriculture. Under "disorderly trading" or "emergency" conditions, the Government would have carte blanche authority over the industry. The criteria laid down in the bill for "emergency" conditions already exist, and could justify an immediate takeover of futures markets.

In addition to the emergency provisions, the legislation establishes a five man Commodity Futures Trading Commission within the Department of Agriculture. Even in the absence of disorderly trading or emergency conditions, this Commission will exercise nearly complete control over commodity futures traded in the United States.

Section 215 describes the circumstances under which the Commission could justify seizing control of the futures industry:

> Whenever it has reason to believe that the amount of deliverable supplies, the number of open contracts, the relative size of individual traders' positions, the amount and direction of price movements in cash and futures markets, the impact of government edicts and regulations . . . the other such market factor creates a condition which threatens orderly trading.

The Commission itself will decide when the number of open contracts is correct, when the individual traders positions are balanced, whether cash and futures prices are moving in the right direction. There are no objective criteria for determining these conditions, so the Commission's subjective interpretation will determine when it has the right and duty to intervene.

The Commission may also direct markets in "market emergencies." Market emergencies are defined as: "Significant intervention of foreign governments in the futures market, war or other national emergency, price controls, export embargoes, or any other significant disruption of normal commercial processes which can reasonably be deemed to affect futures transactions."

Price controls have existed for years, and tragically, are likely to continue indefinitely. This "emergency" condition will be a fact of everyday life in the United States for some time to come. The moment the Commission is voted into existence, it will have immediate justification for assuring direction of the commodity futures industry.

As if these criteria were not sufficiently all-embracing, note that the Commission will also have power to direct the industry whenever "any other such market factor creates a condition which threatens orderly trading." Authority to decide when orderly trading stops and disorderly trading starts will again remain in the hands of the Commission, for there are no objective criteria written into the bill.

Once the Commission decides to intervene, it can move against the industry virtually without restraint. The Commission is specifically granted the powers to extend the expiration date of futures contracts, extend the time for making deliveries in fulfillment of a futures contract, limit trading to liquidation, and to suspend trading.

But the unspecified powers are still more menacing. The bill says that "such actions may include, but are not limited to" any of the above. We are left to guess what other actions the Commission may take. It can do whatever it sees fit, whenever it sees fit.

Widescale injunctive powers are vested in the Commission. It can halt the transactions of any market or person who "has engaged, is engaging, or is about to engage" in any act constituting a violation of the law. This power of preventive injunction appears unconstitutional on the face of it. Legislation aimed at preventing, rather than punishing an action, has within it all the problems inherent in conspiracy and preventive detention laws. It is a particularly ominous threat against the right to conduct business.

Injunctions will also be issued when an individual or market is in a position "to effectuate a squeeze or corner or otherwise restrain trading." Here there need be no suspicion of intended wrongdoing. The mere possession of the power to do wrong potentially will suffice to justify an injunction. This power to enjoin even in the absence of suspicion of dishonest intention may be unprecedented power for a regulatory body. The power is compounded by the failure of the legislation to stipulate what is meant by the phrases "squeeze, corner, or otherwise restrain trading". Perhaps it is not surprising that the legislation does not define these contingencies, for as yet economists cannot agree on what they mean.

A witness at recent House Agriculture Committee hearings foresaw a situation involving a difference of opinion between the trader and the new Commissioners. The trader's information, analysis, and understanding of the supply and demand situation may be superior to the Commissioners. The injunction might be granted anyway, and the trader stopped, only to be judged innocent later. How will the trader then be compensated for his losses? This witness remarked,

> For commodity markets, the power to enjoin is the power to destroy.

All contract markets will need Commission licensure. To obtain it, each must prove it served an "economic purpose," otherwise the license can be denied. Market transactions are said to have "economic purpose" when they serve the function of hedging producers, merchants, or consumers against lose through price fluctuations. These are broad, subjective standards, and it will be the Commission who decides them, not the customers whom the markets serves.

I recently encountered a dismaying illustration of how the Commission might interpret its power to deny licensure. While talking to a high-ranking CEA official, one of my staff members was told that all currently regulated futures markets served an "economic purpose." Which of the currently unregulated markets might be liquidated for lack of economic purpose?

This official mused:

> It's hard to see how futures trading in silver coins serves an economic purpose.

There are others who might not share this official's viewpoint on silver coin speculation. They might feel that silver coin futures serve as a hedge against inflation, which surely is an "economic purpose."

The Commission will put limitations on brokers and floor traders buying for their own accounts as well as for their customers'. This provision is not necessary to keep brokers honest—market considerations are much more forceful—and its only affect will be to hurt the liquidity of the futures market.

If a broker cheats his customer in trading, he only hurts his own economic self-interest. His reputation would be swiftly known, and his customers would find a new broker. A broker's conflict of interests is infrequently a problem.

In cases where a problem does arise, the contract markets already have their own internal disciplinary procedures.

This is not to suggest that the Government has no part to play in an honest commodity futures markets. As a first step, Congress and the Department of Agriculture must insure that Government information is available to each buyer and seller on an equal basis. Charges that "inside information" was made available to selected firms in the Russian wheat deal have hurt the futures market, and doubtless these rumors have played a large part in the demand for more regulation. Even if these allegations are true, the answer is not to shackle the market, but to demand fair business practices from the Government.

The thinking behind the bill displays a lack of understanding of the mechanisms of futures trading, and particularly the importance of speculators to the smooth functioning of the market. Speculation is the heart of the market. Speculators stand between the producer who wants the highest price for his product and the consumer who wants the lowest price for the product. The speculator provides liquidity to the marketplace, and he levels the many peaks and valleys that would otherwise occur in the price structure. The speculator generally takes the position opposite the hedger and performs the function of the insurer. He guarantees a certain price on a market frought with uncertainties for the seller. Contrary to popular mythology, the speculator makes the market more predictable, not less predictable for buyers and sellers.

Speculators serve other market functions. By operating on extremely small profit margins, they are willing to realize small profits by buying and selling within fractions of a cent. Many of these speculators also act as brokers trading for their customers' accounts. They can flow with the volume of trading. When volume is heavy, floor traders act as brokers. When volume declines, they trade for their own accounts.

If the hedger wants to sell, it is this speculator who will buy. All this would be lost if the bill puts limitations on their activities.

Many floor traders and brokers depend on the additional income which they gain from their private transactions; if this revenue were not available to them, they would have to leave the field, thus reducing the liquidity they now bring to the market.

The speculator must put up margins before he buys. By doing so, he provides the futures market on which he buys with interest-free financing. This financing will be lost as well.

The new Commission will determine the location and number of delivery points of commodities. The framers of the bill do not seem to realize that standardized delivery points are crucial in futures trading. What delivered in Chicago, Ill., is more valuable than wheat delivered in Des Moines, Iowa. When the Commission sets delivery points on its own discretion, the futures buyer will not be able to anticipate if he is buying wheat in Chicago or in Des Moines. Traders will not be able to estimate the value of the contracts. This provision alone could destroy futures trading.

This provision seems to be based on the false premise that futures are a mechanism for merchandising grain. They are not. They are a substitute for a cash contract and provide buyers and sellers with specific economic benefits—such as shifting the risk of ownership of inventory and forward pricing. Frederic G. Uhlmann, chairman of the Chicago Board of Trade, believes the delivery privilege is an assurance that delivery is available in case the cash buyer or seller cannot make his own contractual arrangements. If a buyer has to take delivery at a point where it is disadvantageous for him to ship the grain, the futures contract breaks down, in Uhlmann's opinion.

The futures system developed under a system where buyer and seller were free to carry out mutually beneficial and voluntary transactions. It has served the farmer, the merchandiser, and the consumer superbly well. The freedom that made it the remarkable success it is will soon be lost, unless the futures industry exerts enormous pressure to halt this legislation.

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## VOLUNTEER PHYSICIANS FOR VIETNAM

### HON. THOMAS E. MORGAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. MORGAN. Mr. Speaker, in conjunction with my remarks on the Volunteer Physicians for Vietnam program, I believe that the following article from the Journal of the American Medical Association of August 6, 1973, which describes that program in detail, will be of interest to my colleagues:

### VPVP Program Terminated

The Volunteer Physicians for Vietnam (VPVP) program, which was initiated as Project Vietnam in 1965, was terminated on June 30, 1973. As of July 1, 1966, the program had been the responsibility of the American Medical Association, which renamed it "Volunteer Physicians for Vietnam." During the eight-year period of operation, a total of 774 physicians from the United States served 1,029 two-month tours in provincial hospitals in South Vietnam under this program. One hundred thirty-six physician-volunteers, 17.7 percent of the total, returned to Vietnam to serve more than one tour of duty. Since the inception of the program in 1965, these American physicians have contributed in excess of 150 man-years of voluntary service to the civilian population of that war-torn Southeast Asian country.

Operations in Vietnam are scheduled for complete termination at the end of the fiscal year 1973; the last physician-volunteer, however, departed from Saigon on June 30.

The impact of the program on the health situation in South Vietnam was great. AMA volunteers supplied a high percentage of the total modern and sophisticated medical care for the population. The volunteer program was also a politically stabilizing factor because it reflected the interest and the involvement of the American people.

Now that the main hostilities have stopped, some of the Vietnamese military physicians are returning to civilian posts. A joint utilization program has been set up by the Armed Forces Medical Services and the Ministry of Health of South Vietnam to cover the gap created by the departure of American volunteers.

An important part of the VPVN program has been its educational aspect. In many places and in many hospitals American volunteer physicians were able to introduce the modern methods of the Western world and, in some cases, were able to provide continuous medical education for their Vietnamese colleagues. But most important, the American volunteers have disseminated knowledge by means of teaching programs set up for the Vietnamese medical auxiliaries working under the supervision of American volunteers.

The National Order of Physicians of South Vietnam and the civilian governmental authorities were appreciative of the services of American physicians and cooperated completely in the programs of medical care delivery and in the continuous medical education programs set up by the volunteers.

The director of the VPVN program, Charles H. Moseley, MD, reports that there was no difficulty in finding American physicians willing to volunteer for service in South Vietnam. Physicians were attracted by the publicity given the program. Some were influenced by the impressions transmitted by the returning volunteers, and some were moved by the knowledge of the general health situation in the civilian population in South Vietnam. Still others were drawn by the exhibits prepared and staffed by Dr. Moseley's team at numerous medical meetings and conventions.

Probably the most important factor in the program's success was the motivation of the American volunteer physician. American physicians showed great idealism and willingness to sacrifice their own comforts and gains in order to alleviate the suffering of the people in a war-stricken, faraway country. Since many of the physicians came from Christian medical societies, it indicates that religious beliefs may also have had a deciding influence. Many of the physicians were, no doubt, curious to see the exotic diseases which are rarely seen in the Western world and were desirous of gaining additional experience in emergency or tropical medicine. The willingness to serve as volunteers also indicated the patriotic mood of many who felt that the population of South Vietnam was being unjustly attacked by the Communist forces and wanted to demonstrate that the people of the United States were willing to back up the fight of the South Vietnamese.

All of the volunteer physicians were screened by the office of the program before they were sent overseas. This screening was strict and delved into the moral and ethical backgrounds of the applicants. Of all the volunteers who went to South Vietnam, about 70 percent were members of the AMA. The majority came from the states of California, New York, and Texas; however, states such as Montana and the Canal Zone provided the largest number of volunteers, 5 percent of all physicians residing in these areas.

The different cultural background and French schooling of most of the South Vietnamese physicians did not interfere with establishing a good rapport with their American colleague-helpers. An especially good rapport was created between the American volunteer physicians and the South Vietnamese auxiliary medical and hospital personnel.

The continuous medical education programs set up at numerous district hospitals in cooperation with the civilian health authorities of South Vetnam, the Army Medical Services, and the physicians from the civilian population were quite effective and produced an impact almost as great as the direct diagnostic and therapeutic services of the volunteers. These continuous medical education programs, however, were completely different and independent from any work done at the medical schools, which were also aided by the American effort, but through a different program and by a different team of personnel.

A fairly well-balanced team was always kept in Vietnam at all times during the program's existence. The volunteers care from various specialty fields. Family and general practice was represented in the highest numbers, but sufficient numbers of physicians came from the specialities of pediatrics, internal medicine, general surgery, orthopedic surgery, obstetrics and gynecology, urology, anesthesiology, ophthalmology, otorhinolaryngology, pathology, physical medicine and rehabilitation, preventive medicine, psychiatry, neurology, and radiology.

The appreciation of the South Vietnamese people was clearly demonstrated in May when the Vietnam Council on Foreign Relations presented its Meritorious Service Award (a plaque and a medal) to the American Medical Association for the exceptional and outstanding contributions made to Vietnam through the humanitarian and voluntary services of American physicians. The presentation was made to Dr. Moseley, who accepted the award on behalf of the AMA, by Mr. Tran Van Lam, Foreign Minister of South Vietnam and president of the Vietnam Council on Foreign Relations. During the recent Annual Convention in New York, Dr. Moseley transmitted the award to the President of the AMA, Charles A. Hoffman, MD. The presentation took place during the American Physicians for Vietnam reunion luncheon which was attended by a great number of former volunteers and by the members of the Board of Trustees and the House of Delegates of the AMA.

Individual Meritorious Service Awards were also presented by the Foreign Minister to Dr. Moseley, AMA Project Director, to program Field Director, John V. Connolly, MD, and to his Administrative Assistant, Mr. Fred T. Ratchford.

The program has ended but the pleasant, comforting shadow it has cast over the country of South Vietnam will be long remembered. The American volunteers have gained an honorable place in the history of the unfortunate war-torn country of South Vietnam and in the hearts of its people.

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## JIM RICHARDSON, VALLEJO IS HIS MONUMENT

### HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. LEGGETT. Mr. Speaker, to describe the late Jim Richardson of Vallejo as dynamic is an understatement—he was action personified. In a manner of speaking, Vallejo is Jim Richardson. Jim not only managed the building of 10,000 public housing units during World War II, that critically assisted our defense effort in the bay area, but he managed the housing area with distinction during the postwar years. Not content to perpetuate substandard housing, he officiated at the dismemberment and relocation of nearly 40,000 people in the late 1950's. He accepted there a new challenge—the reorganization and redevelopment of the old city of Vallejo. This was a hard job. Jim generated the enthusiasm, prethought the Government redtape, negotiated virtually every condemnation and rebuilding. Today the citizenry of Vallejo enjoys a modern downtown, a new Federal post office, a new library, new apartments, stores, a yacht harbor, fishing pier, and a beautiful waterfront.

Washington recognized Jim's excellence and appointed him director of Housing and Urban Renewal for the 11 Western States. In this latter job, Jim performed miracles for other communities all over the West. He even served a short tour before his retirement working on housing and redevelopment in the trust territories.

A few days before Christmas, Jim knew his time was coming. He had always planned everything for everybody else, and his last rites were going to be written by nobody else.

He asked me to "hold one of the handles at the appropriate time." I agreed and I did.

Jim Richardson of Vallejo has Vallejo as his memorial—a humble creative plumber who had a fine sense and ability to make government work for people.

The Vallejo Times Herald editorialized as follows:

A GREAT LOSS FOR VALLEJO

A long and distinguished public career which spanned 31 years and touched the lives of at least 500,000 persons during and after World War II came to an end recently with the death of James D. Richardson, the "father" of Vallejo housing for almost 26 years.

While most of his life was spent in Vallejo as a housing official and redevelopment director, his passing is felt keenly by all Vallejoans and throughout the nine-county Bay Area. Until his retirement in June, Richardson was the assistant regional adminstrator for renewal assistance with the U.S. Department of Housing and Urban Development in San Francisco.

Although Richardson had spent most of his public life in the Bay Area, in 1972 he was assigned to Saipan where he was regional management officer to the Trust Territories in the Pacific. His area included the Marianas, the Marshalls and the Carolines which embraced more than 2,000 islands, some three million square miles and 102,500 persons.

But it was in Vallejo where he gained the respect and admiration of all those with whom he worked and was associated with. For his many accomplishments, he was described as a "man among men . . . a leader who stood above the crowd . . . and one who could get things done quickly and efficiently."

It was not all work with Richardson, however. He took time out for youth work and was recognized nationally for his efforts in behalf of the Camp Fire Girls, the Boy Scouts of America and the youth of Vallejo. The Richardson Pool in the old Floyd Terrace area was named in his honor for outstanding achievements for the young.

Richardson began his career in Vallejo in 1938 when he became active in labor affairs. He was president of the Solano Building Trades Council and later secretary for the Labor Temple Association. And when the Vallejo Housing Authority was formed in 1942, Richardson was appointed to the original board as commissioner.

In 1944, he became superintendent of maintenance for the Housing Authority and then in 1946, he succeeded the late Maurice J. Wilsie as the authority's executive director. Ten years later when the Vallejo Redevelopment Agency was formed, Richardson became its first executive director and kept that post until joining HUD in San Francisco.

While with the Vallejo Housing Authority, Richardson managed the equivalent of 10 small cities with a population of 40,000 persons and never had to evict a single family, a record of which he was proud.

While he was with the Urban Renewal project, Richardson created his lasting tribute when, under his directions, a slum area was transferred into the glittering oasis of malls, parks, patios, land-scaping and lighting now known as Marina Vista.

Richardson's inspiring leadership will be missed throughout the Bay Area and particularly in Vallejo, but the work he left behind certainly will perpetuate his memory to all those who knew and loved him.

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## ROGERS, ARK., CITIZEN WRITES THE PRESIDENT

## HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. HAMMERSCHMIDT. Mr. Speaker, the House Judiciary Committee is initiating its investigation into the serious question of impeachment of the President of the United States. In reaction to the events in recent months relating to the Watergate situation and the 1972 Presidential campaign, citizens throughout the country are voicing their views to urge support for President Nixon, to ask for his impeachment, to request the President's resignation, or to convey dismay over what they construe as a media attack on the administration.

It is therefore timely that I share with my colleagues a news article written by the executive editor of the Rogers, Ark., Daily News. This article relates the story of a naturalized American citizen who, in 1933, chose America as his home and whose loyalty to his Nation motivated him to write the President and take steps to assure that the letter reached him.

After receiving President Nixon's reply, Charles A. Sanchez reached a conclusion which, hopefully, all Americans can share: We owe the President our loyalty until such time the due process of law guaranteed to all citizens is applied and any guilt is proven or disproven.

The article follows:

[From the Rogers (Ark.) Daily News, Dec. 20, 1973]

### ROGERS CITIZEN WRITES PRESIDENT AND RECEIVES REPLY

(By Jerry Hiett)

Throughout the past few weeks a growing movement has been seen across the country, in which groups and individuals have been expressing the need for a re-evaluation of criticism of President Richard Nixon.

A Rogers man did more than most of the persons in this group.

He decided to let the President know his feelings. Not only did he take the time to write President Nixon a letter, expressing his feelings, he also took steps to make sure the letter "reached the President."

The President did receive the letter and not only read it, but personally answered it.

When asked why he wrote to the President, Charles A. Sanchez of Rt. 6, Rogers answered by saying there were several things that forced him to step forward and make his feelings known.

Part of the reason, Sanchez explained, was "due to the time I spent watching every possible minute of the Watergate (hearings), from the time it started until it finished on television."

"After seeing the proceedings, which to say the least, in my mind were more of a trial than a hearing, I felt that I would be remiss of my duties if I didn't let the President know that not all persons felt as did others—about his guilt or innocence," Sanchez said.

"And," Sanchez continued, it was "due possibly to my legal background I acquired from law school."

He pointed out that he is a graduate of law school, although he never went into the practice of law.

"In regard to my training in law school," he pointed out, "anyone knows a man is presumed innocent until he is proven guilty. By all means I think this should include the President."

"I have seen no charges filed by the House of Representatives, who are the only ones who can impeach our President," he went on.

"And impeachment means," Sanchez stated, "not running him out of office, but rather seeing if there are enough charges that can be proved to try him in the Senate."

"Nothing like that has been done," Sanchez said. "If the case against the President is so strong, then I am asking the question, 'Why has it taken 18 months to do so?' "

One of the main reasons Sanchez took the action, as he pointed out, was "due to the fact that I am, as I stated in the letter, an immigrant and having received so many good things of this world in this country, I am more appreciative of what I am thankful for."

Sanchez pointed out that he came to the United States from the Middle East.

"I was born in Algiers, Africa, which is the hub of the present Middle-East crisis now," he said.

"When we came to this country, things were about as low as they could be all over the world," Sanchez said. "I can say that my father was working for 15 cents a day at the time."

Speaking of his father, Sanchez said, "Still he saw nothing but good and a wonderful future here."

"Possibly, as I said before," Sanchez added, "having not had them in the past, I appreciate these rights we have acquired here and the opportunities that we didn't have before."

Although he admits that he wasn't very mature at the time he arrives in this country, he still realized the difference between this country and the one that he had left.

"I chose this country," Sanchez emphasized. "I could have been a Frenchman, an Algerian, I could have been an American. I chose America."

"So, I feel that this is one reason I am a little more uptight than the average individual."

Sanchez pointed out that there is basis to believe that the incident could be more than just innocent heckling of the President.

"I really think, as I pointed out in the letter, that there is a conspiracy," he stated. "I don't know just how to put my finger on it, but I think there is a definite conspiracy in this country."

"I recall, back a few years ago, that Khrushchev made the statement that he would bury us. He did not say that he would attack us, he said he would bury us," Sanchez said.

He quickly pointed out that he was not trying to throw a red herring out or anything like that, but went on to say, "I think that there are forces, part of them being in minority groups, part being people who have no love for their country—for this country at least and people who would like to see this country go down the drain."

Sanchez said that during the Second World War he served in the Office of Strategic Services which was a counter-espionage group to fight this kind of activity, and believes those years in this service give him an insight into this problem.

"I was offered a job in the CIA after the war," he added.

Although he refused the job, because of his family, Sanchez is still concerned about the problem facing the nation.

From his experience in counter-espionage, Sanchez feels that he learned "that the easiest way to wreck our country is to wreck our leadership, once we have no leaders, then we have no country."

"Possibly the main reason I wrote the letter to the President was to try and let him know that he was not standing alone and that a lot of people didn't prejudge him," Sanchez stated. This, he pointed out, is what the hearings were doing, prejudging him.

The following is the letter Sanchez sent to President Nixon.

"DEAR MR. PRESIDENT.—I was an immigrant, and in 1933 I received both my law degree and citizenship papers as an American citizen. I not only love my country, but appreciate all that it has bestowed upon me. I also accept the responsibilities that honor demands of me. I would be remiss of those responsibilities, first as a Christian, then as an American if I did not personally by this means, convey to you my feelings and convictions concerning recent developments of the past six months.

"It is now obvious to me that your personal and political enemies, segments of Congress, professional dissidents and well-meaning individuals are using events of the past six months as a blanket of allegations and charges by innuendo to form not only a basis to discredit every action you have taken, but to negate the overwhelming mandate of the American people. What the opposition could not do by the ballot box is now being attempted by character assassination and the jury box.

"It is also obvious to me that our concern should be all who have teamed with the dissidents and formed a formidable threat to our freedoms and safety. They are using the same tactics used by Hitler, to undermine our country. The media not only digs up dirt, but disseminates that dirt to obtain their objectives. They also have an individual who modestly admits he is a legal expert and is practicing law without a license. This should be investigated (although I will deny to inform my source of information). Others in the media should be charged with impersonating a human being.

"It is also obvious to me that the law school I attended failed to teach me that when a person rises to the Presidency he waives all rights and privileges afforded any other citizen, and that he must prove his innocence on charges that have never been filed against him, I am very grateful that I cannot be President, for I would not trade the Presidency for the protection I receive through the Constitution and Bill of Rights embodied therein.

"In Luke 19:41 it states that Jesus beheld Jerusalem and wept. Today I would that all Americans behold America and weep. When we permit (as history will certainly note) vicious attacks, lack of respect, lack of fair play and sadly lacking of compassion for a human being who must defend himself because he is not perfect, we have cause to bow our heads and humbly ask for God's forgiveness.

"In closing Mr. President, I call on you and all Americans that are not perfect and are admitted sinners to bow our heads in forgiveness, begging God's forgiveness, and through His grace and mercy give you stamina, courage and solace to carry out but your role of peacemaker. Through all this hatred and ignorance will shine God's love for America. Take heart in the fact that Christ has already paid for our sins through His precious blood on Calvary, and that our future is without blemish, Mr. President, may God bless you and yours.

"Humbly submitted,

"CHARLES A. SANCHEZ.

"Postscript: I would appreciate your permission to allow me to challenge the media to give this the coverage they gave to your tormentors."

Knowing that the President receives thousands of letters, Sanchez wanted to be sure that his letter would be read by the President and not just an aide.

Therefore, he decided to go through channels. He went to State Sen. Jim Caldwell, Rogers, and asked him how he could be sure that the President would receive the letter.

"On this basis," Sanchez said "Caldwell took the phone, while I was in his office, and called the White House. He talked to Gerald Warren, the assistant to General Haig."

He asked Warren if he would see to it that the President received the letter, Sanchez recalled.

"On the phone he (Warren) promised Senator Caldwell that he would do so," Sanchez said.

Later Sanchez said, Senator Caldwell informed him that he had spoken with Warren at the governor's conference in Memphis, Tenn., and that he had been told by Warren that he had delivered the letter. A few days later Sanchez received the following letter, not from the secretary or aide, but from President Nixon.

"MR. CHARLES A. SANCHEZ,
*"Rogers, Ark.*

"DEAR MR. SANCHEZ: For anyone who serves in this high office, there is no greater reward than the generous messages of goodwill which come in such large measure from Americans throughout the land. However, your letter of November 2 which Mr. Jim Caldwell forwarded to me, was especially welcome coming as it does from one who has a profound and abiding love of our country.

"I fully understand the concerns you expressed for many of them are ones I also share. As you noted, these have been difficult months and some have even asked that I step down. This is to assure you that I will not walk away from the job I was elected to do. In the time ahead, I am confident that the Ameircan people will come to realize that the trust they placed in me has not been violated. In turn, I shall not abandon my pledge to them nor forsake the goals this Administration was elected to achieve. We are facing several great tests of our national spirit and resourcefulness at home, and for people throughout the world we are on the threshold of building a durable peace for the first time in this century. These are indeed major challenges, but your assurance of support along with the many others I have received in recent days reinforces my own conviction that we can meet them.

"With my gratitude for your prayers and best wishes,

"Sincerely,

"RICHARD NIXON."

Sanchez said that he had no pre-conceived idea of what the President would reply, if he was to reply.

But, he added, he was hoping that he would say just what he said, "That he was not guilty of the wrong-doings he is being accused of and that time would prove that he had not violated the pledge that he had made to the American people."

"Now to say that he did that without making errors would be silly," Sanchez said. "I mean that it would be stupid, there is no one in this world that is perfect."

"I think the least we owe the man is loyalty, up to the point that he is proven guilty of not deserving the right to have us follow him as the leader of this country," Sanchez emphasized.

He went on to say that if charges could be proven against President Nixon that would show that he had committed serious offenses that made him impeachable, "I would be the first to pull the rope."

"Due process is what I want to see happen," he added, "and it hasn't happened in the past 18 months."

Sanchez pointed out that he felt the real criminals are the ones that are calling for the resignation of President Nixon without due process of law, "because they are asking him to violate the thing that he pledged that he would not do—to leave the office unless he was not entitled to that office."

"To force a man to go out of office illegally," Sanchez concluded, "is just as wrong as all the things they are accusing the President of doing."

## ENERGY INFORMATION BILL GAINS 57 COSPONSORS

## HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. WALDIE. Mr. Speaker, I am extremely gratified today to announce that 59 Members of the House have joined in cosponsorship of legislation which would establish a National Energy Information System.

Testimony before committees of both the House and Senate has shown in a sometimes dramatic but purposeful way that significant Federal energy policy cannot be responsibly enacted without access to all the facts concerning the scope of our energy emergency. The National Emergency Information System which I have proposed would do just that, and I urge the earliest possible hearings on the bill.

As I said on December 13 in introducing this legislation, the Congress and the American people cannot rely solely on the input of the Nation's oil companies to produce this information.

At this time, Mr. Speaker, I am pleased to reintroduce my legislation on behalf of myself and the following 57 cosponsors:

Mr. Edwards of California, Mr. Hawkins, Mr. Podell, Mr. Mitchell of Maryland, Mr. Bergland, Mr. Rooney of Pennsylvania, Mr. Helstoski, Mr. Roybal, Mr. Dent, Mr. Burke of Massachusetts, Mr. Ford, Mr. Obey, Mr. Harrington, Mr. Fascell, Mr. Fulton, Mr. Pepper, Ms. Abzug, Mr. Brown of California.

Mr. Sarbanes, Mr. Mollohan, Mr. Brasco, Mr. Seiberling, Ms. Holtzman, Mr. Drinan, Mr. Roy, Mr. Tiernan, Mr. St Germain, Mr. Yatron, Mr. Charles H. Wilson of California, Mr. Gude, Mr. Addabbo, Mr. Clay, Mr. Carney of Ohio, Mr. Dominick V. Daniels, Mr. Badillo, Mr. Boland, Mr. Mazzoli, Mr. Green of Pennsylvania, Mr. Studds.

Mr. Rosenthal, Mr. Davis of Georgia, Ms. Grasso, Ms. Schroeder, Mr. Stark, Mr. Moakley, Mr. Randall, Mr. Conyers, Mr. Leggett, Mr. Rodino, Mr. Lehman, Mr. Clark, Mr. Jones of North Carolina, Mr. Rees, Mr. Cronin, Mr. Nedzi, Mr. Gunter, Mr. Corman, Ms. Mink, and Mr. Danielson.

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## THE NATIONAL CAPITAL TRANSPORTATION ACT OF 1969

### HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. BROYHILL of Virginia. Mr. Speaker, I introduced legislation in Congress today which will amend the National Capital Transportation Act of 1969 to increase the cost-share formula from 66⅔ percent to 80 percent Federal. This will bring the Metropolitan Washington Metro system under the same Federal cost-sharing arrangement, 80 percent Federal, 20 percent non-Federal cost sharing as provided in the Federal Highway Act of 1973. An adjustment in the cost-sharing which I have set forth in this legislation will increase Federal contributions by $142,896,000 with a corresponding decrease realized in the non-Federal, local share, assuming Metro is to be completed within the $2,980 billion financial plan. This action will result in helping alleviate the financial difficulties local governments are experiencing in their efforts to raise funds for rapid transit, to cope with the energy crisis, environmental concerns and a likely slow-down in employment. As a specific example of the assist this legislation will provide to the non-Federal cost-sharing participant, northern Virginia's taxpayers have already contributed over $100 million to the construction of the Metro rapid transit system, but under the new formula, northern Virginia's remaining cost-share for completing the system would be reduced from $105 million to approximately $54.6 million.

Mr. Speaker, there are currently 28 miles of the 97.7-mile total system under construction and an additional 35½ miles under design. Along the route, there are 31 stations under construction and 29 more stations under design. This is indeed progress and we must insure that nothing impedes it. Toward this end, I strongly urge enactment of this legislation at the earliest date.

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## TAKING THE POSITIVE APPROACH

### HON. BURT L. TALCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. TALCOTT. Mr. Speaker, we here in Washington are bombarded daily with so much doom and gloom, so much cynicsm and faultfinding that I was thrilled when Robert A. Yothers, the grand exalted ruler of the Elks, spoke out constructively to urge all of us to take the positive approach.

I highly commend him. He will not attract headlines for his approach; but if others in his position of opportunity, responsibility, and leadership would speak out, I believe we could turn around the fashionable attitudes of carping criticism and self-flagellation.

I want every Member and every reader of our Congressional Record to know that there are men of prominence who are willing to find something good about our Nation.

I applaud and thank Mr. Yothers for his courage and his approach.

His message is as follows:

TAKING THE POSITIVE APPROACH

(By Robert A. Yothers)

It seems to be fashionable with some people to keep up a running barrage of what might be called "thoughtless carping" against the United States of America . . . from within as well as outside the country. If one were to take literally what we hear so often, one might get the idea that millions of "smart" people would be emigrating to other parts of the world to get away from this terrible country.

Why, is it, then, that millions of people from every country in the world are so anxious to come to the United States, some even giving their lives in the attempt?

It's healthy for us to look at our nation objectivelly, to recognize our weaknesses and attempt to correct them. On the other hand, when one becomes hypercritical to the point where everything seems to be wrong, it seems fair to say that one's views have become overly distorted to the point where, instead of constructive thought, it becomes destructive carping.

The negative thinker, the constant cynic, can do much to undermine the morale of a family, an organization, a community or even a nation. They've been referred to as the "prophets of gloom and doom," or "the disaster lobby."

Our free enterprise system made this nation the most envied and the wealthiest in the world. One would think that anyone with only a modicum of "horse sense" could see that fact as clearly as he could see the sun on a bright day. Those who live in other countries see it clearly . . . we should take pride in that we have developed the most successful system of government in the history of the world, the most individual affluence for our people, the mightiest industrial complex, the most generous people and government in the world.

Never before in the history of mankind have people accomplished so much, given so much and asked for so little from the rest of the world.

Sure we have problems. So did Adam and Eve and everyone else from then on. And we'll continue to have them. But let's not succumb to unreasonable pessimism brought on by cynics who seem to have tunnel vision. Let's examine our problems with meticulous care, put our best minds and efforts to work finding solutions, meanwhile keeping a sense of perspective, the determination to get the job done, and let's continue to deserve our reputation as the most unselfish, compassionate people on this planet Earth.

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## NO PIPELINE JOBS AVAILABLE IN ALASKA

### HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 29, 1974*

Mr. YOUNG of Alaska. Mr. Speaker, less than a week ago, the Secretary of the Interior signed and issued the necessary right-of-way permits that will allow construction of the long delayed trans-Alaska pipeline project.

Gripped as we are in an energy crisis that has been made even more critical because of the long delays in building the Alaska pipeline, I am very pleased to see this project about to get underway.

The daily reminders of the energy shortage, the long history of delays, court fights, and final congressional action have spread the story of the Alaska pipeline across the Nation. Say "Alaska" almost anywhere in the United States and the first word that comes to anyone's mind is "pipeline."

But, fortunate as Alaska is to have the largest known reserves of oil in the United States, all the news about the biggest construction job since the pyramids threatens to stretch Alaska's economic fabric to the breaking point with an influx of job seekers the likes of which Alaska has not seen since the gold rush back in 1898.

Quite simply, there are no jobs now, and there will not be for months. Virtually all of those that will be available will be filled by qualified Alaskans, people who are accustomed to working outdoors in the dark of the Alaskan winter when the temperature falls to minus 60 degrees and the winter night lasts as long as 2 months.

A few weeks ago, work on an ice bridge across the Yukon River was halted because it was too warm. Project engineers said they could not build the ice structure so long as a 20-degree-below-zero Arctic "heatwave" continued. They said they needed cooler temperatures, on the order of −40° or −50° for the ice to set properly.

Pipeline job seekers began coming to Alaska as early as last summer, before the congressional legislation that authorized the Secretary to issue the permits was even taken up in a House-Senate conference committee. By August, some welfare agencies in Anchorage had exhausted their budgets for the year, spending in 8 months what had been adequate for 12 in the preceding year.

Community agencies, State agencies, the Salvation Army all have full caseloads coping with Alaska's already critical unemployment. Last month it reached 11.5 percent, traditionally among the very highest in the Nation.

For months now, Alaska Senator Ted Stevens and I have been doing our best to discourage job seekers from going to Alaska. I have received hundreds of requests by mail, over the phone from all across the country, and in person. Still, hundreds of families are packing their possessions, oftentimes leaving good jobs, and heading north only to find hardship and disappointment.

So, in the interest of presenting the facts as they are, and hopefully sparing Americans from unnecessary hardship and Alaska from even greater unemployment and social strain, I ask unanimous consent to enter three relevant articles into the Record.

The first, written by Maureen Blewett of the Anchorage Times, Alaska's largest daily newspaper, describes the tragic experience that is becoming increasingly common for many pipeline job seekers.

The second comes from the Christian Science Monitor; it provides an excellent overview of the developing situation.

The third piece appears in the February issue of the IBEW Journal and is typical of reports from unions in Alaska.

The material follows:

[From the Anchorage Times, Nov. 27, 1973]

### Family's Big Dream Fizzles

(By Maureen Blewett)

The day Dale Nichols crammed his five children and his new television set into a 1952 station wagon and drove past the Phoenix city limits, the word "Anchorage" had one meaning $1,200 a week on a pipeline job.

In his pocket were $500 and a letter from his 22-year-old brother in Anchorage describing $12-an-hour jobs and 18-hour work days, seven days a week.

Ahead of him on the highway were acquaintances who had also heard of almost $5,000 a month pay and were rushing to hit Alaska before the jobs were gone. And behind him was an $8-an-hour job as a painter and sandblaster in Phoenix. That job would look good to Nichols before the month was out.

Customs officials at the borders wished the family luck and said they had heard the jobs were good in Anchorage. "I don't blame you for wanting to make good money," one of them told Nichols who was talking of "making good money for my little kids."

But on the highway the station wagon's headlights failed, the tires blew out, the radiator broke, the transmission had to be repaired and the Nichols car became a traveling rummage sale to make money for repairs. They sold their new television set in Moose Lake, Canada; they sold Mrs. Nichols' warm winter coat for $12 at a truck stop "on the left-hand side" in Glennallen. They traded the 10-year-old boy's new shoes for a can of gas and sold their new TV trays for $20, half of what they had paid.

Their quilts went for $5. Their radio, their jackets, even the garbage can were sold to pay for car repairs.

They arrived in Anchorage on a Friday night with $12.

The last shred of their dream was destroyed when they went to the address which Otis, the 22-year-old brother, had promised to share with them, and found that no one had heard of him. Nichols thinks he must have gone to the North Slope.

Dressed in tee-shirts and cotton dresses, with only three blankets and four sheets, the family of seven tried to sleep in the car for two nights, then went for help to the Salvation Army and the welfare office.

"The kids hadn't eaten for two days, and oh God, I couldn't stand that," said Pat Collar, the eligibility worker who interviewed Nichols Monday morning. She sent them to her house for food.

Today, two weeks later, they are living in a one-room shack with one bed on which the mother—who is expecting a sixth baby in a month—sleeps with the two youngest children, Tina Lee, and Michelle, 18 months.

The father and the three older children, Johnny Dale, 10, Rocky Lee, 8, and Sue, 6, sleep on the floor.

Over the weekend Fish and the Bartlett Democratic Club brought food and clothing to the family and yesterday Catholic Charities found warm outer clothing for the children.

"This community is simply not prepared for families. There is no housing," says Gwen McAlpin, social worker at the eligibility office which authorized the rent payment and food stamps to the Nichols family.

Nichols is a painter and heavy equipment operator but will settle for any job that "will help me get on my feet again." So will George Reams, who came up here from Spokane, Wash., with four children and plans for making a permanent home in Alaska.

The pipeline offers no hopes to Reams because the myriad of job seekers is taking work away from him. A truck driver with a diploma from a diesel mechanic school, he cannot get a job, according to his wife, because he doesn't have a union book.

"But the teamsters won't take the $410 for the book unless he can find a permanent job. And how can he get a permanent job without the union book" she asked.

"All we want is to raise our children in this clean fresh air here."

Meanwhile, the Nichols children, dressed in their new warm jackets, went outside to play in the snow today. They have covered the walls of their one-room shack with crayon pictures of Christmas trees and turkeys, but they all know that their father is right when he says, "My kids will have no Christmas this year."

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[From the Christian Science Monitor, Jan. 11, 1974]

### Alaska Warns Workers To Stay Away

Anchorage, Alaska.—The trans-Alaska pipeline, hailed as a boon for the state, has meant only tears for men and families who have come here so far looking for work.

There isn't any.

Although the huge project will generate perhaps 13,000 high-paying jobs at its peak—probably 1975—almost no work has yet begun. And even if it starts as expected this spring, officials say, many of the jobs will already have been taken by highly skilled workers or men already in the state.

The oil industry, along with state and national officials, has begun a campaign to discourage the increasing influx of hopefuls, but families continue to appear in Anchorage, broke and bedraggled.

Last September, for the first time, the state Department of Health and Social Services began asking welfare recipients if they had come to Alaska for a pipeline job.

#### NUMBER STILL CLIMBING

In Anchorage alone, nearly 250 families said they had. Since then the number has climbed substantially.

The Greater Anchorage Area Community Action Agency (GAACAA), which exists to help welfare agencies plan for the future, paints a grim picture of pipeline work impact.

"For every job, there will be four applicants," says Gary Cole, a GAACAA project director. He estimates that 18,000 people will come to Anchorage looking for work during the first year of construction activity.

Industry officials predict a first-year maximum of 6,000 available jobs—few of them centered in Anchorage.

#### JOLT ANTICIPATED

"The sociological effect [of the influx] will be equal to a major earthquake," Mr. Cole says. "We'll be working with the 30 percent unemployment rate that was written about in John Steinbeck's "Grapes of Wrath."

The Salvation Army, the first agency most jobless families contact, predicts "flocks" of helpless families needing assistance.

Alaska Gov. William A. Egan has urged job-seekers not to come to Alaska "unless they have a job promised or money for a ticket back home." Lt. Governor H. A. (Red) Boucher has appeared in national television spots sponsored by the pipeline builders to warn about Alaska's high unemployment rate and the scarcity of jobs.

The U.S. Department of Labor—after meetings with Mr. Egan—has agreed to notify all U.S. placement offices of the bleak prospects in Alaska.

Dean Berg, an executive with the Alyeska Pipeline Service Company, which will build the pipeline, says there are three reasons pipeline jobs are rare:

Construction has not begun. It will be months before a shovel of dirt is moved.

Most work will be handled by subcontractors. They have not even been named.

Legislative proposals require the company to give preference to Alaskans. That puts newcomers at a distinct disadvantage.

"There's little room in pipeline work for those who have no skills or marginal skills," Mr. Berg says. But all the dire predictions have not stopped some firms from trying to profit illegally at job-seekers' expense.

One such company has already been put out of business by the state's consumer protection agency for publishing phony ads in West Coast newspapers offering "job lists" and other information on the pipeline.

#### OTHERS UNDER PROBE

Three other firms currently are under investigation, according to Alaska's Assistant Attorney General Stan Howitt.

It also works the other way around.

One family arrived in Anchorage in late November and persuaded an Anchorage newspaper into carrying a heartbreaking story on page one. Three days later—after 200 people responded with food, parkas, and even a month's free rent on a home—the family disappeared.

Officials say the family stripped the donated home of bedding, furnishings, and even kitchen appliances and left. Welfare agencies said they received word later that the family was selling the goods.

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[From the IBEW Journal, Feb. 1974]

### Electricians Not Needed in Alaska

Local 1547, Anchorage, Alaska, has notified the International Office that it does not need journeyman wiremen, journeyman linemen, or journeyman technicians for the Trans-Alaska Pipeline project now or in the foreseeable future, Local 1547 has been beseiged with phone calls and letters inquiring about the employment situation on the Pipeline job.

I. M. "Ike" Waldrop, business manager of Local 1547, relates that only a few technicians are employed on the North Slope at the present time and that the work situation is not expected to change until late spring. Local 1547 is suffering from unemployment, and does not expect to have full employment until July, 1974 at the earliest.

Because of the deluge of calls and letters, which have become impossible to answer, Local 1547 has requested that electricians interested in employment in Alaska refrain from phoning or writing to Local 1547 until further notice. Cooperation in this matter will be greatly appreciated by the local.